

## Staff Report

**ENFORCEMENT OF E-CIGARETTE PROHIBITIONS**

April 14, 2015

In the fall of 2014, Council requested staff assessment of enforcement and constitutional issues potentially associated with enacting a new ordinance banning the use of electronic nicotine delivery devices in public places.

Currently, there are actions being considered at both the state and federal levels that would regulate alternative nicotine products or vapor products. While none of the considered state or federal actions would prohibit public use of these devices, there does seem to be an effort to better define the risk associated with nicotine vapors, additives, and the consequences of exposure. With broader discussion of this information, it seems likely there will be greater public acceptance of reasonable regulations.

Enforcement

When the Council establishes a new ordinance, there is typically an enforcement strategy or an enforcement authority identified. In 2001, Ames adopted an ordinance creating a new chapter 21A, Smoking in Public Places, which was to be enforced by the Ames Police Department. When the State legislature passed the statewide regulation of smoking in public places, they very intentionally dedicated the enforcement role to the Iowa Department of Public Health. This seems to reflect the widespread recognition that smoking was primarily a health issue and the use of sworn law enforcement was a potential mismatch between the law enforcement skill set and the nature of the issues being addressed by the legislation. By using the Health Department as the enforcement agent, the State strengthened the educational focus of The Smokefree Air Act. At the local level, however, these responsibilities often default back to the police department in the absence of a health department or health inspector.

Law Enforcement resources are typically most effective when a majority of the public accepts both the rationale for a law and the need for enforcement. When a law makes common public behavior into a violation, enforcement actions become more difficult and can erode the community relationship. For example, at the time Ames first established Non Smoking areas, there had been widespread and consistent public education about smoking and the risk associated with secondhand smoke. **If local regulation is adopted, the enforcement would most likely fall to the Ames Police Department. While officers would be able to do some education, the Police Department does not have the kind of public health education infrastructure that was used in the implementation of the Smokefree Air Act.**

## Constitutional Issues

The main constitutional concern in enacting local regulation prohibiting the use of these products in public places is possible preemption by State law. The Ames ordinance prohibiting smoking in public places enacted in 2001 was challenged by a group of local restaurant and bar owners and appealed to the Iowa Supreme Court. The Supreme Court held that the City was preempted from establishing more stringent standards on smoking in public places than those established by State law. This is due to the fact that the previous State code regulations on smoking included a provision on uniform application. The former section 142B.6 specifically provided that, “the provisions of [Chapter 142B, Smoking Prohibitions] shall supersede any local law or regulation which is inconsistent with or conflicts with the provisions of this [c]hapter.” The Court found that the City’s ordinance conflicted with a former section of that chapter; thus, finding that the State law preempted the City from enacting the 2001 ordinance.

In 2008, the State legislature enacted a new chapter regulating smoking, Chapter 142D, The Smokefree Air Act, which repealed Chapter 142B, Smoking Prohibitions. In this new legislation, the State chose to eliminate the provision on uniform application. Although the State does not regulate alternative nicotine products and vapor products in the new chapter, the legislature also made recent amendments to Chapter 453A, Cigarette and Tobacco Taxes, in 2014, addressing regulation of certain aspects related to these types of products. The amendment: (1) establishes an age requirement for the use and possession of these products; (2) requires distributors, wholesalers, vendors, and retailers to obtain a permit to sell or distribute these products; (3) limits the product placement of these devices; and (4) restricts the places where the products can be given away. Chapter 453A includes the same provision on uniform application as the repealed 142B.

Given that Chapter 453A includes the same provision on uniform application as 142B, a court would likely find, as in the previous Supreme Court case, that the City is preempted from enacting local regulations on alternative nicotine products and vapor products, at least to the extent the regulation pertains to (1) age restrictions; (2) permitting requirements; (3) taxation; and (4) product placement. **However, since Chapter 453A does not address regulations related to prohibiting the use of these products in public places and The Smokefree Air Act does not include a provision on uniform application, the City is likely not preempted from enacting local regulation on this specific issue.**

**COUNCIL ACTION FORM**

**SUBJECT: SUBDIVISION ORDINANCE TEXT AMENDMENTS REGARDING  
SIDEWALKS, IMPROVEMENT GUARANTEES, AND STREET LIGHTS**

**BACKGROUND:**

In January, 2014, the City Council directed staff to research and prepare amendments to the *Ames Municipal Code* to require the installation of missing infrastructure at the time of site plan review and approval.

Planning staff returned on February 24, 2015 with a staff report (see Attachment A) requesting specific direction on three issues concerning right-of-way improvements. **Council gave the following direction to proceed with text amendments for right-of-way and subdivision standards** (Excerpt of Minutes Attachment B):

- I. Prepare an ordinance that requires the installation of sidewalks, shared use paths, street lights, street paving, and dedication of needed right-of-way or easements for development of industrial, commercial, or multi-family property, regardless of subdivision.
- II. Include development triggers for new construction or redevelopment of a principle building and by substantial building addition in square footage or valuation.
- III. Prepare an ordinance to update certain infrastructure specifications for sidewalks and street lights.

**Items I and II will be part of new right-of-way improvement ordinance that will be on a future agenda. Item III involves specific amendments to the Subdivision Regulations, Chapter 23 of the *Ames Municipal Code*, that are the subject of this proposed ordinance.** Specifically, the City Council directed staff to prepare amendments to “require street lights on arterial street frontages of a development site and to require new street lights to be LED” and to “require sidewalks on both sides of streets in all zoning districts as well as increase them to five feet in width to assist with ADA issues and to have complete streets and connectivity.” Additionally, this proposed ordinance addresses timing and security requirements for installation of sidewalks in new subdivisions.

**Sidewalk Specifications**

The City’s current subdivision regulations require sidewalks to be installed on both sides of streets in commercial and residential zoning districts. **Industrial zoning districts currently require sidewalks on one side of the street only.** There are two concerns with these limited expectations in industrial areas. First, staff believes there is value to a more inclusive approach to transportation modes that would benefit by having sidewalks

on both sides of the street. This would further an effort for more “complete streets,” better safety of pedestrian circulation, convenience of access to nearby business and services, and access to transit.

Second, administering ADA compliance requirements based upon the 2010 standards for accessible design that went into effect in 2012 has been challenging. Zoning requirements to connect building entrances to the street with a walkway and a requirement for there to be an accessible route in the right-of-way or to cross the street have made it confusing for applicants and for staff management of right-of-way.

The City’s sidewalk specifications are a minimum of four feet in width in most areas of the City. Staff has found that in some instances that a five-foot sidewalk width will provide easier compliance with ADA cross slope and turn out requirements versus current alternatives. A 5-foot walk width also provides more pedestrian comfort when walking with other people or passing other people. Typically the right-of-way has 14.5 feet beyond the curb to the property line to accommodate a sidewalk, sidewalk buffer, and a planter strip for street trees. Staff does not propose increasing the right-of-way width for the wider sidewalk, but instead to lessen the planting area for street trees to 8.5 feet. Five-foot sidewalks would apply to all types of subdivisions, including single family.

### **Street Lights**

Street lights are currently required within new subdivisions, but have not been required along abutting existing streets. When street lights have not been required with the new subdivision, the City must consider at a later time if installation at city costs is needed in response to demands by new occupants of an area. This issue applies to most areas that have existing roadways that are not expanded with development. Examples would be SE 16<sup>th</sup> Street, State Avenue, George Washington Carver, Mortenson Road, and 190<sup>th</sup> Street. Staff believes that strengthening the language on when street lights are required will clarify the expectations that new development will provide the same infrastructure adjacent to a development that serves the development as required within a subdivision. This change would apply to all types of subdivisions, including single-family residential.

### **Gaps In Street Tree and Sidewalk Installation**

**Although the City Council did not direct the staff to review installation requirements for sidewalks, staff is offering in this report a recommendation that should expedite the installations of these two public improvements.** The City’s code requirements regarding the installation of public improvements within a subdivision state that all infrastructure shall be installed at the time of final plat approval. Alternatively, financial security and an installation agreement can be provided to ensure that the improvements are installed within two years of final plat approval. In practice, however, sidewalks and street trees have not been secured with financial security or held to the two-year installation window. Their installation has been tied to the occupancy of the building on an individual lot through a deferral agreement. **This practice sometimes results in gaps in the sidewalk system that may last several years.**

Assuming that the City Council is interested in expediting the installation of these public improvements, the **City staff has prepared a code change that sidewalks are required the earliest of two years following final plat approval, or when occupancy of a house is sought, or when construction has occurred on 50 percent of the lots on a block.** This approach would expedite sidewalk installation and allow for full pedestrian mobility more rapidly. **However, the City Council should understand that developers and home builders will, no doubt, oppose this change since they would need to put in place measures to protect the sidewalks if installed prior to construction of a home.**

**If the Council believes that this proposed change is impractical, another alternative to expedite installation of the improvements would be to bring our practices in line with the current Code which requires that sidewalks need to be installed at the time of final plat approval or that financial security be provided and installation be completed no later than two years after final plat approval.** (It should be that the Subdivision Code allows the City Council to grant extensions, provided financial security remains in place.) While returning to these standards does not require any code changes, it will require informing developers of the change in practice.

If the City Council wants only to remove the inconsistency that exists between the Code requirements and current practice, then the Municipal Code could be revised to exempt sidewalks from financial security and to require installation only at occupancy of a house. This current practice has resulted in public improvement gaps remaining for long periods of time.

### Proposed Amendments

While Council could set the requirement that all final plats conform to these changes, staff does not recommend extending the sidewalk and streetlight requirements retroactively to preliminary plats approved prior to this year as investments and expectation have already been set. **Staff recommends that the following text amendments apply to any final plat for which a preliminary plat has been approved after January 1, 2015.** No preliminary plat has been approved yet this year and no one has made infrastructure installations for new plats that could not accommodate these changes. The first subdivision likely to be affected by the amendments is the pending Quarry Estates Subdivision in the North Growth Area.

The following language is the proposed text amendments to the Subdivision Code. A full ordinance is also attached.

The amendment to Section 23.403 (13) explicitly requires the installation of street lights on interior as well as adjacent streets. The Electric Department believes no specific language on LED lights is needed as their department has adopted design and specification standards that allow LED lights to be required where and when appropriate. The LED specifications are consistent with Council direction from February 24, 2015.

The amendment to Section 23.403 (14) requires five-foot sidewalks on both sides of the streets—there is no special dispensation for industrial zones. The amendment also requires sidewalks greater than five feet if needed to match adjoining sidewalks. This is important in commercial areas where wider sidewalks have been planned or installed.

And the amendment to Section 23.409 (4) will require sidewalks to be installed the earliest of 1) two years following final plat approval, 2) when occupancy of a principle structure is sought, or 3) when 50 percent of the lots on a block face have sidewalks installed.

### **Section 23.403. STREETS**

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(13) Street Lights: Street lights shall be installed along any streets within the subdivision and along any abutting street frontage. Exception: For any final plat for which a preliminary plat has been approved prior to January 1, 2015, Street lights shall be installed at the subdivider's expense and according to design and specification standards approved by the City Council and after approval of the municipal utility.

(14) Sidewalks and Walkways:

(a) A minimum of a five-foot wide concrete sidewalk shall be installed in the public right-of-way along each side of any street. If sidewalks on adjacent property are greater than five feet, the subdivider shall install sidewalks to match. If constraints exist that preclude installation of a sidewalk within the public right-of-way, the subdivider shall install the required sidewalk on adjacent land within a sidewalk easement. All required sidewalks shall connect with any sidewalk within the area to be subdivided and with any existing or proposed sidewalk in any adjacent area.

(b) Exception: For any final plat for which a preliminary plat has been approved prior to January 1, 2015, the following standard shall be met:

Sidewalks and walkways shall be designed to provide convenient access to all properties and shall connect to the City-wide sidewalk system. A minimum of a four-foot wide concrete sidewalk shall be installed in the public right-of-way along each side of any street within residentially and commercially zoned areas and along at least one side of any street within industrially zoned areas. Such a sidewalk shall connect with any sidewalk within the area to be subdivided and with any existing or proposed sidewalk in any adjacent area. Any required sidewalk shall be constructed of concrete and be at least four feet wide.

(c) 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 the sidewalk is premature. Where the installation of a 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.

(d) A pedestrian walkway made of concrete may be required where deemed essential to provide access to schools, parks and playgrounds, commercial areas, transportation or community facilities. Any such walkway shall be not less than eight feet wide.

### **Sec. 23.409. IMPROVEMENT GUARANTEES.**

(1) The subdivider shall file a bond with the City Clerk in an amount not less than the certified estimate of the Director of Public Works for the cost of constructing or completing any improvement required under this section that has not been installed and accepted by the City prior to final plat approval. Such bond shall be retained by the City Clerk until any such improvement is completed and accepted by the City, as a guarantee that the work will be completed in an acceptable manner within the time specified in any agreement between the subdivider and the City. The time frame for installing improvements required for the approval of the subdivision shall not exceed 2 years from the date of approval of the Final Plat.

Additionally, the term of the bond shall be for a period of time equal to or longer than the time specified in the Improvement Agreement.

(2) The subdivider shall apply in writing to the City Council for any extension of time for completing any improvements and the City Council shall provide notice and an opportunity for comment from any purchaser of any lot in the area subdivided before acting on the subdivider's application. The City Council shall grant such extensions in increments of not more than two years but in any event only if there shall be no unreasonably adverse effect on persons who purchased lots in the area subdivided in reliance on timely completion of any improvement.

(3) The subdivider shall file a new bond upon the granting of an extension of time in an amount based on any revised estimate of the cost of completing any improvement.

(4) Notwithstanding the two year time frame for the installation of required infrastructure (and any subsequent extensions granted by the City Council) as provided above, for any final plat for which a preliminary plat has been approved after January 1, 2015, the subdivider shall install any sidewalk adjacent to a property on which a principle structure has been built and prior to occupancy of said structure. In addition, all remaining sidewalks shall be installed by the subdivider when 50 percent of the lots on a block face have been installed. A block face consists of one side of a street between two intersecting streets or between an intersecting street and the end of a cul-de-sac.”

## **Outreach**

Staff initially held a developer/property owner meeting on February 5<sup>th</sup> to give an overview of potential right-of-way improvements changes. The initial outreach included a mailing to 400 property owners/developers, of which about two dozen attended the meeting. Staff has subsequently posted Council direction and updates on the Planning Division's "What's New" section and provided direct email notice to interested parties.

## **Planning and Zoning Commission Recommendation**

The Planning and Zoning Commission met on April 1 and recommended approval (3-1) of the proposed text amendment. Most commissioners expressed support for a "complete streets" approach to right-of-way infrastructure, requiring sidewalks to accommodate pedestrians in addition to the emphasis given to vehicle traffic. Most commissioners thought the approach to requiring the installation of sidewalks no later than two years would better serve residents of neighborhoods.

One commissioner voted against the recommendation because of the increase in impervious surface that a five-foot sidewalk would have over a four-foot sidewalk. He was also concerned about the installation of excessive and premature street lights, contending that the City has a "dark skies" ordinance and too many street lights run counter to the spirit of that law. He favored the sidewalks on both sides in all districts as well as the changes to the improvement guarantees.

There was one speaker at the meeting as well. Justin Dodge, representing Hunziker Development, argued against the installation of street lights on arterial roads adjacent to new development contending that the lights benefit city traffic as a whole, rather than just the new development. He also argued equity, stating that the first developer would pay for the lights but the developer on the other side of the road would get a free pass.

Mr. Dodge also opposed sidewalks on both sides in an industrial zone, arguing that there is no pedestrian traffic. Mr. Dodge is also strongly opposed to the requirement that the sidewalks be required prior to construction of a home on the property as it would likely be damaged and would need to be replaced at a cost to the homeowner.

### **ALTERNATIVES:**

1. The City Council can approve on first reading an ordinance to amend the City of Ames Subdivision Code Chapter 23 of the Municipal Code to include changes to Section 23.403 and 23.409.
2. The City Council can modify the language of the proposed amendments and have first reading of the ordinance on April 28, 2015.
3. The City Council can refer the proposed amendments to the subdivision ordinance back to staff for specific further information or for further options.
4. The City Council can decline to adopt the proposed amendments.

### **CITY MANAGER'S RECOMENDATION**

The proposed amendments improve accessibility and safety of the public by requiring sidewalks on both sides of the streets in all zoning districts. They also enhance consistency with ADA accessibility standards by increasing sidewalk widths to 5 feet. They also clarify the requirements for the placement of streetlights on streets adjacent to new subdivisions and not just within the subdivision.

Based on this referral, the staff is assuming that the Council is seeking alternatives to expedite the installation of sidewalks and street trees. Therefore, four alternatives related to sidewalk installation have been offered in this CAF. The Council is being asked whether the current practice which is inconsistent with the Municipal Code should be continued or changes should be made in the Code to expedite the installation of sidewalks and street trees.

It is the recommendation of the City Manager that the City Council act in accordance with Alternative #1, which is to approve the amendments to Sections 23.403 and 23.409 of the Subdivision Regulations as shown above.

**It is important to note Alternative #1 includes the most aggressive option to expedite installation. If the Council disagrees with this approach, another direction would be warranted.**



# ATTACHMENT A: STAFF REPORT OF FEBRUARY 24, 2015

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Staff Report

## Requirements for Right-of-Way Infrastructure Improvements at Time of Building Construction

February 24, 2015

### **BACKGROUND**

The City Council directed staff, at their January 28, 2014 meeting, to “**research and prepare amendments to the Ames Municipal Code to require the installation of missing infrastructure at the time of site plan review and approval.**” Amendments were directed to address only commercial, industrial, medium- and high-density residential development. Single-family home properties are not part of this assessment.

The range of infrastructure improvements that may be required of new development, include: sidewalks, shared use paths, street lights, curb and gutter, road paving, street trees, bus stops, etc. Attachment 5 is a summary of basic subdivision infrastructure requirements by type of use. As part of the evaluation of requiring infrastructure improvements, staff has also identified related issues with the current standards for sidewalks and street lights in the Chapter 23 Subdivision Code. A discussion of these subdivision issues is also included in this report.

The City of Ames requires infrastructure to be installed at the time of subdivision approval. The City may grant allowances for posting of financial security for uninstalled infrastructure and for deferral agreements of sidewalks. However, for many older properties and subdivisions there is a lack of modern infrastructure improvements (inadequate sizing or condition) or a gap in improvements. The most common example has been the lack of sidewalk improvements on infill lots. The City typically has no other mechanism, other than subdivision regulations, to require the installation of public sidewalks. The Minor Site Plan review process does not expressly require all infrastructure to be complete and relies upon a case-by-base assessment of impacts related to a specific development. This at times this results in newly developed or redeveloped sites that don't subdivide and then would not meet community expectations for accompanying improvements.

Staff identified approximately 3,200 properties of all types that lack sidewalk infrastructure in the City. Of the 3,200 properties, there are about 400 individual properties in commercial, industrial, and high-density residential districts which are lacking sidewalks. Staff used this basis of 400 property owners for a mailing inviting participation in an outreach meeting on February 5, 2015. The meeting had 24 members of the public present. Staff explained the Council direction given last year and addressed questions. A number of questions arose about the need for sidewalks in locations that are remote, have no pedestrian traffic, or have open ditches that would preclude sidewalks. Some supported sidewalks in all zoning districts, including single family. Some voiced concern about the increased costs of development. (See

Attachment 6 for estimated cost range). Staff has also posted background information on the Department's webpage.

As part of the research on infrastructure needs, staff has identified areas that lack some infrastructure:

Attachment 1 identifies those lots without sidewalks that were the basis of the property owner outreach mailing.

Attachment 2 is the current map of shared use paths, including on-street and off-street. This would be used to identify where the gaps in the system are and to identify installation needs.

Attachment 3 shows arterial streets that are under lit. As can be seen, most are older thoroughfares. Some have development on both sides, while some are adjacent to land yet to be developed (e.g., SE 16<sup>th</sup> Street). The Electric Department and Public Works seek direction Council interest to reduce under lit streets in developed areas.

Attachment 4 is an inventory of unpaved streets done by the Public Works Department in 2014. Since then, Site No. 2 portions of Aplin Road and Beedle Drive have been paved.

In addition to creating background information, staff researched how various other communities ensure the installation of infrastructure outside of new subdivisions. A sampling of communities that require at least sidewalk improvements with development included: Sioux City, West Des Moines, Ankeney, Davenport, Urbandale.

Most cities that address the issue do it either through requirements at the building permit stage or through property assessments. However, individual communities use different thresholds that trigger the installation requirements. Some require it for any new commercial or residential structure. Others trigger infrastructure improvements for new construction or when repairs or remodeling costs equal 50 percent of the value of the structure.

**Options:**

Staff is seeking direction on three issues to begin preparation of text amendments:

- What type of deficient infrastructure should be installed at the time of development by the developer?
- What level of development or redevelopment should trigger the installation of right-of-way improvements?
- What additional changes to standards for infrastructure of sidewalks, shared use paths, street lights, should be implemented to improve subdivision regulations and ensure appropriate infrastructure installation?

Issue 1: What deficient infrastructure should be installed?

- Option 1: All deficient infrastructure identified within the Chapter 23 Subdivision Code. This would include street paving, curb and gutter, sanitary sewer, water, storm sewer, sidewalks, street trees, street lights.
- Option 2: Sidewalks and shared use paths only.
- Option 3: Dedication of needed right-of-way or easements, no construction.
- Option 4: Some other combination of improvements.

Issue 2: What should trigger the installation of ROW improvements?

- Option 1: New construction or redevelopment of a principle building
- Option 2: Substantial building addition in square footage or valuation.
- Option 3: New construction of accessory buildings.
- Option 4: Change of a non-conforming use, building, or site.
- Option 5: Target specific improvements to different triggers, i.e. full improvements with new development, sidewalks with new site improvements.

Issue 3: Update of Infrastructure Standards.

- Option 1: Amend Municipal code to:
  - Require sidewalks on both sides of streets in all zoning districts.
  - Require street trees in all zoning districts. Currently only residential districts require street trees.
  - Require sidewalks in right-of-way to be 5 feet in width. Currently only a 4-foot walk is required.
  - Require a shared use path to be 10 feet in width. Currently, the minimum requirement is 8 feet.
  - Require street lights on arterial street frontages of a development site.
  - Require new street lights to be LED.
- Option 2: Changes to some or none of the above.

**STAFF COMMENTS:**

Issue 1-Type of Improvements:

Staff believes it is appropriate to require the same level of infrastructure for development that is required with a subdivision plat. In most instances, the missing infrastructure will be only the sidewalk or shared use path. In some instances, there may be a need for street lights or street trees. These can be installed on a single development site and completed in logical manner.

However, there may be limited occurrences where there is no street paving or storm sewer. These types of improvements are difficult to install on a single development site as they are more of an “area wide” improvement for them to be fully effective. In this

case of these major street improvements, there would be a likely combination of mandatory improvements and potentially deferral agreements with financial security.

Staff has concerns about implementation and administration of deferred improvements if it becomes the common instrument of meeting the standards. Requirements for improvements should be expected to occur reasonably along with development, it should not be viewed as means of collecting future obligations and having property owners incur costs of indefinitely maintaining financial security and staff tracking the status of agreements. There would at times be exceptions where deferral or cash in lieu payment would be appropriate.

With the consideration that improvements would occur at the time of development, staff supports a text amendment that incorporates Option 1 of Issue 1 for full improvements with new development.

*Issue 2-Trigger for Improvements:*

The second issue addresses what should trigger the requirement. There is a need to balance triggers of improvements with the cost of a project. A small remodeling of a building would appear to be onerous if there are large infrastructure costs also attached to it and there is no significant change in the use of a site.

However, when a new principle building is constructed on a lot or when there is a substantial improvement to an existing structure, the value of the necessary infrastructure becomes a less significant component of the total cost. One example of "substantial improvement" is the definition in the Chapter 9 Flood Plain Regulations (defined as a 25 percent increase in floor area or improvements valued at 50 percent of the value of the structure) that trigger compliance with elevation or floodproofing requirements.

Staff supports a text amendment that incorporates Option 1 and Option 2 for Issue 2 for both new development and substantial additions.

*Issue 3-Changes to Standards:*

The third issue addresses changes that are of interest independent of whether development is part of a new subdivision or on an existing lot. These issues are interests that staff has identified through the Development Review Committee or in response to individual city department service objectives. If there is an interest in changing some of these specifications, it may be convenient to include them with text amendments that require installation of new infrastructure.

The City's subdivision regulations require sidewalks to be installed on both sides of streets in commercial and residential zoning districts. An exception is made for industrial zoning districts, which require sidewalks only on one side of the street. There are two concerns with limited expectations in industrial areas. Staff believes there is value to a more inclusive approach to transportation modes that would benefit by having sidewalks on both sides of the street, this would further an effort for more "complete streets." This would provide better safety of pedestrian circulation, convenience of access to nearby business and services, and for access to transit.

Secondly, administering ADA compliance requirements based upon the 2010 standards for accessible design that went into effect in 2012 has been challenging. Zoning requirements to connect buildings entrances to the street with a walkway and a requirement for there to be an accessible route in the right-of-way or to cross the street have made it confusing for applicants and for staff management of right-of-way.

Street trees provide benefits that include aesthetic value, shade, reduction of heat islands, and carbon absorption. The City's subdivision regulations require street trees only in residential zones in recognition of these values on residential quality of life. With promotion of sustainability, water management, and street character it would be appropriate to include requirements for street trees in all zoning districts of the City.

The City's subdivision regulations require public sidewalks in the right-of-way to be 4 feet in width. Yet the Zoning Ordinance requires private sidewalks to the main entrance of a building to be 5 feet. Staff has found that in some instances, due to ADA requirements, a 5-foot public sidewalk is needed for some locations. A 5-foot walk meets all ADA width requirements without the need for turn out areas. A 5-foot walk width also provides more pedestrian comfort when walking with other people or passing other people.

Shared use paths are specified in the Subdivision Code to meet an 8-foot width that meets the minimum specification. In many instances, a preferred width of 10-feet would be desirable based upon levels of use and the surrounding context of the area. A 10-foot width would bring the City in line with recommend practices for shared use paths.

The City practice has always been to require street lights on the internal streets of a new subdivision. When a new subdivision abuts an existing arterial street, street lights have often not been required which sometimes result in later installation at city costs in response to demands by new occupants of an area. Staff believes that strengthening the language on when street lights are required will clarify the expectations that new development that causes the need for lighting along the perimeter of a subdivision will provide the infrastructure the same as within a subdivision. This change would apply to all types of subdivisions, including single-family residential.

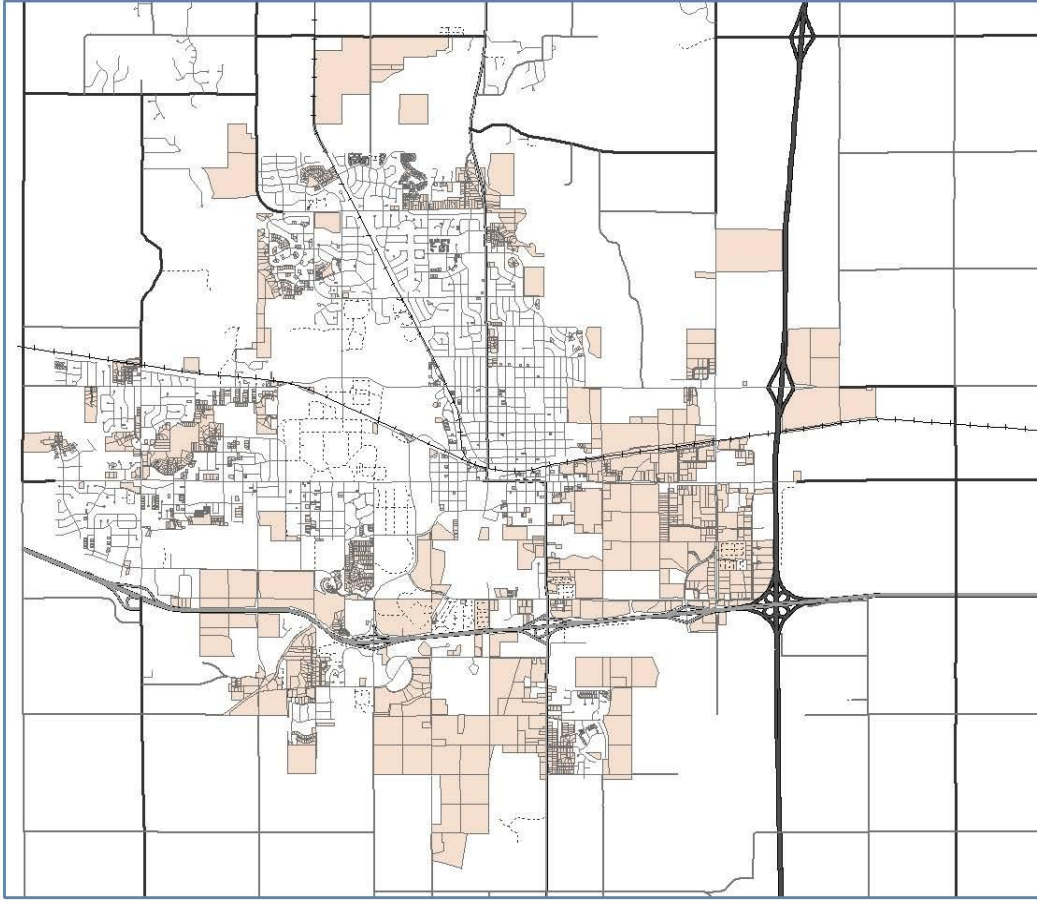
The Electric Department has begun to maintain streetlights in their service territory by replacing older fixtures with more efficient LEDs. The Electric Department is interested in updating the specification for a new street light installation to be the LED type of lighting that they use as a replacement for existing street lights.

#### **NEXT STEPS**

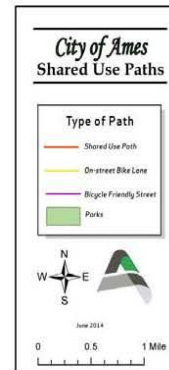
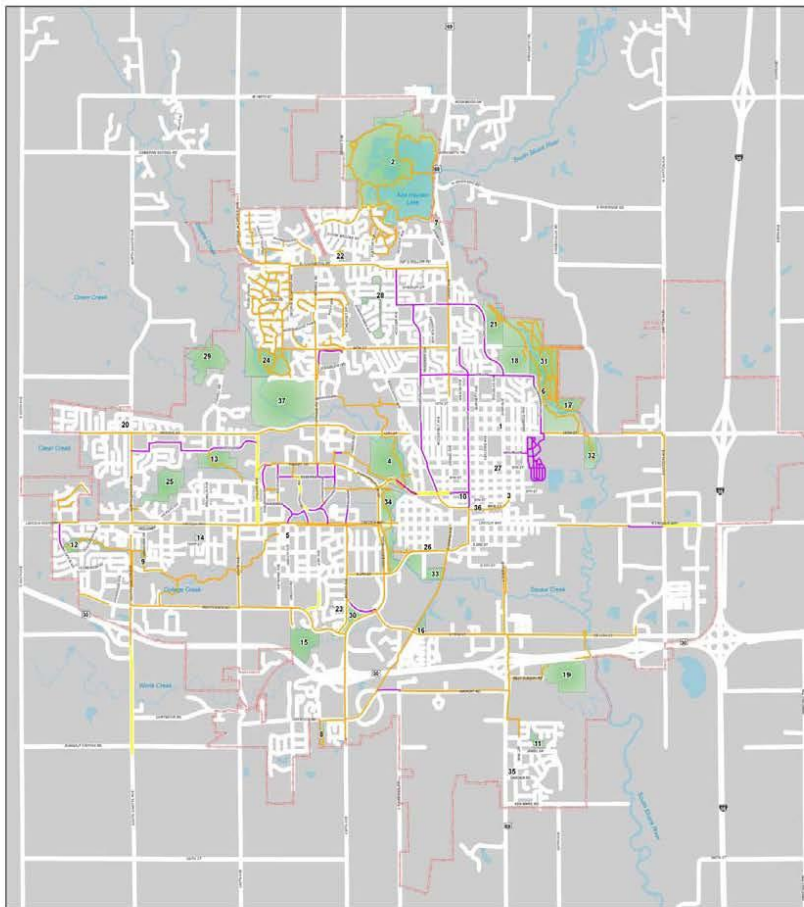
With Council direction, staff will proceed with drafting of text amendments and set public hearing dates. Staff would anticipate returning to Council in April for a first reading on an ordinance. To accomplish this schedule, Council needs to indicate what the preferred changes are to be included in a text amendment to draft precise language for an ordinance.

Staff has conducted one outreach meeting to hear comments on the above concepts. It is fair to say that there was some hesitation about extent of new requirements and potential costs. It is unlikely that property owners would be supportive of all of the described improvements. In the next steps staff would not hold a formal outreach meeting, but would make a draft document available for public review prior to Council review. This approach would allow for time to hear specific concerns about how to implement any requirements and attempt to adjust language if appropriate prior to Council review.

**ATTACHMENT 1: EXISTING LOTS WITHOUT SIDEWALKS**



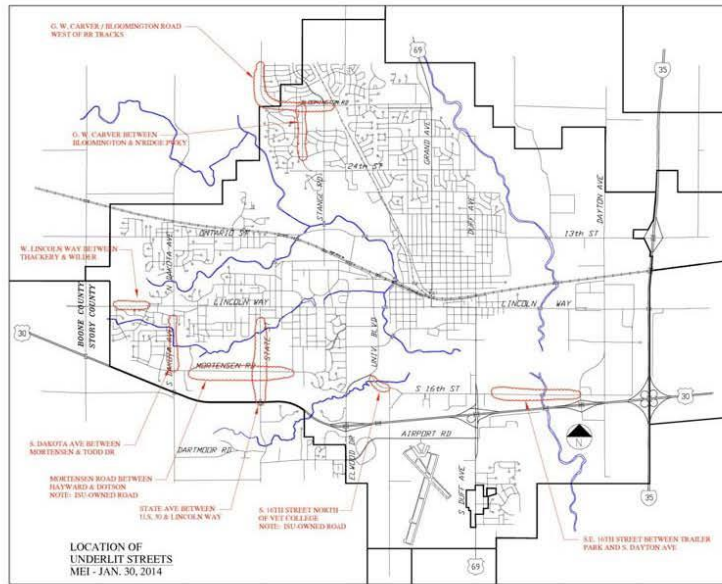
## ATTACHMENT 2: SHARED USE PATH INVENTORY



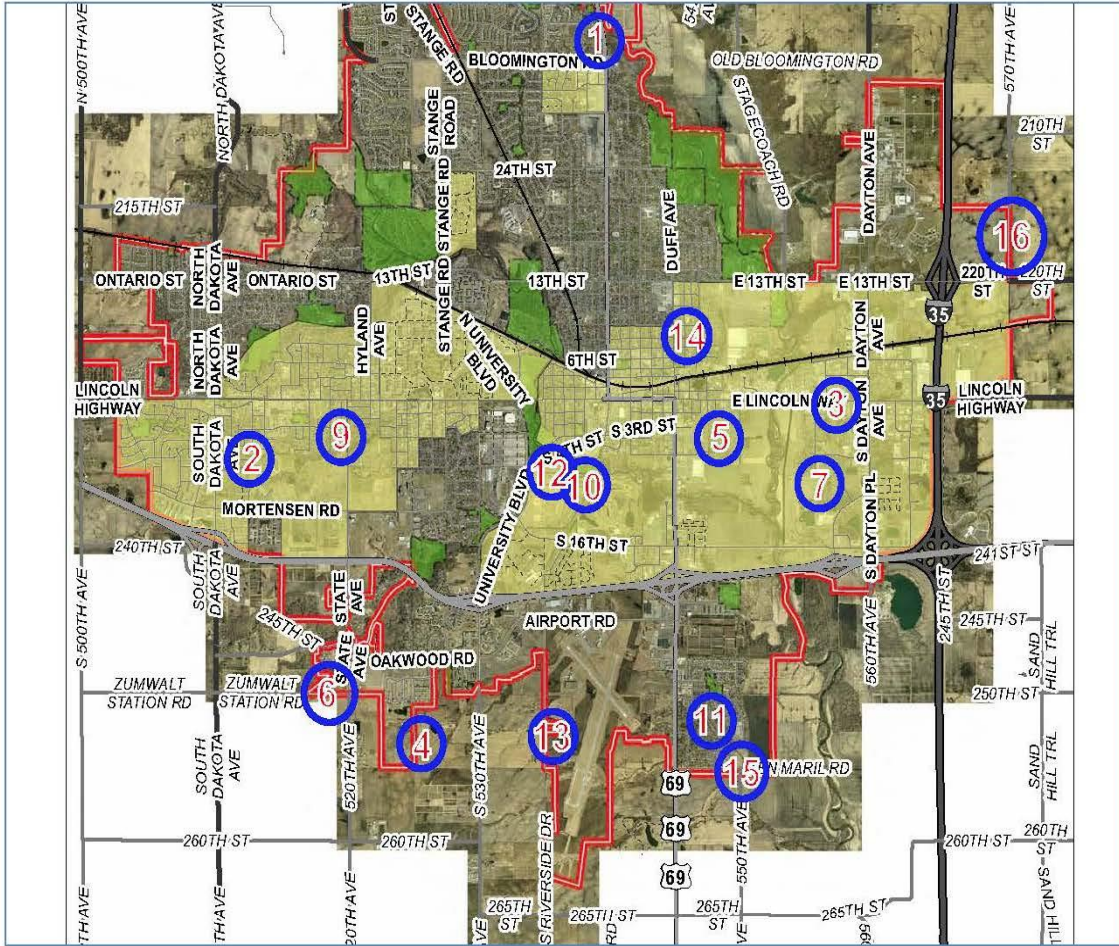
Location	Park Names
1	14th and Duff Avenue
2	Ada Hayden Heritage Park
3	Bandshell
4	Brookside
5	Campus Town Court
6	Carr Pool and Park
7	Charles Calhoun Memorial Park
8	Christofferson Park
9	Christopher Gattner Park
10	Community Center (City Hall)
11	Country Gables
12	Daley Park & Greenbelt
13	Erma McCarthy Lee Memorial
14	Franklin
15	Gateway
16	Greenbriar
17	Gundersen-Hufty Woods
18	Homewood Golf Course
19	Hunziker Youth Sports Complex
20	Hutchison
21	Inis Grove
22	Lloyd Kurtz
23	Moore
24	Moore Memorial
25	Mum Woods
26	O'Neil
27	Old Town
28	Parkview
29	Reactor Woods
30	Reiman Gardens
31	River Valley
32	South River Valley
33	Squaw Creek
34	Stuart Smith
35	Teagarden
36	Tom Evans Plaza
37	Veenker Golf Course



**ATTACHMENT 3: UNDERLIT ARTERIAL STREETS JANUARY 2014**



ATTACHMENT 4: UNPAVED STREET



**Attachment 5**  
**Summary of Infrastructure Requirements with Subdivision**

	Sidewalks	Street Trees	Bike/Shared Use Path*	Bike Lanes	Street Lights	Street Capacity/Access	Bus Stop	Water/Sewer/ Drainage
<b>Residential</b>	Yes	Yes	If shown on adopted plan of LRTP	None	Internal to development (no arterials)	Yes	No	Yes
<b>Commercial</b>	Yes	No	If shown on adopted plan of LRTP	None	Internal to development (no arterials)	Yes	No	Yes
<b>Industrial</b>	One side of street	No	If shown on adopted plan of LRTP	None	Internal to development (no arterials)	Yes	No	Yes

\*References to bike facilities are inconsistent with current terminology and includes references to an adopted bicycle plan that is no longer in place, making requirements ambiguous at times.

**ATTACHMENT 6: INFRASTRUCTURE COST ESTIMATE RANGE**

<b>Item</b>	<b>Private cost</b>	<b>City cost</b>
<b>4' sidewalk per linear foot</b>	<b>\$25</b>	<b>\$40</b>
<b>8' asphalt shared use path per linear foot</b>	<b>\$25</b>	<b>\$50</b>
<b>Street tree</b>	<b>\$200</b>	<b>same</b>
<b>Standard street light</b>	<b>\$2,000</b>	<b>same</b>
<b>LED street light</b>	<b>\$2,500</b>	<b>same</b>
<b>35 sq ft bus stop pad</b>	<b>\$200</b>	<b>\$400</b>
<b>30" curb and gutter</b>	<b>\$15</b>	<b>\$30</b>
<b>One lane of pavement per linear foot (HMA)</b>	<b>\$65</b>	<b>\$100</b>
<b>Sidewalk detectable warning per square foot</b>	<b>\$25</b>	<b>\$40</b>

## **ATTACHMENT B: MINUTES OF FEBRUARY 24, 2015 [EXCERPTS]**

Below are excerpts of the minutes, showing the specific motions and votes. The full minutes can be found here:

<http://www.cityofames.org/modules/showdocument.aspx?documentid=20972>.

### **Issue 1: Deficient Infrastructure**

Mayor Campbell asked for a motion dealing with Issue 1: What deficient infrastructure should be installed. Moved by Gartin, seconded by Goodman, to require the installation of sidewalks, shared use paths, street lights, and dedication of needed right-of-way or easements. Vote on Motion: 6-0. Motion declared carried unanimously.

Moved by Corrieri, seconded by Orazem, to amend the motion to include street paving. Vote on Amendment: 6-0. Motion declared carried unanimously. Vote on Motion, as Amended: 6-0. Motion declared carried unanimously.

### **Issue 2: Triggers for Installation**

Moved by Goodman, seconded by Corrieri, that the installation of right-of-way improvements be triggered by new construction or redevelopment of a principle building and by substantial building addition in square footage or valuation. Vote on Motion: 6-0. Motion declared carried unanimously.

### **Issue 3: Updated Subdivision Standards**

Moved by Goodman, seconded by Orazem, to require street lights on arterial street frontages of a development site and to require new street lights to be LED. Vote on Motion: 5-1. Voting aye: Betcher, Corrieri, Gartin, Goodman, Orazem. Voting nay: Nelson. Motion declared carried.

Moved by Corrieri, seconded by Betcher, to require sidewalks on both sides of streets in all zoning districts as well as increase them to five feet in width to assist with ADA issues and to have complete streets and connectivity. Vote on Motion: 3-3. Voting aye: Betcher, Corrieri, Goodman. Voting nay: Gartin, Nelson, Orazem. Mayor Campbell voted aye to break the tie. Motion declared carried.

**ORDINANCE NO.**

**AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY REPEALING SECTION 23.403 (13), (14) AND ENACTING A NEW SECTION 23.403(13), (14) AND SECTION 23.409(4) THEREOF, FOR THE PURPOSE OF RIGHT-OF-WAY IMPROVEMENT REQUIREMENTS ; 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 repealing Section 23.403(13),(14) and enacting a new Section 23.403(13),(14) and section 23.409(4) as follows:

**“Section 23.403. STREETS**

...

(13) Street Lights: Street lights shall be installed along any streets within the subdivision and along any abutting street frontage.

Exception: For any final plat for which a preliminary plat has been approved prior to January 1, 2015, Street lights shall be installed at the subdivider's expense and according to design and specification standards approved by the City Council and after approval of the municipal utility.

(14) Sidewalks and Walkways:

(a) A minimum of a five-foot wide concrete sidewalk shall be installed in the public right-of-way along each side of any street. If sidewalks on adjacent property are greater than five feet, the subdivider shall install sidewalks to match. If constraints exist that preclude installation of a sidewalk within the public right-of-way, the subdivider shall install the required sidewalk on adjacent land within a sidewalk easement. All required sidewalks shall connect with any sidewalk within the area to be subdivided and with any existing or proposed sidewalk in any adjacent area.

(b) Exception: For any final plat for which a preliminary plat has been approved prior to January 1, 2015, the following standard shall be met:

Sidewalks and walkways shall be designed to provide convenient access to all properties and shall connect to the City-wide sidewalk system. A minimum of a four-foot wide concrete sidewalk shall be installed in the public right-of-way along each side of any street within residentially and commercially zoned areas and along at least one side of any street within industrially zoned areas. Such a sidewalk shall connect with any sidewalk within the area to be subdivided and with any existing or proposed sidewalk in any adjacent area. Any required sidewalk shall be constructed of concrete and be at least four feet wide.

(c) 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 the sidewalk is premature. Where the installation of a 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.

(d) A pedestrian walkway made of concrete may be required where deemed essential to provide access to schools, parks and playgrounds, commercial areas, transportation or community facilities. Any such walkway shall be not less than eight feet wide.

...

**Sec. 23.409. IMPROVEMENT GUARANTEES.**

...

(4) Notwithstanding the two year time frame for the installation of required infrastructure (and any subsequent extensions granted by the City Council) as provided above, for any final plat for which a preliminary plat has been approved after January 1, 2015, the subdivider shall install any sidewalk adjacent to a property on which a principle structure has been built and prior to occupancy of said structure. In addition, all remaining sidewalks shall be installed by the subdivider when 50 percent of the lots on a block face have been installed. A block face consists of one side of a street between two intersecting streets or between an intersecting street and the end of a cul-de-sac.”

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

**COUNCIL ACTION FORM**

**SUBJECT: ORDINANCE REQUIRING ELECTRONIC REPORTING OF  
SECONDHAND GOODS TRANSACTIONS**

**BACKGROUND:**

At the March 3, 2015 City Council meeting, the City Council directed staff to develop an ordinance requiring electronic reporting of secondhand goods purchases. The attached ordinance borrows largely from that used by other communities in incorporates the following components:

Secondhand Good – This term has effectively been defined as previously owned tangible personal property. “Tangible personal property” has been defined separately using a list of common items that have value and are transacted among secondhand dealers.

Electronic Reporting – Requires anyone buying secondhand goods to report their purchases to an electronic records system designated by the Chief of Police. Chief Cychoz intends to designate Leads Online as that system. Because itinerant dealers do not always have ready access to the internet, those dealers have the option of reporting electronically or continuing to bring their physical record books to the Police Department for photocopying prior to leaving the area.

Dealer’s Permits – Pawnbrokers and itinerant dealers are still required to obtain dealers permits; other secondhand stores, such as stores that buy jewelry or electronics, do not have to obtain a Dealer’s Permit.

Records – Details of the items, seller, and transaction must be recorded. If an item lacks a serial or model number, an overall photo of the item(s) must be submitted.

Reporting Exemptions – **Numismatic coins, books and textbooks, and transactions that take place at auctions or garage sales are not subject to the reporting requirements. Additionally, transactions between private individuals not subject to state taxes are exempted.**

Holding Period – All items must be held for 10 days prior to sale or disposal. There are two existing exceptions to this requirement: (1) when written permission is granted by the Chief of Police, and (2) when a person who pawned an item reclaims it. **A third exception has been added to permit disposal of the item before ten days if the item is bullion.** Bullion has been specifically defined in the ordinance.



Intentional Misrepresentation of a Record – An additional prohibition has been added to the ordinance to make it unlawful for a person to intentionally misrepresent or falsify any of the information required to be reported.

Additionally, a handful of typographical errors in this section have been corrected.

The City Attorney's Office recommended that the fine of \$50 for a first offense and \$100 for a second offense be increased to \$100 for a first violation and \$200 for a repeat violation. This brings the fine for violating this ordinance in line with other similar offenses. Alternatively, any violation can be charged as a simple misdemeanor.

**ALTERNATIVES:**

1. Approve on first reading the attached ordinance regarding electronic reporting and expanded reporting requirements for dealers of secondhand goods.
2. Direct staff to modify the ordinance.
3. Do not approve the attached ordinance.

**MANAGER'S RECOMMENDED ACTION:**

The City Council has directed staff to develop this ordinance revising the reporting requirements for secondhand dealers. It modernizes the recordkeeping process and, per the City Council's direction, eliminates the holding period for bullion and exempts numismatic coins from the reporting and holding process.

**City staff understands that opposition remains to this proposal from some of the affected local businesses. Staff has worked to address some of those concerns through modifications to the draft ordinance language. The attached draft is consistent with the language found in other ordinances in Iowa communities. City staff believes this is an enforceable, fair, and helpful tool for law enforcement to address theft. If the City Council feels that exceptions or further modifications should be made, it can direct staff to incorporate revisions into a new draft ordinance.**

Assuming the City Council intends to adopt an ordinance that uses language similar to that of other communities in Iowa, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, thereby approving on first reading the attached ordinance regarding electronic reporting and expanded reporting requirements for dealers of secondhand goods.

**ORDINANCE NO.**

**AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY REPEALING SECTION 17.25 AND ENACTING A NEW SECTION 17.25 THEREOF, FOR THE PURPOSE OF ESTABLISHING REPORTING REQUIREMENTS FOR SECONDHAND GOODS DEALERS; REPEALING ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; PROVIDING A PENALTY; 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 repealing Section 17.25 and enacting a new Section 17.25 as follows:

**“Sec. 17.25. PAWNBROKERS, ITINERANT DEALERS, AND SECONDHAND DEALERS**

(l) **Definitions.** The following words and phrases shall have the meanings respectively ascribed to them for the purpose of the regulations in section 17.25.

(a) **Antique Dealer.** Any dealer primarily engaged in the buying and selling of collectible objects, including but not limited to pieces of furniture or works of art that have high value because of the item’s considerable age.

(b) **Bullion.** Any bar, ingot, or coin comprised of one or more precious metals, including but not limited to gold, silver, platinum, and palladium, and which can be exchanged on the basis of the commodity market price for its metal composition.

(c) **Dealer.** Any pawnbroker, secondhand dealer, or itinerant dealer, and any principal, employee, agent, or servant thereof, engaged in or conducting business for purchase, sale, barter, exchange, or pawn of gold, silver, platinum, including coins, and precious or semiprecious gems or stones.

(d) **Engaged in or conducting business.** The purchase, sale, barter, pawn, or exchange of any item in Sec. 17.25(1), including the advertising therefor, by any business entity or individual subject to State sales tax.

(e) **Itinerant Dealer.** Any dealer as defined herein who engages or has engaged in any temporary or transient business conducted in a shop, room, hotel room, motel room or other premises used for any duration less than thirty (30) consecutive days or used on a temporary basis.

(f) **Pawnbroker.** Any person who shall in any manner lend or advance money or other things for profit on the pledge or possession of personal property, or other valuable things, other than securities or written evidences of indebtedness, or who deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price.

(g) **Secondhand Dealer.** Any person engaged in the business of buying or selling secondhand goods, excluding consignment of secondhand goods or the sale of secondhand goods donated without compensation. This definition shall include the use of any automated or camera-enabled kiosk used to purchase secondhand goods from a seller without the buyer’s physical presence.

(h) **Secondhand Goods.** Tangible personal property previously owned by another person, whether used or not, which property, in its present state, possesses utility for the purpose for which it was originally intended.

(i) **Tangible Personal Property.** Items including:

(i) items made in whole or in part of gold, silver, platinum, copper or other precious metals;

(ii) items containing or consisting of precious or semiprecious gemstones or other polished stones used for decoration or jewelry;

(iii) articles with serial numbers, model numbers, or other identifying marks, including, but not limited to appliances, tools, radios, stereo equipment, radar detectors, televisions, cellular phones, video

recorders, camcorders, video equipment, computers, computer equipment and accessories, digital music recorders and players, and cameras, but not including clothes washers, clothes dryers, refrigerators, and auto parts;

- (iv) musical instruments;
- (v) rifles, shotguns, handguns, and other firearms;
- (vi) movie cassette tapes and discs, music cassette tapes and discs, record albums, computer software and diskettes, and video game cartridges; and
- (vii) any other item of value, except:

a. One or more coins collected or exchanged for their numismatic value, where the scarcity, historical significance, quality, and other unique factors determine the market value of a coin rather than the commodity price of the metals that comprise it; and

b. Books and textbooks.

- (j) **Transaction.** Any purchase, sale, barter, pawn, or exchange of any item.

(Ord. No. 3323, Sec. 1, 3-28-95)

(2) **Dealer's Permit.**

(a) A pawnbroker or itinerant dealer must apply for and obtain a dealer's annual permit prior to being engaged in or conducting business as a dealer. Such permit shall be posted conspicuously in each place of business named therein.

(b) **Application.** To obtain a dealer's permit a dealer shall file a written, sworn application on a form provided by the City Clerk signed by the applicant if an individual, by all partners if a partnership, and by the president if a corporation, with the City Clerk showing:

(i) The name or names of the principals, agents, and employees of the applicant's business during the time that it is proposed that such business will be carried on in the City of Ames; the local address or addresses of such person or persons while engaged in such business; the permanent address or addresses of such person or persons; the capacity in which such person or persons will act (as proprietor, agent, employee or otherwise); the name and the address of the person, firm or corporation for whose account the business will be carried on, if any; and if a corporation, under the laws of what state it is incorporated;

(ii) The place or places in the City of Ames where it is proposed to carry on the applicant's business, and the length of time during which it is proposed that said business shall be conducted;

(iii) The place or places, other than the permanent place of business of the applicant, where the applicant within the six (6) months next preceding the date of said application conducted an itinerant business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted;

(iv) A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers; and

(v) Credentials from the person, firm or corporation for which the applicant proposed to do business, authorizing the applicant to act as such representative.

(c) **Fee Requirement.** Every application for a dealer's annual permit shall be accompanied by the application fee. The fee for a dealer's annual permit shall be in such amount as is set by the City Council.

(Ord. No. 2941, Sec. 1, 2-4-86)

(d) **Issuance.** Upon receipt of an application for a dealer's permit, the City Clerk shall notify the Ames Chief of Police or Chief's designee who shall cause such investigation of the applicant as the Chief deems necessary for the public good, and may recommend issuance or refusal of a dealer's permit. Within ten (10) days of the filing of an application, the City Clerk shall issue a dealer's permit or refuse to do so for reasons including but not limited to the following:

(i) fraud, misrepresentation or false statement of material or relevant facts contained in the application;

(ii) that the applicant has engaged in a fraudulent transaction or enterprise; or

(iii) that the applicant has engaged in a pattern of criminal activity.

(e) **Appeal.** If the City Clerk denies an application for a dealer's permit, the City Clerk shall mail to the applicant, by certified mail, a written statement of the decision with a brief statement of the reason(s) therefore. An appeal from the decision of the City Clerk may be made in writing to the City Manager, or Manager's designee, within ten (10) days of the receipt of the decision. The written appeal shall state the specific grounds for the appeal. The City Manager, or Manager's designee, shall hold a hearing within a reasonable time from the receipt

of the appeal. At the hearing, the applicant or permit holder may be represented by counsel, may cross-examine witnesses and may present evidence in his or her favor. The City Manager, or Manager's designee, may grant or deny the appeal. That decision shall be final.

(f) **Expiration.** A dealer's permit shall expire on December 31 of the year in which it is issued. If a dealer's business is discontinued, moved, or sold within one (1) year after issuance, the dealer's permit expires and a new permit must be obtained before the dealer's business is recommenced. The dealer's annual permit is a personal privilege and shall not be transferable, nor shall there be a partial refund of the application fee where the permit holder discontinues his business prior to December 31 of the year in which the permit was issued. (*Ord. No. 2941, Sec. 1, 2-4-86*)

(g) **Revocation.** Any dealer's permit may be revoked by the City Manager, or Manager's designee after notice and hearing if it is found that the dealer has knowingly violated any provision of section 17.25. The City Manager shall mail to the permit holder, by certified mail, a written notice of the hearing twenty (20) days before the hearing date. The notice shall set forth the grounds of the proposed revocation and the time and place of the hearing. At the hearing the permit holder may be represented by counsel, may cross-examine witnesses, and present evidence in his or her favor. The decision of the City Manager, or Manager's designee, shall be final.

(h) **Itinerant dealers** must register with the City of Ames Police Department before engaging in or conducting business each time that such dealer is in the City of Ames to conduct business. (*Ord. No. 3323, Sec. 1, 3-28-95*)

(3) **Records of Transactions and Retention of Purchases.**

(a) **Records.** The City of Ames Chief of Police shall designate an Internet-based property tracking service. Every dealer, itinerant dealers excepted, shall report each transaction of secondhand goods and tangible personal property by the end of each business day to the Internet-based tracking service. The record of each transaction shall include:

- (i) an accurate and detailed account of the sale, purchase, pawn, trade, or exchange;
- (ii) serial and model numbers, a transcription of any engraving or other identifying labels, marking, or writings located on the item, the brand name and model name;
- (iii) the titles of any movie cassette tapes or discs and computer software;
- (iv) the titles and artist names of any musical cassette tapes, discs, and albums;
- (v) the number and description of any decorative precious or semiprecious gems, stones, or jewelry;
- (vi) the amount paid, advanced, or loaned for each item;
- (vii) the date and time of the transaction;
- (viii) a clear and recognizable digital photograph of each item, which shall only be required if the item lacks a serial or model number; and
- (ix) a description of the person selling, purchasing, pawning, trading, or exchanging the item, which description shall include the person's first and last name, address of residence, date of birth, sex, and driver's license or state issued identification card number including the state

(b) **Itinerant dealers.** Every itinerant dealer shall record transactions according to one of the following methods, which records shall consist of the information in Sec. 17.25(3)(a)(i) through Sec. 17.25(3)(a)(ix):

- (i) keep and maintain a physical record book of transactions, which record book shall be presented to the Police Department for inspection and photocopying before the itinerant dealer leaves the City of Ames; or
- (ii) report transactions to the Internet-based property-tracking service designated by the City of Ames Chief of Police.

(c) **Antique dealer.** Every antique dealer shall be exempt from the recording, reporting, and retention requirements of this Section.

(d) **Transactions Exempt From Reporting.** Any transaction of the following shall not be required to comply with the reporting and retention requirements of this Section:

- (i) Any transaction of goods at a garage sale, yard sale, or estate sale, which shall be construed as the infrequent, periodic sale of miscellaneous household or personal articles on the premises of a private residence;

(ii) Any consignment transaction of secondhand goods or the sale of secondhand goods donated without compensation;

(iii) Any transaction of goods at an auction.

(e) **Retention of Items.**

(i) No dealer shall sell, deliver, melt, change the form of, or dispose of any item subject to Section 17.25 of the Municipal Code within ten (10) days of the acquisition of such item unless one of the following exceptions is met:

(1) Permission to do so is granted in writing by the City of Ames Chief of Police or the Chief's designee;

(2) A pawned item is returned to the person who pawned the item within the ten (10) day retention period pursuant to the agreed upon terms; or

(3) The item is bullion.

(ii) The City of Ames Chief of Police or the Chief's designee may inspect all items for which a request to dispose has been granted before the end of the ten (10) day retention period.

*(Ord. No. 3323, Sec. 1, 3-28-95)*

(4) **Inspection of Premises.** Every dealer shall admit any police officer to its premises during its regular business hours to examine articles purchased or received; and to search for and to take into possession any article known by that officer to have been reported missing or known or believed by the officer to have been stolen.

*(Ord. No. 3323, Sec. 1, 3-28-95)*

(5) **Prohibitions.**

(a) No dealer shall conceal, secrete, or destroy for the purpose of concealing, any item purchased or acquired by the dealer for the purpose of preventing identification thereof by a police officer or any person claiming to own the same.

(b) It shall be unlawful for any dealer in the course of the dealer's business or occupation to acquire, by purchase, barter, exchange, or pawn, any goods from any person under eighteen (18) years of age.

(c) It shall be unlawful for any dealer to acquire, by purchase, barter, exchange or pawn, items bearing evidence of a serial number which has been tampered with or scratched or obliterated in any manner unless such person immediately contacts the Ames Police Department.

(d) It shall be unlawful for any dealer to acquire, by purchase, barter, exchange or pawn, any items prior to examining photo identification with a physical description of the person selling, bartering, exchanging or pawning said articles.

(e) It shall be unlawful for any dealer to intentionally misrepresent or falsify any record of an item, seller, or transaction required to be reported to the Ames Police Department under this chapter.

*(Ord. No. 2938, Sec. 1, 10-15-85; Ord. No. 3323, Sec. 1, 3-28-95)*

(6) Violation of this section shall be a municipal infraction punishable by a penalty of \$100 for a person's first violation thereof and \$200 for each repeat violation. Alternatively, violation of this section can be charged by a peace officer of the City as a simple misdemeanor.

*(Ord. No. 3497, Sec. 34, 8-25-98; Ord. No. 3551, 3-7-00)*

Section Two. Violation of the provisions of this ordinance shall constitute a municipal infraction punishable as set out by law. Alternatively, violation of this section can be charged by a peace officer of the City as a simple misdemeanor.

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

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

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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

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

**COUNCIL ACTION FORM**

**SUBJECT: 2015 WATER AND SEWER RATE ADJUSTMENTS**

**BACKGROUND:**

On March 17, 2015, staff presented Council with an overview of the Water and Sewer Funds. At the end of the presentation, Council directed staff to prepare a rate increase ordinance that would increase water rates by 4%, and sewer rates by 5%. Both rate increases were to be “across-the-board” and be effective for utility bills mailed on and after July 1, 2015. The attached ordinance accomplished the Council’s direction and is ready for Council approval.

**ALTERNATIVES:**

1. Approve the attached rate ordinance on first reading, thereby increasing water rates by 4% and sewer rates by 5% effective July 1, 2015.
2. Direct staff to make modifications to the rate ordinance.
3. Do not take any action to adjust water and sewer rates at this time.

**MANAGER’S RECOMMENDED ACTION:**

The proposed rate increases are necessary to fund the on-going operations and maintenance budget plus the anticipated capital improvements projects.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, thereby approving on first reading the attached rate ordinance increasing water rates by 4% and sewer rates by 5% effective July 1, 2015.

**ORDINANCE NO.**

**AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY REPEALING CHAPTER 28, SECTION 201(1)(b)(ii)(a)(b), 2(b)(ii)(a)(b), 3(b)(ii)(a)(b), 4(b)(ii)(a)(b), 5(b)(ii)(a)(b), 7, 8 AND SECTION 204(3). ENACTING A NEW CHAPTER 28, SECTION 201(1)(b)(ii)(a)(b), 2(b)(ii)(a)(b), 3(b)(ii)(a)(b), 4(b)(ii)(a)(b), 5(b)(ii)(a)(b), 7, 8 AND SECTION 204(3). THEREOF, FOR THE PURPOSE OF INCREASE OF WATER AND SEWER RATES; 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 repealing Chapter 28, Section 201(1)(b)(ii)(a)(b), 2(b)(ii)(a)(b), 3(b)(ii)(a)(b), 4(b)(ii)(a)(b), 5(b)(ii)(a)(b), 7, 8 and Section 204(3). Enacting a new Chapter 28, Section 201(1)(b)(ii)(a)(b), 2(b)(ii)(a)(b), 3(b)(ii)(a)(b), 4(b)(ii)(a)(b), 5(b)(ii)(a)(b), 7, 8 and Section 204(3) as follows:

**“Sec. 28.201. WATER RATES AND CHARGES**

The rates and charges for water supplied to consumers by the water utility of the city, to be billed on or after July 1, 2015 are as follows:

**(1) Residential Rates.**

(b) **Rate per billing period.** For each monthly billing period a residential rate customer:

- (ii) shall be charged for water usage during the billing periods as follows:
  - (a) for bills mailed on or between July 1 and October 31 (summer period):
    - \$0.0215 per cubic foot for the first 1000 cubic feet of usage
    - \$0.0379 per cubic foot for the next 1500 cubic feet of usage
    - \$0.0570 per cubic foot for all usage over 2500 cubic feet
  - (b) for bills mailed on or between November 1 and June 30 (winter period):
    - \$0.0215 per cubic foot.

**(2) Non-residential (Commercial) Rates**

(b) **Rate per billing period:** For each monthly billing period a non-residential customer:

- (ii) shall be charged for water usage during the billing periods as follows:
  - (a) for bills mailed on or between July 1 and October 31 (summer period):
    - \$0.0281 per cubic foot
  - (b) for bills mailed on or between November 1 and June 30 (winter period):
    - \$0.0215 per cubic foot



(3) **Non-Peaking Industrial Rate.**

(b) **Rate per Billing Period.** For each monthly billing period a non-peaking industrial rate customer:

- (ii) shall be charged for water usage during the billing periods as follows:
  - (a) for bills mailed on or between July 1 and October 31 (summer period):  
\$0.0215 per cubic foot
  - (b) for bills mailed on or between November 1 and June 30 (winter period):  
\$0.0215 per cubic foot

(4) **Irrigation and Yard Water Service Rate.**

(b) **Rate per Billing Period.** For each monthly billing period an irrigation and yard water rate customer:

- (ii) shall be charged for water usage during billing periods as follows:
  - (a) for bills mailed on or between July 1 and October 31 (summer period):  
\$0.0310 per cubic foot for the first 2000 cubic feet of usage  
\$0.570 per cubic foot for the next 3000 cubic feet of usage  
\$0.0949 per cubic foot for all usage greater than 5000 cubic feet.
  - (b) for bills mailed on or between November 1 and June 30 (winter period):  
\$0.0215 per cubic foot

(5) **Rural Water Rate.**

(b) **Rate per billing period.** For each monthly billing period, a rural water rate customer:

- (ii) shall be charged for water usage during billing periods as follows:
  - (a) for bills mailed on or between July 1 and October 31 (summer period):  
\$0.0356 per cubic foot for the first 2000 cubic feet of usage  
\$0.0655 per cubic foot for the next 3000 cubic feet of usage  
\$0.1092 per cubic foot for all usage greater than 5000 cubic feet.
  - (b) for bills mailed on or between November 1 and June 30 (winter period):  
\$0.0247 per cubic foot for all consumption.

(7) **Minimum charges.** For each monthly billing, each customer shall be charged a minimum monthly charge based on the size of the water meter (s) and/or irrigation meter (s) at each location. The minimum monthly charge may be prorated, based on a 30-day billing period, for the customer's initial and/or final bills, provided that in no case shall the minimum monthly charge be less than five dollars and twenty-seven cents (\$5.27).

The minimum monthly charge for each water meter location shall be as follows:

Size of Meter	Residential, Non-residential, Non-peaking Industrial, and Irrigation Accounts	Yard Water Accounts	Rural Water Accounts
5/8" or 5/8"x3/4"	10.98	4.16	12.63
3/4 inch	21.96	6.46	25.26
1 inch	43.93	9.00	50.52
1-1/2 inch	87.86	12.41	101.04
2 inch	175.72	16.49	202.08
2 inch, battery of 2	340.35	--	391.40
2 inch, battery of 3	505.06	--	580.81
3 inch	351.35	21.46	404.06
4 inch	592.88	26.68	681.82
6 inch	988.14	31.95	1,136.36
8 inch	1,976.27	37.22	2,272.71
10 inch	2,964.41	42.10	3,409.07

(8) **Multiple dwellings – Mobile home parks.** Multiple dwellings, including mobile home parks, may be serviced from a single water meter. However, there shall be a surcharge added to the water rates set forth above, to be calculated as follows:

For a 5/8 inch meter serving 2 or more dwelling units.....	3.16/month/unit
For a 3/4 inch meter serving 4 or more dwelling units.....	3.16/month/unit
For a 1 inch meter serving 8 or more dwelling units.....	3.16/month/unit
For a 1-1/2 inch meter serving 16 or more dwelling units.....	3.16/month/unit
For a 2 inch meter serving 30 or more dwelling units.....	94.60/month
for the first 30 units plus \$4.91/month per unit for	
each additional unit in excess of 30 units	
For a 3 inch or larger meter serving any number of dwelling units .....	4.35/month/unit

For the purposes of this section, a dwelling unit is defined as a self-contained living facility (i.e., including kitchen and bath) such as an apartment or a licensed independent mobile home space.

**Sec. 28.304. SEWER RATES ESTABLISHED.**

(3) For each monthly billing on or after July 1, 2015, each customer shall be charged a minimum monthly charge. The minimum charge for each location shall be ten dollars and seventy-one cents (\$10.71). The minimum monthly charge may be prorated, based on a 30-day billing period, for the customer's initial and/or final bills, provided that in no case shall the prorated minimum monthly charge be less than four dollars and twelve cents (\$4.12). In addition, for all water metered beginning with the first cubic foot each month, each user shall pay two dollars and seventy-four cents (\$2.74) per 100 cubic feet."

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

**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	
	<b>Subtotal</b>	<b>19.944</b>	<b>79.22%</b>	<b>0.130</b>	<b>19.814</b>	<b>83.06%</b>
<b>Non-Consenting</b>						
	Fromm	2.800		0.290	2.510	
	Spillers	2.430		0.900	1.530	
	<b>Subtotal</b>	<b>5.230</b>	<b>20.78%</b>	<b>1.190</b>	<b>4.040</b>	<b>16.94%</b>
	<b>Total</b>	<b>25.174</b>	<b>100.00%</b>	<b>1.320</b>	<b>23.854</b>	<b>100.00%</b>

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.

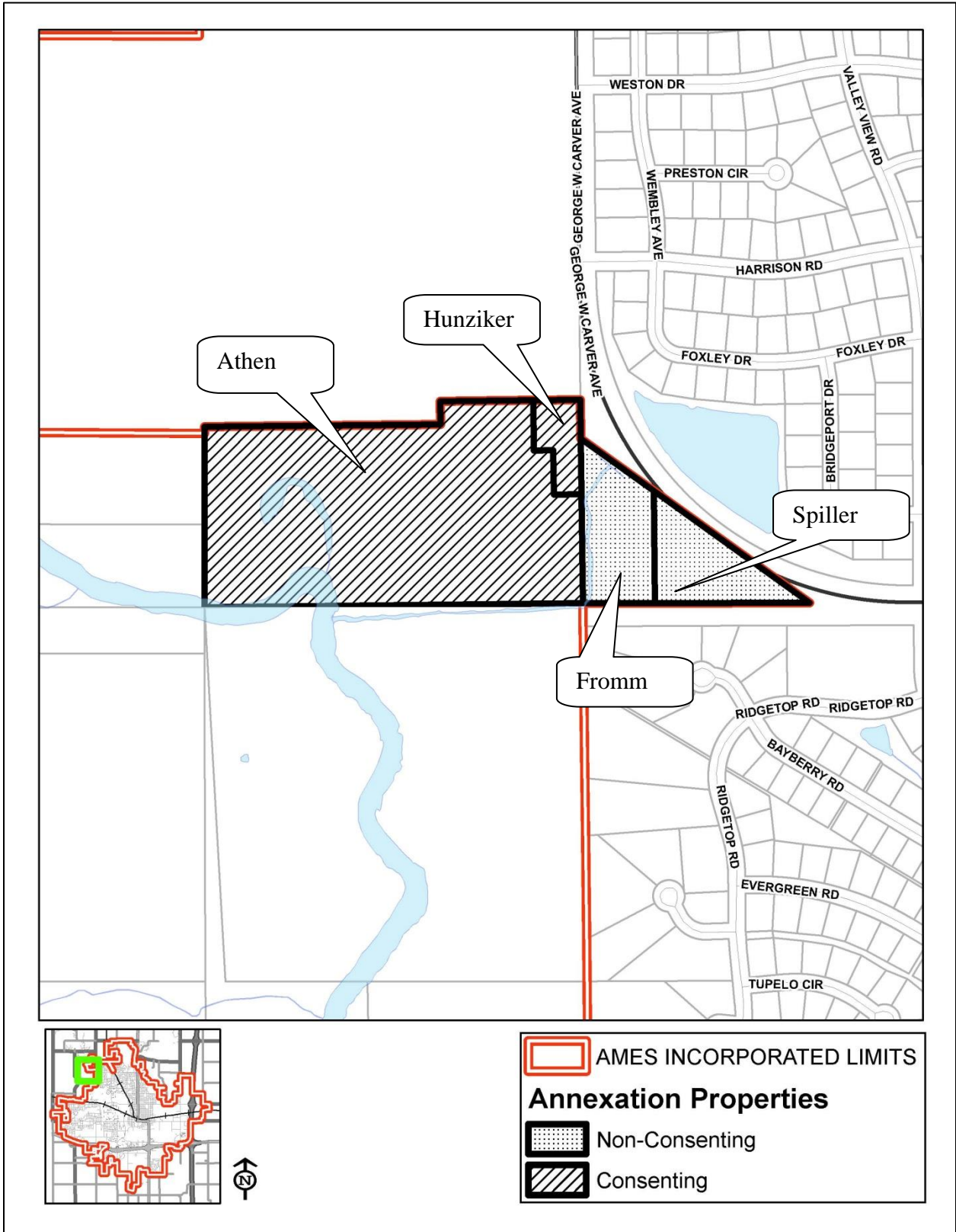
### **CITY MANAGER'S RECOMMENDATION:**

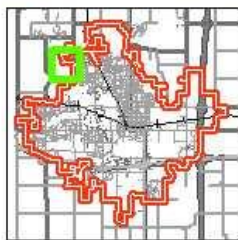
This annexation is consistent with the Land Use Policy Plan and the Ames Urban Fringe Plan for areas of expansion of the City. Bringing in four properties creates the most uniform boundaries for the City and avoids potential complications with future annexations. However, uncertainty over the water territory 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.**



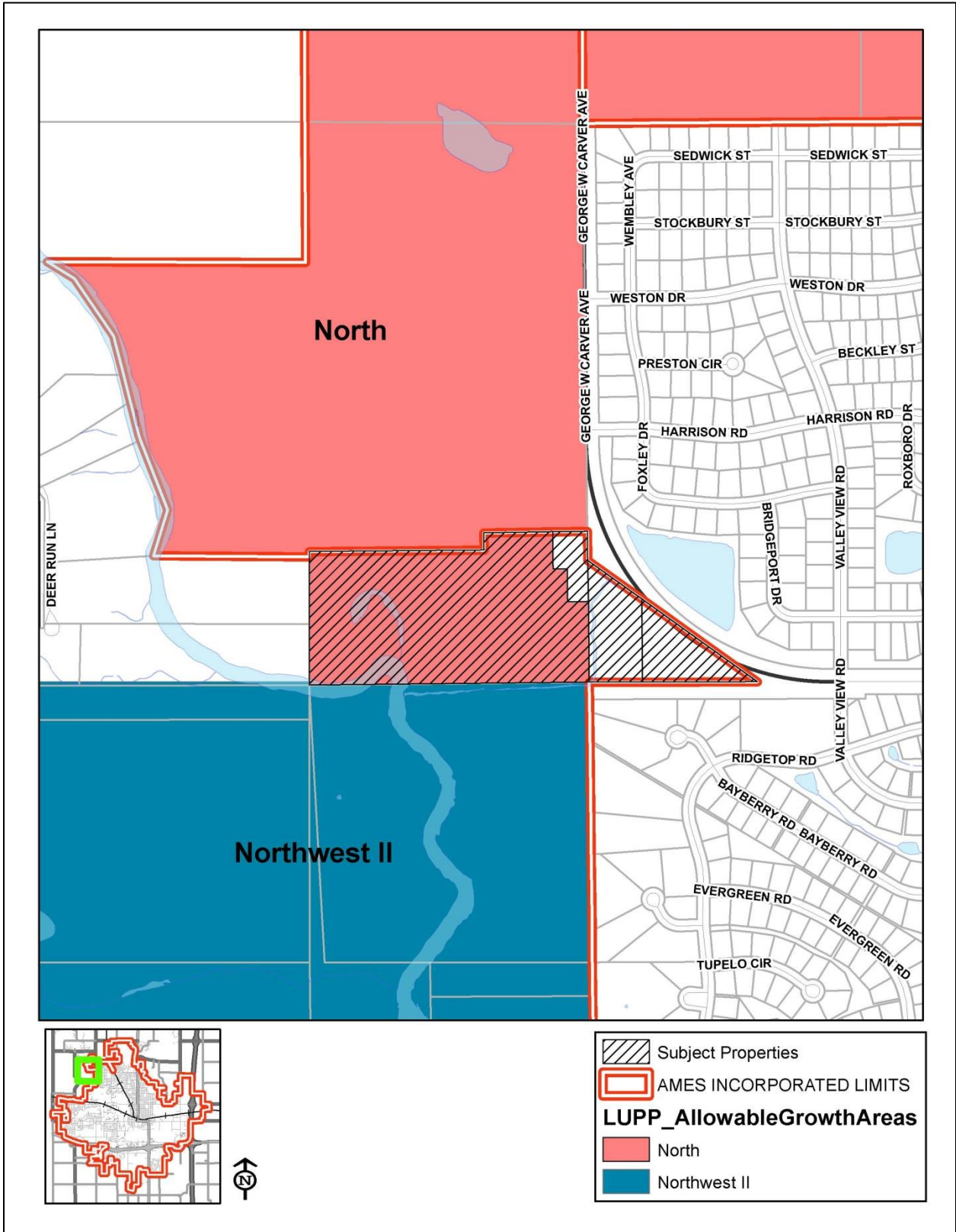
**ATTACHMENT A:  
LOCATION MAP**



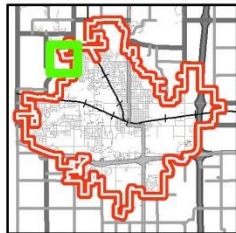
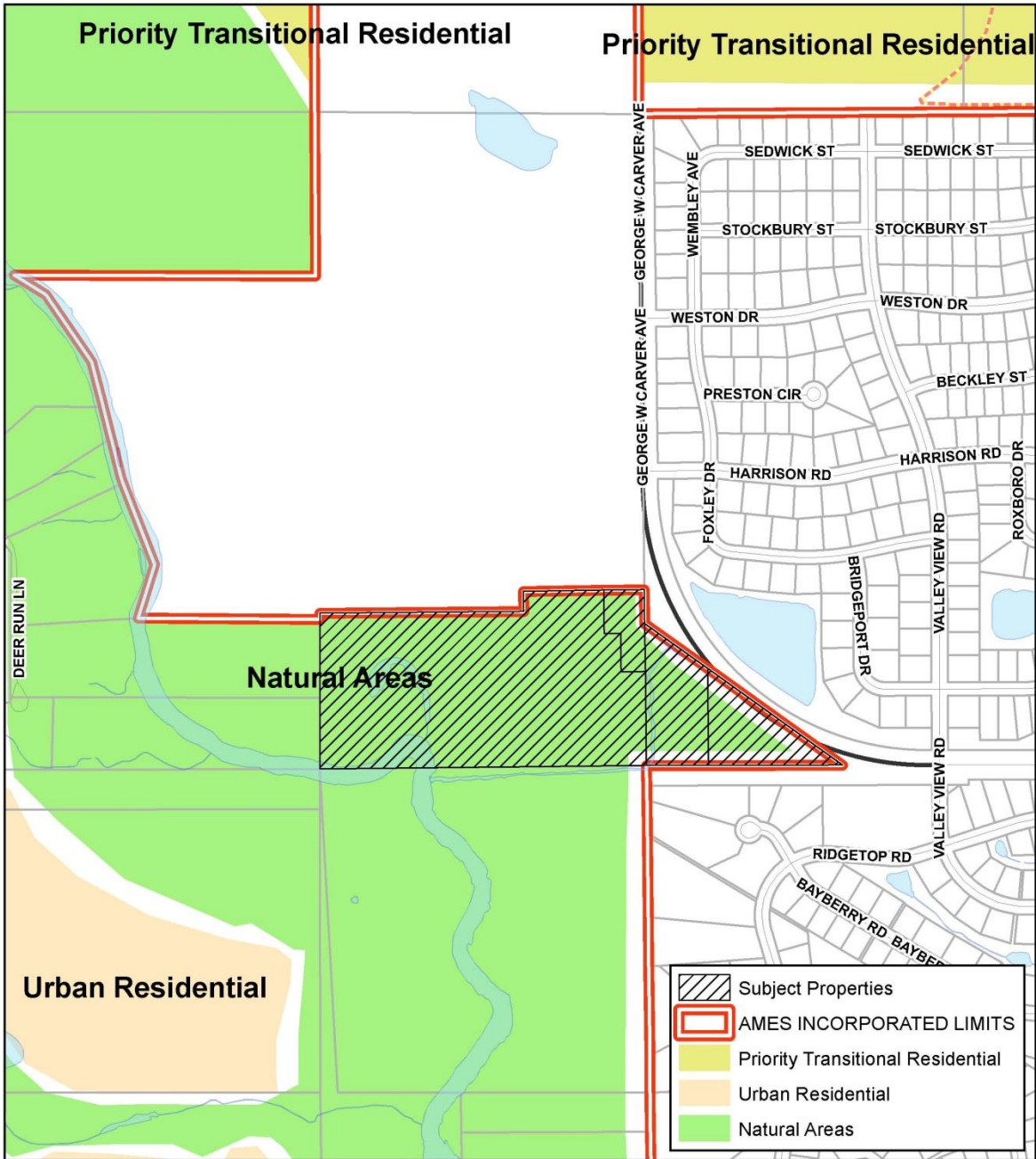


### Annexation Area

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



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



**Ames Urban Fringe  
Land Use Designations**

## **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

**COUNCIL ACTION FORM**

**SUBJECT: ZONING ORDINANCE TEXT AMENDMENT PERMITTING SMALL PRODUCTION FACILITIES OF ALCOHOL BEVERAGES IN CERTAIN COMMERCIAL ZONES, INCLUDING BREWERIES**

**BACKGROUND:**

The owner of the Olde Main Brewing Company (GSS BB, LLC) has requested a text amendment to allow for the construction of a production brewery facility in conjunction with an event center and tap room in the Highway Oriented Commercial (HOC) zoning district. (See Attachment A) The applicant desires to move its brewery facility from the current downtown location to allow for expansion of production to serve a wider distribution area and create a large event gathering facility.

The request centers upon allowing for the manufacturing and production use of a “brewery” in a commercial zoning district. Article 5 of Chapter 29 describes and categorizes types of uses for listing within each zoning district. Ames limits principal manufacturing uses to its industrial zoning districts. **The City allows for manufacturing and production uses within commercial areas when they are for the purpose of producing materials for use or resale on site and as an accessory use to the principal use.** The current Olde Main restaurant and brewery and the new Torrent Brewing Company operate under this definition at their respective downtown locations. The applicant’s other requested uses of event center and service of beer are allowed as Entertainment, Restaurant, and Recreation uses within the HOC zoning.

Olde Main Brewing made a similar request in 2011 to allow for an event center use with a brewery to be located in a General Industrial zoning district. The City approved the amendment to the General Industrial zoning district to allow for event center use in conjunction with a manufacturing use. The applicant did not proceed with the intended project upon approval of the text amendment by the City Council.

In discussion with staff, the applicant indicates a desire to build and operate a 25,000 square foot facility that could produce between 15,000 to 25,000 barrels of beer annually. A barrel of beer equates to approximately 31 gallons. This would be five to ten times the current production capacity of Olde Main. To put this in another context, the Brewers Association trade group estimates that in 2013 the state of Iowa produced just less than 30,000 barrels of beer while the state of Minnesota produced over 300,000 barrels. There are no well known national or regional breweries in Iowa, while Minnesota is the home of Summit Brewing and Surley Brewing, whom are two larger craft brewers that exceed production of 100,000-200,000 barrels annually, in addition to the large number of smaller microbreweries. Nationally, there was approximately 196 million barrels of beer produced with 15 million of it by craft brewers.

Breweries commonly have grain bin storage adjacent to the building, likely 30 feet or less in height. They are served by typical semi-truck deliveries similar to a restaurant or



other large retail use. The hours of operation will vary depending on the annual output and the size of the production system. Production systems are described in their barrel capacity for one session of brewing. Brewing will take approximately eight hours for a batch before being transferred to fermentation tanks where the beer will ferment from 2 to 4 weeks, depending on the varietal. The storage and fermentation capacity often dictates the size of the facility rather than the brewing capacity.

The question of allowing a production use in a commercial zone relates to the purpose of a base commercial zoning district. **In this case we are considering if allowing for a small production use meets City interests for economic development and social activity, while preserving appropriate commercial lands and compatibility with neighboring properties.** The small production issue could relate to more than alcohol product sales of beer, distilled spirits, and wine, and could relate to other food uses with large manufacturing/distribution components, such as bakeries, candy shops, and coffee roasters. Standard retail or restaurant/café uses that produce items primarily for consumption on site would not meet the definition of a manufacturing use that is purpose of this report.

### Definition of Use Options

Common industry terminology includes the term microbrewery for an establishment that produces up to 15,000 barrels a year of which 75% are sold for off-site consumption. A brewpub would be smaller in size and produce beer primarily for consumption on site. A craft brewer is broad term meant to distinguish the brewers that exceed the microbrew levels but do not reach the capacity of the largest national brewers. Craft beer examples include Samuel Adams as the largest producer at over 2 million barrels a year, but with many regional breweries fitting this definition as well in the 200,000 barrel a year range. Wineries and distilleries do not appear to have as neatly defined sizes by trade organizations for reference.

However, these industry terms are not always used to establish zoning definitions. The most common term would likely be microbrewery and the 15,000 barrel limit, but it varies greatly from less than 3,000 barrels to significantly more at 60,000 barrels. This wide range of definition exists because of the variety of industrial and commercial areas these facilities may locate in different communities and what part of the brewery and tap room use a city is concerned about managing. State regulation on alcohol production and sales also vary considerably from state to state.

It appears that the volume of production can scale up quickly without a substantially larger building size. This can be due to the layout of the facility and the number of hours it operates. To staff, there does not appear likely that there would be a large difference in a facility sized to produce 15,000 barrels and 30,000 barrels. Smaller production facilities can be sized in rather small buildings of less than 5,000 square feet.

A small production facility could be defined by its size or capacity. Some cities define a different process for approval based on size. Smaller facilities may be by right and larger facilities require discretionary approval. For example Coralville, uses 650 gallons a day (approximately 8,000 barrels annually) to separate the types of permits. Ft. Collins Colorado allows microbreweries at 15,000 barrels annually by right in many locations, and requires discretionary permits for others. Aurora and Denver Colorado

allow breweries of 60,000 and 50,000 barrels as microbreweries and may locate in commercial or industrial areas.

The trend recently with microbreweries is to include or allow for use of tasting rooms or tap rooms where for on-site consumption of the product and promotion of the brand. This varies in format from a small drinking area, a full bar, or restaurant along with the brewery. Most of staff's research found references to allowing these tap room use as an accessory use to a brewery. Some cities also considered the size and location of brewery facilities and their accessory facilities as they reviewed zoning standards.

**Staff recommends that the definition of small-production facility of a brewery, distillery, or winery should include a requirement to have retail and service component of tasting room or restaurant to be considered as a commercial use rather than an industrial use.** Staff does not recommend limiting the size if a project requires a discretionary approval.

### Approval Process Options

The approval process has three options. The use could be considered allowed by right through administrative approval of a minor site development plan. This is the process for most commercial uses, including entertainment, restaurant, and recreation uses. The second option would be for a discretionary review by the Zoning Board of Adjustment of an Exception or a Special Use Permit. This would be a means of having case-by-case review of the proposed use and its suitability at a specific location. The third option would be to require City Council approval of the use and site plan with a Major Site Development Plan. This would also be a means of considering a project on case-by-case basis focused on the site plan design and layout. Criteria for a Special Use Permit and a Major Site Development Plan are included as Attachment B.

**Staff believes the use of the discretionary review by the Zoning Board of Adjustment of a Special Use Permit is the appropriate means to control the intensity and mix of uses with the microbrewery type of use.** This would require a Special Use Permit regardless of the size of facility. It would allow for individual review of the size and capacity of facility in consideration of its surroundings and design.

### Zoning District Options

The City's Land Use Policy Plan supports concentrated commercial uses with complementary uses to increase economic activity in focused areas. A stand alone production/manufacturing use would not meet that goal on its own in a commercial area. Allowing for a large amount of production uses in commercial zones would also concern staff as there is a limited supply of well suited convenient commercial land while there is industrial land available for manufacturing uses that are less reliant on location for their success. However, when a production use accentuates an area and supports vitality through its retail or service component then it can fit well within a commercial area and be consistent with the Land Use Policy Plan and the purpose of a commercial zoning district. **A small brewery may help attract people from a citywide, regional, or even larger market area, if it provides services or products to customers, such as tours, gathering area, and event space.** However, a large factory without a

**customer component could detract from the activity and visual interest that helps commercial uses.**

The applicant desires to locate in HOC zoning. HOC zoning is the most common commercial zone in the City. It is intended to:

*“ . . . allow auto-accommodating commercial development in areas already predominantly developed for this use. The zone allows a full range of retail and service businesses with a large local or citywide market. Development is expected to be generally auto-accommodating, with access from major traffic ways. The zone's development standards are intended to promote an open and pleasant street appearance; development that is aesthetically pleasing for motorists, pedestrians and the businesses themselves; and compatibility with adjacent residential areas.”*

HOC locations range from areas along west Lincoln Way outside of Campustown to central areas of Lincoln Way by Grand Avenue, all along South Duff, and areas along South and Southeast 16<sup>th</sup> Street. ([See Zoning Map](#)) With this wide diversity of allowed uses and locations in the City, HOC has a larger range of interactions with residential and commercial uses than other zoning types in the City.

A microbrewery's primary use will be an industrial type use of manufacturing, but its ties of the retail and service use of a taproom gives the microbrewery the sense of a commercial use. Staff's review of Iowa cities reveals that microbreweries commonly are within industrial areas, but smaller facilities are also plentiful in commercial areas. Coralville appears to have the largest facility of Backpocket Brewing located in purely commercial zoning area. Backpocket is sized to produce up to 25,000 barrels a year.

The use could be considered in other commercial zoning districts or within industrial zoning districts. While other microbreweries may not desire the applicant's scale of 25,000 barrels of production, smaller producers may want the flexibility of selling more products for off-site consumption than on site, as is allowed currently under the code. Allowing for small production facilities that include a commercial component could then be extended to areas such as Downtown, or Somerset, Campustown, etc. Alternatively, the brewery use may be found to not be desirable in commercial areas and in that case the City would only allow it in industrial zones with other uses categorized as manufacturing.

**Staff recommends that the use be allowed within HOC, Downtown, and Campustown.** These are all zoning districts meant for a larger scale of use and as commercial destinations. Somerset is meant for neighborhood scale uses and would not be an appropriate fit for a production brewery use.

The Planning and Zoning Commission reviewed the proposed text amendment at its April 1, 2015 meeting and recommended approval of the text amendment on a 4-0 vote.

## **ALTERNATIVES:**

1. The City Council can approve on first reading an ordinance to amend the City of Ames Zoning Ordinance Chapter 29 of the Municipal Code to include:
  - a. Definition of a Small Production Facility of a microbrewery, distillery, and winery that includes retail and service commercial restaurant, tasting, or tap room.
  - b. Amend Highway Oriented Commercial (HOC), Downtown(DSC), and Campustown Service Commercial(CSC) zoning districts to allow for a Small Production Facility with approval of Special Use Permit by the Zoning Board of Adjustment.

Complete language of the draft ordinance is attached to this Council Action Form.

2. The City Council can modify the proposed text amendment definition, modify the approval process, or reduce the number of allowed zoning districts.
3. The City Council can request additional information before making a approving an ordinance on first reading.
4. The City Council can deny the proposed text amendment.

## **CITY MANAGER'S RECOMMENDED ACTION:**

Popularity of small-production alcohol facilities is increasing in the Midwest and nationally. In other communities, breweries have demonstrated entertainment and tourism value. Establishing the proper location for such businesses is a complicated policy challenge to balance competing interests of how to best use commercial land resources.

The appropriate balance can be struck by allowing for the proposed production brewery use in combination with traditional commercial uses of retail, restaurant, or bar uses and requiring case-by-case review as a Special Use Permit. With the thought that the use can be an activity generating use, it could appropriately be allowed in three of our more intense commercial zoning districts of Highway Oriented Commercial(HOC), Campustown Service Center(CSC), and Downtown Service Center(DSC).

Therefore, it is the recommendation of the City Manager that the City Council accept Alternative #1, thereby approving the text amendment to allow small production facilities for alcoholic beverages with commercial facilities as a special use permit in HOC, CSC, and DSC.

## ATTACHMENT A

Scott Griffen  
GSS BB, LLC  
PO Box 1928  
Ames, Iowa 50010

March 2, 2015

Honorable Mayor Anne Campbell and  
Members of Ames City Council  
515 Clark Avenue, PO Box 811  
Ames, Iowa 50010

Dear Honorable Mayor and Members of Ames City Council,

I am writing to ask your assistance with a zoning limitation I have encountered. I would like to locate a brewery and convention center at 1615 South Kellogg Street. I have enclosed an aerial of the site I have optioned for the project. The current zoning would allow for the convention center, but not the brewery.

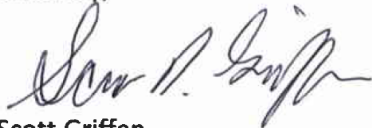
Convention and meeting space is limited in Ames, I would like to provide additional options to continue to bring groups to Ames and provide a unique environment for various events and occasions.

The type of project I am proposing is gaining popularity across the United States, with a similar example located in Minneapolis, Minnesota called Surly Brewing Company.

Identifying a location within the Ames community that provides a successful location and a location that allows both activities is very limited because the project will have both industrial (brewery) and commercial (convention center) uses. The available land at 1615 South Kellogg is the only property I could currently identify within the community meeting the criteria for successful location. With other similar projects being accommodated in communities, I would ask for your assistance with the zoning ordinances to allow my project to move forward.

Other activities I am undertaking to assist with making the project successful is applying for financial assistance from the Iowa Economic Development Authority. At this time I have submitted an application for consideration.

Sincerely,



Scott Griffen  
President of GSS BB, LLC

## Attachment B

### Major Site Plan Criteria 29.1502.4

(vii) City Council Decision. After the transmittal of the recommendation from the Planning and Zoning Commission, the City Council shall consider the application at a public hearing conducted as part of a regularly scheduled meeting. Notification of the public hearing shall be made by mail and posting, in accordance with Sections 29.1500(2)(d)(i) and (iii) above. The City Council must approve, deny or modify the Major Site Development Plan approval application within 60 days of the public hearing.

(d) Design Standards. When acting upon an application for a major site plan approval, the City Council shall rely upon generally accepted site planning criteria and design standards. These criteria and standards are necessary to fulfill the intent of the Zoning Ordinance, the Land Use Policy Plan, and are the minimum necessary to safeguard the public health, safety, aesthetics, and general welfare. These criteria and standards include:

(i) The design of the proposed development shall make adequate provisions for surface and subsurface drainage to limit the rate of increased runoff of surface water to adjacent and down stream property;

(ii) The design of the proposed development shall make adequate provision for connection to water, sanitary sewer, electrical and other utility lines within the capacity limits of those utility lines;

(iii) The design of the proposed development shall make adequate provision for fire protection through building placement, acceptable location of flammable materials, and other measures to ensure fire safety;

(iv) The design of the proposed development shall not increase the danger of erosion, flooding, landslide, or other endangerment to adjoining and surrounding property;

(v) Natural topographic and landscape features of the site shall be incorporated into the development design;

(vi) The design of interior vehicle and pedestrian circulation shall provide for convenient flow of vehicles and movement of pedestrians and shall prevent hazards to adjacent streets or property;

(vii) The design of outdoor parking areas, storage yards, trash and dumpster areas, and other exterior features shall be adequately landscaped or screened to minimize potential nuisance and impairment to the use of adjoining property;

(viii) The proposed development shall limit entrances and exits upon adjacent streets in order to prevent congestion on adjacent and surrounding streets and in order to provide for safe and orderly vehicle movement;

(ix) Exterior lighting shall relate to the scale and location of the development in order to maintain adequate security, while preventing a nuisance or hardship to adjacent property or streets;

(x) The proposed development shall ensure that dust and other forms of air pollution, noise disturbances, odor, glare, and other nuisances will be limited to acceptable levels as prescribed in other applicable State and City regulations; and

(xi) Site coverage, building scale, setbacks, and open spaces shall be in proportion with the development property and with existing and planned development and structures, in adjacent and surrounding property.

## Attachment B

### Special Use Permit 29.1503(4)

(4) **Review Criteria.** Before a Special Use Permit application can be approved, the Zoning Board of Adjustment shall establish that the following general standards, as well as the specific standards outlined in subsections (b), (c), and (d) below, where applicable, have been or shall be satisfied. The Board's action shall be based on stated findings of fact. The conditions imposed shall be construed as limitations on the power of the Board to act. A mere finding that a use conforms to those conditions or a recitation of those conditions, unaccompanied by specific findings of fact, shall not be considered findings of fact for the purpose of complying with this Ordinance.

(a) **General Standards.** The Zoning Board of Adjustment shall review each application for the purpose of determining that each proposed use meets the following standards, and in addition, shall find adequate evidence that each use in its proposed location will:

(i) Be harmonious with and in accordance with the general principles and proposals of the Land Use Policy Plan of the City;

(ii) Be designed, constructed, operated, and maintained so as to be harmonious in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed;

(iii) Not be hazardous or disturbing to existing or future uses in the same general vicinity;

(iv) Be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structure, refuse disposal, water and sewage facilities, and/or schools;

(v) Not create excessive additional requirements at public cost for public facilities and services;

(vi) Not involve uses, activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors; and

(vii) Be consistent with the intent and purpose of the Zone in which it is proposed to locate such use.

(b) **Residential Zone Standards.** The Zoning Board of Adjustment shall review each application for the purpose of determining that each proposed use in a residential zone meets the following standards, as well as those set forth in Section 29.1503(4)(a) above and, in addition, shall find adequate evidence that each use in its proposed location will:

(i) Not create excessively higher levels of traffic than the predominant pattern in the area and not create additional traffic from the proposed use that would change the street classification and such traffic shall not lower the level of service at area intersections;

(ii) Not create a noticeably different travel pattern than the predominant pattern in the area. Special attention must be shown to deliveries or service trips in a residential zone that are different than the normal to and from work travel pattern in the residential area;

(iii) Not generate truck trips by trucks over 26,000 pounds g.v.w (gross vehicular weight) to and from site except for food delivery vehicles, waste collection vehicles and moving vans;

*(Ord. No. 4159, 9-24-13)*

(iv) Not have noticeably different and disruptive hours of operation;

(v) Be sufficiently desirable for the entire community that the loss of residential land is justifiable in relation to the benefit;

(vi) Be compatible in terms of structure placement, height, orientation or scale with the predominate building pattern in the area;

(vii) Be located on the lot with a greater setback or with landscape buffering to minimize the impact of the use on adjacent property; and

(viii) Be consistent with all other applicable standards in the zone.

(c) **Commercial Standards.** The Zoning Board of Adjustment shall review each application for the purpose of determining that each proposed use located in a commercial zone meets the following standards as well as those set forth in Section 29.1503(4)(a) above and, in addition, shall find adequate evidence that each use in its proposed location will:

(i) Be compatible with the potential commercial development and use of property planned to occur in area;

(ii) Represent the sufficiently desirable need for the entire community that the loss of commercial land is justifiable in relation to the benefit; and

(iii) Be consistent with all other applicable standards in the zone.

## ATTACHMENT C – LAND USE POLICY PLAN

### **Related Goals and Objectives**

**Goal No. 1.** Recognizing that additional population and economic growth is likely, it is the goal of Ames to plan for and manage growth within the context of the community's capacity and preferences. It is the further goal of the community to manage its growth so that it is more sustainable, predictable and assures quality of life.

Objectives. In managing growth, Ames seeks the following objectives.

- 1.A. Ames seeks to diversify the economy and create a more regional employment and market base. While continuing to support its existing economic activities, the community seeks to broaden the range of private and public investment.

...

**Goal No. 2.** In preparing for the target population and employment growth, it is the goal of Ames to assure the adequate provision and availability of developable land. It is the further goal of the community to guide the character, location, and compatibility of growth with the area's natural resources and rural areas.

Objectives. In assuring and guiding areas for growth, Ames seeks the following objectives.

2.A. Ames seeks to provide between 3,000 and 3,500 acres of additional developable land within the present City and Planning Area by the year 2030. Since the potential demand exceeds the supply within the current corporate limits, alternate sources shall be sought by the community through limited intensification of existing areas while concentrating on the annexation and development of new areas. The use of existing and new areas should be selective rather than general.

2.B. Ames seeks to assure the availability of sufficient suitable land resources to accommodate the range of land uses that are planned to meet growth. Sufficient land resources shall be sought to eliminate market constraints.

2.C. Ames seeks a development process that achieves greater compatibility among new and existing development.

....

**Goal No. 4.** It is the goal of Ames to create a greater sense of place and connectivity, physically and psychologically, in building a neighborhood and overall community identity and spirit. It is the further goal of the community to assure a more healthy, safe, and attractive environment.

Objectives. In achieving an integrated community and more desirable environment, Ames seeks the following objectives.

4.C. Ames seeks to psychologically connect the various living/activity areas through closer proximity of residential areas and supporting commercial uses, common design elements, and inclusion of community amenities such as parks and schools. The connections should promote community identity.

....



**ORDINANCE NO.**

**AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY ENACTING A NEW SECTION 29.201 (197) AND AMENDING TABLES 29.804(2), 29.808(2), AND 29.809-R(2) THEREOF, FOR THE PURPOSE OF PERMITTING SMALL PRODUCTION FACILITIES IN COMERCIAL ZONES; 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 a new Section 29.201(197) and amending Tables 29.804(2), 29.808(2), and 29.809-R(2) as follows:

**“Sec. 29.201. DEFINITIONS.**

...

(197) **Small Production Facility:** A combined manufacturing and commercial facility of alcoholic beverages for direct sale to wholesale or customers that also includes a retail outlet, tasting room, or restaurant that sells products produced on site. This use includes breweries, distilleries, and wineries.

**Sec. 29.804. "HOC" HIGHWAY-ORIENTED COMMERCIAL.**

...

(2) **Permitted Uses.** The uses permitted in the HOC Zone are set forth in Table 29.804(2) below:

**Table 29.804(2)  
Highway-Oriented Commercial (HOC) Zone Uses**

<b>USE CATEGORY</b>	<b>STATUS</b>	<b>APPROVAL REQUIRED</b>	<b>APPROVAL AUTHORITY</b>
<b>RESIDENTIAL USES</b>			
Group Living	N, except Transitional Living Facility	SP	ZBA
Household Living	N, except mini-storage warehouse facility (see Sec. 29.1308)	SP	ZBA
Short-term Lodgings	Y	SDP Minor	Staff
<b>OFFICE USES</b>	Y	SDP Minor	Staff
<b>TRADE USES</b>			
Retail Sales and Services - General (including printing, publishing, commercial art and reproduction)	Y	SDP Minor	Staff
Retail Trade - Automotive, etc.	Y	SDP Minor	Staff
Entertainment, Restaurant and Recreation Trade	Y	SDP Minor	Staff
Wholesale Trade	Y	SDP Minor	Staff
<b>INDUSTRIAL USES</b>			
Industrial Service	N, except mini-storage warehouse facility (see Sec. 29.1308(8)(a)(v))	SP	ZBA

USE CATEGORY	STATUS	APPROVAL REQUIRED	APPROVAL AUTHORITY
<b>Small Production Facility</b>	Y	SP	ZBA
<b>INSTITUTIONAL USES</b>			
Colleges and Universities	Y	SP	ZBA
Community Facilities	Y	SDP Minor	Staff
Social Service Providers	Y	SP	ZBA
Medical Centers	Y	SP	ZBA
Parks and Open Space	Y	SP	ZBA
Religious Institutions	Y	SP	ZBA
Schools	N	--	--
Funeral Facilities	Y	SP	ZBA
<b>TRANSPORTATION, COMMUNICATIONS AND UTILITY USES</b>			
Passenger Terminals	Y	SDP Minor	Staff
Basic Utilities	Y	SDP Major	City Council
Commercial Parking	Y	SDP Minor	Staff
Radio and TV Broadcast Facilities	Y	SDP Minor	Staff
Personal Wireless Communication Facilities	Y	SP	ZBA
Rail Line and Utility Corridors	Y	SP	ZBA
Railroad Yards	N	--	--
<b>MISCELLANEOUS USES</b>			
Commercial Outdoor Recreation	Y	SDP Minor	Staff
Child Day Care Facilities	Y	SDP Minor	Staff
Detention Facilities	Y	SDP Minor	Staff
Major Event Entertainment	Y	SDP Minor	Staff
Vehicle Service Facilities	Y	SDP Minor	Staff
Adult Entertainment Business	Y	SDP Minor	Staff
Sports Practice Facility	Y	SDP Minor	Staff
Temporary Concrete and Asphalt Batch Plants - See Sections 29.1311 and 29.1503	Y	ZBA	SP

Y = Yes: permitted as indicated by required approval.

N = No: prohibited

SP = Special Use Permit required: See Section 29.1503

SDP Minor = Site Development Plan Minor: See Section 29.1502(3)

SDP Major = Site Development Plan Major: See Section 29.1502(4)

ZBA = Zoning Board of Adjustment

(Ord. No. 3591, 10-10-00; Ord. No. 3610, 4-10-01; Ord. No. 3794, 08-24-04; Ord. No. 3922, 06-12-07; Ord. No. 3993, 06-16-09; Ord. No. 4085, 09-27-11).

**Sec. 29.808. "DSC" DOWNTOWN SERVICE CENTER.**

...

(2) **Permitted Uses.** The uses permitted in the DSC Zone are set forth in Table 29.808(2) below:

**Table 29.808(2)  
Downtown Service Center (DSC) Zone Uses**

USE CATEGORY	STATUS	APPROVAL REQUIRED	APPROVAL AUTHORITY
<b>RESIDENTIAL USES</b>			
Group Living	N	--	--
Household Living	N, except in combination with permitted non-residential use or uses, in which case 75% Household Living shall be located above the first story, and at least the front 50% of the first story must be maintained for non-residential use.	SDP MINOR	STAFF
Short-term Lodgings	Y	SDP MINOR	STAFF
<b>OFFICE USES</b>			
	Y	SDP MINOR	STAFF
<b>TRADE USES</b>			
Retail Sales and Services - General	Y	SDP MINOR	STAFF
Retail Trade - Automotive, etc.	N	--	--
Entertainment, Restaurant and Recreation Trade	Y	SDP MINOR	STAFF
Wholesale Trade	N	--	--
<b>INDUSTRIAL USES</b>			
Industrial Service	N	--	--
<b>Small Production Facility</b>	<b>Y</b>	<b>SP</b>	<b>ZBA</b>
<b>INSTITUTIONAL USES</b>			
Colleges and Universities	Y	SP	ZBA
Community Facilities	Y	SDP MINOR	STAFF
Social Service Providers	Y	SP	ZBA
Medical Centers	N	--	--
Parks and Open Areas	Y	SDP MINOR	STAFF
Religious Institutions	Y	SP	ZBA
Schools	N	--	--
<b>TRANSPORTATION, COMMUNICATIONS AND UTILITY USES</b>			
Passenger Terminals	Y	SDP MINOR	STAFF
Basic Utilities	Y	SDP MAJOR	CITY COUNCIL
Commercial Parking	Y	SDP MINOR	STAFF
Radio and TV Broadcast Facilities	Y	SP	ZBA
Rail Line and Utility Corridors	Y	SP	ZBA
Railroad Yards	N	--	--
<b>MISCELLANEOUS USES</b>			
Commercial Outdoor Recreation	N	--	--
Child Day Care Facilities	Y	SP	ZBA
Detention Facilities	N		
Major Event Entertainment	Y	SP	ZBA
Vehicle Service Facilities	N	--	--
Adult Entertainment Business	Y	SDP MINOR	STAFF

Y = Yes: permitted as indicated by required approval.  
N = No: prohibited  
SP = Special Use Permit required: See Section 29.1503

SDP MINOR = Site Development Plan Minor: See Section 29.1502(3)  
SDP MAJOR = Site Development Plan Major: See Section 29.1502(4)  
ZBA = Zoning Board of Adjustment  
(Ord.No. 4156, 8-13-13)

**Sec. 29.809. "CSC" CAMPUSTOWN SERVICE CENTER.**

...

(2) **Permitted Uses.** The uses permitted in the CSC Zone are set forth in Table 29.809 (2) below:

**Table 29.809(2)  
Campustown Service Center (CSC) Zone Uses**

USE CATEGORY	STATUS	APPROVAL REQUIRED	APPROVAL AUTHORITY
<b>RESIDENTIAL USES</b>			
Group Living	N	--	--
Housing Living	N, except in combination with permitted non-residential use or uses, in which case Household Living shall be located above the first floor.	SDP Minor	Staff
Short-term Lodgings	Y	SDP Minor	Staff
<b>OFFICE USES</b>	Y	SDP Minor	Staff
<b>TRADE USES</b>			
Retail Sales and Services – General	Y	SDP Minor	Staff
Retail Trade – Automotive, etc.	N	--	--
Entertainment, Restaurant and Recreation Trade	Y	SDP Minor	Staff
Wholesale Trade	N	--	--
<b>INDUSTRIAL USES</b>			
Industrial Service	N	--	--
<b>Small Production Facility</b>	<b>Y</b>	<b>SP</b>	<b>ZBA</b>
<b>INSTITUTIONAL USES</b>			
Colleges and Universities	Y	SP	ZBA
Community Facilities	Y	SDP Minor	Staff
Social Service Providers	Y	SP	ZBA
Medical Centers	N	--	--
Parks and Open Areas	Y	SDP Minor	Staff
Religious Institutions	Y	SP	ZBA
Schools	N	--	--
<b>TRANSPORTATION, COMMUNICATIONS AND UTILITY USES</b>			
Passenger Terminals	Y	SDP Minor	Staff
Basic Utilities	Y	SDP Major	City Council
Commercial Parking	Y	SDP Minor	Staff
Radio and TV Broadcast Facilities	Y	SP	ZBA
Rail Line and Utility Corridors	Y	SP	ZBA
Railroad Yards	N	--	--
<b>MISCELLANEOUS USES</b>			
Commercial Outdoor Recreation	N	--	--

Child Day Care Facilities	Y	SP	ZBA
Detention Facilities	N	--	--
Major Event Entertainment	Y	SP	ZBA
Vehicle Service Facilities	N	--	--
Adult Entertainment Business	Y	SDP Minor	Staff

Y = Yes: permitted as indicated by required approval  
 N = No: prohibited  
 SP = Special Use Permit required: See Section 29.1503  
 SDP Minor = Site Development Plan Minor: See Section 29.1502(3)  
 SDP Major = Site Development Plan Major: See Section 29.1502(4)  
 ZBA = Zoning Board of Adjustment  
 (Ord. No. 3872, 03-07-06; Ord. No. 3949, 3-4-08)''

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

**COUNCIL ACTION FORM**

**SUBJECT:**           **NUISANCE ASSESSMENT - SNOW/ICE REMOVAL**

**BACKGROUND:**

After a snowfall, abutting property owners have the responsibility of removing snow and ice accumulations from the sidewalks. According to the *Municipal Code*, owners shall remove these accumulations within 10 daylight hours after the storm has stopped. If, after that time, sidewalks remain uncleared, the City may remove accumulations and assess the actual cost of the removal to the property owner. This action is performed on a complaint basis. Once a complaint has been received, notice is given to the abutting property owner that the City will clear the sidewalks if the owner has not done so within 24 hours of that notice.

City staff has removed snow and/or ice at the property listed below. Also included in the list is the name and address of the property owners and the cost associated with the snow/ice removal. The work was completed, and a bill has been mailed to the individuals. To date, the bill has not been paid. A certified notice of this hearing was mailed to the property owners.

Philip and Teresa Propes	\$155.00
1008 Burnett Avenue	
Ames, IA 50010	
Snow/ice removal for property located at 1008 Burnett Avenue	
Date of Service: February 11, 2015	

**ALTERNATIVES:**

1. The City Council can adopt a resolution assessing the cost of the snow/ice removal to the property owners shown above. The Finance Director will then prepare a spread sheet on this assessment, and the City Clerk's Office will file the assessment with the Story County Treasurer for collection in the same manner as property taxes, as provided for by the *Code of Iowa*.
2. The City Council can choose not to certify the cost to the County Treasurer and, instead, absorb the cost.

**MANAGER'S RECOMMENDED ACTION:**

The property owners failed to clear their sidewalk even after receiving notice to do so, and have neglected to pay the cost incurred by the City in making their sidewalk safe for public use.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, thereby assessing the cost of the snow/ice removal to the property owners shown above.

**COUNCIL ACTION FORM**

**SUBJECT: WATER POLLUTION CONTROL FACILITY BIOSOLIDS STORAGE AND HANDLING IMPROVEMENTS**

**BACKGROUND:**

The Water Pollution Control (WPC) Facility utilizes a 3.1-million-gallon, lined biosolids storage lagoon to hold biosolids for land application on City-owned farm ground. Land application of biosolids primarily occurs in the fall of each year after the crops are harvested. The existing storage lagoon does not provide 365 days of biosolids storage. Due to a short land application window between removal of crops and the onset of winter weather, the lack of storage capacity can create operational flexibility issues during years where biosolids land application is delayed due to adverse weather conditions. Furthermore, additional storage capacity will be needed within the next six to ten years when pending nutrient removal requirements are implemented. A Residuals Handling Study completed in 2010 recommended an additional 1.6 million gallons of storage capacity.

On February 24, 2015, Council issued a Notice to Bidders to construct the biosolids storage and handling improvements project. Bids were open on March 25, 2015. Three bids were received and are summarized below.

Bidders	Total Project Bid Price
<b>Engineer's Estimate</b>	<b>\$1,790,000.00</b>
Story Construction Co.	\$2,813,950.00
Woodruff Construction, LLC	\$2,976,300.00
Building Crafts, Inc.	\$2,983,250.00

Based on the fact that all three bids received were grouped closely together, it appears that the bid prices are reasonable and competitive for the scope of work requested. The low bid exceeds the Engineer's estimate by more than one million dollars. Staff requested that the Engineer review their estimate with the low bidder to determine where the discrepancy occurred. The following four items were identified:

- The bidder's cost for the "site work" portion exceeded the Engineer's estimate by \$385,000.
- The bidder's cost for the "concrete" portion exceeded the Engineer's estimate by \$340,000.
- The bidder included an allowance of between \$150,000 and \$200,000 as a result of the "Prevailing Wage" requirements of the State Revolving Fund (SRF) loan; the Engineer had not accounted for this in their estimate.
- The bidder indicated there were increased equipment and material costs due to the "Buy American" provisions of the SRF loan. The bidder, however, was not able to readily quantify these costs. The Engineer had not accounted for this in their estimate.

With this information, staff identified four possible courses of action that could be taken at this point.

- 1. Do not proceed with the project at this time.** The construction of new storage capacity could be deferred until such time as a final determination has been made on how to meet the requirements of the Iowa Nutrient Reduction Strategy. Staff has already undertaken some operational changes to help mitigate the impact of the storage capacity shortfall. As an example, a portion of the WPC farm has been planted to alfalfa instead of corn or soybeans the last few years to facilitate the land application of biosolids during the summer months.
- 2. Defer other CIP projects.** It is possible to delay other work planned in the five year Capital Improvements Plan, freeing up the financial resources to proceed with the project. For example, it may be possible to extend the four-year, \$2.2 million project planned for structural rehabilitation at the WPC Facility by limiting the expenditures to about \$250,000 per fiscal year.
- 3. Redesign and rebid the project.** The majority of the additional cost appears to be related to "constructability" issues brought about by building the tank into the hillside. This suggests that it may be possible to reduce the cost by either relocating the tank to a new location, by changing the materials of construction, or both.
- 4. Proceed with the project "as is."** The project is planned to be funded through an SRF loan. The incremental increase in annual debt service would be approximately \$65,000 per year. The projected fund balance would be able to absorb that amount of increase for at least nine years under the current rate scenario, meaning that the increased cost would not be the reason for a rate increase for at least nine years.



## **ALTERNATIVES:**

1. Reject all bids. Staff will evaluate the potential to redesign and rebid the work within the adopted budget; and if such an option is available, staff will bring it back to Council to issue a new Notice to Bidders.
2. Award the WPC Facility Biosolids Storage and Handling Improvements contract to Story Construction Co. in the amount of \$2,813,950. Direct staff to defer other projects to achieve an approximate zero net increase in expenses to the Sewer Fund.
3. Award the WPC Facility Biosolids Storage and Handling Improvements contract to Story Construction Co. in the amount of \$2,813,950. Absorb the additional annual debt service of approximately \$65,000 out of the available Sewer Fund balance.

## **MANAGER'S RECOMMENDED ACTION:**

Additional biosolids storage capacity is needed to ensure that the WPC Facility remains operational and in compliance with its NPDES permit. Unfortunately, the bids received exceeded the authorized funding by more than one million dollars. **Staff believes that the benefit offered by the project as currently designed is outweighed by the increased price tag. Therefore, it is the recommendation of the City Manager that City Council adopt Alternative No. 1, rejecting all bids.**

Staff plans to work with the Engineer to determine the potential to redesign and rebid the project within the adopted budget. If a viable alternative is identified, then staff will initiate the process to rebid the process. If an acceptable alternative cannot be developed, then the staff will recommend that work be postponed until the larger plant modification project to address nutrient removals is undertaken. In the meantime, operational changes can be made to provide increased flexibility in land applying biosolids.

<b>CITY OF AMES, IOWA</b>	5% Bid Bond	Addendum 1	Bidder Status Form	Attachments 1, 2, 3, 4, & 6	LUMP SUM: WPCF Biosolids Storage & Handling Improvements Construction: Provide all labor, equipment and materials necessary to complete the construction of the WPCF Biosolids Storage and Handling Improvements, in accordance with the Plans and Specifications.	250 TONS: Stabilizing Material	TOTAL PROJECT BID PRICE:	Proposed Start Date:	Proposed Completion Date:
Mike Adair, Procurement Specialist II Ph: 515-239-5125 * Fax: 515-239-5325									
<b>BID NO. 2015-169</b>									
Water Pollution Control Facility Biosolids Storage & Handling Improvements									
<b>BIDDERS</b>									
Story Construction Co.	Yes	Yes	Yes	Yes	\$2,806,000.00	\$7,950.00	\$2,813,950.00	5/18/2015	5/20/2016
Woodruff Construction, LLC	Yes	Yes	Yes	Yes	\$2,967,300.00	\$9,000.00	\$2,976,300.00	6/1/2015	7/1/2016
Building Crafts, Inc.	Yes	Yes	Yes	Yes	\$2,974,500.00	\$8,750.00	\$2,983,250.00	5/1/2015	5/31/2016



**To:** Mayor and Council  
**From:** John Dunn, Water and Pollution Control Director  
**Date:** April 10, 2015  
**Subject:** WPC Plant Interior Lighting Replacement

A handwritten signature in blue ink that reads 'John R. Dunn'. The signature is written over a faint, light blue rectangular background.

On February 24, 2015, Council issued a notice to bidders for a project to replace interior fluorescent light fixtures and bulbs with LED compatible fixtures and bulbs at the Water Pollution Control Facility. Several contractors reviewed the specifications and looked at the existing fixtures. After discussing the project with the contractors, staff learned that the goals of the project could be accomplished at a lower cost than the approach included in the City specifications.

As a result, on March 16, 2015 an addendum was issued to all plan holders stating the City was withdrawing the Invitation to Bid. While the specifics have yet to be worked out, the lighting replacement project will now be performed by City forces. The authorized Capital Improvement Plan funds will be utilized to procure the necessary parts and equipment.

As a part of the February 24, 2015 Notice to Bidders, Council resolved to hold a hearing for the project at its April 14, 2015 meeting. **At this time, Council simply needs to open the hearing, and then immediately close the hearing. No further action is required by Council at this time.**

/klp

**COUNCIL ACTION FORM**

**SUBJECT: 2014/15 RIGHT-OF-WAY RESTORATION CONTRACT**

**BACKGROUND:**

In recent years, Public Works staff has observed and analyzed restoration of the right-of-way areas associated with various Capital Improvements Plan (CIP) projects. Some areas have been restored with sod, while other areas have been restored using seed or dormant seed. Success using these types of restoration is volatile and appears to depend on the weather at the time of installation. In areas where vegetation is not anticipated to be successful, other forms of restoration have been used, such as pervious pavement and colored, standard concrete.

In the past, having restoration as a subcontract in each of the CIP contracts means restoration is ultimately the responsibility of each prime contractor. The prime contractor's focus is on getting the primary work completed, such as paving or water mains. Finishing the project with an exceptional level of restoration frequently becomes a lesser priority to the prime contractor. To better address the restoration of rights-of-way, a new program was approved in the 2014/15 CIP. This new program aims to enable better restoration through a separate contract with a contractor that is specialized in vegetation establishment.

In August 2014, a restoration project was put out for bid. However, no bids were received. Staff subsequently reached out to potential contractors in the area to gain their input and encourage bidding on this new contract. It was determined that the lack of bids was mostly due to the timing of the bidding versus contractors' ability to do the work. The local contractors were already booked with other work and the out of town contractors felt it would not have been cost effective for them to continue to come to Ames to meet the specification requirements. Staff has attempted to address those concerns, as well as to be in contact with other potential contractors to keep them informed as to this project's bid date.

This project includes rebidding the previous project locations along with new locations that were intended to be bid in a separate contract. Project locations are shown below, although other areas may be added by change order if necessary.

<b>STREET</b>	<b>FROM:</b>	<b>TO:</b>	<b>CIP PROJECT</b>
Ontario Street	Illinois	Indiana	2010/11 CyRide (Resod North Side of Ontario)
5014 Ontario			2010/11 CyRide (Resod)
SE 5th Street	South Duff	Walmart	2012/13 Concrete Pavement
Jax Frontage Road			Improvements

<b>STREET</b>	<b>FROM:</b>	<b>TO:</b>	<b>CIP PROJECT</b>
Carroll	9th	13th	2012/13 Asphalt Resurfacing/Seal Coat Removal
Knapp	Welch	Lynn	2013/14 Concrete Pavement Improvements
Lynn	Knapp	Storm	
N 2nd Street	N Elm	End of Street	2013/14 Concrete Pavement Improvements
Garden Road	South Duff	End of Street	2013/14 CyRide Route Pavement Improvements
Garnet Road	Garden	Jewel	
Viola Mae	Ken Maril	Garden	
South Franklin	Tripp	Coy	2013/14 Seal Coat Pavement Improvements
Ashmore Dr, Ashmore Ct, Ashmore Cir			
Lincoln Way	Alcott	Hickory	2013/14 Arterial Street Pavement Improvements
10th Street	Grand	Duff	2013/14 Water Service Transfer
Mortensen Road	South Dakota	Dotson	2014/15 Mortensen Road Widening
Lincoln Way	Thackeray Ave	Hickory Dr	2014/15 Arterial Street Pavement Improvements
West St	Sheldon Ave	Hillcrest	2014/15 Collector Street Pavement Improvements
Woodland Ave	West St	Forest Glen	
Ridgewood Ave	9th St	13th St	2014/15 Concrete Pavement Improvements
9th St	Brookridge Ave	Northwestern Ave	
Hayward Ave	Lincoln Way	Hunt St	2014/15 Concrete Pavement Improvements
Ferndale Ave	24th St	30th St	2014/15 Asphalt Street Reconstruction Program
South 4th Street			2014/15 Shared Use Path Maintenance
Coy Street			2014/15 Water System Improvements
13th & Stange			2014/15 Traffic Signal Program
Lincoln Way & Union			2014/15 Traffic Signal Program

On April 8, 2015, bids for the project were received as follows:

<b><i>Bidder</i></b>	<b><i>Bid Amount</i></b>
Engineer's estimate	\$168,520
Minor Hardscape & Landscape	\$160,440
Central Landscape	\$214,863

The costs associated with this project are estimated to include:

Engineering and Construction Administration (Estimated)	\$ 30,000
Restoration work (Wheeler)	\$ 5,481
Restoration work ( <b>This Project</b> )	<b>\$ 160,440</b>
Total Estimated Costs	\$ 195,921

The project funding for 2014/15 is summarized below:

Road Use Tax	\$ 120,000
Water Utility Fund	\$ 40,000
Sanitary Sewer Utility	\$ 40,000
12/13 GO Bond Savings from Asphalt Resurf/Seal Coat Recon.	\$ 7,000
13/14 GO Bond Savings from Cy Ride Route Pavement Improv.	<u>\$ 9,400</u>
<b>Total Funding</b>	<b>\$ 216,400</b>

**ALTERNATIVES:**

- 1a. Accept the report of bids for the 2014/15 Right-of-Way Restoration Contract #1 (Various Locations).
  - b. Approve the final plans and specifications for this project.
  - c. Award the 2014/15 Right-of-Way Restoration Contract #1 (Various Locations) to Miner Hardscape & Landscape of Grimes, Iowa, in the amount of \$160,440.
2. Do not proceed with this project.

**MANAGER'S RECOMMENDED ACTION:**

Proceeding with this project will make it possible to begin restoration efforts on projects currently being constructed. Delay of approval could postpone the final restoration until the spring of 2016 and force the roadway contracts to again utilize temporary stabilization, which increases the overall cost of those projects and delays the reestablishment of permanent greenscaping.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, as described above.