



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: The Urbana Zoning Board of Appeals

FROM: Christopher Marx, Planner I

DATE: May 15, 2015

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

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

Introduction & Background

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

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

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

Description of the Site

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

Zoning and Land Use Table

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

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

Discussion

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

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

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

For the B-3, General Business zoning district, Table VI-3 of the Zoning Ordinance requires a front yard setback of 15 feet. The first variance requests a reduction in the front yard setback along Race Street to five feet. The narrow nature of the lot and the existence of two front yards make placement of off-street parking very difficult at this location. In addition to a reduced front yard setback requirement, the applicant is seeking a variance to allow parking spaces that require the automobiles to back out onto the street. Parking spaces with such a close proximity are not allowed per Section VIII-4.E of the Zoning Ordinance. The City granted a similar variance in ZBA case 2001-MAJ-09 in which Leal Elementary School was allowed to install parking that required automobiles to back out onto a public street.

Both variances allow parking accommodations already in existence on the property. The new construction eliminates problematic parking spaces near a busy city street. Because of the overall site improvements and improvements to the safety of University Avenue, the proposed plans have met the approval of the City Engineer. The two variances would allow new investment and new businesses along the University Avenue corridor.

Variance Criteria

Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals to make findings based on variance criteria. The following is a review of the criteria as they pertain to this case and the criteria outlined in the ordinance:

1. *Are there special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance?*

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

2. *The proposed variance will not serve as a special privilege because the variance requested is necessary due to special circumstances relating to the land or structure involved or to be used for occupancy thereof which is not generally applicable to other lands or structures in the same district.*

The setback and parking requirements for the B-3 district are prohibitive for most new development on the subject property. Approximately 40% of the parcel is restricted from being

built upon because of the setback requirements for the B-3 district. The variances would not create any new special circumstance for the property as the existing east-side off-street parking is similar to the proposed site plan.

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

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

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

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

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

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

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

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

Summary of Staff Findings

1. MALA LLC. has requested permission to construct a new building at 202 W. University Avenue with a five foot reduced front yard setback and allowance for parking spaces that require automobiles to back into the right-of-way along Race Street.
2. The proposed variances would reduce the front yard setback requirement from 15 feet to 5 feet and allow a continued legal nonconformity of off-street parking next to Race Street.
3. The site is located in downtown Urbana, and is zoned B-3, General Business.
4. The Urbana Comprehensive Plan identifies the area as Community Business.

5. The proposed variances are requested due to special circumstances of a small and narrow lot which is unable to meet all parking and setback requirements.
6. The proposed development would improve existing nonconformities on the property including the elimination of a problematic curb cut along University Avenue.
7. The proposed variances would be neither an alteration of the neighborhood character or nuisance to adjacent properties because it allows the replacement of a building with an improved layout and improved compliance of the Zoning Ordinance.
8. The proposed variance regarding the front yard setback represents the minimum possible deviation from Zoning Ordinance requirements as the available area to meet B-3 district parking requirements is limited.
9. The proposed variances would allow investment and business growth along the University Avenue corridor.

Options

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

- a. The Urbana Zoning Board of Appeals may forward the case to City Council with a recommendation to approve the variances as requested based on the findings outlined in this memo; or
- b. The Urbana Zoning Board of Appeals may forward the case to City Council with a recommendation to approve the variances along with certain terms and conditions. If the Urbana Zoning 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 deny the variance requests. If the Zoning Board of Appeals elects to do so, the Board should articulate findings supporting its 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 **APPROVE** the variances with the following conditions:

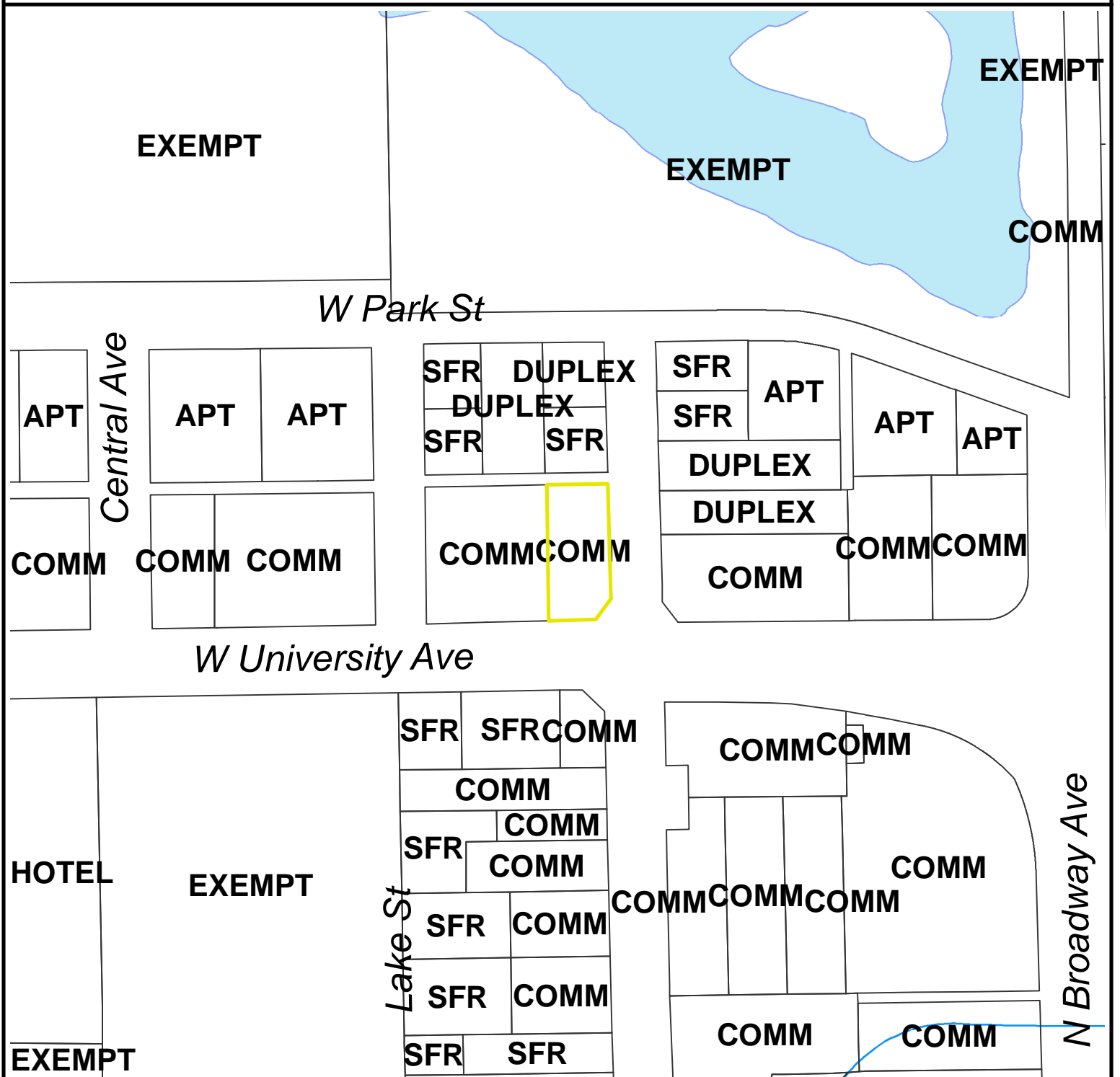
1. The site is developed in general compliance with the attached site plan.
2. The parking space and curb cut along University Avenue are eliminated as proposed in the attached site plan.

Attachments: Exhibit A: Location & Aerial Map


Exhibit B: Zoning Map
Exhibit C: Future Land Use Map
Exhibit D: Site Plan and Renderings
Exhibit E: Site Photos
Exhibit F: Petition for Variance

cc: MALA LLC

Exhibit A: Location & Existing Land Use Map



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

 Subject Property

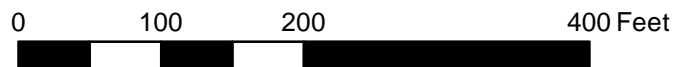
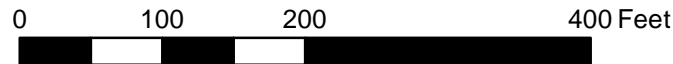
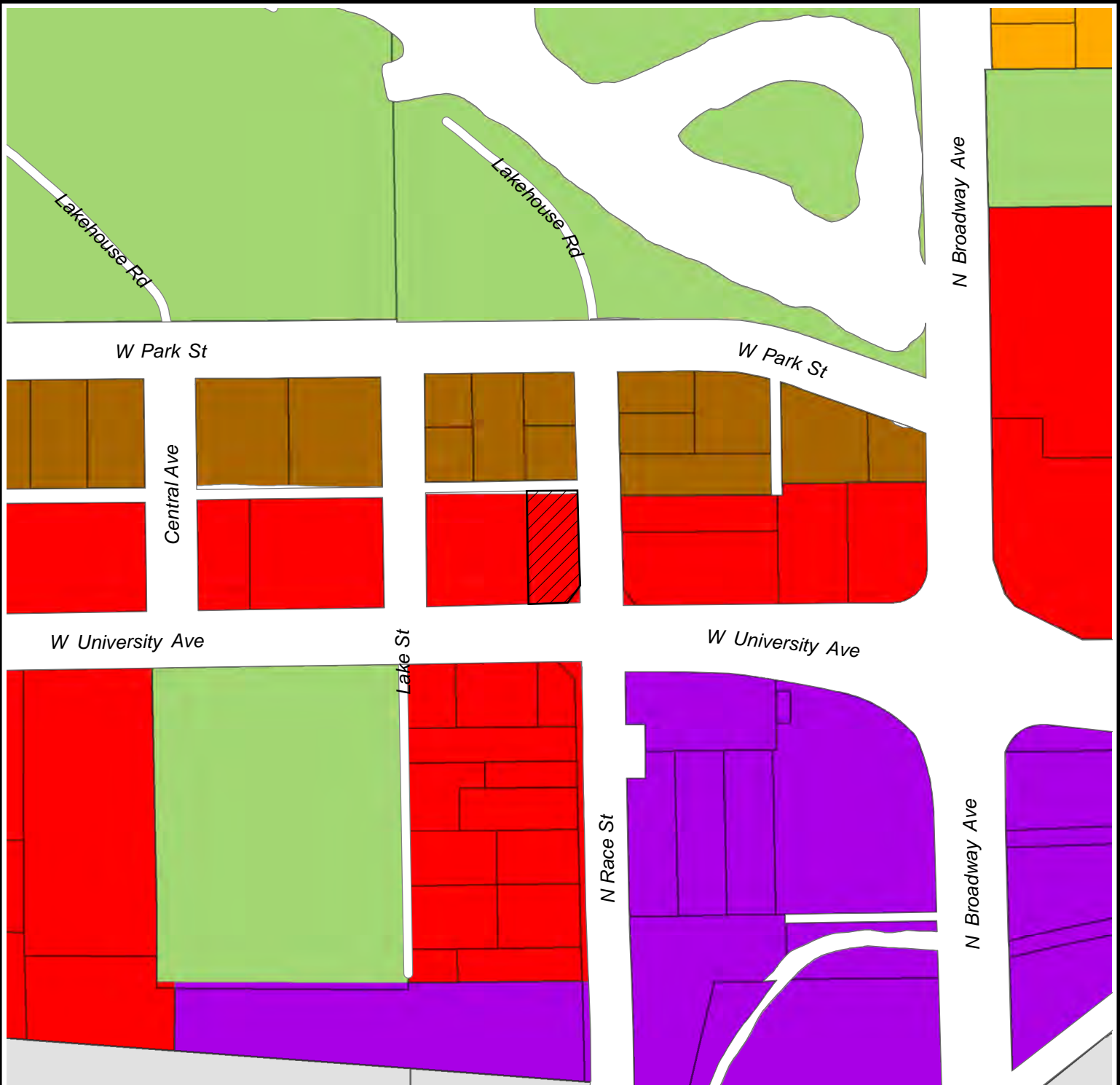


Exhibit B: Zoning Map

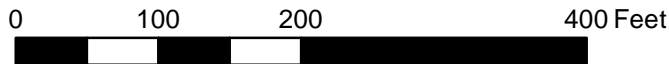
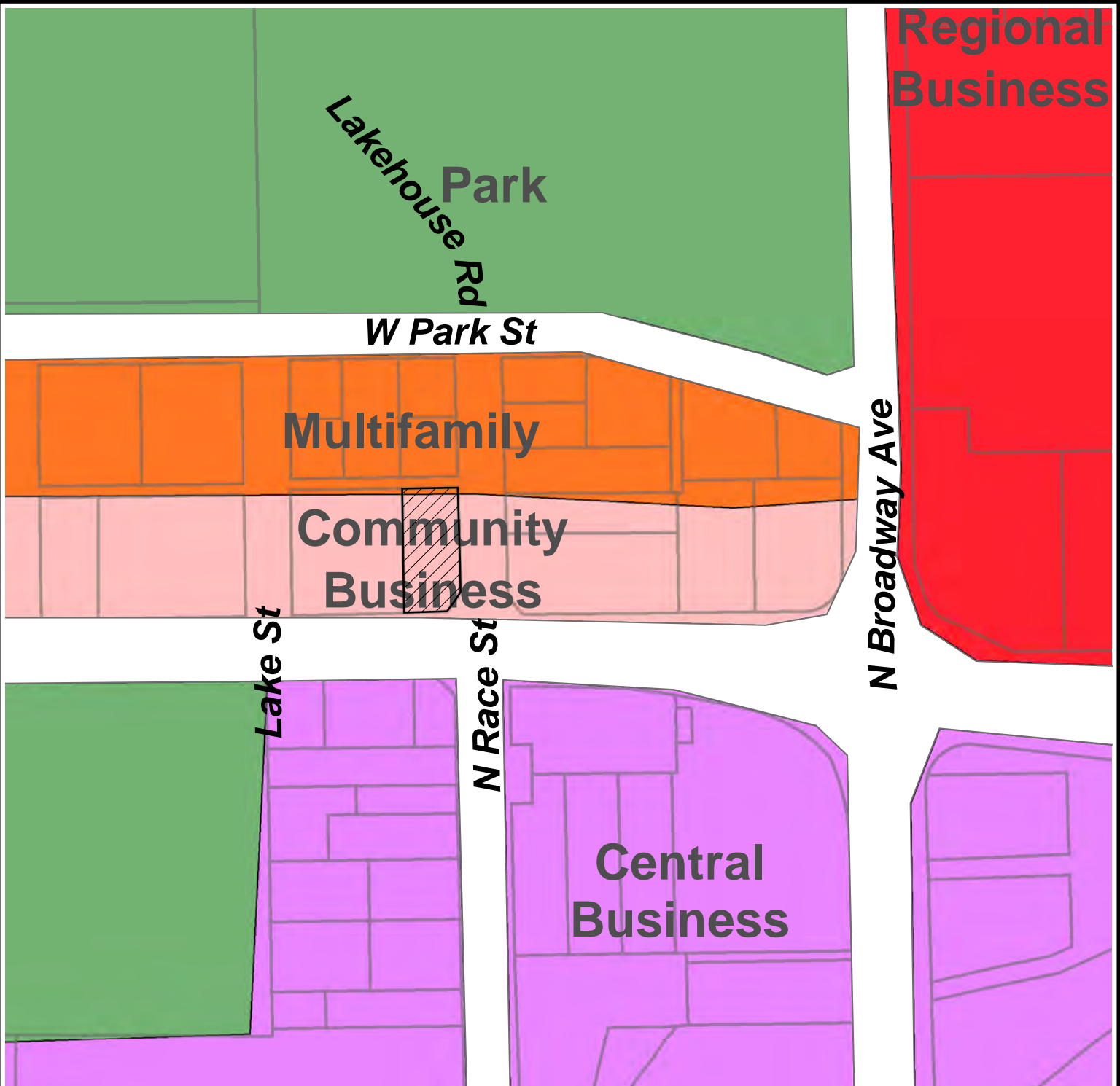


Case: ZBA Cases 2015-MAJ-04 & 2015-MAJ-05
 Subject: Major Variances
 Location: 202 W. University Avenue
 Petitioners: MALA LLC

Prepared 5/15/2015 by Community Development Services -







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

Exhibit C: Future Land Use Map

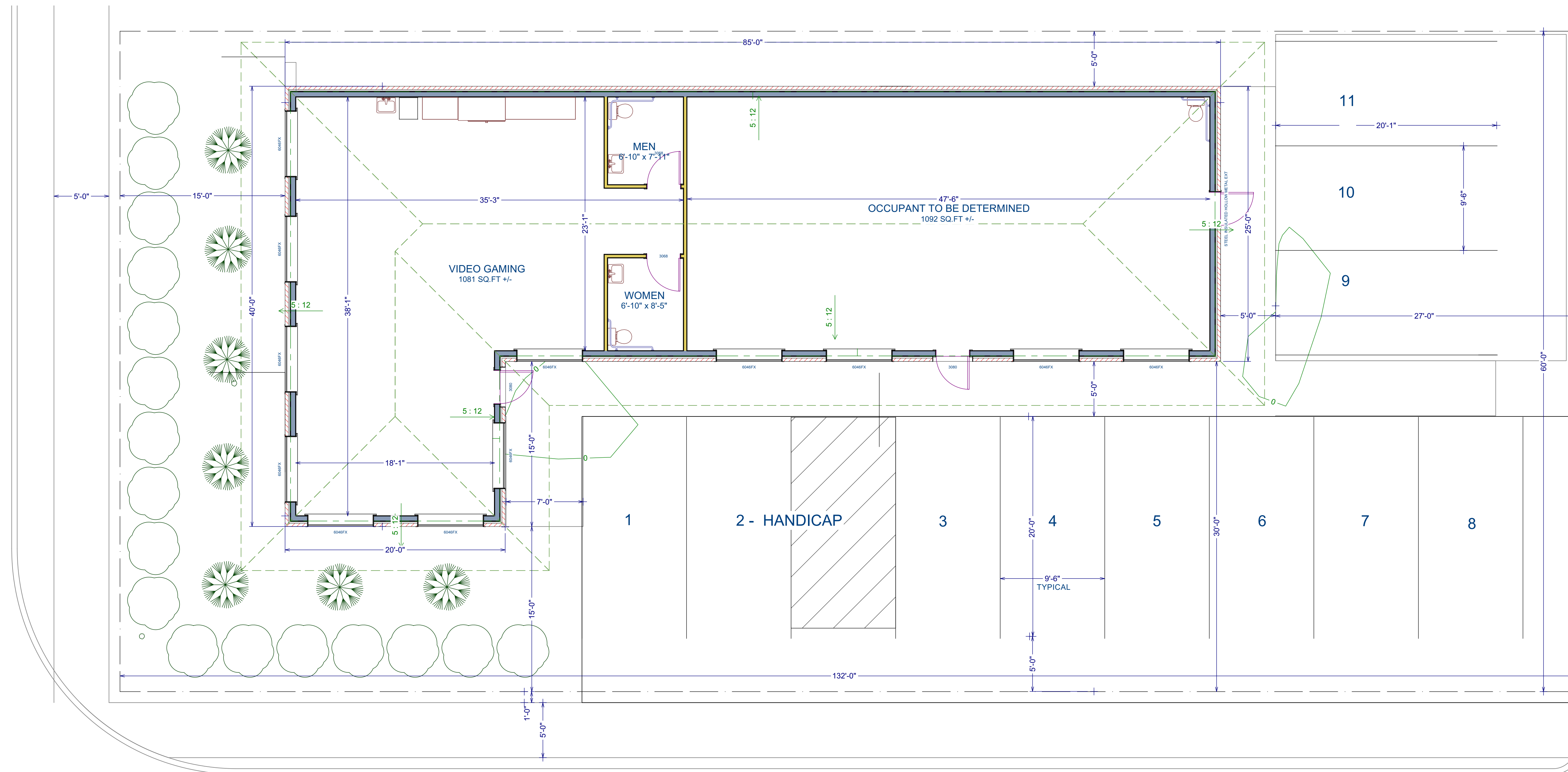


Case: ZBA Cases 2015-MAJ-04 & 2015-MAJ-05
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Prepared 5/15/2015 by Community Development Services -

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

UNIVERSITY AVE



RACE ST

SITE PLAN

| REVISION TABLE | |
|----------------|------|
| NUMBER | DATE |
| | |
| | |
| | |
| | |
| | |

PROPOSED VIDEO PARLOR
202 W. UNIVERSITY
URBANA, ILLINOIS

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

DATE:

5/11/2015

SCALE:

SHEET:

Exhibit E: Site Photos







Application for Variance

Zoning Board Of Appeals

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

The Applicants are responsible for paying the cost of legal publication fees as well. The fees usually run from \$75.00 to \$125.00. The applicant is billed separately by the News-Gazette.

DO NOT WRITE IN THIS SPACE - FOR OFFICE

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

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

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

1. APPLICANT CONTACT INFORMATION

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

2. OWNER INFORMATION

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

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

3. PROPERTY INFORMATION

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

Current Zoning Designation: B-3

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

Proposed Land Use: NEW CONSTRUCTION

Legal Description: 2-UNIT STRUCTURE 1200' VIDEO GAMING 1200' OFFICE

SEE ATTACHED

4. CONSULTANT INFORMATION

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

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

Email Address: CJADRAYTON@GMAIL.COM

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

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

Email Address:

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

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

Email Address: HCLLP.COM

Name of Professional Site Planner(s): Phone:

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

Email Address:

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

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

Email Address: GARWOOD@SAMUELSMILLER.COM

5. REASONS FOR VARIATION

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

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

Explain how the variance is necessary due to special conditions relating to the land or structure involved which are not generally applicable to other property in the same district.

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

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

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

PARKING IS CURRENTLY ALLOWED

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

PARKING IS CURRENTLY ALLOWED

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

PARKING IS CURRENTLY ALLOWED

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

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

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

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

CERTIFICATION BY THE APPLICANT

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

Maack A. Geller

Applicant's Signature

4/21/15

Date

SEARCH PRODUCT

(continued)

D. LEGAL DESCRIPTION:

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

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

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