

COUNCIL ACTION FORM

SUBJECT: REZONING OF PROPERTY AT 3409 – 3413 SOUTH DUFF AVENUE
FROM AGRICULTURAL TO HIGHWAY-ORIENTED COMMERCIAL

BACKGROUND:

The subject property is two parcels totaling 16.32 acres owned by Terry Herink and Jolene Muse. Chuck Winkleblack of Hunziker and Associates is representing the owners. The location is just east of the airport near the southern city limits on South Duff Avenue. On the property is a single family home and open agricultural land with outbuildings. (See Attachment A Location Map and Attachment J, Plat of Survey)

The subject property, as well as other surround properties are zoned Agricultural (“A”). **The proposal is to rezone the subject property from Agricultural to Highway Oriented Commercial (HOC)** (See Attachment B, Rezoning Map and Attachment E, Existing Zoning Map). The property is designated HOC on the Future Land Use Map.

According to the rezoning application, the subject properties will be developed for uses consistent with HOC zoning. (See Attachment C, Applicant Statement) If rezoned to HOC, the property can be used for any uses permitted in the zoning code for that zoning designation, generally all uses, except residential, industrial, or schools. This is the zoning designation of most of the commercial areas of Ames. (See Attachment G, Applicable Laws and Policies for references to the lists of these uses)

Surrounding Area. The following table identifies the Future Land Use Map designations, existing zoning, and existing land use of the properties surrounding the property proposed for rezoning.

DESCRIPTION OF SURROUNDING AREA

Area	LAND USE PLAN MAP DESIGNATION	EXISTING ZONING	EXISTING LAND USE
North	Highway Oriented Commercial	Agricultural	Residential
West	Government/Airport	Government/Airport	Airport
South	Highway Oriented Commercial	Agricultural	Church
East	Low Density Residential	Low Density Residential	Residential

See also the attached Future Land Use Map and Existing Zoning Map

Land Use. The Future Land Use Map of the Ames Land Use Policy Plan designates this area as Highway Oriented Commercial. As shown in *Attachment D*, the area designated for HOC is larger than the subject property.

Applicable Laws and Policies. The laws and policies that are applicable to this case are referenced in Attachment G.

ANALYSIS

Access. A two-lane paved road, South Duff Avenue, serves the property. This is also known as U.S. Highway 69, which is maintained by Iowa Department of Transportation. This area serves as a main thoroughfare for commuters from rural areas and those travelling to and from Huxley. The U.S. 69 right of way is in control of the Iowa DOT in the form of an easement, which is satisfactory to the DOT. Any new driveways would require DOT approval and be initiated through the City's development review process. There are no planned road widening projects at this time. Ames Public Works staff and Iowa DOT have determined that the rezoning/change of land use of the subject property does not create the need for additional roadway improvements or land area to be dedicated.

Utilities/Infrastructure. Full utilities are available at the site. Electric services are provided by Alliant Energy, not the City of Ames. The City of Ames Electric serves properties on the east side of South Duff Avenue, as well as properties to the north and west. The City of Ames Public Works Department has determined that the impact of typical HOC development at this site would not increase the demand on city utility services that has not already been anticipated.

Sidewalks, Street Trees and Street Lights. The shoulder areas have open surface water drainage and no curbs, which is more typical of a rural road cross-section. Therefore sidewalks alone are not topographically practical unless a full urban road section is installed. Existing trees in the area are on private property. There are no street trees in the vicinity. Street lights already exist on electric power poles. If a Major Subdivision Plat is submitted for this area, the sidewalk requirement will come into effect. However, the property may be developed with no further platting. Street trees are not a requirement of commercial or agricultural zoned subdivisions, but are required of the residential subdivisions directly across the street.

There are no immediate plans for sidewalks in this location, but other properties (Carpet One at 2818 South Duff Avenue) that have developed in this area have been required to ensure completion of the sidewalks at the appropriate time. An appropriate time could be roadway widening or corridor beautification. Those other properties had existing sidewalk agreements as part of subdivision plat approvals. However at the time of site development plan approval, the topography was not practical for sidewalk installation. Therefore, financial security was submitted. Planning staff has discussed this area with the Iowa Department of Transportation and found out that there are no pending plans for road projects at this time. However the Ames Metropolitan Planning Organization 2035 Long Range Transportation Plan does include a widening project for this section of South Duff Avenue.

This area is a rural section of roadway under Iowa DOT jurisdiction. There is a future possibility to widen the road to a 5-lane section. Because of these two factors it does not make sense to put the sidewalk in at this point. However, as these properties develop over time it will likely be a community priority for the sidewalks to be completed. Mr. Winkleblack

is agreeable to a zoning contract that would run with the land, so that the sidewalk would be completed as part of a future site development plan. The contract would allow options for either the sidewalk to be completed at the time of site plan approval or for financial security will be submitted to the City. In a similar case in April 2010, the City Council decided to rezone property at 530 South 16th Street and require a sidewalk as a condition of the rezoning.

Emergency Response: The subject property can be served by the City's emergency response services within five minutes. There is a nearby fire station at the South Duff Avenue intersection and Airport Road.

Airport Protection. The property is within an area that the Federal Aviation Administration recommends protection measures for airports (See Attachment F, Airport Approach Slopes). One of the LUPP goals is to protect the airport approach areas (See Goal 7.E. in Attachment I). **The City does not have any zoning controls that would reduce building heights or limit land uses beyond what already exists in the HOC standards. Therefore, it is appropriate for an easement to be required which would allow the City to work with a developer to ensure there is no land use or building height conflicts.** The FAA recommendations would not prevent the typical commercial development which has occurred on other portions of South Duff Avenue to the north. Additionally, the City has reviewed the 2008 Airport Master Plan report and found no existing obstructions which should be removed. City staff has prepared the airport easement document and will ensure it is agreeable to Mr. Winkleblack as a condition of the rezoning prior to final action by City Council.

