

## Staff Report

**NOTICE OF VOLUNTARY ANNEXATION  
TO THE CITY OF NEVADA  
INTO THE CITY OF AMES URBANIZED AREA**

October 26, 2010

**Background:**

Over the years the City of Ames has worked with Story County and Gilbert officials to develop a Fringe Area Plan to guide growth in unincorporated areas of Story County that are not expected to be annexed within either city. The Fringe Plan forces the cities to think about future expansion, plan for future annexations, and assure that land uses in adjacent development outside of the city is compatible with the uses within the city.

On September 29th, City of Nevada officials invited the planning staffs from Story County and the City of Ames to meet to begin discussions regarding planning for the area east of our city limits. All parties agreed it was critical that we accomplish land use planning between the two jurisdictions in an amicable manner and, based on objective criteria, jointly plan in order to avoid a “land rush” to grab up as much land as possible between our two communities.

On October 14, 2010, the City Clerk received notice of a public hearing for a voluntary annexation of property into the City of Nevada immediately west of the ethanol plant along the north side of Lincoln Way (See Attachment I). Apparently, there is an industrial company that has approached the City of Nevada seeking annexation and incentives to locate within their community. Obviously, this request comes prior to a time when our two communities have reached agreement on how the two cities will physically develop together.

The City of Nevada has utilized an innovative technique to expand their industrial land area to the west towards our city. As you can see from Attachment I, a “flag lot” was created using Lincoln Way right-of-way to extend the Nevada city limits west to the ethanol plant. **What makes this latest annexation so unique is that it represents the first time the City of Nevada has attempted to annex property within the City of Ames’ “urbanized area” (better known as our two mile urban fringe). Continued annexation of land west of the current Nevada city boundaries will limit our ability in the future to create more developable industrial land and accompanying jobs within our community. In addition, as the Nevada city limits move farther to the west, Nevada’s control over subdivisions within our Fringe Area increases. For these reasons, this latest annexation request deserves special attention by the City Council!**

It is important to point out that our current Land Use Policy Plan reflects an Industrial Reserve for property to the east of our current city limits. However, the amount of land envisioned for this purpose was based on past absorption rates and a 25 year planning horizon. We never contemplated the possibility of the City of Nevada extending their city limits to the very edge of this reserve area. With this as a possibility, it is critical that we expand this reserve farther to the east, to at least 590<sup>th</sup> Street. **Unfortunately, without any guarantee that no further expansion of the Nevada city limits will occur west of the proposed annexed property, the City of Ames must become more assertive in order to protect the availability of industrial land to our east beyond a 25-year planning horizon. This proactive approach is critical to preserve land for the future economic viability of our city.**

### **OPTIONS:**

- 1) The City Council can decide to take action to prevent this annexation to occur. This action could include objecting to the proposed annexation at the November 8<sup>th</sup> public hearing before the Nevada City Council and at the subsequent hearing before the State's City Development Board. Or, the City Council could decide to initiate involuntary annexation of this same property through a "flag lot" strategy.

The City of Ames could challenge the use of a right-of-way "flag lot" to extend Nevada's industrial area to the west rather than expanding into land currently adjacent to their city limits before the City Development Board and in the courts, if necessary. While there is no assurance that we would prevail in our efforts to prevent this annexation, our actions would certainly delay any final action on the annexation request.

- 2) The City Council can decide to refrain from more aggressive tactics outlined in Option 1, and choose to not object to this first intrusion into our two mile fringe area. This option might be advisable if the Nevada City Council takes action to establish an "annexing moratorium" as provided for in Chapter 368.4 of the Iowa Code.
- 3) The City Council can decide to not object to this first intrusion into our two mile fringe area, and hope that the Nevada City Council will not implement a growth strategy that would further extend their city limits west into the area currently designated as our Industrial Reserve.

### **STAFF COMMENTS:**

In recent conversations with the Mayor and City Manager from Nevada, it appears that they are sincerely interested in resolving this issue in a cooperative manner. They had hoped there would be more time to jointly plan for this boundary issue. Unfortunately, a request from an interested industrial prospect has forced them to consider annexation further to the west prior to a time when the two cities can resolve this issue through mutually acceptable planning efforts.

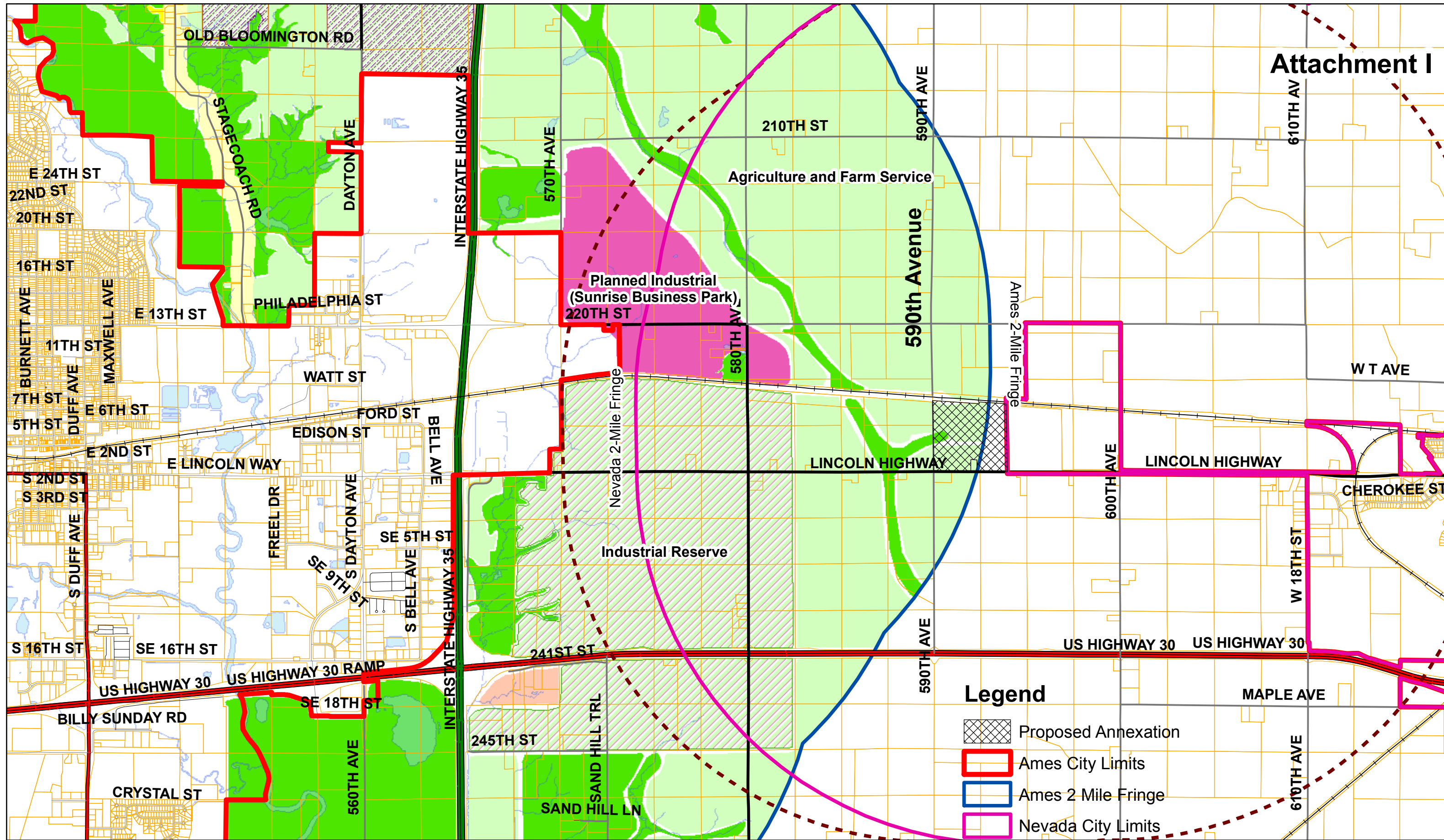
While Nevada's engineering consultants have explored the feasibility of annexing up to our current Industrial Reserve, these two officials have indicated that they would be willing to support a commitment by the City of Nevada not to annex west of 590<sup>th</sup> Street. The obvious questions arising out of these discussions would be 1) how can this commitment be formalized, and 2) when should this commitment be finalized?

Rather than determining land uses in an unincorporated area in Story County between two cities, this situation calls for a plan outlining where the two cities are going to annex up to each other's city limits. Therefore, it appears that a Fringe Area Agreement is not appropriate in this case, since such a document can be terminated unilaterally by either party.







Interestingly, the Iowa Code provides the type of legal remedy needed to protect our interests. Section 368.4 outlines a procedure that will result in an annexation moratorium in an area defined and mutually agreed upon by two cities. According to the Iowa Code, this moratorium would initially be for a period of not more than ten years, but it could be renewed for subsequent ten-year terms. Because of the ten year limit in enforceability, this arrangement does not provide the City of Ames with continuing protection from intrusion into our urban service area. The moratorium will need to be renewed every ten years, or more aggressive means will need to be adopted to protect our ability to expand our industrial growth area in the future.

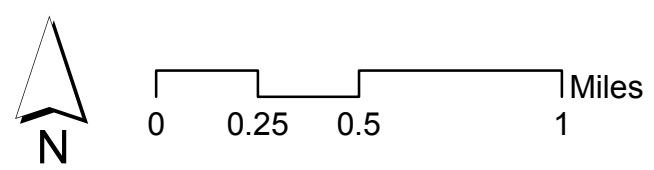
**Assuming that officials from both cities would prefer to work cooperatively to address our concern for Nevada's westward expansion to accommodate a new industry in their community, Option 2 appears to be the best alternative. However, in order to avoid the less desirable approach suggested in Option I, it is important that the Nevada City Council passes an annexation moratorium for the area outlined in Attachment II prior to the public hearing before the City Development Board.**

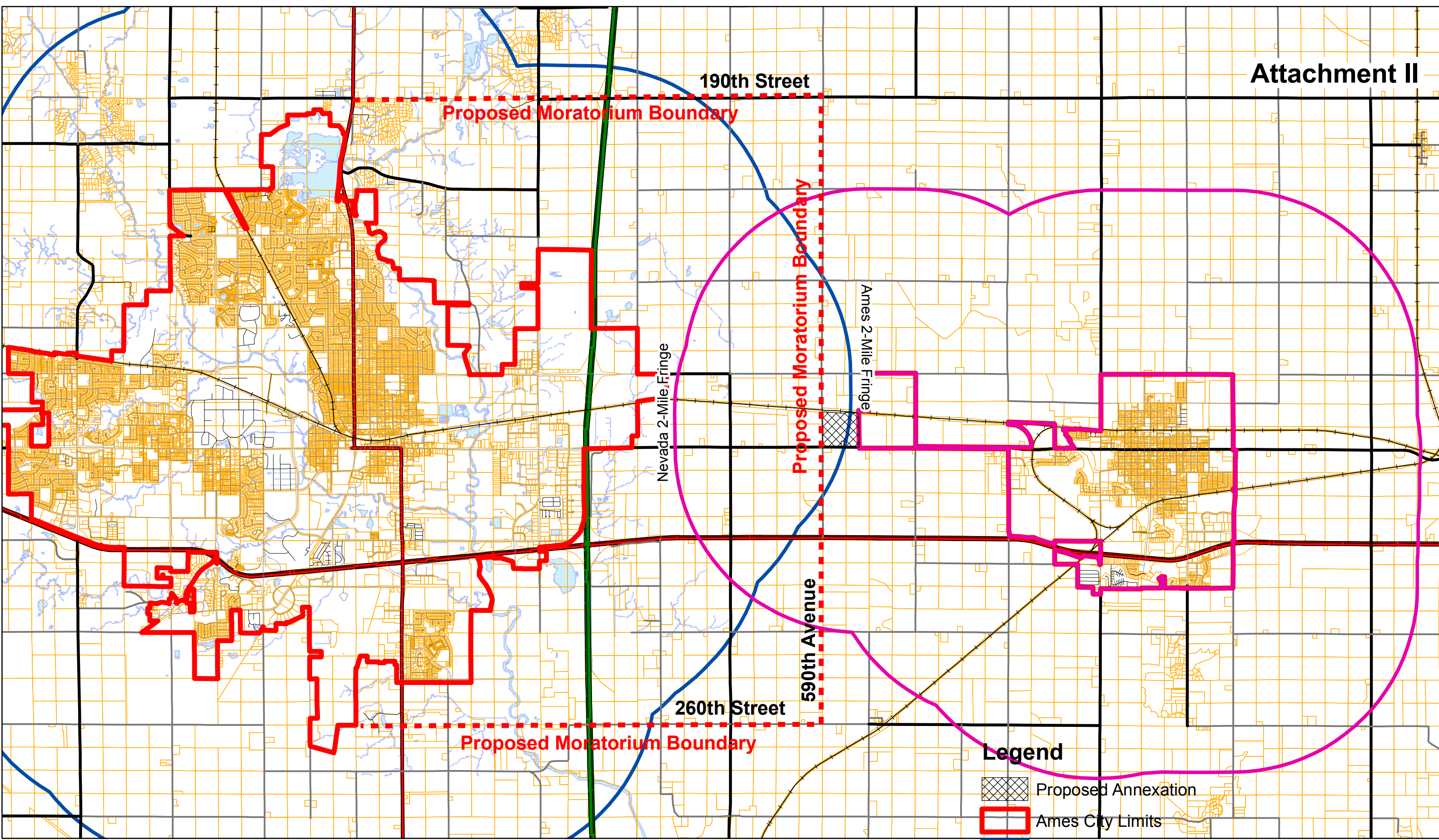
If the City Council chooses to support this approach, staff will share your position with Nevada city officials to determine their willingness to pass an annexation moratorium. Their willingness to cooperate with this moratorium will influence our position at the various public hearings.








**Legend**

-  Proposed Annexation
-  Ames City Limits
-  Ames 2 Mile Fringe
-  Nevada City Limits
-  Nevada 2 Mile Fringe
-  Nevada 2 Mile Fringe Post-Annexation





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