



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Laurel Lunt Prussing, Mayor

FROM: Elizabeth H. Tyler, AICP, Community Development Director

DATE: February 28, 2008

SUBJECT: Plan Case No. 2053-T-07: Request by the Zoning Administrator to amend Sections XII-4.A.1 and XII-5.A.1 of the Urbana Zoning Ordinance regarding nominations for local historic districts and landmarks

Introduction and Background

Plan Case No. 2053-T-07 is a request to amend the Historic Preservation provisions of the Urbana Zoning Ordinance (Article XII) to allow Historic Preservation Commissioners to nominate properties for local historic district and landmark designation.

At the February 7, 2007 joint meeting of the Urbana City Council and the Historic Preservation Commission, a study session was held to discuss ways of increasing the number of applications for local historic districts and landmarks. During the meeting, it was suggested that the Historic Preservation provisions of the Zoning Ordinance be amended to allow Historic Preservation Commissioners to nominate properties for designation as local historic districts and landmarks. Currently, the ordinance states that for both historic districts and historic landmarks:

Nominations may be made by anyone except the Preservation Commission and individual members of the Preservation Commission (Article XII-4.A.1 and Article XII-5.A.1).

At that meeting, it was pointed out that the Historic Preservation Commissioners are some of Urbana's most capable residents in terms of historic preservation and yet they are unable to be involved with writing or submitting applications. Amending the ordinance to allow nominations by the Historic Preservation Commissioners if they abstain from voting on any designations with which they are personally involved was suggested as a means to address the concern and to encourage additional nominations.

The proposed Zoning Ordinance text amendment would revise Section XII-4.A.1 (Historic Districts) to read as follows:

Section XII-4. Historic Districts

A. *Historic District Nomination.* Nominations shall be made to the Preservation Commission by means of a completed application form provided by the Preservation Commission. A filing fee may be required with this application form. The application and filing fee shall not be accepted until the Secretary considers it complete. The Secretary shall have five working days to review an application for completeness.

1. Nominations may be made by ~~anyone except the Preservation Commission and individual members of the Preservation Commission.~~ any person, including individual members of the Preservation Commission. In the event a member of the Preservation Commission is the nominator, he/she shall present his/her evidence in the same manner as all other nominators but shall not participate thereafter as a commission member on the matter.

The proposed Zoning Ordinance text amendment would revise Section XII-5.A.1 (Historic Landmarks) to read as follows:

Section XII-5. Historic Landmarks

A. *Historic Landmark Nomination.* Nominations shall be made to the Preservation Commission on a completed application form provided by the Preservation Commission. The Secretary or his/her designee shall not accept an application or filing fee until it is considered complete. The Secretary shall have five working days to review an application for completeness.

1. Nominations may be made by ~~anyone except the Preservation Commission and individual members of the Preservation Commission.~~ any person, including individual members of the Preservation Commission. In the event a member of the Preservation Commission is the nominator, he/she shall present his/her evidence in the same manner as all other nominators but shall not participate thereafter as a commission member on the matter.

Issues and Discussion

The proposed text amendment is to allow individual members of the Historic Preservation Commission to nominate properties for designation as local historic districts and landmarks. This will provide improved consistency with Sections XII-3.B.1 and XII-3.B.2 of the Urbana Zoning Ordinance (Urbana Zoning Ordinance, p 150), which state:

Section XII-3. Historic Preservation Commission

B. *Purpose.* The Preservation Commission is created for the purpose of:

1. *Identifying such buildings, structures, sites, objects, or historic districts within the City of Urbana that are historically significant in that they exemplify and/or reflect the cultural, social, economic, political or architectural history of the nation, state or City;*
2. *Advising the City Council on the designation of such buildings, structures, sites or objects as either landmarks or historic districts, as defined herein;*

Allowing Historic Preservation Commissioners to participate in the nomination process would advance these objectives. Additionally, it would further the preservation goal in the comprehensive plan, which specifies identifying and protecting historic resources through historic district and landmark designation as an objective (2005 Comprehensive Plan, Goal 12.0, p 37).

Unlike rezoning and variance applications, historic landmark nominations have a technical aspect which can be better dealt with by those with historic preservation expertise. It can be argued that by appointing citizens with historic preservation expertise to the Historic Preservation Commission and then restricting them from being involved with nominations has the effect of constraining nominations of local historic resources.

Many communities specifically allow for historic preservation commissioners to make such nominations, including Champaign, Bloomington, and Highland Park in Illinois. Others, such as the cities of Springfield and Rock Island, do not explicitly specify who is allowed to make nominations, thereby allowing historic preservation commissioners to make such nominations.

Most of the historic preservation ordinances City staff has researched do not explicitly require a historic preservation commissioner to abstain from voting in a nomination that he/she submitted. According to the historic preservation planner at the City of Rock Island, a commissioner would only abstain if he/she has a financial interest in the property. The Chair of the Historic Sites Commission in Springfield explained that a commissioner there would only abstain if they either had a financial interest in the property or if they had prepared the nomination form for a fee. However, the City of St. Joseph, Missouri, for example, does not allow a Commissioner to vote on an application if he/she is the applicant.

To avoid the appearance of a conflict of interest, City planning and legal staff recommends including language requiring a Commissioner to abstain from further participating in the matter as a commission member if he/she is the nominator. If a Commissioner is the nominator, he/she would have a personal interest in the matter. Although there may not be a statutory conflict of interest, the Commissioner can still have a conflict of interest if they have such a personal interest in a matter that he/she cannot render a fair and impartial decision.

This case was reviewed by the Historic Preservation Commission at their February 6, 2008 meeting at which time they recommended approval by a unanimous vote (minutes attached).

The Urbana Plan Commission, at their February 21, 2008 meeting, reviewed the case and recommended approval by a vote of five ayes and one nay (minutes attached).

Summary of Findings

1. Urbana's Zoning Ordinance has been enacted by the corporate authorities of the City of Urbana pursuant to its home rule powers as provided for in the Constitution of the State of Illinois, 1970, and in conformance with the Illinois Municipal Code;
2. On June 6, 1998, the Urbana City Council adopted Article XII, the Historic Preservation Ordinance, as part of the Urbana Zoning Ordinance;
3. Section XII-3.B.1 and Section XII-3.B.2 of the Urbana Zoning Ordinance states the following:

B. Purpose. The Preservation Commission is created for the purpose of:

- 1. Identifying such buildings, structures, sites, objects, or historic districts within the City of Urbana that are historically significant in that they exemplify and/or reflect the cultural, social, economic, political or architectural history of the nation, state or City;*
 - 2. Advising the City Council on the designation of such buildings, structures, sites or objects as either landmarks or historic districts, as defined herein;*
4. The proposed amendment would encourage additional nominations for the designation of historic districts and landmarks;
 5. The proposed amendment is consistent with the Historic Preservation provisions of the Urbana Zoning Ordinance and with the goals and objectives of the Comprehensive Plan calling for the preservation of those characteristics that make Urbana unique;
 6. On February 6, 2008, the Urbana Historic Preservation Commission voted unanimously to recommend approval of the proposed text amendment to the Urbana Zoning Ordinance; and
 7. On February 21, 2008, the Urbana Plan Commission voted to recommend approval of the proposed text amendment with five ayes and one nay.

Options

The City Council has the following options in Plan Case 2053-T-07. The Urbana City Council may:

- a) Approve the proposed text amendment, as presented herein;
- b) Approve the proposed text amendment, as modified by specific changes; or
- c) Deny the proposed text amendment.

Recommendation

Based on the evidence presented in the discussion above, the Historic Preservation Commission, the Plan Commission, and City staff recommend that the Urbana City Council **approve** the proposed text amendment to the Zoning Ordinance, as presented herein.

Prepared by:

Rebecca Bird, Community Development Associate

Attachments: Minutes, February 6, 2008 Historic Preservation Commission
Minutes, February 21, 2008 Plan Commission

Cc: Alice Novak, Chair, Urbana Historic Preservation Commission
Michael Pollock, Chair, Urbana Plan Commission
Jack Waaler, Urbana Special Counsel

ORDINANCE NO. 2008-03-012

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF
URBANA, ILLINOIS**

**(Revisions to Article XII, Historic Preservation Ordinance; Plan Case No.
2053-T-07)**

WHEREAS, the City Council of the City of Urbana, Illinois, adopted Ordinance No. 9293-124 on June 21, 1993 consisting of a comprehensive amendment to the 1979 Zoning Ordinance of the City of Urbana, also known as the Urbana Zoning Ordinance; and

WHEREAS, the City Council of the City of Urbana, Illinois adopted Ordinance No. 9798-112 on June 6, 1998 consisting of the addition of a Historic Preservation Ordinance; and

WHEREAS, the Zoning Administrator has submitted a petition to amend the Urbana Zoning Ordinance to amend the text of Article XII, Historic Preservation Ordinance to revise the language regarding who is allowed to nominate historic districts and landmarks. The revision will allow Historic Preservation Commissioners to nominate historic districts and landmarks; and

WHEREAS, said petition was presented to the Urbana Plan Commission as Plan Case No. 2053-T-07; and

WHEREAS, after publication in accordance with Section XI-7 of the Urbana Zoning Ordinance and with Chapter 24, Section 11-13-14 of the Illinois Revised Statutes, the Urbana Plan Commission held a public hearing to consider the proposed amendment on February 21, 2008; and

WHEREAS, the Urbana Plan Commission voted in a five to one vote to forward the proposed amendments set forth in Plan Case No. 2053-T-07 to the Urbana City Council with a recommendation for approval; and

WHEREAS, after due and proper consideration, the Urbana City Council has deemed it to be in the best interests of the City of Urbana to amend the text of the Urbana Zoning Ordinance as described herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. Section XII-4.A.1, *Historic Districts*, of the Zoning Ordinance is hereby amended as follows:

Section XII-4.A.1 Historic Districts

1. Nominations may be made by any person, including individual members of the Preservation Commission. In the event a member of the Preservation Commission is the nominator, he/she shall present his/her evidence in the same manner as all other nominators but shall not participate thereafter as a commission member on the matter.

Section 2. Section XII-5.A.1, *Historic Landmarks*, of the Zoning Ordinance is hereby amended as follows:

Section XII-5.A.1 Historic Landmarks

1. Nominations may be made by any person, including individual members of the Preservation Commission. In the event a member of the Preservation Commission is the nominator, he/she shall present his/her evidence in the

same manner as all other nominators but shall not participate thereafter as a commission member on the matter.

PASSED by the City Council this _____ day of _____,
_____.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____,
_____.

Laurel Lunt Prussing, Mayor

5. AUDIENCE PARTICIPATION

There was none.

6. CONTINUED PUBLIC HEARINGS

There were none.

7. OLD BUSINESS

There was none.

8. NEW PUBLIC HEARINGS

There were none.

9. NEW BUSINESS

- **Proposed amendment to Sections XII-4.A.1 and XII-5.A.1 of the Urbana Zoning Ordinance concerning nominations for local landmarks and historic districts.**

Rebecca Bird presented the staff report regarding the proposed text amendment. The amendment would allow members of the Historic Preservation Commission to nominate properties for local historic district and landmark designation. The case was to go before the Plan Commission on February 21, 2008 and staff asked the Historic Preservation Commission for its comments on the proposed amendment. A draft of the revised ordinance, incorporating the proposed text amendment was provided to the Commission. It was staff's recommendation that the Commission recommend approval of the proposed text amendment to the Plan Commission.

Ms. Novak opened the meeting to discussion of the proposed text amendment by members of the Historic Preservation Commission. There was no discussion. Ms. Stuart made a motion that the Commission recommend approval of the proposed text amendment to Sections XII-4.A.1 and XII-5.A.1 of the Urbana Zoning Ordinance concerning nominations for local landmarks and historic districts. The motion was seconded by Ms. Lipes. With no further discussion, Ms. Novak called the question. A voice vote was taken; all Commission members present voted in favor. The motion passed unanimously.

MINUTES OF A REGULAR MEETING

URBANA PLAN COMMISSION

DRAFT

DATE: February 21, 2008

TIME: 7:30 P.M.

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

MEMBERS PRESENT: Tyler Fitch, Ben Grosser, Michael Pollock, Bernadine Stake, Marilyn Upah-Bant, James Ward

MEMBERS EXCUSED: Jane Burris, Lew Hopkins, Don White

STAFF PRESENT: Robert Myers, Planning Manager; Lisa Karcher, Planner II; Rebecca Bird, Community Development Associate; Teri Andel, Planning Secretary

OTHERS PRESENT: Megan Barcus, Brandon Bowersox, Jim Gonzalez, Daniel Hayes, Cynthia Hoyle, Susan Jones, Rick Langlois, Carol Lichtensteiger, Roger Meyer, Rita Morocoima-Black, Andrew Ogorzaly, Beverly and Tom Rauchfuss, Mike Rizzifrello, Michelle Thornley, Don Wauthier

NEW PUBLIC HEARINGS

Plan Case No. 2053-T-07: Request by the Zoning Administrator to amend Section XII-4.A.1 and XII-5.A.1 of the Urbana Zoning Ordinance regarding nominations for local historic districts and landmarks.

Rebecca Bird, Community Development Associate, presented this case to the Plan Commission. She stated the purpose of the proposed text amendment, which is to allow Historic Preservation Commissioners to nominate properties for local historic district and landmark designation. She spoke about the proposed changes to the Urbana Zoning Ordinance and about the Historic Preservation Commission. She read the options of the Plan Commission and presented staff's recommendation, which was as follows:

Based on the evidence presented in the written staff report, and without the benefit of considering additional evidence that may be presented during the public hearing, staff recommends that the Urbana Plan Commission recommend approval of the proposed text amendment to the Zoning Ordinance, as presented.

Ms. Stake moved that the Plan Commission forward this case to the City Council with a recommendation for approval. Mr. Fitch seconded the motion, following which discussion on the motion took place.

Mr. Grosser felt that the proposed text amendment makes a lot of sense, and he is glad to see it happening. He also agrees with the stipulation that nominators should have to abstain from voting on these types of cases. For example, if one of the Historic Preservation Commissioners had nominated the recent Elm Street historic landmarks, it would have made even more turmoil in the city and amongst the stakeholders involved in the argument. It would have clearly been a conflict of interest. Therefore, he wanted to state that he supports the motion, but specifically with the “conflict of interest” language that is being proposed.

Mr. Ward stated that he also supports the motion. He noted that often in public policy what counts is not a legal conflict of interest, but the appearance of a conflict of interest. He would hope the Historic Preservation Commission would be sensitive, if the proposed text amendment is adopted by the City Council, that even having a member of the Commission make the presentation to nominate a historic landmark or historic district could present a conflict of interest.

Ms. Upah-Bant recalls talking about this specific issue when the City first approved the Historic Preservation Ordinance. She appreciates Ms. Bird pointing out that the Historic Preservation Commissioners are some of Urbana’s most capable residents in terms of historic preservation, but they are also people who are really interested in historic preservation. She believes this prejudices the case completely. She did not feel that there could be a possibility where a Historic Preservation Commissioner could present a nomination without it being prejudicial. As a result, she cannot support the proposed text amendment. She did not support it originally, and nothing has changed.

Chair Pollock commented that a balance needs to be struck. If you refuse to allow any Historic Preservation Commissioners to have any input into the types of properties that should be considered historic landmarks and historic districts, then we not only reduce the number of cases that come before the Historic Preservation Commission, we also may also reduce the number of members who are willing to serve on the Commission.

He mentioned that he has a very broad definition of “conflict of interest.” He believes that an appearance of a conflict of interest is a conflict of interest. He would never support the proposed text amendment without the language regarding the conflict of interest being included. It is essential to make clear that it is not appropriate for a Commissioner to nominate a property and still expect to be able to vote on the nomination.

Roll call was as follows:

Mr. Fitch	-	Yes	Mr. Grosser	-	Yes
Mr. Pollock	-	Yes	Ms. Stake	-	Yes
Ms. Upah-Bant	-	No	Mr. Ward	-	Yes

The motion passed by a vote of 5-1. Ms. Bird noted that this case would be forwarded to the Urbana City Council on March 3, 2008.