

COUNCIL ACTION FORM

SUBJECT: REZONING CONTRACT FOR PROPERTY LOCATED AT 104 SOUTH HAZEL AVENUE FROM S-GA (GOVERNMENT/AIRPORT DISTRICT) TO NC (NEIGHBORHOOD COMMERCIAL).

BACKGROUND INFORMATION:

On June 28th the City Council held a public hearing and approved first reading of an ordinance to rezone property at 104 S. Hazel Avenue from S-GA Government Airport District to NC Neighborhood Commercial District subject to limiting the future use to office uses. Per direction from the Council on that date, contractual language for the rezoning was drafted to reflect the desires of Council with regard to the rezoning. That language has been agreed to by Story County, the current property owner of the site.

This language restricts future use of the property under the Neighborhood Commercial designation to Office uses as found in Section 29.501(4)-2. **From staff's review of the information provided about the prior use of the site by Story County and the future use by the intended buyer, Optima, the administrative services and offering of medical assistance is allowed with the Office category.** The building has been used for administration functions of health services and to provide in a limited capacity of approximately 20% of the building direct services and assistance to clients. The site has enough parking to support both general office and some medical office uses. However, there is not enough parking for the whole building to be used as medical office. Staff also notes that under the Zoning Ordinance any expansion of use or alteration or expansion of the existing building requires a public hearing and approval of a Special Use Permit before the Zoning Board of Adjustment as required in Section 29.801(3) due to the lot area square footage of the existing parcel in the Neighborhood Commercial District.

Any change or removal of the contract restriction on the property would require a public hearing before the Planning & Zoning Commission and the City Council for review and consideration as a rezoning of the property. As a contract, it would also require the agreement of the property owner to change the contract.

ALTERNATIVES:

1. The City Council can approve and adopt the rezoning contract on property located at 104 South Hazel Avenue if it finds the contract conforms to all other applicable city standards, regulations and LUPP goals.
2. The City Council can deny the rezoning and contract on the property at 104 South Hazel Avenue if it finds the contract does not meet or conform to City

standards, regulations or LUPP goals.

3. The City Council can delay the third reading of the ordinance and refer the matter back to staff or the applicant for further information.

CITY MANAGERS RECOMMENDATION:

The proposed contract allows the rezoning of land to align with the proposed use of the property in the Neighborhood Commercial Zoning District while addressing concerns of future potential uses on the property in relation to the surrounding neighborhood. The restriction to Office uses on the property will help ensure that the future use of the property under the current zoning designation maintains a character that is similar in nature and operation to the existing use and meets the needs of the property owner

Therefore, it is the recommendation of the City Manager that the City Council accept Alternative #1, thereby approving the proposed contract and approving on third reading the ordinance to rezone the property from S-GA to NC.

DO NOT WRITE IN THE SPACE ABOVE THIS LINE; RESERVED FOR RECORDER

Prepared by: Judy K. Parks, Ames City Attorney, 515 Clark Ave., Ames, IA 50010; 515-239-5146

Return to: Ames City Clerk, Ames City Hall, P.O. Box 811, Ames, IA 50010

**CONTRACT REZONING AGREEMENT BETWEEN STORY COUNTY, IOWA,
AND THE CITY OF AMES PERTAINING TO THE
LAND AT 104 SOUTH HAZEL AVENUE**

THIS AGREEMENT, made and entered into this ____ day of _____, 2016, by and between the City of Ames, Iowa (hereinafter called “City”) and Story County, Iowa (hereinafter called “County”), their successors and assigns.

WITNESSETH THAT:

WHEREAS, the County owns developed real property which it had formerly used for office purposes related to the delivery of community based social services, legally described as set out on Attachment A and locally addressed as 104 South Hazel Avenue, Ames, Iowa, 50010 (hereinafter called the “Property”); and

WHEREAS, the County no longer utilizes the Property and desires its sale, it has applied to the City for rezoning of the Property from its present designation as S-GA (Government/Airport) to NC (Neighborhood Commercial), consistent with the City of Ames’ Land Use Policy Plan; and

WHEREAS, an agreement between the County and the City related to the Property is jointly sought with respect to certain conditions being agreed upon in addition to granting the base zoning, as provided for under Iowa Code section 414.5.

