

**CHARTER TOWNSHIP OF FENTON PLANNING COMMISSION
MINUTES FOR REGULAR MEETING OF MAY 12, 2009**

**TOWNSHIP CIVIC COMMUNITY CENTER
12060 MANTAWAUKA DRIVE, FENTON, MICHIGAN**

Chairman Tucker called meeting to order at 7:09 p.m.

Planning Commissioners Present: Franz, McGuirk, Richard, Root, Spees, Tucker

Recording Secretaries: McDonald, Sharich

Absent: Carlson

Board Members Present: Mathis, Krug, Tucker, Hill, Kessler

Also Present: Doug Piggott, Zoning Administrator

Jim Root chosen as Secretary-Pro Tem

APPROVAL OF AGENDA:

Chairman Tucker explained the Commission will conduct the public hearing for the rezoning of the Boa property and then Piggott will do his presentation; the rest of the agenda will be addressed after the presentation to allow those that came for the public hearing and/or the presentation to leave.

Motion to approve the agenda as amended

Motion by: Tucker

Seconded by: Root

Ayes: Franz, McGuirk, Richard, Root, Spees, Tucker

Nays: None

Absent: Carlson

Motion carried

PUBLIC HEARINGS

R09-002 David L. Boa, 1499 Wiggins Rd:

06-02-400-017

2226 Wiggins Rd.

Rezzone C-2 to R-4

Secretary Pro-Tem Root reviewed the file. David Boa was sworn in and explained that he had purchased the property at 2226 Wiggins, made improvements to the residential structure and property, he now has a buyer who is having trouble getting financed because this residential dwelling unit is located on property that is zoned commercial. He said his buyer has conditioned the sale upon the successful rezoning to residential. Chairman Tucker called for audience comments. George Stolzenfeld, American Machining stated he did not have a problem with the request, however he wanted to go on record to stated that his industrial operation surrounds the parcel on which the residential dwelling unit sits. He has operated his business for the past 27 years and there is noise associated with the processes of the operation including but certainly not limited to several semi-trucks per day. He stated the buyer of the residential structure should be aware of the operation because it exists. He explained that he is concerned about complaints related to the operation of his plant once the house becomes occupied. Franz asked how long Boa had owned the property and if he was aware of the commercial zoning. Boa stated he purchased the property from the bank a year ago as a cash deal, made improvements to the property and when he went to sell he found out it was zoned commercial and there were problems for a potential buyer with regard to financing and insurance. Tucker noted the property is designated as medium density residential in the future land use plan. Root asked about the property dimensions. Boa stated it is approximately 100 X 183 ft. Root concurred with Tucker adding the property size and surround zoning is constant with the plan, fits the R-4 classification and the request is reasonable. Tucker stated any potential buyer should be aware of the manufacturing use that surrounds it. Richard stated

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concerns about a residential dwelling surrounded by an industrial use; he felt the commercial zoning was more appropriate in this location. McGuirk concurred with Tucker and Root that the request is consistent with the future land use plan and the buyer should be aware of the existing manufacturing operation that surrounds the dwelling.

Motion to approve recommend approval to rezone parcel 06-02-400-017, 2226 Wiggins from C-2 to R-4 as requested

Motion by: McGuirk
Seconded by: Root
Ayes: Franz, McGuirk, Root, Spees, Tucker
Nays: Richard
Absent: Carlson

Motion carried

NEW BUSINESS

Presentation by Doug Piggott: Zoning Issues in a Changing World

Piggott began the session by stating he will focus on 4 zoning topics on the minds of many communities at this time; wind energy, digital signs, medical marijuana and adaptive reuse. Piggott explained wind generation potential stating that in this Township the potential has been determined to be marginal. He besides the issue of wind generation potential other issues communities are facing include State involvement and the possibility of preemption, wind generator size and type, height and setbacks, noise, shadow flicker, bird kill and decommissioning. General standards for height range from 100% to 150% the height measured from the tip of blade at its highest point. The wind generators make noise that be mitigated by limiting the noise to a recommended 50 – 55 dBA, the level of a conversation and regulating the height and location on the lot. Shadow flicker is caused by the blades rotating when the generator is located between the sun and subject. The shadow flicker can be mitigated by placement of the generator in relationship to residences and businesses. The shadow changes over the course of the day and can be addressed by site location and/or screening at the property line. He explained the bird kill issue is minimal with the exception of a densely populated wind farm that was built in Altamont Pass in the 70's and 80's that was sited in a bird migration path. He said that recent scientific estimate is 2 bird kills per year. Decommissioning is principally a concern for utility grid type systems. The estimated life of a wind generation system is 20 to 40 years. Communities need to ensure that if not reused, the tower and concrete foundation is removed. He noted a copy of a sample wind energy ordinance is included in the presentation materials and handouts. The Planning Commission and Township Board discussed this issue and directed Piggott to draft an ordinance based on the sample ordinance provided. The next issue Piggott discussed was digital signs. Issues include prohibition vs. regulation, size of the digital sign, size of the lettering, location, color, light intensity, frequency and transition of change, type of sign and governmental exceptions. Some communities have prohibited digital signs completely due primarily to traffic concerns. He noted that he is not aware of a Michigan court case testing a complete ban, but they have been upheld in other States. Some communities grant exceptions for time and temperature or gas price digital read outs as part of a larger sign. The biggest concern with color is red flashing lights that can be confused with emergency vehicle lights. He explained that light intensity is a problem because, in order for the display to be seen during the day, they have to be very bright. This is being address by requiring the sign have a sensor so the signs brightness is automatically reduced as it gets darker outside. Frequency and transition of change can be addressed by limiting changes, requiring a black out between messages, prohibiting scrolling messages and regulating a minimum and maximum screen time. He explained the signs can be billboards, wall or temporary signs. He suggested communities not grant themselves an

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exemption from the rules that apply to all signs. He noted a sample ordinance is included. The Planning Commission and Township Board discussed this issue and directed Piggott to draft an ordinance prohibiting the digital signs with the exception of time and temperature or gas price digital read outs as part of a larger sign. The next issue is that of medical marijuana. He explained that in November of 2008 Michigan approved the Michigan Medical Marijuana Act (how it is spelled in the act). This constitutional amendment allows residents of the State to grow and use a limited amount of marijuana to address specific medical issues. Issues facing communities include the interpretation of the State law and what it allows, enforcement, zoning issues and marijuana dispensaries. The act will be administered by the Michigan Department of Community Health, Bureau of Health Professions. The act establishes the administrator, allows residents with debilitating medical conditions, as defined in the act, to grow up to 12 marijuana plants in an enclosed locked facility and possess up to 2.5 ounces of marijuana. It describes and defines a primary caregiver and allows for them to grow marijuana plants on behalf of a patient and limits the number of patients the caregiver can have to 5. He said a qualifying patient who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution or penalty in any manner.....for the medical use of marijuana in accordance with this act. Potential law enforcement and zoning issues include but are not limited to growing the plants in an enclosed, locked facility, which is not defined, leaving the question does this mean greenhouses, confidentiality limiting access to a list of registered patients or primary caregivers, enforcement and preemption. The other major concern is the marijuana dispensaries. Piggott explain how problematic the dispensaries have become in California, he noted the difference between the law in Michigan and California particularly, Michigan law limits caregivers to 5 patients in California there is no limit and the Michigan law does not authorize co-operatives, in California co-operatives are authorized. He pointed out that the sample ordinance is from California because he could not find one for a Michigan community. He included several other hand outs in his presentation materials. The Planning Commission and Township Board discussed this issue and directed Piggott to check with the MTA and other sources to find an other sample ordinances based on the Michigan law and draft an ordinance prohibiting medical marijuana dispensaries in the Township. The last subject Piggott covered was adaptive reuse. He explained that as the economy in Michigan continues to weaken. Municipalities are experiencing an increase in vacancies of commercial and industrial buildings. The issue is what can and should communities do to expand the potential uses available for these vacant buildings. He explained adaptive reuse as reusing a site or building for a purpose different from what it was originally intended. Examples of buildings that have been used in different ways are schools, state institutions, brownfield sites and downtown commercial areas. The new challenges are vacant strip malls, big box stores and greenfield industrial sites. Ways to address a zoning ordinance that may not allow a proposed use in a particular district are rezoning, amending the ordinance to allow the use or allow adaptive reuse as a use permitted, either by right or by special use permit. A decision the community must make if allowing adaptive reuse is to decide if it will be allowed in all districts or only in certain zoning districts. Allowing adaptive reuse could provide flexibility to the community and the applicant. The community would allow adaptive reuse based on specific standards related to compliance with the ordinance including but not limited to parking, landscaping and hours of operation. Some communities address this by site size for example an individual building could be considered as a special use and a shopping center, large industrial or government facility could be considered as a Planned Unit Development. Piggott presented a sample ordinance from the City of Corunna. In the sample, adaptive reuse is not listed as a use in any zoning district, it is regulated in their comprehensive regulations article where it is allowed in residential and commercial districts. The sample requires a public hearing by the Planning Commission and approval by the City Council. They prohibit requests for a non-conforming use that has been destroyed more than 60%. Some of the qualifying conditions in the sample include

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compliance with the master plan, that the site can no longer be used for existing purpose due to market conditions or operational constraints, development of the site as required would be unnecessarily burdensome and it requires direct access to a major street or secondary thoroughfare. Piggott explained the sample ordinance allows the City Council to designate a property as a class I or II adaptive reuse property. A class I adaptive reuse property would allow for the conversion to offices, multi-family or other similar uses and the class II allows for low intensity industrial. The Planning Commission and Township Board discussed this issue and the consensus was that the Township is handling these on a case by case basis and handling them in a timely and appropriate way. They decided that they would not take action on this issue at this time.

PUBLIC HEARINGS

Annual Review for Tee Bone'z Special Use Permit – Outdoor Seating & Entertainment

Chairman Tucker noted there was no audience present at the meeting. He asked if staff had received any complaints. McDonald said the office has not received any valid complaints about the operation. No action is necessary.

Amendment to the Zoning Ordinance: to allow halls as a use permitted by special use permit in the OS and C-1 zoning districts and as a permitted principal use in the C-2 zoning district. Chairman Tucker explained the presented amendment was drafted as a result of the comments and concerns discussed at the last Planning Commission meeting. There was no one present in the audience.

Motion to approve recommend approval to allow halls as a use permitted by special use permit in the OS and C-1 zoning districts and as a permitted principal use in the C-2 zoning district as presented

Motion by: McGuirk
Seconded by: Root
Ayes: Franz, McGuirk, Richard, Root, Spees, Tucker
Nays: None
Absent: Carlson

Motion carried

PUBLIC COMMENT & COMMUNICATION CONCERNING ITEMS NOT ON THE AGENDA:

5 Minute Limit – There was none

APPROVAL OF MINUTES April 14, 2009 stand approved as submitted

ADJOURN: 9:50 p.m.

John Tucker, Chairman
Minutes Posted 05/14/09

Jim Root, Secretary Pro-Tem