

COUNCIL ACTION FORM

SUBJECT: REZONE FROM RH (RESIDENTIAL HIGH DENSITY) WITH O-UIW (UNIVERSITY WEST IMPACT OVERLAY) TO NC (NEIGHBORHOOD COMMERCIAL) WITH O-UIW (UNIVERSITY WEST IMPACT OVERLAY) FOR A PROPERTY LOCATED AT 2801 & 2803 WEST STREET

BACKGROUND:

The property owner, Motherlode Enterprises Inc, is requesting a rezoning of a single parcel of land located at 2801 West Street from RH (Residential High Density) to NC (Neighborhood Commercial) with the University West Impact Overlay. The site is located on the northwest corner of the intersection of Hyland Avenue and West. (*see Attachment A: Location and Zoning Map*). The site is 0.086 acres. The property is designated as Residential High Density on the future land use map the Land Use Policy Plan (LUPP). The site is also within the University Impact Area.

The site contains a commercial building and a 3-unit apartment building both on the same lot. The Zoning Ordinance does not permit commercial buildings in combination with residential buildings in the RH zone. Therefore, both buildings are viewed as non-conforming which limits modifications to the structures and uses. The owner would like to convert space to add an additional dwelling unit within the 3-unit apartment building. As a non-conforming principal use there can be no additional units added in the apartment building according to the standards in Section 29.307(2)(a)(b)(c) (See *Attachment E*), which restrict intensification and the addition of dwelling units in non-conforming apartments.

The owner desires to rezone the property to NC zoning to accommodate the addition of the one additional dwelling unit. NC zoning classification allows for both household living and commercial uses to exist as principal uses on the same lot and have multiple buildings on a lot. NC zoning has no unique land use classification on the Land Use Map or in the Land Use Policy Plan; therefore, a LUPP amendment is not necessary to approve the change. Neighborhood Commercial has been applied to sites that have a legacy commercial use and do not fit the classification of Highway Oriented Commercial or another primary commercial base zone.

Approval of the zone change would allow the applicant to pursue the desired changes to the apartment building as a conforming use within a nonconforming structure. Staff has reviewed the request and found that the addition of a dwelling unit within the existing building would not trigger additional parking or other site improvements due to the existing count of bedrooms within the apartments. With NC zoning the applicant could redevelop the site with commercial or residential uses consistent

with the zoning district design standards. Further analysis of the rezoning petition is found in the Addendum.

PLANNING & ZONING COMMISSION RECOMMENDATION:

At the January 27th Planning & Zoning Commission meeting the Commission voted 6-0 to recommend the City Council approve the rezoning. The Planning & Zoning Commission briefly discussed the proposal and clarified with staff that the proposed change was to allow for the addition of one unit in the apartment building with no required site changes needed.

ALTERNATIVES:

1. City Council can approve the request for rezoning from RH (Residential High Density) to NC (Neighborhood Commercial) with the West University Impact Area Overlay as proposed by the rezoning request, and supported by the findings of fact.
2. The City Council can deny the request for rezoning from (RH) Residential High Density to (NC) Neighborhood Commercial if the Council finds that the City's regulations and policies are not met.
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 current RH zoning of the site is consistent with the Land Use Policy Plan land use designation and supports the use of the site as entirely residential with high density residential. However, the commercial use of the site is not permitted and thus makes all uses on the site non-conforming in the configuration they exist. **Rezoning to NC better reflects the current use of the site as NC zoning permits both residential and commercial buildings as permitted principal uses. The proposed rezoning to NC can be found to be consistent with the allowances of the LUPP for small scale commercial zones while also permitting high density residential development. The applicant's proposed use is compatible with the surrounding uses as NC zoning already exists across the street along the south side of West Street.**

Site improvements for landscaping, parking, and setbacks are currently non-conforming for the RH zoning and will be similar within the proposed NC zoning. The rezoning to NC will not cure these deficiencies and the property will continue to have non-conformities. No site improvements are required at this time.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative #1, which is to approve the request for rezoning from (RH) Residential High Density to (NC) Neighborhood Commercial as proposed by the rezoning request, and supported by the findings of fact.

