

**CHARTER TOWNSHIP OF FENTON PLANNING COMMISSION
MINUTES FOR REGULAR MEETING OF MAY 10, 2012**

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

Chairperson Carlson called meeting to order at 7:01 p.m.
Present: Carlson, Franz, Hemeyer, McGuirk, Richard, Tucker, Warren
Recording Secretary: McDonald
Absent: None

APPROVAL OF AGENDA:

Motion to approve the agenda
Motion by: McGuirk
Seconded by: Franz
Ayes: Carlson, Franz, Hemeyer, McGuirk, Richard, Tucker, Warren
Nays: None
Absent: None
Motion carried

PUBLIC HEARINGS:

Amendments to Zoning Ordinance No. 594:

Article 3 District Regulations Section 3.15 to add educational institution, for-profit as a use permitted by special use permit in the C-1, Local Business zoning district.

Secretary McGuirk reviewed the file. Recording Secretary McDonald explained, when the following applicant came into to inquire about operating a kindergarten in the C-1 district it came to the attention of the staff that educational institution (non-profit) were a use permitted by special use permit, however educational institutions (for-profit) were not allowed at all. Staff felt the uses were of the same intensity and presented the amendment in include for profit educational facilities (for-profit) as a use permitted by special use permit in the C-1 district. The Commission agreed. Chairperson Carlson called for public comment. There were none.

Motion to recommend the Township Board amend the Zoning Ordinance to include educational institutions (for-profit) as a use permitted by special use permit in the C-1 zoning districts.

Motion by: McGuirk
Seconded by: Richard
Ayes: Carlson, Franz, Hemeyer, McGuirk, Richard, Tucker, Warren
Nays: None
Absent: None
Motion carried

SUP12-001 Linden Academy of Dance & Music, 208 N. Bridge St. P.O. Box 269 Linden:

06-29-100-026.

Special Use Permit: educational institution, for-profit 15178 S. Linden Rd. (formerly KC's Learning Center)

Secretary McGuirk reviewed the file. Jill Flewelling, Linden Academy of Dance & Music, 208 N Bridge St., Linden sworn in. She explained that the Academy is currently operating in the City of Linden and they have outgrown their space. She said she would like to purchase the facility at 15178 S. Linden Rd. to provide pre school, ½ day kindergarten, dance and music instruction. Chairperson Carlson called for audience comments. There were none. Carlson asked about the use of the facility and the hours of operation. Flewelling explained the hours will be 6:30 am to 6:00 pm for child care, pre school and kindergarten located in the north building and dance and music instruction from 4:00 pm to 8:00 pm in the south building. Flewelling stated the facility will be inspected by the State of Michigan for fire and for her license. She said the

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capacity for the north building is 62 children and 40 children in the south building. Flewelling noted she was a partner when this facility operated as KC's Learning Center, the drop of and pick up times will be staggered similar to the previous operation to avoid congestion in the parking lot. All dance recitals are in the evenings. Franz asked about the lack of landscaping required when the south building. Flewelling state she knew nothing about a requirement for landscaping. Her past partner would have represented the application for site plan approval when the south building was being proposed. The Commission explained there was a requirement for trees to screen the dumpster. Franz noted past problems with flooding of the parking lot. Flewelling stated it was her understanding the flooding occurred when a previous lessee unplugged the sump pump in the parking lot. The Commission explained the maintenance of storm water system will be her responsibility. She said when the pump is operating properly there is no water in the parking lot. Tucker explained the requirement to landscape areas of the site as a condition of site plan approval for the south building. Chairperson Carlson called for public comments. There were none.

Motion to grant a special use permit for an educational institution (for profit) with the following conditions:

- The north building will be used for child care & pre school
- The south building will be used for music & dance
- Landscaping that was not completed (to screen the dumpster) will be completed by the end of year

Motion by: Tucker

Seconded by: Franz

Ayes: Carlson, Franz, Hemeyer, McGuirk, Richard, Tucker, Warren

Nays: None

Absent: None

Motion carried

SUP12-002 M. Scott Spooner, Inc, 3482 Silver Lake Rd. Fenton:

06-27-100-020.

Special Use Permit: live entertainment, outdoor seating and the use of outdoor speakers
3482 Silver Lake Rd. (formerly Tee Bone'z)

Secretary McGuirk reviewed file. Recording Secretary McDonald explained the request has been broken down into 3 special use permits. SUP12-002a – for the use of outdoor speaker, SUP12-002b – live entertainment and SUP12-002c – for outdoor seating. Scott Spooner, 3482 Silver Lake Rd. introduce himself as the owner of the restaurant/bar and introduced a sound engineer for Mercury Sound & Lighting, 46892 West Rd. Unit 112, Novi, MI 48377 who had prepared the noise analysis report. The engineer presented the request to have live and DJ facilitated outdoor music. He stated the sound system is being designed not to exceed 65 db at the property line and 85 db on the applicants property. The request is to be able to use outdoor speakers for dinner music Monday through Saturday from noon until 1:30 am. The sound system will located in an enclosed locked area that will be accessible only to the manager, a representative of the Township and the certified engineer. The request includes amplified sound and live entertainment Tuesday & Thursday from 7 pm to 11 pm, Saturday, Sunday, Memorial Day and July 4th from 3 pm to 11 pm with any amplified sound live or DJ produced entertainment ceasing by 10:45 pm each night. All speakers using the outdoor amplified sound system will be directed in a way that does not direct sound toward the property lines. Spooner stated he would like to be able to play music through the outdoor speakers Monday through Sunday from noon till 1:30 am for dinner music. Spooner added the entire stage area will be insulated as will the wall along the easterly property line which will also be extended toward the

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lake. The engineer explained the speaker orientation and the digital processor they are proposing to use. Chairperson Carlson called for public comment. Richard Radu, 3440 Cottage Cove, stated concerns about sound traveling and being reflected from solid surfaces. He also suggested amplified sound be allowed 1 night a week from 7 pm to 10 pm. Wes Nolde, 15099 Marl supported this request, stating people need a place to go. He added the restaurant has been around for a long time without issue. He said it is a shame that because the previous owners did not respect the Townships restrictions others may not be able to have this entertainment. The restaurant is good for the economic development of the Township and will provide employment. Norm Falkner, 3354 Ponemah, welcomed Spooner to the neighborhood and lake community. He pointed out that many people who live in the neighborhood are working families with children that should be able to sleep at night. He said it is not his intention to prohibit the music he is just asking that it be reasonable. Lisa Webber, 3450 supported the request, stating she bought her home knowing the restaurant/bar was there and she enjoys the music and wants to see this owner succeed. Kelly Flynn, 3354 Ponemah, stated she would like to see the amplified sound limited to less than 4 hours per night she stated she felt the music should end at 9 pm. McQuirk asked how frequently Spooner planned on have live entertainment. Spooner stated he thought once a month. There was a lot of discussion about the material used to insulate the wall and band stand. The sound engineer submitted information about the porous material they are intending to use. The Commission discussed the special use permits individually.

SUP12-002a – the use of outdoor speakers, the Commission confirmed the request to use the speakers is for Monday through Sunday from 12 noon to 1:30 am with the sound system owned and operated by the applicant, at no time exceeding 65db at the property line. Spooner agreed.

Motion to grant a special use permit for the use of outdoor speakers with the following conditions:

- Outdoor speakers shall only be permitted Monday through Sunday 12 noon to 1:30 am.
- Outdoor Speaker shall only produce sound from a sound system which is owned and operated by the Applicant.
- The outdoor speakers shall be designed, installed and operated in compliance with all of the following conditions:

Controls for the outdoor speakers shall be located in an **enclosed, locked area** which shall be accessible only by the Applicant's owners and managers, representatives of Fenton Township and the Certified Sound Engineer described below.

All speakers used shall be directional speakers and shall be oriented so that sound waves will be directed in towards the building and structures located on the Applicant's property. No speaker may be directed toward a property boundary unless the speaker is oriented so that the sound from such speaker must first pass through a regularly used seating area for the applicant's customers before reaching the property boundary toward which the speaker is directed.

At no time shall the sound emitted from the outdoor speakers exceed **65dB** measured at any point on the Applicant's property boundary. For purposes of this measurement, the Applicant's Northerly property boundary shall be deemed to run along the waters edge of Lake

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Ponemah even though the Applicant's actual Northerly property boundary may be further North by operation of applicable riparian law.

- Upon the Townships request, the Applicant shall provide the Township with a **Noise Analysis Report** prepared by a certified and licensed sound engineer together with proof of current licensure and certification for the engineer.
- This permit will be reviewed in April each year.

Motion by: McGuirk
Seconded by: Tucker
Ayes: Carlson, Franz, Hemeyer, McGuirk, Richard, Tucker, Warren
Nays: None
Absent: None
Motion carried

SUP12-002b – live entertainment, the Commission confirmed the request for live entertainment to be Tuesday & Thursday from 7 pm to 11 pm and Saturday, Sunday, Memorial Day, Fourth of July and Labor Day from 3 pm to 11 pm.

Motion to grant a special use permit for live entertainment with the following conditions:

- Live entertainment will be allowed Tuesday & Thursday 7 pm to 11 pm and Saturday, Sunday, Memorial Day, Fourth of July and Labor Day from 3 pm to 11 pm.
- Outdoor sound system for live entertainment shall only produce sound from a sound system which is owned and operated by the Applicant.
- The outdoor amplified sound system shall be designed, installed and operated in compliance with all of the following conditions:

Controls for the outdoor amplified sound system shall be located in an **enclosed, locked area** which shall be accessible only by the Applicant's owners and managers, representatives of Fenton Township and the Certified Sound Engineer described below. The controls for the outdoor amplified sound system shall not be accessible by any band member or representative of any band using the outdoor amplified sound system.

All speakers used in the outdoor amplified sound system shall be directional speakers and shall be oriented so that sound waves will be directed in towards the building and structures located on the Applicant's property. No speaker may be directed toward a property boundary unless the speaker is oriented so that the sound from such speaker must first pass through a regularly used seating area for the applicant's customers before reaching the property boundary toward which the speaker is directed.

At no time shall any **percussion instruments be amplified** in any manner including, but not limited to connection to the outdoor amplified sound system.

At no time shall the sound emitted from the outdoor amplified sound system exceed **85dB** measured at any point on the Applicant's property boundary. For purposes of this measurement, the Applicant's Northerly property boundary shall be deemed to run along the waters edge of Lake Ponemah even though the Applicant's actual Northerly property boundary may be further North by operation of applicable riparian law.

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- Upon the Townships request, the Applicant shall provide the Township with a **Noise Analysis Report** prepared by a certified and licensed sound engineer together with proof of current licensure and certification for the engineer.
- This permit will be reviewed in April each year.

Motion by: McGuirk
Seconded by: Tucker
Ayes: Carlson, Franz, Hemeyer, McGuirk, Richard, Tucker, Warren
Nays: None
Absent: None
Motion carried

SUP12-002c – outdoor seating

Motion to grant a special use permit for outdoor seating this permit will be reviewed in April each year

Motion by: Tucker
Seconded by: Warren
Ayes: Carlson, Franz, Hemeyer, McGuirk, Richard, Tucker, Warren
Nays: None
Absent: None
Motion carried

COMMUNICATION:

Presentation by Genesee Regional Chamber of Commerce
Janice Karcher, Vice President of the Economic Development for the Genesee Regional Chamber of Commerce did a presentation for the Commission about the restrictive nature of the Townships M-1 zoning district. She stated the Township is requiring a special use permit for activities that normally allowed by right in light industrial and low intensity manufacturing districts making it difficult to find businesses to occupy vacant facilities in Fenton Township. Karcher encouraged the Township to consider revisions to the Ordinances that would encourage these business rather than continue to turn them away.

PUBLIC COMMENT & COMMUNICATION CONCERNING ITEMS NOT ON THE AGENDA:

5 Minute Limit – There were none

MINUTES: April 12, 2012 stand approved as submitted

ADJOURN:

John Tucker, Chairperson Pro-Tem
Minutes Posted 04/05/12

Jim McGuirk, Secretary