



ST. CHARLES
SINCE 1834

AGENDA ITEM EXECUTIVE SUMMARY

Title:	Consideration of a Resolution Granting a Tenth Extension to Begin Construction Following Recording of the PUD Final Plat for the First Street Redevelopment PUD Phase III, Lots 1 & 2 (SMN Development LLC development site – Building 9)
Presenter:	Rita Tungare

Please check appropriate box:

	Government Operations		Government Services
	Planning & Development	X	City Council – New Business (4/7/14)

Estimated Cost:	N/A	Budgeted:	YES		NO	
-----------------	-----	-----------	-----	--	----	--

If NO, please explain how item will be funded:

Executive Summary:

Background:

Phase III of the First Street Redevelopment PUD includes all of the property on the riverfront and 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). This specific extension is for the SMN Development LLC site and includes Building 9 only.

The Final Plat of Subdivision for Phase III was recorded on December 8, 2008, and per Section 17.04.420 of the Zoning Ordinance, construction within the phase, as authorized by the issuance of a building permit, must begin within two years from the date of Final Plat recording for that specific phase. On November 18, 2013, the City Council granted a ninth construction extension, which extended the deadline to April 8, 2014 (Resolution #2013-115). To date, no building permits have been issued for construction on any portion of the Phase III site.

Without any further extension, approval of the PUD Preliminary Plans for the Phase III buildings and site improvements will lapse. ***The Special Use for PUD Ordinance, which established the Zoning Standards for the site, will remain in place.*** However, if no extension is granted, future PUD Preliminary Plans (including building architecture, streetscape, and landscape designs) will require a new review and approval by the Plan Commission and City Council.

The Zoning Ordinance allows the City Council to grant no more than a one-year extension to begin construction. The City of St. Charles, as a landowner within the site, was a signatory to the Final Plat of Subdivision. City Council approval of the developer's extension request will constitute the City's authorization for the extension.

Current Request from SMN Development:

SMN Development LLC has submitted a written request for an extension for one year to April 8, 2015. When the previous extension was granted on November 18, 2013, the City Council outlined benchmarks for SMN to meet prior to April 7, 2014. An updated table of these benchmarks has been prepared by staff and is attached.

Note: This extension relates only to the PUD plan approvals for Building 9/One West Main. The extension of the purchase agreement for Lot 2 is listed as a separate agenda item.

Attachments: (please list)