The applicant has offered to sell the City the rear portion of the property since it is adjacent to the airport. The offer to sell has been considered by Public Works staff and it has been determined that the City has no interest in acquiring the rear portion of the property at this time. Although the LUPP supports a rezone for the rear area of the subject property, the existence of the cemetery in front would limit the likelihood of this area to be commercially developed in the typical HOC pattern. Typical HOC patterns have a high visibility focus on the roadway. Therefore, the applicant has the option of not requesting a rezone of the rear portion. This may, however, require a re-platting procedure. An accessory commercial use, such as storage of merchandise could be one use for the rear area which would be consistent with the requested HOC zoning.

Growth Objectives of the Land Use Policy Plan. Goals 1, 2, 4 and 5 of the LUPP (See Attachment I) address the importance of efficient growth and the general desire for an increase in the city economy. The subject property is already designated as HOC on the Future Land Use Map. The request is consistent with the goals of the LUPP for infill development of areas already in the city and served by city infrastructure. The proposed rezoning would allow infill development to occur on a major thoroughfare which is consistent with the goals of the LUPP.

Zoning Map Contiguity. This rezoning would not connect with the HOC area farther north; however, the applicant does not control the area in between. Single family use is nonconforming in the HOC zone, but it is allowed to continue as long as it is not expanded significantly. The cemetery use to the north is not a permitted use in the HOC zone.

Therefore if it was rezoned in the future, it also could continue to be used. The subject rezoning request is likely to trigger other areas to be rezoned should redevelopment of the subject property occur. Since the entire Agricultural Zoning area is designated as HOC on the Future Land Use Map, additional rezoning beyond the requested area would be supported.

Surrounding Land Use. High intensity commercial development is sometimes perceived to have a negative impact on the enjoyment of nearby residential properties. An objective of Goal 4 of the LUPP is for healthy, safe, and attractive environments in which to live. There are nearby homes to the east that fronts on US 69. However, typical commercial development has parking lots in the front which are required by City Code to be screened with shrub and tree landscaping. Additionally, the City Outdoor Lighting Code requires angles of cutoff which limit glare on surrounding properties. The requested HOC zone does not allow manufacturing and industrial land uses which could potentially have noise conflicts with residential properties. Therefore existing codes and policies may be sufficient to assure a healthy, safe and attractive environment in this area.

Conclusions. Based upon the above analysis, staff concludes that the proposed rezoning is consistent with the Future Land Use Map, as well as the Goals and Objectives of the Ames Land Use Policy Plan (LUPP) as long as an easement for the airport is granted as a condition of the rezone and that a zoning contract for sidewalks runs with the land. Staff further concludes that the request for rezoning complies with the relevant sections of the *Municipal Code* for the submittal and processing of the rezoning application.

Public Feedback/Notice. Notice was mailed to property owners within 200 feet of the rezoning area and a sign was posted on the subject property. The property owner of the single family rental home to the north (3011 South Duff) contacted the City as a result of the letter and did not have any opposition to the applicant's request. Additionally, the owner of 3011 South Duff stated that they were not interested in rezoning their property at 3011 South Duff at this time due to their perception that the taxable value could increase.

On May 4, the hearing for this rezoning request was opened. **At the hearing a property owner from directly across the street questioned the compatibility of commercial development directly across the street from residential. Storm water concerns were raised by about 15 single family property owners to the east, across South Duff Avenue.** Public Works Engineering staff was not present at the meeting to field questions, therefore the hearing was continued.

Recommendation of the Planning & Zoning Commission. Municipal Engineer Tracy Warner attended the continued hearing on June 1, 2011 and fielded a lengthy series of questions and concerns from the nearby residents about storm water drainage. Ms. Warner explained that any new development in the area proposed for rezoning would have to comply with *Municipal Code* regarding storm water management. The residents raised concerns of flooded basements and crawlspaces and believed that new development across South Duff could increase damages to their properties. Ms. Warner explained that the Southdale Subdivision is the identified location for the 2013/14 year in the Low Point Drainage program of the CIP. The Commission sympathized with the residents but

believed that the drainage issue was a much larger discussion that was not directly related to the subject rezoning across South Duff. The Commission asked that the City staff work with the residents to address the concerns raised. Therefore, on June 1, 2011, with a vote of 7-0, the Planning and Zoning Commission recommended that the City Council approve the request to rezone this property subject to the following conditions:

- That an easement is required to ensure that there are no land use or building height that conflict with the airport.
- That financial security for the completion of the sidewalk be submitted.

ALTERNATIVES:

1. The City Council can approve the rezoning of the property located at 3409 – 3413 South Duff Avenue from Agricultural (A) to Highway-Oriented Commercial (HOC) with the following conditions:
 - That an airport protection easement is required to ensure that there is no land use or building height that conflict with the airport.
 - That a zoning contract ensuring the completion of the sidewalk runs with the land.
2. The City Council can approve the rezoning of the property located at 3409 – 3413 South Duff Avenue from Agricultural (A) to Highway-Oriented Commercial (HOC), without conditions.
3. The City Council can deny the rezoning of the property located at 3409 – 3413 South Duff Avenue from Agricultural (A) to Highway-Oriented Commercial (HOC) if the Council finds and concludes that the proposed rezoning is not consistent with adopted policies and regulations, that there is not adequate infrastructure on the subject property for HOC development or that the rezone will impose impacts that cannot be reasonably mitigated.
4. The City Council can defer action on this request and refer it back to City staff and/or the applicant for additional information.

