

AGENDA
ZONING BOARD OF APPEALS
October 9, 2013
6:30 PM
CITY HALL, 312 ½ N. MAIN ST., GALENA, IL

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Approval of August 14, 2013 Meeting Minutes

OLD BUSINESS

4. Cal. No. 13A-02, Applicant & Property Owner: Daniel Balocca – Address commonly known as “The Felt Manor”, located at 125 South Prospect Street, Galena, IL 61036; PIN: 22-100-565-00. Request for **Text Amendment** to Zoning Ordinance Table 154.403.1 *Permitted Land Uses* and associated Small Inn definition in §154.015 to amend **Low Density Residential District** to allow for Public Accommodations, **Small Inns** to operate by **Special Use Permit only**. The Felt Manor currently operates as a Bed & Breakfast with 5 guest rooms within a Low Density Residential District. Small Inns are allowed 6-8 guest rooms by Special Use Permit only in Commercial and Neighborhood Office Districts. The proposed Text Amendment will affect Public Guest Accommodations in Low Density Residential Districts within corporate boundaries of the City of Galena. The Applicant’s request was concurrently requested with a Special Use Permit to allow a 6th guest room in the Carriage House at the rear of the property. This public hearing is a directed continuation, by City Council, of the public hearing held with the Zoning Board of Appeals on July 10, 2013.
5. Cal. No. 13S-03, Applicant & Property Owner: Daniel Balocca –125 South Prospect Street, Galena, IL 61036. Location: Lot Fifteen (15) and Sixteen (16) in Block Number Three (3) in the City of Galena on the West side of the Galena River in the County of Jo Daviess in the State of Illinois, common address 125 S. Prospect Street, Galena, IL. Request for Special Use Permit to change the use of the Felt Manor from a 5-room Bed & Breakfast to a 6-room Small Inn in the Low Density Residential District, pending Text Amendment to allow Small Inns use in LDR by Special Use Permit. Request was denied at public hearing on August 14, 2013. Letter of withdrawal has been received on August 26, 2013 from Daniel Balocca to withdraw his request for Special Use Permit, Cal. No. 13S-03.

NEW BUSINESS

6. None

COUNTY ZONING

7. None

WORKSESSION & OTHER

8. None

PUBLIC COMMENTS

9. Public Comments
10. Adjourn

Persons who have difficulty using the front stairs are invited to use the lift located at the Bench Street entrance to City Hall. Anyone who may require special assistance or special accommodation should contact City staff during office hours at 777-1050, prior to the meeting.

*Posted September 26, 2013
By Matt Oldenburg*

**MINUTES
ZONING BOARD OF APPEALS
August 14, 2013**

DRAFT

CALL TO ORDER:

Chairperson Rosenthal called the regular meeting of the Zoning Board of Appeals to order at 6:45 PM on Wednesday, August 14, 2013 at City Hall, 312 ½ N. Main Street, Galena, IL.

Zoning Board Member Robert Carlisle submitted his notice of resignation to Mayor Renner on Monday August 12.

ROLL CALL AND DECLARATION OF QUORUM:

As Roll Call was:

Baranski	Present
Bochniak	Present
Holman	Present
Nybo	Present
O'Keefe	Present
Rosenthal	Present

A quorum was declared.

Matt Oldenburg, Zoning Administrator, Joe Nack, City Attorney, and Deb Price, Secretary, were also present.

APPROVAL OF MINUTES

MOTION: Baranski moved, seconded by Nybo to approve the minutes from the July 10, 2013 meeting.

Voice vote with Baranski, Bochniak, Nybo and Rosenthal voting to approve.

Holman and O'Keefe were not able to vote as they did not attend the meeting or listen to the entire recording of the meeting.

OLD BUSINESS

Cal. No. 13A-02, Applicant & Owner: Daniel Balocca –125 South Prospect Street, Galena, IL 61036. Request for Text Amendment to Zoning Ordinance Table 154.403.1 Permitted Land Uses to amend Low Density Residential District to allow for Public Accommodations, Small Inns to operate by Special Use Permit. Returned by City Council for reconsideration.

Nybo asked to be recused as he is the owner of a Galena Small Inn.

Rosenthal granted the request.

O'Keefe noted the City Council will still have the final say on this agenda item.

Nack asked that the record reflect that Holman and O'Keefe had listened to the recording of the July 10, 2013 Public Hearing and were therefore able to participate in the discussion and possible action on this agenda item.

MOTION: Baranski moved, seconded by O'Keefe to approve the request for Text Amendment to Zoning Ordinance Table 154.403.1 *Permitted Land Uses* to amend Low Density Residential District to allow for Public Accommodations, Small Inns to operate by Special Use Permit.

