

ORDINANCE NO. 13-14

ORDINANCE AMENDING THE MARION CODE OF ORDINANCES REGARDING A REQUEST TO REZONE PROPERTY LOCATED ALONG TOWER TERRACE ROAD BETWEEN 10TH STREET AND ALBURNETT ROAD FROM PD-C, PLANNED DEVELOPMENT COMMERCIAL TO C-3, GENERAL COMMERCIAL, WITH CONDITIONS (MOONEY ENGLE LAND COMPANY)

WHEREAS, Mooney Engle Land Company, LLC, Owner, has made application to rezone from PD-C, Planned Development Commercial to C-3, General Commercial for property located along Tower Terrace Road, between 10th Street and Alburnett Road, more particularly described as follows:

PD-C to C-3

That part of the NW ¼ SE ¼ and the NE ¼ SE ¼ both in Section 25, Township 84 North, Range 7 West of the 5th P.M., City of Marion, Linn County, Iowa described as follows:

Parcel A, Plat of Survey #1476 excepting there from Stonefield Sixth Addition to said City; and

Parcel A, Plat of Survey #1626 excepting there from Stonefield Seventh Addition to said City.

WHEREAS, the Marion Planning and Zoning Commission on April 9, 2013 amended the applicants request to include the following property to the request:

PD-C to C-3

Lot 1, Stonefield 7th Addition to Marion, Linn County Iowa, and

Lot 2, Stonefield 2nd Addition to Marion, Linn County, Iowa

WHEREAS, said application has been considered by the Planning and Zoning Commission and the Commission adopted CPC Resolution No. 13-13 dated June 11, 2013, recommending approval of said rezoning request subject to conditions:

WHEREAS, said application has heretofore been set for public hearing on May 23, 2013 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 & Zoning Commission regarding said rezoning 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 PD-C, Planned Development Commercial to C-3, General Commercial subject to following standards:

- (1) Shall be subject to the permitted use regulations of the C-2, Neighborhood Commercial Zoning District and the C-1, Neighborhood Commercial Zoning District except as follows:
 - A. Restaurants, cocktail lounges, taverns, and dancing establishments, including the serving of alcoholic beverages and beer and/or including drive-in or drive-through service uses shall be prohibited north of Tower Terrace Road; east of the centerline of 3rd Street extended north of Tower Terrace Road.
 - B. Open Storage. All operations shall be conducted in a fully enclosed building
- (2) Shall be subject to the conditional use regulations of the C-2, Central Business D District and the C-1, Neighborhood Commercial Zoning District
- (3) Shall be subject to the Site and Structure Requirements of the C-1, Neighborhood Commercial Zoning District except as follows:
 - A. Maximum Height - 3 stores or 45'
 - B. Landscaping shall be required to be provided per Section 763.42 of the Marion Code of Ordinances.
- (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, are permitted subject to the provisions of Section 176.31, unless otherwise specified below:
 - (1) Ground signs shall not exceed 100 square feet and any supporting columns shall be constructed with colors and materials that are compatible with the building material of the principle structure of the property.
 - (2) Ground signs shall have a base that is equal to or greater than the width of sign.
 - (3) Electronic / manual message boards shall not be operated between the hours of 10:00pm and 6:00am and shall contain an automatic light sensitive dimming devices.

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 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 and attempt to make the structures more compatible with residential structures in the adjacent neighborhoods.

(1) The roofs shall be pitched or gabled in attempt to make the structure more compatible with the residential structures in the adjacent neighborhood.

a. All roof elements under 10,000 square feet shall have a minimum 6/12 pitch.

(2) The primary exterior material shall consist of a combination of brick, architectural concrete panels, textured concrete block or architectural metal, fiber cement, stone panels in keeping with the nature and character of the theme developed by the overall project and compatible with the adjacent residential developments. Use of brick, stone, stucco or concrete block shall be used on all sides of all buildings and structures.

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 streets as required by the Marion Code of Ordinances. All individual lots must provide a means of access from the public sidewalk to all buildings located on each parcel.

J. Building Renderings. Each building permit/site plan shall include a colored rendering of the principle structure indicating the type and color of all exterior building materials

K. Hours of Operation: Businesses shall not be open to the public between the hours of 11:00PM and 6:00AM unless approved by Conditional Use.

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

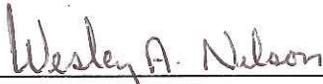
Section 3. This ordinance shall be in full force and effect from and after its passage, approval, and publication as by law provided.

Passed and approved this 11th day of July, 2013.



Snooks Bouska, Mayor

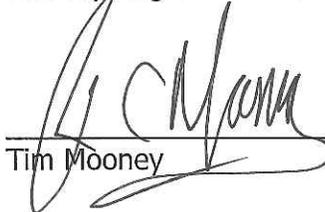
ATTEST:



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 Ord & Summary shown immediately above was published in the Marion Times on the 25th day of July, 20 13.
Wes Nelson / rch
City Clerk