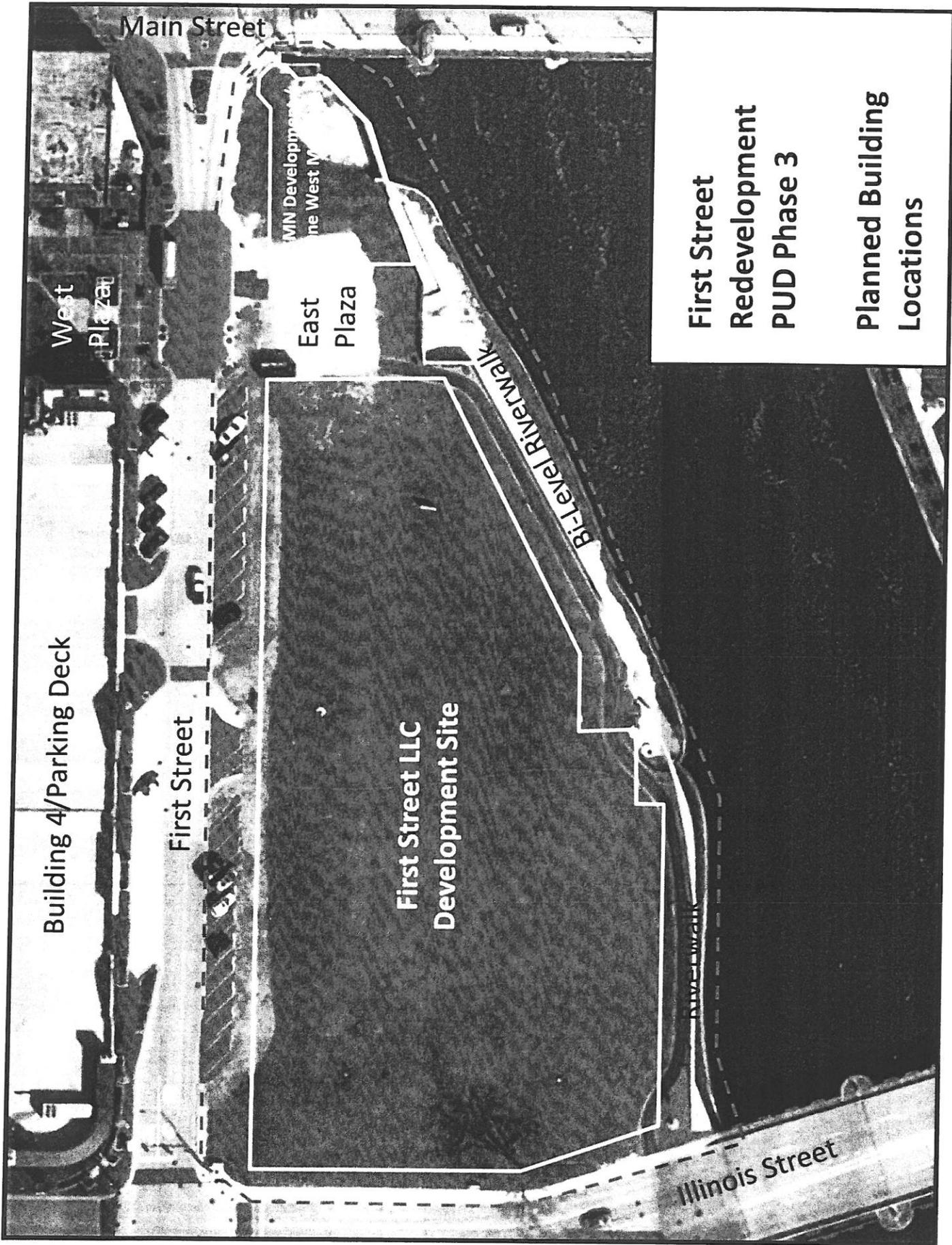
Aerial photo, Progress Table, Extension request letter and City response, Resolution

Recommendation / Suggested Action (briefly explain):

Decide whether to grant an extension. Staff does not believe, as is highlighted in the attached table, that the benchmarks set by the City Council have been met completely.

For office use only

Agenda Item Number: 18



Main Street

West Plaza

MN Development
the West M

East Plaza

B-Level Riverwalk

Building 4/Parking Deck

First Street

First Street LLC
Development Site

Illinois Street

First Street
Redevelopment
PUD Phase 3
Planned Building
Locations

First Street Phase 3 Progress Table – SMN Development LLC

April 4, 2014

Action Item	Developer Status	City Status
<p>SMN DEVELOPMENT SMN Development to provide an assessment of the financial viability and marketability of the proposed One West Main building. SMN would also provide a schedule for project implementation, including marketing, leasing and commencement of construction.</p>	<p>SMN met with staff on 2/10/14 to discuss that: 1) Market data has been gathered and a narrative is being prepared. 2) A design-build construction firm is working on value engineering the building to identify options to reduce the construction cost. SMN met with staff on 4/2/14 and provided information on specific options to modify the building to reduce the construction cost per square foot of building. Options include changes to the architectural design/materials or enlargement of the building footprint.</p>	<p>On 2/11/14, SMN requested an extension of the purchase agreement and construction date. This letter was provided to the P&D Committee on 3/10/14. An updated extension request from SMN was submitted on 4/3/14 requesting a one year extension to 4/8/15. SMN has not provided an assessment of the financial viability and marketability of the proposed building or a schedule for project implementation.</p>

KLEIN, DADAY, ARETOS & O'DONOGHUE, LLC

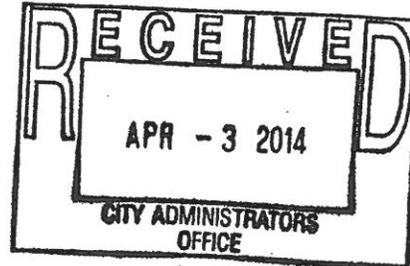
Joseph J. Klein
 Stephen G. Daday
 Michael G. Aretos
 Timothy J. O'Donoghue

