

MINUTES OF A RESCHEDULED MEETING

URBANA ZONING BOARD OF APPEALS

DATE: March 12, 2008

APPROVED

TIME: 7:30 p.m.

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

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

MEMBERS EXCUSED: Joe Schoonover

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

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

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

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

2. CHANGES TO THE AGENDA

There were none.

3. APPROVAL OF MINUTES

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

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

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

4. WRITTEN COMMUNICATIONS

There were none.

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

5. CONTINUED PUBLIC HEARINGS

There were none.

6. NEW PUBLIC HEARINGS

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

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

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

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

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

ZBA-2008-MAJ-01:

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

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

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

ZBA-2008-MAJ-02:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The motion was passed unanimously.

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

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

The motion was passed by unanimous vote.

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

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

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

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

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

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

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

She mentioned the major difficulties in developing the proposed site. First, the small size of the three parcels is only about 34,400 square feet, which is not much when taking into consideration that their location is along two major thoroughfares (high traffic counts and high demand for use of the site). Second, an alley bisects the site with major utilities that run through the alley, so the footprint of the building has to be located north of the alley. Third, concerning site geometry, the sidewalk along University Avenue curves around to Lincoln Avenue creating a gateway on the northeast portion of the property. This area was dedicated for the gateway, and because of this there is a larger setback area that the petitioner is not allowed to build on.

Exhibit D, which is the Site Layout, shows the proposal to develop the site to its fullest potential and to create a gateway for the intersection of University Avenue and Lincoln Avenue. The plan shows why the petitioner needs a variance for the setback. City staff gave a range because as you can see it will vary along Lincoln Avenue due to the step back design of the proposed building.

In addition, to help out with site circulation and safety, the petitioner wants to vacate the portion of the alley along the north end of the two smaller properties that exits onto Lincoln Avenue. Instead they are proposing to designate an easement along the western side of the proposed site to continue the alley to exit on Clark Street.

Ms. Karcher talked about parking and mentioned that the petitioners plan to provide additional offsite parking as well. She reviewed the variance criteria from Section XI-3 of the Urbana Zoning Ordinance. She summarized staff findings and read the options of the Zoning Board of Appeals. She presented staff's recommendations for both cases, which are as follows:

ZBA-2008-MAJ-03:

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 Zoning Board of Appeals forward major variance Case ZBA-2008-MAJ-03, to allow for encroachment of a building in the required front yard setback along University and Lincoln Avenues, to the Urbana City Council with a recommendation for approval with the following conditions:

- 1. The development shall be constructed in general conformance to the site plan layout submitted as part of the application and attached hereto.*
- 2. The area between the proposed building face and the curb shall be improved to include landscaping and improvement of the existing walkway. The improvements shall be reviewed and approved by the Zoning Administrator and the City Arborist.*

ZBA-2008-MAJ-04:

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 Zoning Board of Appeals forward major variance Case ZBA-2008-MAJ-04, to allow parking to encroach greater than ten feet into the required fifteen-foot

front yard setback along Lincoln Avenue, to the Urbana City Council with a recommendation for approval with the following conditions:

- 1. The development shall be constructed in general conformance to the site plan layout submitted as part of the application and attached hereto.*
- 2. A landscape buffer shall be provided along the east and south side of the proposed parking area. The landscape buffer shall be reviewed and approved by the Zoning Administrator and the City Arborist.*

With no questions from the Zoning Board of Appeals for City staff, Chair Merritt opened the meeting up to take testimony from the public. She began with the petitioner and others who are in favor of the proposed development.

Chris Dillion and Dave Cocagne, of the Vermilion Development Corporation (petitioners), and Tim Pellegrini, of the Farnsworth Group, approached the Zoning Board of Appeals to speak. Chair Merritt swore in Mr. Dillion and Mr. Cocagne. They were not present when she swore in other members of the audience.

Mr. Cocagne elaborated on the overall vision for the project. The City of Urbana and the University of Illinois have for many years now talked about a gateway building at the corner of University and Lincoln Avenues. In fact, it is contemplated in the City's 2005 Comprehensive Plan.

He showed an elevation drawing of the proposed development. He commented that they feel it will be a focal point for visitors coming to the University of Illinois campus as well as other visitors travelling down the University Avenue corridor.

It is a five to six million dollar investment, and it is one of the few private redevelopment projects along the University Avenue corridor between Lincoln Avenue and Wright Street. Most of the redevelopment along this corridor has been done by the University of Illinois. They feel the proposed development will provide a nice bookend to the University Avenue corridor for the University of Illinois campus. The proposed type of building will also advance the City's goal to create some urban fabric on the University Avenue corridor. It will return a piece of property to the tax rolls and will generate significant incremental property tax revenue for the various taxing bodies in the City of Urbana. Therefore, it represents a great example of public-private partnership, and it accomplishes the goals of the City and of the University of Illinois.

He responded to an earlier comment/question regarding parking. He mentioned that they are working on a memorandum of understanding with the University of Illinois to provide some offsite parking at the parking deck located immediately east of the Beckman Institute. They will be coming before the Zoning Board of Appeals again in the near future for another variance request for a setback to allow some additional parking on a property with a single-family home. They just signed a contract with the owner of the property. They must assemble parking as they can.

He thanked the Zoning Board of Appeals for allowing him the opportunity to present their case.

Mr. Armstrong commented that the University of Illinois is generally committed to the idea that if they construct a building on campus, then it will have a long life cycle. They often speak about their buildings lasting 100 years. Considering that the proposed site is part of the University of Illinois, how did this factor into the discussions about the building materials, etc? Mr. Cocagne replied that the site technically sits outside of the University's Master Plan boundaries. This is why they had entered into an agreement with the City years ago.

He went on to say that that they could have designed a rectangular building for the proposed site, but it would not have created the aesthetic that anyone was hoping to achieve on this site. Whether it is the architecture or the selection of building materials, one would find that they plan to construct the property to the highest quality commercial standards in Champaign-Urbana. He feels that part of the trade off that the University faces quite frankly in terms of first cost versus maintenance cost is very challenging for the University to obtain funds for deferred maintenance from the general assembly. Unlike the University, Vermilion Development Corporation appropriates funds every year to maintain the structures they build. In terms of quality, he feels that it will be exactly what the University of Illinois would expect. In fact, they consulted with the University's architect about their plans and received his blessing.

Mr. Corten inquired about the use of each floor. Mr. Cocagne explained that the first floor would be used partially for retail space with the balance of the floor being used for commercial/office space. The upper two floors will be used for office space. Carle Development Foundation will be locating some of its offices in the proposed building. They are currently in discussions with another institutional user as well.

Mr. Corten asked if there would be no apartments. Mr. Cocagne said that is correct. No housing is contemplated for this site.

Ms. Uchtmann questioned how the proposed development would affect the existing sidewalk. Mr. Cocagne stated that they would have to reconstruct the sidewalk given the way that the building will be situated on the site. They have budgeted about \$50,000 for sidewalk replacement.

Ms. Uchtmann asked if the sidewalk replacement would be in the same location. Mr. Pellegrini replied yes. It is sitting right along the right-of-way line, so it will need to be replaced in the same exact spot.

Ms. Uchtmann inquired about the mature trees along Lincoln Avenue between the sidewalk and the proposed parking area. What are they proposing to do with the trees? Mr. Cocagne explained that the large trees do not pertain to the variance. The trees are located in the center of the south two lots off of Clark Street and along the western boundary of the property. The trees are in the middle of the proposed site and do not have anything to do with either variance request. Ms. Uchtmann stated that there are also four trees along Lincoln Avenue. Mr. Cocagne stated that they have contemplated doing some replacement landscaping. Because of the proximity to the proposed parking area, they will most likely be unable to save the trees. However, the variance request includes their replacement landscaping across the site.

Ms. Uchtmann commented that the only reason she asked about the trees is because as you look farther down Lincoln Avenue, you see a series of trees the same size. It provides a nice feeling for pedestrians as they walk down the street. Mr. Cocagne appreciated her sensitivity to this, and they will certainly try to create enough of a landscaping buffer that will provide some appeal to pedestrians who walk in the area. They are doing a number of other things to look at additional beautification of the University Avenue corridor. He mentioned that the City is currently engaged with some other parties in a streetscaping study, which Vermilion Development Corporation is very interested in. He has a long history in working in this corridor and helped work on the medical office building project at Provena-Covenant, so he is particularly interested and very committed to seeing it cleaned up. There are just certain limitations they have to make the proposed project viable. They are sensitive to the landscaping issue, but he does not want to misrepresent in any way that they think they will be able to save the trees.

Mr. Warmbrunn wondered how one would pull into the proposed parking lot. It appears that the parking is kind of close to the apartment building that is next door. There does not appear to be any room to buffer the parking lot either. Mr. Cocagne responded by saying one would enter the facility from the Clark Street curb cut. Ms. Karcher explained that they would either pull into a parking space right off the alleyway or pull into the parking area and park in one of the spaces. The Site Layout Plan is confusing because it shows extra dimension lines in the parking spaces. She noted that there is 2.23 feet along the easement in gross, and according to the City's zoning regulations, the petitioner could install a fence as their buffer between the two properties.

Mr. Warmbrunn wondered if the City has requested the petitioner to install the fence. Mr. Myers replied yes. It is part of the City's normal requirement for buffering. Ms. Karcher added that when the site plan comes in for review, it would be a requirement for approval of the site plan.

Chair Merritt wondered if the City could request a certain type of fence. Mr. Myers said it has to be an opaque fence to serve as a screen.

Mr. Warmbrunn asked if they would still be required to install the fence even with an easement on the west side. Ms. Karcher explained that it is an easement in gross, which means that technically it will still be there property, but it gives the public the right to use the easement. Mr. Warmbrunn still wondered why the City does not require a five foot buffer on the west side. Mr. Myers answered by saying that the Zoning Ordinance requirement is for a minimum of a fence, so the petitioner will be providing a fence, because they do not have five feet to provide a buffer. Therefore, they will be meeting the minimum requirement on the west side.

Mr. Myers stated that he has more information on the trees. Ms. Uchtmann noted that there are large trees to the east of the Dairy Queen property. What will happen to these trees? Mr. Myers explained that these trees are either on private or public property. On private property, since the City does not have a tree preservation ordinance, essentially it would be up to the property owner to determine how to deal with the trees. Property owners see mature trees as an amenity, because there are a number of benefits. But in this case, the proposed site has high demand and high traffic counts, so it is logical that the proposed site will be more intensively developed. For trees on public property, the City has a tree program to manage trees in the rights-of-way. The City of Urbana's Tree Program is recognized not only in the State of Illinois, but elsewhere

across the country. We have a City Arborist, City Forestry Technician, and City Landscaping Technician. Their jobs are to manage the trees in the rights-of-way, which includes planting trees, maintain the trees and removing trees that are dangerous or dead. There is a life cycle and a maintenance cycle for the trees in the public rights-of-way. When new developments take place and trees need to be removed from the public rights-of-way, there are policies that make sure the public is compensated either with new replacement trees or with money to plant trees elsewhere. The program takes into account the size of the trees being removed as well. However, it would not be fair to a property owner of a vacant lot to not be able to develop the lot due to the presence of street trees. So, we make sure that trees in the rights-of-way are replaced.

Chair Merritt recalled that the University of Illinois had planted a bunch of little trees where the donut shop use to be. Hopefully, they will move the trees to another location. Mr. Myers noted that the City Arborist will consult with the developers to work out a plan or solution for how to deal with any trees in the right-of-way.

Bob Patel, owner of Dairy Queen, expressed his concern about closing off the alley. It will affect a lot of the public who uses the alley. Mr. Myers explained that even though the alley would be closed off exiting onto Lincoln Avenue, it would be rerouted to exit south onto Clark Street. Mr. Patel replied that he understood, but it would still affect the public who uses the alley.

Mr. Patel inquired about what type of restaurant would be allowed in the proposed building. Chair Merritt answered that they did not know this yet. Mr. Patel replied by saying that they need to figure that out. Mr. Welch explained that what type of food or restaurant they have has nothing to do with zoning of a property. Mr. Patel expressed his concern about it being a fast-food restaurant, because there is already a high volume of traffic. More businesses mean more traffic for an already high traffic intersection. Mr. Welch did not feel that it would accommodate a fast-food restaurant because a drive thru is not contemplated in the plans. More businesses would mean more business for Dairy Queen as well.

Mr. Myers stated that an alley closure would have to be approved separately by the City Council. He mentioned that Mr. Patel should receive a notice about the City Council hearing. Mr. Patel may provide further input at the City Council meeting about how the alley closure would affect adjoining neighbors.

He went on to say that whether or not the alley remains as it currently is, the utilities will stay in that area. One reason is because it would be very expensive to move the utilities. This means that the petitioner is not allowed to construct a building over the utility lines, so they are either going to have to build north of the existing alley or south of it. The petitioner is proposing to build north of the alley.

Mr. Warmbrunn asked for clarification about whether a fence is going to be built without the need for further language/conditions placed on the approval of the variance request. Mr. Myers said yes. Mr. Welch pointed out that if the petitioner is planning to build a five to six million dollar building then they will probably install a decent fence. They would not want to detract from the property by installing a cheap looking fence. Mr. Cocagne commented that he is absolutely right. If he had his way, he would make it a landscaping buffer rather than a fence,

because it would be better in terms of greening the property. However, the City requires a fence, so they will construct a fence, and it will look first rate.

Mr. Warmbrunn wondered why there needs to be a fence. Is it because of the parking lot and the need to provide a buffer in a five foot area? Mr. Myers explained that there is a residence next door. The petitioner needs to install a fence to help screen the vehicular headlights in the parking lot, so the headlights do not intrude on the neighboring residents.

Mr. Warmbrunn asked if this is why the alley is 2.23 feet smaller to accommodate the fence. Mr. Myers replied by saying that the alley is not actually smaller. The proposed alley will be 21.5 feet, which is the width of a back out for a parking aisle. Many alleys are not this wide.

Mr. Warmbrunn inquired as to whether a semi truck would be able to make the turn in the proposed alley. Mr. Myers said yes, the size of trucks that use the alley will be able to make the turn. City staff has researched this.

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

Mr. Corten moved that the Zoning Board of Appeals forward ZBA Case No. 2008-MAJ-03 to the City Council with a recommendation for approval with the conditions as recommended by City staff. Mr. Welch seconded the motion. Roll call on the motion was as follows:

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

The motion was approved by unanimous vote.

Ms. Uchtmann wondered if the petitioner was not asking for the additional setback along Lincoln Avenue, would they still need to remove the large trees? Mr. Cocagne replied that there are no trees in the setback area. Ms. Uchtmann stated that she was referring to the trees to the south in the parking area. Mr. Cocagne explained that the variance for the setback does not extend down into the southern parcels. It is only for the northern property where they plan to construct the building.

Ms. Uchtmann moved that the Zoning Board of Appeals forward ZBA Case No. 2008-MAJ-04 to the City Council with a recommendation for approval along with the conditions as recommended by City staff. Mr. Armstrong seconded the motion. Roll call on the motion was as follows:

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

The motion was approved by unanimous vote.

Mr. Myers noted that these two cases would go before City Council on March 24, 2008 at a special City Council meeting.

7. OLD BUSINESS

There was none.

8. NEW BUSINESS

There was none.

9. AUDIENCE PARTICIPATION

There was none.

10. STAFF REPORT

There was none.

11. STUDY SESSION

There was none.

12. ADJOURNMENT OF MEETING

The meeting was adjourned at 9:08 p.m.

Respectfully submitted,

Robert Myers, AICP, Secretary
Urbana Zoning Board of Appeals