



## 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, Community Development Director

**DATE:** June 1, 2015

**SUBJECT:** **ZBA Case 2015-MAJ-04:** A request by MALA LLC. for a Major Variance to allow a change in the required front yard setback from 15 feet to 5 feet at 202 W. University in the B-3, General Business zoning district.

**ZBA Case 2015-MAJ-05:** A request by MALA LLC. for a Major Variance of Section VIII-4.E of the Zoning Ordinance to allow parking spaces in which exiting vehicles must back out onto a public street at 202 W. University in the B-3, General Business zoning district.

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### Introduction & Background

MALA LLC. of Decatur, Illinois is requesting two major variances at 202 W. University Avenue to reduce the required front yard setback and to allow parking spaces which require exiting vehicles to back out onto a public right-of-way. The applicant is requesting the variances to improve the property by tearing down the existing structure and replacing it with a new building. The new building will be occupied with a gaming hall operated by the applicant in the front along University Avenue and a small commercial office space in the rear. To meet parking requirements for the site, the development would preserve the general footprint of the building and place off-street spaces on the east and north sides of the parcel. The existing noncompliant parking spaces off of University Avenue would be closed off as part of the project.

Allowing parking on the east side of the property along Race Street would require the proposed variances. Table VI-3 of the Urbana Zoning Ordinance requires a front yard setback of 15 feet in the B-3 district. The applicant seeks a Major Variance to allow a front yard setback of five feet, which is the setback of the existing building. Section VIII-4.E of the Urbana Zoning Ordinance does not allow parking spaces in which the exiting vehicle must be backed into or out of a public street. The applicant seeks a Major Variance to allow the continued use of a legal nonconformity in allowing parking spaces that require automobiles to back out onto a public street.

At their May 20, 2015 meeting, the Urbana Zoning Board of Appeals voted four ayes and zero nays to forward both Major Variances to the City Council with a recommendation for approval.

## Description of the Site

The site is located at the northwest corner of Race Street and University Avenue, a main east-west arterial through the center of the City. The narrow parcel, totaling 0.178 acres, is occupied by a hair salon and otherwise vacant space. It is adjacent to other commercial properties to the east, west, and south and it borders a residential area to the north. The adjacent property to the east across Race Street is a law office building with a parking lot. The adjacent property to the west is a health clinic. Towards the south, across from University Avenue, is a vacant lot for sale. A residential neighborhood of single family homes and multi-family residences along the south edge of Crystal Lake Park lie to the north.

## Zoning and Land Use Table

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

<b>Location</b>	<b>Zoning</b>	<b>Existing Land Use</b>	<b>Comprehensive Plan Future Land Use</b>
<b>Subject Property</b>	B-3, General Business	Vacant Space, Hair Salon	Community Business
<b>North</b>	R-5, Medium High Density Multiple-Family Residential	Single Family Home	Multifamily
<b>South</b>	B-3, General Business	Vacant Lot	Central Business
<b>East</b>	B-3 General Business	Law Office, Parking Lot	Community Business
<b>West</b>	B-3, General Business	Health Clinic	Community Business

## Discussion

The applicant is requesting permission to continue to allow off-street parking to back onto Race Street along the eastern portion of the property at 202 West University Avenue. The front yard setbacks of the current building to the east, south, and west are closer to the property lines than the current Zoning Ordinance allows. The off-street parking on University Avenue and Race Street require exiting vehicles to back into a right-of-way which is also contrary to the current regulation for front yards. All of those nonconformities are legal and allowed to exist as they were in place before the adoption of the current Zoning Ordinance.

The applicant's proposal involves demolition of the current building and construction with a new, more compliant building in its place. The new building, being approximately 30% smaller than the existing structure, would have compliant setbacks for its side yard and frontage along University Avenue. The frontage would also eliminate a curbcut and noncompliant off-street parking along University Avenue that poses traffic safety concerns. The southern portion of the building would be 1,081 square feet in area and is designated for use as a Gaming Hall. The northern portion, separate from the Gaming Hall, is 1,092 square feet of commercial office space. In the B-3, General Business district, the proposed uses would be required to provide eight off-street parking spaces. The off-street parking requirements are based off the square footage of

the building and the use designations of Professional Office and All Other Service Uses. To meet the required off-street parking spaces as well as anticipated customer demand, the development proposes to continue to provide parking spaces perpendicular to Race Street as well as along the north side of the building. Because the development would constitute new construction, the legal noncompliance status of the site would end. The applicant's variance requests are to allow two aspects of the property's noncompliance to continue for the project to be feasible.

For the B-3, General Business zoning district, Table VI-3 of the Zoning Ordinance requires a front yard setback of 15 feet. The first variance requests a reduction in the front yard setback along Race Street to five feet. The narrow nature of the lot and the existence of two front yards make placement of off-street parking very difficult at this location. In addition to a reduced front yard setback requirement, the applicant is seeking a variance to allow parking spaces that require the automobiles to back out onto the street, per Section VIII-4.E of the Zoning Ordinance. The City granted a similar variance in ZBA case 2001-MAJ-09 in which Leal Elementary School was allowed to install parking that required automobiles to back out onto a public street.

Both variances allow the continuation of parking accommodations already in existence on the property. The new construction eliminates problematic parking spaces along University Avenue that currently exist and moves the parking along Race Street 7 feet farther from the intersection with University Avenue. Because of the overall site improvements and improvements to the safety of University Avenue, the proposed plans have met the approval of the City Engineer. The two variances would also allow new investment and new businesses along the University Avenue corridor.

At their May 20, 2015 meeting, the Zoning Board of Appeals discussed the proposed Major Variances. An adjacent residence to the north of the subject property initially submitted a letter of protest, but withdrew their comments after favorable communication with the applicant. The board adopted the staff findings and unanimously approved both Major Variances.

## **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 current building and parcel size were established under different codes and before the current Zoning Ordinance was enacted. The narrow size of the lot with two front yard setbacks makes it difficult for any new development to meet parking requirements for the B-3, General Business zoning district. In order to meet the front yard setback requirement for University Avenue, and subsequently remove existing legally nonconforming parking spaces, the site would need the continued allowance of off-street parking along Race Street which requires the two major variances.

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.*

The setback and parking requirements for the B-3 district would be prohibitive for most new development on the subject property. Approximately 40% of the parcel is restricted from being built upon because of the setback requirements for the B-3 district. The variances would not create any new special circumstance for the property as the existing east-side off-street parking is similar to the proposed site plan.

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

The variances requested are not due to a situation knowingly created by the Petitioner. The variances and proposed parking would be consistent with the existing conditions of the site. They would seek to continue a legal nonconformity and to remove other nonconformities at the site.

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

The property will not alter the essential character of the neighborhood as it is repeating the general building footprint and east-side off-street parking. The new building will improve some of the setback and parking nonconformities found along the west and south sides of the property.

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

The variances would not cause a nuisance. The new development will eliminate parking spaces along University Avenue which currently present a traffic hazard for both motorists and pedestrians. The proposed variances will allow parking along Race Street in a configuration that improves the current situation by moving the parking farther north and away from the intersection with University Avenue.

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

The only available area that allows for the proposed building to meet parking requirements for the B-3 zoning district requires placement of off-street parking spaces along Race Street. The ability to place any parking spaces along that side of the parcel requires the proposed variances.

## **Summary of Findings**

1. MALA LLC. has requested permission to construct a new building at 202 W. University Avenue with a five foot reduced front yard setback and allowance for parking spaces that require automobiles to back into the right-of-way along Race Street.

2. The proposed variances would reduce the front yard setback requirement from 15 feet to 5 feet and allow a continued legal nonconformity of off-street parking next to Race Street.
3. The site is located in downtown Urbana, and is zoned B-3, General Business and is identified as Community Business in the Urbana Comprehensive Plan.
4. The proposed variances are requested due to special circumstances of a small and narrow lot which is unable to meet all parking and setback requirements.
5. The proposed development would improve existing nonconformities on the property including the elimination of a problematic curb cut along University Avenue.
6. The proposed variances would be neither an alteration of the neighborhood character or nuisance to adjacent properties because it allows the replacement of a building with an improved layout and improved compliance with the Zoning Ordinance.
7. The proposed variance regarding the front yard setback represents the minimum possible deviation from Zoning Ordinance requirements as the available area to meet B-3 district parking requirements is limited.
8. The proposed variances would allow investment and business growth along the University Avenue corridor.
9. At their May 20, 2015 meeting, the Zoning board of Appeals held a public hearing and unanimously voted to forward both Major Variances to the City Council with recommendations for approval.

## **Options**

The Urbana City Council has the following options in this case:

- a. Approve the variances based on the findings outlined in this memo; or
- b. Approve the variances along with certain terms and conditions. If conditions or findings differ from those recommended in the attached draft ordinance, these should be articulated accordingly; or
- c. Deny the variance. If the City Council elects to do so, the Council should articulate findings supporting its denial.

## **Recommendation**

At their May 20, 2015 meeting, the Zoning Board of Appeals voted four ayes and zero nays to recommend **APPROVAL** for both variances with the following conditions:

1. The site is developed in general compliance with the attached site plan.

2. The parking space and curb cut along University Avenue are eliminated as proposed in the attached site plan.

Attachments:      Exhibit A:      Location & Aerial Map  
                         Exhibit B:      Zoning Map  
                         Exhibit C:      Future Land Use Map  
                         Exhibit D:      Site Plan and Renderings  
                         Exhibit E:      Site Photos  
                         Exhibit F:      Petition for Variance  
                         Exhibit G:      Letters of Protest

cc:                    MALA LLC

**ORDINANCE NO. 2015-06-058**

**AN ORDINANCE APPROVING MAJOR VARIANCES**

(To allow a change in the required front yard setback from 15 feet to 5 feet at 202 W. University Avenue in the B-3, General Business zoning district. / Case No. ZBA-2015-MAJ-04)

(To allow parking spaces in which exiting vehicles must back out onto a public street at 202 W. University Avenue in the B-3, General Business zoning district. / Case No. ZBA-2015-MAJ-05)

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 a structure; and

WHEREAS, MALA LLC. has submitted a petition for two major variances to allow a 10 foot reduction in the required front-yard setback and to allow off-street parking that requires vehicles to exit by backing out onto a public right-of-way at 202 W. University Avenue in the B-3, General Business Zoning District; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in ZBA Case Nos. 2015-MAJ-04 and 2015-MAJ-05; 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 variances on May 20, 2015 and voted 4 ayes to 0 nays in Case No. ZBA-2015-MAJ-04 and 4 ayes to 0 nays in Case No. ZBA-2015-MAJ-05 to recommend that the Corporate Authorities approve the requested variances; and

WHEREAS, after due and proper consideration, the Corporate Authorities of the City of Urbana have determined that the major variances referenced herein conforms with the major variance procedures in accordance with Article XI, Section XI-4.B 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:

1. The petitioner has requested permission to construct a new building at 202 W. University Avenue with a five-foot front yard setback and allowance for parking spaces that require automobiles to back onto the right-of-way along Race Street.

2. The proposed variances would reduce the front yard setback requirement from 15 feet to 5 feet and allow a continued legal nonconformity of off-street parking next to Race Street.

3. Table VI-3 of the Urbana Zoning Ordinance requires a front yard setback of 15 feet in the B-3, General Business district. Section VIII-4.E of the Zoning Ordinance does not allow parking spaces where the exiting vehicle must be backed into or out of a public street.

4. The proposed variances are requested due to special circumstances of a small and narrow lot which is unable to meet all parking and setback requirements. The variances are not a result of a situation or condition knowingly or deliberately created by the petitioner.

5. The proposed variances would not serve as a special privilege because the setback and parking requirements are prohibitive for the lot size. The variances would not create any new special circumstances for the property.

6. The proposed variances would be neither an alteration of the neighborhood character or nuisance to adjacent properties because it allows the replacement of a building with an improved layout and improved compliance of the Zoning Ordinance.

7. The proposed variance regarding the front yard setback represents the minimum possible deviation from Zoning Ordinance requirements as the available area to meet B-3, General Business district parking requirements is limited.



8. On May 20, 2015, the Zoning Board of Appeals voted 4 ayes to 0 nays to approve Case No. ZBA-2015-MAJ-04.

9. On May 20, 2015, the Zoning Board of Appeals voted 4 ayes to 0 nays to approve Case No. ZBA-2015-MAJ-05.

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

Section 1. In ZBA Case Nos. 2015-MAJ-04 and 2015-MAJ-05, the two major variances requested by MALA LLC. to allow a 10-foot reduction in the required front-yard setback along Race Street and to allow off-street parking that requires vehicles to exit by backing out onto a public right-of-way at 202 W. University Avenue in the B-3, General Business Zoning District are hereby approved in the manner proposed in the application and subject to the following conditions:

1. The site is developed in general compliance with the site plan submitted by the petitioner.

2. The parking space and curb cut along University Avenue are eliminated as proposed in the submitted site plan.

The major variances described above shall only apply to the property located at 202 W. University Avenue, more particularly described as follows:

LEGAL DESCRIPTION:

A part of the Southwest Quarter of the Northwest Quarter of the Southeast Quarter of Section 8, Township 19 North, Range 9 East of the Third Principal Meridian, described as follows:

Commencing at a point in the North line of University Avenue 170 feet East of the Southeast Corner of Lot 5 in Block 1 of S.H. Busey's Second Addition to the City of Urbana, thence East 60 feet to the West side of North Race Street extended, thence North on the West line of North Race Street 132 feet to

alley, thence West 60 feet along the South side of alley, thence South 132 feet to the place of beginning, situated in the City of Urbana, in Champaign County, Illinois.

PIN No: 91-21-08-402-008

Section 2. The Urbana 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 City Council of the City of Urbana, Illinois, at a regular meeting of said Council on the \_\_\_\_ day of \_\_\_\_\_, 2015

PASSED by the City Council on this \_\_\_\_ day of \_\_\_\_\_, 2015.

AYES:

NAYS:

ABSTAINS:

