



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Mayor Laurel Lunt Prussing

FROM: Elizabeth H. Tyler, FAICP, Director

DATE: May 28, 2009

SUBJECT: Plan Case 2106-M-09: A request to rezone 714 West California Avenue from R-2 (Single-Family Residential) to R-7 (University Residential).

Introduction and Background

Kevin and Julia Webster have submitted a petition to rezone property located at 714 West California Avenue from the R-2 (Single-Family Residential) to the R-7 (University Residential) zoning district. The property is a corner lot which is 58 feet wide and 120.26 feet deep, and currently consists of an eight-bedroom, single-family home. The house has three floors with approximately 3,000 square feet of floor area. If the rezoning is granted, the Websters intend to convert the home into a rooming house for eight tenants.

The petitioners indicate that they purchased the property in 1997 for their children to live in while attending the University of Illinois. When they acquired the property, it was a legally non-conforming use including two apartments plus a rooming house for four tenants. After acquiring the property, the petitioners substantially renovated the structure, converting it into a single-family home which they have since rented to university students. When the structure was converted to a single-family home it lost its nonconforming status as an apartment/rooming house.

The property has been used as a student rental for many years. The owner applied to the University of Illinois to use the house as a “student home” in 1940. Records indicate that the property contained at least two units and three bathrooms as early as 1953. The Zoning Administrator determined the property to be a legally non-conforming multi-family/rooming house in 1985. Prior zoning maps indicate that the property was zoned “B – Multiple Family Residence” in 1940, but rezoned to “R-1, One and Two Family Residence” by 1950. The property is now zoned R-2, Single-Family Residential.

The petitioners obtained a permit to remodel the home into a single-family residence in 1998. The remodeling work complied with the single-family residential building code. When the structure was converted to a single-family home in 1998, its nonconforming status as a multi-unit/rooming house was abandoned. The petitioners indicate that they did not intend to abandon the rooming house use. When they applied for the building permit to remodel the house, they wrote that the use was to be “single-family”, but they considered a rooming house to be “single-family” instead of “multi-family” and were not fully aware of the long-term zoning and property rights implications of their building permit application. The petitioners initially rented the home to family members and friends, following the City’s requirements that the house be occupied by no more than four unrelated individuals. After their children finished school, they rented the house to more than four unrelated persons, until the City took them to court for violating the occupancy limit in 2006. In 2007 the court ordered the petitioners to adhere to the City’s occupancy limit and to pay a fine.

In improving the condition of their house and property, the petitioners have been placed in a difficult situation with respect to future use and occupancy options for the property. With this rezoning request, the Websters are attempting to correct their past reportedly unintended action of abandoning the prior nonconforming rooming house use. Since the property is in an area with a number of other nearby nonconforming rooming houses and multi-family uses, the petitioners have chosen to request a rezoning to a district that will allow similar uses by right.

Adjacent Land Uses and Zoning Designations

The subject property is located at the northeast corner of California and Busey Avenues, within the West Urbana Neighborhood. The surrounding area is residential in character, consisting of rental homes, owner-occupied homes, rooming houses and apartment buildings. All of the adjacent properties to the north, east and south are zoned R-2 (Single Family Residential), including some which are legally nonconforming rooming houses and apartments. To the west across Busey Avenue are properties zoned R-6 (High Density Multiple-Family Residential) and R-4 (Medium Density Multiple Family Residential District). The subject property is adjacent to, but outside of, the recently adopted Lincoln-Busey Corridor Design Review Overlay District. The following is a summary of zoning and land uses for the subject site and adjacent properties:

Location	Zoning	Existing Land Use	Comprehensive Plan Future Land Use
Site	R-2 (Single Family Residential)	Single-Family Home	Residential
North	R-2 (Single Family Residential)	Single-Family Home, Multi-Family Conversion	Residential
South	R-2 (Single Family Residential)	Single-Family Home	Residential
East	R-2 (Single Family Residential)	Rooming House	Residential
West	R-6 (High Density Multiple-Family Residential)	Apartment Building	Medium-Density Residential

Comprehensive Plan

The 2005 Urbana Comprehensive Plan identifies the future land use for the area containing the site as “Residential (Urban Pattern).” The Plan defines Residential (Urban Pattern) as follows:

Residential areas contain primarily single-family residential housing but may also include a variety of compatible land uses such as duplexes, town homes, civic uses, institutional uses, and parks where zoning is appropriate. Residential areas can have different physical patterns of development.

Urban Pattern of Development

A pattern of development that is typically found in older, established neighborhoods. Includes a grid network of streets with, in some cases, vehicular access from rear alleys. Streets may be narrow in order to slow down traffic and favor the pedestrian. The urban pattern also contains a well-connected sidewalk system that encourages walking and provides convenient pedestrian access to nearby business centers. May include smaller lots where homes face the street and the presence of garages along the street is minimized.

The Future Land Use Map also has a notation entitled “West Urbana: Strategies for Neighborhood Stability” with the following strategies listed:

1. *Explore ‘Neighborhood Conservation District’ Strategies*
2. *Promote Single Family Residential Uses in areas zoned for single-family*
3. *Preserve existing zoning protections*
4. *New developments to respect traditional physical development patterns*

The proposed rezoning is not supported by strategies number two and three above.

The following Comprehensive Plan Goals are also relevant to the proposed rezoning:

Goal 1.0 Preserve and enhance the character of Urbana’s established residential neighborhoods.

Objectives

- 1.4 Promote established neighborhoods close to campus and the downtown as attractive places for people to live.
- 1.5 Ensure appropriate zoning in established neighborhoods to help foster the overall goals for each unique area.

Zoning District Standards

The property is currently zoned R-2 (Single-Family Residential) and is proposed to be rezoned to R-7 (University Residential). Residential districts in general are intended to provide desirable

settings for residential uses consistent with several density ranges described in Urbana's Comprehensive Plan, with appropriate regulations regarding physical development. The districts also allow other uses compatible with residential areas, either as permitted or as conditional or special uses.

According to Section IV-2 of the Urbana Zoning Ordinance, the purpose and intent of the R-2 Zoning District is as follows:

The R-2, Single-Family Residential District is intended to provide areas for single-family detached dwellings at a low density, on lots smaller than the minimum for the R-1 District. The R-2 District is also intended to provide for a limited proportion of two-family dwellings.

According to Section IV-2 of the Zoning Ordinance, the purpose and intent of the R-7 Zoning District is as follows:

The R-7, University Residential District is intended to provide areas in proximity to the University of Illinois for dormitories and rooming houses, which are occupied primarily by students, to insure the longevity of the architectural character and use of these existing buildings, and to protect nearby low-density residential districts from incompatible developments.

Zoning description sheets are attached in Exhibit "E" and list the permitted uses in the R-2 and R-7 zoning districts. Should the property be rezoned to R-7, the permitted uses and development regulations would change as indicated in the attached zoning description sheets. The R-7 District permits fewer uses than does R-2, but it does allow Rooming Houses, Dormitories, and Common-Lot-Line Dwellings (townhomes), which are not allowed in R-2.

Lot width and lot size. The lot width and size requirements are identical for the R-2 and R-7 zoning districts. The lot meets the requirements for lot area, but is legally nonconforming for width in the R-2 (and R-7) district, as it falls short of the minimum 60-foot width by two feet.

Setbacks. The lot is currently nonconforming for setbacks. The required front yard setback in the R-2 and R-7 district is based on the average of the block face, with a minimum of 15 feet. As a corner lot, this property has two front yard setbacks. Along Busey Avenue, the required setback is 15 feet, into which the house encroaches five feet. Along California Avenue, the required setback is about 23 feet, and the house encroaches about five feet into this yard as well.

Open Space Ratio. If rezoned, the minimum Open Space Ratio (OSR) would be reduced from 0.40 to 0.35. The property currently has an OSR of 0.26, meaning that it would be nonconforming in either district.

Floor Area Ratio. The maximum Floor Area Ratio (FAR) for the property would increase from 0.40 to 0.50. The lot is currently non-conforming, with an FAR of approximately 0.45. The rezoning would allow the property to become conforming for FAR.

Parking. There are currently six off-street parking spaces in a gravel parking area contained with concrete curbing behind the house, accessed off of Busey Avenue. Four parking spaces would be required for an eight-tenant rooming house, meaning that the property would conform to this aspect of the proposed R-7 zoning.

Nonconforming Uses

Section X-4.B of the Zoning Ordinance states that if a nonconforming use is changed to a conforming use, then the nonconforming use shall be deemed to have been abandoned, and may not be changed back into any nonconforming use. The conversion to a conforming use is considered de facto evidence that the property owner intended to abandon the nonconforming use. The petitioners maintain that they did not intend to abandon their nonconforming use, and that they did not understand they were abandoning the use when they applied for the building permit to remodel the house as a single-family use under the less restrictive single-family building code.

Building Codes

The remodeling done by the petitioners in 1998 was conducted under the single-family residential code. If the building were to be converted back into a rooming house, it would need to meet the multi-family residential building code. This code has stricter requirements for fire separation, exits and exit signs, fire alarms and sprinklers. The petitioners have indicated their willingness to adhere to this stricter code.

Issues and Discussion

The property is located in the West Urbana Neighborhood and is adjacent to but outside of the Lincoln-Busey Design Review Corridor. The West Urbana Neighborhood contains mostly single-family homes, except for the areas closest to the University of Illinois campus where demand for student rentals is highest. In previous years, several single-family homes in the western portion of this area have been either converted into apartments and rooming houses, or torn down and replaced with apartment buildings.

The area was subjected to a detailed rezoning and future land use analysis as part of the 1990 Downtown to Campus Plan (DTC), the outcomes of which have been subsequently incorporated into the 2005 Comprehensive Plan. A main objective of the Downtown to Campus Plan was to “protect and preserve the character, scale and integrity of established low-density residential areas by discouraging inappropriate and incompatible zoning and development.” The DTC proposed future land uses of low-density residential for properties south of High Street and east of Busey Avenue, but did not recommend a rezoning of the subject property, as it was already zoned R-2 (Single-Family Residential) at that time.

The majority of properties zoned R-7 (University Residential) are located west of Busey Avenue. The closest R-7 parcel to the subject property is located one block away at the corner of Oregon Street and Busey Avenue. In total, there are five properties zoned R-7 to the east of Busey

Avenue, all of which are located at least five blocks to the south. These properties contain large, dormitory-style residences built on double lots.

In the attached petition the applicants state that the property has been used as a student rental for 50 years. From the petitioners' perspective, a house with eight bedrooms is too large for one family, and is not likely to be rented or sold to a family due the area being predominantly student rentals. Following extensive renovations, the petitioners believe that the property is not financially viable with only half of its bedrooms leasable. According to the petitioners, in order to properly maintain the property, rental income from more than four occupants is necessary. The petitioners believe that, the occupancy requirements for R-2 districts restrict the value of the property should the petitioners try to sell it.

The La Salle Criteria

In the case of *La Salle National Bank v. County of Cook* (the "La Salle" case), the Illinois Supreme Court developed a list of factors that are paramount in evaluating the legal validity of a zoning classification for a particular property. Each of these factors will be discussed as they pertain to a comparison of the existing zoning with that proposed by the Petitioner.

1. *The existing land uses and zoning of the nearby property.*

This factor relates to the degree to which the existing and proposed zoning districts are compatible with existing land uses and land use regulations in the immediate area.

All adjoining and nearby properties east of Busey Avenue are zoned R-2. In addition to single-family homes, there are several legally nonconforming uses in this area, including apartments and rooming houses. West of Busey Avenue, properties include larger apartment buildings, rooming houses, and certified university housing as well as some single-family homes. Properties west of Busey are zoned R-4, R-5, R-6, and R-7. If the subject property were rezoned to R-7 and the home converted to a rooming house, this new use would be generally consistent with uses west of Busey Avenue but generally inconsistent with land uses east of Busey Avenue.

2. *The extent to which property values are diminished by the restrictions of the ordinance.*

This is the difference in the value of the property as R-2, Single Family Residential and the value it would have if it were rezoned to R-7, University Residential.

The petitioner has submitted information from a property manager and realtor indicating that the proposed rezoning would increase the property's value by 75 to 100 percent. This reflects the high demand for rental housing for properties close to the University of Illinois campus, and the substantial funds the petitioners have spent on improving the structure. The owner contends that it is unlikely a family would be willing to live in the house because the area consists predominantly of student rentals. Because the City's occupancy standards limit occupancy here to a family plus no more than three unrelated individuals, this means that the house will typically be rented to four tenants. Conversely, if the property were rezoned to R-7, it could be rented to eight tenants as a rooming house, once it met the proper building code for a rooming house. It

stands to reason that eight tenants would provide more income than four, although a direct income comparison is not possible as two distinct housing products (single-family vs. rooming house) are involved.

On the other hand, despite the fact that a property may be worth more if rezoned to a higher classification, this does not mean that its current value is necessarily diminished when compared with other homes in the same R-2 District. From a zoning perspective, all properties in the same district are treated in the same manner.

It should be noted that City Planning Division staff are not qualified as professional appraisers and that a professional appraiser has not been consulted regarding the impact of zoning on the value of the property. Therefore, any discussion pertaining to specific property values should be considered speculative.

3. *The extent to which the ordinance promotes the health, safety, morals or general welfare of the public. (see No. 4 below)*
4. *The relative gain to the public as compared to the hardship imposed on the individual property owner.*

Questions 3 and 4 apply to the current zoning restrictions: do the restrictions promote the public welfare in some significant way so as to offset any hardship imposed on the property owner by the restrictions?

The subject property is zoned R-2, as are approximately 40 square blocks of the West Urbana Neighborhood. This R-2 zoning pattern resulted from the recommendations of the 1990 Downtown to Campus Plan and prior zoning efforts. In conformance with that plan, and as determined to be in the community's public interest and welfare at the time, much of the West Urbana Neighborhood was rezoned to R-2 from previous multi-family designation. The purpose of the rezoning to R-2 was to stabilize the neighborhood and to provide the benefits of single-family housing for an area within walking distance of the University of Illinois campus. These long-term neighborhood stabilization benefits of the existing zoning pattern, which have been established by the City in the Downtown to Campus Plan and Comprehensive Plan, outweigh the potential hardship imposed on the current owner.

5. *The suitability of the subject property for the zoned purposes.*

The issue here is whether there are certain features of the property which favor the type and intensity of uses permitted in either the current or the proposed zoning district.

The subject property is an eight-bedroom home within walking distance of the University of Illinois campus. The average family size in Urbana makes it unlikely that a family large enough for eight bedrooms would occupy the house. At the same time, the market heavily favors student rentals in this area. These factors support the suitability of the property for the R-7 District.

Conversely, the size of the property does not favor the rezoning. The lot would not meet the R-7

zoning requirements for open space or minimum lot width. Rezoning to R-7 would intensify the use of a nonconforming lot.

6. *The length of time the property has been vacant as zoned, considered in the context of land development, in the area, in the vicinity of the subject property.*

Another test of the validity of the current zoning district is whether it can be shown that the property has remained vacant for a significant period of time because of restrictions in that zoning district.

The house has not been vacant, but according to the owners the current single-family zoning requirements and occupancy limits have caused the property to be underutilized as only four of its eight bedrooms can legally be rented.

Summary of Findings

1. The property is currently zoned R-2 (Single Family Residential) and is occupied by an eight-bedroom, single-family home.
2. The petitioners are requesting a rezoning to R-7 (University Residential) in order to allow use of the property as a rooming house.
3. The property was an apartment and rooming house prior to 1998 when the present owner converted the building to a single-family residence by eliminating the third floor apartment and seeking building permits under the single family building code.
4. The petitioners state that they were unaware that seeking building permits under the single family building code would result in the abandonment of their property's nonconforming use status.
5. According to the petitioners, the current single-family zoning requirements and occupancy limits cause the property to be underutilized as only four of its eight bedrooms can legally be rented.
6. The 2005 Urbana Comprehensive Plan future land use map designates this property as "Residential (Urban Pattern)."
7. The 2005 Urbana Comprehensive Plan future land use map includes notations to "preserve existing zoning protections" and "promote single-family uses in areas zoned for single-family."
8. The proposed rezoning to R-7 (University Residential) would be generally consistent with uses and zoning to the west across Busey Avenue but would be inconsistent with uses and zoning east of Busey Avenue.

9. The subject property is suitable for rezoning to R-7 in terms of the number of bedrooms and location within walking distance of the University of Illinois campus, but unsuitable in terms of lot width and open space zoning requirements.
10. The proposed rezoning may detract from the general welfare of the public by discouraging neighborhood stability provided by single-family uses in this area. This neighborhood stability outweighs the potential hardship imposed on the petitioners by the current zoning designation.

Options

The Urbana City Council has the following options for Plan Case 2106-M-09:

1. Approve the rezoning.
2. Deny the rezoning.

Recommendation

The Urbana Plan Commission held a public hearing regarding the proposed rezoning on May 7, 2009. At the hearing four audience members spoke against the rezoning, and three spoke in favor, including the petitioners. The petitioners indicated that annual rental income from the property is roughly \$2,600 less than ownership and maintenance costs. The Plan Commission discussion focused on how long-range plans, including the Downtown to Campus Plan and the Comprehensive Plan clearly designate the area as low-density residential, and how this designation conflicts with market pressures to increase density near the University of Illinois campus. The Plan Commission noted that the petitioners had improved the property and were diligent property owners. Ultimately, the Commission asserted that zoning decisions are based on long-term considerations such as the welfare of the public and future land use patterns as established in the Comprehensive Plan. The Plan Commission voted seven ayes to zero nays to forward Plan Case No. 2106-M-09 to the Urbana City Council with a recommendation for **DENIAL**. Staff concurs with this recommendation.

