



Approved

MINUTES  
**ZONING ADVISORY COMMISSION**  
REGULAR SESSION

6:00 p.m.

Wednesday, August 7, 2013  
City Council Chamber  
350 W. 6<sup>th</sup> Street, Dubuque, Iowa

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**PRESENT:** Chairperson Charles Miller; Commissioners Ron Smith, Steve Hardie, Martha Christ, and Patrick Norton; Staff Member Kyle Kritz.

**ABSENT:** Commissioner Tom Henschel.

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**CALL TO ORDER:** The meeting was called to order at 6:00 p.m.

**AFFIDAVIT OF COMPLIANCE:** Staff presented an Affidavit of Compliance verifying that the meeting was being held in compliance with the Iowa Open Meetings Law.

**MINUTES:** The minutes of the July 2, 2013 meeting were approved as submitted by the following vote: Aye – Smith, Hardie, Christ, Norton and Miller; Nay - None.

**ACTION ITEM\WAIVER:** Application of Spahn & Rose Lumber Company, 370 Harrison Street, request to waive Section 13 of the Unified Development Code Site Design standards regarding permeable area.

John Hannan, representing Spahn & Rose Lumber Company, 2175 Southpark Ct, Dubuque, outlined the request to the Commission, noting that they are relocating their retail store from 11<sup>th</sup> & Jackson, where they have been located for over 100 years to the site on Harrison Street near the South Locust Hy-Vee Food Store. Mr. Hannan described the proposed layout of the site, noting the location of new buildings and parking and maneuvering areas. Mr. Hannan noted that the retail showroom would be 18,000 square feet and will provide additional space to serve the customers as well as sufficient parking. Mr. Hannan reviewed the issue of an easement that exists on the property for FedEx Air, the adjacent business owner. Mr. Hannan indicated they would be working through the easement issue and that any changes to the layout of the project would be minimal. Mr. Hannan also indicated that the request remains the same for 7% permeable area.

Dan Hinggen, WHKS, reviewed the easement issue, noting the location of the easement and the potential impact on the proposed Spahn & Rose site layout.

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Staff Member Kritz reviewed the request to waive Section 13 of the UDC site design standards regarding permeable area for the new Spahn & Rose facility. He reviewed that the property was previously used by FedEx, a recycling operation and Portzen Construction. He noted that included in the Commission's packet is a photograph of the site taken in 1996 that shows the previous development of the property and shows that only approximately 2% of the site was permeable at that time. A photograph from 2009 was also reviewed that showed that Portzen Construction building had been removed, and that a Google Earth photograph taken in 2012 shows the most recent use of the site by FedEx Air. He noted that while currently approximately 25% of area is permeable, but is not of a high quality type composed of weeds, broken concrete and crushed rock.

Staff Member Kritz pointed out that Spahn & Rose Lumber Company will comply with all other UDC requirements including parking lot buffer yards, storm water best management practices, and landscaping requirements. It was noted that Spahn & Rose will provide the number of trees and shrubs that would be required, as they met the required 20% permeable area. Staff Member Kritz noted he was available for questions from the Commission.

The Commission discussed the request, reviewing the location of green space shown on the preliminary site plan submitted by Spahn & Rose, and the types of storm water management BMPs that were proposed. Commissioner Norton questioned the use of storm chambers and reviewed how the proposed snout devices on the storm water inlets separated floating garbage and oils from the storm water system. The Commission discussed the use of permeable pavers and whether this was one of the proposed storm water management BMPs.

Staff Member Kritz noted that in City staff's review of the site, the redevelopment of an existing site is positive in terms of storm water management in comparison that if Spahn & Rose was to not redevelop the site, but rather locate on a green field site elsewhere in the community. The result would be a greater amount of impervious surface than if the subject property was redeveloped. Staff also noted that for much of the history of this site, approximately 2% of this site was permeable, where the proposal by Spahn & Rose would increase this by 5%, and that the existing storm water infrastructure in this area of the community has accommodated a high level of impervious surface for many decades.

Commissioner Smith spoke in support of the requested waiver. Commissioner Christ said it was a very positive re-use of an existing site by Spahn & Rose, and was in support of the waiver.

Motion by Hardie, seconded by Smith, to waive Section 13 of the Unified Development Code's Site Design Standards regarding permeable area. Motion carried by the following vote: Aye – Smith, Hardie, Christ, Norton and Miller; Nay – None.

**PUBLIC HEARING\TEXT AMENDMENT:** Application of Beverly Knockel for a text amendment to amend Section 7-1.3 of the City of Dubuque's Unified Development Code to add firearm sales to the list of prohibited home-based businesses.

Beverly Knockel, 900 Hawkeye Drive, spoke in support of the proposed amendment. Ms. Knockel distributed copies of her presentation to the Commission. Ms. Knockel asked for a show of hands from the audience of those in attendance who signed the petitions and/or supports prohibiting firearm sales home-based businesses in residential neighborhoods. Ms. Knockel indicated that in the packet provided to the Commission was a petition circulated through her neighborhood that showed there were 44 against and 1 in favor of a recent request by a neighbor to allow a firearm sales business as a home-based business. Ms. Knockel indicated she had four email letters from realtors that are self-explanatory, and web articles and the Sandy Hook promise that relate to the reasons why a firearm sales business and residential neighborhoods do not go together.

Ms. Knockel explained that one of the five promises of the American Promise Alliance is safe places, and questioned how can a community make children feel they live in a safe neighborhood when they have to walk past a home that could be a firearm sales business? Ms. Knockel talked in general about recent gun issues nationally and within the local community, and indicated that that Dubuque can resolve one area that will make a residential neighborhood safer and happier place to live without the fear of someone opening a firearm sales business next door. Ms. Knockel indicated that every time she has told someone that a commercial firearm business can open in a residential neighborhood, they are shocked to learn this, and that she wants to make the rest of Dubuque's neighborhoods safe and help curb violence in our city and country, and make firearm sales a prohibited business so it cannot be tried again.

Ms. Knockel concluded by saying that she realized that everyone has the right to bear arms in this country, but not everyone has the right to commercially sell them in a residential neighborhood, and that firearm sales belong in a commercially-zoned area because of traffic, safety, security, property values and the nature of firearm sales, she is asking the Zoning Advisory Commission to prohibit firearm businesses in residential neighborhoods per Section 7-1.3 of the City of Dubuque's Unified Development Code..

Mary Sawyer, 888 Stone Ridge Place, indicated she was the coordinator of the Dubuque Culture of Non-Violence Coalition. The group seeks to raise awareness of gun violence to assure that all residents, especially children, can live in a peaceful and safe environment. The coalition fully supports the request to amend the Zoning Ordinance to prevent the commercial sales of guns in residential neighborhoods. The coalition requests that the Zoning Advisory Commission forward a recommendation to approve the request to the City Council.

Bill Kelly, 3744 Buckeye Court, spoke in support of the proposed amendment. He stated that an acquaintance of his is a retired California Highway Patrolman, who indicated that he has nothing against the ownership or sale of guns, but that it should take place in an

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appropriate area. Mr. Kelly indicated that most gun shops have bars across their windows and doors for security. He indicated he is very concerned about where these businesses are allowed to open in the community. Mr. Kelly reviewed a recent conditional use permit for home-based firearm sales that was denied by the Zoning Board of Adjustment in his neighborhood.

Diane Koch, 285 South Grandview Avenue, indicated she was a former piano teach who ran a home-based business out of her home for 15 years. She felt that guns sales are not the type of business that should be allowed in a residential neighborhood, and asked whether the City can regulate whether a family home would have to install bars on their windows and doors if they were to be selling guns. Is the Zoning Advisory Commission or Police going to be able to enforce security so there is no increase in burglaries in a neighborhood with a home-based firearm sales business? Ms. Koch indicated that there was an abundance of commercial properties available for firearm sales.

Staff Member Kritz reviewed a memorandum reviewing the general provisions of Section 7-1.1 regarding home-based businesses existing currently in the Unified Development Code (UDC). Specifically that this section of the UDC lists permitted home-based businesses and prohibited home-based businesses. Businesses that are not listed as either permitted or prohibited may apply for a conditional use permit from the Zoning Board of Adjustment. The Zoning Board of Adjustment reviews these home-based businesses based on nine criteria that help establish whether a home-based business would have a negative impact on a surrounding residential neighborhood. He reviewed the existing permitted home-based businesses and those listed as prohibited in the UDC.

Staff Member Kritz reviewed that the Zoning Board of Adjustment approved three home-based firearm sales businesses within the city since 2005. He reviewed that the Zoning Board of Adjustment placed conditions on two of the three permits. These conditions were related to hours of operation and hours for delivery and pick-up. The third approval had no conditions attached to it.

Staff indicated that since the first firearm sales and repair home-based business was approved in 2005, the Planning Services Department has received no complaints from surrounding neighbors. The City of Dubuque Police Department has also listed no calls for services at these addresses specific to the firearms business. There were calls for service to these locations; however, none were attributed to the home-based business. Staff noted that in general, their experience that a business of this nature tends to generate little traffic, demand on parking, noise or activity over and above that normally found in a residential neighborhood, and that there are a number of other home-based businesses that may generate more traffic, such as a home day care, income tax preparation or insurance sales.

Home-based firearm sales are generally web-based and customer contact is required to be by appointment only. The contact would generally consist of a customer picking up a firearm ordered over the internet. Staff has seen no evidence of home-based firearm

businesses that have a negative impact on the value of adjacent residences. Staff Member Kritz did note that if a potential homebuyer was aware of a firearms home-based business in a home adjacent to one they were considering, it may, based on their perspective, affect whether they would be willing to buy an adjacent property or not. However, staff does not have specific evidence that the value of properties surrounding a home-based firearm sales business were impacted one way or another.

Staff Member Kritz indicated that in terms of whether there is an increased possibility of security issues and the potential for burglaries is difficult to determine. If the home has the same outward appearance as others in the neighborhood, to what degree does a firearm sales home-based business increase the odds of a break-in is difficult to determine. Staff noted the rules and regulations set forth by the Federal Bureau of Alcohol, Tobacco and Firearms.

Commissioner Smith asked about whether the existing home-based firearm sales businesses would be grandfathered if this amendment were to be approved. Staff Member Kritz answered yes, they would be grandfathered in if the amendment is approved by the City Council, and it would only impact future requests.

Commissioner Hardie stated he felt the applicant and the other speakers have taken a very measured approach to their requested amendment, in that they are only requesting that firearm sales be eliminated from home-based businesses in residential areas. He indicated he felt it was a reasonable request as there are opportunities elsewhere in the community for firearm sales to take place, specifically in commercial areas rather than residential areas. He indicated he intends to support this proposed amendment.

Motion by Hardie, seconded by Smith, to amend Section 7-1.3 of the City of Dubuque's Unified Development Code to add firearm sales to the list of prohibited home-based businesses. Motion carried by the following vote: Aye – Hardie, Smith, Christ, Norton and Miller; Nay – None.

**ITEMS FROM PUBLIC:** None.

**ITEMS FROM COMMISSION:** None.

**ITEMS FROM STAFF:** None.

**ADJOURNMENT:** The meeting adjourned at 6:55 p.m.

Respectfully submitted,

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Kyle L. Kritz, Associate Planner

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Adopted