



**DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES**

*Planning Division*

**m e m o r a n d u m**

**TO:** The Urbana Plan Commission

**FROM:** Rebecca Bird, Planning Associate

**DATE:** November 14, 2008

**SUBJECT:** Plan Case 2074-T-08: A request by the Zoning Administrator to adopt design guidelines for the Lincoln-Busey Corridor, amend the Urbana Zoning Ordinance to enable design review in certain areas, and establish the Lincoln-Busey Corridor design overlay district.

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**Introduction**

Plan Case 2074-T-08 is a request to adopt design guidelines for the Lincoln-Busey Corridor, amend the Zoning Ordinance to enable design review in certain areas, and establish the Lincoln-Busey Corridor design overlay district. This case was reviewed at the October 9, 2008 and October 23, 2008 Plan Commission meetings. The staff memos and supporting documents for those meetings are referenced here as part of the consideration. The Plan Commission and members of the public provided comments at both meetings. City staff has reviewed those comments and revised the text amendment accordingly.

**Discussion**

The following changes are recommended:

*Membership.* The Plan Commission suggested reviewing the membership of the Design Review Board. As the text amendment now reads, the Board will be composed of a member of the Plan Commission, a member of the Historic Preservation Commission, an architect, a local developer, a real estate professional, and two residents of Urbana. The first four members would be from the MOR DRB. The Plan Commission suggested having a larger Board or switching out the residents of the design review overlay district. Staff instead recommends keeping the membership requirements as they are for the reasons outlined below.

There have been suggestions that the single-family owner-occupied residents in the Lincoln-Busey Corridor need more representation. Thirty percent of the properties in the LBC are owner-occupied. The Board membership currently is comprised of 28% property owner interests,

although this would include one member from each design overlay district and not 28% from the LBC. To create a legally defensible design review ordinance, it is important that the Board be representative of the property interests. Additionally, a Board including members with professional/technical experience can assist the Board in making fully informed decisions.

Staff analysis of the composition of Board membership in seven design review ordinances included in a Planning Advisory Service Info Packet on Design Review, published by the American Planning Association, found that the proposed Board membership follows professional best practices. Of the seven model ordinances reviewed, two of the Boards are entirely composed of professionals, two of the Boards are comprised of 86% professionals, one is composed of 83% professionals and the remaining two are composed of 60% professionals. (See chart below.) None of the ordinances require that a resident/owner of each design overlay district be on the Board, although five out of the seven ordinances do allow some type of local representation from at least one design review overlay district. The Design Review Board, as it is currently written, is comprised of 71% professionals and 28% residential representatives, which is similar to the municipalities surveyed.

<b>Planning Advisory Service Essential Info Packet: Design Review</b>		
Municipality	Number	Composition
College Station, TX	6	5 professionals + 1 citizen-at-large; of the 6, 2 must be owners/residents/employees of any design review district. Professionals: 5/6 (83%).
Del Mar, CA	7	Persons who, by experience, training, education or occupation, have demonstrated talent and interest in developing the aesthetics of environmentally sensitive design within the framework of practical considerations. Professionals: 7/7 (100%).
Gig Harbor, WA	7	Members shall have qualifications, skills or demonstrated interest in urban design or historic preservation and shall be selected from at least four of the following categories: an architect, a resident with urban design skills (only one member allowed from this category), a Plan Commissioner, an urban design professional, a landscape professional, a historic preservation professional. Professionals: 6/7 (86%).
Glendale, CA	5	One architect and other professionals in architecture, landscape architecture, urban planners, engineers, and builder/developers. Professionals: 5/5 (100%).
Pacific Grove, CA	7	Two professional architects, landscape architects, engineers, designers or draftsmen; two persons with experience in the building industry; and two members of the Historic Preservation Commission. Professionals: 6/7 (86%).
Palo Alto, CA	5	At least three shall be architects, landscape architects, building designers or other design professionals. Professionals: 3/5 (60%).
Seattle, WA	5	One person representing each of the following: development-related interests; general community interests; design professionals; local residential interests; and local business interests. Professionals: 3/5 (60%).

Staff recommends leaving the number of Board members as originally proposed. Additionally,

staff recommends against having Board members switch out depending on the overlay district due to difficulties with training and education for the Board members and because it would be more difficult for the Board to function well if members keep switching out.

*Administrative Review.* Language has been added to clarify whether projects will be subject to review by the Design Review Board, administrative review, or are exempt from review. Applications for the following projects that are visible from public rights-of-way other than alleys and meet one of the following criteria shall be subject to review by the Design Review Board: (1) Construction of a new principal structure; or (2) Changing the building footprint of an existing principal structure greater than 15%; or (3) Changing the floor area ratio of an existing principal structure by more than 5%; or (4) Substantially changing the appearance and/or scale of an existing building, as determined by the Zoning Administrator in consultation with the Chair. All other projects that require a building permit and are visible from public rights-of-way other than alleys may be reviewed administratively with a determination, made in writing, by the Zoning Administrator and the Chair.

*Notification Requirements.* As the text amendment is currently written, projects that require review by the Design Review Board would follow the standard noticing procedures for public hearings, (Section XI-15.H.1). Only projects that would make minor visible changes would be reviewed administratively. Variances will not be allowed administratively. Noticing administrative approvals sets up a false impression that the City is asking for public input and approval of projects that have met all the requirements and were approved by right. There is a strong legal basis in court rulings for “by right” development if the project meets all the requirements. For these reasons, staff recommends leaving the noticing requirements as originally proposed.

*Decisions.* The language has been changed to require a majority of the Board members present to make a decision. This is the standard voting requirement, according to Robert’s Rules of Order. A majority is “more than half,” which would mean that if a minimum quorum of four members were present, it would require three affirmative votes to approve an application.

*Conflict of Interest.* Several Commissioners asked for clarification regarding what would constitute a conflict of interest. A conflict of interest would be defined by the Board in their by-laws. For example, the Plan Commission’s by-laws state: “Conflicts of interest may arise from various scenarios including, but not limited to, financial, ownership or property interests, conflicts with employment or appointments, or conflicts with a publicly stated opinion on a pending application.”

## **Recommendation**

Staff recommends that the Plan Commission forward Plan Case No. 2074-T-08 to the Urbana City Council with a recommendation to APPROVE the Lincoln-Busey Corridor Design Guidelines, APPROVE the Zoning Ordinance text amendment as attached, and APPROVE the Lincoln-Busey Corridor Design Review Overlay District.

Attachments:

Exhibit A: Proposed Ordinance

cc:

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West Urbana Neighborhood Association, c/o Esther Patt, 706 South Coler, #3, Urbana, Illinois 61801

## **Section XI-15. Design Review Board**

### *A. Creation and Purpose*

1. Upon the effective date of this amendment, there is hereby created a Design Review Board to administer design review in designated areas subject to design review in conformance with the requirements of this Section.
2. The Design Review Board is created for the purpose of reviewing and approving or disapproving applications, in accordance with this section.
3. The Design Review Board has the following objectives for reviewing applications in areas subject to design review:
  - a. Review the design of new construction to ensure compatibility with the neighborhood's visual and aesthetic character through the use of the adopted design guidelines; and
  - b. Determine if applications meet the intent of the district as stated in the adopted design guidelines.

### *B. Powers and Duties.* The Design Review Board shall have the following powers:

1. The Design Review Board may adopt its own rules, regulations, and procedures consistent with the provisions of this Section and the laws of the State of Illinois.
2. To hold public hearings and to review applications within areas subject to design review. The Design Review Board may require applicants to submit plans, drawings, specifications and other information as may be necessary to make decisions in addition to the application requirements specified in Section XI-15.G.
3. To undertake any other action or activity necessary or appropriate to implement its powers and duties and to implement the purpose of this section.
4. Although the Design Review Board is not authorized to grant variances, special use permits, or conditional use permits, an application for design review can be processed simultaneously with applications for any of the above.
5. In a decision on an application, the Design Review Board is not authorized to prohibit or deny a land use that is permitted by right in the applicable zoning district, although it may prohibit or deny permission for development even though that development may be necessary for a permitted land use.

### *C. Membership*

1. The Design Review Board shall be comprised of seven members. Four members shall constitute a quorum. The members of the Board shall be appointed by the Mayor with approval of City Council.

The persons filling the following positions on the MOR Development Review Board per Section XI-12.C.1 are automatically appointed to the Design Review Board:

- a. A member of the Urbana Plan Commission;
- b. A member of the Urbana Historic Preservation Commission;

- c. An architect; and
- d. A local developer.

These four members of the Design Review Board shall continue to also serve as members of the MOR Development Review Board. The additional three members of the Design Review Board shall consist of:

- a. A real estate professional; and
  - b. Two residents of Urbana. The residents should include one representative from each design review district who owns and occupies a residence in the district. If there is only one design review district, the second resident should own and occupy a residence in any other part of the City.
2. Design Review Board members shall serve without compensation and shall serve terms of three years. Members of the MOR Development Review Board shall be automatically reappointed to the Design Review Board if reappointed to the MOR Development Review Board. The additional two members may be reappointed at the conclusion of their respective terms.
  3. The Mayor shall declare vacant the seat of any Design Review Board member who fails to attend three consecutive meetings without notification to the Secretary, or who fails to attend one-half of all meetings held during any one-year period. In such cases, as well as for resignations, incapacity, death, or any other vacancy, the Mayor shall appoint a successor with approval of the City Council.

D. *Officers.*

1. There shall be a Chair elected by the Design Review Board, who shall serve a term of one year and shall be eligible for re-election. Elections shall be held annually.
2. The Chair shall preside over meetings. In the absence of the Chair, those members present shall elect a temporary Chair.
3. Secretary. The Secretary of the Design Review Board shall be a representative of the Community Development Services Department of the City of Urbana. The Secretary shall:
  - a. Take minutes of each Design Review Board meeting, an original of which shall be kept in the office of the Community Development Services Department;
  - b. Provide administrative and technical assistance to the Design Review Board to assist in making decisions and findings as provided herein;
  - c. Publish and distribute copies of the minutes, reports and decisions of the Design Review Board;
  - d. Give notice as provided herein or by law for all public hearings conducted by the Design Review Board;
  - e. Advise the Mayor of vacancies on the Design Review Board and expiring terms of Design Review Board members;
  - f. Prepare and submit to the Zoning Board of Appeals and the City Council a record of the proceedings before the Design Review Board on any other matters requiring Zoning Board of Appeals consideration; and

- g. Have no vote.

E. *Meetings.*

1. The Design Review Board shall hold at least one meeting per year. Meetings shall be called as needed.
2. All meetings shall conform to the requirements of the Illinois Open Meetings Act. All meetings of the Design Review Board shall be held in a public place designated by the Chair, and shall be open to the public, except as allowed by law. At any meeting of the Design Review Board, any interested person may appear and be heard either in person or by an authorized agent or attorney.

F. *Decisions.*

1. Every Board member present must vote "aye" or "nay" unless that Board member abstains due to an announced conflict of interest.
2. Abstaining shall not change the count of Board members present to determine the existence of a quorum.
3. Approval of an application shall require a majority vote of those members present, ~~and not abstaining.~~

G. *Applications.*

1. With the exception of exempt projects as defined below, any person, firm or corporation proposing to construct a new principal structure, or alter the exterior of any existing principal structure, shall file a Design Review Board application with the Zoning Administrator of the City of Urbana or designee.
2. Application forms, provided by the City, shall be accompanied by the required plans, and filed with the Secretary of the Board. Each request shall be submitted with the required fee as provided in Section XI-8.
3. Submittal Requirements. The Design Review Board Secretary shall have five working days to determine whether an application is complete. If the Secretary finds the application incomplete, he/she shall notify the applicant, who shall have five working days from the date notified to submit the missing information. An application shall be considered complete if accompanied by, at a minimum, the following information:
  - a. A scaled drawing showing:
    - 1) Size and dimensions of the subject parcel drawn to scale;
    - 2) Location and widths of adjacent rights-of-ways, sidewalks and street pavement;
    - 3) Identification of neighboring property owners listed on the application;
    - 4) Location of all existing structures on the parcel;
    - 5) Location of adjacent parcels and structures;
    - 6) Location and size of proposed structures or additions to be built on the parcel including proposed setbacks from the property lines;
    - 7) Floor plans;
    - 8) Location and layout of any proposed access drives, parking area and walkways;
    - 9) Location of existing trees and shrubs and proposed landscaping;
    - 10) Relevant site details including lighting, dumpster locations, signage, and other features;

- b. Elevation renderings of the proposed structures or additions indicating the proposed materials to be used in construction;
- c. Detail view drawings as necessary to show key design elements; and
- d. Site data, including lot area, building square footage, floor area ratio, open space ratio, height, number of parking spaces and number of apartment units (if multi-family).

Plans shall be submitted at a graphic scale of no less than one inch per ten feet.

The Design Review Board may require additional information as necessary.

- 4. Upon receipt of a complete Design Review Board application, and in conformance with the following guidelines, the Zoning Administrator shall determine whether applications require review by the Design Review Board, administrative review, or are exempt projects.

a. *Design Review Board Review.* Applications for the following projects, and where visible from public rights-of-way other than alleys, shall be subject to review by the Design Review Board:

- (1) Construction of a new principal structure; or
- (2) Changing the building footprint of an existing principal structure greater than 15%; or
- (3) Changing the floor area ratio of an existing principal structure by more than 5%; or
- (4) Substantially changing the appearance and/or scale of an existing building, as determined by the Zoning Administrator in consultation with the Design Review Board chair.

Determinations that the application is to be reviewed administratively should be made in writing, dated and signed by both the Zoning Administrator and the Chair.

b. *Administrative Review.* For projects visible from public rights-of-way other than alleys, but not requiring review by the Design Review Board, the Zoning Administrator or designee may process design review applications administratively. Applicable design guidelines shall be the basis for administrative design review. Administrative approval or denial shall be in writing and should be accompanied by findings of fact.

c. *Exempt Projects.* The following types of projects shall be exempt from design review. Other projects shall be subject to design review.

- (1) Projects that do not require a building permit;
- (2) Projects that will not be visible from public rights-of-way other than alleys.

#### H. *Design Review Board Review Procedures*

- 1. Once a complete application has been submitted, the Secretary shall schedule a meeting to consider and act on the application request. The meeting, which shall include a public hearing, shall be scheduled within 45 working days after the completed application has been received. Notification shall be given per Section XI-10.
- 2. At the Design Review Board meeting during which an application is to be considered, City staff will give a presentation evaluating the application. Following the presentation, the Design Review Board will hold a public hearing. After the public hearing, the Design Review Board will review the application 1) according to the criteria in Section ~~XI-15.I~~ ~~XI-15.K~~; 2) using the adopted design guidelines; and 3) considering testimony given at the public hearing. The Design Review Board



shall then vote on whether to approve the proposed application. A majority vote of those members present and not abstaining is required to approve an application.

The Board may:

- a. Approve the application. If the proposed application conforms to the requirements of this Ordinance and the intent of the adopted design guidelines, the Design Review Board shall make the appropriate findings and approve the application.
- b. Approve the application with conditions. In approving an application, the Board may prescribe appropriate conditions and safeguards in conformity with the adopted design guidelines and this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the application is approved, shall be deemed a violation of this Ordinance and punishable under the provisions of the Urbana Zoning Ordinance.
- c. Invite the applicant to resubmit. If the application does not conform to the requirements of this Ordinance or to the adopted design guidelines, the Design Review Board may invite the applicant to resubmit the application, giving recommendations to the applicant on ways to improve the design of the proposal and achieve conformity with this Ordinance and the intent of the adopted design guidelines.
- d. Deny the application. The Board may disapprove the proposed application, making findings stating the inadequacies of the proposal. The Board shall state its reasons for denial in writing and should make recommendations to the applicant on how to bring the proposal into compliance with the design guidelines.

Within five working days of the Board's decision, the Secretary shall send notice to the applicant which should The applicant shall be notified in writing of the Board's decision within five working days, which notification shall address the relevant and applicable reasons for the decision as well as any recommendations given by the Board.

If the application is denied, the applicant shall have the opportunity to amend the application to conform to the recommendations. The applicant shall be heard at a meeting of the Design Review Board within 30 days of receipt of the amended application at which time a majority vote of those members present and not abstaining is required to approve the amended application.

3. Application approval is required prior to the issuance of a related building permit or Certificate of Occupancy.
4. Any order, requirement, decision or condition of approval made by the Zoning Administrator or Design Review Board is appealable by any person aggrieved thereby to the Zoning Board of Appeals in accordance with the procedures of Section XI-3.C. Upon the filing of an appeal, the complete record of the Design Review Board's minutes, findings and decision shall be submitted to the Board of Zoning Appeals for action on the requested appeal. The Zoning Board of Appeals shall have the final authority to approve or disapprove an application.
5. The Secretary of the Board shall keep minutes of its proceedings, showing the vote of each member and shall also keep records of its findings and official decisions.
6. The procedure for amending an application already approved by the Design Review Board, or for a request to change conditions attached to the approval of an application, shall be the same procedure as a new application request.
7. Approval of an application pursuant to Section XI-15 shall become null and void unless a related building permit or Certificate of Occupancy is issued within one year after the date on which the

Board approves the application. A one-year extension may be granted by the Zoning Administrator when a written request with substantial basis is submitted prior to the expiration of the one-year term.

8. Any building permit or Certificate of Occupancy issued pursuant to an approved application may be revoked by the City for failure to comply with the conditions of approval.

I. *Application Review Criteria.*

1. Applications must demonstrate conformance with the land use and development standards of the Urbana Zoning Ordinance.
2. Applications shall be reviewed and considered by the Design Review Board according to the criteria listed in the design guidelines enacted by the Urbana City Council for the specific geographic area in which the subject parcel is located. In reviewing development proposals, the Design Review Board shall determine conformance with the intent of the design guidelines as contained in the adopted design guidelines manual, as well as the overall compatibility of the proposal with the character of the neighborhood.

J. *Design Review Overlay Districts and Adopted Design Guidelines*

1. Design review overlay districts with their associated design guidelines shall be adopted under separate ordinances. The City of Urbana's Community Development Services Department shall make design guidelines available for public review and distribution. A design review overlay district shall be created by adopting a design guidelines manual for a specific geographic area.

"Adopted design guidelines" as referred to herein are the design guidelines associated with a design review overlay district, as adopted by ordinance.

The following, adopted under separate ordinances, are the design overlay districts in the City of Urbana and have adopted design guidelines manuals:

*Lincoln-Busey Corridor Overlay District.* Bounded by Illinois Street to the north, Busey Avenue to the east, Pennsylvania Avenue to the south, and Lincoln Avenue to the west. (Ordinance Nos. \_\_\_\_\_ and \_\_\_\_\_ .) The Lincoln-Busey Corridor Design Overlay District was created, and the Lincoln-Busey Corridor Design Guidelines were adopted, on \_\_\_\_\_, under Ordinance No. \_\_\_\_\_.

2. Any proposed amendments to adopted design guidelines shall be considered by the Urbana Plan Commission in the form of a public hearing. The Plan Commission shall forward a recommendation on any proposed amendments to the Urbana City Council for final action.

K. *Compliance with Regulations.* Except in compliance with the provisions of this Section, it shall be unlawful for any person, firm, or corporation to construct upon or alter the exterior any real property subject to this Section prior to obtaining a valid design review permit, in writing, from the Zoning Administrator, and making payment of any fees required by this Section. Any violation of this Section is subject to penalties and fines as provided in Article XI of the Urbana Zoning Ordinance.