

**MINUTES
CITY OF ST. CHARLES, IL
ST. CHARLES PLAN COMMISSION
TUESDAY OCTOBER 18, 2011 – 7:00 P.M.**

Members Present: Todd Wallace, Chairman
 Tim Kessler
 Brian Doyle
 Curt Henningson
 Tom Schuetz
 Sue Amatangelo
 Thomas Pretz

Members Absent: None

Also Present: Rita Tungare, Community Development Director
 Russell Colby, Planning Division Manager
 Matthew O'Rourke, Planner
 Thomas Good, City Attorney
 Sonntag Court Reporter

1. Call to order

A meeting of the St. Charles Plan Commission was called to order at 7:04 p.m. by Chairman Wallace.

2. Roll Call

3. Presentation of Minutes

A motion was made, seconded and unanimously passed by voice vote to accept the minutes of the October 4, 2011 meeting.

A request was made for items on the agenda to be re-ordered so that item no. 5 would be heard prior to item no. 4.

Mr. Henningson made a motion to re-order the agenda. Seconded by Mr. Kessler and unanimously passed by voice vote.

MEETING

The attached transcript prepared by Sonntag Reporting Service, Ltd., is by reference hereby made a part of these minutes.

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5. Lexington Club PUD (Lexington Homes LLC)(North of Dean and State Streets, east of 12th Street, west of 5th Street, and south of the railroad tracks)

Application for Map Amendment (M-1 Special Manufacturing to RT3-Traditional Single Family Residential and RM-2 Multi-Family); Application for Special Use as a Planned Unit Development; Application for PUD Preliminary Plans

Mr. Doyle made a motion to recommend approval of the application for a Map Amendment from M-1 Special Manufacturing to RT3 Traditional Single-Family Residential and RM-2 Multi-Family. Mr. Kessler seconded the motion.

Voice Vote:

Ayes: Schuetz, Kessler, Pretz, Doyle, Wallace, Amatangelo, Henningson

Nays: None

Absent:

Motion passed unanimously.

Mr. Kessler made a motion to recommend approval of the application for a Special Use for Planned Unit Development, finding that the proposed PUD is in the public interest, based on the attached criteria in the Staff Report and the three conditions outlined in the Staff Report.

Mr. Doyle made a motion to amend the main motion so that condition #2 regarding traffic analysis be modified to a comment, rather than a condition. Mr. Henningson seconded the motion

Voice Vote:

Ayes: Schuetz, Henningson, Doyle, Wallace

Nays: Amatangelo, Pretz, Kessler

Absent: None.

Motion to amend passes 4 to 3.

Mr. Doyle made a motion to amend the main motion to remove condition #3 regarding affordable housing. There was no second.

Mr. Kessler called the question to vote on the main motion, with conditions #1 regarding building materials and #3 regarding affordable housing, with condition number #2 regarding traffic analysis being included as a comment only.

Voice Vote:

Ayes: Schuetz, Kessler, Pretz, Doyle, Amatangelo, Henningson

Nays: Wallace

Absent:

Motion passes 6 to 1.

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Mr. Doyle made a motion for approval of the application for PUD Preliminary Plans without condition. Mr. Henningson seconded the motion.

Mr. Doyle made a motion to amend the main motion to include a condition that the development monument sign be removed. Mr. Kessler seconded the motion.

Voice Vote:

Ayes: Schuetz, Kessler, Pretz, Doyle, Wallace

Nays: Amatangelo, Henningson

Absent:

Motion to amend passes 5-2.

Mr. Doyle made a motion to amend the main motion to include the recommendation language in the Staff Report regarding addressing staff comments prior to City Council action. Mr. Kessler seconded the motion.

Voice Vote:

Ayes: Schuetz, Kessler, Pretz, Doyle, Wallace, Amatangelo, Henningson

Nays: None

Absent:

Motion to amend passed unanimously.

The Commission then voted on the main motion as amended to include a condition that the development monument sign be removed and inclusion of the recommendation language in the Staff Report regarding addressing staff comments prior to City Council action.

Voice Vote:

Ayes: Schuetz, Kessler, Pretz, Doyle, Amatangelo, Henningson

Nays: Wallace

Absent:

Motion passes 6 to 1.

PUBLIC HEARING

4. Children of America – Bob Rasmussen (Tyler and Rt. 64 PUD, South of St. Charles Chrysler Dealership)

Application for Special Use (Daycare Center); Application for PUD Preliminary Plans

Supporting Documents:

- PUD Preliminary Plans - Preliminary/Final Engineering Plans
- Landscape Plan
- Architectural Elevations
- Ordinance No. 2004-Z-14

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The attached transcript prepared by Sonntag Reporting Service, Ltd., is by reference hereby made a part of these minutes.

Mr. Kessler made a motion to close the public hearing. Ms. Amatangelo seconded the motion.

Voice Vote:

Ayes: Schuetz, Kessler, Pretz, Doyle, Wallace, Amatangelo, Henningson

Nays: None

Absent:

Motion passed unanimously.

6. Meeting Announcements

Plan Commission Tuesday, November 8, 2011 at 7:00pm at Council Chambers

Plan Commission Tuesday, November 22, 2011 at 7:00pm in the Council Chambers

Plan Commission Tuesday, December 6, 2011 at 7:00pm in the Council Chambers

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

8. Adjournment at 9:58pm.

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PRESENT:

MR. TODD WALLACE, Chairman;

MR. KESSLER, Vice-Chairman;

MR. BRIAN DOYLE, Member;

MR. CURT HENNINGSON, Member;

MR. THOMAS PRETZ, Member;

MR. TOM SCHUETZ, Member; and

MS. SUSAN AMATANGELO; Member.

ALSO PRESENT:

MS. RITA TUNGARE, Community Development
Director;

MR. RUSSELL COLBY, Planning Division Manager;

MR. MATTHEW O'ROURKE, Planner; and

MR. TOM GOOD, City Attorney.

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1 CHAIRMAN WALLACE: The St. Charles Plan
2 Commission will come to order.

3 Tim, roll call.

4 MR. KESSLER: Amatangelo.

5 MS. AMATANGELO: Yes.

6 MR. KESSLER: Schuetz.

7 MR. SCHUETZ: Yes.

8 MR. KESSLER: Doyle.

9 MR. DOYLE: Yes.

10 MR. KESSLER: Pretz.

11 MR. PRETZ: Yes.

12 MR. KESSLER: Henningson.

13 MR. HENNINGSON: Yes.

14 MR. KESSLER: Kessler. Yes.

15 Wallace.

16 CHAIRMAN WALLACE: Here.

17 All right. Item 3 on your agenda is
18 presentation of the minutes and staff report of
19 October 4th, 2011. Is there a motion for
20 approval?

21 MR. SCHUETZ: So moved.

22 MS. AMATANGELO: Second.

23 CHAIRMAN WALLACE: Moved and seconded.

24 All in favor?

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1 (The ayes were thereupon
2 heard.)

3 CHAIRMAN WALLACE: Opposed?

4 (No response.)

5 CHAIRMAN WALLACE: The motion passes
6 unanimately.

7 At this point, it has been requested that
8 the items on the agenda be re-ordered in that Item
9 5 would be heard prior to Item No. 4.

10 Is there a motion to that effect?

11 MR. HENNINGSON: So moved.

12 MR. KESSLER: Second.

13 CHAIRMAN WALLACE: Moved and seconded.

14 All in favor?

15 (The ayes were thereupon
16 heard.)

17 CHAIRMAN WALLACE: Opposed?

18 (No response.)

19 CHAIRMAN WALLACE: Okay. That motion
20 passes unanimately which means that the next item
21 for consideration is Item 5, Lexington Club PUD,
22 Lexington Club Homes LLC, north of Dean and State
23 Street, east of 12th Street, west of 5th Street,
24 south of the railroad tracks.

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1 We have three applications, an application
2 for MAP Amendment M-1 Special Manufacturing to RT3
3 Traditional Single-family Residential and RM-2
4 Multi-family, and application for Special Use as a
5 Planned Unit Development, and application for PUD
6 Preliminary Plans.

7 Would staff like to review the Staff
8 Report?

9 MS. TUNGARE: Sure. Thank you,
10 Mr. Chairman.

11 We have a Staff Report and recommendation
12 that we would like to present for the Plan
13 Commission tonight. And to preface my staff
14 recommendation, I would just like to make a couple
15 of comments.

16 The plan Commission had a couple public
17 hearings on this project. And there was a
18 significant amount of public testimony that was
19 given during these hearings.

20 We have prepared this recommendation with
21 due consideration to the testimony and evidence
22 that has been entered into the record at the
23 public hearing. And the recommendations are
24 strictly based on the Findings of Fact which are

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1 attached to the Staff Report.

2 In a nutshell, what staff is recommending
3 is approval of the Lexington Club project.
4 However, the approval is based upon certain
5 conditions which I will walk the Commission
6 through in a moment.

7 Like I said before, I would like to make a
8 couple of comments at a higher level just to
9 explain the basis for our recommendations.

10 The proposed development fits the City's
11 broader goal of redeveloping this site with a
12 residential use within the acceptable density
13 range as has been outlined in the City's
14 Comprehensive Plan.

15 Staff also acknowledges that the proposed
16 redevelopment plan is not necessarily in full
17 conformance with the Comprehensive Plan -- the
18 Comprehensive Plan that was approved, I believe,
19 in 2007.

20 However, the redevelopment of this site
21 with a residential use will be compatible with
22 surrounding residential uses and will serve as a
23 public benefit to the community. It will also be
24 a significant benefit to the public health,

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1 safety, and welfare.

2 This site has been known to be
3 environmentally contaminated for a period of time,
4 and this property has been a public nuisance by
5 attracting criminal activities for the past few
6 years.

7 There was also testimony that was given as
8 to the health hazards existing on the property for
9 an extended period of time. And redevelopment of
10 this site will require and necessitate a complete
11 environmental clean-up of the property per EPA
12 standards and also construction of a new
13 infrastructure.

14 Having said that, I would move forward with
15 my recommendation to the Plan Commission. On the
16 MAP amendment application, I would like to
17 recommend approval based upon the preponderance of
18 the evidence and the attached Findings of Fact.

19 For the Special Use for Planned Unit
20 Development application, I would like to recommend
21 approval of the Special Use for Planned Unit
22 Development, finding that the proposed PUD is in
23 the public interest and supports the public
24 health, safety, and welfare. And that, again, is

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1 based upon the following conditions and the
2 Findings of Fact.

3 Condition No. 1, that the fiber cement
4 siding that has been proposed by the developer
5 shall be used -- excuse me -- the vinyl siding
6 that has been proposed by the developer shall be
7 replaced by fiber cement siding.

8 The second condition relates to traffic.
9 Further analysis shall be conducted at the
10 intersections of 7th Street and Illinois 64, also
11 known as Main Street, and at Illinois 31, also
12 known as 2nd Street, and State Street, at that
13 intersection, to determine the feasibility of
14 intersection modifications that can potentially
15 improve the level of service for traffic serving
16 the neighborhoods on the arterial streets.

17 This condition has been imposed because of
18 the testimony that was offered by the neighboring
19 residents during the public hearings.

20 CHAIRMAN WALLACE: Can you tell me those
21 intersections again?

22 MS. TUNGARE: Those intersections are
23 64 -- Route 64 and 7th Street. And the second one
24 is Illinois 31 and State Street.

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1 CHAIRMAN WALLACE: Thank you.

2 MS. TUNGARE: There is an additional
3 memo from H.L.R. who is the City's traffic
4 consultant that we solicited based on some
5 questions and concerns that were expressed by
6 residents during the public hearing. And there is
7 some additional review in the packets for
8 consideration as well from each of them.

9 The third condition relates to affordable
10 housing as has been presented by the developer or
11 the applicant. They are requesting a full waiver
12 of the City's affordable housing ordinance.

13 And the Housing Commission considered that
14 request and provided a courtesy recommendation
15 which has been forwarded to the Plan Commission.

16 In a nutshell, that recommendation states
17 that the Housing Commission has acknowledged that
18 the site has unique conditions and the development
19 could serve as a community benefit. And given the
20 uniqueness of the site, a compelling argument
21 could be made to consider the developer's request
22 for a full affordable housing waiver.

23 Having said that, the Council -- or rather
24 the Housing Commission also felt strongly that

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1 there needs to be some effort, good faith effort,
2 on the part of the developer to try to secure some
3 other sources of funding so as to be able to
4 provide some affordable housing, acknowledging,
5 again, that there is a public benefit for this
6 redevelopment project.

7 What they recommended is that there needs
8 to be an accountability mechanism put in place
9 that will insure that the applicant will work in
10 good faith to find other revenue sources during
11 the course of the projected 52-month construction
12 period.

13 So that is the time frame within which the
14 applicant needs to develop good faith efforts to
15 find other revenue sources. Staff concurs with
16 that recommendation of the Housing Commission.

17 However, additionally, I recommend that
18 prior to final City Council action -- the way this
19 process should work is the Plan Commission will
20 give a recommendation that gets forwarded to the
21 Planning & Development Committee. The Planning &
22 Development Committee would make a recommendation
23 to City Council.

24 So I am recommending that prior to that

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1 final City Council approval, based on the Housing
2 Commission recommendation, the developer should
3 demonstrate the availability of funding sources,
4 do some preliminary research.

5 They don't necessarily have to secure the
6 funding, but just do some preliminary research and
7 identify some funding sources that can be used to
8 reduce the purchase price of 21 affordable housing
9 units that will be required on this property.

10 So that is one additional condition that
11 staff has imposed to supplement the Housing
12 Commission's recommendation.

13 Some other considerations for the Plan
14 Commission which I don't necessarily outline as a
15 condition in my recommendation but something that
16 I offer for your consideration and deliberation on
17 behalf of the Park District, the development site
18 remains deficient in the overall acres of park
19 land based on the City's calculations. And the
20 Park District has expressed an interest in a park
21 site located at 9th and Mark Streets to provide a
22 wider access to the future trail along the
23 railroad right-of-way. This park site was shown
24 in the previous concept plan and has been

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1 eliminated in the current preliminary plan. So I
2 just forward that for additional consideration on
3 behalf of the Park District.

4 The last application before you is the PUD
5 preliminary plan application. And on that, we
6 recommend approval subject to resolution of any
7 technical comments that -- that will come up
8 during the review process.

9 So that pretty much summarizes my staff
10 recommendation. The Findings of Fact are in the
11 packets for your consideration. They are pretty
12 lengthy. So I will not take time to walk you
13 through each and every one of those findings. But
14 if you have any questions, I will be happy to
15 answer those.

16 Thank you.

17 CHAIRMAN WALLACE: Thank you, Rita.

18 And at this point in time, I would -- I am
19 open to suggestions. But I think it would be
20 appropriate to take the applications one at a
21 time, probably in order. The MAP amendment
22 starting first.

23 And I would say unless anyone -- well,
24 let's open it up for general discussion. And then

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1 if anyone has a motion that they would like to
2 make on any of the applications, we will take
3 that.

4 Is there any discussion from the Plan
5 Commission?

6 MR. HENNINGSON: I don't -- I have a
7 just a general comment. And that is to say staff
8 did an excellent job putting together this package
9 of information. It is very complete. I really
10 had no questions from what I saw.

11 I would like to thank the applicant as
12 well. It was a very complete package and made our
13 job a lot easier.

14 MR. SCHUETZ: Todd, if we have any
15 recommendations as we go forward, this is not the
16 time to make that known, is it?

17 CHAIRMAN WALLACE: Such as?

18 MR. SCHUETZ: The area between the
19 proposed plan and the light manufacturing, that
20 buffered area, I would like to see it beefed up a
21 little bit more than it is.

22 CHAIRMAN WALLACE: Okay. Well, we can
23 ask the applicant or staff questions regarding
24 that. Potentially, you know, the appropriate

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1 thing would be to include that as a condition on
2 the recommendation or as a justification for
3 denial. Either way.

4 But yeah. That is how that would come into
5 play.

6 Yes?

7 MR. DOYLE: I agree we should take the
8 first application for MAP amendment. And when we
9 get to the PUD application, at that time, I have
10 some suggestions on how we structure our
11 consideration.

12 CHAIRMAN WALLACE: Okay. Would you like
13 to make a motion?

14 MR. DOYLE: Yes. I move that Plan
15 Commission recommend approval of the Lexington
16 Club PUD application for a MAP Amendment M-1
17 Special Manufacturing to RT3 Traditional
18 Single-Family Residential and RM-2 Multi-family.

19 MR. KESSLER: Second.

20 CHAIRMAN WALLACE: Moved and seconded.

21 Discussion on that motion?

22 MR. PRETZ: Are we including their
23 recommendations on his motion?

24 CHAIRMAN WALLACE: The conditions that

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1 they suggested were on the -- on the second and
2 third applications.

3 On the MAP amendment, the recommendation by
4 City staff was approval based on the preponderance
5 of the evidence.

6 MR. PRETZ: My error.

7 CHAIRMAN WALLACE: Any discussion?

8 MR. DOYLE: I concur with all of the
9 Findings of Fact as provided by the staff and as
10 drafted by the staff.

11 CHAIRMAN WALLACE: Okay.

12 Anything else?

13 (No response.)

