

**MINUTES
CITY OF ST. CHARLES, IL
ST. CHARLES PLAN COMMISSION
TUESDAY, MARCH 8, 2011 7:00 P.M.**

Members Present: Todd Wallace, Chairman
 Tim Kessler, Vice Chairman/Secretary
 Thomas Pretz
 Tom Schuetz

Members Absent: Curt Henningson, Sue Amatangelo, Brian Doyle

Also Present: Rita Tungare, Community Development Director
 Russell Colby, Planner
 Matthew O'Rourke, Planner
 Colleen Johnson, Recording Secretary

1. Call to order

A meeting of the St. Charles Plan Commission was called to order at 7:00 p.m. by Chairman Wallace.

2. Roll Call

3. Presentation of Minutes

Mr. Kessler made a motion to continue Item #3. The motion was seconded and passed by unanimous vote.

Ms. Tungare advised the Commission that Regency Estates is on the Planning & Development Committee agenda for Monday, March 14th. She said the standard practice is to provide the Committee with a copy of the Plan Commission minutes and resolution. If the Commission does not approve the minutes tonight they would not be included in the packet for the Committee.

Chairman Wallace advised staff that the Commission identified a discrepancy in the minutes. He indicated the Findings of Fact within the motion might not have been clear when stated, however what is presented in the minutes is not the intention of the Commission. Ms. Tungare suggested the tape be reviewed and advised the Commission they could make a correction to the minutes if the tape clearly showed there was a discrepancy with what the Commission stated and what is represented in the minutes.

The Commission reviewed the motion on the tape from the Tuesday, February 22nd meeting. Staff and the Commission agreed the tape clearly stated in the motion that Mr. Kessler included language that stated the developer was "unwilling" to change the layout and this was the key word missing from the minutes.

Staff noted a motion had not been made to table the minutes, but continue and a date had not been stated.

After review of the tape, the Commission recommended correcting the minutes and making a motion to approve the minutes with changes. Chairman Wallace agreed that the motion did not set a date for continuance of approval for the minutes, and with sufficient information to correct the minutes, this can be readdressed. Chairman Wallace stated the correction was to a discrepancy in Resolution 2-2011 after review of the tape from Plan Commission meeting held 2/22/11.

The Commission discussed how the minutes should read. Mr. Kessler said the discrepancy in his motion to recommend denial was in the Findings of Fact: referring to 17.04.0330 C2 Special Uses “B”; *without them changing the existing utilities and infrastructure they would be unable to alter for improvements, would have difficulty providing sufficient utilities for the orderly development of the site.....because of the applicants unwillingness to alter the existing utilities and infrastructure which already exists on site will result in inability.* Chairman Wallace acknowledged the original motion may not have been clear and the correction needs to be fairly accurate to what was said in the tape. Mr. Pretz asked if there should be language included regarding improvement of site layout. Mr. Kessler said this revised motion needs to be exactly as what was stated at the February 22nd meeting. Ms. Tungare agreed stating additional comments couldn’t be included.

The Commission discussed the language for the correction. *B- they don’t meet the Findings of Fact without them changing the existing infrastructure. D – do not meet Findings of Fact because the plan will not layout properly.* Chairman Wallace clarified *because the plan will not lay out properly and the layout of proposed plan will have a negative effect.* Chairman Wallace reviewed language *“Because the proposed amendment does not meet Findings of Fact section 17.04.330 C2 for Special Use “b” without changing the existing infrastructure and “d” because the plan will not layout properly and will have a negative impact on development and improvement of surround property.* The Commission agreed.

Mr. Kessler made a motion to amend Plan Commission minutes from February 22, 2011 lines 1 through 10 of page 3, bottom paragraph to read “Because the proposed amendment does not meet Finding of Fact section 17.04.330 C2 for Special Use “b” without changing the existing infrastructure and “d” because the plan will not layout properly and will have a negative impact on development and improvement of surrounding property. Mr. Schuetz seconded the motion.

Ayes: Kessler, Pretz, Schuetz, Wallace

Nays: None

Absent: Amatangelo, Doyle, Henningson

Motion passed.

Mr. Kessler made a motion to approve the minutes of the February 22, 2011 meeting subject to changes voted on by the Commission. Mr. Schuetz seconded the motion.

Ayes: Wallace, Kessler, Schuetz, Pretz

Nays: None

Absent: Amatangelo, Doyle, Henningson

4. Plan Commission Workshop

Mr. Colby said this is the first of planned educational workshops for the Commission and presented a power point presentation:

What is Planning?

Legal Basis for Planning

Legal Framework

What are Property Rights?

What is Police Power?

Federal Constitutional Protections

Chairman Wallace commented that the concept of “Due Process” relates to what the Commission just discussed. He noted the importance of tying the Plan Commission recommendations to the Findings of Fact because when the City Council acts, they ultimately need to tie their decision to a legitimate public purpose. Zoning Ordinance findings are in place to determine if a development or change is consistent with the public good or serves a legitimate public purpose. Mr. Schuetz said the last several meetings have helped him understand how the Findings of Fact tie into making a decision. He finds it difficult separating personal opinions. Chairman Wallace agreed concerns need to be explained as “this is why” there is an issue. He complimented the current Commission members and commended staff for focusing on the Findings of Fact. Mr. Schuetz said when there is confusion on the process it becomes a discussion session. Ms. Tungare said she understands that it takes time to build experience. She acknowledged it is difficult to work in a limited framework. The purpose of the workshop is to create an understanding of the context and thought process for evaluating what is before the Commission for review. She commented that with few applications being submitted recently, the Commission has not had the opportunity to practice or gain experience.

Mr. Colby discussed “Equal Protection” and how this comes into play when crafting zoning ordinances in terms of classifications. He said the Commission’s duty is to administer the ordinance fairly in making decisions. Ms. Tungare said personal opinions should be excluded from the decision process. Chairman Wallace said restrictions cannot be placed on one group of people and not another in a similar situation. He added that uses can be differentiated and have restrictions in districts. He said, for example, if there is a plan for a non-for-profit organization and someone else submits an application for a nightclub, the Plan Commission couldn’t base a decision on who the person is, but rather the actual use being considered. The members discussed past applications that presented difficulty for the Commission to review. Mr. Colby said if there is a situation where two applications are similar and the facts are the same they have to make the same decision both times. Mr.

Kessler said if at a public meeting a large group of people oppose a petition but the Commission knows the application meets all requirements, a member couldn't vote against the application based upon the audience. Chairman Wallace reminded the Commission that it is up to City Council to make the decision and the Council is not a fact finding-based body as the Plan Commission is.

So What Does All This Mean?

Procedural Requirements

PC Rules of Procedure

Rules for Public Hearings

Mr. Schuetz asked what limitations the Commission has to question an applicant. Mr. Colby said if the question can relate to the Findings of Fact or information requested that helps understand a part of the development that supports one of the findings, it is a legitimate question. Mr. Schuetz asked if the Plan Commission should have an objective with a certain application. Ms. Tungare stated they Commission should not use preconceived notions but rather focus on the hearing process and testimony. Chairman Wallace noted that often members of the audience bring up inappropriate statements that evolve into the Plan Commission discussion. Mr. Pretz referred to information about the income level of a subdivision and what type of customer is being targeted, stating that may be inappropriate. Ms. Tungare agreed that should not be considered, but rather the Commission can review the architectural quality being presented. Mr. Schuetz said he has struggled with this issue. Mr. Pretz asked if affordable housing is being discussed and the question was asked about the price point of the structures, this may be to determine what is an affordable house by code, state, or just a phrase that the individual is using. Mr. Colby said that would be appropriate because they are tying it to a requirement in the ordinance about affordable housing. He said if that requirement were not there and they were just asking about price points as a way to gage the quality of the development, then that would be inappropriate. Ms. Tungare said the question needs to be framed in the right context. She advised that staff drafts findings for the Commission to work from and create their own. Staff can assist with that process and guide the Commission during the meeting portion for considering a recommendation on an item, but cannot steer the Commission.

After the Public Hearing

Voting on Application

Committees of the PC

Roberts Rules of Order

Basic Rules

The Commission all agreed they would like to review Roberts Rules of Order. Staff advised there are books they can borrow from the Planning office. Ms. Tungare asked if the Commission would like the books to read or have review during training. The Commission said they would like review with staff at a workshop.

Using Robert's Rules

Open Meetings Act

When is a meeting a public meeting?

Ms. Tungare advised that the Commission, or any Committee member, should not “reply all” with any e-mail correspondence from staff. She also stated discussions cannot be held as a group without the applicant being present, because all meetings are public.

Role of the Plan Commission

Relationship to City Council

Scope of Review Authorize

City code, Chapter 2.28 Establishing Plan Commission

City Code cont.

Comprehensive Plan

What is a Comp. Plan?

A core Document

State law – Powers of Plan Commission

State Law – Other powers of PC

Content of the Comp. Plan

City’s Current Comp. Plan

Using the Comp. Plan

Ms. Tungare explained the difference between land use designations of the Comprehensive Plan and Zoning Ordinance uses. Ms. Tungare advised that the process to initiate an update to the Comprehensive Plan started last year. She said due to budget considerations, the City Council temporarily held off on funding the project, but she is hopeful the process will begin some time this year. She stated the Comprehension Plan is outdated and the land use designations are not consistent with current conditions or the types of proposals before the City. She noted the Oliver Hoffman site as an example. Mr. Colby added the density requested through zoning for the Oliver Hoffmann site exceeded the Comprehensive Plan density standards, however, the City already had a zoning district that allowed the proposed density. That suggested the plan was outdated because it does not reflect standards used for development over the last 20 years. In those situations, it seems that the policy has not kept up with the ordinance standards. Ms. Tungare advised that the Plan Commission would be involved in the process of updating the Comprehensive Plan by making a recommendation on the document.

Zoning Ordinance

What is Zoning

State Law – Purpose of Zoning

State Law – Zoning Powers

State Law – Zoning Powers cont.

Zoning Powers – Council & Commissions

Mr. Kessler asked if the Board of Zoning Appeals is the only Commission that has a legal responsibility. Mr. Colby said that was correct as they make final decisions and their requirements are more stringent. Ms. Tungare added that the BZA only has four categories of variations they can consider. Mr. Colby said variances are limited to certain bulk requirements, such as setbacks, and cannot be granted for parking standards, for example. Ms. Tungare said this information is under the Administration Chapter 17.04 of the Zoning Ordinance. Mr. Schuetz asked how much the City Council considers or discusses the Plan Commission recommendation. Ms. Tungare said it depends on the significance of the project, public controversy, type of project, etc. The City Council relies on staff and the Plan Commission to do the technical work. In most cases, the

technical issues have been resolved prior to City Council voting. She explained the Planning & Development Committee meetings allow short presentations and question and answer discussions but the Committee is not obligated to allow public comment at that stage. She said their review procedure is limited compared to the Plan Commission. Mr. Colby added that the Findings of Fact that are drafted by staff and approved by the Plan Commission are incorporated into the ordinance that the City Council approves. He said the Plan Commission does the work through the hearing process establishing those findings and if the City Council is in agreement they will be incorporated into the ordinance. If the City Council disagrees, they provide other findings.

Zoning Powers – Administrative

Role of Staff

Mechanics of PC Procedures

Structure of the ZO

Zoning District

Conclusion

Mr. Colby asked what topics the Plan Commission would like to further discuss. He reiterated that additional materials are available for the members to borrow from the Planning office. Ms. Tungare added that a lot of material was covered and this was an overview to establish basic foundations for discussion at future workshops. She discussed that the next workshop would include a portion for questions and answers.

Mr. Kessler would like a review of the administrative procedures contained in Titles 16 and 17. Mr. Colby said the next session will review individual applications and will discuss procedures for each, along with general administrative functions and procedures. Chairman Wallace asked if the Rules of Procedure can be distributed to the members and discussed. Ms. Tungare said they would also like to have guest speakers attend some of the meetings. Chairman Wallace said he envisions in the future as an on-going basis to take 15 minutes at a meeting for discussions. Mr. Schuetz said case studies will be very helpful for discussing Findings of Fact. Mr. Colby said they will discuss the review process for applications along with a case study. The Commission agreed it would be beneficial to review actual past applications.

Mr. Kessler asked that since the Comprehensive is outdated, would they not be spending time reviewing the document? Ms. Tungare said they might not review it in detail as long as the Commission understands the structure. Mr. Colby said if the Commission felt it would be beneficial they could walk through the Land Use chapter. Chairman Wallace suggested discussing the Applied Composites amendment as a case study noting the differences between the land use planning and zoning, to help understand how the Comprehensive Plan works and why it was changed. Mr. Kessler commented that even though the Comprehensive Plan is outdated, it is still the document that applicants use and therefore the Commission needs to understand what is in it and how the chapters apply. Mr. Colby said they could cover the recommendations of the plan. Ms. Tungare discussed other documents within the Comprehensive Plan such as the Downtown Strategy Plan and the River Corridor Plan that can be reviewed.

The Commission thanked staff and complimented the presentation. Chairman Wallace asked to have the presentation available for new members to review as this is very good framework for understanding the process.

The meeting adjourned at 8:55p.m.