

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**MEETING OF AUGUST 1, 2011 - 2:00 P.M.**  
**MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM**

**MEMBERS PRESENT**

Vernon Coleman, Vice-Chairman  
Sanford Davis  
Adam Metcalfe  
Jeremy Milling

**STAFF PRESENT**

Frank Palombo, Planner II  
Caldwell Whistler, Planner I  
Marie Cross, Planner I  
Sondi Galanti, Secretary I

**MEMBERS ABSENT**

William Guess, Chairman  
Russell Reilly\*  
J. Tyler Turner\*  
\*supernumerary member

**OTHERS PRESENT**

John Lawler, City Attorney  
Butch Ladner, Traffic Engineering  
Gerard McCants, Urban Forestry

The notation *motion carried unanimously* indicates a consensus, with the Chairman voting.

**CALL TO ORDER:**

In the absence of Mr. Guess, the Board of Zoning Adjustment Chairman, Vice-Chairman Coleman became Acting Chair and advised all in attendance as to the policies and procedures of the Board of Zoning Adjustment. He stated there were 4 regular members and no supernumerary members present, constituting a quorum. He advised that it would require all four members to vote in the affirmative to approve any matter and then called the meeting to order.

**APPROVAL OF MINUTES:**

Mr. Metcalfe moved, with second by Mr. Davis, to approve the minutes from the following regular meetings:

- January 3, 2011; and,
- February 7, 2011.

The motion carried unanimously.

**HOLDOVERS:**

**#5685**

(Case #ZON2011-01429)

**Joe Stevens with Advanced Disposal Services Gulf Coast, LLC**

**6225 Rangeline Road**

(East side of Rangeline Road, 1400'± North of Old Rangeline Road)

**Parking Surface Variance to allow a gravel parking and maneuvering area for a disposal and recycling facility in a B-5, Office-Distribution District; the Zoning Ordinance requires parking and maneuvering areas to be paved with asphalt, concrete, or an approved alternative paving surface in a B-5, Office-Distribution District.**

The Acting Chair announced the matter, advising it had been recommended for approval and the applicant should address the Board regarding the subject at that time.

No one approached the Board on behalf of the application.

Hearing no opposition or discussion, a motion was made by Mr. Davis, with second by Mr. Milling, to deny the requested extension.

The matter carried unanimously.

**PUBLIC HEARINGS:**

**#5692**

(Case #ZON2011-01590)

**MLK Avenue Redevelopment Corporation**

1201 St. Madar Street

(Southwest corner of St. Madar Street and Plum Street)

**Side Yard Setback Variance to allow the construction of dwelling on a 50-foot wide lot corner building site within 7.14 feet of the side street in an R-2, Two-family Residence District; the Zoning Ordinance requires a 12.9-foot side yard for a 50-foot wide lot that is also a corner building site in an R-2, Two-Family Residence District.**

The Acting Chair announced the matter, advising it had been recommended for denial. He advised the applicant should address the Board regarding the subject at that time.

The following people spoke in favor of the matter:

- Tim Spafford, Architecture and Design, 351 State St., Mobile, AL, on behalf of the application; and,
- Michael Pierce, MLK Redevelopment Corporation, 300 N. Joachim St., Mobile, AL, spoke on behalf of the application.

They gave the following points:

- A. gave a brief history of the MLK Avenue Redevelopment project;

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- B. there were 2 older, dilapidated structures in severe disrepair on St. Madar Street and Plum Street, and the developer wanted to demolish the 2 houses and build a new house in an effort to revitalize the MLK community;
- C. in historic communities typically there were smaller lots and the MLK Avenue Redevelopment Corporation wanted to combine the lots in question enabling them to build 1 house on a more suitably sized lot;
- D. due to the layout of the house, the driveway would need to be located away from the intersection, however, to do so would create a side yard with only a 7.14 foot setback;
- E. placement of the driveway as requested would not restrict visibility at the intersection and would be in keeping with the neighborhood; and,
- F. as part of the MLK Avenue Redevelopment Corporation, the developers had built more than 100 homes in an effort to rebuild the neighborhood.

Mr. Metcalfe asked if the small portion jutting out on the side of the structure was what the staff felt was encroaching upon the setback.

Mr. Spafford replied the entire side of the house would encroach upon the setback as it was required to have a 12.9 foot setback.

The Acting Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those in opposition to the matter who wished to speak and opened the floor to their comments. Hearing none, he opened the matter for a motion.

A motion was made by Mr. Metcalfe, with second by Mr. Davis, to approve the above referenced request, subject to the following condition:

- 1) full compliance with all other municipal codes and ordinances.**

The matter carried unanimously.

**#5693**

**(Case #ZON2011-01618)**

**Rebecca C. Barrett**

3905 McGregor Court

(South side of McGregor Court, 75' West of South McGregor Avenue)

**Rear Yard Setback Variance to allow the construction of a detached Carport within 3.4 feet of the rear property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires an 8-foot minimum rear yard setback in an R-1, Single-Family Residential District.**

The Acting Chair announced the matter, advising it had been recommended for denial and that the applicant should address the Board regarding the subject at that time.

The following people spoke in favor of the matter:

- Fred Haidt, Haidt Land Surveying, 3965 Rainbow Dr. N., Mobile, AL, spoke on behalf of the application; and,

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- Rebecca Barrett, 6801 Hunters Court, Mobile, AL, spoke on her own behalf.

They made the following points for approval:

- A. stated the rear yard setback as requested would enable the applicant to pull into a covered carport and provide wheelchair access for the applicant's ailing husband;
- B. if the carport were built closer to the house, it would be too small to accommodate 2 cars;
- C. the strip of land which wrapped around the applicant's house was owned by a neighbor, Mr. Moseley, and he had agreed to the variance;
- D. the south end of the property contained a right-of-way which was shallow in comparison to those of the neighbors on either side;
- E. felt the property could not be used in any other fashion; and,
- F. the look of the subdivision would not change.

Mr. Metcalfe asked who owned the strip of land to the south of the lot.

Mr. Haidt replied that it was owned by Mr. Mosely.

Mr. Metcalfe asked for clarification as to whether the setback from the property line on the strip of land mentioned just prior encroached into the 8 foot required setback from the property line.

Mr. Haidt responded it was.

Mr. Metcalfe asked if the fence went behind the lot.

Mr. Haidt replied that it went 16 feet south of the property line.

The Acting Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those in opposition to the matter and opened the floor to their comments. Hearing none, he opened the matter for a motion.

A motion was made by Mr. Davis, with second by Mr. Metcalfe, to approve the above referenced request, subject to the following conditions:

- 1) the provision of gutters and downspouts along the South roof eave;**
- 2) there is to be no direct access to South McGregor Avenue; and,**
- 3) full compliance with all other municipal codes and ordinances.**

The matter carried unanimously.

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**#5694 / 5583**

**(Case #ZON2011-01627)**

**Frances Stanton Tate**

2702 Edgewood Street

(North side of Edgewood Street, 50'± West of Mobile Street)

**Front Yard Setback and Site Coverage Variances to allow the construction of a dwelling within 23 feet of the front property line and with 37.5% site coverage in an R-1, Single-Family Residential District; the Zoning Ordinance requires a 25-foot front yard setback and limits site coverage to 35% in an R-1, Single-Family Residential District.**

The Acting Chair announced the matter, advising it had been recommended for denial and the applicant should address the Board regarding the subject at that time.

Francis Staunton Tate, 2702 Edgewood Street, Mobile, AL, spoke on her own behalf and made the following points in support of the variance request:

- A. stated while applying for a certificate of occupancy it had been discovered the front yard setbacks did not meet the required 25 foot setback; and,
- B. in an effort to eliminate vandalism of property during construction, the air conditioning company had placed the unit to the right side of the house and the owner did not realize a re-submittal of plans was required illustrating the change of the air conditioning unit in question.

The Acting Chair asked if there were any questions from the Board. Hearing none, he asked if there were those in opposition to the matter and opened the floor to their comments. Hearing none, he opened the matter for a motion.

