

ORDINANCE NO. 13-28

ORDINANCE AMENDING THE MARION CODE OF ORDINANCES REGARDING A REQUEST TO REZONE PROPERTY LOCATED NORTH OF TOWER TERRACE ROAD AND WEST OF SHADY OAK DRIVE FROM A-1, RURAL RESTRICTED TO R-2, MEDIUM DENSITY SINGLE-FAMILY RESIDENTIAL AND C-3, GENERAL COMMERCIAL WITH CONDITIONS (Curt & Barbara Gill and Kent Backen).

WHEREAS, Curt & Barbara Gill, Owner, and Kent Backen, Applicant, have made an application to rezone from A-1, Rural Restricted to R-2, Medium Density Single-Family Residential and C-3, General Commercial with conditions for property located north of Tower Terrace Road and west of Shady Oak Drive, more particularly described as follows:

A-1 to R-2

That part of Parcel A, Plat of Survey No. 1862, Marion, Linn County, Iowa described as follows:

Beginning at the Northwest corner of Parcel A, Plat of Survey No. 83, Marion, Iowa;

THE FOLLOWING SEVEN COURSES AND DISTANCES ARE RUNNING ALONG THE NORTHERLY, WESTERLY AND SOUTHERLY BOUNDARY LINES OF PARCEL A, PLAT OF SURVEY NO. 1862:

thence N 88° 55' 54" E for a distance of 854.55 feet;
thence S 01° 09' 43" E for a distance of 489.60 feet;
thence S 88° 36' 17" W a distance of 210.43 feet;
thence S 01° 39' 13" E for a distance of 481.12 feet;
thence N 89° 06' 29" E for a distance of 700.06 feet;
thence S 01° 41' 45" E for a distance of 354.12 feet;
thence S 89° 06' 34" W for a distance of 968.70 feet;
thence N 17° 50' 35" W for a distance of 561.13 feet;
thence N 89° 14' 50" W for a distance of 224.39 feet to the West line of said Parcel A;
thence N 00° 59' 02" W for a distance of 780.75 feet to the Point of Beginning, containing 24.00 acres subject to easement and restrictions of record.

A-1 to C-3

That part of Parcel A, Plat of Survey No. 1862, Marion, Linn County, Iowa described as follows:

Beginning at the Southwest corner of Parcel A, Plat of Survey No. 1862;

THE FOLLOWING FIVE COURSES AND DISTANCES ARE RUNNING ALONG THE WESTERLY BOUNDARY LINES OF PARCEL A, PLAT OF SURVEY NO. 1862:

thence N 12° 00' 18" E for a distance of 123.71 feet to the beginning of a curve;
said curve turning to the left through an angle of 34° 57' 34", having a radius of 300.00 feet, and whose long chord bears N 05° 28' 29" W for a distance of 180.22 feet;
thence N 22° 57' 15" W for a distance of 87.93 feet to the beginning of a curve;

said curve turning to the right through an angle of 21° 58' 13", having a radius of 300.00 feet, and whose long chord bears N 11° 58' 09" W for a distance of 114.33 feet.

thence N 00° 59' 02" W for a distance of 49.25 feet;

thence S 89° 14' 50" E a distance of 224.39 feet;

thence S 17° 50' 35" E for a distance of 561.13 feet to the South line of said Parcel A;

thence S 89° 06' 36" W for a distance of 346.04 feet along said South line to the Point of Beginning, containing 3.25 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. 13-33 dated October 8, 2013, recommending approval of said rezoning request; and,

WHEREAS, said application has heretofore been set for public hearing on November 7, 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 subject to the conditions below:

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 C-3, General Commercial with conditions:

- (1) Shall be subject to the permitted use regulations of the C-2, Central Business Commercial Zoning District and the C-1, Neighborhood Commercial Zoning District except as follows:
 - A. Cocktail lounges, taverns, and dancing establishments shall be prohibited.
 - 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 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:

- a. 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.
- b. Ground signs shall have a base that is equal to or greater than the width of sign.
- c. 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 structures in the adjacent neighborhoods.

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

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

J. 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.

K. 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.

L. 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.
- c. 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.
- d. 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.

M. 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.

N. 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.

O. 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.

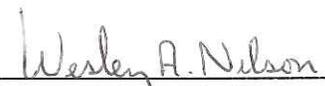
Section 3. This ordinance shall be in full force and effect from and after its passage, approval, and publication as by law provided.

Passed and approved this 21st day of November, 2013.



Snooks Bouska, Mayor

ATTEST:



Wesley A. Nelson, City Clerk

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 5th day of December, 20 13.

Wes Nelson jrcl
City Clerk