

COUNCIL ACTION FORM

SUBJECT: SCENIC POINT ANNEXATION AT
3601 GEORGE WASHINGTON CARVER

BACKGROUND:

Hunziker Land Development is proposing annexation of 19.814 net acres of land owned by themselves and James and Phyllis Athen. The intent is to develop the property as a planned residential development (named Scenic Point) on approximately 4 acres of the total site. The remaining area of the site is within the Squaw Creek floodplain and not intended for development.

The annexation area also includes two non-consenting residential properties along George W Carver Avenue east of the Scenic Point site. The properties are identified as the Fromm property including 2.51 net acres and the Spillers property including 1.53 net acres. Since the annexation request would create islands of unincorporated land, these two non-consenting owners have been added to the annexation territory as allowed by Code of Iowa, Section 368.7(a), where up to 20% of the area of an annexation may include non-consenting property owners. **As currently proposed, 83% of the net annexation area is consenting and 17% is non-consenting.** A location map of the proposed annexation is included as Attachment A. It identifies the parcels owned by consenting owners as well as non-consenting owners.

Land Use Policy: The Land Use Policy Plan (LUPP) identifies the larger 18.9 acre parcel (3601 George Washington Carver Avenue) as being in the North Allowable Growth Area per a 2012 amendment. See Attachment B - LUPP Map. The three smaller properties of this annexation petition were not formally included in the 2012 LUPP Amendment request. Identifying the three smaller properties as part of the growth area is consistent with the LUPP in that if they are excluded from the area they interrupt the growth area designation by being unallowable islands.

The Ames Urban Fringe Plan identifies all four parcels as being within the Natural Area. See Attachment C. This does not preclude their annexation (even though they are not "Urban Residential"). Recent annexations have included land designated Natural Area if it is adjacent to the city limits or to areas designated as Urban Residential. **Upon annexation, the properties would automatically be given the Land Use Policy Plan designation of Village/Suburban Residential with the Environmentally Sensitive Areas overlay.** This overlay identifies potentially sensitive areas and would allow the City to impose development standards during subsequent subdivision or rezoning actions. For instance, grading, slope disturbances, and tree clearing were regulated within the Environmentally Sensitive Area of Scenic Valley subdivision to the north.

All of the properties would automatically receive agricultural zoning upon annexation to the City. The applicant, Hunziker Development, believes applying for Planned

Residential Development (PRD) zoning would be the most appropriate way to implement the LUPP designations on the Scenic Point site if annexation is approved. No rezoning of the other properties is part of the Scenic Point development plan.

Infrastructure:

As part of an annexation request, the City reviews the potential to serve development with City utilities. When the Scenic Valley property to the north was annexed there was a sanitary sewer study completed for service to that development. The findings of the study were that downstream limitations existed and that mitigation was needed to fully serve the Scenic Valley development. The developer entered into a development agreement to fund the cost of realigning a pipe to improve flows.

The prior analysis did not consider additional loading for development of this area. Public Works has received data from the developer regarding loading information for the proposed annexation area. That information has been sent to the city's consultant who has made a determination that the proposed development (24 multi-family residential units) "is of a size that will not impact the overall performance of the sewer in this area." At this time no further commitment for mitigation by the developer is required to proceed with annexation. However, the staff will need to verify this fact at the time of zoning.

Since this area lies within the Xenia Rural Water District territory and some owners receive service from Xenia, agreements will need to be in place for all consenting owners regarding the buyout of the Xenia service territory and disconnection of service prior to development. This is a customary requirement of the City of Ames for all annexations of land intended for development. All non-consenting owners are under no obligation to withdraw from Xenia service territory unless they subsequently seek to develop some or all of their land. **At this time a signed agreement between the developer and Xenia has not been submitted to the city as part of the annexation request.**

Non-Consenting Properties: State law allows for up to 20% of the property within a requested voluntary annexation to be non-consenting 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. Non-consenting property owners are subject to the ordinances of the City, but they do not have any automatic changes to use of their property, such as removal of non-conforming uses or structures or connections to City water or sewer lines. Further explanation of the effects of annexation is included in Attachment D.

The proposed voluntary annexation area includes two non-consenting property owners in order to avoid creating a jurisdictional island. Three of the four properties within the annexation area (one consenting and two non-consenting) contain area of county right-of-way easement for GW Carver Avenue. Under state allowance, net acreage can be used to determine the 80/20 rule when the right of way easement areas are removed from both the consenting and non-consenting sides of the calculation. The areas denoted in this report represent an 80/20 calculation of acreage for the annexation based on the net acreage of the properties.