Attachments: Exhibit A: Location Map and Existing Land Use Map
Exhibit B: Existing Zoning Map
Exhibit C: Future Land Use Map
Exhibit D: Petition for Zoning Map Amendment with Site Photos
Exhibit E: R-2 and R-7 Zoning Description Sheets
Exhibit F: Written Communications
Exhibit G: Approved Minutes from the May 7, 2009 Plan Commission Hearing

Cc: Kevin and Julia Webster
165 Brandon Ct.
Bolingbrook, IL 60440

ORDINANCE NO. 2009-06-057

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF URBANA, ILLINOIS

(Rezoning of 714 West California Avenue from R-2, Single Family Residential to R-7, University Residential / Plan Case 2106-M-09 - Kevin & Julia Webster)

WHEREAS, Kevin and Julia Webster have petitioned the City for a Zoning Map Amendment to rezone 714 West California Avenue from R-2, Single Family Residential to R-7, University Residential; and

WHEREAS, after due publication, a public hearing was held by the Urbana Plan Commission on May 7, 2009 concerning the petition filed in Plan Case No. 2106-M-09; and

WHEREAS, the requested rezoning is consistent with some, and inconsistent with other goals, objectives, and generalized land use designations of the City of Urbana 2005 Comprehensive Plan; and

WHEREAS, the requested rezoning is consistent with some, but not all of the La Salle case criteria; and

WHEREAS, the Urbana Plan Commission voted 7 ayes and 0 nays to forward the case to the Urbana City Council with a recommendation to deny the request to rezone the property herein described below from R-2, Single Family Residential to R-7, University Residential; and

WHEREAS, the findings of the Plan Commission indicate that approval of the rezoning request would not promote the general health, safety, morals, and general welfare of the public, and that these interests outweigh the potential hardship to the petitioners.

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

Section 1. The Official Zoning Map of Urbana, Illinois, is herewith and hereby amended to change the zoning classification of the following described

properties from R-2, Single Family Residential to R-7, University Residential.

LEGAL DESCRIPTION:

The West 58 feet of the South Half of Lot 11 and the West 58 feet of Lot 12 Campbell and Kelly's Addition, as per Plat recorded in Deed Record "0" at Page 392, situated in the City of Urbana, Champaign County, Illinois.

Parcel No.: 92-21-17-155-009

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

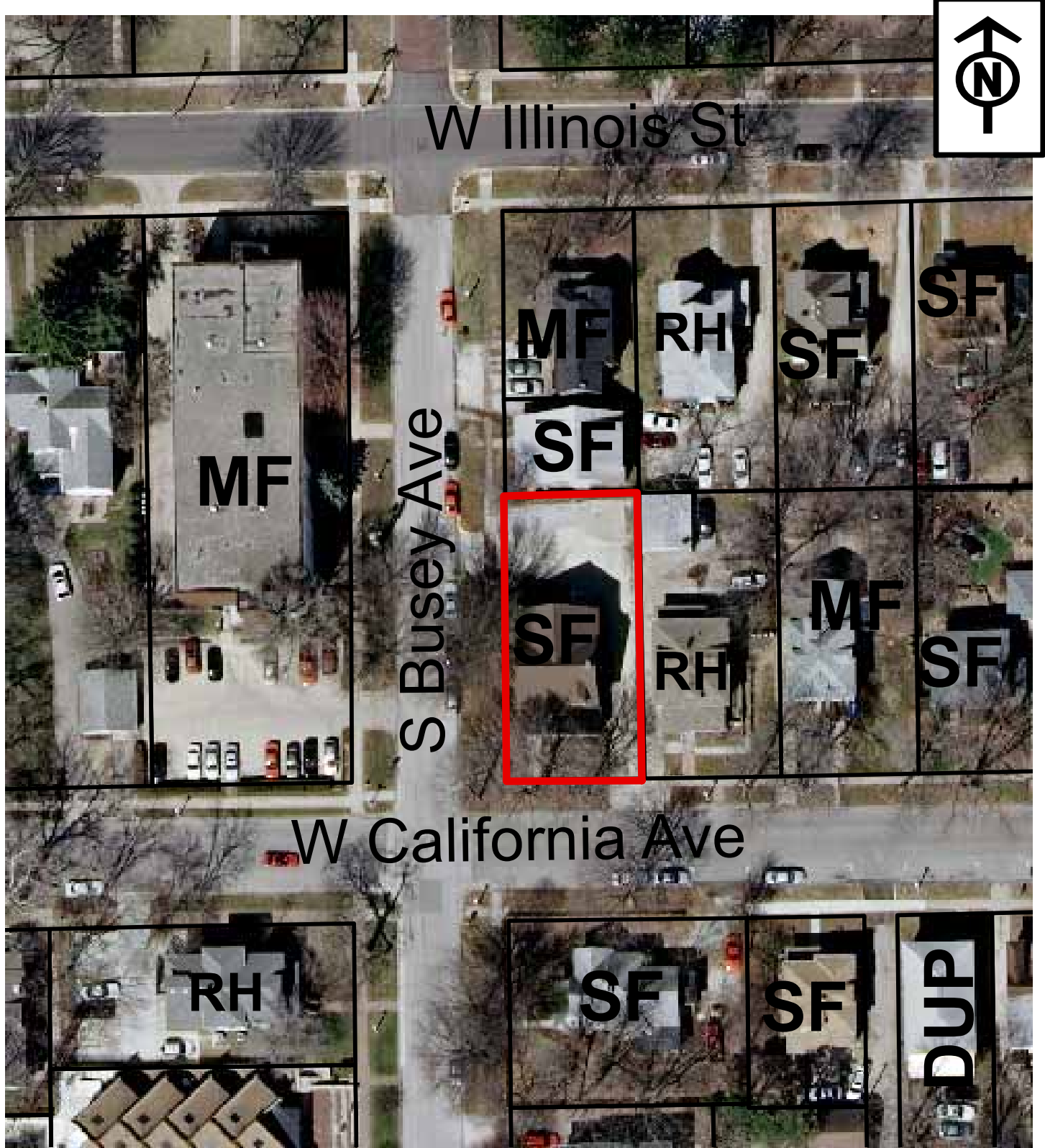
I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois. I certify that on the ___ day of _____, 2009, the corporate authorities of the City of Urbana passed and approved Ordinance No. _____, entitled: "**AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF URBANA, ILLINOIS** (Rezoning of 714 West California Avenue from R-2, Single Family Residential to R-7, University Residential, Plan Case 2106-M-09), 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)

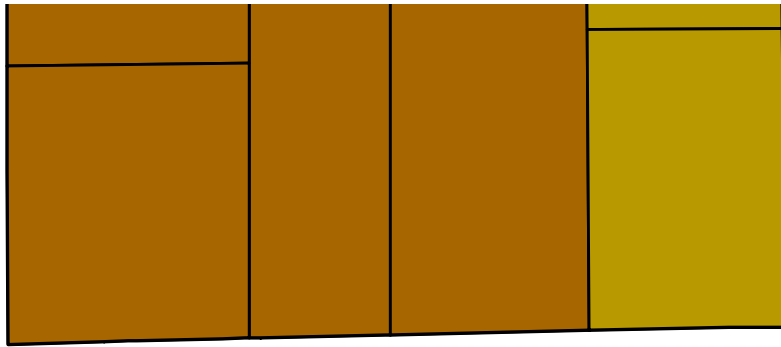
Phyllis D. Clark, City Clerk

EXHIBIT A: Location and Existing Land Use Map

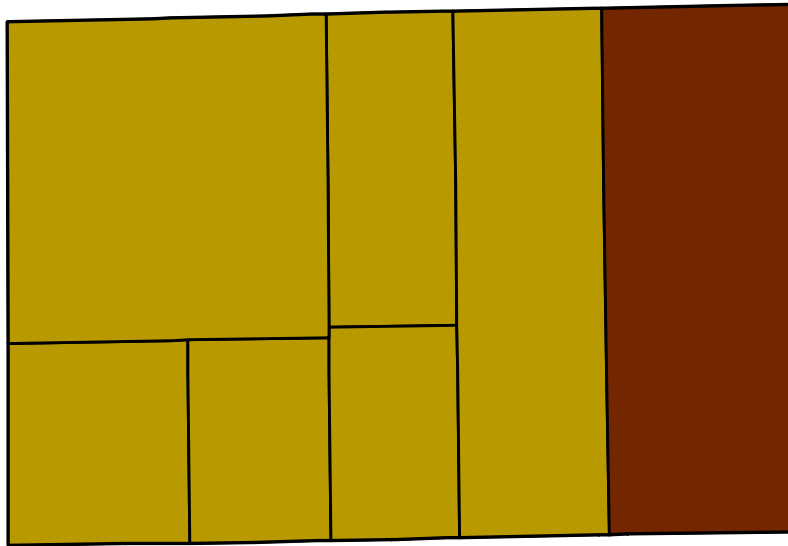
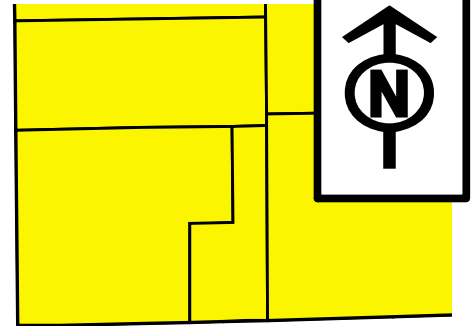


Plan Case: 2106-M-09
Petitioner: Webster
Location: 714 West California Ave
Description: Request to rezone the subject property from R-2, Single-Family Residential to R-7, University Residential

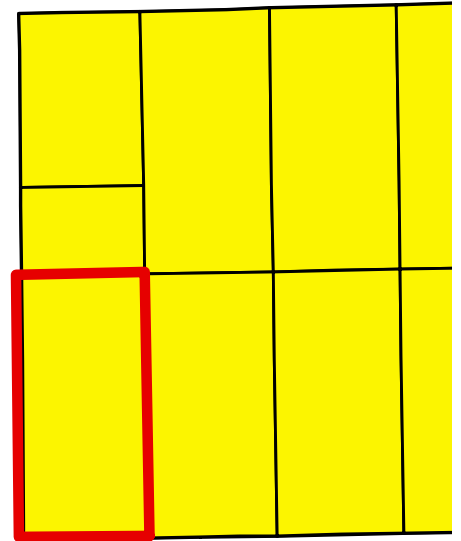
EXHIBIT B: Existing Zoning Map



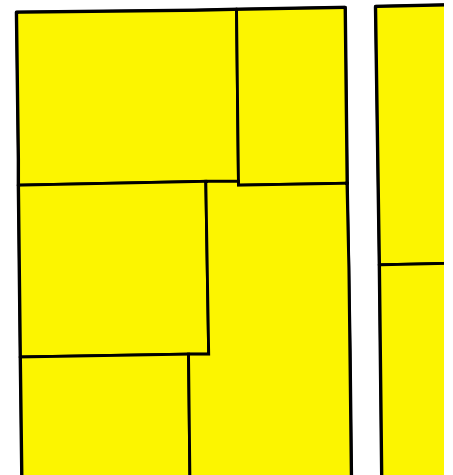
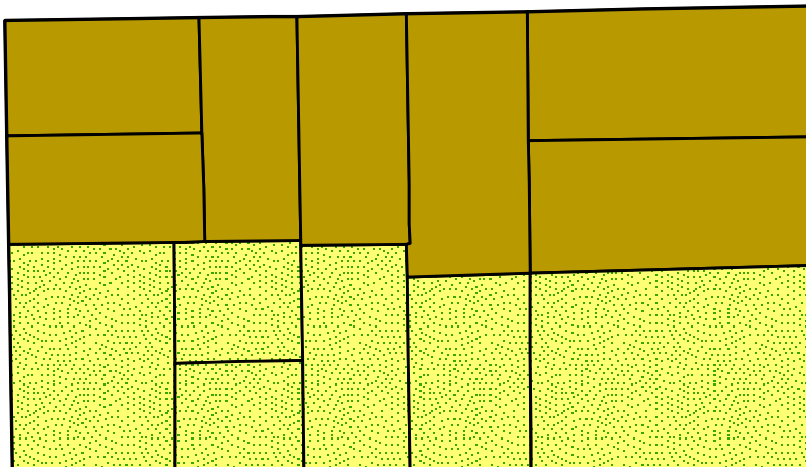
W Illinois St



W California Ave



S Busey Ave



Plan Case: 2106-M-09

Petitioner: Webster

Location: 714 West California Ave

Description: Request to rezone the subject property from R-2, Single-Family Residential to R-7, University Residential

Prepared 04/09 by Community Development Services - jme

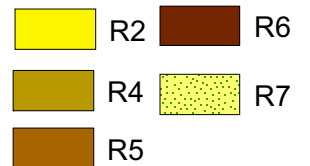
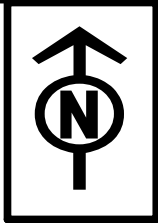


EXHIBIT C: Future Land Use Map



Plan Case: 2106-M-09

Petitioner: Webster

Location: 714 West California Ave

Description: Request to rezone the subject property from R-2, Single-Family Residential to R-7, University Residential

Prepared 04/09 by Community Development Services - jme



Petition for Zoning Map Amendment

Plan Commission

APPLICATION FEE - \$150.00

The Applicants are responsible for paying the cost of legal publication fees as well. The fees usually run from \$75.00 to \$125.00. The applicant is billed separately by the News-Gazette.

DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY

Date Request Filed 04-20-2009 Plan Case No. 2106-M-09
Fee Paid - Check No. 833 Amount \$150.00 Date 04-20-2009

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

1. Location of Subject Site 714 W. California Ave.
2. PIN # of Location 92-21-17-155-009
3. Name of Applicant/Petitioner(s) Kevin and Julia Webster Phone 630-759-5932
Address 165 Brandon Ct. Bolingbrook, IL 60440
(street/city) (state) (zip)

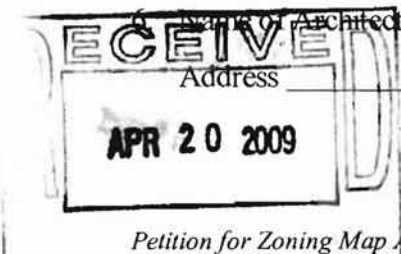
Property interest of Applicant(s) Owners
(owner, contract buyer, etc)

4. Name of Owner(s) Same Phone _____
Address _____
(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) N/A Phone _____
Address _____
(street/city) (state) (zip)



7. Name of Engineers(s) N/A _____ Phone _____

Address _____
(street/city) (state) (zip)

8. Name of Surveyor(s) N/A _____ Phone _____

Address _____
(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 The West 58.00 feet of Lot 12 and the West 58.00 feet of the south 1/2 of Lot 11 of Campbell and Kelly's Addition, Urbana, IL.

Lot Size 58.00 feet x 120.26 feet = 6975.08 square feet

Present Use of Property Rental (Rooming house--4 tenants)
(vacant, residence, grocery, factory, etc)

Present Zoning Designation R-2

Proposed Use of Property Rooming House (8 tenants)

Proposed Zoning Designation R-7

9. Present Comprehensive Plan Designation Residential

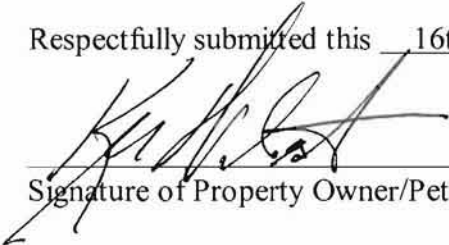
10. How does this request conform to the Comprehensive Plan? This house is a large 3-story Victorian style house with great character, conveniently located two blocks from campus. There is enough off-street, driveway parking for at least five vehicles. We are located across the street from R-6 and R-4 housing, as well as certified university housing, and our block is 75% student housing (approximately 12 houses of 16). According to the Future Land Use Map #8, we would be directly adjacent to medium density residential (which is currently High Density Multiple Family).
11. What error in the existing Zoning Map would be corrected by the Proposed Amendment? Our house is located on the northeast corner of California and Busey, in an area that is mostly student rentals. When we purchased the house, it was a duplex/rooming house, but after doing extensive renovation, the house was changed to a single-family house. The house has been used as a student rental for probably 50 years, and now cannot be used for that purpose. We cannot sell the house, nor rent it in a manner that lets us keep the property in good condition.
12. What changed or changing conditions warrant the approval of this Map Amendment? We lost our legally non-conforming status as a rooming house when we remodeled in 1998.
13. Explain why the subject property is suitable for the proposed zoning It has been used for a student rental for many years. We have updated and improved it, but it is essentially a house that is too large for one family, and in an area of student rentals, where a family may not choose to live.
14. What other circumstances justify the zoning map amendment? No impact will be made to on-street parking. No police calls have been made concerning this house since we have owned it. We have been and will continue to be responsible owners and landlords. We have been an asset to the community, continually improving the property. When we painted the house, it was our desire to keep the original wood clapboard. We were approached by and agreed to an EPA experiment on lead-based paint removal which was being conducted by the Architecture Department at U of I. After the experiment, we were able to use the methods suggested by the study so that we were able to keep the original wood clapboard intact.

15. Time schedule for development (if applicable) No changes need to be made to the house; we hope to rent it to eight students again starting August 1, 2009.

16. Additional exhibits submitted by the petitioner Current photos of the house, amenities provided to our tenants, floor plan of all three floors. Letters from realtors stating the decline in property value and inability to sell the property as single family.

WHEREFORE, the petitioner prays that this petition be heard by the Urbana Plan Commission and the petition for change of zoning be granted.

Respectfully submitted this 16th day of April 2009



Signature of Property Owner/Petitioner



Signature of Co-Owner/Petitioner

STATE OF ILLINOIS)
) SS
Will COUNTY)

I, Belen Olivo, being first duly sworn on oath, deposes and says, that he is the same person named in and who subscribed the above and foregoing petition, that he has read the same and knows the contents thereof, and that the matters and things set forth are true in substance and in fact as therein set forth.

