

ITEM #: 32
DATE: 01-10-17

COUNCIL ACTION FORM

REQUEST: CORRECTION OF SCRIVENER'S ERROR IN ORDINANCE 4277 (BRICK TOWNE REZONE TO RESIDENTIAL HIGH DENSITY (RH) ZONING AT 3115, 3119, 3301, 3325, 3409, AND 3413 SOUTH DUFF AVENUE)

BACKGROUND INFORMATION:

The City Council approved the third reading of the rezoning of Brick Towne on South Duff Avenue on November 15, 2016. The ordinance rezoned portions of the property to Highway-Oriented Commercial (HOC) and High Density Residential (RH). After approval and publication of the ordinance, two errors in the legal description for the zoning districts were discovered by staff that necessitated approval of a corrected ordinance. The legal descriptions of the subject properties and the area depicted on the rezoning map were correct, but the metes and bounds description of the split zoning districts had two typographical errors in the description that did not allow for an accurate and complete description of the rezoned area.

ALTERNATIVES:

1. The City Council can approve the first reading of the ordinance to correct the scrivener's error in the legal descriptions of the HOC and RH zoning districts. Staff requests the City Council waive the rules and approve second and third reading of the ordinance.
2. The City Council can decide not to approve the ordinance as a scrivener's error. This decision would require the applicant to begin anew with the request to rezone the property

CITY MANAGER'S RECOMMENDED ACTION:

The proposed ordinance corrects two unintended discrepancies in the perimeter legal descriptions for the HOC and RH zoning districts of Brick Towne. The contract for rezoning is unaffected by these changes as the agreement used the legal descriptions for the existing parcels, not the legal descriptions for the proposed zoning districts.

Therefore, it is the recommendation of the City Manager that the City Council act in accordance with **Alternative #1, which is to approve the ordinance to correct the error in the legal descriptions of the HOC and RH zoning districts and passing the ordinance on all three readings.**

ORDINANCE NO. _____

**AN ORDINANCE CORRECTING SCRIVENER'S ERRORS REGARDING
THE LEGAL DESCRIPTION IN ORDINANCE NO. 4277 PERTAINING TO
REZONING, WITH MASTER PLAN, OF 3115, 3119, 3301, 3325, 3409, AND
3413 SOUTH DUFF AVENUE**

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 3115, 3119, 3301, 3325, 3409, and 3413 South Duff Avenue, is rezoned, with Master Plan, from Highway-Oriented Commercial (HOC) and Agricultural (A) to Residential High Density (RH) and Highway-Oriented Commercial (HOC).

Real Estate Description:

HOC PARCEL

COMMENCING AT THE SOUTHEAST CORNER OF PARCEL 'M' IN SECTION 14, TOWNSHIP 83, RANGE 24 WEST OF THE 5TH P.M. IN THE CITY OF AMES, STORY COUNTY, THENCE S00°13'53"W 35.0 FEET ALONG THE EAST LINE OF PARCEL 'J' AND THE EAST LINE OF THE SW1/4 OF SAID SECTION 14 TO THE POINT OF BEGINNING; THENCE S89°13'31"W 420.09 FEET; THENCE S00°14'42"W 476.40 FEET; THENCE N89°52'21"E 140.11 FEET; THENCE S89°58'25"E 229.80 FEET TO THE WEST RIGHT-OF-WAY LINE OF US HIGHWAY #69; THENCE N89°39'06"E 50.24 FEET TO THE EAST LINE OF PARCEL 'J' AND THE EAST LINE OF THE SW1/4 OF SAID SECTION 14; THENCE N00°13'53"E 481.56 FEET ALONG THE EAST LINE OF PARCEL 'J' AND THE EAST LINE OF THE SW1/4 OF SAID SECTION 14 TO THE POINT OF BEGINNING.

RH PARCEL

BEGINNING AT THE SOUTHEAST CORNER OF PARCEL 'A' IN SECTION 23, TOWNSHIP 83, RANGE 24 WEST OF THE 5TH P.M. IN THE CITY OF AMES, STORY COUNTY, THENCE S89°51'54"W 986.44 FEET ALONG THE SOUTH LINE OF PARCEL 'A' TO THE SOUTHWESTERLY CORNER OF PARCEL 'A' IN SAID SECTION 23; THENCE N00°00'00"E 350.06 FEET ALONG THE WEST LINE OF PARCEL 'A' TO THE SOUTHWESTERLY CORNER OF PARCEL 'A' IN SAID SECTION 23; THENCE

N89°53'54"W 329.99 FEET ALONG THE SOUTH LINE OF PARCEL 'A' TO THE SOUTHWESTERLY CORNER OF PARCEL 'A' IN SAID SECTION 23; THENCE N00°12'00"W 664.84 FEET ALONG THE WEST LINE OF PARCEL 'A' TO THE NW CORNER OF PARCEL 'A' AND THE NW CORNER OF NE1/4-NW1/4 IN SAID SECTION 23; THENCE S89°51'50"W 650.95 FEET ALONG THE SOUTH LINE OF PARCEL 'J' AND THE SOUTH LINE OF THE SW1/4-SW1/4 TO THE SOUTHWEST CORNER OF PARCEL 'J' IN SAID SECTION 14, TOWNSHIP 83, RANGE 24 WEST OF THE 5TH P.M. IN THE CITY OF AMES, STORY COUNTY; THENCE N16°34'15"E 834.78 FEET ALONG THE WEST LINE OF PARCEL 'J' TO THE NORTHWEST CORNER OF PARCEL 'J' IN SAID SECTION 14; THENCE N89°52'17"E 411.15 FEET ALONG THE NORTH LINE OF PARCEL 'J' IN SAID SECTION 14; THENCE N89°52'17"E 224.80 FEET ALONG THE NORTH LINE OF PARCEL 'J' TO THE NORTHERLY CORNER OF PARCEL 'J' IN SAID SECTION 14; THENCE S00°20'51"W 201.97 FEET ALONG THE EAST LINE OF PARCEL 'J' TO THE NORTHERLY CORNER OF PARCEL 'J' IN SAID SECTION 14; THENCE N89°52'20"E 379.10 FEET ALONG THE NORTH LINE OF PARCEL 'J' TO THE WEST CORNER OF PARCEL 'L' IN SAID SECTION 14; THENCE N89°53'15"E 296.11 FEET ALONG THE NORTH LINE OF PARCEL 'L' TO THE NORTHEAST CORNER OF PARCEL 'L' IN SAID SECTION 14; THENCE S00°08'41"W 15.83 FEET ALONG THE EAST LINE OF PARCEL 'L' TO THE NORTHERLY CORNER OF PARCEL 'J' IN SAID SECTION 14; THENCE S00°17'23"W 35.60 FEET ALONG THE EAST LINE OF PARCEL 'J' TO THE NORTHERLY CORNER OF PARCEL 'J' IN SAID SECTION 14; THENCE N89°13'34"E 420.08 FEET ALONG THE NORTH LINE OF PARCEL 'J' TO THE EAST LINE OF PARCEL 'J' AND THE EAST LINE OF THE SW1/4 IN SAID SECTION 14; THENCE S00°13'53" W 35.00 FEET ALONG THE EAST LINE OF PARCEL 'J' AND THE EAST LINE OF THE SW1/4 OF SAID SECTION 14; THENCE S89°13'31"W 420.09 FEET; THENCE S00°14'42"W 476.40 FEET; THENCE N89°52'21"E 140.11 FEET; THENCE S89°58'25"E 229.80 FEET TO THE WEST RIGHT-OF-WAY LINE OF US HIGHWAY #69; THENCE N89°39'06"E 50.24 FEET TO THE EAST LINE OF THE SW1/4 OF SAID SECTION 14; THENCE S00°13'53"W 35.00 FEET ALONG THE EAST LINE OF THE SW1/4 TO THE SOUTH 1/4 CORNER OF SAID SECTION 14; THENCE S89°39'06" W 50.00 FEET ALONG THE NORTH LINE OF THE NE1/4-NW1/4 OF SAID SECTION 23 TO THE WEST RIGHT-OF-WAY LINE OF US HIGHWAY #69; THENCE N89°58'25" W 229.87 FEET ALONG THE NORTH LINE OF THE NE1/4-NW1/4 OF SAID SECTION 23; THENCE S89°52'21"W 522.62 FEET ALONG THE NE1/4-NW1/4 TO THE NORTHEAST CORNER OF PARCEL 'A' IN SAID SECTION 23; THENCE S00°18'46"E 578.72 FEET ALONG THE EAST LINE OF PARCEL 'A' TO THE NORTHERLY CORNER OF PARCEL 'A' IN SAID SECTION 23; THENCE N89°56'45"E 501.78 FEET ALONG THE NORTH LINE OF PARCEL 'A' TO THE NORTHEAST CORNER OF PARCEL 'A' IN SAID SECTION 23; THENCE N89°58'11"E 131.96 FEET; THENCE N00°23'45"W 68.04 FEET; THENCE N89°56'36"E 118.15 FEET TO THE WEST RIGHT-OF-WAY LINE OF US HIGHWAY #69; THENCE S00°12'09"E 68.01 FEET ALONG THE WEST RIGHT-OF-WAY LINE OF US HIGHWAY #69; THENCE N89°55'43"E 50.00 FEET TO THE EAST LINE OF THE NW1/4 OF SAID SECTION 23; THENCE S00°13'50"E 435.98 FEET ALONG THE EAST LINE OF THE NW1/4 OF SAID SECTION 23 TO THE POINT OF BEGINNING.

*THE EAST LINE OF PARCEL 'J', 'M' AND THE EAST LINE OF THE SW1/4 OF SECTION 14-83-24 IS ALSO THE CENTER LINE OF US HIGHWAY #69.

*THE EAST LINE OF PARCEL 'A' AND THE EAST LINE OF THE NW1/4 OF SECTION 23-83-24 IS ALSO THE CENTERLINE OF US HIGHWAY #69.

Section 2: The real estate, as rezoned to RH and HOC, is subject to the limitations described with the Contract Rezoning Agreement as provided for in Iowa Code Section 414.5.

Section 3: All other ordinances and parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: This ordinance is in full force and effect from and after its adoption and publication as provided by law.

ADOPTED THIS _____ day of _____, 2017.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor