

Staff Report

**REQUEST BY DEERY BROTHERS
FOR DESIGNATION OF PROPERTY AS URBAN REVITALIZATION AREA
AND SETTING PUBLIC HEARING**

September 11, 2012

BACKGROUND:

Brad Deery, representing the Deery Brothers, has submitted an application (Attachment 1) requesting the designation of four existing lots on SE 16th Street as an Urban Revitalization Area (URA), and approval of an Urban Revitalization Plan in accordance with the URA Policy for this area approved by the City Council on June 12, 2012. The four lots requested for the URA are currently addressed as 1400, 1500, 1598, and 1698 SE 16th Street. The lots are proposed to be reconfigured under a separate preliminary plat application, resulting in a 6.37acre lot for the Deery Brothers Automotive Dealership site, two lots for future commercial development (2.77 & 3.34 acres, respectively), and a 11.10 acre outlot encompassing the floodway portion of the site. (See Attachment I-A) The requested URA designation will allow the Deery Brothers to receive a property tax abatement incentive on their three developable lots. (Shown on Attachment II, Sheet C3.0).

The submitted application includes a site plan that shows the proposed development and improvements on the site. The identified improvements include the site layout for the Deery Brothers Auto Dealership site (Proposed Lot 1), and the re-grading and channel realignment in Proposed Outlot A. No improvements other than fill and grading are identified for the future commercial sites (Proposed Lots 2 & 3). A revised site plan will be submitted when these lots develop in the future.

Normally the application process requires submittal of a site plan approved by the Planning and Housing Director. The submitted site plan has not yet received final approval because there are still a few issues that need to be addressed before approval can be granted. These include final selection of plant species for the landscape plan, designation of on-site easements to facilitate storm water across the three developable lots, and approval and recordation of the final plat. Staff expects to have the landscape plan and easement issues resolved within the next week or so, and Council action to approve the final plat is anticipated in mid- to late October. **Because these items are minor and easily satisfied, and because compliance does not rely upon third-party cooperation outside the applicant's or City's control, the Director has granted tentative approval of the site plan to facilitate early submittal of the URA application. The Director believes that the site plan is complete enough for the City Council to determine compliance with the adopted criteria for the URA.**

URBAN REVITALIZATION CRITERIA

The Urban Revitalization Policy for this area established six criteria that must be met in order for the City Council to consider designation of an Urban Revitalization Area. (See Attachment III). The criteria are listed below, with staff comments following each criterion describing how the proposed development meets each criterion.

1. The properties have frontage on Southeast 16th Street between South Duff Avenue and South Dayton Avenue.

Staff Comments. The four properties associated with the site all have frontage on Southeast 16th Street between S. Duff Avenue and S. Dayton Avenue. A map is included on Page 8 of this report.

2. Fill or other flood proofing will be placed on the site up to an elevation of, at least, 887 feet (NGVD29), when an engineer registered in Iowa provides written certification that raising the land would result in “no rise” to the Base Flood Elevation (100 year flood levels).

Staff Comments. The proposed site plan indicates that the finished floor elevation of the Deery Brothers building will be at 888 NGVD 29 (Attachment II, Sheet C3.0). The engineer for the project has provided a letter certifying that the proposed improvements (the fill being placed on the site, the excavation within the Floodway, and channel straightening) will result in “no-rise” to the Base Flood Elevation (Attachment I, Pages 7-10). Calculations submitted with the no-rise certificate indicate that although there would be up to 0.08 increase in the 100 year water surface elevation (WSEL) resulting from the fill alone, the river channel repairs (required under Criteria 6 below) in combination with the fill will result in a 0.05 decrease in the WSEL.

The building elevation will be reviewed when the applicant submits an application for a Flood Plain Development Permit prior to construction. **Ultimately, the required elevation will need to be confirmed when the applicant submits an Elevation Certificate prior to occupancy of the building indicating that the lowest finished floor is no less than 887.0 NGVD29.**

3. The cost incurred after making the request for tax abatement for the placement of fill for flood proofing up to an elevation of 887 feet or above and/or channel improvements (See Criterion 6), if applicable, is expected to be equal to or greater than the value of the City’s portion of the tax abatement.

Staff Comments This criterion requires the project to expend as much or more for the placement of fill and/or channel improvements than for the benefits received by the abatement (specifically, the value of the City’s portion of the abatement). The applicant states that the value of the earthwork and channel straightening is estimated to be \$1.2 million (Attachment I, Page 6, Paragraph 1.d.).

The applicant also states that the value of the first project (car dealership and Outlot A improvements), when completed, will have an increased valuation of \$5.2 million (see Attachment I, Page 6). The applicant assumed a total levy by the City of \$10 per thousand of taxable valuation and a three-year abatement for a total value of \$156,000. (The actual City levy for 2012/13 is \$10.72 per thousand which would result in a total value of the abatement of \$167,232.)

