

4-22-04  
#85



**City of Austin Watershed Protection and Development Review Dept.**  
505 Barton Springs Road • P.O. Box 1088 • Austin, Texas 78767-8835

APPEAL OF THE PLANNING COMMISSION DECISION TO APPROVE A  
CONDITIONAL USE SITE PLAN, SECTION 25-5-149

CITY COUNCIL HEARING DATE: May 6, 2004

PROJECT NAME: Up-To-Me Transitional Housing

PROJECT LOCATION: 5117 N. Lamar Blvd., Austin, Texas

PROJECT OWNER/AGENT: Mike McHone

APPELLANT: Cobalt Partners, Inc. (by Mike McHone)

EXISTING ZONING: CS-CO-NP

CASE NUMBER: SPC-03-0022A

REQUEST: To conduct public hearing to consider an appeal of the Planning Commission's decision to deny a Conditional Use Permit for Transitional Housing.

The applicant is requesting a conditional use permit to develop a Transitional Housing facility in an existing building within the CS-CO-NP zoning district.

*Transitional Housing use is the use of a site for the supervision or detention of more than 15 residents who are making the transition from institutional to community living. This use includes pre-parole detention facilities and halfway houses for juvenile delinquents and adult offenders, and overnight shelters for the homeless [LDC 25-2-6 (45)].*

The proposed facility will provide 52 beds. Applicant proposes "use as a Texas Department of Criminal Justice approved and funded facility to assist released female convicts in their re-entry into society".

BACKGROUND:

At the March 23, 2004 Planning Commission meeting residents and business owners in the immediate area of the proposed facility spoke in opposition.

Staff recommended the proposed plan because it met Code criteria for a conditional use permit. However, staff stated concerns about site limitations imposed upon the facility in part because the existing building is located across two zoning districts:

(1.) CS-CO-NP, which allows the proposed use, and (2.) LO-NP, which prohibits the proposed use.

The Planning Commission denied the Conditional Use Permit 7-0 for reasons cited in the attached minutes from the meeting held March 23, 2004.

CITY COUNCIL ACTION:

CITY STAFF: Kathy Haught, Case Manager 974-2724 (email: Kathy.haught@ci.austin.tx.us)

**PLANNING COMMISSION SITE PLAN  
CONDITIONAL USE PERMIT REVIEW SHEET**

**CASE NUMBER:** SPC-03-0022A

**PLANNING COMMISSION DATE:** March 23, 2004

**ADDRESS:** 5117 N. Lamar Blvd.

**WATERSHED:** Waller (Urban)

**AREA:** .40 Acres

**PROJECT NAME:** Up-To-Me Transitional Housing

**APPLICANT:** E. Mitch Ely  
Cobalt Partners  
608 W. 24<sup>th</sup> Street  
Austin, Texas 78705

**AGENT:** Mike McHone  
McHone Real Estate  
P.O. Box 8142  
Austin, TX 78713  
(512) 481-9111

**EXISTING ZONING:** Lots 1-7: CS-CO-NP, Commercial Services

**PROPOSED DEVELOPMENT:**

The applicant is requesting a conditional use permit to develop a Transitional Housing facility in an existing building within the CS-CO-NP zoning district. The existing building is 10,874 s. f., and spans two zoning districts: CS-NO-NP and LO-NP. Although Transitional Housing is a conditional use in CS-CO-NP, it is a prohibited use within that portion of the building located in the LO-NP zoning district. Therefore, the applicant proposes to use only 9,450 s. f. of the 11,024 s.f. building.

**DEPARTMENT COMMENTS:**

Transitional Housing is the use of a site for the supervision or detention of more than 15 residents who are making the transition from institutional to community living. This use includes pre-parole detention facilities and halfway houses for juvenile delinquents and adult offenders, and overnight shelters for the homeless. Transitional Housing is a conditional use per the CS zoning district. The proposed facility will provide 52 beds. Applicant proposes "use as a Texas Department of Criminal Justice approved and funded facility to assist released female convicts in their re-entry into society".

Although the proposed plan meets Code criteria, staff has concerns that the site may not meet the following requirements from the contract with the Texas Department of Criminal Justice (the Department):

- *The facility shall be subject to the placement, by the Department, of approved offenders to include sex offenders and 3g offenders. Contractor shall be required to either submit a written certification that the site is not within a child safety zone or provide written disclosure that the site is within a child safety zone. See Attachment A (C.3.4 (C) – Facility Requirements)*

*"Child Safety Zone" means the designated 500 feet as the distance that sex offenders must maintain from premises where children commonly gather, including schools, day-care facilities, playgrounds, public or private youth centers, swimming pools or video arcades. Any area within 500 feet of these types of premises is considered a child safety zone unless the Texas Department of Criminal Justice (TDCJ) or state statute modifies the distance requirement. See Attachment B*

- *An inside and outside recreational area for activities such as basketball, volleyball, etc. shall be provided. See Attachment C (C.3.4(K) – Facility Requirements)*
- *...Contractor shall in all events remain mindful that degree of unescorted access to the community must be guided by community attitudes regarding this matter... See Attachment D (C.3.13 – C. 7 – Offender Monitoring)*

#### **NEIGHBORHOOD ORGANIZATIONS:**

120 – Brentwood Neighborhood Association  
 283 – North Austin Neighborhood Alliance  
 511 – Austin Neighborhoods Council  
 687 – North Loop Neighborhood Planning Team  
 937 – Taking Action, Inc.  
 941 – Northfield Neighborhood Association

**APPLICABLE WATERSHED ORDINANCE:** Current/ Comprehensive Watershed Ordinance

**CAPITOL VIEW:** N/A

**T.J.A.:** Not required

#### **SUMMARY STAFF RECOMMENDATION:**

Staff recommends approval of this conditional use site plan, based on the fact that it appears to meet Code criteria. However, please see the information that follows, provided by Mr. Greg Guernsey:

In order to address the CS-CO-NP and LO-NP zoning district boundary that currently bisects the existing building, the Neighborhood Planning and Zoning Department (NPZD) requests an additional condition of approval be recommended to the Planning Commission. This condition would require the applicant to provide a solid wall within the existing building where the zoning boundary bisects the building. NPZD does not object to fire exit doors being installed to allow access out of the building and through the portion of the building zoned LO-NP during an

emergency; however, the fire exit door must have a visual and audio alarm system that is activated whenever the door is open. In addition, this alarm system must be installed prior to the issuance of a certificate of occupancy, and the requirement to install and maintain the visual and audio alarm system shall be noted on the face of the site plan and on the building certificate of occupancy.

If you have any questions, please contact me at 974-2387.

