

MINUTES OF THE PLAN COMMISSION

August 8, 2011

(Revised 09.26.11)

The regular meeting of the Plan Commission was called to order by Chairman Mark Moore at 7:03 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.

Commissioner Oakley moved, seconded by Commissioner Cotey, to approve the July 11, 2011, Plan Commission meeting minutes, as amended.

Motion carried 6 - 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. John Spoden, Director of Community Development, introduced the item and review that the Plan Commission had been studying this topic since January of this year. He thanked the members of the Commission and concerned residents for their diligence and input in this process. He highlighted the following changes to the proposed ordinance since the last meeting.

- Page 10, Clarification on **Operable Condition** for any wind energy facility.
- Page 12, Shadow Flicker. Requirement that agreements be made binding upon the heirs of an owner and successors in title of the owner of the Building Mounted Wind Turbine and the owner of affected Non-Participating Property.
- Page 14, Width. Information regarding the width of a single Building Mounted Wind Turbine or the combined cumulative width of multiple Building Mount Wind Turbines located on a single structure shall not exceed 50 percent of the shortest width of the front or side elevation of a non-residential building not abutting residentially zoned property.
- Pages 14-15, Clarification on Turbine Decommissioning and Site Restoration Plan.
- Pages 15-16, Regulations on abandonment and Wildlife Impact. Clarifications on time frame and notices of abandonment. Additional information regarding Wildlife Impact to

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make sure that Wind Energy Facilities be compliant with all applicable regulations of the Illinois Department of Natural Resources, the Illinois Environmental Protection Agency, and U. S. Fish and Wildlife Service.

- Page 16, Regulations on Inspections. Information regarding annual maintenance inspections.
- Pages 16-17, Regulations on Hours of Operation and Cessation of Operation. Building Mounted Wind Turbines on lots within or abutting residential zoned lots shall not be operated between the hours of 9:00 p.m. and 7:00 a.m. and that they shall cease operations for the duration of any emergency as determined by the Village of Libertyville.
- Page 17, Regulations on Turbine Height. Tower Mounted Wind Turbines shall only be operated in non-residential zoning districts and shall not exceed a height of 125 feet.
- Page 18, Regulations on distances from Inhabited Structures. Each Tower Mounted Wind Turbine shall be set back from the nearest structures used as a residence, school, hospital, place of worship, place of employment or public library, a distance of no less than 1,000 feet, unless an agreement is entered into between affected property owners.
- Pages 18-19, Regulations on Shadow Flicker. Unless owned by the applicant, no parcel of real estate shall be subject to shadow flicker from a Tower Mounted Wind Turbine unless the previously discussed agreement entered into between affected Non-Participating Property.
- Page 19, Sound. The maximum sound level for Wind Energy Facilities for receiving property was dropped by 5 decibels. Receiving residential properties between the hours of 9:00 p.m. to 7:00 a.m. have a maximum sound level limit of 35 dB(A), while daytime levels would be allowed to be 40 dB(A).
- Page 19, Minimum Ground Clearance. The blade top of a Tower Mounted Wind Turbine shall, at its lowest point, have a ground clearance of no less than fifteen (15) feet.
- Page 20, Sun Glint. Tower Mounted Wind Turbines shall be painted a non-reflective, non-obtrusive color which shall be pre-approved through the Appearance Review Commission and Special Use Permit process.
- Pages 19-20, Electrical Controls/Wiring. Electrical Controls and control wiring and power lines shall be wireless and not above ground.
- Page 20, Security. The lowest fifteen (15) feet of a Tower Mounted Wind Turbine shall not be climbable.
- Page 20, Warning Signage. In non-residential and multi-family housing districts, a warning sign shall be posted and plainly visible upon or in close proximity to the Tower Mounted Wind Turbine.
- Page 20, Lighting. Wind Energy Facilities shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.
- Page 20, Advertising and Additional Sign Regulations. Wind Turbines shall not be used for displaying any advertising except for identification of the manufacturer or operator of the Wind Energy Facility.
- Page 23, Regulations on General Engineering Requirements. All Wind Energy Facilities shall be designed to withstand a minimum wind velocity of 100 miles per hour, conform to all applicable industry standards, and be equipped with automatics and manual braking systems.

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- Pages 24-26, Applications for Wind Energy Facilities. Details regarding Site Plans, Engineering Plans, Soil Studies, and Environmental Impact Studies and Plans are included in the proposed ordinance.
- Pages 26-27, Regulations on Violations, Enforcement and Penalties. At the advice of the Village Attorney, enforcement and penalties provisions found in Article 17-12 and 17-13 of the Zoning Code will govern this issue.

Mr. David Gates, 429 7th Avenue, addressed the Commission and requested clarification regarding Pages 17-19 of the ordinance regarding Tower Mounted Wind Turbines. He wanted to ensure that it was the intent of the Commission to prohibit Tower Mounted Wind Turbines from locating in any property within a non-residential zoning district that abuts residentially zoned property. The Commission replied that it was their intent to do so and that any conflicts in the ordinance would be addressed.

Mr. Gary Newell, 428 7th Avenue, requested information regarding the sound levels. He inquired that if a property is subject to the noise of two separate Wind Turbines located on different properties, how the Village would handle such a situation. Mr. David Pardys, Village Attorney, replied that the ordinance cannot regulate for multiple sites at one time and it can only regulate one property. It would be his assumption that the Village would require that one of the turbines be turned off while the other is being tested for noise violation.

Ms. Laurie Renz, 816 E. Rockland Avenue, requested clarification on Page 18 as to why the ordinance refers to 1,000 feet and 500 feet in the same paragraph regarding inhabited structures. The Commission replied that this was a typographical error and will be corrected to 1,000 feet.

Ms. Renz requested that the Commission consider requiring a contact phone number on warning signage located on Page 20. The Commission concurred with the request.

Ms. Renz inquired if the Village would consider increasing the insurance amount required by the operator of a Wind Turbine. Commissioner Oakley noted that Abbott Laboratories has a minimum certificate of insurance for \$3 million for any projects within its campus.

Chairman Moore stated that it was his preference that the Village stick with their current standards and not change it for a different land use.

Ms. Renz continued to review the ordinance by discussing the distances between turbines and the numbers allowed on one site. Ms. Renz stated that the Planning Department has rejected their request for an amortization schedule to phase out any current turbines in the Village. She reviewed the fencing signage emergency contact information, noise, and hours of operation of new turbines and inquired as to whether any of these standards would be applied to the existing turbine at the Aldridge site.

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Commissioner Semmelman clarified that the operation of the turbine would be subject to the current laws, but the structure itself would not be made to conform with the new ordinance as it would be grandfathered in.

Mr. Pardys confirmed that the hours of operation for the existing turbine would have to meet the new ordinance.

Commissioner Oakley inquired if the Village could sunset the existing turbine under health and welfare. Mr. Pardys stated that such language could be added to the ordinance if so directed by the Commission.

Chairman Moore asked individual members for their comments regarding the proposed ordinance.

Commissioner Oakley stated that he was fine with the ordinance as written.

Commissioner Adams concurred.

Commissioner Cotey stated that he was not in favor of including an amortization schedule as it is just one site in the Village.

Commissioner Semmelman stated the hours of operation for a Tower Mounted Wind Turbine needs to be consistent with the hours noted elsewhere in the ordinance. He suggested that the Commission eliminate Item T, Hours of Operation, on Pages 22-23 of the Report as this information is covered elsewhere in the proposed ordinance.

Commissioner Donahue stated he opposed passage of a text amendment as he considered the blanket application of a Special Use Permit and the requirement of government-forced legal agreements between private parties poor public policy.

Commissioner Schultz questioned if the Commission had gone too far with the proposal as the feasibility of constructing a Wind Turbine in the Village would be extremely difficult.

Chairman Moore thanked the Commission, residents, and Staff for their work and input on the process. He stated that the proposed ordinance is a solid one that balances property rights with the need for safety to be provided to the citizens of the Village. He recognizes that it is a restrictive ordinance, but he is in favor of its adoption.

In the matter of PC 11-02, Commissioner Schultz moved, seconded by Commissioner Semmelman, to recommend the Village Board of Trustees approve a Text Amendment to the Libertyville Zoning Code as outlined in the DRC Staff Report dated July 22, 2011, to include Electric Power Generation Facilities, but limited to Wind Power, as a Special Permitted Use, and subject to the following conditions:

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- 1) *Require that emergency contact phone number be provided as part of warning signage.*
- 2) *Correct the typographical error on Page 18, 2.(d) to read "1,000 feet".*
- 3) *To eliminate Item 2.(t), Page 22, as this item is included elsewhere in the ordinance.*

Motion carried 6 - 1.

Ayes: Moore, Adams, Cotey Oakley, Schultz, Semmelman
Nays: Donahue
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, presented the proposed Code amendments to Article 13, Landscaping, Screening and Fences; Article 14, Nonconformities; Article 15, Administrative Officials and Bodies. The changes included the following:

Article 13

- Require Perimeter Landscaped Open Space with a minimum width of no less than ten (10) feet along every lot line in an R-8, Multiple Family Residential District.
- Increase the interior landscaping requirement for parking lots from five (5%) percent to ten (10%) percent.

Article 14

Staff reviewed that the existing ordinance allows non-conforming lots of record to be built upon for single family homes if the total lot area is equal to at least seventy (70%) percent of the total lot area required in the district in which the lot is located and the lot width is equal to at least seventy-five (75%) of the lot width required in that district. This corresponds to a minimum lot width of forty-five (45) feet in the R-6, R-7, and R-8 zoning districts.

Staff had been requested by residents to study a further reduction in this allotment. Accordingly, a study area on the east side of downtown was undertaken this summer that included 240 single family lots. Of those lots, 16 were undersized in regard to lot width. Only 6 did not meet the minimum lot area. Staff proposed to address this issue by allowing buildability on non-conforming lots of record at a minimum of a forty (40') foot lot width in the R-6, R-7, and R-8 zoning districts.

Staff noted that the current ordinance also allows for a reduction in the interior side yard requirements in proportion to the actual lot width divided by the required lot width. This has been an

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issue with building homes that close to the property lines as individuals do not have sufficient room for lawn maintenance, building maintenance, and construction areas and encroachments of basement window wells. Staff recommended eliminating the reduction in interior side yard requirements.

Members of the Commission debated the issue and concurred with the request to reduce the minimum lot width.

Commissioner Schultz stated that it was his professional opinion that the Village require a five (5') foot minimum setback, but that the aggregate setback be allowed to be reduced to ten (10') feet.

Members of the Commission and Staff concurred with that opinion.

There were no other changes proposed to Article 14 and Article 15.

In the matter of PC 10-46, Commissioner Semmelman moved, seconded by Commissioner Schultz, to continue this item to the August 22, 2011, Plan Commission meeting.

Motion carried 7 - 0.

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

Nays: None

Absent: None

NEW BUSINESS: None.

PROPOSAL TO CHANGE PLAN COMMISSION RULES:

Commissioner Donahue introduced a proposed change to the Plan Commission rules concerning the prohibitions against discussions and public comments. Commissioner Donahue proposed the following language for Chapter 3, Rules of Ethics for the Plan Commission and Zoning Board of Appeals:

8. Plan Commission and Zoning Board of Appeals members are at all times subject to the provisions of the Open Meetings Act of the State of Illinois and in matters pending before the Plan Commission or Zoning Board of Appeals, Commissioners and Members shall refrain from public commentaries outside the public forum on the pending matter until such time as final action on the matter has occurred.

Commission members concurred with the proposed change and directed Staff to prepare the proposed change to the policy language as stated.

COMMUNICATIONS AND DISCUSSION:

Staff noted that the Village had hosted a successful summer event for the Municipal Design Review

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Network on July 14, 2011, which showcased the downtown partnerships between the public, private, and not-for-profit agencies.

Staff also noted that the Report of the Plan Commission for the County project is pending before the Village Board and that a date for Board review has not yet been determined.

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

Motion carried 7 - 0.

Meeting adjourned at 8:43 p.m.