

**DATE:** February 26, 2019  
**TO:** Committee of the Whole - CD  
**FROM:** Joel Strassman, Planning and Zoning Officer  
**SUBJECT:** Fuzzy Dice Motorz, 321 East Wilson Street  
Darren Enger, applicant

- **Ordinance 19-13: Amending the Text of the Zoning Code**
- **Ordinance 19-14: Approving a Conditional Use Permit for Internet Vehicle Sales at 321 East Wilson**

**Summary:** Darren Enger is looking to become an Illinois licensed vehicle dealer to add internet vehicles sales to his insurance business at located at 321 East Wilson Street. This property is located in the DMU Downtown Mixed Use District that does not allow vehicle dealerships not the specified land use of “Motor Vehicle Sales and Leasing, New and Used – Internet Based.” Mr. Enger proposes to add “Motor Vehicle Sales and Leasing, New and Used – Internet Based” as an allowed use with Conditional Use approval, and is seeking Conditional Use approval to operate Fuzzy Dice Motorz at 321 East Wilson Street.

In his application material (attached) Mr. Enger states that operation of his vehicle sale business would be innocuous. Vehicles will not be displayed on the property and vehicles purchased by customers would be delivered directly to the purchaser’s home or facility. He notes that the State has certain business signage requirements for licensed vehicle dealers. Mr. Enger has offered to ask for his approved conditional use to be rescinded if his business raises any concerns.

Ordinance 19-13 would amend the table of land uses allowed in the DMU to add internet motor vehicle sales (and not dealerships in general) with Conditional Use approval, and a limitation that the businesses’ vehicles are not to be located on the property. Ordinance 19-14 would approve a Conditional Use permit for Mr. Enger to operate Fuzzy Dice Motors on the property with the restrictions as listed in Ordinance 19-14. These restrictions would make the approval non-transferrable, reiterate the parking limitation but allow one dealer plate vehicle for Mr. Enger’s use, and allow limited signage to comply with State licensing requirements. Please refer to the [February 13 staff memorandum to the Plan Commission](#) for a complete analysis of the proposal.

**Plan Commission Review and Action:** The Plan Commission held the public hearing on February 20. No attendees spoke other than Mr. Enger. Mr. Enger confirmed that no inventory vehicles would be kept on site and sold vehicles are delivered directly to the purchaser’s location. Customers may visit the office to complete paperwork. The Commission discussed parking, signage, and sales tax.

The Commission was supportive of the text amendment to allow this use with Conditional Use approval and the parking restriction. The Commission made positive findings for the Conditional Use as provided in Ordinance 19-14, applying the conditions of approval also included in Ordinance 19-14. By votes of 5-0 (1 absent, 1 seat vacant) the Commission recommended approval of both proposals as stated in Ordinance 19-14.

**Alternatives:** The Council can approve the ordinances as presented, deny either or both, or consider amending one or both before acting. Staff notes that approval of Ordinance 19-13 to amend the Zoning Code is needed to approve the Ordinance 10-14 for the Conditional Use.

- **Pros:** Amending the Zoning Code text as proposed allows for additional downtown retail activity, a goal in the Comprehensive Plan. The text amendment addresses potential parking issues with internet vehicle sales in general and with dealership approval. The proposed Conditional Use is consistent with the proposed text amendment and includes conditions of approval to address dealer license transfer, parking, and signage.
- **Cons:** Not approving the Ordinance 19-13 would continue to prohibit internet vehicle sales downtown, eliminating that retail opportunity, and rendering Ordinance 19-14 impossible to consider.
- **Budget Impact:** Allowing additional vehicle dealerships, including Fuzzy Dice Motorz, will add to the City’s sales tax receipts.

- **Staff Impact:** Additional staff time needed to enforce parking is possible but is expected to be minimal with the text amendment limitations, Conditional Use conditions of approval, and Mr. Enger’s assurances that inventory vehicle will not be at his business.

**Timeline for Actions:** COW action on both Ordinances will allow both to reviewed and acted on by the City Council on March 18.

**Recommendations:** By separate votes of 5-0 (1 absent, 1 seat vacant), the Plan Commission:

- Recommended City Council approval to amend Table 2.403 of the Zoning Code to add “Motor Vehicle Sales and Leasing, New and Used – Internet Based” as an allowed use with Conditional Use approval in the DMU District, with the parking restriction.
- Recommended approval of a Conditional Use at 321 East Wilson Street, subject to the conditions of approval as listed in Ordinance 19-14.

Staff recommends the COW recommend approval of Ordinances 19-13 and 19-14 as presented.

Attachments

1. Ordinance 19-13
2. Ordinance 19-14

- c Mayor and City Council  
Department Heads  
Darren Enger, Fuzzy Dice Motorz, applicant  
Media

**CITY OF BATAVIA, ILLINOIS  
ORDINANCE 19-13  
AMENDING THE CITY OF BATAVIA ZONING CODE  
TITLE 10 OF THE CITY CODE**

**ADOPTED BY THE  
MAYOR AND CITY COUNCIL  
THIS 18<sup>TH</sup> DAY OF MARCH, 2019**

Published in pamphlet form  
by authority of the Mayor  
and City Council of the City of Batavia,  
Kane & DuPage Counties, Illinois,  
This 19<sup>th</sup> day of March, 2019

Prepared by:  
  
City of Batavia  
100 N. Island Ave.  
Batavia, IL 60510

**CITY OF BATAVIA, ILLINOIS  
ORDINANCE 19-13  
AMENDING THE CITY OF BATAVIA ZONING CODE  
TITLE 10 OF THE CITY CODE**

**WHEREAS**, the City of Batavia's Zoning Code (City Code Title 10) contains definitions and provisions relating to the use and development of land in the City of Batavia; and

**WHEREAS**, said provisions have been reviewed and it has been determined that these and certain other provisions, and requirements should be amended in order to better regulate the use and development of land in the City of Batavia; and

**WHEREAS**, public notice of proposed amendments to Title 10 of the Batavia City Code was duly given and published as required by law; and

**WHEREAS**, the Plan Commission of the City of Batavia did, on February 20, 2019 conduct a public hearing with respect to proposed amendments that would accomplish the appropriate changes to Title 10, and voted to recommend approval of said amendments to Title 10 of the City Code to the City Council’s Committee of the Whole; and

**WHEREAS**, the City Council’s Committee of the Whole has received the recommendation of the Batavia Plan Commission and recommended approval of said amendments; and

**WHEREAS**, the City Council of the City of Batavia has received the recommendation of both the Batavia Plan Commission and the Committee of the Whole, and has considered same; and

**WHEREAS**, it is in the best interests of the City of Batavia and its residents that the proposed Ordinance be adopted by the City Council of the City of Batavia.

**NOW THEREFORE, BE IT ORDAINED**, by the City Council of the City of Batavia, Kane and DuPage Counties, Illinois:

**SECTION 1:** That the City of Batavia Zoning Code (Title 10 of the City Code) is hereby amended in conformance with the terms of this Ordinance.

**SECTION 2:** That the City of Batavia Zoning Code Table 2.403: Land Use Regulations – Downtown Mixed Use is hereby amended with the following additions:

<i>Table 2.403 Land Use Regulations – Downtown Mixed Use</i>		
<b>Use Classification</b>	<b>DMU</b>	<b>Additional Regulations</b>
<i>Motor Vehicle Sales and Leasing, New and Used – Internet Based</i>	C, LII	
LII: Inventory or potential inventory vehicles parked, displayed, stored, or kept on the property is prohibited.		

**CITY OF BATAVIA ORDINANCE 19-13**

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**SECTION 3:** That this Ordinance 19-13 shall be in full force and effect upon its presentation, passage and publication according to the law.

**PRESENTED** to and **PASSED** by the City Council of the City of Batavia, Illinois, this 18<sup>th</sup> day of March, 2019.

**APPROVED** by me as Mayor of said City of Batavia, Illinois, this 18<sup>th</sup> day of March, 2019.

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Jeffery D. Schielke, Mayor

Ward	Aldermen	Ayes	Nays	Absent	Abstain	Aldermen	Ayes	Nays	Absent	Abstain
1	O'Brien					Salvati				
2	Callahan					Wolff				
3	Meitzler					Chanzit				
4	Malay					Stark				
5	Uher					Atac				
6	Cerone					Russotto				
7	McFadden					Brown				
Mayor Schielke										
<b>VOTE:</b>		Ayes	Nays	Absent	Abstention(s)					
Total holding office:		Mayor and 14 aldermen								

ATTEST:

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Ellen Posledni, City Clerk

**CITY OF BATAVIA, ILLINOIS  
ORDINANCE 19-14**

**CONDITIONAL USE PERMIT FOR A  
MOTOR VEHICLE SALES AND LEASING, NEW & USED – INTERNET BASED  
ESTABLISHMENT IN THE DMU DOWNTOWN MIXED USE DISTRICT**

**DARREN ENGER, APPLICANT  
(321 EAST WILSON STREET)**

**ADOPTED BY THE  
MAYOR AND CITY COUNCIL  
THIS 18<sup>th</sup> DAY OF MARCH, 2019**

Published in pamphlet form  
by authority of the Mayor  
and City Council of the City of Batavia,  
Kane & DuPage Counties, Illinois,  
This 19<sup>th</sup> day of March, 2019

Prepared by:  
City of Batavia  
100 N. Island Ave.  
Batavia, IL 60510

**CITY OF BATAVIA, ILLINOIS  
ORDINANCE 19-14**

**CONDITIONAL USE PERMIT FOR A  
MOTOR VEHICLE SALES AND LEASING, NEW & USED – INTERNET BASED  
ESTABLISHMENT IN THE DMU DOWNTOWN MIXED USE DISTRICT**

Darren Enger, Applicant  
(321 East Wilson Street)

**WHEREAS**, Darren Enger, owner of property located at 321 East Wilson Street, submitted an application for a Conditional Use Permit to the City of Batavia on the property legally described as:

Lots 7, 8, 9, and 10, and the Southerly 13.0 feet of the 32 foot alley lying Northerly of said Lots vacated by Document 2018K015592, all in Block 1 of Judge Wilson Heirs Addition, all in the City of Batavia, Kane County, Illinois.

**WHEREAS**, said Applicant is requesting a Conditional Use Permit to allow the operation of a Motor Vehicle Sales and Leasing, New & Used – Internet Based Establishment in the DMU Downtown Mixed Use; and

**WHEREAS**, notice was duly executed and the Batavia Plan Commission held a public hearing on February 20, 2019; and

**WHEREAS**, following said hearing, the Plan Commission made the following findings required for approval:

1. The proposed use will not be detrimental to health, safety, or general welfare of persons living or working in the vicinity, to adjacent property, to the neighborhood, or to the public in general.  

FINDING: The proposed use, as conditioned, would not generate noticeable additional activity on the site. The use would not negatively affect persons working or living in the vicinity or adjacent or nearby properties.
2. The proposed use, as conditioned, conforms with the purposes, intent, and policies of the Comprehensive Plan and any applicable area, neighborhood, or other plan adopted by the City Council.  

FINDING: The proposed use would add retail use to the site. The Comprehensive Plan seeks to strengthen retail activity in the downtown. As conditioned, the proposed use would conform generally to the Comprehensive Plan.
3. The proposed use conforms with the conditions, requirements, or standards required by the Zoning Code and any other applicable local, State, or Federal requirements.

FINDING: The proposed retail use would add diversity to the site as sought by the Zoning Code and have signage required of licensed vehicle dealers.

4. The proposed use, as conditioned, would conform generally to the Zoning Code and applicable government requirements.

FINDING: The proposed use, as conditioned, would not unreasonably interfere with the use and enjoyment of nearby properties. As conditioned, the proposed use would not interfere with the use and enjoyment of nearby properties.

**WHEREAS**, after making its findings, the Plan Commission recommended to the City Council approval of a Conditional Use Permit being granted subject to the following conditions:

1. Conditional Use Permit shall be granted solely to Darren Enger doing business as Fuzzy Dice Motorz at 321 East Wilson Street and the Conditional Use approval is not transferrable.
2. Vehicles associated with this business cannot be located on the property located at 321 East Wilson, including any vehicle acquired, being considered for acquisition, awaiting sale, or for pick-up by a purchaser, but excluding one (1) dealer-plated vehicle used solely by Mr. Enger for his commute to/from this location. Vehicles for sale also shall not be parked, kept, or stored on any public street or public parking lot nor on properties within the DMU District.
3. Signage for Fuzzy Dice Motorz be non-illuminated, not exceed six (6) square feet in area, and be located solely on the front entrance door of the building stating only “Fuzzy Dice Motorz” and its hours of operation or other information as required by the State of Illinois for vehicle dealers.

**WHEREAS**, on March 5, 2019, the City Council’s Committee of the Whole reviewed the application, the record of the public hearing, and the actions and findings of the Plan Commission and recommended approval of a Conditional Use Permit being granted solely to Darren Enger doing business as Fuzzy Dice Motorz, subject to conditions; and

**WHEREAS**, the City Council of the City of Batavia has considered the recommendations of both the Plan Commission and the Committee of the Whole.

**NOW THEREFORE, BE IT ORDAINED**, by the City Council of the City of Batavia, Kane and DuPage Counties, Illinois:

**SECTION 1:** The application for a Conditional Use Permit submitted by Darren Enger, to allow the operation of a Motor Vehicle Sales and Leasing, New and Used – Internet Based establishment at 321 East Wilson Street in the DMU Downtown Mixed Use District, under City Code Title 10, Chapter 5.4, is hereby approved with the following conditions:

1. Conditional Use Permit shall be granted solely to Darren Enger doing business as Fuzzy Dice Motorz at 321 East Wilson Street and the Conditional Use approval is not transferrable.
2. Vehicles associated with this business cannot be located on the property located at 321 East Wilson, including any vehicle acquired, being considered for acquisition, awaiting



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sale, or for pick-up by a purchaser, but excluding one (1) dealer-plated vehicle used solely by Mr. Enger for his commute to/from this location. Vehicles for sale also shall not be parked, kept, or stored on any public street or public parking lot nor on properties within the DMU District.

3. Signage for Fuzzy Dice Motorz be non-illuminated, not exceed six (6) square feet in area, and b located solely on the front entrance door of the building stating only “Fuzzy Dice Motorz” and its hours of operation or other information as required by the State of Illinois for vehicle dealers.

**SECTION 2:** That this Ordinance 19-14 shall be in full force and effect upon its presentation, passage and publication according to the law.

**PRESENTED** to and **PASSED** by the City Council of the City of Batavia, Illinois, this 18<sup>th</sup> day of March, 2019.

**APPROVED** by me as Mayor of said City of Batavia, Illinois, this 18<sup>th</sup> day of March, 2019.

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Jeffery D. Schielke, Mayor

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ATTEST:

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Ellen Posledni, City Clerk