



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Laurel Lunt Prussing, Mayor

FROM: Elizabeth H. Tyler, AICP, Director, Community Development Services

DATE: July 3, 2007

SUBJECT: Request for a variance filed by Trammell Crow Higher Education Development, Inc. to allow a reduction in side yard building setbacks to five feet for a mixed commercial/residential building at 1008, 1010 and 1012 W. University Avenue in the B-3, General Business Zoning District. (Case No. ZBA-2007-MAJ-06)

Introduction and Background

This case is a request by Trammell Crow Higher Education Development, Inc. to allow a mixed commercial/apartment building with an interior parking garage to have five foot side yard setbacks rather than increasing the side yard setback to 17 feet. The subject property includes three lots totaling approximately 1.7 acres and is located at 1008, 1010 and 1012 W. University Avenue in the B-3, General Business Zoning District.

Section VI-5.G.3 of the Urbana Zoning Ordinance requires that for residential buildings in B-3 zoning districts, the minimum side yard setback of five feet must be increased by three feet for every 10 feet (or fraction thereof) over 25 feet in building height. The proposed building would be five stories above grade, and approximately 65 feet tall. The strict application of the increased setback regulation would result in deep side yards on three sides of the property. Based on the project including residences in a B-3 zoning district, and with a building height of approximately 65 feet, the required side yard setback is approximately 17 feet rather than 5 feet if the project did not include residences. Mathematically the variance request is for a 71% reduction in side yard setbacks.

The subject property is located on the north side of University Avenue, the major east-west corridor in central Urbana-Champaign, and between the intersections of Lincoln and Goodwin Avenues. University Avenue is also the north boundary of the University of Illinois campus, and both Lincoln and Goodwin Avenues are important routes to campus. The area immediately surrounding the subject property is commercial in character. The development of the property represents an infill development opportunity along the University Avenue corridor.

Trammell Crow Higher Education Development, Inc. is a recognized leader in developing higher quality mixed use and student housing developments in the United States. Their plan is an achievable project of a five-story, mixed-use building with commercial on the ground floor and four floors of apartments above with interior parking on two levels.

At their June 20, 2007 meeting, the Zoning Board of Appeals recommended approval of this major variance by of vote of 5-ayes and 0-nays. Because this project includes residences in a B-3, General Business Zoning District, a Special Use Permit is also required. At their June 21, 2007 meeting, the Urbana Plan Commission reviewed the case and following a public hearing recommended approval of a Special Use Permit by a vote of 8-ayes and 0-nays.

The applicant’s representative clarified at these meetings that although the closest portion of the building (first floor retail) would be as close as five feet to side yard property lines, the second floors and above (residential portion of the building) would be stepped back several feet more.

Surrounding Properties

The surrounding area is characterized by retail development to the east, west, and south; and a railroad spur to the north.

<i>Direction</i>	<i>Zoning</i>	<i>Existing Land Use</i>	<i>Comprehensive Plan - Future Land Use</i>
Site	B-3, General Business District	commercial (vacant)	“Community Business”
North	IN, Industrial District	railway spur right-of-way and industrial (Illinois American Water Co.)	“Institutional”
East	B-3, General Business District	commercial (Gold and Diamond Exchange pawnbrokers)	“Community Business”
South	B-3, General Business District	commercial (Niro’s Gyros) to the south and a parking lot to the southwest	“Campus - Mixed Use” to the south and “Institutional” to the southwest
West	B-3, General Business District	commercial (Hot Wok) along University Ave. and contractors offices (Odman-Hecker) along Goodwin Ave.	“Community Business”

2005 Comprehensive Plan

The 2005 Comprehensive Plan, Future Land Use Map #3, designates the future land use of this property as “Community Business” which the plan defines as:

“Community Business centers are designed to serve the overall community as well as the immediate neighborhood but are less intense than regional commercial centers. Located along principal arterial routes or at major intersections. Community Business centers contain a variety of business and service uses at scales and intensities that make them generally compatible with surrounding neighborhoods. Encourage planned-unit developments to create a variety of uses, and to transition intensities to adjoining neighborhoods. Design facilities to permit pedestrian, bicycle, and transit access as well as automobile traffic.”

The Comprehensive Plan’s future land use designation on the opposite (south) side of University Avenue is for “Campus Mixed-Use” which the plan defines as:

“The Campus Mixed-Use classification is intended for limited areas that are close to campus. These areas promote urban-style private development with a mix of uses that commonly include commercial, office and residential. Design Guidelines shall ensure that developments contain a strong urban design that emphasizes a pedestrian scale with buildings close to the street, wide sidewalks, and parking under and behind structures. The design and density of development should capitalize on existing and future transit routes in the area. Large-scale developments containing only single uses are discouraged within this classification.”

The proposed project appears to fit well within both categories in that it is a mixed use commercial/residential building located along an arterial roadway and based on its location and existing facilities permits pedestrian, bicycle, transit, and automobile access. The project’s adjacency of uses also allows cross benefits. For instance housing marketed for students can benefit from being located within walking distance of restaurants, a bicycle shop, and the University of Illinois, and vice versa.

Additionally, pertinent Comprehensive Plan goals and objectives include the following:

Goal 18.0 Promote infill development.

Objectives

- 18.1 Promote the redevelopment of underutilized property using techniques such as tax increment financing, redevelopment loans/grants, enterprise zone benefits, marketing strategies, zoning incentives, etc.

Goal 25.0 Create additional commercial areas to strengthen the city’s tax base and service base.

Objective

- 25.5 Consider development standards that provide options for the site design of commercial development that encourage “new urbanism” concepts.

Discussion

Infill projects inherently present challenges in terms of conforming to zoning and building code requirements. Construction on this site is further complicated by the zoning lot having an irregular L-shape which means it has one front yard property line, four side yard property lines, and one rear yard. A minimum side yard setback of 5 feet is normally required in B-3 zoning districts, but because the project includes residences and a building height of approximately 65 feet, strict compliance to the regulations would require a minimum 17 foot side yard setback on four sides. This

presents a significant practical difficulty for anyone developing a mixed-use project on this property.

The 2005 Urbana Comprehensive Plan recognizes that mixed-use infill development, especially within walking and bicycling range of complimentary uses, is beneficial for the community in that it reduces the public's reliance on automobiles, reduces congestion on our streets, and reduces the need to expand development onto prime farmland along the city boundaries.

The proposed project appears to fit well under the vision of both Community Business and Campus Mixed-Use future land use designations, but in carrying out this vision a practical difficulty is evident in meeting a 17 foot side yard setback requirement for an L-shaped lot with four side yards.

An important issue discussed at the Zoning Board of Appeals and Plan Commission meetings is fire fighting and emergency access for a five-story commercial building with side yard setbacks as close as five feet. The City's fire inspector has been consulted as part of this application. Preliminary plans as presented allow for adequate fire fighting and rescue capabilities. First, the entire building, including the parking garage, would be required to have sprinklers. Second, good access to stairwells and standpipe locations (to force additional water through the sprinkler system if necessary) will be required as preliminary plans indicate. The City will insure that all Fire Code requirements are met before any building plans are approved and permits issued. The requested side yard setback variance would not change requirements to comply with Fire and Building Codes.

Variance Criteria

Section XI-3.C.2.c of the Urbana Zoning Ordinance requires the City Council to make findings based on the following variance criteria (*in italics*). City staff analysis follows each criteria.

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

The special circumstance concerning this site is that the property has an irregular L-shape, which combined with a required 17-foot side yard setback on four sides, presents a serious practical difficulty for development, if not a hardship. Although the petitioner could remove the residential component from this project, in which case the minimum side yard setbacks would be reduced to 5 feet, doing so would preclude having a mixed residential/commercial project as allowed by the Zoning Ordinance (albeit by Special Use Permit) and as envisioned in the 2005 Urbana Comprehensive Plan.

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 proposed variance will not serve as a special privilege because the irregular shape of the lot poses unusual challenges to full use of the property. Most other properties in the University Avenue corridor do not have four side yards from which to meet heightened side yard setbacks.

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

The parcel characteristics and the City's Zoning Ordinance requirements are the basis for this variance request, neither of which were the result of the petitioner. Although the petitioner could remove the residential component from this project, in which case the minimum side yard setbacks would be reduced to 5 feet, doing so would preclude having a mixed residential/commercial project as allowed by the Zoning Ordinance (albeit by Special Use Permit) and as envisioned in the 2005 Urbana Comprehensive Plan.

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

The surrounding area is commercial in character. Constructing buildings with 5 foot side yard setbacks is the norm in B-3 zoning districts rather than the exception.

According to the applicant, "The proposed development will enhance the vibrancy and general appearance of the University Ave. corridor. The project will forward the village's [Urbana's] stated master plan of creating greater density within its core. A strict enforcement of the ordinance would be in contract to these benefits and rather support a lower density project, much like the building currently existing on the site and other buildings prevalent along the corridor."

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

The side yards will be consistent with the zoning regulations for non-residential properties in the B-3 zoning district and therefore will be no different than for "by right" commercial projects. Additional side yard setback requirements for residential projects in commercial districts are the result of a desire to insure adequate light and air for residents in densely built up areas. Downtown Chicago is an example of where this requirement is beneficial. The University Avenue corridor is comprised of one- and two-story buildings. By allowing a five yard side yard setback as is the norm in this zoning district, there would be no apparent nuisance to adjacent properties, nor would there be any appreciable risk to the future tenants of this building.

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

The petitioners state the variance is the minimum necessary to accommodate the request.

7. *The variance requested is the result of practical difficulties or particular hardship in the way of carrying out the strict letter of the Zoning Ordinance relating to the use, construction, or alteration of buildings or structures or the use of land.*

The practical difficulty is that this irregular shaped lot with four side yards, combined with strict compliance for 17-foot side yard setbacks, would greatly reduce how buildable this property is.

Summary of Findings

1. The proposed variance will not serve as a special privilege because the irregular shape of the lot poses challenges to efficient use of the property. The variance requested is necessary due to special circumstances relating to the property which represents an infill development opportunity along the important University Avenue corridor.
2. The special circumstances concerning the property are the irregular shape of the site combined with deep setbacks on three sides of the property which significantly reduce the usable area of the site. The practical difficulty in strict compliance would reduce the efficient use of the site and directly effect the economic viability of the development.
3. The variance would allow side yards consistent with the zoning regulations for non-residential properties in the B-3 zoning district and therefore cause no more of a “nuisance” to adjacent properties than a “by right” commercial project.
4. The requested variance will advance the goals and implementation strategies of the 2005 Comprehensive Plan.

Options

In Case ZBA-2007-MAJ-06, the City Council may:

- a. Approve the proposed major variance; or
- b. Approve the proposed major variance subject to changes. If the City Council elects to impose conditions or approve the variance on findings other than those articulated herein, the Council should articulate findings accordingly; or
- c. Deny the proposed major variance. If the City Council elects to do so, the Council should articulate findings supporting its denial.

Recommendation

Based on the findings provided herein, the Zoning Board of Appeals by a vote of by of vote of 5-ayes and 0-nays recommended **APPROVAL** of a Major Variance to allow minimum side yard setbacks of 5 feet for this project at 1008, 1010 and 1012 W. University Avenue. City staff concurs with this recommendation.

Prepared by:

Robert A Myers, AICP
Planning Manager

cc:

Trammell Crow Higher Education Development, Inc.
ATTN: Kevin Augustyn
222 S. Riverside, 30th Floor
Chicago, IL 60606

Advantage Properties C-U
Attn: Howard Wakeland
406 N. Lincoln, Ste. B
Urbana, Illinois 61801

Attachments:

- Exhibit A: Location Map
- Exhibit B: Zoning Map
- Exhibit C: Existing Land Use w/ Aerial Map
- Exhibit D: Future Land Use Map
- Exhibit E: Conceptual Elevation
- Exhibit F: Concept Floor Plans

ORDINANCE NO. 2007-07-072

AN ORDINANCE APPROVING A MAJOR VARIANCE

(To allow a reduction in side yard building setbacks to 5 feet in the B-3, General Business, Zoning District / 1008, 1010 and 1012 W. University Avenue - Case No. ZBA-2007-MAJ-06, Trammell Crow Higher Education Development, Inc.)

WHEREAS, the Zoning Ordinance provides for a major variance procedure to permit the Zoning Board of Appeals and the Corporate Authorities to consider applications for major variances where there are special circumstances or conditions with a parcel of land or the structure; and

WHEREAS, Trammell Crow Higher Education Development, Inc. has submitted a petition for a variance to allow a reduction in side yard building setbacks to a minimum of five feet for a mixed commercial/residential building at 1008, 1010 and 1012 W. University Avenue in the B-3, General Business Zoning District.; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-2007-MAJ-06; 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 held a public hearing on the proposed major variance on June 20, 2007 and voted 5 ayes and 0 nays to recommend to the Corporate Authorities approval of the requested variance; and

WHEREAS, after due and proper consideration, the Corporate Authorities of the City of Urbana have determined that the major variance referenced herein conforms with the major variance procedures in accordance with Article XI, Section XI-3.C.2.d of the Urbana Zoning Ordinance; and

WHEREAS, the Corporate Authorities have considered the variance criteria established in the Urbana Zoning Ordinance and have determined the following findings:

1. The proposed variance will not serve as a special privilege because the irregular shape of the lot poses challenges to efficient use of the property. The variance requested is necessary due to special circumstances relating to the property which represents an infill development opportunity along the important University Avenue corridor.
2. The special circumstances concerning the property are the irregular shape of the site combined with deep setbacks on three sides of the property which significantly reduce the usable area of the site. The practical difficulty in strict compliance would reduce the efficient use of the site and directly effect the economic viability of the development.
3. The variance would allow side yards consistent with the zoning regulations for non-residential properties in the B-3 zoning district and therefore cause no more of a "nuisance" to adjacent properties than a "by right" commercial project.
4. The requested variance will advance the goals and implementation strategies of the 2005 Comprehensive Plan.

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

The major variance request by Trammell Crow Higher Education Development, Inc., in Case #ZBA-2007-MAJ-06, is hereby approved to reduce each side yard property line setback to a minimum of five feet at 1008, 1010 and 1012 West University Avenue in the B-3, General Business Zoning District, in the manner proposed in the application.

The major variance described above shall only apply to the property located at 1008, 1010 and 1012 West University Avenue, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION:

The East 135 feet of Lot 1, and all of Lots 9, 11 and 12, in John W Stipes Subdivision in the City of Urbana, Illinois, as per plat shown in Plat Book

"B" at page 12, situated in Champaign County, Illinois. More commonly known as 1008 and 1010 West University, Urbana, Illinois.

Permanent Index Nos. 91-21-07-431-019, 91-21-07-431-021, and 91-21-07-431-009

AND

Lot 10 in John W. Stipes Subdivision in the City of Urbana, Illinois, as per plat shown in Plat Book "B" at page 12, situated in Champaign County, Illinois. Most commonly known as 1012 W. University, Urbana, Illinois.

Permanent Index No. 91-21-07-431-007

AND

Beginning at the Northwest Corner of Lot 1 of John W. Stipes Subdivision, Urbana, Illinois, said point being on the Southerly right-of-way line of the Norfolk and Western Railway Company, proceed thence North 00 degrees 10 minutes 21 seconds East, 21.33 feet along the East line of Goodwin Avenue to the Northerly right-of-way line of the Norfolk and Western Railway Company, said line being coincidental with the Southerly right-of-way line of the Penn Central Railroad; thence South 70 degrees 02 minutes 19 seconds East, 411.00 feet along the Northerly right-of-way line of the Norfolk and Western Railway Company, thence South 68 degrees 01 minutes 28 seconds East 158.13 feet to a point on the Northerly extension of the East line of Lot 9 of John W. Stipes Subdivision; thence South 00 degrees 01 minutes 49 seconds East, 31.50 feet along the Northerly extension of the said East line to the Southerly right-of-way line of the Norfolk and Western Railway Company, also being the Northerly line of John W. Stipes Subdivision; thence North 70 degrees 31 minutes 48 seconds West, 70.39 feet along the Southerly line of said railway company to a point being on the East line of Lot 1 of John W. Stipes Subdivision; thence North 00 degrees 06 minutes 46 seconds West, 21.23 feet along the said East line of Lot 1, being coincidental with the Southerly right-of-way line of Norfolk and Western Railway Company, thence North 70 degrees 31 minutes 49 seconds West, 493.93 feet along the Southerly right-of-way line of said Railroad to the true point of beginning, said property lying contiguous to the West limit of the property conveyed to Consolidated Railway

Corporation by deed dated October 15, 1990, lying East of Goodwin Avenue, in Champaign County, Illinois.

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 Corporate Authorities of the City of Urbana, Illinois, at a regular meeting of said Authorities on the ____ day of _____, 2007.

PASSED by the Corporate Authorities this ____ day of _____, 2007.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____, 2007.

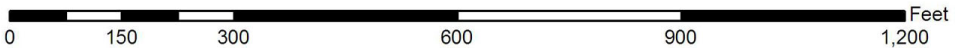
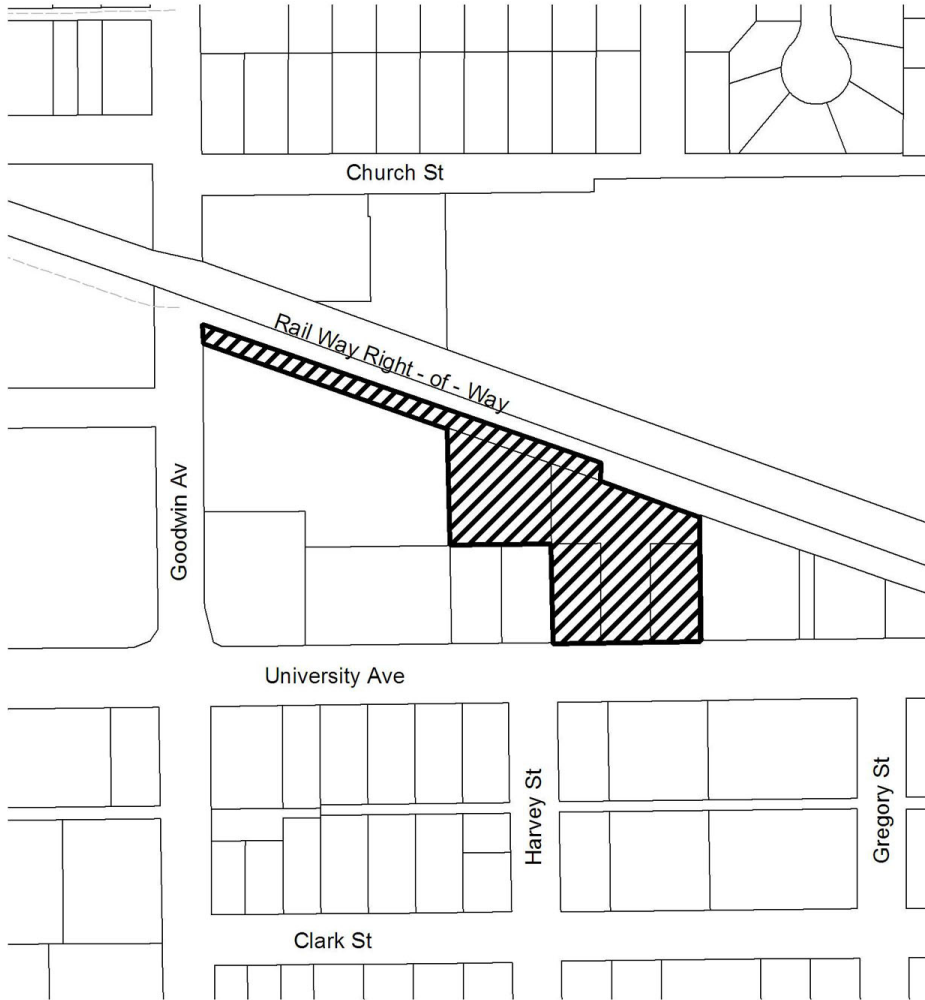
Laurel Lunt Prussing, Mayor

CERTIFICATE OF PUBLICATION IN PAMPHLET FORM

I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois. I certify that on the ____ day of _____, 2007, the corporate authorities of the City of Urbana passed and approved Ordinance No. _____, entitled "AN ORDINANCE APPROVING A MAJOR VARIANCE (To allow a reduction in side yard building setbacks to 5 feet in the B-3, General Business, Zoning District / 1008, 1010 and 1012 W. University Avenue - Case No. ZBA-2007-MAJ-06, Trammell Crow Higher Education Development, Inc.)" which provided by its terms that it should be published in pamphlet form. The pamphlet form of Ordinance No. _____ was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the ____ day of _____, 2007, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

Location Map

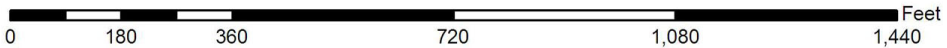
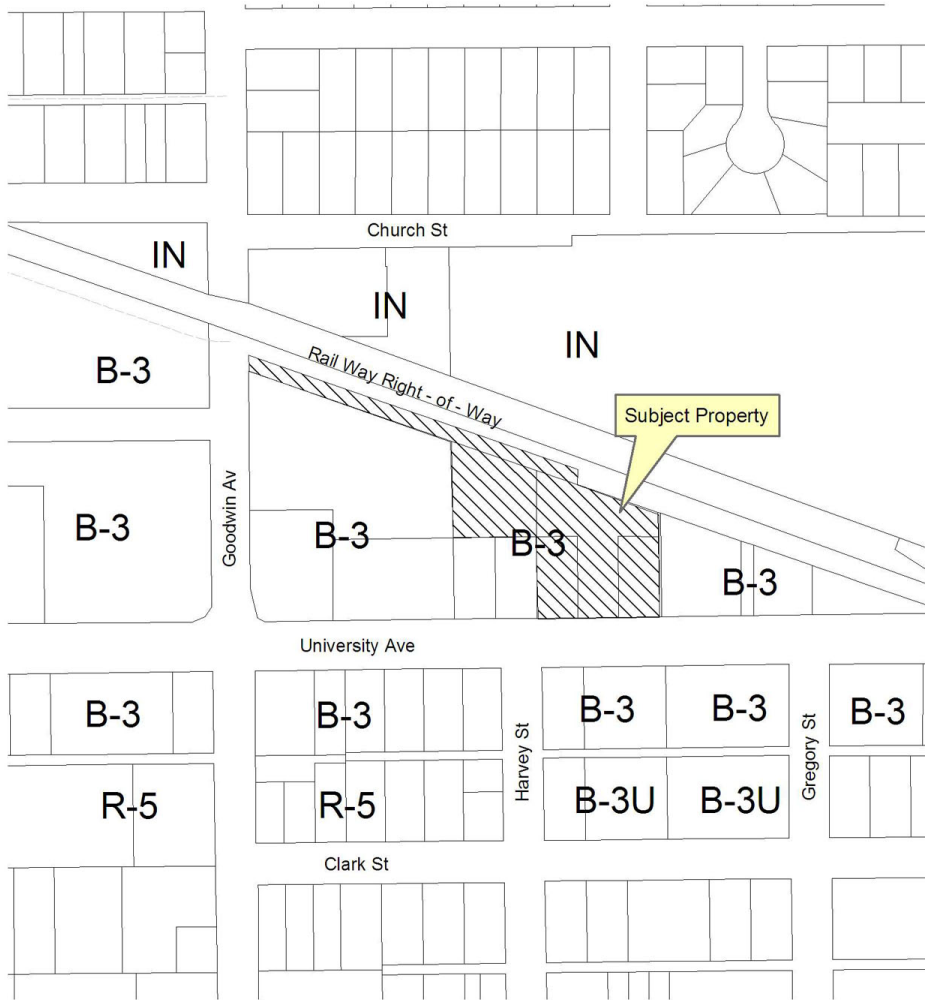
EXHIBIT "A"



Plan Case 2043-SU-07:
Subject: Special Use Permit to construct Multifamily Dwellings
in the B-3 Zoning District
ZBA Case 2007-MAJ-06:
Subject: major variance to allow a mixed retail/apartment building with
an interior parking garage to have five foot side yard setbacks rather
than increasing the side yard setback to approximately 14 feet.
Petitioner: Trammell Crow Higher Education Development
Location: 1008, 1010 and 1012 W. University Ave
Zoning: B-3, General Business Zoning District.
Prepared 06/04/07 by Community Development Services - pal

Zoning Map

EXHIBIT "B"

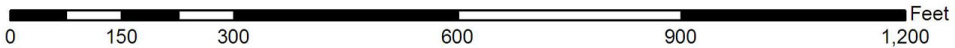
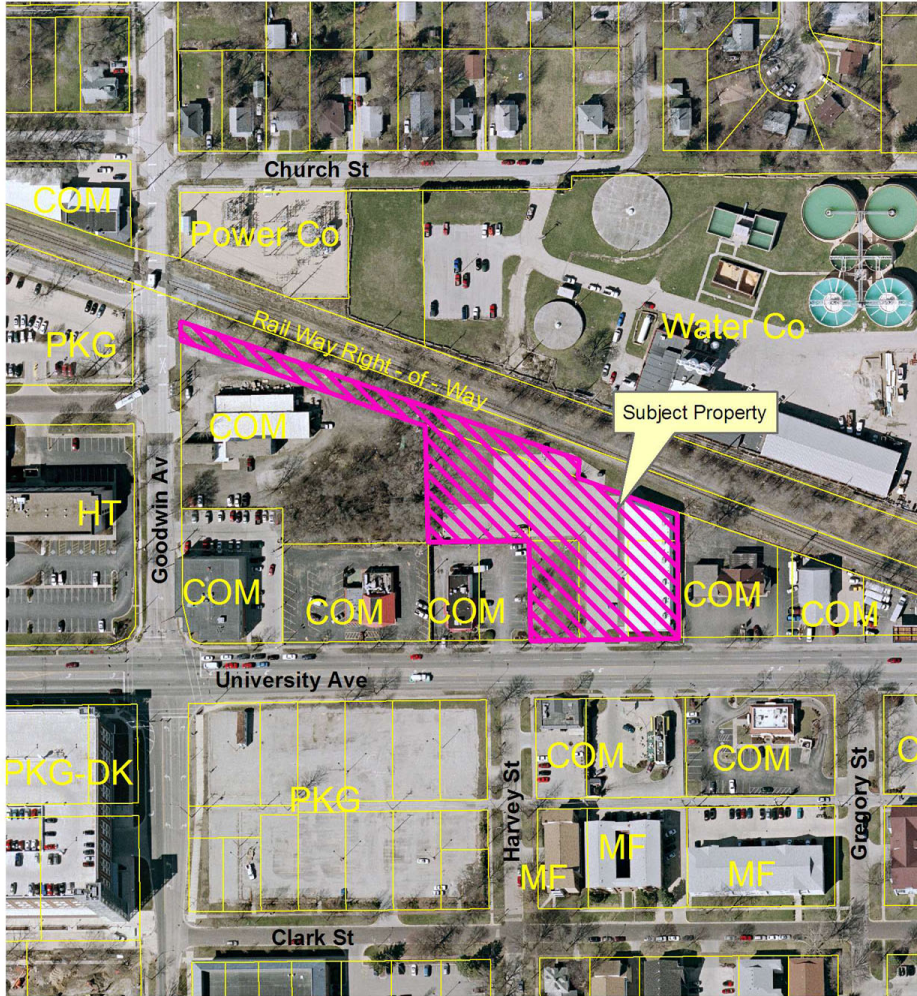


Plan Case 2043-SU-07:
 Subject: Special Use Permit to construct Multifamily Dwellings in the B-3 Zoning District
 ZBA Case 2007-MAJ-06:
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 Petitioner: Trammell Crow Higher Education Development
 Location: 1008, 1010 and 1012 W. University Ave
 Zoning: B-3, General Business Zoning District.
 Prepared 06/04/07 by Community Development Services - pal

- B-3, General Business
- B-3U, General Business - University
- IN, Industrial
- R-5, Medium High Density Multiple Family Residential

Existing Land Use w Aerial Photo

EXHIBIT "C"



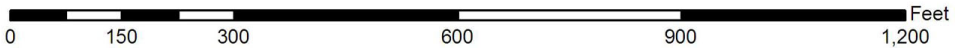
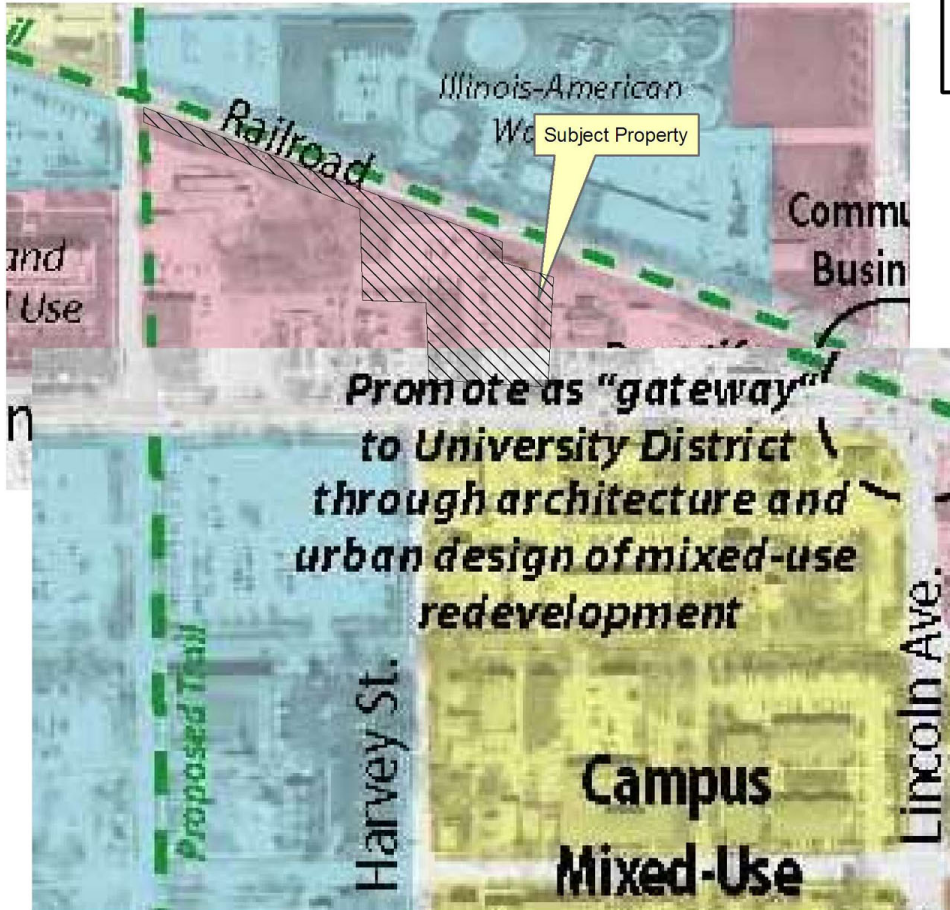
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 Petitioner: Trammell Crow Higher Education Development
 Location: 1008, 1010 and 1012 W. University Ave
 Zoning: B-3, General Business Zoning District.
 Prepared 06/04/07 by Community Development Services - pal

- COM - Commercial
- PKG - Parking Lot
- PKG-DK - Parking Deck
- MF - Multi Family Residential
- HT - Hotel

Future Land Use Map

EXHIBIT "D"

Source: Comprehensive Plan Future Land Use
Map # 3 and 8 , p. 74 and 79 - Detailed Section



Plan Case 2043-SU-07:
Subject: Special Use Permit to construct Multifamily Dwellings in the B-3 Zoning District
ZBA Case 2007-MAJ-06:
Subject: major variance to allow a mixed retail/apartment building with an interior parking garage to have five foot side yard setbacks rather than increasing the side yard setback to approximately 14 feet.
Petitioner: Trammell Crow Higher Education Development
Location: 1008, 1010 and 1012 W. University Ave
Zoning: B-3, General Business Zoning District.
Prepared 06/04/07 by Community Development Services - pal

Pink - Community Business
Blue - Institutional
Yellow - Campus Mixed Use



CONCEPTUAL ELEVATION

URBANA STUDENT HOUSING
URBANA, ILLINOIS

FOR TRAMMELL CROW CO. BG
05-24-07



CHAMPAIGN-URBANA JOB NUMBER 06187
UNIT TABULATION CREATED 5-15-07

TYPE	AREA	NO.	%	TOTAL AREA	BEDS
E1	430	35	21.74%	15,050	35
A1	596	40	24.84%	23,840	40
B1	850	67	41.61%	56,950	134
B2	889	19	11.80%	16,891	38
TOTAL		161	100.00%	112,731	247

AVERAGE UNIT SIZE : 700.19

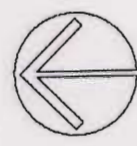
PARKING @ RETAIL = 97
PARKING @ BASEMENT = 131

TOTAL = 228

GOODWIN AVE.

RAILROAD R.O.W.

OPEN TO PARKING BELOW
PLAZA @ 2ND FLOOR

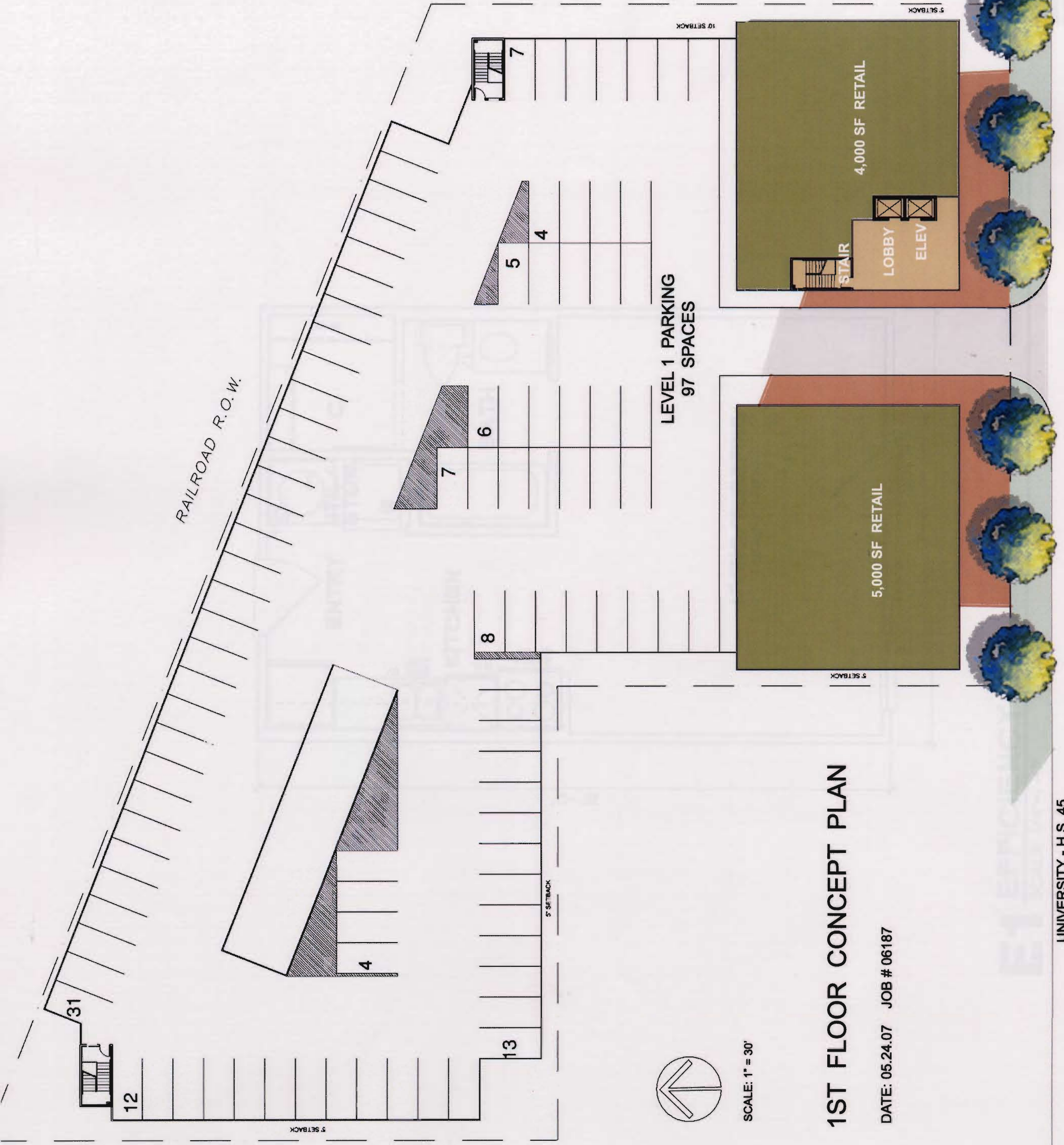


SCALE: 1" = 30'

2ND FLOOR CONCEPT PLAN
(FLOORS 3 - 5 SIMILAR)

DATE: 05.24.07 JOB # 06187

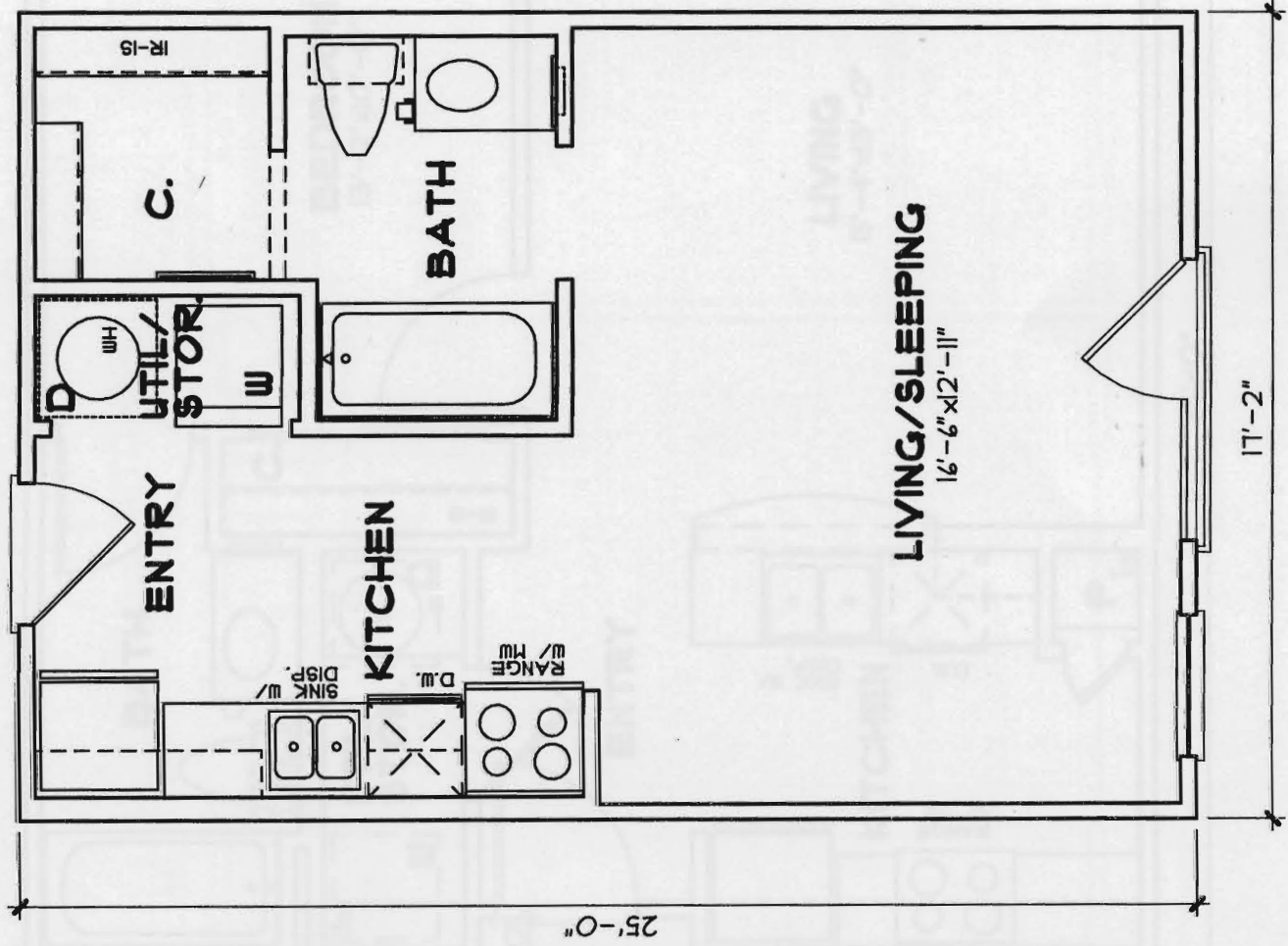




1ST FLOOR CONCEPT PLAN

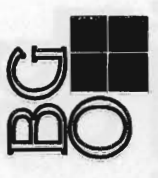
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SCALE: 1" = 30'



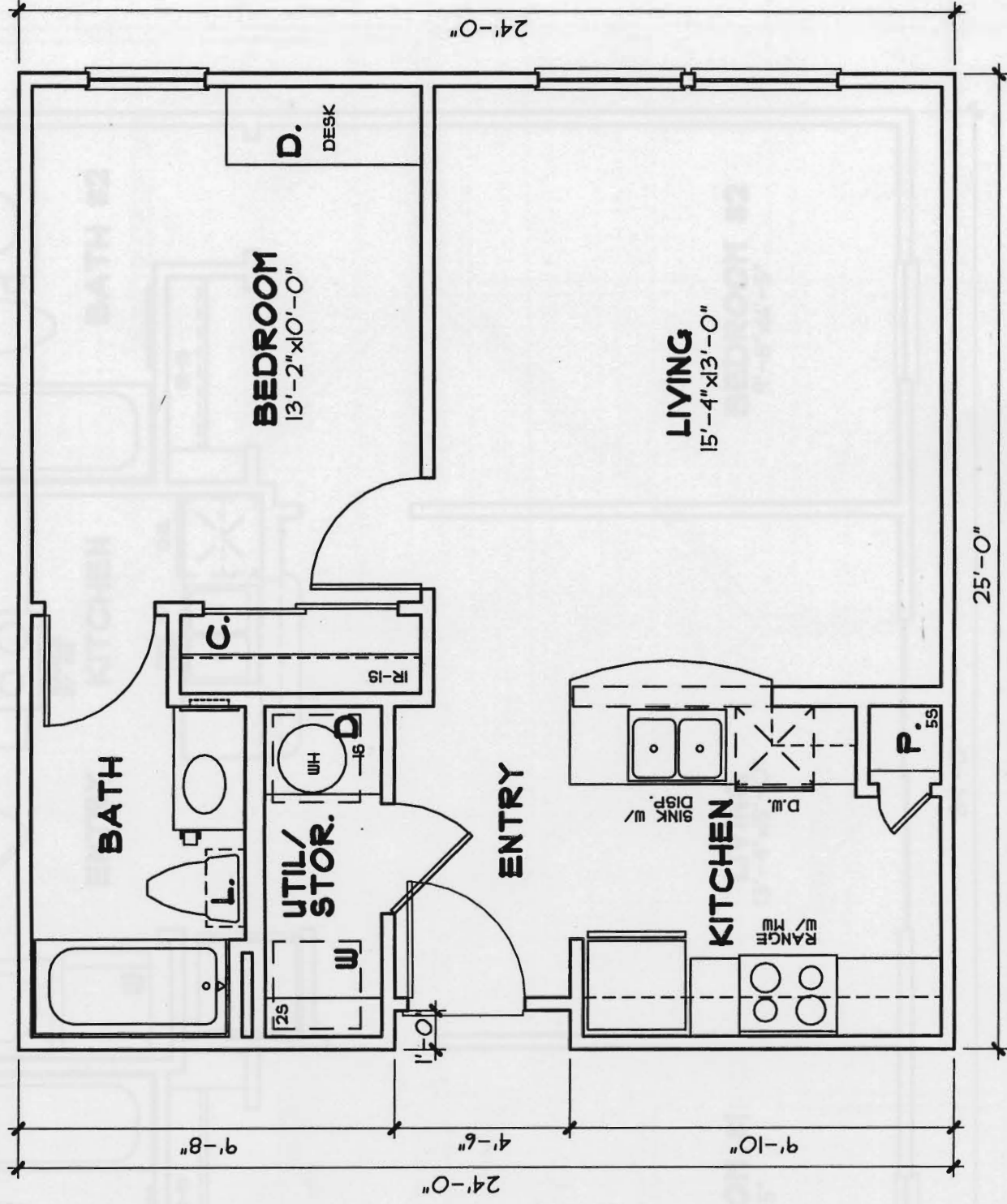
430 S.F.

