



**DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES**

Planning Division

**M E M O R A N D U M**

**TO:** Bruce Walden, Chief Administrative Officer

**FROM:** Elizabeth H. Tyler, AICP, Director

**DATE:** January 7, 2004

**SUBJECT:** Plan Case No. 1873-SU-03; Request for a Special Use Permit to allow accessory off-site parking in the R-7, University Residential Zoning District / 715 West Michigan Avenue.

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**Introduction**

Gloria Caetano-Anolles has submitted an application for a Special Use Permit to allow accessory off-site parking at 715 West Michigan Avenue for an approved “owner-occupied bed and breakfast” at 714 West Michigan Avenue. On December 17, 2003 The Zoning Board of Appeals granted a Conditional Use Permit to allow the owner-occupied bed and breakfast. The conditional use permit was granted with a condition that there be no bed and breakfast related parking at 714 West Michigan and that all required parking for the bed and breakfast be accommodated off-site. To satisfy this requirement, the applicant has reached an agreement with the Lincoln Green Foundation at 715 West Michigan Avenue to provide the three required spaces in an existing parking lot.

Section V-3 of the Zoning Ordinance allows accessory parking to be located off-site up to 600 feet from the principal use site. The Zoning Ordinance also specifies that if the principal use (owner-occupied bed and breakfast) is not permitted by right in the district in which the accessory off-site parking is proposed to be located (715 West Michigan Avenue), then a Special Use Permit is required in order to establish the proposed off-site parking. 715 West Michigan Avenue is zoned R-7, University Residential. Because an owner-occupied bed and breakfast is not permitted by right in the R-7 zone, a special use permit is required to establish the three parking spaces on the site.

On December 18, 2003 the Urbana Plan Commission held a public hearing to consider the Special Use Permit request. The Commission recommended that the City Council approve the request with four conditions, these conditions are listed on page 3. of this memorandum. For more information please refer to the Plan Commission memorandum dated December 12, 2003 and the attached minutes of the public hearing.

## **Background**

### **Description of the Site and Surrounding Properties**

The subject property is within a one-block distance from the University of Illinois campus. The neighborhood contains a land use mix of single-family residential and university/institutional uses. 715 West Michigan Avenue is owned by the Lincoln Green Foundation and is currently used as a student residence for men. The house was formerly the Alpha Xi Delta Sorority House/Opus Dei House. The current use of the property is similar to a rooming house use. The property is a double lot with a very large lawn area. The entire lot is 38,500 sq. ft. in area. The parking lot contains approximately 14 parking spaces and is accessed off of Busey Avenue at the southwest end of the property.

### **Proposal**

The Conditional Use Permit was required to establish an “owner-occupied bed and breakfast” at 714 West Michigan Avenue. The Special Use Permit is required in order to establish the required parking off-site at 715 West Michigan Avenue.

### **Conditional Use Permit**

On August 20, 2003 a request to establish an “owner-occupied bed and breakfast” at 714 West Michigan Avenue along with the required parking on the site did not achieve approval with the Urbana Zoning Board of Appeals. At that hearing the Board felt that because the residences of 712 and 714 West Michigan Avenue share a driveway, the parking associated with the proposed bed and breakfast would be likely to create a burden to the neighboring property.

On December 17, 2003 another hearing was held by the Board on a new request. This request differed from the first in that the parking was proposed to be located off-site. The Zoning Board of Appeals approved a conditional use permit (Case ZBA-03-C-06) to allow the use of three rooms at 714 West Michigan Avenue for the purposes of an owner-occupied bed and breakfast. Within the conditional use approval, two conditions concerning the off-site parking were adopted as follows:

1. All parking activity associated with the Bed and Breakfast shall be located off-site. In addition to the Conditional Use Permit, a Special Use Permit must be granted to allow the off-site parking at 715 W. Michigan Avenue or an equivalent site. The petitioner shall provide one off-site parking space for each bed and breakfast room allowed. Off-site parking spaces shall be provided in accordance with Article VIII, Parking and Access, of the Urbana Zoning Ordinance.
2. The conditional use permit shall expire in the event that the 714 West Michigan bed and breakfast guests are no longer able to use the off-site parking. The owners of both 714 West Michigan and 715 West Michigan (or an equivalent site) must continue to have an off-site parking contract for parking no less than three vehicles for bed and breakfast guests.

## Special Use Permit Request

The Special Use Permit request is to provide the three required parking spaces for the owner-occupied bed and breakfast guest use in Lincoln Green's parking lot at 715 W. Michigan Avenue. The parking spaces for the single-family residence shall remain at 714 West Michigan. Staff has determined that the lot located at 715 West Michigan can meet the parking requirements for both the Lincoln Green Residence and the owner-occupied bed and breakfast off-site parking.

At maximum, the existing rooming house use at 715 West Michigan is required to provide 8 parking spaces. The parking lot can accommodate the required 8 spaces for the rooming house use and the three spaces for the owner-occupied bed and breakfast use. The petitioner has provided a contract agreement with the Lincoln Green Foundation to allow the use of the 715 West Michigan parking lot.

At the December 18, 2003 public hearing, the Plan Commission discussed the need to address vehicular drop-off and unloading activities that may likely occur at 714 W. Michigan even though a condition has been imposed that all guest parking be accommodated off-site. Some Plan Commissioners felt that the activity of drop-off and unloading was different than "parking" and therefore consideration must be given to accommodating drop-off and unloading activity at 714 West Michigan Avenue. The Plan Commission felt that this aspect should be addressed because it could have a negative impact to the adjacent property to the east where the driveway is shared.

The Plan Commission recommended approval of the Special Use Permit with the following conditions:

1. The petitioner shall provide one off-site parking space for each bed and breakfast room allowed under the Conditional Use Permit in case ZBA-03-C-06. Off-site parking spaces shall be provided in accordance with Article VIII, Parking and Access, of the Urbana Zoning Ordinance.
2. The Special Use Permit shall expire in the event that the 714 West Michigan bed and breakfast guests are no longer able or allowed to use the off-site parking lot located at 715 West Michigan. The owners of both 714 West Michigan and 715 West Michigan shall continue to have an off-site parking contract for parking no fewer than three vehicles for bed and breakfast guests.
3. A minimum of three parking spaces shall be designated and marked in the Parking Lot at 715 West Michigan for the exclusive use of visitors to the Bed and Breakfast use at 714 West Michigan.
4. The petitioner shall submit a site plan to the Zoning Administrator designating areas for drop-off and pick-up activity associated with the bed and breakfast use at 714 West Michigan so as to ensure that the current shared ingress and egress to the residence at 712 W. Michigan is not blocked or compromised. This may involve construction of an additional paved area in the front of 714 West Michigan.

In response to condition #4 above, the petitioner has submitted a conceptual site plan to the Zoning Administrator that illustrates where additional paved area can be added on the west side of the existing driveway in order to accommodate temporary drop-off activity (please refer to the Site Plan Attachment). This plan is to relocate an existing retaining wall approximately five feet west of the driveway, adding an additional width of three feet to the petitioners driveway for a length of twenty feet. The improvement would offer approximately 10-feet of driveway area solely on the property of 714 West Michigan Avenue. The petitioner does not wish to remove any of the existing mature trees in the front yard and has been consulting the City Arborist concerning any root compromise. Staff has reviewed the 714 W. Michigan Driveway Site Plan and has determined that conceptually, it should provide adequate area for drop-off and pick-up activities that may occur at the 714 W. Michigan property. The improvement will require a building permit from the Urbana Building Safety Division.

## **Discussion**

### **Requirements for a Special Use Permit**

According to Section VII-6 of the Urbana Zoning Ordinance, an application for a Special Use Permit shall demonstrate specific criteria. On December 18, 2003 the Urbana Plan Commission considered the following:

- 1. That the proposed use is conducive to the public convenience at that location.*

The off-site parking for the bed and breakfast use at 714 W. Michigan Avenue would be conducive to the public convenience to have parking located at 715 W. Michigan Avenue. The parking spaces at 715 W. Michigan are conveniently located across the street from the bed and breakfast. The proposal offers convenience to Bed and Breakfast guests as they would not have to travel a great distance to reach the 714 W. Michigan Avenue property. The off-site parking should not be a detriment to the overall traffic conditions in the neighborhood.

- 2. That the proposed use is designed, located, and proposed to be operated so that it will not be unreasonably injurious or detrimental to the district in which it shall be located, or otherwise injurious to the public welfare.*

The bed and breakfast off-site parking proposal is designed so not to cause significant visual or physical impacts to the surrounding area and community. Considerations of the immediate neighborhood concerns about parking at the site of the bed and breakfast have resulted in the off-site location. The off-site parking lot is adequately screened and located in such a manner as not to be injurious or detrimental to the district.

3. *That the proposed use conforms to the applicable regulations and standards of, and preserves the essential character of, the district in which it shall be located, except where such regulations and standards are modified by Section VII-7.*

The off-site parking proposal at 715 W. Michigan should provide appropriate parking and sufficient access to the single-family home / bed and breakfast use at 714 West Michigan. The parking proposal meets the off-street parking requirements of the Zoning Ordinance. The off-site parking for three vehicles in the parking lot should not alter the essential character of the district in which it is located.

## **Summary of Findings**

At the December 18, 2003 hearing, the Plan Commission adopted the following findings:

1. The proposed off-site parking lot at 715 West Michigan will accommodate parking for both the Lincoln Green Residence and the bed and breakfast use. The parking plan should alleviate the vehicle and parking intensity on the subject property at 714 W. Michigan Avenue thus reducing negative impacts to neighboring properties.
2. The off-street parking proposal is a positive example of shared parking agreements between parties where existing underutilized parking lots can be appropriately shared so not to encourage construction of more paved parking areas in Urbana's residential neighborhoods.
3. The proposed off-site parking vehicles would be conducive to the public convenience at this location. The use should be compatible with surrounding uses and should not be injurious or detrimental to the neighborhood or surrounding uses.
4. The proposed parking plan will avoid impacts with adjacent neighbors due to a geometrically constrained shared drive situation between 712 and 714 W. Michigan Avenue.

## **Options**

The City Council has the following options regarding Plan Case No. 1873-SU-03:

1. Approve the request for a special use permit without any additional conditions;
2. Approve the request for a special use permit with any conditions deemed appropriate or necessary for the public health, safety, and welfare, and to carry out the purposes of the Zoning Ordinance; or
3. Deny the request for a special use permit.

## **Recommendation**

For the reasons articulated above, the Plan Commission and staff recommend that the City Council **APPROVE** the requested special use permit with the following **CONDITIONS**:

1. The petitioner shall provide one off-site parking space for each bed and breakfast room allowed under the Conditional Use Permit in case ZBA-03-C-06. Off-site parking spaces shall be provided in accordance with Article VIII, Parking and Access, of the Urbana Zoning Ordinance.
2. The Special Use Permit shall expire in the event that the 714 West Michigan bed and breakfast guests are no longer able or allowed to use the off-site parking lot located at 715 West Michigan. The owners of both 714 West Michigan and 715 West Michigan shall continue to have an off-site parking contract for parking no fewer than three vehicles for bed and breakfast guests.
3. A minimum of three parking spaces shall be designated and marked in the Parking Lot at 715 West Michigan for the exclusive use of visitors to the Bed and Breakfast use at 714 West Michigan.
4. The petitioner shall submit a site plan for review and approval by the Zoning Administrator and Urbana Building Safety Division designating areas for drop-off and pick-up activity associated with the bed and breakfast use at 714 West Michigan so as to ensure that the current shared ingress and egress to the residence at 712 W. Michigan is not blocked or compromised. This may involve construction of an additional paved area in the front of 714 West Michigan.

Prepared by:

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Michaela Bell, Senior Planner

Attachments:

Draft Ordinance  
Location Map  
Aerial Photo Exhibit  
Photo Exhibits of 714 W. Michigan (2)  
Photo Exhibit of 715 W. Michigan-Lincoln Green  
SUP: Off-Site Parking Plan 715 W. Michigan  
Off-Site Parking Contract  
714 W. Michigan Driveway Site Plan for Drop-off (2)  
Conditional Use Decision Sheet  
Property Notice and List  
Minutes of the December 18, 2003 Plan Commission meeting  
Citizen Correspondence Re: ZBA 03-C-6 & 1873-SU-03: (Not Available in Digital Format)  
    EMAIL, Jan Stolz, 108 Florida  
    EMAIL, Huseyin Sehitoglu, 805 West Michigan Avenue  
    EMAIL, Deb Newell, 704 West Michigan Avenue  
    EMAIL, Mark Clark, 715 W. Washington  
    Letter, Matthew and Amy Ando, 712 West Michigan Avenue  
    Letter, Charlie Smyth, 805 South Coler  
    Letter, Jane B. Downs, 708 West Pennsylvania Avenue  
    Letter, Barb Gladney, 709 West Michigan Avenue  
    Letter, Patrick Roberge, 705 W. Michigan Avenue  
    Letter, Betty and Henry Voigtlander, 802 W. Pennsylvania  
    Letter, Terry Mittenthal, 605 Oregon Avenue  
    Letter from Gustavo and Gloria Caetano-Anolles  
    Email from Helene Dickel  
    Email from Mark Clark (2<sup>nd</sup> Email)  
    Letter from Craig and Abby Bethke  
    Email from Carolyn Baxley  
    Letter from Paul R. and Linda D. Ballard  
    Email from Paul T. Debevec  
    Letter from Ararat Balakhanian  
    Letter from Lincoln Green Foundation  
    Letter from Dan Schiller  
    Email from Elizabeth Cardman  
    Letter from James Dalling  
    Letter from Irene Metzger  
    Letter from Matthew and Amy Ando (2<sup>nd</sup> Letter)  
    Email from Elizabeth Cardman (2<sup>nd</sup> Email)  
    Email from Frank Gladney

c: Gustavo & Gloria Caetano-Anolles, 714 W. Michigan Avenue, Urbana, Illinois 61801  
Amy & Matthew Ando, 712 W. Michigan Avenue, Urbana, IL 61801  
Mike Seelinger, Lincoln Green, 715 W. Michigan, Urbana, IL 61801

ORDINANCE NO. \_\_\_\_\_

An Ordinance Approving A Special Use Permit

(Request for a Special Use Permit to allow accessory off-site parking in the R-7, University Residential Zoning District / 715 West Michigan Avenue. - Plan Case No. 1873-SU-03)

WHEREAS, the Gloria Caetano-Anolles has petitioned the Urbana Plan Commission in Case No. 1873-SU-03 to consider a request for a special use permit to allow a required accessory parking for an owner-occupied bed and breakfast at 714 West Michigan Avenue to be provided off-site and located at 715 W. Michigan Avenue; and

WHEREAS, the subject property, 715 W. Michigan Avenue, is zoned R-7, University Residential, and the location of accessory off-site parking for and owner-occupied bed and breakfast is allowed only as a Special Use in the zoning district according to Section V-3 of the Urbana Zoning Ordinance; and

WHEREAS, after due publication, a public hearing was held by the Urbana Plan Commission on December 18, 2003 concerning the petition filed by the petitioner in Plan Case No. 1873-SU-03; and

WHEREAS, on December 18, 2003, the Urbana Plan Commission voted 6 ayes and 1 nay to forward the case to the Urbana City Council with a recommendation to approve the request for a Special Use Permit,



subject to the conditions as outlined in Section 1 herein; and

WHEREAS, the conditions placed on the approval in Section 1 herein should minimize the impact of the proposed accessory off-site parking on surrounding properties; and

WHEREAS, the approval of the Special Use Permit, with the condition set forth below, is consistent with the requirements of Section VII-6 of the Urbana Zoning Ordinance, Special Use Permit Procedures, and with the general intent of that Section of the Ordinance; and

WHEREAS, the findings of the Plan Commission indicate that approval of the special use permit would promote the general health, safety, morals, and general welfare of the public.

