

**MINUTES
CITY OF ST. CHARLES, IL
PLAN COMMISSION
TUESDAY, MARCH 22, 2016**

Members Present: Chairman Todd Wallace
Brian Doyle
James Holderfield
Laura Macklin-Purdy
Dan Frio
Tim Kessler

Members Absent: Tom Pretz
Michelle Spruth
Tom Schuetz

Also Present: Russell Colby, Planning Division Manager
Ellen Johnson, Planner

1. Call to order

Chairman Wallace called the meeting to order at 7:00 p.m.

2. Roll Call

Vice Chair Kessler called the roll. A quorum was present.

3. Presentation of minutes of the January 5, 2016 meeting of the Plan Commission.

Motion was made by Vice Chair Kessler, seconded by Mr. Holderfield, and unanimously passed by voice vote to approve the minutes of the January 5, 2015 Plan Commission meeting.

4. 1224 E. Main St. (Eric Larson)

Application for Concept Plan

The attached transcript prepared by Planet Depos – Chicago Area Real Time Court Reporting is by reference hereby made a part of these minutes.

PUBLIC HEARING

5. General Amendment (City of St. Charles)

A petition filed by the City of St. Charles requesting amendments to Chapter 17.12 “Residential Districts”, Chapter 17.14 “Business and Mixed Use Districts”, Chapter 17.20

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“Use Standards”, and Chapter 17.30 “Definitions” (“Alcohol or Tobacco Sales Establishment” use category)

The attached transcript prepared by Planet Depos - Chicago Area Real Time Court Reporting is by reference hereby made a part of these minutes.

Motion was made by Vice Chair Kessler, seconded by Ms. Macklin-Purdy and unanimously passed by voice vote to continue the public hearing to the April 5, 2016 meeting of the Plan Commission at 7:00 p.m. in City Council Chambers.

Roll Call Vote:

Ayes: Wallace, Kessler, Holderfield, Doyle, Frio, Macklin-Purdy

Nays:

Absent: Pretz, Spruth, Schuetz

Motion carried: 6-0

MEETING

6. General Amendment (City of St. Charles)

A petition filed by the City of St. Charles requesting amendments to Chapter 17.12 “Residential Districts”, Chapter 17.14 “Business and Mixed Use Districts”, Chapter 17.20 “Use Standards”, and Chapter 17.30 “Definitions” (“Alcohol or Tobacco Sales Establishment” use category)

This agenda item was not discussed due to the continuation of the public hearing to a later date.

The attached transcript prepared by Planet Depos - Chicago Area Real Time Court Reporting is by reference hereby made a part of these minutes.

7. Additional Business from Plan Commission Members or Staff

8. Weekly Development Report

9. Meeting Announcements

a. Plan Commission

Tuesday, April 5, 2016 at 7:00pm Council Chambers

Tuesday, April 19, 2016 at 7:00pm Council Chambers

Tuesday, May 3, 2016 at 7:00pm Council Chambers

b. Planning & Development Committee

Monday, April 11, 2016 at 7:00pm Council Chambers

Monday, May 9, 2016 at 7:00pm Council Chambers

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10. Public Comment

11. Adjournment at 8:50pm

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BEFORE THE PLAN COMMISSION
OF THE CITY OF ST. CHARLES

-----x
In Re: :
Regular Meeting including :
Application for Concept :
Plan; Property Located at :
1224 East Main Street. :
-----x

HEARING
St. Charles, Illinois 60174
Tuesday, March 22, 2016
7:00 p.m.

Job No.: 97787A
Pages: 1 - 65
Reported by: Melanie L. Humphrey-Sonntag,
CSR, RDR, CRR, CRC, FAPR

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HEARING, held at the location of:

ST. CHARLES CITY HALL
2 East Main Street
St. Charles, Illinois 60174
(630) 377-4400

Before Melanie L. Humphrey-Sonntag, a Certified
Shorthand Reporter, Registered Diplomate Reporter,
Certified Realtime Reporter, and a Notary Public in
and for the State of Illinois.

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PRESENT:

- TODD WALLACE, Chairman
- TIM KESSLER, Vice Chairman
- BRIAN DOYLE, Member
- DAN FRIO, Member
- JIM HOLDERFIELD, Member
- LAURA MACKLIN-PURDY, Member

ALSO PRESENT:

- RUSS COLBY, Planning Division Manager
- ELLEN JOHNSON, Planner

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P R O C E E D I N G S

CHAIRMAN WALLACE: This meeting of the
St. Charles Planning Commission will come to order.

Tim, call the roll.

VICE CHAIRMAN KESSLER: Holderfield.

MEMBER HOLDERFIELD: Here.

VICE CHAIRMAN KESSLER: Doyle.

MEMBER DOYLE: Here.

VICE CHAIRMAN KESSLER: Frio.

MEMBER FRIO: Here.

VICE CHAIRMAN KESSLER: Macklin-Purdy.

MEMBER MACKLIN-PURDY: Here.

VICE CHAIRMAN KESSLER: Wallace.

CHAIRMAN WALLACE: Here.

VICE CHAIRMAN KESSLER: Kessler, here.

CHAIRMAN WALLACE: All right.

Item 3 on the agenda, presentation
of minutes of the January 5th, 2016, meeting.

Is there a motion to approve?

VICE CHAIRMAN KESSLER: So moved.

MEMBER HOLDERFIELD: Second.

CHAIRMAN WALLACE: It's been moved and
seconded.

All in favor?

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1 (Ayes heard.)

2 CHAIRMAN WALLACE: Opposed?

3 (No response.)

4 CHAIRMAN WALLACE: Motion passes
5 unanimately.

6 Item 4 on the agenda is 1224 East Main
7 Street, Eric Larson, application for concept plan.

8 For those of you who haven't been before us
9 or here before, the Plan Commission is tasked by the
10 City Council with considering applications for
11 certain zoning-related things. One of the things
12 that we do is we conduct concept plan reviews, which
13 we're doing tonight.

14 Before an Applicant goes forward with an
15 application for rezoning or a special use, they can
16 come before us for a concept plan review to save
17 them the expense of drawing up plans. It's
18 basically a preliminary review of an eventual
19 application, and so that's what we're doing tonight.

20 We are not going to take any action on this
21 tonight. We will review it, we'll give feedback to
22 the Applicant, ask any questions that we may have,
23 and the Applicant will walk away and decide whether
24 or not he wants to submit an application and, if so,

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1 what type of application he wants to submit. And in
2 doing that, he'll work with staff to come up with
3 what makes the most sense going forward.

4 Then at a future date we will hold a public
5 hearing and eventually take action on the item and
6 forward our recommendation to the City Council.

7 Any question on that procedure?

8 (No response.)

9 CHAIRMAN WALLACE: Okay. Russ, do you have
10 anything?

11 MR. COLBY: No.

12 CHAIRMAN WALLACE: Okay. Is this yours or
13 Ellen's?

14 MR. COLBY: It's --

15 CHAIRMAN WALLACE: Or do you not assign
16 concept plan reviews?

17 MR. COLBY: Ellen did write the staff
18 report, but it's appropriate to just turn it over to
19 the Applicant to make the presentation.

20 CHAIRMAN WALLACE: Sure. Okay.

21 Mr. Larson.

22 MR. LARSON: Hello.

23 I'm Eric Larson. I own the property at
24 1224 East Main.

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1 I actually have some photos I wouldn't mind
2 sharing. Can I pass them or is that --

3 CHAIRMAN WALLACE: Yeah.

4 MR. LARSON: Then I have -- do you have a
5 copy of the concept plan? Is that --

6 MR. MARSHALL: It's here.

7 CHAIRMAN WALLACE: Yeah. We have everything
8 electronic in front of us.

9 MR. LARSON: I just wanted to show you this.

10 CHAIRMAN WALLACE: We can pass those down if
11 you want us to.

12 MR. LARSON: So I -- my wife and I purchased
13 the property in 2013, and we're kind of debating on
14 what to do with it.

15 The condition of the house was, you know,
16 okay, but the inside was poor and so we decided to
17 continue to do some renovations to kind of get it --
18 cash flow and get it working.

19 It's now a viable two-flat. You can see
20 from the before or after -- we plan to do more to
21 it, but that was the starting point, was just to
22 take, I guess, a dilapidated building and make it
23 look decent. I own five other buildings along Main
24 Street, and I have a habit of trying to make them

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1 look better. It's my goal.

2 So now we have this, you know, half-acre
3 property, and the question is, you know, what can we
4 do with it. And the zoning is kind of unique in
5 that the front of it is zoned BL and the back is
6 zoned --

7 MR. MARSHALL: RT-1.

8 MR. LARSON: -- RT-1, which I think Russ and
9 I both found kind of unique.

10 And so we were hoping to kind of rezone it
11 to be consistent with the current use along with
12 being able to expand and put some more two-family
13 residences on it.

14 So -- and Dan Marshall is here to kind of
15 review that.

16 MR. MARSHALL: My name is Dan Marshall from
17 Marshall Architects, 812 East Main Street,
18 St. Charles. I'm also a partial owner of Cedar
19 Crossing, which is right on 12th Avenue and Main, so
20 we're neighbors to this, as well, and we care about
21 this area quite a bit.

22 It's a unique piece of property because of
23 the flag lot that comes off of 13th Avenue, which
24 allows for property to be developed in the back as

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1 well as off Main Street.

2 And currently Eric came to me looking for
3 ideas on what to do with this, and it is zoned BL up
4 front. We could try to rezone it all BL, which
5 would allow a 10,000-square-foot building of uses
6 that would include motor vehicle repairs, rentals,
7 offices, day cares -- you can put up to 10,000
8 square feet three stories high on that -- or 30 feet
9 high, I think, on that -- with a 60 percent building
10 coverage. That doesn't seem to fit that well,
11 tucking it in the back that well -- that way.

12 Just to the east of the back part of the lot
13 there is a 3-unit nonconforming building that's an
14 RT-1 building, existing nonconforming. It's sort of
15 a town house except that there's two garages
16 underneath the south side, so that kind of makes it
17 a multifamily, as well.

18 CHAIRMAN WALLACE: Where -- is that off of
19 13th Avenue?

20 MR. MARSHALL: It's off of 13th, just north
21 of the flag there.

22 MR. LARSON: 911-15.

23 MR. MARSHALL: That's a 3-unit town houseish
24 building.

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1 And then just further east of that is RM-3,
2 which is basically an apartment building. It
3 connects to those existing apartments in there.

4 So we looked at it -- thanks to Russ
5 actually giving Eric some ideas on the different
6 zoning, what the density would allow.

7 And we looked at two different -- a couple
8 of options here, which obviously we're open to more
9 options, but this is the two that we looked for, and
10 Russ said they were at the bottom.

11 MS. KING: We can't hear Mr. Marshall.

12 CHAIRMAN WALLACE: Okay. Can you just bring
13 the microphone a little closer?

14 MR. MARSHALL: I'm sorry. I'll get closer
15 to the mic.

16 So there we are. So we have Version A and
17 Version B -- oops. Too far. Sorry.

18 So Version A doesn't quite fit. That would
19 be the idea of doing two 2-unit, 1 1/2-story
20 buildings.

21 Recently I've found that there's people, a
22 certain segment of the population -- including my
23 mother -- who is looking for smaller units with
24 one-car garages similar to what Delnor Glen offers.

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1 And so when Eric brought this to me, I said,
2 "Boy, I know people looking for this kind of thing
3 that would fit perfect back here," would be this
4 small duplex with a one-car garage -- not just
5 duplex, could be town houses, too, like this one,
6 the 3-unit.

7 The 3-unit fits per the RM-2 zoning or the
8 RM-3 zoning. RM-2 zoning is a little less dense,
9 doesn't allow as much building coverage as RM-3.
10 RM-3, remember, is to the east of this.

11 So it could be RM-3 or RM-2. It fits with
12 RM-2 with three units. All the lot coverage,
13 setbacks, density all fits with that. And we could
14 go RM-2 on the front lot and on the back lot, and as
15 far as I know, everything fits, works with that.

16 So the 3-unit building would be a story and
17 a half, would be a little smaller than what's just
18 to the east of it, make a nice transition from the
19 single-family to the west to that 3-unit.

20 If -- we thought, though, even better would
21 be two 2-units because they're a little smaller
22 building. It's an even better transition from
23 single-family to the 3-unit in between there, so we
24 wanted to consider that.

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1 The only problems with this one is I can't
2 get the interior setbacks. Like on the front lot --
3 Lot 1, I call that -- that's supposed to be 30 feet
4 in the rear and, I think, 10 feet on the sides. So
5 there's three interior setbacks that don't meet the
6 zoning straight.

7 And, also, this back lot doesn't really have
8 street frontage. It comes -- it would be a private
9 drive through the Lot 2 from the flag lot to the
10 back lot that would be pushed into a PUD, I think.

11 But we've done similar things before so --

12 CHAIRMAN WALLACE: Under this one would you
13 be looking to subdivide into three lots, then?

14 MR. MARSHALL: Yes, because we can only have
15 one building per lot. So we'd have to divide it
16 into three lots.

17 Even though density and everything works as
18 two lots, we'd have to divide it into three lots to
19 make that work, which isn't uncommon for a
20 town house. Sometimes, actually, you divide them
21 right on the town house line per unit, yeah.

22 CHAIRMAN WALLACE: Is there vehicular access
23 like -- under this plan would there be vehicular
24 access from 64?

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1 Is there a curb cut?

2 MR. MARSHALL: Well, we have some -- an
3 additional parking space for each unit and a
4 surface-level parking place, probably, and so you
5 would have a -- there's a driveway right now going
6 along the east side of the existing two-unit that
7 goes to the back area, and there's a little barn
8 back there and some parking -- some old cars parked
9 back there.

10 So, yeah, you could connect it through so
11 that -- or not connect it through. It wouldn't
12 have to.

13 CHAIRMAN WALLACE: Oh, I mean for Lot 1.
14 Sorry. Under this scenario --

15 MR. MARSHALL: Oh, for Lot 1, yes, you would
16 come --

17 CHAIRMAN WALLACE: -- you would envision the
18 vehicular access --

19 MR. MARSHALL: It would all be --

20 THE COURT REPORTER: Wait, wait, wait.

21 (An off-the-record discussion was held.)

22 CHAIRMAN WALLACE: You would envision
23 vehicle access would be from the south for Lot 1?

24 MR. MARSHALL: Correct. It's there.

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1 THE COURT REPORTER: Thank you.

2 MR. LARSON: If you look at the bottom
3 picture, you can see a car sitting.

4 MR. MARSHALL: You wouldn't have to. You
5 could do it through the other one, take that off.
6 But right now we haven't developed this very far
7 because what he wanted to get in front of you.

8 But there would be a way to not do that or
9 leave that as a -- like a one-way going out or
10 something like that, and not coming in if that made
11 a difference to somebody.

12 Right now, we'd like to keep as much
13 flexibility as possible. So there's that one.

14 And then, like I said, this one pretty much
15 fits straight zoning if we could rezone to RM-2 or
16 RM-3, which is sort of contiguous except for this
17 nonconforming 3-unit, which is -- should be RM-2,
18 probably, or probably even too dense for that. But
19 it's similar to RM-3, so it's sort of contiguous to
20 that.

21 And then even if this is a full two-story,
22 we can get that to work, I believe, with the
23 25 percent building coverage.

24 CHAIRMAN WALLACE: I have a question for

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1 staff.

2 How -- I haven't seen a parcel that's zoned
3 in this fashion before. How many parcels are there
4 in the city with split zoning like this?

5 MR. COLBY: I don't believe there's many.

6 CHAIRMAN WALLACE: Okay. And I guess my
7 question is, what would he have the right to build
8 on -- at -- I mean, if he tore this house down, what
9 zoning would you look at for what he has the right
10 to build?

11 MR. COLBY: There's actually a section of
12 the Zoning Ordinance that addresses what happens
13 when a lot has split zoning, and the owner can
14 choose either zoning district to extend -- I believe
15 it's -- 25 feet into either zoning area.

16 So in the event there was a parcel where
17 there was a small portion that was in another
18 district, you could utilize the district that
19 covered most of the lot to develop the lot.

20 In this scenario, you know, it is possible
21 to subdivide the property, to split it into two lots
22 following the zoning district boundaries. But
23 developing it all under a single zoning district,
24 I'm not sure how we would address that unless, you

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1 know, the use was permitted in both districts and
2 could meet the bulk regulations that would apply to
3 each section of the lot.

4 And we haven't gone through an exercise like
5 that before.

6 CHAIRMAN WALLACE: Do you have any idea if
7 this was zoned in a similar fashion under the old
8 Zoning Ordinance?

9 MS. JOHNSON: Yeah. I believe the property
10 first showed up on the Zoning Ordinance in the
11 1960s -- in 1960, and at that time the zoning was
12 split, also. And I'm not sure why because the house
13 existed at that point, too. It was built in 1930
14 so --

15 CHAIRMAN WALLACE: Okay.

16 Sorry. I didn't mean to interrupt you.

17 MR. MARSHALL: That's okay. That's okay.

18 That's really the bulk of the information.

19 Just in terms of good reason for doing this
20 is that it's -- I think it's a type of housing that
21 we really need in town and could be -- fill a useful
22 void that we have right now.

23 And it's an underutilized parcel that
24 there's not been -- you know, it could use some

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1 loving care back there, and I think a little more
2 use out of it could help the neighborhood a lot. As
3 far as a neighbor, I would like to see something
4 happen there.

5 CHAIRMAN WALLACE: All right. Yeah.

6 MEMBER DOYLE: Is there a garage that
7 accompanies the existing house?

8 MR. LARSON: An old barn, yeah.

9 MEMBER DOYLE: Is it used as a garage?

10 MR. LARSON: Yeah, but it's in really bad
11 condition.

12 MEMBER DOYLE: So is there any sort of
13 garage parking for the house in either of the new
14 concept plans? Because I'm not seeing a --

15 MR. LARSON: For the front two-flat?

16 MEMBER DOYLE: Yeah.

17 MR. LARSON: You could add one.

18 MR. MARSHALL: That's a good point. We
19 didn't show one in there, but that doesn't mean we
20 couldn't.

21 That would be a good -- we could put that in
22 the rear yard as a detached garage, so we could do
23 that.

24 MEMBER DOYLE: So -- and this gets to the

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1 two different concept plans here.

2 Your rear yard in Concept Plan 1 is 11 feet;
3 correct?

4 MR. MARSHALL: Yeah.

5 MEMBER DOYLE: So could you go back to that?

6 So if it's 11 feet, do you have the -- okay.
7 So is -- is there a drive that can -- is the drive
8 on the left side or the right side?

9 MR. MARSHALL: It's on the right side right
10 now, but you could put a driveway back here and put
11 a garage back in here probably.

12 MEMBER DOYLE: So you'd circle around?

13 MR. MARSHALL: Well, come across the back,
14 yeah.

15 MEMBER DOYLE: Okay.

16 MR. MARSHALL: Sort of like an alley,
17 basically, between the two.

18 MEMBER DOYLE: Right. Is there -- in terms
19 of setbacks for outbuildings like garages, do those
20 also have to -- you know, are there setback
21 requirements, Russ, for those?

22 MR. COLBY: There are. But in residential
23 districts you're allowed to place detached garages
24 in rear yard areas. There's minimal setbacks,

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1 either 5 or 3 feet from the lot line, so you do have
2 the ability to place a detached structure in the
3 rear yard.

4 MEMBER DOYLE: Up to 5 or 3 feet.

5 MR. COLBY: Yes.

6 MEMBER DOYLE: So I guess my question is --
7 well, two questions, first of all.

8 Are -- would -- you know, in terms of our
9 evaluation of the concept plans, is that something
10 that you'd want to maintain flexibility to do?

11 Do you envision a need for a garage for that
12 front house?

13 MR. LARSON: Yeah, if we could fit it.

14 MEMBER DOYLE: And do you think that you can
15 fit it with a 11-foot setback on that?

16 MR. MARSHALL: Yeah, because the garage --
17 it's allowed to be in the rear yard, but it doesn't
18 have to be in the rear yard, so it could be
19 actually -- I think I would -- just off the bat,
20 I would see the driveway going along the 11 foot and
21 then turning back south into the garage so the
22 garage would sort of be either an attached building
23 to the existing two-unit or separated to the
24 existing two-unit kind of right where my number --

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1 right in here would be the garage doors going
2 into it.

3 MEMBER DOYLE: So the front of the garage
4 would not have -- it wouldn't be a front-facing
5 garage? It would be a rear-facing garage?

6 MR. MARSHALL: Correct. Just shooting from
7 the hip here, Brian.

8 MEMBER DOYLE: Sure.

9 MR. MARSHALL: I think that's a great idea,
10 to have a garage for that, yeah.

11 MEMBER DOYLE: Well, and I'm trying to
12 evaluate in terms of -- I mean, it seems like to me,
13 as I look at the two concept plans, that the issue
14 that stands out most to me is that -- is that
15 setback, particularly the -- if we go to the first
16 one -- the -- that 5-foot setback on Lot 2 there on
17 either side.

18 MR. MARSHALL: Yeah.

19 MEMBER DOYLE: Now, my understanding is that
20 6-foot requirement, that those setbacks -- really,
21 it's about fire safety but -- often the purpose of
22 it is about fire safety in terms of adjacent
23 structures.

24 And so, again, the question where would the

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1 garage be placed is part of what I'm thinking here,
2 and I guess I'm trying to think through, with the
3 three-lot concept, is it -- is there enough room
4 from a safety standpoint.

5 And as well as from other accommodations,
6 like outdoor patios or any other kind of amenities
7 you want these units to have in terms of outdoor
8 living.

9 But, you know, what is your thought about
10 just the amount of space that's available on the
11 lots -- in terms of the building coverage, in terms
12 of the setbacks -- to provide you flexibility that
13 you need for both outbuildings as well as outdoor
14 amenities?

15 MR. MARSHALL: It actually works amazingly
16 well because the back of the middle lot, 2, has got
17 the 30-foot rear yard there, so that's really nice
18 for patios right back there. One has 30 feet going
19 to the north. That gives you some nice areas for
20 patios there. And then this lot here has tons of
21 space around this house right now with a lot of
22 space over here on the west side of it.

23 So that could be developed, like I said, as
24 an attached garage or a detached garage. Detached

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1 buildings have to be 10 feet away from another
2 building or the principal building, so that's one
3 thing to address the fire concern that you've got,
4 is that you'd never be closer than 10 feet to
5 another building with a detached building.

6 MEMBER DOYLE: Uh-huh.

7 MR. MARSHALL: We can move this line,
8 actually -- the line can be enlarged. We've got
9 11 feet and 5 feet, so we've got 16 feet, so
10 I really could do 8 feet between the two.

11 MEMBER DOYLE: Uh-huh.

12 MR. MARSHALL: It's just that, technically
13 speaking, this is the front yard and that's the rear
14 yard, and rear yards are supposed to be 30 feet per
15 the straight zoning.

16 That's what kicks us into a PUD coming -- it
17 would be coming in front of you saying, you know,
18 "These are the changes to the base zoning that would
19 be required to pass this PUD," which is not uncommon
20 but --

21 MEMBER DOYLE: So --

22 MR. MARSHALL: -- you know, that --

23 MEMBER DOYLE: Yeah.

24 Route 64 is a fairly busy thoroughfare,

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1 obviously.

2 MR. MARSHALL: Yes.

3 MEMBER DOYLE: If you had a patio that was
4 on the side yard, that would be -- unless you had
5 some sort of screening or, you know, noise buffer,
6 you know, across that, like a fence or some sort of
7 screening, you'd have a lot of traffic noise.

8 MR. MARSHALL: Yeah.

9 MEMBER DOYLE: I mean, again, thinking about
10 this from an amenity standpoint, if you could go to
11 the other concept plan, you've got a lot of space at
12 the rear of this yard there in terms of the size of
13 the lot; right?

14 MR. MARSHALL: Back here, you mean?

15 MEMBER DOYLE: Yeah.

16 MR. MARSHALL: Okay.

17 MEMBER DOYLE: Have you considered whether
18 or not you might want to put -- this one has a
19 30-foot -- you've got now 30 feet in the back.

20 I mean, have you considered whether you'd
21 want to preserve more rear space in -- on the house
22 on Lot 1 here for a backyard patio, for a garage,
23 et cetera, and --

24 MR. MARSHALL: Yeah, we haven't developed it

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1 very far, but that building could be slid to the
2 north or there's little things we can do from that.
3 So what we're hoping to do is get a feel for whether
4 you guys would prefer to see a 3-unit or the
5 two 2-units.

6 What I like about the two 2-units is they're
7 smaller buildings and it breaks up -- lets the, you
8 know, light between flow. You can -- I don't know.
9 They're just -- I think they're going to look more
10 like the other houses around there than a
11 3-unit town house.

12 Now, these aren't -- we're not picturing
13 tall town houses. We're picturing story-and-a-half,
14 small cottages -- attached cottages, call them, to
15 sound better. But they're not like what we're doing
16 over at the Judd Mansion with three-story walk-ups
17 like that. That's not what we're talking about with
18 these. It's more of a story and a half because I've
19 got a little more footprint and we're just doing a
20 one-car garage.

21 As soon as you start doing a two-car garage
22 and start filling up your footprint, then you kind
23 of stack all your household on top of that garage
24 and then your bedrooms on top of that, and you end

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1 up with three units.

2 So going to the one-car really limits his
3 market to a little -- to a certain extent, but
4 that's the market that there's a huge need for in
5 terms of the expense of that unit not being so high,
6 either, because it doesn't have a two-car garage on
7 it and it doesn't use up that much land space.

8 So we're thinking that on the first floor
9 you would have just a living, dining, family, mud
10 room area and, the second floor, you'd have two,
11 maybe three smaller bedrooms -- two decently
12 sized -- two bigger bedrooms or three, you know,
13 smaller, sort of cottagey rooms up there or two
14 bedrooms and a loft or something like that up on --
15 sort of tucked under the eaves.

16 MEMBER DOYLE: Yeah.

17 So I know we're not in the comments section
18 but, you know -- you know, my thought is I think
19 they're both good concept plans. There are pros and
20 cons of even -- they each have their strengths.
21 Let's put it that way.

22 I think that the strength of the 3-unit
23 concept plan is that you have more outdoor space to
24 work with for outdoor amenities, and that really

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1 becomes a function of what you think your market
2 needs are.

3 MR. MARSHALL: Right. Yeah.

4 MEMBER DOYLE: But on the other hand, the
5 other concept obviously has four units --

6 THE COURT REPORTER: I'm sorry.

7 (An off-the-record discussion was held.)

8 MEMBER DOYLE: Four units, correct, four
9 additional.

10 MR. LARSON: The one is turned which gives
11 you a lot of privacy in the back, which is what
12 I liked with what you first did.

13 MEMBER DOYLE: But -- you know, I guess --
14 you know, I don't have any other questions about
15 this. I'm just wondering is there anything left?

16 VICE CHAIRMAN KESSLER: I have some
17 questions --

18 MEMBER DOYLE: Okay. Good.

19 VICE CHAIRMAN KESSLER: -- just a couple of
20 questions because -- I don't totally have our
21 bearings here but -- okay.

22 So I'm looking at this picture. And this
23 brown building is the garage just behind the house;
24 correct?

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1 MR. LARSON: No. That's the oil change
2 place.

3 MEMBER MACKLIN-PURDY: That's Pit Stop;
4 right?

5 VICE CHAIRMAN KESSLER: Oh, that's the
6 Pit Stop?

7 MR. LARSON: That's Pit Stop, which I plan
8 on installing a fence along that, kind of --

9 VICE CHAIRMAN KESSLER: All right. Well,
10 here. I have here -- I'm looking at two buildings
11 that I believe are on the property.

12 Are they?

13 (An off-the-record discussion was held.)

14 THE COURT REPORTER: I can't hear you. Is
15 this off the record?

16 VICE CHAIRMAN KESSLER: Go ahead.

17 So I'm looking at the building on Main
18 Street, and you can see on the map on -- that barn.
19 And what about this building back here?

20 MEMBER MACKLIN-PURDY: That's not you.

21 VICE CHAIRMAN KESSLER: So that isn't -- is
22 that a shed or a garage?

23 MR. LARSON: That's a garage area --

24 THE COURT REPORTER: I can't hear you, sir.

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1 (An off-the-record discussion was held.)

2 VICE CHAIRMAN KESSLER: Okay. Very good.

3 All right. Thanks.

4 MR. LARSON: The other thing that -- there's
5 a 3-unit building adjacent to it, and I think
6 partially why we liked the two 2-units is, by
7 turning them, we don't end up with another big
8 building here and a big building there. It kind of
9 breaks it up a bit.

10 VICE CHAIRMAN KESSLER: Okay.

11 MR. LARSON: Okay.

12 MR. MARSHALL: It might be nicer for that
13 existing 3-unit not to be looking at a whole
14 3-unit -- I think is what Eric's saying -- that they
15 would be able to see through the two buildings with
16 one turned like that. So that helps that neighbor's
17 views out to their -- and people like duplexes.
18 Sorry, Tim.

19 People like duplexes better because they get
20 more light. So a 3-unit building, you have that
21 interior unit that doesn't get as much light into
22 the building. So as far as the quality of the
23 units, it's a little nicer when it's a duplex.
24 A little more expensive to build, obviously. The

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1 A scheme than the B scheme is more expensive.

2 VICE CHAIRMAN KESSLER: Could you go back to
3 the concept plans?

4 MR. MARSHALL: Yes. Which one?

5 VICE CHAIRMAN KESSLER: Either one.

6 That's -- right there. That's fine.

7 So there's 26 feet to the -- that would be
8 the front of the building?

9 MR. MARSHALL: There, yeah.

10 VICE CHAIRMAN KESSLER: Yeah, 26 feet.

11 And 13 feet on the other building. And
12 I expect that the townhome 3-unit building is a
13 typical --

14 MR. MARSHALL: They should have 30 feet from
15 there to the back. I'm not sure it is 30 feet.

16 MR. LARSON: I don't think they do, but it's
17 hard to tell.

18 VICE CHAIRMAN KESSLER: Of course, one of
19 the difficulties with a lot like this is that
20 whatever you put in there is going to appear to be
21 shoehorned in, whatever you do, because it's been
22 empty for 60 years --

23 MR. MARSHALL: Correct. Yeah.

24 VICE CHAIRMAN KESSLER: -- 70 years. And

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1 so --

2 MR. MARSHALL: Forever.

3 VICE CHAIRMAN KESSLER: Forever. Wait --
4 that's right.

5 But I mean, that area was developed probably
6 about 70 years ago or more.

7 MEMBER MACKLIN-PURDY: Have you talked to
8 any of the neighbors?

9 MR. MARSHALL: No. We're hoping to tonight
10 maybe.

11 MS. KREMPEL: I need to talk.

12 MEMBER FRIO: Can I ask one question?

13 So if you took Option 1 and zoned it into
14 three parcels, how do you get access -- how would
15 you sell the back lot? You have no access to it, do
16 you?

17 CHAIRMAN WALLACE: You'd have to do a cross-
18 access easement.

19 VICE CHAIRMAN KESSLER: You come in on the
20 flag on 13th Street.

21 MR. MARSHALL: Well, or even from Main
22 Street. You can have a cross easement for a private
23 road across any property like that, so we can do
24 that.

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1 CHAIRMAN WALLACE: Is there a cross-access
2 easement currently in place on the flag portion for
3 the --

4 MR. MARSHALL: It's not a cross easement.
5 They actually -- he owns it --

6 CHAIRMAN WALLACE: Yeah.

7 MR. MARSHALL: -- so that's a dedicated
8 parcel -- part of the parcel.

9 CHAIRMAN WALLACE: So it seems to be used by
10 the apartments to the north.

11 MR. LARSON: Yeah, but -- whatever.

12 MEMBER MACKLIN-PURDY: And it's used by
13 Pit Stop, isn't it?

14 MR. LARSON: They park stuff there but it's
15 fine.

16 CHAIRMAN WALLACE: I just want to make sure
17 that, if it's used by them now, they aren't -- there
18 wouldn't be an issue with blocking the only access
19 to these rear two parcels --

20 MS. KREMPEL: I can --

21 CHAIRMAN WALLACE: -- because they --
22 they --

23 MR. LARSON: We're going to put a fence up.

24 VICE CHAIRMAN KESSLER: We'll get there.

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1 CHAIRMAN WALLACE: Hold on, yeah.

2 MR. MARSHALL: Right now there's a wide
3 driveway here. And you drive in and you park in
4 these end units that are under -- in their garage
5 under the 3-unit, and then there's a -- there's a
6 driveway on the south side of this that's for
7 Pit Stop that you can see in the aerial probably.

8 CHAIRMAN WALLACE: Yeah.

9 MR. LARSON: There's a lot of space there.

10 MR. MARSHALL: Yeah, there's a lot of paving
11 right in here right now. It all kind of blends
12 together, but you can see an asphalt difference,
13 what's Eric's and what's the 3-unit's and what's
14 Pit Stop's.

15 CHAIRMAN WALLACE: Hold on just one second.
16 Ma'am? Ma'am, did you want to -- did you
17 want to comment?

18 VICE CHAIRMAN KESSLER: Did you want to
19 comment on something they just said?

20 MS. KREMPEL: That area --

21 CHAIRMAN WALLACE: If you could just
22 state -- if you could state your name, please, for
23 the court reporter.

24 MS. KREMPEL: I'm hearing impaired and it's

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1 very difficult for me to hear in this room. I have
2 a cochlear implant.

3 CHAIRMAN WALLACE: Okay.

4 MS. KREMPEL: So if I miss something,
5 I miss it.

6 CHAIRMAN WALLACE: Okay.

7 MS. KREMPEL: But my name is Mary Ann
8 Krempel, and I own the oil change directly south
9 of -- and east of this property.

10 Anyway, that area over there, that 15 feet,
11 is a private alley. Did you know that?

12 MR. MARSHALL: Well, the -- the private is
13 that he owns it.

14 MS. KREMPEL: I understand. I understand.

15 MR. MARSHALL: Okay?

16 MS. KREMPEL: And I -- I want you to be able
17 to develop whatever you're going to develop
18 accordingly, but in this document it says that --
19 okay.

20 It describes this property and then it says,
21 "It being understood between the parties hereto that
22 a strip of land 15 feet wide extending from the east
23 line of said lot to the west line of the property
24 herein conveyed shall be kept open for a private

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1 alley."

2 So when you said about, you know, the people
3 going into the apartment building that is currently
4 there using that, they use that as an entrance to
5 their garages, and, you know, that's always been
6 kept open.

7 And so my only thought is, if you develop
8 your -- that back end like -- you know, Concept 2
9 was the two -- then, you know -- or -- well, I meant
10 the other -- is this Concept 1?

11 I might be at the wrong meeting, but
12 I was --

13 MR. MARSHALL: No, you're right. You've got
14 it. You've got it.

15 MS. KREMPEL: I just thought I want to know
16 what's going on with my -- you know, because of my
17 property.

18 And so if you put all those units up there
19 and then -- you know, there will be cars and they
20 will need to park, and they can't be parking on that
21 15-foot strip.

22 MR. MARSHALL: No.

23 MS. KREMPEL: And, you know, will they do
24 it? I mean --

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1 CHAIRMAN WALLACE: I don't think that
2 there's any discussion that it would be used for
3 anything but a thoroughfare so no.

4 MS. KREMPEL: I just -- I didn't know
5 what -- which -- what this meeting was all about,
6 but I thought --

7 MR. MARSHALL: You're right on target.
8 You're doing good.

9 MS. KREMPEL: Okay.

10 MR. MARSHALL: That's exactly what we want
11 to hear about.

12 MS. KREMPEL: Okay. Yeah.

13 MR. MARSHALL: I think that really means --
14 and here they go with that. That private alley is a
15 thoroughfare for its lots. It's actually not
16 technically for the 3-unit, but they use it right
17 now. There's enough room --

18 MR. LARSON: They don't need to use it.

19 MR. MARSHALL: That's just how -- if there's
20 room, you're going to drive on it, but they have
21 plenty of room to back up and get out. They have
22 their own driveway on there.

23 MR. LARSON: It's never blocked. I come up
24 there.

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1 MR. MARSHALL: It's never blocked. And
2 I think for Eric it would be a concern that, if they
3 were blocking it -- "How do I get back there?" So
4 they would not want it to be blocked.

5 CHAIRMAN WALLACE: Yeah.

6 MR. MARSHALL: I don't think that -- just
7 knowing him, he would try to accommodate them for
8 keeping things flowing smoothly and not trying to
9 block them off or anything.

10 CHAIRMAN WALLACE: I don't know.

11 VICE CHAIRMAN KESSLER: I think the point
12 that you made, Ms. Krempel, is that it is being
13 used. And as much as you want to have access to it
14 because it's your property -- it's yours -- you also
15 want to make sure that the neighbors that are used
16 to using it have, you know, a friendly access, as
17 well.

18 MR. MARSHALL: Correct. Correct. And he
19 is -- right now you can go through there back to his
20 garage. That's -- I mean, he uses that -- they use
21 that. The people who live in that 2-unit now --

22 MR. LARSON: All the time, yeah.

23 MR. MARSHALL: -- use it all the time,
24 probably more than the other driveway.

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1 MR. LARSON: It's easier to get out.

2 CHAIRMAN WALLACE: Okay. Any other
3 questions?

4 Yeah.

5 MEMBER DOYLE: I had one more question.

6 With a -- so in Concept Plan 1, the third
7 lot, is there a requirement that the fire department
8 have full access to the back lot, not just to Lot 2
9 and close to it? And if so, is there any concern
10 about turn radius for fire trucks and fire vehicles?

11 MR. MARSHALL: There is and it's a good
12 point, and that's something that we have to check
13 into further.

14 With my recent dealings with the Hillcroft,
15 as you remember, is that four units is where they do
16 start to get concerned about it. Three units, they
17 don't.

18 I've found that they're amenable to
19 discussion if you put in residential sprinklers, so
20 I've got to talk to Brian Byrne about this. He
21 knows nothing about this. I haven't run this by
22 him. You guys are the first to see it.

23 So that would be something that we'd have to
24 develop and make sure they're comfortable with this

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1 2-unit, as well, but no need to go down that path if
2 we're doing the 3-unit, so that's why this would be
3 the first step, to talk to you guys.

4 CHAIRMAN WALLACE: But, either way, the plan
5 would be to the satisfaction of, obviously, the fire
6 department and comply, of course, with the fire
7 safety code.

8 MR. MARSHALL: Of course.

9 VICE CHAIRMAN KESSLER: Is there a driveway
10 on the north side of the 3-unit that's there now?

11 MR. MARSHALL: No. There's one coming
12 straight off of 13th Avenue right into a drive -- a
13 garage that's on the north end of their building.

14 VICE CHAIRMAN KESSLER: Is it their garage?

15 MR. MARSHALL: Yeah, a front-facing garage.

16 VICE CHAIRMAN KESSLER: Okay. But it is
17 their garage?

18 MR. MARSHALL: It's attached. It's
19 underneath the building.

20 MR. LARSON: It's a one-car.

21 MR. MARSHALL: So they've got a one-car --

22 VICE CHAIRMAN KESSLER: I see.

23 MR. MARSHALL: -- on the north end and
24 then two cars coming underneath, obviously, on the

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1 south end.

2 VICE CHAIRMAN KESSLER: Got it. Okay.

3 Because I was thinking it was some sort of
4 cross easement with them.

5 MR. MARSHALL: It's -- you know, having
6 units like this 3-unit is great for this town. We
7 need that kind of variety of housing right now. And
8 right now, with our whole percentage thing that
9 we're talking about, this could be a really good
10 opportunity to get another unit out of this rather
11 than just the three units.

12 So when I looked at it with Eric, I thought,
13 you know, we should present this as a four-unit
14 because the buildings are nicer. They're nicer
15 quality; they're smaller scale. It's just -- seems
16 like a smaller development, nicer for the existing
17 3-unit, nicer for all the neighbors as far as the
18 mass size and everything.

19 And we get an extra unit of the type of
20 units that we're short of.

21 VICE CHAIRMAN KESSLER: Uh-huh.

22 MR. MARSHALL: So, to me, it's a win-win all
23 around.

24 But this one has these little quirks of the

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1 setbacks, as Brian's pointing out, and we'd have to
2 work on that a little more to get it to work with
3 the fire department so -- we're just starting down
4 the path.

5 If you wanted us to check this out more, we
6 would be glad to check this out more. But if
7 you say, "No way, Dan; start heading down this
8 path," we'll start doing that at this time.

9 If you don't care --

10 CHAIRMAN WALLACE: Any other questions?

11 (No response.)

12 CHAIRMAN WALLACE: Anything further from the
13 audience?

14 MEMBER DOYLE: I have one more question.

15 CHAIRMAN WALLACE: Yeah.

16 MEMBER DOYLE: Is this -- is the parcel or
17 the house that's on the front lot right now in any
18 way a historic property? 1930, but how close is it
19 to having any preservation consideration, if any?

20 MR. COLBY: There's no historic significance
21 to the house that I'm aware of. It's not near the
22 City's historic district, either. I don't think
23 there's anything that's notable about it other than
24 its age.

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1 MEMBER DOYLE: Okay.

2 VICE CHAIRMAN KESSLER: And the turret.

3 Love that turret.

4 MR. MARSHALL: It's cool.

5 CHAIRMAN WALLACE: All right.

6 Beyond what we've already told the
7 Applicant, I guess I'll ask if anyone has further
8 comments and then if you could just let the
9 Applicant know, you know, Option 1, Option 2, or
10 it's not going to work.

11 MR. LARSON: Or Option 3 could be just
12 rezoning the whole thing to -- RT-4, is it? Just to
13 clean it up.

14 MR. COLBY: One thing I would suggest for
15 the Plan Commission comments, we've provided some
16 questions we were looking for feedback on because,
17 in addition to the zoning issues, there's also the
18 question of the comprehensive plan designation, how
19 that's dealt with.

20 So if you could provide some comment on
21 that, as well, that would be appreciated.

22 CHAIRMAN WALLACE: And I'm sorry. What is
23 the --

24 MS. JOHNSON: Pages 8 to 9 of the staff

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1 report, there's questions to consider.

2 CHAIRMAN WALLACE: What is the current
3 con -- I see it right here.

4 MEMBER DOYLE: Page 5.

5 CHAIRMAN WALLACE: So the designation really
6 for this entire property is business use in the
7 comprehensive plan?

8 MR. COLBY: Uh-huh.

9 MS. JOHNSON: Yes. It's neighborhood
10 commercial.

11 CHAIRMAN WALLACE: But that's also the use
12 for the 3-unit to the northeast, the apartment
13 across the street; correct?

14 MS. JOHNSON: (No verbal response.)

15 CHAIRMAN WALLACE: Okay.

16 VICE CHAIRMAN KESSLER: Well, I'd like to
17 comment.

18 CHAIRMAN WALLACE: Okay.

19 VICE CHAIRMAN KESSLER: I'll address these
20 questions, as well. And I'll do that first.

21 I would support a change in zoning, but
22 I don't think I would -- I would support a change to
23 residential. I think I would -- you know, that's --
24 I know what Main Street is like. I live on Main

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1 Street, on West Main Street.

2 I think it would be -- it's looking
3 backwards to zone parcels on Main Street residential
4 when they're surrounded by commercial, and it will
5 continue to become more commercial. I mean, we do
6 spot zoning all up and down Main Street from east to
7 west to commercial units.

8 So I do like the fact that you've come with
9 some sort of plan for that area. So, to me, the
10 simplest thing to do is not to rezone at all and
11 work with the plans that you have here.

12 I don't have any problem adding residential
13 units to the area because, first of all, it is a
14 residential unit there now, and it's surrounded with
15 residential behind the existing residential. So it
16 just makes sense to put it there.

17 CHAIRMAN WALLACE: But if the front parcel
18 remained legal nonconforming, then how would they be
19 able to develop the rear parcel?

20 I don't understand what you're saying. If
21 you leave it zoned the way that it is, would they be
22 able to develop the rear parcel?

23 VICE CHAIRMAN KESSLER: Why not? It's zoned
24 for it.

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1 MR. MARSHALL: I guess we --

2 VICE CHAIRMAN KESSLER: It's already zoned
3 for it.

4 CHAIRMAN WALLACE: I guess the question is,
5 if it's not subdivided -- are you talking about
6 subdividing?

7 VICE CHAIRMAN KESSLER: Yes.

8 CHAIRMAN WALLACE: Okay.

9 MR. COLBY: So to clarify, the existing
10 zoning of the northern portion only permits
11 single-family right now. It's zoned RT-1.

12 You could subdivide the property and rezone
13 that RT-1 portion to a different residential
14 district to permit more than one unit on that
15 northern portion of the lot and still maintain the
16 BL zoning on the southern portion of the lot,
17 assuming that the portion of that that remains still
18 met the minimum requirements of the BL District.

19 CHAIRMAN WALLACE: Doing that wouldn't
20 trigger -- I mean, that would not be seen by the
21 City as a change of use that would require him to
22 conform with the existing zoning, would it?

23 MR. COLBY: No, as long as the lot that was
24 being created wasn't violating the minimum standards

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1 of that district.

2 It's a little bit unusual in that it's a
3 nonconforming use, but provided that it was
4 otherwise conforming to the newly created lot,
5 I think that's something that could be approved as a
6 subdivision.

7 CHAIRMAN WALLACE: So it would allow him to
8 be able to do what he wants to do to the rear
9 portion of the lot but it would be in conformance
10 with our comprehensive plan, as well.

11 VICE CHAIRMAN KESSLER: Right. And it would
12 maintain the zoning in the front lot --

13 CHAIRMAN WALLACE: Uh-huh.

14 VICE CHAIRMAN KESSLER: -- even though
15 what's there now is nonconforming.

16 So, yes, to clarify, to answer your
17 question, we would have to -- there would be some
18 rezoning on the rear portion, but I'm -- I'm not
19 for rezoning that whole plot as one, either
20 residential or commercial. I don't think you should
21 put residential on the front end, zone it as
22 residential and I don't think the back portion
23 should be zoned BL.

24 So I think you --

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1 MR. MARSHALL: But you would be okay leaving
2 the nonconforming 2-unit there --

3 VICE CHAIRMAN KESSLER: Yes.

4 MR. MARSHALL: -- if we were to subdivide it?

5 It's just in the future, if something were
6 to happen, you'd want to see it be more business
7 than residential.

8 VICE CHAIRMAN KESSLER: Right. It would
9 turn into a business.

10 MEMBER HOLDERFIELD: You're talking about
11 leaving the south portion of the lot as is?

12 VICE CHAIRMAN KESSLER: As is.

13 MEMBER HOLDERFIELD: But, north, you could
14 go from -- has it been -- from single-family to
15 multiple- or higher density?

16 VICE CHAIRMAN KESSLER: Exactly.

17 MEMBER HOLDERFIELD: Okay. That's what I
18 thought.

19 VICE CHAIRMAN KESSLER: That is correct.

20 CHAIRMAN WALLACE: I don't think that you'd
21 want the rear to be residential single-family.

22 VICE CHAIRMAN KESSLER: No.

23 MEMBER HOLDERFIELD: That's not what they're
24 looking for.

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1 VICE CHAIRMAN KESSLER: I don't think so,
2 either, not in that transition.

3 So to continue, then, I -- when I first saw
4 both concepts, I thought, "Oh, those two
5 buildings -- oh, there's only one building."

6 But what you say makes sense, and that is
7 there's a lot of massing when you put one building
8 in there --

9 MR. MARSHALL: Yeah.

10 VICE CHAIRMAN KESSLER: -- and these are
11 backyards where people are --

12 MEMBER MACKLIN-PURDY: Right.

13 VICE CHAIRMAN KESSLER: -- out with their
14 families; they use their yards.

15 It's a neighborhood. And to put a large
16 building back there I think is kind of in their --
17 in their face.

18 I like the fact that the first building to
19 the north -- it does seem a little close, but then
20 it opens up as the lot moves back. That's where all
21 the backyards are. That's where everybody is going
22 to be, you know, congregating.

23 Dan -- I'll mention something.

24 There's -- I know of two flag lots on the

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1 west side that are huge single-family, and it's not
2 a -- it's not an issue. It's kind of a unique
3 feature, actually.

4 MR. MARSHALL: Off Prairie there?

5 VICE CHAIRMAN KESSLER: Yeah, off of Prairie
6 and then --

7 MR. MARSHALL: West of that?

8 VICE CHAIRMAN KESSLER: Exactly. Those two.
9 And it's kind of a unique feature. It's
10 kind of neat, you know. In fact, I always looked at
11 that lot thinking that would be neat -- it's kind of
12 like having a compound in the middle of town.

13 MEMBER MACKLIN-PURDY: Where is that?

14 VICE CHAIRMAN KESSLER: Off of Prairie,
15 right off of Prairie and Howard. Right there.
16 There's a flag lot right back there. It's a big
17 house, too.

18 So I am in favor -- I mean, I would be in
19 favor of Option -- I'm going to make -- hope I say
20 that right -- Option 1 is the two buildings?

21 MR. MARSHALL: Right.

22 VICE CHAIRMAN KESSLER: I would be in favor
23 of Option 1 in that location.

24 MEMBER DOYLE: Can I --

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1 VICE CHAIRMAN KESSLER: I'm done. Go ahead.

2 MEMBER DOYLE: Just to sort of follow up on
3 that, you know, in terms of your point about BL in
4 the front, I guess a question I have -- and I don't
5 think we should try to answer it tonight but --
6 is -- the question was put to staff as to whether or
7 not the nonconforming use would be retained, and the
8 answer was it could if -- if the new BL lot conforms
9 to the requirements of a BL -- the BL zoning.

10 And so then my question is, if you look at
11 Concept Plan 1, with that 11-foot setback in the
12 back, which is not conforming to RT-4 --

13 VICE CHAIRMAN KESSLER: Brian, what page are
14 you on there?

15 MEMBER DOYLE: This is page 6.

16 CHAIRMAN WALLACE: Page 6.

17 VICE CHAIRMAN KESSLER: Page 6. Thank you.

18 MEMBER DOYLE: This is RT-4 and I don't know
19 what the requirements are of BL District and -- in
20 terms of lot area and coverage and the setbacks.

21 CHAIRMAN WALLACE: What would the rear yard
22 requirement be for BL?

23 I think it's much less.

24 MR. MARSHALL: I know lot coverage I looked

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1 into, would be no problem. You can get a lot of lot
2 coverage with BL.

3 MR. COLBY: The minimum rear yard in BL is
4 20 feet.

5 CHAIRMAN WALLACE: So that begs the question
6 of can it -- if we did -- well, yeah.

7 Because if we subdivided it to within
8 11 feet of the rear of the south building, what
9 issues would we have there?

10 I mean, we would --

11 MR. MARSHALL: I'll just remind you that,
12 with that Scheme A, there's already setback issues
13 on the middle lot, so it would be taken in as a PUD,
14 in which case you would say something like, "That
15 front lot, we're going to change the rear yard to
16 11 feet" or "The existing building can stay at
17 11 feet but, if it's future developed" -- like if
18 you rip it down, start over again, you're going to
19 build a business there -- "we need the setbacks."

20 MEMBER DOYLE: Yeah.

21 CHAIRMAN WALLACE: I just don't want him to
22 run into a problem of not being able to continue to
23 use the front lot for the sake of rezoning the rear
24 lots, you know, having setback issues and that sort

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1 of thing.

2 So all of the lots would then have to be
3 included under the PUD --

4 MR. MARSHALL: Yeah.

5 CHAIRMAN WALLACE: -- to allow for those
6 setback variances.

7 MR. MARSHALL: You're correct. I think as a
8 PUD you'd come in and say -- to Tim's -- maybe
9 Brian's point -- that we want to keep business up
10 there so we're going to, in our PUD, call that the
11 BL lot and these other ones the RT-4 lots.

12 CHAIRMAN WALLACE: And you wouldn't have as
13 much of an issue if it were BL as you would if it
14 were RT-4 --

15 VICE CHAIRMAN KESSLER: Uh-huh.

16 CHAIRMAN WALLACE: -- because the rear yard
17 setback is 10 feet less under BL. So, really,
18 instead of a 19-foot variance, you only have a
19 9-foot variance.

20 MR. MARSHALL: Right.

21 MEMBER DOYLE: So I'll just finish my
22 comments on that.

23 CHAIRMAN WALLACE: Sorry.

24 MEMBER DOYLE: But I guess I would piggyback

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1 on what Tim said and say that I think he makes a
2 good point, that, in terms of the comprehensive plan
3 or just in terms of the direction of development,
4 I think it makes sense that we would want to keep
5 the zoning on Route 64 as BL.

6 And I think there's also merit to the
7 arguments that I've heard all around about the
8 smaller massing of the two buildings in back, so
9 I would be in favor of that if the math can all work
10 and if there's a way to make it procedurally work.

11 I would say that, though, there's a part of
12 me that is also in favor of -- or maybe more in
13 favor of Concept Plan 2 with the 3-unit building
14 because, although it's not a historic property, it
15 is a unique property. And I think it's kind of like
16 with the manor over -- over by the library -- I'm
17 forgetting the name of it --

18 VICE CHAIRMAN KESSLER: The Judd Mansion.

19 MEMBER DOYLE: -- the Judd Mansion.

20 You know, you look at that house and during
21 those proceedings I said, you know, "The problem
22 with what we're dealing with is that we took this
23 big, grand manor and we stuck it onto a little
24 parcel." And so the grounds around the house --

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1 which really were part of the original concept, are
2 now gone.

3 And so if I think about the use of this
4 property down the road when it might be historic,
5 when it might -- you know, I mean -- having that
6 larger grounds around it could make it more flexible
7 for BL in terms of parking.

8 MR. MARSHALL: Uh-huh.

9 MEMBER DOYLE: You know, if you wanted to
10 change the use down the road, you'd have more to
11 work with in terms of that back -- that setback in
12 the rear.

13 It seems like it's -- it just seems less
14 cramped in general, whether it's parking in the rear
15 or whether it's outdoor amenities, as I was talking
16 about before.

17 And then in terms of trying to make the
18 BL zoning work, as we were just talking about, and
19 ensure that what's there is sufficient to allow for
20 a nonconforming use to be retained, I think that's
21 what -- that's important.

22 So I would say, in conclusion, both
23 concepts, to me, are -- have their -- have merit.
24 There are, again, strengths of each.

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1 The final thing I would say is that
2 I appreciate the fact that you've put some work and
3 effort into the property and to restoring it, and
4 that really goes a long way to me wanting to be
5 flexible with you and collaborative in terms of
6 getting to the right solution.

7 MR. LARSON: Thank you.

8 CHAIRMAN WALLACE: Jim.

9 MEMBER HOLDERFIELD: Yeah, I have a comment.

10 I guess from the beginning, as I looked at
11 this property -- it's already been talked about, and
12 I'm sure you're well aware of it -- about the
13 vehicle --

14 MS. KING: Could Jim speak into the
15 microphone, please?

16 MEMBER HOLDERFIELD: I'm sorry.

17 Being -- emergency vehicles being able to
18 access all the units in this proposal.

19 And I had planned to ask the Petitioner had
20 he contacted the architect to see if the turn
21 radiuses were right, but I guess that's true now for
22 sure.

23 When I visited the property, I was amazed at
24 the height of the apartment building along the east

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1 side of your property, and I just couldn't get over
2 that. And a suggestion I would make -- I'm kind of
3 partial to Option 2 and -- but I would like to see
4 it kind of reversed, in that the units be slid to
5 the north, the flag driveway or alleyway that goes
6 in would go past the units, and the front of the
7 units would be facing the west because there's so
8 much light and ventilation actually knocked off by
9 that apartment building. I would like the backyard
10 of these units to the backyards of that apartment
11 building. I was just amazed at the size of it.

12 So that's what I'm suggesting. I'm tickled
13 to death that we're moving forward, you want to
14 improve the property, but I think, you know, you
15 don't have to necessarily make them large three
16 units there.

17 But having them face the west, the front,
18 might be something you want to consider --

19 MR. MARSHALL: Sure.

20 MEMBER HOLDERFIELD: -- if it's just
21 backyards and the backyards of the apartment
22 building. I was just amazed how tall that was.

23 MR. MARSHALL: Can we call -- Russell, can
24 we call the east side the rear yard and the west

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1 side the front yard as far as setbacks go on a flag
2 lot like this? It's weird to try to define the --

3 MEMBER HOLDERFIELD: Sure. But the turn
4 radius wouldn't be any different.

5 MR. MARSHALL: No. It would be the same,
6 30 feet on the east and 26 feet on the front, so it
7 would just --

8 MEMBER HOLDERFIELD: I don't know if that's
9 possible.

10 MR. COLBY: In a subdivision plat you can
11 designate the yards. Certainly, with a PUD, you can
12 specify which is which.

13 I'm not certain with a flag lot, if it was
14 just a rezoning and not a PUD, how we would
15 accommodate that. That's something we would have to
16 look into. It might be possible but typically you
17 can designate yards on a subdivision plat.

18 MEMBER HOLDERFIELD: That could be explored,
19 then, so -- that's my only comment.

20 CHAIRMAN WALLACE: Okay.

21 Laura.

22 MEMBER MACKLIN-PURDY: Do you also own
23 1434 East Main?

24 MR. LARSON: I do, yeah.

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1 MEMBER MACKLIN-PURDY: I think that's --
2 that's what I see eventually this morphing into,
3 with all those businesses in there. So -- I mean,
4 that's just an awesome building with all those
5 businesses. I think, yeah, there's five businesses
6 in there.

7 MR. LARSON: Four, I think -- four, yeah.

8 MEMBER MACKLIN-PURDY: Five.

9 MR. LARSON: Are there?

10 MEMBER MACKLIN-PURDY: There's five.

11 MR. LARSON: Okay.

12 MEMBER MACKLIN-PURDY: There's an
13 acupuncturist; there's an accountant; there's a
14 chiropractor; Edwina -- the facial --

15 MR. LARSON: Edwina, yeah.

16 MEMBER MACKLIN-PURDY: Wait. Is that four?

17 MR. LARSON: They kind of share, massage and
18 acupuncture.

19 MEMBER MACKLIN-PURDY: I think it's awesome.

20 MR. LARSON: Thank you.

21 MEMBER MACKLIN-PURDY: That's what I'm
22 thinking this could morph into, so I'm all for
23 keeping it BL so that we could have that business
24 option because it's just a great way to get a lot of

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1 businesses that don't want the high overhead in the
2 downtown area.

3 MR. LARSON: I agree. I've been pushing it
4 a long time to change the sprinkler ordinance, and
5 I think they're doing that. Correct?

6 Have you heard that?

7 CHAIRMAN WALLACE: That doesn't go through us.

8 MR. LARSON: But a building of this size,
9 won't need sprinklers if I change the use to
10 commercial, is what I'm being told.

11 MR. MARSHALL: I happen to sit on the board
12 that's -- the commission that's doing that, and the
13 rule is going to be, if you make it more dangerous
14 of a use, you have to turn it to sprinklers, but if
15 you change the use to an equal or less hazard group,
16 you don't have to have sprinklers.

17 So residential to business is a little
18 questionable.

19 MR. LARSON: It goes down. No cooking,
20 no --

21 MR. MARSHALL: Yeah. We'd have to ask the
22 fire department about that.

23 MEMBER MACKLIN-PURDY: Anyway, I would like
24 to keep it zoned the way it is so that that option

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1 could be available because it seems to be working
2 really well. So I agree with Tim, is to keep that
3 zoned and in BL.

4 And I love your ideas that you just came up
5 with. I think that's awesome. But I am kind of
6 leaning toward Option 2 just because I was just over
7 there looking at the space, looking at the -- and
8 I think it would be great to flip it because I think
9 that would be a lot nicer to look at, also, for the
10 people who would live there --

11 MR. MARSHALL: For who?

12 MEMBER MACKLIN-PURDY: -- coming in.

13 MR. LARSON: For the tenants.

14 MEMBER MACKLIN-PURDY: For the front to be
15 flipped.

16 MR. MARSHALL: Okay.

17 MEMBER MACKLIN-PURDY: I think that would be
18 a better option. And for the whole structure to be
19 moved more north --

20 MR. MARSHALL: Sure.

21 MEMBER MACKLIN-PURDY: -- so that there's
22 more access.

23 MEMBER HOLDERFIELD: You might end up with
24 more parking there.

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1 MEMBER MACKLIN-PURDY: I think that would
2 give you more parking, and I think the emergency
3 vehicles --

4 MR. MARSHALL: It would definitely give you
5 more paving.

6 THE COURT REPORTER: I'm sorry. I didn't
7 hear what you said.

8 (An off-the-record discussion was held.)

9 MR. MARSHALL: It would definitely give you
10 more paving --

11 THE COURT REPORTER: Thank you

12 MR. MARSHALL: -- when you put it on the
13 west side because you'd have to bring that driveway
14 along the whole south end of the --

15 MEMBER MACKLIN-PURDY: And it would also
16 provide more access for emergency vehicles.

17 That's my comment.

18 MEMBER FRIO: I'm left.

19 CHAIRMAN WALLACE: Dan.

20 MEMBER FRIO: I think that's a great
21 concept, No. 2, flipping the building to the front,
22 keeping the zoning in the -- the front lot as the
23 BL. So kind of ditto what they're saying about the
24 Option 2.

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1 It's easy going last. I think it's great.

2 CHAIRMAN WALLACE: And I don't necessarily
3 agree. I like Option 1 and the reason that I like
4 it is actually what you said about kind of cottage
5 duplexes, the concept of that, and making -- one of
6 the things that I was looking at -- one of the staff
7 questions was whether the proposal would meet the
8 purposes of the PUD process, and one of them is to
9 promote a creative approach to site improvements and
10 building design that results in a distinctive,
11 attractive development that has a strong sense of
12 place yet becomes an integral part of the community.

13 And I think putting in two duplex units like
14 that and creating almost like a private court area
15 but, yet, that is still integrated into the
16 surrounding -- you know, you do have the 3-unit to
17 the east, you have single-family to the west and to
18 the north. I mean, my idea of it -- and I know that
19 you'll do a great job of, you know, making it
20 something special --

21 MR. MARSHALL: Thank you.

22 CHAIRMAN WALLACE: -- and I think that
23 that's what it would end up being. It would be, you
24 know, a special place, not just another kind of

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1 apartment building --

2 VICE CHAIRMAN KESSLER: Three-flat.

3 CHAIRMAN WALLACE: -- three-flat kind of
4 thing.

5 MR. MARSHALL: That's what we're trying to
6 avoid.

7 CHAIRMAN WALLACE: And I think it's a
8 difficult area to work with. But I can see that,
9 you know, definitely being a huge improvement and,
10 really, a jewel in that residential neighborhood
11 that will, you know, increase property values around
12 it, which is a great thing.

13 And after discussion we've had here,
14 I do agree with maintaining the zoning on the front
15 portion of the lot. I don't -- you know, I'm always
16 wary of, "Well, would forcing zoning, you know,
17 decrease the ability to develop -- for future
18 development of that lot?"

19 But, you know, in thinking about it, as long
20 as you're a nonconforming use and maintaining that
21 zoning doesn't hurt your ability to do that, I like
22 the fact that it fits in with our comprehensive
23 plan, you know, because that's one of the things
24 that we look at, is -- and you're still going to be

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1 able to do what you want to do but have the ability
2 in the future if you do want to develop it like
3 Laura was talking about.

4 So those are my thoughts.

5 And I will also comment I think that you've
6 done a great job on changing this property. It's --
7 I mean, it used to be somewhat of an eyesore, and
8 the change is dramatic. So good job.

9 All right. Anything else from staff before
10 we close?

11 MR. COLBY: I just want to make a couple
12 comments for the benefit of the Plan Commission.

13 The BL Zoning District, although it is a
14 commercial district, it does permit some residential
15 use. It permits a single-family dwelling, and it
16 also permits an upper-level dwelling, which would be
17 a residential unit above a commercial use.

18 So if this building were to be occupied on
19 the first floor with a commercial use and a
20 residential use on the second floor, that would be a
21 conforming use of the building to the BL District.

22 Also, if the -- if a PUD is pursued for the
23 entire site, one possibility we could look into is
24 using the PUD to grant legal status to the two-unit

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1 building but also preserve the commercial zoning.

2 CHAIRMAN WALLACE: Uh-huh.

3 MR. COLBY: It's a little bit unusual
4 because, with our PUD process, we prefer not to
5 grant additional land uses through the PUD; however,
6 the zoning district in this case already permits
7 some residential use in a different form, so we may
8 have the ability to make it legal but keep the BL
9 zoning in place.

10 So that's an option that we could look into
11 if a PUD is pursued.

12 CHAIRMAN WALLACE: That would be helpful to
13 not have it -- I don't know. In my view, the less
14 nonconforming buildings that we have, the better --

15 VICE CHAIRMAN KESSLER: That's for sure.

16 CHAIRMAN WALLACE: -- so that would be a
17 good option.

18 All right.

19 MR. MARSHALL: Thank you very much for your
20 time.

21 MR. LARSON: Thank you.

22 CHAIRMAN WALLACE: All right. Thank you.

23 And that concludes Item No. 4 on the agenda.

24 (Off the record at 8:02 p.m.)

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CERTIFICATE OF SHORTHAND REPORTER

I, Melanie L. Humphrey-Sonntag, Certified Shorthand Reporter No. 084-004299, CSR, RDR, CRR, CRC, FAPR, and a Notary Public in and for the County of Kane, State of Illinois, the officer before whom the foregoing proceedings were taken, do certify that the foregoing transcript is a true and correct record of the proceedings, that said proceedings were taken by me stenographically and thereafter reduced to typewriting under my supervision, and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 29th day of March, 2016.

My commission expires: May 31, 2017



Notary Public in and for the
State of Illinois

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BEFORE THE PLAN COMMISSION
OF THE CITY OF ST. CHARLES

-----x
In Re: :
Public Hearing; City of :
St. Charles Requests General :
Amendments to Chapter 17.12, :
Chapter 17.14, Chapter 17.20, :
and Chapter 17.30. :
-----x

HEARING

St. Charles, Illinois 60174
Tuesday, March 22, 2016
8:02 p.m.

Job No.: 97787B
Pages: 1 - 50
Reported by: Melanie L. Humphrey-Sonntag,
CSR, RDR, CRR, CRC, FAPR

General Amendments to Chapter 17.12, 17.14, 17.20, and 17.30
Conducted on March 22, 2016

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HEARING, held at the location of:

ST. CHARLES CITY HALL
2 East Main Street
St. Charles, Illinois 60174
(630) 377-4400

Before Melanie L. Humphrey-Sonntag, a Certified
Shorthand Reporter, Registered Diplomate Reporter,
Certified Realtime Reporter, and a Notary Public in
and for the State of Illinois.

General Amendments to Chapter 17.12, 17.14, 17.20, and 17.30
Conducted on March 22, 2016

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PRESENT:

- TODD WALLACE, Chairman
- TIM KESSLER, Vice Chairman
- BRIAN DOYLE, Member
- DAN FRIO, Member
- JIM HOLDERFIELD, Member
- LAURA MACKLIN-PURDY, Member

ALSO PRESENT:

- RUSS COLBY, Planning Division Manager
- ELLEN JOHNSON, Planner

General Amendments to Chapter 17.12, 17.14, 17.20, and 17.30
Conducted on March 22, 2016

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P R O C E E D I N G S

CHAIRMAN WALLACE: Item 5 is a public hearing, general amendment, St. Charles, a petition filed by the City of St. Charles requesting amendments to Chapter 17.12, "Residential Districts"; Chapter 17.14, "Business and Mixed-Use Districts"; Chapter 17.20, "Use Standards"; and Chapter 17.30, "Definitions, Alcohol or Tobacco Sales Establishment" use category.

For the public hearing portion, the City conducts public hearings for applications such as this one. This one's a little unusual since it's been brought by the City, but our procedure is still the same.

The Applicant will make a presentation followed by Plan Commission questions, questions from members of the public, and at the end of the public hearing, if the Plan Commission feels that it has enough -- it's collected enough evidence to make a recommendation to the City Council, then the public hearing will be closed.

If it feels that it hasn't, we have the option to continue the public hearing to a future date; however, Item 6 on the agenda is an action

General Amendments to Chapter 17.12, 17.14, 17.20, and 17.30
Conducted on March 22, 2016

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1 item for this application, so it's anticipated that
2 we'll be able to collect our evidence and be able to
3 make a recommendation tonight to the City Council.

4 Any questions on our procedure?

5 (No response.)

6 CHAIRMAN WALLACE: All right. If you could
7 raise your hand.

8 (One witness duly sworn.)

9 CHAIRMAN WALLACE: All right. And, of
10 course, anyone speaking, please state your name,
11 spell your last name, and state your address for the
12 record.

13 Go ahead.

14 MS. JOHNSON: Okay. Ellen Johnson with the
15 City of St. Charles.

16 So staff is proposing this general amendment
17 based on input that we received from City Council.
18 Council expressed interest in limiting locations
19 where liquor stores and tobacco stores can locate.

20 This conversation was spurred last summer
21 when the Council considered a liquor license
22 application that would have allowed a liquor store
23 to open at the St. Charles Mini-Mart on South Third
24 Street, south of Prairie.

General Amendments to Chapter 17.12, 17.14, 17.20, and 17.30
Conducted on March 22, 2016

1 So neighbors expressed some opposition to
2 that location. They didn't feel that it was
3 appropriate to locate a liquor store within a
4 residential neighborhood, and so Council expressed
5 an interest in addressing this issue through zoning.

6 So under the current Zoning Ordinance,
7 retail sales is a general use category that kind of
8 combines all retail uses into the one category. It
9 doesn't differentiate between products sold.

10 So a liquor store or a store that primarily
11 sells tobacco products, they're both considered just
12 retail sales, and, as such, they're permitted in all
13 commercial zoning districts as well as mixed-use
14 zoning districts and the downtown zoning districts.

15 So some of these commercially zoned
16 properties are kind of pockets of commercial zoning
17 within -- surrounded by or partially within
18 residential neighborhoods, so we are proposing to
19 create a new zoning use category separate from
20 retail sales called "Alcohol or Tobacco Sales
21 Establishments," and this would include package
22 liquor stores, tobacco, cigar, e-cigarette stores,
23 also hookah bars.

24 So proposed is to permit this new use in the

General Amendments to Chapter 17.12, 17.14, 17.20, and 17.30
Conducted on March 22, 2016

1 more heavily traveled commercial zoning districts,
2 the BR, Regional Business District; BC, Community
3 Business; also the Central Business District
4 downtown; and, also, to allow it in the BL, Local
5 Business, and CBD-2, Mixed-Use Business, only along
6 Main Street, Randall, and Kirk Road.

7 So it would not be permitted in the BL and
8 CBD-2 District in locations not on these major
9 arterials and also would not be permitted in the BT,
10 Transitional Business, overlay, which are kind of
11 mixed-residential areas over -- right outside of
12 downtown.

13 Are there any questions on that so far?
14 I have some maps that will kind of illustrate this.

15 So this map shows the locations of the CBD-2
16 and BL; CBD-2 pink and then BL is light blue. These
17 are locations east of downtown where the uses will
18 be permitted.

19 So as you can see along Main Street, CBD-2
20 and BL Zoning Districts will -- these properties
21 will be permitted to have a liquor store or a
22 tobacco store. So there are two existing
23 businesses, an e-cigarette store and a liquor store,
24 that will continue to be permitted uses because they

General Amendments to Chapter 17.12, 17.14, 17.20, and 17.30
Conducted on March 22, 2016

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1 front Main Street.

2 VICE CHAIRMAN KESSLER: And not CBD-1;
3 correct?

4 MS. JOHNSON: Correct. CBD-1, it will be
5 permitted. I didn't outline it. The whole entire
6 district, it will be permitted.

7 VICE CHAIRMAN KESSLER: It will be
8 permitted? So this red dotted line doesn't mean
9 it's restricted to that area?

10 MS. JOHNSON: Right. Right. I'm just
11 showing where -- in CBD-2 and BL -- where it's
12 permitted.

13 VICE CHAIRMAN KESSLER: Okay.

14 MS. JOHNSON: Yeah, it's kind of backwards
15 because of the red.

16 And then this shows the CBD-2 and BL
17 locations where it will be permitted west of
18 downtown, and there are no existing liquor or
19 tobacco stores there.

20 And then this shows the locations near
21 Randall and Main Street. So Lundeen's there will
22 continue to be a permitted use because it's on Main
23 Street.

24 VICE CHAIRMAN KESSLER: And the BC, of

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1 course, is still permitted.

2 MS. JOHNSON: BC is permitted; BR is
3 permitted.

4 CHAIRMAN WALLACE: Can you go back to the
5 map before that?

6 MS. JOHNSON: (Complied.)

7 So kind of those BL locations that are north
8 of the area outlined in red, those locations will
9 not be able to have a liquor store or tobacco store
10 since they're kind of more towards the residential
11 neighborhoods, kind of inset, and not along -- they
12 don't have frontage on Main Street.

13 VICE CHAIRMAN KESSLER: This is the BL, by
14 Thompson -- by Ninth Street?

15 MS. JOHNSON: Yes, uh-huh.

16 CHAIRMAN WALLACE: Did the City Council have
17 any discussion about exempting from this permitted
18 use properties that are adjoining schools? The only
19 properties that would come into play in the
20 BL District would be the ones across the street from
21 Thompson.

22 MS. JOHNSON: Uh-huh. I don't know.

23 Russ, do you know if anything came up about
24 that?

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1 MR. COLBY: No, I don't believe that issue
2 was brought up.

3 CHAIRMAN WALLACE: Okay.

4 MS. JOHNSON: So most existing businesses
5 will comply with this amendment. The only one that
6 will become a nonconforming use is the liquor store
7 on Prairie and 14th Street, which is the One Stop
8 Liquor.

9 It will be a legal nonconforming use, so it
10 can -- it can continue in operation, but the
11 business won't be able to be expanded; they can't
12 expand their building footprint. And then if the
13 store is vacant -- if the use, basically, is vacated
14 for 180 days -- then they couldn't return to being a
15 liquor store.

16 But the business could sell and -- to
17 another liquor store -- and it could continue in
18 operation as a liquor store. So that's the only
19 situation where an existing business would be
20 affected.

21 So this map shows all of the BL, CBD-2, and
22 BT locations where the use will not be permitted so
23 kind of shows those commercially zoned pockets
24 around town.

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1 Here's the convenience store I talked about,
2 the Mini-Mart on South Third Street, the liquor
3 store on 14th and Prairie. There's the retail kind
4 of strip mall up by Delnor on North Fifth Avenue.

5 And then kind of the pockets of BL zoning
6 back from -- set back from West Main Street and
7 East Main Street. And then all of the CBD-2
8 locations that are -- that do not have frontage on
9 Main Street.

10 So that is the proposal. If there are any
11 questions --

12 MEMBER MACKLIN-PURDY: Definitions of
13 "tobacco sales"?

14 MS. JOHNSON: Uh-huh. Yes.

15 So we're referencing -- there's still
16 specific language of the definition of this new use.
17 It's in the packet. I can read it.

18 It's kind of long but it references the
19 tobacco definitions that are in our tobacco -- the
20 City Code section that references tobacco --

21 MEMBER MACKLIN-PURDY: I did read it.

22 I'm just -- I'm referencing vape because
23 they do say -- I know. I read it. I read it a
24 couple times.

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1 Because some people do not consider vape
2 alcohol sub- -- or tobacco substitute --

3 MS. JOHNSON: Uh-huh.

4 MEMBER MACKLIN-PURDY: -- so I was just
5 hoping that it's all encompassed in there.

6 MS. JOHNSON: Yeah. And that's the intent
7 so I'll look at those definitions again that are in
8 that City Code section to make sure that we've got
9 that.

10 MEMBER MACKLIN-PURDY: I'm right in the
11 throes of the vape world, unfortunately. I have two
12 high schoolers. Don't -- don't --

13 VICE CHAIRMAN KESSLER: Really?

14 MEMBER MACKLIN-PURDY: Yes.

15 CHAIRMAN WALLACE: All right. Any other
16 questions?

17 MEMBER DOYLE: Yes.

18 Was there any consideration -- I mean,
19 what's the rationale -- is there a public safety
20 rationale for the amendment? I mean, I guess
21 I should take a look at the findings of fact.

22 MEMBER MACKLIN-PURDY: It's the community
23 image.

24 MS. JOHNSON: Yeah. The idea is that,

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1 basically, that the liquor stores and tobacco stores
2 kind of have a character that's outside of -- maybe
3 contrary to residential neighborhoods and maybe not
4 as compatible as other retail uses.

5 MEMBER DOYLE: So there's been no analysis
6 of whether there's a public safety issue? I mean,
7 like, for instance, at the store on 1401 Prairie
8 Street, are there more incidents of police calls at
9 that location? Are there more incidents of public
10 destruction at that location?

11 MS. JOHNSON: Yeah, we don't look into that.
12 I don't know if they did at the time.

13 MR. COLBY: No, there hasn't been any kind
14 of analysis of that information.

15 I think the basis for the direction we
16 received from the City Council had to do with -- you
17 know, at the time the Third Street proposal was
18 discussed, we presented some zoning information to
19 the Council. They were looking at the zoning
20 district purpose statements for the type of
21 businesses that might be appropriate in given
22 districts and, based on that, they felt that that
23 type of use, although it was currently considered
24 retail sales, was different in character, and then,

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1 based on those purpose statements, it didn't
2 necessarily fit within the entire area of those
3 districts as mapped.

4 And so they reached that conclusion more or
5 less based on the purpose statements.

6 MEMBER DOYLE: So it's a matter of character
7 and image?

8 MR. COLBY: Yes.

9 MEMBER DOYLE: Okay. Another question: Are
10 firearms -- sale of firearms -- a general retail
11 issue?

12 MS. JOHNSON: They are, yes.

13 MEMBER DOYLE: So at the Federal level,
14 alcohol, tobacco, and firearms go together. Is
15 there any consideration of including firearms?

16 MS. JOHNSON: Did that come up, Russ?

17 MR. COLBY: It hasn't come up.

18 Part of the reason that this grouping was
19 proposed is that these are all businesses that the
20 City licenses. So the City reviews license
21 applications, and as part of that consideration they
22 do look at the location, but, really, the location
23 of the business is meant to be dictated by the
24 zoning.

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1 So what the hope was is -- was that, by
2 modifying this, it would sort of more align the
3 location expectations and kind of what the ordinance
4 says in terms of purpose statements sort of match
5 community expectations.

6 And because we do not license firearms
7 dealers, that had not come up in discussion.

8 MEMBER DOYLE: Okay.

9 MR. COLBY: It isn't to say that it couldn't
10 be included.

11 MEMBER DOYLE: But the same premise could be
12 applied there, as well? We could create a separate
13 category for firearm retail and put it in this new
14 category?

15 MR. COLBY: Yes.

16 MEMBER DOYLE: Okay.

17 CHAIRMAN WALLACE: What determines whether
18 the primary purpose is the sale of these items?

19 MS. JOHNSON: Yeah. It's based on floor
20 area, the use of the tenant space that they occupy.

21 So like a grocery store that just had a
22 section of the store that sells alcohol, the primary
23 purpose wouldn't be the sale of alcohol.

24 CHAIRMAN WALLACE: Hm-m. I'm still thinking

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1 of --

2 VICE CHAIRMAN KESSLER: So -- but by saying
3 that, if that little Family Pantry thing wanted to
4 have one cooler of beer and wine, they wouldn't be
5 subject to this. It wouldn't be a primary --

6 MS. JOHNSON: Well, they're zoned BR so they
7 would be permitted to have a liquor store.

8 But -- I guess I don't understand your
9 question.

10 VICE CHAIRMAN KESSLER: That convenience
11 store on Third Street.

12 MS. JOHNSON: Oh. They would still need to
13 get their liquor license.

14 VICE CHAIRMAN KESSLER: But they could get a
15 liquor license if it wasn't a primary -- if it
16 wasn't their primary -- they're not exempt, then,
17 under that?

18 MR. COLBY: No. It would depend on the
19 category of liquor license they applied for because
20 I believe that there's a square-footage limitation
21 to the building that comes into play. And if the
22 building's under a certain size and they're applying
23 for a liquor license, it's basically considered to
24 be a package liquor store in its entirety.

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1 VICE CHAIRMAN KESSLER: Okay. So if it's
2 under a certain size and they have liquor of any
3 kind, if one -- one cooler door, it would be
4 considered a liquor store?

5 MR. COLBY: Yes. For purposes of licensing,
6 it would be considered a package liquor store.

7 VICE CHAIRMAN KESSLER: Okay.

8 CHAIRMAN WALLACE: As it is right now.
9 The -- for example, St. Charles Mini-Mart -- or any
10 gas station in town -- could not apply for a liquor
11 license because they would -- they really would need
12 to be a package liquor store.

13 MR. COLBY: Yes. And so there's a square-
14 footage minimum.

15 CHAIRMAN WALLACE: Okay.

16 MR. COLBY: And I think there's also a
17 restriction that prevents the sale at gas stations,
18 as well, separate provision.

19 CHAIRMAN WALLACE: I'm just -- I'm wondering
20 in particular with the convenience store on Third
21 Street, you know. I know what the basis is for
22 this -- for the application, City Council
23 discussion, but I'm just wondering if this would be
24 inclusive enough, that the definition would be

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1 inclusive enough to be able -- for them to --
2 I mean, if they wanted to turn 49 percent of their
3 floor area into hookah sales, would they be able to
4 do that?

5 MR. COLBY: We could do further research on
6 that question if you'd like more information:

7 CHAIRMAN WALLACE: And the other reason
8 I asked is, if it's just based on floor area, if we
9 have a -- I don't even know how big -- thousand-
10 square-foot convenience store that sells tobacco
11 from, you know, behind the counter in a fairly small
12 space but it accounts for 60 percent of their sales,
13 are they considered to be a tobacco store or a
14 convenience store that sells tobacco?

15 MS. JOHNSON: Yeah. I think we need to look
16 into that a little bit more to refine our definition
17 and align it more with the tobacco licensing --

18 VICE CHAIRMAN KESSLER: I don't think you're
19 achieving what you're trying to achieve here.

20 MS. JOHNSON: Right.

21 MEMBER MACKLIN-PURDY: There's a loophole.

22 CHAIRMAN WALLACE: Yeah.

23 MS. JOHNSON: Yeah.

24 CHAIRMAN WALLACE: And the other issue that

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1 I had brought up regarding properties that abut or
2 adjoin or -- I don't know what you would say -- are
3 next to school properties or, for that matter, park
4 properties -- I don't know. I guess I would want to
5 make some type of a consideration as to whether they
6 would be allowed on those properties, as well.

7 MS. JOHNSON: Uh-huh. So to have some sort
8 of separation requirement?

9 CHAIRMAN WALLACE: I don't know if it would
10 be a separation requirement or just strictly to the
11 parcels that are --

12 MS. JOHNSON: Directly adjacent.

13 CHAIRMAN WALLACE: -- directly abutting.

14 And I guess the question would be, are the
15 properties across Main Street directly abutting
16 Thompson School property?

17 VICE CHAIRMAN KESSLER: I would say no.

18 MS. JOHNSON: Well, it could be "directly
19 abutting or directly across the street from."

20 CHAIRMAN WALLACE: Okay. And then I guess
21 that would also go to properties that are -- well,
22 the only other properties I think it would affect
23 are the ones that are across from that Lincoln Park.

24 VICE CHAIRMAN KESSLER: Where?

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1 CHAIRMAN WALLACE: In front of St. Pat's.

2 VICE CHAIRMAN KESSLER: Yes.

3 MEMBER HOLDERFIELD: Yes.

4 CHAIRMAN WALLACE: Yeah.

5 VICE CHAIRMAN KESSLER: Well, I would say
6 two things that come to mind.

7 First of all, you know, Brian brought up the
8 issue of firearms, and ATF is a grouping that we
9 choose not to address here. And I understand the
10 reasoning and more than one reason for not -- or for
11 creating this type of ordinance.

12 But while I want to make sure you're
13 comprehensive in what you're attempting to do,
14 I want to make sure that you're not too restrictive
15 because I think you're opening Pandora's box when
16 you start doing that.

17 And could you just tell us a little bit
18 about how other, similar communities deal with
19 alcohol use in zoning?

20 MS. JOHNSON: So, a lot of other
21 communities, they kind of parcel out different
22 retail uses. So they'll list a whole list of
23 permitted retail uses per zoning district, so
24 they'll say "grocery stores, liquor stores,

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1 furniture stores."

2 But our -- under our Zoning Ordinance we
3 just have one general retail sales category that
4 kind of groups all general retail sales without
5 defining what specifically is included in that.

6 So this situation probably doesn't occur as
7 much in other communities because of how they define
8 different types of retail sales.

9 VICE CHAIRMAN KESSLER: Do you feel that
10 there might be an issue for -- do you think there
11 might be an issue by just segregating one particular
12 retail use from all the others, particularly when
13 it's alcohol or cigarettes?

14 MS. JOHNSON: An issue with precedence or --

15 VICE CHAIRMAN KESSLER: Precedent --

16 CHAIRMAN WALLACE: Equity.

17 VICE CHAIRMAN KESSLER: -- equity. You
18 know, liquor licenses are hot button issues, people
19 that want them and the people that don't want them.

20 And it's just -- I'm just asking the
21 question to consider it.

22 MS. JOHNSON: Uh-huh.

23 CHAIRMAN WALLACE: Well, are there any other
24 groups of retail sales that should be similarly

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1 dealt with?

2 VICE CHAIRMAN KESSLER: And then we go --

3 CHAIRMAN WALLACE: I guess.

4 VICE CHAIRMAN KESSLER: And then we go to
5 how other communities handle it.

6 CHAIRMAN WALLACE: Exactly.

7 MEMBER MACKLIN-PURDY: What about
8 restaurants that sell retail?

9 MS. JOHNSON: Those are not included in
10 this. It's -- the definition says "This use does
11 not include retail sales or tavern/bar, as defined
12 herein," and we can add "or restaurants" because
13 that's not -- their primary purpose isn't package
14 sale of liquor. It's for -- to consume liquor on
15 premises.

16 VICE CHAIRMAN KESSLER: But the argument
17 could be made that a convenience store's primary
18 purpose isn't selling liquor, either.

19 CHAIRMAN WALLACE: Well, yeah. That's what
20 I was saying.

21 VICE CHAIRMAN KESSLER: And I think --
22 I guess that's why -- the only thing I would say is
23 take a look at that to make sure that you're
24 accomplishing what you're trying to accomplish --

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1 MS. JOHNSON: Uh-huh.

2 VICE CHAIRMAN KESSLER: -- because I'm not
3 so sure it is.

4 But, otherwise, I'm -- I think it's -- I'm
5 okay with it. I'm okay with it.

6 CHAIRMAN WALLACE: Well, do you think that
7 alcohol and tobacco should be decoupled and that we
8 should have a standard for alcohol and a separate
9 standard -- because as it is right now, convenience
10 stores are allowed to sell tobacco. I mean, you can
11 sell tobacco at -- on Third Street. You could sell
12 alcohol. I mean, there are other reasons for that
13 that go into licensing.

14 VICE CHAIRMAN KESSLER: I'm thinking out
15 loud when I say that -- or when I say, "Gosh,
16 I don't know."

17 If you were to have a separate ordinance
18 just for tobacco or tobacco type -- you know, vapor
19 lounges -- it could be considered somewhat even
20 discriminatory when you separate it out like that.

21 But then we start seeking to categorize all
22 retail --

23 CHAIRMAN WALLACE: Yeah.

24 VICE CHAIRMAN KESSLER: -- you know, and

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1 I don't know if we want to go there.

2 CHAIRMAN WALLACE: And that's opening a
3 whole --

4 VICE CHAIRMAN KESSLER: And that's a whole
5 Pandora's box. You go -- you've got other stuff to
6 work on. Don't worry about that right now.

7 CHAIRMAN WALLACE: Yeah, Brian.

8 MEMBER DOYLE: So here's where I come down
9 on this: I'm conflicted about it. The first thing
10 is I'm going to go to Finding of Fact 4, "The extent
11 to which the proposed amendment would be in the
12 public interest and would not serve solely the
13 interest of the Applicant."

14 The answer is "The proposed amendment will
15 prevent liquor/tobacco sales establishments from
16 locating within predominantly residential areas in
17 order to prevent potential negative impacts on
18 neighborhood character and the general welfare of
19 residents."

20 I live -- I probably could throw a
21 football -- not -- I'm not that good an athlete, so
22 maybe I should back away from that claim --

23 VICE CHAIRMAN KESSLER: Do you live that
24 close, Brian?

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1 MEMBER DOYLE: I live about as close to the
2 nonconforming use as you could get, 1401 Prairie
3 Street. And in the 10 years that I've lived there,
4 I can't cite a single negative impact from that
5 establishment that comes to mind.

6 I've gone in there once or twice, and
7 I don't particularly like the establishment.
8 I don't -- I prefer to go to Binny's or any other
9 liquor store in the area. But I've never seen a
10 police car out there; I've never seen a public
11 disturbance there; I am not aware of profusion of
12 trash on the property.

13 It just comes down to the fact that some
14 people don't like those kind of businesses. And if
15 that's what this is going to be about, then I'll
16 raise my hand and say, "I don't like guns."

17 And so I would only support this amendment
18 upon the condition that firearms are included
19 because, if we're going to limit vice -- and that's
20 what the point of this is -- let's limit vice and
21 just call it that. Otherwise, I think we should be
22 very rigorous about the public welfare concerns that
23 we're trying to mitigate.

24 VICE CHAIRMAN KESSLER: Are you proposing

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1 that?

2 MEMBER DOYLE: If we're going to recommend
3 for approval of this, I would propose that we add --
4 I would only vote for it on the condition that
5 firearms are included.

6 VICE CHAIRMAN KESSLER: Oh.

7 CHAIRMAN WALLACE: I don't know if we even
8 would be able to amend it in such a way, you know,
9 just because of notice requirements.

10 MR. COLBY: Yes, that's true. One thing we
11 could do, though, is include that as a comment from
12 the Plan Commission when it's presented to the
13 P&D committee, and if they would direct us to
14 include that, then we could renotify it, reconduct
15 the hearing to incorporate that.

16 CHAIRMAN WALLACE: Yeah. And then the NRA's
17 attorneys will show up.

18 MEMBER DOYLE: Well, the point is that we
19 are opening up Pandora's box.

20 VICE CHAIRMAN KESSLER: Brian, I think
21 there's a big difference, and I think the big
22 difference is that gun shops and sales in
23 St. Charles aren't an issue. And if they become an
24 issue, we can address that but they aren't now.

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1 MEMBER DOYLE: But --

2 VICE CHAIRMAN KESSLER: But liquor licenses
3 are, and that's why we're talking about it.

4 MEMBER DOYLE: But this -- I'm saying, this
5 Finding of Fact 4, I don't see an issue. I live --

6 VICE CHAIRMAN KESSLER: What page?

7 MEMBER DOYLE: Page 14.

8 VICE CHAIRMAN KESSLER: Thank you.

9 MEMBER DOYLE: I live next to the one
10 business that would remain that would be a
11 nonconforming business, and I cannot recall a single
12 incident in 10 years I've lived there that I would
13 describe as presenting a potential negative impact
14 on my neighborhood.

15 So what is it about? Is it about real
16 negative impacts or is it about image? You know, if
17 it's about image, then let's call it what it is. We
18 just don't like certain kinds of businesses, and we
19 prefer that they not be in our backyard.

20 And if that's what it's going to be about,
21 then, you know -- then I've got an agenda that I can
22 bring to the table, as well.

23 VICE CHAIRMAN KESSLER: I don't like tire
24 stores. Can we add them?

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1 CHAIRMAN WALLACE: I think that the real
2 issue is not so much image as it is access. You
3 know, when you place an establishment in a
4 residential neighborhood, you have increased access
5 from people who aren't able to use vehicles, you
6 know, people who aren't able to drive; whereas, if
7 they're on main thoroughfares, then they are
8 exclusively aimed at people who, you know, have the
9 means to access it by automobile.

10 I don't know. That's more what my view is.

11 VICE CHAIRMAN KESSLER: If you have an issue
12 with getting to a liquor store because you can't
13 drive, there's probably a reason for it.

14 CHAIRMAN WALLACE: I'm thinking more of
15 people who can't drive because of age.

16 VICE CHAIRMAN KESSLER: Is that a selling
17 point?

18 CHAIRMAN WALLACE: So I don't know. I guess
19 that's the question.

20 So --

21 MEMBER DOYLE: In terms of the public
22 hearing, I think the question is upon what basis are
23 we going to render a recommendation and do we have
24 the information that we need.

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1 I don't know -- I asked the question about,
2 you know, police records in terms of this business.
3 Is there any higher incidence of public
4 disturbances? Is there any higher incidence of
5 police calls there?

6 I don't know that ultimately that's going to
7 make -- that's going to mean anything because the
8 truth is that this is here because of a procedural
9 requirement, and Council is going to decide what the
10 Council decides.

11 I just don't -- I don't like the idea of
12 telling businesses that they can't locate in a
13 particular area because we just don't like it.
14 It's -- I just don't know that that's --

15 VICE CHAIRMAN KESSLER: Or we don't like
16 having to tell you that we don't like it.

17 MEMBER DOYLE: That's the other thing. We
18 could just continue to tell you no each time you
19 bring the application forward and --

20 VICE CHAIRMAN KESSLER: Well, Brian, I'd
21 also like to point out that, you know, these
22 findings of fact --

23 THE COURT REPORTER: Excuse me. Could you
24 use your mic, please.

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1 VICE CHAIRMAN KESSLER: I said I do
2 understand the findings of fact.

3 Anyway, I know by the findings of fact
4 that -- I understand your point and I am for the
5 findings of fact, but you also realize that in these
6 six items, these six findings of fact, we're not
7 required to find in the affirmative on all of them
8 and it's really a preponderance.

9 And I suppose we could go through each
10 finding of fact and, you know, get a sense of the
11 preponderance, but I -- I hear what you're saying.
12 And I do believe that it's -- there are a number of
13 things at play here, and one of them may be image --

14 MEMBER DOYLE: Uh-huh.

15 VICE CHAIRMAN KESSLER: -- but I don't think
16 that's the only issue.

17 MEMBER DOYLE: So let's talk about image.
18 I mean, is that -- I mean -- well, we --

19 CHAIRMAN WALLACE: Any use can have a
20 variety of images. I mean, if you just talk about
21 liquor stores, you know, if you go into Binny's,
22 Binny's is a nice place. It's like -- you know,
23 I would compare it to the Blue Goose as far as
24 quality of a retail establishment.

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1 VICE CHAIRMAN KESSLER: If you're against
2 liquor stores, you're going to be more against the
3 Binny's than you are going to be against the little
4 cooler section over in the Mini-Mart.

5 CHAIRMAN WALLACE: Well, yeah. But if
6 we're -- what we're talking about is image, I don't
7 think -- I mean, businesses have an economic reason
8 to improve their image regardless of what they're
9 selling because you would rather go to -- just like
10 you said, you would rather go to Binny's than to the
11 place on 14th Street because it's a nicer place to
12 shop, and, therefore, you think that they have
13 better products.

14 And so I -- in my opinion, it's not about --
15 as I said, it's not about image. It's more about
16 access to things that are undesirable.

17 MEMBER DOYLE: And we -- and so it's better
18 for the access to be limited to the main
19 thoroughfares?

20 MEMBER MACKLIN-PURDY: I think it's a
21 judgment. I mean, you read No. 1 on findings of
22 fact, "On page 43, a residential land use policy
23 states 'Preserve the character of the city's
24 existing single-family residential neighborhoods.'"

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1 I mean, that -- who's to say what that
2 means? I mean, do alcohol stores say that that's
3 not preserving the character?

4 And it's a judgment.

5 MEMBER DOYLE: Well, or Bull & Bear, when it
6 was --

7 MEMBER MACKLIN-PURDY: Right.

8 MEMBER DOYLE: -- you know, a cigar shop.

9 MEMBER MACKLIN-PURDY: I mean, Blue Goose,
10 it's an awesome store. It sells alcohol. I mean,
11 that's the primary, but still it's a judgment,
12 I think, and that's what we're getting into.

13 VICE CHAIRMAN KESSLER: Well, it is. And
14 the findings of fact are simply guidelines that we
15 should consider when we make our decision on this.
16 And while we may disagree with some of the findings
17 of fact, unless we disagree with all of them,
18 I don't -- I'm not uncomfortable with the issue.

19 MEMBER MACKLIN-PURDY: I mean, I don't have
20 a problem with it. I just think that it is an
21 image -- it is -- and we should call it what it is.

22 MR. COLBY: You know, if I can offer a
23 comment, there's one thing to keep in mind, is,
24 really, what we're doing here is deciding in which

1 zoning districts is a given use appropriate.

2 And based on how these zoning districts are
3 mapped, are there certain locations where it's more
4 appropriate than others and can we write the code to
5 address that?

6 So we do this with, really, most land uses
7 that are regulated by the Zoning Ordinance. We
8 allow them in certain districts; we don't allow them
9 in other districts based upon the purpose statement
10 of the district and the character of those areas.

11 So, really, what we're doing here is not
12 that different from how we regulate our uses, but it
13 is a policy decision that, if the Council approves
14 through legislative action, our ordinances would
15 classify this land use as a different category. It
16 would still be regulated based on the same scheme of
17 how we regulate other types of businesses.

18 So while your comments are well taken, just
19 keep in mind that we're not doing anything unusual
20 in terms of how to regulate different types of
21 businesses.

22 CHAIRMAN WALLACE: Well, and I think that we
23 need to delineate between the objective and the
24 subjective because, really, from -- I mean, it's --

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1 the City Council has the ability to decide what City
2 policy is, but, really, from our standpoint, we're
3 just looking at land use.

4 And if it's something that the City Council
5 wants to incorporate, it's our -- my view -- it's
6 our job to figure out how from an objective
7 standpoint. And, you know, if it makes sense for
8 them to be in certain zoning districts, just as Russ
9 said, that's what we're -- you know, that's what
10 we're looking at.

11 I mean, along the same lines, we're not
12 allowing, you know, manufacturing to be located in
13 the middle of a residential district. I mean,
14 fortunately for us, that was done years ago by good
15 planning in our city, but I think that's the same
16 type of thing that we're considering, is, you know,
17 what uses should be allowed in what portions of what
18 zoning districts.

19 So I don't know. I mean, I'm in support of
20 what the aim of the application is. My holdback,
21 personally, is about the language of the definition
22 just because I don't -- I don't want it to be
23 unintentionally too broad or narrow.

24 So that's my opinion on that.

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1 VICE CHAIRMAN KESSLER: I agree with Todd --

2 CHAIRMAN WALLACE: Thank you.

3 VICE CHAIRMAN KESSLER: -- because that's
4 what I said.

5 CHAIRMAN WALLACE: All right. Any other
6 comments or questions?

7 (No response.)

8 CHAIRMAN WALLACE: Anything from -- yes.

9 MR. LARSON: Can you require a special use
10 for that?

11 CHAIRMAN WALLACE: Wait. State your name
12 and spell your last name.

13 MR. LARSON: I'm sorry.

14 Eric Larson, L-a-r-s-o-n.

15 Can you just require a special use for any
16 of those offensive businesses? And are there others
17 like massage? Just a thought.

18 MR. COLBY: Yes, we can require a special
19 use. The issue we run into with regulating special
20 uses of this type is that, with most special uses,
21 we look at the physical layout of the development,
22 how the physical development impacts the properties
23 around it.

24 When we have a special use that's really --

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1 it's just a business occupying a space within a
2 building, there's not a lot that can be reviewed in
3 terms of zoning because the only information we
4 really have is that they are going to establish a
5 certain type of business in the building.

6 Any impact of that business that could be
7 expected would really be based on speculation. Just
8 say if it was a special use for a drive-through or
9 something.

10 We would be looking at, you know, how the
11 vehicles would be circulating through the site. In
12 that situation we could predict certain things about
13 what we know about how traffic travels around the
14 property.

15 But if we had a special use where we were
16 sort of speculating about the impacts, the City
17 couldn't use that information as a basis to deny the
18 application. We would be in a difficult position,
19 I think, to review those types of businesses.

20 And that's why we have licensing for those
21 types of businesses like we have for the liquor
22 stores, also for the massage establishments.
23 Because of the types of things that can happen there
24 that might be criminal activities, the business can

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1 be further controlled with a license that would
2 prevent the business from continuing to operate if
3 the license was withdrawn, versus, if it was a
4 zoning approval, it's a little trickier to enforce.

5 In particular --

6 CHAIRMAN WALLACE: Particularly by right in
7 the guise of doing something --

8 MR. COLBY: Yeah. So if there was a
9 criminal activity occurring, the City couldn't
10 necessarily withdraw the special use because the
11 zoning approval remains. And the criminal activity
12 could be associated with a person individually and
13 not the business and couldn't necessarily be held
14 against the business, as in the use occupying the
15 site.

16 So we purposefully try not to -- you know,
17 we discourage the City from regulating the special
18 uses where we might get into situations like
19 I described where we don't have a clear basis to
20 approve or deny it where licensing might be a more
21 effective tool.

22 MEMBER DOYLE: I have --

23 CHAIRMAN WALLACE: There was one other
24 question.

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1 MR. MARSHALL: Dan Marshall.

2 I was wondering, when you did the notice,
3 did you notice -- like send notices to the
4 properties that are affected by this?

5 VICE CHAIRMAN KESSLER: No.

6 MR. COLBY: No. No.

7 MR. MARSHALL: Because I'm surprised
8 nobody's here. If I owned where Swaby Flowers is up
9 there and they told me that you were going to start
10 limiting the uses that I could put in there, I think
11 I'd show up to the meeting and talk about it, at
12 least. So I'm surprised.

13 VICE CHAIRMAN KESSLER: Well, I believe that
14 it's a -- it's an ordinance change. It's not a land
15 use change.

16 CHAIRMAN WALLACE: It's a general amendment.

17 VICE CHAIRMAN KESSLER: It's a general
18 amendment.

19 MR. MARSHALL: Yeah.

20 VICE CHAIRMAN KESSLER: They're not required
21 to notify. And it happens -- I mean, we make these
22 changes often without -- for different reasons
23 without --

24 MR. MARSHALL: Yeah.

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1 VICE CHAIRMAN KESSLER: -- you know,
2 requiring any notice.

3 MR. MARSHALL: That's true.

4 VICE CHAIRMAN KESSLER: And I don't disagree
5 with you because I brought the same thing up. This
6 is a hot button. Liquor licenses, tobacco
7 license -- you know, selling tobacco -- they're hot
8 button issues.

9 And you might consider it simply because you
10 want to be proactive but it's not required.

11 MR. MARSHALL: I'd just be careful to not
12 lump all the uses into that same negative category
13 of the -- from a liquor store, you know. It might
14 be a nice craft or winery or something like that
15 that could go very well in that.

16 VICE CHAIRMAN KESSLER: Right.

17 MR. MARSHALL: Personally, that one doesn't
18 seem as much in the residential area as the other
19 ones. I can understand the Third Street one and
20 even the Prairie Street one. That's not a very busy
21 street. Like Brian says, no problems.

22 VICE CHAIRMAN KESSLER: Well, that's a very
23 good point. And I think, you know, when we're
24 reviewing the language as Todd suggested for, you

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1 know, compliance, you might watch that definition,
2 as well, and try to be a little more clear on the
3 definition.

4 Because you could have a nice little
5 brewery -- I mean, I think of that Penrose that sits
6 in a residential neighborhood.

7 MEMBER DOYLE: Right.

8 VICE CHAIRMAN KESSLER: It's a little
9 brewery in an old factory building where --

10 MR. MARSHALL: It limits the creativity for
11 uses --

12 THE COURT REPORTER: Excuse me. Excuse me.

13 (An off-the-record discussion was held.)

14 MR. MARSHALL: It limits the creativity for
15 uses of how we use spaces that are hard to rent or
16 use, and sometimes we have problems with spaces like
17 that. It takes a little creativity to get somebody
18 in there.

19 I don't like them, either, so I'm not
20 fighting for them. I don't -- especially the hookah
21 bars and e-cigarettes. I hate that to move into
22 anyplace, actually, in St. Charles.

23 But I have -- I would just understand, as a
24 property owner, being a little concerned that all of

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1 a sudden you're going to start to pick and choose
2 what I can use the building for even though
3 I think -- I agree they should be licensed, those
4 particular uses, and, you know, controlled somehow.

5 But I understand now you're kind of saying
6 special uses deal with it but -- I understand what
7 you're saying, you can't go pulling someone's
8 special use on activities.

9 CHAIRMAN WALLACE: Yeah.

10 Brian.

11 MEMBER DOYLE: So I'll just put my earlier
12 comments in context.

13 You know, when I first moved into my house
14 and I saw this liquor store that is a block away
15 from my house -- I'll be perfectly honest --
16 I didn't like it, the way it looks. Its sign --
17 it's got a security glass window there, and I'm
18 thinking, "Geez, what kind of neighborhood am I
19 living in here?" It just feels like you're --
20 you're not in St. Charles.

21 And it's that part about -- when you say
22 "I don't like that," that really worries me.

23 And, you know, a couple years ago, when the
24 TitleMax went in on the corner of Randall and North

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1 Avenue, I remember seeing a bunch of comments in the
2 paper about people who thought that that had a
3 negative impact on the neighborhood.

4 "Why would the City allow a TitleMax to go
5 in on North Avenue?" The answer was, "Well, because
6 zoning allows it."

7 And so my comments are about -- you know,
8 it's not just the fact that it worries me that other
9 people want to proscribe what they like and what
10 they don't like. I would do the same thing if
11 I could.

12 And there might be uses that I would say,
13 "That's not one that I like, and I don't want to
14 have that around my house."

15 And there's a dark side to all that, which
16 is that a lot of times it's not just about the
17 business but the perceived clientele of that
18 business and the -- the people who it serves and
19 whether or not you like them in your neighborhood
20 or not.

21 And so, again, I can't recall a single
22 incident with this business that's near my house
23 that I proclaim to not like so much. As far as
24 I know, they're perfectly upstanding, honest

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1 businesspeople who do a good business and it's still
2 there.

3 And if there are no neighborhood effects, to
4 use Friedman, then I don't know what the basis is of
5 using zoning to police that type of business, and
6 that's really what we're proposing to do.

7 So without some tangible, concrete evidence
8 that shows that there is a negative impact on the
9 neighborhood that is injurious to my use of my
10 comfort and my enjoyment of -- in my life, I just
11 think that this is -- I think this is something that
12 really has a lot of unsettling implications. And it
13 could go through and it wouldn't make a difference
14 to me because I don't patronize that place. It
15 wouldn't make a difference to most people who are
16 like me in my neighborhood because they don't
17 patronize that place. And that doesn't make it
18 right.

19 So I'm getting up on my high horse, but it's
20 because I do think there's a subtext to a lot of
21 these decisions about the character of our
22 neighborhoods and whether the character is what we
23 want or not. And so without that evidence, I will
24 recommend against it.

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1 CHAIRMAN WALLACE: All right. Any other
2 comments or questions?

3 (No response.)

4 CHAIRMAN WALLACE: All right. So at this
5 point we have the application as it is. If the Plan
6 Commission feels they have enough evidence and --
7 I don't know. I guess I should ask staff.

8 I mean, what do you recommend?

9 MR. COLBY: Well, if the Plan Commission
10 would like more information about the issue you
11 brought up of how the business is classified in
12 terms of the percentages and those questions as they
13 relate to the liquor code, then I'd recommend
14 continuing the hearing so that we can provide you
15 with that information before you make a
16 recommendation.

17 CHAIRMAN WALLACE: Yeah, I agree.

18 VICE CHAIRMAN KESSLER: Do we need a motion
19 to continue it, then?

20 CHAIRMAN WALLACE: Yeah.

21 VICE CHAIRMAN KESSLER: I move that we
22 continue the public hearing to a later date.

23 MR. COLBY: We need to specify the specific
24 date.

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1 VICE CHAIRMAN KESSLER: Okay. When can you
2 have -- when do you want to do this?

3 CHAIRMAN WALLACE: Do we have something on
4 the April 5th agenda?

5 MS. JOHNSON: Yes, we do.

6 MR. COLBY: Yes, we do.

7 CHAIRMAN WALLACE: Okay. Shall we continue
8 it to April 5th?

9 VICE CHAIRMAN KESSLER: Do we -- what do we
10 have on the April 5th agenda?

11 MS. JOHNSON: A concept plan.

12 VICE CHAIRMAN KESSLER: Okay.

13 CHAIRMAN WALLACE: So that will go.

14 VICE CHAIRMAN KESSLER: How about, then,
15 I move we continue it to April 5th? Is that enough
16 time?

17 MR. COLBY: Yes, I think so.

18 CHAIRMAN WALLACE: Okay. Is there a second?

19 MEMBER MACKLIN-PURDY: I second.

20 CHAIRMAN WALLACE: Okay. It's been moved
21 and seconded.

22 Any discussion on the motion?

23 MR. COLBY: Just to clarify, it's the
24 April 5th meeting of the Plan Commission at

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1 seven o'clock p.m. in the City Council chambers.

2 CHAIRMAN WALLACE: 2016.

3 All right. Any discussion?

4 (No response.)

5 CHAIRMAN WALLACE: Tim.

6 VICE CHAIRMAN KESSLER: Holderfield.

7 MEMBER HOLDERFIELD: Yes.

8 VICE CHAIRMAN KESSLER: Doyle.

9 MEMBER DOYLE: Yes.

10 VICE CHAIRMAN KESSLER: Frio.

11 MEMBER FRIO: Yes.

12 VICE CHAIRMAN KESSLER: Macklin-Purdy.

13 MEMBER MACKLIN-PURDY: Yes.

14 VICE CHAIRMAN KESSLER: Wallace.

15 CHAIRMAN WALLACE: Yes.

16 VICE CHAIRMAN KESSLER: Kessler, yes.

17 CHAIRMAN WALLACE: All right. That motion
18 passes unanimously.

19 The next item on the agenda is Item 6, which
20 I think we'll forgo now.

21 Item 7 is additional business from Plan
22 Commission members or staff.

23 (No response.)

24 CHAIRMAN WALLACE: No?

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1 (No response.)

2 CHAIRMAN WALLACE: All right. Item 8 is the
3 weekly development report, which is included with
4 the materials.

5 Item 9 is meetings, which are in the agenda.
6 If anyone knows that they cannot attend any of the
7 future meetings, I would ask that you let staff
8 know.

9 VICE CHAIRMAN KESSLER: May 3rd.

10 CHAIRMAN WALLACE: You're not at the
11 May 3rd?

12 VICE CHAIRMAN KESSLER: May 3rd.

13 CHAIRMAN WALLACE: Okay.

14 Public comment? Any members of the public?

15 (No response.)

16 CHAIRMAN WALLACE: No?

17 VICE CHAIRMAN KESSLER: Can I make a comment
18 about the --

19 CHAIRMAN WALLACE: We're already past Plan
20 Commission comments.

21 VICE CHAIRMAN KESSLER: -- weekly
22 development report?

23 CHAIRMAN WALLACE: Oh, okay. We're past
24 that, too, but go ahead.

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1 VICE CHAIRMAN KESSLER: Gee, thanks.

2 Russ, I read your e-mail on the changes you
3 made to the weekly development report.

4 MR. COLBY: Oh.

5 VICE CHAIRMAN KESSLER: There has been no
6 discussion about it but -- I don't know if everybody
7 saw the changes that were made but well done.

8 MEMBER MACKLIN-PURDY: I like it.

9 VICE CHAIRMAN KESSLER: Thank you. I just
10 wanted to make note of that.

11 MR. COLBY: Thank you.

12 CHAIRMAN WALLACE: Hear, hear.

13 All right. Can we go on to Item 11?

14 VICE CHAIRMAN KESSLER: You may.

15 CHAIRMAN WALLACE: All right. Is there a
16 motion to adjourn?

17 VICE CHAIRMAN KESSLER: So moved.

18 MEMBER FRIO: Second.

19 CHAIRMAN WALLACE: It's been moved and
20 seconded.

21 All in favor?

22 (Ayes heard.)

23 CHAIRMAN WALLACE: Opposed?

24 (No response.)

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CHAIRMAN WALLACE: Motion passes
unanimously.

This meeting of the St. Charles Planning
Commission is adjourned at 8:50 p.m.

(Off the record at 8:50 p.m.)

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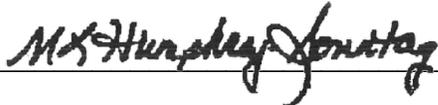
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CERTIFICATE OF SHORTHAND REPORTER

I, Melanie L. Humphrey-Sonntag, Certified Shorthand Reporter No. 084-004299, CSR, RDR, CRR, CRC, FAPR, and a Notary Public in and for the County of Kane, State of Illinois, the officer before whom the foregoing proceedings were taken, do certify that the foregoing transcript is a true and correct record of the proceedings, that said proceedings were taken by me stenographically and thereafter reduced to typewriting under my supervision, and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 29th day of March, 2016.

My commission expires: May 31, 2017



Notary Public in and for the
State of Illinois