



## 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:** July 15, 2016

**SUBJECT:** **ZBA Case 2016-MAJ-06:** ZBA Case 2016-MAJ-06: A request by Andrew Fell for a Major Variance to allow a reduction in the required side yard setback from 10 feet to 7 feet at 708 West Green Street in the MOR, Mixed Office Residential district.

**ZBA Case 2016-MAJ-07:** A request by Andrew Fell for a Major Variance to allow a reduction in the required side yard setback from 10 feet to 7 feet at 710 West Green Street in the MOR, Mixed Office Residential district.

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### Introduction

On behalf of the property owner, Sohail Chaudhry, Andrew Fell, of Andrew Fell Architecture and Design, is requesting two Major Variances at 708 and 710 West Green Street in the MOR, Mixed Office Residential Zoning District. The variances are requested to reduce the required side yard setbacks on the properties. The owner plans to redevelop the two vacant properties into two multi-family buildings and received MOR Development Review Board approval of the site plan on June 30, 2016. The sites are also subject to previously-granted setback variances.

### Background

The owner recently purchased the two properties with plans to redevelop them but discovered that an existing large-sized storm sewer line lies below 708 West Green Street and restricts the buildable area of the two contiguous lots. The line is an older, 82-inch brick arch storm sewer line that provides stormwater relief for parts of western Urbana. Unlike modern storm sewer infrastructure, the line exists without an easement and runs under privately-owned properties. The owner was unaware of its existence until after the sale was completed because the line did not appear in any title searches during the real estate process. The City's Public Works Department, as part of its policy, requires a ten foot buffer from the centerline of the sewer for any new construction.

The discovery of the storm sewer last spring prompted the applicant to apply for a front yard variance at 710 West Green Street and a front yard and a side yard variance at 708 West Green Street. At their April 20, 2016 meeting, the Urbana Zoning Board of Appeals granted two minor

variances for reductions in the required front yard setbacks from 25 feet to 20 feet at 708 and 710 West Green Street and recommended that Council grant a major variance to reduce the side yard from seven feet to five feet at 708 West Green Street. Prior to Council consideration of the side yard major variance, the applicant withdrew the application to consider a redesign of the project.

The project has since been redesigned to meet the required front yard setback of 25 feet, therefore no longer requiring the previously-granted front yard setback variances for either lot. The redesign also included a seven-foot side yard setback along the western property line of 708 West Green Street rather than the five-foot setback requested as part of the withdrawn major variance application.

The redesigned project plans were submitted for review by the Urbana Mixed Office Residential (MOR) Development Review Board on June 30, 2016. The submitted information included building elevations, showing building heights of 34.75 feet for both buildings. While that height is permitted by-right in the MOR zoning district, Section VI-2.D of the Zoning Ordinance states that building heights over 25 feet trigger additional rear yard and side yard setbacks. In this case, the required rear yards would be 13 feet and the required side yards would be ten feet. The proposed rear yards of both properties would remain in compliance at a distance of at least 40 feet. The applicant requests a variance to provide seven-foot side yard setbacks on both lots along the shared property line. The requested reduction of side yards from ten feet to seven feet qualifies as a Major Variance since the percentage of change is greater than 25 percent, according to Section XI-3.C.2b(1) of the Zoning Ordinance.

At their June 30, 2016, meeting, the Urbana MOR Development Review Board reviewed the project and voted with six ayes and zero nays to approve the plans submitted with the development application for the properties. The MOR DRB approval was contingent on the granting of the Major Variance for the side yard setbacks. The MOR DRB approval letter is attached as Exhibit G.

## **Description of the Site**

The site is located on the north side of West Green Street between Busey and Coler Avenues. It consists of two vacant properties totaling 0.35 acres in area. Both of the properties are zoned MOR, Mixed Office Residential. The neighboring properties to the east and west are single-family homes, most likely used for rental housing, that are zoned MOR. Across the street to the south, an apartment building is zoned R-5, Medium High Density Multiple-Family Residential and is adjacent to two other single-family homes zoned MOR, Mixed Office Residential. Towards the north and behind the subject properties are an apartment building and a duplex are zoned R-5, Medium High Density Multiple-Family Residential. The future land use designation in the City's Comprehensive Plan is "Mixed Residential".

An underground storm sewer line that directs stormwater towards the Boneyard Creek, shown in Exhibit F, runs underneath several properties in the area. The sewer for this line exists without an easement. According to the City Engineer, an internal Public Works Department policy requires a ten foot buffer along either side of the sewer line.

The lot at 710 West Green Street has a legally-nonconforming width of 53 feet, seven feet less than the minimum required 60-foot width in the MOR district.

## Zoning and Land Use Table

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

<b>Location</b>	<b>Zoning</b>	<b>Existing Land Use</b>	<b>Comprehensive Plan Future Land Use</b>
<b>Subject Properties</b>	MOR, Mixed Office Residential	Single Family Home – Rentals	Mixed Residential
<b>North</b>	R-5, Medium High Density Multiple-Family Residential	Apartment Building and Duplex	Mixed Residential
<b>South</b>	R-5, Medium High Density Multiple-Family Residential	Apartment Building	Mixed Residential
<b>East</b>	MOR, Mixed Office Residential	Single Family Home – Rentals	Mixed Residential
<b>West</b>	MOR, Mixed Office Residential	Single Family Home – Rentals	Mixed Residential

## Discussion

The applicant is requesting reduced side yard setbacks for the subject properties to allow for building designs configured around the storm sewer line and the narrow legally non-conforming lot width. The properties were acquired without any indication to the owner that they were constrained by the existing storm sewer line. The storm sewer runs north to south through the eastern third of the 708 West Green Street parcel and is set back between ten and 15 feet from the eastern property line. The location of the stormsewer and the required ten-foot buffer on both sides would require that the proposed building at 708 West Green Street being set from the eastern property line by 25 feet.

The side yard setback requirement would normally be a minimum of seven feet with a cumulative total of 17 feet for both side yards. However, Section VI-2.D of the Zoning Ordinance requires both properties to have an additional three feet of side yard because the proposed buildings would be taller than 25 feet. The required 10-foot side yard setback on the west side would reduce the buildable width of 708 West Green Street to 26 feet. The variance request of a side yard of seven feet would allow a buildable width of 29 feet.

Both properties would have side yards of at least ten feet on their opposite side yards, but the side yards along the shared property line would be 7 feet instead of the required ten feet. Thus, the required effect of the reduced setbacks would only affect the properties belonging to the same owner.

The lot at 710 West Green is legally-nonconforming with a 53-foot, rather than the required 60-foot width. The proposed site plan shows a compliant 10.5-foot side yard along the west property line and a 7.5-foot side yard along the eastern property line. The variance request to allow a 7-foot side yard rather than a 10-foot side yard would partially remedy the substandard lot width.

The requested variances would impact only the proposed buildings as the setbacks abutting properties owned by others would still meet or exceed the required setbacks. The requested distance between buildings of 14 feet is not inconsistent with the pattern on the block. The table below gives the approximate distance between buildings on the block face.

<b>Between:</b>	<b>Approximate Distance</b>
Proposed 708 and 710 W. Green Street	14'
702 and 704 W. Green Street	14'
704 and 706 W. Green Street	9'
712 and 714 W. Green Street	10'

The redevelopment plans for both properties have been approved the City’s MOR Development Review Board. The Board concluded that the proposal met the site plan review criteria and conformed with the MOR Design Guidelines. The Board supported the reduced side yards and noted that the narrower corridor shared between the two properties could provide design value and a usable space for the buildings’ tenants.

## **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:

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

An 82-inch brick-arch storm sewer runs underneath the eastern portion of the 708 West Green Street property. The presence of the sewer was not made known to the owner at the time of his purchase and pursuit of plans to redevelop the property. The storm sewer exists without an easement and was installed before current public utilities codes were enacted that would have prevented its location through a lot and without an easement. The unbuildable buffer area around the storm sewer effectively increases the side yard setback to 25 feet away from the property line on the east side of 708 West Green Street. The storm sewer reduces the amount of available space on the 708 West Green Street property by approximately 3,000 square feet, or approximately 44%.

The lot at 710 West Green Street is seven feet narrower than a standard lot, providing a practical difficulty to redevelopment with a strict application of the ordinance.

2. *The proposed variances will not serve as a special privilege because the variances requested are 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 property was sold without any indication or knowledge of an underground storm sewer located at 708 West Green Street because there were no easements or indications on any title searches. Municipal sewer lines generally exist in a public right-of-way or with an easement and do not encroach on private property. In addition, the lot at 710 West Green Street is narrower than a standard lot. The variances would apply only along the shared property line and therefore will only impact the property owner making the request.

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

The variances being requested are not due to a situation knowingly created by the Petitioner. The sewer line at 708 West Green Street was installed before any municipal code would have prevented such a location and its location was not discovered during a title search for the property. The legally-nonconforming narrow lot width of 710 West Green street was established before the owner purchased the property.

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

The variances will not alter the essential character of the neighborhood. The scale of the properties will remain proportionate to the neighborhood as two separate residential buildings. The site plan submitted with the application has been approved by the City's MOR Development Review Board for its conformance to design standards for the neighborhood.

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

The variances would not cause a nuisance to the adjacent properties. The requested side yard variances would only apply to the shared boundary of the subject properties, which are under the same ownership. All other setbacks meet the requirements.

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

The variance would generally be the minimum deviation from the requirements in the Zoning Ordinance. They are necessary to compensate for the presence of the storm sewer line and a legally-nonconforming narrow lot. The MOR district contains development regulations that preserve and limit the existing scale and building footprints of the neighborhood. The properties are narrow lots at 53 feet and 60 feet and a further setback from a storm sewer line further constrains any development possibilities.

## Summary

1. On behalf of the owner, Andrew Fell has requested Major Variances for a reduction from ten feet to seven feet in the required side yard setbacks at 708 and 710 West Green Street.
2. The site is located in West Urbana, and is zoned MOR, Mixed Office Residential. The Urbana Comprehensive Plan identifies the area as Mixed Residential.
3. An underground stormwater sewer line runs under the eastern portion of the property at 708 West Green Street without an easement. The City's Public Works Department requires a ten foot buffer on both sides from any new construction.
4. The proposed buildings' plans were approved at the June 30, 2016, meeting of the Urbana MOR Development Review Board.
5. The proposed variances would allow for the redevelopment of two new buildings on the subject properties that would be designed to be consistent with the City's MOR District Design Guidelines.
6. The proposed variances would reduce the required side yard setback from ten feet to seven feet for both properties along their shared property boundary.
7. The proposed variances are requested due to special circumstances of the underground storm sewer line without an easement and the reduced lot width.
8. The proposed variances do not serve as a special privilege because the properties are adversely affected with smaller buildable areas than normal.
9. The proposed variances were not due to a situation created by the applicant as the conditions existed prior to the purchase by the current owner.
10. The proposed variances will not alter the neighborhood character as they attempt to preserve the building form and compatibility of the proposed buildings with the surrounding neighborhood.
11. The proposed variances would not cause a nuisance to the neighboring properties as they would only apply to the property line shared between the two lots.
12. The proposed variances represent the minimum deviation from the Zoning Ordinance requirements.

## Options

A Major Variance requires a two-thirds vote by the Board to forward a recommendation for approval to the City Council. 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 variance based on the findings in this memo; or
- b. The Urbana Zoning Board of Appeals may forward the case to City Council with a recommendation to **approve the variance along with certain terms and conditions**. If the Urbana Zoning Board of Appeals elects to recommend conditions or recommend approval of the variance on findings other than those articulated herein, they should articulate findings accordingly; or
- c. The Zoning Board of Appeals may **deny** the variances requested. If the Zoning Board of Appeals elects to do so, the Board should articulate findings supporting its denial.

