

COUNCIL ACTION FORM

SUBJECT: OPEN SPACE DEFINITION AMENDMENT FOR SUBURBAN RESIDENTIAL ZONING DISTRICTS

BACKGROUND:

New residential developments in expanding areas of Ames are required to meet a minimum net average density, or average dwelling units per acre. The purpose of this provision is to carry out the city's land use goals to increase the supply of housing while making efficient use of taxpayer and utility rate payer money and preserving the traditional character and quality of Ames neighborhoods as new neighborhoods are built.

However, this requirement could make it very difficult to protect steep slopes, sensitive natural areas and even open space from development if they are included in the calculation. These "green" areas are major assets of Ames, assets that many people value and believe help to make Ames a great place to live. For this reason, the City's zoning code allows such areas to be removed from the calculation of net density. This represents a trade-off of accepting higher infrastructure costs in exchange for the preservation of green areas.

The recent Northwood Heights plat presented a dilemma for this approach. Although the project did not include any steep slopes or sensitive natural areas it did provide four separate, individually-owned parcels as open space and met the required minimum average net density. (See Attachment A) But was the type of open space proposed in this plat the type of green area that the community values? If each three-acre outlot of this "private open space" is owned by the owner of the one-acre lot that it surrounds and he or she maintains it, does it really function as open space? Will the development look any different than a development with four-acre lots? Is this still an acceptable trade-off?

To address these questions, the City Council asked the Planning and Zoning Commission to consider appropriate code revisions to open space as applied to the minimum net average density requirement.

Current Zoning Text

Section 29.1202(2) establishes principles for development in Floating Suburban Residential zoning districts (FS-RL, FS-RM): "Property that is developed according to the F-S requirements shall create a development pattern that adheres to the following development principles: . . .

. . . (d) The provision of common open space in residential areas where the maintenance of the open space is the responsibility of those directly benefiting." (emphasis added)

In addition to Supplemental Development Standards set out in 29.1202(5), Section 29.1202(6) establishes the following regulations for FS-RL zoning districts.

The minimum average density for one and two-family dwelling units, two-family dwelling units, and single family attached dwelling units in areas zoned FS-RL shall be 3.75 dwelling units per net acre. Net acres shall be determined by subtracting from the gross acreage of a subdivision the land area devoted to the following uses or containing the following characteristics:

1. Public or private right-of-way;
2. Public or private open space;
3. Areas of severe slope where the topography exceeds 10% as determined by the Story County Soil Survey;
4. Areas containing natural resources as identified in the Natural Areas Inventory of the City of Ames dated 1994.

The same Table also describes the “Open Space Requirement:”

A minimum of 10% of the gross area shall be devoted to private or public open space. A minimum of 15% of the gross area shall be devoted to private or public open space for back-to-back single family attached dwellings. Ownership and maintenance responsibility of the open space shall be a Homeowner’s Association or a similar private entity.

(See Table 29.1202(6) Attachment B)

The last sentence of this requirement refers to a form of private ownership but not to public ownership, which contradicts the reference in the first sentence to “private or public open space.” Neither provision specifies use of the open space, but zoning definitions do:

Section 29.201(129) defines open space as

“useable open space designed and intended for the use of all residents of a residential development, including space dedicated to the public.”

The Zoning Code does not define “private” open space, which was the open space included in the Northwood Heights project. However, Section 29.201(35) does define common open space as

“an area of land, water or combination thereof planned for active or passive recreation, but not including areas utilized for streets, alleys, driveways or private roads, off-street parking or loading areas, or required yards. The area of recreational activities such as swimming pools, tennis courts, shuffle board courts, etc., may be included as common open space.”

Proposed Text Changes

The issue of concern is the potential conflict between the requirement that open space be available for use by all residents and the control of the future improvement, management and therefore use of parcels that are individually and privately owned by the owner/occupant of an adjacent property. What assurance is there that the open space will not evolve into use only by its property owner? The proposed text amendment addresses the issue by eliminating the use of the term “private” open space that is not defined and instead using the term “common” open space. This term is in the purpose statement of the FS zoning districts and is also defined in the zoning code. The proposed text amendment is as follows.

The minimum average density for one and two-family dwelling units, two-family dwelling units, and single family attached dwelling units in areas zoned FS-RL shall be 3.75 dwelling units per net acre. Net acres shall be determined by subtracting from the gross acreage of a subdivision the land area devoted to the following uses or containing the following characteristics:

1. Public or private right-of-way;
- ~~2. Public or private open space;~~
2. Common open space owned by the City of Ames or owned by all property owners in common through a Homeowner’s Association or a similar private entity
3. Areas of severe slope where the topography exceeds 10% as determined by the Story County Soil Survey;
4. Areas containing natural resources as identified in the Natural Areas Inventory of the City of Ames dated 1994.
5. Areas reserved as an outlot or by easement to the City for planting as woodland, prairie, wetland or other native plant community
6. Stormwater detention areas and stormwater retention ponds required by the Ames Municipal Code or as a condition of a permit or other City approval.
7. Areas reserved as an outlot or by easement to the City to protect natural archeological and/or historic features.