Discussion: Baranski said he felt the Special Use process gives the Board and the City a great deal of control when looking to approve a request. Each application can be looked at on a case by case basis.

O'Keefe said it seems the City Council had concerns, but the controls could eliminate those concerns. He was concerned that by allowing Small Inns it does away with the owner occupied parameter that is in place for a Bed and Breakfast. The ordinance was originally developed so the cost of maintaining a larger home could be offset somewhat by allowing guests to stay in these homes.

Rosenthal said when the ordinance was written Small Inns were excluded from Low Density Residential districts.

Baranski said he was on the committee that wrote the ordinance and he didn't know that it was specifically excluded. There are many parameters that make it difficult to draw an exact line around areas where things would be or wouldn't be allowed. Over the last several years the Board has amended the Ordinance as it discovered areas that may have been overlooked or needed changing. The Board has controls that would allow it to approve or deny requests. This request is consistent with the Comprehensive Plan as it supports the preservation of historical properties. If this is not passed there is no way of hearing, on a case by case basis, whether a historic property would have a viable option of operating as a small inn in a Low Density Residential district.

Rosenthal said he still doesn't think this should change. The City Council can override our decision if they want. He doesn't feel the Zoning Board should make the decision.

Baranski has confidence in the Zoning Board when it looks at Special Use requests on a case by case basis. Just because we approve a request for one applicant does not mean we are under any obligation to approve another request. We would look at the merits of each request.

O'Keefe thought if the City Council gave final approval they should give guidance as to how the Special Use Permit should be administered.

Rosenthal called the question.

As Roll Call was:

Bochniak	Yes
Holman	Yes
Nybo	Recused
O'Keefe	Yes
Baranski	Yes
Rosenthal	No

Motion carried.

Nybo returned to the table.

Cal. No. 13S-04, Applicant: The Galena Farmers' Market Vendors (Ronald Ricke) – 123 North Commerce Street, Galena, IL 61036. Request for Special Use Permit to display a portable "sandwich board" sign at intersection of Main & Hill Streets to notify residents and visitors about the market location. The sign would be used from 6:00am to 10:00am on Saturdays while the market is open. Final consideration and ruling.

MOTION: Baranski moved, seconded by Bochniak to approve the Special Use Permit request.

Rosenthal called the question on those able to vote.

As Roll Call was:

Nybo	Yes
Baranski	Yes
Bochniak	Yes
Rosenthal	Yes

Motion carried.

NEW BUSINESS

Cal. No. 13S-03, Applicant & Owner: Daniel Balocca –125 South Prospect Street, Galena, IL 61036. Location: Lot Fifteen (15) and Sixteen (16) in Block Number Three (3) in the City of Galena on the West side of the Galena River in the County of Jo Daviess in the State of Illinois, common address 125 S. Prospect Street, Galena, IL. Request for Special Use Permit to change the use of the Felt Manor from a 5-room Bed & Breakfast to a 6-room Small Inn in the Low Density Residential District, pending Text Amendment to allow Small Inns use in LDR by Special Use Permit.

Nybo asked that Chairperson Rosenthal allow him to recuse himself from the next agenda item due to his ownership of a Bed and Breakfast/Small Inn.

Rosenthal granted the request.

MOTION: O'Keefe moved, seconded by Baranski to postpone Cal. No. 13S-03 until the City Council has voted on Cal. 13A-02.

Discussion: O'Keefe said he feels the Board should wait until the City Council decides if they are going to approve the text amendment. If the Council puts parameters on the SUP we would have to start over. They have concerns with the liquor licenses, owner occupied . . . They should be the ones who determine if they want specific regulations on certain aspects for approval.

Baranski asked how the Council would do this.

Rosenthal said the Zoning Board has the power to approve a Special Use with specific do's and don'ts.

As Roll Call was:

Holman	Yes
Nybo	Recused
O'Keefe	Yes
Baranski	No
Bochniak	No
Rosenthal	No

Motion denied.

MOTION: Baranski moved, seconded by Bochniak to open the Public Hearing for Cal. No. 13S-03.

Motion carried on voice vote.

Nack swore all those in who to testify at the Public Hearing.

