



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Urbana Zoning Board of Appeals
FROM: Kevin Garcia, AICP, Planner II
DATE: May 11, 2018
SUBJECT: **ZBA-2018-MAJ-06:** A request by Andrew Fell Architecture, on behalf of Hao Jan Liu, for a Major Variance to increase the maximum Floor-Area Ratio from 0.7 to 0.96 at 408 West Green Street in the MOR, Mixed Office Residential Zoning District.

Introduction

Andrew Fell, on behalf of the property owner, Hao Jan Liu, has applied for a variance that would allow a basement to be constructed in a new multi-family building at 408 West Green Street, in the MOR Zoning District. Plans for the building, without the basement, meet all other zoning requirements and were approved by the MOR Development Review Board on January 25, 2018. The revised plans include a basement, but are otherwise nearly identical to the approved plans.¹ Mr. Liu, the building's owner, would like to live in the basement unit and rent out the floors above.

Per the Urbana Zoning Ordinance², basements in multifamily residential buildings must be included in floor-area ratio calculations. A Major Variance is therefore required to allow the addition of a basement to the proposed building. The requested increase in the floor-area ratio from 0.7 to 0.96 is due entirely to the proposed basement's floor area. No other floor area changes are proposed.

For the request to be approved, the Zoning Board of Appeals must recommend approval by a two-thirds majority and forward the request to City Council for final review and approval.

Description of Site

The site is located on the north side of 400-block of Green Street, in the Mixed Office Residential (MOR) Zoning District. It is a single lot surrounded by a variety of mostly rental residential uses. The lot currently contains a single-family rental house. Nearby, to the east, is a commercial building (Timothy John Salon and Spa). There is an unpaved alley on the north side of the lot, which will be paved and used for access to the parking area to the rear of the proposed building.

¹ The proposed plan includes window wells for light/egress and a walk-out, sunken porch for the basement unit. Otherwise, the plans are identical.

² Section VI-4.A

The following is a summary of surrounding zoning and land uses for the subject site:

Location	Zoning	Existing Land Use	Future Land Use
Site	MOR, Mixed Office Residential	Single-Family Residential (rental)	Mixed Residential
North	MOR, Mixed Office Residential	Single-Family Residential	Mixed Residential
South	MOR, Mixed Office Residential	Apartment, Single-Family Residential	Mixed Residential
East	MOR, Mixed Office Residential	Duplex	Mixed Residential
West	MOR, Mixed Office Residential	Apartment	Mixed Residential

Discussion

The variance request would allow the property owner to build a unit in the basement, where he plans to live. The basement unit would be entirely below-grade and would not change the exterior design of the building in any discernible way over what has already been approved by the MOR Development Review Board. Allowing a basement unit would not affect the bulk, height or mass of the building, which are three design elements that floor-area ratios (FAR) are intended to control. A basement unit would increase the number of units in the building by one, which would increase the building's occupancy. However, it is unlikely that this would create a nuisance to neighbors. One additional parking space would be needed if the variance is granted, which could be leased from a nearby property owner, per Section VIII-4.L of the Zoning Ordinance. The applicant has indicated that the owner of Timothy John Salon and Spa is willing to lease out a parking space if needed.¹

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 variance criteria as they pertain to these cases. The Zoning Ordinance does not require that all of the criteria be met, only that they be considered to make findings.

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

While it is possible to design a building on the site that meets the requirements of the Zoning Ordinance and the MOR Design Guidelines², it may not be financially feasible to construct a building on the site that does not include a basement unit. In addition to the construction costs, the alley behind the property is unpaved. The owner will need to enter into a cost-sharing agreement with the City to pave the alley, as the parking is behind the building (as required by the MOR Design Guidelines) and will be accessed from the alley. Allowing a basement unit will increase the property owner's rental revenue and will help them pay for the cost of paving the alley.

¹ The salon has extra parking spaces beyond what is required by the Zoning Ordinance and would still be compliant if one space is leased out.

² The Design Review Board has already approved the design of a multi-family building that meets all zoning requirements.

- 2. The proposed variances 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.*

There may be other parcels in the MOR district that would be difficult to develop for multi-family residential buildings if basements are not included. The parcel in this case has an additional financial burden over those lots since the alley is unpaved and will require cost-sharing to pave it.

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

The initial plans that the applicant submitted for approval by the MOR Development Review Board (DRB) included a basement, as the property owner wants to live in the basement and rent out the above-ground floors. During staff review of the application, the applicant was advised that the plans did not meet FAR requirements because the floor area of the basement must be included in FAR calculations for multi-family buildings. Staff advised that the applicant could submit revised plans – without a basement – and proceed with the MOR DRB case, since the building design would essentially be the same regardless of whether a basement is included or not. Staff advised that if the design was approved, the owner could then seek a variance to allow a basement unit. Once the design was approved by the MOR DRB on January 25, 2018, more detailed engineering and architectural plans were made. At that point, it became apparent to the owner that without a basement unit, the project would not be financially feasible. They then decided to apply for a variance to allow the basement unit.

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

The first criteria that the MOR Development Review Board considers when reviewing site plans in the MOR District is whether a proposal is compatible with the surrounding neighborhood or not, and the Board voted unanimously to approve the site plans and elevations. Since the proposed basement will be completely below grade, the elevations are identical to the MOR-DRB-approved plans; the site plans only have minor differences.¹ The character of the neighborhood will remain the same whether the building has a basement or not as the height, bulk, and design are the same with or without a basement.

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

Since the building will essentially look the same as the building whose plans have already been approved, the visual impact of allowing the ordinance is nonexistent. The variance would add a unit in the basement, but it is unlikely that one additional unit would create a nuisance. The additional required parking space that cannot be accommodated on site could be leased from a nearby property owner, such as Timothy John.

- 6. The variances generally represent the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request.*

The requested increase in the Floor-Area Ratio is due entirely to the proposed addition of a basement to the existing, approved plans. No other floor area will be changed. The variance

¹ The proposed plan includes window wells for light/egress and a walk-out, sunken porch for the basement unit. Otherwise, the plans are identical.

therefore represents the minimum deviation necessary to accommodate the request, which is to add a basement unit.

Summary of Staff Findings

1. Andrew Fell, on behalf of Hao Jan Liu, has applied for a variance to allow a basement to be constructed in a new multi-family building at 408 West Green Street.
2. The property is zoned MOR, Mixed Office Residential, and has a future land use designation of “Mixed Residential” in the Urbana Comprehensive Plan.
3. The MOR Development Review Board held a public hearing for site plan and design approval for a proposed multi-family building on January 25, 2018, that did not include a basement. The Board approved the plans as presented with no conditions.
4. The variance request would add a basement to the proposed building and would not alter the approved site plans or elevations in a significant way.
5. The variance request will not serve as a special privilege to the property owner.
6. The variance request was not the result of a situation knowingly created by the petitioner.
7. The variance request will not alter the essential character of the neighborhood.
8. The variance request will not cause a nuisance to adjacent property owners.
9. The variance request represents the minimum deviation from the requirements of the Zoning Ordinance.

