

**MINUTES OF A REGULAR MEETING**

**URBANA PLAN COMMISSION**

**APPROVED**

**DATE:** March 21, 2013

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

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

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**MEMBERS PRESENT:** Andrew Fell, Tyler Fitch, Lew Hopkins, Dannie Otto, Michael Pollock, Mary Tompkins

**MEMBERS ABSENT:** Carey Hawkins-Ash, Bernadine Stake, Marilyn Upah-Bant

**STAFF PRESENT:** Robert Myers, Planning Manager; Scott Tess, Environmental Sustainability Manager; Teri Andel, Planning Secretary

**OTHERS PRESENT:** Viola Bradley Bias, Dennis Roberts, Randy Rose, Susan Taylor, Howard Wakeland

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

Chair Pollock called the meeting to order at 7:38 p.m. The roll was called, and he declared that there was a quorum of the members present.

**2. CHANGES TO THE AGENDA**

Mr. Myers requested that the Plan Commission review and make comments on the “Presentation of City of Urbana’s Draft Sustainable Water Management Plan” before reviewing the Plan Commission By-Laws (both items are under New Business). The Plan Commission had no objections.

**3. APPROVAL OF MINUTES**

Mr. Fitch moved that the Plan Commission approve the minutes of the March 7, 2013 regular meeting as presented. Mr. Otto seconded the motion. The minutes were then approved by unanimous voice vote.

#### 4. COMMUNICATIONS

- Proposed Text Amendment to the Urbana Plan Commission By-Laws submitted by Tyler Fitch

#### 5. CONTINUED PUBLIC HEARINGS

There were none.

#### 6. OLD BUSINESS

There was none.

#### 7. NEW PUBLIC HEARINGS

**Plan Case No. 2205-M-13: A request by Howard Wakeland to rezone an area totaling approximately 1.3 acres located at 906, 908 and 910 West Church Street; 701 and a portion of 705 North Lincoln Avenue; and 905, 907 and 909 West Hill Street from R-2, Single-Family Residential Zoning District, to B-2, Neighborhood Business – Arterial Zoning District.**

Robert Myers, Planning Manager, presented this case to the Plan Commission. He began by explaining the reason for the request, which is to rezone the proposed properties to B-2, Neighborhood Business – Arterial. He spoke about previous applications by the applicant to rezone properties in this block and explained the difference in the current rezoning application. He stated the zoning, current land uses and Comprehensive Plan future land use designations of the subject properties and of the surrounding properties. He stated that Mr. Wakeland also owns 707 and part of 705 North Lincoln Avenue, which is not included in this rezoning application. Additionally, two other properties on the block that are not being requested to be rezoned are 703 North Lincoln Avenue (owned by Judy Conerly) and 903 West Hill Street (owned by Viola Bradley). He reviewed the permitted uses and development regulations in the B-2 Zoning District. He reviewed how the LaSalle National Bank rezoning criteria relate to the proposed rezoning. In one way this application is stronger than the previous application in that it does not include the two homes owned by others. On the other hand this is a weaker application because most of the property to be rezoned to B-2 (Neighborhood Business – Arterial) would not be located on an arterial street and would not have good visibility from an arterial street. So Mr. believes that instead of retail or restaurants, the property if rezoned would be more viable for offices or apartments. He stated that he received a phone call from Peggy Brooks, who resides at 4 Hill Street Court, who stated that she opposed the rezoning and could not attend the meeting. He received a second phone call from someone asking questions about the case but who did not express either opposition or approval of the rezoning request. He presented City staff's recommendation.

Chair Pollock stated that unfortunately the Plan Commission did not have the benefit of hearing all of the public comments provided at the City Council meeting for the previous, related zoning

application. He asked if there was anyone who spoke at the City Council last time that is not present at this meeting who staff may have heard from. Mr. Myers said no.

Mr. Fell inquired about sign limitations for commercially zoned properties bordering residential properties. Can the business owner put up a 30 foot high monument sign right behind a residential property? Mr. Myers responded that freestanding signs are allowed in the B-2 Zoning District. Each business would be allowed to have one sign per business frontage. The maximum area allowed is 32 square feet. The maximum height is 12 feet tall as long as the sign is placed at least 15 feet away from the right-of-way. The maximum height of a freestanding sign is 6 feet tall if located between 8 and 15 feet from the right-of-way.

