

**MINUTES OF A REGULAR MEETING**

**URBANA PLAN COMMISSION**

**APPROVED**

**DATE:** January 22, 2004  
**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, Lew Hopkins, Randy Kangas, Michael Pollock, Bernadine Stake, Don White  
**MEMBERS EXCUSED:** Laurie Goscha, Marilyn Upah-Bant  
**STAFF PRESENT:** Rob Kowalski, Planning Manager; Michaela Bell, Senior Planner; Paul Lindahl, Planner; Teri Andel, Secretary  
**OTHERS PRESENT:** Sandy Bales, Mark Blager, John Fimian, John Peisker, Susan Taylor

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

The meeting was called to order at 7:30 p.m., the roll call was taken, and a quorum was declared.

**2. CHANGES TO THE AGENDA**

There were none.

**3. APPROVAL OF MINUTES**

- **Minutes from the December 18, 2003 Meeting:** Ms. Stake moved to approve the minutes as presented. Mr. Douglas seconded the motion. The minutes were approved as presented by unanimous voice vote.
- **Minutes from the January 8, 2004 Meeting:** Ms. Stake moved to approve the minutes as presented. Mr. Kangas seconded the motion. The minutes were approved as presented by unanimous voice vote.

**4. COMMUNICATIONS**

- Letter from Blake Weaver

**5. CONTINUED PUBLIC HEARINGS**

There were none.

**6. NEW PUBLIC HEARINGS**

**Plan Case # 1877-SU-03: Request by Mark Blager for a Special Use Permit to establish a cement concrete plant operation in the IN, Industrial Zoning District on a 3.2-acre site located on the south side of Somer Drive approximately 119 feet west of Lincoln Avenue.**

Rob Kowalski, Planning Manager, began his presentation by describing the Special Use Permit request. He noted that the proposed site was currently zoned as IN, Industrial. The proposed use was not listed under Industrial uses in the Table of Uses in the Zoning Ordinance. The Zoning Administrator made a determination that the proposed use would fit under “All Other Industrial Uses Not Specified” and would require a Special Use Permit review.

Mr. Kowalski described the proposed site in detail using the Elmo to show each area. He mentioned that the City staff saw this area as the primary Industrial area for the City of Urbana for two reasons, which were as follows: 1) The close proximity to the Canadian National Railroad to the west and 2) The close proximity to the Lincoln Avenue interchange with Interstate 74.

He reviewed the layout of the proposed facility and explained the process of the facility’s operation. He mentioned that this location would be beneficial to the petitioner, because of the Canadian National Railroad and University Construction being located nearby. The applicant had anticipated 10,000 to 20,000 loads per year depending on business.

Mr. Kowalski reviewed the requirements for a Special Use Permit according to Section VII-6 of the Urbana Zoning Ordinance. He read the options of the Plan Commission and presented staff’s recommendation, which was as follows:

*Based on the evidence presented in the written staff report, and without the benefit of considering additional evidence that might have been presented at the public hearing, staff recommended that the Plan Commission recommend approval of the proposed special use as presented to the Urbana City Council, for the reasons articulated in the written staff report with the following conditions:*

- 1. That the layout of the facility shall closely resemble the attached Site Development Plan. Any significant deviation from this Site Development Plan will require an amendment to the Special Use Permit, including further review by the Plan Commission and approval by City Council.*
- 2. That an engineered stormwater management plan be prepared and constructed consistent with the requirements of the Urbana Subdivision and Land Development Code and subject to the review and approval of the City Engineer.*
- 3. Prior to development of the site, a final subdivision plat shall be recorded creating the lot. The subdivision final plat shall be in conformance to the*

*approved Preliminary Subdivision Plat for the North Lincoln Avenue Industrial Park Subdivision.*

4. *Seven-foot high opaque fencing be installed on the north, east and west perimeters of the site.*

Mr. Kangas questioned if the opaque fence could not be a stone or cement fence? Mr. Kowalski answered by saying that the existing fence at the Green Street site was a vinyl fence. City staff required an opaque fence, because a chain-linked fence would not meet the intent of what they were looking for. Mr. Kangas asked if City staff wanted the fence to be used as a screen and not as a barrier? Mr. Kowalski replied that was correct.

Mr. White inquired where the nearest residential zoning next to the proposed property? The reason he was asking because of the letter from Blake Weaver stated that there was property owned by Shirley Squire that was residential. Mr. Kowalski believed that the property owned by Shirley Squire was zoned as Industrial as well. It was an old school house, and now Ms. Squire used it as a craft or flower shop. He mentioned that there were not any residential zoning districts within at least 250 feet.

Mr. Alix inquired if Somer Drive was fully built? Was the cul-de-sac shown on the plat already there? Mr. Kowalski answered by saying that Somer Drive was built up to the Saline Branch Drainage Ditch. There were still improvements to be built according to the Preliminary Plat for the North Lincoln Avenue Industrial Park Subdivision west of the Saline Branch Drainage Ditch to complete that cul-de-sac. Mr. Alix asked if the bridge over the Saline Branch Drainage Ditch was built? Mr. Kowalski replied yes.

Mr. Alix recalled that there was a fence or gate on the other side of the bridge. Was the property beyond the fence/gate the terminal where the gravel was unloaded? How would the aggregate material get from the railroad to the parcel? Mr. Kowalski stated that it would go over the Saline Branch Drainage Ditch, through the fenced area (which would become a dedicated right-of-way) and travel straight west until it got to the railroad. Mr. Alix asked if the proposal was that eventually the cul-de-sac shown on the plat would be built and be public right-of-way? Mr. Kowalski noted that it was currently a public ingress and egress easement. It was proposed to be dedicated and be improved to the same standards as Somer Drive.

Mr. Alix noticed that it was not clear from the Site Plan where the curb cuts would be along Somer Drive. Would there be curb cuts? How much of the area along Somer Drive was proposed to be fenced? How much of the area was proposed to be open? Mr. Kowalski said that the City staff's condition and the intent of the applicant was to have the entire frontage along Somer Drive fenced, and at the two curb cuts or access points there would be a chain-linked gate that would open and close.

Mr. Douglas asked what the definition for "Industrial" was? He wanted to know because he wondered what the Special Use Permit for. Mr. Kowalski stated that the Urbana Zoning Ordinance had a Table of Uses, which specified each imaginable use and what zoning districts those uses were allowed in. A concrete/cement facility, for whatever reason, was not listed in the Table of Uses. When a use was not listed in the Table of Uses, typically City staff finds the closest, similar use. Then, the Zoning Administrator would make an interpretation as to which

zoning districts that use would be permitted in. In this case, the Table of Uses had an entry under Special Use Permit for Industrial that said "All Other Industrial Uses", which was kind of a catchall.

Mr. Douglas inquired if there was an existing Special Use Permit for where the aggregate was currently being dropped off? Mr. Kowalski responded by saying that they do have a Special Use Permit that was issued in 1999 for similar types of activities, as well as concrete and asphalt recycling. The Special Use Permit was basically for the area shown on the map as Lot 3. He mentioned that the City currently had issues with University Construction using Lots 1A, 1B and 1C for asphalt and concrete piles. This was a violation of their Special Use Permit, and the City was working on bringing them into compliance over the past three years. The piles were getting smaller, and University Construction was slowly moving the operation back up to Lot 3.

Mr. Douglas questioned if there was any relationship between the Apcon Company and University Construction? Mr. Kowalski did not know the details of that and mentioned that John Peisker could answer that question better.

Mr. Alix inquired how the storage of the materials on Lots 1A, 1B and 1C were in violation of the Zoning Ordinance? Mr. Kowalski stated that the violation would be of the property owner's Special Use Permit approval. University Construction was supposed to confine all their activity basically in the area west of the Saline Branch Drainage Ditch. They perform the asphalt and concrete recycling in the piles east of the Saline Branch Drainage Ditch, which was outside the area they were approved for. Mr. Alix commented that since the Special Use Permit did not cover the lot east of the ditch, then the argument would have to be that what they were doing on that lot was not legal in that zone. In other words, University Construction would need a Special Use Permit in order to store those piles there. Mr. Kowalski replied that was correct.

Ms. Stake asked where Ms. Squire lived? Mr. Kowalski replied that he did not know where she lived. However, the house that was being discussed was north of the proposed lots.

Ms. Stake asked if University Construction owned the land that they are located on and use? Mr. Kowalski said yes. Ms. Stake commented that was a large piece of land.

John Peisker, of 2906 North Oak Street, explained that the Apcon Corporation was part of a holding company that included University Construction and Mid-America Concrete and Asphalt Recycling. It was the same ownership, but a differentiation of companies. He represented Apcon Corporation and University Construction in this case.

Although staff had done a good job of laying out the facts before the Plan Commission, he wanted to mention a couple of things. First of all, the 3.2-acre site would initially be a lease instead of a purchase. Regardless, they would still go through the platting process.

Secondly, he wanted to address the issue about a Special Use Permit that they obtained in 1999. They included in their request for that Special Use Permit a number of uses for essentially the area west of the Saline Branch Drainage Ditch. As part of that, the activity of concrete and asphalt recycling was happening on the west side of the Saline Branch Drainage Ditch. The Special Use Permit in 1999 essentially displaced that operation, and it moved to the east side of

the Saline Branch Drainage Ditch. City staff, the Apcon Corporation and Mid-America have a difference of opinion about whether there was a violation of the Special Use Permit. Apcon Corporation and Mid-America certainly did not see it as a violation of the Special Use Permit, because the property was never part of the Special Use Permit. He mentioned that they have correspondence from the City staff that indicated that they understood what University Construction was doing. City staff's interpretation at that time was that it would be a reasonable use of the property, given that it could be argued that the property fell in the construction yard or some of the types of uses permitted in the Industrial Zoning District. They felt that there might be some discrepancy between the City staff and their company. However, they did not see it as a long-term problem. Mr. Peisker mentioned that the Apcon Corporation would like to eventually see the recycling area move from there. He pointed out that the property to the east of the creek and north of Somer Drive was not really related to the 3.2-acres that they were requesting a Special Use Permit for.