Subscribed and sworn to me this 16th day of April 2009



Notary Public



Petitioner's Attorney N/A

Address _____

Phone _____

Julie Webster

From: Dave Barr [dbarr@barr-re.com]
Sent: Tuesday, April 07, 2009 11:00 AM
To: Julie Webster
Subject: RE: 714 W. California, Urbana

Julie,

You asked me for my opinion of the effect a zoning change from R2 to R7 – I think it would potentially double the value of your property. You have a great location near campus – it appeals to grad students and a more mature renter. The house itself is designed to accommodate several renters – if you could increase the occupancy of the house to the level it was designed for I think a good ballpark would be an increase of 75 – 100% of value. Let me know if you need anything else.

Dave Barr

Julie Webster

From: Henry Symanski [hsymanski@coldwellbanker.com]
Sent: Tuesday, September 09, 2008 8:40 AM
To: kjgp@comcast.net
Subject: 714 West California

Julie and Kevin,

Alice and I have a suggested price range for the above property. This price range is contingent upon it being zoned as income and multiple family. We think that the property is in the \$240,000 to \$248,000 range and suggest a listing price of \$246,900. If it is left zoned single family, it would be difficult to sell as it would have a limited market such as large families and buyers who would choose to live among the adjacent rentals.

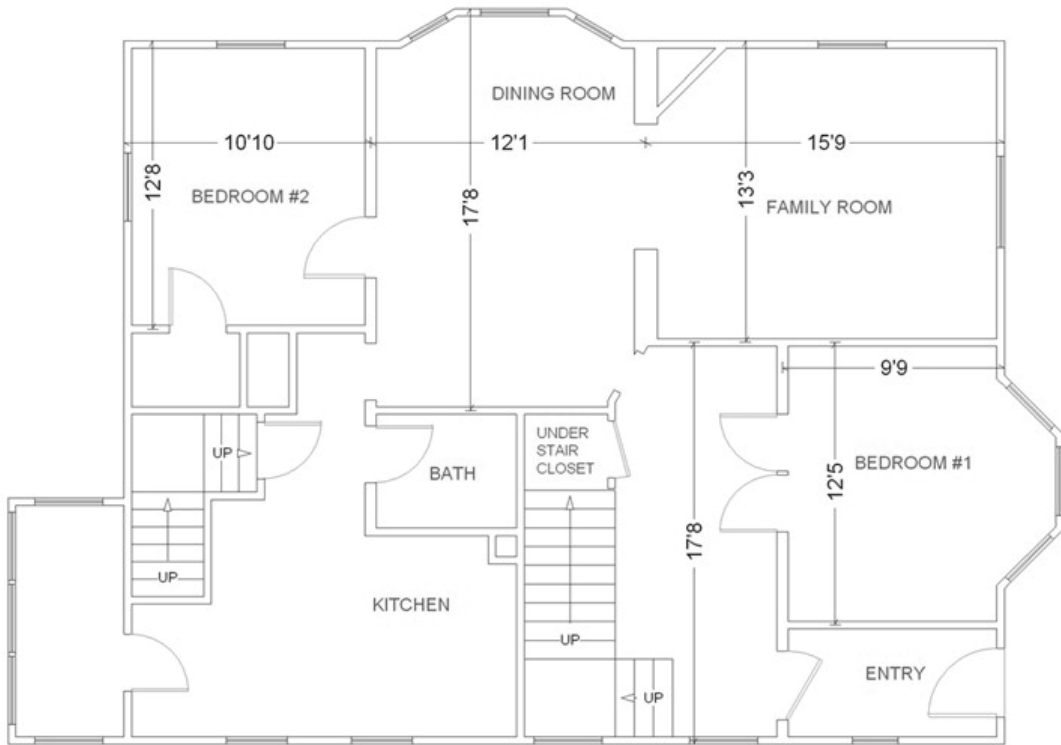
We would appreciate to know if you contacted any of the lawyers we suggested and if you have any information regarding the zoning problem.

Thank you for considering us to represent the property and we hope to hear from you.

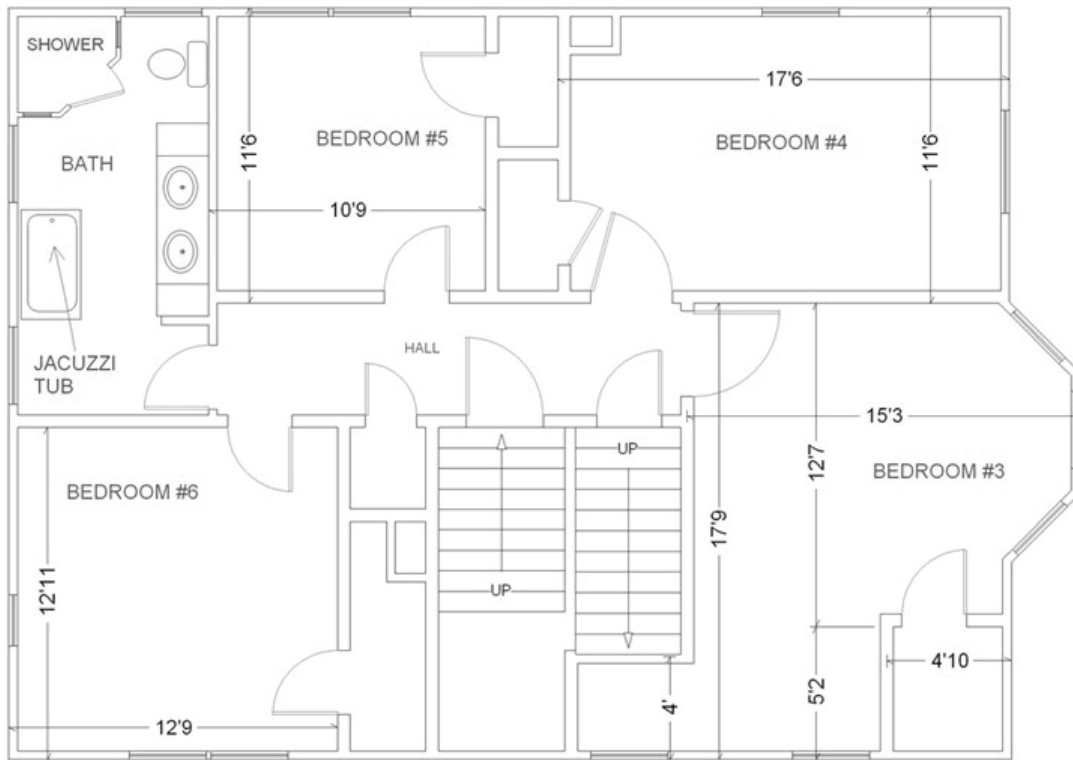
Henry Symanski, Realtor
Coldwell Banker Devonshire Realty
2506 Galen Drive
Champaign, IL 61821
217-378-7441
www.henrysy.com
hsymanski@coldwellbanker.com

Property Photos and Floor Plans (Submitted with Application)

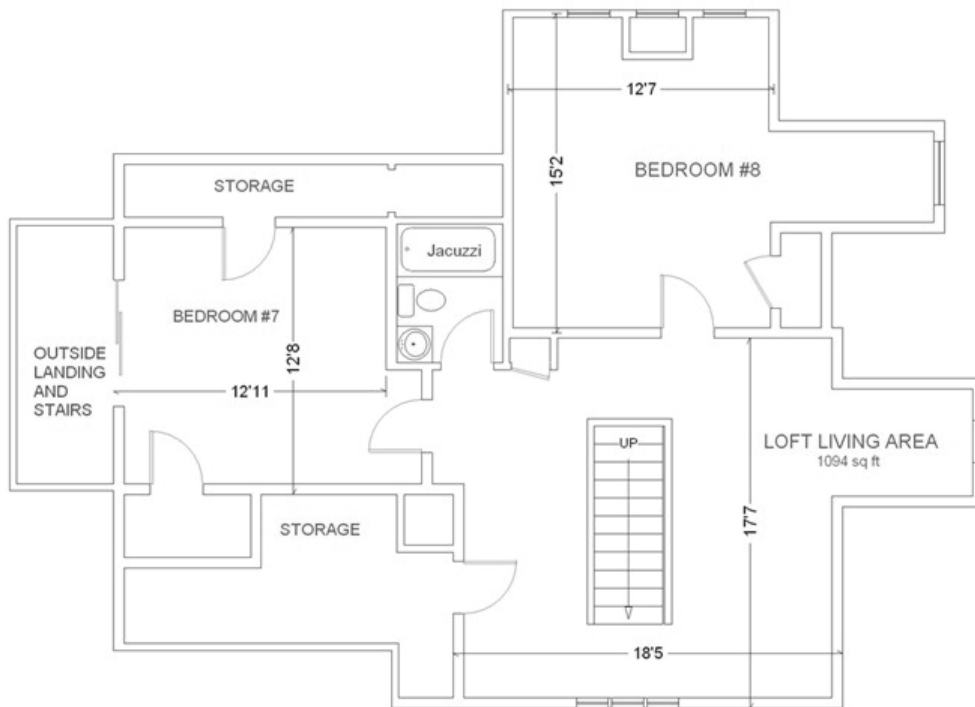




FIRST FLOOR LAYOUT



SECOND FLOOR LAYOUT



THIRD FLOOR LAYOUT

Amenities

- Three-Story, Eight Bedroom, Victorian-Style Home
- Upscale, Family-Style Living
- Quiet, Residential Neighborhood
- Beautiful, Airy Rooms with High Ceilings and Hardwood Floors (Third Floor Carpeted)
- Large, Furnished Bedrooms, Tastefully Decorated, including:
 - Extra-Long Twin Bed
 - Bedside Table
 - Dresser
 - Desk and Chair
 - Shelf unit
 - Window Treatments
 - Ceiling Fan and Light
 - Walk-In Closet
- Computer Network Connection in Each Bedroom
- Cable TV Connection in Each Bedroom
- Furnished, Shared Living and Dining Room, including:
 - Sofas, Tables and Chairs
 - TV (with Showtime and HBO), DVD Player, and VCR
 - Computer and Printer for Work and Email
- Three Full Bathrooms, one per floor, two with Jacuzzi Whirlpool Tubs
- Shared Kitchen includes:
 - Two Refrigerator/Freezers
 - Gas Stove with Self-Cleaning Oven
 - Microwave Oven
 - Garbage Disposal
 - Built-In Dishwasher
 - Dishes, Glasses, Pans and Utensils
 - Individual Food Storage Areas
- Large Front Porch with Patio Furniture
- Enclosed Back Porch with Table and Chairs
- Plenty of Off-Street Parking
- Full Basement for Storage and Entertainment
- Two Sets of Maytag Washers and Gas Dryers (Free for Tenants Only)
- Pool Table
- Non-Smoking
- No Pets
- University of Illinois Graduate Students Only



R-2 – SINGLE FAMILY RESIDENTIAL ZONING DISTRICT

ZONING DESCRIPTION SHEET

According to Section IV-2 of the Zoning Ordinance, the purpose and intent of the R-2 Zoning District is as follows:

"The R-2, Single-Family Residential District is intended to provide areas for single-family detached dwellings at a low density, on lots smaller than the minimum for the R-1 District. The R-2 District is also intended to provide for a limited proportion of two-family dwellings.

Following is a list of the Permitted Uses, Special Uses and Conditional Uses in the R-2 District. Permitted Uses are allowed by right. Special Uses must be approved by the City Council. Conditional Uses must be approved by the Zoning Board of Appeals.

PERMITTED USES:

Agriculture

Agriculture, Cropping

Business - Recreation

Country Club or Golf Course

Public and Quasi-Public

Public Elementary, Junior High School or
Senior High School
Public Park

Residential

Dwelling, Community Living Facility, Category I
Dwelling, Single Family
Dwelling, Single Family (*Extended Occupancy*)

SPECIAL USES:

Public and Quasi-Public

Church or Temple
Electrical Substation
Institution of an Educational, Philanthropic or
Eleemosynary Nature
Public Library, Museum or Gallery

Residential

Residential PUD

CONDITIONAL USES:

Agriculture

Artificial Lake of One (1) or More Acres

Business – Miscellaneous

Day Care Facility (*Non-Home Based*)

Business - Recreation

Lodge or Private Club

Public and Quasi-Public

Municipal or Government Building

Residential

Bed and Breakfast, Owner Occupied
Dwelling, Community Living Facility, Category II
Dwelling, Duplex
Dwelling, Duplex (*Extended Occupancy*)
Dwelling, Two-Unit Common-Lot-Line

DEVELOPMENT REGULATIONS IN THE R-2 DISTRICT

ZONE	MIN LOT SIZE (square feet)	MIN AVERAGE WIDTH (in feet)	MAX HEIGHT (in feet)	MAX FAR	MIN OSR	MIN FRONT YARD (in feet)	MIN SIDE YARD (in feet)	MIN REAR YARD (in feet)
R-2	6,000 ¹¹	60 ¹¹	35	0.40	0.40	15 ⁹	5	10

FAR= FLOOR AREA RATIO

OSR= OPEN SPACE RATIO

Footnote⁹ – In the R-1 District, the required front yard shall be the average depth of the existing buildings on the same block face, or 25 feet, whichever is greater, but no more than 60 feet, as required in Sec. VI-5.D.1. In the R-2, R-3, R-4, R-5, R-7 and MOR Districts, the required front yard shall be the average depth of the existing buildings on the same block face (including the subject property), or 15 feet, whichever is greater, but no more than 25 feet, as required in Sec. VI-5.D.1. (Ord. No. 9596-58, 11-20-95) (Ord. No. 9697-154) (Ord. No. 2001-03-018, 03-05-01)

Footnote¹¹ – In the R-1 District, any lot platted and of public record before November 6, 1950 and presently having a lot width of 65 feet or less and a lot area of less than 7,500 square feet may be developed in accordance with the development regulations for the maximum FAR and the minimum OSR of the R-3 District as specified in Table VI-3. Development Regulations By District. (Ord. No. 8384-24, sec. 5; Ord. No. 8586-53, sec. 2, 1-20-86; Ord. No. 9091-16, 8-6-90; Ord. No. 9091-59, sec. 14, 11-19-90; Ord. No. 9091-60, sec. 11, 11-19-90; Ord. No. 9091-61, sec. 8, 11-19-90; Ord. No. 9091-62, sec. 8, 11-19-90; Ord. No. 9091-132, sec. 1, 5-20-91; Ord. No. 9091-133, 5-20-91)

For more information on zoning in the City of Urbana call or visit:

City of Urbana
Community Development Services Department
 400 South Vine Street
 Urbana, IL 61801
 (217) 384-2440
 (217) 384-2367 fax



R-7 – UNIVERSITY RESIDENTIAL ZONING DISTRICT

ZONING DESCRIPTION SHEET

According to Section IV-2 of the Zoning Ordinance, the purpose and intent of the R-7 Zoning District is as follows:

"The R-7, *University Residential District* is intended to provide areas in proximity to the University of Illinois for dormitories and rooming houses, which are occupied primarily by students, to insure the longevity of the architectural character and use of these existing buildings, and to protect nearby low-density residential districts from incompatible developments. (Ord. No. 8384-25, § 3, 10-17-83, Ord. No. 9091-62, § 2, 11-19-90)"

Following is a list of the Permitted Uses, Special Uses and Conditional Uses in the R-7 District. Permitted Uses are allowed by right. Special Uses must be approved by the City Council. Conditional Uses must be approved by the Zoning Board of Appeals.

PERMITTED USES:

Residential

Boarding or Rooming House

Dormitory

Dwelling, Community Living Facility, Category I, Category II and Category III

Dwelling, Multiple-Unit Common-Lot-Line

Dwelling, Single Family

SPECIAL USES:

Public and Quasi-Public

Church or Temple

Residential

Dwelling, Home for Adjustment

CONDITIONAL USES:

Residential

Bed and Breakfast, Owner Occupied

DEVELOPMENT REGULATIONS IN THE R-7 DISTRICT

ZONE	MIN LOT SIZE (square feet)	MIN AVERAGE WIDTH (in feet)	MAX HEIGHT (in feet)	MAX FAR	MIN OSR	MIN FRONT YARD (in feet)	MIN SIDE YARD (in feet)	MIN REAR YARD (in feet)
R-7	6,000	60	35	0.50	0.35	15⁹	5	10

FAR= FLOOR AREA RATIO

OSR= OPEN SPACE RATIO

Footnote⁹ – In the R-1 District, the required front yard shall be the average depth of the existing buildings on the same block face, or 25 feet, whichever is greater, but no more than 60 feet, as required in Sec. VI-5.D.1. In the R-2, R-3, R-4, R-5, R-7 and MOR Districts, the required front yard shall be the average depth of the existing buildings on the same block face (including the subject property), or 15 feet, whichever is greater, but no more than 25 feet, as required in Sec. VI-5.D.1. (Ord. No. 9596-58, 11-20-95) (Ord. No. 9697-154) (Ord. No. 2001-03-018, 03-05-01)

For more information on zoning in the City of Urbana call or visit:

City of Urbana
Community Development Services Department
 400 South Vine Street
 Urbana, IL 61801
 (217) 384-2440
 (217) 384-2367 fax

MINUTES OF A REGULAR MEETING

URBANA PLAN COMMISSION

APPROVED

DATE: May 7, 2009

TIME: 7:30 P.M.

PLACE: Urbana City Building – City Council Chambers
400 South Vine Street
Urbana, IL 61801

MEMBERS PRESENT: Jane Burris, Tyler Fitch, Ben Grosser, Lew Hopkins, Michael Pollock, Bernadine Stake, Don White

MEMBERS EXCUSED: Marilyn Upah-Bant

STAFF PRESENT: Robert Myers, Planning Manager; Jeff Engstrom, Planner I; Teri Andel, Planning Secretary

OTHERS PRESENT: Deb Aronson, Glenn Berman, Charles Dodd, Vidar Lerum, Hiram and Jean Paley, Susan Taylor, Kevin and Julia Webster

5. NEW PUBLIC HEARINGS

Plan Case 2106-M-09: A request by Kevin and Julia Webster to rezone 714 West California Avenue from R-2 (Single-Family Residential) to R-7 (University Residential).

