

**MINUTES  
CITY OF ST. CHARLES, IL  
PLAN COMMISSION  
TUESDAY, NOVEMBER 19, 2019**

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Members Present: Chairman Wallace  
Tom Pretz  
Jennifer Becker  
James Holderfield  
Jeff Funke  
Peter Vargulich  
Suzanne Melton  
Laura Macklin-Purdy  
Vice Chairman Kessler

Members Absent: None

Also Present: Rita Tungare, Community & Economic Development Director  
Russell Colby, Community Development Manager  
Ellen Johnson, Planner  
Monica Hawk, Development Engineer  
Court Reporter

**1. Call to order**

Chairman Wallace called the meeting to order at 7:01 p.m.

**2. Roll Call**

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

**3. Pledge of Allegiance**

**4. Presentation of minutes of the November 5, 2019 meeting of the Plan Commission.**

**Motion was made by Mr. Kessler, seconded by Mr. Funke and unanimously passed by voice vote to approve the minutes of the November 5, 2019 Plan Commission meeting.**

**5. General Amendment (John Karatheodore)**

Ch. 17.14 "Business & Mixed Use Districts" to add Pet Care Facility as a Special Use in the CBD-1 District.

a. Public Hearing

The attached transcript prepared by Planet Depos Court Reporting is by reference hereby made a part of these minutes.

**Motion was made by Mr. Kessler and seconded by Ms. Becker to close the public hearing for items #5 and #6.**

**Roll call vote:**

**Ayes: Holderfield, Becker, Wallace, Funke, Vargulich, Pretz, Melton, Kessler, Purdy**

**Nays:**

**Absent:**

**Motion carried 9-0**

b. Discussion & Recommendation

The attached transcript prepared by Planet Depos Court Reporting is by reference hereby made a part of these minutes.

**Motion was made by Mr. Kessler and seconded by Mr. Pretz to recommend approval of the Application for General Amendment to add Pet Care Facility as a Special Use in the CBD-1 District with a condition that the use be excluded from the Downtown Overlay District, and subject to resolution of all staff comments.**

**Roll call vote:**

**Ayes: Holderfield, Wallace, Funke, Vargulich, Pretz, Melton, Purdy**

**Nays: Becker, Kessler**

**Absent:**

**Motion carried 7-2**

**6. K-9 Country Club of St. Charles, 305 N. 2<sup>nd</sup> St. (John Karatheodore)**

Application for Special Use

a. Public Hearing

*Public hearing for Item #6 was combined with Item #5; see Item #5.*

b. Discussion & Recommendation

The attached transcript prepared by Planet Depos Court Reporting is by reference hereby made a part of these minutes.

**Motion was made by Mr. Kessler and seconded by Mr. Pretz to recommend denial of the Application for Special Use based on Findings of Fact Item “C”: Effect on nearby property and Item “D”: Effect on development of surrounding property.**

**Roll call vote:**

**Ayes: Becker, Holderfield, Melton, Kessler**

**Nays: Funke, Pretz, Vargulich, Purdy, Wallace**

**Absent:**

**Motion failed 5-4**

**Motion was made by Mr. Funke and seconded by Mr. Vargulich to recommend approval of the Application for Special Use subject to resolution of all staff comments.**

**Motion was made by Mr. Holderfield to amend the motion by including a condition that the dogs may only be outside from 7:00 a.m. to 6:00 p.m.**

**Minutes – St. Charles Plan Commission**  
**Tuesday, November 19, 2019**  
**Page 3**

**Roll call vote (on motion to amend):**

**Ayes: Holderfield, Melton, Becker, Kessler, Funke, Pretz, Vargulich, Purdy, Wallace**

**Nays:**

**Absent:**

**Motion passed 9-0**

**Roll call vote (on main motion):**

**Ayes: Holderfield, Melton, Funke, Pretz, Vargulich, Purdy, Wallace**

**Nays: Becker, Kessler**

**Absent:**

**Motion passed 7-2**

**7. General Amendment (Healthway Services of West Illinois, LLC)**

Ch. 17.16 “Office/Research, Manufacturing and Public Land Districts” to add Recreational Cannabis Dispensing Organization as a Special Use in the M-2 District.

a. Public Hearing

The attached transcript prepared by Planet Depos Court Reporting is by reference hereby made a part of these minutes.

**Motion was made by Mr. Kessler and seconded by Ms. Purdy to continue the Public Hearing for item #7, as requested by the applicant, to December 3, 2019 at 7:00 p.m.**

**Roll call vote:**

**Ayes: Holderfield, Becker, Wallace, Funke, Vargulich, Pretz, Melton, Kessler, Purdy**

**Nays:**

**Absent:**

**Motion carried 9-0**

**8. Zen Leaf St. Charles, 3714 Illinois Ave. (Healthway Services of West Illinois, LLC)**

Application for Special Use

a. Public Hearing

The attached transcript prepared by Planet Depos Court Reporting is by reference hereby made a part of these minutes.

**Motion was made by Mr. Kessler and seconded by Ms. Purdy to continue the Public Hearing for item #8, as requested by the applicant, to December 3, 2019 at 7:00 p.m.**

**Roll call vote:**

**Ayes: Holderfield, Becker, Wallace, Funke, Vargulich, Pretz, Melton, Kessler, Purdy**

**Nays:**

**Absent:**

**Motion carried 9-0**

**9. Additional Business from Plan Commission Members or Staff- None**

**Minutes – St. Charles Plan Commission**  
**Tuesday, November 19, 2019**  
**Page 4**

**10. Weekly Development Report**

**11. Meeting Announcements**

a. Plan Commission

Tuesday, December 3, 2019 at 7:00pm Council Chambers

Tuesday, November 17, 2019 at 7:00pm Council Chambers

Tuesday, January 7, 2020 at 7:00pm Council Chambers

b. Planning & Development Committee

Monday, December 9, 2019 at 7:00pm Council Chambers

Monday, January 13, 2019 at 7:00pm Council Chambers

**12. Public Comment- None**

**13. Adjournment at 9:45pm**



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# Transcript of Hearing, Volume II

**Date:** November 19, 2019  
**Case:** St. Charles Plan Commission

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BEFORE THE PLAN COMMISSION  
OF THE CITY OF ST. CHARLES

-----x  
In Re: General Amendment :  
to Add Pet Care Facility :  
as a Special Use in the :  
CBD-1 District and :  
Application for Special :  
Use; Property Located at :  
305 North 2nd Street. :  
-----x

HEARING, VOLUME II  
St. Charles, Illinois 60174  
Tuesday, November 19, 2019  
7:01 p.m.

Job No.: 218476A  
Pages: 43 - 114  
Reported by: Joanne E. Ely, CSR, RPR

1 HEARING, held at the location of:

2

3 ST. CHARLES CITY HALL

4 2 East Main Street

5 St. Charles, Illinois 60174

6 (630) 377-4400

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13 Before Joanne E. Ely, a Certified Shorthand  
14 Reporter, and a Notary Public in and for the State  
15 of Illinois.

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1 PRESENT:

2 TODD WALLACE, Chairman

3 TIM KESSLER, Vice Chairman

4 JENNIFER BECKER, Member

5 JEFFREY FUNKE, Member

6 JAMES HOLDERFIELD, Member

7 SUZANNE MELTON, Member

8 TOM PRETZ, Member

9 LAURA MACKLIN-PURDY, Member

10 PETER VARGULICH, Member

11 ALSO PRESENT:

12 RUSSELL COLBY, Community Development  
13 Manager

14 ELLEN JOHNSON, Planner

15 MONICA HAWK, Development Engineer

16 RITA TUNGARE, Director of Community &  
17 Economic Development

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P R O C E E D I N G S

CHAIRMAN WALLACE: The City of St. Charles  
Plan Commission will come to order.

Tim, roll call.

VICE CHAIRMAN KESSLER: Becker.

MEMBER BECKER: Here.

VICE CHAIRMAN KESSLER: Funke.

MEMBER FUNKE: Here.

VICE CHAIRMAN KESSLER: Pretz.

MEMBER PRETZ: Here.

VICE CHAIRMAN KESSLER: Holderfield.

MEMBER HOLDERFIELD: Here.

VICE CHAIRMAN KESSLER: Vargulich.

MEMBER VARGULICH: Here.

VICE CHAIRMAN KESSLER: Purdy.

MEMBER MACKLIN-PURDY: Here.

VICE CHAIRMAN KESSLER: Melton.

MEMBER MELTON: Here.

VICE CHAIRMAN KESSLER: Wallace.

CHAIRMAN WALLACE: Here.

VICE CHAIRMAN KESSLER: Kessler, here.

CHAIRMAN WALLACE: All right. Anyone who  
wishes to, please rise for the Pledge of  
Allegiance.

1 (The Pledge of Allegiance was recited.)

2 CHAIRMAN WALLACE: All right. Item 4 on  
3 the agenda is presentation of the minutes of the  
4 November 5th, 2019, meeting of the Plan Commission.

5 Is there a motion to approve?

6 VICE CHAIRMAN KESSLER: So moved.

7 MEMBER FUNKE: Second.

8 CHAIRMAN WALLACE: It's been moved and  
9 seconded. Any discussion?

10 (No response.)

11 CHAIRMAN WALLACE: All in favor.

12 (Ayes heard.)

13 CHAIRMAN WALLACE: Opposed.

14 (No response.)

15 CHAIRMAN WALLACE: All right. Item 5 on  
16 the agenda is general amendment, John  
17 Karatheodore, Chapter 17.14, Business & Mixed Use  
18 Districts to add pet care facility as a special  
19 use in the CBD-1 District.

20 Are we taking Items 5 and 6 together?

21 MS. JOHNSON: Yes. The Plan Commission  
22 opened the hearing for this item on October 8th,  
23 and held those hearings together, so we'll keep  
24 these together. But if the hearing is closed

1 tonight, and you want to make a recommendation,  
2 we'll need two separate recommendations.

3 CHAIRMAN WALLACE: Okay. Did we already  
4 open the public hearings for both?

5 MS. JOHNSON: Yes.

6 CHAIRMAN WALLACE: Okay. So this is a  
7 continued public hearing on both the one  
8 previously mentioned and K-9 Country Club of  
9 St. Charles, 305 North 2nd Street, application for  
10 special use.

11 For those of you who haven't been here  
12 before, welcome. The Plan Commission is appointed  
13 by the City Council as volunteers to address and  
14 make recommendations on applications that come  
15 before the City.

16 Tonight we are doing that for two  
17 different matters. The first one I just read to  
18 you from the agenda. What we will do is the  
19 applicant will present evidence in support of the  
20 application. Then anyone who wishes to -- well,  
21 then the Plan Commission will ask questions. Then  
22 anyone who wishes to present any additional  
23 evidence may do so.

24 Once the Plan Commission feels they have

1 enough evidence to be able to make a  
2 recommendation to the City Council, the public  
3 hearing will be closed, and we will make that  
4 recommendation either for approval or denial.

5 This is not the final step. It will go to  
6 the City Council planning and development  
7 committee, and they will vote and send it to the  
8 council as a whole.

9 So any questions on our procedure?

10 (No response.)

11 CHAIRMAN WALLACE: Okay. So for these two  
12 applications, anyone who wishes to offer  
13 testimony, please raise your hand and be sworn,  
14 including anyone who wishes to ask any questions  
15 or make comments. Raise your hand.

16 (Witnesses sworn.)

17 CHAIRMAN WALLACE: All right. Thank you.

18 And anyone who wishes to speak, please  
19 wait to be recognized by me and speak from the  
20 lectern up here, stating your name, spelling your  
21 last name, and stating your address for the  
22 record.

23 Are you ready?

24 MR. KARATHEODORE: Yes.

1 CHAIRMAN WALLACE: Okay. Go ahead.

2 MR. KARATHEODORE: My name is John  
3 Karatheodore. My address is 978 Citizen Avenue in  
4 Elburn. I'm joined tonight by the owner of the  
5 property, Mr. Joe Salas. I will continue from the  
6 first hearing.

7 I wanted to do a quick review of the  
8 proposal of the business and my experience. My  
9 partners have been in this dog care pet facility  
10 business for the past 18 years. We have four  
11 locations in Boston, Massachusetts, most recently  
12 opening the fifth in 2020.

13 This was the first location we're  
14 proposing in Illinois. I contacted Mr. Salas  
15 about his property located at 305 2nd Street and  
16 proposed the idea of the pet care facility.

17 At that time, the property was vacant for  
18 several years. Mr. Salas had mentioned that due  
19 to the easement in place, it was quite difficult  
20 at the time to find a tenant that could make the  
21 current easement work for their existing business  
22 and construction, if any, was needed for that  
23 supporting business.

24 Fortunately, the pet care business was

1 able to fit into the capacity of what was  
2 available at that location, and I went ahead and  
3 proposed such to Mr. Salas.

4 I have up on the screen here the revision  
5 to the site plan. It was discussed at the last  
6 meeting to show the easement that is currently  
7 existing at 305 North 2nd Street, which includes  
8 over 50 percent of the actual property. So we are  
9 restrained to use just about 40 -- I think, it's  
10 about 47 percent of the space available on that  
11 said lot.

12 If you take a look at the top along 2nd  
13 Street, there's a 30-foot ingress and egress that  
14 is set on the map there. Alongside, I believe,  
15 it's the west side of the property, there's a  
16 40-foot easement to allow traffic and parking to  
17 come in and out to the rear building at the back  
18 of the property.

19 There's also 14 spaces that are allotted  
20 to the neighboring property that is allowed to use  
21 14 spots on the parking lot itself for their  
22 business.

23 I was quite concerned at the beginning,  
24 reading the easement, how any business could

1 function with such a difficult easement to make it  
2 work for the business. So out of the -- I  
3 currently have 18 spots available, 14 of them  
4 being granted to the neighboring property for use  
5 on our property here. Our business is required to  
6 hold, I believe, four spots, which actually fits  
7 into the plan for the 18 that are now available.

8           There was a slight change to the original  
9 layout of the parking spots. Four of them were  
10 relocated along the two aisles to make room for a  
11 queue. There was a question by the Board at our  
12 original meeting to show queueing of cars for a  
13 drop-off area that they're designating so our  
14 customers won't have to exit their vehicles,  
15 and they can pull up and drop off their pet and  
16 pick up.

17           We're also showing the appropriate turning  
18 radius for an average-size car to make the turn  
19 within the rear of the parking lot and exit to the  
20 front of the entrance. That's shown there as well  
21 on the site plan.

22           Also a change to the site plan will be --  
23 the existing chain-link fence that's surrounding  
24 the rear of the building will be replaced with a

1 solid decorative fencing which will -- two sides  
2 are very small, but two of the larger areas being  
3 the rear of the space, I believe that is  
4 considered the west; and the east, one large fence  
5 and one short; as well as a small area to the  
6 north which will all be a solid fence.

7 Additionally, there's a proposed open  
8 space upfront to either accommodate an idea of a  
9 putting green area or an open space for seating  
10 for customers and guests of the property.

11 There is existing storage units in the  
12 rear of the building which will be removed.  
13 They're highlighted up there in a tan color.  
14 There's four of them back there, I believe. Those  
15 will be removed to access an open exterior space  
16 in the rear of the building.

17 Those were the main concerns of the  
18 easement which was the allowing of the space  
19 across the front of the building and along the, I  
20 believe, it is the east side. That was pretty  
21 much -- and then we moved the four spots. That  
22 was the other concern.

23 CHAIRMAN WALLACE: Any questions from the  
24 Plan Commission?

1           MEMBER FUNKE: I've got a question  
2 regarding the -- I'm confused about this parking.  
3 You're showing 14 spaces that are reserved for the  
4 property to the north.

5           MR. KARATHEODORE: Yes.

6           MEMBER FUNKE: And as part of those 14  
7 spaces, you have four on the south that are not  
8 indicated on the survey. They're actually in the  
9 drive aisle.

10          MR. KARATHEODORE: I'm sorry. Can you  
11 repeat that?

12          MEMBER FUNKE: If you look at the survey,  
13 you're not showing those 14 spots correctly.  
14 Right. Just looking at the analysis, that diagram  
15 you have in yellow. Do you have that?

16          MR. KARATHEODORE: Which one? Are we  
17 referring to the -- this is the new proposed  
18 parking grid.

19          MEMBER FUNKE: Yeah. Page 7 of 29.

20          MS. JOHNSON: Other direction, you go up  
21 into the staff report.

22          MEMBER FUNKE: Right there.

23          MR. KARATHEODORE: Yes. The lower part of  
24 the yellow section, those four spots have been

1 relocated into the green section now in order to  
2 allow for a straight line of queuing, which we're  
3 showing here in the new site plan.

4 MEMBER FUNKE: So how many parking spots  
5 do you have located for your business?

6 MR. KARATHEODORE: Four. We're planning  
7 to have four spots.

8 MEMBER FUNKE: Four spots.

9 MR. KARATHEODORE: Four spots.

10 MEMBER FUNKE: Where are those four spots?

11 MR. KARATHEODORE: There's 18 total. So  
12 14 are designated to our neighbor on the easement,  
13 and the remaining four are designated, plus a  
14 fifth being the handicapped spot directly in front  
15 of the building. So there's 18 total now, two  
16 rows of 9, 1 through 10 on the bottom, and 11  
17 through the 18 on the top. So we meet the  
18 easement requirement for the 14 spaces for our  
19 neighbor.

20 MEMBER FUNKE: Is there anything in your  
21 easement agreement that the owners who are a part  
22 of this easement agreement, that they need to  
23 approve what you're proposing on this site?

24 MR. KARATHEODORE: I read it as the 14

1 spots, and the egress in front of the 30 feet and  
2 the 40 feet and allowing of parking along that  
3 40 feet. That's how he -- that was confirmed by  
4 the architectural firm that also drew the -- they  
5 had never seen such an easement and couldn't  
6 understand specifically how that could work, but  
7 we figured out a way to show everything on the  
8 plan and figured a way to operate the business  
9 within those restrictions that were quite strict.

10 MEMBER FUNKE: So your neighbors that  
11 actually share this easement agreement, are they  
12 okay with the proposed site layout?

13 MR. KARATHEODORE: I'm not sure. They  
14 came to the first hearing. I don't know if  
15 they're here this evening. They brought up the  
16 question of the easement that was not shown on the  
17 site plan, and they wanted to make sure that it  
18 was included in the plans. Which I would hope  
19 that we satisfy -- I believe we've satisfied all  
20 the questions and concerns of the easement itself  
21 in question.

