

**CITY OF AMES
DEPARTMENT OF PLANNING AND HOUSING
REPORT TO THE ZONING BOARD OF ADJUSTMENT**

REQUEST:

A Special Use Permit to increase the building size of a nonconforming use, social service provider, in the General Industrial Zoning District, located at 1201 McCormick Avenue.

BACKGROUND:

Nate Donner of Iowa Home Crafters, representing Ames Alano Society, Inc., has applied for a Special Use Permit (SUP) to increase the size of a nonconforming use in the General Industrial (GI) Zoning District at 1201 McCormick Avenue (Attachment A – Location Map). The use, social service provider, (and most institutional uses) is not permitted in GI. The Ames Alano Society building provides meeting space for Alcoholics Anonymous and related groups. The existing building, constructed in 1965, is 3,600 square feet.

The applicant proposes to construct an open, covered entry at the front (east) side of the building (Attachment B – Site Plan) that is:

- 8 feet, 2 inches deep, with a 6-inch eave on the east and a 10-inch eave on the west (the roof will be 9 feet, 6 inches deep); and
- 11 feet, 8 inches wide, with 12 feet eaves on either side (the roof will be 13 feet, 8 inches wide).

The property sits at the end of a cul-de-sac street, and the front property line is partially on a curve. At the closest point (the southeast corner), the building is approximately 15 feet from the front property line.

The outermost posts will be approximately 9 feet from the existing east wall of the building. At the closest point to the curved property line, the southeast post will be setback approximately 11 feet, 9 inches. The minimum front setback in GI is 10 feet. Eaves are allowed to project into setbacks, but the eaves for the new structure will comply with the front setback.

The new posts closest to the wall of the building will not touch the wall, but the eave will extend back towards the structure. The new building will be freestanding but will function as an attached porch and will likely appear so.

The covered entry is proposed to be freestanding: it will not be structurally supported by nor a part of the existing building. Industrial districts, by Zoning Ordinance definition, do not have accessory structures. (In certain districts, accessory structures are prohibited in

front yards.) The new structure must therefore meet the same zoning standards as any other building on the site. The new structure is not an addition, as it is not proposed to be a part of the existing structure. While the new structure is independent, it is still considered an expansion of the existing, nonconforming use.

The Zoning Ordinance, Article 3, prohibits an increase in intensity of nonconforming uses, which includes “an increase in the horizontal or vertical dimensions of a non-Household Living use (both indoor and outdoor)” (Sec. 29.307(2)(a)(ii)).

Article 3 (Sec. 29.307(2)(b)) further states that 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”.

The same article (Sec. 29.307(2)(c)) also states that “[a]ny 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.” The ordinance was adopted in 2000, and the building was erected in 1965. Records indicate that no additions have been made since the time of initial construction.

Thus, the expansion of a nonconforming use, including constructing an open structure, is only allowable if all other zoning requirements are met, no new nonconformity is created, and with the approval of the ZBA.

STATEMENT OF APPLICANT IN SUPPORT OF PROPOSAL:

The applicant’s complete application and supporting information accompany this report. These materials discuss characteristics of the proposed use and their impacts.

APPLICABLE LAW:

The Board must make the requisite findings for approval of the proposed Special Use Permit that are defined below. **Findings of Fact based upon the proposed description of use and facts of the application are included in the attached Addendum.**

Sec. 29.307 NONCONFORMITIES

...

(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 and 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.
- (d) Exterior or Interior Remodeling or Improvements to Structure. Exterior or interior remodeling or improvements to a structure containing a nonconforming use shall be permitted, provided that any proposed enlargement, expansion, or extension shall be subject to the provisions set forth in the above paragraph. An increase in intensity is not permitted in conjunction with remodeling or other improvements to the structure.

Chapter 29, Section 29.1503(5)(a) and (e) of the *Municipal Code* states the following:

Sec. 29.1503. SPECIAL USE PERMIT.

- (5) **Review Criteria.** Before a Special Use Permit application can be approved, the Zoning Board of Adjustment shall establish that the following general standards, where applicable, have been or shall be satisfied. The Board's action shall be

based on stated findings of fact. The conditions imposed shall be construed as limitations on the power of the Board to act. A mere finding that a use conforms to those conditions or a recitation of those conditions, unaccompanied by specific findings of fact, shall not be considered findings of fact for the purpose of complying with this Ordinance.

- (a) General Standards. The Zoning Board of Adjustment shall review each application for the purpose of determining that each proposed use meets the following standards, and in addition, shall find adequate evidence that each use in its proposed location will: (The standards are listed in the addendum to the report.)

....

