



**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:** Robert Myers, AICP, Planning Manager

**DATE:** May 15, 2008

**SUBJECT:** ZBA 2008-C-01: Request by Illinois Properties for a Conditional Use Permit to allow a duplex at 802 W. Iowa Street in the R-2, Single-Family Zoning District.

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**Introduction**

Illinois Properties has submitted a request to establish a duplex at 802 W. Iowa Street, located on the northwest corner of Iowa and Busey Streets. The applicant is proposing to establish the duplex within the existing building without expanding the structure, creating new parking, or making other exterior changes.

802 W. Iowa Street is zoned R-2, Single-Family Residential. Urbana’s Zoning Ordinance imposes graduated uses and densities between residential zoning districts. Thus duplexes are prohibited in R-1, Single-Family Residential Districts; allowed with special permission (Conditional Use Permit) in R-2, Single-Family Residential Districts; and allowed by right in R-3, Single- and Two-Family Residential and other residential districts. In accordance with Table V-1 of the Urbana Zoning Ordinance, the applicants are applying for a Conditional Use Permit to establish a duplex in an R-2 district.

The property consists of a single-family house which was converted to a duplex without proper building permits or zoning approval, resulting in zoning, building, and occupancy code violations. A recent court order affirmed that the property is a single-family home and directed Illinois Properties to bring the property into conformance with Urbana’s Building Code and the Zoning Ordinance. Building Code conformance must be obtained after the use violation is remediated. Zoning compliance may be achieved either by obtaining a Conditional Use Permit to allow use of the property as a duplex, or by ceasing to use it as such and operate as a single-family residence.

Following a public hearing and full consideration of the facts, Conditional Use Permits are either approved or denied by the Zoning Board of Appeals by majority vote. Should property owners file a valid written protest in accordance with Section XI-11 of the Zoning Ordinance, a Conditional Use Permit cannot be authorized except by a favorable vote of two-thirds of the members of the Zoning Board of Appeals.

## **Background**

The property is located in the West Urbana Neighborhood, one block east of Lincoln Avenue and the University of Illinois campus. This area was subject to rezoning as proposed by the Downtown to Campus Plan in 1990. The Downtown to Campus Plan was created due to concerns about loss of single-family homes and historic characteristics of the neighborhood due to expansion of the University and increased construction of apartment buildings. The Downtown to Campus Plan made specific rezoning recommendations in order to provide for a transition from high-intensity campus related uses on Lincoln Avenue to the single-family homes east of Busey Avenue. City staff surveyed all of the properties during the Downtown to Campus Study, and determined at that time that the subject property was a single-family home, and was not a non-conforming use.

Pursuant to the Downtown to Campus Plan, the City of Urbana in 1991 rezoned a large portion of the West Urbana Neighborhood from R-4, Medium Density Multi-Family Residential to R-2, Single-Family Residential. The subject property at 802 W. Iowa Street was included in the rezoning. This action meant that new apartment buildings would no longer be allowed by right within the rezoned areas, that duplexes would be conditionally allowed, and that single-family homes would be allowed by right. The City of Urbana subsequently notified the owner of 802 W. Iowa Street that his property had been rezoned to R-2 and that the City had determined that the property was then being used as a single-family residence as of July 21, 1991.

The applicant states that he purchased the property in 1987 from a University faculty member, who was using it as a duplex at the time. From the applicant's perspective, the property has been used as a duplex intermittently since then.

According to file records, the City became aware in October 2000 that the property was being used contrary to the R-2 zoning requirements and found several property maintenance code violations. The owner abated the property maintenance and use violations by April, 2001 according to a letter by a former City housing inspector. In 2005 the City received a complaint and found that the property was again being used as a duplex contrary to zoning, occupancy, and building code requirements. Staff notified the owner that a Conditional Use Permit was necessary to operate the property as a duplex, and attempted to resolve the violation without seeking court action. The City filed a complaint in Circuit Court on February 5, 2007. The owner and their leasing agent in April 2008 pled guilty to the over-occupancy violation and agreed in a court judgment to remediate the situation (Exhibit F). As part of the court order, the owner was given the option to apply for a conditional use permit to allow the duplex. If the application is approved, the owner will need to completely separate the units, meet all building codes and apply for a Certificate of Occupancy.

## **Development Regulations**

The property is zoned R2, Single-Family Residential. According to Section IV-2 of the Zoning Ordinance, the purpose of the R-2 District is "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".

In the R-2 zoning district, any lot platted before December 21, 1970, on which there is proposed to be established a duplex, must provide a lot area of at least 6,000 square feet and have an average lot width of 60 feet or greater. The subject property is a corner lot with dimensions of 132 feet by 59 feet. The

house faces and is addressed on the frontage that is 132 feet wide. Therefore, the site has been determined to be eligible for converting a single-family to duplex use through the Conditional Use Permit process.

The existing building appears to conform with some but not all R-2 development regulations as illustrated in the following table:

**Applicable Development Regulations, Table VI-3 of the Urbana Zoning Ordinance**

<b>Development Regulation</b>	<b>Required</b>	<b>Actual</b>
Minimum lot size	6,000 square feet	7,788 square feet
Minimum lot width	60 feet	132 feet
Minimum front yard setback	15 feet	Approximately 15 feet (south yard)
Minimum rear yard setback	10 feet	8 feet (north yard)
Minimum side yard setback	5 feet	10.5 feet (west yard)
Maximum height of structure	35 feet	Less than 35 feet
Maximum floor area ratio	0.40	0.29
Minimum open space ratio	0.40	0.89

Based on this analysis, the building meets applicable development regulations except for the rear yard setback. Since the existing building is not proposed to be expanded as part its conversion to a duplex, the building is considered to be nonconforming (often referred to as “grandfathered”) under Article X of the Zoning Ordinance. The proposed conversion of a single-family house to a duplex would involve an intensification of a nonconforming building.

In terms of parking and access requirements, the Zoning Ordinance requires that a minimum of four spaces be provided on site for a duplex. According to the applicant, four spaces are available on the subject property: one in the garage, one in front of the garage in the driveway, and two to the side of the garage in the side yard. Based on the existing front yard setback of approximately 15 feet, compact but probably not full-sized cars can park in the driveway without encroaching in the public right-of-way. Parking in the west side yard cannot back straight out onto the street as the existing curb cut is not wide enough. For one-way driveways, duplexes must provide a minimum driveway width of 12 feet. The paved side yard area does not function well as parking because of shrubbery encroaching into the space which does not allow car doors to be easily opened on both sides of a car. Although the site technically appears to accommodate four parking spaces, providing well functioning parking and access for four vehicles is a problem for this property.

**Existing Land Uses**

The subject property is located within the West Urbana neighborhood, and is primarily surrounded by residential uses. To the west is the parking lot for Iota Alpha Chi, to the north is a single family home. Across the street to the south is a rooming house, and to the east is a duplex.

The following chart, along with the attached exhibits, offers a more detailed summary of the surrounding zoning and land uses.

Direction	Zoning	Existing Land Use	Future Land Use
Site	R-2, Single-Family Residential	Duplex Residential	“Single-Family Residential”
North	R-2, Single-Family Residential	Single Family Residential	“Single-Family Residential”
East	R-2, Single-Family Residential	Duplex Residential	“Residential (Urban Pattern)”
South	R-7, University Residential	Rooming House Residential	“Single-Family Residential”
West	R-7, University Residential	Parking Lot	“Single-Family Residential”

### Comprehensive Plan

Urbana’s 2005 Comprehensive Plan is the City’s official policy for land use changes. The Plan’s Future Land Use Map #9 provides both generalized and specific land use recommendations for the area and for the parcel. Map 9 provides the future land use as “Residential (Urban Pattern)” which the Plan elsewhere defines as:

Residential areas contain primarily single-family residential housing but may also include a variety of compatible land uses such as duplexes, town homes, civic uses, institutional uses, and parks where zoning is appropriate. Residential areas can have different physical patterns of development.

The Future Land Uses for properties on the subject block are further specified at the parcel level as part of the Lincoln-Busey Corridor Inset on page 80 of the City of Urbana Comprehensive Plan (see Exhibit C). The inset specifies this parcel’s future land use as “Single-Family Residential.” Duplexes are not identified as a separate use category in this map, though they are allowed under certain conditions in the Single-Family zoning district. This specific land use policy derived from the 1990 Downtown to Campus Plan which identifies the future land use of the property as “Low Density Residential.” The Downtown to Campus Plan clearly defines Low Density Residential as including a mix of both single-family homes and duplexes. The stated intent of the Downtown to Campus Plan (page 75) was to protect the stability and character of single-family *and* duplex homes from apartments.

Map 9 of the 2005 Comprehensive Plan provides the following annotations which further describe intended future land uses and provide a better idea of how the vision can be achieved:

West Urbana

Strategies for Neighborhood Stability

1. Explore “neighborhood conservation district” strategies
2. Promote single-family residential uses in areas zoned for single-family
3. Preserve existing zoning protections
4. New development to respect traditional physical development pattern

Map 9 identifies 802 W. Iowa Street is being located within the “Lincoln/Busey Corridor,” which is annotated as follows:

Lincoln/Busey Corridor

Preserve these uses as they now exist while precluding further encroachment of higher density buildings into this unique residential areas. (See parcel detail map inset.)

While duplexes can fit within the Comprehensive Plan’s vision for the Lincoln/Busey Corridor, there is a concern about intensifying uses on small lots which are already overbuilt.

## **Discussion**

### **Requirements for a Conditional Use Permit**

According to Section VII-2 of the Urbana Zoning Ordinance, an application for a Conditional Use Permit shall demonstrate the following:

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

Allowing the use of a duplex at this location will provide housing in an area close to the University of Illinois campus. The application states “The property is one block from campus and has provided housing for University faculty and students since at least 1987... Further use of this property as a duplex would reduce the amount of automobile traffic on Lincoln and around campus.” City staff

- 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.*

In terms of the property’s design, the structure from the exterior appears to be a single-family home which has been built onto through a series of additions. The evolution of building additions has allowed the building to become overextended in terms of building footprint. As no new building additions are proposed to be constructed as part of this conversion, the building’s single-family appearance would continue, other than providing two mailboxes and addresses.

The building appears to meet the required development standards other than the rear yard setback. Required off-street parking is a concern due to its design. The driveway is not wide enough for cars to back straight out onto the street for two of the four parking spaces. Parking in the front driveway appears not to meet the minimum required 22-foot space length. The poor condition of the fence along the west property line, and overall poor property maintenance, is also a concern. Although the rear yard setback may be considered “grandfathered,” as could be considered the configuration of the existing parking, whether the property contains reasonable space to intensify its use without being “unreasonably injurious or detrimental to the district” is not clearly demonstrated.

- 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-3*

In terms of the overall development pattern, the proposed use can be seen as preserving the essential character of the district, in that it is intended to provide a limited proportion of two-family dwellings.

Duplexes are found throughout most areas of the city with R-2 zoning, including the West Urbana Neighborhood. In the Lincoln-Busey Corridor, an area with a wide range of densities, a duplex can in concept be a transitional use between single-family uses to the east and more intense uses in the corridor and to the west. However, as provided in the above discussion, the property does not meet the standards of the R-2 District for the rear yard setback and parking configuration.

### **Additional Conditions**

According to the Zoning Ordinance, the Zoning Board of Appeals shall authorize or deny the requested conditional use, and may also impose additional conditions as are deemed appropriate or necessary for the public health, safety, and welfare, including but not limited to the following:

- 1. Regulation of the location, extent, and intensity of such uses;*
- 2. Requirement of the screening of such uses by means of fences, walls, or vegetation;*
- 3. Stipulation of required minimum lot sizes;*
- 4. Regulation of vehicular access and volume;*
- 5. Conformance to health, safety, and sanitation requirements, as necessary;*
- 6. Increases to the required yards; and*
- 7. Any other conditions deemed necessary to effect the purposes of this Ordinance (see Section VII-6).*

### **Summary of Findings**

1. 802 W. Iowa Street is zoned R-2, Single-Family Residential District. Table V-1 of the Zoning Ordinance classifies duplex dwellings as a Conditional Use in R-2 zoning districts.
2. Illinois Properties has applied for a Conditional Use Permit to convert 802 W. Iowa Street from a single-family residence to a duplex dwelling. The petitioner's application is in accordance with a court order to bring the property into compliance.
3. Contrary to the Urbana Zoning Ordinance and Building Codes, the property has been occupied as a duplex use since at least 2005.
4. The proposal would be conducive to the public convenience at this location based upon its proximity to the University of Illinois campus.
5. While duplexes are allowed in that the Zoning Ordinance allows for a limited proportion of duplex dwellings in the district, the property has insufficient space for parking and yard area to allow for an intensified use without being injurious or detrimental to the district.
6. The development does not meet the applicable requirements of the Urbana Zoning Ordinance for rear yard setback and parking configuration requirements.

