ST. CHARLES SINCE 1834	**AGENDA ITEM EXECUTIVE SUMMARY**	
	Title:	Recommendation to Approve a General Amendment to Title 17 of the City Code (Zoning Ordinance) Regarding Regulations for Medical Cannabis Uses
	Presenter:	Matthew O'Rourke

Please check appropriate box:

X	Government Operations – (4/21/14)		Government Services
	Planning & Development		City Council
	Public Hearing		

Estimated Cost:	N/A	Budgeted:	YES		NO	

If NO, please explain how item will be funded:

Executive Summary:

Background
In August of 2013, Governor Quinn signed into law the "Compassionate Use of Medical Cannabis Pilot Program Act" hereafter referred to as the "State Act". The majority of the law pertains to the sales, distribution, and eligible users of medical cannabis. However there are specific provisions that relate to the location of Medical Cannabis Cultivation Centers and Medical Cannabis Dispensing Organizations.

Proposal
Staff is proposing to establish the following regulations and criteria for the location of Medical Cannabis Cultivation Centers and Medical Cannabis Dispensing Organizations:

- Establish these facilities as permitted uses in the M-2 Limited Manufacturing District.
- Create location standards that replicate those established in the State Act.
- Create parking standards for these uses.
- Establish use definitions for these facilities that replicate those established in the State Act.

Plan Commission Comments and Recommendation
The Plan Commission opened a public hearing on the proposed amendments on 2/4/2014. During that hearing, the Commission commented that Dispensing Organizations should be considered in the retail or office Zoning Districts as these facilities are similar to retail/office uses. The Plan Commission asked staff and legal counsel to examine the business and office Zoning Districts in town and determine if a Dispensing Organization could be located in these districts. Staff presented the revised information to the Plan Commission on 3/18/2014.

Based on the revised information, the Plan Commission recommended approval of the General Amendment with the condition that Medical Cannabis Dispensing Organizations are listed as a permitted use in the BR-Regional Business Zoning District in addition to the M-2 District. The vote was 7-aye to 1-nay.

Staff Recommendation
Staff recommends approval of the General Amendment Application as originally proposed during the 2/4/2014 public hearing. (Dispensing Organizations only permitted in the M-2 District)

Attachments: *(please list)*

Map of State of Illinois Police Districts; Map 1: Properties Within 2,500 Feet Buffer Map; Map 2: Properties Within 1,000 Feet Buffer Map; Legal Opinion for John McGuirk; dated 1/2/2014; Legal Opinion for John McGuirk; dated 2/11/2014

Recommendation / Suggested Action *(briefly explain)*:

Recommend approval of the proposed application for a General Amendment to Title 17.

For office use only:	*Agenda Item Number:* 5b

Community & Economic Development
Planning Division
Phone: (630) 377-4443
Fax: (630) 377-4062

ST. CHARLES
SINCE 1834

STAFF REPORT

TO: Chairman Bill Turner
And Members of the Government Operations Committee

FROM: Matthew O'Rourke, AICP, Planner

RE: General Amendments to Title 17 (Zoning Ordinance) Requirements for Medical Cannabis Cultivation Centers and Medical Cannabis Dispensing Organizations.

DATE: April 4, 2014

I. GENERAL INFORMATION

Project Name: General Amendments to Title 17 (Zoning Ordinance) - Requirements for Medical Cannabis Cultivation Centers and Medical Cannabis Dispensing Organizations

Applicant: City of St. Charles, Planning Division

Purpose: Create regulations for Medical Cannabis Cultivation Centers and Medical Cannabis Dispensing Organizations in accordance with State Law "Compassionate Use of Medical Cannabis Pilot Program Act"

II. BACKGROUND

In August of 2013, Governor Quinn signed into law the **"Compassionate Use of Medical Cannabis Pilot Program Act"** hereafter referred to as the "State Act". The majority of the law pertains to the sales, distribution, and eligible users of medical cannabis. However there are specific provisions that relate to the location of Medical Cannabis Cultivation Centers and Medical Cannabis Dispensing Organizations.

A. RELEVANT PROVISIONS OF THE "COMPASSIONATE USE OF MEDICAL CANNABIS PILOT PROGRAM ACT"

The Act contains certain provisions related to the number of medical cannabis facilities in the State and location criteria regarding these facilities. The following is a list of all pertinent requirements that are related to zoning regulations:

- "A unit of local government may enact reasonable zoning ordinances or resolutions, not in conflict with this Act or with Department of Agriculture or Department of Public Health rules, regulating registered medical cannabis cultivation centers or medical cannabis dispensing organizations. No unit of local government, including a home rule unit, or school district may regulate registered medical cannabis organizations other than

as provided in this Act and may not unreasonably prohibit the cultivation, dispensing, and use of medical cannabis authorized by this Act. This Section is a denial and limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State."

- The State of Illinois Department of Agriculture may not issue more than 22 cultivation center licenses. Only 1 Medical Cannabis Cultivation Center will be permitted in each State of Illinois Police District. There are 22 State Police Districts. The following location standards are established in the State Act:
  - "A registered cultivation center may not be located within 2,500 feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, part day child care facility, or an area zoned for residential use."
- The State of Illinois Department of Agriculture may not issue more than 60 Dispensing Organization Licenses. The following location standards are established in the State Act:
  - "A dispensing organization may not be located within 1,000 feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, or part day child care facility. A registered dispensing organization may not be located in a house, apartment, condominium, or an area zoned for residential use."

B. PROPOSAL

Staff is proposing to establish the following regulations and criteria for the location of Medical Cannabis Cultivation Centers and Medical Cannabis Dispensing Organizations:

- Establish these facilities as permitted uses in the M-2 Limited Manufacturing District.
- Create location standards that replicate those established in the State Act.
- Create parking standards for these uses.
- Establish use definitions for these facilities that replicate those established in the State Act.

III. PROPOSED AMENDMENTS

A. STAFF ANALYSIS

1. Use Standards and Location Criteria

Staff used the distance criteria established in the State Act for cultivation centers and dispensing organizations to generate maps illustrating which properties these uses could not be located on based on their proximity to residential zoning, daycares, schools, etc. These maps are attached to this memo as Attachments 1 and 2. There are residential areas outside of the City's limits that are not shown on these maps. However, these properties will impact the location of any cannabis related uses.

Based on this analysis there is limited number of properties that are outside the distance requirements stated in the State Act.

- Cultivations Centers – These facilities could only be located on a small number of properties in the industrial area on the east side of town. All of these properties are zoned M-2 Limited Manufacturing.
- Dispensing Facilities – There are an increased number of eligible properties for dispensing facilities per the standards of the State Act. These properties are typically

in the commercial and manufacturing areas. However, a number of these commercial properties are located within close proximity to residentially zoned parcels. The downtown CBD-1 and CBD-2 Zoning Districts are considered residential for purposes of this amendment.

B. AMENDMENTS TO TABLE 17.16-1 OFFICE/RESEARCH, MANUFACTURING AND PUBLIC LANDS PERMITTED AND SPECIAL USES

Based on the eligible location analysis, Staff is proposing that **Table 17.16-1 Office/Research, Manufacturing and Public Lands Permitted and Special Uses** of the Zoning Ordinance be amended to permit Medical Cannabis Cultivation Centers and Medical Cannabis Dispensing Organization in the M-2 Limited Manufacturing District.

Cultivation Centers- Based on the 2,500 foot buffer map these uses can only be permitted in a small section of the M-2 Zoning District.

Dispensing Organizations- Staff is proposing that Dispensing Organizations be permitted uses only in the M-2 Zoning District. Staff is proposing that all medical cannabis related activities be situated in one district. Staff wants to ensure that these uses are located in a specific area. This will aid City staff in terms of reviewing the location of these uses, should a license be issued by the State.

C. AMENDMENTS TO CHAPTER 17.20 USE STANDARDS

Staff is proposing to amend section **17.20.030 Standards for Specific Uses** of the Zoning Ordinance. The use standards established will replicate those established in the State Act. This amendment will create the following use standard categories:

1. Medical Cannabis Cultivation Center

Medical Cannabis Cultivation Centers are subject to the following standards: A registered cultivation center may not be located within 2,500 feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, part day child care facility, or an area zoned for residential use.

2. Medical Cannabis Dispensing Organization

Medical Cannabis Dispensing Organizations are subject to the following standards: A dispensing organization may not be located within 1,000 feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, or part day child care facility. A registered dispensing organization may not be located in a house, apartment, condominium, or an area zoned for residential use.

D. AMENDMENTS TO CHAPTER 17.24 OFF-STREET PARKING, LOADING & ACCESS

Staff is proposing to amend **Table 17.24-3 Required Off-Street Parking** to create new parking categories for Medical Cannabis Cultivation Centers and Medical Cannabis Dispensing Organizations.

A. Medical Cannabis Cultivation Centers

Staff is proposing that Medical Cannabis Cultivation Center be added to the Industrial and Office Uses listed in Table 17.24-3. The proposed parking requirement is 1 space per every 1,000 Square Feet of gross floor area. This is the same parking requirement for manufacturing and warehouse uses.

TABLE 17.24-3 REQUIRED OFF-STREET PARKING	
USE	**PARKING REQUIREMENT**
INDUSTRIAL AND OFFICE USES	
Medical Cannabis Cultivation Centers	1 per 1,000 of GFA

B. Medical Cannabis Dispensing Organizations

Staff is proposing that Medical Cannabis Dispensing Organization be added to the Retail and Service Uses section of Table 17.24-3. The proposed parking requirement is 4 spaces per every 1,000 square feet of gross floor area. This requirement is the same for all uses classified as Retail Sales establishments.

TABLE 17.24-3 REQUIRED OFF-STREET PARKING	
USE	**PARKING REQUIREMENT**
RETAIL AND SERVICE USES	
Medical Cannabis Dispensing Organizations	4 per 1,000 of GFA

E. AMENDMENTS TO CHAPTER 17.30 "DEFINITIONS"

Staff is proposing to amend Section 17.30.020 "Use Definitions" to create the following new use definitions for Medical Cannabis Cultivation Centers and Medical Cannabis Dispensing Organizations:

1. **Medical Cannabis Cultivation Center -** A facility operated by an organization or business that is registered by the State of Illinois Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis.

2. **Medical Cannabis Dispensing Organization** - A facility operated by an organization or business that is registered by the State of Illinois Department of Financial and Professional Regulation to acquire medical cannabis from a registered cultivation center for the purpose of dispensing cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients.

The proposed definitions are the same as listed in the State Act.

F. LEGAL OPINION

Staff has asked the City's Legal Counsel John McGuirk, of the Law Firm of Hoscheit, McGuirk, McCracken & Cuscaden, P.C., to review these proposed amendments in conjunction with the State Act. Based on his review of the State Act, McGuirk has

determined that the proposed amendments are appropriate. A copy of McGuirk's legal opinion is attached to this memo as Attachment 3.

VIII. PLAN COMMISSION COMMENTS

A. 2/4/2014 PUBLIC HEARING

The Plan Commission held a public hearing on the proposed amendments on 2/4/2014. During that hearing, the Commission commented that Dispensing Organizations should be considered in retail or office Zoning Districts since these facilities are similar to retail/office uses. The Plan Commission asked staff and legal counsel to examine the business and office Zoning Districts in town and determine if a Dispensing Organization could be located in these districts. In particular, the Commission asked staff and counsel to determine if any residential use is permitted in a Zoning District by right, would that mean a Dispensing Organization could not be located in that District.

The City's legal counsel John McGuirk has provided a follow-up opinion (Attachment 5). McGuirk's opinion states "the statute provides that a dispensing organization may not be located in 'an area zoned for residential use' (410 ILCS 130/130(d)). My interpretation of that language is that it prohibits a dispensing organization from being located in any zoning district that allows for residential use."

The following table illustrates what potential residential uses are permitted in a designated Zoning District.

Zoning District	Residential Uses Permitted
BL- Local Business	• Dwelling, Upper Level • Dwelling, Single-Family
BC-Community Business	• Assisted Living Facility (Special Use)
BR-Regional Business	• **No Residential Uses Permitted**
CBD-1 Central Business	• Artist Live/Work Space • Assisted Living Facility (Special Use) • Dwelling, Upper Level • Dwelling, Multi-Family
CBD-2 Central Business	• Artist Live/Work Space • Assisted Living Facility • Dwelling, Upper Level • Dwelling, Auxiliary • Dwelling, Multi-Family • Dwelling, Townhouse • Dwelling, Two-Family • Dwelling, Single-Family • Group Home, Large • Group Home, Small • Independent Living Facility
OR- Office/Research	• Assisted Living
M-1 Special Manufacturing	• Artist Live/Work Space
M-2 Limited Manufacturing	• **No Residential Uses Permitted**

The two Zoning Districts that do not permit any residential uses are the BR-Regional Business District and the M-2 Limited Manufacturing District. It should also be noted that many of the properties in the BR District are also in Planned Unit Developments. In many instances these PUDs have specific use lists approved as part of the PUD. Therefore, a Dispensing Organization would have to propose to amend the PUD to permit the use in that PUD.

B. 3/18/2013 PUBLIC HEARING

The Plan Commission considered the amendment at the continued public hearing on 3/18/2014. Staff presented the revised information as stated in the previous section.

IX. PLAN COMMISSION RECOMMENDATION

Based on the revised information, the Plan Commission recommended approval of the General Amendment with the condition that Medical Cannabis Dispensing Organizations are listed as a permitted use in the BR-Regional Business Zoning District. The vote was 7-aye to 1-nay. The vote was 7-aye and 1-nay.

X. RECOMMENDATION

Staff recommends approval of the General Amendment Application as originally proposed during the 2/4/2014 public hearing and has provided the attached draft Findings of Fact to support that recommendation.

XI. ATTACHMENTS

1. Map of State of Illinois Police Districts
2. Map 1: Properties Within 2,500 Feet Buffer Map
3. Map 2: Properties Within 1,000 Feet Buffer Map
4. Legal Opinion for John McGuirk; dated 1/2/2014
5. Legal Opinion for John McGuirk; dated 2/11/2014

FINDINGS OF FACT
GENERAL AMENDMENT

(Amendments to the Requirements for Medical Cannabis Cultivation Centers and Medical Cannabis Dispensing Organizations)

1. **The consistency of the proposed amendment with the City's Comprehensive Plan.**

   Medical Cannabis Cultivation Centers and Medical Cannabis Dispensing Organizations are not directly addressed in the Comprehensive Plan. These uses are proposed in the M-2 Limited Manufacturing Zoning District, which is designated as "Industrial/Business Park" on the Future Land Use Map.

2. **The consistency of the proposed amendment with the intent and general regulations of this Title.**

   The proposed amendments fit within the structure of the Zoning Ordinance and do not change the intent of the existing ordinance requirements. The changes to **Table 17.16-1 Office/Research, Manufacturing and Public Lands Permitted and Special Uses, Section 17.20.030 Specific Use Standards, Table 17.24-3 Required Off-Street Parking, and 17.30.020 "Use Definitions"** create regulations for the new uses of Medical Cannabis Cultivation Centers and Medical Cannabis Dispensing Organizations. These amendments are consistent with the framework created in Title 17 the Zoning Ordinance for all permitted uses.

3. **Whether the proposed amendment corrects an error or omission, adds clarification to existing requirements, is more workable than the existing text, or reflects a change in policy.**

   The proposed amendments will establish new permitted uses in relation to a change in State of Illinois policy. The proposed amendments create new permitted uses and standards for use categories that were recently created by the **Compassionate Use of Medical Cannabis Pilot Program Act.**

4. **The extent to which the proposed amendment would be in the public interest and would not serve solely the interest of the applicant.**

   The amendment has been proposed by the City of St. Charles in response to a State law. Providing reasonable zoning regulation consistent with the law is in the public interest.

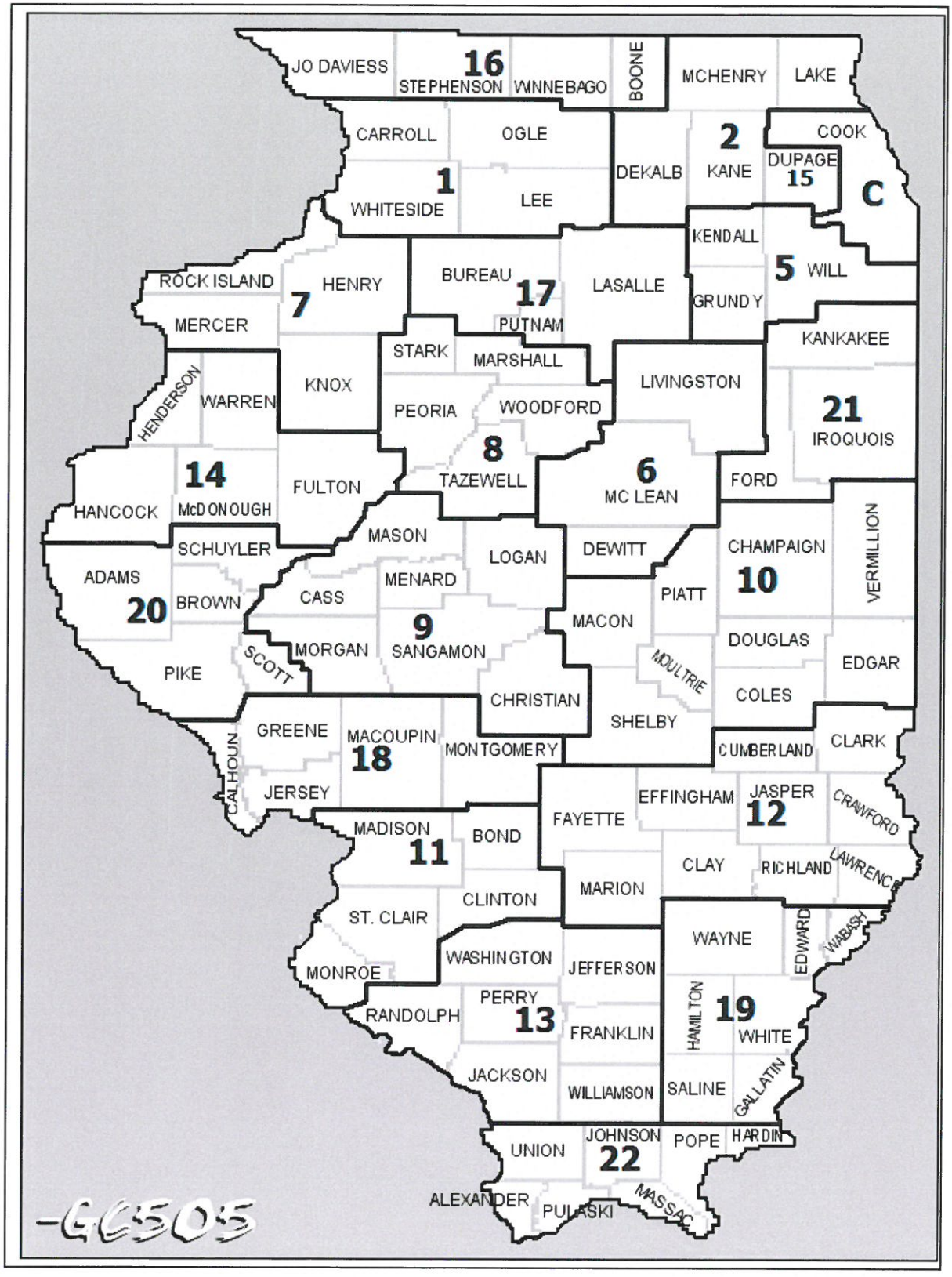
5. **The extent to which the proposed amendment creates nonconformities.**

   The proposed amendments will not create any new nonconformities. The proposed amendments are for two new use categories that did not previously exist in the Zoning Ordinance and were only recently permitted in the State of Illinois. There are no existing Medical Cannabis Cultivation Centers or Medical Cannabis Dispensing Organizations in the City; therefore, no nonconformities can be created.

6. **The implications of the proposed amendment on all similarly zoned property in the City.**

   These amendments will apply to all properties in the M-2 Limited Manufacturing Zoning District, subject to the proposed use standards.

Map of Police Districts – State of Illinois



CITY OF ST. CHARLES

TWO EAST MAIN STREET
ST. CHARLES, ILLINOIS 60174-1984

ST. CHARLES SINCE 1834

COMMUNITY DEVELOPMENT/PLANNING DIVISION PHONE: (630) 377-4443 FAX: (630) 377-4062

GENERAL AMENDMENT APPLICATION (ZONING ORDINANCE)

CITYVIEW PROJECT NO: 2014PR002
CITYVIEW APPLICATION NO: 2014AP002
PROJECT NAME: G.A. Medical Cannabis

RECEIVED
Received Date
St. Charles, IL
JAN 16 2014
CDD
Planning Division

Instructions:

To request an amendment to the text of the St. Charles Zoning Ordinance, complete this application and submit it with all required attachments to the Planning Office.

We will review submittals for completeness and for compliance with applicable requirements prior to establishing a meeting or public hearing date for an application.

The information you provide must be complete and accurate. If you have a question please call the Planning Office and we will be happy to assist you.

1. Applicant Information:	Name **City of St. Charles**	Phone 630-377-4443
	Address 2 E. Main Street St. Charles IL, 60174	Fax 630-377-4062
		Email morourke@stcharlesil.gov

2. Billing: *To whom should costs for this application be billed?*	Name **City of St. Charles**	Phone 630-377-4443
	Address 2 E. Main Street St. Charles IL, 60174	Fax 630-377-4062
		Email morourke@stcharlesil.gov

Attachment Checklist

☐ Application Fee (make checks payable to the City of St. Charles)

☐ Reimbursement of Fees Agreement: An original, executed Reimbursement of Fees Agreement and deposit of funds with the City, as provided by Exhibit B of the Zoning Ordinance.

☐ Wording of the requested text amendment (see next page)

I certify that this application and the documents submitted with it are true and correct to the best of my knowledge and belief.

Matthew O'Rourke — *Signature – Applicant*

1/16/14 — *Date*

Requested Text Amendment

To amend Section(s See Attached of the St. Charles Zoning Ordinance. The wording of the proposed amendment is: (attach sheets if necessary)

See Attached

Chapter 17.16 "Office/Research, Manufacturing, and Public Land Districts"
Chapter 17.20 "Use Standards"
Chapter 17.24 "Off-Street Parking, Loading & Access"
Chapter 17.30 "Definitions"

Pertaining to requirements for Medical Cannabis Cultivation Centers and Medical Cannabis Dispensing Organizations.

MEMORANDUM

To: ***Rita Tungare / Matthew O'Rourke***

From: ***John M. McGuirk***

Date: ***January 2, 2014***

RE: ***Compassionate Use of Medical Cannabis Pilot Program Act***

(410 ILCS 130/1 et seq.)

As you know, the Compassionate Use of Medical Cannabis Pilot Program Act goes into effect on January 1, 2014. Your staff has done a great deal of research regarding the impact of the new Act upon municipalities. You have asked that I review the Act and provide you with some feedback with respect to some of the important provisions of the Act. To that end, I have reviewed the Act in detail and have also reviewed the proposed amendments to the zoning code proposed by your staff as well as the various maps and other documents prepared to demonstrate the areas in which cultivation centers and dispensaries could do business in the City of St. Charles.

It is important to note that the Medical Use of Marijuana is regulated pursuant to a pilot program. The law was created with a "sunset" provision which provides that if the legislature does not renew the program, it will cease to operate four (4) years from the effective date. The Act allows physicians to recommend the therapeutic use of marijuana to treat certain medical conditions that are set forth in the Act. The Act details thirty-three (33) medical conditions. Qualified patients can receive written certification to use medical marijuana if they register and are approved by the Department of Public Health. Each patient is prescribed no more than 2.5 ounces of usable cannabis during a fourteen (14) day period. The Department of Public Health, the Department of Financial and Professional Regulation and the Department of Agriculture play important roles in the implementation of the Act. Qualifying patients are known as "card holders" in the Act and are given cards designating their right to possess medical marijuana.

There are two facilities that are provided for by and regulated under the Act – cultivation centers and dispensaries. A cultivation center is defined as a facility operated by an organization or business that is registered with the Department of Agriculture to perform necessary activities to provide registered marijuana cannabis to dispensing organizations or "dispensaries." A registration for a cultivation center is issued by the Department of Agriculture. A dispensary which dispenses cannabis is operated by a dispensing agent who has been issued a document issued by the Department of Financial and Professional Regulation. There are background checks run on the individuals who run the cultivation centers as well as the dispensaries and various other safeguards with respect to inspection, maintenance of maintenance of databases by the various state agencies.

The most significant feature of the act is its limitation on the location of cultivation centers as well as dispensaries. A registered cultivation center may not be located within 2,500 feet of a property line of a pre-existing public or private preschool or elementary or secondary school or daycare center, daycare home, group daycare home, part daycare facility or in areas zoned for residential use. This requirement takes in a large area within the city as the staff has recognized in preparing various maps. One of the things that we discussed at our meeting was the definition of residential use in the Act. My interpretation is that any zoning district that provides for residential use including mixed use districts would fall within that classification and thus the 2,500 feet of the property line of those areas would also be areas in which cultivation centers could not be located. Additionally, it should be noted that a cultivation center may not sell or distribute any cannabis to any individual or entity other than a dispensary organization registered under the Act. There should be no individual purchases or other activity at a cultivation center itself. The Act also requires that a cultivation center must maintain a 24-hour surveillance system to monitor the interior and exterior of the registered cultivation center facility and must be accessible to authorized law enforcement.

The limitation on dispensaries location is defined in a similar fashion as that of cultivation centers except that a dispensing organization may not be located within 1,000 feet of the property limits of a pre-existing public or private preschool or elementary or secondary school or daycare center, daycare home, group daycare home, or part day childcare facility. A registered dispensing organization may not be located in a house, apartment, condominium or in areas zoned for residential use. Again, that definition eliminates a broad scope of geographical area of the city and that has been laid out in detail by the staff in the various maps.

The Department of Agriculture, the Department of Public Health and the Department of Financial and Professional Regulation are charged with establishing certain rules and regulations within 120 days from the effective date of the Act. Some of the information that I have seen from the Illinois Municipal League Attorneys Forum indicates that many other municipalities have taken the position that they would not be addressing any issue relating to the Act until those rules are adopted by those state agencies. Most likely the final rules and regulations will not be completed until April 2014.

The Act does provide that municipalities may enact reasonable zoning ordinances or resolutions not in conflict with the Act. It specifically states that local governments, including home rule units, may not regulate the medical cannabis organizations other than as provided in the Act and may not unreasonably prohibit the cultivation, dispensing and use of medical cannabis authorized by the Act. It is specifically noted in the Act that it is a denial and limitation on concurrent exercise of home rule units of power and functions exercised by the state.

Based on my review of the recommendation of the staff that certain amendments be made to the zoning code specifically allowing for cultivation centers as permitted uses in the M-2 district, I would agree that that type of amendment makes sense given that it seems to be the only area that falls outside the 1,000 and 2,500 foot limitations for dispensaries and cultivation centers. A question was also raised about requiring the use of specific types of security systems and I assume that that question is addressed primarily to dispensaries. Since such security systems

would not be unreasonable or at least do not appear to be unreasonable, in my view such a requirement is permitted. Also, there was a question as to whether or not we could impose a home rule sales tax on medical cannabis. That is less clear. There is a provision in the Act that requires cultivation centers to pay a 7% sales tax. That provision specifically provides that the tax is not the responsibility of the dispensing organization or a qualifying patient. The Act further states that the sales tax shall be in addition to other taxes imposed by the state or any municipal corporation. Therefore, it seems clear that a cultivation center could be taxed but less clear as to whether a dispensary could be subject to a home rule sales tax. That issue requires more in depth research.

In conclusion, making various changes in the zoning ordinance to permit cultivation centers and dispensaries in certain areas is prudent. I have read news excerpts for other municipalities who have dealt with this issue including Naperville. In one of the summaries that I read, it indicated that Naperville adopted an ordinance allowing for drive-thru pick up of medical marijuana at dispensaries. It also further limited the location of dispensing facilities by providing that they can open in industrial areas without a hearing (which I assume means they have defined dispensaries as a permitted use within industrial areas) but would require a hearing in other retail areas outside the downtown. I think the point of what I was reading was that they were trying to make the opening of the dispensary outside of the industrial areas more difficult which can be done in a number of ways including increasing the area of restriction around schools or residential areas. However, it appears from my review our staff's research that the limitations that are provided by the Act are sufficient given the location of our schools and residential areas and that there is no need to provide anything more stringent than what the state statute provides.

I would be happy to discuss any question or concerns that you may have with respect to the Act. A detailed Reference Sheet prepared by the Marijuana Policy Project setting out all the provisions of the Act is attached for your reference.

LAW OFFICES

HOSCHEIT, MCGUIRK, MCCRACKEN & CUSCADEN, P.C.

1001 EAST MAIN STREET, SUITE G
SAINT CHARLES, ILLINOIS 60174-2203

JOHN J. HOSCHEIT
JOHN M. MCGUIRK
KATE L. MCCRACKEN
DOUGLAS R. CUSCADEN

TELEPHONE: 630.513.8700
FACSIMILE: 630.513.8799

February 11, 2014

Via Email Only
morourke@stcharlesil.gov

EMAILED
2/11/14

Mr. Matthew O'Rourke
City of St. Charles
Community and Economic Development

RE: Dispensing Organizations

Dear Matt:

This is a follow up to our recent conversation regarding the public hearing before the Planning Commission on February 4, 2014. It appears that the Planning Commission is seeking more information with respect to areas within the City that could accommodate dispensing organizations under the Medical Cannabis Pilot Program Act. As we discussed and as you are well aware, the statute provides that a dispensing organization may not be located in "an area zoned for residential use" (410 ILCS 130/130(d)). My interpretation of that language is that it prohibits a dispensing organization from being located in any zoning district that allows for residential use. Had the legislature meant for dispensing organizations to be prohibited only in zoning districts zoned exclusively for residential use, it is my opinion that it would have stated that specifically.

You indicated that the staff will develop maps to demonstrate to the Planning Commission where dispensing organizations can be located given our interpretation of the restrictions set forth in the statute.

If you need any further information or interpretations with respect to the statute, please contact me. Also, please let me know if you require my attendance at any future Planning Commission meetings relating to this issue.

Very truly yours,
Hoscheit, McGuirk, McCracken & Cuscaden, P.C.

John M. McGuirk

JMM/lmk

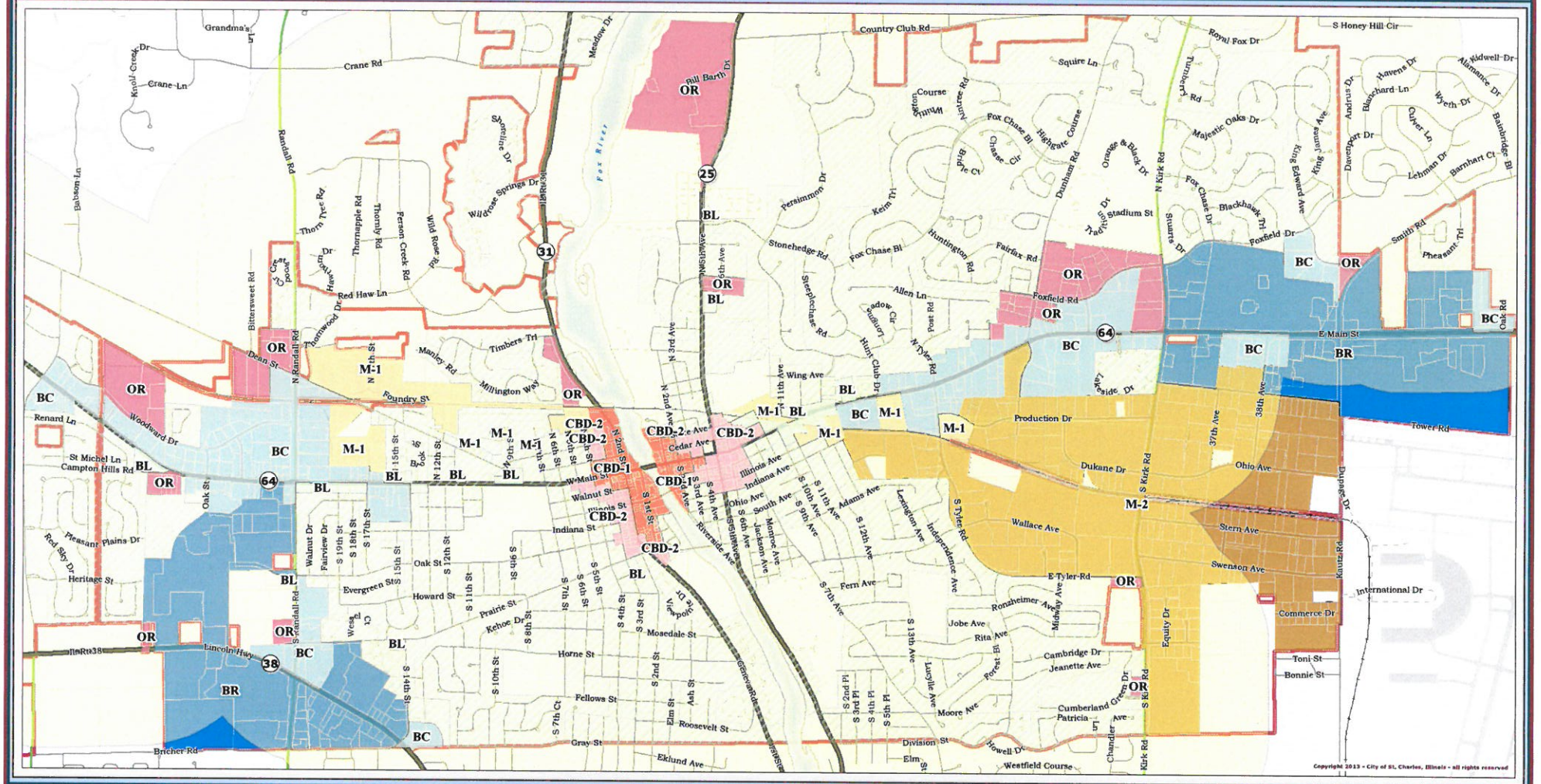
HMM&C

City of St. Charles, Illinois

Two East Main Street St. Charles, IL 60174-1984
Phone: 630-377-4400 Fax: 630-377-4440 - www.stcharlesil.gov

Commercial, Industrial, and Office Zoned Properties within 2,500 Ft of Residential Zoned Properties

RAYMOND ROGINA *Mayor*
BRIAN TOWNSEND *City Administrator*



Publication Date: June 21, 2013
Data Source: City of St. Charles, Illinois; Kane County, Illinois; Dupage County, Illinois
Projection: Transverse Mercator; Coordinate System: Illinois State Plane East; North American Datum 1983
TH #: 130606143201070

0 0.125 0.25 0.5 Miles

2500 Ft Buffer
Residential

BC BL BR CBD-1 CBD-2 M-1 M-2 OR

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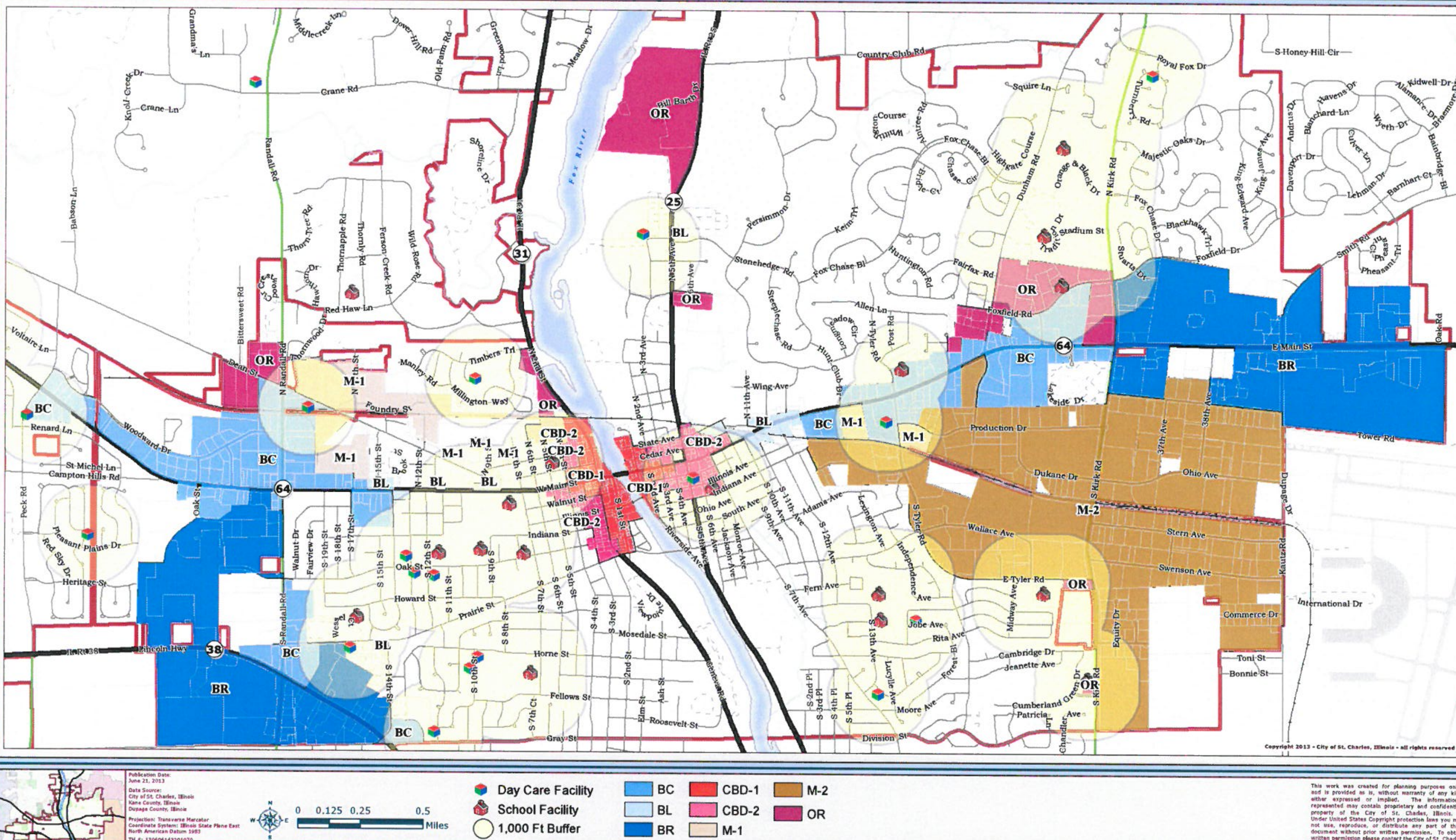
City of St. Charles, Illinois

Two East Main Street St. Charles, IL 60174-1984
Phone: 630-377-4400 Fax: 630-377-4440 - www.stcharlesil.gov

Commercial, Industrial, and Office Zoned Properties within 1,000 Ft of School and Day Care Facilities

RAYMOND ROGINA *Mayor*
BRIAN TOWNSEND *City Administrator*



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Publication Date:
June 21, 2013

Date Source:
City of St. Charles, Illinois
Kane County, Illinois
Dupage County, Illinois

Projection: Transverse Mercator
Coordinate System: Illinois State Plane East
North American Datum 1983

TH #: 130606143201070

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