ADDENDUM:

Land Use Policy Plan Future Land Use Map. No change in the land use designation is proposed in relation to the rezoning request. The Land Use Policy Plan (LUPP) Future Land Use Map designates this site as High-Density Residential. This designation can support the Neighborhood Commercial Zone as this zone does not have an underlying land use classification and is expected in neighborhoods with residential nearby. RH zoning is of higher intensity residential zoning and fits well adjacent to NC zoning. The High Density LUPP designation is applied along both sides of Hyland Avenue and both sides of West Street. (*see Attachment B: LUPP Map*).

The proposed NC zoning does not have a corresponding commercial designation on the Future Land Use Map of the LUPP. There are no specific siting criteria for the zoning district, only the general discussion of its intent and purpose within Chapter 2 of the Land Use Plan. Neighborhood Commercial is of limited applicability within existing areas of the City for sites that did not meet the other commercial land use policies of the City and were also small scale in nature.

There are generally six other areas of the community with NC zoning. The land use designation of these areas on the Future Land Use Map varies from High Density Residential, to Downtown Services Center, to Highway-Oriented Commercial, and are described as follows:

- The properties east of Grand Avenue and north of 24th Street includes a bank and a hardware store, and are designated as High Density Residential;
- The area east of Clark Avenue to the east side of Duff Avenue between 6th Street and 7th Street includes a grocery store, single family homes, multiple family buildings, offices, a church, parking lots, auto repair business, and a convenience store, and are designated as Downtown Services Center;
- The property located at 926 S. 16th Street includes a restaurant and is designated as High-Density Residential; and,
- The area north of Toronto Street along Florida Avenue and Reliable Street includes a heating and air conditioning business, a painting company, self-storage units, single family homes, and a former grain elevator being converted for other commercial use.
- Property at the corner of Hazel and Lincoln Way used as general office and designated for residential.
- Property at the corner of Grand Avenue and Bloomington Road on the east side of Grand Avenue which contains a Habitat for Humanity retail store and designated

as high density residential on the Land Use Map.

Existing/Proposed Zoning. The current zoning of the property is RH (Residential High Density). The property has been zoned RH since May of 2000 when the current zoning ordinance was adopted. The proposed zoning of the property is NC (Neighborhood Commercial). The NC zone has more permissive standards regarding multiple buildings with differing uses than the RH zone. In this case it permits both Residential and Commercial buildings on one lot. This matches the existing conditions of the site. NC zoning exists across the street to the south of this property all along the south side of West Street for approximately 1 block as well as south along the west side of Hyland Avenue.

Permitted Uses. Permitted uses in the NC zone include:

- Household Living, including apartments;
- Bed & Breakfast
- Vacation lodging
- Office;
- Retail Sales and Services – General;
- Entertainment, Restaurant and Recreation Trade;
- Community Facilities;
- Social Service Providers;
- Religious Institutions;
- Basic Utilities;
- Personal Wireless Communication Facilities; and,
- Child Day Care Facilities.

Existing Uses of Land. Land uses that occupy the subject property and other surrounding properties are described:

Location	Existing Land Uses
Subject Property	Apartment Building & Commercial Building
North	Apartments
East	Apartments
South	Mixed Use
West	Apartment Buildings