Annexation Calculation

Consenting	Property Owners	Gross Acres	% of Total	County ROW	Net Acres	% of Total
	Hunziker	1.020		0.130	0.890	
	Athen	18.924		0.000	18.924	
	Subtotal	19.944	79.22%	0.130	19.814	83.06%
Non-Consenting						
	Fromm	2.800		0.290	2.510	
	Spillers	2.430		0.900	1.530	
	Subtotal	5.230	20.78%	1.190	4.040	16.94%
	Total	25.174	100.00%	1.320	23.854	100.00%

Upon City Council approval of an 80/20 annexation, state law requires that the state's City Development Board also conduct a hearing on the annexation and take action to approve the annexation before it can be finalized and recorded with the county.

With the full annexation of the Scenic Point site's 19.8 acres there is no way to avoid use of the 80/20 rule that brings the Fromm and Spillers property into the City. To avoid creating an island under state law, a minimum of a 50-foot wide strip of land must exist that connects unincorporated properties. The Scenic Point site would require a boundary line adjustment of the existing two consenting parcels prior to annexation to create an area that allows for a minimum of a 50-foot corridor and avoids the island designation of the Fromm and Spillers properties.

Outreach:

As part of the state-mandated process for annexations, city staff held a consultation with the Franklin Township Trustees and the Story County Supervisors on February 25, 2015. One representative from Story County Planning Department attended and did not indicate any issues or recommendations for altering the proposed annexation. A resolution has been approved by the Story County Board of Supervisors taking no position on the annexation request.

Staff has contacted the owners of the Fromm and Spiller properties. This included an initial letter in February as well as public hearing notices for the Planning and Zoning Commission and City Council meetings. At this time, neither property owner has expressed an interest in voluntarily joining the annexation. The Spiller's have expressed concerns about changes in water service and their septic system and potential additional costs of being annexed to the City.

Katherine Fromm is concerned about drainage issues with her property and specifically has concerns about the maintenance of a stream corridor that traverses her west property line with the Scenic Point site. The City has a maintenance easement for this channel along her west property line, as it partially conveys stormwater from the Northridge Heights subdivision out to Squaw Creek. The City does not maintain the full length of the stream to Squaw Creek. Most of the channel is on a separate Fromm parcel as it runs west to connect to Squaw Creek. **Annexation does not affect the**

responsibility of maintenance of this channel for either of the Fromm parcels. Fromm strongly advocates her desire for the City to take over full responsibility for the stream channel.

Planning and Zoning Commission: The Ames Planning and Zoning Commission held a public hearing on this proposed annexation on March 18, 2015. Following the staff presentation, an attorney representing Mr. Spillers, relayed concerns regarding the noticing and costs associated with annexation should the non-consenting property owners request to connect to city services. The Commission voted 4-0 to recommend that the City Council approve the request to annex 25.17 gross acres, all in Sections 28 and 29 of Franklin Township, Story County by finding that the proposed annexation is consistent with the Land Use Policy Plan and Urban Fringe Plan. The Commission believed it was more appropriate to annex all of the land now than to carve out a smaller annexation area to avoid annexing the Fromm and Spiller property.

ALTERNATIVES:

1. The City Council can conduct the public hearing and take no action on the petition on the annexation until the April 28, 2015 City Council meeting to allow an agreement to be finalized with Xenia and a signed annexation agreement to be filed with the city.

There is no state requirement that the City Council act on the annexation at the same meeting as the public hearing. **At this time final signed agreements have not been completed by the developer with Xenia or with the City and final action after a public hearing should be delayed until the signed agreements are received.**

2. The City Council can conduct the public hearing on the annexation, but decide against an 80/20 annexation and take no final action on the annexation petition until the applicant has completed a boundary line adjustment to create one parcel for annexation that does not under the Code of Iowa create an island out of the Fromm or Spiller property.

This option would allow the applicant to prepare a Plat of Survey for a boundary line adjustment between the Athen and Hunziker properties to create a parcel that could then allow for Council to approve a single parcel for annexation, and exclude the Fromm and Spillers. This parcel would be sized to accommodate the development area of the site. The remainder area would remain in the County. This annexation would also require signed annexation agreements prior to its approval.

