



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Urbana Zoning Board of Appeals

FROM: Lily Wilcock, Planner I

DATE: July 12, 2019

SUBJECT: **ZBA-2019-C-02:** A request by Gustavo Bautista for a Conditional Use Permit to allow a Contractor Shop at 802 North Goodwin Avenue in the B-1, Neighborhood Business zoning district.

ZBA-2019-MAJ-03: A request by Gustavo Bautista for a Major Variance to allow a reduction in the number of parking spaces required for a Contractor Shop at 802 North Goodwin Avenue in the B-1, Neighborhood Business zoning district.

ZBA-2019-MAJ-04: A request by Gustavo Bautista for a Major Variance to allow parking in the required front yard at 802 North Goodwin Avenue in the B-1, Neighborhood Business zoning district.

Introduction

Gustavo Bautista requests a Conditional Use Permit to allow a Contractor Shop with a Showroom in the B-1, Neighborhood Business zoning district. Mr. Bautista is an electrician and bought this property to move his business into. Since 2015, Mr. Bautista has been operating his business out of his home at 1102 W. Eads Street (for which he has a home occupation permit). Mr. Bautista wants to use the building at 802 North Goodwin Avenue for office space and equipment storage. A “Contractor Shop with a Showroom” is the use in the Zoning Ordinance that most closely matches the desired use, and requires a Conditional Use Permit in the B-1 district.¹

Mr. Bautista also requests two Major Variances. The first variance would allow parking to be reduced from four spaces to three, which would use the existing pavement on the lot. A Constructor Shop with a Showroom requires one parking space for every 400 square feet of building. With a 1,600 square foot building, four parking spaces are required. The second variance would allow parking in the required front yard, which is where the existing parking is. There is no parking allowed in any required yard in the B-1 district.²

Staff recommends that the Zoning Board of Appeals approve the Conditional Use Permit and recommend approval of the two Major Variances to City Council, after finding that the conditional use and variance criteria have been met.

¹ Table V-1 of the Urbana Zoning Ordinance.

² Section VIII-4. F. and Table VIII-7 of the Urbana Zoning Ordinance.

Background

Mr. Bautista bought the property from Rector Property Management in May 2019. The property was initially a gas station, then a licensing office, and was vacant for many years. Briefly, it was a property management office before being sold to Mr. Bautista. Mr. Bautista felt that its location would be conducive to meet the needs of his growing his electrical business.

Description of Site and Area

The lot at 802 North Goodwin Avenue is approximately 7,800 square feet. It is located on the northeast corner of Goodwin Avenue and Hill Street. The property has a 1,600 square foot building, and a concrete pad between the building to the sidewalk on the western side of the property. There is a proposed site plan in Exhibit D.

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

Location	Zoning	Existing Land Use	Future Land Use
Site	B-1, Neighborhood Business	Commercial	Residential
North	R-2, Single-Family Residential	School Parking Lot	Institutional
South	R-2, Single-Family Residential	Duplex	Institutional
East	R-2, Single-Family Residential	Single-Family Home	Residential
West	R-2, Single-Family Residential	Single-Family Home	Residential

Discussion

Conditional Use Permit

A conditional use permit would allow Mr. Bautista to move his business out of his house and into a commercial property. The B-1, neighborhood business zoning district is intended for commercial areas of limited size and for the convenience of the neighborhood. In the B-1 district, the property can have many different retail uses, and personal or professional services by right, though many uses are limited to less than 3,500 square feet.

The City of Urbana allows residents to apply for a Home Occupation Permit to run a business out of their residence. One purpose of these permits is to encourage business start-ups in Urbana. The permits limit the number of deliveries and customer visits, and regulates exterior visibility, storage, etc. to maintain consistency with the surrounding neighborhood. Mr. Bautista is trying to expand his business space, and a larger business would not be suitable for his home. Buying a commercial property and expanding into a larger space is appropriate. Mr. Bautista owns several large trucks that require CDL licensure to drive. Having a business property will allow the natural expansion of a successful home occupation and provide an appropriate place to park his trucks.

The property could have many different retail and service uses by right, many of them capped at 3,500 square feet. Mr. Bautista's proposed business will use the existing building, which is only 1,600 square feet. The size and intensity of the proposed use would be well within what is generally allowable in the B-1 district by right. Even if he chooses to expand his business in the future, Mr. Baustista could feasibly add only 700 square feet of building space on the lot, due to the maximum allowable floor-area ratio, and any expansion of the building would require further zoning approvals.

Major Variance

The two major variances would allow the existing concrete pad to be used for car parking. The three proposed parking spaces will be placed along the west lot line and will be parallel spaces. Four spaces are required for the proposed use, but the existing paved area can only accommodate three parking spaces. The second variance would allow car parking in the front yard setback. Section VIII-4. F. of the Zoning Ordinance allows parking in the required yard in the B-2, B-3, B-3U, IN-1, and IN-2 districts. B-1 is not included in the list. Due to the nature of the lot and the existing pavement, Mr. Bautista requests a variance to park vehicles along the south-west lot line, in the required front yard (see Exhibit D.)

As Mr. Bautista will not have regular customer visits, it is reasonable to allow a parking reduction for the proposed use.

Requirements for a Conditional Use Permit

According to Section VII-2 of the Urbana Zoning Ordinance, an application for a Conditional Use Permit (CUP) shall demonstrate the following requirements. Staff analysis follows each criterion.

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

The requested CUP is conducive to the public convenience because the proposed Contractor Shop will have limited traffic. The service, an electrical contractor, is a professional service that provides benefits for neighbors, other residents in Urbana, and in the larger region. Expanding the business in its current location, in Mr. Bautista's home, is infeasible.

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 proposed use is designed, located, and proposed to be operated in a manner similar to its surrounding B-1 neighborhood, neighborhood business zoning district. The applicant's proposed site plan will keep the building where it is and keep the parking in the front yard, if the related variance requests are approved. B-1 properties are meant to exist within neighborhoods and this property is in the heart of a residential neighborhood. Neighborhood businesses play an important role in residential areas.

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.

The proposed use conforms to all regulations of the B-1 district, except for parking requirements, which the two variance requests will address, if granted. The proposed site plan (Exhibit D) shows the required accessible parking location and the required screening, needed to establish any use on the B-1 property. Mr. Bautista will work with city staff to ensure all other requirements are met prior to the issuance of a new Certificate of Occupancy.

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:

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

The Zoning Ordinance requires a 15 foot front yard for the B-1 zoning district, and no parking may be built within the front yard. Yard lines are shown by dashed lines on the proposed site plan in Exhibit D.

To provide parking and an access aisle that conforms to the zoning regulations would consume the entire buildable area of the lot. This would require the demolition of the existing building, the southern access drive, and the former parking area, which seems like an excessive undertaking when Mr. Bautista could instead be allowed to reuse the existing building and parking areas.

2. The proposed variance will not serve as a special privilege because the variance requested is necessary due to special circumstances relating to the land or structure involved or to be used for occupancy thereof, which is not generally applicable to other lands or structures in the same district.

The proposed parking-related variances will not be a special privilege to the applicant. The variances would not eliminate parking requirements, but would acknowledge that parking space is very limited and the site cannot readily hold four parking spaces. The property can hold three parallel spaces and an access aisle, with the current configuration of parking in the front yard along Goodwin Avenue. As the applicant has indicated, the Contractor Shop will not have regular customers. Four parking spaces are not necessary to meet parking demand.

3. The variance request is not the result of a situation or condition having been knowingly or deliberately created by the Petitioner.

The variance request is due to the existing conditions of the lot. The required yards take up a sizeable portion of the lot. Meanwhile, there are no exceptions to allow parking in required yards in the B-1 zoning district, though exceptions are allowed in every other business district. The applicant would like to use the 1,600 square-foot building. When the property was first developed in 1936 as a gas station, the use and location of parking in the front yard was not regulated. In 1978, the owner of the gas station, then a legally nonconforming use, received permission from the city to remodel the nonconforming business, as the use was found to be beneficial to the neighborhood. Now, the lot is difficult to develop due to its small size and the requirements for most business uses, including parking and yard setbacks.

