



## 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:** Robert A. Myers, AICP, Planning Manager

**DATE:** May 12, 2006

**SUBJECT:** **ZBA Case # 2006-MAJ-02:** A Major Variance to allow a 100% encroachment into the 18-inch minimum required distance from the side lot line for an accessory garage at 510 W. Oregon Street in the R-2, Single-Family Residential Zoning District

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### **Introduction**

Katherine Hunter and Jens Sandberger are requesting a Major Variance to allow a replacement detached garage at 510 W Oregon Street to be constructed with a 100% encroachment into the 18-inch minimum side yard setback. The property is zoned R-2, Single-Family Residential District. An old single-car garage is currently located at the site which is deteriorated and functionally obsolete. This garage is located on the side yard lot line with no setback and is thus nonconforming. The petitioners propose to replace the old garage and build a new slightly larger structure in the same location on the lot line with no setback.

The Urbana Zoning Ordinance (Table VI-1 and Section VI-5.9) allows accessory garages in Residential zoning districts which are less than 750 square feet to be built with a minimum side yard setback of 18 inches (as measured from the eaves). Once the existing garage is removed, it will lose its nonconforming status and a new garage would have to meet the minimum 18 inch setback requirement. The petitioners are applying for a variance from this requirement because they believe there are mitigating circumstances to allow the new garage to be built with no setback. Pursuant to the Urbana Zoning Ordinance, the Zoning Board of Appeals must recommend approval of a major variance by a two-thirds majority for the case to be forwarded to City Council for a final decision.

### **Background**

#### **Description of the Site**

The property is located in the West Urbana Neighborhood which is a well established neighborhood built in the early 20<sup>th</sup> century. The area is a highly desirable place to live in part because of its proximity to the University of Illinois campus. The subject property is surrounded by single-family homes, and R-2, Single-Family residential zoning.

## 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	R-2, Single Family Residential	Single-Family Residence	Residential
North	R-2, Single Family Residential	Single-Family Residence	Residential
South	R-2, Single Family Residential	Single-Family Residence	Residential
East	R-2, Single Family Residential	Single-Family Residence	Residential
West	R-2, Single Family Residential	Single-Family Residence	Residential

## Discussion

510 W Oregon Street and the neighborhood were originally platted with lots narrower than are common today. The lot is 56.1 feet wide by 123.76 feet long, with an area of 6,943 square feet. The petitioners propose to build a new detached garage of 374 square feet (17-foot wide by 22-foot long). The proposed garage would have two stories with a heated gardeners' work room on the second floor. Ms. Hunter is an avid gardener and almost the entire backyard of the property is a garden. The petitioners would like to locate the new garage on the site of the old garage so that the garden can be maintained as it is.

The existing garage is 12-feet wide and the proposed garage would be 17-feet wide, not including eaves. The ordinance requirement is that the furthest extension of the garage, *including eaves*, must be no closer to the side lot line than 18-inches. The separation is required for such things as allowing some minimum space for painting the garage and performing other maintenance activities, keeping the roof drip line on the property for the purposes of drainage, and making sure any foundation footing doesn't encroach on the neighboring property. Where a structure has no setback, it becomes impossible to maintain the side of the building without working from the neighbor's property. Also a foundation footing encroaching on the neighbor's property could mean they would have to set back any garage of their own along this line so that the two footings would not interfere with each other. A negative to requiring an 18-inch setback is that it creates a narrow space where grass can grow and weeds or debris may accumulate needing maintenance.

By constructing the new wider garage on the east lot line the petitioners will be able to accomplish a number of things. The interior parking area will be wider giving more clearance to open car doors (which is impossible in the narrow old garage). There will also be room to accommodate the stairway to the second floor gardeners' work room. The trade off is that the greater width will sacrifice about 5 feet of garden west of the garage. Following the ordinance requirements would mean locating the new wider garage (including eaves) outside the 18-inch setback, placing it about 18-inches to 24-inches further west and too close to the trellis porch behind the house. Therefore, for the garage to be built as wide as proposed and located out of the side yard setback it would need to be shifted further to the rear of the lot to clear the porch. The existing garage is 20-feet long and the proposed garage would be 22-feet long. If the

proposed location must be shifted further to the rear of the lot, then it would sacrifice more of the existing garden patio to the rear of the garage (see photo exhibits) than just the two feet the petitioners need to accommodate a longer modern car.

