

Staff Report

**DOWNTOWN GATEWAY COMMERCIAL ZONING DISTRICT STANDARDS AND
NONCONFORMITIES**

April 24, 2018

BACKGROUND:

The Downtown Gateway area is a Focus Area for redevelopment identified within the Lincoln Way Corridor Plan. The Downtown Gateway area is generally described as property on the north and south side of Lincoln Way extending from Grand Avenue to Duff Avenue (Attachment 1-Focus Area Boundary). The Corridor Plan identified redevelopment and repositioning of commercial properties in the market place to support a transition to more intense and urban development. To facilitate this desired change of the area, staff believes allowing for mixed-use residential development and reductions in parking requirements are beneficial. Additionally, any new zoning would need to strike a balance between accommodating commercial uses in traditional one and two-story buildings while allowing for multi-story redevelopment that includes housing versus mandating multi-story development for all sites.

Staff proposes a new special purpose zoning district for the Downtown Gateway Focus area. The proposed zoning is a new district for the City and is not an overlay of the existing Highway Oriented Commercial (HOC) zoning district or Downtown Service Center (DSC) zoning district. The proposed special purpose district includes standards based upon site size and proposed uses with specific street frontage orientation and building requirements. The allowed uses are similar to those of the DSC zoning district rather than the Highway Oriented Commercial zoning district. The proposed changes create new categories of nonconformities for certain existing uses, site improvements regarding parking, and for the design/setbacks of structures in some circumstances. A complete description of the proposed standards is included in the addendum and the original draft ordinance is Attachment 2.

City Council first reviewed the proposed Downtown Gateway Commercial zoning standards at its March 6th meeting at a public hearing on adopting an ordinance for the new standards. At the March 6th meeting the City Council requested information on nonconformities within this Focus Area and for information regarding effects on a property with a nonconforming status. Additionally, City Council wanted information regarding the difference between a Pre-existing and Nonconformity status.

Staff has prepared an inventory of existing and proposed conditions for all 70 properties zoned DSC and HOC within the Focus Area. (Attachments 3- Nonconformity Inventory; Attachment 4- Nonconformity Maps; Attachment 5- Table Comparing Zoning Standards) Staff inventoried current uses, structures, and site improvements for conformance to zoning requirements. Staff estimates that 55 properties (78% of the total properties)

currently have a nonconformity for one or more zoning standards. With the proposed DGC zoning, 62 properties would have a nonconformity for a total of 88% of the properties. **The primary reason for the increase in nonconformities is the prohibition of Vehicle Service Facilities and the changes to the standards for parking.** A more complete explanation of the nonconformity inventory is included within the Addendum. The following table summarizes the findings by zoning district and relevant standard.

Summary of Focus Area Properties with Nonconformities

Zoning District	Properties	Nonconforming Use	Nonconforming Structure	Nonconforming Site Development/Other
DSC Zoning	15	1(6%)	14 (93%)	3 (20%)
HOC Zoning	55	7 (13%)	26 (47%)	28 (50%)
Proposed DGC Zoning	70	15 (21%)	22 (31%)	56 (80%)

Nonconformities are allowed to continue with no requirement for changes to the current use, structures, or site improvements. However, when a property has a nonconformity there are restrictions on alterations to the use and site. Staff has prepared a Frequently Asked Questions document to address the most common questions regarding nonconformities, including Zoning Ordinance references. (Attachment 6-FAQ)

The following summarizes the primary issues for nonconformities:

- Once a nonconformity is changed to a more conforming situation, it cannot revert to a nonconformity
- A nonconforming use cannot be expanded and increased in intensity of use
- If a nonconforming use ceases to operate, it could be deemed abandoned after 12 months and not permitted to be reestablished (*There is an appeal process to the ZBA for this determination*)
- Nonconforming uses and structures can be maintained and are allowed to be remodeled
- Nonconforming structures with a permitted use can be expanded in compliance with the current zoning standards and allow for the current nonconformity to persist
- If a nonconforming structure is damaged less than 70% of its assessed value it can be rebuilt in its previous configuration
- If a nonconforming structure is damaged more than 70%, it can be rebuilt subject to approval of a Special Use Permit by the Zoning Board of Adjustment
- A nonconforming structure or use cannot be demolished/removed and then replaced in kind
- Nonconforming site improvements, such as parking and landscaping, are required to be improved as practical at the time other improvements are made to a site. Practical improvements take into account the scope of the changes and ability to make improvements without causing new nonconformities.