Attorneys and Counselors
 2550 W. GOLF RD., SUITE 250
 ROLLING MEADOWS, IL 60008
 (847) 590-8700
 FAX (847) 841-3636

Of Counsel
 Carrissa M. Alvers
 Christopher N. Ackeret
 Nancy S. Scotillo
 James M. Nelis

Jonathan N. Rogers
 Katherine A. Kuznickas
 Robyn K. Kish
 Daniel J. Lee
 Aaron D. White, Jr.
 Kristopher M. Briggs
 Kinga M. Lota
 Amanda K. Reed

Hon. John J. Scotillo (ret.)



April 3, 2014

**Via Facsimile, U. S. Mail and
 Certified Mail, Return Receipt Requested**

City Of St. Charles
 Mayor Raymond Rogina
 2 E. Main Street
 St. Charles, IL 60174

City of St. Charles
 Mark Koenen
 2 E. Main Street
 St. Charles, IL 60174

City of St. Charles
 Russell Colby
 2 E. Main Street
 St. Charles, IL 60174

Re: PUD Construction Extension for First Street Phase III

Dear Mayor and City Council:

Per Section 17.04.420 of the St. Charles Zoning Ordinance, I hereby request an extension of the construction period for Building 9 (1 W. Main St/former Manor site) in Phase III of the First Street Redevelopment PUD, to extend the deadline for beginning construction. Phase III includes all of the property on the riverfront and includes Building I (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). Without any further extension approval of the PUD Preliminary Plans for the buildings and site improvements in this phase will lapse on April 8, 2015.

The Final Plat of Subdivision for Phase III was recorded on December 12, 2008, and per Section 17.04.420 of the St. Charles Zoning Ordinance, construction on a specific phase of a PUD as authorized by the issuance of a building permit, must begin within two years from date of Final Plat recording for that specific phase. To date, no building permits have been issued for construction on any portion of the site.

We previously marketed the property with Kevin O'Donnell, a Commercial Real Estate Broker, but were unable to secure lease commitments for Building 9. Recently, after several meetings with City officials and aldermen, we engaged the services of Mark Wilson from Stahelin Properties to again market the Property. We met with Mark Wilson several times to discuss the Property and to discuss the current office and retail demand for space in St. Charles.

Based on our discussions with Mark, we determined that we needed to reassess our building, design and construction. We engaged the services of Brice Soltys of Soltys Design/Build LLC to review our construction plans and engineering. Brice will be making recommendations to us to reduce our cost of construction which, in turn, will reduce the rent required from prospective tenants to ensure a successful project at 1 W. Main Street. We coordinated a meeting with City officials, aldermen, ourselves, Mark Wilson and Brice Soltys to discuss their investigation and recommendations. The current economic environment is still uncertain. Retail and office expansion is very limited in the Fox Valley area. At this time, we do not have adequate pre-leasing activity to secure financing to begin construction on Building 9. However, as we represented to City staff, City officials, and the City Council, we remain committed to moving forward with the construction of Building 9. We remain convinced that the location of our site, the success of existing First Street businesses and the continued support of the St. Charles City Council will allow us to succeed in our efforts to lease the Building and begin construction. We will continue to work with City staff and City officials to promote First Street development and communicate both successes and setbacks as we move forward.

We are available at any time to meet with you to answer any questions that you might have with regard to building 9 in Phase III. Thank you for your consideration of this request.

Very truly yours,

Joseph J. Klein

Joseph J. Klein

JJK/cp

Our File No. 2007-0226



ST. CHARLES
SINCE 1834

#1 City for Families
by FamilyCircle® 2011

February 19, 2014

Joseph Klein
Klein, Daday, Aretos & O'Donoghue, LLC
2550 W. Golf Rd., Suite 250
Rolling Meadows, IL 60008

Re: SMN Development – Feedback to PUD extension request dated February 11, 2014

Mr. Klein:

The City of St. Charles is in receipt of your February 11, 2014 letter requesting an extension of the date to begin construction of Building 9 of the First Street project, also known as 1 W. Main St. Specifically you have requested an extension of the date referenced in the Purchase Agreement dated September 2, 2008 (as subsequently modified). Of particular interest is the timeline you are asking the Council to consider for this extension. Your clarification of this timeline would be helpful to the Council to better understand your intention and milestones along the way to represent progress as we head towards the proposed extension date.

The February 11 letter you provided will be included in the Planning and Development Committee of the City Council packet for their consideration at the meeting on March 10, 2014. I anticipate you will be present at this meeting to represent your request.

Further, I recommend you continue to explore other options to move the project forward, as has been previously requested by the City Council. City staff is available to meet at your request. Please contact me if you have any questions.

Sincerely,

Mark Koenen
City Administrator

cc: Raymond Rogina, Mayor
Chris Minick, Director of Finance
John McGuirk, City Attorney
Rita Tungare, Director of Community & Economic Development

RAYMOND P. ROGINA *Mayor*

MARK KOENEN, P.E. *City Administrator*

KLEIN, DADAY, ARETOS & O'DONOGHUE, LLC

Joseph J. Klein
Stephen G. Daday
Michael G. Aretos
Timothy J. O'Donoghue

Attorneys and Counselors
2550 W. GOLF RD., SUITE 250
ROLLING MEADOWS, IL 60008
(847) 590-8700
FAX (847) 841-3636

Of Counsel
Nancy S. Scotillo
James M. Nelis
Hon. John J. Scotillo (ret.)

Jonathan N. Rogers
Carrissa M. Alvers
Katherine A. Kuznickas
Robyn K. Kish
Daniel J. Lee
Aaron D. White, Jr.
Kristopher M. Briggs
Kinga M. Lota
Amanda K. Reed

February 11, 2014

**Via Facsimile, U. S. Mail and
Certified Mail, Return Receipt Requested**

City Of St. Charles
Mayor Raymond Rogina
2 E. Main Street
St. Charles, IL 60174

City of St. Charles
Mark Koenen
2 E. Main Street
St. Charles, IL 60174

City of St. Charles
Russell Colby
2 E. Main Street
St. Charles, IL 60174

Re: PUD Construction Extension for First Street Phase III

Dear Mayor and City Council:

Per Section 17.04.420 of the St. Charles Zoning Ordinance, I hereby request an extension of the construction period for Building 9 (1 W. Main St/former Manor site) in Phase III of the First Street Redevelopment PUD, to extend the deadline for beginning construction. Phase III includes all of the property on the riverfront and includes Building I (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). Without any further extension approval of the PUD Preliminary Plans for the buildings and site improvements in this phase will lapse on April 8, 2014.

The Final Plat of Subdivision for Phase III was recorded on December 12, 2008, and per Section 17.04.420 of the St. Charles Zoning Ordinance, construction on a specific phase of a PUD as authorized by the issuance of a building permit, must begin within two years from date of Final Plat recording for that specific phase. To date, no building permits have been issued for construction on any portion of the site.

We previously marketed the property with Kevin O'Donnell, a Commercial Real Estate Broker, but were unable to secure lease commitments for Building 9. Recently, after several

meetings with City officials and aldermen, we engaged the services of Mark Wilson from Stahelin Properties to again market the Property. We met with Mark Wilson several times to discuss the Property and to discuss the current office and retail demand for space in St. Charles. Based on our discussions with Mark, we determined that we needed to reassess our building, design and construction. We engaged the services of Brice Soltys of Soltys Design/Build LLC to review our construction plans and engineering. Brice will be making recommendations to us to reduce our cost of construction which, in turn, will reduce the rent required from prospective tenants to ensure a successful project at 1 W. Main Street. We coordinated a meeting with City officials, aldermen, ourselves, Mark Wilson and Brice Soltys to discuss their investigation and recommendations. The current economic environment is still uncertain. Retail and office expansion is very limited in the Fox Valley area. At this time, we do not have adequate pre-leasing activity to secure financing to begin construction on Building 9. However, as we represented to City staff, City officials, and the City Council, we remain committed to moving forward with the construction of Building 9. We remain convinced that the location of our site, the success of existing First Street businesses and the continued support of the St. Charles City Council will allow us to succeed in our efforts to lease the Building and begin construction. We will continue to work with City staff and City officials to promote First Street development and communicate both successes and setbacks as we move forward.

We are available at any time to meet with you to answer any questions that you might have with regard to building 9 in Phase III. Thank you for your consideration of this request.

Very truly yours,

Joseph J. Klein

Joseph J. Klein

JJK/cp

Our File No. 2007-0226

**City of St. Charles, Illinois
Resolution No. _____**

**A Resolution Granting a Tenth Extension to Begin Construction Following
Recording of the PUD Final Plat for the
First Street Redevelopment PUD Phase III, Lots 1 & 2
(SMN Development LLC development site- Building 9)**

**Presented & Passed by the
City Council on _____**

WHEREAS, on December 8, 2008, the Final Plat of Subdivision for Phase III of the First Street Redevelopment PUD was recorded in the Kane County Recorders Office as Document Number 2008K089916; and

WHEREAS, Building 9, located on Lots 1 and 2, was proposed to be developed by SMN Development LLC; and

WHEREAS, Section 17.04.420 of the St. Charles Zoning Ordinance requires that if construction for each phase of the PUD, as authorized by the issuance of a building permit, does not begin within two (2) years of the date of the recording of the PUD Final Plat for that phase, approval of the PUD Preliminary Plans for the phase shall lapse; and

WHEREAS, on November 10, 2010, the City Council approved Resolution No. 2010-44, granting a 12-month extension to begin construction, extending the date from December 8, 2010 to December 8, 2011; and

WHEREAS, on December 6, 2011, the City Council approved Resolution No. 2011-106, granting an extension to begin construction, extending the date from December 8, 2011 to January 17, 2012; and

WHEREAS, on January 17, 2012, the City Council approved Resolution No. 2012-2, granting an extension to begin construction, extending the date from January 17, 2012 to February 21, 2012; and

WHEREAS, on February 21, 2012, the City Council approved Resolution No. 2012-15, granting an extension to begin construction, extending the date from February 21, 2012 to May 7, 2012; and

WHEREAS, on May 7, 2012, the City Council approved Resolution No. 2012-36, granting an extension to begin construction, extending the date from May 7, 2012 to July 17, 2012; and

WHEREAS, on, July 16, 2012, the City Council approved Resolution No. 2012-89, granting an extension to begin construction, extending the date from July 17, 2012 to May 7, 2013; and

WHEREAS, on, May 6, 2013, the City Council approved Resolution No. 2013-44, granting an extension to begin construction, extending the date from May 7, 2013 to August 20, 2013; and

WHEREAS, on, August 19, 2013, the City Council approved Resolution No. 2013-95, granting an extension to begin construction, extending the date from August 20, 2013 to November 20, 2013; and

WHEREAS, on, November 19, 2013, the City Council approved Resolution No. 2013-115, granting an extension to begin construction, extending the date from November 20, 2013 to April 8, 2014; and

WHEREAS, to-date no building permits have been issued for construction within said phase; and

WHEREAS, Joe Klein, on behalf of property owners SMN Development LLC, has requested an extension to begin construction of buildings in Phase III.

NOW THEREFORE, be it resolved by the Mayor and City Council of the City of St. Charles, Kane and DuPage Counties, Illinois that pursuant to Section 17.04.420 of the St. Charles Zoning Ordinance, an extension to begin construction following recording of the PUD Final Plat shall be granted for Lots 1 & 2 of Phase III of the First Street Redevelopment. Construction shall begin no later than _____, and the PUD Preliminary Plan shall remain valid until _____.

PRESENTED to the City Council of the City of St. Charles, Illinois, this 7th day of April 2014.

PASSED by the City Council of the City of St. Charles, Illinois, this 7th day of April 2014.

APPROVED by the Mayor of the City of St. Charles, Illinois, this 7th day of April 2014.

Raymond P. Rogina, Mayor

Resolution No. _____

Page 3

ATTEST:

City Clerk

COUNCIL VOTE:

Ayes:

Nays:

Absent:

Abstain: