

**MINUTES
CITY OF ST. CHARLES, IL
PLAN COMMISSION
TUESDAY, NOVEMBER 5, 2019**

Members Present: Chairman Wallace
Tom Pretz
Jennifer Becker
James Holderfield
Jeff Funke
Peter Vargulich
Suzanne Melton

Members Absent: Laura Macklin-Purdy
Vice Chairman Kessler

Also Present: Russell Colby, Community Development Manager
Ellen Johnson, Planner
Rachel Hitzemann, 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

Chairman Wallace called the roll. A quorum was present.

3. Pledge of Allegiance

4. Presentation of minutes of the October 22, 2019 meeting of the Plan Commission.

Motion was made by Mr. Funke, seconded by Ms. Melton and unanimously passed by voice vote to approve the minutes of the October 22, 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
- b. Discussion & Recommendation

Motion was made by Mr. Pretz, seconded by Mr. Vargulich and unanimously passed by voice vote to continue item #5, as requested by the applicant, to the November 19, 2019 Plan Commission meeting.

6. K-9 Country Club of St. Charles, 305 N. 2nd St. (John Karatheodore)

Application for Special Use

- a. Public Hearing
- b. Discussion & Recommendation

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Motion was made by Mr. Pretz, seconded by Mr. Funke and unanimously passed by voice vote to continue item #6, as requested by the applicant, to the November 19, 2019 Plan Commission meeting.

- 7. Extreme Clean Express Car Wash, 1625 W. Main St. (MKD Enterprises of St. Charles LLC)**
Application for Special Use (Amendment to 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. Pretz and seconded by Mr. Funke to close the Public Hearing.

Roll call vote:

Ayes: Holderfield, Becker, Wallace, Funke, Vargulich, Pretz, Melton

Nays:

Absent: Kessler, Purdy

Motion carried 7-0

- 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. Pretz and seconded by Mr. Vargulich to recommend approval of the Application for Amendment to Special Use for Extreme Clean Express Car Wash, 1625 W. Main St. subject to resolution of staff comments.

Roll call vote:

Ayes:

Nays: Holderfield, Becker, Wallace, Funke, Vargulich, Pretz, Melton

Absent: Kessler, Purdy

Motion Failed 0-7

Motion was made by Mr. Pretz and seconded by Mr. Vargulich to recommend denial of the Application for Amendment to Special Use for Extreme Clean Express Car Wash, 1625 W. Main St. based on failure of the application to conform to one or more of the Findings of Fact for Special Use, including Finding “E” regarding effect on general welfare.

Roll call vote:

Ayes: Holderfield, Becker, Wallace, Funke, Vargulich, Pretz, Melton

Nays:

Absent: Kessler, Purdy

Motion Carried 7-0

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8. General Amendment (City of St. Charles)

Ch. 17.04 “Administration” regarding Procedures, Findings of Fact and Recommendations for Special Uses and Amendments to Special Uses.

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. Funke and seconded by Mr. Vargulich to close the Public Hearing.

Roll call vote:

Ayes: Holderfield, Becker, Wallace, Funke, Vargulich, Melton

Nays: Pretz

Absent: Kessler, Purdy

Motion carried 6-1

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 Ms. Becker and seconded by Mr. Funke to recommend approval of the General Amendment to Ch. 17.04 “Administration” regarding Findings of Fact for Special Use and Amendments to Special Uses as presented.

Roll call vote:

Ayes: Holderfield, Becker, Funke, Vargulich,

Nays: Melton, Wallace

Absent: Kessler, Purdy

Present: Pretz

Motion carried 4-2

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

10. Weekly Development Report

11. Meeting Announcements

a. Plan Commission

Tuesday, November 19, 2019 at 7:00pm Council Chambers

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

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

b. Planning & Development Committee

Monday, November 11, 2019 at 7:00pm Council Chambers

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

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- 12. Public Comment-None**
- 13. Adjournment at 8:07pm**



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Transcript of Hearing

Date: November 5, 2019

Case: St. Charles Plan Commission

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BEFORE THE PLAN COMMISSION
OF THE CITY OF ST. CHARLES

-----x
In Re: Application for :
Special Use (Amendment to :
Special Use), Extreme :
Clean Express Car Wash, :
1625 W. Main Street :
-----x

HEARING
St. Charles, Illinois 60174
Tuesday, November 5, 2019
7:01 p.m.

Job No.: 218475A
Pages: 1 - 33
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 JENNIFER BECKER, Member

4 JEFFREY FUNKE, Member

5 JAMES HOLDERFIELD, Member

6 SUZANNE MELTON, Member

7 TOM PRETZ, Member

8 PETER VARGULICH, Member

9 ALSO PRESENT:

10 RUSSELL COLBY, Community Development
11 Manager

12 ELLEN JOHNSON, Planner

13 RACHEL HITZEMANN, Planner

14 MONICA HAWK, Development Engineer

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Transcript of Hearing
Conducted on November 5, 2019

4

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

2 CHAIRMAN WALLACE: This meeting of the
3 St. Charles Plan Commission will come to order.

4 Tim is not here, so I'll do the roll call.

5 Wallace, here.

6 Becker.

7 MEMBER BECKER: Here.

8 CHAIRMAN WALLACE: Funke.

9 MEMBER FUNKE: Here.

10 CHAIRMAN WALLACE: Holderfield.

11 MEMBER HOLDERFIELD: Here.

12 CHAIRMAN WALLACE: Pretz.

13 MEMBER PRETZ: Here.

14 CHAIRMAN WALLACE: Vargulich.

15 MEMBER VARGULICH: Here.

16 CHAIRMAN WALLACE: Melton.

17 MEMBER MELTON: Here.

18 CHAIRMAN WALLACE: All right. Everyone
19 please rise for the Pledge of Allegiance.

20 (The Pledge of Allegiance was recited.)

21 CHAIRMAN WALLACE: Item 4 is presentation
22 of the minutes of the October 22nd, 2019, meeting
23 of the Plan Commission.

24 Is there a motion to approve?

1 MEMBER FUNKE: I'll make the motion to
2 approve.

3 CHAIRMAN WALLACE: Okay. It's been moved.
4 Is there a second?

5 MEMBER MELTON: Second.

6 CHAIRMAN WALLACE: Moved and seconded.
7 All in favor.

8 (Ayes heard.)

9 CHAIRMAN WALLACE: Opposed.

10 (No response.)

11 CHAIRMAN WALLACE: Motion passes.

12 Next we have general amendment, No. 5 on
13 your agenda. This is up for a continued public
14 hearing; however, staff has advised that the
15 applicant has requested that it be continued to
16 the November 19th, 2019, meeting.

17 Is there a motion to that effect?

18 MEMBER PRETZ: So moved.

19 MEMBER VARGULICH: Second.

20 CHAIRMAN WALLACE: All right. It's been
21 moved and seconded. All in favor.

22 (Ayes heard.)

23 CHAIRMAN WALLACE: Opposed.

24 (No response.)

1 CHAIRMAN WALLACE: That motion passes.

2 And actually that applies to No. 6
3 as well, which is K-9 Country Club of St. Charles.
4 Could we have a motion again to continue it to
5 November 19th.

6 MEMBER PRETZ: So moved.

7 MEMBER FUNKE: Second.

8 CHAIRMAN WALLACE: It's been moved and
9 seconded. All in favor.

10 (Ayes heard.)

11 CHAIRMAN WALLACE: Opposed.

12 (No response.)

13 CHAIRMAN WALLACE: All right. Item No. 7
14 is the Extreme Clean Express Car Wash, 1625 West
15 Main Street, MKD Enterprises of St. Charles, LLC.
16 We have an application for special use, amendment
17 to special use.

18 Are you the applicant?

19 MR. BUSSMAN: I'm representing the
20 applicant.

21 CHAIRMAN WALLACE: You are. Okay. I just
22 wanted to know if it was you or someone else. All
23 right.

24 So during the public hearing -- I'll give

1 you the short version -- we will take testimony,
2 and the Plan Commission will ask any questions.

3 If any other member of the public wishes
4 to, they can ask questions or give comments. If
5 we feel we have enough evidence to make a
6 decision, we'll close the public hearing, and
7 we'll take a vote on whether or not to recommend
8 approval to the City Council planning and
9 development committee.

10 So if I could just have you raise your
11 hand.

12 (Witness sworn.)

13 CHAIRMAN WALLACE: All right. Thank you.

14 You can come on up to the lectern and just
15 state your name and spell your last name and state
16 your address for the record, please.

17 MR. BUSSMAN: My name is Ben Bussman with
18 the engineering firm of Webster McGrath and
19 Ahlberg. My last name is spelled B-u-s-s-m-a-n.

20 I'm here on behalf of MKD -- is it not
21 on? -- MKD Enterprises as Dan Gunsteen couldn't
22 make it tonight.

23 We're just asking for a simple revision to
24 the site plan to remove the right-in/right-out

1 that was initially approved and put in a full
2 access or be allowed to maintain the full access
3 that's present.

4 After we went through the special use
5 process, it seems like it was a year ago, we
6 thought, well, we'll just ask IDOT one more time
7 to see if they'll let us keep that full access as
8 it is.

9 So we had some e-mail correspondence with
10 the IDOT permit engineer and he asked that -- he
11 said he was fine with it as long as it was fine
12 with the City. So we've talked to the City staff,
13 and they've had their consultant look at it, and
14 they're acceptant to keeping the access as it is.
15 So that's really all that is.

16 CHAIRMAN WALLACE: And I know that you had
17 a traffic study as part of the materials.

18 MR. BUSSMAN: Correct. There was a review
19 of the traffic study by the City consultant
20 confirming our study.

21 CHAIRMAN WALLACE: I don't know. Russ,
22 were there any issues, any specific issues that
23 were pointed out by our expert?

24 MS. JOHNSON: No. The revised study was

1 reviewed, and the traffic consultant, HLR, had a
2 number of technical comments, and those revisions
3 were made to the study that's in your packet, and
4 then HLR reviewed the revised study and concurred
5 with the findings and had no further comments.

6 CHAIRMAN WALLACE: Am I correct in
7 remembering that having a right-in/right-out
8 versus a full access -- or having a full access as
9 opposed to right-in/right-out will result in
10 shorter delays at 17th and Main Street?

11 MS. JOHNSON: Yes. I believe that's in
12 the findings.

13 CHAIRMAN WALLACE: And that was one of our
14 concerns, obviously, when we originally approved
15 this I know.

16 All right. Any questions? Yes.

17 MEMBER BECKER: I'd like a little more
18 explanation about your interaction with IDOT.
19 Going from a flat restriction to a staff member
20 saying it was okay seems a little less than formal
21 to me. Is there going to be something transmitted
22 to staff that will give us a higher level of being
23 able to confirm that it is IDOT's wishes?

24 And I guess my further question is that we

1 talked quite a bit about this and the conflicts
2 that the full access could create, and I guess I'm
3 still concerned about the turning movements that a
4 full access would continue to provide and the
5 proximity to 17th Street. I'm sensitive to the
6 whole queuing and waiting, but I still am a little
7 bit concerned about that, and I was wondering if
8 you could talk to that a bit more.

9 MR. BUSSMAN: You know, all I have
10 formally from IDOT is our e-mail correspondence,
11 which I passed along to the City.

12 As far as the queuing -- I'm not a traffic
13 engineer. So I'm not versed as well in turning
14 movements and the stacking, et cetera, like that.

15 So I'm just relying on their expertise.
16 The IDOT permit engineer reviewed the traffic
17 study as well, and he just didn't feel that the
18 volumes were there to warrant a right-in/right-out.
19 He thought it functioned fine as a full access,
20 and he seemed to agree with both the City's
21 consultant and our consultant.

22 MEMBER FUNKE: This is off of Main Street?

23 MR. BUSSMAN: Correct.

24 MEMBER FUNKE: Yes?

1 MR. BUSSMAN: Yes.

2 MEMBER FUNKE: So when the cars are
3 exiting the car wash, they're going to be stacking
4 up there? What you're saying is that you want the
5 ability to turn left going west on Main Street?

6 MR. BUSSMAN: Most of the movements are
7 right turns, if you looked at the analysis, but
8 yes, they want that ability to turn left.

9 MEMBER FUNKE: I guess my concern would
10 be, as we discussed before, we have a short --
11 it's hard to see from the side. After you exit
12 the car wash, you know, that's a short length. So
13 you're going to have cars that are stacking up;
14 and if you even have one car that wants to turn
15 left, then where are the other cars going to go?

16 MR. BUSSMAN: I think the analysis was
17 like 17 cars over the course of an hour turning
18 left, which isn't much. Most of the cars are
19 turning right. And then also some of the cars,
20 hopefully, are turning back into the site, using
21 the vacuums, possibly exiting back to 17th or
22 still exiting to North Avenue.

23 MEMBER FUNKE: How many cars on average
24 are coming out of the car wash an hour?

1 MR. BUSSMAN: This is the peak-hour table
2 within the traffic report showing 17 cars making a
3 left-turn movement exiting, 34 taking a right turn
4 out, then six exiting -- taking a right turn onto
5 17th Street.

6 MEMBER VARGULICH: I just have a question
7 to follow up with Jeff Funke. You have 55 cars
8 that can queue into this, according to your
9 diagram and the way it's all laid out.

10 MR. BUSSMAN: Yeah.

11 MEMBER VARGULICH: Yet the traffic
12 analysis seems to be only indicating a total of 30
13 cars an hour coming out of a car wash that
14 supposedly can do cars in three to four minutes.

15 I have a disconnect from a logical
16 standpoint that you're building a site that can
17 queue 55 cars, yet your traffic analysis doesn't
18 even represent one full queuing. Is this not the
19 way the business is supposed to operate?

20 MR. BUSSMAN: You're getting into traffic
21 counts here. Like I said, I'm not a traffic
22 engineer.

23 MEMBER VARGULICH: Why would you have 55
24 queuing spots if you're not intending at least --

1 not continuously during every hour of operation;
2 but on some peak period, whether that's during the
3 day or whether that's on Saturday or something,
4 that you're not going to push cars through, then
5 why build all this queuing. That's my disconnect
6 with the report that your company paid for and
7 reviewed by our engineer because it seems to be
8 incongruous with the capacity that's shown in the
9 design, the site design.

10 MR. BUSSMAN: Well, I guess, I wish I had
11 my traffic consultant with us tonight, so.

12 MEMBER VARGULICH: That would have been a
13 good guy to show up --

14 MR. BUSSMAN: Yeah.

15 MEMBER VARGULICH: -- since this is about
16 traffic.

17 MR. BUSSMAN: This is about traffic.

18 CHAIRMAN WALLACE: And one of the other
19 concerns that I have, and it's the same concern
20 that I expressed before, and it's regarding -- I'm
21 under the impression and, please, correct me if
22 I'm wrong, that the cross access is still going to
23 exist from the building next door to that exit.

24 MR. BUSSMAN: Correct. Yes.

1 CHAIRMAN WALLACE: But yet we have a
2 traffic study here that is showing at peak hour
3 there's going to be a total of 57 cars coming into
4 the site, 57 cars leaving the site by those two
5 exits. But does that account for any of the cars
6 that are crossing into the adjoining property,
7 that are coming from the adjoining property.

8 My concern is when a car comes out of the
9 end of this car wash, how many vehicle lengths are
10 there from the end of the car wash to the street?

11 MEMBER VARGULICH: About three.

12 CHAIRMAN WALLACE: Three?

13 MEMBER VARGULICH: About three.

14 MEMBER FUNKE: To North Avenue.

15 MEMBER VARGULICH: Tops three of them.

16 CHAIRMAN WALLACE: So if you have three
17 cars that are already sitting there, you have two
18 more cars that are coming from the chiropractor or
19 Rookies that are trying to merge in there, and
20 you've got cars spitting out the end of this car
21 wash, I mean, it seems to me like a recipe for
22 disaster.

23 I guess maybe one of the questions is does
24 the car wash have any contingency plan if that

1 were to happen? I mean, does the car wash shut
2 down if there's a vehicle in the way, or is it
3 going to push the vehicle into the back of the
4 next one and push that vehicle out onto Main
5 Street?

6 MR. BUSSMAN: I would assume people would
7 understand -- see that there's cars in front of
8 them and just make the left turn into the site so
9 that they're not stacking on each other or take
10 the right turn and circle around.

11 MEMBER FUNKE: You understand that people,
12 you know, they have a tendency to just sit there
13 and wait because they want to get onto North
14 Avenue, and they're not going to think about the
15 cars behind them.

16 So if it does get backed up to five cars,
17 then they have no way to turn right or left when
18 they're coming out of the -- I mean, you can see
19 by the proportions of the location of the
20 building. You almost want to move the building
21 back or south.

22 MR. BUSSMAN: Well, yeah. The building
23 is --

24 MEMBER FUNKE: No. I know the foundation

1 is impacted.

2 MR. BUSSMAN: Yeah. They're paving.

3 I'm curious if we striped out a right-turn
4 lane, you know, left-turn lane, and an entrance
5 lane, whether that would solve this, so that you
6 could queue the right turns freely, and the left
7 turns would stack waiting for their openings.

8 MEMBER PRETZ: With all that said, I'd
9 just give it something a little bit simpler, and
10 that is anybody that is going out to Main Street
11 to turn left to go west has to go through two
12 lanes of eastbound traffic, a middle turn lane,
13 and then get on out.

14 With the general proximity to 17th where
15 cars would be coming out and going presumably
16 right, potentially left, at least if they're going
17 west from 17th, that is a designated street and
18 more potential to be able to get out into the flow
19 of traffic.

20 So overall I'm uncomfortable providing
21 that full access than staying with the original
22 right-in/right-out, but on a more simpler, maybe
23 logical basis.

24 MEMBER BECKER: I have another question.

1 CHAIRMAN WALLACE: Yeah.

2 MEMBER BECKER: I understand that the
3 southern part of the site has been reconfigured
4 and that the detention facility that we talked at
5 great length about has disappeared. Could you
6 speak to that at all? I know it was addressed in
7 the staff report, but I think it's a huge change
8 to the site plan, and it really affects the
9 circulation.

10 MR. BUSSMAN: It's more of a minor change
11 to me. I mean, we still have detention there.
12 It's just a smaller amount than what we previously
13 had. Because of the change in the Kane County
14 ordinance, we were allowed to, essentially,
15 provide best management practices rather than full
16 detention.

17 So there is still a detention and a water
18 treatment function to that area behind the trash
19 enclosure, but the circulation, the parking, the
20 quantity, all that is all the same.

21 MEMBER VARGULICH: Were you able to remove
22 the subsurface detention?

23 MR. BUSSMAN: Correct.

24 MEMBER VARGULICH: Is that what they

1 changed for you?

2 MR. BUSSMAN: Yes, yes.

3 MEMBER VARGULICH: So those two long pipes
4 that were running parallel to 17th --

5 MR. BUSSMAN: Correct.

6 MEMBER VARGULICH: -- were taken out.

7 MR. BUSSMAN: Yes. The proposed site has
8 much more turf area and landscape area than, you
9 know, the previous car wash. That was paved from
10 property line to property line, so we do get some
11 credit for that.

12 MEMBER VARGULICH: Sure.

13 MR. BUSSMAN: And that reduces the runoff,
14 and then we did, like I said, provide the best
15 management practices.

16 MEMBER VARGULICH: I have a question for
17 staff. With the sign that's along Main Street
18 as well as any of the landscaping across the
19 front, I didn't -- because we didn't get the
20 landscape plan, the question is do they have to
21 adhere to either City or IDOT sight triangles?
22 Has that been addressed?

23 MS. JOHNSON: Yes. They have to conform
24 to the City's sight triangle. They are now

1 shifting the sign further to the east on the
2 revised plan. So it's outside of the sight
3 triangle.

4 MEMBER VARGULICH: Also if they updated
5 the landscaping for shifting these things around,
6 does the landscaping address the sight triangles
7 also from either 17th Street as far as visibility
8 for traffic on Main Street or from the full access
9 driveway that they're asking for? Has that been
10 looked at also?

11 MS. JOHNSON: I believe so during building
12 permit review. We can go back and verify.

13 MEMBER VARGULICH: Okay.

14 CHAIRMAN WALLACE: All right. Other
15 questions? Comments?

16 (No response.)

17 CHAIRMAN WALLACE: Okay. If the Plan
18 Commission feels they have enough evidence to make
19 a recommendation on this matter, then a motion to
20 close the meeting will be in order.

21 MEMBER PRETZ: So moved.

22 MEMBER FUNKE: Second.

23 CHAIRMAN WALLACE: All right. It's been
24 moved and seconded. Any discussion on the motion

1 to close the public hearing?

2 (No response.)

3 CHAIRMAN WALLACE: All right. Seeing
4 none, Becker.

5 MEMBER BECKER: Yes.

6 CHAIRMAN WALLACE: Funke.

7 MEMBER FUNKE: Yes.

8 CHAIRMAN WALLACE: Pretz.

9 MEMBER PRETZ: Yes.

10 CHAIRMAN WALLACE: Holderfield.

11 MEMBER HOLDERFIELD: Yes.

12 CHAIRMAN WALLACE: Melton.

13 MEMBER MELTON: Yes.

14 CHAIRMAN WALLACE: Vargulich.

15 MEMBER VARGULICH: Yes.

16 CHAIRMAN WALLACE: Wallace, yes. All
17 right.

18 Moving on to Item 7b, discussion and
19 recommendation, does anyone wish to propose a
20 motion or have any discussion on this matter?

21 We don't have our designated motion maker.

22 MEMBER VARGULICH: As part of putting it
23 in the form of a motion, as far as discussion, I
24 am not in favor of removing the right-in/right-out.

1 I think all of these things that we've talked
2 about are issues from a public safety standpoint,
3 of having two full access on a five-lane street
4 where the speed limit is, what, 40 at that point?
5 Is that correct? The speed limit is about 40
6 there?

7 MR. COLBY: I think it's 35.

8 MEMBER VARGULICH: But five lanes of
9 traffic and two full access points, one of them a
10 public street and the other one not. I'd say -- I
11 mean, I'd say no. We need the right-in/right-out.

12 MEMBER PRETZ: Can I ask a question?

13 CHAIRMAN WALLACE: Yes.

14 MEMBER PRETZ: One motion would be to
15 accept the applicant's request. If no motion is
16 made, do we need to do a denial motion, or can we
17 not make a motion at all and just let it stand the
18 prior?

19 CHAIRMAN WALLACE: Well --

20 MEMBER VARGULICH: Application --

21 CHAIRMAN WALLACE: What?

22 MEMBER VARGULICH: I think the answer is
23 we have to.

24 CHAIRMAN WALLACE: Yeah. We want to

1 address the application one way or another.

2 I mean, I would point -- at any time if
3 the pleasure of the Plan Commission is to
4 recommend denial, any time that we were to do
5 that, I certainly would recommend looking at the
6 findings of fact and specifically providing
7 guidance to the planning and development committee
8 on which of the findings of fact would be
9 deficient.

10 And you can find that in the -- the
11 application is on your computer. It starts at
12 page 12. So we have public convenience: The
13 special use will serve the public convenience at
14 the proposed location.

15 Sufficient infrastructure: That adequate
16 utilities, access roads, drainage and/or necessary
17 facilities have been or are being provided.

18 Effect on nearby property: It won't 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.

24 Effect on development of surrounding

1 property: That it won't impede the normal and
2 orderly development and improvement of surrounding
3 property.

4 Effect on general welfare: That the
5 establishment, maintenance, or operation of the
6 special use will not be detrimental to or endanger
7 the public health, safety, comfort, or general
8 welfare.

9 And conformance with codes: That the
10 proposed special use conforms to all existing
11 Federal, State, and local legislation and
12 regulation and meets or exceeds all applicable
13 provisions of this title, except as may be varied
14 pursuant to a special use for a planned unit
15 development.

16 MEMBER PRETZ: Mr. Chairman, I'll make a
17 motion.

18 CHAIRMAN WALLACE: Sure.

19 MEMBER PRETZ: I will make a motion for
20 approval of the application for a special use,
21 amendment to special use for Extreme Clean Express
22 Car Wash, 1625 West Main Street, MKD Enterprises
23 of St. Charles, LLC, subject to any outstanding
24 staff concerns or issues contained within the

1 application.

2 CHAIRMAN WALLACE: Within the staff
3 report?

4 MEMBER PRETZ: Yes.

5 CHAIRMAN WALLACE: All right. Is there a
6 second?

7 MEMBER VARGULICH: I'll second. So we can
8 have a vote.

9 CHAIRMAN WALLACE: All right. It's been
10 moved and seconded. Any discussion on the motion?
11 Yes.

12 MEMBER BECKER: I guess my feeling is that
13 the applicants proved that the site plan worked
14 for them a year ago, and I believe that the
15 findings of fact as purported by the applicant in
16 the packet may be just a little general.

17 My particular feelings are that this
18 configuration would be injurious to the public. I
19 think that this configuration benefits the
20 applicant more so than the public, and so I will
21 be voting no.

22 CHAIRMAN WALLACE: I have a question, Russ
23 or Ellen. Since they already have a permit for
24 construction, how does this impact that?

1 MR. COLBY: The permit plans are based on
2 the approved special use that shows the
3 right-in/right-out configuration. So this is a
4 change that they are proposing to the current
5 permit.

6 CHAIRMAN WALLACE: So they have to amend
7 the permit or get a new permit?

8 MR. COLBY: Yes. They'd have to submit a
9 revision to the permit basically to omit the work
10 that was shown to convert it to a
11 right-in/right-out because it is an existing
12 access.

13 CHAIRMAN WALLACE: Got it. Okay.

14 All right. Any other discussion?

15 (No response.)

16 CHAIRMAN WALLACE: Okay. We'll take a
17 vote on the pending motion to recommend approval
18 subject to resolution of staff comments.

19 Becker.

20 MEMBER BECKER: No.

21 CHAIRMAN WALLACE: Funke.

22 MEMBER FUNKE: No.

23 CHAIRMAN WALLACE: Pretz.

24 MEMBER PRETZ: No.

1 CHAIRMAN WALLACE: Holderfield.

2 MEMBER HOLDERFIELD: No.

3 CHAIRMAN WALLACE: Melton.

4 MEMBER MELTON: No.

5 CHAIRMAN WALLACE: Vargulich.

6 MEMBER VARGULICH: No.

7 CHAIRMAN WALLACE: Wallace, no.

8 All right. That motion fails unanimously.

9 Are there any other motions?

10 (No response.)

11 CHAIRMAN WALLACE: Peter, do you want to
12 make a motion?

13 MEMBER VARGULICH: Well, yes and no. I
14 mean, yes, you want to make a motion. I believe
15 the applicant should have that.

16 I would say that I don't know exactly how
17 to word it, but I would just ask that they
18 would -- that they have the right-in/right-out,
19 that that's the amendment that we request of this.

20 CHAIRMAN WALLACE: Do you have anything
21 specific from the findings of fact that you would
22 base that on?

23 MEMBER VARGULICH: Here's a question I
24 have more for Russ. We have a traffic engineer

1 that's representing the client. We have our
2 traffic engineer. Nobody sitting up here is a
3 traffic engineer. And while I conceptually
4 disagree with their findings, I don't have the
5 technical experience to refute them because I'm
6 not an engineer or a traffic engineer.

7 So I'm not really sure what position we
8 have other than opinion that it's not in the
9 public's best interest because we have two
10 engineers, one representing the applicant and the
11 other one representing us, the City, who say it's
12 all fine. So I'm not even sure why we need to do
13 this quite honestly.

14 MR. COLBY: Well, I think the reason is --
15 I would say, though, that the City's traffic
16 engineer, the request put to them was really just
17 to review the study that the applicant's traffic
18 engineer prepared and some of the assumptions that
19 went into the study and the findings.

20 It is possible that based on some of the
21 questions the Plan Commission raised, some of
22 those assumptions may not be accurate to some of
23 the concerns about other traffic or the spacing or
24 stacking of vehicles relative to the volume of

1 vehicles using the facility.

2 I think the consultants -- our consultant
3 was reacting to the information that was provided
4 by the developer's consultant, which was based on
5 their understanding of their business model.

6 So I think the issue that the Plan
7 Commission is raising is perhaps you don't have
8 enough information to concur with the findings of
9 the traffic study that was prepared by the
10 applicant, although the City's traffic engineer
11 has reached a conclusion that their study was
12 prepared correctly based on the information that
13 was provided.

14 CHAIRMAN WALLACE: I think part of the
15 concern that has come up is not necessarily
16 traffic flow coming from off the site into the
17 site. Some of it is regarding traffic flow within
18 the site.

19 MEMBER VARGULICH: It's totally within the
20 site, and traffic that might be coming from the
21 east, albeit minor, that was apparently not
22 addressed that would want to use that same exit as
23 a full access for that matter.

24 So if I'm at Rookie's and I'm going to

1 leave, instead of driving all the way across their
2 site, I decide to use the full access and make a
3 left-hand turn out on -- go westbound on Main
4 Street. So where has that been addressed?

5 So I'm not really sure how to word the
6 motion or create a second option since we all seem
7 to fail.

8 MEMBER FUNKE: I've got a question. I
9 remember the last time you came in for approval,
10 that we addressed these concerns during the last
11 Plan Commission meeting; and then they actually --
12 you know, the building was further north than it
13 was now, and then you guys moved it further south.

14 So what's changed over the building permit
15 process to where they think that they can
16 accommodate this, you know, left turn onto Main
17 Street?

18 MR. COLBY: Well, I think the applicant
19 presented that they went to IDOT to discuss the
20 turning restriction, and that's what triggered
21 this request when IDOT seemed open to allowing it
22 as a full access. I don't think there's any other
23 change substantively to the site plan or the
24 intensity of the use or the layout otherwise.

1 MEMBER VARGULICH: Well, I guess if I were
2 to make a motion, it would be to request the
3 applicant to take into account the questions and
4 concerns that we have, and for them to update the
5 traffic study or provide a written narrative from
6 the owner related to questions like how do you
7 have stacking for 55 vehicles and a traffic study
8 that doesn't address that.

9 CHAIRMAN WALLACE: Well --

10 MEMBER VARGULICH: Can that be a request
11 for them to redo that and for us to see it again
12 after that information is available? Could that
13 be a motion?

14 CHAIRMAN WALLACE: Well, where we are
15 right now is we've already closed the public
16 hearing.

17 MR. COLBY: Yes. I was just going to
18 offer, you know, that if the Plan Commission does
19 make a recommendation for denial, the applicant
20 has the option of withdrawing the application and
21 refileing to schedule another public hearing and
22 provide additional information at that time.

23 I also just wanted to comment the Plan
24 Commission does not necessarily have to reach a

1 conclusive finding that you disagree with the
2 traffic analysis or that you're taking an opinion
3 that the traffic analysis is incorrect. You can
4 simply find that you don't believe they have
5 supported whether it meets the finding of fact,
6 and that kind of puts it for you to make a
7 recommendation for denial on that basis.

8 MEMBER VARGULICH: Sure.

9 CHAIRMAN WALLACE: I can propose a motion
10 if you'd like.

11 MEMBER VARGULICH: Sure. That's fine.

12 CHAIRMAN WALLACE: Okay. So I would say
13 that the Chairman would entertain a motion to
14 recommend to the City Council planning and
15 development committee denial based on the failure
16 of the application to conform to one or more of
17 the findings of fact as listed in the zoning
18 ordinance for special use, including but not
19 limited to, finding of fact E, effect on general
20 welfare.

21 If anybody wants to make that motion. Go
22 ahead and say so moved.

23 MEMBER PRETZ: So moved.

24 CHAIRMAN WALLACE: All right. Is there a

1 second?

2 MEMBER VARGULICH: I'll second.

3 CHAIRMAN WALLACE: All right. It's been
4 moved and seconded. Discussion on the motion?

5 (No response.)

6 CHAIRMAN WALLACE: All right. Seeing
7 none, Becker.

8 MEMBER BECKER: Yes.

9 CHAIRMAN WALLACE: Funke.

10 MEMBER FUNKE: Yes.

11 CHAIRMAN WALLACE: Pretz.

12 MEMBER PRETZ: Yes.

13 CHAIRMAN WALLACE: Holderfield.

14 MEMBER HOLDERFIELD: Yes.

15 CHAIRMAN WALLACE: Melton.

16 MEMBER MELTON: Yes.

17 CHAIRMAN WALLACE: Vargulich.

18 MEMBER VARGULICH: Yes.

19 CHAIRMAN WALLACE: Wallace, yes.

20 That motion passes unanimously, and that
21 concludes Item 7 on the agenda.

22 (Off the record at 7:34 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 11th day of November, 2019.

My commission expires: May 16, 2020

 

Notary Public in and for the
State of Illinois



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Transcript of Hearing

Date: November 5, 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 -- :
Procedures, Findings of :
Fact and Recommendations :
for Special Uses and :
Amendments to Special :
Uses. :
-----x

HEARING
St. Charles, Illinois 60174
Tuesday, November 5, 2019
7:34 p.m.

Job No.: 218475B
Pages: 1 - 31
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 JENNIFER BECKER, Member

4 JEFFREY FUNKE, Member

5 JAMES HOLDERFIELD, Member

6 SUZANNE MELTON, Member

7 TOM PRETZ, Member

8 PETER VARGULICH, Member

9 ALSO PRESENT:

10 RUSSELL COLBY, Community Development
11 Manager

12 ELLEN JOHNSON, Planner

13 RACHEL HITZEMANN, Planner

14 MONICA HAWK, Development Engineer

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

2 CHAIRMAN WALLACE: No. 8 is general
3 amendments, City of St. Charles, Chapter 17.04,
4 Administration, regarding procedures, findings of
5 fact, and recommendations for special uses and
6 amendments to special uses.

7 Is the applicant here?

8 (Witness sworn.)

9 CHAIRMAN WALLACE: Thank you. Go ahead.

10 MR. COLBY: Thank you. So this
11 application is regarding the findings of fact for
12 special uses, which we were just discussing a
13 specific application. But this is an application
14 that's been filed by the City based on the
15 discussion that occurred regarding the issue of
16 recreational cannabis dispensaries.

17 At the time the Plan Commission reviewed
18 the general amendment application, it was
19 identified that there was a discrepancy with our
20 ordinance in terms of it referencing a requirement
21 to comply with Federal law as a part of the
22 special use findings of fact.

23 This issue was brought up to the planning
24 and development committee when they were reviewing

1 the general amendment for recreational cannabis,
2 and they voted 7 to 2 to direct staff to file an
3 application to remove this Federal law requirement
4 from the special use findings of fact. So this is
5 the application that's before the Plan Commission
6 this evening.

7 There's some information provided in the
8 staff memo about the Illinois Municipal Code and
9 the State statute that creates the ability for the
10 City to designate certain uses as special uses
11 under the zoning ordinance.

12 There's a specific section of the statute
13 that's referenced that states: "A special use
14 shall be permitted only upon evidence that such
15 use meets standards established for such
16 classification in the ordinances," specifically
17 the ordinances of the city that is creating the
18 zoning ordinance standards.

19 Essentially, this statement and the other
20 requirements in this section of the statute allow
21 each municipality to create their own specific
22 list of special use findings that they think are
23 appropriate for their community and to identify
24 which items they think are important through those

1 findings.

2 The statute does not require that the City
3 necessarily make any type of finding with regard
4 to Federal law or State law, rather it's meant for
5 the City to be able to review based on what we
6 think are important criteria for a project.

7 So there is a letter that has been
8 distributed from Nick Peppers, who is the new City
9 attorney. He has reviewed this information and
10 concurs with the information that was prepared in
11 the staff memo, that we're not required to have
12 conformance with State and Federal law as part of
13 a finding for this special use, and he has noted
14 that traditionally local municipal zoning
15 standards for special use wouldn't include these
16 types of conclusive findings.

17 So as part of the research for this, staff
18 tried to determine how this requirement -- how and
19 why this requirement was added to our zoning
20 ordinance. The best we can determine is that it
21 was added back when the City updated its full
22 zoning ordinance as a comprehensive update in
23 2006, and it was added at that time into the
24 requirements for PUDs.

1 Later when those special use findings were
2 reorganized in 2008, this specific finding was
3 shifted into the special use list, so it applied
4 to all special uses, including PUDs.

5 The only reason we could come up with as
6 to explain why this was possibly added was that
7 during the period that the ordinance was being
8 drafted in the early 2000s, there was some case
9 law that came out of the Illinois Supreme Court
10 about how special use findings -- or special use
11 public hearings were to be conducted and some
12 procedural requirements that really heightened the
13 level of sensitivity and the due process that had
14 to be recognized during the special use public
15 hearings that would take place in front of bodies
16 like the Plan Commission because that hearing was
17 being used as a record of the evidence that was
18 used in the City's decision whether to approve or
19 deny a special use application.

20 So it really elevated the status of the
21 public hearing that was held and potentially
22 opened the public hearing procedures and
23 requirements to more scrutiny than historically
24 had been applied to special use hearings.

1 So it's possible that the City's legal
2 counsel at the time considered that information
3 and suggested that to be more conservative, that
4 additional requirements be added into the special
5 use findings out of the interest of protecting the
6 City's legal interests.

7 But the State statute has since been
8 amended so that those requirements don't apply any
9 longer. The State statute, essentially, has gone
10 back to how the State historically viewed special
11 use hearings, that that was the evidence that the
12 City would consider; but if there was a challenge,
13 then the City could present its own case in court,
14 if the decision was challenged. The special use
15 public hearing has lesser importance than it did
16 from a legal standpoint.

17 So we looked also at other area
18 municipalities to see how they deal with the
19 special use standards in terms of whether they
20 reference either State or Federal requirements,
21 and we surveyed a number of them. I think there's
22 17 or 18 that are listed in the table in the staff
23 memo.

24 And for the most part, there's really only

1 one other municipality that includes the State and
2 Federal requirement, and that's Batavia. It's
3 possible that Batavia may have mirrored our
4 ordinance when they updated theirs, so that may be
5 why they have very similar language to what's in
6 ours. But we did observe that it's more common to
7 have reference to compliance with local code
8 requirements.

9 And also we were looking to see whether it
10 was common to require all findings be in the
11 affirmative with a special use, and I think the
12 overwhelming majority of the communities we
13 surveyed all require that all findings be in the
14 affirmative.

15 So what we're proposing to do is to remove
16 this reference to both Federal and State law. The
17 reason we included State law is really the same
18 concern with Federal law. We don't necessarily
19 have the ability, as a municipality, to reach a
20 conclusive finding about whether a project is
21 compliant with all State and Federal requirements
22 because we don't necessarily enforce those
23 requirements or have the ability to interpret the
24 statutes that would apply.

1 Additionally, when a project is before the
2 Plan Commission, it's at a zoning review stage.
3 It's not necessarily at a stage of approval where
4 it's completely finalized in terms of having all
5 other permits that might be required from other
6 levels of government, or it may not have full
7 plans for the construction of the buildings and
8 final engineering plans for the site.

9 So it's really more of a preliminary
10 level, which is why it makes more sense to look
11 primarily at zoning requirements which would apply
12 to how a site is being designed and laid out but
13 not necessarily down to the construction detail.

14 So the text I proposed would change this
15 finding F to state that the proposed special use
16 conforms to all applicable provisions of the
17 St. Charles Municipal Code and meets or exceeds
18 all applicable provisions of this title, this
19 title being the zoning ordinance, except as may be
20 varied pursuant to a special use for planned unit
21 development.

22 So this, essentially, says that the
23 finding that would be made as far as special use
24 is that what's being proposed complies with all

1 the City's Municipal Codes, except where there
2 were some exceptions that were granted through a
3 PUD.

4 So in situations where we have a special
5 use that's being requested in an existing planned
6 unit development, or this would also apply to a
7 planned unit development application because the
8 special use findings are a subset of the PUD
9 criteria that are listed in the ordinance. So
10 this may also be applied to a PUD itself.

11 I think that's the summary of the
12 application. I can take any questions.

13 CHAIRMAN WALLACE: I have a question
14 first. If the Plan Commission recommends denial
15 and specifies one particular -- I mean, just like
16 we just did, and we specify one particular finding
17 of fact we found in the negative, what is the
18 obligation of the City Council? I mean ours is a
19 recommendation. City Council doesn't have any
20 obligation to follow that recommendation.

21 So if we were to find in the negative on
22 this particular finding of fact as it's written, I
23 don't understand why taking away information as
24 part of our recommendation serves anyone. I don't

1 know. What are your thoughts on that?

2 MR. COLBY: Yeah. Well, I think the
3 question is does it make sense for the Plan
4 Commission, as a local zoning body, to be
5 considering whether a project is complying with
6 the laws and requirements of higher government
7 jurisdictions if, you know, we don't necessarily
8 have the ability to compose or enforce those
9 regulations. So it's a little bit outside of the
10 scope of what you typically would review.

11 And as part of the public hearing, when
12 the City establishes that as a finding, we're
13 taking on some obligation that we're expecting
14 that the applicant will substantiate that
15 information and that the City would review that
16 information and reach a conclusion on it.

17 And I think the concern would be that we
18 don't really have the ability to really review
19 that thoroughly and make a conclusion on it
20 because it is such a specific conclusive finding.
21 Versus the other findings that are in the list
22 that truly relate to the impacts of the use and
23 the appropriateness of the use, this is really
24 more directly kind of code interpretation for

1 codes that are not -- codes that the City
2 enforces.

3 CHAIRMAN WALLACE: Questions?

4 Well, I guess the other thing that occurs
5 to me -- I mean there are two other thoughts that
6 I have. And I understand that the Plan Commission
7 or City staff is not under any obligation to
8 investigate any and all Federal laws to ensure
9 that the use is in compliance; but on the flip
10 side of that, if there is a Federal law that we
11 know it violates, you know, is it really within
12 our jurisdiction to be able to approve a zoning
13 application where it's knowingly violative of
14 Federal law?

15 MR. COLBY: Well, I think the issue is
16 that it's outside of our jurisdiction.

17 CHAIRMAN WALLACE: True. But it is
18 information that's known to us. And I guess I
19 would compare it to an environmental issue. I've
20 read EPA regulations and they are -- if there's
21 anything more complex than the IRS code, it's
22 the EPA.

23 There's no way that we can know in a given
24 application whether or not something is in

1 compliance with any and all EPA regulations; but
2 if we know that it is not in compliance, is it
3 proper for the Plan Commission to allow that use
4 to exist if it's in active conflict with Federal
5 law?

6 MR. COLBY: I think you could reach that
7 finding or that conclusion under one of the other
8 findings because you really need to show -- you
9 know, the idea of a special use is that they have
10 some unique impacts on surrounding properties,
11 that they may not be appropriate at all locations
12 in the zoning district, but it may be appropriate
13 at some locations.

14 So the hearing process is really there to
15 verify that based on the specific proposal and the
16 site layout and the impacts of that specific
17 project, that it is or is not appropriate for that
18 location, so.

19 CHAIRMAN WALLACE: So are you saying that
20 property adjoining a property that violates
21 Federal law, there would be a negative impact on
22 property value or --

23 MR. COLBY: Well, what I was suggesting
24 is, like, with your example of the EPA. If we

1 knew that there was some environmental issue that
2 wasn't being addressed, that has a potential
3 negative impact on a surrounding property.

4 If we can show that that's the case,
5 that's appropriate to include in one of the other
6 findings because that then relates back to why it
7 has a negative impact on surrounding properties,
8 or it may not be appropriate at that location of
9 the zoning district.

10 CHAIRMAN WALLACE: So I guess by the same
11 token, if there was a property that was used,
12 let's say for cannabis sales, I mean, there could
13 be a potentially negative use on the surrounding
14 properties in the event that ATF helicopters
15 swooped in and -- I mean, I don't know.

16 I think that that's kind of a stretch. I
17 don't know. I'm always wary of changing something
18 just based on -- something that has been
19 longstanding based on one particular instance
20 where it has presented a problem because of the
21 unintended consequences.

22 I don't know. I can't -- I haven't been
23 able to brainstorm enough about what other types
24 of unintended consequences there may be.

1 MR. COLBY: I will comment, though, that
2 this requirement has only been in the City's
3 ordinance since 2006, and we can't verify as to
4 why specifically it was added. Prior to that,
5 there was nothing similar to that in the City code
6 back to 1960.

7 CHAIRMAN WALLACE: It seems to be common
8 sense, you know, that we want to make sure that
9 the uses that we're approving are legal uses, you
10 know.

11 MR. COLBY: Well, but keep in mind also,
12 though, this applies just to special uses, this
13 list. So we have all sorts of other uses
14 identified in the zoning ordinance that don't
15 necessarily have to meet this finding. So in a
16 way it's sort of singling out special uses to meet
17 this standard, but not other uses. They wouldn't
18 have to go through this type of review.

19 CHAIRMAN WALLACE: We don't have issues
20 with the other uses. I mean, haberdasheries
21 aren't in violation of any Federal law if they're
22 an allowed use under our zoning ordinance.

23 MR. COLBY: That's true, but it could
24 change. I mean, we don't necessarily know at all

1 times that everything that's in our code in terms
2 of uses is always going to be in compliance
3 with --

4 CHAIRMAN WALLACE: I guess that's why this
5 could be considered to be a safety net, my
6 opinion.

7 MEMBER VARGULICH: Russ, I have a
8 question.

9 From the process, okay, if we approve a
10 special use under this new language, so we're not
11 addressing State and Federal regulations. So now
12 it's approved. It moves through the next steps in
13 the process. So now it's going to be built.
14 Okay.

15 So as part of the building permit process,
16 do we require anyone, you know, getting a building
17 permit to address State or Federal laws relating
18 to their building?

19 MR. COLBY: Yes. To the extent that we're
20 aware of a requirement that applies based on the
21 type of project that they're constructing, or if
22 it's in a certain area, like a floodplain, yes, to
23 the extent that that is in effect.

24 I think the trouble we have with doing

1 this as part of the special use process is
2 typically these projects aren't far enough along
3 for them to have secured the approvals of those
4 higher levels of government where they're
5 required.

6 MEMBER VARGULICH: I would disagree with
7 Todd. I think that to address the concern that
8 Mr. Wallace has identified about, Wow, we can use
9 Federal and State things as a safety net for this
10 process.

11 I think that would be -- when all the
12 construction documents are submitted for the use
13 and you understand exactly what they're building
14 and the detail of their building; and if there's
15 something that's tentative -- or not tentative,
16 but something that's unique that requires special
17 types of permits -- so, like, if it's a gas
18 station, right. There's specific laws related to
19 tanks and things like that that have nothing to do
20 with a zoning issue as an example.

21 So there's all these State laws that
22 address life safety, fire, flood, in case of tank
23 ruptures, you know, all these different things
24 that they have to do, which are State laws that

1 would apply, that have to do with zoning or how
2 we're looking at it from a zoning relationship as
3 far as setbacks or buffering or, you know, those
4 kinds of things. So I think --

5 CHAIRMAN WALLACE: Can I just say. I'm
6 looking more in a general sense to the use because
7 what you're talking about is regulations that have
8 to be followed for users, strict users to do what
9 they can legally do. They have to comply with A,
10 B, and C. But if the user and the use itself is
11 not allowed, you know, if gas stations were not
12 allowed, well, I mean --

13 MEMBER VARGULICH: But isn't a gas station
14 location -- independent of zoning district. Okay.
15 If it falls under our list as a special use, then
16 by its nature, it gets reviewed as a special use
17 in relationship to the zoning districts and/or
18 uses adjacent to them or within proximity to or
19 those kinds of things.

20 So I think that's what we're charged with,
21 which is again relating to our local ordinances.
22 You know, do we think that a gas station in
23 relationship to a neighborhood -- I mean, as an
24 example, in our city is the Mobil station on Main

1 Street that's, whatever, 13th Street or something
2 like that, 12th Street, 11th. Okay. It's
3 directly adjacent to residential uses. It would
4 be a B-2 use and, you know, whatever that is.

5 And so would you approve that going
6 forward if it went away, or if it sold to somebody
7 else. I don't know. That would be a good
8 discussion for us to have as it relates to that
9 use and that type of use adjacent to residential
10 uses. But right now it's conforming because it's
11 a grandfathered relationship.

12 But would people like that going forward?
13 I don't know. We'd probably have a debate about
14 that. So I am personally okay with all these
15 changes.

16 CHAIRMAN WALLACE: All right. Any other
17 questions? Discussion?

18 MEMBER MELTON: So I'm struggling because
19 I know this came up because of the cannabis;
20 correct? So I'd like to ask you the question what
21 else is out there that is like that, that doesn't
22 conform with Federal but conforms with the State
23 that would be a similar issue or item that I
24 could, you know, kind of plug into the equation of

1 how that would work out here.

2 MR. COLBY: Well, I think some of the
3 examples that Peter offered are situations where
4 there may be State requirements, for example, that
5 would apply to a certain use that we can't
6 necessarily verify at the time it's going through
7 a zoning hearing that they're complying with.

8 Like, you know, for example, the
9 underground storage tanks and the review that
10 might be associated with those. That type of
11 information is typically not available at the time
12 that the application is being reviewed.

13 So it's difficult to reach a conclusive
14 finding on that.

15 MEMBER VARGULICH: I would also offer that
16 if you look at that chart that they prepared in
17 comparing St. Charles with all these other
18 communities, that other than Batavia, we're the
19 only one that has a State and Federal review
20 process or, you know --

21 CHAIRMAN WALLACE: Maybe because
22 (inaudible.)

23 MEMBER VARGULICH: Very possible but I
24 think given the 17 or whatever other communities

1 that are listed, they all have -- any communities
2 that are bigger than us, like as an example,
3 Arlington Heights. They are, like, what, 55-,
4 60,000 people, which is twice our size.

5 So I would think that at some level as you
6 get larger, you think about these
7 interrelationships between different laws and
8 different levels of laws, State, local, Federal;
9 and if you're not willing to make that part of the
10 special use process, there's probably a good
11 reason not to.

12 CHAIRMAN WALLACE: I have a suggestion,
13 and Russ, I want to hear your take on it. I know
14 how it's worded now and how you propose it to be
15 worded; but what if instead of saying, The
16 proposed special use conforms with all existing
17 Federal, State, and local legislation and
18 regulation, what if it said that it conforms to
19 all relevant Federal and State legislation and
20 regulation known to the Plan Commission at the
21 time of the public hearing.

22 MR. COLBY: I agree that would make it
23 more workable from the Plan Commission's
24 standpoint. You know, it's still -- we would

1 still then have potentially inherent conflict with
2 a use that we had already identified within our
3 code as being allowed somewhere, subjected to this
4 review which it could not meet, which was the
5 issue that, you know, you raised during the public
6 hearing.

7 So to some extent, that would clarify the
8 level to which the Plan Commission would need to
9 review things that are before them.

10 Now, you know, there may be some question
11 as to what's relevant and to how -- and to what
12 level would that need to be reviewed but --

13 CHAIRMAN WALLACE: Well, take out relevant
14 and just say Federal and State legislation and
15 regulation known to the Plan Commission. I mean
16 that would take it out of the universe of the
17 Plan -- that we are not in charge or enforcing or
18 policing Federal laws, yeah. But if there is
19 something that is known to the Plan Commission,
20 then that's something that should be relevant in
21 our considerations.

22 MR. COLBY: I think the struggle might be
23 that, you know, just basing that on what the
24 knowledge of the Plan Commission is at the time on

1 a given topic, if that's fair and equitable to
2 applicants. You know, we do our best to try and
3 flag those things to the extent that we can in the
4 review process, but it's not foolproof.

5 CHAIRMAN WALLACE: All right. Any other
6 questions? Comments? Okay.

7 (No response.)

8 CHAIRMAN WALLACE: Let's hear a motion to
9 close the public hearing.

10 MEMBER FUNKE: I'll make that motion.

11 CHAIRMAN WALLACE: All right.

12 MEMBER VARGULICH: Second.

13 CHAIRMAN WALLACE: It's been moved and
14 seconded. Any discussion on the motion? It's the
15 motion to close the public hearing.

16 (No response.)

17 CHAIRMAN WALLACE: Becker.

18 MEMBER BECKER: Yes.

19 CHAIRMAN WALLACE: Funke.

20 MEMBER FUNKE: Yes.

21 CHAIRMAN WALLACE: Pretz.

22 MEMBER PRETZ: I'm going to say no.

23 CHAIRMAN WALLACE: Holderfield.

24 MEMBER HOLDERFIELD: Yes.

1 CHAIRMAN WALLACE: Melton.

2 MEMBER MELTON: Yes.

3 CHAIRMAN WALLACE: Vargulich.

4 MEMBER VARGULICH: Yes.

5 CHAIRMAN WALLACE: Wallace, yes.

6 All right. Now, we move on to 8 -- it
7 says 8d. It probably should be 8b, but that's
8 okay, which is discussion and recommendation for
9 this application.

10 Is there a motion or any discussion?

11 MEMBER VARGULICH: I just have a question
12 for Tom. Why did you want to keep the public
13 hearing open?

14 MEMBER PRETZ: Only because I don't
15 feel -- I don't feel I have enough understanding
16 and a clear answer to this amendment and the
17 impact that it has on the City for future special
18 uses and that.

19 So I'm kind of in an uncomfortable
20 position related to that, and maybe for me more
21 discussion would help me. So for closing the
22 public hearing -- and I understand we can't debate
23 this for many more meetings and kind of move along
24 here. But that's the reason. It's just that I

1 feel uncomfortable with it. I don't have a clear
2 sense of exactly how I should vote for this.

3 MEMBER VARGULICH: And the letter from
4 Peppers didn't help.

5 MEMBER PRETZ: Yeah. I read through the
6 letter and that, yeah.

7 CHAIRMAN WALLACE: All right. Is there a
8 motion?

9 MEMBER BECKER: I move to recommend
10 approval of the amendment as proposed in the staff
11 report -- let me see -- amendment to Chapter
12 17.04, Administration, Section 17.04.330, special
13 uses and amendments to special uses as follows:
14 Conformance with codes: That the proposed special
15 use conforms to all applicable provisions of the
16 St. Charles Municipal Code and meets or exceeds
17 all applicable provisions of this title, except as
18 may be varied pursuant to a special use for a
19 planned unit development.

20 CHAIRMAN WALLACE: All right. Is there a
21 second?

22 MEMBER FUNKE: I'll second.

23 CHAIRMAN WALLACE: All right. It's been
24 moved and seconded to recommend approval as

1 provided in the staff report -- or as provided in
2 the application, sorry.

3 Any discussion?

4 MEMBER BECKER: I really do think it's a
5 self-policing thing as staff talked about, and I
6 think that there's so many steps to an approval
7 and entitlement and building process that missing
8 something important would be part of that --
9 identifying something important would be part of
10 that; and I'm comfortable with removing the
11 language knowing that it has to go through staff
12 and all the other people that would be part of the
13 process.

14 CHAIRMAN WALLACE: All right. Any other
15 discussion?

16 (No response.)

17 CHAIRMAN WALLACE: All right. Seeing
18 none.

19 Becker.

20 MEMBER BECKER: Yes.

21 CHAIRMAN WALLACE: Funke.

22 MEMBER FUNKE: Yes.

23 CHAIRMAN WALLACE: Pretz.

24 MEMBER PRETZ: I'm just going to say

1 present for now.

2 CHAIRMAN WALLACE: Holderfield.

3 MEMBER HOLDERFIELD: Yes.

4 CHAIRMAN WALLACE: Melton.

5 MEMBER MELTON: No.

6 CHAIRMAN WALLACE: Vargulich.

7 MEMBER VARGULICH: Yes.

8 CHAIRMAN WALLACE: And Wallace, no.

9 That motion does pass four yeses, three
10 no's, and one present.

11 All right. And that concludes Item No. 8
12 on your agenda.

13 Item 9, additional business from Plan
14 Commission members or staff. Any additional
15 business?

16 Do you guys need anything?

17 MR. COLBY: We're just trying to clarify
18 the vote.

19 CHAIRMAN WALLACE: Oh, it was --

20 MR. COLBY: I think it was 4 to 2 with one
21 voting present.

22 CHAIRMAN WALLACE: Oh, I'm sorry.

23 MEMBER VARGULICH: It's 4 to 2.

24 CHAIRMAN WALLACE: It was 4 to 2.

Transcript of Hearing
Conducted on November 5, 2019

29

1 MEMBER BECKER: You were voting for Tim.

2 CHAIRMAN WALLACE: 4 to 2 with one
3 present, sorry.

4 All right. Any additional business?

5 (No response.)

6 CHAIRMAN WALLACE: The weekly development
7 report, you all hopefully are -- is everyone
8 receiving that on Fridays in your e-mails. Okay.
9 Good.

10 And meeting announcements, we have a
11 November 19th, December 3rd, December 17th.

12 Is there anything besides that K-9 on the
13 19th?

14 MR. COLBY: Yes.

15 CHAIRMAN WALLACE: Okay. So we won't be
16 dependent upon that.

17 MR. COLBY: No.

18 CHAIRMAN WALLACE: All right. Good.

19 Public comment? We lost our public.

20 All right. Is there a motion to adjourn?

21 MEMBER HOLDERFIELD: So moved.

22 MEMBER FUNKE: Second.

23 CHAIRMAN WALLACE: Okay. Moved and
24 seconded. All in favor.

1 (Ayes heard.)

2 CHAIRMAN WALLACE: Opposed.

3 (No response.)

4 CHAIRMAN WALLACE: The City of St. Charles

5 Plan Commission is adjourned at 8:07 p.m.

6 (Off the record at 8:07 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 6th day of November, 2019.

My commission expires: May 16, 2020

Joanne E. Ely



Notary Public in and for the
State of Illinois