

**MINUTES  
CITY OF ST. CHARLES, IL  
PLANNING AND DEVELOPMENT COMMITTEE  
MONDAY, MARCH 11, 2013 7:00 P.M.**

**Members Present:** Monken, Turner, Carrignan, Rogina, Martin, Krieger, Bessner, Lewis

**Members Absent:** Stellato, Payleitner

**Others Present:** Russell Colby, Planning Division Manager; Chris Tiedt, Development Engineering Manager; Bob Vann, Building & Code Enforcement Manager; Rita Tungare, Director of Community Development; Joe Schelstreet, Acting Fire Chief; Chris Aiston, Director of Economic Development

**1. CALL TO ORDER**

The meeting was convened by Chairman Carrignan at 7:00 P.M.

**2. ROLL CALLED**

Roll was called:

Present: Monken, Turner, Carrignan, Rogina, Martin, Krieger, Bessner, Lewis

Absent: Stellato, Payleitner

**3. COMMUNITY DEVELOPMENT**

- a. Recommendation to approve an Amendment to Section 15.04.055 of the St. Charles City Code adopting the 2012 International Energy Conservation Code.

Mr. Vann said in 2004 the State adopted the Illinois Energy Conservation Code which mandated that all commercial buildings that are permitted be required to follow the 2006 code. He said in 2009 the State included that buildings, including residential, that are permitted are to follow the 2009 code, and in August of 2012 the State updated the code to mandate that the 2012 code be followed in all new construction. He said Staff recommends approval for the amendments to Section 15.04.055 to the City Code, to adopt the 2012 IECC.

Aldr. Rogina said since it's a state statute, is the city required to approve it. Mr. Vann said it is just updating the City Code to the state mandate.

**Aldr. Monken made a motion to approve an Amendment to Section 15.04.055 of the St. Charles City Code adopting the 2012 International Energy Conservation Code. Seconded by Aldr. Turner No additional discussion. Approved unanimously by voice vote. Motion carried.**

- b. Discussion regarding the Downtown Overlay District.

Ms. Tungare said this item is being presented to Committee to obtain some direction regarding potential revisions/modifications to the existing Downtown Overlay District. She said it was last

discussed at a public meeting in June of 2011 and there was also a high level discussion at the Council Retreat in 2012. The decision was to hold off until there was some recommendations/direction from the Comprehensive Plan, which we do have at this time.

Ms. Tungare then showed a PowerPoint presentation and gave a brief background for the Downtown Overlay District, stating that the district is superimposed over the central business district within the downtown area and it limits the type of businesses that can occupy the first floor or the street level of buildings to businesses that generate pedestrian activity. She said in 2006 there was a concern about banks and offices occupying prominent storefronts due to the concern that they would disrupt the continuous pedestrian flow. She said the overlay district is incorrectly referred to as the “retail only district”, which is not the case; it has a much broader list of uses that are allowed, some of those uses being services as well.

Ms. Tungare said within the overlay, the first floor can only be occupied by certain types of businesses and existing businesses are considered “legal non-conforming”, which means they can continue to exist or be reoccupied within 180 days by the same type of business and if it remains vacant for more than 180 days that space must come into conformance with a use that is permitted within the overlay. She said there is an administrative exemption process laid out in the ordinance which allows the Director of Community Development to grant exemptions based on certain criteria, but there is a limited framework that has to be considered to grant those exemptions. She said to date there have been 4 of 8 requested exemptions granted within the overlay district. The other aspect is that the boundaries of the district itself can be changed or amended by rezoning, which can be requested by either the property owner or the city, and so far there have been 2 requests by property owners to get out of the district.

Ms. Tungare said the list of allowed uses includes: Art Gallery/Studio, Theater, Indoor Recreation, Hotel, Personal Services (Salons, Funeral Home, Tailor, Pet Grooming, Dry cleaner, etc.), Retail, Restaurant and Taverns. Uses not allowed includes: Business and Professional Office, Medical/Dental Office, Bank and Financial Institution (such as mortgage service). She said there are more than just retail uses that are permitted within the district, as it stands today.

Ms. Tungare said the boundaries for the current overlay are from 4<sup>th</sup> St. to 3<sup>rd</sup> Ave, from State St. to Indiana St. and those geographical boundaries were arrived at after several discussions with other organizations and city officials in 2005 and 2006.

Ms. Tungare said there are some issues with the existing overlay requirements that seem to undermine the long-term purpose of the district. She said when the district was created the intent was to create a successful and strong continuous downtown shopping corridor, but that once exemptions are granted, those space get lost or committed permanently, which is a drawback with the current regulations. This creates a gap within that pedestrian flow. She said another issue is that the market conditions have changed since 2006 since when the district was adopted, and one question to consider is, are vacant spaces preferable over uses that are non-conforming within the district today? Do we want to expand that list of uses? There is a draft Comprehensive Plan recommendation and the district regulations as adopted in 2006 are not quite in sync with those recommendations. She said the observations found in the draft plan state that the overlay restrictions may have resulted in missed opportunities over the years and in the future as well. She said any successful and vibrant downtown needs a healthy mix of uses to generate activity at all times of day. She said another observation from market analysis done in conjunction with the Comprehensive Plan indicated that the market for retail uses is saturated

within the downtown area. She said there was a strong recommendation as part of the Comprehensive Plan process to really consider relaxing use restrictions on a temporary basis until there is a stronger demand for retail space.

Ms. Tungare presented the Committee with 3 options staff developed for consideration: Shrink the boundaries of the overlay; allow certain office uses (permanently or temporarily); or modify the boundaries to create smaller individual districts.

The 1st option-focuses on shrinking the boundaries. Some businesses/ properties are isolated from existing service or retail uses and when the geographic boundaries were drawn up in 2006, the future potential was also taken into consideration, but this has not materialized. These sites do not seem to be viable candidates for the type of uses permitted in the overlay. She said the advantages for this option are that it keeps the Main St. core intact from 3<sup>rd</sup> Ave. to 3<sup>rd</sup> St. and it's based on existing conditions and excluding parcels isolated from existing retail/service uses. She said the disadvantages are that it does not necessarily address the market viability of the remaining properties and the vacancy trend may continue. Also, granting too many exemptions may undermine the purpose of the overlay and therefore it is not desirable to grant additional flexibility if it is decided to shrink the district. If they do shrink the district, she recommends the existing exemption criteria be tightened.

The 2nd option-focuses on keeping the district intact, the way it exists today, but to expand the list of uses within the overlay to allow some type of office uses (ex. banks, financial institutions, government offices, business/professional offices, medical/dental offices, etc.). She said this could be done one of two ways, one being to limit or allow certain types of office uses that generate customer traffic on a permanent basis, or an end date could be set and it would be temporary. She said the advantages for this option are that it only requires a General Amendment to the ordinance and no rezoning. It would definitely reduce vacancies which directly addresses the issue most efficiently. It would eliminate most if not all the exemption requests received over the previous years. She said the disadvantages are that it could limit future potential for retail concentration; prominent spaces could be permanently lost for office uses because the city cannot force out office uses after the end date; and it will be difficult to monitor/distinguish office uses with customers because there is not a business license program in the city.

The 3rd option- focuses on splitting up the overlay into small districts which would involve changing the boundaries. Rather than one contiguous cohesive district, it would be 3 separate districts; N. Third St., First St. and Century Corners. She said those are 3 relatively strong pedestrian oriented districts within the downtown district today, so the intent here would be to strengthen what we already have. She said the advantages for this option are: it keeps restrictions where some retail concentration exists; its more effective in the short term to build off of existing retail; and it will let the market decide if retail works in other locations, which means there would be no reason for the city to intervene and just let the market do its thing. She said the disadvantages are that it would require rezoning of properties including properties that are not within the overlay today and that some property owners may oppose such change as has been seen in some other rezonings. The Main St. core would not be entirely within the overlay and in this case it would be block by block or a certain side of street.

Ms. Tungare said in taking the next steps that she is specifically looking for some direction from Committee on which one of the options is most viable and they would like to pursue. She said in terms of process there is a lot of work ahead for staff which could take, in any case, from 90-120

days. The process would involve a zoning application that could be rezoning or a General Amendment of the Zoning Ordinance, notification to the property owners, Plan Commission public hearing, recommendation, Committee recommendation and then a City Council vote.

Aldr. Bessner asked in regard to option 1 as far the periphery of what is currently there, is there any consistent thread that shows that any of those properties in any part of the district that are not getting advantages of their locations not being in the downtown districts. Ms. Tungare said there is a consistency in terms of the existing uses, footprint and separation from existing concentration of retail businesses, and those were the factors taken into consideration in terms of what has been excluded with that option. Aldr. Bessner said he was trying to figure out if the boundary is too big and what is on the outside is not within a certain amount of foot traffic. Ms. Tungare said that is correct. Aldr. Bessner asked if in option 2 and the 180 day time period in which an office leaves on its own and nothing happens in 180 days, they do not have to allow it to be an office again. Ms. Tungare said under the current regulations that is correct, because it is a non-conforming use. Aldr. Bessner asked if option 2 would be similar to that. Ms. Tungare gave an example- if there is an office space that has a permitted use until 2014 and they decide to continue to 2015, they can stay, but if they then decide to leave and vacate the space, from that point that use is non-conforming, so as long as the space remains vacant for 180 days they will have to come into conformance, and if that space were to become re-occupied within that 180 day period with another office user, they can go into that space. Aldr. Bessner asked if breaking up the districts would allow for 3 districts under the new overlay but would it have the ability to focus more retail in one area, or limit office in one area, or would it be restricted. Ms. Tungare said she would need to confer with legal counsel regarding the criteria and viability of doing something like that but that it could be difficult to administer from staff's perspective. Aldr. Bessner said he likes option 3 best because it gives the ability to keep retail growing in certain areas and to put office in some areas that are vacant.

Aldr. Lewis said whichever option is taken, would it be reasonable to think that it would end up more office than retail, and if that is the case, what about parking, because parking is different for a business with people coming and going versus people who are working all day long and need a place to park. Ms. Tungare said as it stands the Zoning Ordinance has a higher requirement for retail uses than office uses, with retail being 4 per 1,000 sq. ft. and office is 3 per 1,000 sq. ft. She said within the Special Service Areas in downtown there are properties that are exempt from meeting the off street parking requirement as long as they have public parking within a certain distance from their facility. She said in a downtown environment, there needs to be a healthy mix and there are some offsetting benefits because there are offsetting times for the different uses. Aldr. Lewis said right, but if there will be a lot more offices all of the sudden, that might generate many more employees parking for long periods of time. She wonders if there will be enough places for employees to park, and also there are areas where it's only 3 hour parking, so would those employees have to go out and move their cars. Ms. Tungare said she believes timing on parking differs in all areas of downtown.

Aldr. Rogina asked if in option 3 for the rezoning process, if 90-120 days would be the time period from start to end with Council approval. Ms. Tungare said correct. Aldr. Rogina commented to the point that some businesses owners in downtown would like to see the change just to see the filling of the vacant spaces.

Aldr. Krieger said if the smaller district were chosen, she would suggest the restrictions be lifted for 18 months to see if it will fill in some of the vacancies along Main St.

Aldr. Martin said he is not happy with any of the options because they fought really hard to get the first floor retail enacted several years ago and it's unfortunate that it didn't happen due to economics. He said option 3 is so similar to what we had many years ago when there were more quadrants and each one was designated for a purpose, and the only one that caught on was the bar area on Third St. which has expanded to the point where it's driven most of the quality retail out, and as long as there is that type of atmosphere the quality retail will not come back. He said the first place he would work on is Main St. and he would not like to see the first floor retail eliminated. He is not in favor of reducing the district because once that happens and things do take off, it becomes nearly impossible to change it back again. He said the vacancies need to be filled with something substantial and will stay and he doesn't feel its office.

Aldr. Turner said he does not want to see the overlay reduced, and before the recession he was on a committee with Aldr. Martin discussing how to get retail in downtown. He said it comes down to that a lot of "mom and pop" stores cannot afford the rent, and he thinks that's a main problem for Main St. He thinks at this point offices and banks on the first floor would drive foot traffic and maybe help some of the struggling small businesses survive.

Aldr. Rogina said to not discount the possibility of putting some educational institutions in downtown because he thinks there is an interest there and it would also create foot traffic. He said 2 new businesses were just added to downtown; the yogurt place and the coffee shop which will bring in more foot traffic, so he is in favor of option 3 because it's the new normal and he feels in terms of the short run, those vacancies need to be filled, and there needs to be more foot traffic.

Aldr. Lewis spoke to Aldr. Turner's point in regard to the "mom and pop" businesses not being able to afford the rent and she feels it's a valid point because she experienced that personally.

Kim Malay-526 S. 16<sup>th</sup> St.-asked about the 8 business proposals and when that was and in what period of time, and if there is a lot of interest coming in as office for the properties, because if not, is it really worth changing at this point. She said maybe bringing those items to the Council and letting them decide for a while so there is a chance to see what uses are wanted for those spaces to even determine if it's a good move. She said she agrees with Aldr. Martin and Turner that they worked hard to get the retail on the first floor and its almost better to be proactive and keep it in place, instead of reactive and doing away with it and doing it all over again. She suggests monitoring before choosing any of the options.

Jotham Stein-1333 S. 5<sup>th</sup> St.-has an office just outside the overlay at 214 S. 3<sup>rd</sup> St.-He said we are in the middle of a mayoral election. Aldr. Carrigan said everyone is aware of the political situation and to stay focused on the subject. Mr. Stein said his point is that he would like the Committee to table any discussion during the election, as one of the key issues is bringing businesses downtown. He said if a candidate other than himself is elected, they can decide which option is best and he will step aside. He has his office downtown and it is fine, but that if he is elected he does not want to have city staff spending an inordinate amount of time on this. His top priority is to bring in business. He said a lot of what is being proposed is putting the cart before the horse and is a monumental waste of time when city staff could be focused outward to

bring in the businesses and then make a decision as to whether rezoning or exemptions are needed. He said his formal request is to wait until April 10 to decide on one of the three options.

John Arthur Anderson-421 S. 11<sup>th</sup> St.-Asked if for the 3 new zones, would the first floor retail restriction pertain to all of those. Ms. Tungare said yes, that is what is being proposed. Mr. Anderson said the one zone takes in more property then it had before, so it actually adds more property to the zones at that point.

Chairman Carrignan said he agrees with Mr. Stein, that there is an election and the timing of something like this that a new Mayor will have to live with is important, but that he is not sure he wants to table it, but maybe continue it after April 10.

Chairman Carrignan said his comments are that the rules have changed since 2006 and retail is not the same and never will be. He thinks having more businesses in town will be a concern for parking; an increase in businesses will show an increase in assessments, which will drive up the SSA, which will give opportunities for other things like added parking, for instance a parking deck on the northwest side of town. He said he is concerned about temporary extensions because businesses don't like that, and to the point about the exemption process relative to exceptions, would there be an appeal process that brings it to Committee and Council if the Dept. Director rejects the application, or does it stop there. Ms. Tungare said that is not the way the city's code is currently written, but if that is the Committee's desire, it could be run past legal counsel to amend the process. Chairman Carrignan said yes, because there is an administrative process that effectively says that it stops with the Dept. Director and he feels there should be an appeal process that at least brings it to Planning & Development Committee to look at. He said he doesn't feel Main St. is pedestrian friendly; it's tight on both sides with a lot of traffic, and people want to get off of Main St. Most of our parking accesses off of Main St. and suggested maybe a 4<sup>th</sup> option where we lifted the restriction on Main St. and then see what happens in a 3-5 year window rather than an 18-24 month window because he thinks it needs that long to revitalize the area. He said he thinks medical offices on that 1<sup>st</sup> floor could say bring in 15-25 people downtown on Main St.; there is a lot of lunches, businesses and walking around that can happen at that point. He feels it's absolutely critical that retail remain on First St. and he would also like to see it remain on Third St. and Century Corners as well, but as far as Main St., he would like to see it be opened up.

Aldr. Lewis said she agrees with Chairman Carrignan regarding Main St. being opened up, more parking and more pedestrian friendly. Chairman Carrignan said if a vacant building gets assessed differently than a vibrant business, that assessment will drive other funds that will help get parking and other things. Aldr. Turner said he agrees as well but he is concerned with Century Corners and he would like to see that remain strictly retail and rather not have any office there at all. Chairman Carrignan said maybe understanding the types of businesses that have applied and look at exemptions downtown to see who is interested. Aldr. Rogina agrees with Aldr. Lewis regarding Main St.

Ms. Tungare said in terms of direction, it's be open to office uses or other types along Main St. but for areas such as Century Corners, N. Third St. and First St. to keep those primarily retail. Chairman Carrignan said yes, that general direction, and by opening up Main St. and keeping the rest under the retail district, at least for a period of time, to understand, because Main St. is not pedestrian friendly. He said going forward to Phase III at First St., he would like to see First St. to be a one-way south and grab some sidewalk on the east side and open up some pedestrian

areas on the east side of First St. He said he feels there is a lot that can be done there because it's an open footprint and there's an opportunity to make that a very viable pedestrian area.

Aldr. Rogina asked if the Harris and Capital Banks on First St. are exceptions to the retail. Ms. Tungare said First St. is different, there are other additional restrictions placed on that development which are in place through the PUD process, and there is a restriction on the percentage of first floor spaces occupied by non-retail businesses, and the bank is conforming within those regulations.

Aldr. Martin asked why the southeast quadrant is not being addressed. Chairman Carrigan said he is not sure how much retail is even over there right now. Ms. Tungare said staff would have to take a look at that. Aldr. Martin said it has potential. Aldr. Lewis said S. Riverside Ave. could have quite a bit of retail. Chairman Carrigan said he would like to address Main St. but that the southeast should be looked at as well.

Aldr. Bessner said he likes the 3 smaller districts because it allows the ability to be more conforming as to where certain businesses will go, but he doesn't think it should specify each area as a certain use. He thinks the 3 districts gives more flexibility.

Chairman Carrigan asked if staff felt they had enough direction. Ms. Tungare said she believes so and from staff's perspective they will further investigate some of the issues brought up, especially with relation to the procedural aspects from an administrative to an appeal process. She said staff would work with legal counsel on that and then will come back to Committee with responses.

#### **4. ADDITIONAL BUSINESS**

- a. Update on the Comprehensive Plan Project-Information only.

Mr. Colby said the Plan Commission will be discussing the plan next on March 19, and the schedule has been extended out a bit due to some canceled meetings.

Aldr. Martin said we are in an election season and there are political signs being put up all over town and there are ordinances regarding those signs, and those ordinances are being violated. There are signs being placed on public property and also on locations where there is absolutely no private areas around it. He requested that the Code Enforcement Officer enforce the ordinances written. Mr. Vann said they have been removing signs but that if Aldr. Martin had specific locations he would take care of those.

#### **5. ADJOURNMENT**

Aldr. Bessner made a motion to adjourn. Seconded by Aldr. Turner at 7:50 PM.