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

If granted, the variance would not alter the essential character of the neighborhood. Parking is allowed in the front yard for other lots in the neighborhood. The proposed parking area has existed since at least 1978, and the request will maintain what has existed for decades.

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

The variance should not cause a nuisance, as the proposed business use will be filling a vacant property, and the property owner plans to make improvements to the property. If the variance is not granted, the building would likely have to be demolished and rebuilt for any use to meet the B-1 parking requirements and yard setbacks. The parking requirements for B-1 are the same requirements for B-2 and B-3 properties, which are zones intended to have much higher levels of car traffic. Providing less parking for a property in a residential neighborhood may reduce the impact and nuisance of the property, as it could discourage car traffic to the site and require less of the lot to be paved.

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

The proposed variances are a minimum deviation, as the request is to maintain what already exists. The applicant will keep the existing car parking area, but will ensure that the parking spaces provided conform with the Zoning Ordinance. The applicant will meet all other requirements for the property.

Summary of Staff Findings

1. Gustavo Bautista requests a Conditional Use Permit to establish a Contractor Shop with Showroom at 802 North Goodwin Avenue in the B-1, Neighborhood Business zoning district;
2. The use is conducive to the public convenience at that location;
3. The 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 or detrimental to the public welfare;
4. The use will conform to all applicable zoning, building, and development codes; except the amount of parking required, and the location in the front yard setback, of which a Major Variance is requested;
5. Mr. Bautista also requests a Major Variance to reduce the amount of parking required from four to three spaces and a Major Variance to allow car parking in the required front yard;
6. The variances will allow the existing building and existing concrete pad to be used;
7. The variance requests would not serve as a special privilege to the property owner if granted, as there are special circumstances relating to the land such as location of the existing building, parking lot, and the lot size of the location;
8. The property owner did not deliberately create this situation;
9. The variances will not alter the essential character of the neighborhood;
10. The variances will not create a nuisance; and
11. The variances represent a minimum deviation from the zoning ordinance.

Options

The Zoning Board of Appeals has the following options in case ZBA-2019-C-02:

1. Approve the Conditional Use Permit; or
2. Approve the Conditional Use Permit along with any conditions as are appropriate for the public health, safety, and welfare, and to carry out the purposes of the Zoning Ordinance; or
3. Deny the Conditional Use Permit.

The Zoning Board of Appeals has the following options in case ZBA-2019-MAJ-03:

1. Forward the Major Variance request to City Council with a recommendation to approve the variance as requested, based on the findings outlined in this memorandum; or
2. Forward the Major Variance 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 Major Variance request, and if so, articulate findings supporting the denial.

The Zoning Board of Appeals has the following options in case ZBA-2019-MAJ-04:

1. Forward the Major Variance request to City Council with a recommendation to approve the variance as requested, based on the findings outlined in this memorandum; or
2. Forward the Major Variance 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 Major 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 **APPROVE** the Conditional Use Permit with the following condition:

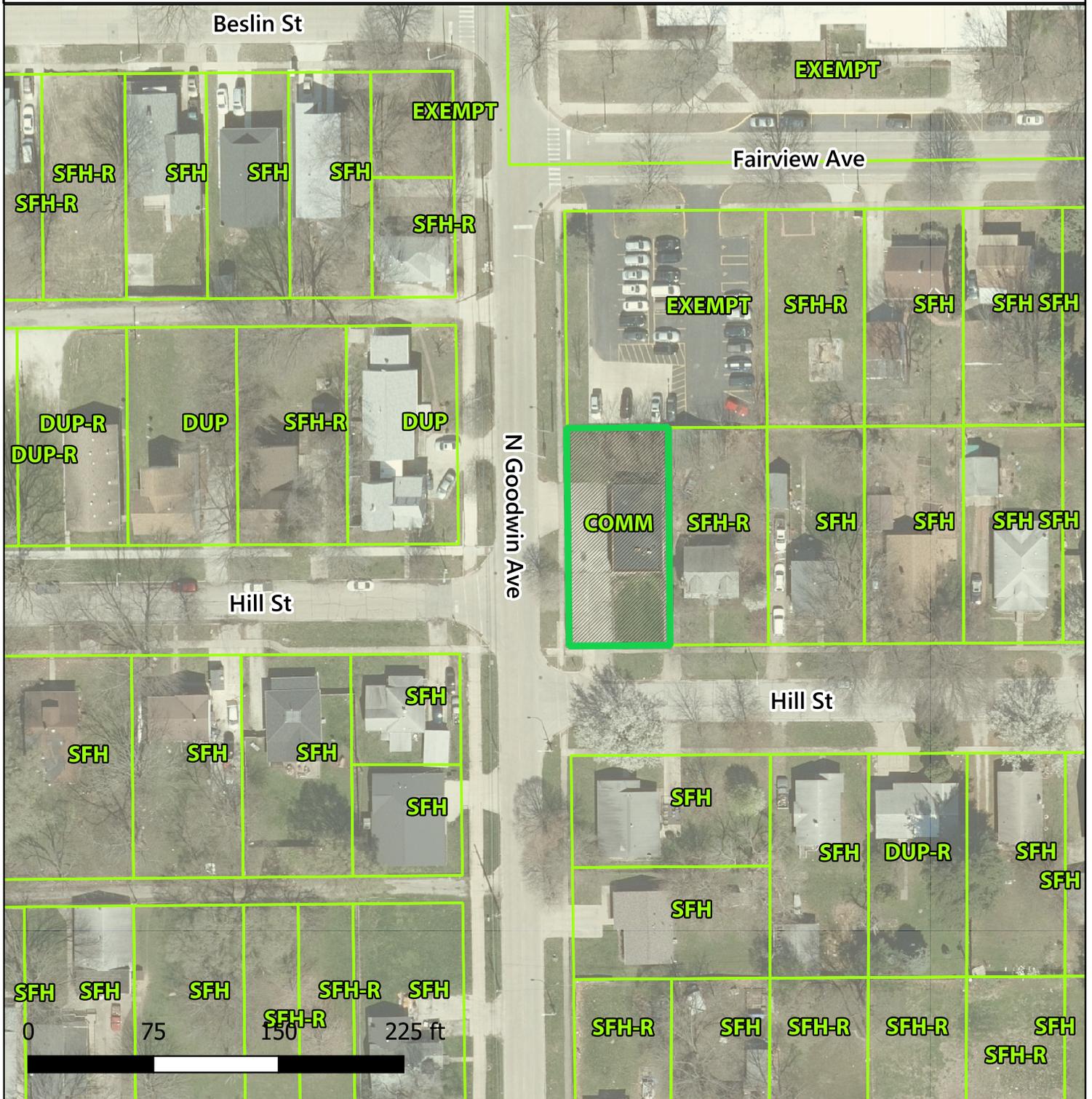
- That the proposed parking, fences, and storage area are constructed to generally conform to the attached site plan and specifications of the Zoning Ordinance.

Staff also recommends that the Zoning Board of Appeals recommend **APPROVAL** of the Major Variances to City Council.

Attachments: A: Location and Land Use Map
B: Zoning Map
C: Future Land Use Map
D: Site Plan
E: Conditional Use Permit Application
F: Major Variance Application

cc: Gustavo Bautista, Owner/Applicant

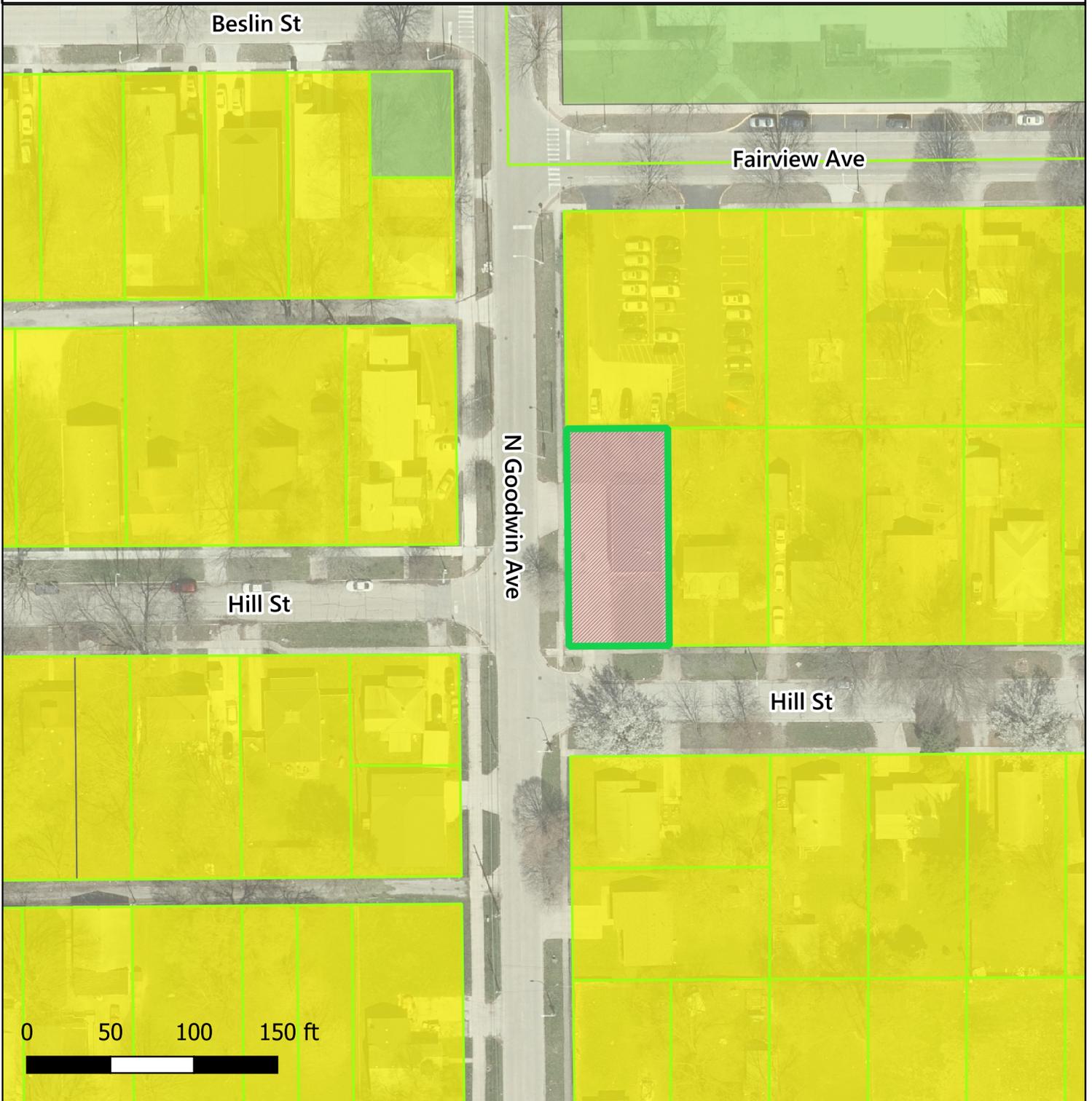
Exhibit A - Location & Existing Land Use Map



Case: ZBA-2019-C-02; ZBA-2019-MAJ-03; ZBA-2019-MAJ-04
 Subject: Bautista CUP
 Location: 802 N. Goodwin Ave.
 Petitioner: Gustavo Bautista



Exhibit B - Zoning Map

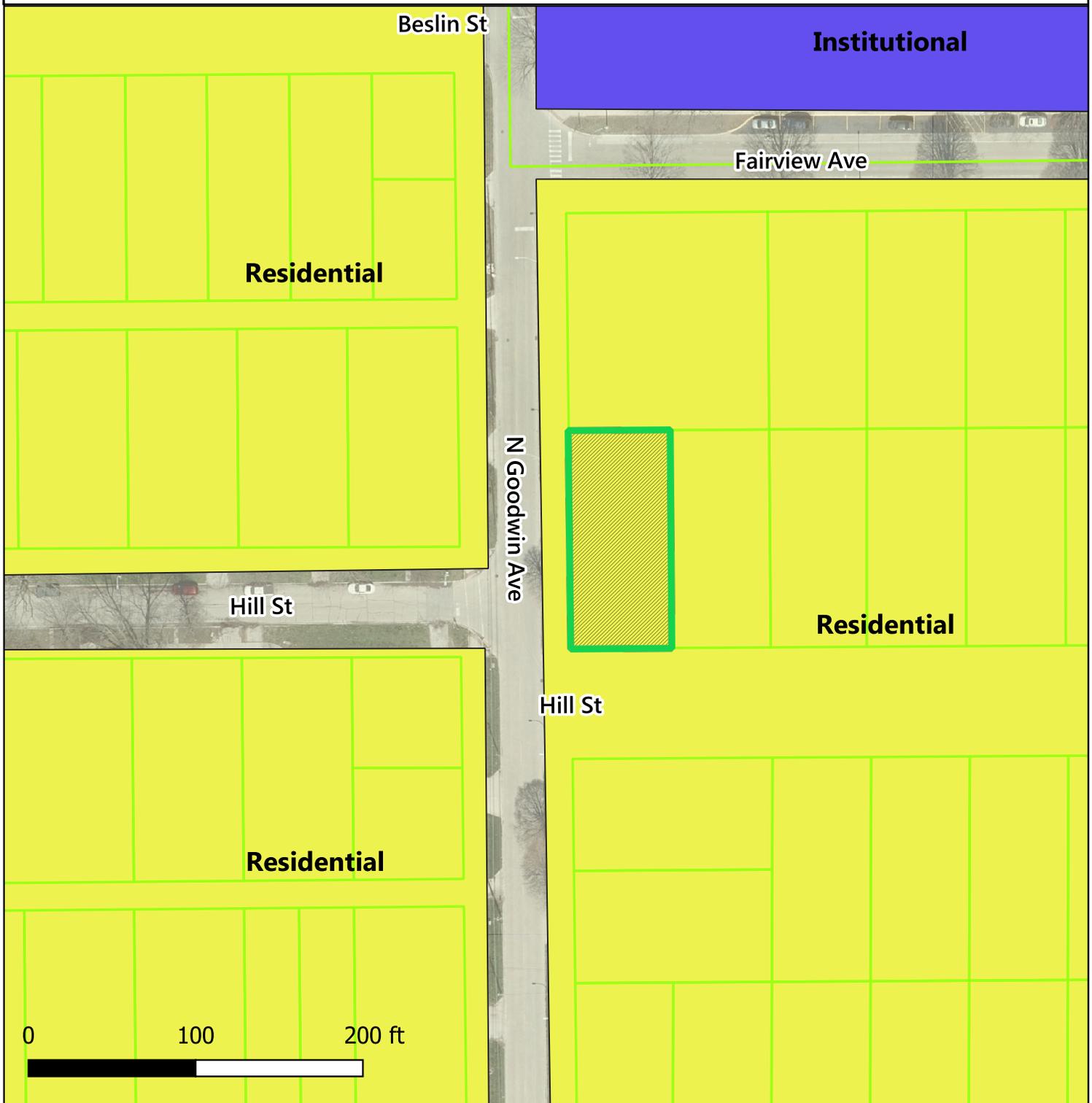


Case: ZBA-2019-C-02; ZBA-2019-MAJ-03; ZBA-2019-MAJ-04
Subject: Bautista CUP
Location: 802 N. Goodwin Ave.
Petitioner: Gustavo Bautista

- Current Zoning**
-  B-1
 -  CRE
 -  R-2



Exhibit C - Future Land Use Map



Case: ZBA-2019-C-02; ZBA-2019-MAJ-03; ZBA-2019-MAJ-04

Subject: Bautista CUP

Location: 802 N. Goodwin Ave.

Petitioner: Gustavo Bautista

 Subject Property

 Institutional

 Residential



Exhibit D – Proposed Site Plan



Case: ZBA-2019-C-02; ZBA-2019-MAJ-03; and ZBA-2019-MAJ-04
Subject: Bautista CUP
Location: 802 N Goodwin Ave.
Petitioner: Gustavo Bautista





Application for Conditional Use Permit

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 _____ ZBA Case No. _____
Fee Paid - Check No. _____ Amount _____ Date _____

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

A CONDITIONAL USE PERMIT is requested in conformity with the powers vested in the Zoning Board of Appeals to permit the following use or construction purpose:

on the property described below, and in conformity with the plans in the permit application.

1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): _____ Phone: _____
Address (*street/city/state/zip code*): _____
Email Address: _____
Property interest of Applicant(s) (*Owner, Contract Buyer, etc.*): _____

2. OWNER INFORMATION

Name of Owner(s): _____ Phone: _____
Address (*street/city/state/zip code*): _____
Email Address: _____
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: _____
PIN # of Location: _____
Lot Size: _____
Current Zoning Designation: _____

Current Land Use (*vacant, residence, grocery, factory, etc:*

Proposed Land Use:

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

4. CONSULTANT INFORMATION

Name of Architect(s):

Phone:

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

Email Address:

Name of Engineers(s):

Phone:

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

Email Address:

Name of Surveyor(s):

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 CONDITIONAL USE PERMIT

Explain how the proposed use is conducive to the public convenience at the location of the property.

Explain how 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 or detrimental to the public welfare.

Explain how 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 may be modified by Section VII-3 of the Urbana Zoning Ordinance, 1979).

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



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 _____ ZBA Case No. _____
Fee Paid - Check No. _____ Amount _____ Date _____

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*) allow parking in the front yard setback and reduction of car parking space from five to three on the property described below, and in conformity with the plans described on this variance request.

1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): **Gustavo Bautista** Phone: **217-637-0659**
Address (street/city/state/zip code): **802 N Goodwin Ave.**
Email Address: **bautistaelectric@gmail.com**
Property interest of Applicant(s) (Owner, Contract Buyer, etc.): **Owner**

2. OWNER INFORMATION

Name of Owner(s): **Gus Bautista** Phone: **217-637-0659**
Address (street/city/state/zip code): **802 N Goodwin Ave.**
Email Address: **bautistaelectric@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.

DB

3. PROPERTY INFORMATION

Location of Subject Site: **802 N Goodwin Ave**
PIN # of Location: **91-21-07-426-010**
Lot Size: **7,800**

Current Zoning Designation: **B-1**

Current Land Use (*vacant, residence, grocery, factory, etc.*): **Hardware Store**

Proposed Land Use: **Contractor Shop with Showroom (not suggesting showroom)**

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

See attached.

4. CONSULTANT INFORMATION

Name of Architect(s):

Phone:

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

Email Address:

Name of Engineers(s):

Phone:

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

Email Address:

Name of Surveyor(s):

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.

As the property is on a corner there are two front yard setbacks. In B-1, no parking is allowed in the front yard. All existing parking is in the front yard.

DB

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.

The property was formerly a gas station and then went vacant for many years. In the past five years the property has been periodically occupied by various owners. I would like to expand my business from the a location I have Home Occupation Permit, 1102 W Eads St.

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

The gas station concrete parking area has been in the front yard of this B-1 property for decades and without a variance I will have to build parking on green spaces outside of the front yard. I would like to maintain the existing green space on the lot and make use of the current concrete lot.

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

As the business should not have visitors there will be no demand for visitor parking. The parking I need is for my own vehicles and the existing concrete parking is sufficient. This property has had the parking in the front yard for decades and because the lot is small, the front yard setbacks mean very little of the property is usable for the parking.

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

The side yard touching the adjacent residential property would have to live next to the new parking. The variance is to keep the parking as far away from the adjacent neighbor as possible.

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

I plan on having little to no visitors at my business location (like my Home Occupation). This deviation is to reduce the impact for my immediate neighbor and make the property better as used for a business.

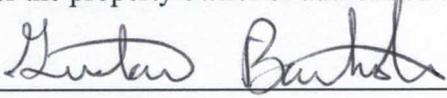
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By submitting this application, you are granting permission for City staff to post on the property a temporary yard sign announcing the public hearing to be held for your request.

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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

6-19-19
Date

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

DB