Dan Balocca, 125 S Prospect Street Galena, the applicant, said he currently has a five room Bed and Breakfast that has been in operation since 1981. There have been no complaints while he has been owner for the last twenty years. The property is unique topographically as it sits on seven different levels over $\frac{3}{4}$ of an acre. The main building is 6,100 square feet and the historic building at the back is 1,900 square feet. The carriage house was built in 1850 and was added on to 1870 in. It takes a lot to maintain these types of properties. The ordinance, Section 154.406 details what is allowed. Amendments were made in December 2012. There are four small inns: Annie Wiggins, Stillman Inn, Victorian Mansion and Greenbriar Inn, in residential areas that are allowed for various reasons to operate. The Felt Manor property totals about 27,000 square feet. They have always provided off street parking for its guests. Currently they have six off street parking spaces and they will work with City Staff to provide the required number of parking spaces. He feels that not many others would come forward to apply for a SUP to operate a Small Inn in a residential district. There are only a few large historic residential properties that would potentially qualify for a Small Inn. He is not interested in applying for a liquor license – neither a Class P nor a Class M. The restoration of just the

shell of the building will cost around \$75,000.00 - \$80,000.00. This will bring back the exterior back. If he puts this money into the building he really can't just leave it as a garage. The bank needs to see a viable use such as a guest accommodation. A freed slave, Lester, as well as a stable manager has lived here. This would be converted to one large, 1900 square feet, luxury two bedroom space. They would keep the 1870's look as much as possible. In 1939 the carriage doors were removed and modified. They have found part of the 10 foot door and they will be returning it to the carriage house. He knows some of the neighbors are concerned that the carriage house will collapse onto their property. Balocca is trying to prevent this by converting it. The photos show the renderings of how the building will look. He will need to go before the Historic Preservation Commission to get approval for the exterior improvements. He really wants to save this historic structure.

Baranski asked how he controls that his guests use his off street parking.

Balocca said they speak to each guest about their location. Yes they have a Prospect Street address, but parking on Prospect Street would mean climbing seven flights of steep steps. When his guests check in he explains they need to use the off street parking provided near the Felt Manor.

Baranski asked if people use this parking all the time. Do they go out to dinner and then decide to park on the street. The parking lot is not the easiest to navigate. Do they just find it easier to park on the street instead of utilizing the lot?

Balocca said he finds that they use the driveway. He does park larger vehicles for some of his guests. With the new design they will be able to provide better options. They will have a deeper parking lot with a turn around and angled parking.

Baranski said he is concerned about the new parking configuration. It appears the only way to leave the Felt Manor would be to back out onto High Street. It appears there would be plenty of room for the number of required spaces, but it may not be very convenient for the guests.

Balocca said they would look for the best method and layout for the required parking.

Baranski asked about the Class M liquor license.

Balocca said he is not interested in applying for a liquor license.

O'Keefe said the Council approves these and makes all policy concerning these.

Rosenthal said the Board could place a restriction on the SUP that no liquor license could be held.

Bochniak asked if the SUP goes with the building or the property. What if the building is found to be not viable? Can they build a new structure for guest accommodations?

Balocca said he has been through the building a lot; there are engineering studies on the structure. Greg Stauder is his engineer. They believe the building can be saved. They are

planning to install structural steel to support the rebuilding process. He has no plan to construct a new building.

Rosenthal said he thought Bochniak was asking if the Special Use Permit could be tied to the existing structure. If the building falls done does the SUP go away?

O'Keefe said no.

Bochniak said part of the SUP requirement is that the Small Inn be a large historic building.

O'Keefe thought the SUP was for a certain number of rooms. He could come back to the Board and ask for something else.

Rosenthal asked Balocca if he was only planning on putting one additional rental unit in the entire carriage house.

Balocca said correct. They have annual inspections to confirm that they are operating as the SUP dictates.

Oldenburg said Balocca would have to come back before the Board if he wanted to do anything other than what was approved for the Special Use Permit.

Rosenthal said he still has concerns about the parking.

Balocca said he does everything he can to ensure that his guests use the provided off street parking. He cannot totally control where people park.

Rosenthal asked if the request was granted conditionally for a year to determine what the impact on the neighborhood was and, if after one year there were numerous issues and complaints that leads to the SUP being revoked what would happen to the building.

Baranski said by right he is allowed a certain amount of off street parking due to the amount of street frontage that the property has.

Balocca said the High Street property width is 100 feet.

Rosenthal asked those in favor of the request to come forward and testify.

Char Carlson, 605 South Prospect Street, Galena is the owner of the Steamboat House Bed and Breakfast. She is in favor of the request. They came before the Board with a concept plan for a Small Inn in a Commercial/Medium Density district. They would have no problem with the parking requirements. They found that owning a Small Inn would mean they would need to comply with Fire Department regulations that the stairs be enclosed, that the entire property be sprinkled and that the doorways be widened. This is cost prohibitive. No matter what the Board decides there may be other factors standing in the way of converting this to a Small Inn.

Roth Weaver, 225 South Prospect Street, Galena said he lives not too far from the Felt Manor and his investment property is just a few doors from the carriage house. He has the utmost respect for those neighbors who are opposed to the request. His home is a block from the Victorian Mansion which is an upside for them. They enjoy seeing the pedestrian traffic which seems to lend vibrancy to the area. It does add value to their property and to the neighborhood. By all appearances this is a very successful business. There have been no problems with living so close to this Small Inn.