7. The proposed development is generally consistent with the 2005 Urbana Comprehensive Plan, but establishment of a duplex on this specific site would intensify use of an overbuilt site.

## **Options**

The Zoning Board of Appeals has the following options in Case No. ZBA-08-C-01:

1. Grant the requested conditional use without any special conditions; or
2. Grant the requested conditional use along with any additional conditions and requirements as are appropriate or necessary for the public health, safety, and welfare, and to carry out the purposes of the Zoning Ordinance; or
3. Deny the requested conditional use.

## **Staff 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 Zoning Board of Appeals **DENY** the request as having insufficient space to intensify use of this property, as illustrated by having substandard parking and access as required by Article VIII of the Zoning Ordinance.

Should the Zoning Board of Appeals instead decide to grant this variance, the following conditions for approval are recommended:

1. That the property shall meet all applicable standards and regulations of the Urbana Zoning Ordinance and Urbana Subdivision and Land Development Code.
2. That the property shall comply with applicable Building Codes (such as fire and utility separation), and that the petitioner shall obtain and comply with a Certificate of Occupancy for a duplex.
3. That the petitioner shall submit to the City a site plan illustrating that the property can meet all City parking and access requirements, and subject to approval by the Zoning Administrator and City Engineer.
4. That the garage shall be kept clear for use as one of the four required parking spaces.
5. That no more than two vehicles shall be allowed to park in accessory spaces west of the garage at any time.
6. That the petitioner shall abate any property maintenance violations, but minimally shall include repairing the fence along with west property line.

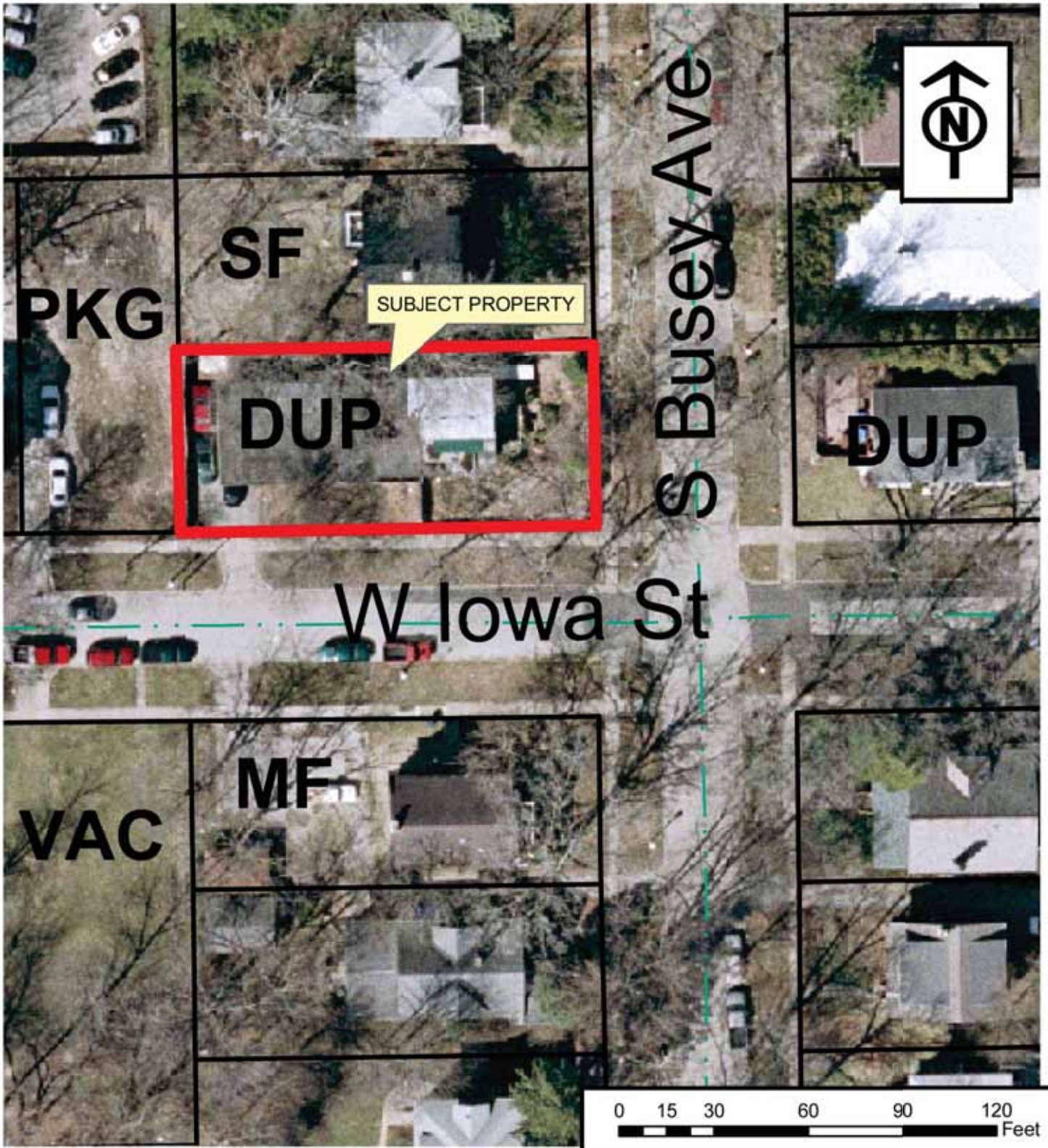
Attachments: Exhibit A: Location Map, Existing Land Use Map and Aerial  
Exhibit B: Existing Zoning Map  
Exhibit C: Future Land Use Map  
Exhibit D: Site Photos  
Exhibit E: Downtown to Campus Rezoning Sheet  
Exhibit F: Stipulated Order from the Sixth Judicial Circuit Court

