

**MINUTES
CITY OF ST. CHARLES, IL
PLAN COMMISSION
TUESDAY, AUGUST 6, 2013**

Members Present: Todd Wallace, Chairman
 Brian Doyle
 Tim Kessler
 Sue Amatangelo
 Curt Henningson
 Tom Schuetz
 Tom Pretz

Members Absent: None

Also Present: Matthew O'Rourke, Planner
 Sonntag Court Reporter

1. Call to order

The meeting was called to order at 7:00 p.m. by Vice Chairman Kessler.

2. Roll Call

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

3. Presentation of minutes of the July 2, 2013 meeting.

A motion was made, seconded and unanimously passed by voice vote to accept the minutes of the July 2, 2013 meeting.

PUBLIC HEARING

4. First Street Redevelopment – Building 7A 401-409 S. First Street (First Street Development, LLC.)

Application for Amendment to Special Use for Planned Unit Development Ordinance No. 2006-Z-29 (First Street Redevelopment PUD) to permit Office, Business or Professional and Medical Dental Clinic uses in the first floor tenant space of Building 7A.

The attached transcript prepared by Sonntag Reporting Service, Ltd., is by reference hereby made a part of these minutes.

Mr. Kessler made a motion to close the public hearing. Ms. Amatangelo seconded the motion.

Roll Call Vote:

Ayes: Henningson, Kessler, Scheutz, Pretz, Amatangelo, Doyle, Wallace

Nays: None

Absent: None

Motion carried.

Mr. Doyle made a motion to amend the agenda, making item 6 next. Mr. Henningson seconded the motion.

MEETING

6. First Street Redevelopment – Building 7A 401-409 S. First Street (First Street Development, LLC.)

Application for Amendment to Special Use for Planned Unit Development Ordinance No. 2006-Z-29 (First Street Redevelopment PUD) to permit Office, Business or Professional and Medical Dental Clinic uses in the first floor tenant space of Building 7A.

The attached transcript prepared by Sonntag Reporting Service, Ltd., is by reference hereby made a part of these minutes.

Mr. Kessler made a motion to recommend approval to the City Council Planning Committee for the First Street Development, LLC, Building 7A 401-409 South First Street for the application for amendment to special use for Planned Unit Development, Ordinance No. 2006-Z-29, First Street Redevelopment PUD, to permit office, business or professional and medical dental clinic uses in the first-floor tenant space of building 7A. Mr. Pretz seconded the motion.

Roll Call Vote:

Ayes: Henningson, Kessler, Scheutz, Pretz, Amatangelo, Doyle, Wallace

Nays: None

Absent: None

Motion carried.

PUBLIC HEARING

5. General Amendment (City of St. Charles)

Chapter 17.22 “General Provisions”, Section 17.22.020 “Accessory Buildings and Structures” regarding requirements for fences and walls.

The attached transcript prepared by Sonntag Reporting Service, Ltd., is by reference hereby made a part of these minutes.

Mr. Kessler made a motion to close the public hearing. Mr. Pretz seconded the motion.

Roll Call Vote:

Ayes: Henningson, Kessler, Scheutz, Pretz, Amatangelo, Doyle, Wallace

Nays: None

Absent: None

Motion carried.

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The attached transcript prepared by Sonntag Reporting Service, Ltd., is by reference hereby made a part of these minutes.

7. General Amendment (City of St. Charles)

Chapter 17.22 “General Provisions”, Section 17.22.020 “Accessory Buildings and Structures” regarding requirements for fences and walls.

Mr. Kessler made a motion to recommend approval of the General Amendment for Chapter 17.22, General Provisions, Section 17.22.020, Accessory Buildings and structures regarding requirements for fences and walls, as approved by Staff. Ms. Amatangelo seconded the motion.

Roll Call Vote:

Ayes: Henningson, Kessler, Scheutz, Pretz, Amatangelo, Doyle, Wallace

Nays: None

Absent: None

Motion carried.

8. Meeting Announcements

Tuesday, August 20, 2013 at 7:00pm Council Chambers

Tuesday, September 3, 2013 at 7:00pm Century Station – City Training Room

Tuesday, September 17, 2013 at 7:00pm Council Chambers

9. Additional Business from Plan Commission Members, Staff, or Citizens.

10. Adjournment at 8:04 P.M.

1 S62928

2 STATE OF ILLINOIS)
3) SS.
4 COUNTY OF K A N E)

5 BEFORE THE CITY OF ST. CHARLES
6 PLAN COMMISSION

7
8 In Re:)
9 City of St. Charles Plan)
10 Commission Meeting of)
11 August 6, 2013.)

12 REPORT OF PROCEEDINGS of the
13 above-entitled cause, at 2 East Main Street,
14 Council Chambers, St. Charles, Illinois, on
15 August 6th, 2013, at the hour of 7:00 P.M.

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1 PRESENT:

2 MR. TODD WALLACE, Chairman;

3 MR. TIM KESSLER, Vice-Chairman;

4 MS. SUE AMATANGELO, Member;

5 MR. BRIAN DOYLE, Member;

6 MR. CURT HENNINGSON, Member;

7 MR. THOMAS PRETZ, Member; and

8 MR. TOM SCHUETZ, Member.

9 ALSO PRESENT:

10 MR. MATTHEW O'ROURKE, City Planner.

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

3 Tim, roll call.

4 VICE-CHAIRMAN KESSLER: Amatangelo?

5 MS. AMATANGELO: Here.

6 VICE-CHAIRMAN KESSLER: Schuetz?

7 MR. SCHUETZ: Here.

8 VICE-CHAIRMAN KESSLER: Doyle?

9 MR. DOYLE: Here.

10 VICE-CHAIRMAN KESSLER: Pretz?

11 MR PRETZ: Here.

12 VICE-CHAIRMAN KESSLER: Henningson?

13 MR. HENNINGSON: Here.

14 VICE-CHAIRMAN KESSLER: Wallace?

15 CHAIRMAN WALLACE: Here.

16 VICE-CHAIRMAN KESSLER: Kessler?

17 Here.

18 CHAIRMAN WALLACE: Item No. 3 is
19 presentation of the minutes of the July 2nd, 2013,
20 meeting.

21 Is there a motion to approve the minutes of
22 the 2013 meeting?

23 MS. AMATANGELO: So moved.

24 VICE-CHAIRMAN KESSLER: Second.

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1 CHAIRMAN WALLACE: It has been moved and
2 seconded.

3 All in favor?

4 (The ayes were thereupon
5 heard.)

6 CHAIRMAN WALLACE: Opposed?

7 That motion passes unanimously.

8 Items 4 and 5 on your agendas are public
9 hearings. Item 4 is First Street Redevelopment,
10 Building 7A, 401 to 409 South First Street, First
11 Street Development, LLC, application for amendment
12 to special use for Planned Unit Development
13 Ordinance No. 2006-Z-29 (First Street
14 Redevelopment PUD) to permit office, business or
15 professional and medical dental clinic uses in the
16 first floor tenant space of Building 7A.

17 For those of you who aren't familiar with
18 our procedure here, the Plan Commission is
19 commissioned by the City Council to conduct public
20 hearings for certain applications that come before
21 the City. And that is what we are doing tonight.

22 As far as our procedure goes, we begin by
23 asking for evidence from the applicant, both in
24 the form of written evidence, as well as

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1 testimony.

2 Following that presentation, we will ask
3 for questions from Plan Commissioners and members
4 of the public.

5 After that, we will ask for evidence either
6 for or against the application, followed by
7 rebuttal.

8 As soon as the Plan Commission feels they
9 have received enough evidence to make a decision,
10 we will close the public hearings.

11 And then on the agenda tonight, Item No. 6,
12 is the fourth item and Item 7 is the next item.
13 We will vote whether or not to recommend approval
14 of the application to the City Council.

15 At that point in time, it will go to the
16 City Council Planning & Development Committee for
17 recommendation to the City Council as a whole.

18 Any questions on our procedure? All right.

19 At this time, anyone who wishes to give
20 testimony, including asking any questions for both
21 Items 4 and 5 public hearings, I ask that you now
22 be sworn in.

23 Please, raise your right hands.

24

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1 (The witnesses were thereupon
2 duly sworn.)