Greg Guernsey, AICP, Manager  
Zoning Case Management Division  
Neighborhood Planning and Zoning Department

**PLANNING COMMISSION ACTION:**

March 23, 2004:

**CASE MANAGER:** Kathy Haught                      Telephone: 974-2724  
kathy.haught@ci.austin.tx.us

**PROJECT INFORMATION:**

**EXIST. ZONING:** CS-CO-NP, LO-NP  
**ALLOWED F.A.R.:** 2:1  
**ALLOWED HEIGHT:** 60'  
**MAX. BLDG. COVERAGE:** 95%  
**MAX. (CS) IMPERV. CVRG.:** 95%  
**REQUIRED PARKING:** 14 Spaces

**PROPOSED USE:** Transitional Housing  
**EXISTING F.A.R.:** .548:1  
**EXISTING HEIGHT:** 18'  
**EXISTING BLDG. CVRG:** 11,024 sf (57%)  
**EXISTING IMP. CVRG.:** 14,780 sf (86%)  
**PROVIDED:** 14 Spaces

**LEGAL DESCRIPTION:** Lots 1-7, Block A, Murray Place

**SUMMARY COMMENTS ON SITE PLAN:**

**Land Use:** The site is currently developed with a vacant 11,024 s.f. building. The applicant is requesting a conditional use permit to develop a Transitional Housing facility in the existing building.

The adjacent lots are zoned LO-NP, and are not currently developed. The transitional housing use is prohibited in LO-NP, and therefore provides a buffer to the adjacent single family residential development.

**Environmental:** This site is located in the Waller Watershed and subject to urban watershed regulations.

**Transportation:** Existing site access is from N. Lamar Blvd. This site is located on the corner of Zennia St. and N. Lamar Blvd. There are no sidewalks on other side of Zennia St., and none are proposed.

**SURROUNDING CONDITIONS:****Zoning/ Land use:**

**North:** Zennia Dr., then CS-CO-NP (Car Stereo Shop. – Door Sales – Professional Offices)

**West:** N. Lamar Blvd. then MF-2 (multi-family residential)

**East:** LO-NP (portion of this building) and SF-3-NP (single family residential)

**South:** CS-CO-NP (Vacant building – Convenience Store)

<b><u>Street</u></b>	<b><u>R.O.W.</u></b>	<b><u>Surfacing</u></b>	<b><u>Classification</u></b>
Lamar	90'	60'	Major Arterial
Zennia St.	50'	30'	Local

**CONDITIONAL USE PERMIT REVIEW AND EVALUATION CRITERIA**

The following evaluation is included to provide staff position on each point of the conditional use permit criteria. Section 25-5-145 of the Land Development Code states: "The Commission shall determine whether the proposed development or use of a conditional use site plan complies with the requirements of this section".

**A Conditional Use Site Plan must:**

1. **Comply with the requirements of this title;** Staff response: All improvements are existing.
2. **Comply with the objectives and purposes of the zoning district;** Staff response: The purpose of the CS zoning district is for *development of commercial or industrial uses of a service nature that has operating characteristics or traffic service requirements that are incompatible with residential environments* (LDC 25-2-103).

The proposed development complies with the objective of the CS zoning district which is a designation for commercial and industrial uses.

3. **Have building height, bulk, scale, setback, open space, landscaping, drainage, access, traffic circulation, and use that is compatible with the use of an abutting site;** The building height, bulk, scale, and setback are compatible with the abutting uses.
4. **Provide adequate and convenient off-street parking and loading facilities;** The parking requirement for this site is grandfathered to the Code which in effect at the time of construction. The requirement at that time was one space for each 4 employees (1 space) and 1 space for each 4 beds (13 spaces), for a total of 14 spaces. The number of spaces provided is 14.
5. **Reasonably protect persons and property from erosion, flood, fire, noises, glare, and similar adverse effects;** Staff response: All on-site development is existing.

**A Conditional Use Site Plan May Not:**

1. **More adversely affect an adjoining site than would a permitted use;** Staff response: Although a LO-NP zoned tract is located between the subject tract and the adjacent SF-3-NP zoned property, the proposed transitional housing is not a permitted use on the LO-NP property.

Since it is a requirement of the Texas Department of Criminal Justice that *"an inside and outside recreational area for activities such as basketball, volleyball, etc. shall be provided"*, this adjacent property would be rendered unusable. "Recreational" use by residents of the transitional housing would be prohibited even as an accessory use on the adjacent LO-NP property.

2. **Adversely affect the safety or convenience of vehicular or pedestrian circulation, including reasonably anticipated traffic and uses in the area;** Staff response: The site plan does not appear to adversely affect the safety and convenience of vehicular and pedestrian circulation. However, there are no sidewalks on either side of Zennia St. which abuts this site.
3. **Adversely affects an adjacent property or traffic control through the location, lighting, or type of signs;** Staff response: No signage or lighting is proposed that would affect adjacent properties or traffic control. Compatibility notes are on the plans to regulate lighting to shield adjacent property from adverse effects.



696-PS-46-C0070

**ATTACHMENT "A"**  
**SPC-03-0022A Section C**

receipt from the inspecting agency. When differences between applicable standards exist, the higher standard shall be followed.

- C. Contractor shall establish an emergency fire plan and written procedures for the safe evacuation of offenders and staff. Each new offender shall be briefed on evacuation procedures during orientation.
- D. Written emergency fire exit plans shall be posted in all major meeting rooms, dining rooms and hallways.
- E. Monthly fire drills requiring evacuation of the entire Facility shall take place with written documentation to include the time, date, amount of time to evacuate the building, and the number of offenders evacuated. Any problem areas identified during the drill shall also be noted on the report. This report shall be signed by Contractor's employee(s) conducting the drill.
- F. Contractor shall complete an injury report as provided by the Department in the event that any injury to an offender/employee results in one full day's loss of work or programmatic activity and/or that results in medical treatment. First aid shall not be deemed medical treatment. Contractor shall complete an injury report provided by Department and shall forward this report to Department's Contract Monitor within forty-eight (48) hours following said injury.

**C.3.4 Facility Requirements**

- A. The Facility site shall comply with all local, city and county ordinances. The Contractor shall be required to provide written documentation in regard to community acceptance and public hearing for Facility site in accordance with Texas Government Code § 509.010 and Local Government Code, Chapter 244. The Facility shall be licensed by TCADA to provide the appropriate level of treatment prior to the commencement of services. Each facility site shall be licensed by TCADA.
- B. The Facility site should be accessible to community resources.
- C. The Facility shall be subject to the placement, by the Department, of approved offenders to include sex offenders and 5g offenders. Contractor shall be required to either submit a written certification that the site is not within a child safety zone or provide written disclosure that site is within a child safety zone (Exhibit J.7). 
- D. The Facility size shall meet the needs of the program and comfortably accommodate the number of offenders it serves. The Facility shall be kept clean and in good repair. 

696-PS-4-6-C0070

ATTACHMENT "B"  
SPC-03-0022A Section A

## DEFINITIONS

"Additional Services" means those Additional Services required to be furnished by the Contractor pursuant to changes in TDCJ and TBCJ Policies from those in effect as of the date of this Contract, which changes are not required by changes in laws, government regulations, or Court Orders generally applicable to the TDCJ and which changes cause an increase in cost of operating and managing the Facility.

"Authorized Representative" means the person designated in writing to act for and on behalf of a party of this Contract, which designation has been furnished to the other party hereto as described in Section G.2.1.

"Base Salary" means the minimum salary, in the salary range, on the effective date of this Contract or as in effect at the time of renewal or extension thereof.

"Biennium" means any of the two (2) year periods beginning on September 1 and ending on August 31 of odd numbered years, which periods are used for budgetary purposes by the State of Texas.

"Child Safety Zone" means the designated 500 feet as the distance that sex offenders must maintain from premises where children commonly gather, including schools, day-care facilities, playgrounds, public or private youth centers, swimming pools or video arcades. Any area within 500 feet of these types of premises is considered a child safety zone unless the Texas Department of Criminal Justice (TDCJ) or state statute modifies the distance requirement. In accordance with the Texas Code of Criminal Procedure, Article 42.12, Section 13D, the court may apply child safety zone restrictions to additional offenders if the nature of the offense warrants the establishment of a child safety zone. ←

"Cognitive Intervention" means a process whereby offenders are taught to identify their habits of thinking that lead to problems and to restructure the core beliefs involved.

"Community Outpatient Facility" means a Facility which provides outpatient counseling treatment services for offenders on community supervision, parole or mandatory supervision.

"Community Residential Facility" means a Facility which houses offenders on community supervision, parole or mandatory supervision pursuant to Texas Government Code, Sections 493.009 and 503.114 and the Texas Code of Criminal Procedure, Article 42.12, Section 14.

"Compliance Standards" means contract requirements that have specific and clearly defined recoupment strategies to ensure that Department does not pay for services that are not received.

"Contract Monitor" shall have the meaning set forth in Section G.2.3.

"Contract Term" means the duration of this Contract as specified in Section F.1.

"Contractor" means Up To Me, Inc.



696-PS-4-6-C0070

ATTACHMENT "C"  
 SPL-03-0022A  
 Section C

- E. Provisions shall be made for sleeping space, lounge areas, rooms for group and individual counseling of offenders, and office space for use by Department representatives while at the Facility.
- F. The number of square feet per occupant shall be in accordance with local building codes, but shall be at least 40 square feet per offender in sleeping areas. Closet spaces shall not be included in the 40 square foot living area. Bathrooms, built-in closets and hall space are not included in the 40 square foot requirements.
- G. Each offender shall have access to an individual locked storage area or drawer for private articles, which keys shall also be provided to both the offender and the Facility Director.
- H. There shall be at least one toilet (all of which must have seats), for every ten (10) offenders of the Facility. There shall be at least one wash basin for every eight (8) offenders of the Facility. There shall be at least one shower or bathtub for every fifteen (15) offenders of the Facility. The stated ratios shall be determined, based on the total Facility capacity, regardless of the number of actual residents. All of the bathroom facilities shall be maintained and in operating condition.
- I. Heat, air conditioning, light and ventilation shall be provided for in all rooms including hallways, bathroom, bedrooms, dining rooms and activity rooms.
- J. Separate activity rooms shall be large enough to accommodate all offenders in the Facility for the purpose of meetings and recreational activities, such as TV, radio, library, table games, game room, etc.; weight room, if provided, shall be separate to allow non-interference of activities. Seating shall be available for all offenders who wish to participate in activities. Smaller rooms shall be allowed to accommodate fewer people as long as all offenders have an equal opportunity to attend meetings or recreational activities.
- K. An inside and outside recreational area for activities such as basketball, volleyball, etc. shall be provided. ←
- L. Extension cords shall not be used as a substitute for fixed wiring.
- M. Contractor shall provide architectural drawings, blueprints, floor plans and specifications of the Facility to the Department.

#### C.3.5 Maintenance, Remodeling, Damages and Condemnation

- A. Contractor shall, at its own expense, maintain the physical structure of the Facility, and all tangible personal property contained therein in accordance with applicable standards, including all maintenance related to structural conditions or defects as well as ordinary routine maintenance. Contractor, in doing so, shall maintain, preserve, and keep the Facility in good repair, working order and condition, subject to normal wear and tear, and

696-PS-4-6-C0070

ATTACHMENT "D"  
 SPC-03-00 22A  
 Section C

the offender being away from the Facility provided, however, that Contractor shall in all events remain mindful that degree of unescorted access to the community must be guided by community attitudes regarding this matter; and

8. approved educational classes.

D. Contractor shall verify in writing, on a weekly basis, each offender's location as indicated on the sign-in/out sheet. Verification maintained in the offender's record shall include, but not be limited to, job search activity, employer and pass location.

E. Contractor shall establish and utilize mandatory sign-in/sign-out procedures, which shall include:

1. the offender's complete name and destination, including the name, address and telephone number of the destination;
2. the time the offender leaves the Facility and returns to the Facility;
3. a weekly verification check, as applicable; and
4. an authorized signature by the Facility staff member.

Sign-in/sign-out sheets shall be maintained in a central log.

F. Contractor shall develop, implement and document a daily system for physically counting all offenders assigned to the Facility assuring strict accountability for offenders who are working, going to school, on approved passes and participating in community service work and that at least one offender count occurs per shift.

#### C.3.14 Food Service

A. Contractor shall provide wholesome and nutritious meals for all offenders in compliance with TDCJ policies and procedures and applicable legislation and court orders.

B. Contractor shall plan and post menus in advance, and have them reviewed and approved by a registered dietitian or physician.

1. All meals shall meet the Recommended Daily Allowance requirements as outlined by the Texas Department of Health.
2. All meals shall be of sufficient portions to meet the needs (as defined by a registered dietitian) of the offender.

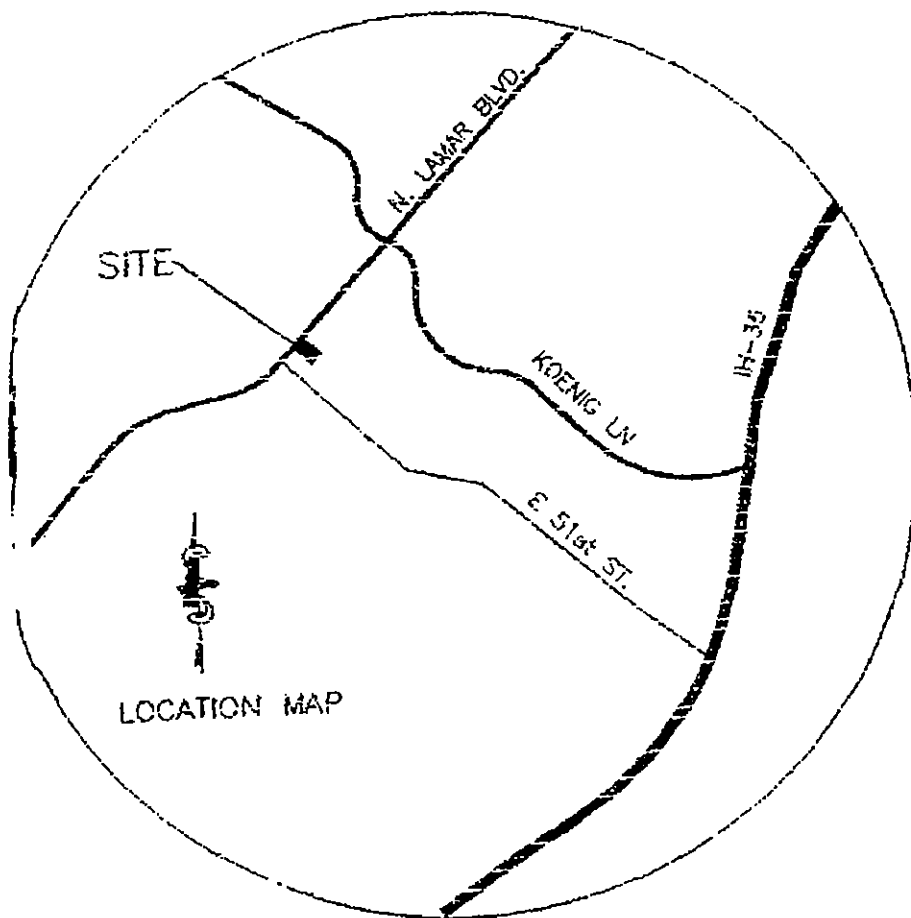
C. Contractor shall be responsible for preparing and providing three (3) meals per day per offender.

