

CITY OF
WAVERLY

AGENDA MEMORANDUM

City Council Meeting

March 5, 2018

SUBJECT: Second reading and public hearing of ordinance amendment providing for rezoning of property on the Northwest corner of 4th Street SW and 10th Avenue SW from R-1 (Single Family Residential) to C-2 (Commercial) District with accompanying statement of commitments from applicant AND for amending the Waverly Future Land Use Map from Residential and Commercial to Commercial.

Prepared By: Ben Kohout, Community Development and Zoning Specialist

Recommended City Council Action

Approve the proposed zoning district amendments from R-1 to C-2 and approve the FLUP map change from residential to commercial.

Summary Statement

Casey's Marketing Company, applicant, and Julia A. Engelbrecht, owner at 1032 4th St. SW, are requesting a zoning change for Engelbrecht's entire 40.4 acre property from R-1, Single Family Residential, to C-2, General Commercial. The property is located on the NW corner of the intersection of 4th Street SW and 10th Avenue SW, 1032 4th St. SW. The proposed zoning change is accompanied by enforceable commitments, provided by Casey's, which allows for numerous commercial uses such as for a gasoline station and convenience store.

Policy Issue(s)

Does the proposed zoning change promote the City's Future Land Use Map direction, promote goals of the City Comprehensive Land Use Plan and provide for supporting harmonious, efficient and compatible adjacent land usage to existing development and street networks?

Alternative(s)

Do not approve the proposed zoning changes or consider zoning agreements that may benefit existing and future residents in the area to promote the public health, safety and welfare.

Background Information

Casey's Marketing Company has acquired the owner's signature of land which is sought to be purchased for the establishment of a gasoline service and convenience store. An existing

residence sits on the property and plans call for the residence to be removed and replaced by the convenience store, car wash building and associated parking and drive surface areas.

According to a preliminary site plan submitted for review at the November 2, 2017, Planning and Zoning Commission, Casey's desires access onto 4th St. SW and onto 10th Ave. SW. The location of the 4th St. SW drive is governed by the State Iowa Department of Transportation and an application for entrance will need to be reviewed during a site plan review process, which follows a rezoning request. Access onto 10th Ave. SW is governed by the City Municipal Design Standards as well as IDOT standards and will be evaluated for conformance once a final site plan is submitted for review.

The proposed C-2 zoning district provides for commercial uses primarily oriented toward automobile traffic or requiring amounts of space too great to be located in the central business district.

The Future Land Use plan supports the proposed change from Residential to Commercial classification. The FLUP shows the frontage of land as Commercial, with the residential portion of the property called out as residential. The proposal is to amend the FLUP to show the entire property as commercial, to allow for entire property conformance.

There are several residential condominiums and single family residences to the North of the subject property which may be negatively impacted by sights and sounds associated with a convenience store presented or most any commercial use. The City Zoning Code requires a visual barrier of trees, fencing, or mounding and shrubs. Staff has received a statement of commitments provided by Casey's, which addresses negative affects onto adjoining properties and to add a degree of buffering which will minimize the impact of a commercial use onto the adjacent residences. To the East, is 4th St. SW and the City Cemetery. To the South, is 10th Ave. SW and a church. To the West, is the City golf course with a low laying floodplain area.

The requested zoning amendment was considered by the Planning and Zoning Commission at their February 1, 2018 public hearing. The Commission recommended approval of the change of use to C-2 with a vote of six "yes", one "no" and two "absent". General discussion of the residents and Commission members included a concern for driveway access and traffic congestion, screening to the North, sounds from a 24 hour convenience store with car wash and storm water drainage concerns.

City considerations with this request include reviewing traffic impacts with proposed entrance drives onto 4th St. SW and 10th Ave. SW. It should be noted the City is currently considering improvements to 4th St. SW in the near future which will be considered when reviewing the drive access onto 4th St. SW. It is envisioned a three lane 4th St. SW configuration could be incorporated into the scenario which may assist in reducing traffic conflicts in this area.

City staff is recommending approval of this zoning ordinance amendment from R-1 to C-2 for the land described and including the statement of commitments provided by Casey's as part of the ordinance.

Respectfully submitted,

James Bronner
City Administrator

Attachments: Zoning application, zoning map, aerial map, future land use plan, statement of commitments from Casey's, proposed site plan showing proposed layout

ORDINANCE NO. 1033

AN ORDINANCE AMENDING THE ZONING MAP
OF THE CITY OF WAVERLY, IOWA, FOR PROPERTY DESCRIBED
IN SW WAVERLY ON 4TH ST. SW
FROM R-1 TO C-2
WITH ATTACHED ZONING COMMITMENTS
PROVIDED BY THE APPLICANT
AS PROVIDED BY THIS ORDINANCE.

WHEREAS, the City Planning and Zoning Commission of the City of Waverly, Iowa, has recommended to the City Council of the City of Waverly, Iowa, that property described as follows shall be rezoned from R-1, Single Family Residential to C-2, Commercial, as follows:

LEGAL DESCRIPTION:

The East 8.60 chains except the South 33 feet of Lot 6 in the Subdivision of the Southeast Quarter of Section 3, Township 91 North, Range 14 West of the 5th P.M., lying South of the South line of the Irregular Survey and Plat of Subdivision of the Northeast part of Lot 6 in the Subdivision of the Southeast Quarter of the Southeast Quarter of Section 3, Township 91 North, Range 14 West of the 5th P.M., as shown in Plat Book A, Page 63.

WHEREAS, Chapter 100 (Zoning) of the Code of Ordinances of the City of Waverly, Iowa, incorporates the Zoning Map of the City of Waverly, Iowa, as a part of said Ordinance;

WHEREAS, the Planning and Zoning Commission recommended approval of this zoning map change at the February 1, 2018 meeting, AND

WHEREAS, the applicant, Casey's convenience stores, has committed to maintaining their property above and beyond enforceable City standards for the benefit of those property owners within 250 feet, AND

WHEREAS, they are providing a "Statement of Commitments" which shall be made a part of this ordinance and shall be enforceable by the City and those property owners within 250 feet of the subject property, AND

WHEREAS, Chapter 100 (Zoning) of the Code of Ordinances of the City of Waverly, Iowa, incorporates the Zoning Map of the City of Waverly, Iowa, as a part of said Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAVERLY, IOWA:

Section 1. The following described real estate:

LEGAL DESCRIPTION:

The East 8.60 chains except the South 33 feet of Lot 6 in the Subdivision of the Southeast Quarter of Section 3, Township 91 North, Range 14 West of the 5th P.M., lying South of the South line of the Irregular Survey and Plat of Subdivision of the Northeast part of Lot 6 in the Subdivision of the Southeast Quarter of the Southeast Quarter of Section 3, Township 91 North, Range 14 West of the 5th P.M., as shown in Plat Book A, Page 63.

is hereby rezoned from R-1 to C-2.

Section 2. That the official zoning map of the City of Waverly, Iowa, as referenced in appendix D, Rezoning, of the Waverly City Code, is hereby amended to show and identify the herein described properties as amended.

Section 3. Section 100.3.02 (Zoning) of the Code of Ordinance of the City of Waverly, Iowa is hereby amended by making the zoning boundary changes as provided herein to show the zoning changes.

Section 4. This ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2018.

Dean Soash, Mayor

ATTEST:

Carla Guyer, City Clerk

First Reading: February 19, 2018

Second Reading: March 5, 2018

Third Reading: _____

Published: _____

STATEMENT OF COMMITMENTS
COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE
MADE IN CONNECTION WITH A REZONING OF PROPERTY

In accordance with Iowa Code § 414.5, the owner of the real estate located in Bremer County, Iowa, which is described below, makes the following COMMITMENTS concerning the use and development of that parcel of real estate:

Legal Description: See Exhibit "A" attached hereto and incorporated by reference (the "Subject Property").

STATEMENT OF COMMITMENTS

1. Except for the proposed convenience store with fuel sales operated by Casey's Marketing Company (or its successor), the Subject Property shall only be used for C-2 permitted uses.
2. All exterior lighting on the Subject Property shall be LED flush-mounted so as to minimize any light spill onto adjoining properties and streets.
3. Development of the Subject Property shall be in substantial compliance with the site plan attached hereto as Exhibit "B," except for additional changes that may be required or requested by the City and/or the Iowa Department of Transportation at a later date as part of the City site plan approval and/or building permit approval process, including but not limited to, driveway access and necessary roadway improvements.
4. Operational hours of the car wash shall be restricted to no earlier than 6:00 a.m. and no later than 10:00 p.m.
5. No outside speakers shall be used, except those at the gas pump for the sole purpose of speaking with the cashier.
6. The west one hundred twenty-five (125) feet of the Subject Property shall have no buildings or structures erected which are not depicted in the site plan attached as Exhibit "B", with the exception of components of the storm water / water retention system, as may be necessary for future repair, replacement, or renovation.
7. All exterior property and premises of the Subject Property shall be maintained in a clean, safe, and sanitary condition. The Subject Property shall not be in a condition that constitutes a health hazard, safety hazard, or general nuisance.
8. All fences shall be anchored firmly in the ground, shall be constructed in a workmanlike manner, and maintained in that same manner so that such fences shall always be in a state of good structural repair. If any fence is found not to be in a state of good structural repair, it shall be replaced, or repaired as required. Except when constructed of materials that have been designed or manufactured to remain untreated, all fences shall be treated periodically with paint or chemicals so as to retard deterioration.

