

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

A meeting of the Louisville Metro Board of Zoning Adjustment was held at 8:30.A.M. on Monday, April 6, 2015, 514 West Liberty Street, Old Jail Building, Old Jail Court Room, Louisville, Kentucky.

**Members present:**

David Proffitt, Chairperson  
Mike Allendorf, Vice Chairperson  
Rosalind Fishman, Secretary  
Dean Tharp

**Members absent:**

Member Bergmann  
Member Liggin  
Member Jarboe

**Staff members present:**

Emily Liu, Director, Planning & Design Services  
John Carroll, Legal Counsel  
Steve Hendrix, Planning Supervisor  
Joe Reverman, Planning Supervisor  
Latondra Yates, Planner II  
Beth Stevenson, Management Assistant

The following cases were heard:

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**APPROVAL OF MINUTES**

**APRIL 6, 2015 BOARD OF ZONING ADJUSTMENT MEETING MINUTES**

On a motion by Member Fishman, seconded by Member Tharp, the following resolution was adopted:

**RESOLVED**, that the Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on April 6, 2015.

**YES: Members Proffitt, Tharp and Fishman.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING:           Members  
Bergmann, Liggin and Jarboe.**

**ABSTAINING:       Member Allendorf.**

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**BUSINESS SESSION:**

**CASE NO. 15CUP1001**

**Request:** Landfill Conditional Use Permit modifications to allow a Solid Waste Management Facilities #2, construction/demolition debris facilities with grinding of asphalt shingles and to allow a Solid Waste Management Facilities #4, outdoor recycling facilities (metals, cardboard, wood etc.) in a M-3 Zoning District.

**Project Name:** Outer Loop Recycling and Disposal Facility

**Location:** 2673 Outer Loop

**Owner:** Waste Management of Kentucky

**Applicant:** Marie Burnett, District Manager

**Representative:** Glenn Price, Esq.  
400 W. Market Street, Suite 3200  
Louisville, KY 40202

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 13—Vicki Aubrey Welch**

**Staff Case Manager: Steve Hendrix, Planning Supervisor**

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at the Planning and Design Services offices located at 444 S. 5<sup>th</sup> Street).

**Agency Testimony:**

Staff case manager, Steve Hendrix discussed the case summary, standard of review and staff analysis from the staff report. He said Mr. Price gave him an updated noise study, which concluded that there will be no effect on the area. He said the applicant also held a neighborhood meeting on November 18, 2014, where there were no objections

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**BUSINESS SESSION:**

**CASE NO. 15CUP1001**

**The following spoke in favor of this request:**

Glenn Price, Attorney.

**Summary of testimony of those in favor:**

Glenn Price, attorney for the applicant, said this facility has been here for many years and that companies are increasing recycling to reduce waste. Chair Proffitt asked if they are adding additional facilities. Mr. Price said no.

**The following spoke neither for nor against the request:**

No one.

**Summary of testimony of those who spoke neither for nor against:**

No one.

**The following spoke in opposition to this request:**

No one.

**Summary of testimony of those in opposition:**

No one.

**Deliberation:**

**Board of Zoning Adjustment deliberation.**

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the April 6, 2015 public hearing proceedings.**

**Modified Conditional Use Permit:**

On a motion by Member Fishman, seconded by Member Tharp, the following resolution was adopted:

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review, the site plan; the evidence, testimony and discussion at the public hearing that the applicant is requesting a Modified Conditional Use

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**BUSINESS SESSION:**

**CASE NO. 15CUP1001**

Permit for a landfill from Section 4.2.50 of the Land Development Code to allow, the Solid Waste Management Facilities #2 for the Construction/Demolition Debris Facilities to allow grinding of asphalt shingles; and from Section 4.2.50 of the Land Development Code to allow Waste Management Facilities #4 for the Outdoor Recycling Facilities 9 metals, cardboard, wood, aggregate and other materials); and

**WHEREAS**, the Board finds that the requested modification is compatible with surrounding land uses and the general character of the area since there are other recycling businesses, auto salvaging, the Ford Plan and an LG&E substation; a landscaping operation and CSX Transportation;

**WHEREAS**, the Board finds that the necessary facilities (both on and off-site), such as transportation, sanitation, water, sewer etc. because the proposed uses of construction/demolition debris facility and an outdoor recycling facility will become part of the overall operation of the existing landfill, which has the necessary public facilities; and

**WHEREAS**, the Board finds that the proposal meets all applicable policies of the Comprehensive Plan and meets the specific standards required to obtain the modifications of the Conditional Use Permit;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Modified Conditional Use Permit to allow Solid Waste Management Facilities #2—Construction/Demolition Debris Facilities to allow grinding of asphalt shingles; and Solid Waste Management Facilities #4—Outdoor Recycling Facilities (metals, cardboard, wood, aggregate and other materials on the site **SUBJECT** to the applicable previously approved Conditions of Approval.

