ST. CHARLES SINCE 1834	**AGENDA ITEM EXECUTIVE SUMMARY**	Agenda Item number: IIC3
	Title:	Motion to approve An Ordinance Amending Title 17 of the St. Charles Municipal Code Entitled "Zoning", Ch. 17.16 "Office/Research, Manufacturing and Public Lands Districts", Table 17.16-1 "Permitted and Special Uses" to add Recreational Cannabis Dispensing Organization as a Special Use in the M-2 Limited Manufacturing District ***(Approve the General Amendment)***
	Presenter:	Rita Tungare

Meeting: City Council	Date: May 18, 2020	
Proposed Cost: N/A	Budgeted Amount: N/A	Not Budgeted: ☐

Executive Summary (*if not budgeted please explain*)**:**

Background:

On March 9, 2020 the P&D Committee voted on a motion to approve a General Amendment to the Zoning Ordinance proposing to add "Recreational Cannabis Dispensing Organization" as a Special Use in the M-2 Limited Manufacturing zoning district. The motion to approve failed by a vote of 4-5.

At the April 6, 2020 City Council meeting, ordinances for denial of the General Amendment and Special Use applications were placed on the agenda for action. No final action was taken on the ordinances. Instead, the City Council granted a 90-day extension requested by Healthway Services of West Illinois, LLC to allow for additional review of both the General Amendment and Special Use applications. Both applications were referred back to P&D Committee for review.

Information on the General Amendment application has been posted in the meeting packet for the Special P&D Committee meeting on 5/18/2020.

Attached Ordinance:

Staff has prepared an ordinance for approval of the General Amendment. Findings included in the ordinance were provided by the applicant in the General Amendment application.

(The applicant, Healthway Services of West Illinois, LLC, also submitted an application for Special Use to establish a Recreational Cannabis Dispensing Organization (Zen Leaf) at 3714 Illinois Ave. in the M-2 District. Approval of this General Amendment would be required in order for the Special Use application to be approved.)

Attachments (*please list*)**:**

Ordinance

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

Motion to approve An Ordinance Amending Title 17 of the St. Charles Municipal Code Entitled "Zoning", Ch. 17.16 "Office/Research, Manufacturing and Public Lands Districts", Table 17.16-1 "Permitted and Special Uses" to add Recreational Cannabis Dispensing Organization as a Special Use in the M-2 Limited Manufacturing District.

City of St. Charles, IL
Ordinance No. 2020-Z-_____

An Ordinance Amending Title 17 of the St. Charles Municipal Code Entitled "Zoning", Ch. 17.16 "Office/Research, Manufacturing and Public Lands Districts", Table 17.16-1 "Permitted and Special Uses" to add Recreational Cannabis Dispensing Organization as a Special Use in the M-2 Limited Manufacturing District

WHEREAS, on or about October 28, 2019, Healthway Services of West Illinois, LLC ("the Applicant") filed a petition for General Amendment to amend Title 17 of the St. Charles Municipal Code, the Zoning Ordinance of the City of St. Charles, regarding adding "Recreational Cannabis Dispensing Organization" as a Special Use in the M-2 Limited Manufacturing District; and,

WHEREAS, Notice of Public Hearing on said petition was published on or about November 2, 2019 in a newspaper having general circulation within the City, to-wit, the Daily Herald newspaper, as required by the statutes of the State of Illinois and the ordinances of the City; and,

WHEREAS, pursuant to said Notice, the Plan Commission conducted a public hearing on or about November 19, 2019 and December 3, 2019, on said petition in accordance with the statutes of the State of Illinois and the ordinances of the City; and,

WHEREAS, at said Public Hearing, the Applicant presented testimony in support of said petition and all interested parties had an opportunity to be heard; and,

WHEREAS, the Plan Commission recommended approval of said petition on or about December 17, 2019; and,

WHEREAS, the Planning & Development Committee of the City Council reviewed said petition on or about January 13, 2020, February 20, 2020, and March 9, 2020; and,

WHEREAS, on or about March 9, 2020, the Planning & Development Committee of the City Council voted on a motion to recommend approval of said General Amendment petition, which said motion failed; and,

WHEREAS, the City Council of the City of St. Charles has received the recommendations of the Plan Commission and Planning & Development Committee and has considered the same.

WHEREAS, on or about April 6, 2020, the City Council of the City of St. Charles granted a 90-day extension requested by the Applicant to allow for additional review of the General Amendment application.

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

1. The preambles set forth hereinabove are incorporated herein as substantive provisions of this Ordinance as if fully set out in this Section One.

2. The findings attached hereto and incorporated herein as Exhibit "A" are expressly adopted by the corporate authorities of the City.

3. That Title 17, "Zoning", Chapter 17.16 "Office/Research, Manufacturing and Public Lands Districts", Table 17.16-1 "Permitted and Special Uses" of the St. Charles Municipal Code is hereby amended by adding a new row for "Recreational Cannabis Dispensing Organization", to be listed as a Special Use in the M-2 Limited Manufacturing District, under the subcategory "Professional Training Center", as shown below:

TABLE 17.16-1 OFFICE/RESEARCH, MANUFACTURING AND PUBLIC LANDS PERMITTED AND SPECIAL USES					
P=Permitted Use S=Special Use A=Permitted Accessory Use SA=Special Use, Accessory Only	**ZONING DISTRICT**				**SPECIFIC USE STANDARDS**
	O-R	**M-1**	**M-2**	**PL**	
RETAIL AND SERVICE USES					
Recreational Cannabis Dispensing Organization			S		Section 17.20.030

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

PRESENTED to the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois this 18th day of May 2020.

PASSED by the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois this 18th day of May 2020.

APPROVED by the Mayor of the City of St. Charles, Kane and DuPage Counties, Illinois this 18th day of May 2020.

_____
Raymond P. Rogina, Mayor

Attest:

_____
City Clerk/Recording Secretary

COUNCIL VOTE:
Ayes:
Nays:
Absent:
Abstain:

EXHIBIT "A"

FINDINGS FOR GENERAL AMENDMENT

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

   The proposed amendment to allow Recreational Cannabis Dispensing Organizations as a Special Use in M2 district supports the following objectives for Industrial Areas found in Chapter 3 of the Comprehensive Plan.

   a. Industrial Objectives #1 – "Industrial Areas Objective #1 - "Preserve the integrity of the industrial park by preventing the encroachment of businesses or land uses that could impact the long term viability of industrial areas. Parking needs, traffic issues, and potential impacts to existing or future industrial business operations should be considered when uses such as entertainment or recreational uses, community facilities, schools, places of worship, etc. locate in industrial areas."

      i. The City has approved Medical Cannabis Dispensing Organizations as a permitted use in the M2 district. Recreational Cannabis Dispensing Organizations are a comparable retail use in all material respects to Medical Cannabis Dispensing Organizations. Therefore, it has been determined that these retail uses do not encroach on businesses or land uses or the long-term viability of industrial areas. Parking needs will be met based on the standards for Recreational Cannabis Dispensing Organizations as approved by the City of St. Charles. Traffic issues and potential impacts to existing or future industrial business operations will be considered via the Special-use process.

   b. Industrial Areas Objective #2 - "Establish and maintain regular lines of communication with industrial property owners and businesses."

      i. By approving the General Text Amendment to allow Recreational Cannabis Dispensing Organizations, subject to the Special-use process, the City is establishing lines of communication with industrial property owners and businesses as well as members of the general public. The public hearing process as a condition to granting a special use will allow comments from City officials, stakeholders, and all other member of the public, to speak in a public forum to support, object, or speak in any other manner regarding the proposed amendment.

   c. Industrial Areas Objective #8 – "Ensure that all uses are effectively screened from adjacent properties and public rights-of-way, through the use of landscaping and fencing."

      i. As a comparable retail use to Medical Cannabis Dispensing Organizations, permitted in the M2 district, the City has already established a level of landscaping and screening that it has deemed sufficient for Recreational Cannabis Dispensing Organizations. By approving the General Text Amendment to allow Recreational

Cannabis Dispensing Organizations, subject to the Special-use process, the City can enforce design standards found in the City's Ordinance Chapter 17.26 – Landscaping and Screening to ensure that all proposed Recreational Cannabis Dispensing Organizations are adequately screened from adjacent properties and public rights-of-way through the use of landscaping and other screening mechanisms.

d. Economic Development Goal #2 – "Work with the City's economic development partners to maintain and strengthen a diverse tax base through the attraction, retention, and expansion of businesses in the City."

   i. Based on its compatibility to Medical Cannabis Dispensing Organizations, an approved use in the M2 district, the applicant is seeking a General Text Amendment to add Recreational Cannabis Dispensing Organizations as a Special-use in the M2 district. The addition of Recreational Cannabis Dispensing Organizations as an approved use in the City, as a result of a state act, will further strengthen and diversify the city's tax base by introducing a new use to an area where a comparable use is already permitted.

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

The proposed amendment supports the following purpose statements listed in Ch. 17.02 of the Zoning Ordinance.

a. "Maintaining businesses and industrial areas that are attractive and economically viable."

   i. Recreational Cannabis Dispensing Organizations provide opportunity for new economic activity within a newly established industry as a result of a state act. Based on its compatibility to Medical Cannabis Dispensing Organizations, approved as a permitted retail use in the M2 district, Recreational Cannabis Dispensing Organizations should be allowed to extend this opportunity to the M2 district subject to Special-use.

b. "Promoting the public health, safety, comfort, convenience and general welfare."

   i. The Special-use process ensures opportunity to address public health, safety, comfort, convenience, and general welfare concerns via the public hearing process. In addition, approval of Recreational Cannabis Dispensing Organizations in the M2 district require that the proposed use meet a minimum of 250 feet separation from a parcel containing a pre-existing Primary or Secondary School, Private Boarding School, Day Care Center, Day Care Home, or other residential zoning parcels and enforcement of strict rules banning on-site consumption.

c. "Implementing the goals and objectives of the St. Charles Comprehensive Plan."

i. The proposed amendment promotes Industrial Areas Objective #1, Industrial Areas Objective #2, Industrial Areas Objective #8, and Economic Development Goal #2 as demonstrated in Findings of Fact –General Text Amendment #1, above.

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.

a. The proposed amendment aligns the Title with the State of Illinois Cannabis Regulation and Tax Act. It reflects a change in City policy to add Recreational Cannabis Dispensing Organization as a Special-use in M2 district based on its compatibility to the permitted retail use of Medical Cannabis Dispensing Organizations and in response to the State Act. The proposed amendment will also be subject to new use standards that were adopted by the City for Recreational Cannabis Dispensing Organizations.

b. After the City amended its Zoning Ordinance to allow Recreational Cannabis Dispensary Organizations to relocate to a BR or BC Zoning District, the State of Illinois promulgated rules that existing medical cannabis dispensaries could not relocate and offer recreational cannabis. This general text amendment reflects a change in policy of the State of Illinois governing Recreational Cannabis Dispensary Organizations. It would also allow St. Charles to limit the amount of dispensaries operating in the City to the intended two instead of three dispensaries (one medical and two recreational).

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

a. Public Interest Statement #1 – The proposed amendment could allow for regional economic activity related to a newly established industry while limiting it in a way as to minimize potential impacts on the community.

i. Recreational Cannabis Dispensing Organizations was recently approved as a special use in the BC and BR Districts and was determined in the public interest as it provided regional economic activity to a newly established industry. The newly established industry of Recreational Cannabis Dispensing Organizations is comparable to Medical Cannabis Dispensing Organizations which are already allowed as a permitted use in the M2 district. Therefore, based on the compatibility between the proposed use and the existing use already permitted in the M2 district, it is reasonable to state that public benefits of allowing for regional economic activity related to a newly established industry would also apply to locations in the M2 district. In addition, the similar limiting factors such as a minimum separation requirement to “sensitive uses” and strict conformance banning on-site consumption are proposed to remain in place in order to minimize potential impacts on the community and preserve public interests.

b. Public Interest Statement #2 – The special use review process will allow for public discussion of any Recreational Cannabis Dispensing Organization seeking to locate in St. Charles.

    i. The special use review process is a benefit to public interest as it outlines a specific process and standards for the review and approval of proposed development. All special uses are subject to a public hearing where residents, land owners, and other City stakeholders are permitted to express their own concerns and interests in a public forum.

c. Public Interest Statement #3 – The proposed ordinance would expand the sale of cannabis from solely medical patients to include adult-users thereby increasing the tax base for the public.

    i. Medical Cannabis Dispensing Organization is a permitted use in the M2 district. Recreational Cannabis Dispensing Organization is a comparable retail use therefore should be allowed in the M2 district. Making a product available to a larger group of consumers will reasonably result in increased sales revenues which will in turn result in additional tax revenue to be paid to the City of St. Charles via funds that could be used to further public interests in the City.

d. Public Interest Statement #4 – The amendment has been proposed in response to the State of Illinois Cannabis Regulation and Tax Act based on a comparable use which is already permitted in the M2 district. Providing reasonable zoning regulations consistent with the law is in the public interest.

e. Public Interest Statement #5 – The amendment would allow both Medical and Recreational Cannabis sales to occur at a single location, which would allow the City to consolidate its resources to address a single location. If this general text amendment is not passed, the St. Charles Zoning Ordinance currently allows for three dispensaries instead of the intended two dispensaries, which would the result in the inefficient spread of public resources to accommodate three locations instead of two locations.

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

Per Section 17.20.010 – General use standards of the Zoning Ordinance, "Within the lists of permitted and Special-uses for each zoning district, some uses are specifically named, while others fall within a generic use definition (see Chapter 17.30.) A use that is not specifically listed in a zoning district or overlay and that does not fall within a generic use definition of Chapter 17.30, is prohibited within that district or overlay." The proposed text amendment would specifically enumerate the "Recreational Cannabis Dispensing Organization" as a Special-use in locations in the City of St. Charles in the M2 district based on the compatibility of the use to Medical Cannabis Dispensing Organizations, which is already a permitted retail use in the district and in response to the State of Illinois Cannabis Regulation and Tax Act. There are no existing Recreational Cannabis Dispensing Organizations in the City; therefore, the proposed amendment will not create any nonconformities.

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

   The proposed text amendment to allow Recreational Cannabis Dispensing Organization as a Special-use will apply to all properties in the M2 Limited Manufacturing District, subject to recently adopted use standards. Further, the general text amendment requires that any applicant satisfy the special use requirements to ensure that there will not be adverse implications to similarly zoned property in the City. The proposed uses' compatibility with existing permitted retail uses in the M2 district demonstrate the limited implications of the proposed text amendment on other similarly zoned property in the City.