

**MINUTES OF A REGULAR MEETING**

**URBANA PLAN COMMISSION**

**APPROVED**

**DATE:** May 9, 2013

**TIME:** 7:30 P.M.

**PLACE:** Urbana City Building  
City Council Chambers  
400 South Vine Street  
Urbana, IL 61801

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**MEMBERS PRESENT:** Carey Hawkins-Ash, Andrew Fell, Lew Hopkins, Dannie Otto, Michael Pollock, Bernadine Stake

**MEMBERS ABSENT:** Tyler Fitch, Mary Tompkins, Marilyn Upah-Bant

**STAFF PRESENT:** Elizabeth Tyler, Director of Community Development Services; Jeff Engstrom, Planner II; Teri Andel, Planning Secretary

**OTHERS PRESENT:** Kerry Gifford, Marcus Harris, Carol McKusick, Bud Parkhill, Susan Taylor

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

Chair Pollock called the meeting to order at 7:30 p.m. The roll was called, and he declared that there was a quorum of the members present.

**2. CHANGES TO THE AGENDA**

Jeff Engstrom, Planner II, requested that the Plan Commission continue Case No. CCZBA-743-AT-13 to their next regularly scheduled meeting after opening the case and hearing public input.

**3. APPROVAL OF MINUTES**

Mr. Ash moved that the Plan Commission approve the minutes of the March 21, 2013 regular meeting as presented. Mr. Hopkins seconded the motion. The minutes were then approved by unanimous voice vote.

**4. COMMUNICATIONS**

- Letter from Howard Wakeland to Michael Pollock regarding Plan Case No. 2205-M-13
- Page 1 of the County staff written report dated March 28, 2013 regarding Case No. CCZBA-743-AT-13

- Revised Staff Recommendation for Case No. CCZBA-743-AT-13

## 5. CONTINUED PUBLIC HEARINGS

There were none.

## 6. OLD BUSINESS

There was none.

## 7. NEW PUBLIC HEARINGS

There were none.

## 8. NEW BUSINESS

**Case No. CCZBA-734-AT-12: A request by the Champaign County Zoning Administrator to amend Sections 5.2 and 6.1.3 of the Champaign County Zoning Ordinance regarding Contractor Facilities in the County B-1 (Rural Trade Center) and B-5 (Central Business) Districts.**

Jeff Engstrom, Planner II, presented this case to the Plan Commission. He began by summarizing the changes being proposed in the text amendment. He discussed how the proposed County text amendment would relate to Urbana's Comprehensive Plan goals and objectives. He read the options of the Plan Commission and presented City staff's recommendation.

Chair Pollock inquired as to how the County zoning lines up with the zoning in the City of Urbana. He recommended that City staff prepare a comparison. Mr. Engstrom responded that there is a table in the Urbana Zoning Ordinance that shows the conversion of County zoning to City zoning upon annexation. Chair Pollock stated that he would like a little more detail in the comparison than what the table gives.

Mr. Otto stated that he did not see where the proposed changes would allow for self-storage. Mr. Engstrom explained that there are two requests from contractors in southwest Champaign to add a self-storage warehouse to their operations as a second principal use. These two properties are zoned AG-2, which does not allow a second principal use on the same lot. The County Administrator feels the best way to handle this would be amend the B-1 district to allow a contractor use and then to rezone the two properties to B-1. The B-1 district allows two principal uses on the same lot.

Mr. Otto asked if this would be acceptable to the City of Urbana. Mr. Engstrom replied that it would be generally compatible with the City's regulations.

Chair Pollock asked for a definition of "self-storage". Mr. Engstrom said that self-storage is storage where people can lease or rent space from the contractor.

With no further questions for City staff and no public input, Chair Pollock opened the hearing for Plan Commission discussion and/or motion(s).

Mr. Hopkins moved that the Plan Commission forward Case No. CCZBA-734-AT-12 to the City Council with a recommendation to defeat a resolution of protest. Ms. Stake seconded the motion. Roll call on the motion was as follows:

Mr. Fell	-	Yes	Mr. Hopkins	-	Yes
Mr. Otto	-	Yes	Mr. Pollock	-	Yes
Ms. Stake	-	Yes	Mr. Ash	-	Yes

The motion was approved by unanimous vote. Mr. Engstrom noted that this case would be forwarded to the City Council on May 20, 2013.

**Case No. CCZBA-741-AM-13: A request by Marcus Harris to rezone 1414 Triumph Drive from County I-1 (Light Industry) to County B-4 (General Business) District.**

Jeff Engstrom, Planner II, presented this case to the Plan Commission. He began by giving a description of the proposed site noting the zoning and land uses of the site and of the surrounding properties. He talked about the purpose for the proposed rezoning, which is to allow a gun sales shop and an indoor firing range on the subject property. He discussed how the 2005 Urbana Comprehensive Plan goals and objectives relate to the proposed rezoning request. He reviewed the LaSalle National Bank criteria as they pertain to a comparison of the existing zoning with that proposed by the petitioner. He read the options of the Plan Commission and presented City staff's recommendation.

Ms. Stake asked what the red line with arrows indicates on Page 72 of the 2005 Comprehensive Plan. Libby Tyler, Director of Community Development Services, explained that the red line shows vision for rural business along Route 45/Cunningham Avenue.

Mr. Hopkins stated that County B-4 allows both gun sales and firing range uses. Is there a City zoning district that allows both? Mr. Engstrom replied yes. IN-1, Light Industrial/Office, Zoning District allows both uses. Chair Pollock added that the conversion would be handled through an annexation agreement.

Ms. Stake did not feel that gun sales should be allowed in this particular area. Mr. Engstrom responded by saying that City staff feels that the proposed property would be a more appropriate location for the uses than a smaller lot within the City.

With no further questions for City staff, Chair Pollock opened the hearing up for public input.

Marcus Harris, petitioner for the County rezoning case, stated that the City adopted regulations regarding gun sales and indoor firing range in a B-4, Central Business, or I-1, Light Industrial Zoning District. He had a proposed location, but has since given up on the idea of opening a gun sales use and indoor firing range and now uses that location for personal storage. The proposed site at 1414 Triumph Drive is more conducive to the gun sale and indoor firing range uses because it is a larger location with a larger parking lot with a good access to Route 45 and Interstate 74. He will not open these types of facilities in two locations because of how much it

costs to construct and because the two locations would be in competition of each other, which is contradictory.

He spoke with John Hall at Champaign County, and Mr. Hall felt that rezoning to County B-4 would be best for an indoor sports facility and sporting goods retail. He pointed out that all of the surrounding properties are zoned B-4 with the exception of the Peterbilt Dealership.

Mr. Hopkins reminded the Plan Commission that they are deciding whether to protest a zoning decision by another jurisdiction. So, what becomes possible are all the uses allowed under the proposed zoning district. It is irrelevant whether the City has approved a special use permit for a different location to allow gun sales and/or an indoor firing range. Chair Pollock added that upon any future annexation of the proposed site into the City, a special use permit will be needed to continue a gun sales use and indoor firing range use.

Mr. Harris stated that the Champaign County Zoning Board of Appeals (CCZBA) recently approved the rezoning request unanimously. The Environmental Land Use Committee (ELUC) also recently approved the rezoning request by a vote of 6-1.

With no further comments or questions, Chair Pollock closed the public input portion and opened it up for Plan Commission discussion and/or motion(s).

Mr. Hopkins moved that the Plan Commission forward Case No. CCZBA-741-AM-13 to the Urbana City Council with a recommendation to defeat a resolution of protest. Mr. Fell seconded the motion. Roll call on the motion was as follows:

Mr. Hopkins	-	Yes	Mr. Otto	-	Yes
Mr. Pollock	-	Yes	Ms. Stake	-	No
Mr. Ash	-	Yes	Mr. Fell	-	Yes

The motion was approved by a vote of 5-1. Mr. Engstrom stated that this case would be forwarded to the City Council on May 20, 2013.

**Case No. CCZBA-743-AT-13: A request by the Champaign County Zoning Administrator to amend Sections 9.1.9, 9.2.2, and 13 of the Champaign County Zoning Ordinance regarding rural water district treatment facilities.**

Jeff Engstrom, Planner II, gave the staff presentation on this case. He stated that he handed out a copy of the first page of the written County staff memo dated March 28, 2013. He stated that the reason for the proposed text amendment is to allow Champaign County to approve variances, special uses or zoning permits that violate municipal subdivision ordinances but only under four specific criteria and particularly for one property, the Sangamon Valley Public Water District treatment plant outside of the Village of Mahomet. He discussed how protesting the proposed amendment might affect zoning and land use development decisions within the City of Urbana's one-and-one-half mile extra-territorial jurisdictional (ETJ) area. He reviewed the consistency with the City's 2005 Comprehensive Plan goals and objectives. Earlier this evening, the Environmental Land Use Committee (ELUC) agreed to postpone this case to a future meeting in June. Therefore, City staff is asking that the Plan Commission continue this case to a future

meeting to allow City staff time to work with County staff in creating language that would be more acceptable.

Elizabeth Tyler, Director of Community Development Services, added that City staff is hopeful that in working with Champaign County staff and potentially the City of Champaign staff that they might be able to craft a text amendment so it can resolve the current situation with the Sangamon Valley Water District treatment plant but does not open up some of the broader implications. In particular, City staff would look for linking the text amendment to public health, safety and welfare should there be a need for the water treatment for residents of Champaign County. They would look to limit the exception much more than is currently proposed. They would look to remove some of the language that deals with granting variances or explicitly allowing violations of a municipality's subdivision regulations.

Chair Pollock asked for clarification in that City staff is opposed to the proposed text amendment as it is currently written. Ms. Tyler said yes.

Mr. Fell inquired as to what would happen if the City of Urbana protests and the City of Champaign does not. Would it automatically get defeated? Mr. Engstrom replied yes. If any municipality in Champaign County protests, then a  $\frac{3}{4}$  super-majority vote is required for an amendment to be passed by the Champaign County Board.

Chair Pollock asked if a municipality protested the proposed amendment and the Champaign County Board came up with the requisite  $\frac{3}{4}$  super-majority vote to pass it, then it would become law. Recourse for the City of Urbana would be legal in nature. Mr. Engstrom stated that the City might have to wait until something was approved within the City's ETJ in order for the City to have a standing to challenge it.

Mr. Hopkins commented that the proposed text amendment would only allow Champaign County to grant a zoning permit. If the City of Urbana has subdivision jurisdiction, then how would the Sangamon Valley Water District treatment plant get a building permit to construct the expansion facility? Mr. Engstrom stated that Champaign County does not require building permits. When County staff receives a request for a zoning permit, they check to see if the property has been legally platted.

Ms. Tyler stated that there are three things going on, which are: 1) the zoning permission from Champaign County, 2) subdivision approval from the Village of Mahomet, and 3) the use of subdivision approval to force annexation. The Village of Mahomet is requiring annexation as part of their subdivision approval. The representatives in the audience from Sangamon Valley Water District treatment plant do not want to be forced into annexing into Mahomet because they are a separate utility provider, and it would cause difficulties for their mission as a district. The conflict comes in the Village of Mahomet's ability to demand annexation as a condition of subdivision. There are four jurisdictions involved in the proposed case – the City of Urbana, Champaign County, Village of Mahomet and Sangamon Valley. There are three different types of approvals that are linked somewhat indirectly. The City of Urbana looks for subdivisions that meet requirements. The City of Urbana would want to protest a County text amendment that would allow illegal subdivisions. So, this is something that City staff would look to craft in a revised text amendment.

Mr. Hopkins questioned what the intended mechanism would be and how it would solve the problem. Ms. Tyler replied that if the proposed text amendment is approved, then Champaign County would be able to issue a zoning use permit, which is similar to the City's building permit, to allow a water treatment facility.

With no further questions for City staff, Chair Pollock opened the hearing up for public input.

Kerry Gifford, General Manager for the Sangamon Valley Public Water District, stated that they provide water and waste water services for the Mahomet area, the Seymour area and have an intergovernmental agreement with the Village of Sadorus. It was established in 1966 to serve the north section of the Village of Mahomet. Their company has grown over the years. It has outgrown the current water treatment plant and storage facilities. They started planning to develop a new water treatment facility and another storage tank.

Bud Parkhill, of the Sangamon Valley Public Water District, mentioned that they have outgrown their present facility. They have secured proper zoning from the County to expand their plant. To maintain the fire protection and the quality of water for their customers, they need to build the new plant. They have been granted an Illinois APA low-interest loan and are seeking financial assistance through a bank to get a better interest rate so they can keep their rates as low as possible for their customers since they are a user's district. They do not tax their customers. They are solvent. They are a government entity and a branch of Champaign County. They have seven trustees who look over the affairs of the district. These trustees are appointed by Champaign County. They service an area north of Interstate 74 and just east of Route 47 North. When the area to the west of Route 47 gets developed, they will then service this area as well.

Mr. Gifford reviewed the process. He stated that they approached the Village of Mahomet. The hold up is that Mahomet's subdivision regulations require annexation of the property, and they do not feel that they have a legal right to annex. It is also not in the best interest of the district to do so. So, they proposed an intergovernmental agreement with the Village of Mahomet. At the same time, they approached Champaign County to acquire a special use permit and rezoning of the property. When the Village of Mahomet turned down the intergovernmental agreement, they also protested Champaign County rezoning the property, which was overridden by a vote of 27-0. The only process left is to acquire a zoning permit. The Champaign County Zoning Board of Appeals (CCZBA) and John Hall felt it would be best for them to get a variance from Champaign County. They were told by Mr. Hall that the City of Champaign and the City of Urbana may potentially protest the variance text amendment. Although they feel that they have the support of Champaign County to proceed, they do not feel it is good practice as a local government entity to not work with the local cities to find a compromise.

Chair Pollock asked if they understand that the proposed text amendment creates a larger picture that the City of Urbana needs to be concerned about. Mr. Gifford said yes. They do not want to create an issue where there are problems between Champaign County and the cities. Mr. Parkhill added that they are not platting or subdividing any lots.

Mr. Hopkins stated that the City of Urbana's Subdivision and Land Development Ordinance generally includes things other than the subdivision of land. There has to be some aspect of Mahomet's Subdivision Ordinance that applies to the zoning permit request. What aspect of their Subdivision Ordinance is the Village of Mahomet claiming that they need to do? Mr.

Gifford responded that the Village of Mahomet is not concerned with Sangamon Valley Public Water District's plans to develop. Mahomet's primary concern is that the Water District annex their property into the Village of Mahomet. Mr. Parkhill added that the Village of Mahomet is on an aggressive annexation program because they are financially strapped. They are building a new sewer plant that is remote from the Sangamon Valley Public Water District and would like to take over Sangamon Valley's customers to make more revenue.

Chair Pollock recommended that they follow City staff's request to forward this case to the next scheduled meeting of the Plan Commission.

Mr. Otto believes that there are good reasons why municipalities have the right to annex and to control their growth. When you have an entity that can provide primary basic utilities and add to the population base but is free from actually being part of the City, it creates problems. He believes that the current zoning principal is sound, and he would be concerned about trying to circumvent it. If the Champaign County Board believes strongly enough in the proposed text amendment, then they can vote super-majority. He discouraged City staff from crafting language to resolve the issue. Ms. Tyler responded that the Champaign County Board may have to have a super-majority vote in any case. Crafting or revising the language in the proposed text amendment to be less objectionable would only benefit the City of Urbana. Chair Pollock added that he is concerned with the County taking authority and limiting municipalities (especially the City of Urbana's in the future) control over the ETJ area. If something can be worked out that eliminates that from this formula, then it would be best for everyone involved. If it cannot be worked out and the proposed text amendment is passed by a super-majority vote, he encourages the City of Urbana to look for recourse, because it could affect us in the future in a negative way.

Mr. Hopkins stated that Champaign County is proposing this text amendment to change their rules so they do not break their own rules. Both the change in the rules and the actual action under their new rules will be protested by the Village of Mahomet subject to whatever negotiations that happen to occur. So, the City of Urbana is a non-player in both portions of the game in that both portions of the game are going to be played out regardless of what the City of Urbana does. Therefore, if the City can help the County revise the language to make it less problematic for the City of Urbana in the future, then it is potentially worth influencing.

Mr. Fell feels that any text amendment of this nature regardless of the language would set a precedent, which the City of Urbana does not want to happen. So, why not protest it regardless of the language? Mr. Hopkins replied that it does not matter if the City of Urbana protests because the Village of Mahomet will likely protest. He feels it is better to help Champaign County revise the language in the amendment even if the City still protests it, because it will be less bad. Ms. Tyler added that if we can influence improved language, then it will be beneficial. She handed out copies of her draft language to the Plan Commission.

Mr. Hopkins said that he feels it would be better to resolve this issue in an intergovernmental agreement rather than through a proposed text amendment to the Champaign County Zoning Ordinance. Ms. Tyler explained that timing is an issue. Funding has been provided and the project is at hand.

Mr. Otto questioned how the City of Urbana would feel if we were in a similar position as the Village of Mahomet. Ms. Tyler stated that this is an excellent question and is something that the City of Urbana needs to consider.

Chair Pollock continued Plan Case No. CCZBA-743-AT-13 to the May 23, 2013 Plan Commission meeting.

**9. AUDIENCE PARTICIPATION**

There were none.

**10. STAFF REPORT**

Mr. Engstrom reported on the following:

- Plan Commission ByLaws – Robert Myers, Planning Manager, is working on updating the bylaws and will bring them to the Plan Commission at the next meeting.

**11. STUDY SESSION**

There was none.

**12. ADJOURNMENT OF MEETING**

The meeting was adjourned at 8:55 p.m.

Respectfully submitted,

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Robert Myers, AICP, Secretary  
Urbana Plan Commission