

MINUTES OF A SPECIAL MEETING

URBANA ZONING BOARD OF APPEALS

APPROVED

DATE: December 13, 2023

TIME: 7:00 P.M.

PLACE: Council Chambers, City Building, 400 South Vine Street, Urbana, Illinois

MEMBERS ATTENDING: Joanne Chester, Matt Cho, Ashlee McLaughlin, Adam Rusch, Nancy Uchtmann, Charles Warmbrunn, Harvey Welch

STAFF PRESENT: Kimberly Smith, Director of Community Development Services; Kevin Garcia, Principal Planner and Zoning Administrator; Marcus Ricci, Planner II; Nick Olsen, Planner I; David Wesner, City Attorney

OTHERS PRESENT: Geoffrey Bant, Nancy Barenberg, Joanne Budde, Rose Dawoud, Kyle Emkes, Barbara Franzen, Grace Harshbarger, Jeffrey M. Harshbarger, Igor Kalnin, Richard Lampman, Lori Martinsek, Deb Newell, Joseph Nuckolls, Keith Pillischafske, Kim Pillschafske, Clint Stannard, Diane Stannard, Sara Stannard, Cindy Tsai, Eddie Tsai, Wes Taylor, Vicki Trimble, Jim Tucker, Marla Tucker, Don Uchtmann, Fred Wahlfeldt, Robert Withers, Cindy Zarbuck

A. CALL TO ORDER and ROLL CALL

Chair Welch called the meeting to order at 7:00 p.m. Roll call was taken, and he declared a quorum present with all members in attendance.

B. CHANGES TO THE AGENDA

There were none.

C. APPROVAL OF MINUTES of PREVIOUS MEETING

The minutes of the November 15, 2023, regular meeting were presented for approval. Ms. Chester moved that the Zoning Board of Appeals approve the minutes as written. Ms. Uchtmann seconded the motion. The minutes were approved by unanimous voice vote.

D. CONTINUED PUBLIC HEARINGS

ZBA-2023-C-05 – A request by Wes Taylor, on behalf of P.K. Elledge Development, LLC, for a Conditional Use Permit to allow a self-storage facility at 205 North High Cross Road, in the B-3 (General Business) Zoning District.

Chair Welch re-opened Case No. ZBA-2023-C-05 and summarized the previous public hearings on this case and described the proceedings for this public hearing. He swore in members of the audience that wanted to speak.

Kevin Garcia, Principal Planner, pointed out that a valid written protest has been submitted, which requires a two-thirds vote of the Zoning Board of Appeals members in favor of the request. He stated that there are seven members present, so five members would need to vote in favor for the proposed Conditional Use Permit to be approved.

Nick Olsen, Planner I, presented a brief update, noting there were revised conditions, which he would state. He first explained that any public input that was received after the November 15, 2023 public hearing was included in the written staff report for this meeting. He talked about one letter and one phone call that City staff received in support, and two phone calls in opposition, since the packet was sent out for the meeting.

Mr. Olsen presented City staff's recommended, revised conditions:

1. The self-storage facility shall generally conform to the submitted site plan,
2. The self-storage facility's operating hours shall be between the hours of 7:00 a.m. and 8:00 p.m.,
3. The self-storage facility shall be monitored by security cameras,
4. The applicant shall install fencing along the south and east sides of the property,
5. The self-storage facility shall include language in its customer contracts prohibiting unauthorized dumping of materials on the property, and
6. The self-storage facility shall have a customer service phone number posted in a clearly visible location on the property, which shall be monitored by on-call staff during business hours.

He stated that City staff feels that these six conditions should help to address some of the concerns expressed by the neighboring residents in Beringer Commons Subdivision, and noted staff's response to some other issues not being addressed in these conditions. He stated that the City of Urbana already has robust regulations in place regarding stormwater management and lighting. He mentioned that seven of the eleven storage facilities staff identified in the City of Urbana are located directly adjacent to a residential use. He noted that City staff does not have conclusive evidence showing whether storage units have a negative impact on neighboring residential uses.

Mr. Olsen reviewed the options of the Zoning Board of Appeals, and he presented City staff's recommendation for approval based on the findings in the written staff report dated October 13, 2023, and on the revised conditions as presented.

Chair Welch asked if any members of the Board had questions for City staff.

Mr. Warmbrunn asked for clarification on the difference between the "neighborhood" and the "district". Mr. Garcia explained that typically when City staff refers to "neighborhood", they are referring to the general area surrounding a subject property, not just the 250-foot notification area. When City staff refers to "district", they are referring to the specific zoning district which a subject property is located in. In this case, it would be the B-3 (General Business) Zoning District.

Mr. Warmbrunn inquired about signage and whether it would be illuminated. Mr. Olsen replied that the applicant has not currently proposed any signage. When they do, it would be reviewed by City staff to ensure that it meets the sign regulations in the Zoning Ordinance.

Ms. Uchtmann asked if the Zoning Board of Appeals would be able to ask the applicant to provide a monument style of sign so it would be non-obtrusive on the neighboring residential use. Mr. Garcia stated that any additional conditions that the Zoning Board of Appeals wished to impose on this request should tie back to the criteria (listed in the Zoning Ordinance) for a Conditional Use Permit. If the Board felt that a monument style sign would apply to one of the criteria, then they could propose it as a condition. Mr. Olsen then stated the types of conditions the Zoning Ordinance includes that can be imposed on a Conditional Use Permit.

Ms. Chester stated that she did not feel that any of the seven storage facilities in the City of Urbana compared to the proposed lot due to zoning or proximity to the residential use. She said that Route 150 separates the commercial and industrial zones from the Beringer Commons Subdivision. Mr. Garcia called point of order. He noted that the Board was at the point of asking questions of staff, not at the point for making statements or discussing the case.

Mr. Rusch asked City staff to review the rezoning of the subject property from B-1 (Neighborhood Business) to B-3 (General Business). Mr. Olsen responded that the rezoning occurred in 2021 in conjunction with a Special Use Permit that allows a clinic on the proposed site. He noted that typically a rezoning of a property is not based on a specific use, even though the rezoning may be prompted by a specific use. He could not recall any case where the rezoning was conditioned upon a use. Mr. Garcia added that City staff is very clear when they bring a rezoning case to the Plan Commission and to City Council that if a project that is prompting a rezoning request does not go through, the zoning will remain, so they should base their decision to rezone on the rezoning criteria, not on a proposed use.

Mr. Rusch asked for clarification on self-storage facilities requiring approval of a Conditional Use Permit in the B-3 Zoning District. Mr. Garcia said that is correct.

With no further questions for City staff, Chair Welch opened the hearing for public input. He invited the applicant and/or the applicant's representative to approach.

Kyle Emkes, Attorney representing the applicant, approached the Zoning Board of Appeals to speak in favor of the proposed Conditional Use Permit. He stated that the decision to not approve Case No. ZBA-2023-C-05 on October 18, 2023 was found to be legally insufficient, so the Board is being asked to reconsider the case at this meeting. He stated that any decision made regarding the Conditional Use Permit case must be made pursuant to the Zoning Ordinance, whereby the Board makes findings of fact regarding the application. He reviewed the criteria for a Conditional Use Permit and stated that if the case meets the criteria, then the Board must approve the case. He then reviewed how the proposed self-storage facility meets the criteria.

Mr. Emkes addressed other concerns expressed by residents of the neighboring subdivision with regards to a stormwater management plan, lighting, noise, security, dumping, and decreased property values. He said that the applicant is willing to meet all of the proposed conditions. He noted that almost 40 community members have expressed support for the proposed facility.

He advised the Zoning Board of Appeals to consider the community as a whole, not just the residents of Beringer Commons. He said that any decision must include an explanation of their

decision, including findings of fact. He pointed out that there is no evidence that the proposal does not meet the required criteria. He reviewed the options of the Zoning Board of Appeals and asked that they make their decisions based on the criteria.

Ms. Uchtmann said that she visited the storage facility at Tatman Court at 4:00 p.m., and it looks very nice with a wrought iron fence. There was no traffic at the time. She noticed two air conditioning units on the site and wondered if there would be any air units on the proposed site. Wes Taylor, applicant, approached the Board to respond. He explained that the air units were for climate-controlled storage units, and he would provide this service on one of his five buildings. Ms. Uchtmann asked if it would be possible to locate the climate-controlled building on the east side along High Cross Road or on the south side of the property so that the noise from the air conditioning units would not impact the adjacent residential neighbors. Mr. Taylor replied that when HVAC contractor designs the climate-controlled building, they would take this into consideration to avoid it being annoying to the neighbors. Ms. Uchtmann asked if the climate-controlled building would be the same height as the other storage buildings. Mr. Taylor said yes.

