



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Laurel Lunt Prussing, Mayor

FROM: Elizabeth H. Tyler, FAICP, Director, Community Development Services

DATE: April 2, 2009

SUBJECT: **Case Nos. ZBA-2009-MAJ-01 and ZBA-2009-MAJ-02:** Request by the Atkins Group, Inc. to revise conditions for approval of two major variances for a shopping center sign at 2710 and 2810 South Philo Road in the B-3, General Business Zoning District.

Introduction and Background

The Atkins Group is applying to revise two major variances approved by the Zoning Board of Appeals and City Council in 2008. The petitioner applied for and received two major variances (2008-MAJ-01 and 2008-MAJ-02) concerning a freestanding shopping center sign. The shopping center, named The Pines at Stone Creek Commons, is located on the southeast corner of Philo and Windsor Roads in Urbana, across Windsor Road from Meijer supermarket. At its March 12, 2008 meeting, the Zoning Board of Appeals, following a public hearing, voted 6 ayes and 0 nays to recommend approval of the requested variances. The City Council subsequently approved the requested variances on April 7, 2008. The ordinances approving the variances (see attached Ordinance Nos. 2008-03-017 and 2008-03-018) specify several conditions, including that the sign be constructed in substantial conformity with attached plans illustrating the sign and its location. Specifically, the conditions of the variance stipulate that the sign be no more than 78.7 square feet in area and only one freestanding shopping center sign be installed on the property.

For further background on this case, please refer to the attached March 7, 2008 staff memorandum to the Zoning Board of Appeals, as well as attached March 12, 2008 ZBA minutes.

Issues and Discussion

Following City Council approval of the variances, the applicants proceeded with plans to fabricate and erect their approved signage. Two unforeseen issues have arisen. Atkins is seeking to redress these problems by having the terms of their approved variances revised.

First, now that commercial establishments have opened in the shopping center, it has become evident that one free-standing shopping center sign will be inadequate to direct and instruct patrons. The applicants report, for instance, that customers have difficulty locating Milo's Restaurant. Milo's is situated in the back of the shopping center off Philo Road. The applicants are requesting that the condition limiting the Pines to one freestanding sign be removed to allow for a second freestanding sign at their Philo Road entrance.

Second, the sign illustration submitted and approved last year showed dimensions that differed from the applicant's intent at the time. The correct drawing, attached within as Exhibit "E" and entitled "Option A", illustrates a sign that is 113.33 square feet in area as opposed to the 78.7 square feet approved by the variance. It is important to note that under the current sign regulations in the Urbana Zoning Ordinance, that a 150 square foot sign at a height of 30 feet could be erected by right on the subject property. Although the size of the sign is proposed to be increased, the proposed sign is still smaller in relation to sign area and sign height from what is permitted. The Atkins Group has provided a drawing to visually illustrate the difference between the previously approved sign, the sign now proposed, and the sign permitted by right. (See Exhibit E)

The applicants are not requesting any changes from how their shopping center sign conforms to Zoning Ordinance standards. For the electronic display portion of their shopping center sign (which comprises 29% of the overall sign area), Ordinance Nos. 2008-03-017 and 2008-03-018 allow a ten-second delay between displays and a multi-colored display. The applicants will conform to these approved variations. Additionally, the second free-standing sign would conform to all Zoning Ordinance requirements.

On March 18, 2009 the Zoning Board of Appeals held a public hearing concerning the proposed revisions to the previously approved variances. Following the public hearing, the Zoning Board of Appeals voted, in two separate motions, 6 ayes and 1 nay to recommend that the City Council approve the applicant's requests with the conditions as outlined in the Recommendation section of this memo.

Variance Criteria

The variance criteria and analysis have not changed from the attached March 7, 2008 staff memorandum to the Zoning Board of Appeals. In City staff's view, modifying the size of the approved sign from 78.7 to 113 square feet, and allowing a second free-standing sign at their Philo Road entryway, does not appreciably change the rationale for the approved variances.

Options

In Major Variance cases ZBA-2009-MAJ-01 and ZBA-2009-MAJ-02, the City Council may:

- a. Approve one or both variances based on the findings outlined in this memo;

- b. Approve one or both variances with certain terms and conditions; or
- c. Deny one or both of the variance requests. If the Zoning Board of Appeals elects to do so, the Board should articulate findings supporting denial.

Recommendation – ZBA-2009-MAJ-01

Based on the analysis and findings outlined herein, the Zoning Board of Appeals and staff recommend that City Council **APPROVE** major variance case ZBA-2009-MAJ-01, to revise the conditions to the approval of major variance case ZBA-2008-MAJ-01 (display frequency), with the following conditions:

1. That the shopping center sign with LED display on Lot 201 be constructed in substantial conformity with the site plan and dimensioned color rendering (“Option A”) submitted with the application dated Feb. 24, 2009.
2. That the variance for display frequency is approved for the proposed shopping center sign with LED display on Lot 201 (“Option A”).
3. That the shopping center sign on Lot 201 (“Option A”) will conform to the other requirements of Urbana Zoning Ordinance Section IX-4.D.3 which prohibit animation, flashing, or scrolling of electronic message board (LED) displays.
4. That the Pines at Stone Creek Commons Shopping Center shall be limited to a total of two freestanding shopping center signs. The locations shall be limited to the areas of Lots 201 and 208 of Pines at Stone Creek Commons Subdivision as depicted on the subdivision plat recorded March 30, 2007.

Recommendation – ZBA-2009-MAJ-02

Based on the analysis and findings outlined herein, the Zoning Board of Appeals and staff recommend that City Council **APPROVE** major variance case ZBA-2009-MAJ-02, to revise the conditions to the approval of major variance case ZBA-2008-MAJ-02 (display color), with the following conditions:

1. That the shopping center sign with LED display on Lot 201 be constructed in substantial conformity with the site plan and dimensioned color rendering (“Option A”) submitted with the application dated Feb. 24, 2009.
2. That the variance for display color is approved for the proposed shopping center sign with LED display on Lot 201 (“Option A”).

3. That the shopping center sign on Lot 201 (“Option A”) will conform to the other requirements of Urbana Zoning Ordinance Section IX-4.D.3 which prohibit animation, flashing, or scrolling of electronic message board (LED) displays.
4. That the Pines at Stone Creek Commons Shopping Center shall be limited to a total of two freestanding shopping center signs. The locations shall be limited to the areas of Lots 201 and 208 of Pines at Stone Creek Commons Subdivision as depicted on the subdivision plat recorded March 30, 2007.

Prepared by:

Robert Myers, AICP, Planning Manager

Attachments: Draft Ordinances

- Exhibit A: Location Map
- Exhibit B: Zoning Map
- Exhibit C: Existing Land Use Map w/ Aerial Photo
- Exhibit D: Future Land Use Map
- Exhibit E: Application with sign illustrations
- Exhibit F: March 7, 2008 City staff memo to ZBA
- Exhibit G: Minutes from the March 12, 2008 ZBA meeting
- Exhibit H: Approved Ordinance Nos. 2008-03-017 and 2008-03-018
- Exhibit I: Site Photos
- Exhibit J: Minutes from March 18, 2009 Zoning Board of Appeals meeting

cc: The Atkins Group, Inc.
Attn: Jane Solon
2805 S. Boulder Drive
Urbana, IL 61802

Jenny Park
Meyer Capel Law Office
P.O. Box 6750
Champaign, IL 61826-6750

ORDINANCE NO. 2009-04-030

**AN ORDINANCE AMENDING ORDINANCE NO. 2008-03-017 CONCERNING THE APPROVAL OF A
MAJOR VARIANCE**

(To Revise Conditions for Display Frequency - 2710 South Philo Road / ZBA Case
No. ZBA-2009-MAJ-01)

WHEREAS, the City Council has heretofore adopted Ordinance No. 2008-03-017 on April 7, 2008 approving a major variance to allow an Electronic Message Board (LED) Sign to increase the frequency of message changes from once per three minutes to once per ten seconds at the southeast corner of Windsor and Philo Roads in the B-3, General Business Zoning District and more commonly known as 2710 South Philo Road (ZBA Case No. ZBA-2008-MAJ-01); and

WHEREAS, unforeseen issues have arisen causing The Atkins Group, petitioners of variance approved in Ordinance No. 2008-03-017, to request a revision to the conditions of the approved major variance relating to sign area and total number of signs; and

WHEREAS, said revisions were presented to the Urbana Zoning Board of Appeals in Case No. ZBA-2009-MAJ-01; and

WHEREAS, after due publication in accordance with Section XI-10 of the Urbana Zoning Ordinance and with Chapter 65, Section 5/11-13-14 of the Illinois Compiled Statutes (65 ILCS 5/11-13-14), the Urbana Zoning Board of Appeals held a public hearing on March 18, 2009, concerning the proposed revisions to the conditions of approval for the major variance and voted 6 ayes and 1 nay to recommend approval of the revised conditions to the Urbana City Council; and

WHEREAS, after due and proper consideration, the Urbana City Council has deemed it to be in the best interests of the City of Urbana to amend Ordinance No. 2008-03-017 adopted on April 7, 2008 to remove the four conditions specified in said ordinance and replace with the conditions as provided in Section 1 herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. Ordinance No. 2008-03-017 is hereby amended by replacing the four conditions of said Ordinance with the following four conditions:

1. That the shopping center sign with LED display on Lot 201 be constructed in substantial conformity with the site plan and dimensioned color rendering ("Option A") submitted with the application dated Feb. 24, 2009.

2. That the variance for display frequency is approved for the proposed shopping center sign with LED display on Lot 201 ("Option A").

3. That the shopping center sign on Lot 201 ("Option A") will conform to the other requirements of Urbana Zoning Ordinance Section IX-4.D.3 which prohibit animation, flashing, or scrolling of electronic message board (LED) displays.

4. That the Pines at Stone Creek Commons Shopping Center shall be limited to a total of two freestanding shopping center signs. The locations shall be limited to the areas of Lots 201 and 208 of Pines at Stone Creek Commons Subdivision as depicted on the subdivision plat recorded March 30, 2007.

Section 2. The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the Corporate Authorities. This Ordinance shall be in full force and effect from and after its passage and publication in accordance with the terms of Chapter 65, Section 1-2-4 of the Illinois Compiled Statutes (65 ILCS 5/1-2-4).

PASSED by the City Council this _____ day of _____, 2009.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____, 2009.

Laurel Lunt Prussing, Mayor

CERTIFICATE OF PUBLICATION IN PAMPHLET FORM

I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois. I certify that on the _____ day of _____, 2009 the Corporate Authorities of the City of Urbana passed and approved Ordinance No. _____, entitled AN ORDINANCE AMENDING ORDINANCE NO. 2008-03-017 CONCERNING THE APPROVAL OF A MAJOR VARIANCE (To Revise Conditions for Display Frequency - 2710 South Philo Road / ZBA Case No. ZBA-2009-MAJ-01) which provided by its terms that it should be published in pamphlet form. The pamphlet form of Ordinance No. _____ was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the _____ day of _____, 2009 and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

DATED at Urbana, Illinois, this _____ day of _____, 2009

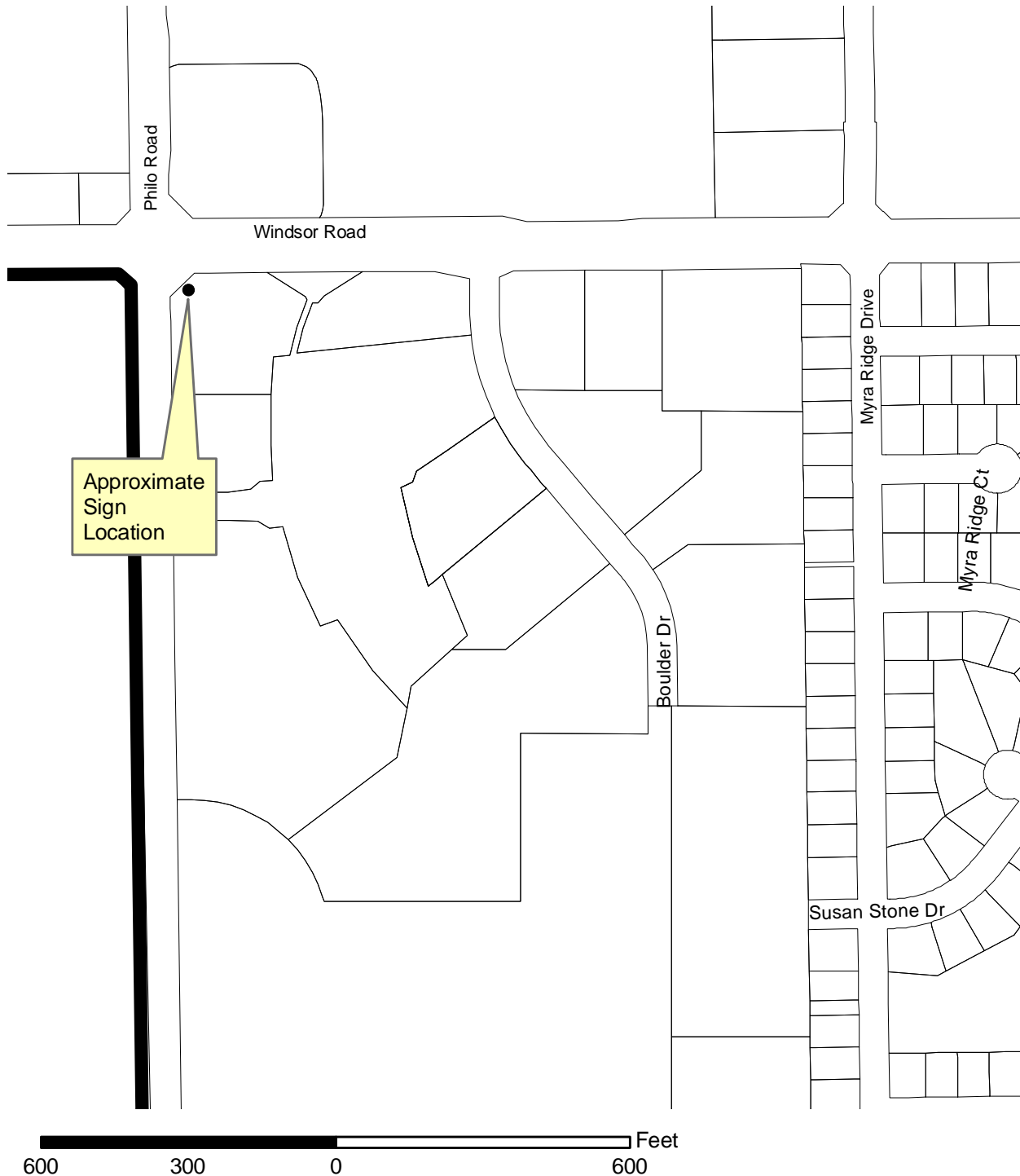
(SEAL)

Phyllis D. Clark, City Clerk

Location Map

EXHIBIT "A"

F



ZBA Case: 2009-MAJ-01, and 2009-MAJ-02

Subject: A request for a Major Variance to allow an Electronic Message Board Sign to increase the frequency of message changes from once per three minutes to once every ten seconds, and allow the electronic display to be multi-colored.

