

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

Resolution or Ordinance (Blue) Waiver of First Requested
 Recommendations of Boards, Commissions & Committees (Green)
 Other Business (Pink)

TO : PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott R. Niehaus, Village Manager

DATE : August 10, 2020 **(BOT) Date:** August 20, 2020

SUBJECT: PC 20-18, 783 E. Butterfield Rd, Zen Leaf Cannabis

SUBMITTED BY: William J. Heniff, AICP, Director of Community Development *WH*

BACKGROUND/POLICY IMPLICATIONS:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner requests a zoning conditional use pursuant to Section 155.415(C)(31) of the Lombard Village Code to allow for a "Cannabis dispensing facility operated in strict compliance with State law applicable thereto" on the subject property located within the B3 Community Shopping District.

The Plan Commission recommended approval of this petition by a vote of 6-0. Please place this petition on the August 20, 2020 Board of Trustees agenda with a waiver of first requested by staff in order to allow the petitioner to proceed with buildout activities.

Fiscal Impact/Funding Source:

Review (as necessary):


Finance Director _____ Date _____
Village Manager _____ Date _____

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the agenda distribution.



MEMORANDUM

TO: Scott R. Niehaus, Village Manager

FROM: William J. Heniff, AICP, Director of Community Development 

MEETING DATE: August 20, 2020

SUBJECT: **PC 20-18, 783 E. Butterfield Rd, Zen Leaf Cannabis**

Please find the following items for Village Board consideration as part of the August 20, 2020 Board meeting:

1. Plan Commission referral letter;
2. IDRC report for PC 20-18; and
3. An ordinance for a conditional use for a “Cannabis dispensing facility operated in strict compliance with State law applicable thereto”.

The Plan Commission recommended approval of this petition by a vote of 6-0. Please place this petition on the August 20, 2020 Board of Trustees agenda with a waiver of first requested by staff in order to allow the petitioner to proceed with buildout activities.



VILLAGE OF LOMBARD

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August 20, 2020

Village President
Keith T. Giagnorio

Village Clerk
Sharon Kuderna

Trustees

Dan Whittington, Dist. 1
Anthony Puccio, Dist. 2
Reid Foltyniewicz, Dist. 3
Andrew Honig, Dist. 4
Daniel Militello, Dist. 5
William "Bill" Ware, Dist. 6

Village Manager
Scott R. Niehaus

"Our shared Vision for Lombard is a community of excellence exemplified by its government working together with residents and businesses to create a distinctive sense of spirit and an outstanding quality of life."

"The Mission of the Village of Lombard is to provide superior and responsive governmental services to the people of Lombard."

Mr. Keith T. Giagnorio,
Village President, and
Board of Trustees
Village of Lombard

Subject: PC 20-18, 783 E. Butterfield Rd, Zen Leaf Cannabis

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner requests a zoning conditional use pursuant to Section 155.415(C)(31) of the Lombard Village Code to allow for a "Cannabis dispensing facility operated in strict compliance with State law applicable thereto" on the subject property located within the B3 Community Shopping District.

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on July 20, 2020. Sworn in to present the petition were, Adam Rak and Anthony Marsico the petitioners, and Jennifer Ganser, Assistant Director.

Pursuant to Governor Pritzker's Executive Order 2020-07, as extended by Executive Orders 2020-18, 2020-33 and 2020-39, and pursuant to Public Act 101-040, some Plan Commission members participated in the public hearing remotely.

Mr. Rak showed a presentation. He said he is presenting on behalf of the petitioner and that he is an urban planner at WBK Engineering. He said the location is zoned B3 and they are applying for a conditional use permit. He said Zen Leaf will comply with all State and Municipal regulations. He said this is a high-end luxury experience with customer service. Zen Leaf will help customers find the correct product for their needs. They are a good community steward. Mr. Rak went thru the seven (7) standards for a conditional use and explained for Zen Leaf meets and exceeds each standard. He said the State of Illinois has some of the most stringent regulations on the cannabis industry.

He referenced the letter of objection from the neighboring property owner and stated that they are to the west of the drive-thru, which may be causing some of the issues. He said there is plenty of parking in the back. A traffic engineer reviewed the site and said for a dispensary of 3,150 square feet to expect approximately 796 total daily trips, however, a restaurant comparable to the one that left could generate approximately 993 total daily trips. He said that is a 20% decrease in traffic. They believe the dispensary will alleviate some of the parking concerns rather than another restaurant. He said restaurants require more parking per Code.

Mr. Marsico said he is the VP of Sales. He went thru the proposed floor plan and said all who enter must be 21 and have an ID. He discussed the customer experience and the customer flow. The point of sale is simply transactional and no cannabis products are on the floor. He said this will create jobs and tax revenue. He said their existing dispensaries have a good relationship with Police and Fire. He discussed their third-party security firm and compliance.

Vice Chairperson Flint asked for public comment. There was none.

Vice Chairperson Flint asked for the staff report.

Ms. Ganser presented the staff report, which was submitted to the public record in its entirety. She noted that tonight's public hearing is for a conditional use at 783 E. Butterfield Road. The discussion is not if cannabis should be sold in Lombard. That was discussed in 2019 thru a Village Board workshop, a Plan Commission public hearing, and additional Village Board meetings where the Village Board ultimately voted to opt-in and established zoning regulations. This address is zoned B3. In the B3 district dispensaries are a conditional use, which is why this public hearing is required.

The petitioner, Verano Holdings/Zen Leaf, proposes a cannabis dispensary at a retail space at 783 E. Butterfield Road. The subject property is vacant retail space and was formerly Anthony's Coal Fired Pizza restaurant. Per a 2019 text amendment, cannabis dispensaries are a conditional use in the B3 Zoning District. Cannabis would be sold at the location, in compliance with Illinois law. Cannabis would not be grown on the premises. The cannabis industry is regulated by the State of Illinois Department of Financial and Professional Regulation and the Illinois State Police. The site is surrounded by other commercial land uses. There is no residential in the immediate area.

The building went to the Plan Commission in 2015 (PC 15-26). The site met parking as it uses parking in the rear owned by Nicor and has used this parking since 1982 pursuant to a lease agreement that runs through June 2024. Afterwards there are ten extension options of five years each. The site takes access from Butterfield Road, which is a major arterial roadway.

Staff received five (5) emails on the petition that were included in the staff report and are part of the public record. They are in support of or have no opinion on the petition.

Staff also received one (1) letter after the staff report was sent out. The Plan Commissioners received the letter via email and it is also part of the public record. The letter is from the adjacent property owner at 801 E. Butterfield Road. He is not in support of the petition. Ms. Ganser read

the letter. Staff notes that the objections are not pertaining to the use of a cannabis dispensary, but rather potential adverse impacts that could be made for various commercial entities.

Staff received one (1) voicemail after the staff report was sent out. The Plan Commissioners received the voicemail via email and it is also part of the public record. The voicemail caller did not identify himself and expressed general concerns and objections about cannabis sales and use. The call did not directly speak to matters about this specific petition. The text of the voicemail is as follows:

“Hello, I am calling about the recreational marijuana dispensary that you want to allow in Lombard. That is one of the biggest mistakes you can do. I have had an experience with that and I have had a family member, actually it was an in-law, who destroyed his life with pot. And I can tell you right now that I don’t care if the Governor made it legal or not, it is still illegal at the federal level. You apparently don’t realize that these dispensaries attract the wrong kind of people and I don’t care if the Governor made it legal, it is still an illegal drug because it is illegal at the federal level. And Trustee Militello is in the cannabis business which people are not too thrilled about that. An elected official that makes money off of an illegal drug. And don’t tell me this stuff about how safe marijuana is, I can tell you right now that from 2006-2016 there were over 100,000 accidents out on the highway due to alcohol. Now my question to you is, alcohol is half of the potential of marijuana such as accidents, violence, criminality, social degradation, do we really need pot? No, we don’t. You wanna go ahead and have it, fine. But you’re going to have a lot of robberies at dispensaries cause they don’t take credit cards, they just take cash. And when you have something like that you will have a lot of robberies. Look what happened in Chicago when they made it legal. It’s obvious that you don’t know the dangers of marijuana and alcohol. All you can talk about is bringing in the revenue. What about the drawbacks of marijuana? I don’t care if it’s safe, it’s not. It isn’t safe at all. One drug leads to another. One in five will be hooked on pot. Any trustee or commissioner that goes in favor of this dispensary ought to be removed from office.”

The caller noted traffic accidents and robberies. These are more general in nature and do not relate to this specific conditional use at this specific address. Items such as traffic were discussed in 2019 when the Board voted to opt-in. These matters were discussed by the Police Chief as they would be under the Police Department’s purview.

Staff received one (1) email after the packets went out. The Plan Commissioners received the email and it is also part of the public record. The text of the email is as follows:

“Hi, my name is Jodie Carlson and I am a resident of Lombard. I understand that approval for a cannabis dispensary is on the agenda tonight and wanted to let you know that I am very much in favor of this business. Please let me know if you need any more info. Thanks and have a great meeting!”

In conclusion, staff supports the conditional use for a cannabis dispensary at 783 E. Butterfield Road.

Vice Chairperson Flint asked if the petitioner would like to respond to the letter or voicemail. Mr. Marsico said they prepared a written response that was distributed to the Plan Commission. He said their use is less intense than the previous sit-down restaurant. They are also further away from the drive thru and driveway, which may help. He said their customers are usually in and out in five minutes, however, restaurant customers stay much longer. He doesn't believe parking will be an issue.

Vice Chairperson Flint asked if there were questions on the staff report.

Vice Chairperson Flint opened the meeting for comments among the Commissioners and asked each Commissioner if they had questions or comments.

Commissioner Burke said he had no comments or questions and would recommend approval.

Commissioner Sweetser said she had no comments or questions.

Commissioner Mrofcza said he had no comments or questions.

Commissioner Giuliano asked if another dispensary could open in the B3 zoning district and Ms. Ganser said yes. There is no limit on the number of dispensaries in the Village. She asked the petitioner who scans the ID's. Mr. Marsico said their staff will after receiving training. They use Veriscan and can lean on security if needed. Commissioner Giuliano asked how they prohibit public consumption and Mr. Marsico said they will have two security guards who will focus on the inside and outside. They have a no loitering policy. Commissioner Giuliano asked if customers can sample product and Mr. Marsico said there is no consumption of products with THC. They may have non-infused edibles called blanks that can be tasted. Commissioner Giuliano asked if they donate money to any drug rehab or prevention organizations. Mr. Marsico said he was not sure. He said they would like to join the Chamber and they do partner with an agency that helps with job placement for those affected by drugs. That agency works on criminal justice reform. Their focus is towards social equity. Commissioner Giuliano said she likes the location, likes that it is away from residential and should add to the economic diversity in the area.

Commissioner Johnston said this is a prime location and will draw from a large area. He asked how they will handle large crowds and parking? Mr. Marsico said for something like a grand opening they may need traffic control but their goal is to have a minimal impact to traffic and parking.

On a motion by Commissioner Burke, and a second by Commissioner Giuliano, the Plan Commission voted 6-0 to recommend that the Village Board approve the petition associated with PC 20-18, subject to the following six (6) conditions:

1. The petitioner shall develop the site in accordance with the plans submitted as part of this request and as modified by the conditions of approval set forth herein.
2. The petitioner shall satisfactorily address all other development comments identified within the Inter-Department Review Report as part of any future permits as part of the project.

3. The petitioner shall be required to apply for and receive building permits for any activity and/or improvements to the subject property.
 4. Pursuant to the Zoning Ordinance, project construction shall commence within one (1) year from the date of approval of the ordinance, unless a time extension is granted by the Village Board.
 5. If, for any reason, the Nicor parcel becomes unavailable for off-site parking an amendment to the conditional use and/or any necessary variations must be obtained in order to continue the use.
 6. Operation of the cannabis dispensary is subject to securing and maintaining all requisite approvals as set forth by the State of Illinois relative to the cannabis dispensary land use.
- Respectfully,

VILLAGE OF LOMBARD

Steve Flint, Vice Chairperson
Lombard Plan Commission

ORDINANCE NO. _____

**AN ORDINANCE GRANTING APPROVAL OF A CONDITIONAL USE
PURSUANT TO THE LOMBARD ZONING ORDINANCE FOR A
CANNABIS DISPENSING FACILITY**

(PC 20-18: 783 E. Butterfield Rd, Zen Leaf Cannabis)

WHEREAS, the President and Board of Trustees of the Village of Lombard have heretofore adopted the Lombard Zoning Ordinance, otherwise known as Title 15, Chapter 155 of the Code of Lombard, Illinois; and,

WHEREAS, an application has heretofore been filed requesting approval of a conditional use pursuant to the Lombard Zoning Ordinance (Title 15, Chapter 155 of the Village Code) for a “Cannabis dispensing facility operated in strict compliance with State law applicable thereto”, as set forth in Section 1 below; and,

WHEREAS, a public hearing on such application has been conducted by the Village of Lombard Plan Commission on July 20, 2020, pursuant to appropriate and legal notice; and,

WHEREAS, the Plan Commission has filed its recommendations with the President and Board of Trustees recommending approval for a “Cannabis dispensing facility operated in strict compliance with State law applicable thereto” and,

WHEREAS, the President and Board of Trustees approve and adopt the findings and recommendations of the Plan Commission and incorporate such findings and recommendations herein by reference as if they were fully set forth herein;

NOW, THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, as follows:

SECTION 1: That a conditional use for a “Cannabis dispensing facility operated in strict compliance with State law applicable thereto”, is hereby granted for the Subject Property legally described in Section 2, subject to the conditions set forth in Section 3.

SECTION 2: That this ordinance is limited and restricted to the subject property generally located at 783 E. Butterfield Road, Lombard, Illinois, and legally described as follows:

LOT 2 IN FREED SUBDIVISION, BEING A SUBDIVISION IN SECTION 29, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 29, 1982 AS DOCUMENT R82-44604, IN DUPAGE COUNTY, ILLINOIS

PIN: 06-29-201-007

SECTION 3: This Ordinance is approved subject to compliance with the following conditions:

1. The petitioner shall develop the site in accordance with the plans submitted as part of this request and as modified by the conditions of approval set forth herein.
2. The petitioner shall satisfactorily address all other development comments identified within the Inter-Department Review Report as part of any future permits as part of the project.
3. The petitioner shall be required to apply for and receive building permits for any activity and/or improvements to the subject property.
4. Pursuant to the Zoning Ordinance, project construction shall commence within one (1) year from the date of approval of the ordinance, unless a time extension is granted by the Village Board.
5. If, for any reason, the Nicor parcel becomes unavailable for off-site parking an amendment to the conditional use and/or any necessary variations must be obtained in order to continue the use.
6. Operation of the cannabis dispensary is subject to securing and maintaining all requisite approvals as set forth by the State of Illinois relative to the cannabis dispensary land use.

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 on first reading this _____ day of _____, 2020.

Passed on second reading this _____ day of _____, 2020, pursuant to a roll call vote as follows:

Ayes: _____

Nays: _____

Ordinance No. _____
Re: PC 20-18
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Absent: _____

Approved by me this _____ day of _____, 2020.

Keith T. Giagnorio, Village President

ATTEST:

Sharon Kuderna, Village Clerk

Published in pamphlet from this _____ day of _____, 2020.

Sharon Kuderna, Village Clerk