In terms of layout, the lot is rectangular in shape, as are all lots on the block and most in the neighborhood. While the lot is four feet narrower than the current regulations allow to be platted today, the 6,943 square foot area of the lot exceeds the current 6,000 square foot minimum. The approximately 45-foot distance from the rear of the porch on the house to the rear lot line provides enough space to move the garage further to the rear of the lot. The 56-foot width of the lot behind the house is also enough space to accommodate a 17-foot wide garage (with additional eaves) and also respect the 18-inch minimum side yard requirement.

The petitioners state that their lot slopes downward toward the rear lot line with a fall of 9-inches from the front of the existing garage to the rear of the garage and sloping further to the rear lot line. The result of the lot slope is a drainage problem with wet ground at the rear of the lot and water coming from neighboring property. According to the petitioners shifting the proposed location for the new garage further back on the property would result in a hardship due to the cost of building up a level ground surface to overcome the drainage concerns. The petitioners also do not wish to add to the length of the driveway surface because it would add to the cost of construction, add more impervious surface potentially exacerbating the drainage problem, and would increase the area needing winter snow removal.

For more information on the petitioner perspective with the petitioner's responses to the six specific variance criteria questions listed in the following section please see the attached application (Exhibit F) and the letter to the Zoning Board and City staff (the first item of correspondence in Exhibit H).

## **Analysis**

In reviewing the variance criteria of Section XI-3.C.2.c.3, this request appears to meet some but not all the criteria. It does appear that the requested variance would have little impact on the surrounding neighborhood and will not affect the general safety and welfare of the public. There also appears to be a practical difficulty in carrying out the strict letter of the Zoning Ordinance relating to the use of the property in that moving the garage would require maneuvering cars past the house at the end of the driveway. The driveway is very narrow and is squeezed between the east wall of the house and property line. The Zoning Board of Appeals must judge if the special conditions and circumstances of the case offer constraints which can only be overcome by means which constitute practical difficulties or particular hardships. If the Board finds that is the case a variance of the regulations can be approved.

### ***Space trade offs:***

The following is an analysis of the amount of space that might be traded off by moving the location of the garage:

- The footprint proposed for the larger garage sacrifices about 134 square feet (5-feet by 22-feet plus 2 feet by 12-feet) converted from green space / garden to impervious surface / roof.

- Shifting the location from to the west and north would sacrifice an additional strip of about 44 square feet (2-feet wide by 22-feet long) of green space / garden west of the garage and turn it into green (but useless) setback space east of the garage along the property line.
- Shifting the location of the garage approximately 10-feet further to the rear of the lot would sacrifice an additional area of about 170 square feet (10-feet deep by 17-feet wide) from green space / garden currently to the north of the garage for an unwanted area of impervious surface / driveway in front of the garage.

***Costs and hardships:***

Construction cost information for the project and alternatives is not a required component of the application. For that reason the project can not be analyzed for cost hardships. The cost of the proposed design is unknown. What is known is that the project calls for replacing an existing single-car garage with a slightly larger single-car garage including: a stairway to a small second story heated gardeners' workroom, balcony with sliding glass door access, and skylights. The cost of paving an estimated 170 square foot area in front of a relocated garage is an unknown. The dollar cost of raising the ground level and installing the foundation in the estimated 170 square foot area to the north of the existing garage, as compared to the cost of a foundation in the area as proposed by the petitioners is unknown.

***Circumstances that may favor granting the variance***

- The lot is narrower than most platted today.
- The lot width and location of the house were not designed to accommodate a garage of modern dimensions.
- The neighbors to the east who are most likely to be impacted by the variance do not oppose it.
- The variance would offer no adverse impact to the community or neighborhood at large.
- The petitioners' yard is comprised of a master quality garden.

