

**PLAN COMMISSION MEETING MINUTES
SUPERIOR, WISCONSIN
Wednesday, July 20, 2022**

The Plan Commission Meeting for the City of Superior was called to order by Mayor Paine at 4:01 p.m. in the Meeting room 204.

ROLL CALL

Members present: Mayor Jim Paine, Tylor Elm, Lindsey Graskey, Brent Fennessey, Anne Porter, Garner Moffat, Dennis Dalbec, Dave Strum

Members excused: Brian Finstad

Staff present: Jason Serck, Stephanie Becken, Online: Terry Johnson

Others present: Shelly Nelson, Councilor Ledin, Online: Councilor Van Sickle

There being a quorum present, the meeting was in order.

APPROVAL OF MINUTES:

MOTION by Commissioner Dalbec, seconded by Elm.

Discussion by Commissioner Porter to change ‘now’ to ‘not’ on page 4 of the minutes. Staff will make the change. Motion carries with change.

Commissioner Paine noted the room change of 204 is meant to offer a less restrictive area for discussion, but the commission can and will use the board room for hearings and meetings with larger public participation.

OLD BUSINESS

- 1. REFERRAL FROM CITY COUNCIL:** Item number 7 from Plan Commission meeting on May 18, 2022. O22-4273, an ordinance introduced by the Department of Planning and Development to amend the City Code, Chapter 122, Zoning, to allow firearm sales in C2 – Highway Commercial District.

Commissioner Paine explained that the council requested something different from the Plan Commission in regards the original ordinance from May. The Plan Commission can take new action or take no action, but submitting the same ordinance would most likely not pass the council.

Planning, Economic Development, and Port Director Serck explained the research behind the framework of the special use permit language in the meeting’s memo. Research was done by checking in with peer cities in Wisconsin to find out how they handled firearm sales and any special use permits associated with them. He recommended the special use permit route as it would have the most room to be successful at council. He noted it is unique as the other cities we spoke with had not

taken this route, instead keeping firearm sales to specific zoning districts and not further extending nor limiting their range. Serck added that currently firearm sales are allowed in C4, M1, and M2.

Commissioner Moffat asked about the enforceability of a special use permit. Serck said they are very enforceable, especially on the front end, where failing to meet any of the set criteria is grounds for denial and any infractions after the permit is awarded can be grounds to revoke.

Commissioner Porter reflected on the original ordinance as adding C2 to the existing zoning allowances and reminded the group they'd had a representative from a firearms retailer expressing positive response to adding another approved zone. Serck said the special use permit would not necessarily be for those firearm shops whose main business was firearms—currently written as secondary or even tertiary in terms of the overall business. Commissioner Paine noted the goal seemed like it was to allow for business, who by the nature of their business, may occasionally sell firearms to continue their business without actively adding gun stores to the landscape.

Commissioner Dalbec asked how things like the fish and game show in the community would be impacted. Commissioner Paine asked about the difference between an event sort of sale or occasional sales. Commissioner Moffat added it didn't matter once the permit was given, as long as the sales were still not the primary source of the income and they kept to only 6 per year. The number of sales 6 was discussed. Assistant Becken added the 6 came from conversation with the business that is requesting the change, as they now anticipate firearm sales 3-4 times per year.

MOTION: Commissioner Fennessey asked for the proposed language to strike 6 and supplement 12. Commissioner Graskey seconded and carried.

MOTION: Commissioner Fennessey to approve the proposed special use permit language as written. Commissioner Dalbec seconded.

Discussion followed with Commissioner Elm asking about UWS gun show allowance as it is in R1B zoning. Director Serck noted UWS has some unique abilities within the city. Commissioner Graskey asked what the event was like. Commissioner Moffat added that it sounded like the situation could simply be out of the city's control to enforce some policy on campus.

Commissioner Paine asked the commission if they were open to hearing from councilors and upon approval, Councilor Van Sickle joined the conversation. She shared her thought that adding proximity regulations to the special use permit would be needed for her approval for any recommendations allowing firearm sales beyond what they already are. She named schools, daycares, and places of worship as places that proximity additions to the permit should be considered. She said proximity and other very specific things have been added to special use permits like for strip clubs.

Commissioner Paine asked if she meant opening up the special use permit to all zones and then adding the proximity need. Commissioner Graskey added that with the lease and rental situations businesses face, that could be especially tricky, as what could be appropriate in one rental cycle, could be different in the next as businesses move. Councilor Van Sickle noted that is a business' choice. Director Serck said the strip club ordinances were largely written by strip club owners with

the goal of reducing competition. Commissioner Graskey asked if there is anything preventing ‘pop up’ firearm sales for businesses like this—where they can access space within approved zones to do their sales. Commissioner Fennessey shared that was what the current business was doing. Commissioner Porter asked if the process and change seemed like a lot of turmoil over a request from a single business due to something that is happening 3-4 times per year. Commissioner Fennessey said the business was looking at how to have a complete business under one roof instead of having special days and an additional location for sales.

Commissioner Paine noted that in the very specific case of this one business, that might work well, but Councilor Van Sickle’s point that the permit could be used by more businesses in different ways, but still legal ways, could be interpreted and look different. Commissioner Fennessey asked if ‘for sale’ vs ‘selling’ is language that needs to be looked at, noting that is it the transaction or the stocking that is being regulated. Commissioner Moffat added the policing of that distinction would be difficult.

Commissioner Dalbec asked if federal sales status would be impacted through this. Director Serck said no, as that is a different thing all together and is regulated by the ATF. The city gets contacted by the ATF agent assigned to our area when private individuals are approved for federal sales status, and then those individuals are able to sell firearms—not out of their homes as a destination for business—but still able to make sales.

Commissioner Paine asked how big this problem actually was for the business requesting the change. Commissioner Fennessey said it at least required them to have a secondary site and the rent and upkeep required there. Commissioner Graskey noted her connection with the owners and that these kinds of sales could have financial impact for the business—but that personal and business choices, like moving to a different zone that does not allow the sales—is a business choice and not necessarily a planning department issue. While this individual business may fit the nature and spirit of the designed special use permit that may not always be the case, even if another business fits the parameters.

Director Serck shared that making changes for 1 specific business, while it has been done well and successfully in the past, can be problematic. Commissioner Porter asked if there was a way to approve case-by-case. Director Serck said it was difficult, but maybe not impossible. Commissioner Paine reflected again that he needed to know if the current zoning was actively stopping business from happening and if making a change for 1 business would adversely impact the overall landscape of the area and what impact would it have for the community as a whole. How does this permit help the community at a whole? How to do case-by-case approval without spot zoning? Director Serck shared he didn’t have a known mechanism at the moment, but could look into it.

Commissioner Fennessey shared he thought the current business making the request did make a positive impact on the community and surrounding businesses. Commissioner Paine agreed that it was absolutely a good thing to see full parking lots and engagement for businesses, but that it was happening currently without firearm sales. Commissioner Graskey noted that some sensitivity can be added in some situations with leases, as there can be push factors where businesses need to find their next locations due to unforeseen circumstances.

Commissioner Fennessey asked if the commission could hold this is committee another month and maybe invite the business owners to speak on what their model looks like and what kind of fit might work. Commissioner Moffat shared that even if the special permit fits this one business and is a good fit, others may use it differently. Commissioner Paine asked if there was a world where a special use permit would pass the council. Commissioner Paine invited Councilor Ledin to speak. Councilor Ledin shared he prefers a special use permit, but also would like to see proximity restrictions added as well to prevent sales close to schools, churches, etc. Commissioner Paine asked Director Serck to look into proximity more. He reflected a license may be a better way to proceed, as the number could then be restricted, whereas special use permits cannot be. Commissioner Dalbec asked why proximity mattered, and noted they had been ineffective with the car title loan places. Commissioner Paine referenced mass shooting situations. Commissioner Dalbec asked if the commission was making choices based on national events and stated he didn't think a proximity addition was needed.

Commissioner Paine shared that proximity restrictions had the potential to become spot zoning. The solution, he felt, was somewhere in the commission's comfort zone. Commissioner Strom asked if anyone had asked and been denied opening up a firearm-related business in C2. Director Serck wasn't aware of any. Commissioner Strom asked if other businesses had been impacted by zoning. Director Serck said that yes, zoning restrictions most likely had encouraged businesses to seek out storefronts and areas that allowed their business type. Strom also asked about how advertising is currently handled by the business seeking the change. Commissioner Graskey shared about a large sign on Belknap. Assistant Becken added they use small signs in the boulevard and window paint. Commissioner Strom said the business is finding other ways to advertise, so those restrictions would not be inherently limiting for the business. Commissioner Paine added with proximity in mind, it could be built into a license and the amount of licenses could be limited.

Councilor Van Sickle said the proximity was so important because C2 cuts through a neighborhood and commercial is already so close. This is not the case in all neighborhoods and she asked if adding firearm sales close to all neighborhoods would be acceptable. Commissioner Paine noted the highway district in Superior is unique. Whereas most places their highway district is a bit removed from residential, in Superior's case, there are a few zones including residential and commercial squeezed together along the highways.

Commissioner Graskey shared she'd like to invite the business owners to talk about what is actually happening and why a change is needed and how it would be used. Commissioner Moffat added the struggle may be in how to make a positive change for one that is a positive change when expanded further. Commissioner Paine asked the group to keep looking at how the whole community is benefited and asked about the urgency of the situation and how to narrow the permit enough to keep it to the spirit of allowing occasional sales. Director Serck offered to visit the business with Commissioner Graskey to get a bigger look at the urgency question and get feedback for ideas of meeting the need.

MOTION: Commissioner Elm to hold the topic in committee for further discussion in August. Second by Dalbec, and carried.

OTHER BUSINESS

Commissioner Moffat shared some planning education resources and addressed the topic of rezoning and updating the zoning code. The different educational resources he shared are ones he felt would be good to keep in mind as the process is approached, as there are different styles and schools of thought behind zoning code. He is working on a grid that makes allowable uses more clear and visual and will share after edits. Assistant Becken will send the planning education resources to the commission via email after the meeting.

ADJOURNMENT

The meeting adjourned at 5:10

Respectfully Submitted by:

Stephanie Becken

Planning Assistant