



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Urbana Zoning Board of Appeals

FROM: Lisa Karcher, Planner II

DATE: May 21, 2009

SUBJECT: ZBA-2009-MAJ-04 and ZBA-2009-MAJ-05: Two major variance requests by Scott Kunkel to allow for a 19% increase in the maximum allowable Floor Area Ratio and a 37% decrease in the minimum allowable Open Space Requirement for 805 West Green Street and 303 South Busey Avenue.

Introduction

Scott Kunkel on behalf of Stephen R. Hartman, property owner, is requesting two major variances to allow for the enclosure of 84 existing balconies by replacing the existing screening system with new exterior walls with operable windows. The subject property is located at 805 West Green Street and 303 South Busey Avenue and is known as the Busey Court Apartment Complex. The two requested major variances involve the Floor Area Ratio (FAR) and Open Space Requirement (OSR) for the R-5, Medium High Density Multiple Family Residential Zoning District for which the property is zoned. Major Variance Case ZBA-2009-MAJ-04 would allow for a 19% increase in the maximum allowable FAR from 0.90 to 1.07 and Major Variance Case ZBA-2009-MAJ-05 would allow for a 37% decrease in minimum allowable OSR from 0.30 to 0.19.

Pursuant to the Urbana Zoning Ordinance, the Zoning Board of Appeals must recommend approval of major variances by a two-thirds majority for the variances to be forwarded to City Council for a final decision.

Background

The subject property is located on the south side of West Green Street between South Lincoln Avenue and South Busey Avenue and consists of approximately 36,404 square feet in area. The subject property is an “L” shaped lot that has frontage on both West Green Street and South Busey Avenue. The property is commonly known as 805 West Green Street and 303 South Busey Avenue. The property is zoned R-5, Medium High Density Multiple Family Residential. The subject property is currently developed with an 84-unit apartment complex known as the Busey Court Apartment Complex. Access to the apartment complex is from South Busey Avenue.

Adjacent Land Uses, Zoning Designations and Comprehensive Plan Designations

A range of residential uses occupy the properties to the north, south, and east of the subject property. The majority of the residential uses include apartment buildings with eight or more units. There are also single-family and duplex units in the surrounding area. Consistent with the mix of residential uses, there is also a range of residential zoning districts such as R-3, R-4, R-5 and R-6 in the area. The properties to the west are occupied by a gas station and a church and are zoned B-1 and B-4, respectively.

Following is a summary of zoning and land uses for the subject site and surrounding property. Exhibits A, B and C further illustrate this information.

Location	Existing Zoning	Existing Land Use	Comprehensive Plan Future Land Use
Site	R-5, Medium High Density Multiple Family Residential	Apartments Units	Multi-Family
North	R-5, Medium High Density Multiple Family Residential R-6, High Density Multi-Family Residential	Apartments Units	Multi-Family
South	R-4, Medium Density Multiple Family Residential R-5, Medium High Density Multiple Family Residential	Apartments Units	Multi-Family
East	MOR, Mixed Office Residential R-4, Medium Density Multiple Family Residential R-3, Single and Two-Family Residential	Single-Family Dwelling Apartment Units Duplex	Mixed Residential Residential
West	B-1, Neighborhood Business R-4, Medium Density Multiple Family Residential	Marathon Gas Station Church of Jesus Christ of Latter Day Saints	Campus Mixed-Use

Discussion

The Busey Court Apartment Complex was built in 1981. The apartment complex consists of two, three-story buildings with a total of 84 one-bedroom units. Each unit has a balcony that is fully enclosed with full height masonry wing walls on the side and a wood framework and screen system on the front as illustrated in the photos in Exhibit D. The petitioner is proposing to enclose the balconies and incorporate the space into each of the units. A portion of this space is proposed as closet space in the bedrooms. Currently, there are no closets in the bedrooms. Operable windows, that will provide natural light and ventilation to the units, are proposed as part of the new façade. Included in the application material hereto attached as Exhibit E, are drawings showing the existing floor plan with the balcony and the proposed floor plan with the balcony area incorporated into the living and bedroom spaces. The petitioner notes that the proposed alteration will assist with meeting “apartment residents’ expectations regarding storage space and natural light”.

