

COUNCIL ACTION FORM

**SUBJECT: ZONING TEXT AMENDMENT FOR REZONING PETITION AND
MASTER PLAN REQUIREMENT**

BACKGROUND:

In the past year there have been six petitions for zoning map amendments related to the Floating Suburban (FS) zoning districts. These are the first significant rezoning petitions for the City in several years and have involved an extensive amount of staff time in their review. In an effort to improve the efficiency of this process and in the spirit of continuous improvement for our customers, the Planning and Zoning Commission and the City Council, staff is proposing two changes to Chapter 29. The first is to simplify the rezoning master plan determination process. The second relates to the processing time of a zoning amendment by staff and the timing of forwarding the item to the Planning and Zoning Commission.

Rezoning and Master Plan Determination

Article 15 of the City's Zoning Code prescribes the procedures for a requested rezoning text amendment or map amendment. Section 29.1507 allows for either a City Council initiated process or for a property owner initiated process. (See Attachment A) When owners of 50% or more of the area of the lots in a zoning district or part thereof desire a change to a district or regulation, they may petition for a zoning amendment directly and make an application request without City Council initiation. It is then subject to a public hearing process for a recommendation by the Planning and Zoning Commission and, ultimately, a public hearing with the City Council for approval.

However, when a property is part of rezoning to Floating Suburban Residential Low (FS-RL) or Residential Medium (FS-RM) zoning, it is mandatory that an applicant first seek City Council direction on whether a Master Plan must accompany the application. For all other zoning districts it is not a mandatory requirement prior to making an application, with the caveat that City Council at any time may request a Master Plan.

The City Council modified the Master Plan process in August of 2012 to remove the mandatory Master Plan and Preliminary Plat requirement concurrent with an FS zoning request. This was intended to allow for a more streamlined review and flexibility for developers that have not fully formulated their development concept at the initial stage of rezoning. The criteria for what is required in a Master Plan was adopted with that text amendment.

As the Code is currently written, even if someone chooses to do a Master Plan, they must plan for 2-4 weeks of additional processing time just for confirmation by the City Council that it indeed wants a Master Plan before an application can be submitted to

staff. Staff believes this is an unnecessary step in the process that requires additional staff time and time for Council on a requirement that to date has been perfunctory.

Staff recommends a change to the Code to allow for the option of a developer to submit a Master Plan consistent with the Code requirements without a Council determination of the need. This would still allow for an applicant that does not believe a Master Plan is necessary to seek a Council determination prior to making a rezoning application. Language to implement this change is presented below.

Section 29.1507 (3) Master Plan Determination. Before an application is made for amending the zoning map to designate any property as F-S RL or F-S RM, the applicant must either prepare a master plan or shall request that the City Council determine whether a Master Plan will be required. When City Council first considers an application for amending the zoning map to any other zoning district, the City Council may require a Master Plan be submitted prior to taking action on the rezoning request. The procedural requirements for this determination shall be as follows:

Process for Planning and Zoning Commission Review

The current processing requirements for a rezoning petition establish that a rezoning application is to be “immediately transmitted to the Planning and Zoning Commission for an investigation and report...” Once transmitted to the Commission, a 90-day clock begins within which a recommendation must be made to the City Council. With some recent applications this has not been a productive process to “immediately” transmit applications to the Planning Commission. Items have been placed upon Planning and Zoning Commission agendas to meet this requirement with no staff report or public hearing notice and no action taken by the Commission until a later date. This occurred when items met the minimal submittal requirements, but either had not been fully evaluated by staff or the applicant was non-responsive in providing supplemental information requested by staff.

Past practice was to only proceed to the Commission when an application was complete and reviewed by staff and ready for a public hearing notice.

Staff recommends modification to the “immediately transmit” language to account for staff review and assessment of an application to fit the practice of scheduling items on regular meetings dates. Staff does not propose to change the 90-day requirement for Planning and Zoning Commission to make a recommendation to the City Council.

There are two possible approaches to address this need. One would be to simply replace the term “immediately” with wording about the next regularly scheduled meeting to clarify the intent of when to transmit it. While this provides clarity in the process, however, it does not account for staff time to review an application. Therefore, staff recommends adding language allowing for a 30-day staff review and comment period prior to forwarding to the Commission.

Section 29.1507 (2) Petition for Amendment.

Whenever the owners of 50% or more of the area of the lots in any district or part thereof desire amendment, supplement or change in any of the provisions of this Ordinance applicable to such area, they may file an application in the Department of Planning and Housing requesting City Council to make such amendment, supplement or change. Such application shall be accompanied by a map or diagram showing the area affected by the proposed amendment, supplement, or change, together with the boundaries of said area, and the names and addresses of all the owners of record in the Office of the County Recorder and Auditor of Story County, Iowa, of lots therein and within a distance of 200 feet from the boundaries of said area.

The Planning and Housing Director shall within 30 days of receiving such application review it for completeness and adequacy of materials supporting the request and the need for any additional documentation or studies related to the request. A written response to comments by the Planning and Housing Director, if any, is required prior to having the application noticed for a public hearing and transmitted to the Planning and Zoning Commission. Such application shall be transmitted immediately to the Planning and Zoning Commission for an investigation and report. The Planning and Zoning Commission shall file its recommendations approving, disapproving or modifying the proposed amendment, supplement or change with City Council within 90 days thereafter.

Planning and Zoning Commission Recommendation

The Planning and Zoning Commission considered these text amendments at a public hearing on June 4th. There was no comment from the public at the meeting, and the Commission voted 5-0 to recommended approval to the City Council.

ALTERNATIVES:

1. The City Council can adopt the proposed text amendments for the option of submitting a Master Plan with a rezoning application and for the process to have staff review prior to transmitting a zoning application to the Planning and Zoning Commission.
2. The City Council can adopt the proposed amendments with modifications.
3. The City Council can decline to adopt the proposed amendment.

MANAGER'S RECOMMENDED ACTION:

Staff has identified these two issues related to administration of the Zoning Code, and believes modified language would allow for a more effective review of applications. Of the recent six determination requests to the City Council, five have required master

plans and one has not. None of the five that required the Master Plan objected to the requirement. The option for submitting a Master Plan with a zoning request benefits the applicant in speeding up the review process and encourages applicant's to provide master plans with the rezoning application.

Rezoning petitions come in a wide variety of types in terms of size and uses from small 0.5 acre sites up to 200+ acre sites with a master plan, and from single-family homes to industrial parks. The proposed changes to staff review of a rezoning application and transmittal to the Commission reflects the City's standard practice for development review of other application types. The 30 day period allows for adequate time to staff to meet with all affected departments and provide recommendations to an applicant about the appropriateness of the request and adequacy of the application materials. This change will ensure that staff has adequate time to review the project and will ensure the applicant provides adequate information for the Planning and Zoning Commission to consider at a public hearing on the merits of the rezoning petition.

Therefore, it is the recommendation of the City Manager that the Council accept Alternative No. 1, thereby adopting the text amendments proposed above.

Attachment A

Sec. 29.1507. ZONING TEXT AND MAP AMENDMENTS

(1) **Authorization.** The City Council may, from time to time, on its own initiative, on petition, or on recommendation of the Planning and Zoning Commission, after public notice and hearings, and after a report by the Planning and Zoning Commission, or after 30 days written notice to said Commission, amend, supplement or change the regulations, districts, or Official Zoning Map herein or subsequently established.

(2) **Petition for Amendment.** Whenever the owners of 50% or more of the area of the lots in any district or part thereof desire amendment, supplement or change in any of the provisions of this Ordinance applicable to such area, they may file an application in the Department of Planning and Housing requesting City Council to make such amendment, supplement or change. Such application shall be accompanied by a map or diagram showing the area affected by the proposed amendment, supplement, or change, together with the boundaries of said area, and the names and addresses of all the owners of record in the Office of the County Recorder and Auditor of Story County, Iowa, of lots therein and within a distance of 200 feet from the boundaries of said area. Such application shall be transmitted immediately to the Planning and Zoning Commission for an investigation and report. The Planning and Zoning Commission shall file its recommendations approving, disapproving or modifying the proposed amendment, supplement or change with City Council within 90 days thereafter.

(3) **Master Plan Determination.** Before an application is made for amending the zoning map to designate any property as F-S RL or F-S RM the applicant shall request that the City Council determine whether a Master Plan will be required. When City Council first considers an application for amending the zoning map to any other zoning district, the City Council may require a Master Plan be submitted prior to taking action on the rezoning request. The procedural requirements for this determination shall be as follows:

(a) Information as required by Section 29.1200(2) for a Pre-Application Conference shall be forwarded to City Council.

(b) The City Council may require a Master Plan to be submitted with a rezoning application if it determines that any one of the following conditions is met:

(i) The area to be rezoned will contain more than one type of residential dwelling unit and will be developed in multiple phases.

(ii) The area to be rezoned contains designated wetlands; flood plain and floodway boundaries; areas designated by the Ames Land Use Policy Plan as Greenways and Environmentally Sensitive Areas; conservation easements or other documented sensitive environmental conditions or valuable natural resources.

(iii) Development of the area with the most intensive uses permitted by the proposed zoning designation may require new, enlarged or upgraded off-site public improvements.

(iv) The City Council determines that due to specific conditions that exist on or around the area proposed to be rezoned, or due to situations that require more careful consideration of how the layout and design of a site affects general health, safety, and welfare, a Master Plan is necessary for consideration of the proposed zoning map amendment.

(c) If the City Council determines that a Master Plan is required it shall be prepared in compliance with the requirements of Section 29.1507(4) and shall be reviewed concurrently with the application for a zoning text amendment.

(4) **Master Plan.** When a Master Plan is required, it shall be submitted in compliance with the following:

(a) **Submittal Requirements.** The Master Plan shall contain the following information:

(i) Name of the applicant and the name of the owner of record.

(ii) Legal description of the property.

(iii) North arrow, graphic scale, and date.

(iv) Existing conditions within the proposed zoning boundary and within 200 feet of the proposed zoning boundary: Project boundary; all internal property boundaries; public rights-of-way on and adjacent to the site, utilities; easements; existing structures; topography (contours at two-foot intervals); areas of different vegetation types; designated wetlands; flood plain and floodway boundaries; areas designated by the Ames Land Use Policy Plan as Greenways and Environmentally Sensitive Areas

Attachment A

- (v) Proposed zoning boundary lines.
 - (vi) Outline and size in acres of areas to be protected from impacts of development
 - (vii) Outline and size in acres of areas proposed of each separate land use and for each residential unit type
 - (viii) Pattern of arterial streets and trails and off-site transportation connections
 - (ix) For proposed residential development provide the number of unit type for each area, expressed in a range of the minimum to maximum number to be developed in each area
 - (x) For proposed residential development provide a summary table describing all uses of the total site area, including the number of units per net acre for each unit type and each zoning area.
 - (xi) For proposed commercial development: placement, size in square feet and approximate dimensions for all buildings, locations and approximate dimensions of all parking areas; areas of landscape, screening, buffer, plaza and open space; circulation pattern for all modes of transportation on the site.
- (b) Number of copies. Submit seven (7) copies of the Master Plan on a sheet not to exceed 30" x 40", and one (1) reduced copy of the Master Plan no larger than 11" x 17".
- (5) **Compliance with Master Plan.** When a Master Plan is required and the proposed zoning map amendment is approved, a zoning agreement shall be approved by the City and agreed to by the owners of the property in the area of the proposed zoning map amendment that requires all development to be in compliance with the Master Plan. No Preliminary Plat, Final Plat, Major Site Development Plan, Minor Site Development Plan or Special Use Permit shall be approved that does not comply with the approved Master Plan. The process for amending the Master Plan shall be the process specified in this section for a zoning map amendment.
- (6) **Conditions.** Council may impose reasonable conditions on map amendments in accordance with Section 414.5 of the Iowa Code.
- (7) **Notice.**
- (a) Map. Notice of a map change shall be made by mail, publication and posting, in accordance with Sections 29.1500(2)(d)(i), (ii) and (iii) above, except that at least 7 days notice must be given. In no case shall the public hearing be held earlier than the next regularly-scheduled City Council meeting following the notice.
 - (b) Text. Notice of a text change shall be made by publication in accordance with Section 29.1500(2)(d)(ii) above, except that at least 7 days notice must be given. In no case shall the public hearing be held earlier than the next regularly-scheduled City Council meeting following the notice.
- (8) **Vote Required When Amendment Protested.** If a written protest against any proposed amendment, supplement or change has been filed with the City Clerk, signed by the owners of 20% or more of the area of the lots included in the proposed amendment, supplement or change or by the owners of 20% or more of the property that is located within 200 feet of the exterior boundaries of the property for which the amendment, supplement or change is proposed, such amendment, supplement or change shall not become effective except by favorable vote of at least $\frac{3}{4}$ of all members of the City Council.
- (9) **Renewal of Petition After Denial.** Whenever a petition requesting an amendment, supplement, or change of any regulation prescribed by this Ordinance has been denied by the City Council, such petition cannot be renewed for one year thereafter unless it is signed by the owners of at least 50% of the property owners who previously objected to the change. This provision, however, shall not prevent City Council from acting on its own initiative in any case or at any time as provided in this Section.
- (10) **Processing Time.**
- (a) Rezoning proposals referred by the City Council to the Planning and Zoning Commission shall be acted upon and returned to the Council not more than 90 days thereafter unless time extensions are specifically requested by the applicant.
 - (b) Failure of the Planning and Zoning Commission to render a decision within the time specified will be deemed approval of the application as submitted.
- (Ord. No. 3815, 12-21-04; Ord. No. 4121, 08-28-12)*

ORDINANCE NO.

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY REPEALING SECTIONS 29.1507(2) AND (3) AND ENACTING NEW SECTIONS 29.1507 (2) AND (3) THEREOF, FOR THE PURPOSE OF AMENDING THE REVIEW PROCESS FOR ZONING TEXT AND MAP AMENDMENT APPLICATIONS; REPEALING ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ENACTED, by the City Council for the City of Ames, Iowa, that:

Section One. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by enacting new Sections as follows:

“Sec. 29.1507. ZONING TEXT AND MAP AMENDMENTS.

...

(2) **Petition for Amendment.** Whenever the owners of 50% or more of the area of the lots in any district or part thereof desire amendment, supplement or change in any of the provisions of this Ordinance applicable to such area, they may file an application in the Department of Planning and Housing requesting City Council to make such amendment, supplement or change. Such application shall be accompanied by a map or diagram showing the area affected by the proposed amendment, supplement, or change, together with the boundaries of said area, and the names and addresses of all the owners of record in the Office of the County Recorder and Auditor of Story County, Iowa, of lots therein and within a distance of 200 feet from the boundaries of said area. The Planning and Housing Director shall within 30 days of receiving such application review it for completeness and adequacy of materials supporting the request and the need for any additional documentation or studies related to the request. A written response to comments by the Planning and Housing Director, if any, is required prior to having the application noticed for a public hearing and transmitted to the Planning and Zoning Commission. The Planning and Zoning Commission shall file its recommendation approving, disapproving or modifying the proposed amendment, supplement or change with City Council within 90 days thereafter.

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...”

Section Two. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent of such conflict, if any.

Section Three. This ordinance shall be in full force and effect from and after its passage and publication as required by law.

Passed this _____ day of _____, _____.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor