Chairman Strach called the September 24, 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, and Walsh. Absent: Thacker. Also in attendance were Director of Economic Development Martin, Economic Development Coordinator Wolf, and Police Chief Birk.

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-956

Text amendment to the City of McHenry Zoning Ordinance including but not limited to: Article III General District Regulations, Article V Commercial Districts, Article VI Office, Industrial, Business Park, Agricultural and Mining Overlay and Health Care Districts, Article VII Off-Street Parking and Loading, Article XIX Definitions of the City of McHenry Zoning Ordinance and Chapter 7.50 Signs of the City of McHenry Municipal Code pertaining to Adult-Use Cannabis.

Chairman Strach called the Public Hearing to order at 7:34 p.m. regarding File No. Z-956 a request for a Text amendment to the City of McHenry Zoning Ordinance including but not limited to: Article III General District Regulations, Article V Commercial Districts, Article VI Office, Industrial, Business Park, Agricultural and Mining Overlay and Health Care Districts, Article VII Off-Street Parking and Loading, Article XIX Definitions of the City of McHenry Zoning Ordinance and Chapter 7.50 Signs of the City of McHenry Municipal Code pertaining to Adult-Use Cannabis.

Chairman Strach stated Notice of the Public Hearing was published in the Northwest Herald on September 7, 2019. A Certificate of Publication is on file in the City Clerk’s Office.

Director of Economic Development gave the Staff report stating during the last legislative session of the Illinois General Assembly House Bill 1438 (Cannabis Regulation and Tax Act) was passed, legalizing the recreational use of Cannabis in Illinois. Since this passage the Governor signed the bill into law, which takes effect on January 1, 2020. Imbedded in the preamble of the Act the State makes a clear statement advising that the regulation of recreational cannabis is a state matter preempting home rule bodies of government such as McHenry from instituting local ordinances that are stricter. The Act does however offer each municipal body of government the opportunity to either prohibit or restrict cannabis businesses within their community. The City Council discussed this topic at their September 3, 2019 meeting. The consensus of the Council was to allow one or two dispensaries in town. Security, signage, location and zoning were primary focuses of the Council.
Staff prepared an ordinance which would allow adult-use cannabis dispensaries as conditional uses in I-1, BP and C-5 zoning districts with location restrictions from other dispensaries (required by law) and 1,000 feet from schools. On-site consumption is prohibited and a maximum of two is permitted in the City. A signage plan is required with each conditional use permit.

Over the course of July and August Staff met as an informal committee multiple times to review the law, collect information, and discuss the benefits, risks and concerns associated with cannabis businesses in McHenry.

Director Martin reported information on what other McHenry County municipalities are doing and the benefits, risks and concerns involved. There are currently no medical cannabis dispensaries in McHenry County but several communities outside of McHenry County currently have at least one medical cannabis dispensary located within their corporate limits.

He reported a municipality may "prohibit or significantly limit" the location of cannabis businesses by ordinance. If a municipality chooses to permit cannabis businesses to locate and operate within its borders, it may also enact reasonable zoning regulations that are not in conflict with the Act. This authority would include permitting cannabis businesses to locate in certain zoning districts but not others, and imposing generally applicable off-street parking requirements.

Director Martin stated further, the Act explicitly authorizes municipalities to impose limits on the "time, place, manner, and number" of cannabis business by requiring the businesses to obtain conditional or special use permits. These limits must be reasonable and may not conflict with the requirements of the Act. He explained that determining whether a local restriction conflicts with the Act may be more difficult than the drafters anticipated. The licensing of cannabis businesses and the requirements ensuring compliance were summarized.

Director Martin went over the draft ordinance being proposed and added he invited Chief Birk specifically to give background on text in the ordinance which specifically prohibits any dispensing organizations or similar business north of McCullom Lake Road, which is considered a major shopping district of town.

Director Martin stated Staff recommends approval of text amendments to the City of McHenry Zoning Ordinance including but not limited to: Article III General District Regulations, Article V Commercial Districts, Article VI Office, Industrial, Business Park, Agricultural and Mining Overlay and Health Care Districts, Article VII Off-Street Parking and Loading, Article XIX Definitions of the City of McHenry Zoning Ordinance and Chapter 7.50 Signs of the City of McHenry Municipal Code pertaining to Adult-Use Cannabis.

Chairman Strach asked Chief Birk to give background information on limiting locations north of McCullom Lake Road. Chief Birk stated the decision was made for consideration of public safety as this type of establishment assesses specific risks in a major shopping district. Being filled with family oriented types of businesses and located farthest from the Police Department which
would affect response times to incidents mitigates the overall risk to residents. Chief Birk further stated City Council made it clear they want no more than a maximum of 2 dispensaries in town.

Chairman Strach asked if the state statute stipulates the 1000’ distance rule from schools. Chief Birk stated it does not.

Chairman Strach opened the floor to questions and comments from the Commissioners.

Commissioner Sobotta inquired if there is any limitation on the number of medical marijuana facilities established in the City. Director Martin stated there is not.

Commissioner Doherty inquired on the status of a medical marijuana dispensary at 618 S. Route 31 which was given approval by the Commission in 2017 and whether stricter sign regulations could be implemented. Director Martin stated the prior request for a medical dispensary was withdrawn by the applicant and never went before City Council.

Chairman Strach stated any requests of this nature would need a conditional use permit and a sign plan will need to be submitted and approved by Planning and Zoning. Chief Birk added a consenting agreement will need to be signed by the applicant to verify the signage requirements are met as well.

Clarification on the specific zoning areas of town that are C-5 (including Route 120 and South Route 31), Business Park (BP) and I1 were discussed.

There were no attendees at the meeting to address the Commission in public comment regarding this matter.

Motion by Lehman seconded by Walsh to recommend to the City Council with regard to File No. Z-956, approval of text amendments to the City of McHenry Zoning Ordinance including but not limited to: Article III General District Regulations, Article V Commercial Districts, Article VI Office, Industrial, Business Park, Agricultural and Mining Overlay and Health Care Districts, Article VII Off-Street Parking and Loading, Article XIX Definitions of the City of McHenry Zoning Ordinance and Chapter 7.50 Signs of the City of McHenry Municipal Code pertaining to Adult-Use Cannabis.

Voting Aye: Doherty, Gurda, Lehman, Sobotta, Strach, and Walsh.
Voting Nay: None.
Not Voting: None.
Abstaining: None.
Absent: Thacker.
Motion carried 6-0

Chairman Strach closed the Public Hearing regarding File No. Z-956 at 8:00 pm.
Adjournment

Motion by Sobotta seconded by Lehman to adjourn the meeting at 8:00 p.m.

Voting Aye: Doherty, Gurda, Lehman, Strach, Sobotta, and Walsh.
Voting Nay: None.
Not Voting: None.
Abstaining: None.
Absent: Thacker.
Motion carried 6-0.
The meeting was adjourned at 7:45 p.m.

Respectfully submitted,

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Shawn Strach, Chairman
Planning & Zoning Commission