Mr. Otto questioned if the B-2 Zoning District would allow a 24-hour business. Mr. Myers said yes.

Mr. Otto asked if multi-family residential could be built by right in the B-2 Zoning District. Mr. Myers answered yes.

Mr. Otto asked if a curb cut access would be granted at 701 North Lincoln Avenue to access the proposed sites. He expressed concern for the residents at 703 North Lincoln Avenue if the answer is yes. Mr. Myers stated that the Director of Public Works has indicated that he would prefer the access to be off either Church Street or Hill Street rather than Lincoln Avenue.

Mr. Otto stated that he is skeptical of the City staff's opinion about the proposed rezoning not having an impact on the property values of the other homeowners' lots on the block. Mr. Myers replied that City staff uses the LaSalle National Bank criteria that were developed by the Illinois Supreme Court in the case of La Salle National Bank vs. County of Cook as a basis for rezoning criteria. In that court case, strictly speaking, the effect on property values specifically concern the value of the property being rezoned rather than determining what the effect would be on the neighboring property values. The four vacant lots in the block have not been redeveloped for years under residential zoning. So, one has to ask whether the existing zoning is holding back reuse of those lots. But in terms of effect on neighboring property values, much of the time the effect of a rezoning on neighboring properties depends on what would be built and the quality of that development. Having commercial next door to residences could have either a negative or positive effect on property values depending on how the commercial would be redeveloped.

Mr. Otto talked about the Comprehensive Plan showing an upzoning of the proposed properties. He expressed concern about acting too soon in order to follow the Comprehensive Plan and as a result inhibiting conformance with the Plan for future commercial uses of the four remaining lots. Mr. Myers said that is a good point. If four homes remain under residential zoning while the rest of the block is redeveloped, would those four lots be large enough to allow redevelopment someday if they too would be rezoned commercial? The answer is probably not.

Chair Pollock asked for clarification on whether City staff feels that it is unlikely that the residential homes along West Hill Street would be redeveloped as residential should something happen. Mr. Myers responded that it is more likely for 905, 907 and 909 West Hill Street to be

redeveloped residential than it is for 701 and the back part of 705 North Lincoln Avenue and 906, 908 and 910 West Church Street.

Howard Wakeland, petitioner, expressed his appreciation for the Plan Commission in how he has been treated by them in the past. He talked about the 2005 Comprehensive Plan and how the City Council went against the Plan Commission and against the Comprehensive Plan in his previous rezoning attempt for the proposed properties. Given his investment in the City of Urbana and the amount of property taxes he pays, he is unhappy that he was not given an opportunity to address the City Council about this previous application.

When he purchased the subject properties, they were run down and drug infested. He cut down over 100 trees in the back of the properties, demolished the homes that were not worth saving and cleaned up the houses that were. He is planning for 10, 20 and 30 years down the line and is trying to provide for his family. He stated that he has no intentions of building an apartment building on the property if rezoned. Instead he would like to move his office and maintenance facilities, depending upon the outcome of this current rezoning request. He commented that the existing traffic signal at the intersection of Lincoln Avenue and Church Street will serve the development he has planned for the proposed properties. It will provide an entry to access the proposed lots off Church Street.

He discussed the concept of a development “gateway” to the University of Illinois campus. The City of Urbana missed out on providing this gateway on the southwest corner of the intersection at University Avenue and Lincoln Avenue. The Nabor House development is the only step that the City of Urbana has made to make Lincoln Avenue a gateway. He explained the reason he is before the Plan Commission again with a rezoning request of the proposed properties. He stated that in the current application he has removed properties he does not own and has left two of his houses under residential zoning in order to appease the neighbors.

Chair Pollock explained that the rules to speak at a City Council meeting are different than for a Plan Commission meeting. City Council has a period at the beginning of each meeting where people have an opportunity to speak.

Viola Bradley, 903 West Hill Street, stated her opposition to the proposed rezoning. She expressed her concern about a maintenance building being constructed behind her house. There will be a lot of noise and vehicles coming and going. Mr. Wakeland’s plans will not serve the community. They will serve only him. It was a quiet neighborhood until Mr. Wakeland purchased the lots and rented the houses out to students. It is his responsibility to keep the properties free of drugs and to keep them well maintained because he owns them. He is making money off the properties with houses on them. He rents them out for \$600 per bedroom. So, he is not losing anything. He has enough money. He cannot take it with him when he dies. How much money do his kids need to live? Other people need to live also. 903 West Hill Street is her little corner of the world. Her kids mean as much to her and his kids do to him. She should be able to leave her little property to her kids and have the value of her property intact rather than it decrease by Mr. Wakeland rezoning his properties and building a maintenance shop behind her house.

Susan Taylor, 606 West Michigan Avenue, spoke in opposition of the proposed rezoning. She recalled that in a previous hearing for a request submitted by Howard Wakeland to rezone the proposed properties it was stated that the decision is not based on the petitioner but rather it is based on the location. She talked about how the Comprehensive Plan changes depending on what has happened since the last update. The proposed rezoning continues to bite away at a vulnerable residential area, and the City has a responsibility to the residents in the area to protect their properties. She does not understand why the City would rezone a property until seeing a plan for development. The City needs to have a two-step process for rezoning requests and development plans where the developer brings an idea forward and gathers input from the Plan Commission members before submitting final plans for a final decision.

With no further comments or questions from the audience, Chair Pollock opened the meeting for Plan Commission discussion and/or motion(s).

Ms. Tompkins stated that she likes this application even less than the previous applications because it would provide less commercial frontage along Lincoln Avenue. The proposed rezoning feels more like spot zoning. Given time, it may be better suited to follow the Comprehensive Plan and rezone to business. She realizes that leaving the vacant properties zoned residential may be a factor in their vacancy, but it's not the job of the City to compensate Mr. Wakeland if he has potentially made a bad investment. She believes when looking at the La Salle National Bank criteria, most of them weigh more heavily against rezoning.

Mr. Fitch agreed about the lack of frontage along Lincoln Avenue being a weakness in this rezoning case. He feels that Neighborhood Business is a good designation for the block, but he feels it needs to be for the whole block, especially the frontage along Lincoln Avenue, which is why he voted in favor of the previous request to rezone. He does not feel that the current proposal is complete.

Mr. Otto agreed with the concerns that have been raised. Another issue for him is that if they approve the rezoning request, then any of the permitted uses in the B-2 Zoning District would be allowed and could be open 24 hours. Until they have some resolution for the homeowners, he does not see how the City can respect the principle of zoning. It does appear to be spot zoning. While he agrees with the concept of rezoning in accordance with the Comprehensive Plan, it does not mean that we should impose a crudely fashioned rezoning.

Mr. Fitch moved that the Plan Commission forward Plan Case No. 2205-M-13 to the City Council with a recommendation for denial. Ms. Tompkins seconded the motion.

Chair Pollock commented that previously the Plan Commission voted unanimously in favor of recommending that the City Council rezone the entire block to B-2 (Neighborhood Business – Arterial). However, the City Council was privy to testimony that the Plan Commission did not hear and denied the request. He commented that there has never been a two-step planning process for a rezoning request. Although some developers have a plan when they request a rezoning, it is not required. In fact, the job of the Plan Commission is to look at the highest and best use for the land, not based on what the members believe Mr. Wakeland would or would not do, but what is possible under the B-2 Zoning District. Mr. Wakeland could sell the land the day

after the rezoning would be approved, which is something that the City needs to take into consideration.

His response to Mr. Otto's comment about whether or not doing this type of development in this area would preclude a better, long-term outcome for what the Comprehensive Plan designates as Neighborhood Business is yes. He stated that City staff feels the proposed case is stronger than previous requests, and he disagrees. In reviewing the La Salle National Bank criteria his interpretations are different than what was provided in the staff memo. Under Criteria 1, should the proposed rezoning be approved, it would have an even greater impact on the properties to the west because the proposed rezoning would only rezone the western portion of the block. Under Criteria 2 and 4, the property values to be considered refer to everyone's properties in the area. He feels that proposed rezoning would decrease the property values of adjoining properties. Under Criteria 5, without the entire block being rezoned, it is unclear that this would be a suitable project. The question is what can be built under the B-2 Zoning District on the back half of a property lacking a majority of the property's frontage on an arterial street.

He understands Mr. Wakeland's displeasure with the whole process. However, this is a weaker case than the previous attempts. Therefore, he will reluctantly support the motion.

Roll call on the motion was as follows:

Mr. Fitch	-	Yes	Mr. Hopkins	-	Yes
Mr. Otto	-	Yes	Mr. Pollock	-	Yes
Ms. Tompkins	-	Yes	Mr. Fell	-	Yes

The motion was approved by unanimous vote. Mr. Myers stated that this case would go before the City Council on April 1, 2013.

## **8. NEW BUSINESS**

### **Presentation of City of Urbana's Draft Sustainable Water Management Plan**

Mr. Myers stated that this item is an opportunity to provide any feedback or comments Plan Commissioners might have on the draft Sustainable Water Management Plan, and that the Commission is not being asked for a formal vote or recommendation.

Scott Tess, Environmental Sustainability Manager, then presented this item to the Plan Commission. Mr. Tess talked about the review process and continued by presenting the following:

- Impetus
- Purpose
- Scope
- Timeframe
- Summary Page of the Plan
  - Aspect 1: Potable Water Supply & Demand

- Aspect 2: Potable Water Quality
- Aspect 3: Surface Water & Stormwater
- Aspect 4: Flood Management
- Aspect 5: Recreational Waters
- Example Page of how each section is organized
- Implementation Table
- Items of Interest to the Plan Commission
  - Page 16 – Action 4
  - Page 18 – Goal 2 and Action 1
  - Page 20 – Goal 1 and Action 1
  - Page 20 – Goal 2 and Actions 1 and 2

Mr. Fitch asked when tracking residential consumption if this included bottled water. Mr. Tess said no. They would only track water from pipes, which is a trend across the country.

Mr. Hopkins inquired about how brownfields would be addressed as this is an action item. Mr. Tess replied that brownfields are declared when a property owner chooses to enter the State of Illinois Brownfields Program. There currently are no properties in Urbana in the program. We could speculate that industrial properties in the 1930s, 40s and 50s might have contamination in the soil. However, no property owner wants to self-identify their property as having contamination until they are prepared to enter the Brownfields Program and be able to take care of the problem in a way that will not be financially devastating.

Mr. Hopkins stated that one of the ways he views the plan is as a long list of things for people to do, especially City staff, and he feels it is an unrealistic list. There is a lot more than the City has the capacity to do. He is trying to figure out what the City is really trying to do. Mr. Tess responded by saying that there are a number of items phrased as “Assess...”. They are trying to create a list of how much time and money would be required to take action to resolve an issue. Mr. Hopkins said that the plan would then not contain information about areas that have contamination and need to be dealt with. Mr. Tess replied that is true. It would be difficult to do because the City cannot enter private property to take soil samples to see if the soil is contaminated.

Mr. Tess asked Mr. Myers if he could elaborate on any brownfield locations in Urbana. Mr. Myers responded that, in a general sense, brownfields are properties which people don’t want to purchase and redevelop based on a suspicion that soil may be contaminated. One property that is known to have some soil contamination is the old Denny’s Cleaners property on N. Race Street. A survey of the property has identified the extent of the soil contamination, and the ground surface has been capped with asphalt paving. It’s contained but not dealt with. If someone wanted to purchase the property and redevelop it, they would need to clean up the contamination first. Another location is a small area at the northeast corner of University and Broadway Avenues. It has been capped with asphalt as well. Other likely areas are along railroad tracks and in commercial corridors where gas stations have been closed.

Mr. Hopkins stated that it sounds like a great deal of work must be done just to define the problem. Most actions are one step or two steps from actually doing anything. Creating a list of

properties that may be brownfields and cannot be developed would be useful information. It could even be annotated in the Comprehensive Plan. Mr. Tess replied that if the City ever participates in a legal form of a brownfield redevelopment process, we would have to go through a step to access what it would take. The idea for the proposed plan is to get the first preliminary step out of the way by researching how the state brownfields program works and how much it would cost the City to be involved. That would help the City know under what circumstances, if any, the City would want to be involved with brownfields assessments or clean up.

Chair Pollock suggested that although the Boneyard Creek improvements are well underway, they should move the assessment of the remaining projects to the top of the list.

Mr. Hopkins recommended that staff divide the tasks/actions into lists...one for a staff work program and another list for larger project ideas. When he looks at the proposed plan and sees the implementation partners to be the City of Urbana and Champaign County Regional Planning Commission and the task is to assess the legal procedures, it is the wrong degree of resolution of who is to perform the task. The question of who to do the task is Scott Tess, Libby Tyler, Robert Myers, Public Works, etc. because they are such specific work program like tasks. It would seem more real if it were written as a work program.

Ms. Tompkins suggested that Mr. Tess use a different format for the Implementation Table to make it easier to read.

Mr. Fitch stated that it is good that City staff is researching and creating a water management plan. With the stormwater fee and credit program, he likes the plan.

Mr. Otto asked about the anticipated stormwater program credits. Mr. Tess replied that there are two different types of credits. One is an incentive, which is available once every ten years. The other type is a utility credit where if the business owner does a specific thing, then the annual fee decreases. While the incentives apply to both residential and commercial properties, only commercial properties can receive credits.

There were no further comments or discussion on the draft plan.

### **Review of the Plan Commission By-Laws**

Chair Pollock suggested that since the by-laws require that the Plan Commission review them once a year, then City staff automatically place them on the agenda for the first meeting in March of every year.

Mr. Fitch submitted a proposed amendment to the by-laws to City staff regarding language in Article VI.6 allowing opponents in a case to “cross-examine” the petitioner. Cross examination of those testifying has never been practiced. In general, they allow anyone wishing to speak to voice their concerns/questions without ranking them by proponent and opponent. The petitioner always has at least one rebuttal if not more based on public comment. The public is given unlimited access to the Plan Commission in terms of rebuttal and comments as well. The Plan



Commission agreed that they would like to codify the procedures that they practice in the by-laws and to make sure that what is written does not preclude keeping the process open.

Mr. Hopkins suggested that the Plan Commission voice their concerns and have the City staff draft changes to the by-laws and present them again to the Plan Commission at a future meeting.

Mr. Hopkins asked City staff to look at revising language in Article VII.3. There was discussion between the Plan Commission members and City staff as to whether it is sufficient enough for legal purposes to have findings of fact in the written staff report or does the Plan Commission need to state the facts of finding in their motions? Mr. Myers explained that the facts of finding included in the written staff memo are the basis for the findings incorporated in any ordinances presented to the City Council for approval.

Mr. Hopkins believes that Article VII.4 and Article VII.5 are inherently contradictory. Number 4 should read as "...by a majority of the members of the Commission present and voting." They discussed "recusing" versus "abstaining" and how they should define "quorum" in the bylaws.

Mr. Hopkins referred to Article IX. Amendment of Rules. He stated that there is no definition for rules and he assumes that it refers to the bylaws. They should remove Article IX.2 and be specific about what rules can be overridden.

Mr. Hopkins stated that Article X.8 refers to no communication with other commissioners; however, it does not say anything about not having communication with a petitioner or other representatives. He felt it is important enough to be included in the bylaws. Mr. Pollock added that language should be included about how to direct commissioners to respond to private inquiries/comments. Mr. Myers prefers that the commissioners ask any members of the public who contact them individually to address concerns to him in writing so he can provide the same information to all members of the Plan Commission.

Mr. Fitch mentioned roll call vote on motions. Article VII.2 talks about the Secretary alternating the roll call from one meeting to the next. In actuality, the Planning Secretary alternates the roll call from one case to the next in the same meeting. The Plan Commission believes this to be a better method than alternating from meeting to meeting.

Mr. Pollock read Article X.3 to remind everyone how important it is. He then continued this agenda item to a future meeting.

## **9. AUDIENCE PARTICIPATION**

There were none.

## **10. STAFF REPORT**

Mr. Myers reported on the following:

- Clark-Lindsey Preliminary and Final PUD applications were approved by the Urbana City Council on Monday, March 18, 2013.

Mr. Fell asked for the City to reconsider how it allows off-site parking to be a “gentlemen’s agreement”. For instance he recalled that the Special Use Permit for the Pawn King on University Avenue included cross access for Gold and Diamond Exchange without any stipulations for formal easements. He believes that the City should require a binding written agreement for off-site parking and vehicular access across land. Mr. Hopkins replied that they should require a recorded easement.

## **11. STUDY SESSION**

There was none.

## **12. ADJOURNMENT OF MEETING**

The meeting was adjourned at 10:13 p.m.

Respectfully submitted,

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Robert Myers, AICP, Secretary  
Urbana Plan Commission