



## Legislation Text

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**File #:** 003758, **Version:** 1

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**Subject:** Fenton's Creamery - Public Hearing  
**From:** Oakland Planning Commission  
**Recommendation:** Conduct a Public Hearing and provide direction regarding the appeal of the April 2, 2003 City Planning Commission decision of design review and variance application for the restoration and rehabilitation of Fenton's Creamery - 4226 Piedmont Avenue **Appellant:** E. Felizardo  
**To:** City Councilmembers  
**From:** Councilmember Jane Brunner  
**Date:** July 29, 2003  
**RE:** Fenton's Appeal--Item 14

Colleagues:

I move to uphold the Planning Commission decision, subject to the Conditions of Approval below.

I also move that we have the Planning Director request that the Planning Commission consider within 45 days all aspects of Fenton's current facilities and operations to ensure that it is operating in conformance with its rights as a preexisting legal nonconforming use. Should the Commission find that such facilities or uses are not in conformance, then Fenton's shall apply for the required Use Permits or terminate such uses within 60 days of the Planning Commission's determination.

This referral does not compromise Fenton's ability to operate in the manner they were legally entitled to prior to the fire.

NOISE:

1. Within 30 days, the applicant will sound proof all compressors or rooftop equipment as recommended in the June 23, 2003 report from Wilson, Ihrig and in accordance with applicable Oakland Noise Ordinances.
2. There shall be no outdoor amplified sound.
3. The operator shall establish and enforce a list of rules for employees to conduct themselves in the exterior areas of the property and when going to and from transportation, particularly in regard to controlling excessive noise and loitering. These rules shall be submitted for review and approval to the Planning Department within 30 days of this approval.
4. Applicant shall install a sign, with a minimum dimension of 2ft. x 2ft., clearly visible to patrons leaving Fenton's stating, "Please keep the noise and disturbance level down for our neighbors."

## ZONING

5. Hours of operation shall be 9:00 a.m. to 12:00 a.m. Sunday through Thursday and 9:00 a.m. to 1:00 a.m. on Fridays and Saturdays. All employees are to leave the premises within two hours of closing time.

## TRAFFIC

6. All deliveries to Fentons shall be limited to weekdays and Saturdays from 7:00am to 7:00pm

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7. Applicant shall notify, in writing, all delivery services using trucks in excess of one ton to use Piedmont Avenue for entering Fenton's parking lot to make deliveries. There shall be no use of Entrada for loading or unloading purposes.

8. An arrow must be painted on the asphalt at the exit of the parking lot directing traffic to the right and a sign put up on Fenton's property stating "Right Turn Only."

9. Applicant must keep the Fenton's parking lot open to patrons during all operating hours.

## GARBAGE

10. All garbage and garbage receptacles shall be kept in an enclosure completely screened from public view. All garbage receptacles will have lids that shall be completely secured at all times such that they can be firmly in place so as to control garbage odors and pests. Operator shall establish a weekly trash pick-up schedule commensurate with trash storage capacity.

11. Applicant will maintain the sidewalks immediately adjacent to Fenton's by placing trash cans on each adjacent street corner (at Glenwood and Entrada), emptying the trash cans on a regular schedule and picking up litter at least twice per day, and washing down the sidewalks at least once per day to remove spilled ice cream. Applicant will be responsible for litter within a one block radius of Fenton's. Trash cans shall meet or exceed standards for such cans maintained by the city elsewhere on Piedmont Ave., with regard to design and construction. Operator shall complete a maintenance agreement with the City and submit a security deposit during a two year period to assure compliance with this condition.

## GENERAL OPERATING CONDITIONS

12. All exterior lights will be adjusted to eliminate glare into neighbors' windows.

13. All ingress and egress shall be through the main door on Piedmont Avenue with the

exception of employees using the loading dock or cold storage zirea located immediately adjacent to the parking lot, at the South corner of the building. Ingress and egress from the warehouse on Glenwood is also permitted for the purposes of moving goods to and from the warehouse.

14. Operator shall designate a complaint manager during all hours of operation and until all employees are off the premises. All complaints shall be logged in writing and responded to within 72 hours, either by resolving the complaint or stating a time certain for taking corrective action. This log may be reviewed by the City upon request.

15. The applicant shall pay to move the two north-facing windows at the rear of the apartment building immediately behind Fenton's (located on Entrada) to preserve solar access, if the owner of the building so desires.

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