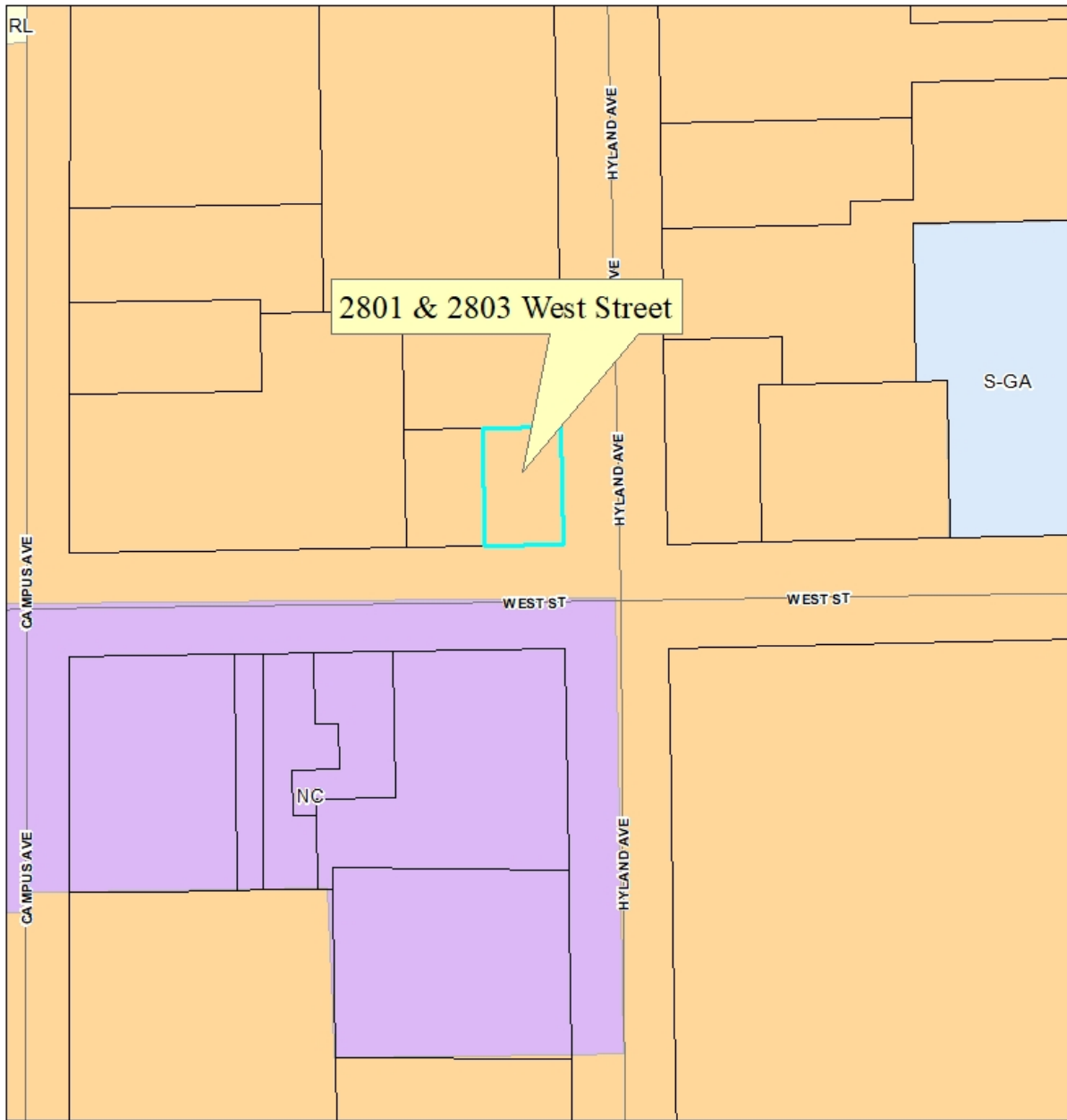
Public Infrastructure. All public infrastructure is available and has the capacity to serve the site.

Public Notice. Notice was mailed to property owners within 200 feet of the subject site and a sign was posted on the subject property.

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

1. *Ames Municipal Code Section 29.1507(2)* allows owners of fifty percent (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 owner of this single parcel has requested the rezoning.
2. The subject property has been designated on the Land Use Policy Plan (LUPP) Future Land Use Map as High-Density Residential.
3. There is no corresponding land use designation on the Future Land Use Map for the NC (Neighborhood Commercial) zoning designation.
4. Infrastructure is in place to serve the proposed use of this site.
5. The existing site is non-conforming for site improvements according to both the RH and NC zoning standards. The proposed NC zoning is a better match for the existing uses on the site. As such the site is being rezoned as non-conforming for site improvements while making the principal use more conforming.

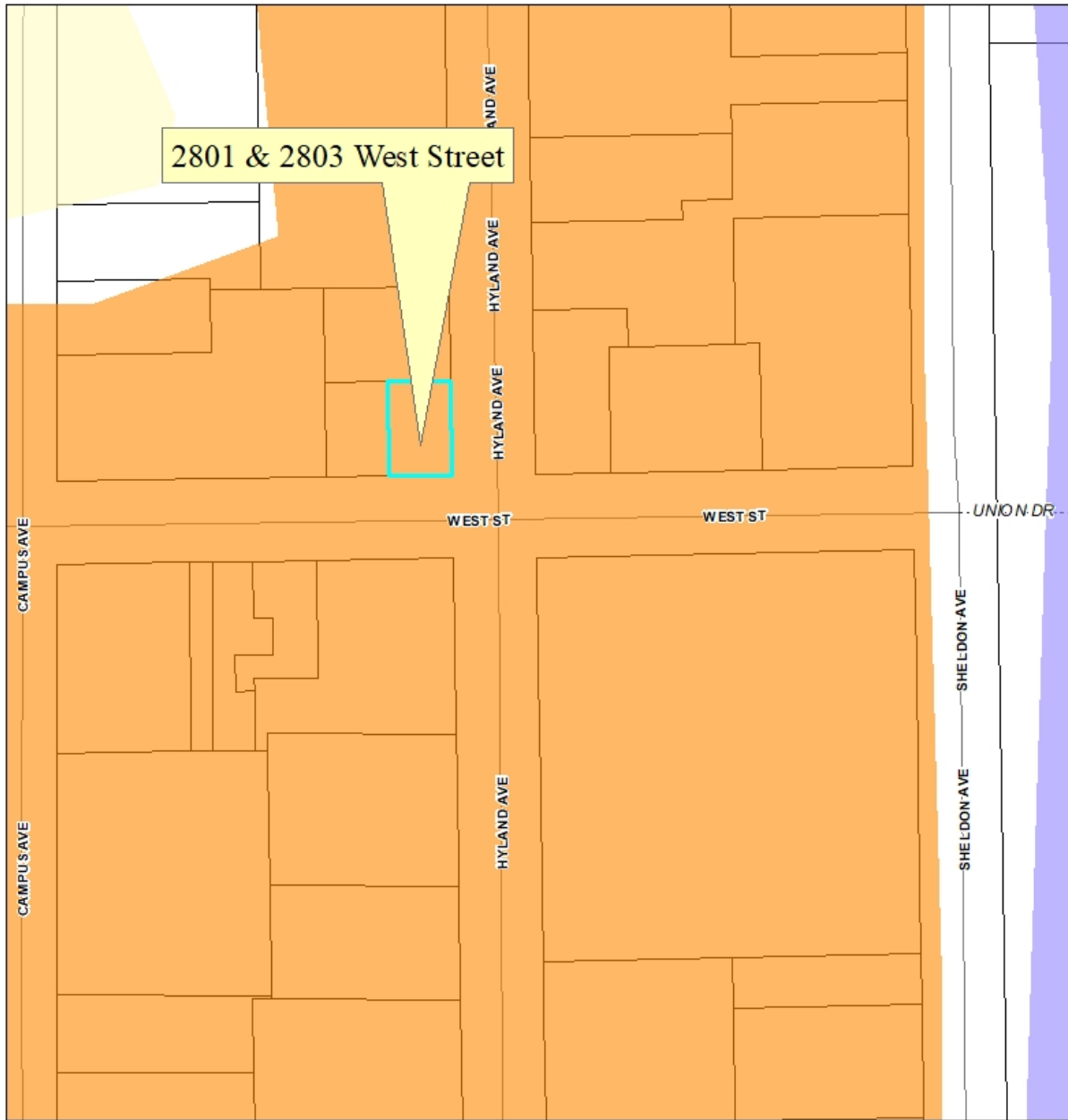
Attachment A- Existing Zoning







Current Zoning
2801 & 2803 West Street



Attachment B- Current Land Use Designation



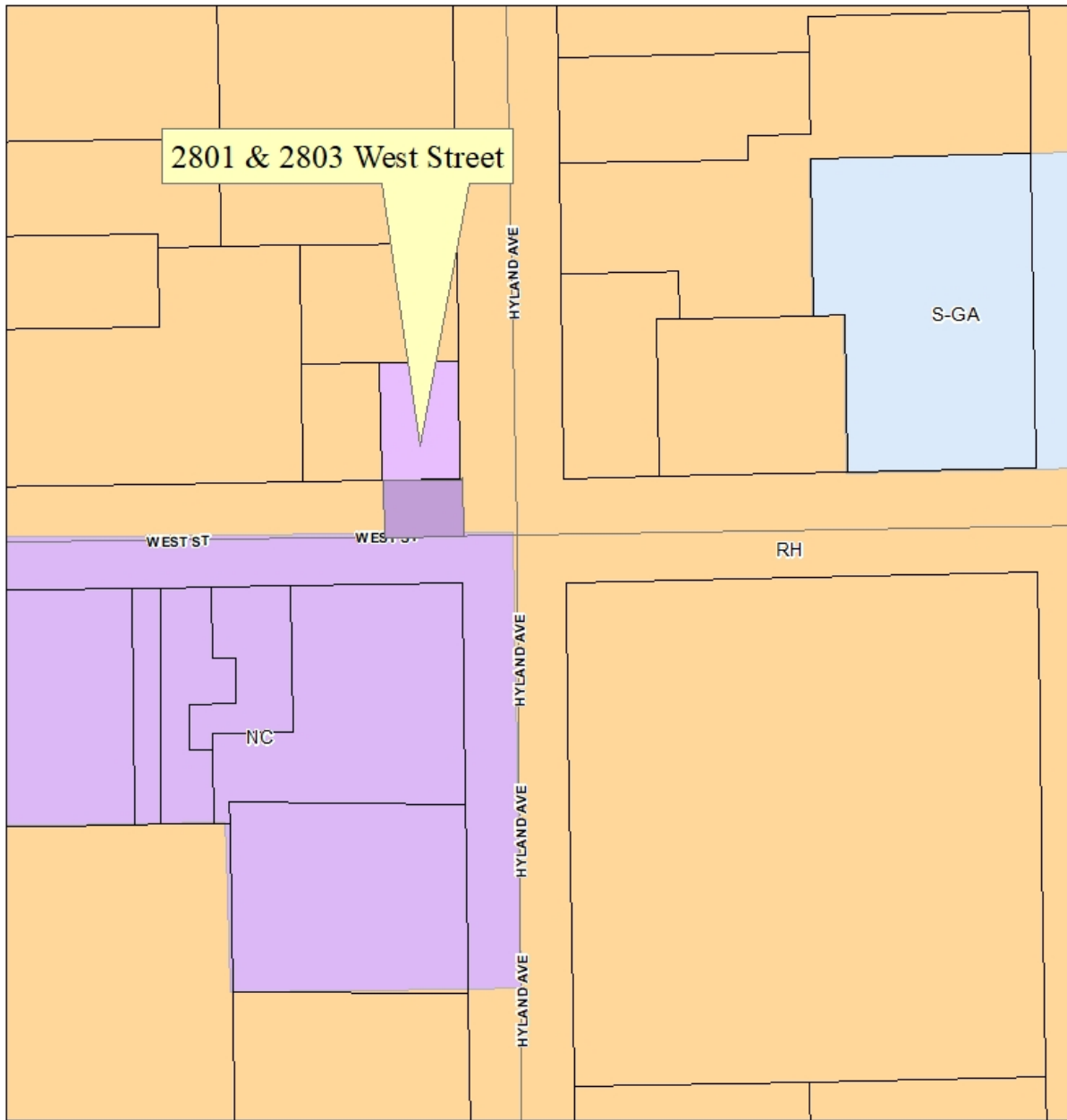
Legend

-  AMES INCORPORATED LIMITS
- City Land Use Designations**
- Residential**
-  Low-Density Residential
-  High-Density Residential
- University/Affiliated**
-  University/Affiliated

