

APPLICATION FOR ZONING ACTION

TO:

- Boone County Planning Commission
- City of Florence Board of Adjustment
- Boone County Board of Adjustment
- City of Union Board of Adjustment
- City of Walton Board of Adjustment
- Zoning Enforcement Officer

FOR:

- Zoning Text Amendment
- Comprehensive Plan Change
- Preliminary Plat Review
- Conditional Use Permit
- Concept Development Plan Change
- Preliminary Development Plan
- Change of Non-Conforming Use
- Design Review Board and Certificate of Appropriateness
- Zoning Map Amendment
- Planned Development Overlay Change
- Improvement Plat Review
- Final or Deed Plat Review
- Site Plan Review
- Historic District Overlay
- Appeal or Variance
- Sign or Zoning Permit

Applicant: HERTZ CORPORATION Owner

Address: P.O. BOX 75016 (GREATER CINCINNATI AIRPORT) Agent

CINCINNATI, OHIO 45275 Telephone: (606) 283-3539

Location: 7209 BURLINGTON PIKE, FLORENCE, KENTUCKY 41042

Name of Property Owner: JOHN B. DAVID and TERESE D. DAVID

Address of Property Owner: 852 ROSEWOOD DRIVE, VILLA HILLS, KENTUCKY 41017

Zoning District: C-2 Area in Acres: .2952

Deed Book: 378 Page Number: 58 Group Number: 938 & 2041B

Description of Request: TO OBTAIN CONDITIONAL USE PERMIT TO CONDUCT A USED CAR SALES BUSINESS ON PROPERTY LOCATED AT 7209 BURLINGTON PIKE, FLORENCE, KENTUCKY.

Applicant's Signature: *Art Campbell (Hertz Corp)* HAZEL POOLE

Property Owner's Signature: X *John B. David* Terese D. David

FOR PLANNING COMMISSION USE ONLY

Application Fee: _____ Date Received: _____ By: _____

Referred To: _____ Meeting Date: _____

Action Taken: _____ Date of Action: _____

STAFF REPORT

APPLICANT: Hertz Corporation
DEVELOPMENT: used car sales business
LOCATION: 7209 Burlington Pike, Florence, Kentucky
ZONING: Commercial Two (C-2)
DATE: July 13, 1988 8:30 P.M.

REMARKS:

The applicant is requesting a Conditional Use Permit to utilize a property with an existing building and parking lot to conduct a used car sales business. The .29 acre site, located on the south side of Burlington Pike at the Burlington Pike/Shelby Street intersection, is zoned Commercial Two (C-2). The property is owned by David B. and Terese D. David. The property was granted a Conditional Use Permit for use as a tune-up business on August 8, 1984. That business closed, and the current request is to use the existing structures with no changes to the site.

Surrounding Land Uses and Zoning

North - C-2; an auto parts store and an open field, Boone County High School beyond
South - C-2; single-family residences
East - C-2; a real estate office and a law office
West - C-2; a single-family residence

The following reviews the general standards applicable to all Conditional Uses in the County:

1. The 1986 Boone County Comprehensive Plan Future Land Use Map indicates the future use of this property to be Medium Density Residential (3 to 8 dwelling units/acre). The Land Use Element of the Comprehensive Plan makes the following statements about the general area:

"Commercial development in this section will remain near the arterial roads or close to the interstate. This consumer service and traffic oriented developments must be contained to specific areas adjacent to the arterials and interstate. The coordination of curb cuts and parking lot tie ins in the already developed areas must occur in order to maintain a reasonable ease of travel along these roads." (p. L-19)

2. The Board must determine if the operation of a small used car sales business on this property would be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and would not change the essential character of the area.
3. Use of the property as a used car lot would not be hazardous to existing or future neighboring uses.
4. The site is adequately served by essential public facilities and services.
5. The use of the property as a used car lot would not create excessive additional requirements at public cost for public facilities and services.
6. A used car lot would not involve uses, activities, processes, materials, equipment or conditions of operation that will be detrimental to any persons, property, or to the general welfare.
7. Vehicular approaches to the property are already in existence and do not create an interference with traffic on surrounding public thoroughfares. The applicant has verbally committed to a willingness to consolidate access onto KY 18 should the adjoining property to the west develop commercially.

The Board must also consider more specific criteria applicable to Conditional Use Permits in Commercial Two districts:

1. The Board must determine if the activity will further add to, not detract from, the creation of a compact, multi-purpose and pedestrian oriented commerce center.
2. The arrangement of the used car sales lot would be compatible with the organization of permitted and accessory uses to be protected in the district.

The Staff has the following concerns and recommended conditions of approval:

1. While the area is zoned for commercial uses, it is still highly residential in nature and adjoins residential districts. The submitted Site Plan shows spaces for 25 cars. The Staff recommends as a condition of approval that the applicant provide eight spaces for customer parking and one space for every two employees, to conform to the specifications and dimensions of the Boone County Zoning Regulations, independent of the spaces for the used cars.
2. The applicant has verbally committed to using only the existing sign on the property and to not placing any

building mounted signs. The Staff recommends as a condition of approval that the applicant agree to the use of the existing sign, without modification of the sign's dimensions, only.

3. The applicant has verbally committed to improving the site through landscaping. The Staff recommends as condition of approval that the applicant provide a Site Plan detailing landscaping and proposed lighting for approval by the Board and/or the Staff prior to beginning operations at the site.
4. The subject property carries a Conditional Use Permit for the previous use as a car tune-up business. The Staff recommends as a condition of approval for the current Conditional Use Permit request that the existing Conditional Use Permit be revoked.

Attached is a copy of a plat of the property supplied by the applicant, and a copy of a portion of the City of Florence Zoning Map showing the surrounding zones.

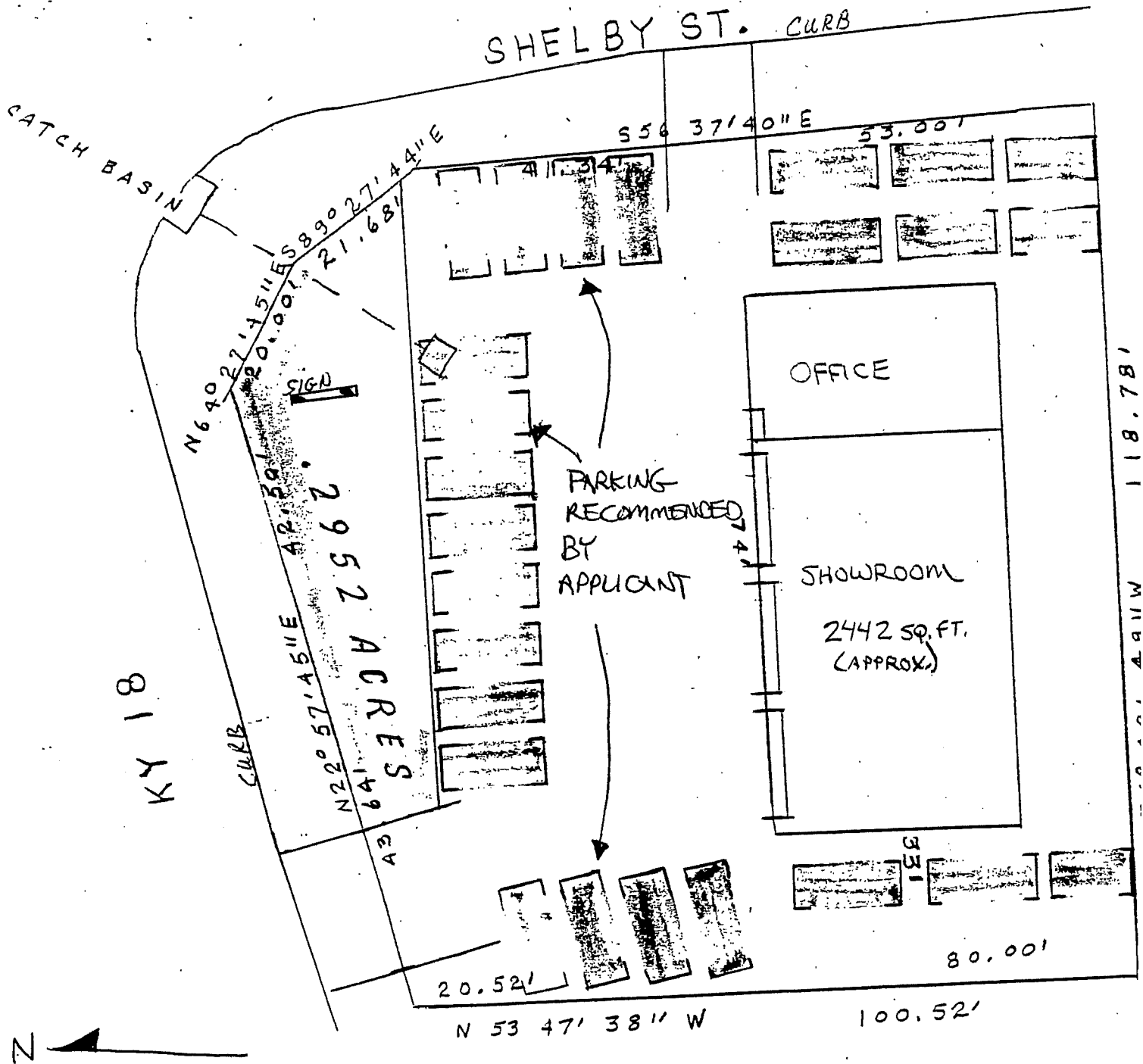
Respectfully submitted,



Paul R. Miller
Plans Examiner/Planner

HERTZ CONDITIONAL USE PERMIT

JULY 13, 1988



SITE PLAN

CITY OF FLORENCE
BOARD OF ADJUSTMENT

July 13, 1988 - 8:30 P.M.

BOARD MEMBERS PRESENT:

Mr. Ashcraft
Chairman Holland
Mrs. Meihaus
Mrs. Ward
Mr. White

BOARD MEMBERS NOT PRESENT:

None.

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Chairman Holland stated that each member had received a copy of the Minutes of the Board of Adjustment Meeting of June 8, 1988 and asked if there were any comments or corrections.

There being no changes to the Minutes, Mr. White moved that the Minutes be approved as mailed. Mrs. Ward seconded the motion and it carried unanimously.

AGENDA ITEMS:

1. The request of Ponderosa Inc. for a Variance in the height of a free-standing sign. The 1.047-acre site, located at 8053 Holiday Drive, Florence, Kentucky, is zoned Commercial Services (C-3) and is owned by Ponderosa, Inc.

Staff Member, Paul Miller, presented the Staff Report, noting that this request was deferred at the last meeting to allow for flagging of the sign (see Staff Report). Mr. Miller presented slides of the flagging. He stated that he was present at the flagging and there was no visible difference between the 60-foot sign and the 80-foot sign.

During the slide presentation, the Board discussed the other signs in the area in relation to the subject sign.

Chairman Holland asked if there was a representative of Ponderosa present.

Mr. Bruce Bush, Area Manager of Ponderosa, stated that they are requesting a 60-foot sign.

In response to a question from Mr. Ashcraft, Mr. Miller stated that he did not believe the proposed sign would block any of the existing signs since all those visible from the expressway are higher than the proposed sign.

Chairman Holland asked if the proposed sign would be in the same place.

Mr. Bush stated that he believed they wanted to moved the sign ten feet, but was not present at the meeting when this was discussed.

Mr. Miller stated that Cummings Sign Systems had discussed the possibility of moving the sign when he was at the flagging to an existing island adjacent to Holiday Drive, which is about 20 feet south of the current location. The sign would still be on the Ponderosa property.

Chairman Holland asked if there were any questions.

Mr. White stated that he thought the sign company would be present for discussion. Mrs. Meihaus noted that it is difficult to make a judgment from the slides and that sketches would be helpful in making a determination. Mr. White stated that the sign company should have been present with an artist's rendering of the sign.

Mr. Ashcraft stated that the sign would not be objectionable. Mr. Ashcraft moved that the Variance of 60 feet be granted and that the sign on top of the pole be no larger than 250 square feet. Mr. White seconded the motion and it carried unanimously.

3. The request of Hertz Corporation for a Conditional Use Permit to allow the retail sale of Automobiles. The 0.29-acre site, located at 7209 Burlington Pike, Florence, Kentucky is zoned Commercial Two (C-2) and is owned by John and Terese David.

Staff Member, Paul Miller, presented the Staff Report (see Staff Report).

Chairman Holland asked if there was a representative of the applicant present.

Mr. Jim Day of Jim Huff Realty stated that he was present representing Mr. John David.

Chairman Holland asked if he was aware that 17 cars and eight parking spaces would be permitted on the site. Mr. Day stated that he was and that the more expensive cars would be inside the building.

Mr. Art Gumpher of the Hertz Corporation stated that there would be twenty-five cars on the site, plus seven inside the building. The building is a six-bay building of about 2,000 square feet. He stated that Avis has 45 to 50 cars. He noted that they have about 30 feet behind the building and 180 feet across. The latest they would be open is 8 P.M. or 9 P.M., and some evenings they would close at 5 P.M. or 6 P.M. There will be seven or eight customer parking spots. The employees drive the sales cars. He noted that anyone working on the lot could park out the back.

Mr. Ashcraft questioned the width of the driveway off KY 18. He noted that the parking spaces take up about a third of the entryway. He added that he did not think there should be parking in the grassy area in front of the site as it would detract from the area.

Mr. Gumpher stated that they would not have cars blocking the driveway. Mr. Day stated that they had measured the width and it was about 45' to 50'. Mr. Gumpher added that they intend to do some landscaping in the grassy area.

Chairman Holland stated that he believes a customer should have a place to park and there should be designated parking spots for customers.

Mr. Gumpher discussed the traffic circulation pattern of the site. Chairman Holland noted that customers would come in off KY 18 and exit on Shelby Street, which is one-way. Mr. White noted that Avis does not have designated parking spots for customers.

In response to a question from Mr. Ashcraft, Mr. Gumpher stated that their most expensive cars will be kept inside the building.

Mr. Ashcraft asked if Mr. Gumpher would object to limiting his operating hours to no later than 9 P.M.. Mr. Gumpher stated that he would not object and they would not be operating later than 9 P.M..

Chairman Holland stated that he would like to have an agreement regarding the number of cars to be on the site.

Mr. Gumpher stated that there would be eight cars in the bays and twenty-five outside, for a total of 33 cars for sale. It is a 2,000 sq. ft. building. The building is 60 feet across and 33 feet deep. There is also room out the back for parking.

Mr. Ashcraft noted that customers cannot park on the streets near the site. He stated that this operation may be an improvement over what was on the site before as it may be less noisy and offensive.

Mr. Miller advised that the regulations limit the number of cars for sale in this zone to fifty. Mr. Sturdevant added that this limit is in effect regardless of the size of the lot.

Counselor Wilson quoted the regulations and stated that the Board can require an amount lesser than fifty.

Chairman Holland advised that if there is any parking in the back of the building, it must first be paved. He noted that there is to be no parking on the grassy area. Mr. Gumphier agreed.

Chairman Holland asked if there would be work done on the cars.

Mr. Gumphier stated that there would be hand-washing only. There will be no oil changes or anything of that type.

Mr. Day stated that there are others interested in this site, but they want to do oil changes and repairs and Mr. David does not want this use of the property.

Chairman Holland asked if there was anyone else present who wished to speak in regard to this request.

There being no further discussion, Mr. Ashcraft moved that the request be granted subject to the conditions that (1) the number of cars displayed outside the building be limited to twenty-five as proposed in the Site Plan; (2) the business operates no later than 9 P.M. E.S.T.; (3) no signs in addition to the existing sign are permitted; (4) the applicant submits a Site Plan detailing the landscaping and lighting plan to be approved by the Staff; (5) the existing Conditional Use Permit allowing a car tune-up business on the site is revoked; and (6) work on automobiles is limited to washing and polishing with no oil changes, grease jobs, etc. permitted. Mr. White seconded the motion and it carried unanimously.

2. The request of Dennis Nafus and Ken Raines for a front yard Variance to allow the construction of a self-service car wash. The 0.5-acre site, located behind Thornton Oil on Safeway Drive, is zoned Commercial Services (C-3) and is owned by David Hils.

Staff Member, Jim Sturdevant, distributed to the Board copies of a letter received from the property owner's attorney in response to the criteria of KRS 100.243. The letter was written by Mr. C. Rick Bersch, attorney, dated July 11, 1988, and is on file in the Staff Office. Time was allowed for the Board to review this letter.

At this time, Mr. Sturdevant presented the Staff Report (see Staff Report).

Chairman Holland asked Mr. Sturdevant to indicate the accesses to the site on the Site Plan. Mr. Sturdevant reviewed the Site Plan with the Board, noting the access in the center which is of concern to the Staff. He indicated the existing and proposed setbacks and the traffic circulation plan of the site on the Plan. He stated that connection to the existing parking lot and elimination of the center access point would not be a burden on the property owner in terms of access. He noted that if the building were setback fifty feet it would have three bays instead of five.

In response to questions from Chairman Holland regarding the power lines, Mr. Sturdevant stated that the easement is 75 feet on each side of the power pole and prevents the erection of a structure or building in the easement.

Mr. C. Rick Bersch, attorney whose letter was discussed earlier, stated that he represents the applicants for the purpose of this hearing, as well as the property owner. He stated that the applicants are Boone County residents and this will be a family-operated business. Their financing has been approved and they have an SBA loan through Northern Kentucky Bank and Trust. He discussed the criteria as indicated in his letter. He stated that Thornton's Car Wash has allowed the use of their driveway from the front to the back lot and they have permission to use the access. However, neither permanent use or an easement has been granted. Thornton's is not owned or operated by David Hils and he leases the property. He stated that they have determined that a three-bay car wash would not be economically feasible. He stated that neither the owner nor the applicants created the hardships that the property suffers. In regard to their ability to stack cars, Mr. Bersch stated that between the drive-in off Safeway Drive and the northerly entrance, there is room for eight to ten cars to stack, plus the cars already in the bays. They have requested the two curb cuts to make the traffic flow in a semi-circular fashion. The northerly curb cut would be entrance only and the southerly curb cut would be exit only with signs posted. He stated that coming in the southern curb cut would be difficult as the vacuums will be in front as one drives in and they are restricted from putting the vacuums in the power line easement, which is where they would have to go if cars entered from the back of the building. (See Mr. Bersch's letter dated July 11, 1988 which is on file.)

Chairman Holland asked if they had written permission from the Thornton's to use the access. Mr. Bersch stated that they have a verbal commitment and they have been asked to eliminate the use of the access if it becomes a problem to Thornton's.

Mr. White noted that the street is not dedicated and that cars and trucks park on the street.

Counselor Wilson stated that the Board could impose a condition regarding the parking of vehicles in regard to this site, but would not be able to impose a reasonable condition regarding vehicles unrelated to this site.

