

AN ORDINANCE APPROVING A MAJOR VARIANCE

(To Allow a 100% Encroachment for Parking Into the Required 5-Foot Side Yard Setback, in the B-3U, General Business-University Zoning District/ 903 W. Nevada Street - Case No. ZBA-05-MAJ-5)

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 with the parcel of land or the structure; and

WHEREAS, the owner of the subject property, Mid-Illinois Realty Group IV & DAVAN, LLC, represented by Barr Real Estate, has submitted a petition requesting a major variance to allow parking to encroach 5' feet (100%) into the required 5' foot side-yard at 903 W. Nevada Street in the B-3U, General Business - University Zoning District; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-05-MAJ-5; 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 variance on October 19, 2005 and voted 4 ayes and 0 nays to recommend to the City Council approval of the requested variance with the condition listed below; 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 has considered the variance criteria established in the Urbana Zoning Ordinance and has determined the following findings:

1. The practical difficulty in carrying out the strict application of the ordinance is that the lot is only 65 feet wide and the side yard requirement limits the possible geometric arrangements for parking. With the side yard requirement, possible parking arrangements would reduce the number of spaces below requirements, and make access from Nevada Street more difficult. The 5-foot encroachment into the east side yard would allow the most efficient parking and access arrangement.

2. The proposed variance will not serve as a special privilege because the variance requested is necessary due to the special circumstance that many years ago the lot was platted 65 feet wide which is narrower than lots are usually platted now. In addition the rear 44 feet of the lot was sold to the property to the east. It is not possible to put enough parking in a single sided parking module because the lot is too short. The lot is too narrow to accommodate a double sided parking module and also maintain both side yards. This circumstance is unique to this lot because most other properties are not constrained by being both too short and too narrow.

3. The variance requested was not the result of a situation or condition having been knowingly or deliberately created by the Petitioner. The need for the variances has not yet been created. The petitioner is aware of the requirements of the Zoning Ordinance and has applied for variances prior to construction.

4. The variance will not alter the essential character of the neighborhood. The requested decrease of side yard setback is consistent with conditions found on other nearby east campus properties and will not have a detrimental impact on the character of the neighborhood.

5. The variance should not cause a nuisance to adjacent properties. The petitioners own the immediately adjacent lot to the east. The structure of the new building itself will be outside the setback line. The required separation of the buildings will be achieved. According to the petitioner, the tenants have been notified and have indicated support for the variance.

6. The variance represents generally the minimum deviation from requirements of the Zoning Ordinance. The petitioner is requesting the minimum deviation from the requirements that can accommodate the constraints of the parcel, the Zoning Ordinance requirements for parking lot layout dimensions, and the number of parking spaces required.

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

The major variance request by Mid-Illinois Realty Group IV & DAVAN, LLC, represented by Barr Real Estate, in Case #ZBA-05-MAJ-5, is hereby approved to allow parking to encroach 5' feet (100%) into the required 5' foot side-yard at 903 W. Nevada Street in Urbana's B-3U, General Business - University Zoning District, in the manner proposed in the application, with the condition that the construction must generally conform to the site plan submitted with the application.

The major variance described above shall only apply to the property located at 903 W. Nevada Street Drive, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION: Lot 37 in Forestry Heights Addition to Urbana, except the South 44 feet of the East 50 feet thereof, situated in the City of Urbana, County of Champaign, and State of Illinois,

PERMANENT PARCEL #: 93-21-18-281-006

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).

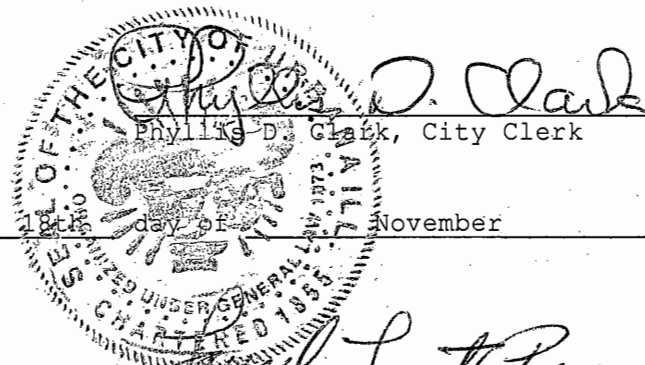
This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of a majority of the members of the City Council of the City of Urbana, Illinois, at a regular meeting of said Council on the 7th day of November, 2005.

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

AYES: Barnes, Bowersox, Chynoweth, Lewis, Roberts, Smyth, Stevenson

NAYS:

ABSTAINS:



Phyllis D. Clark
Phyllis D. Clark, City Clerk

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

Laurel Lunt Prussing
Laurel Lunt Prussing, Mayor