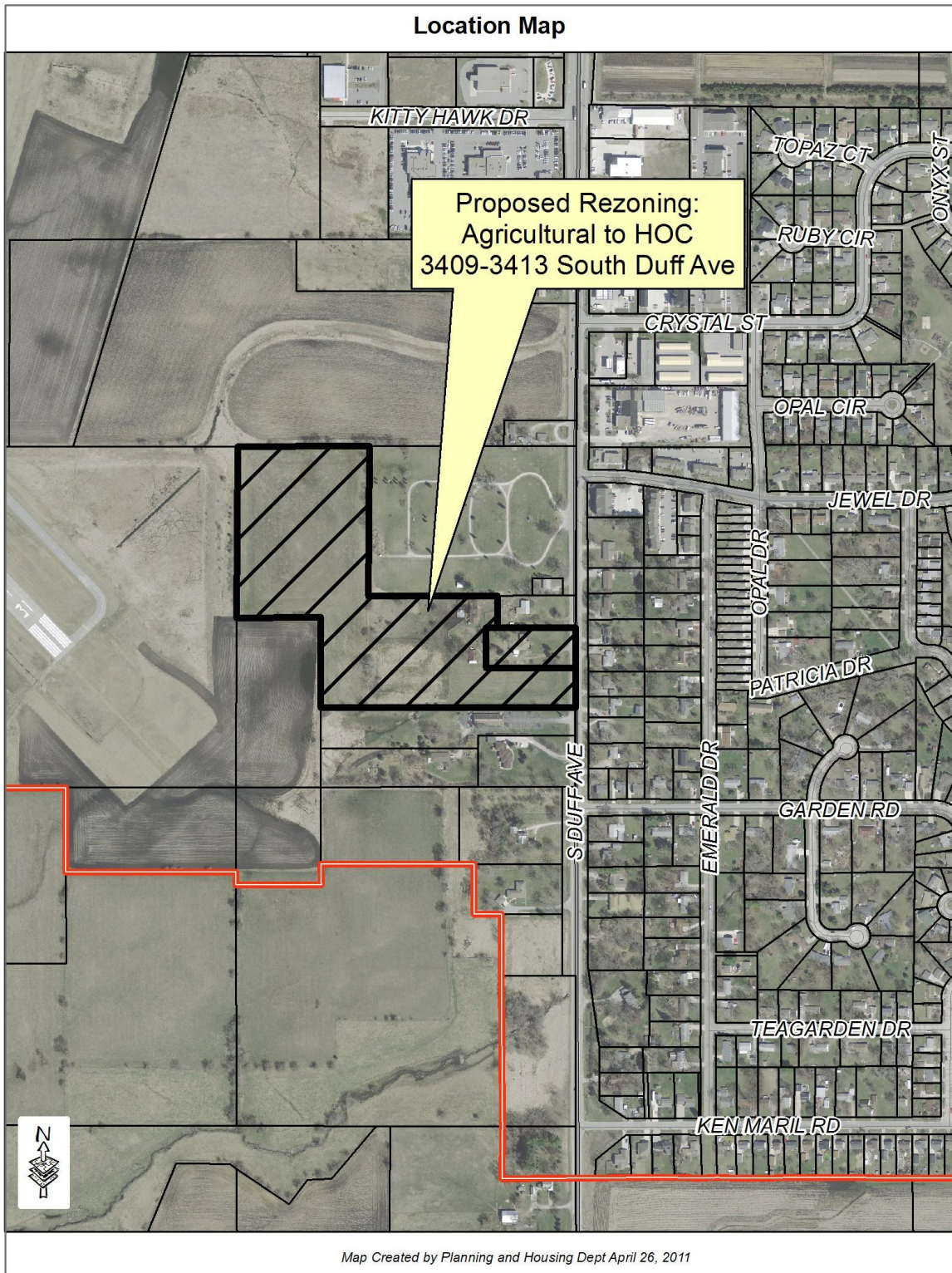
MANAGER'S RECOMMENDED ACTION:

Staff has found that rezoning of the property located at 3409 – 3413 South Duff Avenue from Agricultural (A) to Highway-Oriented Commercial (HOC) is consistent with the land use policies of the City. The storm water concerns will be addressed by Public Works staff in accordance with the Municipal Code requirements. In addition, the Southdale Subdivision is the identified location for the 2013/14 year in the Low Point Drainage program of the CIP. The City Council has the discretion to attach conditions that it deems appropriate. The airport easement and zoning contract for sidewalks are reasonable requirements that are related to the potential development of the property.

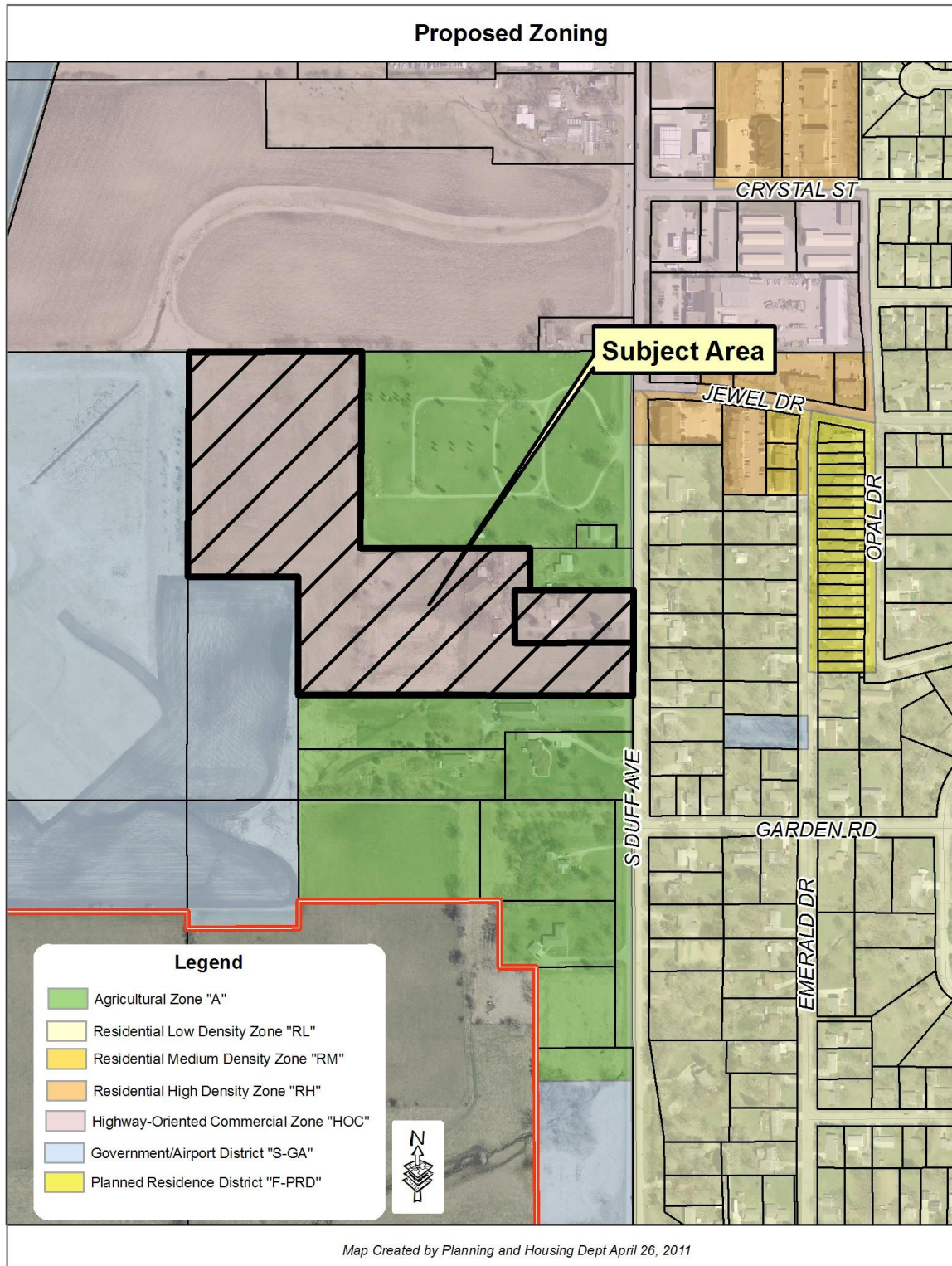
Therefore, it is the recommendation of the City Manager that the City Council approve the rezoning of the property located at 3409-3413 South Duff Avenue from Agricultural (A) to Highway-Oriented Commercial (HOC) subject to the property owners signing:

- an airport protection easement to ensure that there are no land use or building height that conflict with the airport and
- a zoning contract ensuring the completion of the sidewalk that runs with the land.

Attachment A



Attachment B



Attachment C – Applicant Statement

3409 and 3413 S Duff rezoning request

April 18, 2011

This property is currently zoned “AG” and it is designated on the LUPP map for Highway Oriented Commercial. This application is the formal request for zoning.

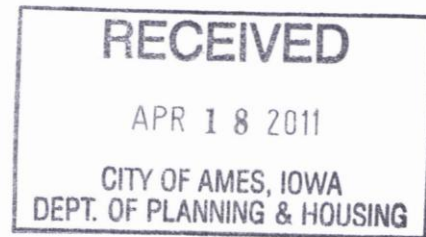
Current zoning designation is “AG”

