



# Memo

City Manager's Office

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**TO:** Mayor and Council

**FROM:** Bob Kindred, Assistant City Manager

**DATE:** August 10, 2012

**SUBJECT:** Ringgenberg Park Subdivision, 3<sup>rd</sup> Addition Major Final Plat

On Tuesday, August 7, Kurt Friedrich and Brian Torresi submitted an application for approval of the Final Plat for the Ringgenberg Park Subdivision's 3<sup>rd</sup> Addition. They also expressed an urgent desire that this item be placed on your August 14 agenda for approval.

The Municipal Code states that applications for final plat approval of a major subdivision must be submitted to the City at least 15 days prior to the regular City Council meeting at which approval is sought. The attached letter from Mr. Torresi asks you to waive that requirement.

One purpose for that timeframe is to allow staff adequate time to review the submission and to verify whether or not all of the developer's commitments have been fulfilled. Knowing of your desire that we do everything possible to facilitate development in the community, staff has devoted a substantial amount of time over the past three days to coordinate review of this submission with the other affected agencies and utilities. Since review of this final major plat is the last time Council approval is needed, there are several elements of the overall Ringgenberg Park Subdivision that staff wants to make sure are adequately addressed before approval is given.

Staff will do everything possible to pull together needed information and approvals by Tuesday, August 14. However, it is possible that the final plat review may not be completed until later in the week. In that event, the applicant may request that Council hold a special meeting to approve their final plat.

Enclosure



REPLY TO AMES OFFICE

August 8, 2012

The Honorable Ann H. Campbell, Mayor, and  
Members of the Ames City Council  
City of Ames, Iowa  
515 Clark Avenue  
Ames, IA 50010

ATTN: Department of Planning and Housing

Re: Requested Waiver of Section 23.302(8)(a) of the Municipal  
Code, City of Ames, Iowa for Ringgenberg Park Subdivision  
Third Addition, Ames, Story County, Iowa

Dear Mayor Campbell, Ms. Voss and  
Members of the Ames City Council:

On behalf of Heartland Development, LLC (the "Applicant"), we are seeking a waiver of the timing requirements set forth in Section 23.302(8)(a) of the Municipal Code, City of Ames, Iowa (the "Code") related to the approval of the Final Plat of Ringgenberg Park Subdivision Third Addition, Ames, Story County, Iowa (the "Subdivision").

Section 23.302(8)(a) of the Code provides that applications for Final Plat Approval of a Major Subdivision must be submitted to the Department of Planning and Housing (the "Department") at least fifteen (15) days prior to the regular City Council meeting at which approval is sought. Section 23.103(1) of the Code provides that, for a particular subdivision, the City Council may modify or waive strict compliance with the Code if strict compliance would result in extraordinary hardship to the applicant, and that the ability of the City Council to modify or waive requirements is available "so that substantial justice may be done and the public interest secured".

On August 7, 2012, the Applicant submitted to the Department all of the documents and materials required for consideration of the approval of the Subdivision by the City Council. Upon submittal, the Applicant respectfully requested that approval of the Subdivision be considered at the August 14,

John D. Shors  
Robert A. Gamble  
Michael G. Kullik  
Frank J. Carroll  
Bruce I. Campbell  
Jonathan C. Wilson  
Steven L. Nelson  
David B. VanSickel  
Gene R. La Suer  
Deborah M. Tharnish  
Kent A. Herink  
Robert J. Douglas, Jr.  
Mark D. Walz  
Gary M. Myers  
Stanley J. Thompson  
David M. Erickson  
Lori Torgerson Chesser  
Jo Ellen Whitney  
Becky S. Knutson  
Julie Johnson McLean  
Beverly Evans  
Margaret Van Houten  
Thomas E. Stanberry  
Christopher P. Jannes  
Sharon K. Malheiro  
Kris Holub Tilley  
William A. Boatwright  
Thomas J. Houser  
Kendall R. Watkins  
Joseph A. Happe  
Scott M. Brennan  
William E. Hanigan  
Debra Rectenbaugh Pettit  
Matthew E. Laughlin  
Judith R. Lynn Bøes  
William P. Kelly  
Susan J. Freed  
Jason M. Ross  
Jason M. Stone  
Amy M. Landwehr  
John C. Pietila  
Emily E. Harris  
B. J. Miller  
Jodie Clark McDougal  
Jeffrey D. Ewoldt  
Tara Z. Hall  
Courtney Strutt Todd  
Nichole Miras Mordini  
Mark D. Wickham  
Kelly A. Deters  
Brian D. Torrosi  
Krystle L. Campa  
Sarah K. Franklin  
Christopher E. James  
Robert W. Dixon  
Michael C. Richards  
Christopher S. Talcott  
Elizabeth R. Meyer  
Michele L. Warnock  
Sarah E. Crane  
Jana M. Luttenegger  
Ann E. Naffier  
Matthew Warner-Blankenship

