



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: May 10, 2019

SUBJECT: **ZBA-2019-C-01:** A request for a Conditional Use Permit by Kim Hubbard to allow a second principal structure at 812 S Race St. in the R-3, Single and Two-Family Residential zoning district.

ZBA-2019-MAJ-01: A Major Variance request by Kim Hubbard for a reduction from ten feet in the required rear yard setback to five feet at 812 S Race St. in the R-3, Single and Two-Family Residential zoning district.

Introduction

Kimberly Hubbard requests a Conditional Use Permit to allow a second principal structure on her lot in the form of a new two-car garage with a second-floor dwelling unit. More than one principal structure on a lot requires a Conditional Use Permit¹. Ms. Hubbard also requests a Major Variance to allow the garage to be built five feet into the required ten-foot rear yard.²

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

Background

Ms. Hubbard would like to replace her existing one-story garage with a two-story garage with a second-story apartment for her mother to live in. She would like to save two existing trees in her back yard, but to meet the required ten-foot rear yard would require the removal of a mature spruce tree. After consulting with the City Arborist, Ms. Hubbard believes that placing the new building five feet from the side and rear property lines would allow her to construct the garage and save the trees (see Exhibit D).

Description of Site and Area

The lot at 812 South Race Street is approximately 6,500 square feet, and is located at the northeast corner of Race Street and Washington Street. The property has a single family home, a one-story garage, a driveway, and a fence. Exhibit D shows the proposed site plan submitted by the property owner. Exhibit E shows a site plan with more detail.

¹ Section V-3.C of the Urbana Zoning Ordinance.

² Section VI-5.B and Table VI-3.1 of the Urbana Zoning Ordinance.

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	R-3, Single- and Two-Family Residential	Single Family Home	Residential
North	R-3, Single- and Two-Family Residential	Single Family Home	Residential
South	R-2, Single-Family Residential	Duplex	Institutional
East	R-4, Medium Density Multiple Family Residential	Apartments	Residential
West	R-3, Single- and Two-Family Residential	Single Family Home	Residential

Discussion

Conditional Use Permit

The proposed garage apartment would allow Ms. Hubbard’s mother to have her own living space separate from the main house, while being close enough for Ms. Hubbard to attend to her mother’s needs as she ages. While two dwelling units in one building (a duplex) are permitted by right in the R-3 district, two dwelling units in separate buildings requires a Conditional Use Permit (CUP), because the principal use of the lot is a single-family home, and the garage apartment is considered a second principal structure. Per Section V-3.C of the Zoning Ordinance, a second principal structure on a lot requires a CUP.

Secondary dwelling units (also known as “accessory dwellings units,” “granny flats,” and “mother-in-law cottages”) are places for older family members to live near their family, but still live independently. Besides the benefits to the family of being closer together to visit and help take care of each other, these dwelling units can potentially save the family from expensive nursing home costs.

It should be noted that in the past two years, three Conditional Use Permits have been approved by the Zoning Board of Appeals to establish a second principal structure for a dwelling unit in the R-3 district.

Major Variance

The major variance would allow the applicant to build the garage/apartment five feet into the required ten foot rear yard, which would help to save the mature trees on the property (see Exhibit D). Siting the new garage closer to the street would require removing one of the trees. Siting the garage closer to the house would allow the rear yard requirement to be met, but it would require removing a mature spruce tree. To save the trees, the garage would need to be built in the northeast corner of the lot. If the garage is built in the proposed location, the property would meet all other development regulations (FAR, OSR, and yard requirements).

The following is a summary of the development regulations for the proposed garage apartment:

	FAR	OSR	Yards (ft.)		
			Front	Side	Rear
R-3 Requirements	0.40 (max.)	0.40 (min.)	15 (min.)	5 (min.)	10 (min.)
Existing	0.21	2.6	30	5	8
Proposed	0.27	2.3	30	5	5

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 garage apartment will not add any more density than what is currently allowed on this lot if it contained a duplex. The garage apartment will match the form of any buildings on the block. Also, the driveway will not be moved any closer to the intersection of Race Street and Washington Street, so the proposal should not cause any inconvenience with traffic flow.

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 surroundings and the R-3 zoning district in general. The applicant’s design will keep the already mature trees intact and will keep the driveway at the same distance from the intersection. A duplex is a permitted use in the R-3 zoning district, and the proposed use will therefore not be operated in a detrimental fashion to the district.

