

**COUNCIL ACTION FORM**

**SUBJECT: REQUEST FOR WAIVER OF SUBDIVISION REGULATIONS FOR FIELDSTONE DEVELOPMENT**

**BACKGROUND:**

On March 23, 2010, the City Council referred to staff a letter from Franklin Feilmeyer representing Fieldstone Development, LC, requesting that the Council waive application of the City's subdivision ordinance for a division of land located outside of the City limits but within the City's two-mile jurisdictional limit (see attached General Location Map). The subject site consists of a single quarter-quarter section (40 acres) and contains a single homestead. The applicant is proposing to divide the subject site into two parcels.

The subject site is located directly north of the current City limits in the Northwest Priority Growth Area. The bulk of the site is identified as "Natural Area" on the Urban Fringe Plan. A small portion of the southwest corner of the site is designated as "Urban Residential."

The Natural Area designation is intended to discourage development. In fact, the policy explicitly states that the designation should "Prevent subdivisions for new non-farm residential development. However, Natural Areas may include farm and non-farm residences existing at the time of this Plan or remaining scattered buildings where farmstead homes once existed or homes on very large parcels of ground typical of the agricultural setting."

The Urban Residential designation is intended to allow for conventional subdivisions at 3.75 units per acre. However, Urban Residential is not intended to be subdivided or developed until the tract is annexed in to the City.

This request from Fieldstone Development is to separate a 5-acre parcel from the larger 40-acre parcel. The 5-acre parcel contains the existing homestead and Fieldstone is prepared to sell this parcel to another party. The smaller parcel is entirely within the Natural Area designation which allows for existing farms and non-farm residences. **The creation of this parcel is consistent with the Urban Fringe Plan as it is an existing non-farm residence.**

Of the remaining 35-acres, a portion is designated as Natural Area, on which new development is prohibited by the Urban Fringe Plan. The remainder is Urban Services which requires development at 3.75 units per acre and annexation at the time of development. After extensive consultation with City staff, Fieldstone is now proposing to place a building prohibition on this larger parcel. The prohibition is noted on the plat identifying the parcel as a "non-buildable parcel-reserved for future platting." Legal and planning staffs are confident that this building prohibition protects the Natural Area from

further development. It also protects the status quo of the Urban Residential Area until the long-term development of Fieldstone is accomplished. Whether that development is as Urban Residential or as some other designation is still to be seen. **The creation of this parcel with the building prohibition is consistent with the Urban Fringe Plan as it protects the Natural Area from further development. It also keeps the Urban Residential portion from developing until a later time when the property may be further platted and the building prohibition modified or eliminated.**

**Staff believes that the request to waive the City's subdivision review and jurisdiction is unusual but entirely within its authority. Staff further believes that the end result—a small tract containing an existing homestead and a larger parcel not to be built upon—maintains the status quo as far as development densities. This status quo would be maintained until such time as Fieldstone Development comes forward with a development proposal consistent with the existing Urban Fringe Plan or seeks to have the City Council amend the Urban Fringe Plan.**

This request is unusual in that this process began through a sketch plan meeting with the City in June, 2009. At that time, divisions were possible through a plat of survey and staff indicated that we would recommend such a process to the City Council. However, in August, 2009 the City adopted new subdivision regulations that precluded the use of the plat of survey to create new parcels. That change was never communicated back to Fieldstone. When Mr. Feilmeyer submitted his letter to the City Council requesting the waiver, he was responding to the comments from staff in June, 2009. Although the City subsequently amended the Municipal Code, the City's legal staff indicates that the requested waiver is within the authority of the City Council to grant. The discretion of the City Council is granting such waivers in any situation is based on the unique circumstances of that situation and is nowhere a precedent for any subsequent request.

In accordance with policies and practices of granting such waivers, the Fieldstone Development has signed and is submitting the three standard covenants. These covenants bind the owners and successors to (1) agree to annexation at the time the City requests, (2) waive objections to assessments that may be imposed in the future if public improvements are brought to the site as an assessment project, and (3) pay any fees associated with rural water. These covenants will be recorded if the waiver is approved.

### **ALTERNATIVES:**

1. The City Council can approve a request to waive the City's jurisdiction for a plat of survey dated April 9, 2010 and allow the division of the Southeast Quarter of the Southeast Quarter of Section 30, Township 84 North, Range 24 West of the 5<sup>th</sup> P.M., Story County, Iowa into the two parcels as shown on that plat and allow the plat of survey to be recorded at the office of the Story County Recorder no later than July 1, 2010. The covenants signed and submitted by Fieldstone will be recorded.

The resolution approving this waiver of the City's jurisdictional review would allow the plat of survey to be presented to the County Recorder for recording. The time

limit of July 1, 2010 would ensure the timely fulfillment of this waiver. The covenants, when recorded, will protect the City's interests for any future expenses associated with bringing utilities to the property.

2. The City Council can deny a request to waive the City's jurisdiction for a plat of survey and instead waive the infrastructure requirements necessary to serve a subdivision without access to City services.

This alternative would require the developer to prepare and submit a minor final plat to the City Council for later review and possible approval.

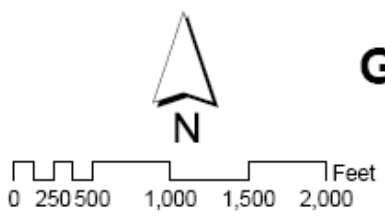
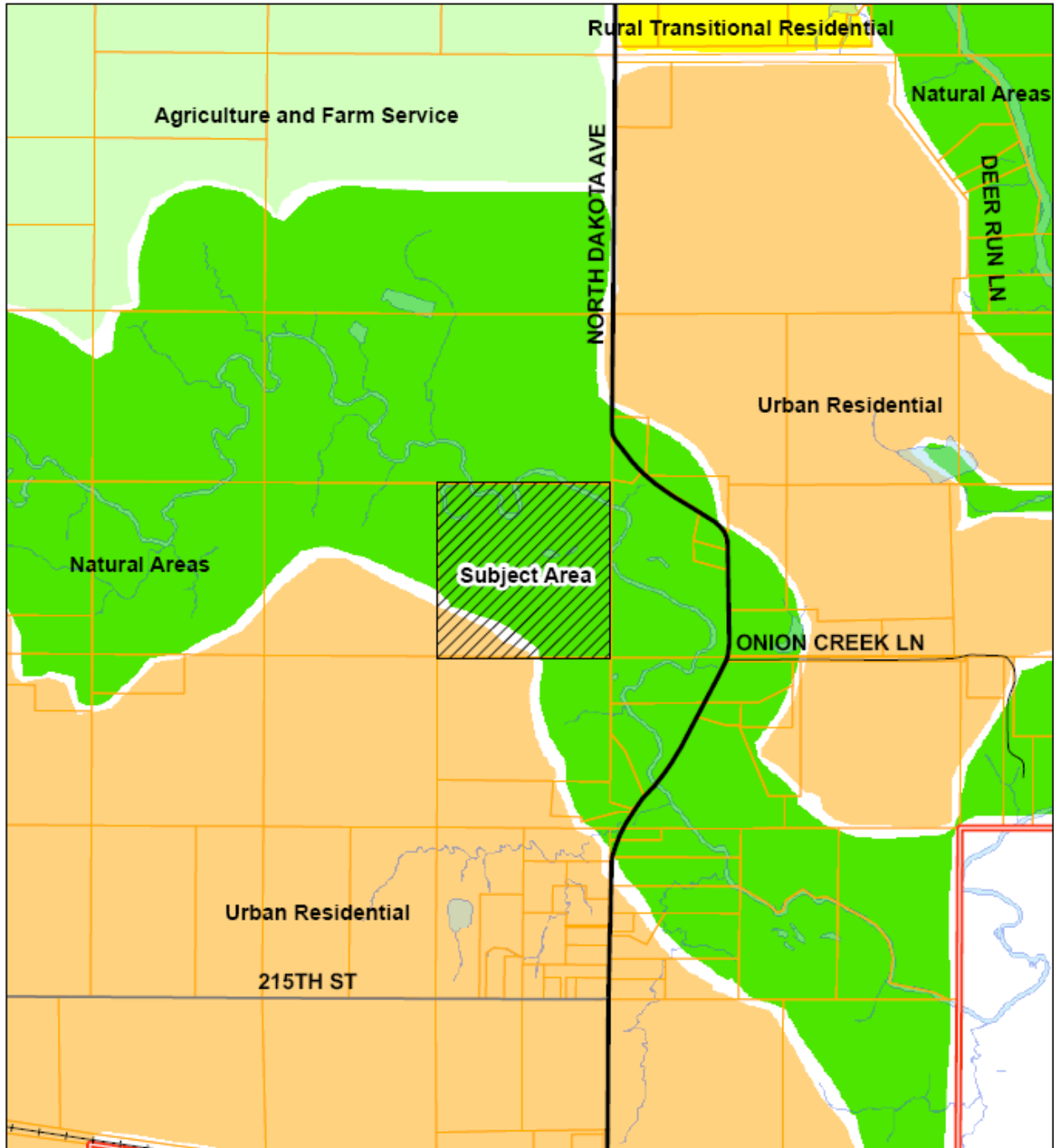
3. The City Council can refer this request back to staff and/or the applicant for additional information.

**MANAGER'S RECOMMENDED ACTION:**

This property currently consists of a single quarter-quarter aliquot part of a section (40 acres). By waiving the City's jurisdictional review, the City would allow a plat of survey to be recorded rather than the usual subdivision plat. The plat proposes the creation of two new parcels. The plat of survey and the proposed building restriction maintain the status quo as it regards the current and future development densities of this land and maintains the consistencies of the Urban Fringe Plan policies for where (and at what densities) development is appropriate.

The unique circumstance of this issue, whereby the application began under a previously approved process and is seeking completion after substantial code changes were made, is unlikely to be seen again. The July 1 timeline for completing the process ensures that this process will be completed in a timely manner and, if not recorded, the proposed division of land will need to conform to the requirements under the current subdivision regulations.

Staff has reviewed the plat and finds that the City's interests in maintaining the policies of the Urban Fringe Plan will not be compromised. Therefore, it is the recommendation of the City Manager that the City Council approve Alternative #1, waiving the City's jurisdiction of its subdivision review and allowing the plat of survey dated April 9, 2010 to be recorded at the Story County Recorder's Office no later than July 1, 2010. The covenants signed by the owner and submitted to the City will also be recorded with this plat.



### General Location Map



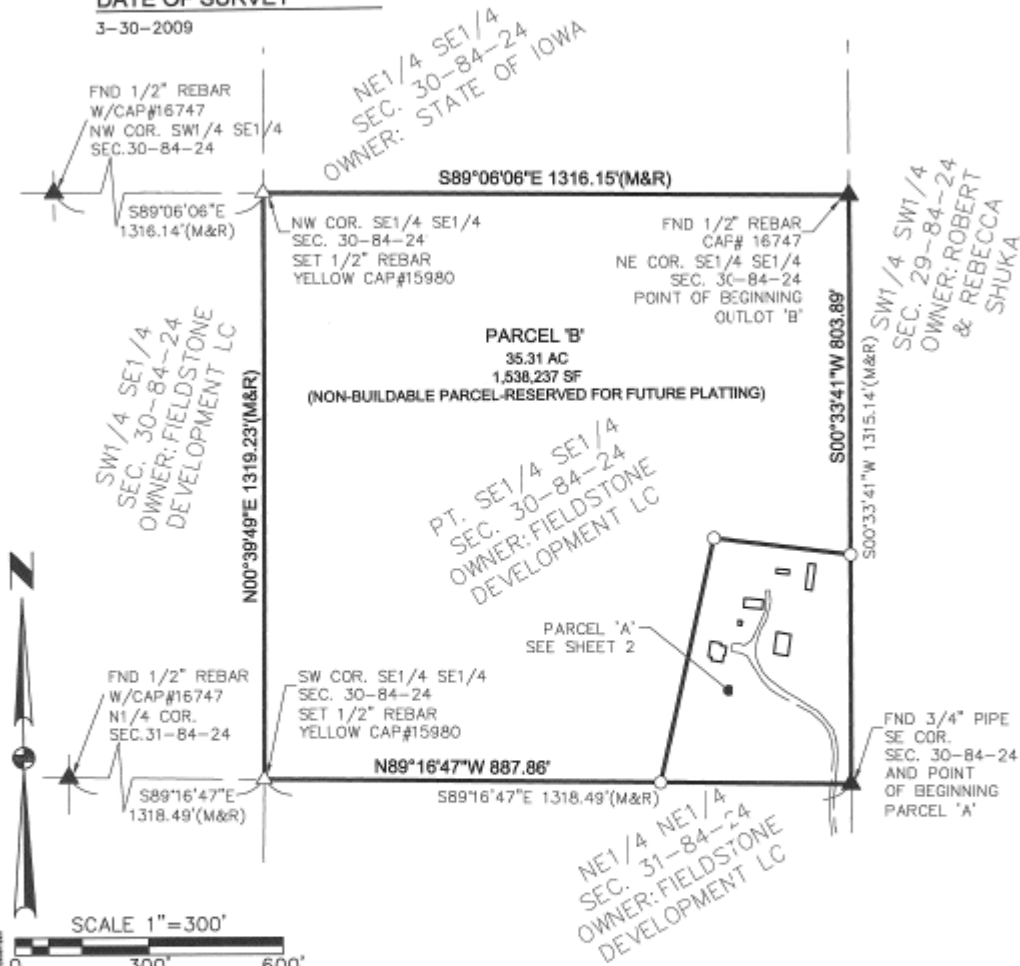
**PLAT OF SURVEY**

**OWNER & REQUESTED BY**

FIELDSTONE DEVELOPMENT LC  
100 6TH ST  
AMES IA 50010

**DATE OF SURVEY**

3-30-2009



**LEGEND:**

	FOUND	SET
SECTION CORNER AS NOTED	▲	△
1/2" REBAR, YELLOW CAP#15980 (UNLESS OTHERWISE NOTED)	●	○
PLATTED BEARING & DISTANCE	P	
MEASURED BEARING & DISTANCE	M	
RECORDED BEARING & DISTANCE	R	
DEEDED BEARING & DISTANCE	D	
CENTERLINE	---	
SECTION LINE	---	
EASEMENT LINE	---	
FENCE LINE	==*	==*



**REVISED 9-24-09**

I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED AND THE RELATED SURVEYING WORK WAS PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

*Michael A. Brooner* 4-9-2010  
MICHAEL A. BROONER, P.L.S. DATE

LICENSE NUMBER 15980  
MY LICENSE RENEWAL DATE IS DECEMBER 31, 2010  
PAGES OR SHEETS COVERED BY THIS SEAL:  
SHEETS 1 & 2

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