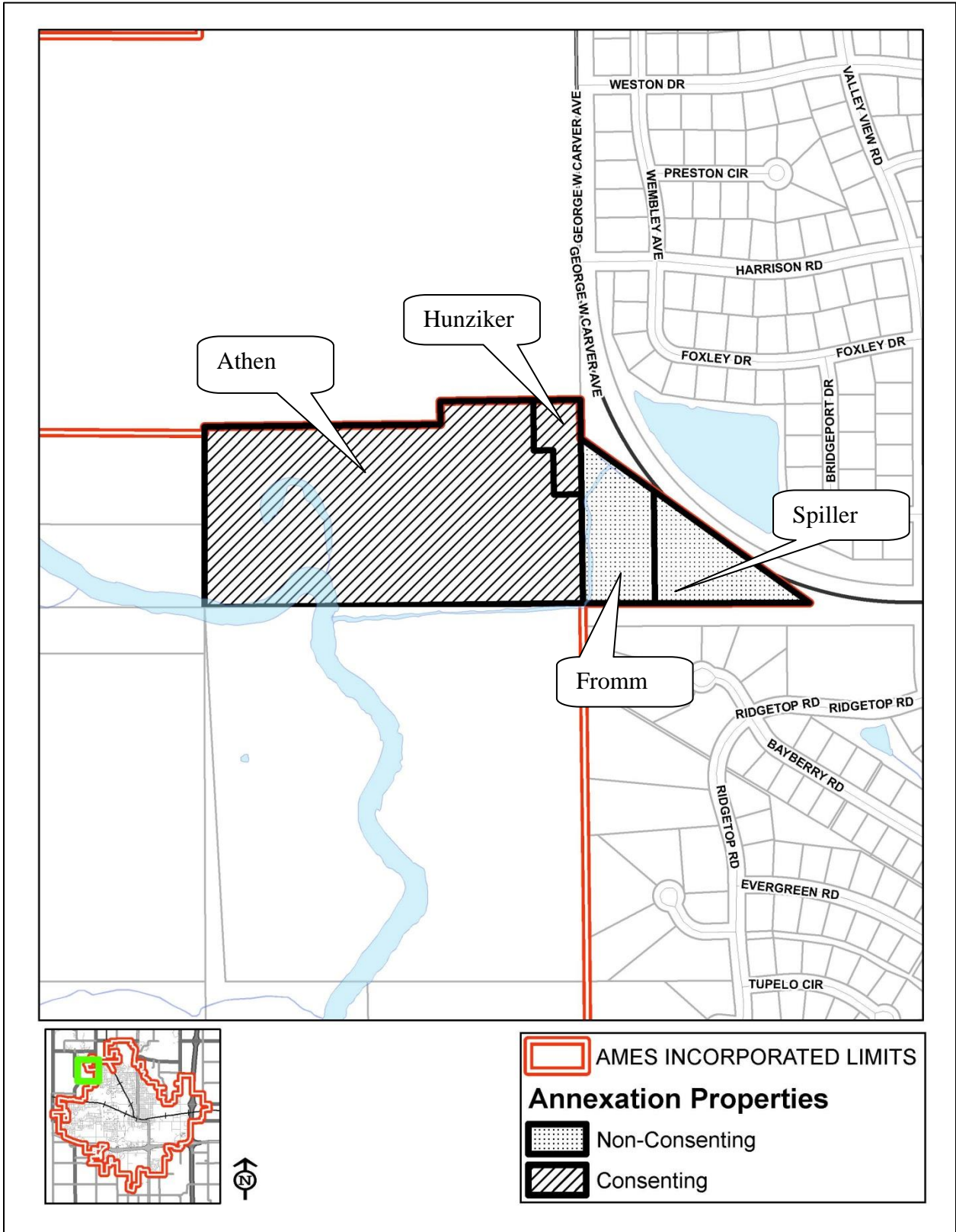
3. The City Council can deny the proposed annexation.
4. The City Council can open the public hearing and continue the public hearing to a specific date to request additional information from the petitioners or City staff, and defer action to a later date.

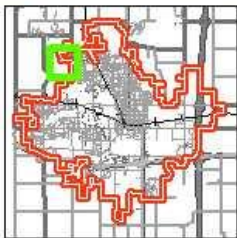
CITY MANAGER'S RECOMMENDATION:

This annexation is consistent with the Land Use Policy Plan and the Ames Urban Fringe Plan for areas of expansion of the City. Bringing in four properties creates the most uniform boundaries for the City and avoids potential complications with future annexations. However, uncertainty over the water territory issue leaves important questions unanswered regarding the provision of water service. Were the Council to approve the annexation without that agreement, the City would lose the ability to ensure that the annexation meets the policies of the City for services.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative #1. **Council would thereby conduct the public hearing, but take no action on the annexation petition until such time as an agreement has been reached with Xenia and the owners of the properties have signed the annexation agreement with the City.**

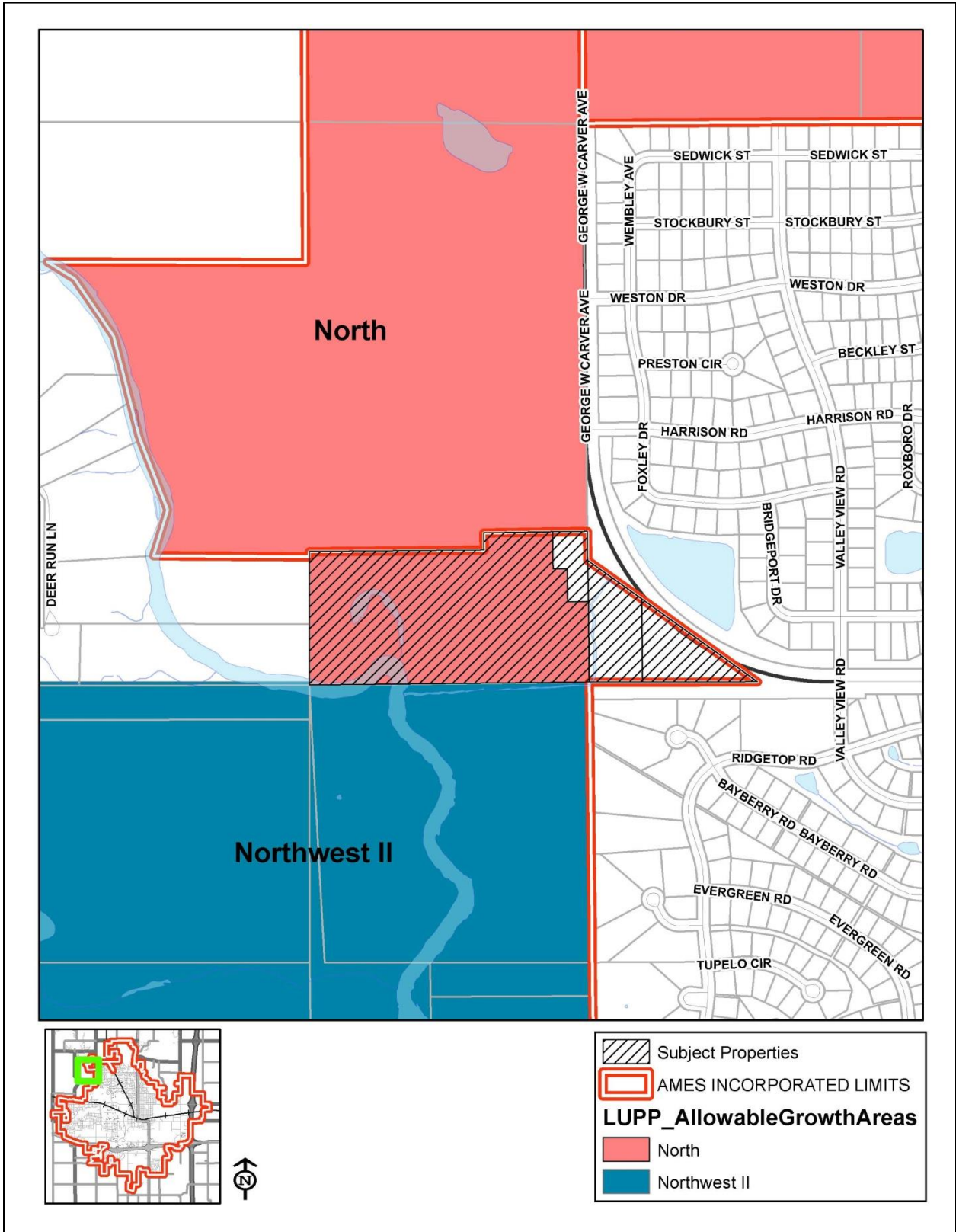
ATTACHMENT A:
LOCATION MAP



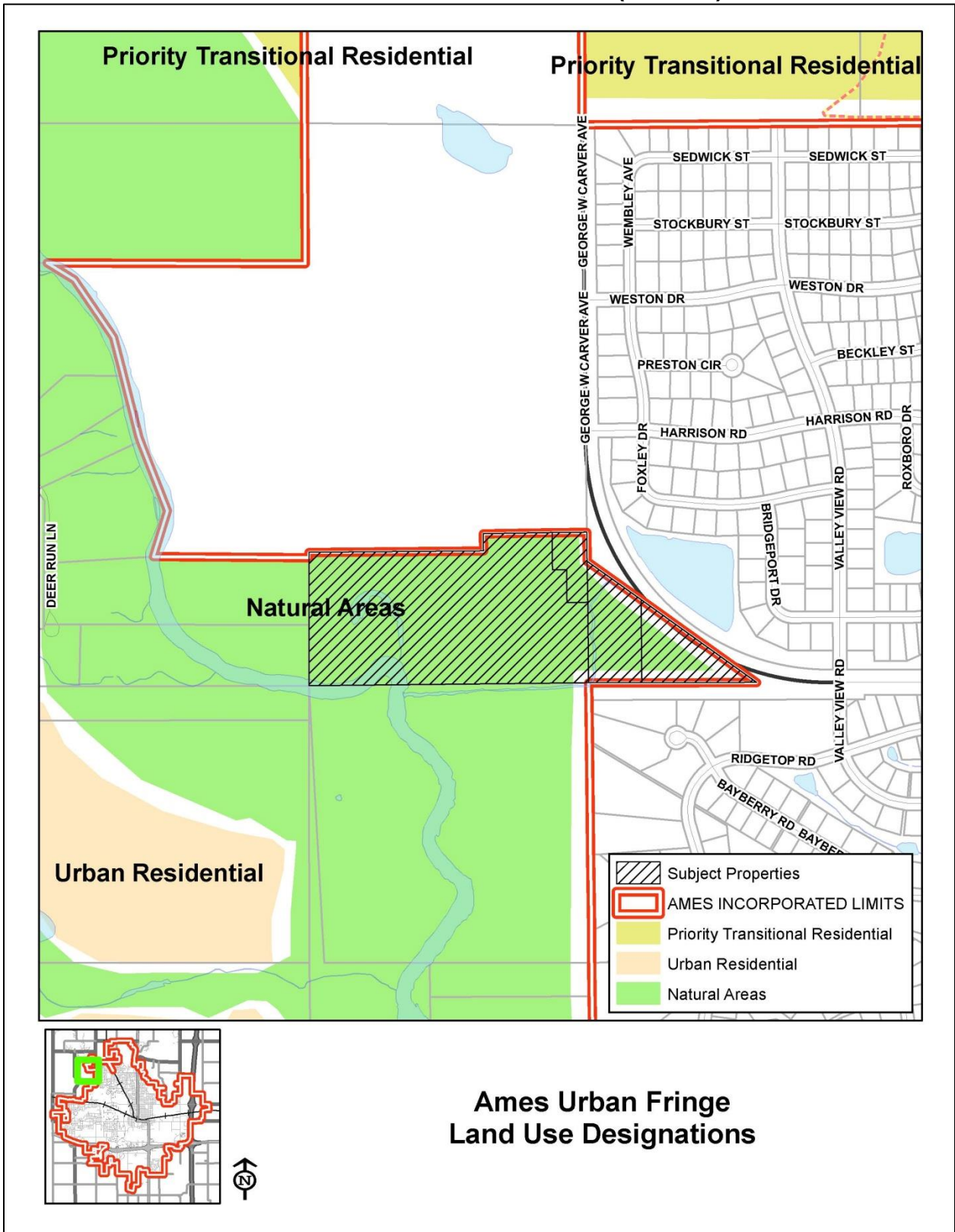


Annexation Area

**ATTACHMENT B:
LUPP LAND USE MAP, ALLOWABLE GROWTH AREAS (EXCERPT)**



**ATTACHMENT C:
AMES URBAN FRINGE LAND USE MAP (EXCERPT)**



ATTACHMENT D:

QUESTIONS REGARDING ANNEXATION

What will be the zoning of my property after annexation and what does that mean? Will it have to change?

Upon annexation, a property is automatically zoned A-Agriculture. It will remain A-Agriculture until action by the City Council to change the zoning map. According to Ames City Code, the property owner, the Planning and Zoning Commission, or the City Council can initiate a zoning map change.

The property will be subject to all the zoning requirements of the City. For any specific question about how the requirements impact a particular property, please contact the Planning Division. However, a residential property in the A-Agriculture zoning district would be allowed to maintain that use indefinitely. If damaged or destroyed, a residential use could be re-established subject to the zoning requirements regarding setback, height, etc. There may be greater restrictions than the county would have on accessory and out buildings.

Inside the City, there are other restrictions that are often not found in the county. For example, discharging a firearm (except on agricultural land) and the burning of garbage is prohibited.

Am I required to disconnect from Xenia and hook up to water service when it comes near my property? Will there be connection fees? Can I connect to the new water main with my existing service line? What inspections will I need?

There is no requirement to connect to city water upon annexation unless you are subject to a covenant with the City of Ames to connect and pay the costs associated with the buyout of rural water. You may continue to use a well or, if you are already an existing Xenia customer, you may continue to purchase water from Xenia. If you choose to connect to the City of Ames water system, you may have to pay the costs of buying out water service territory from Xenia. New connections to Xenia will not be possible.

If you choose to connect to the public water system, you may be subject to an inspection of your plumbing system to determine whether the system has adequate venting and backflow protection to protect the public water system. You will need to correct any deficiencies found in that inspection prior to connecting to the public water system. It may be possible to use your existing service lines if it can be verified that they are made of approved materials and are in a safe condition. Any connection will need a plumbing permit and an inspection. Unless you are subject to a previous agreement with the City, there is a water connection fee, subject to change, per linear foot of frontage.

ATTACHMENT D: CONT.

Am I required to hook up to the sanitary sewer when it comes near my property? Will there be connection fees? What inspections will I need?

A connection to the City sanitary sewer system is required only if the existing system needs to be repaired and it is within 200 feet of a public sanitary sewer. The owner will need to obtain a plumbing permit and the connection is subject to review by the Inspections Division. Unless you are subject to a previous agreement with the City, there is a sewer connection fee, subject to change, per linear foot of frontage.

The Story County Environmental Health Department does not determine if the septic system is functioning at the time of annexation, nor does the City. The County does inspect on-site septic systems when a house with a septic system is sold, whether it is in the city or out in the county.

If an on-site septic system is abandoned, the septic tank shall be pumped, the tank lid crushed into the tank, and the tank filled with sand or soil. The Story County Environmental Health Department can provide further information.

How will my taxes change after annexation?

After annexation, your property will be subject to the City of Ames levy, but no longer subject to the Rural Service Basic levy. Other levies, for example school district and county, will remain. The total levy for properties in Ames and in the Ames Community School District (for taxes payable July 1, 2014 through June 30, 2015) is \$32.25490 per \$1,000 of taxable valuation. This compares with \$25.36096 per \$1,000 of taxable valuation for property owners in Franklin Township in the Ames Community School District. The new levy will not be applied immediately upon annexation but will appear in your property tax statements about 20 months after the first day of the year that the City assessor revalues the property. The Story County web site has a tool to help you estimate your taxes, based on the city and school district in which your property is located. It can be found through a link on the City of Ames Assessor's site at <http://www.cityofames.org>. Click on Our Government, then Departments, then City Assessor. There is a link on the left-hand side of the page for "Estimate your Property Taxes".

Can I continue to heat using LP gas? Am I required to connect to natural gas? If so, when will that be brought to my property?

There are no prohibitions on LP tanks in the A-Agriculture zoning district. If you were to seek a change in zoning to some other residential district, there may be restrictions and be subject to the approval of the Ames Fire Department.

The City's natural gas provider is Alliant Energy. Under the terms of the franchise agreement, the provider must provide natural gas to the property line of anyone

ATTACHMENT D: CONT.

who requests in writing to Alliant Energy, to be served. If you wish to connect to natural gas, you will need a permit from the City and have the work inspected.

Under what circumstances can I get a burn permit for trees and brush? Are there fees?

The burning of yard waste is prohibited unless you apply for and obtain a burn permit from the Ames Fire Department. When evaluating an application for a burn permit, the Shift Commander will look at a number of factors, such as hydrant location, fire department access, proximity to combustibles, weather conditions, etc. There is no guarantee that a permit will be issued but the department will always do their best to work with you to find a solution. There is no fee for a burn permit.

I have a building under construction. If I am annexed prior to finishing it, will I need permits to complete it?

The County and the City have different permitting requirements and every project is unique. Please coordinate directly with the Ames Inspection Division to determine permitting needs. Also, please contact the Planning Division to determine zoning requirements for your project.

Important Numbers:

Planning Division	515-239-5400
Inspections Division	515-239-5153
Fire Department.....	515-239-5108
Story County Environmental Health Department.....	515-382-7241