Since the balconies are in effect completely enclosed at this time, the proposed renovations will have minimal impact on the perceived mass of the building. Aesthetically, the proposed enclosure of the balconies will be positive in that items that are currently stored on the balconies will no longer be visible. The proposed enclosure of the balconies does however impact the FAR and OSR development regulations. The R-5 Zoning District, for which the subject property is zoned, requires a maximum FAR of 0.90 and a minimum OSR of 0.30. These regulations have not changed since the project was constructed in 1981. FAR is the ratio of gross floor area of all buildings to the lot area. By enclosing the balconies, the gross floor area of the buildings is increased, while the lot area remains constant, and therefore the FAR will become higher. In this case, enclosing the balconies results in an FAR of 1.07, which is a 19% increase in the maximum allowable FAR. OSR is the ratio of open space to the gross floor area of the buildings. The effect of enclosing the balconies is two-fold on OSR. The existing balcony space can be counted as open space. Therefore, enclosing the balconies not only increases the buildings' gross floor area, but also decreases the amount of open space. In this case, enclosing the balconies results in an OSR of 0.18, which is a 37% decrease in the minimum required OSR. However, there is no effective change in usable open space since the balconies are currently enclosed by a screening system.

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 outlined in the ordinance as they pertain to this case:

1. *Based on evidence presented, determine whether there are special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance.*

The subject property is entirely developed and is located in a densely developed area in Urbana. The only way to enclose the existing balconies and comply with FAR and OSR regulations would be to acquire additional land or decrease the size of the existing buildings. Since the subject property is surrounded by developed land, it is highly unlikely that additional property could be acquired. Additional open space could be provided if existing on-site parking was eliminated. As noted by the petitioner, "Elimination of existing surface parking within the site to create additional open space is counter productive to the parking challenges in this neighborhood and would create an additional area of nonconformance with the zoning ordinance."

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 petitioner has indicated that "The unique character of the balconies intended for enclosure typically result in them not being used for their intended purpose. This style of balcony construction is not typically observed in multi-family residential developments in this area." Aesthetically, the proposed enclosure of the balconies will be positive in that items that are currently stored on the balconies will no longer be visible to adjacent properties. In addition, by enclosing the balconies,

usable storage space inside the units will be created. There are currently no closets in the bedrooms. Closets are a basic necessity and help to make the apartments viable.

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

The apartment complex was constructed in 1981. As noted by the petitioner, renter's expectations have changed since the apartments were constructed. Current storage space is inadequate to meet the storage demands of the tenants. Due to the way the existing balconies are enclosed, natural light and ventilation are reduced. Integration of the balcony space into the units will provide for proper storage space inside the units. In addition natural light and ventilation will be improved with the incorporation of operable windows on the new façade. The enclosure of the balconies is proposed to better meet the current market demand and thereby increase the marketability of the apartment units.

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

Granting the variances would not have a significant impact on the essential character of the neighborhood. The overall site layout and density will remain the same. Since the balconies are in effect completely enclosed at this time, the proposed alterations will have minimal impact on the perceived mass of the building. Granting the variances would not change the height or setback of the structures, nor extend them beyond the existing building envelope. Aesthetically, the proposed renovations will be positive in that items that are currently stored on the balconies will no longer be visible to adjacent properties.

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

As noted by the petitioner, "The variance will not cause a nuisance to adjacent property owners as it does not result in additional residential units, occupants, parking capacity, and/or activity level on the subject property. Furthermore, the enclosure of the balconies eliminates a potential nuisance by preventing the use of the balcony areas as a storage area exposed to view from adjacent properties."

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

The variance requests are based on the area of the balconies, which represents the minimum deviation necessary to allow for the enclosure of all 84 balconies. The petitioner has illustrated this calculation in the variance application.

Summary of Findings

1. The petitioner is proposing to enclose 84 existing balconies at the Busey Court Apartment Complex located at 805 West Green Street and 303 South Busey Avenue.
2. The subject property is located in a developed area and is zoned R-5, Medium High Density Multiple Family Residential.

3. To allow for the enclosure of the balconies, two major variances have been requested. Major Variance Case ZBA-2009-MAJ-04 will allow for a 19% increase in the maximum allowable FAR from 0.90 to 1.07 and Major Variance Case ZBA-2009-MAJ-05 will allow for a 37% decrease in minimum allowable OSR from 0.30 to 0.19.
4. The enclosure of the balconies is proposed to better meet the current market demand and thereby increase the marketability of the apartment units by providing usable closet space and providing for increased natural light and ventilation.
5. Granting the requested variances would not have a significant impact on the character of the neighborhood and would not cause a nuisance to adjacent properties because they would not allow for the extension the buildings beyond the existing building envelope.
6. The requested variances represent the minimum deviation from the Zoning Ordinance to allow for all 84 of the balconies to be enclosed.

Options

The Zoning Board of Appeals has the following options for recommendation to the City Council regarding in Major Variance Case Nos. ZBA-2009-MAJ-04 and ZBA-2009-MAJ-05:

- a. Recommend approval, by two-thirds majority, of the variances as requested based on applicable findings outlined in this memo;
- b. Recommend approval, by two-thirds majority, of the variances as requested along with certain terms and conditions. If the Urbana Zoning Board of Appeals elects to add conditions they should articulate findings accordingly; or
- c. Deny the variances as requested. If the Zoning Board of Appeals elects to do so, the Board should articulate findings supporting their denial.