Mr. Sturdevant noted that it was the intent of the subdivision that the street be dedicated and that is how the plans were approved, but the Final Plat was never filed.

Counselor Wilson advised that there can be private streets where the owner is responsible for maintenance, but they are available for public use. He noted that the Convenience Plat was approved, which requires frontage on a public way available for public use.

Chairman Holland questioned the proposed hours of operation. Mr. Bersch stated that they are open 24-hours a day.

In response to a question from Chairman Holland regarding the height of the building, Mr. Bersch stated that their plans are for a 12-foot bay with a 6-foot gable, for a maximum height of 18 feet.

Mr. White noted that if Thornton's determines that the use of the access interferes with their business and the curb cut had been eliminated, there could be a problem.

Mr. Sturdevant advised that Staff's recommendation in regard to the access was determined by consultation with Mr. Doug Powell, the Transportation Planner, who is an experienced transportation expert. He noted that the site currently has a Site Plan pending before the Boone County Planning Commission.

Chairman Holland asked if there could be any further business development behind this site due to the power line easement. Mr. Sturdevant stated that he believed there could not.

Mr. White questioned what Staff's position would be if Thornton's told them to stop using the access. Mr. Sturdevant stated that assuming a Site Plan is approved with that limitation on the access, then the property owner would have to apply for review of a Revised Site Plan.

Mrs. Meihaus asked if there could be further development on the road due to the power lines. Mr. Sturdevant advised that there are more lots planned for the subdivision. He noted that there is property on the other side of the power lines suitable for development.

Chairman Holland asked if there was anyone else present who wished to speak in regard to this request. There was no response.

Chairman Holland suggested that the request be tabled for the applicant to get written permission from Thornton's to use the access. He asked Mr. Sturdevant to discuss Mr. Powell's reasons for eliminating the center curb cut.

Mr. Sturdevant stated that there is concern regarding the amount of space for stacking of cars to enter the car wash facility. He discussed the possible traffic flow patterns with the Chairman and stated that the vacuum cleaners could be moved to the opposite side of the facility.

Mrs. Meihaus asked if the entrance and exit, as well as the front and the back of the building, could be reversed.

Mr. Bersch stated that they want to vacuum the cars before they are washed, as their research has indicated this to be best. The current plan allows stacking of 8 to 10 cars. He asked what "optimum stacking" would be.

Mr. Sturdevant advised that optimum stacking would be a matter of judgment, but that what is shown would not give the maximum stacking distance and there is an opportunity to get the maximum stacking distance as recommended by Staff.

Mrs. Meihaus stated that this is an unusual situation considering the location of the lot and the power lines. She noted that there will be a gap between this and the next commercial establishment due to the power lines. Mrs. Meihaus stated that she did not anticipate a problem with stacking.

Mrs. Meihaus moved that the front yard Variance be approved for a setback of twenty-five feet, and stated that the curb cuts are to be left as they are. Chairman Holland seconded the motion.

Counselor Wilson noted that the Board is not making any certification regarding Safeway Drive and is not saying that it has been accepted, dedicated, or available for public use, as they Board does not know at this time.

Mr. Ashcraft stated that his company has a financial interest in the utility easement and, on that basis, he will abstain from voting. Mr. Ashcraft asked that the record show that he has also abstained from participating in the discussion.

There being no further discussion, Chairman Holland asked for a vote on the motion made by Mrs. Meihaus which found Mrs. Meihaus, Mrs. Ward, Mr. White, and Chairman Holland in favor. Mr. Aschraft abstained from voting. The motion carried.

BOARD ITEMS:

Chairman Holland advised that the McDonald's issue is still pending.

There being no further business to come before the Board, Chairman Holland moved, seconded by Mr. White, that the meeting be adjourned. The meeting was adjourned by unanimous consent at 10:15 P.M..

APPROVED:



Charles F. Holland, Chairman

ATTEST:


Jan Hancock, Recording Secretary