

COUNCIL ACTION FORM

REQUEST: REZONE FROM A (AGRICULTURAL) AND HOC (HIGHWAY-ORIENTED COMMERCIAL) TO HOC (HIGHWAY-ORIENTED COMMERCIAL) FOR PROPERTY AT 720 SOUTH DUFF AVENUE

BACKGROUND INFORMATION:

The owner of this property, Amerco Real Estate of Phoenix, Arizona, is requesting rezoning of a single parcel of land located at 720 South Duff Avenue. Amerco also owns the U-Haul site at 710 South Duff Avenue. This site is on the east side of South Duff Avenue (see Attachment A: Location Map and Zoning).

The site currently has split zoning with a one-acre piece rezoned from Agriculture to HOC in February, 2015 and the remainder as Agricultural. Since that time, the City Council approved a final plat which enlarged that one-acre parcel to its current 4.31 acre size. The zoning boundaries did not change with that plat approval. Further, the floodway portion of the site is subject to provisions of the Environmentally Sensitive Overlay.

The site currently contains a single metal structure. U-Haul wishes to rehabilitate the building and construct a new self-storage facility to serve its customers. Self-storage is a use that is limited to enclosed storage of personal goods with access to each unit by the individual renting the space. Warehouses and outdoor storage are not self-storage uses. To accomplish their goals for use of the overall site, rezoning to commercial is required. Development of the site with self-storage will also be subject to approval of a Special Use Permit by the Zoning Board of Adjustment.

The attached addendum includes an analysis of the rezoning proposal, including conformance to policies of the Land Use Policy Plan (LUPP). Conclusions from the staff review of infrastructure demands are that adequate facilities are in place or will be in place to serve the development with the proposed use.

As was discussed at the time of platting, the lot configuration of the site is substandard in terms of street frontage, which yields somewhat limited access to Duff Avenue. The site has 19 feet of street frontage along Duff Avenue, where 50 feet is required within an HOC zoning district. The 19 feet of frontage is a strip of land approximately 400 feet in length that extends from Duff east to the larger developable area of the site.

Staff believes approval of a contract rezoning should accompany the City Council approval of the rezoning. The contract rezone would limit the uses on the site to only a mini-warehouse self-storage facility to address the limited access to the property. In addition, to further the City's goal for enhanced local circulation along South Duff

Avenue and to address this site's limited access, the contract rezone should also establish a requirement for a cross access easement across the west edge of the U-Haul property. The easement will create the opportunity for access from an anticipated future easement at Wal-Mart (north of the site). The easement to the City does not extend to Duff Avenue. However, the adjoining properties along the 19 foot-wide strip of land are part of a separate private cross access easement that benefits those properties and would then connect to the City's new easement.

Planning and Zoning Commission Recommendation:

At a public hearing on June 1, 2016, the Planning and Zoning Commission voted (6-0) to recommend that the City Council **approve** the request for rezoning with the condition that a contract controlling use of the site be presented and approved prior to City Council approval, and that through the rezoning contract process the City Council assure that public access is permitted to the Wal-Mart property. Representatives of two abutting businesses spoke at the hearing and asked for a delay by the Planning and Zoning Commission in order for a better access agreement to be prepared.

ALTERNATIVES:

1. The City Council can approve the request for rezoning from Agricultural (A) and Highway-Oriented Commercial (HOC) to Highway-Oriented Commercial as proposed by the rezoning request, supported by the findings of fact, and **with the contract** controlling the density of development and to provide for a cross access easement.
2. The City Council can approve the request for rezoning from Agricultural (A) and Highway-Oriented Commercial (HOC) to Highway-Oriented Commercial as proposed by the rezoning request, supported by the findings of fact, and **without the contract** controlling the density of development.
3. The City Council can deny the request for rezoning from Agricultural (A) and Highway-Oriented Commercial (HOC) to Highway-Oriented Commercial as proposed by the rezoning request if the City Council finds that the City's regulations and policies are not satisfied.
4. The City Council can defer action on this request and refer it back to City staff and/or the applicant for additional information.

