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**Subject:** Item # 16 -- My statement  
**Date:** May 11, 2020 5:16:30 PM

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My statement for tonight:

I've sent you two previous statements detailing my opposition to this application, the first on May 2, and the second two days ago on May 9.

<https://www.cityofmadison.com/council/district13/blog/?id=22367>

<https://www.cityofmadison.com/council/district13/blog/?id=22394>

I hope that you have read them as I'm not going to go over them now. Instead, I'd like to summarize key points and make some new ones, all of which will point to one conclusion, that this application should be denied.

When I met with Mike Elliot and Steve Krantz, Edgewood High School's president and Board President respectively, on March 9, I asked them to "go slow" with their application, to explore opportunities to rebuild trust with the neighborhood.

The application before you doesn't in my mind constitute a cautious and careful approach, nor does it take into account in any substantial manner the impacts this proposal would have on the neighborhood.

My request for a delay reflected concerns that we not try to resolve 25-year-old controversy in the middle of a pandemic. Part of this was due to issues I had been having with my own internet connection, and I knew I was not alone. I kept getting dropped from Zoom calls. It took a new router, a new modem, and two in-person visits from my service provider to get the problem resolved.

But more to the point, I had heard from stressed-out neighbors about issues they were dealing with. One family who live very near Edgewood's athletic field had both the mom and dad come down with the virus. After a stay in the hospital, neighbors arranged a meal train. Others lost jobs and are worried about their future. Given that it's not at all apparent that contact sports like football will be taken up on a prep level this fall, a friendly pause seemed to me very reasonable.

But I was rebuffed and so here we are.

The issue comes down to the standards. As you know, Plan Commission may not approve a conditional use permit without due consideration of the Comp Plan and any applicable neighborhood plans.

The only applicable neighborhood plan would be the 2007 Monroe Street Commercial District Plan. There's not a lot of guidance here, but one important sentence on page 53 stands out noting that while Edgewood is an important presence on Monroe Street, as it "develops it will be critical for any future plans to be carefully coordinated with surrounding neighborhoods and land uses to avoid negative impacts."

Let the record be clear, EW's application was not carefully coordinated with the surrounding neighborhoods. There have been no meetings with the neighborhood nor with the Liaison Committee regarding this application.

It is also important to address the matter of the 2017 Wisconsin statute. This enactment overturned a Wisconsin Supreme Court decision which the legislature felt gave too much discretion to Plan Commissions in granting, denying, and imposing conditions on Conditional Use Permits.

In regard to responsibilities under the new Statute, City staff has emphasized the new burdens on the City

to support any decision with substantial evidence.

However, it is equally important to note the new burden placed on applicants. Reading from the Statute 62.23 (7)(de) “ The applicant must demonstrate that the application and all requirements and conditions established by the city relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence.”

The new statute places a noteworthy and very real burden on the applicant. It is a burden that must be demonstrated based on substantial evidence. It is your responsibility to see that the applicant satisfies that burden with the requisite level of substantial evidence.

The approval standards in our ordinance say that “No application for a conditional use shall be granted by the PC unless it finds that all of the following conditions are present.

Most relevant is Number 3: The uses, values, and enjoyment of other property in the neighborhood for purposes already established will not be substantially impaired or diminished in any foreseeable manner.

Edgewood's application goes into significant detail about its proposed lights. But there is very little about noise.

The gist of Edgewood's application seems to be that noise impacts are irrelevant, asserting they are only putting up lights, and that they intend to comply with Madison Noise Ordinances. That is flawed logic and simply is not correct. Lights are a means to an end, with the end being night games. The planning staff report recognizes that noise impacts are an appropriate consideration. EW fails to acknowledge anywhere in their application that this is not only about lights but also about modifying the existing use of daytime games, namely extending these games into night-time, and that night-time games come with the potential for serious noise impacts.

It is profoundly curious to me that the application before you is silent about noise impacts. In late 2018, Edgewood paid for a sound study that determined noise impacts would spill over to adjoining properties at levels that would exceed the current dBA maximum expressed in our city's noise ordinance for residential properties. Their study in fact misrepresented that maximum as being 70 dBA, when in fact the correct number for the maximum is 65 dBA. At any rate, the sound impacts were predicted to exceed that higher level of 70 dBA. Which is why a sound barrier was discussed as part of a last-minute compromise Edgewood offered in January of last year before pulling their Master Plan Amendment the following month.

There is substantial evidence to support denial, namely because this application falls woefully short of its burden. The record contains significant and substantial concerns regarding impacts on the neighborhood, impacts supported by substantial evidence including personal observations, audio and video recordings, and scientific studies.

Plan Commission doesn't have a legal basis to approve the conditional use permit. Edgewood's one sentence statement that they will comply with all the noise ordinances doesn't even give the Plan Commission sufficient evidence to begin formulating reasonable conditions.

Edgewood's failure to address noise impacts is a serious deficiency in its application both as it relates to Madison's ordinances and State law. Edgewood's application contains bare assertions of compliance with City ordinances including all noise ordinances. However, it contains no evidence – much less substantial evidence – of how it complies with or how it could ever comply with the City's noise ordinances in the context of this expanded night-time game use.

I asked them to go slow. This isn't slow. This is rushed and incomplete. I insisted they meet with the Liaison Committee. They have not. The application was prepared without input from the committee, neighborhood associations, or me as their alder.

They've checked the necessary boxes, but they haven't met the necessary burden of providing

substantial evidence that what they're proposing won't cause harm.

Edgewood is anticipating [46 regular season night games per year plus a possible 18 playoff games](#).

By way of contrast, Camp Randall has only one or two night games a year.

With such a bold request, one that disregards the spirit of partnership, community and my sincere request that they "go slow," Edgewood provides no evidence that they can meet the standard of not substantially impairing the uses, values and enjoyment of adjacent property owners with their proposal to host multiple night games on their athletic field.

In the absence of that evidence, I urge you to deny the applicant's request for a conditional use permit to install lights on their athletic complex at 2219 Monroe Street.

Thank you. I'm available to answer your questions.

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Tag Evers

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