



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Administrative Division

m e m o r a n d u m

TO: Bruce K. Walden, Chief Administrative Officer

FROM: William R. Gray, P.E., Public Works Director/City Engineer
Elizabeth H. Tyler, AICP, Community Development Director

DATE: March 16, 2006

SUBJECT: Parking Deck Beer Garden Proposal

Introduction

Local entrepreneurs Ian Goldberg and Scott Glassman are requesting weekend use of a portion of the second level of the downtown parking deck for a beer garden and live music in conjunction with the Crane Alley Restaurant. The proposal would involve the conversion of the upper west portion of the parking deck into an outdoor “beer garden”, with table and umbrella seating, portable bars and a small live music stage. City/customer use of this portion of the deck would be displaced from approximately mid-day on Friday until approximately mid-day on Sunday. In addition, as shown on the submitted site plan, a certain number of spaces would be permanently displaced to allow for weekday storage and for construction of a stage. The number of spaces that would be permanently affected is estimated at 13.

The petitioners have requested that the City assist in providing necessary improvements to the deck, including electrical service, “streetscape” features such as planters, screens, and curtains, and other necessary improvements that would allow for similar events to occur on the deck. The petitioners have requested permission to use the deck, to construct improvements such as stage construction and signage, and to obtain permission to serve food and alcohol on the premises.

A number of questions and concerns were raised at the City Council meeting of March 13, 2006. The Mayor has directed City staff to review the proposal, identify costs, and to make recommendations on the best course of action. Below is a discussion of several issues that have been identified along with a staff recommendation for action (*in italics*) on each item, a summary of pro’s and con’s of the proposal, identification of alternatives, and discussion of fiscal impacts.

Use of Parking Spaces

The Urbana parking deck was constructed using TIF bonds in the early-1980's and contains 207 spaces. Availability of public parking in the downtown has been the major constraint and incentive of essentially all development activity in the downtown. As in many communities, the downtown area is the only one where the City does not require off-street parking because of the efficiencies and desirability of providing public parking. Thus, the business functionality of the downtown is predicated on the City's and other private vendor's provision of centralized parking facilities. It is important that the City consider carefully the use and disposition of this highly valued downtown asset. City staff have recently reviewed the feasibility of constructing a third level on the parking deck and have found that this would be financially prohibitive. The reconstruction value of surface lot parking spaces is approximately \$18,000 per space.

While the value and importance of parking downtown is clear, there are cases of successful multi-use of parking. For example, each Saturday morning for seven months of the year, the Market at the Square uses Lot 10X. This event has no permanent fixtures or on-site storage use so that parking is returned to use by noon of that day. Downtown parking lots, including the first level of the parking deck, are also successfully used for events such as Sweetcorn Festival and the Beer and Chili Cook-off. In fact, several parking locations downtown have been improved with electrical and water service in order to facilitate outdoor events, consistent with the City's goals to bring outdoor activities to the community.

Currently, the upper portion of the deck is approximately 50% leased (at about 50 lessees) on a monthly basis to tenants of the two adjoining buildings at 115 West Main Street (Baxley) and 123 West Main Street (Gabe's Place) as well as to tenants from nearby businesses, including Busey Bank, Carle, Health Alliance, and other downtown businesses. The monthly rate for these spaces is \$45 and allows the lessee access on Monday through Friday from 7 a.m. to 6 p.m. In addition, the deck is used by hourly visitors to the nearby buildings. This includes tenants who visit Gabe's Place rental office and clients of the attorneys who have their offices in the Gabe's Place building. The petitioners state that the temporary loss of approximately 50 spaces (or one-half) of the upper deck can be accommodated by having the current lease holders move their vehicles to the east side of the deck on Fridays. However, this accommodation does not address hourly parking demand and is likely to be seen as an inconvenience to the leaseholders.

Because the Baxley building and the nearby County Plaza building currently have significant vacancies, today's occupation of the upper deck could be misleading. When these buildings have been full in the recent past, rentals on the upper deck were closer to 100%, and there have been waiting lists for the spaces. At the same time, increased pressure on these spaces from the ongoing Lincoln Square Village redevelopment and potential retenting of vacant spaces is now being felt. City staff recently received rental inquiries from two major tenants at Lincoln Square Village who are seeking more accessible parking spaces for their uses. There is also a specific request that has recently been made to the City for lease of 45 spaces on the second level. This request would involve the attraction of a major new employer to the downtown and could not be honored with the restrictions imposed by the beer garden proposal. To the extent that the upper

deck parking spaces are hampered by part-time use for the beer garden proposal, the City's ability to facilitate other downtown projects and retenanting will be constrained. The proposal could result in a direct loss in rentals as well as possible opportunity costs for potential tenants that cannot be provided with requested parking.

