

**COUNCIL ACTION FORM**

**SUBJECT: REZONING OF A PORTION OF 4130 LINCOLN SWING FROM RESIDENTIAL LOW DENSITY TO RESIDENTIAL HIGH DENSITY**

**BACKGROUND:**

GW College Park, LLC submitted a rezoning request for the property at 4130 Lincoln Swing. The property's current use is a mobile home park. The owner is considering a redevelopment of the site to high density apartments.

The City Council initially considered the rezoning application on June 25, 2013. **At that June 25<sup>th</sup> meeting, the Council left the public hearing open to allow staff to work out an agreement for the rezoning with the applicant. The Council requested that there be a minimum six months notice time for the residents of the mobile home park prior to closing the mobile home park for redevelopment.** The City Attorney has drafted and the applicant has signed the proposed agreement which is including for your review. **If the Council agrees with the Contract Rezoning Agreement, the Council will need to approve the resolution for the agreement and then can approve the first reading of the ordinance to rezone the "RL" Residential Low Density portion of 4130 Lincoln Swing to "RH" Residential High Density.**

Based on the Land Use Policy Plan, the property (3.77 acres total) carries a split land use designation, with the north half of the lot being designated within the general high density residential land use classification, while the south half is generally designated as low density residential land use. See Attachment A.

The property also has a split zoning designation, with a majority (3.15 acres) of the lot being zoned Residential High Density. A small portion (.62 acres) of the lot along the southern boundary is zoned Residential Low Density. See Attachment B. **Based on the Zoning Code, when a property contains split zoning designations, the property must be developed based on the most restrictive zoning designation, which in this case is low density residential. The owner would like to eventually redevelop the property into apartments, which by zoning designation would require a residential high density designation.** The request is to rezone the south portion of the property from "RL" Residential Low Density to "RH" Residential High Density. See Attachment C.

Justification could be given for either of the land use designations and zoning districts identified for the property, since there are predominately high density uses along Lincoln Swing and single family residences to the south. However, **the Residential High Density zone is more in line with the abutting properties in the area and fronting on Lincoln Swing. Also, the area zoned RL on the property could not be subdivided and left as a remaining RL property, since the potential lot would not have any frontage on a public street. Staff's analysis of the request leads to a**

**conclusion that rezoning the lot to High Density Residential is consistent with the Land Use Policy Plan and the current zoning designation within the surrounding area.** Furthermore, there are no other issues that would preclude the use of this property for redevelopment within the high density residential classification.

The Planning and Zoning Commission, by a vote of 4 to 1, recommended that the City Council approve the request to change the zoning designation on the south portion of the property from Low Density Residential to High Density Residential. Several members of the community spoke against the rezoning request. Concerns expressed focused on the impact and uncertainty of a possible redevelopment of the site and a decrease in affordable housing options within the City.

**ALTERNATIVES:**

1. If the City Council agrees with the Contract Rezoning Agreement, the City Council can approve the resolution for the agreement, and then can approve the first reading of the ordinance to rezone the south .62 acres of the property at 4130 Lincoln Swing from “RL” (Residential Low Density) to “RH” (Residential High Density).
2. The City Council can deny the request for rezoning a portion of the property at 4130 Lincoln Swing.
3. Action on this request can be postponed and referred back to City staff and/or the applicant for additional information.

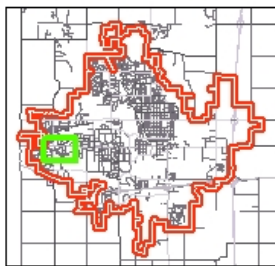
**MANAGER’S RECOMMENDED ACTION:**

A review of the Land Use Policy Plan’s future land use map indicates that both Residential High Density and Residential Low Density land uses have been contemplated for this area. The majority of properties fronting on Lincoln Swing are zoned to be in line with the Residential High Density land use classification that prevails along Lincoln Swing. There are no outstanding issues of utilities, traffic, or access that would preclude the use of this site for uses allowed in the high density district. After discussion at the last hearing the applicant has agreed to the six month notice requirement.

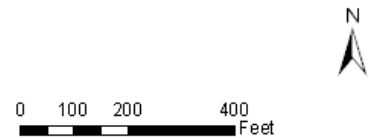
Therefore, it is the recommendation of the City Manager that the City Council accept Alternative #1, thereby approving the request to rezone a portion of the land located at 4130 Lincoln Swing from “RL” (Residential Low Density) to “RH” (Residential High Density), with agreement that the applicant give six months notice to all tenants prior to closing of the mobile home park for redevelopment.