Jeff Engstrom, Planner I, presented this case to the Plan Commission. He began with a brief explanation for the petitioner’s request to rezone the proposed property. He talked about the history of the proposed site and described the site and the surrounding adjacent properties noting the current land uses, existing zoning and future land use designations of each. He noted the definition for “Residential (Urban Pattern)” and pointed out the goals listed in the 2005 Comprehensive Plan that are relevant to the proposed rezoning. He discussed the R-2 (Single-Family Residential) and the R-7 (University Residential) Zoning Districts. He also talked about non-conforming uses and building codes and how they would relate to the proposed site if the rezoning request is approved. He reviewed the LaSalle National Bank Criteria as it pertains to the proposed rezoning. He read the options of the Plan Commission and presented staff’s recommendation, which was as follows:

Based on the evidence presented in the written staff report, and without the benefit of considering additional evidence that may be presented during the

public hearing, staff recommends that the Plan Commission forward Plan Case No. 2106-M-09 to the Urbana City Council with a recommendation for denial.

Chair Pollock asked for clarification. Is it possible for the petitioners to request a conditional use permit to allow them to use the property as a duplex under the current zoning of R-2? Mr. Engstrom said yes. Chair Pollock commented that the petitioners would then be able to have two four-bedroom units if a conditional use permit was approved and could then rent out all eight bedrooms, correct? Mr. Engstrom said yes.

With no further questions from the Plan Commission for City staff, Chair Pollock opened the public hearing up for public input.

Kevin and Julia Webster, petitioners, approached the Plan Commission. Mr. Webster explained why they purchased the home, which was to provide housing for their two sons while the sons attended the University of Illinois.

When they purchased the home, it had great potential with eight bedrooms and beautiful character. The house was constructed in the 1880s. Their original intent was to have a single-family style atmosphere of living so their sons would feel like they were at home while learning to be responsible. With eight students living in the house, it ran smoothly. Each student was assigned chores to help maintain the house.

Mr. Webster mentioned that they have spent a substantial amount of money to remodel the house (replace all the plumbing and electrical wires, changed the heating system and replaced about 50% of the windows, etc.). They wanted to make it a quality house to not only improve the neighborhood but to make it so it would be easy to rent. Many students find the house on the internet and want to rent a bedroom there because of the character of the house. They try to encourage the graduate students to rent, because they are more interested in having a quite, peaceful area. So, they screen the tenants to get a higher quality of tenants.

There is a beautiful big kitchen, a big dining room and living room and a loft on the third floor. All around the house there are places for the tenants to study. Having eight tenants worked well. It is now harder to get four tenants to do the chores of what eight tenants use to do.

They do not intend to change the single-family house into a rooming house. They are only asking that the rooming house status be returned to the house. There were always eight tenants there. He can say what it was like before they purchased the home, but since then, they have never received a complaint. They have even received citations from the West Urbana Neighborhood Association for progressive thinking. They have been told by many neighbors that they have done a fabulous job in maintaining the neighborhood.

They are not trying to downgrade the neighborhood. In fact, they strongly feel that they are improving the neighborhood and improving the quality of the single-family homes that still reside in the area. He mentioned that they have spent a lot of time and money in remodeling the house. By improving their property, they in turn are improving the neighborhood. Some of the other houses in the neighborhood are not in as near as good condition as theirs.

Mr. Webster stated that they have six parking spaces. Technically they only need four spaces to be legally conforming. So, as far as parking they are not impacting the parking issue in the area.

He said that he hoped to move to Urbana when he retires and have multiple rental properties and be good landlords. They like this neighborhood and like renting to students.

He pointed out that if the City allows the rezoning, it would require them to have a safer building because the City would require them to comply with the stricter fire safety codes. He realizes that the neighbors are worried about their property values, but if you have a landlord who is willing to maintain his rental unit, then it will only increase the neighbors' property values. If they cannot rezone the property and be allowed to rent to eight tenants, then they will not be able to afford to maintain the property, and the property value of the proposed house and of the neighboring houses will decrease. They are losing approximately \$2,600.00 a year. If a property owner does not have the money to repair and improve things on the house, then it will not get done.

Mr. Webster pointed out that they have never had any police calls. Because they screen their tenants, their tenants do not have drinking parties.

The possibility of losing one's legally non-conforming status forces landlords to do things on the sly. They are only trying to improve the neighborhood and keep it good.

Mr. Grosser inquired about the timeline. They purchased the home in 1997 and their two sons moved in. How many people lived there with their sons? Mr. Webster said yes. When their two sons graduated and moved away, he and his wife liked the house so much they decided to continue to rent it out rather than sale it. For six more years, they continued to have eight tenants in the house, because they did not know that they had lost the rooming house status. Then, they received notification that they were being sued by the City of Urbana for having more than four residents in the R-2 Zoning District. So, now they are trying to correct the misunderstanding.

Hiram Paley, of 706 West California Avenue, stated that Mr. Webster is correct in saying that the police have never been called to the proposed property. He was pleased to see the Websters working on the proposed house, and he had the impression that they were converting it back into a single-family residence.

He expressed his concern that if the Webster's petition is granted, then it is a step in the wrong direction. He was hoping that more properties on their street would be converted back to single-family homes. Leal School is still in the neighborhood and is one of the best schools in the City of Urbana. So, he thinks there should be a demand for single-family homes in the area.

He suggested that the Websters increase the rent for the four students by \$50.00 a month to compensate for the \$2,600.00 they are losing each year. There are some tenants who might love the house so much that they are willing to pay the extra \$50.00.

He remarked that if the City approved the rezoning request, then it will open questions about other rezonings in the City. The City would be taking many steps backward from what was the

City Council's policy over the last many years of trying to maintain single-family residences in these older neighborhoods.

He is not sure what the rezoning for the proposed property would do to his property values.

Jean Paley, of 706 West California Avenue, stated that everything Mr. Webster said is true. The Websters took a disaster and created something quite wonderful out of it. The house looks great from the outside and from the inside. However, the issue here is not the character of the Websters. The issue is the character of the zoning and what kind of impact the R-7 would have on the neighborhood.

Most people who purchase properties to rent to students do not do what the Websters did. They invested a lot of money into the property to bring it up to code. They screen their tenants. Whereas, the two adjacent property owners are only interested in how much money they can get out of their properties (rooming houses). The number of people coming and going is much higher than eight unrelated people. The only people within her view who have been fined and disciplined for exceeding the occupancy regulations are the Websters. Why is that?

She does not feel that the Websters will own the house forever. One of the problems is that they would like to sell it someday. Another opportunist such as the other two landlords of rooming houses on the block will probably buy it. Rest assured the house will no longer stay in its pristine condition.

There are many landlords looking for the City to favor the Websters. So, they can then come to the City and ask for an upzoning as well. This is what the single-family homeowners on the block are worried about happening.

Ms. Stake wondered if the City was doing anything about the over-occupancy at the other addresses. Ms. Paley said no. City staff knows about it, but does nothing to fix it. Chair Pollock stated that this is an important issue; however, this is not the venue to do so.

Vidar Lerum, of 404 West Delaware Avenue, remarked that they should not change the zoning one case at a time. Zoning is something that applies to an area and not to a single building. Unfortunately, really good people (the Websters) are involved in this difficult case, but the City needs to look at it with a broader perspective.

He stated that he would have liked to have a site plan for the proposed property. What are the requirements for the Open Space Ratio (OSR) for the proposed lot? Even though the petitioner stated in his testimony that there are six parking spaces, it appears in one of the photos that there may be seven or eight possible parking spaces. Is there enough green space left on the lot to meet the OSR requirements? Mr. Engstrom responded by saying that the OSR for the R-2 Zoning District is .40. The property is currently non-conforming. The OSR for the R-7 Zoning District is .35. So, if the City approves the rezoning request, then the property would become slightly less non-conforming.

Charles Dold, of 708 South Busey Avenue, noted that his family moved here in 1966. He has seen many houses be purchased by parents for their children to live in while attending the

University of Illinois. Later the houses became semi party houses. This is not good for the neighborhood. Ownership of the houses change, but the zoning does not, so the new owners can do as they wish in the higher zoned areas.

Rita Mennenga, of 805 West California, applauded the petitioners for what they have done for the neighborhood by improving the proposed property. It looks marvelous. Referring to the 2005 Comprehensive Plan, she pointed out Goal 1.0 states as such, "*Preserve and enhance the character of Urbana's established residential neighborhoods.*" The proposed property does not appear to be a rental property because it is so well maintained. She encouraged the Plan Commission to vote to approve the proposed rezoning.

Mr. Webster re-approached the Plan Commission. He responded to Mr. Paley's comments about how the R-7 Zoning District would change the neighborhood and about his suggestion to increase the rent. Mr. Webster stated that the students are already having a tough time making ends meet. Having the extra tenants allows them to maintain the property and to make improvements. There currently is no maintenance being done on the house, because there is no money. By not allowing them to rent to eight tenants instead of four, the City is forcing them to revert to the type of landlord they do not want. The City does not want landlords who do not maintain their properties.

He and his wife are not interested in selling the house. They plan to keep the house and rent it out for retirement income. He cannot say what will happen when they die, but he plans on having the house for another 20 to 30 years.

He commented that the negative impact comes from them not having the money to put into the house. The house is truly beautiful. He showed pictures of the proposed property before and after they remodeled it.

He read the intent of the R-7 Zoning District found on Page 4 of the written staff report. He pointed out that the R-7 Zoning District has stricter codes. He plans on complying with those codes. He showed pictures of adjacent properties noting the poor or lack of maintenance that has been done to them. The properties are over occupied. One of them has 12 tenants with two tenants living in the basement. He feels that he is being chastised for having a well maintained property.

Mr. Webster stated that they have the same goal as the West Urbana Neighborhood Association, which is to improve the neighborhood. He believes zoning should be done on a case by case basis. If the owner of 712 West California Avenue wants to get rezoned, then they would need to comply with the stricter City codes as well, which could only improve the neighborhood even more.

They plan to maintain their property at 714 West California Avenue. However, they cannot keep it to the character and the standards that they have set for it if they cannot maintain it and improve it. Over the past years, they have taken all of the income from the house and put it back into the house. The objective is to improve the neighborhood and they are doing their part.

Mr. Paley re-approached the Plan Commission. He commented that he is sympathetic to the petitioners. He stated that if the zoning stays as it currently is, then the neighbors will know what to expect, but if the rezoning is approved, then the neighbors have no idea what will happen.

He expressed his concern for what approving this request for spot rezoning would do to other areas in the City. Many property owners would love to rezone their properties from R-2 to R-7. If the City grants the proposed request, then they will be setting a precedent. He agrees with Mr. Lemur in that zoning refers to an area or a zone rather than an individual property. He suggested that the Websters could apply for a conditional use permit to allow a duplex use in the R-2 Zoning District.

He referred to the two letters, one written by Henry Symanski and one written by Dave Barr, and are included in with the application submitted by the petitioners. Both letters imply that the Websters are considering selling the property. Yet, Mr. Webster had previously testified that they want to move here after retiring and own multiple rental properties to use as retirement income. This is very contradicting, and he is not sure what to think.

Deb Aronson, of 409 West California Avenue, voiced her concern about other cases where people have purchased properties with the intention of living in them; then turn around and rent the properties to other people. Her point is that people can have all kinds of good intentions and the situation changes. She feels that this is important for the Plan Commission to keep in mind when considering the proposed rezoning request.

Another point is that Mr. Webster talked about having trouble making enough income from the house to maintain it. She noticed that the Websters advertise the house as an eight-bedroom rooming house. They have been fined twice for having eight people living in the house at one time. It seems clear from the advertisement that they intend to keep renting out all eight bedrooms. She is unclear about how long they have only had four tenants, so she is not confident about Mr. Webster's statements about the cost of maintaining the house versus the income they can get from the renters.

Mr. Webster approached the Plan Commission again to respond to Mr. Paley's concern. They were at one time looking to sell the house, because they could not make ends meet on it. Mr. Barr and Mr. Symanski suggested that they talk to the City about getting the zoning changed. After talking with City staff, he and his wife felt it would be the best thing to do. This way they could keep the house.

They were informed by the real estate agents that they would have a difficult time selling it as a single-family house. They want to keep the house, because they love it. They love the neighborhood. If they were intent on selling the house, then that is what they would have done.

Ms. Stake asked why the Websters advertise for eight people. Mr. Webster said they currently can only rent to four tenants, but the house is in fact an eight bedroom house. They are not lying about how many bedrooms there are in their advertisement, because it is the truth.

With no further comments from the audience, Chair Pollock closed the public input portion of the public hearing. He then, opened the hearing up for Plan Commission discussion and/or motion(s).

Ms. Stake commented that she has also heard that the petitioners have been caught twice and cited by the City for violating the Zoning Ordinance by using the house as a rooming house. Chair Pollock cautioned everyone that this case is about the rezoning and not about the history of what is going on in the house. Mr. Engstrom replied by saying that the petitioners have paid a court fine. Subsequent to that, one of the City's Housing Inspectors did find six people living there. City staff sent the Websters a letter and they brought it into conformance right away.

Robert Myers, Planning Manager, pointed out that City staff follows up on code enforcement in two ways. The first one is through complaints by neighbors, passersby, tenants, etc. of over-occupancy or building code problems. The housing inspectors respond to these complaints right away by going to the property in question and completing an inspection.

The second way to follow up on code enforcement is through the Property Maintenance Program. The Housing Inspectors inspect all of the rental properties throughout the City of Urbana. This takes some time to accomplish.

In the mean time, if you know of a violation occurring, you can call 384-2436 to make a report. A Housing Inspector will follow up with you after performing an inspection with the results. Sometimes there is a code violation and sometimes there is not.

Ms. Stake agrees that zoning should not be considered case-by-case (spot zoning). The City rezoned this area for single-family residential and that is what they would like it to continue to be. If the City would approve this case based on the petitioners being good people with good intentions, it would create a precedent for developers to do the same thing.

This area is very fragile. It is a wonderful place to live. It is a good residential area. People from all sides want to change it. The City needs to stay with the Zoning Ordinance to protect the neighborhood and keep it safe. She can remember when Lincoln Avenue served as the buffer between the R-7, University Residential, and the R-2, Single-Family Residential, Zoning Districts. Now, Busey Avenue serves as the buffer. She hopes that the other members of the Plan Commission and the City Council consider what this would do to this residential neighborhood. She encouraged the other Plan Commission members to vote for denial of the proposed rezoning.

Mr. Grosser commented that the City definitely wants landlords who maintain and improve their properties. The Websters have significantly improved the proposed property. So, he has sympathy with the petitioners' plight and feels this is an unfortunate situation. He reiterated that it is not the petitioners that the Plan Commission should consider, but rather it is the zoning of the property. Whenever the Plan Commission considers a rezoning request, they look at what the Comprehensive Plan says and what are the implications for the property in perpetuity. With any petitioner with the best intention, something could happen and the petitioner could sell the property, and anything could be built or changed there based on the current zoning at the time.

The Downtown to Campus Plan could not be any clearer. He believes that if the proposed property was zoned R-7 at the time, the City would have down zoned the property to R-2. The property was left at R-2 because that is what the residents in the West Urbana Neighborhood area wanted it to be long term. The Comprehensive Plan incorporated the Downtown to Campus Plan and specifically specifies that it should be “single-family”.

Because of these things, Mr. Grosser did not see any justification for changing the zoning to a higher zone despite the fact that it has been non-conforming use that would be equivalent to an R-7 Zoning District.

Mr. Grosser moved that the Plan Commission forward Plan Case No. 2106-M-09 to the City Council with a recommendation for denial. Ms. Stake seconded the motion.

Mr. Hopkins felt that the basis for which they are arguing is that the way the proposed property is currently zoned is the City’s long-standing, articulated intent for this area. This has been demonstrated in all sorts of things over the last 30 years. But they cannot lose sight that this intent is in many ways unnatural of what the area wants to be. The City is going to be fighting these issues that do not make sense. Much of what the Plan Commission heard from the petitioner makes sense. It makes sense for the place. It makes sense for the quality of the investment and for reducing the total number of trips by having higher density closer to the campus. It makes sense from ideas of community. In many ways, this is what the neighborhood wants to be, but the City decided to fight it and create something else which is special and unusual. One of the side affects of that commitment are cases like this. He just wants to acknowledge this because he thinks it says two things: 1) The Websters are doing something that from a point of view that isn’t embedded into this 30 years of history makes great sense and 2) It also says to the people who live in the neighborhood and want it to remain single-family residential that they have a big responsibility to take it on and make it work.

He mentioned that he would support the motion for the same reasons other members are.

Ms. Stake felt it is important to mention that it is a historic area as well. They are not only preserving it because it is a great place to live, but because it is a historic area that is very fragile in this community. Many places have been torn down already, and the City needs to protect and preserve some of its history of Urbana. This is one of the special places that they can do this.

Mr. Fitch agreed with Mr. Hopkins comments. He commented on the house. He told the Websters that it is a beautiful home and they are to be commended for the hard work that they have put into it.

Chair Pollock stated that this has turned out to be a difficult case to look at. Mr. Hopkins was accurate in saying that the natural tide in this neighborhood is not opposed to what the Websters would like to do. Unfortunately, the City does not have a W3 Zoning District in which there are landlords who are committed to taking care of their rental properties.

The fact is that the City cannot make zoning decisions based on intentions. If the proposed property were to be rezoned and sold, somewhere down the road, the City could wind up with the same situation there is with some of the other older homes. The Websters are caught in the

middle of this. There is no question about the quality of the work that they have done, about their commitment to the neighborhood and their desire to return the house to a one of beauty and use. However, when making zoning decisions, they have to consider what could happen down the road. Therefore, he is going to support the motion.

Roll call on the motion was as follows:

Ms. Burris	-	Yes	Mr. Fitch	-	Yes
Mr. Grosser	-	Yes	Mr. Hopkins	-	Yes
Chair Pollock	-	Yes	Ms. Stake	-	Yes
Mr. White	-	Yes			

The motion was approved by unanimous vote. Mr. Myers noted that this case would go before the City Council on June 1st.