

**CHARTER TOWNSHIP OF FENTON PLANNING COMMISSION
MINUTES FOR REGULAR MEETING OF MAY 11, 2010**

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

**Off site meeting at Tee Bone'z Tavern on the Water
3482 Silver Lake Rd. 6:00 pm**

Present: Carlson, Franz, Richard, Tucker
Recording Secretary: Sharich
Absent: Lorraine, McGuirk, Spees
Also present: Bonnie Mathis, Supervisor
Robert Atkinson, Ordinance Enforcement Officer
Donald Kroeyr, Tee Bone'z representative
Joe Heslip of Heslip Audio
Area residents with interest in this matter

An off-site meeting was held in order for the Planning Commission and other interested parties to listen to the outdoor amplified music played at different decibels in order to determine the most acceptable levels in the surrounding neighborhoods. Sound Engineer Joe Heslip of Heslip Audio played the music at different levels while Chairperson Tucker, the rest of the Planning Commission and interested residents walked the neighborhood with the decibel meter to determine where the appropriate sound level at the restaurant should be set. A determination by the Planning Commission was agreed upon and the meeting was moved to the Township meeting room.

Chairman Tucker called meeting to order at 7:37 p.m.
Present: Carlson, Franz, Richard, Spees, Tucker
Recording Secretary: Sharich
Absent: Lorraine, McGuirk

APPROVAL OF AGENDA:

Motion to approve the agenda as modified
Motion by: Tucker
Seconded by: Carlson
Ayes: Carlson, Franz, Richard, Spees, Tucker
Nays: None
Absent: Lorraine, McGuirk
Motion carried

NEW BUSINESS:

Stony Brook - Amendment to an approved site plan:

06-18-200-005

Secretary Carlson reviewed the file. George Rizik, Attorney, representing the applicant sworn in and explained that this request is for an amendment to an approved in 2002/2003 residential site plan which consists of a completed Phase I with 40 units and a recorded Phase I Master Deed and the remaining lands. Rizik explained that a 10 acre portion of the remaining property is currently being rented and used as an agricultural grain drying operation. The lessee, Eugene Satkowiak, wants to continue his farming operation therefore he would like to purchase 10 acres of the undeveloped Planned Unit Development. Rizik noted the development will loose some units but there will be no change to the open space requirement, he further explained that Article 3 Section 3.21 F & G speak to the approach needed to remove

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the land requested. Tucker asked for clarification, Rizik stated the 10 acre area is part of the future expansion of the development and as such will require approval of the Planning Commission as outlined in Section 3.21 G. Franz questioned the loss of the construction entrance and roadway, Rizik stated when construction begins again they will have to alter the site plan to include the area for the construction roadway. Tim Appleton, Livingston Engineering, verified there still will remain as designated in the original plan 49% open space in the development after removing the 10 acre parcel. Appleton further explained that Eugene Satkowiak actually sold the property to the developer then leased it back for his farming operation. Satkowiak stated that he plans to remove the dilapidated barn and construct a fence to separate the residential from the farming operation. Tucker called for audience comment, there was none. Franz stated his only issue is with the construction road. Tucker stated he is comfortable with this request but would suggest this property be rezoned to Agriculture (AG) to protect the farming operation and the development. Franz stated that when the development happens around the farming operation the developer will have to buffer and landscape to protect the future residents. Rizik asked the hearing be postponed in order to change this request to a rezoning of the 10 acre parcel.

PUBLIC HEARINGS

SUP10-001 Tee Bone'z Tavern on the Water, 3482 Silver Lake Rd.

06-27-100-020

Special Use Permit – Outdoor Seating and Entertainment

Secretary Carlson reviewed file. Chairman Tucker complimented and thanked the owners of Tee Bone'z for their efforts explaining that the Planning Commission has traveled to the restaurant for a demonstration of the new sound system so they could ascertain the appropriate sound level noting that the Planning Commission has made a determination based on the off-site meeting. Tucker explained to the audience that they have a draft of the Special Use Permit and are ready to act on the matter this evening. Tucker then called for audience comment, the following spoke, Norm Faulkner 3394 Ponemah Dr. his comments were, it does not matter how many nights they play music but the amount of sound at their home, at 90dB music could still be heard and after 4 hours it might be annoying. He added that the Planning Commission could set the sound level on the lower side and move it up rather than trying to have it higher and then making them lower the sound. Kelly Flynn 3394 Ponemah Dr., the intention has never been to stop Tee Bone'z however she would like the meter set at 80dB. Flynn added weather may affect how much sound is being heard on any given evening. Shirley Fisher 3372 Ponemah stated she thinks Tee Bone'z has gone out of their way to accommodate the surrounding neighborhood. Richard noted there will be a requirement to insulate the roof of the pavilion and finish off the back of the stage area to help eliminate traveling sound from the speakers to the west; all of the other speakers are aimed at the deck area. Richard stated with full volume the meter read 96dB to 98dB which was annoying but at 90dB the reading at the closest residence which is Ben & Jane Green 3422 Ponemah, the reading was 70dB. Carlson stated it is her opinion that 90dB at the property line is acceptable and reasonable. Franz commented some things still needed to be done which will lower the decibel readings in the neighborhood, so he is comfortable with 90dB, he noted that in July if 90dB is too high the sound level can be adjusted to less. Tucker stated that he has been approached by individuals concerned with the number of days Tee Bone'z are allowed to have outdoor music, he asked Don Kroeyr if he would be willing to have the days amplified sound is allowed be limited to Tuesday, Thursday, Saturday, Sunday and holidays, Kroeyr agreed to those days and the 3 holidays Memorial Day, 4th of July and Labor Day. Tucker stated he is inclined to let them go to 90dB and limiting the number of days. Franz noted the system will

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not work unless the sound meter is in place therefore there are measures in place to monitor compliance.

Motion to approve with the following modifications to the draft Special Use Permit:

- Change 3 d. to read 90dB
- Change 1 to read Tuesday, Thursday, Saturday, Sunday and Memorial Day, 4th of July and Labor Day
- Change 7 to reflect that the roof of the pavilion shall be insulated
- Change 7 from Westerly to Easterly side of the amphitheater
- Include the verbiage that the amplified system will be metered and tied to the microphone at the property line

Motion by: Carlson

Seconded by: Spees

Ayes: Carlson, Franz, Richard, Spees, Tucker

Nays: None

Absent: Lorraine, McGuirk

Motion carried

Amendment to Article 2 - Definitions:

Delete landscape contractors from the examples

Chairman Tucker explained this is a housekeeping issue. When landscape contractors were added as a separate classification it should have been eliminated from the definition examples of Contractor establishment (with outdoor storage). Tucker called for audience comment, there was none.

Motion to approve

Motion by: Carlson

Seconded by: Spees

Ayes: Carlson, Franz, Richard, Spees, Tucker

Nays: None

Absent: Lorraine, McGuirk

Motion carried

DISCUSSION ITEMS:

Discussion of Lake Access Zoning Regulations

Tucker asked George Dyball, president of the Lake Fenton Association, to explain his concerns with the proposed expansion of the Lake Fenton public access site. Dyball gave a brief explanation of how he became aware that the Michigan Department of Natural Resources and Environment (MDNRE) were planning an expansion of the public access site on the lake. When he reviewed the site plan it was obvious they planned to expand the site from 37 sites to 59 sites therefore adding 21 additional parking spaces. Tucker explained the memo from Doug Piggott, Fenton Township Zoning Administrator, which points out although the Township does not specifically regulate boat launches, that does not mean that they are not currently regulated by the Zoning Ordinance. In his opinion Article 3 Section 3.04 C and Article 8 Section 8.02 give authority for the Township to require zoning compliance. Dyball stated he would like to see the Township cross reference sections from Ordinance 418 Lake Activity Regulation to the Zoning Ordinance, where applicable, to give guidance. Tucker directed Recording Secretary Sharich to have this item drafted into ordinance form and added to the next Planning Commission agenda for a public hearing.

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Parking requirements

Tucker explained this matter is before the Planning Commission based on discussion with staff which brought to light there could be potential issues with calculating parking based on usable floor area. Staff is proposing the same approach used for calculation of sewer units which is seating capacity. There was discussion by the board as to what would be the best way to determine seating capacity. The board decided the appropriate determination would be maximum capacity as determined by the Fire Marshall. Tucker instructed Recording Secretary Sharich to have this item drafted as an ordinance amendment and added to the next Planning Commission agenda for a public hearing.

Outdoor seating for restaurants

Tucker explained this matter came to light because a resident filed a complaint against a small eating establishment and as a result it was noted they had outdoor seating. Staff is proposing that in cases where there is minimal outdoor seating requested and no alcohol that the use be allowed as a permitted by right rather than have to apply and receive a Special Use Permit. After much discussion and points of clarification Tucker instructed Recording Secretary Sharich to have this item drafted as an ordinance amendment and added to the next Planning Commission agenda for a public hearing.

Noise Ordinance change

Tucker stated given the fact that the Planning Commission has studied the noise issue and has given a Special Use Permit allowing 90dB at the property line he would like to also amend Article 4 Section 4.20 A of the Zoning Ordinance to increase the maximum allowable decibel level. Tucker instructed Recording Secretary Sharich to have this item drafted as an ordinance amendment and added to the next Planning Commission agenda for a public hearing.

COMMUNICATIONS:

PUBLIC COMMENT & COMMUNICATION CONCERNING ITEMS NOT ON THE AGENDA:

5 Minute Limit – There was no additional public comment

APPROVAL OF MINUTES: April 13, 2010 stand approved as submitted

ADJOURN: 10:00 pm

John Tucker, Chairman

Sandra Carlson, Secretary