ST. CHARLES SINCE 1834	**PLAN COMMISSION AGENDA ITEM EXECUTIVE SUMMARY**			
	Project Title/ Address:	General Amendment- Downtown Overlay District		
	City Staff:	Russell Colby, Planning Division Manager		
	Please check appropriate box (x)			
	PUBLIC HEARING (11/5/13)	X	**MEETING (11/5/13)**	X

APPLICATIONS UNDER CONSIDERATION:

General Amendment

ATTACHMENTS AND SUPPORTING DOCUMENTS

Staff Report (dated 11/1/13)	General Amendment Application
Map of Downtown Overlay District	

EXECUTIVE SUMMARY:

In 2006, the City adopted a new Zoning Ordinance, which included a zoning "overlay" district within the downtown to "preserve economic vitality and the pedestrian character of the downtown's shopping core." The Downtown Overlay District limits the type of businesses that can locate in the first floor/street level spaces to a set of businesses that are expected to generate pedestrian activity.

Over the past few years, staff has observed that a number of downtown storefront spaces have consistently remained vacant and staff continues to receive inquiries regarding office uses for these spaces. The new Comprehensive Plan recommends the City consider granting more flexibility with use restrictions in the Downtown Overlay District on an interim basis until demand for retail uses is stronger.

Staff has filed a General Amendment application to modify the Downtown Overlay District. The following changes are proposed:

1. Create a staff level certification process to review and permit specific offices uses based on criteria. An applicant (a property owner or proposed office tenant) will need to provide documentation to substantiate that the following criteria will be met:
   - The tenant space has not been leased and has been continuously marketed for rent for at least 180 days.
   - The proposed office use will generate customer traffic.
   - The proposed office will provide a public entrance and reception area visible from the street.
   - Storefront windows/doors will not be obstructed and will be illuminated in the evening.
2. Create a City Council appeal process for Exemptions and Office Certifications that are denied by staff.

RECOMMENDATION / SUGGESTED ACTION *(briefly explain)***:**

Conduct the public hearing and close if all testimony has been taken.

Staff has provided Findings of Fact to vote on tonight, if the Commission believes it is appropriate to close the hearing and is satisfied that no additional information is necessary.

Staff recommends approval of the General Amendment application and has provided the attached draft Findings of Fact to support that recommendation.

Community Development
Planning Division
Phone: (630) 377-4443
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ST. CHARLES
SINCE 1834

STAFF REPORT

TO: Chairman Todd Wallace
And Members of the Plan Commission

FROM: Russell Colby, Planning Division Manager

RE: General Amendment to Title 17 (Zoning Ordinance) regarding Permitted and Special Uses and exemptions in the Downtown Overlay District

DATE: November 1, 2013

I. GENERAL INFORMATION

Project Name: General Amendment – Permitted and Special Uses and Exemptions in the Downtown Overlay District

Applicant: City of St. Charles

Purpose: Amend the Downtown Overlay District to permit certain office uses that generate pedestrian traffic.

II. BACKGROUND

In 2006, the City adopted a completely new Zoning Ordinance, which included a zoning "overlay" district within the downtown to "preserve economic vitality and the pedestrian character of the downtown's shopping core." The Downtown Overlay District (often incorrectly referred to as the "Retail Only" district) limits the type of businesses that can locate in the first floor/street level spaces to a set of businesses that are expected to generate pedestrian activity. The concept of a "Retail Only" district within the downtown was discussed and promoted by the Downtown Partnership for a number of years prior to 2006.

Business uses allowed on the First Floor in the Downtown Overlay District:	**Business uses not allowed on the First Floor, but allowed on the 2nd floor and elsewhere in Downtown:**
Art Gallery/Studio	Business and Professional Office
Theater	Medical/Dental Office
Indoor Recreation	Bank
Hotel	Financial Institution (such as mortgage service)
Personal Services (Salons, Funeral Home, Tailor, Pet Grooming, Dry Cleaner, etc)	
Retail	
Restaurant	
Tavern	

EXISTING BUSINESSES

A number of banks, offices and other uses no longer permitted on the first floor within the Downtown Overlay District existed at the time the ordinance went into effect in 2006. Those businesses are considered "legal non-conforming", meaning the business can continue to operate and may be replaced by the same business (bank replacing a bank, for example), as long as the space does not stay vacant for more than 180 days. After 180 days of the business leaving the site, any new business that moves into the location must be one listed on the Downtown Overlay District first floor permitted use list.

EXEMPTIONS TO THE OVERLAY DISTRICT

The Downtown Overlay District provides for an exemption to the business restrictions in very limited circumstances. The criteria to be considered are solely based on the physical characteristics of a given tenant space. A finding must be made by the Director of Community Development that the space is "Unsuitable for occupancy for any of the first floor uses permitted in the Downtown Overlay District", and that altering the space to make it suitable for the permitted uses would either:

1. Be inconsistent with Historic Preservation requirements, OR,
2. Impose an undue financial burden on the property owner (cost exceeding 25% of building value)

Criteria that may be considered in making this determination:

- Inappropriate placement, size, or orientation of doors or windows
- A floor level which is not of a similar elevation to the adjoining sidewalk
- Lack of window area for display of goods
- Lack of street frontage
- Interior space which is not adaptable to the permitted uses because of structural components or limitations on accessibility

EXEMPTION REQUESTS

Over the past five years, the Community Development Department has received multiple inquiries from property owners and brokers regarding whether a given tenant space can be exempted from or removed from the Downtown Overlay District. Most who have contacted the City have stated that the only prospective tenants interested in their property are office users and that they have not had any interest from retailers.

Exemptions Granted:

Address	Name	Date of Exemption
10-12 S. Riverside Ave.	Arcada Building space on Riverside	5/2/11
200 W. Main Street	Foote, Meyers, Mielke & Flowers	6/8/12
111 E. Main Street	Serwinski – Riverview Counseling	9/17/12
314 W. Main Street	Justiniano (former High Def. System)	1/7/13

Serious inquiries, did not qualify:

Address	Name	Month of Inquiry
1 W. Illinois St.	Fox Island Square (2 spaces)	11/11, 5/12, 5/13
11 E. Main St.	Harris Bank vacant office space	7/12, 2/13

116 Cedar Ave.	SG Too (west of Townhouse Books)	4/11
210 Cedar Ave.	Formerly Panache	8/12, 6/13
201 Cedar Ave.	Formerly Stonehouse on Cedar	6/13

Properties removed from Downtown Overlay by Zoning Map Amendment:

108 State Ave.	Former antique store	2008
116 State Ave.	Former antique store	2008

COMPREHENSIVE PLAN

Over the past few years, staff has observed that a number of downtown storefront spaces have consistently remained vacant and staff continues to receive inquiries regarding office uses for these spaces. In response to this trend, staff approached the Planning and Development Committee first in July 2011 to obtain direction as to whether there was interest in changing the Downtown Overlay District requirements in some manner. The Committee initially recommended holding off on proposing any changes until the Comprehensive Plan was adopted. In August 2013, with the Comprehensive Plan nearing adoption, the Committee gave staff direction to pursue an amendment to permit offices uses that generate pedestrian traffic for an initial period of 2 years.

Text from the Comprehensive Plan, p. 89 (Downtown Subarea Framework Plan):

> *"The Downtown Overlay District is intended to preserve the economic vitality and pedestrian character of Downtown's shopping core by limiting uses on the first floor that "typically generate relatively little pedestrian activity or are otherwise incompatible with a pedestrian oriented shopping area." While this is an admirable objective, defining "typical" can result in missed opportunities. In addition, while all successful and vibrant downtowns have a large component of retail, they are also characterized by a varying mix of uses that generate activity at all periods of the day. Furthermore a detailed market analysis conducted as part of this process found that key retail categories are fairly saturated within the Downtown's trade area. Given the number of vacancies Downtown, along with current market and economic conditions, the City should consider relaxing use restrictions in the District to fill storefronts on a temporary basis until demand for downtown retail space is stronger."*

III. PROPOSAL

1. Create a staff level certification process to review and permit specific offices uses based on criteria. An applicant (a property owner or proposed office tenant) will need to provide documentation to substantiate that the following criteria will be met:

   - The tenant space has not been leased and has been continuously marketed for rent for at least 180 days.
   - The proposed office use will generate customer traffic.
   - The proposed office will provide a public entrance and reception area visible from the street.
   - Storefront windows/doors will not be obstructed and will be illuminated in the evening.

2. Create a City Council appeal process for Exemptions and Office Certifications that are denied by staff. The City Council would consider the same criteria as staff in making a determination whether to uphold or reverse the decision.

The existing and proposed ordinance text is attached as Exhibit "A".

No specific timeline would be written into the ordinance. Staff intent's is to monitor changes to vacancy rates and tenant mix over the course of the next two years and revisit the issue with the City Council within two years or earlier, if warranted.

IV. RECOMMENDATION

Conduct the public hearing and close if all the testimony has been taken.

Staff has placed this item on the meeting portion of the agenda for a recommendation, should the Plan Commission feel they have adequate information to recommend on the item tonight.

Staff recommends approval of the General Amendment Application and has provided the attached draft Findings of Fact to support that recommendation.

V. ATTACHMENTS

- Exhibit "A": Amendment Draft.
- Exhibit "B": Findings of Fact.

EXHIBIT "A"

PROPOSED AMENDMENT TEXT

Revisions to existing code are shown in italicized text

17.14.010 Purpose Statements

F. Downtown Overlay District

The purpose of the Downtown Overlay District is to preserve the economic vitality and pedestrian character of downtown's shopping core within the CBD-1 and CBD-2 Districts by encouraging the continuous flow of pedestrian movement. This is accomplished by limiting uses on the first floor that typically generate relatively little pedestrian activity or are otherwise incompatible with a pedestrian oriented shopping area. Only those uses listed in Table 17.14-1 shall be permitted on the street level or first floors of buildings/structures within the Downtown Overlay District.

17.14.020 Permitted and Special Uses; Downtown Overlay Exemptions

A. Table 17.14-1 lists permitted and special uses for the business districts, and for the first floor level of the Downtown Overlay District.
B. Buildings within the Downtown Overlay District are restricted with respect to the uses permitted on the first floor level, as provided in Table 17.14-1.
    a. Exemptions. Notwithstanding these restrictions, the first floor level of a building within the Downtown Overlay District may be occupied for any use permitted within the underlying zoning district (i.e., CBD-1 or CBD-2), upon certification by the Director of Community Development that its physical characteristics make it unsuitable for occupancy for any of the first floor uses permitted within the Downtown Overlay District, and that altering such physical characteristics would either 1) be incompatible with the purpose of Chapter 17.32 (Historic Preservation) of this Title, or 2) impose an undue financial burden on the property owner. Such physical characteristics may include but shall not be limited to: Inappropriate placement, size or orientation of doors or windows, a floor level which is not of a similar elevation to the adjoining sidewalk, lack of window area for display of goods, lack of street frontage, and interior space which is not adaptable to the permitted uses because of structural components or limitations on accessibility. For purposes of this section, an undue financial burden shall mean where the estimated cost of altering the building exceeds 25% of the current appraised value of the property.

b. *Certification for Office Use. The first floor level of a building within the Downtown Overlay District may be occupied by certain office uses (Bank, Financial Institution, Office- Business and Professional, and Medical/Dental Clinic) upon certification by the Director of Community Development that the proposed office use will meet the purpose of the Downtown Overlay District, as identified in Section 17.14.010.F, to generate pedestrian activity and be compatible with a pedestrian oriented shopping area.* ***To be eligible for the certification, a property owner must demonstrate that the property has been vacant, not under lease, and publicly listed for lease for a minimum of 180 days by providing documentation demonstrating the space was listed on a public listing service.***

   The proposed office user shall demonstrate that the following criteria will be met:

   i. ***The business will be open to the general public during normal business hours and may require that customers make an appointment for service.***
   ii. ***The primary function of the business establishment will be to provide direct services to customers that are physically present.***
   iii. ***The interior space of the business will be configured such that a) the street-level storefront entrance will serve as the public entrance and b) a reception area or waiting area for visitors will be provided directly accessible from the public entrance.***
   iv. ***Street-facing storefront windows and doors will not be obstructed at any time and shall be utilized to provide a view of the interior office visible to pedestrians on the street. Illuminated exterior signs and the interior of the storefront shall be illuminated during evening hours.***

   A Certification for Office Use shall apply to the specific business only. A new Certification for Office Use shall be required for any new business to occupy a space. The Certification for Office Use may be revoked if the Director of Community Development finds the business is not operating in accordance with the certification.

c. *Appeal. If a property owner or business tenant has formally requested an Exemption or a Certification for an Office Use pursuant to subsections "a" or "b" above, and if the request has been formally denied by the Director of Community Development, the property owner or business may request an appeal of the decision before the City Council. The City Council shall consider only the criteria listed above and may uphold or reverse the decision of the Director of Community Development.*

EXHIBIT "B"

FINDINGS OF FACT
GENERAL AMENDMENT

1. **The consistency of the proposed amendment with the City's Comprehensive Plan.**

   The Comprehensive Plan Downtown Subarea Plan addresses the Downtown Overlay District on p. 89 and states: "…*Given the number of vacancies Downtown, along with current market and economic conditions, the City should consider relaxing use restrictions in the District to fill storefronts on a temporary basis until demand for downtown retail space is stronger*." The proposed amendment will relax the use restrictions in the Downtown Overlay District on a limited basis, with the intent of only permitting office uses that meet the purpose of the Overlay District to generate pedestrian traffic. Staff will monitor the impact of this change and consider adjusting the requirements within two years following the amendment.

2. **The consistency of the proposed amendment with the intent and general regulations of this Title.**

   The proposed amendment will relax the use restrictions in the Downtown Overlay District on a limited basis, with the intent of only permitting office uses that meet the purpose of the Overlay District to generate pedestrian traffic.

3. **Whether the proposed amendment corrects an error or omission, adds clarification to existing requirements, is more workable than the existing text, or reflects a change in policy.**

   The proposed amendment represents a change in policy adopted with the Comprehensive Plan.

4. **The extent to which the proposed amendment would be in the public interest and would not serve solely the interest of the applicant.**

   The amendment will apply to all properties in the Downtown Overlay District.

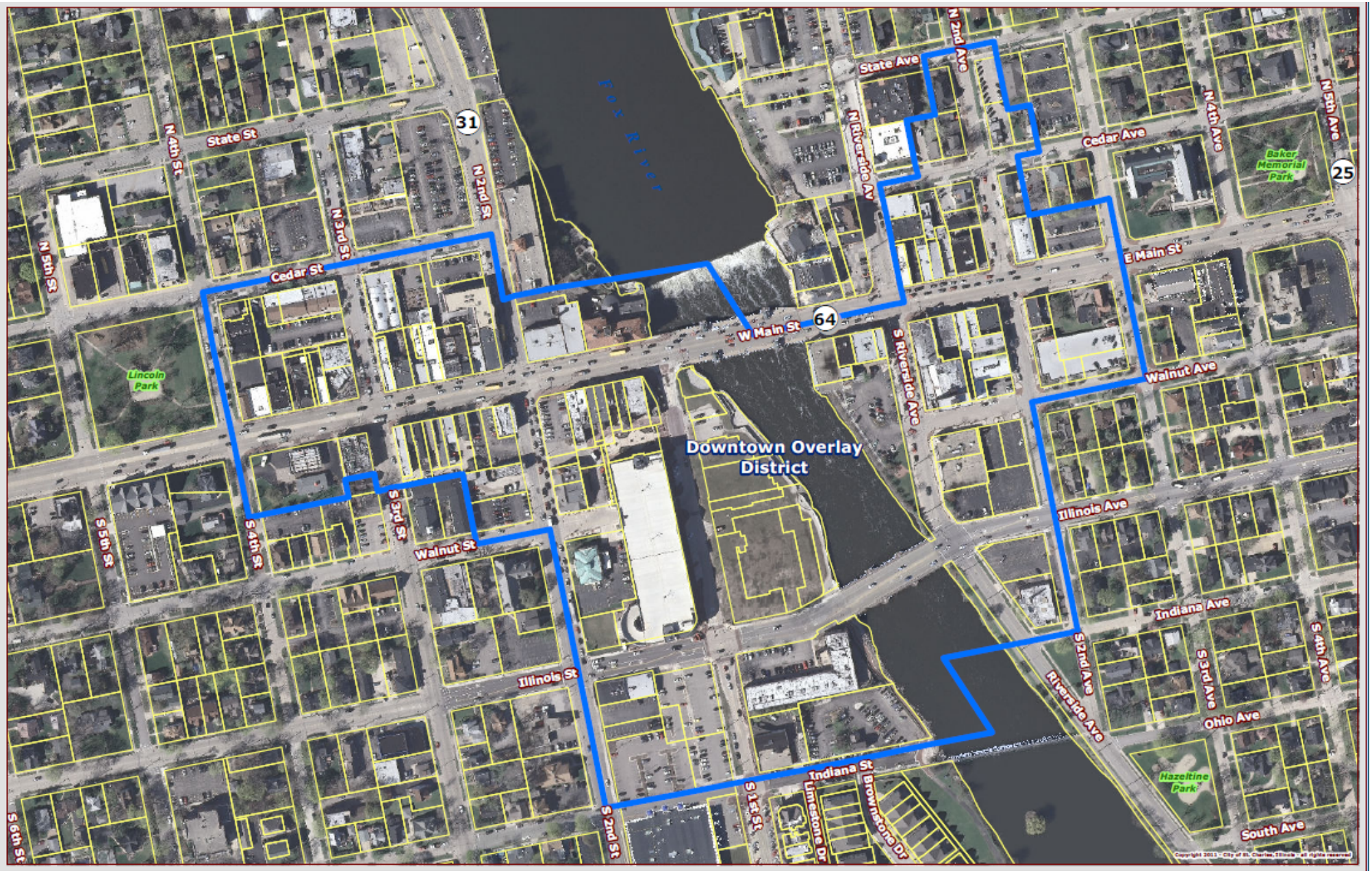
5. **The extent to which the proposed amendment creates nonconformities.**

   This amendment will not create any new nonconformities. The amendment may enable locations of existing non-conforming office uses in the Downtown Overlay District to be reoccupied by office uses meeting the proposed criteria.

6. **The implications of the proposed amendment on all similarly zoned property in the City.**

   The amendment will apply to all properties in the Downtown Overlay District.

Downtown Overlay District



CITY OF ST. CHARLES

TWO EAST MAIN STREET
ST. CHARLES, ILLINOIS 60174-1984

ST. CHARLES
SINCE 1834

COMMUNITY DEVELOPMENT/PLANNING DIVISION PHONE: (630) 377-4443 FAX: (630) 377-4062

GENERAL AMENDMENT APPLICATION

RECEIVED
Received Date
St. Charles, IL
AUG 16 2013
CDD
Planning Division

CITYVIEW	
Project Name:	G.A. - Downtown Overlay
Project Number:	2013 -PR- 012
Application Number:	2013 -AP- 021

Instructions:

To request an amendment to the text of the St. Charles Zoning Ordinance, complete this application and submit it with all required attachments to the Planning Division.

City staff will review submittals for completeness and for compliance with applicable requirements prior to establishing a meeting or public hearing date for an application.

The information you provide must be complete and accurate. If you have a question please call the Planning Division and we will be happy to assist you.

1. Applicant:	Name City of St. Charles	Phone 630-377-4443
	Address 2 E. Main St. St. Charles, IL 60174	Fax 630-377-4062
		Email rcolby@stcharlesil.gov
2. Billing: *Who is responsible for paying application fees and reimbursements?*	Name Same	Phone
	Address	Fax
		Email

Attachment Checklist

- ☐ **APPLICATION:** Completed application form
- ☐ **APPLICATION FEE:** Application fee in accordance with Appendix B of the Zoning Ordinance.
- ☐ **REIMBURSEMENT OF FEES AGREEMENT:** An original, executed Reimbursement of Fees Agreement and deposit of funds in escrow with the City, as provided by Appendix B of the Zoning Ordinance.
- ☐ **WORDING OF THE REQUESTED TEXT AMENDMENT**

  One (1) copy of Proposed Amendment (Letter Sized) and one (1) Electronic Microsoft Word version on CD-ROM

Requested Text Amendment

To amend Section(s) 17.14.020 / Table 17.14-1 of the St. Charles Zoning Ordinance. The wording of the proposed amendment is: (attach sheets if necessary)

See attached

I (we) certify that this application and the documents submitted with it are true and correct to the best of my (our) knowledge and belief.

Applicant

8/15/13

Date