

ORDINANCE NO. 17-04

**ORDINANCE AMENDING THE MARION CODE OF ORDINANCES TO REZONE PROPERTY FROM C-3, GENERAL COMMERCIAL TO PD-S, PLANNED DEVELOPMENT SPECIAL FOR PROPERTY LOCATED EAST OF HIGHWAY 13 AND NORTH OF HIGHWAY 151 (5801 HENNESSEY PARKWAY) IN MARION, LINN COUNTY, IOWA (WATER ROCK LLC)**

WHEREAS, Water Rock LLC, has made application to rezone from C-3, General Commercial to PD-S, Planned Development Special for property located east of Highway 13 and north of Highway 151 (5801 Hennessey Parkway) in Marion, Linn County, Iowa, more particularly described as follows:

LOT 2, SQUAW CREEK VILLAGE 1ST ADDITION

WHEREAS, the Marion Planning & Zoning Commission, on January 10, 2017, conducted a public hearing and approved CPC Resolution No. 17-03 recommending approval of a request by Water Rock LLC, formerly known as Iowa Specialty Supplies LLC, to rezone property from C-3, General Commercial to PD-S, Planned Development Special, property located at 5801 Hennessey Parkway AKA Lot 2, Squaw Creek Village First Addition; and

WHEREAS, the City Council has considered the recommendation of the Planning & Zoning Commission regarding said rezoning application and finds that the rezoning should be approved subject to the following:

- (1) Principle Permitted Uses. The following principle uses are permitted in the C-3 District:
  - A. Retail businesses which supply commodities on the premises:
    - (1) Retail businesses permitted in the C-2 District.
      - a. Retail businesses permitted in the C-1 District.
        - i. Retail businesses permitted in the O-1 District.
        - ii. Apparel, millinery, and shoe stores.
        - iii. Bakeries
        - iv. Camera and photographic supply stores.
        - v. Candy, ice cream, and dairy products stores.
        - vi. Drug stores and pharmacies.
        - vii. Fabric, yard, and needlecraft shops.
        - viii. Floral shops, but not including commercial greenhouses or nurseries.
        - ix. General merchandise stores, except that the sale of gasoline on the premises shall be a conditional use.
        - x. Grocery and food stores.
        - xi. Hardware stores.
        - xii. Jewelry stores.
        - xiii. Meat markets, provided that no slaughtering or processing of animals takes place on the premises.

- xiv. Radio, television, record and stereo stores and musical instrument stores.
    - xv. Sporting goods and toy stores.
    - xvi. Restaurants and delicatessens,
  - b. Auto accessory stores.
  - c. Furniture, home furnishings, paint, wall covering, floor covering and similar stores.
  - d. Household appliance.
  - e. Leather goods and luggage stores.
  - f. Liquor stores.
  - g. Office supply stores.
  - h. Pet shops.
  - i. Restaurants, cocktail lounges, taverns, and dancing establishments, including the serving of alcoholic beverages and beer, but not including drive-in or drive-through service except as conditional uses.
- (2) Water softener sales and service.
- (3) Restaurants, cocktail lounges, taverns, and dancing establishments, including the serving of beer and alcoholic beverages, and also including drive-in and drive-through service.
- B. Personal service businesses which perform services on the premises:
  - (1) Personal service establishments permitted in the C-2 District.
  - (2) Animal hospitals, veterinary clinics, and kennels, but not including unenclosed kennels, provided that any building associated with such uses shall be at least 100 feet from any lot in an "R" district.
  - (3) Athletic and amusement establishments such as miniature golf courses, "pitch and putt" and "par three" golf courses, bowling alleys, pool halls, dancing establishments, gymnasiums, swimming pools, skating rinks, indoor archery ranges and shooting galleries, tennis courts, handball and racquetball courts, coin-operated game establishments, and similar uses, but not including massage establishments.
- C. Business service establishments:
  - (1) Business service establishments permitted in the C-2 District.
  - (2) Cartage, express, and parcel delivery service.
- D. Professional office establishments permitted in the C-2 District.
- E. Public, quasi-public, and governmental buildings and facilities:
  - (1) Public, quasi-public, and governmental buildings and facilities permitted in the C-2 District, except that day care centers are conditional uses in this district.
- F. Residential uses: Hotels and motels.
- (2) Conditional Uses. The following conditional uses are permitted in the C-3 District only when authorized by the Zoning Board of Adjustment as provided in Section 176.36.
  - A. Day care centers.

B. Conditional Uses as permitted in the C-2 District only when authorized by the Zoning Board of Adjustment as provided in Section 176.36.

(3) Site and Structure Requirements.

A. Minimum lot area – per the 13 & 151 Design Guidelines Manual

B. Minimum lot width - per the 13 & 151 Design Guidelines Manual

C. Front yard setback - per the 13 & 151 Design Guidelines Manual

D. Side yard setback – per the 13 & 151 Design Guidelines Manual

E. Rear yard setback - per the 13 & 151 Design Guidelines Manual

F. Maximum height - 3 stories or 45 feet, whichever is less, except that the maximum height may increase by one (1) foot for each one-half (½) foot that the front, rear and side yard setbacks are increased over the required minimums, up to a maximum of 150 feet in height with no limit on the number of stories.

G. Open space required - None.

(1) Landscaping shall be required per the 13 & 151 Design Guidelines Manual

(4) Other Provisions.

A. Accessory Uses. Uses and structures accessory to a principal permitted use or a conditional use are permitted subject to the provisions of Section 176.32.

B. Temporary Uses. Temporary uses are permitted subject to the provision of Section 176.35(13).

C. Signs. Signs shall incorporate aesthetic features compatible with the overall character of the zoning district and neighborhoods, and shall meet the standards of the approved 13 & 151 Design Guidelines Manual :

D. Off-street Parking and Loading. Off-street parking and loading facilities shall be provided according to the provisions of Section 176.29.

E. Open Storage. All operations, including the storage shall be conducted in a fully enclosed building.

F. Performance Standards. No flammable, reactive, explosive, toxic, or radioactive materials may be stored, handled or utilized unless the Building Official and the Fire Chief determine that such use does not constitute a hazard to adjacent properties based upon standards and criteria set forth in local, State and Federal codes, rules and/or regulations.

G. Architectural Requirements. The use of quality architectural materials shall be used on all sides of all buildings and structures in order to enhance the physical appearance of the building per the 13 & 151 Design Guidelines Manual

(1) The primary exterior material shall be per the 13 & 151 Design Guidelines Manual

H. Exterior Lighting Standards. Lighting on the site shall adhere to the following standards. City staff and officials may request submittal of a formal lighting plan at their discretion, the content of which shall be determined at the time that such a request is made.

(1) Light Trespass and Distraction. Lighting shall be provided in such a way as to not interfere with roadway traffic, spill over onto adjacent properties, and / or pollute the night sky. The light levels shall be no greater than zero (0) foot-candle at any property line or public right-of-way line. Where this foot-candle restriction cannot be met, an administrative variance may be applied for when trespass may occur on a commercially

zoned property, but is not permitted to trespass on to an R zoned property. Specifically, the following types of light trespass are prohibited:

- a. Any light not designed for roadway illumination that produces direct or reflected glare that could disturb the operator of a motor vehicle.
- b. Any light that may be confused with, or construed as a traffic control device, except as authorized by state, federal and local government.

(2) Unshielded Lighting. The use of unshielded lighting, including incandescent light bulbs hung or strung on poles, wires or any other type of support are prohibited except on temporary basis not to exceed 2 weeks and when associated with construction activity on the property.

(3) Light Poles. The maximum height of light poles on private property, as measured from grade at the base to the bottom of the luminaries shall not exceed sixteen (16) feet in height. These standards do not apply to public lighting.

I. Pedestrian Sidewalks. Sidewalks shall be placed in the city right-of-way adjacent to all public and private streets as required by the Marion Code of Ordinances. Lots must provide a means of access from the public sidewalk to all buildings located on each parcel.

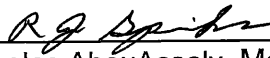
**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARION IOWA;**

Section 1. That Section 176.05 of the Marion Code of Ordinances is hereby amended, including the Zoning District Map, and the zoning classification is changed for the above described real estate from C-3, General Commercial to PD-S, Planned Development Special, property located at 5801 Hennessey Parkway AKA Lot 2, Squaw Creek Village First Addition, Marion, Iowa.

Section 2. That all ordinances and parts of ordinances in conflict with the same are hereby repealed.

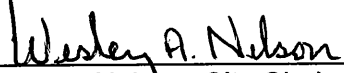
Section 3. This ordinance shall be in full force and effect from and after its passage, approval, and publication as by law provided.

Passed and approved this 20 day of April, 2017.

  
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Nicholas AbouAssaly, Mayor *Pro tem*

ATTEST:

I, Wesley A. Nelson, City Clerk of the City of Marion, hereby certify that the above and foregoing is a true copy of an ordinance passed by the City Council of said City at a meeting held on April 20, 2017, and published as provided by law in the marion times on may 4, 2017.

  
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Wesley A. Nelson, City Clerk

**ACCEPTANCE:** As the petitioner for this requested change in zoning district classification, I hereby accept the conditions as included in the above ordinance.

Water Rock LLC

  
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Brian Ridge