\_\_\_\_\_  
Phyllis D. Clark, City Clerk

APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

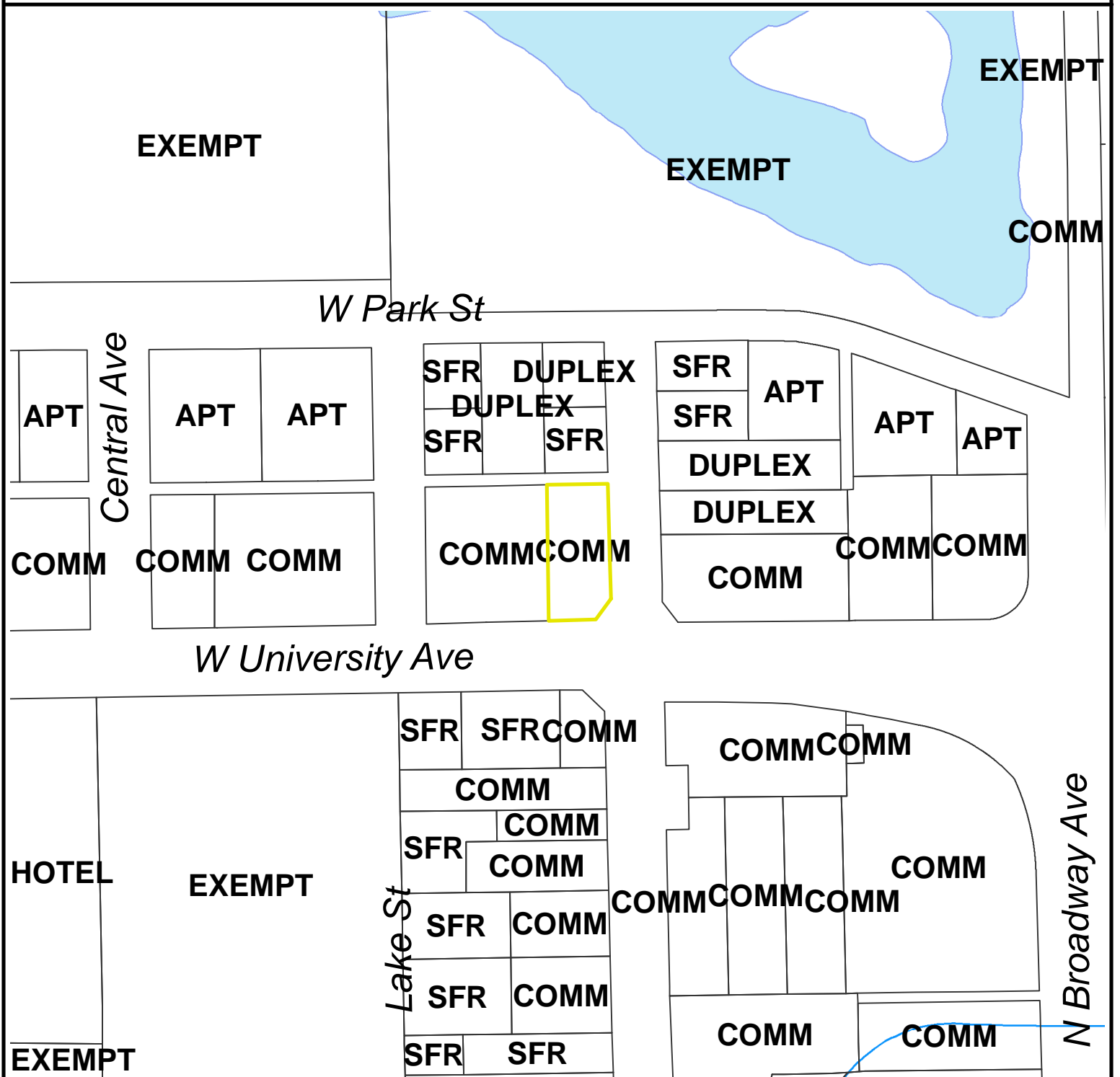
\_\_\_\_\_  
Laurel Lunt Prussing, Mayor

**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 \_\_\_\_\_, 2015, the corporate authorities of the City of Urbana passed and approved Ordinance No. \_\_\_\_\_, entitled AN ORDINANCE APPROVING MAJOR VARIANCES (Allow a change in the required front yard setback from 15 feet to 5 feet at 202 W. University Avenue in the B-3, General Business zoning district. / Case No. ZBA-2015-MAJ-04)(A variance of Section VIII-4.E of the Zoning Ordinance to allow parking spaces in which exiting vehicles must back out onto a public street at 202 W. University Avenue in the B-3, General Business zoning district. / Case No. ZBA-2015-MAJ-05) 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 \_\_\_\_\_, 2015, 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.

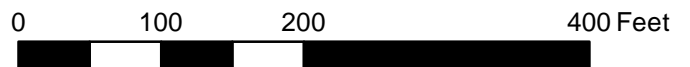
DATED at Urbana, Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2015.

# Exhibit A: Location & Existing Land Use Map

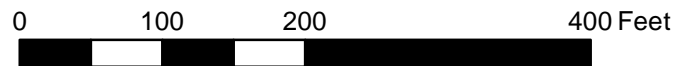
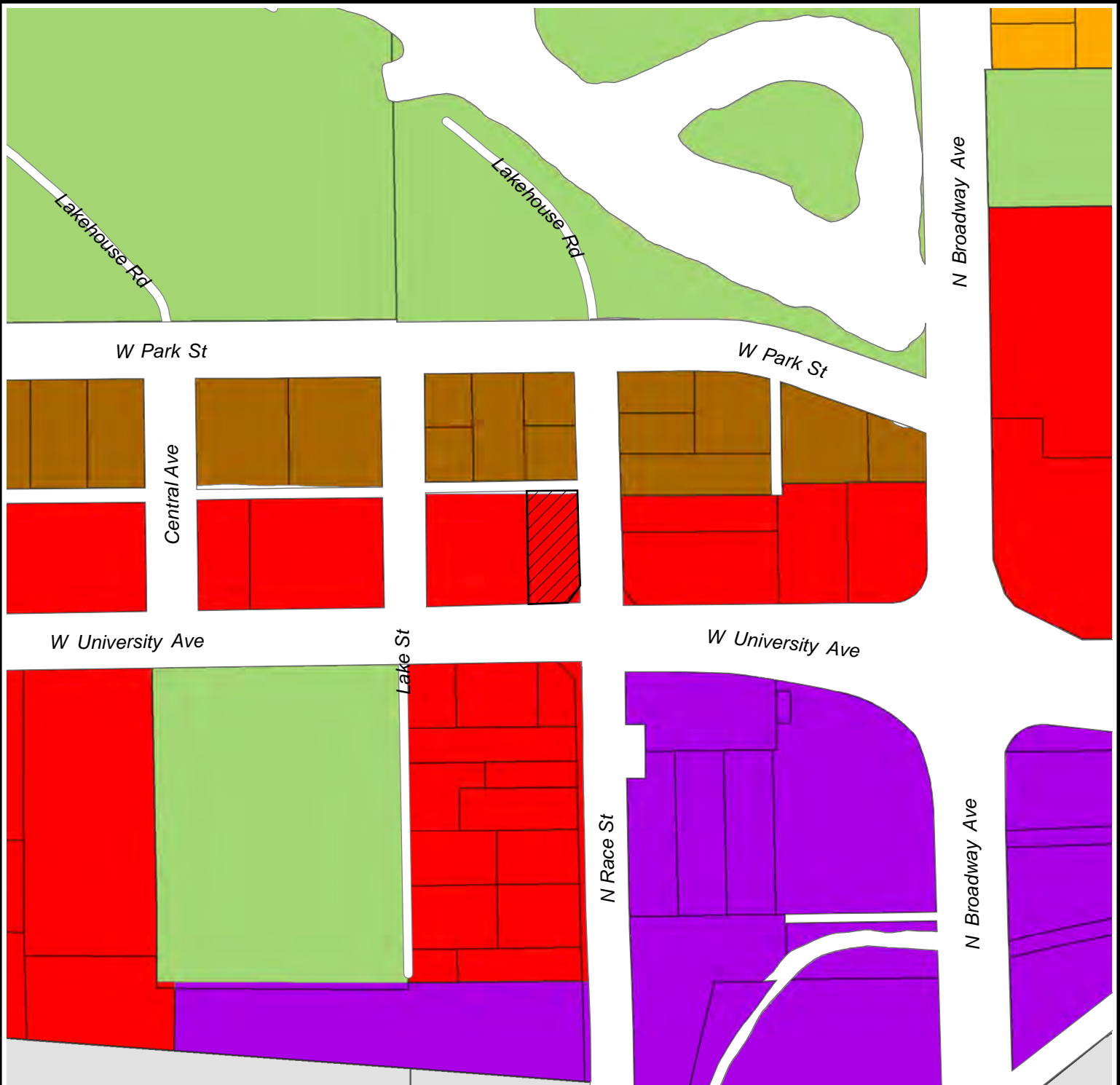


Case: ZBA Cases 2015-MAJ-04 & 2015-MAJ-05  
 Subject: Major Variances  
 Location: 202 W. University Avenue  
 Petitioners: MALA LLC

