

VILLAGE OF NILES

1000 Civic Center Drive
www.vniles.com



Final Approved Meeting Minutes

Monday, August 8, 2022

7:00 PM

Village Hall

Planning and Zoning Board

Chairman

Thomas Kanelos

Members

Susan DeBartolo

Morgan Dubiel, Vice Chairman

Ted Karabatsos

Janet Lee

Terrence McConville

Robert Schulter, Secretary

Charles Ostman, Community Development Director

CALL TO ORDER

The Niles Planning and Zoning Board was called to order at 7:02 P.M.

PLEDGE OF ALLEGIANCE/ROLL CALL

All rose for the Pledge of Allegiance.

PRESENT: 7 Chairman Thomas Kanelos, Commissioners Ted Karabatsos, Susan DeBartolo, Robert Schuller, Terrence McConville (late arrival), Janet Lee, Morgan Dubiel

Also, present was Director of Community Development Charles Ostman, Senior Planner Kate Lockerby and Village Attorney Danielle Grcic.

APPROVAL OF MINUTES

Chairman Kanelos asked if there were any additions, clarifications, or corrections to the minutes of July 11, 2022. There were none.

Commissioner Dubiel moved to **approve** the minutes of July 11, 2022.

Seconded by Commissioner DeBartolo on roll call the vote was:

AYES: 6 Dubiel, Karabatsos, DeBartolo, Schuller, Lee, Kanelos

NAYS: 0

ABSENT: 1 McConville

There being six (6) affirmative votes the motion carried.

PUBLIC COMMENT

The public can ask questions or comment after the Board has heard the petitioners' testimony following each case. However, if the public has any general comments or questions, they can speak before we start to hear tonight's cases.

Commissioner McConville arrived.

OLD BUSINESS

1. 22-ZP-21 - Text Amendments

A request for approval of Text Amendments to the following sections of the Village of Niles Code of Ordinances, Appendix B - Zoning Ordinance: Section 5 - Commercial Districts, Section 8 - Uses, Section 12 - Planned Unit Developments.

Kate Lockerby, Senior Planner, presented. Tonight, there are two components before you this evening, amendments to the C-5 District in the Zoning Ordinance and amendments to the PUD Process. [Microphone now on].

She will start with the C-5 changes. She will not go into great detail assuming the Commissioners have read everything. She will answer any questions. This is to bring the code into developments that might occur in the C-5 district. It includes in the requirement that all developments in the C-5 district seek PUD approval so that a development would need to seek a PUD approval. Minimum District area in the C-5 district would be 15 acres; increase the minimum building height from 50' to 60' to allow for greater flexibility in building design; a minor change to some of the design regulations and then modifications to uses that are allowed in the C-5 district. We are recommending that the following 5 uses be changed from Special Uses to Permitted Uses. Those are 3 dwelling type uses and then a bar and microbrewery. We are also recommending to change the following Permitted Use to a Special Use. That would be Vehicle, Marine, and Recreational Vehicle Sales - Enclosed.

The next proposed grouping of amendments is regarding the PUD process and regulations. We have reviewed our section not only as it relates to redevelopment of Golf Mill but just how to apply it throughout the Village - to see what makes sense. We will see if the current regulations make sense and what changes we think would be appropriate to streamline the process a little bit more. We met with representatives from Vernon Hills to talk about how they handle the PUD process. We looked at other communities and determined there are some changes we can make to help the process go a little bit smoother. The changes before you this evening include: changing the concept plan as to who reviews and provides feedback to a petitioner. As part of the PUD process right now it would be you, the Planning and Zoning Board. We are recommending that it be changed to the Village Board. A lot of applicants want to have buy-in from elected officials who would ultimately be reviewing the project and so seeking non-binding feedback from the Village Board would be appropriate. Right now, we have a bifurcated process for PUD. There are two tracks - preliminary and final. You have to go through the preliminary process first, go through the public hearing, get final approval from the Village Board. Then if you get approval you have to go back for the final PUD process. It just adds time. We are recommending it go to one process. It is just a PUD. A lot of the plans we require as part of the final PUD process would be submitted as part of the building permit. That would allow a pretty substantial cost savings to applicants so they can have assurance they are fully approved prior to spending time and money on plans. There are other minor changes being proposed to Section 12.7. That includes just modifications to clarify what is considered an administrative modification; what is considered a minor modification; what is considered a major modification and then who is required to review those, just to make it more clear. Depending on how you receive this tonight, it should be before the Village Board on August 23.