Cc: Illinois Properties Series LLC-802 Iowa  
1300 North Lake Shore Drive  
Chicago, IL 60610

Roger Webber  
508 South Broadway Avenue  
Urbana, IL 61801



# Exhibit A: Location and Existing Land Use Map



**ZBA Case:** ZBA-2008-C-01

**Description:** Conditional Use Permit to Allow a Duplex in the R-2 District

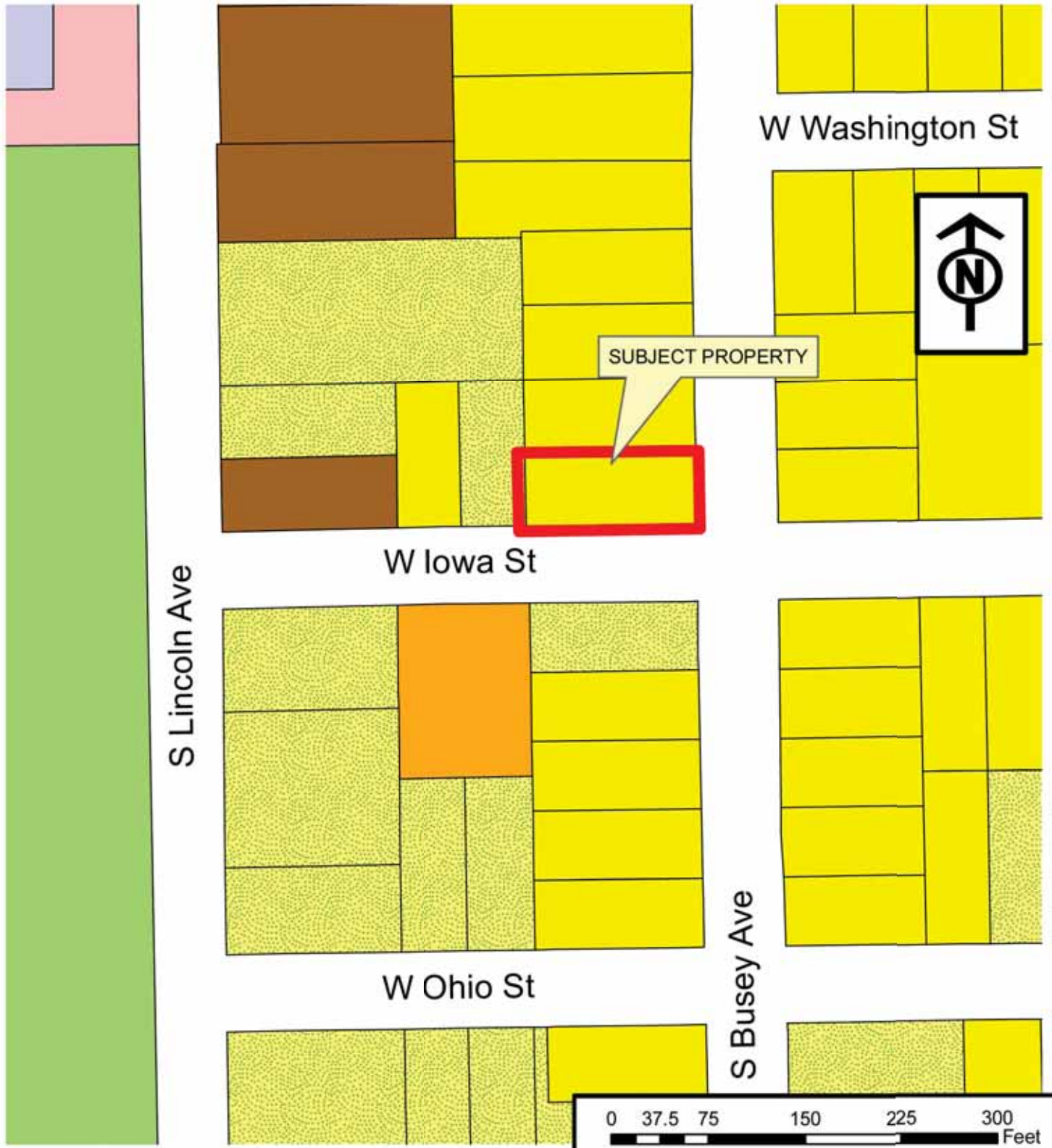
**Petitioner:** Illinois Properties

**Location:** 802 W. Iowa Street

**Zoning:** R-2: Single-Family Residential

*Prepared 4/08 by Community Development Services - jme*

# Exhibit B: Existing Zoning Map

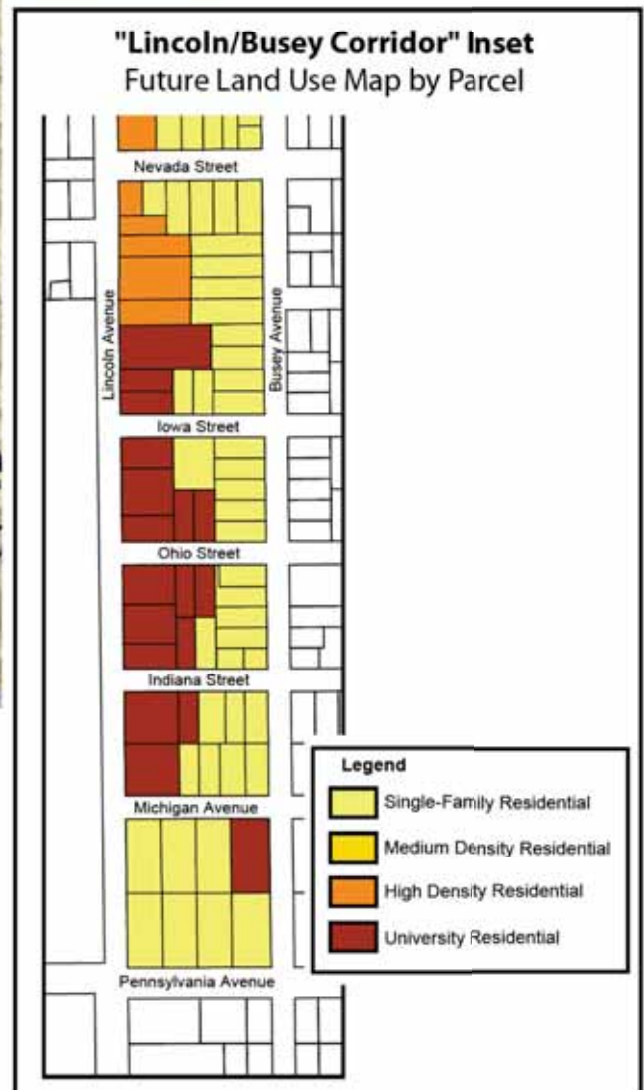
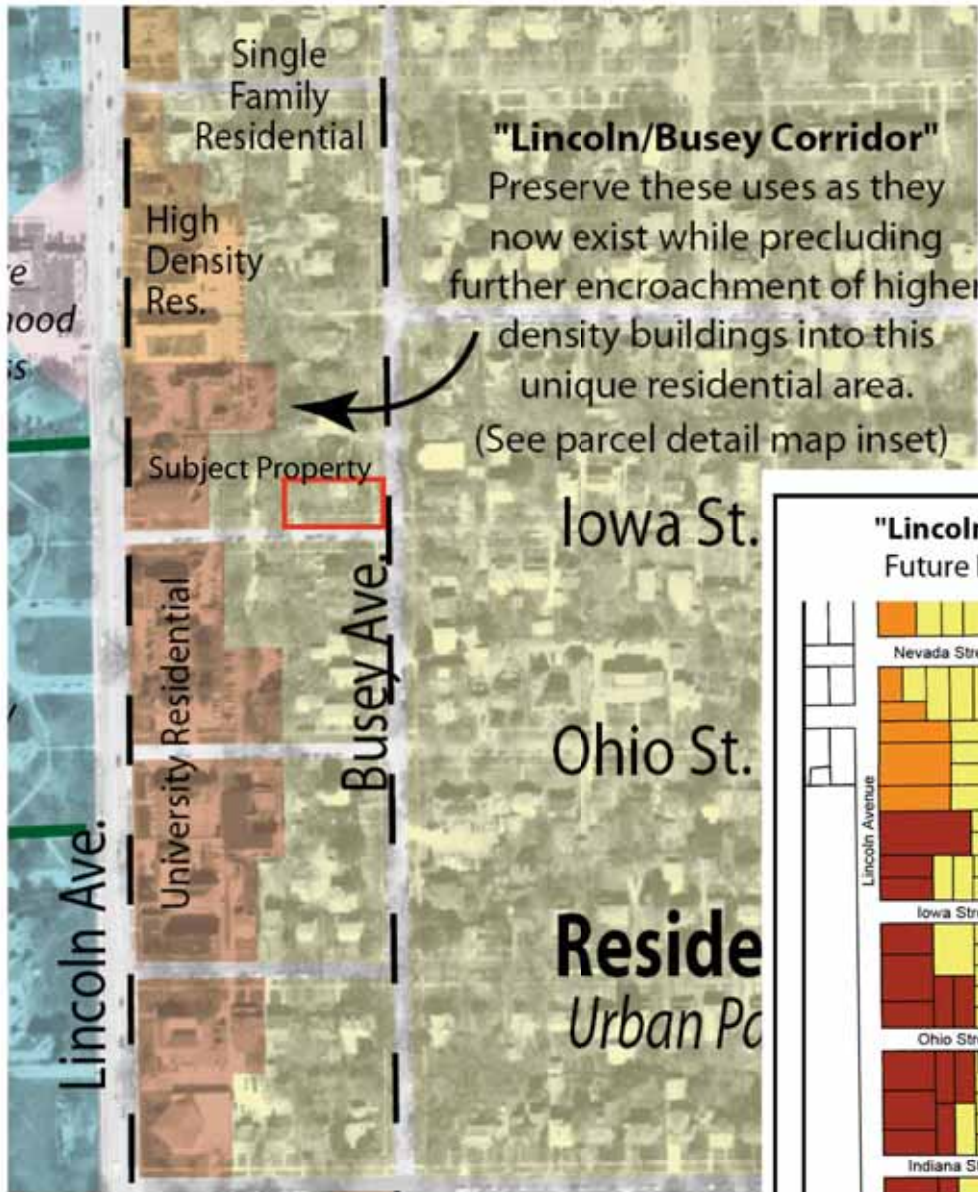


**ZBA Case:** ZBA-2008-C-01  
**Description:** Conditional Use Permit to Allow a Duplex in the R-2 District  
**Petitioner:** Illinois Properties  
**Location:** 802 W. Iowa Street  
**Zoning:** R-2: Single-Family Residential

Prepared 4/08 by Community Development Services - jme

	B1		R2
	B3U		R3
	CRE		R5
			R7

# Exhibit C: Future Land Use Map



**ZBA Case:** ZBA-2008-C-01  
**Description:** Conditional Use Permit to Allow a Duplex in the R-2 District  
**Petitioner:** Illinois Properties  
**Location:** 802 W. Iowa Street  
**Zoning:** R-2: Single-Family Residential

**Exhibit D: Site Photos**



Subject property viewed from the southeast.



Subject property viewed from the southwest.



Parking is provided in the garage, next to the garage, and in the driveway.