



**DATE:** Monday, October 21, 2019  
**TIME:** 7:00 P.M.  
**PLACE:** Urbana City Council Chambers, 400 S. Vine St, Urbana, IL 61801

The City Council of the City of Urbana, Illinois, met in regular session October 21, 2019 at 7:00 p.m. in the Council Chambers at the Urbana City Building.

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

**ELECTED OFFICIALS PRESENT VIA TELECONFERENCE:** none

**ELECTED OFFICIALS ABSENT:** none

**STAFF PRESENT:** Carol Mitten, Jim Simon, Bryant Seraphin, Charles Lauss, Sheila Dodd, Lily Wilcock, Kevin Garcia, Marcus Ricci, David Smysor

**OTHERS PRESENT:** News Media (News-Gazette), Esther Patt, Michael Plewa, John Hall, Dan Gordon

**A. CALL TO ORDER AND ROLL CALL**

There being a quorum present, Mayor Marlin called the meeting of the Urbana City Council to order at 7:00 p.m.

**B. APPROVAL OF MINUTES OF PREVIOUS MEETING**

City Council Member (CM) Hursey made a motion to approve minutes from the October 7, 2019 regular meeting and October 7, 2019 Special Meeting, seconded by CM Miller, and passed by unanimous voice vote.

**C. ADDITIONS TO THE AGENDA**

There were none.

**D. PRESENTATIONS**

There were none.

**E. PUBLIC INPUT**

There was none.

**F. UNFINISHED BUSINESS**

There was none.

**G. REPORTS OF STANDING COMMITTEES**

**1. Committee Of The Whole – (Council Member Eric Jakobsson)**

**a. Resolution No. 2019-10-041R:** A Resolution Accepting a Midwest Grows Green Grant from the IPM Institute of North America, Inc.

For the committee, CM Jakobsson moved passage of Resolution 2019-10-041R, seconded by CM Brown. With no discussion, the motion passed by roll call vote (7-0): Brown – Aye; Hazen – Aye; Hursey – Aye; Jakobsson – Aye; Miller – Aye; Roberts – Aye; Wu – Aye.

**b. Ordinance No. 2019-10-056:** An Ordinance Amending Schedule H of Section 23-92 of the Urbana Local Traffic Code Requiring Stop Signs at a Certain Intersection (Cyprus Pointe at Stillwater Landing)

For the committee, CM Jakobsson moved passage of Ordinance 2019-10-056, seconded by CM Wu. With no discussion, the motion passed by roll call vote (7-0): Brown – Aye; Hazen – Aye; Hursey – Aye; Jakobsson – Aye; Miller – Aye; Roberts – Aye; Wu – Aye.

## **H. REPORTS OF SPECIAL COMMITTEES**

There were none.

## **I. REPORTS OF OFFICERS**

There were none.

## **J. NEW BUSINESS**

### **1. Mayoral Staff Appointments**

#### **a. Police Department**

##### **1. David G. Smysor – Lieutenant**

Mayor Marlin nominated Police Department Sgt. David Smysor to the position of Lieutenant and read a brief biography. CM Hazen moved approval of the appointment, seconded by CM Brown. CM Roberts thanked Sgt. Smysor for stepping up. Mayor Marlin noted that there was a tremendous group of candidates to choose from. With no further discussion, the motion was approved by unanimous voice vote.

##### **2. Resolution No. 2019-10-042R: A Resolution of Protest Against a Proposed Map Amendment to the Champaign County Zoning Ordinance (4018 N. Lincoln Ave. / CCZBA-931-AM-19)**

Mayor introduced Resolutions 2019-10-042R and -043R and noted the presence of John Hall, Zoning Administrator for Champaign County. Planner Marcus Ricci presented both cases simultaneously and spoke to the staff memo. He described the properties as in the Extra Territorial Jurisdiction (ETJ) of the city and summarized county action and timeline. Mr. Ricci described the recommendations from the memo and reviewed Exhibit E, the layout of the property and site plan.

Mr. Ricci reviewed the earlier county zoning and city actions from 1995 that split the county zoning into two categories. He reviewed actions from 2007 where the county created a rural residential overlay (RRO) with no subsequent action from the city's Plan Commission or City Council. The County RRO has expired and a new one needs to be established. The new proposal has five developable and three non-developable lots that would be rezoned related to use. He stated that the rezoning to County AG2 is generally consistent with city's comp plan and staff doesn't anticipate any impact to city.

However, the city's Plan Commission is concerned that this would allow too many developable lots in this rural district. The Plan Commission thought three developable lots is sufficient and recommended a resolution of protest while the second resolution can be defeated. Mr. Ricci noted that staff does not have any reason to protest either county action.

Questions from council member followed. In response to CM Roberts, Mr. Ricci noted that the layout of plots was reviewed by city staff and pretty much conforms to requirements. He further explained differences between flood way and flood plain. CM Brown noted that one of the conditions in the special use by the county requires reconstruction of the septic and a sewer interceptor looks close. Mr. Ricci noted that discussions underway and the city would become more involved if it comes to the city for review.

In response to CM Hursey, Mr. Hall noted that the owner, Mr. Cope, is operating an events center under a temporary permit and is now looking at expansion. The AG zoning instead of Conservation Recreation (CR) allows residential building. Planner Garcia provided a short explanation of the sanitary district agreement and how that works.

Discussion of three versus five buildable lots followed noting that none of the proposed lots is less than one acre. CM Wu noted the Plan Commission's concern about lots two and five with lot

two being small and five not buildable. Mr. Hall explained that three lots can exist by right but five needs an RRO. Mr. Ricci noted that the sizes of lots are carefully drawn.

CM Miller moved to defeat the resolution of protest Resolution 2019-10-042R, seconded by CM Jakobsson. Mr. Hall added that the county did approve a permit for special use but only if the other item is approved by the County Board. With no further discussion, the motion to defeat the resolution passed by roll call vote (5-1-1): Brown – Aye; Hazen – Aye; Hursey – Aye; Jakobsson – Aye; Miller – Aye; Roberts – No; Wu – Abstain.

**3. Resolution No. 2019-10-043R:** A Resolution of Protest Against a Proposed Map Amendment to the Champaign County Zoning Ordinance (4018 N. Lincoln Ave. / CCZBA-934-AM-19) – CD

CM Miller moved to defeat the resolution of protest Resolution 2019-10-043R, seconded by CM Wu. With no further discussion, the motion passed by roll call vote (7-0): Brown – Aye; Hazen – Aye; Hursey – Aye; Jakobsson – Aye; Miller – Aye; Roberts – Aye; Wu – Aye.

**4. Ordinance No. 2019-10-057:** An Ordinance Approving a Major Variance for the Rear Yard (308 West California Avenue / ZBA Case No. ZBA-2019-MAJ-06)

Mayor Marlin introduced Ordinances No. 2019-10-057 and -058 noting that two members of the public wished to speak.

Esther Patt urged council to defeat both ordinances noting that by law, a variance is not something allowed anyone, these are for special circumstances. She noted that many properties in the R2 district are not large enough for two houses. She stated that the only thing special in this case is the flagrant violation of the law as the owners illegally did work violating state and local laws. She questioned whether the city has fined owners for not registering the property or taken any action against the previous owner. She further asked if council wants to set standards rewarding illegal behaviors or the granting of special privileges with regards to the five zoning variances requested.

Michael Plewa asked that council deny these major variances. He reviewed ZBA policy regarding variances as when necessary to issues related to land or structure are not applicable to other properties. He considered that the granting of these variances would indeed have large impact by having an effect on enforcement of zoning on other properties in the city, specifically the illegal actions. He questioned the actions of the new owner and actions by the ZBA to set policy which should be done by the city council establishes policy and law. He expressed his concern that no enforcement was done on previous owners noting that he received permits for extensive work done on his properties including all city. He urged the city to take action on the former and current owners.

Planner Lily Wilcock presented the staff memo addressing the two variances at the same time. She summarized the cases noting that the garage use as a residential unit requires a major variance and that a second dwelling requires 60 foot lot width. She noted that the Zoning Board of Appeals (ZBA) met, voting on each case and a summary is presented in the memorandum. She summarized the results, the ZBA approved the major variances, two minor variances, and denied the requested change of allowable Floor Area Ratio. These cases were advertised as major but the parking and side yard requests were found to be minor. The denial does not come to council and only the two approved major variances have come to council.

Ms. Wilcock reviewed staff involvement following contact with the new owner of the property. The proposal from the owner is to reduce garage use from three units to one unit and to meet all necessary requirements. She noted that staff had no knowledge of the illegal conversion but that the property is affordable to grad students and is in a convenient location. No one testified at the ZBA that these have been problematic. She noted that the R2 zoning does allow duplexes and that 10% of the district is duplexes with a smaller number of additional apartment buildings. This building has been kept to look like a garage. With the denial of the FAR request, only one floor of the garage would be useable for a dwelling if approved by council.

Ms. Wilcock noted comments received from the public concerning the variances with nine opposed and five in favor. She discussed a summary of staff responses to issues raised by the ZBA, reviewed the ZBA outcome, reviewed the variance criteria, and summarized the case providing council with options. Questions followed.

CM Hazen asked about costs if the variances are not approved and CM Hursey indicated that she could not get past the illegal aspects of work previously done on the property. The owner, Mr. Gordon responded that the previous owner had told them that the property was in the city registry and thought it a great property. The property was inspected by a property inspector but not typical to ask for permits and such. CM Hursey further asked about procedures for when illegal activity is found. Mr. Garcia stated that the city requires the owner to fix deficiencies once violations are known and that his understanding is that the staff time and resources to go after the previous owner in this case is not worth it. Mr. Gordon indicated that the garage is now uninhabited as they don't want the liability. CM Wu asked Mr. Gordon several questions about the property registration, the city website and how the electrical and plumbing was found to be ok by the professional inspector, and if there are health and safety issues. Mr. Gordon indicated that the inspection didn't cover code compliance.

In response to council member questions, staff noted that the R3 zoning district allows duplexes by right but in R2, a conditional use permit is required and that there are significant numbers of duplexes in the R2 districts, some legally conforming others grandfathered in. CM Roberts provided as background the zoning changes in the neighborhood made 30 years previous, which lowered zoning to R2 in many locations. Mr. Garcia also explained that the Zoning Ordinance doesn't cover all cases and that for R2 when two dwelling units are on the same property, the duplex category is the best choice. He also indicated that the denial of the FAR variance would allow only one floor.

Questions about minimum lot sizes and replacement of structures following a fire followed with staff noting that by right could rebuild as single family but can apply for a variance. Given that the standard lot minimum is now 60x100 feet, Mr. Garcia noted that the city allows for this situation for non-conforming size as long as it meets other criteria. For setbacks, houses are 10 foot while garages only 18 inches with garages restricted by height and to 800 square feet so a garage can be near the property line as it's not a big structure. It was also noted that Rental Registration occurs annually in October and that conditional use permits are decided by the ZBA.

CM Wu moved to defeat Ordinance 2019-10-057, seconded by CM Roberts. Discussion followed. CM Jakobsson noted that he was living in the neighborhood when zoning changes were made 30 years previous noting the considerable consternation at that time over passage. He stated that he believes that in this case, the history is so idiosyncratic and hopefully very unique so not likely a precedent. He didn't think granting these variances would degrade the quality of the neighborhood and given the process to make it things better will vote against the motion. He also stated that converting to one from three units is not very large variance in a neighborhood with mixed housing.

CM Wu disagreed stating that we have setbacks for reason and there is a difference for main properties and garages. She further stated that this is a 70% change of the setback and sets an example for other properties; this is a small lot too small for what is there

CM Roberts noted that Phoenix, where he once lived, has many converted garages and some building in backyards. He stated that thinking of the East Urbana neighborhood where downzoning was petitioned for successfully, we really believe to not over densify the neighborhood. He was concerned about changes to the nature of a neighborhood even if only a few feet, are incremental over time. He indicated that preserving a neighborhood, then a strong stand needs to be taken, and will support the motion.

CM Brown indicated that he cannot fault Mr. Gordon who could probably could have done more due diligence. He noted that here is no criteria for economic hardship, that we have zoning for orderly development, and this area has been R2 for some time. He stated that granting these

waivers goes against the intent of R2 and thought this would set precedent. He indicated he would support the defeat of this ordinance.

CM Hursey addressed Mr. Gordon saying she was sorry he had go through this and could not get past the illegal aspect, but respected his willingness to try to fix it.

With no further discussion, the motion to defeat the ordinance passed by roll call (6-1): Brown – Aye; Hazen – Aye; Hursey – Aye; Jakobsson – No; Miller – Aye; Roberts – Aye; Wu – Aye.

**5. Ordinance No. 2019-10-058:** An Ordinance Approving a Major Variance for Lot Width (308 West California Avenue / ZBA Case No. ZBA-2019-MAJ-10)

Mayor Marlin introduced Ordinance 2019-10-058 and asked Planner Wilcock if she had further input. CM Miller moved to defeat Ordinance 2019-10-058, seconded by CM Wu.

Questions followed. In response to CM Jakobsson about implications for defeating this ordinance, Planners Garcia and Wilcock indicated that the petitioner would have to remove the second dwelling units from the garage as well as the mechanical room, leaving just the garage.

