



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Urbana Zoning Board of Appeals

FROM: Kevin Garcia, AICP, Planner II

DATE: October 12, 2018

SUBJECT: **ZBA-2018-MAJ-10:** A request by Andrew Fell, on behalf of Broadway Market LLC, for a Major Variance to allow parking spaces that are less than the required length and parking spaces that back directly onto the public right-of-way, at 401 North Broadway Avenue in the B-4, Central Business Zoning District.

Introduction and Background

On behalf of Broadway Market LLC, Andrew Fell has submitted an application for a major variance to allow a parking lot configuration at 401 North Broadway Avenue that does not meet the minimum design standards of the zoning ordinance. The property is in the B-4, Central Business zoning district, which does not require parking. However, when parking is provided, it must meet the standards of the Zoning Ordinance. The approved plans for the site show one row of parking next to the main building. However, the parking demand at the Broadway Food Hall has exceeded what can be accommodated by one row of parking, and a variance is therefore requested that would allow additional parking on site.

At present, the Broadway Food Hall has a temporary Certificate of Occupancy. A permanent Certificate of Occupancy will be issued once the parking lot is brought into compliance with the Zoning Ordinance or a Major Variance is granted, or when some combination of the two is achieved.

The site plans that city staff approved for the Broadway Food Hall showed one row of parking in front of the building (Exhibit D). The approved parking configuration met the requirements of the Zoning Ordinance. However, when the parking lot was striped, an additional 13 parking spaces were added next to the sidewalk along Broadway Avenue (Exhibit G). Ten of those spaces back directly onto Broadway Avenue. This violates Section VIII-4.E of the Zoning Ordinance, which states that only driveways for single- and two-family home can back directly onto a street. In addition, none of the parking spaces meet the minimum size required by the Zoning Ordinance (18 feet, 6 inches by 9 feet, or 19 feet by 8 feet, 6 inches).

The variance request is to allow the parking lot to remain as it is currently striped (Exhibit G). Specifically, the request is:

To allow 10 parking spaces that back directly onto Broadway Avenue; and

To allow 24 parking spaces that do not meet the minimum parking space dimensions, being:

- 11 spaces that are 18 feet, 2 inches long by 9 feet wide;
- 9 spaces that are 15 feet, 10 inches long by 9 feet wide;
- 1 space that is 16 feet, 11 5/8 inches long by 9 feet wide;
- 1 space that is 15 feet, 11 7/8 inches long by 9 feet wide;
- 1 space that is 14 feet, 11 7/8 inches long by 9 feet wide;
- 1 space that is 13 feet, 11 7/8 inches long by 9 feet wide;

Staff recommends that a lesser variance be granted, which would allow two spaces to back directly onto Broadway Avenue, with those spaces reserved for employees only. The parking lot can otherwise be brought into compliance with the Zoning Ordinance.

For the Major Variance request to be approved, the Zoning Board of Appeals must recommend approval by a two-thirds majority and forward to City Council for final review and approval.¹

Description of Site

The site is located between Broadway Avenue and the Boneyard Creek. The existing building, which has been renovated and repurposed, is slightly offset from being parallel to Broadway Avenue. The front portion of the old building was demolished to make room for parking and to establish a new front and entrance to the Food Hall. The building has a northern addition that extends east past the front of the main building. Four parking spaces have been striped in front of this addition, all of which back directly onto Broadway Avenue. The site has two large driveways on Broadway Avenue that were established many decades ago. The driveways were re-established between 2012 and 2014 when the city improved the streetscape along this section of Broadway Avenue.

Zoning and Land Use Table

The following is a summary of surrounding zoning and land uses for the subject site:

Location	Zoning	Existing Land Use	Future Land Use
Site	B-4, Central Business	Food Hall and Event Space	Central Business
North	B-4, Central Business	Commercial (Multiple)	Central Business
South	B-4, Central Business	Theater, Offices	Central Business
East	B-4, Central Business	Commercial	Central Business
West	B-4, Central Business	Park, Restaurant	Central Business

Discussion

The approved site plans for the Broadway Food Hall only showed one row of parking, which complied with the Zoning Ordinance (see Exhibit D). No parking spaces were striped before the Food Hall opened for business. Once it opened, it quickly became apparent that one row of parking would not be sufficient to meet parking demand. Without submitting revised plans to the city for review, the owners had parking spaces striped. The parking spaces do not meet the requirements of the Zoning Ordinance. After being informed by city staff that the parking lot did not meet the requirements, one of the property owners met with staff to discuss their options to bring the parking lot into compliance, with one option being a Major Variance to allow the striped parking to remain in its current state.

If granted, the variance would allow 24 parking spaces.² Ten of the spaces would allow cars to back directly onto Broadway Avenue, which is not allowed per Section VIII-4.E of the Zoning Ordinance. While there are other instances in downtown Urbana where parking spaces back directly onto the street, those are

¹ Section XI-3.C.2 of the Urbana Zoning Ordinance.

² Per Table VIII-1. Handicapped Parking, of the Urbana Zoning Ordinance and the Illinois Accessibility Code, two of those spaces would need to be converted into one additional handicapped parking space.

existing, nonconforming parking spaces or have received a variance. New parking spaces cannot back directly onto the street unless a variance is granted to allow it. In this case, it would be dangerous to grant the variance. The parking spaces are right up against the sidewalk, with cars frequently overhanging the sidewalk, and with cars pulling through the parking spaces in either direction, or backing out across the sidewalk onto Broadway Avenue. With so many parking spaces up against the sidewalk, it creates an unsafe situation for people walking by on the sidewalk.

The most prudent course of action, which is also required by Section 20-505 of the Urbana City Code, would be to close the southern driveway, either partially or fully. This would allow the parking lot to be brought into compliance with the Zoning Ordinance and would make the area safer. Had the property owner consulted with city staff prior to striping the parking lot, this would have been the required course of action.

Regarding the four parking spaces in front of the northern building addition, two of the spaces are too small even for compact vehicles and should be removed. That area could be used for something else, such as bike parking. The remaining two spaces could be allowed, with a variance, as “employee only” parking spaces that back directly onto Broadway Avenue. Since employees’ vehicles do not move as frequently as customers’ vehicles, the potential number of conflicts from backing out onto Broadway Avenue would be minimized.

Variance Criteria

Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals to make findings based on variance criteria. The following is a review of the variance criteria as they pertain to these cases:

1. Are there special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance?

No parking is required for the property, but since parking is desired, the layout must meet the requirements of the Zoning Ordinance. The approved site plan included a parking layout that complied with the Zoning Ordinance. At a minimum, three more compliant parking spaces could be added to the site without requiring any site modifications. If more parking is desired, it would be possible to add more parking spaces by closing the southern driveway. There are no special circumstances or practical difficulties in applying the Zoning Ordinance to the southern part of this property.

On the northeastern part of the property, there is an area between the building and the sidewalk that has historically been used for parking. The area cannot be used for parking that would meet the minimum requirements of the Zoning Ordinance. It could accommodate two compact car spaces, but would require a variance to allow the spaces to back out directly onto Broadway Avenue. This is a special circumstance with respect to this parcel.

2. The proposed variance will not serve as a special privilege because the variance requested is necessary due to special circumstances relating to the land or structure involved or to be used for occupancy thereof which is not generally applicable to other lands or structures in the same district.

The area on the northeastern part of the site, between the building addition and the sidewalk, has historically been used for parking, but it is not quite large enough to establish parking spaces that would meet the minimum requirements of the Zoning Ordinance and would not back out onto Broadway Avenue. This is a special circumstance which does not apply to other parcels in the district. Allowing two parking spaces, with conditions, would not serve as a special privilege to the property owner.

The remaining variance requests, for the southern part of the site, would serve as a special privilege to the property owner. The area can already be used for parking that meets the requirements of the Zoning

Ordinance (for example, by matching the approved site plans (Exhibit D)). If more parking is desired, the southern curb cut/driveway could be closed, and parking could be added that would meet code.

3. The variance request is not the result of a situation or condition having been knowingly or deliberately created by the Petitioner.

At the time the property owner purchased the property, there was parking in front of the building that backed directly onto Broadway Avenue. The owner demolished the front part of the building, which increased the available area that could be used for parking. It seems reasonable that the owner would want to use the area in front of the building for parking.

As part of the building permit process, the owner submitted site plans that included a parking lot configuration that complied with the Zoning Ordinance. City staff approved those site plans. On April 20, 2018, the Urbana Building Inspector advised one of the property owners that he should submit any alternative parking plans to staff prior to striping the parking lot, to ensure that the parking lot would comply with the Zoning Ordinance (see Exhibit E). Without submitting new plans, the owner had the parking lot striped in its current configuration, which does not comply with the Zoning Ordinance. The variance request is a direct result of the property owner's actions.

The area in front of the building on the northeastern part of the site has historically been used for parking. The part of the variance request that pertains to that area is not the result of a condition created by the property owner. They merely want to reestablish parking in that area.

4. The variance will not alter the essential character of the neighborhood.

If granted, the variance would not alter the essential character of the neighborhood. In the surrounding area, there are surface parking lots on both sides of Broadway Avenue. Most of the parking lots on nearby properties are paved very close to the sidewalk and/or street.

5. The variances will not cause a nuisance to the adjacent property.

Allowing more on-site parking spaces at the Broadway Food Hall will lessen the demand for on-street parking and for parking in nearby lots, which will limit any nuisance caused to nearby property owners that could arise if there is less parking on-site. However, the southern driveway is directly across Broadway Avenue from the vacated Courtesy Road, which is now a private driveway for the former "Gill Building". While the driveway currently sees little traffic, the new owner of the property is redeveloping the former warehouse building, and there will be more traffic in and out of the driveway in the near future. Later this month, C-U Adventures in Time and Space, a popular escape room, will complete its move into the building. If the entire southern driveway for the Broadway Food Hall is allowed to remain open, with cars backing out onto Broadway Avenue, it could create a nuisance for patrons of C-U Adventures in Time and Space and for other future businesses on the site to the east.

6. The variance generally represents the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request.

The request is to allow the parking lot to remain as is, with ten parking spaces that back directly onto Broadway Avenue, and all 24 parking spaces striped at various lengths that do not meet the minimum standards of the Zoning Ordinance. A lesser deviation from the requirements of the Zoning Ordinance would be to restripe the 20 southernmost parking spaces to meet the minimum required length of parking spaces; then the request would be to allow four substandard spaces and 10 spaces that back directly onto

Broadway Avenue. If the southern driveway were closed or narrowed, as required by City Code¹, the entire parking area to the south could meet the requirements of the Zoning Ordinance, and only the four northernmost spaces would require variances. The staff recommendation is to allow two parking spaces in that area, to be used for employee parking. This represents the minimum deviation necessary from the requirements of the Zoning Ordinance. The two spaces would be shorter than typical parking spaces and would back out directly onto Broadway Avenue. The two remaining spaces requested cannot be allowed, because vehicles parked there would overhang the sidewalk.

Summary of Staff Findings

1. Andrew Fell, on behalf of Broadway Market LLC, requests a Major Variance to allow 24 substandard parking spaces, and ten of which back directly onto Broadway Avenue, at 401 North Broadway Avenue in the B-4, Central Business District.
2. The property is zoned B-4, Central Business, and has a future land use designation of “Central Business” in the Urbana Comprehensive Plan.
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 may cause a nuisance to the property owner to the east, across Broadway Avenue.
8. The variance request does not generally represent the minimum deviation from the requirements of the Zoning Ordinance. Staff recommends a lesser request that does represent the minimum deviation necessary.

¹ Section 20-505 of the Urbana City Code requires unused curb openings (i.e. driveways) to be closed. If the parking spaces in front of the driveway were removed, the driveway could remain open. As currently configured, there are parking spaces immediately in front of the driveway, with the spaces acting as both parking spaces and access drives, which is not allowed. If the parking spaces remain, the driveway must be removed, and vice versa.

Options

The Zoning Board of Appeals has the following options in case ZBA-2018-MAJ-10:

1. Forward the case to City Council with a recommendation to approve the variance as requested, based on the findings outlined in this memo; or
2. Forward the case to City Council with a recommendation to 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.

Staff Recommendation

Based on the analysis and findings presented above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Zoning Board of Appeals recommend **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, require all other spaces to be striped to meet the minimum requirements of the Zoning Ordinance, require wheelstops for all parking spaces adjacent to the public sidewalk, and require the southern curb cut/driveway to be partially or fully closed.

Recommended 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. 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;
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. All standard parking spaces must be striped to be 18 feet, 6 inches deep, and all compact parking spaces are striped to be at least 15 feet, 6 inches deep.

Attachments: A: Location Map
 B: Zoning Map
 C: Application
 D: Approved Site Plan
 E: Staff Correspondence
 F: Site Photos
 G: Proposed Site Plan (Reflects Current State)
 H: Staff Site Plan Recommendations

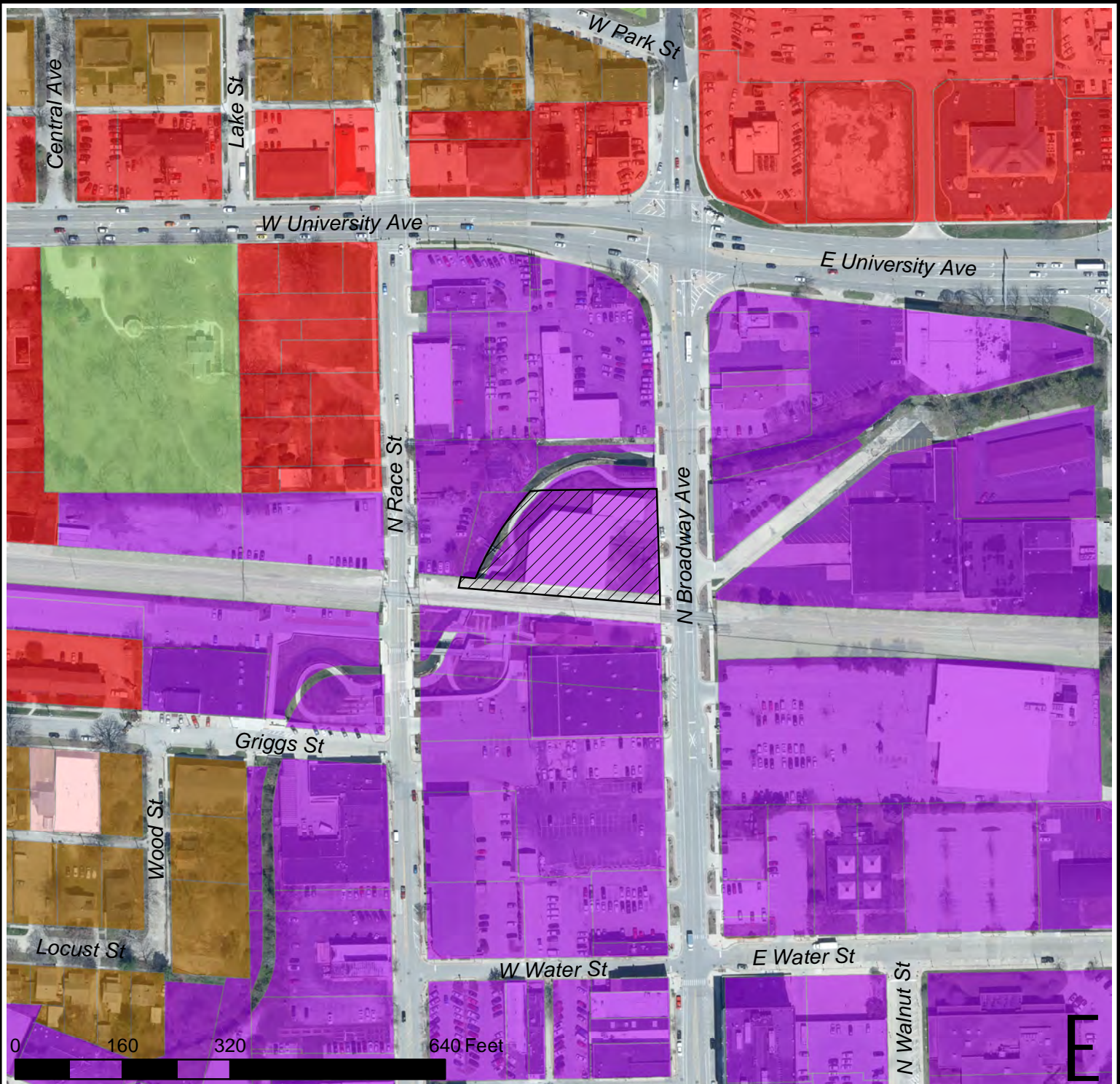
Exhibit A: Location & Existing Land Use Map



Case: ZBA-2018-MAJ-10
 Subject: Parking Lot Variance
 Location: 401 North Broadway Avenue
 Petitioner: Andrew Fell

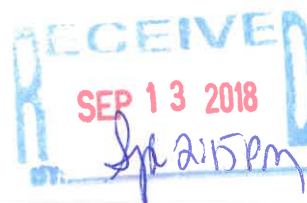
 Subject Property

Exhibit B: Zoning Map



Case: ZBA-2018-MAJ-10
 Subject: Parking Lot Variance
 Location: 401 North Broadway Avenue
 Petitioner: Andrew Fell

- B1
- B3
- B4
- CRE
- IN-1
- R5
- Subject Property



Application for Variance

ZONING BOARD OF APPEALS

The application fee must accompany the application when submitted for processing. Please refer to the City's website at <http://www.urbanailinois.us/fees> for the current fee associated with this application. The Applicant is also responsible for paying the cost of legal publication fees. Estimated costs for these fees usually run between \$75.00 and \$225.00. The applicant will be billed separately by the News-Gazette.

DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY

Date Request Filed 09-13-2018 ZBA Case No. ZBA-2018-MAJ-10
Fee Paid - Check No. 1201 Amount \$175.00 Date 09-13-2018
Still Owe \$25.00

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

A VARIATION is requested in conformity with the powers vested in the Zoning Board of Appeals to permit the following variation (*Describe the extent of the Variation Requested*)

for less than 23' access aisle, smaller parking space length, and exit on right of way on the property described below, and in conformity with the plans described on this variance request.

1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): **Andrew Fell** Phone: **217-363-2890**
Address (street/city/state/zip code):
Email Address: **515 Hickory St, Champaign, IL 61820**
Property interest of Applicant(s) (Owner, Contract Buyer, etc.): **Architect**

2. OWNER INFORMATION

Name of Owner(s): **Broadway Market LLC** Phone: **217-377-9080**
Address (street/city/state/zip code): **401 N Broadway Ave, Urbana IL 61801**
Email Address: **info@broadwaymarket.com**

Is this property owned by a Land Trust? ☐ Yes ☒ No
If yes, please attach a list of all individuals holding an interest in said Trust.

3. PROPERTY INFORMATION

Location of Subject Site: **401 N Broadway Ave, Urbana IL 61801**
PIN # of Location: **91-21-08-455-017**
Lot Size: **NA**

Current Zoning Designation: ~~XXXX~~ **B4**

Current Land Use (*vacant, residence, grocery, factory, etc.*): **Restaurant**

Proposed Land Use: **NA**

Legal Description (*If additional space is needed, please submit on separate sheet of paper*):

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.

4. CONSULTANT INFORMATION

Name of Architect(s):

Phone:

Address (*street/city/state/zip code*):

Email Address:

Name of Engineers(s):

Phone:

Address (*street/city/state/zip code*):

Email Address:

Name of Surveyor(s):

Phone:

Address (*street/city/state/zip code*):

Email Address:

Name of Professional Site Planner(s):

Phone:

Address (*street/city/state/zip code*):

Email Address:

Name of Attorney(s):

Phone:

Address (*street/city/state/zip code*):

Email Address:

5. REASONS FOR VARIATION

Identify and explain any special circumstances or practical difficulties in carrying out the strict application of the Zoning Ordinance with respect to the subject parcel.

Per zoning, parking is not a requirement. However, the absence of sufficient striping would result in a hazardous parking situation as evidenced by the first four months of operation where no striping was provided. The parking diagram demonstrates how vehicles parking in the three spaces to the north can exit safely within right of way. It also shows how vehicles can exit from space #20 with enough room to maneuver safely.

Explain how the variance is necessary due to special conditions relating to the land or structure involved which are not generally applicable to other property in the same district.

The lot is angled along Broadway creating an angled business frontage. Even with the demolition of an existing building to increase parking surface area, the property tapers to the north, which results in a less than 23 foot aisle that impacts only one space (#20) and a smaller parking lot space for three spaces to the north (#23, 24, 25). Removal of these spaces or recommendations that would complicate the existing striping would introduce new parking hazards and have a negative economic impact to the business.

Explain how the variance is not the result of a situation or condition that was knowingly or deliberately created by you (the Petitioner).

See above.

Explain why the variance will not alter the essential character of the neighborhood.

Parking is consistent with many other properties within walking distance that do not meet the 23 foot aisle, parking lot length, and/or exit in a right of way (see photos).

Explain why the variance will not cause a nuisance to adjacent property.

Directly adjacent properties are the Boneyard Creek and a minimally used railroad. Parking diagram shows that cars can sufficiently exit on the right of way without entering the street as well as exit from space #20 with enough room to maneuver safely.

Does the variance represent the minimum deviation necessary from the requirements of the Zoning Ordinance? Explain.

Yes. Although the space does not meet the required length, it is shown that vehicles can exit safely from the three northernmost spaces without interfering with street traffic. In addition, the less than 23 foot aisle for space #20 is show to exit with more than enough space. Finally, there are several properties within walking distance that do not meet the 23 foot aisle, parking lot length, and/or exit in a right of way.

NOTE: If additional space is needed to accurately answer any question, please attach extra pages to the application.

By submitting this application, you are granting permission for City staff to post on the property a temporary yard sign announcing the public hearing to be held for your request.

CERTIFICATION BY THE APPLICANT

I certify all the information contained in this application form or any attachment(s), document(s) or plan(s) submitted herewith are true to the best of my knowledge and belief, and that I am either the property owner or authorized to make this application on the owner's behalf.



Applicant's Signature

9-13-18

Date

PLEASE RETURN THIS FORM ONCE COMPLETED TO:

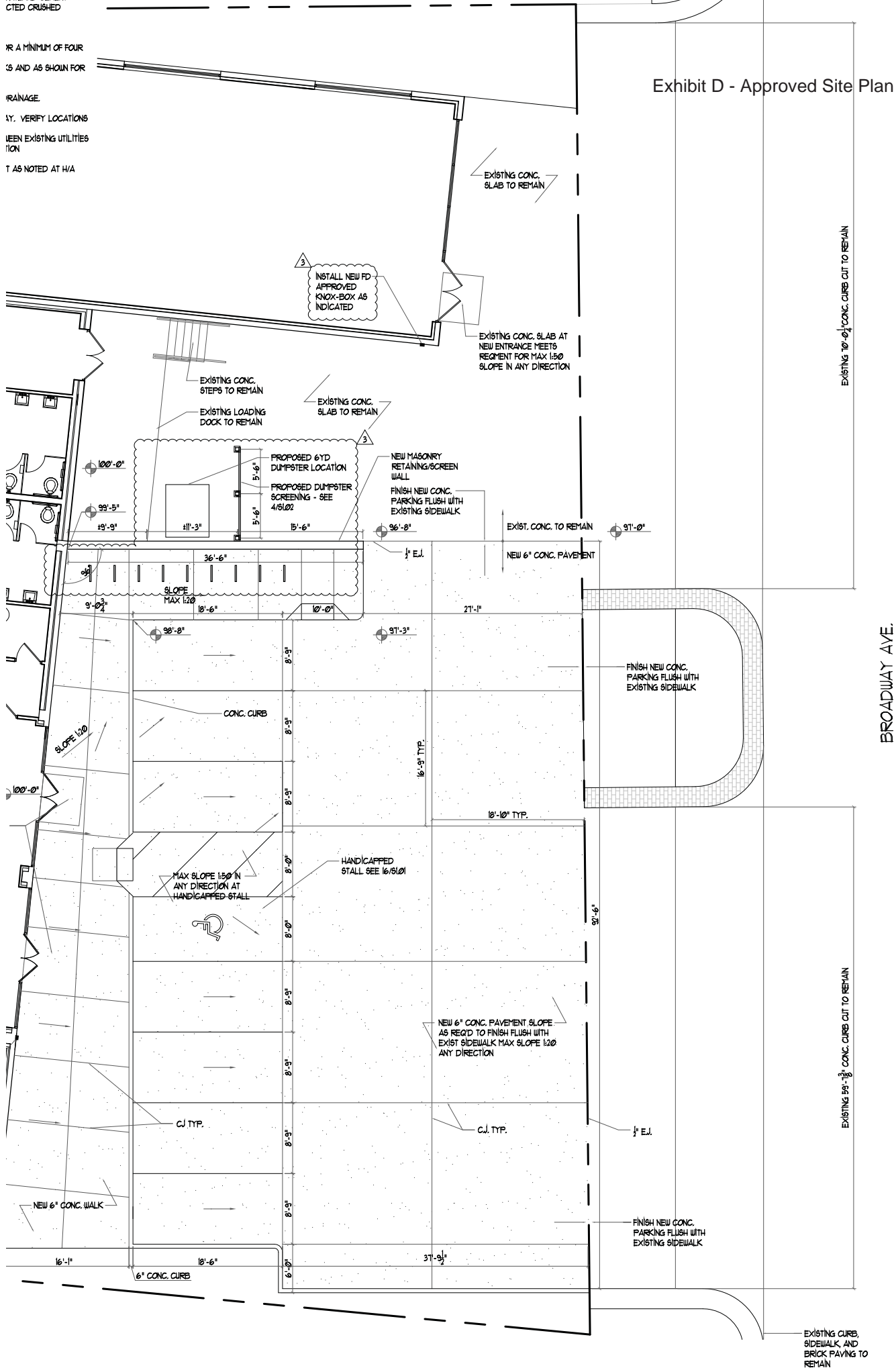
City of Urbana
Community Development Department Services
Planning Division
400 South Vine Street, Urbana, IL 61801
Phone: (217) 384-2440
Fax: (217) 384-2367

[illegible]

REVISION:

FOR A MINIMUM OF FOUR
S AND AS SHOWN FOR
DRAINAGE
4. VERIFY LOCATIONS
BETWEEN EXISTING UTILITIES
AND
T AS NOTED AT H/A

Exhibit D - Approved Site Plan



From: Bolger, John (Patrick)
Sent: Thursday, January 04, 2018 3:07 PM
To: 'Matthew Cho'
Cc: Schneider, John
Subject: 401 N Broadway

Matt,

The following is the list of conditions for the 401 N Broadway temporary certificate of occupancy. The building safety office can issue a temporary certificate of occupancy for up to 90 days. The fee for a temporary certificate of occupancy for up to 35 days is \$150.00, for up to 65 days the fee is \$250.00, and for up to 90 days the fee is \$500.00. The first three items below must be completed within 35 days. **The due date for the first three items to be corrected will be February 9, 2018 and the fee for the temporary certificate of occupancy is \$150.00.**

- 1) The makeup air for the kitchen hoods needs to be tempered (heating) in accord with the 2009 International Mechanical Code. Section 508.1.1 "The temperature differential between make up air and the air in the conditioned space shall not exceed 10° F except where the added heating and cooling loads of the makeup air do not exceed the capacity of the HVAC system."
- 2) The trash containers and trash collection areas shall be screened so that no portion of such container or area is visible from public rights-of-way or adjacent properties in accordance with the approved plans.
- 3) The downspout discharge piping shall not be obstructing the egress path on the south side of the building. The roof water shall not be discharged in a manner that creates a public nuisance.

Upon completion of the above three items our office will issue a temporary certificate of occupancy for the remaining site grading, landscaping and parking items with a fee of \$50.00.

The following items must be corrected by no later than May 15, 2018

- 1) The parking striping, parking blocks and handicap parking identification signage shall be installed in accordance with the approved plans.
- 2) The bicycle parking shall be installed in accordance with the approved plans.
- 3) Grass establishment on all disturbed bare soil areas along the north side of the building - use special low grow seed mix
- 4) Repair any of the damaged MSE walls.
- 5) Removal of silt fence at north side of building after grass establishment. Contact Beth Reinke, storm water engineering technician at 217-384-2342 to schedule an inspection before removing the silt fence.

J. Patrick Bolger Building Inspector
City of Urbana Community Development Services
400 South Vine Street, Urbana IL
Phone: (217) 384-2430 | Fax: (217) 384-0200
www.urbanaininois.us

From: Bolger, John (Patrick)
Sent: Friday, April 20, 2018 8:29 AM
To: 'Matthew Cho'
Cc: Schneider, John
Subject: 400 S Broadway

Matt,

As a reminder we are fast approaching the May 15, 2018 deadline for the temporary certificate of occupancy at Broadway Food Hall. When you have a plan in place for the parking striping please contact our office to verify that the plan complies with City requirements. If you have questions or concerns regarding the other conditions please let me know.

J. Patrick Bolger
Building Inspector
City of Urbana Community Development Services
400 South Vine Street, Urbana IL
Phone: (217) 384-2430 | Fax: (217) 384-0200
www.urbanaininois.us

October 9, 2018



May 10, 2018





