

MINUTES OF A REGULAR MEETING

URBANA PLAN COMMISSION

APPROVED

DATE: February 19, 2004
TIME: 7:30 P.M.
PLACE: Urbana City Building
400 South Vine Street
Urbana, IL 61801

MEMBERS PRESENT: Christopher Alix, Laurie Goscha, Lew Hopkins, Randy Kangas, Michael Pollock, Bernadine Stake, Don White
MEMBERS EXCUSED: Alan Douglas, Marilyn Upah-Bant
STAFF PRESENT: Rob Kowalski, Planning Manager; Paul Lindahl, Planner; Teri Andel, Secretary
OTHERS PRESENT: Mark Dixon, Cynthia Hoyle

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

The meeting was called to order at 7:31 p.m., the roll call was taken, and a quorum was declared.

2. CHANGES TO THE AGENDA

Chair Pollock announced that case # 1881-S-04 under New Business be withdrawn from the agenda at this time.

3. APPROVAL OF MINUTES

Mr. White moved to approve the minutes from the January 22, 2004 meeting of the Plan Commission as presented. Ms. Stake seconded the motion. The minutes were approved as presented by unanimous voice vote as presented.

4. COMMUNICATIONS

- IL 130/High Cross Road Corridor Study Announcement
- Plan Commission 2003 Annual Report

5. CONTINUED PUBLIC HEARINGS

There were none.

6. NEW PUBLIC HEARINGS

There were none.

7. OLD BUSINESS

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

Rob Kowalski, Planning Manager, presented the update for this case to the Plan Commission. He discussed the three main concerns that had been expressed by the Plan Commission at the previous meetings, which were wood fencing, the elimination of certain uses in the B-1 Zoning District, and drive-through facilities. 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 amendment to the Zoning Ordinance along with additional consideration to be given regarding the regulation of drive-through facilities.

Mr. White, Chair Pollock and Ms. Goscha agreed that Alternative # 1 for drive-through facilities would be the best choice. Chair Pollock felt that it would give them a chance to look at each use request for a drive-through facility. Ms. Goscha also felt that Alternative #2 and Alternative #3 limited them to what they could presently consider, instead of what could be changing in the future.

Ms. Stake felt that drive-through facilities should be reviewed through the Special Use Permit process rather than the Conditional Use Permit process. However, she preferred to not allow drive-through facilities in the B-1, Neighborhood Business Zoning District at all. The district was supposed to encourage a walkable community, and drive-through facilities would encourage vehicular traffic.

Ms. Stake also felt that the B-1 Zoning District was trying to do too much for so much. There was such a wide difference of what types of businesses could be located in the B-1 Zoning District. There was also a difference in the size of a B-1 area ranging from a tiny area up to 25,000 square feet or more. She wondered if they should start a new zoning district to integrate small businesses into residential areas. Ms. Goscha commented that the B-1 Zoning District was supposed to be for neighborhood businesses in residential areas.

Ms. Stake did not agree that all of the uses allowed in the B-1 Zoning District would fit into residential areas. She read the list of uses that were allowed by right, with Special Use Permits,

and with Conditional Use Permits. Mr. Alix believed that it was a good list. There were only a few uses that Ms. Stake read that he might not want in his neighborhood. Although he may not need all of the uses in his neighborhood, he believed that the list represented uses that may be useful in a residential neighborhood.

Mr. Alix expressed concern about how the B-1 Zoning District might be useful for new developments. At the previous Plan Commission meeting, the commissioners discussed whether or not a developer would actually build a B-1 Zoning District development into a new residential subdivision. The general consensus was that probably no one would want to buy a lot that was next to a lot zoned B-1. It was not possible to make a commercial zone that was sufficiently restrictive to make people want to buy a lot next to it. However, one of the values of the B-1 Zoning District, in the future, might be to encourage developers to incorporate the zone with additional buffering. By providing additional buffering around the B-1 lots, developers could create an opportunity to develop business that people might not want to live right next to, but would not mind living across the street from or across the detention basin from knowing that what was in the B-1 Zoning District would be limited to relatively small businesses and would not be a gas station or a truck stop. He felt that was the real value, and therefore, he liked the fact that there was a reasonable variety of businesses allowed in the B-1 Zoning District. He believed that as the B-1 Zoning District sets now and as it was being proposed to be modified, it would be very useful as a transitional commercial zone for busy corners in larger residential developments.

Ms. Stake liked this idea a lot, because in a new subdivision, if a lot was zoned for B-1 use, then homebuyers would know what was going to happen. They would not be surprised by business being located next to them. She also liked the idea of additional buffering being required. The current B-1 Zoning District would be good for new areas like that. However, it was not good for the older residential areas. People have already purchased their homes and do not expect the neighborhood to change by allowing some of the uses allowed in the B-1 Zoning District. Mr. Kangas commented that in order for a business owner to open up a business in a residential area, unless the lot was already zoned B-1, the business owner would have to apply to the City for a rezoning of the lot. Therefore, he was not uncomfortable with the uses in the list.

Mr. Hopkins expressed his concern about the auto/truck/trailer/boat sales use being allowed in the B-1 Zoning District. He felt uncomfortable about this and did not feel that it should be permitted even though it would require getting a Conditional Use Permit. He could not picture it in any of the current B-1 Zoning Districts. Mr. Kowalski mentioned that there was an automobile repair shop located on Cottage Grove and Green Street. Mr. Hopkins stated that he was not concerned about repair shops, only the sales portion of the use. Chair Pollock stated that the Plan Commission could remove the sales portion of the use to only allow repairs.

Mr. Hopkins remarked that the commissioners had not received any draft language as to what they would be recommending approval on. In the example of the proposed amendment to Table VI-1, Development Regulations by District to require a 7-foot side-yard setback, there was no new language and no old language, so he did not know what the change would be. Mr. Kowalski stated that the change would be amending Table VI-1 in the Zoning Ordinance where it says side-yard setback is 0 feet to 7 feet. Mr. Hopkins argued that was different than what the text in

the staff report stated, which was that the current requirement was “a five-foot setback when adjacent to a single-family residential zone. This provision would increase that requirement by 2 feet”. He understood the text to mean that staff wanted to change the requirement that next to an R-1 Zoning District, the side-yard setback would be 7 feet instead of 5 feet. He understood Mr. Kowalski to say that staff wanted to change the side-yard setback from 0 feet to 7 feet for all uses even adjacent to another B-1 use on an adjacent lot. Mr. Kowalski stated that staff did not provide the retyped pages of the Zoning Ordinance of where exactly the text would be inserted. Staff felt that they were describing it well enough in the written staff report. Chair Pollock stated that if the Plan Commission members were concerned about final language, then they could review the proposed changes and have staff bring the text amendment back again along with the final language. Mr. Hopkins believed that was a good idea, because the City Council would actually adopt the language changes. So, he would like to see those language changes before recommending approval to the City Council.

Mr. White stated that he was in favor of allowing drive-through facilities, because some businesses would have a difficult time getting enough business if it was just walked to by customers. Mr. Pollock agreed. Alternative #1 would allow business owners to provide that if needed, but it also provided protection for the surrounding neighborhood to have a proposed drive-through facility reviewed to determine if it would be intrusive or not.

Ms. Stake asked if the parking requirements in general would remain the same? Mr. White commented that a drive-through facility might help alleviate some parking issues. Mr. Kowalski replied that the Zoning Ordinance did not differentiate parking by zoning districts. It requires parking based on the use. Primarily for that reason and also for the reason that staff believed that the parking requirements needed to be looked at on a more global scale, staff was not recommending any changes to the parking requirements for the B-1 Zoning District at this time.

As for principle use parking lot or garage, which was not attached to anything, but was simply parking as a use on its own, Mr. Pollock inquired if staff had considered it to require a Conditional Use Permit, where there would be some review about whether it would be appropriate for where the zoning district lies? Mr. Kowalski responded by saying that a principle use parking lot or garage, along with convenience store, drug store, and motion-picture production studio, be required to have a Special Use Permit review was already part of the proposed text amendment.

Ms. Goscha wondered when talking about fencing if the City should step back from being so prescriptive about what the fence should be, and instead say something similar to the following: The City requires screening, which could consist of a 6-foot high wood or 6-foot high decorative masonry fence or plant materials installed at a maturity to screen at least 6-feet high. She personally would rather see a hedge installed at 6-feet than to look at a really ugly wood fence, which they could be some times. She inquired if the City required the full-length of the side-yard to be fenced? Mr. Kowalski replied yes. Ms. Goscha did not feel that was necessarily appropriate. She did believe that some of the uses listed would need to be screened to keep people from having to look at a building. Screening should be used for dumpster areas, parking lots, drive-through facilities, and any materials stored outside. She felt that what might be offensive and call out the fact that it was a business was having a 6-foot high fence. She voiced

her concern about residents pulling out of their driveways and hitting pedestrians, because there were 6-foot high fences all the way to the sidewalks. Mr. Kangas stated that this was discussed at the last meeting, and the Plan Commission decided that this would be a starting point for the fences. The Plan Commission and City staff could back away from this point. Mr. Pollock said that they could lower the fence from 6-feet to 4-feet the last few feet towards the sidewalk. He was also concerned with the pedestrian issue, but he felt that there was a way that they could deal with it.

