



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: Jeff Engstrom, Planner II

DATE: September 14, 2012

SUBJECT: **ZBA Case No. 2012-MAJ-06:** A request by Andrew Fell for a Major Variance to construct a canopy which encroaches up to three feet, eight inches into a required front yard in the B-3, General Business District at 604 North Cunningham Avenue.

Introduction and Background

Andrew Fell has submitted a petition on behalf of Tin Roof Tavern for a major variance to construct a canopy that would project from an existing building into the required front yard setback along Cunningham Avenue. The subject property is a commercial zoning lot in the B-3, General Business Zoning District. Per Table VI-3 and Section VI-5.B.6 of the Urbana Zoning Ordinance, the minimum required setback would be 12 feet, six inches from the front property line. The proposed canopy would extend to within eight feet, ten inches of the property line, which represents a three foot, eight inch encroachment into the required setback.

Tin Roof Tavern is proposed to be located in one of two existing commercial buildings located on the northeast corner of North Cunningham Avenue and East Park Street. A new outdoor seating area is proposed to be added to the north side of the building at 604 North Cunningham. This new seating area will be located outside of the required setback; however the owner wishes to have a covered walkway between the west door of the building and the outdoor patio. The proposed canopy would project from the building and into the required front setback along Cunningham Avenue.

Section XI-3.C.2.b.1 of the Zoning Ordinance permits the Zoning Board of Appeals to approve a front yard reduction variance of up to 25% as a minor variance by a majority vote of its members. Reductions of over 25% are considered major variances, for which the Zoning Board of Appeals must recommend approval by a two-thirds majority for the variance to be forwarded to City Council for a final decision. Since this petition is for a Major Variance, the Zoning Board of Appeals must make a recommendation to the City Council.

Description of the Site

The variance is being requested for the building at 604 North Cunningham Avenue. This property is a 4,000 square foot building located at the corner of Cunningham and Park Street. The subject lot is irregularly shaped due to the angle of Cunningham Avenue with the southern property line being wider than the northern property line, which results in a setback along Cunningham that varies from 16 feet on the north end to 32 feet on the south. The building is set back zero feet from Park Street to the south. The building contains two separate business spaces. The southern space was used as an adult bookstore, but has been vacant for some time. The north space is also currently vacant, and has been occupied by restaurant/tavern uses, most recently Mug Shotz. In the setback between Cunningham Avenue and the building is a fenced-in outdoor seating area (commonly referred to as a beer garden).



The subject property is part of a larger zoning lot, consisting of two adjacent parcels under the same ownership in the B-3 district and totaling 1.96 acres in area. This larger site contains two buildings: a 10,000 square-foot office/warehouse building on the north side of the lot (608 North Cunningham Avenue), and the subject building, a vacant 4,000 square-foot building to the south (604 North Cunningham Avenue). The overall site also contains a vacant former mobile home park to the east. The larger building contains the offices of Country Financial, and a large warehouse space used by a theater company. The area between the two buildings is used as a shared parking lot.

Country Financial received a major variance in 2010 to allow a sign that is 18 feet, 6 inches high, 90 square feet in area, and set back five feet from the property line. The southern building has a separate sign, which is legally non-conforming for setback. The applicant will be allowed to replace the face of this sign, but cannot enlarge or modify the structure.

The subject property is located along Cunningham Avenue, a regional business corridor. The surrounding land uses are typical of a commercial corridor. To the south of the site is the Five Points Commerce shopping center. East of the site is a former mobile home park and the National Guard Armory. Across Cunningham Avenue to the west are two fast-food establishments, and a grocery store. To the north of the site is a used-car dealership and a mobile home park which is currently occupied.

