



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: The Urbana Plan Commission

FROM: Matt Wempe, Planner I

DATE: October 14, 2005

SUBJECT: Plan Case No. 1960-SU-05, Request by Happy Brothers Nine Corporation to allow liquor sales at a grocery store within the B-1 Zoning District.

Introduction

The Happy Brothers Nine Corporation has submitted a request to allow liquor sales at a grocery store at 907 E. Fairview Avenue in the B-1, Neighborhood Business Zoning District. While liquor is defined as beer, wine and/or hard alcohol, the petitioners have agreed to sell only beer and wine if the special use request is granted. The grocery store will be located in the building previously occupied by Marino Engineering, who has moved to the Philo Road area. The building is approximately 2,350 square feet, and the petitioners will modify the building to accommodate the grocery store and proposed liquor sales. This includes the addition of coolers, sinks and other sanitary systems, and storage space for products. The special use request is for the liquor sales component, as grocery stores in the B-1 District are permitted by right if under 3,500 square feet.

The site adjoins the Family Video to the east, and has a cross-access easement across the front access drive of the Family Video parking lot. The petitioners have expressed their desire to maintain this easement for future access via Lincoln Avenue. Access to the site is also provided via Fairview Avenue, with two curb cuts, one which is shared with Family Video. Approximately ten parking spaces are currently provided on the site in conformance with the requirements of the Urbana Zoning Ordinance.

Background

The corner of Fairview and Lincoln has historically been used as a commercial area serving the King Park neighborhood. The 1982 Urbana Comprehensive Plan identified both the zoning and future land use for the site as commercial. The 1989 King Park Plan also identified the site as suitable for commercial uses. During the public workshops for the recent comprehensive planning effort, many neighbors expressed their desire to have convenient grocery or other types of stores that could serve daily needs for the neighborhood. Based on this input, the 2005 Urbana Comprehensive Plan identifies the site as community business, and identifies possible uses to serve the University population and

immediate neighborhood.

Grocery Store Zoning Interpretation

In 2004, the City revised the allowable uses and regulations in the B-1 District. Under the new regulations, a grocery store is permitted by right if the building is less than 3,500 square feet (if more than 3,500 square feet it would require a Special Use Permit); a convenience store requires a special use permit; retail liquor sales require a special use permit.

City staff had to determine if the proposal was for a grocery or a convenience store. The Zoning Ordinance does not define either of these terms. Definitions published by the American Planning Association indicate that the distinction between a grocery and convenience store is based on size. Grocery stores are typically at least 10,000 square feet and offer a more diverse product line than a convenience store. However, the Zoning Ordinance allows grocery stores by right if they are less than 3,500 square feet. The rationale behind this was to allow neighborhood grocery stores, such as the Sunshine Grocery, by right in the B-1 District. Within the confines of the Zoning Ordinance, the logical distinction between grocery and convenience is product line. A list of products submitted by the petitioner (see Exhibit F) indicates that the store will carry grocery items such as milk, eggs, dry goods, fresh vegetables and frozen foods. According to the petitioner, groceries will constitute 75% of the store's product line. The remainder of the product line will include cigarettes, snacks, beer and wine. Based on this product line, the Zoning Administrator made the determination that there was enough diversity in the product line to call the business a grocery store.

The percentage of potential alcohol sales (at most 25%) is high compared to most grocery stores. The Zoning Administrator felt that this high percentage warranted a special use permit to allow retail liquor sales as outlined in Table V-1 of the Zoning Ordinance. This is based on the fact that no other stores in the B-1 District sell liquor, except two gas stations on Green Street. In these cases, liquor sales are a grandfathered use since the two gas stations were constructed prior to the properties being zoned B-1 in 1991 as part of the Downtown to Campus Plan.

If this special use request is denied, the grocery store can be established, but will not be permitted to sell liquor of any type. In addition, if the product line changes from the mixture indicated in Exhibit F, then the grocery store could be in violation of the Zoning Ordinance use regulations. At such time, the owner would have to restore the appropriate product line mixture or apply for a special use to allow a convenience store.

Development Regulations

The proposed store would locate in an existing building owned by Marino Engineering. The petitioners have indicated that they would remodel the building to fit the needs of a grocery store, including coolers and storage space. The building will not be expanded beyond the current 2,350 square feet.

Parking is already provided for on the site, and there are access drives located on Lincoln and Fairview Avenues. According to Table VIII-6 of the Zoning Ordinance, the requirement for a grocery store is one space per 250 square feet, for a total of 10 required parking spaces. Per Table VIII-1, one handicapped accessible parking space is required.

The proposed store is not allowed to have a freestanding sign (according to Table IX-1), and a wall sign may only comprise 10 percent of the wall area, or no greater than 150 square feet. Staff has recommended a condition for approval that would require external sign lighting (rather than internal illumination) to minimize the impact on adjacent residences.

Liquor License Regulations

The City of Urbana offers a variety of liquor licenses, all of which are administered by the Mayor’s Office. The following three types are relevant to this case:

- BBB** Off-premise consumption; only beer and wine
- BB** On-premise consumption; only beer and wine
- C** Off-premise consumption; packaged liquor sales (including hard alcohol)

The Mayor’s Office has indicated that no C liquor licenses are available at this time. Instead, the petitioners will most likely apply for a BBB liquor license contingent upon the approval of this special use request.

In order to receive a liquor license, a completed application and fee must be submitted to the Mayor’s Office and approved by the individual department heads. The Urbana Police Department will conduct a background check on the business owner. The Illinois State Police conducts a fingerprint background check for the manager.

Description of the Site and Surrounding Properties

The corner of Fairview and Lincoln is a neighborhood business hub that includes the proposed grocery store and Family Video. Immediately west, south and north of the site are residential properties in the King Park neighborhood, many of which are rental housing. Also north of the site is the Care Centre of Urbana, a Medicare, Medicaid, and VA, 99-bed skilled-care facility. The facility provides long- and short-term nursing care; physical, occupational and speech therapy; respite care and rehabilitation. The 2005 Urbana Comprehensive Plan recommends that this neighborhood business hub expand to the north along Lincoln Avenue to south of King Park. The store would be located approximately 590 feet from Martin Luther King, Jr. Elementary School, and approximately 175 feet from the Care Centre of Urbana. These distances would be in excess of the 100 feet required by state statute regarding the regulation of liquor sales near schools, churches, nursing homes or military/naval stations (235 ILCS 5/6-11).

Direction	Zoning	Existing Land Use	Future Land Use
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Site	B-1, Neighborhood Business	Offices	Community Business
North	R-2, Single Family Residential and R-5, Medium High Density Multiple Family Residential	Residential / Nursing Home	Community Business
East	B-1, Neighborhood Business	Family Video	Community Business
South	R-2, Single Family Residential	Residential	Community Business
West	R-2, Single Family Residential	Residential	Residential

Discussion

Requirements for a Special Use Permit

According to Section VII-6 of the Urbana Zoning Ordinance, an application for a Special Use Permit shall demonstrate the following:

1. *That the proposed use is conducive to the public convenience at that location.*

Residents of the area have indicated their desire for a neighborhood grocery store. Currently many residents have to drive to purchase groceries and other daily needs, and the walkable nature of the proposed store is attractive for residents without cars or those who do not wish to drive. The liquor component of the store, for those who choose to purchase these products, could be beneficial for the same reasons. However, liquor sales could also be a detriment to the neighborhood due to the proximity of the proposed store to King School, King Park, and the Care Centre of Urbana.

2. *That the proposed use is designed, located, and proposed to be operated so that it will not be unreasonably injurious or detrimental to the district in which it shall be located, or otherwise injurious to the public welfare.*

The petitioner has indicated that beer and wine will be stored and sold in coolers. Some community concern has been expressed about the proximity of the store to King Elementary School. Although the two sites are located 590 feet apart, in excess of the State statute, many children travel along Fairview Avenue on their way to school. Children will likely use the store to purchase grocery or snack items. The petitioner has argued that beer and wine are available for purchase at three other locations in the general area (Mobil, BP and Circle K).

3. *That the proposed use conforms to the applicable regulations and standards of, and preserves the essential character of, the district in which it shall be located, except where such regulations and standards are modified by Section VII-7.*

The proposed store and liquor sales would meet all of the applicable zoning regulations of the Urbana Zoning Ordinance. A liquor license would have to be obtained in order to operate the facility. The Mayor's Office has indicated that there is a BBB liquor license available.

As defined in Section IV-2, the purpose of the B-1, Neighborhood Business District is as follows:

The B-1 District is intended to provide commercial areas of limited size for basic trade and personal services for the convenience of adjacent residential areas, for needs recurring regularly or frequently.

This purpose implies that any successful neighborhood business should be compatible with nearby residences. As defined in Section IV-2, the purpose of all residential zoning districts is as follows:

The Residential Districts are generally intended to provide desirable settings for residential development within the several density ranges described in Urbana's Comprehensive Plan, and for various types of dwelling units, with appropriate regulations regarding physical development. As appropriate, the districts also allow other uses compatible with residential areas, either as permitted or as condition or special uses.

In particular, the purpose of the R-2, Single-Family Residential District is as follows:

The R-2 District is intended to provide areas for single-family detached dwellings at a low density, on lots smaller than the minimum for the R-1 District. The R-2 District is also intended to provide for a limited proportion of two-family dwellings.

The common thread among these three purposes is compatibility. The King Park neighborhood is a close-knit residential community. King School and King Park, two of the social centers for the neighborhood, are located just north of the site. Also, many children travel down Fairview Avenue on their way to King School. Given these conditions and dependent upon the management practices of the store, it is possible that the liquor component of the grocery store may have a negative impact on the character of the area.

Summary of Findings

1. The proposed use may be conducive to the public convenience at the location due to accessibility to the surrounding neighborhood. For those that choose to purchase beer and wine, the proposed store would offer an alternative to driving.
2. The proposed use may not be conducive to the public convenience at the location due to the proximity of the proposed store to King School and King Park, two social centers of the neighborhood.
2. The proposed use may pose a detriment to the district in which it is proposed to be located. Although the proposed store will be more than 100 feet from King School and the Care Centre of Urbana, the accessibility and visibility of liquor to children may be a concern.

3. The proposed use meets all applicable zoning standards and regulations of the district in which it is located.
4. The proposed use is generally compatible with the existing land use pattern of the subject site and surrounding area. The site has historically been used as some type of commercial use.
5. The proposed use is consistent with the future land use of community business for the subject property, as identified in the 2005 Urbana Comprehensive Plan.
6. The Mayor's Office has indicated that a BBB liquor license for the off-premise consumption of beer and wine is available. A C liquor license for the off-premise consumption of beer, wine and hard alcohol is not currently available and is not being requested at this time.
7. Under the interpretation by the Zoning Administrator, the proposed store would be considered a "grocery store" based on the proposed product line submitted by the petitioner (see Exhibit F). According to Table V-1 of the Urbana Zoning Ordinance, a grocery store is permitted by right in the B-1, Neighborhood Business Zoning District.

Options

The Plan Commission has the following options for recommendations to the City Council. In Plan Case 1960-SU-05, the Plan Commission may:

1. Approve the request for a special use permit without any additional conditions.
2. Approve the request for a special use permit with any conditions deemed appropriate or necessary for the public health, safety, and welfare, and to carry out the purposes of the Zoning Ordinance
3. Deny the request for a special use permit.

