AGENDA BLOOMINGTON ZONING BOARD OF APPEALS REGULAR MEETING - 4:00 P.M. WEDNESDAY, MARCH 16, 2016 COUNCIL CHAMBERS, CITY HALL 109 EAST OLIVE STREET BLOOMINGTON, ILLINOIS

1. CALL TO ORDER

2. ROLL CALL

3. PUBLIC COMMENT

A public comment period not to exceed thirty (30) minutes will be held during each Board and Commission meeting, as well as all regularly scheduled City Council meetings, Committee of the Whole meetings, meetings of committees and/or task forces (hereinafter "committees") created by the City Council, work sessions, and special meetings of the City Council. Nothing herein shall prohibit the combination of meetings, at which only one public comment period will be allowed.

Anyone desiring to address the Board, Commission, Committee or City Council, as applicable, must complete a public comment card at least five (5) minutes before the start time of the meeting. Public comment cards shall be made available at the location of the meeting by City staff at least 15 minutes prior to the start time of the meeting. The person must include their name, and any other desired contact information, although said person shall not be required to publicly state their address information. If more than five individuals desire to make a public comment, the order of speakers shall be by random draw. If an individual is not able to speak due to the time limitation and said individual still desires to address the individuals at a future meeting of the same type, said individual shall be entitled to speak first at the next meeting of the same type. (Ordinance No. 2015-46))

5. MINUTES: Consideration, review and approval of Minutes from the February 17, 2016 meeting.

6. **REGULAR AGENDA**

A. SP-02-16 Consideration, review and approval of the petition submitted by Fredrick and Jean Kuppersmith for a Special Use for a duplex under the Municipal Code 44.10-4. All for the property located at 1015 1/2 E Front Street, R-1C Single-Family Residential District (**Ward 4**).

7. OTHER BUSINESS

- 8. NEW BUSINESS
- 9. ADJOURNMENT

DRAFT MINUTES ZONING BOARD OF APPEALS REGULAR MEETING Wednesday, February 17, 2016, 4:03 P.M. Council Chambers, City Hall 109 East Olive Street, Bloomington, Illinois

Members present:	Chairman Ireland, Mr. Briggs, Mr. Bullington, Mr. Kearney, Mr. Simeone
Members absent:	Mr. Brown, Ms. Meek
Also present:	Mr. Tom Dabareiner, Community Development Director Mr. George Boyle, Assistant Corporation Counsel Ms. Katie Simpson, City Planner

Mr. Dabareiner opened the meeting at 4:03 p.m. and called the roll. With five in attendance, a quorum was present.

PUBLIC COMMENT: None

Mr. Briggs motioned to move Agenda Item 4 "Election of Chair" after "Other Business"; seconded by Mr. Bullington. The motion passed by a 5-0 vote with the following votes cast: Mr. Briggs—aye; Mr. Bullington—aye; Mr. Kearney—aye; Mr. Simeone—aye; Chairman Ireland—aye.

The Board reviewed the minutes from January 20, 2016 and the minutes were **approved** unanimously.

Chairman Ireland explained the meeting procedures. Mr. Dabareiner stated all items were properly published.

REGULAR AGENDA:

SP-01-16. Consideration, review and approval of the petition submitted by Bloomington Public Schools District 87 for (1) a Special Use for a noncommercial parking lot under the Municipal Code 44.10-4. All for the property located at 900 N. Roosevelt Avenue and 901 N. Roosevelt Avenue.

Chairman Ireland noted that SP-01-16 and Z-04-16 are related to the same properties and the presentations may consider both, but the actual vote by the Board members will treat them separately.