Options

The Zoning Board of Appeals has the following options in case ZBA-2018-MAJ-06:

1. Forward the case to City Council with a recommendation to approve the variance as requested, based on the findings outlined in this memo; or
2. Forward the case to City Council with a recommendation to approve the variance with certain terms and conditions, and if so, articulate all terms, conditions, and findings; or
3. Deny the variance request, and if so, articulate findings supporting the denial.

Staff Recommendation

Based on the analysis and findings presented 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 recommend **APPROVAL** of the Major Variance request to City Council.

Attachments: A: Location Map
 B: Zoning Map
 C: Future Land Use Map
 D: Approved Site Plan (DRB-2017-03)
 E: Proposed Site Plan
 F: Application

Exhibit A: Location & Existing Land Use Map



Case: ZBA-2018-MAJ-06
 Subject: Major Variance - Floor-Area Ratio
 Location: 408 West Green Street
 Petitioner: Andrew Fell

 Subject Property

Exhibit B: Zoning Map



Case: ZBA-2018-MAJ-06
 Subject: Major Variance - Floor-Area Ratio
 Location: 408 West Green Street
 Petitioner: Andrew Fell







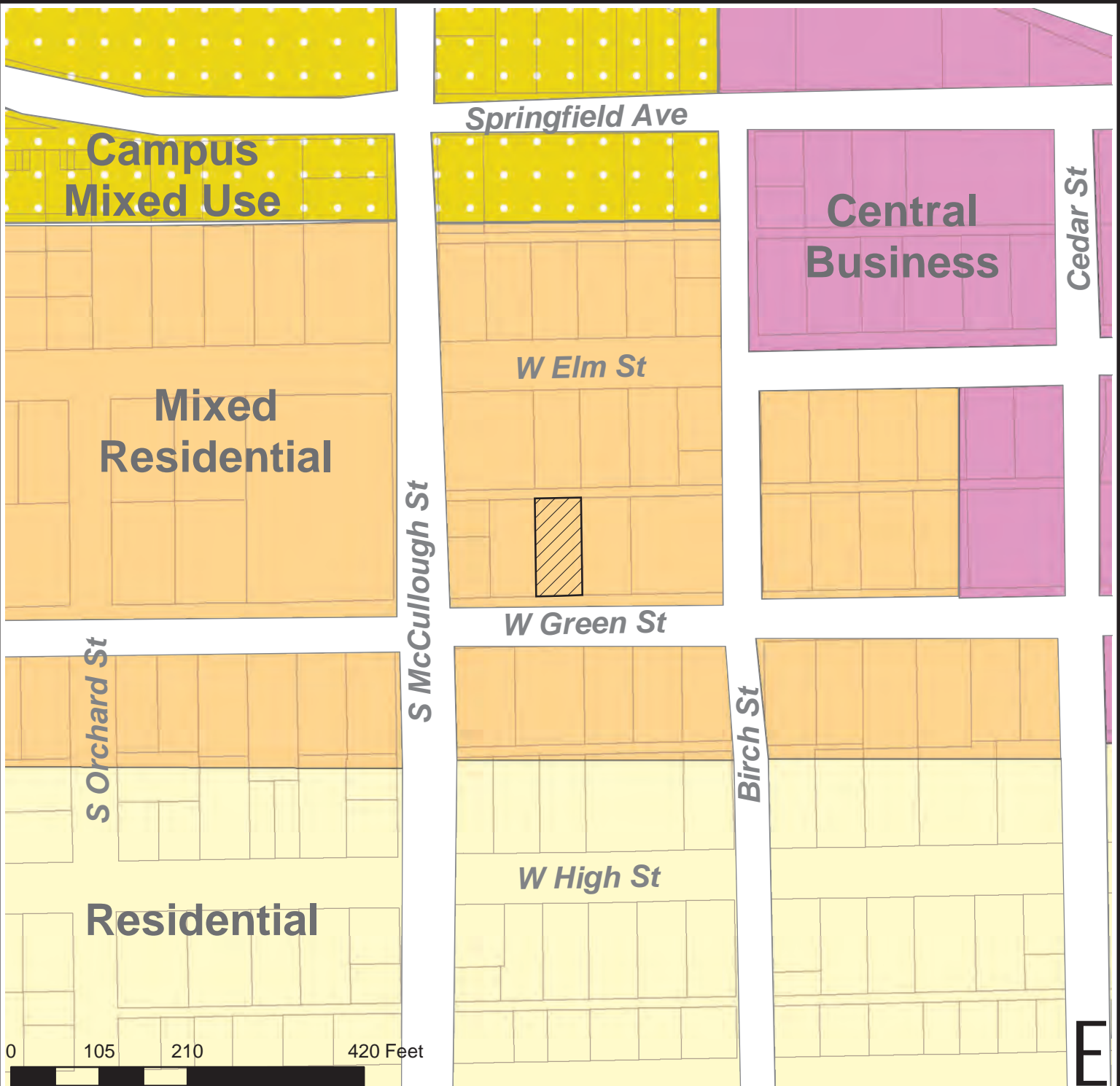





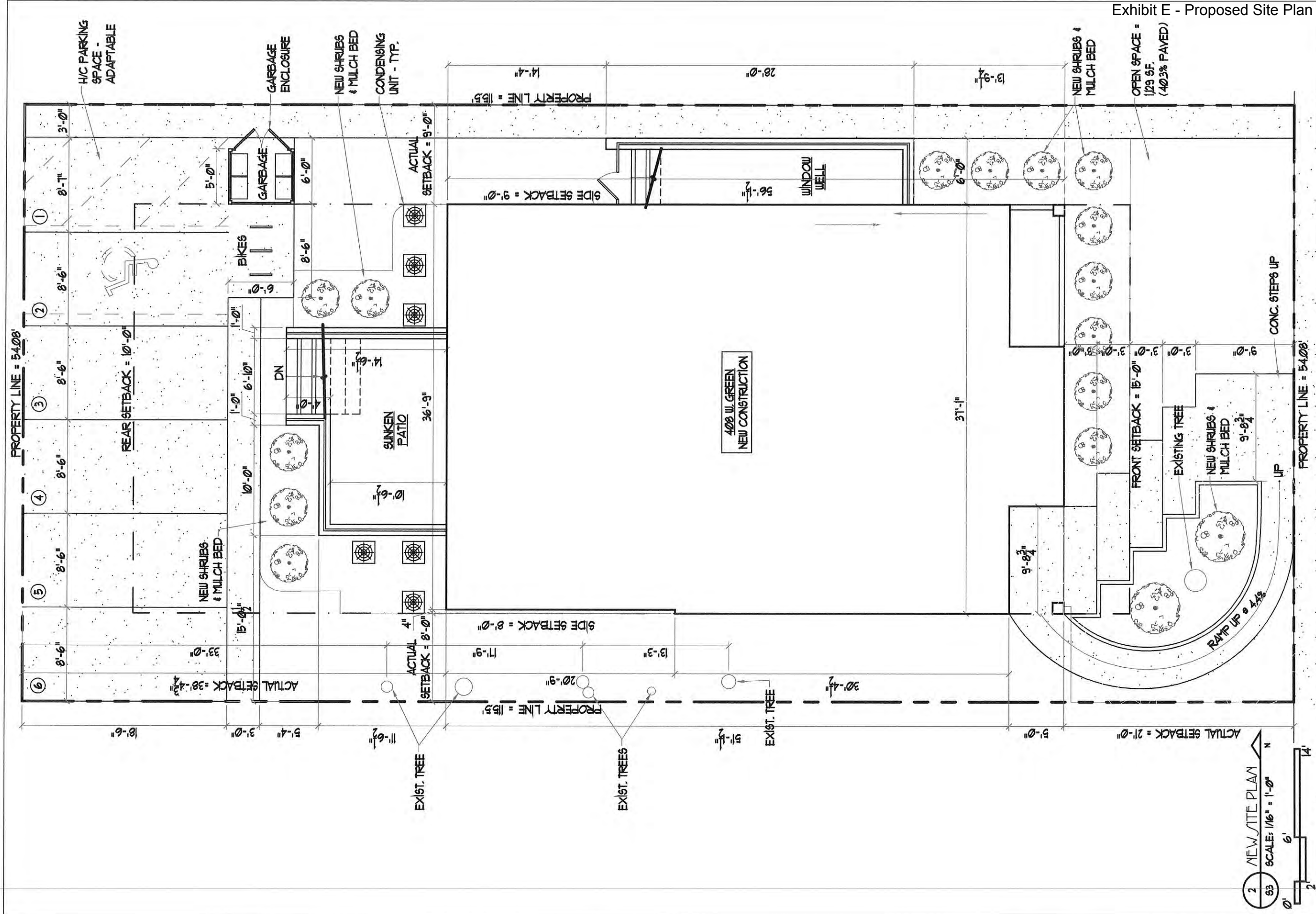
- | | | | |
|---|------------------|---|----|
|  | MOR |  | R4 |
|  | R2 |  | R5 |
|  | R3 | | |
|  | Subject Property | | |

Exhibit C: Future Land Use Map



Case: ZBA-2018-MAJ-06
 Subject: Major Variance - Floor-Area Ratio
 Location: 408 West Green Street
 Petitioner: Andrew Fell

-  Residential
-  Mixed Residential
-  Campus Mixed Use
-  Central Business
-  Subject Property



2 NEW SITE PLAN
 93 SCALE: 1/16" = 1'-0" N
 0' 6' 12'

408 W GREEN STREET
 NEW CONSTRUCTION
 408 W GREEN STREET
 URBANA, ILLINOIS

These drawings and specifications are the property and copyright of Andrew Fell, Architecture and Design and shall not be used on any other work except by written agreement with the Architect. Only written dimensions shall be used. Do not scale drawings. Dimensions shall be verified on the job site. Any discrepancy shall be brought to the notice of the Architect prior to the commencement of any work.

ANDREW FELL
 ARCHITECTURE AND DESIGN
 515 NORTH HICKORY STREET, SUITE 101
 CHAMPAIGN, ILLINOIS 61820
 PHONE: 217.253.2890
 WWW.ANDREWFELL.COM
 EMAIL: andrew@andrewfell.com

PROJECT #
 DATE:
 REVISION:

3



Application for Variance

ZONING BOARD OF APPEALS

The application fee must accompany the application when submitted for processing. Please refer to the City's website at <http://www.urbanaininois.us/fees> for the current fee associated with this application. The Applicant is also responsible for paying the cost of legal publication fees. Estimated costs for these fees usually run between \$75.00 and \$225.00. The applicant will be billed separately by the News-Gazette.

DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY

Date Request Filed 04-11-2018 ZBA Case No. ZBA-2018-MAJ-06
Fee Paid - Check No. 5974 Amount \$200.00 Date 04-11-2018

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

A VARIATION is requested in conformity with the powers vested in the Zoning Board of Appeals to permit the following variation (*Describe the extent of the Variation Requested*)

EXCLUDE BASEMENT FROM P.A.R. CALCULATION on the property described below, and in conformity with the plans described on this variance request.

1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): ANDREW FELL ARCHITECTURE Phone: 217-363-2890
Address (street/city/state/zip code): 515 N. HICKORY, SUITE 101, CHAMPAIGN, IL 61820
Email Address: andrew.fell@andrewfell.com
Property interest of Applicant(s) (Owner, Contract Buyer, etc.):

2. OWNER INFORMATION

Name of Owner(s): HAO JAN (MAX) LIU, PhD Phone: 314-605-3103
Address (street/city/state/zip code): 406 S. PARK, #5, CHAMPAIGN, IL 61820
Email Address: maxliu@gmail.com
Is this property owned by a Land Trust? Yes No
If yes, please attach a list of all individuals holding an interest in said Trust.

3. PROPERTY INFORMATION

Location of Subject Site: 408 WEST GREEN STREET
PIN # of Location: 92-21-17-132-011
Lot Size: 54.08 x 115.5 = 6,246 S.F.

Current Zoning Designation: M.O.R.

Current Land Use (vacant, residence, grocery, factory, etc): VACANT RENTAL HOUSE

Proposed Land Use: 6 UNIT APARTMENT BUILDING

Legal Description (If additional space is needed, please submit on separate sheet of paper):

SEE ATTACHED

4. CONSULTANT INFORMATION

Name of Architect(s): ANDREW FELL ARCHITECTURE Phone: 217-363-2890

Address (street/city/state/zip code): 515 N. HICKORY, SUITE 101, CHAMPAIGN, IL 61820

Email Address: andrew.fell@andrewfell.com

Name of Engineers(s): BKB ENGINEERING Phone: 217-531-2971

Address (street/city/state/zip code): 301 N. HILL, SUITE 400, CHAMPAIGN, IL 61820

Email Address: bbradshaw@bkbeng.com

Name of Surveyor(s): BKB ENGINEERING Phone:

Address (street/city/state/zip code):

Email Address:

Name of Professional Site Planner(s): Phone:

Address (street/city/state/zip code):

Email Address:

Name of Attorney(s): Phone:

Address (street/city/state/zip code):

Email Address:

5. REASONS FOR VARIATION

Identify and explain any special circumstances or practical difficulties in carrying out the strict application of the Zoning Ordinance with respect to the subject parcel.

SEE ATTACHED

Explain how the variance is necessary due to special conditions relating to the land or structure involved which are not generally applicable to other property in the same district.

SEE ATTACHED

Explain how the variance is not the result of a situation or condition that was knowingly or deliberately created by you (the Petitioner).

SEE ATTACHED

Explain why the variance will not alter the essential character of the neighborhood.

SEE ATTACHED

Explain why the variance will not cause a nuisance to adjacent property.

SEE ATTACHED

Does the variance represent the minimum deviation necessary from the requirements of the Zoning Ordinance? Explain.


SEE ATTACHED

NOTE: If additional space is needed to accurately answer any question, please attach extra pages to the application.

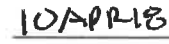
By submitting this application, you are granting permission for City staff to post on the property a temporary yard sign announcing the public hearing to be held for your request.

CERTIFICATION BY THE APPLICANT

I certify all the information contained in this application form or any attachment(s), document(s) or plan(s) submitted herewith are true to the best of my knowledge and belief, and that I am either the property owner or authorized to make this application on the owner's behalf.



Applicant's Signature



Date

PLEASE RETURN THIS FORM ONCE COMPLETED TO:

City of Urbana
Community Development Department Services
Planning Division
400 South Vine Street, Urbana, IL 61801
Phone: (217) 384-2440
Fax: (217) 384-2367

5. REASONS FOR VARIATION

Identify and explain any special circumstances or practical difficulties in carrying out the strict application of the Zoning Ordinance with respect to the subject parcel.

This appeal is to remove the basement level from the calculated FAR for the subject property.

The appeal concerns 'Section VI-4. Floor Area and Open Space'. Specifically, VI-4, Exception c) which excludes "Areas used for basements in single family dwellings, duplexes, and townhouses."

Under this exception, areas used for basements in other than single family dwellings, duplexes or townhouses, in this case a small apartment building, must count against the calculated FAR. The primary purpose of a maximum FAR requirement is to regulate and control the 'bulk' of the building. My understanding is that this particular exception was, at least in part, written to specifically exclude the implementation of 'Garden Apartments' (which project several feet above grade) in a multi-family structure.

In the case of this appeal, the way the FAR is calculated is actually directly in opposition to the intent of the ordinance. The intent is to limit the bulk of the structure, but the calculation excludes some building components – such as mechanical spaces. So for example, under this scenario, the room to house the sprinkler equipment is not counted in the FAR. Because we do not have a basement, this room must be part of the structure above grade, thus increasing the bulk of the building. If we were allowed to incorporate a basement, this room would be eliminated and the bulk of the building reduced.

Additionally, a basement will allow the inclusion of one further rental unit. In incorporating this unit, the exterior of the building will remain virtually unchanged. The only additional exterior components will be a window well along the east side of the building and a lower level courtyard on the north side – both of which are totally screened from the street side public way. The remainder of the building, including the height, will remain unchanged from the previously MOR Development Review Board approved design with the exception of needing to modify some balconies on the north side of the building due to the elimination of the Sprinkler Room. If this Zoning Appeal is approved, the modified design will be re-evaluated by the MOR Development Review Board at the discretion of City staff.

The resulting design with the basement included, REDUCES the bulk of the building, which is the actual intent of the ordinance

Explain how the variance is necessary due to special condition relating to the land or structure involved which are not generally applicable to other property in the same district.

This particular item in the Zoning Ordinance is meant strictly to control the size and volume of a building. This request will actually serve to reduce the volume of the building. I believe when the ordinance was written, the consequence of this line of text, especially as it relates to the MOR District was not particularly well thought out. The MOR district requirements were viewed primarily as a method to maintain some consistency between uses – especially in terms of scale. It seems punitive that not all uses in this district are subject to the same requirements.

Explain how the variance is not the result of a situation or condition that was knowingly or deliberately created by you (the petitioner).

This project was begun with the mistaken belief that the floor area of a basement was allowed in this district, and did not contribute toward the calculated square footage of the building. This was an error in the review of the Zoning Restrictions, made partially because nearly every structure in this district has a basement. This notion was relayed to the client, who therefore anticipated that a basement (not contributable to the FAR) would be allowed. It was only after the initial submission to the MOR Development Review Board that this restriction came to light.

Explain how the variance will not alter the essential character of the neighborhood.

The project in question is a small apartment building and other than our requested FAR variance, it is subject to the same conditions and restrictions as any other structure in the District. This District is called "Mixed Use Office – Residential. This implies that residential uses are assumed and in fact one goal of this district is to maintain at least some single family residential fabric in this neighborhood. It seems unfair that a single family house, of the same size, area, volume, etc. can have a basement that does not count towards its FAR, but another structure cannot.

Explain why the variance will not cause a nuisance to adjacent property.

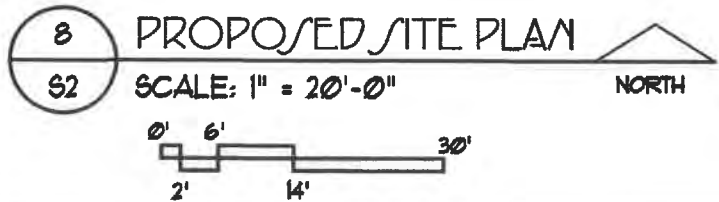
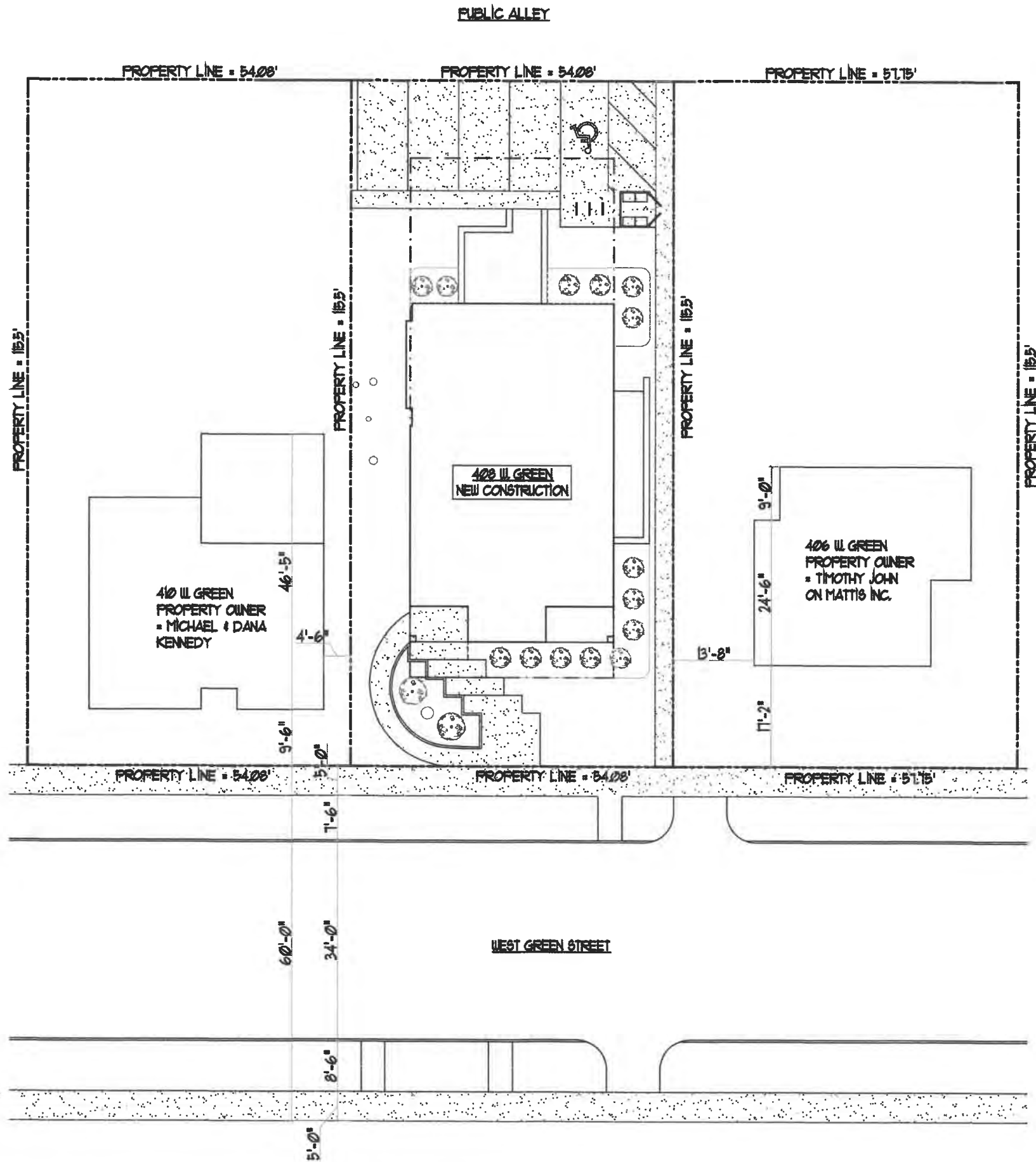
Adding a basement to this project does not alter any major characteristics of the building. There is no greater impact on any neighbor if a basement is included. No neighbor will notice any significant change to the building if it has a basement.

Does the variance represent the minimum deviation necessary from the requirements of the Zoning Ordinance? Explain.

The ordinance is already overly restrictive in terms of incentivizing new construction in the MOR District. This change provides *no* deviation from the intent of the ordinance and in fact granting it brings the building more into the intended compliance. This change is not a deviation from the ordinance, it is actually enhancing the objectives of the ordinance.

NOTE: DIMENSIONS ARE APPROXIMATE - CIVIL ENGINEER WILL PROVIDE SURVEY WITH MORE ACCURATE DIMENSIONS.

Exhibit F - Application



PROJECT #	DATE:	REVISION:

ANDREW FELL
 ARCHITECTURE AND DESIGN
 616 NORTH HICKORY STREET, SUITE 101
 CHAMPAIGN, ILLINOIS 61820
 PHONE: 317.283.2280
 WWW.ANDREWPELL.COM
 EMAIL: andrew@andrewfell.com

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408 W GREEN STREET
NEW CONSTRUCTION
 408 W GREEN STREET
 URBANA, ILLINOIS

SHEET
 S2

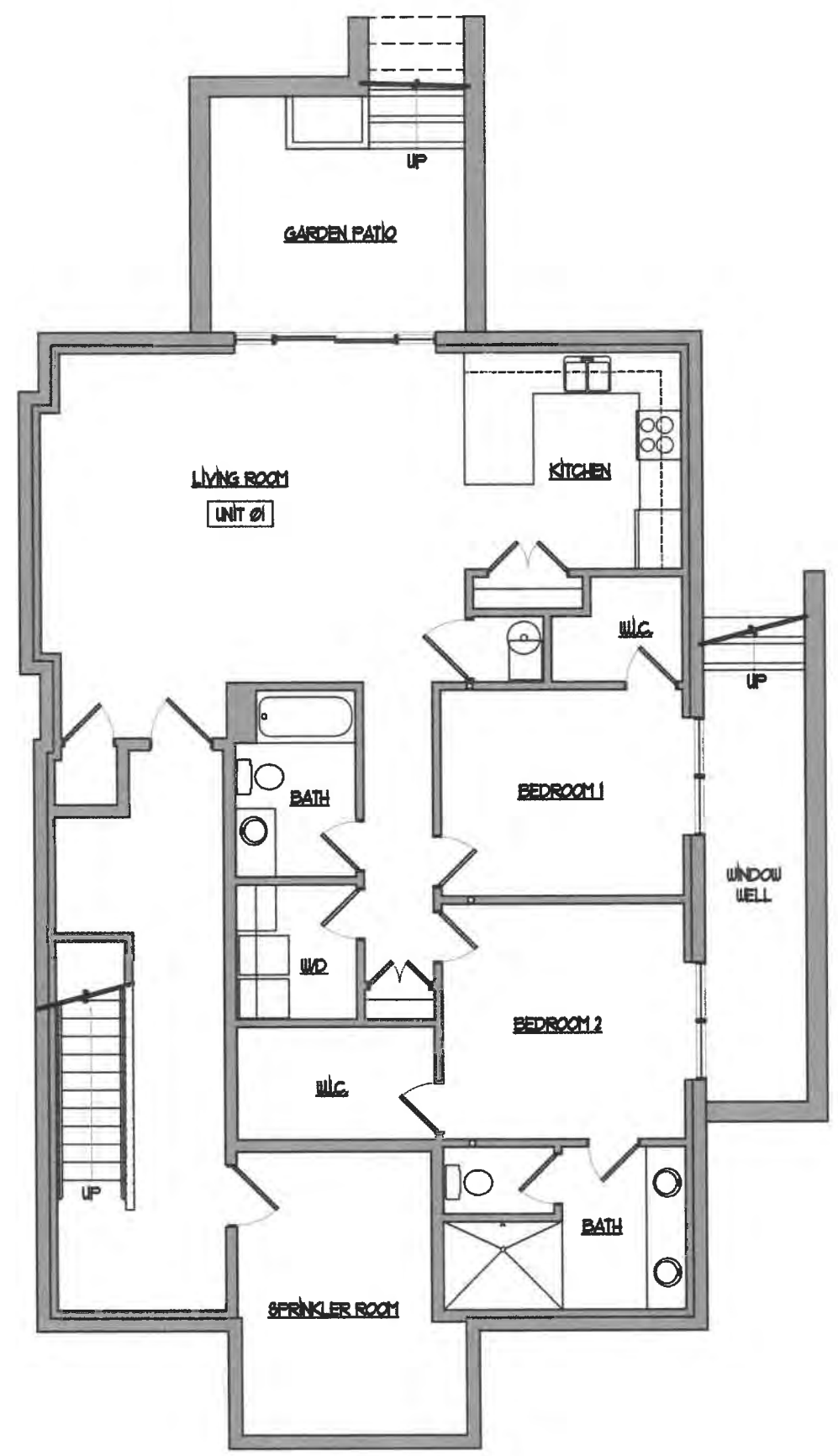
PROJECT # 1704
 DATE: 2018.07.10
 REV/NOV:

