


**AGENDA  
CITY OF ST. CHARLES  
PLANNING & DEVELOPMENT COMMITTEE  
ALD. DAN STELLATO – CHAIRMAN**

**MONDAY, AUGUST 12, 2013 - 7:00 PM  
CITY COUNCIL CHAMBERS  
2 E. MAIN STREET**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. COMMUNITY DEVELOPMENT**
  - a. Recommendation to approve a General Amendment to Title 17 of the City Code (Zoning Ordinance) regarding residential fences.
  - b. Recommendation to Approve an Amendment to Special Use for a Planned Unit Development (First Street Redevelopment – Building 7A 401-409 S. First Street).
  - c. Presentation by First Street LLC of a concept for the Phase 3 property of the First Street Redevelopment Project.
  - d. Recommendation to direct staff to file a General Amendment application to amend the Downtown Overlay District.
  - e. Recommendation to approve proposed Intergovernmental Agreements with the City of West Chicago regarding Jurisdictional Boundary Lines and Jurisdiction of Kautz Road.
- 4. ADDITIONAL BUSINESS**
- 5. EXECUTIVE SESSION**
  - Personnel
  - Pending Litigation
  - Probable or Imminent Litigation
  - Property Acquisition
  - Collective Bargaining
- 6. ADJOURNMENT**

 <b>ST. CHARLES</b> <small>SINCE 1834</small>	<b>AGENDA ITEM EXECUTIVE SUMMARY</b>						
	Title:	Recommendation to approve a General Amendment to Title 17 of the City Code (Zoning Ordinance) regarding residential fences					
	Staff:	Russell Colby					
<i>Please check appropriate box:</i>							
	Government Operations				Government Services		
X	Planning & Development (8/12/13)				City Council		
Estimated Cost:	N/A			Budgeted:	YES		NO
If NO, please explain how item will be funded:							
<b>Executive Summary:</b>							
<p>In October 2006, the City adopted new fence regulations for residential corner lots:</p> <ul style="list-style-type: none"> <li>Fences in the exterior side yard (the corner side yard) must meet the requirements for a fence in the front yard (3'6" tall max. within the yard or setback area, set 1 ft. off of sidewalk).</li> <li>In the exterior side yard, a 6'4" privacy fence may be installed at 5 ft. back from the property line along the street if landscaping is provided along the outside of the fence (1 shrub for every 5 ft. of fence).</li> <li>The same regulations apply to the rear yard of a through-lot (or double frontage lot).</li> </ul> <p>In practice, staff has encountered issues with homeowners wanting to replace an existing non-conforming privacy fence on a corner lot. In some situations, relocating the fence to comply with the current requirements may require modifications to the yard. Also, in some instances, the fence is being used to meet the building code requirements for swimming pool security, which requires a minimum height of 4 ft.</p> <p>To address this issue, staff proposes the following amendments to fence regulations in residential districts:</p> <ul style="list-style-type: none"> <li>Allow 6'4" privacy fences in exterior side yards where the adjacent yard is either an exterior side yard or a rear yard of a through lot. (The additional 5 ft. setback and landscaping would still be required if exterior side yard is adjacent to a front yard.)</li> <li>Increase the allowable height of a fence in a front yard or exterior side yard from 3'6" to 4 ft.</li> </ul> <p>Staff surveyed locations of privacy fences in exterior side yards and although they are not commonly found in all neighborhoods, the majority of the fences are installed in areas that would become conforming under the proposed amendment, typically on corners where two rear yards face each other at the end of a block.</p> <p><b>Plan Commission Recommendation:</b>  The Plan Commission held a public hearing on 8/6/2013. The Plan Commission recommended approval of the petition. The vote was 7-aye to 0-nay.</p> <p>The Plan Commission discussed whether landscaping should still be required in the 1 ft. area between a fence and the sidewalk. The Commission forwarded this as a comment for the Committee to consider.</p>							
<b>Attachments:</b> <i>(please list)</i>							
Staff Report Application for General Amendment							
<b>Recommendation / Suggested Action</b> <i>(briefly explain):</i>							
Recommendation to approve a General Amendment to Title 17 of the City Code (Zoning Ordinance) regarding residential fences.							
<i>For office use only:</i>			<i>Agenda Item Number: 3a</i>				

Community Development  
Planning Division

Phone: (630) 377-4443

Fax: (630) 377-4062



**Staff Report**

**TO:** Chairman Dan Stellato  
and Members of the Planning and Development Committee

**FROM:** Russell Colby, Planning Division Manager

**RE:** Application for a General Amendment to Title 17 of the City Code (Zoning Ordinance)  
regarding residential fence regulations

**DATE:** July 30, 2013

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**I. GENERAL INFORMATION**

Project Name: General Amendment for Fence regulations  
Applicant: City of St. Charles  
Purpose: Modify residential fence regulations

**II. BACKGROUND**

In October 2006, the City adopted new regulations in the Zoning Ordinance for fences. The regulations introduced new requirements for residential corner lots.

Regulations enacted in 2006:

- For corner lots, fences in the exterior side yard (the corner side yard) must meet the requirements for a fence in the front yard.
  - Fence in the exterior side yard cannot exceed 3'6" within the yard (or setback area), not closer than 1 ft. from the sidewalk.
- In the exterior side yard, a 6'4" privacy fence may be installed at 5 ft. back from the property line along the street if landscaping is provided along the outside of the fence (1 shrub for every 5 ft. length of fence).
- The same regulations apply to the rear yard of a through-lot (or double frontage lot, fronting on a street in the front and back).

In practice, staff has encountered issues with homeowners wanting to replace an existing non-conforming privacy fence on a corner lot. In some situations, their yard layout or landscaping design is based on the placement of the existing fence, and relocating the fence to comply with the current requirements may require other modifications to the yard to accommodate the fence.

In some instances, the fence is being used to meet the building code requirements for swimming pool security, which requires a minimum height of 4 ft. (which is taller than the maximum 3'6" height).

### III. PROPOSAL

To address this issue, staff proposes the following amendments to fence regulations in all residential zoning districts (RE, RS, RT and RM districts):

- Allow 6’4” privacy fences in exterior side yards, only where the adjacent yard of the lot immediately next door or across an alleyway is either an exterior side yard or a rear yard of a through lot.
  - Continue to require the additional 5 ft. setback and landscaping where the exterior side yard is adjacent to a front yard.
- Increase the allowable height of a fence in a front yard or exterior side yard from 3’6” to 4 ft.
  - This is consistent with the building code requirements for swimming pool security and front yard fence heights allowed in other zoning districts.

### IV. ANALYSIS

#### Residential fence requirements in other communities

Staff surveyed nearby communities to determine how their fence requirements for front and exterior side yards compared to St. Charles. The findings are listed in the table below. The requirements in St. Charles are more permissive than surrounding communities.

	St. Charles (existing standards)	Geneva	Batavia	South Elgin
Maximum fence height in front yard	3’6”	3’6”	3’	3’
Maximum fence height in exterior side yard	3’6”	3’6”	3’	3’
Exception to allow taller fence in exterior side yard	6’4” if set back 5 ft. and landscaped with 1 shrub for every 5 ft. of fence	No	No	No

#### Corner lot fences in St. Charles

Staff surveyed locations of taller privacy fences (above 4 ft.) in exterior side yards in St. Charles. Although they are not commonly found in all neighborhoods, the majority of the fences are installed in areas that would become conforming under the proposed amendment, typically on corners where two rear yards face each other at the end of a block.

### V. DRAFT AMENDMENT

The draft amendment is attached as a marked-up version of the current ordinance provisions.

### VI. PLAN COMMISSION RECOMMENDATION

The Plan Commission will hold a public hearing to discuss this application at their 8/6/2013 meeting. This application will be placed on the meeting portion of the agenda for a vote at this meeting. Staff will include the Plan Commission’s recommendation with the meeting packet.



## **VII. RECOMMENDATION**

Staff recommends approval of the General Amendment application and has provided the attached draft Findings of Fact to support that recommendation.

## **VIII. FINDINGS OF FACT**

### APPLICATION FOR GENERAL AMENDMENT

#### **1. The consistency of the proposed amendment with the City’s Comprehensive Plan**

The amendment is consistent with the Comprehensive Plan’s goal of preserving the character of the City’s residential neighborhoods.

#### **2. The consistency of the proposed amendment with the intent and general regulations of this Title.**

This amendment is consistent with the intent of limiting the placement of privacy fences along streets for the purpose of aesthetics and preservation of neighborhood character. The proposed changes are intended to make the ordinance requirements more consistent with what exists today, without enabling privacy fences to be placed on corner lots in such a manner that they would be visually obtrusive. The amendment will also make the zoning standards more consistent with the building code requirements for swimming pool safety fences.

#### **3. Whether the proposed amendment corrects an error or omission, adds clarification to existing requirements, is more workable than the existing text, or reflects a change of policy.**

The amendment will create more workable requirements that reflect the existing conditions in residential neighborhoods in St. Charles.

#### **4. The extent to which the proposed amendment would be in the public interest and would not serve solely the interest of the applicant.**

The amendment will benefit all residential neighborhoods.

#### **5. The extent to which the proposed amendment creates non-conformities.**

The proposed amendment will significantly reduce the number of existing non-conforming fences on corner lots and enable many residential fences to be reconstructed similar to how they existed when the property was originally developed.

#### **6. The implications of the proposed amendment on all similarly zoned property in the City.**

This amendment will be applied equally across all residential zoning districts.

## PROPOSED AMENDMENT

*Note: Revisions are shown as underlined italics.  
 Changes are proposed in Table 17.22-1 and Table 17.22-2 below.*

### 17.22020 Accessory Buildings and Structures

#### C. Fences and Walls

##### 1. Construction Requirements

- a. A fence or wall, including all posts, bases and other structural parts shall be located completely within the boundaries of the lot on which it is located. No fence shall be located closer than twelve (12) inches from a public sidewalk.
- b. All fences shall be erected so that the finished side of the fence faces outward, or away, from the lot on which the fence is erected, except that where a fence on a residential lot is within five feet of property containing a nonresidential use or that is zoned for a nonresidential use, any part of the fence that satisfies this condition may be erected so that the finished side faces inward on the residential lot.
- c. All metal fences shall be at least nine (9) gauge wire or a minimum of .148 inch diameter wire.
- d. In residential districts, chain link and woven wire fences are prohibited in front yards and exterior side yards. If located in a rear yard in a residential district, chain link and woven wire fences are prohibited within twenty (20) feet of any right of way line.
- e. Barbed wire, razor wire and fences of similar material are permitted only in the BC, BR, M1, M2 and PL Districts.

##### 2. Maintenance

All fences shall be maintained in good condition at all times by the owner and/or occupant of the property. If a fence is found to be in a deteriorated condition and/or in need of repair, the Building Commissioner may order the fence to be repaired, replaced or removed depending upon the condition of the fence. Such order shall be in writing.

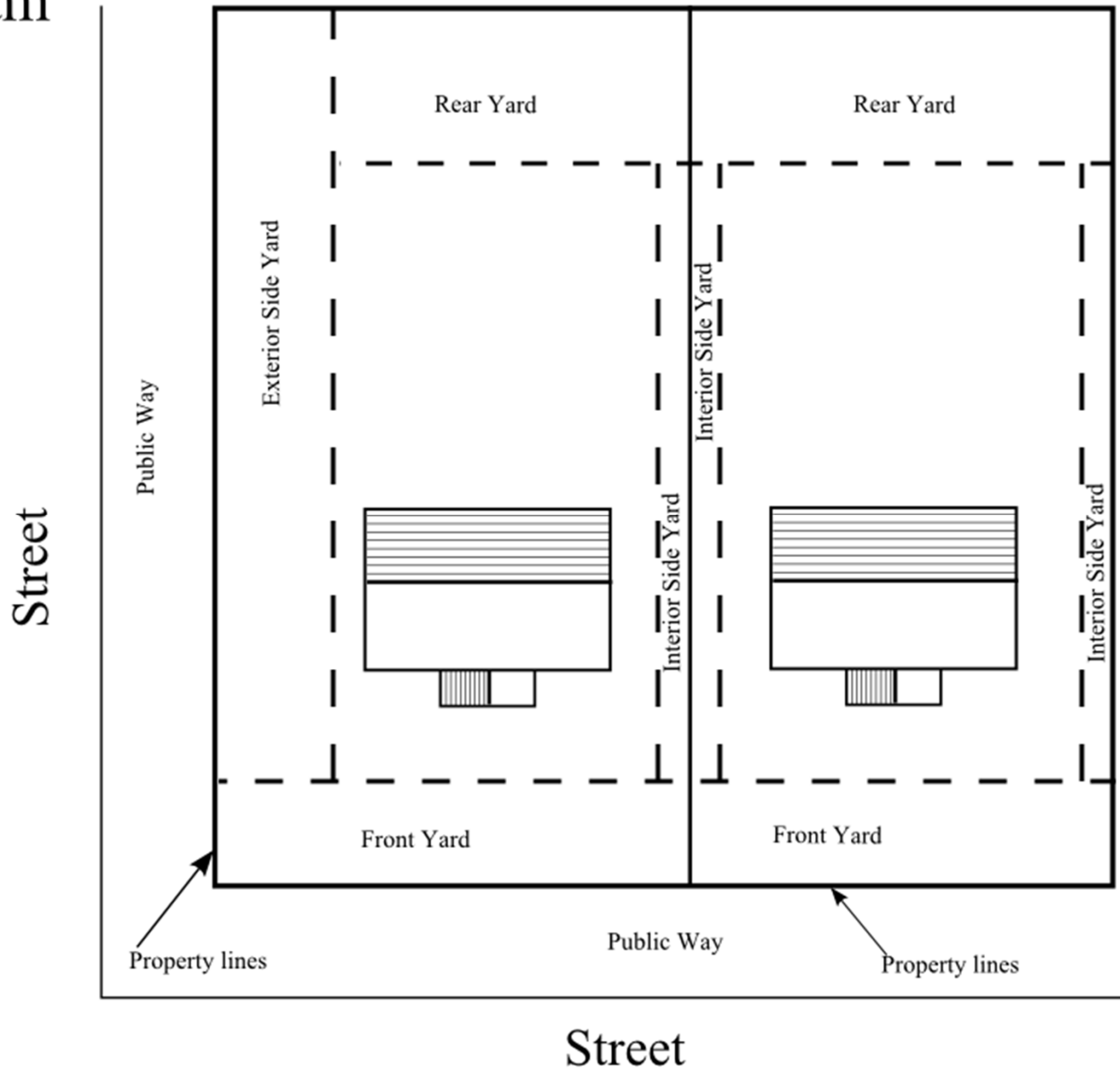
##### 3. Height Requirements

All fences shall comply with the height requirements listed in Table 17.22-1 (Maximum Allowable Fence Height), except as provided in Table 17.22-2 (Fence Height Exceptions).

TABLE 17.22-1 MAXIMUM ALLOWABLE FENCE HEIGHT BY ZONING DISTRICT				
Fence Location	RE, RS, RT and RM Districts	BL, BC, BR, and OR Districts	CBD-1 and CBD-2 Districts	M-1, M-2 and PL Districts
In Required Front Yard	<del>3 feet, 6 inches</del> <u>4 feet</u>	6 feet, 4 inches	4 feet	4 feet
In Required Rear Yard	6 feet, 4 inches	8 feet	6 feet, 4 inches	15 feet
In Required Exterior Side Yard and Required Rear Yard of Through Lot	<del>3 feet, 6 inches</del> <u>Adjacent to a front yard on the adjoining lot: 4 ft. (See also Fence Height exceptions Table 17.22-2)</u> <u>Adjacent to an exterior side yard, rear yard, or rear yard of a through lot on the adjoining lot: 6 ft., 4 inches</u>	6 feet, 4 inches	4 feet	4 feet
In Required Interior Side Yard	6 feet, 4 inches	8 feet	6 feet, 4 inches	15 feet
In Buildable Area of Lot	6 feet, 4 inches	8 feet	6 feet, 4 inches	15 feet
Sight Triangle	All Fences are subject to the sight triangle requirements of Section 17.22.010 (G).			

TABLE 17.22-2 FENCE HEIGHT EXCEPTIONS		
Exception	Maximum Allowable Fence Heights	Where Exception Applies
Fences within 40 feet of the right of way of major arterials.	4 feet or less (except where the provisions of this Title are more restrictive)	Any lot abutting Main Street (Illinois Route 64), Randall Road and Kirk Road
Fences in exterior side yards and in the rear yard of through lots <i>that are adjacent to a front yard on the adjoining lot</i> : Where the fence is set back from the right of way line a minimum of 5 feet and the area between the fence and the right of way line is landscaped with at minimum one shrub for every 5 feet of fence length. The landscaping design may be flexible in its arrangement by grouping plant materials and providing open areas around gates or other fence openings	6 feet 4 inches	Residential Districts
Fences on lots in residential districts abutting a nonresidential use or vacant property zoned for nonresidential use	Interior side and rear yards only: (8) feet; may be higher than 8 feet where required by topographic conditions to provide screening between a 6 ft. high person standing in the first floor of the residence and a 6 ft. high person standing in the parking area of the nonresidential use, but in no case more than ten (10) feet	Residential Districts
For tennis courts: shall be erected not less than 5 feet from a lot line and the finished side of the fence shall face outward or away from the lot on which the fence is erected	12 feet in all yards; open fences only	All Districts
Swimming Pools	In accordance with St. Charles Municipal Code requirements as set forth in Title 15	All Districts
Public or private utility facility (for security or screening purposes)	15 feet in all yards	All Districts
Public or private school, public park land, other publicly owned land, or golf course/driving range	15 feet in any yard; 25 feet for backstops located on ball fields	All Districts

# Yard Diagram



Exterior Side Yard next to Front Yard: 6' privacy fence must be set back at least 5 ft. and landscaped



Front

Front

1461

1473

Interior Lot

Corner Lot

Exterior Side

Front

Front

1505

1515

Exterior Side

Corner Lot

Interior Lot

Interior Lot

710

Front

Front

715

Interior Lot





Front

Corner Lot

250

Exterior Side

Corner Lot

337

Exterior Side

Front

Oak St

Exterior Side Yard next to Exterior Side Yard: No setback required For 6 ft. privacy fence

Exterior Side

Front

302

Corner Lot

Exterior Side

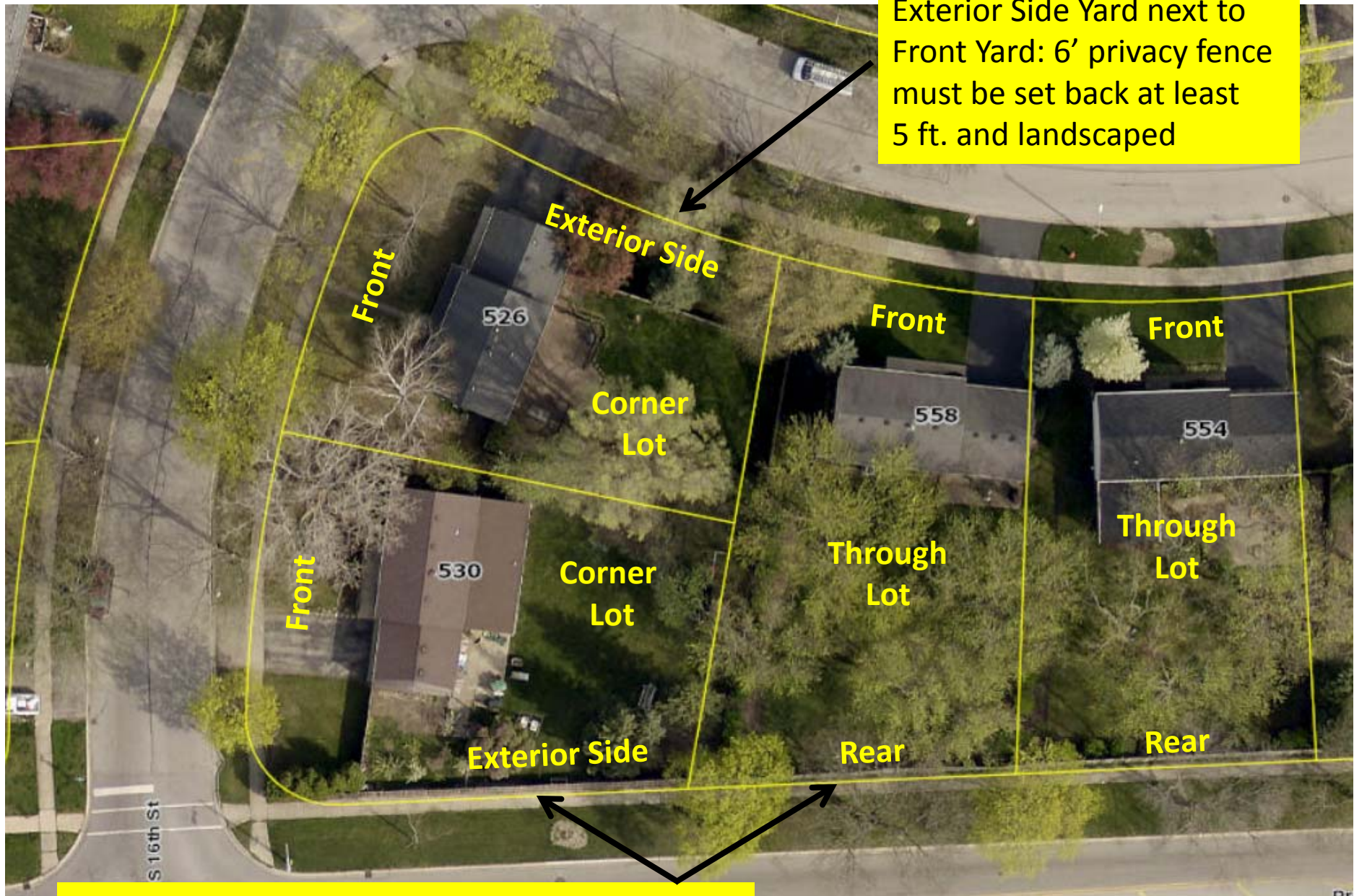
Corner Lot

401

Front



Exterior Side Yard next to Front Yard: 6' privacy fence must be set back at least 5 ft. and landscaped



Exterior Side Yard next to Rear Yard of Through Lot- No setback required.

**CITY OF ST. CHARLES**  
TWO EAST MAIN STREET  
ST. CHARLES, ILLINOIS 60174-1984



COMMUNITY DEVELOPMENT/PLANNING DIVISION

PHONE: (630) 377-4443 FAX: (630) 377-4062

**GENERAL AMENDMENT APPLICATION**

RECEIVED  
Date  
St. Charles, IL  
  
JUL 17 2013  
  
CDD  
Planning Division

<b>CITYVIEW</b>	
Project Name:	<u>G.A. - Fences</u>
Project Number:	<u>2013 -PR- 011</u>
Application Number:	<u>2013 -AP- 020</u>

*Instructions:*

To request an amendment to the text of the St. Charles Zoning Ordinance, complete this application and submit it with all required attachments to the Planning Division.

City staff will review submittals for completeness and for compliance with applicable requirements prior to establishing a meeting or public hearing date for an application.

The information you provide must be complete and accurate. If you have a question please call the Planning Division and we will be happy to assist you.

