

**MINUTES OF A REGULAR MEETING**

**URBANA PLAN COMMISSION**

**APPROVED**

**DATE:** July 19, 2012

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

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

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**MEMBERS PRESENT:** Carey Hawkins-Ash, Andrew Fell, Tyler Fitch, Lew Hopkins, Dannie Otto, Michael Pollock, Mary Tompkins

**MEMBERS EXCUSED:** Bernadine Stake, Marilyn Upah-Bant

**STAFF PRESENT:** Robert Myers, Planning Manager; Jeff Engstrom, Planner II

**OTHERS PRESENT:** Robin Arbiter, Camden Baxer, Ronald Berkman, John Boch, Matt Boynton, Jessica Dewitt, Brendon Ellis, Chris Fortier, Will Gillespie, Marcus Harris, Dean Hazen, Mike Holden, Pat Holden, Christina Kniskern, David Martin, Ryan Meekma, Kenneth Selby, Steve Stanley, Susan Taylor, Clyde Walker

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**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**

Chair Pollock announced that City staff is proposing not to address “outdoor firing ranges” as part of Plan Case No. 2181-T-12 and is withdrawing consideration of this specific land use category at this time. City staff would address this at a later meeting.

**3. APPROVAL OF MINUTES**

Mr. Fitch moved that the Plan Commission approve the minutes from the May 24, 2012 meeting as presented. Mr. Ash seconded the motion. The minutes were approved by unanimous voice vote.

#### 4. COMMUNICATIONS

The following written communications were distributed to Plan Commissioners at the beginning of the meeting:

- Updated recommendation for proposed Zoning Ordinance text for Plan Case No. 2181-T-12 provided by City staff.

#### 5. CONTINUED PUBLIC HEARINGS

There were none.

#### 6. OLD BUSINESS

There was none.

#### 7. NEW 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)”**

Jeff Engstrom, Planner II, presented this case to the Plan Commission. The proposed text amendment originated when a property owner contacted the Zoning Administrator to determine where the Urbana Zoning Ordinance would allow opening a new gun store and firing range in Urbana. Mr. Engstrom noted that the Federal Bureau of Alcohol, Tobacco, and Firearms (ATF) enforces federal laws such as the Gun Control Act, the National Firearms Act, and the National Instant Criminal Background Check System. Additionally, the State of Illinois has adopted firearms laws concerning rules for sale and purchase of firearms. Cities have the ability to regulate firearm sales through zoning or licensing. Zoning regulations may include minimum distances from schools, parks, churches or other gun shops or restricting firearm sales to specific zoning districts.

Mr. Engstrom stated that requirements for shooting ranges were less common than those for firearm sales. For indoor shooting ranges, design standards have been adopted by the federal government to ensure safety and low noise impacts on adjacent properties.

He discussed possible zoning districts in the City of Urbana where firearm sales might be allowed with a Special Use Permit. City staff is proposing firearm sales would only be allowed in the IN-1 (Light Industrial/Office) and B-3 (General Business) Zoning Districts. In addition, City staff is recommending the following three standard conditions for all principal use firearm sales businesses to meet: 1) Require a minimum distance from schools and places of worship; 2) Require a security plan approved by the City of Urbana’s Police Department and 3) Restrict firearms and ammunition from being displayed in windows.

He also spoke about limiting retail sales of firearms as a home occupation and permitting private firing ranges as a conditional or special use in certain districts. The amendment would also limit

gun sales out of homes. Upon researching firing ranges, City staff found all of their concerns addressed in the federal guidelines for range design criteria. Staff is proposing to adopt these design guidelines as a requirement for any indoor firing range.

Mr. Engstrom explained how the 2005 Urbana Comprehensive Plan relates to the proposed text amendment. He read the options of the Plan Commission and presented City staff's recommendation.

Chair Pollock asked staff to explain the processes for acquiring a special use permit and a conditional use permit. Mr. Engstrom then explained the process for each.