Mr. Hopkins looked through the Zoning Ordinance to find where it stated that a fence was required; however, he could not find it. Ms. Goscha stated that the Zoning Ordinance currently required 6-foot high on the side and rear yards for B-1 uses when adjacent to a single-family zoning district. Mr. Kowalski pointed out that it was stated as such on page 77 of the Zoning Ordinance under letter "d". He added that when a B-1 use was adjacent to a multi-family zoning district, the Zoning Ordinance did not require a fence. It only required a 5-foot landscape buffer.

Mr. Alix mentioned that he had argued at the last meeting that 7-feet of green space between the lot line and the B-1 building was preferable to a fence on the lot line. The general consensus was that it was impossible to come up with language sufficient to tell the difference between things people would want to look at and things people did not. He would still prefer that compared to what was being proposed. Obviously, fencing issues could be dealt with through variances, but he felt that they should come up with some other guidance other than that B-1 owners must install a 6-foot high fence on the lot line.

Ms. Stake commented that the three alternatives of wood fence, brick fence, or mature hedge were good alternatives. Mr. White argued that a hedge could die off. He liked wood or masonry fences.

Ms. Goscha raised the question of whether it would be truly objectionable to look at a building, business from a residential setting? Mr. Pollock replied that it was determined that it could be objectionable.

Mr. Hopkins inquired if there was any definition in the Zoning Ordinance of a wood fence? Mr. Kowalski replied no. In terms of fencing, 99.9% of the time, the proposal would be to do a dog-eared wood fence or stockade wood fence. That was typically what was proposed without being a requirement. Mr. Hopkins's reaction was that they did not care if it was made out of wood. They were concerned about the screening effect. There needed to be a better way to state how the Plan Commission expected this to operate.

Mr. Pollock suggested that the Plan Commission figure out exactly what they want to require and ask staff to figure out a way to state it. The Plan Commission was interested in making sure that headlights and sight line vision could not go through from a residential area to a business use. It should look good, and people should not be able to go through it. It should be something year-round.

Mr. Alix stated that he would rather look at a parking lot than a 6-foot high wood fence. Mr. Pollock stated that he did not agree; however, it was clearly a matter of aesthetics. Mr. White

stated that what the Plan Commission was looking for was a fence that people cannot see through or walk through, constructed preferably of wood or masonry and looks good, and blocks light.

Mr. Alix stated again that he would rather look at the wall of a building than a fence. At least, he would have seven more feet of green space. Mr. Kangas pointed out that they should start with the most restrictive and work backwards. B-1 owners could always request a variance regarding the fence.

Mr. Hopkins replied that this was not the intent of a variance request. Mr. Kowalski added that it could be part of a Conditional Use Permit or a Special Use Permit request. It was not typically something that could waive or vary. Mr. Hopkins commented that it was the connotations that people assign to these by experience that was really the issue. One of the ways that the City could implement this was by providing photographs indicative of the kinds of fences that would be acceptable, because it was already the Zoning Administrator or City staff's judgment of whether a fence meets expectations. Mr. Pollock noted that staff would like to keep the review by staff to a minimum, so the Plan Commission should state the desired qualities and let the Zoning Administrator decide whether they were appropriate or not. They are not going to be able to write a definition that would cover everyone's ideas of what would be acceptable to a particular neighbor in a particular area with a particular commercial use next door.

Mr. Alix felt that there should be architectural language somewhere that would contain language like this. There might be language in a building code or subdivision covenant. Mr. Kowalski believed that it would be a good approach for staff to try to better define the City's requirement for "wood" fencing or "opaque" fencing.

Ms. Stake inquired what the difference was between a Conditional Use Permit and a Special Use Permit? Mr. Kowalski explained that uses "permitted by right" are considered to be most appropriate in those districts and are allowed without any special review by the Zoning Board of Appeals, Plan Commission, or the City Council. If a person owns a piece of property that was zoned appropriately and he/she wanted to build something that was permitted by right according to the B-1 Table, then he/she would submit his/her building plans and get a permit. Staff would do a zoning review to make sure it would meet all the other requirements of the zoning and building codes. If a use was allowed with a "Conditional Use Permit", it meant that the request would be reviewed by the Zoning Board of Appeals to make sure that it meets the required criteria, which was to make sure that it would not be harmful to the adjacent properties and to make sure it meets the intent and character of the district. The "Special Use Permit" was very similar to a Conditional Use Permit review in where its review was given by the Plan Commission, and they forward a recommendation to the City Council. With both a Conditional Use Permit and a Special Use Permit, the reviewing bodies have the ability to impose additional regulations. They could increase the required setbacks, require more landscaping or parking, or whatever is deemed to be necessary to make the proposal less of an impact to the adjacent property owners. The way that the Table of Uses was structured was that the uses that are considered to be most appropriate in the district are "permitted by right". Then, there are uses that may be appropriate or may not, depending on where it is and what was being proposed. Those usually require a "Conditional Use Permit". Finally, the uses that are probably okay in the

district, but more likely would have some kind of negative impact, such as a drive-through or convenience store. Those require the highest level of review and require a “Special Use Permit”.

Outside of the difference between the bodies that review a case and the process, the difference between a “Conditional Use Permit” and a “Special Use Permit”, it comes down to kind of a feeling, intuition, or an unstated principal that a “Conditional Use Permit” deals with items that are not perhaps out of the norm as with what would be heard from a “Special Use Permit”.

Mr. Alix questioned who had the burden of proof with Conditional Use Permits and Special Use Permits? Mr. Kowalski replied that an applicant was asked on the application to justify how they feel that what they propose would be okay and how it met the criteria. The boards use that to determine if they agree and what other conditions may need to be applied.

Mr. Alix stated that the presumption was that with both Conditional Use Permits and Special Use Permits, they would be approved in the absence of some significant reason not to as opposed to the presumption being that they would be denied unless a case could be made as to why there was an exceptional need. Mr. Kowalski believed this to be true. The presumption was that they are considered to be appropriate in the zoning district, although they are the type of use that would need additional review and could require some additional provisions to make it more acceptable.

Mr. White moved that the Plan Commission recommend to staff to include Alternative #1 for drive-through facilities and that staff draft language on the requirements for fencing. Mr. Hopkins seconded the motion.

Mr. Alix felt that Mr. Hopkins made a good point regarding not having language to recommend approval or denial to the City Council on. Mr. Pollock stated that the intent of the motion was for staff to bring the proposed text amendment back in the form of language to be added to the Zoning Ordinance if the Plan Commission recommended and the City Council approved.

Ms. Stake moved to amend the motion to remove “auto sales” from the list of uses. The motioner and the seconder agreed to the amendment. The amendment passed unanimously.

Mr. Alix questioned where a resident in a neighborhood selling a couple of boats at his home would fall in the Zoning Ordinance? Would that be considered a home-based business? Mr. Kowalski stated that it would probably not be considered a business. It would depend on the volume and how regularly the person was selling boats. There are home occupation permit provisions, which allow for some kind of home occupations; however, these have to be within the house. They cannot be advertised out on the lot. For the most part, they have to be invisible to the neighborhood. Mr. Alix believed that there were ways to sell boats or cars in a B-1 Zoning District appropriately. However, he would not oppose removing it from the list if that was the consensus of the Plan Commission.

Mr. Alix clarified the motion to be as follows: To accept all recommendations from staff with Alternative #1 for drive-through facilities, request improvement to the language with regards to screening, remove auto sales and to see it again in final language.

Chair Pollock inquired if there were any proposed text changes to a church being permitted in the B-1 Zoning District as a permitted use? Mr. Kowalski replied by saying that there was no change proposed. Chair Pollock felt that a church could be pretty intrusive in a residential neighborhood in terms of traffic, parking and growth of the church. The Plan Commission had encountered difficulties with this in some neighborhoods before, and he wondered if they might consider making church use as a Conditional Use Permit as opposed to permitted. Mr. White did not think it was a bad idea. Mr. Kowalski stated that a church or temple was permitted by right in a R-4, R-5, R-6 and R-6B Zoning Districts. It would be permitted with a Special Use Permit in a R-1, R-2 and R-3 Zoning Districts.

Mr. Kangas stated that irrelevant of the zoning process, there were permit processes. If someone wanted to convert an old house to a temple or church, there would be limits as to how many people they would be able to sit at any meeting. Mr. Kowalski said that was true. There would be seating requirements, parking requirements and FAR depending on the size of the lot. Mr. Kangas asked if some of that would be resolved in the regulatory process, not necessarily in the land use process? Mr. Kowalski replied that was correct. What makes any use difficult was the different kinds of B-1 properties that there could be. Mr. Pollock asked for clarification by asking if a petitioner for a church would be restricted by square footage limitations? Mr. Kowalski said yes. The other development requirements of the Zoning Ordinance for setbacks and FAR would restrict them as well. He mentioned that there was already an example, which was the Baha'l Temple on east Green Street.

Chair Pollock asked if under the proposed changes, even if they had a huge half block lot, there would be limits as to the size of the facility that they could build on that land? Mr. Kowalski stated that there was a ratio of how much of the land could be used for a structure whether the parcel was small or big. The bigger the parcel, the bigger the structure could be built. Mr. Pollock felt that it should be reviewed by one of the processes. Ms. Goscha thought it should require a Conditional Use Permit, so that it would address the fact that it would be a business, which was permitted by right. But, it would also address the fact that it could be next to a single-family residential zoning district.

Mr. Alix complimented staff on introducing the Square Foot Test. If a business were below 2,500 square feet, then it would probably be permitted by right. If it were more than 2,500 square feet, then it would require a Conditional Use Permit or Special Use Permit. It seemed that it should be applied pretty liberally, regardless of whether it was a church or auto repair shop. The City should be consistent across uses, recognizing that the main goal of the proposed changes was to facilitate building small neighborhood scale uses and make it more difficult to build larger, regional scale uses. Mr. Kowalski responded by saying that there are some uses regardless of the 2,500 square foot provision, staff wanted to propose to keep as Special Use Permit or as Conditional Use Permit. These are based more on the type of activity that the uses would generate, not necessarily the size of the building. Mr. Alix understood that. His argument could be better stated by saying that maybe there should not be uses over 2,500 square feet that were permitted right in the B-1 Zoning District. Mr. Kowalski replied that it goes back to the parcel, how big it is and where it is. Ms. Stake reiterated that they were trying to do too much with one zoning designation.

Ms. Goscha mentioned that there was nothing in the proposed changes regarding design guidelines. She believed that the neighborhood business could really benefit from some design guidelines. Mr. Kowalski responded by saying that staff was currently working on the design guidelines for the MOR, Mixed Office Residential Zoning District. The first draft of the design guidelines have been reviewed by the Historic Preservation Commission at their last meeting. The Plan Commission would be seeing them in the next four to six weeks as a text amendment. The design guidelines are special to the MOR Zoning District, because of the intent that the district was given and its background. The MOR Zoning District has its own special Development Review Board and very specific criteria to be reviewed. Technically, they could do that for every zoning district, but he did not know if that would be appropriate to do for each zoning district. Staff was hoping that the design guidelines for the MOR Zoning District would be general enough to use as a template down the road should the City decide to extend design guidelines to another district or another type of development. Mr. Kangas noted several lots throughout the City of Urbana that were zoned B-1. He commented that it would be difficult to come up with design guidelines for this zoning district.

Roll call on the motion was as follows:

Mr. White	-	Yes	Ms. Stake	-	Yes
Chair Pollock	-	Yes	Mr. Kangas	-	Yes
Mr. Hopkins	-	Yes	Ms. Goscha	-	Yes
Mr. Alix	-	Yes			

The motion was passed by unanimous vote. The revised text would be reviewed at the March 4, 2004 Plan Commission meeting.

8. NEW BUSINESS

Plan Case # 1881-S-04: Combination Preliminary and Final Plat of The Ridge Subdivision at the southwest corner of Amber Lane and Myra Ridge Drive.

This case was removed from the agenda and may be presented at a later date.

9. AUDIENCE PARTICIPATION

There was none.

10. STAFF REPORT

Mr. Kowalski reported on the following:

- ✓ Special Use Permit for a Concrete Plant – was approved by the City Council on Monday, February 2, 2004.
- ✓ Special Use Permit for Warehouse, Self-Storage Facility – was approved by the City Council on Monday, February 2, 2004.

February 19, 2004

- ✓ **Corridor Open House** – will be held on March 4, 2004 from 4 p.m. to 7 p.m. at Lincoln Square Mall.

11. STUDY SESSION

There was none.

12. ADJOURNMENT OF MEETING

Chair Pollock adjourned the meeting at 8:50 p.m.

Respectfully submitted,

Rob Kowalski, Secretary
Urbana Plan Commission