



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Planning Division*

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

**TO:** The Urbana Zoning Board of Appeals

**FROM:** Paul Lindahl, Planner I

**DATE:** March 10, 2006

**SUBJECT:** **ZBA Case # 2006-MAJ-01:** A Major Variance to encroach 8 feet into the required 15 foot front yard setback on Main Street in the B-3U, General Business-University zoning district

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### Introduction

This case is a request by Howard Wakeland for a major variance to allow a front yard setback encroachment for properties he owns near the northeast corner of Harvey and Main Streets. The subject properties are zoned B-3U, General Business University, which requires a front yard setback of fifteen feet. The request is to encroach eight feet (53%) into the required setback at 1010, 1012, and 1012 ½ W. Main Street to allow construction of the second phase of a three story apartment building which will contain 57-units when finished.

### Background

In 2005 Mr. Wakeland applied to the City and received approval for two Major Variances as part of the project to construct an apartment building on Harvey and Main Streets in Urbana. The original proposal called for a single apartment building to be built in two phases. For financial reasons the two phases were to be built in succeeding years. Each phase envisioned a three story structure connecting to the other phase along the south facing Main Street façade. These structures would essentially be mirror images of each other. Phase One is to be the construction of the west half of the project on 1016 and (roughly) the west half of 1014 W. Main Street. Phase Two is to be the construction of the east half of the project on 1010, 1012, and 1012 ½ W. Main Street. A variance for the second phase is what is being considered in this application.

Because of an oversight in the application, the Major Variance requests presented in 2005 for encroachment into the front yard setbacks on Harvey and Main Streets was limited specifically to the properties at 1014 and 1016 West Main Street (phase one of the project). The Urbana City Council approved the front yard setback variances on Harvey and Main Streets for only those properties. Front yard setback variances were not granted for the properties where the second phase would be built: 1010, 1012, and 1012 ½ W. Main Street.

The applicant states that he cannot risk constructing the first phase without knowing whether or not his second phase can proceed with the same setback. The new Major Variance request in ZBA Case #2006-MAJ-01 would apply specifically to the properties at 1010, 1012, and 1012 ½ West Main Street. This new request is to allow for the same eight-foot encroachment into the required 15 foot front yard setback along Main Street granted for the adjoining property at 1014 and 1016 W. Main Street. If granted, the result will be that, when constructed, the building would have a continuous façade at the same setback on all the properties at 1010, 1012, 1012 ½, 1014, and 1016 W. Main Street.

Pursuant to the Urbana Zoning Ordinance, in order for a major variance to be granted, the Zoning Board of Appeals must recommend approval or denial and forward the case to City Council for a final determination.

For more information on the surrounding zoning, land uses, and neighborhood character please refer to the attached map exhibits, and the previous staff memo for ZBA Cases 05-MAJ-06, and -07 (also attached)

## **Discussion**

### **B-3U, General Business – University zoning district definition**

According to Section IV-2 of the Zoning Ordinance, the purpose and intent of the B-3U Zoning District is as follows:

*"The B-3U General Business-University District is intended to provide areas in proximity to the University of Illinois for a range of business and office uses to meet the needs of persons and businesses associated with the University. This district is also intended to provide areas for high-density residential uses to insure an adequate supply of housing for persons who desire to reside near the campus. These businesses and residential uses may occur as mixed uses in the same structure. The development regulations in this district are intended to allow building which are compatible with the size and scale of the University's buildings."*

The B-3U zoning district designation was created in 1990 as an outcome of the Downtown to Campus Plan. It was intended in part to address the lack of services offered in areas adjacent to the University, with a primary focus on the engineering campus located nearby the subject property of this case.

### **Urbana Comprehensive Plan - Future Land Use Classification – Campus Mixed-Use**

The subject property has an Urbana Comprehensive Plan - Future Land Use designation of Campus Mixed-Use. The plan was adopted by City Council in April 2005 and created the new Future Land Use designation of "Campus Mixed Use." According to Chapter V of the plan:

*"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 Comprehensive Plan Future Land Use Map #8 annotations call for Campus Mixed Use areas to be:

*“Urban designed mixed-use buildings which include business/office on the ground floor and residential on upper floors; developments consisting of only multi-family is discouraged”*

The surrounding area has high density building coverage either in large University structures or apartment buildings. Both the subject site and many surrounding it are highly valued for their proximity to the university engineering campus. The highest private land use demand for this area is multi-family apartments for students.