Rosenthal asked those opposed to the request to come forward and testify.

James Wirth, 121 South High Street, Galena said he lives directly across from the Carriage House. Shortly after the last meeting Wirth spoke at, he was in contact with the Carriage Association of America of Lexington Kentucky. They spoke about Grant's Home and the possibilities of the neighborhood. They are always interested in anything related to carriages. Further contact with them showed that they would like to do an article on Grant's Home and the Carriage House. He has no idea if they would be pursuing any other involvement with the Carriage House. Wirth pointed out the Comprehensive Plan shows that commercial growth is desired on the western edge of Galena. The zoning codes are in place to protect property and to avoid undesirable uses due to incompatibility. He said the assessor's office shows each of the three levels of the carriage house are 1,120 square feet. He feels the applicant has not provided a complete and thorough plan – everything is listed as concept. Does this fulfill the requirements of the Ordinance?

Rosenthal asked Wirth to give the Board his opinion as to why he is opposed to the request. The Board is not here to answer his questions, only hear his testimony.

Baranski asked Wirth what he thought would be the undesirable effects of adding one more guest room.

Wirth said he thought it would not be owner occupied at the point. You would have the needs of the extra visitors coming into the neighborhood – parking being a key factor. The City and the neighbors are interested in preserving the historic building. If converted the integrity of the interior would be lost. He also questioned the request for one additional guest room. The plan shows a two bedroom unit. This would sleep many more people than a one bedroom guest room. This would change the parking requirements.

Baranski asked if the Board required that the Small Inn be owner occupied would that alleviate some of his concerns toward the Commercial Use of the property.

Wirth said it would help.

Baranski said if the parking requirements for the SUP were such that they would accommodate the guests would that relieve some of his concerns.

Wirth said the two bedroom unit a shown changes the off street parking requirements. There is no variance request for parking, but the plan does not show enough parking for the new unit. With a variance others would certainly come forward asking for one also. The ordinance also

reads that a Small Inn has a limit of 6-8 guest rooms with no more than 16 guests. Will the Board put a specific control on the SUP as to how many guests can be accommodated at the Felt Manor at one time?

Rosenthal said Wirth was again questioning the Board.

Wirth said if approved the Board should stipulate how many persons can stay at the Felt Manor if the Carriage House is rented. He asked if handicapped parking would be required. He noted the Cloran Mansion is in Neighborhood Commercial after rezoning. They have more than enough off street parking to accommodate their guests. Wirth also noted that 154.405(H) said that only one principal residence would be allowed on one lot in a residential district.

Rick Pariser, 113 South High Street, Galena said there are twelve residences on that block. He is opposed to the request for one reason. The neighborhood is LDR. Approval of this request takes away from the flavor of the single family neighborhood. They have been through this kind of thing before. They are getting more and more crowded due to the four B and B's and the church in the block. He believes that the Felt Manor is only a part time business and is really not owner occupied. The parking congestion is severe and the Felt Manor does contribute to these problems. The proposal is to increase from five rooms to six rooms. This neighborhood is his home. The proposal is really not as room – it is huge. It could accommodate many persons. There is currently not enough parking so imagine how the new room will impact the area. He thinks entire families could end up using this space bringing more vehicles and congestion to the area.

John Checker, 115 South High Street, Galena, said Balocca is a good neighbor. Thirty five years ago there was only one Band B in the area – the Victorian Mansion. Now there is four in one block. He has problems with the definition of B and B and owner occupied as it applies to this property. He too feels it is only a part time business. He questions the size of the unit. It is more like an apartment or condominium. Two bedrooms, 2 ½ bathrooms, full facilities – this is not a room. The property has been for sale for quite some time. Approval of this request would definitely make the property more desirable. Would the small inn status pass immediately to the building or upon completion of the project?

Bill Fawell, 617 Ridge Street Galena, is in favor of the project. He is a licensed, independent managing broker in the state of Illinois. He has owned a demolition company as well as a renovation/rehabilitation company. He has had the property listing for the last few years. Fawell addressed rehabilitation of the building. They would need to work on the roof as well as the second floor at the same time in order to stabilize it. The entire north half of the building will be taken down right to the ground and then rebuilt. This involves hiring house movers to install permanent steel shoring to prevent the building's collapse. The process of installing the steel will cost \$35,000.00, but this must be done or they do risk the chance of the building collapsing into the driveway. The whole purpose of the project is to save the building. They are working with city Staff to comply with all the parking requirements. The Lexington Kentucky carriage association has contacted him. This group is very interested in getting a story on the building, but they do not have the financial resources to purchase and rehab the carriage house. They are also interested in another carriage house that is in mint condition located just down the street. Fawell said he really does not see the current parking problem.