<b>1. Applicant:</b>	Name	City of St. Charles	Phone	630-377-4443
	Address	2 E. Main St. St. Charles, IL 60174	Fax	630-377-4062
			Email	rcolby@stcharlesil.gov
<b>2. Billing:</b> <i>Who is responsible for paying application fees and reimbursements?</i>	Name	Same	Phone	
	Address		Fax	
			Email	

**Attachment Checklist**

- APPLICATION:** Completed application form
- APPLICATION FEE:** Application fee in accordance with Appendix B of the Zoning Ordinance.
- REIMBURSEMENT OF FEES AGREEMENT:** An original, executed Reimbursement of Fees Agreement and deposit of funds in escrow with the City, as provided by Appendix B of the Zoning Ordinance.
- WORDING OF THE REQUESTED TEXT AMENDMENT**  
One (1) copy of Proposed Amendment (Letter Sized) and one (1) Electronic Microsoft Word version on CD-ROM



**Requested Text Amendment**

To amend Section(s) 17.22.020.C of the St. Charles Zoning Ordinance. The wording of the proposed amendment is: (attach sheets if necessary)

Regulations for fences and walls - for corner lots &  
swimming pools

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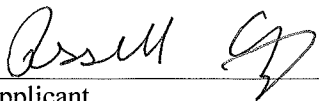
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**I (we) certify that this application and the documents submitted with it are true and correct to the best of my (our) knowledge and belief.**

  
Applicant

7/16/13  
Date



## AGENDA ITEM EXECUTIVE SUMMARY

Title:	Recommendation to Approve an Amendment to Special Use for a Planned Unit Development (First Street Redevelopment – Building 7A 401-409 S. First Street)
Presenter:	Russell Colby

*Please check appropriate box:*

	Government Operations		Government Services
X	Planning & Development – (8/12/13)		City Council
	Public Hearing		

Estimated Cost:	N/A	Budgeted:	YES		NO	
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If NO, please explain how item will be funded:

**Executive Summary:**

**Background**

In 2006, the City Council approved the First Street Redevelopment PUD. Part of this redevelopment was building 7A which was constructed in 2008. The PUD permitted a Financial Institution with a Drive-Through Facility and additional commercial tenant spaces on the first floor, with 16 apartment units on the upper levels. The approved PUD also restricts the permitted uses for the remaining first floor tenant spaces to the following categories as defined in the Zoning Ordinance: **Art Gallery/Studio, Coffee or Tea Room, Cultural Facility, Indoor Recreation and Amusement, Live Entertainment, Personal Services, Restaurant, Retail Sales, Tavern/Bar, Theater, Local Utility and Accessory Uses.**

**Proposal**

First Street Development, LLC. is proposing to amend the First Street Redevelopment PUD Ordinance to permit additional uses on the first floor of Building 7A. Details of the proposal are as follows:

- Amend **Section Six (A).** of **Ordinance 2006-Z-29** to include Office, Business or Professional and Medical/Dental Clinic uses on the first floor of building 7A.
- That building 7A be excluded from the first floor use restrictions that apply to the entire PUD. Specifically, a restriction that no more than 25% of the gross leasable floor area on the first floor of all buildings located in the PUD be comprised of: Cultural Facility, Indoor Recreation and Amusement, Personal Services, Theater, Local Utility, and Bank and Financial Institutions.
- There are no proposed changes to the exterior of the building or parking/Drive-Through Facility area.

**Plan Commission Review**

The Plan Commission held a public hearing on 8/6/2013. The Plan Commission recommended approval of the petition. The vote was 7-aye to 0-nay. No significant comments regarding this proposal were stated during the public hearing.

**Attachments:** *(please list)*

Application for PUD Preliminary Plan; received 4/4/2013; Excerpt from Ordinance No. 2006-Z-29; Pictures of Existing Building

**Recommendation / Suggested Action** *(briefly explain):*

Recommendation to approve an amendment to Special Use for a Planned Unit Development (First Street Redevelopment – Building 7A 401-409 S. First Street).

<i>For office use only:</i>	<i>Agenda Item Number:</i> 3b
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# Community Development

## Planning Division

Phone: (630) 377-4443

Fax: (630) 377-4062



ST. CHARLES  
SINCE 1834

### Staff Report

**TO:** Chairman Daniel P. Stellato  
And Members of the Planning and Development Committee

**FROM:** Matthew O'Rourke, AICP  
Planner

**RE:** Proposed Amendment to Special Use for Planned Unit Development (First Street Redevelopment - Building 7A 401-409 S. First Street)

**DATE:** July 31, 2013

### I. APPLICATION INFORMATION:

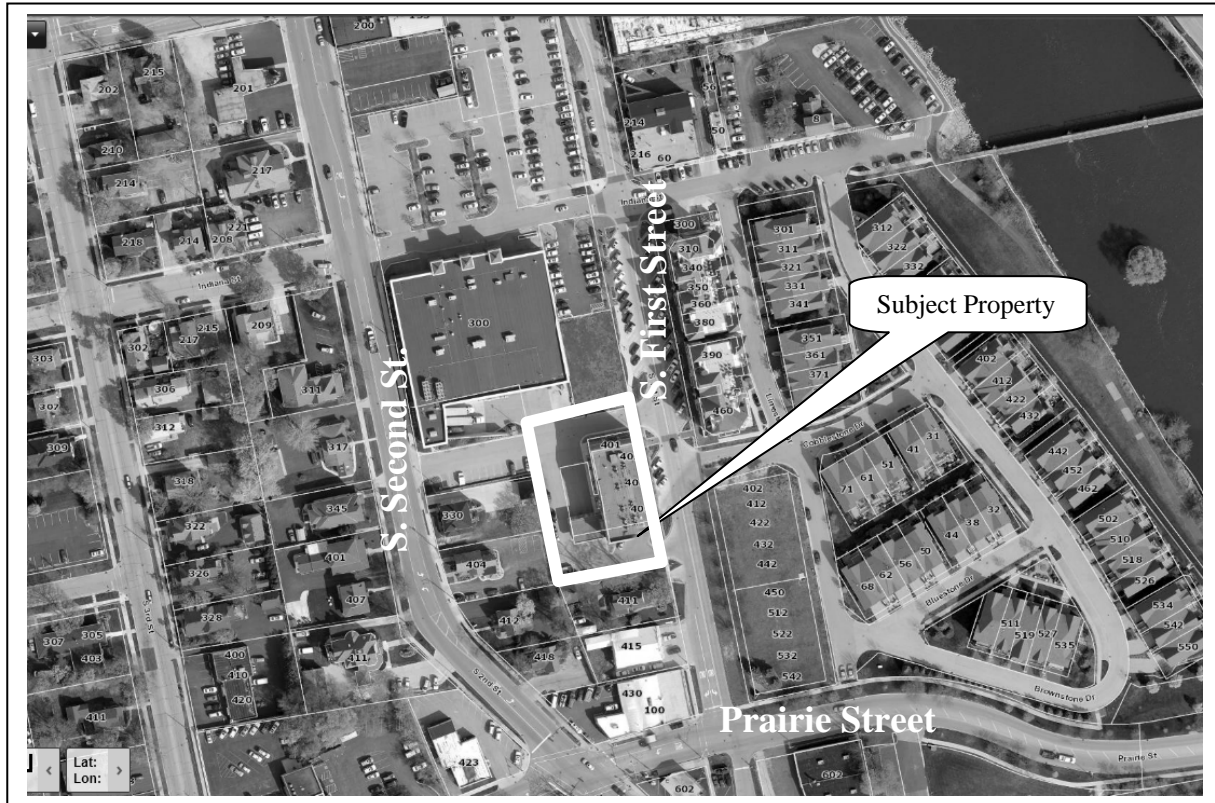
**Project Name:** 401-409 S. First Street (Building 7A)

**Applicant:** First Street Development, LLC.

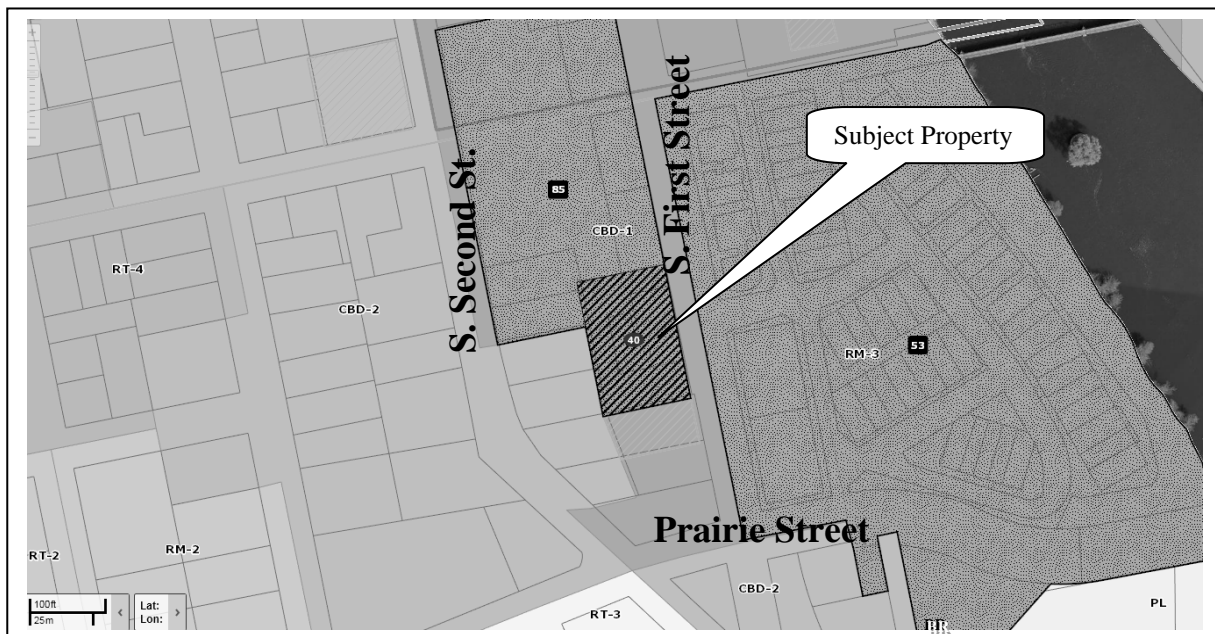
**Purpose:** Amend the First Street PUD to permit additional uses on the first floor of building 7A.

General Information:		
<b>Site Information</b>		
Location	401-409 S. First Street	
Acres	0.57	
Applications	<b>1) Special Use for a Planned Unit Development</b>	
Applicable Ordinances and Zoning Code Sections	17.04 Administration Ordinance No. 2006-Z-29 "An Ordinance Granting Certain Special Use Permits, Granting Certain Exceptions and Deviations from the Requirements of the Zoning Ordinance and the Subdivision Regulations, Granting Preliminary Planned Unit Development Plan Approval, Granting Conditional Approval of the Final Plat of Subdivision for Phase I and Related Matters for the 'First Street Redevelopment' "	
<b>Existing Conditions</b>		
Land Use	Building 7A	
Zoning	CBD-1 Central Business District (First Street PUD)	
<b>Zoning Summary</b>		
North	CBD-1 Central Business District (First Street PUD)	Vacant Lot/Blue Goose
East	CBD-1 Central Business District (PUD)	Milestone Row Mixed Use Building
South	CBD-1 Central Business District	Existing Business
West	CBD-1 Central Business District/CBD-2 Mixed-Use Business District	Existing Business
<b>Comprehensive Plan Designation</b>		
Retail and Service		

### Aerial Photograph



### Surrounding Zoning



## II. BACKGROUND

In 2006, the City Council approved the First Street Redevelopment PUD (Ordinance No. 2006-Z-29 “An Ordinance Granting Certain Special Use Permits, Granting Certain Exceptions and Deviations from the Requirements of the Zoning Ordinance and the Subdivision Regulations, Granting Preliminary Planned Unit Development Plan Approval, Granting Conditional Approval of the Final Plat of Subdivision for Phase I and Related Matters for the “First Street Redevelopment”).

Building 7A is located at the southern end of the First Street Redevelopment and was constructed in 2008. The PUD permitted a Financial Institution with a Drive-Through Facility and additional commercial tenant spaces on the first floor with 16 apartment units on the upper levels.

**Section Six** of the First Street Redevelopment PUD included provisions for specific uses that are permitted on the first floor of all buildings located within this PUD. These provisions are as follows:

*“(A) Only the following uses, as defined in the City's Zoning Ordinance, shall be permitted on the first floor of enclosed buildings located on the Subject Realty: Art Gallery/Studio, Coffee or Tea Room, Cultural Facility, Indoor Recreation and Amusement, Live Entertainment, Personal Services, Restaurant, Retail Sales, Tavern/Bar, Theater, Local Utility and Accessory Uses to the preceding uses. In addition, the following uses, as defined in the City's Zoning Ordinance, shall be permitted on the first floor of buildings 7A, 7B and the Blue Goose, as shown on the Preliminary PUD Plan: Bank and Financial Institution.*

*Notwithstanding the foregoing, the following uses shall occupy no more than 25% of the gross leasable floor area on the first floor of the buildings located on the Subject Realty, exclusive of ground floor parking areas and the Blue Goose: Cultural Facility, Indoor Recreation and Amusement, Personal Services, Theater, Local Utility, Bank, Financial Institution. The 25% limitation shall be calculated on a cumulative basis among all of the buildings located on the Subject Realty, excluding ground floor parking areas and the Blue Goose.*

Since its construction, only the Financial Institution has been located into the building. The remaining tenant spaces on the first floor have remained vacant.

## III. PROPOSAL:

First Street Development, LLC. is proposing to amend Section Six of the First Street Redevelopment PUD Ordinance to permit additional uses on the first floor of Building 7A. Details of the proposal are as follows:

- Amend **Section Six (A).** of **Ordinance 2006-Z-29** to include Office, Business or Professional and Medical/Dental Clinic uses on the first floor of building 7A.
- That building 7A be excluded from the first floor use restrictions that apply to the entire PUD. Specifically, a restriction that no more than 25% of the gross leasable floor area on the first floor of all buildings located in the PUD be comprised of: Cultural Facility, Indoor Recreation and Amusement, Personal Services, Theater, Local Utility, and Bank and Financial Institutions.
- There are no proposed changes to the exterior of the building or parking/Drive-Through Facility area.

#### IV. STAFF ANALYSIS

##### A. PROPOSED USES

The applicant is proposing that following uses, as defined in **Chapter 12.30 Definitions** of the Zoning Ordinance, be permitted on the first floor of building 7A:

**Office, Business or Professional (G).** An office used for business, professional or administrative uses, which may or may not offer services to the public, and is engaged in the processing, manipulation or application of business information or professional expertise. This use may include as accessory uses, facilities not available for use by the general public such as meeting facilities, employee amenities such as exercise rooms, and food service. This use does not involve the fabricating, assembling, warehousing, or repair of physical products, and does not include Medical/Dental Clinics, Financial Institutions or Professional Training Centers.

**Medical/Dental Clinic.** A medical or dental office or clinic offering professional medical or dental services primarily on an out-patient basis. Such services may include examination and consultation, treatment, surgery, radiology, MRI, on-site testing laboratories, physical therapy, diagnostic services, training, administration, and other services to patients provided by licensed medical or dental professionals. This use includes facilities licensed by the State of Illinois as ambulatory surgical treatment centers. This use does not include a Hospital as defined herein or a facility licensed by the State of Illinois as an emergency center under the Emergency Medical Services (EMS) Systems Act.

Both of these categories are permitted uses in the underlying CBD-1 Zoning District.

##### B. DOWNTOWN OVERLAY & SURROUNDING PROPERTIES

The limited use provisions incorporated in the First Street Redevelopment PUD are similar to the standards placed on properties located in the Downtown Overlay District. Per **Section 17.14.010.F Downtown Overlay District**, the purpose of the overlay is stated as:

*“The purpose of the Downtown Overlay District is to preserve the economic vitality and pedestrian character of downtown’s shopping core within the CBD-1 and CBD-2 Districts by encouraging the continuous flow of pedestrian movement. This is accomplished by limiting uses on the first floor that typically generate relatively little pedestrian activity or are otherwise incompatible with a pedestrian oriented shopping area. Only those uses listed in Table 17.14-1 shall be permitted on the street level or first floors of buildings/structures within the Downtown Overlay District.”*

The overlay district does not extend south of Indiana Street and the subject property and properties immediately surrounding building 7A are not located in this overlay. Therefore, any use permitted in the CBD-1 Zoning District is permitted on the first floors of the surrounding properties. In fact, there are multiple office uses located on the first floor of the buildings on First Street directly east of building 7A.

##### C. REVISED PUD PROVISIONS

Below are the proposed revisions to Section Six of the First Street Redevelopment PUD Ordinance (*the changes are highlighted bold italics*):

(A) Only the following uses, as defined in the City's Zoning Ordinance, shall be permitted on the first floor of enclosed buildings located on the Subject Realty: Art Gallery/Studio, Coffee or Tea Room, Cultural Facility, Indoor Recreation and

Amusement, Live Entertainment, Personal Services, Restaurant, Retail Sales, Tavern/Bar, Theater, Local Utility and Accessory Uses to the preceding uses. In addition, the following uses, as defined in the City's Zoning Ordinance, shall be permitted on the first floor of buildings 7B and the Blue Goose, as shown on the Preliminary PUD Plan: Bank and Financial Institution; ***and, the following uses shall be permitted on the first floor of building 7A: Bank and Financial Institution, Office, Business or Professional, and Medical/ Dental Clinic.***

Notwithstanding the foregoing, the following uses shall occupy no more than 25% of the gross leasable floor area on the first floor of the buildings located on the Subject Realty, exclusive of ground floor parking areas, the Blue Goose, ***and building 7A:*** Cultural Facility, Indoor Recreation and Amusement, Personal Services, Theater, Local Utility, Bank, Financial Institution. The 25% limitation shall be calculated on a cumulative basis among all of the buildings located on the Subject Realty, excluding ground floor parking areas and the Blue Goose.

#### **IV. PLAN COMMISSION RECOMMENDATION**

The Plan Commission held a public hearing on 8/6/2013. The Plan Commission recommended approval of the petition. The vote was 7-aye to 0-nay. No significant comments regarding this proposal were stated during the public hearing.

#### **V. RECOMMENDATION**

Staff recommends approval of the application and has provided draft findings of fact to support that recommendation.

#### **VI. ATTACHMENTS**

- Application for PUD Preliminary Plan; received 4/4/2013
- Excerpt Ordinance No. 2006-Z-29
- Pictures of Existing Building

**AMENDMENT TO SPECIAL USE FOR A PLANNED UNIT DEVELOPMENT AT 401-409 S.  
FIRST STREET  
(FIRST STREET REDEVELOPMENT – BUILDING 7A)**

From the St. Charles Zoning Ordinance, Section 17.04.410.D.3:

The Plan Commission shall not favorably recommend, and the City Council shall not approve, a Special Use for a PUD or an amendment to a Special Use for a PUD unless they each make findings of fact based on the application and the evidence presented at the public hearing that the PUD is in the public interest, based on the following criteria:

**i. The proposed PUD advances one or more of the purposes of the Planned Unit Development procedure stated Section 17.04.400.A.**

This property is locating in the existing First Street Redevelopment PUD and the building has already been constructed. The proposed amendment does not alter the purpose of the PUD as approved in 2006, but will align the provisions of the PUD with the current standards of the underlying Zoning District.

**ii. The proposed PUD and PUD Preliminary Plans conform to the requirements of the underlying zoning district or districts in which the PUD is located and to the applicable Design Review Standards contained in Chapter 17.06, except where:**

The proposed PUD amendment will permit uses that are currently permitted in the underlying CBD-1 Central Business Zoning District within the vacant tenant spaces in building 7A. Therefore, this PUD amendment is not requesting any relief from the Zoning Ordinance and will conform to the provisions of the underlying Zoning District.

**a) Conforming to the requirements would inhibit creative design that serves community goals, or**

**b) Conforming to the requirements would be impractical and the proposed PUD will provide benefits that outweigh those that would have been realized by conforming to the applicable requirements.**

**iii. The proposed PUD conforms with the standards applicable to Special Uses (Section 17.04.330.C.2).**

**a. Public Convenience: The Special Use will serve the public convenience at the proposed location.**

This location is isolated from the planned retail concentration of the First Street Redevelopment PUD and is located outside of the Downtown Overlay District. This amendment does not alter the intent or scope of the approved PUD and there are no proposed changes to the exterior of the building or to the parking/Drive-Through Facility. This amendment will permit a larger variety of uses in the vacant tenant space. This will increase the likelihood of a tenant occupying this space, which has been vacant for 5 years. Eliminating this vacancy will create increased activity within the First Street Redevelopment project.

**b. Sufficient Infrastructure: That adequate utilities, access roads, drainage and/or necessary facilities have been, or are being, provided.**



The use is already constructed. The utilities and infrastructure already exist on and around the site and will not be altered by these modifications.

- c. Effect on Nearby Property: That the Special Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the neighborhood.**

The building and Drive-Through Facility are already constructed and have existed on this site since 2008. This proposal will not modify the exterior or site plan, but will permit the applicant to fill a vacant commercial space and finish the first floor interior of building 7A. Completion of this first floor space will enhance the appeal of the building and generate commercial activity in this location.

- d. Effect on Development of Surrounding Property: That the establishment of the Special Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.**

The surrounding properties are already developed or are located within Planned Unit Developments that detail how these properties will be developed in the future. Increasing the number of permitted uses will facilitate the occupancy of these vacant spaces located in Building 7A.

- e. Effect on General Welfare: That the establishment, maintenance or operation of the Special Use will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

This building already exists on this property. Since this building is already established there will not be any new impacts created by this PUD amendment. These spaces were anticipated to be filled by commercial users; therefore, this amendment will only increase the number of commercial businesses that can locate within this space.

- f. Conformance with Codes: That the proposed Special Use conforms to all existing Federal, State and local legislation and regulation and meets or exceeds all applicable provisions of this Title, except as may be varied pursuant to a Special Use for Planned Unit Development.**

The amendment will conform to all applicable regulations in the underlying CBD-1 Central Business District and the specific provisions of the Ordinance No. 2006-Z-29 (First Street Redevelopment).

- iv. The proposed PUD will be beneficial to the physical development, diversity, tax base and economic well-being of the City.**

This location is isolated from the planned retail concentration of the First Street Redevelopment PUD and is located outside of the Downtown Overlay District. This amendment will permit the build out of an existing vacant commercial space that is located on the first floor of building 7A. This will increase commercial activity in this area and promote the continued development of the First Street Redevelopment project.

- v. The proposed PUD conforms to the purposes and intent of the Comprehensive Plan.**

N/A

**CITY OF ST. CHARLES**  
TWO EAST MAIN STREET  
ST. CHARLES, ILLINOIS 60174-1984



COMMUNITY DEVELOPMENT/PLANNING DIVISION

PHONE: (630) 377-4443 FAX: (630) 377-4062

**SPECIAL USE APPLICATION**

<b>CITYVIEW</b>	
Project Name:	<i>First St. Bldg. 7A-PUD Amend.</i>
Project Number:	<i>2013 -PR- 010</i>
Application Number:	<i>2013 -AP- 019</i>



*To request a Special Use for a property, or to request to amend an existing Special Use Ordinance for a property, complete this application and submit it with all required attachments to the Planning Division.*

*City staff will review submittals for completeness and for compliance with applicable requirements prior to establishing a public hearing date for an application.*

*The information you provide must be complete and accurate. If you have a question please call the Planning Division and we will be happy to assist you.*

<b>1. Property Information:</b>	Parcel Number (s): 09-34-132-029 and 09-34-132-030	
	Street Address (or common location if no address is assigned): 405-407 S. First St., St. Charles, IL. 60174	
<b>2. Applicant Information:</b>	Name First Street Development LLC	Phone 630-587-5595
	Address 409 Illinois Avenue Suite 1C St. Charles, IL 60174	Fax 630-587-0700
		Email Dave@pcwinvest.com
<b>3. Record Owner Information:</b>	Name First Street Development LLC	Phone 630-587-5595
	Address 409 Illinois Avenue Suite 1C St. Charles, Illinois 60174	Fax 630-587-0700
		Email Dave@pcwinvest.com
<b>4. Billing:</b> <i>To whom should costs for this application be billed?</i>	Name First Street Development LLC	Phone 630-587-5595
	Address 409 Illinois Avenue Suite 1C St. Charles, Illinois 60174	Fax 630-587-0700
		Email Dave@pcwinvest.com

**Information Regarding Proposed Special Use:**

Comprehensive Plan designation of the property: \_\_\_\_\_

Is the property a designated Landmark or in a Historic District? \_\_\_\_\_

What is the property's current zoning? \_\_\_\_\_

What is the property currently used for? Vacant \_\_\_\_\_

What Special Use(s) are you applying for? Please select from the list of Special Uses in the Zoning Ordinance for the appropriate zoning district.

