

**COUNCIL ACTION FORM**

**SUBJECT:**     **ATHEN LAND ANNEXATION**

**BACKGROUND:**

The City Council previously received an annexation petition for 121.02 acres of land adjacent to the City limits along George Washington Carver Avenue in Franklin Township. The annexation petition was filed in accordance with local polices and meets the requirements of the Code of Iowa for a 100 percent consenting annexation. A location map is included as Attachment A, and the legal description is included as Attachment B.

**Land Use Policy:** The Ames Urban Fringe Plan—a component of the Land Use Policy Plan—was amended in December 2012 to designate this property, as well as an additional parcel to the south, from its original Priority Transitional Residential to Urban Residential. The Natural Area designation was retained for the western portion of the land. As Urban Residential, the City’s policy is that development will not occur on the land unless and until the land is annexed and full City services are extended to the site. The Urban Fringe Plan Map designations are included in Attachment C.

The Allowable Growth Area map of the Land Use Policy Plan was also amended in December 2012 to allow these properties to be annexed and subsequently developed. The allowable Growth Areas of the LUPP are shown in Attachment D.

The consultation with the Franklin Township Trustees and the Story County Board of Supervisors was held on February 6, 2013. No comments or requests for modifications to the requested annexation were made. The Story County Board of Supervisors voted on April 2, 2013 to provide a resolution stating that they will not take a position in support of or in opposition to the proposed annexation.

The Ames Planning and Zoning Commission recommended approval of the annexation at its regular meeting of March 6<sup>th</sup>. Following a public hearing in which no one addressed the Commission, the Commission unanimously recommended that the City Council approve the annexation request.

When the City Council approved the amendment to the Land Use Policy Plan in December, 2012, the following conditions and considerations were specifically included:

1. Development of proposal for the distribution of cost for any needed sanitary sewer improvements.
2. The impact the development in this area may have on emergency service response.

3. The impact the development in this area may have in areas that have already been targeted for growth or have been invested in by the city for growth.
4. The possibility of a developer's agreement be investigated to require a care facility.
5. The consideration be provided to ensure the protection of the natural area of at least at or before the tree line.
6. This area be provided with two zoning designations with the minimum zoning necessary for the care facility and low density housing.

Since that time, staff has worked with the owner's representative to reach agreement on an annexation agreement confirming these arrangements. However, the issue of water service to this area is still unresolved, since the area is currently part of Xenia rural Water District's service territory. Until a firm agreement is reached with Xenia, neither the developer nor the City should sign the proposed agreement.

Staff recently received an update from the Xenia General Manager, whose time had been consumed with finalizing a refinancing package for the District's debt. He committed to send staff two options for providing water service to the northern growth area later this month. City and Xenia staff will then discuss those options, followed immediately by a consultation between Xenia, City staff and the northern growth developers. Hopefully those efforts will result in a plan to provide water service to these areas that is acceptable to all parties involved (including Xenia's creditors). That would then clear the way for the developer and the City to sign the annexation agreement, which in turn would allow the Council to approve the annexation.

At the December City Council meeting at which the LUPP amendment was approved, the City Council tied approval of the annexation of the Athen property to receiving signed annexation agreements for the Hunziker properties along Grant Avenue. While the north Hunziker property is being considered along with the Quarry Estates annexation, the south Hunziker property is not. The southern Hunziker property alone does not contain enough land area to overcome the amount of land owned by the existing homeowners along Grant Avenue who do not wish to be annexed. Allowing non-consenting owners to be included in a voluntary annexation is allowed by the state so long as the non-consenting owners' area does not exceed 20 percent of the total area of annexation--the 80/20 rule.

At the most recent Council discussion of this issue, owners of the residential properties along Grant Avenue requested special consideration. Based on direction then given by Council, City staff presented a number of concepts to the homeowners for their consideration. Council's direction had been to draft items for a pre-annexation agreement that would allow each home owner along Grant Avenue to obtain a single sanitary sewer and water connection for their existing homestead at a nominal rate. If they later sought future development on their properties, the owners would then need to pay the full cost as determined by the connection district fees, less the amount paid

previously. In return, the Grant Avenue owners were asked to join the petition for annexation.

The owners, as a group, subsequently declined. As a result, the south Hunziker piece cannot seek annexation at this time. As an alternative, however, the south Hunziker property could create a "flagpole" lot in order to avoid landlocking the other Grant Avenue parcels. Another alternative would be to seek participation by other landowners adjacent to the west side of Hunziker's land to join the petition and meet the 80/20 rule.

### **ALTERNATIVES:**

1. The City Council can conduct the public hearing and delay a vote on the resolution to annex the Athen property until such time as an agreement has been reached with Xenia and the owner of the Athen property has signed the annexation agreement.