14 CHAIRMAN WALLACE: All right.

15 Tim?

16 MR. KESSLER: Amatangelo.

17 MS. AMATANGELO: Yes.

18 MR. KESSLER: Schuetz.

19 MR. SCHUETZ: Yes.

20 MR. KESSLER: Doyle.

21 MR. DOYLE: Yes.

22 MR. KESSLER: Pretz.

23 MR. PRETZ: Yes.

24 MR. KESSLER: Henningson.

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1 MR. HENNINGSON: Yes.

2 MR. KESSLER: Wallace.

3 CHAIRMAN WALLACE: Yes.

4 MR. KESSLER: Kessler. Yes.

5 CHAIRMAN WALLACE: All right. That
6 motion passes unanimously.

7 And any further motions or discussion?

8 MR. DOYLE: Would you like a motion
9 before discussion?

10 CHAIRMAN WALLACE: I think the way we
11 run our procedure we can -- if you want to
12 discuss, then it would probably be best to more
13 efficiently craft a motion.

14 MR. DOYLE: Motion first?

15 CHAIRMAN WALLACE: If you want to
16 discuss what you are thinking, go ahead.

17 MR. DOYLE: I have three topics that I
18 think, based on the Staff Memo, that may need some
19 discussion. These are traffic, affordable
20 housing, and walkability and social space.

21 I propose we look at those three issues
22 sequentially to parse out some of the issues that
23 were identified in the public hearing and so
24 forth.

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1 CHAIRMAN WALLACE: Okay.

2 MR. DOYLE: Any one that we should start
3 with?

4 CHAIRMAN WALLACE: I mean, do you want
5 to address questions or give comments on those
6 things? Give your opinion on those things?

7 MR. DOYLE: Sure.

8 CHAIRMAN WALLACE: Let's -- why don't we
9 do this within the framework of what the staff
10 recommendation is, okay, based on their conditions
11 which starts on Page 11 of the Staff Report.

12 For the Special Use for Planned Unit
13 Development, the conditions they laid out --
14 building materials, traffic, affordable housing,
15 and then they also -- it also suggested park land.

16 So I would say let's draft our
17 consideration within that framework. And if there
18 is anything additional, we can discuss that as
19 well.

20 MR. DOYLE: Very good.

21 CHAIRMAN WALLACE: So I guess we will
22 start by whatever -- I mean, what is -- what is --
23 are there any questions regarding any of these?
24 Or does anyone see a need to make changes to what

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1 the staff is recommending as conditions?

2 MR. DOYLE: I have a question regarding
3 the recent memo sent to Plan Commission from -- I
4 am sorry -- included in the Commission's packet
5 from H.L.R. It presents some information on the
6 capacity at the corner of the intersection of
7 Route 64 and 7th Street. So I guess this really
8 is both a question and discussion point.

9 During the public hearing, the information
10 that we reviewed and heard in the testimony, the
11 study by KLOA reported the northbound -- that is
12 the south leg of that intersection -- with a
13 capacity grade for future conditions -- capacity
14 grade of "C" with a 22-second delay in the peak
15 P.M. hours.

16 The memo from H.L.R. lists the capacity --
17 future capacity condition as a level of service
18 "E" with a 76.4-second delay. And I can cite the
19 pages where these stats are found, if needed.

20 First of all, I would like confirmation if
21 I am reading the information correctly. Is there
22 a discrepancy of -- in both the level of service
23 grades during the peak P.M. hours in 2015 as well
24 as in the number of seconds delay?

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1 MR. COLBY: I think that the information
2 you are comparing is not the same. The traffic
3 study that was done by KLOA, those grades are a
4 capacity analysis for the entire intersection. So
5 that is a grade level "C" for the overall
6 functionality of the intersection.

7 The memo that has been provided by H.L.R.
8 breaks that out into looking at just the north leg
9 of 7th Street. So those individual movements
10 would be graded lower. But it was averaged
11 together with the overall intersection to come up
12 with the grade "C."

13 MR. DOYLE: Okay. All right.

14 Thank you.

15 So I guess another question I have for
16 staff, we are looking at recommending additional
17 study of possible modification to these
18 intersections. And the H.L.R. memo found that the
19 capacity in 2015 on the south leg of that
20 intersection approaches capacity. It doesn't say
21 it will exceed it, but it approaches it.

22 Does this change in any way our finding of
23 fact that there is adequate infrastructure at that
24 intersection, the fact that our traffic consultant

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1 is recommending further research at that
2 intersection?

3 MS. TUNGARE: We have a representative
4 of H.L.R. here. I would like to defer to him to
5 give an explanation of this analysis.

6 Alex?

7 MR. GARBE: I have the memo here.

8 MR. DOYLE: Here is my question,
9 basically, in a nutshell: You are recommending
10 additional study and consideration for
11 modification of this intersection at 2nd and
12 State.

13 During the last public hearing, I asked you
14 directly if you concurred with the applicant's
15 traffic consultant that there is sufficient
16 capacity. You said, "Yes, there is."

17 Do these recommendations for further study
18 qualify that finding in any way?

19 MR. GARBE: I guess I would say that
20 what I said at the last meeting is still true. I
21 guess that we -- at this kind of high-end level of
22 capacity, there is kind of a definition of what is
23 acceptable to each particular area. And there was
24 a lot of discussion brought up at the last meeting

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1 about those particular intersections. There is
2 possibly some existing problems. There is
3 possibly going to be worse problems if you add
4 traffic.

5 In light of the public concern, primarily,
6 we think further study in those areas is
7 warranted. It doesn't necessarily -- it doesn't
8 really change what we said before. We think the
9 infrastructure is adequate there. But that
10 depends really on what is acceptable to the
11 community also.

12 MR. DOYLE: Okay. Thank you. That is
13 all I need to know.

14 CHAIRMAN WALLACE: Anything further?

15 MR. DOYLE: Not on traffic.

16 CHAIRMAN WALLACE: Anything else by
17 anybody else on traffic?

18 (No response.)

19 Okay. I am sorry. Mr. Stillwell.

20 MR. STILLWELL: I wanted to make a
21 comment on an item on the Staff Report before
22 there is a motion to vote on the Special Use.

23 CHAIRMAN WALLACE: Okay. Is it in
24 regards to the traffic issue that we were just

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1 discussing -- that condition?

2 MR. STILLWELL: What I want to do is
3 make a summary statement relative to the staff
4 recommendations as to the applicant's position on
5 those just so at least there is clarity.

6 And in particular, the issue of the Park
7 District site, because of the history of that, I
8 want to make sure the Plan Commission fully --

9 CHAIRMAN WALLACE: Would you like to go
10 ahead and elaborate on that now just so we can --

11 MR. STILLWELL: If you --

12 CHAIRMAN WALLACE: Go ahead.

13 MR. STILLWELL: Thank you.

14 First, again, Henry Stillwell, 300 East
15 Roosevelt Road, Wheaton, Illinois, attorney for
16 the applicant.

17 First, I concur with Mr. Henningson's
18 comments. The Staff Report is very thorough. The
19 staff has been good to work with on this project.
20 It is a complicated project with lots of issues.
21 We appreciate their input.

22 On a couple of recommendations, I don't
23 want to go in great detail because I realize that
24 these are things that these are points for further

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1 discussion before the Planning & Development
2 Committee. So if we do not necessarily identify
3 that, we simply -- it is just that we realize that
4 these are points for further discussions before
5 Planning & Development based upon what the Plan
6 Commission thinks which is generally based upon
7 staff recommendation.

8 First, let me start with the Park District
9 because this is something that is of great concern
10 to me.

11 We have spent a tremendous amount of time,
12 as I indicated in my testimony during the public
13 hearing, with not just City staff but also with
14 staff members and elected officials of both the
15 Park District and the School District because this
16 is a joint effort. All of the relevant bodies
17 have been embraced with this so that we made sure
18 we are on sound footing because of the
19 complications and the cost going forward.

20 When we made the original submittals and
21 some of the successive submittals, we did show at
22 one time a .9-acre park on site as alluded to in
23 the Staff Report.

24 However, as I testified, following the date

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1 that the Park District elected to acquire the
2 2.7-acre Belgium Town Park site, we then met with
3 park officials again. At the time Jim Breen,
4 Jimmy Ryan, Jim Cooke, one of the trustees, and
5 one other member whose name escapes me at the
6 moment. He is one of the board members.

7 At that time, we went through an
8 alternative plan layout that would eliminate the
9 .9-acre park because of the 2.7-acre park. And
10 following that discussion, they concurred with the
11 alternative plan which we had already shown to
12 staff that eliminated that park, changed some of
13 the product based upon what you have seen so far,
14 and changed the density count to accommodate some
15 of the economic constraints we were dealing with
16 on the project.

17 Based upon that meeting, we were clearly
18 told without any equivocation that they were in
19 agreement with that modification; that they were
20 very happy to receive cash in lieu of land because
21 they had the new facility and that land -- that
22 money would be beneficial; and that money would be
23 beneficial in promoting the development and use of
24 that site, the 2.7 acres.

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1 The only caveat to that, they made clear,
2 they would still -- they, the Park District --
3 would like to receive the small strip of land
4 south of Home Industries to give them greater
5 access to their new site which we concurred with.
6 Those were the two components. Nothing else.

7 We have relied upon those statements from
8 those representatives who met with us and had met
9 with us consistently throughout the process. It
10 was far from the first. It was one of many
11 meetings.

12 Based upon that, all of the following
13 actions were predicated -- including, most
14 important, going to the School District with a
15 very specific proposal relative to the TIF matter
16 that has been discussed generally here.

17 And based upon that formulation and the
18 specific guidance that was provided by the School
19 District, it was approved by the School District
20 through the Business Services Committee.

21 For this matter to come up at this time is
22 wrong. Now, I understand that there was a letter
23 that was sent to the City that indicated this was
24 still of interest. This was several weeks ago. I

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1 was very surprised when I saw it.

2 I called the Park District and learned that
3 there has been a major change of staff members
4 there. Mr. Breen has retired. Mr. Ryan has
5 retired. So I got ahold of Jim Cooke who has been
6 on the board for a long, long time. And I have
7 dealt with Jim on many occasions on various
8 projects over the years. And I went through this
9 with Jim because he was at that meeting.

10 And he acknowledged and said -- he
11 apologized. It was an oversight. Somehow there
12 was a lack of continuity; that the new people
13 apparently missed what was -- what was changed
14 after the original review. And therefore, that
15 would be taken care of. It was my understanding
16 that that had been taken care of and that it was
17 confirmed by the Park District that they were not
18 looking for land other than that access strip
19 south of Home Industries.

20 So I want it to be very clear in the
21 record -- we are off the record now. But I want
22 the Plan Commission to be very well aware of the
23 fact that we took great pains to work with the
24 Park District. And this should not be a loose

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1 end. This is nothing more than a reflection of a
2 miscommunication within the Park District itself
3 because of a change of personnel.

4 And it is an absolutely critical issue.
5 This plan is dead on arrival if the Park District
6 thinks it can change at this point given how far
7 we have gone and the reliances upon our assertions
8 with the School District.

9 So I want that to be very clearly
10 understood that we have acted in total good faith
11 on this. And it is rather frustrating to see this
12 issue continue to surface.

13 With respect to the affordable housing, we
14 appreciate staff's recommendation on that. We
15 believe it is consistent with the Housing
16 Commission.

17 We did make clear at the Housing Commission
18 meeting that we would get into the details of the
19 search after the entitlements were completed. I
20 don't disagree with Rita's suggestion that we at
21 least take a look and be sure that there is
22 something out there that might be available.

23 One thing that must be kept in mind and I
24 want to make known here and all the way along the

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1 process so that it is clear, this was a suggestion
2 made by the chairman of the Housing Commission.
3 She is the one who made the assertion to us that
4 there are sources available. We don't know.

5 I am happy to make contact with the county
6 where she said there is a program. And we will do
7 that. And we will see what else is out there as
8 far as resources that will give us some guidance.

9 But the reality is that that is an issue
10 that is going to take some work relative to this
11 agreement so that there is clear objective
12 standards.

13 We will work on that. We will move forward
14 with that. I don't object to the language that
15 has been placed into the recommendation. I just
16 want it to be clear that we are acting in good
17 faith. But we also need to get to the point where
18 we actually have a project before we commit the
19 resources and manpower that it will take to
20 actually go forward with the investigation of
21 available resources and all the criteria that go
22 along with them.

23 It goes without saying, of course, that
24 with respect to the exterior siding we have asked

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1 for the vinyl for reasons. And we will stand on
2 that. And we hope that the Plan Commission will
3 feel that contrary to staff's recommendation the
4 vinyl as proposed with the heavier gauge is
5 acceptable for this development.

6 And finally, with respect to the traffic
7 analysis at those intersections which have already
8 been studied, we will certainly work with staff.
9 We will discuss this with them. It is a little
10 bit perplexing because there is only so far that
11 this developer can go.

12 We have presented a very detailed plan as
13 to what can be included and what is to be
14 included. So whatever that report might show, we
15 won't be in a position to do that work without
16 some funding source. I mean, that is just a fact
17 of life.

18 So we are not trying to be contentious. We
19 are just stating the facts as they exist and what
20 we have to deal with in the parameters and
21 constraints of this site.

22 So that being said, of all of those issues,
23 I would hope that the Plan Commission would
24 perhaps acknowledge the existence of this apparent

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1 confusion over the Park District site issue but
2 not recommend that it be included because I think
3 this plan is an appropriate plan as presented.

4 It accommodates the request of the Park
5 District as enunciated to us very clearly by
6 appropriate representatives. And it will be of
7 great import for that to be suggested to the
8 Planning & Development Committee to require the
9 plan to incorporate that because it would undo the
10 balance of density and all of the economic
11 dynamics that have gone into making this project a
12 viable undertaking.

13 So thank you.

14 CHAIRMAN WALLACE: Thank you.

15 Tim.

16 MR. KESSLER: Have you gotten anything
17 from the Park District regarding --

18 MS. TUNGARE: Well, we have two letters
19 which were entered into the public record for the
20 hearings. One was dated April 21st. And then
21 there was a subsequent letter dated August 8th.

22 Mr. Stillwell accurately represented that,
23 yes, there was some confusion on the part of the
24 Park District and -- with some change in

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1 administration there that -- which caused the two
2 letters to be written by the Park District.

3 However, if I may read verbatim what the
4 second letter from the Park District which is the
5 final piece of correspondence that we have on
6 record --

7 MR. KESSLER: Can I interrupt for just a
8 moment, though?

9 Mr. Stillwell, you spoke to Jim Cooke when?
10 Two weeks ago, you say? So there should be
11 something forthcoming --

12 MR. STILLWELL: My communication with
13 Mr. Cooke would have been shortly after the first
14 letter came out. Staff had sent me a copy of the
15 first letter. I immediately called the district
16 office first, found out that Jim Breen was gone,
17 and then called Jim Cooke. So I don't have that
18 letter with me. I don't recall the date of the
19 first letter. But I probably spoke with Jim
20 within just a few days.

21 The second letter I don't think I have
22 gotten --

23 MR. KESSLER: I am trying to determine
24 where that conversation occurred regarding the

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1 dates of these letters.

2 MS. TUNGARE: Yeah. This was sent to
3 the applicant. Also, it was made part of the
4 packet on the public hearing.

5 CHAIRMAN WALLACE: Which letter are
6 you --

7 MS. TUNGARE: The letter dated
8 August 8th. It is very brief. It is addressed to
9 Russell Colby. And that letter clearly states
10 that, if I made read verbatim, "After sending my
11 letter of August 3rd, 2011, I discovered that the
12 Park District agreed to accept the open space
13 dedications and cash donations as they appear on
14 the plan submitted for review on July 28, 2011.

15 "Please, see the attached letter dated
16 April 21, 2010, indicating such agreement," which
17 is what you are referring to; that there was an
18 agreement and then there was a change of
19 administration so the Park District had sent us a
20 letter on August 3rd which they withdrew and
21 subsequently sent this letter dated August 8th.

22 And it further states that, "The Park
23 District will stand by the commitment expressed in
24 that letter; though a wider access point to the

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1 future Union Pacific Trailway is preferred for the
2 reasons mentioned in my August 3rd, 2011, letter.
3 I apologize for any confusion this may have
4 caused."

5 It is signed by the Director of Parks and
6 Recreation, Ray Ochromowicz.

7 MR. KESSLER: So he said essentially he
8 is standing by what he said before, except they
9 want something more.

10 MS. TUNGARE: Which is one of the
11 reasons -- if I could elaborate on the staff
12 recommendation, which is the primary reason I have
13 not made it -- we have not made it a condition of
14 our recommendation as staff because there have
15 been instances where I have seen the Park District
16 express a strong desire or a requirement --
17 imposing a requirement for something they would
18 like to see happen.

19 But given the tenor of this letter, my read
20 was that this was a preference on their part. And
21 as staff, we have an obligation to forward this
22 kind of correspondence to members of the public
23 and Plan Commission. And that was my intent in
24 presenting that item to the Plan Commission for

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1 consideration.

2 MR. KESSLER: And you -- you don't list
3 that as a condition -- as a possible condition;
4 simply as another consideration.

5 MS. TUNGARE: Something that I am
6 forwarding on behalf of the Park District and as
7 factual information for the Plan Commission to
8 consider.

9 MR. KESSLER: Thank you.

10 CHAIRMAN WALLACE: All right.

11 Questions or comments from the Plan
12 Commission on this?

13 MR. DOYLE: I have lots.

14 I first want to make a comment. I would
15 like to thank Mr. Stillwell for providing his
16 summary. You addressed a lot of questions that I
17 have here on a sheet that I prepared about various
18 issues.

