

Date _____

7/26/18

Attendance

COSTENSON		✓	<u>yes</u> abstain	no absent	yes abstain	no absent	yes abstain	no absent	yes abstain	no absent
EDLEMAN		✓	<u>yes</u> abstain	no absent	yes abstain	no absent	yes abstain	no absent	yes abstain	no absent
HEMPHILL		✓	<u>yes</u> abstain	no absent	yes abstain	no absent	yes abstain	no absent	yes abstain	no absent
MINELLA		✓	<u>yes</u> abstain <i>Memo + 1 Talk</i>	no absent	yes abstain	no absent	yes abstain	no absent	yes abstain	no absent
MIROCHA		✓	<u>yes</u> abstain <i>2nd</i>	no absent	yes abstain	no absent	yes abstain	no absent	yes abstain	no absent
MORRISON		✓	<u>yes</u> abstain	no absent	yes abstain	no absent	yes abstain	no absent	yes abstain	no absent
SAYERS		X	yes abstain	no absent	yes abstain	no absent	yes abstain	no absent	yes abstain	no absent
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July 31, 2018

Honorable Mayor and City Council
Kewanee City Hall
401 E. Third Street
Kewanee, Illinois 61443-2365

RE: Report from Plan Commission for July 26, 2018 Meeting.

The Plan Commission convened at 7:00 p.m. on July 26, 2018 Kewanee City Hall, Council Chambers. Commission member Sayers was absent. For business, there was one Special Use Permit application upon which to conduct a public hearing. Additionally there was one hearing to revoke a Special Use Permit.

Case Number 1:

Parcel 25-04-202-004 Located at 233 W Division St., Special Use Permit Petition to allow an in home Spray Tan Salon.

Property Owner: Chelsea O'Connor, Fake It Spray Tanning, 233 W Division St, Kewanee, IL. 61443.

Address: 233 W Division St.

Legal Description: W110 OF E165 LOT 12 ORIG TOWN OF WETHERSFIELD CITY OF KEWANEE, Henry County, Illinois.

Location: On the South side of the 200 block of W Division St.

Dimensions: 110 feet East to West, 310.16 feet North to South

Area: 0.83 Acres or 34117.6 Square feet, approximately.

Existing buildings or uses: Single-family dwelling & two-car garage.

Current Zoning District: R-2 One-Family Dwelling District

Surrounding Zoning: R-2 One-Family Dwelling District. R-1 One-Family Dwelling District to the South.

Existing Land Use: Commercial.

Proposed Land Use Map: Commercial.

Background Information:

O'Connor contacted me several weeks ago to discuss a Special Use Permit for an in-home spray tanning business. After researching the allowable special uses in residential zoning, I discovered that there was no definition of Salon nor was Salon listed as an allowable special use. I did find history of Special Use Permits being granted in the past. I wrote an update to the zoning code and sent it to the City Council for vote. The update included a definition for Salon and added Salon to the list of allowable special uses in residential zoning as follows:

§ 155.003 DEFINITIONS.

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SALON. An establishment where a hairdresser or beautician conducts business.
Examples of services provided at a salon include but not limited to: hair cutting, manicure & pedicure, spray tanning.

§ 155.060 R-1 ONE-FAMILY DWELLING DISTRICT.

(B) Special uses. The following uses may be allowed by special use permit per the provisions of §§ 155.155 through 155.157.

(20) Salon.

OConnor has provided a description of the Spray Tanning operation and a simple drawing showing that the business will be conducted in the finished basement of her residence and customers will use the exterior entrance to the basement.

I do not see any items of concern with this Special Use Permit request. At the end of this section are the three criteria that have to be satisfied prior to recommending a Special Use Permit granted. Directly below is a set of typical stipulations that might be placed on a Special Use Permit for a Salon:

1. The Special Use Permit to allow a spray tan salon is granted to Chelsea OConnor only and is not transferable to any future owners or operators on the site.
2. Chelsea OConnor shall maintain primary residency in the house at 233 W Division St. throughout the life of the Special Use Permit.
3. No persons other than Chelsea OConnor shall be employed in the spray tan salon at 233 W Division St.
4. Hours of operation shall not extend beyond 7:30 a.m. to 7:00 p.m. daily.
5. One parking space shall be provided and maintained while said spray tan salon is in operation.
6. A sign advertising the spray tan salon, maximum size of one square foot in area, may be posted on the premises.
7. Any violations of the terms and conditions of the Special Use Permit are subject to review and possible revocation by the Plan commission and City Council.
8. All activities associated with this Special Use Permit for a spray tan salon shall be conducted in full compliance with the Kewanee City Code and the laws and regulations of the State of Illinois.

Special Use Permit Criteria (155.157 C)

- (1) That the proposed use at the particular location requested is necessary or desirable to provide a service or a facility which is in the interest of public convenience, and will contribute to the general welfare of the neighborhood or community;
- (2) That such use will not, under the circumstances of the 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
- (3) That the proposed use will comply with the regulations and conditions specified in this chapter for such use, and with the stipulations and conditions made a part of the authorization granted by the Council.

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The Public Hearing:

At 7:00 p.m. on July 26, 2018, the hearing on the proposed Special use Permit to allow an in-home spray tan salon at 233 W. Division St. was held. **Chelsea O'Connor** of Kewanee, Illinois, was present to represent the application.

- O'Connor stated that she wanted to operate the in home spray tan salon in the basement of her residence at 233 W Division St. She said that she read and understood the stipulations as well.

No others were present to speak in support of the petition.

No others were present to speak in opposition of the petition.

Recommendation:

After discussing the facts and testimony presented, the Plan Commission recommends, by a vote of six in favor of the application, none opposed to the application, one absent, that the application to grant a Special Use Permit to allow an in-home spray tan salon be approved by the City Council. Specifically, the Plan Commission recommends that a Special Use Permit allowing an in-home spray tan salon at 233 W Division St. be granted to Chelsea O'Connor.

Additionally, the Plan Commission recommends by a vote of six in favor, none opposed, one absent that the following eight stipulations be placed on the Special Use Permit.

1. The Special Use Permit to allow a spray tan salon is granted to Chelsea O'Connor only and is not transferable to any future owners or operators on the site.
2. Chelsea O'Connor shall maintain primary residency in the house at 233 W Division St. throughout the life of the Special Use Permit.
3. No persons other than Chelsea O'Connor shall be employed in the spray tan salon at 233 W Division St.
4. Hours of operation shall not extend beyond 7:30 a.m. to 7:00 p.m. daily.
5. One parking space shall be provided and maintained while said spray tan salon is in operation.
6. A sign advertising the spray tan salon, maximum size of one square foot in area, may be posted on the premises.
7. Any violations of the terms and conditions of the Special Use Permit are subject to review and possible revocation by the Plan commission and City Council.
8. All activities associated with this Special Use Permit for a spray tan salon shall be conducted in full compliance with the Kewanee City Code and the laws and regulations of the State of Illinois.

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Case Number 2:

525 N Main St., which is located at the Southwest corner of N. Main St. and W. 6th St. Special Use Permit Petition to allow Automobile, Truck, Trailer, Tractor or Bus Storage yard, Operable Vehicles Only.

Jon Willie petitioned the Plan Commission for a Special Use Permit at the May 24, 2018 meeting. The Property owner, Kenneth Ryan, signed the application as the Landowner, which served as affidavit for Willie to apply for the permit.

Address (es): 525 N. Main St.

Legal Description: S95 OF N115 LOT 1, EX HWY, WILLARD & MORSES NORTH SUB CITY OF KEWANEE [EZ], Henry County, Illinois.

Location: On the Southwest corner of N. Main St. and W. 6th St.

Dimensions: 118 feet East to West and 115 feet North to South. The Northeast corner has a radius that follows the roadway.

Area: 13570 Sq Ft. (0.312 Acres)

Existing buildings or uses: Vehicle storage.

Current Zoning District: B-3 Business and Wholesale District.

Existing (Surrounding Zoning) Zoning: B-3 Business and Wholesale District. To the North, West and South. M-1 Manufacturing District, Limited to the East.

Existing Land Use: Commercial.

Proposed Land Use Map: Commercial.

Facts of the case:

Prior to the May 24, 2018 Plan Commission meeting I researched the street file and history of this parcel, and found no Special Use Permit or Plan Commission activity for used car sales or vehicle storage. I met with Willie and also spoke with Ryan on the phone and advised them that the current use (storage of vehicles) requires a Special Use Permit.

It was also noted that Willie stated that the State of Illinois, since the parcel is located along a state right of way, will not allow for the sale of vehicles upon the parcel involved because there is no building on the parcel. Willie stated that the State will allow the vehicles to be parked there as long as there are no "For Sale" signs or prices on the vehicles. Willie performs no transactions on this parcel and if a customer is interested in a vehicle, Willie has one of his employees bring the vehicle across the street for the customer to look at the vehicle, test drive it or any other inspections or transactions related to the vehicle.

After hearing the case, The Plan Commission made a recommendation to the City Council to grant the Special Use permit with the following stipulations.

- With exception to registrations, all vehicles must be 100% operable in every aspect. No flat tires, no broken windows, no wrecked or junk vehicles, no missing parts of any sort.
- No part of any vehicle shall overhang or block the city sidewalk.
- Storage of light trucks and passenger vehicles only.
- Vehicles must be parked neatly and be able to be driven off the property without having to move another vehicle out of the way thus allowing for passage throughout the property.
- Access to all vehicles must be available to Fire Department personnel.

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- All of the above must be complied with no later than June 30, 2018. If compliance is not met to the satisfaction of the City, a hearing to revoke the Special Use Permit will be held.

The City Council accepted the Plan Commissions recommendation and granted the Special Use permit at the May 29, 2018 City Council Meeting.

On July 2, 2018, I inspected the subject property and found the property in violation of the stipulations set forth in the Special Use permit. There were several vehicles with flat tires, partially wrecked and stored in violation of the fourth and fifth stipulations noted above. Please see the attached photos.

With the results of the inspection on July 2, 2018 being considered, the Plan Commission held a hearing on July 26, 2018 to discuss the revocation of the Special Use permit and order the removal of the vehicles from the subject property.

The Public Hearing:

At 7:09 p.m. on July 26, 2018, the hearing to revoke the proposed Special use Permit to allow an Automobile, Truck, Trailer, Tractor or Bus Storage yard, Operable Vehicles Only was held. **Jon Willie** dba You're Approved Auto Sales of Kewanee, Illinois, was present to represent the application.

- Commission Chair Morrison advised Willie that this meeting is a hearing to potentially revoke the special use permit. Morrison stated that Willie failed to meet the stipulations placed on the special use permit and reminded Willie of all of the stipulations (noted above).
- Willie apologized that this ever became an issue. Willie claimed that there is a truck and trailer on the lot that he uses to block repossessed vehicles in so the owner cannot drive the vehicles away. Willie said he was "careless" when he agreed to the stipulations and that the actual purpose of this lot is not able to follow the stipulations. Willie stated that he did not think the stipulations would be so literal.
- Willie claimed by state law that a repossessed vehicle cannot be stored on the same lot where vehicles are for sale and he must keep the vehicle for 21 days before disposing of the vehicle. Edwards asked if Willie had that statute number? Willie did not. Edwards stated he would ask for verification of this law from the City Attorney.
- Willie stated that the stipulation requiring vehicle passage through the lot is something he would never agree too.
- Willie recalled from the first meeting requesting the special use permit that he originally requested 60 days to comply with the stipulations but the Plan Commission only gave him 30 days. Commission member Mirocha stated that Willie basically got 60 days because the deadline for compliance was June 30th.
- Willie claimed that he removed and/or disposed of 46 broken cars from the lot from the time of the May 24th meeting.

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- The Commission members reviewed the photos that were taken earlier in the day by Edwards. It was noted that several vehicles had flat tires or were wrecked or missing parts.
- Willie stated he would like modifications to the stipulations to make the lot usable for his business.
- Morrison asked Willie what changes he was proposing. Willie wants the stipulations requiring the vehicles to be operable and passage throughout the lot/removal of vehicles without having to move other vehicles to be lifted.
- Minella asked if Willie needs more time to comply. Willie responded that he felt he was in compliance at the time of the meeting. Morrison pointed out several vehicles in the photos taken this same day with wrecked or missing parts and flat tires.
- Morrison stated that the property "just doesn't look good."
- Morrison asked Edwards to comment on the case. Edwards stated that the City wants to be business friendly and does not wish to run any business out of town. On the same note, this property is one of the first things seen by our residents and visitors and that Hog Days is coming up very soon and the City would like to set our best foot forward. The City would like to work with Willie as much as possible.
- Morrison reminded Willie of the stipulations that Willie agreed to and that the Plan Commission placed these stipulations because the City wants the property to look nice.
- Edelman stated that he felt it looks better but it is still not in compliance.
- Costenson asked if there was a way to make the stipulations such that Willie could be in compliance yet make it so the property is not such an eyesore. Edwards replied that the Commission could make whatever recommendation to the City Council the Commission sees acceptable.
- Willie stated that he was not aware of the stipulations until he arrived at the May 24th meeting. Edwards reminded Willie that the stipulations and meeting agenda were mailed to Willie and the Plan Commission prior to the May 24th meeting.
- Morrison stated that if Willie wishes to change the stipulations on the special use permit that Willie would need to re-apply for the special use permit with the stipulations changes to be held at a future hearing.
- City Manager, Gary Bradley, who was present, offered some thoughts on the case. Bradley stated that Willie's business serves a valuable role in the community in that they offer vehicles to people who may not be able to afford a newer/nicer vehicle but need reliable transportation to and from work, it also generates sales tax revenue and employs people. Bradley stated that the use is not out of character as it is adjacent to a body shop and a tire sales and service shop. However, it is not an attractive use the way it is currently setup. Bradley stated that the stipulations regarding access and passage may have been too strict and that we need to treat business fairly that these stipulations are not placed on other car lots. Bradley went

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on to say that maybe there is another property in town in an appropriately zoned district that would work for Willie's business.

- Morrison requested that Edwards meets with Willie and write down a list of things that need to be done to be in compliance and to revisit the case at the next Plan Commission meeting.
- Edwards reminded the Commission that the ordinance for a storage yard states "operable vehicles only." Willie said that we need to discuss what "is operable". Edwards advised Willie that an operable vehicle is a vehicle that can be legally driven on a city street without receiving a ticket from an officer (with exception to registration in this case). Therefore, if a vehicle is missing a turn signal indicator or bumper etc.... the vehicle is not operable.
- Willie asked for additional time to comply and that he would type up some suggestions of stipulations that would allow him to continue to operate.
- Councilman Mike Yaklich was present. Yaklich stated that the stipulations on the special use that the council voted on and passed is what is in question at this meeting. If the owner cannot comply with the stipulations then he is in violation. Yaklich stated if tabled, the commission will be giving him another 30 days to comply, which Willie said he could not do or find a lot somewhere else in an M1 district to store the vehicles. Yaklich stated that if it came to the council with a different set of recommendations or a request on another B3 zoned lot, Yaklich stated that he cannot speak for the other council people but he can speak for himself and he would not approve it. Yaklich stated that what was originally approved was a good set of recommendations.

No others were present to speak in support of the petition.

No others were present to speak in opposition to the petition.

Recommendation:

After discussing the facts and testimony presented, the Plan Commission voted to continue the hearing and requested that Edwards and possibly Bradley meet with Willie on site to see if there is any way for Willie to comply with the original stipulations. If not, then Willie will need to re-apply for a special use with a different set of stipulations to see if it would pass the Plan Commission and City Council. The motion passed by a vote of six in favor of, none opposed, one absent, that the hearing to revoke the Special Use Permit to allow an Automobile, Truck, Trailer, Tractor or Bus Storage yard, Operable Vehicles Only be continued for the next Plan Commission Meeting.

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There being no further business, the meeting adjourned at 8:16 p.m.

Respectfully yours,

Steve Morrison

Bv:
[Signature]

Steve Morrison, Chairman



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