Characteristics #5 and #6 are proposed to accommodate areas that are created to prevent increased rates of storm water runoff and improve water quality, although the current ordinance does not discourage such areas. These are not always also useable open space, but should not be discouraged by the minimum density requirement. For consistency and clarity, amendments are also proposed for the “Open Space Requirement” in the same Table:

A minimum of 10% of the gross area shall be devoted to ~~private or public~~ common open space. A minimum of 15% of the gross area shall be devoted to ~~private or public~~ common open space for back-to-back single family attached dwellings. ~~Ownership and maintenance responsibility of the~~ Common open space shall be owned and maintained by the City of Ames or by a Homeowner’s Association or a similar private entity.

Recommendation of the Planning & Zoning Commission. This item was originally scheduled for P&Z review on November 4, 2009. However, the Commission moved to remove this item from its agenda believing it should be addressed when the new Council is in place. Staff reported this information to the City Council on November 10, at which time the Council directed staff to schedule this for Council action on December 8, but to inform the Commission that it can yet make a recommendation to the Council on the proposal. Accordingly, at its meeting of November 18, 2009, with a vote of 5-0, the Planning and Zoning Commission recommended approval of the proposed text amendments to Table 29.1202(6). There were no public comments at the P&Z meeting. However, when reporting to the Council on the status of this item at the November 10 City Council meeting, Chuck Winkleblack expressed concern over including the word “all” in the language pertaining to owners in a plat. This was in reference to the exclusion of common open space from the net density calculation. His concern was based upon the fact that not all developments are under the control of one single homeowner’s association. He believes that including the word “all” will allow owners access rights to open space that is managed and maintained by an association that does not include all owners of the larger development.

ALTERNATIVES:

1. The City Council can adopt the proposed text amendments to Table 29.1202(6) as per the attached draft ordinance. This draft excludes the word “all” in the sentence describing common open space exemptions for calculating density..
2. The City Council can adopt the proposed text amendments to Table 29.1202(6) as originally drafted and as reviewed by the Planning & Zoning Commission, (which includes the word “all”, or with other modifications).
3. The City Council can deny the proposed text amendments to Table 29.1202(6) and thus retain the existing language.
4. The City Council can refer this back to staff for additional analysis and/or options.

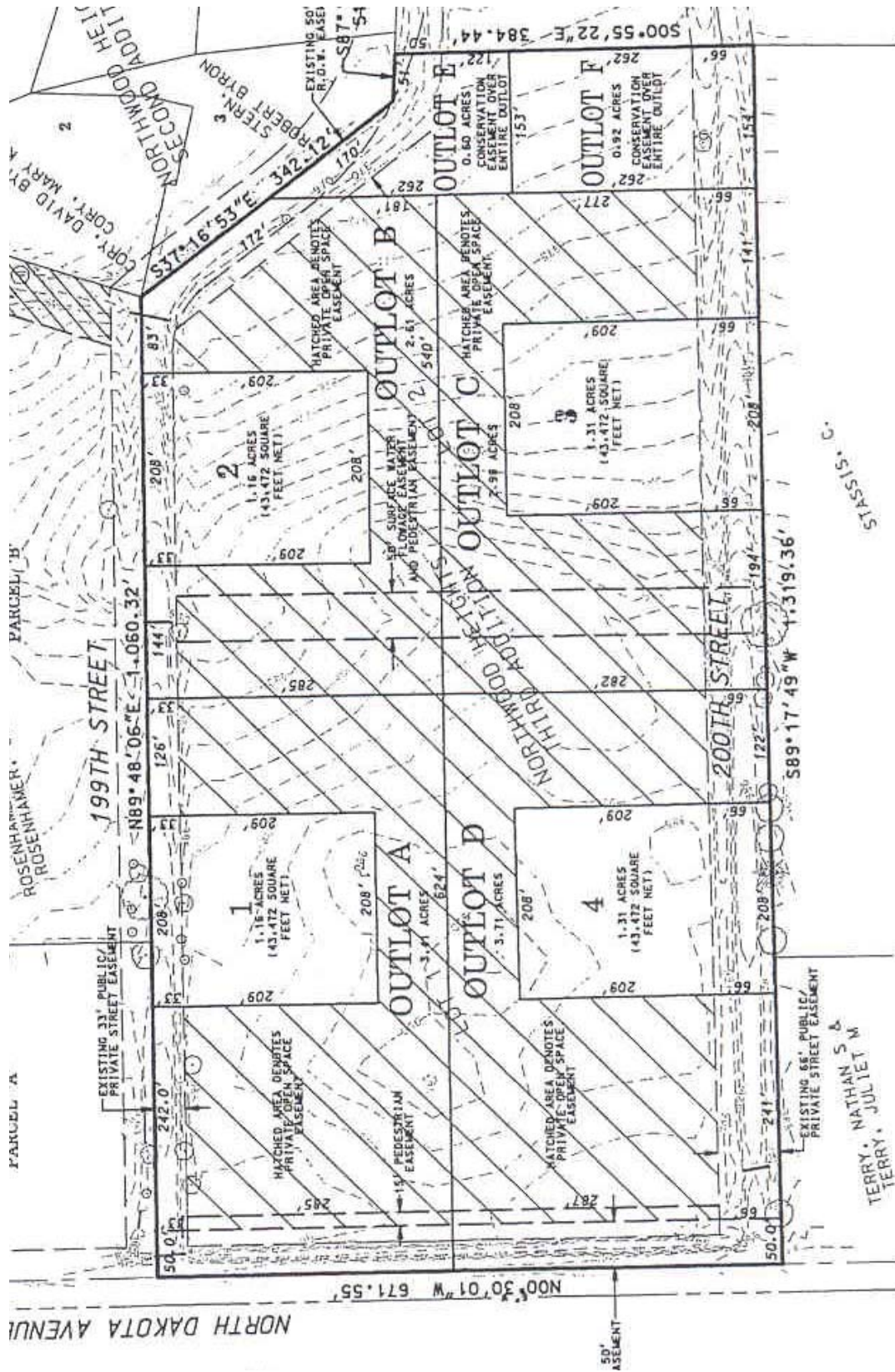
MANAGER’S RECOMMENDED ACTION:

The Northwood Heights plat included easements on four separate lots establishing open space to be owned by four separate individuals. This approach would conform to the minimum average net density requirement of the City so long as the open space was legally available to all owners within the development. However, the open space will likely look and function like private back yards and would therefore not be practically available to, or conducive to use by, all owners in the development. This approach could nonetheless be applied to any new development within the City.

If the City Council concludes that the approach used in Northwood Heights is not consistent with the intent and spirit of the minimum net average density requirement, the City Manager

recommends that the City Council act in accordance with Alternative 1, which is to adopt the proposed text amendments to Table 29.1201(6). This text excludes the word “all”, in response to concerns expressed by Chuck Winkleblack.

Attachment A



Attachment B

Table 29.1202(6)
Suburban Residential Floating Zone Suburban Regulations

SUBURBAN REGULATIONS	F-S ZONE
Minimum Density Suburban Residential Low Density (FS-RL)	*The minimum average density for one and two-family dwelling units, two-family dwelling units, and single family attached dwelling units in areas zoned FS-RL shall be 3.75 dwelling units per net acre. Net acres shall be determined by subtracting from the gross acreage of a subdivision the land area devoted to the following uses or containing the following characteristics: 1. Public or private right-of-way; 2. Public or private open space; 3. Areas of severe slope where the topography exceeds 10% as determined by the Story County Soil Survey; 4. Areas containing natural resources as identified in the Natural Areas Inventory of the City of Ames dated 1994.
Minimum Density Suburban Residential Medium Density (FS-RM)	The minimum density for property developed in the FS-RM zone shall be 10 units per acre.
Lot and Block Design Requirements	Block lengths that exceed 660 feet in length on a block face shall contain a mid-block cut through or cross walk to enable effective pedestrian movement through the block. From one street to another street on the opposite block face.
Open Space Requirement	A minimum of 10% of the gross area shall be devoted to private or public open space. A minimum of 15% of the gross area shall be devoted to private or public open space for back-to-back single family attached dwellings. Ownership and maintenance responsibility of the open space shall be a Homeowner's Association or a similar private entity.
Landscape Buffer Requirement	A landscaped buffer of 10 feet in width shall be provided in the setback area of any lot zoned FS-RM where the lot is adjacent to any lot zoned FS-RL. The landscaping shall adhere to the L.3 Standards as provided for in Section 29.403 of the ordinance.
Parking Requirements	Parking shall be provided to meet the requirement as set forth in Section 29.406 of this ordinance.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY AMENDING SECTION TABLE 29.1202(6) THEREOF, FOR THE PURPOSE OF AMENDING THE DEFINITION OF OPEN SPACE; REPEALING ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ENACTED, by the City Council for the City of Ames, Iowa, that:

Section One. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by amending Section 29.1202(6) as follows:

Sec. 29.1202. “F-S” SUBURBAN RESIDENTIAL ZONE.

**Table 29.1202(6)
Suburban Residential Floating Zone Suburban Regulations**

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(Ord. No. 3579, 8-22-00; Ord. No. 3591, 10-10-00, Ord. No. 3640, 12-11-01, Ord. No. 3660, 4-23-02)

Section Two. Violation of the provisions of this ordinance shall constitute a simple misdemeanor punishable as set out by law.

Section Three. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent of such conflict, if any.

Section Four. This ordinance shall be in full force and effect from and after its passage and publication as required by law.

Passed this _____ day of _____, _____.

Diane R. Voss, City Clerk
001038

Ann H. Campbell, Mayor