

MINUTES OF THE PLAN COMMISSION
April 25, 2011

The regular meeting of the Plan Commission was called to order by Chairman Mark Moore at 7:07 p.m. at the Village Hall.

Members present: Chairman Mark Moore, Scott Adams, William Cotey, Dan Donahue, Walter Oakley, Kurt Schultz, and David Semmelman.

Members absent: None.

A quorum was established.

Village Staff present: John Spoden, Director of Community Development; and David Smith, Senior Planner.

Commissioner Cotey moved, seconded by Commissioner Schultz, to approve the March 28, 2011, Plan Commission meeting minutes.

Motion carried 7 - 0.

NEW BUSINESS:

**PC 11-04 Libertyville Cooperative Nursery School Applicant
1190 W. Winchester Road**

Request is for a Special Use Permit to allow a Day Care Center in an IB, Institutional Buildings District located in Trinity Community Church at 1190 W. Winchester Road.

Mr. David Smith, Senior Planner, introduced the request for the Special Use Permit. Mr. Smith stated that the Libertyville Cooperative Nursery School (LCNS) is making a request for a Special Use Permit to allow a Day Care Center in an IB, Institutional Buildings District to be located in Trinity Community Church at 1190 W. Winchester Road. Mr. Smith stated that if granted this would allow them to occupy approximately 3,500 square feet of classroom, kitchen and office space within the Trinity Community Church.

Mr. Smith stated that Trinity Community Church is located within the IB, Institutional Buildings District along West Winchester Road bounded by the Cambridge North single family residential subdivision on the east, north and west, all zoned R-4, Single Family Residential District.

Ms. Carol Boyce, Director of LCNS, stated that they have been in existence since 1945 and are in two locations. She stated that due to the ensuing renovations at First Presbyterian on Maple Avenue, they had to look for a new location for their pre-school facility. She stated that the new location will facilitate their needs for up to 60 children. She stated that the Department of Children and Family Services have already approved the Trinity Community Church site.

Minutes of the April 25, 2011, Plan Commission Meeting
Page 2 of 8

Mr. George Krueger, 1020 Wellington, asked how long a temporary occupancy would be. Ms. Boyce stated that it is their intent to move back to the First Presbyterian Church after the renovations are completed. She stated that it is not their intent to install outdoor play equipment at Trinity at this time, but they understand that they will have to come back to the Plan Commission if they decide to do so.

Mr. James Saulis, 1004 Wellington, stated that the temporary occupancy should not exceed one year. He stated that Trinity Community Church was constructed without public notices. He stated that the church's nonconformities have never been properly addressed. He stated that churches that rent out space to other business entities should be made to pay taxes. He stated that the plat plan shows that there should be 46 feet of green space along the rear property line, but when he measured the distance himself, it is between 25 feet to 36 feet between the black top and the rear property line.

Mr. John Spoden, Director of Community Development, stated that the current Zoning Code was adopted in 1995 and that if there were any improvements established on the church property prior to the current Zoning Code requirements that are nonconforming today, they would be grandfathered in.

Board Member Oakley asked the petitioner if she agreed with the review comments in the Staff review report and a temporary occupancy limit. Ms. Boyce stated that it is her intent to go back to the First Presbyterian Church when their renovations are complete.

Board Member Adams stated that his daughter is on the board of directors for LCNS but that should not affect his judgment in this case.

Chairman Cotey asked for clarification of the number of children that will be served by LCNS at the Trinity Community Church location. Ms. Boyce stated that the total number is 60 children spread out in two sessions for each school day with the morning session accommodating a larger portion of children.

Chairman Cotey stated that a safety plan should be considered.

Ms. Boyce stated that an important difference between the Trinity site and the First Presbyterian site is that the children will not have to cross the street at Trinity.

Chairman Cotey asked for clarification as to how the children will be dropped off and picked up. Ms. Boyce stated that for about 20 minutes at the beginning and end of each school session they may have as many as 45 or 50 cars in the parking lot.

