

Everything You Need!

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Fax 309-856-6001

July 21, 2017

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

RE: Report from Plan Commission for July 20, 2017 Meeting.

The Plan Commission convened at 7:00 p.m. on July 20, 2017 Kewanee City Hall, Council Chambers. Commission members Costenson and Hughes were absent. For business, there were two Special Use Permit applications and one request for approval to alter a fence around a beer garden upon which to conduct a public hearing.

Case Number 1:

Parcel 25-09-226-023 Located at 125 W South St. #11, Special Use Permit Petition to serve alcohol by the drink in the proposed gaming parlor.

Property Owner: Midland Plaza LLC C/O Cohen Dev Co, 406 SW Washington St, Peoria, IL. 61602.

Address: 125 W South St. #11.

Legal Description: ALL LTS 1,2,3,5,6 & 7 & PT LT 4 BLK 1 STS & ALLEYS BTWN, ALL LTS 1,2,3 & PT LTS 4,7 & 8 BLK 2 STS & ALLEYS BTWN & PT LTS 3,4,7 & 8 BLK 3 STS & ALLEYS BTWN ZANGS SUB SEC 9 T14N R5E LANDS INCORP, City of Kewanee, Henry County, Illinois.

Location: On the East end of the existing strip mall.

Dimensions: Approximately 1040 feet East to West, 640 feet North to South. (Parcel is irregular shape)

Area: 16.97 Acres.

Existing buildings or uses: Two strip malls, parking lot.

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

Surrounding Zoning: B-3 Business and Wholesale District.

Existing Land Use: Commercial.

Proposed Land Use Map: Commercial.

Background Information:

Tracy Glasgo has been working on the location and getting it ready for operating as a new gaming parlor. Building, plumbing and electrical permits were applied for, issued and inspected. She plans to be open 7 days a week from 8:00am to 10:00pm. There will be five gaming machines and a small bar.

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

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Permit granted. Directly below is a set of typical stipulations that might be placed on a Special Use Permit to sell alcohol by the serving.

1. The Special Use Permit is granted to Tracy Glasgo, Tracy Jean's Gaming Parlor, only, and is not transferable to any successor property owners and/or operators of a restaurant or bar serving alcohol on the site.
2. Said Special Use Permit shall not become effective until such time as a liquor license is lawfully obtained from the City of Kewanee and the State of Illinois.
3. The sale of alcoholic beverages shall be permitted only during the hours as allowed by the license classification issued by the liquor commissioner as permitted by Section §111.18 of the City Code of the City of Kewanee.
4. The configuration and uses of various parts of the building shall remain in substantial compliance with the floor plan submitted along with the petition for the special use permit.
5. No package sale of liquor or carryout sale of liquor is allowed.
6. All activities associated with this Special Use Permit to sell alcoholic liquor by the individual serving in the restaurant shall be conducted in full compliance with the Kewanee City Code and the laws and regulations of the State of Illinois.
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.

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.

The Public Hearing:

At 7:00 p.m. on July 20, 2017, the hearing on the proposed Special use Permit to serve alcohol by the drink in a proposed new business (Tracy Jean's Gaming Parlor) at 125 W. South St., Suite 11. was held. **Tracy Glasgo** of Kewanee, Illinois, was present to represent the application.

- Glasgo stated that she plans to open a gaming parlor with 5 gaming machines, a small bar and maybe a couple of tables for people to sit.
- Edwards stated that inspections have been performed on the property and that Glasgo has had the Health Department inspect the property as well.

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

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

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Plan Commission Chairperson Steve Morrison did remind the Plan Commission members and the audience members that if the Plan Commission makes the recommendation to grant the Special Use Permit and the City Council Passes the recommendation that the Special Use Permit can be revoked if the stipulations are not followed.

Recommendation:

After discussing the facts and testimony presented, the Plan Commission recommends, by a vote of seven in favor of the application, none opposed to the application, two absent, that the application to grant a Special Use Permit to serve alcohol by the drink be approved by the City Council. Specifically, the Plan Commission recommends that a Special Use Permit allowing the serving of alcohol by the drink at 125 W. South St. Suite 11 be granted to Tracy Glasgo and Tracy Jean's Gaming Parlor.

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

1. The Special Use Permit is granted to Tracy Glasgo, Tracy Jean's Gaming Parlor, only, and is not transferable to any successor property owners and/or operators of a restaurant, bistro or bar serving alcohol on the site.
2. Said Special Use Permit shall not become effective until such time as a liquor license is lawfully obtained from the City of Kewanee and the State of Illinois.
3. The sale of alcoholic beverages shall be permitted only during the hours as allowed by the license classification issued by the liquor commissioner as permitted by Section §111.18 of the City Code of the City of Kewanee.
4. The configuration and uses of various parts of the building shall remain in substantial compliance with the floor plan submitted along with the petition for the special use permit. Which would include one additional bathroom.
5. No package sale of liquor or carryout sale of liquor is allowed.
6. All activities associated with this Special Use Permit to sell alcoholic liquor by the individual serving in the restaurant shall be conducted in full compliance with the Kewanee City Code and the laws and regulations of the State of Illinois.
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.

Case Number 2:

Parcel 25-03-378-004 Located at 427 E Garfield St., Special Use Permit Petition to allow a sheltered care or board and care facility.

Property Owner: Elsie Leon, 427 E Garfield St, Kewanee, IL. 61443.

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Address: 427 E Garfield St.

Legal Description: W 147 OF N 165 OF LT 109 ORIG TOWN OF WETHERSFIELD CITY OF KEWANEE

Location: On the South side of the 400 block of E Garfield St.

Dimensions: 147 feet East to West, 165 feet North to South

Area: 0.56 Acres or 24255 Square feet, approximately.

Existing buildings or uses: Single-family residence with attached garage and yard shed.

Current Zoning District: R-1 One Family Dwelling District.

Surrounding Zoning: R-1 One Family Dwelling District.

Existing Land Use: Low Density Residential.

Proposed Land Use Map: Low Density Residential.

Background Information:

Abilities Plus is in the process of purchasing 427 E Garfield St. from the current owner. Before completing the sales transaction, Abilities Plus needs to have this special use permit approved for a sheltered care or board and care facility, which is an approved special use for R-1 zoning.

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.

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.

The Public Hearing:

At 7:10 p.m. on July 20, 2017, the hearing on the proposed Special use Permit to allow a sheltered care or board and care facility at 427 E Garfield St. was held. **Kim Walker** (Abilities Plus) of Kewanee, Illinois, was present to represent the application.

- Walker stated that Abilities Plus wants to open a group home at this location with 4 individuals living there. There will always be staff from Abilities Plus on site whenever a client is home. Abilities Plus owns two other homes in Kewanee and they rent one other as well and there have been no problems.
- Edleman asked about steps at the residence. Walker said there are just a few steps and because of that, this home will not be for clients that are in wheelchairs.
- Morrison asked if there are 4 bedrooms. Walker said presently there are only 3 but there is an extra room that will be utilized as a bedroom.

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Morrison asked if there was anyone in the audience to speak in favor of the petition.

Mike Yaklich of Kewanee was present to speak in support of the petition. Yaklich stated that he owns the house at 411 E College St. which is one block over from 427 E Garfield St. Yaklich rents his house to Abilities Plus, for the last 8 years, for use as a group home and they have been wonderful tenants and great neighbors. They take great care of the property and they keep the yard mowed. Yaklich stated the home has 3 bedrooms and he has 3 clients living there. Yaklich said that parking is never a problem and that the clients are picked up by Abilities Plus in the mornings and taken to Abilities Plus to do their jobs during the day. Yaklich stated that there has never been a time when clients were present at the house that there was not staff from Abilities Plus on site.

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

Morrison asked if there was anyone in the audience to speak in opposition of the petition.

Robert Haverback of Kewanee approached the Commission. Haverback stated that he lives next door at 447 E. Garfield St. Haverback stated that he does not think he has enough information. He does not know where the other group homes are at or who the neighbors are, or what those neighbors' opinions are. He does not know the ages and mobility of the tenants that would be moving in. He is also concerned that he has an 11 year old and he has concern. Haverback stated that he also has concern over how this special use would affect his property values. Haverback stated that it is a family neighborhood and would like to see a family move in with kids that go to Wethersfield School. Haverback also expressed concern over all of the dogs in the neighborhood and there is a lot of noise from these dogs. He has concern over how the noise will affect the clients.

Rick Matuszyk of Kewanee approached the Commission. Matuszyk stated that he lives at 432 E Garfield St. He is concerned over the extra traffic that may be caused and is concerned over his property value.

Tim Pence of Kewanee approached the Commission. Pence stated that he lives at 437 East St. South. Pence stated that his main concern is that it is an R-1 neighborhood, there are some small children in the neighborhood and it is a quiet neighborhood. Pence stated that he is not trying to say that "these people are going to cause any problems" but he is concerned with it becoming a group home and affecting a residential neighborhood. Pence is concerned over increased traffic and his property value because he plans to sell his residence in the future. Pence is concerned that it may affect the ability for anyone in the neighborhood to sell their homes because the neighborhood has primarily been occupied by families with children that attend Wethersfield School.

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Roger Jepson of Kewanee approached the Commission. Jepson stated that he lives at 440 E Garfield St. Jepson said that he agrees with everything that has already been stated but has additional concern over the upkeep of the property. Jepson is worried that as a business that Abilities Plus might not keep the property as nice as Elsie Leon has. Jepson also expressed concern over steps inside the house leading to the kitchen. Jepson also stated that he feels that the property is R-1 zoned and should stay R-1 as a residence "with kids that go to Wethersfield."

Susan Draminski of Kewanee approached the Commission. Draminski stated that she lives at 520 Fullerton Ct. Draminski is concerned of how the group home will affect her property value. Draminski stated that her children are almost all out of the house and she may want to sell her home in the future.

Mark Elbus of Kewanee approached the Commission. Elbus stated that he lives at 420 E Garfield St. Elbus stated that he has the same concerns that have already been talked about and especially the property values. Elbus claimed that none of the neighbors in the area had any information presented to them until tonight. Morrison advised Elbus that the hearing was published and post cards were mailed to everyone within 300 feet.

Donald Goffrier of Kewanee approached the Commission. Goffrier stated that he lives at 505 Fullerton Ct. Goffrier stated that his concern is over parking and extra traffic from 4 people living at this location. Goffrier said, "If you have 4 people living there and you have 4 cars in the driveway, now you have a city parking lot in a residential neighborhood." Goffrier stated that he used to live on W Kellogg St around the corner from the Abilities Plus home on Hollis St and they were good neighbors and never had a problem.

David Draminski of Kewanee approached the Commission. Draminski stated that he lives at 520 Fullerton Ct. Draminski asked the Commission if anyone has done a study of the property values around the other group homes in operation to see how the property values have been impacted. Morrison stated that in past cases, this argument has been brought up and there has been no conclusive evidence one way or the other. Morrison said there has been no study done. Draminski stated that he thought that a study should have been done. Draminski said that Abilities Plus has done amazing things for the community and believes that, "in the proper setting.... a home like this is the right thing to do in Kewanee. Not in neighborhoods." And is opposed because he does not feel it is the right place. Draminski stated that he is also opposed because he has a swimming pool and that the pool is an attractive nuisance to "these people" and does not want something bad to happen. Draminski is also opposed because he believes it will negatively affect his property values.

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

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Morrison asked Kim Walker of Abilities Plus to come forward to address some of these concerns.

Edleman asked about the steps being a problem for clients with mobility issues. Walker stated there will not be anyone with wheelchairs at this residence and that the individuals will be ambulatory and able to handle the few steps that exist to enter the residence. Walker also stated that the age range of the clients will 45 – 60.

Edleman asked about the possibility of Abilities Plus building new houses on their existing property on N East St. Walker stated that they rent that property out for farm use and that the state does not want Abilities Plus having campuses at their facility where the clients would be segregated from the community. Walker said that the concept of the program called CILA (Community Integrated Living Arrangement) is that people with disabilities have just as much right as everyone else at the meeting to live in their community and be part of their community.

Morrison asked who regulates this program. Walker stated the Department of Human Services.

Walker said that parking should not be a problem. The clients that live there do not drive and the driveway is large enough for visitors to park in and the worker will most likely park in the garage.

Morrison asked about the rental house at 411 E College St and the reasoning for not coming before the Plan Commission for that location. Walker did not know why. Edwards stated that it was before his time in Building and Zoning and did not know the history on that particular location. Walker said that Abilities Plus did come before the Plan Commission for their house on Hollis St.

Edleman asked if the clients would be all from Kewanee. Walker said that not all of them would be from Kewanee because there is a shortage of these types of facilities throughout the state.

Mirocha asked how the clients are evaluated to see if they could be placed in a group home. Walker stated that is done by an agency called Western Illinois Service Coordination that evaluates if a client has the capacity to be in a group home. Mirocha added that one person from Abilities Plus to watch over 4 clients might seem like to much but the clients “aren’t babies either” and that they are older adults that “need supervision but not constant help.”

Walker stated that Abilities Plus has operated group homes in Kewanee for years.

Mirocha verified that there is no rezoning happening with this request. The property will remain zoned R-1 but would simply carry a Special Use Permit.

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Walker stated they have a maintenance man that keeps all of their properties in good condition.

Sayers asked Mike Yaklich if the property value for the house that he rents to Abilities Plus has been affected because of renting to them. Yaklich said that he could not speak to whether renting to Abilities Plus has had an effect over the property value. Yaklich stated that he does know what he paid for the house and he knows it's worth more than that now and that they have been wonderful tenants. Yaklich stated that he sees the group of clients that live in his house at the concert in the park, football games and other venues throughout the city and they come and talk to him and he appreciates it.

Mirocha stated that he understands the concerns that have been discussed. He said there is always the unknown of a new neighbor and you never know what you are going to get and that the neighbors of 427 E Garfield have the "luxury" of being notified on who their neighbor is going to be. Mirocha said that he felt that the clients would probably be quieter than most of the other people that could possibly move in to the house. Mirocha said this is not Abilities Plus first time with a group home. Mirocha said that if this were a new business coming in to Kewanee for the first time wanting to run a house like this that he would be skeptical too. Mirocha stated that he feels that Abilities Plus has a proven track record with operating group homes in town.

Susan Draminski approached the Commission once again and stated that she is not in opposition of the people that would be living in the home. She is only concerned with her property value and how a potential buyer of her property may have concern over this group home.

Recommendation:

After discussing the facts and testimony presented, the Plan Commission recommends, by a vote of five in favor of the application, one opposed to the application, one abstain, two absent, that the application to grant a Special Use Permit to allow a Sheltered Care or Board and Care Facility be approved by the City Council. Specifically, the Plan Commission recommends that a Special Use Permit allowing for a Sheltered Care / Board and Care Facility at 427 E Garfield St. be granted to Abilities Plus.

Edleman stated he voted "No" because there were so many people with concerns. Minella explained that he must abstain because he works for Abilities Plus.

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Case Number 3:

200-202-204-206 N Chestnut Street, request for approval for change in the fence surrounding the beer garden/outdoor eating area, Anthony Segura, Abigail Segura, Boiler Room.

Kewanee Ordinance 3836, passed June 27, 2016, approved a Special Use Permit for the three vacant lots on the South side of the Boiler Room to allow them to be used as a beer garden/outdoor café. The Special Use Permit contained a stipulation that the use for a beer garden/outdoor café was not transferrable to any future owner.

Address (es): 200-202-204-206 N Chestnut Street.

Legal Description: Beer Garden Area: S1/2 lot 14 County Clerks Sub Of Blk 17 Orig Town City Of Kewanee, Henry County, Illinois; N1/2 Lot 14 County Clerks Sub Of Blk 17 Orig Town City Of Kewanee, Henry County, Illinois; Lot 4 Commissioners Sub Of Blk 17 Orig Town City of Kewanee, Henry County, Illinois; **Main Building:** Lts 2 & 3 Commissioners Sub Of Blk 17 Original Town City Of Kewanee, Henry County, Illinois.

Location: On the Northeast corner of the intersection of N Chestnut Street and W Second Street.

Dimensions: 77 feet 3 inches East to West, 74 feet 2 inches North to South.

Area: 5,850 Sq Ft.

Existing buildings or uses: Beer garden/outdoor eating area..

Current Zoning District: Part B-1 and part B-2 business zoning district.

Existing Zoning: Land on all sides is zoned B-1 or B-2 or B-3.

Existing Land Use: This lot is on the West side of the Central Business District.

Proposed Land Use Map: Commercial.

Background Information:

The fence that existed when Segura first opened the Boiler Room was in disrepair. Earlier this year Segura started to replace the old fence with a picket fence, along the West side of the beer garden, which stood approximately 4 feet tall. Segura installed metal bars across the top of the picket fence raising the overall height to approximately 5 feet. When I noticed the fence being installed, I contacted Segura and advised him that the fence was not in compliance with the stipulations for screening for a beer garden.

Segura then began to replace the fence at the Southeast corner with a privacy fence with a height of 5 feet 3 inches. After inspecting the fence, I contacted the City Attorney's Office and asked if they felt the fence would be in compliance. The City Attorney advised me that the fence would not be in compliance, as it still does not screen the beer garden from view. I called Segura and advised that the fence still would not be in compliance.

Segura asked about getting approval to install a fence that allows view into the beer garden. I advised Segura that the City Code states that the fence must be of a design and structure recommended and approved by the Plan Commission. The Code also states that the fence must screen the patrons in the beer garden from view from the surrounding property. After discussion with the City Attorney and City Manager, I advised Segura to bring photos of the fence and be prepared to discuss the matter at the July 20th Plan Commission meeting.

Additionally, the Plan Commission recommended by a vote of seven in favor, none opposed, two absent that the following seven stipulations be placed on the Special Use Permit during the original hearing on June 23, 2016.

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1. The Special Use Permit is granted to Anthony Segura and Abigail Segura and The Boiler Room, only, and is not transferable to any successor property owners and/or operators of a restaurant serving alcohol on the site.
2. The configuration and uses of various parts of the beer garden/outdoor eating area shall remain in substantial compliance with the floor plan submitted along with the petition for the Special Use Permit.
3. No package sale of liquor or carryout sale of liquor is allowed.
4. The proposed beer garden/outdoor eating area shall comply with Chapter 111 Alcoholic Liquor and section 155.117 Beer Garden/Outdoor Eating Area of the City Code.
5. Any violation of the terms and condition of the Special Use Permit are subject to review and possible revocation by the Plan Commission and City Council.
6. The beer garden/outdoor eating area shall close at shall be closed at 11:00 pm Sunday through Thursday and at midnight Friday and Saturday.

§ 155.117 BEER GARDEN/OUTDOOR EATING AREA

(A) Purpose.

(1) The purpose of these regulations is to allow, under certain conditions the use by consumers of outdoor areas accessory to an establishment which lawfully serves alcoholic liquor. Said use of these accessory, outdoor areas to be conducted under the authority of a properly issued special use permit, the guidelines for which are contained herein.

(2) It shall be unlawful to conduct a beer garden/outdoor eating area as defined in § 155.003 hereof, without first obtaining a special use permit under this section.

(B) Operating conditions.

(1) Lighting. Beer garden/outdoor eating area operated after dark shall be adequately illuminated by electric lights; but such illumination shall be so arranged and shielded by the licensee so as to reflect away from any adjoining property and streets. There shall be no flashing lights, strobe lights, or similar lights in the beer garden/outdoor eating area.

(2) Screening. The licensee shall provide a wall or fence of adequate height to screen the patrons on the premises from the view of the surrounding property. Such fence or wall shall be of a design and structure as recommended by the Plan Commission and approved by the City Council. The perimeter of the fence or wall shall be landscaped by the licensee with suitable plants and shrubbery to preserve, as far as possible, harmony with the appearance of the surrounding property. Said landscaping to be as recommended by the Plan Commission and approved by the City Council.

(3) Signs. There shall be no signage within the beer garden/outdoor eating area that is visible from off the premises.

(4) Hours of operation. The beer garden/outdoor eating area shall be closed at 11:00 p.m. Sunday through Thursday, inclusive. The beer garden/outdoor eating area shall be closed at midnight on Fridays and Saturdays.

(5) Disposal of refuse. At least once every 24 hours the licensee shall dispose of waste materials which tend to create a public nuisance on the premises. The licensee shall keep the premises whereon the beer garden/outdoor eating area is located, free from waste material and shall provide appropriate refuse containers.

(6) Littering. No person shall place, throw or deposit any case, bottle, paper, waste material or refuse upon the outside premises of any beer garden/outdoor eating area, or in the vicinity of same except in adequate receptacles provided for that purpose, nor shall the licensee permit such conduct.

(7) Maintaining quiet and good order. It shall be the duty of the licensee to maintain quiet and good order upon the premises of an outdoor eating place/beer garden and not permit disorderly or immoral

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conduct or loitering. The licensee shall not cause or create any noise or other nuisance in the outdoor area where the quiet and good order of the premises or of the neighborhood are disturbed. No person on the premises of a beer garden/outdoor eating area shall needlessly make or cause to be made any loud or unseemly noise, nuisance, or disturbance whereby the quiet and good order of the premises or the neighborhood is disturbed.

(C) Application procedures.

(1) Application procedures for a beer garden/outdoor eating area shall be the same as for a special use permit as provided for in sections §§ 155.155 through 155.157, Special Uses, of this chapter.

(2) Additional information. In addition to the information requested in sections §§ 155.155 through 155.157, Special Uses, of this chapter, the applicant shall also provide the following information:

(a) The proposed capacity of the facility.

(b) The location and size of the entrances and exits.

(c) The kind of ground surface and storm water run-off facilities.

(d) The location, size and construction of all structures.

(e) The location, size and construction of surrounding walls, fences or barriers.

(D) Standards of issuance.

(1) The criteria for issuing a special use permit contained in §§ 155.155 through 155.157, Special Uses, of this chapter.

(2) The reputation of the applicant, his officers or agents, if any, and their ability to operate the beer garden/outdoor eating area in a manner consistent with the maintenance and preservation of good order, public health, safety, good morals and welfare.

(3) Whether the requirements of this section and all other governing laws and ordinances have been met.

(4) Any special use permit for a beer garden/ outdoor eating area may only be issued to the site's liquor licensee, and all such special use permits shall be non-transferable.

(E) Revocation of special use permit.

In addition to any other reason specified in any other regulation, a special use permit issued under the provisions of this section may be revoked or suspended when the City Council finds that:

(1) The licensee is operating in violation of this section or of any other governing law, ordinance or regulation; or

(2) The licensee is operating so as to constitute a nuisance by reason of noise disorderly or illegal conduct or immoral activity on the premises.

(Ord. 3327, passed 10-9-01)

The Public Hearing:

At 8:06 p.m. on July 20, 2017, the hearing on the proposed request for approval for change in the fence surrounding the beer garden/outdoor eating area. Anthony Segura of Kewanee was present to represent the petition.

- Segura brought in photos of the fence that was in place when he opened the Boiler Room as well as photos of the new fence that he was attempting to install.
- Segura said that the code states an adequate height, which he felt, is a gray area.
- Segura stated that his first fence design was a cedar picket fence with metal bars across the top and his second fence design was a solid fence design. Both fence designs are 5'3" tall.
- Segura stated that he was told by the City that neither fence was of adequate height, which is dependent on how you read the code.

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- Segura said he is just seeking approval for one of the two fence designs that he has already began to install so that he could finish the fence.
- Morrison read the stipulations for a beer garden as written in the City Code. (see §155.117 above)
- Morrison stated that he walked up to the fence along the Second St side and could see right over the top of it.
- Segura stated that the previous fence was approximately 5'10" or 5'11" and that he is 6'4" tall and could see over the top it.
- Segura stated he is in a business district and could understand more if he had houses next door. He said he is trying to give a different concept and feel to the beer garden.
- Segura said in his packet that he handed out; there are photos of one of his workers standing next to the fence. The worker is about 5'3" tall and cannot see over the fence. Segura asked at what point does it become to start to feel like a prison.
- Morrison said that most fences are 6' or 8' for beer gardens.
- Segura said that adequate for one person is different than for someone else due to his or her height.
- Morrison also brought up that the stipulation in the City Code also state that signs inside the beer garden are not supposed to be viewable from outside the beer garden.
- Morrison also stated that the noise is of some concern.
- Edleman stated that the City Code states that Maintaining quiet and good order and it shall be the duty of the licensee to maintain quiet and good order upon the premises of an outdoor eating place/beer garden and not permit disorderly or immoral conduct and that he has had several people come to him with complaint on the noise.
- Edleman said that his understanding of the beer garden was to have an area for people to stand outside with their drink and be able to smoke if they wish. Edleman told Segura that in the case of the Boiler Room this is not the case and that the beer garden has turned into an entertainment area. Edleman reminded Segura that a year ago when Segura applied for the beer garden that the noise of the bands was brought up and that Segura had told the Plan Commission at that time that the roof over the patio would take care of the noise. Edleman said that is not the case now and that now there is another big stage on site.
- Segura stated that anytime he has used the big stage, he has spoken to the City Manager and requested a special use for it.
- Sayers asked how many times Segura has used the stage. Segura said 2 or 3 times.
- Segura stated that he talked with the City Manager and that for smaller bands where he does not have a special permit, he will use the patio area to try to keep the noise down.

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- Edwards clarified that (in his understanding) there was not a “special permit” granted for the bands or the use of the stage. There was simply permission granted by the City Council for the Boiler Room to use the adjacent City property (sidewalks and some of the street). There were no other special permissions granted.
- Morrison said in his opinion that the fence is not in compliance because it is not of adequate height to screen the patrons from view from neighboring property.
- There was random discussion from several people over what “adequate height” is.
- Morrison said that normal practice is to use 6’ or 8’ fence.
- Mirocha inquired with Segura over the fence panels that he installed being 5’3” not being a standard fence panel. Segura said he was not sure and that he had someone else install the panels. Segura said he believes he told them to install whatever was the cheapest.
- Mirocha asked if the fence panels were purchased and asked if they were custom made. Segura stated they were not custom made. Mirocha asked if they bought 6’ panels and cut off part of it to make it shorter. Segura said you can buy different height of panels.
- Mirocha said that the picket fence that Segura supplied photos of is not what the Plan Commission had in mind for fencing to be used for screening at a beer garden and that the solid fence is more like what should be used but is concerned that it is only 5’3”.
- Morrison asked Edwards if a permit is required to install a fence. Edwards said that normally a permit is required but if Segura was to install a new fence of the same height and design that was in place before, that the new fence would be considered a repair and therefore not require a permit. Because Segura was changing the fence construction, height and type, etc.... that a permit would be required.
- Segura said that he does not want the fence “to look like a wall separating Mexico from the United States” and does not “want it to look like a prison either but at the same time make it feel comfortable but also adequate in height” and that he will never be able to screen everybody.
- Morrison said that his opinion is that the fence needs to be a 6’ solid fence and that it is keeping with past practice for beer gardens and that 6’ is reasonable.
- Segura said that if he were to lock the door to the beer garden area and tear down the fence that he could ask the City Council for special permission to use the area for an event and then use 4’ snow fence similar to other special events and that this would be approved.
- Mirocha advised Segura that this is not what is being talked about and that what is being discussed is the fence surrounding a permanent beer garden, not one used for a special event such as Hog Days.
- Minella asked Segura if he is opposed to a 6’ fence. Segura stated it would cost additional money and labor.

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Morrison asked if there was anyone in the audience to speak in favor of the petition.

Morrison asked if there was anyone in the audience to speak in opposition of the petition.

Mike Yaklich of Kewanee approached the Commission. Yaklich thanked the Commission for their volunteer service and that the goal in these proceedings is to treat everyone equal and to avoid giving special treatment. Yaklich has concerns over the compliance with the Special Use permit for the beer garden at the Boiler Room. He said that he is 100% in agreement with the beer garden as it was initially applied for and passed by the Plan Commission a year ago.

Yaklich said that he is committed to business drawing visitors to the community. Yaklich feels that this particular Special Use permit is no longer being used as a beer garden and is being "massaged" into permission for a concert venue. Special uses cannot be expanded and beer gardens must be screened from the public. Yaklich stated that the standard has been 6' for beer garden fences and if you check around town that is what you will see.

Yaklich pointed out that the item number 2 under the six stipulations on Ordinance #3836 states that "the configuration and uses of various parts of the beer garden/outdoor eating area shall remain in substantial compliance with the floor plan submitted along with the petition for the special use permit." And because of this, Yaklich pointed out, that the Plan Commission could be voting to suspend this Special Use permit.

Yaklich stated that the temporary stage was never removed and that the fence that was taken down for the July 1st concert has never been put back up.

Yaklich urged the Plan Commission to require at least a 6' fence.

Segura said that the stage was never intended to be temporary and that Segura applied for a building permit and electrical permit and that the stage was inspected.

Morrison stated that the Plan Commission didn't approve the stage.

Edwards stated that he didn't think about it needing to go to the Plan Commission as this isn't something that comes up very often if ever.

Scott Packee of Kewanee approached the Commission. Packee said that he is concerned that his friend (Tony Segura) is doing good things for Kewanee and does not agree with the wording in the ordinance requiring a fence of "adequate" height and that the word "adequate" should be taken out and the ordinance should be made more clear.

Segura asked that the gray area in the code be fixed. He also feels that there should be different fence requirements for different zoning districts.

Yaklich pointed out that Segura could buy a treated 1 x 12, remove the existing fence panel, install the 1x12 across the bottom of the fence posts and then re-install the fence panel on top of the 1 x 12 and the problem would be solved.

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Yaklich said that Cerno's has held several concerts in the alley South of Cerno's and because of the way it was setup, the sound dissipates and there has not been noise complaints. After the July 1st concert, Yaklich said he has heard complaints from as far away as Division St and Baker Park. Yaklich pointed out that section §155.117 of the City Code states that the licensee must maintain quiet and good order and cannot disrupt people's lives.

Segura approached the Commission and stated that the trains that pass through town and the impact wrenches at Kiester's are just as loud and that the City does not enforce noise on them.

Edleman stated that he feels that the Boiler Room is in violation of the Special Use permit not only because of the fence but also because of the noise and that people need to call the Police Department.

Morrison suggested that the City looks in to re-writing the section for fences around beer gardens.

Edwards added that there was no "permit" issued for a concert. It was simply permission granted from the City Council to use the City sidewalk and a portion of the street.

Recommendation:

After discussing the facts and testimony presented, the Plan Commission recommends, by a vote of seven in favor, none opposed, two absent, to give Segura and the Boiler Room 30 days to install a six-foot solid/privacy fence around the existing beer garden and to remove all signs viewable from outside the beer garden.

There being no further business, the meeting adjourned at 8:54 p.m.

Respectfully yours,



by:


Steve Morrison, Chairman