A motion was made by Mr. Coleman, with second by Mr. Davis, to approve the above referenced request, subject to the following condition:

- 1) full compliance with all other municipal codes and ordinances.**

The matter carried unanimously.

**#5695**

(Case #ZON2011-01672)

**Alabama Realty Company, Inc.**

2600 McVay Drive North

(North side of McVay Drive North, 290'± West of Navco Road)

**Height, Residential Buffer, Setback, Surfacing, Parking, Landscaping and Tree Planting Variances to allow the construction of a 130' tall communications tower within 50' of a residentially zoned property with no landscape buffer or buffer fence, and within 69.8' of the North lease parcel line, 50' of the West lease parcel line, and 103.5' of the South lease parcel line, with a gravel access drive, no designated parking, and no landscaping or tree plantings in a B-1, Buffer Business District (rezoning pending); the Zoning Ordinance restricts height to 45' and requires a residential buffer of 200' with either a 10' wide, 6' high vegetative buffer or a 6' high wooden privacy fence, setbacks of 130' from each lease parcel line, all driveways to be surfaced with asphalt, concrete, or an approved alternative surface, at least one designated parking space, and tree plantings and landscaped area in a B-1, Buffer Business District.**

Mr. Jeremy Milling recused himself from discussion and voting on the matter.

The Acting Chair announced the matter, advising it had been recommended for approval and that the applicant should address the Board regarding the subject at that time.

Brooks Milling, Hand Arendall, 24 Ridgelawn Dr. East, Mobile, AL, spoke on behalf of the application and made the following points to support the application:

- A. Stated he was there on behalf of Cellular South who was the tenant of the applicant; and,
- B. Noted due to the number of board members voting, they would need to holdover the meeting.

The Acting Chair asked if there were any questions from the Board. Hearing none, he asked if there were those in opposition to the matter and opened the floor to their comments.

The Acting Chair advised, due to lack of quorum, the matter would be held over until the September meeting.

**#5696**

(Case #ZON2011-01678)

**Bruce Bender, Inc.**

5450 US Highway 90 West

(West side of US Highway 90 West, 214'± North of Tillmans Corner Parkway).

**Sign Variance to allow a total of six (6) signs, three (3) wall signs and three (3) freestanding signs, with two (2) of the wall signs exceeding 30% of the usable wall area on a single-business site in a B-3, Community Business District; The Zoning Ordinance allows a single business in a B-3, Community Business District, to have three signs, with no more than one of those signs being a freestanding sign, and each wall sign limited to 30% of the usable wall area up to a maximum of 350 square feet.**

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The Acting Chair announced the matter, advising it had been recommended for denial and that the applicant should address the Board regarding the subject at that time.

The following people spoke in favor of the matter:

- Tony Spencer, Frank Dagley and Associates, 717 Executive Park, Mobile, AL, spoke on behalf of the application; and,
- Laurie and Bruce Bender, 5450 US Highway 90 West, Mobile, AL, spoke on their own behalf.

They gave the following points:

- A. gave a brief history of the property;
- B. the building in question was situated some distance from Highway 90 which caused the visibility from the street to be poor;
- C. until the property was annexed into the City of Mobile in 2008, the business was located in the county; and,
- D. the current numbers of signs on the property represented an accumulation of the same over a 23 year period and the applicant was not aware of the restrictions regarding signage as stipulated in the Zoning Ordinance.

Mr. Milling asked if the applicant knew they were doing something wrong in having so many signs.

Mr. Spencer replied that his clients had been in the county for so long they did not realize when they annexed into the City of Mobile that sign permits would be required.

The Acting Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those in opposition to the matter and opened the floor to their comments. Hearing none, he opened the matter for a motion.

A motion was made by Mr. Metcalfe, with second by Mr. Davis, to approve the above referenced request, subject to the following conditions:

- 1. removal of the “Mobile Shoe Hospital” sign on the South wall;**
- 2. removal of the 4’ by 2’ entrance drive sign; and,**
- 3. coordination with Traffic Engineering for possible sight visibility concerns for the remainder of the signage at the front entrance drive.**

The matter carried unanimously.

