

MINUTES OF A REGULAR MEETING

URBANA PLAN COMMISSION

APPROVED

DATE: September 8, 2016

TIME: 7:30 P.M.

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

MEMBERS PRESENT: Andrew Fell, Tyler Fitch, Dannie Otto, Christopher Stohr, David Trail, Daniel Turner

MEMBERS EXCUSED: Barry Ackerson, Lew Hopkins

STAFF PRESENT: Lorrie Pearson, Planning Manager; Christopher Marx, Planner I; Teri Andel, Administrative Assistant II

OTHERS PRESENT: Carolyn Baxley, Daniel Folk, Randy Kangas, Vanessa Lane, Larry Lister, Mary McGuire, Aneestame Montador, Paul Montador, Pierre Moulin, Elizabeth Nicol, Alex Ruggieri, Joe Williams, Phyllis Winters-Williams

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

Chair Fitch called the meeting to order at 7:30 p.m. Roll call was taken and there was a quorum present.

2. CHANGES TO THE AGENDA

There were none.

3. APPROVAL OF MINUTES

The minutes from the June 9, 2016 regular meeting were presented for approval. Mr. Stohr moved to approve the minutes as presented. Mr. Trail seconded the motion.

Mr. Stohr stated that although the minutes were accurate of what was testified and discussed at the meeting, there was false testimony given by the applicant regarding the penetration of cellular frequencies. The minutes were approved by unanimous voice vote as written.

4. COMMUNICATIONS

Regarding Plan Case No. 2289-M-16

❖ B-3U Zoning Description Sheet

5. CONTINUED PUBLIC HEARINGS

Plan Case No. 2286-M-16 – A request by Darrell Foste to rezone five parcels totaling approximately 0.66 acres located at 405, 407, 409, 415 and 417 West Main Street from R-2 (Single-Family Residential) Zoning District to R-5 (Medium-High Density Multiple Family Residential) Zoning District.

Plan Case No. 2287-M-16 – A request by Chris Hartman to rezone one parcel totaling approximately 0.15 acres located at 413 West Main Street from R-2 (Single-Family Residential) Zoning District to R-5 (Medium-High Density Multiple Family Residential) Zoning District.

Chair Fitch stated that these two cases would be continued to the October 20, 2016 regular meeting of the Urbana Plan Commission.

6. OLD BUSINESS

There was none.

7. NEW PUBLIC HEARINGS

Plan Cases No. 2289-M-16 – A request by Alex Ruggieri, on behalf of Tekton Group LLC Series Corner North, to rezone 11 parcels totaling approximately 2.42 acres located at 802, 804, 806, 808, 810, 812, 814 and 816 West Clark Street AND 406, 406-1/2 and 408 North Lincoln Avenue from the R-4 (Medium Density Multiple Family Residential), B-2 (Neighborhood Business-Arterial) and B-3 (General Business) Zoning Districts to B-3U (General Business-University) Zoning District.

Chair Fitch opened the public hearing for this case. Christopher Marx, Planner I, presented the staff report to the Urbana Plan Commission. He began by briefly describing the subject parcels noting their current zoning, current land uses, and future land use designation of “community business”. He talked about the B-3U Zoning District and stated the differences between the B-3U and the B-3 Zoning Districts. He reviewed how the LaSalle National Bank criteria pertain to the proposed rezoning request. He read the options of the Plan Commission and presented Planning staff’s recommendation for approval.

Chair Fitch asked if the Plan Commission members had questions for City staff.

Mr. Trail asked what year the apartment building located at 309 North Busey Avenue was constructed. Mr. Marx stated that it was built at least 20 years ago.

Mr. Trail questioned whether the proposed rezoning was compatible with the LaSalle National Bank criteria. Mr. Marx explained that the LaSalle National Bank criteria are a test as to whether a property is suitable to be rezoned. In the proposed case, City staff found that the subject parcel is suitable for rezoning to the B-3U Zoning District.

Mr. Trail wondered if there were other zoning districts that would be compatible with “community business”. Mr. Marx replied that zoning districts that are dense and accommodate a mixed use might be compatible. Lorrie Pearson, Planning Manager, added that the Comprehensive Plan with its general concepts does not always match up directly with the zoning. It really depends on context.

