

**MINUTES OF A REGULAR MEETING**

**URBANA PLAN COMMISSION**

**APPROVED**

**DATE:** August 22, 2013

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

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

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**MEMBER PRESENT:** Tyler Fitch, Lew Hopkins, Dannie Otto, Bernadine Stake

**MEMBERS EXCUSED:** Carey Hawkins-Ash, Andrew Fell, Marilyn Upah-Bant

**STAFF PRESENT:** Robert Myers, Planning Manager; Jeff Engstrom, Planner II; Teri Andel, Planning Secretary

**OTHERS PRESENT:** Carol McKusick

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

Mr. Fitch 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**

There were none.

**3. APPROVAL OF MINUTES**

Ms. Stake moved that the Plan Commission approve the minutes from the July 18, 2013 regular meeting. Mr. Otto seconded the motion. The minutes were then approved by unanimous vote.

**4. COMMUNICATIONS**

Regarding Plan Case No. 2208-T-13

- Revision to the Proposed Text Amendment
- Email from Carol McKusick

**5. CONTINUED PUBLIC HEARINGS**

There were none.

## 6. OLD BUSINESS

There was none.

## 7. NEW PUBLIC HEARINGS

**Plan Case No. 2208-T-13 – An application by the Urbana Zoning Administrator to amend the Urbana Zoning Ordinance with minor changes to Article I (General Provisions), Article II (Definitions), Article V (Use Regulations), Article VI (Development Regulations), Article VIII (Parking and Access), Article IX (Signs), Article XI (Administration), Article XII (Historic Preservation) and Article XIII (Special Development Provisions).**

Chair Fitch opened the public hearing for this case.

Jeff Engstrom, Planner II, distributed two communications concerning this case. One communication from City staff requesting that the Plan Commission consider as part of this text amendment an additional amendment to the Table of Uses to change “hospital or clinic” uses in the R-6 (High Density Multiple-Family Residential), B-3 (General Business), B-3U (General Business – University), B-4 (Central Business), B-4E (Central Business – Expanded) and IN-1 (Light Industrial/Office) Zoning Districts from “P” (permitted by right) to “S” (Special Use Permit). The second communication was an email submitted to City staff by Carol McKusick concerning the frequency and method of republishing the Urbana Zoning Ordinance.

Mr. Engstrom summarized the proposed changes in Plan Case No. 2208-T-13. He briefly discussed the background of the Urbana Zoning Ordinance by stating that the proposed case is the first multipart text amendment since 2011. City staff republished the Zoning Ordinance in 2012 incorporating any text amendments that had been approved during that year. Since the republishing of the Urbana Zoning Ordinance there have three additional text amendments that were approved, which were the creation of the IN-1 and the IN-2 Zoning Districts, the gun sales and shooting range regulations and the pawn or consignment shop regulations. These will be incorporated into an upcoming republishing of the Urbana Zoning Ordinance along with and upon approval of the proposed multipart text amendment. Next, he reviewed the major changes being proposed in the multipart text amendment, which were as follows:

### Article II. Definitions

1. Add definition for “Assisted Living Facility”, which will be used in place of the term “Home for the Aged”.
2. Add definition for “Farmer’s Market”.
3. Amend definitions for “Gross Floor Area” and “Open Space”.
4. Revise Figure 2. Open Space Ratio.

### Article V. Use Regulations

1. Amend V-12 to add intent to Home Occupation regulations.
2. Amend Table V-1. Table of Uses by adding a use category for “All Other Retail Uses”.
3. Amend Table V-1. Table of Uses by allowing “Church, Temple, or Mosque” by right in the B-3 district and with a Conditional Use Permit in the IN-1 district.
4. Amend Table V-1. Table of Uses by adding use categories for “Movers” and “Truck Rental” to be permitted by right in the B-3, IN-1, and IN-2 districts.