Location: 2710 S. Philo Road

Zoning District: B-3, General Business

Petitioner: The Atkins Group

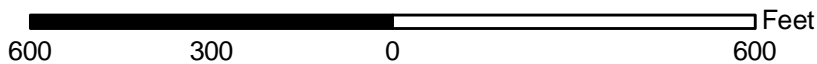
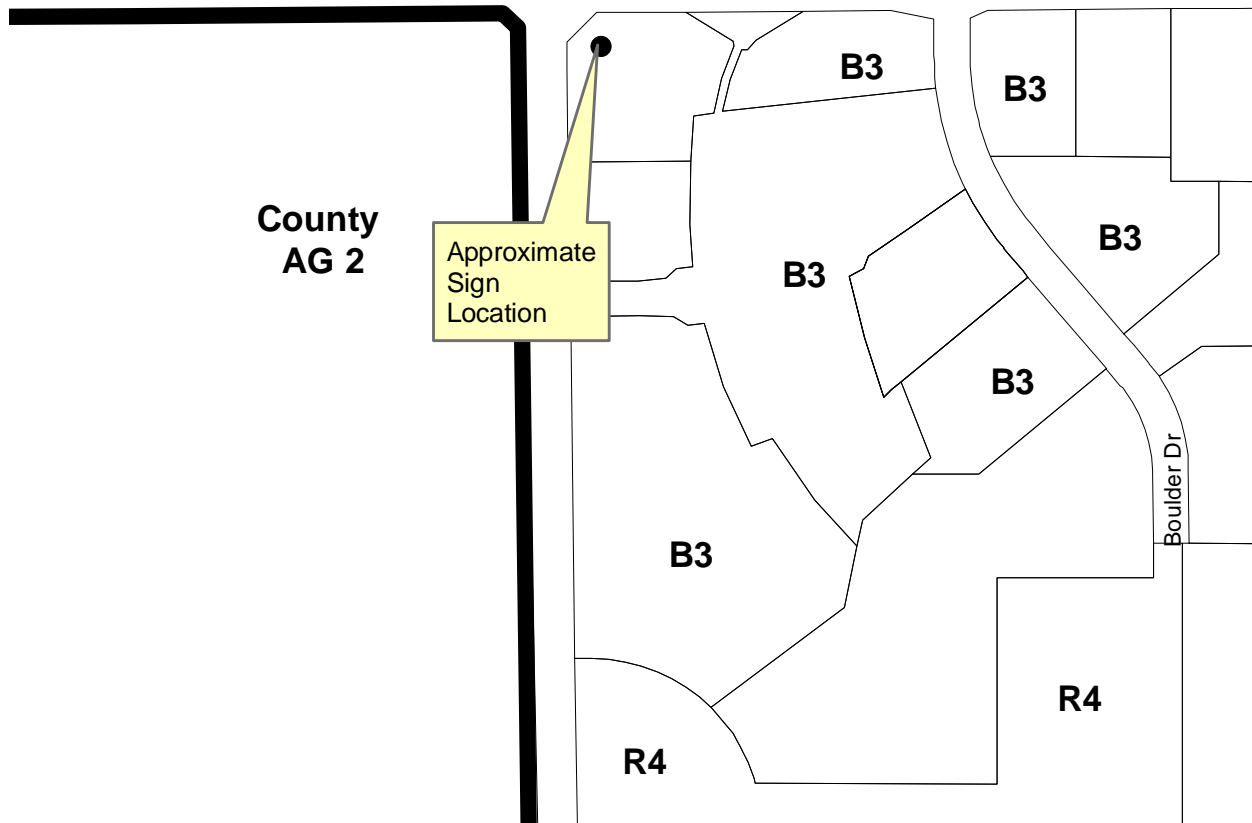
PIN: 93-21-28-201-001

Prepared 3/06/09 by Community Development Services -jme

Zoning Map

EXHIBIT "B"

F

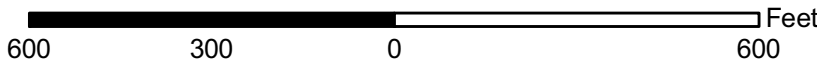


ZBA Case: 2009-MAJ-01, and 2009-MAJ-02
Subject: A request for a Major Variance to allow an Electronic Message Board Sign to increase the frequency of message changes from once per three minutes to once every ten seconds, and allow the electronic display to be multi-colored.
Location: 2710 S. Philo Road
Zoning District: B-3, General Business
Petitioner: The Atkins Group
PIN: 93-21-28-201-001
Prepared 3/06/09 by Community Development Services -jme

- B-3, General Business
- R-3, Single and Two-Family Residential
- R-4, Medium Density Multiple Family Residential
- AG-2, Agriculture (Champaign County)

Existing Land Use w Aerial Photo

EXHIBIT "C"

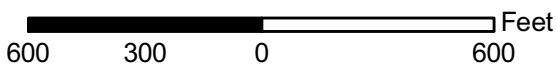
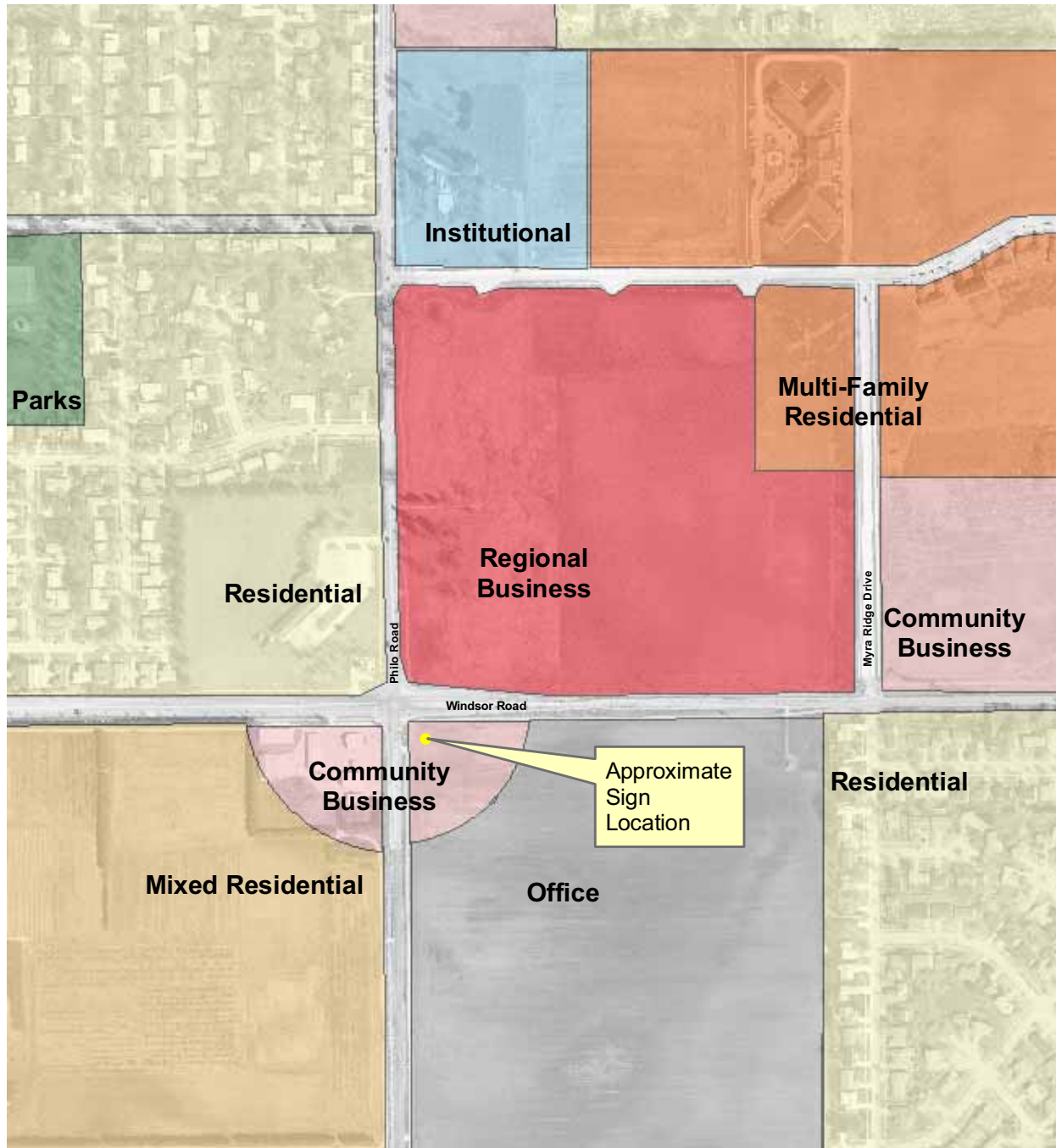


ZBA Case: 2009-MAJ-01, and 2009-MAJ-02
Subject: A request for a Major Variance to allow an Electronic Message Board Sign to increase the frequency of message changes from once per three minutes to once every ten seconds, and allow the electronic display to be multi-colored.
Location: 2710 S. Philo Road
Zoning District: B-3, General Business
Petitioner: The Atkins Group
PIN: 93-21-28-201-001

Future Land Use Map

EXHIBIT "D"

Source: Comprehensive Plan Future Land Use
Text Adapted from Maps # 13 and 14, pp. 84-85



ZBA Case: 2009-MAJ-01, and 2009-MAJ-02
Subject: A request for a Major Variance to allow an Electronic Message Board Sign to increase the frequency of message changes from once per three minutes to once every ten seconds, and allow the electronic display to be multi-colored.
Location: 2710 S. Philo Road
Zoning District: B-3, General Business
Petitioner: The Atkins Group
PIN: 93-21-28-201-001
Prepared 3/06/09 by Community Development Services -jme

4. Name of Owner(s): Busey Bank Phone: 365-4500
Address: 201 West Main Street, Urbana Illinois 61801
(street/city) (state) (zip)

If there are additional owners, please attach extra pages to the application.

5. Name of Professional Site Planner(s) N/A _____ Phone _____
Address _____
(street/city) (state) (zip)

6. Name of Architect(s): smith/burgett architects Phone: 367-6725
Address: 102A West Main Street, Urbana Illinois 61802
(street/city) (state) (zip)

7. Name of Engineers(s): HDC Phone: 352-6976
Address: 201 West Springfield Avenue, Champaign Illinois 61820
(street/city) (state) (zip)

8. Name of Surveyor(s): HDC Phone: 352-6976
Address: 201 West Springfield Avenue, Champaign Illinois 61820
(street/city) (state) (zip)

If there are additional consultants, please attach extra pages to application.

DESCRIPTION, USE, AND ZONING OF PROPERTY: Attach an additional sheet if necessary

Legal Description: Lots 201 and 208 of The Pines at Stone Creek Commons. Please see attached final plat _____

Lot Size: irregular _____ feet x _____ feet = 231,303.60 square feet

Present Use: Newly constructed retail _____
(vacant, residence, grocery, factory, etc)

Zoning Designation: B-3 _____

REASONS FOR REQUEST FOR MODIFICATION OF VARIATION:

Note: The following questions must be answered completely. If additional space is needed, please attach additional sheets.

- 1. Identify and explain any special circumstances or practical difficulties in carrying out the strict application of the Zoning Ordinance with respect to the subject parcel.** The master plan of the retail center has been carefully designed to create a unique retail environment. The individual stores in the shopping center lack visibility from the street because the buildings are inwardly-oriented and perpendicular to the street. Although the City council granted two variance to provide for relief (Cases ZBA 208-MAJ-01 and ZBA 2008-MAJ-02), unforeseen circumstances have shown the terms of the variance to be overly restrictive. The size of the sign needs to be increased (incorrect dimensions were shown in the exhibit which was attached to the two variance previously granted) and a second free standing is necessary to direct patrons where to enter off of Philo Road for business that are located to the rear (far south end) such as Milo's Restaurant.
- 2. Explain how the modification to variance is necessary due to special conditions relating to the land or structure involved which are not generally applicable to other property in the same district.** The individual stores in the shopping center lack visibility from the street so a sign large enough to accommodate tenants' logos and/or community events in a readable format is necessary. The Windsor sign needs to be able to communicate effectively especially with logo colors that patrons identify with. A second sign that would meet all current Sign Codes on Philo Road is necessary to identify The Pines for traffic traveling on Philo Road. Even though the existing Zoning Ordinance would allow this shopping center to have 8 freestanding signs, we plan to only install two. – To date, Busey Bank, Monical's Restaurant, Subway, and Milo's Restaurant are in agreement to forego freestanding signs for their respective premises. All other forms of tenant signage will be wall mounted on the respective facades of the tenant's building.
- 3. Explain how the modification to variance is not the result of a situation or condition that was knowingly or deliberately created by you (the Petitioner).** This modification is necessary due to the fact that the incorrect dimensions were on the exhibit to the variance applications that was previously granted and that patrons are finding it difficult to identify the entrance off of Philo Road for Milo's Restaurant and other future that will be located to the south end of The Pines.
- 4. Explain why the modification to variance will not alter the essential character of the neighborhood.** To date, Busey Bank, Monical's Restaurant, Subway and Milo's Restaurant are in agreement to forego monument signs for their respective premises so that the proposed signs can be used for all tenants, thus eliminating a clutter landscape of individual monument signs for tenants at The Pines. It will still represent the neighborhood feel of the area.
- 5. Explain why the modification to variance will not cause a nuisance to adjacent property.** Meijer Superstore is located adjacent to our property/retail development. Its signage has been maximized and our signage will be insignificant by comparison. It is our goal to become a "destination" shopping environment and the signage is supplementary yet "necessary" to attract viable retail merchants.

6. **Does the modification to variance represent the minimum deviation necessary from the requirements of the Zoning Ordinance? Explain.** Yes this is the minimum condition necessary to provide retail tenants with adequate signage opportunities vital to their success. It provides signage that is legible to vehicular and pedestrian traffic traveling on Windsor and Philo Road while still providing a landscape that is not clutter with multiple yard/monument signs.

PLEASE NOTE: The Urbana Zoning Ordinance provides that, by submitting this request for variation for this property, you are granting permission to Staff of the Department of Community Development Services to place a temporary yard sign in the front yard of the property to provide notice of the time and place of the public hearing to consider this request. The sign will be placed in the front yard at least fifteen (15) but not more than thirty (30) days prior to the date of the hearing, and will be removed no later than ten (10) days after the completion of the public hearing. Please call 384-2440 if you have any questions about this requirement.

Respectfully submitted this 24th day of February, year, 2009. A.D.

[Handwritten Signature]

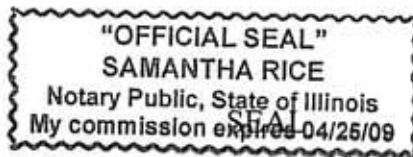
Signature of Applicant

STATE OF ILLINOIS)
) SS
CHAMPAIGN COUNTY)

Mark E. Dixon, being first duly sworn on his/her/their oath, deposes and says, that he/she/they is/are the same person named in and who subscribed the above and foregoing petition, that he/she/they has/have read the same and knows the contents thereof, and that the matters and things therein set forth are true in substance and in fact as therein set forth.

Subscribed and sworn to before me on this 24 day of February year 2009 A.D.

Samantha Rice
Notary Public



Petitioner's Attorney: Jenny Park
(if applicable) c/o Meyer Capel
 P.O. Box 6750
 Champaign, IL 61826-6750

(telephone number): 352-1800

PLEASE RETURN THIS FORM ONCE COMPLETED TO:

City of Urbana
Community Development Department Services
Planning Division
400 South Vine Street
Urbana, IL 61801

Or Fax to (217) 384-2367

Please call (217) 384-2440 if you have any questions.

FINAL PLAT THE PINES AT STONE CREEK COMMONS

A PART OF THE NE 1/4 OF SECTION 28,
T19N, R9E OF THE 3rd PM
CHAMPAIGN COUNTY, ILLINOIS

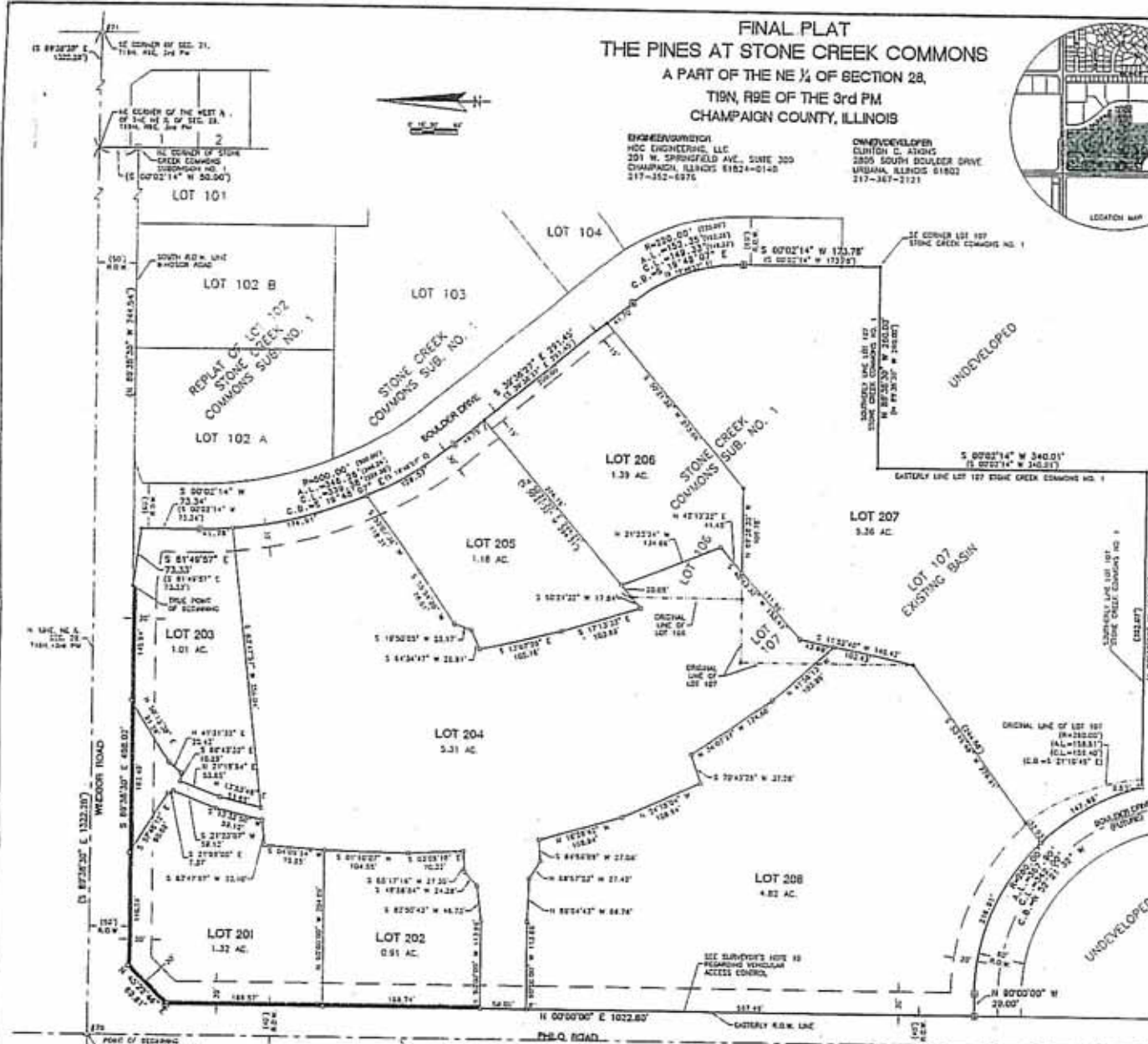


200707482

LEGEND	
—	Boundary of Subdivision
---	Proposed Lot Line
---	Existing Lot Lines
---	Existing Lot Lines to be Vacated
---	Building Setback Line
---	Caseback Line
△	City of Urbana Historical Control Station Number
○	Lot 8's 20' Iron Rod with plastic cap "MOC (P) #222"
●	Iron Rod Found
□	Concrete Monument Set
⊞	Concrete Monument Found
(100.00)	Record Distance
100.00'	Measured Distance
100.00'	Vertical Access Control

ENGINEER/DRAWER:
MOC ENGINEERING, LLC
201 W. SPRINGFIELD AVE., SUITE 300
CHAMPAIGN, ILLINOIS 61824-0148
217-352-6976

OWNER/DEVELOPER:
CLINTON C. ATKINS
2850 SOUTH DOUGLASS DRIVE
URBANA, ILLINOIS 61802
217-367-2121



STATE OF ILLINOIS
COUNTY OF CHAMPAIGN

SURVEYOR'S CERTIFICATE

I, William E. Sherrin, being a duly Licensed Land Surveyor Number 2031, do hereby certify that at the request of the owner Clinton C. Atkins, I have caused a Survey to be made and a Plat to be drawn under the great supervision of the following associated level of land:

A part of land being part of the Northeast Quarter of Section 28, Township 19 North, Range 9 East, of the 3rd Principal Meridian, Champaign County, Illinois, the boundary of which is described as follows:

Lot 108 and Lot 107 of Stone Creek Commons Subdivision No. 1, recorded as Document Number 220193308 in the Champaign County Recorder's Office.

AND

A tract of land being a part of the Northeast Quarter of Section 28, Township 19 North, Range 9 East of the Third Principal Meridian.

The overall boundary of which is described as follows:

Beginning at the Northeast corner of the Northeast Quarter of Section 28, Township 19 North, Range 9 East of the Third Principal Meridian, measured South 89° 30' 30" East, 1,322.28 feet along the North Line of the Northeast Quarter of said Section 28 to the Northwest corner of the West Quarter of said Northeast Quarter thence South 00° 00' 00" East, 50.00 feet to the South Right-of-Way of Windsor Road, thence to the Northwest corner of Stone Creek Commons Subdivision No. 1, recorded as Document No. 220193308 in the Champaign County Recorder's Office thence South 89° 30' 30" East, 148.58 feet along the South Right-of-Way line of Windsor Road, thence along the Westerly boundary line of said Stone Creek Commons Subdivision No. 1, being the line of said Lot 107, to the Southeast corner of said Stone Creek Commons Subdivision No. 1, being the line of said Lot 107, to the following described courses: South 87° 45' 57" East, 72.23 feet, South 00° 00' 00" East, 71.24 feet, East, 245.48 feet, 122.25 feet curved a curve to the left, commencing to the northeast, tangent to the last described course, having a radius of 232.02 feet, a chord bearing of South 18° 45' 07" East, and a chord length of 238.38 feet, South 29° 28' 37" East, 194.00 feet, a chord bearing of South 18° 45' 07" East, and a chord length of 198.23 feet, South 00° 00' 00" East, 141.00 feet, to the Southeast corner of Lot 107 of said Stone Creek Commons Subdivision No. 1, thence along the Eastern and Southerly line of said Lot 107 on the following described courses: North 89° 30' 30" East, 420.00 feet along the Southerly line of Lot 107 of Stone Creek Commons No. 1, said Westerly extension thereof, thence 287.89 feet curved a curve to the Southeast, commencing to the last described course, having a radius of 282.02 feet, a chord bearing of North 2° 21' 30" West, and a chord length of 242.02 feet, thence North 82° 00' 00" East, 28.00 feet to the East Right-of-Way line of Stone Creek Commons Subdivision No. 1, being the line of said Lot 107, to the East Right-of-Way line of Stone Creek Commons Subdivision No. 1, being the line of said Lot 107, to the East Right-of-Way line of Windsor Road, thence South 89° 30' 30" East, 482.02 feet along the South Right-of-Way line of Windsor Road to the Top Corner of Beginning, encompassing 21.31 acres in Champaign County, Illinois.

For said survey we observe to facilitate the sale of said land by subdividing it into lots, street right-of-ways and other uses to which said lands have been or shall be subjected, and to be subdivided into lots which further are shown in larger size and that reference has been made upon said plat to permanent survey monuments, and also placed survey monuments identified by the Federal Emergency Management Agency on the Flood Insurance Rate Map, Panel Number 170333 0311, dated January 14, 1981 and the plat is hereby surveyed to accurately comply therewith in Stone Creek Commons Subdivision No. 1.

William E. Sherrin
Land Surveyor No. 2031
Champaign, Illinois
License Expires 11/20/28

- SURVEYOR'S NOTES**
- The tract subdivided shall be within the corporate limits of the City of Urbana.
 - The parcel is within the St. Joseph Township No. 3 Township District.
 - All required public improvements including storm sewer, storm water management, water main, streets, sidewalks and sanitary sewer systems will be constructed in accordance with the approved City of Urbana standards and shall be constructed within easements as necessary. Storm water easement was communicated with Stone Creek Commons Subdivision No. 1.
 - Current zoning for this subdivision is B-2, General Business for the City of Urbana.
 - Tract does not fit within 520 feet of a pond in a water course crossing over 840 acres.
 - All dimensions are horizontal distances and are between adjacent monumented corners.
 - Minimum setbacks from lot lines for this subdivision shall be as follows (unless otherwise shown):
Front Yard = 15'
Side Yard = 10'
Rear Yard = 10'
 - All lot corners except those shown as concrete monuments are "X" 3/4" long iron rod monuments with their caps "MOC (P) #222".
 - Lot 207 will not be a buildable lot and is to be constructed in the entirety as an easement for public utilities, drainage and public easements.
 - Vertical access to Lot 208 shall be limited to one access along Stone Creek Commons Subdivision No. 1. The access point shall be the recorded one approved by City of Urbana Engineering Department.
 - Easements for utilities are shown on sheet 2.