In assessing the current proposal, the City will need to weigh carefully the economic development value of a significant new outdoor activity that can bring more liveliness to the downtown versus the potential impact that partial loss and constrained use of the second level of the deck will entail in attracting new weekday business to the downtown.

The direct financial loss of the parking can be quantified using the current lease rates employed by the City. For example, the loss of 13 spaces for storage would equate to **\$3,510** in revenue over the estimated six months of the year that the beer garden would be in operation (13 x \$45 x 6). Those remaining spaces that would have loss of Friday afternoon parking privileges could be prorated downward to show a loss of 20% of value, or **\$1,998** (37 x \$45 x 6 x .20); however, it is likely that they would retain little value for monthly rentals if the whole work week is not covered. The value of the parking spaces would also be reduced if they are not available year-round. As a worst case, if the City was unable to lease these spaces due to storage requirements and the constrained hourly and seasonal use, the annual total loss in monthly parking revenues would total **\$27,000** (50 x \$45 x 12).

An ideal solution would be to have the beer garden proposal modified such that monthly rental of the spaces are not impacted. These modifications could involve adjusted hours of operation and provisions for reduced storage needs. Alternatively, if the Council wishes to pursue Friday relocation of the 50 parking leases, it is strongly suggested that lessees be notified immediately of this proposal.

Adjacent Land Uses and Neighbors

The upper deck is located immediately south of two office buildings (Baxley and Gabe's) which have bridge access directly onto the deck. Both building owners have expressed concern about the proposal, especially with respect to the loss of convenient parking, noise impacts on tenants, and possible liability concerns. The Historic Lincoln Hotel is directly south of the parking deck across Elm Street. By existing arrangement, the Historic Lincoln Hotel uses the upper deck for overflow parking. Noise generated by the proposal and live open air bands could be audible to hotel residents and could be disturbing in later hours. Additional office uses are located to the east, west, and north of the parking deck. Some of these uses, such as the Courthouse, are sensitive to outdoor uses and possible disruption of business activities. Nearby taverns include the Iron Post, Embassy, Office, Bunny's and Rose Bowl. These venues may view the proposal as competition or as an entertainment magnet for downtown.

City Council members have directed the petitioners to hold a neighborhood meeting to let these neighboring businesses know about the proposal and have a chance to express their concerns. Staff concurs with this approach and will help to facilitate appropriate notification and mailings.

Noise Concerns

Owners of the adjacent buildings on Main Street have expressed concern about the impact that set-up activities and sound checks will have on those working in these buildings. It was also noted that some of these offices are open on Saturdays and/or have workers who may work beyond normal business hours. Discussions will need to occur with the Historic Lincoln Hotel management as they too may have noise concerns for their guests. The petitioners will need to discuss this and other matters with the surrounding businesses and report back to the City Council.

Noise levels are regulated by Urbana Municipal Ordinance Chapter 16, "Noise and Vibrations". This City relies upon complaints for enforcement. Section 16.2 prohibits "loud and raucous" noise "upon any parking lot open to members of the public as invitees or licensees". In the case of amplified sound, loud noise is limited "when such is audible, at the boundary line of the property from which such sound is emanating". In this case, the term boundary line shall mean:

"the perimeter of the lot or lots as defined by the property line or on the side abutting public right-of-way, the public sidewalk, if any or, if no public sidewalk exists on the perimeter of such property, then the boundary line shall be the curb line."

Section 16.5 sets forth exceptions to noise deemed "loud and raucous", including the following:

"(1) Parades, fireworks displays and other special events for which a permit has been obtained from the city, within such hours as may be imposed as a condition for the issuance of the permit.

(2) Activities on or in municipal and school athletic facilities and on or in publicly owned property and facilities, provided that such activities have been authorized by the owner of such property or facilities or its agent.

(3) Noise which is a normal by-product of commercial and industrial activity, when the activity producing the noise is occurring on premises where such activity is permitted under the Urbana Zoning Ordinance, in which case such noise shall not be deemed to be a violation of this chapter except as such noise is also in violation of an Illinois Pollution Control Board Order."

If loud noise complaints are received, police officers will use their discretion in responding. It is possible that the proposed use may be excepted from the regulations either as a City-approved special event or as a publicly authorized use of public property. Notwithstanding this exception, persons who are disturbed by the noise (e.g., occupants of the Historic Lincoln Hotel) could claim violation under Illinois Pollution Control Board standards. Violation to Section 16.2 as it pertains to parking lots could also be argued.

It is suggested that further legal analysis of the City's noise regulations as they pertain to the proposed use be conducted and that appropriate accommodations and protections be incorporated into the lease arrangement.

Extension of Electrical Service

The petitioners have requested that 400 amp service be provided to the upper deck to accommodate the live music and other electrical needs. The petitioners have requested that the City pay 100% of these costs as they will comprise a permanent improvement to the parking deck. It should be noted that in recent years, the City has expended over \$50,000 to allow for electrical service at nearby surface parking lots to accommodate outdoor events such as the Sweetcorn Festival and the Market at the Square. The lower deck of the parking deck has successfully been used for events, including the Sweetcorn Festival and the Beer and Chili Cook-Off.

City Electrical Inspector Tim Mecum visited the site with an electrical contractor to estimate the cost of providing service consistent with City code requirements (see attached memoranda). Installation of service at the level requested by the petitioner would require a major reconfiguration of the electrical service at a substantial cost (e.g., \$30,000). Mr. Mecum recommends that 100 amp service would be more than sufficient to accommodate the request. The installation of this service would cost between **\$8,600 to \$9,600**. This estimate does not include branch service or additional lighting that might be requested or required.

Mr. Mecum also looked at the alternative of employing the temporary power equipment purchased by the City for the Sweetcorn Festival ("R2D2" Units). However, the cabling required to connect these units to existing power sources would be expensive and unsightly and would require extensive permissions from adjacent property owners.

Both of the above are unlikely to be accomplished by May due to contractor schedules. As an immediate alternative to any of these approaches, it is suggested that the petitioner derive service directly from the adjacent Baxley building. This would involve minimal cost and would be a reasonable means to test the viability of the proposal without significant public investment. Approval by the owner of the Baxley building would be necessary.

Building Permits

Building permits would be necessary for the proposed stage and signage improvements. Designs and plans for these improvements have not yet been prepared for review. Signage improvements would be subject to the Urbana Zoning Ordinance. City staff would review these plans once they are submitted.

Issuance of necessary building and zoning permits is not anticipated to be a problem.

Venue “Streetscape” Improvements

The petitioners have requested that the City pay 100% of the costs to provide certain venue improvements as illustrated in their site layout plan and in their written proposal. These improvements include: vine like curtains through the center aisle, hanging planters on light posts, and elevated planters along the top of the south and west walls. City staff have not yet had an opportunity to cost out the venue improvements. In addition, the time required to design and install the requested streetscape using city procurement procedures would take up to three months. Depending upon the materials used in the elevated planters and the method of installation, it is possible that these improvements could cost upwards of **\$25,000**. It should be noted that installation of the planters is important not only from an aesthetic perspective, but also from a security perspective, as a deterrent to accidental falls off the parking deck walls.

The petitioners have also requested that the parking deck surfacing be modified to accommodate a color consistent with the island theme. There are standard colors available in addition to the concrete gray which is the selection that is currently under contract. The contractor is poised to remobilize and complete the suspended deck surfacing work. To change the deck surface color at this juncture could cause completion of the deck after the May 1st target date. Use of a non-standard color will result in an additional **\$3,300** as a change order to the contract. As a possible alternative, City staff will work with the petitioner to determine if any of the standard colors would work for the proposal.

It is recommended that the petitioners and appropriate City staff work together to identify lower cost temporary and/or rental improvements for initial installation. If the venture proves successful, more permanent and costly improvements can be budgeted and installed.

Access Issues

The Fire Department and Building Safety Division have evaluated the proposal in terms of emergency access. Because the parking deck is not a building in this sense of the Code it is not required to meet the same exiting requirements. Staff believes that the two stairwell exits, in addition to the ramp will provide sufficient exiting for the proposed use.

The petitioners should meet with the Fire Department to determine proper occupancy loads, emergency procedures, and to obtain a fire prevention permit.

The owner of the Gabe’s Place building has expressed concern about impacts on access to his building, which is connected by a bridge to the upper level of the deck. This building at 123 Main Street does not contain an elevator. The second level of the building is accessible by two internal staircases and by the pedestrian bridge to the parking deck. Users and tenants of the second floor with mobility impairment must use the pedestrian bridge for access. While the bridge does not meet all American’s with Disabilities Act (ADA) requirements, from a practical standpoint it is negotiable for those in a wheelchair or with mobility difficulty, while the internal staircases are not. To the extent that the beer garden proposal would reduce handicapped access

to the building, it is possible that a violation of ADA requirements could be found. The State of Illinois is responsible for enforcing ADA requirements and would typically respond on a complaint basis.

Staff recommends that the proposal be modified to ensure clear and convenient access for handicapped visitors to the building at 123 Main Street.

Food Handling and Waste Disposal

The Department of Public Health is responsible for issuing permits for all food and beverage handling and have strict requirements that must be adhered to. Because there is no ready source of faucet water and sink drainage on the deck, it is likely that the Health Department will limit the products to bottles and cans, with no mixed drinks or food service. Mixed drinks will likely require construction of sinks and drainage at significant expense. If the proposal is to have drinks and food transported from the Crane Alley restaurant below, the Public Health Department would have to review and approve provisions for food covering and transport.

There are no bathroom facilities available on the parking deck. The petitioners propose to provide porta-potties to handle this concern. The empty porta-potties would be transported on their sides up the parking deck ramp, but would have to be loaded over the side of the parking deck once they are full. This operation will require special care and a certain amount of disruption of the parking deck and adjacent right-of-way while it is underway. The Department of Public Health may have additional requirements or concerns about this arrangement.

Solid waste provision will also have to be made with dumpsters installed on the upper deck and provisions made for waste disposal. Arrangements for waste disposal would result in temporary disruption of parking deck operations and possible loss of parking spaces beyond that estimated.

City staff have advised the petitioners to meet with the Department of Public Health to understand their food and beverage handling requirements for this venue. The Department of Public Health may also have lighting requirements that could impact the electrical improvements that would have to be made. Identification of alternatives to ensure safe, practical removal of full porta-potties is encouraged.

Security and Liability

The proposal would result in special security needs on the part of both the petitioner and Urbana police. These needs will increase to the extent that the venture is successful. Security needs will be those typically associated with alcohol consumption and crowds. Of particular concern for security will be the potential for damage to public property and the possibility that if bodily harm or accidents occur on the property, the City could be seen as a liable entity. The City will bear some level of additional service costs for police and emergency response as a result of the proposal.

As noted in Mr. Gitz' memoranda, as a part of a lease arrangement, the City would require the petitioner to carry adequate insurance and to name the City as an additional insured. Nonetheless, the City's exposure to liability claims will increase to the extent that there is greater use of the parking deck and particularly in a manner for which it is not designed. Of particular concern will be possible falls off of the deck or the connecting bridges. The lease arrangement would also require the petitioner to pay for any damage to public property.

Working in conjunction with the Urbana Police Department, a security plan should be developed and followed. Additional costs for public police service should be quantified and considered. The lease with the City should address provisions including security arrangements, payment for damages, insurance and liability.

Alternative Locations

City staff have been asked to identify other possible locations that would not have as great an impact upon surrounding properties and/or as great a public expense. One alternative would be to close off a portion of either Broadway, Elm Street, or Main Street to accommodate the proposal at street level. Of these choices, Broadway would have the least impact upon traffic flows and adjacent land uses. Electrical improvements have already been provided to this location. No public or private parking spaces would be impacted. This area has been successfully used for live entertainment as a part of the Sweet Corn and Beer and Chili Tasting events. However, this alternative would lack the ambience provided by a higher elevation.

Another alternative would be to use the lower level of the parking deck or another City owned surface parking lot, such as Lot 10X where the market is held. These locations have electrical improvements already provided and have successfully been used in the past for outdoor entertainment. However, conflicts with leased and popular parking spaces would occur.

A third alternative would be to locate the beer garden on the County Plaza parking deck, an elevated parking area at the northeast corner of Main and Broadway that does not contain as many spaces as does the upper deck. This property is owned by a private party (Joe Petry) and would need to meet this property owner's approval. The proposal would also have to be compatible with the office use of that building.

Finally, the petitioner could lease or purchase a building that has access to an open air upper level or roof top that can be made suitable for outdoor entertainment. As a private enterprise, this alternative may be most appropriate for the petitioners. The petitioner would bear all of the costs and benefits of the improvements and would not be posing impacts upon other property owners, public parking users, or the public at large. Direct access to a kitchen such as required by the Health Department for food and mixed drinks would also be most practical if provided in the same building.

Summary

Following is a summary of the pro's and con's of the proposal as discussed above and in other materials.

On the potentially positive side, the proposal will:

- Respond to City policies to “take it outside” in the downtown by providing additional outdoor entertainment opportunities
- Create a festive, unique draw to the downtown that could help to energize the community and benefit all businesses
- Result in increased food and beverage sales tax
- Involve creative multi-use of public property, such as currently employed for the Market at the Square
- Assist local entrepreneurs in expanding their services to the community
- Benefit other entertainment providers in the downtown through a “spill-over” effect

On the potentially negative side, the proposal will:

- Create conflicts regarding the use of public parking spaces that are currently leased on a monthly basis to employees working downtown
- Limit the City's ability to offer parking spaces to encourage occupancy of vacancies in the downtown and to attract new businesses, including a current request for 45 spaces on the upper deck
- Reduce the value and revenue to the City for these leased parking spaces
- Limit accessibility to adjacent buildings from the parking deck during parts of the week
- Result in noise conflicts with nearby businesses and hotel and possible violations of the noise ordinance
- Involve significant City costs for requested improvements to electrical service, venue “streetscape”, and flooring
- Involve difficulties in food and waste handling that could result in unforeseen costs and impacts
- Result in increased need for police and emergency response
- Result in increased liability for use of a public facility in a manner for which it is not designed
- Be seen as an unfair competitive advantage by some other downtown entertainment providers.

Summary of Fiscal Impacts

According to information provided by Council, the proposal would result in an estimated

additional \$4,500 per year in 2.25% beer and restaurant taxes. In addition, indirect economic benefits would result for other businesses to the extent that the proposal is successful and brings new customers to the downtown that will visit other venues.

The proposal will also result in direct costs to the City, some of which have been calculated here.

- Loss of parking space revenue in monthly leases would range from approximately \$5,500 to \$27,000 per year depending upon market response to reduced hours and seasonal availability. To minimize this loss, staff recommends that the hours of operation and storage area requirements be further limited to three or four spaces in total.
- Electrical service would cost between \$8,600 and \$30,000 depending upon the level of service provided. Staff recommends that this cost be avoided by connecting to the Baxley building service and depending upon that building owner's approval and the cost be that of the petitioners.
- Streetscape improvements could range from \$15,000 to over \$50,000 depending upon the extent of improvements and materials used. City staff recommend that lower cost, temporary improvements be made initially by petitioners to test the success of the venture. More costly permanent improvements can be made at a later date as warranted.
- Costs for change-order to the deck surfacing is estimated at \$3,300.
- Costs for increased police protection have not yet been estimated and would depend upon the specifics of the security plan to be prepared.
- Increased insurance coverage costs are possible, but are not yet known.

In summary, initial City costs could range anywhere from \$18,000 to \$85,000, plus police protection, depending upon the extent of the improvements made. In addition, a recurring annual revenue loss between \$5,500 and \$27,000 would occur due to the loss of monthly parking rentals.

Summary Recommendation

Staff recommends that City Council withhold action until the petitioners have completed due diligence in establishing contact with the public health department on the feasibility of the proposal from a health and safety standpoint, development of a draft security plan with City Police, and interaction with neighboring properties. In the meanwhile, City will continue to work on finalizing cost estimates for the streetscape, surfacing, and electrical service requests.

Staff recommends that the City Council weigh carefully the costs and benefits of the proposal, particularly from an economic development standpoint. **Due to the potential negative impacts upon redevelopment of building spaces and new employers in the downtown, Staff does not**

recommend that the proposal be approved if it involves a loss of public parking during business hours. If the proposal can be modified to limit this loss of parking and to reduce the requested costs to be borne by the City, staff can make a qualified recommendation that the proposal be approved on a trial basis only through an appropriate lease document that fully protects the City's legal position and the integrity of the public property involved.

