

**COUNCIL ACTION FORM**

**SUBJECT: REFERRAL OF ANNEXATION PETITIONS FOR ATHEN PROPERTIES, QUARRY ESTATES, AND HUNZIKER PROPERTIES**

**BACKGROUND:**

By Monday, February 11<sup>th</sup>, the City will have received annexation petitions from several property owners in the North Growth Area. These property owners are:

- Phyllis Athen Trust; James Athen Trust; and Ricky Madson for two parcels on George Washington Carver
- Quarry Estates for a single parcel on 190<sup>th</sup> Street
- Erben and Margaret Hunziker Apartments on Grant Avenue (“Hunziker North”)
- Hunziker Land Development on Grant Avenue (“Hunziker South”)

A map of this area is included as Attachment 1, and a list of property owners is included as Attachment 2.

These properties are all contiguous to the City but are not contiguous to each other. Therefore, they must be treated as three distinct territories for the purpose of annexation. Accordingly, the Athen property is a single annexation comprising 100 percent of consenting ownership. The Quarry Estates and Hunziker North areas make up another annexation comprising 92.70 percent of consenting ownership (including properties owned by B. Frame and H. Frame in order to avoid creating an island). The Hunziker South area comprises an area of 54.01 percent of consenting owners (including land owned by Sturges, Eness, Eness, Eness/Taylor, Gregg/Scwhery, Hamblin, and Fidelity Bank).

The Code of Iowa allows voluntary annexation to contain up to 20 percent of land of non-consenting owners to be included. Therefore, the Athen property and the Quarry Estates/Hunziker North requests meet the threshold of voluntary annexation. The Hunziker South request does not meet the statutory requirements for a lawful annexation.

At the December 11, 2012 City Council meeting, during the public hearing for the request by Athen to designate his property as Urban Residential, the City Council directed staff to secure annexation agreements from the Grant Avenue properties proposed for development (Quarry Estates and the two Hunziker properties) prior to proceeding with annexation of the Athen property. Those agreements provide the mechanism by which the costs of sanitary sewer, water and street construction will be recovered.

Following submittal of the Athen annexation request in December, 2012, Council considered the Athen and Quarry Estates annexation petitions at its January 8, 2013 meeting. At that time, Council agreed to defer action at that time, and directed staff to accomplish the following:

1. Meet with the City Development Board to determine whether the option of considering all three properties as a single territory for annexation (and thus meeting the 80/20 requirement) is an acceptable alternative.
2. Meet with the other property owners along Grant Avenue to discuss their interest in annexation at this point in time.
3. Work with Hunziker and request that they apply for annexation of both properties.

In response to those directives, the following actions occurred:

1. Staff met with the City Development Board and staff of the Economic Development Authority on January 9. The position of the Board was that the three annexation areas as proposed by the City must be treated as three separate territories when determining the 80/20 ratio.
2. Staff met with the owners of land along Grant Avenue on January 21. To date, none of those owners have expressed a desire to seek annexation into the City. Attachment 3 contains comments developed by this group following that meeting.
3. By February 11<sup>th</sup>, Hunziker Land Development and Hunziker Apartments will have submitted petitions for annexation as requested by the City Council.

In addition, annexation agreements are being completed with representatives from the Athen properties, Quarry Estates and the two Hunziker properties as directed by the Council at the December 11<sup>th</sup> meeting.

Based on the annexation applications expected to be filed by Tuesday's meeting, only the Athen properties and the Quarry Estates/Hunziker North properties are eligible for annexation. Should the City Council chose to move forward with these two requests, the City would begin the State's mandated process by inviting the Franklin Township trustees and the Story County Supervisors to a consultation on the annexation at the February 26 City Council meeting. The following schedule of steps noted would be followed:

- February 12..... City Council refers applications to Planning & Zoning Commission
- February 26..... Consultation with County Supervisors and Township Trustees
- March 6 .....Planning & Zoning Commission considers applications

March 7 .....Last Day for Supervisors and Trustees to make written recommendations for modification to the proposed annexation

April 9 .....City Council Public Hearing and action on annexations

Following these steps, the State of Iowa’s City Development Board would also need to review and approve the Quarry Estates/Hunziker annexation, since it is not 100 percent consenting and because it lies within two miles of the Gilbert city limits.

