

VILLAGE OF ANTIOCH

11-07-08

**AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR
23 AMUSEMENT DEVICES IN A B-1 ZONE UPON THE PETITION OF
CLUB ENERGY(PZB-11-02)**

ADOPTED BY THE PRESIDENT AND BOARD OF TRUSTEES

OF THE

VILLAGE OF ANTIOCH, ILLINOIS

ON

July 5, 2011

**Published in pamphlet form by authority of the Village Board
of the Village of Antioch, Lake County, Illinois,
this 8th day of July, 2011.**

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Ordinance No. 11-07-08

**AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR
23 AMUSEMENT DEVICES IN A B-1 ZONE UPON THE PETITION OF
CLUB ENERGY (PZB-11-02)**

WHEREAS, pursuant to Chapter 15 of Title 10 of the Antioch Village Code, a public hearing was commenced by the Combined Planning Commission and Zoning Board on January 13, 2011, February 10, 2011, March 10, 2011, and concluded on April 14, 2011 following notification as required by State Law and Village Ordinance to consider a petition for a Special Use Approval allowing more than 10 amusement devices in a B-1 Zone after due notice by newspaper publication, pursuant to the application of John Tsihchlis and Peter Georgiades ("Owner"), at the property commonly known as 1350 Illinois Route 83, Antioch, Illinois, and

WHEREAS, the Combined Planning Commission recommended approval to the Village Board to allow the devices; and

WHEREAS, the Corporate Authorities have concluded and found that the Special Use, subject to and in conformance with the terms and conditions of this Ordinance, is necessary or desirable to provide a service or a facility which is in the interest of public convenience, will contribute to the general welfare of the neighborhood or community, and will not, under the circumstances of this particular case, be detrimental to the health, safety, morals or general welfare of persons residing or working in the vicinity, or injurious to property values or improvements in the vicinity; and

WHEREAS, the Corporate Authorities have concluded and found that the Special Use will further the development of the Subject Property, and will otherwise enhance and promote the general welfare of the Village and the health, safety and welfare of the residents of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND THE BOARD OF TRUSTEES OF THE VILLAGE OF ANTIOCH, LAKE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION I: The representations, recitations and findings set forth in the foregoing recitals are material to this Ordinance and such recitals are hereby incorporated into and made a part of this Ordinance as though they were fully set forth herein. This Ordinance shall be liberally construed so that the purpose and intent represented by the recitals shall be accomplished to the greatest extent permitted by law.

SECTION II: That the real estate which is the subject of this ordinance (Subject Property) is legally described as follows:

Legal Description: Lots 105, 106, 107, 108, and 109 in Antioch Hills, being a Subdivision of part of the West ½ of Section 17, Township 46 North, Range 10, East of the Third Principal Meridian, according to the Plat thereof October 2, 1924 as Document 246684, in Book "M" of Plats, Page 94, in Lake County, Illinois

SECTION III: That, subject to the conditions stated below, the Special Use shall be and is hereby approved and shall be binding upon the Village, Petitioner and Owner, and their respective owners successors, and assigns when a true execution copy of this Ordinance is tendered to the Village fully executed by the Petitioner and Owner, and when the Mayor has affixed his signature upon the Ordinance.

SECTION IV: That the Special Use granted herein shall be subject to the following conditions on the design and operation of the Facility:

- A. Friday and Saturday nights, where the operation is geared toward teens, no one under 15 is allowed without parent or guardian.
- B. Those patrons 17 and under shall be wrist banded and marked to remain in compliance with section 6-3-1 of the Village Code which states:

It is unlawful for a person less than seventeen (17) years of age to be present at or upon any public assembly, building, place, street or highway at the following times unless accompanied and supervised by a parent, legal guardian or other responsible companion at least eighteen (18) years of age approved by a parent or legal guardian or unless engaged in a business or occupation which the laws of this state authorize a person less than seventeen (17) years of age to perform:

Between 12:01 A.M. and 6:00 A.M. Saturday;
Between 12:01 A.M. and 6:00 A.M. Sunday; and
Between 11:00 P.M. on Sunday to Thursday, inclusive, and 6:00 A.M. on the following day.

- C. The operation will include 10 on site security guards;
- D. The operation will include a 25 camera security system
- E. The Applicant will provide the Village the executed contract for 30 parking spaces at 1326 Route 83.

SECTION V: The following exhibits shall be attached to and made a part of this Special Use Ordinance and, except as expressly modified by this Ordinance, compliance with all standards, requirements, designs or specifications in such exhibits shall be a condition of the grant of this Special Use Ordinance:

- A. Staff Reports and Letter of Recommendation from the Planning and Zoning Chairmen, attached as Exhibit A;
- B. Business Plan and Exhibit Prepared by Club Energy as Exhibit B.

SECTION VII: The conditions set forth in Section IV hereinabove shall constitute ongoing requirements upon the landowner, and the landowner's failure to abide by any one or more of the terms of these conditions shall constitute an uncontestable basis for the immediate suspension of the Special Use granted herein until such time as the landowner shall return the property to full compliance with these conditions. If the landowner fails to take action to return the property to full compliance with these conditions following issuance of an administrative order of suspension by the Director of Planning and Zoning, and such failure continues for thirty (30) consecutive days, the said Director shall issue an administrative order revoking the Special Use. Orders of suspension and revocation hereunder shall be appealable to the Planning and Zoning Board as any other administrative orders.

SECTION VII: Any person violating the terms and conditions of this Ordinance shall be subject to a penalty not exceeding Five Hundred Dollars (\$500.00) with each and every day that the violation of the Ordinance is allowed to remain in effect being deemed a complete and separate offense. In addition, the appropriate authorities of the Village may take such other action as they deem proper to enforce the terms and conditions of this Ordinance, including, without limitation, an action in equity to compel compliance with its terms. Any person violating the terms of this Ordinance shall be subject, in addition to the foregoing penalties, to the payment of court costs and reasonable attorneys' fees. This section shall not apply to the Village of Antioch, its officials, agents or employees.

SECTION VIII: If any provision, clause, sentence, paragraph, section, or part of this ordinance or application thereof to any person, firm, corporation, public agency or circumstance, shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this ordinance and the application of such provision to other persons, firms, corporation, or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person, firm, corporation, or circumstances involved. It is hereby declared to be the legislative intent of the corporate authorities that this ordinance would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section, or part thereof not been included.

SECTION IX: That the Village Clerk is hereby directed and ordered to publish this Ordinance in pamphlet form as provided by law.


SECTION X: That this Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed this 5th day of July, 2011.

AYES: 6: Pierce, Sakas, Poulos, Crosby, Dominiak and Jozwiak.


Lawrence M. Hanson, Mayor

ATTEST:

By: 
Candi L. Rowe, Village Clerk



Presented and read, or reading having been waived, at a duly convened meeting of the Corporate Authorities on July 5, 2011.

March 9, 2011

To: Mayor Hanson; and
Members of The Village Board of Trustees

From: Vern Burdick, Chairman
Combined Planning and Zoning Commission

RE: PZB11-02 Club Energy Special Use Recommendation

Dear Mayor Hanson and Board of Trustees:

The Combined Planning Commission and Zoning Board conducted a public hearing on January 13, 2011, February 10, 2011, March 10, 2011, and concluded on April 14, 2011 following notification as required by State Law and Village Ordinance to consider a petition for a Special Use Approval allowing more than 10 amusement devices in a B-1 Zone and a Special Use Approval for a liquor license. The petitioner proposes the redevelopment of the former Jungle Gym Site. The parcel is located on the northwest corner of Illinois Route 83 and Briar Terrace, and is commonly known as 1350 Main Street. PIN 02-17-302-010.

The hearing began with a presentation by David Short, who introduced the Club Energy operation, its ownership and management teams, and various aspects of the use and site. Testimony from Pete Georgiades and John Tschlis, owners/petitioners and their management teams, focused on the operational aspects to the business and measures employed to eliminate nuisance impacts upon the neighboring properties. The scope of this testimony considered the transfer and sale of the property, ownership status, traffic to the site and the neighborhood, noise impacts, police protection given the sites jurisdictional boundaries, available off street parking, and internal conduct expected from patrons.

At the continuation of the meeting Attorney Short provided a status update including building measurement, and reviewed the evolution of the petitioner's process to request a liquor license. He explained that there is no specific license defined in the petition, however the petitioner previously indicated that they would like a beer and wine license. He advised that the petitioner would like to update their request to a full service liquor license. He explained that the petitioner is requesting a special use to serve liquor at this time, and not a specific liquor license.

Neighbors from the surrounding area relayed concerns over the impacts that they believed would be anticipated from the proposed use. Concerns over off site impacts that migrated into the neighborhood, especially noise, traffic, and those expelled from the premises were made explicit.

At the February meeting, John Heden, representing the Antioch Hills subdivision residents, provided an overview of their request for denial and the background information collected by the neighboring property owners. He provided the differences between the proposed Club Energy, and a similar club in Naperville, Zero Gravity, which was discussed as an analogous use, including buffer zones, exit and entrances, parking and locations. He presented the concerns of the neighbors, including operations of similar clubs and the problems associated with them including traffic, noise, trespassing, safety, pollution, change in the business plan once a liquor license is granted, and the potential for illegal activities. He further suggested steps that should be taken in moving forward, including the neighbors request to deny the liquor license variance.

Dustin Nilsen, Director of Planning presented his report. He summarized the applicants zoning request and actions requested from the Planning and Zoning Board. In regards to Village Amusements, Section 4-3-2 of the Village Code the

applicant is allowed 10 coin operated amusement devices with no additional planning approval, so long as ratio of 500 square foot of floor area to machine exists and so long as each device is licensed with the Village. The current facility is approximately 13,000 square feet and would allow up to 26 devices. Eliminating the 1200 square feet not accessible to the public, in accordance to the ordinance, would reduce the number of machines by 3.

Users seeking additional machines in excess of 10 is required to obtain a special use approval from the Village. Since Club Energy is located within a B-1 zone, they have requested a variance to allow for the 25 machines to be incorporated into the facility. These include gaming devices, pool tables, and Xbox online gaming, which will be incorporated into the upper floors of the structure

Attorney Long read aloud Village Code 4-2C-4 stating the hours of business for liquor sales. He stated that he asked for a specific provision from the petitioner's attorney, and questioned the eligibility of a license under other provisions of the Antioch Liquor Control Code. He added that the liquor code supersedes the zoning code. Attorney Short replied that he understands the concerns, and said that the owners have pledged to remove alcohol from the premises when teens are present. Attorney Long stated that the Illinois Liquor Code states that a business whose primary focus of business is to persons under the age of 21 is ineligible for a liquor license. Security manager for Club Energy, Roland Hartshorn, explained that staff will uphold the law as far as the service to minors.

Chairman Burdick announced that the Board will consider the petition items separately. He asked for clarification on the number of devices requested by the petitioner and recommended by staff.

Following a brief deliberation, Member Karasek moved, seconded by Member Ralston, to approve PZB 11-02 request for zoning variance to operate 23 coin-operated game devices as allowed in B-1 zoning based on recommendations and restrictions within the staff report.

The conditions that staff recommended for an affirmative motion include:

- 1). Any outstanding technical issued be satisfied;
- 2). That the following list of performance standards and exhibits relative to the special use be incorporated as conditions of the special use approval.
 1. The operation will include a 25 camera security system.
 2. The contract parking arrangement made with the neighboring property owner be a condition of the special use and recorded as exhibit the Village Ordinance.
 3. The Special Use not be made transferable. Requiring a subsequent owner/operator to apply for the request.
 4. The operation will include 10 on site security guards.
 5. Friday and Saturday nights, where the operation is geared toward teens, no one under 15 is allowed without parent or guardian.

Those patrons 17 and under shall be wrist banded and marked to remain in compliance with section 6-3-1 of the Village Code which states:

It is unlawful for a person less than seventeen (17) years of age to be present at or upon any public assembly, building, place, street or highway at the following times unless accompanied and supervised by a parent, legal guardian or other responsible companion at least eighteen (18) years of age approved by a parent or legal guardian or unless engaged in a business or occupation which the laws of this state authorize a person less than seventeen (17) years of age to perform:

Between 12:01 A.M. and 6:00 A.M. Saturday;
 Between 12:01 A.M. and 6:00 A.M. Sunday; and
 Between 11:00 P.M. on Sunday to Thursday, inclusive, and 6:00 A.M. on the following day.

And those who are 21 and over are not permitted.

The motion carried. Therefore the Planning and Zoning Board forwards to the Village a positive recommendation for the use and installation of 23 devices, based upon the submitted petition and findings.

Member	AYES	NAYS	ABS
Karasek	X		
Weber	X		
Ralston	X		
Kaiser			X
Dominiak		X	
Ipsen	X		
Burdick			
TOTAL			

Upon the continuation of the Special Use Petition for a Liquor License, the applicant further revised its request and business plan to incorporate a full service drink line. This expanded the initial beer and wine request to allow for mixed drinks. The nexus of the change, as explained by the applicant, was to better fulfill patron requests during family and adult functions, such as pool tournaments, comedy nights, and private events.

Attorney Short supplied a model for a new category of liquor license that would be suited for the facility. This request would necessitate a revision to the Antioch Liquor Code and the creation of a category in order for the applicant to apply. The text, along with the event schedule, supplied on Monday April 11, 2011, were the latest updates submitted for the Planning and Zoning Board's consideration and deliberation.

Members from the Antioch Hills neighborhood again expressed concern over the enforcement and operation of the facility and ability to control offsite impacts. Essentially stating that the use may be well controlled on premise, but that the spill over effects on their property could not be controlled.

The following language was supplied:

CLASS M: Multi-use facility license. The Class M multi-use facility license authorizes the sale of alcoholic liquor for consumption on the premises where sold when the primary business conducted upon said subject realty is that of a multi-use facility.

A "multi-use facility" for the purposes of this license shall be defined as one that routinely holds entertainment events designed specifically for either adults or minors on separate occasions. The Class M permits the sale of alcohol as delineated under the class E bar and tavern license with the specific restrictions listed below. Also permitted under the Class M multi-use license shall be non-alcohol events designated for minor patrons under the legal age to consume alcohol. These scheduled events may be termed "Teen Nights," "Student Dance Nights," or any other name which shall be reasonably construed to indicate the event is of the nature where underage patrons shall be expected to attend.

By accepting a Class M license, the licensee accepts and is bound by the following requirements and restrictions:

1. No retail sale of alcohol for off-premises consumption is permitted.

2.The Village Administration and Village Police must be provided with an updated calendar of events by the 1st and 15th of every month. If the 1st or the 15th is a non-business day the calendar update must be provided by the next business day.

3.On designated "Teen Nights" the following additional provisions apply:

- a. No alcohol may be served to any patron regardless of age.
- b. No alcohol may be stored on the premises in any area where an underage patron may gain access. The means of storage of alcohol must be approved by the Village.
- c. Security cameras must be utilized throughout the facility and event staff must be present in the parking lots to direct traffic.
- d. Security staff must be present to screen entrants and to ensure compliance with applicable Village codes.

A motion was made by Member Karasek and, seconded by Member Ralston, to recommend approval of PZB 11-02 request for liquor licensure, based upon the material supplied by the applicant and with revisions to a new class M liquor license.

The motion carried. Therefore the Planning and Zoning Board forwards to the Village a positive recommendation for the issuance of a liquor license, based upon the submitted petition and findings.

Member	AYES	NAYS	ABS
Karasek	x		
Weber	x		
Ralston	x		
Kaiser	x		
Dominiak		x	
Ipsen		x	
Burdick			

Respectfully submitted,

Vernon Burdick, Chairman
 Combined Planning Commission and Zoning Board

Club Energys

Parking lot traffic flow with security check points

- *Traffic will be controlled on parking lot of 1350 Main Street.
- *Drop off will be located on the northwest corner of the building on 1350 Main street.
- *Parking lot has two entrances located off of Margate Terrace and Briar Terrace.
- *Parking lot security will be at five different locations.
- *When parking lot on 1350 Main Street is full, Briar Terrace entrance will be closed.
- *Parking lot spaces will also accommodate an emergency lane around building area.
- *Over flow parking will be accommodated by Dental office parking.
- *When business is closing all customers will be exiting out of Margate Terrace on to Route 83, directed by parking lot security.
- *Both entrances on Briar Terrace and Margate Terrace will have parking and traffic signage.
- *All parking lot security and building security will have communications with Motorola head pieces.
- *Parking lot exterior and interior will be monitored by security cameras.