19 Regarding the park land issue, my first --
20 I have one basic question which is that the Staff
21 Report says that there is "a deficiency in the
22 overall acres of park land based on the City
23 population formula."

24 However, there is a cash/land formula. Is

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1 the cash/land formula satisfied according to
2 staff?

3 MR. COLBY: Yes, it is. The comment was
4 relative to the size of the park -- the size of
5 the park compared to the population generated.

6 MR. DOYLE: But it is true that the
7 applicant can provide land or cash in lieu -- cash
8 in lieu of land.

9 MR. COLBY: That is correct. It is only
10 to highlight that the land did not equate to the
11 amount that would be attributable to the
12 population size. However, the Park District
13 agreed to take the cash donation as a partial, in
14 addition to the small land donation.

15 MR. DOYLE: So there is an actual cash
16 contribution that will be made to the Park
17 District.

18 MR. COLBY: Yes.

19 MR. DOYLE: Okay. Then I guess just one
20 thing I would like to make a comment about for the
21 Plan Commission to consider. This seems to me to
22 relate to PUD Finding of Fact No. 2 regarding
23 walkability, access paths, et cetera.

24 The current Findings of Fact that we have,

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1 as drafted by the staff, lists that that is one of
2 the findings that the PUD provides for
3 walkability, provides for access paths, provides
4 for future -- I am sorry. I am trying to find --

5 MR. KESSLER: Are you talking about the
6 PUD on Page 16, the Findings of Fact? Are you
7 referring to the Findings of Fact for the PUD?

8 MR. DOYLE: Let me find -- yes. That is
9 correct.

10 MR. KESSLER: Page 16.

11 MR. DOYLE: Thank you. Page 16.

12 The draft Findings of Fact that we have
13 reads as follows: "The PUD preliminary plans
14 interconnect all existing streets that currently
15 terminate at the site. Complete sidewalk systems
16 connect with the existing sidewalk grid. The PUD
17 preliminary plans provide recreational facilities
18 in the form of pedestrian/bike path connections
19 offsite to a future regional trail on the railroad
20 right-of-way, a trail to the St. Charles Park
21 District park site, and a trail connecting to 12th
22 Street."

23 So that is the draft findings that we have
24 in front of us. And it is not qualified in any

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1 way. And I think if we are going to maintain that
2 Finding of Fact, then this issue of the Park
3 District kind of goes away. Otherwise, what we
4 have to find is that we find that this issue is
5 partially satisfied, but that there is still
6 something left to be desired.

7 And I question whether or not -- you know,
8 there is an access path to the future bike trail.
9 What are the benefits of a wider access path and
10 do we consider that park space? You know, is the
11 access path wide enough right now to accommodate
12 the needs according to the stated goal here which
13 is to create places oriented to the pedestrian
14 that promote physical activity and social
15 interaction, et cetera, et cetera? That is the
16 framework that we have to judge that on.

17 And I think it is unfortunate that the Park
18 District changed its mind after the fact and comes
19 to us after the public hearing is closed. The
20 applicant is in a position of having to rebut
21 testimony that was presented after the public
22 hearing is closed. Procedurally, that is
23 problematic for me.

24 MR. HENNINGSON: I disagree that that

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1 came after the fact. We had that information in
2 our packets previously.

3 MR. DOYLE: But we didn't raise the
4 question to the applicant.

5 MR. KESSLER: We had no knowledge of his
6 conversation with Jim Cooke after we discovered --
7 we didn't know the process of why we received the
8 second letter. There is a reason that they sent
9 the second letter.

10 MR. DOYLE: And you know, we can -- we
11 don't need to get distracted by that. The real
12 request is does the PUD plan provide for -- you
13 know, does it create places oriented to the
14 pedestrian that promote physical activity, et
15 cetera, et cetera, as stated in the draft Findings
16 of Fact? Or do we find any aspect of that finding
17 lacking or qualified in any way?

18 MS. TUNGARE: Can I add a couple of
19 comments? And I believe legal counsel has
20 something to add as well. I concur with
21 Mr. Henningson that both letters were made a part
22 of the public hearing testimony. They were in the
23 packets. And one letter did cross-reference the
24 other.

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1 So yes. I mean, if you looked at both
2 letters concurrently, it did indicate why one
3 replaced the other.

4 Having --

5 MR. KESSLER: Why isn't -- why do you
6 use it as just another consideration as opposed to
7 a recommendation like you did the other items?

8 MS. TUNGARE: It was just, again, given
9 the tenor of the letter, given to the Plan
10 Commission to express a preference rather than
11 making it a requirement.

12 They have expressed a strong preference.
13 And on occasion, I have seen when the Park
14 District or the School District feels strongly
15 about something, they will make it a condition of
16 their approval or they would make it a
17 requirement.

18 And in this case, given the verbiage of the
19 letter, it almost represents you know, "Nice to
20 have. It would be good to have. Not a
21 must-have."

22 That was my read on the letter. And from
23 our conversations with the Park District, as well,
24 that was our understanding.

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1 If I can turn it over to legal counsel, I
2 believe Tom Good has something to offer.

3 MR. GOOD: What I am hearing is a
4 reference to the Findings of Fact for Special Use
5 for PUD contained in Chapter 17, Section
6 17.04.410.D.3. Is that correct?

7 MR. O'ROURKE: That's correct.

8 MR. GOOD: I want to clarify one item
9 which you were stating earlier. You are not
10 making specific Findings of Fact as to each
11 criteria. The Code requires -- and I will
12 quote -- "the Plan Commission shall not favorably
13 recommend amendment to a Special Use for
14 PUD unless they each make findings" -- referring
15 the Plan Commission and the City Council -- "based
16 on the application and the evidence presented at
17 the public hearing that the PUD is in the public
18 interest."

19 That finding is made by the Plan
20 Commission. And in making that finding, it is
21 quote, unquote, "based on the following criteria."

22 So then you have the criteria that you take
23 into consideration as a whole and determine, based
24 on a preponderance of the evidence in your review

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1 of all the criteria, that the project is in the
2 public interest. So it is not a specific finding
3 of fact on each criteria.

4 I believe we did an opinion to the Plan
5 Commission in 2009 regarding this topic.

6 MR. DOYLE: Well, thank you for the
7 clarification.

8 I guess what I would -- I am correct that
9 these -- well, whether it is a single finding or a
10 finding based on stated criteria -- findings with
11 a small "F" maybe -- these go forward to the City
12 Council as part of our recommendation as part of
13 the preponderance of evidence.

14 And I guess what I am saying, ultimately,
15 is that I agree with Rita. I concur with staff
16 that -- first of all, I stand by the statement
17 regarding Criteria No. 2 which is not qualified in
18 any way.

19 And my point is that as far as that
20 criterion is concerned and as far as that factors
21 into our composite finding, if you will, I think
22 that this issue -- we have to look at it in that
23 framework which is, "What bearing does this have
24 on that criterion?"

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1 And what we have heard is that there is a
2 land/cash contribution that has been agreed to by
3 the Park District. That is -- that is part of the
4 public record. There may be some differences in
5 preferences in that this sort of is, "This would
6 be nice to have." But I think -- my
7 recommendation is that the Plan Commission sort of
8 table that issue as a consideration from this
9 whole list because, you know -- well, basically,
10 because I think that the criterion is described
11 accurately.

12 MR. GOOD: Mr. Chairman?

13 Are you suggesting that Rita indicate that
14 she believes that the finding as originally
15 drafted is correct --

16 MR. DOYLE: Well, I mean --

17 MR. GOOD: -- based on the plans?

18 MR. DOYLE: I am suggesting that the --
19 the staff recommendation presents park land use as
20 another consideration for us. And we are
21 deliberating on it.

22 And I consider it as follows: I think it
23 is interesting to consider, but it doesn't change
24 the draft Findings of Fact as presented here on

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1 Page 16 of our staff packet.

2 MR. GOOD: That is a fair statement. I
3 understand from Rita that they support the
4 findings. And that is the reason it was written
5 that way. And as you are suggesting, the balance
6 of the recommendation is really just for your
7 information as opposed to a suggestion for
8 modification.

9 MR. KESSLER: That is why we are
10 discussing it. I agree with you.

11 MS. TUNGARE: That is correct. I think
12 Tom summarized our -- staff's understanding very
13 well.

14 CHAIRMAN WALLACE: And one other point
15 kind of as a connected but separate issue. And I
16 would like to get legal counsel's clarification on
17 this as well.

18 Any evidence that comes at this point,
19 after the public hearing is closed, the weight
20 that goes -- the weight that evidence has -- I
21 would assume that legal counsel would agree that
22 if the evidence is a hearsay statement by a party
23 that has not been sworn, not been subjected to
24 cross-examination, the Plan Commission should give

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1 that no weight whatsoever.

2 MR. GOOD: As far as the record, it is
3 really not a factor to be considered. And you are
4 correct.

5 CHAIRMAN WALLACE: Okay. All right.

6 Brian.

7 MR. DOYLE: I have some other -- I have
8 one other question regarding walkability and
9 social space.

10 Before I ask it, is it possible at this
11 point in our deliberations outside of the public
12 hearing to ask a question regarding a facet of the
13 PUD preliminary plan?

14 Specifically, my question is for the
15 townhomes with the front-loading garages. What is
16 the distance from the front of the garage to the
17 sidewalk?

18 MR. SMITH: Terry Smith, B.S.B. Design.

19 In all cases, there is 20 feet of stack
20 between the garage door and the right-of-way.
21 So -- and then there is another foot to the
22 sidewalk. So 21 feet total.

23 MR. DOYLE: Okay. Thank you.

24 My concern here was to confirm that the

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1 stacked space is adequate for cars in the driveway
2 to be -- to clear the sidewalk. And I am not
3 certain that -- I wanted to confirm that in terms
4 of the walkability issue.

5 This is more of a comment. You know, I was
6 reviewing the public testimony that was given
7 during the concept plan phase of the public
8 hearings. There is a lot of different feedback
9 that the applicant received that we talked about
10 at the last public hearing regarding
11 neo-traditionalism and the alleyways and density
12 and a variety of issues.

13 In terms of front-loading garages, is there
14 anything about a front-loading garage which is a
15 variance or a deviation from the underlying zoning
16 that we are recommending with the MAP amendment?

17 MR. COLBY: No. There is not anything
18 specific in our zoning ordinance that addresses
19 where a garage should be placed for any townhome
20 building. So for those zoning districts, RM-2
21 District, there is no requirement. There is a
22 suggestion in the design review standards that
23 garages be oriented away from the street so you
24 have a more traditional form to a townhome, like a

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1 row home. But there is no requirement.

2 MR. DOYLE: So it is not -- it is not a
3 deviation from the zoning. It is just a departure
4 from the Comprehensive Plan.

5 MR. COLBY: That's correct.

6 MR. DOYLE: At the last public hearing,
7 we heard public testimony about new urbanism and
8 different design philosophies. I share the
9 sentiments that Mr. Amundson expressed about new
10 urbanism.

11 I don't perceive, having read the
12 transcript of the public testimony offered during
13 the -- during the concept plan phase, that there
14 is a clear mandate from the public for that
15 direction in terms of public planning. I think
16 that there is some political groundwork that needs
17 to be laid to educate the public about the
18 benefits of that approach to empower developers to
19 bring forward plans that include alleyways and
20 higher-density developments and so forth.

21 So I would prefer that the plan have more
22 front porches and be more neo-traditional in its
23 vision. But I also concede that the public --
24 that the applicant heard feedback during the

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1 concept plan phase that members of the public
2 didn't like that, members of the Planning &
3 Development Committee didn't care for that, and a
4 market study that says the public and people don't
5 want to buy it.

6 So given that the underlying zoning doesn't
7 proscribe it, I can't find a good basis to make
8 that an issue in terms of approval of the PUD
9 application.

10 And yet, I want to state for the record
11 that it would be my desire that we would embrace a
12 new urbanist sort of development pattern and make
13 room for developers to bring these kinds of --
14 these kinds of proposals forward and be embraced
15 by the community. That is some work for us to do
16 as a community.

17 Mr. Chairman, I have one more topic which
18 is the affordable housing recommendations. But I
19 have been talking a lot. I wonder if there is
20 anyone else who has any questions to ask.

21 MR. KESSLER: Why don't you finish.

22 MR. DOYLE: I am happy to do that.

23 The affordable housing issue is another
24 sort of complex issue. And I guess I just want to

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1 start by saying I have concerns about the -- I
2 think that we are trying to have it both ways
3 here. And I have concerns about providing clarity
4 to the application and to the Planning &
5 Development Committee as to what our position is
6 on this.

7 For instance, I have questions about what
8 the nature of this good faith agreement will be
9 and what -- if we recommend approval of the PUD
10 as-is based on the argument put forward by the
11 Housing Commission that redevelopment of the site
12 itself is a public benefit that is sufficient to
13 grant a deviation from an ordinance through the
14 PUD process and then after the fact we say, "But
15 we would like you to also go and demonstrate that
16 there are other funding resources to add
17 affordable housing," it seems to me like we are
18 contradicting our PUD recommendation. We are
19 saying, "If you get the funding, then you can do
20 it. And we think you should do it. But if you
21 can't get the funding, we think the other benefits
22 that you propose via the PUD application are
23 sufficient to justify the offset."

24 And I think we have to decide one way or

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1 the other whether or not the benefits as
2 articulated in the PUD application justify waiving
3 the affordable housing requirement or not. That
4 is my thought on that.

5 CHAIRMAN WALLACE: Okay.

6 Comments?

7 MR. SCHUETZ: I have a general comment.
8 Like Brian, I would like to see the proposed PUD
9 integrate more with the existing neighborhood.
10 And I am curious -- I am not sure if this is the
11 appropriate forum -- of the 142 homes, how many
12 have front porches and -- that is a big question
13 for me. Is that just kind of thrown out there and
14 you really don't know?

15 MR. SAFIN: I am Joe Safin with B.S.B.
16 Design.

17 When we look at the single-family --
18 single-family attached homes, first, what we have
19 done is we have put the garages off to the side
20 and pulled the garages back from the face of the
21 architecture. So depending on the elevation, we
22 can have full front porches on the single-family
23 homes or half-porches or small porches depending
24 on the elevation we are trying to build. So all

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1 the single-family homes can have front porches.

2 Now, the townhomes are just a little
3 different type animal, so to speak. Right now,
4 based on the way the buildings are assembled, we
5 don't really have -- we have coverage at the front
6 doors. But sometimes they are shared with the
7 next unit. And all the coverage that we have
8 there will be made deep enough to have a chair or
9 something like that. But they will be much
10 narrower than what we have on the single-family
11 homes.

12 The nice thing about the single-family home
13 footprint is with the garage off to the side and
14 pulled back we can really emphasize the
15 architecture and provide the porch and also give
16 them backyards which is what we are finding in
17 today's market. They really want the backyard to
18 socialize and things like that.

19 MR. SCHUETZ: Thank you.

20 But you mentioned you can have a front
21 porch on all the single-family homes.

22 MR. SAFIN: There are two different --

23 MR. SCHUETZ: I have seen the
24 elevations.

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1 But I am just curious when you say "can,"
2 does that mean they will?

3 MR. SAFIN: Again, what we are going to
4 do is we are going to prepare, I believe, three or
5 four elevation styles for each plan. Depending on
6 the appropriateness of the style, we would
7 typically have some type of porch on the
8 elevation. And so that we don't have a monotonous
9 streetscape where all the houses have a front
10 porch, we will vary that detail based on style.
11 So we are really -- it would be based on what
12 elevations are sold and what elevations are
13 bought.

14 MR. SCHUETZ: But the majority, it
15 sounds like, you would like to have a front porch?

16 MR. SAFIN: Oh. We certainly do. We
17 think they are something the buyers want. And
18 they really like themed elevations. So they are
19 going there. And that is what we are seeing with
20 different-styled homes is a front porch. And we
21 are going to make it usable. You know, it is not
22 going to be three-feet deep. It is going to be
23 probably a minimum of five, if not deeper.

24 MR. SCHUETZ: Thank you.

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1 MR. SAFIN: Thank you.

2 CHAIRMAN WALLACE: Additional comments?

3 MR. KESSLER: I have a couple comments.

4 First of all, I would like to -- I want to
5 agree with Brian because I think that given the
6 conversation that we have had about the Park
7 District and the letters that occurred, you know,
8 in August, it is kind of a moot point.

9 I think at the 11th hour to expect that
10 there is going to be some change regarding the
11 park contribution is a little bit unrealistic.
12 And if there is something that the applicant is
13 willing to work with the Park District, fine. I
14 think they made their case clear early on in this
15 negotiation.

16 Secondly, I want to make a comment about
17 this neighborhood. First of all, I don't think
18 there is any disagreement that this property is
19 going to be residential. We want it to be
20 residential. The Comprehensive Plan says it is
21 going to be residential. I suspect that moving
22 forward with the Comprehensive Plan it will be
23 looked at as residential.

24 I would also like to say that we have a

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1 tendency to look at the buildings in St. Charles
2 and housing in St. Charles and juxtapose that as
3 against something new coming in. But what we
4 forget is that the homes in St. Charles were built
5 over a century. So every time a new type of
6 housing came in driven by economics, jobs in the
7 area, a new kind of home came in.