MANAGER'S RECOMMENDATION:

A portion of this site is currently zoned HOC. The subject parcel was recently enlarged with the approval of a minor subdivision final plat for U-Haul Subdivision, First Addition. The proposed rezoning is consistent with the Land Use Policy Plan, and appropriate infrastructure is adjacent to the site.

However, one concern is the access to this lot through the narrow 19-foot wide access way to South Duff Avenue. The use the applicant proposes is a low traffic volume use, and a contract to limit the types of uses would be appropriate to mitigate impacts on the adjacent owners that have an access easement over this strip and to mitigate the limited width of the access. The accompanying contract for rezoning includes provision for a new easement that will replace the 'future access easement' that was provided at the time of the final plat approval.

Additionally, a floodway easement along the south edge of the site restricts development from occurring within the floodway. This easement exceeds the limitations of the O-E Overlay zoning district and was established at the time of subdivision plat approval.

Therefore, it is the recommendation of the City Manager that the City Council approve Alternative #1 as stated above.

ADDENDUM

Existing Land Use Policy Plan. The Land Use Policy Plan designates this site as Highway Oriented Commercial. This designation is applied over much of the South Duff Avenue corridor except for the Squaw Creek Floodway (see Attachment B).

Existing Uses of Land. Land uses that occupy the subject property and other surrounding properties are described in the following table:

Direction from Subject Property	Existing Land Uses
Subject Property	Metal building, some farmland
North	Commercial (Wal-Mart)
East	Farmland
South	Farmland, Squaw Creek
West	Commercial/retail

Existing/Proposed Zoning. A portion of this lot is already zoned HOC. This includes the 19 foot access that extends to South Duff Avenue as well as the one-acre site surrounding the existing building. The front portion has been zoned HOC since the adoption of the current map in 2000. As noted above, the City Council rezoned the one-acre parcel last year. The remainder of the site is zoned A-Agriculture as it has been used for farmland for many years. The floodway area of the property is zoned Environmentally Sensitive Overlay, and this Overlay will be unchanged by the rezoning request to HOC.

Public Infrastructure. All public infrastructure is available and can serve the site upon its development.

Flood Plain. Most of the site is within the FEMA-designated Floodway Fringe (see Attachment C). Any development within that area, whether improvements to an existing structure or construction of a new building, will need to meet the requirements of the flood plain ordinance. This will require that the structures be protected from floodwaters to a depth of three feet above the water surface level of a one hundred year flood. That protection can be accomplished by either elevating the lowest floor of the building or flood-proofing the building to that level.

The southeast portion of the site is within the Floodway. In general, only very limited development is allowed within the Floodway and would likely require an environmental assessment and approval of a major site development plan. However, the recently approved subdivision plat placed an easement over the Floodway. This easement restricts uses to only vegetative cover—no building or structure (including paving) can be placed within it. This easement is in response to City staff describing the concerns of development in the Floodway and the recent amendments to the Environmentally-Sensitive Areas Overlay and Flood Plain Regulations. The easement prevents any development on that site unless the City vacates the easement to allow it.

Uses. The proposed HOC zoning category allows a broad range of uses. The site has only a 19-foot wide access to a public right-of-way (South Duff Avenue) on which is an access easement shared by the proposed Jimmy John's to the north and the Boston Commons development to the south. This narrow access would not support large traffic volumes without potentially creating issues to the abutting properties as it is not built to the full width of a two-way commercial access way that meets SUDAS standards.

When the subdivision plat was in front of the City Council in May, concern was raised regarding the potential for uses that might negatively impact the access. In response, staff suggested that a contract rezoning to limit the intensity of uses might be considered at the time of rezoning. To that end, staff proposes a contract rezoning that would limit the use of the site to mini-storage warehouse facilities.

Self-storage is special use within the requested HOC zoning. The Zoning Board of Adjustment must approve such a request. Article 13 includes specific provisions for the design of such a facility. Additionally, a self-storage facility cannot be used as a warehouse for general storage, nor does it permit outdoor storage. All uses for self-storage would be confined to a building.

Contract. To facilitate the rezoning of the property, staff has prepared a contract to address the use of the site. As noted above, access to the site is narrow and does not meet the width requirements of the subdivision ordinance. The subdivision plat was approved but the concern was recognized that the access would not support traffic associated with some commercial uses. The applicant has stated that they desire to use the site as a mini-storage warehouse facility. The contract reflects that desire.

The contract also requires the owner to establish a new easement providing access for the public to the businesses along South Duff Avenue whose access will be limited when the median and traffic light are installed. A future access easement was granted at the time of the U-Haul subdivision plat approval but defects in the language of that easement grant require it to be vacated and a new easement granted.

The contract also requires, as part of the site development of the U-Haul site, to establish a driveway access leading up to the south boundary of the Wal-Mart property. This is the point where a new (but yet to be granted) easement will allow traffic to access the traffic light in front of Wal-Mart. This easement allows those businesses to establish their own accesses to that driveway from the rear of their properties. This driveway shall be completed within two years following the date of rezoning.

A public hearing to vacate the existing easement is on the agenda for August 9th. The existing easement should not be vacated unless the contract rezoning is approved and the replacement easement has been recorded.

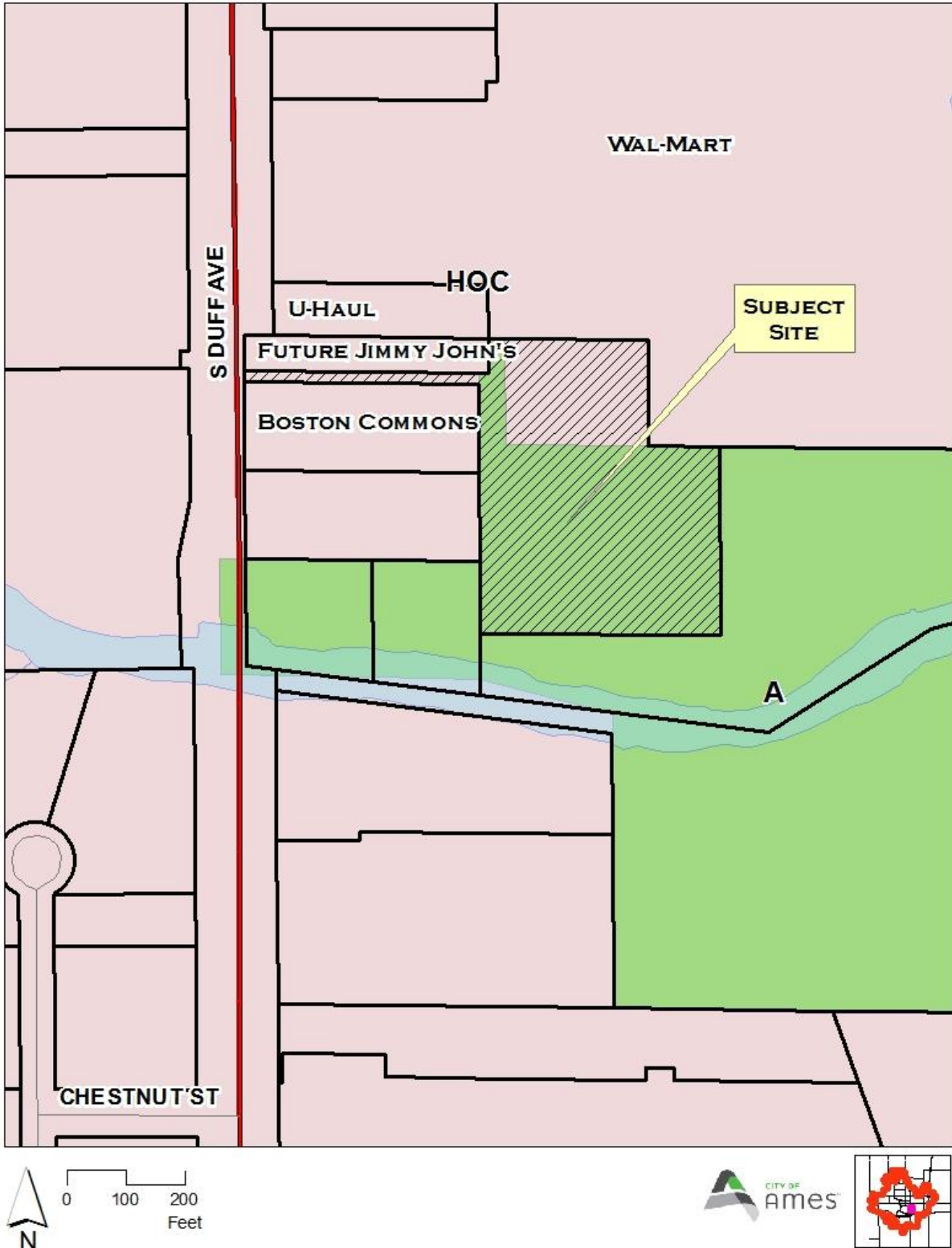
Public Notice. Notice was mailed to property owners within 200 feet of the subject site and a sign was posted on the subject property. As of this writing, no comments have been received.

Findings of Fact

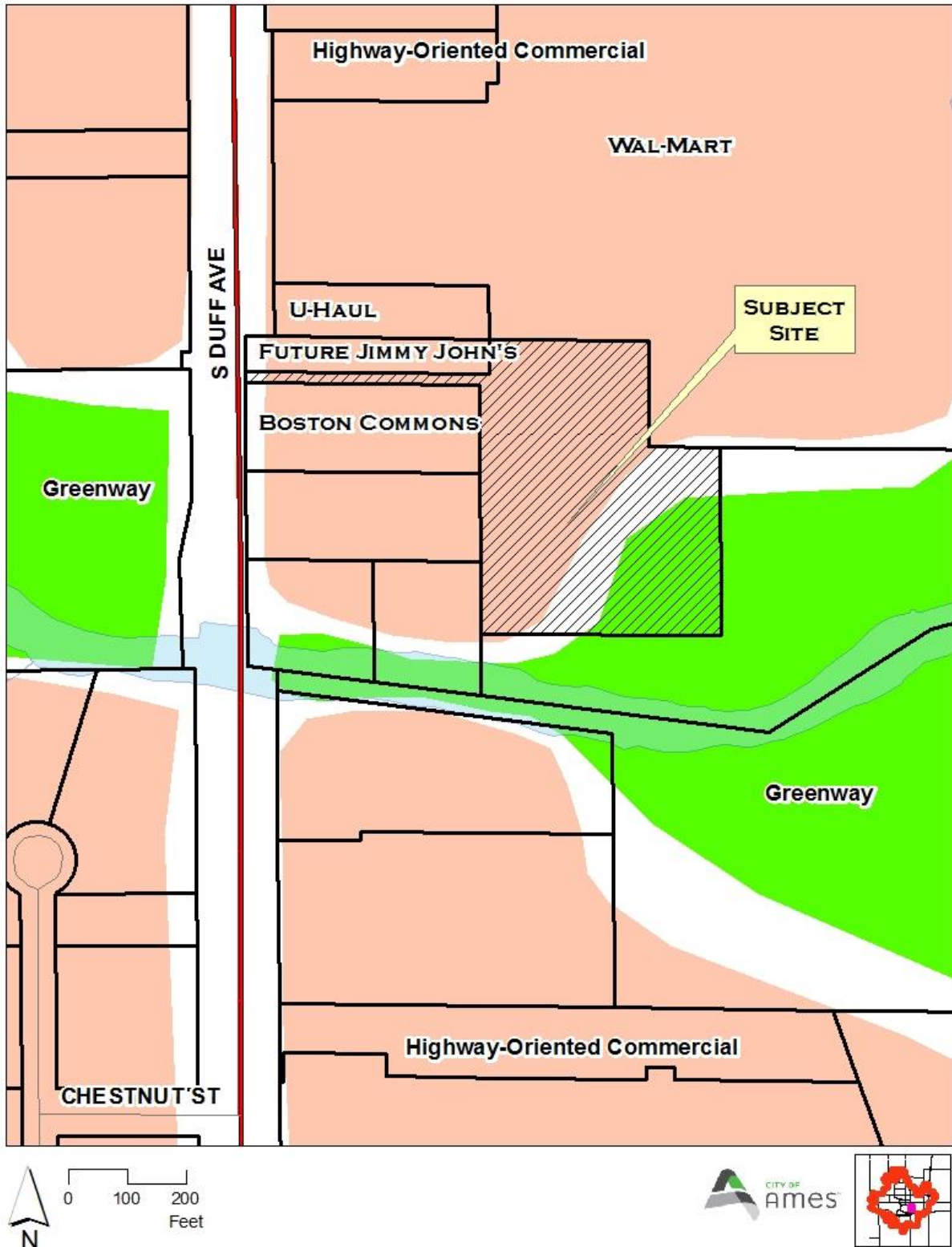
Based upon an analysis of the proposed rezoning and laws pertinent to the applicant's request, staff makes the following findings of fact:

