PLANNING AND ZONING COMMISSION
MEETING NOTICE

DATE:       Wednesday, July 17, 2019
TIME:       7:30 p.m.
PLACE:      McHenry Municipal Center (Council Chambers)
            333 South Green Street, McHenry, IL 60050

AGENDA

1. Call to Order

2. Pledge of Allegiance

3. Roll Call

4. Public Input – (five minutes total on non-agenda items only)

5. Consideration of Approval of Meeting Minutes:
   June 19, 2019 Regular Meeting; and
   July 10, 2019 Special Meeting

6. Z-951 Public Hearing – Zoning Map Amendment from C-5 Highway Commercial District to I-1 Industrial at 2905 Northside Avenue/A.K.A. 2905 W. Route 120 (Jessup Mfg.)

   Applicant: Jessup McHenry Enterprises, LLC, 3023 Ellice Way, Naples, FL 34119.

   Requested Action: Zoning Map Amendment from C-5 Highway Commercial District to I-1 Industrial District.

   Location: The Subject Property is located at 2905 Northside Avenue/A.K.A. 2905 W. Route 120 and consists of approximately .33 acres.

7. Z-953 Public Hearing – Zoning Map Amendment to A-1 Agriculture upon Annexation and a Conditional Use Permit to allow a Landscape Business with Outdoor Storage (Harms Farm)

   Applicant: Dennis L. and Theresa M. Harms, 4723 W. Crystal Lake Road, McHenry, IL 60050

The City of McHenry is dedicated to providing the citizens, businesses and visitors of McHenry with the highest quality of programs and services in a customer-oriented, efficient and fiscally responsible manner.
**Requested Action:** Zoning Map Amendment to A-1 Agriculture upon Annexation and a Conditional Use Permit to allow a Landscape Business with Outdoor Storage.

**Location of Subject Property:** The Subject property is located at 4727 W. Crystal Lake Road and consists of approximately 7.6 acres.

8. **Staff Report:** Next Meeting Date: August 21, 2019 at 7:30 p.m.

9. **Adjourn**
City of McHenry
Planning and Zoning Commission Minutes
June 19, 2019

Chairman Strach called the June 19, 2019 regularly scheduled meeting of the City of McHenry Planning and Zoning Commission to order at 7:30 p.m. In attendance were the following: Doherty, Gurda, Lehman, Strach, Sobotta, Thacker and Walsh. Absent: None. Also in attendance were Director of Economic Development Martin and Economic Development Coordinator Wolf.

Chairman Strach opened the public portion of the meeting at 7:32 p.m. There was nobody in attendance who wished to address the Commission with public comment.

Approval of Minutes

Motion by Walsh seconded by Thacker to approve the May 15, 2019 Regular Meeting minutes of the Planning and Zoning Commission as presented:

Voting Aye: Doherty, Gurda, Lehman, Strach, Sobotta, Thacker and Walsh.
Voting Nay: None.
Not Voting: None.
Abstaining: None.
Absent: None.
Motion carried 7-0.

Public Hearing: City of McHenry
File No. Z-950

Text amendments to the City of McHenry Zoning Ordinance including: Article III. General District Regulations (H. Operations within Enclosed Buildings).
This is the provision that deals with outdoor seating.

Chairman Strach called the Public Hearing to order at 7:34 p.m. regarding File No. Z-950 a request for text amendments to the City of McHenry Zoning Ordinance including: Article III. General District Regulations (H. Operations within Enclosed Buildings), which deals with outdoor seating. He noted that the wrong Z-File number (only) was on the original agenda.

Chairman Strach stated Notice of the Public Hearing was published in the Northwest Herald on May 30, 2019. A Certificate of Publication and Affidavit of Compliance with notice requirements are on file in the City Clerk’s Office.

Director of Economic Development gave the Staff report stating in 2015 the City adopted a comprehensive amendment to the zoning ordinance to allow businesses to offer outdoor seating. The City of McHenry often receives requests from local food service establishments regarding the opportunities for expanding their service area, as weather permits, by providing outdoor seating for patrons. The outdoor seating regulations of the McHenry Zoning Ordinance were presented. Director Martin further stated several businesses have recently approached the City about outdoor seating and want to serve food and/or alcohol outside but the only way to do this is to obtain a
conditional use permit. In some cases these businesses simply want to put one to two tables outside. Staff believes this can be accomplished by requiring the same barrier that is normally required through the conditional use process on the amendment without going through the conditional use process, which would save the businesses time and money and allow them to serve food and alcohol outside without seeking a conditional use permit. Director Martin stated Staff believes amending this ordinance is the best course of action and would be the same type of condition that is placed upon any other restaurant that serves food and/or alcohol outside while also making the process easier for future restaurants.

Director Martin stated the specific provisions that would need to be amended include:

g. Preparation and service of food outside is prohibited;
h. Service and consumption of alcohol outside is prohibited.

Director of Economic Development Martin stated it is Staff’s recommendation to delete the above provisions in Article II General District Regulations Section H. Operations within Enclosed Buildings Outdoor Seating, and replace them with the following:

“The Building Commissioner may grant permission for the sale, dispensing, and consumption of alcoholic liquor and/or food in an outdoor area adjacent to the licensed building. Except as provided herein, the area for which permission is issued shall be subject to review by the Building Commissioner and shall be of a secure, permanent nature and shall facilitate access in the area only through the licensed premises or through an occupied host or hostess station. Additional exits with latchable gates may be required to facilitate emergency egress from the premises. Said additional exits shall be self-closing with latchable gates or doors approved by the City, and marked by signs stating “EMERGENCY EXIT ONLY.””

Chairman Strach invited questions and/or comments from the Commission.

Commissioner Gurda asked for clarification on the requirements in regard to some of the restaurants in town. Discussion ensued particularly in regard to the enclosed outside seating areas.

Commissioner Sobotta suggested a change to the wording “secure, permanent nature” to perhaps “permanent or temporary nature” in the proposed text in order to make the ordinance a little more flexible.

Commissioner Doherty suggested allowing service of food but not alcohol at all outside seating establishments. Discussion ensued regarding that being the intent of the proposed wording and whether or not a barrier of a permanent nature is required. Commissioner Doherty also suggested adding “table umbrellas”, specifically, in item “p. - tables, chairs and other related items utilized in conjunction with an outdoor seating area shall be appropriately secured in the case of high winds” as specifically needing to be secured. Discussion also ensued in regard to item “r. - outdoor seating on public property must be removed during hours that it is not being utilized” and whether or not outdoor seating actually needed to be removed when not in use.
Commissioner Strach asked for discussion on whether a barrier is required and whether it needs to be permanent or temporary and whether or not seating needed to be removed when not utilized.

Commissioner Thacker stated he would like to see the amendment be less prohibitive to businesses. Director Martin concurred he would like to see the ordinance be less prohibitive as well.

Discussion ensued regarding the least prohibitive, yet safe way to amend the recommendation while allowing the Building Commissioner authority to permit the final approval of the safety consideration of any outdoor seating area proposed.

Chairman Strach opened the floor to questions and comments from the audience. There was nobody in attendance who wished to address the Commission regarding this matter.

Chairman Strach closed the public comment portion of the hearing at 8:01 pm.

Motion by Lehman seconded by Gurda to recommend to the City Council with regard to File No. Z-950, deletion of the following provisions in Article III General District Regulations Section H. Operations within Enclosed Buildings Outdoor Seating:

g. Preparation and service of food outside is prohibited; and

h. Service and consumption of alcohol outside is prohibited;

And replacing them with the following language, as amended:

"The Building Commissioner may grant permission for the sale, dispensing, and consumption of alcoholic liquor and/or food in an outdoor area adjacent to the licensed building. Except as provided herein, the area for which permission is issued shall be subject to review by the Building Commissioner and shall be of a secure nature and shall facilitate access in the area only through the licensed premises or through an occupied host or hostess station."

And to amend current item p. from:

- Tables, chairs and other related items utilized in conjunction with an outdoor seating area shall be appropriately secured in the case of high winds; to

- Tables, chairs, table umbrellas and other related items utilized in conjunction with an outdoor seating area shall be appropriately secured in the case of high winds.

And amend current item r. from:

- Outdoor seating on public property must be removed during hours that it is not being utilized; to

- Outdoor seating on public property must be removed during the off season when it is not being utilized.
Voting Aye: Doherty, Gurda, Lehman, Sobotta, Strach, Thacker and Walsh.
Voting Nay: None.
Not Voting: None.
Abstaining: None.
Absent: None.
Motion carried 7-0

Chairman Strach closed the Public Hearing regarding File No. Z-950 at 8:10 pm.

Discussion of Various Amendments and Updates to the City of McHenry Comprehensive Plan and Development Policies and City of McHenry Future Land Use Map
(Focus on Historical Areas)
- Discuss proposed Main and Green Street and Riverside Drive Historical areas
- Discuss Design Guidelines for Residential Teardowns and Infill Parcels

Chairman Strach called the discussion to order at 8:12 p.m. regarding Various Amendments and Updates to the City of McHenry Comprehensive Plan and Development Policies and City of McHenry Future Land Use Map.

Director of Economic Development Martin presented a map prepared by HR Green depicting the most historic parts of Main and Green Streets and Riverside Drive. The shaded portion of the map presented was not necessarily historic but may be integral into fitting into the neighborhood. He proposed including design guidelines if any of these properties were altered or if any of the lots were vacant to ensure they fit into the neighborhood after building or renovation work is done and finalized. Director Martin asked for discussion to center on the general nature of the location of the shaded areas and the designs and whether the Commission believed they were appropriate. He also opined the map and guidelines give a general outline of what could be included in these “historic” areas, not naming them or regulating them as a historic district. He also offered if it is determined the shaded areas are too extensive staff will have the map revised.

Director Martin stated it is the goal to gain acceptance of the Commission of the general layout of the historic areas along Main and Green Streets and Riverside Drive and a consensus on utilizing the design guidelines. He presented the Design Guidelines for Residential Teardowns and Infill Parcels.

Chairman Strach invited questions and/or comments of discussion from the Commission.

Commissioner Doherty asked if zoning guidelines were going to be addressed by this historic area and was looking for clarification. Director Martin stated these are proposed as guidelines and they are not regulatory as a historic district would be. Chairman Strach gave an example of an Infill lot on Waukegan Road and how the Design Guidelines presented would provide guidelines so building design on the lot would be more in line with the character of the historic neighborhood rather than a modern or contemporary style.
Commissioner Doherty questioned whether commercial properties should be included. Discussion ensued, particularly regarding distinction between residential vs commercial properties or using location only rather than zoning distinctions.

Commissioner Strach opened discussion on the Design guidelines presented. Discussion ensued.

The recommendation of the commission is to direct Director Martin to amend the map ending the historic area on Main Street at the railroad tracks and to also amend the map continuing the historic area on Riverside Drive to Washington Street. All commissioners were directed to look over the design guidelines and bring the discussion back for direction on whether or not to utilize them at a future meeting.

Chairman Strach closed the discussion at 9:00 p.m.

Staff Report

Director Martin stated there will be a special meeting scheduled on July 11, 2019, at 7:30 p.m.; and the next regular meeting will still be held on July 17, 2019 at 7:30 p.m.

Adjournment

Motion by Thacker seconded by Lehman to adjourn the meeting at 9:00 p.m.

Voting Aye: Doherty, Gurda, Lehman, Strach, Sobotta, Thacker and Walsh.
Voting Nay: None.
Not Voting: None.
Abstaining: None.
Absent: None.
Motion carried 7-0.

The meeting was adjourned at 9:00 p.m.

Respectfully submitted,

______________________________
Shawn Strach, Chairman
Planning & Zoning Commission
Chairman Strach called the July 10, 2019 special meeting of the City of McHenry Planning and Zoning Commission to order at 7:30 p.m. In attendance were the following: Doherty, Gurda, Lehman, Strach, Sobotta, Thacker and Walsh. Absent: None. Also in attendance were Director of Economic Development Martin and Economic Development Coordinator Wolf.

Chairman Strach opened the public portion of the meeting at 7:30 p.m. There was nobody in attendance who wished to address the Commission with public comment.

**Public Hearing: City of McHenry**

**File No. Z-952**

Text amendment to the City of McHenry Zoning Ordinance: Article IV. General Residential District Regulations Table 4: Residential District Requirements to exclude: Lots 20-43; 71-83; and 139-151 of the Final Plat of Subdivision of Patriot Estates (Duplex Lots) dated January 9, 2006, and recorded in the Office of the Recorder of Deeds, McHenry County, Illinois on November 3, 2006, as Document No. 2006R0081409 from a minimum side yard setback requirement of 15 ft. to a minimum side yard setback of 7 ft.

Chairman Strach called the Public Hearing to order at 7:34 p.m. regarding File No. Z-952 a request for a Text amendment to the City of McHenry Zoning Ordinance: Article IV. General Residential District Regulations Table 4: Residential District Requirements to exclude: Lots 20-43; 71-83; and 139-151 of the Final Plat of Subdivision of Patriot Estates (Duplex Lots) dated January 9, 2006, and recorded in the Office of the Recorder of Deeds, McHenry County, Illinois on November 3, 2006, as Document No. 2006R0081409 from a minimum side yard setback requirement of 15 feet to a minimum side yard setback of 7 feet.

Chairman Strach stated Notice of the Public Hearing was published in the Northwest Herald on June 22, 2019. A Certificate of Publication is on file in the City Clerk’s Office.

Director of Economic Development gave the Staff report stating due to an error in the City’s zoning map several years ago the Patriot Estates Duplex Neighborhood was planned to be built with an incorrect setback, RS-3 setbacks instead of the correct RM-2 setback. Cunat Development, the builder, designed a home product which did not meet the side yard setback, and when the error was discovered some lots were already built and incorrect setbacks were not caught, and other unimproved lots need to accommodate the housing product and adjusted setback. Director Martin clarified this error only impacts the interior side yard setback.

Director Martin stated this request was presented as a text amendment to the zoning ordinance due to the number of lots involved, approximately 40-50, which would exclude them from meeting the side yard setback, 15”, of the RM-2 district, which is the correct zoning district. The RS-3 interior side yard setback is 10 feet or 10% of the lot width, whichever is less. A plat was presented as an exhibit to an ordinance, also presented, indicating the side yard setback for each lot in the neighborhood and a notation would be made in the zoning ordinance that these specific lots do not
have to meet the required side yard setback of the RM-2 district. The minimum side yard setback proposed is 7 feet instead of 15 feet. With this variance of 8 feet all lots would be conforming.

Director Martin stated Staff recommends approval of a Text Amendment and Notation to Article IV, Table 4 of the zoning ordinance as presented.

There were no questions or comments from the Commissioners.

Chairman Strach opened the floor to questions and comments from the audience. There was nobody in attendance who wished to address the Commission regarding this matter. Chairman Strach closed the public comment portion of the hearing at 7:37 pm.

Motion by Lehman seconded by Walsh to recommend to the City Council with regard to File No. Z-952, approval of a Text Amendment and Notation to Article IV, Table 4 of the zoning ordinance to read:
Article IV. General residential district regulations Table 4: Residential District Requirements (RM-2) to exclude: lots 20-43; 71-83; and 139-151 of the Final Plat of Subdivision of Patriot Estates (duplex lots) dated January 9, 2006, and recorded in the office of the Recorder of Deeds, McHenry County, Illinois on November 3, 2006, as document no. 2006R0081409 from a minimum side yard setback requirement of 15 feet to a minimum side yard setback of 7 feet.

Voting Aye: Doherty, Gurda, Lehman, Sobotta, Strach, Thacker and Walsh.
Voting Nay: None.
Not Voting: None.
Abstaining: None.
Absent: None.
Motion carried 7-0

Chairman Strach closed the Public Hearing regarding File No. Z-952 at 7:40 pm.

Adjournment

Motion by Doherty seconded by Thacker to adjourn the meeting at 7:45 p.m.

Voting Aye: Doherty, Gurda, Lehman, Strach, Sobotta, Thacker and Walsh.
Voting Nay: None.
Not Voting: None.
Abstaining: None.
Absent: None.
Motion carried 7-0.
The meeting was adjourned at 7:45 p.m.

Respectfully submitted,

Shawn Strach, Chairman
Planning & Zoning Commission
Applicant
Jessup McHenry Enterprises, LLC
3023 Ellice Way
Naples, FL 34119

Requested Action
Zoning Map Amendment from C-5 Highway Commercial District to I-1 Industrial District

Site Information
Location and Size of Property
The subject property is located at 2905 Northside Avenue/A.K.A. 2905 W Route 120 and consists of approximately .33 acres.

Comprehensive Plan Designation
Industrial

Existing Zoning and Land Use
The subject property is zoned C-5 Highway Commercial and is vacant

Adjacent Zoning and Land Use
North: C-5 Highway Commercial District, Commercial
South: RS-4 High-Density Single-Family Residential, Single-Family Residence
East: I-1 Industrial, Jessup Manufacturing
West: C-5, Used Car Lot

Background
The applicant currently operates Jessup Manufacturing and has purchased two lots at the southeast corner of Northside Avenue and Illinois Route 120 and wants to rezone those lots from C-5 Highway Commercial to I-1 Industrial.

Staff Analysis
Zoning Map Amendment
The character of the area near the subject property consists of primarily highway commercial land uses generally to the west and north of the subject property. The property to the east is industrial in nature and the property to the south is residential.

Following are the criteria for approval of a zoning map amendment. The trend of development along Illinois Route 120 (Elm Street) in this area is commercial and industrial land uses. The proposed zoning map amendment is consistent with the development trend and satisfies all the
criteria outlined in Table 33. The subject property provides a logical extension to the Jessup Manufacturing Plant and additional greenspace for the development/property. Staff has no concerns with this request.

Table 33: Approval Criteria for Zoning Amendments:
In recommending approval or conditional approval of an amendment, the Planning and Zoning Commission shall transmit to the City Council written findings of fact that all of the conditions below apply to the application. In granting approval or conditional approval, the City Council shall similarly find that all of the following conditions apply:

1. Compatible With Use or Zoning of Environs
   The proposed use(s) or the uses permitted under the proposed zoning classification are compatible with existing uses or existing zoning of property in the environs.

2. Supported by Trend of Development
   The trend of development in the general area since the original zoning of the affected property was established supports the proposed use or zoning classification.

3. Consistent With Comprehensive Plan Objectives
   The proposed use or zoning classification is in harmony with the objectives of the Comprehensive Plan of the City as viewed in light of any changed conditions since the adoption of the Plan.

4. Furthers Public Interest
   The proposed use or zoning classification promotes the public interest and not solely the interest of the applicant.

**CONSISTENCY POLICY**

*Zoning map amendments shall be made in accordance with and consistent with a comprehensive plan. When adopting or rejecting any zoning map amendment, the Planning and Zoning Commission shall recommend and the City Council shall also approve a statement describing whether its action is consistent with an adopted comprehensive plan and any other officially adopted plan or document that is applicable, and explain why it considers the action taken to be reasonable and in the public interest.*

This zoning map amendment is consistent with the City's Comprehensive Plan and Future Land Use Map. Further it is reasonable and in the public interest.
Staff Recommendation Prior to Public Hearing

Approval of a Zoning Map Amendment from C-5 Highway Commercial District to I-1 Industrial Park (*no conditions may be placed on the requested zoning map amendment.*)

Staff finds that the requirements in Tables 33 (Zoning Map Amendments) of the Zoning Ordinance have been met.

Attachments
- Location Map
- Application Packet
Location Map of Subject Property
Planning and Zoning Commission  
City of McHenry

333 South Green Street, McHenry, IL 60050  Tel: (815) 363-2170  Fax: (815) 363-2173

1. Name of Applicant: JESSUP MCHENRY ENTERPRISES, LLC  Tel: 815-356-2641
   Address: 3023 Ellice Way, Naples, FL 34119

2. Name of Property Owner:  
   (If other than Applicant)  
   Address:
   Fax:

3. Name of Engineer:  
   (If represented)  
   Address:
   Fax:

4. Name of Attorney: Thomas C. Zanck  
   (If represented)  
   Address: 40 Brink Street, Crystal Lake, IL 60014  
   Tel: 815-449-8800  
   Fax: 815-459-8429

5. Common Address or Location of Property: 2905 Northside Avenue, McHenry, IL 60050  
   and 2905 West Route 120, McHenry, IL 60050

6. Requested Action(s) (check all that apply)
   X Zoning Map Amendment (Rezoning)  
   ___ Zoning Variance - Minor
   ___ Conditional Use Permit  
   ___ Zoning Text Amendment
   ___ Zoning Variance  
   ___ Other

Provide a brief description of the Requested Action(s). For example, the operation that requires a Conditional Use Permit, the specific Zoning Variance needed, or the new zoning classification that is requested:

The Applicant seeks a map amendment
7. Current Use of Property: vacant

8. Current Zoning Classification of Property, Including Variances or Conditional Uses
   C-5 Highway Commercial

9. Current Zoning Classification and Land Use of Adjoining Properties
   North: C-5 Highway Commercial
   South: C-5 Highway Commercial
   East: I-1 Industrial
   West: C-5 Highway Commercial

10. Required Attachments (check all items submitted)

    Please refer to the Public Hearing Requirements Checklist to determine the required attachments.

    ___1. Application Fee (amount) $________
    ___2. Narrative Description of Request
    ___3. FORM A – Public Hearing Application
    ___4. FORM B – Zoning Map Amendment (Rezoning) Application
    ___5. FORM C – Conditional Use Application
    ___6. FORM D – Zoning Variance Application
    ___7. FORM E – Use Variance Application
    ___8. Proof of Ownership and/or Written Consent from Property Owner in the Form of an Affidavit
    ___9. Plat of Survey with Legal Description
   ____10. List of Owners of all Adjoining Properties
   ____11. Public Hearing Notice
   ____12. Sign (Provided by the City, to be posted by the Applicant)
   ____13. Site Plan
   ____14. Landscape Plan
   ____15. Architectural Rendering of Building Elevations
   ____16. Performance Standards Certification
   ____17. Traffic Analysis
   ____18. School Impact Analysis
11. Disclosure of Interest

The party signing the application shall be considered the Applicant. The Applicant must be the owner or trustee of record, trust beneficiary, lessee, contract purchaser, or option holder of the subject property or his or her agent or nominee.

Applicant is Not Owner
If the Applicant is not the owner of record of the subject property, the application shall disclose the legal capacity of the Applicant and the full name, address, and telephone number of the owner(s). In addition, an affidavit of the owner(s) shall be filed with the application stating that the Applicant has the authority from the owner(s) to make the application.

Applicant or Owner is Corporation or Partnership
If the Applicant, owner, contract purchaser, option holder, or any beneficiary of a land trust is a corporation or partnership, the application shall disclose the name and address of the corporation’s officers, directors, and registered agents, or the partnership’s general partners and those shareholders or limited partners owning in excess of five percent of the outstanding stock or interest in the corporation or interest shared by the limited partners.

Applicant or Owner is a Land Trust
If the Applicant or owner is a land trust or other trust or trustee thereof, the full name, address, telephone number, and extent of interest of each beneficiary shall be disclosed in the application.

12. Certification

I hereby certify that I am aware of all code requirements of the City of McHenry that relate to this property and that the proposed use or development described in this application shall comply with all such codes.

I hereby request that a public hearing to consider this application be held before the Planning and Zoning Commission, and thereaf ter that a recommendation be forwarded to the City Council for the adoption of an ordinance(s) granting the requested action(s), including any modifications to this application or conditions of approval recommended by the Zoning Board of Appeals or City Council.

Signature of Applicant(s)  
Print Name and Designation of Applicant(s)

Jessup McHenry Enterprises, LLC

Robert W. Jessup  Manager

Jessup McHenry Enterprises, LLC:
- Robert W. Jessup 2011 Gift Trust - 50% Ownership Interest
- Julia S. Jessup 2011 Gift Trust - 50% Ownership Interest
ZONING MAP AMENDMENT (REZONING)

Planning and Zoning Commission
City of McHenry

333 South Green Street  McHenry, IL 60050  Tel: (815) 363-2170  Fax: (815) 363-2173

Table 33 of the City of McHenry Zoning Ordinance provides that in recommending approval of a Zoning Map Amendment (Rezoning), the Planning and Zoning Commission shall transmit to the City Council written findings that all of the conditions listed below apply to the requested action.

Please respond to each of these conditions as it relates to your request.

1. **Compatible with Use or Zoning of Environs**
The proposed use(s) or the uses permitted under the proposed zoning classification are compatible with existing uses or existing zoning of property in the environs.

   The adjoining property to the East and Southeast is designated I-1 and used as an industrial site and this is a natural extension of that site and that zoning.

2. **Supported by Trend of Development**
The trend of development in the general area since the original zoning of the affected property was established supports the proposed use(s) or zoning classification.

   The expansion of Jessup Manufacturing Company adjoining this property supports the trend to I-1 Industrial

3. **Consistent with Comprehensive Plan Objectives**
The proposed use(s) or zoning classification is in harmony with the objectives of the Comprehensive Plan of the City as viewed in light of any changed conditions since the adoption of the Plan.

   The comprehensive plan encourages the development of vacant parcels and with the limited frontage this parcel has, it is unlikely to be developed as C-5 and makes more sense that it be incorporated into the I-1 Industrial zoning area adjoining it to the East.

4. **Furthers Public Interest**
The proposed use(s) or zoning classification promotes the public interest and not solely the interest of the applicant.

   The public would be better served if this vacant parcel would be put to an industrial use rather than it remaining vacant since it is not an appropriate size for C-5 Highway Commercial
PUBLIC HEARING NOTICE

FILE Z-

Notice is hereby given that the City of McHenry Planning and Zoning Commission will hold a Public Hearing at the McHenry Municipal Center, 333 South Green Street, McHenry, Illinois 60050, at 7:30 P.M. on ____________, 2019 to consider an Application by Jessup McHenry Enterprises, LLC, 3023 Ellice Way, Naples, FL 34119 ("Property Owner") for the following request in accordance with the City of McHenry Zoning Ordinance:

Reclassify the property from C-5 Highway Commercial to I-1 Industrial

The property consists of approximately .33 acres, and is located at 2905 Northside Avenue, McHenry, Illinois a/k/a 2905 W. Route 120, McHenry, Illinois.

PINs: 09-36-102-002 and 09-36-102-018

The property is currently zoned C-5 Highway Commercial.

A copy of the Application is on file and may be examined during regular business hours in the City Clerk's Office, at the McHenry Municipal Center, 333 South Green Street, McHenry, Illinois 60050, and (815) 363-2100.

All interested parties will be given an opportunity to be heard.

Published by order of the Planning and Zoning Commission, City of McHenry, McHenry County, Illinois.

/s/ Shawn Strach
Chairman, Planning and Zoning Commission
# Adjoining Property Owners

**PINS 09-36-102-002 and 09-36-102-018**

<table>
<thead>
<tr>
<th>PIN</th>
<th>Owner and Mailing Address</th>
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| 09-25-354-016 | Theodore W Gina Smak  
2902 W RT 120  
Mchenry, IL  60050 |
| 09-25-354-018 | Carlson Invstmnts Ltd  
2904 W IL RT 120  
Mchenry, IL  60051-4569 |
| 09-25-354-022 | EMDK Venture LLC II  
2816 W IL RT 120  
Mchenry, IL  60051-4567 |
| 09-36-101-040 | Mchenry ST BK TR 709  
PO Box 355  
Mchenry, IL  60050 |
| 09-36-102-003 | Diane Sainsot  
2008 Westgate Ter  
Highland Park, IL  60035 |
| 09-36-102-009 | Jessup Mchenry Ent LLC  
3023 Ellice Way  
Naples, FL  34119-1603 |
| 09-36-102-014 | Jessup Mchenry Ent LLC  
2905 Northside Ave  
Mchenry, IL  60050 |
Applicant
Dennis L. and Theresa M. Harms
4723 W Crystal Lake Road
McHenry, IL 60050

Requested Action
Zoning Map Amendment to A-1 Agriculture upon annexation and a Conditional Use Permit to allow a Landscape Business with Outdoor Storage

Site Information
Location and Size of Property
The subject property is located at 4727 W Crystal Lake Road and consists of approximately 7.6 acres.

Comprehensive Plan Designation
Low-Density Residential

Crystal Lake Road Sub-Area Plan
Office/Low-Density Residential

Existing Zoning and Land Use
The subject property is zoned A-1 Agriculture in unincorporated McHenry County and operates as a garden center, farmstand, agritourism location and landscape and snowplowing business with outdoor storage.

Adjacent Zoning and Land Use
North: A-1 Agriculture (Unincorporated McHenry County), Single-Family Residence
South: A-1 (Unincorporated McHenry County), Single-Family Residence
East: RS-2 Medium Density Residential, Cold Springs Park
West: RS-3 Medium-High Density Residential, McHenry High School West Campus

Background
The applicant currently operates Harms Farm and Garden Center and wants to annex to the City of McHenry.
Staff Analysis

Zoning Map Amendment
The character of the area near the subject property consists of primarily residential land uses to the north, south and east of the subject property. The property to the west is McHenry West High School.

The applicant is not proposing to alter their business, which has been in existence for decades. The proposed zoning map amendment is consistent with the development trend and satisfies all the criteria outlined in Table 33. The subject property provides a logical extension to City boundaries and the A-1 zoning is compatible with adjacent zoning and the uses the applicant has on their site. The A-1 zoning permits by right: agriculture; agritourism, limited; dwellings, farmstand; garden center; and greenhouse/nursery business. Staff has no concerns with this request.

Conditional Use Permit
The applicant is seeking a conditional use permit to allow a landscape business with outdoor storage. This is an activity that the applicant currently conducts as part of their normal business operation. The A-1 zoning district in the City of McHenry requires a conditional use permit for that use, however. Staff believes it is complimentary to the other business activities conducted on-site and does not see any issues with the landscape business nor the outdoor storage. This does not now, and staff does not foresee, any adverse impacts to adjacent property owners in the future.

CONSISTENCY POLICY

Zoning map amendments shall be made in accordance with and consistent with a comprehensive plan. When adopting or rejecting any zoning map amendment, the Planning and Zoning Commission shall recommend and the City Council shall also approve a statement describing whether its action is consistent with an adopted comprehensive plan and any other officially adopted plan or document that is applicable, and explain why it considers the action taken to be reasonable and in the public interest.

This zoning map amendment is NOT consistent with the City’s Comprehensive Plan, Crystal Lake Road Sub-Area Plan and Future Land Use Map, however it is reasonable and in the public interest. The A-1 land use category is a newly adopted text amendment to the City’s zoning ordinance. By way of reference the City’s Comprehensive Plan was last amended in 2008 and the Crystal Lake Road Sub-Area Plan was completed in 2006. The A-1 zoning classification makes the most sense
in this instance and fits the uses on the subject property; therefore it is reasonable and in the public interest.

Staff Recommendation Prior to Public Hearing

Approval of a Zoning Map Amendment to A-1 Agriculture upon annexation to the City of McHenry. *(No conditions may be placed on the requested zoning map amendment.)*

Staff finds that the requirements in Table 33 (Zoning Map Amendments) of the Zoning Ordinance have been met.

Approval of a Conditional Use Permit to allow a Landscape Business with Outdoor Storage with the condition the applicant enter into an annexation agreement with the City.

Staff finds the requirements in Table 31 (Conditional Use Permits) of the Zoning Ordinance have been met.

Attachments
- Location Map
- A-1 Agriculture Zoning District
- Application Packet
[PLANNING AND ZONING COMMISSION
STAFF REPORT Z-953 ZONING MAP AMENDMENT TO
A-1 AGRICULTURE UPON ANNEXATION AND A
CONDITIONAL USE PERMIT TO ALLOW A LANDSCAPE
BUSINESS WITH OUTDOOR STORAGE AT 4727 W
CRYSTAL LAKE ROAD]

July 17, 2019

Location Map of Subject Property
CITY OF MCHENRY
MCHENRY COUNTY
STATE OF ILLINOIS

ORDINANCE NUMBER ORD-18-1918

An Ordinance Adopting a Text Amendment to the City of McHenry Zoning Ordinance adding a New Zoning District Classification called Agriculture District

Adopted by the
Mayor and City Council
Of the
City of McHenry
McHenry County
State of Illinois

December 17, 2018

Published in pamphlet form by authority of the Mayor and City Council of the City of McHenry, McHenry County, Illinois this 17th day of December, 2018.
ORDINANCE NO. 18-1918

AN ORDINANCE ADOPTING A TEXT AMENDMENT TO THE CITY OF MCHENRY, ILLINOIS
ZONING ORDINANCE ADDING A NEW ZONING DISTRICT CLASSIFICATION CALLED
AGRICULTURE DISTRICT

WHEREAS, the City of McHenry, McHenry County, Illinois, is a home rule municipality as
contemplated under Article VII, Section 6, of the Constitution of the State of Illinois, and the
passage of this Ordinance constitutes an exercise of the City's home rule powers and functions
as granted in the Constitution of the State of Illinois; and

WHEREAS, a petition has been filed by the City of McHenry requesting a text
amendment to the City of McHenry Zoning Ordinance; and

WHEREAS, a public hearing on said petition was held before the Planning and Zoning
Commission on November 14, 2018, in the manner prescribed by ordinance and statute, and as
a result of said hearing, the Planning and Zoning Commission did recommend to the City
Council the granting of the requested zoning text amendment; and

WHEREAS, the City Council has considered the evidence and recommendation from the
Planning and Zoning Commission and finds that the approval of the zoning text amendment
currently requested and approved by this ordinance are consistent with the objectives of the
City of McHenry Zoning Ordinance to protect the public health, safety, morals and general
welfare of its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCHENRY,
MCHENRY COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1. That Chapter IV, Residential Districts is hereby amended by adding thereto
the following language:

"AA. A-1 Agriculture District

The intent of the A-1 Agriculture District is to permit agricultural uses and activities. Residences
are allowed on agricultural parcels within the City. The standards of the A-1 District promote
farming and protection of agricultural land uses from the encroachment of incompatible land
uses."
Permitted Uses

Agriculture
Animal Care Shelter
Conservation Area
Dwelling, Single-Family
Farmstand
Feed, Tack, Grain, and Seed Sales
Garden Center
Greenhouse/Landscape and Nursery Business-No Outdoor Storage
Park
Public Facility

Conditional Uses

Agricultural Implement Sales and Service
Agriculture Employee Housing
Agricultural Produce Processing
Agritourism (An agriculturally-based operation which draws visitors.)
Art Gallery
Arts Studio
Assembly Use
Athletic Facility, Outdoor
Bed and Breakfast
Campground
Cemetery/Cemetery, Pet
Club, Lodge
Country Club
Cultural Facility
Day Camp
Drive-in Theater
Dwelling Unit, Accessory
Farrier
Food Processing
Grain Elevator-Commercial
Golf Course/Driving Range-Commercial
Halfway House
Homeless/Domestic Violence Shelter
Horse Arena, Indoor/Outdoor
Horse Stables
Hotel
Kennel-Commercial
Landing Area-Restricted
Landing Area-Restricted-Personal Use
Landscape/Nursery Business with Outdoor Storage
Landscape Waste Composting Facility
Medical Cannabis Cultivation Center
Power Production
Public Safety Training Facility
Reception Facility
Resort
Sawmill
### Bulk and Setback Regulations

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<td>1 acre</td>
<td>Up to 2 ac</td>
<td>Up to 2 ac. 40’</td>
<td>Up to 2 ac. 30%</td>
<td>30’ from ROW or 65’ from centerline if no dedicated ROW exists</td>
<td>30’ from ROW or 65’ from centerline if no dedicated ROW exists</td>
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<td>150’</td>
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<td>2-3 ac. 20%</td>
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<td>5+ ac. 10%</td>
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**SECTION 2:** All Ordinances or parts thereof in conflict with the terms and provisions hereof are hereby repealed to the extent of such conflict.

**SECTION 3:** This Ordinance shall be published in pamphlet form by and under the authority of the corporate authorities of the City of McHenry, McHenry County, Illinois.

**SECTION 4:** This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

PASSED THIS 11th DAY OF December, 2018

AYES: Alderman London, Alderman Devine, Miller, Curry, Schaefer, Santisi

NAYS: Glaab

ABSTAINED:
ABSENT:  

NOT VOTING:  

APPROVED THIS 17th DAY OF December, 2018

Wayne S. Jett

ATTEST:

Debra Meadows
FORM A

PUBLIC HEARING APPLICATION

Planning and Zoning Commission
City of McHenry

333 South Green Street - McHenry, IL 60050 - Tel: (815) 363-2170 - Fax: (815) 363-2173

1. Name of Applicant: Dennis L. and Theresa M. Harms
   (see attached)
   Address: 4723 W. Crystal Lake Road
   Tel: 815-385-5385
   City: McHenry
   State: IL
   Zip: 60050
   Fax: __________

2. Name of Property Owner: Not Applicable
   (If other than Applicant)
   Address: __________
   Tel: __________
   Fax: __________
   City: __________
   State: __________
   Zip: __________

3. Name of Engineer: Not Applicable
   (If represented)
   Address: __________
   Tel: __________
   Fax: __________
   City: __________
   State: __________
   Zip: __________

4. Name of Attorney: Steven J. Cuda
   (If represented)
   Address: 101 Van Buren Street, Woodstock, IL 60098
   Tel: 815-338-1334
   Fax: 815-338-5960

5. Common Address or Location of Property: 4727 W. Crystal Lake Road
   McHenry, IL 60050

6. Requested Action(s) (check all that apply)
   X Zoning Map Amendment (Rezoning)
   _____ Zoning Variance - Minor *
   _____ Conditional Use Permit
   _____ Zoning Text Amendment
   _____ Use Variance
   _____ Other

   *Definition of Minor Variance: A variance granted to the fee owner, contract purchaser or option holder of a single-family detached or attached dwelling, or single-family detached or attached building lot for that dwelling or lot.

FORM A Page 1 of 1
7. Current Use of Property: Garden Center with a farmstand, agri-tourism, and as a staging area for Petitioners' landscape, lawn care and snow removal business, with outdoor storage related to said uses.

8. Current Zoning Classification of Property, Including Variances or Conditional Uses

**A-1 Agriculture District pursuant to McHenry County Unified Development Ordinance.**

9. Current Zoning Classification and Land Use of Adjoining Properties

   - **North:** A-1 Agriculture and Residential (McHenry County)
   - **South:** A-1 Agriculture & Residential, unimproved Roadway and Residential (McHenry County)
   - **East:** RS-2, Residential, Cold Springs Park (City of McHenry)
   - **West:** RS-3, Residential, McHenry West High School (City of McHenry)

10. Required Attachments (check all items submitted)

    Please refer to the Public Hearing Requirements Checklist to determine the required attachments.

   1. Application Fee (amount) $
   2. Narrative Description of Request
   3. FORM A - Public Hearing Application
   4. FORM B - Zoning Map Amendment (Rezoning) Application
   5. FORM C - Conditional Use Application
   6. FORM D - Zoning Variance Application
   7. FORM E - Use Variance Application
   8. Proof of Ownership and/or Written Consent from Property Owner in the Form of an Affidavit
   9. Plat of Survey with Legal Description
   10. List of Owners of all Adjoining Properties
   11. Public Hearing Notice
   12. Sign (Provided by the City, to be posted by the Applicant)
   13. Site Plan
   14. Landscape Plan
   15. Architectural Rendering of Building Elevations
   16. Performance Standards Certification
   17. Traffic Analysis
   18. School Impact Analysis
11. Disclosure of Interest

The party signing the application shall be considered the Applicant. The Applicant must be the owner or trustee of record, trust beneficiary, lessee, contract purchaser, or option holder of the subject property or his or her agent or nominee.

**Applicant is Not Owner**

If the Applicant is not the owner of record of the subject property, the application shall disclose the legal capacity of the Applicant and the full name, address, and telephone number of the owner(s). In addition, an affidavit of the owners(s) shall be filed with the application stating that the Applicant has the authority from the owners(s) to make the application.

**Applicant or Owner is Corporation or Partnership**

If the Applicant, owner, contract purchaser, option holder, or any beneficiary of a land trust is a corporation or partnership, the application shall disclose the name and address of the corporation’s officers, directors, and registered agents, or the partnership’s general partners and those shareholders or limited partners owning in excess of five percent of the outstanding stock or interest in the corporation or interest shared by the limited partners.

**Applicant or Owner is a Land Trust**

If the Applicant or owner is a land trust or other trust or trustee thereof, the full name, address, telephone number, and extent of interest of each beneficiary shall be disclosed in the application.

12. Certification

I hereby certify that I am aware of all code requirements of the City of McHenry that relate to this property and that the proposed use or development described in this application shall comply with all such codes.

I hereby request that a public hearing to consider this application be held before the Planning and Zoning Commission, and thereafter that a recommendation be forwarded to the City Council for the adoption of an ordinance(s) granting the requested action(s), including any modifications to this application or conditions of approval recommended by the Zoning Board of Appeals or City Council.

**Signature of Applicant(s)**

**Print Name and Designation of Applicant(s)**

Dennis L. Harms

Theresa M. Harms, individually and as sole beneficiaries of First Midwest Bank Trust 12742

Shirley B. Harms, as Trustee of the Shirley B. Harms Trust
DENNIS L. HARMS and THERESA M. HARMS, sole beneficiaries of FIRST MIDWEST BANK, as Trustee under the provisions of a trust agreement dated the 21st day of October, 1992, known as Trust Number 12742.

        4723 W. Crystal Lake Road, McHenry, Illinois 60050.

SHIRLEY B. HARMS, as Trustee of the Shirley B. Harms Trust.

        4725 W. Crystal Lake Road, McHenry, Illinois 60050.
ZONING MAP AMENDMENT (REZONING)

Planning and Zoning Commission
City of McHenry

333 South Green Street n McHenry, IL 60050 n Tel: (815) 363-2170 n Fax: (815) 363-2173

Table 33 of the City of McHenry Zoning Ordinance provides that in recommending approval of a Zoning Map Amendment (Rezoning), the Planning and Zoning Commission shall transmit to the City Council written findings that all of the conditions listed below apply to the requested action.

Please respond to each of these conditions as it relates to your request.

1. Compatible with Use or Zoning of Environs
   The proposed use(s) or the uses permitted under the proposed zoning classification are compatible with existing uses or existing zoning of property in the environs.

   There are numerous different uses along Crystal Lake Road in the vicinity of Harms Farm and Garden Center, which is compatible with these uses.

2. Supported by Trend of Development
   The trend of development in the general area since the original zoning of the affected property was established supports the proposed use(s) or zoning classification.

   The trend of development along Crystal Lake Road in the area of Harms Farm and Garden Center is business related.

3. Consistent with Comprehensive Plan Objectives
   The proposed use(s) or zoning classification is in harmony with the objectives of the Comprehensive Plan of the City as viewed in light of any changed conditions since the adoption of the Plan.

   Crystal Lake Road is a major arterial street. The Comprehensive Plan acknowledges this and the proposed zoning will allow the current business to continue to operate at 4727 W. Crystal Lake Road.

4. Furthers Public Interest
   The proposed use(s) or zoning classification promotes the public interest and not solely the interest of the applicant.

   It is in the interest of the City of McHenry that the "unincorporated islands" become part of corporate McHenry. The application, if granted, will accomplish that goal.
CONDITIONAL USE PERMIT

Planning and Zoning Commission
City of McHenry

333 South Green Street n McHenry, IL 60050 n Tel: (815) 363-2170 n Fax: (815) 363-2173

Table 31 of the City of McHenry Zoning Ordinance provides that in recommending approval or conditional approval of a Conditional Use Permit, the Planning and Zoning Commission shall transmit to the City Council written findings that all of the conditions listed below apply to the requested action.

Please respond to each of these conditions as it relates to your request.

1. Traffic
Any adverse impact of types or volumes of traffic flow not otherwise typical in the zoning district has been minimized.

The proposed annexation and zoning of the subject property will not have any adverse impact on types of traffic or volumes since the properties’ use already exists and there are no changes to said use.

2. Environmental Nuisance
Any adverse effects of noise, glare, odor, dust, waste disposal, blockage of light or air, or other adverse environmental effects of a type or degree not characteristic of permitted uses in the zoning district have been appropriately controlled.

There are no anticipated environmental nuisances since the properties have been used as a farm stand and garden center, with collateral uses, without any complaints from Applicants’ neighbors.

3. Neighborhood Character
The proposed use will fit harmoniously with the existing natural or man-made character of its surroundings and with permitted uses in the zoning district. The use will not have undue deleterious effect on the environmental quality, property values, or neighborhood character existing in the area or normally associated with permitted uses in the district.

As stated above, the Applicants do not propose any new uses for their property. They have operated their farm stand and garden center at the present location for at least 45 years without complaint.
4. Public Services and Facilities
The proposed use will not require existing community facilities or services to a degree disproportionate to that normally expected of permitted uses in the district, nor generate disproportionate demand for new services or facilities, in such a way as to place undue burdens upon existing development in the area.

The proposed use has not caused any undue burdens to date and none are expected in the future.

5. Public Safety and Health
The proposed use will not be detrimental to the safety or health of the employees, patrons, or visitors associated with the use nor of the general public in the vicinity.

The farm stand, garden center, and collateral uses have operated safely and without incident since its inception. Since the use will not change, there will be no detrimental impact on the safety or health of Applicants' employees, patrons, visitors, or the general public.

6. Other Factors
The proposed use is in harmony with all other elements of compatibility pertinent to the Conditional Use and its particular location.

Harms Farm and Garden Center has served the general population of McHenry for half a century at its current location. If the application is granted, the only change will be that the business will be located within the corporate limits of the City of McHenry rather than in unincorporated McHenry County.
BEFORE THE PLANNING AND ZONING COMMISSION
OF THE CITY OF MCHENRY, ILLINOIS

IN THE MATTER OF THE APPLICATION  )
OF FIRST MIDWEST BANK, as Trustee under  )
the provisions of a trust agreement dated the 21st  )
day of October, 1992 known as Trust  )
Number 12742, and DENNIS L. HARMS and  )
THERESA M. HARMS, sole beneficiaries of  )
said Trust, and SHIRLEY B. HARMS,  )
as Trustee of the Shirley B. Harms Trust, FOR  )
AMENDMENT OF THE ZONING ORDINANCE  )
OF THE CITY OF MCHENRY, ILLINOIS AND  )
FOR A CONDITIONAL USE.  )

NOTICE

NOTICE IS HEREBY GIVEN that a public hearing will be held before the CITY OF
MCHENRY PLANNING and ZONING COMMISSION in connection with the Petition of FIRST
MIDWEST BANK, as Trustee under the provisions of a Trust Agreement dated the 21st day of
October, 1992 known as Trust Number 12742, DENNIS L. HARMS and THERESA M. HARMS,
sole beneficiaries of said Trust, and SHIRLEY B. HARMS, as Trustee of the Shirley B. Harms
Trust, for Amendment of the Zoning Ordinance of the City of McHenry, and for a Conditional Use
which would affect the following described real estate:

Lots 25, 26, 27 and 28 in Kelter Estate Subdivision, Unit No. 1, being a Subdivision
of part of Section 34, Township 45 North, Range 8 East of the Third Principal
Meridian, according to the Plat thereof recorded March 14, 1949 as Document No.
218953, In Book 10 of Plats, page 112 in McHenry County, Illinois.

(said real estate hereinafter referred to as the “Subject Property”).

The address of the Subject Property is 4727 W. Crystal Lake Road, McHenry, Illinois, and
is commonly known as Harms Farm and Garden Center. It is located on the east side of Crystal Lake
Road and just north of unimproved Kelter Street, approximately one-quarter mile south of the
intersection of Front Royal Street and Crystal Lake Road and contains 7.6 acres, more or less. It is currently zoned A-1 Agriculture District by the McHenry County Unified Development Ordinance.

The Petition requests that the Subject Property be annexed to the City of McHenry and upon annexation it be classified as A-1 Agriculture District with a conditional use to allow Petitioners’ current farm and garden center, landscape, lawn care, and snow removal business, with outdoor storage related thereto, to be conducted on the Subject Property.

The following parcel numbers had been assigned to the Subject Property:

Lot 25: 09-34-326-002  
Lot 26: 09-34-326-003  
Lot 27: 09-34-326-004  
Lot 28: 09-34-326-005

DENNIS L. HARMS and THERESA M. HARMS, 4723 W. Crystal Lake Road, McHenry, Illinois, 60050, are the sole beneficiaries of FIRST MIDWEST BANK Trust 12742, which owns Lots 26, 27, and 28. SHIRLEY B. HARMS, 4725 W. Crystal Lake Road, McHenry, Illinois 60050 is the sole beneficiary and sole Trustee of the Shirley B. Harms Trust, which owns Lot 25.

A hearing on this Petition will be held on the 17th day of July, 2019, at 7:30 p.m. at the City of McHenry Municipal Center, 333 South Green Street, McHenry, Illinois, AT WHICH TIME AND PLACE any person desiring to be heard may be present.

CITY OF MCHENRY PLANNING AND ZONING COMMISSION

By: /s/ Shawn Strach
Chairman

Steven J. Cuda
HAMER, SCHUH & CUDA
101 Van Buren Street
Woodstock, IL 60098
815-338-1334
BEFORE THE PLANNING AND ZONING COMMISSION
OF THE CITY OF MCHENRY, ILLINOIS

IN THE MATTER OF THE PETITION OF
FIRST MIDWEST BANK, as Trustee under
the provisions of a trust agreement dated the 21st day
of October, 1992, known as Trust Number 12742, and
DENNIS L. HARMS and THERESA M. HARMS, sole
beneficiaries of said Trust, and SHIRLEY B. HARMS,
as Trustee of the Shirley B. Harms Trust, FOR
AMENDMENT OF THE ZONING ORDINANCE OF
THE CITY OF MCHENRY, ILLINOIS AND FOR
A CONDITIONAL USE.

Your Petitioners, FIRST MIDWEST BANK, as Trustee under the provisions of a trust agreement dated the 21st day of October, 1992, known as Trust Number 12742, and DENNIS L. HARMS and THERESA M. HARMS, sole beneficiaries of said Trust, and SHIRLEY B. HARMS, as Trustee of the Shirley B. Harms Trust, respectfully represent to the Planning and Zoning Commission of the City of McHenry as follows:

1. FIRST MIDWEST BANK, as Trustee under the provisions of a trust agreement dated 21st day of October, 1992, known as Trust Number 12742, and SHIRLEY B. HARMS, as Trustee of the Shirley B. Harms Trust, are the owners of record of the real estate which is more fully described as follows:

Lots 25, 26, 27 and 28 in Kelter Estate Subdivision, Unit No. 1 being a Subdivision of part of Section 34 Township 45 North, Range 8 East of the Third Principal Meridian, according to the Plat thereof recorded March 14, 1949 as Document No. 218953, In Bock 10 of Plats, page 112, in McHenry County, Illinois.

(said parcel hereinafter referred to as the “subject property”).
The following parcel numbers have been assigned to the subject property:

Lot 25: 09-34-326-002
Lot 26: 09-34-326-003
Lot 27: 09-34-326-004
Lot 28: 09-34-326-005

2. DENNIS L. HARMS and THERESA M. HARMS, 4727 W. Crystal Lake Road, McHenry, Illinois 60050, are the sole beneficiaries of FIRST MIDWEST BANK Trust Number 12742. SHIRLEY B. HARMS, 4725 W. Crystal Lake Road, McHenry, Illinois 60050, is the sole beneficiary of the Shirley B. Harms Trust. (FIRST MIDWEST BANK Trust Number 12742, DENNIS L. HARMS and THERESA M. HARMS, and The Shirley B. Harms Trust and SHIRLEY B. HARMS, are collectively referred to as the “OWNERS” of the subject property). The First Midwest Bank Trust 12742 is the owner of record of Lots 26 through 28. The Shirley B. Harms Trust is the owner of record of Lot 25.

3. The subject property is located on the southeast side of Crystal Lake Road and north of unimproved Kelter Street, approximately one quarter mile south of the intersection of Front Royal Street and Crystal Lake Road. The subject property contains 7.6 acres, more or less. Its street address is 4725 and 4727 W. Crystal Lake Road, McHenry, Illinois, and the subject property is currently being used as a garden center with a farm stand, for agri-tourism, commonly referred to “Harms Farm and Garden Center,” and as the staging area for OWNERS’ landscape, lawn care and snow removal business. It is improved with six buildings, ten quonset style structures and two frame sheds used by OWNERS for the business located thereon. The subject property is also improved with the OWNERS’ residence and one cell tower with supporting equipment.
4. The subject property is presently classified A-1 Agriculture District by the McHenry County Zoning Ordinance.

5. The property to the south and north of the subject property is zoned A-1 Agriculture District by the McHenry County Unified Development Ordinance. The property to the west is zoned RS-3 Medium High Density Residential and to the east is zoned RS-2 Medium Density Residential by the City of McHenry Zoning Ordinance.

6. Your Petitioners request that the subject property be annexed to the City of McHenry and that upon annexation it be zoned A-1 Agriculture District and that a Conditional Use be granted to allow OWNERS’ landscape, lawn care and snow removal business, with outdoor storage be conducted on the subject property.

7. The subject property is well located and well suited for utilization as to the permitted uses in the A-1 Agriculture District and such classification would be in conformity to the classification and uses of properties abutting the subject property.

8. A list of taxpayers abutting or adjoining the property owned by the Petitioners as shown on the rolls of the County Treasurer-Collector is attached to this Petition as Exhibit “A”. A Plat of survey of the subject property is also attached as Exhibit “B”.

9. An affidavit/certification of the beneficiaries of the land trust and personal trust which holds title to the subject property is attached to this Petition as Exhibit “C”.

WHEREFORE, your Petitioners pray that the Planning and Zoning Commission of the City of McHenry set a date, time and place for hearing on the contents of this Petition and that, as a result of the taking of testimony and viewing of exhibits presented thereat, the Planning and Zoning
Commission recommend to the Mayor and City Council that upon annexation, the subject property be classified as A-1 Agriculture District with a Conditional Use to allow a landscape, lawn care and snow removal business with outdoor storage under the City of McHenry Zoning Ordinance.

DATED this 20 day of June, 2019.

SEE TRUSTEE'S RIDER ATTACHED HERETO AND MADE A PART HEREOF

FIRST MIDWEST BANK, as Trustee under the provisions of a trust agreement dated the 21st day of October, 1992 known as Trust Number 12742 and not personally

By Carol Roseke
AUTHORIZED SIGNER

Attest:

By THERESA M. HARMS, Beneficiary of said Trust 12742
AUTHORIZED SIGNER

DENNIS L. HARMS, Beneficiary of said Trust 12742

SHIRLEY B. HARMS TRUST

By Shirley B. Harms, Trustee

Steven J. Cuda
HAMER, SCHUH & CUDA
101 Van Buren Street
Woodstock, IL 60098
815-338-1334
## EXHIBIT A

**HARMS FARM AND GARDEN CENTER**  
**LIST OF ADJOINING PROPERTY OWNERS**

<table>
<thead>
<tr>
<th>NAME</th>
<th>PROPERTY INDEX NUMBER</th>
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| 1. Dennis L. and Theresa M. Harms  
4723 W. Crystal Lake Road  
McHenry, IL 60050 | 09-34-376-001 |
| 2. Home State Bank Trust 5760  
4719 W. Crystal Lake Road  
McHenry, IL 60050 | 09-34-178-006 |
| 3. Overlook Investment Group  
1416 Techny Road  
Northbrook, IL 60062 | 09-34-326-006 |
| 4. City of McHenry (Cold Springs Park)  
333 S. Green Street  
McHenry, IL 60050 | 09-34-401-005 |
| 5. Michael J. and Linda Bartolone  
4809 W. Crystal Lake Road  
McHenry, IL 60050 | 09-34-327-001 |
| 6. CO BOARD OF SCHOOL TRS DIST 156  
c/o McHenry Community High School District 156  
4716 W. Crystal Lake Road  
McHenry, IL 60050 | 09-34-177-008 |
EXHIBIT B

PLAT OF SURVEY
STATE OF ILLINOIS )
) SS
COUNTY OF McHENRY )

TRUST AFFIDAVIT

The undersigned, being first duly sworn upon their oath, state as follows:

1. Dennis L. Harms and Theresa M. Harms, whose address is 4723 W. Crystal Lake Road, McHenry Illinois 60050, are the sole beneficiaries of First Midwest Bank Trust 12742.

2. First Midwest Bank Trust 12742 is the owner of record of Lots 26-28 of Kelter Estate Subdivision, according to the Plat thereof recorded March 14, 1949 as Document Number 218953, in Book 10 of Plats, Page 112, in McHenry County, Illinois

Further Affiant sayeth not.

Dennis L. Harms
Theresa M. Harms

Subscribed to and sworn before me, this 20th day of June, 2019.

PAT A DICKER
NOTARY PUBLIC, STATE OF ILLINOIS
My Commission Expires Nov 25, 2019
Notary Public

EXHIBIT C
TRUST AFFIDAVIT

The undersigned, being first duly sworn upon her oath, states as follows:

1. Shirley B. Harms, whose address is 4725 W. Crystal Lake Road, McHenry Illinois 60050, is the sole beneficiary and sole Trustee of the Shirley B. Harms Trust.

2. The Shirley B. Harms Trust is the owner of Lot 25 of Kelter Estate Subdivision, according to the Plat thereof recorded March 14, 1949 as Document Number 218953, in Book 10 of Plats, Page 112, in McHenry County, Illinois.

Further Affian sayeth not.

Shirley B. Harms

Subscribed to and sworn before me this 20th day of June, 2019.

Notary Public

EXHIBIT C
RIDERS ATTACHED TO AND MADE A PART OF
ZONING PETITION TO ANNEX PROPERTY TO THE CITY OF MCHENRY

This instrument is executed by FIRST MIDWEST BANK, not personally but solely as
Trustee under Trust Number 12742 in the exercise of the power and authority conferred
upon and vested in it as such Trustee. All the terms, provisions, stipulations, covenants
and conditions to be performed by FIRST MIDWEST BANK, are undertaken by it solely
as Trustee, as aforesaid, and not individually, and all statements herein made are made on
information and belief and are to be construed accordingly, and no personal liability shall
be asserted or be enforceable against FIRST MIDWEST BANK, by reason of any of the
terms, provisions, stipulations, covenants and/or statements contained in this instrument.