

COUNCIL ACTION FORM

SUBJECT: AMENDMENT TO LAND USE POLICY PLAN (LUPP) TO AMEND USE RESTRICTIONS UNDER EXCEPTION CRITERIA FOR THE “CVCN” (CONVENIENCE COMMERCIAL NODE) ZONE

BACKGROUND:

Kurt Friedrich of Friedrich Companies is requesting that the text of the LUPP be amended to eliminate the use restrictions under the exception criteria for “CVCN” land use designations. Proposed amendments are shown on Attachment A. A copy of the applicant’s statement explaining his reasons for the proposed changes is attached for the Council’s consideration (Attachment B).

The concept of convenience nodes was originally developed back in 2004. The intent under this concept was to provide nodes of commercial development in close proximity to, and for the convenience of, the immediate neighborhood, but in a manner and scale that would be compatible with the residential character of the neighborhood. During the development of this concept, the development community proposed locational criteria that would allow convenience commercial nodes every one-half mile. The locational criteria that were ultimately adopted required a spacing of two (2) miles between nodes and two (2) miles from village commercial centers. These adopted criteria were based upon information obtained from the Urban Land Institute (a non-profit land use research and information organization).

In 2005, Hunziker & Associates expressed interest in building a commercial development at the intersection of Stange and Bloomington Roads. That proposal to rezone the property to CVCN was denied because the site was less than two miles from the Somerset Village. A second proposal came in 2007. That proposal was also denied for the same reason – it was not consistent with the LUPP. In 2007, a proposal was submitted to amend the text of the Land Use Policy Plan to create criteria that provided an exception to the locational standards of the LUPP. The proposed criteria would allow a CVCN node within one-half mile of a village. That proposal was also denied because the Council found that it was too broad and did not adequately protect the interests of the nearby village.

However, at the Council meeting following that decision of denial, the Council reconsidered the issue and developed the existing criteria that limit uses allowable under the exception to just four: a convenience store (which may include gasoline and food sales – no sit-down restaurants), grocery store, medical offices & clinics, and car washes. The restrictions further stipulated that these uses were allowed only if they were not already present in the neighboring village, and if there was no additional vacant land remaining in the village suitable for said uses.

These criteria were developed after lengthy discussion. The Council wanted to ensure that uses within the node did not compete with or undermine the economic vitality of the village, and that there was a demonstrated need for more commercial land so close to the village. The Council's language allowed the convenience node to become an area for only those uses not otherwise provided for in the village, but ensured it would not compete with business opportunities in the village.

Subsequent to the creation of the CVCN node at Stange and Bloomington, the Council responded to other proposed changes in the CVCN development standards that resulted in the following amendments:

1. Eliminate reference to car washes being "in combination with" a convenience store, thereby allowing both a car wash and a convenience store to occur on separate sites independent of each other.
2. Allow up to five-bays in a car wash, subject to a special use permit.
3. Rezone the land from CVCN to a newly created CGS zone in order to:
 - a. Increase the number of gas pumps from 8 to 10.
 - b. Exempt gasoline station canopies from CVCN design criteria.
 - c. Increase allowable wall signage.
 - d. Eliminate requirement for a special use permit for convenience stores.

Subsequent to the development of the grocery store and car wash, a request was submitted to divide the McFarland Clinic lot. This division created a fifth lot in a zone that allowed only four uses. Staff reminded the applicant that a fifth use was not allowed. However, the proposed division met basic subdivision requirements, and there was nothing in the use restrictions for the zone that prohibited more than one of the four uses in the zone. For example, it would be possible to have a second medical office in the node (which is not uncommon in areas where medical offices are located). During the subdivision review, the Council inquired of the applicant what use he had in mind for the fifth lot. A use was not disclosed at that time, but the Council was reminded that the division met subdivision requirements.

The current use limitations were adopted to ensure that a CVCN district located close to a village would not undermine the viability of the village. The concern was that the node would attract businesses that may want the locational advantages of the village, but that would not want to comply with the more stringent standards within the village. In retrospect, however, two things become evident under the adopted standards. First, limiting the number of uses within the convenience node could become problematic if one of those businesses were to close down and no other use were allowed to occupy the vacated building. Second, limiting the number of uses without further limiting the size of the convenience node has resulted in a node that is perhaps larger than necessary for just four uses. This is evident by the large size of both the car wash site and the original McFarland Clinic site (the McFarland Clinic site was later divided for this very reason). The first issue might be addressed by easing the restrictions on uses, but the City Council would have to be confident that this would not undermine business opportunities in the village. The second issue could be addressed by modifying the language that defines the size of

convenience nodes. The current language allows nodes of “*between two (2) and five (5) acres, but not greater than ten (10) acres.*” Ten acres appears to be too large for only four businesses. A two to five acre limit may be more appropriate for nodes approved under the exception criteria.

The exception criteria were adopted to facilitate a customer’s request to place a convenience node at Stange and Bloomington. It appears, however, that many of the standards that were originally deemed necessary to both facilitate a node and protect surrounding commercial and neighborhood interests have proven problematic to businesses wanting to locate in the node. This is evident by the many changes that have been requested since the node was created. This may be an indication that the exception criteria are not functioning as originally intended – at least not in their current form. The Council may wish to consider the alternatives below. When considering these, the Council should be aware that alternatives 1, 2, & 3 eliminating the use restrictions from the LUPP would not be effective at the Stange/Bloomington node because these use restrictions are also included in the developer’s agreement that was approved when that node was created.

To make the proposed LUPP amendments effective at the Stange/Bloomington node, the Council would need to support an amendment to eliminate the use restrictions from the developer’s agreement associated with the approval of that node. The amendment was recorded against all properties within the node and an amendment would have to be approved by each owner of property in the node.

ALTERNATIVES:

1. Support the applicant’s request to eliminate use restrictions in convenience nodes by eliminating the exception criteria in the LUPP altogether, and by supporting an amendment to the developer’s agreement eliminating the use restrictions at the Stange/Bloomington node. If the Council no longer agrees with the philosophy behind the exception criteria, then they should perhaps be dropped altogether. That would ensure that no more convenience nodes are developed within 1/2 mile of a village. That would not, of course, eliminate the node at Stange & Bloomington – that would remain, and it would potentially be entitled to all uses permitted in the CGS zone rather than just four uses (subject to amendment of the developer’s agreement). However, there would be nothing in the LUPP to explain or justify that node’s existence.
2. Approve the LUPP text amendments as drafted by the applicant, and also support amendment of the developer’s agreement to eliminate use restrictions in the Stange/Bloomington node. In addition, add size restrictions to the exception criteria to limit nodes to no larger than five (5) acres. This alternative would potentially allow all uses permitted in the CGS zone to locate in the Stange/Bloomington node rather than just four uses. This would have no impact on the size of this existing node, but it would keep the size of future nodes developed under the exception criteria in check without relying upon use restriction. It would minimize the area of development rather than the type of development that might otherwise compete with the nearby village.

3. Approve the LUPP text amendments as drafted by the applicant, and also support amendment of the developer's agreement to eliminate use restrictions in the Stange/Bloomington node. This alternative would potentially allow all uses permitted in the CGS zone to locate in the Stange/Bloomington node rather than just four uses. It would also leave the potential for other nodes within ½ mile of future villages. However, this alternative would render the exception criteria in the LUPP somewhat moot, because it would require nodes within ½ mile of a village to go through a more scrutinous review process than nodes allowed beyond two miles— all for no stated reason and with no added benefits.
4. Deny the applicant's request. This would retain the four-use restriction now in place, and the Council may find this acceptable even with five lots if it determines that the fifth lot is viable for, say, additional medical clinic usage. However, to avoid the problems encountered with the existing node resulting from its size, add size restrictions to the exception criteria to limit nodes to no larger than five (5) acres. Limiting the nodes to no larger than five acres would better ensure that future nodes developed under the existing exception criteria were of a size proportional to the number of uses allowed.
5. Deny the applicant's request and retain the status quo. This would retain the four-use restriction.

Recommendation of the Planning & Zoning Commission.

At its meeting of February 16, 2011, with a vote of 5-0-1, the Planning & Zoning Commission recommended that the Council act in accordance with Alternative 1, which is to support the applicant's request by eliminating the exception criteria altogether and supporting an amendment to the developer's agreement eliminating the use restrictions. Mr. Friedrich provided testimony at the meeting, stating that he would support any of alternatives 1, 2, or 3. No other members of the public spoke on this issue at the meeting.

MANAGER'S RECOMMENDED ACTION:

It is perhaps time to consider whether the existing exception criteria have been effective in achieving their intended result. They did result in approval of a node that would not have otherwise been allowed, but the standards associated with a node developed under the exception criteria have been challenged at many steps in the development process. The question is, if another village were developed, would the Council have confidence that the existing criteria would be consistent with the development interests of the village, and with the broader goals and policies of the LUPP. If the answer to that question is no, then the City Manager would recommend that the Council act in accordance with alternative No. 1. This alternative would eliminate the criteria altogether, thereby precluding a node close to any future village. This alternative also eliminates the use restrictions for the existing node as requested by the applicant, provided that an amendment to the developer's agreement is approved by all property owners within the node. This would likely be a positive move because staff is concerned that the problems associated with these restrictions may

outweigh any benefits they otherwise provide.

However, if the Council believes that the restrictions should be retained, then the City Manager would recommend alternative No. 4. This would retain the existing restrictions and would also limit future nodes to no more than five acres. In future applications this would help avoid the problems associated with having more lots than allowed uses.

Attachment "A"

Applicant's Proposed Amendments

[Strikeout is proposed deleted text from existing language]:

Page 56

Convenience Commercial Nodes. Convenience scale commercial land uses in areas designated as Village/Suburban Residential in the New Lands Area shall be located in strategic locations. The following criteria shall be used to locate convenience scale commercial land uses:

The following are the standards that should be used to locate Convenience Commercial Node land uses in Village/Suburban Residential areas within the New Lands Area:

1. *To assure clustering, minimize vehicular trips and traffic impact on adjacent neighborhoods, and assure residential compatibility, Convenience Commercial Nodes should **not** be located within two (2) miles of an existing neighborhood commercial areas, convenience commercial node, and/or village commercial center development except:*
 - a. *Convenience Commercial Node may be allowed if it is within one-half mile from an existing area zoned for Village Residential; and*
 - b. *There can be no more than one Convenience Commercial Node allowed under this exception for each Village; and*
 - c. ~~*The uses allowed in the proposed Convenience Commercial Node under this exception are restricted to a convenience store (which may include gasoline and food sales — no sit-down restaurants), grocery store, medical offices and clinics, and car washes, as long as the uses are not already present in the neighboring Village.*~~
 - d. ~~*There is no additional vacant land remaining in the nearby Village suitable for a convenience store, grocery store, medical offices and clinics, and car washes, and*~~
 - e. *The proposed Convenience Commercial Node will not create adverse impacts to existing infrastructure; and*
 - f. *The proposed Convenience Commercial Node is consistent with all other goals and objectives of the LUPP; and*
 - g. ~~*Implementation of the use restrictions allowing a Convenience Commercial Node under this exception is assured through a "developer's agreement" which must be finalized prior to the City Council's final zoning approval.*~~

Attachment “B”

Applicant’s Support Statement

I. Reasons for the Requested LUPP Text Amendment

For the subject lot shown on Exhibit "A", we are asking for removal of the site-specific use limitations to allow any of the uses currently allowed in the standard Convenience Commercial Node. There would be no change to the land use designation or boundary of the existing commercial area. This proposed Land Use Policy Plan Text Amendment will facilitate completing the build-out of the Northridge Heights commercial area expeditiously and provide flexibility for potential change of uses in the future.

II. General Description of the Properties, Zones and/or Areas Affected by the LUPP Text Amendment

Exhibit "A", attached, highlights the subject lot and the adjacent lots and their respective uses.

III. Consistency of this Text Amendment with the Land Use Policy Plan

A. Sustainability of the Convenience Commercial Node

The existing language, and limitations, are contrary to the LUPP's goal to assure sustainability of the Convenience Commercial Node. The current language allowing only four potential uses is too limiting. The underlying zone allows for approximately 70 different commercial uses. Additionally, the current language provides no flexibility should any of the existing users desire change.

Development of the existing lot, which should now be considered "infill", will be very difficult due to the limitation on uses. Each of the four uses currently allowed in this Convenience Commercial Node have been built. The fifth lot, now owned by R. Friedrich and Sons, is unimproved. Without allowing additional uses, it's possible that the remaining lot will remain undeveloped. By allowing additional uses, it is very likely the lot will be developed in a timely manner.

We have been approached by quality Ames businesses interested in locating here, but at this time, with the current use restrictions, it is not possible to accommodate their businesses.

One of the Council's primary functions is to serve the best interests of the public. It is in the best interest of the public that competition not be restricted.

B. Relationship and compatibility with the adjacent Village (Somerset)

The current restriction of use was established by a previous Council at a time when there was a large amount of unimproved commercial land available in Somerset. The previous Council was interested in seeing build-out of the Somerset commercial areas, and worked towards this goal by limiting nearby commercial development that would compete.

The build-out of the Somerset commercial area is nearly complete. The premise of limiting competition to allow the Somerset commercial area to further develop no longer exists. There are currently only two unsold and unimproved commercial lots available. Those remaining lots are not adequate for many potential uses due to the size of the lots and their locations.

There are currently many duplication of uses within the Somerset commercial area - banking, real estate, financial services, insurance services, beauty/hair salons, and restaurants. In view of this, the Somerset commercial area has become self sustaining, and the uses afforded there no longer require "protection" from perceived internal or external competition. We live and work in a free market economy, and business owners should be able to make an investment where they deem appropriate and accept the risks involved.

C. Relationship and compatibility with the existing CVCN node and surrounding residential areas

The subject lot is internal to the existing commercial area. It's surrounded by commercial development on all sides. This text amended request does not ask that the commercial area be enlarged beyond what has already been approved.

Development of the less-than 1-acre lot would be small scale, of similar character, and compatible with the existing buildings and uses in the CVCN.

Development of the existing lot would bring additional services close to the adjacent residential areas, furthering the LUPP's goal to assure clustering and minimize vehicular trips.

Development of the existing lot furthers the LUPP's goal to not create adverse impacts to the existing infrastructure. The existing water main, sanitary sewer, storm sewer, and street infrastructure (traffic) were designed to adequately accommodate the additional lot and use.

IV. Existing LUPP Text

The existing LUPP text (page 57) is attached as Exhibit "B".

V. Proposed LUPP Text

Please strike Items 1c, 1d, and 1g from the list of locational criteria for Convenience Commercial Nodes (page 57).

Attachment C

Applicable Laws and Policies

Adopted laws and policies applicable to this case file include, but are not limited to, the following: (verbatim language is shown in *italics*, other references are paraphrased):

Land Use Policy Plan (LUPP)

Pg. 56-58. This Section describes the intent of the Convenience Commercial Node as it pertains to uses that most appropriately serve localized neighborhood needs, and describes both size and locational criteria intended to ensure both compatibility and overall sustainability of each Convenience Commercial Node. The standard criteria state that nodes should be between two and five acres, but not greater than ten acres. They also limit nodes to locations no closer than two (2) miles to existing commercial areas or villages. Under the exception criteria, one node may be within one-half mile of a village, subject to very limited use criteria and a developer's agreement that implements the use restrictions.

Ames Municipal Code

Section 29.807(1)

Purpose. The Convenience Commercial Node (CVCN) Zone is intended for strategically located nodes on major or minor thoroughfares within or near conventionally designed suburban residential neighborhoods. This zone encourages the provision of small-scale retail and service uses for nearby residents. Uses are restricted in size, scale, materials, and use to promote a local and compatible orientation with and to limit adverse impacts on nearby residential areas. Development is intended to be pedestrian-oriented and also accommodate vehicular travel associated with conventional suburban residential subdivision design. Vehicle access and parking areas are strictly regulated to promote compatibility with the character of surrounding residential development and the intended pedestrian orientation of uses. The Convenience Commercial Node (CVCN) Zone is intended for areas of special sensitivity in order to avoid detrimental public and environmental impacts by new land uses and to:

- (a) Promote clustered and convenient commercial land uses adjacent to residential areas.*
- (b) Provide for convenience to meet localized neighborhood needs.*
- (c) Integrate commercial land uses aesthetically and physically with adjacent residential subdivisions.*
- (d) Accommodate the vehicular mobility associated with conventional residential development while maintaining pedestrian connectivity.*

- (e) Promote higher design, building materials, landscaping standards, signage, lighting, and screening.*
- (f) Maximize Floor Area Ratios.*
- (g) Promote shared parking.*

Table 29.807(2). Uses. This table defines the uses allowed in the CVNC zone.