There is no state requirement that the City Council act on the annexation at the same meeting as the public hearing. The annexation is not jeopardized by delaying a vote. However, if the delay is significant, the City Council may wish to conduct another public hearing prior to a future vote.

2. The City Council can conduct the public hearing and approve the resolution to annex the Athen property, notwithstanding that the water territory issue is not yet resolved and the annexation agreement has not been signed by the petitioner.

By not having the annexation agreement in place, the City Council will have lost an opportunity to ensure that the conditions placed on the LUPP amendment are met. In addition, the City Council, at that December meeting, sought to ensure that action on the annexation of property along Grant Avenue would be done in conjunction with this annexation.

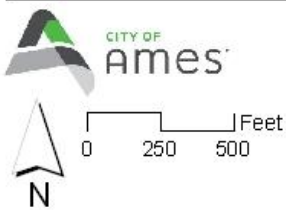
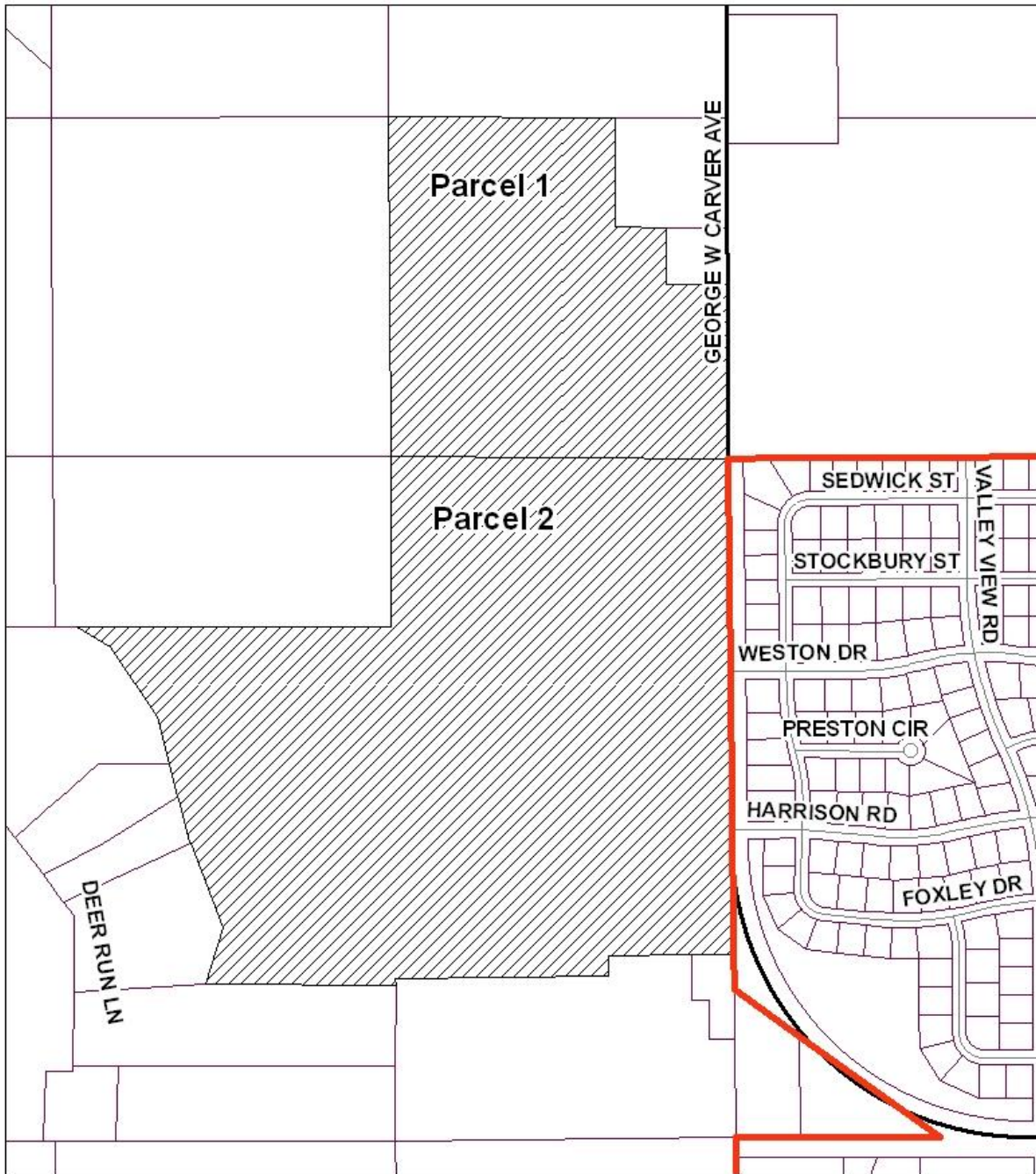
3. The City Council can deny the proposed annexation.

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

This annexation is consistent with the Land Use Policy Plan and the Ames Urban Fringe Plan. However, uncertainty over the water territory issue leaves important questions unanswered regarding the provision of water service. For that reason, neither the owner nor the City should sign the annexation agreement at this time. Were the Council to approve the annexation without that agreement, the City would lose the ability to ensure that the annexation meets the conditions previously laid out by the City Council.



Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1. Council would thereby conduct the public hearing, but would then delay a vote on the resolution to annex the Athen property until such time as an agreement has been reached with Xenia and the owner of the Athen property has signed the annexation agreement.

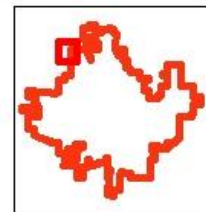
ATTACHMENT 1



Proposed Annexation

Legend

-  Ames City Boundary
-  Proposed Annexation



## **ATTACHMENT B: LEGAL DESCRIPTIONS**

### 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

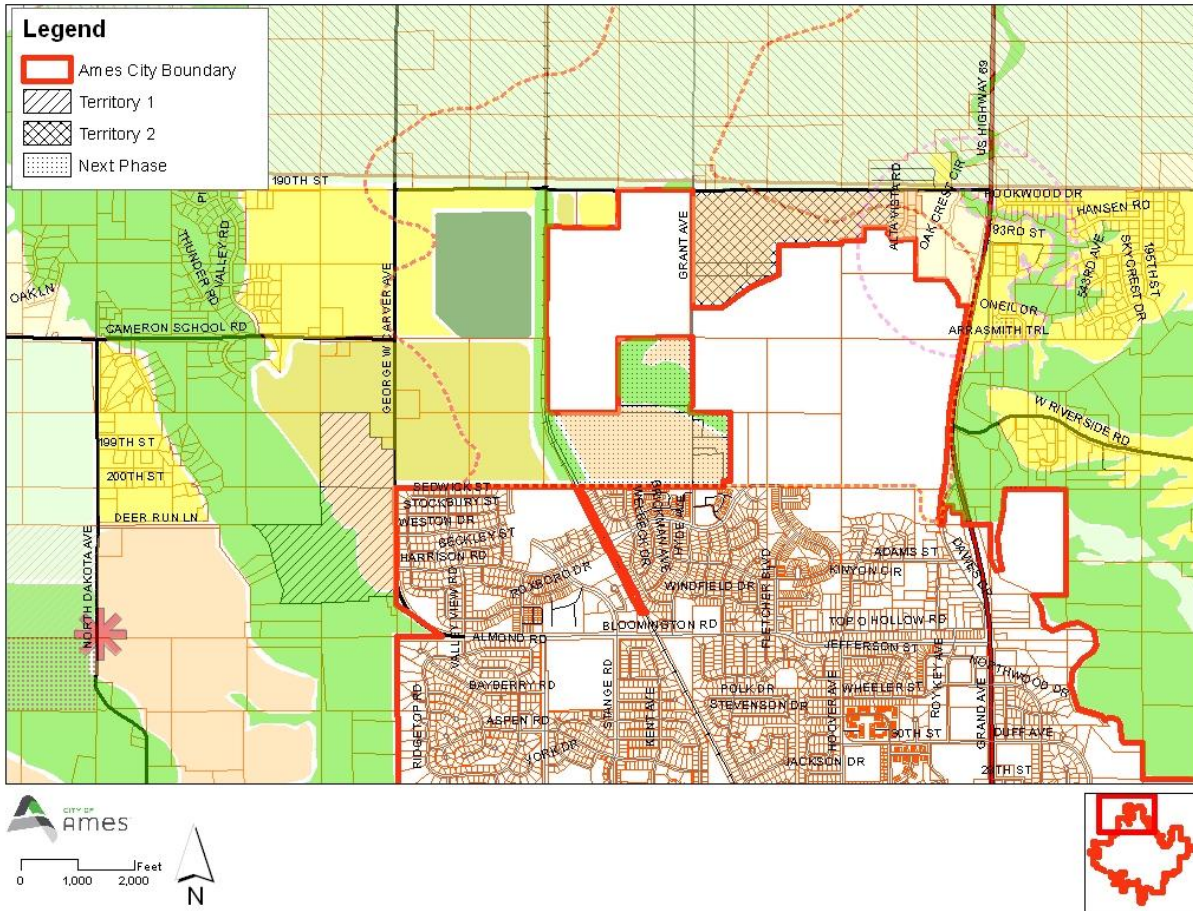
Legal: Parcel 'U' in the Southeast Quarter (SE ¼) of the Southeast Quarter (SE ¼) of Section 20, Township 84 North, Range 24 West of the 5<sup>th</sup> P.M., Story County, Iowa; as shown on the Plat of Survey filed in the office of the Recorder of Story County, Iowa, on December 23, 1999, as Instrument # 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

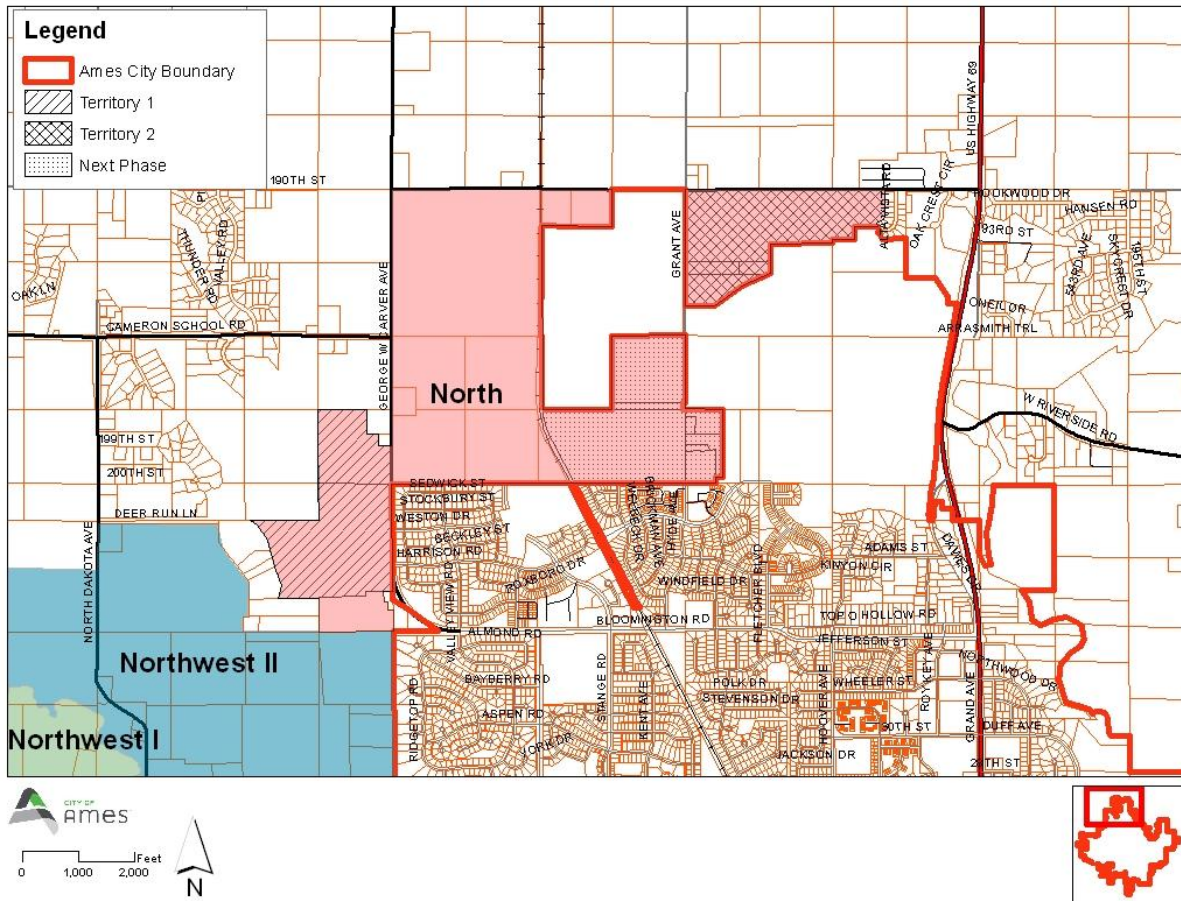
Legal: Parcel 'F' in the Northeast Quarter (NE ¼) of Section 29, Township 84 North, Range 24 West of the 5<sup>th</sup> P.M., Story County, Iowa; as shown on the Plat of Survey filed in the office of the Recorder of Story County, Iowa, on May 4, 2012, as Instrument # 2012-00004713. Contains 86.68 gross acres.

## ATTACHMENT C: URBAN RESIDENTIAL AREAS OF URBAN FRINGE PLAN



Territory 1 is the subject Athen parcels. Territory 2 is the Quarry Estates and other included parcels for a separate annexation. Next Phase is a possible third annexation that is moving ahead.

## ATTACHMENT D: GROWTH AREAS OF LUPP



Territory 1 is the subject Athen parcels. Territory 2 is the Quarry Estates and other included parcels for a separate annexation. Next Phase is a possible third annexation that is moving ahead.