Mr. Alix asked if the tanks were on Apcon's property? Mr. Peisker replied that was correct. Mr. Alix questioned if the reason why the cul-de-sac had not been finished was because it would be going to Apcon's property as well? Mr. Peisker stated that was correct, and there was currently no other use of it.

Mr. Alix inquired if it was their intention in the long-term to sell Lots 1A, 1B and 1C? Mr. Peisker stated that at the time when they were developed in the mid 1980s, the preliminary plat was prepared for that, they needed to draw some lines for some lots. The lines were drawn at the time without any specific uses in mind.

Mr. Alix remembered this particular subdivision when it came before the Plan Commission in relation to dedicating right-of-way for the extension of North Lincoln Avenue. Was that correct? Mr. Peisker replied yes. He did not know if the Preliminary Plat had come before the Plan Commission, but there was a lot that would go to the City Council for approval of a Final Plat, which was essentially to the east of the proposed property.

Mr. Alix questioned if Mr. Peisker's company supplied the aggregate for the Ready Mix Plant? Mr. Peisker explained that Vulcan Materials, which was one of the nation's largest aggregate suppliers, were the ones who utilized the yard as a resale/retail yard. His company assisted in the operation of unloading the rail cars, loading the trucks and moving the aggregate on the site. Mr. Alix inquired if Mr. Peisker's company leased space to Vulcan Materials? Mr. Peisker replied that was correct.

Ms. Stake asked where the water used in the operation came from? Mr. Peisker noted that the Illinois-American Water Company served all of the area. Ms. Stake inquired as to where the waste went? Mr. Peisker stated that the Urbana-Champaign Sanitary District served the entire area as well. Ms. Stake questioned how much water they would be using? Mr. Peisker stated that would be a question that Mark Blager could answer.

Mark Blager, of 1112 Foothill Drive in Champaign, was present to answer any questions.

Mr. Douglas inquired if these were two separate companies under one umbrella? Mr. Blager replied that the Ready-Mix Cement Concrete Plant was a stand-alone company with no affiliation with the Apcon Corporation or University Construction.

Mr. Douglas questioned if the used concrete that was dropped off at University Construction was paid for or just thrown away? Mr. Blager answered by saying that the concrete was paid for material. On any concrete job, there was either too much or not enough. When there was too much concrete left on a certain job, it needed to be disposed of, because it had a short-shelf life and because of certain specifications. That was where the recycle center came into play. Mr. Douglas asked if the recycle center purchased the leftover concrete? Mr. Blager said no, that the recycle center did not purchase it. It was a service that the recycle center provided to ready-mix producers in the area. Mr. Douglas asked if the leftover concrete was recycled and reused? Mr. Blager replied yes. The recycle center breaks it up, crush it, recycle it and resell it.

Ms. Stake inquired as to how far the proposed facility would be from Ms. Squire's property? Mr. Kowalski responded by saying that it would be about 500 feet or a little less away.

Ms. Stake asked what they do about the dust and pollution? Mr. Blager stated that was one of the advantages of being able to use Vulcan's Material. There were two possible sources of dusting. One comes from the aggregate. The benefit of Vulcan's Material that had been a savior in a lot of ways was that it was a washed material. In using washed materials, the dust had been eliminated from the material. Mr. Kowalski added that the applicant would also be required to get approvals from the Illinois Environmental Protection Agency (EPA) for dust control and for the amount of concrete residue in storm water. Mr. Blager stated that was correct. There were air permits required on a plant like the proposed with the EPA as well as storm water. One of the advantages of a new plant like this would be that the latest dust control systems would be in place.

Ms. Stake asked if the proposed facility would be next to the property where there was a violation occurring of the 1999 Special Use Permit? Mr. Blager said that was his understanding from what he had heard in previous statements at this public hearing. Mr. Kowalski added that the proposed property was on the south side of Somer Drive; whereas, the area where the apparent violation was occurring was immediately on the north side, which would be more adjacent to the Squire property than the concrete plant would be.

Mr. Hopkins asked Mr. Blager to characterize how the proposed facility would be different from the current facility on Green Street? Mr. Blager responded by saying that the proposed facility would be more state-of-the-art, everything would be newer, and the operational logistics of the proposed location from the aggregate side.

Mr. Hopkins inquired if the Green Street Ready-Mix Plant was a different company than the proposed? Mr. Blager said that was correct.

Mr. Alix inquired as to how many employees a facility like this would have? Mr. Blager replied that it would be in the construction business, and just like any other construction activities, it would be seasonal. During low periods of time, there may be six to ten employees. While at peak periods, there may be 20 to 30 employees.

Mr. Alix asked if they would operate during daylight hours only? Mr. Blager stated that was basically correct.

Mr. Douglas inquired if the petitioner would be able to house more aggregate at the proposed facility? Mr. Blager mentioned that one of the advantages of the proposed location would be to be able to house less material there, because they would be closer to the raw materials.

Mr. Douglas asked City staff what the timetable would be for Lincoln Avenue heading north? Mr. Kowalski noted that north of the proposed site was tied more to the development of the new lots. He was not sure of the dates. As far as the realignment of Lincoln Avenue from Interstate 74 to Olympian Drive would be tied more to the development of the area.