1. *Ames Municipal Code Section 29.1507(2)* allows owners of fifty percent (50%) or more of the area of the lots in any district desired for rezoning to file an application requesting that the City Council rezone the property. The owner of this single parcel has requested the rezoning.
2. The subject property has been designated on the Land Use Policy Plan (LUPP) Future Land Use Map as Highway-Oriented Commercial.
3. The Highway-Oriented Commercial land use designation supports HOC zoning designation.
4. Infrastructure is available to this site. Specific service line locations will be identified during site plan review.
5. A contract for rezoning has been prepared and is intended to ameliorate impacts of development on this site. The contract:
 - a. Limits the use of the site to a mini-storage warehouse facility.
 - b. Requires the grant of an easement as shown on the approved subdivision plat.
 - c. Requires the paving of 300 feet of a driveway to the south line of the Wal-Mart property within two years of the approval of the rezoning.
 - d. Allows abutting property owners to construct an access to that driveway at their cost and after site plan review by the City and U-Haul.

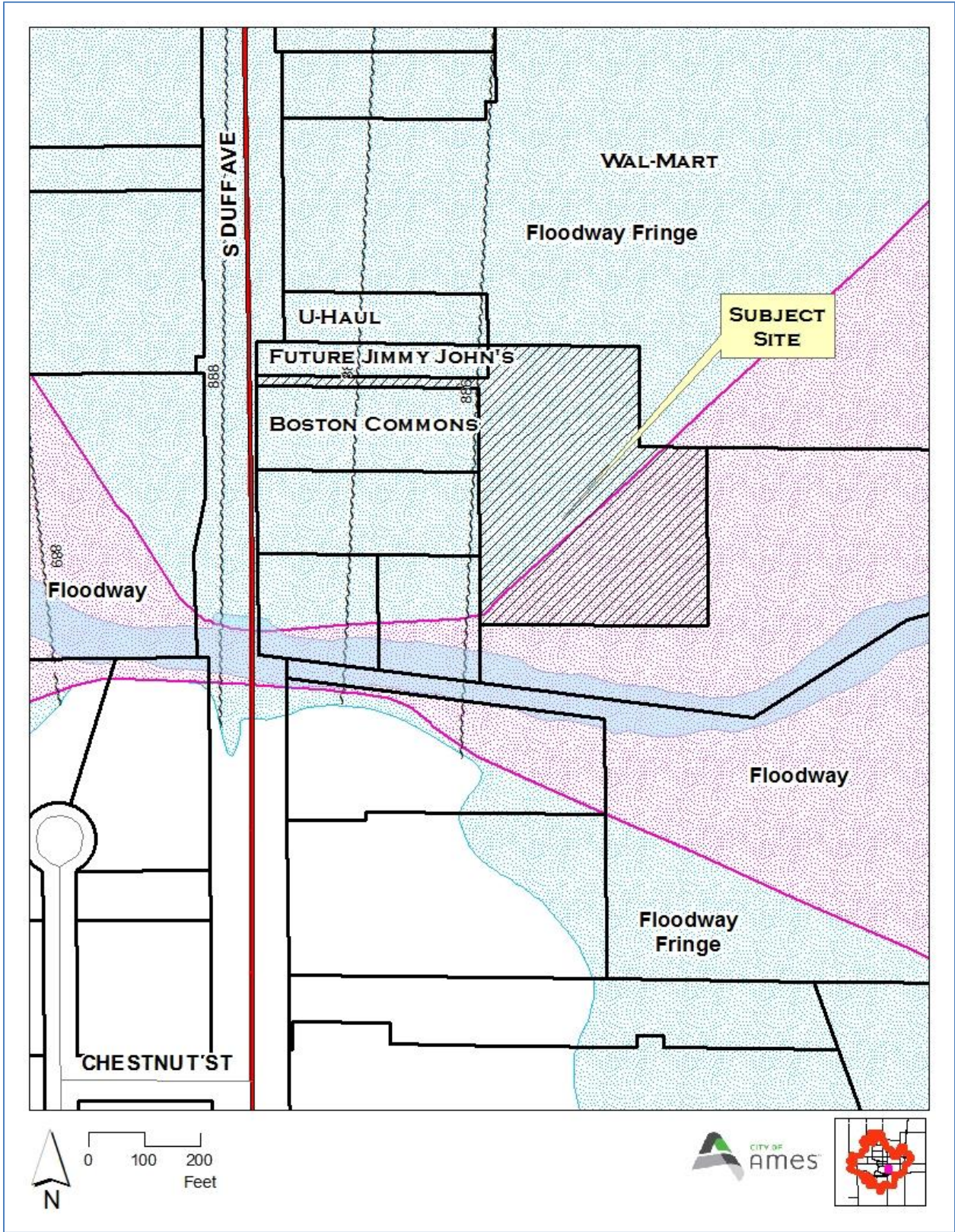
Attachment A: Location and Current Zoning Map



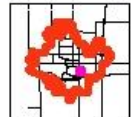
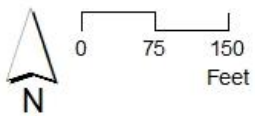
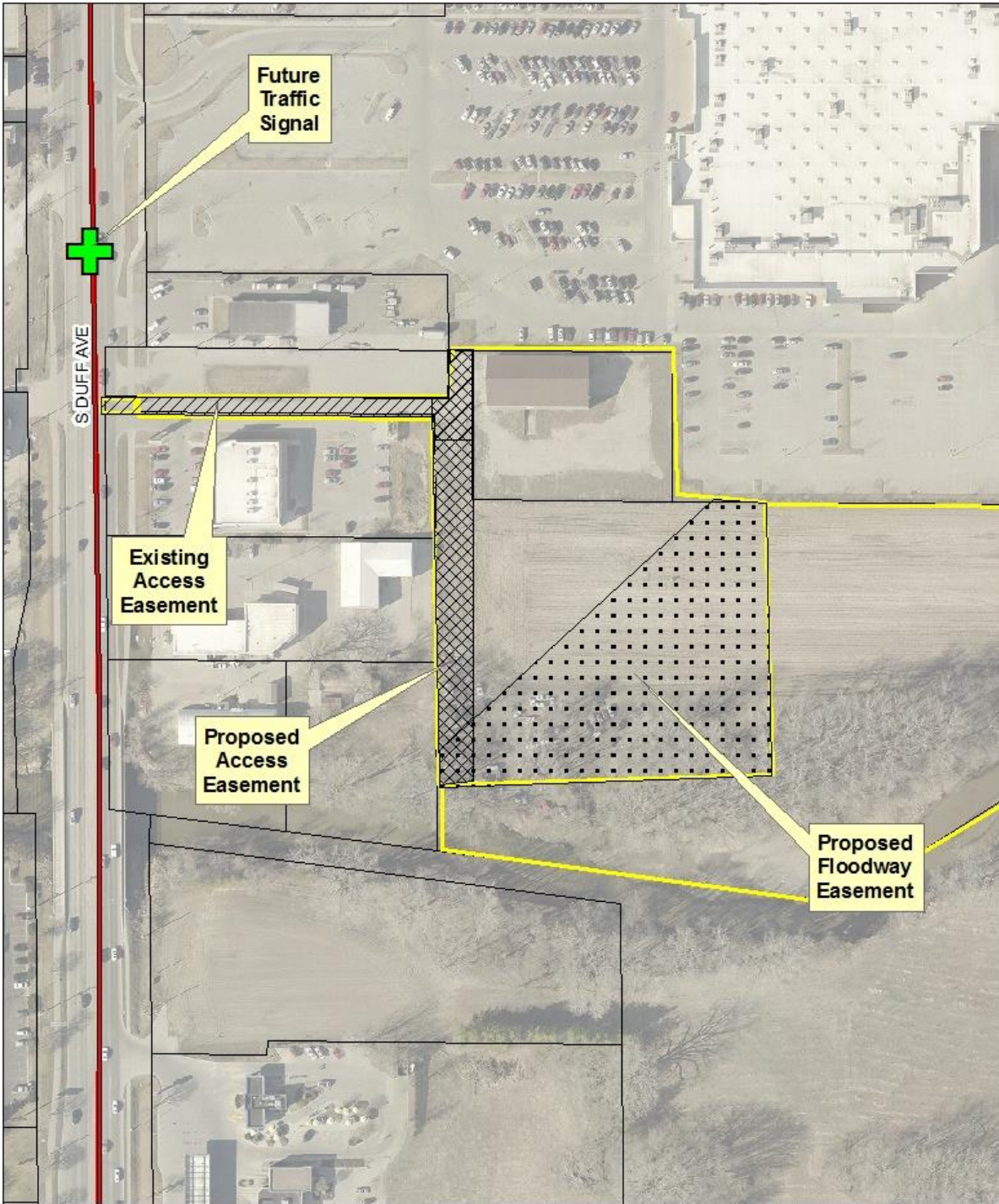
Attachment B: LUPP [Excerpt]



Attachment C: Flood Plain



Attachment D: Easements



Attachment E: Applicant's Letter



U-HAUL COMPANY OF IOWA

6310 DOUGLAS AVE. • URBANDALE, IOWA 50322-3312 • PHONE: (888) 793-4001 • FAX: (515) 270-1952

Rezone Application Information

Submittal Date:

8-6-2015

Legal Description

See attached zoning exhibit

Current Zoning:

Agricultural (A)

Proposed Zoning:

Highway Commercial (HOC)

Reason for Requesting Rezoning:

To further our ability to offer services to the citizens of Ames, IA

Consistency of the Rezoning with the Land Use Policy Plan:

In order for us to continue our plans of adding self storage to our services offered it has been determined that a zoning change is necessary. This parcel fits in the current land use policy plan as HOC.

Proposed Use:

We are proposing the construction of a 40,000 sq. ft. (+/-) multi-story storage facility. This facility will incorporate the existing 7,237 sq. ft. warehouse building into the design and construction of the facility. Portions of the new building may be climate controlled. Self-storage areas of the building will be internally accessed by our customers, which will limit the need for exterior overhead doors.

Land Area:

Approximately 4.3 acres

Moving Made Easier.

HOGAN LAW OFFICE
3101 INGERSOLL AVENUE, SUITE 103
DES MOINES, IOWA 50312
(515) 279-9059
FAX (515) 277-5836

TIMOTHY C. HOGAN
COURTNEY I. SCHULTZ

August 5, 2016

VIA E-MAIL (dvoss@city.ames.ia.us) and US MAIL

Mayor Ann Campbell
City of Ames
PO Box 811
515 Clark Avenue
Ames, Iowa 50010

RE: U-Haul Rezoning and South Duff Access Project

Dear Mayor Campbell and the Ames City Council:

I am writing on behalf of Boston Commons Ames, LLC, which owns the property located at 806 S. Duff Avenue. U-Haul has requested the City to rezone the property located at 720 S. Duff Avenue from Agricultural to Highway-Oriented Commercial. This request will be considered by the City Council on August 9.

My client is not opposed to the rezoning request but does remain concerned about access to and from Duff Avenue. As you know, the City has been working with the Iowa Department of Transportation and the property owners along this portion of Duff Avenue in connection with the South Duff Access Project. An access easement was recorded on May 17 in an apparent effort to address the access issue for my client's property and other properties that will eventually need access through the U-Haul property to use the signalized access to and from Duff Avenue. However, the recorded easement is defective in several aspects. We raised these concerns at the Planning and Zoning meeting on June 1.

My client requests the City to condition to the U-Haul rezoning and site plan, when considered, upon the establishment and construction of an access easement connecting my client's property to the traffic signal through the U-Haul property. Currently, a draft access easement between Wal-Mart and certain adjacent property owners is being developed, but my client's property is not yet included as a benefited property. In order to facilitate interconnectivity between the properties, the Wal-Mart easement needs to include all of affected properties.

Mayor Ann Campbell
City of Ames
August 5, 2016
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Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Courtney Schultz". The signature is written in a cursive, flowing style.

Courtney I. Schultz

Cc: Harry Wolf – Boston Commons Ames, LLC (via e-mail)
Damion Pregitzer – City of Ames – Engineering (via e-mail)
Charles Kuester - City of Ames – Planning (via e-mail)

DO NOT WRITE IN THE SPACE ABOVE THIS LINE, RESERVED FOR RECORDER
Prepared by: Judy K. Parks, Ames City Attorney, 515 Clark Avenue, Ames, IA 50010 Phone: 515-239-5146
Return to: Ames City Clerk, P.O. Box 811, Ames, IA 50010 Phone: 515-239-5105

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF AMES, IOWA, AS PROVIDED FOR IN SECTION 29.301 OF THE *MUNICIPAL CODE* OF THE CITY OF AMES, IOWA, BY CHANGING THE BOUNDARIES OF THE DISTRICTS ESTABLISHED AND SHOWN ON SAID MAP AS PROVIDED IN SECTION 29.1507 OF THE *MUNICIPAL CODE* OF THE CITY OF AMES, IOWA; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH AND ESTABLISHING AN EFFECTIVE DATE

BE IT HEREBY ORDAINED by the City Council of the City of Ames, Iowa;

Section 1: The Official Zoning Map of the City of Ames, Iowa, as provided for in Section 29.301 of the *Municipal Code* of the City of Ames, Iowa, is amended by changing the boundaries of the districts established and shown on said Map in the manner authorized by Section 29.1507 of the *Municipal Code* of the City of Ames, Iowa, as follows: That the real estate, generally located at 720 South Duff Avenue, is rezoned from Agricultural (A) and Highway-Oriented Commercial (HOC) to Highway-Oriented Commercial (HOC).

Real Estate Description: Lot 1 of U-Haul Subdivision, First Addition, in the City of Ames, Story County, Iowa.

Section 2: All other ordinances and parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: This ordinance is in full force and effect from and after its adoption and publication as provided by law.

ADOPTED THIS _____ day of _____, _____.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor