

AN ORDINANCE APPROVING A MAJOR VARIANCE

(To Allow a Readerboard with Electronically Changeable ("LED") Letters in the B-3, General Business Zoning District / Case No. ZBA-05-MAJ-02)

WHEREAS, the Zoning Ordinance provides for a major variance procedure to permit the Zoning Board of Appeals and the City Council to consider criteria for major variances where there are special circumstances or conditions related to the parcel of land or the structure; and

WHEREAS, the petitioner, Blackstone Group, has submitted a petition requesting major variances that include a request to allow a readerboard to be constructed of electronically changeable "LED" letters, rather than manually changeable letters, in the B-3, General Business Zoning District at the northeast corner of the intersection of University Avenue and Cunningham Avenue; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA 05-MAJ-02; and

WHEREAS, after due publication in accordance with Section XI-10 of the Urbana Zoning Ordinance and with Chapter 65, Section 5/11-13-14 of the Illinois Compiled Statutes (65 ILCS 5/11-13-14), the Urbana Zoning Board of Appeals (ZBA) held a public hearing on the proposed major variances on February 16, 2005 and by a Five to Zero (5-0) vote of its members recommended approval of the requested variances with certain specified conditions; and

WHEREAS, after due and proper consideration, the City Council of the City of Urbana has determined that the major variance referenced herein conforms with the major variance procedures in accordance with Article XI, Section XI-3, C.3.d of the Urbana Zoning Ordinance; and

WHEREAS, the City Council agrees with the following findings of fact adopted by the ZBA in support of its recommendation to approve the application for the major variance as requested:

1. The special circumstance for the LED message board variance is that the Urbana Zoning Ordinance is not fully up to date with respect to recent technologies that make it cost-effective and efficient to electronically change message boards. This technology is much cleaner and more professional in appearance than other types of message boards. The electronically changed messages are also safer for employees since they do not need to manually change the message using ladders or lifts.
2. The requested LED message board request will not serve as a special privilege because it is unique in that it involves technologies and use that have not previously been anticipated in the current Zoning Ordinance. A subsequent text change may be considered to allow use of this in other locations.
3. The variances requested were not the result of a situation or condition having been knowingly or deliberately created by the Petitioner. The new signage has not yet been created. The petitioner is aware of the zoning requirements and has applied for a variance.
4. The proposed sign will not alter the character of the neighborhood which is highly commercial. There are numerous other commercial enterprises and free-standing signs in the vicinity, including outdoor advertising sign structures. The proposed sign would be consistent with the general character of signage in the area.
5. The proposed sign should not cause any significant impact on adjacent properties. The parcel has been approved for commercial development and will be a part of a larger commercial redevelopment. The sign is within the setback and height limits required of the Zoning Ordinance. It would not cause a nuisance for surrounding commercial properties or adjacent roadways.

6. The variance represents generally the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request which is to match the industry standard produced by Walgreens Drug Store. The petitioner is requesting only the amount of variance needed to accommodate the proposal as designed.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. The major variance request by Blackstone Group, in Case #ZBA 05-MAJ-02 is hereby approved to allow a readerboard with electronically changeable "LED" letters, rather than manually changeable letters, in the B-3, General Business Zoning District as approved by the Zoning Board of Appeals, with the following conditions of approval:

1. That the LED Display be limited to no more than 23.11 square feet in area, and be constructed in substantial conformity with the submitted design plan.
2. That the LED Display shall not be animated, flashing, multi-colored, or scrolling in any manner so as to avoid motorist distraction.
3. That frequency of message change shall be restricted to no more than once every three minutes.

Section 2. The major variance described above shall only apply to the property located at the northeast corner of University Avenue and Cunningham Avenue, more particularly described as follows:

LEGAL DESCRIPTION:

A tract of ground bounded and described as follows:

Beginning at the Northeast corner of University Avenue (U.S. Route 150) and Cunningham Avenue (U.S. Route 45) as the intersection exists after August 29, 1957 and as the beginning point was marked that date

with a steel pipe by now deceased surveyor Mack Kinch and which pipe and point also was accepted May 1, 1979 by Illinois Land Surveyor Charles S. Danner; thence Northerly along the Easterly line of the Cunningham Avenue as located by Surveyor Danner and disclosed by his unrecorded plat of survey on a local bearing of North 22 Degrees 43 Minutes 38 Seconds East 73.37 feet to the Northeast corner of a concrete right-of-way marker set by authority of the Illinois Department of Transportation; continuing North 22 Degrees 43 Minutes 38 seconds East 176.55 feet to the Southeast corner of a similar concrete marker; thence North 87 Degrees 51 Minutes 53 Seconds East 130.47 feet to the former position of a steel survey marker set by Surveyor Kinch May 12, 1952, as reestablished by Surveyor Danner May 1, 1979; thence South 00 Degrees, 00 Minutes 00 Seconds East 244.87 feet to a buried steel survey marker set by Surveyor Danner to mark the North line of University Avenue; thence South 89 Degrees 40 Minutes 00 Seconds West 162.75 feet along a line determined in 1979 by Surveyor Danner to be the North line of University Avenue; thence North 80 Degrees 45 Minutes 30 Seconds West 65.03 feet to the point of beginning, and

A tract of ground bounded and described as follows:
Beginning at the Northeast corner of a concrete right-of-way marker set by Authority of the Illinois Division of Highways to represent the Easterly right-of-way line of state bond issue Route number 25, 40 feet Easterly of the centerline station 271 plus 18

as said centerline was constructed in the 1930's, said concrete marker also bearing North 22 Degrees 43 Minutes 38 Seconds East 73.37 feet from a steel survey marker set by Illinois Land Surveyor Charles S. Danner, May 1, 1979, to mark the then intersection of the North line of University Avenue and the East line of Cunningham Avenue in Urbana, Illinois; thence South 87 Degrees 51 Minutes 53 Seconds West 5.43 feet to the Southeast corner of a concrete right-of-way marker also set by the authority of the Illinois Division of Highways; thence continuing South 87 Degrees 51 Minutes 53 Seconds West 2.29 feet more or less to the Easterly line of Cunningham Avenue as dedicated (66 feet wide) in Hiram Shepard's Addition to the City of Urbana, Illinois, thence Northeasterly along the East line of Cunningham Avenue as so dedicated to a point which bears South 87 Degrees 51 Minutes 53 Seconds West from a cross cut in as asphalt pavement which cross bears North 22 Degrees 43 Minutes 38 Seconds East 176.55 feet from the point of beginning; thence North 87 Degrees 51 Minutes 53 Seconds East 7.72 feet more or less to a point which bears North 22 Degrees 43 Minutes 38 Seconds East 176 feet from the point of beginning; thence South 22 Degrees 43 Minutes 38 Seconds West 176.55 feet to the point of beginning, all situated in Champaign County, Illinois.

and also:

PARCEL 5X70703

A PARCEL OF LAND BEING A PART OF LOTS 35 AND 36 OF
HIRAM SHEPHERD'S ADDITION TO THE CITY OF URBANA,

DESCRIBED AS FOLLOWS: FROM THE NORTHEAST CORNER OF SAID LOT 35, MEASURE SOUTHERLY ON THE EAST OF SAID LOT 35 FOR 17.28 FEET TO THE NORTHERLY EXISTING RIGHT OF WAY LINE OF SBI ROUTE 10; THENCE WESTERLY ON THE NORTHERLY RIGHT OF WAY LINE OF SBI ROUTE 10 FOR 110.34 FEET TO THE PLACE OF BEGINNING.

FROM THE PLACE OF BEGINNING DEFLECT 89 DEGREES 11 MINUTES 59 SECONDS TO THE LEFT FROM THE LAST DESCRIBED COURSE SOUTHERLY FOR 51.75 FEET; THENCE DEFLECT 90 DEGREES 00 MINUTES 00 SECONDS TO THE RIGHT WESTERLY FOR 140.00 FEET; THENCE DEFLECT 68 DEGREES 06 MINUTES 33 SECONDS TO THE RIGHT NORTHWESTERLY FOR 70.24 FEET; THENCE DEFLECT 127 DEGREES 45 MINUTES 02 SECONDS TO THE RIGHT SOUTHEASTERLY FOR 58.86 FEET; THENCE DEFLECT 16 DEGREES 39 MINUTES 36 SECONDS TO THE LEFT EASTERLY FOR 111.51 FEET TO THE PLACE OF BEGINNING CONTAINING 7,922 SQUARE FEET, MORE OR LESS.

THE SAID PARCEL IS PART OF THE LAND AS DESCRIBED IN THE DEDICATION OF RIGHT OF WAY, DOCUMENT 265231 RECORDED IN BOOK 229 OF DEEDS ON PAGE 537 ON NOVEMBER 1, 1933, IN CHAMPAIGN COUNTY, ILLINOIS.

Said Parcel 5X70703 being more particularly described as follows:

COMMENCING AT AN IRON PIPE SURVEY MONUMENT SET AT THE NORTHEAST CORNER OF LOT 35 OF HIRAM SHEPHERD'S ADDITION AS FILED FOR RECORD IN DEED BOOK 32 PAGE 52 IN THE OFFICE OF THE RECORDER OF CHAMPAIGN COUNTY ILLINOIS; THENCE SOUTH 00 DEGREES 18 MINUTES 15

