

COUNCIL ACTION FORM

SUBJECT: REVIEW OF URBAN REVITALIZATION COMMERCIAL CRITERIA

BACKGROUND:

The Commercial Criteria for designating an Urban Revitalization Area and Plan were established in 1999 so that the City Council can administer the Urban Revitalization Program on a case-by-case basis (see Commercial Criteria Matrix, Attachment A). Based on these criteria, a property owner can request the City Council consider the merits of a development proposal that may need the tax abatement incentive to be financially feasible.

It is important to note that no Urban Revitalization Area and/or Plan have been approved by Council under the existing Commercial Criteria, although the City Council has determined that the property at 3503 Lincoln Way was a non-conforming property meeting the required criterion as underutilized.

An application has been received to designate 400 South Duff Avenue and 205 Southeast 5th Street as a Commercial Urban Revitalization Area (see Attachment B). The project involves demolishing existing buildings in the floodway fringe that do not conform to the floodplain zoning requirements. Proposed new construction would conform to the floodplain zoning requirements.

Because this Urban Revitalization Program was established ten years ago and has never been applied, the City Council may want to consider the underlying policy and the criteria before considering this recent application.

This report addresses these issues:

- Clarity of the Slum and Blighted and Underutilized criteria
- Providing an incentive for redevelopment in the floodplain
- Standard for determining underrepresented business use
- Administration of tax abatement based on use of property

In order to be designated a Commercial Urban Revitalization Area, a project must meet one of the two “**Required**” criteria in the first (left) column of the matrix and one of the two “Optional” criteria in the other two columns of the matrix (Attachment A).

The first required criterion is ***Slum and Blighted:***

*Properties where a majority of the assessed valuation of the properties has been determined to be **substantially** unsafe or to have an unsafe use by the City Council.*

This is also included as a required criterion for the Campustown Urban Revitalization Area. It was also included for the Multiple-Family Residential Urban Revitalization

Program (now terminated), where it was sometimes a problem: a property meeting this method for determining slum and blighted might not meet the Municipal Code definition as a dangerous building and thus might still be occupied. **If a slum and blighted criterion is to remain as part of the Commercial Criteria, it could be defined as a building deemed unsafe for occupancy under the Municipal Code.**

The second required criterion is **Underutilized**, with three options:

1. *Properties that are vacant in an in-fill area and were previously developed and have had the principal structure removed.*

This criterion was also sometimes a problem in the Multiple-Family Residential Urban Revitalization Program, because a building could be demolished a few weeks before construction of a new building foundation began and still qualify. Under this criterion, almost any commercial redevelopment project in Ames could qualify as underutilized. **If this criterion is to remain as a part of the Commercial Criteria, a minimum time period could be established for the property to be vacant.**

2. *Properties that are non-conforming with respect to the base zone that will be brought into conformance.*

Ames Municipal Code Section 29.307 provides for four non-conforming categories: use, structure, lot, and other. Included in these categories are major and perhaps infrequent non-conformities, such as residential use of a commercially zoned property. Minor non-conformities are also included, such as a building wall that is one or two feet closer to the property line than is currently allowed or parking lot landscaping that no longer complies with the zoning standards. Again, under this criterion, many older commercial properties could qualify for this redevelopment incentive as underutilized. **If this criterion is to remain as part of the Commercial Criteria, it could be limited to non-conforming uses.**

3. *Properties that are non-conforming with respect to the flood way fringe that will be brought into conformance with applicable flood plain regulations.*

This will include properties that have buildings with lowest finish floor elevations below the elevation with a 1% chance of being flooded every year, as determined by FEMA. Larger projects that met this condition before recent redevelopment include Target, Wal-Mart Supercenter, and smaller commercial projects at 436, 510 and 806 South Duff Avenue. An unknown number of properties along South Duff Avenue and East Lincoln Way are within the designated flood way fringe and have existing buildings that may qualify under this criterion. Attachment B illustrates some potentially qualifying properties. (Note that compliance with current flood development regulations has not been checked for each of these properties.)

Compared to 1999, the community may have different perceptions and opinions about providing an incentive to redevelop flood-damaged and flood-prone properties. However, this program does not provide an incentive to place new development into the

undeveloped portions of flood way fringe. Properties in the flood way fringe that have never been developed are not non-conforming to flood plain regulations and thus do not meet this criteria.

As the program is currently configured, projects on properties that meet any one of the above “Required” criteria could qualify for the program. Without revisions, it is likely that a great many commercially zoned properties could meet one of these criteria.

Compliance with the “**Optional**” Criteria may be challenging for many projects.

The first optional criteria is ***Underrepresented***, described in the middle column of the matrix (Attachment A):

Properties that are to include a business use where the actual sales of the business use is below the expected sales for the business use as determined by the City Council to be of benefit to the City (should be supported by a retail leakage study).

This can be difficult criteria because current market analyses identify sales leakage (loss of sales) on a community-wide basis, not by business use as needed to determine eligibility under this option. **If this criterion is to remain as part of the Commercial Criteria, it could list specific merchandise categories, based on stated preferences of Ames residents.** (This is also included as an optional criterion for the Campustown Urban Revitalization Area and presents the same challenges. It may be an easier task to list specific merchandise categories that are needed in that specific area.)

Administering tax abatement for specific uses of property, rather than only for the physical improvements, presents additional challenges. What if an approved use occupies the building initially and then closes or moves out before the abatement schedule ends—does the abatement end? In a commercial center with multiple tenants, what if the portion of the building or property occupied first does not include an approved use—is the improvement value then fully taxed? What if an approved use occupies a portion of the site the following year—is the tax abatement available then, for what portion and for how long? How do the City and the Assessor keep track of and document these changes in use?

If this criterion is to remain as part of the Commercial Criteria, it could be based on the construction of a building intended for retail commercial use, such as in the former Somerset Urban Revitalization Areas. Another alternative is for tax abatement to be for the entire improvement value if an approved used occupies any portion of the site, within three years after the improvement is completed and the abatement continues, even if the approved use ends.

The second optional criterion, described in the right column of the matrix (Attachment A), consists of design characteristics for the development, including ***Design Standards***,

Landscaping, Signage and Parking. To meet this criterion, the project must meet standards in all four of these categories.

Design Standards: *Properties where the structure that is constructed on the property meets the design standards where applicable.*

The only design standards for commercial development are in the zoning regulations for Convenience Commercial Nodes, Entryways, Village Centers, Downtown, Campustown, and South Lincoln Neighborhood. These standards are all mandatory, even without tax abatement. Campustown and South Lincoln Neighborhood are also Urban Revitalization Areas with additional standards.

Landscaping: *Properties where 25% of the area of the lot is landscaped and the landscaped area is located where the benefit is provided to a view of the lot from the street or adjacent property.*

This landscaping area is the same as required in Convenience Commercial Nodes and larger than the 15% required in all other commercial zoning districts. No landscaped area is required Downtown and Campustown. No changes to this criterion are proposed.

Signage: *Properties that utilize wall mounted, ground mounted, or monument signs.*

This criterion does not prevent pole signs on the same site, if sign face area is available based on the sign code.

Shared Parking: *Properties where two or more commercial properties share the same parking supply as provided for in the zoning ordinance of the City; **AND** Properties where the parking lot design provides for joint access and/or drive aisle movement between two properties and the proper cross-easements have been recorded.*

OR

Structured Parking: *Properties where the gross floor area of the principal structures is less than 200,000 square feet and 50% of the parking is provided in a parking structure. Properties where the gross floor area of the principal structure is greater than 200,000 square feet and 25% of the parking is provided in a parking structure.*

The project must meet either the shared parking criterion or the structured parking criterion. The zoning ordinance provides for shared parking only if two uses have parking demand at different times. This is rarely the case within most commercial areas. For most commercial projects structured parking is not financially feasible, because the initial and on-going costs of structured parking would be for more than the cost of additional land needed for the same parking in surface parking lots.

If this second optional criterion is to remain as part of the Commercial Criteria:

- design standards could be developed; and
- the landscaping standard could remain unchanged; and
- for signage the word “only” could be inserted and the definition of “ground mounted” clarified; and
- the parking requirement could be made a third optional criterion on its own.

ALTERNATIVES:

1. The City Council can terminate the Commercial Urban Revitalization Program.
2. The City Council can direct staff to prepare a new Commercial Urban Revitalization Program addressing all of the issues described above for required and optional criteria for City Council consideration before the City Council considers designating any new Commercial Urban Revitalization Areas.
3. The City Council can direct staff to prepare a new Commercial Urban Revitalization Program addressing selected issues described above or additional revisions identified by the Council for the required and/or optional criteria for City Council consideration before the City Council considers designating any new Commercial Urban Revitalization Areas.
4. The City Council can direct staff to continue to use the current Urban Revitalization Commercial Criteria to make recommendations for designation of new Urban Revitalization Areas.

MANAGER’S RECOMMENDED ACTION:

In 1999, the City Council purposefully created two Urban Revitalization Programs (Commercial and Multiple Family) with some flexibility in order to work with developers to accomplish two objectives. One objective was to improve persistently undeveloped and underdeveloped properties. Another objective was to encourage more substantial exterior materials, more landscaping, and more efficient parking. So these difficulties in defining eligibility for tax abatement may be unexpected result of these otherwise flexible criteria.

If the criteria were intended to achieve a certain type or quality of development that might not otherwise occur on its own, staff believes the program is not accomplishing this goal for commercial development. An alternative to refining the current Commercial Criteria may be time to step back and determine what the current City Council considers important in the redevelopment of commercial properties in today’s community. For example, criteria based on the visual qualities of the area may create a tax abatement program with more impact for these corridors and might encourage such features as:

- Control of the size and height of signs
- Encouraging monument signs instead of pole signs

- Landscaping of a scale and in locations that enhance these streets as community entry corridors
- Location of parking to have less visible impact from the street
- Use of consistent and more substantial exterior materials

The staff continues to support the use of tax abatement to encourage more attractive redevelopment. However, because of the apparent lack of interest in the existing program and the difficulty in interpreting some of the current criteria, staff believes the program should be maintained, but the requirements should be revised. Therefore, it is the recommendation of the City Manager that the City Council adopt **Alternative #2** **thereby directing staff to prepare a new Commercial Urban Revitalization Program addressing all of the issues described above for required and optional criteria for City Council consideration before the City Council considers designating any new Commercial Urban Revitalization Areas.**

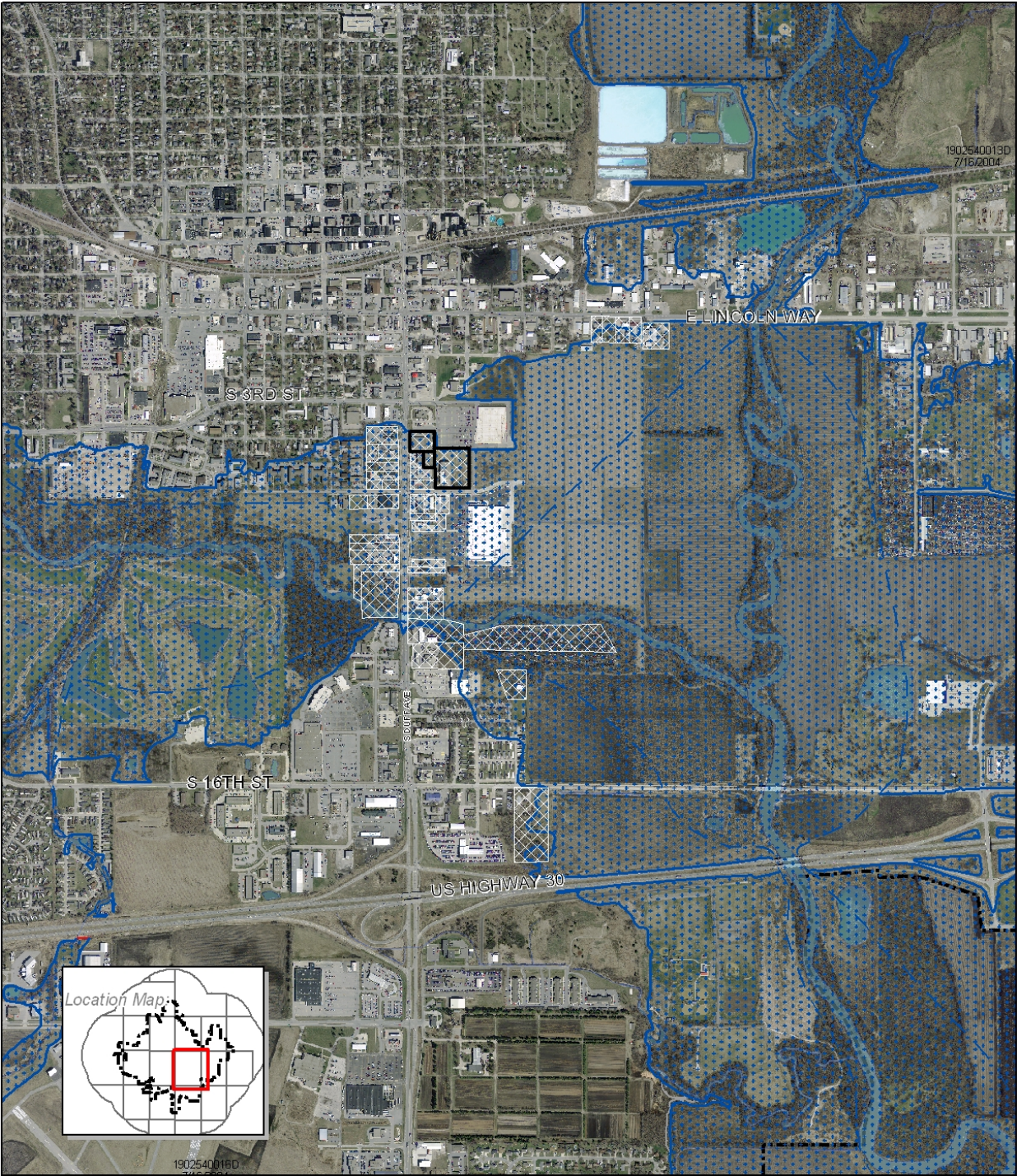
Under this alternative, the applicant would consider reapplying to designate 400 South Duff Avenue and 205 Southeast 5th Street as a Commercial Urban Revitalization Area, if and when City Council creates a new Commercial Urban Revitalization Program.

The downside to this recommendation is the fact that this alternative will require additional staff time and approximately six months before the new program is enacted.



**URBAN REVITALIZATION
COMMERCIAL
CRITERIA MATRIX
(EXCLUSIVE OF THE DOWNTOWN & CAMPUSTOWN AREAS)**




		OR	
REQUIRED	OPTIONAL	OPTIONAL	
<p><i>Slum & Blighted</i></p> <ul style="list-style-type: none"> ◆ Properties where a majority of the assessed valuation of the properties has been determined to be <u>substantially</u> unsafe or to have an unsafe use by the City Council. <p><i>OR</i></p> <p><i>Underutilized</i></p> <ul style="list-style-type: none"> ◆ Properties that are vacant in an in-fill area and were previously developed and have had the principal structure removed; <i>OR</i> ◆ Properties that are non-conforming with respect to the base zone that will be brought into conformance; <i>OR</i> ◆ Properties that are non-conforming with respect to the flood way fringe that will be brought into conformance with applicable flood plain regulations. 	<p><i>Underrepresented</i></p> <ul style="list-style-type: none"> ◆ Properties that are to include a business use where that actual sales of the business use is below the expected sales for the business use as determined by the City Council to be of benefit to the City (should be supported by a retail leakage study). 	<p><i>Design Standards</i></p> <ul style="list-style-type: none"> ◆ Properties where the structure that is constructed on the property meets the design standards where applicable; <i>AND</i> <p><i>Landscaping</i></p> <ul style="list-style-type: none"> ◆ Properties where 25% of the area of the lot is landscaped and the landscaped area is located where the benefit is provided to a view of the lot from the street or adjacent property; <i>AND</i> <p><i>Signage</i></p> <ul style="list-style-type: none"> ◆ Properties that utilize wall mounted, ground mounted, or monument signs; <i>AND</i> 	
		<i>OR</i>	
		<p><i>Shared Parking</i></p> <ul style="list-style-type: none"> ◆ Properties where two or more commercial properties share the same parking supply as provided for in the zoning ordinance of the City; <i>AND</i> ◆ Properties where the parking lot design provides for joint access and/or drive aisle movement between two properties and the proper cross-easements have been recorded. 	<p><i>Structured Parking</i></p> <ul style="list-style-type: none"> ◆ Properties where the gross floor area of the principal structures is less than 200,000 square feet and 50% of the parking is provided in a parking structure. ◆ Properties where the gross floor area of the principal structure is greater than 200,000 square feet and 25% of the parking is provided in a parking structure.

Attachment B



**Urban Revitalization Areas
Potential Areas for
Commercial Program**
Ames, Iowa

 Proposed URA
 Flood-prone Commercial Buildings

FEMA Flood Information
 1% Annual Chance of Flood
 1% Annual Chance of Flood Boundary
 Floodway Boundary



Map prepared by Ames Planning and Housing Department, April 22, 2009