

**COUNCIL ACTION FORM**

**SUBJECT:** PUBLIC HEARING ON PROPOSED SOUTH ANNEXATION

**BACKGROUND:**

Five owners of 15 parcels of land in the general area south of the ISU Research Park have petitioned the City for annexation. These parcels total 249.46 acres in size. Because the annexation of these properties would create unincorporated islands that are prohibited by state law, an additional 60.80 acres of land (comprising 11 owners of 14 parcels) are included in the annexation. State law allows for up to 20% of the area of an annexation to contain property owned by non-consenting land owners.

Collectively, this annexation is referred to as the South Annexation with a total area of 310.26 acres split between 80.4 percent consenting and 19.6 percent non-consenting land owners. The proposed annexation is located in Sections 15, 16, 21, and 22 of Washington Township.

The City has fulfilled all necessary steps required by City policies and the Code of Iowa for describing the area of annexation and giving public notice. The next step is for the City Council to take action on the proposed South Annexation. City Council needs to conduct the public hearing on June 24<sup>th</sup> before taking action on the request. The proposed area is shown in Attachment A, and an index of consenting/non-consenting owners is included as Attachment B. **A full analysis of the annexation is included in the attached addendum.**

Upon Council approval, the annexation will be submitted to the state City Development Board for final approval. The City Development Board will conduct a public hearing on the proposed annexation in order to give non-consenting owners an additional opportunity to be heard. That hearing likely will be held in August.

City staff has met or spoken with the non-consenting owners several times. There remains some opposition, especially among Cedar Lane owners, although no one spoke at the Planning and Zoning Commission meeting.

**ALTERNATIVES:**

1. The City Council can conduct the public hearing and approve a resolution to annex the South Annexation properties.
2. The City Council can deny the proposed annexation.

3. The City Council can hold a public hearing, request additional information from the petitioners or City staff, and defer action to a later date.

**MANAGER'S RECOMMENDED ACTION:**

This annexation allows for the expansion of the ISU Research Park, as well as for further residential development in the Southwest Allowable Growth Area. It provides for the logical extensions of City utilities and services. The proposed annexation includes 60 acres of land owned by non-consenting owners, which are included so as not to create an island of unincorporated land that is not allowed by state code.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative 1, thereby approving the proposed annexation of 310.26 acres of land in Sections 15, 16, 21, and 22 of Washington Township.

According to state law, any owner seeking annexation has a right to withdraw up to three days following the public hearing, unless that owner has waived those rights in writing or has an agreement with the City to provide for the extension of services. In this instance, no waivers have been provided by any of the applicants. An applicant may withdraw up until the end of the business day of Friday, June 27. If any owner does withdraw, the City Council will need to approve a modified resolution at a subsequent meeting to reflect the final boundaries.

## ADDENDUM

On April 22, 2014, the City Council provided direction to staff to combine the “Reyes” and “ISU Research Park” annexation petitions with the “Burgason” application to define the boundaries of the current South Annexation request. The City received annexation petitions for 249.46 acres of land adjacent to the City limits along Cedar Lane, 530<sup>th</sup> Avenue (University Boulevard) and S. Riverside Drive. The annexation petitions were filed in accordance with state law and local policies. Since the annexation request would create islands of unincorporated land, 14 non-consenting owners were added to the territory as allowed by Code of Iowa, Section 368.7(a). The total annexation comprises 310.26 acres. A location map of the proposed annexation is included as Attachment A. It identifies the parcels owned by both consenting and non-consenting land owners. The consenting and non-consenting land owners are identified in Attachment B.

The ISU Research Park is proposing an expansion within land owned by themselves and Hunziker Development. There are five residential properties along S. Riverside Avenue that are included in this annexation in order to avoid creating islands.

Between Cedar Lane and University Boulevard, properties owned by Burgason Enterprises, Reyes, and RDJ Holdings have petitioned for annexation for residential purposes. An additional nine properties are included to avoid creating islands.

**Land Use Policy:** In 2013, the Ames Urban Fringe Plan (AUF)—a component of the Land Use Policy Plan—was amended to designate the area south of the Iowa State University Research Park as Planned Industrial. The area west of that, between Cedar Lane and University Boulevard, has been Urban Residential since the adoption of the Ames Urban Fringe Plan in 2007. The Urban Residential and Planned Industrial designations require annexation before any subdivisions or development can be approved. An excerpt of the Urban Fringe Plan map is found in Attachment C.

The Land Use Policy Plan also identifies areas adjacent to the City that are appropriate for annexation for residential development. The area between Cedar Lane and University Boulevard is within the Southwest II Allowable Growth Area. An excerpt of the Land Use Policy Plan map is found in Attachment D.

**Infrastructure:** The City does not plan to extend new infrastructure with this voluntary annexation. As is City policy, before development can occur, the developer must extend City infrastructure to the area. Capacity is available to allow for proper extension of utilities to the properties. The ISU Research Park is working on the development of Phase III of the park and has been active in working with the City to prepare for the extension of City streets, sanitary sewer and water.

City staff has reviewed preliminary development plans for the Reyes/RDJ Holdings site, even though no final design for development has been submitted. The Burgason area has prepared only a concept at this time.

Since some of this area lies within the Xenia Rural Water District territory and several owners receive service from Xenia, agreements will need to be in place for all consenting owners regarding the buyout of service territory and disconnection of service prior to development. The non-consenting owners will be under no obligation to withdraw from Xenia service territory unless they subsequently seek to connect to City water or to develop some or all of their land.

**Non-Consenting Properties:** State law allows for up to 20% of the property within a voluntary annexation to be owned by owners who do not consent to the annexation for the purpose of creating logical and efficient boundaries or to eliminate islands. This is often referred to as the 80/20 rule. **In this case the 80/20 rule is applied to avoid creating islands that are prohibited under state law.** Any annexed property is subject to the ordinances of the City, but does not have any automatic changes to use of the property, such as removal of non-conforming uses or structures or connections to City water or sewer lines. A “frequently asked questions” document was provided to the property owners. Staff has also talked with many of the non-consenting owners to advise them of the implications of annexation on their property interests.

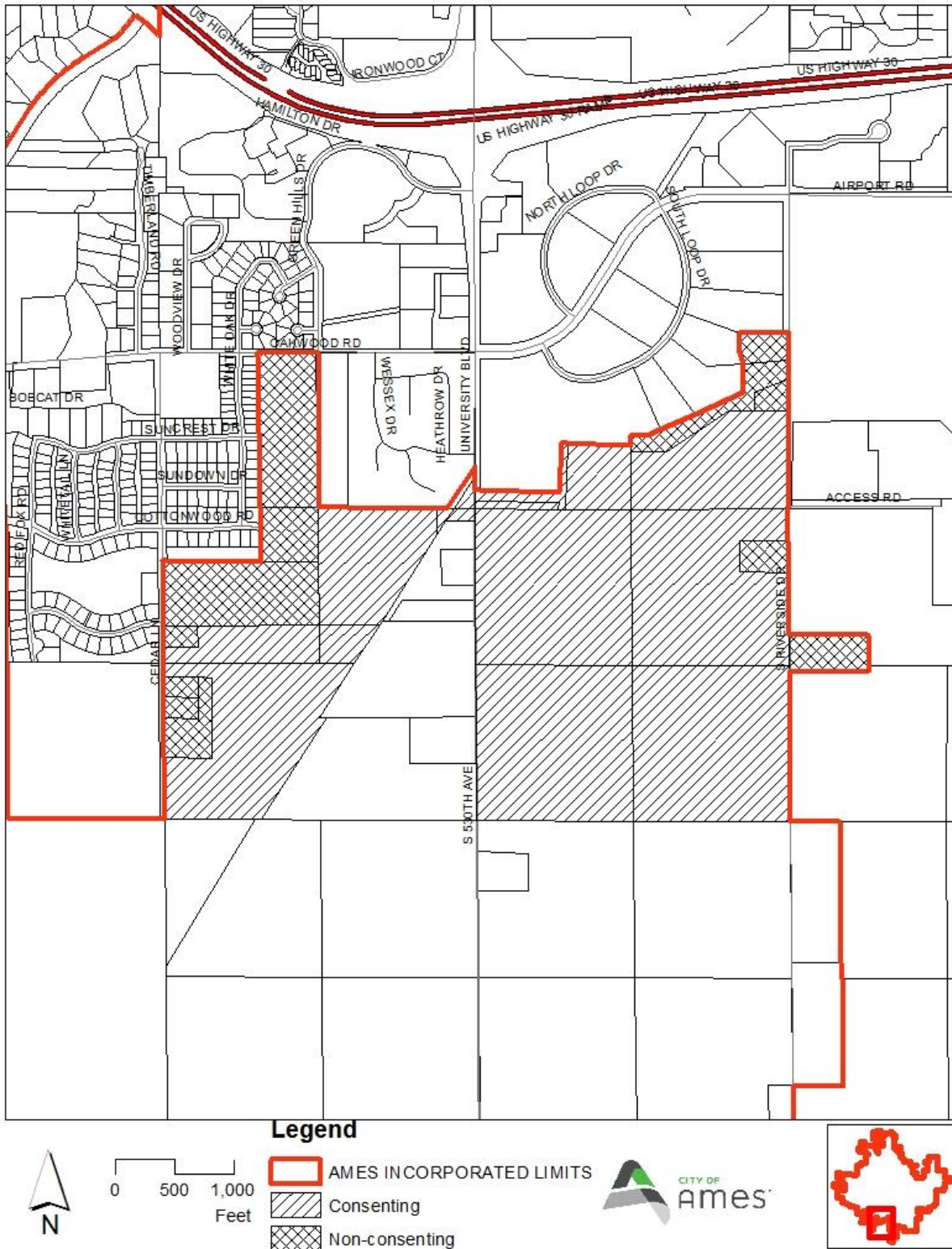
**Additional Information:** The proposed voluntary annexation area includes fourteen non-consenting property owners in order to avoid creating a jurisdictional island. Because of this, the City Development Board in Des Moines will conduct a hearing and take action on this proposed annexation after City Council approval.

**Consultation with Township Trustees and County Supervisors:** As part of the state-mandated process for annexations, City staff held a consultation with the Washington Township Trustees and the Story County Supervisors on May 12<sup>th</sup>. One supervisor attended and did not indicate any issues or recommendations for altering the proposed annexation. No written objections or recommendations were received from the Township Trustees. The Supervisors approved a resolution at their meeting on June 3<sup>rd</sup> supporting the annexation (Attachment E).

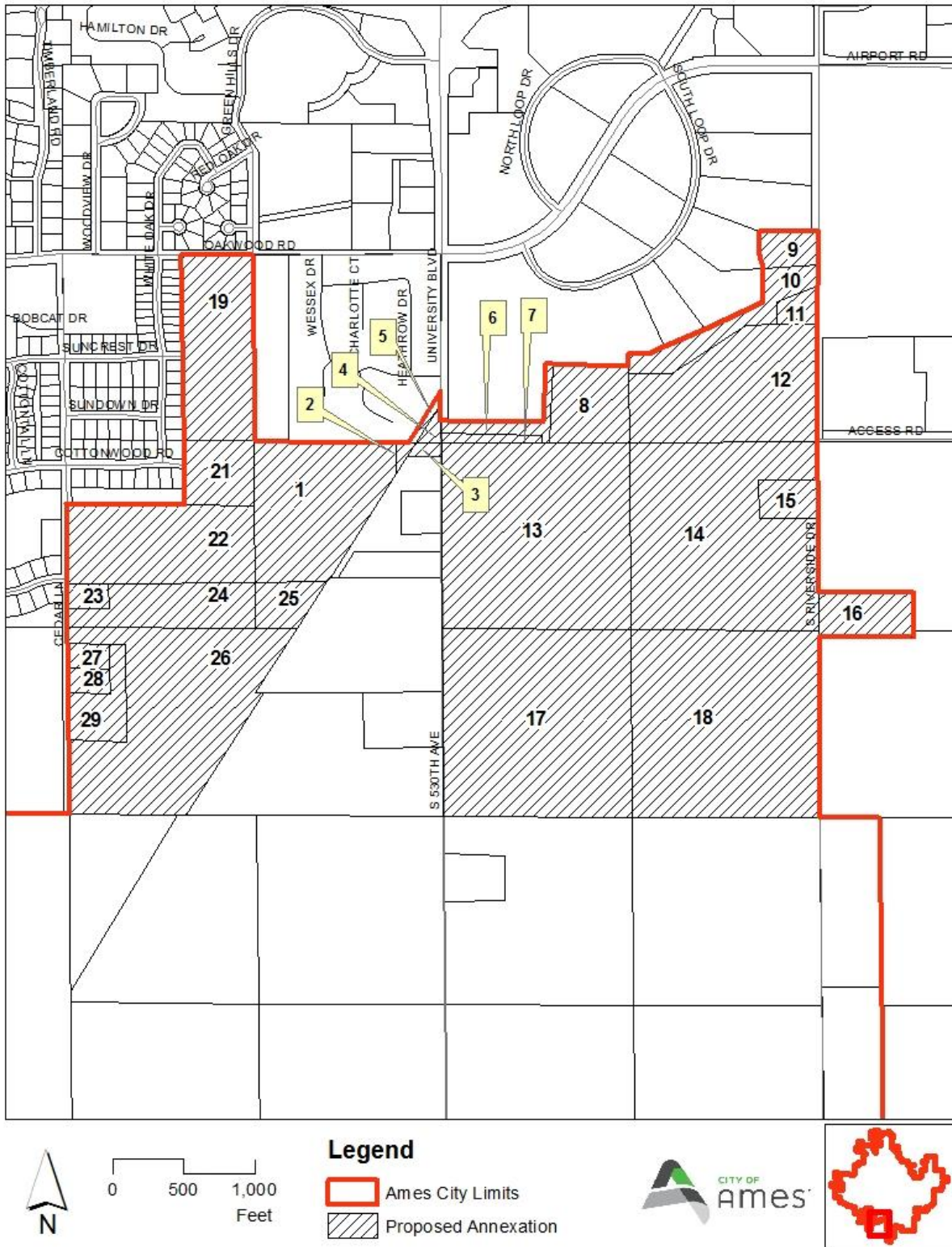
**Planning and Zoning Commission:** The Ames Planning and Zoning Commission held a public hearing on this proposed annexation on June 4<sup>th</sup>. Following the staff presentation, no one spoke in favor or in opposition to the proposed annexation. The Commission voted 5-0 to recommend that the City Council approve the request to annex 310.26 acres, all in Sections 15, 16, 21, and 22 of Washington Township, Story County by finding that the proposed annexation is consistent with the Land Use Policy Plan and Urban Fringe Plan.

**Effect of any Consenting Withdrawal:** According to state law, any owner seeking annexation has a right to withdraw up to three days following the public hearing, unless that owner has waived those rights in writing or has an agreement with the City to provide for the extension of services. In this instance, no waivers have been provided by any of the applicants. An applicant may withdraw up until the end of the business day of Friday, June 27. If any owner does withdraw, the City Council will need to approve a modified resolution at a subsequent meeting to reflect the final boundaries.

## ATTACHMENT A: LOCATION MAP



## ATTACHMENT B: INDEX OF CONSENTING/NON-CONSENTING OWNERS



**Consenting**Parcel 1:

Owner: Jamie Reyes and Daphne Reyes  
Area: 18.61 acres

Parcel 2:

Owner: RDJ Holdings, LLC (Stephen J. Banks,  
Registered Agent)  
Area: 0.35

Parcel 3:

Owner: RDJ Holdings, LLC (Stephen J. Banks,  
Registered Agent)  
Area: 0.48 acres

Parcel 4:

Owner: Jamie Reyes and Daphne Reyes  
Area: 0.53 acres

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**Non-Consenting**Parcel 5:

Owner: Holly Plagmann  
Area: 0.59 acres

Parcel 9:

Owner: John A. Forth and Deborah L. Forth  
Area: 2.26 acres

Parcel 10:

Owner: Stephen L. Harder and Letitia A. Harder  
Area: 4.42 acres

Parcel 11:

Owner: John F. Smith Trust (John F. Smith, Trustee)  
Area: 1.46 acres

Parcel 15:

Owner: Arthur E. Riley and Kathleen M. Riley  
Area: 2.57 acres

Parcel 16:

Owner: Gary J. May and Katherine J. May  
Area: 5.00 acres

Parcel 19:

Owner: Oakwood Akers, LLC  
Area: 14.67 acres

Parcel 6, 7, 8:

Owner: Iowa State University Research Park (Steve  
Carter, Executive Director)  
Area: 9.90 acres

Parcel 12, 13, 14:

Owner: Iowa State University Research Park (Steve  
Carter, Executive Director)  
Area: 98.31 acres

Parcel 17, 18:

Owner: Erben Hunziker and Margaret Hunziker  
Apartments, LLC (Dean Hunziker, Trustee)  
Area: 79.72 acres

Parcel 24, 25, 26:

Owner: Burgason Enterprises LLC  
Area: 41.56 acres

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Parcel 20:

Owner: Oakwood Akers, LLC  
Area: 0.45 acres

Parcel 21:

Owner: Oakwood Akers, LLC  
Area: 5.10 acres

Parcel 22:

Owner: David P. Skarshaug and Jeanne P.  
Skarshaug  
Area: 16.83 acres

Parcel 23:

Owner: Jon David Engelman and Patrice Louise  
Engelman  
Area: 1.18 acres

Parcel 27:

Owner: Steven W. Burgason and Anne Burgason  
Area: 1.13 acres

Parcel 28:

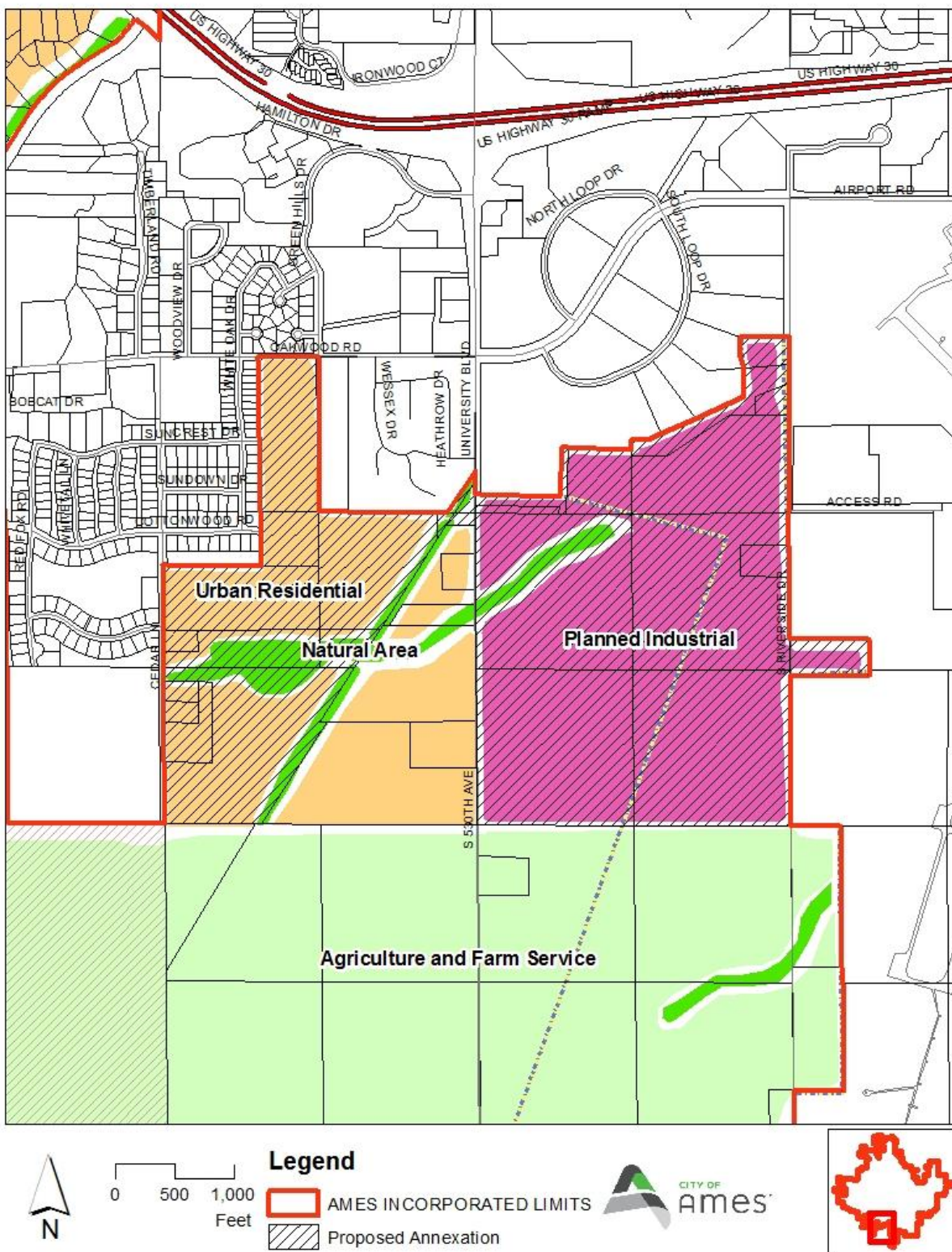
Owner: Steven Walter Burgason and Anne Frances  
Burgason  
Area: 1.14 acres

Parcel 29:

Owner: Steven B Harold Jr. and Sonia M Harold  
Area: 4.00 acres

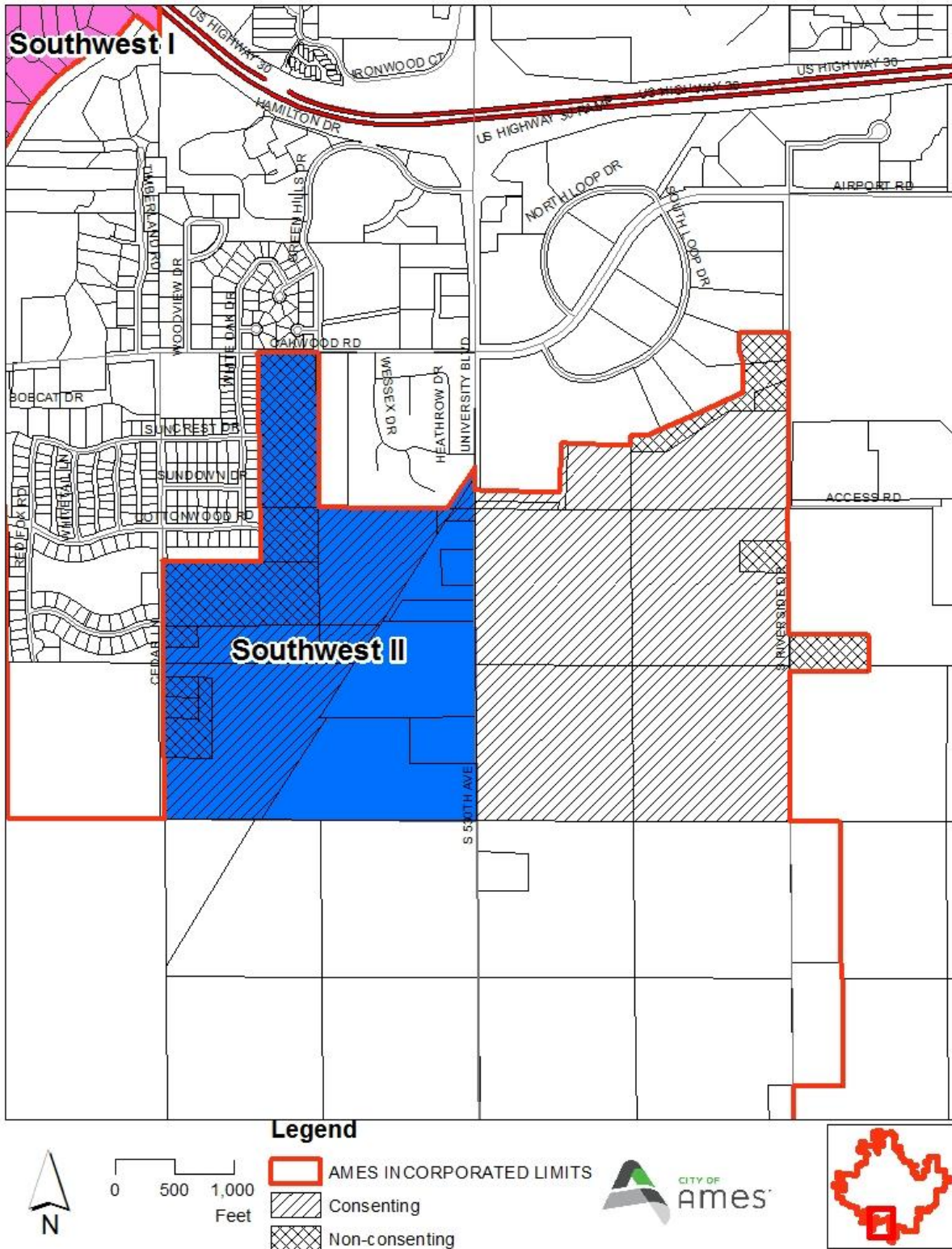


## ATTACHMENT C: AUF LAND USE MAP (EXCERPT)





## ATTACHMENT D: LUPP LAND USE MAP (EXCERPT)



**ATTACHMENT E: STORY COUNTY RESOLUTION OF SUPPORT  
[ATTACHMENTS TO RESOLUTION NOT INCLUDED]**

DO NOT WRITE IN THE SPACE ABOVE, RESERVED FOR RECORDER

Prepared by Leanne Harter, Story County Planning & Development Department, 900 6<sup>th</sup> St., Nevada, Iowa 50201 515-382-7245

Please return to:  
Auditor

**STORY COUNTY IOWA  
RESOLUTION OF THE BOARD OF SUPERVISORS  
RESOLUTION NO. 14-101**

WHEREAS, there has been submitted to the Board of Supervisors for Story County, Iowa, copies of application for voluntary annexation of certain into the City of Ames regarding real property situated in Story County, Iowa, a copy of which application and plat diagrams is attached hereto and by this reference made a part hereof, consisting of several parcels of land comprising 80.17 percent of the total territory proposed for annexation as identified below, and;

Applicant	Number of Parcels and Parcel Identification Number (s)
ISU Research Park	3 parcels
ISU Research Foundation	3 parcels
Hunziker Apartments, LLC	2 parcels
Jaime and Daphne Reyes and RDJ Holdings, LLC	4 parcels
Burgason Enterprises, LLC	3 parcels

WHEREAS, these 15 parcels are described as shown on Attachment "A"; and

WHEREAS, the proposed annexation also includes fourteen additional parcels that have been added in order to avoid creating islands, as allowed by the *Code of Iowa*, Section 368.7, comprising 19.83 percent of the total proposed annexation; and

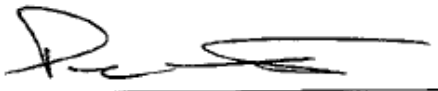
WHEREAS, Attachment "B" is a map that illustrates the total territory for which the City is contemplating annexation; and

WHEREAS, the members of this Board are in support of the application for voluntary annexation.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Story County, Iowa, that its records shall reflect that this Board is in support of the proposed annexation, and

BE IT FURTHER RESOLVED that a copy of this Resolution shall be forwarded to the City Clerk of the City of Ames, Iowa.

Dated this 3<sup>RD</sup> day of June, 2014.



Board of Supervisors  
Story County, Iowa



County Auditor  
Story County, Iowa

Moved by: Sanders  
Seconded by: Clinton  
Voting Aye: Sanders, Clinton, Toot  
Voting Nay: None  
Absent: None

Chairperson declared this Resolution: **ADOPTED AND APPROVED.**