Mr. Hopkins asked if there is a particular reason why the special use permits being proposed in the text amendment only apply to IN-1 (Light Industrial/Office). Mr. Engstrom replied that when the City recently created the IN-1 (Light Industrial/Office) and IN-2 (Heavy Industrial) Districts, the intent of the IN-1 District includes limited retail uses, but IN-2 Districts are intended to be limited to heavy industrial uses.

Mr. Hopkins asked how indoor firing ranges related to the CRE (Conservation-Recreation-Education) Zoning District which is primarily public owned land. Mr. Engstrom answered that although CRE zoning is mostly publically owned, it could also include privately owned property.

Mr. Hopkins asked what constitutes a private firing range as opposed to a public firing range. Mr. Engstrom responded that a new definition would define a "private" firing range as essentially private owned. The proposed text amendment distributed tonight would apply to private firing ranges and not publically owned ranges such as the law enforcement-only range at the closed City landfill.

Mr. Hopkins wondered if the Urbana Park District wanted to open a public firing range, then the proposed regulations would not apply. Mr. Engstrom said that is correct.

Mr. Otto noticed the wide range of minimum distance requirements on Page 3 of the written staff report range from 500 to 2,000 feet. Why is City staff proposing 500 feet distance? Mr. Engstrom explained that the table shows a sample of local standards. Most all of the cities require from 500 to 1000 feet, so City staff decided to go with the lower distance. The Plan Commission can recommend a different distance if they wish to do so.

Mr. Otto asked why there are different laws based upon business volume. He feels that there should be one set of regulations. Mr. Engstrom replied that when we generally look at principal uses for different businesses, there are different concerns that would affect them. Larger businesses have larger volumes of traffic. Mr. Myers added that it is the intent of this amendment to deal with land use categories rather than gun sales specifically. This amendment concerns principal use gun stores rather than pawn shops and sporting goods stores which may include gun sales as a smaller component of a broader range of retail sales.

Chair Pollock inquired as to whether the proposed regulations, if approved by the City Council, would be applied to stores that currently sell firearms or would these stores be grandfathered in without the regulations. Mr. Myers responded that because it is a zoning regulation, any firearms

stores, private firing ranges, or approved home-based gun sales would be grandfathered as legally non-conforming uses. When the City staff drafted the proposed text amendment, they had firearm stores in mind rather than general retail stores.

Mr. Otto commented that his concern is not so much over the character of the use but more for the security of the inventory. A larger business, such as Walmart, could have a firearm section that while it may only be considered a small portion of their overall inventory could be five times larger than a firearm store. The City needs to have the same laws for any business who would sell firearms.

Mr. Otto noted that on Page 7 of the memo, under Section V-13. H. (home occupations) it states that, "...*No firearms inventory shall be regularly kept in the home.*" He felt this language should be removed for the simple reason that a firearm dealer with a home occupation permit will probably have a stock of guns for their own personal possession kept at home. How would one determine whether this would be part of the inventory or part of the dealer's personal collection? Mr. Myers stated that the City is not intending to limit gun ownership through this Zoning Ordinance amendment. The home occupation ordinance is vague in several major respects, including that it doesn't prohibit retail sales from the home. Allowing outright retail sales from a home flies in the face of residential zoning. Prohibiting stock in trade at home is intended to insure that a gun dealer operating from the home with internet sales does not become a gun store operated in a residential zoning district.

Mr. Fell asked if a firearm store owner wanted to provide a place for a potential buyer to fire a gun prior to purchasing it, would it be considered a firing range? Mr. Engstrom stated that this would be considered a private firing range. Chair Pollock pointed out that this could only happen in certain districts with the approval of a special use permit.

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

Marcus Harris and Dean Hazen approached the Plan Commission. Mr. Harris explained that he owns rental property and Mr. Hazen approached him about relocating his home firearm business. After researching firearm sales and firing ranges and reviewing the properties that he owns, he found two locations that would be suitable for these uses. The property at 705 South Glover Avenue might be a gun store, and 801 South Poplar might be suitable for an indoor firing range. Mr. Harris said he approached City staff about the process of opening each business.

Mr. Myers asked Mr. Harris to talk about the design of indoor firing ranges. Mr. Harris noted that the National Rifle Association (NRA) offers range conferences, and professional firing range outfitters can be hired to construct firing ranges to meet the federal, state and local regulations. Building or retrofitting a building to meet these standards requires a considerable investment.

Mr. Fitch questioned whether Mr. Hazen had any concern about possibly opening a firearm store close to an establishment where alcohol is served and consumed on premises. Mr. Hazen did not have any concern with this because most alcohol would be served in the evening during the hours when his business would be closed.

Mr. Fitch asked if Mr. Hazen felt confident that a security plan would cover any problems that might be unique to a similar location. Mr. Hazen recognized that the Plan Commission did not want to get specific details about his plans to open a firearm store and firing range, but he currently has an extensive security plan for his home business in which he has invested a lot of money.

Mr. Hazen spoke about larger chain stores selling firearms. Walmart used to sell guns at one time. However, he is not aware of any chain store in the area currently selling firearms. One reason why is because the stores would have to invest more training and money in employees authorized to handle firearm sales. The employees would have to pass written tests and background checks, obtain FOID cards and undergo extensive training. In addition, there are strict regulations on selling firearms and a large amount of paperwork to file when a firearm is sold. Larger chain stores realized it was not worth the extra cost, so they discontinued selling firearms in their businesses.

Mr. Hazen asked if there is a fee to apply for a special use or conditional use permit. Mr. Engstrom said yes. The fee is \$150.00 for a conditional use permit and \$175.00 for a special use permit. This is a one-time fee rather than annual.

Ron Berkman, of 1003 Philo Road, stated that shooting is a sport for him and his wife. They support the idea of allowing firearm sales and firing ranges in the City of Urbana. The nearest indoor firing ranges are in Bloomington, Rochester, and Pocahontas. They belong to the local clubs that provide outdoor shooting ranges in St. Joseph, Sadorus, and Foosland. They would like a local place to go when it gets cold outside. The use of firearms has to do with training and knowledge. There should be more information disseminated throughout the population. The City already supports bicycles and art, and there is no reason for the City not to support the sport of shooting firearms. Firearms are simply machines, just like cars, motorcycles, boats, and aircrafts. Any of these could be used as weapons.

Robin Arbiter, President of the Lierman Neighborhood Action Committee (LNAC), and Jessica Dewitt, resident of the City of Urbana, came before the Plan Commission to speak. They handed out copies of a letter to the Plan Commission regarding the concerns of the Lierman Neighborhood Action Committee, and Ms. Arbiter read the letter aloud. The Lierman Neighborhood Action Committee does not want gun stores to be allowed by right but instead considered on a case-by-case basis. They want businesses and services which will serve and support the community. They need a store where they can buy fresh food. They already have liquor sales and adult entertainment. A gun store would not benefit the neighborhood.

Chair Pollock pointed out that many of the standards that LNAC recommends are included in the proposed text amendment. Ms. Arbiter replied that they do support the proposed text amendment and feel that it addresses many of the neighborhood's concerns. The one area where the proposed text amendment had less emphasis is in spelling out the community impact. Chair Pollock assured them that every time the Plan Commission meets to review a case, they consider the impact that their decision would have on the community.

Ms. Dewitt wondered if a gun shop being located in a neighborhood would lower the property value of the homes in that neighborhood. Mr. Engstrom said he could research this issue.

Ms. Dewitt mentioned that there could be a potential for a secondary market of firearms even though this would be illegal. A firearms store locating in a neighborhood such as the Lierman Neighborhood would not present a good image for the neighborhood.

John Boch, President of Guns Save Life, approached the Plan Commission to speak. He encouraged the City of Urbana to adopt regulations that are more permissive than restrictive to avoid the potential for legal expenditures down the road. If the City adopts rules that are highly restrictive, it could lose in court like the City of Chicago and have to pay big money. He did not see a need for any setback requirements from other uses. The Constitution's Second Amendment, the right to keep and bear firearms, is right on par with the right to free speech, freedom of religion, etc. Firearms used properly are very safe and beneficial. If they are used for criminal acts, then let the justice system take care of the offenders.

Chair Pollock asked if Mr. Boch had read the proposed text amendment and would he term it as being "highly restrictive". Mr. Boch responded that based on his reading he believes that there is some wiggle room in the language and that it is not terribly objectionable. He hoped that it would not be amended to become more restrictive than what it appears in its current state.

Steven Stanley, resident of Liberty Commons, stated that he is a gun owner. He pointed out that purchasing firearms is already very restrictive with the federal and state regulations. He hoped that the City of Urbana would not create an ordinance that would infringe upon gun owners. Allowing indoor and outdoor shooting ranges would be beneficial to gun owners as well as to the City. Gun owners would have a local place to go, and the City would benefit from the revenue that shooting ranges would generate.

Kenneth Selby, a federally licensed firearms dealer, talked about his life experience with regards to firearms. He feels that the proposed text amendment is overly restrictive with regards to distance from schools. He owned a firearm store in Jacksonville that was within 300 feet from a public school and across the street from the athletic field for the high school. The only issue he had would be when there was a football game on Friday night with parents and fans parking in his parking lot. He never had an issue with kids coming into his shop because they were not old enough to purchase firearms. Another issue he has with the proposed text amendment is with regards to inventory. The ATF will not allow a person to open a firearms store out of their home unless they have specific hours of operation. "By appointment only" will not be approved by the ATF. In his current firearm business, which is located in Rantoul, he does mostly internet sales. Firearms are delivered to his house by regular carriers, and he ships firearms to his clients through the United States Post Office. He has about 30 guns in his inventory that he advertises on the internet.

The ATF allows for individuals to open firearm businesses in their homes, grow their business, and once the business has outgrown the home, the individual can move their business into a shop elsewhere in the City. However, the proposed text amendment as worded would not allow this to happen in the City of Urbana.

David Martin, resident of rural Urbana, noted that with regards to indoor shooting ranges, the City of Bloomington is 55 miles away, the range in the Danville area is north of Oakwood about

five miles, and the Village of Foosland is approximately 7 to 8 miles north of Mahomet. To have an indoor shooting range close by for the citizens of Urbana and for residents of the surrounding areas would be a great benefit to the area. If ever the State of Illinois adopts a conceal/carry law, then there would be a big business in firearms training. People would need a place to practice.

Mr. Hazen re-approached the Plan Commission to address comments that were mentioned by other speakers. He verified Mr. Selby's comments about the ATF requiring specific hours of operation for home based firearms businesses. In his current home business, he has one day a week with limited hours of operation to meet ATF's regulations and restricts other business to no more than five visits per day to meet local regulations.

Regarding inventory, Mr. Hazen has about 65 to 70 guns in his business inventory. He has construction toolboxes bolted to the floor, alarms in the house, motion sensors, and barbed windows in the garage. He has customers who have four to five times the number of guns in their personal collections than he has in inventory, and his customers do not have nearly as much security as he does. He wanted to discuss what the City's concerns are regarding security in terms of inventory.

With regards to his business and the proposed text amendment, Mr. Hazen understood that his home business would be grandfathered in. While the proposed text amendment would prevent any future competition, he believes in the American dream and that others should have the same opportunity that he has had. He mentioned that he has not made any money in the year and a half that he has been in business. It is a labor of love. Most of the firearm dealers that work out of their homes have this type of business because of fond memories from hunting with their fathers or learning how to shoot guns in school.

He talked about the Police Training Institute located on the University of Illinois' campus. He noted that this is not a public range. It is a shooting range for people who belong to the faculty and staff shooting club. The Urbana Police Department has their own range on the north side of town.

He stated that he is a police officer and a resident of southeast Urbana. He is very concerned about the development of southeast Urbana in terms of home values, crime rate and safety. When good businesses pull out of a neighborhood then it leaves more room for the crime rate to increase. Gun owners and firearm store owners are some of the most civic minded, methodical, and responsible people. This is the type of people who will be frequenting a firearm store; not people under the influence of alcohol or felons. He would like to see the neighborhood get built up with good business no matter what the business may be.

Mr. Myers explained that the intent of only allowing business "by appointments" is to prohibit retail trade from occurring in a home. Mr. Hazen asked that now City staff knows that the ATF require at least one day with limited hours if they could include that in the language of the proposed text amendment so that it would be possible for an individual to open a home-based firearm business. Mr. Myers said yes.

Mr. Harris mentioned that he owns about 50 residential properties in the neighborhood. He would not do anything to impact the value of those properties. Therefore, he would not rent to Mr. Hazen if a firearms store would lower home values.

Mr. Hopkins wondered if there is alternative language that would be more directly useful than not allowing any inventory be kept in a home based business. Mr. Hazen stated his security plan for his home based firearm business is on file with the Urbana Police Department as well as with METCAD. Mr. Hopkins proposed that the City change the language in the proposed text amendment to make it a requirement for any home based firearm business to submit a security plan to the Urbana Police Department and to METCAD in lieu of any other regulations.

Mr. Ash wondered if Mr. Harris or Mr. Hazen, upon getting approval in the future to open a firearm store and/or indoor shooting range, would provide educational training for people who are interested in learning about firearm safety. Mr. Harris remarked that if people are interested in the educational or training component, then he would be willing to have open doors to offer it and possibly even have some competitor events. Mr. Ash felt that by offering education and working together with people to obtain their FOID cards, that it could help bridge the gap between them and the community.

Mr. Berkman re-approached the Plan Commission. He mentioned that he has a home-based business and deals with people as clientele. He communicates with them through email and periodically someone will come by to pick up their product. He also has mail order customers. A gun shop and a shooting range could serve as a focal point for the individuals who are capable of sharing information with those who are interested in becoming involved. The more communication they have and the more interchange they have between the groups, then the better the end product will be.

Michael Holden, of 1209 East Michigan, welcomes an indoor shooting range. He, especially, likes the idea of a range being located close to his home so he could walk there. He asked why the Pledge of Allegiance was not said at the start of the meeting. Chair Pollock stated that it is said at City Council meetings in conjunction with holidays. Mr. Holden commented that he wished it would be said at the start of all government meetings.

Steven Stanley re-approached the Plan Commission. He talked about education and how it increases safety and it teaches people not to be as scared of firearms.

Ryan Meekma, resident of the City of Urbana, talked about how when he first moved here he was unable to meet new people who enjoyed the same hobbies as him, especially when it came to shooting as a sport. It took him two years to find shooting clubs in other communities. He advised people to be careful when talking about guns or firearms and not call them weapons. It offends those who like shooting as a sport or for hunting. We need to educate people correctly so that they do not consider guns as weapons.

Clyde Walker, of 901 South Lierman Avenue, senses an irony in the idea of locating a firearm store in an area where so much gun violence has occurred over the last several years. To him it is a matter of semantics of whether they are called firearms or weapons because the potential physical and psychological results are still the same.



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

Mr. Ash questioned whether the two existing home-based firearm store permits would expire and have to be renewed. If so, would they be renewed under the amended ordinance? Mr. Engstrom said no, home occupation permits, once granted, are perpetual as long as the home owners abide by the conditions in their applications.

Chair Pollock then opened the meeting up for Plan Commission discussion. Mr. Hopkins felt that the Plan Commission needed to make some revisions to the proposed text amendment prior to making a motion.

One revision would be to Section V-13, Paragraph H. Mr. Hopkins believed that they should require approval of a site security plan by the Urbana Police Department. This should be the only requirement listed in this paragraph. The current proposed language is over written in trying to solve concerns of the City staff. The Urbana Police Department should be able to figure out whether a size of inventory requires some kind of alarm system or not.

Mr. Otto felt that anything they come up with should be in accordance with the ATF. He felt that Mr. Hopkins' suggestion to require approval of a site security plan by the Urbana Police Department is too broad or general, and he is worried that the responsibility of making the decision might fall on someone with less experience with the ATF's regulations. He would like for City staff to find the specific regulations that the ATF requires. It was the consensus of the Plan Commission to have City staff look at what types of issues we should have the Urbana Police Department look at, what the ATF regulations are and some options for how to reword the language so that it fits with the ATF criteria as well as safety concerns for the City's neighborhoods.

Mr. Otto inquired about current regulations for existing home-based businesses with regards to hours of operation. Mr. Myers replied that there are many issues with the home occupation ordinance. It does not actually say that retail is not allowed; however, it has been a long-standing interpretation that it does not include retail sales. It does not generally prohibit having business hours open to the public because some home occupation uses that are permitted may need to have hours of operation, such as a hair salon/parlor. Chair Pollock suggested that given the vagueness of the ordinance in general and its various different applications depending on types of businesses that when the Plan Commission looks at gun sales in particular they hone in specifically on this use. The Plan Commission should leave the recrafting of the home occupation ordinance in general to a later date.

Mr. Hopkins felt that the notion of distance from other uses needs some justification. Chair Pollock voiced his idea that maybe discussion on this should take place during the special use permit process depending on the property, adjacent properties and the zoning of the properties. Mr. Fitch stated that he would like to see a justification of why 500 feet would be appropriate instead of 200 or 300 feet and why does it only apply to churches, schools and mosques. Why does it not apply to businesses that sell alcohol? He believes it warrants more discussion and research by City staff.

Mr. Hopkins understood Section VII-5. Paragraph D to be specific conditions to be added to the special use criteria for firearms in addition to general criteria for special uses. It seems to him that Item 4 is so vague that it is covered under the general criteria for special uses, and therefore invites misinterpretation. Chair Pollock added that special use permit process provides great flexibility for the Plan Commission and the City Council to make those determinations on a case-by-case basis, so there is really no reason to have Item 4 in the ordinance. It was the consensus of the Plan Commission to remove Item 4.

Mr. Otto pointed out that there had been no discussion on hours of service for a firearm sale use. The Plan Commission agreed that City staff should research this more and find if other areas have hours of operation for firearm sale use as home occupations.

Mr. Otto stated that he would prefer to include the outdoor shooting range use with the proposed text amendment rather than to wait until someone expresses an interest. Chair Pollock mentioned that he had previous conversations with City staff prior to the meeting about how to handle this. City staff is not ready to present a text amendment to the Zoning Ordinance on outdoor shooting ranges. However, it is on the list of what City staff is planning to propose changes to or create in the form of future text amendments.

Mr. Ash asked Mr. Harris and Mr. Hazen whether they would offer firearm educational services to which they assented.

Chair Pollock announced that this case will be continued at the next regular meeting of the Plan Commission.

## **8. NEW BUSINESS**

There was none.

## **9. AUDIENCE PARTICIPATION**

There was none.

## **10. STAFF REPORT**

Mr. Myers reported on the following:

- Casey's General Store rezoning and annexation agreement and the Birkey's Farm Store subdivision were all approved by the Urbana City Council. Both parties are preparing plans to submit for construction.

## **11. STUDY SESSION**

There was none.

**12. ADJOURNMENT OF MEETING**

The meeting was adjourned at 10:03 p.m.

Respectfully submitted,

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Robert Myers, AICP, Secretary  
Urbana Plan Commission