Staff Recommendation – ZBA-2009-MAJ-04

Based on the analysis and findings presented in the discussion above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Zoning Board of Appeals **APPROVE** the requested major variance in Case No. ZBA-2009-MAJ-04 to allow for a 19% increase in the maximum allowable FAR from 0.90 to 1.07.

Staff Recommendation – ZBA-2009-MAJ-05

Based on the analysis and findings presented in the discussion above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that

the Zoning Board of Appeals **APPROVE** the requested major variance in Case No. ZBA-2009-MAJ-05 to allow for a 37% decrease in minimum allowable OSR from 0.30 to 0.19.

The above recommendations are being made separately since they are two separate cases that require individual action. Both variances would however be necessary to allow for the enclosure of the balconies as proposed.

Attachments: Exhibit A: Location and Existing Land Use Map
 Exhibit B: Existing Zoning Map
 Exhibit C: Future Land Use Map
 Exhibit D: Site Photos
 Exhibit E: Variance Application

cc: Scott Kunkel
 505 South Fifth Street
 Champaign, IL 61820

 Stephen R. Hartman
 505 South Fifth Street
 Champaign, IL 61820

Exhibit A: Location and Existing Land Use Map



ZBA Case: ZBA-2009-MAJ-04 and ZBA-2009-MAJ-05
Description: Request for two major variances involving a 19% increase in the maximum allowable FAR and a 37% decrease in the minimum allowable OSR.
Petitioner: Scott Kunkel
Location: 805 West Green Street and 303 South Busey Avenue
Zoning: R-5, Medium High Density Multiple Family Residential

Land Use
 COM - Commercial
 DUP - Duplex
 INST - Institutional
 MF - Multi-Family
 SF - Single-Family

