

COUNCIL ACTION FORM

SUBJECT: **RODEN SUBDIVISION PRELIMINARY PLAT**

BACKGROUND:

This action relates to a subdivision adjacent to Freel Drive and Southeast Fifth Street in east Ames (Location Map attached). The site was previously approved with an eight industrial lot preliminary plat on September 28, 2004, and the Preliminary Plat was valid for one year from the date of City Council approval. It has since expired, since a Final Plat was not submitted within one year of approval.

Previously Approved Preliminary Plat. The previous Preliminary Plat included eight lots for industrial development, and Lots A, B and C for street right-of-way to be dedicated to the City. Lot A was for construction of a new street that serves lots in the proposed subdivision and connects with Freel Drive on the west and SE 5th Street on the south. The east/west portion of the new street is SE 4th Street, and the north/south portion of the new street is Roden Avenue. Lots B and C are 15-foot wide strips of land, adjacent to the east side of Freel Drive, to be dedicated and become part of the street right-of-way for Freel Drive.

The proposed Preliminary Plat (see *Attachment A*) includes the same number of lots and lot configuration as the previously approved Preliminary Plat. The total area of the site remains the same.

Proposed Subdivision. This subdivision application is classified as a “Major Subdivision” since it involves the platting of more than three lots. Approval of a Preliminary Plat is a required step in the process for approval of a Major Subdivision, followed by approval of a Final Plat. The purpose of the Preliminary Plat is for the division of property into separate parcels and to plan for the streets, utilities and other public improvements needed to support the proposed uses. The proposed subdivision is a replat of Lots 16, 17 and 18 in Woodland Acres, Plat 2, and Parcels C and D of Lot 4 in Pete Cooper Subdivision, including a total of 5.28 acres, and is zoned as “GI” (General Industrial). Two proposed streets, Roden Avenue and S.E. 4th Street, will connect with existing streets to the south and west of Roden Subdivision.

With the proposed preliminary plat, the applicant has requested that the City Council waive subdivision sidewalk improvements along the project frontage of Freel Drive and S.E. 5th Street. (See Attachment B)

The attached addendum provides additional background and analysis of the proposal and the requested action.

Planning and Zoning Commission Recommendation. The Planning and Zoning Commission considered the proposed Preliminary Plat on August 20, 2014. The Commission recommended approval of the Preliminary Plat consistent with conditions recommended by staff, and recommended deferral of the sidewalks on Freel Drive and SE 5th Street. The deferral was supported due to the existing conditions of roadside ditches along SE 5th Street and the unimproved condition of Freel Drive.

ALTERNATIVES:

1. The City Council can approve the Preliminary Plat for Roden Subdivision, with the following conditions as recommended by the Planning and Zoning Commission:
 - A. That the developer will construct and dedicate all public improvements **within the development** to City of Ames Urban Standards, as required, including: dedication of public right-of-way, street paving, curb, gutter, sidewalks, street lights, water main, sanitary sewer main, and storm sewer improvements, prior to approval of the Final Plat, or execute an Improvement Agreement to guarantee the completion of all public improvements and provide security in the form of an Improvement Guarantee, as set forth in Section 23.409 of the *Municipal Code*.
 - B. That the developer will secure a Flood Plain Development permit prior to any construction activities on the site.
 - C. That installation of sidewalks within the right-of-way of Freel Drive and S.E. 5th Street be deferred. A deferment agreement will be required prior to final plat approval to insure the ultimate installation of these sidewalks. The agreement will require submittal of cash in escrow, a letter of credit, or another form of acceptable financial security for installation of the sidewalks (Section 23.403 (14)).
 - D. That the accessory structure presently located in the side yard on proposed Lot 4 be moved outside the minimum required 12-foot side yard setback west of the existing building, and be removed from the site or located outside all required building setbacks on the site for accessory structures.
 - E. That the building outline and reference to the “Existing Building (To Be Removed)” on proposed Lot 7, be removed from the Preliminary Plat.
2. The City Council can approve the Preliminary Plat for Roden Subdivision, with other conditions or modifications. One such modification could be to waive, rather than defer, the sidewalks along Freel Drive and SE 5th Street.
3. The City Council can deny Preliminary Plat for Roden Subdivision.

MANAGER'S RECOMMENDED ACTION:

The Preliminary Plat is consistent with the Land Use Policy Plan, the Zoning Ordinance and the Subdivision Ordinance standards for industrial development. Therefore, it is the recommendation of the City Manager that the City Council accept Alternative #1, thereby approving the Preliminary Plat for Roden Subdivision with the conditions listed above.

It should be noted that included in this recommendation is staff's support for the deferral of installation a sidewalk along Freel Drive and SE 5th Street right-of-ways, rather than the complete waiving of the installation for these sidewalks.

ADDENDUM

Applicable Law. Laws pertinent to the proposal are attached. Pertinent for the Planning and Zoning Commission are Municipal Code Sections 23.302(3) and 23.302(4) as described in the attachment.

Land Use Policy Plan (LUPP). All lots in the proposed subdivision are designated as "General Industrial" on the LUPP.

Frontage and Access. All lots have frontage on existing, or proposed City streets. Access to Lot 1 will be restricted to Roden Avenue, only, with no access to S.E. 5th Street. Access to Lots 6 and 8 will be restricted to the new S.E. 4th Street, only, with no access to Freel Drive.

Utilities, Street Lights, and Sidewalks. Public improvements available to serve the proposed subdivision are described as follows:

Water. An 8-inch water main has previously been extended into the subdivision from Freel Drive. The developer will extend the existing 8-inch water main from where it currently ends to the existing 12-inch water main in the Southeast 5th Street right-of-way. This will provide a looped system to adequately serve the site.

Sanitary Sewer. An 8-inch sanitary sewer main will be extended from Freel Drive to serve the eight lots in the proposed subdivision. The 8-inch main is adequate to serve the site.

Storm Water. A storm water management plan has been prepared for the subject site. The majority of the site generally drains from the north to the south. Storm water from Lots 1 through 3 will be diverted, through overland flowage swales, toward a detention pond south of Southeast 5th Street. This storm water was accounted for when the surrounding property to the east was subdivided previously. Storm water from Lots 4 through 8 will be collected on the site through a series of detention/retention areas and ultimately diverted through drainage swales to an existing storm water intake on Freel Drive. The rate of storm water run-off will not be increased above the predevelopment rate of run-off. The storm water management plan has been approved by the Public Works Department, with only minor adjustments.

Electric. The subject area falls within the City of Ames Electric Service Boundary. The site can be adequately and efficiently served by municipal electric services.

Sidewalk. A 4-foot wide concrete sidewalk is required along at least one side of any street within industrially-zoned areas. For the proposed subdivision, sidewalk is required along one side of Roden Avenue and S.E. 4th Street, which are streets proposed to serve as access to lots in the subdivision.

The developer agrees to construct sidewalk along the south side of those streets within the subdivision. Sidewalk is also required along the eastern edge of the right-

of-way for Freel Drive and the northern edge of S.E. 5th Street right-of-way.

The developer has submitted a letter to the City Council requesting that the requirement for sidewalk along Freel Drive and S.E. 5th Street be waived (see Attachment C). The letter was referred to staff by the City Council at their meeting on August 12, 2014. The developer states in the letter that if the City is not willing to grant a waiver of requirements for sidewalks, that a deferral of sidewalk installation be approved. The process for sidewalk deferral is part of the Subdivision Code in 23.403 (14).

To grant a waiver of the requirements for sidewalk, the City Council must find that compliance with the requirements of the regulations would result in extraordinary hardship to the Applicant, or would prove inconsistent with the purpose of the regulations because of unusual topography or other conditions.

A deferment for the installation of sidewalks may be granted by the City Council when topographic conditions exist that make the sidewalk installation difficult or when the installation of sidewalk is premature. Where the installation of sidewalk is deferred by the City Council, an agreement will be executed between the property owner/developer and the City of Ames that will ensure the future installation of the sidewalk. The deferment agreement will be accompanied by financial security to cover the cost of installation of the sidewalk. This agreement would be required prior to final plat approval.

In this instance, the applicant contends that with the gravel condition of Freel that a sidewalk is impractical to install and has nothing to connect to at this time. Additionally, the applicant contends that the construction of sidewalk along S.E. 5th is premature because of roadside ditches and the closest connection is to Dayton to the east.

Zoning. The eight proposed lots meet the minimum standards for size, frontage, and access in the “G-I” (General Industrial) zone.

Existing Buildings. A building presently exists on proposed Lots 4 and 8. The building on Lot 7 has been removed from the site, and needs to be removed from the Preliminary Plat drawing.

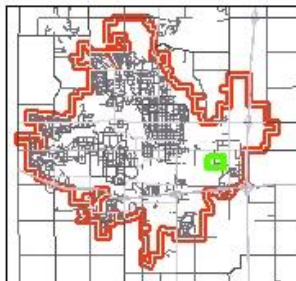
An accessory structure is presently located on proposed Lot 4, and does not meet the required minimum side yard setback of 12 feet. This structure must be relocated outside the setback, as a condition of approving the Preliminary Plat.

Conclusions. From this analysis, staff concludes that the Preliminary Plat is consistent with the goals and objectives of the Land Use Policy Plan relevant to this project for layout and use. The Preliminary Plat also complies with other City plans as listed in Section 23.107 of the subdivision code. Staff further concludes that the Preliminary Plat conforms to the Design and Improvement Standards of Division IV of the Ames *Subdivision Regulations*, provided all required sidewalks are constructed, or a waiver of subdivision requirements is granted by the City Council, or a deferment agreement is signed by the applicant and the City.

Staff concludes that requirement of installation of public sidewalk in the right-of-way for Freel Drive and S.E. 5th Street does not constitute an extraordinary hardship for the developer, and there are no topographic, or other conditions that exist to justify a complete waiver of the requirement for public sidewalk in the right-of-way for either street.

The granting of a deferment of sidewalk installation along Freel Drive and S.E. 5th Street by the City Council is a more reasonable request for which it could be determined that installation of sidewalk is premature. It is a fact that no other sidewalk exists along S.E. 5th Street between Freel Drive and Dayton Avenue, as stated by the applicant in the attached letter. Therefore, it is staff's position that a deferment of sidewalk in the Freel Drive and S.E. 5th Street right-of-ways should be granted by the City Council.

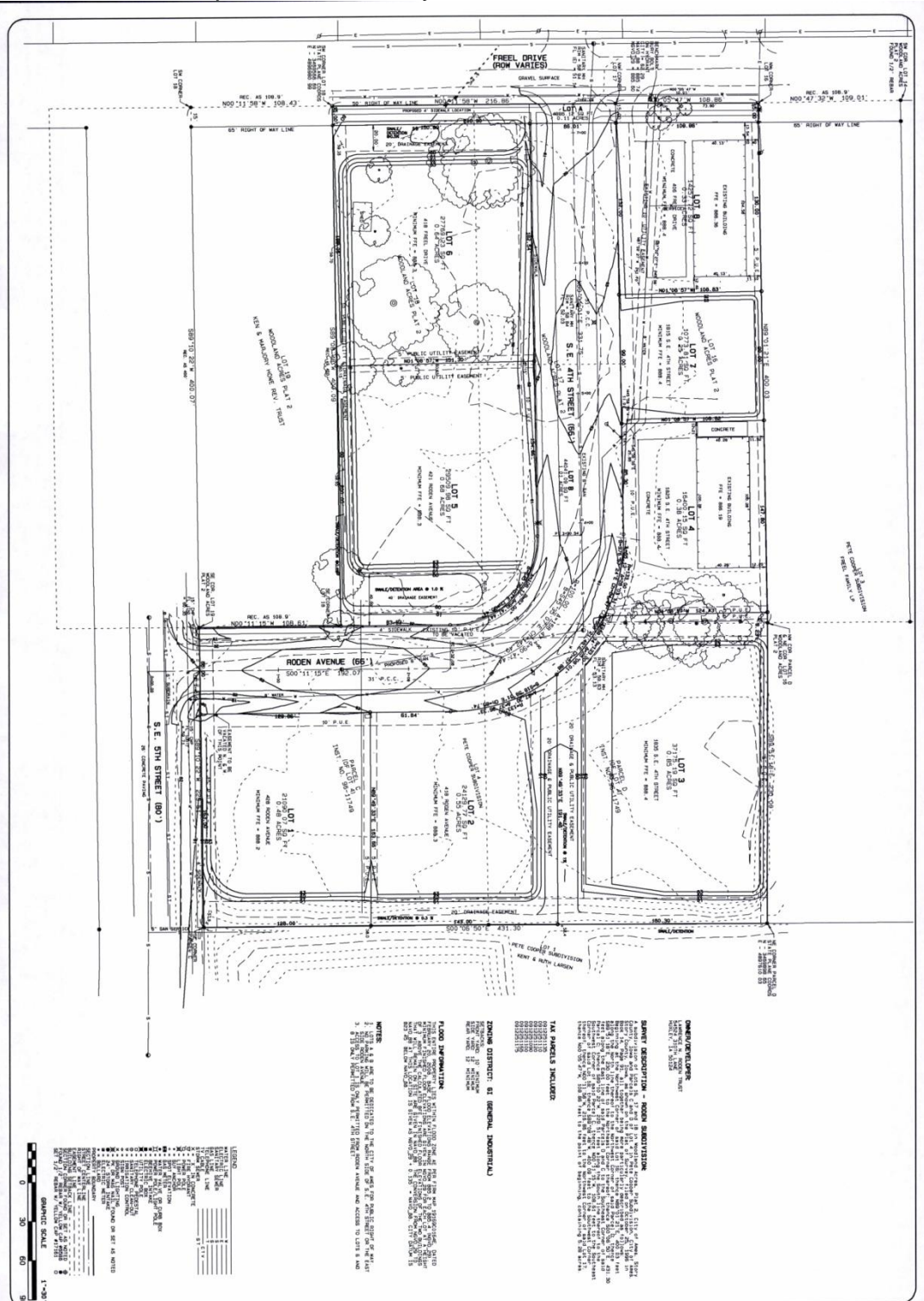
Location Map



Location Map Roden Subdivision

0 75 150 300 450 Feet





STUMBO & ASSOCIATES
LAND SURVEYING

510 S. 17th STREET, SUITE 102 AMES, IOWA 50010
PHONE 515-233-3689 FAX 515-233-4403

PRELIMINARY PLAT
RODEN SUBDIVISION

A SUBDIVISION OF LOTS 16-18, WOODLAND ACRES,
PLAT 2 AND PARCELS C & D OF LOT 4, PETE COOPER
SUBDIVISION

FREEL DRIVE & S.E. 5TH STREET

AMES, IOWA
JOB #9138PP DATE: 9/03/14 PAGE: 1 of 1

Certification: I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of Iowa.

R. Bradley Stumbo Date: 9/3/14
R. Bradley Stumbo License #17101
My license renewal date is December 31, 2015



Attachment B
Letter Requesting Waiver or Deferral of Sidewalks (Page 1)

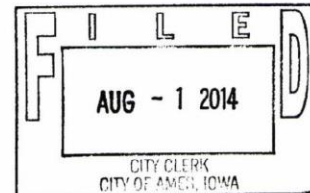
Pkts. B-1-14



July 31, 2014

To: Mayor Campbell and City Council Members

Re: Waiver or Deferral of sidewalk installation
Roden Subdivision



Mayor and Council Members,

I am writing on behalf of Larry Roden, owner and developer of land located near the intersection of Freel Drive and S.E. 5th Street in Ames, to request that Council consider granting either a complete waiver or deferral of sidewalk installation along the aforementioned streets. Mr. Roden is platting his land into eight commercial lots with full infrastructure and street installation and is planning to install the required sidewalk within the bounds of his development.

I understand why the sidewalk requirement is in place. In most cases, it makes sense to have a place for pedestrians to safely move from place to place. In this location, however, there are several valid reasons why installation of sidewalks should not be required. Please consider these factors when making your decision:

1. There are no other sidewalks along Freel or S.E. 5th. This is a heavy industrial area with no foot traffic. The nearest existing sidewalk is on the South side of Lincoln Way, nearly 1400' north of the proposed development. There are no sidewalks at all along South Dayton Road, East of the subject property.
2. The subject property lies within the floodplain. In order to develop this general area, stormwater management requires the use of drainage swales, ditches and retention/detention ponds. A drainage swale currently exists along S.E. 5th, designed and installed as part of a prior development. Installation of a sidewalk along S.E. 5th will necessitate filling this drainage way and negatively impact the drainage situation for many upstream properties.
3. Because on-site stormwater management requires a retention pond along the East side of Freel Drive in proposed Lot 6, and because of the location of existing utilities and trees in the right of way, any sidewalk installed along Freel must be pushed closer to the travelled roadway than what is customary for sidewalk location. Due to the nature of the type of vehicles that use this road, we view this as a potential safety risk for pedestrians.

Attachment B
Letter Requesting Waiver or Deferral of Sidewalks (Page 2)

I think these points clearly make the case for a complete waiver of sidewalk installation along Freel Drive and S.E. 5th Street, adjacent to Roden Subdivision. However, if the city is not willing to grant a complete waiver, please consider granting a deferral instead. Mr. Roden will be executing a public improvement agreement along with providing financial security for paving a portion of Freel Drive, currently a gravel road. Because his responsibility extends only to the eastern half of the road, a paving project may not be fully funded for years and the installation of sidewalks along a gravel road seems impractical.

Section 29.403(14)(a)(i) of the Municipal Code describes that: "A deferment for the installation of sidewalks may be granted by the City Council when topographic conditions exist that make the sidewalk installation difficult or when the installation of sidewalk is premature. Where the installation of sidewalk is deferred by the City Council, an agreement will be executed between the property owner/developer and the City of Ames that will ensure the future installation of the sidewalk. The deferment agreement will be accompanied by a cash escrow, letter of credit, or other form of acceptable financial security to cover the cost of the installation of the sidewalk."

Thank you for your consideration.



Brad Stumbo, PLS

Attachment C

Applicable Subdivision Law

The laws applicable to this revision to the Preliminary Plat for Aspen Ridge Subdivision 2nd Addition include, but are not limited to, the following: (verbatim language is shown in *italics*, other references are paraphrased):

Code of Iowa Chapter 354, Section 8 requires that the governing body shall determine whether the subdivision conforms to its Land Use Policy Plan.

Ames Municipal Code Chapter 23, Subdivisions, Division I, outlines the general provisions for subdivisions within the City limits and within two miles of the City limits of Ames.

Ames Municipal Code Section 23.302(3):

(3) Planning and Zoning Commission Review:

- (a) The Planning and Zoning Commission shall examine the Preliminary Plat, any comments, recommendations or reports assembled or made by the Department of Planning and Housing, and such other information as it deems necessary or desirable to consider.*
- (b) Based upon such examination, the Planning and Zoning Commission shall ascertain whether the Preliminary Plat conforms to relevant and applicable design and improvement standards in these Regulations, to other City ordinances and standards, to the City's Land Use Policy Plan, and to the City's other duly adopted Plans.*

Ames Municipal Code Section 23.302(4):

- (4) Planning and Zoning Commission Recommendation: Following such examination and within 30 days of the regular meeting of the Planning and Zoning Commission at which a complete Application is first formally received for consideration, the Planning and Zoning Commission shall forward a report including its recommendation to the City Council. The Planning and Zoning Commission shall set forth its reasons for any recommendation to disapprove or to modify any Preliminary Plat in its report to the City Council and shall provide a written copy of such reasons to the developer.*

Ames Municipal Code Section 23.302(5):

- (5) City Council Review of Preliminary Plat: All proposed subdivision plats shall be submitted to the City Council for review and approval in accordance with these Regulations. The City Council shall examine the Preliminary Plat, any comments, recommendations or reports examined or made by the Planning and Zoning Commission, and such other information as it deems necessary and reasonable to consider.*

Ames Municipal Code Section 23.302(6):

(6) *City Council Action on Preliminary Plat:*

- (a) *Based upon such examination, the City Council shall determine whether the Preliminary Plat conforms to relevant and applicable design and improvement standards in these Regulations, to other City ordinances and standards, to the City's Land Use Policy Plan and to the City's other duly adopted plans. In particular, the City Council shall determine whether the subdivision conforms to minimum levels of service standards set forth in the Land Use Policy Plan for public infrastructure and shall give due consideration to the possible burden of the proposed subdivision on public improvements in determining whether to require the installation of additional public improvements as a condition for approval.*
- (b) *Following such examination and within 30 days of the referral of the Preliminary Plat and report of recommendations to the City Council by the Planning and Zoning Commission, the City Council shall approve, approve subject to conditions, or disapprove the Preliminary Plat. The City Council shall set forth its reasons for disapproving any Preliminary Plat or for conditioning its approval of any Preliminary Plat in its official records and shall provide a written copy of such reasons to the developer.*

Ames Municipal Code Chapter 23, Subdivisions, Section 29.103, provides criteria for the granting of a waiver with a subdivision requirement.

Ames Municipal Code Chapter 23, Subdivisions, Division III, provides the procedures for the subdivision of property; specifically Section 23.302 discusses Major Subdivisions.

Ames Municipal Code Chapter 23, Subdivisions, Division IV, identifies design and improvement standards for subdivisions.

Ames Municipal Code Chapter 23, Subdivisions, Section 29.403(14)(a)(i) provides criteria to be used in granting a deferment for the installation of sidewalk, and describes an agreement that is required to grant deferment.

Ames Municipal Code Chapter 29, Zoning, Section 29.804, includes standards for the Highway-Oriented (HOC) zone.

Ames Municipal Code Chapter 29, Zoning, Table 29.1203 includes standards for the Planned Residence District (F-PRD) zone.

Ames Municipal Code Section 23.107 reads as follows:

In addition to the requirements of the Regulations, all plats of land must comply with all other applicable City, county, state and federal statutes or regulations. All

references in the Regulations to other City, county, state or federal statutes or regulations are for informational purposes only, and do not constitute a complete list of such statutes or regulations. The Regulations are expressly designed to supplement and be compatible with, without limitation, the following City plans, regulations or ordinances:

- (1) Land Use Policy Plan*
- (2) Zoning Ordinance*
- (3) Historic Preservation Ordinance*
- (4) Flood Plain Ordinance*
- (5) Building, Sign and House Moving Code*
- (6) Rental Housing Code*
- (7) Transportation Plan*
- (8) Parks Master Plan*
- (9) Bicycle Route Master Plan*

Plats may be disapproved on the basis of the above, and other City Council approved plans and policies that may be adopted from time to time.