

# Board of Zoning Adjustment Staff Report

May 2, 2016



<b>Case No:</b>	15CUP1004
<b>Project Name:</b>	None (Boarding Home)
<b>Location:</b>	526 Heywood Avenue
<b>Owners:</b>	Ayman Ismail and Omar Al-Kashkish
<b>Applicant:</b>	Ayman Ismail and Omar Al-Kashkish
<b>Representative(s):</b>	Bill Schroll
<b>Project Area/Size:</b>	5,400 square feet
<b>Existing Zoning District:</b>	R-6, Residential
<b>Existing Form District:</b>	TN, Traditional Neighborhood
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	15 – Marianne Butler
<b>Case Manager:</b>	Jon E. Crumby, Planning & Design Coordinator

This case was continued from the April 4, 2016 Public Hearing to allow the applicant to be present to answer questions and add landscaping.

### REQUESTS

- Conditional Use Permit to allow a boarding home in an R-6 zoning district
- Request to not add landscaping and buffering to the site

### CASE SUMMARY/BACKGROUND

The applicant is operating a boarding home in a 2-story residence. The first floor has three rooms and a kitchen and the second floor has four rooms. Each floor has its own bathroom. Six tenants and one house manager for a total of seven people will live in the residence. At the present time two tenants have automobiles and the others walk or use the bus.

### LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b><i>Subject Property</i></b>			
<b>Existing</b>	Residential	R-6	TN
<b>Proposed</b>	Residential	R-6	TN
<b><i>Surrounding Properties</i></b>			
<b>North</b>	Residential	R-6	TN
<b>South</b>	Residential	R-6	TN
<b>East</b>	Residential	R-6	TN
<b>West</b>	Residential	R-6	TN

## SITE CONTEXT

The site is rectangular in shape and located near the southeast corner of Heywood Avenue and South 6<sup>t</sup> Street. The property is surrounded by residential uses to the north, south, east, and west.

## PREVIOUS AND ASSOCIATED CASES ON SITE

There are no previous cases on the site.

## INTERESTED PARTY COMMENTS

Staff has not received any interested party comments.

## APPLICABLE PLANS AND POLICIES

Cornerstone 2020  
Development Code

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMITS

### 1. Is the proposal consistent with the applicable policies of the Comprehensive Plan?

STAFF: The proposal is consistent with the applicable policies of the Comprehensive Plan. The proposal under Guideline 3.B.2: The proposal preserves an existing structure that is consistent with the predominate neighborhood building design. The applicant will be asking to not provide additional landscaping and keep the site as is. No new lighting will be added.

### 2. Is the proposal compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting, appearance, etc?

STAFF: The subject site is located in an area that has a number of residential uses. This proposal will be compatible with these uses with respect to intensity, traffic, noise, drainage, lighting and appearance.

### 3. Are necessary public facilities (both on-site and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services, education, recreation, etc. adequate to serve the proposed use?

STAFF: The proposal has been reviewed by Public Works and MSD and both have approved the plan. The Louisville Fire Protection District did not comment on the proposal.

### 4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested? There are 12 requirements and Item A., C., and D. will be met. Part of Item H. will be met with respect to no. 1., 2., and 4. All other standards will need to be discussed.

Boarding and lodging houses may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8A districts upon the granting of a Conditional Use Permit and compliance with the following requirements.

A. Boarding and lodging houses located in R-E, R-R, R-1, R-2, R-3, R-4 and R-5 single-family districts shall have a maximum of 3 boarders in addition to resident family members of the boarding and lodging house keeper. Those boarding and lodging houses located in other districts shall have a maximum of 8 boarders.

B. All boarding and lodging houses shall comply with the administrative and maintenance requirements established in 902 KAR 20:350, only applicable when meals are served at the facility.

C. Boarding and lodging houses shall not have any signage which identifies the use.

D. Boarding and lodging houses shall be located on or near a collector or arterial street with reasonable access to public transportation.

E. Sufficient on-site parking shall be provided as required by the Land Development Code,

F. All boarding and lodging houses shall comply with applicable building code and health department regulations.

G. The Board of Zoning Adjustment shall take into account the location of other boarding and lodging houses, transitional housing, homeless shelters or rehabilitation homes in its analysis of Conditional Use Permit applications for boarding and lodging houses.

H. The following information shall be for all boarding and lodging house Conditional Use Permit applications:

1. Type of resident population intended to be served, if any (e.g. veterans, a victim group, persons recovering from substance abuse (without on-site assistance services or supervision), college students, contract/seasonal workers, parolees (without on-site assistance or supervision), single persons, etc.);
2. Site plan and floor plans;
3. Rules of conduct and business management plan;
4. Support services to be provided and projected staffing level, if any;
5. Proposed maximum stay for each resident;
6. Any other information the Board of Zoning Adjustment deems necessary to evaluate the application; and
7. Any Changes to the foregoing information submitted in connection with the Conditional Use permit application shall require the Conditional Use Permit holder to apply for a modified Conditional Use Permit from the Board of Zoning Adjustment.

I. The operator(s) of a boarding and lodging house shall maintain a registry of residents, which shall document the terms of stay of each resident. This registry shall be made available for inspection by a Code Enforcement Officer in order to determine the total number of residents residing in the boarding and lodging house at a given time and whether or not a term of stay is temporary or permanent. However, under these provisions, the operator is not required to collect and/or maintain records that may be used for discriminatory purposes under the Fair Housing Acts, including but not limited to records relating to the race, religion, gender, national origin, family status and/or disability of any resident.

J. Board of Zoning Adjustment shall, to the best of their abilities, find that the establishment of the facility will not result in harm to the health, safety or general welfare of the surrounding neighborhood, and that substantial adverse impacts on adjoining properties or land uses will not result from the facilities' operations.

K. The Board of Zoning Adjustment shall find that the facility is compatible with the character of the surrounding neighborhood.

L. No boarding and lodging house shall operate until it has received a license pursuant to Louisville Metro Code of Ordinances Section 115 and, if required, a license from the Commonwealth of Kentucky pursuant to KRS 21B. M. Operation of a boarding and lodging house without the required license may constitute grounds for denial of a related Conditional Use Permit by the Board of Zoning Adjustment.

#### **TECHNICAL REVIEW**

- New requirements for Boarding Homes went into effect on October 13, 2015.
- Any outstanding property maintenance issues will need to be brought into compliance.

### STAFF CONCLUSIONS

Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Board of Zoning Adjustment must determine if the proposal meets the standards established in the Land Development Code for approving a Conditional Use Permit.

### REQUIRED ACTIONS

- **APPROVE** or **DENY** the Conditional Use Permit

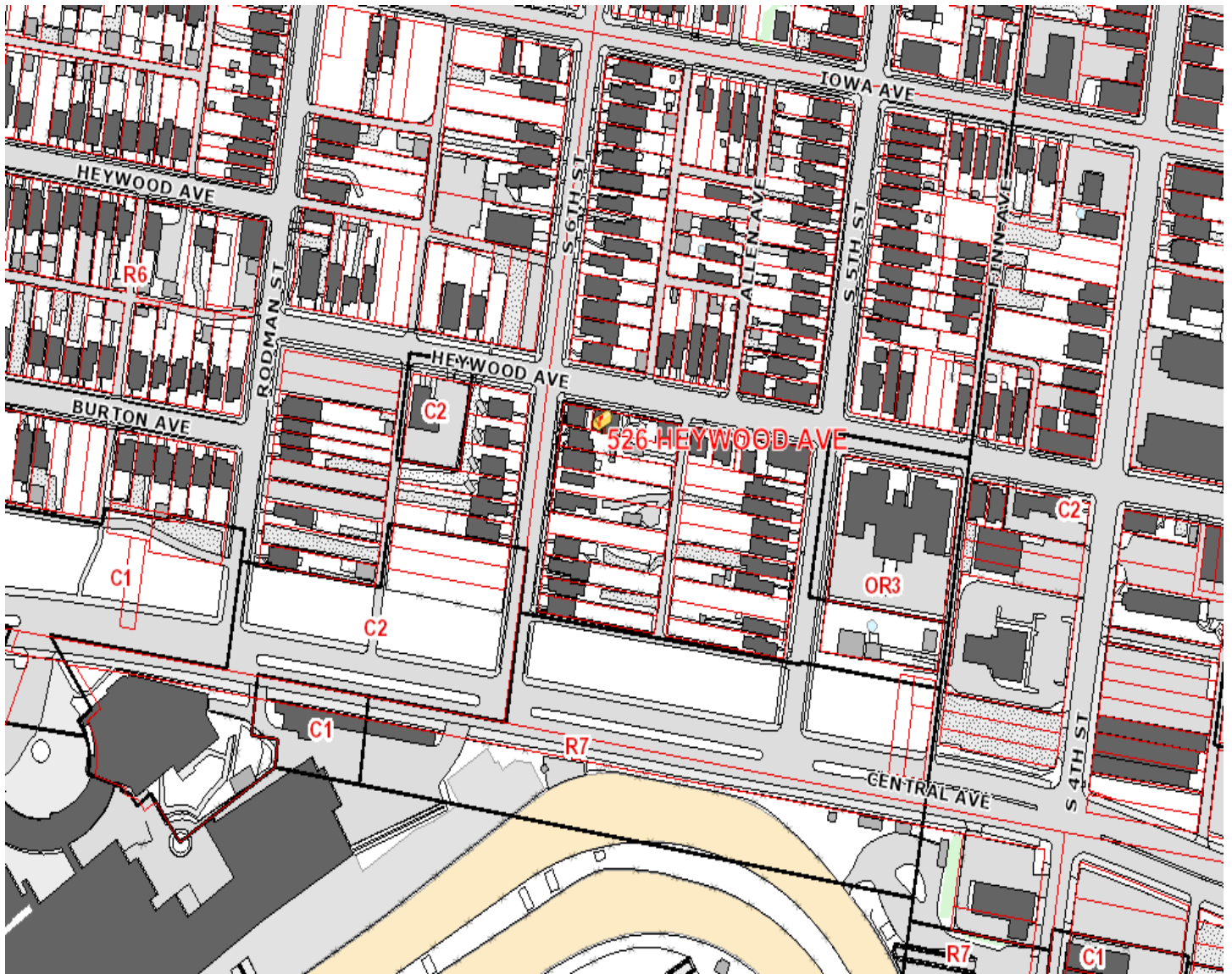
### NOTIFICATION

Date	Purpose of Notice	Recipients
4/15/16	Repost the sign	Site

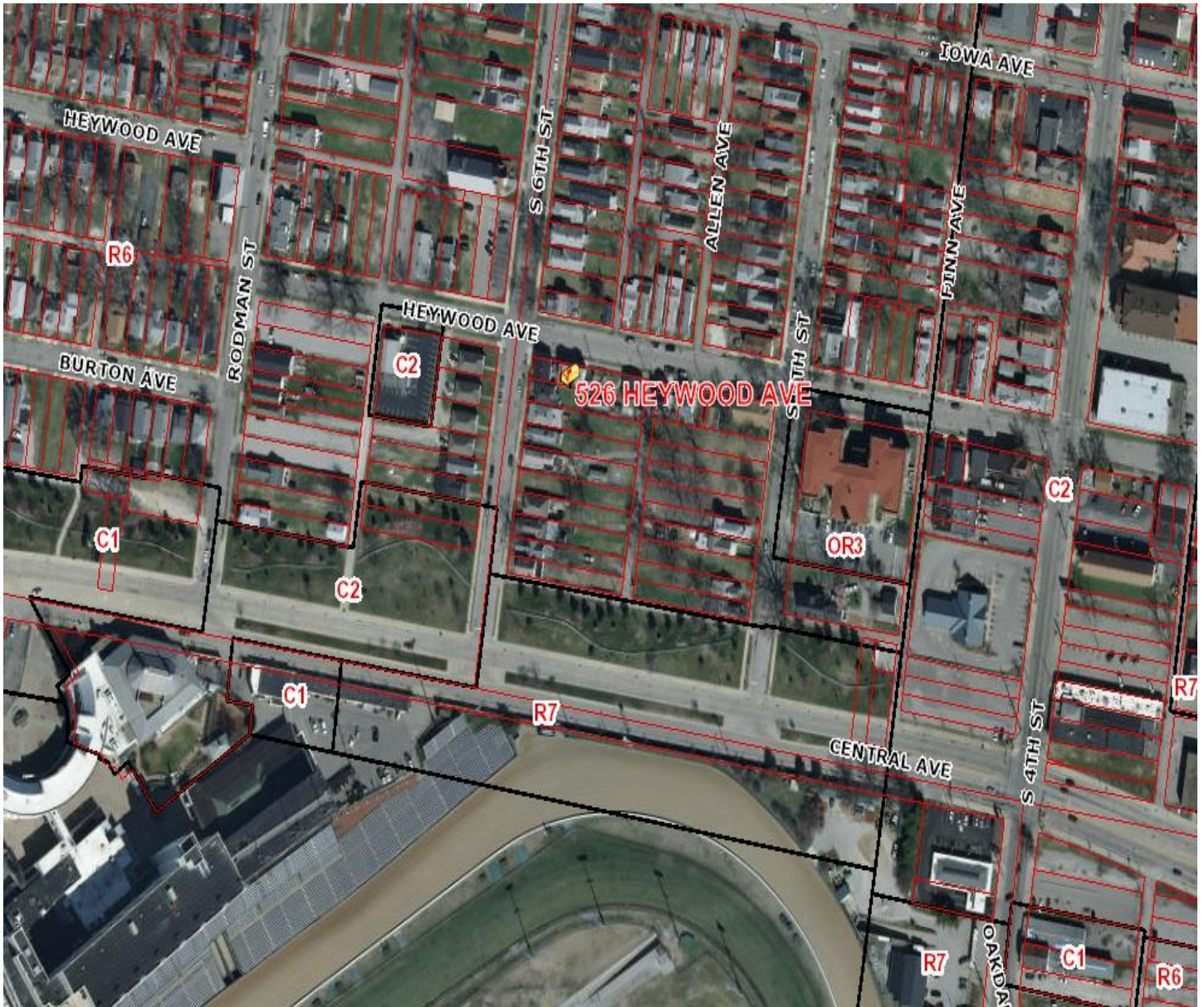
### ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Justification Statement
4. Neighborhood Meeting
5. Site Plan
6. Floor Plan
7. Similar Uses In Area Map
8. Conditions of Approval

1. **Zoning Map**



2. Aerial Photograph



3. **Justification Statement**

526 Heywood Ave  
Louisville Ky 40208

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This boarding home has seven rooms. Three on the first floor has three rooms, full bath and a large kitchen. The second floor has four rooms and a full bath. There is a house manager on site and six tenants all of them on leases. The operation is running smooth. Our tenants are both working and retired people. We prefer older tenants to keep the place quiet and clean. The house don't have signage and we have no plans on putting any signage. Two of our tenants have cars, the rest use the bus, since we are on a walking distance from the bus stop and shopping places. We are willing to comply with any rules and regulations to keep our house going.

Ayman Ismail  
House owner  
502-819-7089

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**Schroll Land Surveying LLC.**

5450 Southview Dr. Louisville, Ky. 40214

Phone (502) 367-7660

Mobile (502) 594-6773

October 30, 2015

To whom it may concern,

The owner of the property located at 526 Heywood Ave. is seeking a Conditional Use Permit for a Boarding House. The Structure located on the property is a two story house that is large for the area. The surrounding area is a mix of owner occupied and rental properties. No Changes are proposed to exterior of the structure or property and will keep with the character of the existing neighborhood.

The owner is aware of the requirements of 902 KAR 20:350 and states that the property is, and will continue to be, in compliance with said requirements.

Bill Schroll  
Schroll Land Surveying, LLC

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ISSUANCE 678



Neighborhood Meeting Notification

This request will be considered by the  
Louisville Metro Planning Commission or Board of Zoning Adjustment

This proposal entails a request for a (check one):

Zoning Change  Conditional Use Permit

In accordance with procedures of Louisville Metro Planning and Design Services, we have been directed to invite adjoining property owners and neighborhood group representatives to discuss this proposal before an application can be filed. This will be an informal meeting to give you the opportunity to review the proposed plan and discuss the proposal with the developer or his representative. This meeting will be held in addition to the established public meeting procedures of the Planning Commission and/or the Board of Zoning Adjustment.

The meeting to discuss this development proposal will be held on

(Date) 7/28/15 at (Time) 6:00pm at (location) 614 Heywood Ave

At this meeting, representatives from Schroll Land Surveying, LLC will explain the proposal and then discuss any concerns you have. The purpose of this meeting is to increase your understanding of this proposal early in the process. We encourage you to attend this meeting and to share your thoughts.

Developer's Meeting Notification		RECEIVED
Meeting Date: <u>7-28-15</u>	Time: <u>6:00 pm</u>	AUG 31 2015
Developer's Name: <u>AYMAN ISMAIL</u>		PLANNING & DESIGN SERVICES
Location of Meeting: <u>Silk Rental Hall</u>		
<u>614 Heywood Ave. Louisville, KY. 40208</u>		
Description of Proposal: <u>Conditional Use Permit to allow a boarding home.</u>		
Subject Site Location: <u>526 Heywood Ave.</u>		
<u>Louisville, KY. 40208</u>		

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## Neighborhood Meeting Summary

The meeting started with a summary of what the proposed project was and where it was located. The meeting was opened for questions. The first question was why some of the neighborhood did not receive a notice about the meeting. They had heard about the meeting through other neighbors. An explanation of the required notification of first and second tier adjoining owners was explained. Some of the other questions included, will there be a lease for the tenants, would there be a background check, but most questions were about who the rooms would be leased to. Neighbors said that they did not want to see the rooms leased to felons, sex offenders, or other similar types. College students were also brought up as a group that they would not like to see as tenants. In general, they were worried about changing the makeup of the neighborhood. One person in attendance asked if the boarding house was currently operating, as he felt the owner was trying to get away with something. The Metro Council Representative asked if the owner was cited by codes and regulations and the owner said he had not been cited.

The meeting wrapped up on a comment for an attendee stating that she would rather see the building rented to one large family rather than multiple tenants.

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NEIGHBORS IN ATTENDANCE

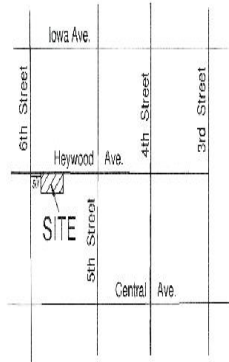
	Name	Address	Zip Code	Phone#
1.	Rev. Jerry Riley	3310 Babanum	40215	644-5453
2.	Olivia Gant	375 N. 41 <sup>st</sup> St <sup>40212</sup>		502-776-6951
3.	Aaris Ralston	702 Burton Ave <sup>40208</sup>		635-5953
4.	Robert Shelby	623 Heywood Ave. <sup>40208</sup>		635-6643
5.	Donna Shelby	" " "		" "
6.	Betty Aubrey	2900 Rodman	40208	638-9851
7.	Susan Hughes	601 W Jefferson St		574-1115
8.	Jason Riddle	705 Burton Ave		777-5576
9.	Chris Lyle	519 Heywood Ave		384-1945
10.	James Wilson	519 Heywood Ave		384-1945
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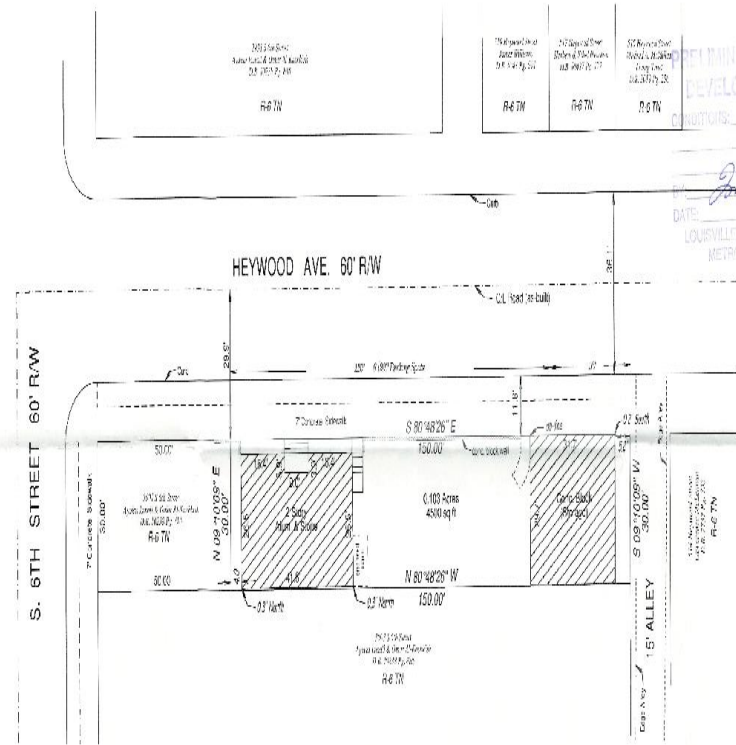
**GENERAL NOTES:**

1. The Examination may reveal roads and easements not shown hereon.
2. Property is subject to any restrictions or easements either implied or of record.
3. The surveyor did not make a search for easements, encroachments, restrictions, ownership, title, divide lots or other records that a complete and accurate title report may disclose.
4. The certification of this survey is made of this date and is subject to any future facts that more accurately describe or establish the boundary shown hereon.
5. Adjoiner's information was taken from the Jefferson Co. Tax Office.
6. This site is located in Zone X per Firm Map 21111C0067E dated December 5, 2006 and is not located within a 100 year flood plain (0.1% chance). Flood Plain Certification is restricted to a review of the firm and is not a conclusion.
7. No signage proposed.



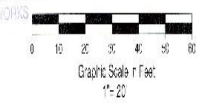
**LOCATION MAP**

No Scale



PRELIMINARY APPROVAL  
DEVELOPMENT PLAN  
CONSTRUCTION

DATE: 3-16-16  
LOUISVILLE JEFFERSON COUNTY  
METRO PLANNING DEPARTMENT



**526 HEYWOOD AVENUE  
CONDITIONAL USE  
SITE PLAN**

**526 HEYWOOD AVENUE**  
LOUISVILLE, KY 40208  
PROPERTY OWNER: Ajman James I  
8 Omar Al Khasbiyah  
ADDRESS: 10638 Hill Creek Road  
LOUISVILLE, KY 40241  
DEED BOOK & PAGE: DB 10208 PG 895

**SCHROLL LAND SURVEYING LLC.**  
3450 Southcross Dr., LOUISVILLE, KY 40214  
Phone: 502-367-7660  
Mobile: 502-534-6773

DATE: May 26, 2015 SCALE 1" = 20'  
JOB NO: 1543 SHEET 1 OF 1

PLAN DATE: 5-26-15

REVISIONS			
NO	DATE	DESCRIPTION	BY
1	11-26-15	Agency Comments	WS

PRELIMINARY APPROVAL  
Condition of Approval:  
  
Tom Kelly 3/16/16  
DATE  
LOUISVILLE JEFFERSON COUNTY  
METRO PLANNING DEPARTMENT

**SETBACK REQUIREMENTS**  
Traditional Neighborhood Form District:  
Front Yard = 15' (Min) 25' (Max)  
Street - Side = 3'  
Side Yard = 3'  
Rear Yard = 5'

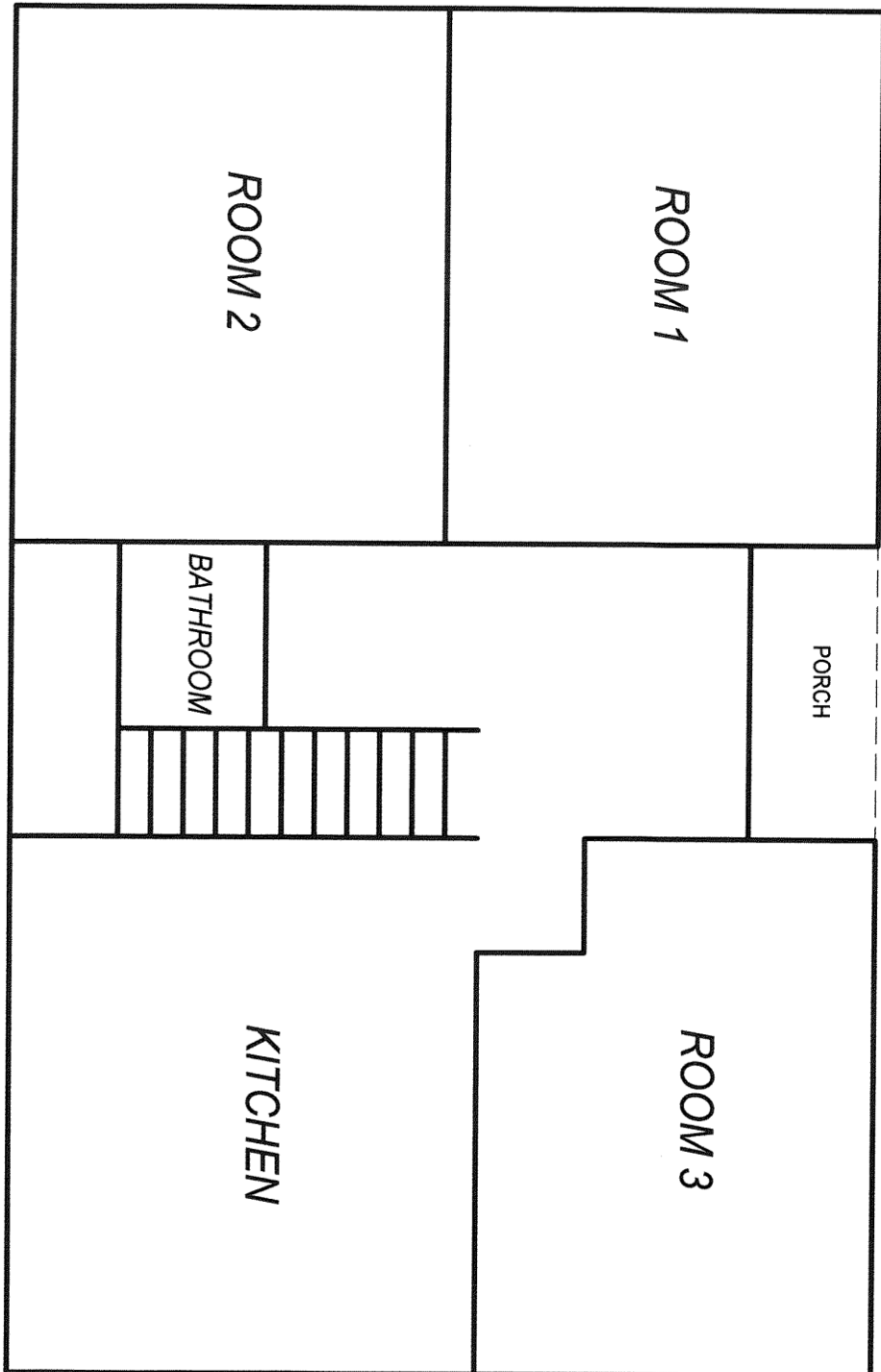
**PARKING SUMMARY**  
BOARDING HOME  
MINIMUM REQUIRED:  
0.75 SPACE FOR EACH BEDROOM  
3 DOORWAYS = 5 SPACES  
MAXIMUM ALLOWED:  
5 SPACES PER EACH BEDROOM  
7 BEDROOMS = 11 SPACES  
TOTAL PARKING PROVIDED:  
6 SPACES (ALONG STREET)

**SITE DATA**  
LOCATION = 526 HEYWOOD AVENUE  
DEED BOOK: 10208, PAGE: 895  
TAX BLOCK: 0001 LOT 25  
EXISTING ZONING = R6  
FORM DISTRICT = TN  
COUNCIL DISTRICT = 16  
EXISTING LAND USE = MULTI-FAMILY RESIDENTIAL  
PROPOSED LAND USE = MULTI-FAMILY RESIDENTIAL  
  
PRIMARY STRUCTURE = 1076 sq ft (TWO STORY)  
PRIMARY STRUCTURE HEIGHT = 26.5'  
PRIMARY STRUCTURE = 7 BEDROOMS  
PRIMARY STRUCTURE FLOOR AREA RATIO:  
2,504.600 = 418 (42%)  
  
LAND AREA = 0.103 AC. (5400 S.F.)

Relief from listed requirements in LDC Section 10.2.4:  
LDC Section 10.2.4 to waive the required 35' Landscape Buffer is along the southern and western property lines.

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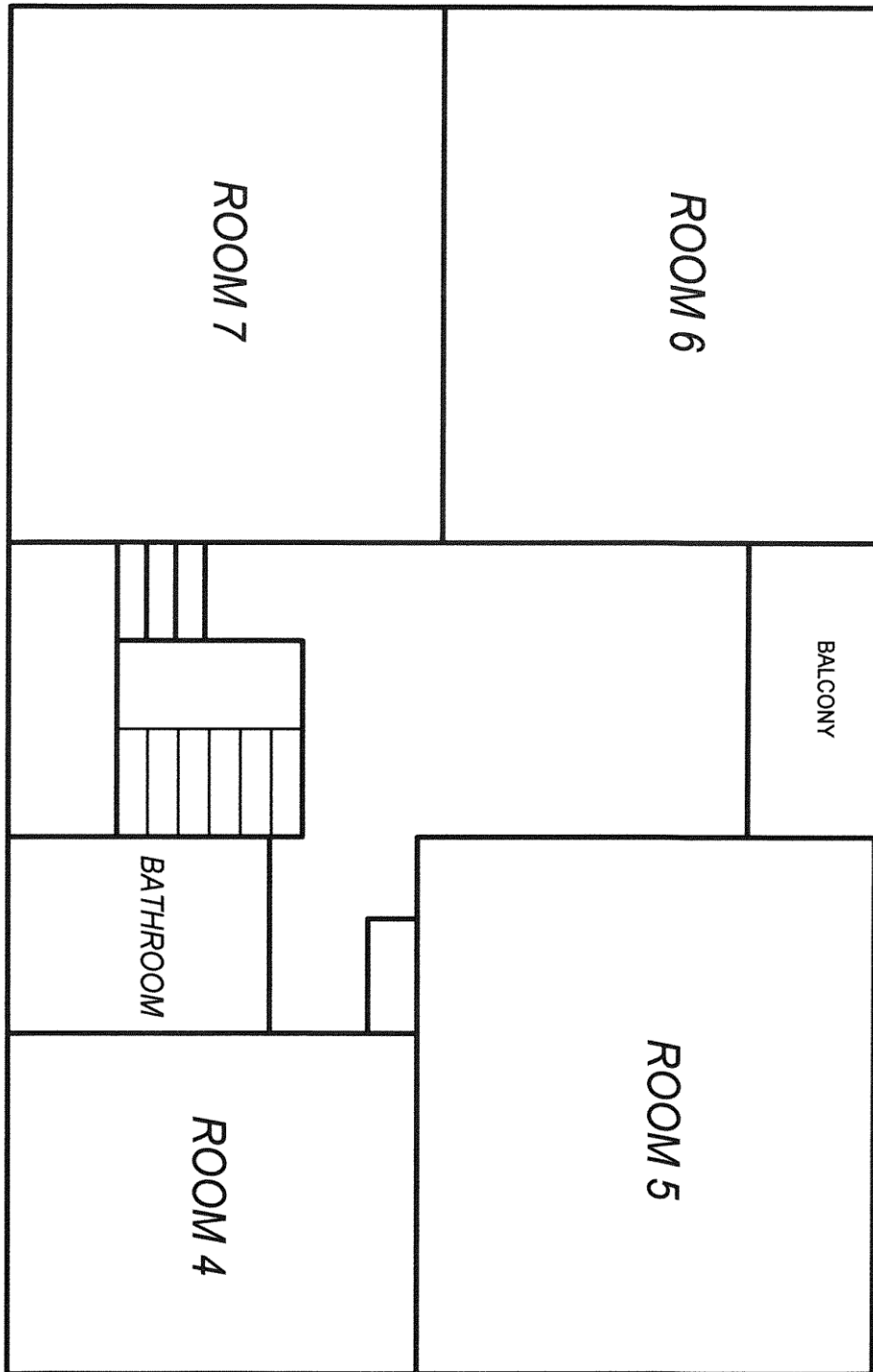


*FIRST FLOOR*

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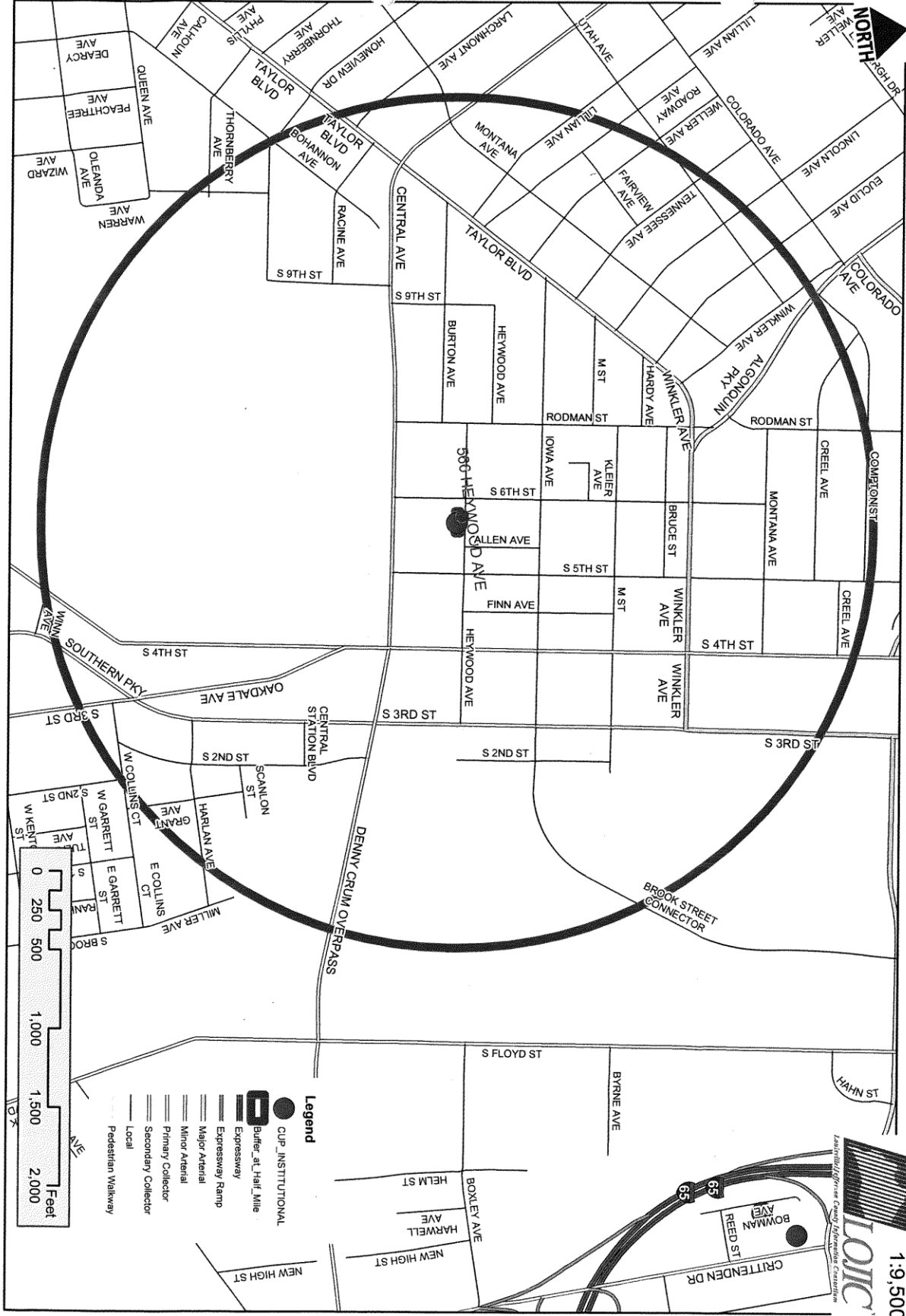


*SECOND FLOOR*

*RECEIVED*

MAR 24 2016  
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**Conditions of Approval**

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a boarding home without further review and approval by the Board.
3. There shall be a maximum number of 6 tenants and 1 property manager living on site at any given time.