

Staff Report

ARBOR ON THE GREEN POND

May 12, 2015

BACKGROUND:

At the January 13, 2015 City Council meeting, City Council referred to staff a letter from Patrick Brooks, Arbor on the Green Home Owner's Association (HOA) President. The letter requests that the City take over management of the pond via easement instead of the pond being managed by the HOA. The original letter is Attachment A.

The area received a Neighborhood Improvement Grant from the City in 1997 to improve the pond to make the area "a quiet area of green space with a healthy environment for fish, ducks, animals and birds. It will once again be a visually attractive space in the neighborhood and an extended visual green space for Moore Memorial Park. All residents, adults, and children, including nearby university students and their families, will have an opportunity to stop, swing, look and dream." This declaration from the grant application, coupled with the utilization of city funds, made this a "public" space.

Currently, the City maintains control of the storm water system upstream and downstream of this existing pond and has made significant investments in recent years in those areas. The pond at Moore Memorial Park (upstream) was recently improved with a new outlet structure and additional storage, including a forebay to reduce the amount of solids and nutrients that pass through the pond. This was accomplished with the 2012/13 Flood Response and Mitigation Project and the 2009/10 Storm Water Facility Rehabilitation Project at a total cost of \$769,059. Currently, the creek bank along the rear of the properties on Pinehurst Drive (downstream) is under construction to stop erosion in the area through the 2012/13 Storm Sewer Outlet Erosion Control Project with estimated costs of \$91,000. The overall area showing the pond and the respective adjacent projects is also shown in Attachment B.

STAFF COMMENTS:

Under current requirements, a subdivision would have to meet all the requirements outlined in the new Post Construction Stormwater Management Ordinance that includes, but is not limited to; drainage calculations for the area, watershed mapping, natural resource survey, soil management plan, maintenance, repair and landscaping plan and dedication of easements. **Additionally, property owners of residential, commercial, and industrial properties are responsible for short and long-term maintenance of all water quality practices. The City of Ames accepts long-term responsibility (e.g. dredging, outlet structure replacement) for large water quantity (flood) control practices (e.g. detention basins) as part of residential developments.** A recorded easement is required to be provided to the City of Ames to cover the entirety of and

access to the large water quantity control practices. **The property owners have short-term maintenance responsibility (e.g. mowing, weed control, removal of volunteer trees) of the water quantity (flood) control practices as part of residential developments.**

The existing pond was not developed as a required storm water management feature with the subdivision. The 1993 site plan for development of townhouses to the north shows the pond as existing and the final plat places the pond in “Outlot A”. These are shown in Attachment C.

There are no existing storm sewer connections directly into the pond other than the pass through flow from Moore Memorial Park, which is considered “public” water.

OPTIONS

Taking into consideration the above information, the City Council could consider the following options:

Option 1

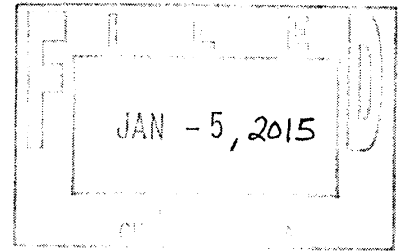
Direct staff to work with Legal to draft an easement giving the City the long-term maintenance responsibilities of the existing pond. By doing so the City would be responsible for the dredging, or deepening of the pond should it become necessary while the HOA would retain the responsibilities of short-term care such as, but not limited to, mowing and general maintenance of the area and it's amenities.

Option 2

Do nothing and leave the existing pond under the direction of the HOA.

It should be noted, that regardless of the above options, the current condition of the pond in regards to the extent of siltation is not known. Should Option 1 be chosen, the City would be responsible for sediment removal and the project would need to be prioritized within the Capital Improvements Plan.

ARBOR ON THE GREEN
HOME OWNERS ASSOCIATION
AMES, IOWA
January 04, 2015



TO: Mayor Ann Campbell and Council Persons:

RE: Drainage Pond Easement

Dear Mayor and Council Person:

Arbor On The Green recently received a letter from the City of Ames about needed inspections, and related matters, concerning storm water management practices related to the pond owned by the Association. This letter brought to our attention the fact that the pond, located on Association common property, represents the only part of the recently improved drainage system over which Ames does not either own fee simple title nor have an easement for public purposes. The Arbor On The Green Home Owners Association believes it to be in the best interests of the City of Ames to have an easement over this part of the water drainage system instead of having it continue to be owned solely by the Home Owners Association. In this regard consider the following:

1. The Home Owners Association is not asking for any monetary compensation for this easement, but only that the City Legal Department handle preparation of the required papers.
2. This easement would allow the City of Ames management of the entire length of this storm water drainage system without permission from others.
3. With the development of additional real estate in the northwest part of town additional water will likely be directed through this drainage system of channels and ponds and become more important to Ames in terms of management of this system.
4. Arbor On The Green residents have confidence that the needed management of this drainage system by the City of Ames will be to the benefit of all Ames residents.
5. The owners/residents of Arbor On The Green do not have the needed expertise to make management decisions concerning required maintenance and needed changes.