SECONDS EAST ALONG THE EAST LINE OF SAID LOT 35, A DISTANCE OF 17.28 FEET TO AN IRON PIPE SURVEY MONUMENT SET AT THE INTERSECTION OF THE EAST LINE OF SAID LOT 35 AND THE NORTH RIGHT OF WAY LINE OF UNIVERSITY AVENUE (S.B.I. ROUTE 10); THENCE SOUTH 89 DEGREES 06 MINUTES 54 SECONDS WEST ALONG THE NORTH RIGHT OF WAY LINE OF SAID UNIVERSITY AVENUE (S.B.I.. ROUTE 10), A DISTANCE OF 109.88 FEET TO AN IRON PIPE SURVEY MONUMENT SET AT THE NORTHEAST CORNER OF PARCEL 5X70703 AS FILED FOR RECORD IN BOOK 1275 AT PAGE 381 IN THE OFFICE OF THE RECORDER OF CHAMPAIGN COUNTY ILLINOIS FOR THE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 33 MINUTES 23 SECONDS EAST ALONG THE EAST LINE OF SAID PARCEL 5X70703 A DISTANCE OF 51.75 FEET TO AN IRON REBAR SURVEY MONUMENT FOUND AT THE SOUTHEAST CORNER OF SAID PARCEL 5X70703; THENCE SOUTH 89 DEGREES 26 MINUTES 37 SECONDS WEST ALONG THE SOUTH LINE OF SAID PARCEL 5X70703, A DISTANCE OF 140.00 FEET TO AN IRON REBAR SURVEY MONUMENT FOUND AT THE SOUTHWEST CORNER OF SAID PARCEL 5X70703; THENCE NORTH 22 DEGREES 26 MINUTES 12 SECONDS WEST ALONG THE WEST LINE OF SAID PARCEL 5X70703, A DISTANCE OF 70.24 FEET TO AN IRON PIPE SURVEY MONUMENT SET AT THE NORTHWEST CORNER OF SAID PARCEL 5X70703, SAID MONUMENT SET ALSO BEING THE INTERSECTION OF THE EASTERLY RIGHT OF WAY LINE OF CUNNINGHAM AVENUE (U.S. ROUTE 45) AND THE FORMER NORTHERLY RIGHT OF WAY LINE OF UNIVERSITY AVENUE (S.B.I. ROUTE 10); THENCE SOUTH 76 DEGREES 07 MINUTES 13 SECONDS EAST ALONG THE NORTHERLY LINE OF SAID PARCEL 5X70703, SAID LINE ALSO BEING THE FORMER NORTHERLY RIGHT OF WAY LINE OF UNIVERSITY AVENUE

(S.B.I. ROUTE 10), A DISTANCE OF 56.45 FEET TO A CHISELED "X" SURVEY MONUMENT SET AT A BEND POINT IN THE NORTHERLY LINE OF SAID PARCEL 5X70703, SAID LINE ALSO BEING THE FORMER NORTHERLY RIGHT OF WAY LINE OF UNIVERSITY AVENUE (S.B.I. ROUTE 10); THENCE NORTH 89 DEGREES 06 MINUTES 54 SECONDS EAST ALONG THE NORTHERLY LINE OF SAID PARCEL 5X70703, SAID LINE ALSO BEING THE FORMER NORTHERLY RIGHT OF WAY LINE OF UNIVERSITY AVENUE (S.B.I. ROUTE 10), A DISTANCE OF 111.51 FEET TO THE POINT OF BEGINNING, CONTAINING 8,060 SQUARE FEET MORE OR LESS, ALL AS SHOWN ON THE ACCOMPANYING PLAT OF SURVEY, ALL SITUATED IN URBANA, CHAMPAIGN COUNTY, ILLINOIS.

PERMANENT PARCEL NUMBER: 91-21-8-427-002 and former excess right-of-way to the south

LOCATED AT: Northeast corner of University Avenue and Cunningham Avenue

Section 3. The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities. This Ordinance shall be in full force and effect from and after its passage and publication in accordance with the terms of Chapter 65, Section 1-2-4 of the Illinois Compiled Statutes (65 ILCS 5/1-2-4).

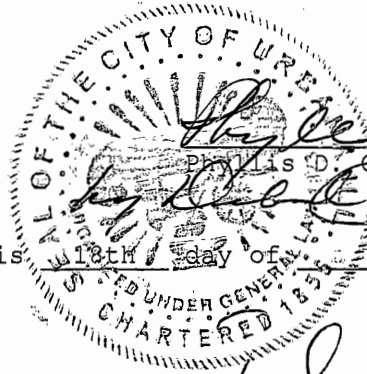
This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of a majority of the members of the City Council of the City of Urbana, Illinois, at a regular meeting of said Council on the 7th day of March, 2005.

PASSED by the City Council this 7th day of March,
2005 .

AYES: Alix, Chynoweth, Hayes, Whelan

NAYS: Patt, Roberts, Wyman

ABSTAINS:



APPROVED by the Mayor this 18th day of March,
2005 .

Phyllis D. Clark
Phyllis D. Clark, City Clerk
Robert Clark
Robert Clark, Deputy Clerk
Tod Satterthwaite
Tod Satterthwaite, Mayor