

**AGENDA ITEM EXECUTIVE SUMMARY**

Agenda Item number: IIC5

Title:

Motion to approve An Ordinance Denying a Special Use for a Recreational Cannabis Dispensing Organization in the M-2 Limited Manufacturing District (3714 Illinois Ave. – Zen Leaf St. Charles).

(Deny the Special Use)

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 Special Use to establish a Recreational Cannabis Dispensing Organization, Zen Leaf, at 3714 Illinois Ave. in the M-2 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 Special Use application has been posted in the meeting packet for the Special P&D Committee meeting on 5/18/2020.

Approval of a separate General Amendment to the Zoning Ordinance is required in order for this Special Use application to be approved.

The City Attorney has advised that, following City Council action to deny the General Amendment, the Council should take action to deny the Special Use application by a separate ordinance.

Attached Ordinance:

Based on past Committee discussions, staff has prepared an ordinance with findings for denial of the Special Use. The findings are attached as Exhibit B of the ordinance.

Attachments *(please list):*

Ordinance

Recommendation/Suggested Action *(briefly explain):*

Motion to approve An Ordinance Denying a Special Use for a Recreational Cannabis Dispensing Organization in the M-2 Limited Manufacturing District (3714 Illinois Ave. – Zen Leaf St. Charles).

City of St. Charles, Illinois
Ordinance No. 2020-Z-

**An Ordinance Denying a Special Use for a Recreational Cannabis Dispensing
Organization in the M-2 Limited Manufacturing District
(3714 Illinois Ave. – Zen Leaf St. Charles)**

WHEREAS, on or about October 28, 2019, Healthcare Services of West Illinois, LLC (“the Applicant”) filed a petition for Special Use for a Recreational Cannabis Dispensing Organization for the real estate commonly known as 3714 Illinois Ave. and legally described in Exhibit “A”; said Exhibit being attached hereto and incorporated herein (the "Subject Property"), for the purpose of allowing a Recreational Cannabis Dispensing Organization on the Subject Property; and,

WHEREAS, on or about October 28, 2019, the Applicant also 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, to add “Recreational Cannabis Dispensing Organization” as a Special Use in the M-2 Limited Manufacturing District, and approval of the petition for Special Use was predicated on and dependent upon the granting of the Petition for General Amendment, and;

WHEREAS, Notice of Public Hearing on said petition for Special Use 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, December 3, 2019, and December 17, 2019 on said Special Use 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 Special Use petition and all interested parties had an opportunity to be heard; and,

WHEREAS, the Plan Commission recommended approval of said Special Use 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 Special Use 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; and,

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 Special Use application; and,

WHEREAS, the City Council of the City of St. Charles has denied the petition for General Amendment to add "Recreational Cannabis Dispensing Organization" as a Special Use in the M-2 zoning district.

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 though fully set out in this Section 1.

2. That passage of this Ordinance shall constitute denial of the petition for a Special Use for a Recreational Cannabis Dispensing Organization, pursuant to Title 17, Chapter 17.04 "Administration", Section 17.04.330.C.2, the City Council finds the requested Special Use, under Item b) Sufficient Infrastructure- That adequate utilities, access roads, drainage and/or necessary facilities are not being provided; Item c) Effect on Nearby Property- That the Special Use will be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; and Item f) Conformance with Codes- That the proposed Special Use does not conform to all applicable provisions of the St. Charles Municipal Code; and the findings attached hereto and incorporated herein as Exhibit "B" are expressly adopted by the corporate authorities of the City.

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

PRESENTED to the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois this 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

Ordinance No. 2020-Z-

Page 3

Attest:

Charles Amenta, City Clerk

Vote:

Ayes:

Nays:

Absent:

Abstain:

Date: _____

EXHIBIT "A"

UNIT C IN ST CHARLES COMMONS CONDOMINIUM, AS DELINEATED ON A PLAT OF SURVEY OF THE FOLLOWING DESCRIBED TRACT OF LAND: LOT 1 IN ST. CHARLES COMMONS SUBDIVISION BEING A RESUBDIVISION OF UNIT 1 IN THE "ST CHARLES" ILLINOIS INDUSTRIAL DEVELOPMENT OF THE CENTRAL MANUFACTURING DISTRICT IN SECTION 25, TOWNSHIP 40 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN IN KANE COUNTY, ILLINOIS, WHICH PLAT OF SURVEY IS ATTACHED AS EXHIBIT "A" TO THE DECLARATION OF CONDOMINIUM RECORDED MARCH 19, 1999 AS DOCUMENT NUMBER 1999K029217; TOGETHER WITH ITS UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS, AS SET FORTH IN SAID DECLARATION.

Commonly known as 3714 Illinois Avenue, St. Charles, Illinois

PIN #09-25-401-031

EXHIBIT “B”

FINDINGS OF FACT FOR SPECIAL USE

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

Establishment of a “Recreation Cannabis Dispensing Organization” on the subject property will allow for a general retail sales use on a property that was designed and intended to function as a multi-tenant industrial/office/warehouse development. The site is not designed to accommodate the increased customer traffic volume and circulation associated with a retail business. Customer traffic projections for this type of business are not well established and are difficult to predict.

C. Effect on Nearby Property: That the Special Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the neighborhood.

Establishment of “Recreation Cannabis Dispensing Organization” on the subject property will allow for a general retail sales uses on a property that was designed and intended to function as a multi-tenant industrial/office/warehouse development. The site is a condominium unit that shares a common parking lot with other condominium units that are occupied by a variety of uses. Other condominium owners within the development will be impacted by the increased traffic and customer activity associated with the establishment of a retail use. Testimony was provided by adjoining condominium unit owners and members of the public during the public hearing.

F. Conformance with Codes: That the proposed Special Use conforms to all applicable provisions of the St. Charles Municipal Code and meets or exceeds all applicable provisions of this Title, except as may be varied pursuant to a Special Use for Planned Unit Development.

“Recreation Cannabis Dispensing Organization” is not listed as a Special Use in the M-2 Limited Manufacturing District identified in Chapter 17.16 “Office/Research, Manufacturing and Public Lands Districts”, Table 17.16-1 “Permitted and Special Uses” and as such does not conform to all applicable provisions of the St. Charles Municipal Code.