Commissioner Dubiel asked is there currently a plan in place that this is being customized for Golf Mill? Is there a concept they are putting together? And what of 15-acre parcels?

Ms. Lockerby said we have not any applications in for review at this time. The development is in their court. We have talked about what makes sense in size and scale of Golf Mill and it requires some flexibility. We did look at our zoning ordinances with that lens but any changes we support would be for the entire Village. There are plenty of areas in the Village that are greater than 15 acres but with the new Comprehensive Plan, we are looking at areas that would be appropriate for the C-5 district. The two groups of changes are different. For the C-5 district, we envision Golf Mill going down that route. The PUD changes are for any property/applicant in the Village.

Commissioner Dubiel said for their concept of residential plans, they needed an extra 10 ft.

Ms. Lockerby said actually that was the consultant's suggestion. All these suggestions for modifying the C-5 district came from our consultant.

Commissioner Dubiel said the reason he brought this up is because the Commissioners had a meeting in which the building height became a big issue. It was a profitability issue for the developer. On page 4 of 4 [addressed to Charles Ostman, Director of Community Development] regarding facades, where they were putting some utilities on the street side [out-lot for Starbucks at Milwaukee and Oakton], can we account for that so it is a beautifying event when these out buildings go in? Remember we had that issue where they were refusing to keep that clean. We do not want garbage cans or fencing.

Commissioner Karabatsos said here is the problem with that. We told them the **rear of the property had to be glassed like the front façade. It causes a problem** when you have a narrow lot. If you have windows in front and back, where are you going to put any garbage, etc.

Ms. Lockerby said right now we require out-lot buildings to include showcase windows and entrances both toward the street and the interior parking lot. We are modifying that to say they need to include showcase windows on facades that face the street and the parking lot but not necessarily entrances into both. We are trying to make that a little less restrictive and understand that the design could change.

Chairman Kanelos said, to that point, how is a company supposed to accommodate that if they need to have showcase glass front and back and, as Commissioner Karabatsos said, you have typical stuff you need at the back of the house?

Ms. Lockerby answered to the sides.

Chairman Kanelos asked how it that better? Take Starbucks for example. The sides of the building are highly visible as well - both to the parking lot and to the street. It is going to be more difficult than doing the back. The back could be landscaped. And oftentimes the back has a drive-thru.

Ms. Lockerby said right. If you are familiar with Melody Farms in Vernon Hills, along Route 60 they have a lot of 'back of house' along 60. We want to avoid that. The intent obviously was to have out-lots facing the right-of-way and also, not making the back feel like it is the 'back of house.'

Chairman Kanelos said but it is. There is a reality to have it looking good facing the street. Can they appeal?

Ms. Lockerby said they can seek a variation.

Commissioner Dubiel said that becomes very time consuming. It would be nice if at this level we can design it for them so they can continue the same exterior **façade around** - instead of going to a fence or whatever. He would like to see them having the most flexibility but keep it nice. We had that conflict where they were putting it toward the street.

Chairman Kanelos and Commissioner Karabatsos said they were putting it toward the side [west] and it was for power. But it was highly visible to everyone driving around. They think it would look better facing the back which would be the parking lot.

Commissioner Dubiel said think how these buildings go here. If you take that particular mall we are talking about or even Jewel, you do not really care what the back of that looks like. It usually is going to be a drive-thru or something functional. It is the front where people are passing through on Milwaukee Avenue.