The City of Ames also has a defined term of “Pre-existing” that is distinguished from a nonconforming use. **Pre-existing is a term that has been applied to certain uses that were previously permitted uses, but are no longer allowed to be established as a new use. A Pre-existing designation considers the use as permitted with no restrictions on changes to its intensity of use, other than comply with current zoning standards for the site.** However, if a Pre-existing use is discontinued for 12 months or more, the use cannot be reestablished. This is similar to the abandoned standard of a nonconforming use.

OPTIONS:

Staff believes the primary nonconformity issues related to the proposed DGC zoning are the creation of nonconforming uses for properties, such as Vehicle Service Facilities, and secondly site improvement standards related to parking, both in quantity and location.

Nonconforming Uses

Option 1. Prohibit uses for Warehouse, Funeral Home, Vehicle Service Facilities consistent with the proposed DGC zoning ordinance.

The proposed standards create new restrictions on certain uses that are viewed as incompatible with the vision for changes to the area that includes increased commercial activity with pedestrian oriented design features and potentially residential uses. **Staff believes prohibiting such uses and creating a nonconformity status for the uses is consistent with the vision for the area.**

With a nonconforming status the current businesses would be allowed to continue to operate, but would have limits on expanding the use. They would have options to remodel and make other improvements to their sites consistent with zoning standards. The proposed use limitations for DGC zoning are more consistent with current DSC zoning uses than the HOC zoning uses.

Option 2. Modify the proposed DGC zoning ordinance to designate Vehicle Service Facilities as a pre-existing use.

Allowing for Pre-existing vehicle facilities would prohibit any new such use into the area. The Pre-existing designation would allow for changes and reuse of the property with the specific Pre-existing use if the use does not cease to operate for more than 12 months. The Pre-existing designation would allow existing businesses to expand or change their use consistent with current zoning standards. This option precludes new uses that are not compatible with the area from being located in the area, however, it does not encourage the change of the use to a conforming use. Funeral Homes could continue to be a Special Use Permit use to be evaluated on a case by case basis. This option is more consistent with use allowances of HOC zoning compared to DSC zoning.

Option 3. Create Vehicle Service Facilities and other proposed nonconforming uses as requiring a Special Use Permit.

This option would allow for existing uses to continue to operate, but any changes would be subject to approval of a Special Use Permit to determine compatibility of the use. This designation would also allow for new uses to be established subject to approval of Special Use Permit.

The Special Use Permit would allow for a case-by-case review to determine compatibility with the surroundings and consistency with the purpose of the zoning district. This option would be appropriate if the primary concern was the design or configuration of the use on a site and not the type or nature of the use. If it is unlikely a Special Use Permit could be approved in the area for the use no matter the configuration, it would not be appropriate to use the Special Use Permit designation. If there are specific design expectations, it is also better to include them as zoning standards than through the use of the Special Use Permit process. This approach is a hybrid of allowing potentially for expansion of or changes to certain uses, but allowing for case-by-case review.

Minimum Parking Requirements

The proposed DGC zoning includes parking standards similar to HOC zoning, however this is different than DSC zoning for the 15 properties along Kellogg. No parking is required for commercial uses along Kellogg. The expectation is that redevelopment of the area would require provision of some parking on site or through a remote parking arrangement.

Option 1. Require commercial parking for all properties within the DGC zoning.

Commercial parking could be required as proposed in the draft zoning standards to ensure a minimum level of parking is available for the redevelopment and intensification of the site.

Option 2. No parking required for development along Kellogg.

If City Council has a concern about requiring parking for commercial uses along Kellogg, a parking waiver or reduction policy could be added to the DGC zoning reflecting the intent for Main Street style development along Kellogg.

Parking Location (Between Building and the Street)

One of the primary drivers for site improvement nonconformity is the requirement that parking no longer be allowed between the building and the street. This type of zoning standard requires parking to be to the side of a building or behind a building. Current HOC zoning has no prohibition of parking between a building and a street, only that the front yard landscaping is provided along the street frontage. Existing sites with parking between the building and the street could continue to keep their parking in its current configuration until such time as the property redevelops. Due to the “improve as practicable” standard for parking nonconformities, reconstruction of a parking lot may

also be allowed subject to site development plan review if the building is not part of the redevelopment.

Option 1. Restrict parking between the building and the street.

City Council can provide direction on having a parking location standard with the understanding that many sites may be able to reuse their nonconforming parking lot configuration, but would not be able to fully redevelop in the same manner.

Option 2. Allow parking between a building and the street, with the exception of Kellogg.

City Council could provide direction to eliminate the proposed standard that restricts parking between the building and the street if it has concerns about the impact on redevelopment of standalone commercial properties. In many circumstances parking is already nonconforming due to lack of landscaping or other design requirements. Most reuse will be subject to the “improve as practicable standard” if there is not full scale redevelopment of a site.

STAFF COMMENTS:

The proposed DGC zoning standards are an attempt to address the flexible design options for a wide range of uses, site sizes, and design priorities for different street frontages within the Downtown Gateway Area. The tradeoff of this approach is less predictability on final outcomes as many decisions on design will not be complete until final approval of a project. With the flexibility there are still ramifications for current sites that are nonconforming that may desire to make incremental changes rather than fully redevelop a site. Related to the discussion of the standards is the potential boundary of the rezoning area to DGC. Options regarding potential rezoning boundaries are included in a separate report.

Staff needs direction from the Council on how to address the primary concerns raised about nonconformities, including uses, structures, and site improvements. **Staff believes that will the information provided about nonconformities most property owners and business would be minimally affected by the changes as they would principally affect redevelopment of a site. The exception to this is the proposed changes to the Vehicle Service uses.**

With City Council’s direction on how to address the proposed development standards and permitted uses, staff can finalize a draft ordinance for City Council review on May 8th. With a first reading of new standards for the DGC zoning on May 8th, the ordinance would be adopted and effective prior to the end of June and before the end of the moratorium on July 2nd.

Addendum

Nonconformity Inventory

Staff conducted a review of the properties in the Downtown Focus area to evaluate the conformity of each parcel to both current zoning standards and the proposed Downtown Gateway Commercial standards. There are seventy parcels within the proposed Downtown Gateway Commercial (DGC) zoning district. Fifteen properties are zoned Downtown Service Center (DSC), all of which have frontage on Kellogg Avenue. The remaining fifty-five properties are zoned Highway Oriented Commercial (HOC). Attachment 3 is the inventory by address and zoning of each property.

Staff identifies three types of nonconformities for each property: Nonconforming Uses, Nonconforming Structure, and Nonconforming Site Development/Other. Section 29.307 of the Zoning Ordinance describes each nonconformity and the standards that apply to each circumstance. A use nonconformity would be if a use exists on a parcel that is not permitted by the applicable zoning district. A structure nonconformity is any building requirement of the zoning district that is not met, such as setbacks, floor area ratio (FAR), minimum and maximum building height, building coverage percentage, and number of stories of a building. Site development/other nonconformity would include issues not related to use or the structure, such as landscaping, parking lot design, parking lot landscaping, parking stall quantity.

The three maps (**Attachment 4**) represent each nonconformity type. The nonconforming use map identifies eight uses as nonconforming under current DSC and HOC zoned properties. Two of the nonconforming use types do not meet the location requirements of the zoning code, Adult Entertainment Business and Delayed Deposit Services. Additionally, there are two residential household living uses, janitorial services, dry cleaning, and warehouse uses that are nonconforming. Under the proposed zoning, the mini-storage and vehicle service facilities (car wash, gas stations, and automotive repair) would become new nonconforming uses. The total properties with nonconforming uses under DGC zoning would be 21%.

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Nonconforming structures are structures that do not meet minimum building requirements, such as setbacks or height. The majority of the properties on Kellogg Avenue are nonconforming as DSC zoned buildings that are one-story where the zoning requires a minimum of two stories and minimum floor area ratio (FAR) of 1.0. For HOC zoning the nonconformities are typically related to building setbacks from side or rear

property line. Overall, when evaluating properties against the current DSC and HOC zoning and the proposed DGC zoning, the amount of nonconforming structures decreases to thirty-one percent under the proposed DGC zoning. This is mostly a result of decreased setbacks on all sides of a property in the proposed DGC zoning and no minimum FAR requirements. Buildings along Kellogg that are one story would continue to be nonconforming under the proposed DGC zoning.

The site development/other nonconformities mostly consist of parking deficiencies. These deficiencies include inadequate minimum parking spaces, parking in the front yard without front landscaping, paved parking, overall design and landscaping of the parking area. There is an increase in number of nonconformities of this type with the proposed DGC zoning district. Site Development/other nonconformities increase from forty-four percent to eighty percent. The main reason for this increase is because parking would not be allowed between the building and street for most streets in the DGC district, such as Kellogg and Lincoln Way. The other change is the requirement for parking for the 15 properties current zoned DSC. The proposed zoning does require parking making these uses nonconforming that have no parking on site.

Proposed Downtown Gateway Commercial Zoning Standards

The proposed draft ordinance from March 6th is included as Attachment 2.

Uses

Allowed uses are intended to be a more focused set of commercial uses compared to the HOC zoning district. **The allowed uses principally include office, retail sales and services, restaurant, recreation, and entertainment uses.** The intent behind the list of allowed uses is to focus on the desired commercial uses while helping to insure compatibility with any future residential that could be added to the area.

The proposed zone will prohibit the following uses that are permitted in the HOC zoning district: vehicle service facilities (gas stations and auto repair), vehicle sales, college and university, lodges and social clubs, catering establishments(primary use), medical centers, wholesale trade, detention facilities, sports practice facilities, and mini-warehouse. By prohibiting these uses it would preclude new establishments and also make existing uses non-conforming. For example, a gas station that exists today would become nonconforming and be allowed to continue to operate as is, but they would be unable to expand or if they cease to operate it could not be restarted.

Drive through windows and pickup areas are also restricted within the proposed zoning standards. Drive through uses are not precluded in their entirety, but would have separation requirements. The proposed spacing standard is for no more than one drive through use per Lincoln Way street block face and no drive through uses are permitted along Kellogg Avenue. A drive through would be precluded if any part of the property had frontage along a block face of Lincoln Way that already has a drive through use, regardless of the ingress/egress to the site. The drive through limitation would apply to any type of use, fast food, banks, pharmacies, etc.

Residential uses for short-term lodging are permitted as a standalone use; however, household living may only be established as part of a mixed-use development. Major Site Development Plan review is required for any residential mixed-use development. No density standard will apply to the residential development for either a minimum or maximum. The goal is to promote smaller units at higher density and to allow for a limited number of larger units. No more than 25 percent of the total units in a development may exceed two bedrooms. No dwelling units shall exceed four bedrooms.

The proposed zoning standards do not prescribe a minimum total commercial square footage requirement in combination with mixed-use buildings. Specific tenant spaces sizes, orientation, and total square footage in a project will need to be evaluated on a case-by-case basis to determine if a proposed mixed-use design achieves the goals of the Corridor Plan for commercial first development plans that enhance the commercial options for the city and are complimentary to Downtown.

Parking

The proposed commercial standards are a hybrid of standard parking requirements and the reduced parking standards of Downtown Service

Commercial. Staff did incorporate parking minimums for the district due to the lack of public parking in the immediate area and the desire to ensure that the commercial development was viable for a large range of uses. The proposed parking modifies commercial parking standards by reducing parking for larger sites to promote shared and common parking areas, principally for bar and restaurant uses. Individually developed sites are subject to standard parking requirements for commercial uses. Staff also added a fast food parking standard that is at 9 spaces per 1,000 square feet so as to not incent redevelopment with fast food establishments in this area.

The proposed requirement for commercial parking results in the 100 Block of Kellogg Avenue requiring parking compared the current DSC zoning where none is required. For the HOC zoned properties there is either no change or a potential reduction compared to current standards.

Residential parking standards are also a hybrid of the standards used in other parts of the City. The typical apartment standard is one parking space per bedroom. However, Campustown and Downtown only require one space per apartment regardless of the number of bedrooms. In an effort to incentivize smaller apartment units and to recognize the area is highly walkable with multiple transportation options, parking is reduced for smaller units. Staff believes this a balance of allowing for a variety of unit configurations while promoting construction of smaller apartment units.

Apartment	Parking Spaces Required
Studio	0.8 per unit
1 Bedroom	0.8 per unit
2 Bedroom	1.0 per unit
3 Bedroom	2.5 per unit
4 Bedroom	4.0 per unit

The parking standards also permit additional reductions in parking through Major Site Development Plan approval. There are allowances for shared parking, remote parking, and collective parking. Reductions of up to 25% of the commercial parking can be approved through these options. Another unique standard relates to allowing for residential to be utilized in a shared or collective parking situation when at least one parking space per dwelling unit is provided on site assigned to the residential use. Typically, shared use of residential parking spaces is not permissible in other zoning districts.

The parking requirements include a bicycle parking standard for commercial uses. However, there are no mandatory bicycle parking standards for residential uses. Staff believes that most new residential apartment development accommodates bicycle parking and does not believe a prescribed parking standard is needed. However, for commercial uses visitor parking is not typically addressed by developers. Staff proposes requiring a minimum of four bicycle rack parking spaces with each building and that larger buildings include additional parking. A reduction in vehicle

parking spaces can be accommodated with the provision of bicycle parking, with a maximum reduction of five vehicle parking spaces.

Lot Standards

The site development standards are intended to promote property aggregation to take advantage of increased development intensity compared to the current HOC zoning. Existing sites and buildings will not become non-conforming based upon lot size. Existing sites may be used in their current configuration and buildings can be modified under the new standards. However, mixed-use residential development with reduced parking standards will only apply to larger scale sites.

Minimum Lot Size is 1 acre and 100 feet of frontage on a public street for redevelopment intensification standards. Lots less than 1 acre in size or with less than 100 feet of frontage are subject to a use restriction of commercial uses only and must comply with standard parking requirements. A 1 acre standard means that for almost all properties in the Gateway Area that at least one additional property will need to be combined with another parcel to get to the larger site size for mixed use development. For comparison, if the site size was set at 0.5 acres there would be approximately 22 out of 70 properties that could develop mixed use without property aggregation.

Building Setbacks

The Downtown Gateway Area consists of a street hierarchy with primary streets of Lincoln Way, Kellogg Avenue, Clark Avenue, and Duff Avenue. Secondary streets include Washington Avenue, Sherman Avenue, Market Avenue, Commerce Avenue, and Gilchrist Street. Additionally there are alleys within most of the block areas. Staff proposes to differentiate setbacks based upon street type and intended design aesthetic for the blocks.

In most cases there are minimal setbacks required to either encourage a building to be built up to the street, as is the case along Kellogg Avenue, or to ensure a site is redevelopable when accounting for lot sizes and restrictions on where parking is permitted on a site. The greatest setback is planned along Lincoln Way. This is due to the intended larger scale of buildings along Lincoln Way and the intent to include widened sidewalks along with redevelopment due to the narrow right-of-way width for Lincoln Way. Setbacks for corner properties can be reduced through design review when the buildings include specific features supportive of a pedestrian design.

There are no proposed minimum side or rear setbacks required for redevelopment projects.

Building Design

Due to the desired flexibility of uses and redevelopment options for the area, individual design standards are difficult to apply consistently through the district. The intent is to state base design standards and rely upon individual project review to ensure consistency with the overall design intent for the area. The Kellogg Avenue frontage has design preferences for storefront patterns of 25 feet for consistency with Main Street

buildings. However, due to design options to promote gathering areas and entertainment uses, alternative design approaches can be approved that include high activity spaces and pedestrian friendly design features at the ground floor. The other areas in the district do not require a storefront pattern.

Kellogg Avenue includes design standard to act as a transition to historic Downtown with a minimum of two-story buildings, architectural detailing, high levels of glazing, and the use of clay brick façade materials. There are no specified percentages for brick, but it is a required material for each building.

Properties with frontage on other streets do not have as many mandatory standards. The design standards do require façade variation and detailing with use of clay brick without a specified percentage.