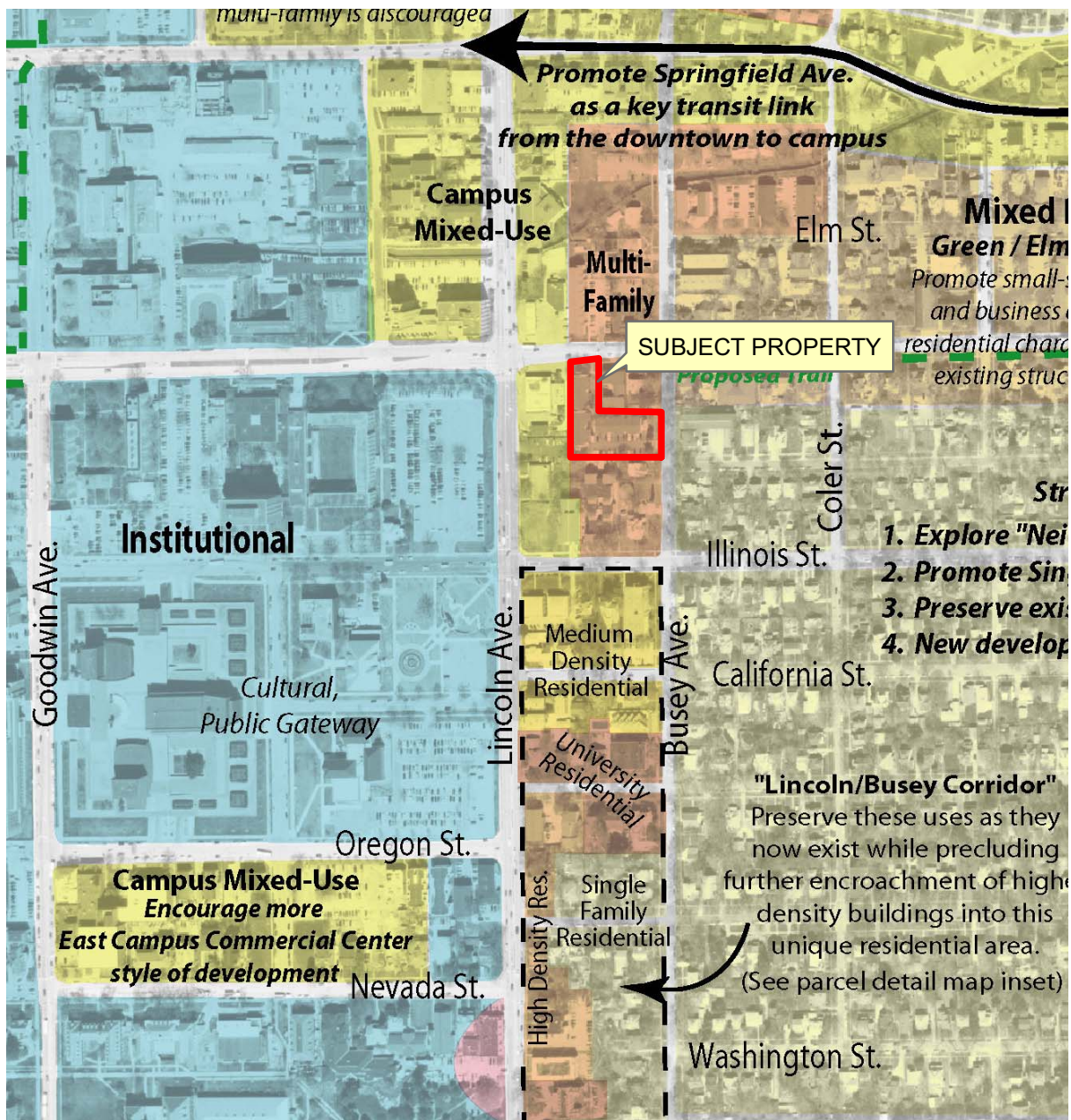
Exhibit B: Existing Zoning Map



ZBA Case: ZBA-2009-MAJ-04 and ZBA-2009-MAJ-05
Description: Request for two major variances involving a 19% increase in the maximum allowable FAR and a 37% decrease in the minimum allowable OSR.
Petitioner: Scott Kunkel
Location: 805 West Green Street and 303 South Busey Avenue
Zoning: R-5, Medium High Density Multiple Family Residential

Zoning	
	R2
	R3
	R4
	R5
	B1
	MOR
	R6

Exhibit C: Future Land Use Map



ZBA Case: ZBA-2009-MAJ-04 and ZBA-2009-MAJ-05

Description: Request for two major variances involving a 19% increase in the maximum allowable FAR and a 37% decrease in the minimum allowable OSR.

Petitioner: Scott Kunkel

Location: 805 West Green Street and 303 South Busey Avenue

Zoning: R-5, Medium High Density Multiple Family Residential

Prepared 05/09 by Community Development Services - LK







Request for Variance

Zoning Board Of Appeals

APPLICATION Fee - \$150.00 (Major) and \$125.00 (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 USE ONLY

Date Request Filed 04-28-2009 ZBA Case No. ZBA-09-MAJ-04 &
ZBA-09-MAJ-05
 Type of Variance (Circle One) Major Minor
 Fee Paid - Check No. 9683 Amount \$150.00 Dated 04-27-2009

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION:

A VARIATION is requested in conformity with the powers vested in the Zoning Board of Appeals to permit (insert use or construction proposed and the type and extent of variation requested) the enclosure of 84 existing balconies by replacing the existing screening system

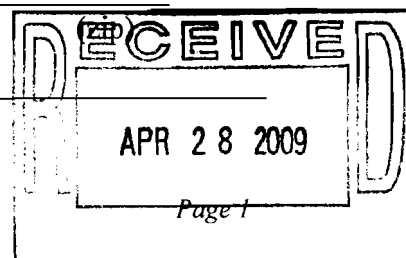
with new exterior wall incorporating operable windows. The proposed alteration results in no additional residential units, occupancy density, perceived building volume or building area outside the current building footprint. Alteration requires reduction in minimum OSR (per Table VI-3) from the required 0.30 to 0.18 and increase in maximum FAR from 0.90 to 1.07.

on the property described below, and in conformity with the plans described on this variance request.

1. Location of Subject Site 303 S. Busey & 805 W. Green (contiguous parcel)
2. PIN # of Location 92-21-17-103-019
3. Name of Applicant/Petitioner(s) Scott Kunkel Phone 217-359-5828

Address 505 S. Fifth Street, Champaign, IL 61820
 (street/city) (state)

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



4. Name of Owner(s) Stephen R. Hartman Phone 217-359-5828
Address 505 S. Fifth Street, Champaign, IL 61820
(street/city) (state) (zip)

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

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

6. Name of Architect(s) Scott Kunkel Phone 217-359-5828
Address 505 S. Fifth Street, Champaign, IL 61820
(street/city) (state) (zip)

7. Name of Engineers(s) n/a Phone _____
Address _____
(street/city) (state) (zip)

8. Name of Surveyor(s) n/a Phone _____
Address _____
(street/city) (state) (zip)

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

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

Legal Description The south 114.67 feet and the west 40 feet of the north 130 feet of Lot 2 in Sims Addition of Outlots and the east 39 feet of Lot 3 in Sims Addition of Outlots; all in the City of Urbana, Champaign County, Illinois

Lot Size 115.0 & 131.27 feet x 226.38 & 79.0 feet = 36,404 square feet

Present Use Multi-family residential with associated surface parking
(vacant, residence, grocery, factory, etc)

Zoning Designation R-5

REASONS FOR REQUEST FOR VARIATION:

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

1. Identify and explain any special circumstances or practical difficulties in carrying out the strict application of the Zoning Ordinance with respect to the subject parcel.

See attached

2. 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.

See attached

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

See attached

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

See attached

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

See attached

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

See attached

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

WHEREFORE, petitioner prays that this petition be heard by the Zoning Board of Appeals and the variations to the regulations of the Zoning Ordinance be changed as herein requested.

Respectfully submitted this 29th day of April, year, 2009 A.D.



Signature of Applicant

STATE OF ILLINOIS)
Vermilion) SS
~~CHAMPAIGN~~ COUNTY)

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

Subscribed and sworn to before me on this 27 day of April, year 2009 A.D.

Donna Townsley
Notary Public



Petitioner's Attorney: _____
(if applicable)

(address)

(telephone number)

PLEASE RETURN THIS FORM ONCE COMPLETED TO:

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

Or Fax to (217) 384-2367

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

ATTACHMENT TO REQUEST FOR VARIANCE
BUSEY COURT APARTMENTS
303 S. BUSEY & 805 W. GREEN, URBANA, ILLINOIS

1. *Identify and explain any special circumstances or practical difficulties in carrying out the strict application of the Zoning Ordinance with respect to the subject parcel.*

The subject parcel is located within a developed area of the City of Urbana, making acquisition of additional property area impractical. Elimination of existing surface parking within the site to create additional open space is counter productive to the parking challenges in this neighborhood and would create an additional area of non conformance with the zoning ordinance.

2. *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.*

The unique character of the balconies intended for enclosure typically result in them not being used for their intended purpose. This style of balcony construction is not typically observed in multi-family residential developments in this area.

Recurring observations regarding the use patterns of the apartment residents suggests that few residents actually utilize their balconies as occupiable space. Instead, the balconies tend to become storage space for surplus boxes and furnishings, creating a detrimental impact on the surrounding area. The primary utility of the current balconies is a source of natural ventilation for the interior space. This function will continue to be available with the proposed balcony enclosure through the inclusion of a large area of operable windows serving both the bedroom area and the living space.

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

The Busey Court apartment complex was constructed in 1981. At that time, apartment residents' expectations regarding storage space and natural light were very different from current market demands. The very limited closet space is inadequate to meet current demands for storage. The recessed glazing in the living room results in a significant reduction in natural light as a result of the shading effect of the balcony areas. In addition, natural ventilation effectiveness for the interior space is reduced because of the buffering effect of the balcony area. The balconies cover the entire width of the living room exterior wall, eliminating the option to add additional windows to address the natural lighting or ventilation issues.

While the residential units are well maintained and frequently updated, the lack of closet space and natural light results in the units becoming functionally obsolete. These well constructed buildings have a considerable remaining useful life, but to maintain their viability within the market, the indicated deficiencies require corrective measures.

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

The balcony fronts are currently fully enclosed with a wood framework and screen system. The balcony sides are defined by existing full height masonry wing walls that project to enclose the entire depth of the balcony. The extent of this enclosure results in the perception that the balcony volume is already part of the existing building volume. The enclosure of the balconies will retain the same surface plane of the existing screen system and will not create the impression of any additional mass to the buildings. The finish of the exterior walls of the balcony enclosure will match the adjacent walls to integrate the new work with the existing buildings.

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

The variance will not cause a nuisance to adjacent property owners as it does not result in additional residential units, occupants, parking capacity, and/or activity level on the subject property. Furthermore, the enclosure of the balconies eliminates a potential nuisance by preventing the use of the balcony areas as a storage area exposed to view from adjacent properties.

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

The attached diagram depicts the overall site area and the available open space on the site. The changes to the FAR requirement and the OSR requirement are the minimum deviation necessary as illustrated in the following calculations:

Floor Area Ratio (FAR):

Site Area: 36,404 s.f.

Building Area Including Balconies: 38,830 s.f.

FAR Calculation: $38,830 \text{ s.f.} / 36,404 \text{ s.f.} = 1.067$

Maximum FAR Requested: 1.07

Open Space Ratio (OSR):

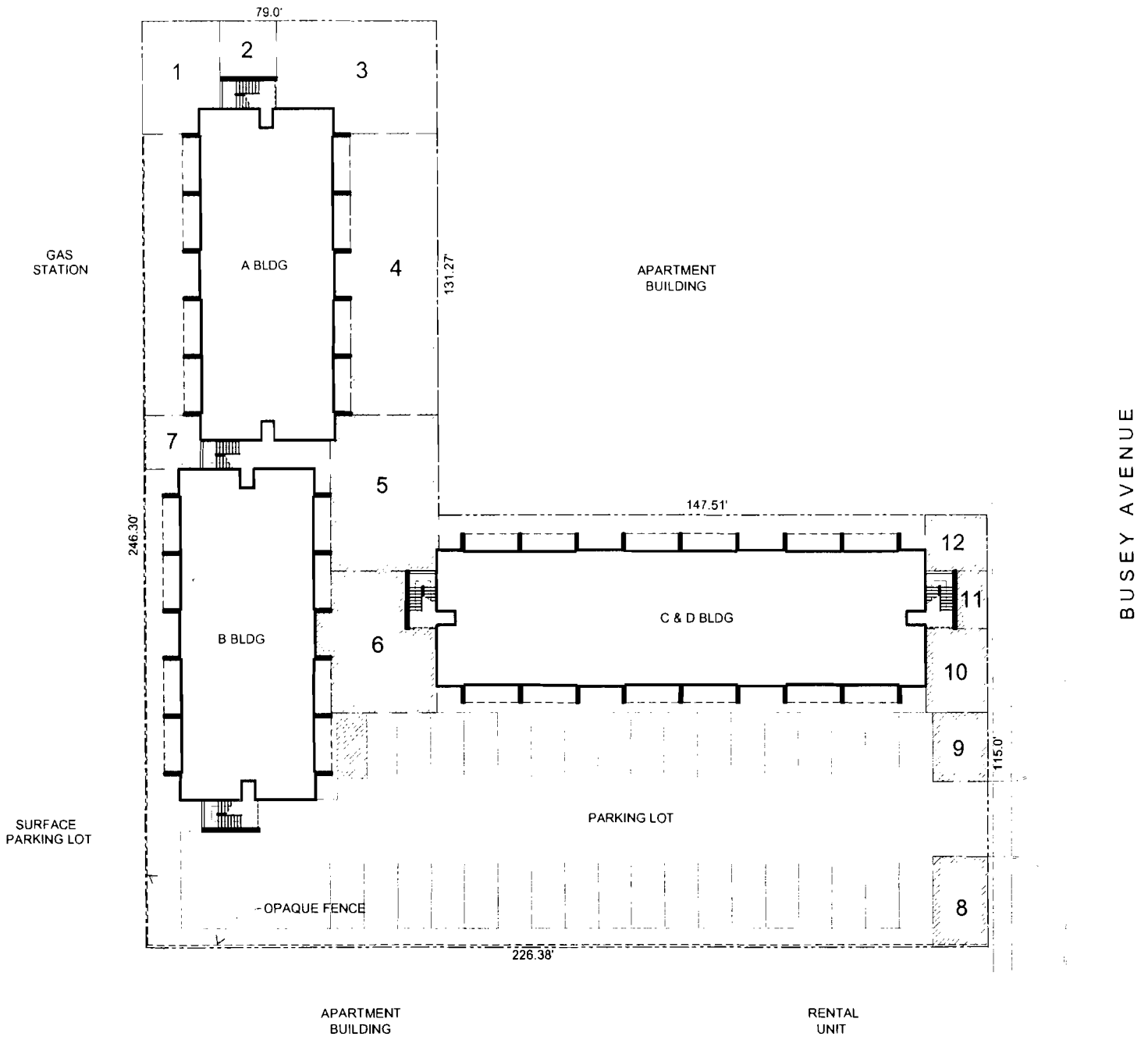
Building Area Including Balconies: 38,830 s.f.

Available Open Space (excluding balconies): 7,342 s.f.

OSR Calculation: $7,342 \text{ s.f.} / 38,830 \text{ s.f.} = 0.189$

Minimum OSR Requested: 0.18

GREEN STREET



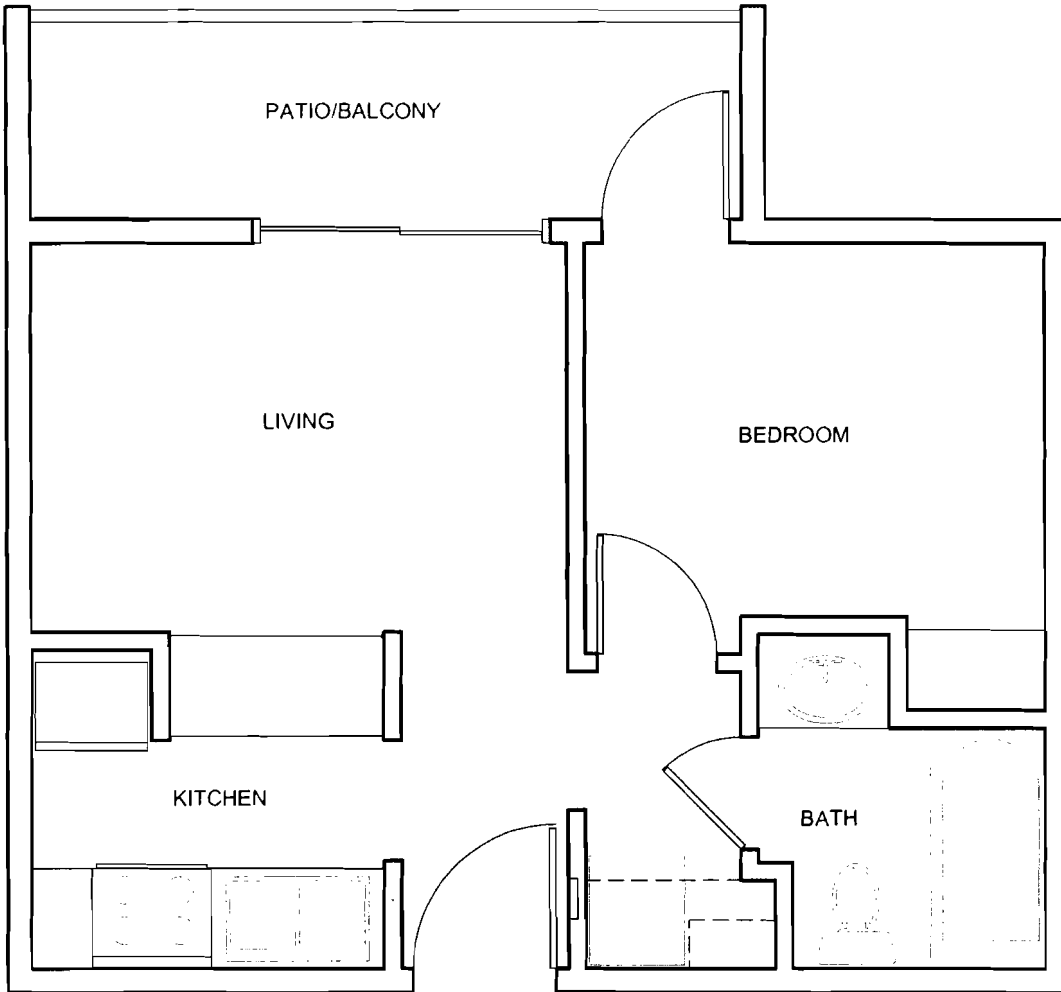
303 S. BUSEY
805 W. GREEN
SITE PLAN
SCALE: 1"=40'-0"



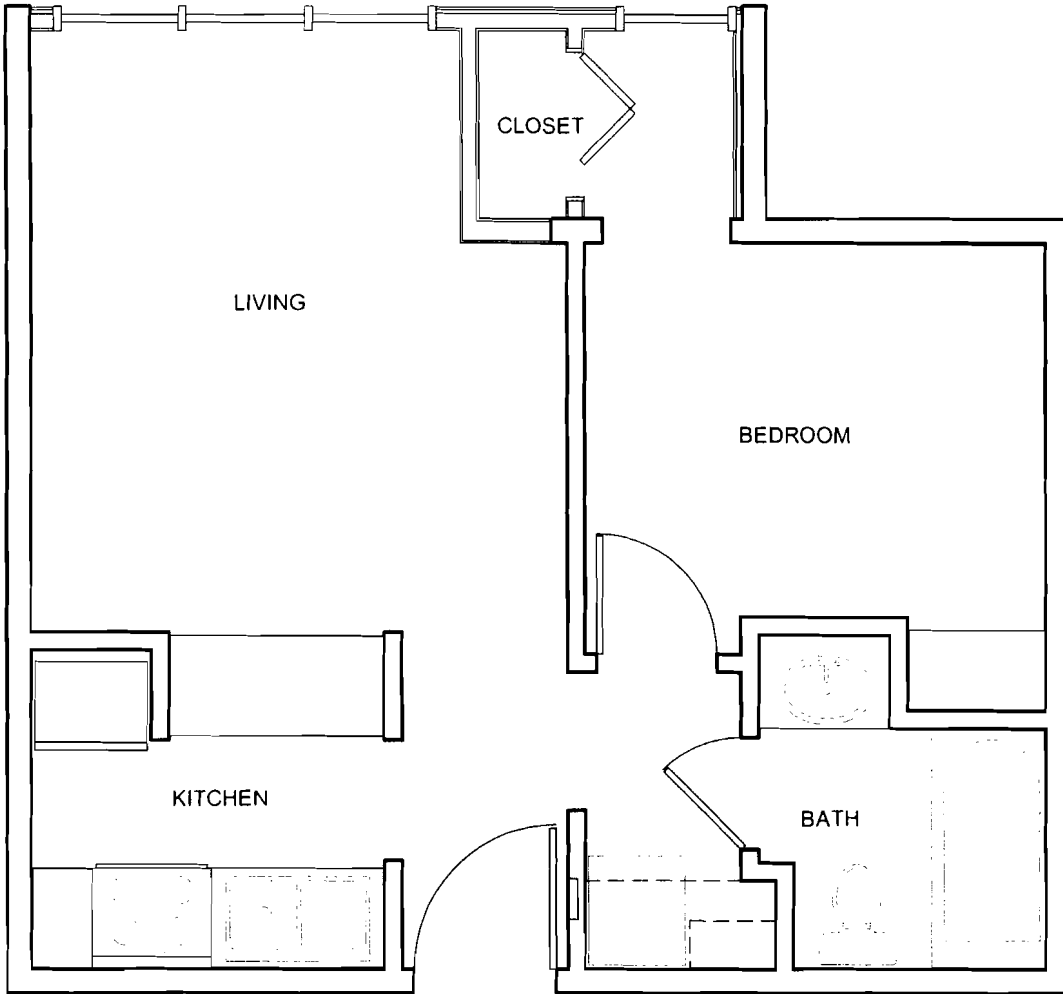
**REQUEST FOR VARIANCE ATTACHMENT
BUSEY COURT APARTMENTS
303 S. BUSEY & 805 W. GREEN, URBANA, ILLINOIS**

OPEN SPACE SUMMARY

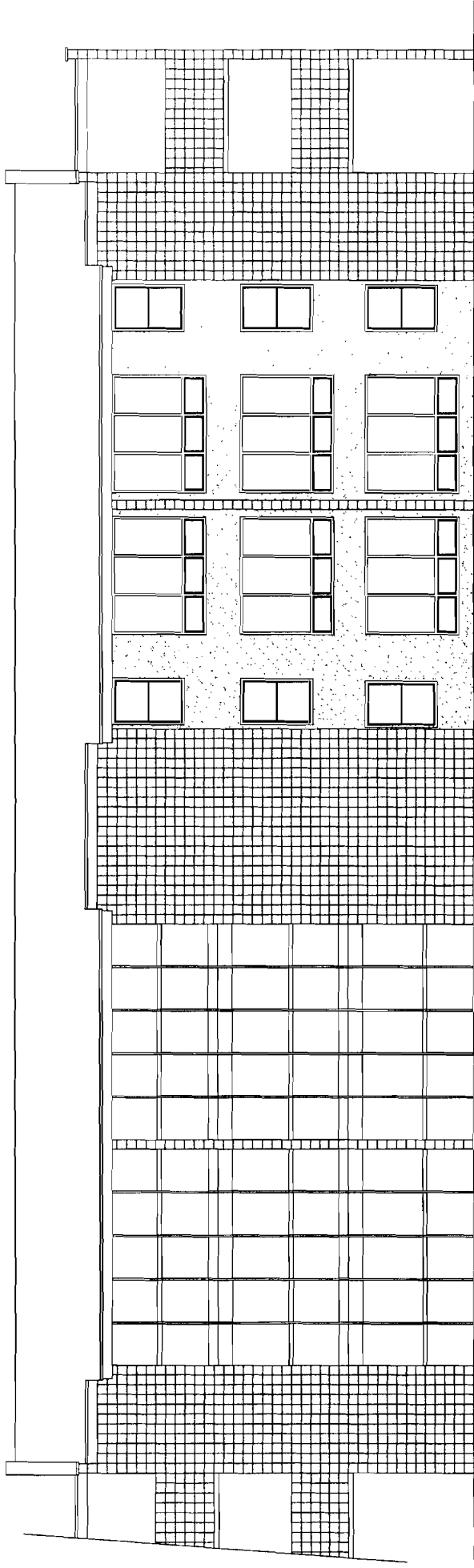
Open Space Designation	Area (SF)
1	570
2	450
3	802
4	1,702
5	1,106
6	724
7	225
8	360
9	300
10	513
11	240
12	350
Total	7,342



TYPICAL APARTMENT FLOOR PLAN - EXISTING
SCALE: 1/4" = 1'-0"



TYPICAL APARTMENT FLOOR PLAN - PROPOSED
SCALE: 1/4" = 1'-0"



EXISTING

PROPOSED

303 S. BUSEY/805 W. GREEN

PARTIAL ELEVATION

NOT TO SCALE



BUSEY COURT APARTMENTS – EXTERIOR VIEW FROM SOUTHEAST



BUSEY COURT APARTMENTS – TYPICAL EXISTING BALCONIES