CM Wu addressed those who supported these variances, in particular the comment that there is opposition to students living in the neighborhood. CM Wu, noting that Ms. Patt has a long history of supporting students at the Tenant Union, stated that she is not against having more student, that we wouldn't be the rich cultural neighborhood without students and tenants, and noted that her block is mostly many big houses that are rentals. She noted many rentals, some available for months, for one and two bedrooms on her block and adjacent. She indicated that there is plenty of housing in the neighborhood. The question is it appropriate for our neighborhood and is being addressed here. Mayor Marlin noted the compelling arguments made by both sides to the ZBA. There is going to be a greater community conversation about this and much more when we begin the complete and long overdue rewrite of the comprehensive plan. This will be an opportunity for all these viewpoints to be discussed and we can talk about neighborhoods of the future. She encouraged people to write down their thoughts as there will be community opportunities starting next year.

With no further discussion, the motion to defeat the ordinance passed by roll call vote (4-3): Brown – No; Hazen – No; Hursey – Aye; Jakobsson – No; Miller – Aye; Roberts – Aye; Wu – Aye.

**6. Ordinance No. 2019-10-059:** An Ordinance Amending the Urbana Zoning Ordinance (Cannabis Text Amendment – Plan Case 2385-T-19)

Mayor Marlin introduced the ordinance and Planner Kevin Garcia spoke to the staff memo. Mr. Garcia noted that he would be brief since he spoke extensively at the Committee of the Whole meeting. He summarized the case with respect to changes by the state allowing use of cannabis by adults for non-medical purposes allowing for certain local provisions for minimum distance requirements and zoning controls.

Mr. Garcia reviewed Plan Commission action stating that they had accepted staff recommendations and no public input was received. He noted that the state defines six types of businesses as described in memo and exhibit A. He summarized the general changes in Article 2, Article 5, and the referencing of the State act. He also noted that the city requires at least 100 feet between schools and liquor stores and conditional use in B2 arterial is proposed as that aligns with liquor store requirements. Because cultivations centers could emit odors a suggested minimum feet from residences is included and the mitigation of odors is suggested as well.

Mr. Garcia reviewed permitting by right in Industrial and higher business districts with cultivation as conditional or special use in AG zoning. He showed a series of maps for where different businesses could be located given present zoning. He finished his remarks reviewing council options and reviewing changes in the ordinance. He also explained special versus conditional use permits. Questions followed.

In response to CM Brown referencing City of Aurora, CO best practices as discussed in the memo, Mr. Garcia thought that they are using a blanket 300 foot buffer for all businesses but that

staff propose to follow state code which requires only 100 feet. Mr. Garcia also agreed that Section 5.13.A.2 could be removed as this part of state law has been repealed and the desire is to match the state.

CM Wu had three questions asking for clarification of the dispensary issue, distance requirements, and special uses. Mr. Garcia noted where Craft growers could locate and they would grow indoors, out of sight. He noted that the state doesn't require any minimum distance from schools but that the Plan Commission thought we should have the same requirements as liquor stores with a larger buffer being arbitrary. He also stated that the B2 conditional use is a carryover from earlier thinking and that having it be a special use would be consistent. He clarified conditional versus special use for council noting that the big difference is that Conditional Use goes to ZBA while Special Use goes to PC and City Council.

In response to CM Miller about any police concerns with these changes, Chief Seraphin stated that police involvement will be more about violating the changes in statutes. CM Wu conducted a straw poll of council on the use of special versus conditional in B2 zoning which suggested council favored Special Use.

CM Wu then made a motion to approve Ordinance 2019-10-059 with three changes: striking Paragraph 2 of Section 13, adding the wording "non-medical" in several places as suggested by Legal, and choosing Option 3 from the staff memo changing all four Conditional Uses in Table V-1 Table of Uses to Special Uses. The motion was seconded by CM Miller.

CM Brown expressed concerned about dispensaries being too close to residential but was not sure if we need to worry about this. CM Miller indicated that he was looking at this issue in a manner similar alcohol to which CM Brown indicated that we are likely to have only a few since we are restricting by distances. With no further discussion, the motion passed (7-0): Brown – Aye; Hazen – Aye; Hursey – Aye; Jakobsson – Aye; Miller – Aye; Roberts – Aye; Wu – Aye.

## **K. ADJOURNMENT**

With no further business to come before the council, Mayor Marlin adjourned the meeting at 9:55 p.m.

Charles A. Smyth  
City Clerk

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

<https://www.urbanailinois.us/node/7686>

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

<http://urbanailinois.us/upty>

**Minutes Approved: November 4, 2019**