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

Section 1. A Special Use Permit is hereby approved to allow the establishment of off-site accessory parking to be located at 715 West Michigan Avenue, in the R-7, University Residential Zoning District with the following conditions:

1. The petitioner shall provide one off-site parking space for each bed and breakfast room allowed under the Conditional Use

Permit in case ZBA-03-C-06. Off-site parking spaces shall be provided in accordance with Article VIII, Parking and Access, of the Urbana Zoning Ordinance.

2. The Special Use Permit shall expire in the event that the 714 West Michigan bed and breakfast guests are no longer able or allowed to use the off-site parking lot located at 715 West Michigan. The owners of both 714 West Michigan and 715 West Michigan shall continue to have an off-site parking contract for parking no fewer than three vehicles for bed and breakfast guests.
3. A minimum of three parking spaces shall be designated and marked in the Parking Lot at 715 West Michigan for the exclusive use of visitors to the Bed and Breakfast use at 714 West Michigan.
4. The petitioner shall submit a site plan to the Zoning Administrator designating areas for drop-off and pick-up activity associated with the bed and breakfast use at 714 West Michigan so as to ensure that the current shared ingress and egress to the residence at 712 W. Michigan is not blocked or compromised. This may involve construction of an additional paved area in the front of 714 West Michigan.

LEGAL DESCRIPTION:

Lot 5 of University Heights, Urbana, Illinois

Section 2. The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities. This Ordinance shall be in full force and effect from and after its

passage and publication in accordance with the terms of Chapter 65,  
Section 1-2-4 of the Illinois Compiled Statutes (65 ILCS 5/1-2-4).

PASSED by the City Council this \_\_\_\_ day of \_\_\_\_\_, 2004.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk \_\_\_\_\_

APPROVED by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2004.

Tod Satterthwaite, Mayor \_\_\_\_\_

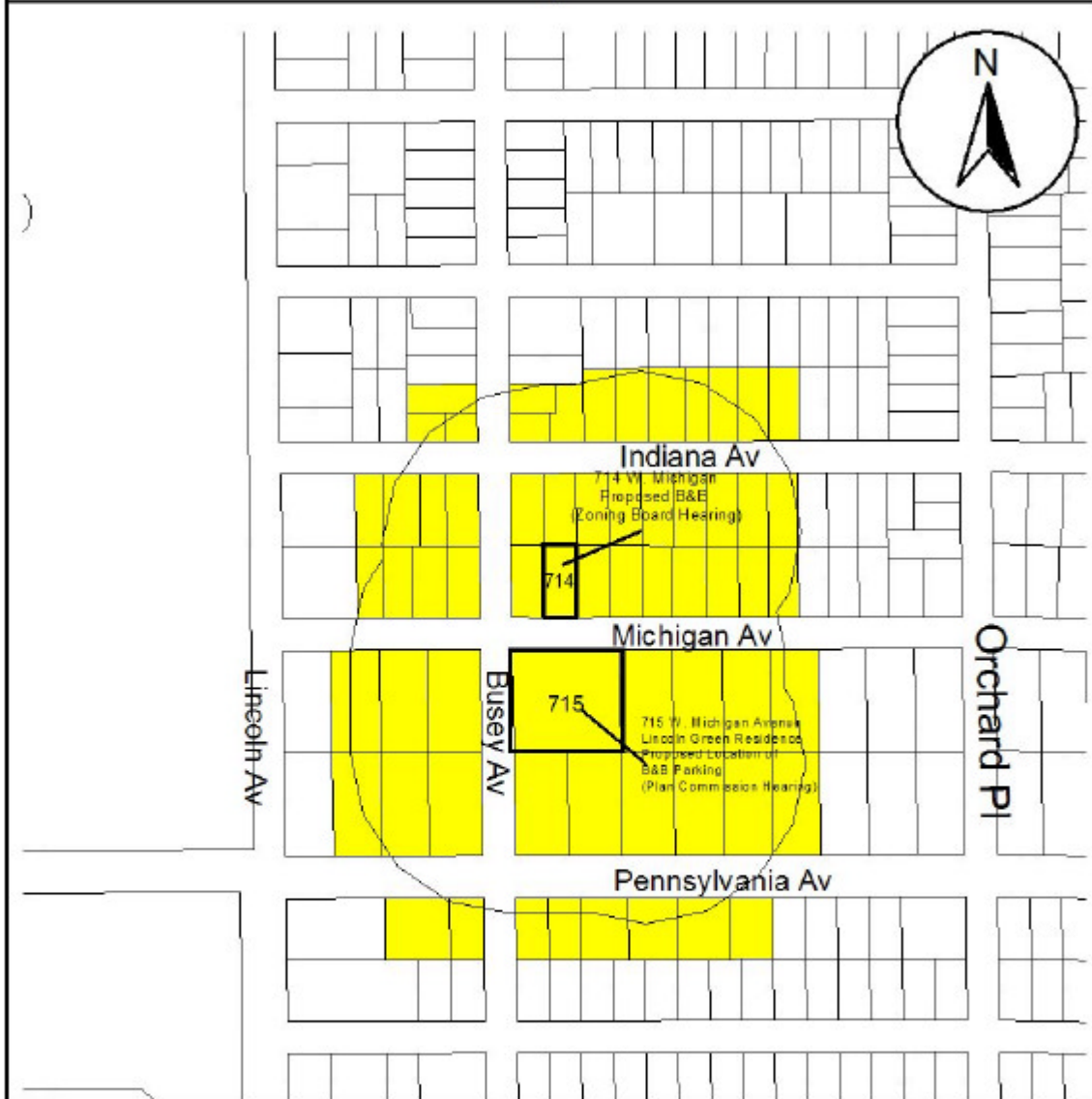
**CERTIFICATE OF PUBLICATION IN PAMPHLET FORM**

I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois.

I certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2004, the corporate authorities of the City of Urbana passed and approved Ordinance No. \_\_\_\_\_, entitled "An Ordinance Approving A Special Use Permit (Request for a Special Use Permit to allow accessory off-site parking in the R-7, University Residential Zoning District / 715 West Michigan Avenue. - Plan Case No. 1873-SU-03)" which provided by its terms that it should be published in pamphlet form. The pamphlet form of Ordinance No. \_\_\_\_\_ was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the \_\_\_\_\_ day of \_\_\_\_\_, 2004, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

DATED at Urbana, Illinois, this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

# Exhibit "A": Location Map



ZBA 03-C-06  
Petitioner: Gloria Caetano-Anolles  
Conditional Use Permit Request  
714 West Michigan Street  
R-2, Single-Family Residential

1873-SU-03  
Petitioner: Gloria Caetano-Anolles  
715 West Michigan Street  
R-7, University Residential  
Off-site parking to be located  
in a Separate Zoning Districts

## Exhibit "E": Aerial



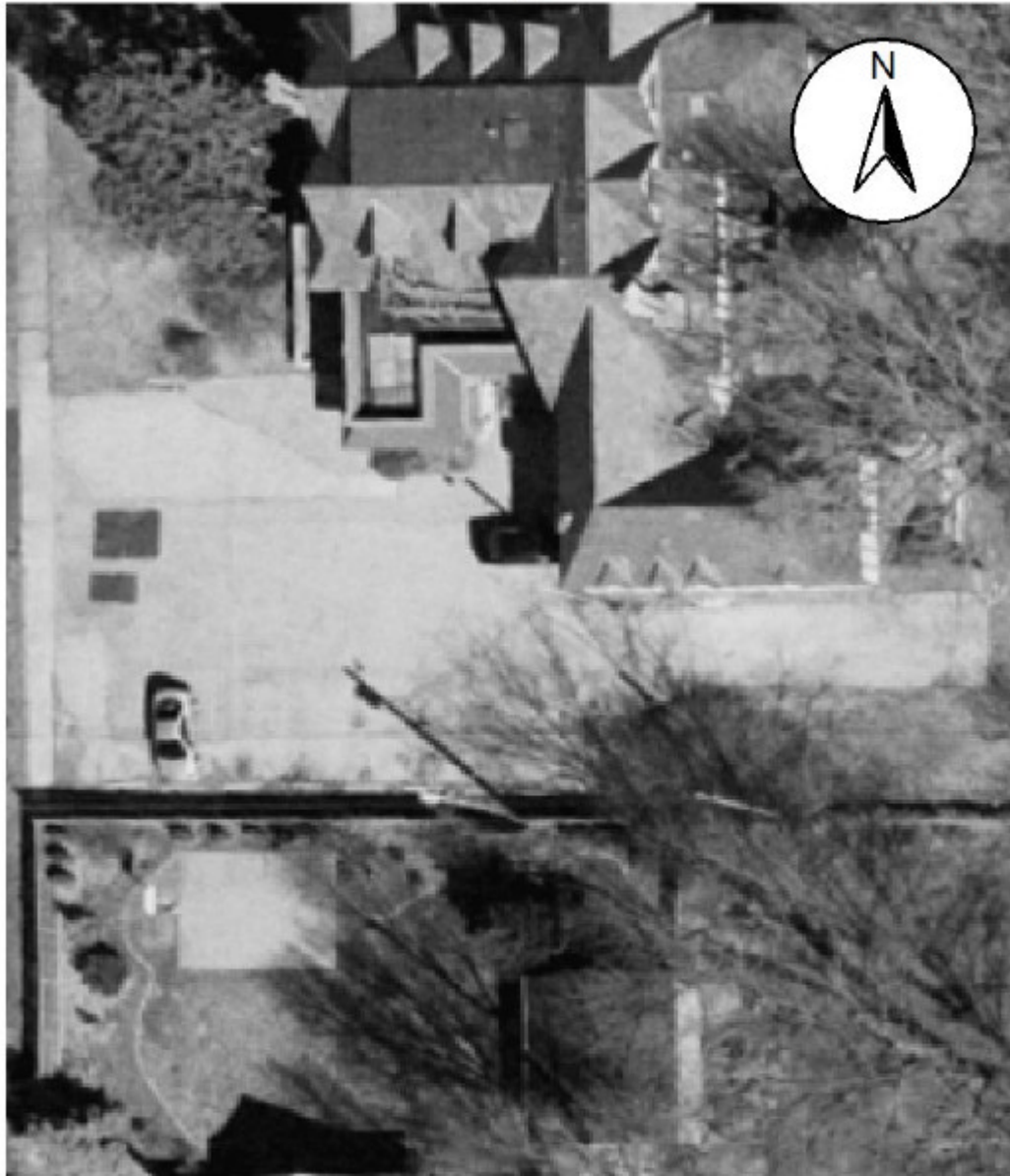
Prepared Dec. 8, 2003 by Community Development Services - nds



Petitioner: Gloria Caetano-Anolles  
Conditional Use Permit Request  
to establish a Bed and Breakfast  
714 West Michigan Street  
R-2, Single-Family Residential

1873-SU-03  
Petitioner: Gloria Caetano-Anolles  
715 West Michigan Street  
R-7, University Residential  
Off-site parking to be located  
in a Separate Zoning Districts

Photo Exhibit : Aerial of Parking Area at 715 W. Michigan



Prepared Dec. 8, 2003 by Community Development Services - mrb



Petitioner: Gloria Caetano-Anolles  
Conditional Use Permit Request  
to establish a Bed and Breakfast  
714 West Michigan Street  
R-2, Single-Family Residential

1873-SU-03  
Petitioner: Gloria Caetano-Anolles  
715 West Michigan Street  
R-7, University Residential  
Off-site parking to be located  
in a Separate Zoning Districts



Facing north towards subject property.



East side of property.



Facing west side of the subject property.  
(Gravel drive not on property)



East side of property, contiguous driveway with Shared Access.





EXHIBIT

ZBA 03-C-06 & 1873-SU-03

714 & 715 W. Michigan Ave.

Petitioner: Gloria Caetano-Anolles

Request to allow an accessory bed and breakfast use

R-2, Single-Family Residential with off-site parking at 715 W, Michigan



Facing east towards the proposed off-site parking area  
(715 W. Michigan)



Facing east towards the Parking proposed off-site parking area.

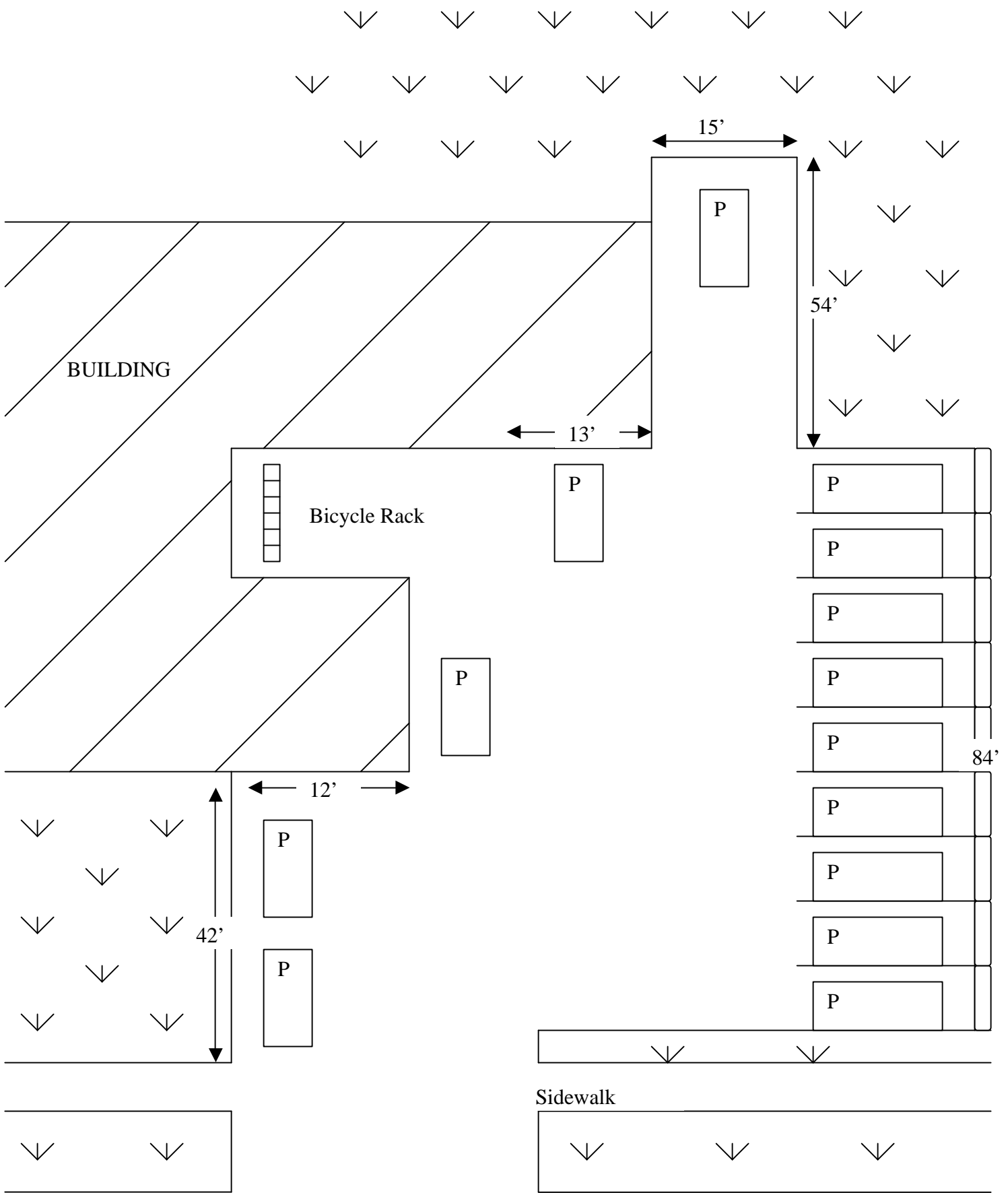



Facing the south side of the Lincoln Green property.  
(715 W. Michigan)



Facing south east towards the parking lot.

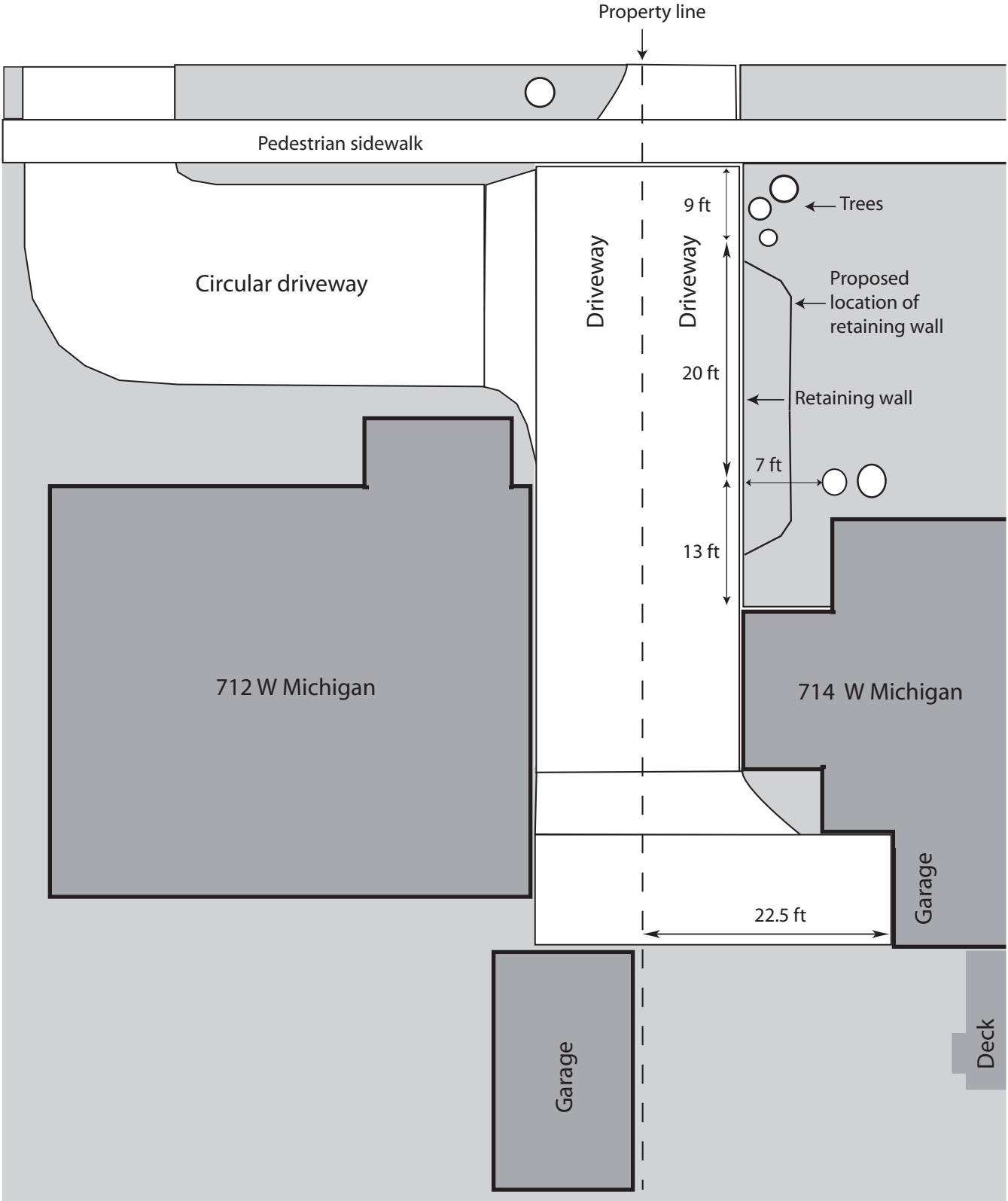




 = Space module 9 (9' x 18.5')

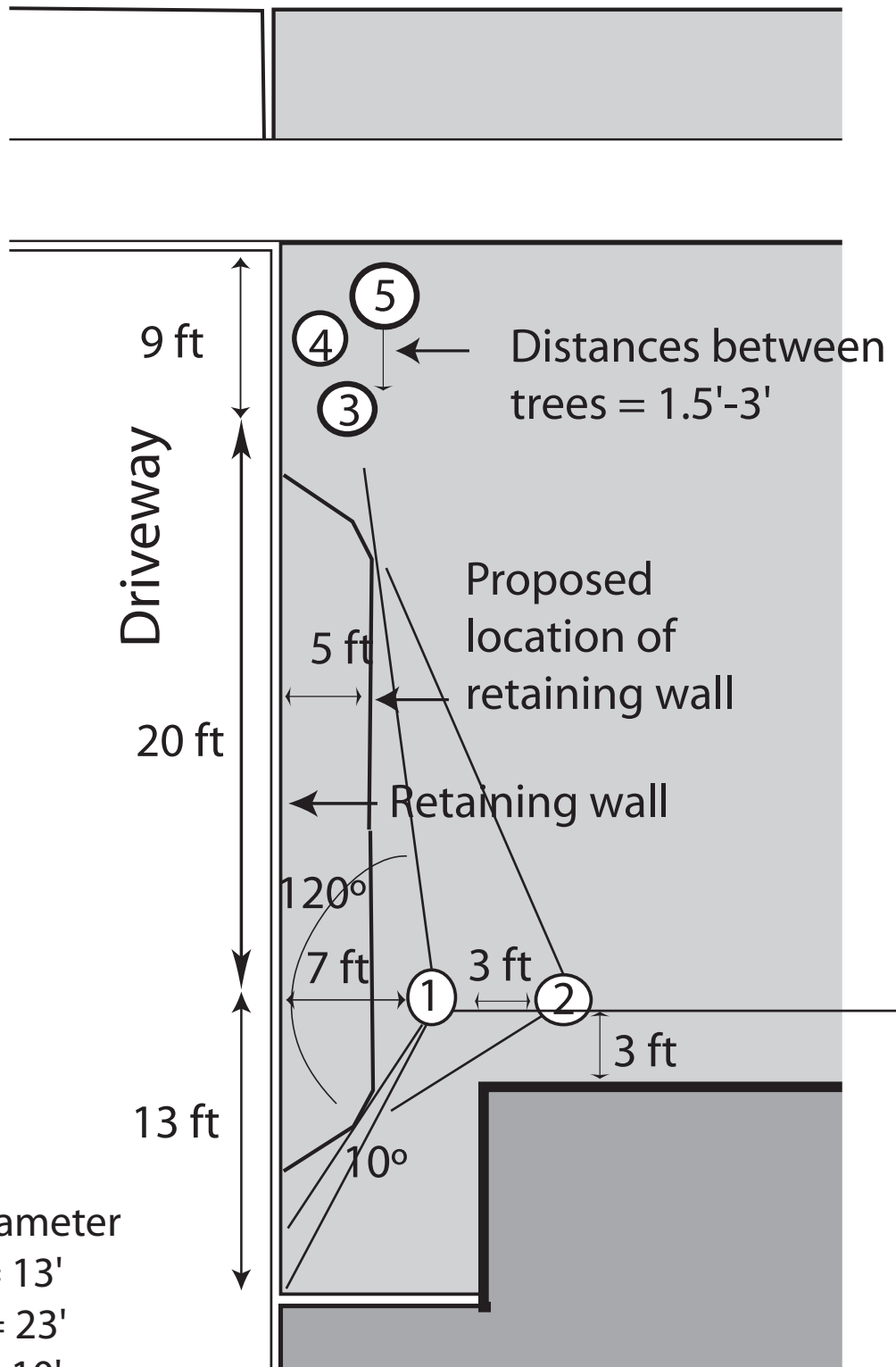
Busev Ave.

West Michigan Avenue



Area to excavate = 3 ft x 20-25 ft x 5 ft = 300-400 cu ft

## West Michigan Avenue



Tree	Diameter
1 Maple	= 13'
2 Hackelberry	= 23'
3 Sweetgum	= 10'
4 Sweetgum	= 13'
5 Sweetgum	= 19'

$$\text{Maple root compromise} = \frac{120^\circ \times 100}{250} = 48\%$$

$$\text{Hackelberry root compromise} = \frac{100^\circ \times 100}{240} = 42\%$$

**CITY OF URBANA  
ZONING BOARD OF APPEALS**

**DECISION SHEET**

**REQUEST FOR CONDITIONAL USE  
IN CASE #ZBA 03-C-6**

At a called meeting of the Urbana Zoning Board of Appeals, a public hearing was held on Wednesday, December 17, 2003 at the City of Urbana Council Chambers, 400 S. Vine Street, Urbana, Illinois, at which time and place the Board considered the following request in Case No. ZBA-03-C-6 for a conditional use pursuant to Section XI-3 of the Urbana Zoning Ordinance.

**A request by Gloria Caetano-Anolles for a conditional use to allow an owner-occupied bed and breakfast use in at 714 W. Michigan Avenue, Urbana, Illinois, in the R-2, Single-Family Residential Zoning District.**

To be Recorded at  
Champaign County  
Recorder's Office.

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The subject property affected by this case is described more particularly as follows:

**Common Street Address:** 714 W. Michigan Avenue, Urbana, Illinois

**Owner of Record:** Gloria & Gustavo Caetano-Anolles

**Champaign County Permanent Parcel No.:** 93-21-17-308-018

**Legal Description:** Lot 15 of Lincoln Place Addition, Champaign County, Urbana, Illinois

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After careful review of staff's findings in this case, and upon considering all the evidence and testimony presented at the public hearing, the following decision was made by the Urbana Zoning Board of Appeals: By a roll call vote of four ayes, one nay, and one abstention, the Urbana Zoning Board of Appeals voted to **APPROVE** the requested conditional use **with the following four CONDITIONS:**

- 1. The accessory bed and breakfast use shall be limited to three bedrooms at 714 W. Michigan Avenue.**
- 2. The house at 714 W. Michigan Avenue shall meet the code requirements to conduct an owner-occupied bed and breakfast use by obtaining a Certificate of Occupancy from the City of Urbana Building Safety Division, including inspections to verify compliance.**

3. **All parking activity associated with the Bed and Breakfast shall be located off-site. In addition to the Conditional Use Permit, a Special Use Permit must be granted to allow the off-site parking at 715 W. Michigan Avenue or an equivalent site. The petitioner shall provide one off-site parking space for each bed and breakfast room allowed. Off-site parking spaces shall be provided in accordance with Article VIII, Parking and Access, of the Urbana Zoning Ordinance.**
4. **The conditional use permit shall expire in the event that the 714 West Michigan bed and breakfast guests are no longer able to use the off-site parking. The owners of both 714 West Michigan and 715 West Michigan (or an equivalent site) must continue to have an off-site parking contract for parking no less than three vehicles for bed and breakfast guests.**

The Urbana Zoning Board of Appeals voted to **APPROVE** the requested conditional use with conditions based on the following findings:

1. The proposed accessory bed and breakfast use would be conducive to the public convenience at this location. The close proximity (walking distance) to community amenities such as the university, public transportation, restaurants and small business in Urbana offers public convenience at this location. The proposed use should not be a detriment to the overall traffic conditions in the neighborhood.

The proposed bed and breakfast use within the petitioner's home should be operated in a manner that should not be injurious or detrimental to the district in which it is located. The home should retain its exterior appearance as a single-family residence. The space in the home that would be used to accommodate clients is currently ready for use and there are no major additions or alterations anticipated to operate the owner-occupied bed and breakfast.

2. The off-site parking proposal for 715 W. Michigan should provide adequate parking and sufficient access to the single-family home / bed and breakfast use at 714 West Michigan. The parking proposal meets the off-street parking requirements of the Zoning Ordinance. The proposed owner-occupied bed and breakfast use, limited to three rooms, should not be unreasonably injurious or detrimental to the R-2, Single-Family District or the public welfare.
3. The proposal would conform to the general purpose and intent of the R-2, Single-Family Zoning District. The subject property is located in an area where the lots are larger than the average lot in the R-2 zone. The proposed accessory use would preserve the essential character of the R-2, Single Family zoning district.



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I do hereby affirm, that to the best of my knowledge, the forgoing is a true and accurate record of Case No. ZBA 03-C-6.

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Anna Merritt, Chairperson

Date

The complete and official record of this case is on file at the City of Urbana Department of Community Development Services located at 400 S. Vine Street, Urbana, Illinois.

**DOCUMENT TO BE FILED AT THE CHAMPAIGN COUNTY RECORDER'S OFFICE**

APPROVED FOR RECORDING BY:

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Steve Holz, Corporation Counsel

Date

Please return original decision sheet to the attention of Michaela Bell at Community Development Services, 400 S. Vine Street, Urbana, IL 61801-0946. Phone 217/384-2311.

Prepared by:

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Michaela R. Bell, Senior Planner  
Community Development Services Planning Division  
400 S. Vine Street  
Urbana, IL 61801



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES  
Planning Division  
400 S. Vine  
Urbana, IL 61801  
(217) 384-2439

January 3, 2003

**NOTICE OF PUBLIC HEARING IN REGARD TO A PROPOSED SPECIAL USE PERMIT**

To Whom It May Concern:

A public hearing will be held by the Urbana Plan Commission on **Thursday, January 23, 2003 at 7:30 P.M.** in the Urbana City Council Chambers, at which time and place the Commission will consider a request by Christ Unity Church for a Special Use Permit to establish a church at the southwest corner of Interstate 74 and Route 130 (High Cross Road). The unplatted 5.023-acre parcel of property is located within the Beringer Commons Subdivision and is zoned under the Urbana Zoning Ordinance as R-2, Single-Family Residential. The Urbana Zoning Ordinance permits churches in the R-2 Zoning District with the granting of a Special Use Permit from the Urbana Plan Commission and Urbana City Council.

You have been sent this notice because you are a nearby property owner. Enclosed you will find a location map indicating where the church is proposed along with a site plan illustrating the proposal. The Urbana Plan Commission will consider this site plan and proposal at the January 23, 2003 public hearing. The Urbana Plan Commission welcomes your comments at the public hearing, or in writing if received prior to the hearing. If you have any specific questions about the request, please do not hesitate to contact me.

Sincerely,

Rob Kowalski, AICP  
Planning Manager

Persons with disabilities needing services or accommodations for this hearing should contact the Community Development Services Department at 384-2440, or the City of Urbana's Americans with Disabilities Act Coordinator at 384-2466, or TTY 384-2360. If you have any questions concerning this request, please contact my office at (217) 384-2440.

**MINUTES OF A REGULAR MEETING**

**URBANA PLAN COMMISSION**

**PRELIMINARY DRAFT**

**DATE:** December 18, 2003  
**TIME:** 7:30 P.M.  
**PLACE:** Urbana City Building  
400 South Vine Street  
Urbana, IL 61801

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**MEMBERS PRESENT:** Christopher Alix, Alan Douglas, Laurie Goscha, Lew Hopkins, Michael Pollock, Bernadine Stake, Don White

**MEMBERS EXCUSED:** Randy Kangas, Marilyn Upah-Bant

**STAFF PRESENT:** Rob Kowalski, Planning Manager; Michaela Bell, Senior Planner; Teri Andel, Secretary

**OTHERS PRESENT:** Matthew Ando, Gustavo & Gloria Caetano-Anolles, Abigail Bethke, Liz Cardman, Paul Debevec, Marianne Fineberg, Barbara Gladney, Denni K. Hubert, Irene Metzger, Esther Patt, Lisa Treul, Christopher Wilcock

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

The meeting was called to order at 7:34 p.m., the roll call was taken, and a quorum was declared.

**2. CHANGES TO THE AGENDA**

There were none.

**3. APPROVAL OF MINUTES**

Ms. Stake moved to approve the minutes from the December 4, 2003 meeting as presented. Mr. Douglas seconded the motion. The minutes were then approved as presented by unanimous voice vote.

**4. COMMUNICATIONS**

- ✓ Letter from Gustavo and Gloria Caetano-Anolles
- ✓ Email from Helene Dickel
- ✓ Email from Mark Clark

- ✓ Letter from Craig and Abby Bethke
- ✓ Email from Carolyn Baxley
- ✓ Letter from Paul R. and Linda D. Ballard
- ✓ Email from Paul T. Debevec
- ✓ Letter from Ararat Balakhanian
- ✓ Letter from Lincoln Green Foundation
- ✓ Letter from Dan Schiller
- ✓ Email from Elizabeth Cardman
- ✓ Letter from James Dalling
- ✓ Letter from Irene Metzger
- ✓ Letter from Matthew and Amy Ando
- ✓ Email from Elizabeth Cardman
- ✓ Email from Frank Gladney

## 5. CONTINUED PUBLIC HEARINGS

There were none.

## 6. NEW PUBLIC HEARINGS

**Plan Case # 1873-SU-03: Request for a Special Use Permit to allow off-site accessory parking to be located at 715 West Michigan Avenue in Urbana's R-7, University Residential Zoning District.**

Chair Pollock pointed out that there was a difference between the Zoning Board of Appeals case, which was for a Conditional Use Permit, and this case, which is for a Special Use Permit in that the Conditional Use Permit was about whether or not the bed-and-breakfast use was appropriate for the property at 714 West Michigan Avenue, and this case really dealt with the parking aspect of it.

Michaela Bell, Senior Planner, introduced the case to the Plan Commission. She talked about the history of the Conditional Use Permit request for the proposed bed-and-breakfast at 714 West Michigan Avenue. She noted that the most recent request for a Conditional Use Permit was heard by the Zoning Board of Appeals on December 17, 2003. The Zoning Board of Appeals approved the Conditional Use Permit along with the conditions that were recommended by staff. She talked about the proposal for a Special Use Permit and reviewed the requirements for a Special Use Permit according to Section VII-6 of the Urbana Zoning Ordinance. She read the options of the Plan Commission and gave staff 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 recommend approval of the proposed Special Use Permit to the Urbana City Council with the following conditions:*

1. *The petitioner shall provide one off-site parking space for each bed and breakfast room allowed under the Conditional Use Permit in case ZBA-03-C-06, not to exceed four spaces. Off-site parking spaces should be provided in accordance with Article VIII, Parking and Access, of the Urbana Zoning Ordinance.*
2. *The Special Use Permit will expire in the event that the 714 West Michigan bed and breakfast guests cannot use the off-site parking lot located at 715 West Michigan. The owners of both 714 West Michigan and 715 West Michigan must continue to have an off-site parking contract for parking no less than three vehicles for bed and breakfast guests.*

Ms. Stake inquired about how far away the parking spaces would be from the bed-and-breakfast? Ms. Bell replied that the parking spaces would be directly across the street from the bed and breakfast. Rob Kowalski, Planning Manager, added that the Zoning Ordinance specifies that the off-site parking could not be any further away than 600 feet from the site. He mentioned that if by some reason the petitioners could not use the parking spaces at 715 West Michigan and they found three parking spaces somewhere else within 600 feet, then they would need to come before the Plan Commission and City Council again, so the two bodies could consider the appropriateness of the off-site parking at a new location.

Mr. Alix asked for clarification on what was being requested from the Plan Commission. Was this a Special Use Permit requested by the owners of the parking lot that applies to the address where the parking lot was located? Or was this a Special Use Permit requested by the owners of the bed and breakfast, which would apply to the parking lot? Ms. Bell answered by saying that the Special Use Permit was requested by the petitioner, which were the owners of the bed and breakfast. They have supplied staff with a contract between the owners of the parking lot and themselves.

Mr. Alix stated that it was not clear to him what the relationship between the Conditional Use Permit and the Special Use Permit was. Would the Special Use Permit be giving the owners of 715 West Michigan the right to offer parking spaces to another bed and breakfast if the bed and breakfast at 714 West Michigan ceased to operate? Ms. Bell replied no. Mr. Alix stated that the Special Use Permit would cover both properties, which made it unclear who the Plan Commission and City Council would be giving rights to in approving the Special Use Permit. Mr. Kowalski said that the rights would be given to the bed and breakfast owners at 714 West Michigan Avenue. The Zoning Ordinance has allowances for off-site parking, but recognizes that there could be impacts to allowing parking to be somewhere other than where the use was located. Therefore, it specifies that a Special Use Permit should be granted, so that the Plan Commission and the City Council could review and see what impacts that off-site parking might have where it was proposed to be and what impact it might have on the neighboring properties. The permission was really for the owners of 714 West Michigan Avenue in this case. If for some reason, the owners stopped operating their bed and breakfast at 714 West Michigan Avenue, and the property owner living two doors down proposed a new bed and breakfast and wanted to use the same parking spaces, then that would become a new request and would require approval of a Special Use Permit as well.

Mr. Alix questioned if the proposed bed and breakfast had adequate parking on-site and did not have a shared driveway, then would their guests have been able to park on their own property by virtue of the Conditional Use Permit? Mr. Kowalski stated that it would have been part of the Zoning Board of Appeals review. Because of the issues of parking on one side of a shared driveway, the first request to the Zoning Board of Appeals was not approved.

Mr. Alix asked if the reason why the petitioners had to get approval of the Special Use Permit was because the off-site parking was not permitted by right in the R-7 Zoning District? Or was it because the bed and breakfast use was not permitted by right in the R-2 Zoning District? Mr. Kowalski stated that the way the Zoning Ordinance read was that off-site parking was permitted provided that the principle use was permitted in that zoning district. In this case, if an owner-occupied bed and breakfast was permitted by right in the R-7 Zoning District, which was where the off-site parking was being proposed, then there would be no special approval required. If the principle use, which was the bed and breakfast use, was not permitted by right in the R-7 Zoning District, then a Special Use Permit would be required.

Mr. Alix questioned if a bed and breakfast was permitted by right in the R-7 Zoning District, then the petitioners would not need a Special Use Permit? Mr. Kowalski said that was correct. Mr. Alix inquired if a bed and breakfast was permitted in the R-7 Zoning District under a Conditional Use Permit? Mr. Kowalski replied yes. Mr. Alix questioned why this was not a request for a Conditional Use Permit to allow the R-7 to be used for parking accessory for a bed and breakfast? He asked only to make sure that this was a legitimate jurisdiction case. Mr. Kowalski responded by saying that staff's preference was to have everything be considered all at once, but it was clear in the Zoning Ordinance that a Special Use Permit process was required for this case for off-site parking. Staff went through it carefully, and that was how the process was setup in the Zoning Ordinance. Mr. Alix commented that it was a little strange that the Special Use Permit was basically straddling two parcels to permit parking in a parking lot in a higher density district.

Mr. Alix inquired if the owners of 715 West Michigan Avenue were proposing to dedicate parking spaces? Ms. Bell stated that it was not part of the proposal to have parking spaces specifically designated for the bed and breakfast guests. However, the parking should be able to accommodate four parking spaces for the bed and breakfast. The Plan Commission could consider adding another condition to the approval of the Special Use Permit.

Mr. Alix questioned if the parking spaces were not specifically dedicated, could it still be considered accessory parking? How did staff figure out whether there would be adequate parking for both the use at 715 West Michigan Avenue and for the guests of the bed and breakfast at 714 West Michigan Avenue? Mr. Kowalski answered by saying that staff looked at what the current use was at 715 West Michigan Avenue, which was considered to be a rooming house. Although the Lincoln Green Foundation was not fully occupied, staff assumed it was in their calculations. The parking requirement for a rooming house was one parking space for every two residents. A rooming house allows a maximum of fifteen individuals. Therefore, the Lincoln Green Foundation would need eight parking spaces. Any parking spaces leftover, in this case, could be used for the guests of the bed and breakfast with a minimum of three required spaces.

Mr. Alix questioned if there was anything in the Special Use Permit that would bind the owner of 715 West Michigan Avenue to maintain sufficient parking for the bed and breakfast to continue to meet those requirements? Mr. Kowalski mentioned that if for some reason, the Lincoln Green Foundation elects not to provide parking for the bed and breakfast anymore, then the owners of the bed and breakfast would be in violation of their Conditional Use Permit, which has a condition stating that there must be three off-site parking spaces provided for the guests use. The owners of the bed and breakfast could find three spaces somewhere else within 600 feet of the bed and breakfast. He did not believe that the owners at 715 West Michigan Avenue were obligated through the approval of the Special Use Permit to provide for the long-term.

Mr. Alix inquired if any of the property owners on the 700 Block of West Michigan Avenue could rent parking spaces from 715 West Michigan Avenue for personal use? Would the owners of 715 West Michigan Avenue be permitted under the Zoning Ordinance to rent excess capacity of parking spaces to “anybody”? Mr. Kowalski remarked that the owners of 715 West Michigan Avenue could rent parking spaces to any principal use within 600 feet. Staff would have to determine if that off-site parking was permissible in the Zoning Ordinance, same as this plan case. However, 715 West Michigan could not lease out parking spaces to anyone driving into town and wanting to park their vehicles there. The City would consider that to be a second business on that site. Mr. Alix commented that he was bothered by the fact that it mattered who would be parking in the proposed spaces. Hypothetically, if the property owners at 712 West Michigan Avenue wanted to rent three parking spaces in this parking lot, then the owner of 715 West Michigan Avenue could do so by right. But, the owners of 714 West Michigan Avenue want to rent parking spaces for their bed-and-breakfast guests and are required to get a Special Use Permit to do so. Mr. Kowalski stated that it was based on what the use of the parking spaces would be for. A bed and breakfast can operate differently than a single-family home. There could be other issues to consider, such as, the amount of activity that could be coming and going could be different for an owner-occupied bed and breakfast than a single-family home.

Mr. Douglas asked how many total parking spaces there were at 715 West Michigan Avenue? Ms. Bell answered by saying that on the south side of the parking lot, there was nine stripped parking spaces. She added that there were different configurations that could be made on the north side of the parking lot.

Mr. Douglas inquired of those parking spaces, how many were being used by the residents of 715 West Michigan Avenue? Ms. Bell replied that the Lincoln Green Foundation residents were currently only using six of the parking spaces in the parking lot.

Mr. Douglas asked how the residents contracted with the Lincoln Green Foundation? Was it yearly and were they students? Ms. Bell replied that the residents were students, and it was on a yearly basis. Mr. Douglas inquired if the number of residents then were not likely to change? Ms. Bell understood that the capacity of the rooming house was for sixteen residents that they could provide for.

Mr. Douglas asked if the contract between the Lincoln Green Foundation and the owners of the bed and breakfast at 714 West Michigan was a yearly contract? Ms. Bell said yes.

Mr. White noted that the major bone of contention was that the guests of the bed and breakfast might park in the driveway that was shared jointly between 714 and 712 West Michigan Avenue. He inquired who would enforce “no parking” by bed and breakfast guests in the shared driveway? Mr. Kowalski stated that it would be a zoning enforcement issue. Complaints could be made to the Community Development Department if there was a zoning violation. Staff would investigate the complaint, and if the owners of the bed and breakfast were found in violation, then the owners would be notified, and staff would take it from there. If it was a continual problem, staff would consult the City’s Legal Department, and the petitioner could lose their Conditional Use Permit, because they would be in violation of one of the conditions placed on the Conditional Use Permit. There cannot be any parking for bed and breakfast purposes on the bed and breakfast lot.

Mr. Pollock questioned if the Special Use Permit was not granted by the City Council, then would the Conditional Use Permit become void? And if the petitioners wanted to try again, would they need to go through both the Conditional Use Permit process and the Special Use Permit process again? Mr. Kowalski answered by saying that the condition on the Conditional Use Permit requiring the petitioners to obtain off-site parking within 600 feet from the bed and breakfast site was not specific to this Special Use Permit. The Conditional Use Permit would not become void. The petitioners could find alternative off-site parking within 600 feet and come back requesting another Special Use Permit.

Mr. Pollock asked what hours the Community Development Department was open? Ms. Bell replied that the department was open from 7:30 a.m. to 5:00 p.m. Mr. Kowalski added that regarding enforcement, parking in the right-of-way or parking on a driveway apron was illegal and would be enforced by the Police Department.

Mr. Hopkins inquired how the capacity of a maximum of sixteen residents at the rooming house was determined? Mr. Kowalski responded by saying that it was the Lincoln Green Foundation’s determination to only have a maximum of sixteen residents. The Zoning Ordinance would actually only allow them to have a maximum of fifteen residents. Mr. Hopkins recalled that when it was operated as a sorority, it had many more residents than sixteen, and the parking lot was fully capacitated. He wondered how a building that could hold 40 or 50 sorority students could be deemed to have a capacity of sixteen residents. Ms. Bell stated that the Lincoln Green Foundation capped their capacity and that it was part of how they operate. Mr. Hopkins mentioned that the capacity determined for zoning requirements regarding parking requirements were based on bedrooms or accountable, observable characteristics of the building. Ms. Bell responded that for a boarding or rooming house, parking requirements were calculated based on one parking space required for every two residents. Mr. Hopkins asked how resident capacity was calculated? He remarked that for apartments and such, the City has a way of calculating capacity, not by how many people a landlord says that they could possibly rent to, but by how many rooms there are classified. Mr. Kowalski replied that the Zoning Ordinance defines “rooming house” as having a maximum of fifteen people.

Mr. Hopkins asked if a sorority was different than a rooming house? Mr. Pollock stated that both a rooming house and a sorority are permitted uses in the R-7 Zoning District. The Lincoln Green Foundation could decide to become a fraternity or sell their building at 715 West



Michigan Avenue to a sorority or fraternity by right without any additional permit processes being required. As a result, there was a possibility of a lot more residents being able to live at 715 West Michigan Avenue. Ms. Bell commented that after speaking with the President of the Lincoln Green Foundation, her understanding was that they did not have any plans to sell the property.

Mr. Alix asked what type of permit was required for the owners of 715 West Michigan Avenue to offer bed and breakfast guest parking in their parking lot? He stated that there seemed to be a permit missing in this case. He understood the need for a Conditional Use Permit to allow the use of a bed and breakfast and a Special Use Permit to offer guest parking across the street. However, he felt that the owners of the Lincoln Green Foundation should need a Conditional Use Permit in order to have the right to provide the parking for the bed and breakfast guests. Ms. Bell replied that through the Special Use Permit, the parking spaces used by the guests of the bed and breakfast at 715 West Michigan Avenue would need to meet the Zoning Ordinance requirements.

Mr. Alix felt that this was a Special Use Permit brought by one property owner, but would be bearing on another property owner. Mr. Kowalski responded by asking what would be the difference in the review? The review for the requested Special Use Permit was to determine if the bed and breakfast guest parking would have any impact to the area and/or to the surrounding properties. The same review would need to be made if the owners of the Lincoln Green Foundation were required to apply for a Special Use Permit. Mr. Alix believed that there was a subtle difference in the review between the two in that if a Special Use Permit was requested by the owners of the Lincoln Green Foundation, the Plan Commission would be deciding whether or not the parking lot at 715 West Michigan Avenue would be suitable to hold the bed and breakfast guests without regard to where the location of the bed and breakfast would be or whether in fact there would be a bed and breakfast at all. Whereas in the proposed case, the Plan Commission was being asked to approve the bed and breakfast's ability to use parking spaces at the Lincoln Green Foundation. The big difference was who the petitioner would be and whom the Special Use Permit would bind. He asked if the owners of 715 West Michigan Avenue wanted to rent one of their sixteen parking spaces to a member of the general public, would they need a Special Use Permit to be considered a primary use parking lot? Mr. Kowalski replied that they would then be using it as a principal use parking lot, which would be not be permitted by right in the R-7 Zoning District. Therefore, they would need a Special Use Permit.

Gustavo and Gloria Caetano-Anolles, of 714 West Michigan Avenue, approached the Plan Commission. Mr. Caetano-Anolles offered their views as to why the Plan Commission should accept their Special Use Permit request. He commented that a bed and breakfast use was not an element that would be conducive to change and alter the character of the neighborhood. He talked about their family and about how much room they have in their home. He noted that they had very good intentions for the bed and breakfast.

Mr. Caetano-Anolles discussed the history of getting a Conditional Use Permit approved. Their original request for a Conditional Use Permit to the Zoning Board of Appeals was denied. Although the driveway could accommodate six or seven cars, the Zoning Board of Appeals felt that the guests parking in the shared driveway would be a nuisance for their neighbors at 712

West Michigan Avenue. One of the Board members suggested that they remove their shed in the back of their home to extend the driveway to accommodate the parking for two or three guests. After hearing many concerns about their second proposal, he and his wife decided to withdraw the case. They, then, came up with the last request for a Conditional Use Permit, which was reviewed and approved by the Zoning Board. This plan eliminates the issue of them having to build additional pavement on their property to accommodate the bed and breakfast guests.

Mr. Caetano-Anolles talked about and gave a brief description of the shared driveway. He mentioned that they felt forced into hiring a professional surveyor to find where the property line was. Although they have not received the final outcome, they did receive some preliminary news that there was plenty of space for their car to go through the driveway and reach the garage area in back, and also, the neighbor's fence encroached upon their property. The bottom line was that the driveway was functional. City staff had previously determined that six or seven cars could be parked in a line in the driveway. However, they believe that the proposed arrangement with the bed and breakfast guests parking in the parking lot at the Lincoln Green Foundation would be more superior. It would be more aesthetically pleasing to have the guests park across the street rather than in their driveway.

The President of the Lincoln Green Foundation met with them to discuss this arrangement. He offered the use of the parking spaces for free, but they did not feel that would be proper. So, both parties entered into a contract. They thought this would solve the problem, but to their dismay they found that the two properties were zoned differently, and they would need to get approval of a Special Use Permit. He noted that they would provide specific instructions to their guests to park across the street at the Lincoln Green Foundation parking lot.

Mr. Caetano-Anolles mentioned that the Lincoln Green Foundation had shown him and his wife their plans of remodeling the resident building. He stated that the Lincoln Green Foundation was an endeavor from the Catholic Church from upper state. They cater to a very select audience in terms of students. Many students do not have cars; therefore, the parking lot was currently underutilized.

He summarized why they felt that this arrangement would be beneficial. They believed it would not be unreasonably injurious or detrimental, and it would actually preserve the character of the neighborhood. He believed that the character of the neighborhood was more impacted by the cars being parked on the street by the students. This arrangement would be convenient for the guests of the bed and breakfast, and at the same time, it would provide use of a few spaces in the underutilized parking lot. It would be beneficial by decreasing the visual and physical impact of having cars parked in their driveway. He did not believe that two or three occasional guests would increase the traffic in the neighborhood enough to be considered injurious or detrimental.

Ms. Stake commented that they could have bought a house on Green Street and opened a bed and breakfast with no problems from the City. Mr. Caetano-Anolles replied that they were house hunting here in Urbana at Christmas time last year. There were very few houses available at that time. They were torn between living in the City of Champaign or in the City of Urbana. They finally decided to live in the City of Urbana, because it was very close to his employment. They purchased their house, because they liked it a lot. The idea of opening a bed and breakfast came

to them after moving here. They wanted to find something for his wife to do in her spare time, which would allow her to stay home with their children.

Mr. Douglas asked the City staff if a handshake agreement between the owners of 714 West Michigan Avenue and the owners of 715 West Michigan Avenue would be enough or would they need to be bound by a contract for the Special Use Permit? Mr. Kowalski answered by saying that City staff required written proof that there was an agreement for off-site parking.

Mr. Douglas asked how secure the petitioner was about being able to renew the contract with the Lincoln Green Foundation every twelve months? Mr. Caetano-Anolles replied that the Lincoln Green Foundation had been very generous to him and his wife. As a result, they did not want to impose a responsibility on the Lincoln Green Foundation of basically maintaining the contract. This was why Ms. Caetano-Anolles requested a special clause in one of the conditions of the Conditional Use Permit that would extend the possibility of them finding other parking spaces in the neighborhood. He mentioned that they have had two other offers from individuals offering off-site parking spaces within the 600-foot area. Therefore, they are positive that if for some reason, Lincoln Green Foundation could not provide the parking spaces for their guests, then they would be able to find alternative parking.

Dennie Kay Shurts-Hubert, of 710 West Oregon and owner of the Hubert House, had a similar problem 13 years ago with opening the first legal bed and breakfast in Champaign County and in the City of Urbana. She mentioned that the Lindley House, which is a bed and breakfast, has a shared driveway and an alley behind the house. She described the available parking around the Lindley House.

She noted that similar to this case, she shares a driveway with her neighbors. She mentioned that she has an alleyway behind her house. She pointed out that the Urbana Zoning Ordinance allows three unrelated people to live in a single-family residence. However, the Urbana Zoning Ordinance does not articulate how many people those three unrelated residents could have spend the night.

The City may have a parking problem with having apartments in the 800 Block of West Oregon that have huge parties. She stated that there was no problem with parking in the City of Urbana by bed and breakfast guests. Most of her guests are people who come in on the weekends. On weekends, parking is up for grabs on the streets in Urbana. There are no parking restrictions on the streets from 3 p.m. on Friday through 2 p.m. or 3 p.m. on Sunday.

Ms. Shurts-Hubert pointed out that they have guests from all over the world. Most people do not drive their cars to the City of Urbana, and her guests from other countries do not have a valid United States driver's licenses. Many times, her guests arrive by train or by airplane, and her and her husband pick them up at the train station or the airport.

She noted that she has total and complete control over who is a guest in her bed and breakfast, how much they pay, when they arrive, and where they park their vehicles. Her guests do not park in her shared driveway or in the alleyway behind her house. She stated that there have never been any complaints about the guests that stay in her bed and breakfast.

Ms. Shurts-Hubert commented that even though Green Street was in the M.O.R., Mixed-Office Residential Zoning District, she did not feel that it would be the safest place to have a bed and breakfast because of the traffic on Green Street.

She talked about how her guests pull up in her driveway to unload, and then they will find a parking space. Her guests never block her shared driveway, because she would not allow that to happen to her neighbors. No one will block the Anolles' shared driveway either, because they may have an emergency where they would have to take one of their children to the hospital.

She believed that the neighbors were just scared of something that they do not know how it would turn out coming into the neighborhood next door to them. They were afraid to take a chance. She had the same problems with her neighbors when she first opened her bed and breakfast. She stated that the guest bedrooms usually are not full.

She mentioned that the Anolles' have been contacted by a landlord in the area to sell him their home in the event that this case was denied. He would like to buy their home to teach the neighborhood that he could buy single-family homes in this neighborhood and rent them out to three unrelated parties. The situation for the neighbors could be much worse if the property became a rental property with Coke machines, garbage and junk laying everywhere, cars parked on the lawn, etc.

She added that if this does not pass, the Anolles', by right, could even rent the extra rooms out to three unrelated people with cars, who could invite people with cars over. This would also pose a much bigger parking problem than the bed and breakfast ever would. The people who previously owned the Anolles' house rented it out to four students who happened to be tennis players. Those four students parked in the driveway all the time, and so did their guests. The Anolleses know what could happen if they would allow guests to park in their shared driveway: they would lose their permit and the ability to have a bed and breakfast. They would not take this chance.

Paul Debevec, of 708 West California, stated that it was the nature of the Plan Commission to find broad issues in the details of each case, and Mr. Alix found an issue of the City allowing the rental of parking spaces in this neighborhood. This neighborhood was under enormous pressure to provide more parking. In the past year, the City put in a system to restrict parking to residents, because residents, themselves, had to compete for parking places. On the corridor of Busey (north and south), there was insufficient parking for residents even under that system. It seemed to him to be extremely dangerous to allow a precedent for rental parking to occur in this neighborhood. There are many other businesses such as a rooming house, an apartment and a rental home that could now contract under this possible precedent for parking for their residents, because many of these buildings in this old neighborhood do not have sufficient parking for the number of residents that they have. He urged the Plan Commission this case as being used to set a very dangerous precedent. In closing, he commented that he found it strange that the Lincoln Green Foundation, which was a tax exempt organization, would be allowed to engage in a commercial business.

Marianne Fineberg, of 408 Oak Brook Circle, lived at 712 West Michigan Avenue for 19 years. The Hobson family lived at 714 West Michigan Avenue, and they shared the driveway. She recently moved to her current address in June 2003. She talked about the history of the shared driveway. She pointed out that the center point of the driveway was not the property line. She mentioned that there was never an issue between her family and the Hobson Family, because everyone parked in front of their garages. This was a mutual understanding. For the majority of the years that they lived in the house at 712 West Michigan Avenue, they only had one car, and the same applied to the Hobson Family. She noted that two cars per family worked out okay, but add a third car on either side, and it gets trickier to park in the driveway and still be able to get out of the car.

Ms. Fineberg mentioned that during the time she lived at 712 West Michigan Avenue, she experienced living across from the sorority that previously resided at 715 West Michigan Avenue. The sorority, Alpha Zee Delta, sold the building to the Lincoln Green Foundation. She stated that the parking lot is fuller on the weekends than it is through the week. The Lincoln Green Foundation does actively recruit. Although they have a maximum of sixteen residents, there is no guarantee that the maximum will stay at that number.

She commented that although the Caetano-Anolles Family insisted that guests staying at their bed and breakfast would not impose any parking problems, it would be inevitable. Whenever visitors come, they pull in the driveway and do not realize that they may be blocking the neighbors in or out. Guests at the bed and breakfast are not going to want to carry their luggage when it is raining or snowing outside from the parking lot at 715 West Michigan Avenue to the bed and breakfast at 714 West Michigan Avenue. She believed that the City was going to have a problem with enforcement that may end up costing the City far more than it would get from the hotel tax from the proposed bed and breakfast business.

Esther Patt, of 706 South Coler, shared a few of her thoughts with the Plan Commission. She encouraged the Plan Commission to think about not the way they hoped the situation would work out, but what the requirements was that were imposed in making this decision.

She walks by the parking lot at 715 West Michigan Avenue quite often in the morning, and there are plenty of empty spaces in that lot. She walked by there one night, and the lot happened to be completely full. She expressed concern about the feasibility of satisfying the requirement for the parking of a use in a lot that may not actually have that space.

She could not find anything in the proposal that required specific parking spaces to be set aside in the parking lot for the bed and breakfast guests. She suggested that there be signage that designates parking spaces for the guests of the bed and breakfast. She thought most of the bed and breakfast customers would pull into the driveway to unload.

Ms. Patt was reviewing the agreement between the Caetano-Anolleses and the Lincoln Green Foundation, and she read the following: "The bed and breakfast would pay the Lincoln Green Foundation on a per car per night basis. For every night that one car is parked in the Lincoln Green Foundation parking lot, the bed and breakfast would pay the Lincoln Green Foundation the sum of \$10.00. The means of keeping track of the number of vehicles parked in the Lincoln

Green Foundation parking lot and the method of payment for the service would be worked out as the need arises.” She did not believe that anything should be approved on the condition that “it would be worked out later as the need arises”. It should be set in stone and be a specific requirement to ensure that the required parking for this use would be provided.

She agreed with Mr. Debevec about setting a precedence of allowing parking at some properties in a residential neighborhood to be used for other uses, because it would certainly create an incentive for demolition of houses and their conversion into parking lots. This has already been seen in some places in Urbana.

She encouraged the Plan Commission to deny this request for a Special Use Permit. However, if any of the Plan Commission members were considering granting the request, she requested that they look at what the terms of the Special Use Permit actually were with regard to requiring the parking that was suppose to be provided.

Matthew Ando, of 712 West Michigan Avenue, felt there was a general reason to be concerned about this type of proposal in that it would not be a good idea to allow the parking lot at 715 West Michigan Avenue to be used to shoehorn businesses into residential neighborhoods. The current owners of 715 West Michigan Avenue do not contemplate such use, but once the precedent has been established, then it would be much more difficult to prevent such use in the future.

In some cases, this off-site parking idea would be appropriate. For example, Jimmy Johns on Lincoln Avenue has parking located across the street from where it is located. Those parking spaces do have a sign saying “Reserved for Jimmy Johns”. He did not feel that the idea of off-site parking would be appropriate for this Special Use Permit request.

To explicitly answer an earlier question of Ms. Stakes, Mr. Ando stated that the parking lot was 240 feet along the sidewalk from the bed and breakfast. He felt the parking spaces would be too far away to expect guests with children and luggage to park and carry over to the bed and breakfast. He added that it was not easy to see the parking lot from 714 West Michigan Avenue. He believed it would be more natural for guests to pull up closer on the street to unload their children and luggage, check in and at their convenience park in the parking lot.

Mr. Ando agreed that he was afraid of being blocked in. He was also afraid that guests of the bed and breakfast would not pay close attention to the things going on around them, like people walking along the sidewalk or his children playing in the yard or in the driveway. He was concerned that it would create a safety issue.

He displayed a photo showing how he was accidentally blocked in. It not only has happened to his family, but to other people visiting his family. His visitors were unable to get the Caetano-Anolleses to move their vehicle so they could leave, and their visitors ended up calling the police. The police refused to come out. As an enforcement issue, he could very well be in the position where he would need to get somewhere and find that he was blocked in by a bed and breakfast guest vehicle and unable to get anyone to move it. Having to wait to call the

Community Development Department at the City of Urbana until the following Monday at 8:00 a.m. to complain that there was a parking enforcement issue was not what he would really need. After talking to the surveyor that the Caetano-Anolleses had hired, his wife found out that the surveyor had marked where the property line was. He showed a picture where he had placed a tape measure to mark where the chisel marking was. Thus, a minor secondary concern was that not only was it very natural for people to block him off by parking further right in the shared driveway because of the concrete wall on the left, but it was also very natural for them to park on his property. Therefore, he was not generally in favor of this whole business.

If the Plan Commission did grant this request for a Special Use Permit, then he encouraged them to make sure that the language in the condition should be quite strong and should specify that “there be no vehicular use by bed and breakfast guests of the common driveway”, because parking was somewhat vague. Although he was not sure if this could be enforced in any case, but it would at least give him more confidence that if he finds himself blocked in that he would have some chance of demonstrating that something inappropriate was being done.

Mr. Hopkins asked if there was a circle drive in the front yard of his house? Mr. Ando replied that the Caetano-Anolleses park their vehicle near the mouth of the driveway to have better access to their front door. This makes it difficult for him and his wife to safely get in and out of their driveway. If the Anolleses park all the way over to the left side, then the Anolleses would be on their property. Therefore, it would be a vague issue of what he could do about it. So, he decided it would simpler to build a circular drive across his front yard, so that he could park in front of his garage easier and safer. However, if a guest or visitor parked any further to the right, then he would still be blocked out.

Mr. Alix inquired if there was a recorded easement relating to the shared driveway? Mr. Ando responded that his real estate attorney contacted Chicago Title, and they found no easements governing the use of this driveway.

Ms. Stake questioned who owns the driveway? Mr. Ando said that he was told in this kind of situation that the driveway divides where the property line falls, but because of the location of the garages, they each have a right to drive over each other’s property to get to their garages. It was clear in the Law of Governing Easements and Rights-of-Way that these kinds of rights are specific to the kind of use which generated the right-of-way or easement: private versus commercial and passage versus parking. The fact that the long-standing use of the driveway was for “passing over” it as Ms. Fineberg mentioned to get to the garage, it seemed that the nature of the situation was what existed was the right to pass over each other’s property to get to their respectful garages and not to park on each other’s property. To his understanding, there was not a right for any kind of commercial use.

Ms. Stake asked when he bought his house? Mr. Ando said that he bought his house in the end of June 2003 and moved in the house sometime in July 2003. Ms. Stake asked when the Anolleses bought their home? Mr. Ando replied that Mr. Caetano-Anolles moved in sometime in January 2003 and the rest of the family moved in a few weeks before his family moved in next door.

Mr. Alix suggested that regardless of whether the Anolles' property becomes used as a bed and breakfast or continues to be used as single-family residence without a bed and breakfast, the two neighboring parties should codify the easement legally to make peace. Mr. Ando responded by saying that it was during his preparation for the first public hearing for the original request to the Zoning Board of Appeals for a Conditional Use Permit that he found out that the crack in the middle of the driveway was not actually the property line. His lawyer advised him to work with the Anolleses to get the property surveyed, and then write an easement. Within days after the first request was denied, the Anolleses filed another application for a Conditional Use Permit to allow a bed and breakfast, and he did not have time to follow through with his lawyer's advise.

He commented that in his letter he did not make any statements as to whether or not a bed and breakfast should be allowed. He just did not want the sort of thing to go forward with an indication that the driveway could easily accommodate three cars but was nominally shared with a neighbor. He wanted to make it clear that it was much more complicated than that. He left it vague, because he imagined that an appropriate thing to do might be to work out a license for the guests of the bed and breakfast to pass over his property to get to the parking in the backyard that the Anolleses were going to build. Mr. Alix mentioned that he was glad to hear that Mr. Ando was seeking legal advice. Both neighboring parties involved in using a shared driveway have to come to a mutual agreement, whether it could be done amicably or adversarilly. It would be beneficial to both parties to clarify it; otherwise, it will be an issue for both parties when they go to sell their properties as well. It is not the City's business or responsibility to police shared driveways. It was really a matter of law between the two neighboring parties who share a driveway. Whether or not a bed and breakfast is allowed, sharing the driveway could still remain an issue if nothing is done.

Chris Wilcock, of 710 West Michigan Avenue, believed that the parking plan to have guests park behind 715 West Michigan Avenue would not be workable for a bed and breakfast use. He pointed out that Ms. Shurts-Hubert assured us during her testimony that the guests of the proposed bed and breakfast would be using the shared driveway or the part of Michigan Avenue in front of the Anolles' home as an unloading area.

He, then, went on to talk about the different parking systems that the City of Urbana has tried to exercise in their attempts to solve the parking issues. He stated that if a bed and breakfast guest comes to the proposed property on a weeknight or a weekend, especially a busy weekend, there would be no on street parking on the south side of the street, because it would be full. Therefore, they might pull up on the street, put on their flashers and unload the car, it would first of all be illegal; and secondly, it would create a very unsafe situation for other vehicles to drive around or pass driving down the street.

He went on to explain why the parking plan was unacceptable. Using Exhibit E, he showed that the parking lot at 715 West Michigan Avenue was a long way from the proposed bed and breakfast. Most of the sidewalk along the east side of Busey Avenue, which the guests would use to walk to the bed and breakfast, was 92 years old. Although some of the sidewalk had been replaced, most of the five-foot sections were cupped. Furthermore, there were no curb cuts for handicap access. Therefore, the sidewalk would not be serviceable to wheel luggage. It may



meet the 600-foot requirement, but as a practical matter, it would not meet the business needs of a bed and breakfast.

Mr. Wilcock pointed out that the Conditional Use Permit was conditional on the off-site parking being available at the Lincoln Green Foundation. No provision had been made to guarantee that parking would be available. The Lincoln Green Foundation previously finished making renovations to the third floor by converting the open dormitory to individual rooms. They are now prepared to occupy those rooms. The reason why they are not fully occupied was not because they chose not to be, but because the rooms were not ready. They are now ready to expand. The possibility was very likely that additional parking needs for the residents at 715 West Michigan Avenue will need to be met, and that would be to the detriment of the bed and breakfast.

The Conditional Use Permit was amended to allow the petitioners to hunt for replacement off-site parking if the parking spaces at 715 West Michigan Avenue were no longer available. If there were other parking, it would not be any closer. The petitioners may be able to secure parking within the 600-foot requirement, but it would not be any more acceptable for their business needs.

Mr. Wilcock stated that there was no effective enforcement for the parking conditions of either the Conditional Use Permit or the Special Use Permit. The Plan Commission heard testimony demonstrating that it would be in the petitioners' best business interest or practical to keep their business customers' vehicles out of the private drive that was shared by the residents of 714 and 712 West Michigan Avenue. Since this activity was prohibited in the condition placed on the Conditional Use Permit or at least that was the intention of the Zoning Board of Appeal, it was a valid concern to discuss how these flawed permits would be monitored and enforced. From recent events, we already know that the Urbana Police Department would not enforce the parking conditions. He doubted whether City staff or Code Enforcement would be able to do it either. So, it appears that if this request for a Special Use Permit was recommended for approval by the Plan Commission and approved by the City Council, then it would compel litigation upon the neighbors of this commercial activity in a residential zone. He did not believe this was the way it should have to end.

Mr. Wilcock stated that he could provide numerical evidence that the rate of growth of assessed property values in the vicinity of the other owner-occupied accessory use bed and breakfast at 710 West Oregon over the last ten years had been less than the rate of growth of assessments in the vicinity of 714 West Michigan Avenue. He stated that he could not tell the reason why, but it could be because of the bed and breakfast.

He stated that the petitioner made the following statement at the Zoning Board of Appeals meeting: *"If you (meaning the Zoning Board of Appeals) do not approve our request tonight, we will be back next month and every month thereafter. We already have the paperwork ready."* This statement, in its simplest form, was intimidation. It demonstrates the petitioners' complete lack of respect for the duly appointed boards and commissions of the City of Urbana and a total lack of respect for this process.

Mr. Alix commented that the difficulty of this site for use of an owner-occupied really seemed to hinge on the availability of parking. He asked Mr. Wilcock if he had a feel for the relative impact of something like a bed and breakfast, which had up to three rooms that were rented and say a typical house in the same neighborhood that might be a family with four teenage kids. We are talking about a number of cars that would not be any different than that of a family with four teenage kids. Mr. Wilcock mentioned that he liked bed and breakfasts. He believed that the two that were operating in the City of Urbana were an asset to many neighborhoods. The neighborhood on West Oregon was a relatively mixed-use neighborhood. The bed and breakfast on West Oregon was clearly the best property on that block. He remarked that Ms. Shurts-Hubert mentioned that they have never had any parking problems. Then, why did she petition the City to vacate the alley behind her home? The parking apparently did affect her bed and breakfast. He did not feel that a bed and breakfast on his block would have a huge impact on parking. He felt that a bed and breakfast on this site would have a huge impact, because there was no way to bring guests up and drop them off safely without injuring the neighbors. Mr. Wilcock added that there was a difference between residents, who know the rules of parking in a shared driveway, and guests, who do not.

Mr. Wilcock went on to say that staff had used the word “transitional” to describe this block in this neighborhood in a previous meeting of the Zoning Board of Appeals. He stated that this neighborhood was not transitional. The last property that changed use was the Twin City Bible Church, which was 40 years ago. Why was it that there had not been a change in land use in this neighborhood since then, but there were changes in the use of properties six or seven blocks north of this street? He believed it was based primarily on property values. It would not make financial sense to buy a home for \$300,000 and rent it out. The owner would not be able to make the payments. These homes are very desirable, and he believed that locating any commercial use in this block would affect the property values of the neighboring properties. Mr. Alix replied that from a zoning perspective, this area was referred to as being “transitional”; however, that did not imply any change over time. It implied that it was an area with more than one zoning district classification with different levels of density. He felt it was one of the most stable residential neighborhoods in the City of Urbana. Mr. Wilcock commented that if the two properties across the street, that were zoned R-7, University Residential, were not there when the zoning was adopted, then those properties would have been zoned R-1 like the rest of the block.

Lisa Treul, of 714 West Iowa Street, spoke as a private citizen and as a co-coordinator of the West Urbana Neighborhood Association (WUNA). In reference to an earlier question about the difference between a family with four teenage children and a bed and breakfast business, she stated that because the parking situation was so complex that many residents in the neighborhood were very adamantly opposed to this proposed bed and breakfast. The bed and breakfast on West Oregon Street was the anchor of that street, and a bed and breakfast in the MOR, Mixed Office Residential Zoning District would be a welcomed addition.

Even though the petitioners would probably always rent to the most upstanding citizens that they could, the residents in the neighborhood would be concerned about the transient nature of the guests using the bed and breakfast. Some neighbors would be okay with the petitioners renting to three unrelated graduate students versus renting a bed and breakfast, because of the transient nature of the guests using a bed and breakfast.

She failed to see a strong argument to allow parking lots to begin renting their spots in a residential neighborhood. With the prices of parking going up in the neighborhood, she could foresee more small homes being razed to run profitable parking lots. The proposed parking lot was not enclosed. The fence that is along the one side is falling down, and the owners of that fence have no intention of maintaining it.

She talked about the issue of safety with regards to renting out parking spaces in a parking lot. A few years ago, she was almost hit by a car coming out of the very parking lot in question. When the City allows a commercial use in a residential neighborhood, it would set a precedent.

She had talked with Elizabeth Tyler, Director of Community Development, about the possibility of being able to rent out parking spaces in her driveway. Ms. Tyler told her that she could not do that. Private citizens are not permitted by right to rent out spaces in their driveway for the use of parking. They would need a Special Use Permit.

Mrs. Caetano-Anolles re-approached the Plan Commission. She mentioned that her family had been harassed since they began putting this case together. She explained how the proposed parking plan came about. The residents at the Lincoln Green Foundation offered the Caetano-Anolleses parking spaces in their parking lot at 715 West Michigan Avenue to use for guests to park their vehicles during their stay at the bed and breakfast, because the residents at Lincoln Green Foundation saw what was happening to the petitioners.

Because the people from the Lincoln Green Foundation had been so nice to her family, she did not want to impose on them. If two years from now, the Lincoln Green Foundation wanted to expand and increase the number of residents, then they should not feel guilty about not wanting to renew the contract with her family to provide parking spaces. The petitioners would be happy to look for alternative off-site parking.

The Lincoln Green Foundation allows other people to park in the parking lot as well. People from the Twin City Bible Church use the parking lot. The Lincoln Green Foundation residents only use six of the available parking spaces.

Mr. Caetano-Anolles re-approached the Plan Commission. He contested the idea that an owner-occupied bed and breakfast would be considered a commercial enterprise. He would not want to bring a commercial enterprise into his home. An owner-occupied bed and breakfast would be considered a home-based business similar to a home daycare service. According to the Zoning Ordinance, home-based businesses are allowed to receive five visitors per day. They are not policed, and they do not have their ability to perform business revoked because they receive five visitors per day. If the Plan Commission imposed a limitation that no guests were allowed to park in their driveway, then it would go against the spirit of the home-based business. Even if they had full occupancy of guests in their bed and breakfast every day, they would still have less than the five visitors per day that would be allowed in the Zoning Ordinance.

He contested the idea that his wife had been unruly at the Zoning Board of Appeals meeting by pushing the Board to accept the Conditional Use Permit request. If his wife had not been

pushing the idea of having a bed and breakfast, then they would not be before the Plan Commission at this meeting. His wife only meant that they were perseverant people, because they felt strongly about the bed and breakfast. They felt it would be something good for the community. He also believed that an owner-occupied bed and breakfast would be an interesting activity for his wife. They did not intend to earn any additional revenue to sustain their lifestyle.

Mr. Caetano-Anolles was concerned about how the neighbors have presented his family as terrible people for parking their vehicle at the end of the driveway. He pointed out that one of the pictures included in his letter to the Plan Commission shows that many other neighbors in the neighborhood park their vehicles at the end of their driveways.

He understood the situation of the common access to the driveway. It had never been a concern to his family, but it became a concern to the Ando Family. As a result, he and his wife hired a professional surveyor. They never told the Ando Family to not use the common access, even though it would be his responsibility to repair or maintain it if something would happen to it. Therefore, it was disturbing to him that the Andos have become so concerned about where the property line is when they had been using his access before constructing their own approach to the driveway.

He talked about the possibility of the Lincoln Green Foundation expanding and increasing its number of residents. He did not believe that this was the case. The President of the Lincoln Green Foundation would not have offered the petitioners the opportunity to use three of their parking spaces, because the Foundation would have needed them for the additional residents.

He mentioned that he and his wife were the ones who imposed a one-year limit on the contract. The Lincoln Green Foundation asked him and his wife if they wanted the contract for a longer period, but they said no. They wanted a contract that both parties would be comfortable with.

He responded to the neighborhood's concern about this case setting a precedent for others to be able to rent out parking spaces. He noted that it was a function of the City's system to determine on a case-by-case situation when to grant or not grant a Special Use Permit. The term "Special Use Permit" says it all. He did not feel that this case would set a precedent for any other kind of parking endeavor in the future, especially because we were talking about a friendly, amicable arrangement between two neighbors, and it involved only three parking spaces. This request for a Special Use Permit would not cause incredible development and pavement in the community. They only planned to use three parking spaces located in a parking lot that was being underused.

He stated that before he and his wife put forth the first proposal, they had talked to the Ando Family about their ideas. Mr. Ando agreed with the idea. The day before the first meeting, the Andos had changed their minds and decided to oppose the idea. Therefore, the comment that the petitioners did not mention anything to the Andos was incorrect. He agreed that perhaps they should have visited other neighbors as well. However, they were ignorant about the City's procedures. They thought the process involved filling out some paperwork and that would be it. They had no idea that they had to attend public hearings.

Ms. Caetano-Anolles clarified that she was the one who had called the police to come out because of an unrelated problem. It did not have anything to do with moving their vehicle from the end of the driveway as mentioned earlier.

Mr. Alix asked Mr. Caetano-Anolles to describe how they proposed to use the off-site parking, such as: How will the guests know where to park? Who will park the guests' vehicles? Where would the guests unload their luggage? Mr. Caetano-Anolles thought they could use parking stickers to indicate the guests' vehicles in the parking lot. He asked the Plan Commission to not impose restricted parking spaces on the Lincoln Green Foundation to be reserved for the bed and breakfast guests. He felt it would be intrusive to the neighborhood and was not really needed. The idea was to make the actual visibility of the possible guests that use the bed and breakfast as minimal as possible. He and his wife would arrange the guest reservations in advance, because they would want to know the people that they would be hosting in their home. He noted that they would specifically mention that they would not have on-site parking and tell the guests that they have arranged parking across the street at 715 West Michigan Avenue. He wanted to do this to show respect to the agreement that they have with the Lincoln Green Foundation.

Mr. Douglas inquired as to without specific parking spots at the Lincoln Green Foundation for the bed and breakfast guests, where did the petitioners plan to have their guests park on days when the parking lot was full? Mr. Caetano-Anolles felt this was a good point. He had never experienced the parking lot being full. He had always seen free spots available for more cars to park in. The majority of the time, the parking lot is empty. On Sunday mornings, there are problems with people attending the Twin City Bible Church parking in the lot at 715 West Michigan Avenue, but the Lincoln Green Foundation assured him and his wife that there would always be parking spaces available for their guests.

Mr. Pollock inquired if the City Council placed a condition on the approval of the Special Use Permit that called for a restriction of customer use on the petitioners' driveway, would that pose problems for them? Mr. Caetano-Anolles replied that they would be willing to abide by any conditions placed. However, if his family decided to have a party and invited some friends over, who would park in the driveway, he would not want the police called and be accused of allowing their guests to park in the driveway. The community needed to respect that this was still his family's home, and the rights of the homeowner should be respected in some ways. Mr. Pollock commented that over the years, he had seen a number of shared driveway disputes and property line disputes. This situation was already problematic and legally unclear.

Mr. Pollock stated that in terms of guaranteed parking spaces in the parking lot at 715 West Michigan Avenue, it seemed to be a problem. At times the lot seemed close to being full. If there was a requirement placed on the Special Use Permit that the bed breakfast have dedicated parking spaces in this lot, then would that cancel or negatively impact the agreement between the petitioners and the Lincoln Green Foundation? Mrs. Caetano-Anolles stated that her family did not like to impose on others or ask for favors; however, they would do anything the City told them to do as long as their request for the Special Use Permit was approved.

Mrs. Caetano-Anolles mentioned that when she first contacted the City staff, she only wanted to rent one room out to guests. It was Ms. Bell who told her that she would need a Conditional Use

Permit to allow a bed and breakfast use. After the first and second attempt to get a Conditional Use Permit, she decided to ask for the maximum number of guests allowed to stay in her home, because she realized that some day her children would grow up and move out, and she did not want to have to go through this process ever again.

Ms. Goscha questioned if an additional condition was placed on the Special Use Permit to widen their driveway or provide some other means of drop off on their property to help alleviate some of the potential injury to the Andos, then would that be something the petitioners would entertain or would it pose a problem? Mrs. Caetano-Anolles replied that in this proposal, they were not asking for any parking to be allowed on their property, not even for dropping off the guests' luggage. Ms. Goscha saw a correlation between dropping off guest luggage and where someone parks. Her concern was that guests will in fact park in the shared driveway to unload their luggage or let the rest of the family out, and that the driver would park in a manner that would end up blocking the Andos in or out of their driveway. Mr. Kowalski pointed out that the Zoning Board of Appeals placed a condition on the Conditional Use Permit that all guest parking activity shall be off-site. If the Caetano-Anolleses were to allow their guests to even park long enough to unload luggage, etc., then the petitioners would not meet the conditions placed on the Conditional Use Permit, and would lose their permit to have a bed and breakfast in their home.

Mr. Caetano-Anolles remarked that it would be fantastic if they could do what the Andos did by constructing a circular approach to the driveway in front of their home. On the other hand, they would prefer to landscape rather than adding pavement to the neighborhood. The dropping off of the luggage would be invisible. Most visitors would not have a lot of luggage, except when a family occasionally uses the bed and breakfast. When that happens, the petitioners would want to accommodate the guests' needs by making an exception. But the petitioners would always indicate where the guests would need to park, and they would try to help them with the luggage when the guests arrive.

Ms. Shurts-Hubert re-approached the Plan Commission to respond to a comment made about a request for the vacation of the alley behind her home. She noted that her request to vacate the alley behind her home had nothing to do with her bed and breakfast. The alley was supposed to be maintained by the City of Urbana; however, the City has a budget, and the alley was not maintained as well as needed. At the time, her children and their friends would track mud in from the driveway on her white carpet. She wanted to purchase the alleyway, so she could pave the alleyway and the children would not have to track mud in from the driveway anymore. One of her neighbors did not want to take the chance of his property value dropping, because he was trying to sell his home. As a result, she dropped her request to have the alley vacated. The City of Urbana came through and redid the alley.

In response to the comment about Ms. Caetano-Anolles being pushy to the Zoning Board of Appeals, she stated that Abraham Lincoln ran for senator many times before he succeeded and also, God said that Jesus was coming back.

Mr. Ando re-approached the Plan Commission. He explained that it was not his inclination to be picky by finding out where the property line was. Where the property line fell was not the issue. His issue was that the property line reflects the fact about these two big houses sharing a

driveway that was like a bowling lane between them. Therefore, any use by either side of the driveway would have an impact on the other side. He felt that any kind of use of the driveway that would be proposed should involve cooperation of the people on both sides. He did not recall talking to the Caetano-Anolleses about the first proposal prior to the first meeting. His recollection was when another neighbor brought over the notification of the first meeting. Afterwards, the Caetano-Anolleses came over to discuss their proposal. At that time, the Andos had very good relations to the Caetano-Anolleses. He told the petitioners that he and his wife would think about it. The proposal written in the staff report was different than what the petitioners had discussed with him. At that point, he decided that he had to oppose it.

Mr. Alix inquired as to what the conditions were that were placed on the Conditional Use Permit that was approved by the Zoning Board of Appeals? Ms. Bell replied that the conditions were as follows:

- 1) *That the accessory bed and breakfast use shall be limited to three bedrooms;*
- 2) *That the house at 714 West Michigan shall meet all code requirements to conduct an owner-occupied by obtaining a Certificate of Occupancy from the City of Urbana;*
- 3) *That all parking activities associated with the bed and breakfast shall be located off-site, and that in addition to the Conditional Use Permit, a Special Use Permit be granted to allow off-site parking. The petitioner shall provide one off-site parking for each bed and breakfast room allowed. Off-site parking spaces shall be provided in accordance with parking in access provisions of the Urbana Zoning Ordinance.*
- 4) *The Conditional Use Permit shall expire in the event that 714 West Michigan bed and breakfast guests could not use the off-site parking located at 715 West Michigan or an equivalent site. The owners of both 714 West Michigan and 715 West Michigan must continue to have an off-site parking contract for no less than three vehicles.*

Mr. Alix asked for clarification if this meant that the conditions would prohibit the petitioners from using the shared driveway to park guests' cars? Ms. Bell said yes.

Mr. Alix inquired as to whether Mr. Ando would be in opposition of the bed and breakfast if there would be no guest parking allowed in the shared driveway? Mr. Ando answered by saying that he was concerned that given the distance of the proposed parking from the proposed bed and breakfast, that it would not work the way it is stated in the proposal. In addition, the problem with the condition was that if it does not occur in the way that was described in the proposal, then there really was not anything that he could do about it in practice. He was concerned that the kind of parking that goes on for this type of activity was not safe. Guests would pull into the driveway to unload their luggage. They might be tired and would not be as cautious when backing out. He was also concerned about the idea of being blocked in or out of his driveway.

Chair Pollock called for a recess at 10:40 p.m. The meeting was re-adjourned at 10:45 p.m.

Mr. Kowalski mentioned that there have been many questions and comments about parking, not just for this case, but parking in the area and what the Zoning Ordinance permits. He wanted to be very cautious about trying to dissect every requirement and nuance of the Zoning Ordinance as it relates to parking, because the Zoning Ordinance had evolved over 50 years. Therefore, it was hard to say exactly what was allowed when, where, and under what circumstances. Much of it was left to the interpretation of the Zoning Administrator. He stated that if the Plan Commission wanted to look further into this, then City staff could set this up as a study session at some future meeting. Nevertheless, the requirement for the Special Use Permit was clear to have the parking off-site for this case.

He noted that there had been some discussion about what the Plan Commission was to be considering for this case and to what degree the Plan Commission could consider impacts to the lot at 714 West Michigan Avenue, because the Zoning Board of Appeals should have decided that at their meeting. He did not think it would be inappropriate for the Plan Commission to have conditions that further explain or place any further conditions about the parking activity on 714 West Michigan Avenue. The one condition in the Zoning Board of Appeal's adoption of the Conditional Use Permit was that all parking activity associated with the bed and breakfast shall be located off-site. City staff read that to mean unloading and parking for any amount of time. It may not be as clear as the Plan Commission felt it needed to be, and it would be appropriate for the Plan Commission to expand on it.

City staff felt that the discussion about the condition that the parking spaces at the Lincoln Green Foundation be designated in some way was a good idea, and it would be appropriate for the Plan Commission to add that as well. In the event, that the parking lot at 715 West Michigan Avenue was full, it would help mitigate a potential problem of those spots being unavailable for a bed and breakfast guest.

Ms. Goscha reiterated the three things that the Plan Commission were suppose to consider, which were as follows: 1) Would this be conducive to the public convenience? 2) Would it not be unreasonably injurious or detrimental to the district? and 3) Did it conform to the applicable regulations and standards of the district?

The first point that came to light in all this discussion was the concept of shared parking amongst multiple uses. She saw shared parking as a very positive urban concept. Twin City Bible Church, which came up a lot in conversation, was actually an excellent example of utilizing a shared resource with the University of Illinois' McKinley Health Center parking lot. The peaks for McKinley are during the week, and the Twin City Bible Church had a peak on Sunday. As a result, they have a shared use that was mutually agreeable. In this case, the question was about the peaks and the capacity of the proposed parking lot. It was possible to consider that there could be a simultaneous peak with guests for the bed and breakfast and guests for the Lincoln Green Foundation peaking during the weekends. There was also the possibility that the R-7 use could increase in capacity and need to use those spots.

She contested that in our current "everyone needs a car" climate, the one to two parking ratio that the City has was potentially not adequate for the type of facility that was in the R-7 right now. Ms. Bell indicated that there were currently six residents of the Lincoln Green Foundation



parking in the proposed lot, and there were apparently nine occupants of the Foundation. That was more of a 2/3 ratio. With that in mind, 2/3 of a 15-occupant building would equal ten parking spots. In the exhibit, she saw ten striped parking spots in the parking lot. The additional parking spots were not clearly indicated. This was a concern of hers. She felt that this could be potentially overcome by Ms. Patt's recommendation and the recommendation of City staff that they install signs that indicate specifically where the parking for the bed and breakfast would be located, so that parking was in fact guaranteed and would not further introduce a problem onto the City of Urbana's streets.

The second broad issue was the correlation between the parking and the unloading of luggage for the bed and breakfast guests. It seemed very likely that the guests would have one of three options, which were: 1) Drop off luggage in front of 714 West Michigan Avenue facing westbound with hazard lights blinking, 2) Park in the driveway and potentially block 712 West Michigan Avenue residents' access to their garage, and 3) Park in the parking lot that would be designated across the street at 715 West Michigan Avenue. The third option, which was the option that the petitioners believed would occur, unfortunately seemed unlikely due to the remoteness of the location. The parking lot was behind the dorm at 715 West Michigan Avenue, and it was not visually accessible from the bed and breakfast property. She had a concern that because of the lack of visual proximity, guests would be more likely to drop off luggage in the driveway or on the street and then proceed to the parking lot for permanent parking.

Ms. Goscha did not intend or have any desire to question the Zoning Board of Appeal's decision, but she felt that the Plan Commission could bring some clarification to that decision. She suggested that off-site parking, which would be the overnight parking longer than perhaps 15 minutes, should occur in the parking lot at 715 West Michigan Avenue, but that it would be acceptable for drop off to occur in the drive, if an additional condition was imposed. That additional condition would be that the bed and breakfast owners would enlarge the driveway, so as to provide a reasonable width on their property for a car to park with a door open. She did not feel that seven feet would be enough. The standard parking space was eight feet wide, which would be a very small space. She would consider nine or ten feet to be the requirement from the property line to where the driveway could stop to allow a car door to open, people to unload, and therefore, not block access by right for the residents at 712 West Michigan Avenue to their garage.

The third issue was whether it would be acceptable to rent out parking spaces in a residential neighborhood. She commented that this was sort of a philosophical question, and she did not know if there was a really good answer to it. She did not have a problem with the idea of utilizing an existing surface. She strongly believed in using the resources that we already have to their maximum capacity. She felt that was how we promote urbanism and sustainable design. However, she did not agree with creating more parking lots for potentially commercial gain. She could imagine apartment owners or homeowners, who wanted some supplemental income, paving the maximum amount on their lot beyond what they would need to have for their own use for the sole purpose of renting it out. It would appear that a Special Use Permit would not be needed for residents in the R-2 Zoning District to rent parking spaces from 715 West Michigan Avenue. She stated that she did not have an answer on how to solve this issue.

As far as setting a precedent, she asked City staff if the City says that this was acceptable in this case, in the future another bed and breakfast comes with a similar scenario that the City sees as not appropriate and chooses to deny that permit, had there ever been a case where that denial had then come back with legal action? Was this something that the Plan Commission should be concerned with? Mr. Kowalski answered by saying that City staff would have to research that.

Mr. Alix stated that his comments fell into two categories, which were as follows: 1) relating to the Zoning Ordinance and 2) relating to the actual use. Regarding the Zoning Ordinance, he understood it to read that an accessory use parking lot, which was what they were talking about, was a parking lot that was primarily dedicated to some other primary use, but that also had spaces in it that were used by a use that would be secondary or off-site. His understanding was that 60 percent of the spaces would have to be dedicated to the primary use. A principle use parking lot could not be in any residential zoning district other than a R-4, Medium Density Multiple Family Residential Zoning District; R-5, Medium High Density Multiple Family Residential Zoning District; or R-6, High Density Multiple Family Residential Zoning District. Therefore, the R-7, University Residential Zoning District, would not be allowed to have a principle use parking lot, which was why the petitioners were required to obtain a Special Use Permit.

The requirement for a Special Use Permit comes into effect when a petitioner was trying to have accessory parking in a different zone than the use to which the parking was accessory, and the only intent that he could imagine behind that requirement would be to protect adjacent zones from the encroachment of parking from higher density zones. Therefore, it was not clear to him what the City would be protecting by preventing accessory parking for an R-2, Single-Family Residential Zoning District, residential use in an R-7 residential use. As a result, it was difficult for him to argue against approving the Special Use Permit request based on what it appears the intent of the Zoning Ordinance was in requiring a Special Use Permit in the first place. The intent would seem to be that if the use would be acceptable, then the use of parking, as an accessory use on a different parcel, would also be acceptable. The division between the same zones versus different zones seemed to him to be there to protect encroachment of parking into lower zones, rather than encroachment of parking into higher zones.

The other requirement, that he identified, was that any spaces in an accessory use parking lot in a residential zone have to be for residential use. So, Ms. Tyler's interpretation that someone could not rent out parking spaces in their backyard to anyone and call it an accessory use; however, he understood that a person could rent out spaces in their backyard as long as they rented it to someone who could argue that it was accessory use to their property in the same zone within 600 feet. This might be worth getting a zoning interpretation on, because he believed the issue would come up again in the future.

This was the only guidance that he could get from the Zoning Ordinance.

Regarding the relation to the actual use, Mr. Alix stated that he had not seen a compelling argument that the proposed use would be significantly different in intensity than the use that could be expected from a house full of teenagers or with up to three unrelated singles or couples. He understood the concerns of the neighborhood that this was something that appeared to be a

commercial use, but the Zoning Ordinance recognized owner-occupied bed and breakfasts as a residential use as long as they are occupied by the owners of the property. Therefore, he did not see a compelling argument for this being a higher impact use than one could expect from a comparable property that was permitted by right.

The lot that was being proposed to contain the accessory parking at 715 West Michigan Avenue, assuming it had as many spaces in it as City staff had said, would meet both the Zoning Ordinance requirements for the existing residential use that was there and the Zoning Ordinance requirements for the bed and breakfast.

Mr. Alix stated that he would argue, but not strongly, against the notion of having to assign specific spaces, only because it would appear that the average parking load from the bed and breakfast would be presumably less than three spaces. One of the whole advantages, as Ms. Goscha pointed out, was that shared parking allows the opportunity to share excess capacity. He felt it would be inefficient to have three spaces reserved when the bed and breakfast may only have three guests in it occasionally, if at all. He believed that it should be up to the parties at 714 and 715 West Michigan Avenue to agree on a means of assigning spaces or reserving spaces ahead of time.

He could make the argument that a bed and breakfast, because its guests have to have reservations, would be in contact with those guests ahead of time and that the guests check in and have contact with the owners immediately upon arrival. This should, in theory, be less of a logistical problem than people who would come over to your house as your guests for a party, for dinner, or to deliver a pizza and have no idea where to park or have made no prior arrangements of where to park. He felt that all the arguments that had been made about the dire things that could happen when the bed and breakfast guests arrive were things that people face anywhere with almost any class of use. He would not argue that it was necessary to impose any conditions beyond the condition that the Zoning Board of Appeals had already imposed on the Conditional Use Permit, which stated that the parking of clients should not take place on-site. He planned to support this request for a Special Use Permit.

Mr. Douglas moved that the Plan Commission forward this case to the City Council with a recommendation for approval with the condition that three marked, secured, or specific parking spaces be set aside for the use of the bed and breakfast. Ms. Goscha seconded the motion.

Mr. Douglas stated that there were various ways of marking, securing or specifying parking spaces. He mentioned that he was not in favor of signage per se. They could use cones, saw horses, painting, etc. He was not sure which way would be best. Mr. Pollock added that the key word would be "reserve".

Mr. Alix inquired if the motion would imply that if the owners of the bed and breakfast were able to make arrangements with 715 West Michigan Avenue based on the reservations, then would that satisfy the condition? If there were no guests at the bed and breakfast for a week, would they still have to reserve spaces for them? Mr. Douglas replied no. The spots would not have to be reserved if no one was staying at the bed and breakfast. However, should guests stay at the bed and breakfast, then they should have specific spots. Mr. Alix clarified that when the

guests contact the petitioners to stay at the bed and breakfast, then the petitioners would need to either contact the Lincoln Green Foundation to put the cones out or go over and do it themselves. Mr. Douglas said that was correct. Ms. Goscha suggested that the parking spaces should always be in the same three spots as well. Mr. Douglas did not feel that if they used something mobile to mark the three parking spaces, then they would not have to use the same three spots, but consistency might help.

Ms. Stake thought she heard that a building in the R-7 Zoning District could not rent out parking spaces? Mr. Kowalski replied that a commercial enterprise could not open up a parking lot to rent out spaces, because a principal use parking lot was not permitted in the R-7 or the R-2 Zoning Districts. In this case, the principal use would be the bed and breakfast at 714 West Michigan Street. The parking at 715 West Michigan Avenue would be the accessory parking for the bed and breakfast. The Zoning Ordinance would allow for this with the granting of a Special Use Permit. Mr. Alix added that the principal use at 715 West Michigan Avenue would be considered to be the Lincoln Green Foundation rooming house.

Ms. Stake believed that this would set a very bad precedent for the City of Urbana. Urbana had been known to be in favor of neighborhood preservation and to protect residents in their neighborhoods. This proposal would not protect the residents in this neighborhood. The City has a MOR Zoning District and would like to have more business in that MOR Zoning District and in the downtown area. As long as the City gives people the opportunity to go into the residential areas and start businesses, then it will set a precedent.

In the 1960s and 1970s, the City downzoned the state street areas in West Urbana to preserve the residential areas. It preserved this beautiful and historical area as residential. If the City approves this proposal, then the City would be destroying that. So, the City should stick to the zoning that we currently have, not give these Special Use Permits, and certainly not develop parking lots.

We have a fairly new school in the area, which is Leal School. We want to keep children in the neighborhood. Most people do not want to live next to a bed and breakfast. It would be unfair to bring a bed and breakfast in right next door to someone who did not want to live next door to one. People's homes should be protected.

Residents in this area are concerned about the effects of a bed and breakfast in the area on the property values of their homes. The values of their homes would decrease with a commercial business going in next door. The residents were willing to pay higher taxes as long as the City protected their neighborhoods. When the City downzoned this area, the apartment buildings and the grocery store were grandfathered in. This was different than the City allowing a business to come into the neighborhood.

Ms. Stake stated that the City of Urbana wanted smart growth. Smart growth means that we keep the old neighborhoods. This was a historic neighborhood, because it was one of the oldest in the City. The proposed bed and breakfast would cause more traffic in the neighborhood. It would also cause urban sprawl, because the residents in this neighborhood would move to south and east Urbana.

The most important point is neighborhood preservation. The City of Urbana has been and still is a safe place. We need to keep it that way by denying this request for a Special Use Permit.

Mr. White commented that in his mind, the Plan Commission's approval of this request seemed to support the notion of the Zoning Board of Appeals that the problem of parking on the neighbor's property could be solved by providing three off-site parking spaces. He did not see that this would really happen, because he believed that guests would park in the shared driveway. The only solution was to have the petitioners widen their driveway. He did not feel that this was a workable situation as it was presented.

Mr. Hopkins responded to Ms. Stake's comments by saying that if there were such a thing in the City of Urbana as an owner-occupied bed and breakfast, then it would be in a residential neighborhood. The notion that it could not be in this residential neighborhood shows an attitude towards the rest of Urbana that he found inappropriate. Whether it should be in a particular place or particular site should be a function of the specific conditions of that site. He thought that one could argue that this particular use would be both to the benefit of the Leal School and would reduce urban sprawl. It would benefit Leal School, because it would create a way of using large houses that have high maintenance costs in a way that a family would still live there, who actually have children attending school, rather than the house being converted to rental properties to the students of the University of Illinois, which would be the effect that would kill Leal School.

With that said, he felt that there was a better solution to be able to allow the bed and breakfast. Although the Plan Commission could not do it directly, there may be a way that they could amend this that might do it. He felt that there was a design solution, which Ms. Goscha mentioned earlier. It would be difficult to widen the driveway due to the configuration of three trees in a cluster near the sidewalk and due to the retaining wall. However, the height of the retaining wall could be resolved by regrading between the trees. So, by adding three feet after the trees, you could pull in, stop and park. With the retaining wall gone, a guest could open their car door. They would be completely off the shared driveway, and with Mr. Andos new entry, it would keep the guests vehicles from blocking him from getting to his garage.

Mr. Hopkins went on to suggest that the Plan Commission could amend the Special Use Permit for parking by clarifying the definition of "parking" in the Zoning Board of Appeal's Conditional Use Permit. He mentioned that parking was one thing, standing was something else, and stopping was something different. In order to make this work as a Special Use Permit for off-site parking, there must be adequate drop off conditions met on the site, and those conditions would be that there must be a space provided where a guest could pull his car in and be completely on the property of 714 West Michigan Avenue and not block either of 712 West Michigan Avenue's exit opportunities.

Ms. Stake did not understand why the Plan Commission was trying so hard to make the Special Use Permit work when there were so many people who really do not want this to pass. It was not a good proposal. Mr. Hopkins disagreed. Mr. Douglas noted that the bed and breakfast use had already been approved by the Zoning Board of Appeals. Mr. Pollock added that the Plan

Commission was reviewing a Special Use Permit for the parking of the guests at the bed and breakfast. However, it was possible to use the parking issue to refuse the Special Use Permit as a way to up-end what was done at the last Zoning Board of Appeals meeting and prevent this bed and breakfast from happening. Regardless of how he happened to feel about whether the bed and breakfast was a great idea, where it was, and in this district, he would not do that. The City has a Zoning Board of Appeals, and they made a decision. He was not going to make a decision based on trying to up-end what they did.

Mr. Pollock mentioned that he took a look at the site pretty closely, and he could not say if a design possibility existed that would allow that drop off. He felt that would be a great option, and it would be good for the neighbors. Short of refusing to allow drop offs in the driveway as it currently exists, he did not feel that it would be proper to mandate someone to spend the money to pave part of their front yard as a condition of the approval of the Special Use Permit. The other members of the Plan Commission were free to make that amendment to the motion. As Ms. Goscha talked about, he thought the possibility of allowing that option to be the only way to allow drop offs in the driveway would be fine. He would favor not having any drop offs allowed as it was currently configured, because he foresaw big problems down the road between these two property owners. He did not want to muddy that situation anymore than it already had been. It would be great if the two property owners could sit down and try and figure it out, because in coming to logger heads about this would not be to anybody's benefit.

Mr. Hopkins stated that if the Plan Commission grants a Special Use Permit for a church, for example, they require as a condition of that Special Use Permit that what they do would be insubstantial compliance with a site plan that the petitioner submitted. Given that this Special Use Permit, although it applied to the use of parking at 715 West Michigan Avenue, was in response to a petition from 714 West Michigan Avenue, it was not clear to him that the Plan Commission did not have the power to require compliance with a site plan.

Mr. Pollock said that the Plan Commission had a site plan, for 715 West Michigan Avenue, which was a picture that showed where the parking spaces were. They have a proposal requiring that three parking spaces be dedicated to guest parking. The point of dedicating parking spaces was so that when guests stay at the bed and breakfast, they would have a space in the parking lot.

Mr. Hopkins proposed an amendment to the motion by adding an additional condition of the Special Use Permit be that the petitioner submit a site plan that demonstrates how they would achieve a drop off location entirely on the property at 714 West Michigan Avenue so that the doors of the car could be open without blocking either the ingress or egress options of 712 West Michigan Avenue. Ms. Goscha seconded the motion.

Mr. Douglas commented that in the decision made by the Zoning Board of Appeals, it was stated that "no parking" was allowed. In reality, everyone knows that there would be parking for dropping off of luggage. How can the Plan Commission make the petitioners establish a drop off zone? Mr. Hopkins answered by saying there was a definition of "parking" in the Zoning Ordinance. He believed that the Plan Commission by reference distinguished between the notion of parking and standing. Standing would allow the guests to pull into the driveway and stop long enough to drop off luggage, etc. He thought it would still be consistent with the decision made

by the Zoning Board of Appeals, because there would still be “no parking” allowed. The argument of why it would be part of the Special Use Permit would be because it was necessary to make reasonable the Special Use Permit to park across the street. It was not reasonable unless there was a viable “standing” option on-site.

Mr. Pollock asked how long could they hold this over? Who would review the site plan? Would it come back to the Plan Commission? If it takes too long to do something like this, what happens to the case? He noted that he was not totally comfortable about composing this type of conditions at 11:45 p.m.

Mr. Alix stated that the Zoning Board of Appeals basically said that the only way they would allow the petitioners to operate an owner-occupied bed and breakfast was if the clients did not use the driveway. This means that the driveway could only be used for the property owner and their personal guests to park in. Another way to say what Mr. Hopkins was proposing would be that “Standing” in the driveway by guests of the bed and breakfast would be permissible only if the property owners made accommodations to allow that to be done in such a way that it did not block access to the other half of the driveway. In other words, if the petitioners were going to make those accommodations, then they could use the driveway for that specific purpose. However, if they do not make those accommodations, then they could not use the driveway at all for the bed and breakfast guests.

He was having a hard time seeing the difference between guests “stopping”, “standing” or “parking” their car in the driveway for 10 or 15 minutes while they check into the bed and breakfast and a Dominoes pizza delivery guy parking in the driveway for five minutes while he was getting money for the pizza. He did not understand what it was about potential bed and breakfast clients that were different than other potential users of this space. Mr. Pollock responded by saying that it was different because there was a shared driveway that was already in contention. It had caused problems historically and would cause more in the future.

Mr. Pollock had thought about clarifying Mr. Hopkins proposal by simply saying that no guests would be allowed for the bed and breakfast in that driveway unless the petitioners could provide a drop off zone on their property without interfering with the use of the shared driveway by the neighbors. It would kind of get to the same thing without mandating that the petitioners build a drop off zone. It gives them the option of doing that. Mr. Hopkins identified a significant difference by saying the reason for the additional condition as he worded it earlier was not because it was a good option, but because people in the neighborhood did not believe that if the City says the guests could not use the driveway, then the petitioners would not be able to prevent the guests from using the driveway. The neighbors do not believe that it could be enforced. So, there was a big difference between saying the petitioners “must” provide this because we do not believe they could prevent it from happening and saying if the petitioners were going to allow guests to use their driveway to drop off luggage, then they would have to provide this. Doing the latter would not actually solve the problem. Mr. Pollock stated that he was not sure that he agreed, but he did understand the distinction.

Ms. Goscha proposed an amendment to the amendment by adding that the site plan be reviewed by the Zoning Administrator to ensure that adequate space was being provided for. Mr. Hopkins accepted that amendment.

Mr. Kowalski stated that he thought the idea was good, but they might be in dangerous waters by having a lot of suggestions of site plans and significant alterations of the site, which was really under the purview of the Zoning Board of Appeals to discuss at their meeting. He did not have an easy answer. He felt that the Plan Commission was crossing over the line of what the Zoning Board was to consider and a little beyond what the proposal was before the Plan Commission. Mr. Alix added that he felt that the Plan Commission was basically going against what the Zoning Board of Appeals said if we did not believe that there restriction that the driveway not be used for guest of the bed and breakfast was creditable. If the Zoning Board of Appeals did not think that the petitioners could not enforce this restriction, then it was wrong for them to make the restriction. Mr. Pollock stated that was correct. However, there was clearly a difference of opinion with the Plan Commission about that ordinance, and that ordinance passed. Therefore, Mr. Pollock took a voice count for the amendment to the motion, and the amendment passed with 6 ayes to 1 nay.

Mr. Pollock stated that the main motion was before the Plan Commission, which was as follows: *The Plan Commission would forward this case to the City Council with the recommendation that three marked, secured or specified spaces be dedicated in the parking lot at 715 West Michigan Avenue and that a site plan be submitted to the Zoning Administrator showing a dedicated drop off strictly on the property at 714 West Michigan Avenue that does not infringe on the use of the driveway or the egress to the driveway for the neighbor at 712 West Michigan Avenue.*

Ms. Goscha moved to make an amendment to the main motion to add the two conditions that were recommended by staff in the written staff report. Mr. Hopkins seconded the motion. Chair Pollock took a voice count for the amendment to the motion, and the amendment passed by unanimous vote.

Mr. Alix stated that the motion before the Plan Commission would not give the property owners at 714 West Michigan Avenue the opportunity to do what he believed was the intent of the Zoning Board of Appeals, which was to say that they could use the property at 714 West Michigan Avenue as an owner-occupied bed and breakfast provided the petitioners satisfy the parking requirements stemming there from off-site. The Plan Commission was going beyond that by requiring the petitioners to provide drop off facilities on-site. For the record, he respectfully disagreed with that strategy. However, he still believed that the Special Use Permit was worth supporting.

Mr. Pollock commented that it was difficult to craft this on the floor, and he did not like doing it. It was uncomfortable. He did have some solace in that the Plan Commission was not actually passing laws. They were only making a recommendation to the City Council. He felt that they have forwarded the City Council a difficult case to deal with and have done so to error on the side of safety in terms of protecting the neighborhood and the neighbors. He stated that he would support it, because it was on the safe side.



Roll call was as follows:

Mr. White	-	Yes	Ms. Stake	-	No
Mr. Pollock	-	Yes	Mr. Hopkins	-	Yes
Ms. Goscha	-	Yes	Mr. Douglas	-	Yes
Mr. Alix	-	Yes			

The motion was passed by a 6 – 1 vote.

**7. OLD BUSINESS**

There was none.

**8. NEW BUSINESS**

There was none.

**9. AUDIENCE PARTICIPATION**

There was none.

**10. STAFF REPORT**

There was none.

**11. STUDY SESSION**

There was none.

**12. ADJOURNMENT OF MEETING**

Chair Pollock adjourned the meeting at 11:50 p.m.

Respectfully submitted,

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Rob Kowalski, Secretary  
Urbana Plan Commission