



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Mayor Diane Wolfe Marlin and City Council
FROM: John A. Schneider, MPA, Director, Community Development Services Department
DATE: February 7, 2019
SUBJECT: **An Ordinance Approving a Major Variance** (401 North Broadway Avenue / ZBA-2018-MAJ-10).

This is a supplemental memo to provide an update to City Council and to request a vote to approve or deny the major variance request in case ZBA-2018-MAJ-10. Staff recommends City Council **CONDITIONALLY APPROVE** a portion of the request for a major variance.

Background

On November 5, 2018, City Council considered a request for a major variance to allow a parking lot configuration at 401 North Broadway Avenue (“Broadway Food Hall”) that does not meet the minimum design standards of the zoning ordinance. After discussing the request at length, City Council voted to send the request to the Committee of the Whole to give staff and the property owners time to work on potential solutions to the parking issues at the Broadway Food Hall.

City staff subsequently met with Matt Cho, one of the property owners, on November 15, 2018, to discuss the parking issues. Ultimately, an offer to share the cost of narrowing a driveway on the site was presented to Mr. Cho, and it was agreed upon that he would bring the offer to his co-owners and let staff know if they were amenable to the offer. There have been follow up efforts made by city staff since then, but no resolution has been arrived at. In the meantime, the unsafe parking conditions identified by staff have continued to be observed at the Broadway Food Hall. Per Section XI-3.C.2.d.4 of the Urbana Zoning Ordinance, **Council must approve or deny a major variance request within 120 days of the date the Zoning Board of Appeals made its recommendation.** The Zoning Board met on October 17, 2018 and recommended conditional approval of the variance. Council must therefore approve or deny the request by February 14, 2019. If no decision is made by that date, the request will be automatically approved.

Staff strongly recommends that City Council **CONDITIONALLY APPROVE** a portion of the major variance request, due mainly to the unsafe parking conditions that approval would perpetuate, as well as the reasons outlined in the staff memo dated November 1, 2018 (linked below).

For more information and background on the requested variance, please see the attached staff memo from November 1, 2018 (available online at: https://www.urbanainillinois.us/sites/default/files/attachments/Ordinance_2018-11-073_all.pdf)

City Council Meeting

City Council considered the major variance request on November 5, 2018. While the Zoning Board of Appeals recommended conditional approval of the variance, the Zoning Board’s recommendation conflicted with Section 20-505 of the Urbana Municipal Code of Ordinances, which requires the closure of abandoned

driveways. Staff recommended revised conditions to the Council to reflect what is allowable in granting a major variance.

Matt Cho, co-owner of the property, appeared before the Council and spoke about the costs of closing the curb. He stated that he did not perceive safety issues with the current parking configuration, and noted that people driving cars rarely back out onto Broadway Avenue and prefer using the northern driveway.

Jim Simon, City Attorney, helped the City Council understand which conditions given by the Zoning Board of Appeals could be considered, and recommended that Council consider the revised conditions presented by staff, which removed conditions that contradicted the Urbana Municipal Code. Mr. Simon also discussed the liability that the city would assume if a parking configuration is approved that does not meet City standards.

Safety Concerns

City staff (and others) have frequently observed cars at the Broadway Food Hall parked either partially or fully blocking the sidewalk and at times, parking within the right-of-way. These conditions, documented in photos in Exhibit G, correspond to the liability concerns raised by City Attorney Jim Simon at the City Council meeting on November 5, 2018. In the event that a person using the sidewalk along Broadway Avenue, the bike lane, or Broadway Avenue itself, is injured as a result of a known safety issue caused by this parking configuration, the City might be held liable since the City would be deemed to be aware of the problematic condition and took no steps to require the developer to correct it. Liability concerns notwithstanding, the City Council should not approve an unsafe parking lot in any case, especially when measures can be taken to ensure a safer configuration.

Other Downtown Parking

In a letter dated October 17, 2018, Richard Grossi, co-owner of the property, identified other locations in Downtown Urbana where the parking was perceived to be not in conformity with the Urbana Zoning Ordinance. Staff analyzed each of the parking lots Mr. Grossi identified.

Of the 24 locations identified:

- 14 have drive aisles less than 23'-wide, which is allowed for angled parking;
- 5 contain legally non-conforming parking lots;
- 1 was granted a variance;
- 2 legally back out into alleys;
- 1 has a right-of-way agreement to park in the City right-of-way;
- 1 shows vehicles parking in a drive aisle (not a striped parking space);
- None violate the Zoning Ordinance (see Exhibit 2 for full details on each location).

In addition, the City of Urbana has approved only four major variances, city-wide, to allow parking spaces that back out into a public street. In each of those cases, there were circumstances that were not created by the petitioners that necessitated the variance.

Options Provided to Petitioner

After the November 5, 2018, City Council, there have been several attempts by staff to resolve the parking issues at the Broadway Food Hall. Staff met with Mr. Cho on November 15, 2018, and ultimately offered to provide all site engineering work free of charge, and to split the costs of constructing a new curb on the site with the property owners. This would provide significant cost savings to the petitioner, and while the City is under no obligation to cost-share in this situation, it is in the City's best interest to provide a safe environment for people driving, walking, riding bikes, or otherwise enjoying our city streets and businesses.

Staff estimated the engineering and construction costs to narrow the driveway is approximately \$20,000 (see Exhibit 5 for a diagram of this option). With the City's engineering staff doing the site engineering work for the curb, and the City of Urbana splitting the costs of the construction with the petitioner, it was estimated that the petitioner would likely have to pay at most \$7,500 to remedy the issues at the Broadway Food Hall. The petitioner asked for, and was given, time to consult with his co-owners about the cost-sharing proposal. City staff has reached out to Mr. Cho to ascertain if he consulted with his partners on the project. To date, Mr. Cho has not substantially responded to City staff inquiries.

Options

The Urbana City Council has the following options for this case:

1. **Approve** the variance notwithstanding the concerns and issues expressed in this memo; or
2. **Approve the variance with certain terms and conditions**, and if so, articulate all terms, conditions, and findings; or
3. **Deny** the variance request, and if so, articulate findings supporting the denial.

Recommendation

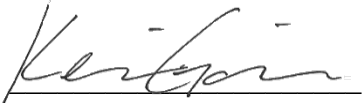
The Zoning Board of Appeals recommended **CONDITIONAL APPROVAL** of a Major Variance to City Council that would allow the two longest spaces on the north side of the lot to remain as compact spaces for employees, in addition to two other conditions: to add wheelstops to the southern parking spaces, but not require the curb to be closed. The latter two conditions cannot be granted, because they would waive Section 20-505 of the Urbana Municipal Code. Variances can only waive requirements of the Zoning Ordinance, not the Municipal Code. On November 5, 2018, staff recommended **CONDITIONAL APPROVAL** of the following revised conditions, and continues to stand by these recommendations.