Ms. Uchtmann asked if Mr. Taylor would be willing to install a wrought iron fence. He said that he planned to install this type of fence. Ms. Uchtmann inquired about the gate. Mr. Taylor said that the gate would have the same characteristics of the fence. He understands that there is a lot of opposition; however, it is not his desire to do anything that would be injurious to the adjacent residential neighborhood or any other neighborhood. He mentioned that his business is located in Urbana, and he builds development in Urbana, so his interest is to benefit Urbana. The proposed facility would be automated so their clients would have a code to get through the gate, and there would be security cameras. It would be very well maintained.

Ms. Chester asked how tall the buildings would be. Mr. Taylor responded that the buildings at the eaves would measure around seven feet tall. Mr. Olsen said that the Site Plan shows the buildings to be eight feet in height. Ms. Chester commented that the residents of Beringer Commons would be able to see the buildings over the six-foot fence. Mr. Taylor said that is a possibility.

Ms. Uchtmann asked about the existing fence. Mr. Taylor said that he would not build a second fence where an existing fence already is as there would be no benefit in doing so and it would make it difficult for his company to maintain the existing fence.

Mr. Warmbrunn asked if the proposed facility would be closed at 8:00 pm, does this mean no one would have access. Mr. Taylor said that the only people who would have access after hours would be ownership, management, or public safety officials.

Ms. Uchtmann asked if overnight parking would be prohibited. Mr. Taylor said yes.

Chair Welch asked if anyone wanted to speak in favor of the proposed request. With there being none, he invited the audience wanting to speak in opposition to approach the Zoning Board of Appeals. He reminded them that questions should be directed to him, and if the question(s) are relative to the case, then he would direct them to the appropriate people.

Vicki Trimble approached the Zoning Board of Appeals to speak. She asked who the letters of support were from. Chair Welch stated that the letters were from people in the Urbana community and from outside the community, not necessarily living in Beringer Commons Subdivision.

Ms. Trimble asked why they are not all here at this meeting. The case was heard in October and the Board voted and the application was denied. The only reason for this meeting is because the applicant filed an appeal and was informed that he was not eligible for an appeal. The applicant then implied a possible lawsuit. The City Attorney tried to mitigate the basis for a lawsuit by saying that the Board's reasons for denial at the October meeting were not legally sufficient. At that meeting, one of the board members said that a self-storage facility was not an appropriate use of the property, and another member stated that it was clear the audience was in opposition of the proposed request. Both of these responses could be the Zoning Board of Appeals' reasons for denial because it would not preserve the essential character of the neighborhood.

She stated that the applicant has bullied the residents of Beringer Commons by stating that if the self-storage facility is not approved that he could build something even more offensive to the neighboring subdivision. She noted that OSF, current property owners of the subject parcel, wants nothing more than to sell the property and that in the B-3 Zoning District, some of the people they may choose to sell to could also build something offensive and out of character for their neighborhood. The residents of Beringer Commons Subdivision were also threatened that the applicant and OSF have deep pockets and can outspend them in legal fees. She said that the residents of Beringer Commons are fighting this issue on their own as a neighborhood and a tight-knit community.

Ms. Trimble stated that 66% of the homeowners within 250 feet of the proposed site have signed a petition in protest to the proposed conditional use permit. In addition, 60% of all the homeowners within Beringer Commons Subdivision have also signed a petition in protest of this development. She stated that the Zoning Board of Appeals is required to gather public input, so it must be an important part of the decision-making process. She hoped that the Board values their input and protest over the proposed use.

She talked about tax revenue for the City and how self-storage facilities do not charge sales tax, which is more money that the City receives than property tax revenue. So, the income generated by the proposed use would be minimal for the City of Urbana.

Ms. Trimble talked about the other storage facilities located in Urbana and noted that how they are different from the proposed development. She talked about how storage warehouses do not add beauty to a lovely neighborhood. She wondered what recourse they would have if the applicant does not do what he says he plans to do.

Richard Lampman approached the Zoning Board of Appeals. He stated that he is the President of the Beringer Commons Homeowners Association. He addressed the supposed need for another self-storage facility. He noted that no survey was performed. He talked about there being 31 storage units located in Champaign County and said that almost half of them are located in the City of Urbana. Since there are an abundance of storage facilities in Urbana, there is not a need for any more. He did a search on the internet of how many open units are available in Urbana and found that there are 140, so the existing storage facilities are not at capacity as suggested in the application.

He talked about whether there is a need for a self-storage facility in the proposed area. He said that storage units are something that one drives to rather than walking to. When looking how many storage facilities are available in a 15-minute radius, they found about 9 or 10, so there is not a lack of storage facilities in the area.

Mr. Lampman stated that the application incorrectly characterizes the area as being office, business, industrial and agricultural. There is Aldi (zoned B-1), Beringer Commons (residential) and lots of agricultural farmland. There are no offices or industrial components. One would have to cross a major road to get into this aspect.

He talked about the percent of Beringer Commons home owners and residents who oppose the proposed use. So, the voice of the residents is clear in that they would like the Zoning Board members to vote no and use the facts as reasons for voting no. He stated that he was now happy to see the gate hours would be the same as the operating hours. However, we are still talking about taking an industrial looking use and plopping it down next to a major subdivision.

Bob Withers approached the Zoning Board of Appeals to speak. He addressed Criteria #2. He stated that the proposed self-storage facility would be very injurious and detrimental to the district and the public welfare of the residents and citizens boarding the facility.

He stated that there is evidence that there will be a negative effect on the market value of the surrounding homes. He said that after hearing of the possibility of a storage facility being in their backyard, two offers on a condominium were withdrawn. Eventually the condo sold for \$35,000 less than the original asking price.

Mr. Withers stated that there are many items stored in storage lockers that could increase the potential for fires. Sometimes people store hazardous chemicals, and sometimes people live in their units and use portable heaters and hot plates. There is a resident of Beringer Commons who owns a storage facility and acknowledges that people living in storage units does in fact occur, even if there is a clause in their lease prohibiting it. Also, this person has acknowledged the excess of trash.

He stated that when people live in their units, they have food which will potentially increase the number of vermin in their neighborhood. He added that the proposed storage buildings would not be a complement to Beringer Commons Subdivision as they would be metal buildings with metal roofs, which will be visible by many homeowners in Beringer Commons.

Mr. Withers stated that there will be trash left from people living in the units and from unwanted items left behind when someone moves their belongings out. Bigger items may even end up in the ditches just outside of the storage facility. He said that this will be detrimental to the public welfare.

He reiterated some of what Mr. Lampman said about the surrounding uses being residential, Aldi, and farmland. He said that the proposed development does not meet the requirements of Criteria #2.

Jim Tucker approached the Zoning Board of Appeals. He stated that he is the President of Homeowners Association 453, which borders the subject property. He addressed Criteria #3 by stating that the proposed use does not reflect the character of the neighborhood. The property would be bordered by Beringer Commons Subdivision, High Cross Road, and a B-1 parcel (Aldi). To encounter the industrial, office uses and a supermarket that are mentioned in Mr. Taylor's description in the application of the district in which the property lies, one would need to cross University Avenue. He said with a wall between Beringer Commons and the subject property, it would be a matter of only about ten feet from the closest condominium unit.

Mr. Tucker stated that it is not simply the unsightly view and other concerns that render the residents of Beringer Commons so opposed to it. He said that virtually every neighbor of the

subdivision value their neighborhood community and want to see it flourish and continue to grow. He stated that they believe a self-storage facility would make it less appealing to potential home buyers and new home builders. He added that it does not make sense that the City has a Build Urbana/Think Urbana program that is intended to grow Urbana's residential neighborhoods by providing perspective new home buyers and builders with five years of property tax abatement and sales tax relief on building materials. He mentioned that the 2005 Comprehensive Plan talks about quality of life and some of the key goals and objectives is to preserve and enhance the character of Urbana's established residential neighborhoods, to ensure appropriate zoning in established neighborhoods to help foster the overall goals for each unique area, to ensure that the site design for new developments in established neighborhoods is compatible with the built fabric of the neighborhood, and to promote development that residents and visitors recognize as being of high quality and aesthetically pleasing. He said that these goals and objectives are exactly what the residents of Beringer Commons is trying to achieve.

He asked that the Zoning Board of Appeals consider the fact that the Beringer Commons neighborhood came together to make a concerted effort to try to get the proposed use defeated. The residents are asking that the Zoning Board of Appeals deny the proposed request.

Mr. Warmbrunn asked Mr. Tucker how the proposed use would directly affect him. He stated that he would see the top two feet of the storage buildings. He stated that the landscaped trees were planted over 20 years ago and some of them have died. Beringer Commons is planning to request that Aldi replace the dead trees.

Mr. Warmbrunn asked when Mr. Tucker's townhome was constructed. Mr. Tucker said it was built in 2006. Mr. Warmbrunn asked when Aldi was built. Mr. Tucker said it was constructed in 2004. He knew Aldi was there when he purchased his townhome, but the trees were 12-foot tall.

Ms. Uchtmann asked if the Beringer Commons Homeowners Association (HOA) has considered buying the proposed lot. Mr. Tucker replied that the property has not been listed for sale. Mr. Taylor, the applicant, has been under contract to purchase it. The HOA cannot afford to retain a lawyer to represent them. How can they pay \$400,000 to purchase the lot if it was available?

Mr. Rusch asked how Mr. Tucker accessed his street. Mr. Tucker stated that he frequently uses High Cross Road to get on Rutherford Drive. They talked about the history of the corner piece where Aldi and the proposed parcel are located.

Joanne Budde approached the Zoning Board of Appeals to speak. She had poster boards with photos to share with the Zoning Board of Appeals.

Dave Wesner, City Attorney, asked if Ms. Budde would be submitting them to the Board as part of the record with some clarifying text since other speakers and herself have made reference to them.

Ms. Budde stated that she believed the photos will support the neighborhood's claim that the proposed use does not meet the requirement for preserving the essential character of the residential neighborhood. She said that some of the photos show the view the residents of Beringer Commons will have of looking at metal storage sheds and roofs. She stated that the proposal does not meet any of the required criteria for approval of a conditional use permit.

She said that there is no need for another self-storage facility in Urbana, especially in this area, so it is not conducive to public convenience. She stated that because of the proposed self-storage facility,

market values of adjacent homes will decrease, and it will reduce the interest of future home builders to purchase empty lots in Beringer Commons and build homes. If lots do not get sold and homes do not get built, then it is a loss of tax revenue for Champaign County and the City of Urbana. She added that people will be dumping trash and furniture that they no longer wish to keep. People also store food in their storage units, especially if they live in them; so, there will be an increase in pests, bugs, rodents and other animals from the storage units into Beringer Commons.

Ms. Budde stated that the proposed self-storage facility will not preserve the essential character of the neighborhood. Metal storage buildings do not belong adjacent to single family homes. It will not be compatible with existing land uses in the area. Referring to the concentric map, she showed that any commercial and industrial districts are at least 1,600 feet away from the subject property. The majority of the surrounding land uses around the proposed site are residential.

She talked about the height of the proposed self-storage buildings. She pointed out that there is not a height restriction in the B-3 Zoning District. At some point in the future, the applicant could build a multi-story warehouse. She pointed out that even the City Council agrees that many of the uses allowed in a B-3 Zoning District would not be appropriate for this area, and they have started working on rezoning the proposed site back to B-1, Neighborhood Business, Zoning District.

She discussed the other storage facilities in Urbana that the Planning staff had mentioned earlier. She talked about a study that the Planning staff had conducted about precedence at the request of the Zoning Board of Appeals. A memo was written in result of the study stating that the findings of fact for a case should never be based on facts from another case or on the notion of precedence. The Zoning Board of Appeals has the power to deal freely with each new case regardless of how they may have addressed a similar case in the past. In order for Zoning Board members to approve a conditional use permit, the application must meet all three of the criteria listed. The proposed case does not meet any of the criteria, so she respectfully asked the Board to deny the permit.

Mr. Emkes and Mr. Taylor re-approached the Board to address the concerns of those who testified. Mr. Emkes stated that their concerns have been heard by his client, who is the applicant, and heard by City staff. Some of their concerns are sought to be addressed with some of the conditions that are being met in the proposed application, as well as with the changes that Mr. Taylor has proposed. He stated that the opponents have presented a number of fears, speculations, and concerns; some of which they allude to some evidence of, but none of the evidence relates directly to Mr. Taylor or his management of the proposed facility. Further, a number of the concerns seem to be directed more at a zoning issue rather than a conditional use permit application. He noticed that a majority of the homes were purchased prior to the rezoning of the subject property, and the rezoning went through without objection. The B-3 zoning that continues today and the proposed use has, as it relates to some of the more or some of the less intrusive uses, are potentially available for this particular parcel. The opponents' concerns have been addressed by the applicant's willingness to entertain the conditions that City staff have recommended, so they request that the conditional use permit be granted.

Mr. Taylor thanked the Zoning Board of Appeals for taking time out of their holiday schedule to hold a special meeting for his case. He said that his motive, objective, and purpose is not to get into any argument with any of the homeowners. He stated that he proposed a self-storage facility because he felt it would be a good use for the subject parcel, and he was directed to this parcel. He mentioned that he did market research and studies and found that there is a demand for self-storage units.

Mr. Taylor went on to say that he understands that his proposed use will border a residential neighborhood. The unfortunate thing about cities and zoning is that no matter how careful you are, there is always going to be a situation where zones interconnect. He stated that after hearing how much objection there was at the first meeting, he did some research and found that many of the homes on Rutherford Drive, specifically the addresses for the letters that were sent out were owned when the subject parcel was rezoned from B-1 (Neighborhood Business) to B-3 (General Business), and most of the homes were purchased after the construction of Aldi's, so the knowledge that this is a commercial lot was there.

He addressed a comment made about veiled threats by the applicant. He stated that he has not made any veiled threats of any kind. He said that he is not the type of person that is going to build something that would be purposefully injurious to the neighborhood. If threats were made, it did not come from him or anyone who works for him or anyone who speaks on his behalf. He stated that he never said that, "he has deeper pockets than the residents in Beringer Commons", and it is not his goal or purpose to have to spend \$100,000 in attorney fees. He added that he has not been in communication with anyone in Beringer Commons since this case started. The only people he has spoken with are his attorney and his office, City staff, and different communications about this case as a whole.

Ms. Uchtmann asked if the applicant would be willing to build a less intense structure, say five units less, so that the buildings would be further away from the wall separating the subject property from Beringer Commons. She commented that 300 units is a lot. Mr. Taylor responded by saying that the proposed development is for about 270 units.

Ms. Budde re-approached the Zoning Board of Appeals. With regards to no one objecting to the subject property being rezoned to B-3, she stated that it occurred during the height of COVID and no residents recall being notified of the rezoning. In addition, a medical center was being proposed, which is a big difference than having a self-storage facility. She said that the applicant claims he did a market study; however, nothing has been provided to anybody to show what that study revealed. As for the veiled threats, the applicant stood at the podium at the October 18, 2023 meeting and said that the residents should be happy that he was building a self-storage facility because he could build something much worse. She explained that the comment about "deep pockets" came from his attorney to Beringer Commons' attorney right before they fired their attorney.

With there being no further input from the audience, Chair Welch closed the public input portion of the hearing and announced that they would take a five-minute break. He called the meeting back to order at 8:32 p.m.

Chair Welch opened the hearing for discussion and/or motion(s) by the Zoning Board of Appeals.

Mr. Warmbrunn stated that there has been tremendous discussion about "need," and "conducive" is being defined as need. He stated that he could not recall telling a businessman what type of business he could put in a particular zoning. He asked for clarification. Mr. Garcia stated that "need" and "conducive" are not the same. Mr. Rusch asked what the definition of "conducive to the public convenience" would entail. Mr. Garcia stated that there is not a good definition, so City staff goes by whether a use would be convenient for the public.

Mr. Rusch stated that he did not feel like the subject property is part of the Beringer Commons neighborhood. It is not inside their walls and does not access their driveways. Every lot in Beringer Commons faces away from the proposed site. However, the lot was zoned B-1 and was rezoned to

B-3, and the proposed storage facility would only be allowed in the B-3 Zoning District if it is meeting a higher bar. He stated that he felt if they are only barely passing the bar for a B-3 district to begin with, is it passing a higher bar to get a conditional use permit for a storage unit in this area? He stated that part of the reasoning staff gave the Zoning Board of Appeals for why the storage units have to go through a conditional use permit is because we do not want to have an area being taken up by a storage unit facility when a use more conducive to public convenience could go there instead. So, he asked if the applicant has met the standard of evidence to show the Board that the proposed use is the most conducive use? Mr. Warmbrunn responded that his interpretation is that many uses could be conducive, and City staff believes that the proposed use is conducive according to the written staff report.

Ms. Uchtmann stated that she read the minutes of the 2004 meeting of the Zoning Board of Appeals when there was a discussion about Aldi being allowed to build. She said that the minutes stated that there was hope of an upscale restaurant or shops being constructed north of the Aldi lot. In the almost 20 years since Aldi was built, nothing has happened. Ms. McLaughlin added that during the 2004 meeting, residents of Beringer Commons were also vehemently opposed to Aldi at the time. Now, Aldi seems to be a good fit and the opposing fears were unfounded. Ms. Uchtmann pointed out that none of the fears of trash accumulation, excess traffic, and theft have actually come true with the Aldi store being there. Ms. Chester thought the concerns at that time was the hours of operation, because some grocery stores were open 24 hours a day, and also the fence.

Ms. Chester stated that having worked as an assessor when Beringer Commons was platted and constructed, the proposed use would be injurious to property tax values of properties close to it. She felt the proposed use would be a problem for lots along High Cross Road and on Rutherford Drive. Ms. McLaughlin stated that there are other uses allowed in a B-3 Zoning District that would cause more of a problem (this is not a threat; it is just a fact). Both High Cross Road and University Avenue are arterial roads with a lot of traffic, so it is a good location for a business. She stated that she looked up other self-storage facilities that were referenced and mentioned by other folks, and found a lot of them to be comparably close to residential areas, even if they are not the same types of residential areas. Some of them were near multi-family and apartments. She stated that just because they are different types of residential areas does not mean that they don't still impact residents. So, there is a lot of precedent already for these types of uses being adjacent to residential areas without documented problems.

Ms. Uchtmann moved that the Zoning Board of Appeals approve Case No. ZBA-2023-C-05 with the following conditions:

1. The self-storage facility will generally conform to the submitted plan but that we decrease the number of units and the intensity of the building so that there is more green space and more space available for planting trees and so it would be further back from Rutherford Avenue.
2. The operating hours be between 7:00 a.m. and 8:00 p.m.
3. No vehicle storage or vehicles permitted on the property between 8:00 pm and 7:00 am.
4. The storage facility be monitored by cameras.
5. Any air conditioning units installed would not be located on the side that would cause noise to the neighbors.
6. The applicant install fencing around the south and east sides of the property. The fencing should be similar to the fencing at Tatman Court, which is a wrought iron fence and the gate would be matching.
7. The signage would be a monument sign conforming to the signage at the Aldi site.

8. Lighting would be as previously described.
9. Building height would be limited to 10 feet maximum.
10. An outdoor water spigot would be installed for plantings.

With there being no second on the motion, the motion died.

Ms. McLaughlin moved that the Zoning Board of Appeals approve Case No. ZBA-2023-C-05 with the following conditions:

1. The self-storage facility shall generally conform to the submitted site plan,
2. The self-storage facility's operating hours shall be between the hours of 7:00 a.m. and 8:00 p.m.,
3. The self-storage facility shall be monitored by security cameras,
4. The applicant shall install fencing along the south and east sides of the property,
5. The self-storage facility shall include language in its customer contracts prohibiting unauthorized dumping of materials on the property, and
6. The self-storage facility shall have a customer service phone number posted in a clearly visible location on the property, which shall be monitored by on-call staff during business hours.

Mr. Warmbrunn seconded the motion.

Ms. Uchtmann stated that the motion does not mention anything about reducing the intensity or size of the buildings. Ms. McLaughlin said that one condition requires the development to conform to the submitted site plan.

Mr. Warmbrunn asked if the reduced site plan, when it goes from 300 units to 270 units, would be reviewed by the City of Urbana for drainage. Mr. Garcia replied that there will also be a stormwater management plan that has to be reviewed and approved by the City Engineer. He added that he was unclear about the reduction being shown on a site plan though. Mr. Olsen noted that the current Site Plan shows building dimensions, not a number of units. The applicant reported approximately 300 units to City staff. If the Zoning Board is wanting to hold the applicant to 270 units, then that would need to be made a condition on the approval. Ms. Uchtmann and Mr. Rusch agreed that the Board should be considering the square feet of the buildings rather than the number of units.

Mr. Rusch said that he would also like to see an amendment to the motion to require a buffer on the northern side of the property. Ms. McLaughlin noted that setback on the northern side is at the smallest 22-1/2 feet. She said that she does not have the perfect number of what the correct setback should be, so she felt there would need to be some sort of rationale for justifying putting in an additional condition. Mr. Warmbrunn stated that it should be up to the applicant to be able to utilize the lot the best way he can to design the units that he wants.

Mr. Rusch stated that someone voting against the motion might be objecting to the detrimental effect that it could have on the district, and they could be voting against it because there is not enough evidence provided that a self-storage facility would be a conducive use of the property. Mr. Warmbrunn responded that if the motion does not pass, then another motion could be made with conditions that someone likes. Mr. Rusch said he was just stating the reasons why someone could vote against the motion.

Roll call on the motion was as follows:

Mr. Rusch	-	Abstain	Ms. Uchtmann	-	Abstain
Mr. Warmbrunn	-	Yes	Mr. Welch	-	Yes
Ms. Chester	-	No	Mr. Cho	-	Yes
Ms. McLaughlin	-	Yes			

Mr. Wesner stated that generally abstentions go with the majority vote. Mr. Garcia stated that the motion was passed by a vote of 6-1. He asked that the members voting in favor state the reasons for voting the way they did.

Ms. McLaughlin stated that she moved to approve because she agrees that the proposed use is conducive to the public convenience at that location, that the proposed use is designed, located, and proposed to be operated so that it will not be unreasonably injurious or detrimental given its location, and that the proposed use conforms to the applicable regulations and standards of the district in which it is located.

Mr. Wesner called a point of order to clarify that his interpretation of Findings of Fact is more of a “why” than a recitation of the criteria. Ms. McLaughlin noted that she talked about the location being at the two arterial roadways. It is an existing underutilized property that has been vacant for over 20 years. So, she believes the proposed use is conducive to the public convenience. She stated that the proposed use is a relatively low traffic use and the owners have made accommodations to be in line with the existing commercial facilities using the same hours of operation and by conforming to other City regulations. So, she believes it will not be unreasonably injurious or detrimental to the district in which it shall be located, or otherwise injurious to the public welfare. She stated that the applicant has not requested any additional special permits or variances and in comparison to other uses that could be there, she felt that a self-storage facility is a good use that is not contradictory to the other uses around it given the traffic, given the other commercial uses, and given the residential neighborhood, so she believes the proposed use would conform to the applicable regulations and standards of, and preserves the essential character of the district in which it will be located.

E. NEW PUBLIC HEARINGS

There were none.

F. UNFINISHED BUSINESS

There was none.

G. NEW BUSINESS

There was none.

H. PUBLIC INPUT

Chair Welch summarized the rules for public input.

Sarah Stannard approached the Zoning Board of Appeals. She talked about the traffic and a huge ravine potentially causing problems at the intersection of High Cross Road and University Avenue. She noted that this pertains to criteria #2 – public safety.

Joanne Budde approached the Zoning Board of Appeals. She asked if there is an appeal process. Mr. Wesner replied that as an administrative decision, the decision will be subject to appeal under the Administrative Review Act over to the Circuit Court. An appeal would need to follow that procedure.

Ms. Budde asked if they could put the City on notice that the residents of Beringer Commons plan to appeal so that the applicant does not run out and buy his storage units.

I. STAFF REPORT

There was none.

J. STUDY SESSION

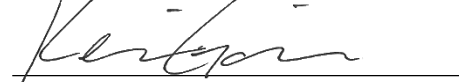
There was none.

Ms. Uchtmann proposed that the Zoning Board of Appeals have a study session to look at potential areas where the communication is not clear about what is allowed or not allowed in a B-3 or B-1 area. Mr. Garcia replied that what is allowed in the B-1 and in the B-3 districts are listed in the Table of Uses in the Urbana Zoning Ordinance and on the Zoning Description sheets. Ms. Uchtmann asked if they could discuss what a self-storage facility is classified under at a future meeting.

K. ADJOURNMENT

The meeting was adjourned at 9:05 p.m.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Kevin Garcia', is written over a horizontal line.

Kevin Garcia, Secretary
Zoning Board of Appeals