5. Amend Table V-1. Table of Uses by allowing “Hospital or Clinic” with a Special use Permit in the R-6, B-3, B-3U, B-4, B-4E and IN-1 districts.
6. Amend Table V-1. Table of Uses by replacing the term “Home for the Aged” with “Assisted Living Facility”.

Article VI. Development Regulations

1. Modify language in Section VI-4. Floor Area and Open Space to clarify that areas for home maintenance are not part of the “Gross Floor Area” in a single or two family use.
2. Add D. Open Space in Section VI-4. Floor Area and Open Space and move language from the definition for “Open Space” to this new section. It is bad practice to have regulations mentioned in the definitions section.
3. Amend Section VI-5.B to include the graphics illustrated in Exhibit B of the written staff memo.
4. Amend Section VI-5.B by adding language regarding the replacement of porches, terraces and decks.

Article VIII. Parking and Access

1. Add Paragraph VIII-5.L to allow for off-street parking reductions to accommodate designated legacy trees.
2. Amend Table VIII-7. Parking Requirements by Use

Article XI. Administration, Enforcement, Amendments and Fees and

Article XII. Historic Preservation Ordinance

1. Amend Paragraph XI-12.D, E and G and Paragraph XII-3.C to remove the one year term limit on Chair and Vice Chair positions.

Article XIII. Special Development Provisions

1. Amend Section XIII-4 to reference the current Boneyard Creek Plan.

Mr. Engstrom read the options of the Plan Commission and presented City staff’s recommendation.

Mr. Fitch asked how many current businesses would be affected by the proposed change to Article V-12, Home Occupations, and which may have been approved for retail sales out of their home. Mr. Engstrom replied that it would not affect many businesses. Robert Myers, Planning Manager, added that he had reviewed the home occupation permits, and some years ago, two home occupation businesses with limited retail sales were permitted, but he does not know if they are still in business. One was a rare book dealer, and the second was an antique furniture dealer. Both were limited in that the clients called in advance to come to the dealers’ homes. Some service home businesses like a beauty shop or barber shop may have incidental retail sales like shampoo and similar products, but they are selling to customers already in their homes.

Mr. Fitch recalled a home occupation permit that involved the selling of guns out of a person’s home. How would this business be affected? Mr. Myers replied that the gun sale business had a limited clientele and did most of their business over the internet. A client would come to the home would be to sign paperwork and to pick up a purchased weapon after being approved by the State. He personally inspected that home business. He explained the term “stock and trade”.

Mr. Hopkins asked if we currently have a definition for “retail use”, and if not, he suggested that City staff add a definition. Mr. Engstrom said no, but that he could add a definition for this before taking this case to the Urbana City Council.

Mr. Fitch stated that there were two paragraphs in Section VI.5.B allowing stairs and porch stairs to encroach in different distances within minimum required yards. Paragraph 5 on Page 7 of the written staff report says that porches, terraces and decks may encroach up to five feet into a minimum required yard but not within five feet of a property line. The next paragraph on Page 8 says that porches may be constructed in the location of the existing porch/and or porch stairs but no closer than six inches from any property line. Mr. Engstrom replied that the second paragraph only applies to replacing or upgrading existing porches. He could revise the language to make it clearer.

Mr. Fitch asked for clarification on Section VIII-4.H.4. Does this paragraph mean that if relatives drive a motor home to come visit that they could not sleep in the motor home while visiting? Mr. Engstrom responded that is basically correct.

Ms. Stake questioned why the reduction in parking to accommodate legacy trees would not apply to single-family and duplex residences. Mr. Engstrom stated that the parking requirements for single-family and duplex uses are very low. In addition, they already have driveways and garages for the most part.

Mr. Fitch asked if there is a definition for "Shade Tree". Mr. Engstrom replied no, but there is a list of approved shade trees. Mr. Hopkins stated that they need to cross reference the list in Section VIII-3.F.

With regards to Section XI-12, Mr. Hopkins suggested changing "site" to "development" in G (title), G1 and G3 as well as G.2. Mr. Engstrom added the change to his list.

With regards to Section XIII-4, Special Procedures in the Boneyard Creek District, Ms. Stake asked what kind of applications would the City receive regarding the Boneyard Creek District. Mr. Engstrom replied that development or redevelopment of any parcel adjacent to or within a certain distance from the Boneyard Creek requires a Creekway permit. The proposed change to the Zoning Ordinance would require that a notice of intent to grant a Creekway permit and a copy of the permit application shall be sent to the Plan Commission prior to their next scheduled meeting. Any aggrieved party or public official may appeal the decision of the Zoning Administrator to grant a Creekway permit to the City Council.

Mr. Otto asked why eaves and cornices are only allowed a two foot, six inch maximum when stairways, balconies and fire escapes are allowed up to five feet. Some eaves have a substantial overhang, especially Prairie Style homes. Mr. Engstrom responded that two feet, six inches is a common encroachment for an eave or cornice. Balconies are a little wider. The proposed standards are intended to apply to new construction. If something has a home in a historic area, there are variance procedures to aid in replacing an eave or cornice. Mr. Hopkins added that you can have 4 foot eaves, but that two feet, six inches could extend into the required side-yard setback. In a five-foot required side-yard setback, if an eave extends two feet, six inches, then it only leaves two feet six inches for a ladder. Mr. Myers added that he believes that allowing stairs to extend further into the minimum side yards is to recognize older fire escapes on the sides of houses.

With no further questions for City staff, Mr. Fitch asked if anyone in the audience wished to address the Plan Commission on this case.

Carol McKusick, 1907 North Cunningham Avenue, addressed the Plan Commission. She talked about republishing of the Urbana Zoning Ordinance and when ordinances approving text amendments become effective. She recited a clause in a recent Zoning Ordinance amendment that *“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).”* From this she understands it to mean that the Zoning Ordinance would need to be republished in order for the approved ordinance mentioned above to become effective.

Mr. Fitch replied that an ordinance is in effect as soon as it is approved by City Council unless otherwise directed in the ordinance. It does not have to be incorporated into the Zoning Ordinance for it to become effective. The state and Federal governments publish their laws of each session as separate documents, which are in full force immediately after they are passed or whatever effective date that is set. Then every two years, they will weave them into the compiled Illinois Statutes or other corpus of laws and regulations.

Ms. McKusick suggested that publication decisions should be made for sustainability, cost, the authority of the documents and accessibility of them. However, she suggested that City staff update the online version of the Zoning Ordinance upon the approval and effective date of each text amendment and to provide paper copies available to the Urbana Free Library for the public to view.

Mr. Otto stated that the publication of the Zoning Ordinance is an issue for the City Council to review and decide.

Mr. Fitch suggested that Ms. McKusick bring her idea to the City Council.

Ms. McKusick stated that the written staff memo refers to a change to the home occupation permit section in the ordinance in Section V-12; however, Section V-12 refers to the additional requirements in the OP District. Section V-13 is about Regulations of Home Occupations. She talked about the email that she submitted to City staff as a communication to the Plan Commission. She referred to Article VI.17 of the Plan Commission Bylaws, which states as follows: *“The petitioners and opponents should present all evidence they possess concerning the request at the initial phase of the public hearing. Written material from the petitioner or opponents will be accepted by the Secretary for distribution to the Commission until the close of the public hearing.”* She understood this to mean that she would present her email to the Plan Commission during the public hearing rather than the Planning Secretary handing out copies prior to the start of the meeting as was done with her email. She did not feel that City staff had followed the bylaws. Mr. Fitch responded that he did not agree because the email was received by the Plan Commission at the initial phase of the public hearing as soon as the Plan Commission members arrived. It was made known to the Plan Commission members that they had the communication by City staff. City staff then presented a summary of the case and immediately following Ms. McKusick was allowed to give her testimony. Therefore, he believes that the Plan Commission and City staff did follow the bylaws.

With no one else in the audience, Chair Fitch asked if staff had any further comments.

Mr. Myers stated that it is required by state law for the City to publish an ordinance in “pamphlet form” if there is any kind of fine or penalty attached to it. As a result, the City Clerk’s office prints out an ordinance once it is approved by the City Council, has the ordinance signed and provides a copy in their lobby for anyone to view for the specified period of days. On the other hand, City staff typically republishes the Urbana Zoning Ordinance once a year. One reason is because reprinting it after every text amendment would create multiple versions each year for public distribution which would be confusing for those who use it frequently, like architects and engineers. The same applies to the Official Zoning Map. Rather than creating a new zoning map every time a rezoning request is approved, City staff folds all of the changes to the map in one annual reprinting. Each year, an official zoning map is created which reflects all the changes which occurred in the past year.

Chair Fitch closed the public hearing and asked for any Plan Commission comments or motions.

Mr. Hopkins moved that the Plan Commission forward Plan Case No. 2208-T-13 to the Urbana City Council with a recommendation for approval based on the editorial changes that were discussed during this meeting. Mr. Otto seconded the motion. Roll call on the motion was as follows:

Mr. Hopkins	-	Yes	Mr. Otto	-	Yes
Ms. Stake	-	Yes	Mr. Fitch	-	Yes

The motion passed by unanimous vote.

Mr. Myers stated that this case would be forwarded to City Council on Tuesday, September 3, 2013.

**8. NEW BUSINESS**

There was none.

**9. AUDIENCE PARTICIPATION**

Carol McKusick, of 1907 North Cunningham Avenue, spoke about the annual review of the bylaws. The Plan Commission and City staff started review of the bylaws at the March 21, 2013 meeting. The meeting was not conducted according to Article VII. Determinations in the Plan Commission bylaws. Chair Fitch stated that the Plan Commission did not make a determination about the bylaws at that meeting. Ms. McKusick asked who gave City staff the direction to work on the bylaws. Mr. Fitch replied that the idea to review the bylaws actually came from her during her testimony at a previous meeting. She had pointed out to the Plan Commission that they were to review the bylaws on an annual basis. So, City staff is researching best practices and various other things to improve the bylaws before bringing them back to the Plan Commission for determination.

Ms. McKusick said that the review of the bylaws is the work of the Plan Commission according to Article IV.7. Mr. Fitch replied that the Plan Commission has not annually reviewed the bylaws and he does not recall reviewing the bylaws since he started on the Plan Commission. However, once the Plan Commission reviews the bylaws and approves them in some form, he feels that the Plan Commission should review them as indicated in the bylaws whatever that may end up being.

Ms. McKusick believes that City staff must have needed an order from the Plan Commission which would have required a motion and debate under the bylaws. When is City staff going to bring the bylaws back to the Plan Commission? Are the bylaws going to be reviewed by lawyers? Will City staff produce a marked up copy that shows the changes they are going to propose? Chair Fitch replied that he presumes so. Ms. McKusick then suggested that the Plan Commission make a motion to order the City staff to stop working on the bylaws. Mr. Fitch responded that when City staff brings the bylaws back before the Plan Commission for their review, she will have ample time to weigh in on the bylaws. He is not going to order City staff to stop working on the bylaws.

## **10. STAFF REPORT**

Robert Myers, Planning Manager, presented a staff report on the following:

- Howard Wakeland Rezoning (Plan Case No. 2210-M-13) was approved by City Council as recommended by the Plan Commission.
- 2013 Citizen's Planner Workshop on Thursday, October 10, 2013 at the Illinois Terminal is available for any Plan Commission or Zoning Board of Appeals member to attend and receive training.

## **11. STUDY SESSION**

There was none.

## **12. ADJOURNMENT OF MEETING**

The meeting was adjourned at 8:45 p.m.

Respectfully submitted,

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Robert Myers, AICP, Secretary  
Urbana Plan Commission