



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Mayor Diane Wolfe Marlin and City Council

FROM: John A. Schneider, MPA, Community Development Manager

DATE: October 19, 2017

SUBJECT: An Ordinance approving a First Amendment to an Annexation Agreement – 1901 South High Cross Road; Riggs Land Holdings, LLC and Charles L. Wendling

Introduction

The City of Urbana has received a request from Riggs Land Holdings, LLC, and Charles Wendling to amend an existing Annexation Agreement for property they own at 1901 South High Cross Road. The property is composed of three tracts totaling 20.76 acres and is located west of South High Cross Road, approximately one-half mile north of Windsor Road. The amended Annexation Agreement would modify the existing Outdoor Amusement Events and exterior lighting requirements, and require compliance with the city's Public Events Ordinance and the Zoning Ordinance, respectively.

Background

Wendl, Inc., and the City of Urbana originally entered into an Annexation Agreement on March 31, 2005, which allowed the then-owner to make improvements to the property to promote its use as a sit-down restaurant rather than its earlier uses as a tavern/restaurant sports complex (Case No. 2005-A-03, Ordinance No. 2005-03-036). The property is within the boundaries of the City of Urbana, having been annexed on March 31, 2005 (Ordinance No. 2005-03-037). Prior to this annexation agreement, noise and lighting complaints from neighbors prompted language to be added to the original annexation agreement to manage noise and light trespass. To address these complaints, the ball fields were allowed to remain in use, but the number of non-ballfield-related "Special Events" attended by more than fifty persons was limited to two special events per year, and exterior lighting was required to be extinguished by 11 p.m.

Since the original annexation agreement, a portion of the property has been purchased by Riggs Land Holdings, LLC, and repurposed into the successful Riggs Beer Company. To support additional events at the brewery, Riggs approached the City regarding amending the agreement provisions related to special events and exterior lighting.

The subject property is located on the west side of South High Cross Road immediately north of the Stone Creek Subdivision & Golf Club (Exhibit A). It contains the Riggs Beer Company brewery and tavern with its outdoor beer garden area and parking lots on two parcels (2.9 acres and 0.6 acres). The balance of the land (approximately 17.1 acres) is farmed for commodity and special crops,

including a portion managed by Sola Gratia Farms, a local community-supported agriculture (CSA) group. Land to the north is zoned R-4 – Medium Density Multiple-Family Residential and used for agriculture; land to the east is zoned County AG-2 and used for agriculture; land to the south is zoned R-5 – Medium-High Density Multiple-Family Residential and used for single-family residences and condominiums; land to the west is zoned R-2 – Single-Family Residential and used for single-family residences and a golf course. A substantial landscaping buffer was installed along the northern and eastern property boundaries of the Stone Creek Subdivision & Golf Club, which reduces noise and light trespass from the subject property.

Discussion

The petitioners are requesting an amendment to the annexation agreement to remove the current restrictions on the number of events they are permitted to host, as well as to remove the current exterior lighting restriction (Exhibit B). The current agreement limits the number of events of more than fifty persons to two per calendar year; the applicants request that the annexation agreement be amended to hold them to the current requirements of the recently amended City Code Chapter 14 “Licenses and Permits, Article II.- “Public Events.” This article defines a “Special Event” as any activity conducted on city or private property within the city’s boundaries where the sponsor requests city resources be allocated, or the city determines city resources may or must be allocated, or the sponsor will be selling alcoholic liquor on or off the site. The article does not limit the number of these events per year. Typical daily operations of the Riggs Beer Company, including sales of alcoholic liquor within the tavern, or in the outdoor beer garden, are exempted under this section of the City Code.

The current agreement also requires all exterior lighting to be extinguished by 11 p.m. Strict enforcement of this requirement would seem to require all exterior lights to be turned off, including entrance lighting and parking lot lighting, as well as decorative string lights in the outdoor beer garden. However, the amended agreement would eliminate those conditions and require compliance with the requirements of the Urbana Zoning Ordinance, including Section VI-8. “Outdoor Lighting Standards,” which regulates exterior lighting operation to minimize light trespass and glare onto neighboring properties.

Granting the proposed amendment to the annexation agreement would not grant any special treatment to the petitioners or to the operators of Riggs Beer Company; it would simply hold them to the same standards as other landowners and merchants. The distance to the adjacent residential buildings – 430 feet to the south and over 1,000 feet to the west – plus the intervening landscape buffer greatly reduces the noise and light trespass from the brewery and tavern. The amendment would allow the Riggs Beer Company to continue operating their brewery and tavern as they have for the last fifteen months, and to be able to offer a venue for hosting a wedding, school class reunion, business gathering, or other special event, without being restricted to two such events per year, even for a small number of attendees.

Summary of Findings

1. The subject property is within the boundaries of the City of Urbana, and subject to an existing annexation agreement entered into by Wendl, Inc., and the City of Urbana. The proposed amendment would update the agreement to the successors in interest: Riggs Land Holdings, LLC, and Charles L. Wendling.

2. The proposed amendment to the annexation agreement would also remove the restrictions on the number of Special Events permitted per year and on exterior lighting usage, and would require the petitioners to comply with city regulations regarding public events and development, including exterior lighting. The amendment would also delete references to the Special Events Area and Special Events Policy.
3. The proposed amendment would hold the property owners to the same standards as others within the city and is not expected to create a nuisance for surrounding properties due to the distance of the site from existing residences.

Options

Regarding an Ordinance approving a First Amendment to an Annexation Agreement, the Committee of the Whole has the following options:

- a. Forward to City Council with a *recommendation for approval*, or
- b. Forward to City Council with a *recommendation for approval, subject to recommended changes*. (Note: The petitioners would have to agree to any recommended changes.)
- c. Forward to City Council with a *recommendation for denial*.

Approval of the amendment requires a two-thirds vote of the City Council.

Staff Recommendation

Based on the analysis and findings presented in the discussion above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Committee of the Whole forward the proposed Ordinance approving a First Amendment to an Annexation Agreement to the City Council with a recommendation for **APPROVAL**.

Prepared by:



Marcus Ricci, Planner II

cc: Matt Riggs, Riggs Land Holdings, LLC (Petitioner)
Caroline Riggs, Riggs Land Holdings, LLC (Petitioner)
Charles L. Wendling (Petitioner)

Attachments:

Exhibit A: Location & Land Use Map

Exhibit B: Original Annexation Agreement (Ordinance No. 2009-08-094): available at:

[https://www2.city.urbana.il.us/Ordinances - Resolutions/Ordinances/2005/Ordinance 2005-03-036.pdf](https://www2.city.urbana.il.us/Ordinances%20-%20Resolutions/Ordinances/2005/Ordinance%202005-03-036.pdf)

Exhibit A: Location & Existing Land Use Map



Case: 2017-A-04
 Subject: Annexation Agreement Amendment
 Location: 1901 South High Cross Road
 Petitioner: Riggs Land Holdings, LLC, and Charles L. Wendling

 Subject Property

ORDINANCE NO. 2017-10-063

AN ORDINANCE APPROVING A FIRST AMENDMENT TO AN ANNEXATION AGREEMENT

(1901 S. High Cross Road | Riggs Land Holdings, LLC and Charles L. Wendling)

WHEREAS, on March 31, 2005, the City of Urbana (“City”), pursuant to Ordinance No. 2005-03-036, entered into an annexation agreement with Wendl, Inc. for a tract totaling approximately 20.76 acres and generally located at 1901 South High Cross Road; and

WHEREAS, such tract subsequently was annexed into the City, subdivided into three parcels, and transferred to new owners; and

WHEREAS, Riggs Land Holdings, LLC (“Riggs”) is the new owner of the parcels with permanent index numbers 93-21-22-280-002 and 93-21-22-280-003, and Charles L. Wendling (“Wendling”) is the new owner of the parcel with permanent index number 93-21-22-280-004; and

WHEREAS, Riggs, Wendling, and the City have determined that the best interests of all parties are served by making and entering into an amendment to said agreement as herein provided; and

WHEREAS, on September 22, 2017, the City Clerk duly published notice in *The News-Gazette*, a newspaper having general circulation in the City of Urbana, Illinois, that a public hearing would be held before the Urbana City Council on the matter of the proposed amendment on October 9, 2017; and

WHEREAS, on October 12, 2017, the City Clerk mailed notice of the public hearing to each of the Trustees of the Philo Fire Protection District, each Board of Urbana Township Trustee, and the Urbana Township Clerk, Supervisor, and Commissioner of Highways; and

WHEREAS, on October 9, 2017, and October 23, 2017, the Urbana City Council held a public hearing on the proposed amendment; and

WHEREAS, the City Council has determined that the proposed amendment is in conformance with the goals and objectives of the City of Urbana’s 2005 Comprehensive Plan; and

WHEREAS, the City Council, having duly considered all matters pertaining thereto, finds and determines that the proposed amendment will not negatively impact the City of Urbana and would be in the best interests of the City of Urbana and its citizens.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Urbana, Illinois, as follows:

Section 1.

Amendment No. 1 to "T.K. Wendl's" Annexation Agreement between Riggs Land Holdings, LLC, Charles L. Wendling, and the City of Urbana, Illinois, in substantially the form of the copy of said amendment attached hereto and hereby incorporated by reference, be and the same is hereby authorized and approved.

Section 2.

The Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same is hereby authorized to attest to said execution of said amendment as so authorized and approved for and on behalf of the City of Urbana, Illinois.

Section 3.

The City Clerk is authorized and directed to record in the Office of the Recorder of Deeds and to file with the Champaign County Clerk a certified copy of this Ordinance.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of two-thirds of the corporate authorities then holding office (6 of 8 votes) of the City of Urbana, Illinois, at a meeting of the corporate authorities.

PASSED BY THE CITY COUNCIL this ___ day of _____, 2017.

AYES:

NAYS:

ABSTENTIONS:

Charles A. Smyth, City Clerk

APPROVED BY THE MAYOR this ___ day of _____, 2017.

Diane Wolfe Marlin, Mayor

This instrument was prepared by:

Curt Borman
Assistant City Attorney
City of Urbana
400 S. Vine Street
Urbana, IL 61801

Mail recorded document to:

City of Urbana
Planning Division Manager
400 S. Vine Street
Urbana, IL 61801

City of Urbana – Champaign County

AMENDMENT NO. 1 TO “T.K. WENDL'S” ANNEXATION AGREEMENT

Riggs Land Holdings, LLC
1901 South High Cross Road
Urbana, IL 61802-7843

Charles L. Wendling
437 County Road 2200 East
Broadlands, IL 61816-9728

AMENDMENT NO. 1 TO “T.K. WENDL'S” ANNEXATION AGREEMENT

Riggs Land Holdings, LLC, the current owner of real estate parcels with permanent index numbers 93-21-22-280-002 and 93-21-22-280-003, Charles L. Wendling, the current owner of a real estate parcel with permanent index number 93-21-22-280-004 (collectively, the “Owner”) and the City of Urbana (the “Corporate Authorities”) mutually agree to the following amendment to the Annexation Agreement authorized by Ordinance No. 2005-03-036 and entered into between Wendl, Inc. and the Corporate Authorities on March 31, 2005:

1. Article I, “Representations and Obligations of the Owner,” Section 5, is hereby replaced in its entirety by the following:

Section 5: The Owner shall comply with Urbana City Code Chapter 14, “Licenses and Permits,” Article II, “Public Events,” as amended from time to time.

2. Article I, “Representations and Obligations of the Owner,” Section 6, is hereby replaced in its entirety by the following:

Section 6: The Owner shall comply with Urbana Zoning Ordinance Section VI-8, “Outdoor Lighting Standards,” as amended from time to time. Violation of this Section shall result in a delay of the tax rebate provisions included in Article II, Section 7 of this Agreement and may further be deemed a violation of the City's Zoning Ordinance provisions protecting residential areas from intrusive lighting.

3. Exhibit D, “Site Plan Showing Special Events Area” and Exhibit E, “Special Events Policy,” are hereby deleted in their entirety.

4. The parties may sign this amendment in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Signatures delivered by email in Adobe Portable Document Format (PDF) or by facsimile will be deemed original signatures for all purposes.

5. All other terms and conditions of the Agreement remain in full force and effect.

6. This amendment will take effect upon execution by the Owner and the Corporate Authorities.

Charles L. Wendling

Date: _____, 2017

STATE OF ILLINOIS)
) ss.
COUNTY OF CHAMPAIGN)

I, the undersigned, a notary public in and for the said County, in the State aforesaid do hereby certify that Charles L. Wendling, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this _____ day of _____ 2017.

Notary Public

City of Urbana, Illinois

By: _____
Diane Wolfe Marlin
Mayor
Date: _____, 2017

Attest:

Charles A. Smyth
City Clerk
Ordinance No. 2017-