 Subject Property



# Exhibit B: Zoning Map

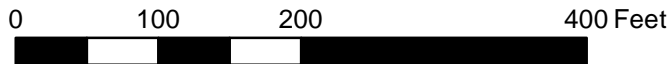
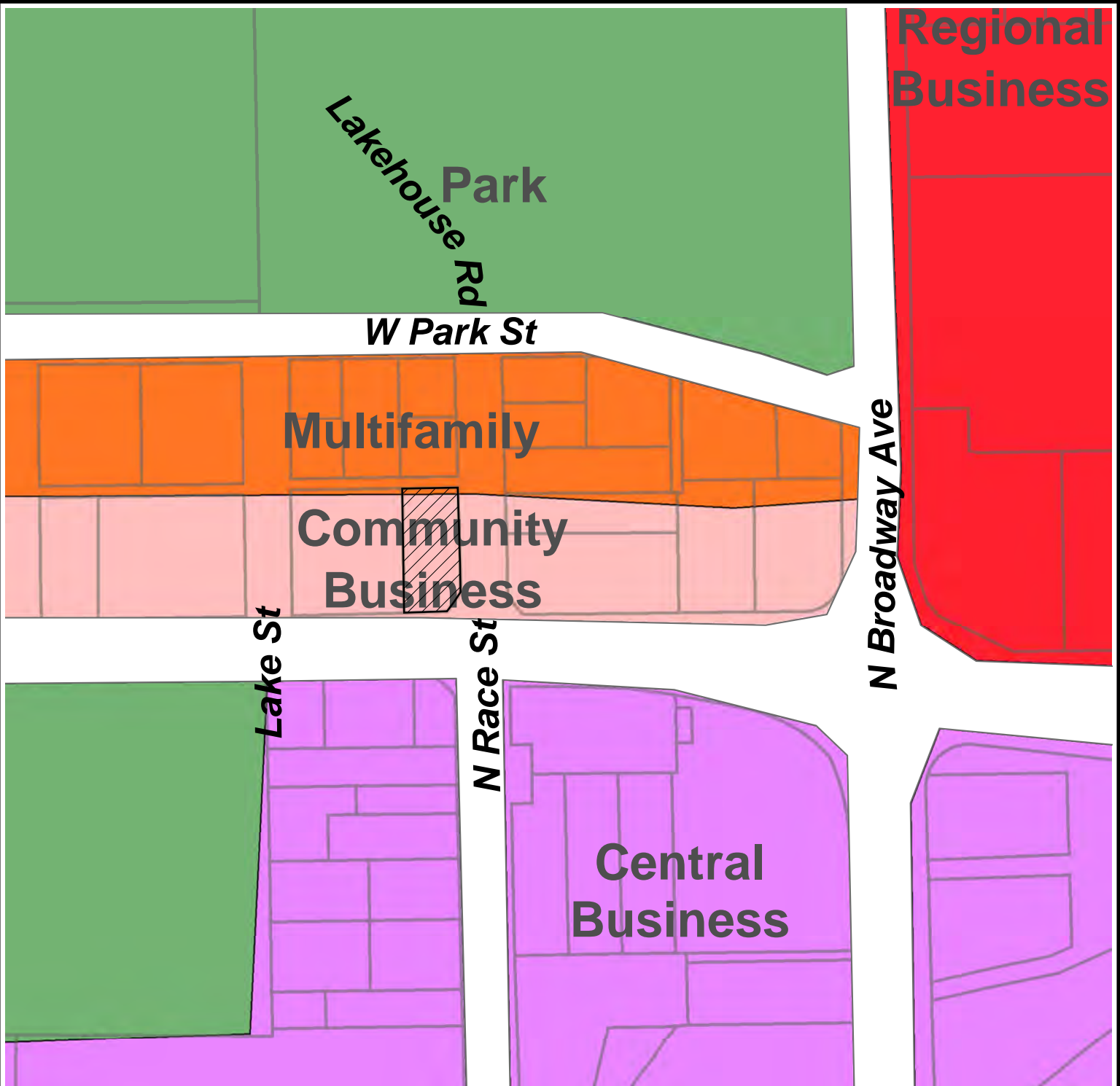


Case: ZBA Cases 2015-MAJ-04 & 2015-MAJ-05  
 Subject: Major Variances  
 Location: 202 W. University Avenue  
 Petitioners: MALA LLC

Prepared 5/15/2015 by Community Development Services -







- Subject Property
- B3
- B4
- CRE
- IN-1
- R3
- R5

# Exhibit C: Future Land Use Map

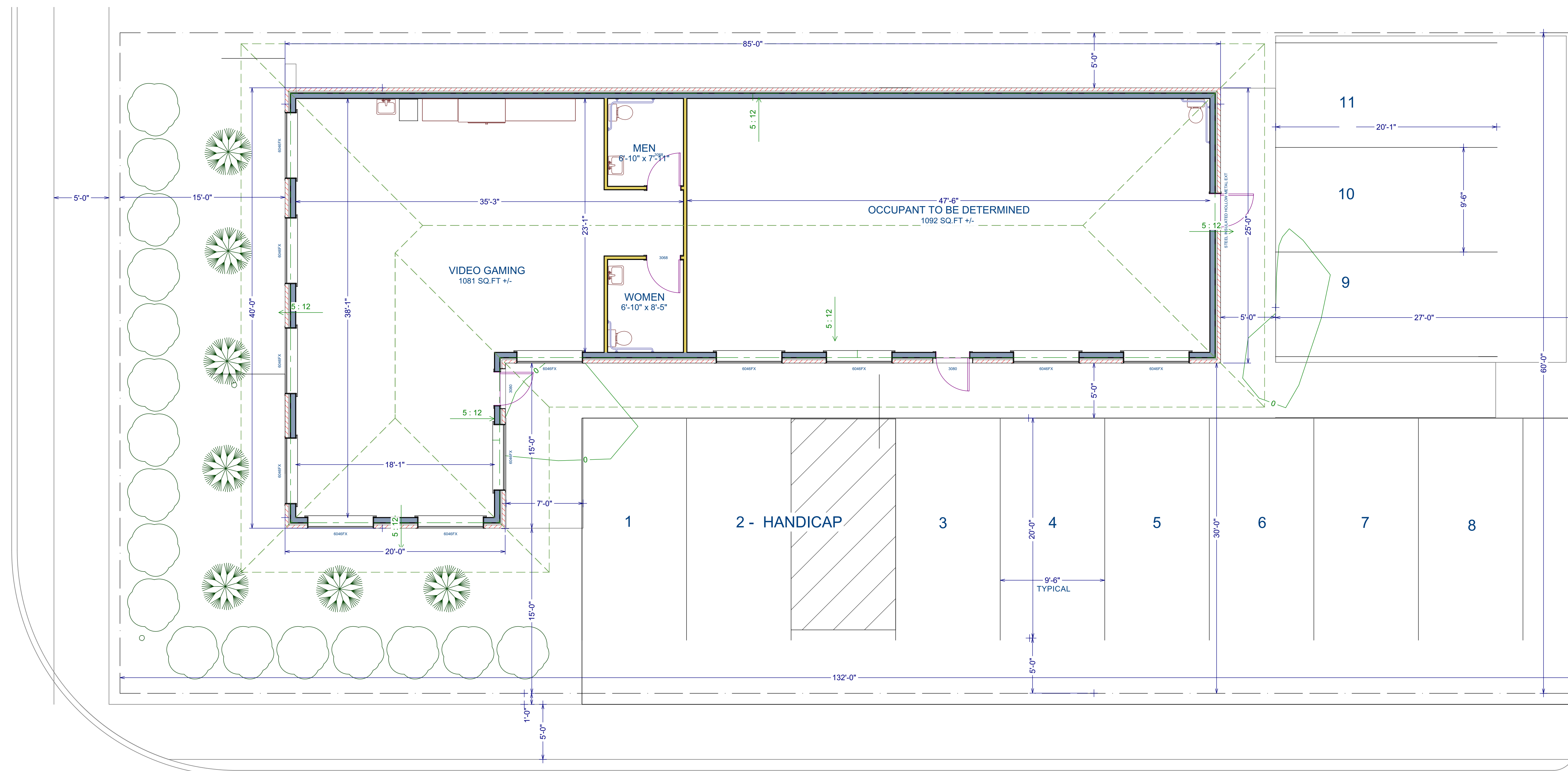


Case: ZBA Cases 2015-MAJ-04 & 2015-MAJ-05  
 Subject: Major Variances  
 Location: 202 W. University Avenue  
 Petitioners: MALA LLC

Prepared 5/15/2015 by Community Development Services -

-  Subject Property
-  Multi-Family Residential
-  Regional Business
-  Community Business
-  Central Business
-  Park

UNIVERSITY AVE



RACE ST

SITE PLAN

REVISION TABLE	
NUMBER	DATE

PROPOSED VIDEO PARLOR  
202 W. UNIVERSITY  
URBANA, ILLINOIS

DRAWINGS PROVIDED BY:  
**JOHN DRAYTON**  
217-422-2447  
cjdrayton@gmail.com

DATE:

5/11/2015

SCALE:

SHEET:



## Exhibit E: Site Photos







# Application for Variance

# Zoning Board Of Appeals

## APPLICATION FEE – \$175.00 (Major) and \$150.00 (Minor)

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

Date Request Filed 4/22/15 ZBA Case No. ZBA-2015-MAJ-04  
Fee Paid - Check No. 001643 Amount \$175.00 Date 04-22-2015

### PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

A VARIATION is requested in conformity with the powers vested in the Zoning Board of Appeals to <sup>RETAIN</sup> permit (Insert Use/Construction Proposed and the Type and Extent of Variation Requested) HEAD-IN PARKING ALONG RACE ST. on the property described below, and in conformity with the plans described on this variance request.

#### 1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): MALA LLC Phone: 217-620-4183  
Address (street/city/state/zip code): 924 E. ELDERADO ST. DECATUR, ILL 62521  
Email Address: CARL@SPEEDLUBE.NET  
Property interest of Applicant(s) (Owner, Contract Buyer, etc.): CONTRACT TO PURCHASE PENDING VARIANCE REQUEST APPROVAL

#### 2. OWNER INFORMATION

Name of Owner(s): WILLIAM G FOSSER Phone: 217-402-8383  
Address (street/city/state/zip code): 1210 N. WALNUT ST CHAMPAIGN ILL 61820  
Email Address:

Is this property owned by a Land Trust?  Yes  No  
If yes, please attach a list of all individuals holding an interest in said Trust.

#### 3. PROPERTY INFORMATION

Location of Subject Site: 202 W. UNIVERSITY 61801  
PIN # of Location: 91-21-08-402-008  
Lot Size: 60' x 132'

Current Zoning Designation: B-3

Current Land Use (vacant, residence, grocery, factory, etc): MOSTLY VACANT MULTI-UNIT COMMERCIAL

Proposed Land Use: NEW CONSTRUCTION

Legal Description: 2-UNIT STRUCTURE 1200<sup>0</sup> VIDEO GAMING 1200<sup>0</sup> OFFICE

SEE ATTACHED

#### 4. CONSULTANT INFORMATION

Name of Architect(s): JOHN DRAYTON Phone: 217-972-7668

Address (street/city/state/zip code): 3135 TURPIN RD 62521

Email Address: CJADRAYTON@GMAIL.COM

Name of Engineers(s): ROBERT DEVINE Phone: 217-377-1197

Address (street/city/state/zip code): 307 W. UNIVERSITY 359-1500  
CHP, IL 61820

Email Address:

Name of Surveyor(s): CHASTAIN & ASSOC Phone: 217-422-8544

Address (street/city/state/zip code): #5 COUNTRY CLUB RD  
DECATUR, IL 62521

Email Address: HCLLP.COM

Name of Professional Site Planner(s): Phone:

Address (street/city/state/zip code): TBD

Email Address:

Name of Attorney(s): SCOTT GARWOOD Phone: 217-429-4325

Address (street/city/state/zip code): 225 N. WATER  
DECATUR, IL 62521

Email Address: GARWOOD@SAMUELSMILLER.COM

#### 5. REASONS FOR VARIATION

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.

SITE IS VERY SMALL - 2 FRONT YARD SETBACKS OF 15' MAKE IT IMPOSSIBLE TO BUILD A NEW BUILDING AND PROVIDE ADEQUATE PARKING WITHOUT THIS VARIANCE.

Explain how the 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.

43.5% (3440<sup>sq</sup>) of THIS APPROX 7920<sup>sq</sup> LOT IS RESTRICTED BY SETBACKS. CURRENTLY HEAD-IN PARKING IS ALLOWED ON RACE ST. THIS SECTION OF RACE HAS A TRAFFIC COUNT OF APPROX. 700 CARS PER DAY. SO IS VERY LOW VOLUME. OUR PROPOSED PROJECT IS NOT FEASIBLE WITHOUT THE

Application for Variance - Updated June, 2012 RETENTION OF THIS Page 2  
PARKING,

Explain how the variance is not the result of a situation or condition that was knowingly or deliberately created by you (the Petitioner).

PARKING IS CURRENTLY ALLOWED

Explain why the variance will not alter the essential character of the neighborhood.

PARKING IS CURRENTLY ALLOWED

Explain why the variance will not cause a nuisance to adjacent property.

PARKING IS CURRENTLY ALLOWED

Does the variance represent the minimum deviation necessary from the requirements of the Zoning Ordinance? Explain.

YES - RETENTION OF THIS PARKING IS THE ONLY WAY TO ADEQUATELY PROVIDE ENOUGH SPACES FOR OUR PROPOSED BUILDING.

**NOTE: If additional space is needed to accurately answer any question, please attach extra pages to the application.**

**By submitting this application, you are granting permission for City staff to post on the property a temporary yard sign announcing the public hearing to be held for your request.**

**CERTIFICATION BY THE APPLICANT**

I certify all the information contained in this application form or any attachment(s), document(s) or plan(s) submitted herewith are true to the best of my knowledge and belief, and that I am either the property owner or authorized to make this application on the owner's behalf.

Maack A. Geller

Applicant's Signature

4/21/15

Date

# SEARCH PRODUCT

(continued)

## D. LEGAL DESCRIPTION:

**For APN/Parcel ID(s): 91-21-08-402-008**

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A part of the Southwest Quarter of the Northwest Quarter of the Southeast Quarter of Section 8, Township 19 North, Range 9 East of the Third Principal Meridian, described as follows:

Commencing at a point in the North line of University Avenue 170 feet East of the Southeast Corner of Lot 5 in Block 1 of S.H. Busey's Second Addition to the City of Urbana, thence East 60 feet to the West side of North Race Street extended, thence North on the West line of North Race Street 132 feet to alley, thence West 60 feet along the South side of alley, thence South 132 feet to the place of beginning, situated in the City of Urbana, in Champaign County, Illinois.

