

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

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:

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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. 2nd 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.

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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

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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

4

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