

MINUTES OF THE PLAN COMMISSION
May 23, 2011

The regular meeting of the Plan Commission was called to order by Chairman Mark Moore at 7:05 p.m. at the Village Hall.

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

Members absent: Scott Adams and Kurt Schultz.

A quorum was established.

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

Commissioner Cotey moved, seconded by Commissioner Donahue, to approve the April 25, 2011, Plan Commission meeting minutes.

Motion carried 5 - 0.

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 highlights of the current Village ordinance and highlights of the current draft Lake County ordinance relative to Wind Energy Regulations at their February 28, 2011 meeting. He stated that testimony was heard from the public and direction was given by the Plan Commission to Staff to make certain revisions to the Village of Libertyville ordinance relating to Electric Power Generation Facilities. He stated that the Plan Commission public hearing was continued to March 28, 2011.

Mr. Smith stated that at the March 28, 2011 Plan Commission meeting, Staff presented proposed revisions to the proposed text amendment to the Libertyville Zoning Code regarding wind energy regulations. He stated that during the course of the March 28, 2011 meeting that additional issues were raised and Staff was requested to give further consideration to them prior to the April 25, 2011 Plan Commission meeting. He stated that at the April 25, 2011 Plan Commission meeting, Staff was further directed to review Tower Mounted Wind Turbine Heights and to further review the maximum permitted sound emitted from wind turbines.

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Ms. Nancy Zeivel, 836 East Rockland Road, stated that she was surprised to hear the noise from the wind turbine located on the Aldridge Business Park. She stated that she is legally blind and that she needs to listen to the water boil in her house. She stated that the turbine is constant noise and is very disturbing.

Ms. Martha Watanabe, 812 E. Rockland Road, stated that they were told that the wind turbine would be invisible.

Mr. David Gates, 429 South Seventh, stated that he would like to see the maximum permitted noise levels being proposed, reduced from 40 decibels to 35 decibels. He stated that he is concerned about the effect on property values. He stated that a mechanism should be in place to compensate and protect property values potentially affected by wind turbines.

Mr. John Snow, 809 Liberty Lane, stated that he is concerned about the regulation on wind turbine setbacks. He asked how a more restrictive setback regulation will affect the existing wind turbine at the Aldridge Business Park.

Mr. David Pardys, Village Attorney, stated that if new setback regulations are approved by the Village Board are more restrictive than the current location of the Aldridge wind turbine, then the Aldridge wind turbine could become a legal, non-conforming structure.

Mr. Gary Newell, 428 Seventh Avenue, stated that he supports the maximum permitted sound levels to be reduced to 35 decibels. He stated that regulations to protect property values should be looked at. He stated that third party inspectors who are experts in their fields should be used to inspect wind turbines.

Ms. Laurie Renz, 816 East Rockland Road, stated that the proposed regulations should be more restrictive on advertising on wind energy facilities. She stated that the new regulations should include property value guarantee. She stated that she is concerned that the proposed language in the wind turbine ordinance is not descriptive enough regarding the impact on wildlife. She stated that there should be different sound level maximums permitted for day time and night time. She stated that the regulations should be more specific on warning signage for wind energy facilities. She stated that additional security concerns should be addressed including the display of phone numbers on warning signs. She stated that she is concerned about the ability of the Village to enforce a wind turbine operator to comply with the regulations. She stated that she is concerned about who would pay for a noise study if one were required. She stated that she is concerned about how a shadow flicker study is documented. She stated that she is concerned about how long the Village will take to act upon a complaint. She stated that she is concerned about the proposed setbacks and the current state laws on setback requirements for wind energy facilities. She stated that she is concerned about the proposed height for the tower mounted wind turbines.

Mr. Russ Dunn, 710 Liberty Bell Lane, stated that he is concerned about the proposed setback regulations for wind energy systems. He stated that he is concerned about how the proposed ordinance may enable turbines to be too close to residential neighborhoods. He stated that he is

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concerned about the building mounted turbines. He stated that the proposed regulation requiring certain setbacks from residential structures is not enough.

Ms. Laurie Dunn, 710 Liberty Bell Lane, stated that she is concerned about the potential density of turbines on a property. She stated that she is concerned about the potential height of turbines that the proposed ordinance would permit. She stated that she is concerned that the proposed text amendment would not prohibit additional turbines on the Aldridge Electric Company property.

Mr. John Foley, 517 Kenwood, stated that wind energy is only a fraction of what is needed. He stated that he is concerned about the noise levels of the wind turbines. He stated that he would want to be compensated for the loss in the value of his property that would be caused by wind turbines.

Commissioner Oakley stated that he is concerned about the ability of the Village to enforce the ordinance and the cost incurred by the Village for enforcement.