### **Petitioner’s Perspective**

The petitioner states that the project cannot be constructed without the requested variance. The shallower setback will allow more space underneath the building which is needed to meet the parking requirements for the property. Most of the property in the area is that zoned for higher densities are B-3U, General Business-University, or R-5, Medium High Density Multiple Family Residential. Parking requirements tend to be the limiting design factor for building multi-family housing in the Campus areas of Urbana. The petitioner says the proposed variance (combined with the previously granted variances) will allow for approximately 6-8 additional parking spaces. As noted above, the petitioner does not feel he can proceed with the first phase of the project without first obtaining the requested variance for the second phase. The petitioner does not want to construct a building with an uneven setback.

### **Variance Criteria**

Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals to make findings based on variance criteria. The following is a review of the criteria as they pertain to this case and the criteria outlined in the ordinance:

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

This project includes one building constructed in two phases and fronting on two public streets. Variances for front yard setbacks have already been granted for the corner property at 1016 and 1014 W. Main Street. The applicant states that he had intended for the first variance application to apply to all the properties from 1010 to 1016 W. Main Street. The City’s comprehensive plan calls for this area to increase in density, in part to help keep multi-family development from encroaching on single-family residential neighborhoods close to the university campus. The comprehensive plan also suggests that buildings in this area may be located close to the street. The applicant states that the project cannot work without the same setback variance granted for the first phase and that his request conforms to the comprehensive plan goals for this area.

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 special circumstances relating to the land in this instance is that Phase 1 of this building will be constructed on the corner lot to the west which has the usable land reduced by the requirement for two 15 foot front yard setbacks. According to the petitioner the front yard building setback in Phase 2 of this project (this application) needs to conform to the first phase. Otherwise, these properties are standard rectangular lots with no inherent physical impediments for development.

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

The petitioner has not created the situation or conditions making this variance necessary. The fact that the 2005 variance application did not specify the entire project area was an error.

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

The requested reduction of the front yard setbacks on this property would be consistent with the character of the neighborhood in some respects and inconsistent in other respects. The surrounding area includes urban high density development with large university buildings to the west, and apartment buildings constructed on multiple lots to the east. However, other nearby apartment buildings have been constructed with the required 15 foot setback, including projects developed by the applicant. The green space provided by greater front yard setbacks provides some relief from the trend toward increasingly larger scale buildings in the area. The subject property could be seen as a transition between apartment buildings with required setbacks to the east and University buildings which tend to have higher density and have more paved area to the west.

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

The variances will not cause a nuisance to adjacent properties. The first phase of the project will face a University parking lot across Harvey Street to the west, and both phases will face apartment buildings across Main Street to the south. The building would back onto a public alley to the north with apartments on the other side.

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

The petitioner states that he is requesting the minimum variance necessary to better meet his parking needs and make the project financially feasible. The requested variance of eight feet would match the front yard setback variance from Main Street granted for the first phase of this project.

## Staff Analysis

Aside from the specific variance criteria, staff has identified factors both for and against the requested variance. To summarize:

### Pros

- The highest private land use demand for this area appears to be multi-family apartments for students. The variance would allow for a larger apartment building to be built on the site.
- The City of Urbana 2005 Comprehensive Plan encourages increased density in this area, including the potential for buildings to be set close to the street.
- The proposed apartment building would be generally consistent in character with other nearby apartment, and University buildings.
- A larger apartment building permitted by the variance would have a higher taxable value than a smaller apartment building without the variance.
- The variance would allow for more parking in an area where parking is in demand.
- The variance would allow the petitioner to construct both phases of the project with a uniform reduced setback.

### Cons

- The property in question (1010, 1012, and 1012 ½ W. Main Street) is essentially one and one-half standard rectangular lots wide and one lot deep. (A total of 102 feet wide by 132 feet deep). Because of the standard rectangular configuration the property has no special distinction or characteristic relative to other parcels in the district.
- Other properties in the district have had buildings constructed on them in the past ten years which conform to the front yard setback requirement, including properties developed by the applicant.
- While a variance has been granted for the Wakeland project on the adjoining lots to the west at 1014 and 1016 W. Main Street, that property (132 feet wide by 132 feet deep or two standard rectangular lots) is on the corner of two streets and would have otherwise had to accommodate *two* 15-foot yard setbacks. The property in question at 1010, 1012, and 1012 ½ W. Main Street is not a corner lot.
- The green space provided by greater front yard setbacks provides some visual relief for multi-family and institutional buildings in the area. An area of possible green space / lawn would be lost to the building encroachment into the front yard. The loss would result in a more urban, and less residential environment for the residents.

## Options

The Zoning Board of Appeals has the following options in this case:

- a. The Urbana Zoning Board of Appeals may recommend approval of the variance as requested to the Urbana City Council based on the findings outlined in this memo; or
- b. The Urbana Zoning Board of Appeals may recommend approval of the variance to the Urbana City Council along with certain terms and conditions. If the Board of Appeals elects to recommend conditions or recommend approval of the variances on findings other than those articulated herein, they should articulate findings accordingly; or
- c. The Zoning Board of Appeals may recommend denial the variance request. If the Zoning Board of Appeals elects to do so, the Board should articulate findings supporting its denial.

## Recommendation

Based on the findings and information provided herein, and without the benefit of considering additional evidence that may be presented at the public hearing, ZBA Case #2006-MAJ-1 is presented to the Urbana Zoning Board of Appeals for your consideration without a specific recommendation. If the Board chooses to forward this case to the City Council with a recommendation of approval the staff recommends that the following Conditions be included:

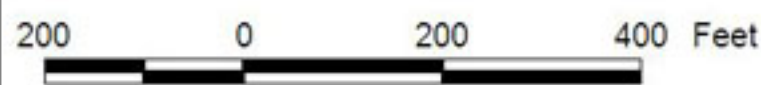
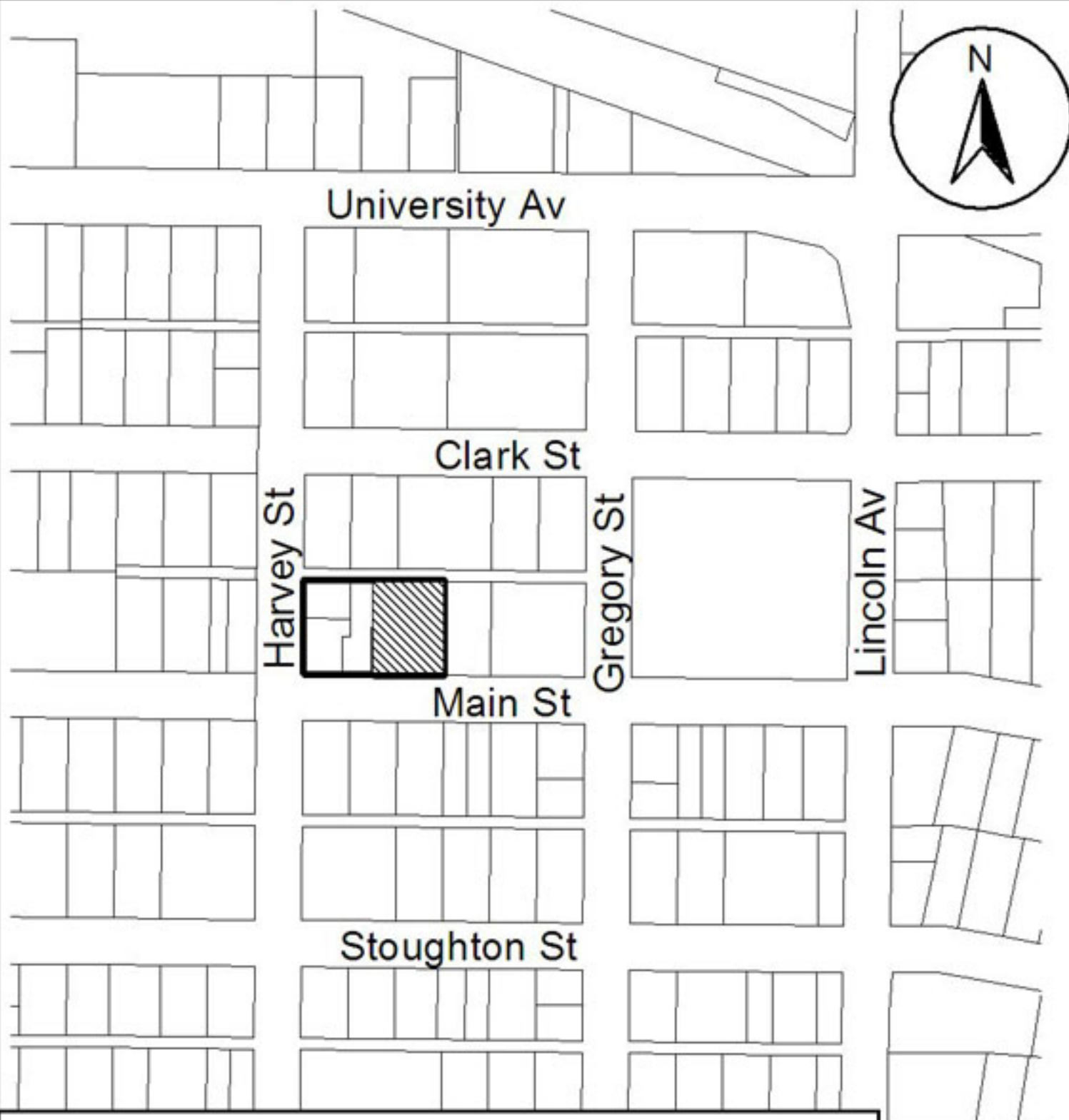
- 1. That with respect to the front yard building setback, development on the site must generally conform to the site plan submitted with the application.**
- 2. The project shall conform to all other applicable Zoning and Building Code regulations including Open Space Ratios and parking module dimensions.**

Attachments:      Exhibit A:      Location Map  
                         Exhibit B:      Zoning Map  
                         Exhibit C:      Aerial Photo with Existing Land Use  
                         Exhibit D:      Future Land Use Map  
                         Exhibit E:      Aerial Photo - Close Up  
                         Exhibit F:      Petition for Variance with Site Plan

cc:                    Howard Wakeland  
                         1811A Amber Lane  
                         Urbana, IL 61802

# Location Map

# Exhibit "A"

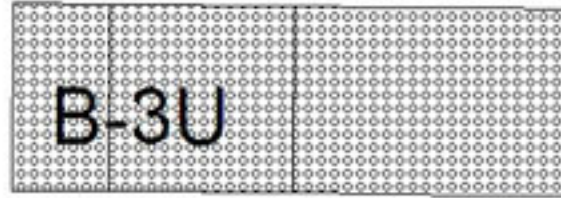
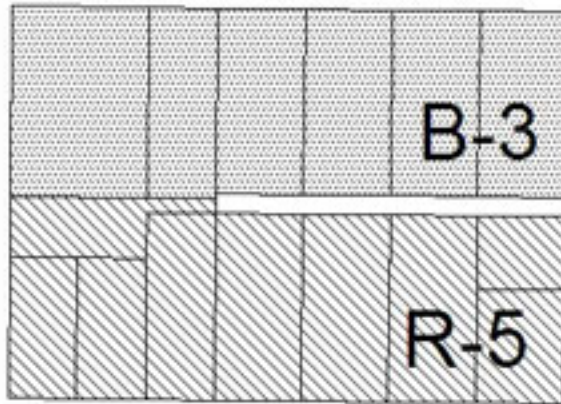


ZBA Case: 06-M AJ-01  
Petitioner: Howard Wakeland  
Location: 1010-1012-1/2 W. Main Street  
Zoning: B-3U - General Business - University  
Description: 8 foot encroachment into 15 ft required front yard setback

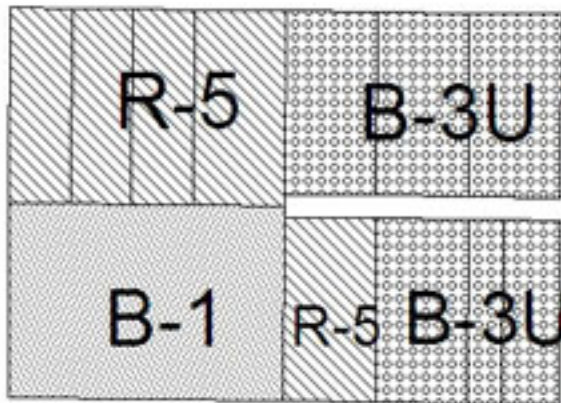
Prepared 2/27/06 by Community Development Services - pal

-  Project Area Boundary
-  Subject Properties

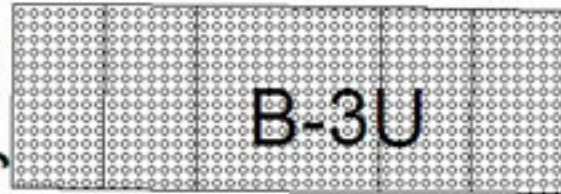
## University Av



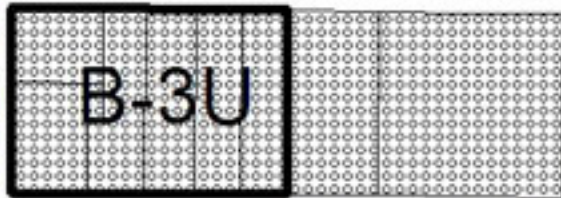
## Clark St



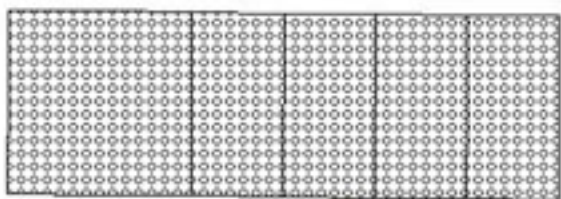
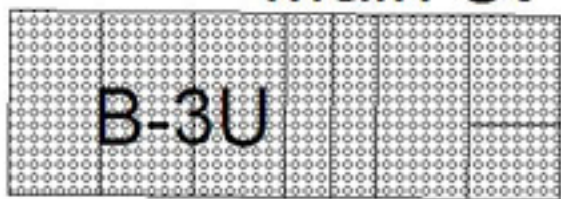
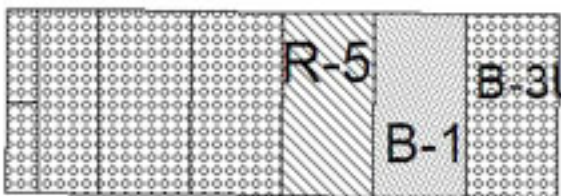
Harvey St



Gregory St



## Main St



## Stoughton St

0 100 200 300 400 500 Feet





ZBA Case: 06-11AJ-01  
 Petitioner: Howard Wakeland  
 Location: 1010-1012-1/2 W. Main Street  
 Zoning: B-3U - General Business - University  
 Description:  
 8 foot encroachment into 15 ft required front yard setback

Prepared 2/27/06 by Community Development Services - pal

- Project Area Boundary
- B3U - General Business - University
- B3 - General Business
- B1 - Neighborhood Business
- R5 - Medium High Density Multiple-Family





-  Project Area Boundary
-  Subject Properties

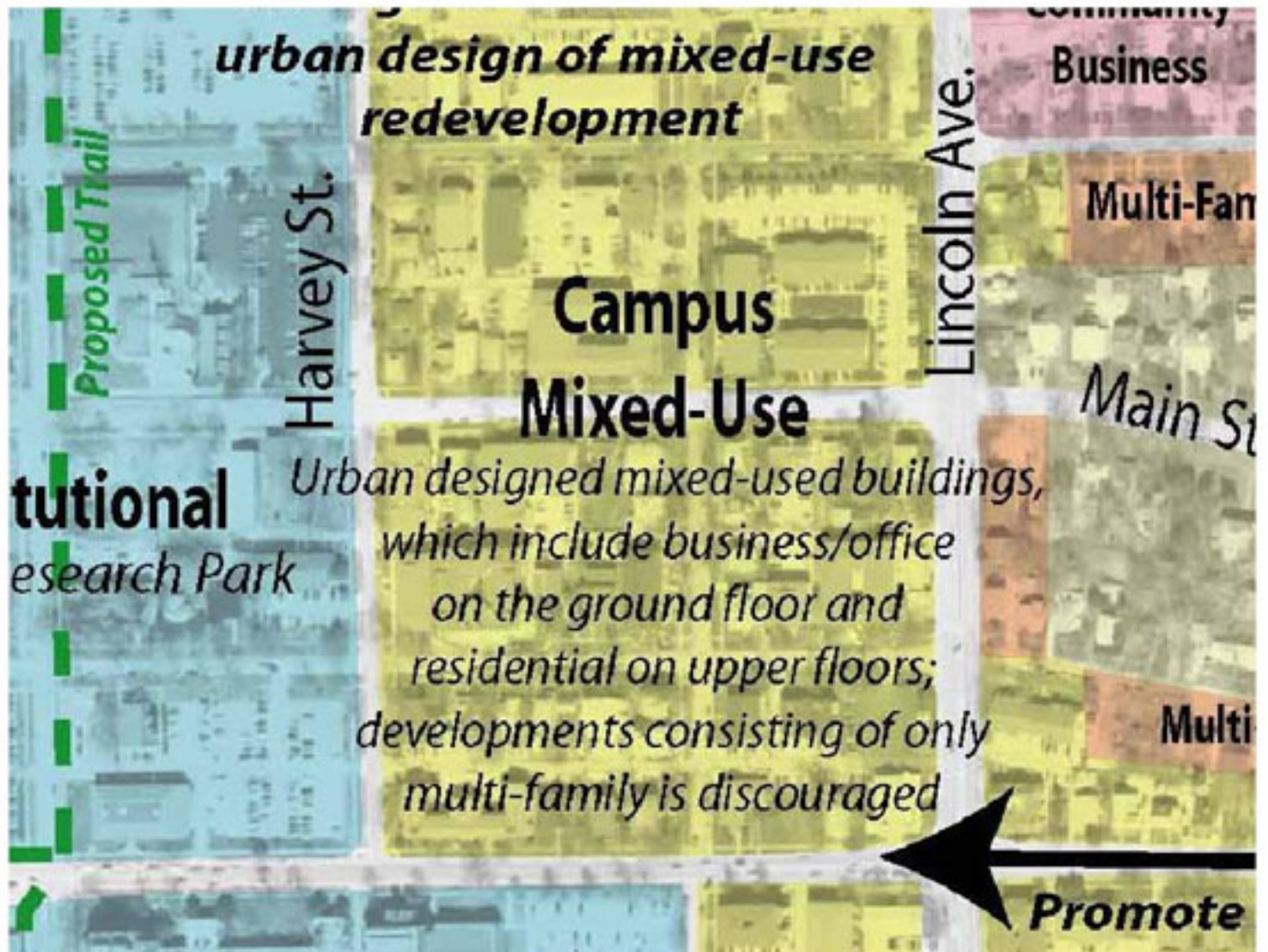


ZBA Case: 06-11 AJ-01  
Petitioner: Howard Wakeland  
Location: 1010-1012-1/2 W. Main Street  
Zoning: B-3U - General Business - University  
Description:  
8 foot encroachment into 15 ft required front yard setback

Prepared 2/27/06 by Community Development Services - pal

APT - Apartment  
COM - Commercial  
INST - Institutional  
PKG - Parking

Source: 2005 Comprehensive Plan Map #8 page 79.



ZBA Case: 06-11 AJ-01  
Petitioner: Howard Wakeland  
Location: 1010-1012-1/2 W. Main Street  
Zoning: B-3U - General Business - University  
Description: 8 foot encroachment into 15 ft required front yard setback

Prepared 2/27/06 by Community Development Services - pal



ZBA Case: 06-M AJ-01  
 Petitioner: Howard Wakeland  
 Location: 1010-1012-1/2 W. Main Street  
 Zoning: B-3U - General Business - University  
 Description: 8 foot encroachment into 15 ft required front yard setback



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Planning Division*

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

**TO:** Bruce K. Walden, Chief Administrative Officer

**FROM:** Elizabeth H. Tyler, AICP, Director

**DATE:** December 1, 2005

**SUBJECT:**

**ZBA 05-MAJ-06:** A Major Variance to encroach 8 feet into the required 15 foot front yard setback on Main Street in the B-3U, General Business-University zoning district

**ZBA 05-MAJ-07:** A Major Variance to encroach 10 feet into the required 15 foot front yard setback on Harvey Street in the B-3U, General Business-University zoning district.

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### Introduction

The case is a request for two major variances filed by Howard Wakeland. The requested variances are to allow front yard setback encroachments on properties owned by Mr. Wakeland at the north east corner of Harvey and Main Streets. The subject properties are located in the B-3U General Business University zoning district which has a front yard setback requirement of fifteen feet. Because the property is on a corner, there are two front yards, each with the same fifteen foot front yard requirement. The first request is to encroach 8 feet (53%) into the required setback on Main Street frontage and the second is to encroach 10 feet (66%) into the required setback on Harvey Street.

