

**MINUTES OF A REGULAR MEETING  
URBANA ZONING BOARD OF APPEALS**

**DATE:** October 19, 2011  
**TIME:** 7:30 p.m.  
**PLACE:** Urbana City Building  
City Council Chambers  
400 S. Vine Street  
Urbana, IL 61801

**APPROVED**

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<b>MEMBERS PRESENT</b>	Paul Armstrong, Stacy Harwood, Charles Warmbrunn, Harvey Welch
<b>MEMBERS EXCUSED</b>	Nancy Uchtmann
<b>STAFF PRESENT</b>	Jeff Engstrom, Planner II; Teri Andel, Planning Secretary; Tom Carrino, Economic Development Manager
<b>OTHERS PRESENT</b>	Andrew Fell, Scott Kunkel

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**1. CALL TO ORDER, ROLL CALL AND DECLARATION OF QUORUM**

Chair Armstrong called the meeting to order at 7:31 p.m. Roll call was taken, and a quorum was declared present.

**2. CHANGES TO THE AGENDA**

There were none.

**3. APPROVAL OF MINUTES**

The minutes from the July 20, 2011 Zoning Board of Appeals regular meeting were presented for approval. Mr. Warmbrunn asked for a correction to Line 3 of the second paragraph from the bottom on page 2: “findings for the ~~Plan Commission~~ Zoning Board of Appeals’ review: ...”. He then moved to approve the minutes as corrected. Ms. Harwood seconded the motion. The minutes were approved by unanimous voice vote as amended.

**4. WRITTEN COMMUNICATIONS**

The following written communications were distributed at the meeting:

- Letter from Wesley Curtis, Associate University Counsel
- News-Gazette article titled, “*Campus parking permit sales on downward trend?*”
- News-Gazette article titled, “*Campus parking permit sales down over past few years*”

NOTE: Chair Armstrong swore in audience members planning to address the Zoning Board of Appeals regarding the public hearing during this meeting.

## 5. CONTINUED PUBLIC HEARINGS

There were none.

## 6. NEW PUBLIC HEARINGS

**Case No. ZBA-2011-MAJ-03: A request by Illinois Properties, LLC for a major variance to reduce the required amount of parking spaces for a mixed-use development at 1108 West Nevada Street, 1105 and 1007 West Oregon Street in the CCD, Campus Commercial Zoning District.**

Jeff Engstrom, Planner II, presented this case to the Zoning Board of Appeals. He explained the proposed major variance and that the Zoning Board of Appeals needs a two-thirds majority vote for the application to be forwarded to the City Council. He mentioned the rezoning and special use permit requests that are related to the proposed variance application. The Plan Commission will review both at their next meeting. He noted the location, land use, zoning designations and future land use designations for the proposed site and for surrounding properties. He discussed conformity with the 2005 Comprehensive Plan. He discussed the site design and development regulations including setbacks, Open Space Ratio (OSR), Floor Area Ratio (FAR) and parking requirements. He reviewed the criteria from Section XI-3 of the Urbana Zoning Ordinance that pertains to the proposed major variance request. He read the options of the Zoning Board of Appeals and presented staff’s recommendation.

Chair Armstrong asked what consideration had been given to reducing the parking requirements for developments in the CCD (Campus Commercial District). Is there a difference in the required amount of spaces for apartments that are located very close to campus versus apartments that might be more remote? Mr. Engstrom replied that the Zoning Administrator and City staff are reviewing whether or not the CCD parking requirements for residential are generally too high. The demand for parking on campus has apparently changed since 2001 when the CCD was created.

Mr. Warmbrunn asked if any newly zoned CCD properties would likely be in this same area. Mr. Engstrom responded that this area makes the most sense because it is really the only campus-town type area in Urbana. Most campus businesses are located in the City of Champaign.

Mr. Warmbrunn asked what information City staff used to conclude that students were now bringing fewer cars to campus. Mr. Engstrom clarified that the information primarily came from quotes of University officials in the newspaper articles provided in the packets.

Ms. Harwood questioned whether students are parking in the neighborhoods near campus and riding their bicycles to class. She sees this happen in her neighborhood. Mr. Engstrom said that they do not know.

Ms. Harwood asked if the Gregory Place Development was fully rented out. Do the residents of the Gregory Place park at the Krannert Center? She wanted to know if there was an impact of not having enough parking. Mr. Engstrom pointed out that there was a representative from JSM Development who may be able to answer questions about parking demand for Gregory Place. He believes that all of the parking spaces provided for the Gregory Place are occupied.

Ms. Harwood asked if the University of Illinois leases parking spaces to tenants/residents of any development. Mr. Engstrom stated that off-site parking for Gregory Place is provided by leasing spaces from the University of Illinois.