Commissioner Cotey stated that he would like to see the maximum permitted sound levels lowered further. He stated that consideration should be given to limiting the operation of building mounted wind turbines to 9:00a.m. to 7:00 p.m.

Commissioner Semmelman stated that further consideration should be given to further limiting the potential density of the turbines.

Chairman Moore asked why the Village's proposal for a wind turbine ordinance has deviated from the Lake County modal ordinance. He asked how the Village would respond to complaints about the turbines, if they should occur.

John Spoden stated that it was Staff's attempt to be as comprehensive as possible and to make adjustments to the language of the proposal in order to adapt to Libertyville's circumstances. He stated that the Village already has in place a response to complaints process.

David Pardys stated that there is an adjudication system in place that could impose fines and penalties.

Chairman Moore asked how reasonable is it to monitor any fluctuation of property values for properties in close proximity to wind turbines.

Mr. Spoden stated that the difficulty in administering some type of residential property value protection plan would make it impractical. He stated that as it is currently proposed, any property that abuts a residential district would not be permitted to install a tower mounted wind turbine.

Mr. Pardys stated that administering some type of residential property value protection plan would be difficult to enforce.

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Chairman Moore stated that the Village's proposal would require all turbines to obtain a Special Use Permit. He stated that consideration should be given to reducing the maximum permitted height for tower mounted wind turbines to be not more than 125 feet.

Mr. Spoden stated that Staff can further review turbine adjacency to residential properties and address that issue in the proposed ordinance.

Chairman Moore stated that consideration should be given to regulating distance from residential properties regardless if they abut or not. He stated that other policy issues should be considered as well.

In the matter of PC 11-02, Commissioner Cotey moved, seconded by Commissioner Schultz, to continue this item to the June 27, 2011, Plan Commission meeting.

Motion carried 5 - 0.

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

NEW BUSINESS:

PC 11-05 Midwest Motors, Inc., Applicant
1800 Tempel Drive

Request is for a Text Amendment to Sections 2, 7, and 10 of the Libertyville Zoning Code in order to define Used Vehicles, allow Used Vehicles Sales as a Permitted Use in the I-1, Limited Industrial District, and to establish minimum required number of parking spaces for Used Vehicle Sales land use.

Mr. David Smith, Senior Planner, stated that the petitioner, Benjamin Ripstein, is seeking approval for a Text Amendment to Sections 2, 7, and 10 of the Libertyville Zoning Code in order to define Used Vehicles, allow Used Vehicles Sales as a Permitted Use in the I-1, Limited Industrial District, and to establish minimum required number of parking spaces for Used Vehicle Sales land use.

Mr. Mark Eiden, agent for the petitioner, stated that Mr. Ripstein sells previously owned high-end vehicles. He stated that his business is currently located in Volo, Illinois and manages between 6 to 8 employees. He stated that customers typically make appointments to shop for Mr. Ripstein's vehicles. He stated that the sale of vehicles by Mr. Ripstein is not done like the vehicle dealerships along south Milwaukee Avenue. He stated that the proposed text amendment would allow the sales of previously owned vehicles in the I-1 District, but only within an enclosed building. He stated that this sales method forces up the price of the vehicle. He stated that the sales operation will be hidden from view and will not compete with the dealers in the C-5 District. He stated that this activity will add vibrancy to the area and bring sales tax revenue to the Village. He stated that the projection for

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year 2011 is estimated to be six (\$6,000,000) million dollars in sales and they expect the sales volume to increase over time. He stated that this operation will attract foreign buyers who will bring business to the local hotels and restaurants. He stated that the approval of the proposed text amendment will not open up Pandora's Box as some may fear. He stated that this business will add to the sales tax revenue. He stated that this use as proposed will foster competition. He stated that, as proposed, this use will bring in very little walk-in or drive-by customers.

Mr. Eiden stated that they reviewed other vehicle dealerships and determined that on average, dealerships provide approximately 17 parking spaces for customer parking for rather large showroom/office structures. He stated that as a retail use, the Zoning Code requires one parking space per each 250 square feet of floor area. He stated that in reality, very few customer parking spaces are necessary for vehicle dealerships. He stated that the proposed one parking space per 1,000 square feet of floor area is more realistic for this type of commercial activity.

Mr. Eiden stated that the other vehicle dealers prefer that the proposed used vehicle sales land use be a Special Permitted Use, not Permitted as requested. He stated that as a Permitted Use in the I-1, no one will notice a difference as this will be an activity regulated to remain indoors. He stated that they seek an amendment that will inhibit excessive pavement of property. He stated that without the proposed text amendment, the current restriction of used vehicle sales will diminish the value for the Village. He stated that the enforcement of the one parking space per each 250 square feet of floor area shall prohibit the proposed land use and would diminish the aesthetics of a building and its site. He stated that by adding the proposed use to the I-1 District will increase the value of the Village by adding competition. He stated that it will not change the character of the area. He stated that adjacent properties will not be adversely affected in both land uses and value. He stated that there will be no change in access and physical elements as the proposed land use would be regulated to the indoors of the building. He stated that the I-1 District allows very few retail sale uses and that there is a vacancy issue within the I-1 District. He stated that there is a community need for the proposed amendment. He stated that the other existing dealers in Libertyville are basing their argument on objecting to the competition that this use would bring.

Mr. Ben Ripstein, Midwest Motors, petitioner, stated that the car sales industry is changing. He stated that most of his advertising is done on the internet and that he is selling a 'want' not a 'need'. He stated that his proposed use will generate both direct and indirect sales tax. He stated that many of his customers will help to generate indirect sales tax by visiting the local hotels and restaurants. He stated that if approved, the facility that he wants to occupy at 1800 Tempel Drive will be enhanced with climate control interior and marble floors. He stated that he will make the interior look as new and high end as possible.

Mr. Rich Delisle, owner of 1800 Tempel Drive building, stated that the prior occupant was a machine shop that moved in in 1998. He stated that the occupant prior to that was a metal stamping facility. He stated that Fabrication Technologies moved out to another location on Enterprise Court. He stated that the space previously occupied by Temple Steel has been vacant for 2-1/2 years.

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Mr. Eiden stated that the I-1 District is scattered throughout the Village and that the proposed use would fit in that district.

Mr. Glen Bockwinkel, Acura, 1620 South Milwaukee Avenue, stated that if the proposed text amendment is approved, it would be the beginning of a slippery slope by creating a precedence that the Village would not want to have. He stated that he has invested over \$600,000 into marketing for his Acura dealership. He asked where customers will test drive the used cars if the petitioner is permitted to locate at 1800 Tempel Drive. He stated that if the used cars being sold are high end cars, the customers will want to test drive them at high rates of speed. He stated that he is concerned about the Village's ability to enforce the petitioner to keep his used vehicle inventory indoors as he is proposing. He stated that the existing vehicle dealers have spent millions of dollars in upgrading their facilities. He stated that only a portion of the sales tax revenue that the petitioner has testified to will go to the Village. He stated that any out of state sales tax revenue will go out of state.

Mr. Jim Spillman, Libertyville Chevrolet, stated that he is not concerned about the competition that the petitioner may create, he is more concerned about the reputation of the Village. He stated that Libertyville is a destination place and that the automobile manufacturers want to be in Libertyville. He stated that the Village of Libertyville is a great community and that the integrity of the town is important.

Mr. Joe Massarelli, Liberty Auto City, 1000 East Park Avenue, stated that he is not concerned about the additional competition. He stated that other communities allow for used car sales, but the Village of Libertyville does not and that the auto dealers in Libertyville respect that rule. He stated that a slippery slope will be created if the Village opens the door to used car sales.

Mr. Taso Theodorou, Libertyville Toyota, stated that the automobile manufacturers require very specific constraints including background checks on the dealers and the dealers have to answer to the manufacturers. He stated that the Village will not know what they are getting with a used car sales facility as they do not have the same rigid guidelines.

Mr. Ripstein stated when it comes to test driving the vehicles he sells; he expects that the customers will know to not break the law by speeding. He stated that the Secretary of State requires background checks on used vehicle sales dealers. He stated that his proposed use will generate indirect tax revenue benefits to the Village. He stated that his proposed use will not change the character of the Village and that communities should change with the times. He stated that his company is also listed with the Better Business Bureau.

Mr. Eiden stated that there will not be a slippery slope or precedence to fear as the vehicle inventory will be stored indoors. He stated that they are willing to forego the proposed definition of used vehicles and that the proposal should not make a distinction between new and used vehicles. He stated that the reputation of the Village will not be damaged as it would be a discreet operation in the I-1 District. He stated that the existing dealers in the C-5 District already have a substantial used car inventory. He stated that the comparison between the existing dealers in the C-5 District and the

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proposed use in the I-1 District is an apples and oranges comparison. He stated that the proposed text amendment is restrictive to promoting other used car dealers.

Mr. Bockwinkel stated that he is concerned about how or where the petitioner's used cars will be serviced. He stated that the dealers in Libertyville are committed to the Village of Libertyville.

Mr. Ripstein stated that the cars he sells would not be serviced on site. He stated that no cars will be left outside.

Mr. Delisle stated that he wants to the petitioner to occupy his building at 1800 Tempel Drive.

Mr. Bernie Ripstein, 425 Benjamin, Vernon Hills, stated that he used to be the Benefits Manager for Tempel Steel. He stated that Mr. Ripstein, the petitioner, has integrity. He stated that the Village should not miss this chance to not lose the potential tax revenue. He stated that Jewel grocery store will lose 50% of its revenue when the new store opens across the street.

Commissioner Donahue asked if the petitioner's sales office is located in Volo, Illinois. Mr. Ripstein stated that he will reapply for his dealer license to be applicable to the Village of Libertyville.

Commissioner Donahue asked for more clarification regarding the petitioner's proposal to keep the vehicle inventory indoors. Mr. Ripstein stated that there would be short periods of time when vehicles are delivered to the subject site and may be parked outdoors while waiting to be moved indoors or being prepared for customer test drives.

Commissioner Semmelman asked why the petitioner is not requesting the proposed used vehicle sales land use amendment is not requested as a Special Permitted Use. Mr. Eiden stated that the proposal as presented already comes with rather rigid restrictions, including the indoor storage, that a Special Use classification isn't necessary.

Commissioner Semmelman stated that he prefers that the proposed land use in the I-1 District be listed as a Special Permitted Use and that there be a strong condition on the indoors aspect.

Commissioner Oakley stated that he doesn't like Zoning Code text amendments. He stated that this proposal would open Pandora's Box. He stated that the proposal doesn't fit into the Village's Comprehensive Plan. He stated that the Village already has a C-5 District intended for vehicle sales.

Mr. Eiden stated that the Comprehensive Plan is a policy guide only, not a regulatory tool. He stated that text amendments are intended to evolve the Code over time as necessary.

Mr. Ripstein stated that change is scary. He stated that his business has to be approved by the State. He stated that the vacancy of the Tempel Steel operation was unfortunate and unplanned event.

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Chairman Moore stated the Comprehensive Plan underwent a lengthy process. He stated that the Plan Commission and the Village put a substantial amount of weight into its importance. He stated that the I-1 is intended for manufacturing uses and that its character is industrial. He stated that the proposed land use is not in the character of the intended district.

Mr. Ripstein stated his proposed business for 1800 Tempel Drive will be off of the beaten path and that it will not compete with the vehicle dealers along South Milwaukee Avenue. He stated that his proposal would be a positive change for the Village.

Chairman Moore asked the petitioner how they would like for the Plan Commission to proceed. Mr. Eiden requested that the Plan Commission render their recommendation to the Village Board tonight.

In the matter of PC 11-05, Commissioner Oakley moved, seconded by Commissioner Cotey, to recommend the Village Board of Trustees approve a Text Amendment to Sections 2, 7, and 10 of the Libertyville Zoning Code in order to define Used Vehicles, allow Used Vehicles Sales as a Permitted Use in the I-1, Limited Industrial District, and to establish minimum required number of parking spaces for Used Vehicle Sales land use with the following condition: 1) The following text be stricken from the proposed text amendment Section 7-2.2(h)(9), "except for outdoor display of up to 5 such Vehicles which are returned indoors between the hours of 10:00 p.m. and 6:00 a.m."

Motion failed 0 - 5.

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

PC 11-06 StreetScape Development, LLC, Applicant
154 School Street

Request is for a Major Adjustment to the Planned Development Final Plan in order to construct a parking structure adjacent to the Central School building and changes to exterior renovations for the Central School building located in an R-8, Multiple Family Residential District at 154 School Street.

In the matter of PC 11-06, Commissioner Cotey moved, seconded by Commissioner Oakley, to continue this item to the June 13, 2011, Plan Commission meeting.

Motion carried 5 - 0.

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

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**PC 11-07 176 Libertyville, LLC, Applicant
729 East Park Avenue**

Request is for a Text Amendment to Section 10 of the Libertyville Zoning Code in order to establish a minimum required number of parking spaces for Minor Vehicle Repair land use.

In the matter of PC 11-07, Commissioner Cotey moved, seconded by Commissioner Oakley, to continue this item to the June 13, 2011, Plan Commission meeting.

Motion carried 5 - 0.

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

OLD BUSINESS:

**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.

In the matter of PC 10-46, Commissioner Cotey moved, seconded by Commissioner Oakley, to continue this item to the June 27, 2011, Plan Commission meeting.

Motion carried 5 - 0.

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

PROPOSAL TO CHANGE PLAN COMMISSION RULES:

Commissioner Donahue moved, seconded by Commissioner Oakley, to continue this item to the June 27, 2011, Plan Commission meeting.

Motion carried 5 - 0.

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

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COMMUNICATIONS AND DISCUSSION:

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

Motion carried 5 - 0.

Meeting adjourned at 10:20 p.m.