



**COMMON COUNCIL MEETING  
PLANNING, ECONOMIC DEVELOPMENT AND LAND USE**  
**Alfredo Balarin, Chair**

**DATE:** **WEDNESDAY, NOVEMBER 12, 2025**

**TIME:** **6:00PM**

**LOCATION:** **Council Chambers-2nd Floor, City Hall**

**LIVESTREAM:** **YouTube— <https://www.youtube.com/@albanycommoncouncil>**  
**Facebook— <https://www.facebook.com/albany.commoncouncil>**

**TOPICS OF DISCUSSION:**

- **RESOLUTION 130.111.25R (BALARIN)**  
A RESOLUTION OF THE COMMON COUNCIL REAPPOINTING JODI SMITS ANDERSON AS A MEMBER OF THE SUSTAINABILITY COMMISSION
- **ORDINANCE 16.82.25 (BALARIN)**  
AN ORDINANCE AMENDING CHAPTER 375 (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO THE NONCONFORMITY DETERMINATION PROCESS
- **ORDINANCE 17.82.25**  
AN ORDINANCE AMENDING CHAPTER 375 (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO EXCEPTIONS FOR VEHICLE FUELING STATIONS
- **ORDINANCE 19.91.25 (CONTI)**  
AN ORDINANCE AMENDING CHAPTER 375 (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO MUSIC AT SIDEWALK OR OUTDOOR CAFES
- **ORDINANCE 61.111.25 (BALARIN)**  
AN ORDINANCE AMENDING CHAPTER 375 (CITY OF ALBANY UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO PARKING LOTS IN MU-FM ZONING DISTRICT

**PUBLIC COMMENT PERIOD: YES**

**Council Member Balarin, on the behalf of the Committee on Planning, Economic Development & Land Use, introduced the following:**

**RESOLUTION 130.111.25R**

**A RESOLUTION OF THE COMMON COUNCIL REAPPOINTING JODI SMITS ANDERSON AS A MEMBER OF THE SUSTAINABILITY COMMISSION**

**WHEREAS**, the Common Council of the City of Albany has the authority, pursuant to the Section 42-133 of the Code of the City of Albany, to appoint members of the Sustainability Commission; and

**WHEREAS**, the term of such Commission members shall be for three years and this term expired on June 30, 2025;

**NOW, THEREFORE, BE IT RESOLVED**, that Jodi Smits Anderson is hereby reappointed as a member of the Sustainability Commission for a term expiring June 30, 2028.

**To:** **Shaniqua Jackson, City Clerk**

**From:** **Alyssa Kamara, Junior Policy Analyst**

**Re:** **Common Council Legislation  
Supporting Memorandum**

**Date:** **September 30, 2025**

**Sponsor:** **Council Member Balarin o/b/o Planning Committee**

**RESOLUTION 130.111.25R**

**TITLE**

A RESOLUTION OF THE COMMON COUNCIL REAPPOINTING JODI SMITS ANDERSON AS A MEMBER OF THE SUSTAINABILITY COMMISSION

**GENERAL PURPOSE OF LEGISLATION**

To reappoint Gabriella Cebada Mora to the Sustainability Commission.

**NECESSITY FOR LEGISLATION AND ANY CHANGE TO EXISTING LAW**

Anderson's term ended on June 30, 2025. They have expressed interest in re-appointment to the board for another 3-year term. This resolution is necessary to re-appoint Anderson for another term.

**FISCAL IMPACT(S)**

None.

**Council Member Balarin, on behalf of the Committee on Planning, Economic Development, and Land Use, introduced the following:**

**ORDINANCE 16.82.25**

**AN ORDINANCE AMENDING CHAPTER 375 (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO THE NONCONFORMITY DETERMINATION PROCESS**

*The City of Albany, in Common Council convened, does hereby ordain and enact:*

**Section 1.** Subsection (8) (Determinations of status of nonconformities) of Section 375-506 (Preexisting development and nonconformities) of Article V (Administration and Enforcement) of Chapter 375 (Unified Sustainable Development Ordinance) of Part II (General Legislation) of the Code of the City of Albany is hereby amended to read as follows:

(8) Determinations of status of nonconformities.

