

PLANNING & DEVELOPMENT

500 West Fourth Street

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Item #12

6/27/17

Timothy Huey
Director

To: Mahesh Sharma, County Administrator

From: Timothy Huey, Planning Director

Date: June 20, 2017

Re: **A request from Wapsi Willy's, LLC. to rezone 3.93 acres, more or less, from Neighborhood Commercial (C-1) to Commercial-Light Industrial (C-2) in part of the SE¼ of the NE¼ of Section 6 Butler Township.**

The Planning Commission unanimously recommended approval of this request in accordance with staff's recommendation. This request is to rezone a 3.93 acre parcel from "Neighborhood Commercial (C-1)" to "Commercial-Light Industrial (C-2)." The purpose of the rezoning is to allow the applicant's liquor license to be amended to allow outdoor sales of alcohol. The applicant has rehabilitated the Fairyland Ballroom that had operated on this site for many decades. He recently inquired about having outdoor recreation, such as sand volleyball, and outdoor sales of food and drinks. Operation of the facility as an indoor eating and drinking establishment is a permitted use in the existing C-1 zoning district, however outdoor recreation requires a C-2 zoning designation.

The Planning Commission held a public hearing on this request on May 2nd and voted to table the request until June 6th to allow time for the applicant to work out an agreement with neighboring property owners to address their concerns about parking, outdoor lightning and the hours of outdoor activity. The applicant has signed an agreement on to five (5) conditions recommended by the Planning Commission for the rezoning approval:

1. Any new lighting installed shall be confined to the west side of the building, facing away from the neighboring residences;
2. All outdoor activities shall cease by 10:00 P.M.;
3. No live bands shall play outdoors;
4. No camping shall take place on the property;
5. And that all access easements through the property be kept clear.

Prior to submitting this request to the Board of Supervisors the applicant has signed an agreement on those five (5) conditions that will be recorded in the land record for the property if this rezoning is approved.

PLANNING COMMISSION RECOMMENDATION: The Planning Commission recommends that the rezoning of this property from "Neighborhood Commercial (C-1)" to "Commercial-Light Industrial (C-2)." be approved with the five (5) conditions in the signed agreement based on its compliance with a preponderance of the criteria of the Revised Land-Use Policies:

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Timothy Huey
Director

To: Planning & Zoning Commission

From: Timothy Huey, Planning & Development Director

Date: June 2, 2017

Re: Wapsi Willy's Rezoning Request

The rezoning request for the property at 18800 315th Street, Scott County Parcel #040623006, a 3.93-acre tract more or less, from "Neighborhood Commercial (C-1)" to "Commercial-Light Industrial (C-2)," described as Part of the SE ¼ of the NE ¼ of Section 6, T80N R4E (Butler Township) was submitted for review at the May 2nd Planning & Zoning Commission meeting. The Commission voted (7-0) to table the request until the June 6th meeting.

Staff's recommendation had been to approve the request without conditions based on its compliance with a preponderance of the criteria of the Revised Land Use Policies. Following the public hearing, in which five (5) nearby property owners spoke on the record against the request, and a discussion among commissioners, a motion was made to table the request until the June 6th meeting due to the lack of clarity of both the scope of the applicants' intended "outdoor recreation" activities, and of where the activities would take place on site. Motion passed.

Since the hearing, the applicants submitted what they describe as an "agreement made between Wapsi Willy's and neighbors," which lists two conditions: (1) That all outdoor events last no longer than 10:00 PM, and (2) that any new outdoor lighting installed must be turned off by 10:00 PM, except for lighting on the west side of the building. The agreement is signed only by the applicants, but staff has not received any written or verbal comments from the neighbors or other members of the public since the public hearing. Staff would recommend approval of the request with the conditions submitted by the applicants. Pursuant of Chapter 335 of the Iowa Code, these conditions would need to be formalized and signed by the applicants and submitted to the Scott County Board of Supervisors for consideration prior to their final decision.