John Pratt, counsel for District 87, was sworn in. He introduced Dr. Barry Reilly, District 87 Superintendent, Mr. Cole Monahan, Facilities Director, and Jack Geringer, Principal of Bent Elementary School. Don Adams, from the Farnsworth Group was introduced as their engineer. Several members of the audience were also identified. Mr. Pratt noted appreciation for the City staff's guidance through this process. He added that one staff recommendation is for "denial" but staff agrees that should have read "approval" as the rest of the text indicates. Mr. Pratt explained District 87 operates Bent School, and the neighborhood has become more congested. One reason he offered was that a number of single family residences have been converted to multi-family residences. He added that the surrounding roads are very busy during the school year, with busses, cars and pedestrians. He believes that purchasing the two properties and converting them to a parking lot would be good for the school and the neighborhood. He reminded ZBA members of similar action taken a few years ago for one of their schools along Washington Street. Mr. Pratt noted the very poor conditions of the houses at both 900 and 901 Roosevelt. He added that District 87 conducted a neighborhood meeting and reviewed the plans; he believes the consensus was this would be a good decision to add off-street parking. He mentioned several supportive conclusions found in the City staff report and staff's positive recommendations.

Mr. Simeone asked how many parking spaces could be added without the variance; Mr. Pratt replied 16, but noted the school's desire to get as many cars off the street as possible. Mr. Briggs noted he was an itinerant teacher at this school several years ago and can understand the concerns behind this request; he asked Mr. Geringer, who was sworn in by the Chairman, if itinerant staff were still serving the school. Mr. Geringer affirmed that the school continues to have instructors that work different schools depending on the day; he added that reserving one or two spaces for those travelling staff members would be helpful.

Dr. John Lewis, 911 North Roosevelt, was sworn in. He noted his residence's location as it relates to the school's cafeteria and the common entrance used for evening events. He indicated that parking patterns of visitors make it very difficult to get in and out of his driveway. He supports any steps that will help resolve his concern and encouraged District 87 to buy even more land for off-site parking.

Ms. Simpson presented the City staff report. She stated that staff is in favor of the Special Use as recommended for a noncommercial parking lot. Ms. Simpson provided an overview of the area uses and zoning; she described the concern that the Special Use would address. She provided a copy of the parking lot site plan and described the fencing and landscaping intended to screen its impact from neighbors. She reviewed the standards for approval of a Special Use leading to staff's positive recommendation for the Special Use. Ms. Simpson also indicated City staff is in favor of the variances as requested. The setback requested is in line with existing structures along the block, she reported; also, by its nature, parking should be allowed in the front yard. She reviewed the Findings of Fact which led to staff's recommendation of support.

Mr. Briggs asked if the parking lot would be available to the public when otherwise not in use. Dr. Reilly was sworn in and indicated that the parking lot will not be gated off; the intention is to make the lot available for staff and by guests for school functions. He added signage will be placed on the parking lot with wording along these lines.

Chairman Ireland noted the receipt of an email for the Board members indicating "subtle opposition" to the parking lot from Andy Streenz. A second email in support was noted from Martin Rumbold.

Chairman Ireland requested a roll call vote on the Special Use Case SP-01-16, which was **approved** by a 5-0 vote as follows: Mr. Briggs—aye; Mr. Bullington—aye; Mr. Kearney—

aye; Mr. Simeone—aye; Chairman Ireland—aye. A positive recommendation will be sent to Council, reported Chairman Ireland.

Z-04-16. Consideration, review and approval of the petition submitted by Bloomington Public Schools, District 87 for: 1) A variance to allow parking in the front yard of a residential property under the Municipal Code 44.7-2.C.3(b). All for the property located at 900 N. Roosevelt Ave and 901 N. Roosevelt Ave. Zoned R-2, Mixed Residential District 2) A variance for a front yard setback of seven (7) feet in lieu of the required thirteen (13) feet under the Municipal Code 44.4-5.D. All for the property located at 900 N. Roosevelt Ave and 901 N. Roosevelt Ave. Zoned R-2, Mixed Residential District

Because the variance requests were discussed at the same time as the special use, and there being no further comments or questions, Chairman Ireland requested a roll call vote on the variance request Case Z-04-16, which was **approved** by a 5-0 vote as follows: Mr. Briggs—aye; Mr. Bullington—aye; Mr. Kearney—aye; Mr. Simeone—aye; Chairman Ireland—aye.

