ORDINANCE 18-24

AN ORDINANCE APPROVING A REZONING FROM RURAL RESTRICTED, A-1 TO MEDIUM DENSITY SINGLE FAMILY RESIDENTIAL R-2 & GENERAL COMMERCIAL C-3 AND RURAL RESTRICTED A-1 TO OFFICE/TRANSITIONAL O-1 FOR PROPERTY BETWEEN ALBURNETT RD AND IRISH DRIVE NORTH OF TOWER TERRACE ROAD. (GILL/GREEN)

WHEREAS, The Curt R. and Barbara K. Gill Revocable Trust has made application to rezone property from A-1, Rural Restricted to R-2, Medium Density for property located between Alburnett Road and Irish Drive, North of Tower Terrace Road, more particularly described as follows:

THE NORTH 360.00 FEET OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 84 NORTH, RANGE 7 WEST OF THE 5TH PRINCIPAL MERIDIAN, MARION LINN COUNTY, IOWA EXCEPT LOT 1, GILL'S SIXTH ADDITION IN THE CITY OF MARION, LINN COUNTY, IOWA AS RECORDED IN BOOK 5726, PAGE 655 IN THE OFFICE OF THE LINN COUNTY, IOWA RECORDER.

PARCEL SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

WHEREAS, the Marion Planning and Zoning Commission, on August 14, 2018, conducted a public hearing and approved CPC Resolution No 18-40 recommending approval of a request by The Curt R. and Barbara K. Gill Revocable Trust to rezone the above described property from A-1, Rural Restricted to R-2, Medium Density Residential; and

WHEREAS, the City Council has considered the recommendation of the Planning and Zoning Commission regarding said rezoning application and finds that the rezoning should be approved; and

WHEREAS, The Curt R. and Barbara K. Gill Revocable Trust has made application to rezone from A-1, Rural Restricted to C-3, General Commercial for certain property located between Alburnett Road and Irish Drive, North of Tower Terrace Road, more particularly described as follows:

THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 84 NORTH, RANGE 7 WEST OF THE 5TH PRINCIPAL MERIDIAN, MARION LINN COUNTY, IOWA EXCEPT LOT 1, GILL'S SIXTH ADDITION IN THE CITY OF MARION, LINN COUNTY, IOWA AS RECORDED IN BOOK 5726, PAGE 655 IN THE OFFICE OF THE LINN COUNTY, IOWA RECORDER AND EXCEPT THE NORTH 360.00 FEET OF THE SOUTHEAST QUARTER OF SAID NORTHWEST QUARTER LYING NORTH OF THE RIGHT OF WAY EASEMENT FOR TOWER TERRACE ROAD AS RECORDED IN BOOK 8023, PAGE 246 IN THE OFFICE OF THE LINN COUNTY, IOWA RECORDER.
WHEREAS, James R. Green has made application to rezone from A-1, Rural Restricted to C-3, General Commercial for certain property located between Alburnett Road and Irish Drive, North of Tower Terrace Road, more particularly described as follows:

LOT 1, GILL’S SIXTH ADDITION IN THE CITY OF MARION, LINN COUNTY, IOWA AS RECORDED IN BOOK 5726, PAGE 655 IN THE OFFICE OF THE LINN COUNTY, IOWA RECORDER.

WHEREAS, the Marion Planning and Zoning Commission, on August 14, 2018, conducted a public hearing and approved CPC Resolution No 18-40 recommending approval of a request by The Curt R. and Barbara K. Gill Revocable Trust and James R. Green to the above described properties from A-1, Rural Restricted to C-3, General Commercial; and

WHEREAS, the City Council has considered the recommendation of the Planning and Zoning Commission regarding said rezoning application and finds that the rezoning should be approved subject to the following:

(1) Shall be subject to the permitted use regulations of the C-3, General Commercial Zoning District but shall prohibit the following uses:

A. The following Retail Business which supply commodities on the premises:

i. Automobile, boat, camper, farm implement, heavy equipment, mobile home, motorcycle and recreational vehicle sales, service and rental.

ii. Automobile service stations, vehicle repair shops, towing service, automobile laundries/car washes that are not accessory to gas convenience store, tire, battery and automobile accessory sales and services. Automobile storage is not permit.

iii. Building service and supply stores and lumber yards.

B. The following Personal Service Businesses which perform services on premises
i. Drive in Theaters

ii. General service and repair establishments including air conditioning, appliance, electrical, furniture, heating, painting, plumbing, sheet metal, upholstery and similar uses.

C. All wholesale and warehouse uses within the district shall be prohibited including self-storage facilities.

D. All industrial type uses within the district shall be prohibited.

E. All sexually oriented uses within the district shall be prohibited.

F. All conditional uses except day care centers which shall be permitted as a conditional use.

G. Open Storage. All operations shall be conducted in a fully enclosed building, except outdoor dining/patios which shall be permitted.

(2) Shall be subject to the site and structure requirements of the C-1, Neighborhood Commercial Zoning District except as follows:

A. Maximum Height 3 stories or 45'

B. Landscaping shall be required to be provided per Section176.42 of the Marion Code of Ordinances.

(3) 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.
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; and
WHEREAS, The Curt R. and Barbara K. Gill Revocable Trust has made application to rezone from A-1, Rural Restricted to O-1, Office/Transitional for certain property located between Alburnett Road and Irish Drive, South of Tower Terrace Road, more particularly described as follows:

THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 84 NORTH, RANGE 7 WEST OF THE 5TH PRINCIPAL MERIDIAN, MARION LYN COUNTY, IOWA LYING SOUTH OF THE RIGHT OF WAY EASEMENT FOR TOWER TERRACE ROAD AS RECORDED IN BOOK 8023, PAGE 246 IN THE OFFICE OF THE LINN COUNTY, IOWA RECORDER.

PARCEL SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD

WHEREAS, the Marion Planning and Zoning Commission, on August 14, 2018, conducted a public hearing and approved CPC Resolution No 18-40 recommending approval of a request by The Curt R and Barbara K. Gill Revocable Trust to rezone the above described property from A-1, Rural Restricted to O-1, Office/Transitional; and

WHEREAS, the City Council has considered the recommendation of the Planning and Zoning Commission regarding said rezoning application and finds that the rezoning should be approved; and

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

Section 1: That Section 176.05 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, C-3, General Commercial and O-1, Office Transitional

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 provided by law.

Passed and approved this 25th day of September , 2018.

Nicolas AbouAssaly, Mayor
ATTEST:

I, Rachel Bolender, Assistant City Clerk of the City of Marion, Iowa hereby certify that at a meeting of the City Council of said City, held on the above date, among other proceedings the above was adopted.

Rachel Bolender, Assistant City Clerk

ACCEPTANCE:

As the petitioners for this requested change in zoning district classification, I hereby accept the conditions as included in the above ordinance.

Curt R. and Barbara K. Gill Revocable Trust

Barbara K. Gill, Trustee
Curt R. and Barbara K. Gill Revocable Trust

James R. Green

CERTIFICATE OF SERVICE
The undersigned City Clerk of Marion, Iowa certifies that the ordinance shown immediately above was published in the Marion Times on the 21st day of September, 2016.

Rachel Bolender
Asst. City Clerk