The applicant is asking for “HOC” zoning for the 2 parcels

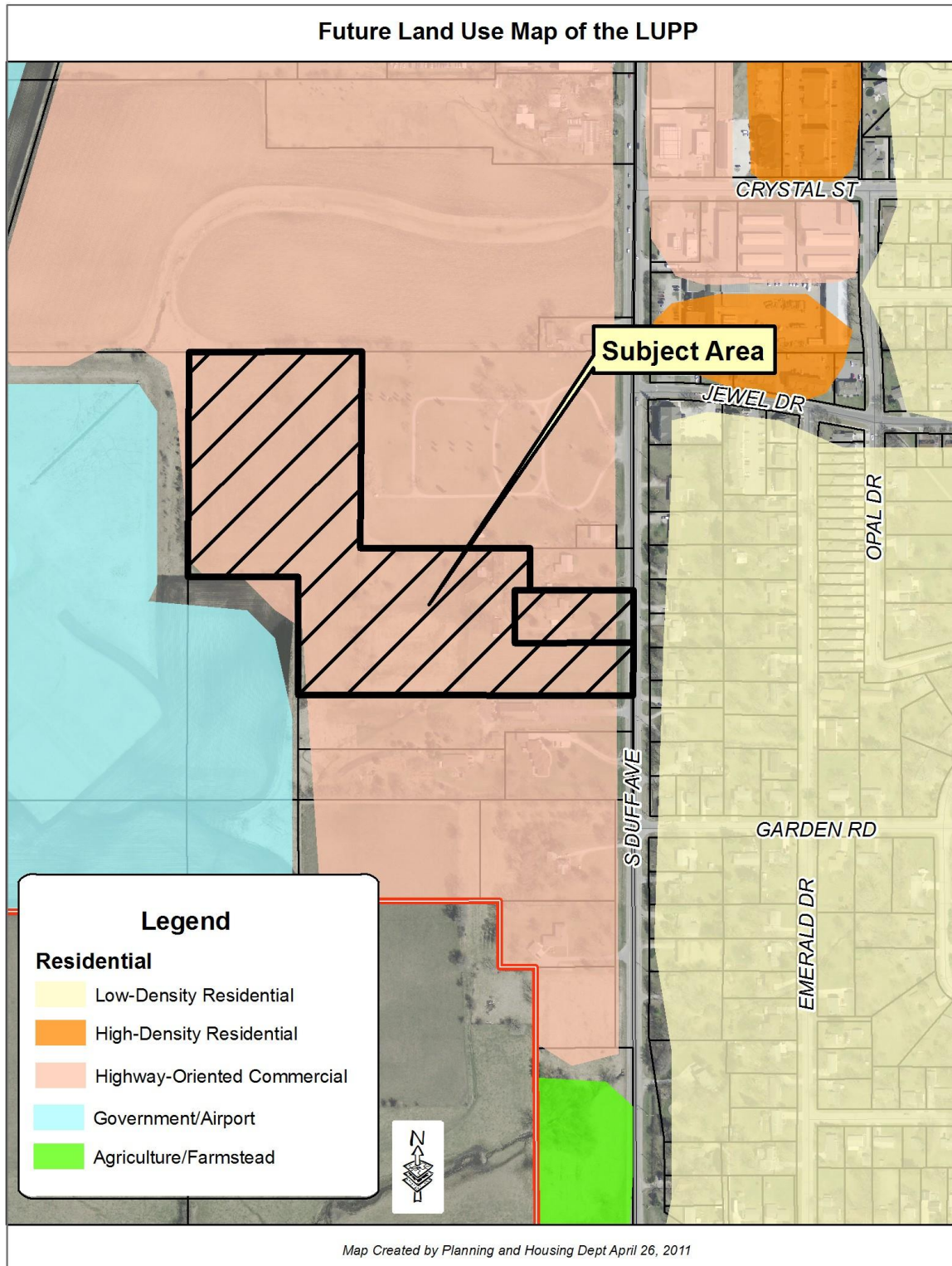
There are no identified end users for this property at this time. However they will be consistent with the guidelines set forth in the “HOC” zone

See the attached plat of survey for the rest of the legal description and number of acres.

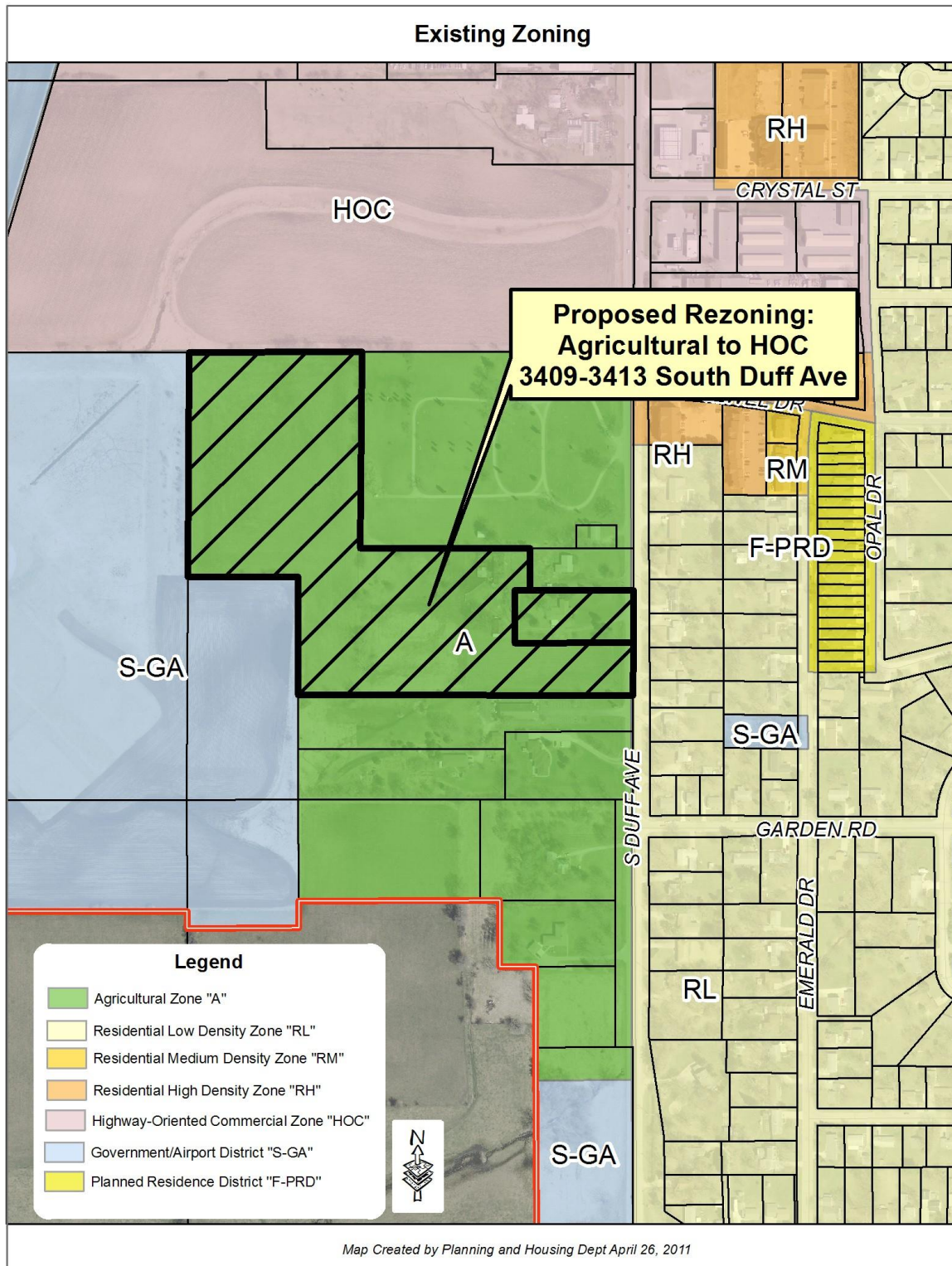
I have written a letter to the city council requesting that they have staff look into the possibility of the city of Ames buying part of the property that is adjacent to the airport property.



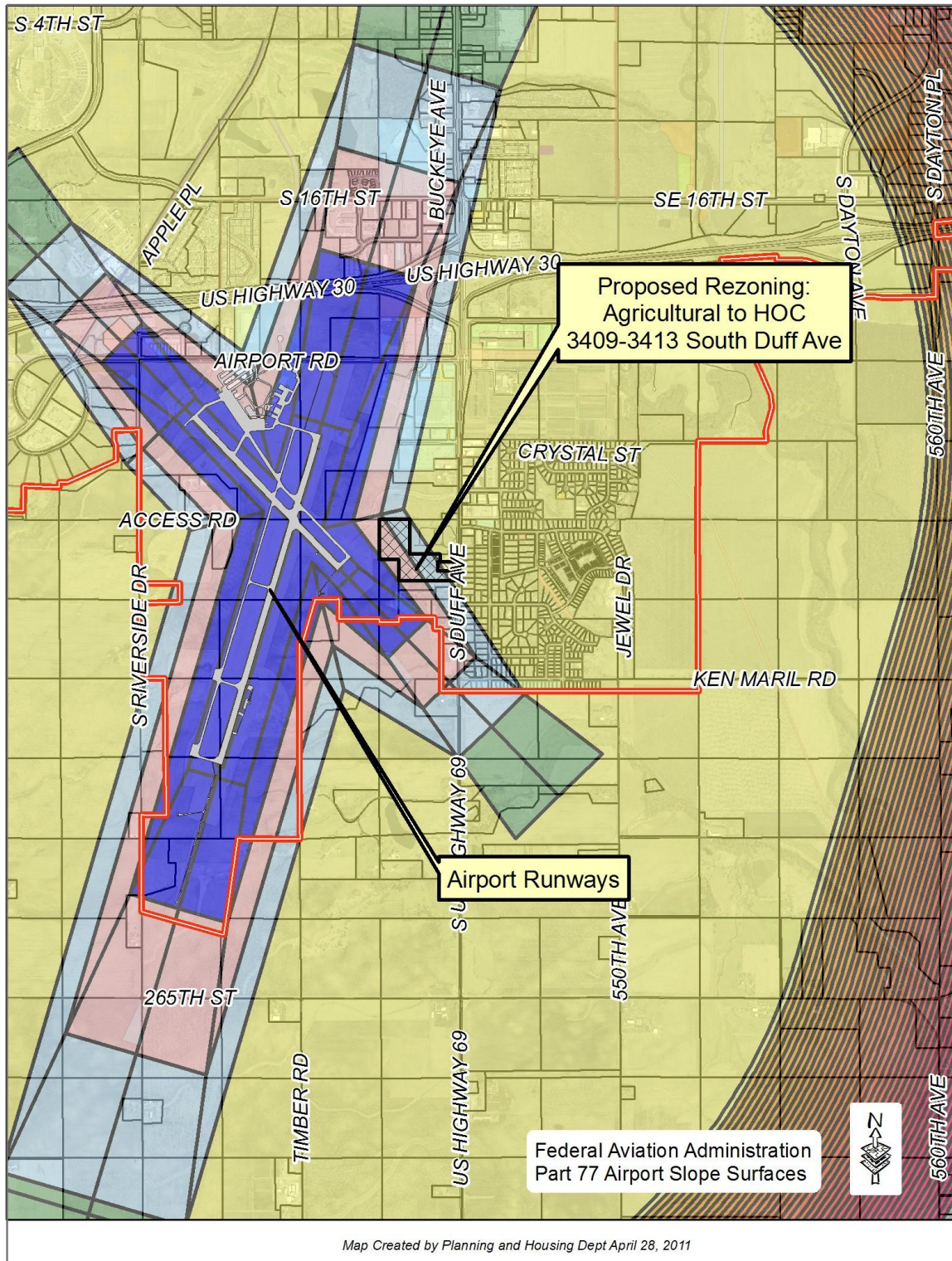
Attachment D



Attachment E



Attachment F



Attachment G

Applicable Laws and Policies:

The laws applicable to this case file are as follows:

- Land Use Policy Plan (LUPP) Goals, Policies and the Future Land Use Map:

The Land Use Policy Plan (LUPP) Future Land Use Map identifies the land use designations for the properties proposed for rezoning.

