

AGENDA
ZONING BOARD OF APPEALS

August 13, 2014

6:30 PM

CITY HALL, 101 GREEN STREET, GALENA, IL

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Approval of July 9, 2014 ZBA Meeting Minutes.

OLD BUSINESS

4. Cal No. 14S-06, Applicant & Owner: James Wirth – 121 South High Street, Galena, IL 61036. Location: Parcels: 06-500-170-00 & 06-500-174-03 both part of Lot One (1) in Block Number Twenty-nine (29), Original Town East of Galena River in the County of Jo Daviess in the State of Illinois, common address 901 Fourth Street, Galena, IL 61036. Request for Special Use Permit to allow House Tour as an accessory residential land use in a Low Density Residential District. Continuation hearing scheduled for this meeting. Applicant has submitted written request for a one month extension for continuation of hearing to be held and the September ZBA Meeting.

NEW BUSINESS

5. Cal. No. 14A-02, Applicant: City of Galena – 101 Green Street Galena, IL 61036. Request for Text Amendment to Table §154.403.1 *Permitted Land Uses* and Section §154.406 (K)(10) *Outdoor Entertainment* to allow Outdoor Entertainment as an accessory commercial land use, by Special Use Permit only, in the Downtown Commercial District and to append regulations to Outdoor Entertainment land use regulations for the DC District.

COUNTY ZONING

6. None

WORKSESSION & OTHER

7. None

PUBLIC COMMENTS

8. Public Comments
9. Adjourn

Anyone who may require special assistance or special accommodation should contact City staff during office hours at 777-1050, prior to the meeting.

*Posted August 8, 2014
By Matt Oldenburg*

RECEIVED
8-8-14

August 8, 2014
Mr. Matt Oldenburg, Zoning Administrator
City of Galena
P.O. Box 310
Galena, IL 61036

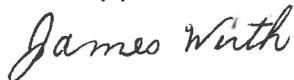
RE: Zoning Board of Appeals, May 14, 2014 Hearing, Agenda Item, Cal No. 14S-06

Dear Mr. Oldenburg:

Through this letter I respectfully request a one month extension of time that I may further investigate the most desirable alternatives in facilitating ease of public visitation to an historic property located in the heart of the City of Galena's Historic District, legally described as lot #1, Block 29, East side of the Galena River, common address 901 Fourth Street, Galena, IL 61036.

Thank you for your attention to this request.

Sincerely yours,



James Wirth,
Applicant and property owner
121 S. High Street
Galena, IL 61036
PH (815) 777-8429

MEMO

To: The Zoning Board of Appeals

From: Matt Oldenburg, Zoning Administrator

Date: August 8, 2014

RE: Cal. No. 14A-02, Applicant: City of Galena – 101 Green Street Galena, IL 61036. Request for Text Amendment to Table §154.403.1 *Permitted Land Uses* and Section §154.406 (K)(10) *Outdoor Entertainment* to allow Outdoor Entertainment as an accessory commercial land use, by Special Use Permit only, in the Downtown Commercial District and to append regulations to Outdoor Entertainment land use regulations for the DC District.

Project Summary:

This amendment to the Zoning Ordinance is initiated by request from the City Council. A proposal was presented to the Council on July 14, 2014 at their regular meeting. They reviewed the proposal and asked the Zoning Administrator to proceed with the Text Amendment process.

The amendment is an opportunity for this type of activity given to downtown business owners while giving consideration to people who reside in the vicinity. This would be considered an accessory commercial land use, serving as accessory to a permitted principal commercial land use. Adding this land use to the Downtown Commercial District, by Special Use Permit only, will allow the Zoning Board of Appeals to give consideration to the specific location of the request and its proximity to adjacent properties and their uses. This case-by-case approach is defensive in nature and will also give adjacent property owners the opportunity to be heard at a public hearing.

The appended regulation in the detailed land use descriptions and regulations was taken from similar regulation with downtown street performers (§110.39) regarding sound devices and noise levels. The time frame for performances differs slightly from street performers by allowing outdoor entertainment until 10:00 PM rather than 8:00 PM.

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 (*including comments from the Zoning Administrator*):

(1) Whether the existing text or zoning designation was in error at the time of adoption; *Not applicable*

(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.; *Council has indicated changes of character that initiated a reconsideration to allow this type of use in the Downtown Commercial District.*

(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; *There are potential properties in the Downtown Commercial District that could meet the regulation criteria and not have an excessively adverse impact on surrounding properties.*

(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; *This amendment is in conformance with the goals of the Comprehensive Plan by providing cultural experience and contributing to our tourism base. It is restrictive enough that it can be considered as consistent with the code, 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; *Not applicable*

(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 *Some properties could be compliant with this type of land use / activity in the Downtown Commercial District.*

(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. *It is conceivable that this entertainment use can benefit the community by providing cultural experience to tourists which creates return visits, thereby creating residual benefits to the local economy. It is also restrictive enough to minimize negative impact on nearby residents regarding nuisances.*

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 § [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.

AN ORDINANCE AMENDING ARTICLE 4, TABLE 154.403.1 – PERMITTED LAND USES AND SECTION §154.406 – DETAILED LAND USE DESCRIPTIONS OF THE CODE OF ORDINANCES OF THE CITY OF GALENA

BE IT ORDAINED by the City Council of the City of Galena, JoDaviess County, Illinois as follows:

SECTION I: Table 154.403.1 – Permitted Land Uses of the City of Galena Zoning Code, is hereby amended as follows:

- *(Additions are shown as underlined, highlighted and bold)*

Table 154.403.1. Permitted Land Uses

LA	CSR	LDR	MDR	HDR	NO	PO	NC	PC	GC	DC	PI	LI	HI	Type of Land Use Accessory Commercial Land Uses (154.406 (K))
						P		P	P	P	P	P	P	(1) Company-Provided Cafeteria
					S	S	S	S	S	S	S	S	S	(2) Company-Provided Day Care
						S		S	P		S	P	P	(3) Company-Provided On-Site Recreation
					P	S	P	S	S	P				(4) Dwelling Units Above Ground Floor
						S		S	P		P	P	P	(5) Fleet Vehicle Storage
								S	S	S				(6) Light Industrial Incident to Indoor Sales
							S	P	P	S	S			(7) Outdoor Dining
							S	S	P	S				(8) Outdoor Display, Removable
									P					(9) Outdoor Display and Storage, Permanent
								S	P	<u>S</u>				(10) Outdoor Entertainment

P = Permitted by Right (See section 154.402(A)) **S** = Permitted by a Special Use (See section 154.402 (B))

LA Limited Agricultural	HDR High Density Residential	PC Planned Commercial	LI Light Industrial
CSR Countryside Residential	NO Neighborhood Office	GC General Commercial	HI Heavy Industrial
LDR Low Density Residential	PO Planned Office	DC Downtown Commercial	
MDR Medium Density Residential	NC Neighborhood Commercial	PI Planned Industrial	

SECTION II: Section §154.406 (K)(10) – Accessory Commercial Land Uses of the City of Galena Zoning Code, is hereby amended as follows:

- *(Additions are shown as underlined)*

(K) Accessory Commercial Land Uses

(10) ***Outdoor entertainment.*** These accessory land uses include a variety of entertainment uses, such as volleyball courts, horseshoe pits, and music stages, where the area of such uses does not exceed 15% of the floor area of the principal use.

(a) *Regulations:*

1. Activity areas shall not be located closer than 100 feet to a residentially zoned property.
2. Facility shall provide a Type IV bufferyard along all borders of the property abutting residentially zoned property, as specified in § [154.605](#).
3. Outdoor entertainment uses shall comply with all other city and state regulations regarding such uses, including, but not limited to, those dealing with noise and lighting.
4. Outdoor musical entertainment in Downtown Commercial District shall also be in compliance with the following:
 - a. Performing is limited to 10:00 am. to 10:00 p.m.
 - b. No performer shall utilize any speaker, microphone or mechanical amplification device.
 - c. No performer shall generate any sound by any means so that the sound is louder than 70 decibels (70dB) on the Capital A Scale of an ANSI approved sound level meter measured at a distance of 50 feet or more, either horizontally or vertically from the point of generation.

SECTION III: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV: This ordinance shall be in full force and effect within ten (10) days of its passage and legal publication in pamphlet form.

SECTION VII: Passed on the ___th day of _____, A.D., 201___, in open Council.

AYES:

NAYS:

ATTEST:

TERRY RENNER, MAYOR

MARY BETH HYDE, CITY CLERK