

REVISED MINUTES OF A REGULAR MEETING

URBANA PLAN COMMISSION

APPROVED

DATE: October 10, 2019

TIME: 7:00 P.M.

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

MEMBERS PRESENT: Barry Ackerson, Dustin Allred, Jane Billman, Tyler Fitch, Lew Hopkins, Chenxi Yu

MEMBERS EXCUSED: Andrew Fell, Jonah Weisskopf

STAFF PRESENT: Lorrie Pearson, Deputy Director of Community Development Services; Kevin Garcia, Planner II; Marcus Ricci, Planner II

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

Chair Fitch called the meeting to order at 7:01 p.m. Roll call was taken, and there was a quorum of the members present.

2. CHANGES TO THE AGENDA

There was none.

3. APPROVAL OF MINUTES

The minutes of the September 19, 2019 regular Plan Commission meeting were presented for approval. Mr. Hopkins moved that the Plan Commission approve the minutes. Mr. Ackerson seconded the motion.

Mr. Ackerson noted the following changes to the minutes:

- Page 3 – 7th Paragraph – change “Juno” to “Juneau”
- Page 6 – Last Paragraph – add that his concern was with distancing cannabis dispensaries from paths to middle schools and high schools, not Kindergarten through 5th Grades.

Chair Fitch noted the following change to the minutes:

- Page 1 – Item 3. Approval of Minutes – The last sentence should read as such, “*The minutes were approved by unanimous vote as written.*”

The minutes were approved by unanimous vote as amended.

4. COMMUNICATIONS

There were none.

5. CONTINUED PUBLIC HEARINGS

Plan Case No. 2359-T-18 – An application by the Urbana Zoning Administrator to amend the Zoning Ordinance with changes to Article II (Definitions), Article V (Use Regulations), Article VI (Development Regulations) and other relevant section, to facilitate solar energy system installation.

Chair Fitch continued this case to the October 24, 2019 regular meeting of the Plan Commission.

Plan Case No. 2360-M-18 and Annexation Case No. 2018-A-03 – A proposed annexation agreement between the City of Urbana and Henri Merkelo, including rezoning from County R-5, Manufactured Home Park, to City R-1, Single Family Residential, for a 1.01-acre parcel located at 2218 East University Avenue, Urbana, Illinois 61802.

Chair Fitch continued these two cases to the December 5, 2019 regular meeting.

Plan Case No. 2383-T-19 – An application by the Urbana Zoning Administrator to amend the Subdivision and Land Development Ordinance and create the Manual of Practice.

Chair Fitch continued this case to the October 24, 2019 regular meeting.

Plan Case No. 2385-T-19 – An application by the Urbana Zoning Administrator to amend the Urbana Zoning Ordinance to add definitions and regulations for recreational cannabis.

Chair Fitch re-opened the public hearing for this case. Kevin Garcia, Planner II, presented an update to the case. He began by noting the major concerns of the Plan Commission at the previous meeting concerning the following:

- Location of cannabis dispensaries and cultivation centers. The Plan Commission expressed interest in setting dispensaries back a distance from schools, specifically Kindergarten through 12th Grades (K-12).
- Questions about how the City would determine those distances, whether they should be permitted by right or require approval of a conditional use permit.
- Suggestion that City staff look into the requirements for the liquor stores as a basis for establishing regulations for cannabis dispensaries.
- Confusion on the total number of dispensaries that would be allowed in the region.
- Location of cultivation centers in relation to residential areas. How would odors from cultivation centers affect residential neighborhoods?

Mr. Garcia addressed each of these concerns and questions as explained in the written staff report. He talked about how the City of Aurora in Colorado regulates cannabis cultivation centers. He noted the changes proposed to Section B of the text amendment, which are as follows:

1. No dispensary shall be located on a parcel whose property line is within 1,500 feet of the property line of a pre-existing dispensary, or within 100 feet of a public or private elementary or secondary school. State law references 410 ILCS 705/15-20(b); 410 ILCS 705/15-70(n)(15).
2. No craft grower shall be located on a parcel whose property line is within 1,500 feet of the property line of another craft grower or cultivation center. State law reference 410 ILCS 705/30-30(o).
3. No cannabis cultivation center or craft grower shall be located on a parcel whose property line is within 300 feet of any lot in the R-1, R-2, R-3, R-4, R-5, R-6, R-6B, R-7, B-3U or MOR Zoning District.
4. Cannabis cultivation centers and craft growers shall mitigate exterior odors by installing air scrubbing and/or air filtration systems, or by some other means approved by the Zoning Administrator.

Mr. Garcia noted that there are other communities without conditional use permits, who only have special use permits. Those communities are considering special use permits as a requirement for cannabis uses. Since the City of Urbana does have conditional use permits, staff recommends that if we require special approval, then conditional use permits should be used. This would be the most legally defensible way to regulate cannabis businesses. He reiterated that the proposed text amendment does not address public consumption at this time.

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

Ms. Billman asked if there would be a distance requirement from daycares. Mr. Garcia replied that the City's regulations for medical cannabis does have distance requirements for dispensaries from daycares. The State of Illinois Act for medical cannabis required a distance between the two uses, so the City followed the requirements of the State. The State of Illinois does not require a distance for non-medical cannabis dispensaries from daycares, so staff is not proposing it either.

Chair Fitch inquired where other dispensaries could potentially locate if a 1,500-foot buffer was required. Mr. Garcia showed Exhibit K from the September 13, 2019 staff report. In relation to NuMed, another dispensary would not be able to locate in Downtown Urbana or at Lincoln Square Mall.

Chair Fitch inquired where cultivation centers could potentially locate in relation to schools. Mr. Garcia showed Exhibit L from the September 13, 2019 staff report. Many of the white squares on the map indicate schools. He believed that since there could only be nine more cultivation centers permitted, they will more than likely want to locate on large properties. He talked about two small properties on east University Avenue and the property on the corner of Lierman Avenue and Washington Street, and noted that the larger property would only be about 350 feet away from a residential zone.

Mr. Ackerson asked for clarification in that the proposed requirements for craft growers are similar to the requirements for dispensaries. He believed that craft growers would be more likely to locate in Downtown Urbana than a cultivation center would. Mr. Garcia stated that if the Plan Commission had a concern about distance requirements for craft growers, then they could remove craft growers from Section V-13.B.3 in the proposed text amendment.

Mr. Allred stated that the text of the written staff report mentioned allowing dispensaries in the B-2, Neighborhood Business – Arterial Zoning District; however, Table V-1 does not allow it. Mr. Garcia responded that this is still being considered. Staff felt a cannabis dispensary might have more traffic than a liquor store, which is allowed with a conditional use permit in the B-2 Zoning District. If the City wants to allow a dispensary in the B-2 District, then staff feels it would be appropriate to do so with a conditional use permit. That way, the Zoning Board of Appeals would be able to ask questions about how much traffic the dispensary anticipated.

Ms. Yu asked if Section B.1 referred to a non-medical dispensary or a medical dispensary or both. Mr. Garcia assumed that since the State of Illinois Act does not specify, the City could then interpret this as including both types of dispensaries.

There was no public present for public input. Chair Fitch opened the hearing for Plan Commission discussion and/or motion(s).

Mr. Hopkins asked if the revised language was on the screen before them. Mr. Garcia said yes.

Chair Fitch asked if the Plan Commission members were acceptable to allowing staff's recommended permissions in Table V-1. Table of Uses. Did they want to allow dispensaries in the B-2, Neighborhood Zoning Districts? Mr. Garcia noted where the B-2 Zoning Districts were located in the City of Urbana.

Mr. Hopkins announced that the University of Illinois is enforcing federal prohibition on cannabis on campus because of their relationship to federal funding. Therefore, possession or any activity involving cannabis is illegal on campus. This may potentially create a demand for places where students would be allowed to consume/smoke cannabis across the street from campus. These types of places will probably want to be in association with dispensaries, including the B-2 Zoning District along Springfield Avenue close to campus.

The Plan Commission discussed whether there should be a buffer around the U of I campus or whether dispensaries should be allowed in B-1 (Neighborhood Business) and B-2 Zoning Districts near the U of I campus.

Mr. Ackerson stated that he would be okay with allowing cannabis dispensaries in the B-2 Zoning District with approval of a conditional use permit, but not in the B-1 Zoning District. Liquor stores are not allowed in the B-1 Zoning District. Other Plan Commission members agreed.

Chair Fitch asked how the Plan Commission members felt about requiring a 100-foot buffer from dispensaries to schools. Mr. Hopkins pointed out that 100 feet is equivalent to about two lots. From looking at Exhibit K: Proposed Zones for Cannabis Dispensaries in the written staff report

dated October 4, 2019, he stated that if the City required a 500-foot buffer, it did not appear to cut anything out and would send a useful message. The members of the Plan Commission discussed the impact on Cunningham Avenue and what the justification would be for requiring a larger separation distance than that required for liquor stores. Many of the members felt that 100 feet would suffice. Ms. Billman preferred 500 feet; however, she said she cannot defend it.

Chair Fitch suggested that the members discuss separation distance requirements between cultivation centers and residential zones. In looking at Exhibit L: Proposed Zones for Cannabis Cultivation Centers, the members agreed that it would be more likely for a cultivation center to be located on a larger parcel of land in the northern portion of the City rather than on a small lot inside the City. Mr. Garcia noted that many of the sites that already have existing buildings on them would be less desirable because the State of Illinois has strict standards regarding construction and security for cultivation centers.

Mr. Hopkins stated that they need to make sure there are potential locations they would want to be located so the City needed to be careful in pretending that there are areas where cultivation centers would not be located. Mr. Garcia replied that he would take out the “unlikely to be suitable” areas on Exhibit L.

Lorrie Pearson, Deputy Director of the Community Development Services Department, suggested adding “City or Champaign County residential zoning district” to B.3. Mr. Garcia stated that he did not know if they needed to be specific. They could generally say “residential areas”.

Mr. Hopkins moved that the Plan Commission forward Plan Case No. 2385-T-19 to the City Council with a recommendation for approval as originally recommended by City staff with the following amendment to Section V-13.B:

1. No dispensary shall be located on a parcel whose property line is within 1,500 feet of the property line of a pre-existing dispensary, or within 100 feet of a public or private elementary or secondary school. State law references 410 ILCS 705/15-20(b); 410 ILCS 705/15-70(n)(15).
3. No cannabis cultivation center or craft grower shall be located on a parcel whose property line is within 300 feet of any lot in the City or Champaign County residential zoning districts, City B-3U or MOR Zoning District.
4. Cannabis cultivation centers and craft growers shall mitigate exterior odors by installing air scrubbing and/or air filtration systems, or by some other means approved by the Zoning Administrator.

and the modification to Table V-1. Table of Uses to allow Cannabis Business Dispensary (Non-Medical) as a Conditional Use Permit in the B-2 Zoning District. Mr. Ackerson seconded the motion. Roll call on the motion was as follows:

Mr. Ackerson	-	Yes	Mr. Allred	-	Yes
Ms. Billman	-	Yes	Mr. Fitch	-	Yes
Mr. Hopkins	-	Yes	Ms. Yu	-	Yes

The motion passed by unanimous vote.

Ms. Pearson noted that this case would be forwarded to City Council on October 21, 2019

6. OLD BUSINESS

There was none.

7. NEW PUBLIC HEARINGS

There were none.

8. NEW BUSINESS

Case No. CCZBA-931-AM-19 – Amend the County Zoning Map to allow for the development of five single-family residential lots in the County CR, Conservation-Recreation, Zoning District by adding the Rural Residential Overlay (RRO) Zoning District in conjunction with related County Board Special Use Permit Case 932-S-19 that is also required for an RRO per Section 5.4.3 of the Zoning Ordinance.

CCZBA-934-AM-19 – Amend the County Zoning Map to change the zoning district designation from County CR, Conservation-Recreation, Zoning District to County AG-2, Agriculture, Zoning District for proposed Outlot A and Lots 1, 2, 3, 4, and 5 in the Preliminary Plat created by Berns, Clancy and Associates dated and received July 31, 2019, in order to establish and operate the existing Private Indoor Recreational Development in related Zoning Case 935-S-19.

Chair Fitch opened the public hearing for these two cases simultaneously. Marcus Ricci, Planner II, presented the staff report. He began by explaining the reason for the two proposed rezoning requests. He talked about recent activity and future plans for the subject property. Referring to Exhibit C: Proposed Site Plan, he showed where the applicants propose to subdivide the parcel into five lots.

Mr. Hopkins stated that there are potential problems with the proposed plat, which will come before the Plan Commission at a later time. The Plan Commission should only take those potential problems into consideration if those problems create difficulties for considering the rezoning of portions of the parcel. He asked for clarification that the Rural Residential Overlay (RRO) is a zoning designation. It has nothing to do with subdivision other than Champaign County requires it if a subdivision is asked for. Mr. Ricci said that was correct.

Chair Fitch asked if the Plan Commission was to only consider whether rezoning portions of the parcel from County CR, Conservation-Recreation, to AG-2, Agriculture, in order to allow residential is acceptable to the City. Mr. Ricci replied yes.

Mr. Ricci continued with his presentation. Referring to Exhibit D: Proposed Zoning – Site Plan Overlay, he showed the portions of the parcel that would be rezoned, if approved. Mr. Hopkins wondered how the City could rezone a portion of the property until a Subdivision Plat of the property is approved. Kevin Garcia, Planner II, stated that the task before the Plan Commission is

to forward a recommendation to City Council on whether or not they should protest the proposed rezoning and special use permit requests. The Plan Commission members do not need to concern themselves with where the line splitting the zoning would be located. Mr. Hopkins noted that the City would then not be approving where the split zoning line is shown on the exhibits.

Mr. Ricci stated the previous split zoning until it was all rezoned to County CR in 2007. He said he believed that the applicants had not thought through how the CR Zoning District would affect their plans for the property. He reviewed the goals and objectives of the 2005 Comprehensive Plan that relate to the proposed rezoning requests. He summarized staff findings, read the Plan Commission's options, and presented City staff's recommendation to defeat a resolution of protest.

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

Ms. Yu asked if a RRO is also required in the CR Zoning District. Mr. Ricci said that single-family homes are permitted by right within the AG-2 and CR districts; however, if there are more than three lots less than 35 acres each, then they must also have a RRO created.

There was no public present for public input. Chair Fitch opened the hearing for Plan Commission discussion and/or motion(s).

Chair Fitch stated that he did not like the proposed rezoning. They should not rezone because the applicant wants to do something that is highly unorthodox. The proposed residential lots would be sandwiched between Agriculture and Industrial zones. Mr. Allred agreed. He did not believe that the proposed use would meet Goal 15.0 of the 2005 Comprehensive Plan because it would indeed be a leapfrog development even though it would provide a residential use in an area that the City has envisioned to be residential in the future.

Mr. Ackerson asked for clarification in how many cases are before them. He said rezoning the property back to AG-2 is less problematic than the RRO. Chair Fitch said that there are two cases. Mr. Ricci said that the Plan Commission could recommend that City Council protest the RRO rezoning case and defeat a resolution of protest for the rezoning to AG-2. This would still rezone a portion of the parcel but would limit the applicants to subdivide into three lots.

There was discussion about the impact of protesting the RRO. This would be the first time the City has protested a case in many years. Ms. Yu stated that if the City Council protested a case, it would only force a super majority vote by the Champaign County Zoning Board. Mr. Ricci said that is correct.

Mr. Hopkins believed that the applicants were probably rezoning to AG-2 to be able to have their Events Center use. He has a concern with creating too small of lots, especially in this location. He talked about why the subject property is designated as residential in the City's 2005 Comprehensive Plan, which is because it is already a residential property. Given the realignment of Lincoln Avenue, Lincoln Avenue became the line of where heavy industrial stopped. However, the implication was that there would not be a high level of residential.

He talked about the alignment of the proposed driveway and about each of the proposed lots. Lot 1 strikes him as an impractical lot. Lot 2 is tiny. Lot 5 is not buildable. Since the applicants use it as parking, it does not need to be divided from Lot 4. The Outlots do not need to be defined because they do not count anyway. He believed the applicants would only need to divide into three lots. Ms. Billman said that we do not know what the applicants planned to do on each lot. Mr. Hopkins explained that he was trying to figure out how many lots the applicants would need to determine if they would need the RRO rezoning. He is not opposed to rezoning the property to AG-2 or to the event center use; however, he is concerned about various things, some of which are creating a leapfrog development with small lots being isolated with no fire protection.

Mr. Ackerson stated that he would support the rezoning to AG-2, but he would not support the rezoning to RRO. He felt the Plan Commission had made it clear as to why in their discussion. He believed that they could subdivide into three lots under the CR zoning. Mr. Ricci stated that the County CR requires a one-acre minimum, and he believed the rezoning from CR to AG-2 was more about the lot average or minimum being 200 feet rather than 100 feet. Mr. Ackerson said that rezoning to AG-2 would allow the applicants some flexibility.

Chair Fitch wondered what City zoning district would an event center be allowed. Would the use be considered an Outdoor Commercial Recreation Enterprise in Table V-1. Table of Uses? Mr. Ricci said yes. It is allowed in the City's AG, Agriculture Zoning District with approval of a conditional use permit.

Mr. Allred inquired where the split zoning boundary was located before it was rezoned to CR. Mr. Ricci explained that the line was further west than what is shown in the exhibits. Mr. Allred expressed concern with moving the CR boundary line further into the floodplain. Mr. Ricci said that the Plan Commission could place a contingency on defeating a resolution of protest stating that the CR boundary line be located where the floodplain line is currently located.

Chair Fitch suggested that the Plan Commission add a contingency to Case No. ZBA-934-AM-19 that the County provide further information to the Urbana City Council on the relationship of the zoning district boundary to the floodplain. Mr. Hopkins felt that this might work because the Plan Commission cannot get an answer at this meeting and it allows the case to move forward with their concern on the table.

Ms. Billman noticed that the creek is a drainage ditch, which has its own Board. That Board must have rules about what can happen along the drainage ditch, including changing the topography. Mr. Ricci pointed out that a major development requires external review by the relevant agencies including the drainage districts.

Chair Fitch suggested a revised contingency that the County provide the City Council with further information on how the AG-2 district's eastern boundary relates to the western boundary of the floodplain.

Mr. Ackerson moved that the Plan Commission forward Case No. CCZBA-931-AM-19 to the Urbana City Council with a recommendation to adopt a resolution of protest. Ms. Yu seconded the motion.

Roll call on the motion was as follows:

Mr. Ackerson	-	Yes	Ms. Billman	-	Yes
Mr. Fitch	-	Yes	Mr. Hopkins	-	Yes
Mr. Yu	-	Yes	Mr. Allred	-	Yes

The motion passed by unanimous vote.

Chair Fitch moved that the Plan Commission forward Case No. CCZBA-934-AM-19 to the Urbana City Council with a recommendation to defeat a resolution of protest contingent upon the following:

1. Champaign County provide the Urbana City Council with information on how the County AG-2 zoning district eastern boundary relates to the western boundary of the floodplain.

Mr. Hopkins seconded the motion. Roll call on the motion was as follows:

Mr. Allred	-	Yes	Ms. Yu	-	Yes
Mr. Fitch	-	Yes	Ms. Billman	-	Yes
Mr. Ackerson	-	Yes	Mr. Hopkins	-	Yes

The motion passed by unanimous vote.

Mr. Garcia noted that these two cases would be forwarded to City Council on October 21, 2019.

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 9:22 p.m.

Respectfully submitted,

Kevin Garcia, Secretary
Urbana Plan Commission