## Staff Recommendation

Based on the evidence presented to date, and without the benefit of considering additional evidence that may be presented prior to or at the public hearing, staff recommends that the Zoning Board of Appeals **APPROVE WITH CONDITIONS** ZBA Case Nos. 2016-MAJ-06 and 2016-MAJ-07 with the following conditions:

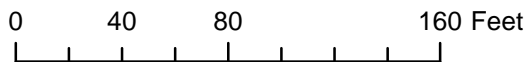
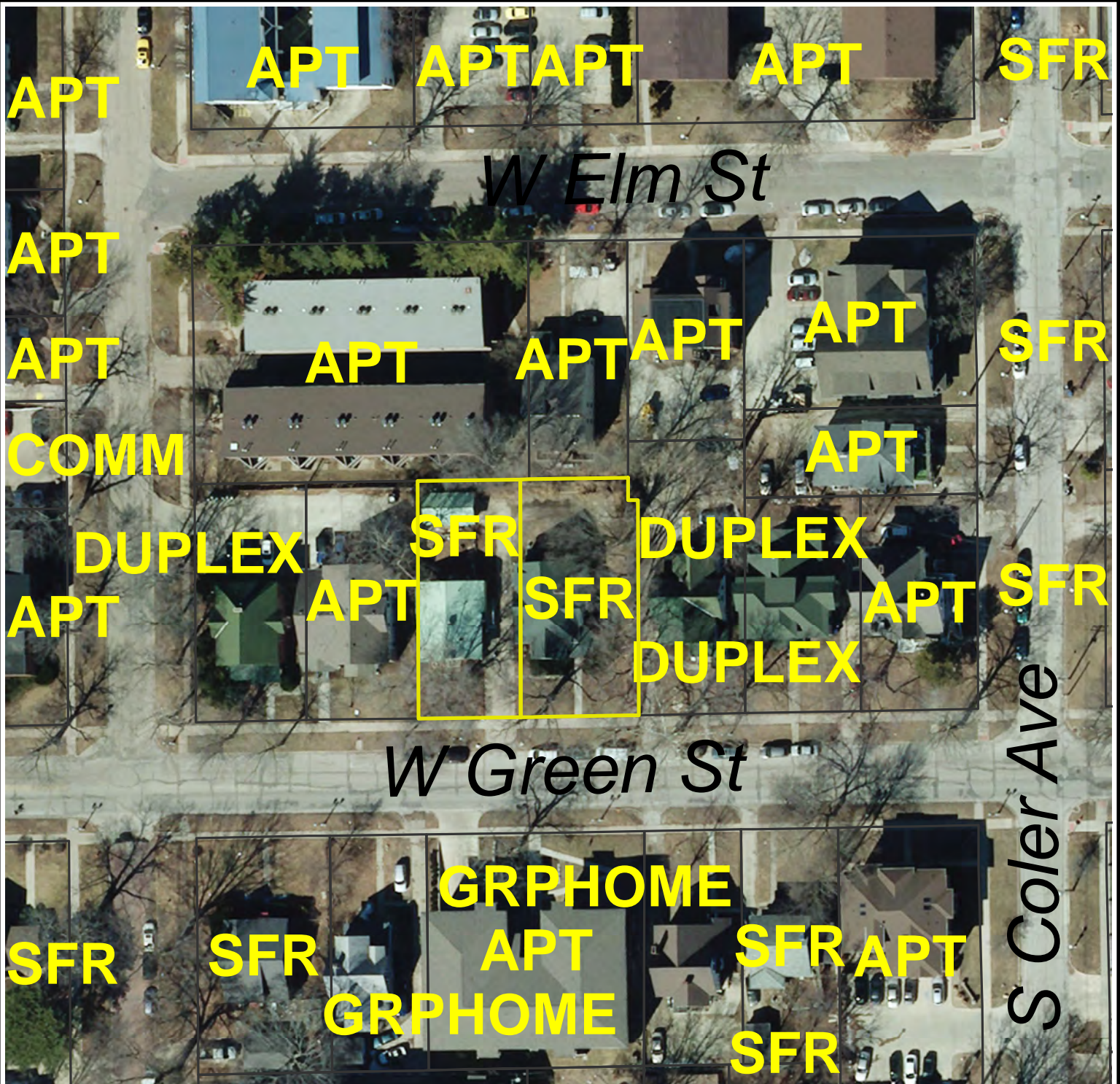
1. The site is developed in general compliance with the attached site plan and with the application as approved by the City's MOR Development Review Board.

The specifics of this recommendation may change during the course of formal review of ZBA Case Nos. 2016-MAJ-06 and 2016-MAJ-07. The staff recommendation contained herein represents the professional opinions of the City's professional planning staff and does not bind or limit the recommendations and decisions which may be made by the City's appointed and elected officials.

Attachments:	Exhibit A:	Location & Aerial Map
	Exhibit B:	Zoning Map
	Exhibit C:	Future Land Use Map
	Exhibit D:	Existing Site Survey
	Exhibit E:	Site Plan
	Exhibit F:	Site Photos
	Exhibit G:	MOR Development Review Board Approval Letter
	Exhibit H:	Petition for Variance

