

MINUTES
OAK PARK PLAN COMMISSION
OAK PARK VILLAGE HALL – COUNCIL CHAMBERS
February 9, 2009 - 7:00pm

PRESENT: Chairperson Linda Bolte; Commissioners Deborah Fausch, Gail Moran, Michael Quinn, Susan Roberts, David Sokol

EXCUSED: Victor Guarino, Steve Ruszczyk

ALSO PRESENT: Craig Failor, Village Planner, Attorney Dick Martens

CALL TO ORDER: Meeting called to order. Roll called.

CONTINUATION OF OPEN PUBLIC HEARING

PC 08-03 Special Use and Zoning Text Amendment (Light Standards) The applicant seeks approval of a Zoning Ordinance text to Chapter 3, Article 4, to amend Section **4.5.2AA Light Standards** to allow 100 foot tall light standards for athletic fields in the R-2 Single Family District and R-7 Multiple Family District residential districts as a special use, and Article 3 to amend Section **3.1 Summary Use Matrix** to add the aforementioned use to the reference table. Pursuant to the approval and adoption of Section 4.5.2.AA, the Applicant is also requesting Special Use approval from Section **4.5.2AA** to allow two (2) eight foot tall, one (1) 90 foot tall and one (1) 100 foot tall light standards surrounding their athletic field within the R-2 Single Family District and R-7 Multiple Family District. The Applicant is also requesting one allowance from Section **3.6.5.B.4.a** for the corner side yard setback of a light standard proposed in the southwest corner of the athletic field abutting Linden Avenue at a distance of 4.58 feet where 15 Feet are required. The proposed southeastern most light standard is proposed in the west half of the East Avenue right of way proposed for vacation.

Chair Bolte stated that Commissioner Ruszczyk would not be in attendance but will review the tape. Commissioner Fausch will be late and will review any part of the meeting missed.

Chair Bolte stated the order in which the hearing would proceed. Closing summaries will be given first by Mr. Keller, for the applicant, and then by Mr. Sargis, for the objectors. Mr. Keller will have rebuttal, and then Attorney Martens will provide the legal context by which the commission must make its decision. Each side gets 45 minutes for summary. Questions from commissioners will follow summaries and rebuttal.

Mr. Sargis asked about an electronic auto cad file submitted to staff for the Commission. Chair Bolte said the Commissioners had copies and the file was admitted into evidence as Plan Commission Exhibit Number 3.

Applicant Summary

Mr. Keller thanked the commission and staff for the amount of time spent on this application. His statement was distributed to commissioners with two attachments; the LaSalle National Bank case, cited by the objectors, and the case of Hannah vs. City of Chicago, Illinois Court of Appeals.

Mr. Keller addressed concerns raised by the objectors, beginning with the danger of setting precedent for 100' light poles. Mr. Keller stated that such poles will not be a permitted use but would require special use permits. Furthermore, the application was modified to specify *public high school stadium*, so that such use would be limited to public schools.

The high school has also requested a 4.5 setback of the southwest light pole from the west property line. The Village Board approved a vacation at the south end of East Avenue, between the parking garage and the athletic stadium, contingent upon the granting of the special use permit.

The high school has agreed to several conditions including times of use of the lights, number of Friday night football, lacrosse and soccer games to be played, the adoption of a written light-use policy, improved sound system to minimize impact on the surrounding neighborhood, clean-up, security and the pledge to follow recommendations from the traffic consultant and the police department. As a public school, the high school is a land use affiliated with public interest.

Mr. Keller went through the standards for special use and for text amendments and said the question is whether the Zoning Ordinance contains standards. Mr. Keller stated that the objectors' witness applied the LaSalle standards, while admitting he did not know the specifics of the case. The high school feels those standards are not applicable to this case. He noted that a copy of the case was attached to the summary and explained why it does not pertain to this application.

Mr. Keller said the text amendment is not isolated from special use. He spoke of the balancing test – weighing the interests of the community against the interests of the neighborhood.

Mr. Keller stated that the MUCSO lighting design facts as presented by the applicant have not been contradicted, and labeled the controversy over the IES data a “ringer.” Mr. Keller stated that the encrypted data provided by MUSCO would allow objectors to validate the findings of the company. Mr. Keller further stated that unencrypted data is proprietary and that the objectors did not even use the data they did receive.

Mr. Keller stated that the objectors tried to use the Oak Lawn design to show how lights would be in the Oak Park stadium. He stated this would not be accurate, nor would the comparison with the Evanston lights. Mr. Keller stated that PhotoShop can not be used to accurately show light projections and went on to say that MUSCO is the best in its field, as testified to by Scott Triphan, lighting engineer.

Mr. Keller stated that the neighbors see the issue as lights or no lights. From the viewpoint of the high school, it is desirable to provide more time for use of the field. Objectors say the high school has been around for eighty years without stadium lights and therefore does not need them. Mr. Keller stated that Oak Park is not required to operate as it did eighty years ago.

Mr. Keller said the Board of Education determined the need for the lights, and the Plan Commission should not dismiss that opinion. He also recalled that a resident testified that because the lights would not cost the school anything, that is why they want them. Mr. Keller said the cost to the school is not a proper measure.

Mr. Keller said there has been no evidence shown of diminution of value of surrounding properties.

Regarding traffic, the high school hired a consultant who said the impact on Friday nights would be the same as Saturday afternoon activities. The consultant made recommendations which the school will follow and the school will work with the Village on concerns.

Mr. Keller stated that the school did not retain a noise consultant because they do not believe that would help the commission reach its decision. He agreed that there will be more noise, but noted there are no noise limits on athletic activity. Friday night noise will come primarily from crowds; loudspeaker noise will be secondary. Occasions and times will be limited to minimize the noise.

Mr. Keller felt the commission should discount the testimony of Dr. Thunder because he is not a qualified expert on acoustic engineering, but a doctor of audiology and furthermore, he did not follow state protocols on noise measurement.

Chapter 4 of the Comprehensive Plan, facilities and services, recognizes the mission of other government bodies, according to Mr. Keller.

As for the HPC's disapproval of the plan, the high school has shared the preservation goals in Oak Park since 1896; the school and the community have evolved together. OPRF has always been cognizant of its relationship to the neighborhood in terms of architecture. Mr. Keller said HPC is focusing on activities rather than the structures themselves. Mr. Keller stated that he understands that change is threatening, and families worry how night games will affect their lives. He stated that OPRF exists to educate and form productive citizens. The mission of the School Board is to provide the best possible educational experience for its students.

Mr. Keller said the neighborhood has changed over the years and said the board will work in the interest of the neighborhood.

He asked that the commission be careful in giving weight to the opinion of the HPC and said the courts have found Chicago's historical preservation, to be vague, ambiguous, overly-broad and unconstitutional. He said Oak Park's ordinance is almost the same..

Mr. Keller stated that lights would not interfere with the development of neighboring properties and the completion, once approved, would be timely, a few weeks. MUSCO gives a 25 year warranty on maintenance. Mr. Keller said the issue is not lights or no lights, but rather the best way to minimize the impact on the neighborhood. Without the special use permit, lower lights can be installed, but they would have more spillage. (55' and 45' light poles are permitted.) There would be more light intrusion, the same crowd noise and the same traffic impact. OPRF wants to be competitive and feels that the lack of lights impairs the educational efforts of the school.

Objector Summary

Mr. Sargis said he applauded the persistence and time commitment of all concerned in this application. Mr. Sargis stated that the burden of proof is on the applicant, and that the proposal is more extensive than just for Friday night football. Mr. Sargis said the proposal does not satisfy the standards for a text amendment or for a special use, and is not consistent with the Comprehensive Plan.

The lights would be a non-conforming use and the projected light does not meet LEEDS standards. Mr. Sargis argued that the lights would be injurious to other property owners, and would alter the essential night-time character of the neighborhood, which is home to many children, families and seniors.

Mr. Sargis said that after three years and two hearings, the applicant has failed to meet the burden of proof as to the benefit of the lights. He stated there are no plans in place with the Village, the Police Department, the Village of River Forest or Pilgrim Church. (for parking.)

Mr. Sargis noted there was no traffic study until the Plan commission requested one. The traffic study used lower numbers than those previously given by the high school. The high school did not hire a noise or landscaping consultant. The high school has given no specifics on the new improved sound system, nor have they provided independent noise or light analysis. Although the District #200 Board voted 4-3 to approve the plan, such concerns were expressed. Mr. Sargis alleged that Scott Triphan was basically a character witness for MUSCO.

Regarding the IES data, the objectors' expert witness is willing to sign a confidentiality agreement on encrypted data, The auto cad file done in 2001 is not accurate, as it was based upon a complete reconfiguration of the football field, including a track where there is none. There is no credibility on the light spillage plan, according to Mr. Sargis.

MUSCO's engineer, admitted to an error margin of plus or minus 20% in the spillage plan. Mr. Sargis said that the Village of River Forest retained experts before their park district lights were installed. Mr. Sargis felt there was no concentrated effort to meet with residents on this application.

Mr. Sargis further stated that the applicant did not address financial considerations, such as how to pay for increased security and traffic control. No effort has been made to get support from River Forest and that village does not allow OPRF youth to use its fields.

The applicant did not address environmental considerations about the most intensive lights that would be in Oak Park. Mr. Sargis called Light Structure Green a “nice marketing tool” but said the lights are not environmentally friendly and will bring light pollution and use far more energy. The high school currently has lights for night games.

Regarding noise, Mr. Sargis said the level would be twice that of a leaf blower, Furthermore, Mr. Sargis argued that the applicant failed to refute the environmental data of objectors’ experts.

Mr. Sargis said this would be a non-conforming use, and the adverse impacts greatly outweigh any benefit, the lights might provide.

Mr. Sargis said the LaSalle Factors overlap with Village Standards and the Zoning Ordinance. He cited five categories: Public Need, Planning Issues, Compatibility, Effect on Property Values and Harm to Neighboring Residents. A copy of the organization of these categories was distributed. Mr. Sargis went through the categories, stating as follows.

There is no credible testimony that the high school cannot meet the primary need of the high school to educate and to offer athletic programs. There are no plans to expand the athletic program or the number of teams. The field is used ten to twelve hours a day, seven days a week. Except for football and men’s soccer, there are night games at the south field. Mr. Sargis stated that only 63% of Chicago area high schools have Friday night football.

Mr. Sargis said the District #200 Board vote does not trump the decision of the Plan Commission. He went on to say that the high school has an impressive amount of field activities, with more sports at more levels than any other school in the conference. Busing is routine, and with the lights, only a small amount of practices would return to the school. He stated that the lights offer no real public convenience, nor do they contribute to the general welfare. The facility is not open to the public. This is a non-compatible use, a luxury which will have costs for clean-up, traffic, safety, etc. With budget shortfalls and layoffs there are scarce resources, and such costs can not be justified.

Mr. Sargis recalled that Mr. Abel spoke about non-conforming use and the expectation of peace and quiet in a residential area. He said neighbors testified that the area is quiet at night. The lights do not conform to the Comprehensive Plan, in particular the protection of residential neighborhoods. Mr. Sargis argued that the district is protected by historic preservation, and by the Zoning Ordinance. He said if the text amendment is granted, others could cite it in applications. Mr. Sargis stated that Special Use is presumed to be compatible for the area for which it is granted.

Mr. Sargis noted that the Village never received readings from the south field after lights were installed, despite complaints from neighbors. The proposed lights are 40% higher than those on the south field.

Mr. Sargis stated that the Zoning Ordinance only contemplates lights for security, parking and similar uses in a residential district. The proposed use would have an adverse impact

on the character of the neighborhood, being too close to too many residences. As Mr. Alstead showed, it would be 27 yards to the closest home. There are 240 residential units involved.

Mr. Sargis said that no similar installation of stadium lights so close to a residential area could be found anywhere else, including Evanston. MUSCO was unable to come up with any example.

As for suitability, the site is currently suitable for athletic use and the south field allows for a full, strong program. The artificial turf allows for more uses than those of any other schools.

Other changes at the school over the years have not added noise or lights.

Mr. Sargis stated that Oak Park is unique with its historic homes and neighborhoods and that this area is family oriented residential. Neighbors have expectations, having invested in preservation efforts. The high school has not proven that the lights would not affect property values or market time. Mr. Sargis argued that it is a reasonable expectation that the property values would be affected by non-conforming use.. A lowering of values will affect property tax revenues.

Mr. Sargis said that such intense lighting (more than in commercial districts) would have considerable harm and impact on nearby residents.

According to Mr. Sargis, Mr. Brightfield showed comparison between Oak Park and Oak Lawn.

As for noise, Mr. Sargis noted that Dr. Thunder spoke about significant impact, constituting a nuisance. The Village has no exemption for any type of use for anything that constitutes a nuisance. Fluctuating sounds are more annoying than steady decibels. Noise on other weekday evenings is not insignificant, but the average noise level of Friday night games would be much higher. No redesigned sound system was offered. Mr. Sargis recalled that Dr. Lisa Thornton addressed noise issues and confirmed the findings of Dr. Thunder, noting too that uninterrupted sleep is important for children.

Mr. Sargis noted that there was testimony from the public about noise further away than immediate residences. The high school has not refuted that evidence.

The impact on Friday night traffic illustrated by Mr. Hamilton is based upon unlikely assumptions, such as the estimated number of attendees at a Friday night game. Mr. Sargis said traffic congestion would double and non-residents would ignore parking restrictions.

Light, noise and traffic will have an impact on residents and the only mitigation could be buffers, distance or landscaping. The applicant has come up with no specific plan in this regard.

Mr. Sargis stated that River Forest had a study done before installing lights. This application was turned down by the ZBA. The HPC is not in favor of it. The burden of proof has not been met by the applicant.

As for any compromise, the south field lights were a compromise and over time, the conditions for their installation have not been followed, according to Mr. Sargis. Mr. Sargis stated that there is not sufficient evidence for a positive recommendation, but there is lots of evidence of too much impact. Mr. Sargis submitted a copy of his closing argument.

Chair Bolte thanked Mr. Sargis for keeping to the time limit. For the record, Chair Bolte noted that Commissioner Fausch had joined the commission.

Rebuttal by Applicant

Mr. Keller stated that it was not true that the school did not engage neighbors in the process. He said the superintendent has met several times with a number of residents and it was at the last meeting where neighbors said there would be no compromise and no further discussion.

Mr. Keller stated that the charge of the Plan Commission is to balance pros and cons, and devise conditions. When the objectors tell the commission not to compromise, this contradicts the Special Use process. As for other points raised by Mr. Sargis, Mr. Keller felt those had already been addressed. Mr. Keller thanked the commission for its time.

Chair Bolte said both closings gave a good summary of the months of testimony and adhered to the time limits.

A five minute break was called.

When the meeting reconvened, Mr. Keller clarified one misstatement in the application, Page 3, #3, Bullet Point 3, - there will be games Monday through Thursday.

At this time, commissioners asked questions of the applicant..

Asked whether the 10:30 ending applied only to football games, Dr. Weininger said this was correct and that other games would end by 8pm. The 9pm time referred to in Exhibit 19 refers to completed clean-up. Lights would be out at 9pm.

Regarding the traffic study recommendations, Mr. Keller stated that if the Village wants these restrictions, the high school will comply.

A November 4th memo was entered as Plan Commission Exhibit Number 4. Mr. Keller stated he had no problem having the Board of Education Minutes entered into evidence, as long as it was an accurate copy. Mr. Keller said he would supply some photos by Mr. Marsh that Commissioner Fausch said were missing. Objectors Exhibit 30 A & B, photos by Mr. Alstead, were also needed.

There was discussion over the auto cad drawing presented by Mr. Sargis. Mr. Keller said the document spoke for itself and he objected to explanation of same by Mr. Sargis. Chair Bolte said the commission could compare the file to evidence given by MUSCO. Mr. Sargis said the PDF print might not include the overlay. Chair Bolte asked Mr. Failor to check with staff for verification on what they opened and if need be, staff should be available to give explanation to the commission.

Commissioner Roberts asked whether the applicant would put up lights without the variance. Mr. Keller said the school has not made that decision. Regarding such lights, Mr. Sargis said this is currently an issue in a court case.

Commissioner Moran asked for copies of all the transcripts and exhibits.

Mr. Martens went through legal questions and standards and answered questions from commissioners. Mr. Martens suggested that the special Use application should be deliberated first, followed by the Zoning Ordinance Text Amendment. Mr. Martens indicated that the Factors for rezoning (text amendment) should be addressed and that the Standards for Special Use should be answered.

The meeting adjourned at 10:05 PM.

Transcribed from CD,

Liz Melara, Recording Secretary