

**MINUTES OF A SPECIAL MEETING**

**URBANA PLAN COMMISSION**

**APPROVED**

**DATE:** July 31, 2008

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

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

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**MEMBERS PRESENT:** Jane Burris, Tyler Fitch, Ben Grosser, Lew Hopkins, Michael Pollock, Bernadine Stake, Marilyn Upah-Bant, Don White

**MEMBERS EXCUSED:** None

**STAFF PRESENT:** Robert Myers, Planning Manager; Jeff Engstrom, Planner I; Teri Andel, Planning Secretary

**OTHERS PRESENT:** Daniel Babai, Jennifer Feucert

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

The meeting was called to order at 7:29 p.m., the roll call was taken, and a quorum was declared present with all members in attendance.

**2. CHANGES TO THE AGENDA**

There were none.

**3. APPROVAL OF MINUTES**

Mr. White moved to approve the minutes of the July 24, 2008 meeting as presented. Ms. Stake seconded the motion. The minutes were approved by unanimous voice vote.

**4. COMMUNICATIONS**

- Letter from John Douglas Bassett

**5. CONTINUED PUBLIC HEARINGS**

There were none.

## 6. OLD BUSINESS

There was none.

## 7. NEW PUBLIC HEARINGS

### **Plan Case No. 2075-M-08: A request by Daniel Babai to rezone 804-1/2 East Main Street from B-3, General Business, to B-2, Neighborhood Business – Arterial.**

Jeff Engstrom, Planner I, presented the case to the Plan Commission. He introduced the case by giving a brief background of the proposed site noting the current land uses and zoning designations of the site itself in addition to the adjacent surrounding properties. He explained the purpose of the petitioner's request to rezone the property. By rezoning the property to B-2, the petitioner would be allowed to rebuild the single-family home that currently exists should it be destroyed by natural causes. Under the current zoning of B-3, the petitioner would not be allowed to do so.

He mentioned that the 2005 Comprehensive Plan directs the City to study the zoning inconsistencies in the Historic East Urbana Neighborhood Area. As a result, there will be a future plan case that will propose to rezone several properties in the neighborhood. However, the petitioner for this case needs to get approval of the proposed rezoning now in order to purchase the property.

Mr. Engstrom continued with his presentation by talking about the B-3 and B-2 Zoning Districts. He discussed how the proposed rezoning relates to the 2005 Comprehensive Plan. He reviewed the La Salle National Bank Criteria and how it pertains to the proposed rezoning. He read the options of the Plan Commission and presented staff's recommendation, which is 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 Plan Commission forward Plan Case No. 2075-M-08 to the Urbana City Council with a recommendation for approval.*

Mr. Hopkins asked if the lot width is 16-1/2 feet. Mr. Engstrom said yes. Mr. Hopkins wondered if it is a legal lot. Mr. Engstrom explained that under the current zoning, a lot similar to the proposed lot could not be created anymore. Mr. Hopkins questioned whether changing the zoning of the lot would solve the issue of being able to rebuild or is the lot not legal to build on either. Mr. Engstrom said that the petitioner would need a variance to rebuild. He would also have to put a fire rated wall between his rebuilt building and the neighboring property. Zoning is what would prevent the petitioner from being able to rebuild. Robert Myers, Planning Manager, added that it is a legal lot of record.

Chair Pollock inquired as to whether the petitioner would need a variance in order to rebuild regardless of whether the property is zoned B-3 or B-2. Mr. Myers said that is correct.

Mr. White commented that the appearance of the building seems to be strange. It seems like the wall to the east is actually part of Ray's Heating and Air Conditioning structure. Someone has

built a second story over the existing structure on the proposed site, and the second story rests on the common wall. The roof of the second story actually hangs over the adjacent property. He is not sure if rebuilding on the lot would be possible anyway. Mr. Engstrom responded by saying that the petitioner would probably not be able to rebuild the roof as it currently is. He might have to construct a shed roof.

Mr. White wondered how the owner of Ray's Heating and Air Conditioning felt about the proposed rezoning. Mr. Engstrom explained that the owner called and asked what was going on with the proposed case. After explaining the case to the owner of Ray's Heating and Air Conditioning, he did not seem to have an opinion about the proposed rezoning. Chair Pollock asked if the owner was notified of the proposed rezoning and of the public hearing. Mr. Engstrom said yes.

Mr. Hopkins inquired as to whether there is an access easement to allow parking in the back of the property. Mr. Engstrom stated that he is not aware of an access easement. It appears to be a legally non-conforming situation. Chair Pollock pointed out that if the vehicles parking in the back belonged to Ray's Heating and Air Conditioning, then the petitioner could tell them not to park there, because it is part of his property. Mr. Engstrom said that is true.

With no further questions for staff, Chair Pollock opened the hearing up for public input.

Daniel Babai, petitioner, approached the Plan Commission to answer any questions that the Plan Commission may have for him.

Mr. Grosser asked what Mr. Babai intended to use the property as. Mr. Babai replied that he plans to live in the back and rent the front to a small business to help offset his expenses.

Mr. White inquired as to how long it has been since anyone has lived in the residential component of the structure in back. Mr. Babai said that there was someone living there less than a month ago. Mr. White commented that it has not been vacant long enough to lose its non-conforming use. Chair Pollock wondered how long it must sit vacant before this would happen. Mr. Engstrom stated that according to Section X-3.b of the Urbana Zoning Ordinance that the amount of time it could be vacant is six months before it would lose its non-conforming use.

Mr. Myers noted that about five years ago, banks would just ask for a letter stating the zoning of a property and whether or not it was grandfathered in. Nowadays, banks want more details. This case is a result of the petitioner's lender wanting more information.

With no further input from the public audience, Chair Pollock closed the public input portion of the hearing. He then opened the hearing up for Plan Commission discussion and/or motion(s).

Mr. White stated that he is having difficulty with this because the purpose of the rezoning is so the petitioner could rebuild if something should happen to the existing structure. However, the upstairs wall appears to rest on the adjacent structure. Chair Pollock pointed out that the Plan Commission is not sure if this is true. The City is not sure if the petitioner would be able to rebuild, but without the rezoning, the petitioner definitely would not be allowed to rebuild.

Mr. Hopkins moved that the Plan Commission forward Plan Case No. 2075-M-08 to the Urbana City Council with a recommendation for approval. Ms. Stake seconded the motion.

Mr. Hopkins explained that he shares Mr. White’s concerns. This case is much more complicated than the zoning; however, none of the rest of those issues are before the Plan Commission. He sees no reason why the zoning should not be changed, especially since it seems to be consistent with the 2005 Comprehensive Plan.

Ms. Stake commented that since it is a historic area, she feels that it should definitely be rezoned. Therefore, she plans to vote in favor of the motion.

Mr. Myers clarified that if the existing structure were to be destroyed by fire or a tornado and the petitioner wants to rebuild, he is not sure if it could be rebuilt to be exactly as the way it is now. The petitioner would have to get approval of side-yard setback variances and would have to construct a fire wall, none of the building would be allowed to hang over on the adjacent neighboring property, and he would have to deal with stormwater in a way that water would not be going over onto the neighbor’s property. Chair Pollock pointed out that City staff and the Zoning Board of Appeals would be involved in the process.

Roll call on the motion was as follows:

Ms. Burris	-	Yes	Mr. Fitch	-	Yes
Mr. Grosser	-	Yes	Mr. Hopkins	-	Yes
Mr. Pollock	-	Yes	Ms. Stake	-	Yes
Ms. Upah-Bant	-	Yes	Mr. White	-	No

The motion was approved by a vote 7 ayes to 1 nay.

Mr. Myers noted that the proposed rezoning case would be forwarded to the August 4, 2008 City Council meeting.

**8. NEW BUSINESS**

There was none.

**9. AUDIENCE PARTICIPATION**

There was none.

**10. STAFF REPORT**

Mr. Myers reported on the following:

- ✚ **Attendance:** He thanked the Plan Commission for attending the Special Meeting. It was important to hold the special meeting so that the petitioner could move forward with his plans to purchase the property, etc.

- ✚ **August 4<sup>th</sup> City Council Meeting:** The City Council will be reviewing a special use permit amendment for the Trammell Crow project development.
- ✚ **Regular Meeting – 08/07/2008:** City staff is not sure if there will be a Plan Commission meeting held on August 7, 2008. There is currently a rezoning case for the Champaign County Zoning Board of Appeals that may or may not be withdrawn. If the case is withdrawn, then the meeting will be cancelled. City staff will let the Plan Commission know either way.

**11. STUDY SESSION**

There was none.

**12. ADJOURNMENT OF MEETING**

The meeting was adjourned at 7:51 p.m.

Respectfully submitted,

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Robert Myers, AICP  
Secretary, Urbana Plan Commission