

**MINUTES
CITY OF ST. CHARLES, IL
PLAN COMMISSION
TUESDAY, JULY 22, 2014**

Members Present: Chairman Todd Wallace
Vice Chair Tim Kessler
Steve Gaugel
James Holderfield
Laura Macklin-Purdy
Tom Pretz
Tom Schuetz

Members Absent: Sue Amatangelo
Brian Doyle

Also Present: Russell Colby-Planning Division Manager
Rita Tungare-Director of Community & Economic Development
Ellen Johnson-Planner

1. Call to order

The meeting was called to order at 7:04 p.m. by Chairman Wallace.

2. Roll Call

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

3. Presentation of minutes of the July 8, 2014 meeting.

A motion was made, seconded and unanimously passed by voice vote to accept the minutes of the July 8, 2014 meeting.

4. Plan Commission Training

Mr. Colby began the Plan Commission Training session. He followed the PowerPoint slides provided to the Commissioners. Commissioners were free to ask questions and discuss items throughout the presentation. [Only questions, answers, and discussion have been described in the minutes.]

Vice Chair Kessler asked for more information regarding the powers granted to the Plan Commission by the City Code. Mr. Colby said that information will be covered later in the presentation.

Ms. Macklin-Purdy asked for clarification on term length. Mr. Colby had stated that Commissioners serve three-year terms, and Ms. Macklin-Purdy believed they serve four-year terms. Mr. Colby said he would check the City Code to clarify. [Plan Commissioners serve four-year terms.]

Chairman Wallace clarified that the City's 1 ½ mile planning jurisdiction only applies to areas not within other municipalities. Mr. Colby said review authority is only over unincorporated properties that are not in other municipalities and that are on our side of the jurisdictional boundary line agreement. The City has jurisdictional boundary line agreements with most of its neighbors.

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Chairman Wallace asked about how the boundary lines are defined. Mr. Colby explained they are intergovernmental agreements between the City and other municipality. The agreements have been negotiated and approved by the City Council.

Ms. Tungare added the City has boundary line agreements with South Elgin, Wayne, Geneva, and West Chicago. The City may be considering an agreement with Campton Hills next year.

Ms. Tungare asked Mr. Colby where the boundary line agreements are shown. Mr. Colby said the planning area shown in the Comprehensive Plan is bounded by those lines. Future land uses are not shown for properties outside of the City's jurisdiction. Staff can provide the Commission with maps showing the boundary line agreement locations.

Vice Chair Kessler clarified that the jurisdictional line is not necessarily 1 ½ miles outside the City's border. He asked whether the agreements ever change. Mr. Colby said yes, the term of the agreements are typically 20 years but could be less and some agreements have been amended.

Mr. Pretz asked about the power Kane County has over unincorporated land within the City's 1 ½ mile jurisdiction. Mr. Colby said unincorporated property is under the zoning and subdivision authority of Kane County so applications for rezoning or subdivision would go through Kane County. If the property is within City's planning area, the County will provide the City with a copy of the application and the opportunity to review it. The City has the authority under state statute to impose its subdivision regulation standards on proposed development and comment on zoning matters.

Mr. Schuetz brought up the issue of video gambling which City Council decided not to discuss when brought up by a representative of Moose Lodge at a recent Council meeting. He thought that Plan Commission is required to review items brought before it, and that personal emotion should not be involved and asked whether City Council is different. Mr. Colby said it relates to what the request was for. All property owners within the City have the right to petition for any zoning request they would like to make. The City is required to schedule a hearing and take the application through the process outlined in the ordinance, since that is part of the applicant's property rights. This right does not apply to other types of regulations that do not fall under the umbrella of zoning. If a zoning requirement prohibits the use of video gambling, someone could petition for the use to be added as a permitted use in the zoning district.

Mr. Schuetz asked why the Plan Commission reviewed medical cannabis and not video gambling. Mr. Colby explained the City made a decision to regulate cannabis through zoning due to location restrictions in the State Statute. Through zoning restrictions, the City has the authority to know where the use will be located. If the City did not regulate cannabis through zoning, it would be open to interpretation as to how the use would be categorized within the permitted use lists.

Mr. Schuetz asked how the cannabis issue is different than video gambling. Mr. Colby said video gambling is not defined in the zoning ordinance. Ms. Tungare said if Council would have said they are open to considering allowing video gambling, they would have directed staff to look into the issue, and there could have been zoning implications. The zoning ordinance could potentially be amended. Council sets policy for the community based on what they think is in the best interest of the city. Based on that, they decided not to discuss the matter.

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Vice Chair Kessler asked whether Moose Lodge could have come at the issue from a different channel. Ms. Tungare said video gambling is regulated differently by the state and a licensing process is involved. If Plan Commission and Council were obligated to consider a zoning application, the other mechanism for them to make a policy decision would be through the licensing, which Plan Commission is not involved with.

Mr. Holderfield asked about drive-through liquor facilities and whether that would go through City Council or Plan Commission. Mr. Colby said the Plan Commission would have to review an application for special use for the drive-through facility. Since liquor is not regulated through zoning ordinance, the application would be reviewed the same way as a restaurant drive-through. Ms. Tungare said Plan Commission would be limited in scope but at City Council, it becomes a broader issue due to liquor licensing. Vice Chair Kessler said that not injecting personal opinions into their decisions is what makes the Plan Commission's job difficult. He said the Commission may sometimes go beyond what is under its purview when making decisions.

Vice Chair Kessler asked Mr. Colby to clarify what "applying ordinance findings" means. Mr. Colby said City Code dictates applications should be reviewed subject to meeting specified findings. The Commission applies the findings to specific situations.

Mr. Scheutz clarified that findings are really criteria.

Vice Chair Kessler asked about standards. Mr. Colby said the Commission looks at what standards are set for certain types of uses and interprets whether those standards are met. Findings require the Commission to assess information and reach a conclusion. Standards are in place for the Commission to assess whether findings are met, or not. A proposal either meets the standards or it does not, but findings require an assessment of information and a conclusion to be reached. Ms. Tungare pointed out the Use Standards chapter of the zoning ordinance that lays out additional criteria that must be met for certain uses.

Vice Chair Kessler gave an example of a finding of fact: that a use does not have any impact on surrounding neighbors. The Commission must decide whether that is true since it is subjective.

Mr. Colby said staff outlines issues and advises the Commission on application of policy through the materials staff provides. It is up to the Commission to consider that information.

Vice Chair Kessler said there are three things the Commission should consider in almost all applications: findings, standards, and policy.

Mr. Pretz asked whether staff works together to review applications. Mr. Colby explained that plans are sent to other departments, like Public Works and Fire, for review and they provide comments. Planning Division staff's role is to take all the information and identify any conflicts, come up with one voice for what City staff is requesting, and put together comments for the developer to consider. Smaller projects that do not impact other departments are reviewed only by the Planning Division. Ms. Tungare said planners serve as project coordinators.

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Ms. Tungare said the Plan Commission deals primarily with private development. The zoning ordinance regulates private property. Public Works typically deals with public property (like streets and rights-of-way), and Community Development deals with regulating private property. Mr. Colby added that when Plan Commission reviews some PUDS and subdivisions, the development may provide publicly owned improvements, like new streets, that the City will take ownership of after the project is developed. Public Works is closely involved in those cases.

Ms. Macklin-Purdy asked about 1st Street and the garage the City takes care of. Mr. Colby said the City was involved with the project and was part applicant with the developer, but Plan Commission looked at the project as a private development. Aspects of the project created publicly owned improvements, but were part of the larger PUD project.

Mr. Scheutz said the Plan Commission does not address streets and infrastructure when reviewing proposals. Mr. Colby said most of the code requirements related to public infrastructure are not up for interpretation or deviation. Plan Commission only reviews aspects related to design and above-grade physical elements.

Mr. Gaugel asked whether an application that meets the zoning ordinance but is inconsistent with the comprehensive plan would come before the Plan Commission. Mr. Colby explained that if the applicant were requesting something that met all criteria of the zoning ordinance, Plan Commission and City Council would be compelled to approve it because the property owner has a right to take advantage of whatever the zoning allows them to do, even if it is contradictory to City policy stated in the comprehensive plan. In that case, the City should have changed the zoning in response to the policy.

Vice Chair Kessler asked about jurisdictional boundaries and the comprehensive plan. Mr. Colby said the planning area shown in the plan only includes parcels on our side of the jurisdictional boundary lines. Where no boundary line agreement exists, the planning area goes to the 1 ½ mile limit.

Mr. Pretz asked about findings of fact and the comprehensive plan. Mr. Colby said the Planned Unit Development and Map Amendment applications incorporate comprehensive plan considerations into the findings of fact because those types of requests deal with changes in land use.

Vice Chair Kessler asked for confirmation that the City can exercise its police power over private property through the zoning ordinance, as granted by the state, and the Plan Commission is part of the process of that power, but it is not necessarily the Commission's power to exercise. Mr. Colby confirmed.

Ms. Macklin-Purdy reported that she visited a car dealership through her work with the Chamber. The owner said the property was originally zoned as a car dealership, but was not used as such for a long time. She asked for clarification that a property does not have to be used as a certain use, but can be. Mr. Colby said for each zoning district, there are list of permitted land uses. Any business listed as permitted has a legal right to operate, provided they can meet other standards of the ordinance, like parking.

Mr. Scheutz said he does not recall the comprehensive plan showing specific R-1, R-2, R-3 districts. Mr. Colby said the plan shows single-family residential, attached residential, and multi-family residential. It does not get into detail; it identifies general locations for types of uses.

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Vice Chair Kessler asked if the list of zoning powers in the state statute is similar from state to state. Ms. Tungare said the language may be different, but they are similar for the most part. She thinks Plan Commission has the most difficult job of the City's commissions because its scope of responsibilities is very broad.

Vice Chair Kessler said it seems like most of the findings of fact are based on the list of zoning powers. Mr. Colby said some findings of fact are based on standards, and some are subject to interpretation. Findings of fact address more the purposes of zoning. Ms. Tungare said the work the Commission does is governed by state law, so there are legal implications to our actions; how the Commission arrives at decisions is critical.

Mr. Pretz asked if the list of twelve zoning powers is the complete list of powers. Mr. Colby said they are the twelve powers in the state statute; they can be broken apart into many different regulations, which fall under the umbrella of those powers.

Mr. Schuetz observed that a couple meetings ago, the Commission got hung up on the comprehensive plan and how it could not be changed. He said the Commission should differentiate between the comprehensive plan and zoning to avoid confusion.

Ms. Tungare said the first page of each staff report includes a table that shows the property's zoning, the zoning of surrounding properties, and the comprehensive plan designation. Mr. Colby said the analysis section of the staff report breaks down comprehensive plan considerations and zoning information in separate sections.

Vice Chair Kessler asked about the purpose of the City Council step in the zoning approval process if Planning and Development Committee recommends approval. Mr. Colby said the Committee conducts a similar review as Plan Commission and makes a recommendation. After that meeting, staff drafts an ordinance based on the Committee's recommendation and Council makes a vote. Ms. Tungare said Council really does their work at the Committee level, so that is where they review applications in depth, although not in as much depth as Plan Commission.

Vice Chair Kessler commented review by both the Committee and Council seems redundant. Ms. Tungare said this practice goes back a few decades. City Council takes legislative action at the Council meeting.

Vice Chair Kessler asked whether the staff report the Committee receives is different than what Plan Commission receives and whether the applicants present to the Committee. Mr. Colby said staff reports are typically the same, although the Committee's staff report includes the Plan Commission recommendation and public hearing information. Staff typically presents to the Committee, but the applicant is in attendance to answer questions. Ms. Tungare added that concept plans are typically presented by the applicant.

Vice Chair Kessler stated it seems like an applicant would alter their presentation to the Planning and Development Committee based on feedback from the Plan Commission, and that there could be a problem if the Commission is not reviewing the application based on the same information as the Committee. Mr. Colby said the Committee receives the same application and staff materials as the Plan

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Commission. The Committee considers that the Plan Commission reviewed the information and made a recommendation and findings of fact based on what was presented. The Committee accepts the advice of the more detailed technical body and makes a decision based on that recommendation.

Mr. Schuetz said it sounds like the applicant would be more successful at the Committee level.

Mr. Schuetz asked whether the Planning and Development Committee does findings of fact. Mr. Colby said they receive the findings of fact sent from the Plan Commission. When they make a recommendation on an application that has findings of fact, they are affirming those findings and directing staff to put those findings in the ordinance approving the application. Council could choose to alter certain findings with the intent of changing the recommendation, although that does not happen very often. Ms. Tungare said when Council adopts an ordinance, they are approving an ordinance that includes findings of fact; they are substantiating the findings of fact through the legislative action. Vice Chair Kessler said the findings are very important. Ms. Tungare said Council relies on Plan Commission and staff to do the technical work. Mr. Colby said although Council does not pick the findings apart, they acknowledge through their action that they are agreeing to and adopting those findings.

Ms. Tungare suggested ending the presentation before its completion and postponing the discussion on zoning applications until the next training session.

Mr. Schuetz suggested bringing questions to the next meeting or sending them to Mr. Colby prior to the meeting.

Ms. Tungare said there was good discussion today and it is important for Commissioners to get the most out of these conversations.

5. Meeting Announcements

Tuesday, August 5, 2014 at 7:00pm Council Chambers

Tuesday, August 19, 2014 at 7:00pm Council Chambers

Tuesday, September 2, 2014 at 7:00pm Century Station

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

- Plan Commission training scheduled for the August 5 meeting.

7. Adjournment at 8:35 p.m.