A way forward for annexation of the Hunziker South property has also been identified. The annexation agreement provides a deadline of February 19 for the developer and City staff to either have annexation requests that meet the requirements of the Code of Iowa (by finding other abutting owners who consent to annexation so as to fulfill the 80/20 requirements), or else initiate a two-lot subdivision in order to create a “flag lot” that will allow the non-consenting owners to remain in an unincorporated area and not be an island.

**ALTERNATIVES:**

In accordance with previous Council direction, the Council should consider these alternatives only if the City Council is satisfied with and has approved the respective development agreements.

1. The City Council can accept the petitions for annexation for the Athen properties as one territory, and the Quarry Estates and Hunziker North property as another territory, and begin the annexation process by referring these petitions to the Planning and Zoning Commission.

The City Council should not accept the petition for annexation from Hunziker Apartments at this time, since it does not constitute a legal request and approval would create an unacceptable island. The annexation agreement identifies two ways forward for this property to be annexed. The agreement provides until February 19 for one of these avenues to be pursued.

2. The City Council can refuse the petitions for annexation for any or all of these properties.
3. The City Council can refer this request back to staff and/or the applicants for additional information.

**MANAGER'S RECOMMENDED ACTION:**

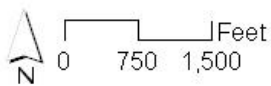
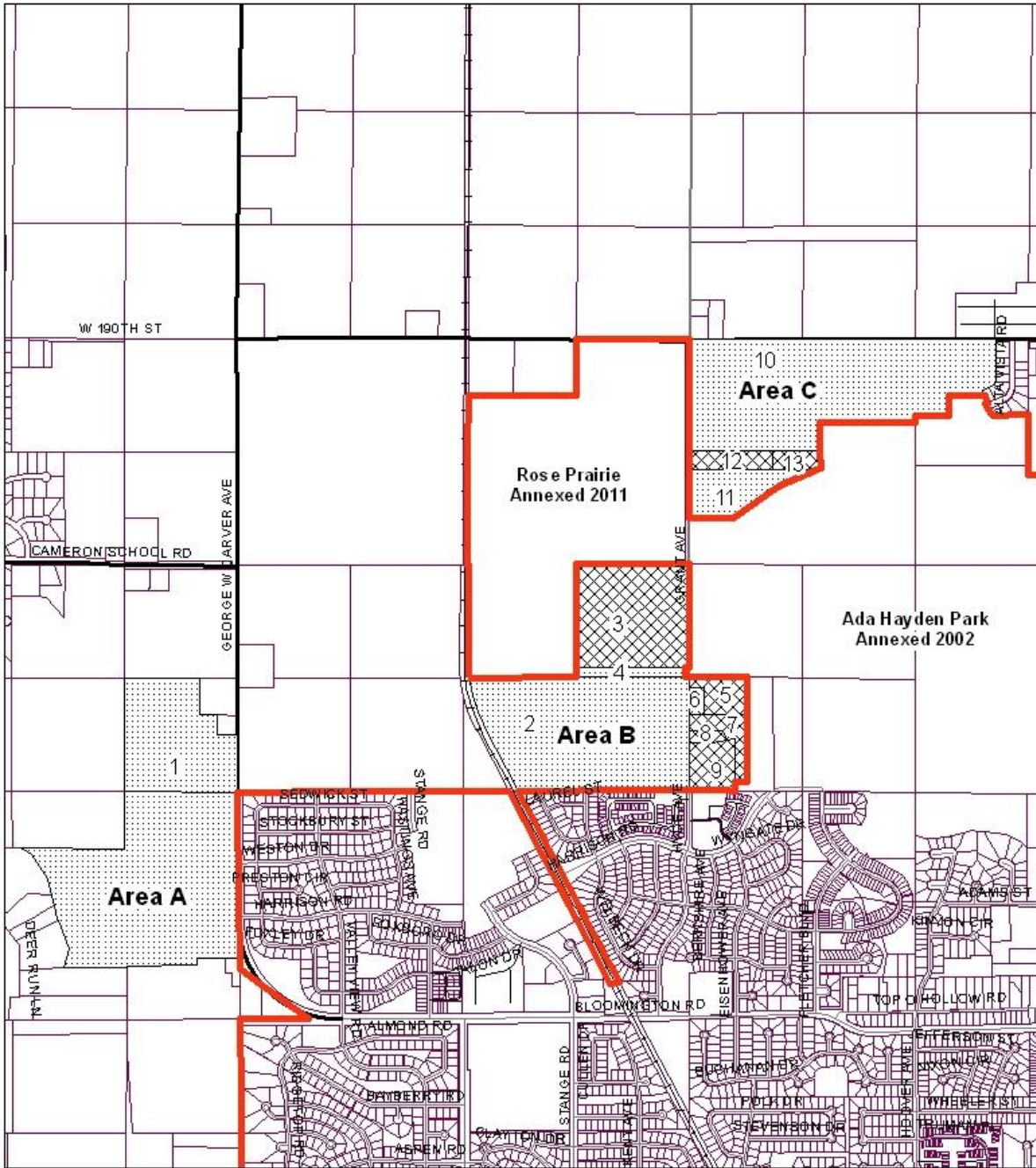
The proposed annexations are consistent with the Allowable Growth Areas of the Land Use Policy Plan and the Ames Urban Fringe Plan. The development agreements ensure that the costs that will be borne by the City for road improvements, sanitary sewer, and water will be shared by the developers as development occurs or in ten