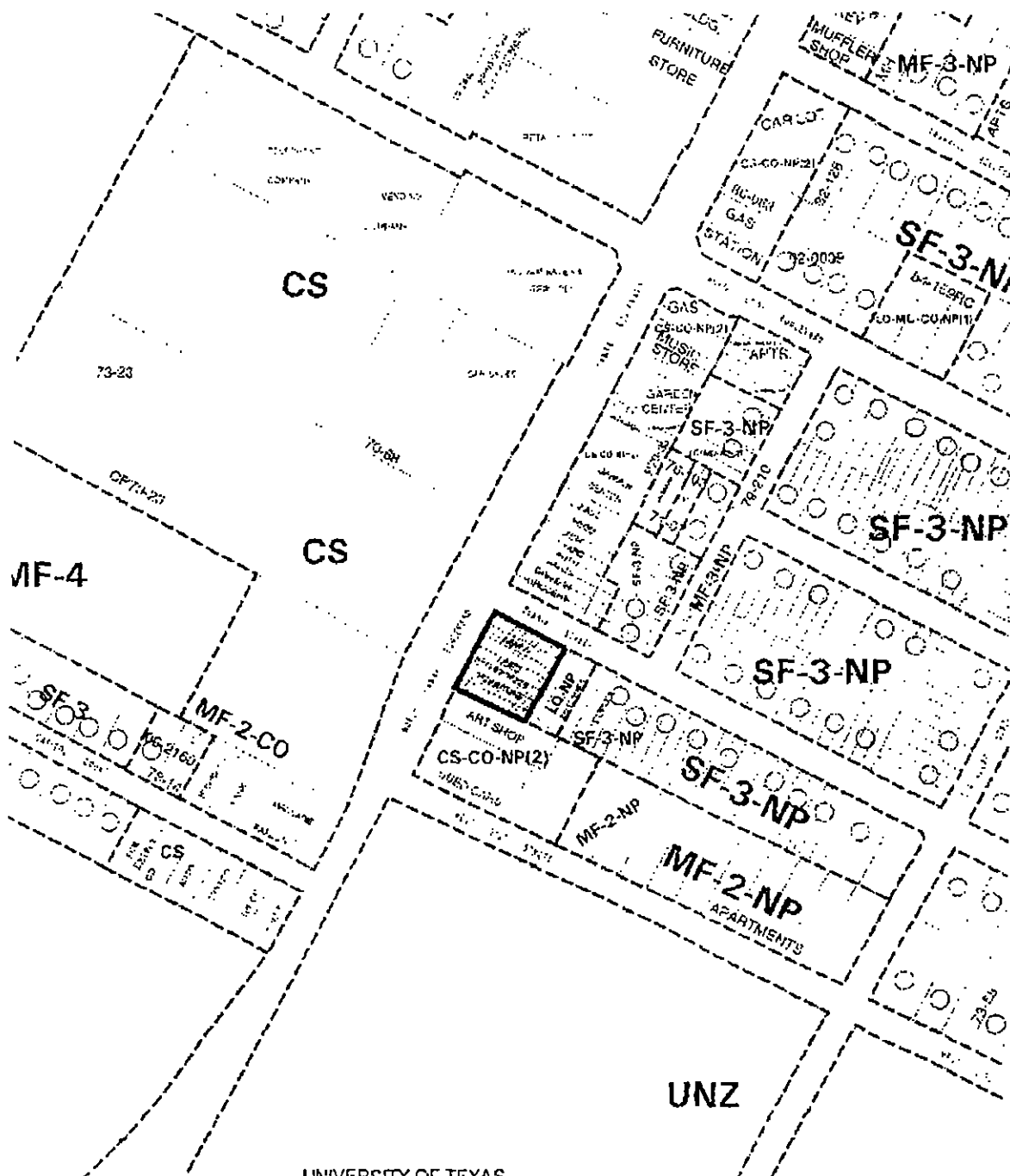
D. Special diets shall be available to offenders as prescribed by appropriate medical or dental personnel and meet recommended Daily Allowance requirements, unless otherwise specified by a physician and/or dentist.