\_\_\_\_\_

If the proposed Special Use is approved, what improvements or construction are planned?

None \_\_\_\_\_

**For Special Use Amendments only:**

What Special Use ordinance do you want to amend? Ordinance No. \_\_\_\_\_

Why is the proposed change necessary?

Unable to Lease with current zoning. \_\_\_\_\_

What are the proposed amendments? (Attach proposed language if necessary)

Amend First Street PUD Ordinance No. 2006-Z-29 Section 6A. \_\_\_\_\_

**Note for existing buildings:**

If your project involves using an existing building, whether you plan to alter it or not, please contact the St. Charles Fire Department (630-377-4458) and the Building and Code Enforcement Division (630-377-4406) for information on building, life safety and other code requirements. Depending on the proposed use, size of structure and type of construction, these requirements can result in substantial costs.

***Attachment Checklist***

- APPLICATION:** Completed application form signed by the applicant
- APPLICATION FEE:** Application fee in accordance with Appendix B of the Zoning Ordinance.
- REIMBURSEMENT OF FEES AGREEMENT:** An original, executed Reimbursement of Fees Agreement and deposit of funds in escrow with the City, as provided by Appendix B of the Zoning Ordinance.
- PROOF OF OWNERSHIP and DISCLOSURE:**
  - a) A current title policy report; or
  - b) A deed and a current title search.

If the owner is not the applicant, an original letter of authorization from the owner permitting the applicant to act on his/her behalf is required. If the owner or applicant is a Trust, a disclosure of all beneficiaries; if the owner or applicant is a Partnership, a disclosure of all partners; if the owner or applicant is a Corporation, a disclosure of all owners with an interest of at least ten percent (10%).

□ **LEGAL DESCRIPTION:** For entire subject property, on 8 1/2 x 11 inch paper

□ **PLAT OF SURVEY:**

A current plat of survey for the Subject Realty showing all existing improvements on the property, prepared by a registered Illinois Professional Land Surveyor.

□ **SOIL AND WATER CONSERVATION DISTRICT APPLICATION:**

Copy of completed Land Use Opinion application as required by state law, as submitted to The Kane-Dupage Soil and Water Conservation District. <http://www.kanedupageswcd.org/>

□ **ENDANGERED SPECIES REPORT:**

Copy of Endangered Species Consultation Agency Action to be filed with the Illinois Department of Natural Resources. <http://dnrecofcat.state.il.us/ecopublic/>

□ **TRAFFIC STUDY:** If requested by the Director of Community Development.

□ **PLANS:**

All required plans shall be drawn on sheets no larger than 24" x 36", unless the Director of Community Development permits a larger size when necessary to show a more comprehensive view of the project. All required plans shall show north arrow and scale, and shall be drawn at the same scale (except that a different scale may be used to show details or specific features). All plans shall include the name of the project, developer or owner of site, person or firm preparing the plan, and the date of plan preparation and all revisions.

**Copies of Plans:**

- Initial Submittal - Fifteen (15) full size copies, Three (3) 11" by 17", and a PDF electronic file on a CD-ROM.
- Revision Submittal for Plan Commission - Twenty-Two (22) full size copies, Three (3) 11" by 17" and a PDF electronic file on a CD-ROM.

□ **SITE PLAN (Note: For a Special Use for PUD, submit PUD Preliminary Plan Application in lieu of Site Plan)**

A plan or plans showing the following information:

1. Accurate boundary lines with dimensions
2. Streets on and adjacent to the tract: Name and right-of-way width
3. Location, size, shape, height, and use of existing and proposed structures
4. Location and description of streets, sidewalks, and fences
5. Surrounding land uses
6. Date, north point, and scale
7. Ground elevation contour lines
8. Building/use setback lines
9. Location of any significant natural features
10. Location of any 100-year recurrence interval floodplain and floodway boundaries
11. Location and classification of wetland areas as delineated in the National Wetlands Inventory
12. Existing zoning classification of property
13. Existing and proposed land use
14. Area of property in square feet and acres
15. Proposed off-street parking and loading areas
16. Number of parking spaces provided, and number required by ordinance

17. Angle of parking spaces
18. Parking space dimensions and aisle widths
19. Driveway radii at the street curb line
20. Width of driveways at sidewalk and street curb line
21. Provision of handicapped parking spaces
22. Dimensions of handicapped parking spaces
23. Depressed ramps available to handicapped parking spaces
24. Location, dimensions and elevations of freestanding signs
25. Location and elevations of trash enclosures
26. Provision for required screening, if applicable
27. Exterior lighting plans showing:
  - a. Location, height, intensity and fixture type of all proposed exterior lighting
  - b. Photometric information pertaining to locations of proposed lighting fixtures

**I (we) certify that this application and the documents submitted with it are true and correct to the best of my (our) knowledge and belief.**

*First Street Development LLC*

By *[Signature]* 7-9-13  
 Record Owner Date

*[Signature]* 7/8/13  
 Applicant or Authorized Agent Date

**OWNERSHIP DISCLOSURE FORM  
LIMITED LIABILITY COMPANY (L.L.C.)**

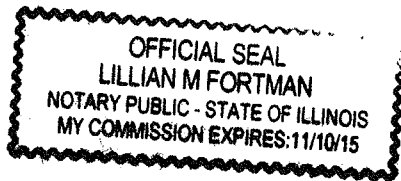
STATE OF ILLINOIS    )  
                                  ) SS.  
KANE COUNTY         )

I, Keith J. Kotche, being first duly sworn on oath depose and say that I am  
Manager of First Street Development LLC, an Illinois Limited Liability  
Company (L.L.C.), and that the following persons are all of the members of the said L.L.C.:

- DRJ INVESTMENTS, LLC
- WOLANDE INVESTMENTS, LLC
- PHILCOR INVESTMENTS, LLC
- AVM INVESTMENTS, LLC
- SEACORD PROPERTIES, LLC
- DEKED, LLC
- WB, LLC

By: [Signature], Manager

Subscribed and Sworn before me this 8th day of  
July, 20 13.



Lillian M. Fortman  
Notary Public

# FINDINGS OF FACT SHEET – SPECIAL USE FOR A PLANNED UNIT DEVELOPMENT (PUD)



The St. Charles Zoning Ordinance requires the Plan Commission to consider the factors listed below in making a recommendation to the City Council.

As the applicant, the “burden of proof” is on you to show how your proposed Planned Unit Development meets the applicable standards. Therefore, you need to “make your case” by explaining specifically how the project meets each of the following standards.

First Street Development  
PUD Name

7-8-13  
Date

### From the St. Charles Zoning Ordinance, Section 17.04.410.3:

The Plan Commission shall not favorably recommend, and the City Council shall not approve, a Special Use for a PUD or an amendment to a Special Use for a PUD unless they each make findings of fact based on the application and the evidence presented at the public hearing that the PUD is in the public interest, based on the following criteria:

#### i. The proposed PUD advances one or more of the purposes of the Planned Unit Development procedure stated in Section 17.04.400.A:

1. To promote a creative approach to site improvements and building design that results in a distinctive, attractive development that has a strong sense of place, yet becomes an integral part of the community.
2. To create places oriented to the pedestrian that promote physical activity and social interaction, including but not limited to walkable neighborhoods, usable open space and recreational facilities for the enjoyment of all.
3. To encourage a harmonious mix of land uses and a variety of housing types and prices.
4. To preserve native vegetation, topographic and geological features, and environmentally sensitive areas.
5. To promote the economical development and efficient use of land, utilities, street improvements, drainage facilities, structures and other facilities.
6. To encourage redevelopment of sites containing obsolete or inappropriate buildings or uses.
7. To encourage a collaborative process among developers, neighboring property owners and residents, governmental bodies and the community

The proposed Amendment will promote economic development and efficient use of the property. The building and all utilities, street improvements, drainage facilities and other facilities are in place.

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**ii. The proposed PUD and PUD Preliminary Plans conform to the requirements of the underlying zoning district or districts in which the PUD is located and to the applicable Design Review Standards contained in Chapter 17.06, except where:**

- A. Conforming to the requirements would inhibit creative design that serves community goals, or**
- B. Conforming to the requirements would be impractical and the proposed PUD will provide benefits that outweigh those that would have been realized by conforming to the applicable requirements.**

**Factors listed in Section 17.04.400.B shall be used to justify the relief from requirements:**

- 1. The PUD will provide community amenities beyond those required by ordinance, such as recreational facilities, public plazas, gardens, public are, pedestrian and transit facilities.
- 2. The PUD will preserve open space, natural beauty and critical environmental areas in excess of what is required by ordinance or other regulation.
- 3. The PUD will provide superior landscaping, buffering or screening.
- 4. The buildings within the PUD offer high quality architectural design.
- 5. The PUD provides for energy efficient building and site design.
- 6. The PUD provides for the use of innovative stormwater management techniques.
- 7. The PUD provides accessible dwelling units in numbers or with features beyond what is required by the Americans with Disabilities Act (ADA) or other applicable codes.
- 8. The PUD provides affordable dwelling units in conformance with, or in excess of, City policies and ordinances.
- 9. The PUD preserves historic buildings, sites or neighborhoods.

**The PUD was constructed pursuant to Ordinance No. 2006-Z-29 and therefore conforms with city requirements.**

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- iii. **The proposed PUD conforms with the standards applicable to Special Uses (section 17.04.330.C.2).**

*Submit responses on form: "Findings of Fact Sheet – Special Use"*

- iv. **The proposed PUD will be beneficial to the physical development, diversity, tax base and economic well-being of the City.**

The proposed Amendment will provide economic well being to the City including increase of the tax base and overall business diversity within the First Street Development. The property has been vacant since its construction and without the Amendment prospects of leasing the property will remain bleak.

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- v. **The proposed PUD conforms to the purposes and intent of the Comprehensive Plan.**

The proposed Amendment conforms to the overall purpose and intent of business diversity within the entire downtown area of St. Charles.

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# FINDINGS OF FACT SHEET – SPECIAL USE



The St. Charles Zoning Ordinance requires the Plan Commission to consider the factors listed below in making a recommendation to the City Council.

As the applicant, the "burden of proof" is on you to show how your proposed Special Use will comply with each of the applicable standards. Therefore, you need to "make your case" by explaining specifically how your project meets each of the following standards.

First Street Development  
Project Name or Address

7-8-13  
Date

### From the Charles Zoning Ordinance, Section 17.04.430.C.2:

No Special Use or amendment to Special Use shall be recommended by the Plan Commission unless it finds that the proposed Special Use or amendment to Special Use will conform with each of these standards. The Plan Commission shall submit its written findings together with its recommendations to the City Council after the conclusion of the Public Hearing, and also may recommend such conditions as it may deem necessary to ensure conformance with these standards.

On the basis of the evidence presented at the public hearing, the Plan Commission shall record its reasons for recommending approval or denial of the petition (findings of fact) in accordance with the following standards:

**A. Public Convenience: The Special Use will serve the public convenience at the proposed location.**

The Special Use will enhance the overall business environment of the First Street project and therefore benefit the public.

**B. Sufficient Infrastructure: That adequate utilities, access roads, drainage and/or necessary facilities have been, or are being, provided.**

All infrastructure including utilities, access points and drainage are in place.

**C. Effect on Nearby Property: That the Special Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the neighborhood.**

The Special Use will not be injurious to the use and adjoining property but rather increase property values by allowing the property to be occupied.

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- D. Effect on Development of Surrounding Property: That the establishment of the Special Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.**

All buildings are in place. The Special Use will allow the property to be occupied and therefore increase the likelihood of orderly development within the First Street project.

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- E. Effect on General Welfare: That the establishment, maintenance or operation of the Special Use will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

The Special Use will not endanger the public health, safety, or general welfare but rather benefit the public by allowing the vacant structure to be occupied.

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- F. Conformance with Codes: That the proposed Special Use conforms to all existing Federal, State and local legislation and regulation and meets or exceeds all applicable provisions of this Title, except as may be varied pursuant to a Special Use for Planned Unit Development.**

The Special Use if granted will conform to all state and local requirements.

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LEGAL DESCRIPTION

LOT 8 IN FIRST STREET REDEVELOPMENT SUBDIVISION, IN THE CITY OF ST. CHARLES, KANE COUNTY,  
ILLINOIS

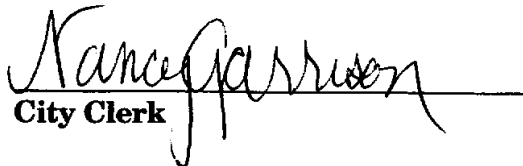
**City of St. Charles, Illinois**

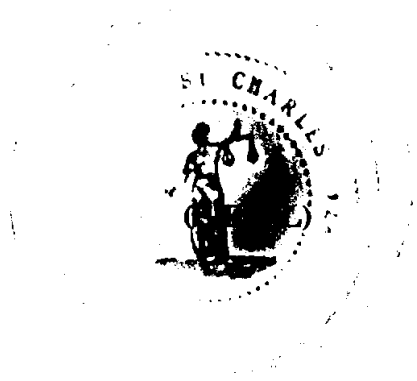
**Ordinance No. 2006-Z-29**

**Ordinance Granting Certain Special Use Permits,  
Granting Certain Exceptions and Deviations from the  
Requirement of the Zoning Ordinance and the  
Subdivisions Regulations Granting Preliminary  
Planned Unit Development Plan Approval, Granting  
Conditional Approval of the Final Plat of Subdivision  
for Phase 1 and Related Matters for the "First Street  
Redevelopment"**

**Adopted by the  
City Council  
of the  
City of St. Charles  
December 4, 2006**

**Published in pamphlet form by  
authority of the City Council  
of the City of St. Charles,  
Kane and Du Page Counties,  
Illinois, December 8, 2006**

  
City Clerk



DATE OF PUBLICATION 12/8/06  
NEWSPAPER Pamphlet

REFER TO:  
MINUTES 12/4/06  
PAGE \_\_\_\_\_

ORDINANCE NO. 2006-Z-29

AN ORDINANCE GRANTING CERTAIN SPECIAL USE PERMITS, GRANTING CERTAIN EXCEPTIONS AND DEVIATIONS FROM THE REQUIREMENTS OF THE ZONING ORDINANCE AND THE SUBDIVISIONS REGULATIONS, GRANTING PRELIMINARY PLANNED UNIT DEVELOPMENT PLAN APPROVAL, GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF SUBDIVISION FOR PHASE 1 AND RELATED MATTERS FOR THE "FIRST STREET REDEVELOPMENT"

WHEREAS, on or about July 13, 2006, various owners of record and First Street Development, LLC (collectively, the "Applicant"), filed a special use application for a Planned Unit Development and a PUD Preliminary Plan application with the City of St. Charles with respect to the property legally described on Exhibit "A-1", attached hereto and incorporated herein by reference ("Subject Realty"); and,

WHEREAS, on or about August 29, 2006, the City of St. Charles filed a special use application for a drive through facility for Harris Bank with respect to the property legally described on Exhibit "A-2", attached hereto and incorporated herein by reference ("Harris Bank Parcel"); and,

WHEREAS, on or about September 16, 2006, First Street Development, LLC, the City of St. Charles and Daniel C. Lasse filed a Phase 1 Final Plat application with respect to the property legally described on Exhibit "A-3", attached hereto and incorporated herein by reference ("Phase 1 Parcels"); and,

WHEREAS, as a portion of the Subject Realty is located within a designated City Historic Preservation District, the Historic Preservation Commission reviewed the application and provided comments to the Plan Commission on or about September 20, 2006; and,

WHEREAS, Notice of Public Hearing on said applications for a special use for a Planned Unit Development and special use for a drive through facility was published on or about September 2, 2006, in a newspaper having general circulation within the City, to-wit, the *Kane County*

*Chronicle* newspaper, all as required by the statutes of the State of Illinois and the ordinances of the City; and,

WHEREAS, pursuant to said Notice, the Plan Commission of the City of St. Charles conducted a Public Hearing on or about September 19, 2006, and continued said hearing to October 3, 2006, all as required by the statutes of the State of Illinois and the ordinances of the City; and,

WHEREAS, at said Public Hearing, the Applicant presented testimony in support of said application and all interested parties had an opportunity to be heard; and,

WHEREAS, the Plan Commission made the required Findings of Fact and recommended approval of the application on or about October 17, 2006; and,

WHEREAS, the City Planning and Development Committee recommended approval of the application on or about November 1, 2006; and

WHEREAS, the City Council received the recommendation of the Historic Preservation Commission, the Plan Commission and the Planning and Development Committee, and has considered same; and,

WHEREAS, all other public hearings required by law have been conducted, in all respects conforming to law and pursuant to notice duly given in accordance with law.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois, as follows:

**SECTION ONE:** The preambles set forth hereinabove are incorporated herein as substantive provisions of this Ordinance as if fully set out in this Section One.

**SECTION TWO:** That there is hereby granted with respect to the Subject Realty a special use for a Planned Unit Development and the Preliminary PUD Plan, as outlined in Section 6(B) hereof, is hereby approved. In connection with such approval, and based upon the application and

the evidence presented at the public hearing, the City Council hereby finds that the PUD is in the public interest and adopts the Findings of Fact set forth on Exhibit "B" attached hereto and incorporated herein.

**SECTION THREE:** That there are hereby granted certain exceptions and deviations from the provisions of the City's Zoning Ordinance and Subdivision Regulations, as set forth on Exhibit "C" attached hereto and made a part hereof. In connection with such approval, the City Council hereby finds that said exceptions and deviations satisfy the standards of the City's Zoning Ordinance applicable to special uses and planned unit developments.

**SECTION FOUR:** That there is hereby granted to the Harris Bank Parcel a special use for a drive through facility associated with a bank. In connection with such approval, the City Council hereby finds that said special use will conform to each of the standards set forth in the Findings of Fact adopted by the Plan Commission, attached hereto as Exhibit "D".

**SECTION FIVE:** That there is hereby granted a Conditional Approval of the final subdivision plat for the Phase 1 Parcels of the First Street Redevelopment Subdivision, as prepared by Marchese and Sons, Inc., consisting of two (2) sheet(s) and dated October 12, 2006, subject to compliance of the following conditions:

- a) Submittal of a copy of the Illinois Environmental Protection Agency permits for the water main and sanitary sewer installation as required by the provisions of Chapter 16.12 (Section 16.12.190) of the St. Charles Municipal Code.
- b) Approval from Illinois Department of Transportation

**SECTION SIX:** That the relief granted in Sections Two, Three, Four and Five is expressly conditioned upon the Subject Realty at all times being constructed, used, operated and maintained in accordance with the following terms, conditions and provisions:



(A) Only the following uses, as defined in the City's Zoning Ordinance, shall be permitted on the first floor of enclosed buildings located on the Subject Realty: Art Gallery/Studio, Coffee or Tea Room, Cultural Facility, Indoor Recreation and Amusement, Live Entertainment, Personal Services, Restaurant, Retail Sales, Tavern/Bar, Theater, Local Utility and Accessory Uses to the preceding uses. In addition, the following uses, as defined in the City's Zoning Ordinance, shall be permitted on the first floor of buildings 7A, 7B and the Blue Goose, as shown on the Preliminary PUD Plan: Bank and Financial Institution.

Notwithstanding the foregoing, the following uses shall occupy no more than 25% of the gross leasable floor area on the first floor of the buildings located on the Subject Realty, exclusive of ground floor parking areas and the Blue Goose: Cultural Facility, Indoor Recreation and Amusement, Personal Services, Theater, Local Utility, Bank, Financial Institution. The 25% limitation shall be calculated on a cumulative basis among all of the buildings located on the Subject Realty, excluding ground floor parking areas and the Blue Goose.

(B) That all construction, use, development and maintenance of the Subject Realty be substantially in accordance with the following documents which are on file with the City, subject to compliance with such conditions, corrections and modifications as may be required by the Director of Community Development and Director of Public Works to comply with the requirements of the St. Charles Municipal Code:

1. Engineering Plans, as prepared by K-Plus Engineering, consisting of twelve (12) pages and dated November 13, 2006.
2. Streetscape Plan, as prepared by DLK Civic Design, consisting of twenty (20) pages, and bearing various dates between September, 2006 and November 14, 2006.
3. Building plans and elevations for Buildings 1, 2 & 3, as prepared by Knauer Incorporated, Job No. 2633, consisting of twenty three (23) pages, and bearing various dates.
4. Building plans and elevations for Building 4, as prepared by Knauer Incorporated, Job No. 2633, consisting of twenty one (21) pages, and bearing various dates.
5. Building plans and elevations for Building 6, as prepared by Knauer Incorporated, Job No. 2633, consisting of fourteen (14) pages, and bearing various dates.
6. Building plans and elevations for Buildings 7a and 7b, as prepared by Knauer Incorporated, Job No. 2633, consisting of fifteen (15) pages, and bearing various dates.
7. Building plans and elevations for Building 8, as prepared by Knauer Incorporated, Job No. 2633, consisting of seven (7) pages, and bearing various dates.

8. Building plans and elevations for Building 9, as prepared by Dan Marshall Architects, consisting of nine (9) pages, and dated on or about August 25, 2006.
9. Building plans and elevations for Building 10, as prepared by Design Services Group, Job No. 02636-0, consisting of four (4) pages, and dated November 10, 2006.
10. The First Street Redevelopment Tenant Design Criteria consisting of twenty (20) pages.
11. The First Street Downtown Redevelopment Development Data, dated November 15, 2006, attached hereto and incorporated herein as Exhibit "E".

(C) The Applicant and its successors and assigns shall be and remain in compliance with the terms and provisions of the Redevelopment Agreement (First Street Project) dated December 4, 2006 (the "Development Agreement"), entered into between the City and the Applicant. To the extent of any conflict between the provisions of this Ordinance and the provisions of the Development Agreement, the provisions of this Ordinance shall prevail.

(D) Prior to the issuance of building permits for any of the buildings located within the Historic Preservation District, a Certificate of Appropriateness by the Historic Preservation Commission be obtained.

(E) The Applicant shall provide necessary building, interior space, elevator capacity, conduit and funding to install and maintain electric transformers and other equipment within and to serve buildings 1, 2, 3 and 9, as shown on the Preliminary PUD Plan. Electric meters shall be located so that 24 hour access is provided for the City, but electric meters shall not be visible from public streets, public plazas, or the Fox River. Determination as to whether the locations and access for electric meters and transformers is acceptable shall be made by the Director of Public Works.

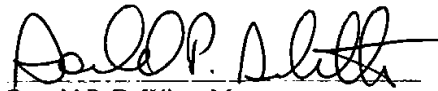
**SECTION SEVEN:** That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, expressly repealed.

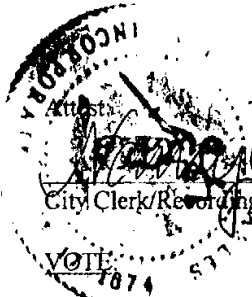
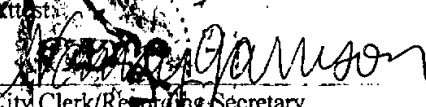
**SECTION EIGHT:** That this Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

PRESENTED to the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois this 4 day of December, 2006.

PASSED by the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois  
this 4 day of December , 2006.

APPROVED by the Mayor of the City of St. Charles, Kane and DuPage Counties, Illinois  
this 4 day of December , 2006.

  
Donald P. DeWitte, Mayor

  
City Clerk/Recording Secretary  


AYES: 10  
NAYS: 0  
ABSENT:  
ABSTAIN:

# Pictures of Building 7A









 <b>ST. CHARLES</b> <small>SINCE 1834</small>		<b>AGENDA ITEM EXECUTIVE SUMMARY</b>					
		Title:		Presentation by First Street LLC of a concept for the Phase 3 property of the First Street Redevelopment Project			
		Presenter(s):		First Street LLC			
<i>Please check appropriate box:</i>							
	Government Operations				Government Services		
X	Planning & Development (8/12/13)				City Council		
Estimated Cost:		N/A		Budgeted:	YES		NO
If NO, please explain how item will be funded:							
<b>Executive Summary:</b>							
<p><b>Background:</b>  Phase 3 of the First Street Redevelopment PUD includes the riverfront property east of the First Street, south of Main St. and north of Illinois St. Phase 3 includes Building 1 (River Terrace), Buildings 2 and 3 and the second parking deck (River Loft), the east plaza and river walk, and Building 9 (1 W. Main St./former Manor site).</p> <p><b>Presentation:</b>  First Street LLC will be presenting a revised concept for the Phase 3 property at the meeting.</p> <p>The concept will not include the Building 9 site (1 W. Main St./former Manor site) as this is controlled by a separate party, SMN Development.</p> <p><b>Review Process:</b>  The revised concept will require a review and approval process by Historic Preservation Commission, Plan Commission and City Council. Staff will need to review the details of the proposal to determine what type of process will be required.</p>							
<b>Attachments:</b> <i>(please list)</i>							
Aerial photo of the Phase 3 site Conceptual plans provided by First Street LLC: Site plans (two alternate versions), building elevation, building floor plan							
<b>Recommendation / Suggested Action</b> <i>(briefly explain):</i>							
Presentation by First Street LLC of a concept for the Phase 3 property of the First Street Redevelopment Project.							
<i>For office use only:</i>		<i>Agenda Item Number: 3c</i>					





Building 4/Parking Deck

West Plaza

First Street

Main Street

SMN Development

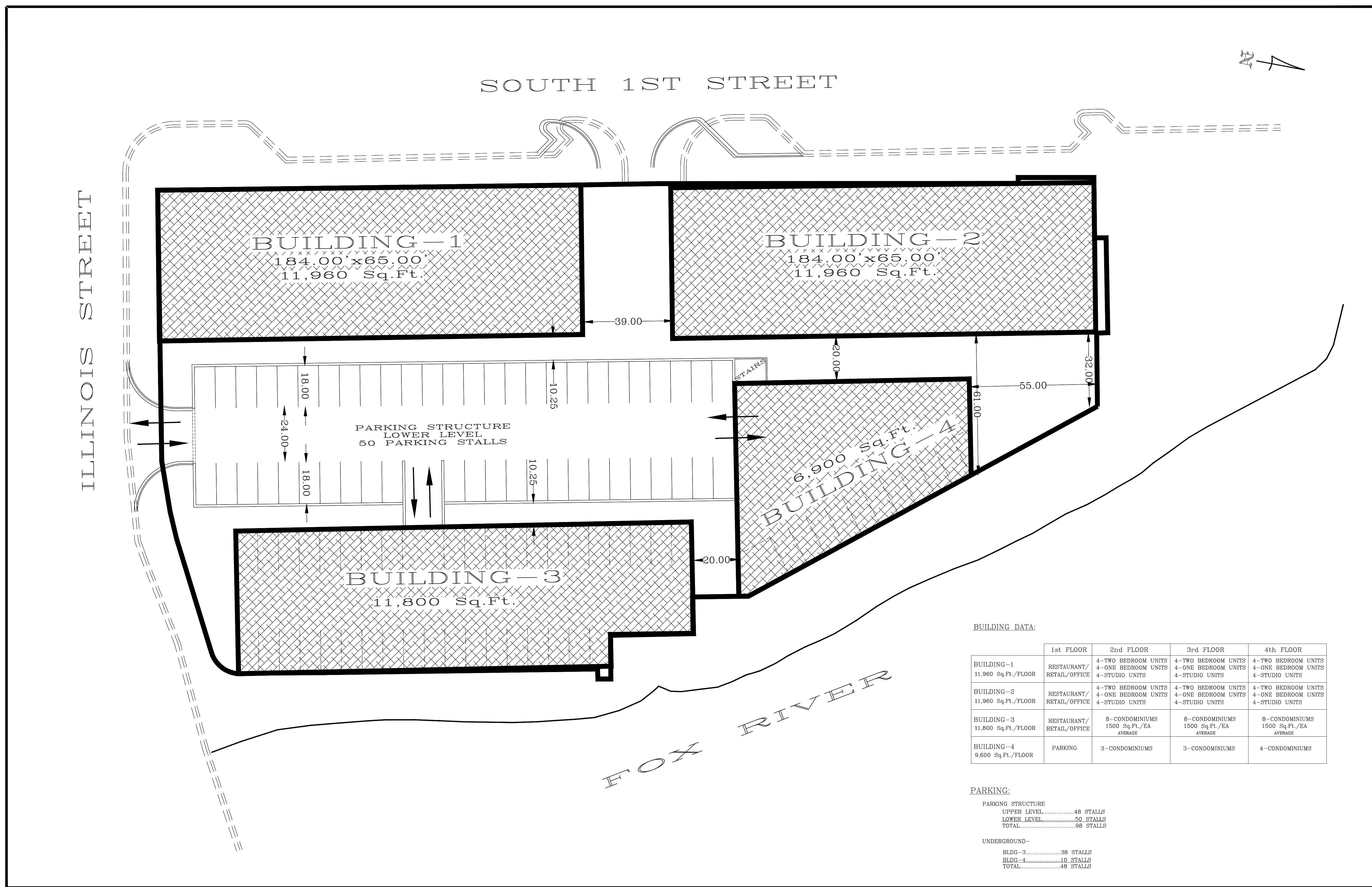
East Plaza

First Street LLC

Illinois Street

**First Street  
Redevelopment  
Phase 3 Property**





**BUILDING DATA:**

	1st FLOOR	2nd FLOOR	3rd FLOOR	4th FLOOR
BUILDING-1 11,960 Sq.Ft./FLOOR	RESTAURANT/ RETAIL/OFFICE	4-TWO BEDROOM UNITS 4-ONE BEDROOM UNITS 4-STUDIO UNITS	4-TWO BEDROOM UNITS 4-ONE BEDROOM UNITS 4-STUDIO UNITS	4-TWO BEDROOM UNITS 4-ONE BEDROOM UNITS 4-STUDIO UNITS
BUILDING-2 11,960 Sq.Ft./FLOOR	RESTAURANT/ RETAIL/OFFICE	4-TWO BEDROOM UNITS 4-ONE BEDROOM UNITS 4-STUDIO UNITS	4-TWO BEDROOM UNITS 4-ONE BEDROOM UNITS 4-STUDIO UNITS	4-TWO BEDROOM UNITS 4-ONE BEDROOM UNITS 4-STUDIO UNITS
BUILDING-3 11,800 Sq.Ft./FLOOR	RESTAURANT/ RETAIL/OFFICE	8-CONDOMINIUMS 1500 Sq.Ft./EA AVERAGE	8-CONDOMINIUMS 1500 Sq.Ft./EA AVERAGE	8-CONDOMINIUMS 1500 Sq.Ft./EA AVERAGE
BUILDING-4 9,600 Sq.Ft./FLOOR	PARKING	3-CONDOMINIUMS	3-CONDOMINIUMS	4-CONDOMINIUMS

**PARKING:**

**PARKING STRUCTURE**

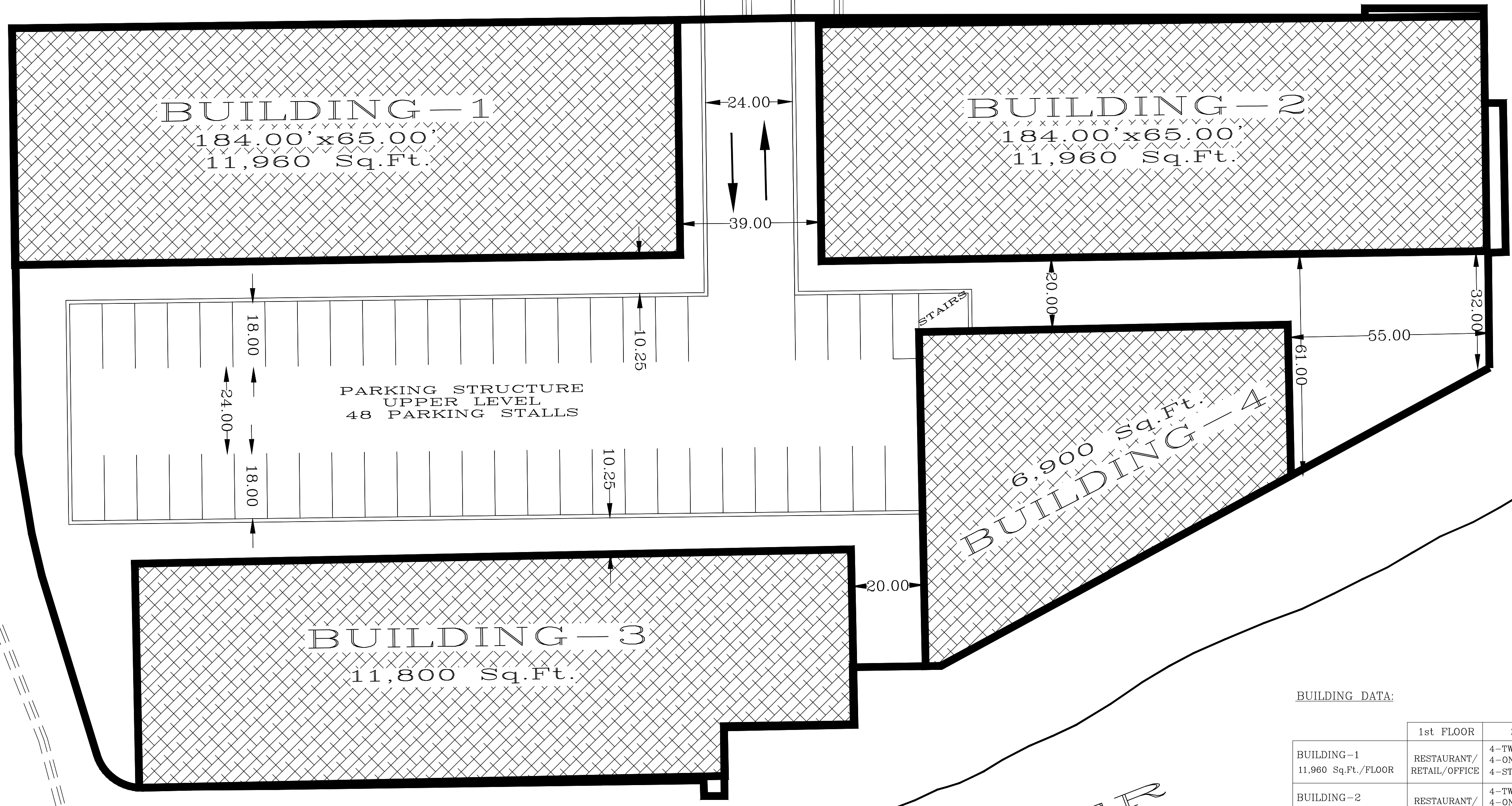
UPPER LEVEL.....48 STALLS  
 LOWER LEVEL.....50 STALLS  
 TOTAL.....98 STALLS

**UNDERGROUND-**

BLDG-3.....38 STALLS  
 BLDG-4.....10 STALLS  
 TOTAL.....48 STALLS

ILLINOIS STREET

SOUTH 1ST STREET



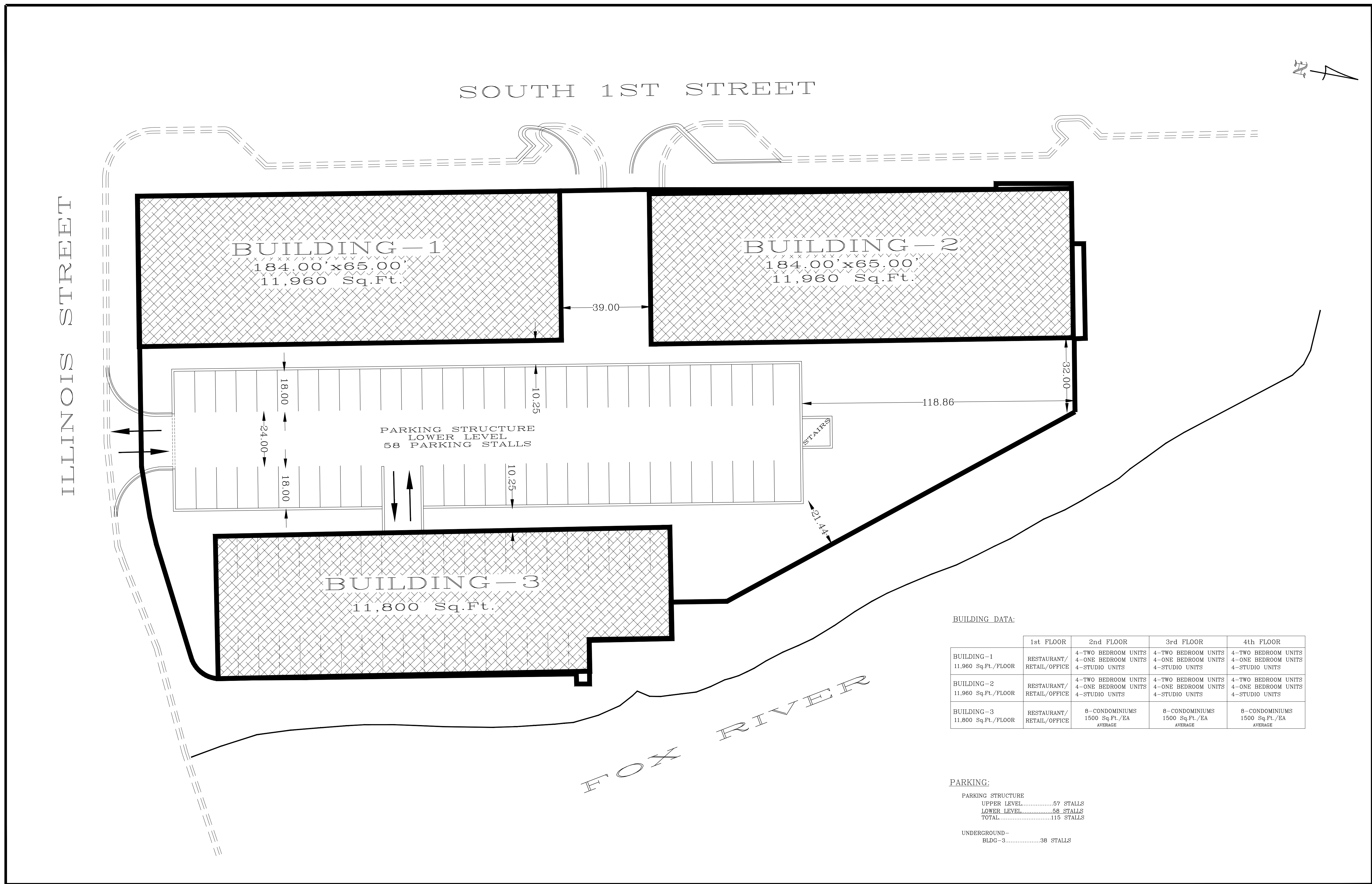
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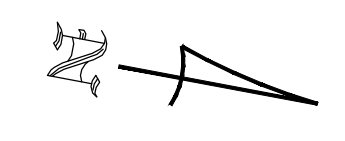
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	1st FLOOR	2nd FLOOR	3rd FLOOR	4th FLOOR
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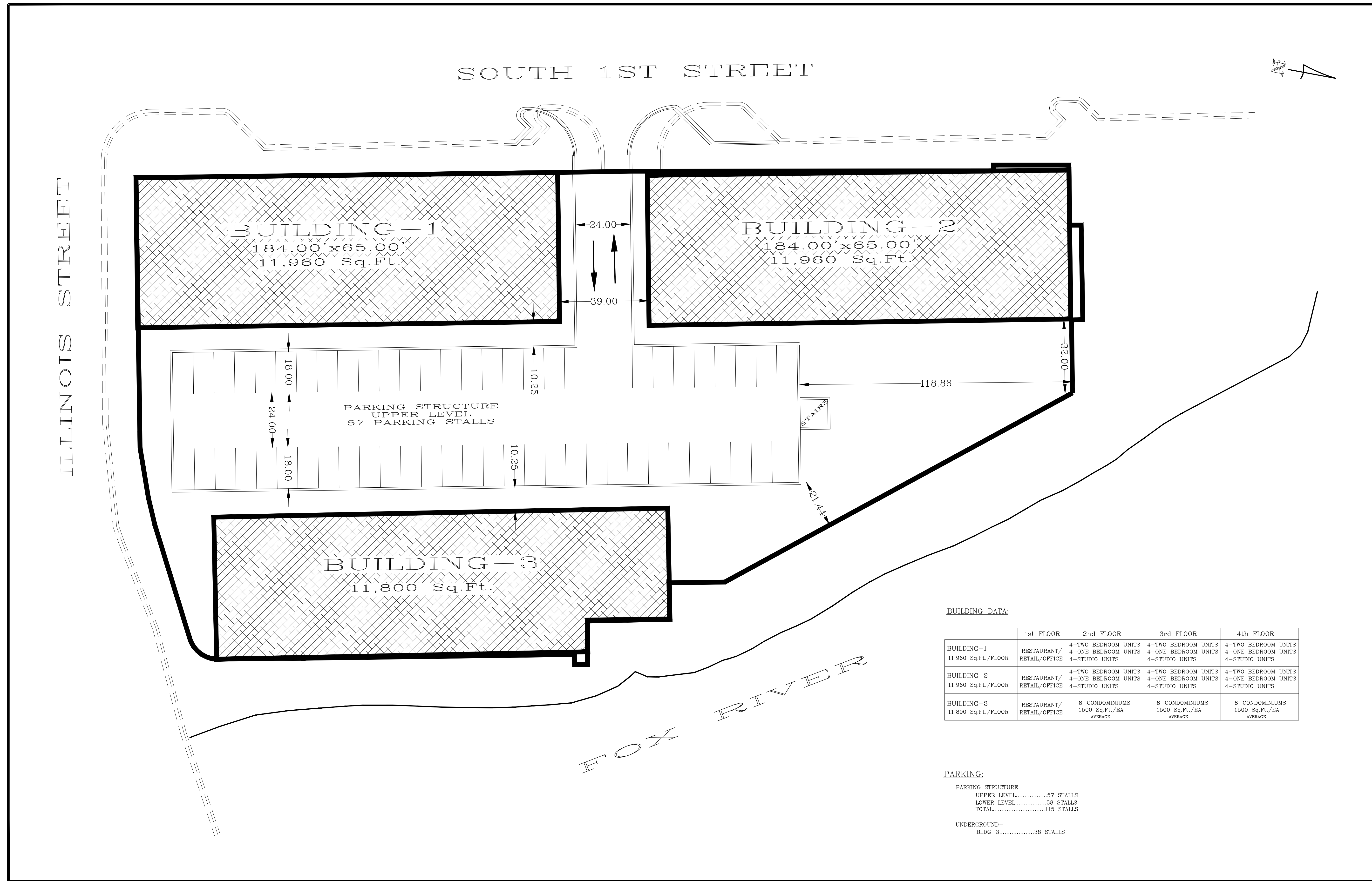
**PARKING:**

PARKING STRUCTURE  
 UPPER LEVEL.....57 STALLS  
 LOWER LEVEL.....58 STALLS  
 TOTAL.....115 STALLS

UNDERGROUND-  
 BLDG-3.....38 STALLS







**BUILDING DATA:**

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**PARKING:**

PARKING STRUCTURE  
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 TOTAL.....115 STALLS  
 UNDERGROUND-  
 BLDG-3.....38 STALLS



PRELIM. CONCEPT SKETCH 7-7-13

FOR: FIRST STREET DEVELOPMENT, LLC

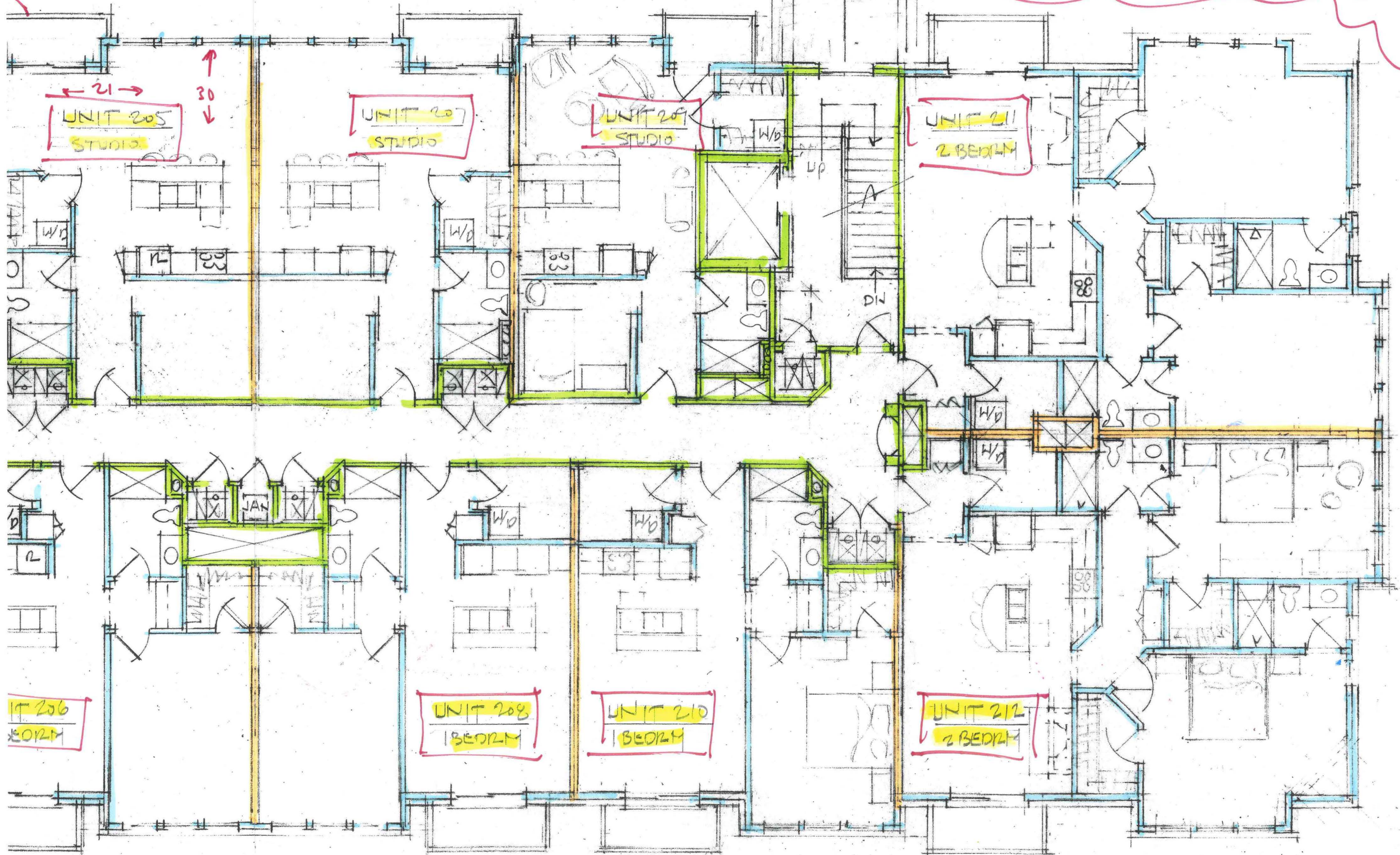
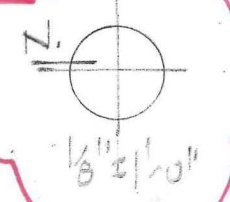
PROPOSED MIXED-USE BUILDING - RESIDENTIAL / COMMERCIAL CONDOMINIUMS  
ST. CHARLES, ILLINOIS BY: MARSHALL ARCHITECTS 1/8" = 1'-0"



(TYP.  
10x4 v-

184'

FIRST STREET APARTMENTS - ST. CHARLES, IL.  
MARSHALL ARCHITECTS  
7-21-13





16e  
2x13 BAYS  
OUTSIDE

BOLLONT (TYP.)  
10x4 +/-

184'

UNIT 201  
2 BEDRM

UNIT 203  
STUDIO

UNIT 205  
STUDIO

UNIT 207  
STUDIO

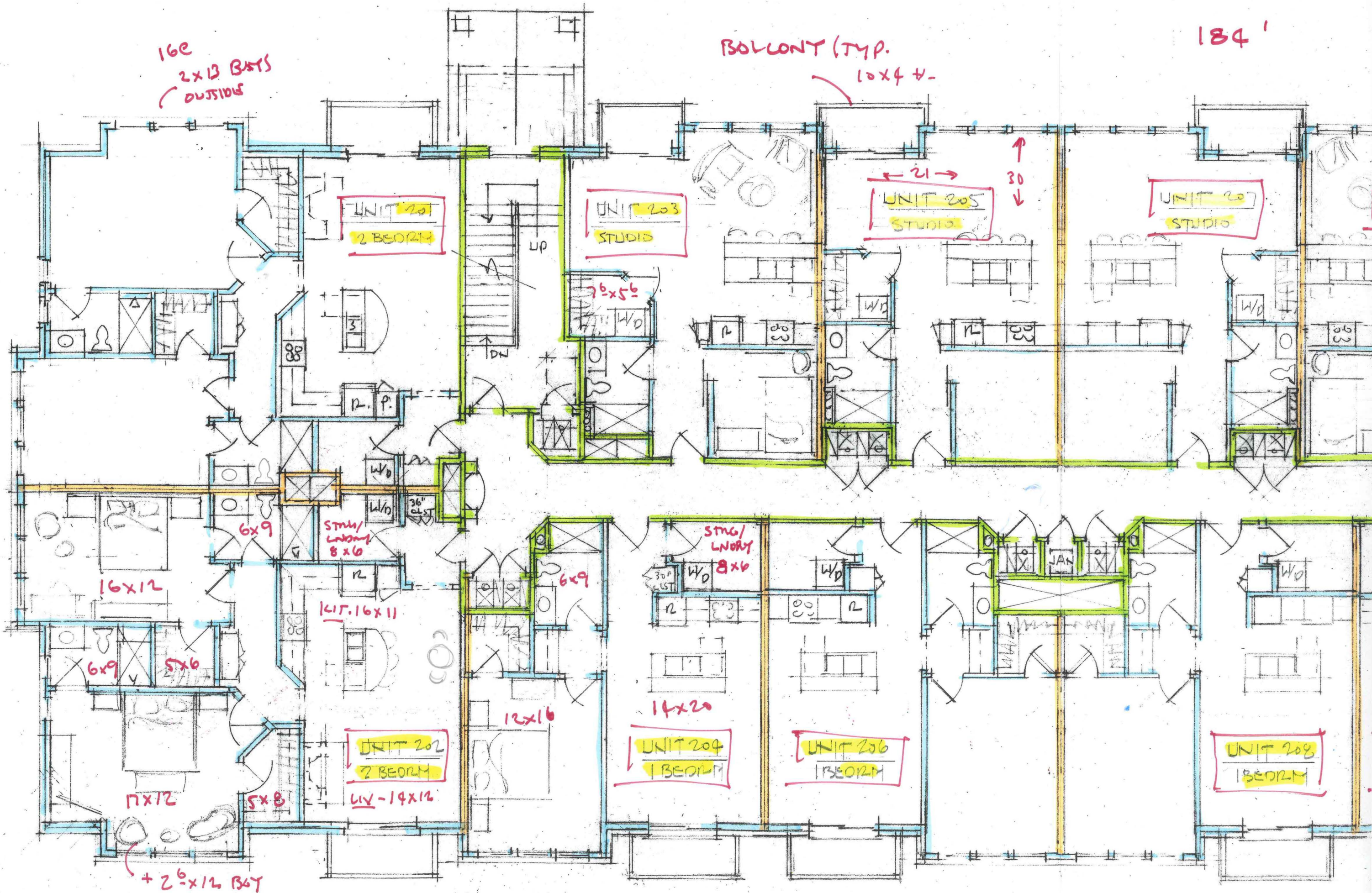
UNIT 202  
2 BEDRM

UNIT 204  
1 BEDRM

UNIT 206  
1 BEDRM

UNIT 208  
1 BEDRM

63



16x12

6x9

5x6

17x12

6x9

STNG/  
LNBRY  
8x6

KIT. 16x11

5x8

6x9

12x16

STNG/  
LNBRY  
8x6

14x20

6x9

JAN

+ 2 6x12 BAY

30  
↑  
↓

21

7 6x5 6

80

36' CLST

12

12

614-14x12

30' CLST

12

12

614-14x12

12

12

614-14x12

W/D

W/D

W/D

W/D

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UP

DN





## AGENDA ITEM EXECUTIVE SUMMARY

Title:	Recommendation to direct staff to file a General Amendment application to amend the Downtown Overlay District
Staff:	Rita Tungare

*Please check appropriate box:*

	Government Operations		Government Services
X	Planning & Development (8/12/13)		City Council

Estimated Cost:	N/A	Budgeted:	YES		NO	
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If NO, please explain how item will be funded:

**Executive Summary:**

**Background:**  
 In 2006, the City adopted new zoning regulations which established the Downtown Overlay Zoning District. The overlay is not simply a “retail-only” district, but rather limits the type of businesses that can occupy a first floor/street level space to businesses that are expected to generate pedestrian activity. The intent of the Overlay is “to preserve economic vitality and the pedestrian character of the downtown’s shopping core.”

The ordinance provides a staff-level exemption process based on specific findings by the Community Development Director. To date, staff has granted 4 of 9 formal exemption requests and 2 properties were removed from the Overlay by rezoning. In all situations, the petitioner was interested in office use occupying the space.

In 2011 and 2012, staff presented concerns about the impact that granting too many exemptions could have on the long term success of building a downtown shopping core. In 2012, the Committee decided to hold off on discussing any changes until the Comprehensive Plan process was completed.

Staff would like to receive some preliminary direction about how the Overlay District could be modified. Based on direction from the Committee, staff will prepare to file the appropriate zoning application(s) for formal review by Plan Commission and Planning and Development Committee.

**Update of Discussion from P&D meeting in March 2013:**

In March, staff presented three concepts for feedback from the P&D Committee: 1) Shrinking the overlay district by removing properties at the fringes; 2) Changing the district regulations to permit office uses that generate pedestrian traffic; and 3) Breaking the district into three smaller clusters.

The consensus of the Committee in March was that their primary concern was vacancies on Main Street and they expressed an interest in allowing for office uses that generate pedestrian traffic to locate on Main Street. Staff has outlined a revised proposal for the Committee’s feedback.

**Attachments:** *(please list)*

Proposal to modify the Downtown Overlay District; Background Memo regarding the Downtown Overlay District; Comprehensive Plan section addressing the Downtown Overlay District

**Recommendation / Suggested Action** *(briefly explain):*

Recommendation to direct staff to file a General Amendment application to amend the Downtown Overlay District.

<i>For office use only:</i>	<i>Agenda Item Number: 3d</i>
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**Proposal to modify the Downtown Overlay District  
For August 2013 Planning and Development Committee Feedback**

- Do not modify the Overlay District boundaries.
  - Keep the boundaries intact to enable the district regulations to be adjusted in the future without the need to add or remove property.
  
- Expand the permitted use list to include some office uses for first floor tenant spaces fronting on Main Street only.
  - Can be a temporary change with an end date, or a permanent change.
  - Office uses can be limited to those with known to generate daytime population/pedestrian traffic (such as a medical office use).
  - Consider a City Council review process for businesses (e.g. offices) that are not permitted but may meet the intent of the overlay (for example, a specific office use will meet the purpose of the overlay district by generating daytime population/pedestrian traffic).
  
- Revise the exemption criteria.
  - Consider allowing exemptions to the Overlay District restrictions for building(s) that were historically constructed for office or bank use.
  - Consider establishing a City Council appeal process for exemptions (appeal to be based on the information presented in support of the exemption).

**Pros:**

- Requires only a General Amendment, no rezoning of properties.
- Would likely reduce vacancies in visible Main Street storefronts.
- Potential for more daytime population/pedestrian traffic and customers for existing businesses. (Office and restaurant uses are complementary in terms of peak hours for customers, parking)
- Allows the market to decide if retail will out-bid office uses.
- Could be easily reversed in the future, or a specific date to reassess the restrictions can be set.

**Cons:**

- May limit the future potential of a retail concentration in downtown by allowing for breaks in retail/pedestrian activity.
- Prominent spaces envisioned for retail use may be occupied by office type uses for significant period of time.
- May be difficult to effectively distinguish between office uses that generate daytime population/pedestrian traffic.
- Difficult to monitor when office tenants change, due to lack of regulatory framework/oversight.
- City cannot force office uses to convert to retail use after the space is occupied. Office uses would be subject to non-conformity provisions and can remain office use until unoccupied for period of 180 days.
- May be difficult to draft defensible criteria for any City Council consideration of exemptions/appeals.

**Office uses with typically generate daytime population/pedestrian traffic:**

- Medical and dental offices, counseling, therapy, etc.
- Office-based service uses that are open to walk-in customers, including insurance offices, travel agency, financial planning/consultation, real estate/mortgage broker, law offices

**Offices uses that generate limited pedestrian traffic:**

- Primarily administrative offices/data processing/call centers
- Offices without regular walk-in customers
- Offices that are not open to the public

**Community Development  
Planning Division**

Phone: (630) 377-4443

Fax: (630) 377-4062



**MEMO**

**TO:** Chairman Dan Stellato  
And the Planning and Development Committee

**FROM:** Rita Tungare, Director of Community Development

**CC:** Russell Colby, Planning Division Manager

**RE:** Background on the Downtown Overlay District

**DATE:** July 29, 2013

**BACKGROUND**

In 2006, the City adopted a completely new Zoning Ordinance, which included a zoning “overlay” district within the downtown to “preserve economic vitality and the pedestrian character of the downtown’s shopping core.” The Downtown Overlay District (often incorrectly referred to as the “Retail Only” district) limits the type of businesses that can locate in the first floor/street level spaces to a set of businesses that generate pedestrian activity.

The concept of a “Retail Only” district within the downtown was discussed and promoted by the Downtown Partnership for a number of years prior to 2006.

<b>Business uses allowed on the First Floor in the Downtown Overlay District:</b>	<b>Business uses not allowed on the First Floor, but allowed on the 2<sup>nd</sup> floor and elsewhere in Downtown:</b>
Art Gallery/Studio	Business and Professional Office
Theater	Medical/Dental Office
Indoor Recreation	Bank
Hotel	Financial Institution (such as mortgage service)
Personal Services (Salons, Funeral Home, Tailor, Pet Grooming, Dry Cleaner, etc)	
Retail	
Restaurant	
Tavern	

**EXISTING BUSINESSES**

A number of banks, offices and other uses no longer permitted on the first floor within the Downtown Overlay District existed at the time the ordinance went into effect in 2006. Those businesses were considered “legal non-conforming”, meaning the business can continue to operate and may be replaced by the same business (bank replacing a bank, for example), as long as the space does not stay vacant for more than 180 days. After 180 days of the business leaving the site, any new business that moves into the location must be one listed on the Downtown Overlay District first floor use list.

## **EXEMPTIONS TO THE OVERLAY DISTRICT**

The Downtown Overlay District provides for an exemption to the business restrictions in only very limited circumstances. The criteria to be considered are solely based on the physical characteristics of a given tenant space. A finding must be made by the Director of Community Development that the space is “Unsuitable for occupancy for any of the first floor uses permitted in the Downtown Overlay District”, and that altering the space to make it suitable for the permitted uses would either:

1. Be inconsistent with Historic Preservation requirements, OR,
2. Impose an undue financial burden on the property owner (cost exceeding 25% of building value)

Criteria that may be considered in making this determination:

- Inappropriate placement, size, or orientation of doors or windows
- A floor level which is not of a similar elevation to the adjoining sidewalk
- Lack of window area for display of goods
- Lack of street frontage
- Interior space which is not adaptable to the permitted uses because of structural components or limitations on accessibility

## **EXEMPTION REQUESTS**

Over the past three years, the Community Development Department has received multiple inquiries from property owners and brokers regarding whether a given tenant space can be exempted from or removed from the Downtown Overlay District. Most who have contacted the City have stated that the only prospective tenants interested in their property are office users and that they have not had any interest from retailers.

Potential issues with the Exemption standards:

- Many downtown buildings could potentially qualify for an exemption based on physical characteristics. For example, a converted residential building in Century Corners could be exempted because the building was originally designed with a first floor elevated above the sidewalk and without an accessible entrance. Once one type of building has been granted an exemption, all similar buildings could be eligible for the same exemption.
- The Exemption standards do not take into account the marketability of a given tenant space at a given time. Some tenant spaces may be isolated from any “retail” or similar service uses, which may make the property unmarketable to a retail use.
- Granting multiple exemptions to the Overlay District undermines the purpose of the district, which is to build a concentrated core of pedestrian-oriented businesses.

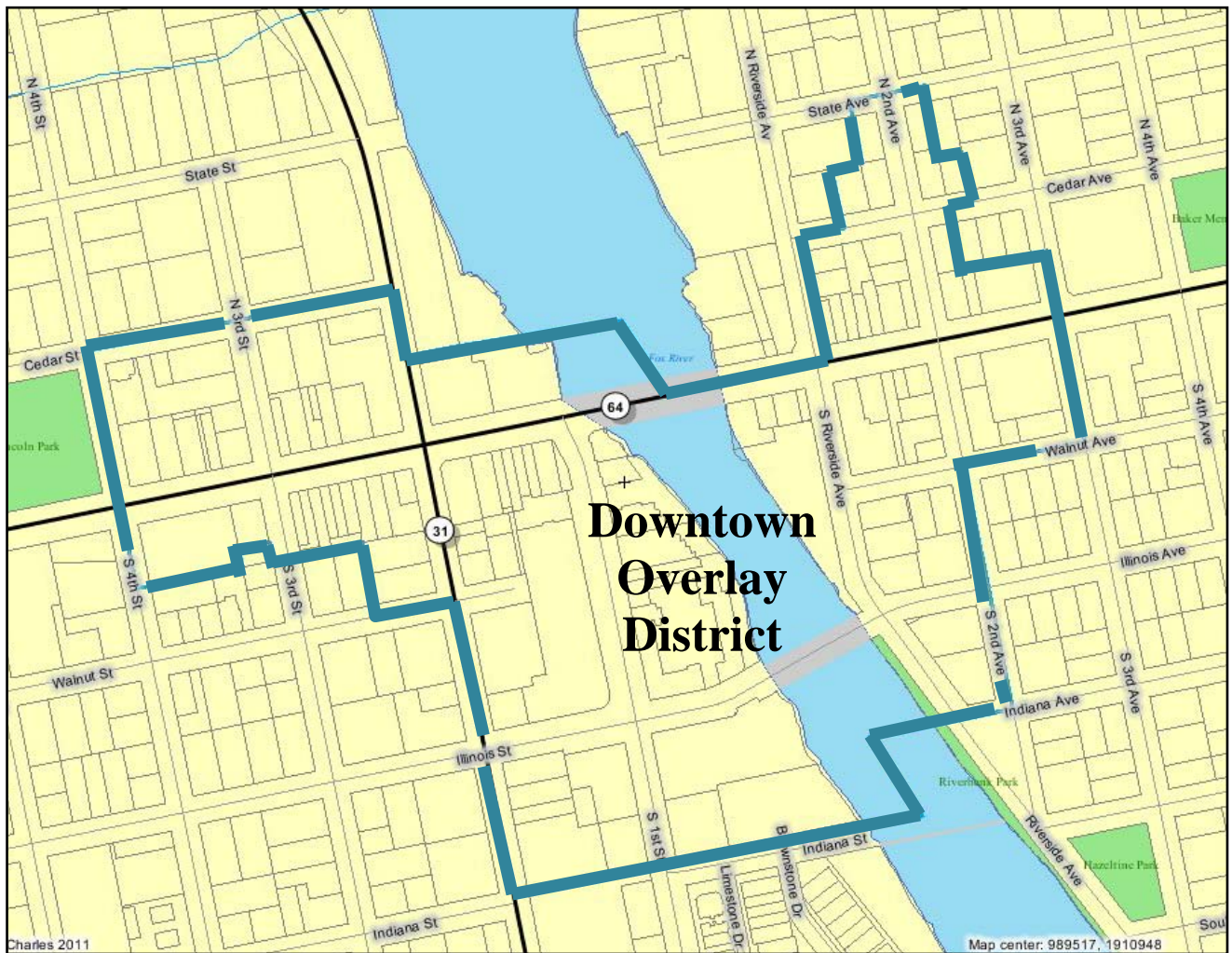
Other issues to consider:

- The Downtown Overlay District is part of the Zoning Ordinance of the City and is subject to legal requirements. Decisions on exemptions generally have to be made by the City Council or the Director of Community Development, based on specific, objective criteria.
- Changes to the Downtown Overlay District would require an amendment to the City’s Zoning Ordinance. Amendments to the Zoning Ordinance require legal review, a Plan Commission public hearing and recommendation, and City Council review and approval.

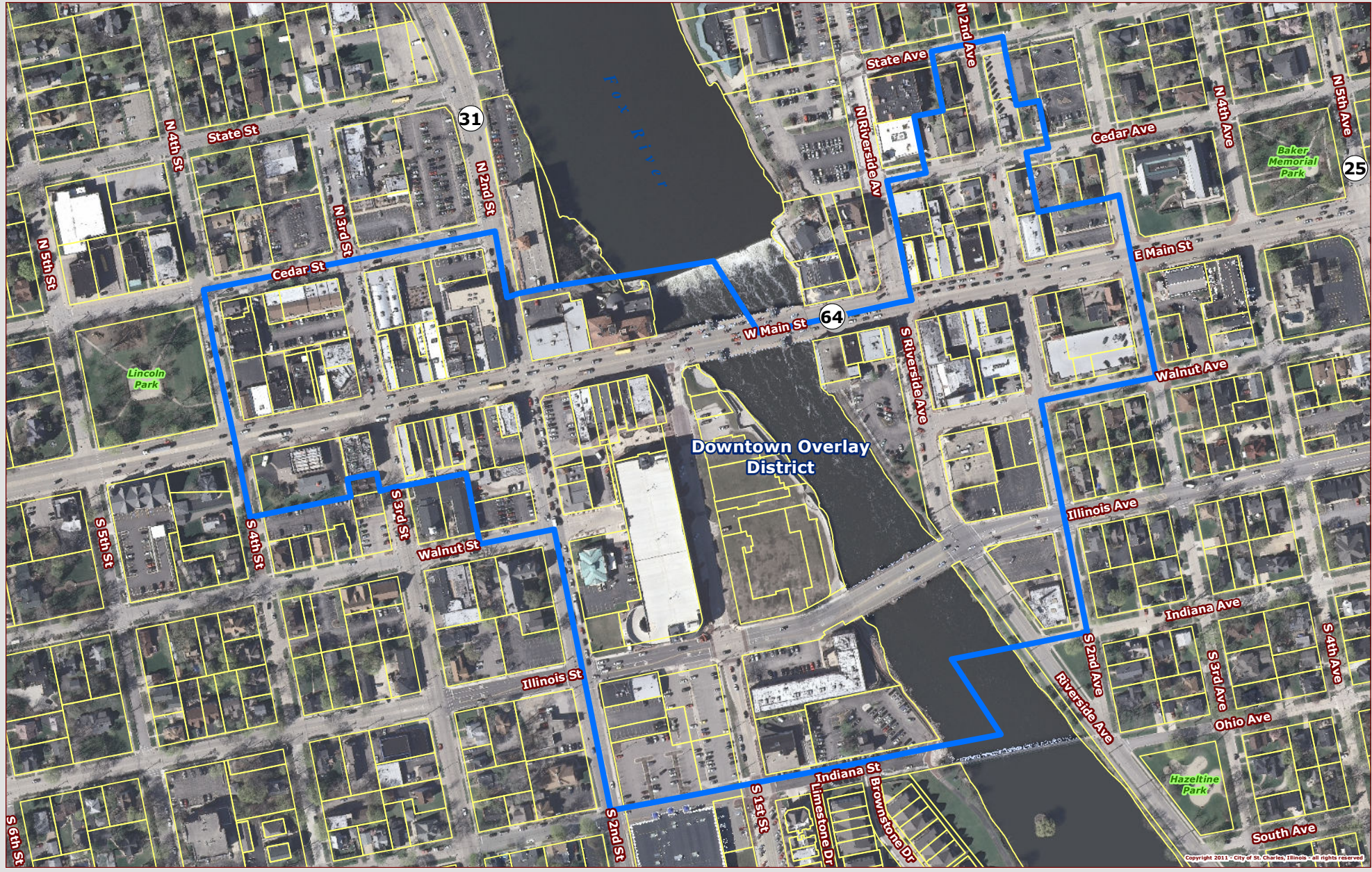
**Attachments:**

- Maps of the Downtown Overlay District
- Chapter 17.14 of the Zoning Ordinance
- Definition of Office uses in the Zoning Ordinance

**Map of the Downtown Overlay District Boundaries**







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Publication Date:  
June 29, 2011  
Data Source:  
City of St. Charles, Illinois  
Dea County, Illinois  
Projection: Transverse Mercator  
Coordinate System: Illinois State Plane East  
North American Datum 1983  
File #: 0962710



Downtown Overlay District

Parcels

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## **Downtown Overlay District**

### **Except from the St. Charles Zoning Ordinance Title 17, Chapter 17.14 “Business and Mixed Use Districts”**

#### **17.14.010 Purpose Statements**

##### **F. Downtown Overlay District**

The purpose of the Downtown Overlay District is to preserve the economic vitality and pedestrian character of downtown’s shopping core within the CBD-1 and CBD-2 Districts by encouraging the continuous flow of pedestrian movement. This is accomplished by limiting uses on the first floor that typically generate relatively little pedestrian activity or are otherwise incompatible with a pedestrian oriented shopping area. Only those uses listed in Table 17.14-1 shall be permitted on the street level or first floors of buildings/structures within the Downtown Overlay District.

#### **17.14.020 Permitted and Special Uses; Downtown Overlay Exemptions**

Table 17.14-1 lists permitted and special uses for the business districts, and for the first floor level of the Downtown Overlay District.

Buildings within the Downtown Overlay District are restricted with respect to the uses permitted on the first floor level, as provided in Table 17.14-1. Notwithstanding these restrictions, the first floor level of a building within the Downtown Overlay District may be occupied for any use permitted within the underlying zoning district (i.e., CBD-1 or CBD-2), upon certification by the Director of Community Development that its physical characteristics make it unsuitable for occupancy for any of the first floor uses permitted within the Downtown Overlay District, and that altering such physical characteristics would either 1) be incompatible with the purpose of Chapter 17.32 (Historic Preservation) of this Title, or 2) impose an undue financial burden on the property owner. Such physical characteristics may include but shall not be limited to: Inappropriate placement, size or orientation of doors or windows, a floor level which is not of a similar elevation to the adjoining sidewalk, lack of window area for display of goods, lack of street frontage, and interior space which is not adaptable to the permitted uses because of structural components or limitations on accessibility. For purposes of this section, an undue financial burden shall mean where the estimated cost of altering the building exceeds 25% of the current appraised value of the property.

Downtown  
Overlay  
District

BUSINESS AND MIXED USE DISTRICTS

TABLE 17.14-1 PERMITTED AND SPECIAL USES								
P=Permitted Use S=Special Use A=Permitted Accessory Use SA=Special Use, Accessory Only	ZONING DISTRICT						SPECIFIC USE STANDARDS	
	BL	BC	BR	CBD-1	DOWNTOWN OVERLAY FIRST FLOOR			CBD-2
					CBD1	CBD2		
<b>RESIDENTIAL USES</b>								
Artist Live/Work Space				P			P	Section 17.20.030
Assisted Living Facility		S		S			P	
Dwelling, Upper Level	P			P			P	
Dwelling Unit, Auxiliary							P	Section 17.20.030
Dwelling, Multi-Family				P			P	
Dwelling, Townhouse							P	
Dwelling, Two-Family							P	
Dwelling, Single-Family	P						P	
Group Home, Large							P	Section 17.20.030
Group Home, Small							P	Section 17.20.030
Independent Living Facility							P	
<b>CULTURAL, RELIGIOUS, RECREATIONAL AND ENTERTAINMENT USES</b>								
Art Gallery/Studio	P	P	P	P	P	P	P	
Carnival (as temporary use)		P	P	P				Section 17.20.040, 050
Cultural Facility		P	P	P	P	S	S	
Indoor Recreation and Amusement		P	P	P	P	S	S	
Live Entertainment		P	P	P	P			
Lodge or Private Club	P	P	P	P				
Outdoor Amusement			S					
Outdoor Recreation		P	P					
Park, Neighborhood	P			P	P	P	P	
Place of Worship	P	P	P	P			P	
Public Plaza	A	A	A	P	P	P	P	
Temporary Outdoor Entertainment	A	A	A	P	P			Section 17.20.030
Theater		P	P	P	P	P		
<b>GOVERNMENTAL AND INSTITUTIONAL USES</b>								
College/University		P	P	S				
Emergency Medical Center			P					
Fairground			S					
Golf Course			S					
Homeless Shelter				S			S	
Hospice							S	
Hospital			P					
Library				P			P	
Office, Government		P		P			P	
Post Office		P	P	P			P	
Public Service Facility		P	P	S				
School, Specialized Instructional	P	P	P	P			P	
School, Primary or Secondary							P	
<b>RETAIL AND SERVICE USES</b>								
Bank	P	P	P	P			S	Section 17.20.030
Bed and Breakfast				P			P	Section 17.20.030
Car Wash		S	P					Section 17.24.100
Currency Exchange		P	P	S				
Day Care Center	P	P	P	S			P	
Drive-Through Facility	S	S	S	SA			SA	Section 17.24.100
Financial Institution	P	P	P	P			P	
Gas Station		P	P					Section 17.20.030
Heavy Retail and Service		P	S					
Home Improvement Center		P	P					
Hotel/Motel		P	P	P	P			



**BUSINESS AND MIXED USE DISTRICTS**

TABLE 17.14-1 PERMITTED AND SPECIAL USES ZONING DISTRICTS								
P=Permitted Use S=Special Use A=Permitted Accessory Use SA=Special Use, Accessory Only	BL	BC	BR	CBD-1	DOWNTOWN OVERLAY FIRST FLOOR		CBD-2	SPECIFIC USE STANDARDS
					CBD1	CBD2		
					Kenel			
Medical/Dental Clinic	P	P	P	P			P	
Motor Vehicle Rental	P	P	P				P	
Motor Vehicle Service and Repair, Minor	P	P	P					Section 17.20.030
Motor Vehicle Sales and Leasing		P	P					Section 17.20.030
Office, Business and Professional	P	P	P	P			P	
Outdoor Sales, Permanent	SA	SA	SA	S	S			Section 17.20.030
Outdoor Sales, Temporary	A	A	A	A	A		A	Section 17.20.040, 050
Pawn Shop			S					
Personal Services	P	P	P	P	P	P	P	
Coffee or Tea Room	A	P	P	P	P	A	A	
Restaurant	S	P	P	P	P			
Retail Sales	P	P	P	P	P	P	P	
Tattoo Parlor			S					
Tavern/Bar	S	P	P	P	P			
Theater		P	P	P	P			
Veterinary Office/Animal Hospital		P	P					
INDUSTRIAL/STORAGE USES								
Mini-Warehouse		P	P					
Temporary Motor Vehicle Storage		P	P					Section 17.20.030
OTHER USES								
Accessory Uses	A	A	A	A	A	A	A	Chapter 17.20, 17.22
Parking Garage/Structure			A	S	S	S	SA	Chapter 17.24
Parking Lot, Private	A	A	A	A	A	A	A	Chapter 17.24
Parking Lot, Public				P	P	P	P	Chapter 17.24
Planned Unit Development	S	S	S	S	S	S	S	Chapter 17.04
Transportation Operations Facility		S	P	S				
Communication Tower		S	S					Section 17.22.020
Communication Antenna	P	P	P	P			P	Section 17.22.020
Utility, Community/Regional		S	S				S	
Utility, Local	P	P	P	P	P	P	P	
Wind Turbine, Structure Mounted	A	A	A					Section 17.22.020.G
Wind Turbine, Tower Mounted		S	S					Section 17.22.020.H

(Ord. 2011-Z-11 § 2; Ord. 2008-Z-24 § 4, 5; Ord. 2008-Z-3 § 2; Ord. 2003-Z-13 § 4, 6, 7; Ord. 2001-Z-42 § 1; Ord. 2001-Z-40 § 1; Ord. 2001-Z-11 § 2, 3; Ord. 1999-Z-20 § 1; Ord. 1998-Z-19 § 1; Ord. 1996-Z-12 § 11-13; Ord. 1995-Z-5 § 1; Ord. 1993-Z-19 § 4; Ord. 1993-Z-4 § 1 (B, D); Ord. 1990-Z-7 § 1; Ord. 1989-Z-6 § 1; Ord. 1986-Z-11 § XI; Ord. 1986-Z-4; Ord. 1985-Z-2 § 1; Ord. 1984-Z-6 § 2; Ord. 1984-Z-4 § 1; Ord. 1984-Z-3 § 1; Ord. 1983-Z-9 § 1; Ord. 1982-Z-3 § 1; Ord. 1982-M-16 § 1; Ord. 1981-Z-7 § 2; Ord. 1981-Z-3 § 1; Ord. 1980-Z-13 § 1; Ord. 1980-Z-3 § 1; Ord. 1978-Z-3; Ord. 1976-Z-15 § 2; Ord. 1975-Z-8 § 1; Ord. 1973-Z-1 § 1; Ord. 1972-Z-56 § 1, 2; Ord. 1972-Z-46 (A, B, C (part)); Ord. 1968-31 (part); Ord. 1967-14 (part); Ord. 1966-33 § 1, 2; Ord. 1961-29; Ord. 1960-18 § VIII (E) (2); Ord. 1960-16 § VIII (F) (2, 3); Ord. 1960-16 § VIII (E) (3); Ord. 1960-16 § VIII (D) (2, 3); Ord. 1960-16 § VIII (C) (2, 3); Ord. 1960-16 § VIII (B) (2).)

## Definitions of office type uses in the Zoning Ordinance

**Bank.** An establishment such as a bank, savings bank, or credit union that offers financial services including maintaining checking and savings accounts, and issuing loans and other credit. Investment and other financial services may be provided as part of a bank's range of services. This use is distinct from Financial Services Institution, which does not offer checking and savings accounts.

**Financial Institution (G).** An establishment, the principal use or purpose of which is the provision of financial services including, but not limited to, mortgage companies and investment services. Financial Institution shall not include currency exchanges, banks, credit unions, and savings banks.

**Office, Government (G).** An office of a local, State or Federal government organization. This use is distinct from a Public Service Facility, as defined herein.

**Office, Business or Professional (G).** An office used for business, professional or administrative uses, which may or may not offer services to the public, and is engaged in the processing, manipulation or application of business information or professional expertise. This use may include as accessory uses, facilities not available for use by the general public such as meeting facilities, employee amenities such as exercise rooms, and food service. This use does not involve the fabricating, assembling, warehousing, or repair of physical products, and does not include Medical/Dental Clinics, Financial Institutions or Professional Training Centers.

**Medical/Dental Clinic.** A medical or dental office or clinic offering professional medical or dental services primarily on an out-patient basis. Such services may include examination and consultation, treatment, surgery, radiology, MRI, on-site testing laboratories, physical therapy, diagnostic services, training, administration, and other services to patients provided by licensed medical or dental professionals. This use includes facilities licensed by the State of Illinois as ambulatory surgical treatment centers. This use does not include a Hospital as defined herein or a facility licensed by the State of Illinois as an emergency center under the Emergency Medical Services (EMS) Systems Act.



## Downtown Improvement Plan

**Fox River.** The Fox River was the focus of the City's initial settlement and today remains a focal point of the community. The Fox River corridor provides a scenic setting, relief from the urban environment, and a number of other tangible and intangible benefits. The City should continue working with the Park District to realize the established vision and enhance public access to the river.

**Downtown Retail Overlay District.** The Downtown Overlay District is intended to preserve the economic vitality and pedestrian character of Downtown's shopping core by limiting uses on the first floor that "typically generate relatively little pedestrian activity or are otherwise incompatible with a pedestrian oriented shopping area." While this is an admirable objective, defining "typical" can result in missed opportunities. In addition, while all successful and vibrant downtowns have a large component of retail, they are also characterized by a varying mix of uses that generate activity at all periods of the day. Furthermore a detailed market analysis conducted as part of this process found that key retail categories are fairly saturated within the Downtown's trade area. Given the number of vacancies Downtown, along with current market and economic conditions, the City should consider relaxing use restrictions in the District to fill storefronts on a temporary basis until demand for downtown retail space is stronger.

**Gateways.** While streetscaping in Downtown distinguishes this part of the City from other areas, the differences can be subtle to a casual observer and the edges of Downtown are not well demarcated. Given the importance of Downtown, the City should install gateway features at key entry points, that are integrated to the extent possible, with redevelopment of prominent parcels and highly visible locations. Gateway features consisting of signage, lighting, and landscaping should complement the existing streetscape and announce entry into Downtown St. Charles.

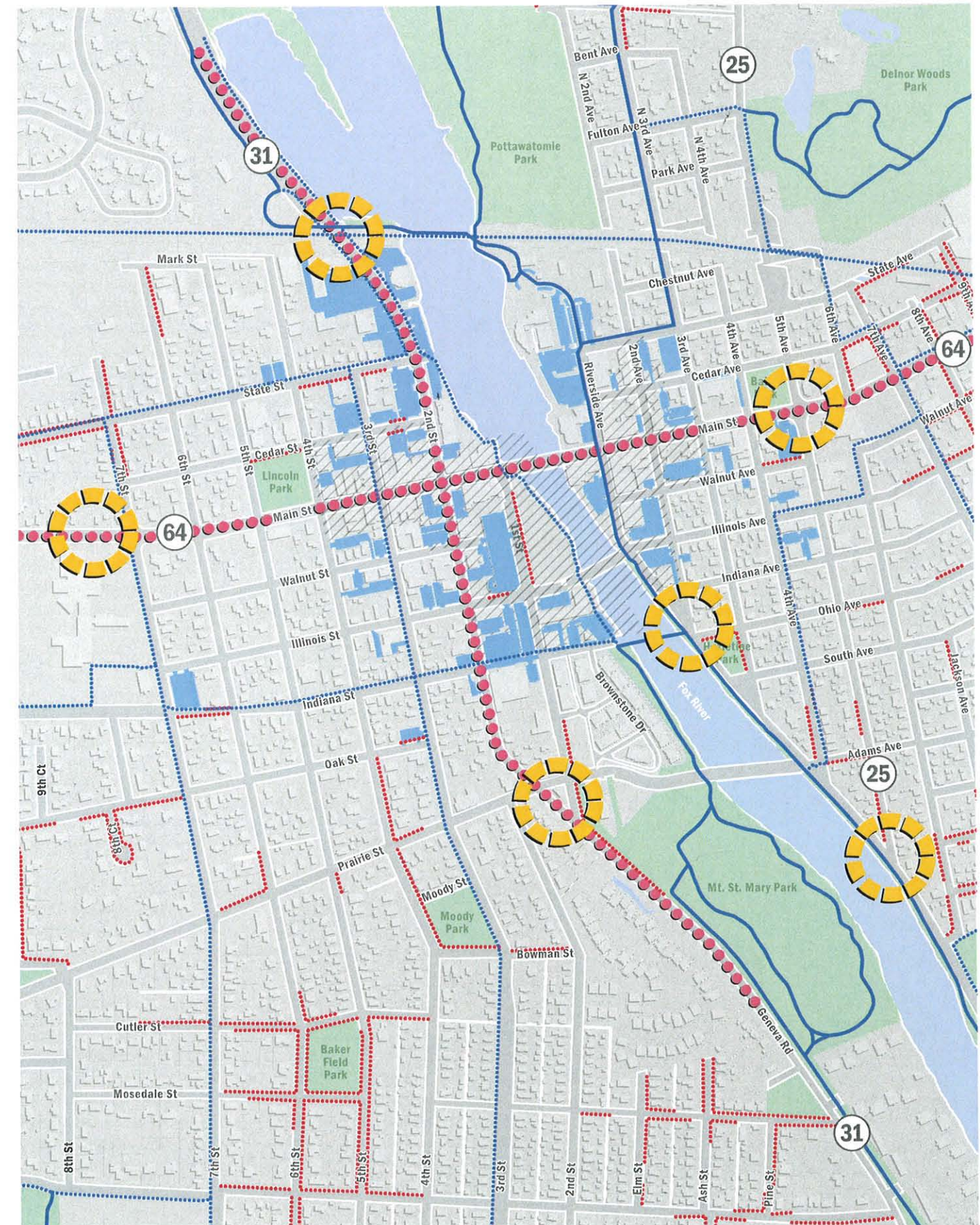
**Wayfinding.** Wayfinding should continue to be provided throughout Downtown, and additional opportunities for signage and new community destinations identified. Guidance should be provided to important downtown sites such as Pottawatomie Park, historic Main Street, and other local landmarks (public and private), and supporting functions such as public parking lots and structures or visitors information.

**Pedestrian Friendly Streets.** Downtown must be able to efficiently and safely move vehicles, bicycles, and pedestrians. Given the combination of a pedestrian-oriented environment, the Fox River, Main Street/IL Route 64, and the function of Downtown St. Charles as a regional attraction, effectively balancing a number of transportation related functions can be challenging. Truck traffic on Main Street/IL 64 and Geneva Road/IL 31 impacts Downtown St. Charles by placing loud and slow moving vehicles on the corridors. This is further exacerbated by the grooved concrete roads that provide the traction necessary due to the sloping terrain, creating noise and vibrations that impact the pedestrian atmosphere. The City should continue to explore solutions to this issue, including working with IDOT on changing the road surfaces; identifying a local re-route that would remove truck traffic off a portion of these streets; or identifying bypass routes that would remove truck traffic entirely from the Downtown. The preferred alternative should balance net impact with costs and influences on other areas of the City and region.


**Parking.** Parking management is an important issue in Downtown St. Charles. Unlike a commercial corridor like Randall Road where surface parking predominates, providing convenient access to store entries, parking in a downtown is subtly provided for the "area" by both the City and local businesses. Parking is currently located strategically throughout Downtown, on the street, in public and private surface lots, and two parking structures that have recently been built to accommodate demand. The City should continue to provide parking strategically in all areas of Downtown, and carefully monitor demand to ensure that both current and future needs are met. Before new structures are built, the City should consider real-time signage and wayfinding that guides drivers to structures with open capacity to ensure all existing parking is utilized.

**Sidewalk Gaps & Crosswalk Improvements** The very nature of Downtown requires a comprehensive sidewalk network with safe crossings and signage. The presence of the Fox River makes Downtown a regional destination that is linked to other communities. Private development and public improvements in Downtown should work in concert to build a comprehensive bike path network that allows for constant movement along the river corridor with easy access to Downtown goods and services.

**Existing & Future Trails.** The City and Downtown are well served by a bicycle network that connects nearby parks and neighborhoods with a larger regional trail system. The trail system provides both opportunities for recreation and economic development. The City should continue to implement the trail system as planned, and where possible, promote connections to parks, neighborhoods, and local businesses.





		<b>AGENDA ITEM EXECUTIVE SUMMARY</b>						
		Title:	Recommendation to approve proposed Intergovernmental Agreements with the City of West Chicago regarding Jurisdictional Boundary Lines and Jurisdiction of Kautz Road					
		Presenter(s):	Russell Colby					
<i>Please check appropriate box:</i>								
	Government Operations				Government Services			
X	Planning & Development (8/12/13)				City Council			
Estimated Cost:	N/A			Budgeted:	YES		NO	
If NO, please explain how item will be funded:								
<b>Executive Summary:</b>								
<p>The City of St. Charles and City of West Chicago entered into a jurisdictional boundary line agreement in 2001. The current agreement is valid until 2021.</p> <p>A revised agreement is being presented for consideration. Changes from the 2001 existing agreement:</p> <ul style="list-style-type: none"> <li>• Boundary line shifted to move 3 areas of unincorporated parcels to the St. Charles side: <ul style="list-style-type: none"> <li>• Area 1: 30 acres east of Oliver-Hoffmann site, north of Smith Rd. Development of this site would be limited to residential or office/research, with certain restrictions.</li> <li>• Area 2: 10 acres north of E. Main St./Oak Rd.</li> <li>• Area 3: 30 acres west of Kautz Rd., north of Division St. extended.</li> </ul> </li> <li>• Responsibility for road improvements: <ul style="list-style-type: none"> <li>• Charter One/King Edward Ave. connection from Smith Rd. to Foxfield Rd.: If the road is constructed by the City of St. Charles, then the City of West Chicago would fund half of the construction cost and be entitled to half of the reimbursement from the developer of the Oliver-Hoffmann site.</li> <li>• Kautz Rd. south of E. Main St. would be under St. Charles jurisdiction, per a separate agreement.</li> <li>• Future extension of Division St. from Kirk to Kautz Rd. would be under St. Charles jurisdiction.</li> </ul> </li> <li>• Other provisions carried forward from the 2001 agreement: <ul style="list-style-type: none"> <li>• Cooperation to provide utilities.</li> <li>• Any DuPage Airport owned property to be annexed to West Chicago.</li> <li>• 20-year term for the Boundary Line Agreement. (The Kautz Rd. agreement will not expire.)</li> </ul> </li> </ul> <p>The proposed agreements are being presented to the City of West Chicago Development Committee this evening as well.</p>								
<b>Attachments:</b> <i>(please list)</i>								
<ul style="list-style-type: none"> <li>• Staff Memorandum with aerial photos/diagrams illustrating proposed changes.</li> <li>• Intergovernmental Agreement Providing For A Jurisdictional Boundary Line, Sewer and Water Services, and Street Improvements – City of West Chicago and City of St. Charles, Illinois.</li> <li>• Intergovernmental Agreement By and Between the City of West Chicago, DuPage County, Illinois, and the City of St. Charles, Kane and DuPage Counties, Illinois, relating to the Maintenance, Repair, and Reconstruction of Kautz Road.</li> </ul>								
<b>Recommendation / Suggested Action</b> <i>(briefly explain):</i>								
Recommendation to approve proposed Intergovernmental Agreements with the City of West Chicago regarding Jurisdictional Boundary Lines and Jurisdiction of Kautz Road.								
<i>For office use only:</i>		<i>Agenda Item Number: 3e</i>						

## Community Development Planning Division

Phone: (630) 377-4443

Fax: (630) 377-4062



ST. CHARLES  
SINCE 1834

### Staff Report

**TO:** Chairman Daniel P. Stellato  
and Members of the Planning & Development Committee

**FROM:** Russell Colby, Planning Division Manager

**RE:** Proposed Amendment to Jurisdictional Boundary Line Agreement with the City of West Chicago

**DATE:** July 22, 2013

---

The City of St. Charles and City of West Chicago entered into a jurisdictional boundary line agreement in 2001. The agreement is valid until 2021.

A revised agreement is being presented for consideration. Changes from the 2001 existing agreement:

- **Boundary Line for future annexation of property:** The boundary line will be shifted to move three areas of unincorporated parcels from the West Chicago side of the boundary line to the St. Charles side of the boundary line. The specific parcels are shown on the attached map and include:
  1. Area #1 (30 acres): Parcels east of the Oliver-Hoffmann property, south of Cornerstone Lakes Subdivision, north of Smith Rd., shown as Parcels A, B, C, D, E on Exhibit A of the Agreement. Development of these parcels would be subject to the following restrictions:
    - Residential or Office-Research uses (specific list of Office-Research uses attached to the agreement- matches St. Charles Zoning Ordinance for OR district)
    - Restrictions for the area within 300 ft. of the south line of Cornerstone Lakes:
      - Density: 7.5 dwelling units per acre max.
      - Building Height: 35 ft. or 3 stories max.
    - Additional 30 ft. landscape buffer yard to be provided abutting Cornerstone Lakes (planting requirements attached to the agreement).
    - Requirements for stormwater engineering (listed in the agreement).
    - Requirement for St. Charles to notify West Chicago of any annexation agreement, zoning change, development proposal, or Comprehensive Plan amendment for this site.
  2. Area #2 (10 acres): Parcels north of E. Main St., at the north end of Oak Rd.
  3. Area #3 (30 acres): Parcels west of Kautz Rd., south of Countyline Subdivision (Bonnie/Toni St.), east of East Side Sports Complex, north of Division St. extended.

- **Roadway Improvements:**

1. Future extension of Charter One Dr./King Edward Ave. (Smith Rd. to Foxfield Dr.):

- In the event the City constructs the roadway, West Chicago agrees to equally share the cost of the roadway construction.
- West Chicago would then be entitled to half of the amount reimbursed from the developer for construction of the roadway.

2. Kautz Rd. (Division St. extended/township line to E. Main St.):

- A separate agreement regarding Kautz Rd. is proposed.
- St. Charles will assume sole responsibility for future maintenance, repair, and reconstruction of Kautz Rd. from Division St. extended north to E. Main St.
- St. Charles will have sole authority to determine access points to and from Kautz Rd. and sole responsibility for traffic enforcement and control.
- This change specifically affects the southern approximately 2,200 linear ft. of roadway not currently under St. Charles jurisdiction of the total approximately 8,000 linear ft. from Division St. to Main St.

3. Future extension of Division St. (Kirk Rd. to Kautz Rd.):

- West Chicago shall have no responsibility for the extension of Division St., as Area #3 is no longer contemplated to be annexed to West Chicago.
- If Division St. is extended between Kirk Rd. and Kautz Rd., it shall meet St. Charles standards for an industrial collector street.

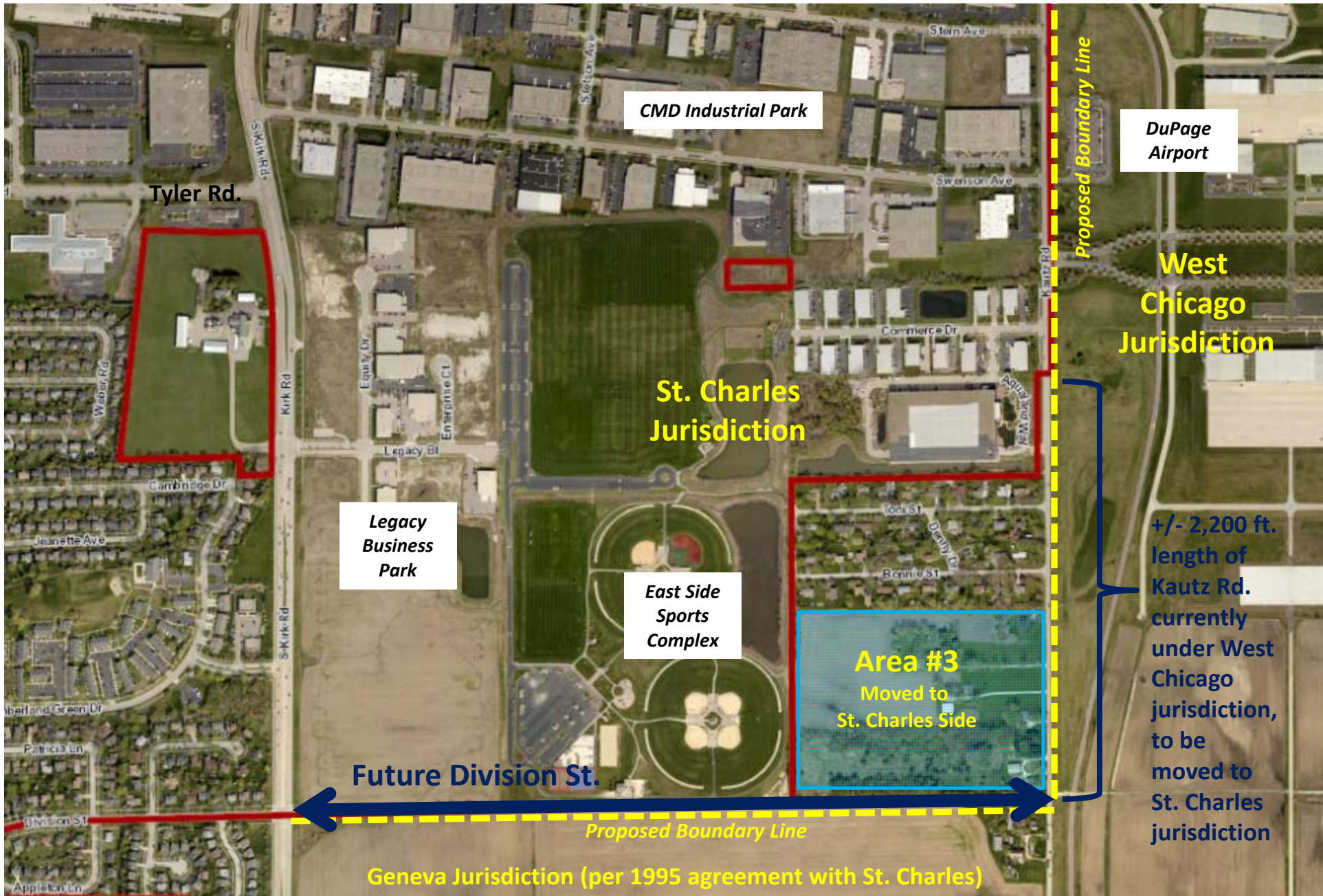
- **Other provisions carried forward from the 2001 agreement:**

1. Cooperation to provide utility service along the boundary line.
2. Any property on the St. Charles side of the boundary line that is acquired by the DuPage Airport Authority would be annexed to West Chicago.
3. 20 year term for the Jurisdictional Boundary line Agreement. (The Kautz Rd. agreement will not expire.)









**CMD Industrial Park**

**DuPage Airport**

**Tyler Rd.**

**West Chicago Jurisdiction**

**St. Charles Jurisdiction**

**Legacy Business Park**

**East Side Sports Complex**

**Area #3**  
Moved to St. Charles Side

+/- 2,200 ft. length of Kautz Rd. currently under West Chicago jurisdiction, to be moved to St. Charles jurisdiction

**Future Division St.**

*Proposed Boundary Line*

**Geneva Jurisdiction (per 1995 agreement with St. Charles)**



**AN INTERGOVERNMENTAL AGREEMENT PROVIDING FOR  
A JURISDICTIONAL BOUNDARY LINE, SEWER AND WATER  
SERVICES AND STREET IMPROVEMENTS**

**City of West Chicago and City of St. Charles, Illinois**

**THIS INTERGOVERNMENTAL AGREEMENT** (the “Agreement”), is made and entered into this \_\_\_\_day of \_\_\_\_\_, 2013, by and between the CITY OF WEST CHICAGO, DuPage County, Illinois (“West Chicago”) and the CITY OF ST. CHARLES, DuPage and Kane Counties, Illinois (“St. Charles”),

**WITNESSETH:**

**WHEREAS**, West Chicago and St. Charles are “units of local government” as defined by Article VII, Section 1, of the Constitution of the State of Illinois of 1970, and are “home rule units” as defined by Article VII, Section 6, of the Constitution of the State of Illinois of 1970; and,

**WHEREAS**, units of local government are enabled by Article VII, Section 10, of the Constitution of the State of Illinois of 1970 to enter into agreements among themselves to obtain or share services and to exercise, combine or transfer any power or function in any manner not prohibited by law or ordinance; and,

**WHEREAS**, the Illinois Intergovernmental Cooperation Act (5 ILCS 220/1, *et seq.*), authorizes municipalities to exercise jointly with any public agency of the State, including other units of local government, any power, privilege, or authority which may be exercised by a unit of local government individually, and to enter into contracts for the performance of governmental services, activities and undertakings; and,

**WHEREAS**, 65 ILCS 5/11-12-9 authorizes the corporate authorities of municipalities that have adopted official plans to agree upon boundaries for the exercise of their respective jurisdictions within unincorporated territory that lies within one and one-half miles of the boundaries of such municipalities; and,

**WHEREAS**, unincorporated territory lies within one and one-half miles of the boundaries of West Chicago and St. Charles; and,

**WHEREAS**, West Chicago and St. Charles have adopted official plans making recommendations with respect to the development of that unincorporated territory; and,

**WHEREAS**, West Chicago and St. Charles recognize that the territory lying between their present municipal boundaries is an area in which problems related to land development including open space preservation, flood control, population density, provision of public services and ecological and economic impact and are increasing in number and complexity; and,

**WHEREAS**, West Chicago and St. Charles and their respective citizens are vitally affected by said problems, and efforts to solve them and provide for the public health, safety, welfare and prosperity of the inhabitants of said municipalities will be enhanced by mutual action and intergovernmental cooperation; and,

**WHEREAS**, West Chicago and St. Charles recognize the need and desirability to provide for logical future municipal boundaries and areas of municipal authority between their respective corporate limits in order to plan effectively and efficiently for growth management and potential development between their communities; and,

**WHEREAS**, West Chicago and St. Charles, after due investigation and consideration, have determined to enter into an agreement providing for the establishment of a boundary for

their respective jurisdictions in the unincorporated territory lying between and near their boundaries; and,

**WHEREAS**, West Chicago and St. Charles have determined that the observance of the boundary line in future annexations by either municipality will serve the best interests of both communities; and,

**WHEREAS**, in arriving at this Agreement, West Chicago and St. Charles have given consideration to the natural flow of stormwater drainage and, when practical, have included all of a single tract of land having common ownership within the jurisdiction of only one municipality; and,

**WHEREAS**, public notice of this Agreement has been properly given by West Chicago and St. Charles, as required by law; and

**WHEREAS**, West Chicago and St. Charles have authorized, by ordinance, the execution of this Agreement as an exercise of their intergovernmental cooperation authority under the Constitution of the State of Illinois, and the Intergovernmental Cooperation Act, and their authority to enter into jurisdictional boundary agreements pursuant to 65 ILCS 5/11-12-9; and

**WHEREAS**, West Chicago and St. Charles contemplate that developments may be proposed within either municipality's Territory (as hereinafter defined) which may require sewer and water service from the other municipality and/or for which access to such other municipality's street system may be necessary or appropriate; and,

**WHEREAS**, 65 ILCS 5/11-129-1, *et seq.*, 11-139-2, *et seq.*, 11-141-1, *et seq.*, and 11-149-1, *et seq.* (the "Utility Enabling Statutes"), authorize municipalities to serve the sewer and water utility needs of customers located outside their corporate limits; and,

**WHEREAS**, West Chicago and St. Charles wish to make provision for each municipality to consider requests from the other to serve such customers, without being obligated to do so; and,

**WHEREAS**, 65 ILCS 5/11-61-1, *et seq.* and 11-80-1, *et seq.*, and 605 ILCS 5/7-101 and 7-202, *et seq.* (the “Street Enabling Statutes”), authorize municipalities to establish, construct and improve municipal street systems, including extensions thereof beyond their corporate limits; and,

**WHEREAS**, West Chicago and St. Charles wish to make provision for certain municipal street system improvements which may be necessary or appropriate to serve developments within either municipality’s Territory (as hereinafter defined); and

**WHEREAS**, West Chicago and St. Charles have previously entered into an Intergovernmental Agreement Providing for a Jurisdiction Boundary Line, Sewer and Water Services and Street Improvements, dated January 8, 2001 (the “Existing Agreement”) which the parties desire to repeal simultaneously with the recording of this Agreement.

**NOW, THEREFORE**, in consideration of the foregoing recitals and the mutual promises hereinafter contained, the adequacy and sufficiency of which the parties hereto stipulate, West Chicago and St. Charles agree as follows:

**Section 1. Incorporation of Recitals.** The recitals set forth hereinabove are incorporated herein by reference as substantive provisions of this Agreement.

**Section 2. Jurisdictional Boundary Line.** The boundary line between West Chicago and St. Charles for the purpose of establishing their respective jurisdictions for land use planning, official map purposes, zoning, subdivision control and annexation of unincorporated territory, and other municipal purposes, all as hereinafter provided, shall be as depicted upon the

map attached hereto as Exhibit “A” and made a part hereof and as legally described on Exhibit “B” attached hereto and made a part hereof.

That portion of the unincorporated territory lying easterly of said boundary line shall be within the West Chicago jurisdictional area (“West Chicago Jurisdictional Area”) as shown on Exhibit “A”. The West Chicago Jurisdictional Area, together with all territory located within the corporate limits of West Chicago from time to time, shall be within the West Chicago territory (“West Chicago Territory”). That portion of the unincorporated territory lying westerly of said boundary line shall be within the St. Charles jurisdictional area (“St. Charles Jurisdictional Area”) as shown on Exhibit “A”. The St. Charles Jurisdictional Area, together with all territory located within the corporate limits of St. Charles from time to time, shall be within the St. Charles territory (“St. Charles Territory”).

To the extent that there is any conflict between Exhibit “A” (the map) and Exhibit “B” (the legal description), Exhibit “B” shall control.

**Section 3. Exercise of Authority.** West Chicago agrees that it shall not exercise or attempt to exercise or enforce any comprehensive plan jurisdiction, official map jurisdiction, zoning authority or subdivision control authority within the St. Charles Jurisdictional Area. St. Charles agrees that it shall not exercise or attempt to exercise or enforce any comprehensive plan jurisdiction, official map jurisdiction, zoning authority or subdivision control authority within the West Chicago Jurisdictional Area.

**Section 4. Statutory Zoning Objections.** This Agreement shall not be construed to limit or adversely affect the right of either municipality to file a statutory objection to proposed rezonings within one and one-half (1½) miles of its corporate limits, or to otherwise contest or oppose such rezonings in accordance with applicable law.

**Section 5. Annexation.** Both West Chicago and St. Charles acknowledge that it is not in their respective best interests to engage in disputes with respect to the annexation of territory. The boundary line established pursuant to this Agreement was carefully studied and considered with respect to those matters heretofore set out in the recitals to this Agreement. Therefore, each municipality agrees not to annex any territory which is located in the other municipality's Territory.

West Chicago and St. Charles also agree to take all reasonable and appropriate actions to oppose any involuntary or court-controlled annexation proceedings that propose to annex territory within either municipality's Territory in a manner inconsistent with this Agreement. In addition, West Chicago and St. Charles each hereby agree that it waives any right to challenge or otherwise contest the validity of any annexation the other municipality has effected, is effecting, or will effect in the future for territory located within such other municipality's Territory. West Chicago and St. Charles further agree not to solicit or otherwise make any requests, formal or informal, to any third party for that third party to encourage the disconnection from the other municipality of land within the other municipality's Territory or to challenge the validity of the other municipality's past, current, or future annexations within such other municipality's Territory.

That portion of the boundary line depicted on Exhibit "A" that is located on a roadway shall be deemed, except as otherwise provided herein, to be located on the center line of such roadway if the roadway is not located within the corporate limits of either municipality as of the date of this Agreement. For territory that has been annexed by either municipality prior to the date of this Agreement, the roadway shall be deemed to be located within the municipality to which the roadway has been annexed either by ordinance or by operation of state law (65 ILCS

5/7-1-1). For unincorporated territory that is located on either side of the boundary line and that will be annexed to the designated municipality in the future, the roadway shall be deemed to be located within the municipality that first annexes its respective territory adjacent to the roadway. The boundary line set by this Agreement shall then be deemed to have been amended accordingly without further action by either municipality.

**Section 6. Utilities.** In the event that any territory within West Chicago's Territory lies within St. Charles' Facilities Planning Area ("FPA") established pursuant to the Clean Water Act (33 U.S.C. 1251, *et seq.*) and the Illinois Environmental Protection Act (415 ILCS 5/1, *et seq.*), and West Chicago files a petition with the Illinois Environmental Protection Agency ("EPA") to transfer such territory to West Chicago's FPA, St. Charles agrees that it shall enter its consent to such transfer in connection with such petition. In the event that any territory within St. Charles' Territory lies within West Chicago's FPA, and St. Charles files a petition with the Illinois Environmental Protection Agency to transfer such territory to St. Charles' FPA, West Chicago agrees to enter its consent to such transfer in connection with such petition.

Either municipality may request the other to provide sewer and/or water service to specific parcels of land located within the requesting municipality's Territory. Any such request shall provide a legal description of the property with respect to which the request is being made together with such reasonable additional information as may be necessary or convenient to assist the municipality to which the request is directed in evaluating such request. In addition, the municipality making the request shall identify which of the Utility Enabling Statutes it wishes to utilize in order to implement the request.

Either municipality receiving such a request may, in its sole and exclusive discretion, decide to grant or deny the request or suggest modifications to the request as it might deem



appropriate. Either municipality receiving such a request shall only be obligated to review it. The decision to grant or deny the request, with or without reason, shall be solely and exclusively within the discretion of the municipality that received the request. A refusal to honor any request(s) for utility service made pursuant to this Agreement shall not constitute a breach of this Agreement and shall not thereby excuse the performance of the terms hereof by either municipality or otherwise give rise to any cause of action or other relief in consideration thereof.

The municipality receiving a request for utility service under the provisions of this Section 6 may agree to provide such services on the terms proposed by the requesting municipality or such other terms as the municipality receiving the request may deem acceptable. Without limiting the generality of the foregoing, the receiving municipality may offer to provide the requested services under the authority of a statute other than the one specified in the request.

In each such case where such utility services are to be provided, the municipalities shall enter into an agreement under the authority of either: (a) the specified Utility Enabling Statutes, (b) an alternative statute that provides such authority, or (c) the constitutional and statutory provisions related to intergovernmental cooperation. Each such agreement shall make provision for the design and construction of the requested improvements, the allocation of the costs of construction, connection charges or other such charges and rates to be charged for the services to be provided, the provisions of easements or rights-of-way, maintenance responsibilities and such other matters as are normal, customary or beneficial to such agreements. In the event that such utility services would require an amendment to the serving municipality's FPA, such agreement shall also make provision for the filing and processing of the necessary petition for such amendment. No obligation to provide such services shall be enforceable unless and until a

mutually satisfactory agreement making provision for such service shall first have been duly authorized and executed by both of the municipalities.

**Section 7. Roadway Improvements.** Pursuant to the Street Enabling Statutes and the constitutional and statutory provisions related to intergovernmental cooperation, West Chicago and St. Charles agree that this Section 7 shall apply to the street improvements detailed herein, irrespective of any other provision of this Agreement.

(a) Division Street: If Division Street is extended east of Kirk Road, unless otherwise agreed by the parties, such extension shall be constructed to meet or exceed the industrial collector street standards set forth in Title 12 and Title 16 of the St. Charles Municipal Code. West Chicago shall have no responsibility, financial or otherwise, for the extension of Division Street.

(b) Kautz Road: Simultaneously with the execution of this Agreement, the parties shall enter into a separate intergovernmental agreement providing that St. Charles shall have sole responsibility for maintenance, repair and reconstruction of that portion of Kautz Road from Division Street (extended) north to Illinois Route 64/East Main Street. St. Charles shall have sole authority to determine access points to and from said portion of Kautz Road, and sole responsibility for traffic enforcement and control in accordance with said intergovernmental agreement.

(c) Connection between Smith Road and Foxfield Drive: The parties acknowledge that an Amended Consent Decree, filed on July 8, 2009 with the Clerk of the Circuit Court, Kane County, Illinois, in regard to Case No. 07 ED 07 (the "Consent Decree"), governs the construction of a roadway (the "Roadway") that will connect Smith Road and Foxfield Drive. The Consent Decree requires the defendant property owner and its successors and assigns (the "Owner") to construct the roadway, but also provides that St. Charles, under certain circumstances, has the right to construct the roadway and obtain reimbursement from the Owner for the costs thereof, including interest.

If St. Charles elects to construct the Roadway, St. Charles shall provide 180 days written notice to West Chicago and St. Charles and West Chicago agree to share equally in the cost of engineering, design, and construction of the Roadway. St. Charles shall be responsible for the preparation of all plans and awarding a construction contract for the project. West Chicago shall reimburse St. Charles for its proportionate share of any and all costs within sixty (60) days of receipt of an invoice(s) therefore, along with such other documentation as shall be reasonably necessary to substantiate the costs. If and when St. Charles receives reimbursement from the Owner for such costs, St. Charles shall pay fifty percent (50%) of such amount over to West Chicago, provided that West Chicago has previously reimbursed St. Charles as required herein.

**Section 8. DuPage Airport Authority Property.** West Chicago represents and St. Charles acknowledges that all of the property owned by the DuPage Airport Authority (the “Authority”) is located within the corporate limits of West Chicago. There presently exists an Intergovernmental Agreement between the City of West Chicago and the DuPage Airport Authority dated March 22, 2001, plus three (3) subsequent amendments thereto approved by the City of West Chicago on December 17, 2001, August 15, 2005 and October 17, 2011 (collectively, the “Airport Agreement”). The Airport Agreement is attached as Exhibit “C” which is, by this reference, incorporated herein. The Airport Agreement requires, inter alia, the Authority to annex to West Chicago any newly acquired property that is contiguous to the corporate limits of West Chicago.

If the Authority acquires unincorporated land within the St. Charles Jurisdictional Area that is contiguous to West Chicago, upon the request of West Chicago, St. Charles agrees to modify the boundary line established pursuant to this Agreement, so as to transfer the Authority owned property from the St. Charles Jurisdictional Area to the West Chicago Jurisdictional Area. St. Charles further agrees that it will not voluntarily annex and will not cooperate in any judicially sanctioned or owner initiated effort to annex such parcel(s) into its corporate limits.

**Section 9. Comprehensive Plan.** With respect to West Chicago Territory parcel “F” identified on Exhibit “A”, or any part thereof, West Chicago shall give thirty (30) days written notice to St. Charles prior to approval of any action, including an amendment to the West Chicago Zoning Ordinance, an annexation agreement or amendment thereto and an amendment to the West Chicago official comprehensive plan, which commits West Chicago to a land use which substantially deviates from the West Chicago official Comprehensive Plan, or which

pertains to any parcel for which no land use designation is shown in the West Chicago official Comprehensive Plan.

With respect to St. Charles Territory parcels designated as parcels “A”, “B”, “C”, “D” and “E” identified on Exhibit “A”, or any part thereof, St. Charles shall give thirty (30) days written notice to West Chicago prior to approval of any action, including an amendment to the St. Charles Zoning Ordinance, an annexation agreement or amendment thereto and an amendment to the St. Charles official comprehensive plan, which commits St. Charles to a land use which substantially deviates from the St. Charles official Comprehensive Plan, or which pertains to any parcel for which no land use designation is shown in the St. Charles official Comprehensive Plan.

Failure of either municipality to notify the other as provided for in this section shall not invalidate any action of such municipality regarding planning, annexation, or zoning of land within its Territory, and shall not invalidate the provisions of this Agreement.

**Section 10. Development of Certain Parcels.** Development of parcels “A”, “B”, “C”, “D” and “E” identified on Exhibit “A” shall be subject to the following provisions:

(a) To the extent permitted by law, St. Charles shall impose the following use and density restrictions:

- (i) Residential uses, subject to the density restrictions set forth herein, and/or office-research uses, which shall mean the uses listed on Exhibit “D” attached hereto and incorporated herein, as such terms are further defined in the St. Charles Zoning Ordinance.
- (ii) For the portion of the parcels located within 300 feet (300’) of the southern border of the Cornerstone Lakes Subdivision, residential density shall not exceed 7.5 units/acre and the maximum building height shall be the lesser of 35 feet (35’) or three (3) stories. An assisted living facility shall not be subject to the density restriction set forth in this subsection.
- (iii) In addition to any setbacks required by the St. Charles Zoning Ordinance, St. Charles will require a thirty foot (30’) landscape buffer along the property line

adjoining the single-family residential homes located on Lehman Drive and Barnhart Street so as to reduce the impact of development on the existing homes. The landscaping requirements within the buffer shall be the same as required by the current St. Charles Zoning Ordinance requirement for landscape buffers, attached hereto and incorporated herein as Exhibit "E". The landscape buffer shall not be combined with a required yard or setback requirement, but, rather, shall be in addition thereto.

(b) To the extent permitted by law, St. Charles shall impose the following stormwater restrictions:

- (i) As part of the development approval process, St. Charles shall require compliance with all applicable stormwater, wetland, floodway and/or floodplain regulations. St. Charles shall utilize either the regulations of DuPage County or Kane County, whichever are the most restrictive at the time of development.
- (ii) Stormwater runoff shall be restricted to a maximum of 0.1 cfs/development acre up to and including the 100-year event.
- (iii) All off-site bypass flow shall be designed to be channeled through any on-site detention or retention basin(s) and discharged at a location that will not adversely impact adjacent properties.
- (iv) West Chicago shall be allowed to review all engineering plans, calculations, specifications and reports for any proposed development prior to the issuance of any permit by St. Charles.

**Section 11. General Implementation.** The parties hereto agree to cooperate to the fullest extent possible and take all steps reasonably practicable, to achieve any appropriate modification of the postal service boundary, the Chicago Metropolitan Agency for Planning and Illinois EPA Facilities Planning Area, and the Emergency 911 telephone service area, to conform to the boundary defined under this Agreement.

**Section 12. Binding Effect.** This Agreement shall be binding upon and shall apply only to the legal relationship between West Chicago and St. Charles. Nothing herein shall be used or construed to affect, support, bind or invalidate any claims of either West Chicago and/or St. Charles insofar as such claims shall affect any entity which is not a party to this Agreement.

**Section 13. Amendment.** Neither West Chicago nor St. Charles shall directly or indirectly seek any modification of this Agreement through court action and this Agreement shall

remain in full force and effect until amended or changed in writing by the mutual agreement of both West Chicago and St. Charles.

**Section 14. Partial Invalidity.** If any provision of this Agreement shall be declared invalid for any reason, such invalidation shall not affect other provisions of this Agreement which can be given effect without the invalid provisions and to this end, the provisions of this Agreement are deemed to be separable.

**Section 15. Notice and Service.** Any notice hereunder from either municipality hereto to the other municipality shall be in writing and shall be served by registered or certified mail, postage prepaid, return receipt requested addressed as follows:

To West Chicago:     City of West Chicago  
                              475 Main Street  
                              West Chicago, IL 60185  
                              Attn: City Administrator

To St. Charles:        City of St. Charles  
                              2 East Main Street  
                              St. Charles, IL 60174  
                              Attn: City Administrator

or to such persons or entities and at such address as either municipality may from time to time designate by notice to the other municipality. Notice shall be deemed received on the third business day following deposit in the U.S. Mail in accordance with this Section.

**Section 16. Term.** This Agreement shall be in full force and effect for a period of twenty (20) years from and after the date hereof. The term of this Agreement may be extended, renewed or revised at the end of this initial term or any extended term thereof by further agreement of West Chicago and St. Charles.

**Section 17. Illinois Law.** This Agreement shall be construed in accordance with the laws of the State of Illinois.



**Section 18. Execution of Agreement; Recordation.** Each municipality shall authorize the execution of this Agreement by an ordinance duly passed and approved. Certified copies of such ordinances and of this Agreement shall be recorded with the Recorder of Deeds for DuPage County and the Recorder of Deeds for Kane County and shall be made available in the office of the City Clerk of each of the municipalities.

**Section 19. Repeal of Existing Agreement.** Upon the execution of this Agreement by both parties and the recording of this Agreement with the Recorder of Deeds for DuPage County and the Recorder of Deeds for Kane County, the Existing Agreement shall be deemed repealed and shall be of no further force or effect.

[SIGNATURE PAGE FOLLOWS]

**IN WITNESS WHEREOF**, the parties have hereunto set their hands and seals on the date first above written.

CITY OF WEST CHICAGO, an Illinois municipal corporation

By: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

CITY OF ST. CHARLES, an Illinois municipal corporation

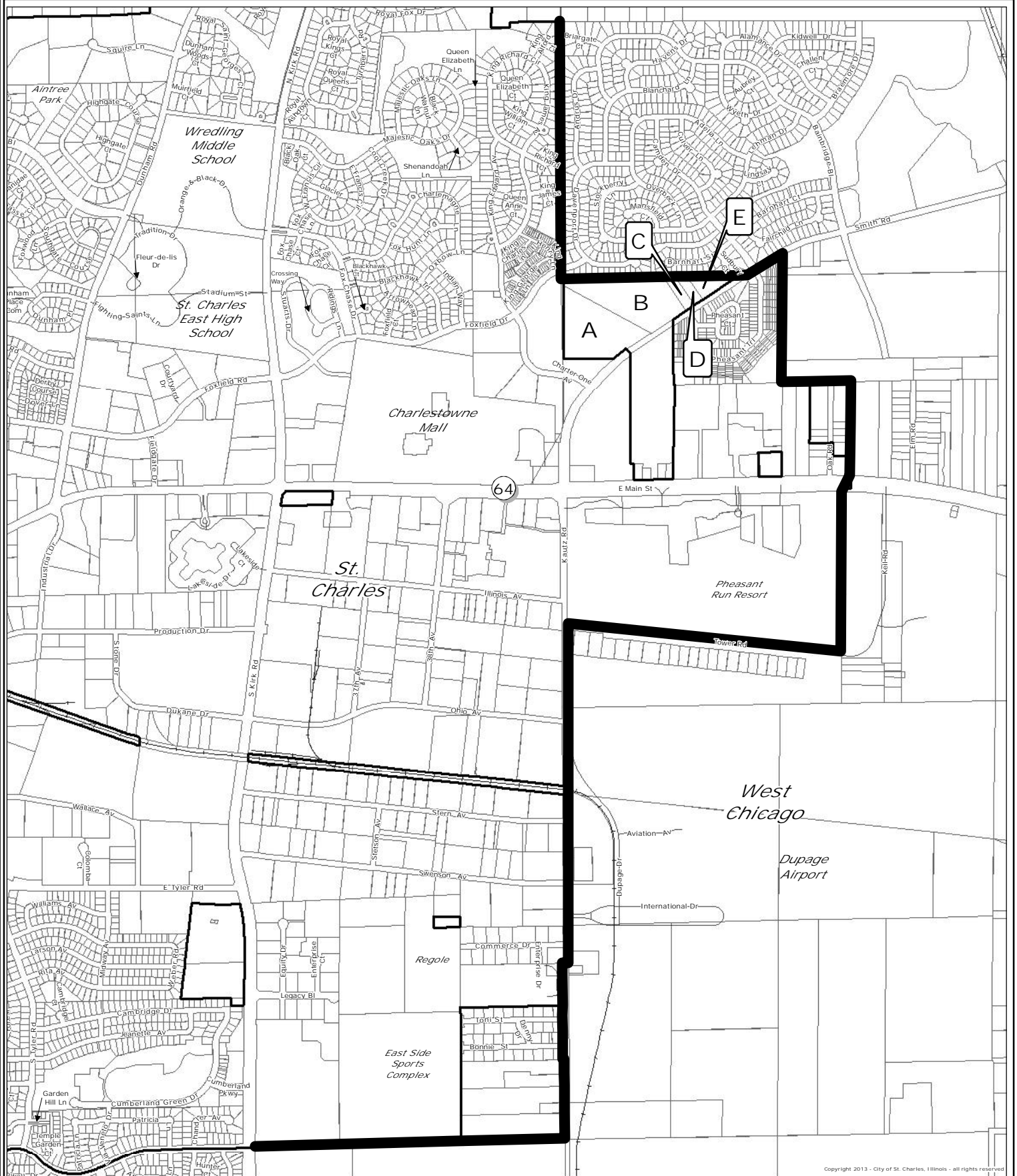
By: \_\_\_\_\_  
Mayor

ATTEST:

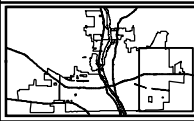
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City Clerk

EXHIBIT "A"

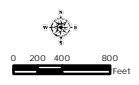
MAP



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Publication Date: June 25, 2013  
Data Source: City of St. Charles, Illinois  
Projection: Transverse Mercator  
Coordinate System: Illinois State Plane East  
North American Datum 1983  
TH #: 130212214600523



West Chicago Boundary Agreement



St. Charles Municipal Boundary



Parcels

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EXHIBIT "B"

LEGAL DESCRIPTION

EXHIBIT "C"

AIRPORT AGREEMENT

## EXHIBIT "D"

### USES PERMITTED ON PARCELS "A", "B", "C", "D" and "E"

Assisted Living Facility  
Art Gallery/Studio  
Cultural Facility  
Indoor Recreation & Amusement  
Place of Worship  
Bank  
Day Care Center  
Drive-In Facility  
Emergency Medical Center  
Financial Institution  
Hotel/Motel  
Medical/Dental Clinic  
Motor Vehicle Rental  
Office, Business or Professional  
Professional Training Center  
Veterinary Office/Animal Hospital  
College/University  
Hospice  
Hospital  
Nursing Home  
Office, Government  
School, Specialized Instruction  
Research and Development Use  
Accessory Uses  
Communication Antenna  
Communication Tower  
Parking Garage/Structure  
Parking Lot, Private  
Planned Unit Development  
Utility, Local  
Utility, Community/Regional  
Wind Turbine, Structure Mounted  
Wind Turbine, Tower Mounted



## EXHIBIT "E"

### LANDSCAPE BUFFER REQUIREMENTS

#### 17.26.070 Landscape Buffers

- A. The Landscape Plan shall provide for Landscape Buffers to enhance privacy and provide screening between dissimilar uses, wherever the zoning district regulations require a Landscape Buffer Yard. Where Landscape Buffers overlap with other landscape requirements with respect to the same physical area on the lot, the requirement that yields more intensive landscaping shall apply, but the requirements need not be added together.
- B. The Director of Community Development, in the case of Design Review, or the City Council, in the case of a Planned Unit Development, may reduce or waive the requirements of this Section where existing conditions make it impractical to provide the required Landscape Buffer, or where providing the Landscape Buffer would serve no practical purpose. Examples include, but are not limited to, instances where existing topography or structures effectively screen the more intensive use and provide a measure of privacy to the less intensive use.
- C. Within required Landscape Buffers along common property lines, opaque, year-round screening shall be provided by means of berming, landscaping, fencing and/or decorative walls to a height of six feet (6') above the grade of the common property line.
- D. Along right of way lines, where a Landscape Buffer of forty feet or more in width is required, opaque, year-round screening shall be provided by means of berming, landscaping, fencing and/or decorative walls, to a minimum height of six feet (6') above the grade of the right of way line. Such opaque, year-round screening shall be designed so that the first twenty feet (20') of the Landscape Buffer abutting the right of way line is relatively open and consists primarily of landscaping, and the elements of screening that provide opacity are located twenty feet (20') or more from the right of way line. Opaque, year-round screening is not required within Landscape Buffers of less than 40 feet in width along right of way lines.
- E. For each 400 square feet of required Landscape Buffer, there shall be at least one shade tree or two evergreen trees, plus ornamental trees, shrubs, ornamental grasses, or perennials as needed to soften the appearance of solid forms such as fences, walls and berms that may be used to provide a visual screen.
- F. If a new building or outdoor use is added on a lot where other buildings or uses exist, a Landscape Buffer, where required by the district regulations, shall be provided to buffer adjoining lots from the new building or use, but an additional Landscape Buffer beyond that which is required for the new building or use need not be provided to buffer adjoining lots from the existing buildings or uses.

(Ord. 2011-Z-1 § 22.)

**INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE CITY OF WEST CHICAGO, DU PAGE COUNTY, ILLINOIS AND THE CITY OF ST. CHARLES, KANE AND DU PAGE COUNTIES, ILLINOIS RELATING TO THE MAINTENANCE, REPAIR AND RECONSTRUCTION OF KAUTZ ROAD**

**THIS INTERGOVERNMENTAL AGREEMENT** (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between the City of West Chicago, DuPage County, Illinois (“West Chicago”) and the City of St. Charles, DuPage and Kane Counties, Illinois (“St. Charles”);

**WITNESSETH:**

**WHEREAS**, West Chicago and St. Charles are “units of local government” as defined by Article VII, Section 1, of the Constitution of the State of Illinois of 1970, and are “home rule units” as defined by Article VII, Section 6, of the Constitution of the State of Illinois of 1970; and,

**WHEREAS**, units of local government are enabled by Article VII, Section 10 of the Constitution of the State of Illinois of 1970 to enter into agreements among themselves to obtain or share services and to exercise, combine or transfer any power or function in any manner not prohibited by law or ordinance; and,

**WHEREAS**, the Illinois Intergovernmental Cooperation Act, (5 ILCS 220/1, *et seq.*), authorizes municipalities to exercise jointly with any public agency of the State, including other units of local government, any power, privilege, or authority which may be exercised by a unit of local government individually, and to enter into contracts for the performance of governmental services, activities and undertakings; and,

**WHEREAS**, 65 ILCS 5/11-61-1, *et seq.* and 11-80-1, *et seq.*, and 605 ILCS 5/7-101 and 7-202, *et seq.*, authorize municipalities to establish, construct and improve municipal street systems, including extensions thereof beyond their corporate limits; and,

**WHEREAS**, West Chicago and St. Charles have heretofore entered into An Intergovernmental Agreement Providing for a Jurisdictional Boundary Line, Sewer And Water Services And Street Improvements, dated \_\_\_\_\_, 2013 (hereafter referred to as the “Boundary Agreement”) and recorded with the respective Recorders for Kane and DuPage Counties, Illinois; and

**WHEREAS**, West Chicago and St. Charles find that it is proper, appropriate and in the respective best interest of each party for St. Charles to maintain, repair, reconstruct and control that portion of the Kautz Road right-of-way and all appurtenances within, excluding any West Chicago-owned water and sanitary sewer utilities that may exist or that may later be constructed within the Kautz Road right-of-way, commencing at Division Street (extended) north to Illinois Route 64/East Main Street, as depicted on Exhibit “A” attached hereto and incorporated herein, subject to the terms and conditions of this Agreement.

**NOW, THEREFORE,** in consideration of the foregoing recitals and the mutual promises hereinafter contained, the adequacy and sufficiency of which the parties hereto stipulate, West Chicago and St. Charles agree as follows:

**Section 1. Incorporation of Recitals.** The Recitals set forth hereinabove are incorporated herein by reference as substantial provisions of this Agreement.

**Section 2. Kautz Road right-of-way maintenance, repair and reconstruction.**

(a) General: Upon the Effective Date, St. Charles shall assume responsibility for, as well as jurisdiction of, all maintenance, repair and reconstruction of the Kautz Road right-of-way from its intersection with Division Street (extended) north to Illinois Route 64/East Main Street (the “Kautz Road right-of-way” or “Kautz Road”). The control of the Kautz Road right-of-way also shall include jurisdiction over traffic control and enforcement, applicable motor vehicle laws and regulations, as well as public and quasi-public utilities such as electric, telephone, fiber optics, and stormwater facilities within the Kautz Road right-of-way. However, St. Charles shall not have jurisdiction over West Chicago’s water and sanitary sewer utilities. For purposes of this Agreement, maintenance and repair shall include, but not be limited to the following activities: snow removal, street sweeping, road maintenance, bike path maintenance, repair of street lights and appurtenances, mowing, storm sewer maintenance, ditch drainage swale, and culvert maintenance, and parkway tree care maintenance. Reconstruction responsibility shall include all infrastructure within the Kautz Road right-of-way, including but not limited to the roadway system, storm sewer system, ditch drainage and culvert drainage system, parkway, street lighting system(s), bike path system, parkway trees, and all appurtenances thereto.

St. Charles’ reconstruction, repair and maintenance responsibility shall exclude any West Chicago-owned water and sanitary sewer utilities that may exist or that may later be constructed within the Kautz Road right-of-way. West Chicago shall be responsible for the West Chicago-owned water and sanitary sewer utilities relocation or adjustment that may be required to accommodate a Kautz Road maintenance, repair and reconstruction project. St. Charles shall notify West Chicago, in writing, not less than twelve (12) months prior to any such required relocation or adjustment.

(b) Standards of care: The maintenance, repair and reconstruction of Kautz Road right-of-way, as described in subparagraph (a) above, shall be in accordance with policies and procedures established by St. Charles for other similarly situated roads within the corporate limits of the City of St. Charles or, in the event of the reconstruction (such as resurfacing or total reconstruction) of the Kautz Road right-of-way, in accordance with St. Charles's subdivision regulations under the St. Charles City Code.

(i) *Construction and maintenance indemnification.* Except for the negligence of any of the Indemnitees (hereinafter defined), St. Charles shall require any contractor which is retained to repair or maintain Kautz Road, to protect, defend, indemnify and hold harmless St. Charles and West Chicago and their respective elected and appointed officers, employees and agents (collectively, sometimes called

"Indemnitees"), from and against all loss, claims and expenses, including, but not limited to reasonable attorneys' fees, court costs and expenses of collection which may result from the performance of the work. This indemnification shall include, but not be limited to, loss or destruction of property, including loss of use thereof, bodily injury, personal injury, sickness, disease, or death sustained by any person. Such obligation of the contractor shall not be limited by the availability, limits, or coverage of insurance carried or required herein, or required by law to be carried. The contractor shall indemnify, protect and save harmless St. Charles and West Chicago from and against any and all mechanic's liens or claims for liens arising out of the performance of the work, including any actions brought or judgments rendered thereof, and from and against any and all loss, damage, liability, costs and expenses, including legal fees and disbursements which St. Charles or West Chicago may sustain or incur in connection therewith. Contractor shall include the interest of St. Charles and West Chicago and each municipality's employees, directors, officers and agents all as additional insureds on the contractor's comprehensive general liability insurance policy ("policy"). The policy shall contain coverage of not less than \$2,000,000 and shall not be subject to cancellation without a minimum of thirty (30) days written notice to both St. Charles and West Chicago.

- ii. *General indemnification.* Except for the negligence or willful misconduct of West Chicago, St. Charles shall indemnify and hold harmless West Chicago and its elected and appointed officers, employees and agents from and against all loss, claims and expenses, including, but not limited to reasonable attorney's fees, court cost, and expenses of collection which may result from the performance of the work as herein defined. This indemnification shall include, but not be limited to, loss or destruction of property, including loss of use thereof, bodily injury, personal injury, sickness, disease, or death sustained by any person.

(c) St. Charles shall notify West Chicago, in writing, not less than sixty (60) days prior to the commencement of any necessary resurfacing or reconstruction. Such future reconstruction work or resurfacing work shall be designed, supervised and bid by St. Charles in accordance with the statutory procedures of the Illinois Municipal Code, unless otherwise waived or modified by St. Charles to the extent permitted by law.

(d) The Mayor and City Administrator of West Chicago are hereby authorized to execute any necessary documents to support any state or federal funding and grant applications made by St. Charles for funding of the roadway improvements contemplated herein. Also, St. Charles and West Chicago agree to enter into any tri-party agreements with the Illinois Department of Transportation for any approved State of Illinois Grant Program for the construction of any roadway improvements. St. Charles shall be responsible for all costs and responsibilities associated with grant preparation, and should a grant be received, all costs and responsibilities associated with grant oversight, construction, engineering, and coordination/administration.

**Section 3. Access to Kautz Road.**

(a) St. Charles shall have the sole authority to review, approve and issue access permits for ingress and egress to Kautz Road and to require the installation of such other roadway and traffic improvements that are necessary and commensurate with good and sound engineering practices.

(b) The parties acknowledge and agree that in the event either St. Charles or West Chicago approve additional developments adjacent to Kautz Road which require curb cut access or other roadway improvements, including but not limited to roadway widening or dedicated turn or de-acceleration lanes, to Kautz Road, said party shall require the developer thereof to install, at no cost to the other party, such roadway improvements, as shall be required to support the development.

(c) The parties hereto agree that it is not in their respective best interests to engage in disputes with respect to roadway access. Therefore, St. Charles agrees not to unreasonably restrict roadway access within the Kautz Road right-of-way pertaining to development within West Chicago. The municipalities shall cooperate to coordinate access locations in accordance with sound traffic engineering principles and practices.

**Section 4. West Chicago Utility Installation.** The parties hereto agree that it is not in their respective best interests to engage in disputes with respect to installation of future City owned utilities. Therefore, St. Charles agrees not to unreasonably restrict or prohibit West Chicago from installing, as may be determined necessary, water and sanitary sewer utilities within the Kautz Road right-of-way. The municipalities shall cooperate to coordinate utility locations so as to satisfy the requirements of both municipalities.

**Section 5. Miscellaneous provisions.**

(a) All notices required hereunder shall be made in writing and at the following addresses:

City of St. Charles:

City Administrator  
City of St. Charles  
2 East Main Street  
St. Charles, Illinois 60174

City of West Chicago:

City Administrator  
City of West Chicago  
475 Main Street  
West Chicago, Illinois 60185

(b) Nothing contained in this Agreement shall be construed to create a partnership or

joint venture between the parties, or to authorize either party to act as a general agent for the other party.

(c) Nothing contained in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any person other than the parties hereby and their respective permitted successors and assigns, nor is anything in this Agreement intended to receive or discharge the obligation or liability of any third person to any party to this Agreement nor shall any provision give any third person any right to subrogation or action over or against any party to this Agreement.

(d) This Agreement represents the entire understanding between the parties and may be modified only by a written document signed by both parties.

(e) Neither of the parties may assign its rights and privileges nor its duties and obligations under this Agreement without the written consent of the other party. This Agreement shall inure to the benefit of each party and their respective successors and assigns.

(f) This Agreement and the application of the terms contained herein shall be governed by the laws of the State of Illinois.

(g) The failure or delay of any party anytime to require performance by the other party of any provision of this Agreement, even if known, shall not affect the right of such party to require performance of that provision or to any party of any breach of any provision of this Agreement should not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right, power or remedy under this Agreement. No notice or demand on any party in any case shall, of itself, entitle such party to any other or further notice.

(h) Whenever possible, each provision of this Agreement shall be interpreted in such manners as to be valid under applicable law, but if any provision of this Agreement shall be invalid or prohibited hereunder, such provision shall be ineffective to the extent of the prohibition or invalidation, but shall not invalidate the remainder of such provision or the remaining provisions to this Agreement.

(i) This Agreement may be executed in multiple, identical counterparts and all said counterparts shall, taken together, constitute this integrated agreement.

(j) St. Charles and West Chicago have authorized, by Resolution or Ordinance, the execution of this Agreement as an exercise of their respective intergovernmental cooperation authority under the Constitution of the State of Illinois.

(k) The Effective Date of this Agreement shall be the date upon which this Agreement and the Boundary Agreement have been adopted and executed by both parties.

**IN WITNESS WHEREOF**, the parties have hereunto set their hands and seals on the date first above written.

CITY OF WEST CHICAGO, an Illinois municipal corporation

By: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

CITY OF ST. CHARLES, an Illinois municipal corporation

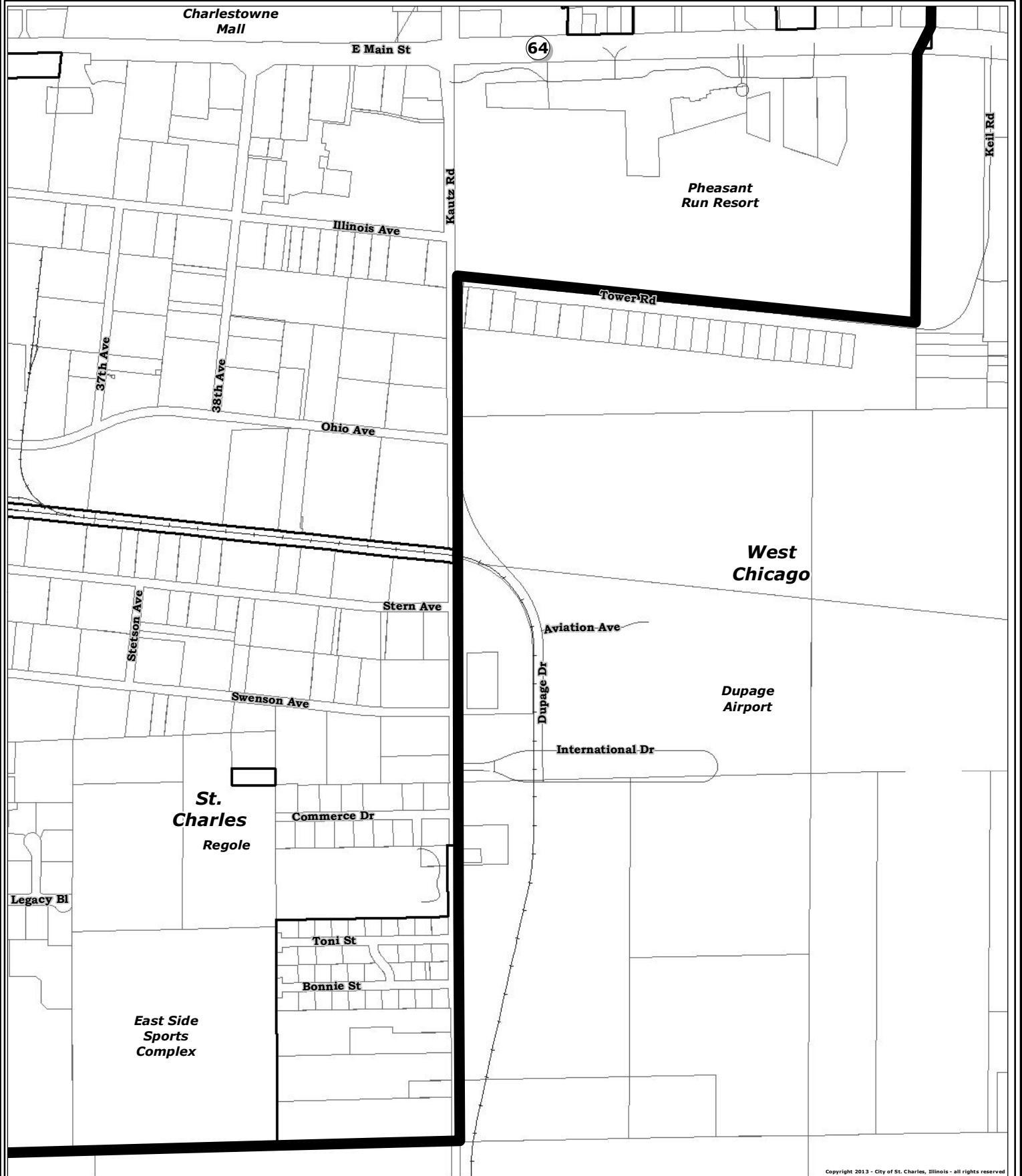
By: \_\_\_\_\_  
Mayor

ATTEST:

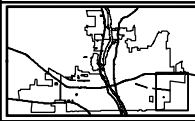
\_\_\_\_\_  
City Clerk



EXHIBIT "A"



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Publication Date:  
March 5, 2013  
Data Source:  
City of St. Charles, Illinois  
Projection: Transverse Mercator  
Coordinate System: Illinois State Plane East  
North American Datum 1983  
TH #: 130305192959987



West Chicago Boundary Agreement



St. Charles Municipal Boundary



Parcels

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