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

Location	Zoning	Existing Land Use	Comprehensive Plan Future Land Use
Subject Property	B-3, General Business	Business (vacant storefront, financial services, and warehouse) Undeveloped land (formerly mobile homes)	Regional Business
North	B-3, General Business	Retail Business (used car sales) Residential (mobile homes)	Regional Business
South	B-3, General Business	Retail Business (Five Points Retail Center)	Regional Business
East	B-3, General Business CRE, Conservation, Recreation, Education	Undeveloped Public (National Guard Armory)	Regional Business Institutional
West	B-3, General Business	Retail Business (restaurants)	Regional Business

Comprehensive Plan

The 2005 Urbana Comprehensive Plan indicates the future land use for the surrounding area as “Regional Business”. The plan defines the Regional Business as follows:

“Regional Business centers are intended to serve regional as well as local demand. Typically located in a high-visibility area that offers convenient access and parking. The intensity of development may range from large-scale “big box” uses to smaller-scale buildings supporting outlot business opportunities. Although Regional Business areas are typically oriented primarily to automobile traffic, their design should include adequate facilities for pedestrians, bicyclists and public transit”

Discussion

A new tenant is opening a restaurant/tavern in the subject property, and is making several improvements to the premises. The key improvement will be a new enclosed, covered seating area to be located on the north side of the building, as shown on the site plan in Exhibit D. Providing seating on the north side of

the building will reduce traffic noise for customers sitting outside, as the current outdoor seating is directly adjacent to Cunningham Avenue, one of the busiest streets in Urbana. The existing outdoor seating area is separated from pedestrian traffic by a six-foot fence, but that fence is about 50% open, and does not protect the seating area from noise or fumes.

The proposed variance is necessary to provide access to the new seating area. The building has two exterior doors. The main entrance is on the north side, towards the eastern edge of the structure. The other is door on the west side and provides access to the existing enclosed outdoor seating area. The petitioner will create a wheelchair-accessible path from this western door to access the proposed outdoor seating on the north side of the building. The western door will be the only way to access the new outdoor seating area (except for an emergency exit). In order to provide cover for customers and staff, the petitioner plans on adding a six-foot deep canopy roof over the path from the door on the west side to the new outdoor seating on the north side. This canopy will extend to within eight feet, ten inches of the property line along Cunningham Avenue. The applicant is proposing that this canopy be six feet wide in order to provide protection from the elements for customers and staff on their way to and from the new outdoor seating area. A canopy of less depth would be allowed with only a minor variance, but would not provide as much protection to customers.

In the B-3, General Business zoning district, the minimum required front yard setback is 15 feet. There is a provision in Section VI-5.B.6 which allows canopy roofs to encroach two feet, six inches into the minimum setback; therefore the required yard is twelve feet, six inches. The proposed canopy will encroach three feet, eight inches into the required twelve foot, six inch front yard, which is equivalent to a 29% encroachment. Because the applicant is asking for more than a 25% variance, this request is regarded as a major variance, which must be approved by a two-thirds majority of the Zoning Board of Appeals in order to be forwarded to City Council for final approval.

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 specified in the ordinance as they pertain to this case, followed by staff analysis for 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.*
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 special circumstances requiring the variance are the location and configuration of the existing building. The building is located within 16 feet of the property line along Cunningham Avenue, which does not allow any additional space for construction of a canopy roof. Most of the buildings along this stretch of Cunningham Avenue are well out of the required front yard, set back between 20 and 50 from

the property line. The existing door that exits on to the west side of the building is the best way to provide access to the proposed outdoor seating area.

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

The variance is not due to a situation created by the petitioner. The location of the building and outdoor seating access door were established before the petitioner considered moving into the site. Adding a new door to directly access the new outdoor seating area is not feasible due to the configuration of the interior space.

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

Granting the variance would not alter the essential character of the neighborhood. The surrounding areas are all commercial in nature, and Cunningham Avenue is a high-traffic arterial. The canopy would cover a portion of an area which has been used as outdoor seating and should not be detrimental to the area. This area is already enclosed with a wooden fence, which extends all the way to the property line along Cunningham Avenue. The canopy would be cantilevered from the building and would not have any walls or support columns. The variance will have a positive effect on the neighborhood, in that it will allow for this vacant building to be re-opened.

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

The proposed canopy roof will not cause a nuisance to adjacent property. There are no adjacent residences. The canopy will not affect passing traffic or adjacent businesses.