Mr. Welch remarked that he questions the premise that fewer students are driving. The newspaper articles could be referring to students, workers, visitors, etc. The difficulty of finding a parking spot may decrease that type of need for parking, but it will be different for residents. The proposed reduction is quite striking when comparing with the number of beds/residents. Mr. Engstrom explained that if City staff prepares a Zoning Ordinance text amendment they would look into these statistics more closely.

Mr. Warmbrunn asked where the 11 commercial parking spaces would be located. Mr. Engstrom stated that they have not been designated yet. Mr. Warmbrunn asked if they are only required to provide 2 handicap parking spaces. Mr. Engstrom replied that the number shown on the site plan would meet the City's requirement.

Mr. Warmbrunn referred to the letter they received from Wesley Curtis, Associate University Counsel for the University of Illinois. Is it safe to say that the City of Urbana has a Comprehensive Plan and the University of Illinois has a Master Plan and they are not the same? Mr. Engstrom said yes. The plans conflict for future use of this particular property. The University's Master Plan shows a 17,000 square foot academic facility on the northern half of the proposed site.

Ms. Harwood asked how the City resolves conflicting plans. Mr. Engstrom responded that for properties that the University of Illinois owns, they follow their Master Plan and for properties not owned by the University of Illinois, City staff follows the City's 2005 Comprehensive Plan. The University of Illinois in following their Master Plan can always negotiate with property owners for land purchase.

With no further questions for City staff from the Zoning Board of Appeals, Chair Armstrong opened the public hearing.

Andrew Fell, architect and applicant, explained that the requested variance would reduce the residential parking for this project to the same as residential parking required in every other district. The CCD Zoning District is the only district with a higher residential parking

requirement. With the higher parking requirement, any developer is almost forced to lease parking off-site from the University because constructing that much onsite parking isn't economically viable.

Ms. Harwood asked if he had any concerns that there will not be enough residential parking. Mr. Fell replied that if there is not enough parking provided, then the residents would have to find parking elsewhere. They are unable to impact the immediate area because all of the on-street parking is short-term metered parking and all of the long-term parking is leased from the University of Illinois. The other option is that the petitioner provides off-street parking within 600 feet of the site. This is unlikely because the University owns almost all nearby land.

Ms. Harwood asked if other apartment buildings have experienced a lack of parking. Mr. Fell responded that he could not speak directly to this. If the Council fails to rezone to CCD, then the parking requirements would be less. JSM fulfills their residential parking requirement for Gregory Place II, which is zoned CCD, by leasing parking from the University.

Ms. Harwood asked City staff how any unmet need for parking would be accommodated, whether on street or elsewhere. Mr. Engstrom answered that the Zoning Board of Appeals needs to determine if there is really a need to provide this much parking. Ms. Harwood responded that the Zoning Board of Appeals can't determine the parking demand.

Mr. Warmbrunn questioned if the reason for the rezoning from R-6, High Density Multiple-Family Residential, to CCD is because of the commercial aspect of the proposed development. Mr. Fell said yes in part. The other part is that it is the vision of the City of Urbana to rezone it away from residential to mixed uses.

Mr. Warmbrunn asked whether they had considered building apartments under the existing R-6 zoning. Mr. Fell said yes, but part of the zoning regulations is that there is a much lower FAR and greater setbacks for the R-6 Zoning District.

Scott Kunkel, of JSM Development, stated that Gregory Place was required through its Special Use Permit to lease parking with the University of Illinois concurrent with the duration of the land lease. So both JSM and the University of Illinois are obligated to provide parking complying with CCD standards. JSM Development has no objections to the proposed rezoning and special use permit requests for this development and supports mixed use at this location. But he has concerns about granting a parking variance. He then reviewed three of the five criteria that are associated with approving a major variance.

*Criteria #1 – 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.*

This criteria is the one that JSM has the greatest problem with. There are not any special circumstances that JSM can identify or associate with the land or the building. The proposed three lots are all standard size lots for this district and this block. If the available site area is

inadequate for the proposed development, the petitioner has options to either acquire additional land and if that is not possible then they can reduce the project scope. Financial challenges associated with either of these solutions should not be a basis for a variance.

Gregory Place was developed on three identically sized lots in a mirror image of the proposed development. They acquired the amount of parking needed by entering an agreement with the University of Illinois to provide leased parking spaces. JSM made a substantial upfront payment to the University, and they make annual payments to the University as well to provide parking.

The CCD Zoning District affords a number of benefits to a user that the petitioner is really relying on, including reductions in minimum open space ratio, floor area ratio, and building setback requirements, as well as elimination of building height limits. These afford benefits to potential developments but at the same time expect enhanced residential parking. Also the zoning standards encourage commercial development in the CCD by substantially reducing parking for that aspect. So the petitioner is able to leverage the majority of the comparative advantages of the CCD zoning regulations while not wanting to adhere to the one specific disadvantage. Granting a variance would be a special privilege.

*Criteria #2 – The variance requested was not the result of a situation or condition having been knowingly or deliberately created by the Petitioner.*

Mr. Kunkel stated that the exact opposite is true. The proposed major variance request is a direct result of a situation created by the petitioner. The petitioner is requesting the rezoning of the site from R-5 to CCD. He also needs to understand and be willing to accept the disadvantages that might also accrue to him as well. He can elect to reduce the amount of residences and increase commercial space in the project. A lack of financial viability of a development with fewer residences does not mitigate the requirements to abide by the district's regulations.

*Criteria #5 – The variance represents generally the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request.*

Mr. Kunkel stated that JSM does not feel that any deviation is necessary to build a mixed-use project on the proposed site. The only need for a deviation arises when the desire to include too much residential use in the overall mixed-use component is evident. The petitioner could readily minimize the required deviation to zero by reducing the residential density.

Ms. Harwood asked if he would reduce the parking for Gregory Place if given the option. Mr. Kunkel answered that this is a hard question to answer. JSM weighs this all the time in terms of what role does parking play in their ability to successfully market their units at Gregory Place. They currently only have four vacancies out of several hundred parking spaces between the two developments. There has been a pretty substantial demand for parking. JSM is concerned that their apartments would not rent if they had insufficient parking. They want to insure up front that they have the right mix because it would be difficult to correct later.

Mr. Warmbrunn asked the height of the Gregory Place I and the Gregory Place II buildings. Mr. Kunkel stated that Gregory Place I is four stories tall with the first floor commercial with the

remainder being apartments. Gregory Place II is five stories with three floors of residential. They would have liked to have more residential density on the two sites, but parking was a limiting factor for them because the bulk of the development requirements associated with the CCD District.

Ms. Harwood asked whether students pay higher rent if they have assigned parking. Mr. Kunkel responded no, not in rent, but some are willing to pay additionally for dedicated parking.

Mr. Welch asked how parking is assigned for Gregory Place. Mr. Kunkel explained that they make sure every apartment unit has access to one parking space to begin with, then beyond that it is a first come, first serve basis. They do have a few parking spaces that they hold out as an enticement for commercial marketing.

Mr. Armstrong clarified whether JSM's main concern is with Criteria #1. Mr. Kunkel said that is correct.

There was no further comment or questions from the audience, so Chair Armstrong closed the public hearing and opened it to Board discussion and/or motion(s).

Mr. Warmbrunn asked why the application was brought before the Zoning Board of Appeals prior to rezoning and Special Use Permit approval. He believes the variance request should be heard after other approvals. Mr. Engstrom explained that it is just timing with how the meetings are set up. The Plan Commission meets twice a month, and the Zoning Board of Appeals meets once monthly.

Mr. Warmbrunn questioned whether the Plan Commission would be considering any of the parking issues. Mr. Engstrom replied that the Plan Commission would touch on the parking issue, but the rezoning and Special Use Permit are separate considerations.

Mr. Warmbrunn asked if the City Council would have to approve everything. Mr. Engstrom replied yes.

Mr. Welch agreed with Mr. Warmbrunn. Without rezoning, the variance recommendation would be mute. The Plan Commission should make their recommendation before the Zoning Board of Appeals makes its recommendation.

Mr. Welch moved to continue the case until the City Council takes action on the related rezoning and SUP applications. Ms. Harwood seconded the motion. She also recommended that the City staff follow through with a Zoning Ordinance text amendment reducing the parking requirements in the CCD Zoning District prior to returning to the Zoning Board of Appeals with this application.

Chair Armstrong agreed. By default the Zoning Board of Appeals would be making policy or setting precedent for policy if they recommended approval of the proposed variance based on the assumption that all these things are true. They would be basing a variance on anecdotal

evidence, and staff is unclear what the outcome would be of a parking demand study for this area. In this case the evidence is very cloudy. Therefore, he supports continuing this case.

Roll call on the motion was taken and was as follows:

Ms. Harwood	-	Yes	Mr. Warmbrunn	-	Yes
Mr. Welch	-	Yes	Mr. Armstrong	-	Yes

The motion was approved by unanimous vote.

**7. OLD BUSINESS**

There was none.

**8. NEW BUSINESS**

There was none.

**9. AUDIENCE PARTICIPATION**

There was none.

**10. STAFF REPORT**

There was none.

**11. STUDY SESSION**

There was none.

**12. ADJOURNMENT OF MEETING**

Mr. Warmbrunn moved to adjourn the meeting. Mr. Welch seconded the motion. Chair Armstrong adjourned the meeting at 8:35 p.m.

Respectfully submitted,

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Robert Myers, AICP, Secretary  
 Urbana Zoning Board of Appeals