8 And the charm that we all love in the city
9 of St. Charles is any neighborhood you go into the
10 homes are all different. They are not the same.
11 They are built in 1920. They were built in 1970.
12 They are two story. They are one story. They are
13 1800 square feet. They are 3,000 square feet. So
14 I don't have a problem with putting a different
15 kind of home in a neighborhood.

16 That being said, I think it is important
17 for all of us, the applicant especially, to do
18 everything you can to integrate that into the
19 neighborhood so that 25 years from now when the
20 group that is sitting up here deciding what is
21 going to go in the property behind the railroad
22 tracks that they are going to be including this
23 neighborhood and -- "We want it to be like this."

24 So that being said, there is only one thing

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1 that I would like to consider as a recommendation.
2 And it seems like a small thing, but it speaks
3 volumes about what we are trying to do here.

4 I would recommend against a monument sign
5 going into that neighborhood. I would just use
6 marketing, use signage for marketing to sell what
7 you need to. But don't make it -- you know, don't
8 try to make it exclusive. It is part of the
9 neighborhood. People are going to be walking in
10 there. You don't need a monument sign. I don't
11 have a monument sign in my subdivision. It was
12 built in 1906. They didn't put one there then.
13 We don't need it.

14 So I think that, you know, the traffic
15 issues that we have talked about, I agree with
16 whoever said -- I read the transcripts from the
17 public hearing. I think it was Mr. Aboona who
18 talked about the rating system. I think that
19 rating system, the A, B, C, D, E, and F, you know,
20 is constrained in scope. I think it gives a
21 connotation that things are worse than they
22 really are.

23 I think in a metropolitan area like this --
24 I know we are a long ways from Chicago. But 50

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1 seconds to wait at an un -- you know, no stop sign
2 and no signal is -- that is not bad, actually. I
3 travel all over Chicago. That is not bad.

4 So to say that it is an "F" because it is
5 50 seconds doesn't bother me that much. I have a
6 theory that we pull out onto 64 making left turns
7 all the time. And within two minutes, you are
8 going to get a break in traffic, a perfectly clear
9 break. And you can go.

10 So do we have problems at schools? Yes, we
11 do. I live on 12th Street. We have three schools
12 there. We have Haines. We have Thompson. And we
13 have the Richmond Elementary. When they are
14 dropping off and picking up, the traffic stinks.
15 We live in town in a neighborhood. If you want a
16 neighborhood school, you are going to deal with
17 it. And I think we do deal with. I don't go to
18 that 7th Street crossing because I don't like the
19 light there.

20 All that being said, I think we need to
21 just look at this as a -- as an opportunity to do
22 something with the site. As Rita pointed out, we
23 have a site that needs to be cleaned up. We have
24 an opportunity to do it. We have a company that

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1 is willing to come in and clean up the site and do
2 everything they need to to make it a part of the
3 neighborhood. And I am for the plan.

4 CHAIRMAN WALLACE: All right.

5 Any other comments or a motion?

6 MR. KESSLER: I would move to recommend
7 approval of --

8 MR. SCHUETZ: Can we make the approval
9 with conditions?

10 MR. KESSLER: I would recommend -- I
11 would recommend approval of the application for
12 the Special Use as a Planned Unit Development
13 subject to the -- there we go.

14 I recommend approval of the Special Use for
15 Planned Unit Development finding that the PUD is
16 in the public interest based on the criteria and
17 subject to the following conditions. And those
18 conditions being those forwarded by the City
19 staff.

20 CHAIRMAN WALLACE: Exactly as listed in
21 the Staff Report?

22 MR. KESSLER: Exactly as listed on
23 Page 12 and 13 of the Staff Report.

24 MS. TUNGARE: Would the Plan Commission

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1 like to impose an additional condition with regard
2 to the monument sign?

3 MR. KESSLER: I think that is the next
4 application. I think that is part of the next
5 application.

6 MS. TUNGARE: That makes sense.

7 CHAIRMAN WALLACE: All right. There is
8 a motion. Is there a second?

9 MR. SCHUETZ: Second.

10 CHAIRMAN WALLACE: Moved and seconded.

11 Discussion on the motion?

12 MR. DOYLE: Regarding traffic, it stays,
13 "Future analysis shall be conducted to determine
14 the feasibility of intersection modifications."

15 Does that mean it shall be conducted by the
16 applicant? By Lexington PUD? Will it be
17 conducted by the City? A combination thereof?

18 MR. COLBY: My recommendation would be
19 not to include that for the application because I
20 think it is outside of their purview.

21 MR. DOYLE: Are we making the
22 recommendation that on the application -- that
23 that imposes a condition on the application or it
24 imposes follow-up by City staff.

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1 MS. TUNGARE: The way we had written
2 this condition was that we anticipated that the
3 applicant's consultant, KLOA, would conduct the
4 analysis and it will be reviewed by the City's
5 consultant. It would be consistent with the
6 original traffic study that was conducted.

7 Having said that, if the Plan Commission
8 desires, we could have H.L.R. conduct the study.

9 Either way, per City standard practices,
10 the applicant would pay for the initial evaluation
11 because it would be -- but for the project, we
12 would not be undergoing this analysis.

13 So that was our assumption in writing this
14 condition was that the applicant would be
15 responsible for the cost of further analysis. And
16 the applicant's consultant would conduct the
17 analysis. And the City consultant would review
18 it. If the Plan Commission desires, we could have
19 the City consultant conduct the analysis.

20 And maybe at this point, I would defer to
21 the traffic consultant to speak to whether that is
22 feasible. I don't know if one traffic consultant
23 can take the numbers that were prepared by another
24 and use it effectively or if that is feasible.

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1 MR. STILLWELL: Could we just ask to
2 what end? What is the purpose of this exercise
3 because -- I mean, I don't mean to be
4 confrontational at all. I am asking from a
5 pragmatic, practical standpoint.

6 If it is true that it would be helpful to
7 either expand improvements within existing
8 right-of-ways to be efficient or to acquire
9 additional right-of-way to do improvements, what
10 does that mean? Because it certainly isn't a part
11 of this application as far as the scope of
12 improvements that would be involved.

13 We have had extensive discussions with
14 public works and engineering all about all these
15 off-site issues. We have all come to agreement of
16 what they shall consist of. That is incorporated.
17 And we have all agreed to that.

18 So I don't want to be difficult. But on
19 the other hand, is there a purpose behind
20 either -- whoever it is spending the money to make
21 that analysis unless there is a capability under
22 the existing improvement funds -- I know there are
23 some funds that the City has -- to actually
24 examine that for a practical purpose of making

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1 improvements because the -- both the traffic
2 consultants have acknowledged acceptable levels of
3 functioning service for those intersections.
4 Everything can always be improved. It is always a
5 question of, "At what price?"

6 And I just think that it is kind of
7 unnecessary to go down that path unless there is
8 some ultimate objective to be accomplished.

9 CHAIRMAN WALLACE: Well, I think the
10 purpose of the Plan Commission recommendation is
11 to allow the Planning & Development Committee of
12 the City Council to make that determination given
13 the tools that they need to do that.

14 Staff, would you --

15 MR. COLBY: I would agree. But I also
16 want to add at least my understanding is that, you
17 know, the traffic study that was prepared by KLOA
18 has all the information to generate this analysis.
19 So I think it should be fairly simple to do.

20 Mr. Stillwell's comment about, you know,
21 "to what end do we do this," I think the purpose
22 of looking at this information is in response to
23 the public testimony that was offered, not
24 directly in response to the traffic study they

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1 performed.

2 But rather, that there is an issue that was
3 highlighted by the -- by the public during the
4 hearing. And you know, as staff, we are
5 responding to that and wanting to provide
6 additional information for the Planning &
7 Development Committee to understand, you know,
8 what issues really exist there and what
9 potentially there is to make improvements. That
10 isn't to say necessarily who is responsible for
11 those improvements.

12 We have a traffic study here that shows
13 that the intersections are performing adequately.
14 It is a question that should be considered by the
15 City in relation to this development because of
16 the testimony we received.

17 MR. STILLWELL: I understand what you
18 are saying. But just so we understand, the
19 parameters of that inquiry, that makes an
20 assumption that you are working within existing
21 right-of-ways that are available, I would assume.

22 MR. COLBY: I think so. From my
23 understanding, that is not a significant issue. I
24 think that is some of the information that we

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1 would be finding out.

2 Quite honestly, we don't know where we
3 would go with that information. It depends what
4 that information is. But that isn't to say that
5 we are suggesting there are additional
6 improvements that must be made by this developer.
7 Rather, we need more information to present to the
8 P&D Committee to decide what approach the City
9 takes to address these issues or if there is an
10 approach to address the issues.

11 MS. TUNGARE: I completely agree
12 100 percent with what Russ just presented. I
13 think it is in the spirit of being responsive to
14 comments that were received from the constituents
15 and the residents that spoke at the public
16 hearings and also in an effort to be proactive
17 because I anticipate the same residents will
18 express the same concerns that they had and come
19 to the committee, rightfully so, and have the same
20 questions.

21 So having this analysis done will only
22 provide that information for consideration at that
23 stage of the process.

24 CHAIRMAN WALLACE: All right.

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1 MR. HENNINGSON: I would like to offer
2 an opinion. I believe that enough information has
3 been provided already. We don't need the
4 applicant to provide anything further unless
5 Planning & Development requires it.

6 MR. KESSLER: I think -- I agree with
7 you. And I think that the mechanism for this
8 recommendation is that there will be further study
9 done so that it gives the Planning & Development
10 Committee a tool so that they can make that
11 decision.

12 MR. HENNINGSON: I don't feel any
13 further study needs to be done. If they feel it
14 needs to be done, let them decide that. We have
15 asked a lot of the applicant at this point. Let's
16 pass it on to Planning & Development.

17 CHAIRMAN WALLACE: All right.

18 Any further comments?

19 There is a motion that is on the table
20 right now.

21 MR. KESSLER: Which includes that
22 recommendation?

23 CHAIRMAN WALLACE: Yes.

24 So any further comments?

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1 MS. AMATANGELO: Mr. Chairman, could you
2 please reiterate the recommendation?

3 CHAIRMAN WALLACE: The recommendation is
4 for approval of the Special Use for Planned Unit
5 Development, finding that the proposed PUD is in
6 the public interest based on the criteria that is
7 attached to the Staff Memorandum subject to the
8 conditions. And there are three conditions that
9 are listed in the Staff Memorandum; one regarding
10 building materials, one regarding traffic, and one
11 regarding affordable housing.

12 MR. DOYLE: I have a comment about this
13 issue.

14 There was a member of the public who made
15 an argument during the public hearing which was in
16 response to arguments about typical levels of
17 unsatisfactory capacity and unsatisfactory
18 performance. And since when should we -- since
19 when should we accept typical levels of
20 unsatisfactory performance.

21 Procedurally speaking, I think that the
22 Commission is obligated to adhere to our Findings
23 of Fact and adhere to the testimony that was
24 presented to us and parse is very cleanly.

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1 I also feel that staff's intent in desiring
2 to be responsive to public testimony is
3 appropriate. I think -- to follow up on what Curt
4 said, I think that the City should follow up on
5 further analysis to determine if there are
6 feasible means of alleviating the congestion at
7 the intersection which is the sole intersection
8 out of this area. It is a bottleneck. And we
9 should not wait for it to approach a level of
10 failure.

11 That being said, I wonder if there are ways
12 to go about doing that that don't make it a
13 condition of this application because we are
14 finding that the criterion has been met. There is
15 sufficient infrastructure to move for the
16 recommendation for the application on this item.

17 And I particularly don't think that we need
18 to have two different consultants looking at the
19 same data, particularly when the project is going
20 to be subsidized by taxpayer funding and the
21 City's consultant is paid by taxpayer finding.
22 Let's have one consultant do the work.

23 I am inclined to agree with Curt that we
24 should not make this a condition of the PUD

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1 application but recommend through some other
2 avenue that City pursue further analysis and
3 implementation of remediation of the intersection,
4 if possible.

5 And having said that, if that happens
6 through the negotiation process of the Planning &
7 Development Committee or City Council, so it be.
8 But procedurally speaking, I would not make it a
9 condition of the recommendation.

10 MS. TUNGARE: Can I offer something to
11 respond to Mr. Doyle's comments?

12 One of the ways the Commission can
13 accomplish that is, if you don't want to make it a
14 condition, you can just forward it to the
15 Committee as a comment -- as a comment for their
16 consideration.

17 And then any further analysis would then be
18 deferred until after the Planning & Development
19 consideration. If Planning & Development feels
20 such analysis is further warranted based on
21 comments that they hear from residents or based on
22 their own analysis, then subsequent to that they
23 can recommend any further analysis.

24 So you can simply forward it as a comment

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1 if you wish. Or you can completely eliminate that
2 specific aspect related to traffic, that further
3 analysis, from any consideration. It doesn't have
4 to be a condition. It could be a comment.

5 Tom, do you agree with me?

6 MR. GOOD: Yeah, I agree. And correct
7 me if I am wrong, I did not yet here a second to
8 the motion? Was there a second to the motion?

9 MR. KESSLER: There was.

10 MR. GOOD: Just by agreement of the
11 parties, the maker and the second, to delete that
12 as a condition --

13 MR. KESSLER: Or I could call a question
14 on the motion to --

15 MR. GOOD: You certainly can do either.

16 But if there seems to be an agreement, the
17 maker can agree to that amendment of deleting
18 Condition No. 2, I believe, and if the maker of
19 the second concurs, then your motion is amended.

20 I don't know if there is a need to get
21 bogged down in Robert's rules in the greatest
22 detail.

23 MR. KESSLER: Or if we don't all
24 agree --

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1 MR. GOOD: Well, you will know by
2 voting.

3 CHAIRMAN WALLACE: What is your
4 preference? You were the maker of the motion.

5 MR. KESSLER: Well, I would leave that
6 condition in my motion.

7 CHAIRMAN WALLACE: Fair enough.

8 MR. HENNINGSON: If you leave that in,
9 will that force the applicant to do further study?

10 MR. KESSLER: We are making a
11 recommendation to the City Council. We are not
12 forcing --

13 MR. GOOD: Correct.

14 MR. KESSLER: They will decide if they
15 are going -- this just goes to Planning &
16 Development.

17 MR. HENNINGSON: I understand that.
18 Previously, we said that the applicant would have
19 to pay for that.

20 MR. GOOD: Again, it is correct that it
21 is a recommendation only. And it goes to
22 Council -- Committee and Council. They determine
23 how to further approach it from any type of
24 obligation.

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1 MR. HENNINGSON: So at this point, the
2 applicant will not be required to provide anything
3 further until after Planning & Development.

4 MR. GOOD: Well, at this point, the
5 recommendation is what it is. "Further studies"
6 doesn't address paid for or any further action.
7 That ultimately is up to the Committee and then
8 Council to determine. So this recommendation does
9 not bind the applicant at this point.

10 CHAIRMAN WALLACE: All right.

11 Brian.

12 MR. DOYLE: I move to amend -- to amend
13 the main motion so that the condition regarding
14 traffic analysis be modified to a comment that the
15 City pursue further analysis and remediation at
16 the intersection if warranted.

17 CHAIRMAN WALLACE: Okay.

18 Is there a second for the motion to amend?

19 MR. HENNINGSON: Second.

20 CHAIRMAN WALLACE: It has been moved and
21 seconded.

22 Is there any discussion on that motion?

23 (No response.)

24 CHAIRMAN WALLACE: All right.

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1 We will do a roll call vote. This is just
2 on the motion to amend.

3 Amatangelo.

4 MS. AMATANGELO: No.

5 CHAIRMAN WALLACE: Schuetz.

6 MR. SCHUETZ: Yes.

7 CHAIRMAN WALLACE: Doyle.

8 MR. DOYLE: Yes.

9 MR. KESSLER: Pretz?

10 MR PRETZ: No.

11 MR. KESSLER: Henningson?

12 MR. HENNINGSON: Yes.

13 MR. KESSLER: Kessler. No.

14 Wallace.

15 CHAIRMAN WALLACE: Yes.

16 And that passes 4 to 3. So the motion is
17 amended to remove the condition of traffic that
18 was included in the Staff Memo and to designate
19 that information as a comment as opposed to a
20 condition to the City Council. So that is how the
21 motion stands right now.

22 All right. Further -- further comments on
23 the motion?

24 MR. DOYLE: Yes. I would like to review

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1 the affordable housing condition as stated in the
2 main motion.

3 So the condition is that, "Prior to City
4 approval based on the Housing Commission
5 recommendation offered above the developer shall
6 demonstrate the availability of funding sources
7 that can be used to reduce the purchase price of
8 21 units to the price level considered affordable
9 by the City's Zoning Ordinance."

10 The condition here as stated is that, "The
11 developer shall demonstrate the availability of
12 those funding sources." There is no guarantee
13 that those sources are available. The applicant
14 is not in a position to demonstrate that a priori.

15 Furthermore, I go back to my comment before
16 which is that we also have from the Housing
17 Commission an opinion that -- which is that the
18 development of the property itself is a community
19 benefit and that a compelling argument can be made
20 for the request to waive the affordable housing
21 requirement.

22 I am going to speak out of both sides of my
23 mouth for a moment which is to say that affordable
24 housing came up during the public hearing. It

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1 came up in the Plan Commission packet. And I feel
2 strongly that there is a critical need in this
3 community for more low-income residential
4 development. Low-income residential development,
5 not moderate income single-family homes.

6 I don't think the snapshot bears out an
7 urgent need right now for moderate-income
8 single-family housing.

9 There is no rental housing in this PUD
10 application. And the -- and even if we grant the
11 PUD or if we retain the condition that there be
12 affordable housing, it would not necessarily add
13 more low-income rental housing which I think is
14 where a critical need is.

15 So again, on a issue that I care about like
16 new urbanism, I think that there is a need for
17 education in our community about -- about housing
18 development, about public benefit, and a need for
19 advocacy on these issues.

20 Again, to empower developers to bring
21 forward these kinds of proposals because, frankly,
22 my opinion is if you came forward and said, "We
23 want to develop 100 units of low-income rental --
24 rental housing," you would just be excoriated up

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1 and down 10 ways from Tuesday.

2 So what that means is that I have strong
3 reservations about waiving the housing --
4 affordable housing requirement and the message
5 that it sends to the community. So I am sending
6 two messages. One is that I think there is a need
7 but not on this site and not given the other
8 benefits that are delivered via the project as a
9 whole.

10 And I think that we are trying to have it
11 both ways here by saying we think that there is a
12 compelling argument to be made for waiving it.
13 But -- so we are going to waive it. But we would
14 like you to demonstrate there are other funding
15 sources and maybe add them later on if it is
16 there. And I think we have to decide whether or
17 not we are going to waive it or not.

18 And therefore, it would be my preference to
19 strike this condition.

20 MR. KESSLER: You know, Brian, I feel
21 strongly, too, that the affordable housing
22 conditions should be met if they could; and that
23 given the benefits of this project that we look at
24 a mechanism such as the memorandum of

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1 understanding to mitigate that.

2 But I don't agree with you that we should
3 make a decision one way or the other as the Plan
4 Commission to either do it or not. I think that
5 our recommendation is -- goes to the Planning &
6 Development Committee where they will take this
7 under consideration.

8 When it gets to the City Council, they are
9 the ones that are going to decide if this project
10 goes forward or not; not us.

11 I think that leaving this in here leaves
12 the door open for further discussion and the final
13 decision. Taking this out says -- if we take it
14 out completely, we are saying, "Oh. You don't
15 have to worry about the affordable housing."

16 We want some consideration to continue to
17 be given to affordable housing, even though we
18 agree that -- or we agree that it may not be
19 feasible on this site.

20 So I keep hearing -- you know, we are only
21 making a recommendation. We are not making the
22 decision about how this project is going to move
23 forward. And having these types of things, this
24 recommendation -- and I still feel the same way

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1 about the traffic recommendation -- it is a
2 recommendation. And it offers the platform for a
3 discussion about these issues when it moves to the
4 next stage of approval.

5 MR. DOYLE: I agree.

6 But the conditions that we place on the
7 applicant have to be -- they have to provide
8 clarity in terms of the procedure.

9 So for instance, what I would recommend if
10 we keep this is that we modify the language to say
11 that, "We recommend as a condition that prior to
12 City Council approval based on the Housing
13 Commission recommendation above the developer
14 shall investigate and present a report regarding
15 the availability of funding sources, et cetera."
16 And then that information should be available to
17 the Council. But --

18 MR. STILLWELL: I really appreciate this
19 dialogue because this is really the problem.
20 Understand something. We made a good faith
21 commitment, and we will stand behind that to the
22 Housing Commission.

23 They acknowledge that there are
24 circumstances that justify a waiver. They

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1 acknowledge that. The commissioner of the -- or
2 the chairman basically said, "I could agree with
3 this also."

4 But if -- the reason -- the root cause of
5 this, we all acknowledge it, is that this is a
6 financially-challenged site. If it wasn't, the
7 concept of TIF support wouldn't be available. And
8 that blended together with all of the
9 circumstances was the predicate of the Housing
10 Commission's findings.

11 And we acknowledge -- we don't disagree
12 with the concept. If there is the ability to
13 provide this type of housing through an economic
14 resource that doesn't undermine the vitality and
15 economic viability of the project, that is fine.

16 But Mr. Doyle's comment is right on the
17 problem of the language, without addressing
18 whether it should be in there at all.

19 The way it is currently drafted, it
20 creates, I think, a misstatement -- or at least a
21 misimpression -- of what was the understanding
22 between the applicant and the Housing Commission.

23 The chairman didn't say, "We agree to this
24 waiver provided that you find sources to

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1 accommodate 21 affordable housing units," at all.
2 She said, "We want your good faith effort to see
3 if we can provide for some affordable housing,
4 whatever that might be. Because any given year it
5 there may be funds available; there may not be.

6 So going forward, what we have to do -- I
7 have discussed this with Mr. Colby. One of the
8 challenges once we get to the Planning &
9 Development Committee will be structuring, number
10 one, what kind of vehicle we are going to use to
11 establish this agreement that has been discussed
12 as far as is it in the PUD ordinance, is it a
13 separate memorandum, whatever it is; and secondly,
14 drafting the language with clarity of an objective
15 standard so that everybody knows what the
16 responsibilities are.

17 What we are doing right now is anticipating
18 that. I think I understand where staff is coming
19 from. I think the concern is, well, is there even
20 anything to discuss? Before we get to P&D,
21 wouldn't it be wise to do some kind of checking to
22 see if there is something out there.

23 I indicated to Russell today that I am
24 willing to contact the county and ask about

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1 whatever the specific program is that the
2 chairperson of the Commission is referring to. I
3 am happy to do that. We will see if there is a
4 resource that is available.

5 I can't go into a lot of detail or
6 substance because we don't know what the criteria
7 is. So we are kind of bootstrapped in this
8 process. I understand what staff's objective is.
9 I think I can accommodate it. But it is on a
10 generalized basis to help further the discussion.

11 But the real nitty-gritty will be how we
12 structure the details of what this commitment and
13 expectation is so that we know we are complying in
14 good faith with these expectations going forward.

15 So I just want it to be clear that we have
16 no objection to the concept that was clearly
17 enunciated by the chairperson.

18 But I will tell you without any question --
19 I think the staff acknowledged that in their
20 summary of the findings that there is not an
21 absolute requirement that this be accomplished.
22 This is, "Use your best effort and exercise good
23 faith to try to make it happen, whether it is 1
24 unit, 5 units or 21 units. If it can be done,

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1 let's do it because it benefits the community and
2 doesn't undermine the project." And we agree.

3 I don't want the Plan Commission to get
4 overly hung up on this issue. I think that it
5 would be appropriate to, perhaps, modify the
6 language the way that Mr. Doyle had indicated
7 because it is more reflective of what was
8 discussed with the Housing Commission.

9 And while the Housing Commission did not
10 itself say, "You have to do this before we get to
11 P&D," I don't have an objection of just making
12 these informal calls as I discussed with
13 Mr. Colby.

14 All we ask is that there be enough clarity
15 in the recommendation so that the Planning &
16 Development Committee doesn't get confused that
17 the Plan Commission was of the expectation that
18 there absolutely would be this type of affordable
19 housing provided through third-party sources and
20 that was the predicate for them recommending
21 approval of that waiver that has been requested in
22 the PUD application.

23 I think that is real important that they
24 understand that it is hopeful it will happen but

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1 it is not a condition to granting the waiver.

2 MR. KESSLER: I don't see that in
3 this -- this doesn't call for any requirement. It
4 calls for working in good faith. So what kind of
5 language would you change? How would you change
6 the language?

7 MS. TUNGARE: Can I just make a couple
8 quick comments?

9 You know, I concur with what Mr. Stillwell
10 stated about the Housing Commission's discussion
11 and recommendation.

12 However, it is also important to bear in
13 mind that as part of this process the Housing
14 Commission recommendation is not required to
15 consider this waiver. That responsibility falls
16 on the Plan Commission and then subsequently City
17 Council.

18 What the Housing Commission offered was
19 simply some comments in an advisory form and,
20 therefore, the flexibility and maybe the lack of
21 structure to their comments. Okay. There was a
22 discussion. There was more of an informal
23 discussion rather than some proceedings, formal
24 proceedings, and a recommendation. So that is

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1 something to bear in mind -- keep in mind.

2 Again, the nature of the applicant's
3 request is -- is a little unique. It is unique
4 from what the Housing ordinance contemplated which
5 is part of the struggle here. Also, the
6 uniqueness of the project.

7 I would ask the Plan Commission if you feel
8 that there needs to be more structure offered to
9 this condition you can always consider that.
10 However, I would -- I would discourage you from
11 doing so because, at this point, we are pretty
12 much shooting in the dark.

13 If you offer too much structure in this
14 condition, what you are doing pretty much is you
15 are restricting yourself and the applicant and
16 staff in ways that we cannot foresee today.

17 So I think some additional investigation
18 probably is warranted. But if we start defining
19 that investigation for them, we might be limiting
20 our options moving forward.

21 Having said that, as much as this
22 affordable housing waiver is part of the PUD
23 application and is part of an ordinance
24 requirement that the applicant is requesting a

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1 deviation from, it is also a significant policy
2 consideration.

3 And I believe I heard one of you say here
4 that as much as the Plan Commission can deliberate
5 on that matter, I think ultimately there will be
6 or I anticipate there will be a substantial amount
7 of policy discussion at the Council level on this
8 specific issue because it is a policy
9 consideration.

10 So I will leave you with that. And if you
11 have any questions, we will take those.

12 CHAIRMAN WALLACE: All right.

13 Tim, since you are the maker of the main
14 motion, would you suggest modifications to that
15 motion at this time?

16 MR. KESSLER: Actually, I wouldn't. I
17 wouldn't simply because, you know, this is a
18 significant issue that I don't think we are going
19 to resolve at this level. And I think that the
20 discussion -- I think what we are saying here is
21 simply that they are going to work in a good faith
22 effort based on comments from the Housing
23 Commission towards perhaps providing them.

24 But the fact that they are asking for a

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1 significant deviation warrants having some sort
2 of condition in this motion so that when it does
3 get to Planning & Development that it will -- that
4 it will be, you know, significant -- there will be
5 significant discussion on it.

6 CHAIRMAN WALLACE: Okay.

7 At this point since -- that being said, is
8 there a motion, then, to modify the main motion?

9 MR. DOYLE: Yes. Yeah. I move to amend
10 to strike this condition.

11 CHAIRMAN WALLACE: Is there a second?

12 MR. HENNINGSON: Which condition, Brian?

13 MR. DOYLE: The condition stated as
14 follows: "That the developer shall demonstrate
15 the availability of funding sources that can be
16 used to reduce the purchase price of 21 units and
17 that that shall be done prior to City Council
18 approval."

19 I move to strike that from the --

20 CHAIRMAN WALLACE: Strike the condition?

21 MR. DOYLE: Yes.

22 MR. HENNINGSON: The whole paragraph or
23 just --

24 MR. DOYLE: Well, the condition is -- I

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1 mean, there is background information here about
2 the condition and the rationale for the condition.

3 But the condition essentially is, "That
4 prior to City Council approval, the developer
5 shall demonstrate the availability of funding
6 sources that can be used to reduce the purchase
7 price of 21 units to the price level considered
8 affordable by the City Zoning Ordinance."

9 That is the condition that we are placing
10 on the recommendation that we are making to the
11 Planning & Development Committee. And my -- well,
12 I will let the motion stand right now and then
13 discuss it later if it is seconded.

14 CHAIRMAN WALLACE: All right.

15 Is there a second on that motion?

16 MR. HENNINGSON: A second to strike that
17 exact language? Can you strike the whole
18 paragraph? I am confused.

19 MR. DOYLE: We can strike everything
20 from -- everything under No. 3 on the bottom of
21 Page 11 and through the middle of Page 12.

22 CHAIRMAN WALLACE: So that would be to
23 amend the motion so that the motion would then
24 read that we are recommending approval of Special

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1 Use finding that the PUD is in the public interest
2 based on the attached criteria and subject only to
3 the condition regarding building materials.

4 MR. DOYLE: With a comment --

5 CHAIRMAN WALLACE: I am sorry. With a
6 comment regarding the traffic.

7 MR. DOYLE: Per our earlier -- yes.
8 That's correct.

9 CHAIRMAN WALLACE: That is what the
10 motion to amend is.

11 Is there a second to that motion?

12 (No response.)

13 CHAIRMAN WALLACE: All right.

14 Seeing no second, the main motion stands as
15 it was.

16 Any further discussion on the main motion?

17 MR. HENNINGSON: I sit on the Housing
18 Commission I guess as a representative of the Plan
19 Commission. And I was in attendance at that
20 meeting. And it was -- it sounds like everything
21 was agreed to very simply.

22 But it was -- I don't know -- a
23 two-and-a-half or three-hour meeting where we sat
24 down and said that we agree with the fact that we

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1 are not going to require the affordable housing
2 component. But in turn, what we would like is to
3 make sure that the applicant works with us to
4 find, you know -- to hopefully work with
5 alternative funding sources.

6 We came to kind of a general agreement that
7 night. And then the language was drafted by the
8 staff and then was sent to Cindy Holler-Larson who
9 is the chairman of the Commission and made
10 changes. And that is what we ended up with in the
11 last Staff Report. The difference between that
12 and what we have here is just what the staff was
13 recommending in terms of demonstrating the
14 availability of funding sources.

15 And you know, I would like to recognize the
16 Housing Commission. I would like to recognize
17 their efforts and their wishes. And I am
18 trying --

19 And Brian, I am trying to -- I am trying to
20 understand do you have a problem with them having
21 to demonstrate the availability?

22 MR. DOYLE: My perspective is that we
23 have a PUD -- a PUD application in front of us
24 that affirms certain benefits to the community.

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1 And it basically says, "In return for these
2 benefits, we are seeking relief from these
3 requirements which are part of the ordinance."

4 And acknowledging the Housing Commission's
5 opinion, "There is a compelling argument to be
6 made for such a request."

7 And so if we find in the affirmative on
8 that argument, that redeveloping the site,
9 cleaning up the site, removing an environmental
10 hazard on the site, is -- as well as the other
11 arguments that are in our Findings of Fact -- that
12 these are -- we have to make -- I think we have to
13 make a yes-or-no decision on whether or not those
14 benefits offset the relief that is being
15 requested.

16 And on the one hand here, we are saying,
17 "Yes. They offset -- they do offset the relief
18 being requested." And then we are coming back and
19 saying, "But we would still like it, if possible."

20 And I think -- I think we have to be,
21 again, clear and sort of parse it out clearly. We
22 are saying that the offsets are justified and,
23 through a different channel, through a comment to
24 the Council and to the Planning & Development

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1 Committee, through articles in the town paper, or
2 through just community advocacy we need to say
3 affordable housing is still important and -- still
4 an important public policy issue. And it is
5 complex and it nuanced. And we are not -- we are
6 not negating that in any way.

7 But this sort of kicks the can up. And I
8 guess the thing is we closed the public hearing.
9 We have received all the public testimony that we
10 need, all the information that we need to make a
11 recommendation. And now we are sending a
12 recommendation on that, "We have all the
13 information we need to make a recommendation, but
14 you better also get this information in addition
15 before you make your final decision."

16 And I think procedurally that is incorrect
17 because we shouldn't have closed the public
18 hearing if that is the case. We should have
19 sought more information.

20 MS. TUNGARE: Can I just make one
21 comment? I am sorry. Just one comment.

22 The Housing Commission recommendation needs
23 to be seen as a whole. They need to be seen as a
24 whole. I don't think it would be accurate to take

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1 each bullet point one at a time and say, "Did the
2 Housing Commission believe given the uniqueness of
3 the site a compelling argument could be made?"
4 Maybe it is the structure in which it is being
5 presented. But I would urge the Commission to see
6 all four bullet points as a whole of the Housing
7 Commission recommendation.

8 MR. HENNINGSON: Are you -- in this
9 motion, are you saying we should take number three
10 out in its entirety?

11 MR. DOYLE: Yes.

12 MR. HENNINGSON: How about if we keep
13 No. 3, keep the four bullet points, and delete,
14 "Staff recommendation prior to City Council
15 action."

16 MR. DOYLE: Well, then there is no
17 condition. In which case, you can leave the
18 language in; but it doesn't mean anything in terms
19 of the future deliberation.

20 MR. HENNINGSON: You mean in terms of
21 requiring the applicant to do something?

22 MR. DOYLE: Correct. And requiring the
23 Planning & Development Committee to consider
24 something or requiring the Council to consider

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1 some additional information before they -- I guess
2 we can't require that.

3 MR. HENNINGSON: I think they will make
4 that decision when it gets there. But the general
5 feeling of the Housing Commission is, "We want to
6 work with you. We understand it is a difficult
7 site. We want to work with you. But in turn, we
8 would like you to work with potential purchasers
9 for those units to get financing.

10 Is that correct?

11 MR. STILLWELL: Correct. I think
12 that --

13 MR. GOOD: Mr. Chairman, may I make a
14 suggestion?

15 If I am hearing the various motions, nobody
16 is so far accepting the idea of deleting the
17 paragraph. And I hear the other concern.

18 May I make a suggestion as possibly a
19 middle ground that the condition be the developer
20 shall -- so to avoid the concept "shall
21 demonstrate it is available" like it is a
22 certainty -- "the developer shall investigate
23 whether funding sources are available," and then
24 continue on. It is just an investigation whether

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1 they are available. It is not committing the
2 developer.

3 This is again a recommendation only. It is
4 not committing the developer to show that they are
5 available -- to demonstrate they are available.
6 It is just an investigation which would seem to
7 satisfy -- it is not an obligation, but to -- in
8 response to your concern about the discussions
9 before the Housing Commission, there is an
10 agreement to investigate it.

11 MR. HENNINGSON: Could you repeat that,
12 Mr. Good? Are you saying strike --

13 MR. GOOD: Condition 3 -- and the Court
14 Reporter is taking it down, so it could be copied
15 from that also. Condition 3, Affordable Housing:
16 "Prior to the City Council approval based on the
17 Housing Commission recommendation, the developer
18 shall investigate whether funding sources are
19 available to reduce the purchase of 21 units to
20 the price level considered affordable by the City
21 Zoning Ordinance."

22 This would make it read that the
23 developer could contact, well, both the County
24 Housing Authority and also I.D.A. and other State

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1 agencies to determine any -- and even County
2 C.D.B.G. funds -- to determine if funding sources
3 are available to permit the reduction of the sales
4 price of these units.

5 MR. KESSLER: I would like to call a
6 question on my motion. I would like to take care
7 of it.

8 CHAIRMAN WALLACE: All right.

9 MR. KESSLER: I would like to call a
10 question and like to have a vote on the motion
11 that is on the floor right now.

12 MR. SCHUETZ: Could you repeat that
13 again?

14 CHAIRMAN WALLACE: The motion that is on
15 the floor right now -- Tim, please correct me if I
16 am wrong --

17 MR. KESSLER: I will.

18 CHAIRMAN WALLACE: -- is to recommend
19 approval of the Special Use Planned Unit
20 Development, finding that the proposed PUD is in
21 the public interest based on the attached criteria
22 subject to the following conditions being met.
23 And the conditions are numbers 1 and 3 as
24 contained in the Staff Memorandum, plus a further

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1 comment incorporated in the language contained in
2 No. 2 in the Staff Memorandum.

3 MR. GOOD: That's correct.

4 CHAIRMAN WALLACE: Okay. All right.

5 Tim, roll call.

6 MR. KESSLER: Amatangelo.

7 MS. AMATANGELO: Yes.

8 MR. KESSLER: Schuetz.

9 MR. SCHUETZ: Yes.

10 MR. KESSLER: Doyle.

11 MR. DOYLE: Yes.

12 MR. KESSLER: Pretz.

13 MR. PRETZ: Yes.

14 MR. KESSLER: Mr. Henningson.

15 MR. HENNINGSON: Yes.

16 MR. KESSLER: Wallace.

17 CHAIRMAN WALLACE: No.

18 MR. KESSLER: Kessler. Yes.

19 CHAIRMAN WALLACE: Great. That motion
20 passes 6 to 1. And the -- and that concludes that
21 application then.

22 The next is regarding the application for
23 PUD preliminary plans.

24 Staff has recommended approval of the PUD

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1 preliminary plans subject to resolution of all
2 staff comments being addressed and resolved prior
3 to City Council action, including showing the
4 complete road improvement of 9th Street from Dean
5 Street to the project site.

6 Staff, anything further based on
7 conversations?

8 The only thing that we had discussed on
9 this was the entrance monument.

10 And staff, would you recommend that as a
11 condition based on our conversation?

12 MR. COLBY: It would be appropriate to
13 place it as a condition on the preliminary plan
14 application if that is the wish of the Commission.

15 MR. HENNINGSON: Condition or simply a
16 comment?

17 MR. COLBY: You can do it in either
18 form.

19 MR. HENNINGSON: I think a comment would
20 be appropriate. We are starting to micromanage
21 the process.

22 CHAIRMAN WALLACE: Is there a motion?

23 MR. DOYLE: I will move -- I move for
24 approval of the application for PUD preliminary

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1 plans. I will stop there.

2 CHAIRMAN WALLACE: Is there a second?

3 MR. HENNINGSON: I am sorry. The motion
4 is for --

5 CHAIRMAN WALLACE: The motion is
6 approval of PUD preliminary plans without
7 condition.

8 MR. DOYLE: That is the main motion.

9 MR. HENNINGSON: Second.

10 CHAIRMAN WALLACE: All right. It has
11 been moved and seconded.

12 Discussion on the motion?

13 MR. DOYLE: I also move to amend as a
14 condition elimination of the landmark sign.

15 MR. KESSLER: Monument sign.

16 MR. DOYLE: The monument sign.

17 MR. HENNINGSON: Condition or a comment?

18 MR. DOYLE: Condition.

19 MR. KESSLER: Second.

20 CHAIRMAN WALLACE: Hold on.

21 Since he is the maker of the motion and
22 Curt seconded the motion, Curt, are you agreeable
23 to that?

24 MR. HENNINGSON: As a condition?

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1 CHAIRMAN WALLACE: Correct.

2 MR. HENNINGSON: No.

3 CHAIRMAN WALLACE: Then you made a
4 motion to amend your main motion?

5 MR. DOYLE: Right.

6 CHAIRMAN WALLACE: Is there a second on
7 the motion to amend?

8 MR. KESSLER: Second.

9 CHAIRMAN WALLACE: All right.
10 Any discussion on the motion to amend.
11 Curt?

12 MR. HENNINGSON: I would like to see it
13 as a comment. All of the sudden we are getting
14 into details we probably shouldn't be involved in.

15 CHAIRMAN WALLACE: Any other discussion?

16 (No response.)

17 CHAIRMAN WALLACE: Okay. This is simply
18 on the motion to amend.

19 MR. KESSLER: Amatangelo.

20 MS. AMATANGELO: No.

21 MR. KESSLER: Schuetz.

22 MR. SCHUETZ: Yes.

23 MR. KESSLER: Doyle.

24 MR. DOYLE: Yes.

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1 MR. KESSLER: Pretz.

2 MR. PRETZ: Yes.

3 MR. KESSLER: Henningson.

4 MR. HENNINGSON: No.

5 MR. KESSLER: Kessler. Yes.

6 Wallace.

7 CHAIRMAN WALLACE: Yes.

8 All right. That passes 5 to 2. The motion
9 is now amended to recommend of PUD preliminary
10 plans contingent upon removal of the monument from
11 the preliminary plans but not subject to
12 resolution of staff comments, et cetera, as
13 contained in the Staff Report. All right.

14 All right. Discussion? Further
15 discussion? Any other amendments?

16 Brian, are you about to say something?

17 MR. DOYLE: Were there additional -- was
18 there an additional condition that was -- that was
19 in the draft language in the Staff Report?

20 CHAIRMAN WALLACE: Yes. The Staff
21 Report -- the staff recommendation was, "Staff
22 recommends approval of PUD preliminary plans
23 subject to resolution of all staff comments being
24 addressed and resolved prior to City Council

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1 action, including the" -- and that portion of the
2 language is typical in this type of application --
3 "including showing the complete road improvement
4 of 9th Street to Dean Street to the project site."

5 MR. DOYLE: I apologize. I misread the
6 main motion. And so I would, again, move to amend
7 to add that language to the main motion.

8 MR. KESSLER: Second.

9 CHAIRMAN WALLACE: Okay. The motion
10 then is to amend to add the language, as well as
11 the language that has already been added,
12 regarding removal of the monument on the PUD
13 preliminary plans.

14 Discussion on the motion?

15 MS. AMATANGELO: I apologize. Could you
16 go through that one more time?

17 CHAIRMAN WALLACE: The motion as it
18 stands is just to recommend approval with the --
19 and amended to include removal of the monument
20 sign.

21 The motion to amend now is to include the
22 further language that it is subject to resolution
23 of staff comments, et cetera, as contained in the
24 Staff Report.

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1 MR. KESSLER: Amatangelo.

2 MS. AMATANGELO: Yes.

3 MR. KESSLER: Schuetz.

4 MR. SCHUETZ: Yes.

5 MR. KESSLER: Doyle.

6 MR. DOYLE: Yes.

7 MR. KESSLER: Pretz.

8 MR. PRETZ: Yes.

9 MR. KESSLER: Henningson.

10 MR. HENNINGSON: Yes.

11 MR. KESSLER: Kessler. Yes.

12 Wallace.

13 CHAIRMAN WALLACE: Yes.

14 That motion passes unanimously.

15 The motion on the table is the motion as
16 worded in the Staff Memo with the addition of
17 removing the monument on the PUD preliminary
18 plans; correct?

19 MR. KESSLER: Right.

20 CHAIRMAN WALLACE: Any discussion on
21 that motion?

22 (No response.)

23 MR. KESSLER: Amatangelo.

24 MS. AMATANGELO: Yes.

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1 MR. KESSLER: Schuetz.

2 MR. SCHUETZ: Yes.

3 MR. KESSLER: Doyle.

4 MR. DOYLE: Yes.

5 MR. KESSLER: Henningson.

6 MR. HENNINGSON: Yes.

7 MR. KESSLER: Wallace.

8 CHAIRMAN WALLACE: No.

9 MR. KESSLER: Kessler. Yes.

10 CHAIRMAN WALLACE: That motion passes 6
11 to 1. And that concludes the third application.

12 MR. STILLWELL: Can I ask a quick
13 question --

14 CHAIRMAN WALLACE: Yes.

15 MR. STILLWELL: -- for a quick
16 clarification going forward to the Planning &
17 Development.

18 With respect to all of this discussion on
19 the affordable housing, is the Plan Commission
20 making a statement to the Council that but for
21 outside funding of 21 affordable units it would
22 not support the variation? Or is it simply
23 stating it would like to see the pursuit of the
24 Housing Commission's objective to see what is

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1 available and to make a good faith effort year to
2 year to provide whatever is capable of being
3 provided?

4 I would like the Planning & Development
5 Committee to at least understand what was in the
6 mind of the Plan Commission when you voted that
7 condition.

8 MR. HENNINGSON: Could you explain those
9 two options again?

10 MR. STILLWELL: Yes. One is would you
11 have recommended approval of our request to waive
12 the affordable housing requirement if we do not
13 find sources to substitute those 21 units through
14 outside funding? In other words --

15 MR. KESSLER: That is a whole other
16 discussion.

17 MR. STILLWELL: It is not. I will tell
18 you why it is not because my client is very
19 concerned about what is in the recommendation.
20 And that recommendation does have a trap if you
21 look at the language. Basically, you are
22 recommending that before this go to Council vote,
23 in conjunction with the affordable housing waiver,
24 we demonstrate that we can obtain outside funding

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1 sources for 21 units.

2 That is a very strong affirmative
3 statement, and I don't think that is what staff
4 was intending to do. But it certainly can be read
5 that way. And so then the question becomes was
6 that the intent of the Plan Commission?

7 You are recommending to approve our request
8 for waiver with a condition that we demonstrate
9 that we can provide funding for 21 units. I mean,
10 that is a lot different than what the Housing
11 Commission recommended. And I don't think that is
12 what you intended to do.

13 CHAIRMAN WALLACE: You are demonstrating
14 the availability of those sources.

15 MR. STILLWELL: We may not be able to do
16 that. We don't know. So my question is are you
17 saying that you wouldn't recommend approval of the
18 waiver if we can't obtain outside funding? If
19 there is no funding available? If none of it
20 would qualify for this particular type of product
21 that would be sufficient to allow those to be sold
22 at the affordable pricing according to the
23 Ordinance?

24 What are you saying with that language so

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1 that the City Council understands what is in the
2 mind of the Plan Commission? Because I think it
3 is confusing. And I don't think that is your
4 intent. I hope it is not your intent because that
5 wasn't the intent or the spirit of the discussion
6 with the Housing Commission.

7 I think Curt can confirm that. There was
8 certainly no statement to us by the Housing
9 Commission that but for providing this outside
10 alternative we would not agree to the waiver.

11 They acknowledged that the waiver was
12 appropriate. It was after that determination that
13 the chairperson said, "But let's at least ask you
14 to give a good faith effort going forward."

15 That is why the snapshot right now is
16 meaningless because we are going to craft language
17 that will go forward on a year-to-year basis.
18 There may not be anything available right now.

19 Once the project is actually approved and
20 the ground is broken and we begin marketing, there
21 may be something. That is what this is all about
22 is basically structuring a good-faith guideline to
23 go forward.

24 I don't mind doing what I told Russell I

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1 would do. I will see what is available currently
2 in general terms. But that is irrelevant right
3 now because what really counts is just trying to
4 set up a structure that going forward over the
5 52-month period, the projected period of the
6 project, we do this annual examination and we have
7 ongoing discussions with the Housing Commission to
8 let them know what is happening. That is really
9 what the spirit and intent of that conversation --

10 MS. TUNGARE: My understanding is the
11 Plan Commission went along with the verbiage of
12 the Staff Report; correct?

13 MR. KESSLER: When I made my --

14 MS. TUNGARE: So I don't understand
15 why --

16 MR. HENNINGSON: I understand exactly
17 where the confusion comes in because I asked for
18 that last paragraph to be struck. If that was
19 struck, there wouldn't be any confusion; is that
20 correct?

21 MR. STILLWELL: That's correct.

22 MR. HENNINGSON: And I was at the
23 meeting. I know what the intent of the Housing
24 Commission was.

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1 They -- they acknowledge the fact that we
2 are not going to require any affordable housing
3 but that the developer was going to work together
4 with us to determine -- not even to determine --
5 to work together on this on sources of alternative
6 financing.

7 MR. CUKIERMAN: If they were available.

8 MR. HENNINGSON: And those we know
9 change on a daily basis. We are lucky to have
10 Cindy Holler-Larson as the chairman of the
11 Commission. She has a lot of sources. She
12 offered to help you. And I am wondering how
13 restrictive that paragraph is as well. That is
14 why I suggested that we --

15 MR. KESSLER: Well, I can answer
16 Mr. Stillwell's question as the maker of the
17 motion.

18 The intent of including that as a
19 recommendation is because it says, "The Commission
20 will recommend to the City Council that a
21 documented accountability mechanism will be put in
22 place which insures the applicant will work in
23 good faith and make best efforts to find other
24 revenue sources during the course of the projected

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1 52-month construction period." And it goes on to
2 talk about putting a memorandum of understanding
3 in place.

4 That is the intent of my motion that I made
5 and was passed by the Plan Commission.

6 MR. STILLWELL: And as long as the Plan
7 Commission concurs with that, which is what I
8 thought you were doing, that is fine and as long
9 as it is in the record. Because I just don't want
10 that final paragraph to confuse the City Council
11 that somehow you are going beyond the scope of
12 what the Housing Commission was suggesting and
13 mandating that occur otherwise they wouldn't have
14 approved the recommendation.

15 MR. HENNINGSON: Is it our intent to go
16 beyond what the Housing Commission suggested?

17 MR. DOYLE: Mr. Chairman --

18 MR. PRETZ: Can we consider going back
19 and striking that final paragraph?

20 CHAIRMAN WALLACE: The motion has
21 already been made and voted on.

22 MR. GOOD: That is correct. Yeah.

23 I certainly understand Mr. Stillwell's
24 concern. But the statement in the record is

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1 sufficient. If anybody disagrees with the
2 statement of what the intent is, just say so now.

3 MR. HENNINGSON: The intent of the
4 Housing Commission; correct?

5 MR. STILLWELL: Based on what
6 Mr. Kessler said. If you agree with what
7 Mr. Kessler just said as clarification to the
8 Council, I am comfortable with that.

9 MR. DOYLE: I don't think that the
10 Commission as a whole can render a statement here
11 on the intent. The motion is what the motion is.
12 And the vote on the motion is what it is. And my
13 comments during deliberation and the motions to
14 amend are in the record. So I would ask Chairman
15 and/or Commission's legal counsel here if there is
16 any procedural basis for us to render an
17 additional statement of intent regarding our
18 motion?

19 MR. GOOD: There is nothing
20 inappropriate about stating your intent. I mean,
21 if it appears -- if it is a significant issue for
22 the Plan Commission, you can -- you have already
23 made one statement. You can choose to accommodate
24 the applicant. You can choose to stand on what

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1 was passed. You also could procedurally -- and I
2 don't want the Chairman to get upset. But you
3 could have a motion to reconsider made by someone
4 who was on the prevailing side -- meaning someone
5 who voted yes -- to reconsider simply to bring it
6 back if you wish to make any further
7 clarification.

8 CHAIRMAN WALLACE: Along those lines,
9 are there any further motions in regards to Item
10 No. 5 on the Agenda before we move on to Item 4?

11 (No response.)

12 CHAIRMAN WALLACE: All right. That
13 concludes Item 5 on the Agenda. We will take a
14 quick five-minute break.

15 (Whereupon, a recess was had at
16 9:12 P.M. after which the
17 proceedings were resumed at
18 9:19 P.M. as follows:)

19 CHAIRMAN WALLACE: City of St. Charles
20 Plan Commission will come back to order.

21 Item 4 on the agenda is Children of
22 America, Mr. Rasmussen (Tyler and Route 64 PUD,
23 South of St. Charles Chrysler Dealership)
24 Application for Special Use (Daycare Center);

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1 Application for PUD Preliminary Plan. Supporting
2 documents: PUD Preliminary Plans --
3 Preliminary/Final Engineering Plans; Landscape
4 Plan; Architectural Elevations, Ordinance
5 No. 2004-Z-14.

6 Is there anything else for the record?

7 MR. O'ROURKE: No.

8 CHAIRMAN WALLACE: All right. And is
9 the applicant familiar with the procedures for
10 public hearings?

11 MR. RASMUSSEN: Yes.

12 CHAIRMAN WALLACE: Does the applicant
13 know the meaning of the word "brevity"?

14 MR. RASMUSSEN: Yes.

15 (The witness was thereupon duly
16 sworn.)

17 CHAIRMAN WALLACE: Go ahead.

18 MR. RASMUSSEN: Bob Rasmussen, 409
19 Illinois Avenue, St. Charles, 60174.

20 We completed PUD 2004 at Tyler. At the
21 time, it was a Chrysler dealership -- or a
22 Cadillac dealership that we put in there as well
23 as the Tyler/Route 64 Business Park. It currently
24 is the Chrysler dealership for those who have seen

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1 that change.

2 We have two additional pads behind the
3 Chrysler dealership that are part of the
4 Tyler/Route 64 Business Park. Currently, they are
5 designed for an 11,000-square-foot office building
6 and a 7,000-square-foot office building. We have
7 proposed to bring one of those pads down from 11
8 to a 10,000-foot pad and incorporate a Children of
9 America building.

10 The Children of America requires a special
11 use in our PUD for a daycare facility. And that
12 is what we are here to ask for tonight.

13 The modifications to the actual site are
14 minimal. The landscaping has been increased. The
15 parking has been increased; although, the need has
16 been decreased by the use. And the building has
17 been architecturally revised from a typical
18 Children of America to marry in and share the
19 design of the actual office buildings to the west
20 of it using similar roof formats, using some of
21 the exact same brick and so on in the building.
22 So it will fit into the business park real nice.

23 The access to this is kind of away from the
24 office building. It is on the Tyler side of it.

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1 It is well protected by a nice retention wall for
2 the children. There is a lot of benefits for this
3 location for this type of use.

4 So that is what we are here asking for
5 tonight. And I will take any questions.

6 MR. KESSLER: Will the access be off of
7 Production or off of Tyler? Will there be another
8 curb-cut on Tyler?

9 MR. RASMUSSEN: No. There is no new
10 curb-cuts. It is all the existing roadway. There
11 is a right-in/right-out on Route 64 currently.
12 And that road loops down and curves onto Tyler
13 where there is a curb-cut.

14 MR. KESSLER: Isn't that Production
15 Drive?

16 MR. RASMUSSEN: It kind of heads right
17 into Production Drive.

18 MR. KESSLER: It lines up with
19 Production Drive.

20 MR. RASMUSSEN: That was installed in
21 '05, I believe, late '04. That remains the same.
22 We are not changing that at all.

23 MR. KESSLER: And that is the access,
24 also, for the buildings to the west of the

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1 dealership; correct?

2 CHAIRMAN WALLACE: Is there a connection
3 through -- there isn't any type of shared easement
4 with the Chrysler dealer, is there, through their
5 parking lot? Or is it just through Production
6 Drive?

7 MR. RASMUSSEN: The Chrysler dealership
8 does share the access drive that we were just
9 talking about.

10 CHAIRMAN WALLACE: On the west side of
11 the Chrysler dealer.

12 MR. RASMUSSEN: But nothing within the
13 dealership.

14 CHAIRMAN WALLACE: But south of the
15 dealership, the right-in/right-out off of Tyler --

16 MR. RASMUSSEN: Tyler is a full access.

17 CHAIRMAN WALLACE: I am sorry.

18 MR. RASMUSSEN: But that entire roadway
19 is shared by all property owners within that PUD.

20 MR. KESSLER: That is not Production
21 Drive?

22 MR. O'ROURKE: No. That is technically
23 an internal access road.

24 Basically, the parking lot that

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1 circumnavigates --

2 MR. KESSLER: A private roadway?

3 MR. O'ROURKE: In between the two sites,
4 there is a substantial dropoff. There is no
5 access between the Chrysler dealership. There is
6 a 10-foot retaining wall there.

7 MR. KESSLER: Except for the internal
8 north/south roadway?

9 MR. O'ROURKE: Except for what is
10 existing.

11 Mr. Chairman, if I could clarify one thing,
12 in my staff comments, along with the analysis,
13 there was a comment in there how we were waiting
14 for the applicant to submit a revised elevation
15 that shows the changes that Mr. Rasmussen
16 indicated. That change has actually been
17 submitted, and there is a copy of that placed in
18 everybody's position tonight. That comment has
19 been addressed.

20 MR. KESSLER: Isn't there a -- I don't
21 want to say -- maybe it is a daycare. Isn't there
22 a private school on the other side behind the old
23 Baker's Square?

24 MR. O'ROURKE: There is a Goddard School

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1 in there.

2 MR. KESSLER: North of 64.

3 MR. O'ROURKE: That's correct.

4 CHAIRMAN WALLACE: All right.

5 Questions?

6 MR. SCHUETZ: I had a question.

7 The play area is north of the building; is
8 that correct?

9 MR. RASMUSSEN: That is correct.

10 MR. SCHUETZ: And is that directly on
11 Main Street?

12 MR. RASMUSSEN: No. The play area -- if
13 you look -- do you want me to grab a site plan?

14 MR. SCHUETZ: No. I have got it right
15 in front of me.

16 MR. RASMUSSEN: The play area is between
17 the building and the retaining wall that is the
18 end of the Chrysler property. And it gives a very
19 enclosed, obviously, extremely safe location for
20 the play area.

21 MR. O'ROURKE: If I could clarify that,
22 the north part of this property backs up to the
23 south of the Chrysler dealership. There is a
24 whole dealership between this site and Main.

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1 MR. SCHUETZ: I am sorry. Yeah.

2 MR. RASMUSSEN: Yeah. So we are
3 four acres away. Yeah. 4 acres.

4 MR. KESSLER: What is the difference in
5 grade between the parking lot of the dealership
6 and the --

7 MR. RASMUSSEN: About 10 feet.

8 MR. O'ROURKE: There is a retaining wall
9 there.

10 MR. RASMUSSEN: And on top of the
11 retaining wall, there is a metal fence we
12 installed seven years ago.

13 MR. KESSLER: There is another 15 feet
14 to the west.

15 CHAIRMAN WALLACE: All right.

16 Any other questions from members of the
17 Plan Commission?

18 All right. Ma'am, if you just want to
19 approach up here? I didn't swear you in. If you
20 will, raise your right hand.

21 (The witness was thereupon duly
22 sworn.)

23 CHAIRMAN WALLACE: If you could just
24 state your name, spell your last name, and also

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1 state your address for the record, please.

2 MS. ALI: Home address or my business
3 address?

4 CHAIRMAN WALLACE: Business address is
5 good.

6 MS. ALI: My name is Anissa Ali, A-l-i.
7 My business address is 200 North Tyler Road in
8 St. Charles. I own the Goddard School.

9 MR. KESSLER: I remember that.

10 MS. ALI: Can I go ahead?

11 CHAIRMAN WALLACE: Please.

12 MS. ALI: Okay. So I found out about
13 Children of American through the public hearing
14 information. I looked at the plan drawings. I
15 know a lot -- I shouldn't say a lot. I have done
16 some investigation and heard a lot about Children
17 of America, some of which I was able to verify.

18 I kind of have five or six different
19 topics. So if it is okay, I will start at the
20 beginning. So one concern was the traffic
21 interruptions and the -- I kind of combined
22 traffic interruptions, vehicular, and pedestrians
23 traffic all into one because they were all
24 related.

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1 So the size of the building that they are
2 looking at -- actually, the plan drawing calls for
3 a second building expansion. You are looking at
4 probably -- I don't know what capacity -- license
5 capacity they are looking at. But my guess is it
6 is probably around 160 to 180 kids.

7 So that many children in a building during
8 a pickup and dropoff time, a majority of your kids
9 are picked up during about an hour,
10 hour-and-a-half in the morning and an hour,
11 hour-and-a-half in the evening. So you are going
12 to have a significant amount of increased traffic
13 most likely -- yes, you can easily turn right off
14 of Tyler. But they are also going to be going up
15 to Main Street to make a left on Tyler.

16 And at that location on Tyler, there is a
17 single lane going south and a single lane going
18 north. And then there is a turn lane to turn left
19 on Production. If you go south, you can turn
20 left.

21 So I think that is going to cause a lot of
22 traffic backups. I mean, even when people turn
23 left into Colonial, it backs up at the light.
24 That is going to cause some issues there.

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1 You also have -- so then you have the risk
2 of increased accidents going on there, as well as
3 backing up at the light and people trying to make
4 left turns and traffic getting caught up. So that
5 is an issue.

6 I was wondering if a traffic study has been
7 done because a building of 10,000-square feet,
8 like I said, you are looking at 160 to 180
9 children. That could be easily, you know, 100
10 cars an hour during the peak time which is what it
11 looks like in the plan triggers a traffic study.

12 And then with the expansion of a second
13 building, if the second building is 10,000-square
14 feet, you are looking at that as well.

15 So pedestrian traffic -- so my biggest
16 safety concern, because God forbid somebody got
17 hit by a car -- in their plan drawings -- I was
18 calling it Production Drive because I didn't
19 really realize it was a private drive there on the
20 south.

21 The entrance to the building appears to be
22 on the south side of the building. And so all the
23 parking spots right in front of the entrance are
24 where all your parents and little kids, three or

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1 four years of age, are going to be running out to
2 the cars and potentially into the street because
3 there is no type of barrier from people coming and
4 going down that street from the office buildings
5 as well. So that is a safety issue that I had a
6 concern about, too, because all kids, whether they
7 are at my school or somebody else's school, are
8 important.

9 The other thing that I noticed in their
10 plan drawings -- and I have been to a lot of
11 schools, Goddard Schools and lots of other
12 schools, as well as other child care centers. And
13 I can honestly say that I have never seen a school
14 that had -- that had emergency exit doors that
15 were not fenced in.

16 MR. KESSLER: Not what?

17 MS. ALI: That were not fenced it.

18 So if you look at the plan drawings, their
19 emergency exit doors going out of the building do
20 not have a surrounding fence. And all it takes is
21 a child with ADHD, a child that is not listening
22 to run out that door. And if they are not in a
23 fenced-in area, they run straight out in the
24 street or just run straight out into the parking

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1 lot. So that was another safety --

2 CHAIRMAN WALLACE: Let me ask on that.

3 Staff, is there a requirement in the --

4 MR. O'ROURKE: That is not -- the
5 building ordinance, that is not something we would
6 know here. We review the zoning for the site. If
7 that was a requirement reflected in some sort of
8 life safety code, that would come up in the
9 building permit review. That is not really
10 relevant to what this zoning request is, per se.

11 CHAIRMAN WALLACE: All right.

12 MS. ALI: The other traffic concern I
13 had was -- was the trucks because there is no --
14 like most buildings, you kind of have a parking
15 lot up front. And the front of that building --
16 you know, child care centers are constantly
17 getting deliveries, food supplies from GFS or Fox
18 River Foods or whoever it is.

19 So they are going to be blocking one of
20 those two lanes in the front of the school from a
21 traffic perspective as well because there is no
22 place for them to park and unload.

23 Site design. There were a couple things on
24 the site design that -- it was less than a 50-foot

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1 setback from the arterial -- from Tyler Street.
2 It was 40 feet instead of I think the -- I was
3 expecting according to the Comprehensive Plan it
4 looked like it was supposed to be 50 feet.

5 And there is basically no setback off of
6 the private drive. That is, again, a safety
7 issue.

8 MR. O'ROURKE: Just to clarify that,
9 those setbacks were something established when the
10 PUD was approved in 2004. This site plan is
11 conforming to those -- to the PUD. Those setbacks
12 were incorporated into that.

13 MS. ALI: Okay.

14 CHAIRMAN WALLACE: Are there any
15 setbacks -- I am trying to look at the bulk
16 standards list. Is there one that is included
17 here?

18 MR. O'ROURKE: The way this PUD was set
19 up, it was sort of set up that there was these
20 larger setbacks from Route 64 and Tyler. And then
21 there was a layout assumed for the original office
22 buildings. And those are kind of the setbacks
23 that were approved as part of the PUD preliminary
24 plan.

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1 And this is actually a smaller building
2 footprint, so it was well within that building
3 footprint that was originally approved.

4 CHAIRMAN WALLACE: And I am seeing here
5 that the original, as per ordinance, there was a
6 Tyler Road setback of 40 feet. And the proposed
7 is 117 feet.

8 MR. O'ROURKE: From the building,
9 correct.

10 CHAIRMAN WALLACE: From Tyler.

11 MS. ALI: Oh. From the building. I was
12 going from --

13 MR. O'ROURKE: That is to the edge of
14 the parking lot.

15 The way the PUD was written, nothing could
16 be within the 40 feet. So the parking lot could
17 go up to 40 --

18 CHAIRMAN WALLACE: And the parking is
19 actually 41.1 feet as proposed?

20 MR. O'ROURKE: Correct.

21 MS. ALI: As far as long-term viability
22 and incorporation with the Comprehensive Plan, one
23 thing that I noticed that the Comprehensive Plan
24 talks about is making sure that you have buildings

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1 that -- that you are building facilities that can
2 be used for different uses, you know, whether it
3 is retail space -- a child care center is a very
4 customized, unique building. It is going to take
5 significant changes to change it into something
6 else because that -- there is a lot of
7 customization, like Mr. Rasmussen said.

8 And also reading the plan, I didn't feel
9 like it fit the overall retail development goal of
10 the east corridor in supporting to complement the
11 goods and services to try and still build the
12 Charlestowne Mall, assuming that is still a goal,
13 with more retail and stuff like that.

14 And it just -- it seems to me something in
15 this area that is going to bring more jobs to the
16 area, more people that are then going to go
17 shopping on their lunch break is something that
18 would be great over in our neck of the woods.

19 It does say in the Comprehensive Plan that
20 commercial and business areas must be designed for
21 efficiency and safety. I found a lot of safety --
22 as being in charge of, you know, 100 kids, there
23 were a lot of safety concerns that I had with
24 their plan layout that I had mentioned previously.

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1 And it does sound like this is -- you
2 guys -- I don't know. Are you guys building this,
3 and then they are leasing the building? That is
4 the way it works?

5 Okay. So as far as -- I don't know how
6 much you guys know about Children of America.
7 They do have -- well, let me start with child care
8 in general.

9 East of the river, there are currently five
10 child care facilities all of which are
11 significantly under capacity. So there is a lot
12 of extra availability for child care space
13 because, honestly, the rebound hasn't been coming.
14 The parents aren't going back to work. If they
15 are going back to work, they are looking for
16 family members to take care of their kids at home.
17 They have family members or friends or in-home
18 daycare that are much less expensive.

19 So there is already a lot of available
20 capacity in our five child care centers that are
21 east of the river right now.

22 Children of America has had a focus in
23 their advertising -- it focuses on low-income
24 families who do qualify for State subsidy. So it

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1 is generally a very different target audience that
2 Children of America goes after.

3 And historically -- I actually printed off
4 all of -- Children of America has four schools in
5 Illinois right now. And I printed off all of
6 their violations that they have had with D.C.F.S.,
7 some of which are very significant and concerning
8 things such as corporal punishment for children
9 and safety and not maintaining the buildings and
10 not maintaining a safe environment for kids.

11 I am more than willing to give this to
12 somebody if they would like a copy. I have it on
13 the computer.

14 CHAIRMAN WALLACE: You can submit these
15 things. And I will ask the applicant if the
16 applicant has any objection to them.

17 But as far as the Plan Commission review
18 goes, we are really limited to the Findings of
19 Fact per the Zoning Ordinance in making our
20 determination whether this is a special use that
21 we would recommend approval of to the City
22 Council.

23 MS. ALI: Uh-huh.

24 CHAIRMAN WALLACE: So although the

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1 exhibit -- I mean, you are certainly welcome to --
2 you know, to submit anything that you feel -- that
3 you feel is relevant. And it is up to the
4 applicant to object to the relevance.

5 But there are specific Findings of Fact
6 that I would ask you to direct that information
7 to. The Findings of Fact are contained in the
8 Zoning Ordinance and were submitted along with the
9 applicant's application.

10 MS. ALI: I have the application here.

11 CHAIRMAN WALLACE: Okay.

12 MS. ALI: I think my primary concern --
13 I mean, other than the -- I mean, the significant
14 overcapacity that we have on the east side of the
15 river which I guess is -- I don't know what is
16 going on as to why someone would want to build a
17 child care over here.

18 But I think there is -- I see a lot of
19 safety issues. I am always concerned about kids,
20 like I said, no matter whose kids they are, as
21 well as the traffic patterns and making sure that
22 we are -- you are approving businesses that are
23 going to be -- have a long-term viability.

24 If there is already significant

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1 overcapacity, what is another school going to do?
2 Eventually, someone is going to go out. And then
3 you are going to have a special use building that
4 no one is going to be able to rent.

5 MR. KESSLER: Can I ask a couple
6 questions? How many students do you have over at
7 your school?

8 MS. ALI: We have 90 students total.

9 MR. KESSLER: You are on the north side
10 of --

11 MS. ALI: North side.

12 MR. KESSLER: And behind the --

13 THE WITNESS: Behind the Fifth-Third
14 Bank and the Holiday Inn.

15 MR. KESSLER: Do you see any significant
16 traffic issues with that many parents coming in
17 twice a day, 90 students --

18 MS. ALI: With 90 students, I see it in
19 the parking lot occasionally. And I do see it at
20 the traffic light. I do see all of our parents --
21 when I am coming in at 8:30, I see all the parents
22 at the traffic light.

23 The difference, though, is that -- is that
24 we have a very controlled light. We are turning

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1 left onto Tyler where there is not that much
2 traffic because it is going into the neighborhood.

3 They are on -- that section of Tyler is a
4 through street. That is everybody's shortcut to
5 go to Kirk. And so you have a lot more traffic on
6 that section because everybody goes either from
7 Main Street to go south or they are going up to
8 Main Street to turn right or left. So it is a
9 different section.

10 MR. KESSLER: Are you a preschool or a
11 daycare?

12 MS. ALI: We consider ourselves a school
13 because we focus on education. Personally, for
14 our school, I can't say anymore daycare because
15 that is not what we are. We are not sitting there
16 babysitting kids. We are teaching them an
17 incredible amount. But there are lots of child
18 care centers that are strictly child care.

19 MR. KESSLER: Is your building a
20 specialized building that wouldn't be easily
21 converted?

22 MS. ALI: Definitely, yes.

23 MR. SCHUETZ: Definitely what?

24 MS. ALI: It is definitely a specialized

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1 building that would not be easily converted. It
2 is a special use building, without a doubt.

3 I mean, I will tell you right now, our
4 school is a little under 60 percent capacity.
5 Chesterbrook I know is significantly under
6 capacity. As well as the owner of Kensington said
7 that of all their schools, St. Charles is doing
8 the worst.

9 MR. KESSLER: I wonder why none of
10 the -- I see a lot of private schools when we have
11 these applications come. The private schools come
12 in and -- the discussion is always among the
13 private schools. It is not among any of the --

14 MS. ALI: The corporate?

15 MR. KESSLER: No. The church
16 affiliated.

17 MS. ALI: You know, I did call the
18 church-affiliated schools.

19 MR. KESSLER: There is quite a few.

20 MS. ALI: Yeah. I bought the Goddard
21 School a year-and-a-half ago. And I significantly
22 underestimated because their prices are lower than
23 a private school because they don't have the same
24 cost structure. They are significantly lower in

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1 price, and they are -- and they are big.
2 St. Mark's is like a capacity of 160 kids or
3 something like that.

4 MR. KESSLER: Some of them --

5 MS. ALI: St. Mark's and Bethlehem
6 Lutheran.

7 MR. KESSLER: What is the best one in
8 Kane County?

9 MS. ALI: Me.

10 MR. KESSLER: First Baptist?

11 MS. ALI: We were Best of the Best by
12 Daily Herald readers.

13 CHAIRMAN WALLACE: I don't want to deter
14 you from submitting the information that you have.
15 And I am not trying to say that it doesn't have
16 anything -- and if I could just make a suggestion,
17 Finding of Fact E is "affect on general welfare."
18 And certainly --

19 MS. ALI: I think -- okay. That is --
20 this is the general welfare of the children in our
21 community.

22 CHAIRMAN WALLACE: Certainly, if you
23 want to hand that to me, I can take a look at it.

24 MS. ALI: And I copied all the

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1 regulations so it has the regulation number for
2 the regulation verbiage.

3 CHAIRMAN WALLACE: What we have here is
4 a printout from Illinois D.C.F.S. regarding
5 provider Children of America Elgin, LLC. And it
6 looks like it is a similar list from North Aurora,
7 Oswego, and Flosmoor --

8 You said those were the four schools in
9 Illinois.

10 MS. ALI: Correct.

11 CHAIRMAN WALLACE: I would -- there is
12 also a memorandum.

13 MS. ALI: Oh. Sorry.

14 CHAIRMAN WALLACE: Is that for you?

15 MS. ALI: That one is mine.

16 CHAIRMAN WALLACE: So this is something
17 that has been submitted to us. And at this point,
18 I would ask for any objections or questions to
19 this being submitted as Exhibit A?

20 MR. KESSLER: Are we sure we shouldn't
21 have a little more information on that?

22 CHAIRMAN WALLACE: I think that goes to
23 weight.

24 MR. KESSLER: Okay.

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1 CHAIRMAN WALLACE: I mean, it is
2 something we can make copies of and review in
3 deciding to make a recommendation either for or
4 against. I mean, I think that it has been
5 properly substantiated as to where it comes from.
6 It is a printout from the D.C.F.S. And this -- if
7 there is any objection --

8 MR. KESSLER: Just however much weight
9 you might put on something like that?

10 CHAIRMAN WALLACE: Yeah.

11 MR. SCHUETZ: Is there a way we could --
12 is there Children of America representation here
13 tonight?

14 I would just appreciate your comments after
15 you are done. I am sorry. I forget your name.

16 MS. ALI: Anissa.

17 MR. DOYLE: I have one question.

18 What are your hours of operation?

19 MS. ALI: 7:00 in the morning until
20 6:00 o'clock at night.

21 Do you have kids?

22 MR. DOYLE: I do. And I know that this
23 is a significant issue in deciding on schools.

24 My son went to Kensington School in Geneva,

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1 and the hours of operation were an important
2 factor.

3 I would also like to know what the hours of
4 operation are for the proposed business as far as
5 in relation to the issue of demand.

6 MS. ALI: Actually, we advertise 7:00 to
7 6:00. Our license is 6:30 to 6:00. So we
8 actually open at 6:45. But we don't advertise it
9 because there is like two kids in the building.

10 CHAIRMAN WALLACE: Thank you. All
11 right.

12 Yes, sir.

13 MR. RASMUSSEN: Just to respond to some
14 of the concerns and issues that were brought forth
15 there. There is no building expansion. There is
16 two building pads that exist on the site. This is
17 going to be one of them. There is no intent ever
18 to have another Children of America or expansion
19 of the Children of America. The other is an
20 office building some day. We are asking for a
21 specific special use for this particular pad
22 within this PUD. So just to clarify that.

23 CHAIRMAN WALLACE: So the special use
24 would not include the future expansion of the

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1 building to the west?

2 MR. RASMUSSEN: Correct.

3 CHAIRMAN WALLACE: Only the building
4 reflected in the site plan here.

5 MR. RASMUSSEN: Absolutely. Okay.

6 This building is a perfect scenario for
7 this layout from a safety standpoint. Number one,
8 it is not on a public road. This building could
9 be 40 feet to Tyler. But we are 117 feet back.
10 We chose to put the parking lot between the only
11 public road and this.

12 The road where the building faces is a
13 private road. And the number one feature of the
14 Children of America is you cannot pull up and have
15 your kids run out. Children of America's
16 corporate policy -- this a 50-store national chain
17 based out of Florida -- you must walk in, sign
18 your child out, and walk your child out to the
19 car. They are going to have to turn into the
20 parking lot that we have designed between the
21 building and Tyler. It is an extremely safe
22 scenario. So I think that takes care of that
23 issue.

24 If there is an issue with the emergency

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1 exit doors, if that becomes a building
2 requirement, we will add fencing.

3 Our representative is the builder for
4 Children of American. He is not a Children of
5 America employee. He is just the builder. Okay.
6 So that is what he is here for tonight. I don't
7 have a corporate Children of America
8 representative with me at all.

9 So we did meet the setback criteria. I
10 think we did the right thing by putting the
11 parking lot between the only public roadway and
12 the building.

13 The building we specifically designed --
14 because we are going to own it and lease it to
15 Children of America, it is designed with one
16 common bearing wall. It is very simple like any
17 building I have in all of my office complexes
18 within St. Charles. You rip the inside out, and
19 in comes a new tenant. That is how you design a
20 building for multiple uses down the road so the
21 building doesn't go dark. That is already in the
22 plan, and that is how it has been designed.

23 This is not a retail site. It is not part
24 of the Comprehensive Plan to add to the retail

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1 portion of St. Charles.

2 And the market saturation question, I
3 believe this is a different market that Children
4 of America does try to go after and has been
5 successful with. And I don't think you would have
6 a national corporation coming into a town like
7 ours if they didn't feel the need was there for
8 what they have to offer.

9 Their lease is a 15-year lease with us. It
10 is no small thing. They are a large company.
11 They are all corporate-owned stores. These are
12 not franchises.

13 And we believe strongly that this is the
14 best use for the property based upon the Findings
15 of Fact that I have submitted.

16 Any additional questions?

17 MR PRETZ: The lady mentioned about
18 deliveries.

19 Can you just address the logistics and the
20 spacing that is available for the semis when they
21 do come in with the food supplies?

22 MR. RASMUSSEN: Well, the food supplies
23 are typically a box truck, not a semi in most all
24 cases. So you know --

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1 MR. PRETZ: I would say it is probably
2 going to be a semi that comes in. She mentioned a
3 couple of food service companies.

4 MR. RASMUSSEN: Well, my neighbor is my
5 closest friend, and I do a tremendous amount of
6 work with the family. It is Greco Foods. It is
7 all box trucks. They deliver to ZaZa's,
8 Francesca's, all across town. And some of big
9 Sysco's, but not for this small of a delivery.
10 GFS Food Services is almost always a box truck.

11 MR. PRETZ: I disagree with you.

12 MS. ALI: Yeah. I use GFS. It is a
13 semi.

14 MR. RASMUSSEN: But nonetheless, we have
15 a private drive here. It is not a public roadway.
16 If that became the case where a semi pulled up,
17 you know, then the semi would pull up --
18 obviously, not at peak times -- and deliver just
19 as they do down here on 1st Street when the box
20 truck pulls up to ZaZa's on the corner early in
21 the morning and drops off in that little turn
22 lane. That is what happens. There are delivery
23 trucks literally ever morning.

24 But I can't answer your question if a semi

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1 pulls up -- you know, I assume they are going to
2 pull up to that lane just like they would
3 southbound on Tyler that can't get into a parking
4 lot or something. We have a private drive there
5 for that scenario which I think is as good as it
6 could be.

7 MR. PRETZ: I think it is a legitimate
8 concern for delivery and having accessibility.

9 CHAIRMAN WALLACE: Is there any further
10 information that you would want that you think
11 would be helpful to the Plan Commission?

12 MR. RASMUSSEN: Can I ask you to kind of
13 clarify that concern? I apologize. But I am not
14 seeing it.

15 MR. PRETZ: I didn't notice in the -- and
16 it would be my neglect. I didn't see -- maybe you
17 can just tell me for the service drive itself, the
18 width of that driveway to be able to -- and with
19 the position with the building and the access that
20 a delivery company could use. Maybe that would
21 help me a little bit.

22 MR. RASMUSSEN: I am trying to see if
23 this site plan I brought tonight has the original
24 roadway. I don't see that.

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1 MR. KESSLER: How wide would that
2 roadway be?

3 MR. RASMUSSEN: It should be 40 feet, I
4 believe, not including the parking. And based on
5 the scale of these dimensions here, it looks like
6 it roughly is. I can get that information.

7 MR. PRETZ: You are saying roughly
8 40 feet?

9 MR. RASMUSSEN: Yeah.

10 The other benefit we have is when we did
11 the PUD it is three lanes coming off of Tyler. It
12 is full left, full right, and there is a turn lane
13 there. So when you get traffic leaving this site,
14 you are going to have plenty of opportunity for
15 people to head right, head straight, and for
16 people getting into the turn lane. And we do have
17 a significant distance from here to the stoplight.

18 And you know, I have been on this project
19 for nine years now. There is just not that much
20 traffic in this area that warrants a long line of
21 people turning left up on Tyler and North Avenue
22 that I have ever experienced.

23 But -- so I -- I am not sure I can answer
24 this question on the semis. But if they did pull

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1 up, I assume they would pull up here and unload
2 which would block one of our lanes of the private
3 driveway. It would not be a safety issue.

4 MR PRETZ: You answered the question.
5 That is fine.

6 CHAIRMAN WALLACE: All right.

7 Any other questions?

8 MR. SCHUETZ: Yes. I have two. Has the
9 builder -- you have a 15-year lease. Say the
10 Children of America is not viable a year or two
11 from now because you mentioned that there is
12 multiple sites -- well, two things. I would be
13 curious as to know why -- how are they -- how do
14 they plan on being viable? What is their
15 strategy?

16 And now, I am not expecting you to answer
17 that. You know, it could be something you can
18 bring back to us or let us now.

19 What happens if they have a 15-year lease
20 and in a year or two they are not viable?

21 MR. RASMUSSEN: That would be my
22 challenge.

23 CHAIRMAN WALLACE: Let me just clarify
24 from a zoning standpoint, if the Special Use

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1 continues to be in use, regardless of who the
2 tenant is, if it is a continuation of the use,
3 then another tenant doing the same thing in the
4 building --

5 MR. SCHUETZ: But it may not be the same
6 thing.

7 CHAIRMAN WALLACE: But I mean, if it was
8 something else that was otherwise allowed under
9 the ordinance, then they could do that.
10 Otherwise, it is something that requires a
11 different special use and they would have to come
12 back before us on an application for special use
13 again.

14 MR. SCHUETZ: I just don't want to see
15 an empty building in a year or two.

16 MR. O'ROURKE: If you are looking at the
17 documents included, particularly Ordinance
18 2004-Z-14, it shows you all the permitted uses
19 allowed on that site. It is a pretty long list of
20 uses and things like that.

21 MR. SCHUETZ: I wanted to throw it out
22 there. I would be interested in what their
23 strategy is and how -- why they are so successful.

24 MR. RASMUSSEN: I would say they are a

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1 large corporation. They spend a lot of dollars on
2 marketing, bringing people in. And they use the
3 subsidized opportunity as well in a community
4 where that doesn't currently exist.

5 So they have a lot more available as a
6 corporation being significantly large to put into
7 the facility to make sure it succeeds.

8 And again, we have worked on this for two
9 years now. And these folks have been adamant that
10 they want this site and like this site. We pulled
11 back because lending got difficult to get in the
12 economy crunch.

13 Now, the lending is here. This is a PUD
14 that was a TIF back in 2004. And I think from a
15 community standpoint there is a huge financial
16 benefit to all to make sure we continue
17 development of this property. And that is really
18 what we are trying to accomplish.

19 CHAIRMAN WALLACE: All right.

20 Any other questions? Plan Commission
21 members?

22 All right. Any other questions or comments
23 from members of the audience?

24 And from a procedural standpoint, what we

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1 will do now is the Plan Commission has determined
2 that they have sufficient information to make a
3 recommendation either for or against this
4 application, then a motion to close the public
5 hearing would be in order.

6 Before we get to that, though, Matt, let me
7 make sure regarding Exhibit A which I handed
8 you --

9 MR. O'ROURKE: That's correct.

10 CHAIRMAN WALLACE: -- do you have enough
11 information on that and where it came from? Do
12 you need any further information?

13 MR. O'ROURKE: No, I don't. From
14 looking through it right now, I am not sure I can
15 determine that. But I think so.

16 CHAIRMAN WALLACE: I will ask if --
17 ma'am, if you would after we are done just give
18 Matt your information, contact information. Then
19 if he finds he needs any additional information he
20 can get that from you.

21 All right. Anything else?

22 MR. KESSLER: I make a motion to close
23 the public hearing.

24 MS. AMATANGELO: Second.

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1 CHAIRMAN WALLACE: We will go with Sue.

2 All right. Any discussion on the motion?

3 All right. Tim.

4 MR. KESSLER: Amatangelo.

5 MS. AMATANGELO: Yes.

6 MR. KESSLER: Schuetz.

7 MR. SCHUETZ: Yes.

8 MR. KESSLER: Doyle.

9 MR. DOYLE: Yes.

10 MR. KESSLER: Pretz.

11 MR. PRETZ: Yes.

12 MR. KESSLER: Henningson.

13 MR. HENNINGSON: Yes.

14 MR. KESSLER: Wallace.

15 CHAIRMAN WALLACE: Yes.

16 MR. KESSLER: Kessler. Yes.

17 CHAIRMAN WALLACE: That motion passes

18 unanimously. The public hearing is now closed.

19 MR. RASMUSSEN: Thank you.

20 CHAIRMAN WALLACE: Thank you.

21 And for further information the -- will

22 this be on the agenda the next time?

23 MR. O'ROURKE: Yeah. We are

24 anticipating on the 8th for recommendation.

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1 CHAIRMAN WALLACE: This will be on the
2 agenda next time for action, November 8th.

3 And Item 6 is future Plan Commission
4 meetings, one of which we just discussed.

5 Item 7. Any additional business from Plan
6 Commission members?

7 Staff roll.

8 MR. COLBY: One comment. We are going
9 to try to cancel the November 22nd Plan Commission
10 meeting because that is the week of Thanksgiving.
11 Right now, we don't have anything scheduled. So
12 we are hoping to do that.

13 CHAIRMAN WALLACE: Do you see anything
14 urgent enough to prevent us from canceling it now?

15 MR. O'ROURKE: Based on recent history,
16 you just can't know at this point.

17 CHAIRMAN WALLACE: All right.

18 MR. O'ROURKE: We seem to have things
19 come --

20 CHAIRMAN WALLACE: So we are planning on
21 that being canceled unless something comes in that
22 warrants keeping that on the schedule.

23 MR. O'ROURKE: Yes.

24 CHAIRMAN WALLACE: Any additional

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1 business from staff? Citizens?

2 (No response.)

3 MR. KESSLER: I would make a motion to
4 adjourn.

5 MR. SCHUETZ: Second.

6 CHAIRMAN WALLACE: All in favor?

7 (The ayes were thereupon
8 heard.)

9 CHAIRMAN WALLACE: Opposed?

10 (No response.)

11 (Which were all the proceedings
12 had in the above-entitled
13 matter at the hour of
14 9:58 P.M.)

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