3 CHAIRMAN WALLACE: All right. Thank
4 you.

5 When you do give testimony or ask any
6 questions, I ask everyone to please step up to the
7 lecturn and speak into the microphone here. Begin
8 by stating your name and spelling your last name
9 for the Court Reporter, as well as stating your
10 street address.

11 Each time you get up to ask a subsequent
12 question or make a comment, please repeat your
13 name for the Court Reporter.

14 To begin with -- one second -- we have --
15 for the First Street Redevelopment Application, we
16 do have one exhibit which is Exhibit A, pictures
17 of building 7A included in the individual packet
18 dated 7/25, 2013.

19 Are we going -- should we admit this as
20 Exhibit B?

21 MR. O'ROURKE: Yes. You might as well
22 to be safe.

23 CHAIRMAN WALLACE: And then Exhibit B is
24 a letter from Philip Kessler from 345 South Second

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1 Street, St. Charles, Illinois, addressed to
2 multiple people -- to the City of St. Charles --
3 actually, to Matthew O'Rourke, and regarding this
4 application.

5 And during the hearing, we will -- we will
6 read that letter as soon as we begin the hearing
7 after the applicant has given testimony.

8 Any questions before we begin?

9 Okay. Is the applicant ready?

10 MR. LEVATO: Ready.

11 CHAIRMAN WALLACE: Go ahead and step up.

12 And all cell phones to silent mode, please.

13 MR. LEVATO: Do I need the microphone?

14 CHAIRMAN WALLACE: We probably do.

15 MR. LEVATO: Good evening. And thank
16 you for having me. My name is Ed Levato,
17 L-e-v-a-t-o, a partner in the law firm of Levato &
18 Cocci. I come here as an applicant.

19 Unfortunately, you have to have a
20 substitute tonight. My partner, Keith Cocci,
21 filed the application and was planning to be here
22 for the hearing but cannot be here because of some
23 marital issues involving his daughter -- that is,
24 she is going to get married. So they have some

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1 kind of function that is related to the wedding
2 that is coming up.

3 I live at 166 St. Francis Court in
4 Bloomingdale, Illinois. My office is in Hanover
5 Park. I am not sure if you need that address.
6 That is where I conduct all my business.

7 And I am here on behalf of the partnership
8 with regards to Building 7A. We have a couple of
9 units on the first floor level that -- that have
10 been on line for about five years now. And
11 because of the zoning, we have not been able to
12 obtain the appropriate zoning that was required
13 under the original PUD.

14 And we are asking for some relief from that
15 because we basically have an empty -- two empty
16 units there that just did not facilitate for any
17 kind of retail or appropriate use that is
18 currently under the zoning code. And we are
19 asking that it be modified to allow for office and
20 other general business use.

21 We have met with Village Staff. I believe
22 that Matt O'Rourke --

23 MR. O'ROURKE: I am right here.

24 MR. LEVATO: I believe that he has

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1 worked on this. And I apologize if I am not clear
2 on all the facts.

3 Again, like I said, my partner, Keith
4 Cocci, was supposed to be here. But he worked
5 with the Staff at length and I believe submitted
6 all the items that they requested. And there is
7 an extensive writeup. I can add more. Or I can
8 subtract. Or you could take the evidence as it
9 was previously submitted as part of the packet.

10 How would you like me to proceed,
11 Mr. Chairman?

12 MR. O'ROURKE: I can also supplement if
13 that is necessary.

14 CHAIRMAN WALLACE: Okay. We have the
15 application before us.

16 But typically, what we like to do is get an
17 overview of what the application is and what the
18 relief is that is being sought. And we have to
19 make findings of fact in support of that in order
20 to recommend approval.

21 And so, you know, what we prefer is to go
22 through the findings of fact and make sure that
23 they are in the affirmative in order to support a
24 recommendation of approval to the City Council.

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1 So in the Staff Report, we have -- we have
2 a list of the findings of fact and comments that
3 were made by Staff on each of those items.

4 In addition, those are also listed in the
5 application itself, I believe.

6 Yeah. Here we go. Starting on page No. --

7 MR. DOYLE: 6.

8 CHAIRMAN WALLACE: -- 6 of the Staff
9 report. But after the four-page application, we
10 start with the findings of fact in the application
11 itself or as an attachment to the application.

12 MR. O'ROURKE: Those would be the one
13 that the applicant created and submitted with the
14 application.

15 CHAIRMAN WALLACE: Uh-huh.

16 MR. LEVATO: I would be more than happy
17 to go through it all again if you would like. The
18 property address, of course, you are probably
19 aware of 401 through 409 First Street.

20 It came on line -- it is a building that is
21 already built. It is not asking for any variation
22 or any new construction that needs to be done.
23 All the street improvements have been made. The
24 apartments have been built.

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1 There is a BMO Harris facility that was
2 part of the overall plan of the old downtown
3 redevelopment. We actually had built a facility
4 for BMO Harris which we did. And they have
5 occupied the space ever since it was built.

6 And there were two other spaces there that
7 we have been trying to rent with the appropriate
8 use in that location for the last five years. And
9 it has not been able to be done.

10 We have had a number of people request to
11 lease the facility. But however, all of those
12 were general business use leases with medical and
13 dental facility uses.

14 So we had approached the City at that time.
15 And the City did not grant any relief from that --
16 from the ordinance. And therefore, they have
17 remained empty.

18 Our goal is to, of course, create viability
19 in the whole First Street Redevelopment area which
20 includes this location. And I think the quickest
21 and the easiest and the best way to get to
22 viability is to allow for services or uses that
23 can actually make use of that location.

24 It is not directly in the immediate retail

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1 area of the First Street project. It is at the
2 extreme southern end of it. Traffic flow --
3 walking traffic flow doesn't go that way. And it
4 would be -- that is one of negatives for any
5 retail use. They don't see any benefit to being
6 on the first level in that location.

7 So I believe that the City has already
8 looked at some overall plan along even the Route
9 64 area and have made some changes to that plan
10 which will allow for some commercial -- I mean,
11 general business use.

12 And we are asking for the same relief to be
13 able to proceed with marketing the property so
14 that it can actually become a viable location for
15 a user.

16 MR. O'ROURKE: If I could just
17 supplement maybe with a couple of technical
18 details. Essentially, these requirements or
19 restrictions were placed solely in the PUD. While
20 they are similar to the overlay district that is
21 downtown, this property is not in that overlay
22 district.

23 So it was something that in 2006 was
24 thought to be a desirable thing. But the request

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1 is really to align this property with what would
2 be allowed in the zoning -- the underlying zoning
3 district by right.

4 So there is no relief requested through
5 this application. It is more just to change the
6 PUD to allow what should be allowed there. So I
7 think there is no actual relief requested in that
8 sense, in the true strict zoning sense.

9 It is through the PUD and having changing
10 circumstances in the way that that project is
11 developed is why this application is being brought
12 forward.

13 CHAIRMAN WALLACE: Matt, tell me, PUD
14 53, which is across the street, what is allowed in
15 the first floor in that district? Is it the same
16 as the underlying zoning?

17 MR. O'ROURKE: Yes, it is per underlying
18 zoning.

19 CHAIRMAN WALLACE: The change that they
20 are requesting as a special use would match what
21 is already existing across the street?

22 MR. O'ROURKE: Right. That is not part
23 of the First Street Redevelopment, nor is it in
24 the overlay.

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1 CHAIRMAN WALLACE: At the point when the
2 next building to the north of this property -- I
3 guess to the north of the Blue Goose -- I don't
4 remember the number of that building.

5 MR. O'ROURKE: That would be 7B.

6 CHAIRMAN WALLACE: When 7B is
7 constructed, the uses under the PUD for the first
8 floor of that building would be primarily retail;
9 correct?

10 MR. O'ROURKE: That's correct. It would
11 basically meet the use restrictions that were on
12 line in the Staff Report.

13 CHAIRMAN WALLACE: If somebody on the
14 first floor of that building wanted the same type
15 of -- I am going to call it relief -- that we are
16 looking at tonight, would they be able to get it?

17 MR. O'ROURKE: Yeah. It is a question
18 of the merit of the application at that time. It
19 is kind of hard to speculate. I can say that that
20 property isn't in the overlay either.

21 CHAIRMAN WALLACE: It is, actually. I
22 am looking at the zoning map. And that is why I
23 ask because it seems like -- I know that is not
24 the application before us. But someone in that

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1 property would have to essentially jump through
2 tubes to get a special use and to be exempted from
3 the overlay district; correct?

4 MR. O'ROURKE: I thought both of these
5 properties were not in that overlay. It goes
6 right through the center of the Blue Goose parking
7 lot, just to the north.

8 CHAIRMAN WALLACE: It looks like it goes
9 along Indiana Street which is the road directly in
10 front of the Blue Goose parking lot.

11 MR. O'ROURKE: Let me see if I can --

12 MR. DOYLE: May I ask, when you do that,
13 are you going to be able to display that on the
14 monitor or on the screen?

15 MR. O'ROURKE: I can try. I have had
16 glitches with that computer in the past.

17 CHAIRMAN WALLACE: Well, I don't want to
18 go too far into it because that is beyond what
19 they are asking for in the application. But
20 because it is within the same PUD --

21 MR. DOYLE: I am following what you are
22 talking about. And I guess I would like to know
23 sort of in terms of the overlay what the
24 implications of the overlay are.

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1 CHAIRMAN WALLACE: And originally, I
2 thought that this property was located in the
3 overlay until I looked at the map. But properties
4 within the overlay would have to be -- there would
5 have to be a MAP amendment -- correct, Matt -- to
6 get them out of the overlay --

7 MR. O'ROURKE: That's correct.

8 CHAIRMAN WALLACE: -- in order to --

9 MR. O'ROURKE: Technically, in this
10 case, you could request that relief from the PUD
11 itself, instead of having to amend the zoning map,
12 in other words.

13 MR. KESSLER: Wouldn't it involve the
14 underlying zoning?

15 MR. O'ROURKE: Not if you grant that
16 relief through the PUD.

17 MR. KESSLER: You can grant leave
18 through the PUD --

19 MR. O'ROURKE: Correct. This case
20 doesn't happen to be going that way.

21 MR. KESSLER: Even if the underlying
22 zoning doesn't allow it, you could grant that
23 relief through the PUD?

24 MR. O'ROURKE: I think because it is

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1 allowed in the zoning district just not in the
2 overlay.

3 MR. KESSLER: If it was in the overlay,
4 you couldn't do that?

5 MR. O'ROURKE: I would have to check
6 with legal counsel if you could do that. If it is
7 a use -- like you couldn't put a residential use
8 in a commercial zoning district. But since these
9 are both commercial areas, there might be some --

10 MR. KESSLER: Regardless, this is not in
11 the overlay. It is not in the underlining zoning.
12 And it is following the -- it is following the --

13 MR. DOYLE: And I guess the real -- to
14 me, the real question is the application in front
15 of us applies strictly to this lot, to this
16 building?

17 MR. O'ROURKE: That's correct.

18 MR. DOYLE: And to no other buildings?

19 MR. O'ROURKE: That's correct.

20 MR. DOYLE: And this doesn't establish
21 precedent for any subsequent application?

22 CHAIRMAN WALLACE: What do you mean by
23 precedent? Of course, it does.

24 MR. DOYLE: Okay. Fair enough.

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1 MR. O'ROURKE: I can confirm that
2 Building 7A is not in the overlay district. I am
3 looking at it right now.

4 Everything -- basically, draw a line from
5 in front of the Blue Goose building. Everything
6 south of that line is not in the overlay.
7 Building 6 will be which is where the parking lot
8 is now north of the Blue Goose.

9 CHAIRMAN WALLACE: 7B?

10 MR. O'ROURKE: 7B is not.

11 CHAIRMAN WALLACE: Which one is 7B?

12 MR. O'ROURKE: The building that
13 basically is the mirror image without the drive
14 through of 7A.

15 MR. LEVATO: It doesn't exist.

16 MR. O'ROURKE: There is a lot north of
17 7A --

18 CHAIRMAN WALLACE: Oh. Next to the Blue
19 Goose?

20 MR. O'ROURKE: Yes.

21 CHAIRMAN WALLACE: I was actually asking
22 about Building 6. That's the one I was --

23 MR. O'ROURKE: Building 6 is in the
24 overlay. That is a much different building and

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1 much different structure and parking garage and a
2 lot of over things. That would be a much more
3 substantial consideration, I think.

4 CHAIRMAN WALLACE: Zoning-wise, Building
5 A and B -- they are the same as far as the
6 procedure they would have to go through to get
7 this type of special use. They wouldn't have to
8 mess with the overlay with either of those because
9 neither of them are in it?

10 MR. O'ROURKE: Right.

11 CHAIRMAN WALLACE: All right. Sorry.

12 Okay. At this point in time -- well, first
13 of all, did you have anything else? Because
14 otherwise, I will go to the Plan Commission for
15 questions.

16 MR. LEVATO: If you have questions, I
17 will be here. Or I can sit down.

18 CHAIRMAN WALLACE: Just stay right there
19 for right now.

20 Do we have questions?

21 MR. SCHUETZ: I have a clarification
22 that I am not going to give. I need.

23 And that is so if this were to be approved
24 for what the applicant is asking for, of course,

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1 any time it sets some kind a precedent.

2 But the new buildings that would be going
3 in in the future, whatever district they are in,
4 if they wanted to ask for some kind of special use
5 like this, they would have to come back to the
6 Plan Commission; correct?

7 MR. O'ROURKE: Correct. Any time they
8 want to come in for any other property through the
9 PUD, they have to go through this exact same
10 process.

11 And if they are in the overlay, from
12 Staff's perspective, that would affect the
13 findings of fact. They would have to bring all
14 new findings of fact relative to a new
15 application. So you would have to re-justify
16 everything all over again.

17 MR. SCHUETZ: That is fine. Thanks.

18 MR. DOYLE: So Mr. Chairman, may I add
19 on to that, then?

20 CHAIRMAN WALLACE: Absolutely.

21 MR. DOYLE: So we have the underlying
22 zoning for the entire area. We have the PUD which
23 includes the overlay but extends beyond the
24 overlay.

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1 MR. O'ROURKE: Portions of it are in and
2 portions of it are out.

3 MR. DOYLE: Then we have the overlay
4 which is a subset of the PUD. Or is it --

5 MR. O'ROURKE: As detailed in the PUD,
6 it is basically a set of uses that are permitted.
7 And anything outside of those uses -- you know,
8 there is some exceptions to it, like the Blue
9 Goose was one. Then there is this limit that said
10 25 percent of all of the first-floor space in the
11 PUD should equal this kind of use.

12 So it is really restrictions solely in
13 the PUD.

14 CHAIRMAN WALLACE: The downtown overlay
15 is much bigger than this PUD. Not all of this PUD
16 is in the downtown overlay. Some of it kind of
17 leaks out the bottom. These two lots --

18 MR. DOYLE: So the requested amendment
19 is to the PUD?

20 MR. O'ROURKE: Right.

21 MR. DOYLE: And it is -- but it is
22 further limited to this specific building in
23 the PUD?

24 MR. O'ROURKE: The amendment that is

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1 requested, yes.

2 MR. DOYLE: And what you said earlier
3 was that if there was a request to amend the uses
4 for another building that is in the PUD but also
5 in the overlay, that there would be more stringent
6 findings of fact required to amend that?

7 MR. O'ROURKE: I just can clarify it in
8 that it is the same exact findings of fact. I
9 don't know if the same rationale would justify the
10 relief from the overlay in this case because a
11 majority of what Staff outlined is that this is
12 not in the overlay so they are not requesting any
13 relief. They are just trying to line up with
14 the --

15 CHAIRMAN WALLACE: It is a legal
16 question which we don't know the answer to.

17 MR. DOYLE: I have a question not
18 related to that which has to do with the
19 drive-through facility.

20 There is a -- there are a couple of photos
21 on the last page of the -- of the document. The
22 building with the BMO Harris -- is that this
23 building?

24 MR. LEVATO: Yes.

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1 MR. DOYLE: And the drive-through
2 facility -- is that currently in use by BMO
3 Harris?

4 MR. LEVATO: Yes.

5 All the apartments are being utilized and
6 BMO Harris is being utilized. It is solely these
7 two other vacant spaces that have had no interest
8 in any activity.

9 MR. DOYLE: Okay. So the -- by granting
10 this application, we are not creating some sort of
11 situation where the drive-through facility is
12 never going to be used by a business. It is
13 currently in use.

14 MR. LEVATO: Correct.

15 MR. O'ROURKE: And the way the PUD
16 states it, the drive-through is a permitted
17 special use through the PUD. Even if that current
18 tenant was to leave, somebody else could come in
19 and use that drive-through as part of a new
20 business.

21 MR. DOYLE: I understand. I just -- my
22 concern would be that we would -- you know, with
23 the implication of "office use," that would never
24 have a need for that kind of structure and what

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1 would happen to it? But it is being used.

2 MR. O'ROURKE: Currently in use.

3 MR. LEVATO: They own their space. BMO
4 Harris owns their space.

5 MR. DOYLE: Right. Okay.

6 Are there any differential tax implications
7 between office use and clinical use for like for a
8 dental facility?

9 MR. O'ROURKE: No. Basically, that
10 definition outlines -- it is outlined in the Staff
11 Report. It is really meant for more like your
12 walk-in medical/dental type uses. You know, your
13 typical dental offices.

14 We included it in part of this request
15 because it is similar. It didn't make sense to
16 leave it out at this point.

17 MR. DOYLE: From your perspective, they
18 are very comparable uses?

19 MR. O'ROURKE: Very comparable. It is
20 just how they are defined in the zoning
21 requirements. There is the same parking
22 requirement in certain areas and that sort of
23 thing so --

24 MR. DOYLE: Okay. I have no further

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1 questions.

2 CHAIRMAN WALLACE: Sue?

3 MS. AMATANGELO: Mr. Chairman, you noted
4 that you had a letter from a resident?

5 CHAIRMAN WALLACE: Yes, I do.

6 MS. AMATANGELO: Would this be the
7 appropriate time?

8 CHAIRMAN WALLACE: Typically with
9 letters, we will read them into the record. Of
10 course, the problem with the letter is that it is
11 not sworn testimony and not subject to
12 cross-examination. So we give it the proper
13 weight. We have faced this issue before. And we
14 have decided that the Plan Commission will give it
15 its due weight based on that fact.

16 But the letter reads as follows, dated
17 August 6, 2013: Dear Reader: As a property owner
18 within the notification zone, I would like to
19 comment on the requested amendment of special use
20 for the Building 7A at 401-409 South First Street
21 in St. Charles. I agree with the building owner's
22 request to allow modifications and am hopeful the
23 City will streamline the process for this sort of
24 special use going forward.

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1 "Or perhaps it is time for the zoning
2 overlay prohibition of non-retail spaces to go
3 away altogether. We need to get these vacant
4 spaces filled out and allow the property owners
5 and free market to decide the best and most
6 economical uses of the rental space within our
7 downtown buildings.

8 "Thank you, Philip Kessler, 345 South
9 Second Street, St. Charles, Illinois."

10 MR. LEVATO: I did not write that
11 letter, but it is a nice letter.

12 CHAIRMAN WALLACE: Yes. Well -- and it
13 goes to one of the things that we talked about
14 which was the downtown overlay which, as we
15 discussed, doesn't apply to this application.

16 All right. Any further questions?

17 MR. KESSLER: Make a motion?

18 CHAIRMAN WALLACE: All right. Take
19 audience questions first.

20 At this point in time, the Plan Commission
21 asked questions. Are there any questions from
22 members of the public?

23 Okay. Any comments?

24 All right. And if you have any rebuttal or

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1 sum-up that you want to do, that is fine.

2 Otherwise, we are --

3 MR. LEVATO: I leave it in your capable
4 hands. I am sure you will do the right thing.

5 CHAIRMAN WALLACE: All right. That
6 being said, if there is nothing else, a motion to
7 close the public hearing would be in order.

8 MR. KESSLER: So moved.

9 MS. AMATANGELO: Second.

10 CHAIRMAN WALLACE: Okay. Moved by
11 Mr. Kessler. Seconded by Sue.

12 And any discussion on the motion?

13 Tim?

14 VICE-CHAIRMAN KESSLER: Amatangelo?

15 MS. AMATANGELO: Yes.

16 VICE-CHAIRMAN KESSLER: Schuetz?

17 MR. SCHUETZ: Yes.

18 VICE-CHAIRMAN KESSLER: Doyle?

19 MR. DOYLE: Yes.

20 VICE-CHAIRMAN KESSLER: Pretz?

21 MR. PRETZ: Yes.

22 VICE-CHAIRMAN KESSLER: Henningson?

23 MR. HENNINGSON: Yes.

24 VICE-CHAIRMAN KESSLER: Wallace?

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1 CHAIRMAN WALLACE: Yes.

2 VICE-CHAIRMAN KESSLER: Kessler?

3 Yes.

4 CHAIRMAN WALLACE: That public hearing
5 is now closed. That concludes Item No. 4 on the
6 agenda.

7 MR. KESSLER: Is it possible to move to
8 No. 6 to just move this along in an orderly
9 fashion for the application?

10 MR. DOYLE: Move to amend the agenda --

11 CHAIRMAN WALLACE: I don't think we need
12 a motion for that. I think I can just do it.

13 MR. HENNINGSON: I will second it
14 anyhow.

15 CHAIRMAN WALLACE: All right. Moved and
16 seconded.

17 All in favor?

18 (The ayes were thereupon
19 heard.)

20 CHAIRMAN WALLACE: Opposed?

21 All right. Moving on to Item No. 6 which
22 is First Street Redevelopment Building 7A 401-409
23 First Street Development, LLC, application for
24 special use of planned unit development.

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1 MR. WEDDELL: Is public hearing No. 5
2 being omitted?

3 CHAIRMAN WALLACE: No. We will do Item
4 No. 6, take action on that, and then do Item 5.

5 Is there a motion?

6 VICE-CHAIRMAN KESSLER: I move to
7 recommend approval to the City Council Planning
8 Committee for the First Street Development, LLC,
9 Building 7A 401-409 South First Street for the
10 application for amendment to special use for
11 Planned Unit Development, Ordinance No. 2006-Z-29,
12 First Street Redevelopment PUD, to permit office,
13 business or professional and medical dental clinic
14 uses in the first-floor tenant space of Building
15 7A pursuant to --

16 CHAIRMAN WALLACE: Were there any open
17 issues in the Staff Report?

18 MR. O'ROURKE: No, there weren't any.

19 MR. KESSLER: I will leave it at that,
20 then.

21 MR. PRETZ: Second.

22 CHAIRMAN WALLACE: It has been moved and
23 seconded.

24 Discussion on the motion? All right.

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1 Tim?

2 VICE-CHAIRMAN KESSLER: Amatangelo?

3 MS. AMATANGELO: Yes.

4 VICE-CHAIRMAN KESSLER: Schuetz?

5 MR. SCHUETZ: Yes.

6 VICE-CHAIRMAN KESSLER: Doyle?

7 MR. DOYLE: Yes.

8 VICE-CHAIRMAN KESSLER: Pretz?

9 MR. PRETZ: Yes.

10 VICE-CHAIRMAN KESSLER: Henningson?

11 MR. HENNINGSON: Yes.

12 VICE-CHAIRMAN KESSLER: Wallace?

13 CHAIRMAN WALLACE: Yes.

14 VICE-CHAIRMAN KESSLER: Kessler?

15 Yes.

16 CHAIRMAN WALLACE: That motion passes
17 unanimately. That concludes Item 6 on the agenda.

18 Next is General Amendment (City of
19 St. Charles) Chapter 17.22, General Provisions,
20 Section 17.22.020, accessory buildings and
21 structures regarding requirements for fences and
22 walls.

23 And you were previously sworn in?

24 MR. O'ROURKE: I was.

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1 CHAIRMAN WALLACE: Okay.

2 And there are no exhibits?

3 MR. O'ROURKE: Just the items submitted
4 as part of the application that were listed on the
5 agenda.

6 CHAIRMAN WALLACE: Okay. Go ahead.

7 MR. O'ROURKE: Essentially, in 2006 when
8 the whole zoning ordinance was revamped, part of
9 that was in regards to the fence restrictions and
10 fences that can be constructed on private
11 properties, in particular residential.

12 At that time, it was decided in front yards
13 it would be a three-and-a-half foot tall fence and
14 also that would follow suit on the exterior side
15 yards. Except at this point, there was a lot of
16 non-conforming fences built at six foot, four
17 inches that went within one foot of the sidewalk
18 or property line which is a pretty common setback
19 for fences in rear yards and side yards and that
20 sort of the thing.

21 And as Staff has worked with this ordinance
22 over the last five six years, it has -- we have
23 had a lot of problems where there is this new
24 restriction created where you could still have a

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1 larger, taller fence at six foot, four inches set
2 back five feet from the property line. And there
3 was some landscaping requirements in addition to
4 that, so many bushes per lineal feet.

5 What we have noticed is kind of this
6 framework of hodgepodge setbacks and landscaping
7 that has created some issues with residents and
8 how they view the properties. And it has also
9 created issues with maintenance where somebody
10 might want to just replace a panel or two of their
11 fence and be required to get a permit to do so.
12 At that point, they would have to bring the whole
13 fence into conformance even if it is already in an
14 existing location.

15 So -- and the other problem we have had is
16 this five-foot setback requirement also applied to
17 what is called a through lot. So basically, your
18 home faces a public street in the front and then
19 your rear yard is also abutting a public street --
20 a good example is on Prairie heading west. You
21 see the rear of homes there, but they also have a
22 public street on the other side.

23 So they were also supposed to conform to
24 this five-foot setback that requires so many

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1 bushes and shrubs per linear foot.

2 And we have also had the same kind of
3 tapestry of different setbacks come through over
4 the years. It does create sort of an odd
5 hodgepodge of setbacks and esthetics.

6 What is being proposed tonight after Staff
7 has done some research on this -- and I have some
8 pictorial examples here that might help out.

9 So often, what we have -- we have the
10 situation where you have a front of a home facing
11 one public street; and then here is your exterior
12 side yard. So it is a corner lot. It is on two
13 public streets, and then it abuts directly the
14 front of another home.

15 So exterior side yard. The homes aren't
16 oriented in the same directions or opposing
17 directions. You have this weird setup. And in
18 this situation, what would normally happen is the
19 front yard setback is here. You are only allowed
20 a three-and-a-half foot tall fence. This person
21 currently would be allowed to build a six foot,
22 four fence all the way up to five foot with the
23 landscaping requirements. Where they could have a
24 three-and-a-half foot tall fence and go all the

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1 way to the property line.

2 And this creates some opposing situations
3 with the ordinance we had, and we have had some
4 fences built this way.

5 So basically, we are proposing that that
6 situation stay the same. When your exterior side
7 yard abuts to the front yard of another home, you
8 can either do a three-and-a-half foot fence -- or
9 actually, it would be four, but I haven't
10 explained that part of the amendment yet -- or you
11 could do the five-foot setback with landscaping.

12 But the differences that we see when we
13 reviewed this as Staff is you could have two
14 corner lots where the rear yards face each other.
15 So you are not running into the same situation
16 where the homes are in these kind of offsetting
17 directions.

18 Really, the rear yard of this home faces
19 the rear yard of this home. And so you have your
20 natural kind of both side yards line up. So what
21 is being proposed is that in these conditions you
22 are allowed to have the six foot, four fence all
23 the way to within one foot of your property line.
24 Because really, this is no different than if this

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1 was an interior side yard except it happens to be
2 along the street. But the conditions are the
3 same. And you don't run into these kind of
4 offsetting opposed yards.

5 We are also proposing that this condition
6 be met in through lots. So, you see, here is a
7 front yard on a public street and here is your
8 public street to the rear of the property. Right
9 now, this would have the five-foot setback with
10 the landscaping.

11 We are proposing that this just be moved
12 back to what it was before 2006 which you could
13 have a six-foot, four-inch fence all the way
14 within one foot of the property line.

15 The final part of this amendment is right
16 now there is a lot of homeowners coming into get
17 these fences. And they could be on corner yards
18 or they have some difficulty in trying to put in a
19 pool. The problem is the Building Code requires
20 you have a four-foot fence for safety reasons to
21 keep other children out, locked gates, and all
22 those things.

23 And we are running into this problem where
24 part of the pool might be close enough to that

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1 exterior side yard where they could only have a
2 three-and-a-half foot fence within that location
3 or they could not be all together because of the
4 location of the pool.

5 So what we are proposing is that all fences
6 be allowed to go to four foot just to make sure
7 those codes are aligned with each other. That is
8 really what Staff is proposing there.

9 That concludes Staff's formal presentation.
10 At this point, I will answer any questions.

11 CHAIRMAN WALLACE: All right. Do we
12 have questions from Plan Commission members?

13 MR. SCHUETZ: I just was going to ask
14 for clarification on the one you have got up
15 there, the two rear yards. So as they are coming
16 in the direction you are moving and then you have
17 got that corner lot, the property line -- if they
18 want a fence in between that through lot, those
19 two houses --

20 MR. O'ROURKE: Right. On this property
21 line?

22 MR. SCHUETZ: What fence would that be?

23 MR. O'ROURKE: That would be allowed to
24 be six foot. On this -- with this property -- if

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1 it was this property owner, it could be six-foot,
2 four all the way to the property line currently.
3 Same with this one.

4 So if this property was installing it, it
5 would be considered their exterior side yard. If
6 this property owner was installing it, it would be
7 considered their rear yard. But they would still
8 have to meet that five-foot requirement with the
9 bushes.

10 MR. SCHUETZ: But it would be a six-foot
11 fence -- what if they wanted -- the through lot
12 wanted a six-foot fence in the rear and those
13 guys -- the one you just showed there -- wanted a
14 four-foot fence? What happens then?

15 MR. O'ROURKE: If they wanted to just
16 put a four-foot fence here?

17 MR. SCHUETZ: No. The back.

18 MR. O'ROURKE: This one?

19 MR. SCHUETZ: Yeah. Well, the rear --

20 MR. O'ROURKE: This is a through lot
21 here. The rear and side of the through lot --

22 MR. SCHUETZ: Correct. The rear would
23 be six. The two corner lots, which is their back,
24 could be four; or it could be six; is that

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1 correct?

2 MR. O'ROURKE: Correct. Right now you
3 could do that, except it would be three-and-a-half
4 instead of four. If someone really wanted do
5 that, they could do that.

6 MR. SCHUETZ: So at what point -- let's
7 look at the exterior side of that one where the
8 hand is right now.

9 So you have a six-foot fence there. At
10 what point does it taper down when it gets to the
11 front of the house? Where does it stop?

12 MR. O'ROURKE: It would be at the front
13 setback line. So in this -- I don't know in this
14 picture 100 percent. Let's just say this was a
15 20-foot setback. You would have the 20-foot line.
16 It would be at that point is where you go to the
17 four-foot fence.

18 MR. SCHUETZ: Right.

19 MR. KESSLER: So now you are saying --

20 MR. O'ROURKE: There is a diagram here
21 that might explain this a little better than the
22 pictures.

23 So here is the public streets. Here is a
24 public street. Here is the corner lot. The front

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1 yard extends all the way across the lot. And then
2 here is the -- this is what is considered your
3 exterior side yard.

4 So in the case -- the scenario you are
5 describing -- it could be a six-foot fence all the
6 way until they got to this point. And this would
7 also be four.

8 MR. KESSLER: And the rear yard on that
9 through lot, no setback is required and they can
10 go to six foot?

11 MR. O'ROURKE: Correct, under the --
12 what is being proposed.

13 MR. KESSLER: Part of what is being
14 proposed --

15 MR. O'ROURKE: So you could -- from this
16 point forward, either on this exterior side yard
17 or the rear through lot, it could all be six foot.

18 MR. KESSLER: Does it have to be
19 adjacent to an exterior side yard for that to be
20 the case, or is it in any through lot?

21 MR. O'ROURKE: Any through lot. The
22 exception is that this is only allowed when the
23 exterior side yard abuts a rear yard or an
24 exterior side yard. But if this exterior side

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1 yard abuts a front yard, then they still have to
2 do the current requirements.

3 MR. KESSLER: Okay. If you look at the
4 two through lots, these through lots, can you do a
5 six-foot fence in the back with no setback on a
6 through lot that is in between two through lots?

7 MR. O'ROURKE: Yes. I think under what
8 is being proposed, that is fine.

9 MR. KESSLER: We have been using the
10 expression "six foot." It is really six foot,
11 four.

12 MR. O'ROURKE: Correct.

13 MR. DOYLE: So two quick questions.

14 On the this exterior side here that you are
15 showing --

16 MR. O'ROURKE: This one here?

17 MR. DOYLE: That can go within one foot
18 of the property line because it does not abut a
19 front -- the front yard of an adjacent property?

20 MR. O'ROURKE: Correct.

21 MR. DOYLE: And when a fence comes
22 within one foot of an exterior side or rear
23 through lot, is there -- are there still
24 landscaping requirements?

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1 MR. O'ROURKE: Under the provisions of
2 what is being proposed, there would not be
3 landscaping requirements because you can't fit as
4 much within a one-foot width. I don't know what
5 could be planted --

6 MR. DOYLE: Well, let me ask you is this
7 Prairie Street that you are showing?

8 MR. O'ROURKE: I believe it is.

9 MR. DOYLE: So I know this stretch very
10 well. The fences right here, are these currently
11 at one foot?

12 MR. O'ROURKE: It looks like they are
13 close to that based on the aerial. It is hard to
14 100 percent determine that.

15 MR. DOYLE: Because there is -- all
16 along these properties along Prairie Street here,
17 these rear lots, they are -- almost of all of them
18 have lilies planted along that sidewalk that
19 really do enhance the beauty of the streetscape.

20 I am inclined to support everything in
21 the -- in the proposed amendment. I am just
22 wondering if it is possible to retain the
23 landscaping requirement on that one foot even if
24 it is perennials or something. Something there to

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1 beautify the streetscape.

2 MR. KESSLER: I don't suspect those
3 lilies were all there. Those lilies may have --

4 MR. DOYLE: That is true. But they do
5 grow. They do make a difference, you know.

6 As an old colleague of mine said, it is
7 not the hill to die on. You know, if it is not a
8 terrible imposition to property owners, I think
9 that it would be worth considering to retain some
10 landscaping -- a minimal landscaping requirement.

11 MR. O'ROURKE: If you want to make that,
12 you know, part of the recommendation, we can
13 certainly forward that to the Council.

14 The real concern with that is maintenance,
15 just property owners keeping up with -- it is hard
16 to keep up with a one-foot piece of landscaping.
17 That was Staff's concern.

18 MR. SCHUETZ: I have a question on the
19 materials.

20 MR. O'ROURKE: Of the fences themselves?

21 MR. SCHUETZ: Right. Has there been any
22 consideration in the past five, six years to
23 encourage an enhanced material other than a
24 cyclone fence?

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1 MR. O'ROURKE: There was a large
2 discussion about that in 2006. But I think it was
3 determined, one, you would be creating a lot of
4 non-conformities at this point if you changed that
5 requirement.

6 MR. SCHUETZ: Are these all cyclone?

7 MR. O'ROURKE: I don't know this stretch
8 that well.

9 MR. SCHUETZ: So you have got wood,
10 cyclone --

11 MR. KESSLER: I don't think cyclone
12 fences are even allowed.

13 You are talking about chain link?

14 MR. SCHUETZ: Yeah.

15 MR. KESSLER: I don't think that is
16 allowed.

17 MR. O'ROURKE: We do have fence
18 restrictions in the front yard, but I am not sure
19 about the rear yard.

20 MR. KESSLER: There is no cyclone fences
21 along there.

22 MR. SCHUETZ: Is there any consideration
23 to encourage the homeowners to put in similar
24 materials? I am just curious. I know it is not

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1 in the ordinance. But I was just wondering.

2 MR. O'ROURKE: You know, if Staff meets
3 with a homeowner, we express the esthetics of
4 other types of fencing. But there is no
5 requirements. We can't -- besides making the
6 suggestion, there is not a lot Staff can do at
7 that point.

8 MR. SCHUETZ: All right.

9 MR. DOYLE: Can I follow up on one
10 question?

11 So the non-conformities that are currently
12 created, you said the sort of hodgepodge that we
13 have --

14 MR. O'ROURKE: Correct.

15 MR. DOYLE: -- your research shows that
16 a preponderance of the existing fences are at one
17 foot? Or is there anything -- anything deeper
18 than a one-foot setback would create a large
19 number non-conformities?

20 MR. O'ROURKE: It does currently. I
21 mean, the five-foot setbacks. You know, a lot of
22 residential properties, specifically, existed
23 before 2006 in town. And a lot of them did get
24 fences constructed with the one-foot setback

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1 before 2006.

2 MR. DOYLE: So the one foot comes from
3 the previous ordinance?

4 MR. O'ROURKE: Basically, what is being
5 proposed with the exception of the exterior side
6 yard that faces a front yard was what was
7 permitted before 2006. And that is why Staff is
8 kind of bringing it back because it is just -- it
9 has created a lot of opposing setbacks all through
10 town.

11 MR. DOYLE: Right. So logically, then,
12 a three-foot setback would continue to create
13 non-conformities because fences would have been
14 built according to the previous standard?

15 MR. O'ROURKE: Correct.

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

18 All right. Questions from members of the
19 audience?

20 MR. WEDDELL: I would like to provide
21 some information. May I be able to do that after
22 this gentleman is through?

23 CHAIRMAN WALLACE: We can do that now if
24 there aren't any other questions from anyone.

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1 If you want to go ahead, were you sworn in?

2 MR. WEDDELL: Yes, I was.

3 CHAIRMAN WALLACE: State your name and
4 spell your last name and state your address for
5 the record.

6 MR. WEDDELL: Yeah. My name is Ronald
7 Weddell, W-e-d-d-e-l-l. I live at 901 South East
8 Street in St. Charles, right by Prairie Street. I
9 have been a homeowner in St. Charles since 1983.

10 I received notification at 5:24 today that
11 this meeting was going on. I am one of the people
12 that probably has the impetus for this agenda
13 item.

14 We had a six-foot privacy fence installed
15 around our house. We were at the corner of 8th
16 and Kehoe in 1986. On June 4th, I applied for a
17 permit to replace some fencing sections and got
18 set up with Peerless Fence to replace a 23-foot
19 section of a six-foot fence on the corner of Kehoe
20 Street.

21 And Staff Member Jeff Steckler came out to
22 do the pre-inspection for the permit. And he told
23 my wife that we had to tear out that six-foot
24 section of fence for 23 feet because it was no

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1 longer in compliance with the Code.

2 I said, "What does that mean?"

3 He said, "The City Council revisited and
4 changed all the ordinances on fencing and
5 everything back in 2006."

6 I spent a lot of time and effort going
7 through thousands of pages of documentation
8 through the freedom of information.

9 What I did find out was that the original
10 comprehensive plan that was enacted in 2006 was
11 predicated on a study done by a consultation firm
12 done in '02 and '03. I have all the information.
13 I threw it all together.

14 And they essentially said the City of
15 St. Charles comprehensive ordinances in zoning and
16 everything is a hodgepodge. It is all over the
17 place. You have so many exceptions and variances
18 it is not cohesive. It doesn't make sense.

19 They recommended revisiting the whole
20 zoning and coming up with something and putting it
21 into a comprehensive plan.

22 There was a public hearing held.
23 Mr. Armstrong chaired the meeting. I have the
24 documentation on that. That was about 300 pages

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1 on the record. I have the transcript. And
2 throughout that whole meeting, there was never one
3 issue -- never once was it brought up about
4 changing the fence ordinance.

5 Someone here said -- Mr. O'Rourke said that
6 was readily discussed. It was never discussed. I
7 have that documentation.

8 And I also learned that when the City
9 Council approved the recommendations in October of
10 '06 they essentially created a bullet and
11 everything was all condensed and passed. And
12 significant changes to the ordinance, particularly
13 in fencing, was never even discussed in a public
14 forum. It was never provided to the persons who
15 attended the meetings. So we didn't know this was
16 going to happen.

17 But it went through because it was deferred
18 to the City Staff. The recommendation of Staff
19 put this together.

20 So what I found, though, is that -- you
21 know, Mr. Steckler told me that the comprehensive
22 ordinance revisions in '06 essentially said
23 hardship ordinances are no longer allowed -- or
24 hardship variance requests. Essentially, it was a

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1 lockout.

2 So a gentleman was here earlier tonight
3 asking for a variance request, as I understand it.
4 However, under the ordinance, that is essentially
5 not allowed.

6 Jeff Steckler told me -- and he said he
7 could talk with Bob Vann. But he said in seven
8 years he has never heard of anybody who has had a
9 hardship variance approved for a fence.

10 My fence that I want to replace is six
11 feet. I had a pool installed in 1999 which
12 requires self-closing gates, four-feet minimum.

13 I had a six-foot fence. When I was told
14 that I couldn't replace my fence without going to
15 a five-foot setback, it would cut into my
16 landscaping. And Thornapple did a great job doing
17 a lot of landscaping work for my house.

18 Ed Messner came over to my house, took
19 pictures and said he would bring it back to the
20 Plan Commission to review this issue.

21 The problem is that there wasn't reasonable
22 input and notification to the affected property
23 owners.

24 The Zimmerman house at 7th and Prairie --

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1 if you look back, you will see a zigzag on the
2 fencing because they had a five-foot setback on
3 certain sections of the fence, an old stockade
4 fence.

5 That is because the City ordinance will not
6 allow them to reasonably develop the property to
7 move the fence within a one-foot setback.

8 When the alderman and, you know,
9 Mr. Steckler and the planning -- the building
10 department told me I could not replace my fence or
11 I could not improve my fence and the 23-foot
12 section had to be removed, I had to put in old
13 fence panels from my 26-year-old fence. So I
14 harvested from 1986 -- I put them on the side -- I
15 was told I had to put those back on the side of my
16 house and cover up the new fencing that I put in.

17 I think it is actually a terrible
18 imposition to homeowners to prescribe the
19 landscaping requirements. The one-foot area I
20 have right now is wonderful. The requirement to
21 put it back to five chops into the middle of the
22 fencing and the middle of plants and trees and
23 shrubs.

24 I think we should be friendly to homeowners

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1 who maintain their property and not prevent them
2 from making improvements to their property.

3 So that's one of the reasons I am here. I
4 am thankful I had this opportunity. And I am
5 thankful that my alderman brought this out and
6 Mr. O'Rourke brought it to the attention of people
7 here.

8 There is also other issues that, you know,
9 Mr. Steckler will tell you about. There are
10 people with driveway setbacks and square footage
11 issues that are -- it is a real unfortunate
12 situation. And that was never brought up in any
13 public hearing in '06. Everything was deferred to
14 the City Staff. And the hardship variances now
15 are not allowed, essentially.

16 So thank you.

17 CHAIRMAN WALLACE: Thank you. Hold on
18 one second.

19 Do you have a question?

20 MR. KESSLER: I do. And believe me, I
21 know what you are thinking.

22 But it seems to me this application would
23 be beneficial for you. I mean, it would help your
24 situation, the changes that are being proposed

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1 allowing it to go back to the one-foot setback.

2 Would that remedy your situation?

3 MR. WEDDELL: Not only would it remedy
4 my situation, there are many other people. There
5 could be dozens. I filed a freedom of information
6 request on everyone who applied for permits with
7 corner lots with fence restrictions with a
8 one-foot --

9 MR. KESSLER: My question is you are
10 speaking in favor of these changes?

11 MR. WEDDELL: Absolutely. I am
12 requesting that this be approved.

13 MR. KESSLER: Very good. That is what I
14 wanted to know.

15 CHAIRMAN WALLACE: Any other questions?

16 All right. Thank you.

17 And any further comments or questions from
18 members of the audience? Okay.

19 Rebuttal from the applicant?

20 MR. O'ROURKE: I don't have anything.

21 MR. KESSLER: I would entertain a motion
22 to close the public hearing. You entertain it. I
23 will make it.

24 CHAIRMAN WALLACE: Is there a second?

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1 MR PRETZ: Second.

2 CHAIRMAN WALLACE: Moved and seconded.
3 Is there discussion on the motion?
4 Sue?

5 MS. AMATANGELO: I just wanted to remark
6 that I wanted to agree with my fellow
7 commissioner, Mr. Doyle, that I believe that even
8 though it is only one foot, it still can have the
9 ability to be landscaped.

10 And if we need to supply our homeowners
11 with recommended plants to put there that are
12 maintenance free or, you know, less fussy in
13 maintaining, and they can pretty much live on
14 their own, I think that would be a good idea.

15 CHAIRMAN WALLACE: Okay.

16 MR. DOYLE: Regarding the motion to
17 close the public hearing, my question is do we
18 have enough -- we don't have any information from
19 Staff on whether Staff would advise -- you know,
20 consider it advisable to include the
21 recommendation regarding landscaping or whether
22 the Staff would -- whether it would be normal for
23 the Staff to -- to simply put forth a
24 recommendation contingent upon Staff discretion,

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1 you know.

2 I don't -- I am reluctant to -- I guess my
3 point is in relation to the motion, I don't have
4 enough information to know whether or not such a
5 recommendation actually is well advised or not.

6 CHAIRMAN WALLACE: Hold on a minute.
7 Hold on a second.

8 In the context of what we are talking about
9 right now, if you feel that there is more
10 information that we need, then we need to not
11 close the public hearing.

12 MR. DOYLE: I -- I don't -- I only need
13 more information if we are -- if we are going to
14 put that recommendation forward.

15 MR. KESSLER: You could put the
16 recommendation forward in the motion to recommend
17 approval.

18 CHAIRMAN WALLACE: And if there is
19 additional information you need from Staff that
20 was raised during the public hearing, we can ask
21 for their opinion at that time as long as that
22 information was already discussed within the
23 context the public hearing.

24 MR. O'ROURKE: You mean if you close the

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1 public hearing and then bring it up as part of the
2 recommendation?

3 CHAIRMAN WALLACE: Sure.

4 MR. O'ROURKE: As long as it was
5 discussed -- as long as it is not new evidence,
6 that is fine. We can still discuss it.

7 MR. DOYLE: We can request additional
8 information on the actual motion subsequent to
9 closing the public hearing?

10 MR. O'ROURKE: Yes.

11 MR. DOYLE: That request of information
12 is not violating the public hearing?

13 CHAIRMAN WALLACE: No, as long as it is
14 something that follows from information that came
15 up during the public hearing.

16 MR. O'ROURKE: You couldn't close the
17 public hearing and say all the sudden you want a
18 traffic study.

19 MR. DOYLE: I have no other questions
20 relative to this motion.

21 CHAIRMAN WALLACE: Any other questions
22 regarding the motion to close the public hearing?

23 Tim?

24 VICE-CHAIRMAN KESSLER: Amatangelo?

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1 MS. AMATANGELO: Yes.

2 VICE-CHAIRMAN KESSLER: Schuetz?

3 MR. SCHUETZ: Yes.

4 VICE-CHAIRMAN KESSLER: Doyle?

5 MR. DOYLE: Yes.

6 VICE-CHAIRMAN KESSLER: Pretz?

7 MR. PRETZ: Yes.

8 VICE-CHAIRMAN KESSLER: Henningson?

9 MR. HENNINGSON: Yes.

10 VICE-CHAIRMAN KESSLER: Wallace?

11 CHAIRMAN WALLACE: Yes.

12 VICE-CHAIRMAN KESSLER: Kessler?

13 Yes.

14 CHAIRMAN WALLACE: All right. That
15 concludes Item 5 on the agenda. The public
16 hearing is now closed.

17 Next on the agenda is Item 7, which is
18 General Amendment (City of St. Charles), Chapter
19 17.22, General Provisions, 17.22.020, Accessory
20 Buildings and Structures regarding requirements
21 for fences and walls.

22 MR. KESSLER: I would like to make a
23 motion to recommend approval of the General
24 Amendment -- for General Amendment Chapter 17.22,

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1 General Provisions, Section 17.22.020, Accessory
2 Buildings and Structures regarding requirements
3 for fences and walls.

4 And I would like to --

5 CHAIRMAN WALLACE: -- recommend
6 approval --

7 MR. KESSLER: -- recommend approval.
8 And I would like to move on this motion.

9 CHAIRMAN WALLACE: All right. As
10 approved by Staff?

11 MR. KESSLER: As approved by Staff.

12 MS. AMATANGELO: Second.

13 CHAIRMAN WALLACE: Moved and seconded.
14 Discussion on the motion?

15 MR. DOYLE: I would like to hear from
16 other Commissioners, assuming that Staff would
17 consider it feasible -- grant the argument for a
18 second -- Staff considered it reasonable to
19 include the recommendation for some minimal
20 landscaping requirements, would other members of
21 the Commission be inclined to support that or not?

22 MR. PRETZ: I would.

23 MR. SCHUETZ: When you say
24 recommendation, you mean encourage the homeowner

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1 when they come forward on the fencing that it
2 might be a consideration or good idea?

3 MR. KESSLER: Or do you mean make it
4 part --

5 MR. DOYLE: We currently have the
6 requirement that if it is a fence that is abutting
7 the street -- correct -- either -- correct me if I
8 am wrong, Matt. The current ordinance is that
9 there are landscape requirements if the fence is
10 an exterior side lot or a -- the rear lot of a
11 through lot.

12 MR. O'ROURKE: Right. And then what it
13 says is you can have up to a six-foot tall four
14 inch fence within five feet, where normally it
15 would be four foot.

16 I guess the one thing I want to point out,
17 if someone went with a four-foot fence, they
18 wouldn't be required to do any landscaping in that
19 situation, now that I have thought about it for a
20 minute. So you would only be requiring for the
21 six-foot.

22 MR. DOYLE: So what do you think the
23 rationale for the landscaping for the six-foot
24 fence was back in 2006?

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1 MR. O'ROURKE: I really thought -- as
2 far as I know, it was basically considered sort of
3 a tradeoff. You know, in other communities, you
4 can have -- they don't allow any of the six-foot
5 fence within five feet. If you are an exterior
6 side yard, you get three-and-a-half all the way
7 around unless you have an exterior side yard
8 setback. That is it.

9 This was seen as more lenient than what was
10 in the surrounding communities because of all the
11 various exceptions that we had, all the existing
12 fences, and non-conformities it created. This was
13 seen as more lenient is my understanding. So that
14 is how the landscaping requirement came about.

15 MR. DOYLE: In 2006 and prior, was there
16 any landscaping requirement?

17 MR. O'ROURKE: There was not.

18 MR. DOYLE: There was not. So your
19 recommendation is status quo prior to 2006?

20 MR. O'ROURKE: Right. That is what
21 Staff presented.

22 MR. KESSLER: If I could just add a
23 comment to that, you know, I have some difficulty
24 with it simply because it speaks to that whole

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1 hodgepodge of ordinance requirements that we are
2 dealing with.

3 There are building setbacks that don't
4 require -- in residential -- that don't require
5 landscaping. So you could put a structure -- I
6 could build a shed in my back yard close to these
7 setbacks and not be required to have any. So why
8 would you do it for a fence and not for a
9 building?

10 And I -- and in addition, we do have
11 remedies for, you know, messy yards. I mean, you
12 can't have weeds growing. And you know, we do
13 have remedies in place for that.

14 So you know, I don't think this is -- as
15 you said, this isn't the hill to die on for
16 fencing to have -- make that a requirement.

17 MR. DOYLE: Yeah.

18 MR. KESSLER: I think it is onerous.

19 MS. AMATANGELO: I think if I could
20 reach back and think about why they might have
21 done that, you know, a long, tall wood fence, you
22 know, is a long, tall wood fence. And they
23 probably required that just to soften the
24 appearance of it. You know, it just really is an

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1 esthetic thing more than anything else.

2 MR. KESSLER: I agree. I have that same
3 problem with the buildings and residential houses
4 that are two stories tall with no windows and they
5 don't have a requirement. So, you know, I agree
6 with you that that is probably why.

7 MR. DOYLE: Is there any way to provide
8 incentive to the ordinance rather than a
9 requirement? Is there any mechanism to incent
10 homeowners to do that?

11 MR. O'ROURKE: Other than having the
12 fence setback closer to the street, I don't know
13 what would be left in this case.

14 MR. DOYLE: Okay. I am -- I am not --
15 what you said. I am not inclined to push it,
16 particularly because it is not very feasible. I
17 think we are getting a question mark from our
18 Staff on it. And I think it would make for a
19 clumsy recommendation, you know.

20 Staff, if you think it is feasible to do
21 this, maybe at your discretion --

22 MR. O'ROURKE: We always try to
23 recommend things that make sense when we can. I
24 don't know how much comfort that is.

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1 MR. DOYLE: Well, I appreciate that.

2 CHAIRMAN WALLACE: Even if it is not a
3 part of the recommendation, do you make comments
4 to the Planning & Development Committee regarding
5 what was said at the Plan Commission?

6 MR. O'ROURKE: Typically, what we have
7 been doing, in the executive summary that gets
8 forwarded to them, there is a recap of any
9 significant points that were brought up.

10 We certainly can, if you want -- it would
11 be more Russ than myself. But I will forward this
12 along and say you would like to make sure that
13 this is mentioned.

14 CHAIRMAN WALLACE: A comment was made
15 that it was discussed at Plan Commission, but we
16 didn't know if it would be entirely feasible to
17 make it a requirement. I mean --

18 MS. AMATANGELO: That is good.

19 CHAIRMAN WALLACE: -- is that accurate?

20 MR. DOYLE: Yes.

21 MS. AMATANGELO: That is good.

22 MR. O'ROURKE: When I talk with him
23 tomorrow morning, I will make sure that he -- he
24 knows you guys want that called out in the Staff

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1 materials that it was discussed.

2 CHAIRMAN WALLACE: Okay. All right.

3 Any further discussion?

4 Tim?

5 VICE-CHAIRMAN KESSLER: Amatangelo?

6 MS. AMATANGELO: Yes.

7 VICE-CHAIRMAN KESSLER: Schuetz?

8 MR. SCHUETZ: Yes.

9 VICE-CHAIRMAN KESSLER: Doyle?

10 MR. DOYLE: Yes.

11 VICE-CHAIRMAN KESSLER: Pretz?

12 MR. PRETZ: Yes.

13 VICE-CHAIRMAN KESSLER: Henningson?

14 MR. HENNINGSON: Yes.

15 VICE-CHAIRMAN KESSLER: Wallace?

16 CHAIRMAN WALLACE: Yes.

17 VICE-CHAIRMAN KESSLER: Kessler?

18 Yes.

19 CHAIRMAN WALLACE: All right. That
20 passes unanimously. And that concludes Item No. 7
21 on your agendas.

22 Item 8 is meeting announcements. Our
23 upcoming meetings are August 20th, September 3rd,
24 and September 17th.

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1 Matt, do we -- do we think those are all
2 going to go?

3 MR. O'ROURKE: You know, I don't know if
4 we have anything published for the 20th at this
5 point.

6 The 3rd is the day after Labor Day. So we
7 will -- we haven't gotten any application, but
8 that is not to say anything won't come in between
9 now and then.

10 CHAIRMAN WALLACE: All right. If anyone
11 knows that they can't make any of those dates,
12 please let Matt or Russ or Rita or whoever know.

13 MR. O'ROURKE: Just somebody.

14 CHAIRMAN WALLACE: All right.

15 Additional business from Plan Commission
16 members?

17 MR. KESSLER: Can you get this chair
18 fixed?

19 CHAIRMAN WALLACE: No.

20 Anything else?

21 MS. AMATANGELO: That chair used to be
22 down here. I didn't move it.

23 CHAIRMAN WALLACE: Staff?

24 MR. O'ROURKE: Nothing further.

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1 CHAIRMAN WALLACE: Citizens?

2 All right.

3 Is there a motion to adjourn?

4 MS. AMATANGELO: So moved.

5 MR. KESSLER: Second.

6 CHAIRMAN WALLACE: Moved and seconded.

7 All in favor?

8 (The ayes were thereupon
9 heard.)

10 CHAIRMAN WALLACE: Opposed?

11 St. Charles Plan Commission is adjourned at
12 8:04 p.m.

13 (Which were all the proceedings
14 had in the above-entitled
15 matter at the hour of
16 8:04 P.M.)

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1 STATE OF ILLINOIS)
2) SS.
3 COUNTY OF K A N E)

4 I, Geri L. Warsop-Denson, Certified
5 Shorthand Reporter No. 084-003233, CSR, RPR, do
6 hereby certify that I reported in shorthand the
7 proceedings had in the above-entitled matter and
8 that the foregoing is a true, correct, and
9 complete transcript of my shorthand notes so taken
as aforesaid.

10 IN TESTIMONY WHEREOF I have hereunto set my
11 hand on this 12th day of August, 2013.

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Geri L. Denson

Certified Shorthand Reporter
Registered Professional Reporter