

ITEM 2
6:08 p.m.

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| CASE: | 8300A-15 |
| APPLICANT: | Reserve Company LLC (owner) Max Guns and Ammo LLC (user) |
| LOCATION: | 10750 Bloomington Ferry Road |
| REQUESTS: | Conditional Use Permit for a firearm dealer in an existing retail center |

PUBLIC HEARING DISCUSSION:

Centinario gave a brief recap of the application, which was continued from a previous meeting. He showed an aerial photo of the existing retail center, as well as a photo of the tenant space. The regulations that apply to a firearm dealer include obtaining a Federal Firearm License, registering secondhand goods with the City of Bloomington, submitting a security plan to the Police Department and going through inspections with the Bureau of Alcohol, Tobacco and Firearm and the Police Department.

Markegard gave a recap of the previous July 23, 2015 Planning Commission meeting at which the Planning Commission continued the item to August 27, 2015 and requested staff to prepare a resolution of denial. Since the last hearing, staff has prepared a resolution of denial and has received additional correspondence from the public as well as from the applicant and the landowner's attorney. The 120 day Agency Action Timeline for this application is October 14, 2015. If action is not taken on the application October 14, 2015, the application would be automatically approved with no conditions. The options are either adopting a resolution of denial, which would require four affirmative votes, or adopt a resolution of approval. Under Robert's Rules of Order, approval could only occur if one of the four people who voted against approval on July 23, 2015 make a motion to reconsider. The appeal period lasts until 4:30 pm on September 1, 2015. If an appeal were received, the application would be heard by the City Council on October 5th, 2015 and that meeting would include public testimony. A tie-vote by the Planning Commission would create an automatic appeal to the City Council.

Bennett said she appreciated the additional input from the public. She voted to approve the application on July 23rd, 2015 because it met the findings. Finding 1a of the resolution of denial does not provide enough evidence for an incompatible use. Finding 1b does not provide enough evidence regarding decreased property values. Finding 2a regarding distance from the Police Department is not included in any ordinance. Therefore, she does not support the resolution of denial.

Fischer said he voted to request the resolution of denial at the last meeting. The lack of security plan and the proximity to the school and church are major concerns for him. The firearms store might affect the preexisting businesses in the area.

Batterson said he voted for supporting denial previously and still feels the same. His issues are site specific and based on location, as it is very close to a church and a residential neighborhood. His mind has not changed and he hopes the applicant moves the store elsewhere in Bloomington.

Willette said he voted to support denial because of safety concerns. People hold conceal-to-carry permits in Minnesota, and he wonders if something could happen. Security measures are not strict enough.

Goodrum said he previously voted to approve the application. He stated he had issues with safety and location, but will support the application due to his conclusion that it meets the required findings.

Nordstrom said he previously voted to support the application. The legal process guarantees that every application is treated fairly. But sometimes personal opinion gets in the way of the legal process. There are many concerns that stem from the applicant's incomplete security plan. Before the applicant obtains a Conditional Use Permit, review of a security plan by the Police Department is required. The vote is split and will likely be heard at City Council. He asked staff for input on a motion given the apparent 3-3 situation.

Markegard suggested the Commission first consider a motion for denial as the Planning Commission had requested a resolution of denial at its last meeting. If that motion results in a tie, the Commission could then ask whether any member who voted against the motion for approval at the last meeting wanted to reconsider that vote.

Nordstrom clarified for the public that the Commission has to have a majority that agrees in order to adopt a resolution of approval or denial.

Batterson said he will make a motion of denial.

Markegard clarified that the motion when it is made should reference the resolution of denial in the staff report, and if any of the language in that resolution is desired to be modified or added to, the motion should list those changes.

The commission identified no needed changes to the draft resolution.

After Batterson's motion to adopt the resolution of denial failed, the Chair asked if any of the members voting against the motion to approve the application at the last meeting were interested in reconsidering their vote. Commissioners Batterson, Fischer and Willette said they were not.

Because of the tie, it was announced that the item will automatically move forward to City Council, with an anticipated date of October 5, 2015.

ACTIONS OF THE COMMISSION:

M/Batterson, S/Fischer: In Case 8300A-15, not being able to make the required findings, I move to adopt the resolution of denial for a Conditional Use Permit for a firearms dealer at 10750 Bloomington Ferry Road as shown in the August 27, 2015 Planning Commission packet. Motion failed on a 3-3 tie vote.