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

The variance requests represent the minimum canopy depth necessary to provide a cover over an accessible walkway from the existing door to the proposed outdoor seating area.

Summary of Staff Findings

In determining whether a variance should be granted, findings of fact that are specific to the property or variance in question must be made. The findings of fact are based on the evidence presented above.

1. The petitioner is requesting a major variance to add a canopy that would extend 3 feet, 8 inches into the required 12 foot, 6 inch front yard setback at 604 North Cunningham Avenue.
2. The proposed variance would allow for a covered walkway to access a new outdoor seating area, as shown in the attached site plan.
3. The subject property is located in the B-3, General Business Zoning District.

4. The proposed variance would allow for the reopening and enhancement of a vacant business space, adding to the vitality of the area.
5. Per Table VI-3 and Section VI-5.B.6 of the Urbana Zoning Ordinance, the minimum required setback for a canopy is 12 feet, six inches from the property line.
6. The variance is necessary due to the location of the existing building within one foot of the required front yard, and the position of the door on the west side of the building.
7. Granting the requested variance would not have a significant impact on the character of the neighborhood and would not cause a nuisance to adjacent properties because the neighborhood is a high-traffic commercial corridor with no residences.
8. The requested variance represents the minimum deviation from the Zoning Ordinance needed to provide a covered path from the door to the proposed outdoor seating area.

Options

The Zoning Board of Appeals has the following options for recommendation to the City Council in Major Variance Case No. ZBA-2012-MAJ-06:

- a. Recommend approval, by two-thirds majority, of the variance as requested based on applicable findings outlined in this memo;
- a. Recommend approval, by two-thirds majority, of the variance 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 variance as requested. If the Zoning Board of Appeals elects to do so, the Board should articulate findings supporting their denial.

Staff Recommendation

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 forward Major Variance Case No. ZBA-2012-MAJ-06 with a recommendation for **APPROVAL**.

Attachments:

Exhibit A: Location and Existing Land Use Map

Exhibit B: Existing Zoning Map

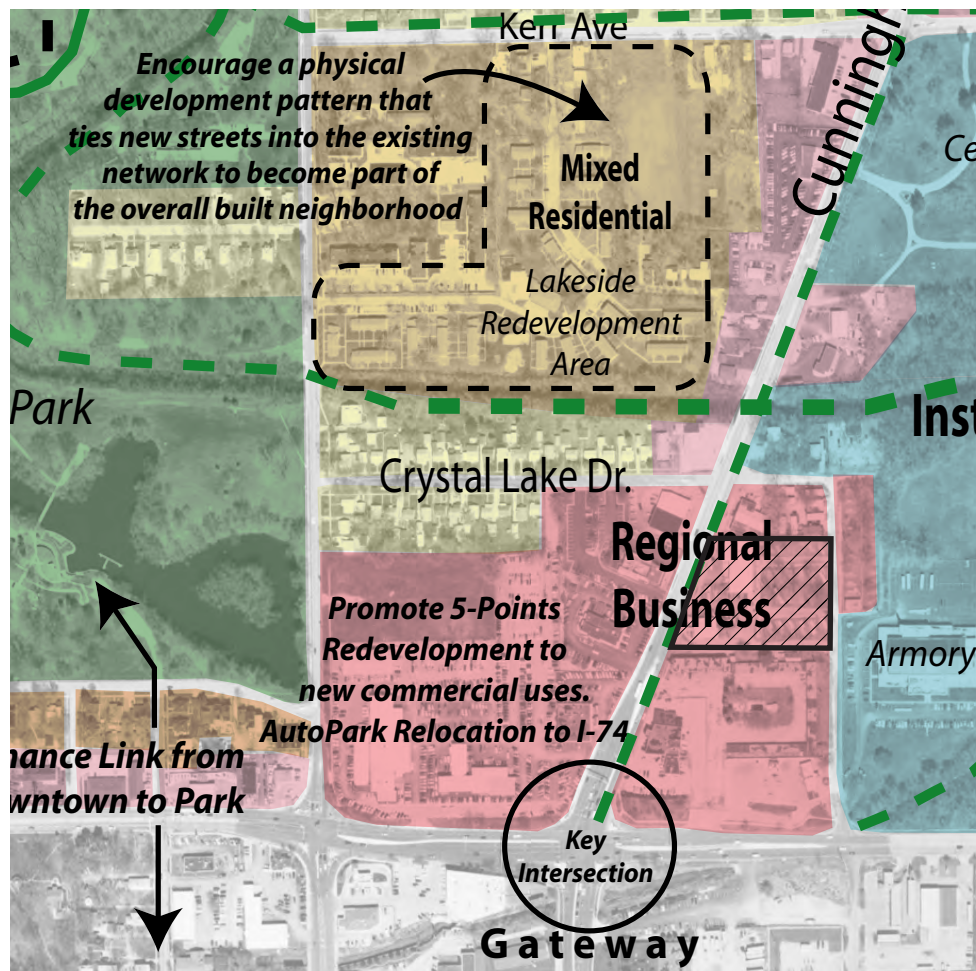
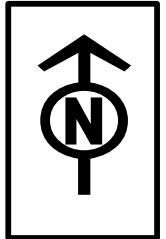
Exhibit C: Future Land Use Map

Exhibit D: Application

Exhibit E: Photos

Cc: Andrew Fell, petitioner

Exhibit C: Future Land Use Map

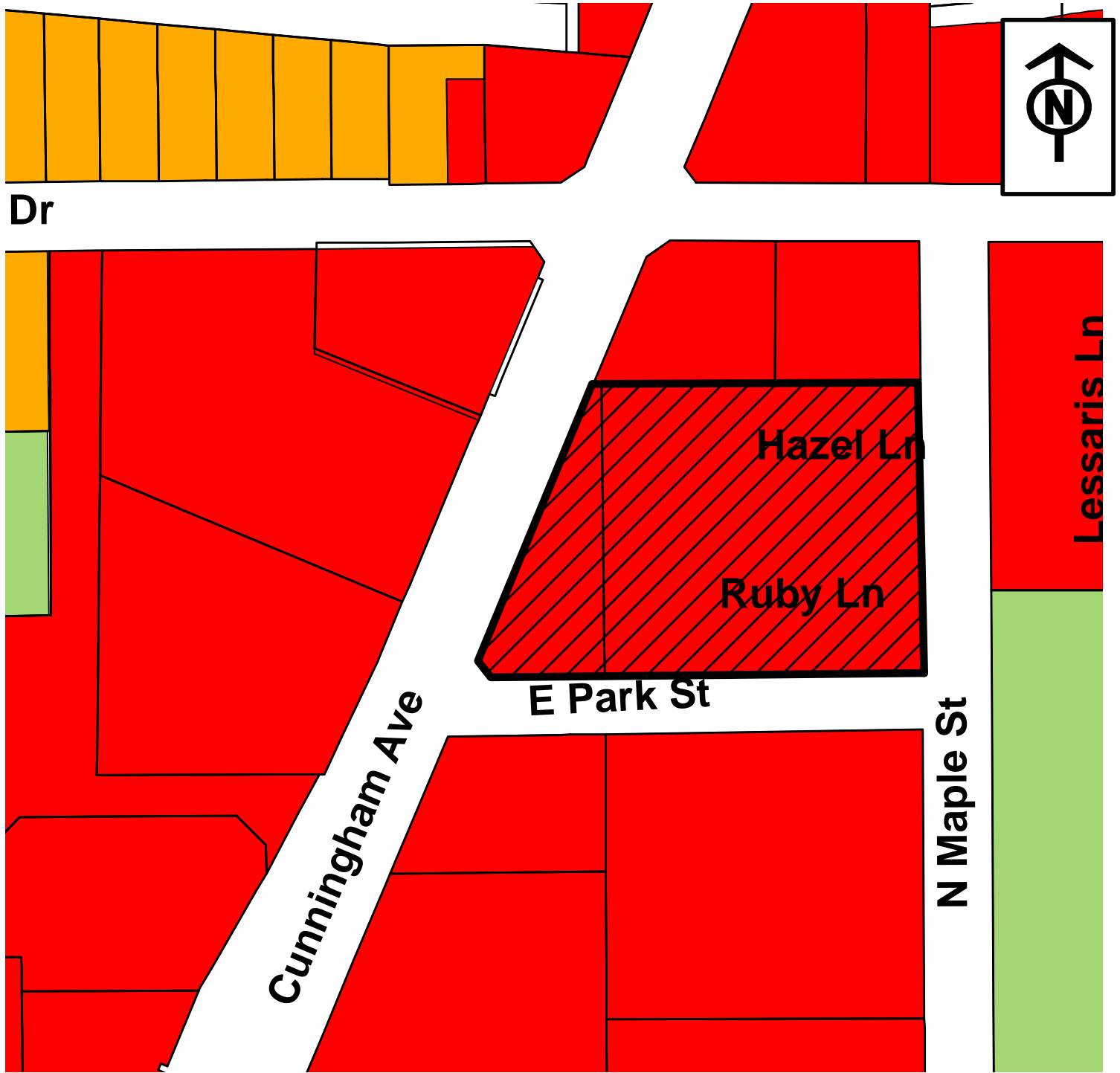


Case: ZBA-2012-MAJ-06
Subject: Request for Major Variance
for a Canopy in the Required Front Yard
Location: 602 N. Cunningham, Urbana
Petitioner: Andrew Fell

 Subject Property

Prepared 09/2012 by Community Development Services - jme

EXHIBIT B: Zoning Map



Case: ZBA-2012-MAJ-06
Subject: Request for Major Variance
for a Canopy in the Required Front Yard
Location: 602 N. Cunningham, Urbana
Petitioner: Andrew Fell

Prepared 09/2012 by Community Development Services - jme



Subject Property



B3

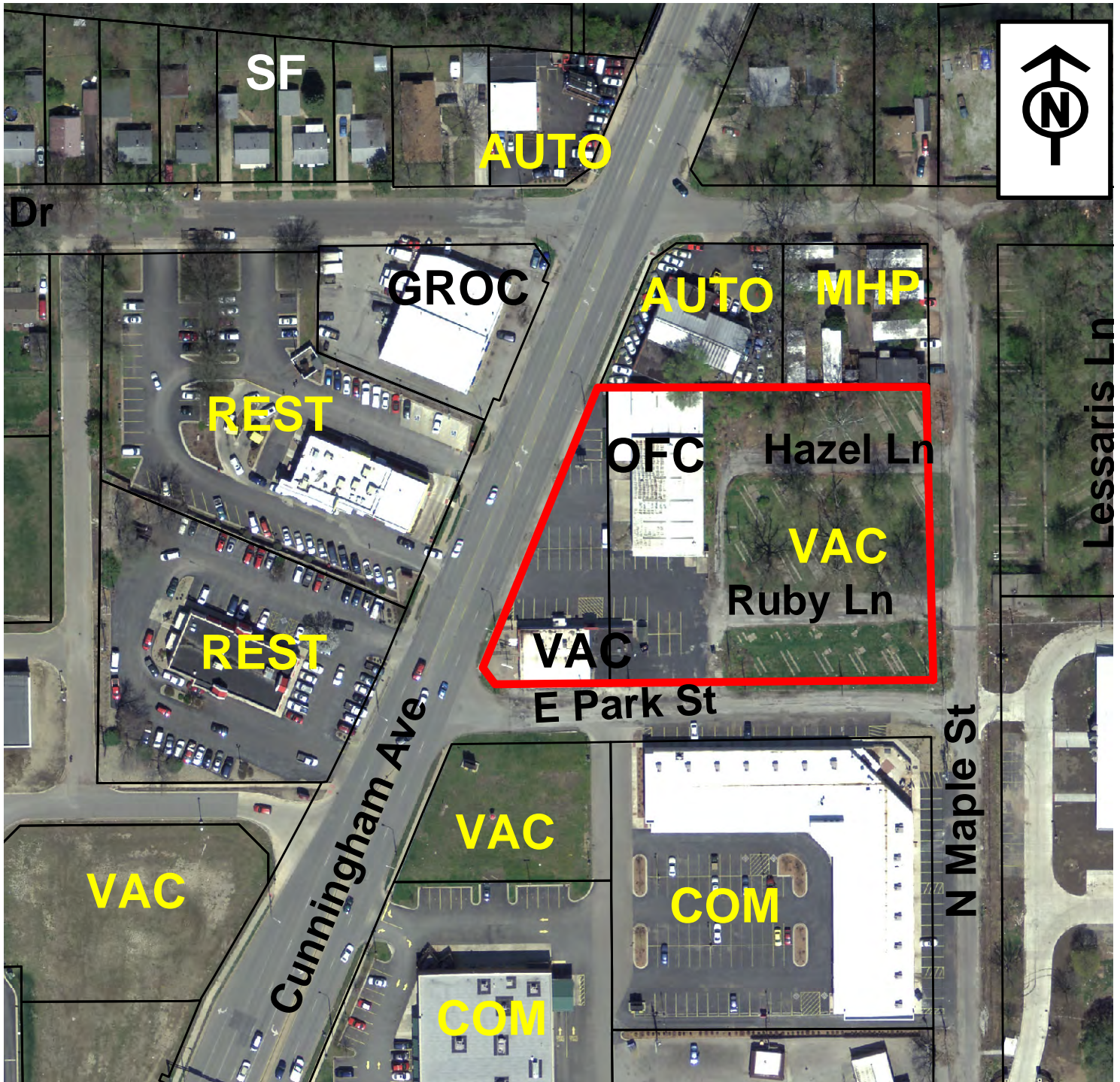


CRE



R3

EXHIBIT A: Location and Land Use Map



Case: ZBA-2012-MAJ-06
Subject: Request for Major Variance
for a Canopy in the Required Front Yard
Location: 602 N. Cunningham, Urbana
Petitioner: Andrew Fell

 Subject Property

RECEIVED
AUG 28 2012



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 USE ONLY

Date Request Filed 08-28-2012 ZBA Case No. ZBA-2012-MAJ-06
Fee Paid - Check No. _____ Amount _____ Date _____

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/Construction Proposed and the Type and Extent of Variation Requested)* CONSTRUCT AN AWNING on the property described below, and in conformity with the plans described on this variance request.

1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): **ANDREW FELL ARCHITECTURE AND DESIGN** Phone: **217-363-2890**
Address (street/city/state/zip code): **302 WEST HILL, SUITE 201, CHAMPAIGN, IL 61820**
Email Address: **ANDREWFELL@COMCAST.NET**
Property interest of Applicant(s) (Owner, Contract Buyer, etc.): **ARCHITECT**

2. OWNER INFORMATION

Name of Owner(s): **PETE LESSARIS** Phone: **217-352-3357**
Address (street/city/state/zip code): **P. O. Box 644, Champaign, IL 61824**
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: **604 NORTH CUNNINGHAM**
PIN # of Location: **91-21-08-426-004**
Lot Size: APPROX 82,708 S.F.

Current Zoning Designation: **B-3 GENERAL BUSINESS**

Current Land Use (*vacant, residence, grocery, factory, etc*): **TAVERN**

Proposed Land Use: **TAVERN**

Legal Description: _____

4. CONSULTANT INFORMATION

Name of Architect(s): **ANDREW FELL ARCHITECTURE AND DESIGN** Phone: **217-363-2890**

Address (*street/city/state/zip code*): **302 WEST HILL, SUITE 201, CHAMPAIGN, IL 21820**

Email Address: **ANDREWFELL@COMCAST.NET**

Name of Engineers(s): Phone:

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

Email Address:

Name of Surveyor(s): Phone:

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

Email Address:

Name of Professional Site Planner(s): Phone:

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

Email Address:

Name of Attorney(s): Phone:

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

Email Address:

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.