Chairman Cotey asked for clarification regarding the floor plan and the classroom locations and the ages of the children being served. Ms. Boyce provided clarification of the classroom locations and the children's ages being served.

Chairman Cotey asked Staff to review the site for compliance with the Zoning Code. Mr. Spoden stated that they will review the site for current compliance.

Minutes of the April 25, 2011, Plan Commission Meeting
Page 3 of 8

Board Member Semmelman stated that he believes that the subject site is appropriate for the proposed Special Use Permit for the LCNS.

Board Member Donahue asked for clarification regarding the hours of operation of the LCNS preschool. Ms. Boyce stated that the morning session is from 8:45 a.m. to 11:15 a.m. and the afternoon session is from 12:45 p.m. to 3:15 p.m.

Board Member Donahue asked for clarification regarding the lease renewal terms. Ms. Boyce stated that the lease terms have not been determined at this time.

Board Member Schultz stated that he is concerned about the church site's ability to allow vehicle stacking.

Ms. Boyce stated that most of the time the parents will park their cars and walk their children into the church building. She stated that for those times when parents drop off or pick up children from their cars, she will have the parents stack the vehicles where advised by the church.

Board Member Schultz stated that he supports a one-year temporary occupancy for this site for LCNS.

Ms. Boyce stated that she would like to request a minimum of two-years temporary occupancy as it is still uncertain as to what the construction schedule will be for First Presbyterian Church.

Board Member Donahue asked when the petitioner intends to get occupancy at the Trinity Community Church. Ms. Boyce stated that it should be no later than the start of the new school year by September 2011.

Board Member Oakley asked if there is a time limit enforced on First Presbyterian to commence or complete construction. Mr. Spoden stated that it is under the Planned Development regulations.

Ms. Boyce stated that they do not yet have an obligation or time commitment with Trinity Community Church.

Chairman Moore stated that consideration should be given to crafting the condition for approval of the requested Special Use Permit to stipulate a two year maximum temporary occupancy.

In the matter of PC 11-04, Commissioner Schultz moved, seconded by Commissioner Adams, to recommend the Village Board of Trustees approve a Special Use Permit for a period of two (2) years from the date classes commence at which time the Special Use Permit shall expire to allow a Day Care Center in an IB, Institutional Buildings District located in Trinity Community Church at 1190 W. Winchester Road, in accordance with the plans submitted.

Motion carried 7 - 0.

Minutes of the April 25, 2011, Plan Commission Meeting
Page 4 of 8

Ayes: Moore, Adams, Cotey, Donahue, Oakley, Schultz, Semmelman
Nays: None
Absent: None

OLD BUSINESS:

PC 11-02 Village of Libertyville, Applicant
118 West Cook Avenue

Request is for a Text Amendment to the Libertyville Zoning Code to amend text relative to Electric Power Generation Facilities, but limited to Wind Power, as a Special Permitted Use in the O-2 Office, Manufacturing and Distribution Park District.

Mr. David Smith, Senior Planner, stated that Staff presented proposed revisions to the proposed text amendment to the Libertyville Zoning Code regarding wind energy regulations at the March 28, 2011 Plan Commission meeting. Mr. Smith stated that the following issues were raised and Staff was requested to give further consideration to them prior to the April 25, 2011 Plan Commission meeting. Mr. Smith stated that the concerns raised included sending courtesy notices to residents informing them of the April 25, 2011 meeting; Plan Commission requested that an illustration to show sound level comparisons to better understand the impact of various sound levels be provided; Plan Commission members expressed concern regarding how the effects of shadow flicker can be mitigated on adjacent properties; Plan Commission members requested consideration be given to including a request for Site Plan Permit in conjunction with any Special Use Permit request for a wind energy facility; and Plan Commission members requested consideration be given to establishing an overlay district to accommodate wind energy facilities.

Mr. Smith stated that courtesy notice letters for the April 25, 2011 meeting were sent to those residents who provided their name and address on previous public hearing sign in sheets. Mr. Smith stated that a Decibel Level Comparison Chart was included in the Plan Commission packets for the April 25, 2011 meeting. Mr. Smith stated that the current proposal includes a section that addresses mitigation of shadow flicker on adjacent properties. Mr. Smith stated the Zoning Code currently requires that a Site Plan Permit be applied for in conjunction with a Special Use Permit when there is any development involved as part of the request. He stated that the installation of new wind energy facilities may be deemed as development.

Mr. David Gates, 429 South Seventh Avenue, stated that the turbine noise is never-ending and constant.

Mr. Gary Newell, 428 South Seventh Avenue, stated that the maximum permitted decibel levels should be reduced further. He stated that a low frequency sound wave should be taken into consideration. He stated that the human ear cannot get used to the low frequency sound waves. He stated that a property value protection plan should be considered as well.

Minutes of the April 25, 2011, Plan Commission Meeting
Page 5 of 8

Mr. David Wilms, 215 Walnut Street, stated that his sister-in-law who lives on South Seventh Avenue views the Aldridge Electric turbine with an aesthetic appeal perhaps due to its potential contribution as a sustainable renewable energy source. He stated that that adjacent ambient factory noise is worse than the turbine.

Mr. Newell stated that the wind turbine industry is heavily subsidized and is not as cost effective as marketed. He stated that the payback over time is not economical.

Mr. John Christianson, 400 Hampton Terrace, stated that he is concerned about shadow flicker caused by wind turbines.

Ms. Donna Gates, 429 South Seventh Avenue, stated that the Aldridge turbine echoes against her garage door and that in the summertime, it is too annoying to open the windows. She stated that further consideration should be given to lowering the maximum permitted decibel levels.

Ms. Lisa Newell, 428 South Seventh Avenue, stated that she is concerned as to how enforcement of the regulations will be implemented.

Mr. David Pardys, Village Attorney, stated that a violator of the regulation would go before an arbitrator. He stated that if it reached the court level, a judge could force an injunction against the code violator.

Ms. Newell stated that she is concerned about how compliance with the regulations will be monitored.

Mr. Pardys stated that enforcement would be carried out per the Zoning Code stipulations.

Ms. Susan Hamlin, 408 South Seventh Avenue, stated that she supports a lower maximum permitted decibel cap. She stated that she supports a property value protection plan. She stated that she can hear the Aldridge wind turbine even when her window is closed.

Mr. Newell stated that a third party, not Village Staff, should check the sound levels when monitoring wind turbine noise.

Mr. Pardys stated that using a third party noise inspector is problematic.

Mrs. Donna Gates stated that the burden should be on the property owner. She stated that the sound should be checked or determined prior to installing a wind turbine

Mr. Wilms stated a catalogue of wind turbine types should be established in order to help with streamlining the application process.

Ms. Loretta Foley, 517 Kenwood, stated that consideration should be given to researching further wind turbine hazards.

Minutes of the April 25, 2011, Plan Commission Meeting
Page 6 of 8

Commissioner Shultz asked which properties have been affected by shadow flicker.

Mr. Spoden stated that the Village requested a shadow study to be a part of the Aldridge wind turbine application, but it was not accurate. He stated that it was not done by an independent consultant, but done by the applicant's architect.

Ms. Newell stated that the Aldridge wind turbine cast shadow flicker onto homes along Rockland Road and Seventh Avenue.

Commissioner Schultz asked for clarification regarding sound. He stated that the way the current proposal is drafted, it will scare off future applicants. He stated that he would like to see a map to show how the Aldridge wind turbine affects surrounding properties with both sound and shadow flicker.

Commissioner Semmelman stated that consideration should be given to requiring the installation of a monitoring device at the turbine facility to monitor the sound levels.

Commissioner Cotey stated that he concurs that the maximum permitted sound decibels should be lowered by five (5) decibels.

Commissioner Adams stated that he agrees that the maximum permitted sound decibels should be lowered by five (5) decibels.

Commissioner Oakley stated that he agrees with the lowering the decibel levels by five (5). He asked for clarification about the standards of the Special Use Permit.

Mr. Pardys stated that standards are regulated by the Zoning Code.

Chairman Moore stated that he supports the sound levels to be lowered as well. He stated that he would also like to see maximum permitted height for the tower mounted wind turbines to not exceed 150 feet.

Commissioner Cotey stated that he concurred with the 150 feet in height suggestion by Chairman Moore.

Mr. Spoden stated that part of the intent of the tower mounted wind turbine regulation was to allow them in the northwest corridor where there is more open space and the zoning is more industrial thereby accommodating the taller tower mounted turbines.

Chairman Moore asked for clarification from the Staff report regarding inspections referring to item (o) which states that every owner/operator of a Wind Energy Facility, upon permitting by the Village of Libertyville, shall be required to schedule annual maintenance inspections by the Village. He asked if sound or shadow flicker inspections can be incorporated.

Minutes of the April 25, 2011, Plan Commission Meeting
Page 7 of 8

Mr. Spoden stated that Staff typically responds to violations on a complaint basis. He stated that Staff can revisit the Zoning Code performance standards to determine if further amendments should be made to address inspections.

Chairman Moore asked for clarification regarding whether or not a property protection plan should be required of the owners installing wind turbines in order to protect property values of adjacent property owners.

Mr. Pardys stated that it would be impractical and onerous to require such a property protection plan as there are multiple variables that influence property values.

Chairman Moore stated that it is advisable to continue this matter to next month's Plan Commission agenda to provide an opportunity for Staff to investigate further reducing the sound levels, reducing the height of tower mounted wind turbines, and further investigating procedures for monitoring the wind turbines after installation.

Commissioner Cotey requested additional information as it pertains to the amount of power output between various types of turbines, especially for those turbines at 150 feet in height versus 200 feet in height.

In the matter of PC 11-02, Commissioner Cotey moved, seconded by Commissioner Adams, to continue this item to the May 23, 2011, Plan Commission meeting.

Motion carried 7 - 0.

Ayes: Moore, Adams, Cotey, Donahue, Oakley, Schultz, Semmelman

Nays: None

Absent: None

PC 10-46 118 West Cook Avenue
Village of Libertyville, Applicant

Request is for an amendment to Chapter 26 of the Libertyville Municipal Code in order to revise and adopt the Libertyville Zoning Code.

Mr. John Spoden, Director of Community Development, reviewed proposed changes to the Commercial Districts in the Zoning Code. He stated the proposed changes include the change from the Standard Industrial Classification System to the North American Industrial Classification System in terms of identifying land uses. He stated that other changes include incorporating previously approved ordinances addressing limitation of offices on Milwaukee Avenue in the C-1, Downtown Core Commercial District and revisions to Personal Services.

In the matter of PC 10-46, Commissioner Semmelman moved, seconded by Commissioner Adams, to continue this item to the May 23, 2011, Plan Commission meeting.

Minutes of the April 25, 2011, Plan Commission Meeting
Page 8 of 8

Motion carried 7 - 0.

Ayes: Moore, Adams, Cotey, Donahue, Oakley, Schultz, Semmelman

Nays: None

Absent: None

COMMUNICATIONS AND DISCUSSION:

Mr. John Spoden, Director of Community Development, stated that the Plan Commission will be provided new single family home plans for Liberty Grove. He stated that although the Plan Commission is not required to take action on these plans, the Plan Development regulations for this particular subdivision requires that the Plan Commission be given a copy of the home plans so that they know what is going to the Village Board.

Commissioner Cotey moved and Commissioner Adams seconded a motion to adjourn.

Motion carried 7 - 0.

Meeting adjourned at 9:30 p.m.