# ST. CHARLES Recommendation to approve an Amendment to Special Use for PUD and Minor Change to PUD for the Firethorne Apartments, 1320-1370 Brook St. (Firethorne PUD) Presenter: Ellen Johnson

Please check appropriate box:

	Government Operations	Government Services
X	Planning & Development – (12/8/14)	City Council
	Public Hearing	
Estima	ted Cost: N/A	Budgeted: YES NO

If NO, please explain how item will be funded:

#### **Executive Summary:**

The subject property is a six-building, 72-unit apartment complex located east of N. 15<sup>th</sup> St. between Dean St. and Main St. The property was developed under the Firethorne PUD, Ordinance No. 1987-Z-4. Under this ordinance, the only vehicular access to the property for residents is from Brook St., via 15<sup>th</sup> St. Access to the property from Dean St. is limited to emergency vehicle and pedestrian use.

The applicant, Firethorne Apartments, LLC, is seeking approval of an amendment to the PUD ordinance to allow a paved vehicular access drive to Dean St. for both resident and emergency vehicle use. The proposed access drive runs north from the northern portion of the complex's parking lot to Dean St.

Staff has reviewed the Minor Change to PUD proposal and determined that, if the PUD amendment is approved, it is not in conflict with the specifications of the PUD ordinance (Ordinance No. 1987-Z-4).

#### **Plan Commission Recommendation**

The Plan Commission held a public hearing for the Amendment to Special Use for PUD on 11/18/14. The Commission voted to recommend approval, with the condition that a stop sign be erected for vehicles exiting the drive to Dean St. and installation of landscaping to screen the drive from adjacent properties to the east and west. The vote was 5-aye to 2-nay.

In response to public hearing testimony from neighboring residents who expressed opposition to the proposed access drive due to traffic issues on Dean St., Police Commander Mahan prepared a memo summarizing crash, speed, vehicle count, and enforcement data for Dean St. Commander Mahan concluded there does not appear to be an issue with intersection or driveway sight lines or interference, based on the location of the proposed drive and traffic data.

Attachments: (please list)

Plan Commission Resolution, Staff Report & Design Review Comments, Police Dept. Memo, Applications for Special Use for PUD and Minor Change to PUD, PUD Ordinance No. 1987-Z-4

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

Recommendation to approve an Amendment to Special Use for PUD and Minor Change to PUD for Firethorne PUD

For office use only: Agenda Item Number: 3b

## City of St. Charles, Illinois Plan Commission Resolution No. <u>17-2014</u>

#### A Resolution Recommending Approval of an Application for an Amendment to a Special Use for PUD, Ordinance 1987-Z-4 to allow a paved vehicular access drive to Dean St. for 1320-1370 Brook St. (Firethorne Apartments, LLC)

#### Passed by Plan Commission November 18, 2014

WHEREAS, it is the responsibility of the St. Charles Plan Commission to hold public hearings and review requests for Special Uses; and

WHEREAS, the Plan Commission held a public hearing and has reviewed the petitions for a Special Use requesting an amendment to PUD Ordinance 1987-Z-4 to allow a paved vehicular access drive to Dean St. for 1320-1370 Brook St. (Firethorne Apartments, LLC) and;

WHEREAS, the Plan Commission finds approval of said petitions to be in the public interest of the City of St. Charles based up on the following findings of fact:

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

- The proposed PUD advances one or more of the purposes of the Planned Unit Development procedure stated in Section 17.04.400.A: Existing PUD development. Modification is being done to add another access driveway to provide a second means of ingress and egress from the complex.
- 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.

N/A.

- 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.

Construction of a permanent additional access drive to Dean Street will allow an additional means of ingress and egress to the property.

#### Resolution 17-2014

complex.

- **B.** Sufficient Infrastructure: That adequate utilities, access roads, drainage and/or necessary facilities have been, or are being, provided. The land is available now only as an emergency access. A paved driveway with curb and gutter will now be provided.
- 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 additional drive access will allow the site generated traffic an alternate means of entering and exiting the property.

- **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 area is already developed with residential uses.
- 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 revision of the Special Use to add a new paved permanent driveway will create a safer development rather than a detrimental effect by having an additional all weather access for emergency vehicles and the residents of the apartment
- 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 new driveway will be designed and constructed to comply with the ordinances of the City of St. Charles.
- iv. The proposed PUD will be beneficial to the physical development, diversity, tax base and economic well-being of the City.The modification of the existing PUD site plan to allow for an additional paved driveway access will be safer for the residents in the development by having another way in and out of the apartment complex and a more useable emergency vehicle access.
- v. The proposed PUD conforms to the purposes and intent of the Comprehensive Plan. The existing PUD is in conformance with the Comprehensive Plan.

#### Resolution 17-2014

NOW, THEREFORE, be it resolved by the St. Charles Plan Commission to recommend to City Council approval of an Amendment to a Special Use for PUD to allow a paved vehicular access drive to Dean St. for Firethorne Apartments, 1320-1370 Brook St. (Firethorne Apartments, LLC), based upon the above Findings of Fact, and subject to the following conditions:

- 1. A stop sign must be erected at the northern edge of the access drive for vehicles exiting the property onto Dean St.
- 2. Landscaping must be installed along the east and west sides of the access drive to provide screening from adjacent properties.

Roll Call Vote:

Ayes:Doyle, Kessler, Schuetz, Gaugel, HolderfieldNays:Wallace, PretzAbsent:Amatangelo, PurdyMotion carried:5-2

PASSED, this 18th day of November 2014.

Chairman St. Charles Plan Commission

# Community & Economic Development

Planning Division Phone: (630) 377-4443 Fax: (630) 377-4062



#### STAFF MEMO

TO:	Chairman Daniel P. Stellato And the Members of the Planning & Development Committee
FROM:	Ellen Johnson, Planner
CC:	Russell Colby, Planning Division Manager
RE:	Amendment to Special Use for Planned Unit Development and Minor Change to PUD – Firethorne PUD (Firethorne Apartments, 1320-1370 Brook St.)
DATE:	December 8, 2014

#### I. APPLICATION INFORMATION:

**Project Name:** Firethorne Apartments – Access drive

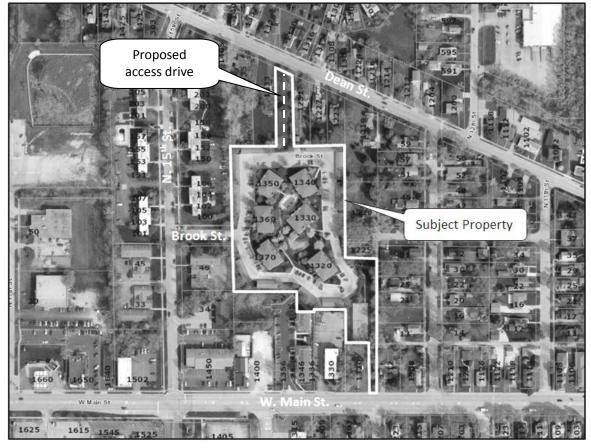
**Applicant:**Firethorne Apartments, LLC

Purpose:Review Special Use application requesting an amendment to the Firethorne<br/>Apartments PUD to permit a paved vehicular access drive from the existing apartment<br/>complex to Dean St.

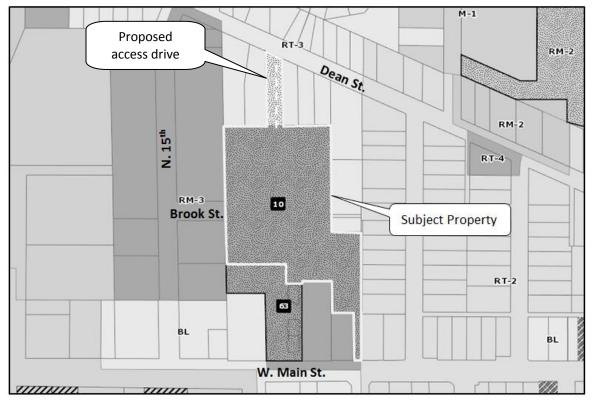
	Site Information			
Location	1320-1370 Brook St.			
Acres	5.2 acres			
Applications	1) Special Use for Planned Unit Development	nt		
Applicable	17.04 Administration			
Ordinances and	17.12 Residential Districts			
Zoning Code	17.26 Landscaping and Screening			
Sections	Ordinance No. 1987-Z-4			
	Existing Conditions			
Land Use	Multi-family residential – six buildings, 72 un	its		
Zoning	RM-3 General Residential, RT-3 Traditional Single-Family Residential, and			
		male ranny residential, and		
	Planned Unit Development	single 1 anny Residential, and		
	Planned Unit Development Zoning Summary			
North	Planned Unit Development	Single-family homes		
	Planned Unit Development Zoning Summary	Single-family homes		
North East	Planned Unit Development         Zoning Summary         RT-3 Traditional Single-Family Residential			
East	Planned Unit Development         Zoning Summary         RT-3 Traditional Single-Family Residential         RT-3 & RT-2 Traditional Single-Family	Single-family homes Single-family homes		
	Planned Unit Development         Zoning Summary         RT-3 Traditional Single-Family Residential         RT-3 & RT-2 Traditional Single-Family         Residential	Single-family homes		
East	Planned Unit Development         Zoning Summary         RT-3 Traditional Single-Family Residential         RT-3 & RT-2 Traditional Single-Family         Residential         RM-3 General Residential & Planned Unit	Single-family homes Single-family homes		
East	Planned Unit Development         Zoning Summary         RT-3 Traditional Single-Family Residential         RT-3 & RT-2 Traditional Single-Family         Residential         RM-3 General Residential & Planned Unit         Development	Single-family homes         Single-family homes         Apartments buildings		
East South	Planned Unit Development         Zoning Summary         RT-3 Traditional Single-Family Residential         RT-3 & RT-2 Traditional Single-Family         Residential         RM-3 General Residential & Planned Unit         Development	Single-family homes         Single-family homes         Apartments buildings         Apartment buildings		

Staff Memo –Firethorne Apartments – Access Drive 12/8/14 Page 2

#### **Aerial Photo**



#### **Surrounding Zoning**



#### II. BACKGROUND

#### Property History

Development of the subject property was approved under the Firethorne Apartments PUD, Ordinance No. 1987-Z-4. The six-building, 72-unit apartment complex approved under this ordinance was constructed in 1989. Per the ordinance, the only paved vehicular access to the property for residents is from Brook St. Access to the property from Dean St. is limited to emergency vehicles and pedestrian use.

#### Emergency Access

The St. Charles Fire Department has been in contact with the property owner, Firethorne Apartments, LLC, over the past several months regarding access to the apartment complex from Dean St. Per the PUD Preliminary Plan approved under Ordinance No. 1987-Z-4, a gravel drive was to be constructed from the complex to Dean St. in order to provide a secondary means of access for emergency vehicles. Aerial imagery from 1990 depicts this gravel drive. However, the drive was either removed or grass has covered the gravel due to lack of maintenance and/or use. The Fire Department requested Firethorne reinstall the gravel drive. (*See Fire Department memo for more background*). The City issued a Notice of Zoning Violation to the property owner regarding the emergency access drive on 10/3/14.

#### Proposal

Rather than installing the gravel drive from the apartment complex to Dean St. for emergency access only, Firethorne Apartments, LLC, applicant and owner, is proposing to amend the PUD ordinance to permit a paved vehicular access drive in the same location. Currently, residents are limited to vehicular access from the site's Brook St. entrance, just east of N. 15<sup>th</sup> St. This requires an Amendment to the Special Use for PUD and Minor Change to PUD for the physical addition of the paved access drive. Details of the proposal are as follows:

- Amend Section 2.H of Ordinance No. 1987-Z-4 by removing language limiting the vehicular access to Dean Street as emergency and pedestrian access only.
- The proposed amendment would permit an additional paved access drive to the complex from Dean St. The area proposed for the drive is currently mowed grass.
- The proposed drive is 24 ft. wide, the standard width for a two-way parking lot drive aisle.

#### **III. PLAN COMMISSION PUBLIC HEARING & RECOMMENDATION**

The Plan Commission held a public hearing for the Amendment to Special Use for PUD on 11/18/14. Several residents expressed concerns about the proposal, primarily related to the safety of adjacent property owners and traffic issues on Dean St.

The Commission voted to recommend approval of the Special Use for PUD Amendment to allow the paved vehicular access drive, with the condition that a stop sign be erected for vehicles exiting the drive to Dean St. and installation of landscaping to screen the drive from adjacent properties to the east and west. The vote was 5-aye to 2-nay.

#### IV. STAFF ANALYSIS

#### A. <u>PUD AMENDMENT LANGUAGE</u>

Currently, Section 2.H of Ordinance No. 1987-Z-4 states:

H. Limitations on Access- There shall be no vehicular access to the Subject Realty from West Main Street, and access to the Subject Realty from Dean Street shall be limited to emergency and pedestrian access only. The proposed amended language of Section 2.H of Ordinance No. 1987-Z-4 is as follows: *H. Limitations on Access- There shall be no vehicular access to the Subject Realty from West Main Street.* 

#### B. TRAFFIC IMPACTS

#### **Applicant's Findings**

The applicant has submitted a memo authored by engineering firm CEMCON, Ltd., which provides information regarding trip generation and sight distance from the proposed access drive. The primary findings are as follows:

- Approx. 192 vehicles per day are anticipated to utilize the proposed access drive onto Dean St.
  - The apartment complex is estimated to generate about 479 trips per. 60% of these vehicles are expected to use the current entrance off of 15<sup>th</sup> St. and 40% are expected to use the proposed new entrance on Dean St., based on IDOT traffic count data.
- There will be no significant obstructions to the line of sight for drivers exiting the apartment complex onto Dean St.

#### **Police Dept. Findings**

In response to public hearing (11/18/14) testimony from residents who expressed opposition to the proposed access drive due to traffic issues on Dean St., Police Commander Mahan prepared a memo summarizing crash, speed, vehicle count, and enforcement data for Dean St. The primary findings are as follows:

- From the 1000 block to the 1600 block of Dean St., there was one crash in 2011, one crash in 2012, no crashes in 2013, and one crash in 2014.
- In spring 2009 and 2010, the average speed was 30.6 and 30.2 mph, respectively. The 85% speed was 35 mph for both years.
- Total daily traffic volume was 4,181 vehicles in 2012 and 4,134 vehicles in 2013.
- 122 citations and/or warnings were issued in 2013 and 60 in 2014 (Jan. 1 Oct. 31). About 40% of these were for speed related offenses.

Commander Mahan concluded that for the proposed access drive from Firethorne Apartments, there does not appear to be an issue with intersection or driveway sight lines or interference, based on the location of the proposed drive and traffic data.

#### Staff Comments

• The City does not require traffic-related signage on private access drives. However, the Committee may wish to consider placing conditions upon a recommendation for approval related to such signage, for example installation of a stop sign for cars exiting the drive onto Dean St.

#### C. <u>LANDSCAPING</u>

Per Section 17.12.030 Bulk Regulations, where a property within the RM-3 Zoning District abuts or is across a street from property in any RE, RS, or RT Zoning District, a 30 ft. landscape buffer yard is required to provide screening between the uses.

Most of the subject property is zoned RM-3 and the parcel abuts property within RT Districts to the north and east. However, the portion of the subject property on which the proposed access drive is to be constructed is zoned RT-3. Landscape buffering is not required for RT zoned properties. Thus per the Zoning Ordinance, the applicant is not required to provide a landscape buffer along the proposed access drive.

However, the landscape plan approved under the PUD ordinance includes landscaping along the gravel access drive to Dean St. A total of nine (9) shade trees and an unspecified number of deciduous shrubs were to be planted on either side of the drive. There are a few existing trees in the vicinity, but the amount of plantings depicted on the landscape plan either no longer exist or were never planted.

#### Staff Comments

- The Committee may consider placing a condition upon a recommendation for approval that landscape buffering be provided along the proposed access drive due to the fact that the drive will be utilized as a primary access point for an RM-3 zoned property and is adjacent to RT-3 zoned property on three sides, and because landscaping was supposed to have been installed per the PUD ordinance.
  - Since the landscape plan from the PUD ordinance did not specify the number and size of plantings, the Plan Commission may wish to require a revised landscape plan for the subject portion of the property in accordance with the requirements of Section 17.26.070 Landscape Buffers.

#### **IV. RECOMMENDATION**

Staff recommends approval of the applications for Amendment to Special Use for PUD and Minor Change to PUD, contingent upon compliance with staff comments.

#### V. ATTACHMENTS

- Design Review Comments: Fire Department, Development Engineering, Electric Utility
- Police Dept. Memo
- Photos of proposed access drive location; taken by staff 9/29/14
- Application for a Special Use; received 10/8/14 (includes findings of fact, site plan, and traffic impact memo)
- Ordinance No. 1987-Z-4

# Fire Department



# Memo

Date:10/30/2014To:Ellen JohnsonFrom:Lt. Brian ByrneProject:2014PR019 -Firethorne ApartmentsApplication Number:2014AP034

Site Plan-Review

The Fire Department approves the new access from Dean St. as drawn.

The following is some background information on the project:

This past spring 2014 or fall 2013 (not sure of the exact date) the City public works department repaved the section of Brook St. between N. 5th St. and the Firethorne Apartments and during that time we had difficulty accessing the site for emergency calls. The research into secondary access then ensued; we discovered the language in the PUD that required the secondary access off Dean St. We then started the conversation about this secondary access with the manager of the property and sent a subsequent letter on June 4th asking that this gravel emergency access road be restored by July 7, 2014. From previous years aerial photos you could see that the road once existed. During that time frame the management was also trying to solve their own parking and access issues, parking on Brook St. that can sometimes limit access for their own tenants. They felt that additional access would be desirable for them as well, not only for use for emergency vehicles. In conclusion, their management and ownership felt that since they were required to re-establish the emergency access, they would approach the City for an additional full access drive off Dean St. in addition to the current access off Brook St..

## Community & Economic Development Development Engineering Division

Phone: (630) 443-3677 Fax: (630) 377-4062



# Memo

Date: 11/18/14

To: Ellen Johnson Russ Colby

From: Christopher Tiedt, P.E.

RE: Firethorne Apartments

I have reviewed the revised submitted site plan for the proposed access drive out to Dean Street for the Firethorne Apartments located at 1350 Brooks Street. The following document was reviewed.

• Revised Site Plan for Firethorne Apartments prepared by CEMCON, Ltd. Received on 11-7-2014 (2-pages)

I have reviewed the above documents for conformance with the City of St. Charles Ordinances, Kane County Stormwater Ordinances and general engineering and construction practices. The following comments are offered up for the applicant's consideration:

#### For Final Engineering Approval and Building Permit Application:

- 1. The diameter of the proposed restrictor structure is shown as only 2' in diameter. City standards call for this to be an 8' diameter structure. This should be revised accordingly.
- 2. A stormwater permit application, application fee and associated stormwater report will be required as disturbance is greater than 5,000 sf.
- 3. The stormwater report should also include a long term maintenance plan for the underground stormwater vault being shown.
- 4. Restrictor sizing calculations need to be included with the report.
- 5. A blocked restrictor analysis should also be included.
- 6. Confirmation that the proposed underground storm chambers can support the 75,000 lb loading identified in the Appendix D of the Fire Code.
- 7. Final engineering plans will need to be submitted for review and approval at time of the building permit application. These plans at a minimum shall include all SWPPP, Specifications, and details for the proposed improvements.

- 8. An engineer's estimate for the proposed stormwater management improvements and all work taking place in the public ROW will need to be prepared and submitted for review.
- 9. Prior to the start of construction a financial guarantee in the amount of 115% of the approved engineer's estimate will need to be submitted.
- 10. A stormwater detention easement will need to be provided over the proposed underground stormwater management system prior to final approval.

The applicant's design professionals are responsible for performing and checking all design computations, dimensions, details and specifications in accordance with all applicable codes and regulations, and obtaining all permits necessary to complete this work. In no way does this review relieve the applicant's design professionals of the duties to comply with the law and any applicable codes and regulations, nor does it relieve the Contractors in any way from their sole responsibility for the quality and workmanship of the work and for strict compliance with the permitted plans and specifications.



Firethorne Apartments Thomas Bruhl to: Ellen Johnson

History:

This message has been replied to.

10/14/2014 08:41 AM

Hi Ellen,

Please pass the following comments on to the applicant:

The City of St. Charles has a 7,200V overhead system that crosses Dean Street at the proposed intersection and then continues south along the proposed driveway.

There also appears to be overhead services to the house at 1233 Dean Street that cross the new intersection. Should any of these overhead facilities be in conflict or require increased height, the cost of said relocation will be the responsibility of the customer.

Thanks Tom

Thomas Bruhl, P.E. | Electric Services Manager 2 E. Main Street , St. Charles, IL 60174-1984 phone: 630.377.4407 | fax: 630.377.7009 | <u>www.stcharlesil.gov</u> tbruhl@StCharlesIL.gov

CITY OF ST CHARLES, ILLINOIS

## Police Department



# Memo

11/24/2014
Chief Keegan
Cmdr. Mahan
Dean Street Traffic Issues
Russell Colby, Deputy Chief Huffman

This memo is intended to give some historical information and data regarding traffic issues on Dean Street, as well as some suggestions for future efforts. It is my understanding that concerns were raised about Dean Street during a Plan Commission hearing on 111814, concerning the proposed Dean Street access to Firethorne Apartments.

Ofc. Clark had corresponded with Chris Tiedt (Development Engineering Division Manager) prior to 111814 and had received a copy of an analysis/study done by Cemcon. Ltd. In reference to that proposal. A copy of that has been attached.

It was brought to my attention on 111914, that concerns regarding traffic on Dean Street were voiced by residents at that meeting. I later spoke with Planning Division Manager, Russell Colby, in attempt to learn what had been expressed. In summary, he related that there were complaints of speeding, to include improper passing, as well as observations of crashes which involved vehicles waiting to turn left. There was also some discussion about the possibility of making a formal request through the City's Traffic Calming Policy.

Based on this information, Ofc. Clark and I compiled some traffic crash and traffic enforcement data regarding Dean Street. In doing so, we focused on the portion of Dean street between 9<sup>th</sup> St. and 17<sup>th</sup> Street.

The following crash data was compiled by Ofc. Clark:

Per your request, the following is the data as it relates to Dean St. and the pending access road to Brook St.

• I reviewed crash data from 2011-2014, from the 1000 Block of Dean St. to the 1600 block. This would take into consideration the area surrounding the proposed access and sight lines.



**2014-** There was **one** crash in June, and it was the result of a truck with a trailer backing from a driveway into a parked car.

2013- No crashes at all

**2012- One** minor crash and was related to a vehicle sideswiping a parked vehicle in the 1400 block. This was a hit and run.

**2011- One** crash involving a vehicle turning right off of N.15th St. and striking a bicyclist who was riding westbound in the eastbound lane.

• Regarding speed and speed enforcement, we have had our departments speed box placed in both the 1200 and 1300 block of Dean St. The following speed data was downloaded from the speedboxes at that time.

- In the spring of 2009, we determined the average speed was 30.6 mph, and the 85% speed was 35 mph. As you know, this is a 30mph speed zone.

- In the spring of 2010, we determined the average speed was down to 30.2 mph, and the 85% was still 35 mph.

• Traffic volumes or counts were taken for Dean St. between 9th and 11th St. in 2012 and 2013. Here are those results:

2013- Westbound, 2,167 - Eastbound, 1,967 - Total- 4,134

2012- Westbound, 2,252 - Eastbound, 1,929 - Total- 4,181

I compiled the following information regarding enforcement efforts in this area, Dean Street between 9<sup>th</sup> Street and 17th Street, Throughout 2013 and year to date in 2014:

#### **2013**:

- **122** Citations and/or warnings issued
  - 50 were for speed related offenses
  - 29 were for other moving violations
  - **3** were for DUI
  - 20 were for equipment or registration related offenses
  - 6 were for offenses related to drivers licensing
  - 14 were for operating an uninsured motor vehicle

#### 2014 (January 1-October 31):

- **60** Citations and/or warnings issued
  - 22 were for speed related offenses
  - 12 were for other moving violations
  - 3 were for DUI
  - o 14 were for equipment or registration related offenses
  - 1 was for offenses related to drivers licensing
  - 6 were for operating an uninsured motor vehicle

Going forward, I think it would be prudent to complete an updated speed survey. Although the results from the last two were consistent, it has been 4 years since the last one was done. The previous studies show an 85<sup>th</sup> percentile speed of 35 mph, meaning 85% percent of the traffic on Dean Street is traveling at or below that speed. It would be good to measure whether or not that has changed. At that last measured level this street would likely not qualify for traffic calming measures under the City policy. Along with that updated speed survey. I would also recommend that we do some visual observation of this area at various times in an unmarked vehicle, to monitor the complaint of improper passing, which reportedly includes overtaking of vehicles on the right. I would also recommend that we coordinate some special enforcement details at peak travel times, and utilize the speed display boxes at intermittent periods.

In regards to the proposed access from Firethorne Apartments, it appears that sight distances along this stretch in general are adequate. There are a number of intersecting streets including, 11<sup>th</sup> Street, 12<sup>th</sup> Street (in two locations), Debruyne Street, and 15<sup>th</sup> Street. With an AADT of over 4,000 vehicles and average of less than one moter vehicle crash per year over the last 4 years, and given the nature of those crashes, there does not appear to be an issue with intersection or driveway sight lines or interference.



1. Proposed location of paved access drive- looking north from Firethorne Apartments parking lot



2. Proposed location of paved access drive- looking south from Dean St.

# **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	RECERCEIVED Date St. Charles,	
CITYVIEW Project Name: Filethorne Apretme	wts_	UCT U 8 2014	
Project Number: $2014$ - PR- $0/9$		CDD	
Application Number: $2014$ -AP- $034$		Planning Division	

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.

1.	Property Information:	Parcel Number (s):					
	mormation.	09-28-378-156					
		Street Address (or common location if no address is assigned): 1350 Brook Street St. Charles, Illinois 60174					
2.	Applicant	Name	Phone				
	Information:	Firethorne Apartments, LLC	630-513-1113				
		Address	Fax				
		1350 Brook Street St. Charles, Illinois 60174	Email				
3.	Record Owner	Name Firethorne Apartments, LLC	Phone 630–513–1113				
	Information:	Address	Fax				
		1350 Brook Street St. Charles, Illinois 60174	Email				
4.	Billing:	Name	Phone				
	To whom should	Firethorne Apartments, LLC	630-513-1113				
	costs for this	Address	Fax				
	application be billed?	1350 Brook Street St. Charles, Illinois 60174	Email				

#### **Information Regarding Proposed Special Use:**

Comprehensive Plan designation of the property: <u>Multi-Family</u> Residential

Is the property a designated Landmark or in a Historic District? No

What is the property's current zoning? RT-3; RM-3 PUD

What is the property currently used for? Multi family residential rental apartments

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.

Special Use for PUD revision

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

Construct a permanent paved access drive to Dean Street

#### For Special Use Amendments only:

What Special Use ordinance do you want to amend? Ordinance No. <u>1987-Z-4</u>

Why is the proposed change necessary?

To allow for an additional vehicular access for residents and memorgency vehicles to Dean Street.

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

Modify Section 2, H to remove language limiting the vehicular access to Dean Street as emergency and pedestrian access only.

#### 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.

#### **D 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

#### $\square'$ 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. <u>http://www.kanedupageswcd.org/</u>

#### **■/** ENDANGERED SPECIES REPORT:

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

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

#### **D** 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.

10/2/14 Record Owner Date

Applicant or Authorized Agent

Date

#### 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.

Firethorne Apartments	
Project Name or Address	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.

Construction of a permanent additional access drive to Dean Street will allow an additional means of ingress and egress to the property.

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

The land is available now only as an emergency access.

A paved driveway with curb and gutter will now be provided.

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 additional drive access will allow the site generated traffic an alternate means of entering and exiting the property.

\_\_\_\_\_

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 area is already developed with residential uses.

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 revision of the Special Use to add a new paved permanent
driveway will create a safer development rather than a detrimental
effect by having a additional all weather access for emergency
vehicles and the residents of the apartment complex.

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 new driveway will be designed and constructed to comply with the ordinances of the City of St. Charles.

### 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.

Firethorne	Apartments		
PUD Name		-	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

Existing PUD development. Modification is being done to add

another access driveway to provide a second means of ingress

and egress from the complex.

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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.

N/A

# 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"

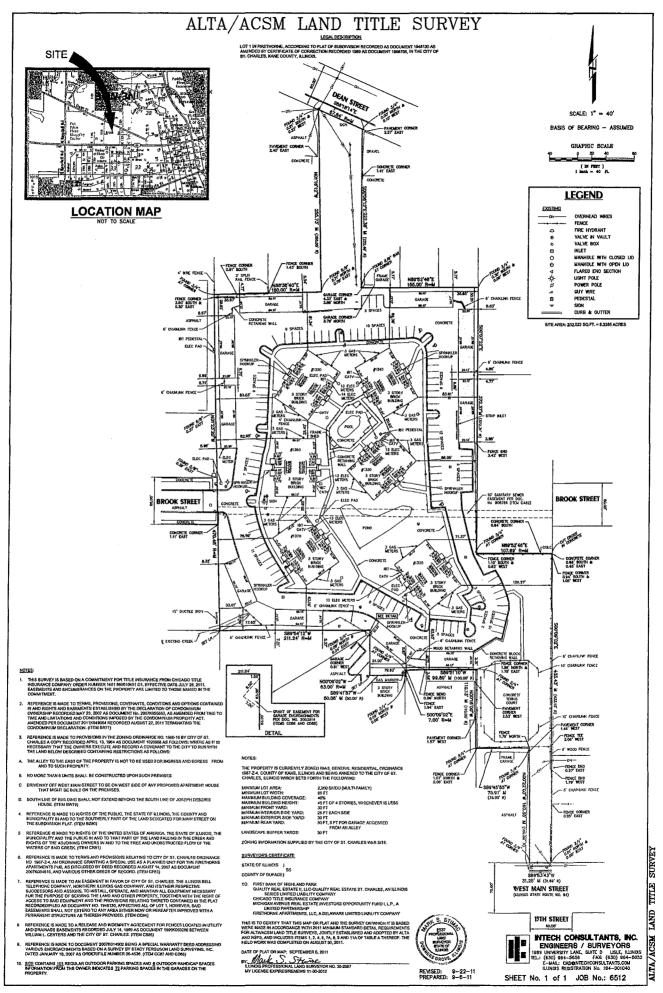
# iv. The proposed PUD will be beneficial to the physical development, diversity, tax base and economic well-being of the City.

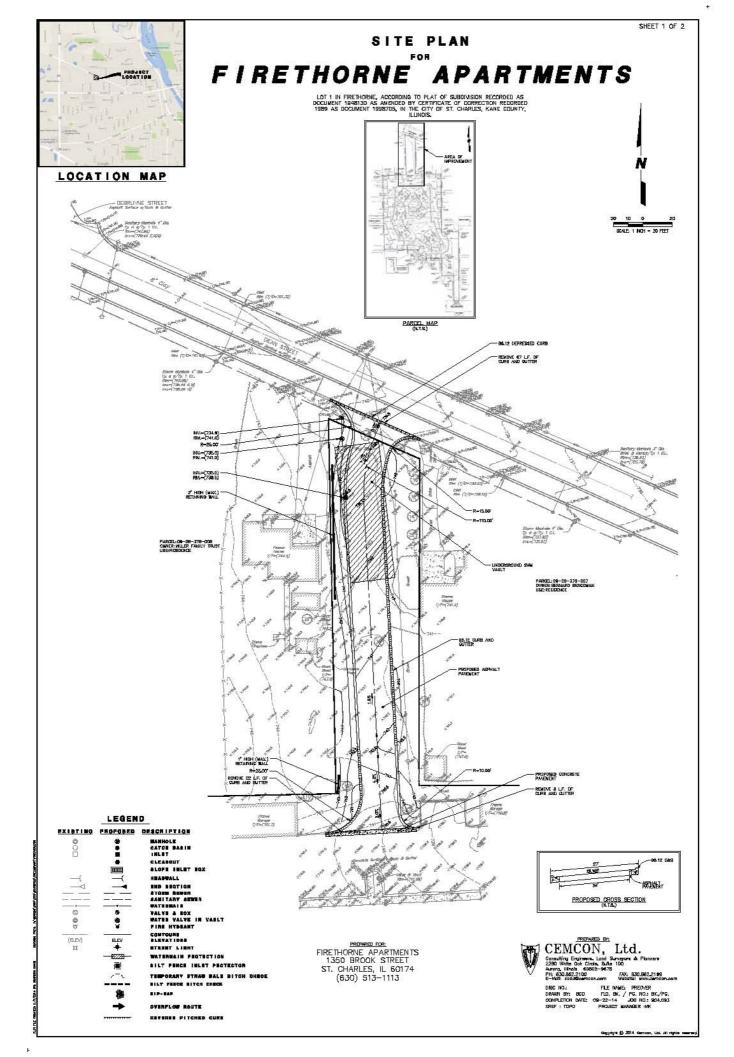
The modification of the existing PUD site plan to allow for an additional paved driveway access will be safer for the residents in the development by having another way in and out of the apartment complex and a more useable emergency vehicle access.

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

The existing PUD is in conformance with the Comprehensive Plan.

City of St. Charles Findings of Fact for Special Use for PUD







November 5, 2014

Ms. Ellen Johnson, Planner City of St. Charles Planning Department 2 E. Main Street St. Charles, IL 60174

Re: Firethorne Apartments 904.093

Dear Ms. Johnson:

Firethorne Apartments is an existing apartment complex located at 1850 Brook Street, in St. Charles, Illinois. They are proposing to add a second driveway to their property via Dean Street (see attached Site Plan). The second access will be a full functioning driveway to allow residents to use Dean Street as an alternate route. This access will also function as a second point of ingress and egress for emergency vehicles. CEMCON, Ltd. has estimated the number of trips that would be used by this access and sight distance issues that will be encountered at the intersection with Dean Street. Below is a summary of our findings.

#### TRIP USING NEW DRIVEWAY:

Firethorne Apartments currently has 72 - 2 bedroom units. Based on the ITE Trip Generation Manual, 8<sup>th</sup> Edition, the rates for an Apartment (ITE Land Use 220) is 6.65 trips per day per unit. Therefore, Firethorne Apartments should generate about 479 trips per day. Based on our analysis the new entrance should create a 60/40 split of traffic, where 60% of the vehicles (287 vehicles per day) will use the current main entrance on 15<sup>th</sup> Street and 40% of the vehicles (192 vehicles per day) will use the new entrance on Dean Street. These percentages were derived using the Illinois Department of Transportation Average Daily Traffic counts at the intersection of Route 64 (W. Main Street) and Randall Road. See Figure 1 to see where this intersection is located in relationship to the site and traffic volumes. Based on the IDOT counts, approximately 29,800 vehicles per day (26% of the total) travel north on Randall Road and north of Dean Street; 39,000 vehicles per day (34%) travel south on Randall Road; 24,100 vehicles per day (21%) travel east on Route 64; and 22,400 vehicles per day (19%) travel west on Route 64. Based on these percentages, it is estimated 26% of the vehicles will use Dean Street to access Randall Road. The remaining 74% of the vehicles, from this site, will head toward Main Street. Since Main Street could also be accessed via Dean Street, a conservative approach was used to create the 60/40 split. Therefore, the estimated traffic using this new entrance will be 192 vehicles per day.

Ms. Ellen Johnson November 5, 2014 Page 2

#### Figure #1: Site Location Map



#### SIGHT DISTANCE AND NEW DRIVEWAY:

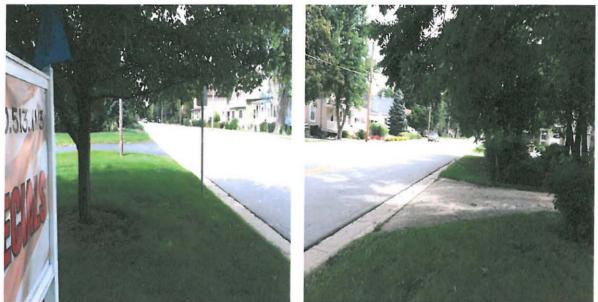
This new entrance will be cut into an existing road. In doing this, CEMCON, Ltd. has reviewed the sight distance that will be encountered by vehicles exiting the site. Attached is a site plan and profile detailing out the sight distance. The posted speed limit on Dean Street is 30 mph so a design speed of 35 mph has been used for this analysis. Based on IDOT's Bureau of Local Road and Streets Manual, the intersection sight distance for this road should be 390 feet (Section 28-3.03 Figure 28-3D). As shown in the attached plan and profile, using a height of eye and object of 3.5 feet, there are no grade or geometry obstructions to the line of sight.

In addition to the line of sight plan and profile analysis, a visual inspection has been done from this proposed intersection point. Based on the pictures below, it appears there are no obstructions to the line of sight looking left (west). Please note that the tree in the foreground will



Ms. Ellen Johnson November 5, 2014 Page 3

be removed with the construction of the road. Looking right (east) there is a tree that overhangs into the line of sight that will need to be trimmed back to allow vehicles a clear line of sight.



Looking Left (West)

Looking Right (East)

Please feel free to contact me with any questions or if you need additional information. I can be reached by phone at (630) 862-2100 or by email at <u>michael.keith@cemcon.com</u>.

Sincerely, CEMCON, Ltd.

hall B. Kein

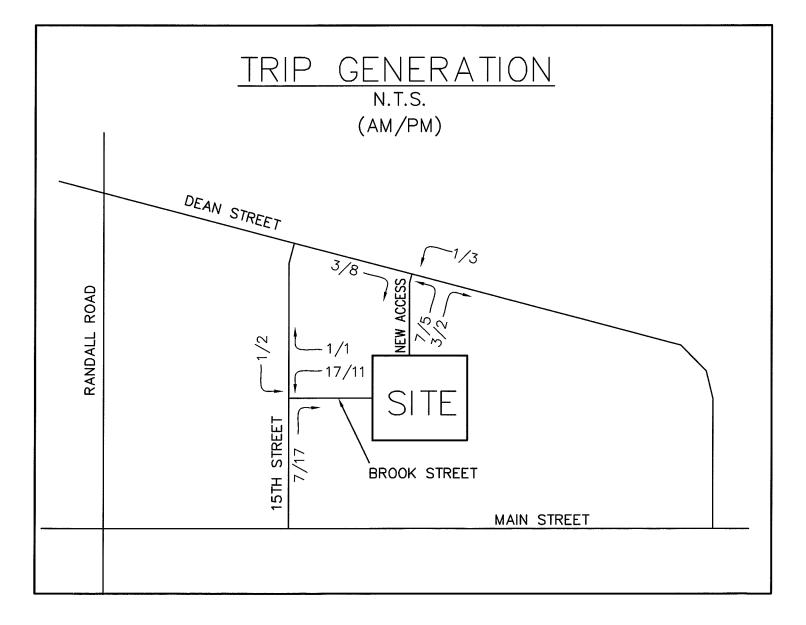
Michael B. Keith, P.E. Senior Project Manager

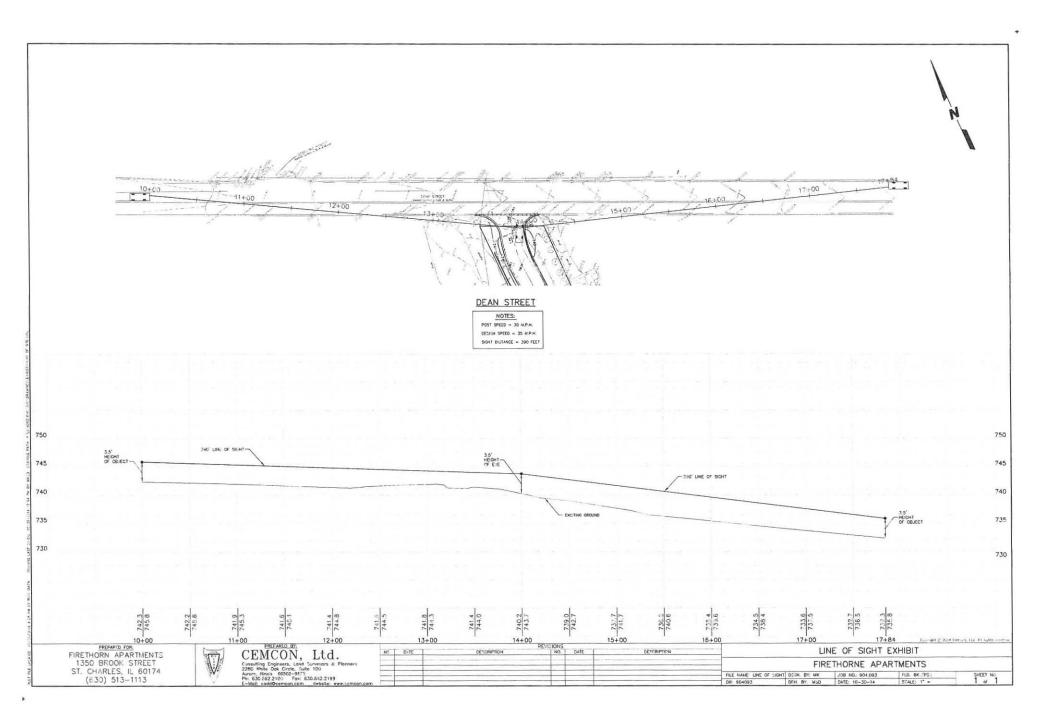
MBK/sv Enc.

H:\904093\ENGINEER\2014-11-05 Johnson @ City of St. Charles - Site Distance Letter.doc



Firethome Apart											
Trip Generation	Based on ITE	E Trip Genera	ation Rate	s - 8th Editio	on						
	Code	Amount	Units	AM Peak Hour		PM Peak Hour					
Land Use				Peak	Total Peak	tal Peak In	Out	Peak	Total Peak	In	Out
				Hour Rate	Hour Trips	29%	71%	Hour Rate	Hour Trips	61%	39%
Apartments	220	72	Units	0.55	40	12	28	0.67	49	30	19





#### CITY OF ST. CHARLES

#### ORDINANCE NO. 1987-Z-4

#### AN ORDINANCE GRANTING A SPECIAL USE AS A PLANNED UNIT DEVELOPMENT FOR THE FIRETHORNE APARTMENTS PUD

ADOPTED BY THE CITY COUNCIL OF THE CITY OF ST. CHARLES THIS 18th DAY OF MAY, 1987

PUBLISHED IN PAMPHLET FORM BY AUTHORITY OF THE CITY COUNCIL OF THE CITY OF ST. CHARLES, KANE AND DU PAGE COUNTIES, ILLINOIS, THIS 21st DAY OF MAY, 1987

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Ordinance No. <u>1987-Z-4</u> Page 1

#### ORDINANCE NO. 1987-Z-4

#### AN ORDINANCE GRANTING A SPECIAL USE AS A PLANNED UNIT DEVELOPMENT FOR THE FIRETHORNE APARTMENTS PUD

REFER TOK

MINUTES 5-18-87

PAGE

DATE OF PUBLICATION 5/21/87 NEWSPAPER Pamphlet form

> WHEREAS, the Gary Wheaton Bank as Trustee under Trust Agreement #4408, owner of record, (hereinafter referred to as "OWNER", which shall include all successors and assigns) and James F. Cooke, as agent and attorney for applicants Myron Andersen and Donn Nelson, contract purchasers, have filed a petition for a Special Use as a Planned Unit Development in the R-5 Multiple Residence District, for the property legally described in Exhibit "A", attached hereto and made a part hereof, (hereinafter referred to as "Subject Realty") and an application for approval of a preliminary plan; and

WHEREAS, the Plan Commission has held a public hearing on said petition in accordance with law; and

WHEREAS, the City Council of the City of St. Charles has received the recommendation of the Plan Commission and has considered same;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. CHARLES, KANE AND DUPAGE COUNTIES, ILLINOIS, as follows:

**SECTION 1.** That Section 17.06.020 of Title 17 of the St. Charles Municipal Code, as amended, and as set forth in the

Zoning District Map as described therein and on file in the Office of the City Clerk, is hereby amended to grant a Special Use as a Planned Unit Development in the R-5 Multiple Residence District for the Subject Realty, subject to the additional requirements and restrictions provided herein.

SECTION 2. That the Subject Realty may be developed only in accordance with all ordinances of the City as now in effect or hereafter amended (except as specifically varied herein), and in accordance with the following added definitions, procedures and restrictions:

#### A. Preliminary Plan

Except as specifically stated herein, the Subject Realty shall be developed only in conformance with the preliminary plan consisting of:

The drawing entitled "Preliminary Plan" revised
 April 6, 1987 prepared by The Lannert Group; and
 The drawing entitled "Landscape Plan" revised
 April 6, 1987 prepared by The Lannert Group; and
 The drawing entitled "Engineering Plan" prepared
 by Robert H. Anderson and Associates and the Lannert
 Group, revised April 1, 1987; and
 The cover sheet entitled "Firethorne Luxury
 Apartments" and two sheets of architectural concept
 drawings prepared by Myron Andersen Construction,
 Inc. received March 11, 1987.

#### B. Phasing

The Subject Realty shall be developed in no more than one phase.

#### C. Building Permits

No building permit shall be issued for construction of any structure on the Subject Realty until after the preliminary plan, landscape plan, architectural plans, engineering plans, and final plan have been approved and a final plat has been recorded for the Subject Realty.

### C. <u>Height</u>

The maximum building height (as defined in Title 17 of the St. Charles Municipal Code) of any building on the Subject Realty shall be three stories or forty feet (40'), whichever is lower.

## D. Setbacks

A setback of five (5) feet from all exterior property lines of the Subject Realty, as shown on the Preliminary Plan, shall be provided. No building of any kind shall be constructed or placed within this setback. Fencing and landscaping may be located within such setback, as shown in the preliminary plan described in paragraph "A" hereof, and as otherwise approved by the City Council.

#### E. Number of Buildings - Single Lot

A variation from the provisions of Section 17.18.040 of the St. Charles Municipal Code is hereby allowed to

permit a maximum of six buildings on the Subject Realty, which shall be considered as one lot. The Subject Realty shall not be resubdivided.

# F. Number of Units

There shall be not more than seventy-two (72) dwelling units on the Subject Realty.

# G. <u>Uses</u>

Only the uses permitted in the R-5 Multiple Residence District shall be permitted on the Subject Realty.

#### H. Limitations on Access

There shall be no vehicular access to the Subject Realty from west Main Street, and access to the Subject Realty from Dean Street shall be limited to emergency and pedestrian access only.

#### I. Soil Erosion

OWNER shall adhere to measures for the prevention of soil erosion during the construction of the development pursuant to the ordinances and any other applicable rules and regulations of the CITY, the "Procedures and Standards for Urban Soil Erosion and Sedimentation Control in Illinois", published in October 1981, and recommended procedures of the Kane-DuPage Soil and Water Conservation District and any other applicable regulatory agency, whichever is more restrictive.

#### J. Maintenance of Private Facilities

The OWNER shall repair and maintain all private drives, parking lots, detention basins, storm sewer lines, surface drainage facilities, and any other land improvements, common areas or facilities which are not conveyed to and accepted by the CITY. In the event of the conveyance or assignment of all or any part of the Subject Realty, any such conveyance or assignment shall contain an agreement between the parties involved as to the responsibility for repair and maintenance as contemplated in this paragraph.

#### K. Landscaping

All unpaved areas adjoining a building and its accessory parking shall be landscaped prior to occupancy of such building, in accordance with the landscape plan approved herein, compliance being determined by the Director of City Planning. Landscaping of the Subject Realty shall be completed prior to occupancy of the final multiple family residential building on the Subject Realty in accordance with the landscape plan approved herein, compliance being determined by the Director of City Planning.

# L. Storm Water Drainage.

All storm water collected by the on-site storm sewer system shall be tributary to the on-site detention basin. Ordinance No. 1987-Z-4 Page 6

# M. Architectural Plan Modifications.

Modifications to the architectural plans for the garages, including typical elevation drawings showing exterior materials and design of the walls facing the property adjoining the Subject Realty, shall be submitted for review prior to approval of the Final Plat, and shall be subject to approval of the Plan Commission and City Council.

# N. Required Land Improvements

1. OWNER shall construct and pay for all land improvements, including but not limited to on-site and off-site improvements, extensions, and related appurtenances necessary for the development of the Subject Realty, for:

- a) water main systems;
- b) sanitary sewer systems, lifting stations and force mains;
- c) storm sewer systems;
- d) retention and detention basins;
- e) grading and surface drainage ways and facilities;
- f) electric facilities, including installation of underground conduit as specified by the City; and
- g) streets, curbs, sidewalks, street lights, street signs, parkway landscaping, tree plantings, and related improvements.

> All such land improvements (the "Required Land Improvements") shall be completed within two years of the date of recording of the final plat for the Subject Realty. OWNER shall grant to the CITY, at no cost to the CITY, all easements for any utilities and communication facilities that the CITY may request. Prior to the approval of the final plat for the Subject Realty the CITY shall have the right to designate which easements, dedications, and land improvements will be accepted by the CITY. The OWNER shall transfer to the CITY title, free and clear of all liens and encumbrances, to all on-site and off-site Required Land Improvements which the City has so designated for acceptance. In connection with any sale, assignment, or transfer of any interest in the land or improvements thereto by OWNER to another entity, the CITY may require the OWNER to retain, or the recipient in such sale, assignment, or transfer to assume or acquire such interest in any such easement, extension, repair, maintenance, and replacement at the sole cost of the OWNER, and as may be required from time to time by the CITY.

> 2. OWNER shall repair and replace, in accordance with the original sizes, standards and topography in a manner satisfactory to the CITY, all CITY property damaged or disturbed by reason of its work in connection with the

development of the Subject Realty.

A blanket easement over, under and upon all 3. unimproved common open space and all private streets and private common driveways and parking areas within the Subject Realty for access for police and fire protection and for the operation of and access for maintenance, repair, replacement and customary servicing of all electricity and telephone lines, natural gas supply systems, and all sanitary sewer, storm drainage and water main systems, communication facilities and other utilities, shall be provided by plat in favor of the CITY and all of the involved utility companies, now or in future receiving a CITY franchise, their respective officers, employees, and agents, together with related emergency and service vehicles and equipment. After approval of the Final Plat for the Subject 4. Realty and prior to signature by the Mayor and City Engineer, the OWNER shall present a guarantee for completion of the land improvements as required by ordinance including but not limited to the "Required Land Improvements" or in lieu thereof at OWNER'S election, an undertaking by OWNER as secured by an irrevocable letter of credit, escrow account or irrevocable commitment certifying that adequate funds are and will be available at a sound and reputable

> banking or financial institution authorized to do business in the State of Illinois. Such irrevocable letter of credit, escrow account or irrevocable commitment shall be in effect for a period of two and one half (2 1/2) years from the date of recording of the final plat for the Subject Realty, shall run in favor of the CITY and shall indicate there are sufficient funds available for one hundred fifteen percent (115%) of the estimated cost of all the Required Land Improvements of the final plat being presented to the CITY for approval and that such funds are held for such purposes only and for no other purposes. Such undertaking, irrevocable letter of credit, escrow account or irrevocable commitment shall be in a form to allow the CITY to procure the funds irrevocably committed to complete the aforedescribed land improvements if construction of said improvements is not completed in accordance with ordinance or the schedule approved by the City, whichever first occurs, and shall otherwise be in a form acceptable to the CITY.

> 5. OWNER shall reimburse CITY for inspection and engineering costs and reasonable attorneys' fees incurred by CITY in connection with the construction and installation of the Required Land Improvements described in this Ordinance and the processing of matters

> pertaining to this Ordinance. Payment by OWNER's representative and agent to CITY shall occur promptly after receipt by OWNER of invoices for such work. 6. In the event CITY requests OWNER to oversize any Required Land Improvement such oversizing shall take place on the following basis: The City Engineer and the Owner's Engineer shall prepare cost estimates indicating the construction cost for the Required Land Improvement and for the oversized improvement requested by the CITY. The actual cost difference for construction will be assumed by the CITY. Reimbursement for such cost difference shall be made to the OWNER upon acceptance of such improvements by the City Council subject to budget and timing as may be in accordance with law and as may be agreed on by OWNER and City, or otherwise approved by the City, and provided City shall be in receipt of a general contractor's affidavit and lien waivers in accordance with the Illinois Mechanics Lien Act and a Bill of Sale conveying title to the CITY free and clear of all liens and encumbrances. All engineering and inspection costs shall be paid by OWNER. The operation of any State law or City ordinance having general applicability to all entities in a class including OWNER shall not be deemed to be a request by CITY as herein described.

> 7. OWNER shall provide that all existing and new utilities and communications facilities including telephone, electric, and cable television to serve the Subject Realty shall be underground, and this requirement shall be affixed to the final plat. The CITY shall not be held responsible for its 8. inability to install any utility, or for any loss or damage including consequential damage or delay in installation caused by strikes, riots, elements, embargoes, failure of carriers, inability to obtain material, or other acts of God, or any other cause beyond CITY's reasonable control, including but not limited to the acquisition of easements and IEPA permits.

## 0. Hold Harmless and Indemnification

In the event a claim is made against the City of St. Charles, or if the City is made a party-defendant in any legal proceeding arising out of or in connection with the approval of this Ordinance for a Planned Unit Development or the development of the Subject Realty, the OWNER shall defend the City, at City's election, and hold the City harmless from and against all liabilities, losses, judgments, costs, fees, including reasonable attorneys fees, and reasonable expenses incurred in connection therewith. The City shall reasonably

cooperate in the defense of such proceedings.

SECTION 3. That after the adoption and approval hereof the Ordinance shall (i) be printed or published in book or pamphlet form, published by the authority of the Council, or (ii) within thirty (30) days after the adoption and approval hereof, be published in a newspaper published in and with a general circulation within the City of St. Charles.

PRESENTED to the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois, this <u>18th</u> day of <u>May</u>, 1987.

PASSED by the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois, this <u>18th</u> day of <u>May</u>, 1987.

APPROVED by the Mayor of the City of St. Charles, Kane and DuPage Counties, Illinois, this <u>18th</u> day of <u>May</u>, 1987.

ATTEST: Annars ITY

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# COUNCIL VOTE:

Ayes:	9
Nays:	0

Absent: 1

- ---

PARCEL 1: THAT PART OF LOT 1 OF THE DEAN FERSON HEIR'S FIRST ADDITION TO ST. CHARLES, "DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT; THENCE NORTH 89° 57' 40" WEST ALONG THE SOUTH LINE OF SAID LOT 50 FEET; THENCE NORTH PARALLEL WITH THE EAST LINE OF SAID LOT 810.35 FEET TO A POINT 150 FEET SOUTH OF THE SOUTHERLY LINE OF DEAN AVENUE (MEASURED ALONG THE LAST DESCRIBED COURSE EXTENDED); THENCE NORTH 89° 57' 40" WEST PARALLEL WITH THE SOUTH LINE OF SAID LOT 165 FEET FOR THE POINT OF BEGINNING; THENCE SOUTH 89° 57' 40" EAST PARALLEL WITH THE SOUTH LINE OF SAID LOT 165 FEET; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID LOT 535.35 FEET TO A POINT 275 FEET NORTH OF, MEASURED ALONG THE EXTENSION OF THE LAST DESCRIBED COURSE, THE SOUTH LINE OF SAID LOT; THENCE NORTH 89° 57' 40" WEST PARALLEL WITH THE SOUTH LINE OF SAID LOT 100 FEET; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID LOT 7 FEET; THENCE NORTH 89° 57' 40" WEST PARALLEL WITH THE SOUTH LINE OF SAID LOT 50 FEET; THENCE NORTH PARALLEL WITH THE EAST LINE OF SAID LOT 63 FET; THENCE NORTH 89° 57' 40" WEST PARALLEL WITH THE SOUTH LINE OF ( SAID LOT 211.24 FEET TO THE WEST LINE OF SAID LOT; THENCE NORTH 1° 15' WEST ALONG SAID WEST LINE 470.39 FEET TO A POINT 325.50 FEET SOUTH OF THE NORTHWEST CORNER OF SAID LOT; THENCE NORTH 88° 45' EAST AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE 150 FEET; THENCE NORTH 1° 15' WEST PARALLEL WITH THE WEST LINE OF SAID LOT 255.55 FEET TO THE SOUTHERLY LINE OF DEAN AVENUE: THENCE ≈SOUTH 66° 14′ 50″ EAST, ALONG, SAID, SOUTHERLY +LINE 67.84 FEET TO A LINE DRAWN NORTH, PARALLEL WITH

THE EAST LINE AND EAST LINE EXTENDED OF SAID LOT, FROM THE POINT OF BEGINNING; THENCE SOUTH ALONG SAID PARALLEL LINE 222.50 FEET TO THE POINT OF BEGINNING; IN THE CITY OF ST. CHARLES, KANE COUNTY, ILLINOIS.

PARCEL 2: THAT PART OF LOTS 1 AND 3 OF THE DEAN FERSON HEIRS FIRST ADDITION TO ST. CHARLES, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF LOT 3; THENCE SOUTHERLY ALONG THE ( EASTERLY LINE OF SAID LOT 3, 475 FEET FOR THE POINT OF BEGINNING; THENCE WESTERLY PARALLEL WITH MAIN STREET TO THE NORTH AND SOUTH CENTER LINE OF SECTION 28; THENCE CONTINUING WESTERLY ALONG SAID PARALLEL LINE 50 FEET; THENCE SOUTHERLY AND PARALLEL WITH THE NORTH AND SOUTH CENTER LINE OF SECTION 28 TO THE SOUTH LINE OF SAID LOT; THENCE EASTERLY ALONG THE SOUTHERLY LINE OF LOT 1 AND ALONG THE SOUTHERLY LINE OF SAID LOT 3 TO THE SOUTHEASTERLY CORNER OF LOT 3; THENCE NORTHERLY ALONG THE EASTERLY LINE OF SAID LOT 3 TO THE POINT OF BEGINNING; (EXCEPTING THEREFROM THE WEST 76.0 FEET, AS MEASURED ON THE NORTH AND SOUTH LINES THEREOF, OF THE SOUTH 165.0 FEET, AS MEASURED ON THE EAST AND WEST LINES THEREOF OF), IN THE CITY OF ST. CHARLES, KANE COUNTY, ILLINOIS.

#### STATE OF ILLINOIS

SS.

#### COUNTIES OF KANE AND DU PAGE )

#### CERTIFICATE

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I, <u>Jean M. Connors</u>, certify that I am the duly elected and acting municipal clerk of the City of St. Charles, Kane and DuPage Counties, Illinois.

I further certify that on <u>May 18</u>, 1987 the Corporate Authorities of such municipality passed and approved Ordinance No. <u>1987-Z-4</u>, entitled <u>AN ORDINANCE GRANTING A SPECIAL USE</u> AS A PLANNED UNIT DEVELOPMENT FOR THE FIRETHORNE APARTMENTS PUD

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 1987-2-4, including the Ordinance and a cover sheet thereof was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on

May 21, 1987, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the municipal clerk.

DATED at St. Charles, Illinois, this  $20^{\frac{1}{h}}$  day of  $\frac{198}{7}$ .

(SEAL)