We are trying to construct a conforming beer garden and would like to get from the existing door to the beer garden under cover.

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.

EXISTING STRUCTURE IS TOO CLOSE TO THE PROPERTY LINE TO
CONSTRUCT THE AWNING

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

The building and existing beer garden are existing.

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

THERE IS CURRENTLY A BEER GARDEN IN THIS LOCATION. WE ARE
SHIFTING IT TO THE ADJACNET SIDE OF THE BUILDING SO AS TO GET IT OFF
THE AREA DIRECTLY ADJACENT OT THE STREET.

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

Thre is no encroachment onto the existing property. In fact, this will lessen the impact on
the adjacent (vacant) property.

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

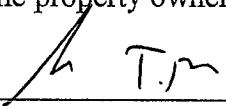
Yes - we are requesting the minimum cover possible to traverse from the door to the new
beer garden area.

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.



Applicant's Signature

8.28.12

Date

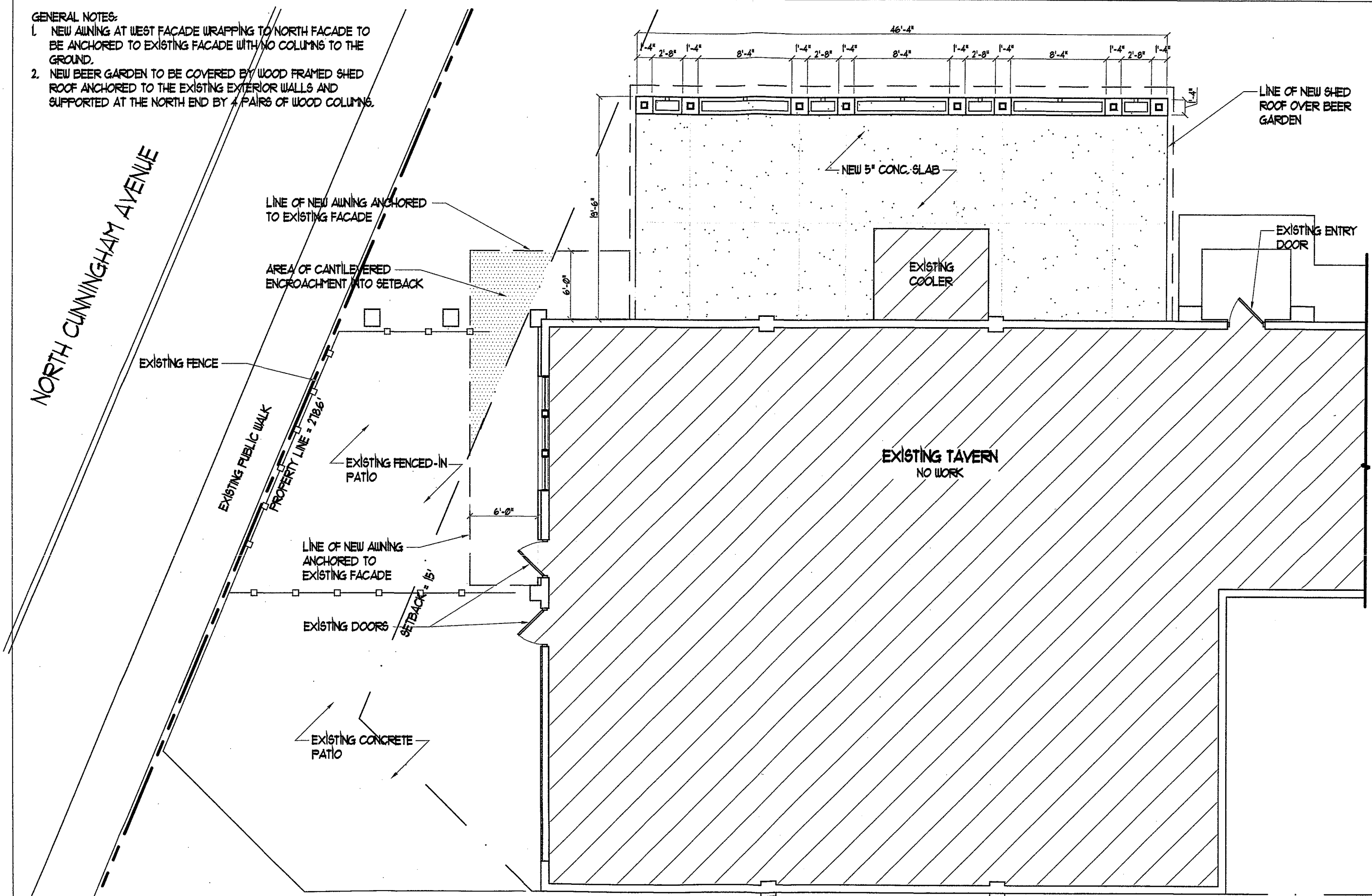
PLEASE RETURN THIS FORM ONCE COMPLETED TO:

City of Urbana
Community Development Department Services
Planning Division
400 South Vine Street, Urbana, IL 61801
Phone: (217) 384-2440
Fax: (217) 384-2367

GENERAL NOTES:

1. NEW AWNING AT WEST FACADE WRAPPING TO NORTH FACADE TO BE ANCHORED TO EXISTING FACADE WITH NO COLUMNS TO THE GROUND.
2. NEW BEER GARDEN TO BE COVERED BY WOOD FRAMED SHED ROOF ANCHORED TO THE EXISTING EXTERIOR WALLS AND SUPPORTED AT THE NORTH END BY 4 PAIRS OF WOOD COLUMNS.

NORTH CUNNINGHAM AVENUE



2 PROPOSED PLAN
A2 SCALE: 1/8" = 1'-0"

SETBACK = 5'
EAST PARK STREET

PROJECT # 1242
DATE: 27AUG12
REVISION:

ANDREW FELL
ARCHITECTURE AND DESIGN
302 WEST HILL, SUITE 201
CHAMPAIGN, ILLINOIS 61820
PHONE: 217.253.2590
FAX: 217.253.8493
EMAIL: andrew@afdesign.net

These drawings and specifications are the property and copyright of Andrew Fell, Architecture and Design and shall not be used on any other work except by written agreement with the Architect. Only written dimensions shall be used. Do not scale drawings. Dimensions shall be verified on the job site. Any discrepancy shall be brought to the notice of the Architect prior to the commencement of any work.

TIN ROOF TAVERN
BEER GARDEN ADDITION
604 NORTH CUNNINGHAM
URBANA, ILLINOIS 61801

A2

NORTH CUNNINGHAM AVENUE

EXISTING PUBLIC WALK

PROPERTY LINE = 278.6'

SETBACK = 15'

EXISTING PARKING

EXISTING MUG SHOTS
(TIN ROOF TAVERN)

EXISTING ARROW GLASS

PROPERTY LINE = 269.4'

SETBACK = 5'

HAZEL LANE

HAZEL LANE

SETBACK = 15'

PROPERTY LINE = 255.98'

RUBY LANE

SETBACK = 5'

PROPERTY LINE = 376.86'

EAST PARK STREET

NORTH MAPLE STREET

2 EXISTING SITE PLAN
A1 SCALE: 1/32" = 1'-0"



TIN ROOF TAVERN
BEER GARDEN ADDITION

604 NORTH CUNNINGHAM
URBANA, ILLINOIS 61801

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ANDREW FELL
ARCHITECTURE AND DESIGN

302 WEST HILL, SUITE 201
CHAMPAIGN, ILLINOIS 61820
PHONE: 217.283.2500
FAX: 217.289.8493
EMAIL: andrew@fellarchitecture.net

PROJECT # 1242

DATE: 27AUG12

REVISION:

A1

Exhibit E: Site Photos



View from the west. The proposed canopy will be located where the current wall signs are.



View from the northwest. The main entrance can be seen on the left.