Recommendation

Based on the evidence presented in the discussion above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Plan Commission consider the testimony given at the public hearing before formulating a recommendation on Plan Case No. 1960-SU-05 for the Urbana City Council. If the Plan Commission chooses to forward the case with a recommendation for approval, staff recommends the following CONDITIONS:

1. That the proposed store shall only be eligible for a BBB liquor license for the off-premise consumption of beer and wine. The proposed store shall not be eligible for a C liquor license without an amendment to the Special Use Permit, including further review by the Plan Commission and approval by the City Council.

2. That any signs or other means of advertising beer, wine, or cigarette sales shall not be visible from the public right-of-way.
3. That grocery products, as identified in Exhibit F, shall constitute at least 75 percent of all products available for sale. Non-grocery products, as identified in Exhibit F, shall not exceed 25 percent of all products available for sale, as measured by relative shelf space or square footage.
4. That the hours of operation shall be 7:30 am to 12:00 midnight Monday through Saturday, and 8:00 am to 10:00 pm on Sunday as outlined in Exhibit F.
5. That no additional exterior lighting shall be permitted, except where deemed appropriate by the Zoning Administrator.
6. That signage related to the proposed store shall meet the requirements of the Urbana Zoning Ordinance. The sign shall be externally illuminated in a manner approved by the Zoning Administrator.
7. That one handicapped accessible parking space shall be created prior to the issuance of a Certificate of Occupancy.

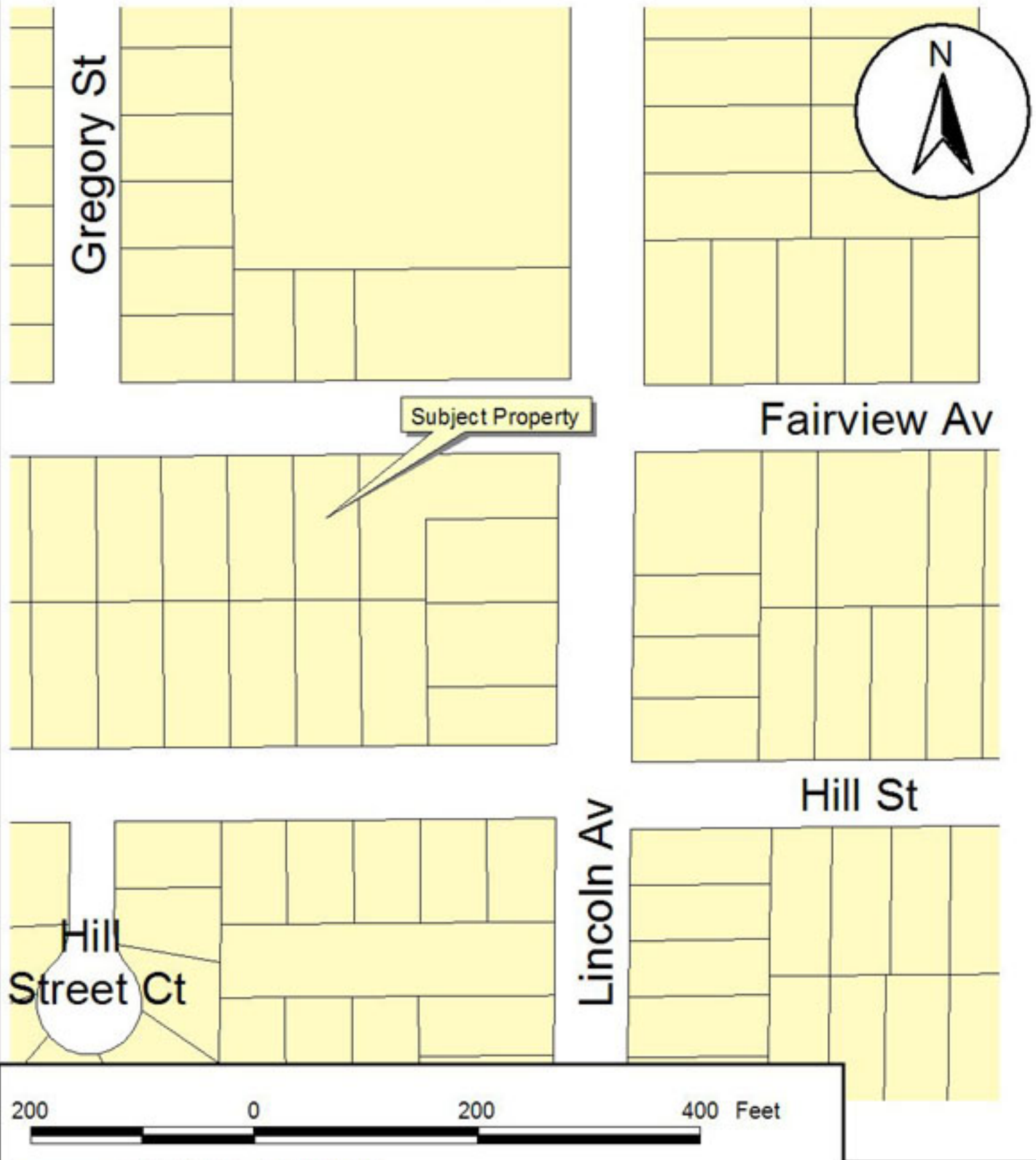
Prepared by:

Matt Wempe, Planner I

Attachments: Exhibit A: Location Map
Exhibit B: Zoning Map
Exhibit C: Existing Land Use Map
Exhibit D: Future Land Use Map
Exhibit E: Aerial Map
Exhibit F: Site Data and Product Listing (provided by petitioner)
Exhibit G: Public Comments (submitted prior to meeting)

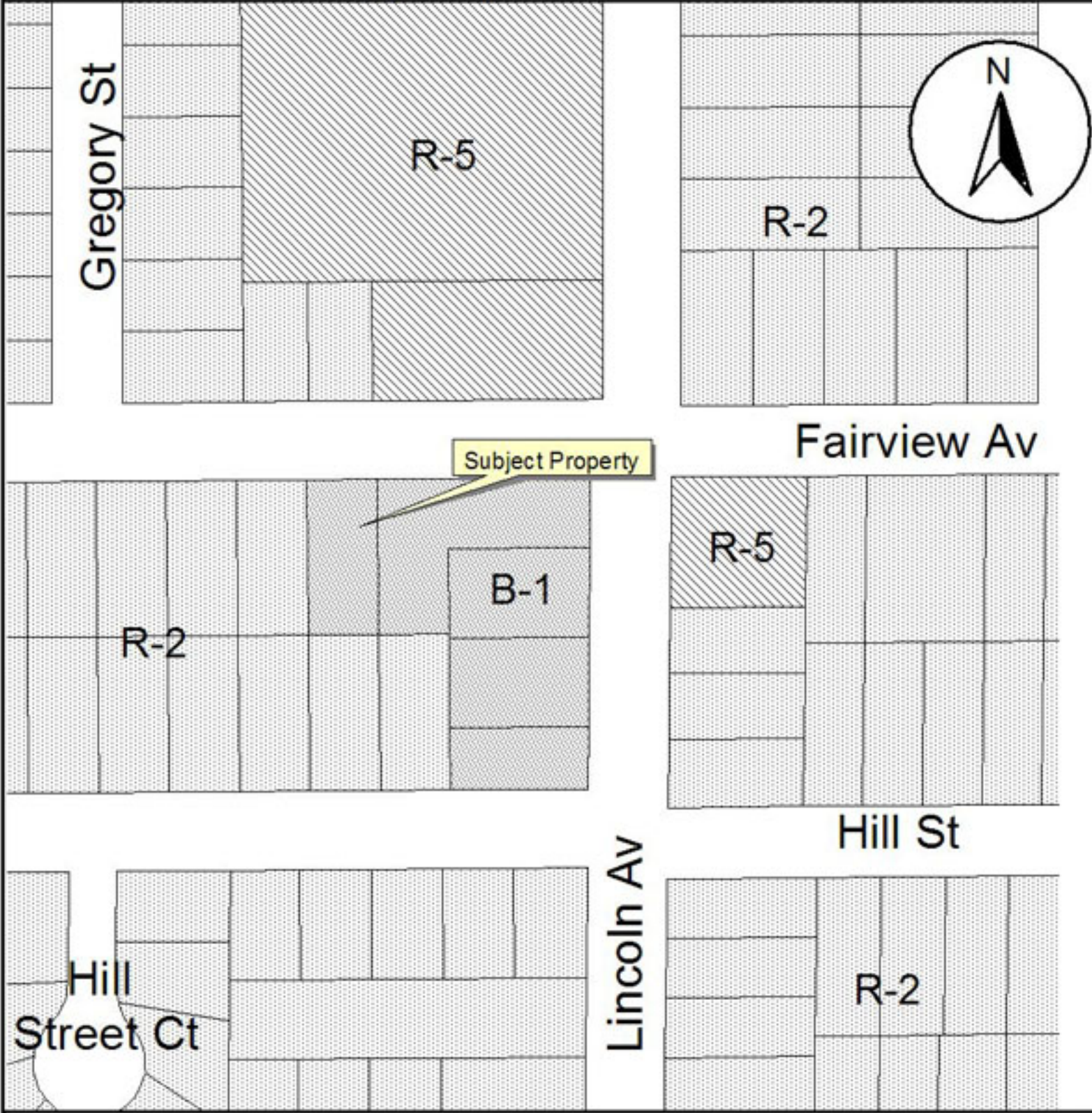
CC: Ibrahim Odeh
Happy Brothers Nine Corporation
1617 E. Fairlawn Drive
Urbana, IL 61801

Exhibit A: Location Map



Plan Case: 1960-SU-05
Petitioner: Happy Brothers Nine Corporation
Location: 907 E. Fairview
Zoning: B-1, Neighborhood Business
Description: Allow retail liquor sales as part of a grocery store in the B-1, Neighborhood Business Zoning District

Exhibit B: Zoning Map



Plan Case: 1960-SU-05
 Petitioner: Happy Brothers Nine Corporation
 Location: 907 E. Fairview
 Zoning: B-1, Neighborhood Business
 Description: Allow retail liquor sales as part of a grocery store in the B-1, Neighborhood Business Zoning District

R2 - Single Family
 R5 - Medium High Density MFR
 B1 - Neighborhood Business

Exhibit C: Existing Land Use Map

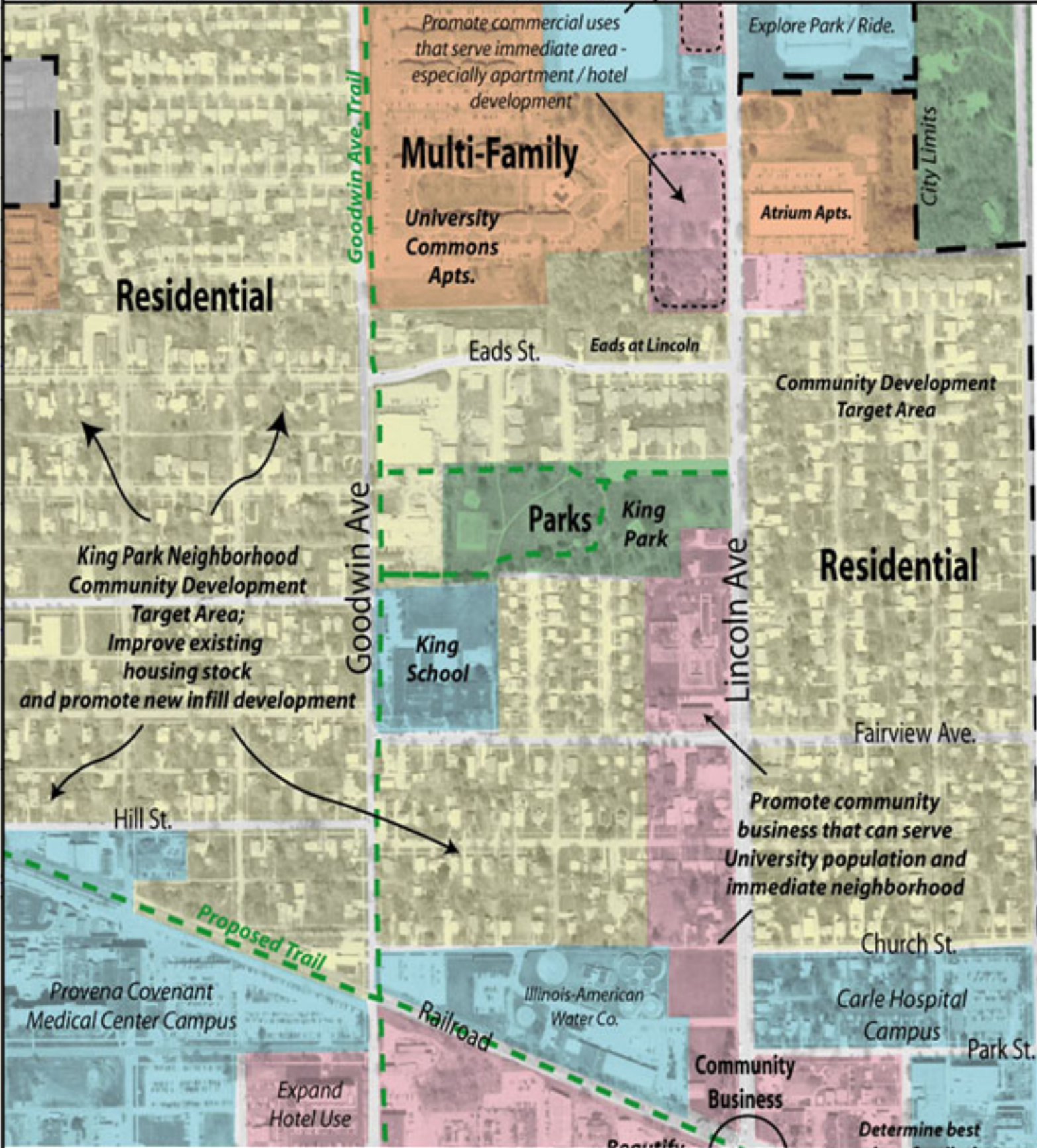


Plan Case: 1960-SU-05
 Petitioner: Happy Brothers Nine Corporation
 Location: 907 E. Fairview
 Zoning: B-1, Neighborhood Business
 Description: Allow retail liquor sales as part of a grocery store in the B-1, Neighborhood Business Zoning District

SF - Single Family
 MF - Multi Family



Exhibit D: Future Land Use Map



Plan Case: 1960-SU-05
 Petitioner: Happy Brothers Nine Corporation
 Location: 907 E. Fairview
 Zoning: B-1, Neighborhood Business
 Description: Allow retail liquor sales as part of a grocery store in the B-1, Neighborhood Business Zoning District

Exhibit E: Aerial Map



Plan Case: 1960-SU-05
Petitioner: Happy Brothers Nine Corporation
Location: 907 E. Fairview
Zoning: B-1, Neighborhood Business
Description: Allow retail liquor sales as part of a grocery store in the B-1, Neighborhood Business Zoning District

Happy Brothers Nine Corporation
“Super Discount Market”

Contact: Ibrahim Odeh
Cell: 217-377-1069
1617 E. Fairlawn Drive
Urbana, IL 61801

Site Data:

Address: 907 West Fairview Avenue
(directly west of Family Video)

Zoning: B-1, Neighborhood Business

[Special use permit required for convenience store and liquor sales, grocery store under 3,500 square feet permitted by right]

Building Size: 2,350 square feet

Parking Requirements: 10 spaces (already provided on site)

No additional exterior lighting proposed

Building to be converted to new use, meeting all applicable building & health codes

Proposal:

Neighborhood “grocery store”

To provide 75% groceries and 25% cigarette, snacks, beer and wine

Hours of operation would be 7:30 am to 12 midnight, M-Sat and 8:00 am to 10:00 pm on Sunday

Expected Grocery Products (75%):

- Milk, eggs, canned goods, dry goods, bread, cheese, packaged meat (possibly fresh sliced meat and cheese), fresh vegetables, frozen foods (e.g., pizza, juice, ice cream)
- Prepared foods: sandwiches, Italian beef, hot dogs, Polish sausage, other requests of customers
- Other items requested by customers
- Products eligible under new “food stamp” programs

Expected Non-Grocery Products (25%):

- Cigarettes, snacks (e.g., candy, donuts), beer, wine, newspapers

Submitted: Ibrahim Odeh, Sept. 9, 2005

From: Volutna@aol.com [mailto:Volutna@aol.com]
Sent: Wednesday, October 12, 2005 3:48 PM
To: Tyler, Elizabeth
Subject: (no subject)

To whom it may concern:

I live in the 800 block of North Busey Ave. I have heard of a proposal to put a liquor store next to the video store at Lincoln and Fairview. I beg those in power to consider this as destructive and important as putting such a store at Race and Pennsylvania where the old Sunshine Grocery was, even more so because of the number of teens in the area and proximity to King Elementary school.

I urge you to pass legislation immediately that would prohibit a liquor license in family neighborhood so close to a school and in a residential neighborhood. I urge you to consider giving a tax break on the condition of prohibiting alcohol sales. A real neighborhood grocery store, laundry mat or dollar store would be welcome and is needed.

Currently I daily find small liquor bottles and single sold beer bottles in my lawn. I have no doubt that this would increase exponentially.

May I ask you to peruse the police press releases and obtain police incidents via the freedom of information act in a six block radius?

Below is one such item which took place at Gregory and Fairview about a half a block from where this being suggested. If this is allowed I have no doubt you will be creating a zone much like Washington and Lierman. **At this location it will be visible to the entire community especially those visiting.**

(In reference to the recent accusations of teen being harassed by police in Champaign. I think the council should also consider the amount of teen reported as runaways. I counted nine from two weeks after the 17th of September.)

U05-05801 UNLAWFUL USE OF WEAPONS 720-5/24-1/24-1.2 ** JUVENILE **
RESISTING/OBSTRUCTING OFFICER 720-5/31-1 & /31-1A
POSSESSION STOLEN PROPERTY 720-5/16-1A4&625-5/4
AGG DISCHARGE FIREARM 720 - 5/24-12.1
LOCATION: 900 BLOCK OF GREGORY N
OCCURRED: 9/17/2005 0:13 REPORTED: 9/17/2005 0:13
OFFICER: HAZEN, HAROLD D
SUMMARY: POLICE WERE DISPATCHED TO A SHOTS FIRED CALL. POLICE LOCATED A GROUP OF HOSTILE SUBJS IN THE STREET. ONE OFFN WALKED AWAY FROM THE GROUP WHILE POLICE WERE INVESTIGATING. THIS OFFN WAS IDENTIFIED & 3 LOADED HANDGUNS WERE DISCOVERED IN THE AREA THAT HE WALKED AND THE WEAPONS WERE SIEZED. ANOTHER SUBJ WAS OBSERVED CHECKING THE EXACT SPOT WHERE THE WEAPONS WERE HID. WHEN POLICE APPROACHED THIS OFFN FLED ON FOOT BEFORE HE WAS IDENTIFIED.
PEOPLE: VICTIM SOCIETY
OFFENDER AGE: 17 SEX: M URBANA IL
OFFENDER AGE: 18 SEX: M URBANA IL