

ITEM #: 57
DATE: 05-08-18

COUNCIL ACTION FORM

REQUEST: Rezone from “HOC” (Highway-Oriented Commercial) to “A” (Agricultural) for a property located at 3507 South Duff Avenue.

BACKGROUND:

In June of 2017 the Ames City Council approved rezoning approximately 3.03 acres at 3505 South Duff Avenue from “A” Agricultural Zone to “HOC” High-Oriented Commercial for the Ames Pentecostal Church. During this process a legal description was provided that defined the area to be rezoned. The legal description was intended to describe only the property at 3505 South Duff occupied by Ames Pentecostal Church. **However, staff recently discovered that the legal description also included the property to the immediate south of Ames Pentecostal Church (3507 South Duff Avenue), which caused that property to also be rezoned to Highway-Oriented Commercial as well. Including this property in the rezoning action was not intended during the rezoning process nor did the property owner consent to be rezoned.**

The Planning & Housing Department is requesting this rezoning on behalf of the owner of 3507 South Duff Avenue. Planning staff has contacted the owner of the property explained what has happened and informed them of the process of correcting the matter. The site at 3507 South Duff is approximately 2.11 acres and contains a single family residential home along with a small accessory structure. The property has been zoned Agricultural since its annexation into the City in the early 1970’s. The property has no direct access or frontage on South Duff Avenue but the property owner does have an access easement agreement with Ames Pentecostal Church for access to the property.

The ordinance that was approved by City Council approving the rezoning of the Ames Pentecostal Church was recorded with the Story County Recorder’s Office. **Staff views the correct way to resolve the matter is to initiate new rezoning of 3507 South Duff Avenue from Highway-Oriented Commercial “HOC” to Agricultural “A”. This will create a separate ordinance that rezones this property back to its correct zoning designation.** Given that the initial rezoning of this property was not intended and that the proposed rezoning is to re-establish the zoning that has been in place here for several decades, there are no land use or surrounding land use issues to consider.

The Planning and Zoning Commission reviewed the request on April 18th and voted 5-0 to recommend the City Council change the zoning for the property at 3507 South Duff Avenue to Agricultural.

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

ALTERNATIVES:

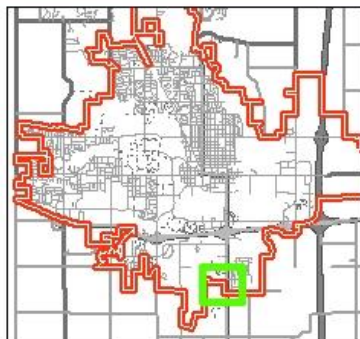
1. The City Council can approve the request for rezoning from “HOC” (Highway-Oriented Commercial Zone) to “A” (Agricultural Zone) for the property located at 3507 South Duff Avenue, based upon staff’s analysis.
2. The City Council can deny the request for rezoning of the property located at 3507 South Duff Avenue, if the Council finds that the request is not consistent with the City’s regulations and policies.
3. The City Council can defer action on this request and refer it back to City staff and/or the applicant for additional information.

CITY MANAGER’S RECOMMENDED ACTION:

The rezoning of the property at 3505 South Duff in May of 2017 inadvertently included the property at 3507 South Duff in error as there was no intention or request to include the property in the rezoning from Agricultural to Highway-Oriented Commercial. Staff views the action as an error in the legal description provided and as such views the rezoning of 3507 South Duff from Highway-Oriented Commercial to Agricultural as a mistaken rezoning that was not intended. Although the underlying land use designation supports Highway Oriented Commercial Zoning, the agricultural zoning is appropriate for the current condition of the property and to meet the interest of the property owner.

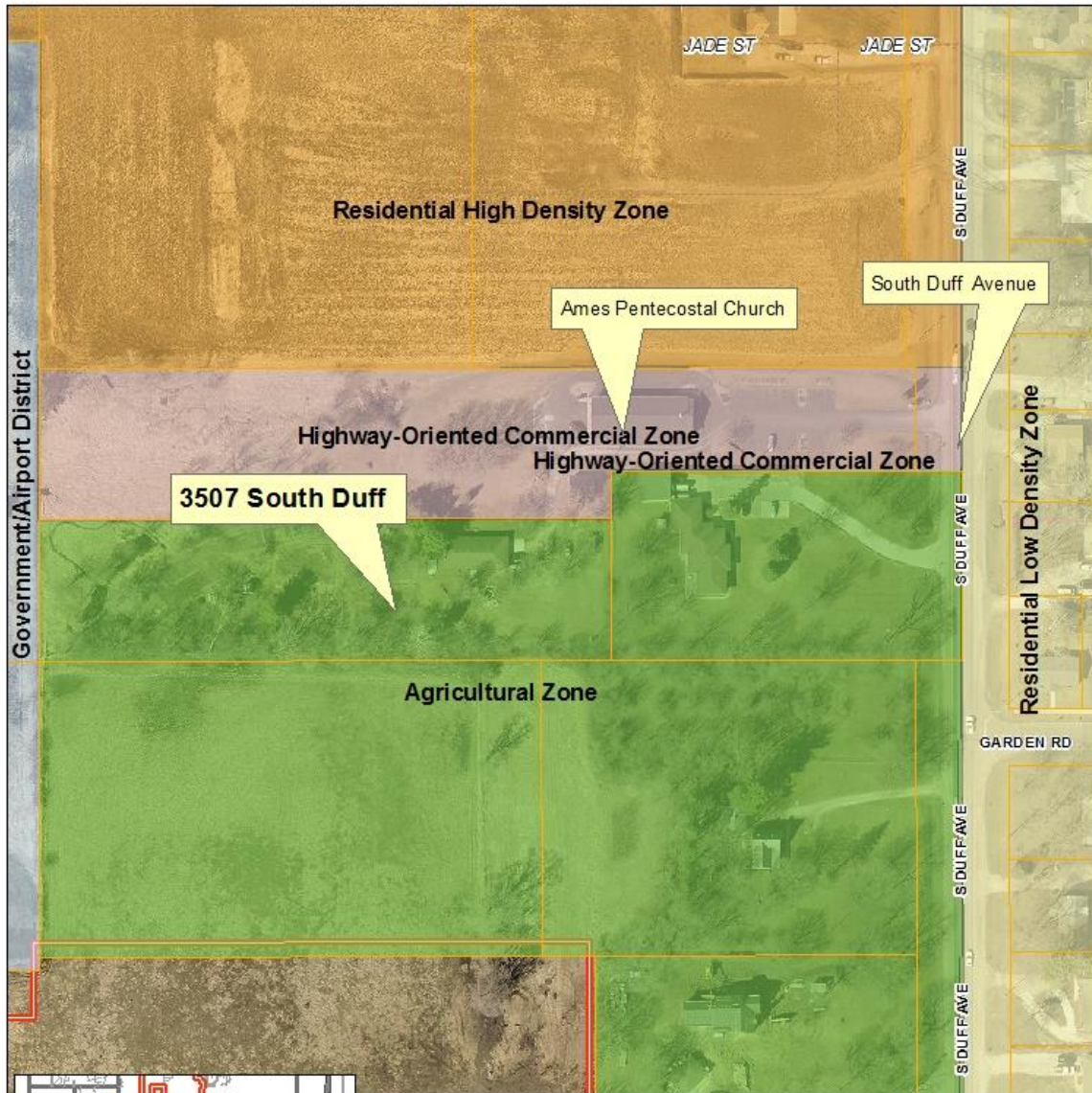
Therefore, it is the recommendation of the City Manager that the City Council act in accordance with Alternative #1, which is to approve the request for rezoning of the property, located at 3507 South Duff Avenue, from “HOC” (Highway-Oriented Commercial) to “A” (Agricultural Density) as depicted in *Attachment B*.

Attachment A



**Rezoning Location
3507 South Duff**

Attachment B



3507 South Duff Avenue Correct Zoning Designation



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

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 3507 South Duff Avenue, is rezoned from Highway-Oriented Commercial (HOC) to Agricultural (A).

Real Estate Description: COMMENCING AT A POINT 1015.2 FEET SOUTH OF THE NE CORNER OF THE NW ¼ OF SECTION 23, TOWNSHIP 83 NORTH, RANGE 24 WEST OF THE 5TH PM., STORY COUNTY, IOWA, THENCE SOUTH 108.15 FEET, THENCE WEST 375 FEET, THENCE SOUTH 50 FEET TO THE POINT OF BEGINNING, THENCE SOUTH 150 FEET TO THE SOUTH LINE OF THE NE ¼ OF THE NW ¼, THENCE WEST 612.25 FEET ALONG THE SOUTH LINE OF THE NE ¼ OF THE NW ¼, THENCE NORTH 150 FEET, THENCE EAST APPROXIMATELY 612.50 FEET TO THE POINT OF BEGINNING.

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 _____, 2018.

Diane R. Voss, City Clerk

John A. Haila, Mayor