(a) Any person having a legal or equitable interest in a preexisting development or nonconforming property may apply for a determination from the Chief Planning Official on such forms as the Chief Planning Official shall prescribe.

(b) Responsibility of the applicant/property owner. The burden of proving a structure or use is a legal nonconforming use resides with the property owner or other person with an equitable interest.

(i) It shall be the applicant and/or property owner's responsibility to provide any and all documentation or evidence required to support a preexisting development or nonconformity claim under the provisions of this § 375-506. Although City employees may assist applicants, no City employee or official shall be responsible for gathering evidence or documentation to support a claim of legal nonconformity.

(ii) Such evidence shall be sufficient to prove:

A. That the use was lawfully established in accordance with the applicable law and regulations in effect at the time of its establishment;

B. That the use has been continuously maintained since it was established; and

C. That the use has not been abandoned for a period in excess of one year.

(iii) Evidence may include but is not limited to photographs of the property or use (dated or with an affidavit as to the date of the photograph), utility bills, property tax statements or receipts, copies of leases or subleases, evidence of goods and services rendered from the property (dated or with an affidavit as to the date of the evidence), or notarized affidavits

from the owner(s) of one or more properties within 300 feet of the subject property.

- (iv) Where an applicant seeks a certificate to establish the legal or nonconforming status of a structure or other nonconformity only, the Chief Planning Official shall issue a determination upon review of a certified survey, building permits, or other documentation deemed necessary or sufficient by the Chief Planning Official.
- (e) **Notice to interested parties.**
  - (i) ~~The Chief Planning Officer shall provide interested property owners, members of the public, and the Common Council with notice of an application for a determination of legal nonconformity similar to the content of notices for applications for variances, and shall include information on how members of the public may submit comments or documentation to be considered by the Chief Planning Official.~~
  - (ii) ~~A notice of the application shall be posted at the property on each side the subject property faces a public street with the same information and in the same manner as is required for notice of a variance request and shall include information on how members of the public may submit comments or documentation to be considered by the Chief Planning Official.~~
  - (d) ~~The Chief Planning Official may not make a determination relating to a nonconforming use until 14 days after the date the public notices were mailed or the date the notice was posted at the subject property, whichever is later.~~
  - (i) ~~The Chief Planning Official shall review all proof submitted by the applicant and all other comments and documents submitted. The applicant shall only be entitled to a determination finding a legal nonconforming use or structure if the evidence submitted clearly establishes that the property meets each and every criteria of a legal nonconformity set forth in Subsection (1) above.~~
  - (e) ~~The determination of the Chief Planning Official shall be mailed to the applicant, the City Clerk, designated Common Council staff, any person who commented in writing regarding the application, and posted on the Planning Department website within five days of its issuance.~~

**Section 2.** This ordinance shall take effect immediately.

**APPROVED AS TO FORM THIS  
25<sup>TH</sup> DAY OF JULY, 2025**

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**Corporation Counsel**

**To:** **Shaniqua Jackson, City Clerk**

**From:** **Brett Williams, Deputy Corporation Counsel**

**Re:** **Common Council Legislation**  
**Supporting Memorandum**

**Date:** **July 25, 2025**

**Sponsor:** **Council Member Balarin, o/b/o Planning Committee**

**ORDINANCE 16.81.25**

**TITLE**

AN ORDINANCE AMENDING CHAPTER 375 (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO THE NONCONFORMITY DETERMINATION PROCESS.

**GENERAL PURPOSE OF LEGISLATION**

This ordinance amends the procedure under the USDO for determining the legality of a nonconformity by removing the existing requirement to provide legal notice to interested parties.

**NECESSITY FOR LEGISLATION AND ANY CHANGE TO EXISTING LAW**

A nonconformity refers to a use, lot, structure, standard, or circumstance that was legally established prior to the effective date of a regulation under Chapter 375 but does not conform to current zoning standards. Determining whether a nonconformity was legally established falls under the authority of the Chief Planning Official; however, the burden of proof lies with the property owner or an applicant with an equitable interest in the property.

The process for making such a determination is outlined in § 375-506(8). It begins with the submission of an application accompanied by supporting documentation (e.g., photographs, utility bills, tax statements, leases, notarized affidavits) demonstrating that the nonconforming use, structure, or other improvement predates the relevant zoning regulation. These applications are most commonly submitted during property sales or refinancing, typically to confirm that an existing use qualifies as a legal nonconformity. In many cases, this filing is preceded by a request for a zoning compliance certificate, which may indicate that the current use does not conform to zoning district allowances and trigger further review.

Although the nonconformity determination process has existed in some form since zoning was first adopted in the City, it was more clearly formalized with the adoption of the Unified Sustainable Development Ordinance (USDO) in 2017, and a public notice requirement was added in 2021. While this notice requirement was well-intentioned, it has introduced delays and uncertainty that hinder investment in nonconforming properties, particularly residential uses, without significantly advancing the public interest.

Under the current process, applicants must:

- Send certified mail notices to all property owners within 250 feet of the subject site (typically between 50 and 100 recipients);
- Post a notice on the property with instructions for how the public may submit comments; and
- Submit an affidavit of compliance, after which the Chief Planning Official must wait at least 14 days before issuing a decision to allow time for public input.

Since these requirements were implemented, a total of 1,160 mailed notices for 23 nonconformity determination applications were sent by applicants. In response, only 6 public comments were received, a response rate of just 0.5%. Notably, the comments received have typically expressed opinions on whether the use should exist or continue, rather than whether it lawfully predates zoning changes. Because determinations are based on objective, factual evidence, often already available in public records or provided by applicants, public input rarely introduces new or relevant information.

At the same time, the current process imposes significant financial and administrative burdens on both applicants and City staff, delays that can obstruct real estate transactions, increase housing insecurity, and discourage reinvestment in older properties.

This legislation seeks to streamline the nonconformity determination process by eliminating the public notice requirement. In doing so, it aims to reduce burdens on applicants, preserve staff resources, and promote reinvestment, without compromising the integrity of the review process.

## **FISCAL IMPACT**

None.

**Council Member Balarin, on behalf of the Committee on Planning, Land Use, and Economic Development, introduced the following:**

**ORDINANCE 17.82.25**

**AN ORDINANCE AMENDING CHAPTER 375 (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO EXCEPTIONS FOR VEHICLE FUELING STATIONS**

*The City of Albany, in Common Council convened, does hereby ordain and enact:*

**Section 1.** Paragraph (h) (Exceptions) of Subsection (4) (Legally nonconforming uses) of Section 375-506 (Preexisting development and nonconformities) of Article V (Administration and Enforcement) of Chapter 375 (Unified Sustainable Development Ordinance) of Part II (General Legislation) of the Code of the City of Albany is hereby amended to read as follows:

- (4) Legally nonconforming uses.
  - (e) Damage or destruction.
    - (i) In the event that any structure containing a legally nonconforming use is damaged or destroyed to the extent of more than 50% of the cost of replacement of the structure, as determined by the City Tax Assessor, any reuse of the structure shall conform to all regulations of the zoning district in which it is located per this USDO.
    - (ii) Where any such structure is damaged or destroyed to the extent of 50% or less of the cost of replacement of the structure new, repair or restoration of such structure may be made; to enable continued operation of the nonconforming use, provided that no repairs or restorations shall be made which would create or increase any parking, yard or space and bulk nonconformity, nor shall any repairs or restoration (except in conformity with the applicable zoning district regulations) be made unless a building permit is obtained and restoration is actually begun within one year after the date of such partial damage or destruction and is diligently pursued to completion.
  - (f) Repair and maintenance. Normal maintenance and repairs, including but not limited to replacement, and installation or relocation of walls, partitions, fixtures, wiring or plumbing, may be performed on mechanical systems or existing portions of any structure devoted in whole or in part to a nonconforming use.
  - (g) Enlargement of structure. No structure devoted in whole or in part to a nonconforming use shall be altered, enlarged or added to in any manner which would enlarge the nonconforming portion or create a new nonconformity.
  - (h) ~~Multi-unit dwelling exception. Any conforming multi-unit dwelling use in the R-2 or R-T Zoning District in existence on June 1, 2017, will be considered a conforming use of property notwithstanding any provisions of this USDO limiting the availability of multi-unit uses or the number of units permitted in the R-2 or R-T District in the~~

~~future.~~ Exceptions.

- (i) Multi-unit dwelling exception. Any conforming multi-unit dwelling use in the R-2 or R-T Zoning District in existence on June 1, 2017, will be considered a conforming use of property notwithstanding any provisions of this USDO limiting the availability of multi-unit uses or the number of units permitted in the R-2 or R-T District in the future.
- (ii) Vehicle fueling station exception. Any legally established vehicle fueling station use in operation as of June 1, 2025, and located within the MU-CH zoning district shall be considered a conforming use of property, notwithstanding any provisions of this USDO that limit the availability of vehicle fueling station uses in the future. Such uses may be redeveloped or expanded on the existing lot or onto an adjacent lot provided that the redevelopment or expansion brings the site into compliance with all applicable dimensional and development standards of this USDO.

**Section 2.** This ordinance shall take effect immediately.

**APPROVED AS TO FORM THIS  
8<sup>TH</sup> DAY OF AUGUST, 2025**

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**Corporation Counsel**

**To:** **Shaniqua Jackson, City Clerk**

**From:** **Brett Williams, Deputy Corporation Counsel**

**Re:** **Common Council Legislation**  
**Supporting Memorandum**

**Date:** **August 8, 2025**

**Sponsor:** **Council Member Balarin o/b/o Planning Committee**

## **ORDINANCE 17.82.25**

### **TITLE**

AN ORDINANCE AMENDING CHAPTER 375 (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO EXCEPTIONS FOR VEHICLE FUELING STATIONS

### **GENERAL PURPOSE OF LEGISLATION**

To allow limited and reasonable expansion or modification of existing fueling stations in the City, which are currently constrained by strict nonconforming use provisions

### **NECESSITY FOR LEGISLATION AND ANY CHANGE TO EXISTING LAW**

As part of the comprehensive review of Chapter 375 undertaken in 2021, “vehicle fueling station” (commonly referred to as a gas station) was removed as a permitted or conditional use in zoning districts where it had previously been allowed. This change, aimed at reducing future brownfield impacts and aligning with the shift toward renewable fuels, was based on the finding that all neighborhoods had reasonable access to existing stations.

As a result, existing vehicle fueling stations became nonconforming uses. Chapter 375 defines a nonconforming use as “a use of a lot or a structure that was legally established prior to the effective date of [Chapter 375], but that does not conform to the current zoning regulations of the district in which it is located.” Under §375-506, nonconforming uses may continue and be transferred but may not expand, except for reasonable repair, maintenance, or reestablishment after discontinuance. Subsection (g) specifically prohibits any enlargement or alteration that would expand the nonconforming use or create new nonconformities.

Rather than reintroducing vehicle fueling stations as a permitted use in the MU-CH or other affected zoning districts, an approach inconsistent with the original legislative intent, this ordinance proposes a targeted amendment to the nonconforming use provisions. While previous legislation sought to retain existing fueling stations, it did not explicitly address whether alterations or expansions should be permitted. In certain cases, such changes may be necessary to ensure continued operation. Moreover, many older vehicle fueling stations were designed under outdated standards and are now incompatible with modern design requirements and the safe, orderly flow of vehicular and pedestrian traffic. Allowing redesign and limited expansion under appropriate conditions could yield benefits that current regulations inadvertently prohibit.

This amendment is limited to the MU-CH district, where four such stations currently exist, due to the district's commercial character and the low likelihood of adverse impacts on nearby residential uses. The MU-CH district is intended to accommodate automobile-oriented commercial development along arterial corridors. Expansions will be permissible only where they result in full compliance with the dimensional and design standards of the USDO, ensuring consistency with pedestrian safety, traffic flow, and aesthetic goals.

#### **FISCAL IMPACTS**

No immediate impacts.

**Council Member Conti introduced the following:**

**ORDINANCE 19.91.25**

**AN ORDINANCE AMENDING CHAPTER 375 (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO MUSIC AT SIDEWALK OR OUTDOOR CAFES**

*The City of Albany, in common Council convened, does hereby ordain and enact:*

**Section 1.** Subsection iii of Subparagraph m (Sidewalk or outdoor cafe) of Paragraph 6 (Accessory Uses) of Section 303 (Use-specific standards) of Article III (Use Regulations) of Chapter 375 (Unified Sustainable Development Ordinance) of Part II (General Legislation) is hereby amended to read as follows:

(iii) Sidewalk or outdoor cafes shall not use music or noise amplification devices, ~~and no music or entertainment of any type is permitted outdoors at volumes above an ambient level primarily intended to enhance the atmosphere, mood, or setting, rather than to serve as the central attraction or principal focus of the establishment's business activities. Such music or sound produced shall be at a volume that permits normal conversation among patrons and does not dominate or interrupt other primary uses of the premises.~~

**Section 2.** This ordinance shall take effect immediately.

**APPROVED AS TO FORM THIS  
21<sup>ST</sup> DAY OF AUGUST, 2025**

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**Corporation Counsel**

**To:** **Shaniqua Jackson, City Clerk**

**From:** **Richard Conti, Council Member, 6<sup>th</sup> Ward**

**Re:** **Common Council Legislation**  
**Supporting Memorandum**

**Date:** **August 21, 2025**

**Sponsor:** **Council Member Conti**

**ORDINANCE 19.91.25**

**TITLE:**

AN ORDINANCE AMENDING CHAPTER 375 (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO MUSIC AT SIDEWALK OR OUTDOOR CAFES

**GENERAL PURPOSE OF LEGISLATION**

To allow background music at sidewalk or outdoor patio cafes not to exceed ambient level volumes.

**NECESSITY FOR LEGISLATION AND ANY CHANGE TO EXISITING LAW**

To enhance the use sidewalk or outdoor cafes.

**FISCAL IMPACT**

Negligible.

Council Member Balarin introduced the following:

**ORDINANCE 61.111.25**

**AN ORDINANCE AMENDING CHAPTER 375 (CITY OF ALBANY UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO PARKING LOTS IN MU-FM ZONING DISTRICT**

*The City of Albany, in Common Council convened, does hereby ordain and enact:*

**Section 1.** Section 375-302 (Permitted Use Table) of Chapter 375 of the Code of the City of Albany is amended to read as follows:

Zoning District		Residential						Mixed-Use						Special Purpose			Use-Specific Standard in Article III					
		R-1L	R-1M	R-2	R-T	R-M	R-V	MU-NE	MU-NC	MU-CU	MU-CH	MU-DT	MU-CI	MU-FW	MU-FC	MU-FS	MU-FM	I-1	I-2	LC		
LAND USE CATEGORY		COMMERCIAL USES																				
Vehicles and Equipment																						
Parking Lot, Surface		A	A	A	A	A	A	A	A	C	A	C	A	A	A	A	A	A	P	P	A	§ 375-303(4)(g)(vii)

**Section 2.** Subparagraph (vii) of Paragraph (g) of Subsection 4 of Section 375-303 (Use-specific standards) of Chapter 375 of the Code of the City of Albany is amended to read as follows:

(vii) Parking lot, surface.

- A. This use must meet all applicable requirements of Article IV (Development Standards), including but not limited to those governing the for location, layout, and design, and operation of parking lots in § 375-405 (Parking and loading).
- B. In those districts where a conditional use permit is required, it shall be only in those cases where the parking lot use is to be established as the principal use of the land. A conditional use permit shall not be required where parking is to be established as an accessory use.
- C. In the MU-CU and MU-FM Zoning Districts, no conditional use permit shall be approved unless it is determined that the proposed parking lot all of the following conditions are met:

Matter in ~~strike~~through to be deleted. Matter underlined is new material.

1. ~~Responds to a demonstrable parking need of the use or uses of a nearby property to be served, as evidenced by factors, including, but not limited to, recent or proposed investment in and improvements to the nearby property that will result in or has resulted in increased tenancy or patronage, and whether the use has otherwise provided the minimum parking required pursuant to § 375-405(2)(a) or is anticipated to be used by other nearby properties; The parking lot shall serve a demonstrated parking need associated with a nearby property or properties. Evidence of such need may include, but is not limited to, recent or proposed investments or improvements that have resulted in, or are expected to result in, increased tenancy or patronage; whether the use to be served has satisfied the minimum parking requirements of § 375-405(2)(a); and whether the parking lot is intended to serve multiple nearby properties.~~
2. The closest lot line for the proposed parking lot is no more than 300 feet from a lot line of the property or properties to be served;
3. The property or properties to be used for the parking lot have been vacant or underutilized for ~~at least a minimum of~~ five years and have no other immediate prospects for development;
4. For properties with a depth of 100 feet or greater, ~~is~~ the parking lot shall be designed in such a way that it does not foreclose the possibility of liner buildings being constructed along any street frontages, to the ~~greatest degree maximum extent~~ practicable; and
5. ~~Does~~ The parking lot shall not result in the demolition of buildings or structures having an economically viable use or reuse, as determined ~~pursuant to the provisions of by~~ § 375-505(7) (Demolition review) or ~~a, where applicable,~~ § 375-505(4) Major certificate of appropriateness, ~~whichever applies~~.

**Section 3.** This ordinance shall take effect immediately.

**APPROVED AS TO FORM THIS  
20<sup>TH</sup> DAY OF OCTOBER, 2025**

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**CORPORATION COUNSEL**

**To:** **Shaniqua Jackson, City Clerk**

**From:** **Avi Epstein, Principal Planner**  
**Council Member Alfredo Balarin, 11<sup>th</sup> Ward**  
**Alyssa Kamara, Junior Policy Analyst**

**Re:** **Request for Common Council Legislation**  
**Supporting Memorandum**

**Date:** **October 20, 2025**

**Sponsor:** **Council Member Alfredo Balarin, 11<sup>th</sup> Ward**

## **ORDINANCE 61.111.25**

### **TITLE**

AN ORDINANCE AMENDING CHAPTER 375 (CITY OF ALBANY UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO PARKING LOTS IN MU-FM ZONING DISTRICT

### **GENERAL PURPOSE OF LEGISLATION**

The purpose of this ordinance is to allow surface parking lots as a principal use of land in the MU-FM zoning district, subject to Conditional Use Permit (CUP) review and compliance with use-specific standards. Under current regulations, surface parking is prohibited as a principal use in the MU-FM district. This amendment would permit such use, provided that a CUP is obtained and the proposal meets the criteria set forth in § 375-303(4)(g)(vii).

This amendment is related to Ordinance 11.61.20, adopted on October 4, 2021, which introduced similar regulatory changes for the MU-CU district. The current proposal would extend those provisions to the MU-FM district.

### **NECESSITY FOR LEGISLATION AND CHANGES TO EXISITING LAW:**

This proposed amendment responds to a request by the North American Islamic Trust, Inc. to construct ancillary parking on property located at 128–140 Bradford Street. The organization is affiliated with Masjid As-Salam, located at 276 Central Avenue, and seeks to establish parking to support the needs of that facility.

### **FISCAL IMPACTS**

None.