- Ames *Municipal Code* Chapter 29, Section 1507, Zoning Text and Map Amendments includes requirements for owners of land to submit a petition for amendment, a provision to allow the City Council to impose conditions on map amendments, provisions for notice to the public, and time limits for the processing of rezoning proposals.
- Ames *Municipal Code* Chapter 29, Section 804, “HOC” Highway-Oriented Commercial includes a list of uses that are permitted in the “HOC” zoning district and the zone development standards that apply to properties in that zone.
- Ames *Municipal Code* Chapter 29, Section 600, “A” Agricultural Zone includes a list of uses that are permitted in the “A” zoning district and the zone development standards that apply to properties in that zone.
- Ames Municipal Code Chapter 29, Article 4, Section 3 identifies parking lot landscaping requirements.
- Ames Municipal Code, Chapter 29, Article 4, Section 11, identifies Outdoor Lighting Code requirements.

Attachment H

Findings of Fact:

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

1. Ames *Municipal Code* Section 29.1507(2) allows owners of 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 property represented by the applicant is entirely under one ownership, which meets the minimum requirements for ownership of the property requested for rezoning.
2. The application was received on April 18, 2011. The Planning & Zoning Commission is to file its recommendations with the City Council within 90 days of when the application was received, which is July 18.
3. The subject property has been designated on the Land Use Policy Plan (LUPP) Future Land Use Map as "Highway-Oriented Commercial."
4. The uses allowed in the Highway-Oriented Commercial (HOC) zone are found in Table 29.804(2) of the *Municipal Code*. Table 29.501(4)-2 provides a more detailed list.
5. The subject property is within the Part 77 area determined by the Federal Aviation Administration to have imaginary slope angles which should not be penetrated or obstructed or have land uses which conflict with airports.

Attachment I

Goals and Objectives of the Ames Land Use Policy Plan

Goal No. 1. Recognizing that additional population and economic growth is likely, it is the goal of Ames to plan for and manage growth within the context of the community's capacity and preferences. It is the further goal of the community to manage its growth so that it is more sustainable, predictable and assures quality of life.

- 1.A. Ames seeks to diversify the economy and create a more regional employment and market base. While continuing to support its existing economic activities, the community seeks to broaden the range of private and public investment.
- 1.C. Ames seeks to manage a population and employment base that can be supported by the community's capacity for growth. A population base of 60,000-62,000 and an employment base of up to 34,000 is targeted within the City. Additionally, it is estimated that the population in the combined City and unincorporated Planning Area could be as much as 67,000 and the employment base could be as much as 38,000 by the year 2030.

Goal No. 2. In preparing for the target population and employment growth, it is the goal of Ames to assure the adequate provision and availability of developable land. It is the further goal of the community to guide the character, location and compatibility of growth with the area's natural resources and rural areas.

- 2.A. Ames seeks to provide between 3,000 and 3,500 acres of additional developable land within the present City and Planning Area by the year 2030. Since the potential demand exceeds the supply within the current corporate limits, alternate sources shall be sought by the community through limited intensification of existing areas while concentrating on the annexation and development of new areas. The use of existing and new areas should be selective rather than general.
- 2.B. Ames seeks to assure the availability of sufficient suitable land resources to accommodate the range of land uses that are planned to meet growth. Sufficient land resources shall be sought to eliminate market constraints.
- 2.C. Ames seeks a development process that achieves greater compatibility among new and existing development.
- 2.D. Ames seeks a development process that achieves greater conservation of natural resources and compatibility between development and the environment.

Goal No. 3. It is the goal of Ames to assure that it is an “environmentally-friendly” community and that all goals and objectives are integrated with this common goal. In continuing to serve as a concentrated area for human habitat and economic activity, Ames seeks to be compatible with its ecological systems in creating an environmentally sustainable community.

- 3.A. Ames seeks to provide biodiversity through the inclusion of plant and animal habitats. Their inclusion shall be provided through such methods as conservation management, protection, replacement, etc.
- 3.B. Ames seeks to maintain and enhance the value of its stream corridors as drainage ways and flood management areas, plant and animal habitats, recreational and scenic areas and pathways for linking the overall community.
- 3.C. Ames seeks to protect and conserve its water resources for the following purposes: aquifer protection; water quality protection; user conservation management; plant and animal life support; water-borne recreation; scenic open space; and, provision of a long-term/reliable/safe source of water for human consumption and economic activities.

Goal No. 4. It is the goal of Ames to create a greater sense of place and connectivity, physically and psychologically, in building a neighborhood and overall community identity and spirit. It is the further goal of the community to assure a more healthy, safe and attractive environment.

- 4.A. Ames seeks to establish more integrated and compact living/activity areas (i.e. neighborhoods, villages) wherein daily living requirements and amenities are provided in a readily identifiable and accessible area. Greater emphasis is placed on the pedestrian and related activities.
- 4.B. Ames seeks to physically connect existing and new residential and commercial areas through the association of related land uses and provision of an intermodal transportation system.

Goal No. 5. It is the goal of Ames to establish a cost-effective and efficient growth pattern for development in new areas and in a limited number of existing areas for intensification. It is a further goal of the community to link the timing of development with the installation of public infrastructure including utilities, multi-modal transportation system, parks and open space.

- 5.C. Ames seeks the continuance of development in emerging and infill areas where there is existing public infrastructure and where capacity permits.
- 5.D. Ames seeks to have the real costs of development borne by the initiating agent when it occurs outside of priority areas for growth and areas served by existing infrastructure.

Goal No. 7. It is the goal of Ames to provide greater mobility through more efficient use of personal automobiles and enhanced availability of an integrated system including alternative modes of transportation.

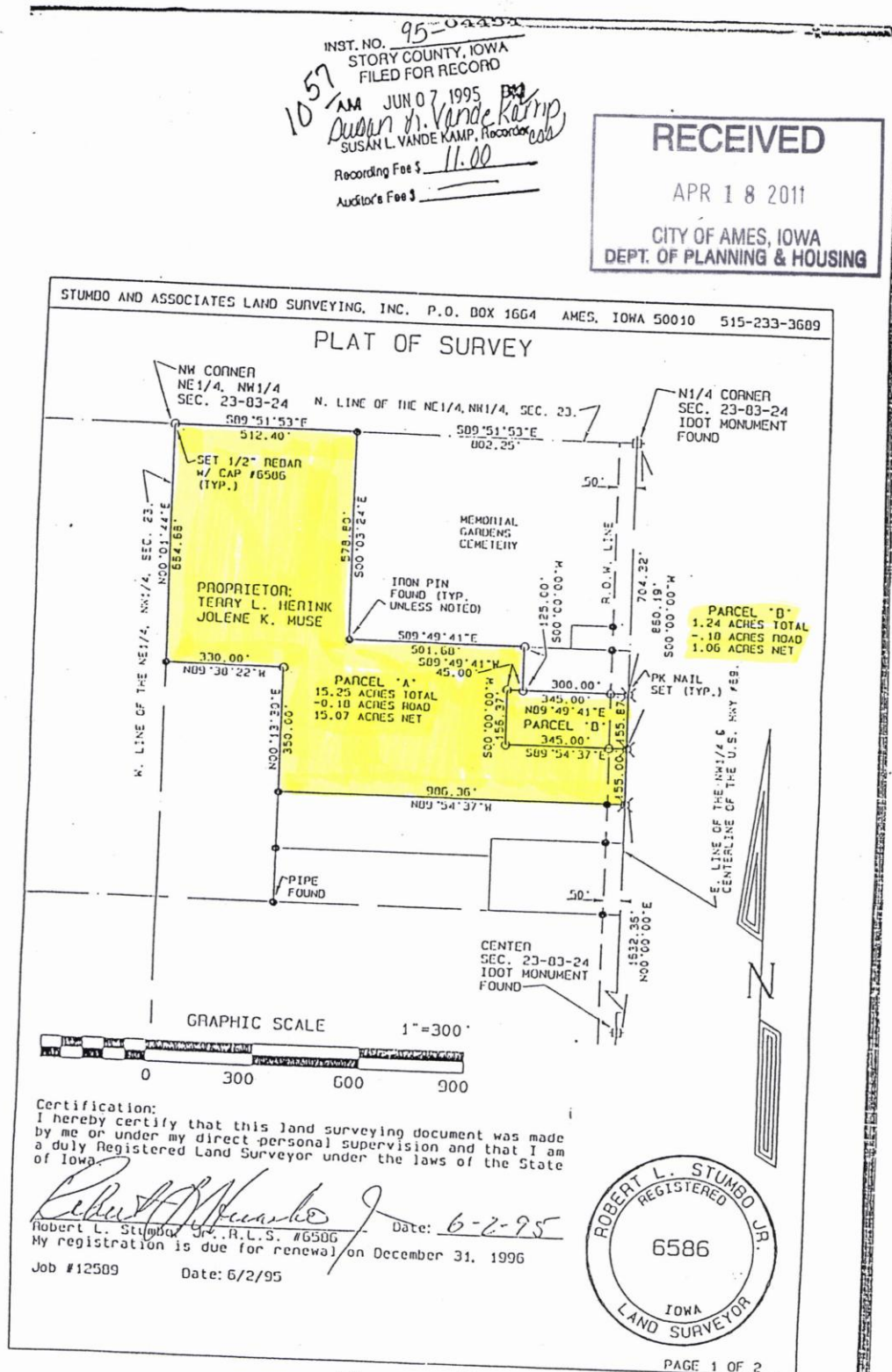
Objectives. In achieving a more mobile community, Ames seeks the following objectives.

- 7. A. Ames seeks to establish a comprehensive and integrated transportation system that includes automotive, public transit, pedestrian, bicycle and ride-sharing modes.
- 7. B. Ames seeks a transportation system that is linked with the desired development pattern of the overall community and areas therein.
- 7. C. Ames seeks to establish new transportation corridors that have been planned, in part, to minimize impacts on significant natural resources.
- 7. D. Ames seeks to increase the efficiency of existing traffic movement in reducing air pollutants from automobiles (e.g. improving intersection movements to minimize delays and conserve energy).
- 7. E. Ames seeks a development pattern that protects and supports the airport and its flight approach zones.

Goal No. 9. It is the goal of Ames to promote expansion and diversification of the economy in creating a base that is more self-sufficient and that is more sustainable with regard to the environment.

- 9.A. Ames seeks more diversified regional employment opportunities involving technology-related services and production, office centers and retail centers.
- 9.D. Ames seeks economic activities that are compatible and sustainable with its environment.

Attachment J



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 3409 - 3413 South Duff Avenue, is rezoned from Agricultural (A) to Highway-Oriented Commercial (HOC).

Real Estate Description: Parcels A and B in the Northeast Quarter of the Northwest Quarter of Section 23, Township 83 North, Range 24 West of the 5th P.M., Ames, Story County, Iowa, as shown on the "Plat of Survey" filed in the office of the Recorder of Story County, Iowa, on the 7th day of June, 1995, and recorded in Book 13, Page 70.

Section 2: Pursuant to this ordinance, the following conditions are established: an airport protection easement that ensures there are no land use or building heights that conflict with the airport; and, a zoning contract that ensures the completion of the sidewalk that runs with the land.

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 _____, 2011.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor