



Memo

Department of Planning & Housing

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TO: Honorable Mayor and City Council, Franklin Township Trustees, & Story County Supervisors

FROM: Charlie Kuester, Planner

DATE: February 22, 2013

SUBJECT: Annexation Consultation for Territories North of Ames

Even though a significant issue still remains regarding how to provide adequate water service to the properties in question, in order to avoid any further delays in handling these annexation requests, on February 12th the City Council voted to move forward with the proposed annexation of two territories on the north side of Ames. By taking this action, the City Council members hope that this rural water issue will be resolved prior to making any final decisions regarding these annexations during April 2013.

As a first step in that process and in accord with state law, the Council is hosting a consultation with the Franklin Township Board of Trustees and the Story County Board of Supervisors on February 26th. The purpose of this consultation is to identify any issues that those bodies may raise concerning the proposed annexation. Within seven business days following the consultation, the Supervisors and Trustees may then make written recommendations for modification to the proposed annexation. Within 30 days of the consultation, the Supervisors are also to pass a resolution stating whether or not they support the application or whether they take no position in support of or against the application.

The first territory contains two parcels owned by the Phyllis Athen Revocable Trust, the James Athen Revocable Trust, and Ricky Madson, collectively known as the Athen properties. These lie west of George Washington Carver Avenue in Sections 20 and 29 of Franklin Township. The total area of this territory is 121.02 acres.

Annexation of the second territory was initiated by Quarry Estates, LLC. In order to avoid creating an island, the City is also including three non-consenting properties, as allowed under Code of Iowa Section 368.7(a). These additional properties are owned by Harold and Bette Frame, Harold and Bette Frame on contract to Brian and Jamie Frame, and Hunziker Land Development, LLC. These lie along 190th Street and Grant Avenue in Section 22 of Franklin Township, and total 105.12 gross acres.

Attached is a copy of the February 12th Council Action Form giving further background, as well as descriptions and maps of the properties involved in each of these territories. Although Hunziker Land Development, LLC is listed as non-consenting, they actually were awaiting resolution of rural water issues before filing annexation petitions for their two properties along Grant Avenue. **It is critical that, prior to the actual annexation of these territories, the rural water issue be worked out and pre-annexation agreements be signed for the Athen properties and Quarry Estates, as well as for the two Hunziker properties.**

ATHEN VOLUNTARY ANNEXATION

121.02 Gross Acres

Consenting: 100%

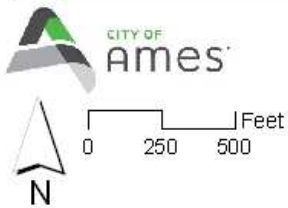
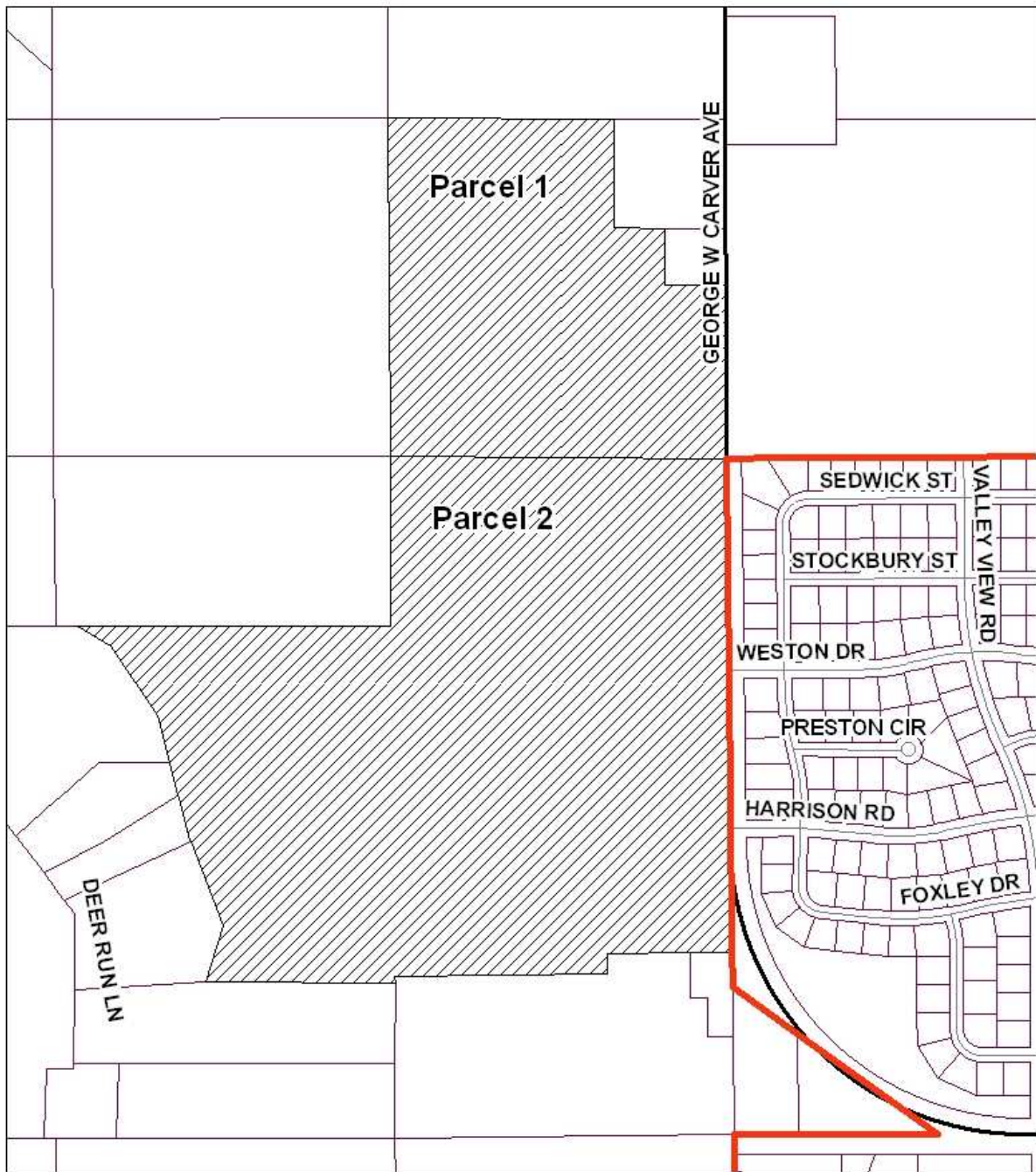
Consenting:

Parcel 1

Owner: Phyllis Athen Revocable Trust 1/4, James Athen Revocable Trust 1/4, Ricky Dean Madson 1/2, c/o Phyllis Athen. 3601 George W. Carver Avenue, Ames, IA 50014
Legal: Parcel 'U' in the Southeast Quarter (SE ¼) of the Southeast Quarter (SE ¼) of Section 20, Township 84 North, Range 24 West of the 5th P.M., Story County, Iowa; as shown on the Plat of Survey filed in the office of the Recorder of Story County, Iowa, on December 23, 1999, as Instrument # 99-16786. Contains 34.34 gross acres.



Parcel 2:

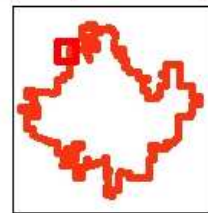
Owner: Phyllis Athen Revocable Trust 1/4, James Athen Revocable Trust 1/4, Ricky Dean Madson 1/2, c/o Phyllis Athen. 3601 George W. Carver Avenue, Ames, IA 50014
Legal: Parcel 'F' in the Northeast Quarter (NE ¼) of Section 29, Township 84 North, Range 24 West of the 5th P.M., Story County, Iowa; as shown on the Plat of Survey filed in the office of the Recorder of Story County, Iowa, on May 4, 2012, as Instrument # 2012-00004713. Contains 86.68 gross acres.



Proposed Annexation

Legend

-  Ames City Boundary
-  Proposed Annexation



QUARRY ESTATES VOLUNTARY ANNEXATION

105.12 Gross Acres

Consenting: 81.29%

Consenting:

Parcel 1

Owner: Quarry Estates, LLC c/o Kurt Friedrich, 100 6th Street, Ames, IA 50010

Legal: Parcel 'L' in the North Half (N ½) of Section 22, Township 84 North, Range 24 West of the 5th P.M., Story County, Iowa; as shown on the Plat of Survey filed in the office of the Recorder of Story County, Iowa on January 17, 2012, and recorded as Instrument # 2012-00000476. Contains 85.45 gross acres.

Non-Consenting:

Parcel 2

Owner: Harold Frame and Bette A. Frame, 5442 Grant Avenue, Ames, IA 50010

Legal: Parcel 'B' in the Northwest Quarter (NW ¼) of Section 22, Township 84 North, Range 24 West of the 5th P.M., Story County, Iowa; as shown on the Plat of Survey filed in the office of the Recorder of Story County, Iowa, on February 6th, 1998, and recorded as Instrument # 98-01464 in C&FN Book 15 at Page 110. Contains 4.84 gross acres.

Parcel 3

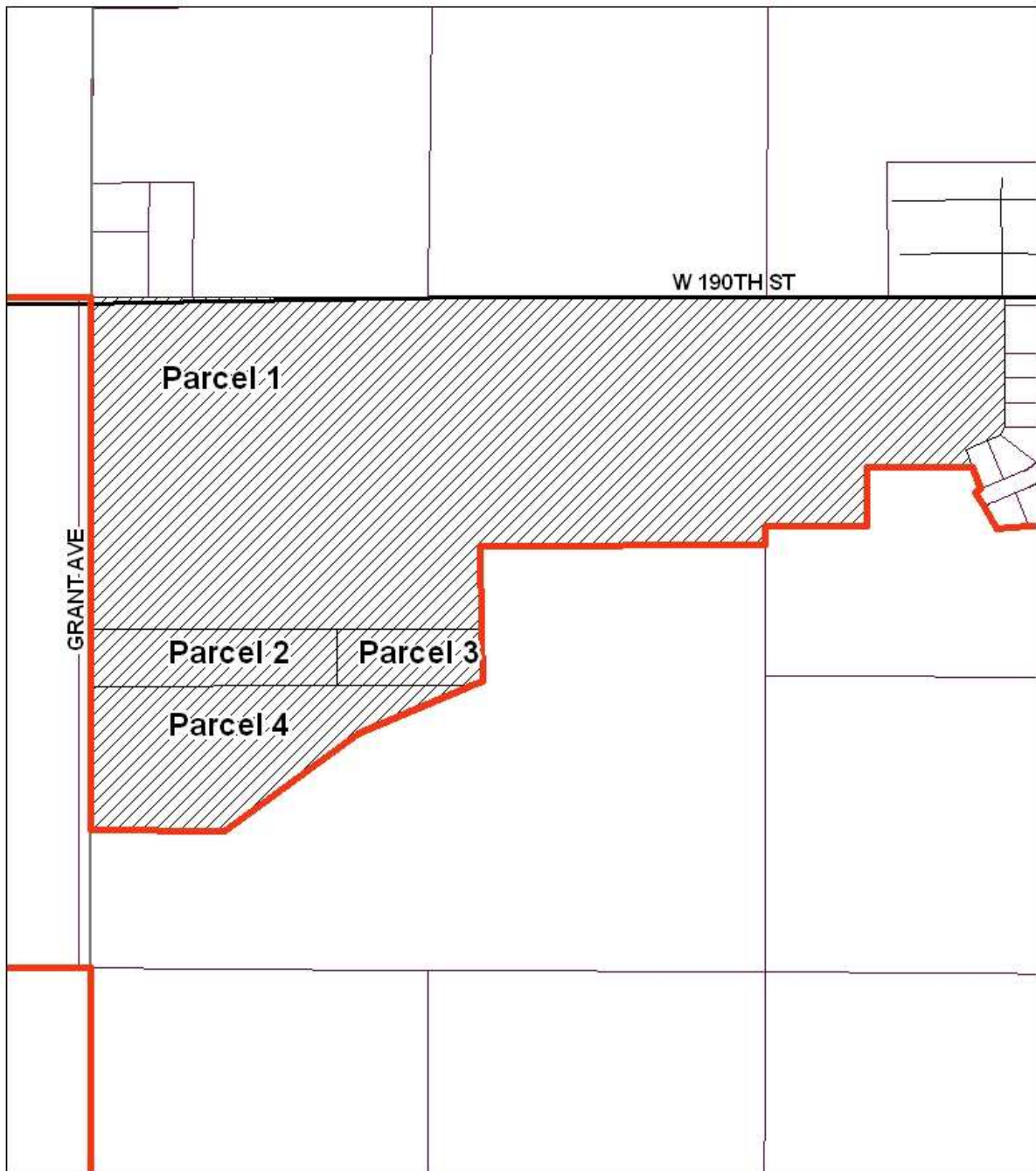
Owner: Harold Frame and Bette A. Frame, 5442 Grant Avenue, Ames, IA 50010 (deed holder); Brian A. Frame and Jamie R. Frame, 5440 Grant Avenue, Ames, IA 50010 (contract buyer)

Legal: Parcel 'C' in the Northwest Quarter (NW ¼) of Section 22, Township 84 North, Range 24 West of the 5th P.M., Story County, Iowa; as shown on the Plat of Survey filed in the office of the Recorder of Story County, Iowa, on February 6th, 1998, and recorded as Instrument # 98-01464 in C&FN Book 15 at Page 110. Contains 2.83 gross acres.

Parcel 4

Owner: Hunziker Land Development Co. LLC, 105 S. 16th Street, Ames, IA 50010



Legal: Parcel 'K' in the Northwest Quarter (NW ¼) of Section 22, Township 84 North, Range 24 West of the 5th P.M., Story County, Iowa as shown on the Plat of Survey filed in the office of the Recorder of Story County on June 8, 2011, on Slide 407, Page 5, and as Instrument # 11-05323. Contains 12.00 gross acres.

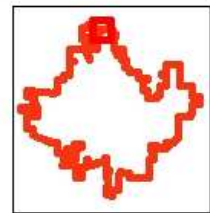


0 245 490 Feet

Proposed Annexation

Legend

-  Ames City Boundary
-  Proposed Annexation



COUNCIL ACTION FORM

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

BACKGROUND:

By Monday, February 11th, 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 190th 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 11th, 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 11th 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 6Planning & Zoning Commission considers applications

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

April 9City 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:

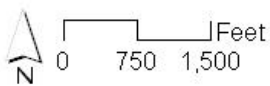
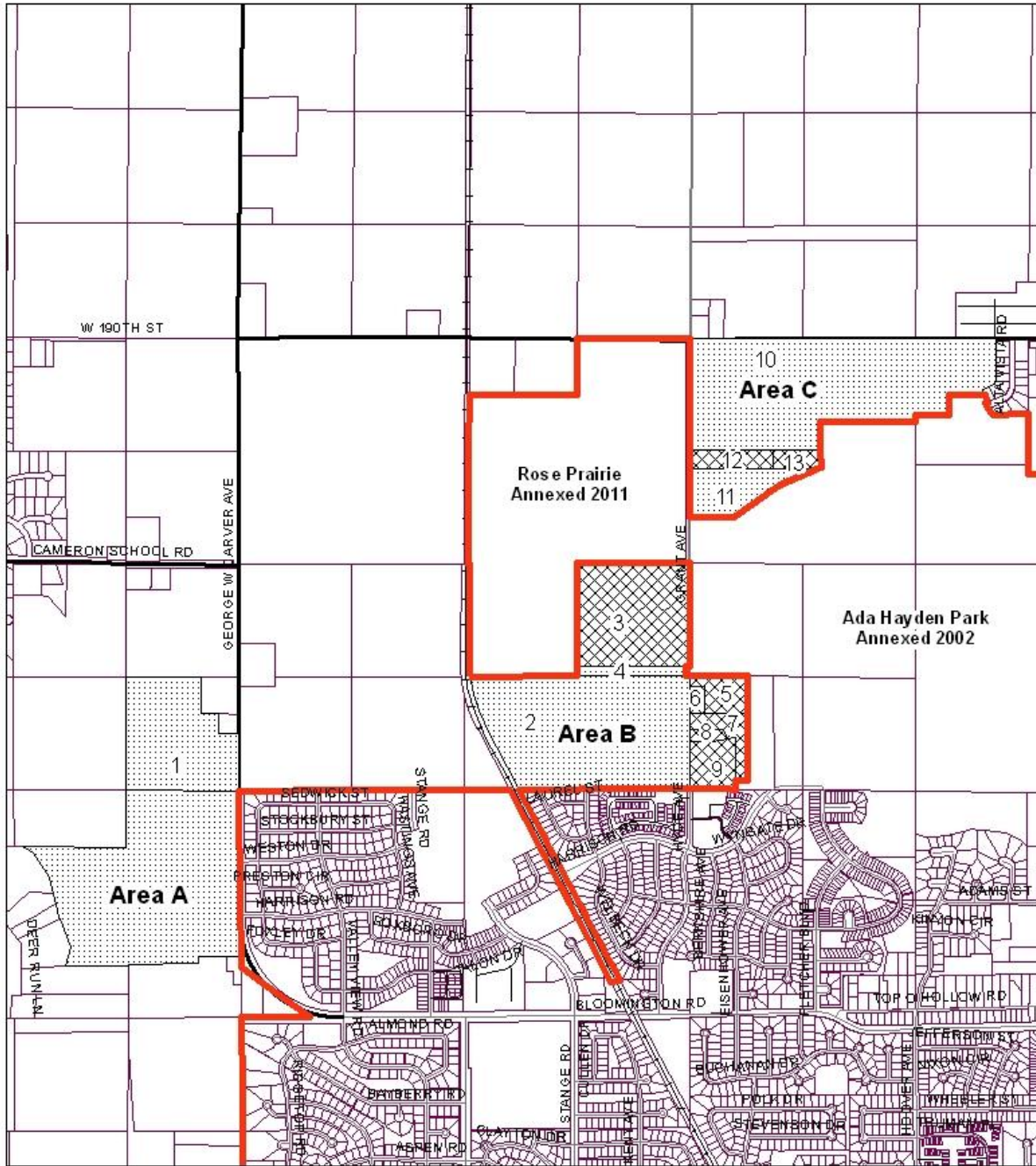
The proposed annexations are consistent with the Allowable Growth Areas of the Land Use Policy Plan and the Ames Urban Fringe Plan. The development agreements ensure that the costs that will be borne by the City for road improvements, sanitary sewer, and water will be shared by the developers as development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

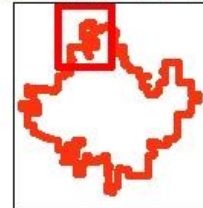
Therefore, it is the recommendation of the City Manager that the City Council approve Alternative #1. This alternative will accept the petitions for annexation for the Athen properties, the Quarry Estates property and the Hunziker North property and begin the annexation process by referring these requests 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
Area A				
1	Athen	121.02	Y	
	Total	121.02	121.02	100.00
Area 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		
	Total	129.27	69.80	53.01
Area C				
10	Quarry Estates	85.45	Y	
11	Hunziker Land Development	12.00	Y	
12	Frame	4.84		
13	Frame	2.83		
	Total	105.12	97.45	92.70

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	\$????

TOTAL	\$32,707.00
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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

TOTAL	\$12,876.00
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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