Mr. Alix inquired if all University Construction was doing on the property to the east of the creek was storage or were they running actual recycling equipment there? Mr. Kowalski believed it was just stock piling of the materials. The piles have been decreasing in size gradually.

Mr. Alix asked what the City's basis was for classifying that as a non-conforming use? Mr. Kowalski stated that it was the same issue as this case. What was the activity classified as? There was not a specific entry for it in the Table of Uses of the Urbana Zoning Ordinance. Therefore, it fell under the same category, "All Other Industrial Uses". This was the same determination that had been made for the rest of the University Construction site, which was why they went through the Special Use Permit process on the west side of the Saline Branch Drainage District. The difference of opinion that Mr. Peisker had mentioned was whether it could be called a construction yard or not. The Zoning Administrator had made the determination that she would not call it a construction yard, which would be permitted in the Industrial Zoning District. It was really a difference of opinion of what it was called and whether it was really permitted in the Industrial Zoning District without some kind of review. City staff said that there was some kind of review required, and University Construction said there was not. Mr. Alix stated that it was not related to the current case, but he would be inclined to be sympathetic to their argument about the construction yard.

Ms. Stake inquired what an I-2 Zoning District was? Mr. Kowalski explained that it was a zoning district in the County. He pointed out that this was an area in general that dipped in and out of the City boundaries.

Ms. Stake inquired how long the area around the Squire property had been zoned as Industrial? Mr. Kowalski replied that it had been zoned as Industrial for many years. He was not aware of a different zoning district. Mr. Pollock believed that when the area was annexed into the City of Urbana, it was brought in as Industrial. Ms. Stake asked if it was never zoned as residential even though there was a home there. Mr. Kowalski stated that the one lot might have been zoned residential. He believed that the Squire home was once an old school house, and it was possible that it could have been zoned residential in the County. The overall area, including the University Construction area and especially the area along the railroad tracks, have been used and zoned as Industrial ever since it was annexed into the City of Urbana, and it was probably zoned as Industrial before that time in the County.

Mr. White moved that the Plan Commission recommend approval of this case to the City Council including the four conditions suggested by City staff. Mr. Kangas seconded the motion. Roll call was as follows:

Ms. Stake	-	Yes	Mr. Pollock	-	Yes
Mr. Kangas	-	Yes	Mr. Hopkins	-	Yes
Mr. Douglas	-	Yes	Mr. Alix	-	Yes
Mr. White	-	Yes			

The motion was passed by unanimous vote.

**Plan Case # 1879-SU-04: Request for a Special Use Permit to establish a Warehouse, Self-Storage Facility at 1808 South Philo Road in the B-3, General Business Zoning District.**

Michaela Bell, Senior Planner, presented the case to the Plan Commission. She described the site and the proposal. She 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 presented staff's 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 City Council as presented for the reasons articulated with the following conditions:*

- 1. The climate controlled self-storage warehouse use shall be in general conformance to the plan submitted.*
- 2. There shall be no outdoor storage on the subject property.*

Mr. Kangas understood the proposal to be that the petitioner wanted to take the existing building and subdivide it for smaller storage units on the interior. Ms. Bell stated that was correct. They plan to partition the building into units. Mr. Kangas asked that it was not an expansion of the building itself, and the footprint of the building would not change? Ms. Bell stated that was correct.

Mr. Kangas inquired if the Plan Commission and City Council approved the Special Use Permit, would it prohibit by right of the petitioner in the future to expand out? Ms. Bell replied that the Special Use Permit would be for the use of the self-storage units. The petitioner would be able to expand the building into the parking area, depending on how many units the petitioner wanted to expand out. Mr. Pollock added that as long as the other conditions of the Special Use Permit would apply to the expansion, then the expansion would be permitted.

Mr. Kangas asked if there would be any changes in lighting, fencing, security, etc.? Ms. Bell replied that there were not any changes. City staff added a condition that there would not be any outdoor storage.



Mr. Douglas inquired if Lot C was supposed to be used for storage as well? Mr. White responded by saying that Lot C was meant to be used for storage; however, the storage units were never built. Ms. Bell added that in October, 2002 there was a similar request for a Special Use Permit for outdoor mini-warehouse storage buildings directly east of the subject property. Mr. Kangas asked if they were to be the type that people could drive up to like a garage? Ms. Bell stated that was correct.

Mr. Pollock inquired if that Special Use Permit had expired? Could the storage units still be built? Ms. Bell replied that the storage units could still be built on Lot C.

Mr. Alix questioned if it was the same petitioner as in the proposed case? Ms. Bell said yes.

Mr. Pollock asked if the reason why the petitioner needed the proposed Special Use Permit was because a self-storage mini warehouse use was not specified in the Table of Uses as a permitted use in the B-3, General Business Zoning District? Ms. Bell stated that the use was specified as a Special Use Permit in the Table of Uses for the B-3 Zoning District.

Mr. Pollock commented that Ms. Bell had mentioned that there would be limited hours of operation for the proposed mini warehouses. However, it was permitted in the B-3 Zoning District, if the petitioner decided to have it open 24 hours a day, then he could. Ms. Bell said that was correct.

John Fimian, of 151 Woodlake Road in Seymour, approached the Plan Commission to answer any questions that they may have.

Mr. White understood that with the way the proposed warehouses were to be built, it would be very possible to take the dividers out and go with another type of business in the same location if the petitioner wanted to. Mr. Fimian noted that should the economic climate change, then they could go back to having a retail use located in the proposed building. Mr. White remarked that he would like to see a retail operation in the proposed building, but did not know if that would ever happen. Mr. Fimian agreed. He mentioned that they had been actively marketing the building for retail for 14 months. Mr. White asked if they would continue to market it for retail? Mr. Fimian replied that they were still advertising the north section of the building for retail.

Mr. White inquired if it would be a burden if the City put a condition on the approval of the Special Use Permit to not allow any expansion of the current building in terms of size? Mr. Fimian responded by saying that he would not want to limit himself at this point.

Mr. Alix asked what Mr. Fimian's intentions were for Lot C? Mr. Fimian replied that it would be outside storage units. Mr. Alix inquired if Mr. Fimian still intended to build the storage units? Mr. Fimian replied yes, further down the road.

Mr. Alix inquired if it was Mr. Fimian's intention to keep the property intact in terms of the parking and the building rather than subdividing the property and selling off outlets along Philo Road for smaller businesses? Mr. Fimian replied that there are already outlets in the area, but on separate lots. Mr. Alix asked if Mr. Fimian owned the outlets? Mr. Fimian stated that he did own them. Mr. Alix commented that there was concern that this was a prime site for large retail,

assuming that someday someone would be interested in it. There was certainly an interest on the part of the community in keeping the building usable for that reason rather than chopping it up into smaller parcels.

Ms. Stake expressed her concern for wanting a commercial use in the proposed building. There are many residents around this area that could shop there. She wondered what kinds of commercial had the petitioner tried to get interested in locating in the proposed building? Mr. Fimian stated that they had contacted 12 or 14 places. They came very close to getting a Big Lots to move in; however, it was around the same time that Kmart closed. Big Lots was a national company, and they had done a marketing analysis for this location. As a result, they could not justify locating on this site.

Ms. Stake stated that at the Comprehensive Plan Steering Committee members, everyone kept talking about needing retail close to residential. This was certainly an area that needed that. She would hate to see it be used just for storage. There was plenty of Industrial area for storage. Mr. Fimian responded by saying that as he had indicated earlier, this area could be converted back to retail if the economy and area changed on that side of Urbana. In the meantime, they would be providing a service to the apartment dwellers and businesses in the area in that they would be providing lockable storage areas, which would be heated and cooled. They would have a sprinkler system and a security system.

Ms. Stake asked if he would still own the building? Mr. Fimian said yes.

Mr. White mentioned that the City staff had suggested that there be no outdoor storage on the subject property. Would that still allow for the storage to be built behind this property that had already been approved for a Special Use Permit? Ms. Bell said yes.

Mr. Alix stated that he was as disappointed as everyone else to not see the area flourishing with commercial development, but he thought that this was a reasonable attempt to get some use out of the space in a way that would provide a service that would certainly be useful to that neighborhood. The notion of using some of the space for storage while preserving some at the front and to the north for a smaller retail might make it easier to market. It seemed appropriate to him. Any commerce there was better than none.

Mr. Hopkins inquired if there was a time limit on Special Use Permits? Mr. Kowalski explained that Special Use Permits have a limit if they were not exercised in a year. After the year was over, the petitioner could request an extension if they need more time.

Mr. White moved that the Plan Commission recommend approval along with the two conditions that were recommended by staff. Mr. Alix seconded the motion.

Mr. Hopkins made a motion to add an amendment by adding a condition that this Special Use Permit applied within the current building envelope. His intent was not to say definitively that this should not be enlarged, but rather that if it was enlarged, the way it could be enlarged was significant enough that the Plan Commission and the City Council should see it again for review. This had to do with the potential of preserving the retail options. Mr. White seconded the motion for the amendment.

Mr. Alix agreed. It would not be posing a burden to the petitioner. In fact, it appeared that the petitioner wanted to preserve the building for retail options. He felt that there was a compelling community interest in continuing to monitor the development on that parcel, given the opportunity it provided for long-term commercial development and potential assemblage with the Kmart property to the north. He would support the amendment.

The motion for the amendment passed by unanimous voice vote.

Roll call was taken on the main motion and was as follows:

Mr. Pollock	-	Yes	Mr. Kangas	-	Yes
Mr. Hopkins	-	Yes	Mr. Douglas	-	Yes
Mr. Alix	-	Yes	Mr. White	-	Yes
Ms. Stake	-	Yes			

The motion was passed by unanimous vote.

**Plan Case 1878-T-04: Text Amendment of the Urbana Zoning Ordinance pertaining to the requirements in the B-1, Neighborhood Business Zoning District.**

Mr. Kowalski gave the staff report for this case. He explained how the request for changes to the B-1, Neighborhood Business Zoning District came about. There was a lot of interest in smaller scale neighborhood businesses being located closer to residential areas, so residents could walk or bike to it.

He talked about the history of where the existing B-1 zoned property was in the City of Urbana. The difficulty was that the existing B-1 lots range in size from 4000 square feet to an eight acre-sized lot. The existing land uses that one would find on different B-1 lots were also very different from a small-scaled neighborhood grocery store to something that was a little more industrial in use or office.

Mr. Kowalski stated that the main concern of the City Council was what uses would be allowed in the B-1 Zoning District by right and what should really be reviewed with more scrutiny. He reviewed the proposed text amendments to the Urbana Zoning Ordinance. Other issues that the City staff considered making changes to but were not proposing any changes to were as follows: 1) Number of Parking Spaces, 2) Lighting, and 3) Hours of Operation. He read the options of the Plan Commission and presented staff's 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 text amendments to the Zoning Ordinance to the City Council.*

Mr. Kowalski commented that making changes to the Zoning Ordinance was a little harder than it appeared. When you start getting into the Zoning Ordinance and start tweaking, then it brings up other questions. Some issues relate to all zoning districts and not just individual districts. In

this proposal, City staff was trying to make some tweaks and changes to the B-1 Zoning District that would help satisfy the goal of making development more compatible, and also offer more of an incentive to establish a neighborhood business as well.

Mr. Douglas mentioned that City staff had applied a standard of 2,500 gross feet for the uses that require a Conditional Use Permit. Did City staff not think about applying a standard whether it would even be allowed or not to say that principal use parking garages, if a certain size, were not permitted? Mr. Kowalski stated that staff did not consider a size where a principal use-parking garage would be okay or not okay. Staff felt that even a small-scaled principal use parking lot would have an activity of traffic that could have an impact to a neighborhood, and therefore, it should be reviewed.

Mr. White noticed that staff suggested requiring a wood fence. Was there any reason why staff could not make it wood or masonry? Mr. Kowalski said no. The reason why staff suggested wood fences was that they were required in other instances where fencing was required by code. The intent was more of opaque fencing rather than a chain-linked, but he did not believe that it would have to be wood. Mr. White commented that there were other types of materials that would be more durable. They would be more expensive to build; however, they would be cheaper to maintain. Mr. Hopkins inquired if it could be changed to opaque? Mr. Kowalski said yes. Before changing it to opaque, the City would need to consider all alternatives that it could be, such as sheet metal. Mr. Hopkins believed that wood was too limiting. The attributes of the fence were what the City really cared about. Mr. Pollock suggested changing it to extend to masonry or other materials that would be aesthetically pleasing. The City would not want to limit someone, who wanted to build something nicer than a wood fence either.

Mr. Alix questioned if increasing the setback requirement would be something that resulted in a significant portion of the existing lots becoming unbuildable as they were currently being built? Mr. Kowalski did not believe so. Many of the uses were in older structures that were already built and were already non-conforming. Although the B-1 Zoning Ordinance said zero setback, if it was next to a residential use, then it would be required to take their setback. Mr. Alix responded by saying that given the intent of the B-1 Zoning District was for these to be on small parcels typically in residential neighborhoods, then the City would want to be very careful as to whether they were working against themselves by making it difficult to build on what few B-1 areas that the City had. Mr. Kowalski stated that was an excellent point and one that the City staff did consider. Mr. Pollock added that if someone found that the seven-foot setback requirement was creating a hardship to build on a parcel, then the property owner could ask for a variance.

Mr. Alix inquired where the fence would have to go? Could it go on the property line? Mr. Kowalski replied yes. Mr. Alix stated that he would be concerned and it would seem pointless for the City to require a setback and also to require a fence on the property line, so that the adjacent property owner would not gain the benefit of the setback. Mr. Kowalski mentioned that there were always instances where there would be area needed to move between a fence and a building by the owner of the building. He noted that one of the issues of the setback requirements, as well, was not just the side of the building, but usually the overhang of a roof, which could encroach into the setback and trying to keep it as far from neighboring residential uses as possible.

Mr. Alix understood the argument for requiring a fence if the City intended the fence to act as a screen from headlights of cars in a parking lot or screening a dumpster. However, he did not see how someone living next to a proposed B-1 business that was required to put up a six-foot fence was significant or less of an encroachment than a building that was seven feet away. Mr. Kowalski asked if Mr. Alix was suggesting that a fence not be required between a B-1 building and a neighboring structure? Mr. Alix said yes. Maybe if there were a way to identify what the aspects of the B-1 development were that the City thought would be objectionable enough to the neighbors to require a six-foot fence, then perhaps, it would be nice to codify that. It would not seem to benefit the neighboring landowner to require the business owner to have a six-foot fence right along the property line when instead all the neighboring landowner would be looking at an exterior windowless wall of the business. Mr. Kowalski stated that it was one of those “one size fits all” problems. In some cases, a fence may be necessary, and in other cases, it may not be necessary. Mr. Alix added that it might depend upon the neighboring property owner. Some people may want to look at a fence rather than at a brick wall. However, he was concerned that requiring that high of an opaque fence went against the notion of encouraging a setback to make this a little less of an impact on a neighboring residential use.

Mr. Alix remembered some of the history behind adding “mail order businesses”. He wondered if staff would have an objection to striking it from the list of uses for the B-1 Zoning District. He did not see how a community would be served by having a mail order business, which was in effect a warehouse or fulfillment center located in a B-1 Zone. If he remembered correctly, it was added to sneak in a use that was not possible otherwise. Mr. Kowalski mentioned that was about four years ago when “mail order business” was added. Mr. Alix felt that it did not fall within what was intended for the B-1 Zoning District.

Ms. Stake asked if all of the uses that were listed would be allowed in any residential area? Mr. Kowalski explained that they were talking about the B-1 Zoning District. Ms. Stake wanted to know how the City determined the zoning district? Mr. Kowalski answered by saying that the City had the Zoning Map, which showed where sites were currently zoned B-1. For a site in a residential neighborhood that was not zoned as B-1 and someone wanted to establish a business, then the property owner of that site would have to request that the site be rezoned from residential to B-1.

Ms. Stake inquired if a principal use parking lot or garage had always been on the list? Mr. Kowalski stated that currently a principal use parking lot was permitted by right in a B-1 Zoning District. The proposed text amendment would change it so that a principal use parking lot would no longer be permitted by right, but be reviewed with a Special Use Permit.

Ms. Stake questioned if any of the businesses would be permitted if the building was 2,500 square feet or less? Mr. Kowalski replied yes.

Ms. Stake mentioned that lighting was one of the big problems. Although staff stated in the written staff report that they would still consider this issue, she felt it should be addressed. She was disappointed that staff had not proposed any changes to solve the lighting problem. Changes to the hours of operation would have helped as well, and again staff was not proposing any

changes at this time. Mr. Kowalski said that staff would not be addressing hours of operation in the future. She stated that the lighting and the hours of operation went together.

Ms. Stake inquired if a check cashing service could include a drive-in? Mr. Kowalski stated that the Zoning Ordinance only gave details about a drive-thru for a fast-food business. A fast-food business was not permitted in a B-1 Zone. Ms. Stake felt that this should be checked, because they did not want a drive-in allowed, because it would generate more traffic in residential neighborhoods.

Mr. Douglas inquired if a check cashing service would be allowed to operate with a drive-thru? Mr. Kowalski replied that they would be allowed. There were not specific regulations against it. Mr. Kangas commented that this kind of service would need to have the space to be able to have a drive-thru. Mr. Alix added that with the setback requirements, it would be hard enough to build a building on the B-1 lots, given their size.

Ms. Stake asked if some of the B-1 areas included more than one store? Mr. Kowalski replied that most of the existing B-1 sites were one use. Mr. Kangas stated that most of them were one building, but the building might be a strip with three different vendors in it.

Mr. Kangas disagreed with Mr. Alix about striking "mail order business" from the list of uses. In the age of the web, he would see most of the uses listed as boutiques. It would be very possible for some of the businesses to have a website and the business owners were trying to sell things over the web. Would this count as a mail order type of business? He did not know. In the age of technology, business owners may very well be doing more technology via mail and deliveries than in their shop.

Regarding the six-foot fence and setback requirements, Mr. Kangas felt that five or seven feet were not very big. He mentioned that there was a chain-linked fence separating his backyard from the parking lot of the apartment building located behind his house. He felt like he was walking through a parking lot in his backyard. So, he put up a cedar fence, and now it was an entirely different feel when his family was in the backyard. He believed that a fence should be required in this type of circumstance. The property owner could always come in and ask for a variance to not have to follow the fence requirement.

Mr. Alix agreed with Mr. Kangas. He could envision a scenario where people would rather not have the fence, but in the majority of the cases, the people probably would want a fence. Mr. Pollock commented that he would want to make sure that someone living next door to a B-1 development would have the option of requiring a fence.

Mr. Alix responded to the mail order business issue. If he had his way, it would be eliminated from the Table of Uses. He thought it would either be a distribution center, where the UPS guy would come everyday and pick up the mail order goods that would be going out, or if there was a retail component, then the retail component would be the highest intensity use. His argument was that anything that would only fall under "mail order business" would be not appropriate in the B-1 Zone. Mr. Kangas was inclined to agree with that. Mr. Pollock stated that the definition of a "mail order business" was and what percentage of it was would change over time and possibly change within whatever particular operation may be under review. He certainly would

not want to strike it from the list of uses, because it may be something that would be very appropriate. He suggested leaving it on the list that required a Conditional Use Permit. Mr. Alix argued that a business without a walk-in component or a retail-service component then it would not be appropriate in the B-1 Zoning District. If he wanted to order something over the internet, then he would not need to leave home to do so, and it would not do him any good to be able to walk next door to do so. The idea behind the B-1 Zoning District was to provide neighborhood service. He did not feel that a mail order business over the internet was a neighborhood service.

Mr. Hopkins talked about the idea of neighborhood business. It was also a place where people work. He did not like the idea of eliminating the bookbindery use or the candy manufacturing use. We need to remember that getting neighborhood businesses of the size that they were talking about was already next to impossible. The way a business fits in and operates allows the notion that people could work and walk to work or to a business, whether or not products sold by that business could be purchased over the internet. If we keep imagining the B-1 businesses as the perfect little grocery stores of old, then the B-1 Zoning District would not be successful. We need to be a little more inventive about the notion of what the uses were really likely to be and why we want them. He thought it was about having other kinds of activities in neighborhoods, such as having places to walk to and having some people able to walk to work.

Mr. Hopkins thought they should be imaging building configurations that they were actually interested in and how those building configurations performed at their edges. With the different ways in which edges could work, the City should be positioning themselves to be taking advantage of instead of making up the notions that fences were the solution.

Mr. Pollock remarked on Mr. Hopkins's comments regarding the viability of the B-1 Zoning District by saying that the City had been talking about the B-1 Zoning District for a number of years. The problem that he had seen with this was that with the economies of scale, the small businesses that people seem to want to open up are convenience stores with giant canopies, lights, and gas stations. It does, in terms of viable neighborhood retail, take a unique type of business, a unique location, and perhaps a unique individual to make a business work in the B-1 Zoning District. This was true of all the successful businesses currently located in the B-1 Zoning District. He believed that there were places in neighborhoods for things other than single-family residences. If it meant requiring some permitting processes such as Conditional Use Permit review or Special Use Permit review, then the City should still be flexible and willing to stretch a little bit to try to bring things into the neighborhoods that were usable and would be an amenity.

Ms. Stake asked how this was being done in the new neighborhoods? Mr. Pollock answered by saying that there were not any B-1 zones in the new neighborhoods. Mr. Kangas added that most of the new neighborhoods had covenants that made it impossible to have a B-1 zone inside it. Mr. Kowalski recalled that there was a new neighborhood that was proposed with a small lot in the front that was proposed for B-1 Neighborhood Business Zoning. This was the Southridge Subdivision. The Plan Commission and the City Council had concerns about what might happen in the proposed B-1 zone several years down the road and that it might impact the neighborhood negatively. As a result, the proposal for the B-1 zone did not pass.

Mr. Pollock stated that if they managed to craft the proposed text amendment well, then it might be possible to encourage B-1 Zoning Districts to happen in new residential expansions in a way that would protect the neighborhoods and provide services that were needed, especially since the new neighborhoods were moving further and further away from any type of commercial district.

Mr. Pollock inquired if there were no provisions for doctor or dental offices? Mr. Alix responded by saying that Professional Offices were permitted under Business Uses in the B-1 Zoning District.

Mr. Pollock asked in what neighborhood would they want a mortuary? Mr. Alix said it was the same as a funeral home. He wondered what was wrong with having a funeral home in residential areas. Mr. Kowalski added that it might not fall under a place for people to walk to work or as a convenient store that people would visit two or three times a week; however, it would be a use that may have very low impact to a neighborhood.

Mr. Pollock mentioned places that have two or three different businesses that share a building. He wondered how the change in freestanding signs would affect the businesses. Mr. Kowalski replied that each business would be allowed to have their own wall sign on the building; however, they would have to share the freestanding sign.

Mr. Alix reiterated that he would like to see the B-1 Zoning District be useful enough and appropriate enough that they could encourage new subdivisions to be built with small amounts of B-1. He believed that it was an issue that the City of Urbana was continuing to grow; yet the larger, newer subdivisions did not have any retail or service amenities nearby. Mr. Kangas agreed with this, but there were covenants. The City might try to encourage B-1 Zoning Districts in the new subdivisions, but he was not sure that people would buy into the notion of having a B-1 Zoning District nearby. Mr. Pollock commented that the people may not buy into the notion and the covenants may prevent it, but if the proposed text amendments were done right, then maybe folks might not feel that something would intrude on their homes, and other developments might be interested in doing something like that.

Ms. Stake commented that the City should also require that they have a park, and then there would be a buffer between the residences and the businesses. Mr. Kowalski stated that this worked best in a Planned Unit Development (PUD) like the Golladay Tract. They were able to look at the big picture of how it would overall develop. Ms. Stake stated that there was so much hope for the PUDs, and they have not really taken off. Mr. Kowalski remarked that the PUD Ordinance was rather cumbersome and could use some changes to make it a little more appealing for developers.

With having no more questions or comments, the Plan Commission tabled this case to the next meeting.

## **7. OLD BUSINESS**

There was none.



**8. NEW BUSINESS**

There was none.

**9. AUDIENCE PARTICIPATION**

There was none.

**10. STAFF REPORT**

Mr. Kowalski reported on the following:

- ✓ *Walton Subdivision Preliminary Plat* – was approved by the City Council on Tuesday, January 20, 2004.
- ✓ *Comprehensive Plan Steering Committee Update* – The Committee began discussing the proposed Future Land Use Maps. The next meeting was scheduled for February 12<sup>th</sup> at 7:00 p.m.

**11. STUDY SESSION**

There was none.

**12. ADJOURNMENT OF MEETING**

Chair Pollock adjourned the meeting at 9:34 p.m.

Respectfully submitted,

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Rob Kowalski, Secretary  
Urbana Plan Commission