

**MINUTES OF A REGULAR MEETING**

**URBANA PLAN COMMISSION**

**APPROVED**

**DATE:** August 18, 2005  
**TIME:** 7:30 P.M.  
**PLACE:** Urbana City Building  
400 South Vine Street  
Urbana, IL 61801

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**MEMBERS PRESENT:** Lew Hopkins, Ben Grosser, Randy Kangas, Michael Pollock, James Ward, Don White  
**MEMBERS EXCUSED:** Laurie Goscha, Bernadine Stake, Marilyn Upah-Bant  
**STAFF PRESENT:** Elizabeth Tyler, Director of Community Development Services; Matt Wempe, Planner I; Teri Andel, Secretary  
**OTHERS PRESENT:** Susan Taylor

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

The meeting was called to order at 7:28 p.m., the roll call was taken, and a quorum was declared.

**2. CHANGES TO THE AGENDA**

There were none.

**3. APPROVAL OF MINUTES**

Mr. White moved to approve the minutes from the August 4, 2005 Plan Commission meeting as presented. Mr. Ward seconded the motion. The minutes were approved by unanimous voice vote.

**4. WRITTEN COMMUNICATIONS**

There were none.

**5. CONTINUED PUBLIC HEARINGS**

There were none.

**6. OLD BUSINESS**

There was none.

**7. NEW PUBLIC HEARINGS**

**Plan Case No. 1949-SU-05 – Request by Canaan Baptist Church for a Special Use Permit to establish an “accessory” parking lot within 600 feet of the R-1, R-2, or R-3 Zoning Districts.**

Matt Wempe, Planner I, presented this case to the Plan Commission. He mentioned that the City Council had passed a new ordinance where any accessory parking lot within 600 feet of the R-1, R-2, or R-3 Zoning District would require a Special Use Permit. He gave a brief history of the case for the Canaan Baptist Church. He pointed out that the City of Urbana staff and the church have been working together to bring the elementary school and the parking lot into compliance with the requirements of the Urbana Zoning Ordinance and the Building Safety Code.

Meanwhile, the City Council passed the above mentioned ordinance. Although the accessory parking lot was constructed prior to the new ordinance being passed, the lot was never legally conforming because of the zoning violations. City staff and the church have worked together to create a schedule of remedial action, which outlines when and what improvements should be completed.

Mr. Wempe continued his presentation by noting the zoning and land use of the proposed site at 306 West Locust and surrounding properties. He talked about the revised site plan that the church had submitted. The revised site plan shows three major changes to the lot to bring it into compliance with the Zoning Ordinance, which are as follows: 1) removal of excess asphalt, 2) install required screening, and 3) provide drainage facilities.

He reviewed the requirements for a Special Use Permit according to Section VII-6 of the Urbana Zoning Ordinance. He also reviewed the additional requirements placed on an “accessory” parking lot. He summarized staff findings and read the options of the Plan Commission. He presented staff’s recommendation, which was as follows:

*Based on the evidence presented in the written staff report, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommended that the Plan Commission forward this case to the Urbana City Council with a recommendation for approval with the following conditions:*

- 1. That the updated site plan shall be revised to address any minor concerns or comments from the Building Safety Division.*
- 2. That the layout of the parking lot shall closely resemble site plans approved by the City of Urbana per the July 27, 2005 Schedule for Complaint Abatement attached as Exhibit H to the written staff report. Any significant deviation from this site plan will require an amendment to the Special Use*

*Permit, including further review by the Plan Commission and approval by the City Council.*

3. *That all improvements to the parking lot be made by October 31, 2005.*

Elizabeth Tyler, Director of Community Development Services Department, suggested that they change the first condition to better reflect where the City and the church were currently at. It should read as such, *“That the updated site plan shall be revised to address any remaining concerns or comments from the Building Safety Division.”* She pointed out that the church was quite close to satisfying the code review for the Building Safety Division.

