

## REQUEST:

### Special Use Permit Application by Doug Godley for Frankie's Fun Park Lighting Plan – SUP17-02

#### ZONING ORDINANCE CRITERIA AND STAFF COMMENTS

##### **Article 8.26.1 M**

Lighting for an outdoor amusement facility with the Special Purpose (SP) Zoning District that cannot conform to all the standards of this section may be approved with the issuance of a Special Use Permit (as outlined in Article 11.4.10), contingent on the following conditions.

*STAFF FINDINGS: The property owners of 10621 Bryton Corporate Center Drive (Godley Group of Charlotte, LLC) have applied for a special use permit to exceed the minimum standards of Article 8.26 of the Huntersville Zoning Ordinance. The purpose of the permit application is to allow the lighting of an outdoor amusement facility for Frankie's Fun Park. The property is zoned Special Purpose (SP).*

##### **Article 8.26.1 M (1)**

Ensure the Special Use Permit (SUP) conforms to the standards of this article regarding safety, downward lighting, glare, offsite light trespass, uniformity ratio, and obtrusive/flashing lighting, etc., to the extent practicable

*STAFF FINDINGS: The applicants have submitted a lighting plan and various exhibits that exceed the standards of the ordinance in the following ways:*

- 1. The maximum lighting measurement for commercial uses is 10.0 footcandles (FC) and under canopies is 15 FC. The proposed lighting plan shows a maximum 16.2 FC for the mini-golf area, 19.7 FC for the go-kart tracks, and 28.9 FC under the canopies of the go-kart courses.*
  - a. Mini-Golf Area: Attached in the agenda package is a recommended lighting level list for sporting events submitted by the applicant (Illuminating Engineering Society). The recommended lighting level for mini-golf is 10 FC in the document. The "average" light level reading for the mini-golf area is 10.7 footcandles, very close to the recommended light level. The maximum reading is at 16.2 FC which is not significantly greater than the average. Based on the recommended lighting levels submitted and for safety purposes, staff finds the submitted lighting levels at the mini-golf area conforming to the ordinance "to the extent practical".*
  - b. Go-Kart Tracks: Also in the agenda packages is a letter from the track designers (Entertainment Concepts, Inc.). The letter submitted by the track designers states that due to the higher speeds of the go-karts and the safety issues involved, higher lighting levels are needed. They recommend 20 FC max and 10 FC at minimum. Due to the need for clear visibility in driving situations, staff concludes that the proposed lighting level of 19.9 FC max and a general 14 FC average meets the ordinance requirements to the extent practical.*
  - c. Go-Kart Canopies: The letter from the track designer also recommended a lighting level of 20 FC or higher under the canopies ("the pit") for visibility and safety purposes. The proposed plan shows a max 28.9 FC under the canopy with an average around 22 FC. Staff's research through the Planning Advisory Service shows a recommendation of no more than an average 20*

*FC under gas station canopies. Staff concludes that the need for safety and visibility under gas station canopies would be similar to that of the track canopies. In order to be consistent then with the Planning Advisory Service's recommendation and the track designer's recommendation, staff would recommend the lighting level be reduced to no more than 20.0 FC average.*

2. *Article 8.26.3 D prohibits "flashing, colored, or obtrusive" lighting. The application includes 4 outdoor amusement rides that will include LED lighting on the exteriors. The letter from the ride manufacturer (Zamperla) included in the package states that the lights will not flash. However some of the rides are very tall, and one of which will reach a height of 51 feet making the lighting on the rides very visible, noticeable, and potentially obtrusive on adjacent properties. Please find attached in your agenda packets the view renderings from the applicant and photos from staff on Bryton Town Center Drive. Even at full maturity of the evergreen trees planted by the applicant around the perimeter of the property, the lighting at the top of the rides will be visible from offsite. In addition. The parcel of property to the west of the subject property is currently vacant but has the potential in the future to be developed into apartment buildings several stories tall. Although there will be a stream buffer in between the new development and the Frankie's amusement rides, it is unclear how much screening any remaining trees will provide.*

*The applicants have also forwarded a separate letter stating that two of the rides can be modified to reduce the amount of lighting visible toward the back of the property. The lighting of the "backs" and "legs" of the "Mega Disk'O" and the "Midi Discovery 360" rides can be turned off to reduce lighting toward the west. However it is not currently clear if these changes by themselves will eliminate obtrusive lighting from the site. There is no mention of the "Midi Family Swinger" ride in the letter and it is described as offering "an incredible swirl of colors and lights" in its rendering brochure. It seemingly also is very tall (not specifically listed in the submittal, but an estimated 30 feet tall). Also the Midi Discovery 360 has a passenger disk that is lit with many lights and reaches over 50 feet tall at its apex. Staff's outstanding questions would be 1. Would the passenger disk lights of the Midi Discovery 360 ride be removed? 2. Would all lights toward the west of the property be removed/turned off? What lights would remain visible to the west onto potential adjacent properties?*

#### **Article 8.26.1 M (2)**

All Special Use Permit applications shall be accompanied by a photometric lighting plan, graphics of all exterior lighting fixtures proposed for the facility and any other evidence of conformance with the standards of the article

*STAFF FINDINGS: The application submitted included a photometric plan which is attached in your agenda package for review. The lighting plan includes graphics/photos of the fixtures proposed to be used in the application. All light fixtures included are "full cutoff" lights and conform to the requirements of the ordinance (other than the ride lighting discussed above).*

#### **Article 8.26.1 M (3)**

Upon review of the proposed lighting plan and the specific context of the associated development, the Town Board may add specific conditions to the permit related to the application to ensure that the principles of this article are followed to the extent practicable.

*STAFF FINDINGS: The applicants have forwarded several conditions as part of the special use permit application including; letters from the ride designers stating the lights will not flash, lighting plans showing specific light output not to be exceeded, visuals of the rides proposed, etc. The Town Board may add further conditions if needed to ensure compliance with the principles of the ordinance.*

#### **Article 8.26.1 M (4)**

No Special Use Permit (SUP) may permit lighting levels to exceed 30 footcandles

*STAFF FINDING: The submitted lighting plan shows no readings over 30 footcandles. The highest reading is 28.9 footcandles underneath the slick track canopy.*

#### **STAFF RECOMMENDATION:**

Staff recommends approval of the application with the following conditions:

1. No ride lighting is permitted over 40 feet in mounting height. The applicant is planning to install 20 foot tall evergreen trees along the western side of the site that will ultimately grow to about 40 feet in height at maturity (see landscaping update email attached in your agenda packets). Lights with lower mounting heights will eventually be screened from the west by the vegetation planted once the trees grow to maturity. Staff believes lights installed any taller than that however will have a high degree of visibility to western properties even with the trees grown to full maturity. To the east, lower lights can be screened by the main building and eventually the mature trees planted in the parking lot, while taller lights will again be visible over the building and trees. The applicant has already offered a conditional letter stating some of the rides' lights may be modified so that the lights are not illuminated toward the back or western property line. Staff's recommendation would amend that condition; from turning off lighting to one side or direction of the ride, to turning off the lights higher than 40 feet. It is staff's opinion that this condition would better and more comprehensively reduce off site obtrusive lighting by eliminating lighting that cannot be screened. It should be noted however that even with this condition, many ride lights will be visible from off site until the trees on the site grow to full maturity.
2. Reduce the "Pit Area Canopy" lighting to average 20 footcandles (FC). As described above, the track designer has recommended a minimum of 20 average FC under the track canopy. The Planning Advisory Service published by the American Planning Association recommends an average lighting level not higher than average 20 FC for gas station canopies, which staff feels is a comparable standard. The proposed average footcandles under the track canopies are currently 20.89, 22.17, and 22.34. Staff recommends that those averages all be reduced down to 20.0 to correspond with all recommendations.

#### **PLANNING BOARD RECOMMENDATION**

The Planning Board reviewed the application on 6/27/17. After discussion, the Planning Board recommended approval of the application with conditions. Included in the motion was the statement that the approval would be reasonable and would not pose injurious effects on adjacent properties, and that the character of the neighborhood and health, safety, and general welfare of the community will be minimized. The decision was supported by the fact that the mature landscaping coverage will cover the lights and that the lighting selected is adequate for the safety of the public. The recommended conditions were as follows:

1. The landscaping screening on the perimeter of the property is continually maintained.
2. The applicant must resubmit a special use permit amendment application if any future rides are proposed higher than existing ride heights.
3. The lighting of the go cart track canopies is reduced to a maximum average 20.0 FC and not to exceed 20 feet in height.
4. No rides other than the two swinging rides (Midi Discovery and Mega Disc) may exceed 40 feet in height.
5. A third party lighting engineer paid for by the applicant will submit a report following installation showing conformance to the approved lighting plan.

## **DECISION STATEMENTS**

### **In Favor of the Special Use Permit**

In considering the Special Use Permit SUP17-02, Frankie's Fun Park Lighting, we, the Town Board, find that the request meets all required conditions and specifications, is reasonable and does not pose an injurious effect on adjoining properties, and finds that the character of the neighborhood or the health, safety and general welfare of the community will be minimized. This decision is supported by the following findings:

1)

2)

Add additional statements as necessary.

### **Against Special Use Permit**

In considering the Special Use Permit SUP17-02, Frankie's Fun Park Lighting, we, the Town Board, find that the request does not meet the required conditions and specifications.

(List which conditions are not being met)

1)

2)

Add additional statements as necessary.

In addition the use poses an injurious effect on adjoining properties and the Town Board finds that the request is not character of the neighborhood and there will be negative effects on the health, safety and general welfare of the surrounding community based on the following findings:

1)

2)

Add additional statements as necessary