Project Name	200707482
Client Name	Clinton C. Atkins
Project No.	200707482
Revision No.	01/15/27
Revision Date	01/15/27
Revision Description	Final Plat
Scale	1" = 200'
Sheet No.	1 of 2

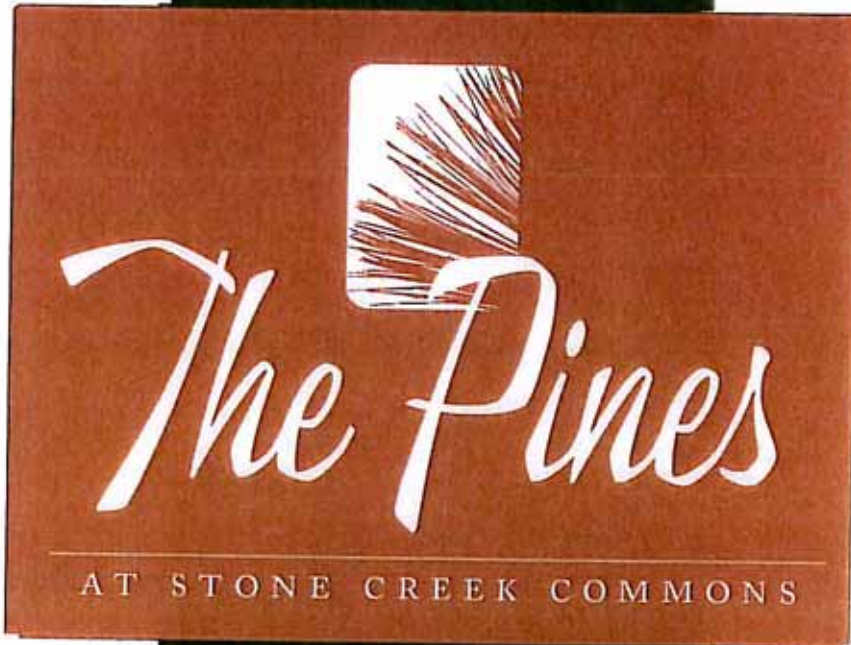
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40"

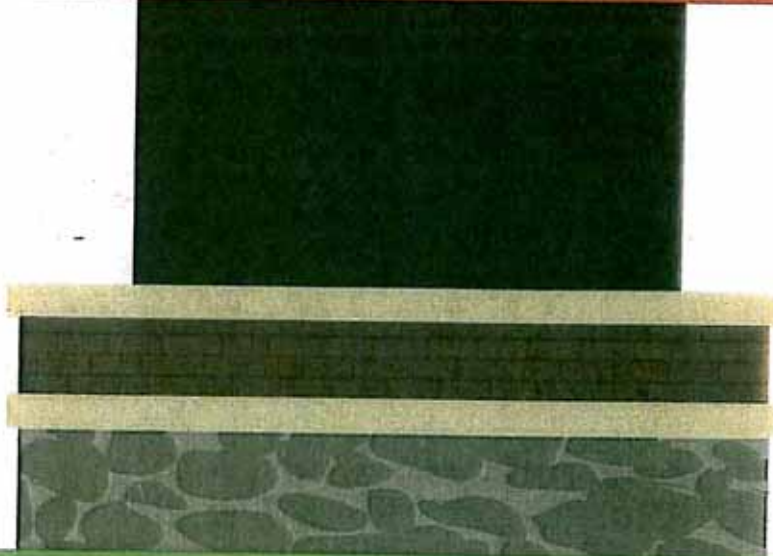


6"

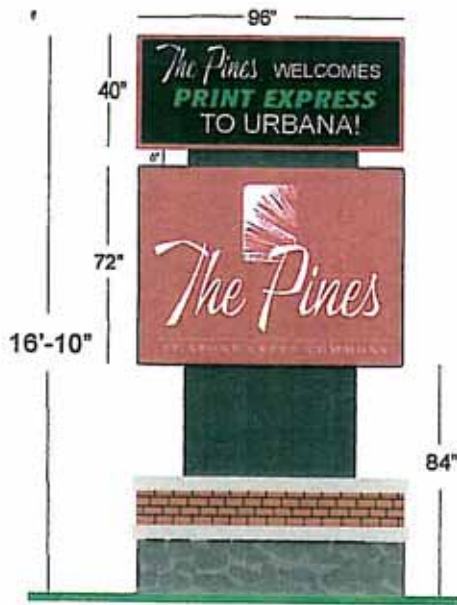
90"



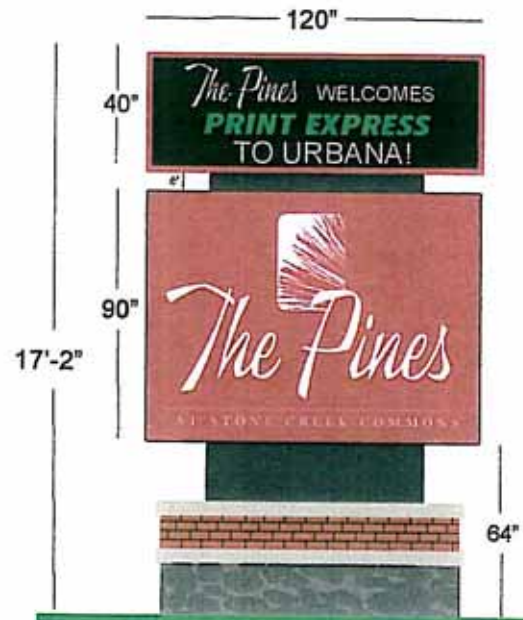
64"



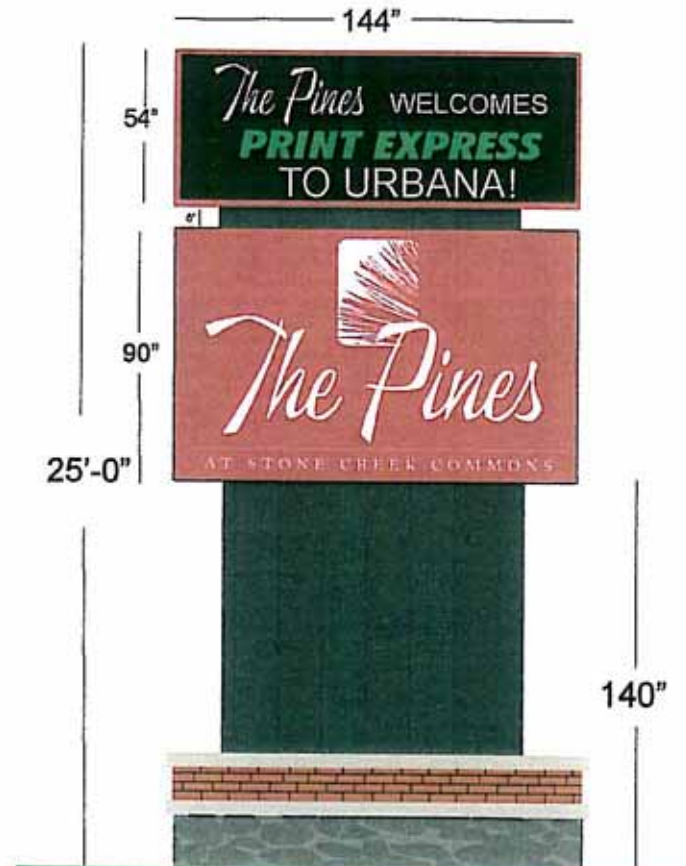
Option A



78.5 Sq. FT



113 Sq. FT



150 Sq. FT



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: The Urbana Zoning Board of Appeals

FROM: Paul Lindahl, Planner II

DATE: March 7, 2008

SUBJECT: **ZBA 2008-MAJ-01:** A request to allow an Electronic Message Board (LED) Sign to increase the frequency of message changes from once per three minutes to once per ten seconds at the south east corner of Windsor and Philo Roads in the B-3, General Business Zoning District.

ZBA 2008-MAJ-02: A request to allow an Electronic Message Board (LED) Sign to be multi-colored.

Introduction and Background

The Atkins Group is requesting two major variances. The first is to allow an Electronic Message Board (LED) Sign to increase the frequency of message changes from once per three minutes to once every ten seconds. The second variance would allow the electronic display to be multi-colored. Urbana Zoning Ordinance Section IX-4.D.3 states such signs shall not be animated, flashing, multi-colored, scrolling or that they shall change more than once every 3 minutes. The signs may be up to 30% of the sign allowance for the property. The subject property is located on the southeast corner of Windsor and Philo Roads in the B-3, General Business Zoning District.

The petitioners have created a mixed use general business project at the southeast corner of Windsor and Philo Roads called The Pines at Stone Creek Commons. According to the applicant this type of mixed use development constructed under a common design theme is best served by a flexible approach to signage. The purpose of the message board is to provide all businesses of The Pines visibility to Windsor and South Philo Roads without creating either an oversized shopping center sign structure or a proliferation of individual freestanding tenant signs. Use of an electronic message board will allow the overall size of sign to be smaller while still allowing display of the names and logos of all the tenants. The use of multi-colored displays is now common in many parts of the country given the increasing availability of affordable LED technology. The use of color to show retail tenant logos and trademarks to foster brand recognition is considered by the petitioners to be an important component of marketing for the development. The petitioners also consider the increase in frequency of changes to be needed to

accommodate sufficient cycles for enough of the business tenants' names to be viewed on the LED message board in the time a car might pass.

The issue is whether there are certain features of the property which justify the Electronic Message Board sign solution rather than a larger sign or a greater proliferation of signs which would otherwise be permitted in the B-3 district but could undermine the visual aesthetic of the development. The petitioners propose a reduction in their allowable conventional signage as a trade off for the increased Electronic Message Board (LED) sign message change rate and multicolor display.

The Urbana Zoning Ordinance Table IX-9 allows a General Shopping Center in the B-3 zoning district to install a shopping center sign of 150-square feet plus an additional 50-square feet allowance for a tenant directory. The petitioners propose to have a total sign area of 78.7-square feet with an electronic message board of 26.7-square feet which is only 17.7% of the 150-square foot allowance. Therefore the electronic message board will comply with the rule restricting it to 30% of the sign allowance for the property.

Adjacent Land Uses and Zoning Designations

This area is part of an area in southeast Urbana that is developing a mix of residential and commercial uses. The majority of The Pines at Stone Creek Commons shopping center is currently under construction. Further north across Windsor Road and also under construction is the Meijer Superstore and gas station. To the east of the site is the Stone Creek Commons office park. To the west of the site is the University of Illinois Pomology agricultural research farm. Urbana Comprehensive Plan designates this area for a future land use of community business at the southwest corner of Philo and Windsor Roads with mixed residential and park development further to the west. On the northwest corner of Philo and Windsor Roads is an electrical utility substation with church owned land further to the north and west. There are no existing or proposed residential dwellings within approximately 725-feet of the proposed sign.

Zoning and Land Use Table

The following is a summary of surrounding zoning and land uses for the subject site:

Location	Zoning	Existing Land Use	2005 Comprehensive Plan – Future Land Use
Subject Property	B-3, General Business	Commercial - Retail	Community Business
North	B-3, General Business	Commercial - Retail	Regional Business
South	B-3, General Business	Commercial - Retail	Community Business
East	B-3, General Business	Commercial - Office	Office
West	County AG-2 Agriculture	Agriculture / Institutional	Community Business

Issues and Discussion

Visibility of signage is a primary requirement of all retailers. Shopping Centers pose a special challenge when multiple tenants seek to have sign visibility on the road frontage. Such traditional sign methods can result in an appearance that is not consistent with the aesthetic objectives of the project. This location in south Urbana is a newly developing area with a Meijer Superstore adjacent to the north. It is the petitioner's goal for the site to become a high quality neighborhood destination shopping center. The signage is considered by the petitioners to be supplementary yet necessary to attract viable retail merchants.

The location of The Pines at a key southern gateway to Urbana is worthy of a high quality approach to site design and signage treatments. With that in mind the orientation of the retail center was planned in an effort to develop a unique neighborhood shopping experience. This orientation does not focus on frontage to South Philo Road or Windsor Roads and so does not allow tenants to optimize visibility by use of conventional signage methods.

The original signage concept for The Pines was to develop a monument sign that would accommodate the names and logos of all the tenants in the shopping center. After generating and reviewing multiple designs, the petitioners determined that maximizing the dimensions of the monument sign (as allowed by the City of Urbana) would not have the desired result. The petitioners believe that the design aesthetic of The Pines would be undermined if a large conventional shopping center sign were installed showing each tenant's name and logo. According to the petitioners such a sign would be too large and would not complement the architecture of the shopping center.

Instead the petitioners propose "...a tastefully designed and fully integrated monument sign and message board that are consistent with the materials and colors of the adjacent retail center..." The goal of the proposed shopping center sign and LED message board is to eliminate the need for independent tenant signs and thus maintain a more uniform and unique environment. The purpose of the LED message board is to provide all businesses of The Pines visibility to Windsor and South Philo Roads, but to allow the overall size of the shopping center sign to be smaller while still displaying the names and logos of all the tenants.

The petitioner's state that the 3-minute image duration permitted by the Zoning Ordinance will not accommodate sufficient cycles for enough of the business tenants' names to be viewed on the LED message board in the time a car might pass. The duration needed for a vehicle to traverse the stretch of property within viewing distance of the sign will be limited, and a car could pass by within the 10 second period if it does not have to stop at the intersection. The petitioners state the LED sign minimum time delay needs to be 10 seconds to allow a sufficient viewing opportunity for multiple tenants to be represented. Under these conditions it is likely that many drivers will still only experience two or three tenant representations lasting 10 seconds as they wait for a signal change at the intersection and then pass the sign. The proposed sign will conform to the other requirements Zoning Ordinance Section IX.4.D.3 that states Electronic Message Board (LED) signs shall not be animated, flashing, or scrolling.

City staff does not anticipate any safety hazards to motorists as a result of the increased frequency. With regard to outdoor advertising signs under the jurisdiction of the Illinois Department of Transportation, IDOT changed its administrative code in October 2006 to allow digital billboards (within 660 feet of highways) to change their message no more than every 10 seconds. The Illinois Administrative code Section 92/522.20 Definitions states:

"Multiple Message Sign" means an outdoor advertising sign that displays a series of message changes, regardless of the technology used. A multiple message sign provides for a fixed message of at least ten seconds in length with a transition time between message changes of three seconds or less. Multiple message signs contain a default design that will freeze the message in one position if a malfunction occurs.

This 45-page document can be viewed on line here: <http://www.dot.state.il.us/landacq/illadm.pdf>

Variance Criteria

Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals to make findings based on variance criteria. The following is a review of the criteria as they pertain to this case and the criteria outlined in the ordinance:

1. *Are there special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance?*

The purpose of the message board is to provide all businesses of The Pines visibility to Windsor and South Philo Roads. The practical difficulty is that the 3-minute image duration permitted by the Zoning Ordinance will not accommodate sufficient cycles for enough of the business tenants' names to be viewed on the LED message board in the time a car might pass. The second difficulty is that the restriction to monochrome does not allow for viewer recognition of the tenants trademarked color logos. The special circumstance is that the design aesthetic of The Pines would be undermined if a large conventional shopping center sign or multiple individual signs were installed showing each tenant's name and logo.

2. *The proposed variance will not serve as a special privilege because the variance requested is necessary due to special circumstances relating to the land or structure involved or to be used for occupancy thereof which is not generally applicable to other lands or structures in the same district.*

Visibility of signage is a primary requirement of all retailers. However traditional sign methods could result in an appearance that is not consistent with the aesthetic objectives of the project. The location of The Pines at a key southern gateway to the city is worthy of a high quality approach to site design and signage treatments. With that in mind the orientation of the retail center was planned in an effort to develop a unique neighborhood shopping experience. This orientation does not focus on frontage to South Philo Road or Windsor Roads and so does not allow tenants to optimize visibility by use of conventional signage methods.

3. *The variance requested was not the result of a situation or condition having been knowingly or deliberately created by the Petitioner.*

The original signage concept was to develop a monument sign that would accommodate the names and logos of all the tenants. After generating and reviewing multiple designs it was determined that maximizing the dimensions of the monument sign as allowed by the City of Urbana would not maintain the visual aesthetic desired by the petitioners. The allowable signage would be too large and would not complement the architecture of the surrounding environment. The petitioners still have the option of the conventional approach, but feel that it would undermine their efforts to create a superior design environment at The Pines.

4. *The variance will not alter the essential character of the neighborhood.*

The goal of the proposed shopping center sign and LED message board is to eliminate the need for independent "tenant" monument signs and thus maintain a more uniform and unique environment. The proposed sign is designed to be a fully integrated monument sign and message board that is consistent with the high quality of materials and colors of The Pines. The proposed sign will fit in with the immediate neighborhood which is at the corner of two increasingly busy commercial roads.

5. *The variance will not cause a nuisance to the adjacent property.*

This is a newly developed area with a Meijer Superstore and gas station / convenience store adjacent to the north and an office park to the east. The Pines signage including the use of a color display and the increased cycle time of the LED board will not make a significant impact by comparison. It is important to recognize that the use of multi color would be allowed by right on the larger conventional signs that could otherwise be permitted at the site. The proposed sign will not be animated, flashing, or scrolling. The sign will not be a nuisance to the adjacent properties.

6. *The variance represents generally the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request.*

The petitioners state the minimum time delay needs to be 10 seconds to allow a sufficient viewing opportunity for multiple tenants to be represented. The duration needed for a vehicle to traverse the stretch of property within viewing distance of the sign will be limited and could easily be accomplished within the 10-second period. Under these conditions it is likely that many drivers will only experience two or three tenant representations as they wait for a signal change and then pass the sign. The petitioners feel the use of color is needed for the tenants' trademark logos to be easily recognizable to the viewers.

7. *The variance requested is the result of practical difficulties or particular hardship in the way of carrying out the strict letter of the Zoning Ordinance relating to the use, construction, or alteration of buildings or structures or the use of land.*

The purpose of the message board is to provide all businesses of The Pines with recognizable visibility to Windsor and South Philo Roads while reducing the amount of signage overall. The practical difficulty is that the three minute image duration permitted by the Zoning Ordinance will not accommodate sufficient cycles for enough of the business tenants' names to be viewed on the LED message board in the time a car might pass. The second difficulty is that the restriction to monochrome does not allow for viewer recognition of the tenants trademarked color logos. The special circumstance according to the petitioners is that the design aesthetic of The Pines would be undermined if a large conventional shopping center sign were installed showing each tenant's name and logo.

Options

The Zoning Board of Appeals has the following options in major variance cases 2008-MAJ-01 and 2008-MAJ-02:

- a. The Urbana Zoning Board of Appeals may recommend approval of one or both of the variances as requested based on the findings outlined in this memo;
- b. The Urbana Zoning Board of Appeals may recommend approval of one or both of the variances as requested along with certain terms and conditions. If the Urbana Zoning Board of Appeals elects to add conditions they should articulate findings accordingly; or
- c. The Zoning Board of Appeals may recommend denial of one or both of the variance requests. If the Zoning Board of Appeals elects to do so, the Board should articulate findings supporting its recommendation of denial.

Staff Recommendation – ZBA 2008-MAJ-01

Based on the findings outlined herein, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Zoning Board of Appeals forward major variance case **ZBA 2008-MAJ-01** (message frequency) to the Urbana City Council with a recommendation of **APPROVAL** with the following conditions:

1. That the monument sign with LED Electronic Message Board be constructed in substantial conformity with the submitted site plan illustrating the design and location.
2. That the variance for message frequency is approved for the proposed monument sign with LED Electronic Message Board located in the application site diagram at the corner of Philo and Windsor Roads and does not extend to any other signs located at The Pines at Stone Creek Commons property.
3. That the sign will conform to the other requirements of Urbana Zoning Ordinance Section IX.4.D.3 that prohibits Electronic Message Board (LED) signs from being animated, flashing, or scrolling.
4. That the variance is granted contingent on no other tenant directory, or shopping center signs

being permitted on the Pines property.

Staff Recommendation – ZBA 2008-MAJ-02

Based on the findings outlined herein, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Zoning Board of Appeals forward major variance case **ZBA 2008-MAJ-02** (message color) to the Urbana City Council with a recommendation of **APPROVAL** with the following conditions:

1. That the monument sign with LED Electronic Message Board be constructed in substantial conformity with the submitted site plan illustrating the design and location.
2. That the variance for message color is approved for the proposed monument sign with LED Electronic Message Board located in the application site diagram at the corner of Philo and Windsor Roads and does not extend to any other signs located at The Pines at Stone Creek Commons property.
3. That the sign will conform to the other requirements of Urbana Zoning Ordinance Section IX.4.D.3 that prohibits Electronic Message Board (LED) signs from being animated, flashing, or scrolling.
4. That the variance is granted contingent on no other tenant directory, or shopping center signs being permitted on the Pines property.

Attachments:

- Exhibit A: Location Map
- Exhibit B: Zoning Map
- Exhibit C: Existing Land Use Map w/ Aerial Photo
- Exhibit D: Future Land Use Map
- Exhibit E: Site Photos
- Exhibit F: Sign Illustrations
- Exhibit G: Application
- Exhibit H: Sign Location Diagram
- Exhibit I: watchFire Sign Fact sheet

Cc:

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Attn: Jane Solon
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March 12, 2008

MINUTES OF A RESCHEDULED MEETING

URBANA ZONING BOARD OF APPEALS

DATE: March 12, 2008

APPROVED

TIME: 7:30 p.m.

PLACE: Urbana City Building
City Council Chambers
400 S. Vine Street
Urbana, IL 61801

MEMBERS PRESENT: Paul Armstrong, Herb Corten, Anna Merritt, Nancy Uchtmann,
Charles Warmbrunn, Harvey Welch

MEMBERS EXCUSED: Joe Schoonover

STAFF PRESENT: Elizabeth Tyler, Director of Community Development Services
Department; Robert Myers, Planning Manager; Paul Lindahl, Planner
II; Lisa Karcher, Planner II; Connie Eldridge, Grants Management
Secretary

OTHERS PRESENT: Dave Cocagne, Chris Dillion, John Kunzie, Jenny Park, Bob Patel,
Tim Pellegrini, Jane Solon, Jason Wisniewski

1. CALL TO ORDER, ROLL CALL AND DECLARATION OF QUORUM

The meeting was called to order at 7:32 p.m. Roll call was taken, and a quorum was declared present.

2. CHANGES TO THE AGENDA

There were none.

3. APPROVAL OF MINUTES

Ms. Uchtmann moved to approve the minutes from the November 14, 2007 meeting with the following corrections:

- 1) Page 3, Paragraph 2, 6th Line: replace "*likely hood*" with "*likelihood*"
- 2) Page 4, Paragraph 6, 2nd Line: replace "*Wash*" with "*Walsh*"

Mr. Armstrong seconded the motion. The minutes were approved by unanimous voice vote as corrected.

4. WRITTEN COMMUNICATIONS

There were none.

NOTE: Chair Merritt swore in members of the audience who indicated they might want to speak during the public input portion of the hearing.

5. CONTINUED PUBLIC HEARINGS

There were none.

6. NEW PUBLIC HEARINGS

ZBA Case No. 2008-MAJ-01: A major variance request by the Atkins Group to allow an Electronic Message Board (LED) Sign to increase the frequency of message changes from once per three minutes to once per ten seconds at the southeast corner of Windsor and Philo Roads in the City's B-3, General Business Zoning District.

ZBA Case No. 2008-MAJ-02: A major variance request by the Atkins Group to allow an Electronic Message Board (LED) Sign to be multi-colored at the southeast corner of Windsor and Philo Roads in the City's B-3, General Business Zoning District.

Paul Lindahl, Planner II, presented these two cases to the Zoning Board of Appeals together. He discussed the proposed use of the site and what signage is allowed according to the current standards in the Urbana Zoning Ordinance. He stated that the proposed two major variances would reduce the amount of freestanding signage overall.

He referred to Exhibit F to show what the proposed sign would look like. He discussed the administrative code of the Illinois Department of Transportation (IDOT) and explained that they updated their code so messages on digital signs within 600 feet of highways could change no more than every ten seconds.

Mr. Lindahl read the options of the Zoning Board of Appeals and presented staff's recommendation for approval of each case with the standard conditions, which are as follows:

ZBA-2008-MAJ-01:

- 1. That the monument sign with LED Electronic Message Board be constructed in substantial conformity with the submitted site plan illustrating the design and location.*
- 2. That the variance for message frequency is approved for the proposed monument sign with LED Electronic Message Board located in the application site diagram at the*

corner of Philo and Windsor Roads and does not extend to any other signs located at The Pines at Stone Creek Commons property.

3. *That the sign will conform to the other requirements of Urbana Zoning Ordinance Section IX.4.D.3 that prohibit Electronic Message Board (LED) signs from being animated, flashing, or scrolling.*
4. *That the variance is granted contingent on no other tenant directory or shopping center signs being permitted on the Pines property.*

ZBA-2008-MAJ-02:

1. *That the monument sign with LED Electronic Message Board be constructed in substantial conformity with the submitted site plan illustrating the design and location.*
2. *That the variance for message frequency is approved for the proposed monument sign with LED Electronic Message Board located in the application site diagram at the corner of Philo and Windsor Roads and does not extend to any other signs located at The Pines at Stone Creek Commons property.*
3. *That the sign will conform to the other requirements of Urbana Zoning Ordinance Section IX.4.D.3 that prohibit Electronic Message Board (LED) signs from being animated, flashing, or scrolling.*
4. *That the variance is granted contingent on no other tenant directory or shopping center signs being permitted on the Pines property.*

He mentioned that there were representatives present from the Atkins Group (petitioner) and from the manufacturers of the proposed sign.

Ms. Uchtmann noticed that there is already a sign for Monical's Pizza and for Busey Bank. Would each tenant be able to put a sign on their building? Mr. Lindahl replied yes. One of the major points behind this is that in the central lot, which is about five acres, there are eight to twelve tenants that do not have any signs along the streets. They have signs and logos on the buildings themselves, but they are much further away from the road and much less visible than the corner outlots. In order to give the retail customers the visibility that they need, the petitioner is requesting the proposed variances for a shopping center sign which would in essence provide visibility.

Ms. Uchtmann asked if the proposed sign would be reserved for the tenants who would not have a sign facing Philo or Windsor Roads. Mr. Lindahl said yes. The tenants located on the outlots will have their own signs.

Chair Merritt inquired if the tenants in the outlots would be included in the scroll. Mr. Lindahl said that they would need to ask the petitioner that question.

Mr. Warmbrunn wondered why these are considered major variances rather than minor variances. Mr. Lindahl answered that these two cases are considered major because in the Urbana Zoning Ordinance, multi-colored LED signs were excluded. As for frequency, under the current Zoning Ordinance, a message is allowed to change once every three minutes. The

proposed variance request, if approved, would allow the messages to change once every ten seconds. This percentage of a difference from the standard constitutes a major variance.

Mr. Warmbrunn asked how frequently the Walgreen's sign, located at the Five Points corner, is allowed to change. Robert Myers, Planning Manager, said that the Walgreen's sign changes once every three minutes. Mr. Warmbrunn questioned if this would be the first sign allowed in the City of Urbana to change quicker than once every three minutes. Mr. Myers replied yes. Elizabeth Tyler, Director of Community Development Services Department, added that Walgreen's requested three minutes as part of a variance for their sign two or three years ago. The City modeled the language in the Zoning Ordinance after the Walgreen's sign was approved. We are seeing more and more of the LED signs for message boards rather than the manual signs, so the City included the LED signs in a text amendment to allow them by right. The size limits and the time limit were based on the Walgreen's sign.

Mr. Warmbrunn stated that they are now talking about ten seconds per message change. He inquired as to what "flashing" means. Mr. Lindahl said that the original technology for message boards was something that people would think of as "the old time Time Square" kind of thing, where they used incandescent lights to create letters, used scrolling and could flash on and off. This was the kind of proliferation of busy startling signs that no one wanted. So, when we talk about animated or flashing signs in the Zoning Ordinance, this is more like what they mean. Simply changing once every ten seconds without a visible transition is not considered flashing.

Mr. Warmbrunn mentioned that the digital billboards that IDOT allows to change every ten seconds are much larger than the proposed sign. They are larger, because they are located further away. People can see them for about a half a mile. In this case, someone heading east will not be able to pick up this sign until they get about 100 yards from the intersection due to the fence where the University of Illinois (U of I) has the trees, etc. Mr. Lindahl was not sure exactly how visible the sign would be.

Mr. Corten arrived at 7:50 p.m.

Mr. Welch wondered if the Zoning Ordinance should be amended to reflect these technological changes so the Zoning Board of Appeals does not have to deal with these types of variance requests over and over again. It seems to him that this is "a sign of things to come", especially if IDOT has changed their code to allow messages to change once every ten seconds. Laws that don't continue to change with the times are not necessarily good laws or codes. Mr. Lindahl replied that in some ways we could agree with that. City staff has thought that a text amendment might be in order. Chair Merritt added that it is appropriate for the Zoning Board of Appeals to make such suggestion to City staff, correct? Mr. Lindahl said that is correct.

Mr. Myers noted that City staff will take this suggestion under advisement. They will carefully consider how this would impact other sign provisions for the City of Urbana before proposing an amendment to the code. In this case, the applicants are making the case in the application that they have special circumstances because of the layout of the shopping center and are reducing other signage on the property to mitigate increased message frequency.

March 12, 2008

Mr. Myers continued that there are two issues with changes in Federal and state laws. First, in 2006, IDOT changed the law for routes controlled by IDOT. Changeable message signs, whether they are billboards or other changeable message sign, are allowed to change no more than every ten seconds. He believes this has an affect on how Illinois communities will look at their own sign codes. Second, in the fall of 2007, the Federal Highway Administration came out with the results of a long study that they did on whether changeable message signs are considered "flashing" or "intermittent" signs. The State of Illinois, in receiving Federal highway funds, is prohibited from having flashing or intermittent signs along Federally-funded routes. The Federal Highway Administration conducted a study to determine if multiple-message signs being approved by states would be considered flashing or intermittent. Their study found that states have different standards for the minimum number of seconds for multiple messages ranging from four to ten seconds. They recommended to states a minimum of eight to ten second message changes in order for these signs not to be considered "intermittent" or "flashing."

With no further questions for City staff, Chair Merritt opened the public hearing up to take testimony and/or gather input from the petitioner and other members of the audience.

Jenny Park, of Meyer Capel Law Firm and representative of the Atkins Group, approached the Zoning Board of Appeals to speak. She mentioned that Jane Solon from the Atkins Group is present to answer any questions as well as John Kunzie, a representative from Watchfire. Mr. Kunzie brought a display of what the sign would be so the Zoning Board of Appeals could actually see what it would look like. She invited them up to join her in presenting their case.

Ms. Solon stated that she brought a site plan to give the Zoning Board of Appeals an idea of where the message board would be placed and where the retail stores are located that do not have much frontage on Philo or Windsor Roads. Signage is very important to retailers so pedestrians and vehicular traffic can see where the stores are located.

She pointed out that they created the shopping center using this specific design so that it is a neighborhood center that has a community feel. There are plazas out front with benches and green space. People can ride their bicycles or skate down the boardwalk. They want it to be a place where people can meet. This is the reason why many of the stores are set back from the roads.

She answered a previous question by saying that the tenants having frontage on either roads, such as Monical's Pizza or Busey Bank, will be allowed to have their names on the proposed sign as well. Mr. Corten inquired as to how many names would be displayed on the sign. Ms. Solon replied by saying that there would be as many names as there are tenants.

Ms. Solon gave a PowerPoint simulation of what the proposed sign would display. The proposed sign would display the names of the shops as well as advertising for the shops and community events and spirit. The presentation represented the ten second delay in message changes.

Mr. Corten asked if this would not be considered a safety hazard or dangerous for vehicular drivers being distracted. Ms. Solon clarified that it is not considered dangerous.

Ms. Park noted that the proposed sign would be placed where there will be traffic signals. So, it will essentially be drivers sitting at red lights that will be watching the sign rather than drivers going by.

Mr. Myers added that the variances requested would not allow scrolling, animation, and flashing messages, only increased frequency and color.

Mr. Armstrong agreed with Mr. Welch's earlier point that this appears to be technology that will become more ubiquitous as time goes on. He expressed his appreciation for Ms. Solon bringing the actual video of the sign's display, because it is more difficult to make these types of decisions when the members are looking at static images than to consider how much and how long the messages would be displayed and the impact of that it may have. Quite frankly, it does not seem to have any significantly more impact than the time and temperature that could be read on a bank sign. There are certainly more distractions on the roadway than the proposed sign. It seems to him to be relatively low impact visually. He feels it would be a different issue if they were considering animated billboards or something of that nature.

Chair Merritt reminded everyone that the alternative would be that they could put four large signs. Mr. Lindahl noted that is true. They could have two shopping center signs per frontage, and they could have shopping center directory signs listing all of the tenants such as at Lincoln Square Mall. The signs could be up to 30 feet tall.

Mr. Corten wondered when the sign would be installed. Ms. Solon replied that they just need the approval to do so.

With no further questions or comments from the audience, Chair Merritt closed the public input portion of the hearing and opened it up for the Zoning Board of Appeals discussion and/or motions.

Mr. Armstrong moved that the Zoning Board of Appeals forward ZBA Case No. 2008-MAJ-01 to the City Council with a recommendation for approval and that it conform to the conditions provided in the written staff report. Mr. Corten seconded the motion. Roll call on the motion was as follows:

Paul Armstrong	-	Yes	Herb Corten	-	Yes
Anna Merritt	-	Yes	Nancy Uchtmann	-	Yes
Charles Warmbrunn	-	Yes	Harvey Welch	-	Yes

The motion was passed unanimously.

Mr. Armstrong moved that the Zoning Board of Appeals forward ZBA Case No. 2008-MAJ-02 to the City Council with a recommendation for approval and that is conform to the conditions provided in the written staff report. Mr. Corten seconded the motion. Roll call on the motion was as follows:

Paul Armstrong	-	Yes	Herb Corten	-	Yes
Anna Merritt	-	Yes	Nancy Uchtmann	-	Yes
Charles Warmbrunn	-	Yes	Harvey Welch	-	Yes

The motion was passed by unanimous vote.

Mr. Myers explained that because both these cases are major variance requests, they will go before the City Council on March 24, 2008. The City Council will be holding a special Council meeting that night.

Mr. Warmbrunn remarked that City staff should review the Zoning Ordinance regarding LED signs and the frequency of message changes. Mr. Myers stated that if this is the consensus of the Zoning Board of Appeals, then City staff will take this into consideration. Chair Merritt commented that there is definitely a consensus. Mr. Welch agreed.

ZBA-2008-MAJ-03: A major variance request by the Vermilion Development Corporation to allow for the construction of a mixed-use retail/office building with front yard setbacks ranging from zero to ten feet along both University and Lincoln Avenues located at 901 West University, 902 West Clark Street and 904 West Clark Street in the City's B-3, General Business Zoning District, and B-3U, General Business-University Zoning District.

ZBA-2008-MAJ-04: A major variance request by the Vermilion Development Corporation to allow for parking to encroach greater than ten feet into the required fifteen-foot front yard setback located at 901 West University, 902 West Clark Street and 904 West Clark Street in the City's B-3, General Business Zoning District, and B-3U, General Business-University Zoning District.

Robert Myers, Planning Manager, introduced Lisa Karcher, Planner II, as being the newest staff member in the Planning Division. He briefly described her work experience and noted that she is a member of the American Institute of Certified Planners.

Ms. Karcher gave the staff presentation for these two cases together. She began with an explanation for the proposed two major variance requests. Referring to Exhibit A (Location and Existing Land Use Map), she gave a brief description of the site and of the surrounding adjacent properties noting their zoning designations and land uses. Using Exhibit C (Future Land Use Map), she showed how the proposed use fits into the 2005 Comprehensive Plan.

She discussed a development agreement that the City of Urbana and the University of Illinois entered into in 1997 to develop the proposed site. It was the intent of the agreement to create a significant, architectural presence to improve the urban feel and character of University Avenue. She stated that the proposal for the mixed-use office-retail building is consistent with the following three things: 1) zoning category, 2) campus mixed-use, and 3) the gateway for the University as well as meeting the intent of the 1997 development agreement to create a tax generating business at that corner.

COPYORDINANCE NO. 2008-03-017**AN ORDINANCE APPROVING A MAJOR VARIANCE**

(To Allow an Electronic Message Board (LED) Sign to Increase the Frequency of Message Changes from Once Per Three Minutes to Once Per Ten Seconds at the Southeast Corner of Windsor Road and Philo Road in the B-3, General Business, Zoning District - 2710 South Philo Road / Case No. ZBA-2008-MAJ-01)

WHEREAS, the Urbana Zoning Ordinance provides for a major variance procedure to permit the Zoning Board of Appeals and the Corporate Authorities to consider applications for major variances where there are special circumstances or conditions with a parcel of land or the structure; and

WHEREAS, The Atkins Group has submitted a request to allow an Electronic Message Board (LED) Sign to increase the frequency of message changes from once per three minutes to once per ten seconds at the south east corner of Windsor and Philo Roads in the B-3, General Business Zoning District at 2710 S. Philo Road; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-2008-MAJ-01; and

WHEREAS, after due publication in accordance with Section XI-10 of the Urbana Zoning Ordinance and with Chapter 65, Section 5/11-13-14 of the Illinois Compiled Statutes (65 ILCS 5/11-13-14), the Urbana Zoning Board of Appeals held a public hearing on the proposed major variance on March 12, 2008 and voted 6 ayes and 0 nays to recommend to the Corporate Authorities approval of the requested variance; and

WHEREAS, after due and proper consideration, the Corporate Authorities of the City of Urbana have determined that the major variance referenced herein conforms with the major variance procedures in accordance with Article XI, Section XI-3.C.2.d of the Urbana Zoning Ordinance; and

COPY

WHEREAS, the Corporate Authorities have considered the variance criteria established in the Urbana Zoning Ordinance and have determined the following findings:

1. The special circumstances or practical difficulties are, first, that this is a neighborhood shopping center designed with more than half the tenants in buildings oriented toward pedestrian plazas approximately 350 feet from Philo Road, and, being small-scale commercial buildings, will lack street visibility; and second, the variances concerning timing and color are requested as a means of reducing shopping center signage overall. The Urbana Zoning Ordinance would allow by right four shopping center signs with a combined 800 square feet of signage, but the petitioners propose to erect only one shopping center sign of 78.7 square foot. The public interest will be served by a 90% reduction in shopping center signage for this property.

2. The proposed variance will not serve as a special privilege because other shopping centers in the B-3, General Business District either have necessary visibility for their tenants or provide equivalent means to achieve tenant visibility, namely shopping center signs with traditional tenant directories.

3. The variance requested was not the result of a situation or condition having knowingly or deliberately created been created by the Petitioner. The petitioners did not deliberately design the Pines shopping center layout in an effort to create a need for unconventional signage.

4. The requested variances will not alter the essential character of the neighborhood which includes a Meijer supermarket and convenience store across the street. Additionally, the proposed sign design will be consistent with the high quality of materials and colors of The Pines at Stone Creek Commons Shopping Center.

5. The requested variances will not cause a nuisance to adjacent property. The proposed sign will not be animated, flashing, or scrolling.

COPY

Multi color is allowed by right on conventional signs that could otherwise be permitted at the site.

6. The variance represents generally the minimum deviation from requirements. The petitioners state the minimum time delay needs to be 10 seconds to allow a sufficient viewing opportunity for multiple tenants to be represented. This level of exposure is considered adequate by the petitioners. The petitioners feel the use of color is needed for the tenants' trademark logos to be easily recognizable to the viewers.

NOW, THEREFORE, BE IT ORDAINED BY THE CORPORATE AUTHORITIES OF THE CITY OF URBANA, ILLINOIS, as follows:

The major variance request by The Atkins Group has submitted a request to allow an Electronic Message Board (LED) Sign to increase the frequency of message changes from once per three minutes to once per ten seconds at the south east corner of Windsor and Philo Roads in the B-3, General Business Zoning District at 2710 S. Philo Road, subject to the following conditions:

1. That the monument sign with LED Electronic Message Board be constructed in substantial conformity with the submitted site plan illustrating the design and location.

2. That the variance for message frequency is approved for the proposed monument sign with LED Electronic Message Board located in the application site diagram at the corner of Philo and Windsor Roads and does not extend to any other signs located at The Pines at Stone Creek Commons property.

3. That the sign will conform to the other requirements of Urbana Zoning Ordinance Section IX.4.D.3 that prohibit Electronic Message Board (LED) signs from being animated, flashing, or scrolling.

4. That the variance is granted contingent on no other tenant directory, or shopping center signs being permitted on the Pines property.

COPY

The major variance granted above shall only apply to the property particularly described as follows:

LEGAL DESCRIPTION: Lot 201 of The Pines at Stone Creek Commons Subdivision as recorded at the office of the Champaign County Recorder of Deeds as Document Number 2007R07482 on March 30, 2007, and situated in the City of Urbana, Illinois.

PARCEL INDEX NUMBER: A part of 93-21-28-200-033

The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities. This Ordinance shall be in full force and effect from and after its passage and publication in accordance with the terms of Chapter 65, Section 1-2-4 of the Illinois Compiled Statutes (65 ILCS 5/1-2-4).

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of a majority of the members of the Corporate Authorities of the City of Urbana, Illinois, at a regular meeting of said Authorities on the 7th day of April, 2008.

PASSED by the City Council this 7th day of April, 2008.

AYES: Barnes, Bowersox, Chynoweth, Lewis, Roberts, Smyth, Stevenson

NAYS:

ABSTAINS:

APPROVED by the Mayor this 7th day of April, 2008.

COPY
Phyllis A. Clark, City Clerk
[Signature]
[Signature]
L. Prussing, Mayor

COPY

ORDINANCE NO. 2008-03-018

AN ORDINANCE APPROVING A MAJOR VARIANCE

(To Allow an Electronic Message Board (LED) Sign to be Multi-Colored at the Southeast Corner of Windsor Road and Philo Road in the B-3, General Business, Zoning District - 2710 South Philo Road / Case No. ZBA-2008-MAJ-02)

WHEREAS, the Urbana Zoning Ordinance provides for a major variance procedure to permit the Zoning Board of Appeals and the Corporate Authorities to consider applications for major variances where there are special circumstances or conditions with a parcel of land or the structure; and

WHEREAS, The Atkins Group has submitted a request to allow an Electronic Message Board (LED) Sign to be multi-colored at the south east corner of Windsor and Philo Roads in the B-3, General Business Zoning District at 2710 S. Philo Road; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-2008-MAJ-02; and

WHEREAS, after due publication in accordance with Section XI-10 of the Urbana Zoning Ordinance and with Chapter 65, Section 5/11-13-14 of the Illinois Compiled Statutes (65 ILCS 5/11-13-14), the Urbana Zoning Board of Appeals held a public hearing on the proposed major variance on March 12, 2008 and voted 6 ayes and 0 nays to recommend to the Corporate Authorities approval of the requested variance; and

WHEREAS, after due and proper consideration, the Corporate Authorities of the City of Urbana have determined that the major variance referenced herein conforms with the major variance procedures in accordance with Article XI, Section XI-3.C.2.d of the Urbana Zoning Ordinance; and

WHEREAS, the Corporate Authorities have considered the variance criteria established in the Urbana Zoning Ordinance and have determined the following findings:

COPY

1. The special circumstances or practical difficulties are, first, that this is a neighborhood shopping center designed with more than half the tenants in buildings oriented toward pedestrian plazas approximately 350 feet from Philo Road, and, being small-scale commercial buildings, will lack street visibility; and second, the variances concerning timing and color are requested as a means of reducing shopping center signage overall. The Urbana Zoning Ordinance would allow by right four shopping center signs with a combined 800 square feet of signage, but the petitioners propose to erect only one shopping center sign of 78.7 square foot. The public interest will be served by a 90% reduction in shopping center signage for this property.

2. The proposed variance will not serve as a special privilege because other shopping centers in the B-3, General Business District either have necessary visibility for their tenants or provide equivalent means to achieve tenant visibility, namely shopping center signs with traditional tenant directories.

3. The variance requested was not the result of a situation or condition having knowingly or deliberately created been created by the Petitioner. The petitioners did not deliberately design the Pines shopping center layout in an effort to create a need for unconventional signage.

4. The requested variances will not alter the essential character of the neighborhood which includes a Meijer supermarket and convenience store across the street. Additionally, the proposed sign design will be consistent with the high quality of materials and colors of The Pines at Stone Creek Commons Shopping Center.

5. The requested variances will not cause a nuisance to adjacent property. The proposed sign will not be animated, flashing, or scrolling. Multi color is allowed by right on conventional signs that could otherwise be permitted at the site.

COPY

6. The variance represents generally the minimum deviation from requirements. The petitioners state the minimum time delay needs to be 10 seconds to allow a sufficient viewing opportunity for multiple tenants to be represented. This level of exposure is considered adequate by the petitioners. The petitioners feel the use of color is needed for the tenants' trademark logos to be easily recognizable to the viewers.

NOW, THEREFORE, BE IT ORDAINED BY THE CORPORATE AUTHORITIES OF THE CITY OF URBANA, ILLINOIS, as follows:

The major variance request by The Atkins Group has submitted a request to allow an Electronic Message Board (LED) Sign to be multi-colored at the south east corner of Windsor and Philo Roads in the B-3, General Business Zoning District at 2710 S. Philo Road, subject to the following conditions:

1. That the monument sign with LED Electronic Message Board be constructed in substantial conformity with the submitted site plan illustrating the design and location.
2. That the variance for message color is approved for the proposed monument sign with LED Electronic Message Board located in the application site diagram at the corner of Philo and Windsor Roads and does not extend to any other signs located at The Pines at Stone Creek Commons property.
3. That the sign will conform to the other requirements of Urbana Zoning Ordinance Section IX.4.D.3 that prohibit Electronic Message Board (LED) signs from being animated, flashing, or scrolling.
4. That the variance is granted contingent on no other tenant directory, or shopping center signs being permitted on the Pines property.

The major variance granted above shall only apply to the property particularly described as follows:

LEGAL DESCRIPTION: Lot 201 of The Pines at Stone Creek Commons Subdivision as recorded at the office of the Champaign County Recorder of Deeds as Document

COPY

Number 2007R07482 on March 30, 2007, and situated in the City of Urbana, Illinois.

PARCEL INDEX NUMBER: A part of 93-21-28-200-033

The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities. This Ordinance shall be in full force and effect from and after its passage and publication in accordance with the terms of Chapter 65, Section 1-2-4 of the Illinois Compiled Statutes (65 ILCS 5/1-2-4).

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of a majority of the members of the Corporate Authorities of the City of Urbana, Illinois, at a regular meeting of said Authorities on the 7th day of April, 2008.

PASSED by the City Council this 7th day of April, 2008.

AYES: Barnes, Bowersox, Chynoweth, Lewis, Roberts, Smyth, Stevenson

NAYS:

ABSTAINS:


Phyllis D. Clark, City Clerk

APPROVED by the Mayor this 11th day of April, 2008.

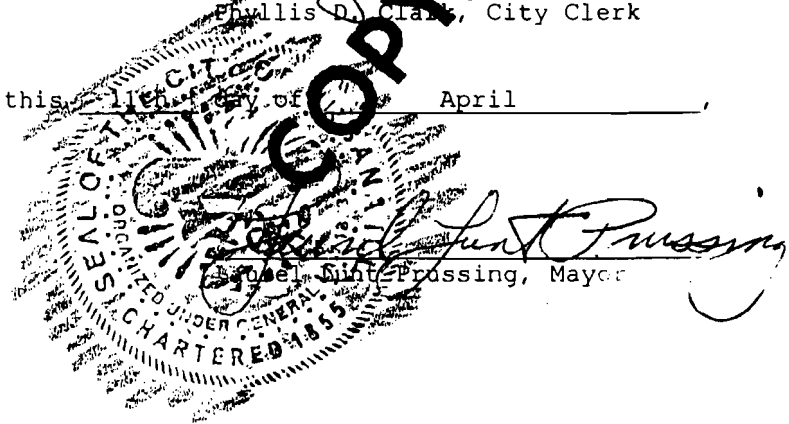


Exhibit I: Site Photos



Fig. 1: Looking east along Windsor Road



Fig. 2: Looking south along Philo Road



Fig. 3: Looking north along Philo Road

MINUTES OF A REGULAR MEETING

URBANA ZONING BOARD OF APPEALS

DATE: March 18, 2009

DRAFT

TIME: 7:30 p.m.

PLACE: Urbana City Building
City Council Chambers
400 S. Vine Street
Urbana, IL 61801

MEMBERS PRESENT Paul Armstrong, Herb Corten, Anna Merritt, Joe Schoonover, Nancy Uchtmann, Charles Warmbrunn, Harvey Welch

MEMBERS EXCUSED There were none.

STAFF PRESENT Robert Myers, Planning Manager; Teri Andel, Planning Secretary

OTHERS PRESENT Jenny Park, Jane Solon

WRITTEN COMMUNICATIONS

- ◆ Updated staff report regarding revisions to the conditions in the staff recommendation

NOTE: Chair Merritt asked that anyone who might want to testify to please stand and raise their right hands. She then swore in members of the audience who wished to speak.

NEW PUBLIC HEARINGS

Case No. ZBA-2009-MAJ-01: Request by the Atkins Group, Inc. to revise an approved major variance allowing an electronic message board display to change no more than once every ten seconds, at 2710 and 2810 South Philo Road in the B-3, General Business Zoning District.

Case No. ZBA-2009-MAJ-02: Request by the Atkins Group, Inc. to revise an approved major variance allowing an electronic message board display to be multi-colored, at 2710 and 2810 South Philo Road in the B-3, General Business Zoning District.

Robert Myers, Planning Manager, presented these two cases together to the Zoning Board of Appeals. He explained that the proposed two variance requests are actually modifications to two variances approved in 2008. He gave a brief description noting the current zoning, existing land use and future land use designation of the proposed site as well as of the surrounding properties.

Mr. Corten asked for clarification about the area on the southwest corner of Windsor and Philo Roads marked as “mixed residential” in Exhibit D, Future Land Use Map. Is the University of Illinois moving out of this area? Mr. Myers said no. This property may be owned by the University of Illinois Foundation and may be developed as residential at some point in the future.

Mr. Myers continued with the staff presentation. He pointed out that the shopping center buildings don't face Windsor Road or Philo Road. They are more interior oriented. Consequently, the businesses don't have the same visibility as a typical shopping center.

Mr. Corten wondered why the shopping center entrance on Windsor Road did not have a sign. Mr. Myers stated that the petitioners could answer this question. He explained that the Atkins Group designed the shopping center sign to be placed at the intersection. There is actually a sign easement that is on the Busey Bank property where the first shopping center sign will be located.

Mr. Myers talked about the previous variance requests that were approved for one LED display sign. Now that the shopping center has been constructed, the petitioner realizes that it was a mistake to limit themselves to one sign. A second sign is needed to help direct patrons to the businesses in the rear of the property.

He also pointed out that in the previous case from 2008, the wrong exhibit was attached to the staff report. They should have attached an illustration showing the height of the sign to be 113 square feet rather than 78.5 square feet. As a result, the City Council approved the two variances with the condition that the size of the sign conform to the attached wrong exhibit.

Mr. Myers stated that the petitioner is not asking for any changes to the variance standards themselves. They are only asking for relief from the restrictions that were placed as conditions for approval of the variances. Chair Merritt asked for clarification on what the Zoning Board of Appeals should be considering. Mr. Myers explained that the petitioner is asking for a sign measuring 113 square feet in size rather than 78.5 square feet and to be able to have a second shopping center sign on the property.

Mr. Warmbrunn inquired whether the second sign would be 113 square feet as well. Mr. Myers replied that the petitioners would need to meet the sign code as stated in the Zoning Ordinance. So, the sign could be up to 150 square feet in size.

Mr. Warmbrunn pointed out that the amended size of the sign is not in either recommendation by staff. He recommended that the Zoning Board mention the size in the motion and conditions. He also noticed that the revised conditions that were handed out prior to the start of the meeting refer to the two cases in 2008. This needs to be changed to 2009.

He wondered why they needed condition #4 for Case No. ZBA-2009-MAJ-01 if they are only increasing the size of the sign allowed. Mr. Myers stated that it is necessary because the petitioners are asking for two signs instead of one. Mr. Warmbrunn asked if the petitioners needed to ask for two signs in both variance requests. Mr. Myers explained that the reason City provides two recommendations, one for each variance, is to give the Zoning Board of Appeals the opportunity to approve one request and reject the other if so desired. The Board should vote on the two variance requests in separate motions.

Mr. Warmbrunn commented that this is where the Zoning Board of Appeals is confused. Chair Merritt agreed. She pointed out that for Case No. ZBA-2009-MAJ-01 on the handout with the revised conditions, it states “*display frequency*” which is not the essence of what they are considering. They are considering an increase in the size of the sign. Mr. Myers stated that Case No. ZBA-2009-MAJ-01 deals with the display frequency. Mr. Warmbrunn questioned whether they are opening up the previously approved two variance requests from 2008 to amend them. Mr. Myers replied that the petitioners are requesting that the conditions on the previously two variance requests be modified. Mr. Warmbrunn wondered if the Zoning Board of Appeals is against the increase in the size of the sign or the second sign, then would voting for denial erase the approval obtained in 2008. Mr. Myers responded that if the proposed variances are not approved, then the petitioners would still have the approval from the previous variance requests in 2008.

Chair Merritt pointed out that if the essence of what the Zoning Board of Appeals is reviewing and deciding on is to increase the size of the sign and to allow a second sign, then it should say that instead of “*display frequency*” and “*display color*”. Mr. Myers noted that both the increase of the size of the sign and allowing a second sign are incorporated into the recommended revised conditions. Mr. Warmbrunn said that the recommended revised conditions are the same for both variance requests. Both requests are mentioned in the proposed conditions, so if he approves the increase in the size of the sign on Lot 201, but disapproves of the second sign being constructed on Lot 208, then he would have to deny both since they are both mentioned in the proposed conditions for each case. Mr. Myers commented that is why they are recommended conditions and that the Zoning Board of Appeals can change the language of the proposed conditions.

Ms. Uchtman mentioned that Condition #3 should state “*Lot 208*”. The shopping center sign on Lot 201 was already talked about in Condition #1. Mr. Myers said that is not accurate. When reading Condition #3, it states that the sign on Lot 201 should conform to the Zoning Ordinance and that animated, flashing and scrolling signs are prohibited. City staff did not want to open the door to these other types of signs that are prohibited.

Mr. Warmbrunn asked for clarification as to which case refers to the addition of the second sign on Lot 208. Mr. Myers explained that the petitioners applied in their application to have a second sign on Lot 208. Recommended Condition #4 of both variance cases would allow the second sign. Mr. Warmbrunn reiterated that the recommended conditions are the same for both variance cases. The only difference is that Case No. ZBA-2009-MAJ-01 says “*display frequency*” and Case No. ZBA-2009-MAJ-02 says “*display color*”. Mr. Myers said that is correct. Mr. Warmbrunn said he did not see where they were asking for an additional sign, which is the critical part of the discussion. Mr. Myers said that Condition #4 on both votes would allow a second shopping center sign.

Mr. Warmbrunn understood it to be that the Zoning Board of Appeals was reviewing the entire two variance requests again. Case No. ZBA-2009-MAJ-01 deals with the display frequency and Case No. ZBA-2009-MAJ-02 deals with the display color. Chair Merritt added that if the Board votes in favor of the two variance requests, in that process they also approve the 113 square foot sign and the construction of the second sign on Philo Road. Mr. Myers said yes.

Mr. Warmbrunn stated that he thought they had already approved the display color and frequency in the previous two cases in 2008. Chair Merritt pointed out that the proposed two variance requests

just correct some things that were overlooked in the previous two related cases. Mr. Myers referred to Exhibit H, Ordinance No. 2008-03-017 and Ordinance No. 2008-03-018. In the Ordinances, Condition #1 states the following, *“That the monument sign with LED Electronic Message Board be constructed in substantial conformity with the submitted site plan illustrating the design and location.”* The submitted plan was the wrong one, so they needed to come back to the Zoning Board of Appeals to get approval of the correct plan.

Ms. Uchtmann questioned whether the petitioners had submitted another site plan to deal with the size issue. Mr. Myers said yes. Ms. Uchtmann suggested that Condition #1 then read as follows, *“That the shopping center sign with LED display on Lot 201 be constructed in substantial conformity with the site plan and dimensioned color rendering submitted with the application dated February 24, 2009.”* Otherwise, it could mean the original application. Chair Merritt agreed that it might add some clarification.

Mr. Warmbrunn stated that he did not understand if the City changes one part of the ordinance how the rest of the ordinance stands. In the explanation of the original staff report, City staff mentioned that there is a 78.7 square foot sign and this would create a 90% reduction in the amount of signage, which is good for public interest. Now, that 90% will be reduced with the increase of the size of the sign on Lot 201, and it will be reduced even more with the construction of the second sign. Mr. Myers stated that this is what the Zoning Board of Appeals is being asked to weigh...whether it's a reasonable condition for approval of the variance.

Mr. Warmbrunn inquired as to whether the original ordinances would be come voided with the approval of the two proposed variance requests. Mr. Myers replied that they would adopt a new ordinance with modified conditions, and they would attach the site plan labeled “Option A”.

With no further questions for City staff, Chair Merritt opened the hearing up for public input.

Jenny Park, of Meyer Capel, and Jane Solon, of the Atkins Group, spoke on behalf of the petitioner, the Atkins Group.

Ms. Solon addressed a question asked by Mr. Corten regarding the possible placement of a sign at the curb-cut along Windsor Road. She noted that the Atkins Group has looked at the visibility of a sign and where most of the traffic transverses to see where the best location would be. They also want to keep the landscape uncluttered from having lots of signs. This is the reason they original asked for an electronic message board. Mr. Corten remarked that this is a good idea.

Ms. Park elaborated on the confusion of the Zoning Board members regarding the purpose of the proposed two variances. The Atkins Group wants a modification of the variances that were granted in 2008. However, the City of Urbana's Zoning Ordinance does not compensate for modifications being brought before the Zoning Board of Appeals. This is why City staff wanted to bring two new variances that are essentially the same variances that were approved in 2008 only with two conditions being modified. Consequently, the Atkins Group drafted the application to ask for modifications of the two variances rather than asking for two whole new variances.

Mr. Armstrong recalled that when the first variances came before the Zoning Board of Appeals the argument was by placing the one sign at the corner of Windsor and Philo Roads, it would have the

maximum visibility. The primary purpose of the sign was to provide motorists with information about what the shopping plaza contains. Now, there is an argument that there is need for a second sign at the entrance of Philo Road presumably so people know where the entrance is. He asked why the second shopping center sign needs to be a similar message board sign.

Ms. Solon responded that the Atkins Group would like to have the flexibility to have the second sign be an electronic message board. They are not saying that they will have a message board for the second sign. It all depends on how the area is developed, how many stores and what types of tenants they get. If they do not have some flexibility, then they will be back asking for a modification of a modification of a variance, and it will be even more confusing. She asked the Zoning Board of Appeals to take into consideration the kind of developments that the Atkins Group builds. They would not construct anything that would be tasteless or would not fit with the concept of the community feel for what they want for that part of town and that development.

Ms. Park added that they are not saying that they will have two identical signs one on Philo Road and one on the corner. The request to construct a second sign came about because patrons have been saying that they did not know where to turn to go to find that business. The second sign will meet all of the codes in the Zoning Ordinance.

Mr. Corten inquired whether the Atkins Group would come back in two or three more years after more businesses are developed asking for more signage for their patrons as well. Mr. Welch said that this would not necessarily happen. The message board sign on the corner will change messages to advertise different businesses in the development.

Ms. Park said that the Atkins Group wants the flexibility to be able to determine what would best fit with the atmosphere of the shopping center. They are a quality shopping center, so they would not construct something like the one at Lincoln Square. They want the sign to be attractive to the quality of tenants that they are trying to attract.

Mr. Warmbrunn asked if the Atkins Group has done a new study to determine that this is the best location for the second sign. Ms. Solon replied that they need signs in both locations to adequately let people know where The Pines is located and to advertise for the current and future tenants.

Mr. Warmbrunn expressed his concern about giving the petitioner an open-ended ability to construct any kind of sign on Lot 208. Mr. Myers pointed out that the second sign would have to meet all the sign code requirements. It could be up to 150 square feet in area.

Mr. Warmbrunn commented that it could end up being the largest sign on the site if the City does not set any perimeters. Ms. Solon responded that it was safe to say that if the sign was a LED sign, then it would not be 150 square feet in size.

Mr. Corten stated that the proposed second sign would be a freestanding sign. Ms. Solon said that is correct.

Ms. Uchtmann questioned whether the motion needed to state the largest size of the freestanding sign or does it not matter because the Zoning Ordinance allows a sign up to 150 square feet. Ms. Park reassured her that the Atkins Group was not going to go above what the Zoning Ordinance allows, which is 150 square feet.

Mr. Warmbrunn voiced his concern about the Atkins Group having free reign because they cannot commit at this time as to what size the second sign would be. Ms. Park replied that she would not call it free reign because the City has limited through the Zoning Ordinance how large a freestanding sign can be. Given the quality of the shopping center, the Atkins Group is not going to construct a huge sign because it would be an eyesore of the shopping center.

With no further comments from the audience, Chair Merritt closed the public input portion of the hearing. She then opened the hearing up for discussion and/or motion(s) from the Zoning Board of Appeals.

Mr. Warmbrunn recommended the following changes to the proposed conditions:

ZBA-2009-MAJ-01:

Condition #1 – Define shopping center sign as being Option A

Condition #2 – Define shopping center sign as being Option A

Condition #3 – Define shopping center sign as being Option A

Condition #4 – State that the shopping center should be limited to a total of two signs (Option A and a second sign should be no larger than Option A) ...

ZBA-2009-MAJ-02:

Have all four conditions the same as Case No. ZBA-2009-MAJ-03

Ms. Park commented that by limiting the size of the second sign to 113 square feet, then they are limiting the Atkins Group to having it be an LED sign, because that is the only thing that would allow for that size to get all of the tenants on the sign. Chair Merritt pointed out that they have been discussing LED signs all along with display frequency and color. Ms. Park stated that was for the first sign. The second sign has never been represented as being an LED sign. The Atkins Group would like the flexibility. If the Zoning Board of Appeals reduce and limit the size of the second sign, then it will force the sign to be a LED sign. This could cause the Atkins Group to come back to request another modification in the future.

Mr. Schoonover commented that it sounds like the petitioner wants one LED sign with the flexibility to construct a second sign as they see fit. It seems like the second sign should be considered at a future time because the Zoning Board does not know what the Atkins Group wants and the Atkins Group does not know at this time what they want for the second sign. Ms. Park pointed out that they do know that they need a second sign. They were hoping that as long as they met the codes in the Zoning Ordinance, then they would not need to come back before the Zoning Board of Appeals. Mr. Myers stated that if the second sign is approved through the proposed variance requests, then the petitioner would not need a variance granted for the size of the sign as long as the sign conforms to the Zoning Ordinance requirements.

Ms. Merritt did not see why they needed to add language about the second sign being no larger than Option A in Condition #4. Mr. Myers said that it is something Mr. Warmbrunn wanted to add. Mr. Warmbrunn recalled that Ms. Solon and Ms. Park both stated that they would probably not construct a sign 150 square feet in size. People are telling the Atkins Group that they need a second

sign, when they don't even have the first sign constructed yet. So, how do they know they need a second sign? What can the petitioner do by right?

Mr. Myers explained that under the Zoning Ordinance, two shopping center signs are allowed per street frontage of more than 300 feet. So for this development, the Atkins Group could have six-150 square foot shopping center signs. Instead the Atkins Groups is agreeing to place limitations of having two signs, one would be 113 square feet and the second could be up to 150 square feet in size.

Mr. Warmbrunn commented that it is now a question of whether the petitioner needs two signs and should the Zoning Board let the petitioner have free reign on the second sign. They already changed what would be allowed by right in the Zoning Ordinance by approving the previous two variance requests in 2008. He is not against the second sign. He just wants to define what could be built.

Mr. Welch said that the Board would not be giving the petitioner free reign because the second sign is allowed by right. He feels that the Board is treading on slippery ground because the petitioner is allowed to have six – 150 square foot signs, and the Board is trying to tell the petitioner what to do with the second sign.

Ms. Merritt inquired about the petitioner's rights. If the City gives the petitioner permission to construct the one sign, could the Atkins Group change their minds and construct the six – 150 square foot signs that they originally would be allowed by right to construct. Mr. Myers responded that if they constructed six shopping center signs on the property as allowed by the Zoning Ordinance, they would violate the conditions of the two previously-approved variances. That means they couldn't take advantage of the variances.

Mr. Myers said that he senses that the Board will need to modify the wording of the proposed variance conditions in order for them to be clear for everyone. He suggested that the Zoning Board of Appeals take a five minute recess to allow him time to revise the recommended conditions in writing to reflect the changes that were mentioned. I that way Board members could vote on the exact wording in writing.

Chair Merritt called a recess at 8:42 p.m.

The Zoning Board of Appeals meeting was reconvened at 8:55 p.m.

Mr. Myers handed out revised recommended conditions including changes sought by the Zoning Board of Appeals.

Mr. Armstrong moved that the Zoning Board of Appeals forward Case No. ZBA-2009-MAJ-01 (display frequency) to the City Council with a recommendation for approval, including the four conditions provided in the revised handout just received. Mr. Corten seconded the motion. Roll call on the motion was as follows:

Mr. Armstrong	-	Yes	Mr. Corten	-	Yes
Chair Merritt	-	Yes	Mr. Schoonover	-	Yes

Ms. Uchtmann	-	Yes	Mr. Warmbrunn	-	No
Mr. Welch	-	Yes			

The motion passed by a vote of 6 – 1.

Mr. Armstrong moved that the Zoning Board of Appeals forward Case No. ZBA-2009-MAJ-02 (display color) to the City Council with a recommendation for approval, including the four conditions provided in the revised handout just received. Mr. Corten seconded the motion. Roll call on the motion was as follows:

Mr. Armstrong	-	Yes	Mr. Corten	-	Yes
Chair Merritt	-	Yes	Mr. Schoonover	-	Yes
Ms. Uchtmann	-	Yes	Mr. Warmbrunn	-	No
Mr. Welch	-	Yes			

The motion was passed by a vote of 6 – 1.

Mr. Myers noted that these two cases would go before the City Council on April 6, 2009.