ANDREW FELL
 ARCHITECTURE AND DESIGN
 815 NORTH HICKORY STREET, SUITE 101
 CHAMPAIGN, ILLINOIS 61820
 PHONE: 217.243.2800
 WWW.ANDREWFELL.COM
 EMAIL: andrew@andrewfell.net

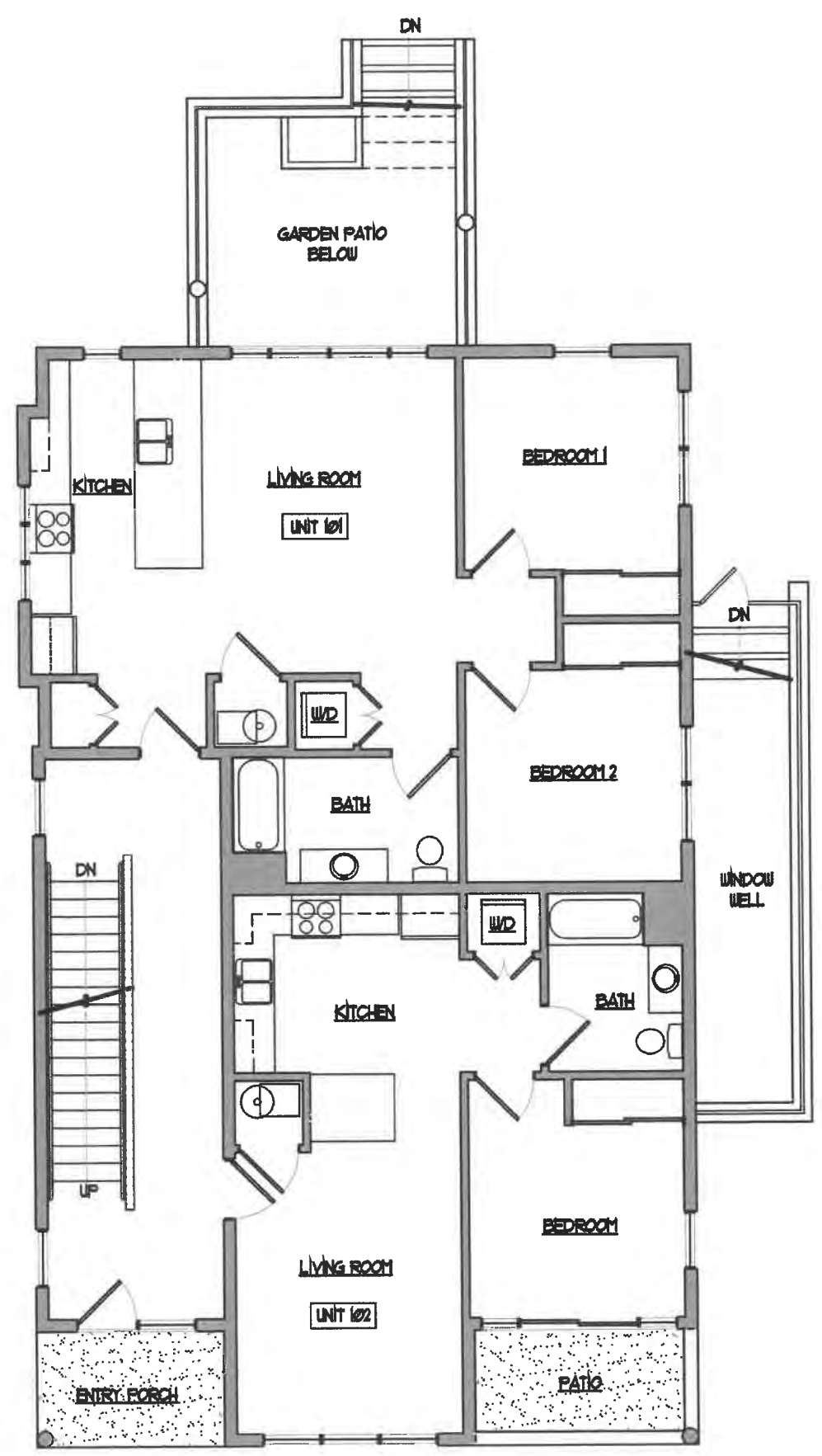
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408 WEST GREEN
 NEW CONSTRUCTION
 408 WEST GREEN STREET
 URBANA, ILLINOIS 61801

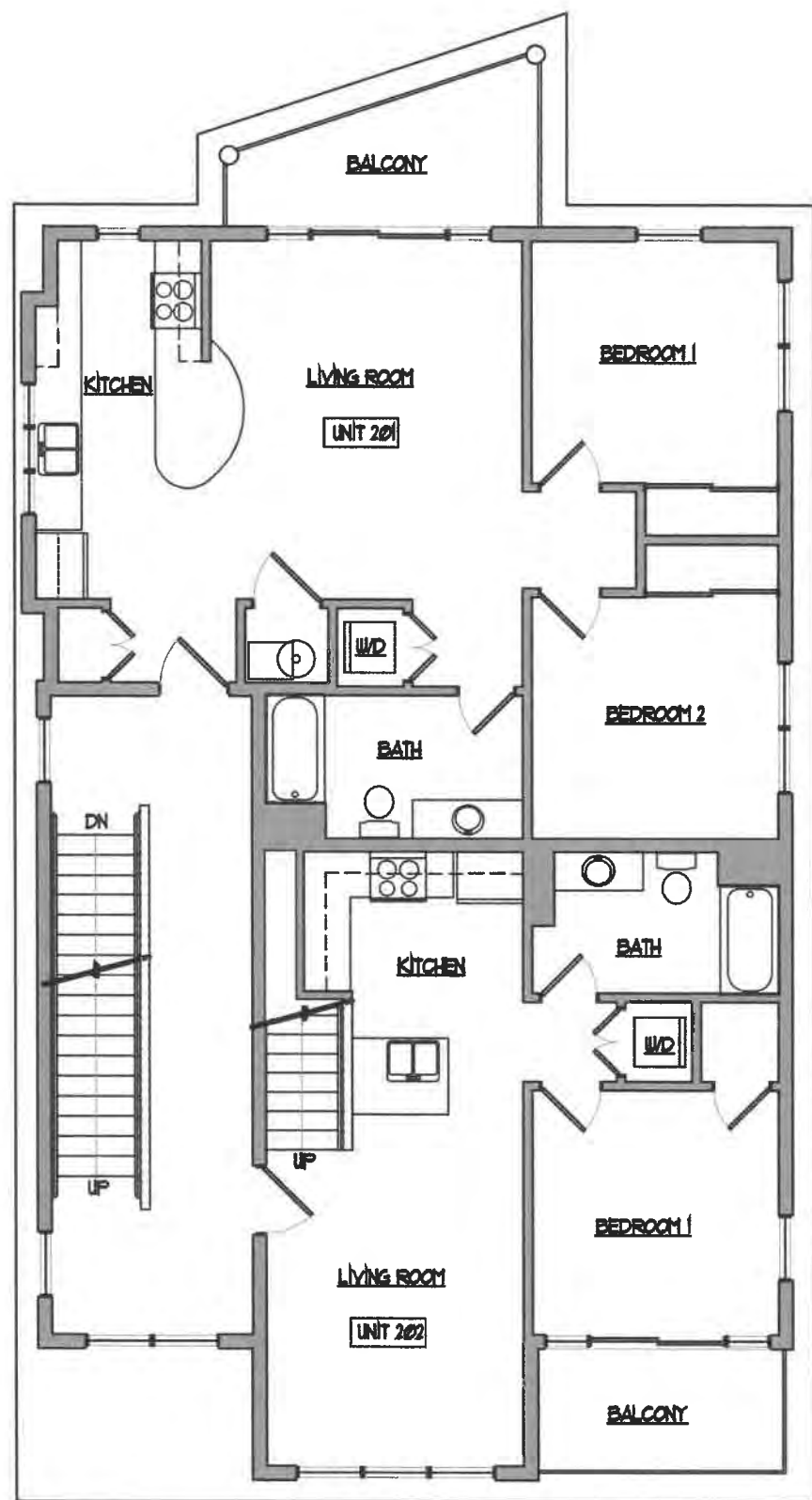
PROJECT



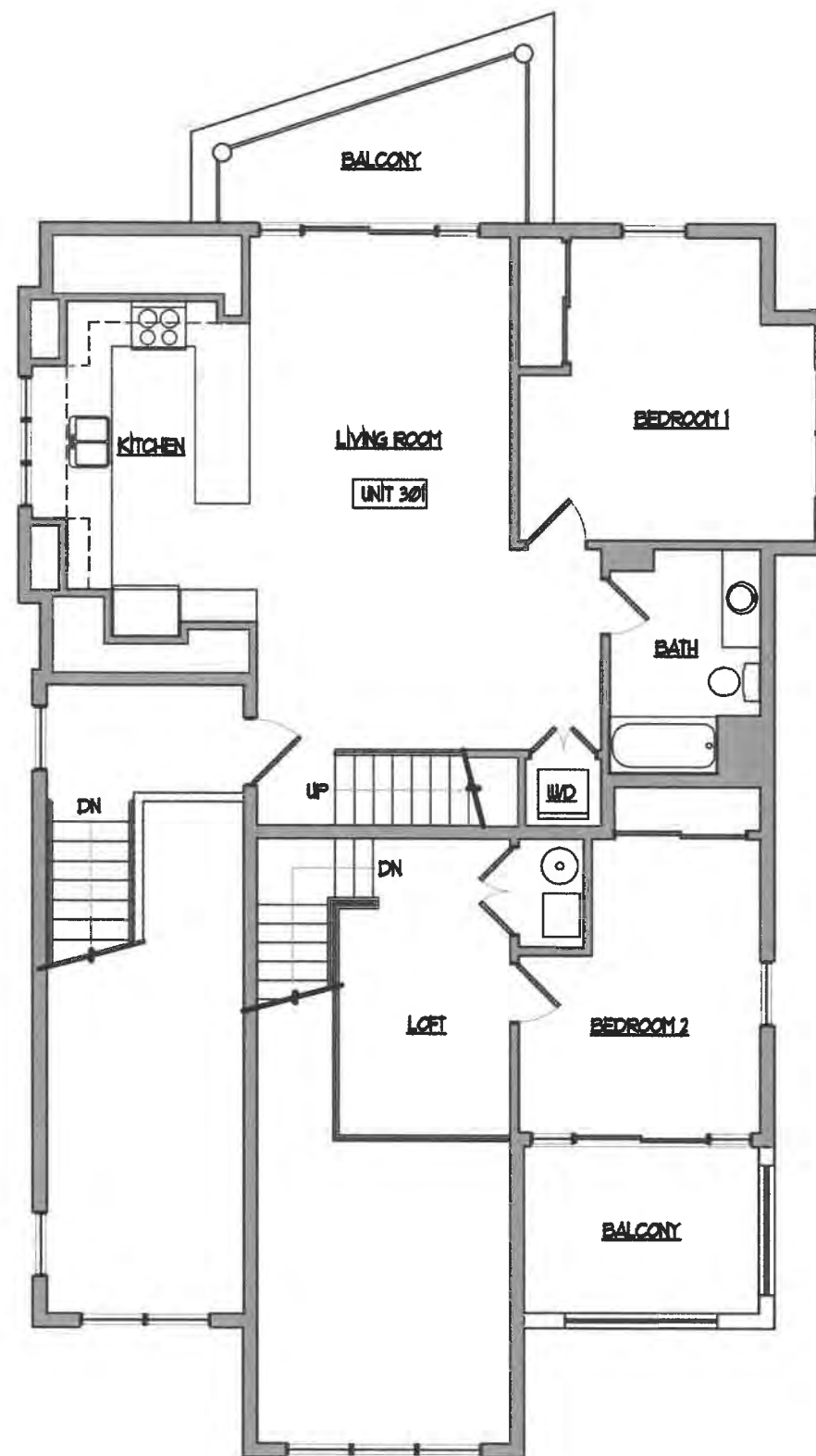
2 BASEMENT FLOOR PLAN
 AI SCALE: 1/8" = 1'-0" NORTH



4 FIRST FLOOR PLAN
 AI SCALE: 1/8" = 1'-0" NORTH



2 SECOND FLOOR PLAN
A2 SCALE: 1/8" = 1'-0" NORTH



4 THIRD FLOOR PLAN
A2 SCALE: 1/8" = 1'-0" NORTH

PROJECT # 1705
DATE: 2018.04.03
REVISION:

A D R E W F E L L
ARCHITECTURE AND DESIGN
615 NORTH HICKORY STREET, SUITE 101
CHAMPAIGN, ILLINOIS 61820
PHONE: 217.243.2890
WWW.ANDREWPELL.COM
EMAIL: andrew@andrewfell.net

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408 WEST GREEN
NEW CONSTRUCTION
408 WEST GREEN/TREET
URBANA, ILLINOIS 61801

PROJECT

PROJECT # 1700
DATE: 2018.APR
REVISION:

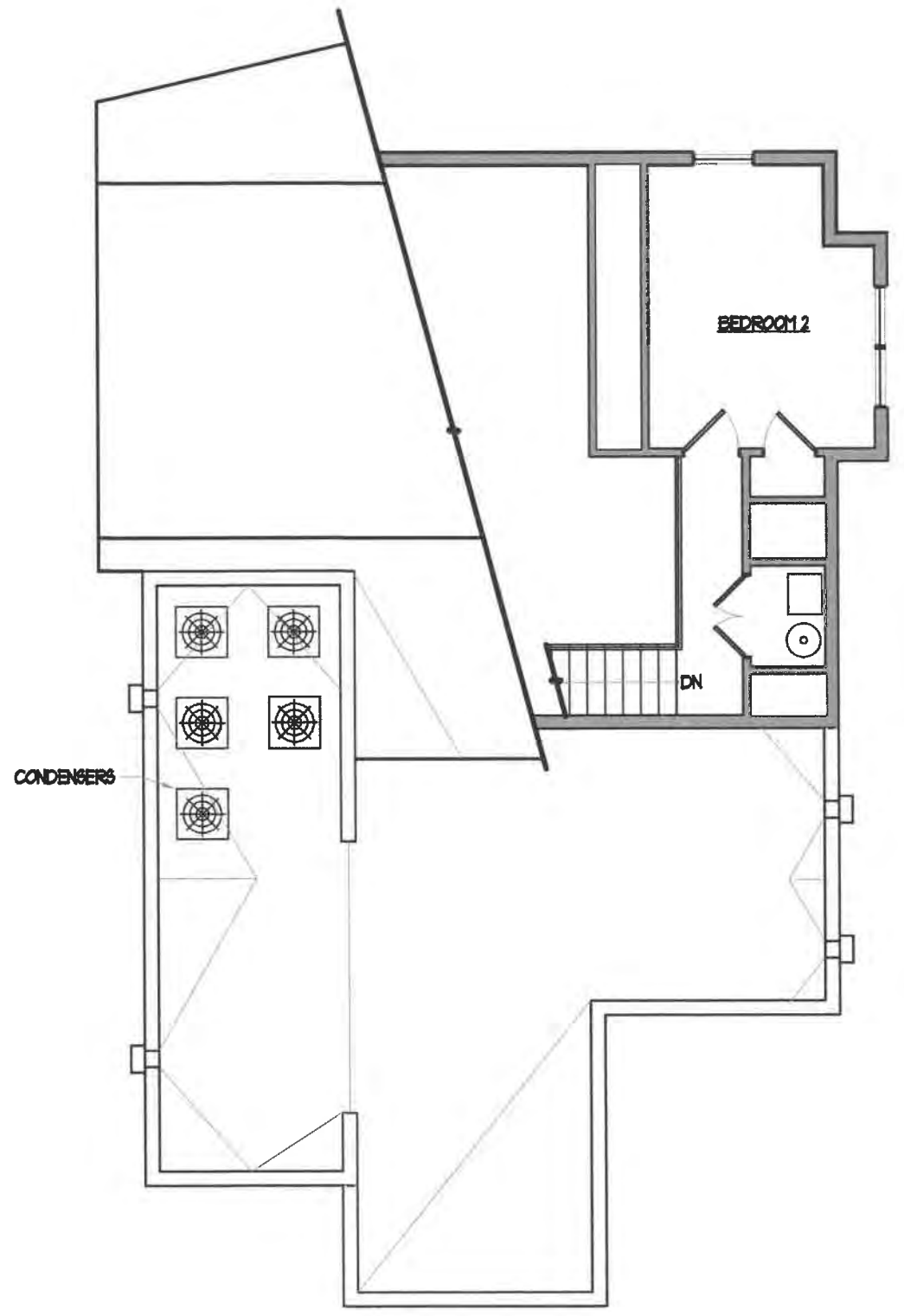
A N D R E W F E L L
ARCHITECTURE AND DESIGN
 515 NORTH HICKORY STREET, SUITE 101
 CHAMPAIGN, ILLINOIS 61820
 PHONE: 217.283.5880
 WWW.ANDREWPELL.COM
 EMAIL: andrew@andrewfell.com

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408 WEST GREEN
NEW CONSTRUCTION
 408 WEST GREEN/TREET
 URBANA, ILLINOIS 61801

/RECT

A3



2 LOFT FLOOR PLAN
 A2 SCALE: 1/8" = 1'-0"



PROJECT # 1135
DATE: 2018.02.10
REV/NOV:



ANDREW FELL
ARCHITECTURE AND DESIGN
615 NORTH HICKORY STREET, SUITE 101
CHAMPAIGN, ILLINOIS 61820
PHONE: 217.263.2890
WWW.ANDREWPELL.COM
EMAIL: andrewfell@comcast.net

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408 WEST GREEN
NEW CONSTRUCTION
408 WEST GREEN STREET
URBANA, ILLINOIS 61801

2 ELEVATION FROM GREEN STREET W/ BASEMENT
AS SCALE: 1/8" = 1'-0"

4 ELEVATION FROM GREEN STREET W/O BASEMENT
AS SCALE: 1/8" = 1'-0"

(YES, THEY'RE THE SAME)