SPC-03-0022A

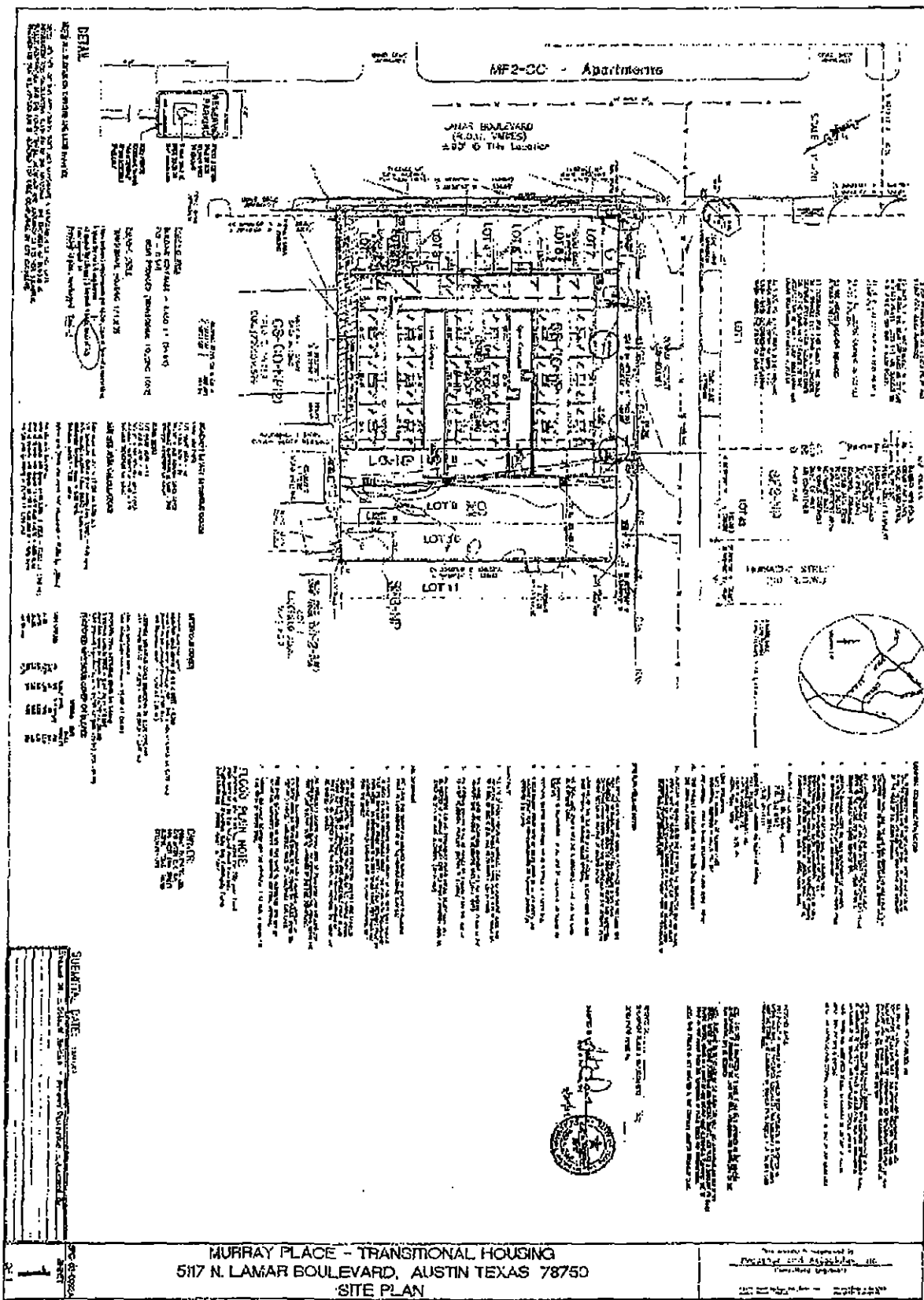
UP-TO-ME TRANSITIONAL HOUSING

5117 N. LAMAR BLVD.





<b>SUBJECT TRACT</b> FENDING CASE ZONING BOUNDARY CASE MGR: K. HAUGH!		<b>SITE PLAN CONSOLIDATED</b> CASE #: SPC-03-0022A ADDRESS: 917 N LAMAR BLVD SUBJECT AREA (feet): N/A		<b>CITY GRID REFERENCE NUMBER</b> 126
T-200		DATE: 04-03 INTLS: SM		





**City of Austin Watershed Protection and Development Review Department**  
505 Barton Springs Road / P.O. Box 1088 / Austin, Texas 78767-8835

**SITE PLAN APPEAL**

If you are an applicant and/or property owner or interested party, and you wish to appeal a decision on a site plan application, the following form must be completed and filed with the Director of Watershed Protection and Development Review Department, City of Austin, at the address shown above. The deadline to file an appeal is 14 days after the decision of the Planning Commission, or 20 days after an administrative decision by the Director. If you need assistance, please contact the assigned City contact at (512) 974-2680.

CASE NO. SPC-03-0022A

DATE APPEAL FILED 3/26/04

PROJECT NAME UP-TO-ME INC.

YOUR NAME Michael C. McHone

TRANSITIONAL HOUSING

SIGNATURE Michael C. McHone

PROJECT ADDRESS 5117 N. LAMAR

YOUR ADDRESS P.O. Box 8142

APPLICANT'S NAME COBALT PARTNERS, LLC

Austin, TX 78713-8142

by Mike McHone Lead Estimator

YOUR PHONE NO. (512) 491-9111 WORK

CITY CONTACT KATHY HAUGHT

(512) 554-8440 HOME

**INTERESTED PARTY STATUS:** Indicate how you qualify as an interested party who may file an appeal by the following criteria: (Check one)

- ☐ I am the record property owner of the subject property
- ☒ I am the applicant or agent representing the applicant
- ☐ I communicated my interest by speaking at the Planning Commission public hearing on (date) \_\_\_\_\_
- ☐ I communicated my interest in writing to the Director or Planning Commission prior to the decision (attach copy of dated correspondence).

In addition to the above criteria, I qualify as an interested party by one of the following criteria: (Check one)

- ☐ I occupy as my primary residence a dwelling located within 500 feet of the subject site.
- ☐ I am the record owner of property within 500 feet of the subject site.
- ☐ I am an officer of a neighborhood or environmental organization whose declared boundaries are within 500 feet of the subject site.

**DECISION TO BE APPEALED\*:** (Check one)

- ☐ Administrative Disapproval/Interpretation of a Site Plan
- ☐ Replacement site plan
- ☒ Planning Commission Approval/Disapproval of a Site Plan
- ☐ Waiver or Extension
- ☐ Planned Unit Development (PUD) Revision
- ☐ Other: \_\_\_\_\_

Date of Decision: \_\_\_\_\_  
Date of Decision: \_\_\_\_\_  
Date of Decision: 3/23/04  
Date of Decision: \_\_\_\_\_  
Date of Decision: \_\_\_\_\_  
Date of Decision: \_\_\_\_\_

\*Administrative Approval/Disapproval of a Site Plan may only be appealed by the Applicant.

**STATEMENT:** Please provide a statement specifying the reason(s) you believe the decision under appeal does not comply with applicable requirements of the Land Development Code:

SEE ATTACHED

(Attach additional page if necessary.)

Applicable Code Section:

## Statement Specifying Reasons for Appeal of Decision for SPC-03-0022.A

The staff recommendation to grant the Conditional Use Permit should have been supported by an affirmative vote of the Planning Commission.

In spite of the staff recommendation, staff failed to include in the "back up" materials or in the staff presentation to the Planning Commission support materials and information which are critical to this case. The first and perhaps the most important is a letter from the North Loop Planning Team endorsing the site at 5117 N. Lamar for use as transitional housing. This letter of support was used by the current owner as evidence of support which he used to justify the purchase of the property and the lease with option to purchase for the operator Up-To-Me Inc. The Planning Team's letter speaks very clearly as to the reasons for its support. (Letter attached)

Additionally, staff failed to include the sign up sheet and information about the public hearing held by the Texas Department of Criminal Justice held in the neighborhood on November 19, 2003. This required meeting was held to inform the local residents of the proposed facility. Many of the people who spoke at the planning commission had also signed up and spoke at the November hearing. However at the planning commission meeting, the impression was made that they were just now hearing about the proposed change. In fact Up-To-Me Inc. has been in continuous communications with the adjacent neighbors answering their questions in an attempt to explain the facility. The implication to the planning commission that this was a "surprise" was not accurate. (Sign in sheet attached)

Also city staff took upon itself the role of Texas Department of Criminal Justice Contract Compliance Officer and stated to the Planning Commission that this facility would not meet the requirements of provisions of the contract between Up-To Me Inc. and the TDCJ.

The Planning Commission erred in their motion to deny because their motion to deny did not fit their stated findings that this facility would more adversely affect an adjoining site than would a permitted use. All the testimony including every one of the opponents stated that they had never experienced any problems with the men's facility operated by Up-To-Me Inc. located .8 miles to the north in the Crestview Neighborhood. That facility has been there for 12 years. Across the rear fence is a single family home. The facility at 5117 N. Lamar would house women and be operated in the same manner.

Planning Commission's statements to locate Transitional Housing away from all residential populations is impractical and in conflict with the goals of integrating these clients back into society. (See attached article)

5108 Duval St  
Austin, TX 78751  
September 3, 2003

Transportation, Planning & Sustainability Department  
Attn: Planning Commission Coordinator  
P.O. Box 1088  
Austin TX, 78767

Dear Ms. Ortiz and Members of the Planning Commission:

At our August 27<sup>th</sup> North Loop Planning Team meeting, the eleven planning team members in attendance unanimously endorsed the proposal from Up To Me, Inc. for a conditional use permit on the property at 5117 N. Lamar for the purpose of a transitional housing treatment center for women.

Prior to the August 27<sup>th</sup> meeting, members of the planning team and other neighbors spent considerable time and energy considering the matter:

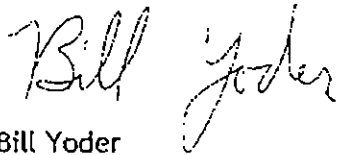
- We visited the existing treatment center for men at 6222 N. Lamar, hosted by Patricia Jennings, Administrator, and her staff.
- We discussed the matter with Ms. Jennings and other Up To Me, Inc. guests at two prior neighborhood meetings, one in May and one in July.
- We discussed the matter in numerous email messages, frequently by means of our neighborhood listserv.
- We discussed the matter extensively with Kathleen Welder, our COA representative from the Neighborhood Planning and Zoning Department.
- We checked with the Austin Police Department about their experiences with the existing treatment center.
- We contacted the Brentwood Neighborhood Association about the 6222 N. Lamar facility.
- We consulted the North Loop Neighborhood Plan for guidance on appropriate uses.

After considerable debate, we agreed in July *not* to endorse the original Up To Me proposal for a zoning change to an SF-3 property at 5413 Guadalupe. Instead, we welcomed Ms. Jennings' efforts to locate the center at 5117 N. Lamar on a property already zoned CS on a commercial corridor, well-suited for a group living situation, and located across the street from a bus stop. In fact, no one at the August 27<sup>th</sup> meeting spoke against the Up To Me conditional use permit.



In conclusion, our endorsement of the Up To Me proposal comes after extensive discussion and thought. The proposal is consistent with our stated Neighborhood Vision: *"Linked to the desire for a variety of activities, services, and destinations within walking distance, is the neighborhood's commitment to creating a lively mix of uses within the North Loop Neighborhood Planning Area."* We hope, therefore, that you will take into account this recommendation as you consider the Up To Me application.

Sincerely,



Bill Yoder  
Chair, North Loop Planning Team  
512-302-3927  
[http://www.ci.austin.tx.us/zoning/north\\_loop.htm](http://www.ci.austin.tx.us/zoning/north_loop.htm)

cc: Jay Reddy  
Chair, Northfield Neighborhood Association  
5507 Avenue G  
Austin, TX 78751

cc: Kathleen Welder  
City of Austin Neighborhood Planning and Zoning Department  
505 Barton Springs Road  
PO Box 1088  
Austin, TX 78767

**UP-TO-ME, INC.  
Public Hearing Agenda  
November 19, 2003**

**UP-TO-ME, INC.  
6222 N. Lamar Blvd.  
Austin, Texas 78752  
7:00pm—9:00pm**

**Community Prayer**

**Introduction**

**Presentation of UP-TO-ME, INC.**

**Questions and Answers**

**Registered Speakers**

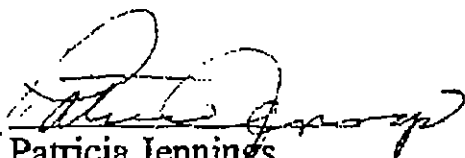
- 
- **Note persons who have registered to speak will be called in the order in which they signed in on the attendance log.**

**UP-TO-ME, INC. is committed to providing substance abuse treatment services to undeserved individuals and families that are in the criminal justice system.**

**UP-TO-ME, INC.**  
**Public Hearing Certification**

All guidelines were followed and a fair public hearing was held on November 19, 2003 at 7:00pm-9:00pm at 6222 N. Lamar Austin, Texas 78752. The purpose of the hearing was to elicit community discussion of the intent to provide Substance Abuse Treatment for women. The following was the subject of the public hearing:

Residential Treatment Facility for Women  
5117 N. Lamar Blvd  
Austin, Texas 78751  
Travis County

  
Patricia Jennings  
Administrator

11-20-03  
Date

<u>Name</u>	<u>Address</u>	<u>For</u>	<u>Against</u>	<u>No Opinion</u>
JANE SOHNSOO	209 NADARAY AUSTIN TX	X		
KATHARINE JALLOCH	209 NADARAY AUSTIN TX	X		
PAUL HILFER	5115 N. LAMAR		X	cell 573-3100
FRED EHILFER	5115 N. LAMAR		X	
STEVE HAMPTON	5209 N LAMAR		X	
Christine Cooksey/Hammond	Marble Falls TX	X		
FLOYD SCHADE	5253 N LAMAR AUSTIN			
MARY ANN SCHKADE	5253 N LAMAR		X	
Kirk Barber	5206 N Lamar #425	✓		
Egon Leff ST	1107 Aggie Ln	336-9810	X	X
Kurt Paul	5212 N. Lamar Blvd		X	
Lauren Green	4047 Tennix St		A	
Pati Payne	" "		X	
WILLIAM POTTMAN	5212 Hewisache Pl 4541975		X	
BILL YODER	5108 DUAL ST	X		

**LIFE & MOVIES**



**es speaks**

ent's adviser tells  
ligion helped her  
her White House

E1

**ISINESS**

**s surge**

about economic  
helps investors  
oldrums as Dow

c1

**IS SECTION:**

**ng support**

ats — including Bill  
and Howard Dean —  
and John Kerry at  
mer.

A5

**WEATHER**

Chance of  
showers.

High: 78 Low: 67

Details, B6 and online at  
statesman.com/weather



**INDEX**

Business .....	C1-6
Deaths .....	B4
Editorials, Opinion .....	A14-15
Metro & State .....	B1-6
Life & Movies .....	E1-12
Sports .....	D1-12
World & Nation .....	A2-24

Classifieds ..... Section F

For home delivery, call 445-4040

© 2004, Austin  
American-Statesman

**COMING  
SATURDAY**

**Beyond scraps**

Jane Greig stitches  
together the basics of  
scrapbooking.

In Life & Arts



# Released inmates find it hard to fit in

## Study finds few programs to help with transition from prison

By Mike Ward

AMERICAN-STATESMAN STAFF

The trip home usually starts in Huntsville: The ex-convicts leave with at least \$50 in cash and a set of hand-me-down clothes that may or may not fit, or match.

By the time they arrive in Travis County, it's quickly apparent they're societal misfits.

Many apartments won't house them. Many employers won't hire them. Families may not want them around, and, with no money, no job and no place to stay, they stand a better-than-average chance of becoming homeless. Health care, counseling and job-training programs

are tough to come by, especially if the ex-convicts have finished their sentences instead of coming out on parole.

Against such odds, the chances they will return to crime can become a sure bet.

A new Urban Institute study — "A Portrait of Prisoner Reentry in Texas" — describes the exodus. The study is the first phase of a three-year effort to examine what happens when felons leave prison in Texas and elsewhere. In Austin, a community effort is under way to address problems felons face when they return to life outside prison.

The research by the nonpartisan, Washington-based group shows that most of the 2,342 released prisoners coming to Travis County in 2001 whose addresses could be tracked

See PRISONERS, A12

## PRISONERS: Travis looking for ways to improve integration of freed felons

Continued from A1

ended up in less affluent areas; at least 400 of them are listed as being in a south-eastern ZIP code that is home to a halfway house. Most of the rest lived in ZIP codes in South, East and North Austin — including two where there are halfway houses and transitional treatment apartments are located.

The study also shows that: ■ Forty-two percent of the ex-prisoners coming in Travis County were unsupervised upon release.

■ Forty-six percent of the men and women coming in Travis County had been in for property offenses, 20 percent for drug offenses and 16 percent for violent crimes.

■ Black people accounted for 28 percent of the prisoners coming in Travis County, while blacks accounted for only 9 percent of the county's residents. Hispanics accounted for

33 percent of released prisoners, and 29 percent of residents; whites accounted for 38 percent of released prisoners and 56 percent of residents.

According to the Urban Institute, 44 percent of all Texas convicts released from prison in 2001 were black, 32 percent were white and 24 percent were Hispanic.

Of the 55,183 men and women released from Texas prisons in 2001, 68 percent went to Austin and in counties that include four of Texas' largest metropolitan areas — Dallas, Houston, Fort Worth and San Antonio. Most went to Houston, which got 11,121 or 20 percent, followed by Dallas, which received 7,971 or 14 percent.

Texas was included in the study because it accounted for one in nine state prisoners released in the United States during 2001, Urban Institute officials said.

"More prisoners nationwide

are returning home having spent longer terms behind bars, exacerbating the already significant challenges of finding employment, managing health and substance abuse problems and reconnecting with their family," said Urban Institute senior fellow Jeremy Travis, a co-author of the study. "In Texas, the challenge is greater, since prisoners there spend 37 percent more time behind bars than their counterparts around the country."

In most Texas cities, the study found few programs designed to help ex-prisoners with housing, counseling, employment and other issues.

Such programs in Texas have historically been underfunded or unfunded altogether, and programs inside prisons to prepare convicts for release do not include ex-prisoners. According to the report, only 35 percent of potential releases participated in the prison system's primary

work-release program, 42 percent were in basic education programs, 9 percent were in vocational or college-level programs, and only 5 percent participated in formal substance-abuse programs before they were released.

For local and state officials, ex-convicts entering communities signal a growing issue — as lawmakers and prison officials look for ways to squeeze additional budget savings and as prosecutors and police look for ways to stop the cycle of crime.

Last week two state Capitol hearings focused on whether Texas could beef up its parole and probation programs to better reintegrate ex-offenders in communities as a way to be smarter about crime.

"It's all about money," said Travis County District Attorney Ronnie Rarita, a longtime proponent of rehabilitation and alternative-to-prison programs. "We may be at the point of

realizing that we can't afford the high prison system we've built, but we're not there yet."

led by Parle, a group of Austin-area elected officials, business and civic leaders plan to establish in the coming weeks a 40-member Re-entry Roundtable Planning Council to study and implement programs to help returning felons become law-abiding, tax-paying citizens again. Earls and others say it is the first such initiative of its type in Texas.

"More than 97 percent of the people who are in prison will one day return to the community," Earls said. "Right now, they come back carrying a lot of baggage from prison. They aren't happy, and they get even more unhappy after they encounter all the obstacles to them putting back on their feet. You think that's going to be good for the rest of the good folks in the community?"

Janis Watson, lead author of

the study, said the benefits of a solution are many.

"A well-designed re-entry system can make neighborhoods safer, slow the revolving door leading back to prison, control corrections spending and help prisoners return to a place in the community," Watson said. "In the end, everyone wins: returning prisoners, their families and their neighbors."

Gary Johnson, executive director of the Texas Department of Criminal Justice, which operates the prison and parole systems and helps fund local probation agencies, said he hopes the study proves a catalyst for increasing awareness of the issue.

"We are certainly open to new ideas and approaches that will bring about positive changes in the criminal justice system," Johnson said.

ward@state.txn.gov 445-1717

SHOP TODAY 10AM 'TIL 10PM

# 3-DAY BONUS BUCKS

## UP TO 60% OFF + EXTRA 10% OFF COUPON

LAST 8 DAYS! KITCHENAID DOUBLE BONUS



**12. Site Plan**                      **SPC-03-0022A - UP-TO-ME TRANSITIONAL HOUSING**  
**Conditional Use**  
**Permit:**  
Location:                      5117 N. Lamar Blvd., Waller Creek Watershed, North Loop NPA  
Owner/Applicant:              COBALT PARTNERS, INC. (E. MITCH ELY)  
Agent:                          MCHONE REAL ESTATE (MICHAEL MCHONE)  
Request:                      Approval of Conditional Use Permit  
Staff Rec.:                      **RECOMMENDED**  
Staff:                          Kathy Haught, 974-2724, kathy.haught@ci.austin.tx.us  
                                        Watershed Protection & Development Review

Kathy Haught, NPZ, presented the staff recommendation for the Conditional Use Permit.

#### **PUBLIC HEARING**

#### **IN FAVOR**

**Mike McHone** representing the applicant stated that the facility was built in 1961 as a convalescent nursing home which is still the current certificate of occupancy. This enables the proposed transitional housing use to utilize the site and comply with grandfathered parking requirements. From a zoning perspective a portion of the site is zoned LO which does not permit transitional housing. This portion of the site will be walled-off and will not be used for transitional housing.

The proposed project meets all the code requirements. The facility will be highly monitored and regulated by the Texas Department of Criminal Justice.

The applicant received a letter from the North Loop Neighborhood Planning team in August 2003 supporting this type of facility in this location.

**Patricia Jennings** Executive Director of Up-To-Me.  
**Jerome Carter** President of the Up-To-Me Board.  
**Derrick Evans**  
**Lisa Bettor** staff of Up-To-Me.

#### **IN FAVOR (NOT SPEAKING)**

**Edward Downing**  
**Rose McDonald**  
**Barbara Williams**

#### **AGAINST**

**Lauren Greer** resident of the adjacent neighborhood pointed out that the letter of support for the transitional housing project was from the North Loop Neighborhood Planning Team not the Northfield Neighborhood Association which is neighborhood association for the area where the project is proposed. She stated that the North Loop NPT did not contact the Northfield

Neighborhood Association. She pointed out that this area already includes a 80 bed men's transitional housing facility located at 6222 N. Lamar, the Day Labor site at I-35 and 51<sup>st</sup> Street, the State Hospital on Guadalupe just south of the area. If the proposed 52 bed facility at 5117 N. Lamar is added she felt that the Northfield neighborhood will carry a disproportionate share of these type of facilities.

**Paul Hilfer**  
**Brian Barry**  
**Christina Baker**  
**Jay Reddy**  
**Mark Owens**  
**Gerald Patrick**  
**J.R. Monaghan**  
**Jack Jones**  
**Candace Elsass**  
**Doris Turner Burden**  
**Michael Randall**  
**Alison Randall**  
**David Hilfer**  
**John Young**  
**Karen Rheudasil**  
**Floyd Schkade**  
**Steve Hampton**  
**Steve Moore**  
**Mike O'Krent**  
**Mary Patrick**  
**Claudia Ballah**

**AGAINST (NOT SPEAKING)**

**Maryann Schkade**  
**Bill Bayne**  
**Dorothy Monaghan**  
**Rose Marie Jones**  
**Damon Arhos**  
**Marianne Smith**  
**Beth Rumancik**  
**Charles Birden**  
**Jonathan Goldsmith**  
**Fred Hilfer**  
**Frenny Hilfer**

A number of neighborhood residents spoke about an illegal halfway house that operated at this site in the last few years and pointed out numerous problems with that facility.