Z-05-16. Consideration, review and approval of the petition submitted by Farnsworth Group, on behalf of CEFCU for: 1) A variance to allow a front yard setback of twelve (12) feet in lieu of the required twenty (20) foot setback under the Municipal Code 44.4-5.F.1(a). All for the property located at 1114 S Veterans Parkway Zoned B-1, Highway Business District

Chairman Ireland introduced the next case. Laura Tobben of the Farnsworth Group, representing CEFCU, was sworn in to describe the variance request. Ms. Tobben described the proposed project along Veterans Parkway, which included a P.U.D. amendment in 2015. She noted that City staff recommends in favor of the variance, even those there was an error in the staff's report. Ms. Tobben explained that this was an oversight, that because the CEFCU property zoning is adjacent to the residential district, a 20 foot setback is required. She presented several consistency points in favor of the variance.

Mr. Dabareiner noted that this is a technicality in the code and the request is simply a need to make something legal that we all would agree is a unique circumstance. Ms. Simpson provided the City staff report, noting staff is in favor of the variance. She identified the abutting commercial and residential zoning districts which triggers the larger setback, even though significant right of way exists along that line. She provided the context for the property and recommendation. Ms. Simpson reviewed the Findings of Fact, which favored the affirmative recommendation. Mr. Briggs clarified where the setback line is placed; Mr. Dabareiner explained that the setback starts at the property line but the trigger is the abutting zoning districts.

Chairman Ireland requested a roll call vote on the variance request Case Z-05-16, which was **approved** by a 5-0 vote as follows: Mr. Briggs—aye; Mr. Bullington—aye; Mr. Kearney—aye; Mr. Simeone—aye; Chairman Ireland—aye.

OTHER BUSINESS:

Discussion of Role of City Attorney

Chairman Ireland noted this has been a topic to a minimal degree during a few meetings and added that the city attorney was sitting at the end of the dais today. He noted that a couple of

members were invited to discuss this with the mayor the next day, but suggested additional conversation during this meeting. Mr. Kearney indicated he did not have much more to add to his prior comments already on the record. He also mentioned his invitation to meet with the mayor and desire to put that on the record, explaining that the meeting appears to concern the Board and staff support to the Board, including potentially the city attorney, which should be of interest to all Board members. He asked if other Board members objected to his attendance. Mr. Bullington stated his belief that the location of the city attorney during these meetings is irrelevant because he does not get a vote. Mr. Briggs agreed that the city attorney cannot vote but the question is, should he participate in the discussion? Mr. Briggs believes the questions should come from Board members and noted the Board's unique role among other citizen boards and commission in the City.

Chairman Ireland reminded everyone that at the city attorney's first meeting last year, the petitioner want to call Mr. Boyle to testify, which was confusing for the Board. Mr. Simeone noted that he has brought cases before the Board and believes there is an assumption that the City is biased in these cases; he said it was important to avoid the appearance of bias. Mr. Bullington provided an analogy that a judge is going to have a legal clerk who will advise the judge, and the city attorney should be here to respond to questions of city law; he added that the city attorney gains more information by being present than he will merely listening to the audio afterwards, through the verbal given and take process. Mr. Bullington feels that it is easier for everyone to have the city attorney can give advice if the Chairman requests, but that he not volunteer advice or questions; Mr. Bullington replied that he would rather have the city attorney provide the advice before the Board takes steps which would make the Board's decision subject to a court challenge. Mr. Briggs agrees that the city attorney should interject in that scenario, but he should not offer up contradictory opinions on text interpretation unless asked.

Mr. Boyle stated that he saw the role as an advisor to the Board on legal matters. He agrees that he represents the City and noted that the ZBA is an extension of the City. He referenced a court case from 2013 which he had provided to Mr. Kearney, noting that someone appeared before the Board with a conflict of interest and the municipal attorney was recognized as being an extension of the that municipality. Mr. Boyle indicated he is sensitive to the need for a second attorney representing the City for a zoning case if there is a prosecutorial relationship between the original city attorney and the petitioner, but added this is a rare situation. He continued with several reasons why a City would want its attorney present during board and commission meetings: that it is important for the public interest to have an attorney able to consider procedural and due process concerns; that the attorney be present to understand the context for the advice being requested; and, to reduce the chance for litigation due to actions of the board or commission. Mr. Boyle stated that he believes his role is not to provide opinions, except on legal matters. He asked a question in one case because he felt it was germane to a due process issue and there had been sufficient pause in conversation among Board members that he thought the time was right to ask.

Mr. Briggs expressed concern about having the city attorney sitting next to the Chairman and the perception of giving quiet advice to the Chairman. Mr. Kearney indicated he needed to leave the meeting for another commitment, but reiterated his position on the meeting with the mayor before he left and asked if anyone objected to his meeting with the mayor.

Chairman Ireland stated that he does occasionally rely on staff for direction. The positive side is if the question is a legal one, the Chairman can rely on the attorney rather than the city planner. He believes most of the concerns expressed relate to perception concerns. Mr. Briggs feels that the nonvoting members and their roles should be revealed at the start of the meeting. Mr. Simeone believes the concerns could be resolved by having the city attorney in the room but not at the dais. Mr. Bullington does not see the difference between having the city planner or the city attorney sitting at the dais from a perception standpoint. Mr. Boyle indicated it is easier if he has access to a microphone, which is available at the dais. Chairman Ireland suggested allowing the new Chairman to decide where the attorney should sit.

Election of Chairman

Chairman Ireland noted that the Board asked for the election at the last meeting. Mr. Kearney nominated Mr. Simeone, who declined the nomination. Mr. Briggs noted that his term expires next year. Mr. Kearney nominated Mr. Briggs for Chairman; seconded by Chairman Ireland. Mr. Simeone nominated Mr. Bullington for Chairman; which failed for lack of a second. Chairman Ireland requested a roll call vote for Chairman which was **approved** by a 3-1-1 vote as follows: Mr. Briggs—present; Mr. Bullington—no; Mr. Kearney—aye; Mr. Simeone—aye; Chairman Ireland—aye. Mr. Briggs will take over the chairmanship at the March meeting.

NEW BUSINESS: None.

ADJOURNMENT: 5:26PM

Respectfully,

Tom Dabareiner AICP

CITY OF BLOOMINGTON REPORT FOR THE BOARD OF ZONING APPEALS MARCH 16, 2016

SUBJECT:	TYPE:	SUBMITTED BY:
SP-02-16 1015 ½ E. Front St.	Special use to allow a two-family dwelling	Katie Simpson, City Planner

REQUEST

The petitioner is seeking a special use to allow a two-family dwelling in the R-1C, High-density single family, zoning district. Two-family dwellings are allowed in this district with a special use.

NOTICE

The application has been filed in conformance with applicable procedural and public notice requirements.

GENERAL INFORMATION

Owner and Applicant: Frederick Kuppersmith

PROPERTY INFORMATION

Existing Zoning:	R-1C, High Density Single-Family Residence District
Existing Land Use:	Residential
Property Size:	Approximately 4830 square feet (60' X 80')
PIN:	21-03-307-046

Surrounding Zoning and Land Uses

Zoning	Land Uses
North: R-1C, Single-Family Residence District	North: Single-family dwelling
South: R-3A, Multiple-Family Residence District	South: Mixed-use design studio and home
East: R-1C, Single-Family Residence District	East: Single-family dwelling
West: R-1C, Single-Family Residence District	West: Single-family dwelling

<u>Analysis</u>

Submittals

This report is based on the following documents, which are on file with the Community Development Department:

- 1. Application for a special use
- 2. Site Plan
- 3. Aerial photographs
- 4. Site visit

PROJECT DESCRIPTION

The subject site is commonly known as $1015 \frac{1}{2}$ E. Front Street and is located between McClun Street and State Street. The site exists within the R-1C High Density Single-Family Residential District. The district allows for densities of approximately 6.6 dwellings but requires a special use. Both duplexes and multi-family buildings are found elsewhere nearby. The existing lot is 4,830 square feet.

The lot was previously zoned R-2 Mixed Residential District and was improved with a twofamily residence. In 1979, after rezoning the property to R-1C, the duplex at 1015 ½ E Front was allowed as a legal nonconformity. For several years the structure was used as a single family home, and consequentially, lost legal nonconforming status as a duplex.

To conform to regulations of the R-1C District, the petitioner is requesting a special use permit to allow for a two-family dwelling use. The petitioner proposes no changes to the existing structure or lot.

Action by the Board of Zoning Appeals.

For each special use application the Board of Zoning Appeals shall report to the Council its findings of fact and recommendations, including the stipulations of additional conditions and guarantees, when they are deemed necessary for the protection of the public interest or to meet the standards as specified herein. No special use application shall be recommended by the Board of Zoning Appeals for approval unless such Board shall find:

- 1. that the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, comfort or general welfare; the R-1C district contemplates single-family and two-family dwelling units, both of which currently exist on this block. The property previously operated as a legal nonconforming duplex. The petitioner is seeking to establish a duplex as a special use in conformance with the R-1C District.
- 2. that the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood; the property has existed as a two-family dwelling for several decades. No noticeable change or impact will be visible to the neighborhood.
- **3.** that the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the zoning district; the surrounding properties include both single-family and multi-family structures. The property previously existed as a two-family dwelling.
- 4. that adequate utilities, access roads, drainage and/or necessary facilities have been or will be provided; utilities and drainage currently exist and will be in compliance with city code.

- 5. that adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; all ingress and egress is existing; no new access is proposed.
- 6. that the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may be modified by the Council pursuant to the recommendations of the Board of Zoning Appeals. (Ordinance No. 2006-137) Section 44.10-4 requires a minimum lot width of 70 feet for a special use duplex permit. The lot, as it exists, is 60 feet wide and meets the minimum lot standards for the R-1C District. The lot is a legal lot and construction of the duplex was lawfully carried out prior to the amendment of the code. The petitioner proposes no changes to the existing structure, which has existed for decades as a two-family house. To require the petitioner to meet the minimum lot size for 44.10-4 would create undue physical hardship.

STAFF RECOMMENDATION:

Staff finds that the petition has met the Zoning Ordinance's standards required to allow a special use. Staff recommends **approval** of the requested **special use** in Case SP-02-16.

Respectfully submitted,

Katie Simpson, City Planner

Attachments:

- Petition
- Exhibit A-Legal Description
- Draft Ordinance
- Site Plan
- Zoning Map
- Aerial Photos
- Site Photos
- Neighborhood Notice Map and List of Addresses Notified

PETITION FOR A SPECIAL USE PERMIT FOR PROPERTY LOCATED AT: [0]5¹/2 <u>E. Front Street</u>

State of Illinois

County of McLean

TO: THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF BLOOMINGTON, MCLEAN COUNTY, ILLINOIS

Now come(s) Kuppersmith _____

)ss.

hereinafter referred to as your petitioner(s), respectfully representing and requesting as follows:

- 1. That your petitioner(s) is (are) the owner(s) of the freehold or lesser estate therein of the premises hereinafter legally described in Exhibit(s)_____, which is (are) attached hereto and made a part hereof by this reference, or is (are) a mortgagee or vendee in possession, assignee of rents: receiver, executor (executrix); trustee, lease, or any other person, firm or corporation or the duly authorized agents of any of the above persons having proprietary interest in said premises;
- 2. That said premises presently has a zoning classification of $\frac{1}{1000}$ under the provisions of Chapter 44 of the Bloomington City Code, 1960;
- 3. That under the provisions of Chapter 44, Section 44.6-30 of said City Code <u>AUDIPYP5</u>, are allowed as a special use in a <u>R-3A</u> zoning district;
- 4. That the establishment, maintenance, or operation of said special use on said premises will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
- 5. That said special use on said premises will not be injurious to the use and enjoyment of other property in the immediate vicinity of said premises for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;

- 7. That the exterior architectural treatment and functional plan of any proposed structure on said premises will not be so at variance with either the exterior architectural treatment and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district, as to cause a substantial depreciation in the property values within the neighborhood adjacent to said premises;
- 8. That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided to said premises for said special permitted use;
- 9. That adequate measures have been or will be taken to provide ingress and egress to and from said premises so designed as to minimize traffic congestion in the public streets; and
- 10. That said special permitted use on said premises shall, in all other respects, conform to the applicable regulations of the 1-3A zoning district in which it is located except as such regulations may, in each instance, be modified by the City Council of the City of Bloomington pursuant to the recommendations of the Bloomington Board of Zoning Appeals.

WHEREFORE, your petitioner(s) respectfully pray(s) that said special use for said premises be approved.

Respectfully submitted.

Legal Description

_____ The North 80 feet of Lot 49 in E. Roger's Addition to the City of Bloomington, in McLean County, Illinois,

ORDINANCE NO.

AN ORDINANCE APPROVING A SPECIAL USE PERMIT FOR A

DUPLEX in the R-1C DISTRICT

FOR PROPERTY LOCATED AT: 1015 ¹/₂ E. Front Street

WHEREAS, there was heretofore filed with the City Clerk of the City of Bloomington, McLean County, Illinois, a petition requesting a Special Use Permit for a Duplex in the R-1C District for certain premises hereinafter described in Exhibit(s) A; and

WHEREAS, the Bloomington Board of Zoning Appeals, after proper notice was given, conducted a public hearing on said petition; and

WHEREAS, the Bloomington Board of Zoning Appeals, after said public hearing made findings of fact that such Special Use Permit would comply with the standards and conditions for granting such special permitted use for said premises as required by Chapter 44, Section 44.10-3C of the Bloomington, City Code, 1960; and

WHEREAS the City Council of the City of Bloomington has the power to pass this Ordinance and grant this special use permit.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Bloomington, McLean County, Illinois:

1. That the Special Use Permit for a duplex on the premises hereinafter described in Exhibit(s) A shall be and the same is hereby approved.

2. This Ordinance shall take effect immediately upon passage and approval.

PASSED this _____ day of _____, 20____.

APPROVED this _____ day of _____, 20____.

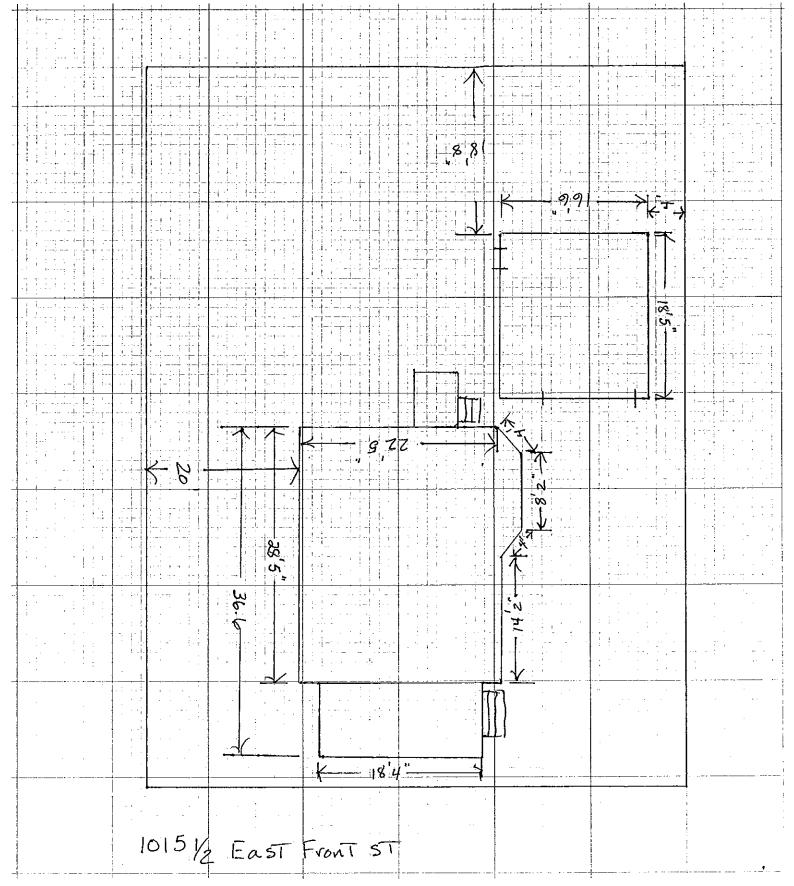
Mayor

ATTEST:

City Clerk

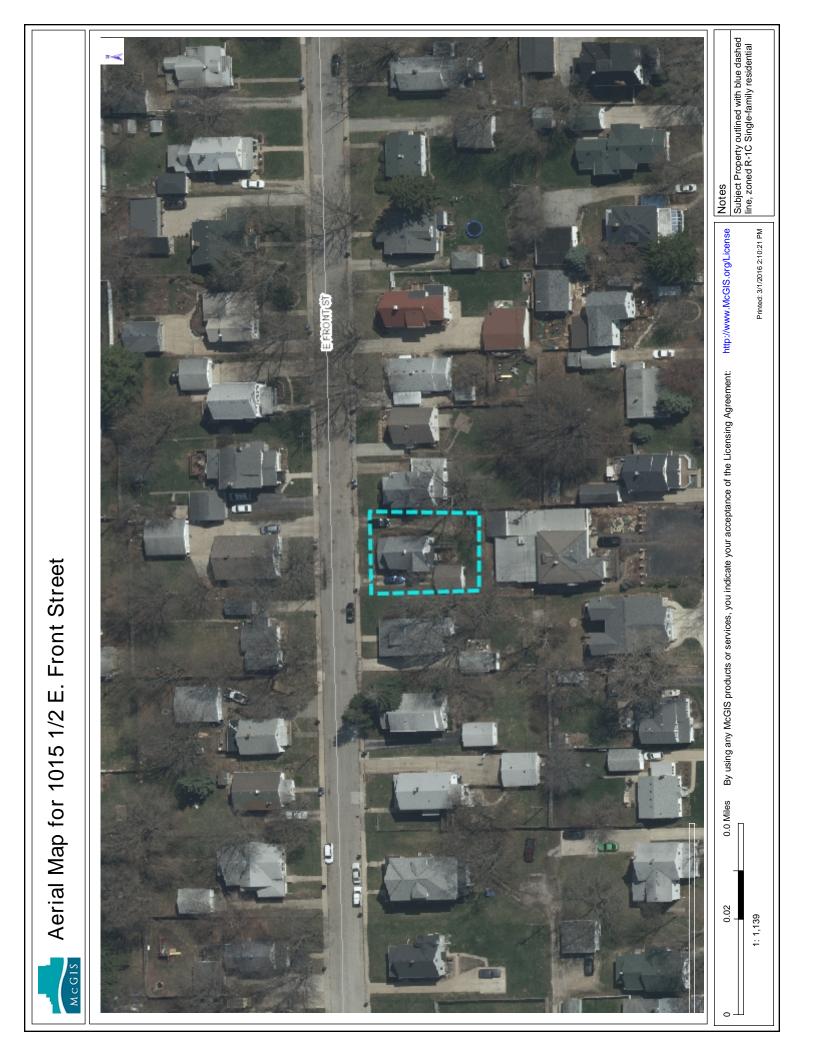


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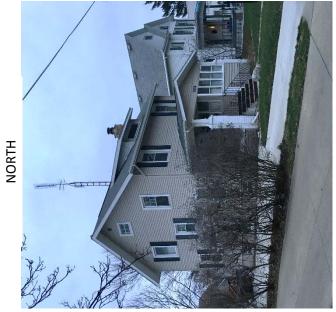
















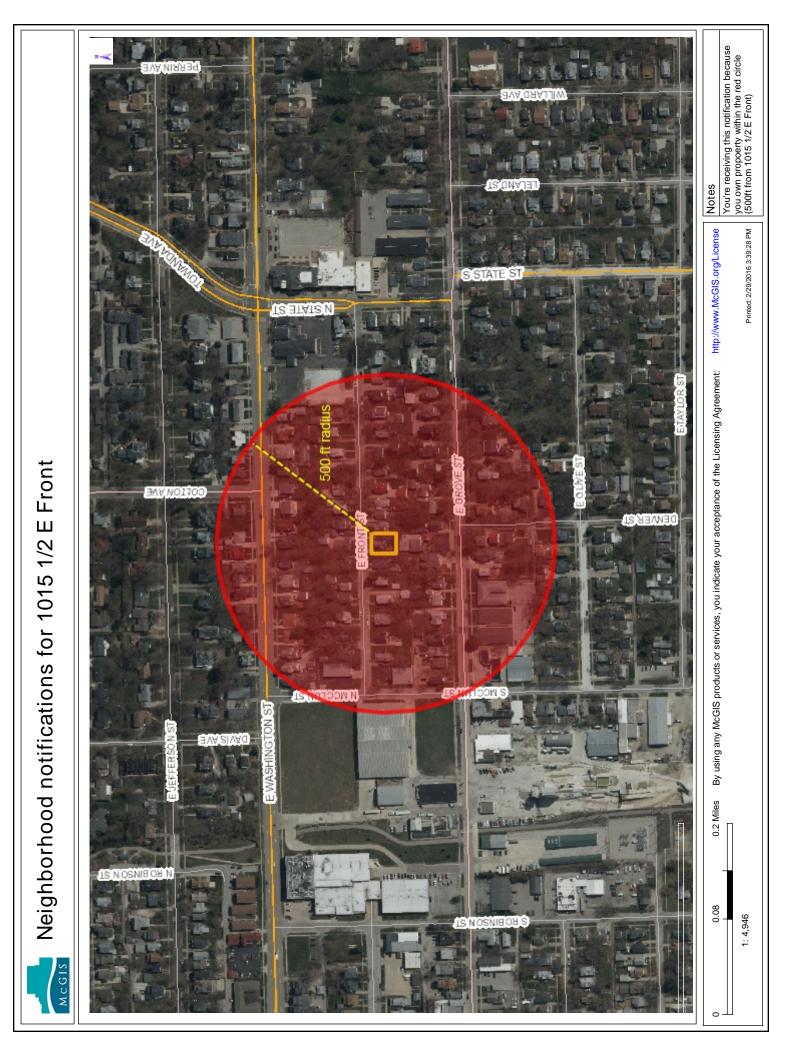




1015 ½ E FRONT STREET



EAST



% RAND VEERMAN RPLA LLC 6 THOMAS DR NORMAL IL 61761

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BRENT LAGE 18486 N 4100 EAST RD ANCHOR IL 617209634

BRYAN FINN 1002 E GROVE ST BLOOMINGTON IL 617014204

CHRISTOPHER FROMAN 1005 E WASHINGTON BLOOMINGTON IL 61701

DAVE BURCHAM PO BOX 1009 BLOOMINGTON IL 61702

DAVID MARQUARDT 1006 E FRONT ST BLOOMINGTON IL 617013732

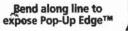
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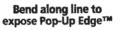
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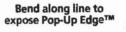
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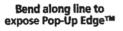
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