cc: Andrew Fell  
Sohail Chaudhry

# Exhibit A: Location & Existing Land Use Map

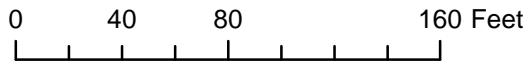
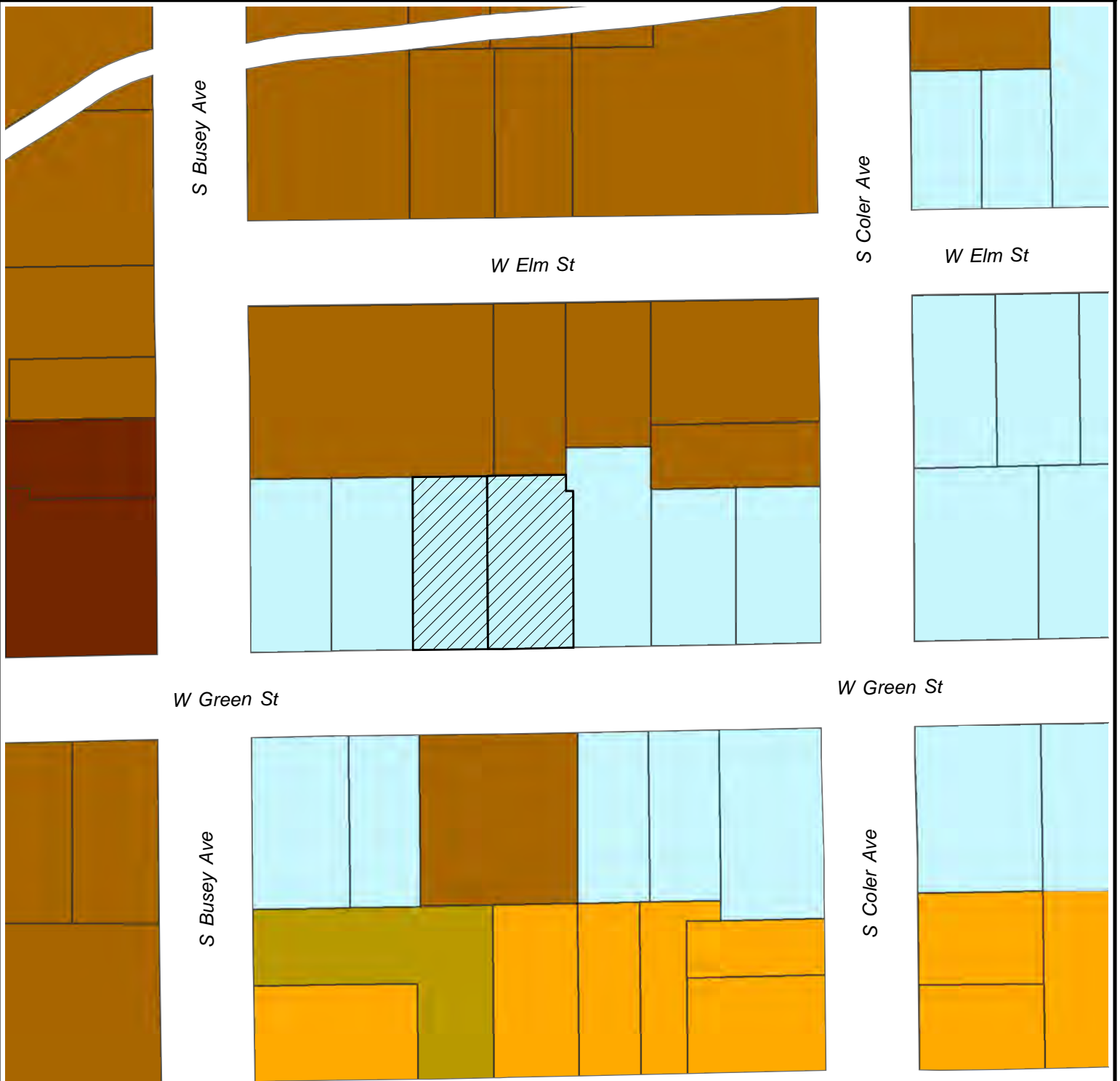


 Subject Property

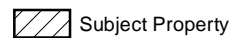
Case: ZBA-2016-MAJ-06, ZBA-2016-MAJ-07  
 Subject: Variance for Front Yard and Side Yard Setbacks  
 Location: 708 and 710 West Green Street  
 Petitioners: Andrew Fell  
 Prepared 4/15/2016 by Community Development Services - Christopher Marx



# Exhibit B: Zoning Map

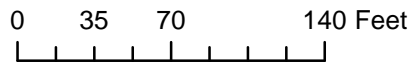
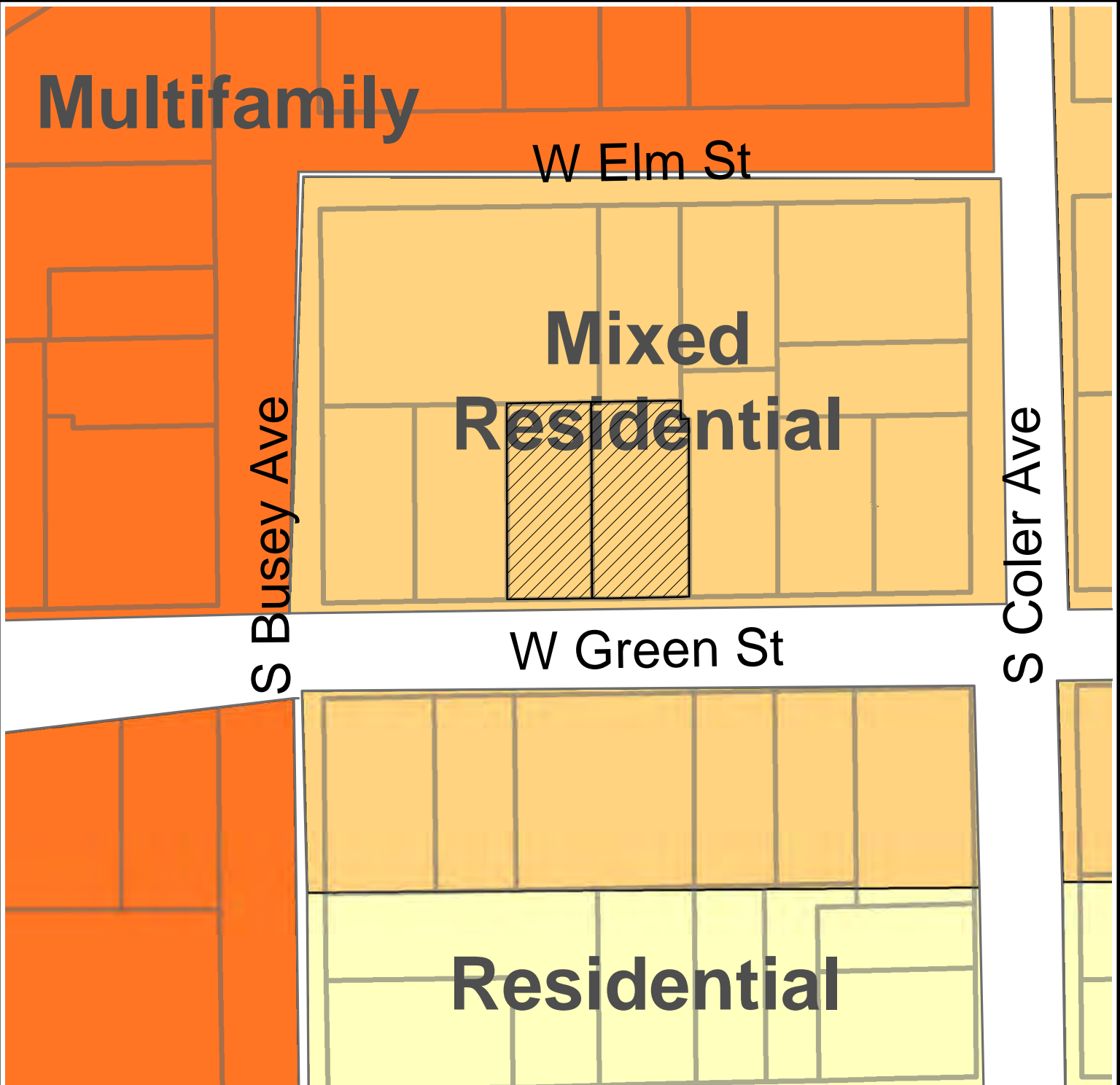