These COMMITMENTS shall be binding on the owner, subsequent owners of the Subject Property, and other persons acquiring an interest therein. These COMMITMENTS may be modified or terminated by a decision of the Waverly City Council made at a public hearing after proper notice has been given

COMMITMENTS contained in this instrument shall be effective upon:

- (a) the adoption of rezoning petition # _____ by the City Council changing the zoning classification of the Subject Property from R-1 zoning classification to a C-2 zoning classification;
- (b) the completion of the sale of the Subject Property to Casey's Marketing Company; and
- (c) the issuance of a building permit and site plan approval by the City to Casey's Marketing Company for development of the Subject Property in conformance with these Commitments,

and shall continue in effect for as long as the Subject Property remains subject to the C-2 zoning classification, or until such other time as may be specified herein.

These COMMITMENTS may be enforced jointly or severally by:

- 1. The Waverly City Zoning Office pursuant to Chapter 63 (Nuisances) in the Waverly City Code; and/or
- 2. Owners of all parcels of ground adjoining the real estate to a depth of two hundred fifty (250) feet from the perimeter of the Subject Property. (This paragraph defines the category of persons entitled to receive personal notice of the rezoning or approval under the rules in force at the time these Commitments were made);

The undersigned hereby authorizes the Clerk of the City of Waverly, Iowa, to record this Statement of Commitments in the office of the Recorder of Bremer County, Iowa, upon issuance of the building permit as set forth above.

IN WITNESS WHEREOF, the owner has executed this instrument this ____ day of _____, 2018.

Signature: _____
 Printed: _____
 Title: _____

Signature: _____
 Printed: _____
 Title: _____

STATE OF IOWA)
) SS:
 COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared _____, the owners of the Subject Property, who acknowledged the execution of the foregoing instrument as their own voluntary act and deed.

Witness my hand and Notarial Seal, this ____ day of _____, 2018.

Notary Public – Signature

Notary Public – Printed

My Commission Expires: _____ My County of Residence: _____

This instrument was prepared by Amy M. Costello, One SE Convenience Boulevard, Ankeny, IA 50023.

EXHIBIT A

Legal Description:

The East 8.60 chains except the South 33 feet of Lot 6 in the Subdivision of the Southeast Quarter of Section 3, Township 91 North, Range 14 West of the 5th P.M., lying South of the South line of the Irregular Survey and Plat of Subdivision of the Northeast part of Lot 6 in the Subdivision of the Southeast Quarter of the Southeast Quarter of Section 3, Township 91 North, Range 14 West of the 5th P.M., as shown in Plat Book A, Page 63.

EXHIBIT B

(Attach final Site Plan)



Waverly Zoning Department
200 1st St. NE PO Box 616
Waverly, IA 50677
zoning@ci.waverly.ia.us
(319) 352-9208

**REZONING
APPLICATION**

Applicant:

Date: January 2, 2018

Name: Casey's Marketing Company

Address: One SE Convenience Blvd, Ankeny, IA 50021

Property:

Owner(s): Julia A. Engelbrecht

Legal Description – Attach Copy

Present Zoning Classification: R-1

Requested Zoning Classification: C-2

Planned Use: Convenience store with fuel sales and car wash

Those within 250 feet of the property will be notified of a public hearing. The Community Development Office will notify owners.

Owner Signature(s)

Julia Engelbrecht by

David M. Eng... POA

Date: Jan 2, 2018

Date: _____

For Office Use Only

Person Accepting Application Submittal: _____

Ben Kohout

\$200 Application Fee *chk # 2971960*

Legal Description

Date Accepted/Approved: 1-5-18 / 1-5-18

Person Approving Application: BOK

The E 8.60 chains except the S 33 feet of Lot 6 in the Sub-division of the SE $\frac{1}{4}$ of Section 3, Township 91 N, Range 14 W of the 5th P.M. lying S of the S line of the Irregular Survey and Plat of Sub-division of the NE part of Lot 6 in the Sub-division of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 3, Township 91 N, Range 14 W of the 5th P.M., as shown in Plat Book A, page 63, except lands conveyed to the State of Iowa in War. Deeds Doc. No. 19904163 and Doc. No. 19904164 and except lands conveyed to the City of Waverly, Iowa in War. Deed Doc. No. 20011161, all recorded in the Office of the Recorder of Bremer County, Iowa

R-1 to C-2 Rezoning
1032 4th St SW

AERIAL

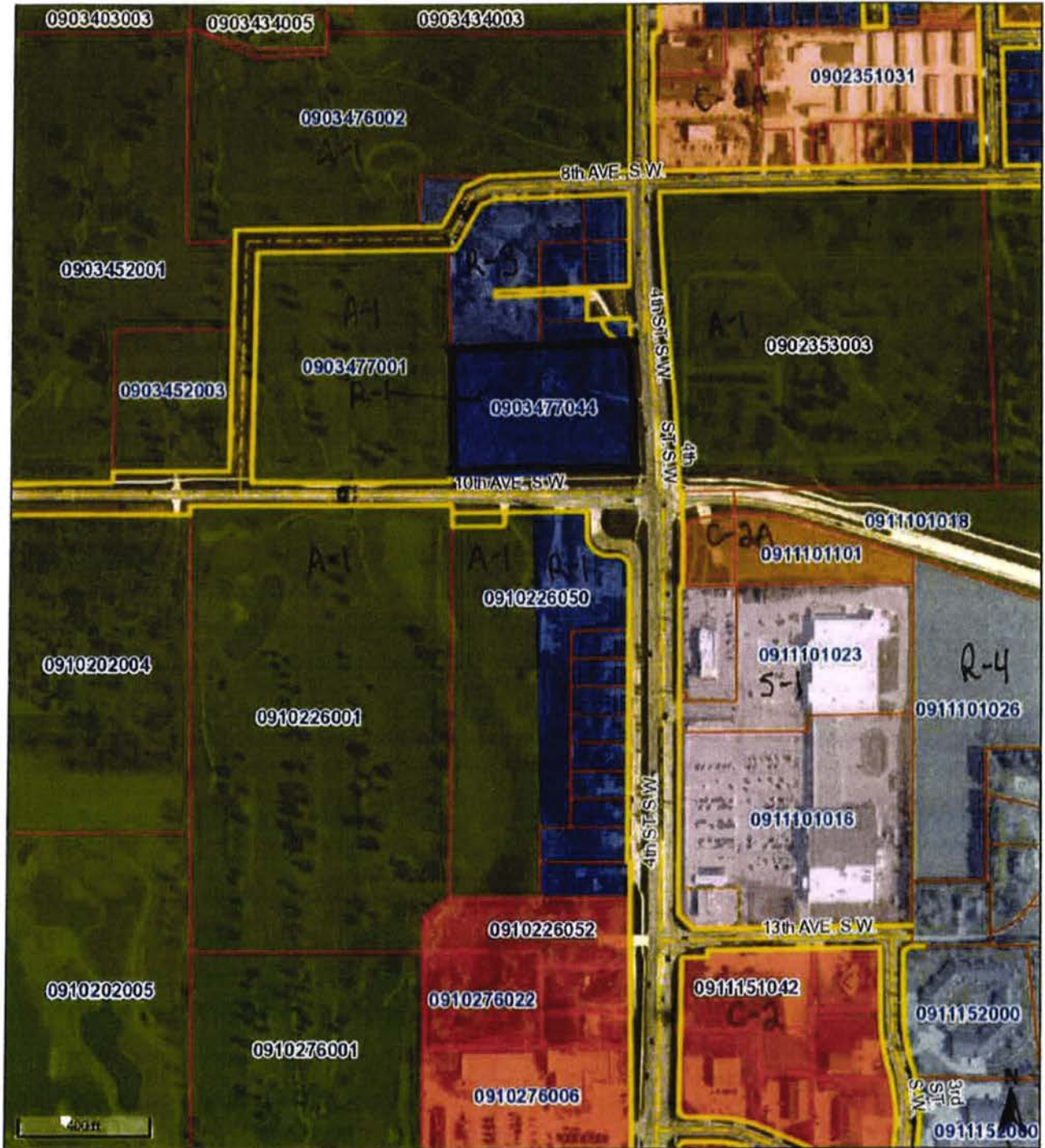
Created by: City of Waverly Zoning Office



R-1 to C-2 Rezoning
1032 4th St SW

ZONING

Created by: City of Waverly Zoning Office



R-1 to C-2 Rezoning
1032 4th St SW

FUTURE LAND USE

Created by: City of Waverly Zoning Office