- (e) Conditions. The Board may impose such additional conditions it deems necessary for the general welfare, for the protection of individual property rights, and for ensuring that the intent and objectives of this Ordinance will be observed."

PUBLIC NOTIFICATION:

Notification was made to all owners of property within 400 feet and published in the newspaper.

ALTERNATIVES:

1. The Zoning Board of Adjustment can approve the Special Use Permit for a covered entry structure that increases the area of a nonconforming use, social service provider, in the General Industrial Zoning District, located at 1201 McCormick Avenue.
2. The Zoning Board of Adjustment may deny the Special Use Permit for a covered entry structure that increases the area of a nonconforming use, social service provider, in the General Industrial Zoning District, located at 1201 McCormick Avenue.
3. Action on this request can be postponed and referred to City staff and/or the applicant for additional information.

PLANNING AND HOUSING DEPARTMENT RECOMMENDATION:

The proposed site plan for a new covered entry structure will enlarge the nonconforming social service provider use. The Zoning Ordinance contains strict language about what is considered an expansion. This language includes the proposed covered entry structure.

As the proposed structure is small (less than 100 square feet) and complies with the minimum front setbacks required for buildings in GI (10 feet), staff find that the new construction will have a minimal impact on the neighborhood or the City at large.

Based upon review of the operations and the findings of fact for the Special Use Permit included in the addendum, the Planning & Housing Department recommends Alternative #1.

ADDENDUM

Sec. 29.1503. SPECIAL USE PERMIT.

Chapter 29, Section 29.1503(5)(a) and (e) of the *Municipal Code*:

(a) General Standards.

- (i) Be harmonious with and in accordance with the general principles and proposals of the Comprehensive Plan of the City.**

Findings of Fact: The area has a 'General Commercial' (GC) designation within *Ames Plan 2040*. The current zoning district, General Industrial (GI) is not an applicable zoning district within GC. The intended zoning districts for GC are:

- Highway Oriented Commercial (HOC)
- Planned Regional Commercial (PRC)
- Gateway Overlay Districts (O-G and others)

The HOC zoning district does permit social service providers, a nonconforming use in GI, by right.

Conclusions: While the current nonconforming use of social service provider is proposed to be expanded, this use is allowed in one of the applicable zoning districts in the land use plan.

The Zoning Ordinance prohibits a structure containing a nonconforming use from being enlarged by more than 125% of the floor area on the effective date of the ordinance (in 2000). The existing building is 3,600 square feet, and the proposed structure is approximately 95 square feet, well within the limitations.

It can be concluded that the proposed structure meets General Standard (i) for a Special Use Permit.

- (ii) Be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing and intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.**

Findings of Fact: The existing building is a wood-frame structure with lap siding. Most of the neighboring buildings are also wood-frame but with corrugated metal exteriors.

The new structure will have exposed wood beams and a simple gable roof.

Conclusions: The proposed structure will be in harmony with the nature of the surrounding industrial buildings.

It can be concluded that the proposed structure site will meet General Standard (ii) for a Special Use Permit as proposed by the applicant.

- (iii) Not be hazardous or disturbing to existing or future uses in the same general vicinity.**

Findings of Fact: It is not anticipated that the proposed structure will have any impact on the surrounding vicinity.

Conclusions: See the above Finding.

It can be concluded that the proposed structure for of this property meets General Standard (iii) for a Special Use Permit.

- (iv) Be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water, and sewage facilities, and/or schools.**

Findings of Fact: The proposed structure will not impact the street (it will comply with the minimum front setback), will not require enhanced City services, will not impact utilities, and will not impact the schools. The only on-site utility to be impacted may be electric, as the new structure will likely have new lighting installed.

Conclusions: See the above Finding.

It can be concluded that the proposed structure intended for this property meets General Standard (iv) for a Special Use Permit.

- (v) Not create excessive additional requirements at public cost for public facilities or services.**

Findings of Fact: The new structure should not have any effect on public facilities or services.

Conclusions: There should be no cost to the public for the proposed new structure.

Therefore, it can be concluded that the proposed structure meets General Standard (v) for a Special Use Permit.

- (vi) Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any person, property, or general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.**

Findings of Fact: Visitors to Ames Alano will pass beneath the new structure to enter the building from the east. Visitors to the property will likely gather under the covered space. It is not anticipated that this will impact the operations of the building and the occupancy of the existing structure will not change. As a social service provider, the use does not involve any hazardous materials and does not produce loud noise or noxious odors.

Conclusions: The new structure will have no impact on the use of the existing property and will not create any undesirable impacts on neighboring properties.

It can be concluded that the proposed structure meets General Standard (vi) for a Special Use Permit.

- (vii) Be consistent with the intent and purpose of the Zone in which it is proposed to locate such use.**

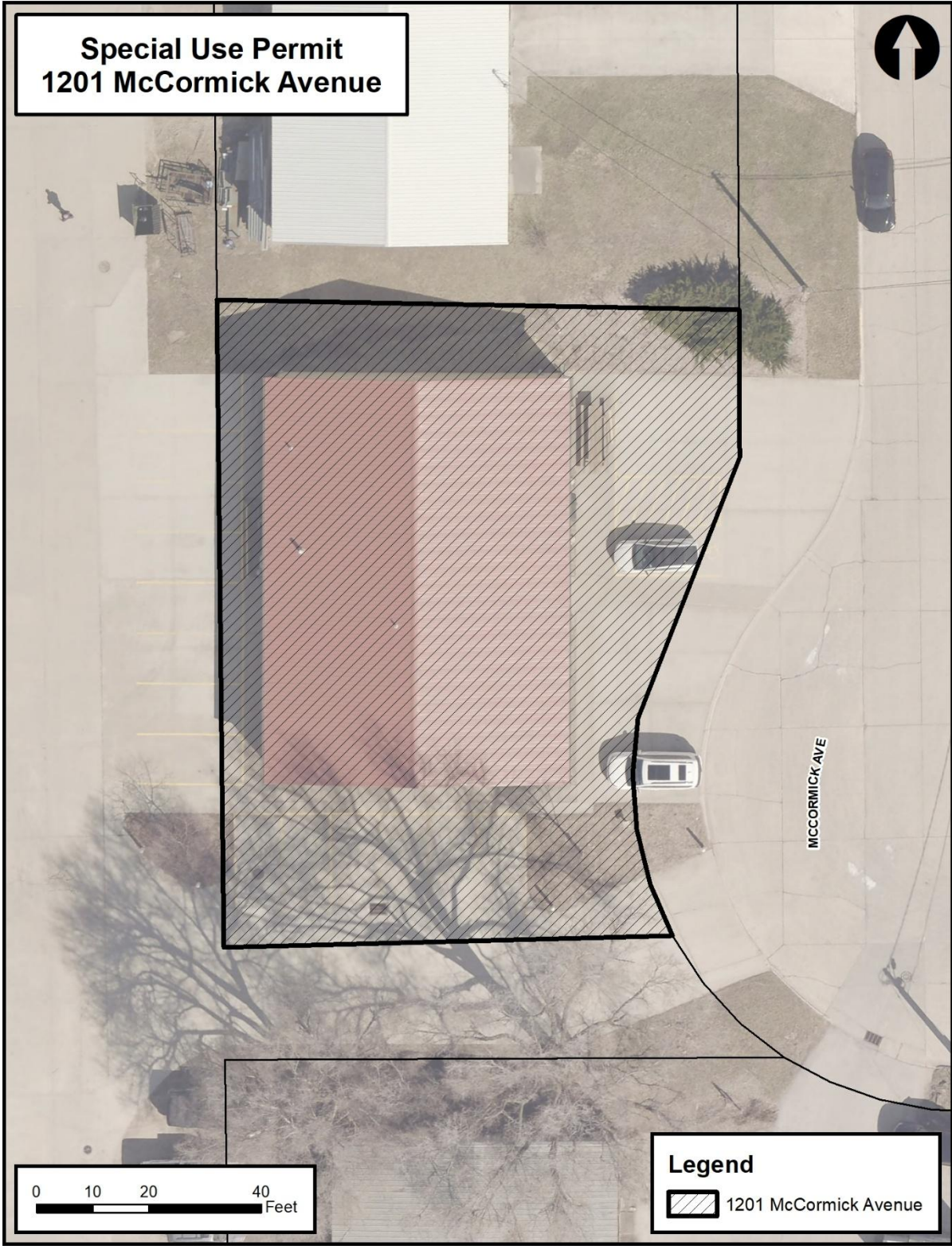
Findings of Fact: While the social service provider use is not permitted in GI, the use of this property for this purpose has existed for decades with no apparent detrimental effect. The social service provider use has a lighter impact (in terms of noise, odor, fumes, etc.) on the surrounding area than the industrial uses for which the district is intended. The social service provider use likely does generate more vehicular traffic than surrounding uses, but this will not change with the proposed new structure.

Conclusions: While GI zone does not allow the current nonconforming use, the use is less intense than surrounding uses. The use of this property has been the same for decades with no known detrimental impact.

It can be concluded that the proposed structure will meet General Standard (vii) for a Special Use Permit as proposed by the applicant.

Attachment A
Location Map





Attachment B Site Plan