Case: ZBA-2016-MAJ-06, ZBA-2016-MAJ-07  
 Subject: Variance for Front Yard and Side Yard Setbacks  
 Location: 708 and 710 West Green Street  
 Petitioners: Andrew Fell



- MOR
- R3
- R4
- R5
- R6

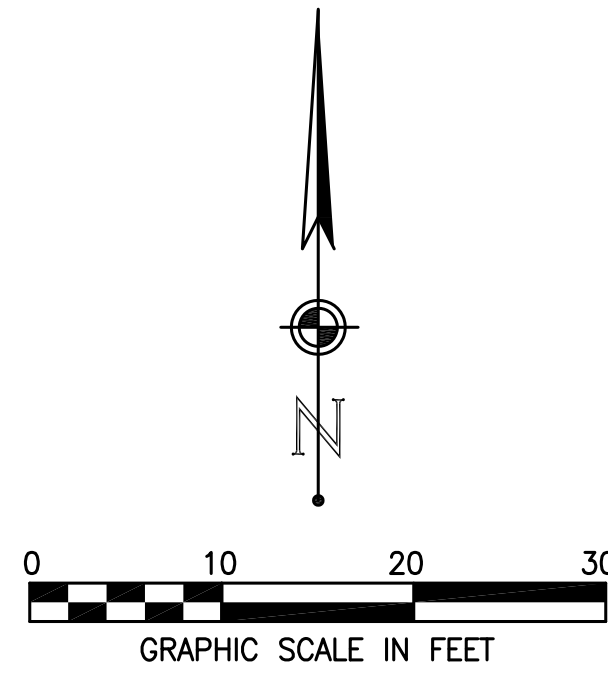
# Exhibit C: Future Land Use Map



Case: ZBA-2016-MAJ-06, ZBA-2016-MAJ-07  
Subject: Variance for Front Yard and Side Yard Setbacks  
Location: 708 and 710 West Green Street  
Petitioners: Andrew Fell

- Residential
- Mixed Residential
- Multi-Family Residential
- Subject Property

# EXHIBIT D

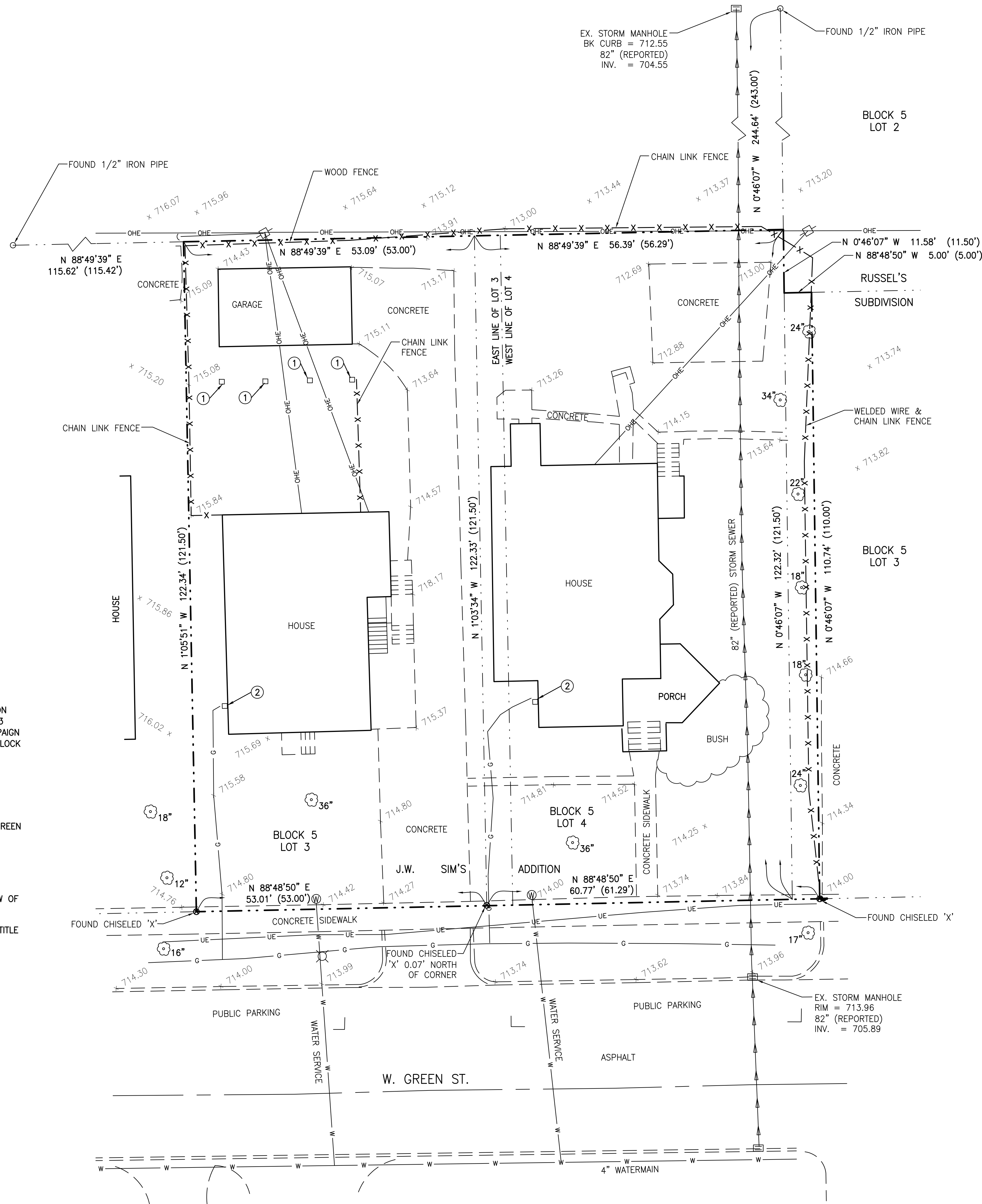


**SHEET LEGEND**

	BOUNDARY OF TRACT
	PROPERTY LINE
	EXISTING CENTERLINE
	EXISTING OVERHEAD ELECTRIC
	EXISTING STORM SEWER
	EXISTING WATERMAIN / WATER SERVICE
	EXISTING UNDERGROUND ELECTRIC
	EXISTING GAS LINE
	EXISTING FENCE
	EXISTING DECIDUOUS TREE W/ DIAMETER
	IRON PIPE / PIN FOUND
	EXISTING STORM INLET / MANHOLE
	EXISTING GUY WIRE
	EXISTING LIGHT POLE
	EXISTING POWER POLE
	RECORD DIMENSION
	EXISTING SPOT ELEVATION
	EXISTING WATER VALVE

**NOTES:**

- LEGAL DESCRIPTION: THE WEST 53 FEET OF LOT 53 OF LOT 3 IN BLOCK 5 OF J.W. SIM'S ADDITION TO THE CITY OF URBANA, IN CHAMPAIGN COUNTY, ILLINOIS (PARCEL 1). LOT 3 (EXCEPT THE WEST 53 THEROF) AND ALL OF LOT 4 IN BLOCK 5 OF J.W. SIM'S ADDITION TO THE CITY OF URBANA, IN CHAMPAIGN COUNTY, ILLINOIS, ALSO THE WEST 5 FEET OF LOT 3 OF H.M. RUSSELL'S SUBDIVISION OF LOT 5 IN BLOCK 5 OF J. W. SIM'S ADDITION TO URBANA, SITUATED IN CHAMPAIGN COUNTY, ILLINOIS. (PARCEL 2)
- BEARINGS SHOWN ON THE PLAT ARE ON AN ASSUMED LOCAL DATUM.
- THE OVERALL TRACT OF LAND AS SHOWN ON THE SURVEY ENCOMPASSES 0.319 ACRES, MORE OR LESS.
- THE ADDRESS FOR THE PROPERTY IS: 710 W. GREEN ST., URBANA, IL (PARCEL 1) AND 708 W. GREEN ST., URBANA, IL (PARCEL 2).
- THE CURRENT ZONING FOR THIS PROPERTY IS MOR (MIXED OFFICE RESIDENTIAL).
- THE FIELD WORK FOR THIS SURVEY WAS COMPLETED ON MARCH 2016.
- THE SANITARY SEWER LOCATIONS COULD NOT BE DETERMINED FROM THE FIELD SURVEY OR REVIEW OF CITY OF URBANA MAPPING.
- NO EASEMENTS AFFECTING THE PROPERTY WERE IDENTIFIED ON ATTORNEYS' TITLE GUARANTY FUND TITLE COMMITMENT NO. 150022801182. NO INDEPENDENT REVIEW OF EXISTING EASEMENTS AFFECTING THE PARCEL WAS COMPLETED.



- KEYNOTES**
- ① 3.5" x 3.5" WOOD POST
  - ② GAS METER

REVISIONS	
NO.	DESCRIPTION

**BKB**  
ENGINEERING  
301 N. NEIL STREET, SUITE 400 | CHAMPAIGN, IL 61820  
CELL 217.840.3546 | OFFICE 217.531.2971 | FAX 217.531.2211

TOPOGRAPHIC / BOUNDARY SURVEY  
708 & 710 W. GREEN ST.  
URBANA, ILLINOIS

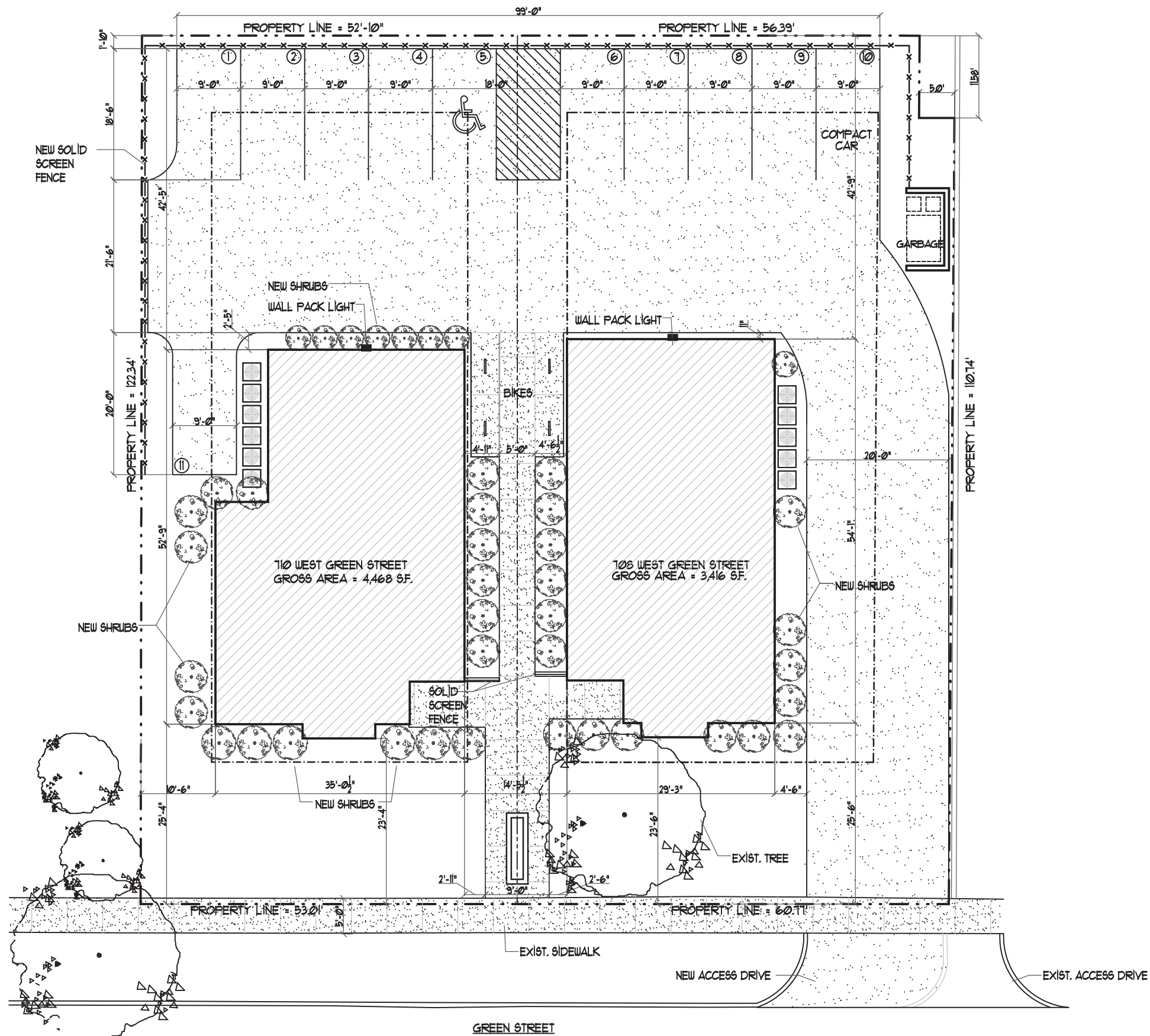
PROJECT: 40-1603  
DESIGN BY: BKB  
DRAWN BY: BKB  
DATE: 4/6/16  
SHEET:

# EXHIBIT D

FAR = 0.1

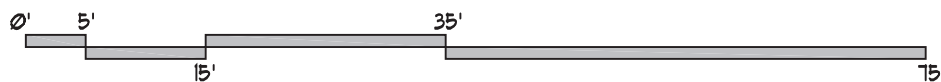
MAX. ALLOWABLE AREA =  
710 W. GREEN = 4,501.1 SF.  
708 W. GREEN = 4,704.1 SF.

ACTUAL AREA =  
710 W. GREEN = 4,468 SF.  
708 W. GREEN = 3,416 SF.



4 SITE PLAN  
SI SCALE: 1/16" = 1'-0"

NORTH



# EXHIBIT E, page 1

PROJECT # 16032

DATE : 16.06.29

REVISION :

**A N D R E W F E L L**  
ARCHITECTURE AND DESIGN

515 N. HICKORY STREET, SUITE 101  
CHAMPAIGN, ILLINOIS 61820  
PHONE: 217.353.2890  
FAX: 217.359.8493  
EMAIL: andrewfell@comcast.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.

708-710 WEST GREEN STREET

NEW CONSTRUCTION

708-710 WEST GREEN STREET  
URBANA, IL 61801

# EXHIBIT E, page 1

JHZZT

SI



## Exhibit F: Area Photos



708 West Green Street



710 West Green Street

# Exhibit G: MOR Development Review Board Approval Letter



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division  
400 S. Vine Street  
Urbana, IL 61801  
(217) 384-2440

July 13, 2016

Andrew Fell  
515 North Hickory Street, Suite 101  
Champaign, Illinois 61820

**RE: 708 and 710 West Green Street**

Dear Mr. Fell:

On June 30, 2016, the Urbana MOR Development Review Board granted approval of your proposed application for the construction of two apartment buildings at 708 and 710 West Green Street in the MOR, Mixed-Office Residential zoning district. The Development Review Board approved the proposal based on the finding that the proposal met the requirements of Section XI-12 of the Urbana Zoning Ordinance.

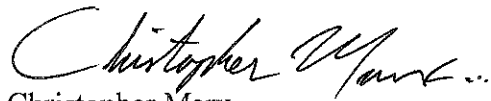
The proposed site plan was approved subject to the following conditions:

1. The construction shall be in general conformance with the attached Site Plan, Floor Plans, and Elevations.
2. The applicant shall obtain a variance for each lot to allow for the reduced side yard along the shared property line.
3. That the fence in the rear and side yards be an opaque wood fence of at least 6 feet in height, with the fence on the west side of the property extended to screen the parking.
4. An access easement shall be obtained to provide access to 710 West Green Street across the 708 West Green Street property.
5. A shared access easement shall be obtained for the central walkway and bicycle parking area between the two properties.
6. Pedestrian-scaled illumination is added to the central walkway area.

Approval of the proposed site plan shall become null and void if a building permit for the project is not issued prior to June 30, 2017.

Attached is a copy of the final site plan that was approved at the meeting on June 30, 2016. If you have any questions, please call me.

Sincerely,

A handwritten signature in cursive script that reads "Christopher Marx".

Christopher Marx  
Planner I

Enclosure: Approved Site Plan

Cc: Elizabeth Tyler, Zoning Administrator  
Lorrie Pearson, Planning Manager  
John Schneider, Building Safety Division Manager  
Bill Gray, Director, Public Works Director  
J. Patrick Bolger, Building Inspector





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. Estimated costs for these fees usually run between \$75.00 to \$225.00. The applicant is billed separately by the News-Gazette.

DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY

Date Request Filed \_\_\_\_\_ ZBA Case No. \_\_\_\_\_

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 the following variation (Describe the extent of the Variation Requested)

\_\_\_\_\_ 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 Fall Phone: 217-363-2890
Address (street/city/state/zip code): 515 N. HICKORY, SUITE 101, CHAMPAIGN, IL 61820
Email Address: andrewfall@comcast.net
Property interest of Applicant(s) (Owner, Contract Buyer, etc.): ARCHITECT

2. OWNER INFORMATION

Name of Owner(s): DR. SOHAIL CHAUDRY Phone: 217-377-0232
Address (street/city/state/zip code): 4411 TROTSHIRE CIRCLE, CHAMPAIGN, IL 61820
Email Address: schaudry@gmail.com
Is this property owned by a Land Trust? [ ] Yes [X] No
If yes, please attach a list of all individuals holding an interest in said Trust.

3. PROPERTY INFORMATION

Location of Subject Site: 708-710 WEST GREEN STREET
PIN # of Location: 708 = 92-21-17-106-019 7102 92-21-17-106-011
Lot Size: 708 = 55.75' x 121.5' 7102 53' x 121.5'

Current Zoning Designation: MOR

Current Land Use (vacant, residence, grocery, factory, etc): SINGLE FAMILY CONVERTED TO RENTAL

Proposed Land Use: 708 = 5 UNIT APARTMENT, 710 = 6 UNIT APARTMENT

Legal Description (If additional space is needed, please submit on separate sheet of paper):

SEE ATTACHED

#### 4. CONSULTANT INFORMATION

Name of Architect(s): Andrew Fell Architecture and Design Phone: 217-363-2890  
Address (street/city/state/zip code): 515 H. HICKORY, SUITE 101, CHAMPAIGN, IL 61820  
Email Address: andrew.fell@comcast.net

Name of Engineers(s): BKB Engineering Phone: 217-531-2971  
Address (street/city/state/zip code): 301 N. NEIL, SUITE 400, CHAMPAIGN, IL 61820  
Email Address: bbradshaw@bkbeng.com

Name of Surveyor(s): BKB Engineering Phone: 217-531-2971  
Address (street/city/state/zip code): 301 N. NEIL, SUITE 400, CHAMPAIGN, IL 61820  
Email Address: bbradshaw@bkbeng.com

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.

SEE ATTACHED

## 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.*

The properties and 708 and 710 West Green were purchased for the purposes of removing the existing converted residences and constructing two small apartment buildings. The initial intent was to construct two buildings as near mirror images of each other, or at least of a compatible aesthetic, and utilize the existing shared drive between 708 and 710 West Green. These new buildings were intended to be constructed by rights under the requirements of the MOR District.

After the sales were completed, we embarked on the design of the buildings. The initial step was to get the properties surveyed. The survey uncovered the existence of an 84" brick arch storm sewer running down the east side of 708 West Green. This storm sewer is approximately 11 feet off the east property line – to the center of the sewer. This storm sewer has no easement of any kind, so it did not show up on any title work completed as part of the sale of the lot. The Owner had no way of knowing of its existence until the civil engineer 'discovered' it. Presumably the seller and all previous owners of this property had no knowledge of its existence either.

In conversations with City staff, we will not be allowed to construct any portion of the building within 10 feet of the center line of this sewer line. This effectively increases our side yard setback on 708 West Green from 7' to approximately 24' - 10". This along with the 10' setback on the west side of the lot reduces the buildable width of the lot to only about 29' - 3". A further reduction of 3' would greatly increase the difficulty of designing a reasonable building.

The lot at 710 West Green is already narrow at 53' in width. Setbacks without the increase result in a buildable width to 36'. An additional 3' of setback makes it more difficult to design the building.

The front yard setback is a minimum of 15', or the average of the lots along the block face, to a maximum of 25'. A previous front yard Variance was granted to reduce the front yard setback to 20', however the buildings as currently planned maintain a front yard setback in excess of 25' to remain as compatible with the neighborhood as possible.

To mitigate the encroachment of the storm sewer on 708, and the narrowness of 710, we are asking to waive the requirement to increase the side yard setback by 3' for every additional 10' in height above 25'. (this would increase the side yard setback from 7' to 10')

This variance request is only for the lot lines common to 708 and 710 West Green, and has no affect on either of the neighboring properties at 706 or 712 West Green. The setback on the east side of 708 West Green is 24'-10 1/2" (due to the storm sewer) and 10' (we have the building set at 10'-6") on the west side of 710 West Green.

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

The presence of the storm sewer and its resulting increased setback leave a buildable footprint

too narrow for practical construction. This is a condition that does exist on a handful of other properties because of the same sewer line.

Additionally, 710 West Green is already non conforming due to its narrow width.

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

The storm sewer creating the primary hardship has no easement and therefor did not show up on any title work performed in the purchase of the property. The Owner had no way of even knowing it was there. Presumably no other previous Owner knew it was there either.

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

There is no request to increase the F.A.R. or reduce the O.S.R. on either property, so the scale of each building will be appropriate for the neighborhood. The request to reduce the increased side yard setback to 7' does fall within the language and I believe the spirit of the ordinance. The over-riding intent of the MOR district is to regulate the scale of the structures and there is no request to increase the size of the buildings beyond what is allowed by right.

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

There is no request to reduce the side yard setbacks of either property on the side that abuts a different owner. We are requesting to reduce only the side yard setback common to two buildings we propose.

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

The requests do represent the minimum I believe we can work with to make a reasonable building. The MOR restrictions already limit many aspects of the buildable area of lots in this district and we are simply asking to minimize the additional constraints.