# Douglas and Shannon Bradley

509 N Race Street  
Urbana, IL 61801

May 19, 2015

Zoning Board of Appeals  
Urbana City Building  
400 S Vine Street  
Urbana IL 61801

To Whom It May Concern:

This letter is presented as a Letter of Protest by the Owners and Residents of 509 N. Race Street in Urbana, IL regarding the Major Variance requested by MALA LLC:

ZBA-2015-MAJ-05:

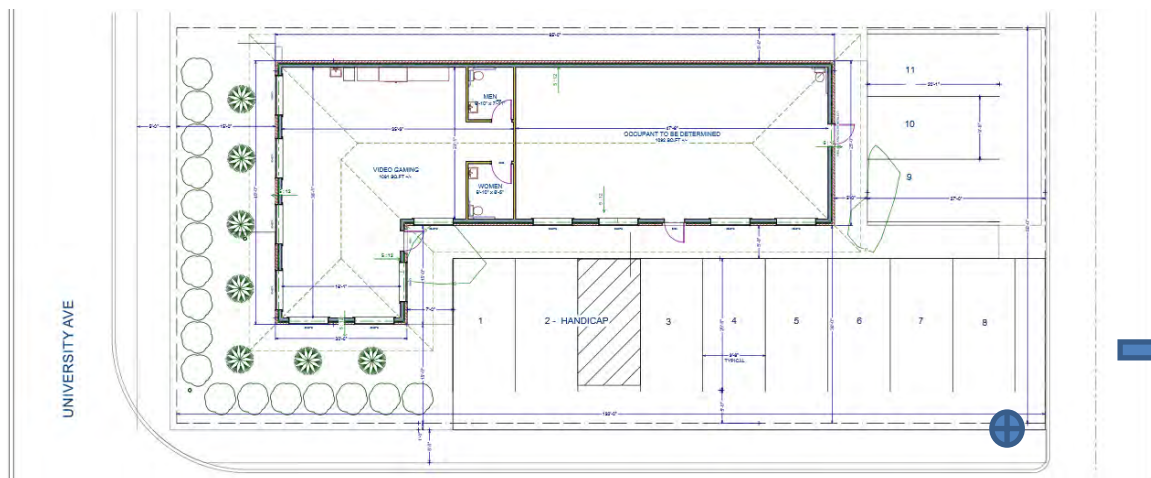
A request by MALA, LLC for a Major Variance to allow parking spaces in which exiting vehicles must back out onto a public street at 202 West University Avenue in the B-3, General Business Zoning District.

Our concern is related to the specific request to “meet parking requirements for the site, the development would preserve the general footprint of the building and place off-street spaces on the west and north sides of the parcel.”

As the residents of the Single Family Home to the north of the proposed development we are concerned that the Summary of Staff Findings and Staff Recommendations do not pay adequate attention to the “nuisance to adjacent property” and “essential character of the neighborhood” in relation to the properties to the north and 509 North Race Street in particular.

## Specific Concerns

Based on the verbiage stated in the request “preserve the general footprint of the building” and the map of the proposed development:



### ***Driveway Access***

It appears no consideration is being given to the existing narrow alleyway and driveway for 509 North Race Street. The existing parking, when utilized, makes it almost impossible to park in the driveway. Due to the amount of traffic along the alleyway it is necessary to back into this driveway in order to have a safe exit when leaving the residence. The current distance between the existing parking and the alley is inadequate to provide backing radius when entering the residential driveway and requires the Residents of 509 to park on the street until the parking spaces are vacated. If additional spaces are marked in this location and the set back is not increased it will make it impracticable to use the privately owned driveway at that residence.

Also, the existing parking pattern has resulted in a typical pattern of traffic which has repeatedly endangered the personal property of the residents of 509 North Race. Cars have backed into the fence posts and the corner of the house itself. The owners have placed large rocks along the edge of the property landscaping which act as a barrier for inattentive drivers. Let it be known that these rocks are hit several times a year by cars exiting the current parking spaces. This is a clear indication that the current as well as proposed amount of space for parking along the north side of the building is inadequate.

Urbana Parking Ordinances state Blocking/Obstructing driveways is prohibited.

### ***Utilities Impact***

Please note: There is a utility pole which is a multi-utility access pole right at the corner of the proposed parking area. (see marked in above map) Any further narrowing or congestion of the alley or access space will directly impact Illinois Power, ATT and Cable Providers who use that pole. This pole will also impact the ability to adequately utilize parking space 8.

### ***Emergency Services***

Narrowing or congestion in the alley will also directly impact Urbana Fire Services to the residential homes to the north of the development. Because of the narrow/short lot type 509 North Race is only accessible to fire trucks and emergency vehicles along Race Street and the alley. Reducing access via the alley will increase the possibility of access issues in case of emergency at the property.

### ***Screening Between Parking Lots and Residential Lots***

Urbana Zoning Ordinances require privacy screening between parking lots and residential homes. The above map as well as the full description of the proposed development makes no reference to screening the headlights and parking lights from the private residences along the north of the building. Windows of the home at 509 North Race face the proposed parking area and the proposed parking pattern will direct lights into the home.

### ***Screening for Refuse***

Urbana Zoning Ordinances require refuse and recycling containers to be screened from public view by a solid fence or wall. The current tenants of that building keep containers on the north side of the building. There is no mention in the project description or any notation on the above map for a cordoned area for refuse. The current placement of refuse and recycling allows garbage to be blown or dragged into the yard of the residents at 509 North Race Street. This attracts rodents and insects and is both a public health issue and a public nuisance.





### ***Concerns***

The residents of 509 North Race Street also request clarification on the hours of operation at the Gaming Hall. Current occupants of this building have hours of operation extending until 2:00 and 3:00 am. Vehicle noise, music and raucous behavior consistently occurs which violates the Zoning Ordinance for Noise: “Noise discernable by a person of average sensibility within any dwelling or lodging unit between the hours of 10:00 pm and 7:00 am when the noise is of an intensity, tone, characteristic, frequency of occurrence or duration as to not be customarily associated with uses permitted in the zoning district in which such dwelling or lodging unit is located”.

### ***Options***

Building improvements in this area have a positive impact on the neighborhood so this plan is a great idea for the community. However, consideration to alternatives which have reduced impact on the residences to the north should be made.

- Eliminating parking spaces to allow a turn radius for the driveway at 509 North Race. Since Space 8 is already impeded by the Utility Pole if this space is eliminated it would allow room for cars to navigate into the driveway.
- Reducing the footprint of the building and adding a second story. As indicated earlier the map does not clearly state if the footprint of the new development is identical to the existing footprint. But if the size of the building could be reduced and the parking spaces moved 5 feet to the south it would allow enough room for improved navigation in the alley for Utilities and Emergency Services as well as access to the residential driveway.

### ***Recommendations***

The residents of 509 North Race sincerely recommend that the current variance request as written be denied. Additional review of the project is needed due to consideration of:

- The variance does cause a nuisance to the adjacent property
- The variance alters the essential character of the neighborhood

We look forward to discussing these issues tomorrow at the Zoning Board Meeting. Thank you.

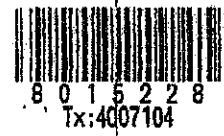
Sincerely

Douglas Bradley

Shannon Bradley



CHICAGO TITLE INSURANCE COMPANY  
 201 N. NEIL STREET,  
 CHAMPAIGN, IL 61820  
 PH. (217)356-0501  
 FAX (217)351-2982  
 53001971



Champaign County  
 Transfer Tax \$ 108.50

2012R04725  
 REC ON: 02/23/2012 11:10:07 AM  
 CHAMPAIGN COUNTY  
 BARBARA A. FRASCA, RECORDER  
 REC FEE: 25.00  
 RHSPS Fee: 10.00  
 REV FEE: 325.50  
 PAGES 2  
 PLAT ACT: OPLAT PAGE:

STATE OF ILLINOIS  
 FEB. 23. 12  
 REAL ESTATE TRANSFER TAX  
 DEPARTMENT OF REVENUE

000004790  
 # 00000000

REAL ESTATE TRANSFER TAX
0021700
FP 102811

**WARRANTY DEED**

THE GRANTOR, STEPHEN T. KERRY (A Single) MAR  
 of the CITY of  
URBANA, in the County of Champaign, and State of Illinois, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration in hand paid, CONVEY AND WARRANT to the GRANTEE, William G. FOSSEY (Single)  
 of the CITY of Champaign, County of Champaign and State of Illinois, the following described real estate:

**LEGAL DESCRIPTION**

A part of the Southwest Quarter of the Northwest Quarter of the Southeast Quarter of Section 8, Township 19 North, Range 9 East of the Third Principal Meridian, described as follows:

Commencing at a point in the North line of University Avenue 170 feet East of the Southeast Corner of Lot 5 in Block 1 of S.H. Busey's Second Addition to the City of Urbana, thence East 60 feet to the West side of North Race Street extended, thence North on the West line of North Race Street 132 feet to alley, thence West 60 feet along the South side of alley, thence South 132 feet to the place of beginning, situated in the City of Urbana, in Champaign County, Illinois.

PIN #: 91-21-08-402-008

Common Address: 202 W UNIVERSITY AVE URBANA ILL 61801

(THIS FORM IS CONTINUED ON THE OTHER SIDE & SHOULD BE TYPEWRITTEN)



## 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:** Christopher Marx, Planner I

**DATE:** May 15, 2015

**SUBJECT:** **ZBA Case 2015-MAJ-04:** A request by MALA LLC. for a Major Variance to allow a change in the required front yard setback from 15 feet to 5 feet at 202 W. University in the B-3, General Business zoning district.

**ZBA Case 2015-MAJ-05:** A request by MALA LLC. for a Major Variance of Section VIII-4.E of the Zoning Ordinance to allow parking spaces in which exiting vehicles must back out onto a public street at 202 W. University in the B-3, General Business zoning district.

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### **Introduction & Background**

MALA LLC. of Decatur, Illinois is requesting two major variances at 202 W. University Avenue to reduce the required front yard setback and to allow parking spaces which require exiting vehicles to back out onto a public right-of-way. The applicant is requesting the variances in order to improve the property by redeveloping it. The redevelopment would include tearing down the existing structure and replacing it with a new building. The new building will be occupied with a gaming hall operated by the applicant in the front and a small commercial office space in the rear. To meet parking requirements for the site, the development would preserve the general footprint of the building and place off-street spaces on the west and north sides of the parcel. The existing noncompliant parking spaces off of University Avenue would be closed off as part of two proposed, significant improvements of the street conditions on that side.

Allowing parking on the east side of the property along Race Street would require the proposed variances. Table VI-3 of the Urbana Zoning Ordinance requires a front yard setback of 15 feet in the B-3 district. The applicant seeks a major variance to allow a front yard setback of five feet, which is the setback of the existing building. Section VIII-4.E of the Urbana Zoning Ordinance does not allow parking spaces in which the exiting vehicle must be backed into or out of a public street. The applicant seeks a major variance to allow the continued use of a legal nonconformity in allowing parking spaces that require automobiles to back out into the street.

Pursuant to Section XI-3.C.2(d)(1) of the Urbana Zoning Ordinance, in order for a Major Variance to be approved, the Zoning Board of Appeals must recommend approval by a two-thirds majority and forward to City Council for final review and approval.

## Description of the Site

The site is located at the northwest corner of Race Street and University Avenue, a main east-west arterial through the center of the City. The narrow parcel, totaling 0.178 acres, is occupied by a hair salon and otherwise vacant space. It is adjacent to other commercial properties to the east, west, and south and it borders a residential area to the north. The adjacent property to the east across Race Street is a law office building with a parking lot. The adjacent property to the west is a health clinic. Towards the south, across from University Avenue, is a vacant lot for sale. A residential neighborhood of single family homes and multi-family residences along the south edge of Crystal Lake Park lie to the north.

## 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	Comprehensive Plan Future Land Use
Subject Property	B-3, General Business	Vacant Space, Hair Salon	Community Business
North	R-5, Medium High Density Multiple-Family Residential	Single Family Home	Multifamily
South	B-3, General Business	Vacant Lot	Central Business
East	B-3 General Business	Law Office, Parking Lot	Community Business
West	B-3, General Business	Health Clinic	Community Business

*5 year lease  
3 1/2 lease  
LADT*

## Discussion

The applicant is requesting permission to continue to allow off-street parking off of Race Street along the eastern portion of the property at 202 West University Avenue. The front yard setbacks of the current building to the east, south, and west are closer to the property lines than the current Zoning Ordinance allows. The off-street parking on University Avenue and Race Street require exiting vehicles to back into a right-of-way which is also contrary to the current regulation for front yards. All of those nonconformities are legal and allowed to exist as they were in place before the adoption of the current Zoning Ordinance.

The applicant's proposal involves demolition of the current building and construction with a new, more compliant building in its place. The new building would have compliant setbacks for its side yard and frontage along University Avenue. The frontage would also eliminate a curbcut and noncompliant off-street parking along University Avenue. The southern portion of the building would 1,081 square feet in area and is designated for use as a Gaming Hall. The northern portion, separate from the Gaming Hall, is 1,092 square feet of commercial office space. In the B-3, General Business district, the proposed uses of would be required to provide eight off-street parking spaces. The off-street parking requirements are based off the square

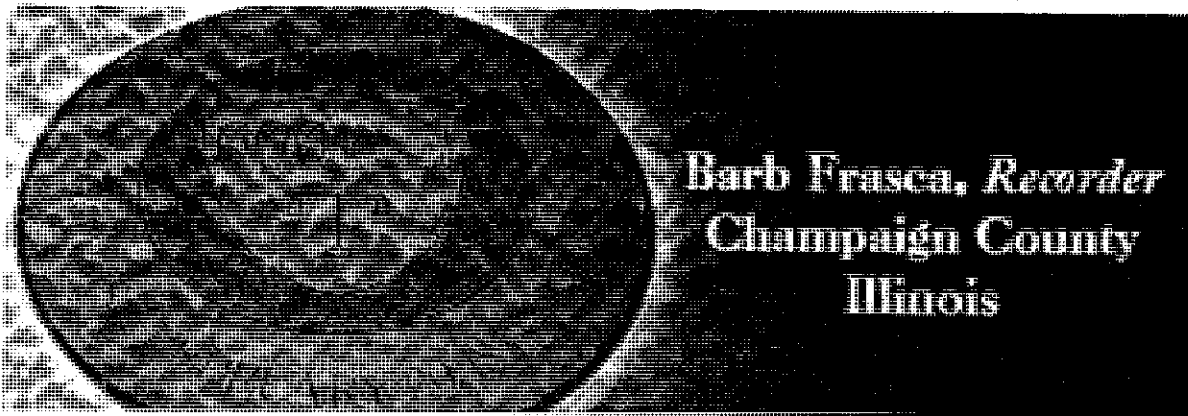
SUBJECT ZBA Case 2015MAJ04  
ZBA Case 2015MAJ05

To whom it concerns

This is to inform  
Christopher MAX

- ① The SUBJECT PROPERTY is CURRENTLY UNDER LEASE TILL MARCH 30 2019
- ② OWNER SHIP IN THIS PROPERTY IS IN DISPUTE WILL TAKE 6-12 MONTHS TO RESOLVE.
- ③ THIS PROPERTY IS EPA DIRTY BECAUSE OF DRY CLEANING BUSINESS PREVIOUS ~~OWNER~~ OCCUPANCY.
- ④ WE BELIEVE THAT UNTIL THESE QUESTIONS ARE RESOLVED THAT THESE REQUESTS ARE PREMATURE.

X Signid Darrin  
X 217-202-0152 cell  
217-607-0631 work.



## Champaign, IL DIRECT SEARCH

### Land Records Search Document Detail

2010R30750 MORTGAGE 12-20-2010 03:03 PM \$0.00 9 pages

#### Parties

KIRBY, STEPHEN T MORTGAGOR  
FOSSER, WILLIAM G MORTGAGEE

#### Parcel Numbers

912108402008

#### Tract

SEC: 8 TWP: 19 RNG: 9 SE NW SW

#### Common Street Address

202 UNIVERSITY W URBANA IL

#### Deliver To

WILLIAM FOSSER 1210 N WALNUT CHAMPAIGN IL 61820 12-20-2010

#### Recording Fees

RECORDING FEE \$30.00  
RHSP FEE \$10.00

[Results](#)

[New Search](#)

**MINUTES OF A REGULAR MEETING**

**URBANA ZONING BOARD OF APPEALS**

**DATE:** May 20, 2015

**DRAFT**

**TIME:** 7:30 p.m.

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

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**MEMBERS PRESENT** Joanne Chester, Nancy Uchtmann, Charles Warmbrunn, Harvey Welch

**MEMBERS EXCUSED** Paul Armstrong, Ashlee McLaughlin

**STAFF PRESENT** Lorrie Pearson, Planning Manager; Christopher Marx, Planner I; Maximillian Mahalek, Planning Intern

**OTHERS PRESENT** Brian Adams, Mark Allen, Katy Balderson, Anthony Beard, Connor and Emma Gray, Derek Liebert, Caitlin Lill, Dorothy Neumann, Thomas Sheehan

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**COMMUNICATIONS**

Regarding Case Nos. ZBA-2015-MAJ-04 and ZBA-2015-MAJ-05

- Email from Douglas and Shannon Bradley

**NEW PUBLIC HEARINGS**

**ZBA-2015-MAJ-04: A request by MALA, LLC for a Major Variance to allow a change in the required front-yard setback from 15 feet to 5 feet at 202 West University Avenue in the B-3, General Business Zoning District.**

**ZBA-2015-MAJ-05: A request by MALA, LLC for a Major Variance to allow parking spaces in which exiting vehicles must back out onto a public street at 202 West University Avenue in the B-3, General Business Zoning District.**

Chair Armstrong opened the public hearing for these two cases together since they are regarding the same subject property.

Christopher Marx, Planner I, presented these two cases together to the Zoning Board of Appeals. He began by stating the purpose for each major variance request. He gave background information on the subject property. He described the site and the adjacent surrounding properties noting the zoning, existing land uses and future land use designations. He discussed the proposed new building and talked about setbacks and parking regulations. He reviewed the

variance criteria from Section XI-3 of the Urbana Zoning Ordinance that pertains to both major variance requests. He stated the options of the Zoning Board of Appeals and presented City staff's recommendation for approval of both major variance requests. He pointed out that representatives for the applicant were available to answer any questions.

He mentioned that City staff received an email/letter from the Douglas and Shannon Bradley in opposition. They live at 509 North Race Street directly to the north of the subject property. One concern the Bradleys have was with regards to using their own driveway, which is located across from the perpendicular parking off the alley on the subject property. He explained that the proposed parking to the east would be compliant with the requirements of the Urbana Zoning Ordinance.

Secondly, there is an existing utility pole that the Bradleys were concerned about. The City's Engineer Division determined that it would not interfere with movement of parking on and off the site. Relocation of the utility pole is not permissible.

The third concern was emergency access. Because the subject property borders both University Avenue and Race Street, the Fire Department determined that there were no concerns for emergency vehicles accessing the site or the neighboring residential properties.

Another concern the Bradleys had was about screening between parking lots and residential lots. The Urbana Zoning Ordinance does not require screening for parking if movement of the cars is required to go onto the right-of-way. Parking spaces numbered 9, 10 and 11 on the Site Plan, Exhibit D, would therefore not be required to have screening. However, parking space numbered 8 would require screening, which the applicant had expressed a willingness to do.

The Bradleys expressed concern about screening of the garbage or refuse. The applicant has agreed to create a space at the northeastern portion of the building for a screened and sectioned off garbage and recycling containers.

Lastly, the Bradleys were concerned about the hours of operation of the gaming hall. The use of gaming hall is permitted by right in the B-3 Zoning District; however, they are required to conform to all applications of City Code with regards to hours of operation.

Chair Armstrong asked if the Zoning Board of Appeals members had any questions for City staff.

Ms. Chester wondered how wide the alley is. Mr. Marx stated that it is approximately 15 to 16 feet. Ms. Chester commented that the narrower the parking space is the harder it will be for drivers to make the turn.

Ms. Uchtmann questioned how many parking spaces are required. Mr. Marx answered saying the City requires eight parking spaces for the proposed building and uses. Ms. Uchtmann wondered why the applicant wanted to provide 11 parking spaces. Mr. Marx replied that the applicant wanted to provide convenience and requirements of their tenants and patrons for use to the south of the building.

With there being no further questions for City staff, Acting Chair Welch opened the public hearing up for public input.



Mark Allen, Principal for MALA, LLC, approached the Zoning Board of Appeals to speak. He pointed out that the proposed building, while in approximately the same place as the existing building, would be about 30% smaller. He mentioned that he met with the Bradleys at the beginning of the meeting to discuss their concerns and hoped to have resolved some of them.

They felt that they would need more parking spaces than what was being required of them. They have addressed the screening of the refuse issue. The location of the utility pole on the Bradleys drawing was a little off. It is actually located at the corner of the property line across from the Bradley’s sidewalk and would not impact Parking space #8.

Parking space #8 will setback from the alley about four to five feet. Parking spaces #9, #10 and #11 will setback approximately seven feet from the property line. The alley is narrow, and he does understand their concerns. He does want to be a good neighbor; however, the fact that the alley is narrow and causes difficulty with approach to their drive does not give the Bradleys a right to use the subject property as a means of ingress to their drive. By having some of the parking off the alley eliminate the ingress and egress traffic onto University Avenue, it will be a big benefit to the area.

With there being no additional input from the public, Acting Chair Welch closed the public input portion and opened the hearing for discussion and/or motion(s).

Mr. Warmbrunn asked for clarification on the existing parking situation. Mr. Marx stated that currently there is parking in the front of the building along University Avenue and parking in the back. The proposed new layout would eliminate the parking in front, which was a safety issue and provide one additional space in the back along the alley.

Ms. Uchtmann wondered if the driveway of the single family home was located next to the sidewalk. Mr. Marx stated that it is perpendicular to the alley and setback a few feet from the sidewalk.

Mr. Warmbrunn moved that the Zoning Board of Appeals forward Case No. ZBA-2015-MAJ-04 to the City Council with a recommendation for approval with the following conditions:

1. The site is developed in general compliance with the Site Plan, Exhibit D.
2. The parking space and curb cut along University Avenue are eliminated as proposed in the Site Plan, Exhibit D.

Ms. Uchtmann seconded the motion. Roll call on the motion was as follows:

Ms. Chester	-	Yes	Ms. Uchtmann	-	Yes
Mr. Warmbrunn	-	Yes	Mr. Welch	-	Yes

The motion was approved by unanimous vote. Acting Chair Welch stated that this case would be forwarded to City Council on Monday, June 1, 2015.

Mr. Warmbrunn moved that the Zoning Board of Appeals forward Case No. ZBA-2015-MAJ-05 to the City Council with a recommendation for approval with the following conditions:

1. The site is developed in general compliance with the Site Plan, Exhibit D.
2. The parking space and curb cut along University Avenue are eliminated as proposed in the Site Plan, Exhibit D.

Ms. Chester seconded the motion. Roll call on the motion was as follows:

Ms. Chester	-	Yes	Ms. Uchtmann	-	Yes
Mr. Warmbrunn	-	Yes	Mr. Welch	-	Yes

The motion was approved by unanimous vote. Acting Chair Welch stated that this case would be forwarded to City Council on Monday, June 1, 2015.