

**CHARTER TOWNSHIP OF VAN BUREN
PLANNING COMMISSION
June 10, 2015
MINUTES**

Chairperson Thompson called the meeting to order at 7:32 p.m.

ROLL CALL:

Present: Johnson, Boynton, McKenna, Budd, Franzoi and Thompson.

Excused: Kelley.

Staff: Secretary Harman.

Planning Representatives: McKenna Associate, Sally Hodges and Wade Trim Associate, David Nummer.

Audience: Four (4).

APPROVAL OF AGENDA:

Motion McKenna, Johnson second to approve the agenda of June 10, 2015 as presented.

Motion Carried.

APPROVAL OF MINUTES:

Motion Boynton, Franzoi second to approve the minutes from May 27, 2015 as presented.

Motion Carried.

NEW BUSINESS:

ITEM # 1 CASE# TLU 15-011

TITLE: THE APPLICANT, ANGRY TIGER FIREWORKS, IS REQUESTING TEMPORARY LAND USE APPROVAL BEYOND THE ADMINISTRATIVELY ALLOWABLE SEVEN (7) CONSECUTIVE DAYS AND REQUIRES PLANNING COMMISSION APPROVAL AS DETAILED IN SECTION 4.44 OF TOWNSHIP ZONING ORDINANCE 06-02-92, AS AMENDED (Public Hearing held on 05/27/15).

LOCATION: METRO PARTY STORE, 41001 E. HURON RIVER DRIVE. THIS SITE IS LOCATED AT THE SW CORNER OF E. HURON RIVER DRIVE AND OLD HAGGERTY.

Frank Mattei of Angry Tiger Fireworks gave the presentation. The applicant has met previously addressed criteria requested by the Planning Commission and the Fire Marshall.

Hodges of McKenna Associates presented the staff review. The review explained a number of criteria yet to be met by the applicant. The Planning Commission walked the applicant through the seven (7) items in the staff review letter dated 6-3-15. Mr. Mattei has agreed to address all seven (7) items and to have three (3) fire extinguishers located on the site.

Commissioner Boynton read the Fire Department review letter dated 5-23-15 recommending approval subject to an affidavit of intent to comply with NFPA 1123, 1124 and 1125 as required by the State of Michigan and the Township of Van Buren, and provided by the applicant.

Motion Boynton, Franzoi second to grant temporary land use approval to Angry Tiger Fireworks at the Metro Party Store located at 41001 E. Huron River Drive subject to the conditions in Battalion Chief McInally's Fire Department review letter dated 5-23-15, the staff review letter dated 6-3-15 and having three (3) fire extinguishers on site. Motion Carried. (Letters Attached)

ITEM # 2 CASE# 15-006 (SLU & SPR)

TITLE: THE APPLICANT, TIM DONUT U.S. LIMITED INC., IS REQUESTING SPECIAL LAND USE APPROVAL FOR A DRIVE THROUGH RESTAURANT. A DRIVE THROUGH RESTAURANT IS A SPECIAL USE IN THE C-1 DISTRICT. A SPECIAL LAND USE REQUIRES A PUBLIC HEARING, WHICH WAS HELD BY THE PLANNING COMMISSION AT ITS MEETING ON MAY 27, 2015.

LOCATION: TIM HORTONS RESTAURANT, 2141 RAWSONVILLE ROAD. THIS SITE IS ON THE EAST SIDE OF RAWSONVILLE ROAD, SOUTH OF THE I-94 SOUTH SERVICE DRIVE AND NORTH OF HURON RIVER DRIVE.

Mark Kellenberger gave the presentation. The applicant addressed previously discussed items: landscape calculations, parking calculations, the grease trap inside the building, building material samples to be presented to the commission at the next meeting for approval and the sign package dimensions.

Hodges of McKenna Associates presented special use review letter dated 6-2-15 recommending the Planning Commission recommend special approval to the Township Board subject to final site plan approval and satisfactory controls on the volume and frequency output from the speakers, to be determined with the site plan.

Hodges of McKenna Associates presented preliminary site plan review letter dated 6-2-15 recommending the Planning Commission grant preliminary site plan approval subject to the six (6) conditions in the letter being addressed prior to final site plan approval.

David Nummer of WadeTrim presented preliminary site plan review letter dated 6-1-15 recommending the Planning Commission grant preliminary site plan approval on the condition that only two (2) RV/semi parking spaces are proposed.

Commissioners discussed the width of the drive-through.

No comments from the audience.

Motion McKenna, Boynton second to recommend to the Township Board special use approval for Tim Horton's located at 2141 Rawsonville Road subject to the McKenna review letter dated 6-2-15 citing subject to final site approval. (Letters Attached)

Roll Call:

Yeas: McKenna, Budd, Boynton, Johnson, Franzoi and Thompson.

Nays: None.

Absent: Kelley.

Motion Carried.

Motion Johnson, Boynton to grant preliminary site plan approval to Tim Donut, USA located at 2141 Rawsonville Road subject to conditions in the McKenna Associates review letter dated 6-2-14, WadeTrim review letter dated 6-1-15 and the two (2) conditions in the Fire Department review letter dated 5-23-15. Motion Carried. (Letters Attached)

GENERAL DISCUSSION:

ITEM # 1 PROPOSED BELLEVILLE LAKE ORDINANCE

TITLE: REVIEW AND COMMENTS ON THE PROPOSED DRAFT ZONING ORDINANCE AMENDMENT TO ADD NEW REGULATIONS CREATING TWO NEW ZONING DISTRICTS AND REGULATIONS FOR LAKE STRUCTURES ON TOWNSHIP-OWNED LAKE LAND.

Sally Hodges of McKenna Associates gave the presentation. Commission members focused discussion on lake structures and looked at photographs of structures currently in place. Commissioner McKenna organized two (2) boat trips one following meeting adjournment and one on Friday, June 12, 2015 for Commissioners to have a better look at what structures are already in place.

Motion Boynton, McKenna second to adjourn at 8:29 p.m. Motion Carried.

Respectfully submitted,

Christina Harman
Recording Secretary



Memo

TO: Planning Commission

FROM: Patrick Sloan

**RE: Review of Temporary Land Use Request #TLU15-011 – Angry Tiger Fireworks
Agenda Item for June 10, 2015**

DATE: June 3, 2015

Angry Tiger Fireworks LLC is requesting a Temporary Land Use permit for a tent sale of fireworks at the Metro Park Party Store located at 41001 E. Huron River Drive. The use is proposed to be from June 20, 2015 through July 5, 2015, 8:00 a.m. to 10:00 p.m. Per Section 4.44 of the Zoning Ordinance, temporary uses that operate for more than seven (7) consecutive days require Planning Commission approval. The Zoning Ordinance states that the Planning Commission may require a public hearing, and a public hearing was held on May 27, 2015.

Under Section 7 of Michigan Public Act 256 of 2011, local units of government are limited in their ability to regulate the sale of fireworks within their communities. The Michigan Attorney General has issued an Opinion on this section of the Act (Opinion #7266), which states, “so long as the local ordinance does not prohibit fireworks vendors from undertaking their commercial operations in any way that other vendors may undertake their operations, the ordinance is not preempted by the Act.” Therefore, fireworks vendors are subject to the same Zoning Ordinance regulations as any other temporary land use.

I have reviewed the application and the requirements of Section 4.44 for temporary use approval, and have the following comments:

- 1. Adequacy of parking and access** (Section 4.44.c.1) – *The drawings submitted are illegible, and must be revised to clearly show the proposed use and facilities.* Based on a review of satellite images, the site currently appears to have 35 public parking spaces, 2 of which appear to be handicapped reserved. The proposed 20'x 20' pole tent will maintain a 10-foot clearance for parking around it. Per our conversation with the applicant, the site will also have a 14-foot high storage container with a 10-foot additional setback. This proposal will result in a loss of 6 regular parking spaces. Based on our observations of parking levels on the site, we do not believe the temporary loss of 6 parking spaces will result in a parking shortage on the site.
- 2. Adequate drainage** (Section 4.44.c.2) – The site is in an existing parking lot that already has storm water drainage. The pole tent will not affect the amount of impervious surface or water that would be diverted into the storm system.

3. **Compatibility with surrounding land uses** (Section 4.44.c.3) – The proposed use is retail sales in a parking lot of an existing shopping plaza. Therefore, the proposed use is compatible with on-site uses.
4. **Size, height, and type of construction of proposed buildings and structures in relation to surrounding site** (Section 4.44.c.4) – The pole tent and storage container are temporary in nature and tent sales regularly take place in parking lots, so no impacts are expected to the surrounding sites.
5. **Sufficient setbacks from road right-of-ways and lot lines** (Section 4.44.c.5) – The tent is proposed to be located at the northeast corner of the site. Although the applicant notes that the setback is over 50 feet from the adjoining rights-of-way for Haggerty Road and Huron River Drive, the applicant appears to be measuring these setbacks from the road surface – not from the right-of-way. *Based on aerial imagery, the northeast corner of the parking lot appears to be about 9 feet from the right of way of E. Huron River Drive and about 24 feet from the right-of-way of Haggerty Road. The plans must be revised to show the proper dimensions and layout. We recommend that a 25-foot clear vision triangle area be maintained at the intersection, which is the area formed at the corner intersection of the 2 right-of-way lines. This area is formed by measuring 25 feet along both right-of-way lines from the point of intersection, with the third siding being a line connecting these 2 sides.*
6. **Adequate utilities** (Section 4.44.c.6) – Angry Tiger will supply its own electrical generation. The generator and electrical hook-up will be inspected to ensure compliance with National Fire Protection Association requirements.
7. **Trash disposal and site clean-up** (Section 4.44.c.7) – Angry Tiger will be responsible for all trash disposal and site clean-up. *Such agreement should be between the applicant and the shopping center owner and a copy must be provided for Township records.*
8. **Sanitary facilities** (Section 4.44.c.8) – Due to the short nature of the customer shopping, no sanitary facilities will be provided. *However, the application must have provisions for employee sanitary facilities, such as approved use of a bathroom in the main building or a porta-potty.*
9. **Hours of operation** (Section 4.44.c.9) – From 8:00 a.m. to 10:00 p.m. Although Van Buren Township has a Fireworks Ordinance (adopted in 1986) which requires fireworks sales to conclude at 9:00 p.m., Act 256 preempts this requirement as there is no restriction on the hours of operation for other temporary uses.
10. **Outdoor light and signs** (Section 4.44.c.10) – No exterior lights are provided. It is likely that interior lights will be hung by the tent company. Although no temporary commercial sign permit requests have been received, the Zoning Ordinance permits one (1) 32 sq. ft. temporary sign for a period not to exceed 30 days. Any temporary signage must comply with the Zoning Ordinance before it obtains a sign permit from the Building Department.
11. **Other licenses and permits required** (Section 4.44.c.11) – The applicant has provided the Township with a copy of their State Tax License. *A copy of a license authorizing the applicant as a Consumer*

Fireworks Retail Facility must be provided by the applicant prior to the establishment of the temporary use. The Van Buren Fire Marshall shall separately issue a review letter.

- 12. Potential noise, odor, dust, and glare** (Section 4.44.c.12) – The proposed temporary use should not increase the noise, odor, dust of glare from their use.
- 13. Fire lanes, fire protection, and security** (Section 4.44.c.13) – The Van Buren Fire Marshall shall review the application for adequacy of fire lanes and fire protection. *Information regarding staffing of the site during business hours must be noted. Provisions for security of the fireworks must be included in the application materials. In most cases, staff is present on-site 24 hours per day or the fireworks are locked in a fire-proof storage unit until the fireworks are returned for display the following day.*
- 14. Off-site impacts of traffic volumes** (Section 4.44.c.14) – The roads in the immediate vicinity are major Township roads, and this temporary use is not likely to impact their flow or travel volumes.
- 15. Necessity of performance bond to ensure prompt removal** (Section 4.44.c.15) – The property owner will be responsible for ensuring the site is returned to its pre-sale condition.
- 16. Other concerns which may impact the public health, safety, or general welfare** (Section 4.44.c.16) – There are no additional concerns; however, the applicant is subject to the regulations of Act 256 and applicable regulations of the Fire Department.

Recommendation

This is the first year Angry Tiger Fireworks is requesting a temporary use permit from the Planning Commission to operate a fireworks tent in the Township. In previous years, they have had short events spanning less than 5 days. Although there are several application items missing, the temporary use should function well on the site if an accurate layout plan is submitted and all of the conditions are met. Therefore, we recommend approval of this application subject to the following conditions:

1. That the layout plan be revised to show the proposed use and facilities.
2. That accurate setbacks be shown on the plans, and that a 25-foot clear zone triangle be maintained at the intersection of Haggerty Road and E. Huron River Dr.
3. The applicant provides the Township with a copy of an agreement with property owner for trash disposal and clean-up of site after use.
4. That the applicant provide for employee sanitary facilities, such as approved use of a bathroom in the main building or a porta-potty.
5. The applicant provide the Township with a copy of a consumer Fireworks Retail Facility non-permanent license prior to the establishment of the temporary use.
6. The applicant provides clarification on staffing of the tent and measures to secure fireworks after hours.
7. The applicant obtains approval from the Van Buren Township Fire Marshall.

David C. McNally II
Battalion Chief / Fire Marshal
O: 734-699-8900 ext 9416

Van Buren Fire Department
46425 Tyler Rd
Belleville, MI 48111



May 23, 2015

Director of Building and Planning
46425 Tyler Road
Belleville, MI 48111

Re: Angry Tiger Fireworks LLC
41001 E. Huron River Drive
Belleville, Mi. 48111
TLU-15-011

To Whom it may concern:

I have reviewed a set of site plans dated May 28th, 2015 and received June 1st, 2015 for the above referenced project.

Project Overview:

The site plan is for a temporary fireworks retail facility. It is noted in the permit application a copy of a letter of authorization signed by the property owner is included. Also included is a statement and sketch from the Angry Tiger Fireworks LLC representative, Franco Mattei. Describing security and storage measures, as well as tent layout and entrance an egress, as well as staffing plan for the tent described.

~~I would like to review a more legible site plan regarding the tent and planned parking plan around the site. The plan set submitted is a copy and is not clearly readable.~~

~~Additionally, a copy of insurance is needed.~~

An affidavit of intent to comply with NFPA 1123, 1124 and 1125 as required by the State of Michigan and the Township of Van Buren. The affidavit that was provided was for felony convictions. The intent to comply with NFPA 1123, 1124 and 1125 was not submitted.

With all but one of the questions satisfied, we can approve their plant at this time. The last item will be Verified at time of state inspection.

Our Mission: The members of the Van Buren Fire Department shall work together in a professional and caring way to protect life and property from the adverse effects of fire, trauma, illness and dangerous conditions. Our services will be provided in a fair, honest, and ethical manner with the highest respect and dignity to all.

This site will be inspected by myself or FF. Jason Martin as we are a delegated agency for the State of Michigan. This will be conducted once the proper notices have been received from the State of Michigan indicating that Phantom Fireworks is in possession of a tentative permit to sell Fireworks.

Review and approval by the Authority Having Jurisdiction shall not relieve the applicant of the responsibility of compliance with these codes.

If you have any questions about this plan review report, please feel free to contact me at (313)410-0302.

Respectfully submitted,

David C McInally
Battalion Chief/Fire Marshal
Van Buren Fire Department
Fire Inspector 02-556 / Certified Plan Examiner