Current Land Use Designation 2801 & 2803 West Street



Attachment C- Proposed Zoning



Proposed Zoning Designation
2801 & 2803 West Street



Attachment D- Property Owner Request

RECEIVED

JAN 1 2 2021

CITY OF AMES IA
DEPT. OF PLANNING AND HOUSING

2803 Rezoning Request

As suggested by the City planning department, we would like to rezone our property at 2801 and 2803 West Street to Neighborhood Commercial. This would allow it to be conforming to the current use.

This change would be consistent with the current barber shop and apartments rather than continue in a Residential High-Density zone.

The current zoning is RH - Residential High Density

We propose changing to NC - Neighborhood Commercial

We would also change 2803 from two one bedroom and one three-bedroom apartments into four one-bedroom units, a reduction of one bedroom.

There would be no other changes.

The legal description is: SECTION:04 TOWNSHIP:83 RANGE:24 E50' 75' W100' S150' LOT 5 W1/2 SW AMES

The parcel contains 3,750 square feet.

The City assessors map is attached

Attachment E- 29.307(2)(a)(b)(c)

(2) **Nonconforming Uses.** Any use of any structure or lot that was conforming or validly nonconforming and otherwise lawful at the enactment date of this ordinance and is nonconforming under the provisions of this Ordinance or that shall be made nonconforming by a subsequent amendment, may be continued so long as it remains otherwise lawful, subject to the standards and limitations of this Section.

(a) **Movement, Alteration and Enlargement.** No increase of intensity of use is permitted except in conjunction with the allowances of subsection b and c. Increase of intensity means any of the following:

- i. increase to the amount of floor area for a non-Household Living use,
- ii. an increase in the horizontal or vertical dimensions of a non-Household Living use (both indoor or outdoor),
- iii. a change in operation of a non-Household Living use that requires corresponding improvements to the site,
- iv. an increase in the amount of building coverage for a manufactured home, single or two-family dwelling as Household Living,
- v. an increase in the number of apartment dwelling units, SRO, and other self-contained dwelling units as Household Living, and
- vi. an increase in the number of bedrooms for an apartment dwelling unit, SRO, and other self-contained dwelling units as Household Living.

(b) The building area, floor area, or dimensions of a nonconforming use may not be enlarged, expanded or extended to occupy parts of another structure or portions of a lot that it did not occupy on the effective date of this Ordinance, unless the enlargement, expansion or extension complies with all requirements for the zone, does not create an additional nonconformity, and is approved for a Special Use Permit by the Zoning Board of

Adjustment, pursuant to the procedures of Section 29.1503, excluding 29.1503(4)(b)(vii) of the Review Criteria General Standards, and subject to subsection c.

(c) Any building or structure containing a nonconforming use may be enlarged up to 125% of the floor area existing on the effective date of this ordinance, provided that the expanded building or structure complies with all development standards of the zone in which it is located. An increase in intensity of operations, dimensions, dwelling units, or apartment bedrooms shall not be specially permitted.

The enlargement of a nonconforming use that has the effect of making a structure nonconforming, shall not be specially permitted pursuant to Section 29.1503, but rather shall be construed as a request for a variance, subject to the procedures of Section 29.1504.

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 2801 and 2803 West Street, is rezoned from Residential High Density "RH" to Neighborhood Commercial "NC" with University West Impact Overlay "O-UIW".

Real Estate Description:

SECTION:04 TOWNSHIP:83 RANGE:24 E50' 75' W100' S150' LOT5 W1/2 SW AMES

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 _____, _____.

Diane R. Voss, City Clerk

John A. Haila, Mayor