

**MINUTES
CITY OF ST. CHARLES, IL
PLAN COMMISSION
TUESDAY, OCTOBER 7, 2014**

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

Members Absent: Sue Amatangelo

Also Present: Russell Colby-Planning Division Manager
Ellen Johnson-Planner

1. Call to order

The meeting was called to order at 7:03 p.m. by Chairman Wallace.

2. Roll Call

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

3. Presentation of minutes of the September 16, 2014 meeting.

A motion was made, seconded and unanimously passed by voice vote to accept the minutes of the September 16, 2014 meeting.

4. Plan Commission Training

Mr. Colby began the fourth and final session of Plan Commission training, beginning where the last session stopped at the discussion on findings of fact. 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 if staff can really recommend the Plan Commission approve an application. Mr. Colby explained that staff can state what type of action the Commission should take on an application based on procedure. If an application is complete and information has been submitted, the staff recommendation will be for the Commission to conduct a public hearing, close if all testimony has been received, and offer a recommendation for approval based on staff's belief that there is enough information for the Commission to take action on the application. That recommendation does not necessarily mean staff is recommending the Commission make the policy decision to recommend the project or that it meets all the findings; the Commission needs to reach that conclusion.

Mr. Holderfield added the staff recommendation states the application meets the criteria of the City to move forward, not that the Commission should vote for it; enough information has been submitted for the Plan Commission to take action on the application.

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Mr. Doyle asked whether the staff recommendation goes forward to Committee/City Council along with the Plan Commission recommendation. Mr. Colby said staff's recommendation only goes forward if staff is the applicant, like for a General Amendment. If not, only the Plan Commission recommendation would be presented. This is a change to how things have been done in the past.

Vice Chair Kessler stated that he has heard Planning & Development Committee ask for staff's recommendation. Mr. Colby said they are usually looking for direction on technical issues. He said staff needs to make a better effort to put the Plan Commission recommendation forward because that is what the Committee should be considering when taking action.

Mr. Doyle said it is important for the Commission and Committee/City Council to ask for professional expertise from city planners and for any recommendations presented to Council to be transparent as to where they are coming from, particularly if there are points of difference.

Mr. Schuetz said he had been perplexed that the staff recommendation was almost always for approval. Mr. Colby said this represents a change; staff will only be presenting recommendations from a technical standpoint.

Mr. Doyle said it is a red flag for the Commission when staff states they do not have sufficient information to make a recommendation.

Mr. Doyle asked whether it is the Commission's responsibility to predicate its recommendation on its own findings of fact. He stated the Commission can take the proposed findings of fact from the applicant or staff. The Commission needs to be deliberate in deciding whether or not they accept those findings of fact, which they have not done much in the past.

Mr. Colby said when findings were drafted by staff, there was an expectation that the findings would cover what they needed to. Now, the burden is placed on the applicant and the applicant has to defend their application. The Commission can choose to work with the applicant's findings, draft their own, or direct staff to draft findings for a subsequent meeting.

Mr. Doyle asked whether staff will continue to provide advice to applicants as to what constitutes well-crafted findings of fact. Mr. Colby said staff will do so only to the extent things are missing.

Vice Chair Kessler asked if the Commission can modify the applicant's findings to make them acceptable. Mr. Colby confirmed and said the Commission should state that the response to one of the findings was not sufficient and that a piece of information needs to be added in order for the finding to be met.

Vice Chair Kessler asked what the staff recommendation would be for a Preliminary Plat of Subdivision application, which does not involve findings. Mr. Colby explained staff would state they have reviewed the plans and the requirements have been met. Since conformance with the Comprehensive Plan is subject to interpretation, staff would highlight applicable sections of the Plan and leave the interpretation on whether the proposal complies up to the Commission.

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Mr. Doyle brought up traffic studies and the fact that there is a lot of room for disagreement and subjectivity, particularly when traffic impacts are based on uncertain future circumstances. Mr. Colby said the Commission should try to focus on the incremental change from the project. Mr. Doyle said he would consult staff in these situations and Mr. Colby said if possible, staff would differ to the experts who put the study together. He added that the City will hire a consultant to analyze traffic studies done by a developer's consultant to ensure conclusions reached are adequate.

Mr. Schuetz asked whether it is appropriate for staff to explain specific aspects of the traffic study to the Commission and audience during meetings. Mr. Colby said yes, and questions would be directed to the author of the traffic study.

Vice Chair Kessler asked what an example of a public inconvenience might be. Mr. Gaugel mentioned the Fydoland application and that the public was trying to convince the Commission that the use would be an inconvenience in that location.

Mr. Schuetz asked about the economic well-being element for PUDs and how the applicant knows the impact will be positive. Mr. Colby said the Commission can ask the applicant for supporting evidence and data. However for a PUD there is only one finding, and economic well-being is just one of the elements to consider, which must be weighed against the other elements.

Mr. Doyle asked about the Commissioners' responsibility if residents speak to them about an application outside of a public hearing which has been continued. Should Commissioners say they cannot hear testimony outside of the hearing, or should they present the resident's information at the next meeting? Mr. Colby responded that Commissioners should not hear testimony outside of the hearing. If someone wants to provide testimony, it needs to be done at the public hearing so it can be cross-examined. Residents may submit comment letters to the Commission.

Chairman Wallace said he spoke with the City's previous legal counsel about the Commission's practice of reading letters at the public hearing. In a courtroom, that would not be allowed as evidence. Counsel said the Commission is quasi-judicial in that they do not follow the rules of evidence. The question is how much weight Commissioners give to such evidence when they do not have the ability to cross-examine the person who submitted the letter.

Mr. Doyle stated that during the Towne Centre approval process, a fire marshal mentioned that the eight stories proposed makes sense because that is the height ladders can reach. That information influenced his thinking about the application, but it was not discussed at the public hearing. He asked whether he should bring things like that up. Chairman Wallace said if it is information you feel is material to your decision, bring it up by asking the applicant's expert, so it becomes their testimony, opens it up for discussion, and puts it on the public record.

Mr. Doyle asked about impact fees for schools and parks and whether they are stipulated in the Zoning Ordinance. Mr. Colby said dedications are in the Subdivision Code, so they should not be considered in zoning applications; City Council makes decisions regarding those fees. The information is presented to the Commission to demonstrate they meet the code requirements.

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Mr. Doyle asked for confirmation that if the school or park impact fee meets requirements, any further testimony cannot be considered. Mr. Colby confirmed; if the requirement is met, it must be approved by City Council.

Vice Chair Kessler asked about a developer negotiating a different deal with the school/park district and whether the Commission can deny that deviation from Code. Mr. Colby said no, it is not the Commission's responsibility. However, that negotiated fee could be presented as evidence against a proposal when considering the impact of a project, and can therefore affect the findings.

Mr. Doyle asked whether the Commission can predicate its support for an application on full payment of the fee. Mr. Colby said no, because it involves a Code section over which City Council has authority.

Vice Chair Kessler asked if the inclusionary housing ordinance is considered in the same way as the school/park fees. Mr. Colby said yes, although it is in the Zoning Ordinance. Providing more than required by the ordinance could be considered a public benefit for a PUD, although whether the fee is adequate is outside of what the Commission should consider.

Vice Chair Kessler mentioned that when City Council makes a recommendation to accept the Plan Commission resolution, they are not recommending what the Commission recommended in the resolution. Mr. Colby said that is formal documentation acknowledging the resolution has been received and considered.

Mr. Doyle asked whether it is reflected in the ordinance if City Council disagrees with the Plan Commission recommendation. Mr. Colby confirmed, that the ordinance would state that Planning & Development Committee received the recommendation of the Plan Commission, and then Council's recommendation. The findings attached to the ordinance are those Council adopts.

Mr. Doyle asked whether findings for General Amendments are included in the ordinance even though they are informational only. Mr. Colby said no, although they are included in the Plan Commission resolution.

Mr. Colby stated the training is concluded. More training will come at a later date and will address topics of the Commission's choosing.

Vice Chair Kessler stated the Commission should not forget about what they have learned. Meetings can be interrupted to ask questions if someone does not understand the process.

Mr. Schuetz suggested the Commission revisit the findings of fact at a later date to make sure they are using them correctly.

Vice Chair Kessler recommended the Commission bring up whether they have reviewed the applicant's findings of fact and whether they are comfortable with them during meetings.

Chairman Wallace suggested asking those giving testimony which finding of fact their statement concerns. The framework should be more visible to the public so they understand what is going on.

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Mr. Colby suggested stating when the Commission begins discussing the findings and placing them up on the projector.

Mr. Doyle brought up the potential issue of poor findings of fact being provided by applicants and the possibility that the process will be slowed down if the Commission needs to request an applicant come back with revised findings. He suggested if Commissioners have a concern with the findings, they should come to the meeting prepared with alternate language. Vice Chair Kessler said he might ask staff to reword the findings, perhaps before the meeting. Mr. Colby said applicants may be able to provide additional information during the meeting to support deficient findings.

5. Meeting Announcements

a. Plan Commission

Tuesday, October 21, 2014 at 7:00pm Council Chambers

Tuesday, November 4, 2014 – Meeting cancelled

Tuesday, November 18, 2014 at 7:00pm Council Chambers

b. Planning & Development Committee

Monday, October 13, 2014 – Meeting cancelled

Monday, November 10, 2014 at 7:00pm Council Chambers

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

There was no additional business.

7. Adjournment at 8:30 p.m.