Commissioner Karabatsos said Staff mentioned the corner of Milwaukee & Touhy. You see Starbucks in the front. You still go to the back of the house and there is still a storefront in the back.

Commissioner Dubiel said look at the Chick-fil-A on Touhy.

Commissioner Karabatsos said you do not see anything until the back-lot.

Commissioner Dubiel said which is what we are saying. So, we want to be flexible, right?

Chairman Kanelos asked if there is a specific definition of interior because the sides could be facing the interior parking lot as well.

Commissioner Dubiel said it has to be beautified.

Ms. Lockerby asked if they would be more comfortable with the requirement that it is on the side facing the right-of-way?

Chairman Kanelos said if it is the corner, that would be 2 sides.

Commissioner Karabatsos said he feels any smart business is going to have a door on the back anyway.

Commissioner Dubiel said and if that is the side where they are using the drive-thru, for instance Chick-fil-A has signage and posts. You can hardly see the building when you drive by.

Chairman Kanelos said you do not want the customers walking in through the drive-thru.

Commissioner Karabatsos said they still loop around. Chipotle on Dempster has it. You are pulling up to the drive-thru and people are walking in front of you to enter the restaurant. Like at Sawmill Ridge, their front of the house is all in the back.

Ms. Lockerby said there is one other thing being removed to discuss and she has a suggestion. The last design requirement for retail center siting only applied to the C-5 district and it said a street presence for the mixed-use retail center must be created by locating part of the center or out-lot buildings within 0 to 20 feet of the lot line for at least 30% of the frontage. That causes some concern, especially in the C-5 district, because oftentimes these out-lot buildings are going to want parking in front of the building. If you are going to have a 20 ft. maximum set back that is not going to allow for parking and a drive.

Chairman Kanelos said he thought 2030 Plan is to not have parking in front of the buildings and to move the property all the way out as far as you can.

Ms. Lockerby said that is in some districts. In the C-5 district this only applies to any buildings that might be built along the exterior of any big development along the out-lot buildings. The suggestion is that we remove this one amendment from this tonight and then we can bring something back to you.

Commissioner Dubiel said when you do come back with that, it would be great to see some potential locations with this. That way we can visualize where it does and does not work.

Chairman Kanelos said make a note that this amendment being removed is on page 4 of 4. Other questions?

Commissioner Dubiel asked if there was some calculation made to make a faster process of this, would it be relative to other locations in the state? I would love to see that so they could go through their planned development as quickly as possible. Morton Grove might be 90 days; we might be 65. It is a selling point. Then on page 5 of 10 - Action by Planning and Zoning Board. Is that a minimum of 60 days or a maximum of 60 days?

Ms. Lockerby said she does not believe it is a legal requirement. It is just a requirement the Village of Niles has placed.

Commissioner Dubiel asked why 60? Why not 30?

Ms. Lockerby said there are a few things that need to happen that are pretty standard for anything that is going before the Planning and Zoning Board.....

Commissioner Dubiel said he is looking for non-standard.

Ms. Lockerby said we must do Staff review and depending on the scale of a project, that can be pretty intense. We typically give comments back to applicants in two weeks. If it is a large-scale PUD, it requires more than one Staff review. We give them comments; they revise their plans and come back to us. We can get them into greater compliance with the zoning ordinance and the vision of the Village before we bring it to you.

Commissioner Dubiel said if I am the applicant, I want the fastest possible review, unless I am unable to find an agreement between myself and the department. If there is going to be a big development, there have already been pre-discussions and Chuck just needs to say this is our major focus.

Chairman Kanelos said the question was answered as to why it was 60 days.

Ms. Lockerby said there is also the legal notice requirement for

Commissioner Dubiel said that is what he asked before and she said no. He asked if was a legal requirement.

Ms. Lockerby said there is legal notification for this meeting. Is that what you mean?

Chairman Kanelos said he thinks Ms. Lockerby misunderstood your question. It was not clear to him but now it is.

Ms. Lockerby said we do not say it will not be seen within 60 days. We will get you on the next available agenda depending on the appropriate plans being submitted; and we have had ample time to do a Staff review. It is not to say 60 days is the minimum. If we could get it in 30 or 45 days, we will absolutely do that.

Chairman Kanelos said according to the way this is written, 60 days is the maximum. You cannot go beyond 60 days unless the applicant agrees.

Village Attorney Danielle Grcic said if her [Ms. Lockerby] review is completed before the 60 days, there is nothing that says it cannot go forward at day 30, not day 45.

Commissioner Dubiel said that is 60 calendar days, not 60 working days, right? So that is 8 weeks of work.

Ms. Grcic said correct. Yes, it would be dependent on how the big the PUD is and what it entails.

Commissioner Dubiel said then moving it down to 30 days, we will have it on our agenda within 4 weeks, except for the fact the applicant needs to agree to the time. Example: Chuck comes to us and says we have not been able to finish our review. Is he going to force it in front of us at Zoning?

Ms. Grcic said he could and the Village could be in a situation where we have not complied with the ordinance. Maybe we have damaged the applicant by not having completed the time frame. If there is some deadline they can come up with and the delay is going to cost them money, then they can come back and have some action against the Village as to why we did not complete it.

Commissioner Dubiel said because it is an administrative action, they could say Chuck, you did not give us.....

Commissioner McConville said as an attorney, we have an old saying. "With all deliberate speed." 60 days to me seems pretty appropriate. There are times when things can be advanced or continued either way. But to give something like a planned unit development, which is usually a large type of undertaking, he thinks the Village needs all the time it can get and in some cases the applicant needs to respond to the Village's concerns, etc. I like speed too but

Chairman Kanelos said he does not think 60 days is an unreasonable amount of time. That is why I am okay with it. Another question, once we have gone through it, it is assumed to be a complete application so why does the Village Board need 60 days?

Commissioner Schulter said go to page 4 of 10. Go to B - Concept Plan. We are not even part of it anymore.

Chairman Kanelos said right. But here we are talking about the final plan. That is an effort to speed up the process. We are not part of the preliminary.

Commissioner Schulter said yes, but we are not part of it.

Commissioner Dubiel said for example, the Acme Building Company comes to the Village and goes through this pre-concept plan. The Village already knows in general this is the direction they are going. They are coming to us only for zoning approval. If we do not approve the building plan, we do not approve anything else. We are saying this fits the zoning concept and how we see it. We can compress our part of the process. Then it goes to the Village Board. In the meantime, it is another 30 days or 2 weeks or so, the Village can come and say make these changes. It is a zoning change.

Ms. Lockerby wanted to clarify they have the same exact language for Special Use Time frame - we have 60 days. We have the same 60 days for going to the Village Board.

Chairman Kanelos said it is a standard time frame.

Commissioner Karabatsos said it is not a long time.

Chairman Kanelos agreed, it is not a long time.

Commissioner Karabatsos answered as Commissioner McConville said, it is a huge project. We are not talking a second story addition. We are talking a huge project that needs traffic studies, etc.

Commissioner Schulter said we are talking 60 calendar days.

Chairman Kanelos said you have a preliminary process that already took place. The Trustees have had a say in that. For us [the Zoning Board], he does not think 60 days is an excessive amount of time.

Commissioner McConville said this also says within 60 days. That would be anytime from zero to 60.

Commissioner Schulter said if you change that to 30, it will never happen.

Ms. Lockerby said the current zoning ordinance has the preliminary process and the final process. They are both required. They cannot be concurrent. So, you have the current requirement of the 60-day review, then it goes to Village Board. And then they have to resubmit to us for final approval. That is the current requirement. You have that entire process. Then they have to come back. Then

we have 30 days to review the final plan and make a determination on whether or not it is consistent with the preliminary plan. Then the Village Board has 60 days beyond that. What we are doing, in effect, by combining the processes, we are removing 90 days of the process.
Make sense?

