

ORDINANCE NO. 13-18

ORDINANCE AMENDING THE MARION CODE OF ORDINANCES REGARDING A REQUEST TO REZONE PROPERTY LOCATED EAST OF 35TH STREET AND NORTH OF 35TH AVENUE AND SOUTH OF TOWER TERRACE ROAD EXTENDED FROM UNDESIGNATED TO C-1, NEIGHBORHOOD COMMERCIAL, WITH CONDITIONS (MORRIS WOOD LLC)

WHEREAS, Morris Wood, LLC, Owner, has made application to rezone from Undesignated to C-1, Neighborhood Commercial, with conditions, for property located east of 35th Street and north of 35th Avenue and south of Tower Terrace Road extended in Marion, Iowa, more particularly described as follows:

Undesignated to C-1

Beginning at the the Southeast corner of Parcel A, Plat of Survey No. 1809; thence South 89° 39' 27" West 676.79 feet along the South lines of Parcel A, Plat of Survey No. 1809 and Parcel A, Plat of Survey No. 1532 to the Southwest corner of Parcel A, Plat of Survey No. 1532; thence North 00° 57' 23" West 540.59 feet along the West line of said Parcel A to the beginning of a 610.50 foot radius curve concave Southwesterly; thence Northwesterly along the West line of said Parcel A, through a central angle of 15° 18' 18" an arc distance of 163.08 feet (chord bearing North 08° 36' 32" West 162.59 feet); thence North 73° 32' 19" East 724.78 feet to the East line of Parcel A, Plat of Survey No. 1809; thence South 00° 57' 23" East 902.74 feet along said East line to the point of beginning, containing 12.54 acres subject to covenants, easements and restrictions of record.

WHEREAS, said application has been considered by the Planning and Zoning Commission and the Commission adopted CPC Resolution No. 13-12 dated June 11, 2013, recommending approval of said rezoning request subject to conditions:

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 & 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 Undesignated to C-1, Neighborhood Commercial subject to following standards:

The C-1 Neighborhood Commercial District is intended to provide restricted commercial development in areas adjacent to or surrounded by residential neighborhoods. This district is designed to allow commercial development which can be carried out in a harmonious manner with a minimum of disruption and undesirable impact upon the adjacent residential uses.

1. Principal Permitted Uses. The following principal uses are permitted in the C-1 District:

A. Retail businesses which supply commodities on the premises:

- (1) Retail businesses permitted in the O-1 District.
- (2) Apparel, millinery, and shoe stores.
- (3) Bakeries
- (4) Camera and photographic supply stores.
- (5) Candy, ice cream, and dairy products stores.
- (6) Drug stores and pharmacies.
- (7) Fabric, yard, and needlecraft shops.
- (8) Floral shops, but not including commercial greenhouses or nurseries.
- (9) General merchandise stores, ~~except that the sale of gasoline on the premises shall be a conditional use.~~
- (10) ~~Grocery and food stores.~~
- (11) ~~Hardware stores.~~
- (12) ~~Jewelry stores.~~
- ~~(13) Meat markets, provided that no slaughtering or processing of animals takes place on the premises.~~
- (14) Radio, television, record and stereo stores and musical instrument stores.
- (15) Sporting goods and toy stores.
- (16) Restaurants and delicatessens, provided that no alcoholic beverages or beer are served and further provided that drive-in and drive-through service is prohibited.

B. Personal service establishments which perform services on the premises:

- (1) Personal service establishments permitted in the O-1 District.
- (2) Dry cleaner and laundry receiving stations, provided that processing is done elsewhere.
- (3) Self-service laundry and dry cleaning establishments.
- (4) Shops for repair of shoes, watches, jewelry, and small appliances.

C. Business service establishments which perform services on the premises and which are permitted in the O-1 District.

D. Professional office establishments permitted in the O-1 District.

E. Public, quasi-public, and governmental buildings and facilities:

- (1) Public, quasi-public, and governmental buildings and facilities permitted in the O-1 District.
- (2) Post office substations.

F. Residential uses: dwelling units and rooming units in nonresidential uses.

2. Conditional Uses. The following conditional uses are permitted in the C-1 District only when authorized by the Zoning Board of Adjustment as provided in Section 176.36.

- A. Gas stations selling fuel, lubricants, coolants, tires, and other commodities, but not including the performance of vehicle repair and maintenance of any kind.
 - B. Banks, savings and loans, and financial institutions.
 - C. Public or quasi-public buildings and facilities essential to the physical welfare of an area such as electrical distribution substations, pipeline pumping stations, gas regulator stations, water storage facilities, and similar uses.
 - D. Similar and compatible uses to those allowed as principal permitted uses in this district.
 - E. Drive-in or drive-through services.
3. Site and Structure Requirements.
- A. Minimum lot area - 6,000 square feet.
 - (1) Minimum lot area per dwelling unit - 1,200 square feet.
 - (2) A lot of record as of the effective date of this Ordinance that has less area or width than herein required may be occupied by a use permitted in this district.
 - B. Minimum lot width - 60 feet.
 - C. Front yard setback - 25 feet.
 - D. Side yard setback: None, except when a lot abuts an R or O-1 District, in which case there shall be a side yard setback of 7 feet; corner side yard - 12 feet.
 - E. Rear yard setback: None, except when a lot abuts an R District, in which case there shall be a rear yard setback of 25 feet, or 20 percent of the lot depth, whichever amount is smaller, but in no event less than 15 feet.
 - F. Maximum height – 2½ stores or 35 feet.
 - G. Open space required - none.
 - (1) Landscaping shall be required to be provided per Section 176.42.
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 provisions 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 50 square feet per side 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. Outdoor Sales. All business, servicing, or processing, except for off-street parking and loading facilities, shall be conducted within completely enclosed buildings.

F. Open Storage. All operations, including the storage of anything except merchandise displayed for sale or lease, or equipment and vehicles, shall be conducted in a fully enclosed building or entirely behind solid walls or fences which conceal them from visibility from off the lot.

G. Performance Standards. No flammable, reactive, explosive, toxic, or radioactive materials may be manufactured, 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.

H. Architectural Requirements. The use of architectural quality 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 sides of all buildings and structures.

I. Exterior Lighting. 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. Other than security lighting, no exterior illumination of parking lots, building facades or advertising devices shall be allowed except when the business is open to the public.

(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.

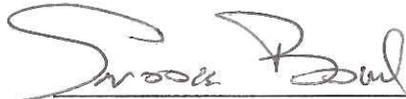
J. Pedestrian Sidewalks. Sidewalks shall be placed in the city right-of-way adjacent to all public streets as required by the Marion Code of Ordinances. All individual lots must provide a means of access from the public sidewalk to all buildings located on each parcel.

K. Hours of Operation. No business shall be open to the public between the hours of 11:00 p.m. and 6:00 a.m.

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

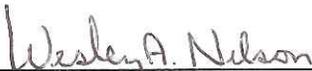
Section 3. This ordinance shall be in full force and effect from and after its passage, approval, and publication as by law provided.

Passed and approved this 25th day of July, 2013.



Snooks Bouska, Mayor

ATTEST:

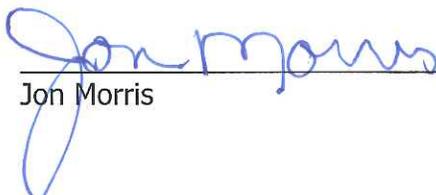


Wesley A. Nelson, City Clerk

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

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 8th day of August, 20 13.
Wes Nelson /rcw
City Clerk

Morris Wood, LLC



Jon Morris