# Attachment A

## LUPP Future Land Use Map

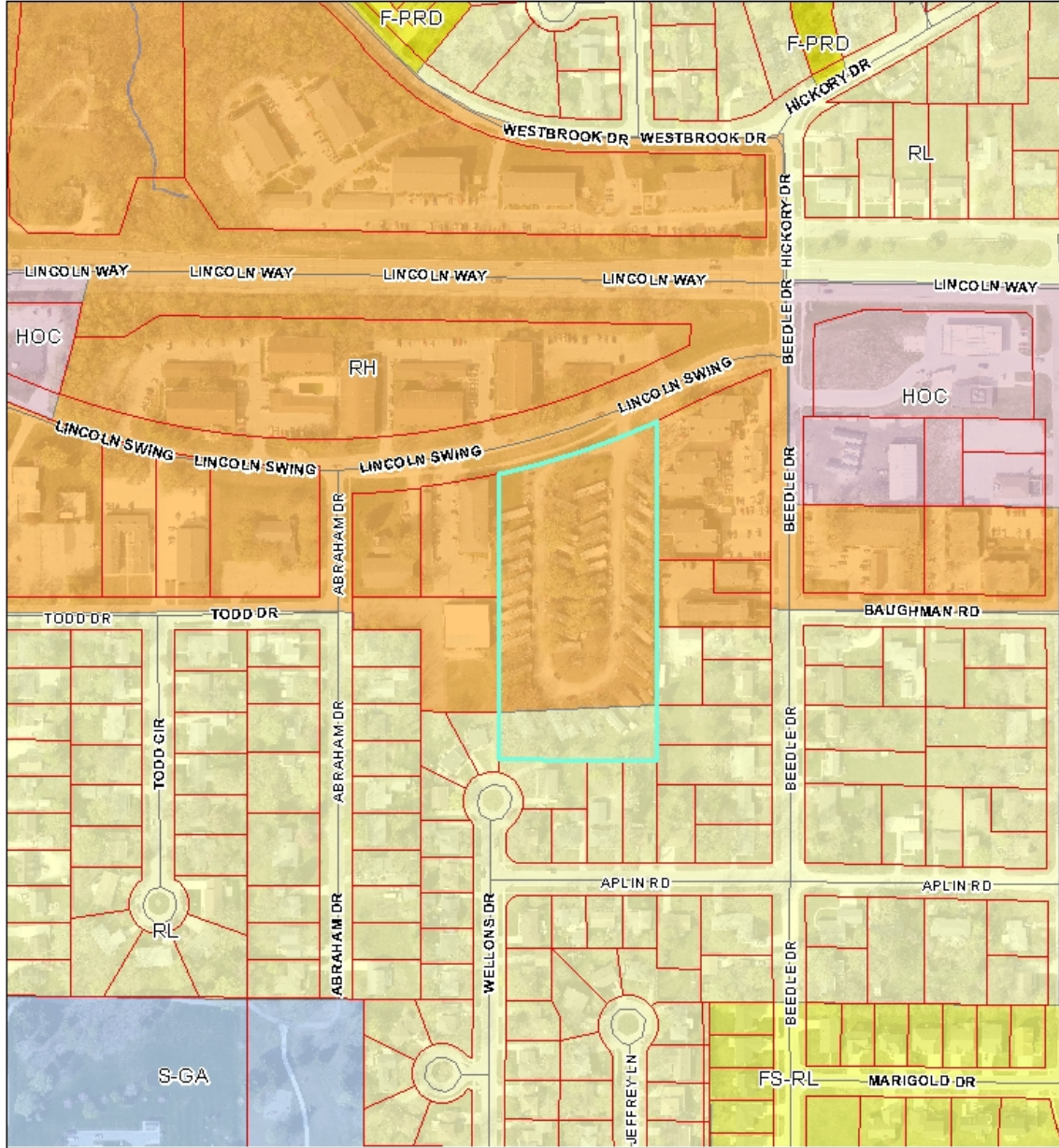


### Land Use Policy Plan Map

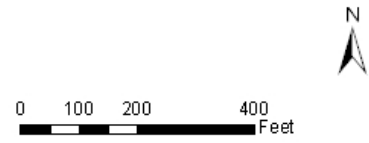
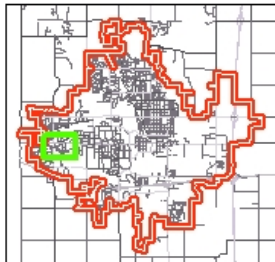


# Attachment B

## Existing Zoning

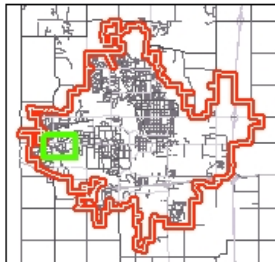
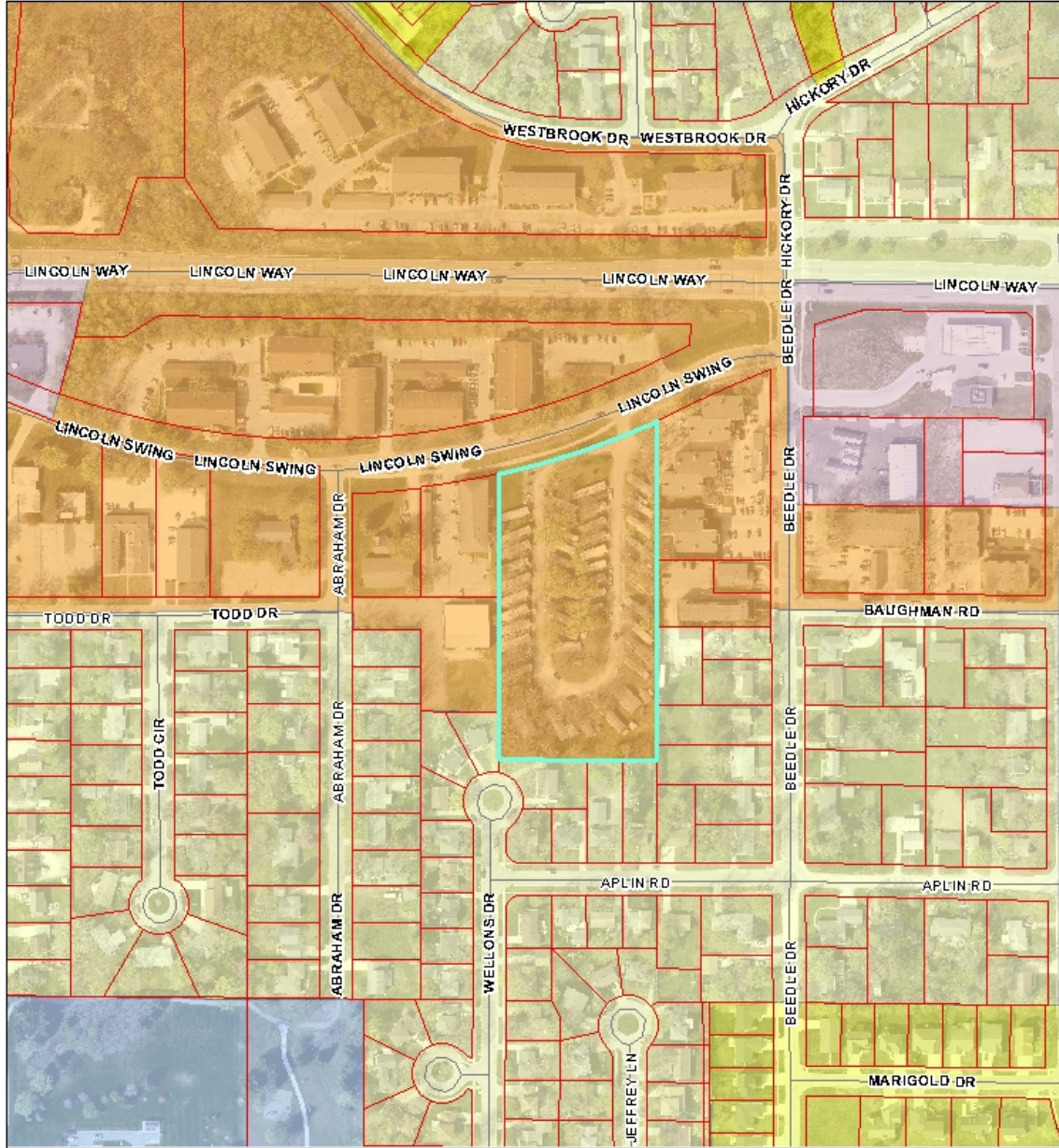


Existing Zoning Map

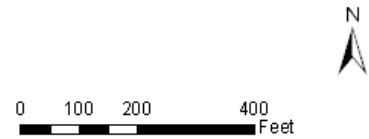


# Attachment C

## Proposed Zoning



### Proposed Zoning Map



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**DO NOT WRITE IN THE SPACE ABOVE THIS LINE; RESERVED FOR RECORDER**

Prepared by: Judy Parks, City of Ames Legal Department, 515 Clark Ave., Ames, IA 50010; 515-239-5146

Return to: Ames City Clerk, Ames City Hall, 515 Clark Ave., P.O. Box 511, Ames, IA 50010

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**AGREEMENT PERTAINING TO THE  
REZONING OF LAND IN THE CITY OF AMES**

**THIS AGREEMENT**, made and entered into this \_\_\_\_ day of July, 2013, by and between the City of Ames, Iowa (herein after called “City”) and GW College Park, L.L.C. (hereinafter called “Developer”), its successors and assigns,

**WITNESSETH THAT:**

**WHEREAS**, the Developer hereto desires the improvement and development of an area depicted on Exhibit A as 4130 Lincoln Swing (collectively, the “Site”); and

**WHEREAS**, the area within the Site has two distinctly different zoning district designations pursuant to the City of Ames Municipal Code; and

**WHEREAS**, in order to facilitate future reuse of the Site, the Developer has applied to the City for rezoning of a portion of the Site, legally described as set out on Exhibit A and depicted in Exhibit A as “RL portion”; and

**WHEREAS**, an agreement has been reached between the Developer and the City with respect to certain additional conditions that are being agreed to between the parties in consideration of granting Developer’s requested rezoning of a portion of this site.

**NOW, THEREFORE**, the parties hereto have agreed and do agree as follows:

**I.  
INTENT AND PURPOSE**

- A. It is the intent of this Agreement to:
1. Recognize that the Developer is owner of the Site which is located generally south of Lincoln Way and east of South Dakota Avenue, on

which is presently located a mobile home park, a use that is not consistent with either of its present zoning designations.

2. Acknowledge that the Developer desires to have the ability to redevelop the Site at some future time, for which a singular consistent zoning designation of the entire site is necessary.
3. That in acknowledgement of the present use of the Site, the Developer agrees that it will provide every tenant and every owner or resident of each owner-occupied residence on the Site with no less than six (6) months advance notice of the termination of their residence or lot leases, and the City, in consideration of that minimum notice being given, agrees to the rezoning of that portion of the Site which is currently designated as RL (Residential Low Density) to RH (Residential High Density).

## **II. CITY'S REMEDIES**

All ordinances, regulations and policies of the City now existing or as may hereafter be enacted, so long as they not inconsistent with the terms of this Agreement, shall apply to activity on the Site.

## **III. DEVELOPMENT PROCESS**

The Developer may, at a time of the Developer's choosing after rezoning of the Site, undertake such further design and site plan approvals as are required for the Site. Said Site planning shall be done pursuant to the procedures established by the statutes of the State of Iowa and the ordinances of the City.

## **IV. MODIFICATION OF AGREEMENT**

The parties agree that this Agreement may be modified, amended or supplemented only by written agreement of the parties.

## **V. COVENANTS RUN WITH THE LAND**

This Agreement shall run with the Site and shall be binding upon the Developers, its successors, subsequent purchasers and assigns. Each party hereto agrees to cooperate with the other in executing a Memorandum of Agreement that may be recorded in place of this document.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed effective as of the date first above written.

CITY OF AMES, IOWA

STATE OF IOWA, COUNTY OF STORY, ss:

By \_\_\_\_\_  
Ann H. Campbell, Mayor

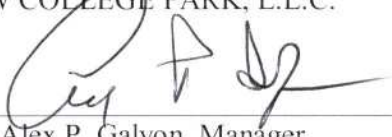
Attest \_\_\_\_\_  
Diane R. Voss, City Clerk

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, a Notary Public in and for the State of Iowa, personally appeared Ann H. Campbell and Diane R. Voss, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Ames, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation by authority of its City Council, as contained in Resolution No. \_\_\_\_\_ adopted by the City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2013; and that Ann H. Campbell and Diane R. Voss acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

\_\_\_\_\_  
Notary Public in and for the State of Iowa

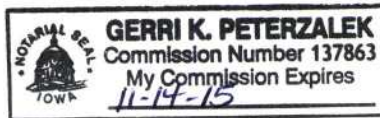
GW COLLEGE PARK, L.L.C.

STATE OF IOWA, COUNTY OF STORY, ss:

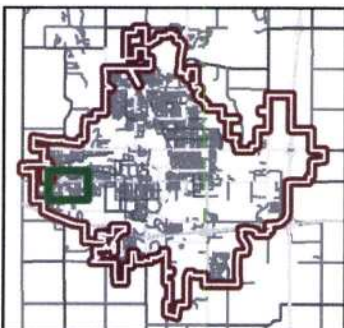
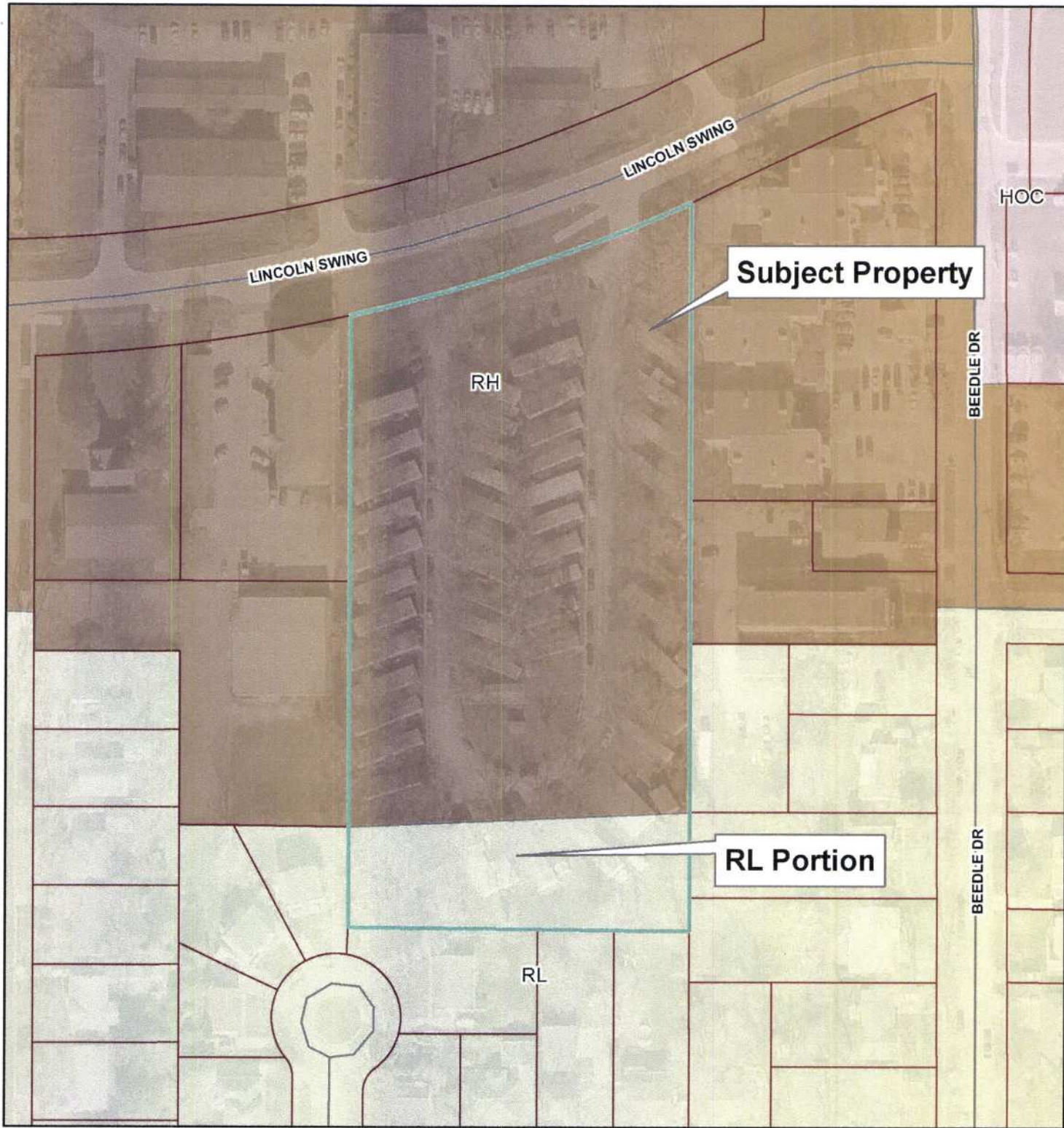
By  \_\_\_\_\_  
Alex P. Galyon, Manager

This instrument was acknowledged before me on July 17, 2013, by Alex P. Galyon as Manager of GW College Park, L.L.C.

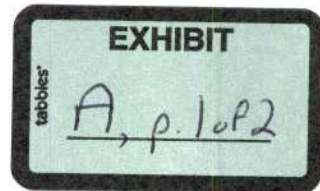
 \_\_\_\_\_  
Notary Public in and for the State of Iowa







# 4130 Lincoln Swing



**Exhibit A, p. 2 of 2**

**Legal Description of Area to be Zoned RL**

All that portion of the East 289.5 Feet of the East 35 Rods of the West 75 Rods of all that part of the Northwest Quarter (NW $\frac{1}{4}$ ) of the Northwest Quarter (NW $\frac{1}{4}$ ) of Section Eight (8), Township Eighty-three (83) North, Range Twenty-four (24) West of the 5<sup>th</sup> P.M., lying South of the Center Line of Public Street known as "Lincoln Swing," in the City of Ames, Iowa, EXCEPT the South 442 Feet thereof currently zoned as RL under the City of Ames, Iowa zoning map, also described as follows:

Beginning at the Northeast Corner of Lot 6, Cochrane's 1<sup>st</sup> Addition to Ames, Iowa; thence South to the Northwest corner of Lot 5, except the East 129.5 feet, Cochrane's 1<sup>st</sup> Addition to Ames, Iowa; thence West to the Northeast corner Lot 1, Cochrane's 1<sup>st</sup> Addition to Ames, Iowa; thence North to the Northeast Corner of Lot 4, Block 4, Beedles Subdivision to Ames, Iowa; thence Southwesterly along the Northern boundary line of the RL zoning district to the point of beginning.

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DO NOT WRITE IN THE SPACE ABOVE THIS LINE, RESERVED FOR RECORDER  
Prepared by: Douglas R. Marek, Ames City Attorney, 515 Clark Avenue, Ames, IA 50010 Phone: 515-239-5146  
Return to: Ames City Clerk, P.O. Box 811, Ames, IA 50010 Phone: 515-239-5105

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ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF AMES, IOWA, AS PROVIDED FOR IN SECTION 29.301 OF THE *MUNICIPAL CODE* OF THE CITY OF AMES, IOWA, BY CHANGING THE BOUNDARIES OF THE DISTRICTS ESTABLISHED AND SHOWN ON SAID MAP AS PROVIDED IN SECTION 29.1507 OF THE *MUNICIPAL CODE* OF THE CITY OF AMES, IOWA; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH AND ESTABLISHING AN EFFECTIVE DATE**

**BE IT HEREBY ORDAINED** by the City Council of the City of Ames, Iowa;

Section 1: The Official Zoning Map of the City of Ames, Iowa, as provided for in Section 29.301 of the *Municipal Code* of the City of Ames, Iowa, is amended by changing the boundaries of the districts established and shown on said Map in the manner authorized by Section 29.1507 of the *Municipal Code* of the City of Ames, Iowa, as follows: That the real estate, generally located at 4130 Lincoln Swing, is rezoned from Residential Low Density “RL” to Residential High Density “RH.”

**Real Estate Description:** All that portion of the East 289.5 Feet of the East 35 Rods of the West 75 Rods of all that part of the Northwest Quarter (NW1/4) of the Northwest Quarter (NW1/4) of Section Eight (8), Township Eighty-three (83) North, Range Twenty-four (24) West of the 5<sup>th</sup> P.M., lying South of the Center Line of Public Street known as “Lincoln Swing”, in the City of Ames, Iowa, EXCEPT the South 442 Feet thereof currently zoned as “RL” under the City of Ames, Iowa, zoning map, also described as follows:

Beginning at the Northeast Corner of Lot 6, Cochrane’s 1<sup>st</sup> Addition to Ames, Iowa; thence South to the Northwest corner of Lot 5, except the East 129.5 feet, Cochrane’s 1<sup>st</sup> Addition to Ames, Iowa; thence West to the Northeast corner Lot 1, Cochrane’s 1<sup>st</sup> Addition to Ames, Iowa; thence North to the Northeast Corner of Lot 4, Block 4, Beedles Subdivision to Ames, Iowa, thence Southwesterly along the Northern boundary of the “RL” zoning district to the point of beginning.

Section 2: All other ordinances and parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: This ordinance is in full force and effect from and after its adoption and publication as provided by law.

ADOPTED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2013.

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Diane R. Voss, City Clerk

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Ann H. Campbell, Mayor