Mr. Wakeland proposes to construct two new identical apartment building on his properties at 1010, 1012, 1014 and 1016 West Main Street in two phases over the next two years. The requested variances are only for the first building to be built in Phase One on 1016 and (roughly) the west half of 1014. The second building would be built in the second phase on the remainder of 1014 and 1010 W. Main Street. For the second building to be identical to the first, another 8 foot (53%) front yard setback variance would be necessary at a later date for 1010 and 1012 West Main.

On November 16, 2005 the Urbana Zoning Board of Appeals voted 3-1 to recommend approval of the Major Variances to the City Council.

### Description of the Site

The site is located on the northeast corner of the intersection of Harvey and Main Streets. (see attached maps). The site is in the University of Illinois Engineering Campus neighborhood. The area has a mix of uses but other than those directly affiliated with the University the area is dominated by student occupied apartment buildings and rooming houses.

## **Discussion**

### **Engineering Campus neighborhood character**

The subject site is located in an area adjacent to the University of Illinois that has a long history of land uses which serve the University populations. In the post World War II period the demand for new housing in proximity to the University expanded and many more houses were converted from single family to multi-family apartments and rooming houses. In later years where land owners could acquire contiguous lots they demolished older houses to construct larger apartment buildings, again to serve the University population. At the same time the University also acquired many properties in the area and either converted them to University uses or replaced them with new University structures. The combination of these trends has also threatened single-family residential neighborhoods to the east of Lincoln Avenue.

In recent years, the City has become concerned about the erosion of its tax base through acquisition of properties by the University of Illinois. These acquisitions in the engineering campus areas have resulted in City-University efforts to delimit potential acquisition areas and to promote tax-generating redevelopment efforts. The proposed project can contribute to the stabilization of the area via investment in tax-revenue generating property that also serves to alleviate some of the high demand for student housing.

### **B-3U, General Business – University zoning district definition**

According to Section IV-2 of the Zoning Ordinance, the purpose and intent of the B-3U Zoning District is as follows:

*"The B-3U General Business-University District is intended to provide areas in proximity to the University of Illinois for a range of business and office uses to meet the needs of persons and businesses associated with the University. This district is also intended to provide areas for high-density residential uses to insure an adequate supply of housing for persons who desire to reside near the campus. These businesses and residential uses may occur as mixed uses in the same structure. The development regulations in this district are intended to allow building which are compatible with the size and scale of the University's buildings."*

The B-3U zoning district designation was created in 1990 as an outgrowth of the Downtown to Campus Plan. It was intended in part to address the lack of services offered in areas adjacent to the University, with a primary focus on the engineering campus surrounding the subject property of this case.

### **Urbana Comprehensive Plan - Future Land Use Classification – Campus Mixed-Use**

The Urbana Comprehensive Plan adopted by City Council in April 2005 created a new Future Land Use designation of "Campus Mixed Use." According to Chapter V of the plan:

*"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 Comprehensive Plan Future Land Use Map #8 annotations call for Campus Mixed Use areas to be:

*“Urban designed mixed-use buildings which include business/office on the ground floor and residential on upper floors; developments consisting of only multi-family is discouraged”*

### **Petitioner Perspective**

The petitioner believes that in order to maximize investment in this area of high priced land it is necessary to maximize the number of living units provided. Most of the property in the area is zoned for higher densities as B-3U, General Business-University, and R-5 Medium High Density Multiple Family Residential. However parking requirements are the limiting design factor for building multifamily housing in Urbana. The petitioners states that the variance is necessary to make to most efficient use of all available space on each lot. The petitioners say the proposed variance will allow for approximately 6-8 additional parking spaces.

At this time the design of the project is incomplete. For that reason some zoning issues are not fully resolved. The project will have to meet the parking and the open space ratio (OSR) requirements. These aspects of the project will need to be further refined by the architect.

### **Staff Perspective**

Staff sees a logical justification for the requested variances. The surrounding area has high density building coverage either in large University structures or apartment buildings. Both the subject site and many surrounding it are highly valued for their proximity to the university engineering campus. The single most obvious land use for this area is multifamily apartments for students. If the City is to achieve it's goals of higher density in the area, and provide student housing to alleviate some of the pressure for higher density development east of Lincoln Avenue than the development proposed is logically appropriate and not unreasonable. The developer wishes to construct a building at the scale and setbacks envisioned by the comprehensive plan and necessitated by the economics of parking and open space requirements.

### **Variance Criteria**

In order to review a potential variance, Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals and City Council to make findings based on variance criteria. At the November 16, 2005 meeting the ZBA voted to recommend approval based upon the following findings of fact for each variance decision criteria:

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

This project will include one building constructed in two phases and fronting on two public streets. The City's comprehensive plan calls for allowing allow this area to increase in density, in part to help protect multi-family encroachment on single-family residential neighborhoods. The comprehensive plan also calls for buildings in this area to be located close to the street. The applicant states that the project

cannot work while meeting the setback requirements on two street frontages, and what he is requesting conforms to our comprehensive plan goals for this area.

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 special circumstances relating to the land in this instance is that the corner lot has the usable land reduced by the requirement for two 15 foot front 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 petitioner has not created the situation or conditions making this variance necessary.

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

The requested decrease of the front yard setbacks will not detract from the essential character of the neighborhood. The neighborhood is one of urban high density development with large buildings constructed on multiple lots.

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

The variances will not cause a nuisance to adjacent properties. The property faces a parking lot across Harvey Street to the west and apartment buildings across Main Street to the south. The building would back onto a public alley to the north with apartments on the other side.

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

The petitioner is only requesting the variance necessary to achieve the goal of high density in the area as called for in the Comprehensive Plan.

### **Options for #ZBA-05-MAJ-6 (Main Street Front Yard Setback Encroachment of 8 feet = 34%)**

The City Council has the following options in this case:

- a. The Council may grant the variance as requested based on the findings outlined in this memo; or
- b. The Council may grant the variance subject to certain terms and conditions. If the Council elects to impose conditions or grant the variance on findings other than those presented herein, they should articulate these additional findings in support of the approval and any conditions imposed; or
- c. The Council may deny the variance request. If the Council elects to do so, they should articulate findings supporting this denial.

## **Recommendation**

Based on the findings outlined herein, the Zoning Board of Appeals voted 3-1 to forward the variance request in Case # 05-MAJ-06 to the Urbana City Council with **a recommendation for approval** to allow a 8 foot encroachment into the required 15 foot front yard setback on Main Street in the B-3U, General Business-University zoning district with the following conditions:

1. **That with respect to front yard setback the development on the site must generally conform to the site plan submitted with the application.**
2. **The project shall conform to all other applicable Zoning and Building Code regulations including Open Space Ratios and parking requirements.**

## **Options for #ZBA-05-MAJ-7**

**(Harvey Street Front Yard Setback Encroachment of 10 feet = 67%)**

The City Council has the following options in this case:

- a. The Council may grant the variance as requested based on the findings outlined in this memo; or
- b. The Council may grant the variance subject to certain terms and conditions. If the Council elects to impose conditions or grant the variance on findings other than those presented herein, they should articulate these additional findings in support of the approval and any conditions imposed; or
- c. The Council may deny the variance request. If the Council elects to do so, they should articulate findings supporting this denial.

## **Recommendation**

Based on the findings outlined herein, the Zoning Board of Appeals voted 3-1 to forward the variance request in Case # 05-MAJ-07 to the Urbana City Council with **a recommendation for approval** to allow a 10 foot encroachment into the required 15 foot front yard setback on Harvey Street in the B-3U, General Business-University zoning district with the following conditions:

1. **That with respect to front yard setback the development on the site must generally conform to the site plan submitted with the application.**
2. **The project shall conform to all other applicable Zoning and Building Code regulations including Open Space Ratios and parking requirements.**



Attachments:

Draft Ordinance Approving a Major Variance      Case # 05-MAJ-06  
Draft Ordinance Approving a Major Variance      Case # 05-MAJ-07  
Draft Minutes of November 16, 2005 Zoning Board of Appeals Hearing  
Exhibit C:      Aerial Photo With Existing Land use Map  
Exhibit D:      Future Land Use Map  
Exhibit F:      Site Plans  
Exhibit G:      Petition for Variance

Prepared by:

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Paul Lindahl, Planner I

cc:              Howard Wakeland  
                    1811A Amber Lane  
                    Urbana, IL 61802

H:\Planning Division\001-ALL CASES(and archive in progress)\03 - ZBA Cases\2005\ZBA-05-MAJ-06, and -07, 1014-1016 W Main, Wakeland\05-MAJ-06 -07 Main Wakeland CC memo vFINAL.doc