With the new unit they would have seven off street parking spots, but they could have eight parking spaces. He doesn't see that then Felt Manor contributes to the congestion. The Felt Manor and the carriage house contribute to the flavor and character of the neighborhood and the City. When the City passed 154.406 they understood the necessity of saving and maintaining these properties. It is pricey to rehabilitate this property. It will likely cost around \$150,000.00 to \$175,000.00 to completely restore. It will be an asset to Galena as it will generate additional property and sales tax. He believes it will ultimately enhance the neighborhood. The alternative is demolishing the carriage house at a cost of \$10,000.00.

Rosenthal asked the applicant if he wanted to address the concerns of the objectors.

Balocca said he is willing to work with staff so the project has no impact on the neighborhood and a positive impact on saving the building. There is 1976 square feet of interior space as it is now it may be less after shoring up the building. It will be a luxury guest room accommodation.

Baranski asked how many rooms he is planning for. A guest room is defined as any sleeping room. The request is for a sixth room, but the plan shows two additional sleeping rooms.

Balocca said this had been previously discussed. Staff had thought that going from five to six rooms was the right request. He would be willing to request seven rooms and then provide eight off street parking spaces.

MOTION: O'Keefe moved, seconded by Bochniak to close the Public Hearing for Cal. No. 13S-03.

Motion carried on voice vote.

MOTION: O'Keefe moved, seconded by Holman to deny the request for a Special Use Permit to change the use of the Felt Manor from a 5-room Bed & Breakfast to a 6-room Small Inn in the Low Density Residential District, pending Text Amendment to allow Small Inns use in LDR by Special Use Permit as the parking plan does not satisfy the parking requirements and the application with respect to six rooms is not specified and clear enough to approve.

Discussion: O'Keefe said his opinion is, if you have to back out of that property, especially in the winter, you haven't satisfied the parking requirements no matter how many guest rooms you have. The request is for a sixth guest room but it is completely unclear as to what is being asked for.

Rosenthal has an issue with the parking. The owner can't control where people park. If we agree to allow an extra room or two we are inviting more parking problems. The size of this unit is larger than some houses. We can't control who comes to this location even if they are not an overnight guest.

O'Keefe said it really is a five room Bed and Breakfast with a two bedroom unit. The application as presented really isn't what they will have.

Baranski said the site plan really does not show how the parking will be situated and accommodated. Matching the plan to the application is not clear. The applicant really should be asking for seven rooms instead of six.

Oldenburg said that his only point of reference for the number of rooms would be the Ryan Mansion. They have a great deal more rooms than they are allowed to rent. They choose on the submitted floor plan which guest rooms they are going to rent as a guest sleeping room. In the case of the Felt Manor they are applying for a sixth guest sleeping room. They would need to not allow the rental of the second bedroom.

Rosenthal said how we enforce this.

Oldenburg said this would be no different than what happens at the Ryan Mansion.

Rosenthal said if we can't police it why approve it.

Baranski said legitimate off street parking, that meets the specific requirements, will handle the parking issues. The plan as presented does not show this. The plan is also not clear as to whether the request should be for a sixth or a seventh room.

O'Keefe said there is nothing stopping the applicant from withdrawing his request before the Board reads the Findings at the next meeting and resubmitting an application.

Nack said the Board should look at the Review Criteria.

O'Keefe said the site plan does not meet the criteria.

Baranski said the drawing just does not contain enough information.

As Roll Call was:

O'Keefe	Yes
Baranski	Yes
Bochniak	Yes
Holman	Yes
Nybo	Recused
Rosenthal	Yes

Motion carried.

COUNTY ZONING

None

WORKSESSION/OTHER

None

PUBLIC COMMENTS

MOTION: O'Keefe moved, seconded by Bochniak to adjourn the meeting.

Motion carried on voice vote.

Rosenthal adjourned the meeting at 8:45 PM.

Respectfully submitted by



Deb Price
Zoning Board Secretary

MEMO

To: The Zoning Board of Appeals
From: Matt Oldenburg, Zoning Administrator
Date: October 4, 2013

RE: Cal. No. 13A-02, Applicant & Owner: Daniel Balocca –125 South Prospect Street, Galena, IL 61036. Request for Text Amendment to Zoning Ordinance Table 154.403.1 *Permitted Land Uses* to amend Low Density Residential District to allow for Public Accommodations, Small Inns to operate by Special Use Permit only.

Summary:

On July 10, 2013, the Zoning Board heard and made a recommendation to Council that the request for the text amendment be denied. The Board considered the 7 approval criteria for a text amendment, as required in §154.920(C), when making this recommendation.

On July 22, 2013, the City Council heard and discussed Item No. 13C-0296, which was a resolution from the Zoning Board to deny the request from Daniel Balocca for a text amendment to allow Small Inns in Low Density Residential District by Special Use Permit only. A vote was taken for the motion to return the item to the Zoning Board for reconsideration of the text amendment.

On August 14, 2013, the Zoning Board reconsidered and made a positive recommendation to the Council that the amendment be approved to allow Small Inns in a Low Density Residential District by Special Use Permit only.

On August 26, 2013, the City Council tabled the request due to a question of procedure regarding the size of the published notice that appeared in the Galena Gazette on June 25, 2013. The size of that notice was the standard public notice size, and instead, it should be a quarter-page size per §154.920(E)(2)(a).

On September 4, 2013, the Zoning Administrator sent a memo (attached) to the Council and Mayor regarding the Staff's determination that notice should be considered as substantially compliant and asked them to proceed with their decision to approve, conditionally approve or deny the text amendment at their next meeting on September 9, 2013.

On September 9, 2013, the Council directed the Zoning Administrator to re-run the public notice ad in the Galena Gazette in the quarter-page size to give proper notice per the ordinance. They also directed that the Zoning Board re-open the public hearing to ensure the opportunity for anyone to be heard that didn't receive proper notice of the prior hearing. The public notice appeared in the Galena Gazette on September 18, 2013 in a quarter-page ad with a large border.

At the Zoning Board meeting to be held on October 9, 2013, we shall re-open the public hearing regarding the text amendment request. During your discussion after the hearing, I ask that you again consider the approval criteria listed below when making your recommendation to the Council.

Approval Criteria & Recommendation:

In order to maintain internal consistency within this code and on the zoning map, proposed amendments to the text and zoning map must be consistent with the purposes stated herein.

In determining whether the proposed amendment shall be approved, the following factors shall be considered:

- (1) Whether the existing text or zoning designation was in error at the time of adoption;
- (2) Whether there has been a change of character in the area or throughout the city due to installation of public facilities, other zone changes, new growth trends, deterioration, development transitions, etc.;
- (3) Whether the proposed rezoning is compatible with the surrounding area and defining characteristics of the proposed zoning district or whether there may be adverse impacts on the capacity or safety of the portion of street network influenced by the rezoning, parking problems, or environmental impacts that the new zone may generate such as excessive storm water runoff, water, air or noise pollution, excessive nighttime lighting, or other nuisances;
- (4) Whether the proposal is in conformance with and in furtherance of the implementation of the goals and policies of the Comprehensive Plan, other adopted plans, and the policies, intents and requirements of this code, and other city regulations and guidelines;
- (5) Whether adequate public facilities and services are available or will be made available concurrent with the projected impacts of development in the proposed zone;
- (6) Whether there is an adequate supply of land available in the subject area and the surrounding community to accommodate the zoning and community needs; or
- (7) Whether there is a need in the community for the proposal and whether there will be benefits derived by the community or area by the proposed rezoning.

§154.920 (D) The Zoning Administrator and Zoning Board of Appeals shall make recommendations and the City Council shall take final action.

- (1) When the Zoning Board of Appeals or City Council deems it necessary or expedient, additional property in the zoning district may be considered for a zoning change provided that this additional property is also addressed in the public hearing notice, in accordance with section 154.919 (F).**
- (2) In the event of a written protest against a proposed amendment signed and acknowledged by the owners of 20% of the frontage proposed to be altered or by the owners of 20% of the frontage immediately adjoining or across the alley or rear line therefrom or by the owners of 20% of the frontage directly opposite the frontage proposed to be altered as to such regulations or zoning district and filed with the City Clerk, such amendment shall not be passed except by the favorable vote of two-thirds of all of the selected members of the City Council.**

CITY OF GALENA, ILLINOIS

312 ½ North Main Street, Galena, Illinois 61036



MEMORANDUM

TO: Honorable Mayor Renner, City Council and City Administrator, Mark Moran

FROM: Matt Oldenburg, Zoning Administrator *MATT*

DATE: **September 4, 2013** * THIS ACCOMPANIES THE AMENDMENT MEMO

RE: Cal. No. 13A-02, Applicant & Owner: Daniel Balocca –125 South Prospect Street, Galena, IL 61036. Request for Text Amendment to Zoning Ordinance Table 154.403.1 *Permitted Land Uses* to amend Low Density Residential District to allow for Public Accommodations, Small Inns to operate by Special Use Permit.

Recommendation

Regarding Mr. Baloccas's request, the Zoning Board of Appeals voted to forward a positive recommendation to the City Council to approve the text amendment to allow Public Accommodations, Small Inns to operate in Low Density Residential Districts by Special Use Permit only.

Pro forma, the Zoning Board of Appeals held a public hearing on July 10, 2013 by which the public was allowed to voice favor or objection to the text amendment. Notice for this hearing appeared in the Galena Gazette on June 25, 2013 in a standard published notice format, setting forth the date, time, place and purpose of such hearing, the general nature of the request or matter to be heard, the name of the applicant and property owner, and identification of the subject property. Additionally, Surrounding Property Owner letters were mailed-out with a public notice statement that included this text amendment request as it was concurrent with the Special Use Permit request.

At the previous City Council meeting, held on August 26, 2013, the request was tabled due to a question of procedure regarding the size of the published notice.

§154.920 ZONING CODE AMENDMENT AND REZONING.

(E) Application and Review Procedures.

(2) Notice.

(a) Mailed Notice. A rezoning request relating to more than 5% of the entire incorporated area of the City and all text amendment requests shall not require mailed notice to any property owner. Instead, Zoning Administrator shall purchase a *quarter-page* display advertisement in a local newspaper of general

circulation. The content and timing of said advertisement shall follow the published notice provisions of 154.919(F)

I made the error of not requesting the specific size of notice with the newspaper and, naturally, the notice was published at the normal size.

The City Attorney and I have discussed the question whether or not proper notice has compromised the fundamental fairness and due process of the public hearing. We conclude that the notice was *substantially compliant* and should be deemed as complete for the following reasons:

- Notice was published in the Galena Gazette with all pertinent information at the appropriate time.
- Surrounding Property Owner letters were mailed to everyone within 250 ft. of the property with notice of the public hearing regarding the text amendment request.
- The section below states that the published notice, as described above, is substantially compliant and therefore complete.

§154.919 (F) Notice.

(5) **Substantial Compliance.** Notice shall be deemed to be complete when there is substantial compliance with the requirements of this section. Minor technical deviations in the language of published or mailed notice shall not be deemed to impair the notice when notice has been given. The requirement for the number of days of notice, for the general types of notices and for specifying the time, date and place of a hearing and the general location of the property shall be strictly construed; where there is a question raised at the hearing regarding the adequacy of notice, the body conducting the hearing shall make a formal finding as to whether there was substantial compliance with the notice requirement.

The spirit of the code is to promote increased efficiency in our processes and to work toward the goal of guiding and accomplishing coordinated and harmonious development of the City and its environs (paraphrased from §154.919 (I)(5)(c)1-4.)

Additionally, the requirement for the quarter-page published notice is a City ordinance, not a State requirement. Therefore, please consider that the notice of public hearing was substantially compliant and due process is complete. I have included the public notice below as it appeared in the newspaper and Surrounding Property Owner letters.

If deemed as substantially compliant, as the decision-making authority for text amendments, you may approve/approve with conditions/deny the application. If you are inclined to approve the text amendment at this meeting, please also approve the included Ordinance.

PUBLIC NOTICE

The City of Galena Zoning Board of Appeals will hold a public hearing on the following item(s) at **6:30 PM** on Wednesday, **July 10, 2013** at City Hall, 312 ½ N. Main Street, Galena, Illinois:

1. Cal. No. 13A-02, Applicant & Owner: Daniel Balocca –125 South Prospect Street, Galena, IL 61036. Request for Text Amendment to Zoning Ordinance Table 154.403.1 *Permitted Land Uses* to amend Low Density Residential District to allow for Public Accommodations, Small Inns to operate by Special Use Permit.
2. Cal. No. 13S-03, Applicant & Owner: Daniel Balocca –125 South Prospect Street, Galena, IL 61036. Location: Lot Fifteen (15) and Sixteen (16) in Block Number Three (3) in the City of Galena on the West side of the Galena River in the County of Jo Daviess in the State of Illinois, common address 125 S. Prospect Street, Galena, IL. Request for Special Use Permit to change the use of the Felt Manor from a 5-room Bed & Breakfast to a 6-room Small Inn in the Low Density Residential District, pending Text Amendment to allow Small Inns use in LDR by Special Use Permit.
3. Cal. No. 13S-04, Applicant: The Galena Farmers' Market Vendors (Ronald Ricke) – 123 North Commerce Street, Galena, IL 61036. Request for Special Use Permit to display a portable "sandwich board" sign at intersection of Main & Hill Streets to notify residents and visitors about the market location. The sign would be used from 6:00am to 10:00am on Saturdays while the market is open.

The applications and supporting materials are on file and available for review at City Hall. Persons wishing to express opinions on the above request should attend the public hearing relative to that item.

Matt Oldenburg
Zoning Administrator

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Matt Oldenburg
Zoning Administrator

CITY OF GALENA, ILLINOIS



Request for Amendment to Zoning Ordinance

Request Details:

Name of Applicant: Daniel R. Balocca Phone #: 815-341-3950

Address of Applicant: 125 S Prospect St, Galena IL 61036

List land and/or property uses that this proposal would affect: _____

Parcel 22-100-565-00, 125 S Prospect St, aka Felt Manor

General describe the amendment being sought (attach additional pages if necessary): _____

Request change in low density residential zoning permitted use table to
add small inn accommodations by special-use permit only.

Specifically describe the proposed amendment word for word (attach additional pages if necessary): _____

See attached. Request is to add an "S" under low density residential and small inn
accommodations to the Table of Land Uses 154.403.1 of acceptable uses

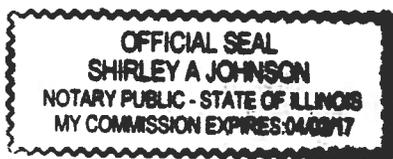
Explain why the amendment is being sought in terms of public need, health, safety, and/or general welfare

(attach additional pages if necessary): Large properties of historical and architectural significance
require appropriate adaptive uses to assist the owners in the maintenance, restoration
and preservation of these historic structures.

Daniel R. Babcock

Applicant's Signature

Date



Shirley A Johnson 6.21.13
Notary's Signature Date

My commission expires: 4.2.17

For Office Use Only:

Date Filed: 6/21/13 Amendment Calendar #: 13A-02

Fee Paid: YES Receipt #: 2.219267 Amount \$: 350.00 Date: 6/21/13

Date set for public hearing: JULY 10, 2013 Date hearing held: _____

Date of published notice: 6/25/13 Newspaper: GALENA GAZETTE

Name of municipality where published: GALENA, IL

Action by zoning board on amendment request: _____

Comments: _____

Receipt No: 2.219267

Jul 01, 2013

THE FELT MANOR

Miscellaneous-Misc. Revenue (Zoning) - AMENDMENT FEE 350.00

Total: 350.00

Check Chk No: 1748 350.00
Total Applied: 350.00

Change Tendered: .00

07/01/13 12:36pm

TABLE 154.403.1 PERMITTED LAND USES (Cont'd)

LA	CSR	LDR	MDR	HDR	NO	PO	NC	PC	GC	DC	PI	LI	LH	TYPES OF LAND USE PRINCIPAL COMMERCIAL LAND USES (§ 154.406(D))
					P	P	P	P	P	P	P	P	P	(1) Office
					S	S	P	P	P	P	S			(2) Personal or professional service
S	S				S		P	P	P	P	P	P	P	(3) Artisan studio
						S	P	P	P	P	S			(4) Sales and service, indoor
									P				P	(5) Sales and service, outdoor display
									P					(6) Sales and service, in-vehicle
	S	S	S	S	S									(7) Accommodations, bed and breakfast
		S			S					S				(8) Accommodations, small inn
						S		S	P	S	S			(9) Accommodations, hotel/motel

MEMO

To: The Zoning Board of Appeals
From: Matt Oldenburg, Zoning Administrator
Date: October 4, 2013

RE: Cal. No. 13S-03, Applicant & Property Owner: Daniel Balocca – 125 South Prospect Street, Galena, IL 61036. Location: Lot Fifteen (15) and Sixteen (16) in Block Number Three (3) in the City of Galena on the West side of the Galena River in the County of Jo Daviess in the State of Illinois, common address 125 S. Prospect Street, Galena, IL. Request for Special Use Permit to change the use of the Felt Manor from a 5-room Bed & Breakfast to a 6-room Small Inn in the Low Density Residential District, pending Text Amendment to allow Small Inns use in LDR by Special Use Permit.

Summary:

Request was denied at the Zoning Board public hearing on August 14, 2013. A letter of withdrawal has been received on August 26th, 2013 from Daniel Balocca to withdraw his request for Special Use Permit, Cal. No. 13S-03. This withdrawal was recommended to Mr. Balocca by the Zoning Board at the public hearing with further recommendation to submit a new Special Use Permit application that more clearly defines the number of sleeping rooms requested, floorplan and parking facilities.

Please see the attached copy of his letter.

RECEIVED

AUG 26 2013

CITY OF GALENA

Daniel R Balocca
125 S Prospect St
Galena IL 61036

Matthew Oldenburg
Zoning Administrator
City of Galena
312 ½ N Main Street
Galena IL 61036

August 15, 2013

Matthew:

Please withdraw my Request (Cal No. 13S-03) for Special Use Permit to change the use of Felt Manor from a 5-Room Bed&Breakfast to a 6-Room Small Inn in the Low Density Residential District. Thank you for your consideration and time spent with this matter.

Sincerely,



Daniel R Balocca