Mr. Otto questioned if the LaSalle National Bank criterion #2, regarding the extent to which property values are diminished, referred to adjacent properties or to only the subject parcels. Mr. Marx replied that it generally applies to the subject parcels.

Mr. Otto asked if the B-3U Zoning District would allow taverns and nightclubs by right without any requirement for review or public hearing. Ms. Pearson said that although a tavern or nightclub use is allowed in the B-3U Zoning District, the owner would have to go through the liquor license process, which involves a public hearing. She noted that 406-1/2 and 408 are currently zoned B-3, and a tavern or nightclub use would currently be allowed by right on these two properties.

Mr. Otto wondered if there were any restrictions on hours of operations. Mr. Marx responded that the Zoning Ordinance does not restrict hours of operation for any uses.

Mr. Fell noticed the addresses for the subject properties were listed different on the agenda and two places in the staff report. Mr. Marx clarified that the two properties to the north along the railroad tracks and one along Lincoln Avenue are confusing in that they are three parcels with two parcel index numbers (PIN) and one address. Some legal documents show them as 406, 406-1/2 and 408 North Lincoln Avenue; while others show all three as 406 North Lincoln Avenue. Ms. Pearson added that all of the addresses are included in the title that Chair Fitch read when he opened the public hearing.

Mr. Turner asked for clarification on whether the B-3U Zoning District allows taverns or not. Page 5 of the written staff report says that it does not allow taverns. Mr. Marx stated that taverns are allowed in the B-3U Zoning District as a permitted use. The statement in the written staff report is an error.

Mr. Trail questioned how the B-3U Zoning District would preserve buffering for the residential neighborhood to the south of Clark Street. Mr. Marx explained the R-4 (Medium Density Multiple Residential) zoned properties on the south side of Clark Street would serve as a buffer between the residential uses to the south and the B-3U zone if approved. Ms. Pearson pointed out that the B-3U Zoning District acts as a hybrid zoning district in that it allows some but not all of the commercial uses allowed in the B-3 Zoning District, and it also allows more residential uses.

Mr. Trail wondered if it was the City's intention to encourage residential along University Avenue in the proposed area. Ms. Pearson replied that the B-3U does allow planned unit developments with mixed uses.

Mr. Trail asked if there were any other properties zoned B-3U along University Avenue. Ms. Pearson said that there were some properties along Nevada Street further south of University Avenue zoned B-3U. The proposed properties would be the first properties zoned B-3U along University Avenue if the rezoning request was approved. Mr. Trail expressed some concern about University Avenue not being pedestrian friendly.

Mr. Stohr inquired as to how many of the single family residential properties along the south side of Clark Street were owner occupied. Mr. Marx answered saying that all of the homes along the south side of Clark Street were owned by the same property owner as the properties on the north side. Therefore, he did not believe that any of the properties were owner occupied.

Mr. Marx stated that the applicant was available to answer any questions.

With there being no further questions for City staff, Chair Fitch opened the hearing for public input. He reviewed the rules for a public hearing.

Alex Ruggieri, applicant, approached the Plan Commission to speak. He mentioned that they spent a lot of time working on the proposed rezoning request and felt that City staff was capable and professional in their review of the application and City staff's recommendation was solid and based on good footing. The property owner was concerned that the properties are underutilized and had been for years. The owner had not been able to get developers interested in redeveloping the proposed corner because of the different existing zoning designations. The idea behind the proposed map amendment is to create a uniform zoning to attract a developer. It is a gateway to the University of Illinois and contrasts with the west side of Lincoln Avenue.

Mr. Trail wondered how long the owner has owned these properties. Mr. Ruggieri stated that the owner had been assembling the properties over the last 20 to 25 years.

Mr. Trail asked if the owner had a development planned for the properties. Mr. Ruggieri said no. The owner wants to rezone so that they can attract a quality developer. The developer would then bring his or her proposal to the City for review.

Chair Fitch inquired if Mr. Ruggieri had any experience with the B-3 Zoning District or other zoning types that would be consistent with the Comprehensive Plan. Would any of them be more marketable? Mr. Ruggieri said that they believe that the B-3U Zoning District is the most marketable for a Gateway property like this. In real estate, they have the concept of the highest and best use of a property, which can change over time. The marketplace determines the highest and best use, but zoning allows for it.

Daniel Folk approached the Plan Commission to speak in opposition of the proposed rezoning. He stated that the subject properties were difficult because while it is the Gateway to the

University of Illinois, it is also the intersection of railroad and Lincoln Avenue. They would not be able to have access off University Avenue because of the railroad. With having access along Clark Street, it makes Clark Street become a commercial street. This brings commercial traffic close to the residential street that he lives on.

The B-3U Zoning District was intended to allow buildings associated with the University of Illinois and commensurate in scale and design as buildings on the campus. Extending this zoning district to the east side of Lincoln Avenue would set an undesirable precedent.

Mr. Otto asked if the property was uniformly zoned B-2 (Neighborhood Business), would it mitigate some of his concerns. Mr. Folk thought a similar development to that on the west side of Lincoln Avenue would be compatible with the residential neighborhood, but it should not extend the commercial activity down Clark Street.

Randy Kangas approached the Plan Commission to speak in opposition. He agreed with the concerns mentioned by Mr. Folk. He stated that if the prime driver is economic development, the B-3U Zoning District allows non-profit uses which would deduct from the tax base.

The subject properties are very awkward. The railroad line is active. It would be difficult to have access onto University Avenue or Lincoln Avenue. So, the only available street would be Clark Street. Clark Street and Busey Avenue would need to be redone to provide for more traffic. The increase in traffic would have an impact on and endanger Main Street, which was a street that Abraham Lincoln walked down.

He agreed that rezoning to B-3U would set a precedent and allow a denser use that is not currently allowed on the east side of Lincoln Avenue. He would like to see a site plan and transportation plan; otherwise they would be creating a blockage and potentially safety hazard in that area.

Mr. Otto asked if there were alternative zoning districts that would be compatible with the neighborhood. Mr. Kangas stated that he has not gone through all of the zoning districts to see what would be compatible. He felt it should probably be housing and maybe some light retail.

Phyllis Winters-Williams approached the Plan Commission to speak in opposition. She felt it was important to note that there were several ex Plan Commission members in the audience ... Carolyn Baxley, Randy Kangas and herself.

She felt troubled by the "community business" designation and City staff finding it in the B-3U Zoning District. Previous businesses such as the Magic Needle, the English Hedgerow and to some extent Brownfield Sports were "community business" type uses that thrived at 406 and 406-1/2 North Lincoln Avenue. She was disappointed that for as long as the owner has owned these lots, the property owner has made very little effort to make improvements to make it any prettier even though it is the Gateway to the University of Illinois.

She worried that if the rezoning was approved as requested and the parcels are marketed successful, then the parking will be moved to the south side of Clark Street. This would affect the property owners along West Main Street.

With regards to the owner having a financial hardship, the owner has had the opportunity to develop the parcels but he has chosen not to. The existing R-4 zoning came about because the owner wanting to upzone the properties many years ago. The R-4 zoning was intended to serve as a buffer to the R-2 zoned parcels along West Main Street.

The Comprehensive Plan calls for “community business” for the proposed block. The Plan Commission should use this as a guide in making a recommendation to City Council.

Mr. Otto asked if there were any zoning districts that would be compatible with the residential neighborhood and the Comprehensive Plan. Ms. Williams replied that a small grocery store, such as Aldi, would be compatible. She preferred a use that has limited hours of operation. She did not want to see the B-3U Zoning District be expanded across Lincoln Avenue to the east. It would set a precedent. B-1 (Neighborhood Business) or B-2 (Neighborhood Business-Arterial) may be appropriate depending on the uses.

Carolyn Baxley approached the Plan Commission to speak in opposition. Property owners on Main Street are feeling besieged. There is a rezoning case for the other end of Main Street in which the property owner is trying to get his properties up zoned to R-5 (Medium High Density Multiple Family Residential Zoning District).

The property owner in the proposed case had spent years trying to get the subject properties upzoned so his properties values would increase and he could sell the lots to a mega developer. He has no plan in place, and there is nothing to show that a future development would not impact the residential neighborhood to the south.

She mentioned that she served on the Comprehensive Plan Steering Committee when it was drafted and approved by the City Council. One of the things that the Steering Committee was adamant about was that Lincoln Avenue be the line of demarcation between anything connected to the University of Illinois and the rest of the City of Urbana. Therefore, she felt extending the B-3U Zoning District to the east of Lincoln Avenue would set a bad precedent.

She felt that the proposed rezoning contradicted Goals 2, 4 and 16 in the 2005 Comprehensive Plan. Nothing about the proposed rezoning that would enhance the lives of the people who live on West Main Street. The more density allowed on the proposed properties will put more pressure on the West Main Street residents.

She also believed that the proposed rezoning was in total opposition to some of the LaSalle National Bank criteria. These criteria are what the Plan Commission and the City Council are supposed to use in evaluating the legal validity of a zoning classification. Regarding the following:

Criterion #2 – *The extent to which property values are diminished by the restrictions of the ordinance.* The owner knew the restrictions when he purchased the properties, and still he continued to acquire more properties in the area. Therefore, she did not believe that his property values are diminished by the City saying that we need to have lower density zoning in this area.

Criterion #5 – *The suitability of the subject property for the zoned purposes.* The subject properties have a railroad running through some of them and they have terrible egress.

Criterion #6 – *The length of time the property has been vacant as zoned, considered in the context of land development, in the area, in the vicinity of the subject property.* The properties have not been vacant. In fact, there has been a succession of commercial businesses located there. The commercial viability may not be at the scale that the owner would like to see, but it does exist. There is also viability from the housing rental properties along Clark Street.

Mr. Stohr asked if Ms. Baxley felt another zoning district would be more suitable or acceptable. Ms. Baxley replied that she felt the properties along University would be more appropriately zoned B-3 and the residential properties along Clark Street be zoned R-3 (Single and Two-Family Residential). Just because the properties are located along University and Lincoln Avenues did not mean that there has to be a giant building constructed. There could be some beautification project constructed representing the Gateway to the University of Illinois.

Pierre Moulin approached the Plan Commission to speak in opposition. He stated that he came to this meeting with an open mind. After hearing the previous input, it was clear that the only positive impact would be for the owner of the subject properties and not for the residents in the adjacent neighborhood to the south side of Clark Street. He expressed concern that if the request was granted, then Main Street would die away very slowly.

Larry Lister approached the Plan Commission to speak. He thought the proposed rezoning might be okay until he heard previous testimony. The railroad is a severely limiting factor for any development. He noticed that in the B-3U Zoning District, there are no height limits for buildings. Also, access on Clark Street would be difficult because of its close proximity to the intersection of University Avenue and Lincoln Avenue. Lincoln Avenue has always served as the demarcation between the University of Illinois and the rest of the City of Urbana. On Sundays when church is in service, there are already traffic issues along Clark Street and Busey Avenue.

Mr. Otto wondered if there was any zoning change that Mr. Lister felt would be more appropriate. Mr. Lister stated that he loved the Gateway concept.

Mr. Ruggieri re-approached the Plan Commission to speak. He stated that he respects the neighbors' opinions and concerns. However, with regard to the application, they stand by their submittal. Some of the concerns can be addressed and others cannot be, such as the concerns with the railroad. One thing that can be changed is the zoning. Upzoning to B-3U was the solution he was offering for what to do with these parcels. Regardless of whether the upzoning

was approved, any development would need to be approved. Although there were some uses allowed in the B-3U Zoning District that would be less desirable, there were also some really nice uses. They were only trying to create an inviting atmosphere for a quality development to come to the City of Urbana.

Mr. Otto asked Mr. Ruggieri to address the neighbors' concern about the approval of the proposed rezoning becoming a domino effect for the south side of Clark Street. Mr. Ruggieri stated that it was total speculation; however, if he lived in the neighborhood, he would be concerned as well. The Plan Commission and the City Council have complete control over what happens on the subject parcels as well as if anything changes on the south side of Clark Street.

With no further public input, Chair Fitch closed this portion of the hearing and opened it up for Plan Commission discussion and/or motion(s).

Mr. Otto commented that the speakers in opposition had some very cogent points including questioning the analysis of the LaSalle National Bank criteria and the Comprehensive Plan. As someone else pointed out, it is an ugly property because of access issues and the railroad. He was not convinced that the neighborhood would have as much of a voice if the subject parcels are rezoned to the B-3U Zoning District. There are ways of redeveloping the parcels without having to ask for variances. So, if the City approves the rezoning, then one should assume that anyone of the uses allowed in the B-3U by right could be developed without the public having any other input. He was not ready to recommend approval of the proposed rezoning at this meeting.

Mr. Trail felt that it was premature to rezone the subject parcels. 406 and 406-1/2 West University Avenue are already zoned B-3, which matches the other properties along University Avenue. It was not clear that these properties were amendable to a single large project because of the lack of frontage along University Avenue; therefore, he did not understand how changing the zoning would cure this issue. So, it appeared that the owner was attempting to increase the value of the properties that the current owner does not intend to develop. The time to address the zoning is if someone comes along with a great idea for the property.

The subject properties are going to be difficult to redevelop because the University of Illinois is on the west side, Carle on the other side and a historic district to the south. The current zoning is not the biggest obstacle.

Mr. Fell asked City staff if the owner could come back with a request for a Planned Unit Development. Ms. Pearson replied that was correct. Mr. Fell stated that he was not ready to vote on the proposed rezoning case at this meeting.

He agreed with most of the neighbors that spoke in that it was difficult to allow B-3U to expand to the east side of Lincoln Avenue. He also had an issue with the neighbors being in opposition of the owner acquiring the properties over many years in hopes to develop the parcels. Anyone had the opportunity to purchase the lots, so it was unfair to defame the owner.

Mr. Otto clarified that the point of the neighbors was not that it was unfair for the owner to acquire the properties but rather that the owner acquired the properties with full knowledge of the zoning restrictions. What was unfair was the owner now claims that it is a hardship for him to not be able to put a higher level of zoning on the properties.

Chair Fitch noted that the real point is whether the proposed rezoning would be appropriate for the neighborhood, appropriate for the LaSalle National Bank criteria and consistent with the Comprehensive Plan. He agreed that the subject parcels were difficult to redevelop because it is an area where everything comes together. In the past, the zoning attempted to strike a balance and have B-3 where it belongs and to provide protection for the neighborhood to the south. This resulted in a hodgepodge and made it even more difficult to redevelop the area.

He needed more time to think about this case. The B-3U Zoning District is not a good buffer and contains many permitted uses that we would not want to see bleeding towards the south side of Clark Street and definitely not towards Main Street.

Mr. Trail commented that things change over time and it may be that someday this area needs a higher density zone. He has not heard how the B-3U Zoning District would help do anything since there is no plan for redevelopment. The City was being asked to rezone the subject properties in the blind. Mr. Fell explained that this is not how big developers look at development. Many developers won't even look at properties if they not have the right zoning. The City needs to figure out how to strike a balance between inviting the right kind of development and what the neighborhood needs. He did not believe that the B-3U Zoning District would do that, but leaving it zoned as it currently was doesn't achieve the balance either.

Mr. Trail stated that he would prefer to see someone propose an east/west division of the properties rather than a north/south division. Then there could be a Lincoln Avenue facing commercial property and a residential property facing Clark Street.

Mr. Otto pointed out that the zoning goes to the property and not to the applicant. Also, developers and realtors know how to use options. It is common for developers to purchase properties that are not zoned correctly us an option contract that states "pending zoning". Therefore, he did not believe that zoning was the primary issue for the subject properties.

Mr. Turner commented that there seemed to be a lot of uncertainty that is preventing them from moving forward. Everyone wants something different for the proposed area than what currently exists. He agreed with what had been said by the other Plan Commission members. It appeared that they wanted a different option than what was being presented.

Chair Fitch asked if there were any objections to continue the case. There were none. So, Chair Fitch continued the case to the September 22, 2016 regular meeting.

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 9:12 p.m.

Respectfully submitted,

Lorrie Pearson, Secretary
Urbana Plan Commission