NOW, THEREFORE, the parties hereto have agreed and do agree as follows:

**I.
INTENT AND PURPOSE**

A. It is the intent of this Agreement to:

1. Recognize that the County is the owner of the Property which is being rezoned and expressly agrees to the imposition of additional conditions as authorized pursuant to Iowa Code Section 414.5; and
2. To grant rezoning of the Property from S-GA to NC, but with the additional condition that the permitted commercial use of the Property shall be limited to the Office Use Categories per the City of Ames Municipal Code Table 29.501(4)-2. The Office Use Categories include such activities as are conducted in an office setting and which are primarily focused on administrative, business, government, professional, medical, or financial services.

B. Purpose.

1. The reason for the requested rezoning is due to the County's present interest in selling the Property to Optimae Lifeservices, Inc., an Iowa corporation and a non-governmental organization, which currently occupies and uses the Property, and will continue to do so, in a manner that is consistent with the County's prior use of the Property, which includes providing community based health care and human services to assist persons with disabilities to live, learn, work and socialize in their environment of choice (hereinafter called "Community Based Health Services").
2. The County and the City agree that Community Based Health Services is an activity that meets the definition of "Office Use" under the City of Ames Municipal Code Table 29.501(4)-2 and that Optimae Lifeservices, Inc. and its successors, subsequent purchasers and assigns may use the Property to provide Community Based Health Services as well as any other use that is in accordance with the City of Ames Municipal Code Table 29.501(4)-2.

II. GENERAL PROVISIONS

A. Modification. The parties agree that this Agreement may be modified, amended or supplemented only by written agreement of the parties, and their successors and/or assigns.

B. General Applicability of Other Laws and Ordinances. The County understands and agrees that all work done by or on its behalf shall be made in compliance with Iowa Code, the Ames Municipal Code, Iowa Statewide Urban Design and Specifications and all other federal, state and local laws of general application, whether or not such requirements are specifically stated in this agreement. All ordinances, regulations and policies of the City now existing, or as may hereafter be enacted, shall apply to activity or uses on the site.

C. Incorporation of Recitals. The recitals are confirmed by the parties as true and incorporated herein by reference as if fully set forth verbatim. The recitals are a substantive contractual part of this agreement.

**VI.
COVENANTS RUN WITH THE LAND**

This Agreement shall run with the site and shall be binding upon the County, its successors, subsequent purchasers and assigns. Each party hereto agrees to cooperate with the other in executing a Memorandum of Agreement that may be recorded in place of this document.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed effective as of the date first above written.

<p>CITY OF AMES, IOWA</p> <p>By _____ Ann H. Campbell, Mayor</p> <p>Attest _____ Diane R. Voss, City Clerk</p> <p>STATE OF IOWA, COUNTY OF STORY, ss:</p> <p>On this _____ day of _____, 2016, before me, a Notary Public in and for the State of Iowa, personally appeared Ann H. Campbell and Diane R. Voss, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Ames, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation by authority of its City Council, as contained in Resolution No. _____ adopted by the City Council on the _____ day of _____, 2016, and that Ann H. Campbell and Diane R Voss acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.</p> <p>_____ Notary Public in and for the State of Iowa</p>	<p>STORY COUNTY, IOWA</p> <p>By _____ Chair, Board of Supervisors</p> <p>STATE OF IOWA, COUNTY OF STORY, ss: This instrument was acknowledged before me on _____, 2016, by _____, of the Story County Board of Supervisors.</p> <p>_____ Notary Public in and for the State of Iowa</p>
---	--