

ORDINANCE NO. 13-08

ORDINANCE AMENDING THE MARION CODE OF ORDINANCES REGARDING A REQUEST TO REZONE PROPERTY LOCATED WEST OF WINSLOW ROAD AND NORTH OF TOWER TERRACE ROAD EXTENDED FROM A-1 RURAL RESTRICTED AND LINN COUNTY AG, AGRICULTURE, TO R-2, MEDIUM DENSITY SINGLE FAMILY RESIDENTIAL AND O-1, OFFICE TRANSITIONAL WITH CONDITIONS (THE KENNETH NOVOTNY ESTATE).

WHEREAS, The Kenneth Novotny Estate, Owner, has made application to rezone from A-1, Rural Restricted and Linn County AG, Agricultural to R-2, Single-Family Residential and O-1, Office Transitional property located west of Winslow Road, south of Connection Avenue in Marion, Iowa, more particularly described as follows:

AG to R-2

PART OF THE NORTHWEST FRACTIONAL QUARTER OF SECTION 30, TOWNSHIP 84 NORTH, RANGE 6 WEST OF THE 5TH PRINCIPAL MERIDIAN, LINN COUNTY, IOWA DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SECTION 30, TOWNSHIP 84 NORTH, RANGE 6 WEST OF THE 5TH PRINCIPAL MERIDIAN; THENCE S89°28'32"E ALONG THE SOUTH LINE OF THE NORTHWEST FRACTIONAL QUARTER OF SAID SECTION 30, 1475.42 FEET TO THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID NORTHWEST FRACTIONAL QUARTER; THENCE N0°39'10"W ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID NORTHWEST FRACTIONAL QUARTER, 1067.92 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N0°39'10"W ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID NORTHWEST FRACTIONAL QUARTER AND THE WEST LINE OF THE NORTHEAST QUARTER OF SAID NORTHWEST FRACTIONAL QUARTER, 1593.54 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID NORTHWEST FRACTIONAL QUARTER; THENCE S89°24'11"E ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID NORTHWEST FRACTIONAL QUARTER, 1166.54 FEET TO THE CENTERLINE OF WINSLOW ROAD; THENCE S8°56'00"E ALONG SAID CENTERLINE, 383.58 FEET; THENCE SOUTHWESTERLY, 811.34 FEET ALONG THE ARC OF A 500.00 FOOT RADIUS CURVE, CONCAVE NORTHWESTERLY (CHORD BEARS S37°33'10"W, 725.21 FEET); THENCE S84°02'20"W, 228.85 FEET; THENCE SOUTHWESTERLY, 886.89 FEET ALONG THE ARC OF A 600.00 FOOT RADIUS CURVE, CONCAVE SOUTHEASTERLY (CHORD BEARS S41°41'35"W, 808.32 FEET) TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 1,204,102 SQ.FT., 27.64 ACRES, SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

A-1 and AG to O-1

PART OF THE NORTHWEST FRACTIONAL QUARTER OF SECTION 30, TOWNSHIP 84 NORTH, RANGE 6 WEST OF THE 5TH PRINCIPAL MERIDIAN, LINN COUNTY, IOWA DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SECTION 30, TOWNSHIP 84 NORTH, RANGE 6 WEST OF THE 5TH PRINCIPAL MERIDIAN; THENCE S89°28'32"E ALONG THE SOUTH LINE OF THE NORTHWEST FRACTIONAL QUARTER OF SAID SECTION 30, 1475.42 FEET TO THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID NORTHWEST FRACTIONAL QUARTER AND THE POINT OF BEGINNING; THENCE N0°39'10"W ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID NORTHWEST FRACTIONAL QUARTER, 1067.92 FEET; THENCE NORTHEASTERLY, 886.89 FEET ALONG THE ARC OF A 600.00 FOOT RADIUS CURVE, CONCAVE SOUTHEASTERLY (CHORD BEARS N41°41'35"E, 808.32 FEET; THENCE N84°02'20"E, 228.85 FEET; THENCE NORTHEASTERLY, 811.34 FEET ALONG THE ARC OF A 500.00 FOOT RADIUS CURVE, CONCAVE NORTHWESTERLY (CHORD BEARS N37°33'10"E, 725.21 FEET) TO THE CENTERLINE OF WINSLOW ROAD; THENCE S8°56'00"E ALONG SAID CENTERLINE, 585.79 FEET; THENCE N81°48'27"E, 32.94 FEET TO THE EAST LINE OF SAID NORTHWEST FRACTIONAL QUARTER; THENCE S1°01'20"E ALONG SAID EAST LINE, 1370.82 FEET; THENCE N89°13'47"W, 363.38 FEET; THENCE S0°13'00"E, 103.80 FEET; THENCE N89°13'07"W, 149.24 FEET; THENCE S1°00'07"E, 236.42 FEET TO THE SOUTH LINE OF SAID NORTHWEST FRACTIONAL QUARTER; THENCE N89°28'32"W ALONG SAID SOUTH LINE, 834.96 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 2,109,819 SQ.FT., 48.43 ACRES, SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

WHEREAS, said application has been considered by the Planning and Zoning Commission and the Commission adopted CPC Resolution No. 13-03 dated January 8, 2013, recommending approval of said rezoning request subject to the conditions below:

WHEREAS, said application has heretofore been set for public hearing before the City Council as required by law and said public hearing having been concluded and the Council having considered the record and all statements for and against said application and being fully advised of the premises; and,

WHEREAS, the City Council has considered the recommendation of the Planning and Zoning Commission regarding said application.

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

Section 1. That Section 176.04 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 A-1, Rural Restricted to R-2, Medium Density, Single-Family Residential and O-1, Office Transitional, subject to the following conditions placed on property zoned O-1, Office Transitional:

1. Land Use - Uses shall be restricted to those permitted in Section 176.18 (O-1, Office Transitional Zoning District) of the Marion Code of Ordinances unless otherwise specified below:
 - a. Drive-through facilities shall be permitted by Conditional Use

- b. Restaurants and delicatessen, shall be permitted as a Conditional Use
 - c. All operations, including the storage of merchandise displayed for sale or lease shall be conducted in a fully enclosed building.
 - i. Outdoor dining facilities shall be permitted as an accessory use to a restaurant.
2. Development Standards- Design and use of material for construction of any building within this parcel shall be constructed in a manner compatible with the adjoining residential neighborhoods.
- a. O-1, Office Transitional regulations for lot area, frontage and yard requirements shall apply, unless otherwise specified herein. Building setback line shall be as follows; Rear Yard setbacks shall be twenty-five feet (25'). Side yard setbacks shall be seven feet (7') corner side yard setbacks shall be fifteen feet (15') and front yards shall have a minimum setback of twenty-five (25') along Winslow Road.
 - b. Landscaping shall be provided per Section 176.42 of the Marion Code of Ordinances.
 - c. Adequate treatment or screening of negative aspects of buildings, (loading docks, loading areas, outside storage area, garbage dumpsters and HVAC mechanical units) from any public street and adjoin properties shall be required. Any waste enclosures shall be constructed with colors and materials that are compatible with the building material of the principle structure of the property.
3. Architectural Requirements – The use of architectural quality materials (noted in a. below) shall be used on all sides of the all building in order to enhance the physical appearance of the building and attempt to make the structures more compatible with the residential structures in the adjacent neighborhood. The roofs shall be pitched or gabled in attempt to make the structure more compatible with the residential structures in the adjacent neighborhood.
- a. The use of brick, stone, stucco, or concrete block shall be used on all sides of all buildings to in order to enhance the physical appearance of the building and attempt to make the structure more compatible with the residential structures in the adjacent neighborhood. The roof all design of all building under 10,000 square feet shall be pitched or gabled to make the structure more compatible with the residential structures in the adjacent neighborhood.
 - b. All roof elements under 10,000 square feet shall have a minimum 6/12 pitch.

4. Signage Requirements shall be in accordance with the provisions of chapter 176.31 of the Marion City Code of Ordinances unless otherwise specified below:
 - a. No pole signs shall be permitted as defined by the City of Marion Zoning Ordinance within any portion of the development. Ground signs shall be used for construction of free standing signs and shall not exceed 100 square feet. Any supporting columns shall be constructed with colors and materials that are compatible with the building material of the principle structure of the property.
 - i. Ground signs shall be lighted indirectly, unless signage consists of individual illuminated self contained letters and or logos.
 - ii. Ground signs shall have a base that is equal to or greater than the width of the sign.
 - iii. Electronic / manual message boards shall be permitted, but shall not exceed 40% of the total sign area.
 1. Electronic / manual message boards may not be lit / operated between the hours of 10:00PM and 6:00AM and shall contain an automatic light sensitive dimming devices.
 - b. All building signs shall be composed of solid individual letter and logos or individual illuminated self-contained letters and logs attached to the building's exterior wall fascia. Panel signs with letters incorporated or painted upon a panel or wall area shall be prohibited.
 - i. Buildings signs shall not exceed 20% of total square footage of the wall area to which it is attached.
 - ii. Shall incorporate aesthetic features compatible with the overall character of the zoning district and neighborhoods.
 - c. Off premise advertising in addition to electronic /manual message boards shall be prohibited on the property.
5. Pedestrian Sidewalks. Sidewalks shall be replaced within city right of way adjacent to all public streets as require by the Marion Code of Ordinances. All developments must provide means of access from the public sidewalk to buildings located on each parcel.

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 18th day of April, 2013.



Snooks Bouska, Mayor

ATTEST:



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

Mooney Engle Land Company, LLC



Tim Mooney

CERTIFICATE OF SERVICE

The undersigned City Clerk of Marion, Iowa certifies that the Ordinance & Summary shown immediately above was published in the marion Times on the 25th day of April, 2013.

Wes Nelson / pch
City Clerk