Attachments:

Petitioner's proposal
Map showing downtown parking
Mecum memorandum
Excerpt from Noise Ordinance

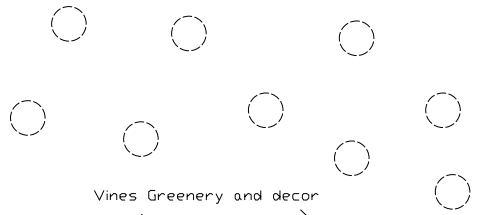
Cc: Scott Glassman
Ian Goldberg

Stairwell /
Elevator

Entrance

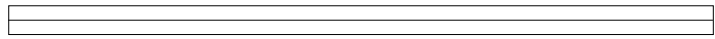
New Planters

Stage



Vines Greenery and decor

New Planters



Removable Fencing



parking spaces
needed for storage

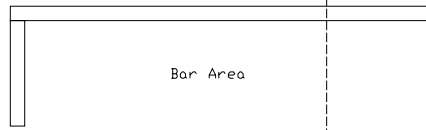
Tables with umbrellas

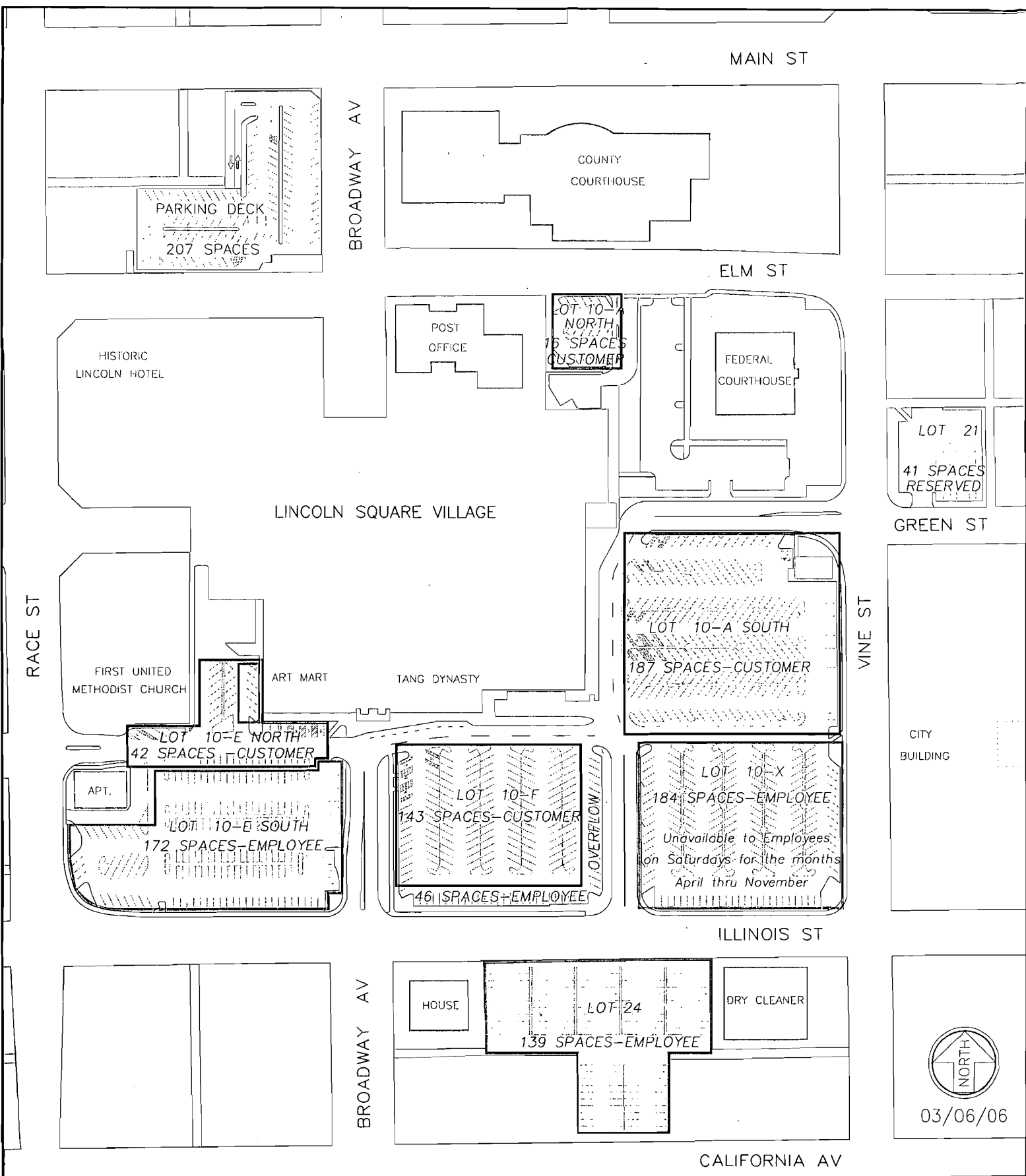




Rest Rooms



Bar Area





-  2 hr M-F 7am-6pm
-  M-F 7am-6pm (permit required)

- LOT 21 M-F 7am-6pm \$20/month
- DECK \$.25/hr first 2 hrs, \$.50/hr thereafter
- 1st Floor Reserved \$100/month
- 2nd Floor Unreserved \$60/month



03/06/06



DEPT. OF COMMUNITY DEVELOPMENT SERVICES

Building Safety Division

m e m o r a n d u m

TO: Jim Kelly

FROM: Tim G. Mecum

RE: Parking Deck, power for band

DATE: March 8, 2006

Jim, I have done some investigation at Libby Tyler's request regarding the additional power requirements for an entertainment band on the upper level of the parking deck. I have made the following observations:

1. The deck is currently served with an 800 amp, three phase, 277/480 volt service with what appears to be a 200 amp capacity that is transformed down to 120/208 volt, three phase. The service should be more than enough to accommodate any thing that we might want to do. However, the secondary side of the transformer should be investigated to determine the current loading on the transformer and the 200 amp panel that it serves. I suspect the 200 amp, 120/208 volt panel would be adequate to serve the 100 amp capacity that you suggested, but I would request that a current load calculation or (reading at full load) be accomplished.
2. My best estimate to install a 100 amp, three phase, 120/208 volt feeder from the service entrance in the lower storage level of the deck to run on the underside of the second level to the north west corner of the upper level of the deck; approximately \$8600.00 - \$9,600. This includes an approximate run of 350 feet of 1 ½ inch pipe, 3-4 bends (condulets), core drilling the upper level of the deck, a 100 amp, rain tight, three phase, 120/208 volt, 20 circuit breaker panel, with 20-120 volt GFCI circuit breakers. This does not include any branch circuit wiring.
3. **Any additional load requirements beyond the 100 amps that we discussed would entail a major reconfiguration of the electrical service at a substantial expense.** (Larger panels, transformers, circuit breakers, feeders, wire, etc; not to mention substantial labor cost and logistic considerations)
4. Any core drilling (2 ½ inch diameter hole) through the upper level of the deck may require evaluation by a structural engineer, as it appears to be built with pre-cast concrete structure.

Please let me know if you require additional information. Tim

Chapter 16

NOISE AND VIBRATIONS*

* **Cross References:** Animals disturbing the peace, § 4-5; health and sanitation, Ch. 11.
State Law References: Noise generally, 415 ILCS 5/23 et seq.

Art. I. In General, §§ 16-1--16-6

Art. II. Specific Prohibitions, §§ 16-7--16-9

Art. III. Miscellaneous, §§ 16-10, 16-11

ARTICLE I.

IN GENERAL

Sec. 16-1. Definitions.

Loud and raucous noise. Loud and Raucous Noise shall mean any sound which, because of its volume level, duration and character, annoys, disturbs, injures or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the City of Urbana. The term shall not include those noises listed as exceptions in section 16-6 hereof.

Amplified sound. Amplified sound shall mean the sound produced by any machine or device for the amplification of the human voice, music, or any other sound.
(Ord. No. 9394-24, § 1, 9-7-93)

Editors Note: Ordinance No. 9394-24, adopted September 7, 1993, repealed §§ 16-1, 16-21--16-26, 16-38 and 16-39, which pertained to noise and vibrations and derived from Code 1975, §§ 36.1, 36.7--36.19. Section 1 of Ord. No. 9394-24 has been included as a new § 16-1; Section 2 of Ord. No. 9394-24 has been included as amending § 16-2 and Sections 3--6 of Ord. No. 9394-24 have been included as new §§ 16-8--16-11 at the discretion of the editor.

Sec. 16-2. Prohibited generally.

It shall be unlawful and a violation of this ordinance for any person responsible as defined herein to willfully make, continue or cause to be made or continued, any loud and raucous noise when such noise is audible in any one (1) of the following places:

- (1) Upon the public streets;
- (2) In any public park;
- (3) In any school or public building or upon the grounds thereof while in use;
- (4) In any church or hospital or upon the grounds thereof while in use;

- (5) Upon any parking lot open to members of the public as invitees or licensees;
- (6) In any occupied residential unit which is not the source of the noise or upon the grounds thereof.
- (7) If amplified sound, when such is audible, at the boundary line of the property from which such sound is emanating. The term boundary line shall mean:
 - a. In the case of a residential unit in a structure containing more than one (1) residential unit, the boundary line shall be the perimeter of such unit. Residential unit shall be that area under the exclusive use or control of the owner or occupant;
 - b. In all other cases, the boundary line shall be the perimeter of the lot or lots as defined by the property line or on the side abutting public right-of-way, the public sidewalk, if any or, if no public sidewalk exists on the perimeter of such property, then the boundary line shall be the curb line.

(Code 1975, § 36.1; Ord. No. 9394-24, § 2, 9-7-93; Ord. No. 9596-24, § 1, 9-8-95)

Note: See the editor's note following § 16-1.

Sec. 16-3. Reserved.

Editors Note: Ord. No. 9596-24, § 2, adopted Sept. 18, 1996, repealed § 16-3, pertaining to required warnings as derived from Ord. No. 9394-24, § 3, adopted Sept. 7, 1993.

Sec. 16-4. Persons responsible.

(a) The occupant of the property or residential unit, or the agent of the occupant on which a prohibited activity takes place shall be presumed to have permitted the activity to occur; this presumption may be rebutted by evidence of a bona fide effort to prevent a violation of this chapter.

(b) The occupant of the property or residential unit, or the agent of the occupant who shall permit another person to create a noise or conduct an activity in violation of this chapter shall be deemed responsible for the noise or activity to the same extent as the person creating the noise or conducting the activity and shall be subject to the same punishment.

(c) Any person in charge of operating, ordering, directing or allowing the operation or maintenance of the device or machine creating a noise as prohibited in this chapter, shall be deemed guilty of violating this chapter.

(Ord. No. 9394-24, § 4, 9-7-93)

Note: See the editor's note following § 16-1.

Sec. 16-5. Exceptions.

The term "loud and raucous noise" does not include noise or sound generated by the following:

- (1) Cries for emergency assistance and warning calls.
- (2) Radios, sirens, horns and bells on police, fire and other emergency response vehicles.

- (3) Parades, fireworks displays and other special events for which a permit has been obtained from the city, within such hours as may be imposed as a condition for the issuance of the permit.
- (4) Activities on or in municipal and school athletic facilities and on or in publicly owned property and facilities, provided that such activities have been authorized by the owner of such property or facilities or its agent.
- (5) Fire alarms and burglary alarms, prior to the giving of notice and a reasonable opportunity for the owner or tenant in possession of the premises served by any such alarm to turn off the alarm.
- (6) Religious worship activities, including but not limited to bells and organs.
- (7) Locomotives and other railroad equipment, and aircraft.
- (8) Noise which is a normal by-product of commercial and industrial activity, when the activity producing the noise is occurring on premises where such activity is permitted under the Urbana Zoning Ordinance, in which case such noise shall not be deemed to be a violation of this chapter except as such noise is also in violation of an Illinois Pollution Control Board Order.

(Ord. No. 9394-24, § 5, 9-7-93)

Note: See the editor's note following § 16-1.

Sec. 16-6. Certain noise problems.

Certain noise problems by their nature are not best addressed in this article, but shall be prosecuted under the specific Urbana City Code Sections designed to deal with such problems:

- (1) Section 16-7 (Construction and Use of Power Tools).
- (2) Section 16-9 (Automobile horns).
- (3) Section 4-5 (Animals disturbing the peace).
- (4) Section 16-8(d) (Squealing of tires).
- (5) Section 16-8(c) (Loud mufflers).

Note: See the editor's note following § 16-1.