Mr. Kangas stated that the church needs 34 parking spaces, and the proposed lot would only provide 17 spaces. He wondered why City staff did not wait until the church submitted a complete parking plan rather than having the church ask for a Special Use Permit now and maybe change the plans later. Ms. Tyler stated that there was the existing problem of a non-code compliant parking. It was City staff’s top priority to bring it into code. Mr. Kangas asked how long the parking lot had been non-code compliant. Ms. Tyler replied approximately four years. Mr. Kangas wondered why the City did not just wait a couple more months to get a complete parking plan. Ms. Tyler responded by saying that the City had filed a complaint on the current situation, and City staff was negotiating a schedule for compliance. City staff had been working for a long time to bring this parking lot into compliance, and now the court system was behind the City. There were also some other code issues referenced in one of the attachments of the written staff report regarding handicapped accessibility. The request for a Special Use Permit shows the court that progress is being made towards bringing the parking lot and handicapped accessibility into compliance. The next step would be to work on a schedule to identify a second parking lot to fully meet the parking requirements for the school.

Mr. White questioned what properties the church owned or had access to in order to get the other 17 parking spaces they need. Ms. Tyler believed that the Canaan Baptist Church still owned the two lots where they had previously proposed parking lots to be located. Mr. Pollock noted that these two lots appeared to have existing buildings on them. Ms. Tyler stated that was correct.

Mr. Pollock inquired what would happen if the Plan Commission and the City Council did not approve the Special Use Permit. Ms. Tyler stated that part of the negotiation process with the City Attorney and the attorney for the church was improving communications. The church believed that the contractor they hired to construct the parking lot had been fulfilling all the permit requirements, in which case the contractor did not. Another miscommunication is the result of the approval of the new ordinance. The church felt that the City was changing the rules in the middle of correcting code deficiencies. She believed that not approving the proposed Special Use Permit would move the process backwards, when the City and church want to move forward in bringing the existing parking lot into compliance. She suggested that the Plan Commission review the Special Use Permit criteria rather than the performance or approach of the petitioner. City staff did not require the petitioner to attend this meeting. Mr. Pollock summarized by saying that if the Plan Commission and City Council did not approve the Special Use Permit, then the church would still need 34 parking spaces.

Mr. Pollock went on to ask why Canaan Baptist Church had previously submitted a plan for 34 parking spaces about four or five years ago and never built the parking lot. Ms. Tyler did not

know. She commented that the lesson to learn from this is to not grant permits or permission based on site plans and promises to meet requirements. This was a decision that had been made six or seven years ago by previous staff. Mr. Pollock inquired as to why it has taken so long to resolve the issue. Ms. Tyler replied that there had been honest efforts made annually to work with the church to agree to a path of compliance. The few years that she had been involved, City staff actually believed that progress was occurring. The City met with engineers hired by the church and knew they were working on the issues. However, if you ask the church, they will say that the engineer dropped the ball. City staff could have spent more time on this case and maybe sped up the process, but staff has limited time.

Mr. Pollock asked if there had been any discussion on where the additional parking would be located and when it would be completed. Ms. Tyler answered by saying that the determination as to where and when the necessary parking would be provided must be decided by October 31, 2005.

Mr. Kangas asked what legal action the City had taken. Ms. Tyler explained that City staff had filed a complaint in the Circuit Court. There was a very detailed list of complaints, including building code, accessibility, and zoning violations. The complaint was filed a few months back, and it caught the church's attention. They are facing substantial fines for each day that they remain non-compliant. At the same time, the church came to City staff and asked to work out a schedule. The time was granted working through the Mayor's office with the church's attorney and engineers, the City Attorney, planners, and building officials.

Mr. Kangas mentioned that even with the approval of the proposed Special Use Permit, there were a number of issues that needed to be brought into compliance. Did the approval or denial of the proposed Special Use Permit affect any of the litigation? In other words, regardless of the outcome of the proposed special use permit request, the litigation case before the court would still continue. Ms. Tyler mentioned that an approval of the requested Special Use Permit would help in resolving the basis of the City's complaint in the court case. She felt that a judge would want to see some progress both from the City and from the defendant.

Mr. Ward inquired what would happen if the Special Use Permit was approved by the City of Urbana and the church did not come into compliance by October 31, 2005. Ms. Tyler said that was a good question for the City Attorney. She stated it was in the City Attorney's hand. She pointed out that the City Attorney was trying to work with the church's attorney. However, some possibilities might be that it would aggravate the complaint already filed by the City or the City Attorney might file a second complaint. It could cause the fines for the church to increase. She was not sure what the exact consequences would be.

Mr. Ward wondered what would happen if the proposed Special Use Permit was approved by the City, the proposed lot was brought into compliance, and the church did not find another 17 parking spaces. Would this affect the proposed Special Use Permit? Ms. Tyler answered by saying that the church would then be about 50% in compliance with the parking requirements. The church may find another location within 600 feet where they could share parking over some agreement. Canaan Baptist Church could come before the Zoning Board of Appeals with a request for a variance to reduce the required number of parking spaces. The church has a

number of courses of action. The best one would be for the church to build a second or even a third parking lot.

Mr. Hopkins asked for clarification regarding the reason for the proposed Special Use Permit. The only reason for the proposed Special Use Permit was because of the new ordinance that was passed, correct? Mr. Wempe replied yes. Mr. Hopkins pointed out that the proposed parking lot met the new set of standards required under this ordinance. Therefore, it seemed to him that the Plan Commission and City Council had no basis on which to deny the proposed Special Use Permit.

Mr. Pollock questioned if a future plan for additional parking would require another Special Use Permit. Ms. Tyler said that it would most likely require a Special Use Permit, because of the church's proximity to residential areas.

Mr. Grosser inquired about the intent of the new ordinance. Ms. Tyler stated that it started out as a simple text amendment that became more complicated. It arose from an instance on Iowa Street, where there was a parking lot some felt would make a good accessory parking lot. It, however, was in a location that no one would ever have imagined a parking lot to appear because it was a residential street. So, this prompted a review of whether a Special Use Permit should be required for accessory parking that might be near residential areas.

Mr. Grosser commented that the third requirement for a Special Use Permit according to Section VII-6 of the Zoning Ordinance talked about preserving the essential character of a residential neighborhood. Although the parking lot already existed, he did not see a parking lot as preserving the essential character of a residential neighborhood. Mr. Pollock stated that he had considered this, but you also have to think about the City requiring parking. The City cannot require parking for uses such as a church, and then not allow the parking lot.

Mr. Ward agreed with Mr. Hopkins in that he did not see any reason to deny the Special Use Permit. On the other hand, if the Plan Commission approved the proposed request, the church would still be 17 parking spaces short. Therefore, he was not sure if there was any reason to approve it either, because it would not bring the church into compliance with the City's regulations. Mr. Pollock pointed out that the proposed Special Use Permit was only about the property at 306 West Locust, and the Special Use Permit would bring this property into compliance. Mr. Hopkins added that the Plan Commission had no authority over the other issues that are non-compliant.

Mr. Kangas posed a hypothetical question ... if a developer came in and proposed a development that only provided for half of the required parking spaces and promised to bring a plan for the other half at a future time, what would City staff say? Ms. Tyler responded by saying that City staff would not approve the proposed development, because it would require a 50% variance. However, it might help the Plan Commission to look at the proposed case as the church bringing the proposed parking lot 50% into compliance rather than 0%, which is where they were currently at. Mr. Pollock added that in terms of this particular case, the church does need additional parking, but it did not have to do with the compliance of the proposed lot.

Mr. Grosser wondered if the Plan Commission could place a condition on the Special Use Permit that would set a deadline for the additional parking. Ms. Tyler remarked that it probably would not help in the enforcement, but it would not hurt. Mr. White questioned whether the Plan Commission could approve a Special Use Permit and have it expire in December, 2005 if the petitioner did not show progress towards identifying additional parking spaces by then. Mr. Pollock pointed out that if the City approves the Special Use Permit and the petitioner fixes the lot based on the agreement and the conditions of the City, then the City could not take away the Special Use Permit after the petitioner had fulfilled their requirements based on another case.

