

# VILLAGE OF NILES

1000 Civic Center Drive  
Niles, IL 60714  
www.vniles.com



## Final Approved Special Meeting Minutes

Monday, September 16, 2019

7:00 PM

Village Hall

### Planning and Zoning Board

#### Chairman

Thomas Kanelos

#### Members

Susan DeBartolo

Morgan Dubiel, Vice Chairman

Ted Karabatsos

Terrence McConville

Barbara Nakanishi

Robert Schulter, Secretary

Charles Ostman, Community Development Director

CALL TO ORDER/ROLL CALL

The Nilis Planning and Zoning Board was called to order at 7:03 P.M. All rose for the Pledge of Allegiance.

PRESENT: 7 Chairman Thomas Kanelos, Commissioners Ted Karabatsos, Susan DeBartolo, Robert Schuller, Barbara Nakanishi, and Morgan Dubiel. Commissioner Terrence McConville arrived at 7:10 p.m.

Also present was Director of Community Development Charles Ostman and Village Attorney Danielle Grcic.

## **NEW BUSINESS**

### **19-ZP-18**

**Requesting text amendments to the Village of Nilis Zoning Ordinance Section 3 "Districts", Section 7 "Special Purpose Districts", Section 8 "Uses", and Section 10 "Off Street Parking and Loading" pertaining to Cannabis uses.**

Charles Ostman, Director of Community Development, presented this special case. Shown on the overhead screen is a slide presentation regarding this case. The following is an explanation of the act, actions by the Village, current regulations, proposed regulations and amendments to Appendix B (Zoning Ordinance) of the Nilis Municipal Code.

In June 2019 Governor Pritzker signed the Illinois Cannabis Regulation and Tax Act legalizing recreational use of Cannabis by adults over 21 effective January 1, 2020. Licensing is done through the state; zoning is handled by the local governments.

The Village of Nilis had a public input period online from 8/10 - 8/23, 2019 regarding cannabis uses. On 8/22/2019 there was a public hearing at the Village Hall. It was also discussed at the 8/27/2019 Village Board meeting. Since then, proposed regulations have been researched and drafted. Tonight, these proposed regulations are being presented to the Planning and Zoning Board. The Village Board of Trustees will take all information into consideration at their next meeting 10/8/2019 regarding this proposal.

#### Current Regulations:

Medical Cannabis uses were added to the Zoning Ordinance after it was legalized in Illinois in 2013.

There are 2 uses: medical cannabis dispensing organizations and medical cannabis cultivation centers. Both uses are proposed to change from a special use in the M districts to a permitted use in the M districts. Medical cannabis dispensing organizations will also be treated the same as adult-use cannabis dispensing organizations, as a permitted use in the newly created Cannabis Establishment (C-E) Overlay District. For your information, medical cannabis

must be allowed in every municipality through zoning regulations. It cannot be prohibited, unlike recreation cannabis.

Proposed Regulations:

Uses:

Adult-Use Cannabis Craft Grower

Adult-Use Cannabis Cultivation Center

Adult-Use Cannabis Infuser Organization

Adult-Use Cannabis Processing Organization

Adult-Use Cannabis Transporting Organization

The five items above will be allowed uses in the M district.

Adult-Use Cannabis Dispensing Organizations will only be allowed only in the newly created C-E Overlay District.

Mr. Ostman went on to explain these proposed regulations. He then showed [on the overhead screen] the Cannabis Establishment (C-E) Overlay District. This is a preliminary map highlighting the geographic areas in town that met the separation requirements from schools, places of worship, parks and child care facilities. The following are the proposed locations:

North area:

Parcels fronting north property lines of Golf Rd. between Western Ave. and Greenwood Ave.; the parcel to the west of Greenwood Ave. north of Gregory Ln. and south of Milwaukee Ave., and parcels bounded by Greenwood Ave. to the west, Golf Rd. to the south and Commonwealth Edison Co. R.O.W. to the north and east.

Central area:

Parcels north of Howard St. and south of Village boundary, from the centerline of Melvina Ave. west approximately 982 feet and approximately 514 feet east of the centerline of Merrimac Ave. and two parcels south of Howard St. commonly known as 6143 and 6151 Howard St.

South area:

Several zoning districts encompass the M district, C-2 and office research. That is to the east of the Metra rail line going east to the Village Boundary which is Central Ave.; going north touching Howard St., going south to where it touches the border of Chicago. This is all east of the Metra rail line. The 2 largest properties in that area Point Plaza and Village Crossing. There is some manufacturing behind Village Crossing to the south.