Commissioner Armstrong asked whether the applicant would be willing to postpone this item and meet with the neighbors to discuss issues of concern in an attempt to come to a compromise regarding the project?

**Mike McHone** stated that the applicant has been working on this since August and would prefer to move forward tonight.

## REBUTTAL

**Lisa Bettor** stated that Up-To-Me is a nonprofit organization, that TDCJ monitors the proximity of schools, daycare centers and similar facilities and requires that the transitional housing is more than 500 feet from schools, etc. Occupancy is also regulated by the Texas Commission on Drug and Alcohol Abuse. Residents do not have cars, parking is for staff or visitors only. Visitation is weekends only and times are scheduled and staggered. She emphasized that the proposed use is not a halfway house and is strictly supervised. Comparisons to the illegal halfway house that occupied this site are not valid.

Commissioner Armstrong requested information on the number of residents and the average number of staff.

Ms. Bettor replied 54 is the maximum number of residents and that a minimum of one staff monitor per twenty residents are required during waking hours, and approximately three to four counselors would also be at the facility.

Commissioner Ortiz asked how many beds were permitted under the contract with TDCJ, whether the contract has been awarded and if the location is specified in the contract.

Ms. Jennings replied that 46 beds are specified in the contract, the contract has been awarded and the location is not specified.

Commissioner Ortiz requested additional information on the proposed wall between the LO and CS zoned property.

Mr. McHone stated that the wall will completely separate the two portions of the building but will permit exiting for safety purposes. The wall will also cross the open space to the rear. The LO zoned property will be eventually used for some type of office space. Up To Me may lease the space for office use only.

Commissioner Armstrong stated that once a Conditional Use Permit is granted it runs with the land. This could permit a similar organization to use the site if Up To Me ceased operation.

## **MOTION: CLOSE PUBLIC HEARING**

**VOTE: 7-0 (DS-1<sup>st</sup>, NS-2<sup>nd</sup>)**

## DISCUSSION

Commissioner Sullivan asked Marty Terry if a site plan expires.

Marty Terry, Law Department, explained that the commission could put conditions on the site plan, for example limiting the length of time that the use may operate.

Commissioner Spelman asked Greg Guernsey to address the issue of splitting the building along zoning district lines.

Greg Guernsey, Manager, Zoning Division, NPZ reviewed the zoning and land use history for the property and described the grandfathered parking requirements. He stated that the LO portion of the site does not permit transitional housing as either a principal or accessory use. The LO portion of the site will be walled-off from the transitional housing except for emergency exiting.

Ms. Terry reviewed the types of conditions that may be imposed on a CUP under LDC Section 25-5-146 including yard requirements, open space, landscaping, signage, limitation on hours, measure to preserve the public health, safety and welfare.

Commissioner Riley asked what the term of the contract between Up To Me and TDCJ.

--- stated it is a three contract with an option to renew for another three years.

Commissioner Sullivan made a motion to deny the Conditional Use Permit. Commissioner Armstrong seconded the motion.

Commissioner Sullivan stated that the test to be applied is whether the conditional use more adversely affects adjoining sites than a permitted use and he stated that the commission has heard testimony that previous transitional housing type uses have caused significant problems in the past. The current applicant was not part of that and may be able to control those problems but changes in the economy or the State rules governing the use could change while the site could remain in use for transitional housing after this applicant has moved on. In summary, he stated that the proposed transitional housing use had the potential to have much more adverse impacts on adjoining sites than a permitted use and emphasized that the Planning Commission needed to spend time developing standards for the location of transitional housing.

Commissioner Spelman stated that the use was sorely needed but the proposal to wall off a portion of the site based on zoning districts caused her significant concern.

Commissioner Moore stated that the applicant had discussed the issue with the neighborhood planning team and that the facility to north had no demonstrated problems. He felt that neighborhoods need to identify where these types of uses should go within each neighborhood.

Commissioner Sullivan concurred with the need to identify sites for these types of uses but also pointed out that some neighborhoods already had a number of these types of uses including this area.

Commissioner Ortiz stated that the proposal to use only a portion of the site for transitional housing while the LO portion could be utilized for office uses by the same applicant made her

question the appropriateness of the site for this use and the potential negative impacts on neighbors.

**MOTION: DENY THE CONDITIONAL USE PERMIT BASED ON CRITERIA (C)(1) OF LDC 25-5-145. VOTE: 7-0 (DS-1<sup>st</sup>, MA-2<sup>nd</sup>)**

Commissioner Sullivan asked Ms. Terry to advise the applicant about appeal rights.

- 13. Resubdivision: C8-04-0017.OA.SH - RESUBDIVISION OF LOTS 7, 8, 34 & 35, BLOCK H, LOTS 1 -24, BLOCK I, LOTS 1-29, BLOCK J AND LOTS 7 -30, BLOCK K OF THE VIEWPOINT AT WILLIAMSON CREEK, PHASE 1 (S.M.A.R.T. HOUSING)**
- Location: .5700 VIEWPOINT DRIVE, WILLIAMSON CREEK Watershed, SOUTHEAST / COMBINED NPA
- Owner/Applicant: STASSNEY CROSSING L.P. (TY CUNNINGHAM)
- Agent: LONGARO-CLARKE ENGINEERS (ALEX CLARKE)
- Request: APPROVAL OF RESUBDIVISION
- Staff Rec.: **RECOMMENDED**
- Staff: Javier V. Delgado, 974-7648, javier.delgado@ci.austin.tx.us  
Bill Andrews, 974-7649, bill.andrews@ci.austin.tx.us  
Watershed Protection & Development Review

**MOTION: APPROVE STAFF RECOMMENDATION BY CONSENT.**

**VOTE: 7-0 (MA-1<sup>st</sup>, NS-2<sup>nd</sup>)**

- 14. Resubdivision: C8-04-0029.OA - RESUBDIVISION OF A PORTION OF LOT 2, BLOCK 2, BUDDINGTON SUBDIVISION**
- Location: 609 WEST 37TH STREET, Waller Creek Watershed, WEST UNIVERSITY NPA
- Owner/Applicant: ROBERT LEE
- Agent: LOPEZ-PHELPS & ASSOCIATES (AMELIA LOPEZ-PHELPS)
- Request: STATUTORY DISAPPROVAL
- Staff Rec.: **RECOMMENDED FOR DISAPPROVAL**
- Staff: Javier V. Delgado, 974-7648, javier.delgado@ci.austin.tx.us  
Bill Andrews, 974-7649, bill.andrews@ci.austin.tx.us  
Watershed Protection & Development Review

**MOTION: APPROVE STAFF RECOMMENDATION BY CONSENT.**

**VOTE: 7-0 (MA-1<sup>st</sup>, NS-2<sup>nd</sup>)**