Mr. White remarked that he did not see how the City could grant the proposed Special Use Permit for this property without having the extra required parking spaces. Mr. Kangas summarized by saying that the Plan Commission did not seem to have a problem with this specific lot. The problem is that they would be approving half of a plan. They would not do this if a developer was starting from scratch.

Mr. Pollock stated that the problem he had with this was not this particular lot. Rather his problem was that the Canaan Baptist Church had shown a blatant disregard for the rules, for agreements that they had made, for site plans that they had submitted, and for deadlines that they promised to meet. He wondered if this would happen again. The fact is that people will park in the proposed parking lot, so the City and the church need to bring it into compliance. They need to protect the neighborhood, and to ensure that the drainage and screening are complete. Would the court look at the City, if we deny the Special Use Permit, as being obstructive in terms of trying to find a final solution to all the pieces? He did not feel strongly one way or another, but felt bothered by it.

Mr. Hopkins stated that if the Plan Commission were approving a Special Use Permit to allow the church and school in a residential neighborhood, then they would be reviewing the church, the school and the parking requirements together. If they were on four scattered lots, then it would require four site plans, as they did two or three years ago. The Plan Commission would not approve a plan that was not complete.

Mr. Hopkins stated that the difficulty in this case was largely because of the newly created ordinance by the City during the process after all of that had been approved. In the process of trying to enforce something that had already been approved, the court and the City discover that because it had not happened yet, it now has to meet a new rule that was largely irrelevant. So, in the process of trying to agree on the pieces of this, the Plan Commission was presented with a problem that the City wants to resolve so they can get back to enforcement, which is a major problem. The church does not have a final Certificate of Occupancy and has been occupying the building illegally for about eight years. However, anything that the Plan Commission could do to help the larger issue, he believed that they should do. If they could add conditions, then it would be helpful. However, he did not feel that the Plan Commission could do it skillfully enough at this meeting. He would be afraid that they would mess up complicated negotiations faster than they would fix them.

Mr. Kangas inquired if the Plan Commission needed to vote on this case now. Could it sit for a month or two months? Mr. Pollock asked if delaying this case would affect the church's ability to contract help to get the work done. Ms. Tyler believed that it would. The church was poised

to get the work done. The schedule was very important to the church not only in that the two parties work together, but that the City perform as well. Therefore, putting the proposed case on tonight's agenda was very important. It is also very important that the Building Inspector review the plans within a certain number of days. The church's position was that they would comply with the schedule, but the City needed to comply as well. Mr. Pollock commented that the City was negotiating in good faith to get this resolved. However, the fact is that the City of Urbana did not have to negotiate. The City could shut down the occupancy and shut down the parking lots after the amount of time that has elapsed.

Mr. Ward did not understand how any action from the proposed Special Use Permit would affect the church's progress in coming into compliance. Ms. Tyler mentioned that because of the new ordinance, the proposed parking lot could not become fully legal without a Special Use Permit. There was a good faith effort, at this point, to proceed in all due haste to at least get the parking lot and the accessibility in compliance by the end of October, 2005 and to continue to work together on the remaining deficiency.

In going back, one could ask where the error was first done. The Zoning Board of Appeals had granted a Conditional Use Permit to allow the school. The Building Inspector issued a Temporary Certificate of Occupancy based on the completion of the parking. The parking was not completed for a long time, and then when it was done, it was done incorrectly.

Mr. Ward commented that the Plan Commission and City staff kept talking about the new ordinance that had been passed by the Urbana City Council. He noted that at the time the new ordinance was passed, the Canaan Baptist Church was not in compliance even with the existing requirements. Ms. Tyler said that this was correct. The church did not obtain a building permit for the parking lot, and it does not meet zoning requirements for setback and screening. Mr. Ward remarked that the major issue was not with the new ordinance. There were existing issues. Mr. Pollock added that the key to the new ordinance was that it brought the case before the Plan Commission.

Mr. White inquired what would happen if the City approved the Special Use Permit, the church fixed the parking lot and a year from now the church still did not come up with the other 17 required parking spaces. Ms. Tyler stated that City staff would probably continue with the existing complaint or file an amendment to the complaint. The City was not going to back off now that they started the process.

Mr. Hopkins moved that the Plan Commission forward the proposed Special Use Permit to the City Council with a recommendation for approval along with the conditions suggested by City staff. Mr. Grosser seconded the motion.

Mr. Hopkins reasoned that the Canaan Baptist Church would probably not be able to get a contractor or engineer to work on this job if the Plan Commission and the City Council do not approve the Special Use Permit. He believed that getting the proposed Special Use Permit approved would make it possible to move inches forward. They needed to encourage others to try to find ways to provide the church with design assistance. For example, he thought the Main Street parking idea would be a bad idea. The City could suggest some alternatives.

Mr. Grosser expressed his interest in adding another condition that would require an approved site plan for the other 17 parking spaces by a specified date. Mr. Kangas stated the condition could be that the Special Use Permit would be revoked if the church did not comply with the requirements for the proposed parking lot by October 31, 2005. Mr. White suggested changing the date to January 1, 2006 to allow the church enough time to hire a contractor and work around weather conditions. Mr. Hopkins stated that they did not need the extra condition, because it was already part of the motion under Condition #3, which is a condition of approval. If the petitioner does not meet the condition, then the Special Use Permit is revoked. He felt that the language recommended by staff was pretty good about this particular point.

Ms. Tyler pointed out that the church had already hired a contractor.

The Plan Commission discussed what date would be best to allow the petitioner enough time to fulfill the condition. There was a suggestion to change the date from October 31, 2005 to either November 30, 2005 or December 31, 2005.

Mr. Ward was unclear as to whether the Plan Commission was recommending termination of the Special Use Permit if Condition #3 was not met or whether the Commission was leaving it open to give City staff discretion as to what enforcement procedures to follow. Mr. Hopkins stated that if they change the language for Condition #3 to say what enforcement to follow, then what about Conditions #1 and #2. If they do not meet the conditions, then the Special Use Permit would become null. What else do conditions of a Special Use Permit mean? How violations of any City ordinance are enforced is out of the Plan Commission's purview.

Mr. White moved to add a friendly amendment to Condition #3 to read 12/31/2005 rather than 10/31/2005 to provide more time for the petitioner to meet the condition. Mr. Ward seconded the motion for the amendment.

Mr. Hopkins pointed out that the Plan Commission was entering into an elaborate five year negotiation in which this date is synchronized with other important deadlines. He believed that changing the date would be a big mistake.

The motion to amend failed by a hand vote of 2 ayes to 4 nays.

Mr. Kangas wanted Ms. Tyler to convey that the Plan Commission's understanding is that if the Canaan Baptist Church is not done with the required improvements to the parking lot by October 31, 2005, then the Special Use Permit becomes null and void, and the church would need to go through the Special Use Permit process again. The Plan Commission is clearly sending a strong message.

Roll call on the main motion was as follows:

Mr. White	-	Yes	Mr. Ward	-	Yes
Mr. Pollock	-	Yes	Mr. Kangas	-	Yes
Mr. Hopkins	-	Yes	Mr. Grosser	-	Yes



The motion was passed by unanimous vote. Ms. Tyler noted that this case would go before City Council on September 6, 2005.

**8. NEW BUSINESS**

There was none.

**9. AUDIENCE PARTICIPATION**

There was none.

**10. STAFF REPORT**

Ms. Tyler reported on the following:

- The OASS IDO Moratorium Extension was approved by City Council. City staff now has more time to work on researching billboards and OASS and to prepare a text amendment to bring before the Plan Commission and the City Council.
- The OASS Study Session was presented to the City Council.
- The Weemer Annexation Agreement was approved by City Council.
- The Campo Resolution of Protest was forwarded by City Council to the Champaign County Zoning Board of Appeals as a protest.

**11. STUDY SESSION**

There was none.

**12. ADJOURNMENT OF MEETING**

Chair Pollock adjourned the meeting at 8:23 p.m.

Respectfully submitted,

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Elizabeth Tyler, City Planner  
Urbana Plan Commission