

COUNCIL ACTION FORM

SUBJECT: WATER SERVICE REQUEST FOR 2121 STATE AVENUE

BACKGROUND:

The City Council recently referred a letter to staff from John Wiley & Sons, Inc. (formerly ISU Press and hereinafter referred to as Wiley-Blackwell) regarding water service to 2121 State Avenue. The letter requested that the City allow the company to connect to City water service with an agreement that the owners would seek annexation at the City's request. The letter is included as Attachment 1. The property is contiguous to the City limits and is eligible for annexation. A location map is included as Attachment 2. It is zoned I-1 Industrial by the County.

It has been long-standing City policy to provide municipal services only to those properties that have been incorporated into the City limits. There have been recent cases where requests have been made for the City to allow services to be provided by rural water districts, such as Xenia. Some of these requests have been denied by the City due to these locations being within planned growth areas. In those cases, the *Code of Iowa* requires that the municipality provide water service within four years of the request by a rural water district and subsequent denial by the City. In response to these circumstances, the Ames *Municipal Code* was modified in 2009 to establish procedures to provide water service to rural customers prior to the property being incorporated into the city limits. **It should be noted that the rural water district has not requested to serve this area. Therefore, the City has no obligation to serve water outside of the corporate boundaries in this area.**

In this instance, the subject property is contiguous to the city limits, is located within an allowable growth area, and, therefore, is eligible for annexation. The applicant indicated that they seek to have access to City water rather immediately. The source of their water, a well, is on a separate tract of land known as the Curtiss farm and is owned by Iowa State University. Wiley-Blackwell's concern is that the timing of an annexation may delay their access to City water services.

The tract of land, as noted above, is within an area identified in the Land Use Policy Plan as an allowable growth area. In addition, the Ames Urban Fringe Plan designates this as Urban Residential. The existing use on the site is a publishing company which would be considered an industrial use, although, depending on the actual activities that take place, it may, alternatively, be classified as a commercial use. However, by local ordinance, any newly-annexed land is designated as A-Agriculture. Any subsequent rezoning would need to be consistent with the Land Use Policy Plan, which in this instance would be either a rezoning to Suburban Residential or Village Residential. The existing use of this as light industrial or commercial would be incompatible with either zoning designation.

In an instance earlier this year, a property across the street, 2126 State Avenue, made a similar request to receive City water and to agree to annex upon request of the City. That property, unlike the Wiley-Blackwell property, was not contiguous to the City limits and was not eligible to be annexed. The City Council approved a resolution allowing 2126 State Avenue to connect to City water once an agreement had been signed. The agreement allowed the property to connect to City water provided the “owner agree to voluntary annexation either when it becomes contiguous or at a later date, at the discretion of the Council.” A further condition prohibited the property from being further subdivided. The owner of that property has not yet availed itself of the resolution by signing an agreement. However, the property is on the market and staff has been asked by the realtor what a future owner would need to do to connect to City water. This request for water may yet come forward.

ALTERNATIVES:

1. **The City Council can direct staff to negotiate a pre-annexation agreement with Wiley-Blackwell, allowing for subsequent annexation and the provision of water services as desired by the property owner.** The agreement would need to be approved by the City Council prior to annexation. Connection to the water service would be allowed following annexation subject to the terms of the agreement.

This alternative can allow the City and Wiley-Blackwell to address the issue of annexing the incompatible use through contract rezoning—placing restrictions on the types of uses that could occur on the site. The agreement could also place requirements for site improvements that would reduce the impacts of the incompatible use on the adjacent areas that are, or are intended to become, residential developments.

The pre-annexation agreement would identify what actions by the City and Wiley-Blackwell would be necessary prior to annexation, what actions would be necessary prior to connection to the City water service, and what actions would be necessary to mitigate the incompatible use through contract zoning.

This option would be supported if the Council recognizes that current use of the structures on the property will continue and, therefore, it is unlikely that the property, once annexed into the City, will be developed residentially as envisioned in the LUPP. Placing this property under City regulations through annexation and subject to provisions in a pre-annexation agreement will allow the City to better protect the surrounding residential areas.

2. **The City Council can approve a resolution to grant 2121 State Avenue the ability to connect to City water services provided they sign an agreement that indicates that they will petition for annexation when the City Council requests it.** This is the alternative that was requested by the property owner and was approved previously for the owner of the property at 2126 State Avenue.

This alternative allows for Wiley-Blackwell to connect to the City water service once the agreement is signed. They would need to hire a contractor, make a connection

to City water services in accordance with the City's plumbing code, install a backflow prevention device, and otherwise comply with the requirements of the *Municipal Code*.

This alternative would leave the property under the jurisdiction of Story County zoning regulations. It would allow time for the City to investigate what an appropriate City zoning designation may be and seek any necessary Plan changes and/or rezoning with use limitations that may be necessary prior to annexation.

This option would be supported if the City Council's priority is to satisfy the property owner's request for water as soon as possible.

3. **The City Council can direct the applicant to apply for annexation, after which they could have access to the City water service.** This option is similar to Alternative #1, but would not require a pre-annexation agreement.

Once annexed, the property would be zoned as A-Agriculture, which would make the existing property a non-conforming use. There would be no immediate impact but they would be subject to the limitations of the *Municipal Code* regarding non-conforming uses. Any request to rezone to an industrial designation would need to comply with the Land Use Policy Plan, which is problematic since the Plan currently anticipates this area for residential development.

Connection to the City water service would occur after annexation and inspection by the City to ensure the well water system has been properly isolated from the domestic water system to ensure no cross contamination is possible.

This option would be supported if the Council wants to protect the surrounding residential area by bringing the property under City regulations through annexation and assumes that by making the current structures non-conforming, and thereby unable to expand significantly, it will be more likely that the property will be redeveloped as residential in the future.

4. **The City Council can indicate that it does not wish to provide water service to Wiley-Blackwell outside the City limits and nor does it wish to ask them to annex.** Since no rural water district has requested to provide service to this area, the City has no obligation to the property owner.

Under this option, Wiley-Press would remain outside the City limits and be subject to County zoning and regulations. In addition, the property owner will have to secure rights from ISU to use its existing well, construct a new well, or seek an alternative water source such as from Xenia.

This option would be supported if the Council sees no reason to support the property owner and is not concerned how the property is allowed to develop outside of the City limits.

MANAGER'S RECOMMENDED ACTION:

The Wiley-Blackwell site is intended by the Land Use Policy Plan and the Ames Urban Fringe Plan to be annexed. However, the Fringe Plan foresees this property and the adjacent properties as residential. While the annexation is consistent with these Plans, the current use of the property is not. It is currently developed with larger industrial-grade structures, and is used for commercial and/or business purposes. It is unlikely that the existing use will soon disappear and new residential uses introduced on the property. In fact, the existing development of the site reflects substantial investment and appears to be well maintained. Moreover, the current zoning of the site under Story County is Industrial, which would allow the property to be used for more intense uses than currently exist on the site, which could exacerbate the problem of incompatibility with the surrounding residential development and land uses.

If the City chooses to not annex the property, it will continue under the regulations of the County, leaving the City with little opportunity to affect the future use and development of the site. If the site is more intensely developed under current County zoning, it could undermine the City's long range plans for the site as specified in the Land Use Policy Plan.

In this unique situation it seems preferable for the City to pursue an annexation alternative subject to a contract between the City and property owner that will ameliorate the impacts of the existing use on current abutting residential uses and on the residential uses that are expected to develop under the City's Land Use Policy Plan.

Such measures might include limitations on future uses and/or design and buffering standards. If we wait until after annexation and extension of water service, regardless of which order these two actions occur, the City will have very little leverage to ask the property owner to limit its uses or to install mitigation measures. While such leveraging could occur during any subsequent rezoning—Wiley-Blackwell is not obligated to seek a rezoning if they choose to live within the confines of being a non-conforming use in an A-Agriculture zoning district. Only if they sought a rezoning would the City be able to impose use limitations or mitigation measures.

A pre-annexation agreement will allow the annexation to move forward and Wiley-Blackwell to have access to City water services. It will also specify what will trigger a rezoning and what use limitations and mitigation measures will be included as part of a contract rezoning.

Therefore, it is the recommendation of the City Manager that the City Council approve Alternative #1. Approval of this alternative will direct staff to negotiate a pre-annexation agreement with the property owner which, if approved by the City and Wiley-Blackwell, will specify under what conditions the City would agree to annexation and subsequent connection to the City water system.

ATTACHMENT 1

John Wiley & Sons, Inc.
Publishers Since 1807

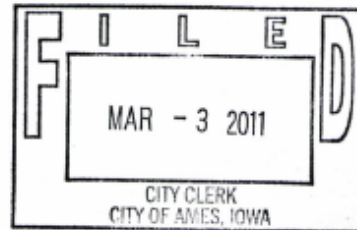


111 River Street
Hoboken, NJ 07030-5774
www.wiley.com
TEL 201.748.6000
FAX 201.748.6088

*Photo 3-4-1
copy: Joh*

March 2, 2011

Diane Voss
City Clerk
City of Ames
515 Clark Ave
Ames, IA 50010



Re: Request for Water Connection to 2121 State Avenue, Ames, Iowa

Dear Ms Voss:

REQUEST

The purpose of this letter is to request that the City of Ames approve a connection for this property to City Water at the earliest possible date and to express our interest in having the property annexed by the City at such later date that may be practical for the City and Wiley. We recently explored this idea with the City Planning Department staff and they suggested that we would have to make this formal request.

BACKGROUND AND RATIONALE

Our property in Ames, Story County is a 3.77 acre site and the home of Wiley-Blackwell (formerly Iowa State University Press) and a brand of John Wiley and Sons, Inc. We have two buildings on the site: an 18,000 square foot warehouse and a 9,000 square foot office building where we employ anywhere from 20-30 colleagues depending on business volume. Our colleagues perform editorial, marketing, finance activities supporting the publishing of books. The warehouse is used for storage at the present time.

Our site is located about 1,200 feet south of the intersection of State Avenue and U.S. Route 30. Our current water is supplied by a well on the University Curtiss Farm.

At this time, we wish to abandon the water well tie-in and instead tie-in to the City of Ames Water system and believe the City water main runs southward adjacent to our property. We believe this is a higher quality, longer-term solution for our needs.

We are amenable to City annexation but understand that such a process may be lengthy depending on the City's criteria and schedule for such consideration. Accordingly, we do not wish to delay our water tie-in request pending annexation but would agree to future annexation.

At this time we are not requesting a tie-in to the City sewer system but would assume this would align with annexation.

We understand that there may be some precedent with allowing for City water tie-in in anticipation of future annexation and hope that our property would qualify for such consideration. Please let us know if this request will be considered by the City, if we need to attend any meetings or provide any additional information.

Thanks you for your help and consideration.

Sincerely,



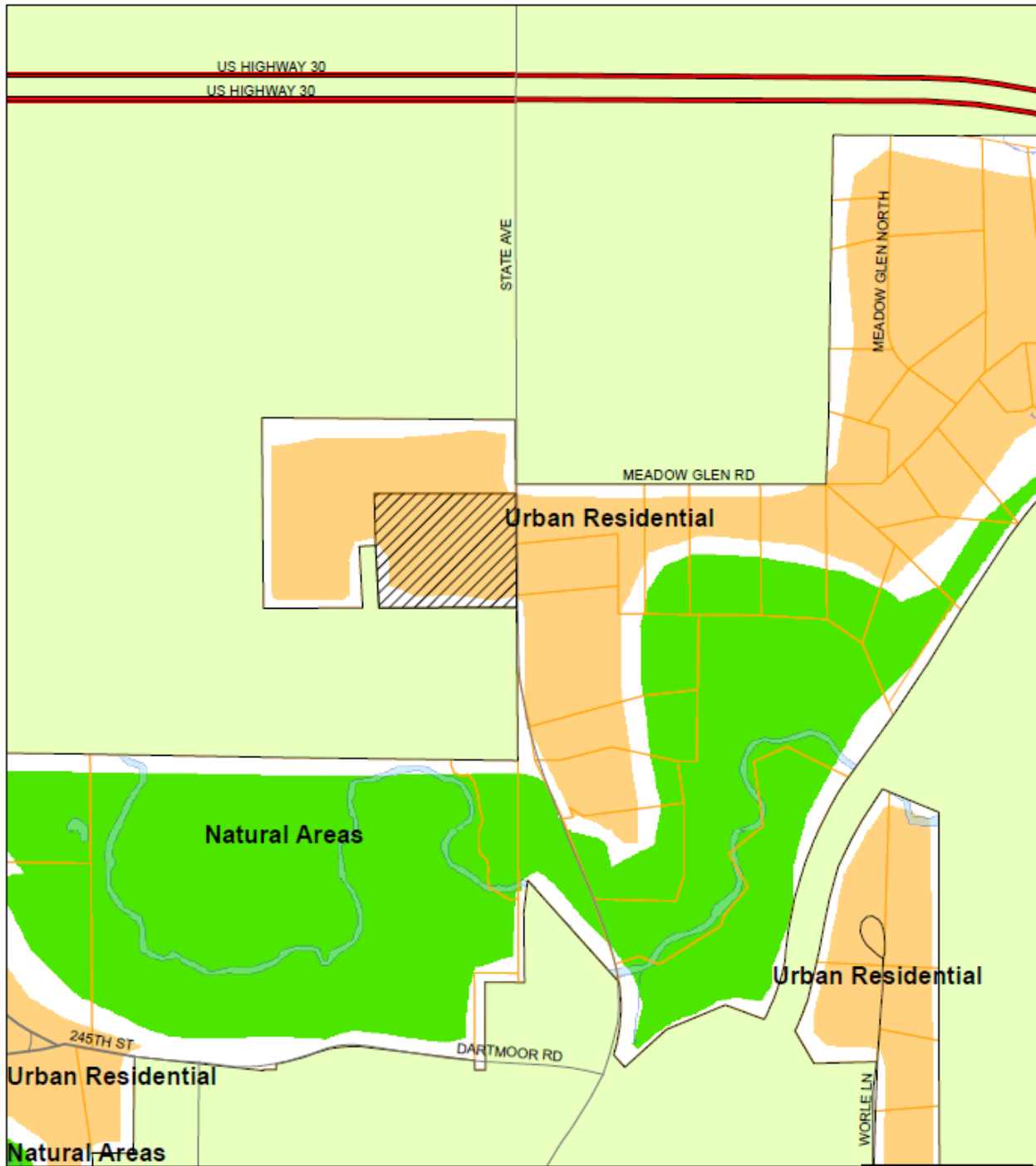
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cc: Steve Osguthorpe, AICP
Tracy Warner, PE

ATTACHMENT 2



Legend

 Wiley Press

0 200 400 800 Feet

Fringe Plan Designations

