

MINUTES OF A REGULAR MEETING

URBANA PLAN COMMISSION

APPROVED

DATE: August 9, 2012

TIME: 7:30 P.M.

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

MEMBERS PRESENT: Carey Hawkins-Ash, Andrew Fell, Tyler Fitch, Dannie Otto, Michael Pollock, Bernadine Stake, Mary Tompkins

MEMBERS EXCUSED: Lew Hopkins, Marilyn Upah-Bant

STAFF PRESENT: Robert Myers, Planning Manager; Teri Andel, Planning Secretary

OTHERS PRESENT: Marcus Harris, Dean Hazen, Susan Taylor

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

Chairperson Pollock called the meeting to order at 7:30 p.m. The roll was called and a quorum was declared present.

2. CHANGES TO THE AGENDA

There was none.

3. APPROVAL OF MINUTES

Mr. Ash moved that the Plan Commission approve the minutes from the July 19, 2012 meeting. Mr. Fitch seconded the motion. Mr. Ash asked that the following sentence be added to the minutes, *“Mr. Ash asked Mr. Harris and Mr. Hazen whether they would offer firearm educational services to which they assented.”* The Plan Commission members agreed to the change, and the minutes were approved by unanimous voice vote.

4. COMMUNICATIONS

There were none.

5. CONTINUED PUBLIC HEARINGS

Plan Case No. 2181-T-12: A request by the Zoning Administrator to amend Table V-1, Article II, Article V, and Article VII of the Urbana Zoning Ordinance to establish standards for “Firearm Sales” and “Firing Range (Private Indoor)”

Robert Myers, Planning Manager, presented an update of the proposed text amendment to the Plan Commission. City staff intends for the proposed text amendment to establish standards for firearm sales as a land use category rather than as an activity. Based on this, City staff modified the proposed term “firearm sales” to “firearm store” in Table V-1, Table of Uses.

At the request of the Plan Commission, Mr. Myers has further researched minimum distance requirements for firearm stores and firing ranges. He pointed out that there are minimal distance requirements for other uses in the City of Urbana are common, such as billboards and adult entertainment uses. He talked about minimum distance requirements for firearm sales and the results of the court case *Illinois Sporting Goods Association versus County of Cook* (1994). Establish minimum distance standards can be a reasonable zoning requirement, but City staff recommends that the standard minimum distance requirement be removed from the proposed ordinance since it is limited to two specific uses: firearm stores and firing ranges. The Plan Commission could choose to recommend minimum distance requirements, but City staff would need to do further legal research to determine whether these standards would need to be applied across the board to all firearm sales. The proposal in writing before the Plan Commission is to deal with potentially sensitive nearby land uses such as churches and schools on a case-by-case basis through the special use permit process.

To address Plan Commission questions about what elements might be included in site security plan, Mr. Myers met with Dean Hazen and Roger Tillman of D & R Firearms to review the security used for their home-based business. Mr. Myers discussed these elements and suggested that the Plan Commission could make approval of a security plan a standard condition.

Chair Pollock opened the hearing up for Plan Commission questions to City staff. The questions and answers were as follows:

If a minimum distance regulation was supported and added to the proposed text amendment, how would it affect a home-based firearm dealer use? Mr. Myers replied that minimum distance requirements would not apply to a home based business because the use is accessory to the principal use as a home.

If the proposed text amendment is approved, would it prohibit home-based firearm business? Mr. Myers responded that such uses would still be permitted as long as it meets all of the City’s home occupation standards and complies with approved permits.

Does the City’s existing Home Occupation Ordinance require a security plan? Mr. Myers responded that it does not.

What about firing ranges? Mr. Myers responded that the current Zoning Ordinance does not have indoor firing ranges in the Table of Uses. As being proposed, the City would review requests for firing ranges on a case-by-case basis to ensure compatibility with neighboring properties.

There was a concern about who would approve a site security plan given that the proposed wording would be approval by the Police Department. Mr. Otto would be more comfortable identifying the Chief of Police as the person who reviews site security plans rather than just naming the Police Department. Mr. Myers said this could be changed.

There was also concern that there are no restrictions on the hours of operation. It is conceivable to have hours of operation as long as it relates to a public purpose.

Should there be a specific list of security measures that a future owner would be required to complete? Mr. Myers recommended that this be left to the Chief of Police to determine what type of security would be needed for each business. The City could also address this when reviewing and deciding upon the special use permit request that is required to open a firearm store.

Are firearm dealers required to renew their site security plans every so often? It would be reasonable to require periodic review of security plans.

Are regulations in a special use permit process allowed to be determined based on the specific needs of that particular request without regard to other special use permit approvals that have come before? Mr. Myers responded "yes".

Could an age limit be placed on entry into the store as a condition on approval of a special use permit request? How old must a person be to obtain a FOID card? Mr. Myers believed an age limit could be a condition if the City finds a reasonable relationship between the age limit and protecting the public.

Does the City of Urbana impose hours of operation for alcohol sales? Mr. Myers responded that City staff could find out and get back to the Plan Commission.

Why would private indoor firing ranges require a conditional use permit rather than a special use permit in the AG, Agricultural, and CRE, Conservation-Recreation-Education, Zoning Districts? Wouldn't the City Council want to review all of these uses? Mr. Myers explained that because AG and CRE Zoning Districts usually have large lots, firing ranges established there are less likely to impact neighbors and so a conditional use seems reasonable. But there is some logic to having all of these uses approved by the Plan Commission and City Council as Special Use Permits. Mr. Myers would support this change.

In researching the distance from specific uses, did City staff find any communities that regulate distance between a firearm store and a business that sells alcohol? Yes, occasionally. The most common distance regulations applied to schools, residences, places of worship and parks. Distance requirements to liquor stores are probably the fifth most common.

With no further questions for City staff, Chair Pollock reopened the public hearing and asked for any comments from the public.

Dean Hazen and Marcus Harris came before the Plan Commission to speak.

Following up on Plan Commission questions, Mr. Hazen explained that a person must be at least 18 years old to obtain FOID card and 21 years old to purchase. An 18-year-old can purchase shotgun and 22-rifle ammunition only.

A firearm business is required by the Federal Bureau of Alcohol, Tobacco, and Firearms (ATF) to have a block of hours that the business is open, even if it's just a couple of hours a week. The reason is because the ATF can only inspect the business during business hours. For this reason a home occupation firearms dealer needs to be able to have some limited hours open to the public.

With regards to restricting the age limit for people who can enter a firearm business, he stated that some of his customers bring their children with them when coming to his business. They are out running errands and stop by his business to see what he has for sale. Owners of this type of business and the children's parents are not going to allow the children to handle guns. It is actually educational for children as part of firearms safety. It would not be onerous for the City to place an age restriction for entrance as long as they include that minors can be accompanied by their parent or legal guardians. It is a state law that a person must have a FOID card to even look at or touch a firearm. He believes that the reason an 18-year-old can purchase a FOID card is for hunting purposes. Even then, the 18-year-old has to be sponsored by a parent.

He confirmed that there is a 72 hour waiting period to purchase a hand gun and 24 hour waiting period to purchase a long gun (shotgun or rifle). He explained the process for completing a background check. In the case where the waiting period has expired and he has not heard back from the Illinois State Police, there are specific steps to follow. After the initial 72 hour waiting period, he calls the State Police's FOID Division to inform them that he has not heard anything about the customer. They have an additional 2 days to respond. After 5 days with no response, the customer is legally able to purchase a firearm. But the firearm dealer is not obligated to sell a gun. He has turned down a few people even though they had a FOID card.

There was a concern expressed about the potential noise produced from an indoor firing range. Mr. Hazen said that any indoor shooting range he has visited he has not heard any noise outside whatsoever except in a few cases when someone is shooting something enormously loud. Chair Pollock pointed out that as mentioned earlier, an indoor shooting range is only allowed in the AG and CRE Zoning Districts, which are usually fairly large sized parcels. However, if an indoor shooting range is proposed to be located within the City on a smaller size lot, then the noise level is something that could be addressed during the special use permit process.

Mr. Hazen noted that easily 90% of his customers have inquired about places to practice shooting and receive training and education on firearms. There is no place locally for the public to go. Some people set up cans along the roadside to practice shooting, which is extremely dangerous because bullets can travel a long distance.

With regards to restricting hours of operation for a firearm store, Mr. Hazen thought that a closing time of 7:00 p.m. or 8:00 p.m. would not interfere with business. Most customers visit his business either before work, after work or on the weekends. Mr. Harris recommended for a shooting range, extending the hours of operation from 9:00 a.m. until 9:00 p.m. Weekends are very popular.

As for firearms, Mr. Hazen explained that most people bring their own firearms to a shooting range. However, most shooting ranges will have firearms that people can rent while at there. This gives people an opportunity to fire a gun that they may not own or have wanted to try.

Customers must have FOID cards. There are certain regulations people must follow to transport their firearms to a shooting range. Once a customer arrives, a range officer would then inspect the firearm to ensure that it is safe and would also inspect the customer's ammunition because there are regulations on what type of ammunition can be used at a range.

Mr. Harris stated that firing ranges are often conjoined with gun stores, or they sell their own ammunition and firearms. Sometimes the gun store and the shooting range are owned by separate people.

With no further input from the public, Chair Pollock closed the public hearing and opened it up for further questions for City staff from the Plan Commission.

The Plan Commission asked how a "school" was defined. Mr. Myers explained that staff uses the definitions in the Zoning Ordinance as land use categories to find principal uses of properties. The Zoning Administrator would interpret what the principal use of a property is based on the definitions in the Zoning Ordinance prior to a special use permit request coming before the Plan Commission or City Council.

With no further questions, Chair Pollock entertained Plan Commission discussion and/or motion(s).

Mr. Fell wondered if the minimum distance requirement should also apply to home occupation permits. It seems that every other instance where we have a minimum distance requirement, it is something that would never be a home occupation use, such as radio tower, wind turbine, etc. If we apply a minimum distance requirement to a firearm store, then we also need to apply it to a home-based firearm business. Mr. Myers replied that this opens up the issue of whether a minimum distance should be required for any business that sells guns. This would include a pawn shop or a sporting goods store, which are both permitted by right in certain zoning districts. As such, gun sales would only be a small portion of the overall business either in square footage or in their level of income. The City could never allow outright retail sales in any home occupation business because it flies in the face of residential zoning. Mr. Fell pointed out that home firearm businesses are required to be a retail shop for a certain period of time each week by having set hours of operation. Mr. Myers replied that City staff does not consider it to be a retail shop just because they have a few hours of operation. They have prior arrangement for visits on a clientele basis. The hours of operation could be time when pre-arranged clients could come to fill out paperwork, finalize a sale that started on the internet, pick up a product, etc. The

proposed text amendment as written does not include minimum distance requirements. Each request would be considered on a case-by-case basis. Mr. Otto stated that it would be a good idea for the City to require a rationale for placing a minimum distance requirement on a specific request. Mr. Myers agreed.

Mr. Ash wondered if there should be any distinction for combination firearm stores/firearm ranges guns. Mr. Ash said that the two uses could cohabitate in one building with a wall separating them. Chair Pollock believes that they could impose a minimum distance requirement on the gun range from schools, churches, etc. in this instance.

Mr. Myers stated that there are two ways to deal with adjacent uses. One is through the approval process and the other is through standard conditions. The City could say that any specific use (such as billboard, firearm store, indoor shooting range, etc.) has to be a specified distance from another type of use (such as residential, church, etc.). Another way to deal with the use is to require a special or conditional use permit where it would be reviewed on a case-by-case basis. A third option would be to require both a minimum distance and a special or conditional use permit. Chair Pollock added that this part of the process is simply what zoning districts a firearm store or indoor shooting range would be allowed in and what type of process would an owner go through to locate there.

Ms. Stake talked about the danger of having a firearm store located near schools. There have been 100 school shootings since the deadly 1999 Columbine High School shooting. It is not reasonable to locate a firearm store or indoor shooting range in an area where there is already a high crime rate. She is opposed to people owning guns.

Could a firearm store currently be established in a commercial district? Mr. Myers responded that it could not now be established as a primary use. It could be part of a larger retail use such as a sporting goods store or pawn shop. The Zoning Administrator would need to make this interpretation.

There was discussion about the noticing requirements for special and conditional use permit hearings. City staff is required to notice public hearings within 250 feet, excluding City right-of-ways. If the Plan Commission desired to increase this distance, then they could add that to the recommendation that they forward to City Council for the proposed text amendment.

Mr. Fitch moved that the Plan Commission forward Plan Case No. 2181-T-12 to the Urbana City Council with a recommendation for approval as indicated in the revised written staff report dated August 3, 2012. Mr. Fell seconded the motion.

Mr. Ash moved a friendly amendment to amend Section V-13.H to read as such: *The sale of firearms as a home occupation shall require approval of a site security plan by the Chief of Urbana Police Department or his designee for renewal every three years.* Mr. Otto seconded the motion.

Mr. Ash stated that this will incorporate what the Plan Commission had already discussed in specifying the officer responsible for approval. If the Chief of Police is too busy, then he can

designate one of his responsible deputies. It also incorporates Mr. Fell's comments as to the renewal period in the event that there is growth and expansion for the business owner.

Mr. Otto called the question on the amendment. Mr. Fitch seconded. A hand vote was taken and the question on the amendment passed.

Roll call on the motion to amend was as follows:

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|--------------|---|-----|-----------|---|-----|
| Mr. Ash | - | Yes | Mr. Fell | - | Yes |
| Mr. Fitch | - | Yes | Mr. Otto | - | Yes |
| Mr. Pollock | - | No | Ms. Stake | - | Yes |
| Ms. Tompkins | - | Yes | | | |

The motion to amend was approved by a vote of 6-1.

Mr. Ash moved a friendly amendment to amend Section VII-5. Special Use Terms and Conditions Subsection D, Number 1 to read as such, "~~Urbana Police Department approval of a~~ A site security plan shall be submitted to the Urbana Chief of Police or his designee for his approval every three years as a condition for approval of a Special Use Permit." Ms. Stake seconded the motion.

Mr. Fell understood the motion to mean that a firearm store owner would have to get approval of a new Special Use Permit every three years. Mr. Ash stated that his intent is to require a firearm store owner to resubmit a security plan every three years as a condition of the approval of the permit.

Chair Pollock presented a scenario where a store owner gets approval of a special use permit to locate a firearm store, submits a site security plan and it is approved, then three years later resubmits a site security plan as required that is not approved by the Chief of Police or his designee, what happens then with the special use permit? Mr. Ash replied that the Chief of Police would give notice of the denial of the site plan, and the special use permit would come back to the Plan Commission in terms of the validity of the permit. It would actually trigger a review of the special use permit.

Mr. Otto likes this idea, because many times a special use permit is granted and there is no way to enforce that the owner is complying with the conditions of the permit. For example, when an owner agrees to contract for additional required parking. They let the parking contract lapse after getting approval of the special use permit, and the City has no way of enforcing that a new contract be arranged.

There was discussion by the Plan Commission about whether the owner should be notified every three years when the time comes to resubmit a site security plan or whether the owner should be held responsible to resubmit on their own similar to a driver's license. It was pointed out that there is an expiration date on a driver's license alerting the individual when his/her license would expire. The Plan Commission decided it should be an administrative decision.

Chair Pollock asked for the motion to amend to be read back to them.

Roll call on the motion to amend was as follows:

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|-----------|---|-----|--------------|---|-----|
| Mr. Fell | - | Yes | Mr. Fitch | - | Yes |
| Mr. Otto | - | Yes | Mr. Pollock | - | No |
| Ms. Stake | - | Yes | Ms. Tompkins | - | No |
| Mr. Ash | - | Yes | | | |

The motion to amend was approved by a vote of 5-2.

Mr. Otto moved a friendly amendment to Table V-1. Table of Uses to change the level of review for *Private Indoor Firing Range* in the AG and CRE Zoning Districts from *C* (Conditional Use Permit) to *S* (Special Use Permit). Mr. Fitch seconded the motion.

Mr. Otto stated that an indoor firing range use has the potential to generate a lot of public interest and controversy. Therefore, he believes that it should require review and action by the Urbana City Council. Chair Pollock agreed.

Roll call on the motion to amend was as follows:

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|--------------|---|-----|-----------|---|-----|
| Mr. Fitch | - | Yes | Mr. Otto | - | Yes |
| Mr. Pollock | - | Yes | Ms. Stake | - | Yes |
| Ms. Tompkins | - | Yes | Mr. Ash | - | Yes |
| Mr. Fell | - | Yes | | | |

The motion to amend was approved by unanimous vote.

Mr. Otto moved a friendly amendment to Section VII-5. Special Use Terms and Conditions – Subsection D to add Number 3 and Subsection E to add Number 2 to read as such, “Hours of Service shall be limited to 9 a.m. to 9:00 p.m.” Mr. Fitch seconded the motion.

Mr. Otto felt that the earlier discussion explained the intent of this friendly amendment.

Roll call on the motion to amend was as follows:

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|-----------|---|-----|--------------|---|----|
| Mr. Otto | - | Yes | Mr. Pollock | - | No |
| Ms. Stake | - | Yes | Ms. Tompkins | - | No |
| Mr. Ash | - | Yes | Mr. Fell | - | No |
| Mr. Fitch | - | Yes | | | |

The motion to amend passed by a vote of 4-3.

Chair Pollock moved a friendly amendment to Section VII-5. Special Use Terms and Conditions – Subsection D to add Number 4 and Subsection E to add Number 3 to read as such, “No

individual under the age of 21 unless accompanied by a parent or guardian will be allowed on the premises.”

Mr. Ash requested that they add “...legal guardian...”

There was discussion about 18-, 19- and 20-year olds being able to enter purchase some types of ammunition. The Plan Commission decided that these individuals are exempt from the regulation because they are not old enough to purchase firearms anyway.

There was discussion about if the government lowers the age restriction to purchase firearms. The Plan Commission decided to change the language in the amendment to read “...under the legal age of 21 to purchase a firearm...”

Chair Pollock restated the amendment to read as follows, “*No one under the legal age to purchase a firearm in the State of Illinois will be allowed on the premises without a parent or legal guardian.*” Mr. Otto seconded the motion.

Roll call on the motion to amend was as follows:

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|--------------|---|-----|-----------|---|-----|
| Mr. Pollock | - | Yes | Ms. Stake | - | Yes |
| Ms. Tompkins | - | Yes | Mr. Ash | - | Yes |
| Mr. Fell | - | Yes | Mr. Fitch | - | Yes |
| Mr. Otto | - | Yes | | | |

The motion to amend passed by unanimous vote.

Mr. Fitch moved a friendly amendment to Section VII-5. Special Use Terms and Conditions to add Subsection F to read as such, “*Require notification for Special Use Permit to property owners within 500 feet of the subject property*”. Ms. Stake seconded the motion.

Mr. Fitch felt this amendment is preferable for setbacks. Rather than setting a minimum distance requirement between uses, he believes that notifying a larger area of pending public hearings will generate more input for the Plan Commission and the City Council to use in making decisions. There was discussion about whether or not 500 feet would be enough. Mr. Myers clarified that 500 feet would be from the outer property line of the parcel on which the use is located, not from the building in which it would be located.

Roll call on the motion to amend was as follows:

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|-------------|---|-----|--------------|---|-----|
| Ms. Stake | - | Yes | Ms. Tompkins | - | Yes |
| Mr. Ash | - | Yes | Mr. Fell | - | Yes |
| Mr. Fitch | - | Yes | Mr. Otto | - | Yes |
| Mr. Pollock | - | Yes | | | |

The motion was passed by unanimous vote.

With no additional amendments, the main motion read as follows:

The Plan Commission forward Plan Case No. 2181-T-12 to the Urbana City Council with a recommendation for approval as amended in the revised written staff report dated August 3, 2012 along with the following amendments:

1. Amend Section V-13.H to read as such: ***The sale of firearms as a home occupation shall require approval of a site security plan by the Chief of Urbana Police or his designee for renewal every three years.***
2. Amend Section VII-5. Special Use Terms and Conditions Subsection D, Number 1 to read as such: ***A site security plan shall be submitted to the Urbana Chief of Police or his designee for his approval every three years as a condition for approval of a Special Use Permit.***
3. Amend Table V-1. Table of Uses - Change the level of review for Private Indoor Firing Range in the AG and CRE Zoning Districts from C (Conditional Use Permit) to S (Special Use Permit).
4. Amend Section VII-5. Special Use Terms and Conditions – Subsection D to add Number 3 and Subsection E to add Number 2 to read as such, ***“Hours of Service shall be limited to 9 a.m. to 9:00 p.m.”***
5. Amend Section VII-5. Special Use Terms and Conditions – Subsection D to add Number 4 and Subsection E to add Number 3 to read as such, ***“No one under the legal age to purchase a firearm in the State of Illinois will be allowed on the premises without a parent or legal guardian.”***
6. Amend Section VII-5. Special Use Terms and Conditions to add Subsection F to read as such, ***“Require notification for Special Use Permit to property owners within 500 feet of the subject property.”***

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

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|--------------|---|-----|-------------|---|-----|
| Ms. Tompkins | - | Yes | Mr. Ash | - | Yes |
| Mr. Fell | - | Yes | Mr. Fitch | - | Yes |
| Mr. Otto | - | Yes | Mr. Pollock | - | Yes |
| Ms. Stake | - | No | | | |

The motion was approved by a vote of 6-1.

Mr. Myers noted that Plan Case No. 2181-T-12 will be forwarded to City Council on Monday, August 20, 2012.

6. OLD BUSINESS

There was none.

7. NEW PUBLIC HEARINGS

There were none.

8. NEW BUSINESS

There was none.

9. AUDIENCE PARTICIPATION

There was none.

10. STAFF REPORT

There was none.

11. STUDY SESSION

There was none.

12. ADJOURNMENT OF MEETING

The meeting was adjourned at 9:29 p.m.

Respectfully submitted,

Robert Myers, AICP, Secretary
Urbana Plan Commission