PLANNING & ZONING COMMISSION

STAFF REPORT

May 2, 2017



- Applicant:** Wapsi Willy's, LLC.
- Request:** Rezone 3.93 acres, more or less, from Neighborhood Commercial (C-1) to Commercial-Light Industrial (C-2)
- Legal Description:** Part of the SE ¼ of the NE ¼ of Section 6, Township 80 North, Range 4 East of the 5th Principal Meridian (Butler Township)
- General Location:** Along the southern banks of the Wapsipinicon River on the east side of Scott Park Road, 2 ½ miles north of Scott County Park
- Existing Zoning:** Neighborhood Commercial (C-1)
- Surrounding Zoning:**
- North:** Residential Single-Family (R-1)
 - South:** Agricultural-Preservation (A-P)
 - East:** Residential Single-Family (R-1)
 - West:** Agricultural-General (A-G)

GENERAL COMMENTS: This request is to rezone approximately 3.93 acres from Neighborhood Commercial (C-1) to Commercial-Light Industrial (C-2). The applicant's petition states an intention to offer outdoor recreation in the form of volleyball, horseshoes, bags and the like at an existing bar-restaurant, which would be considered "outdoor recreational business" under the Zoning Ordinance. The C-1 Zoning District allows only indoor recreational business, and the C-2 Zoning District allows both indoor and outdoor recreational business.

Wapsi Willy's, as the bar-restaurant is known today, is the site of the former Fairyland Park Ballroom. With the original structures and additions dating back to 1920 according to the Scott County Assessment Report. The previous owner operated it as Fairylands Ballroom up until a few years ago and then only intermittently held events and receptions until it was sold to the current owner. It was remodeled and opened under its current name. At the time the building permit to remodel the building was issued a determination was made that the use had not been totally discontinued for greater than a year and therefore no Site Plan Review was required. Restaurants and drinking establishments are a permitted use in C-1 Neighborhood Commercial Districts.

STAFF REVIEW: Staff has reviewed this request for its adherence to the Scott County Zoning Ordinance and to the Scott County Land Use Policies. Any proposed changes in land use and zoning should comply with a preponderance of the applicable Scott County Land Use Policies.



PLANNING & ZONING COMMISSION

STAFF REPORT

May 2, 2017



The guidelines for reviewing rezoning proposals are outlined in the Scott County Land Use Policies as follows:

Is the development in compliance with the adopted Future Land Use Map?

The Future Land Use Map does not anticipate any land use changes in this area. Furthermore since this request is for a change from C-1 to C-2, the Future Land Use Map is not intended to address such a rezoning request.

Is the development on marginal or poor agricultural land?

The subject property has soils rated from around 5 to around 58 for Corn Suitability (CSR). The Scott County Land Use Policies consider CSR ratings of 60 and above “prime agricultural land,” so the property appears to meet this criterion. Additionally, the Wapsipinicon River has a wide floodplain with consistent seasonal flooding and permanent and semi-permanent marshlands. Being only a few hundred feet from the southern banks of the river, the subject property would not be ideal for agriculture.

Does the proposed development have access to adequately-constructed, paved roads?

The subject property’s main entrance is immediately east of Scott Park Road, a paved County road, so the request meets this criterion.

Does the proposed development have adequate provision for public or private sewer and water services?

The existing bar-restaurant utilizes a private well and septic system that are regularly monitored by the County Health Department. Since the rezoning request would accommodate outdoor recreation as opposed to an expansion of building capacity or change in use, the request meets this criterion.

Is the area near existing employment centers, commercial areas and does not encourage urban sprawl?

The request relates to an existing bar-restaurant that would not encourage sprawl nor require proximity to employment centers or commercial areas to accommodate additional residents, so the request meets this criterion.

Is the proposed development located where it is least disruptive to existing agricultural activities?

The location is surrounded by marshlands to the west, the Wapsipinicon River to the north, residential development to the east, and productive agriculture to the south. Rezoning to accommodate outdoor recreation would not disrupt the nearby agricultural activities any more than activities on the site presently do.

Does the area have stable environmental resources?

The property is located entirely within a designated 100 year floodplain. A permanent



PLANNING & ZONING COMMISSION

STAFF REPORT

May 2, 2017



floodwall has been built around the building. Previously when the site experienced seasonal flooding of the Wapsipinicon River and its tributaries the building was inundated with flood waters. The flood events also make accessing the site more difficult, if not impossible.

Is the proposed development sufficiently buffered from other less intensive land uses?

There are five residences located near this business all of which access their property by way of easement through this property. There is no buffering or screening between the residences and this building.

Is there a recognized need for such development?

The applicant has initiated this request due to their desire to have outdoor recreation on the site.

Staff has mailed notification to the adjacent property owners within five hundred feet (500') of this property of this hearing. A sign has also been placed on the property stating the date and time this request would be heard by the Planning and Zoning Commission. Staff has received a number of phone calls expressing objections and concerns with this request.

Staff also notified the County Engineer, County Health Department, Scott County soil conservationist, and Bi-State Regional Commission for review and comment. No comments have been received.

RECOMMENDATION: Staff recommends that the rezoning of this property from Neighborhood Commercial (C-1) to Commercial-Light Industrial (C-2) be approved based on its compliance with a preponderance of the criteria of the Revised Land-Use Policies.

Submitted by:
Timothy Huey, Director
April 28, 2017

Prepared by: Scott County Planning and Development, 600 West Fourth Street, Davenport Iowa

SCOTT COUNTY ORDINANCE NO. 17-_____

AN ORDINANCE TO AMEND THE ZONING MAP BY REZONING APPROXIMATELY 3.93 ACRES IN SECTION 6, BUTLER TOWNSHIP FROM NEIGHBORHOOD COMMERCIAL (C-1) TO COMMERCIAL-LIGHT INDUSTRIAL (C-2), ALL WITHIN UNINCORPORATED SCOTT COUNTY.

BE IT ENACTED BY THE BOARD OF SUPERVISORS OF SCOTT COUNTY IOWA:

Section 1. In accordance with Section 6-31 Scott County Code, the following described unit of real estate is hereby rezoned from Neighborhood Commercial (C-1) to Commercial-Light Industrial (C-2) to-wit:

Part of the Southeast Quarter of the Northeast Quarter of Section 6, in Township 80 North, Range 4 East of the 5th P.M., more particularly described as follows: Commencing at the SW corner of the SE ¼ of the NE ¼ of said Section 6; thence N. 89° 53'44" E. a distance of 562.56 feet; thence N. 00°06'16" W. a distance of 340 feet to a point of intersection on the S. line of real estate reserved by Rudolph Litscher and Grace M. Litscher, husband and wife, in a Real Estate Contract dated September 17, 1982, and recorded as Document No. 12355-82 in the office of the Recorder for Scott County, Iowa; thence S. 89°45'50" W. along said line a distance of 104.80 feet; thence N. 74°10'35" W. a distance of 270.24 feet; thence S. 89°45'50" W. a distance of 133.58 feet to a point on the easterly right of way line of U.S. Highway #61; thence S. along the easterly right of way line of said U.S. Highway #61 to the S. Line of the S. line of the SE Quarter of the NE Quarter of said Section 6. Subject to easements of record, including easements for ingress and egress, and easement for drainage granted to the Public by Easement dated September 17, 1982, recorded as Document No. 12354-82 in the office of Recorder for Scott County, Iowa.

Section 2. This ordinance changing the above described land to Commercial-Light Industrial is approved as recommended by the Planning and Zoning Commission.

Section 3. The County Auditor is directed to record this ordinance in the County Recorder's Office.

Section 4. Severability Clause. If any of the provisions of this Ordinance are for any reason illegal or void, then the lawful provisions of the Ordinance, which are separate from said unlawful provisions shall be and remain in full force and effect, the same as if the Ordinance contained no illegal or void provisions.

Section 5. Repealer. All ordinances or part of ordinances in conflict with the provisions of the Ordinance are hereby repealed.

Section 6. Effective Date. This Ordinance shall be in full force and effect after its final passage and publication as by law provided.

Approved this _____ day of _____ 2017.

Carol Earnhardt, Chair
Scott County Board of Supervisors

Roxanna Moritz, County Auditor

CONDITIONAL REZONING AGREEMENT

OWNER: WAPSI WILLY'S LLC

DATE APPROVED BY PLANNING & ZONING COMMISSION: JUNE 6, 2017

DATE APPROVED BY BOARD OF SUPERVISORS: _____

ACRES: 3.93

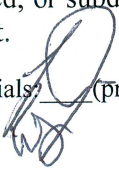
REZONED FROM: NEIGHBORHOOD COMMERCIAL (C-1) TO COMMERCIAL-LIGHT INDUSTRIAL (C-2)


We hereby accept and agree to the following conditions placed on the property described as Part of the Southeast Quarter of the Northeast Quarter of Section 6, in Township 80 North, Range 4 East of the 5th P.M., more particularly described as follows: Commencing at the SW corner of the SE ¼ of the NE ¼ of said Section 6; thence N. 89° 53'44" E. a distance of 562.56 feet; thence N. 00°06'16" W. a distance of 340 feet to a point of intersection on the S. line of real estate reserved by Rudolph Litscher and Grace M. Litscher, husband and wife, in a Real Estate Contract dated September 17, 1982, and recorded as Document No. 12355-82 in the office of the Recorder for Scott County, Iowa; thence S. 89°45'50" W. along said line a distance of 104.80 feet; thence N. 74°10'35" W. a distance of 270.24 feet; thence S. 89°45'50" W. a distance of 133.58 feet to a point on the easterly right of way line of U.S. Highway #61; thence S. along the easterly right of way line of said U.S. Highway #61 to the S. Line of the S. line of the SE Quarter of the NE Quarter of said Section 6. Subject to easements of record, including easements for ingress and egress, and easement for drainage granted to the Public by Easement dated September 17, 1982, recorded as Document No. 12354-82 in the office of Recorder for Scott County, Iowa for the benefit of real estate described therein:

1. Any new lighting fixtures shall be confined to the west side of the principal building and shall be directed away from any nearby residences.
2. All outdoor activities shall cease by 10:00 P.M.
3. No bands or other musical entertainment shall play outdoors.
4. No camping shall take place on the property.
5. All easements of record for ingress and egress shall remain unobstructed by parked vehicles.

The owner and County acknowledge that in the event the subject property is transferred, sold, redeveloped, or subdivided, all redevelopment will conform with the terms of this Conditional Rezoning Agreement.

Page 1: Initials: _____ (Property owner)



 (Zoning Administrator)

Date: 6/14/17

[Signature]
Lance Jorgensen, Wapsi Willy's LLC Authorized Representative

Date: 6/14/17

Wendy Jorgensen
Wendy Jorgensen, Wapsi Willy's LLC Authorized Representative

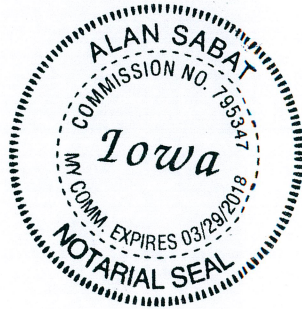
Date: 6/14/17

Timothy Huey
Timothy Huey, Scott County Zoning Administrator

State of Iowa)
) ss.
County of Scott)

On this 14th day of June, A.D. 2017, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Lance and Wendy Jorgensen, to me known to be the identical person(s) named in and who executed the foregoing instrument and acknowledged that he executed the same as his voluntary act and deed.

Alan Sabat
Notary Public in and for State of Iowa



State of Iowa)
) ss.
County of Scott)

On this 14th day of June, A.D. 2017, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Timothy Huey, to me known to be the identical person(s) named in and who executed the foregoing instrument and acknowledged that he executed the same as his voluntary act and deed.

Alan Sabat
Notary Public in and for State of Iowa