***Circumstances that may favor denying the variance:***

- Although the circumstances and difficulties described are special in that they are specific to the yard and garden of the subject property, they may not be special in scope.
- A hardship in this case appears to be relatively small.
- Strict adherence to the regulations will not cause a negative impact the community, even though it may cause practical difficulties for the petitioners.

## Variance Criteria

Once it has been determined whether or not there are special circumstances or special practical difficulties, Section XI-3.C.2.c.3 provides the following variance criteria which must be considered by the Zoning Board of Appeals. (Please note that Criterion Number 6 regarding practical difficulty and particular hardship has been recently added to the Zoning Ordinance, as a part of the Omnibus Text Amendment. This Criterion was added for consistency with State Statute and zoning practice in other Illinois communities):

1. *The proposed variance will not serve as a special privilege because the variance requested is necessary due to special conditions and 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;*
2. *The variance requested was not the result of a situation or condition having been knowingly or deliberately created by the Petitioner;*
3. *The variance will not alter the essential character of the neighborhood;*
4. *The variance will not cause a nuisance to adjacent property;*
5. *The variance represents generally the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request.*
6. *The variance requested is the result of practical difficulties or particular hardship in the way of carrying out the strict letter of the Zoning Ordinance relating to the use, construction, or alteration of buildings or structures or the use of land.*

## Staff Findings

The following are the Staff findings in this case as they pertain to the variance criteria listed above:

1. The proposed variance would allow a detached garage to be built with a zero foot side yard setback at 510 W Oregon Street.
2. Based on the evidence, practical difficulties exist for this property in terms of moving a replacement garage off of the existing driveway alignment. Doing so would require cars to maneuver around the northeast corner of the house.
3. Granting the variance would not have a significant impact on the character of the area as the West Urbana Neighborhood already has an existing pattern of detached garages with very small or no setbacks from property lines.
4. Granting a variance would not extend a special privilege to the petitioner because there are practical difficulties with the property in terms of having an existing narrow driveway located between the house and the side yard property line.

5. The proposed variance would not create a nuisance on the neighboring property. Although the proposed garage does not include gutters on the east side, the existing garage does not have gutters and the net increase in runoff would be negligible.

## Options

The Zoning Board of Appeals has the following options in this case:

- a. The Urbana Zoning Board of Appeals may recommend approval of the variance as requested to the Urbana City Council based on the findings outlined in this memo; or
- b. The Urbana Zoning Board of Appeals may recommend approval of the variance to the Urbana City Council along with certain terms and conditions. If the Board of Appeals elects to recommend conditions or recommend approval of the variances on findings other than those articulated herein, they should articulate findings accordingly; or
- c. The Zoning Board of Appeals may recommend denial the variance request. If the Zoning Board of Appeals elects to do so, the Board should articulate findings supporting its denial.

## Recommendation

Based on the findings outlined herein, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Urbana Zoning Board of Appeals **recommend approval** of a side yard setback variance in #ZBA Case 2006-MAJ-02.

Attachments:

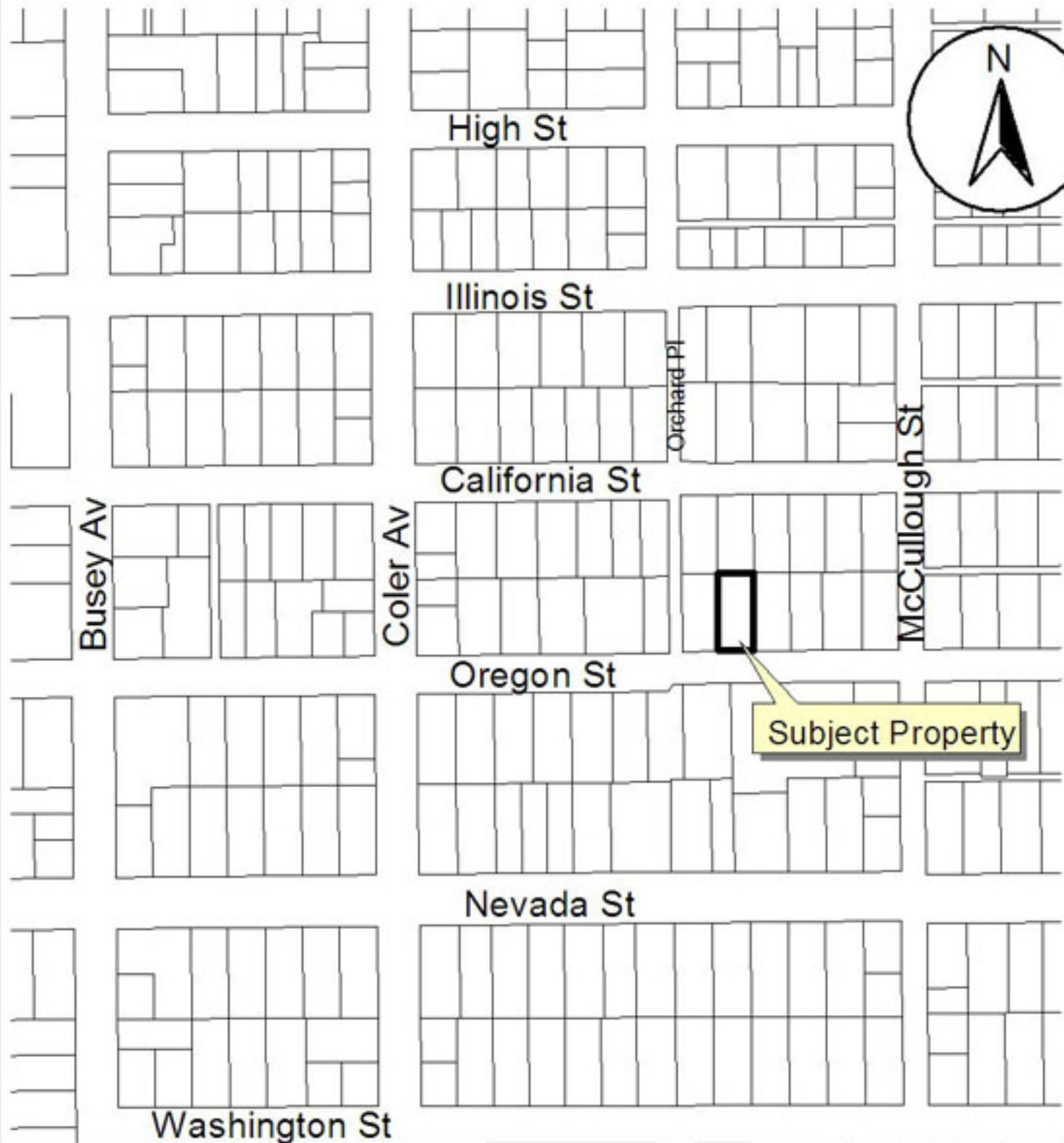
Exhibit A:	Location Map
Exhibit B:	Zoning Map
Exhibit C:	Aerial Photo with Existing Land Use
Exhibit D:	Future Land Use Map
Exhibit E:	Aerial Photo - Close Up
Exhibit F:	Petition for Variance with Site Plan
Exhibit G:	Site Photos
Exhibit H:	Correspondence

cc:

Kate Hunter and Jens Sandberger  
510 W. Oregon Street  
Urbana, IL 61801

# Location Map


# Exhibit "A"



200 0 200 400 600 800 Feet

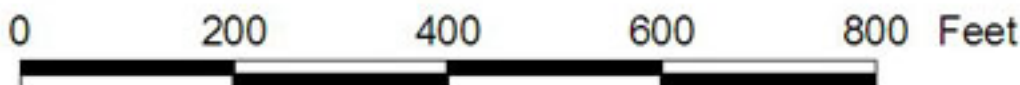
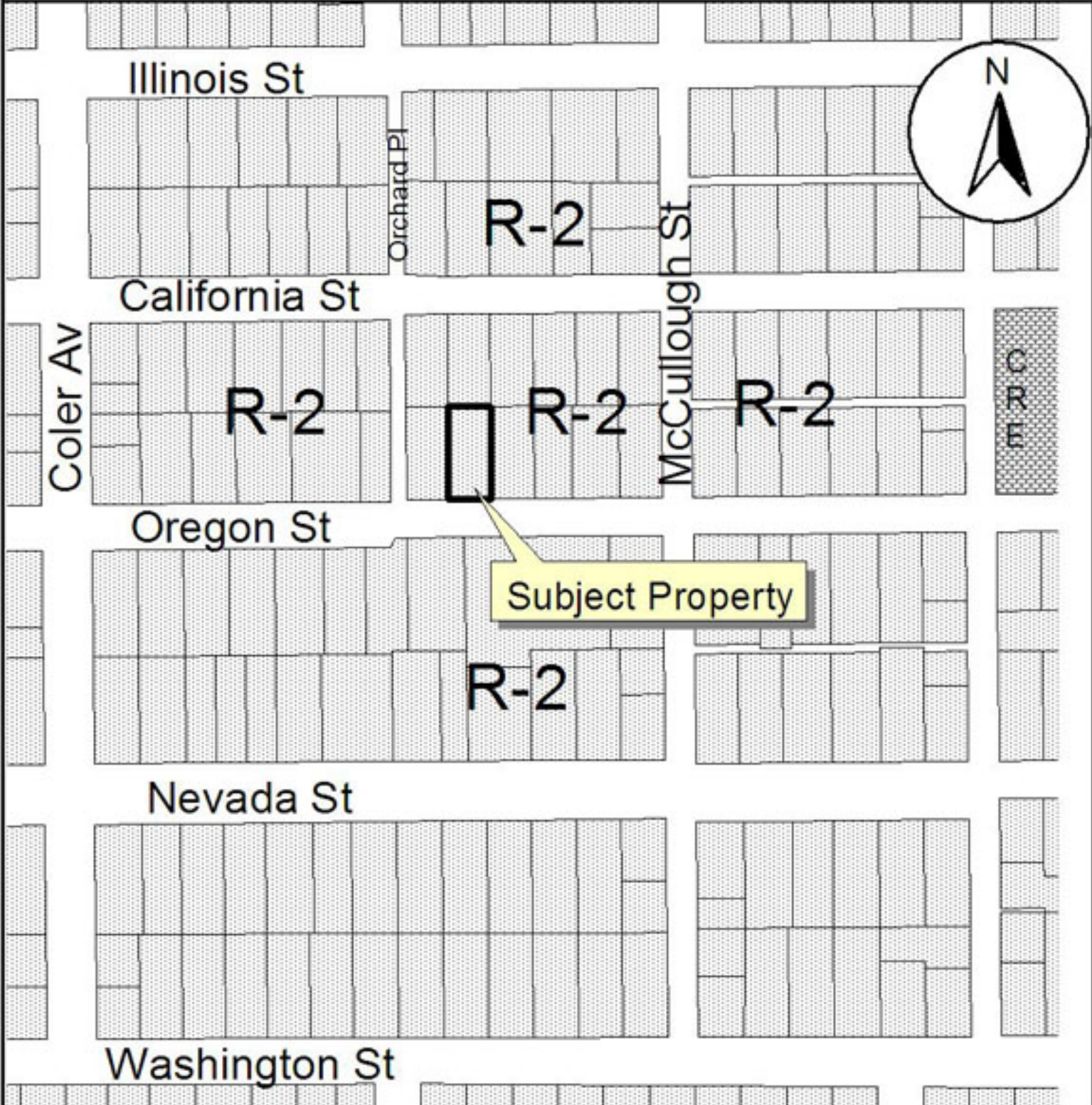


ZBA Case: 05-MAJ-02  
Petitioner: Katherine Hunter and Jens Sandberger  
Location: 510 W Oregon Street  
Zoning: R-2, Single-Family Residential  
Description: Major Variance to construct an accessory garage with a 100% encroachment into side yard setback

 Subject Property

# Zoning Map

# Exhibit "B"

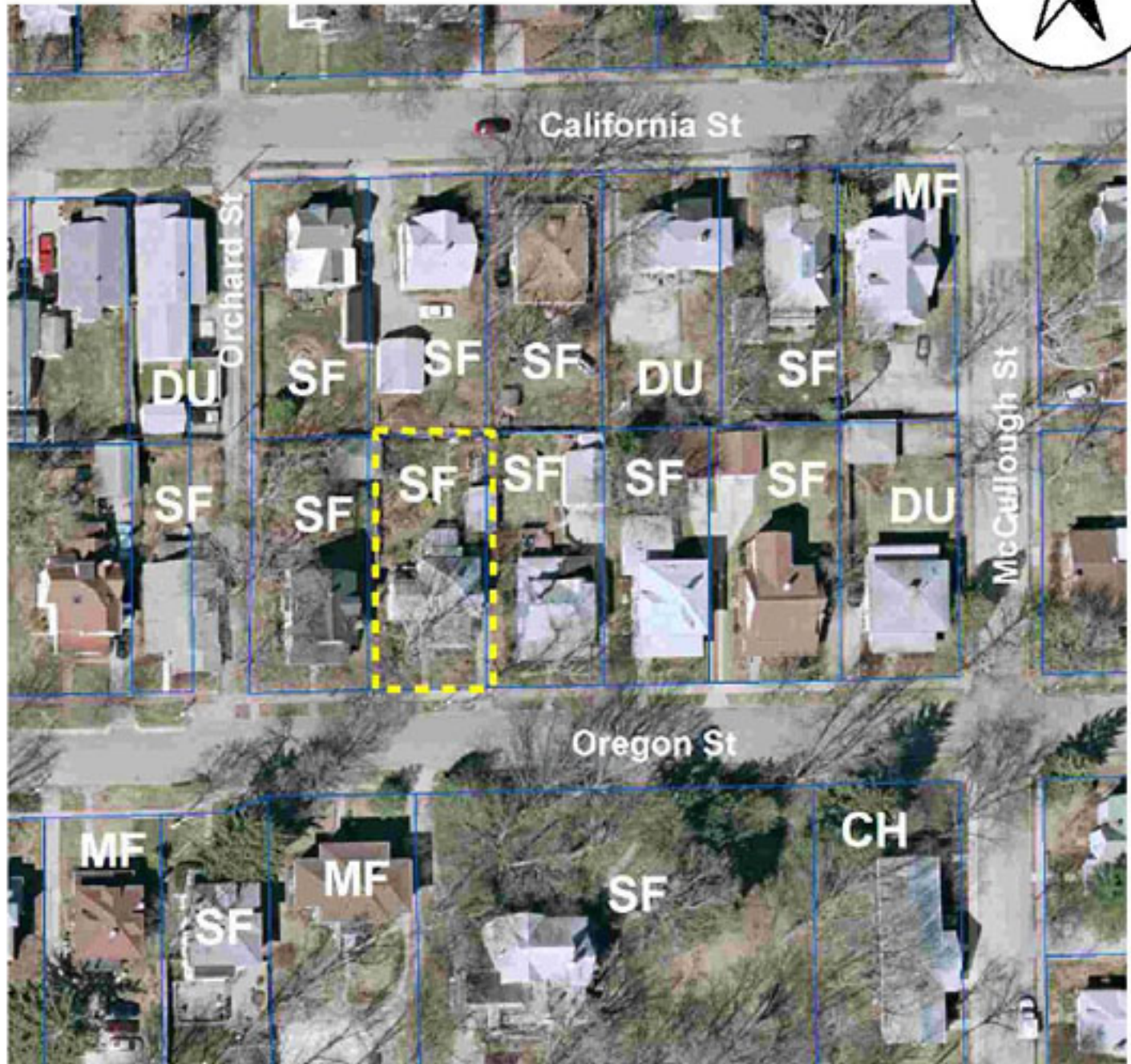


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R2 - Single Family Residential  
CRE - Conservation-Recreation-Education





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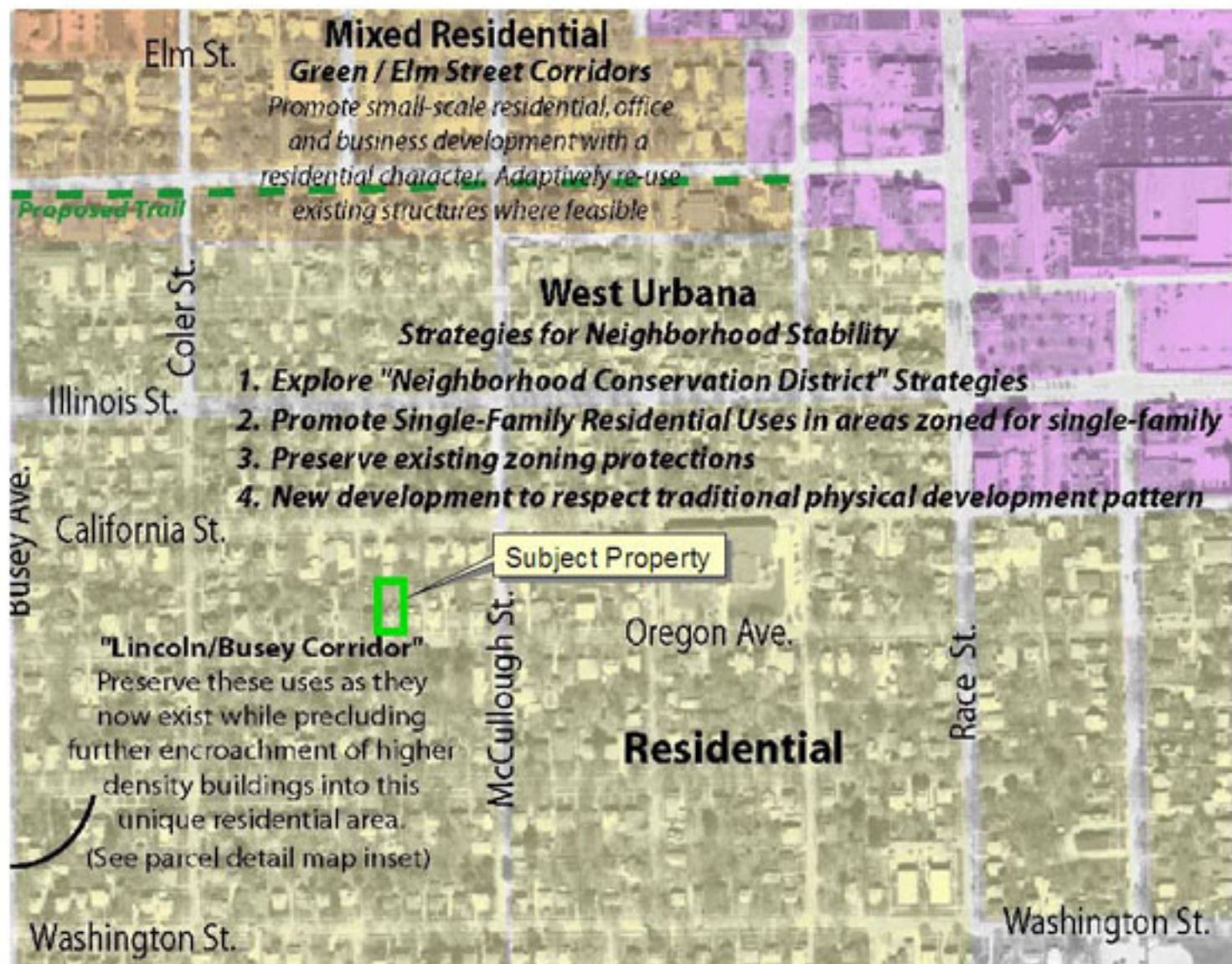
 Subject Property

SF - Single Family  
DU - Duplex  
MF - Multi Family  
CH - Church

# Future Land Use Map

# Exhibit "D"

Source: Comprehensive Plan Future Land Use Map # 8, p.79



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#1 View north down driveway and east property line



#2 Closer view of garage



#3 Garage door and floor



#4 East across back of porch at garage



#5 Southeast at garage and back porch



#6 East across back of yard at garage

Site Photos

Exhibit "G-2"



#7 East across back of yard behind garage



#8 Area north of garage. Bushes are on neighbors property.



#9 North face of garage



#10 East wall of garage on lot line from neighbors yard.



#11 Southwest to garage and house from neighbors yard



#12 Northwest to garage and bushes from neighbors yard