Recommended Conditions:

1. Only the requests pertaining to the two southernmost parking spaces adjacent to the northeastern part of the building be granted. Those spaces, with the dimensions specified in Exhibit 4, are allowed to back directly onto Broadway Avenue and must be signed to indicate that they are for employees only and for compact cars only;
2. Bollards or planters must be installed in the two northernmost parking spaces to prevent automobiles from parking there;
3. Wheelstops must be installed in all parking spaces that abut the public sidewalk, with the exception of the two spaces referenced in Condition 1 above;

4. The southern driveway must be removed and replaced with a new barrier curb and streetscaping to match the existing streetscape on Broadway Avenue. The driveway may be partially closed if an access drive is installed that meets the standards of the Zoning Ordinance and City Code.

Prepared by:



Kevin Garcia, AICP
Planner II

- Attachments:
- 1: Recent Photos of Parking at Broadway Food Hall
 - 2: Staff Analysis of Downtown Parking Lots Identified by Mr. Grossi
 - 3: Council Minutes, November 5, 2018
 - 4: Staff Recommendation (Site Plan)
 - 5: Option Presented to Mr. Cho to Narrow Driveway

ORDINANCE NO. 2018-11-073

AN ORDINANCE APPROVING A MAJOR VARIANCE

(401 North Broadway Avenue / ZBA-2018-MAJ-10)

WHEREAS, the Urbana Zoning Ordinance provides for a major variance procedure to permit the Zoning Board of Appeals and the Corporate Authorities to consider applications for a major variance where there is a special circumstance or condition with a parcel of land or a structure; and

WHEREAS, Andrew Fell, on behalf of Broadway Market LLC, has submitted a petition for a major variance to allow four parking spaces that back directly onto Broadway Avenue and to allow 24 parking spaces that do not meet the minimum parking space dimensions; and

WHEREAS, the Zoning Board of Appeals held a public hearing on such petition at 7:00 p.m. on October 17, 2018, in ZBA Case No. 2018-MAJ-10; and

WHEREAS, in accordance with Urbana Zoning Ordinance Section XI-10, due and proper notice of such public hearing was given by publication in *The News-Gazette*, a newspaper having a general circulation within the City, on a date at least 15 days but no more than 30 days before the time of the public hearing, and by posting a sign containing such notice on the real property identified herein; and

WHEREAS, the Zoning Board of Appeals voted six (6) ayes and zero (0) nays to forward the case to the Urbana City Council with a recommendation to approve the requested variance with conditions; and

WHEREAS, the City Council finds that the requested variance conforms with the major variance procedures in Article XI, Section 3(C)(2)(d) of the Urbana Zoning Ordinance; and

WHEREAS, the City Council has considered the variance criteria established in the Urbana Zoning Ordinance and made the following findings of fact:

1. Andrew Fell, on behalf of Broadway Market LLC, requests a Major Variance to allow 24 substandard parking spaces, and four of which must back directly onto Broadway Avenue, at 401 North Broadway Avenue in the B-4, Central Business District.
2. The Zoning Board of Appeals held a public hearing for the variance request on October 17, 2018. The Board recommended that City Council approve the request, with conditions, by a vote of 6 to 0. One of the conditions pertained to the Urbana City Code, and cannot be allowed by granting a variance.
3. There are no special circumstances or practical difficulties in carrying out the requirements of the ordinance with respect to the property. Additional parking spaces could be installed that comply with the ordinance requirements.
4. The variance request would serve as a special privilege to the property owner if granted. There are no special circumstances relating to the land or structure that are not applicable to other properties in the district.
5. The variance request is a direct result of a situation knowingly created by the property owner. The owner was advised to submit revised plans to the city prior to installing parking that differed from the approved plans. The owner did not submit new plans prior to having the parking lot striped.
6. The variance request will not alter the essential character of the neighborhood.
7. The variance request will not cause a nuisance to adjacent properties.
8. The variance request does not generally represent the minimum deviation from the requirements of the Zoning Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1.

In ZBA Case No. 2018-MAJ-10, the major variance requested by Andrew Fell, on behalf of Broadway Market LLC, to allow four parking spaces that back directly onto Broadway Avenue and to allow 24 parking spaces that do not meet the minimum parking space dimensions, is hereby approved in the manner proposed in the application with the following conditions:

1. Only the requests pertaining to the two southernmost parking spaces adjacent to the northeastern part of the building are granted. Those spaces, with the dimensions specified in Exhibit G, are allowed to back directly onto Broadway Avenue and must be signed to indicate that they are for employees only and for compact cars only;
2. Bollards or planters must be installed in the two northernmost parking spaces to prevent automobiles from parking there;
3. Wheelstops must be installed in all parking spaces that abut the public sidewalk, except for the two spaces referenced in Condition 1 above;
4. The southern driveway must be removed and replaced with a new barrier curb and streetscaping to match the existing streetscape on Broadway Avenue. The driveway may be partially closed if an access drive is installed that meets the standards of the Zoning Ordinance and City Code.

The major variance described above shall only apply to the property, more particularly described as follows:

That part of Lot 4 in Hooper and Park's Addition of Out Lots to the Town (now City) of Urbana, Illinois, as per plat recorded in Deed Record "F" at Page 520, in Champaign County, Illinois.

PIN: 91-21-08-455-017

Section 2.

The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED BY THE CITY COUNCIL this ____ day of _____, _____.

AYES:

NAYS:

ABSTENTIONS:

Charles A. Smyth, City Clerk

APPROVED BY THE MAYOR this ____ day of _____, _____.

Diane Wolfe Marlin, Mayor

CERTIFICATE OF PUBLICATION IN PAMPHLET FORM

I, Charles A. Smyth, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois. I certify that on the _____ day of _____, 2019, the corporate authorities of the City of Urbana passed and approved Ordinance No. _____, entitled “An Ordinance Approving a Major Variance (401 North Broadway Avenue / ZBA-2018-MAJ-10)” which provided by its terms that it should be published in pamphlet form. The pamphlet form of Ordinance No. _____ was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the _____ day of _____, 2019, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

DATED at Urbana, Illinois, this _____ day of _____, 2019.

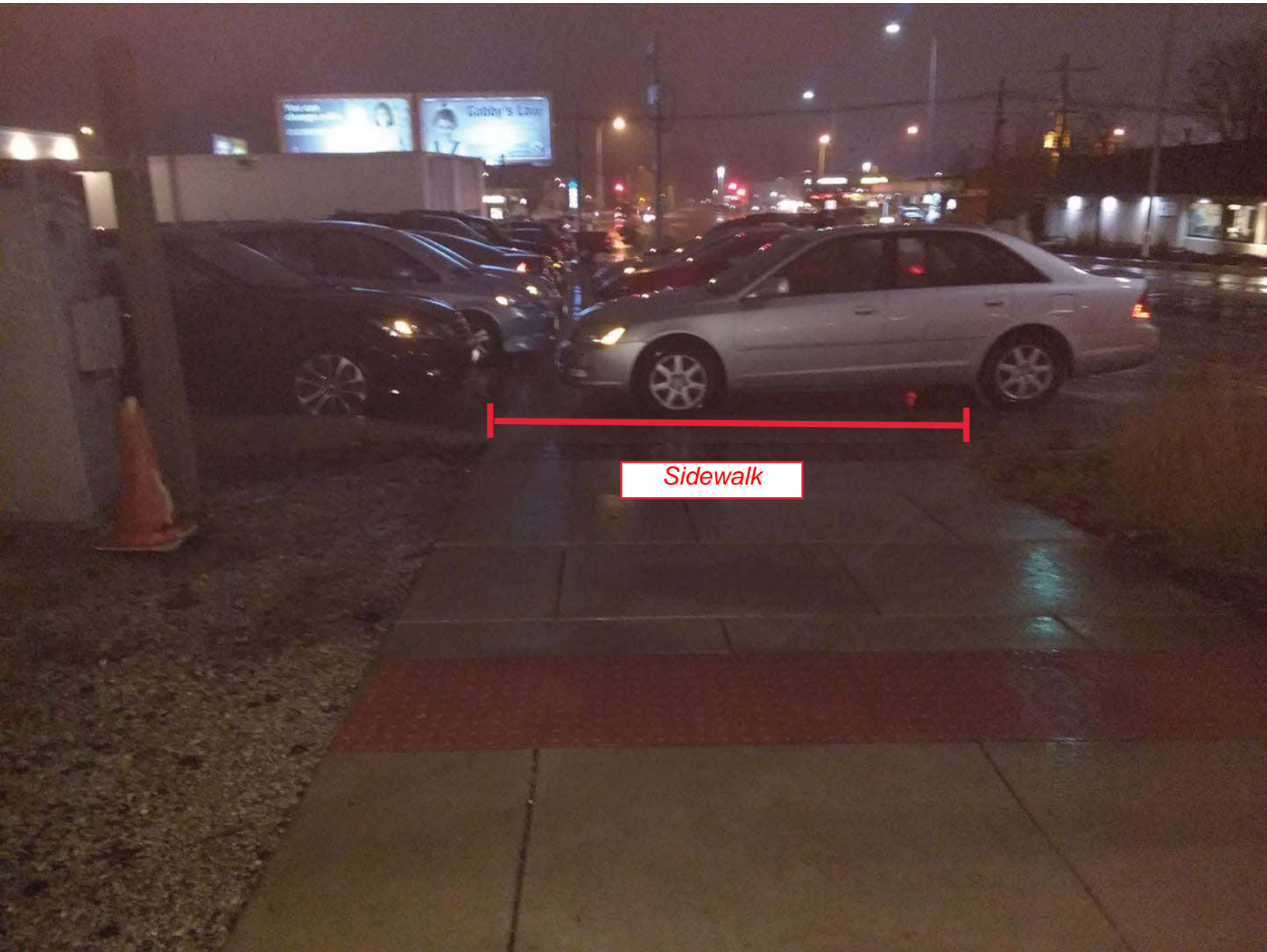






Sidewalk

Exhibit 1 - Recent Photos





KENSIUM

October 17, 2018

Zoning Board of Appeals
400 South Vine Street,
Urbana IL 61801

Ref: ZBA-2018-MAJ-10

Dear Board Members:

The City of Urbana has cited Broadway Market LLC, owners of the property located at 401 N. Broadway Avenue, for zoning violations regarding the layout of parking spaces. As one of the managing members of Broadway Market LLC, we chose a local company with over thirty (30) years of experience striping lots in Urbana to stripe our parking lot. As a result, the citations from the City were both disappointing and surprising.

Our lawyer, Jenny Park of Meyer Capel, has submitted a letter stating legal precedent for the nonconforming use of parking spaces that were neither abandoned nor discontinued per the interpretation of City of Urbana staff. In addition, we have surveyed properties less than a quarter-mile from our location in Urbana with similar layouts and have found that there are numerous parking lots, including City-owned properties, that have similar if not more extreme violations. For the record, photos have been provided and include the following addresses:

101 W Main St
114 W Main St
126 W Main St
306 W Main St
111 N Race St
501 N Race St
203 S Cedar St
208 W Griggs
301 W Springfield Ave
306 W Springfield Ave
212 W Green St
210 N Broadway Ave
220 N Broadway Ave
221 N Broadway Ave
405 N Broadway Ave
102 W University Ave
304 W Elm St
101 W Park St
City Lot #01

311 South Wacker Drive, Suite 440, Chicago, IL 60606
877-KENSIUM (877-536-7486)
www.kensium.com

Exhibit 2 - Staff Analysis of Downtown Parking Lots Identified by Richard Grossi

City Lot #02
City Lot #05
City Lot #17
Lot Tepper
Downtown Urbana Parking Deck

It would seem that these other locations do not pose a threat to safety or they would have been cited and forced to comply with the zoning requirement. We are not asking for any special privilege in this matter, but to merely be treated the same as other property owners where a zoning restriction may not operate arbitrarily or capriciously upon a citizen.

Our investment in Urbana has been a mutually beneficial partnership with the City and its administrative staff. The owners of the property and business, together with the City, have invested more than \$1 million into the refurbishment of the property at 401 N. Broadway. What was once a warehouse is now a vibrant commercial entity where parking is a necessity. We are asking the City to provide an exemption with no conditions for the referenced citation in the spirit of continued cooperation to make this project a thriving example of "Urbana open for business."

Thank you for your consideration of this matter.

Sincerely,



Richard Grossi
CFO, Kensium Solutions LLC

Address		
101 W Main St	Legally nonconforming. Aerial images dating to 1973 show this configuration.	Legally nonconforming
114 W Main St	Cited aisle width is less than 23 feet. Note that the angled parking only requires a parking 12.5 feet to 18.5 feet. Please refer to Figure VIII-1 for a clear illustration of the aisle width.	Conforming
126 W Main Street	It is legal to back out of a parking space into an alley.	Alley
306 W Main St	Legally nonconforming. Aerial images dating to 1973 show this configuration.	Legally nonconforming
111 N Race Street	Measured greater or equal to 23' in GIS. Also, 23 feet is not required.	Conforming
501 N Race St	This property has asked for a variance and it was granted. Former owners had parking backing out on to University Ave. Staff and petitioner found	Existing Variance
203 S Cedar St	Cited aisle width is less than 23 feet. Note that the angled parking only requires a parking 12.5 feet to 18.5 feet. Please refer to Figure VIII-1 for a clear illustration of the aisle width.	Conforming
208 W Griggs	The parking is within the right-of-way per an agreement with the city. Granted due to the age of the building.	Existing ROW Agreement
301 W Springfield Ave	Measured greater or equal to 23' in GIS. Also, 23 feet is not required.	Conforming
306 W Springfield Ave	Legally nonconforming. Aerial images dating to 1973 show this configuration.	Legally nonconforming
212 W Green St	Legally nonconforming. Aerial images dating to 1973 show this configuration.	Legally nonconforming
210 N Broadway Ave	Measured greater or equal to 23' in GIS. Also, 23 feet is not required.	Conforming
220 N Broadway	Cited aisle width is less than 23 feet. Note that the angled parking only requires a parking 12.5 feet to 18.5 feet. Please refer to Figure VIII-1 for a clear illustration of the aisle width.	Conforming
221 N Broadway	Measured greater or equal to 23' in GIS. Also, 23 feet is not required.	Conforming
405 N Broadway	Measured greater or equal to 23' in GIS. Also, 23 feet is not required.	Conforming
102 W University	That is not a parking spot and Urbana Parking Enforcement tickets residents for doing this.	Parking violation
304 W Elm St	It is legal to back out of a parking space into an alley.	Alley
101 W Park St	Legally nonconforming. Aerial images dating to 1973 show this configuration.	Legally nonconforming
City Lot #01	Cited aisle width is less than 23 feet. Note that the angled parking only requires a parking 12.5 feet to 18.5 feet. Please refer to Figure VIII-1 for a clear illustration of the aisle width.	Conforming
City Lot #02	Cited aisle width is less than 23 feet. Note that the angled parking only requires a parking 12.5 feet to 18.5 feet. Please refer to Figure VIII-1 for a clear illustration of the aisle width.	Conforming
City Lot #05	Cited aisle width is less than 23 feet. Note that the angled parking only requires a parking 12.5 feet to 18.5 feet. Please refer to Figure VIII-1 for a clear illustration of the aisle width.	Conforming
City Lot #17	Cited aisle width is less than 23 feet. Note that the angled parking only requires a parking 12.5 feet to 18.5 feet. Please refer to Figure VIII-1 for a clear illustration of the aisle width.	Conforming
Lot Tepper	Cited aisle width is less than 23 feet. Note that the angled parking only requires a parking 12.5 feet to 18.5 feet. Please refer to Figure VIII-1 for a clear illustration of the aisle width.	Conforming
Downtown Urbana	Cited aisle width is less than 23 feet. Note that the angled parking only requires a parking 12.5 feet to 18.5 feet. Please refer to Figure VIII-1 for a clear illustration of the aisle width.	Conforming
Parking Deck	Cited aisle width is less than 23 feet. Note that the angled parking only requires a parking 12.5 feet to 18.5 feet. Please refer to Figure VIII-1 for a clear illustration of the aisle width.	Conforming

*There are no aisle width issues involved in the petitioners case. Regardless, all the aisle width issues are conforming with parking development regulations.



URBANA CITY COUNCIL MEETING MINUTES

DATE: Monday, November 5, 2018
TIME: 7:00 P.M.
PLACE: Urbana City Council Chambers, 400 S. Vine St, Urbana, IL 61801

The City Council of the City of Urbana, Illinois, met in regular session Monday, November 5, 2018 at 7:00 p.m. in the Council Chambers at the Urbana City Building.

ELECTED OFFICIALS PHYSICALLY PRESENT: City Council Members (CM) Maryalice Wu (Ward 1), Eric Jakobsson (Ward 2), Aaron Ammons (Ward 3), Bill Brown (Ward 4), Dennis Roberts (Ward 5), Dean Hazen (Ward 6), Jared Miller (Ward 7), Diane Wolfe Marlin (Mayor), Charles A. Smyth (City Clerk)

ELECTED OFFICIALS PRESENT VIA TELECONFERENCE: None

ELECTED OFFICIALS ABSENT: None

STAFF PRESENT: Carol Mitten, Charles Lauss, John Schneider, Lorrie Pearson, Jim Simon, Kevin Garcia, Marcus Ricci, and Craig Shonkwiler

OTHERS PRESENT: News-Gazette, Rev. Dr. Evelyn Underwood, Jackie Curry, Matt Cho, Chirag Shah, Shai Mauth, Richard Grossi, Paul Tatman, John Kiser, Barb Burch, Bridget Logue, and David Crow, Alex Sanders, Kimberly Hansen

A. CALL TO ORDER AND ROLL CALL

There being a quorum present, Mayor Marlin called the meeting of the Urbana City Council to order at 7:20 p.m. following a meeting of the Cunningham Town Board.

B. APPROVAL OF MINUTES OF PREVIOUS MEETING

City Council Member (CM) Ammons made a motion to approve minutes from the October 15, 2018 Special Meeting, Public Hearing and regular meetings, seconded by CM Miller, and passed by unanimous voice vote.

C. ADDITIONS TO THE AGENDA

There were no additions.

D. PUBLIC INPUT

Mayor Marlin publicly recognized and thanked Dr. Holly Rosenkranz and Walter Lavey for their direct \$10,000 contribution plus their \$5,000 Rotary matching sponsorship for city tree plantings. She noted that half of this year's tree plantings were the result of their sponsorship reducing city tree planting backlog by more than 3 years. Mayor Marlin expressed the city's sincere thanks noting the greenhouse reduction statistics and tremendous impact. Applause followed.

Rev. Dr. Evelyn B. Underwood asked that her position be entered into the record regarding her continued concerns for the Dr. Ellis Subdivision sewer issues. She spoke noting that there should be at least one email from the Carver Park Neighborhood and noting the historic African American neighborhoods. She indicated concern for the overall potential of what is going on in their community as a takeover from the south on University Avenue and Lincoln Avenue, Champaign's Bristol Place redevelopment and now from the north. She stated that they are being

sandwiched in noting, that they do not want to move and if they get grocery stores and other needs folks will want to come back. She also stated that they love their neighborhood, that they do not want luxury student housing and professionals to take over, but are willing to share if their needs are considered. She said they have nice neighborhoods although the houses are not big and they want to build up their community.

Jackie Curry, Carver Park, Champaign, requested that the Mayor read the Carver Park Neighborhood Association letter. Mayor Marlin provided a summary stating that the Carver Park Neighborhood Association is opposed to the Trinitas Development and urges the council to not approve the annexation noting a safety concern for the large number of children who play outside from increased traffic. The association letter noted that Carver Park is the first African American subdivision in Champaign-Urbana and for those living there; it is a piece of their history. Ms. Curry also indicated that they tried to meet with Mr. Alex Sanders but the developer's representative did not show. She felt that was wrong and a waste of her time and that of the people who came out. She noted living in Carver Park all of her life.

E. UNFINISHED BUSINESS

a. **Ordinance No. 2018-09-058:** An Ordinance Approving an Annexation Agreement (A Real Estate Parcel with Permanent Index Number 30-21-06-326-015 / Judy Heimburger Trust and Trinitas Development LLC)

Mayor Marlin introduced Ordinance 2018-09-058 noting that representatives Alex Sanders and Kimberly Hansen, Trinitas, were available to answer questions. CM Brown moved to approve Ordinance 2018-09-058 seconded by CM Hazen. Discussion followed.

CMs Wu, Brown, and Roberts asked the developers about access via Carver Drive and Fifth Street. Ms. Hansen indicated that emergency access only was planned on Carver and the design is as directed by and to the requirements of Champaign Fire Department. Walking and bicycle access will be maintained to Carver. CM Roberts noted that Trinitas is considering a playground addition, to make sure that the buildings don't straddle boundary lines, and providing 20-25 feet of buffer retaining existing trees. He noted that this will mitigate and limit noise and activity and was responsive to our concerns. CM Brown pointed out that the lot in between to the east of the rezoned lot is already zoned R4 and that there is Goodwin Right of Way to the north so there's a short stretch to connect up. He asked that since this is an east collector, to keep this layout in mind for future access.

CM Ammons asked about how the developers would be addressing the concerns of the community and plans to partner with the city as the property managers. Mr. Sanders noted that there would be security officers living on site and patrolling the community, and Trinitas was open to suggestions to address community concerns. Discussion of the food desert in the area followed but it was noted that the additional population could attract interest, something CM Ammons and the city are pursuing. Trinitas will be hiring 10-15 individuals following related Champaign and Urbana hiring requirements. Mr. Sanders indicated that they were unable to meet more recently with members of the neighborhood due to vacation and personal issues but that they have tried to make the changes requested. CM Jakobsson noted the many changes in his neighborhood the past 47 years stating that with the changes came concerns but the neighborhood is safer and more diverse. He thinks this development will be ok as well.

CM Miller asked about the developer's timeline. Mr. Sanders said that they hope to be open August 2020 with construction Spring 2019. Phasing is possible but not decided. He noted that they build to hold [onto property, have been already been in the community, and that the property manager is a Champaign resident and will handle the day to day affairs while Mr. Sanders will continue to be involved but more hands off. He noted that the company has held a

portfolio in Lafayette, Indiana for 30 years. CM Ammons stated that he thinks the issues of income inequality are real concerns in our community, as are concerns about rents increasing. He hopes we have good partners whenever we have developments; those speaking tonight are voicing concerns as African Americans and does not believe that the effort to speak to them directly has been complete with more that can be done. Mayor Marlin added that the city is pursuing basic services such as grocery stores for the area. With no further discussion, the motion was approved by roll call vote (6-2): Ammons – No; Brown – Aye; Hazen – Aye; Jakobsson – Aye; Miller – No; Roberts – Aye; Wu – Aye; Mayor Marlin – Aye.

b. **Ordinance No. 2018-09-060:** An Ordinance Annexing Certain Territory to the City of Urbana (A Real Estate Parcel with Permanent Index Number 30-21-06-326-015 /Judy Heimburger Trust)

Mayor Marlin introduced Ordinance 2018-09-060. CM Miller asked staff about expected property taxes from this development. City Administrator Mitten noted that staff did an estimate of between \$150-200K for all taxes, fees for the Urbana portion of the development. CM Roberts moved approval of Ordinance 2018-09-060, seconded by CM Hazen. Mr. Roberts made a statement noting that the city went through 3 rezoning processes before finally approving changes adjacent to the Hill Street neighborhood in response to concerns of that neighborhood. He thinks the city is being pretty responsive to the community though Carver Park is not in the City of Urbana but the major concerns about accessibility and buffering have been answered and that's why he supports the development and noting that the property tax is very necessary. With no further discussion, the motion was approved by roll call vote (6-2): Ammons – No; Brown – Aye; Hazen – Aye; Jakobsson – Aye; Miller – No; Roberts – Aye; Wu – Aye; Mayor Marlin – Aye.

F. REPORTS OF STANDING COMMITTEES

1. **Committee Of The Whole** – *(Council Member Jared Miller) – Possible Omnibus Vote*
 - a. **Resolution No. 2018-10-049R:** A Resolution Approving a Retail Electricity Supply Agreement for DS5 Accounts (Electricity Sales and Purchase Agreement)
 - b. **Resolution No. 2018-10-050R:** A Resolution Approving a Retail Electricity Supply Agreement for DS2 Accounts (Electricity Sales and Purchase Agreement)
 - c. **Resolution No. 2018-10-051R:** A Resolution Approving and Authorizing the Extension of an Electric System Franchise Agreement (Authorizing Extension of Ameren Illinois Electrical Utility System Agreement)

CM Miller read Resolutions 2018-10-049, -050, -051 indicating that the committee sent them to Council with a recommendation for approval in omnibus fashion. It was noted by Mayor Marlin that there were no public input requests for these items. Asking and seeing no requests to separate the items, CM Miller moved consideration in omnibus fashion of the three stated resolutions, seconded by CM Hazen. The motion passed by unanimous consent of the Corporate Authorities. CM Miller moved passage of the three stated resolutions in omnibus fashion, seconded by CM Roberts. The motion passed by roll call vote (7-0): Ammons – Aye; Brown – Aye; Hazen – Aye; Jakobsson – Aye; Miller – Aye; Roberts – Aye; Wu – Aye

2. **Committee Of The Whole** – *(Council Member Jared Miller)*
 - a. **Ordinance No. 2018-10-070:** An Ordinance Approving a Right-of-Way License Agreement with the Urbana Park District (North of W. Park Street between W. Church Street and N. Broadway Avenue)

For the committee, CM Miller moved approval of Ordinance 2018-10-070, seconded by CM Ammons. With no discussion, the motion passed (7-0): Ammons – Aye; Brown – Aye; Hazen – Aye; Jakobsson – Aye; Miller – Aye; Roberts – Aye; Wu – Aye

- b. **Ordinance No. 2018-10-071:** An Ordinance Amending Schedule J of Section 23-172 of the Urbana Local Traffic Code Establishing Curb Loading Zones on Certain Streets (801 East Florida Avenue)

For the committee, CM Miller moved approval of Ordinance 2018-10-071, seconded by CM Wu. CM Wu thanked Mr. Shonkwiler and the petitioner for adding the 5 year review component. With no further discussion, the motion passed (7-0): Ammons – Aye; Brown – Aye; Hazen – Aye; Jakobsson – Aye; Miller – Aye; Roberts – Aye; Wu – Aye

- c. **Ordinance No. 2018-10-072:** An Ordinance Repealing Urbana City Code Section 15-68 (Repeal of Aggressive Solicitation Ordinance)

For the committee, CM Miller moved approval of Ordinance 2018-10-072, seconded by CM Ammons. With no discussion, the motion passed (7-0): Ammons – Aye; Brown – Aye; Hazen – Aye; Jakobsson – Aye; Miller – Aye; Roberts – Aye; Wu – Aye

- d. **Mayoral Staff Appointment**
 - 1. **Community Development**
 - a. Grants Manager - Sheila Dodd

CM Miller moved approval of the staff appointment, seconded by CM Jakobsson. CM Ammons asked about the position and appointment with Mayor Marlin noting that Ms. Dodd will begin work November 19. The motion was approved by unanimous voice vote.

G. REPORTS OF SPECIAL COMMITTEES

There were none.

H. REPORTS OF OFFICERS

City Administrator Mitten announced the successful auction of the TriStar Building at \$18,000. The sale carries with it an obligation to demolish the building and parking lots, which would have cost the city \$70,000 to demolish. It was purchased by a neighboring business who wants to add a restaurant and neighborhood business space.

John Schneider announced a public meeting by Champaign County Regional Planning Commission presenting the Urbana Pedestrian Master Plan and Bike Wayfinding plan November 15 at the Urbana Civic Center, 6:00 pm.

CM Ammons left the meeting at 9:25 pm..

I. NEW BUSINESS

- 1. **Ordinance No. 2018-11-073:** An Ordinance Approving a Major Variance (401 North Broadway Avenue / ZBA-2018-MAJ-10)

Mayor Marlin introduced Ordinance 2018-11-073. City Administrator Mitten provided an initial introduction. She noted a recommendation from the ZBA but it is beyond their purview. Staff and owner have been trying to reach an agreement but have not yet done so. The staff recommendation is based on existing regulations and a strong desire that safety is achieved both

on the site for pedestrians and for cars in the right of way. The owner has a valid objective as well with a desire to continue with a successful business. Staff is looking for direction based on a council position or possible compromise. Planner Garcia spoke to the staff memo noting that this is a major variance request for parking that does not meet the standards of the Zoning Ordinance.

Mr. Garcia reviewed the site plans in Exhibit D, which shows a single row of parking. However, an additional 13 spaces were striped in the lot added right next to the sidewalk. The request is to allow this additional parking. Mr. Garcia described the back-out issue and the access aspect of the other spaces. Staff is recommending a lesser variance of 2 out of 4 spaces for staff only parking of compact cars in the northern space as the other two overhang the sidewalk. The southern part can be brought into compliance without a variance. The zoning board has recommended that wheel stops be used but not to require the curb closure. However, that is beyond their purview as the requirement to close the curb is a city code, not zoning ordinance, requirement. Mr. Garcia provided and referred to various visuals. The city code requires the driveway removal and closed curbs. Mr. Garcia noted that staff considered many different alternatives and described those variations. He also reviewed the safety aspects and concerns of staff by allowing the variance.

Mr. Garcia reviewed the criteria for granting a variance and noted that council should base its decision on these. He noted that special circumstances exist only for two of the four northern spots while allowing the variance for the southern portion of the site would be a special privilege as parking could be made to conform to city code. He reviewed correspondence in Exhibit E noting that the property owner took action without informing staff and additional communications in Exhibit I from the owners of the former Gill Building owner and the CU Adventures in Time and Space do not think the variance request will create a nuisance. He discussed criteria 6 related to the minimum deviation needed to grant the request noting that the petitioner is asking for a lot and that it doesn't reflect the minimum that can be done. A lesser deviation would be to restripe the lot to required lengths and if done to code would meet city requirements. Staff thinks that the two of four compact car spaces for the northern section is the minimum deviation for this request.

Mr. Garcia reviewed the options for council to approve, approve with conditions, or deny this variance request. He read staff recommendation from page 7 of the memo and noted that the property owner does not agree with staff's recommended conditions. Questions of staff followed including using blocked northern spaces for motorcycles and historic use before regulations existed. CM Brown pointed out that the approved development agreement had 20-25 parking spaces provided. Mr. Garcia discussed the provided and approved site plan having only 8. CM Brown acknowledge that the main issue is cars going over the sidewalk and backing out onto the street in violation of the zoning ordinance. CM Wu discussed closure of the driveway as a loss of 3-6 parking spaces while CM Jakobsson asked if angled parking and one-way traffic flow had been considered. Mr. Garcia stated that they had not done the engineering for that.

Public Input followed with Chirag Shah, Shai Mauth, and Richard Grossi not wishing to speak but wanting the record to show their support for granting the waiver. Matt Cho, petitioner and owner of Broadway Food Hall, Sipyard, and other downtown businesses spoke in favor of the variance. He noted that parking is always in demand and that almost daily he received comments about striping his lot from customers, which was finally done when the weather permitted it. The design was based on reviewing many configurations and working with his contractor. He believes that as it stands, the lot doesn't have safety issues and since striping there have been no issues. He noted that cars rarely back out, naturally using the driveway. The cost of closing the curb would be crippling and result in more congestion in the parking lot. He described a

potential win-win configuration discussed with staff. He noted meeting with staff but no solution was arrived at. He added that the 25 spaces as described in the development agreement were based on continuing a variance and the striping was based on observations over winter resulting in no known accidents and has been a success. Questions to the petitioner followed.

CM Wu asked Mr. Cho to restate his possible solution, which he described. CM Ammons asked about responsibility if someone is injured, to which City Attorney Jim Simon responded that if we are aware of a safety issue then we are liable. CM Brown asked if a legal obligation with the owner would that satisfy the legal requirements. Mr. Simon noted that indemnity is only as good as the person giving it – an LLC in this case. He would expect the city to be sued and the LLC's insurance company would need to accept an indemnity arrangement. CM Jakobsson considers the northern parking not a major point of contention but was trying to understand the other point of contention. Planning Manager Pearson noted that the curb closure is the main concern, as the driveway can't be both parking and a driveway. Discussion of the adequacy of wheel stops alone followed as a safety concern. City Engineer Shonkwiler pointed out that in lowlight or even full light driving through the space and hitting a wheel stop is a concern; it's an either or situation safety-wise.

Mayor Marlin noted the motion from page 3. CM Roberts moved that we approve the staff recommendation as stated in Ordinance 2018-11-073, seconded by CM Hazen. CM Roberts stated that he would support just having wheel stops not thinking the rest necessary. CM Brown thinks that the layout is working pretty well but it would be much better to be exiting only forward, but this would be against city code to have just the wheel stops. He could see this being an issue in snow. He said that he could see leaving it alone, not surprised about the creative striping. CM Miller agreed with CM Brown that the least hazardous solution is to leave it as is, has never had an issue here but agreed that the two northern parking spots are probably hazardous. CM Wu took it that the wheel stops would keep cars from parking on the sidewalk, and sees their utility. She called for creative solutions for dealing with the curb.

Mr. Simon noted that the zoning board of appeals muddled this a bit, assuming that council could override the existing city code. He continued noting that the code requires the closing of curb cuts; council would be ignoring an existing ordinance and that creates a heightened sense of liability. He suggested something like some decorative bollards and chain but without rewriting the ordinance does not think council can override the ordinance. CM Roberts suggested the use of planters.

Mayor Marlin reviewed consensus and suggested sending this to committee to work out. CM Roberts asked about where funding comes from when there are street improvements the city requires. Staff indicated that developers were responsible and gave a recent case on Main Street where the owner paid to close the curb cut. Redevelopment triggers costs to the owner. Mr. Shonkwiler estimated the cost to be about \$15K if this was contracted city work. CM Jakobsson asked about some kind of temporary fencing for now or some less expensive barrier mechanism. Ms. Pearson and Mr. Shonkwiler reiterated staff position that curb closure was to satisfy code and safety concerns. CM Miller made a motion to send this ordinance to the Committee of the Whole 3 weeks from tonight. CM Wu seconded and passed by unanimous voice vote.

2. **Ordinance No. 2018-11-074:** An Ordinance Amending the Urbana Zoning Map (Rezoning Nine Real Estate Parcels at North Race Street and West University Avenue from B-3 to B-4 / James W. Burch III Trust – Plan Case 2353-M-18)

Mayor Marlin read the two ordinances 2018-11-074 and -075 and Planner Marcus Ricci presented the staff memo. He noted that a change to B4 reflects the future land use as in the Comprehensive Plan and that the Urbana Plan Commission recommended both requests be

approved 6-0. The nine Burch properties are cleared, the Logue property is residential. Mr. Ricci provided pictures of the site and Exhibit C shows current zoning showing of the properties at the northwest corner boundary of the B4 designated central business zone. He noted that the B4 zoning has a slightly more restrictive list of uses. Mr. Ricci reviewed the LaSalle Criteria as discussed on page 3 of the memo. He noted that the decision to rezone should be made based on the listed criteria. He also reviewed the goals of the Comprehensive Plan. He stated that the city received a letter from Tim Bartlett, Urbana Park District Executive Director concerning the rezoning. He noted that various impacts were discussed at the Plan Commission and are in the minutes attached to the memo. He presented staff recommendation and options.

CM Roberts stated that he is not opposed to the rezoning request but is thinking about historic impacts noting that when the city took down some of these structures to benefit Mr. Burch some people were concerned about the clear cutting. No redevelopment occurred. He noted that City Arborist Mike Brunk was able to negotiate the preservation of a large Red Oak tree. He asked if the rezoning will affect the agreement to preserve this tree and will there be any need to do any kind of archeologic survey on this property. Mr. Ricci noted that the tree cannot be cut until a permit is pulled for a development and there is no redevelopment agreement proposed. Mr. Ricci also noted that all research suggests that past remains are most likely in Leal Park as the site in question was fully developed and occupied for the past 60 years though there could be archeological remains in undisturbed portions. He noted being unaware of archeological requirements for private developers not using state or federal funds.

CM Brown indicated that he watched part of the Plan Commission meeting noting that this rezoning is for more flexibility for parking requirements. Discussion of B3 and B4 parking screening requirements followed. Mr. Ricci also related IDOT right of way acquisition issues. CM Brown further noted that most of downtown is B4 and we provide street parking and lots, but not sure if there is city parking in this area. He noted that the 2018 parking study says there are over 1500 surplus spaces but these are near Lincoln Square.

CM Wu noted that a couple properties will remain that are single family abutting this property and asked about building to the property line. Mr. Ricci and Planning Manager Pearson reviewed setback, parking screening, and building code requirements. Ms. Pearson noted that when something is zoned B3 but has an existing single-family use on it, it is not afforded the same protections. There are still building code fire separations and parking still has to meet zoning screening requirements. CM Wu considers parking an issue in this area and it is not easy to park many people in this area. She also stated the need for a new comprehensive plan. CM Brown asked if this in the new TIF district noting that with a development agreement we could have some protections or ask for more parking.

CM Miller moved approval of 2018-11-74, seconded by CM Hazen. CM Roberts asked if the owners have a plan for this property. Mr. Paul Tatman, one of the developers provided an answer stating that they do not have a contract but do have an agreement to put together a project. He notes a need of about 61 parking spots and this is possible with the B4 zoning. He noted it would be beneficial to the city. With no further discussion, the motion passed by roll call vote (6-0): Brown – Aye; Hazen – Aye; Jakobsson – Aye; Miller – Aye; Roberts – Aye; Wu – Aye

3. **Ordinance No. 2018-11-075:** An Ordinance Amending the Urbana Zoning Map (Rezoning 406 North Lake Street from B-3 to B-4 / Bridget Logue – Plan Case 2355-M-18)

Mayor Marlin introduced the ordinance and CM Miller moved approval, seconded by CM Roberts. With no discussion, the motion passed by roll call vote (6-0): Brown – Aye; Hazen – Aye; Jakobsson – Aye; Miller – Aye; Roberts – Aye; Wu – Aye

4. Mayoral Staff Appointments

a. Interim Public Works Director

1. Carol Mitten

b. Interim Co-City Engineers

1. Brad Bennett
2. Craig Shonkwiler

Mayor Marlin nominated Ms. Mitten, Mr. Bennett, and Mr. Shonkwiler for interim positions while a search is made for a new Public Works Director. A motion to approve was made by CM Miller and seconded by CM Roberts. The motion passed by unanimous voice vote.

J. ADJOURNMENT

With no further business to come before the council, Mayor Marlin adjourned the meeting at 9:51 p.m.

Charles A. Smyth

City Clerk

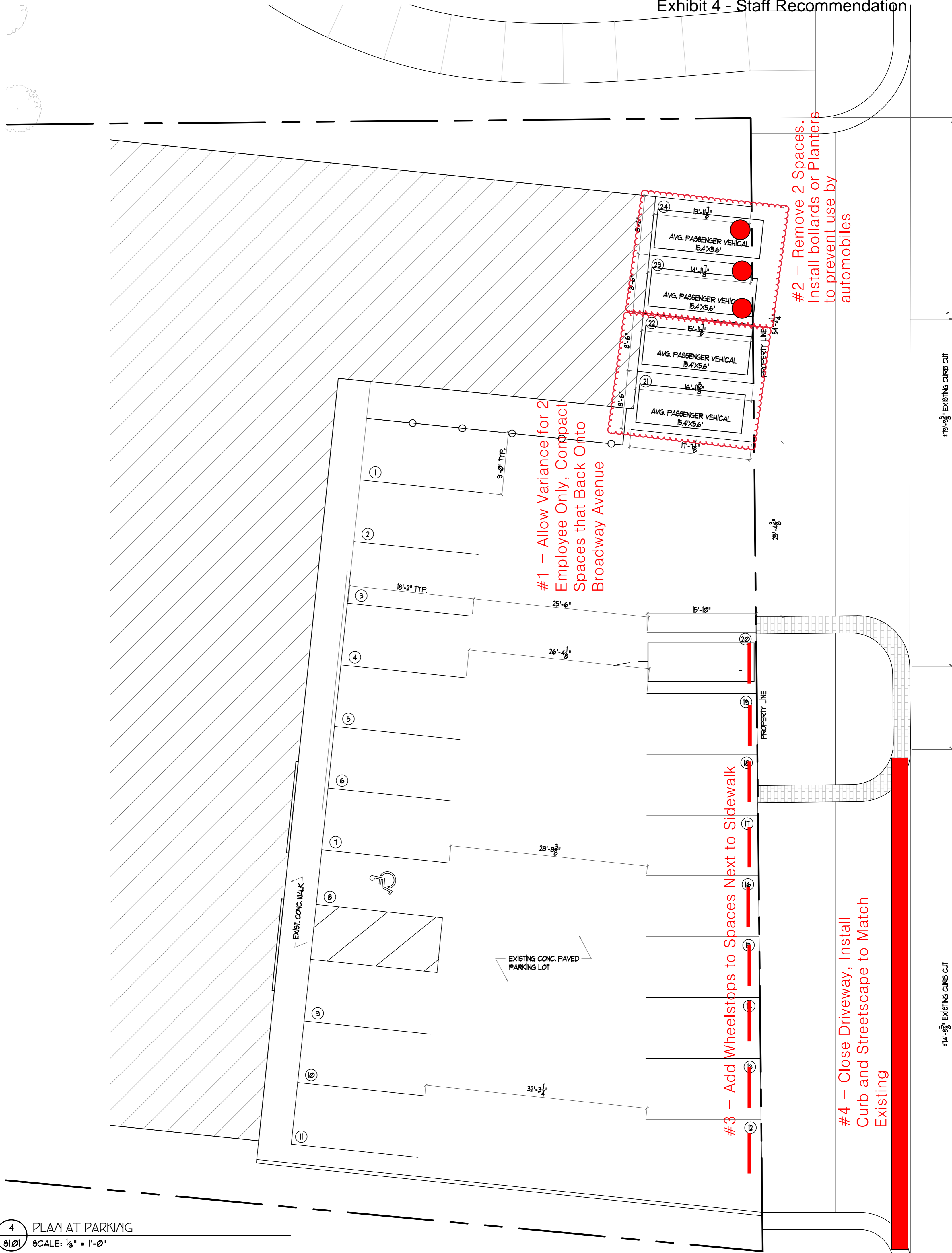
This meeting was video recorded with website link (viewable on demand):

<https://www.urbanainlinois.us/node/7326>

This meeting was broadcast on cable television (UPTV) and streamed live:

<http://urbanainlinois.us/upty>

Minutes Approved: November 19, 2018



17'-0 1/8" EXISTING CURB CUT

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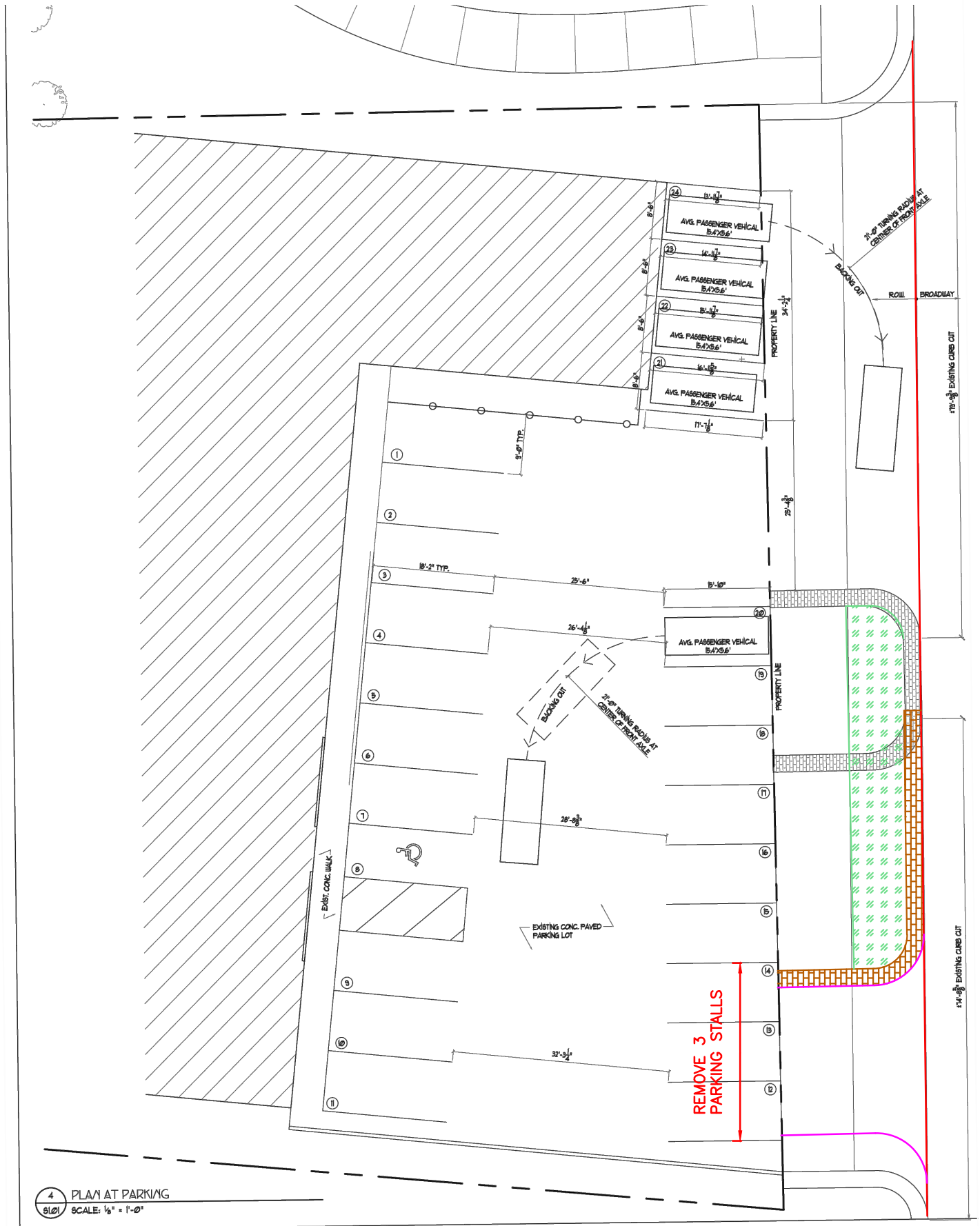
#4 - Close Driveway, Install Curb and Streetscape to Match Existing

#2 - Remove 2 Spaces. Install bollards or Planters to prevent use by automobiles

#1 - Allow Variance for 2 Employee Only, Compact Spaces that Back Onto Broadway Avenue

#3 - Add Wheelstops to Spaces Next to Sidewalk

Exhibit 5 - Option Presented to Narrow Driveway



4 PLAN AT PARKING
 9/2/01 SCALE: 1/8" = 1'-0"