Part of the proposed text amendments include off-street parking requirements. Staff is making the recommendation of 3 spaces per 1,000 sq. ft. of gross leasable area for Adult-Use Cannabis Dispensing Organizations. Medical cannabis dispensing organizations are being identified the same as recreational cannabis so the parking for medical cannabis is recommended to be reduced from 5 spaces per 1,000 sq. ft. to 3 spaces per 1,000 sq. ft. of gross leasable area. All of the other newly created uses will be consistent with the medical cannabis cultivation centers and other industrial uses, which is

1 space per 1,000 sq. ft. of GFA up to 40,000 sq. ft., then 1 space per 2,500 sq. ft. of additional GFA above 40,000 sq. ft.

The requirements for adopting text amendments to Zoning Ordinance were presented on the screen:

1. The consistency of the proposed amendment(s) with the Comprehensive Plan;
2. The extent to which the proposed amendment(s) promotes the public health, safety and welfare of the Village;
3. The relative gain to the public, as compared to the hardship imposed upon the applicant;
4. The consistency of the proposed amendment(s) with the intent and general regulations of this Ordinance;
5. Whether the proposed amendment(s) provide(s) a more workable way to achieve the intent and purposes of this Ordinance and the Comprehensive Plan;
6. The extent to which the proposed amendment(s) creates nonconformities; and
7. The extent to which the proposed amendment(s) is/are consistent with the overall structure and organization of this Ordinance.

This completed Mr. Ostman's presentation and he offered to answer any questions on the proposal.

Commissioner Nakanishi asked the difference between a cultivation center and a craft grower.

Mr. Ostman said the cultivation center only grows the cannabis. The craft grower grows it and dispenses it. It is on a smaller scale than a cultivation center.

Chairman Kanelos said it is compared to a craft micro-brewery and a regular brewery.

Commissioner Schulter asked if there can be a dispensary and a cultivation center in the same building.

Mr. Ostman said you would have to be a craft grower to do that.

Commissioner Dubiel said in the packet there is information on the zoning implications that state law will have on the Village. Was the federal law studied?

Mr. Ostman answered no.

Commissioner Dubiel asked about quantities allowed by the state law. Do those quantities remain a federal felony?

Village Attorney Danielle Grcic said they looked at the state modifications and mirrored and went along them as acceptable under the current guidelines. As things evolve, they may learn about further implications.

Commissioner Dubiel said then you mean just the state of Illinois, not the federal government. Then it could remain a federal felony with the quantities you can buy here. He believes 30 grams is a federal felony.

Ms. Grcic said she cannot answer that right now.

Commissioner Dubiel had a question about the current number of cannabis dispensaries and cultivation centers. How many are currently in Niles? And how many in the surrounding suburbs?

Mr. Ostman said zero in Niles. He knows of one in the immediate vicinity on Milwaukee Avenue in Chicago, south of the Niles border.

Commissioner Dubiel said when this was passed, it was considered an act of mercy. One of the concerns was about the health benefit. That was focused on the medical cannabis. This is called adult-use cannabis. Was anything taken into consideration about getting this into children or normalizing cannabis use?

Mr. Ostman said this is regarding land use. There are distance requirements when establishing one of these uses. That's the consideration that took place.

Commissioner Dubiel said then 1,000 ft. is enough distance to keep it away from children.

Mr. Ostman said they started off with a model ordinance that the Illinois Municipal League developed and took that as a basis.

Commissioner Dubiel asked if these distances were carefully measured.  
Mr. Ostman does not know.

Commissioner Dubiel there have been several opportunities to have vape shops come in and we are consistently concerned about drug paraphernalia being part of those. If passed, this would allow drug paraphernalia to be sold, correct?

Mr. Ostman said in the overlay district, yes.

Commissioner Dubiel said per the act, adult use cannabis dispensing organizations are not allowed to be within 1,500 ft. of another adult use cannabis dispensing organization. Would it be possible that Niles could override the act or parts of it?

Mr. Ostman said he believes the state sets the minimum.

Ms. Grcic said that is correct. The Village has to honor the state law. The Village can be more restrictive, but not less.

Commissioner Dubiel asked a question about an article on page 8 in the packet, item C. The second sentence discusses consideration. Can Mr. Ostman explain what was considered and what was meant by implications adult use cannabis may have on the vicinity around said areas. Some consideration was taken by Staff, right? What are the implications that would make this Board refine these further?

Mr. Ostman said where the refinement came into place is when they put in all the restrictions regarding schools, churches, day care centers and the like, there were some pockets of areas in town that were not further restricted. Staff decided to highlight just the 3 areas that had the most land mass area. It was made more restrictive.

Commissioner Dubiel asked if the ownership of the location was involved in making these decisions.

Mr. Ostman said they sent first class letters to all the property owners in the overlay district. There were 2 responses, copies of which are in tonight's packet. One is from a resident and one is from Woodward Mfg. on Howard Street. The third was a comment made by Shure Corp. The public hearing notice was published in the newspaper as well.

Chairman Kanelos said the 2 uses involving sales have different distance requirements than the 3 or 4 uses involving cultivation. Is there a reason some of the uses are to be 1,500 ft. distance from schools, churches, etc.; some 1,000 ft. and some 500 ft.?

Mr. Ostman said he does not have a reason. It came up at the last minute today. One other thing is the Village can make the regulations stricter as far as hours for dispensing. With the state law they can open at 6 a.m. and stay open until 10:00 p.m.

Chairman Kanelos said back to the distance requirements. Is that something that is being done to make this work at the 3 isolated locations?

Mr. Ostman said yes.

Commissioner Dubiel asked Mr. Ostman if he knows why a medical cannabis location has not opened in Niles?

Mr. Ostman said they were never approached.

Commissioner DeBartolo said there are 9 medical marijuana locations in the area, the closest being 2.4 miles; the farthest 12 miles. These businesses are in Glenview, Elmhurst, Rolling Meadows, Lincolnwood, Highland Park and the rest in Chicago.

Chairman Kanelos said there is also one on Northwest Hwy. in Park Ridge. He asked if there were any more questions for Mr. Ostman from the Commissioners. There were none. He then asked if there were any questions from the public.

Rosemary Palicki, Niles, IL, came to the podium and was sworn in. She has a question regarding the south area of the map. It is shown on the overhead. She asked if the white area is Chicago residential homes behind Target. When distance was measured for the various cannabis locations, were the homes in that area considered? These homes are in the green area.

Mr. Ostman said the map represents the zoning districts in the Village of Niles. The green area is not the overlay district. It is the red outline that shows the district in which this would be allowed.

Sheila Shabani-Azad, 8708 Gregory Lane, Unit F, Des Plaines, IL 60016, was sworn in. She wants to know if Gregory Lane [near Milwaukee and Greenwood and the north zone] is in the green zone.

Chairman Kanelos said the bordered red line area is the area recommended to allow adult use dispensing. Gregory Lane is not included in the zone but in a commercial area that is near the zone.

Ms. Shabani-Azad said the residents of her community are against having cannabis sales in their area. It is too close to the park and their homes. It is a residential community. It is not right to bring this to her neighborhood. There is a daycare center called Children's Land at 222 Greenwood. That is close as well.

Chairman Kanelos asked Mr. Ostman if that would be taken into consideration. There is always a certain amount of feet away from these types of facilities figured into the decision of location.

Mr. Ostman answered yes.

Ms. Shabani-Azad asked how these facilities will affect the environment. Will it smell? What about the facility that grows it?

Chairman Kanelos said people take the product home. There is no smoking at the facility.

Mr. Ostman said a grower is not allowed in this area.

Commissioner Schulter said plants do not smell.

Ms. Grcic said growers cannot burn the plants.

Ms. Shabani-Azad asked why these areas were chosen. Are they in unincorporated Niles? Shown are locations at the top of the map [north] and the lower right side of the map [central and south]. How come none in the middle?

Chairman Kanelos said the area shown as the north location on the map in within Niles. It would not come before this Board if it were unincorporated. The areas in the central and south portion of the map are mostly manufacturing areas.

Ms. Shabani-Azad asked how will this affect real estate values. She is a realtor and no one wants to live close to that zoning. She feels it will have an impact.

Chairman Kanelos said he did not know.

Barbara Jedrzejek, 8355 W. Kay St., Niles, IL 60714, was sworn in. She lives behind Wal-Mart. First they were exposed to the power lines, then Wal-Mart, then all the traffic in the area, now cannabis. She feels her property values will go down. She is upset that this is proposed to come to Niles. The citizens should have input. Does this have to come to Niles? She is upset and feels it is forced upon residents. She is here responding to the letter she received. She feels it will give more opportunity for violence. Cannabis for medical use is great but not for this. Her property value is down because of the power lines but the taxes on her street are high. Now with cannabis the property value will go down even more. She is opposed to this.

Chairman Kanelos told her she is having input right now. There were 3 public meetings of which citizens were notified. It was published in the paper.

William Fisch, building owner, 7040 N. Austin Ave., Niles, IL 60714, was sworn in. Have hours of the facilities been determined yet and is that a state function or a Village function?

Chairman Kanelos there is no facility yet. They are here tonight just setting up areas where a facility could be located.

Mr. Ostman said the state law is no earlier than 6:00 a.m. and no later than 10:00 p.m. The Village can make those times more restrictive.

Mr. Fisch asked if there would be security for such buildings. He's concerned about break-ins along with traffic impact and parking.

Chairman Kanelos said traffic and parking would be taken into consideration just like any other business opening in Niles.

Ms. Grcic read from the packet regarding security. Each allowed use would require an operational plan. That plan would have a security plan that has to be approved by the appropriate governing body of Niles. These plans would have to be approved before a certificate of occupancy would be issued to the proposed user.

Louella Preston, 9267 N. Maryland, Niles, IL 60714, is an attorney and did not require swearing in. She was unable to attend the public hearing. Golf Mill Shopping Center at the southwest corner of Golf and Milwaukee has been referred to as the jewel of the Village in past years. The northeast corner is where Wal-Mart is along with a couple of banks and restaurants. These are high traffic areas and high taxed areas for the Villages. She does not agree this northern area should be considered as an overlay district. It will not enhance the reputation of the Village and would negatively impact the image of Niles. She does not want to see anything to do with cannabis in the north area. She urges elimination of the north area from the cannabis establishment overlay district.

Jimmy Thomas, 3887 Sunset Lane, Northbrook, IL 60062, was sworn in. He wondered why this cannot be done on an 'as is' basis. If someone applies for a dispensary within the preferred zoning district, can it be approved 'as is'. Does it have to be in those proposed areas, is what he is asking.

Chairman Kanelos said he does not think there is one. There is no place where it is approved yet. Mr. Thomas suggested taking these establishments on a case by case basis and apply the requirements as usual.

Mr. Thomas said as far as real estate, if you are in that district and you have property for sale, the price would go up.

Commissioner Dubiel clarified if you were the property owner and fit all the legal criteria with state of Illinois law and the act being referred to here, you do not want Staff to eliminate those islands because you may have a property that would benefit from this.

Mr. Thomas said yes, if it fit the guidelines within the proposed statute.

Chairman Kanelos said it allows the Village better control as to where the business is. If this would pass, then yes, the property could only be in that district where it is allowed.

Commissioner Schulner said the problem is if you allow it for one outside of the district, how do you stop others from coming in and wanting to do the same thing. They have zoning districts for a reason.

Mr. Thomas said but if the property fits the guidelines, he feels like the Village could cap off the total number of licenses for example. With 47 licenses going to the Chicago area, Evanston and Niles would maybe get 1.

Rosemary Palicki came to the podium once again. She wants people to know the Board is not passing this tonight.

Chairman Kanelos said he was going to make a statement concerning that at the end of the proceedings. He will make that right now:

“This Board is a recommending Board to the Board of Trustees who can either confirm or negate this recommendation. It will be necessary for the petitioner to contact Mr. Ostman and ask to be placed on the Board of Trustees agenda. The petitioner will then be notified of the date and anyone in the audience who would like to be informed of the Board of Trustees date should leave their name and address with the recording secretary.”

He continued saying they will make their recommendation. They have studied their packets and taken into account all the information.

Ms. Palicki said she appreciated the effort this Board has put into this issue. It is a difficult decision no matter what the outcome. For the people in the audience, whether you are for or against this, they need to come to the Village Board meeting because they are the ones who vote whether or not this should exist in Niles.

Chairman Kanelos said there are always going to be people who have an issue with a decision. In this process, the Village has provided ample opportunity for people to make comments. That is why it is important for citizens to read the newspapers and be aware of what is going on. There were 2 other opportunities before this meeting to voice an opinion. That is how good government works and Niles has a pretty darn good government.

Someone asked if this information was on the website. He answered yes, it is. Legal notice was placed in the Niles Journal and is posted in the lobby of the Village Hall. That is true of every case because they are public meetings.

Commissioner Dubiel said there are only negative responses in the packet. Now tonight 3 of the 5 comments are negative. Are there any comments that were in favor of this from the 8/22 or 8/27 meetings?

Mr. Ostman does not remember any. Neither does Ms. Grcic.

Chairman Kanelos said if there are no other comments, he will entertain a motion.

Commissioner Dubiel had one more question. He looked at the ordinance and stated that it mentions specifically regulations the purpose of which are improving and protecting public health; safety, comfort and convenience and general



The following 2 people would like to be notified of the next Board of Trustees meeting:

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