years. This, too, is consistent with the Capital Investment Strategy of the Land Use Policy Plan. Furthermore, the annexation agreement with Athen meets the conditions imposed with the Land Use Policy Plan change that was approved by the Council.

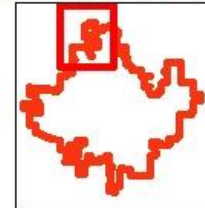
City staff and the City Council have heard from developers, home builders, and realtors that the stock of buildable residential lots in the community is dwindling and that new lots need to be made available soon. The proposed annexation of 355 acres would likely satisfy normal housing demand in Ames for a number of years.

Therefore, it is the recommendation of the City Manager that the City Council approve Alternative #1. This alternative will accept the petitions for annexation for the Athen properties, the Quarry Estates property and the Hunziker North property and begin the annexation process by referring these requests to the Planning and Zoning Commission.

# ATTACHMENT 1



- Legend**
- Ames City Boundary
  - Non-consenting
  - Consenting



## ATTACHMENT 2

This table identifies the owners of land within the three areas proposed for annexation. Column 1 is the number corresponding to the map on the previous page. Columns 2 and 3 are the owners and total acres of their land. Column 4 is the total acres seeking annexation. Column 5 is the percent of consenting owners within each area and overall.

Map Index	Name	Gross Acres	Consent?	Percent Consent
<b>Area A</b>				
1	Athen	121.02	Y	
	<b>Total</b>	<b>121.02</b>	<b>121.02</b>	<b>100.00</b>
<b>Area B</b>				
2	Hunziker Apartments	69.80	Y	
3	Sturges	36.12		
4	Fidelity Bank	3.42		
5	Eness	5.43		
6	Eness/Taylor	1.24		
7	Eness	5.10		
8	Gregg/Schwery	1.17		
9	Hamblin	6.99		
	<b>Total</b>	<b>129.27</b>	<b>69.80</b>	<b>53.01</b>
<b>Area C</b>				
10	Quarry Estates	85.45	Y	
11	Hunziker Land Development	12.00	Y	
12	Frame	4.84		
13	Frame	2.83		
	<b>Total</b>	<b>105.12</b>	<b>97.45</b>	<b>92.70</b>

Area A and Area C, each, have a high enough percentage of consenting owners of land to proceed with annexation. Area B does not.

### ATTACHMENT 3

#### Comments from the Grant Avenue owners

The residents of Grant Avenue, who will be affected by the city of Ames annexation, would like to voice our cumulative concerns regarding the plans that have been presented to us.

We are grateful to Bob Kindred, Charles Kuester and others on the city management team who have conscientiously kept us abreast of the annexation plans.

We understand that plans to pave our road and begin sewage and water hook-ups are underway. The city has been clear that we most likely have no financial obligation for assessment fees for the road development. We have been presented with the pros and cons of annexation. Our concerns, nevertheless, are plentiful. We must make it clear to you that we have chosen a rural life. We have little to no desire to be city dwellers. We want solitude, free of light pollution and city taxes. We are comfortable with county law and fire protection (two of the "pros" presented to us were that we would have benefits of city police and fire). We are satisfied with our present sewage, gas and water services. Some of us are happily still using well water.

Although we have been told that we are not required to immediately hook up to city sewage and water we would be encouraged to do so. The cost to connect to city water and sewage ranges from \$5,000 to \$130,000 for individual residents. Charging us by acreage when we have no plans or means to develop is unfair. We can't afford to be charged by acreage that would force many of us to sell and relocate. Maybe that is what the city wants.

Connection fees for individual landowners should not exceed a standard municipal connection fee.

We feel that 1) We are being asked to pay for something which will be used to profit others and 2) We are being pressured to relocate. Some of us have lived here for 4 generations.

We do not want to voluntarily request annexation. If this is destined to happen then we would like to request that it is at NO expense to us. We strongly feel that the City of Ames and the developers that want annexation should find a way to cover costs for these individual residents to not only prevent them from paying for road construction but also prevent them from paying anything for sewage and water hook ups.

If that can be offered to us we would be less likely to refuse voluntary annexation. If this cannot be offered to us we must choose to fight annexation if we are at risk of losing our homes otherwise.

We understand that the developers of Ames are powerful machines but there is a human aspect to this issue that should be regarded.

Here are two examples of potential costs to landowners:

Roger and Lori Hamblin's potential initial expenses

- |                           |             |
|---------------------------|-------------|
| 1. Water main             | \$11,611.00 |
| 2. Water connect to house | \$3,500.00  |
| 3. Sewer main             | \$13,896.00 |
| 4. Sewer connect to house | \$2,500.00  |

5. Remove septic tank	\$1,000.00
6. Buy out Xenia contract	\$200.00
7. Easement costs	\$?????
<b>TOTAL</b>	<b>\$32,707.00</b>

Hamblin's long term costs

1. Increase in property and city taxes of 25% (MINIMUM)= \$2500-\$4000 annual increase.

Julie Schwery and Clayton Gregg's potential expenses

1. Water main	\$2,200.00
2. Water connect to house	\$3,500.00
3. Sewer main	\$2,326.00
4. Sewer to house	\$2,500.00
5. Remove septic tank	\$1,000.00
6. Natural gas	\$1,050.00
7. Convert water heater to gas	\$100.00
8. Buy out Xenia contract	\$200.00

<b>TOTAL</b>	<b>\$12,876.00</b>
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Schwery/Gregg long term costs

Increase in property and city taxes of 25% (compared to present tax fees)=\$700.00 - \$1000.00 annual increase

Sincerely,

Roger and Lori Hamblin  
 Clayton Gregg and Julie Schwery  
 Mark Taylor and Allison Eness  
 Paul and Margot Eness  
 Leroy and Sue Sturges  
 Harold and Betty Frame  
 Brian and Jamie Frame