City staff has reviewed the estimated valuation with the City Assessor's office. While a valuation will not be placed on a building until construction is completed, the valuation appears to be a reasonable estimate. Likewise, the cost of the fill placed on the site and the channel improvements will not be known until the project is complete. While these numbers may be ballpark (and the applicant indicates there is large margin in the ratio of costs to abatement value of 7.7), **a development agreement will specify that the final costs of fill will need to be greater than the final value of the abatement or the City's portion of the abatement must be returned to the City.**

As stated above, the proposed Urban Revitalization Area includes the Deery Auto Dealership site as well as two other lots lying east of the Dealership site. **These other lots will also be eligible for tax abatement, but only after the Urban Revitalization Plan is amended to reflect proposals for construction on these two properties. The amended plan will need to show the site plan for whatever is proposed for those lots, in addition to how the proposal meets the policy criteria.**

4. A public sidewalk is to be constructed along the south side of the Southeast 16th Street adjacent to the property.

Staff Comments The submitted site plan shows a sidewalk extending along the length of the Deery Brothers Auto Dealership site (Proposed Lot 1), and the separately submitted preliminary plat provides for sidewalks along all of the proposed developed lots (Lots 1 – 3). **However, a sidewalk is not shown or proposed along the frontage of Proposed Outlot A. In fact, the applicant has separately submitted with the preliminary plat application a request to waive the sidewalk requirement along the frontage of Proposed Outlot A.**

The stated reason for the sidewalk waiver pertains to the fact that a portion of the Outlot's frontage abuts the river and river bank, that there is no pedestrian access across the bridge along that frontage, and that a safer location to cross the road is the east end of Proposed Outlot A rather than next to the bridge. The preliminary plat and associated waiver request is scheduled for Council review and action on September 25.

The City Council should consider whether a sidewalk along a portion of the site's frontage meets the intent of the criterion to have a public sidewalk

constructed “adjacent to the property.” If the Council does not believe this meets the intent of the sidewalk requirement criteria, then the Council could direct the applicant to revise the site plan to extend sidewalks across the entire frontage of both the Deery Auto Dealership site and the adjacent proposed outlot. (Remember that sidewalks for the future development lots can be required at the time of lot development per the provisions of the preliminary and final plat).

5. The property will be used for uses permitted in the applicable zoning district except for the following as further defined and described in the Ames Zoning Ordinance:
 - a. Wholesale trade
 - b. Mini-storage warehouse facilities
 - c. Transportation, communications, and utility uses
 - d. Institutional uses
 - e. Adult entertainment businesses
 - f. Detention facilities
 - g. Agricultural or industrial equipment sales
 - h. Agricultural and farm related activities

Staff Comments. There is no evidence that any of the non-permitted uses will be located on the lot. However, the development agreement will need to address how long the use restriction will be retained for the abated properties.

6. Owners of property abutting a river must perform channel improvements (widening, straightening, clearing, etc.) and provide certification from an engineer registered in Iowa that the improvements will mitigate flooding. These improvements must be approved by the DNR, Army Corps of Engineers, and the City of Ames.

Staff Comments The applicant has submitted a grading plan for the straightening of the upper banks of the Skunk River on the east bank adjacent to their property (Attachment II, Sheets C3.0 and C3.2). The straightening creates a 3-to-1 slope adjacent to the top of the normal flow of the river, a 20-foot wide bench, and a 4-to-1 slope up to existing grade. The intent is that, when the river waters rise during a flood event, at a certain elevation these waters will be able to take advantage of the wider cross section of the river and move a shorter distance to go under the bridges at US Highway 30.

It should be noted that the Urban Revitalization Policy does not provide a definition of ‘mitigate.’ The engineer states in his certification letter (Attachment I, Page 7) that the “project will mitigate flooding by providing an improved and stabilized channel in addition to the no-rise condition.” He further states that “the channel improvements will remove large trees that are in imminent danger of falling into the river during the next major flood event. These trees will potentially lodge in the downstream Highway 30 bridge and create blockages that will catch debris and severely restrict water flow through the bridge.” Finally, calculations submitted with the no-rise certificate indicate that although there would be up to

0.08 increase in the 100 year water surface elevation (WSEL) resulting from the fill alone, the river channel realignment in combination with the fill will result in a 0.05 decrease in the WSEL.

The City Council should consider (a) whether the reduction of the Base Flood Elevation discharge by between 0.00 feet and 0.05 feet as a result of the channel project meets the Council's expectations to "mitigate flooding" as required under Criterion 6, and (b) whether compliance with the "no-rise" requirement under Criterion 2 can also satisfy the requirement to "mitigate flooding" under Criterion 6.

The policy of Criterion 6 also requires that the "...improvements must be approved by the DNR, Army Corps of Engineers, and the City of Ames." To date, only the City of Ames has approved the proposed improvements by means of the conditional use permit approved by the Zoning Board of Adjustment. The applicant states that IDOT, IDNR, and Corp of Engineer approvals are pending (Attachment I, Page 6).

These proposed improvements received partial City approval via a Conditional Use Permit (CUP) issued by the Zoning Board of Adjustment on August 8th for excavations in the Floodway. The improvements will also require City approval of a flood plain development permit, which would be approved by staff contingent upon compliance with all conditions of the CUP.

The Iowa Department of Natural Resources has not yet indicated whether an application for their approval is needed for this channel realignment.

On September 5, 2012 the Iowa Department of Transportation issued a revised position regarding the approval of the proposed Deery development by stating,

"It appears the department will be able to meet DNR criteria for the 100-year flood on US 30 by lengthening our existing bridges when they are replaced in the future. Our analysis indicates that replacing the existing 320 foot structures with longer structures will allow us to meet DNR criteria for the 100 year flood. An overflow channel through the Deery site plan will not be necessary to meet the 100-year flood requirements.

In addition, the department does not have any concerns with the proposed channel excavation along the Skunk River just north of US 30. This channel excavation will require a work on ROW permit from the department."

NEXT STEPS – APPLICATION APPROVAL, HEARING DATE, PLAN DEVELOPMENT

If the City Council determines from the information provided in the submitted site plan and application that the developer can meet all URA criteria, then the Council may approve the application as submitted. The City Council may then set October 23, 2012 as the date of the Public Hearing and direct City staff to prepare an Urban Revitalization Plan.

This Urban Revitalization Plan will be comprised of the approved site plan prepared by the applicant, the exemption schedule, and other information required by the Code of Iowa. The Plan will identify the specific improvements that need to be done prior to the applicant obtaining the abatement. These improvements will include the placement of the fill on the site to the height indicated on the plan (888 NGVD 29), the construction of the detention pond, the river channel improvements, and the construction of the building as shown on the site plan.

At that October 23rd meeting, the City Council will be asked to act on a resolution approving the Urban Revitalization Plan for the proposed improvements and to act on the first reading of an ordinance creating the Urban Revitalization Area for projects shown on the approved Urban Revitalization Plan. Other actions on that October 23rd agenda will include approval of a development agreement and the final plat for the subdivision. (The preliminary plat is scheduled for Council review and approval on September 25th.)

OPTIONS:

Option 1:

If the City Council determines from the information provided in the submitted site plan and application that the developer can meet all URA criteria, then the Council may approve the application as submitted. The City Council may then set October 23, 2012 as the date of the Public Hearing and direct City staff to prepare an Urban Revitalization Plan.

Option 2:

If the City Council determines from the information provided in the submitted site plan and application that the developer cannot meet all URA criteria, then the Council should deny the application and not set a date for a Public Hearing.

Option 3:

The City Council may defer action on this item and request further information from the staff or from the applicant to help determine whether the criteria have been met.

CITY STAFF COMMENTS:

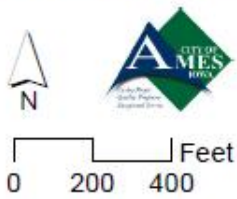
The City Council adopted a policy that includes several criteria for the establishment of an Urban Revitalization Area along SE 16th Street. The policy contains several specific requirements that the applicant must meet in order to obtain an abatement of the value of the improvements. The nature of some of the criteria do not allow a determination to be made *prior to* the establishment of the Urban Revitalization Area and the property tax abatement. Anticipating this situation, the policy also includes a requirement for a development agreement that would ensure that the value of the property tax abatement (the City's portion of the abatement) would be repaid to the City if the owner failed to meet or maintain any of the criteria.

In order to proceed with this request, the City Council must conclude from all of the information provided that the applicant has a viable plan for meeting all of the six qualifying criteria in an acceptable time frame.



Prior to making such a determination, the City Council needs to provide some guidance regarding the following two criteria:

- 1) **The City Council should decide whether the developer's intent not to construct a sidewalk along the undeveloped outlot is consistent with the Criterion 4, which states that, "A public sidewalk is to be constructed along the south side of the Southeast 16th Street adjacent to the property."**
- 2) **The City Council should determine whether the channel straightening proposed by the developer will "mitigate flooding" as stated in Criterion 6.** The applicant's engineer has provided projections that the channel straightening will reduce base flood discharges between 0.00 feet and 0.05 feet (0.6 inch). The engineer also maintains that the removal of the trees along the bank will prevent their dislocation during a flood event and the subsequent blocking of water through the US Highway 30 bridge.

If the City Council determines from the information provided in the submitted site plan and application that the developer can meet all URA criteria, then the recommendation of the City Manager is that the City Council approve Alternative #1. This alternative approves the application for the Designation of the Urban Revitalization Area, directs the staff to develop an Urban Revitalization Plan, and sets October 23, 2012 as the date of the Public Hearing.



Legend

-  Deery Parcels
-  Ames City Boundary

Location Map