22 As you can see, I mean, typically, the  
23 business is losing over 50 percent of the lot with  
24 this easement. It also restricts construction of

1 the building, which we're not changing. We're  
2 using the existing space and making that work for  
3 the business as well.

4 CHAIRMAN WALLACE: I have a question for  
5 staff. The 309 South 2nd Street parcel, it says  
6 it's a land-locked parcel with access to Route 31  
7 through the subject property. Is that to the  
8 west?

9 MS. JOHNSON: Yes. To the west.

10 CHAIRMAN WALLACE: What's on that parcel?

11 MS. JOHNSON: I believe the business  
12 owners were in attendance at the last hearing. I  
13 think they're a printing business or a design firm  
14 of some sort.

15 CHAIRMAN WALLACE: And that's the one  
16 that's also through from 4th Street.

17 MS. JOHNSON: Correct. And I don't  
18 believe they're able to access 4th Street.  
19 There's some bollards up there.

20 CHAIRMAN WALLACE: Got it.

21 MR. KARATHEODORE: If I can state --

22 MEMBER HOLDERFIELD: The access off of 4th  
23 Street, it's blocked. You cannot go through from  
24 4th out to 31.

1 CHAIRMAN WALLACE: Yeah.

2 MEMBER HOLDERFIELD: Okay.

3 MR. KARATHEODORE: To state that their  
4 egress to leave their property to their original  
5 address of 4th Street is now blocked by several  
6 cement pillars that they placed next to a fire  
7 hydrant, which I don't believe the fire department  
8 would allow the blockage of that road, especially  
9 next to the fire hydrant itself. But those were  
10 manmade blockades put on that road so that no one  
11 would continue on to 4th Street.

12 Both properties to our rear and to the  
13 north, both have their own exiting -- or their own  
14 personal exits on their property; but in this  
15 easement of 1999, they somehow convinced the  
16 landlord to access their property and give up  
17 50 percent of their buildable space. I'm not sure  
18 how that happened.

19 But the actual easement was created by the  
20 landlord of the north property. He had some great  
21 interest in gaining access through this property  
22 in order for his customers to exit and to take  
23 approximately 20 percent of the parking lot for  
24 parking spaces for himself, which he has a very

1 large parking lot himself to our north and so does  
2 the business property at 309 2nd Street now, whose  
3 previous address was 4th Street, but has now  
4 become 2nd Street through this easement in 1999.

5 VICE CHAIRMAN KESSLER: I'm confused.  
6 There is no road to 4th Street; isn't that  
7 correct? There is no easement. There is no road.  
8 It's an opening between the buildings, but that's  
9 not a road; is that correct?

10 MS. JOHNSON: No. It's not a road.

11 VICE CHAIRMAN KESSLER: There's space  
12 between two buildings that exit out onto 4th  
13 Street.

14 MS. JOHNSON: Right.

15 VICE CHAIRMAN KESSLER: So that's not a  
16 road. It's not dedicated. It's not an alley.  
17 It's private property. So the bollards that are  
18 placed there are actually just a boundary  
19 stopping -- so there never was access to that  
20 property, official access anyway to that property  
21 from 4th Street; is that correct?

22 MS. JOHNSON: Not that we're aware of.

23 VICE CHAIRMAN KESSLER: There's no  
24 agreements that you're aware of?

1 MS. JOHNSON: No.

2 VICE CHAIRMAN KESSLER: So all of those  
3 buildings on this property, particularly directly  
4 to the west of the subject property have always  
5 had or do have official access to 2nd Street; and  
6 so whatever agreement was made here was made to  
7 give them access to the roadway that they face; is  
8 that correct?

9 MS. JOHNSON: I believe so. I can't speak  
10 to whether there was ever a 4th Street address to  
11 that property or not; but as far as we're aware,  
12 that property has been for the foreseeable past  
13 accessed from 2nd Street.

14 VICE CHAIRMAN KESSLER: Do we know the  
15 history of why this -- was it because it was  
16 different owners? Is that what happened here? Do  
17 we know why this ended up -- do we know the  
18 history of how this ended up with an easement to  
19 access these properties?

20 MS. JOHNSON: Not really. I've read  
21 through the easement agreements; and from my  
22 understanding, I believe the property to the north  
23 and the property to the west were under common  
24 ownership. So that's why those three parcels were

1 included in the easement, but I don't know the  
2 background of how it came to be.

3 VICE CHAIRMAN KESSLER: And so this  
4 easement agreement where you have the drive-up and  
5 then the queuing and then crossing and heading  
6 back east out on 2nd Street, that's crossing the  
7 main easement or access to those properties to  
8 the west.

9 MR. KARATHEODORE: Correct. We have  
10 mutual use of that easement area. We just  
11 gained -- the easement gives them, obviously,  
12 access to that part of the property to exit  
13 as well. They have approximately six to seven  
14 cars that are parked in the small parking lot  
15 behind us.

16 VICE CHAIRMAN KESSLER: Is there any way  
17 for them to exit to the north and around the north  
18 side of the property?

19 MR. KARATHEODORE: No. Also, which I was  
20 recently informed of, that same owner has now  
21 blocked off the rear exit to enter into the north  
22 property. Parking curbs have now been located  
23 there after this easement was put into place to  
24 block off any passage from the rear of 305 into

1 his property up above. So he has kind of closed  
2 off that property and 309.

3 309, I was informed by the building  
4 department, their previous address was 4th Street.  
5 They got the easement in order for their business  
6 purposes to show a 2nd Street address as a more  
7 beneficial address for their business.

8 But we've tried to follow and make that  
9 easement work for us by changing our space plans  
10 and the location of our parking spaces, et cetera,  
11 to make this work.

12 VICE CHAIRMAN KESSLER: What a mess.

13 MR. KARATHEODORE: What's that?

14 VICE CHAIRMAN KESSLER: What a mess.

15 MR. KARATHEODORE: Yes. It's a complete  
16 mess. Unfortunately for Mr. Salas, who is here  
17 this evening, it has really limited the people who  
18 could -- who are willing to lease that space from  
19 him. Hence, it being available for the past  
20 several years unoccupied.

21 Fortunately, I was able to put something  
22 together that we could make work in that space for  
23 him. He's here if you want to ask him regarding  
24 the easement itself and how that came about, but

1 when he purchased the property, it was in place.

2 It's just a coincidence to me that the  
3 preparer of the document was the actual owners of  
4 those properties, and somehow the owner of the --  
5 the previous owner of the property agreed to it.  
6 I mean, I think anyone can look at that and see  
7 that we -- you lose 50 percent of your land, you  
8 know, with very limited opportunities to create a  
9 business in that corner.

10 It also gets into details of if you  
11 rebuild the actual building and do any kind of  
12 construction to the building and which way it can  
13 face and the size of the building. It's pretty  
14 in-depth, and it really limits that space.

15 VICE CHAIRMAN KESSLER: Well, I have to  
16 say that I think this discussion we're having  
17 about all these easements and access and parking,  
18 those speak to the request for the special use,  
19 not so much to the application requesting it be  
20 added as a special use, which I think is the first  
21 issue we have to address.

22 MR. KARATHEODORE: I was recently informed  
23 that there are actually two pet care businesses  
24 that have been previously approved for a special

1 use in a similar circumstance. We are the third  
2 now applying for a special use for a pet care  
3 facility in St. Charles.

4 VICE CHAIRMAN KESSLER: I don't dispute  
5 that. I'm just saying our first application is  
6 for creating -- adding pet care facility as a  
7 special use in CBD-1, which really has no bearing  
8 on the property and how it's being used.

9 MEMBER VARGULICH: I have a question  
10 related to --

11 MR. KARATHEODORE: Yes.

12 MEMBER VARGULICH: -- all these easements,  
13 which are kind of property-owner issues but I have  
14 an operational issue or question.

15 The pets that you would care for, how many  
16 can you -- optimally, what is the maximum you feel  
17 you could have?

18 MR. KARATHEODORE: I think if we're  
19 allotted the rear space, I would say 40 to 50  
20 dogs, I believe. You mean at one time, you're  
21 saying?

22 MEMBER VARGULICH: Yeah. What would be  
23 the maximum.

24 MR. KARATHEODORE: I would say 40.

1 MEMBER VARGULICH: 40. Okay.

2 MR. KARATHEODORE: I mean, it depends on  
3 small dogs, large dogs. With the small dogs,  
4 they'll be separated. They'll be kept mostly  
5 inside. Small dogs, we'll keep them separated  
6 from the large dogs.

7 It's more of an in and out. What we've  
8 learned from the past 18 years is these are more  
9 short-term drop offs. They're an hour or two. So  
10 if we get an influx in the morning, usually by  
11 noon the majority of those dogs are gone. There's  
12 very few that stay the whole day. So it's small  
13 groups that come in and out. That's been our  
14 experience.

15 MEMBER VARGULICH: And how many can you  
16 accommodate inside the building?

17 MR. KARATHEODORE: It depends on --  
18 there's no real guideline to it. I would say 30,  
19 35, maybe. If they're spread out, and they're  
20 sectioned off into two areas I would -- I probably  
21 wouldn't bring all the dogs inside. Our idea is  
22 to utilize the outside space for the majority  
23 of it.

24 MEMBER VARGULICH: Well, I guess one of

1 the issues that your neighbor, who has already  
2 sent us a letter opposing this as well as the  
3 property owner, I think it's 305 to the west is  
4 regarding the potential for noise.

5 So if you have to have 20 percent plus of  
6 the dogs outside all the time, number one, that  
7 could be a bit of a challenge for the four months  
8 or so of our winter, but then that doesn't really  
9 address how you're going to handle the noise  
10 that's a potential.

11 MR. KARATHEODORE: That's been an issue.

12 MEMBER VARGULICH: To me that's really  
13 bigger than all those easements. Those are  
14 easement issues between the person that you're  
15 leasing from and the adjacent people that have  
16 been granted those easements, so.

17 MR. KARATHEODORE: These are the same  
18 issues. We've been dealing with that for the past  
19 18 years, and most closely up to the last six  
20 years that we've -- we've opened four  
21 establishments with 300-plus luxury apartment  
22 owners abutting our dog space in Massachusetts.  
23 In the six years we've been there, we haven't  
24 received one noise complaint.

1           What we've utilized is -- there's  
2 different techniques, and I think it is the  
3 understanding of -- it's similar to a dog park. I  
4 don't consider it an enclosed area. It's not a  
5 kennel. When dogs are enclosed in fenced areas  
6 and not able to get to each other, that creates  
7 dogs to bark.

8           We don't experience any excessive barking  
9 in any of our locations and haven't due to the  
10 fact that it's an open space. Dogs don't  
11 typically bark at each other if they can get to  
12 each other. Kennels is where you hear loud  
13 barking because the dogs are fenced in right next  
14 to each other, and they can see each other.

15           This is a closed-in area. You can't  
16 see -- when people walk into a kennel, when you  
17 walk by, the dogs start to bark because they see a  
18 human that they haven't seen. So it draws all  
19 their attention. When you're in an open space,  
20 and there's a caregiver out there with them, one  
21 of our employees that's with them the whole time,  
22 the dogs don't bark. We don't allow them to play  
23 with toys. There's no fighting among the dogs.

24           If you look at some of the pictures that I

1 have that show the fabric space for the absorption  
2 as well, the dogs are mostly laying down, sitting.  
3 We haven't had one complaint in six years because  
4 of the fact it's an open environment. It's a  
5 non-kennel space.

6 Fortunately, there's techniques as well  
7 that we utilize. Spraying dogs that bark with a  
8 water bottle immediately stops the barking. This  
9 is something that's been proven that we've been  
10 doing consistently over the years. It stops the  
11 dog literally in their track.

12 We don't have 15, 20 dogs barking. I read  
13 the rules on the dog barking and the limitation of  
14 how far the dogs, the number of times the dogs can  
15 bark that follows the rules in St. Charles.

16 I don't forecast that being a problem  
17 whatsoever because we've never experienced  
18 something that excessive. If one or two dogs  
19 bark, it's significantly muffled by using  
20 reflection, the soft turf, the reflective panels  
21 above, the large wood walls. You don't hear that  
22 loud bark coming at you because it's muffled  
23 within that area of open space.

24 We create L-shaped panels within that

1 space that absorb the dog barking. We put fabric  
2 panels within there. There's fabric panels above  
3 the dogs. It's actually quite muffled. You'd  
4 have to see it to really understand it, but for  
5 being in business for six years and not having one  
6 noise complaint in Massachusetts have to speak  
7 miles for us when it comes to noise control.

8 Just as a highway creates the perimeter  
9 wall for the residents behind it, it significantly  
10 cuts down the noise coming from the highway to the  
11 residents' homes. It's insulated panels like that  
12 that work.

13 We usually open a space with a solid wood  
14 wall. The three new spaces we have in  
15 Massachusetts about the luxury apartment buildings  
16 of 3- or 400 units. My initial concern was, Oh,  
17 my god, look up above. We're going to have so  
18 many people calling in, but we were able to  
19 produce a high enough wall with the fabric  
20 insulating the inside with L-shaped panels that  
21 muffled the noise so much when there's an  
22 occasional bark.

23 It's very rare -- if you go to a dog park,  
24 dogs are not barking. They're running around

1 playing with each other. The barking in a kennel  
2 is excessive, and it's loud, and I completely  
3 believe that's why. That's why we're not doing  
4 any overnight stay there at the location.

5 I have done it in the past. We have one  
6 resort that's off premise that we bring dogs to in  
7 Massachusetts for the weekend, which is great, but  
8 it's not conducive in an area such as this,  
9 especially at our location. What we would have is  
10 a place that people can drop off their pet and  
11 take a short walk into the City of St. Charles.

12 I want to work with the neighbors. You  
13 know, if there is a complaint about a dog bark or  
14 if they feel that they can hear, there's numerous  
15 things I can do. Believe it or not there's been  
16 studies, and we have used at two locations music.  
17 That stops the dogs for some reason. I have  
18 studies and studies that it prevents barking.

19 We do waterfalls in a few of them that  
20 muffle some of the sound coming from pets. I  
21 don't see us creating more noise than the normal  
22 street ever would. We have things in place that  
23 we can add to the space itself to continue to  
24 muffle any noise coming out of the space.

1           Barking has never been a problem for us  
2 due to the fact that we keep them in an open  
3 location. If we closed them in and put them in  
4 cages back there and they're all separated, the  
5 barking would increase. But that's not what we  
6 do. That's not the model of our business.

7           It's more of a resort for dogs. It's more  
8 of a club and ease of access for residents and  
9 people traveling to the area and staying at the  
10 hotels in the area, that they utilize something so  
11 close to downtown, that we're a small walk away.

12           I certainly don't want to disturb anybody  
13 in the neighborhood with barking, and I would be  
14 willing to work with them if they ever felt that  
15 it was a concern and they heard any kind of  
16 excessive noise. That's something that we've  
17 never had to deal with in the past six years or my  
18 partner, Karen, in the past 18 herself.

19           But I understand it's a concern. It's the  
20 first thing that I brought up at the initial  
21 hearing was our methods of noise control. The  
22 absorption, reflection is a big part of noise  
23 control with sound proofing. I've done excessive  
24 studies myself to limit it so that it wouldn't be

1 a problem for us down the road. We plan on  
2 expanding this business significantly in the area.

3 I think you have to deal with it. I  
4 completely agree that you should bring it up, and  
5 I was planning to get into it in-depth myself just  
6 so everybody understood that it was something at  
7 the top of our list and a major concern for us.

8 MEMBER FUNKE: Can I ask what's your  
9 budget for renovation?

10 MR. KARATHEODORE: We're looking at  
11 probably \$100,000 and that's -- unfortunate for  
12 that because we don't have the -- we're not  
13 touching the building itself. Most of that money  
14 will come in -- a large majority of it is the turf  
15 and the landscaping.

16 We're planning on adding -- Mr. Salas has  
17 agreed to upgrade the space significantly in  
18 accordance with the comprehensive plan for the  
19 City, such things as trees, shrubs, flowers,  
20 planting beds up front, curbed parking areas, some  
21 additional landscaping up front around the sign  
22 which is located on 2nd Street. We have to do  
23 restriping, repaving the property, a new roof.

24 I think it's whatever else we deem

1 aesthetically pleasing for the business. We want  
2 it to be something that people drive by and wonder  
3 what that could be. We want it to look like a  
4 country club. We want it to feel like a country  
5 club, and we want to make it look like something  
6 the people in the area would be attracted to go  
7 and conduct business at. I think it would be very  
8 unique in comparison to the other pet care  
9 businesses.

10 The drive-up has been something that  
11 everyone has asked for. We have been unable to do  
12 that in any of our other locations due to small  
13 parking lots. Fortunately, we have a space here  
14 that -- I think, the drop-off convenience would be  
15 something that our customers and residents and  
16 people in the area will absolutely love because  
17 it's such a quick in and out, just as  
18 drive-throughs have increased so much in the fast  
19 food business.

20 I think that pets, being a member of our  
21 family now, I think, we have the opportunity to  
22 create something that is easily accessible for  
23 people and something that will make it just easy  
24 for them.

1           CHAIRMAN WALLACE: All right. I'd like to  
2 kind of move on and make sure we have a discussion  
3 about the first application, which is the  
4 appropriateness of this use for this particular  
5 zoning district. Because that's really the first  
6 step is to add this as a special within CBD-1  
7 or -- yeah, CBD-1 District, and then to determine  
8 whether the special use is appropriate for this  
9 particular property.

10           So I don't know -- go ahead.

11           MEMBER BECKER: Well, in looking at the  
12 permitted special use charts provided in the staff  
13 report pages 6 and, I think, 7 and listening to  
14 the testimony and reading some comments in the  
15 staff report, I think it's pretty clear to me that  
16 this is not a compatible use in the CBD-1 in the  
17 regular or in the overlay district.

18           I don't think -- looking at the list of  
19 uses, I don't think it's compatible with the uses  
20 in the downtown area, and I just wanted to say  
21 that to maybe start some discussion on it.

22           VICE CHAIRMAN KESSLER: Well, I tend to  
23 agree, and that's why we've had a lot of  
24 discussion about how it would operate and things

1 you could do to minimize noise and how you're  
2 going to arrange parking for this facility.  
3 That's all well and good if it's compatible with  
4 the permitted uses in that district.

5 I think that we should consider whether or  
6 not we want to have pet care facilities downtown.  
7 I think that's a bigger question as to whether or  
8 not this particular application for the special  
9 use would work in that location.

10 I don't see it, as Ms. Becker says, as  
11 compatible with any of the uses that are in those  
12 districts at this time. I think that's the first  
13 question that we have to address before we can  
14 consider this application for a special use.

15 MR. KARATHEODORE: May I speak on that?

16 VICE CHAIRMAN KESSLER: Sure.

17 MR. KARATHEODORE: I think that we have to  
18 consider the customers actually doing business in  
19 downtown St. Charles. I think that any customer  
20 to any business, including myself, I've had dogs  
21 my whole life, is ease of access. I think that  
22 has now taken over most small businesses.

23 The companies that do provide such  
24 opportunity for people to shop more, to eat more

1 and not worry about, you know, their children. I  
2 believe pets are considered to be, you know,  
3 family members of each and every one of our  
4 families.

5 To be close to a downtown, I believe is  
6 ideal for such a business. Yes, it's very  
7 different than every other business, but what  
8 we're doing is we're providing a service for the  
9 people going to those other businesses.

10 We're providing a drop location for people  
11 visiting a hotel in downtown that can bring their  
12 pets and not worry about who is taking care of  
13 them and where they are. It's providing a walking  
14 area into downtown from going for a walk along the  
15 river.

16 I read -- I've probably read the City of  
17 St. Charles Municipal Code and the comprehensive  
18 guideline three times, and all I continue to read  
19 is pedestrian access and ease of access for  
20 residents. I can't think of anything that would  
21 be more convenient for any residents in downtown  
22 than to be able drop off their dog somewhere close  
23 by rather than miles down the street and have to  
24 get into their vehicle to do so.

1           Our first location was downtown Boston, in  
2           the north end of Boston which is extremely  
3           populated, overly populated actually. We met  
4           initial resistance just as we have, other  
5           businesses have had down there as well. The noise  
6           became a question. The access became a question.

7           You know, where are you going to put the  
8           dogs. You know, are they going to be too loud.  
9           Is it going to be the wrong business for this  
10          area, and 18 years later we're still there and  
11          with three times as much space accommodating  
12          numerous residents in that area so they can  
13          conduct business and go on with their life.

14          I think a daily concern of anybody who  
15          owns a pet or a dog is where are they going to be  
16          today. Leaving them alone at the house is no  
17          longer an option for several pet owners. You  
18          know, putting them close by or if I can go run an  
19          errand downtown. If you're going to generate more  
20          people into the city, why not provide businesses  
21          like ours that can assist these customers to come  
22          into the city and conduct business or meet with a  
23          friend and have a coffee.

24          I worry about leaving my dog at the house.

1 A, is he going to tear up the house when I'm not  
2 there; or to keep him in a small, tiny little area  
3 all day, I hate to do it. But if I'm meeting my  
4 friends in downtown, I would love to go to a place  
5 that I could walk to, drop them off, and then I  
6 could pick them up in an hour.

7 That's something we don't currently have  
8 right now in St. Charles. I'm in town daily  
9 conducting business, in and out, utilizing all the  
10 services within the city. And seeing a place  
11 that's not close by, 2nd and down the street  
12 there, we're far enough outside of the downtown  
13 city where you still have to know that we're  
14 there. You still have to drive there or walk down  
15 the street to get there, but close enough to the  
16 city that it can be accessed by foot.

17 I think that providing such a business to  
18 the people of St. Charles is something that will  
19 be highly supported. I think the majority of the  
20 residents will be behind it. I truly believe  
21 that. We've had great success, and our track  
22 record says so, that being closer to town is ideal  
23 for such a business.

24 Obviously, it has to be the right space.

1 It has to not be near residential. In the City of  
2 Boston, we're side by side with residential. Here  
3 we're a distance away in a business district.

4 I feel it would not damage any of their  
5 business; but at the same time, something that  
6 their customers would view as a positive in being  
7 close enough by where they're either working or  
8 spending the day.

9 I can't think of any negatives to it other  
10 than the fact that it is -- it's different from  
11 the other businesses, but it's something that  
12 their customers will utilize. So I think we have  
13 to hear from them or see how they would react to  
14 such a business being so close by, you know, when  
15 they're spending time downtown.

16 I think utilizing the river and going to  
17 dog walks is something that a lot of people are  
18 currently doing. I think having an opportunity  
19 and having a place for them to drop their dog for  
20 an hour or two to go have something to eat or  
21 spend a day running errands to the bank or so  
22 would be something that would be seen as extremely  
23 positive.

24 VICE CHAIRMAN KESSLER: Good. I mean, I

1 understand what you're saying. Actually, I mean,  
2 as much as I don't see this as compatible with  
3 everything we have there, I can see the benefits  
4 of it. I do think comparing it to the north end  
5 of Boston might be a little extreme for  
6 St. Charles since that's an urban area that there  
7 is no place else to go. There is here. We're a  
8 small community, and you can go out into the  
9 outskirts of town.

10 The one thing that I think is interesting,  
11 and I think it's in the staff report, they talk  
12 about excluding the overlay, the downtown overlay  
13 in this application. So this special use would be  
14 allowed in CBD-1 to the downtown commercial  
15 district but not in the actual downtown, which  
16 could be a good compromise.

17 I do honestly see the benefits that you  
18 described, having access for people who work and  
19 visit downtown, people that aren't necessarily  
20 from here that will be staying. I think about our  
21 goal of creating residential downtown buildings  
22 that are going up on 1st Street. We're going to  
23 have people living downtown, so perhaps there is  
24 some value to that.

1           But in any event, if there was something  
2     like this, I would really strongly urge that we  
3     limit it to outside of the downtown overlay.

4           MEMBER PRETZ: Tim, I would agree with  
5     you. With the applicant's statements and that,  
6     there is logic to it. There is a benefit to it.  
7     I understand all that. I'm sympathetic to that.  
8     But as an applicant for the CBD-1, I have a hard  
9     time with just allowing that special use.

10          As a compromise, though, with the  
11     elimination of the overlay to downtown, I can see  
12     that as potentially being a good compromise;  
13     otherwise, I would lean more towards just a no as  
14     it relates to that.

15          MEMBER HOLDERFIELD: Could you explain  
16     that a little better? I'm not sure I understand.

17          VICE CHAIRMAN KESSLER: The overlay, Jim?

18          MEMBER HOLDERFIELD: Yes.

19          VICE CHAIRMAN KESSLER: There's a map.  
20     Let me see if I can find it. It's on page 4 of 11  
21     of the staff report. Look on there, page 4 of 11.

22          CHAIRMAN WALLACE: There's CBD-1; and then  
23     within CBD-1, they have a downtown overlay  
24     district.

1 MEMBER HOLDERFIELD: Okay.

2 CHAIRMAN WALLACE: So what we're talking  
3 about is possibly approving it as a special use  
4 within CBD-1 but not in the downtown overlay  
5 district.

6 Staff, is that correct?

7 MS. JOHNSON: Yeah. That's an option.

8 CHAIRMAN WALLACE: All right. So other  
9 questions?

10 (No response.)

11 CHAIRMAN WALLACE: Okay. Any questions or  
12 comments from members of the audience?

13 Sir, come on up. Were you sworn in?

14 MR. SALAS: Yes, I was.

15 CHAIRMAN WALLACE: Okay.

16 MR. SALAS: I could be sworn in again.

17 CHAIRMAN WALLACE: Okay. Will you tell  
18 the truth?

19 MR. SALAS: Yes, I will.

20 CHAIRMAN WALLACE: All right. Go ahead.

21 MR. SALAS: Joe Salas, Hotel Baker,  
22 St. Charles, Illinois, and in Wayne.

23 I have been working with Johnny for  
24 approximately six months now with this concept and

1 this idea. I have to say after listening to him  
2 tonight, I'm even more compelled to support him  
3 for many reasons. One, I've learned to know who  
4 he is. I love his passion, his vision, and his  
5 dedication and the things that he's accomplished  
6 and his experience. I know that he has a  
7 tremendous partner from the East Coast, and  
8 they've been very successful.

9 I realize that what we're talking about  
10 may have some concerns today that we may not be  
11 used to, but I have to say I've been challenged in  
12 the past with some of the businesses that we've  
13 had here. One of them is the Hotel Baker. It was  
14 closed for two years. A lot of people have told  
15 me what are doing? Here we are 16 years later.

16 Sammy's Bikes, another example, it was a  
17 car shop or a place where they changed oil down on  
18 1st Street. Sammy came to me and had this idea  
19 about opening up a bike shop. He sells one of the  
20 best bikes in the United States or the world  
21 called Colnago, probably one of the best bike  
22 shops in the United States, very successful. In  
23 the recent time, they just went from Santa Monica,  
24 California, here into St. Charles, really making a

1 statement of what we're doing.

2 The reason I'm saying this is because I  
3 know some of us may ask will this be successful.  
4 We don't know. As a businessman, I'm willing to  
5 take a risk. But as a businessman and the  
6 accomplishments that we've made with my wife and  
7 my family, I would not take anything on that we  
8 would not do our best.

9 After listening to Johnny tonight, I think  
10 he's going to make a big difference. The  
11 ecosystem that we're trying to create in  
12 St. Charles, all the 1st Street development that  
13 we're doing, I think it will be a good complement.

14 And I will work with Johnny. I'm a little  
15 shocked about some of the easements that I've  
16 learned tonight. We are digging into it to how it  
17 started. Historically, I bought the property from  
18 a gentleman who was aged, needed some money, and I  
19 thought that I would help him, and I think I've  
20 owned the property for about 14 years.

21 I hope if there's any questions that you  
22 may have that are specific, detailed, I would love  
23 to be involved. I couldn't hear all the  
24 questions, but I just wanted to make the statement

1 that I will do anything I can to make Johnny  
2 Karatheodore work and his concept and his vision  
3 be successful. Thank you.

4 CHAIRMAN WALLACE: All right. Thank you,  
5 Mr. Salas.

6 Any questions?

7 MEMBER MACKLIN-PURDY: I guess I just  
8 would like to voice at the last Plan Commission  
9 when some of the neighboring people were here,  
10 Fuseneo, Brent from Fuseneo voiced that during the  
11 summer months and the nice weather, he likes to  
12 have his windows open. He has the garage doors.

13 And I guess my concern lies with the  
14 findings of fact. On C, effect on property  
15 nearby: That the special use will not be  
16 injurious to the use and enjoyment of other  
17 property in the immediate vicinity for the  
18 purposes already permitted, nor substantially  
19 diminish or impair property values.

20 I guess I just have to be respectful of  
21 Fuseneo and his concerns as well about the noise,  
22 and then I think that's what some of the people  
23 have voiced tonight on the Plan Commission is that  
24 not only do we have to take into consideration

1 your business, which in of itself your business is  
2 fine. It's a fine concept. But we have to think  
3 about the neighboring properties and take that --  
4 that's our job, and take that into consideration.

5 I understand some of the easement issues  
6 and Joe having issues with leasing the space, but  
7 those are some of the things that we have to think  
8 about as well. We're just trying to be fair to  
9 the surrounding properties. So that's where I get  
10 hung up a little bit.

11 MR. KARATHEODORE: I understand that.  
12 That's a question that comes up often. I would  
13 say I think you have to visit a dog park and  
14 actually see one of these pet care facilities and  
15 the noise that it does or does not radiate.

16 I don't know how to speak to that other  
17 than to say we have 1150 apartments abutting our  
18 locations. We haven't had one complaint in six  
19 years.

20 The gentleman is 200 to 300 feet from the  
21 building. I don't even believe he'll even hear  
22 dogs barking during the day. I've never seen his  
23 garage door open, and I've been visiting the  
24 property for six months, in the middle of the

1 summer. I think that his garage door actually  
2 faces the opposite way of the property. So it's  
3 not even a direct visual from --

4 MEMBER MACKLIN-PURDY: No. It faces.

5 MR. KARATHEODORE: It faces the adjacent  
6 property not --

7 MEMBER MACKLIN-PURDY: It faces the river.  
8 He's got more than one. He's got like three or  
9 four garage doors, but that's neither nor there.

10 MR. KARATHEODORE: I have photos to show  
11 if we want to take a look at them. I walked the  
12 property yesterday, and I was surprised about the  
13 garage door myself.

14 Taking into consideration the noise issue,  
15 I'm willing to work with the surrounding neighbors  
16 if they hear something. We can increase the  
17 soundproofing in the location. I've soundproofed  
18 music studios so that you can't hear a peep  
19 outside from drums and bands playing.

20 You can significantly reduce outdoor space  
21 noise by insulating the walls that surround it,  
22 increasing the height of the walls. We have  
23 fabric panels covering the top of the space that  
24 have proved significantly to reduce noise in four

1 of our locations.

2 For the interior barriers, we're going  
3 probably about \$50,000 over the normal walling up  
4 of a pet care facility at that location to create  
5 a solid wall of that size and stature with  
6 additional solid panels within the space with a  
7 \$30,000 turf that will be thick enough to also  
8 absorb and the reflection.

9 I could get into the studies of sound and  
10 reflection in detail with you, but I'm sure we  
11 don't have enough time for that. But I'm willing  
12 to do so to explain. As I stated earlier, for  
13 residents along the highway, they are putting up a  
14 wall, and it's working.

15 We're building a 6-foot-five wall, a  
16 6-foot-four wall with additional ceiling panels,  
17 vibration reflection panels inside, soundproofing,  
18 going probably 200 percent higher than they ever  
19 would in another location to keep the neighbors  
20 satisfied with the sound that we'll emit from that  
21 space.

22 Again, a dog open space like that, a park  
23 that we call it, is not a barking area. The dogs  
24 do not typically bark when they're non-restrained,

1 and they're open. Two dogs will not bark at each  
2 other if they can run away from each other. It's  
3 when you cage them in a kennel behind a fence is  
4 when a dog will bark.

5 That's my six years of experience in  
6 Boston with 1150 neighbors. That has to speak  
7 some volume in our concern to assist. I think  
8 that the neighbors' concern of this new business  
9 that's going into this unoccupied space for the  
10 past four years -- I can understand that the noise  
11 will be a question, but we're attacking that every  
12 way we can to reduce that to a minimum, if any.

13 I don't see that any of the requirements  
14 the City has in place in that ordinance, that we  
15 would exceed those limits once, at all in the  
16 frequency that's stated in that. It's 15 dogs,  
17 noise emitting at the same time for a certain  
18 amount of -- period, I think, I read the  
19 paragraph.

20 To obtain that kind of sound noise, it has  
21 to be dogs constantly barking for seven minutes at  
22 a time, numerous of them barking at that moment.  
23 We've never had that in 18 years of business. We  
24 have tenants below us and above us within the same

1 building. It's never been an issue.

2 I would love to speak to the landlord at  
3 any time during construction if we can, you know,  
4 show them that this is not an issue for us in the  
5 past and hasn't been, but we'll address any issue  
6 that they have if sound is coming out of that  
7 distance and reaching them at that space.

8 I think the cars -- if you sit in the  
9 parking lot, the cars going by and the trucks are  
10 certainly going to be a lot louder than a small  
11 dog barking, you know, for an extended period of  
12 time, which never happens in any of our locations.

13 So I hear the question. My experience in  
14 six years hasn't had to tackle that other than the  
15 initial soundproofing and the deterring of the  
16 dogs -- the deterrence of them barking if they do  
17 start to bark. You'd be surprised that a water  
18 bottle significantly stops the dogs from fighting,  
19 stops a dogs from barking.

20 We will have an attendant out there at all  
21 times with the dogs. They'll never be out there  
22 by themselves. It's not that the area will never  
23 be monitored. Several months during the winter,  
24 they will actually be in an enclosure of a tent

1 that we have been looking into for the winter  
2 months.

3 CHAIRMAN WALLACE: All right. Let's move  
4 on. Are there any other comments or questions  
5 from the Plan Commission?

6 MEMBER FUNKE: I have a question. How  
7 long has the building been vacant?

8 MR. SALAS: Three years.

9 MEMBER FUNKE: Three years. And what was  
10 there before?

11 MR. SALAS: It was a medical clinic.

12 MEMBER FUNKE: All right. Thank you.

13 CHAIRMAN WALLACE: Anything else?

14 MEMBER HOLDERFIELD: I just want to echo  
15 what Laura said. I've wrestled with this for the  
16 last month as I've looked at this. I think what  
17 really focuses it for me is the property to the  
18 north of you is there's a restaurant. And my  
19 concern is when we look at these six findings  
20 here, like she said, finding C, effect on nearby  
21 property.

22 I just have a tough time that even though  
23 you just said so many things positive, I've looked  
24 at that, and what's going to happen to those

1 properties to the north and the restaurant there  
2 and possibly that occurring.

3 So that's where I'm at. It's a tough  
4 call, I know, but we've only had your assurances,  
5 you know. Like you said, you've worked with them.  
6 We're not dog experts. We can't really relate to  
7 that, you know, what's going on. But that's what  
8 bothers me going down the road.

9 MR. KARATHEODORE: I know that our  
10 operation would be restricted to 7:00 to 7:00, I  
11 believe, which also plays a part in evening  
12 businesses as well, that we won't be there  
13 operating at that time --

14 MEMBER HOLDERFIELD: Well, but you know --

15 MR. KARATHEODORE: -- you know, eating at  
16 restaurants.

17 VICE CHAIRMAN KESSLER: But let's make  
18 sure, too, what you're referring to and Laura is  
19 an actual application for a special use; but right  
20 this minute, the special use is not allowed in the  
21 CBD-1 District. So we need to address that first,  
22 whether or not we're going to allow it.

23 MEMBER MACKLIN-PURDY: Right.

24 VICE CHAIRMAN KESSLER: Once we do that,

1 then the discussion becomes, as Jim points, is it  
2 injurious to the residents. So we should tackle  
3 that first application for the special use.

4 CHAIRMAN WALLACE: All right. So do we  
5 have any other comments or questions?

6 (No response.)

7 CHAIRMAN WALLACE: Okay. If the Plan  
8 Commission feels they have enough evidence to be  
9 able to make recommendations on both of the  
10 applications, then a motion to close the public  
11 hearings will be in order.

12 VICE CHAIRMAN KESSLER: I move that we  
13 close the public hearings for both Items 5 and 6  
14 on the agenda and the application for special use.

15 MEMBER BECKER: Second.

16 CHAIRMAN WALLACE: Who seconded?

17 All right. It's been moved and seconded.  
18 Any discussion on the motion?

19 (No response.)

20 CHAIRMAN WALLACE: This is a motion to  
21 close the public hearings.

22 Tim.

23 VICE CHAIRMAN KESSLER: Becker.

24 MEMBER BECKER: Yes.

1 VICE CHAIRMAN KESSLER: Funke.  
2 MEMBER FUNKE: Yes.  
3 VICE CHAIRMAN KESSLER: Pretz.  
4 MEMBER PRETZ: Yes.  
5 VICE CHAIRMAN KESSLER: Holderfield.  
6 MEMBER HOLDERFIELD: Yes.  
7 VICE CHAIRMAN KESSLER: Vargulich.  
8 MEMBER VARGULICH: Yes.  
9 VICE CHAIRMAN KESSLER: Purdy.  
10 MEMBER MACKLIN-PURDY: Yes.  
11 VICE CHAIRMAN KESSLER: Melton.  
12 MEMBER MELTON: Yes.  
13 VICE CHAIRMAN KESSLER: Wallace.  
14 CHAIRMAN WALLACE: Yes.  
15 VICE CHAIRMAN KESSLER: Kessler, yes.  
16 CHAIRMAN WALLACE: All right. The public  
17 hearing is closed.  
18 You can have a seat.  
19 And we'll move on to discussion and  
20 recommendation on these. First of all, we'll take  
21 Item No. 5, which is general amendment to add a  
22 pet care facility as a special use in the CBD-1  
23 District. Is there a motion?  
24 VICE CHAIRMAN KESSLER: I would move to

1 recommend approval of the general amendment to add  
2 pet care facility as a special use in the CBD-1  
3 District on the condition that we exclude the  
4 downtown overlay, subject to resolution of all  
5 staff comments.

6 MEMBER PRETZ: Second.

7 CHAIRMAN WALLACE: Who seconded?

8 All right. Condition to exclude the  
9 downtown overlay. All right. Is there any  
10 discussion?

11 MR. VARGULICH: In doing so, that  
12 basically excludes this property that we have,  
13 Item No. 6.

14 VICE CHAIRMAN KESSLER: It does not  
15 exclude.

16 CHAIRMAN WALLACE: No, no, the downtown  
17 overlay does not include this property.

18 VICE CHAIRMAN KESSLER: Go to page 4. It  
19 shows it.

20 MEMBER VARGULICH: Thanks.

21 CHAIRMAN WALLACE: All right. Any  
22 discussion?

23 (No response.)

24 CHAIRMAN WALLACE: If there's no

1 discussion, Tim. This is just on the first  
2 application.

3 VICE CHAIRMAN KESSLER: Becker.

4 MEMBER BECKER: No.

5 VICE CHAIRMAN KESSLER: Funke.

6 MEMBER FUNKE: Yes.

7 VICE CHAIRMAN KESSLER: Pretz.

8 MEMBER PRETZ: Yes.

9 VICE CHAIRMAN KESSLER: Holderfield.

10 MEMBER HOLDERFIELD: Yes.

11 VICE CHAIRMAN KESSLER: Vargulich.

12 MEMBER VARGULICH: Yes.

13 VICE CHAIRMAN KESSLER: Purdy.

14 MEMBER MACKLIN-PURDY: Yes.

15 VICE CHAIRMAN KESSLER: Melton.

16 MEMBER MELTON: Yes.

17 VICE CHAIRMAN KESSLER: Wallace.

18 CHAIRMAN WALLACE: Yes.

19 VICE CHAIRMAN KESSLER: Kessler, no.

20 CHAIRMAN WALLACE: All right. That passes  
21 by a vote of 7 to 2.

22 And moving on to Item 6, K-9 Country Club  
23 of St. Charles, 305 North 2nd Street, application  
24 for special use, is there a motion?

1           VICE CHAIRMAN KESSLER: Well, then I'm  
2 going to recommend -- I'm going to make a motion  
3 to recommend denial of the application for special  
4 use of the K-9 Country Club of St. Charles based  
5 on the findings of fact Item C and D. That's my  
6 motion.

7           CHAIRMAN WALLACE: Okay. Is there a  
8 second?

9           MEMBER PRETZ: Second.

10          CHAIRMAN WALLACE: It's been moved and  
11 seconded.

12          Discussion on the motion? Just for the  
13 benefit of -- I have the wrong thing pulled up  
14 here. For the benefit of the public, can we say  
15 what C and D, findings of fact C and D are.

16          VICE CHAIRMAN KESSLER: Yes. For the  
17 benefit, they are -- okay. Letter C is effect on  
18 nearby property: That the special use will not be  
19 injurious to the use and enjoyment of other  
20 property in the immediate vicinity for the  
21 purposes already permitted, nor substantially  
22 diminish or impair property values within the  
23 neighborhood; and Item D is the effect on the  
24 development of surrounding property: That the

1 establishment of the special use will not impede  
2 the normal and orderly development and improvement  
3 of the surrounding property for uses permitted in  
4 the district.

5 CHAIRMAN WALLACE: All right. Discussion?

6 MEMBER HOLDERFIELD: Would you repeat the  
7 motion one more time?

8 VICE CHAIRMAN KESSLER: My motion was to  
9 recommend denial of the application for a special  
10 use.

11 CHAIRMAN WALLACE: I guess I'll start off  
12 the discussion. I think that we've discussed uses  
13 like this in the past, not necessarily  
14 pet-related, but I know we've had discussions.  
15 One thing that comes to mind is car washes  
16 vacuum -- or blower noise and how that would be  
17 injurious to the neighboring residential  
18 properties.

19 I think the interesting thing is that even  
20 though we discussed those things at length, they  
21 never came back to us with any complaints because  
22 I think that, first of all, as this one is, it's  
23 in an area of high density where there already is  
24 a large amount of ambient noise. Just standing

1 over on -- I was standing over on Route 31 the  
2 other day, and it's loud. There are a lot of  
3 trucks and cars going by there.

4 If somebody wants to be able to have their  
5 window open, and, you know, hear birds chirping  
6 and that sort of thing, this is not the place to  
7 do that.

8 VICE CHAIRMAN KESSLER: Granted.

9 CHAIRMAN WALLACE: So I don't really know  
10 that that would be -- I mean, I'm not convinced  
11 that it would be injurious to surrounding property  
12 owners. I don't think that it would have any  
13 negative impact on development surrounding  
14 property.

15 I think to the contrary having a vacant  
16 property which is a very difficult property to get  
17 a use into with all the impediments to  
18 development, I think that would have more of an  
19 adverse impact on development than actually  
20 allowing the use.

21 VICE CHAIRMAN KESSLER: Well, I don't  
22 disagree with you, and I have to say that I think  
23 my major objection is not the noise or  
24 inconvenience that it might cause as much as it is

1 the easements and the access and the traffic.

2 I don't think that the property -- if all  
3 of these easements and all of this stuff was  
4 worked out with all of the property owners and the  
5 tenants around there, it would be a lot easier to  
6 say, Well, this is okay. Everybody agrees this is  
7 going to work.

8 You know, I look at the sharing of the  
9 parking spaces that aren't owned by the property,  
10 you have an easement of a main drive that goes  
11 back to the properties to the west, and in your  
12 proposal you're actually driving across that. I  
13 mean, there's no traffic calming or conditions.

14 You just drive in, and then you turn and  
15 cross, and you've got traffic going in and out.  
16 How much traffic there is, I can't even say. The  
17 point is that regardless of that it's not -- it's  
18 not an agreed, a totally agreed-upon layout, and  
19 that to me is probably the most difficult thing  
20 for that use in that location.

21 It's unfortunate. I mean it's not -- I am  
22 not opposed to putting a pet facility in the  
23 downtown area. I think that location is the wrong  
24 spot for that to happen.

1 MEMBER MELTON: Can I add to that?

2 CHAIRMAN WALLACE: Go ahead.

3 MEMBER MELTON: Because I've struggled  
4 with that same wraparound and drop-off system,  
5 that they've not had that before. This is their  
6 first time. So I'm imagining dropping my dog off.  
7 Someone is going to come to my car and get my dog.  
8 What if they open the door and the dog runs out.

9 It just doesn't seem like the right fit,  
10 especially since the traffic over there isn't kind  
11 of cordoned off, and it doesn't seem to make  
12 sense. I'm struggling with how is that going to  
13 work.

14 MR. KARATHEODORE: Am I able to --

15 CHAIRMAN WALLACE: Hold on. And I guess  
16 my thought on this -- because I had a concern on  
17 this the last time this was before us, and I was  
18 inclined to close the application based exactly on  
19 that; but I guess I've had a change of heart  
20 because if you base it on that, there are very,  
21 very few uses that would work, and then what are  
22 you doing. You know, I mean, you're saying that  
23 that wouldn't work because of traffic in and out  
24 of a business property.

1 Traffic is going to have to go in and out  
2 of a business property. It's going to have to do  
3 something. I mean, I don't know that it's ideal  
4 but -- I always have an issue with stacking  
5 spaces, and I don't really see a big issue here  
6 because I know that there's a lot of space between  
7 the building and Route 31 to facilitate that  
8 amount of stacking. That's really the only issue  
9 that I see.

10 Especially with the neighboring property  
11 owner now cordoning off his lot, there isn't going  
12 to be traffic around the back. So I guess how  
13 much traffic will there really be. How much of an  
14 issue will there be. I don't know.

15 Did you want to say something?

16 MR. KARATHEODORE: Yes.

17 CHAIRMAN WALLACE: Okay.

18 MR. KARATHEODORE: The current property is  
19 half an acre of land. I just wanted to say the  
20 scope and the size of this property.

21 And also the two neighboring properties  
22 that we're talking about each have their own  
23 egress and ingress to their location, especially  
24 the large building to the north of us. He has a

1 very large exit and egress which hasn't been  
2 brought up. He did not show that to us. He also  
3 blocked off his own exit out of his own property  
4 to the rear of our building.

5 We had a discussion about 4th Street.  
6 That was 309's original address. It was told  
7 to me by the business -- the building department  
8 that prior to '99, actually prior to more recent  
9 than that, that was the exit and entrance of that  
10 building space. It's a paved road leading to 4th  
11 Street.

12 We're granting -- through that easement,  
13 which was not part of Mr. Salas's original  
14 agreement, he bought the property with it. It's  
15 taking up over 50 percent of the egress and  
16 ingress to the location.

17 I don't know what other business -- a  
18 restaurant would triple, actually a lot more than  
19 that, traffic that would come through. I need  
20 three parking spaces for my business. Three  
21 parking spots and a drop off. If I need to  
22 eliminate the drop off, I'll wipe the drop off  
23 area right off the plan to approve the building.

24 CHAIRMAN WALLACE: Hold on. We're in the

1 discussion phase right now, so let's not get any  
2 additional testimony or evidence. Let's just keep  
3 it to what we're discussing right here.

4 MR. KARATHEODORE: Okay.

5 CHAIRMAN WALLACE: Okay.

6 MR. KARATHEODORE: We have to consider  
7 that these other tenants, these other neighboring  
8 properties have their own egress. They somehow  
9 were granted this through Mr. Salas's property,  
10 through this easement against the previous owner  
11 that came to an agreement to agree, which for  
12 whatever reason, they got it. They have it.

13 But we're willing to work around it. I  
14 just don't know what Mr. Salas's options would be  
15 for a business that would need less than three  
16 spots. I think he's extremely limited, and I'm  
17 worried about the guy having that property vacant  
18 for a very long period of time.

19 CHAIRMAN WALLACE: All right. We're going  
20 to move on with discussion.

21 Okay. Go ahead.

22 MEMBER BECKER: Speaking to the whole  
23 parking and access issue, I guess, I do have a  
24 concern about the reconfiguration of the parking

1 lot, and I don't think it was adequately described  
2 to us that the people that have a vested interest  
3 in the configuration of the parking lot actually  
4 having signed off on it.

5 It's reworking the whole lot, and we  
6 haven't seen any evidence that the lot as  
7 reconfigured will meet the code in itself. So  
8 there's just too many nebulous things about this  
9 particular site that, you know.

10 CHAIRMAN WALLACE: Go ahead.

11 MEMBER VARGULICH: There's still the  
12 number of parking spaces available to the north.  
13 And if he only needs four, then I don't see that  
14 as a big issue. As long as they ultimately come  
15 to an agreement, which is part of staff's job is  
16 to confirm all that.

17 And if Mr. Salas hasn't shared this plan  
18 with either of the property owners to get their  
19 final approval, well, that still needs to happen,  
20 and staff can check that box. I don't think it's  
21 our job to worry about that particular aspect,  
22 given that they have met the parking requirements.

23 CHAIRMAN WALLACE: They're not requesting  
24 a variance.

1 MEMBER VARGULICH: A variance at all.

2 CHAIRMAN WALLACE: Any other discussion?

3 (No response.)

4 CHAIRMAN WALLACE: Okay. Seeing none,  
5 then we will take a vote on the motion that's  
6 currently on the table, which is to recommend  
7 denial for the reasons -- findings of fact C,  
8 which is effect on nearby property; and D, effect  
9 on development surrounding the property.

10 Tim.

11 VICE CHAIRMAN KESSLER: Becker.

12 MEMBER BECKER: Yes.

13 VICE CHAIRMAN KESSLER: Funke.

14 MEMBER FUNKE: No.

15 VICE CHAIRMAN KESSLER: Pretz.

16 MEMBER PRETZ: No.

17 VICE CHAIRMAN KESSLER: Holderfield.

18 MEMBER HOLDERFIELD: Yes.

19 VICE CHAIRMAN KESSLER: Vargulich.

20 MEMBER VARGULICH: No.

21 VICE CHAIRMAN KESSLER: Purdy.

22 MEMBER MACKLIN-PURDY: No.

23 VICE CHAIRMAN KESSLER: Melton.

24 MEMBER MELTON: Yes.

1 VICE CHAIRMAN KESSLER: Wallace.

2 CHAIRMAN WALLACE: No.

3 VICE CHAIRMAN KESSLER: Kessler, yes.

4 CHAIRMAN WALLACE: All right. That motion  
5 fails by a vote of 5 to 4.

6 Any other motions?

7 MEMBER FUNKE: I'll make a motion to  
8 approve.

9 CHAIRMAN WALLACE: To recommend approval.

10 MEMBER FUNKE: Yes.

11 CHAIRMAN WALLACE: Okay. Were there staff  
12 comments contained in the staff report?

13 MS. JOHNSON: I don't believe so, but it  
14 would be safe to do that.

15 CHAIRMAN WALLACE: Would you like to  
16 recommend approval --

17 MEMBER FUNKE: Including staff comments.

18 CHAIRMAN WALLACE: All right. Is there a  
19 second?

20 MEMBER VARGULICH: I'll second.

21 MEMBER PRETZ: Jim was talking about  
22 hours, you know, hours of operation and that type  
23 of thing.

24 CHAIRMAN WALLACE: Well, wait. We have a

1 motion that's pending.

2 Did you second it?

3 MEMBER VARGULICH: Yes.

4 CHAIRMAN WALLACE: Okay. So it's been  
5 moved and seconded.

6 MEMBER HOLDERFIELD: Well, my concern is  
7 in the proposal it was 6:00 a.m. -- where you  
8 would have the dogs in the outer walking area from  
9 6:00 a.m. to 8:00 p.m.; is that right?

10 MR. KARATHEODORE: I misunderstood. I  
11 believe the pet care facility in the city is 7:00  
12 to 7:00.

13 MEMBER HOLDERFIELD: Okay.

14 MR. KARATHEODORE: 7:00 to 7:00, I've  
15 changed that.

16 MEMBER HOLDERFIELD: Yeah. But I would  
17 even like to see it changed more. Simply I would  
18 like to see it open at 7:00 and close at 6:00, and  
19 I'm thinking of that in regard to the existing  
20 properties around there. It always comes back  
21 to me to the restaurant, and people coming out to  
22 dine at 6:00 or 7:00 o'clock, and the dogs are  
23 still out there at the 7:00 o'clock period. I  
24 think there would be barking and so forth.

1           You know, I'm concerned of what Peter  
2 brought up. Can you put all the dogs inside your  
3 building? That's another concern. We don't know  
4 what the dynamic is there. You said 40 dogs.  
5 Wow, that's a lot of dogs to put in that facility.

6           I don't think the City has any control or  
7 any say over how many dogs they have out there,  
8 but I would like to see a minimum put in the  
9 motion that would -- I don't know how -- should I  
10 ask staff this, if we can even do this? Change it  
11 from -- it's 7:00 to 7:00 now, 7:00 a.m. to  
12 7:00 p.m., and go to 7:00 a.m. to 6:00 p.m. as a  
13 compromise.

14           MS. JOHNSON: Yes. You could further  
15 restrict the hours; however, you need to specify  
16 whether that's hours of operation or hours when  
17 the dogs are permitted to be outside.

18           MEMBER HOLDERFIELD: I'd like to make that  
19 amendment to the motion.

20           CHAIRMAN WALLACE: That the dogs only be  
21 outside from 7:00 a.m. to 6:00 p.m.?

22           MEMBER HOLDERFIELD: Yes.

23           CHAIRMAN WALLACE: So there's a motion to  
24 amend. Is there a second?

1 MEMBER FUNKE: I'll second.

2 CHAIRMAN WALLACE: Okay. We have a motion  
3 and second. Discussion on the motion -- this is  
4 the motion to amend to include the restriction  
5 that dogs must be inside outside of the hours of  
6 7:00 a.m. to 6:00 p.m.

7 All right. Any discussion on that motion  
8 to amend?

9 Tim.

10 VICE CHAIRMAN KESSLER: Becker.

11 CHAIRMAN WALLACE: This is just on the  
12 motion to amend.

13 Tim.

14 VICE CHAIRMAN KESSLER: Becker.

15 MEMBER BECKER: Yes.

16 VICE CHAIRMAN KESSLER: Funke.

17 MEMBER FUNKE: Yes.

18 VICE CHAIRMAN KESSLER: Pretz.

19 MEMBER PRETZ: Yes.

20 VICE CHAIRMAN KESSLER: Holderfield.

21 MEMBER HOLDERFIELD: Yes.

22 VICE CHAIRMAN KESSLER: Vargulich.

23 MEMBER VARGULICH: Yes.

24 VICE CHAIRMAN KESSLER: Purdy.

1 MEMBER MACKLIN-PURDY: Yes.

2 VICE CHAIRMAN KESSLER: Melton.

3 MEMBER MELTON: Yes.

4 VICE CHAIRMAN KESSLER: Wallace.

5 CHAIRMAN WALLACE: Yes.

6 VICE CHAIRMAN KESSLER: Kessler, yes.

7 CHAIRMAN WALLACE: All right. That passes  
8 unanimously, and so the amended motion is a motion  
9 to recommend approval subject to resolution of  
10 staff comments and also subject to the condition  
11 that dogs may not be kept outside outside the  
12 hours of 7:00 a.m. to 6:00 p.m.

13 Hold on one second.

14 Is everyone clear on that?

15 All right. Yes.

16 MR. KARATHEODORE: If we're moving back  
17 the end of the day, would you consider moving the  
18 opening hours to 6:00 a.m.? Since none of the  
19 other businesses are open at that time in the  
20 morning. I'm just thinking commute for residents.

21 CHAIRMAN WALLACE: If a member of the Plan  
22 Commission wants to make that motion, then they  
23 can make it, but right now this is what the motion  
24 is that's on the table.

1 MS. JOHNSON: That would not be permitted  
2 under the code because the code restricts the  
3 hours at 7:00 a.m. to 7:00 p.m.

4 CHAIRMAN WALLACE: All right. Any further  
5 discussion?

6 (No response.)

7 CHAIRMAN WALLACE: Tim.  
8 This is on the main motion.

9 VICE CHAIRMAN KESSLER: Becker.

10 CHAIRMAN WALLACE: What was that?

11 MEMBER BECKER: No.

12 VICE CHAIRMAN KESSLER: Funke.

13 MEMBER FUNKE: Yes.

14 VICE CHAIRMAN KESSLER: Pretz.

15 MEMBER PRETZ: Yes.

16 VICE CHAIRMAN KESSLER: Holderfield.

17 MEMBER HOLDERFIELD: Yes.

18 VICE CHAIRMAN KESSLER: Vargulich.

19 MEMBER VARGULICH: Yes.

20 VICE CHAIRMAN KESSLER: Purdy.

21 MEMBER MACKLIN-PURDY: Yes.

22 VICE CHAIRMAN KESSLER: Melton.

23 MEMBER MELTON: Yes.

24 VICE CHAIRMAN KESSLER: Wallace.

1 CHAIRMAN WALLACE: Yes.

2 VICE CHAIRMAN KESSLER: Kessler, no.

3 CHAIRMAN WALLACE: All right. That motion  
4 passes by a vote of 7 to 2, and that concludes  
5 that item on the agenda.

6 Thank you very much.

7 (Off the record at 8:19 p.m.)

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CERTIFICATE OF SHORTHAND REPORTER

I, Joanne E. Ely, Certified Shorthand Reporter No. 84-4169, CSR, RPR, 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 25th day of November, 2019.

My commission expires: May 16, 2020

*Joanne E. Ely* 

Notary Public in and for the  
State of Illinois



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# Transcript of Hearing

**Date:** November 19, 2019

**Case:** St. Charles Plan Commission

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BEFORE THE PLAN COMMISSION  
OF THE CITY OF ST. CHARLES

-----x  
In Re: General Amendment, :  
Healthway Services of West :  
Illinois, LLC, to Add :  
Recreational Cannabis :  
Dispensing Organization as :  
a Special Use in the M-2 :  
District. :  
-----x

HEARING  
St. Charles, Illinois 60174  
Tuesday, November 19, 2019  
8:19 p.m.

Job No.: 218476B  
Pages: 1 - 72  
Reported by: Joanne E. Ely, CSR, RPR

1 HEARING, held at the location of:

2

3 ST. CHARLES CITY HALL

4 2 East Main Street

5 St. Charles, Illinois 60174

6 (630) 377-4400

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13 Before Joanne E. Ely, a Certified Shorthand  
14 Reporter, and a Notary Public in and for the State  
15 of Illinois.

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1 PRESENT:

2 TODD WALLACE, Chairman

3 TIM KESSLER, Vice Chairman

4 JENNIFER BECKER, Member

5 JEFFREY FUNKE, Member

6 JAMES HOLDERFIELD, Member

7 SUZANNE MELTON, Member

8 TOM PRETZ, Member

9 LAURA MACKLIN-PURDY, Member

10 PETER VARGULICH, Member

11 ALSO PRESENT:

12 RUSSELL COLBY, Community Development  
13 Manager

14 ELLEN JOHNSON, Planner

15 MONICA HAWK, Development Engineer

16 RITA TUNGARE, Director of Community &  
17 Economic Development

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Transcript of Hearing  
Conducted on November 19, 2019

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1 P R O C E E D I N G S

2 CHAIRMAN WALLACE: Next we have a public  
3 hearing. This is for -- staff, would you  
4 recommend the same, taking 6 and 7 together?

5 MS. TUNGARE: 7 and 8.

6 CHAIRMAN WALLACE: I'm sorry. 7 and 8.

7 MS. JOHNSON: One at a time.

8 CHAIRMAN WALLACE: One at a time. Okay.  
9 Understood.

10 So Item No. 7 on the agenda -- these two  
11 are related, but I think we should take them one  
12 at a time based on the advice of staff.

13 General amendment, Healthway Services of  
14 West Illinois, LLC, Chapter 17.16,  
15 Office/Research, Manufacturing, and Public Land  
16 Districts to add recreational cannabis dispensing  
17 organization as a special use in the M-2 District.

18 Again, this is a public hearing. We will  
19 take evidence; and once we have enough evidence,  
20 we will close the public hearing and take action  
21 on this item.

22 Anyone who wishes to give testimony,  
23 including asking any questions or making any  
24 comments, would you raise your hand.

1 (Witnesses sworn.)

2 CHAIRMAN WALLACE: Thank you.

3 Anyone who wishes to speak, please wait to  
4 be recognized by me and speak at the lectern and  
5 state your name and your address for the record.

6 Is the applicant ready?

7 MR. RAK: My name is Adam Rak. I'm an  
8 urban planner with WBK Engineering, 116 West Main  
9 Street, Suite 201, here in downtown St. Charles.

10 I'm here on behalf -- as a planner on  
11 behalf of Healthway Services of West Illinois who  
12 owns and operates Zen Leaf St. Charles, which is  
13 the existing medical cannabis dispensing operation  
14 at 3714 Illinois Avenue in the St. Charles Commons  
15 Industrial Park.

16 The first matter which of I'll speak to is  
17 our recent application for a general amendment to  
18 allow recreational cannabis dispensing  
19 organizations to operate as a special use in the  
20 M-2 District.

21 In order to speak about kind of how we got  
22 to this point today, I'd like to recap a couple of  
23 key events that have led us here. On October 8th,  
24 the Plan Commission recommended to allow

1 recreational cannabis dispensing organizations as  
2 a special use in the PR District. They also  
3 recommended a space separation of 250 feet from  
4 sensitive uses and residential areas.

5 On October 21st, City Council voted to  
6 approve Ordinance 2019-Z-19, which amended the  
7 City ordinance to allow recreational cannabis  
8 dispensing organizations in both the BC and BR  
9 Districts, and they also recommended the 250-foot  
10 minimum as well.

11 And then most recently, yesterday,  
12 November 18th, the City Council voted, or I should  
13 say, the government services committee voted to  
14 approve a general amendment to the City zoning  
15 ordinance to remove reference to State and Federal  
16 conformance from the special use findings of fact.

17 Those three key events have kind of led us  
18 today to our request. So on behalf of the  
19 applicant, Healthway Services of West Illinois, we  
20 are requesting a general amendment to the City's  
21 zoning ordinance which would allow recreational  
22 cannabis dispensing organizations to operate as a  
23 special use in the M-2 District.

24 One thing I forgot to mention, on

1 October 8th, the Plan Commission, as part of their  
2 recommendation, made a comment for City Council to  
3 consider allowing cannabis dispensing --  
4 recreational cannabis dispensing in the M-2  
5 District. Initially, their recommendation was  
6 only to the BR, but the Plan Commission, you all  
7 did recommend a comment to consider it in the M-2  
8 District, which brings us to where we are here  
9 today.

10 As I stated earlier, we represent Zen Leaf  
11 St. Charles at 3714 Illinois Avenue. We're  
12 currently zoned M-2; and based on the submittal  
13 and our attached findings which you have in your  
14 packet, we are requesting -- we request a positive  
15 recommendation to City Council to allow  
16 recreational cannabis dispensing organizations in  
17 the M-2 District in the City.

18 At this time I can answer any questions.  
19 We've got a full team here from Zen Leaf as well  
20 who are available to answer questions too, and we  
21 will hope to present a special use application  
22 concurrently with this request as well.

23 CHAIRMAN WALLACE: All right. Let me just  
24 ask a clarification question first.

1           Ellen, in the memo that you gave to  
2 members of the Plan Commission, you said the City  
3 Council approved the general amendment last night.  
4 Is that the City Council or the government  
5 operations committee?

6           MS. JOHNSON: City Council.

7           CHAIRMAN WALLACE: It was the City  
8 Council.

9           MS. JOHNSON: Yes.

10          CHAIRMAN WALLACE: So it now is. Okay.

11          MR. RAK: I apologize. I misspoke.

12          CHAIRMAN WALLACE: All right. You're  
13 forgiven.

14          All right. Any discussion or any  
15 questions from Plan Commission members, and this  
16 is specifically related to the first application.

17          MEMBER FUNKE: I've got a question. The  
18 definition is within 250 feet of no schools are  
19 allowed. We have a school which is right next  
20 door, which is approximately 90 feet.

21          MS. JOHNSON: The dance school?

22          MEMBER FUNKE: Yes.

23          MS. JOHNSON: That wouldn't be considered  
24 a school under the ordinance definition. That

1 would be considered potentially a specialized  
2 instructional school, and that was not included as  
3 one of the uses that would be subject to the  
4 250 feet. It's only secondary or primary schools  
5 and day cares and private schools, as defined in  
6 the ordinance.

7 MEMBER FUNKE: Okay.

8 MR. BOCHTE: I think that --

9 CHAIRMAN WALLACE: Hold on one second.

10 Sure. Go ahead. Come on up.

11 MR. BOCHTE: My name is Bill Bochte,  
12 B-o-c-h-t-e, 2580 Foxfield Road, St. Charles,  
13 Illinois.

14 I'm here on behalf of the association, the  
15 St. Charles Condominium Association, which owns  
16 the condos -- which manages the condos in the  
17 applicant's -- or where the applicant has its  
18 place of business.

19 Briefly with just respect to that  
20 particular issue, the applications were kind of  
21 devoid of a lot of facts, I believe, which are  
22 going to give the Commission the opportunity to  
23 really make a reasoned decision here or  
24 recommendation.

1 I also noticed that you need to know that  
2 St. Charles High School has an arrangement with  
3 the dance studio. I don't know if it's a lease.  
4 I'm not sure what the terms of that arrangement  
5 are, but children from St. Charles High School  
6 attend dance classes or dance studies at that  
7 location almost every day.

8 Now, by extension, I think we better be  
9 sure that that doesn't put us within 250 feet of a  
10 secondary school under the State statute. I'm not  
11 sure. I haven't researched that. However, I do  
12 notice that it's not a fact that has been  
13 disclosed in the petitioner's application.

14 Additionally, the petitioner doesn't make  
15 mention of the fact that as a medical marijuana --  
16 having a medical marijuana license, he's allowed  
17 under the State statute to sell recreational  
18 marijuana at his current location or at another  
19 location, and that other location could be in a BR  
20 or a BC District.

21 This is totally unnecessary for them to  
22 continue to do business with their license and  
23 sell recreational marijuana. I have a whole lot  
24 of other stuff, but it goes to the specific use

1       itself.

2               I don't think that there's a basis for  
3       extending the use into an M-2 District when they  
4       can very easily go into a BR or a BC District, and  
5       none of the problems that you're going to hear  
6       about as we proceed tonight will even come up.

7               I have more, but I'm going to save it for  
8       the special use.

9               CHAIRMAN WALLACE: Does the applicant have  
10       a response?

11              MR. RAK: With regards to the school use,  
12       no, that is not something that we were aware of,  
13       that there was an arranged program with the City.

14              In terms of the operation of  
15       recreational -- the operation of selling  
16       recreational cannabis, I would look to Zen Leaf or  
17       Healthway Services to speak to that as well. And  
18       I would also state that based on the 250-foot  
19       distance the -- let's see. Let me look at the  
20       staff report.

21              VICE CHAIRMAN KESSLER: While you're  
22       looking that up, I want to point out that we're  
23       considering the application to add recreational  
24       cannabis dispensing to the special use in the M-2

1 District. The 250-foot rule comes into play only  
2 in the special use application, not in the  
3 application to add it as a special use.

4 MR. RAK: Correct. Right. This is just  
5 in regards to the general amendment for the M-2  
6 District. Correct.

7 VICE CHAIRMAN KESSLER: While that is an  
8 interesting point, it doesn't bear on this  
9 particular application.

10 MR. RAK: I would ask -- well, we can  
11 address that in the special use, I would say.

12 CHAIRMAN WALLACE: Okay. And the other  
13 comment that was brought up related to the  
14 ability, having already possessed -- already  
15 possessing a license, and this applies kind of to  
16 both, but it goes to the necessity of  
17 incorporating the M-2 District into this ordinance  
18 where somebody who already possesses a license  
19 could operate in a BC or BR District.

20 Is there any response to that?

21 MR. MARSICO: My understanding of the --

22 THE REPORTER: Your name, please.

23 MR. MARSICO: Oh, sorry. Anthony Marsico,  
24 M-a-r-s-i-c-o, speaking on behalf of Zen Leaf,

1 3714 Illinois Avenue.

2 I'd start with my understanding of the  
3 ordinance is that one of the approved recreational  
4 dispensaries in St. Charles needs to have one year  
5 of operational experience in the State of  
6 Illinois. The second requirement -- or the second  
7 dispensary needs to have one year of operational  
8 experience in the City of St. Charles.

9 That being said, we're the only ones who  
10 are operating in the City of St. Charles, and  
11 currently, the interpretation of IDFPR, which is  
12 our governing body at the State, is not allowing a  
13 medical dispensary to move locations and also  
14 operate as a recreational dispensary.

15 So we are tied to our location. If we are  
16 going to operate a medical and adult use  
17 dispensary under one roof, we are not allowed to  
18 move locations, and that was I believe the intent  
19 of adding the M-2 District, not only for that  
20 reason, but also we are currently operating a  
21 dispensary in the M-2 District.

22 There's not very many analogies that you  
23 can make to other businesses outside of ours. I  
24 would say that we're successfully and responsibly

1 operating in the M-2 District. We have operated  
2 for nearly four years without incident, and we've  
3 spoken with the fire chief, police chief. We have  
4 their support, and they've spoken on behalf of us  
5 saying that they're comfortable with us as  
6 operators.

7 CHAIRMAN WALLACE: Has there been any --  
8 has the applicant considered asking for a map  
9 amendment to include this property into -- I mean,  
10 it abuts both BC and BR.

11 MR. RAK: Well, I would say a map  
12 amendment -- we haven't spoken with staff about  
13 preparing a map amendment. I think there would be  
14 some additional challenges with joining the BC and  
15 the BR District. I'm not sure our proximity would  
16 warrant that.

17 I would say also that in speaking with the  
18 team, I think by allowing the existing location in  
19 the M-2 District to be a special use, of course --  
20 by allowing the sales of recreational cannabis in  
21 that existing M-2 District, we would, essentially,  
22 be saving one additional location from the  
23 recreational sales.

24 I know the existing requirements say that

1 there would be one location on the east side of  
2 the river and one on the west side of the river.  
3 For lack of a better term, essentially, this is a  
4 two-for-one opportunity. Instead of, you know,  
5 not allowing it in that existing location, then  
6 that could permit the possibility for opening up  
7 another third location, another one on the west  
8 side of the river.

9 VICE CHAIRMAN KESSLER: Could the  
10 applicant open a recreational facility and keep  
11 the medical? Can you have both?

12 MR. MARSICO: So under the State law, we  
13 are able to operate under one roof a medical and a  
14 recreational dispensary. It also gives us the  
15 ability to open plus one, so to speak, so an  
16 additional recreational-only dispensary.

17 While it's possible, it wouldn't be in our  
18 best interest from a business standpoint to open  
19 two dispensaries a mile, less than a mile within  
20 the same municipality, again from a business  
21 standpoint.

22 From a functional standpoint, it's  
23 possible, but we would not move forward with that.

24 CHAIRMAN WALLACE: Jim.

1           MEMBER HOLDERFIELD: I recall when we went  
2 to all this, when we passed the ordinance for  
3 recreational marijuana, and this has been bouncing  
4 around in my head. I remember something to the  
5 effect that the established recreational marijuana  
6 store could add medical.

7           MR. MARSICO: Reversed.

8           MEMBER HOLDERFIELD: Once established, a  
9 medical could not add a recreational. Have I got  
10 that wrong?

11          MR. MARSICO: Yes. It's backwards. So an  
12 established medical -- there's 55 current medical  
13 dispensaries in the State of Illinois. Those 55  
14 are allowed to add recreational under the same  
15 roof they are under today. In addition, each of  
16 those 55 have the right to open an additional  
17 recreational-only dispensary within their DLS  
18 district and that district -- it's geographic  
19 based on Illinois law.

20          MEMBER HOLDERFIELD: But in our case, that  
21 couldn't be on the east side of the river; right?  
22 Because we've got one recreational -- or medical  
23 there.

24          MR. MARSICO: So there could not be an

1 additional one on the east side.

2 MEMBER HOLDERFIELD: The east side.

3 MR. MARSICO: I think what Adam was saying  
4 is that if we didn't include the M-2, potentially  
5 what could happen is you would have a medical-only  
6 on the east side of the river, and then an adult  
7 use on the east side of the river, and an  
8 additional adult use on the west side of the  
9 river. So you would potentially have three  
10 dispensaries in St. Charles.

11 MEMBER HOLDERFIELD: But one medical. I  
12 got it.

13 MR. MARSICO: One medical only and two  
14 recreational additional for a total of three.  
15 That's the possibility.

16 CHAIRMAN WALLACE: Okay. Yes.

17 MR. BOCHTE: Bill Bochte again.

18 Apparently, the sale of recreational  
19 marijuana is a bad thing because they're  
20 suggesting that three would not be good when you  
21 can limit them to two, which is kind of  
22 incongruous.

23 Be clear, the Illinois statute says that  
24 they can open up a second facility in a BR or BC

1 District under our ordinance regardless of whether  
2 or not they are selling recreational, medical --  
3 recreational marijuana in their medical facility.  
4 There's nothing stopping them at this particular  
5 point in time from doing that.

6 VICE CHAIRMAN KESSLER: I don't  
7 understand. Are you saying that they could have a  
8 recreational in their medical facility and open  
9 another recreational?

10 MR. BOCHTE: They could, but they're not  
11 allowed to do it under our statute --

12 VICE CHAIRMAN KESSLER: Right.

13 MR. BOCHTE: -- because they're in an M-2  
14 District.

15 So they want selective zoning here to  
16 increase their bottom line. Regardless of the  
17 fact that there is no -- that they have the  
18 opportunity to do this in BR or a BC District.  
19 It's selective zoning. It's unnecessary and it  
20 just -- all it does is give them an opportunity to  
21 make more money without having to have a second  
22 facility open. It is not good policy as far as  
23 I'm concerned, and it should be denied.

24 And to suggest that they are helping us by

1 precluding three recreational medical marijuana  
2 facilities in our city is preposterous. They come  
3 in here asking you to allow them to sell  
4 recreational marijuana in an M-2 District and  
5 argue that if you let us do that, we won't open up  
6 three stores in your city, we'll only have two.

7 It's hard to believe that they would make  
8 that kind of an argument. All right. I think  
9 this is wrong. I think it's selective zoning.  
10 It's unnecessary. The City Council has already  
11 given them the right to do this in a BR and a BC  
12 District, which avoids a whole lot of problems,  
13 and it should be denied.

14 CHAIRMAN WALLACE: All right.

15 MR. MARSICO: Can I speak again?

16 CHAIRMAN WALLACE: Sure. Come on up.

17 MR. MARSICO: I wasn't proposing that  
18 three is worse than two. All I was alluding to --  
19 and we've had several conversations not only with  
20 this group, City Council, staff. This is a hot  
21 topic, obviously, and has been a hot topic for the  
22 past six months in this municipality.

23 We've heard conversations from aldermen,  
24 staff, and some of the folks at this table -- at

1 this counter that they want to be sensitive to the  
2 community and maybe starting with less, which was  
3 the original intent of limiting the amount of  
4 dispensaries to two, was kind of that process.  
5 Starting slow and seeing what the community effect  
6 was.

7 MEMBER FUNKE: My question is, you know,  
8 we're discussing zoning, but we have a school  
9 that's right next door, and we have young kids  
10 from the ages of 4 to 18 that are using this  
11 school. They're going to be sharing the same  
12 parking lot with, you know, a cannabis use.

13 So when do we discuss that?

14 VICE CHAIRMAN KESSLER: That is part of  
15 the next application because even if we said, yes,  
16 to the special use in an M-2, that special use  
17 could be denied because they're within 250 feet  
18 from a school.

19 MEMBER FUNKE: Okay.

20 VICE CHAIRMAN KESSLER: So this particular  
21 application simply is whether or not we would  
22 extend the zoning districts from the BR District  
23 to include an M-2 District.

24 I'm curious about something and I don't

1 know -- Bill, you seem to be the spokesman, so  
2 I'll ask you. How does the association view the  
3 relationship with the Zen Leaf medical facility?  
4 How is that going?

5 MR. BOCHTE: I think that the relationship  
6 between the parties on an individual basis is  
7 good.

8 VICE CHAIRMAN KESSLER: On a business  
9 basis?

10 MR. BOCHTE: A business basis it's a  
11 problem as far as parking is concerned. It's a  
12 problem with damage to retaining walls. It's a  
13 problem when people are out parking -- instead of  
14 their businesses, they're parking around the back  
15 because they're concerned of them coming out at  
16 night and doing various things. So on that level  
17 it's not going well.

18 As far as the relationship between the  
19 parties individually discussing things, that's  
20 good. They've been nice to our people, and our  
21 people have been nice to them, and there have been  
22 no problems. But, yes, it's problematic. What's  
23 there at this particular point in time, albeit  
24 only medical marijuana, is problematic. It's

1 going to get --

2 MEMBER MACKLIN-PURDY: So you're telling  
3 me that cancer patients and people with different  
4 diseases are causing problems in the parking lot?

5 MR. BOCHTE: I am not telling you that,  
6 ma'am. I am not here to oppose either medical  
7 marijuana or recreational marijuana. I'm here to  
8 oppose allowing that use in an M-2 District.

9 MEMBER MACKLIN-PURDY: No. I'm getting  
10 clarification on what you said about --

11 MR. BOCHTE: I know 15 people myself who  
12 have medical marijuana cards that don't have  
13 cancer, nor do they have anything else wrong with  
14 them which should give them the right to have that  
15 card. So to suggest that the only people going to  
16 that store are people who need the drug for cancer  
17 purposes is just not realistic.

18 CHAIRMAN WALLACE: Are there any M-2  
19 Districts on the west side of the river?

20 MS. JOHNSON: No.

21 VICE CHAIRMAN KESSLER: On the west side?

22 MS. JOHNSON: On the west side, no.

23 VICE CHAIRMAN KESSLER: Are those all in  
24 one? Is that Main Street?

1 CHAIRMAN WALLACE: Yes.

2 MS. JOHNSON: Yes.

3 CHAIRMAN WALLACE: It's all in one. So  
4 the only thing we would be talking about is the  
5 east side of the river. All right.

6 MR. MARSICO: There's something I'd like  
7 to say, and I respect this gentleman's arguments  
8 but they sound -- first, he's speaking on behalf  
9 of the association which seems a lot more specific  
10 to the special use, less to the acceptance of M-2.  
11 So I'm not sure if those arguments are applicable  
12 to this amendment.

13 And especially speaking specifically on  
14 behalf of the association or a couple tenants  
15 specifically of the association, I don't know how  
16 much bearing that holds to this argument.

17 CHAIRMAN WALLACE: Okay.

18 MS. FUNKE: Hello, my name is Carolyn  
19 Funke, and I'm going to speak on behalf of the  
20 community as far as changing the zoning from M-2  
21 to BR regardless of where it's located.

22 I believe strongly that this is uncharted  
23 territory for our whole entire state. We don't  
24 know exactly how these facilities are going to

1 take over and what sort of interest level there's  
2 going to be, what kind of traffic they're going to  
3 bring in.

4 And I think before we start changing  
5 zoning of one area, we should try it where we've  
6 agreed to have it and see how it affects the  
7 community before we pick that we're going to put  
8 it in a new location and change zoning from  
9 something that is manufacturing and is not zoned  
10 retail.

11 So that's basically regardless of where  
12 it's located, I think changing and allowing it in  
13 an M-2 is, you know, a pretty large leap of faith.  
14 That's all I'm saying because we don't really know  
15 how our state is going to deal with it. Many of  
16 the neighboring towns have already decided that  
17 they are, as Naperville said, too family friendly  
18 to want this in their town.

19 We have decided that we are going to allow  
20 it in our town, but I think we need to be  
21 respectful of the fact that one of the things we  
22 pride ourselves on in St. Charles is that we are  
23 family friendly, and we've got signs as you enter  
24 town, and we've won the award in 2011. Our school

1 district shows we won this award. We're family  
2 friendly.

3 So as we've said, if we're going to allow  
4 this, we should try it out first in the districts  
5 that are already zoned for it. That's all I'd  
6 like to say.

7 MEMBER BECKER: I have a question. Could  
8 staff maybe speak to what the conversation was at  
9 the City Council about our suggestion to include  
10 M-2? Could that help inform our decision at all?

11 MR. COLBY: Well, I can state it did come  
12 up as a topic of discussion; however, it was not  
13 able to be considered by the committee or City  
14 Council because it was not part of the initial  
15 public hearing notice for the general amendment  
16 that the Council took action on. So it was not  
17 discussed at length.

18 CHAIRMAN WALLACE: Okay.

19 MS. TUNGARE: Mr. Chairman, the  
20 application for the general amendment, I would  
21 suggest that the Plan Commission redirect their  
22 attention to the findings of fact specifically.  
23 Some of the organizations, from at least my  
24 observation, are getting into the actual special

1 use.

2 CHAIRMAN WALLACE: So the findings of fact  
3 for a general amendment, they're listed in the  
4 materials, but we have six findings of fact, and  
5 we are instructed to consider the findings of  
6 fact, not necessarily to find that they are all in  
7 the affirmative. But maybe it would be --

8 VICE CHAIRMAN KESSLER: I'd be happy to  
9 make comments.

10 CHAIRMAN WALLACE: Okay. Well, I'll just  
11 go over the findings of fact quickly. We have the  
12 consistency of the proposed amendment with the  
13 City's comprehensive plan. So the findings of  
14 fact of the special use, can you clarify?

15 MS. TUNGARE: It would be the findings of  
16 fact for the general amendment.

17 VICE CHAIRMAN KESSLER: Oh, these are the  
18 special use.

19 CHAIRMAN WALLACE: Yeah. So it would be a  
20 general amendment to the zoning ordinance;  
21 correct?

22 MS. TUNGARE: That is correct.

23 CHAIRMAN WALLACE: So the findings of fact  
24 would be the consistency of the proposed amendment

1 to the City's comprehensive plan; consistency of  
2 the proposed amendment with the intent and general  
3 regulations of this title, meaning the zoning  
4 ordinance; whether the proposed amendment corrects  
5 an error or omission, adds clarification to  
6 existing requirements, is more workable than the  
7 existing text, or reflects a change in policy; the  
8 extent to which the proposed amendment would be in  
9 the public interest and would not serve solely the  
10 interest of the applicant; the extent to which the  
11 proposed amendment creates nonconformities; and  
12 the implications of the proposed amendment on all  
13 similarly zoned property in the City.

14 I guess right off the bat I would make a  
15 couple of comments that there would be some  
16 evidence presented that -- I mean I don't know how  
17 you can get around it not serving solely the  
18 interests of this particular applicant, especially  
19 when we have the issue of only allowing one type  
20 of this business on each side of the river, and we  
21 only have the zoning district on one side of the  
22 river. So I don't know. By definition, I think  
23 that that's kind of a hard hurdle to get over.

24 And I don't know, maybe other Plan

1 Commissioners can comment on that.

2 MEMBER VARGULICH: I'm with you.

3 VICE CHAIRMAN KESSLER: I agree.

4 MEMBER VARGULICH: I would tend to agree  
5 for the fact that there is not another zoning  
6 district within the city on the west side, which  
7 is the only other place that the current ordinance  
8 would allow an additional one. So, in effect,  
9 unless they decide to go out of business and allow  
10 somebody else to come in within the M-2 District  
11 or even BC, you know.

12 Well, we would allow medical in M-2;  
13 correct? So unless they would decide to release  
14 their license and go do something else, doubtful,  
15 then it is self-serving because there's no other  
16 place it can happen other than on the east side.

17 CHAIRMAN WALLACE: I don't know. Perhaps,  
18 staff, I don't want to put you on the spot, but  
19 would you be able to comment regarding the  
20 comprehensive plan for this area? I think that it  
21 falls within the east gateway?

22 MS. JOHNSON: I do make some comments in  
23 the staff report, that the land use plan as part  
24 of the comprehensive plan designates all areas

1 zoned M-2 as industrial business park land use,  
2 and it describes that land use category as areas  
3 designed for industrial business park development  
4 intended to accommodate and provide a wide range  
5 of uses, industrial uses, limited office uses,  
6 certain service uses.

7 Then there's one goal that I found  
8 particularly relevant related to industrial  
9 business park areas, a goal to continue to support  
10 and diversify light industrial, business park,  
11 commercial service, economic base, and provide  
12 employment opportunities within the community.

13 And then one objective related to that  
14 goal was to preserve the integrity of the  
15 industrial park by preventing the encroachment of  
16 businesses or land uses that could impact the  
17 long-term viability of industrial areas.

18 And it references parking needs, traffic  
19 issues, and potential impacts to existing or  
20 future industrial business operations should be  
21 considered, and I believe the applicant has  
22 included a couple of other goals and objectives  
23 related to this land use category within their  
24 responses to that finding.

1           MR. RAK: I'll add to that in addition to  
2 Industrial Areas Objective No. 1, which Ellen just  
3 stated, the Areas Objective No. 2 for industrial  
4 areas: Establish and maintain regular lines of  
5 communication with industrial property owners and  
6 businesses.

7           So as we've obviously stated, Anthony here  
8 has had a meeting with the County and the  
9 association to notify the adjacent owners of its  
10 plans and to ask -- frankly to ask for their  
11 support and we will continue -- Zen Leaf will  
12 continue to communicate with adjacent businesses  
13 as needed.

14           I would also cite Industrial Areas  
15 Objective No. 8, ensure that all uses are  
16 effectively screened from adjacent properties and  
17 public rights-of-way through the use of  
18 landscaping and fencing. The existing facility is  
19 adequately screened via landscaping along the  
20 public right-of-way and shared lot lines through  
21 landscaping and berming, and all those existing  
22 measures will be maintained.

23           Regarding the comment about property  
24 damage, there are signs along our parking spaces

1 which I believe prevent -- they state, Please do  
2 not back in because, of course, there is a  
3 retaining wall behind those parking spaces. So we  
4 have signs, or our applicant has signs, Do not  
5 back into these spaces in order to avoid damage on  
6 those parking lots. So I'm not sure if our  
7 applicant is the one who has put those signs up,  
8 but there are signs up to prevent damage to those  
9 parking lots.

10           Additionally, in terms of people parking  
11 where they shouldn't be, Zen Leaf has assigned  
12 specific spaces as well for parking. In total  
13 there are 124 parking spaces. We will have to get  
14 into this in the special use as well.

15           So I can stop now, or I can keep going,  
16 but the 124 parking spaces, there are a total of  
17 17 parking spaces that are currently assigned,  
18 including some of Zen Leaf's own parking spaces,  
19 and then the additional parking spaces that are  
20 assigned are for a business that I believe is  
21 vacant at this point, a graphics business nearby.

22           It is my understanding that the parking  
23 spaces that are not assigned are then actually --  
24 it's less -- it's not enforced in terms of who is

1 parking where. So I would assume that our  
2 business, we are encouraging our employees to park  
3 in the back of the building in order to maintain  
4 as much parking, whether it's assigned or not, at  
5 the front of the building as well.

6 So in regards to the comment about  
7 property damage, there is a sign that says, Please  
8 do not back into these spots in order to protect  
9 the retaining wall, and we are assigning spaces  
10 when it's necessary as well.

11 CHAIRMAN WALLACE: All right.

12 MR. BOCHTE: I feel the need -- oh, I'm  
13 sorry.

14 MR. RAK: Regarding the other findings --  
15 I'm just flipping through my list. The  
16 consistency with the proposed amendment with the  
17 intent and general regulations of this title.

18 The proposed amendment supports the  
19 following purpose statements listed in the  
20 ordinance, Chapter 17.02: Maintaining businesses  
21 and industrial areas that are attractive and  
22 economically viable by providing the opportunity  
23 for new economic activity within a newly  
24 established industry; and promoting the public

1 health, safety, comfort, convenience, and general  
2 welfare by limiting the use to locations where  
3 existing medical dispensaries operate, requiring  
4 special use approval in order to bring in  
5 recreational cannabis uses at the existing medical  
6 location and prohibiting on-site consumption  
7 as well.

8 Finding No. 3, whether the proposed  
9 amendment corrects an error or omission, adds  
10 clarification to existing requirements, is more  
11 workable than the existing text, or reflects a  
12 change in policy. We feel that the proposed  
13 amendment aligns with the State of Illinois  
14 Cannabis Regulation and Tax Act, and the proposed  
15 amendment requests a change in City policy to add  
16 recreational cannabis as a special use.

17 A couple more, the extent which the  
18 proposed amendment would be in the public interest  
19 and would not serve solely the interests of the  
20 applicant. We believe that the proposed amendment  
21 allows for the regional economic activity related  
22 to this newly established industry.

23 The amendment would be limited in such a  
24 way as to minimize impacts on the community for

1 reasons which I stated previously, including the  
2 special use process, which would allow for public  
3 discussion of allowing the use in the M-2  
4 District, and the proposed amendment would  
5 increase the tax base for the public by allowing  
6 medical dispensaries in M-2 to sell to a larger  
7 consumer group.

8 No 5 is the extent to which the proposed  
9 amendment creates nonconformities. We do not  
10 believe the proposed amendment will create any  
11 nonconformities, specifically, enumerate the  
12 recreational cannabis dispensing organization as a  
13 special use in the ordinance.

14 Finally, the implications of the proposed  
15 amendment on all similarly zoning property. The  
16 proposed amendment would be limited to the two  
17 locations as dictated by City policy.

18 So that's our six findings there.

19 CHAIRMAN WALLACE: Mr. Bochte.

20 MR. BOCHTE: Yes, just briefly. In  
21 response, Anthony did meet with the association  
22 members. One of the things he informed them of is  
23 the fact that he currently has an average of 100  
24 people per day. Once he starts selling

1 recreational marijuana, he will have, he is  
2 estimating, 600 people per day.

3 To suggest that there are 127 parking  
4 spaces available is not quite true. There's 128  
5 parking spaces, five are handicapped parking  
6 spaces, and 123 of the parking spaces are  
7 specifically assigned to the owners of the units  
8 based upon square footage.

9 They currently have 13 spaces. They say  
10 in their application that they are attempting to  
11 lease additional spaces from another unit owner;  
12 and if successful, they then will have 15 to  
13 comply with the M-2 requirement with an extra two.  
14 So they'll have 17 parking spaces and 600 people  
15 a day.

16 And there is more to go with that, but it  
17 is more pertinent to the actual special use  
18 application and not the general amendment.

19 This does not comply with the  
20 comprehensive plan. The comprehensive plan is to  
21 keep an M-2 District as light industrial and not  
22 to bring businesses with immense traffic into that  
23 particular district. It isn't part of the  
24 comprehensive plan. To suggest that it is is just

1 inappropriate.

2           When I have -- when I'm an owner, a unit  
3 owner of an industrial -- of a light industrial  
4 use in an M-2 District, and all of a sudden I've  
5 got 600 people per day on average coming into my  
6 facility parking lot, that's not consistent with  
7 the comprehensive plan for an M-2 District. It  
8 just isn't.

9           That's all I have to say.

10          CHAIRMAN WALLACE: Yes.

11          MR. MARSICO: I'd like to respond to a  
12 couple of those. The mention of 600 would be  
13 during the -- and this was during a meeting we had  
14 with the association on Friday of what is an  
15 absolute worst-case scenario based on our  
16 operational experience nationally.

17           I used that as a high number based on our  
18 experience in the adult use market, which is also  
19 a market that we've seen go from medical to adult  
20 use, and I can also say that our dispensary there  
21 is in a similar type setting. It's in a medical  
22 district office space type setting. I can't speak  
23 to the exact zoning, but I can say it's a similar  
24 type setting.

1           And the other thing is that the ordinance,  
2 as passed by City Council, requires us to have 15  
3 spaces.

4           I agree, but they're bringing it up, so  
5 I'm going to bring it up here. I would say that  
6 most of the arguments are towards the special use.

7           The ordinance states that 15 spaces are  
8 required. We have 13, and we have secured an  
9 additional four. We're not trying to secure.  
10 It's been executed. So per the ordinance, 15  
11 spaces based on our square footage. We have in  
12 access of that.

13           Do you want to speak to the --

14           MR. RAK: Yeah. I'd like to hopefully --  
15 because we can address some of these things in  
16 terms of the analysis of the parking along  
17 with Lynn Means, who is our senior transportation  
18 engineer, who is consulting on the project. So  
19 we'll talk a little bit more about parking as well  
20 as some of the traffic concerns.

21           But I'd like to refocus the conversation  
22 back on the general amendment because I do  
23 believe -- there is an opportunity to cover that  
24 stuff in this special use as well.

1 CHAIRMAN WALLACE: Hold on a second.

2 Ma'am.

3 MS. FOWLER: Yes, I would like to talk --

4 CHAIRMAN WALLACE: Say again. I'm sorry.

5 MS. FOWLER: I'd like to talk now.

6 CHAIRMAN WALLACE: Sure.

7 MS. FOWLER: My name is Beth Fowler. I am  
8 the Beth Fowler School of Dance, which I've owned  
9 for 36 years. I actually have some pictures. Can  
10 I pass this out so everyone can kind of have a  
11 visual.

12 CHAIRMAN WALLACE: Why don't you bring  
13 them to me.

14 MS. FOWLER: Like I said, I've had this  
15 studio for 36 years. I started a dance studio  
16 when I was just 15. I started dancing  
17 professionally at age 13, started my own studio  
18 and own business at 15. Then 10 years later when  
19 I was 25, I opened three locations. I had three  
20 locations going on at once.

21 My point is that I've worked really hard  
22 for 36 years, built a very good reputation for  
23 what I do and I have -- currently I own an  
24 8,000-square-foot facility in Genoa. I've

1 consolidated three locations together, and I have  
2 that location. I also invested in St. Charles,  
3 and I also own an 8,000-square-foot facility here  
4 in St. Charles as well.

5 I'm doing really great in St. Charles.  
6 It's been wonderful. We're the dance leaders in  
7 our areas, and we do more than just dance. We're  
8 bringing character to young children. I have 300  
9 students that come through the St. Charles  
10 location. 300 students anywhere from age 3  
11 through 18. And these kids are going through the  
12 studio. We're open seven days a week.

13 And I just want to make sure that we all  
14 understand that there is a voice from the studio.  
15 I'm very concerned because -- well, first of all,  
16 I want to say the association has been very open  
17 minded. I think we would agree we were very open  
18 minded at the meeting.

19 But every scenario I tried to create, it  
20 just did not make sense for the safety of the  
21 kids, the safety of the business that I've  
22 established over 36 years. I've worked hard for  
23 this. It doesn't benefit me at all where children  
24 are going to be, you know, coming into a situation

1 like that.

2 The bottom line -- it's not a scenario.  
3 This is a fact. The fact is because we are an  
4 after-school activity, we're open -- our hours are  
5 3:00 p.m. to 10:00 p.m. So we're open at night.  
6 Right now it gets dark at 4:00, 4:30. So the  
7 entire time we're having classes pretty much it's  
8 dark, and this is a very secluded industrial park.

9 There's not a lot of traffic through  
10 there. It's dark, and it's secluded. I myself --  
11 when I'm closing up at 10:00 o'clock at night,  
12 it's a little scary.

13 The fact that, like I said, what the  
14 actual reality is, he had mentioned that they  
15 actually by law can be open until 10:00 p.m. at  
16 night, but they're going to try to start to stay  
17 open until 8:00 -- like until 8:00. So from 3:00  
18 until 8:00, we will be the only two businesses  
19 open.

20 So when you pull into the driveway,  
21 there's only two lights on. You're going to  
22 have -- you're going to have the -- I'm not sure  
23 of the terminology -- the recreational marijuana  
24 sales, and then there's one business in between

1 us, and then there's the school of dance.

2 We have 30 kids, 20, 30 kids in a class.

3 So when there's 30 kids, you know, going into a  
4 class, there's 30 kids coming out of class.

5 There's a lot of traffic with the kids and the  
6 cars coming and going.

7 But I guess the most scary thing for me  
8 when I was thinking of the scenario was that my  
9 parents, which, in general, parents with young  
10 children that want to invest their kids into  
11 ballet and the discipline that ballet gives them,  
12 these are really conservative parents. This is  
13 not good for my business.

14 So when you pull into these -- you know,  
15 to the business or to the association building  
16 late at night, you're going to have two lights on.  
17 My parents are going to drive by Zen Leaf first  
18 and see the action going on and this -- I haven't  
19 talked to my parents. I don't want them to know  
20 about this. I haven't talked to them about this.

21 However, I have had some parents come  
22 to me very, very concerned since Saturday night  
23 actually. Like I said, I have not talked to  
24 parents. They're coming to me with concerns and

1 rightfully so.

2           So also the other thing is when you've got  
3 their clients coming, what are they going to see.  
4 They're going to see Zen Leaf open, and they're  
5 there to get what they're there for, and then  
6 they're going to see other lights on, a dance  
7 studio. Big windows in front, cute little girls  
8 in leotards. So they're going to see the girls  
9 until 10:00 o'clock at night.

10           It's only us two. It's not like they're  
11 not going to -- they're going to notice. There's  
12 only two of us open at night. So that's my  
13 concern, and there has been times where customers  
14 have walked down there.

15           It came up -- actually, I didn't know  
16 about it until we had the meeting on Friday what  
17 was happening from the windows of the studio or  
18 around the corner of the studio. There has been  
19 some people coming down there. So this is a very  
20 big concern.

21           As far as my reputation here in town,  
22 there was two other dance studios in town that  
23 actually went to the high school, St. Charles East  
24 dance team, and did offer them to be the studio to

1 train them. I never approached this high school.  
2 They kindly turned those two studios down and made  
3 contact with me. They wanted me to train them,  
4 and they're also renting space from us.

5 So I have established specific classes  
6 just for the dance team. There's 40 kids on the  
7 dance team. So my 300 kids, plus their 40 from  
8 the high school that come, and I train them.  
9 Their coaches come to our facility, and they also  
10 have their practices there, as we're a large  
11 facility, so we can fit everybody there.

12 And so I'm very privileged. I feel very  
13 privileged that they had actually come to me to  
14 train the dance team, and the other thing is this  
15 dance team did not qualify for State in the last  
16 five years. After working with them for eight  
17 years, not only did they qualify for State, they  
18 placed at State and got first place at their  
19 sectionals.

20 So this has been a very good thing -- I  
21 feel a good thing for St. Charles. I feel like  
22 I've done a lot of good here, and I'm raising  
23 characters, good characters. These kids are --  
24 these kids do not get in trouble. They're dancing

1 20 hours a week. These kids are really great  
2 kids, and they're building great characters, and  
3 I'm very proud of them for that.

4 So yeah, I guess that's just my concern,  
5 with the safety of our kids, like I said, 340  
6 kids. There are things in place that talk about  
7 the safety of kids. I'm pretty much a preschool,  
8 a grade school, and a high school all in one just  
9 with the kids that are there.

10 And the other thing is when I first came  
11 to St. Charles 10 years ago -- I've been in  
12 St. Charles now for 10 years. I was in the strip  
13 mall on the corner of 64 and Dunham. I was in the  
14 strip mall. It was a great business. It went  
15 well, obviously, if I can buy a place after the  
16 five-year lease was up.

17 But the problem was -- why I left also was  
18 there was a bar three doors down, and parents had  
19 concerns with the bar. The kids could not walk,  
20 you know, past the bar to the 7-11 and the pizza  
21 place without people hollering at them when they  
22 walked by. So parents were very concerned, and so  
23 they didn't allow the kids to leave the studio  
24 anymore during their lunch breaks.

1           So that being said, when I went to go find  
2     a place that I could invest in in St. Charles, I  
3     needed to find something long-term, that was big,  
4     and I wouldn't have to worry about outgrowing that  
5     facility. But some place safe that I didn't have  
6     to worry about a bar going in, a liquor store  
7     going in, and I purchased a place that was not  
8     zoned retail because I knew it was safe.

9           So if I'm not safe in a strip mall, if I'm  
10    not safe in an industrial park, where do I go?  
11    Where do I buy? I've already purchased this  
12    building. It was a big investment.

13          Like I said, 36 years I've been in the  
14    business. My daughter, who is 24, already has  
15    plans to take it over to the next generation.  
16    We'll be around for another 36 years or probably  
17    even longer.

18          So I just wanted to have a little voice  
19    for the studio. We're very committed to what we  
20    do there. We're doing a good job in St. Charles,  
21    and I just wanted to let you know. Thank you so  
22    much for listening.

23           CHAIRMAN WALLACE: All right. Thank you.

24           MEMBER MELTON: How long have you been

1 there?

2 MS. FOWLER: 10 years. Well, I've been in  
3 St. Charles for 10 years.

4 MEMBER MELTON: In this location 10 years?

5 MS. FOWLER: Well, no. When I first came  
6 to St. Charles, I was actually in the same unit  
7 that I'm at now. I was renting it. But then I  
8 wanted my -- I was renting from a martial arts  
9 studio, so I wanted my own place. So I did a big  
10 build-out in the strip mall, \$120,000 build-out, a  
11 big build-out.

12 MEMBER MELTON: You've been at the current  
13 place we're talking about for 10 years.

14 MS. FOWLER: Five. I was in the strip  
15 mall for five years.

16 MEMBER MELTON: Okay.

17 MS. FOWLER: Then another five years, I  
18 came back to where -- which is where I'm at now.

19 MEMBER MELTON: And when did Zen Leaf  
20 start there?

21 MR. MARSICO: Approximately, it will be  
22 four years.

23 MEMBER MELTON: So you were there first.

24 MS. FOWLER: Correct.

1 MEMBER MELTON: Thank you.

2 VICE CHAIRMAN KESSLER: I have a question.

3 MS. FOWLER: Yes.

4 VICE CHAIRMAN KESSLER: You say 300  
5 students?

6 MS. FOWLER: Yes.

7 VICE CHAIRMAN KESSLER: At this location.

8 MS. FOWLER: I have two locations; but the  
9 other location comes out here on weekends to  
10 rehearse.

11 VICE CHAIRMAN KESSLER: So at this  
12 location, how many students do you have?

13 MS. FOWLER: About 200.

14 VICE CHAIRMAN KESSLER: How come when I  
15 look at the parking charts, they're unable to  
16 determine how many spaces are needed for those 200  
17 students? When I looked at the special use  
18 application, there's parking, and I'll tell you  
19 what pages they're on.

20 MS. FOWLER: The nice thing about my  
21 business is the other businesses are only open  
22 until 4:00 or 5:00. Right now I'm the only one  
23 that's open past 4:00 o'clock or 5:00 o'clock, and  
24 plus my business is a lot of drop off.

1 VICE CHAIRMAN KESSLER: Besides Zen Leaf.

2 MS. FOWLER: I'm not sure how late they're  
3 open right now.

4 VICE CHAIRMAN KESSLER: It's on page 24 of  
5 the application, it says unknown under parking  
6 required. It's the only one for the school of  
7 dance. They have 6,000 square feet. They have  
8 200 students. They have 16 parking spaces  
9 allocated.

10 MR. RAK: The reason that that's listed as  
11 unknown is because we didn't have the data related  
12 to the students.

13 MS. FOWLER: I'm sorry. I don't have 200  
14 at one time, throughout the entire week.

15 VICE CHAIRMAN KESSLER: Throughout the  
16 week.

17 MS. FOWLER: Yeah.

18 CHAIRMAN WALLACE: Hold on. One person at  
19 a time, please.

20 Go ahead.

21 VICE CHAIRMAN KESSLER: That's why I'm  
22 asking. You have 200 students; correct?

23 MS. FOWLER: Correct.

24 VICE CHAIRMAN KESSLER: Throughout the

1 week.

2 MS. FOWLER: Throughout the week, yes.

3 VICE CHAIRMAN KESSLER: Okay. Thank you.

4 CHAIRMAN WALLACE: All right.

5 VICE CHAIRMAN KESSLER: I wanted to finish  
6 this. I just wanted to get to the bottom of this  
7 because how many customers -- how many customers  
8 do you have in the course of a week?

9 I mean, it says here, you know, we have  
10 per 1,000 square feet, we have 15 spaces required.  
11 You're talking about managing about 600 customers.  
12 Right now you have 100 customers a day.

13 MR. MARSICO: Sure.

14 VICE CHAIRMAN KESSLER: Okay. A hundred a  
15 day. Okay. So that answers that question. Then  
16 you didn't -- I'm sorry.

17 MR. RAK: Yeah. I think, and let me know  
18 if you disagree. I don't know. If we can present  
19 the special use portion of this, I think a lot of  
20 this will be answered.

21 CHAIRMAN WALLACE: That's why I was going  
22 to cut this off because we are going to get to the  
23 special use portion, and I would like to redirect,  
24 try to redirect the Plan Commission back to what

1 we're talking about now which is the general  
2 amendment. We have strayed into more of the  
3 specifics regarding this particular property, but  
4 let's focus our attention back on the general  
5 amendment.

6 VICE CHAIRMAN KESSLER: Well, I would like  
7 to say one thing, and then I'm prepared to make a  
8 motion. You know, as difficult as it is for  
9 everybody here, the commissioners, the audience  
10 alike, it's impossible to separate the  
11 recommendation for or against recreational  
12 marijuana from this discussion, and the Plan  
13 Commission's role here is simple, to look at the  
14 findings of fact.

15 Whether or not any of us may be for it or  
16 against it or whether or not anybody in the  
17 audience may be for it or against it, we base our  
18 recommendation on findings of fact.

19 We have reviewed the findings of fact as  
20 they are presented to us, and the applicant  
21 reviewed the findings of fact as they read them.  
22 And so the recommendation we will end up voting on  
23 and either approving or denying is simply based on  
24 findings of fact, not whether or not -- what we

1 think of the people that may or may not use  
2 medical or recreational marijuana, whether or not  
3 any of us are for it or against it, whether any of  
4 us think that it's right for our City or not.  
5 Those are not facts that are relevant to the Plan  
6 Commission's findings.

7 So with that, I would like to make a  
8 recommendation for --

9 CHAIRMAN WALLACE: Okay. Let me make sure  
10 we don't have more questions or comments from the  
11 audience, specifically relating to the general  
12 amendment question.

13 Mr. Bochte.

14 MR. BOCHTE: My final comment is to  
15 clearly make sure that we pay attention to finding  
16 No. 4, the extent to which the proposed amendment  
17 would be in the public interest and would not  
18 serve solely the interest of the applicant.

19 This amendment will serve no one's best  
20 interest except for that of the applicant. I  
21 don't believe that finding can be made.

22 CHAIRMAN WALLACE: Yes, sir.

23 MR. KENNY: My name is Bob Kenny. I'm one  
24 of the attorneys for the project.

1           The first thing I would say is Adam did  
2           respond specifically to that finding; but also the  
3           way your ordinance is written, you don't need to  
4           find each and every one of those exists for you to  
5           pass what I call a text amendment, a general  
6           amendment. Pursuant to findings, but you don't  
7           have to find that each one of them exists, which  
8           is different than the special uses and variations  
9           and things. Thank you.

10           MEMBER FUNKE: I just wanted to say real  
11           quick, from a planning standpoint when you're  
12           thinking about, you know, a retail business in  
13           manufacturing districts, think about the seclusion  
14           of the industrial manufacturing districts, how do  
15           you access them. I mean, they're typically you  
16           have to go down -- where retail businesses are on  
17           busy roads and a lot of visibility, a lot of  
18           lighting in the parking lot, and they provide a  
19           lot of parking from the store, from the retail  
20           store.

21           When you're thinking about a manufacturing  
22           district, you're thinking about businesses that  
23           are open during the day, that are trucks and  
24           things of that nature, but not as many entrances,

1 not as much visibility.

2 So my concern would be, you know, it would  
3 be like putting a liquor store inside a  
4 manufacturing district. What type of people are  
5 going to be coming in here, and, you know, what  
6 kind of space designation are you creating.

7 MEMBER BECKER: And when you look again at  
8 the table of permitted special uses, I think what  
9 you're saying is absolutely right. It's a retail  
10 use, and it is not compatible or appropriate with  
11 the manufacturing uses as defined by the tables.

12 CHAIRMAN WALLACE: Yes.

13 MR. RAK: I just want to make one point,  
14 and I think we can address those in the special  
15 use application in our findings of fact there as  
16 well as with some additional testimony from Lynn.

17 But I just want to make one comment. The  
18 use, essentially, exists now. We are selling --  
19 there is a retail use, albeit selling to medically  
20 prescribed patients. Essentially, we will just be  
21 continuing that use with a larger consumer pool;  
22 and then given we can meet the parking  
23 requirements in the ordinance and given that we  
24 can testify that traffic will not be an issue and

1 the local roads will not be affected negatively, I  
2 believe this is an appropriate use as we move  
3 forward.

4 CHAIRMAN WALLACE: Any other questions or  
5 comments?

6 MEMBER MACKLIN-PURDY: Can I just say I'm  
7 actually the plan commissioner that recommended  
8 the M-2 District be considered, and some of the  
9 reasons why I did make that recommendation was,  
10 one, because he's run a successful business right  
11 now. Zen Leaf has no incidents right now for the  
12 last four years.

13 And I have to be honest, for the reason  
14 that you said, Jeff, was because there wasn't as  
15 much visibility. It is a destination retail  
16 establishment, and we didn't have to be concerned  
17 with how many feet it was away from a school, so I  
18 thought. I don't know. I'd like to understand a  
19 little bit more about the dance school and how  
20 that falls under the jurisdiction.

21 And also taking into consideration light  
22 industrial, it's a pretty benign area is what I,  
23 and I mean it was actually approved, we all felt.  
24 So those were some of the reasons. Specifically

1 because Zen Leaf has run a very successful and  
2 without incident business for the last four years.

3 I actually toured the facility. You have  
4 to go through security to get into the  
5 establishment. There's cameras all over. And  
6 it's run with a very tight ship, tight operation.

7 And if there wasn't a dance school, I'm  
8 just wondering if we would be considering this the  
9 same way. That's all I want to say.

10 CHAIRMAN WALLACE: Question for the staff.  
11 Would it be, in your opinion, advisable to  
12 continue the public hearing to get an opinion  
13 regarding that specific use? Because this is new  
14 information that's come up to the Plan Commission,  
15 and I think it affects both applications.

16 MS. JOHNSON: The question of the school?

17 CHAIRMAN WALLACE: Correct.

18 MS. JOHNSON: I can speak a little bit to  
19 that if you'd like me to, and then you can  
20 determine if you need more information.

21 So the ordinance that was approved by City  
22 Council for the general amendment permitting  
23 cannabis sales included a 250-foot separation  
24 requirement from two types of schools, primary and

1 secondary, and private boarding schools.

2 The Beth Fowler School of Dance would be  
3 considered a specialized instructional school, and  
4 that's defined in the zoning ordinance. Let me  
5 open up the definition, and I can read that  
6 definition: "A private for profit or nonprofit  
7 establishment where the primary business is  
8 providing specialized instruction, not necessarily  
9 limited by age, such as driving, trade,  
10 specialized academic, vocational, art, music, and  
11 dance schools."

12 And I can also read the definition of  
13 primary and secondary and private boarding  
14 schools, if you'd like.

15 CHAIRMAN WALLACE: I think that answers  
16 the question.

17 Mr. Bochte.

18 MR. BOCHTE: Yes. Briefly, just so you're  
19 aware, St. Charles High School leases space in  
20 that center from the dance school.

21 CHAIRMAN WALLACE: Okay. Caroline.

22 MS. FUNKE: I would also like to touch on  
23 what Laura mentioned about Zen Leaf running a  
24 successful and safe business for four years and

1 there has been no problems.

2 This is a totally different kind of  
3 business. I mean we're talking about medical  
4 marijuana where you have to have a license to get  
5 it administered to you to anyone in the public who  
6 is over the age of 21 being able to go. So it's  
7 very, very different.

8 And I'd like to speak on behalf of the  
9 school aspect. I have a vested interest in this.  
10 My four daughters all attend this school of dance,  
11 and I have an 11-year-old there, a 13-year-old, a  
12 16-year-old, and a 18-year old that all dance  
13 there.

14 If we're protecting our students in  
15 schools from these kinds of facilities, why would  
16 we turn around and say that a school of dance  
17 doesn't really count as a school. I think that  
18 would be something that our, you know, city might  
19 need to define a little bit more seriously and  
20 have it looked at because the purpose of that is  
21 to protect the children in our community, and we  
22 just heard about a large group of children that  
23 attends this school and I think that -- like I  
24 said, I have not had a problem with Zen Leaf. Zen

1 Leaf is a different business than a retail  
2 location selling recreational marijuana to anyone  
3 over the age of 21.

4 So I would imagine that their security  
5 will change, their admittance into the building  
6 will change, and it will be run probably a lot  
7 more like a liquor store where you have to show an  
8 ID to prove that you're 21 to purchase once you're  
9 there.

10 So I think all of that will change, and it  
11 will not be the same business that it's been for  
12 four years. I think that is a big concern because  
13 many of the dance families at our school don't  
14 even really know what Zen Leaf is. I mean people  
15 have said, Oh, I just realized when I saw that  
16 person coming out of the, you know, van in a  
17 wheelchair, and the sign is nondescript. People  
18 don't really know what it is. It's almost like a  
19 doctor's office.

20 And it's going to change drastically, and  
21 we're in uncharted territory. We don't know what  
22 that change is going to be. That is why I propose  
23 that -- I would hope that we would consider just  
24 not affecting and changing uses of that building

1 until we see how it operates within our city.

2 Thank you.

3 CHAIRMAN WALLACE: Thank you.

4 MS. TUNGARE: Mr. Chairman, if I may.

5 CHAIRMAN WALLACE: Yes.

6 MS. TUNGARE: I know it is difficult, but  
7 I propose the Plan Commission once again refocus  
8 on the general amendment application. So the  
9 discussions about the specialized school versus  
10 what's defined as a school in the ordinance really  
11 goes more to the special use application than the  
12 general amendment application.

13 I know it's difficult to separate the two,  
14 but to the extent possible, I propose that the  
15 Plan Commission do that.

16 So at this point, I would suggest that,  
17 respecting the time, maybe focus on the general  
18 amendment application, and see if the Plan  
19 Commission has enough evidence to close the  
20 hearing or continue the hearing; and if you decide  
21 to make a recommendation on the general amendment  
22 application, maybe the special use application is  
23 one that can be continued to the next meeting.

24 CHAIRMAN WALLACE: Well, and I'm going

1 to -- hold on one second. It's up to the  
2 applicant, and I'm going to give you the option  
3 because if the Plan Commission feels that they  
4 have enough evidence to make a recommendation,  
5 then we will close the public hearing, absent a  
6 request from the applicant to continue the public  
7 hearing to provide additional information at a  
8 later date.

9 I think that -- I mean I think you're well  
10 aware that one application is really going to  
11 float into the next.

12 Do you have a comment?

13 MEMBER PRETZ: Well, I got lost there for  
14 a second when Rita was talking.

15 Rita, are you saying that for -- not the  
16 special use itself, but for the general amendment,  
17 that the school aspect, the 250 feet doesn't come  
18 into play?

19 MS. TUNGARE: That is correct.

20 MEMBER PRETZ: Okay.

21 MS. TUNGARE: So that is part of the use  
22 standards which are related to the specific use.

23 MEMBER PRETZ: For the special use itself.

24 MS. TUNGARE: That is correct.

1 MEMBER PRETZ: Okay. Thank you.

2 I just want to make a comment as it  
3 relates to that aspect and the gentleman who made  
4 the statement that the high school is leasing  
5 space within that school. I would like -- which  
6 is a nice statement, and I'm going to assume it's  
7 true, but I would like to see something that  
8 actually says that the high school actually has  
9 space at the dance school, which would then  
10 indicate that it's an extension of a secondary  
11 school.

12 CHAIRMAN WALLACE: Well, I think that's  
13 something that would come into play during the  
14 second application -- the public hearing for that.

15 So we have to stay, again, on the general  
16 amendment.

17 MR. BOCHTE: We have a written lease.

18 CHAIRMAN WALLACE: Okay. Focusing on the  
19 general amendment application, do we have  
20 additional questions from the plan commissioners?

21 Hold on one second.

22 Okay. For anyone who has offered any  
23 evidence. All right.

24 Do we have any additional -- I'll give you

1 a chance in just a second.

2 Anything additional from any members of  
3 the audience?

4 MEMBER VARGULICH: I just have a quick  
5 question. It's probably more for staff.

6 On the general amendment, unfortunately,  
7 we have an issue around --

8 THE REPORTER: Can you speak up a little  
9 bit.

10 MEMBER VARGULICH: -- parking, that's not  
11 really a particular issue for the general  
12 amendment; is that correct?

13 CHAIRMAN WALLACE: That is correct.

14 MS. TUNGARE: It is not site specific. A  
15 general amendment is not site specific.

16 MEMBER VARGULICH: That's all I have.  
17 Thank you.

18 CHAIRMAN WALLACE: Did you have something,  
19 sir?

20 MR. COLEMAN: I do. My name is Mark  
21 Coleman from Coleman Land Company. I own a local  
22 real estate company that's been in business since  
23 1940. I currently represent Jerry and Norma  
24 Penick who own 3710 Illinois Avenue, two doors

1 away from the applicant.

2 I don't have any problems with the  
3 business use. I wish all them all the best  
4 success, but 10 or 12 business owners have  
5 invested in that St. Charles Commons, spent \$10 or  
6 \$15 million on that investment.

7 I'm trying to sell the 3710 unit. It's  
8 been on the market for about a year and a half,  
9 and I currently have a golden buyer who has come  
10 forward, who are in the letter-of-intent stage.  
11 This is an international company seeking to set up  
12 a laboratory testing service, if you will.

13 It's a very appropriate use for the M-2  
14 zoning, and they are aware of Zen Leaf two doors  
15 down. They don't have a problem with that; but if  
16 we go from the signature use and double it or  
17 triple it -- I have no idea what your projected  
18 traffic is, but I assume it's going to increase;  
19 is that a fair statement?

20 MR. MARSICO: Getting into the special use  
21 again. This is special use, not general  
22 amendment.

23 MR. COLEMAN: In the letter-of-intent  
24 stage, I'm sure they're going to be contemplating

1 and thinking about more congestion into that  
2 project. So I hope it doesn't cost the deal. It  
3 could. And then it will be a vacant building back  
4 on the market. So please take that into  
5 consideration in the M-2 discussion. Thank you.

6 CHAIRMAN WALLACE: All right. Thank you,  
7 Mr. Coleman.

8 All right, anything else?

9 MR. RAK: I was just going to ask if it  
10 would be appropriate to take a five-minute recess  
11 so we can discuss our options.

12 CHAIRMAN WALLACE: Sure. Yep. We'll take  
13 five minutes.

14 (A recess was taken from 9:34 p.m. to  
15 9:39 p.m.)

16 CHAIRMAN WALLACE: All right. This  
17 meeting of the City of St. Charles Plan Commission  
18 will come back to order.

19 Yes, sir.

20 MR. KENNY: Mr. Chairman, Bob Kenny, one  
21 of the attorneys for the project.

22 We think it's in the best interest of  
23 everybody that we ask for a continuance before you  
24 take a vote on either the general amendment or

1 further for the special use.

2 We do not believe the issue of a school is  
3 relevant to the general amendment, but you have  
4 questions. We'd rather resolve questions so that  
5 when you do take a vote, you're comfortable with  
6 what you're basing it on.

7 So we're suggesting a continuance of both  
8 matters, but what we are requesting also is a copy  
9 of this lease that we have heard about and not  
10 seen regarding the school leasing space in the  
11 St. Charles Commons.

12 CHAIRMAN WALLACE: Ms. Fowler, since you  
13 raised that issue, would you be willing to provide  
14 a copy of the lease?

15 MS. FOWLER: Absolutely.

16 MR. BOCHTE: We have given a copy of the  
17 lease to the staff.

18 VICE CHAIRMAN KESSLER: A copy of the  
19 lease for the St. Charles High School.

20 MR. BOCHTE: Yes. To the staff.

21 CHAIRMAN WALLACE: To the staff, correct.

22 MR. BOCHTE: The applicant knows how to  
23 get it.

24 CHAIRMAN WALLACE: Sure. I understand.

1 One of the things that I will raise before we  
2 entertain the motion or have a motion for a  
3 continuance is -- and we were about to get around  
4 to this, but it's regarding the compatibility of  
5 use, and that's really one of the things, if you  
6 can provide evidence relating to that,  
7 specifically looking at the uses that are  
8 permitted in the M-2 Zoning District, and speaking  
9 to the proposed use and the compatibility of that  
10 use to those permitted uses.

11 MR. KENNY: Yes.

12 CHAIRMAN WALLACE: I think that's one of  
13 the things that would be important in our  
14 consideration when we vote on this.

15 MR. KENNY: Yes. And if there's any other  
16 issue or question you have, it would be helpful  
17 for us to know so we can address it when we  
18 return.

19 CHAIRMAN WALLACE: Sure.

20 Mr. Bochte.

21 MR. BOCHTE: As Rita correctly suggested,  
22 the general amendment is not site specific.  
23 Should we prevail on the general amendment, on  
24 opposing the general amendment, we will never get

1 to the special use application.

2 CHAIRMAN WALLACE: From a practical  
3 standpoint, yes; but from a procedural standpoint,  
4 all that we're doing is making a recommendation to  
5 City Council.

6 MR. BOCHTE: I understand that, but if  
7 we're not going to get to the second -- if, in  
8 fact, you decide that you're going to recommend --  
9 you're going to deny the special use in an M-2  
10 District, you won't hear the rest.

11 MR. KENNY: I wouldn't say that.

12 CHAIRMAN WALLACE: Hold on. Hold on.

13 MR. BOCHTE: We'll hear them both  
14 regardless?

15 CHAIRMAN WALLACE: We will conduct a  
16 public hearing on both applications.

17 MR. BOCHTE: All right. My point was if  
18 we're not going to the second step, I'm not going  
19 to make my clients -- one of my client's private  
20 records available to the City to be given to the  
21 applicant.

22 CHAIRMAN WALLACE: Understood.

23 MR. BOCHTE: Okay. But if we are going to  
24 go, then obviously we will.

1           CHAIRMAN WALLACE: Sure. And we will  
2 have -- unless the application is withdrawn, which  
3 I don't anticipate it would be, then we will go  
4 forward with the public hearing that's currently  
5 open for the general amendment.

6           We will make a recommendation, and  
7 regardless of what that recommendation is, we will  
8 still conduct a public hearing for the special use  
9 and make a recommendation on that as well, so yes.

10          MR. KENNY: Thank you.

11          CHAIRMAN WALLACE: Any further questions  
12 before I entertain a motion? Okay.

13          (No response.)

14          CHAIRMAN WALLACE: Is there a motion? A  
15 motion would be in order at this point based on  
16 the request of the applicant to continue the  
17 public hearing to December 3rd.

18          Is that an issue with staff? Okay. To  
19 December 3rd at 7:00 o'clock p.m. in this same  
20 room.

21          VICE CHAIRMAN KESSLER: So moved.

22          MEMBER MACKLIN-PURDY: Second.

23          CHAIRMAN WALLACE: I heard you first.

24          MEMBER MACKLIN-PURDY: I'll second that.

1 CHAIRMAN WALLACE: All right. It's been  
2 moved and seconded. Any discussion on the motion  
3 to continue?

4 (No response.)

5 CHAIRMAN WALLACE: Tim.

6 VICE CHAIRMAN KESSLER: Becker.

7 MEMBER BECKER: Yes.

8 VICE CHAIRMAN KESSLER: Funke.

9 MEMBER FUNKE: Yes.

10 VICE CHAIRMAN KESSLER: Pretz.

11 MEMBER PRETZ: Yes.

12 VICE CHAIRMAN KESSLER: Holderfield.

13 MEMBER HOLDERFIELD: Yes.

14 VICE CHAIRMAN KESSLER: Vargulich.

15 MEMBER VARGULICH: Yes.

16 VICE CHAIRMAN KESSLER: Purdy.

17 MEMBER MACKLIN-PURDY: Yes.

18 VICE CHAIRMAN KESSLER: Melton.

19 MEMBER MELTON: Yes.

20 VICE CHAIRMAN KESSLER: Wallace.

21 CHAIRMAN WALLACE: Yes.

22 VICE CHAIRMAN KESSLER: Kessler, yes.

23 CHAIRMAN WALLACE: All right. And then  
24 Item 8 is the public hearing for Zen Leaf

1 St. Charles.

2 I would entertain the same motion.

3 VICE CHAIRMAN KESSLER: So moved.

4 MEMBER MACKLIN-PURDY: Second.

5 CHAIRMAN WALLACE: It's been moved and  
6 seconded. Discussion.

7 (No response.)

8 CHAIRMAN WALLACE: Tim.

9 VICE CHAIRMAN KESSLER: Becker.

10 MEMBER BECKER: Yes.

11 VICE CHAIRMAN KESSLER: Funke.

12 MEMBER FUNKE: Yes.

13 VICE CHAIRMAN KESSLER: Pretz.

14 MEMBER PRETZ: Yes.

15 VICE CHAIRMAN KESSLER: Holderfield.

16 MEMBER HOLDERFIELD: Yes.

17 VICE CHAIRMAN KESSLER: Vargulich.

18 MEMBER VARGULICH: Yes.

19 VICE CHAIRMAN KESSLER: Purdy.

20 MEMBER MACKLIN-PURDY: Yes.

21 VICE CHAIRMAN KESSLER: Melton.

22 MEMBER MELTON: Yes.

23 VICE CHAIRMAN KESSLER: Wallace.

24 CHAIRMAN WALLACE: Yes.

1 VICE CHAIRMAN KESSLER: Kessler, yes.

2 CHAIRMAN WALLACE: All right. That  
3 concludes Item 8.

4 Item 9, any additional business from Plan  
5 Commission members or staff?

6 (No response.)

7 CHAIRMAN WALLACE: All right. We've all  
8 seen the weekly development report.

9 The meeting announcements are in the  
10 agenda.

11 Is there any public comment?

12 (No response.)

13 CHAIRMAN WALLACE: No. All right. Is  
14 there a motion to adjourn?

15 VICE CHAIRMAN KESSLER: So moved.

16 MEMBER MACKLIN-PURDY: Second.

17 CHAIRMAN WALLACE: All in favor.

18 (Ayes heard.)

19 CHAIRMAN WALLACE: Opposed.

20 (No response.)

21 CHAIRMAN WALLACE: This meeting of the  
22 St. Charles Plan Commission is adjourned at  
23 9:45 p.m.

24 (Off the record at 9:45 a.m.)

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CERTIFICATE OF SHORTHAND REPORTER

I, Joanne E. Ely, Certified Shorthand Reporter No. 84-4169, CSR, RPR, 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 25th day of November, 2019.

My commission expires: May 16, 2020

*Joanne E. Ely* 

Notary Public in and for the  
State of Illinois