Intellectual Property  
Kent A. Herink  
Emily E. Harris  
Sean D. Solberg  
Matthew Warner-Blankenship

Of Counsel  
Jeffrey A. Baker  
Donald J. Brown  
Denise R. Claton  
C. Carleton Frederici  
Robert F. Holz, Jr.  
Dennis D. Jerde  
William J. Koehn  
Stephen M. Morain  
Joseph M. Pavlosky  
Richard E. Ramsay  
Stephen W. Roberts  
Thomas E. Salsbery  
Neat Smith  
Sean D. Solberg

A. Arthur Davis  
1928-1997

DAVIS BROWN KOEHN SHORS & ROBERTS P.C.

August 8, 2012

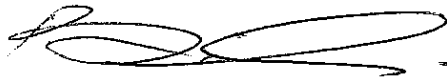
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2012, regular meeting of the City Council. Fortunately, the Applicant has already preliminarily sold about one-third (1/3) of the thirty-one (31) proposed residential lots within the Subdivision. Unfortunately, the closing dates set for most of those sales are on or about August 20, 2012. If the waiver requested herein is not granted by the City Council, these closing dates would have to be adjusted at considerable and extraordinary expense and hardship, not only to the Applicant, but to the purchasers of the lots and the builders of improvements on the lots.

While we appreciate and understand that the closing dates for the sales of lots in the Subdivision may have been set prematurely, we ask that the City Council nonetheless take the hardship of the multiple parties into consideration and grant the waiver requested herein in order to take action on the approval of the Subdivision on August 14, 2012.

We thank you in advance for your understanding and cooperation and for your assistance in expediting this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Brian D. Torresi", with a long horizontal flourish extending to the right.

Brian D. Torresi

Cc: Kurt W. Friedrich  
Scott Renaud

**COUNCIL ACTION FORM**  
(Prepared 8/14/12)

**SUBJECT: MAJOR FINAL PLAT FOR RINGGENBERG PARK SUBDIVISION  
THIRD ADDITION**

**BACKGROUND:**

On May 12, 2012, the City Council approved an amendment to the Preliminary Plat/Major Site Development Plan for the Ringgenberg Park Subdivision, Planned Residence Zoning District located south of Oakwood Road, west of Cedar Lane. The amendment removed the southern portion from the original Planned Residence District because that portion was sold to Iowa State University. That change left one final plat to complete the platting of the Ringgenberg Park development, which includes sites for 109 single-family detached residences and one large lot at the north end for single-family attached residences or small apartment residences.

On Tuesday, August 7, 2012 Kurt Friedrich, on behalf of Heartland Development LLC submitted an application for approval of a Final Plat for Ringgenberg Park, platting the remaining 31 lots in the project, and requested consideration by the City Council at its August 14 meeting. Along with the Final Plat, the following documents have been submitted:

- Request for a waiver of the 15-day minimum application submittal requirement for a final plat.
- Resolution Accepting the Plat of Northridge Heights, 14th Addition
- Consent to Platting
- Treasurer's Certificate
- Attorney's Title Opinion
- Agreement for Sidewalk and Street Trees
- Resolution Accepting Public Improvements (Completed)
- Agreement for Public Improvements (Remaining)
- Letter of Credit
- Easements (Public utilities, stormwater, walkway)

The proposed Final Plat complies with the approved Preliminary Plat and there were no conditions of approval of the Preliminary Plat.

**Public improvements required with the Third Addition** are completed except for some erosion control, grading and paving of Cedar Lane, surface paving of Coyote Drive and Red Fox Road and pedestrian ramp facilities. A **letter of credit for \$250,000 has been submitted to secure the completion of these public improvements.** Sidewalks and street trees on Coyote Drive and Red Fox Road are also yet to be

completed, lot-by-lot as homes are built, in accordance with the proposed Agreement for Sidewalk and Street Trees.

**Public improvements outside of this Third Addition** were addressed by the original Development Agreement for Ringgenberg Park, approved City Council on December 20, 2005. These have all been completed except for a bike path on the south side of Oakwood Road across the north boundary of this Subdivision, a bike path on the west side of Cedar Lane along the frontage of the large lot for attached residences or apartments, and various sidewalk segments where homes have not yet been built. The original Development Agreement specified that the bike paths were to be completed with the First Addition and the sidewalks were to be completed within two years of the platting of the lots. That deadline has not been met.

An Agreement for Sidewalk and Street Trees was also approved with the first final plat. This agreement provides for withdrawing building or occupancy permits if a residence is built without installing adjacent sidewalks within two years. With this approach, sidewalks will continue to be built on a lot-by-lot basis as homes are built, however long that takes.

This agreement also applies to the bike paths. If the bike paths are not completed within two years after any single-family attached or apartment residences are built, occupancy permits for those units can be revoked. However, the agreement does not specify whether this applies upon completion of the first residential unit built, the last residential unit built or upon completion of some portion of residential units on this large lot. Although no connecting bike paths exist on Oakwood Road, the City expects to complete the segment to the east within the next two years.

As the City Council is aware, this process for securing the construction of sidewalks in lieu of financial security has become the routine for residential subdivisions in Ames. However, this is the first request in over ten years for approval of the final plat in a larger subdivision developed over several years. **The City Council does have the opportunity to establish a deadline for completion of the sidewalks and bike path and require an Improvement Guarantee. After this Final Plat is approved, that opportunity will be gone.**

It could be determined that the proposed subdivision complies with all relevant and applicable design and improvement standards of the Subdivision Regulations, with the exception of the improvements listed in this report, to the City's Land Use Policy Plan, to other adopted City plans, ordinances and standards, and to the City's Zoning Ordinance. If the City Council prefers financial security for completion of walks and bike paths, it can require that an Improvement Guarantee be presented before release of the approved Final Plat documents for the Ringgenberg Park Subdivision Third Addition.

**Waiver of Subdivision Standards.** As is stated above, the application was submitted on Tuesday, August 7, 2012. However, Section 23.302(8)(a) of the Municipal Code states that, "The Applicant shall file an Application for Final Plat Approval with the Department of Planning and housing at least fifteen days prior to a regular meeting of the city Council . . ." That period of time provides staff opportunity to send copies of the

plat to internal departments as well as external parties that have interest in the plat, including the County Auditor, and all utility providers. In order to meet the applicant's requested deadline, it would be necessary for the Council to approve a waiver of the 15-day minimum deadline. Such a waiver may be considered by the Council under the provisions of Section 23.103(1), which states "that the Council may approve a waiver if it can be shown that strict compliance with the requirements of the Regulations would result in extraordinary hardship to the applicant or would prove inconsistent with the purpose of the Regulations so that substantial justice may be done and the public interest secured; provided, however, that such modification or waiver shall not have the effect of nullifying the intent and purpose of the Regulations."

The applicant's attorney, Brian Torresi, has submitted a waiver request, and in the request has provided a statement of hardship. The Council should determine if the applicant has met the criteria for hardship. If so, Council may approve the waiver. This would be a necessary first step in review of this application at this time. If the Council approves the waiver, it may then review and render a decision on the proposed final plat. If the Council denies the waiver, it must inform the applicant that the application will be considered no sooner than August 28, 2012.

#### **ALTERNATIVES:**

First, the City Council must decide whether or not it desires to approve a waiver of the 15-day application requirement for final plats. **If so**, then the Council could consider the following alternatives:

1. The City Council can approve a resolution approving the Final Plat for Ringgenberg Park Subdivision Third Addition by finding that all requirements of *Municipal Code* §23.302(10)(b) are met, **conditional upon receipt of an Improvement Guarantee** in the amount of \$150,000 to cover the cost for completion of sidewalks and bike paths required by the Development Agreement for Ringgenberg Park Subdivision approved on December 20, 2005.
2. The City Council can approve the Ringgenberg Park Subdivision Third Addition **without additional improvement guarantees** by finding that all requirements of *Municipal Code* §23.302(10) (b) are met.
3. The City Council can **deny** the Final Plat for Ringgenberg Park Subdivision Third Addition if it finds that the development creates a need for new public improvements that have not yet been installed per the approved Preliminary Plat and Development Agreement.
4. The City Council can refer this request back to staff or the applicant for additional information and or documents to be submitted to City Council by a date certain. That date, however, must be no later than the September 25, 2012 meeting.

### **MANAGER'S RECOMMENDED ACTION:**

City staff has evaluated the proposed final subdivision plat and determined that the proposal is consistent with the Preliminary Plat approved by the City Council and that the plat conforms to the adopted ordinances and policies of the City of Ames as required by Code.

Certain public improvements have not yet been completed and an Improvement Agreement and Letter of Credit has been presented to secure completion, except for the remaining sidewalks and bike paths. Although it makes sense to avoid damage to sidewalks by waiting until homes are built before the sidewalk in front is installed, it also seems reasonable that up to six years after moving into a subdivision the current residents should be able to enjoy an unbroken sidewalk system. As to the remaining bike paths, which were to have been completed by 2008, there is no bike path system to connect to either east or west of the Ringgenberg Park Subdivision. Since the City's bike path network is expected to connect to this location within two years, it is reasonable to require the remaining bike paths in this development to be completed within that same time frame.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative #1, thereby approving a resolution approving the Final Plat for Ringgenberg Park Subdivision Third Addition by finding that all requirements of *Municipal Code* §23.302(10) (b) are met, **conditional upon receipt of an Improvement Guarantee** in the amount of \$150,000 to cover the cost for completion of sidewalks and bike paths required by the Development Agreement for Ringgenberg Park Subdivision approved on December 20, 2005.

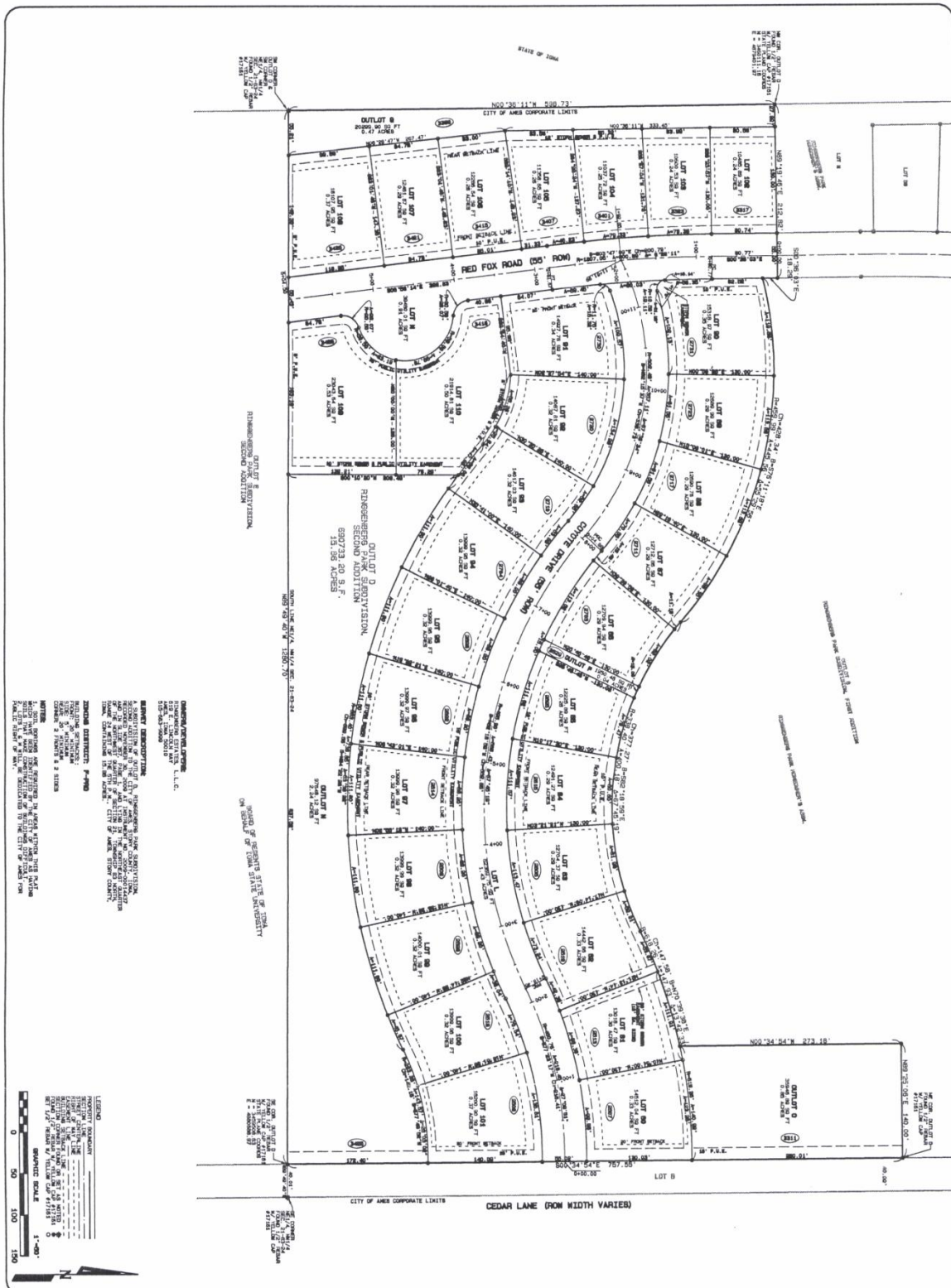
## Applicable Laws and Policies Pertaining to Final Plat Approval

Adopted laws and policies applicable to this case file include, but are not limited to, the following:

### *Ames Municipal Code Section 23.302*

- (10) City Council Action on Final Plat for Major Subdivision:
- (a) All proposed subdivision plats shall be submitted to the City Council for review and approval. Upon receipt of any Final Plat forwarded to it for review and approval, the City Council shall examine the Application Form, the Final Plat, any comments, recommendations or reports examined or made by the Department of Planning and Housing, and such other information as it deems necessary or reasonable to consider.
- (b) Based upon such examination, the City Council shall ascertain whether the Final Plat conforms to relevant and applicable design and improvement standards in these Regulations, to other City ordinances and standards, to the City's Land Use Policy Plan and to the City's other duly adopted plans.
- (c) The City Council may:
- (i) deny any subdivision where the reasonably anticipated impact of such subdivision will create such a burden on existing public improvements or such a need for new public improvements that the area of the City affected by such impact will be unable to conform to level of service standards set forth in the Land Use Policy Plan or other capital project or growth management plan of the City until such time that the City upgrades such public improvements in accordance with schedules set forth in such plans; or,
- (ii) approve any subdivision subject to the condition that the Applicant contribute to so much of such upgrade of public improvements as the need for such upgrade is directly and proportionately attributable to such impact as determined at the sole discretion of the City. The terms, conditions and amortization schedule for such contribution may be incorporated within an Improvement Agreement as set forth in Section 23.304 of the Regulations.
- (d) Prior to granting approval of a major subdivision Final Plat, the City Council may permit the plat to be divided into two or more sections and may impose such conditions upon approval of each section as it deems necessary to assure orderly development of the subdivision.
- (e) Following such examination, and within 60 days of the Applicant's filing of the complete Application for Final Plat Approval of a Major Subdivision with the Department of Planning and Housing, the City Council shall approve, approve subject to conditions, or disapprove the Application for Final Plat Approval of a Major Subdivision. The City Council shall set forth its reasons for disapproving any Application or for conditioning its approval of any Application in its official records and shall provide a written copy of such reasons to the developer. The City Council shall pass a resolution accepting the Final Plat for any Application that it approves.
- (Ord. No. 3524, 5-25-99)*





**STUMBO & ASSOCIATES**  
LAND SURVEYING, INC.

510 S. 17th STREET, SUITE 102 AMES, IOWA 50010  
PHONE 515-233-3689 FAX 515-233-4403

**FINAL PLAT**  
**RINGGENBERG PARK SUBDIVISION,**  
**THIRD ADDITION**

SUBDIVISION OF OUTLOT D, RINGGENBERG SUBDIVISION,  
SECOND ADDITION IN THE NE1/4, NW1/4 SEC. 21-83-24,  
AMES, STORY COUNTY, IOWA

SURVEY PREPARED FOR: SCOTT RENAULT,  
FOX ENGINEERING  
JOB #15313FP3 DATE: 8/01/12 PAGE: 1 of 1

Certification: I hereby certify that this land surveying  
document was prepared and the related survey work was performed  
by me or under my direct personal supervision and that I am a duly  
licensed land surveyor under the laws of the State of Iowa.  
R. B. Stumbo, License #17151 Date: 8/1/12  
My license renewal date is December 31, 2013