**YES: Members Proffitt, Tharp, Allendorf and Fishman.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Bergmann, Liggin and Jarboe.**

**ABSTAINING: No one.**

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 15VARIANCE1010**

**Request:** Variance from the Land Development Code to allow an existing fence to exceed the maximum height.

**Project Name:** Fence

**Location:** 609 Winyan Lane

**Owner:** Adam Green  
609 Winyan Lane  
Louisville, KY 40223

**Applicant:** Same as Owner

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 18—Marilyn Parker**  
**Staff Case Manager: Sherie' Long, Landscape Architect**

**(CONTINUED FROM MARCH 16, 2015)**

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at the Planning and Design Services offices located at 444 S. 5<sup>th</sup> Street).

**Agency Testimony:**

Latondra Yates, presented the case for staff case manager, Sherie' Long and discussed the case summary, standard of review and staff analysis from the staff report. She said this case was continued to allow the applicant time to consult the homeowners' association and the area resident who was opposed to the fence.

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 15VARIANCE1010**

**The following spoke in favor of this request:**

Adam Green.

**Summary of testimony of those in favor:**

Adam Green, the applicant, said the homeowners association will be handling such issues differently now, informing the community about permits before they build. He said the homeowners association did not tell him to move the fence or reduce the height. Mr. Green submitted letters of support from people who live close to him.

**The following spoke neither for nor against the request:**

No one.

**Summary of testimony of those who spoke neither for nor against:**

No one.

**The following spoke in opposition to this request:**

No one.

**Summary of testimony of those in opposition:**

No one.

**Deliberation:**

Member Allendorf said the fence is protecting the property with the in ground pool. Member Fishman said she thinks the fence is too close to the sidewalk, but that there is no opposition here today. Chair Proffitt said the applicant has done what he could do, to remedy the situation.

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the April 6, 2015 public hearing proceedings.**

After the public hearing in open business session, on a motion by Member Allendorf, seconded by Member Tharp, the following resolution was adopted:

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 15VARIANCE1010**

**WHEREAS**, the Board finds from the file of this case, the staff report, the site plan; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a variance from Chapter 4, Section 4.4.3.A.1.a.i of the Land Development Code to allow an existing fence to exceed the maximum height; and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the existing 6 ft. tall fence is not blocking visibility at the street intersection or interfering with the traveling public; nor is the fence blocking or interfering with the pedestrian use of the adjacent sidewalk; and because the location of the fence is also not impeding or interfering with the ability of the property owner to safely enter or exit the driveway; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity because there are other 6 ft. tall fences in the neighborhood; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public because it will be protecting the homeowner and neighborhood children due to the pool; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because there are other similar fence heights in the neighborhood; and

**WHEREAS**, the Board finds that the variance arises from special circumstances which do not generally apply to land in the general vicinity because the property is a corner lot where the sidewalk ends; also because the owner has a pool so the additional height will keep neighborhood kids off his property; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and create an unnecessary hardship because the fence would need to be relocated out of the 25 ft. setback to maintain the existing 6 ft. height or, the fence would need to be reduced by 2 feet to stay within the 25 ft. setback;



**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 15VARIANCE1010**

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow an existing fence to be 6 ft. tall along the north property line.

**YES: Members Proffitt, Allendorf, Tharp and Fishman.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members  
Bergmann, Liggin and Jarboe.**

**ABSTAINING: No one.**

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 15VARIANCE1011**

**Request:** Variance from the Land Development Code to allow a proposed code required exterior staircase to encroach into the required south side yard.

**Project Name:** None (multi-family residential)

**Location:** 1444 S. 2<sup>nd</sup> Street

**Owner:** Wilder Park Properties, LLC  
Anna Tatman, Partner  
4006 South Brook Street  
Louisville, KY 40214

**Applicant:** Same as Owner

**Representative:** Gil Stein & Associates Architects  
Gil Stein, Jr.  
1932 Roanoke Avenue  
Louisville, KY 40205

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 6—David James**

**Staff Case Manager: Latondra Yates, Planner II**

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at the Planning and Design Services offices located at 444 S. 5<sup>th</sup> Street).

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 15VARIANCE1011**

**Agency Testimony:**

Latondra Yates presented the case for staff case manager, Sherie' Long and discussed the case summary, standard of review and staff analysis from the staff report. She said the variance is related to renovations to the existing multi-family building to include a code-required outdoor staircase for fire escape. She said the applicant received a Certificate of Appropriateness from Historic Landmarks & Preservation on October 24, 2014.

**The following spoke in favor of this request:**

Gil Stein, the applicant's architect submitted information into the record.

**Summary of testimony of those in favor:**

Gil Stein, the applicant's architect, said the exterior staircase is needed so the 2<sup>nd</sup> floor will have a fire escape route.

**The following spoke neither for nor against the request:**

No one.

**Summary of testimony of those who spoke neither for nor against:**

No one.

**The following spoke in opposition to this request:**

No one.

**Summary of testimony of those in opposition:**

No one.

**Deliberation:**

The Board said the staircase is needed for the safety of the tenants.

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**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 15VARIANCE1011**

After the public hearing in open business session, on a motion by Member Fishman, seconded by Member Allendorf, the following resolution was adopted:

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance from Chapter 5.2.D.6., Table 5.2.2 of the Land Development Code to allow an exterior staircase to encroach into the required south side yard; and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the exterior exit staircase is a safety requirement of the building code; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity because the building will continue to be used for multi-family residential; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public because the exterior exit staircase is a safety requirement of the building code; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the majority of the side yard will be observed; and

**WHEREAS**, the Board finds that the existing building 3<sup>rd</sup> floor exit door opens to a roof area with no other code allowed location for a 2<sup>nd</sup> floor exit; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the exterior staircase is required by code; and

**WHEREAS**, the Board finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought because of the rehabilitation of an 1880's building into an

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 15VARIANCE1011**

apartment building which doesn't meet the code if the exterior staircase is not built to provide a secondary exit for tenants on the second floor;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow the proposed exterior staircase to be 3 inches from the south property line.

**YES: Members Proffitt, Allendorf, Tharp and Fishman.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members  
Bergmann, Liggin and Jarboe.**

**ABSTAINING: No one.**

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 15VARIANCE1009**

**Request:** Variance from the Land Development Code to allow parking and vehicular maneuvering to encroach into the required front yard; two landscape buffer waivers and a vehicular use area landscape buffer.

**Project Name:** Value Place Hotel

**Location:** 3300 Preston Highway

**Owners:** Carol David Gold  
9023 Cynthia Street  
West Hollywood, CA 90069

Joy Behr  
1400 Willow Avenue, #1105  
Louisville, KY 40204

Stuart Yudofsky  
11010 Wickwood  
Houston, TX 77024

**Applicant:** TGC Development Group  
Quentin Ellis  
125 N. Emporia, Ste. 202  
Wichita, KS 67272

**Attorney:** Wyatt, Tarrant & Combs  
Deborah Bilitski  
500 W. Jefferson Street, Ste. 2800  
Louisville, KY 40202

**Representative:** Land Design & Development  
Ann Richard  
503 Washburn Avenue  
Louisville, KY 40222

**Jurisdiction:** Louisville Metro

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 15VARIANCE1009**

**COUNCIL DISTRICT 21—Dan Johnson**

**Staff Case Manager: Sherie' Long, Landscape Architect**

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at the Planning and Design Services offices located at 444 S. 5<sup>th</sup> Street).

**Agency Testimony:**

Latondra Yates, Planner II, presented the case for staff case manager, Sherie' Long and discussed the case summary, standard of review and staff analysis from the staff report. She said the applicant wants to remove existing structures and build a 124 room, 4 story, extended stay hotel. The applicant will provide streetscape improvements including new sidewalks with a brick insert, new light fixtures and street tree planting. Two of the existing street trees will be removed to accommodate a TARC shelter and trash receptacle, but will be replanted elsewhere on the property.

**The following spoke in favor of this request:**

Deborah Bilitski, Attorney.

Ann Richard.

**Summary of testimony of those in favor:**

Deborah Bilitski, the applicant's attorney, said the proposed extended stay hotel (Value Place Hotel) is needed in the area with close access to the expressways and other attractions nearby. She said the property now, looks degraded and that her client will be spending 6 ½ million dollars to renovate the property.

Ann Richard said they will have 1 parking space per room as required; and that no quantity of trees will be lost.

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 15VARIANCE1009**

Deborah Bilitski said there will be an 11% reduction in impervious surface; and they will be planting 52 new trees and shrubs.

Member Allendorf asked where the employees will park. Ms. Bilitski said 6 to 8 of the employees will live on the site; and that her client could move some employee parking off site. Ms. Bilitski added that they will not need a variance for signage. Ms. Richard said they will provide attached signage, which is shown on the elevations, but that no freestanding sign is proposed

**The following spoke neither for nor against the request:**

No one.

**Summary of testimony of those who spoke neither for nor against:**

No one.

**The following spoke in opposition to this request:**

No one.

**Summary of testimony of those in opposition:**

No one.

**Deliberation:**

The Board said the new hotel will be an improvement to the area. Chair Proffitt said to include a condition of approval about the proposed landscaping will look similar as presented at today's public hearing.

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the April 6, 2015 public hearing proceedings.**



**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 15VARIANCE1009**

**Variance—To allow parking and vehicular maneuvering to encroach into the required front yard setback:**

After the public hearing in open business session, on a motion by Member Allendorf, seconded by Member Tharp, the following resolution was adopted:

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a variance from Section 5.3.2.C.2.a. of the Land Development Code to allow parking and vehicular maneuvering to encroach into the required front yard setback, 65 feet from the street centerline along Preston Highway frontage; and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the location of the parking and vehicular maneuvering area is following the established pattern of the vicinity; and because adjacent properties, including those across the street, all have parking located in the front of the building and in the front setbacks; also, a landscape buffer with tree and shrub plantings will be provided along Preston Highway to reduce the impact of the location of the parking; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity because parking and vehicular maneuvering area located in front of the building and in the front setback is the established pattern of the vicinity; and because adjacent properties including across the street all have parking located in front of the building; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public because the buffer planting are proposed along the street frontage which will reduce the impact of the location of the parking and maneuvering area; and because parking in front of the building and in the setback is the established pattern of the vicinity; and

**WHEREAS**, the Board finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the building is

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 15VARIANCE1009**

meeting the setback requirements—only the first row of parking spaces adjacent to the street is located in the setback; and because the location of the proposed parking is similar to other surrounding properties; and

**WHEREAS**, the Board finds that the variance arises from special circumstances which do not generally apply to land in the general vicinity because the lot is an odd shape, angled adjacent to the rail road tracks to the north and I-65 to the west; and because neither the existing development on the subject site nor any of the surrounding developments meets the setback requirements along Preston Highway; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because 16 proposed parking spaces would be lost and without these parking spaces, the development would not be able to be built since they are at the minimum amount of parking spaces (112);

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow parking and maneuvering to be 47 feet from the street centerline along Preston Highway frontage.

**YES: Members Proffitt, Allendorf, Tharp and Fishman.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Jarboe, Bergmann and Liggin.**

**ABSTAINING: No one.**

**Waiver #1—To allow the encroachment of proposed Vehicle Use Area (VUA) (pavement and curb) into the I-65 Expressway 15' Landscape Buffer Area (LBA) along the western perimeter:**

On a motion by Member Allendorf, seconded by Member Tharp, the following resolution was adopted:

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review the site plan; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 15VARIANCE1009**

public hearing that the applicant is requesting a waiver from Section 10.2.4.B and 10.2.7 of the Land Development Code to allow the encroachment of proposed VUA (pavement and curb) into the I-65 Expressway 15' LBA along the western perimeter; and

**WHEREAS**, the Board finds that the requested waiver will not adversely affect adjacent property owners, since the applicant is providing perimeter landscape plantings which meet the minimum requirements even with the encroachment of the proposed pavement; and

**WHEREAS**, the Board finds that the waiver will not violate specific guidelines of Cornerstone 2020 because Guideline 3, policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate; and because Guideline 3, policies 21 and 22, calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage and other visual nuisances; and because Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered; and because Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas; and because the intent of LBA's is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants; and even though there is an encroachment of the pavement into the landscape buffer area, the applicant is providing plantings which meet the minimum required tree and shrub plantings for the perimeter buffers; also, the tree canopy requirements are being fulfilled for the site; and

**WHEREAS**, the Board finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the encroachment of

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 15VARIANCE1009**

the vehicular maneuvering area is the minimum necessary to allow the necessary parking to be provided; and because the required tree and shrub plantings are being provided as required within the perimeter buffer; and

**WHEREAS**, the Board finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for noncompliance with the requirements to be waived (net beneficial effect); the proposed redevelopment will include removing a portion of the existing asphalt and restoring a 9-foot LBA along Preston Highway where none currently exists on the subject property; in addition, perimeter and interior landscaped areas and tree canopy will be provided per the Land Development Code requirements; and because the landscaping improvements coupled with an attractively-designed new building, will result in a significant improvement over the existing site conditions and will enhance the aesthetic character of Preston Highway corridor;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to allow the encroachment of proposed VUA (pavement and curb) into the I-65 Expressway 15' LBA along the western perimeter **ON CONDITION** that the proposed landscaping be similar to what was presented on the PowerPoint slide at today's hearing.

**YES: Members Proffitt, Allendorf, Tharp and Fishman.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Jarboe, Bergmann and Liggin.**

**ABSTAINING: No one.**

**Waiver #2—To allow the encroachment of proposed VUA (pavement and curb) into the Preston Highway 15' VUA/LBA along the eastern perimeter:**

On a motion by Member Allendorf, seconded by Member Tharp, the following resolution was adopted:

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review the site plan; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a waiver from Section 10.2.10 of

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 15VARIANCE1009**

the Land Development Code, to allow the encroachment of proposed VUA (pavement and curb) into the Preston Highway 15' VUA/LBA along the eastern perimeter; and

**WHEREAS**, the Board finds that the requested waiver will not adversely affect adjacent property owners since the applicant is providing perimeter landscape plantings which meets the minimum requirements even with the encroachment of the proposed pavement; and because the location of the parking is similar to the surrounding properties; and

**WHEREAS**, the Board finds that the waiver will not violate specific guidelines of Cornerstone 2020 because Guideline 3 (Compatibility), which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for parking areas adjacent to streets to be screened and buffered; and because the waiver will not violate Guideline 13 (Landscape Character) which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs; and because the purpose of vehicle use area landscape buffer areas is to improve the appearance of VUA's and property abutting public rights-of-way; even though there is an encroachment of the pavement into the LBA, the applicant is providing plantings which meet the minimum required tree and shrub plantings for the perimeter buffers; plus, the tree canopy requirements are being fulfilled for the site; and

**WHEREAS**, the Board finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the encroachment of the vehicular maneuvering area is the minimum necessary to allow the necessary or required parking; plus, the required tree and shrub plantings are being provided as required within the perimeter buffer; and

**WHEREAS**, the Board finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for noncompliance with the requirements to be waived (net beneficial effect); the proposed redevelopment will include removing a portion of the existing asphalt and restoring a 9-foot LBA along Preston Highway where none currently exists on the subject property; in addition, perimeter and interior landscaped areas and tree canopy will be provided per the Land Development Code requirements; and because the landscaping improvements coupled with an attractively-designed

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 15VARIANCE1009**

new building, will result in a significant improvement over the existing site conditions and will enhance the aesthetic character of Preston Highway corridor;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to allow the encroachment of the proposed vehicular use area (pavement and curb) into the Preston Highway 15' VUALBA along the eastern perimeter **ON CONDITION** that the proposed landscaping will be substantially the same as what was presented at today's hearing.

**YES: Members Proffitt, Allendorf, Tharp and Fishman.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Jarboe, Bergmann and Liggin.**

**ABSTAINING: No one.**

**Waiver #3—To allow a 100% overlap of a utility easement, existing 25' Louisville Water Company into the Preston Highway 15'VUALBA along the eastern perimeter:**

On a motion by Member Allendorf, seconded by Member Tharp, the following resolution was adopted:

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review the site plan; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a waiver from Section 10.2.4.B to allow a 100% overlap of a utility easement, existing 25' Louisville Water Company, into the Preston Highway 15' VUALBA along the eastern perimeter; and

**WHEREAS**, the Board finds that the requested waiver will not adversely affect adjacent property owners since the easement is existing; and because the required buffer and tree plantings are being provided; also because the existing trees located along the street frontage are to be preserved; and

**WHEREAS**, the Board finds that the waiver will not violate specific guidelines of Cornerstone 2020 because Guideline 3, policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 15VARIANCE1009**

intrusions and mitigate when appropriate; and because Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity of density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage and visual nuisances; and because Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened for different land uses within urbanized, suburban and rural areas; and because the intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants; and even though there is an encroachment of the easement into the LBA, the applicant is providing plantings which meet the minimum required tree and shrub plantings for the perimeter buffers; also, the tree canopy requirements are being fulfilled for the site; and

**WHEREAS**, the Board finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the easement is an existing condition; and because even with the encroachment of the easement into the LBA, the applicant is providing plantings which meet the minimum required tree and shrub plantings for the perimeter buffers; plus, the tree canopy requirements are being fulfilled for the site; and

**WHEREAS**, the Board finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for noncompliance with the requirements to be waived (net beneficial effect); the proposed redevelopment will include removing a portion of the existing asphalt and restoring a 9-foot LBA along Preston Highway where none currently exists on the subject property; in addition, perimeter and interior landscaped areas and tree canopy will be provided per the Land Development Code requirements; and because the landscaping improvements coupled with an attractively-designed new building, will result in a significant improvement over the existing site conditions and will enhance the aesthetic character of Preston Highway corridor;

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 15VARIANCE1009**

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to allow a 100% overlap of a utility easement (existing 25' Louisville Water Company) into the required Preston Highway 15' VUALBA along the east property line **ON CONDITION** that the proposed landscaping be substantially the same as what was presented at today's hearing.

**YES: Members Proffitt, Allendorf, Tharp and Fishman.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Jarboe,  
Bergmann and Liggin.**

**ABSTAINING: No one.**



**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 15VARIANCE1014**

**Request:** Variance from the Land Development Code to allow a proposed building to exceed the maximum setback of 25 feet from Shelbyville Road; and waivers from the Land Development Code for the parking location; to not provide a sidewalk; to not provide a pedestrian connection; and landscape waivers

**Project Name:** Springdale Automotive - Eastwood

**Location:** 16119 Eastwood Cut Off Road

**Owner:** Springdale Properties, LLC  
Kurt & Karen Shelton  
18919 Long Grove Way  
Louisville, KY 40245

**Applicant:** Lichtefeld, Inc.  
Paul Lichtefeld, Jr.  
908 S. 8<sup>th</sup> Street  
Louisville, KY 40203

**Representative:** Milestone Design Group, Inc.  
Mark Madison  
108 Daventry Lane  
Louisville, KY 40223

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 19—Julie Denton**

**Staff Case Manager:** Sherie' Long, Landscape Architect/Latondra Yates, Planner II

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and was available

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 15VARIANCE1014**

to any interested party prior to the public hearing. (The staff report is part of the case file maintained at the Planning and Design Services offices located at 444 S. 5<sup>th</sup> Street).

**DISCUSSION:**

Latondra Yates stated that the applicant's representative would like a continuance to work with the Eastwood Community Council.

Mark Madison, the applicant's representative, said they need approximately another month to work some issues out.

Steve Hendrix, Planning Supervisor, said he could have April 20, 2015 or May 4, 2015. Mr. Madison chose May 4, 2015.

There were two people that showed up to testify, and said that they are not opposed to the continuance.

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the April 6, 2015 public hearing proceedings.**

On a motion by Member Allendorf, seconded by Member Tharp, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to **MAY 4, 2015** agenda.

**YES: Members Proffitt, Allendorf, Tharp and Fishman.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Jarboe, Bergmann and Liggin.**

**ABSTAINING: No one.**

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 15CUP1003**

**Request:** Conditional Use Permit to allow a heliport in a C-3 zoning district.

**Project Name:** Kentucky One Health Jewish Heliport

**Location:** 250 Abraham Flexner Way

**Owner:** Jewish Hospital & St. Mary's Healthcare  
Steve Amsler, VP of Operations  
250 Abraham Flexner Way  
Louisville, KY 40202

**Applicant:** Jewish Hospital  
Steve Amsler  
530 S. Jackson Street  
Louisville, KY 40202

**Representative:** Sabak, Wilson & Lingo, Inc.  
Kelli Jones  
608 S. Third Street  
Louisville, KY 40202

**Architect:** JRA Architects  
Steve Wiser  
829 E. Market Street, Suite B  
Louisville, KY 40206

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 4—David Tandy**

**Staff Case Manager:** Jon Crumbie, Planner II/Steve Hendrix, Planning Supervisor

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 15CUP1003**

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at the Planning and Design Services offices located at 444 S. 5<sup>th</sup> Street).

**Agency Testimony:**

Steve Hendrix, Planning Supervisor, presented the case for staff case manager, Jon Crumbie and discussed the case summary, standard of review and staff analysis from the staff report. He said the applicant wants to reinstall a heliport on top of an existing parking garage for quicker access to the hospital. Mr. Hendrix explained the modifications the applicant requested for specific standards of the CUP, Items A., D., E., and F (page 3 of staff report). Chair Proffitt questioned the parking near the helipad.

**The following spoke in favor of this request:**

Kelli Jones.

Steve Wiser.

**Summary of testimony of those in favor:**

Kelli Jones, the applicant's representative, said the garage will still be used for parking, but not allowed within so many feet of the helipad. She said the helicopter will be stationed at Bowman Field, drop off patients and return to Bowman Field.

Steve Wiser, the applicant's architect, said there will be fencing installed to keep people from parking too close to the helipad. He said this will be primarily for cardiac patients

Chair Proffitt asked if this needed FAA approval. Ms. Jones said yes, that they've received their approval, KTC and Public Works.

Member Allendorf asked if they have the necessary fire equipment. Mr. Wiser said yes, and that the FAA has had several people from Kansas City to inspect it.

**The following spoke neither for nor against the request:**

No one.

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 15CUP1003**

**Summary of testimony of those who spoke neither for nor against:**

No one.

**The following spoke in opposition to this request:**

No one.

**Summary of testimony of those in opposition:**

No one.

**Deliberation:**

Board of Zoning Adjustment deliberation.

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the April 6, 2015 public hearing proceedings.**

**Conditional Use Permit to allow a heliport in a C-3 Zoning District:**

On a motion by Member Allendorf, seconded by Member Tharp, the following resolution was adopted:

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review, the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a Conditional Use Permit to allow a heliport in a C-3 zoning district; and

**WHEREAS**, the Board finds that the proposal is compatible with surrounding land uses and the general character of the area because the subject site is located in the downtown area that has a mix of medical uses and is a focal point for the downtown medical complex and Louisville Metro; and because all the medical uses in the area have similar scale, intensity, traffic, noise and lighting; and

**WHEREAS**, the Board finds that the necessary public facilities (both on and off-site) because the proposal has been review by Transportation Planning and MSD and both have approved the plan; and

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 15CUP1003**

**WHEREAS**, the Board finds that the proposal complies with specific standards required to obtain the conditional use permit with the following modifications: Item A., where the landing area will be 35 feet from the property line instead of the required 50 feet; Item D., where the heliport will be 19 feet away from the property line instead of the required 30 feet; and Item E., the heliport will be open 24 hours a day for the transportation of emergency patients; and Item F., no parking will be provided because the parking for the garage will remain a safe distance from the helipad;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow a heliport in a C-3 zoning district on the site **SUBJECT** to the following 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 heliport without further review and approval by the Board.

**YES: Members Proffitt, Allendorf, Tharp and Fishman.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Jarboe, Bergmann and Liggin.**

**ABSTAINING: No one.**

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 14CUP1037**

**Request:** Conditional Use Permit to allow a mini-warehouse in a C-2 Zoning District.

**Project Name:** U-Box/U-Haul Store

**Location:** 4612 Preston Highway

**Owner:** AMERCO Real Estate Company  
Carlos Vizcarra  
2721 N. Central Ave, Ste. 700  
Phoenix, AZ 85004

**Applicant:** Same as Owner

**Representative:** Civil Design, Inc.  
Kim Dunaway  
3404 Stony Spring Circle  
Louisville, KY 40220

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 21—Dan Johnson**

**Staff Case Manager:** Jon Crumbie, Planner II/Steve Hendrix, Planning Supervisor

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at the Planning and Design Services offices located at 444 S. 5<sup>th</sup> Street).

**Agency Testimony:**

Staff case manager, Steve Hendrix discussed the case summary, standard of review and staff analysis from the staff report. He said the CUP is for a proposed

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 14CUP1037**

4,994 sq. ft. mini-warehouse building for the storage of U-Box Pods. A Revised Detailed District Development Plan and 3 waivers were approved on February 18, 2015, Case No. 14DEVPLAN1179. He said the applicant would like to modify the listed requirements, Items A, B, F & G (on page 3 and 4 of the staff report).

**The following spoke in favor of this request:**

Kim Dunaway.

Chris Nester, U-Hal, 4128 Bardstown Road, Louisville, KY 40218.

**Summary of testimony of those in favor:**

Kim Dunaway, the applicant's representative, said they will be subdividing the property into two lots but will still be connectivity. She said they do not need to modify Item B, regarding the setback because the property to the south is commercial. She said they will still be providing the required landscaping. Member Allendorf asked how they would prevent someone from storing hazardous material.

Chris Nester, the applicant, said there only procedure would be contractual.

Ms. Dunaway agreed to install the landscaping as presented today.

**The following spoke neither for nor against the request:**

No one.

**Summary of testimony of those who spoke neither for nor against:**

No one.

**The following spoke in opposition to this request:**

No one.

**Summary of testimony of those in opposition:**

No one.



**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 14CUP1037**

**Deliberation:**

Chair Proffitt said to include another condition of approval regarding the proposed landscaping.

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the April 6, 2015 public hearing proceedings.**

**Conditional Use Permit to allow a mini-warehouse in a C-2 Zoning District:**

On a motion by Member Allendorf, seconded by Member Tharp, the following resolution was adopted:

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review, the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a Conditional Use Permit to allow a mini-warehouse in a C-2 Zoning District; and

**WHEREAS**, the Board finds that the proposal complies with all applicable policies of the Comprehensive Plan; and because lighting and signage will be code compliant; and three waivers have been previously approved by the Development Review Committee; and

**WHEREAS**, the Board finds that the proposal includes necessary public facilities (both on and off-site) such as transportation, sanitation, water, sewer, drainage etc. because the request has been reviewed and approved by the Transportation Planning Department and MSD; and

**WHEREAS**, the Board finds that the proposal complies with specific standards required to obtain the conditional use requested, except, the Board will modify Item A. where landscaping will be provided along Preston Highway; and because the applicant will screen the loading area from the adjacent restaurant with a 6 ft. tall wooden privacy fence and landscaping; and the Board will also modify Item F. because the loading doors and vehicle maneuvering areas will be located toward the exterior of the property; and Item G., because the proposed building will be 33'11" in height;

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 14CUP1037**

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow a mini-warehouse in a C-2 Zoning District on the site **SUBJECT** to the following 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 mini-warehouse
3. The landscaping shall be substantially the same as presented at today’s public hearing.

**YES: Members Proffitt, Allendorf, Tharp and Fishman.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Jarboe, Bergmann and Liggin.**

**ABSTAINING: No one.**

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 14CUP1038**

**Request:** Conditional Use Permit to allow a community service facility (outpatient behavioral counseling) in a UN Zoning District.

**Project Name:** Maryhurst Behavioral Health Counseling

**Location:** 3201 Portland Avenue

**Owner:** Portland Avenue Presbyterian Church  
Steve Rose  
3126 Portland Avenue  
Louisville, KY 40212

**Applicant:** Maryhurst, Inc.  
Steve Ochs  
1015 Dorsey Lane  
Louisville, KY 40223

**Attorney:** Barber, Banaszynski & Hiatt, PSC  
Thomas J. Banaszynski  
802 Lily Creek Road  
Louisville, KY 40243

**Representative:** Bailey & Associates Architects  
Mark Bailey  
1536 Lytle Street  
Louisville, KY 40203

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 5—Cheri Bryant Hamilton**  
**Staff Case Manager: Latondra Yates, Planner II**

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and was available

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 14CUP1038**

to any interested party prior to the public hearing. (The staff report is part of the case file maintained at the Planning and Design Services offices located at 444 S. 5<sup>th</sup> Street).

**Agency Testimony:**

Staff case manager, Latondra Yates discussed the case summary, standard of review and staff analysis from the staff report. The CUP is to allow an outpatient behavioral counseling facility on the 1st floor of an existing 2-story house. The house is occupied on the 2<sup>nd</sup> floor; and improvements will be made to make the property ADA compliant. The site is in the area covered under the "Portland Ordinance", Ordinance Number 16, Series 2006, that requires development in the Portland Neighborhood to go through a Category 3 review prior to issuance of a building permit (as amended). The applicant has met with Portland NOW and has their support. Member Fishman questioned the number of employees and signage.

**The following spoke in favor of this request:**

Thomas J. Banaszynski, Attorney.

**Summary of testimony of those in favor:**

Thomas J. Banaszynski, the applicant's attorney, said the request will allow individual and group counseling Monday through Friday from 8:00 a.m. to 5:00 p.m. and will be managed by Maryhurst, Inc. He said there will be a maximum of 5 employees; and no attached signage. Mr. Banaszynski said they held a neighborhood meeting and all who attended were in support.

**The following spoke neither for nor against the request:**

No one.

**Summary of testimony of those who spoke neither for nor against:**

No one.

**The following spoke in opposition to this request:**

No one.

**Summary of testimony of those in opposition:**

No one.

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 14CUP1038**

**Deliberation:**

Member Tharp said no one was opposed; and will be beneficial for the community.

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the April 6, 2015 public hearing proceedings.**

**Conditional Use Permit to allow a community service facility:**

On a motion by Member Allendorf, seconded by Member Tharp, the following resolution was adopted:

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review, the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a Conditional Use Permit under Section 4.2.55 of the Land Development Code to allow a community service facility (outpatient behavioral counseling); and

**WHEREAS**, the Board finds that the proposal complies with all applicable policies of the Comprehensive Plan; and because no signage will be placed on the building and will remain residential in character; and

**WHEREAS**, the Board finds that the proposal is compatible with the surrounding uses and general character of the area, because the building is existing and will remain residential in character without significant modifications; and

**WHEREAS**, the Board finds that the necessary public facilities (both on and off-site) such as transportation, sanitation, water, sewer, emergency services etc. because the plan has been reviewed and preliminarily approved by Transportation Planning and MSD; and

**WHEREAS**, the Board finds that the proposal complies with the listed requirements because the maximum number of employees will be 5; and because no signage will be placed on the building; also because the building is existing with no modifications that would trigger landscaping requirements

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**NEW BUSINESS**

**CASE NO. 14CUP1038**

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow a community service facility (outpatient behavior counseling) on the site **SUBJECT** to the following 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 community service facility (outpatient behavior counseling) without further review and approval by the Board.

**YES: Members Proffitt, Allendorf, Tharp and Fishman.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Jarboe, Bergmann and Liggin.**

**ABSTAINING: No one.**

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**APRIL 6, 2015**

**The meeting adjourned at 10:53 a.m.**

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**CHAIRPERSON**

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**SECRETARY**