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**#5697**

**(Case #ZON2011-01685)**

**Edgewater Seafood, Inc.**

4380 Halls Mill Road

(North side of Halls Mill Road, 1050' ± West of Riviere Du Chien Road)

**Surfacing Variance to allow an aggregate parking lot addition to an existing asphalt-paved parking lot in a B-3, Community Business District; the Zoning Ordinance requires parking and maneuvering areas to be paved with asphalt, concrete, or an approved alternative surface in a B-3, Community Business District.**

The Acting Chair announced the matter, advising it had been recommended for denial and the applicant should address the Board regarding the subject at that time.

Phyllis Walker and Thomas Auld, 4380 Halls Mill Rd., Mobile, AL, spoke on their own behalf and made the following points in favor of approval:

- A. stated the Engineer submitted plans illustrating asphalt parking, but in actuality, gravel had been laid down;
- B. large vehicles, such as forklifts, garbage trucks, and 18 wheelers utilized the parking lot in question; and,
- C. the variance requested was to allow the owners to use an aggregate parking surface which would be less likely to be destroyed by the type of traffic noted in previous statements.

Mr. Palombo voiced concerns that an 18 wheeler would not be able to maneuver from the right-of-way but would have to maneuver from the parking lot.

Mr. Ladner stated having vehicles back up from the street would be unsafe and the property owner would not be able to stripe inside the parking stalls.

Mr. Metcalfe commented that tract vehicles and heavy trucks would turn and tear up an aggregate parking surface more quickly than asphalt.

The Acting Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those in opposition to the matter and opened the floor to their comments. Hearing none, he opened the matter for a motion.

A motion was made by Mr. Metcalfe, with second by Mr. Milling, to deny the above referenced request.

The matter carried unanimously.

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**#5698 / 5072**

**(Case #ZON2011-01696)**

**Wrico Signs Inc. for Infirmiry Health System, Inc.**

5 Mobile Infirmiry Circle

(Intersection of Mobile Infirmiry Boulevard and Mobile Infirmiry Circle)

**Sign Variance to allow the erection of nine (9) directional signs of various sizes which include advertising matter (logo) at a hospital campus in a B-1, Buffer Business District; the Zoning Ordinance only allows directional signs which do not include any advertising matter.**

The Acting Chair announced the matter, advising the staff had recommended denial of 7 signs but approval of sign # 1 on Mobile Infirmiry Boulevard and sign #8 on Mobile Infirmiry Drive. He asked anyone who wished to speak on the matter do so at that time.

The following people spoke in favor of the matter:

- Wade Wright, Wrico Signs, 3345 Halls Mill Rd., Mobile, AL; and,
- Scott Browning, Infirmiry Health Systems, 5 Infirmiry Circle, Mobile, AL, spoke on behalf of the application

They gave the following points:

- A. the property was unusual in that it was directly adjacent to USA Children's and Women's Hospital as well as The Mitchell Cancer Institute; and,
- B. they wished to reassure patients and visitors to the facility they were traveling in the right direction.

Mr. Palombo advised if the applicant chose to remove the Mobile Infirmiry logo from the sign it would then be in compliance with the sign ordinance.

Mr. Browning agreed to the logo removal.

The Acting Chair asked if there were any questions from the Board. Hearing none, he asked if there were those in opposition to the matter and opened the floor to their comments. Hearing none, he opened the matter for a motion.

A motion was made by Mr. Metcalfe, with second by Mr. Davis, to approve the above referenced request, subject to the following conditions:

- 1. removal of the logos on all signs other than at locations 1 and 8; and,**
- 2. approval of Traffic Engineering for all signs.**

The matter carried unanimously.

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**#5699 / 5325**

**(Case #ZON2011-01701)**

**The Wooden Boat Ministry**

360 Rapier Avenue

(Northwest corner of Rapier Avenue and Texas Street)

**Use, Parking Ratio, Landscaping and Tree Planting Variances to allow an existing 3,255 square foot building to be used as a non-profit boat building operation with no on-site parking and no landscaping and tree plantings in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum I-1, Light Industry District for a boat building operation, eleven on-site parking spaces, that 12% of the site be landscaped with 60% landscaping within the front of the building line, and the planting of five overstory and two understory trees.**

The Acting Chair announced the matter, advising it had been recommended for denial and the applicant should address the Board regarding the subject at that time.

The following people spoke in favor of the matter:

- Jonathan Stebbins, 2175 O'Rourke Dr., Mobile, AL, spoke on his own behalf; and,
- Bruce Aune, 360 Rapier Ave., Mobile, AL, owner of the property in question, spoke on behalf of the application.

They gave the following points:

- A. gave a brief history of the Alexandria Seaport Foundation on which the Wooden Boat Ministry had been modeled and described what the Ministry wanted to do in Mobile;
- B. intended the woodshop vocational trade school to have 1 instructor with a maximum of 6 young people from Strickland Youth Center who had been labeled as "at-risk" as students who would be taught to build wooden boats;
- C. it was not possible to do any landscaping on the site as there was concrete all the way around the building as the Texas Street side of the building did not have a very large right-of-way and putting up a tree would not block the public's ability to use the sidewalk;
- D. felt the students had a desire to better themselves and wanted more than they had been handed in life, which would be the reason they would stay at the site and not wander; and,
- E. were using the Alabama Teachers Education model for student to teacher ratio of 1 adult to 25 students, however, they were reducing that to a ratio of 1 adult instructor to 6 students thus enabling them to keep a closer eye on the students.

Mr. Metcalfe expressed concern there would not be enough parking at the site.

Mr. Stebbins replied since these students were on probation and unable to drive, they would probably walk, bicycle, or use public transportation to get to the location.

Mr. Aune remarked there were 2 parking spaces on Rapier Avenue and 3 parking spaces on Texas Street associated with the property in question.

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Mr. Coleman asked if they had talked to the neighbors.

Mr. Stebbins replied he had talked to the neighbors on the north side of the property but had not contacted the neighbors to the south.

Mr. Coleman had concerns as the south side neighbors had not been contacted.

Mr. Stebbins stated he would get signatures from all neighbors stating they were in favor of it.

Mr. Metcalfe asked how they would keep the noise of the machinery from the neighbors.

Mr. Stebbins replied they would have 2 air conditioning units installed which would provide fresh air and eliminate the need to open the doors and windows. They could also pay more to have the lumber prepared off-site, the preparation of which would constitute the loudest noise.

Mr. Milling voiced concerns about the background of the students bringing crime into the neighborhood.

Mr. Stebbins replied the Strickland Youth Center was an audited, monitored, program system. This alternative, court option, program had been approved by Judge Edmond Naaman and was an apprenticeship program recognized by the industry. He stated some employment had already been secured for the students through AIDT. Mr. Stebbins add the program would have both general liability and professional liability insurance as required through Strickland's programs, and they had a 1 million dollar insurance policy through Morris Insurance.

Mr. Milling expressed his real concern this type of business was not best for such a residential neighborhood.

Mr. Aune stated the kind of businesses expressing interest in this type of R-I property included a grocery store and a game room.

Mr. Stebbins said a holdover would allow him time to contact the surrounding neighbors as well as find a solution for extra parking.

The Acting Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those in opposition to the matter and opened the floor to their comments. Hearing none, he opened the matter for a motion.

A motion was made by Mr. Milling, with second by Mr. Davis, to hold the matter over to the September meeting to allow the applicant time to contact residents in the neighborhood for any possible concerns pertaining to the application.

The matter carried unanimously.

**#5700 / 5336**

**(Case #ZON2011-01702)**

**Richard Stallworth**

1755 Duval Street

(South side of Duval Street, 85'± East of Amsterdam Court)

**Use, Parking Ratio, Maneuvering, Residential Buffer, and Screening Variances to allow an Automobile Repair Shop with no designated parking, substandard maneuvering area, with no buffer fencing and substandard buffer area, and no screening of vehicles waiting to be serviced in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum B-3, Community Business District, six (6) parking spaces, 24-foot wide two-way drive aisles, a 6-foot high wooden privacy fence with a 10-foot wide restricted use buffer, and screening of vehicles waiting to be serviced with a landscaped berm.**

The Acting Chair announced the matter, advising it had been recommended for denial and that the applicant should address the Board regarding the subject at that time.

The following people spoke in favor of the matter:

- Tim Spafford, Architecture and Design, 351 State St., Mobile, AL, spoke on behalf of the application; and,
- Richard Stallworth, 1755 Duval St., Mobile, AL, spoke on his own behalf.

They gave the following points:

- A. it was an R-1 zoned lot and his client had operated the service repair garage for the last 7 years, and 5 years ago he asked for a variance application to allow him to continue and it was declined;
- B. it had been recommended at the time that Mr. Stallworth and the adjacent property owner to the west ask for a zoning variance, but the neighbor was not in agreement and the application was never made;
- C. after discussions with Bert Hoffman, Planner II, City of Mobile Urban Development Planning staff, it was found Mr. Stallworth could ask for a variance because the Planning Commission would not re-zone the property in question unless the other property owner was also in agreement with having it re-zoned;
- D. Mr. Stallworth had an agreement with Mr. Calhoun, the adjacent neighbor, to allow him to park cars on two of Mr. Calhoun's vacant properties to the west; and,
- E. the area in question was economically depressed with a number of vacant properties.

Mr. Metcalfe strongly suggested the applicant should talk with the adjacent property owner regarding going in with him and submit an application for rezoning of all of the properties in question to B-2.

The Acting Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those in opposition to the matter and opened the floor to their comments. Hearing none, he opened the matter for a motion.

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A motion was made by Mr. Metcalfe, with second by Mr. Davis, to deny the above referenced request.

The matter carried unanimously.

**#5701**

**(Case#ZON2011-01722)**

**Gulf Equipment Corporation**

5152 Willis Road

(South side of Willis Road, 100'± East of Middle Road)

**Surfacing and Buffer Variances to allow the construction of an equipment storage yard with aggregate surfacing and chain link fencing in an I-1, Light Industry District; the Zoning Ordinance requires equipment storage areas to be paved with asphalt, concrete, or an approved alternative surface and requires equipment storage areas to be enclosed with an 8-foot high solid wall or fence in an I-1, Light Industry District.**

The Acting Chair announced the matter, advising the buffer fence variance had been recommended for denial with the surfacing variance request recommended for approval and that the applicant should address the Board regarding the subject at that time.

Beverly Terry, Clark, Geer, Latham & Associates, 3901 Spring Hill Ave., Mobile, AL, spoke on behalf of the application and made the following points to support the application:

- A. agreed with all of the recommendations with the exception of the buffer fencing around the equipment yard, stating the whole area was zoned I-1 and the neighboring businesses with equipment yards did not have the buffer fencing;
- B. they planned to use chain link fencing to secure the property and would agree to the addition of screen mesh on the chain link fence as a condition of approval; and,
- C. there was a large area of wetlands to the south and west sides that could serve as the visual buffer.

The Acting Chair asked if there were any questions from the Board. Hearing none, he asked if there were those in opposition to the matter and opened the floor to their comments. Hearing none, he opened the matter for a motion.

A motion was made by Mr. Milling, with second by Mr. Metcalfe, to approve the above referenced request, subject to the following condition:

- 1) the provision of fabric mesh screening on the fence on the West, North, and East sides of the site.**

The matter carried unanimously.

**OTHER BUSINESS:**

A motion was made by Mr. Davis, with second by Mr. Milling, to approve the 2011-12 Meeting and Deadline Date Schedule.

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The motion carried unanimously.

There being no further business, the meeting was adjourned.

**APPROVED:**        July 2, 2012

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/s/ William Guess  
Chairman of the Board

jsl