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 second principal structure will conform with all applicable development regulations, except for the required rear yard. The major variance requested by the applicant would keep both trees on the eastern half of the lot, and will not move the driveway any closer to the intersection of Race Street and Washington Street. This will help preserve the character of the neighborhood.

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 ten foot rear yard for the R-3 zoning district, so no principal structure may be built within ten feet of the rear property line. As this is a corner lot, the eastern lot line is considered the rear lot line. The location of the two trees on the eastern half of the lot create a practical difficulty in carrying out the requirements of the zoning ordinance. As discussed above, various locations were considered for the proposed garage, but locations that would meet the requirements would either require removing a mature tree or moving the driveway closer to the intersection.

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 reduction in the rear yard will not be a special privilege to the applicant. The variance is needed to keep the mature spruce tree, and the five-foot setback will match the character of other other homes along Washington Street.

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 location of the trees on the lot, which were not planted by the applicant, and the driveway, which should be kept as far from the intersection as possible for safety and traffic concerns.

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. Two-family residences are allowed by right in the neighborhood. There are duplexes and multiple-family residences adjacent to this property. The proposed two-car garage will replace the existing garage, and garages, as accessory structures, are allowed within 18 inches of the property line. Many garages in the neighborhood, including garages on neighboring properties, are within five feet of the rear property line. There are also homes on Washington Street that are five feet from the property line, so the proposal will not be out of character.

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

The variance should not cause a nuisance as the proposed garage/apartment will be five feet from the property line, similar to other structures in the neighborhood, and matching the setback for other lots facing Washington Street. If the variance is not granted, at least one mature tree would have to be removed, which could be a negative outcome for the neighborhood.

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

The proposed building is sited as close to the existing trees as possible without causing them harm. It is not possible for the structure to be farther from the rear property line while keeping a safe distance from the trees. The request therefore represents the minimum deviation from the Zoning Ordinance necessary.

Summary of Staff Findings

1. The property is zoned R-3, Single- and Two-Family Residential;
2. Kimberly Hubbard requests a Conditional Use Permit to allow the construction of a second principal structure;
3. The use is conducive to the public convenience at that location;
4. 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;
5. The use will conform to all applicable zoning, building, and development codes; except the rear yard setback for principal structures of which a Major Variance is requested;
6. Kimberly Hubbard also requests a Major Variance to reduce the required rear yard from ten feet to five feet;
7. The variance will allow two mature trees to be saved, and for the driveway to maintain its distance from the intersection of Race Street and Washington Street;
8. The variance request 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 mature trees and access drive location;
9. The property owner did not deliberately create this situation;
10. The variance will not alter the essential character of the neighborhood;
11. The variance will not create a nuisance; and
12. The variance represents a minimum deviation from the zoning ordinance.

Options

The Zoning Board of Appeals has the following options in case ZBA-2019-C-01:

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-01:

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:

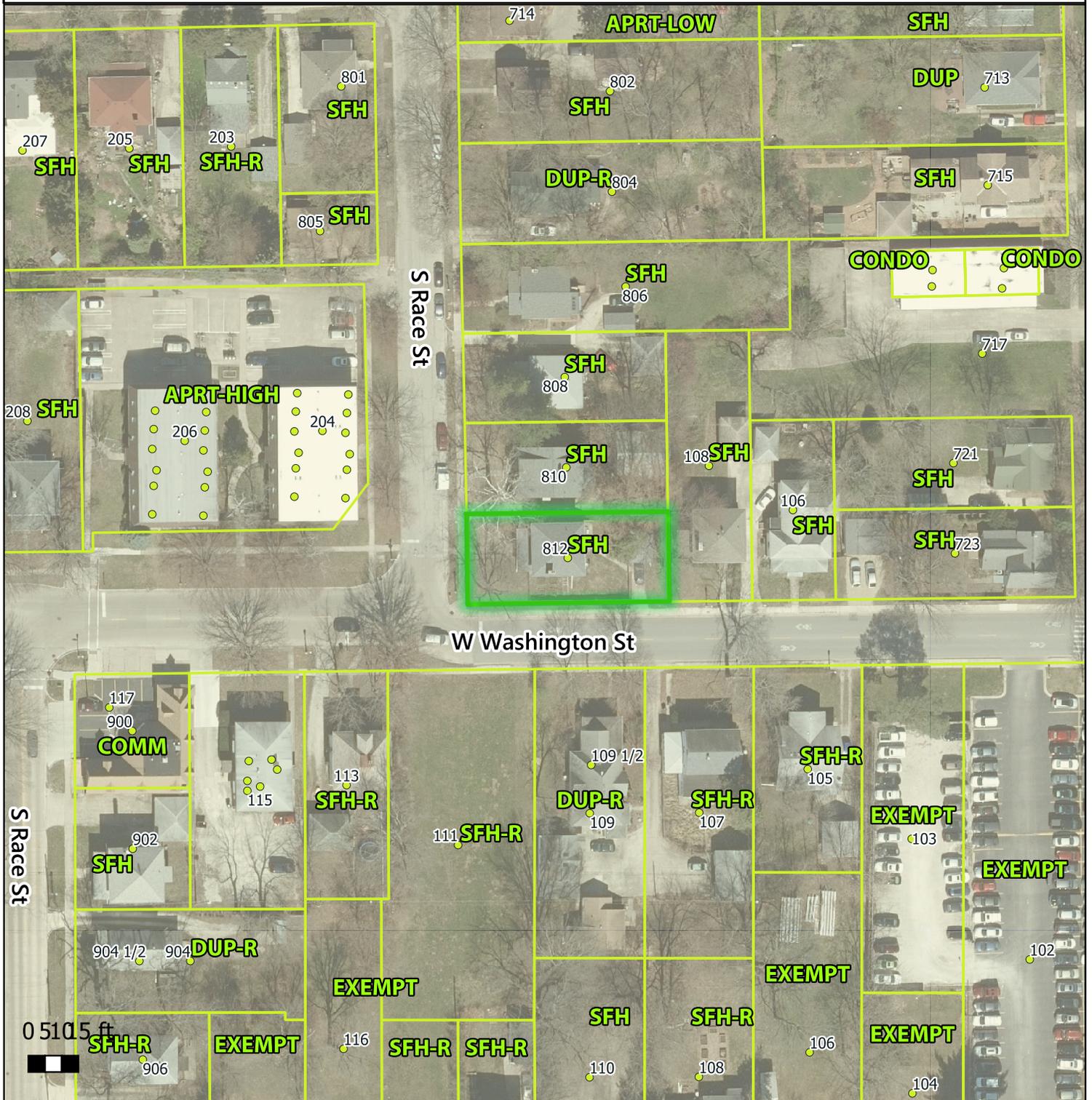
- That the proposed structure's location and construction generally conform to the attached site plan and specifications.

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

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

cc: Kimberly Hubbard, Owner/Applicant

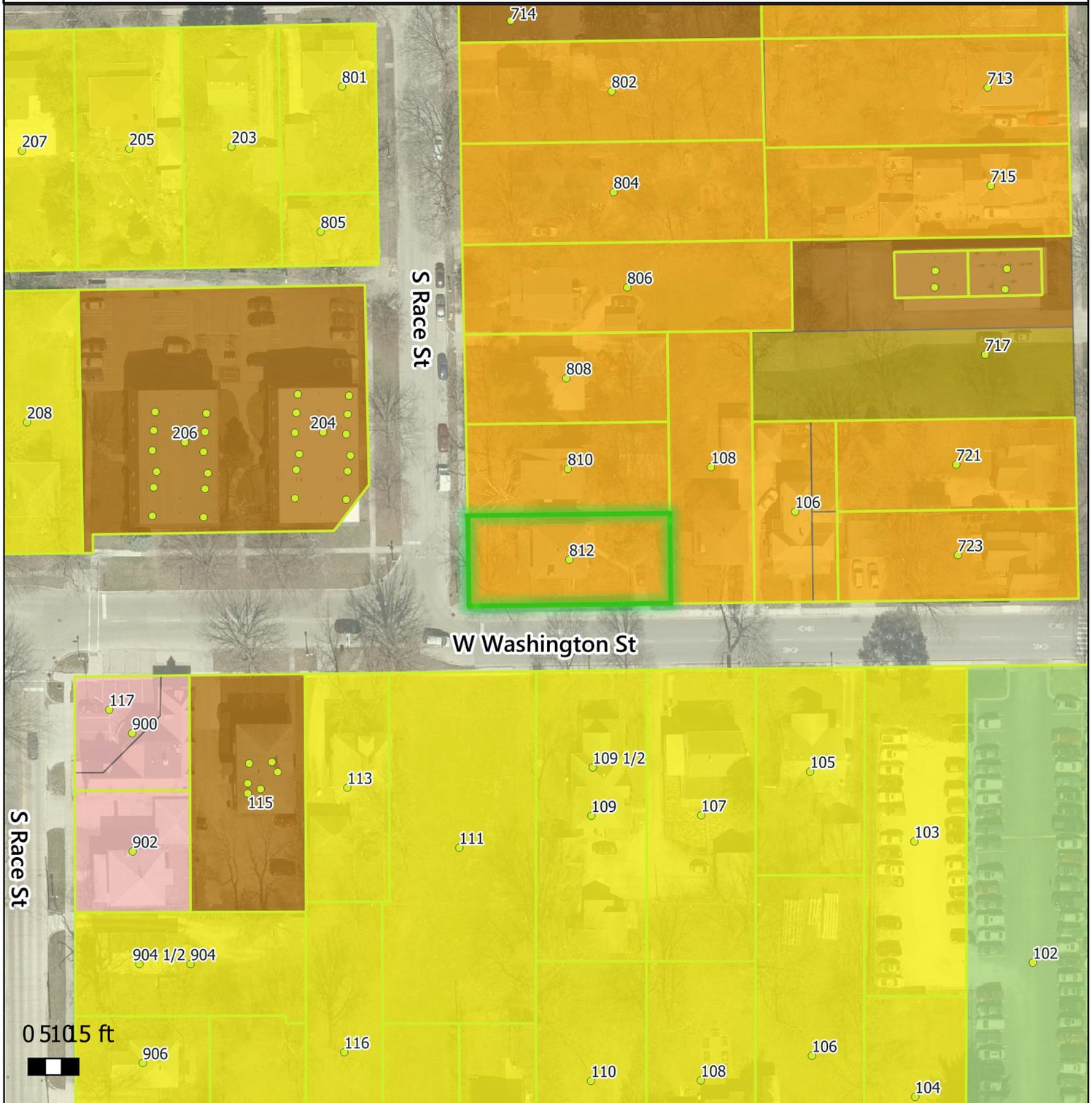
Exhibit A - Location & Existing Land Use Map



Case: ZBA-2019-C-01 and ZBA-2019-MAJ-01
 Subject: Hubbard CUP and Major Variance
 Location: 812 S. Race Street
 Petitioner: Kimberly Hubbard



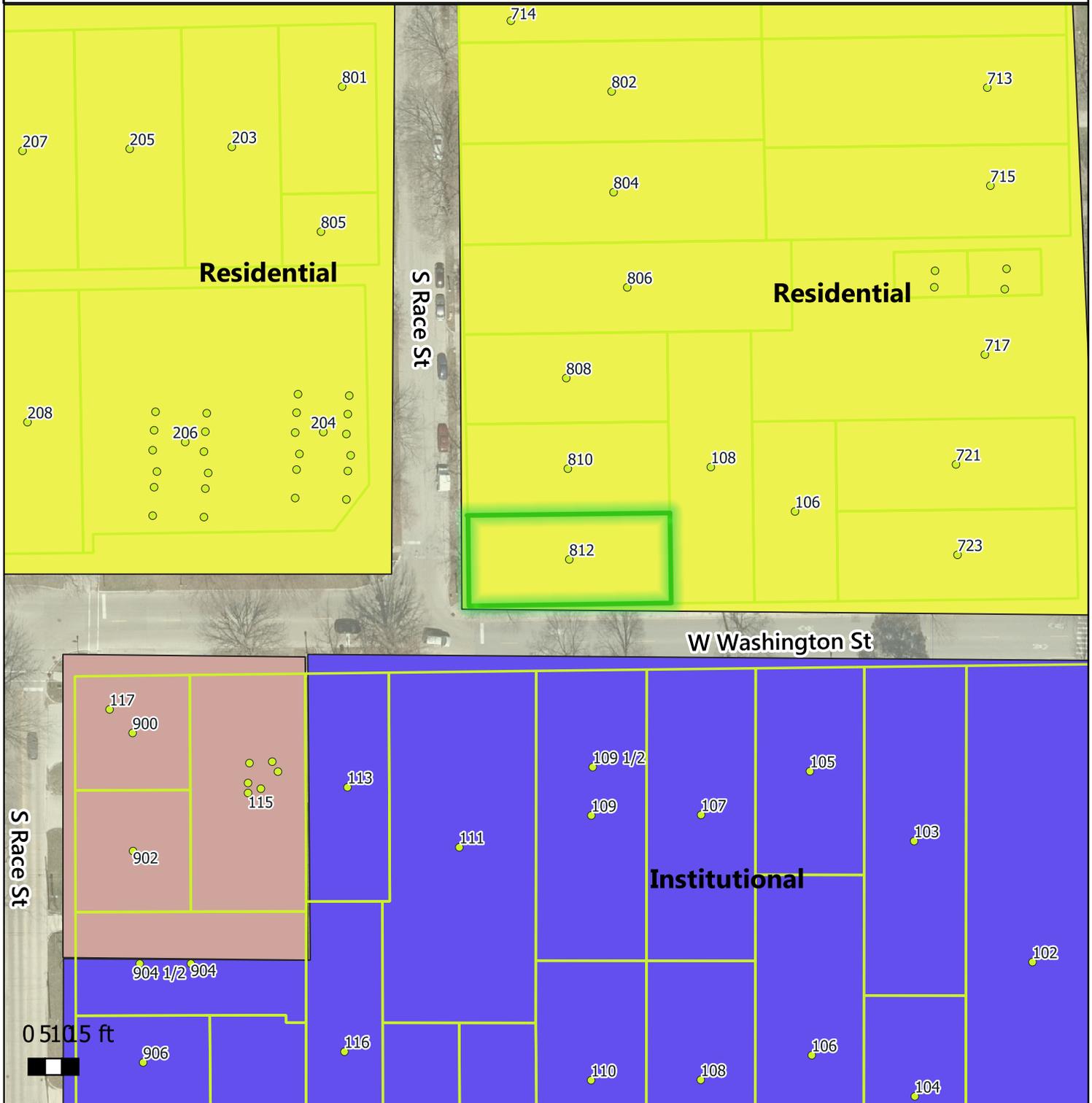
Exhibit B - Zoning Map



Case: ZBA-2019-C-01 and ZBA-2019-MAJ-01
Subject: Hubbard CUP and Major Variance
Location: 812 S. Race Street
Petitioner: Kimberly Hubbard



Exhibit C - Future Land Use Map



Case: ZBA-2019-C-01 and ZBA-2019-MAJ-01
Subject: Hubbard CUP and Major Variance
Location: 812 S. Race Street
Petitioner: Kimberly Hubbard



Exhibit D

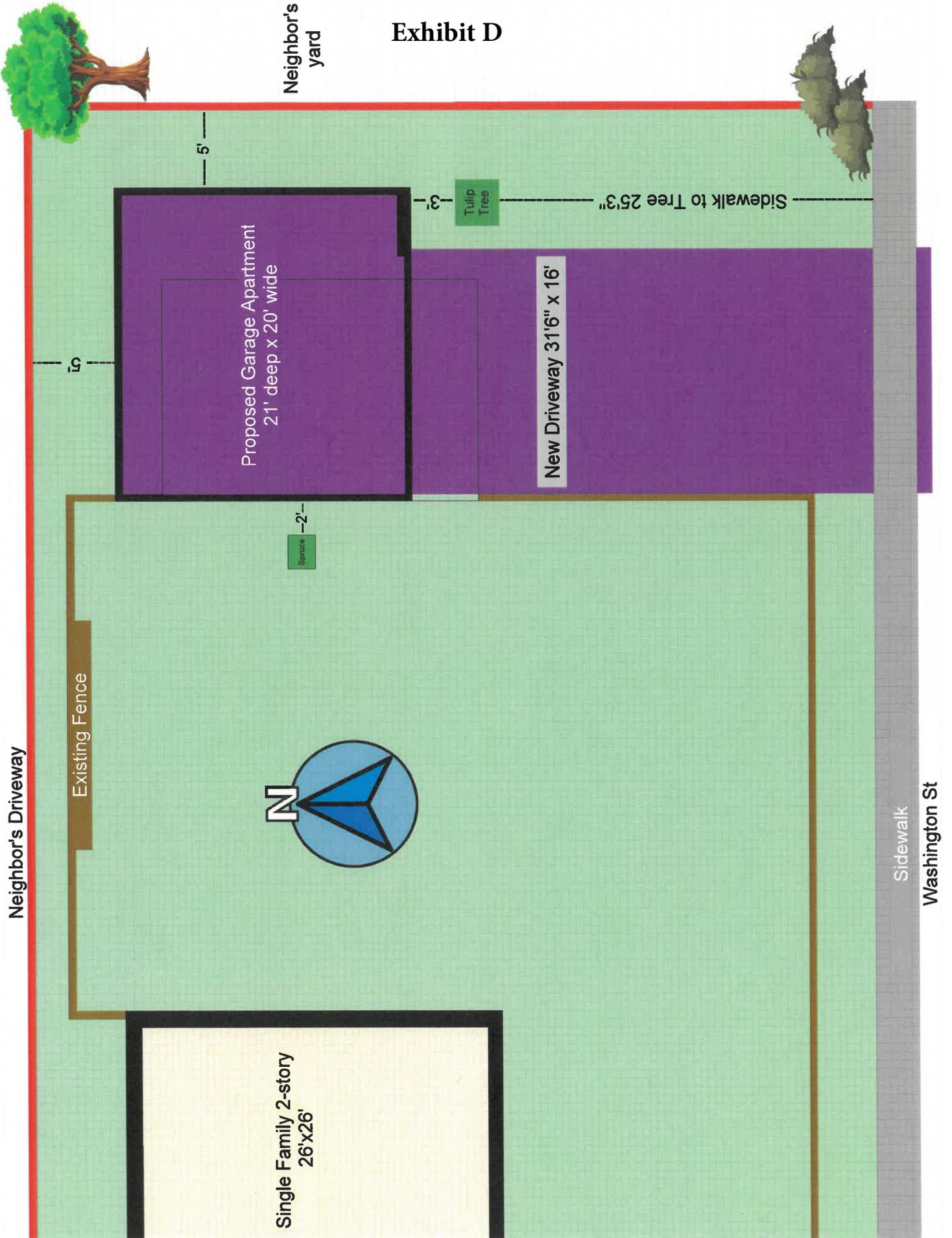
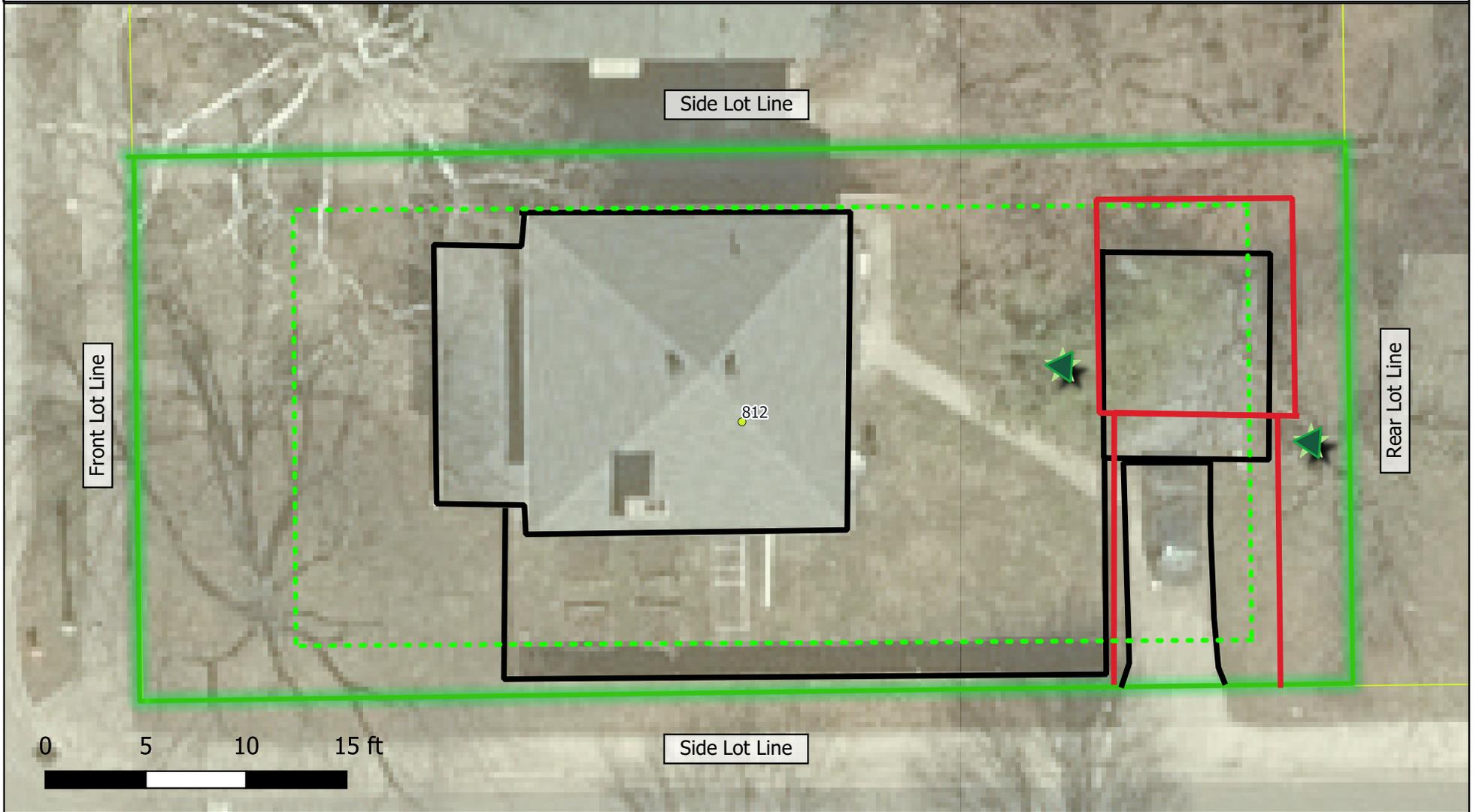


Exhibit E - Approximate Site Plan at 812 S. Race St.



Created 5/6/2019 by Community Development Service - Lily Wilcock

Legend

- Trees
- Existing
- Proposed
- Yard Lines
- Parcel



Exhibit F



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 04-23-2019 ZBA Case No. ZBA-2019-C-01
Fee Paid - Check No. FEE WAIVED 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): Kim Hubbard Phone: 217-840-3344
Address (street/city/state/zip code): 812 S Race St Urbana, IL 61801
Email Address: Kimberllymhubbard@gmail.com
Property interest of Applicant(s) (Owner, Contract Buyer, etc.): Owner

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 [x] No
If yes, please attach a list of all individuals holding an interest in said Trust.

3. PROPERTY INFORMATION

Location of Subject Site: 812 S Race St Urbana, IL 61801
PIN # of Location: 92-21-17-261-013
Lot Size: 53.5 x 121.5 = 6500.25
Current Zoning Designation: R3 single + 2-family residential

Exhibit F

Current Land Use (*vacant, residence, grocery, factory, etc:* *single family residential*)
Proposed Land Use: *2 single family residential*
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.

I want to build an apartment on top of a larger garage so my mother can live out her life close to us.

Exhibit F

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.

It won't be higher than a standard 2-story nor will it go over allowed setbacks. It also will not need an additional driveway, so as not to cause traffic problems. It will also be for my mother who is quiet. The garage apt will not be a nuisance.

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).

The structure will be a single family structure, like everything else nearby.

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.

Kim Hubbard
Applicant's Signature

4/23/2019
Date

Exhibit G



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 04-23-2019 ZBA Case No. ZBA-2019-MAJ-01
Fee Paid - Check No. 1590 Amount \$200.00 Date 04-23-2019

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*)

_____ on the property described below, and in conformity with the plans described on this variance request.

1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): Kim Hubbard Phone: 217-840-3344
Address (street/city/state/zip code): 812 S Race St # Urbana, IL 61801
Email Address: Kimberlymhubbard@gmail.com
Property interest of Applicant(s) (Owner, Contract Buyer, etc.): owner

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: 812 S Race Urbana, IL 61801
PIN # of Location: 92-21-17-201-013
Lot Size: 53.5 x 121.5 = 6500.25

Exhibit G

Current Zoning Designation: R3 single + 2-family residential
Current Land Use (vacant, residence, grocery, factory, etc): single family residential
Proposed Land Use: 2-family residential
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 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.

We would like to avoid, as much as possible, tearing down the tulip and spruce trees on my property. If we can build further East, toward the back of my property into the setback, still leaving 5', I can physically avoid both trees

Exhibit G

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.

Two trees are located in every possible layout and I'd rather not tear them down.

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

I purchased this home with these pre-existing trees

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

The setback will still be at 5' and my structure will not be uncomfortably close to any nearby structures

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

It's only a garage apartment and there will still be at least 10' between structures, of yard that is rarely used.

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

Yes, we will still have 5' of setback from my neighbor's property

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.

Exhibit G

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.

Kim Hubbard
Applicant's Signature

4/23/2019
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