Commissioner Karabatsos said on page 8 of 10, number 14, we are asking for approximate start dates. Are we doing this to have verbiage or are we going to fine them? The same verbiage is on page 11. Why do we have that in there? Are we telling them if that do not finish by such and such a date, we are going to fine them?

Ms. Lockerby said those are current things now. We are going to remove those requirements and place them in preliminary. Typically, with PUDs, it is larger in scope. We need to know when parts or phases of a project are going to begin. Section E on page 11 of 10 [error in numbering] is from the final PUD requirement. That needs to be submitted as part of the building permit.

Commissioner Karabatsos still wonders if we have to do something to force them. Sometimes you could have a developer trying to nab something and then sit on it.

Commissioner Schulter said at the intersection of Waukegan, just south of Dempster, west side of the street. There is a parcel the Village of Morton Grove approved for retail. It has been sitting there 6 years now and nothing has been started. It was already approved for the developer.

Ms. Lockerby said the approval expires for a PUD.

Commissioner Schulter said we are talking about Golf Mill, correct? Ms. Lockerby clarified that it was for any PUD in the Village. Commissioner Schulter asked what happens if they do not start?

Ms. Lockerby said on page 6 of 10, there is a section called expiration. If a building permit has not been issued within 2 years, then the PUD goes away. The Village Board can approve an extension if they need more time for any reason, but that would have to be at the request of the Village Board.

Commissioner Schulter asked what if the permit was approved and they still do not start?

Ms. Lockerby said there is a permit duration - 18 months.

Chairman Kanelos asked if we also added if there is litigation involved, it stops the clock.

Ms. Lockerby said that was added to different types of requests. Chairman Kanelos stated that it was in response to what was happening to the gun club. That wording is still there, right?

Mr. Ostman answered correct.

Commissioner Dubiel asked if Ms. Lockerby could walk him through the process. He is not seeing this alleged 90 days savings. It sounds like you moved that forward in the process.

Ms. Lockerby said currently, the concept plan means we would meet with an applicant. I do not know the last time a PUD has been approved. We do not get many of them. I have been here 4 or 5 years and we have not had one. Someone would meet with Staff when they are ready for a concept plan to present to the Zoning Board. You would give preliminary feedback, comments, non-binding. They would take those comments and have all their plans prepared for preliminary PUD. A lot of this has to do with how long it takes an applicant to get their ducks in a row. They submit a complete application; we review the plans as does police, fire, engineering. Usually, the bulk of the comments that come out of this are from our department and engineering. In two weeks, we send comments to the applicant. They have however much time they need to address the comments and resubmit to us. [We are now 2 weeks into the process.] Depending on how well they address our comments, we might need to do another review or we might not. We tend to do another review to make sure they have addressed our issues, another 2 weeks. Then there is the public notification hearing request. That is 15 days prior to the meeting. We run concurrently with a Staff review if we think they will be on an agenda. Typically, the request goes to the Village Board the same month or the next meeting. Something that Niles is unique in is we only have one reading before the Village Board. A lot of communities have 2 readings, the first involves the actual review of the project and if it is approved, the second reading would be when the ordinance is adopted. That is a 2 week reduction anyway. That is just the preliminary process.

Chairman Kanelos said it sounds like a bare minimum of 60 days. He feels we have beaten that horse dead enough. People can vote against this if they do not like 60 days. I will give you one last comment on that issue.

Commissioner Karabatsos mentions that when it comes before the Planning and Zoning Board there is still the 30 day notification requirement.

Ms. Lockerby said what we heard now was just through preliminary approval. Then an applicant would need to resubmit an application for final approval. There are time frames for final approval. It is in the language on page 6 of 10. They submit an application and within 30 days, the Director of Community Development will take some sort of action. If determined it is in substantial

compliance with the preliminary plan, it will go to the Village Board. That is where I am getting the additional 90 days. That is another step they would need to go through right now that we are combining into one process but still using only the 60-day requirement. A lot of those plans that would have been required of the final plan, we have moved accepting those as part of the building permit. They have to submit them anyway. We really are shaving down the process. I can tell you having worked in this field for nearly 20 years, 30 days for a PUD is not realistic.

Chairman Kanelos asked if there were any questions about other issues. There were none. So why after our approval does it need to be 60 days for the Village Trustees. What additional work do you have to do?

Ms. Lockerby said it does not technically but that is what is currently in the code and the code for Special Uses and anything else that goes before this Zoning Board for a recommendation. I think it gives us some time in case an issue comes up before you and we need to work on something. Then we would have some time. It is not to say we would take the 60 days.

Chairman Kanelos said he gets it. It is just that we either make an approval or a denial, it does not usually require additional work. If there is additional work, we would have a continuance and your department is going back to....

Ms. Lockerby said let us say you approved something with conditions. And the conditions said prior to Village Board consideration, X, Y and Z needed to happen and it cannot be done within the one week we have before we had to get plans uploaded into the system for the Village Board agenda. Is it the norm? Absolutely not. Typically, it is on the same month's agenda for the Village Board. In the event that is not feasible, we need the flexibility to not send something.....

Commissioner Dubiel said this is not like anything else. This is a planned unit development. All the preliminary work has been done. It is not going on an out-lot somewhere. I think you should put it on the next agenda. If we approve it, why wouldn't it be on the next.....

Mr. Ostman said there is a Plan Commission meeting and a Village Board meeting within 10 days of each other. Trying to get everything together for the Village Board and have them give an approval.....

Chairman Kanelos said he is convinced. Any other questions? There were none. He entertained a motion to approve keeping in mind on page 5 of 11, the name of Moses is stricken from every obelisk.

Commissioner Dubiel said so it is written, so it shall be. He then moved that we **approve** the following Text Amendments to the following sections of the Village of Niles Code of Ordinances, Appendix B - Zoning Ordinance: Section 5 - Commercial Districts, Section 8 - Uses, Section 12 - Planned Unit Developments,

page 4 of 4 of attachment 1, out-lot buildings must include showcase windows on facades that face the street and interior parking lot. In addition, entrances are encouraged to be located along such facades is stricken from this approval.

Ms. Lockerby asked if they wanted to keep the last one on that page.

Chairman Kanelos said the stuff that was stricken is back in; the stuff she proposed to put in is out.

Ms. Lockerby clarified everything in this subsection is removed.

Chairman Kanelos said it is not removed. It goes back the way it was.

Commissioner Dubiel said why don't we leave street presence for the mixed-use retail center must be created. That does not conflict with ...

Chairman Kanelos reiterated what he said. Not sure if this is Commissioner Dubiel's motion. The out-lot buildings must include showcase windows on facades and entrances, both toward the street and interior parking lot. In other words, the yellow is out and that which was stricken is in.

Ms. Lockerby said you want no changes in this subsection, and I will bring anything back to you in the future. Commissioner Dubiel clarified that the last change proposed as it relates to the street presence can remain as stricken and his motion reflects that.

Commissioner Dubiel restated the only thing that is not to be changed is that out-lot buildings must include showcase windows on facades that face the street and interior parking lot. He said our facts are clear and we have had a great debate.

Seconded by Commissioner Karabatsos, on roll call the vote was:

AYES: 7 Dubiel, Karabatsos, DeBartolo, Schuller,
McConville, Lee, Kanelos

NAYS: 0

There being seven (7) affirmative votes the motion carried.

DISCUSSIONS

ADJOURNMENT

Chairman Kanelos entertained a motion to adjourn.

Commissioner Dubiel moved to adjourn.

Seconded by Commissioner DeBartolo, on roll call the vote was:

AYES: 7 Dubiel, Karabatsos, DeBartolo, Schuller,

McConville, Lee, Kanelos
NAYS: 0
There being seven (7) affirmative votes the motion carried.

The meeting adjourned at 7:47 PM

Kathleen Janessa, Recording Secretary