E1 EFFICIENCY
SCALE 1/4"=1'-0"

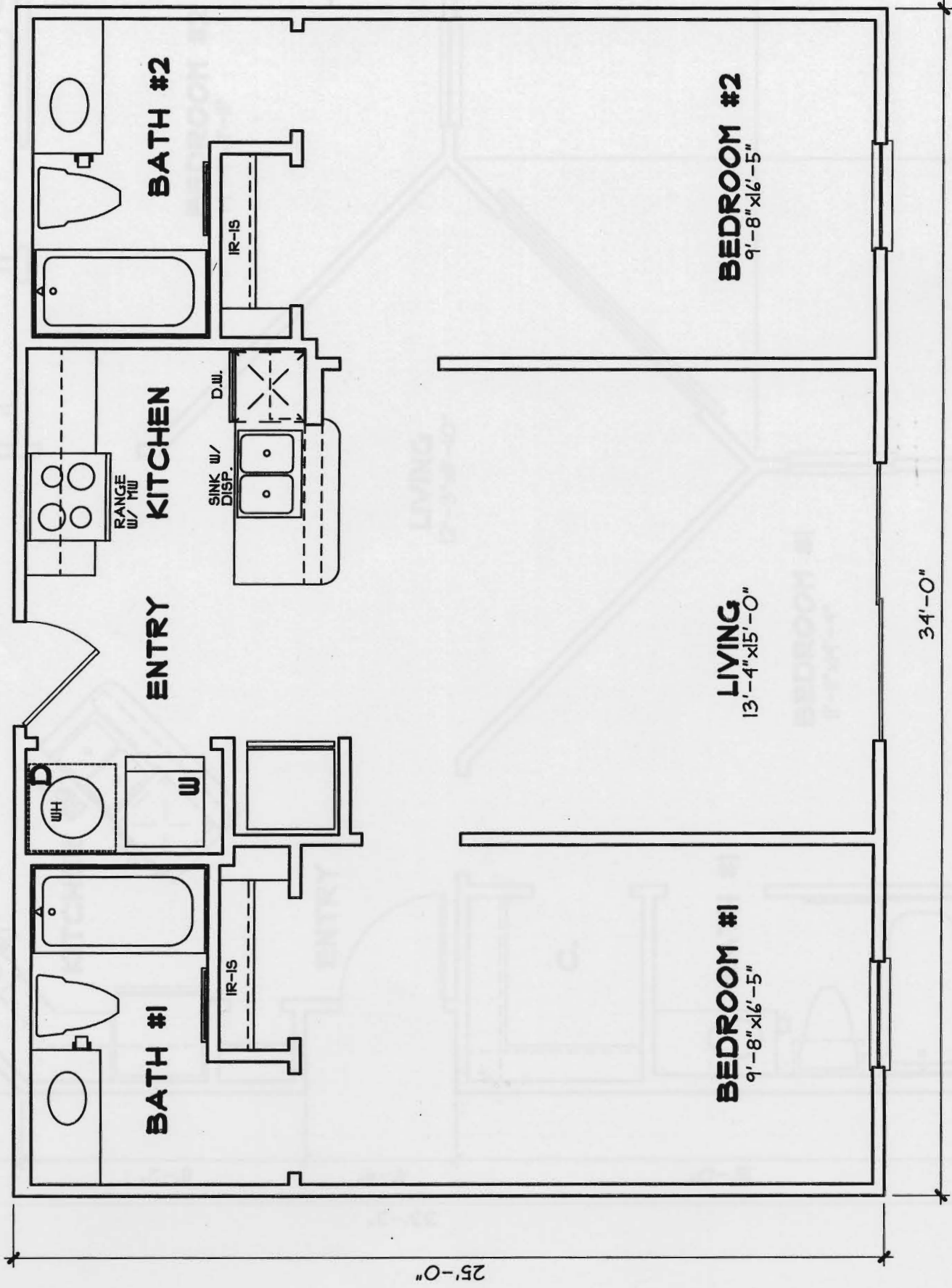


JOB# - 06187
DATE -17-JULY-08

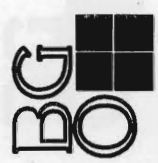
BEELER GUEST OWENS ARCHITECTS, L.P.
© ALL RIGHTS RESERVED



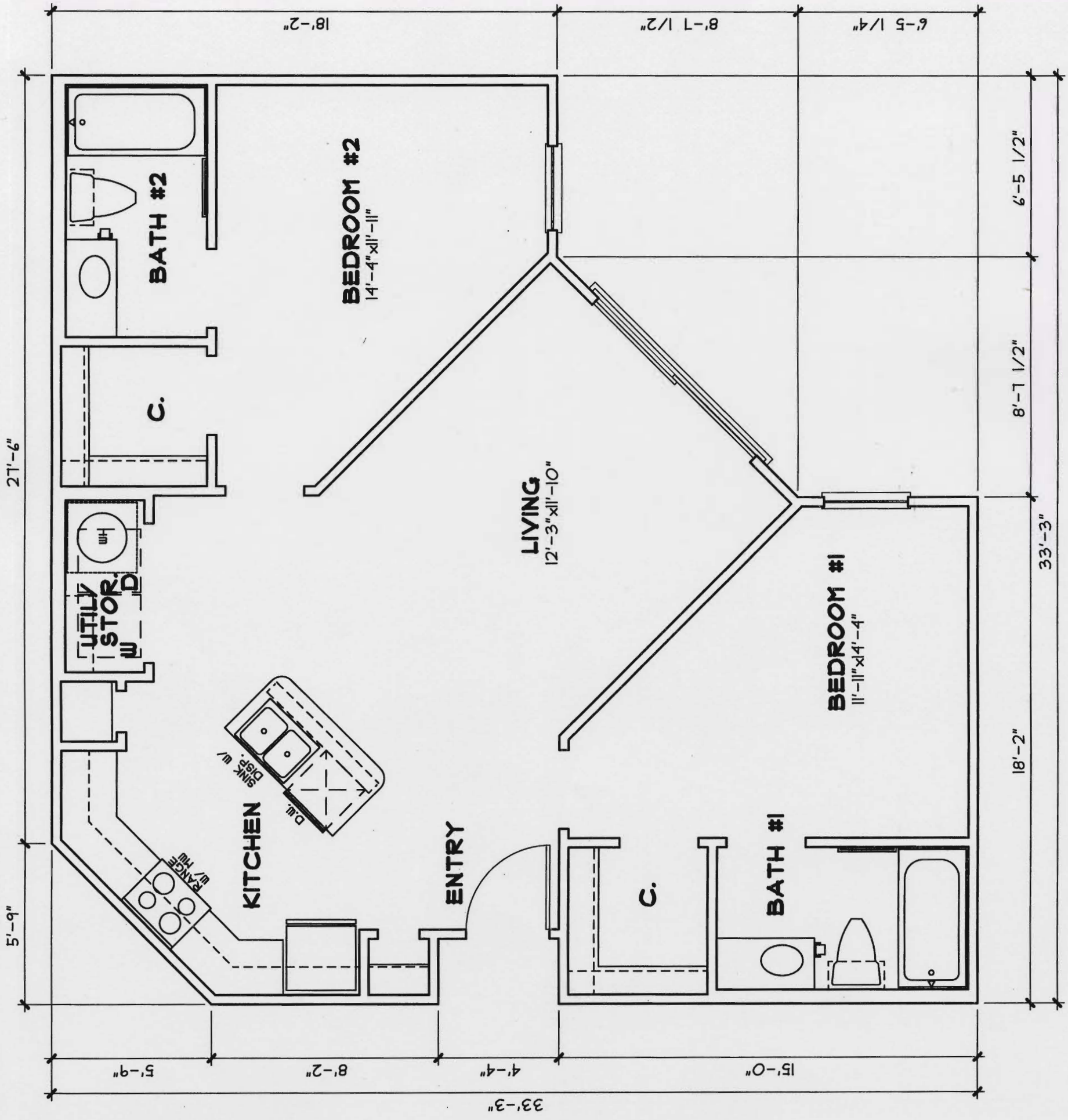
A1 ONE BEDROOM/ ONE BATH 596 S.F.
 SCALE 1/4"=1'-0"



B1 TWO BEDROOM/ TWO BATH **850 S.F.**
 SCALE 1/4"=1'-0"



JOB# - 06187
 DATE -17-JULY-03
 BEELER GUEST OVENS ARCHITECTS, L.P.
 © ALL RIGHTS RESERVED



B2 TWO BEDROOM/ TWO BATH **889 S.F.**
 SCALE 1/4"=1'-0"

**MINUTES OF A REGULAR MEETING
URBANA ZONING BOARD OF APPEALS**

DATE: June 20, 2007

DRAFT

TIME: 7:30 p.m.

PLACE: Urbana City Building
City Council Chambers
400 S. Vine Street
Urbana, IL 61801

MEMBERS PRESENT: Paul Armstrong, Herb Corten, Anna Merritt, Charles Warmbrunn,
Harvey Welch

MEMBERS EXCUSED: Joe Schoonover, Nancy Uchtmann

STAFF PRESENT: Robert Myers, Planning Manager; Paul Lindahl, Planner I; Teri Andel,
Planning Secretary

OTHERS PRESENT: Tom Berns, Cordelia Coleman, Betsy Hendrick, Jim Holmes, Jenny
Park, Brett Stillwell

1. CALL TO ORDER, ROLL CALL AND DECLARATION OF QUORUM

The meeting was called to order at 7:40 p.m. Roll call was taken, and a quorum was declared present.

Ms. Merritt being absent at the time of the roll call, Mr. Warmbrunn moved that Paul Armstrong serve as Acting Chair. Mr. Corten seconded the motion. With no opposition, the motion was approved.

2. CHANGES TO THE AGENDA

There were none.

3. APPROVAL OF MINUTES

Regarding the minutes of the May 16, 2007 Zoning Board of Appeals meeting, Mr. Welch moved to approve the minutes as written. Mr. Armstrong seconded the motion. The minutes were approved by unanimous vote as presented.

4. WRITTEN COMMUNICATIONS

- ✚ Schematic Plan of the Proposed Development in Case No. ZBA-07-MAJ-06
- ✚ Fax from Tri-Star Marketing, owners of the Super Pantry Convenience Store at 810 West Green Street, in support of Case No. ZBA-07-MIN-02

NOTE: Acting Chair Armstrong swore in members of the audience who indicated they might want to speak during the public input portion of the hearings.

5. CONTINUED PUBLIC HEARINGS

There were none.

6. NEW PUBLIC HEARINGS

ZBA-07-MAJ-06 – Request filed by Trammell Crow Higher Education Development, Inc. to allow a mixed retail/apartment building with an interior parking garage to have five-foot side-yard setbacks rather than increasing the side yard setbacks to approximately 17 feet at 1008, 1010, and 1012 West University Avenue in the B-3, General Business Zoning District.

Robert Myers, Planning Manager, presented the staff report to the Zoning Board of Appeals. He began with a brief introduction noting the reason for the proposed major variance request, which is to allow the project at 1008, 1010, and 1012 W. University Ave. to have five-foot side-yard setbacks rather than increasing the side-yard setbacks to approximately 17 feet. He stated that the petitioner would need to get approval for a Special Use Permit from the Plan Commission for the proposed development to allow multi-family dwellings. He talked about the zoning and land uses of the subject property and of surrounding adjacent properties. He discussed how the proposed development would relate to the 2005 Comprehensive Plan and reviewed the variance criteria from Section XI-3.C.2.c of the Urbana Zoning Ordinance that pertained to the proposed major variance request.

Ms. Merritt arrived at 8:00 p.m.

Mr. Myers showed the schematic drawings of the proposed development. He read the options of the Zoning Board of Appeals and presented staff's recommendation, which is as follows:

Based on the analysis and findings presented in the written staff report, and without the benefit of considering additional evidence that may be presented during the public hearing, staff recommends that the Zoning Board of Appeals forward Case ZBA-2007-MAJ-06 to the Urbana City Council with a recommendation for approval.

Mr. Corten inquired about what is next door to the west of the proposed site. Mr. Myers replied that the restaurant, Hot Wok, is located in the adjacent property to the west of the subject property.

Mr. Corten asked what activity occurs on the railroad by the proposed site. Is it a fast moving train or is it slow moving? Will it bother the tenants in the proposed apartment building? Paul Lindahl, Planner I, answered that there are only two users of the railroad, which are Solo Cup and Emulsicoat. He believes there would be one or two slow moving freight cars using the tracks per week. Mr. Myers mentioned that the developers will need to take this into account. If it would be too much of a problem for future tenants then the project would not be successful, and it would be at the developer's own financial risk. The developers must believe that it will not be a nuisance to the future tenants.

Mr. Warmbrunn questioned whether the proposed development would have balconies. Mr. Myers did not know if there would be balconies or not. Balconies can count as open space if there are any. Mr. Warmbrunn wondered if there would be access to the roof. Mr. Myers stated that he did not know. Mr. Warmbrunn asked if the water company had been notified. Mr. Lindahl said yes.

Mr. Warmbrunn inquired if there would be enough parking spaces available for the proposed development. Mr. Lindahl stated that there would be 228 parking spaces. The City of Urbana requires a minimum of one parking space per unit, which equals 161 parking spaces. Therefore, there would be plenty of parking spaces for the tenants. Many of the residential tenants would probably not have vehicles, because it is within walking distance of the University of Illinois campus. The retail component of the proposed development is not that large, and the most he calculated for required parking would be 36 parking spaces. Mr. Myers noted that the developer is proposing to provide 30 to 40 additional parking spaces over what the City is requiring. He feels this is significant in terms of the requested variance. If there are minor adjustments in the building, if the parking is provided at or just above the minimum, then it allows less flexibility for design changes. However, in this case, there are additional parking spaces which allows for possible adjustments.

Ms. Merritt wondered if the parking for the retail spaces would be designated as such. Mr. Myers said that he did not know.

Mr. Warmbrunn inquired as to where the rain would go. The proposed development would be five feet away from their neighbors, so have they thought about the slope of the roof? Mr. Myers stated that the proposed development would have to be designed to meet the standards of the Public Works Department in the City of Urbana in terms of drainage and runoff. The proposed development is still in the preliminary stage, and there are not detailed plans drawn up for that. Public Works has reviewed the proposed plans and has not identified any major stumbling blocks in terms of Public Works approvals. He stated that he would inquire with Public Works about stormwater and make sure that he has answers for the Plan Commission for their meeting tomorrow night. Mr. Lindahl added that since the project is still in the preliminary stages, the developer has not yet created detailed engineering plans. The Zoning Board of Appeals is to look at the side-yard setbacks. The Plan Commission during their meeting will be looking at the appropriateness of multi-family use in the B-3, General Business Zoning District. The stormwater and engineering concerns are ones that are always taken into consideration in building plans and subdivisions, and they are more the purview of the City's Building Safety

Division and the Engineering Division. It is not something that the Zoning Board really needs to take into consideration during their meeting. Mr. Warmbrunn disagreed.

Mr. Corten asked if the proposed development would have a flat roof. Mr. Myers said that from the front façade pictured in the submitted drawing he assumed it would have a flat roof.

With no further questions for City staff from the Zoning Board of Appeals, Acting Chair Armstrong opened the meeting up to hear input from the public.

Jim Holmes, Vice-President of Trammell Crow, spoke. He mentioned that it is a national development company. In 2005, they constructed about \$5 billion dollars in development throughout the country. They have two specific groups within the company that touch on this type of project. There is a group that solely focuses on university type development, and the other group does mixed-use, urban infill development.

He responded to questions that were previously asked by the Zoning Board of Appeals to staff. He said that parking for the retail will be specific to the retail, because to attract a quality tenant, they would require that anyway. It is also just good business to have retail parking so designated that site. Ms. Merritt commented that often retail businesses end up needing more parking than what is available, but it sounds as if Trammell Crow has already thought about this, and it will not be an issue with the proposed development. Mr. Holmes replied that they are sensitive to the fact that parking is always an issue. They tried to maximize the amount of parking by asking for the variance request.

Mr. Corten inquired if the rental cost would be something that students could afford. Mr. Holmes mentioned that they would not be the highest priced rental units, but that they would be between the highest priced rentals and older apartments closer to campus.

Mr. Warmbrunn inquired about balconies and roof access. Mr. Holmes stated at this time, they did not anticipate balconies. This would require a market research to determine if there would be a cost benefit to specific balconies. There also would not be roof access, but there would be shared courtyards.

Mr. Warmbrunn asked about the slope of the roof. Mr. Holmes mentioned that these types of developments typically have a slope to the flat roof to provide internal drainage that tie into the stormwater system. Mr. Warmbrunn questioned if this would be located under the basement level parking floor. Mr. Holmes stated that the company's engineers would figure out how to make this work.

Mr. Corten asked if there would only be one elevator. Mr. Holmes replied correct.

With no further input from the public, Acting Chair Armstrong closed the public input portion of the hearing. He, then, opened the hearing up for discussion by the Zoning Board of Appeals.

Ms. Merritt moved that the Zoning Board of Appeals forward this case to the Urbana City Council with a recommendation for approval. Mr. Corten seconded the motion.

Mr. Warmbrunn commented on the process. He did not see how the Zoning Board of Appeals could vote on the proposed variance request with only assumptions before them. Somehow the process is flawed, whether the Plan Commission should have considered the Special Use Permit prior to the Zoning Board of Appeals review or whether there should be better drawings to know what the developer is planning to do. By approving the proposed major variance request, the City would be allowing them to have a setback of five feet. There is not a drawing concept that the Zoning Board would be approving. Mr. Lindahl pointed out that as preliminary as the plans are, they might change. As Mr. Holmes had previously indicated, there may be balconies depending on the results of the market research. Mr. Warmbrunn exclaimed that he did not approve of balconies along University Avenue. He did not want college students out on balconies throwing snow balls at people driving below or at the people in the restaurant next door which is only going to be five feet away.

Mr. Welch stated that this reminds him of the conditional use permit request to allow a convenience store by the Urbana High School. Everyone was trying to anticipate the behavior of the high school students. He understands the request to be that the petitioner needs approval of the parameters upon which to then fit the proposed development. The concept of the development may change. He did not feel that the Zoning Board of Appeals could start requiring no balconies or certain types of roofs. This is someone else's call.

Mr. Warmbrunn asked if a balcony would count towards the setback. Mr. Lindahl answered that balconies are permitted to encroach into the setbacks to a certain distance. Balconies are also permitted as part of the Open Space Ratio (OSR). However, in the B-3 Zoning District, there is no OSR requirement, so City staff is not concerned with whether the proposed development has balconies or not. When we are confronted with a request for a side-yard variance, and it is approved, then it becomes the new side-yard line.

Mr. Warmbrunn questioned if the Zoning Board of Appeals voted in favor of the proposed variance, then could the petitioner develop a 95-foot tall building and have the same variance, because we are not limiting them to the proposed design? Mr. Lindahl stated that we could not limit the height. Mr. Warmbrunn believed that is why they required a setback variance to begin with. The petitioner is required to provide three feet in width for every ten feet in height of the development. Mr. Lindahl stated that this is true. Otherwise, there is an unlimited height. Mr. Warmbrunn said if it is 95-feet in height and it is still residential, no one is anticipating what is going to be developed next to it and/or no one is saying that the petitioner needs to keep it at five stories. We are just saying that as the first step in the process, the City is going to let the petitioner have five-foot setbacks in the side-yards. Mr. Myers pointed out that the Zoning Board of Appeals could require conditions that relate back specifically to the variance. If the petitioner represents that the building would be five stories tall, and if the Zoning Board of Appeals relied on that representation to form their vote on the variance, then the Zoning Board of Appeals could stipulate that the proposed development could be no more than five stories tall. Then, if the petitioner later wanted a different height, then they would need to reapply to the Board. Mr. Myers further commented that any project that requires approvals from multiple boards, one board or commission will have to make the first decision. In this case, the fact is that the City Council will be making the final decision for both the major variance and the

Special Use Permit requests on the same night so the approvals would be happening at the same time.

Ms. Merritt commented that the Zoning Board of Appeals would only be making a recommendation to the City Council. They also would not be giving general approval for the entire project. They would only be dealing with one small aspect of the project. She felt comfortable doing this, and as the first step.

Mr. Armstrong asked Mr. Warmbrunn if Ms. Merritt, being the motion maker, would want to indicate through the motion that the motion was based on the conceptual sketches presented during the meeting. Ms. Merritt preferred to leave the motion as is.

Roll call on the motion was as follows:

Mr. Armstrong	-	Yes	Mr. Corten	-	Yes
Ms. Merritt	-	Yes	Mr. Warmbrunn	-	Yes
Mr. Welch	-	Yes			

The motion was approved by unanimous vote.

ZBA-07-C-02: A request by SM Properties Urbana, LLC for a site plan amendment to a Conditional Use Permit allowing the establishment of two principal uses on a single parcel of land at 104 North Vine Street in the B-4E, Central Business – Expansion Zoning District.

ZBA-07-C-03: A request by SM Properties Urbana, LLC for a site plan amendment to a Conditional Use Permit allowing the establishment of a “Gasoline Station” at 104 North Vine Street in the B-4E, Central Business – Expansion Zoning District.

Paul Lindahl, Planner I, presented the staff report for both cases together to the Zoning Board of Appeals. He presented background information on the site and stated the original conditional use permit requests and approvals. He explained the reason for the petitioner’s request to revise the conditional use permits, which is to allow the relocation of the two garbage enclosures. He showed photos of one of the dumpster enclosures that has already been constructed. He read the options of the Zoning Board of Appeals and presented staff’s recommendation, which is as follows:

Based on the evidence presented in the original case memo dated August 11, 2006, the discussion in the case memo dated June 13, 2007, and without the benefit of considering additional evidence that may be presented during the public hearing, staff recommends that the Zoning Board of Appeals approve the proposed amendments to the conditional uses in ZBA cases 2007-C-02 and 2007-C-03, for the reasons articulated above, and by re-adopting the Conditional Use approval criteria, and Summary of Findings for each case as stated in the 2006 memo, and with the following REVISED condition number one:

1. *That the development shall generally conform to the submitted Site Plan attached as Exhibit “H” with the changed dumpster location*

and pedestrian access areas as reflected in new Exhibit "I", as amended, to show a revision to the dumpster enclosures to reflect built conditions and as they may be further amended to meet the codes and regulations of the City of Urbana. Any additional significant deviation from the site plan will require a further amendment to the Conditional Use Permit, including further review and approval by the Zoning Board of Appeals.

Mr. Warmbrunn mentioned that there were no measurements or distances on the amended Exhibit I (2007 Revised Landscape and Site Plan). The distances on the original Exhibit H linked to Exhibit I (Amended) are incorrect. He wondered how many parking spaces City staff previously decided that the convenience store would need. Mr. Lindahl figured it would require five parking spaces at most. There are three parking spaces plus one handicapped space being proposed on the right side of the convenience store, gas pump spaces under the canopy count towards parking requirements as well.

Mr. Warmbrunn stated that there is an extra parking space that has been added to the amended site plan in the southeast corner. From the original Exhibit H, it appears that extra parking space would encroach into the setback. Mr. Warmbrunn noticed that on the original site plan, it shows the convenience store to be built on the setback line. He drove by the site earlier in the day and believes that the convenience store is further west than originally planned.

Mr. Warmbrunn questioned whether City staff felt it would be a traffic hazard for the person parking in the parking space just west of the dumpster enclosure along Main Street. The person would not be able to see any oncoming traffic when backing out of the parking space. Mr. Lindahl replied that our Building Safety Division and our Building Inspector, in particular, always look at the construction plans. He is well aware of the parking module with requirements. Therefore, he is confident that the construction that has taken place does meet zoning requirements.

Mr. Warmbrunn noted that the underground storage tanks have been moved to the south side of the proposed site. Is this the reason why the fuel trucks would need more space to drive around? Or is the original 23-foot wide entrance not enough room for a fuel truck to make the turn into and out of the proposed site? Mr. Lindahl answered that 23 feet was not enough room for the truck to make the turn into and out of the proposed site.

Mr. Warmbrunn commented that again his problem with this is that the plans came before the Zoning Board of Appeals very early. He remembers the reason for moving the dumpsters to the north side was because that area looked like an empty space that would not impact the visual qualities of the site from the sidewalk or the street.

Mr. Lindahl stated that the first numbers were wrong in calculating the space needed for fuel trucks to enter the site. The Zoning Board of Appeal's has the opportunity to add conditions. He pointed out that they were looking at a general and fairly broad question of whether two uses were appropriate for this particular lot and whether a gas station was appropriate in the B-4E Zoning District at all. He felt the answer to these questions was yes. While City staff

recommends conditions that proposed developments be in general conformance with the Site Plan, he believes that by being too specific, we made the mistake of preventing needed flexibility. He did not think that we are considering something that is not within the contemplated best interest of the City as the Zoning Ordinance sees it. As the Zoning Ordinance sees it, gas stations are uses that can be fine in the B-4E Zoning District, but they might require a closer look. Having two principal use structures on a single lot is generally a good thing and can be permitted under a conditional use permit review with a little closer scrutiny. These are very broad distinctions.

Mr. Warmbrunn questioned why the petitioner did not redo the Site Plan with the approved conditions on it after receiving approval of the original conditional use permit requests. This way they would have known that they could not place the dumpster enclosures in their current locations without violating the conditions placed on the approval of the original conditional use permits. The petitioner should have come back to City staff and asked for insight of where they would be allowed to relocate the dumpster enclosures instead of coming back to the Zoning Board of Appeals for an amendment with one dumpster enclosure already built hoping that the Board would approve it and not ask them to tear it down and relocate it. Mr. Lindahl agreed. In this case, he felt that there were some miscommunications between the architects, the engineers and the City in ensuring that the requirements of the conditional use permit. The engineers decided when doing more detailed plans of the development decided that the fuel trucks would not be able to make the turn, so they decided to move the dumpster to allow for extra turning room for the trucks. They probably did not understand fully the ramifications of the conditional use permit, and that they needed to consult with City staff about relocating a dumpster enclosure.

Mr. Lindahl went on to say that he did feel that the reasons for requiring the additional conditions regarding the location of the dumpster enclosures were unfounded. He noted that there was a change in grade on the proposed site. So, the already constructed dumpster enclosure is at a lower grade and less visible from Main Street than we might have expected it to be.

Acting Chair Armstrong opened the hearing to the public to give input.

Brett Stillwell, of Architectural Spectrum, apologized for having to come back before the Zoning Board of Appeals. He mentioned that their intentions were good, and he feels that they made some good decisions in where they got to with the proposed project at this point. Unfortunately, they should have come to the City staff before building the dumpster enclosure. Dumpster enclosures are details in the final plans that usually do not show up in the preliminary plans. Because of the way fuel trucks will need to enter the site and because of the drive-thru stacking needing more room, it made sense for them to relocate the dumpster enclosure.

He explained that he added the extra parking space to the right of the convenience store to make up for the parking space in Exhibit H that would be replaced with the other dumpster enclosure. They continued to add more landscaping around the dumpster enclosures and build the enclosures with brick. So, he feels that they have done the dumpster enclosures as tastefully as possible.

Mr. Warmbrunn inquired if there is a drawing that has the current dimensions and distance of the different things on it. Mr. Stillwell said yes. He pointed out the drawing in the packet is a landscape drawing. There are grading drawings, dimension drawings, sight lighting and sight utilities drawings of the proposed development.

Mr. Warmbrunn questioned whether the fuel station was moved. Mr. Stillwell stated that the fuel station was shifted slightly to the north, so he could put the additional parking space in on the right side.

Mr. Warmbrunn asked how wide the three lanes would be. Mr. Stillwell replied that they are roughly 34 to 35 feet across. The two main lanes are 12 feet wide each and the drive-thru lane for Starbuck's is 11 feet.

Mr. Warmbrunn wondered if the Starbuck's parking lot dimensions stayed the same. Mr. Stillwell said that it would generally be the same. They did add the sidewalk at the corner that was specifically requested by the City. The fuel station was also moved to the west because there was a gas line that was not in the prerecorded area. The gas line runs north – south along the east side of the fuel station, and so they needed to shift the fuel station six or seven feet to the west to clear the gas line. In addition, there was a sanitary sewer line on the east side that was out of line with the initial survey they had. These are details in refinement that hopefully do not change the overall concept, but refinement is necessary to get the details down.

Mr. Warmbrunn inquired if they would still have enough room for the fuel truck to turn between the southern most pumps and the Starbuck's dumpster enclosure. Mr. Stillwell said yes. They have run the Auto Turn computer program on it several times to test for truck turning.

Ms. Merritt commented that the location and the landscaping and the way they handled the new dumpster location will be okay. However, she wonders about the traffic pattern. It is just something they will have to wait and see. Mr. Stillwell stated that the parking space next to Starbuck's dumpster enclosure will have plenty of room to back out and see. Drivers entering the drive aisle will pull into the right lane rather than directly behind the car parked next to the dumpster.

Tom Berns, of Berns, Clancy & Associates, stated that his office is right across the street from the proposed development. In some respects, this project is an interesting one. He expressed some of his concerns. He disagrees with the petitioner's ability to comply with Conditions #2, #3 and #4, which are part of the approval of the conditional use permit as set forth in the August 11, 2006 staff memo.

His first concern is with Condition #3, which states, "*That the petitioner shall submit a detailed landscape plan for review and approval by the City Arborist and Zoning Administrator, in general conformity to submitted schematic plans, and including provisions for pedestrian and bicycle access and parking.*" If you look at Exhibit I that was attached to the original staff report dated August 11, 2006 and then look at Exhibit I (Amended), you can see a huge difference in the landscaping. There are not as many trees and plants shown on Exhibit I

(Amended). It is important for them to provide more landscaping for nearby properties, especially the apartment complex to the south.

Another concern is conformity with Condition #4, which states *“That the gas station/convenience store building utilize high quality building materials (e.g., brick, masonry, etc.) to complement the existing Schnucks Crossing grocery store and strip center buildings and in recognition of the prominent site locate in downtown Urbana.”* From a distance, the dumpster enclosure appears to be attractively blended into the building rather than stand out as a lower quality enclosure of cinder block, concrete block or chain-linked fence. The problem is that the fuel station/convenience store has not been constructed of the high quality as required in Condition #4. It is constructed of CMU Block (Smooth-Faced Running Bond), and the masonry will be painted “P8”.

We are so concerned about what the dumpster enclosure looks like when the secondary main building on the site is constructed of cinder block and is going to be painted. As a neighbor, he is not happy with this at all. From the conditions placed on the approval of the conditional use permits, he expected it to look something similar to the Schnuck’s building.

Mr. Berns also expressed his concern about the petitioner moving the underground storage tanks closer to the residential properties across the street. Is this going to be an issue? Is it possible to present a problem in the future? He would like to know what the Fire Chief thinks about this.

He mentioned that the dimensions should be shown on the amended site plan that the petitioner is expecting to be approved. It is not a good idea to not have the dimensions on the site plan.

He hopes that the site will be successful. He also hopes that the development will be a good aspect and a positive nature for the community. He appreciated being given the opportunity to voice his concerns.

Acting Chair Armstrong noted for the record that he was surprised to see that the fuel station/convenience store was built of masonry block rather than brick like the Starbuck’s building was.

Mr. Stillwell re-approached the Zoning Board of Appeals to respond to Mr. Bern’s comments. He pointed out that Architectural Spectrum is the architects for the Starbuck’s area, and the fuel station is being done by the Schnuck’s architects and engineers out of St. Louis. He pointed that the building is not yet complete. There are brick surrounds. He will talk to the Schnucks architects to see what, if anything, could be done about the materials used on the fuel station.

He noted that they went through a preliminary set of documents and obtained approval for two principal uses on one site and for allowing a gas station use on the site. He stated that they were in error by showing too much detail on the preliminary plans. The underground tank locations should not really be an issue until the final plans with full dimensions, grading, and details of the development are to be considered. The final plans went through the Planning Division, Public Works Department, and the Fire Department for review. The only reason they are back before the Zoning Board of Appeals is because of the dumpster. It was moved from one location to

another location without going through the proper channels. He did not want anyone to think that they are building something totally different than what they presented in the original requests.

As far as the landscaping is concerned, Exhibit I from the memo dated August 11, 2006 shows plant materials much more in their own scale in that it is a more artistic rendering of what landscape looks like as a finished full product done more as a graphic representation. The final landscaping plan is shown as smaller plants and the number of plants. The landscaping around the dumpster location and along the south end of the fuel station are prairie grasses that will be huge. Mr. Lindahl pointed out that Condition #3 states *“That the petitioner will submit a detailed landscape plan for review and approval by the City Arborist and Zoning Administrator ...”* Exhibit I (Amended) serves as two different plans, which are 1) as a landscaping plan that the Zoning Administrator and City Arborist have already approved and 2) as a plan showing the location of the dumpster enclosure and nothing else.

Mr. Warmbrunn asked City staff if they only want the Zoning Board of Appeals to consider the existing dumpster enclosure that Starbuck’s has already built and whether the new location is okay? Is the Board supposed to consider what the other fuel station/convenience store dumpster enclosure is to be constructed of? Mr. Lindahl replied that City staff is mostly concerned with getting approval of the location of the Starbuck’s dumpster enclosure. They are not concerned with the construction materials of the other dumpster because it will not be visible from the street.

Mr. Myers mentioned that City staff can take these comments back to the Zoning Administrator and discuss them at a staff level and confirm that construction plans conform to the Board’s previously approved conditions. Landscaping, building materials, etc. are things that the Zoning Administrator can decide whether or not they comply. The Zoning Board of Appeals is meeting to decide whether or not moving the Starbuck’s dumpster enclosure is okay or not.

Mr. Warmbrunn asked if they should consider the location of the fuel station dumpster enclosure. Mr. Lindahl stated that he is fairly sure that where it is shown on Exhibit I (Amended) is where it will be built. Mr. Warmbrunn pointed out that the Zoning Board of Appeals was assured before that the petitioner could build the dumpster enclosures on the north side of the property.

Mr. Warmbrunn questioned if the Zoning Board of Appeals recommends approval as suggested by City staff, then would that include the condition from before regarding the quality of materials to be used to construct the fuel station dumpster enclosure and the location where shown on Exhibit I (Amended). Mr. Lindahl responded that the Zoning Board of Appeals could, if it felt necessary, to place a condition on the approval stating that they want the second dumpster enclosure to be made of brick, for instance.

Mr. Berns re-approached the Zoning Board of Appeals. He stated that he disagrees with City staff to some extent. The City Council approved the submitted Site Plan with conditions as recommended by the Zoning Board of Appeals. He does not consider Exhibit I (Amended) to be

a detailed landscape plan. The City required Conditions #1, #2, #3 and #4 to protect the neighbors and other public citizens that visit the site.

Acting Chair Armstrong pointed out that Mr. Berns issues are regarding compliance and enforcement. Mr. Myers noted that the Zoning Administrator ultimately decides whether or not plans are in conformance with the requirements. He will take comments back to the Zoning Administrator from the Zoning Board of Appeals meeting for her to review and to take into consideration. Ms. Merritt added that the Zoning Board of Appeals could also make a motion that contains some of these stipulations as well.

With no further input from the public audience, Acting Chair Armstrong closed the public input portion of the hearing. He, then, opened the hearing up for discussion by the Zoning Board of Appeals.

Mr. Warmbrunn asked what the request is for the Zoning Board of Appeals to review. Mr. Lindahl said that it is a minor amendment to the conditional use permits to basically approve the changed location of the dumpster enclosure with the condition that *“the development shall generally conform to the submitted Site Plan attached as Exhibit “H” with the changed dumpster location and pedestrian access areas as reflected in the new Exhibit “I”, as amended, to show a revision to the dumpster enclosures to reflect built conditions and as they may be further amended...”*. Therefore, the Board is to consider the amendment to the conditional use permit request including only Condition #1, as amended.

Mr. Lindahl went on to explain that the landscape plan has already been reviewed by City staff. Mr. Warmbrunn added that Conditions #2, #3 and #4 are not fully completed until a Certificate of Occupancy has been issued, correct? Mr. Lindahl said yes.

Ms. Merritt wondered if it is possible to have a second motion that deals with just this other issue or does it have to be contained in the motion relating to the issue before them? Mr. Myers stated that it depends on the second motion and what it pertains to. He explained that in order to get a Certificate of Occupancy, the petitioner has to comply with all the requirements that have currently been approved.

Acting Chair Armstrong stated that it is in the record that the Zoning Board of Appeals approved the original requests for conditional use permits for the proposed development along with four conditions. There is no ambiguity about what they approved. It does not seem necessary to him for the Zoning Board of Appeals to go back through the other criteria to reinforce what they have already approved and stated in the original motion. Ms. Merritt commented that because the drawings look different, it makes the Board wonder what is going to be enforced.

Mr. Myers explained that the reason the amendment came up is because the Zoning Board of Appeals included a specific condition about the dumpster enclosure in its approval of its original conditional use permits. Once City staff found out about the relocation of the Starbuck’s dumpster enclosure, we felt that making an administratively approving the new location would not be a minor site plan change because you specifically referred to the dumpster location in your previous motion for approval.

Mr. Lindahl mentioned that Exhibit I (Amended) was included in the staff report because City staff thought it would help show how the landscaping material would help to screen the dumpster enclosure. It was not intended that the landscape plan specifically be approved or not.

Mr. Warmbrunn understood Condition #1 to include both the relocation of the dumpster enclosure and the pedestrian access area.

Mr. Lindahl explained that the original Exhibit H did not show the pedestrian access area from the corner going into the Starbuck's parking area. It was previously requested by the City, it has already been built, and it does not seem necessary to mention it.

Mr. Warmbrunn wondered since they are amending what currently exists, does that mean we throw out the old section and put in the new Condition #1? Or are we just adding the amended Condition #1 to the old original approval and conditions? He was looking for what City staff wants procedurally to be done.

Mr. Lindahl replied that the other changes to the fuel station/convenience store area have already been approved administratively.

Mr. Warmbrunn inquired as to why, if we are just amending the previous conditional use permits, did we create new file numbers for the cases?

Mr. Lindahl stated that staff decided it would be better to assign new case numbers so it would be easier to keep track of various approvals. We do this with annexation agreements as well. We are basically doing an amendment that will supersede the previous conditional use permit. The amendment will be identical to the previous one, with the exception of the one change. Mr. Warmbrunn stated that he then understands that Conditions #2, #3 and #4 will be tacked on to the amendment. Mr. Myers responded by saying that City staff is only asking the Zoning Board of Appeals to approve the relocation of the Starbuck's dumpster enclosure.

Mr. Warmbrunn moved that the Zoning Board of Appeals forward Case No. ZBA-07-C-02 to the City Council with a recommendation for approval of the proposed amendment to the conditional use permit for the reasons articulated in the written staff report, and by re-adopting the Conditional Use approval criteria, and Summary of Findings as stated in the 2006 memo, and with the following revised condition: That the development shall generally conform to the submitted Site Plan, shown as Exhibit H, with the changed dumpster location and pedestrian access areas as reflected in the new Exhibit I, as amended, to show a revision to the dumpster enclosures to reflect built conditions and as they may be further amended to meet the codes and regulations of the City of Urbana. Any additional significant deviation from the site plan will require a further amendment to the Conditional Use Permit, including further review and approval by the Zoning Board of Appeals. Ms. Merritt seconded the motion.

Roll call was as follows:

Mr. Armstrong - Yes Mr. Corten - Yes

Ms. Merritt	-	Yes	Mr. Warmbrunn	-	Yes
Mr. Welch	-	Yes			

The motion was approved by unanimous vote.

Mr. Warmbrunn moved that the Zoning Board of Appeals forward Case No. ZBA-07-C-03 to the City Council with a recommendation for approval of the proposed amendment to the conditional use permit for the reasons articulated in the written staff report, and by re-adopting the Conditional Use approval criteria, and Summary of Findings as stated in the 2006 memo, and with the following revised condition: That the development shall generally conform to the submitted Site Plan, shown as Exhibit H, with the changed dumpster location and pedestrian access areas as reflected in the new Exhibit I, as amended, to show a revision to the dumpster enclosures to reflect built conditions and as they may be further amended to meet the codes and regulations of the City of Urbana. Any additional significant deviation from the site plan will require a further amendment to the Conditional Use Permit, including further review and approval by the Zoning Board of Appeals. Ms. Merritt seconded the motion.

Roll call was as follows:

Mr. Armstrong	-	Yes	Mr. Corten	-	Yes
Ms. Merritt	-	Yes	Mr. Warmbrunn	-	Yes
Mr. Welch	-	Yes			

The motion was approved by unanimous vote.

ZBA-07-MIN-02: Request filed by Betsy Hendricks to allow a legally non-conforming shortage of parking spaces to increase in non-conformity from 14% to 18% less than required at the Hendrick’s House dormitory located at 904 West Green Street in the B-3U, General Business – University Zoning District.

Paul Lindahl, Planner I, presented this case to the Zoning Board of Appeals. He noted the purpose of the minor variance request is to reduce the number of parking spaces to allow for the expansion of food services to the Hendrick’s House. He talked about the remodeling project, proposed parking, parking demand, neighborhood impacts and special considerations regarding the nature of the site in a high density area, use of cars by the student residents, and the proximity to the University of Illinois. He summarized staff findings and read the options of the Zoning Board of Appeals. He presented staff’s recommendation, which is as follows:

Based on the analysis and findings presented in the written staff report, and without the benefit of considering additional evidence that may be presented during the public hearing, staff recommends that the Zoning Board of Appeals approve the minor variance request.

With no questions for City staff, Acting Chair Armstrong opened the hearing up to take public input.

Betsy Hendricks, petitioner, requested approval of the minor variance. She noted when the west tower was originally designed in 1987, the architect had planned for this exact addition, except that he had planned for it to cantilever out over the parking lot to allow required parking spaces underneath. When the bids came in too high, they decided to eliminate that extra steel to bring it back within the budget. The purpose of the addition is to provide an extra dining area. They intend to remodel their current dining area to provide for station service.

Mr. Corten wondered how they only have freshmen in the dormitory. Ms. Hendricks replied that they do not have only freshmen, but the majority of the residents are freshmen as they are certified by the University of Illinois. Freshmen have to live in certified housing. She would say that they have about 55% freshmen, which cuts down on the parking demand. They actually rent out ten of their parking spaces to another business.

Acting Chair Armstrong closed the public input portion of the hearing and opened it up for discussion

Mr. Corten moved that based on City staff's findings the Zoning Board of Appeals approve ZBA-07-MIN-02 as recommended by City staff. Mr. Welch seconded the motion.

Roll call was as follows:

Mr. Armstrong	-	Yes	Mr. Corten	-	Yes
Ms. Merritt	-	Yes	Mr. Warmbrunn	-	Yes
Mr. Welch	-	Yes			

The motion was approved by unanimous vote.

Mr. Myers pointed out that minor variances such as this are approved by the Zoning Board of Appeals. They are not forwarded to the City Council for final determination, so the variance has been approved.

7. OLD BUSINESS

There was none.

8. NEW BUSINESS

There was none.

9. AUDIENCE PARTICIPATION

There was none.

10. STAFF REPORT

Mr. Myers reported on the following:

- Vineyard Church Major Variance for an increase in the display area of a sign was approved by the City Council.

11. STUDY SESSION

There was none.

12. ADJOURNMENT OF MEETING

The meeting was adjourned at 10:22 p.m.

Respectfully submitted,

Robert Myers, AICP, Secretary
Urbana Zoning Board of Appeals