We are asking that this matter be referred to the Ames Public Works Department for study before accepting an easement from Arbor On The Green Home Owners Association. Please let us know when this matter will be included on an Agenda for public discussion.

Thank you for consideration of this matter.

Arbor On The Green Home Owners Association,

By: 

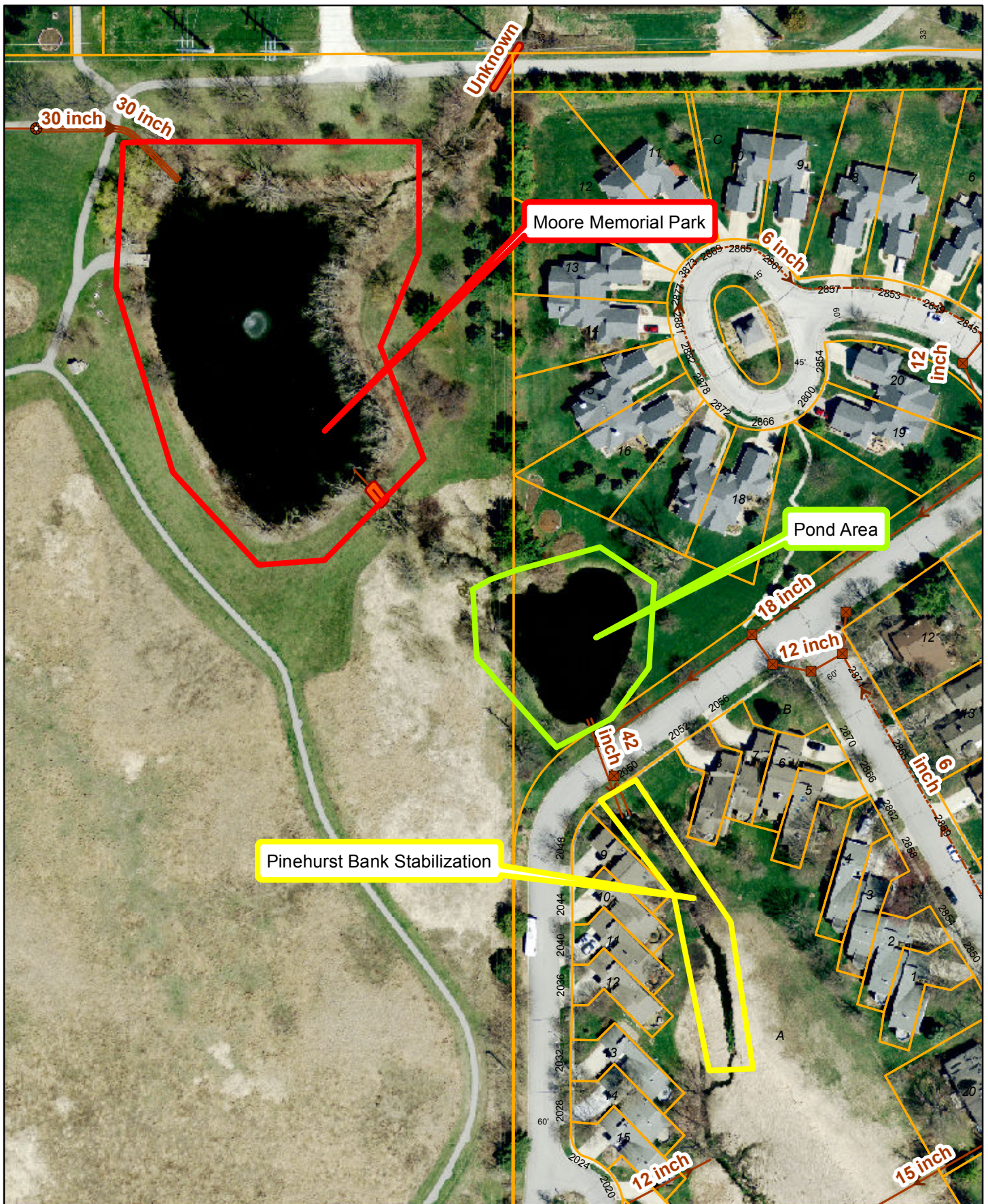
Patrick W. Brooks, President

2881 Greensboro Circle

Ames, Iowa 50010

641-485-6413

brooker50158@outlook.com



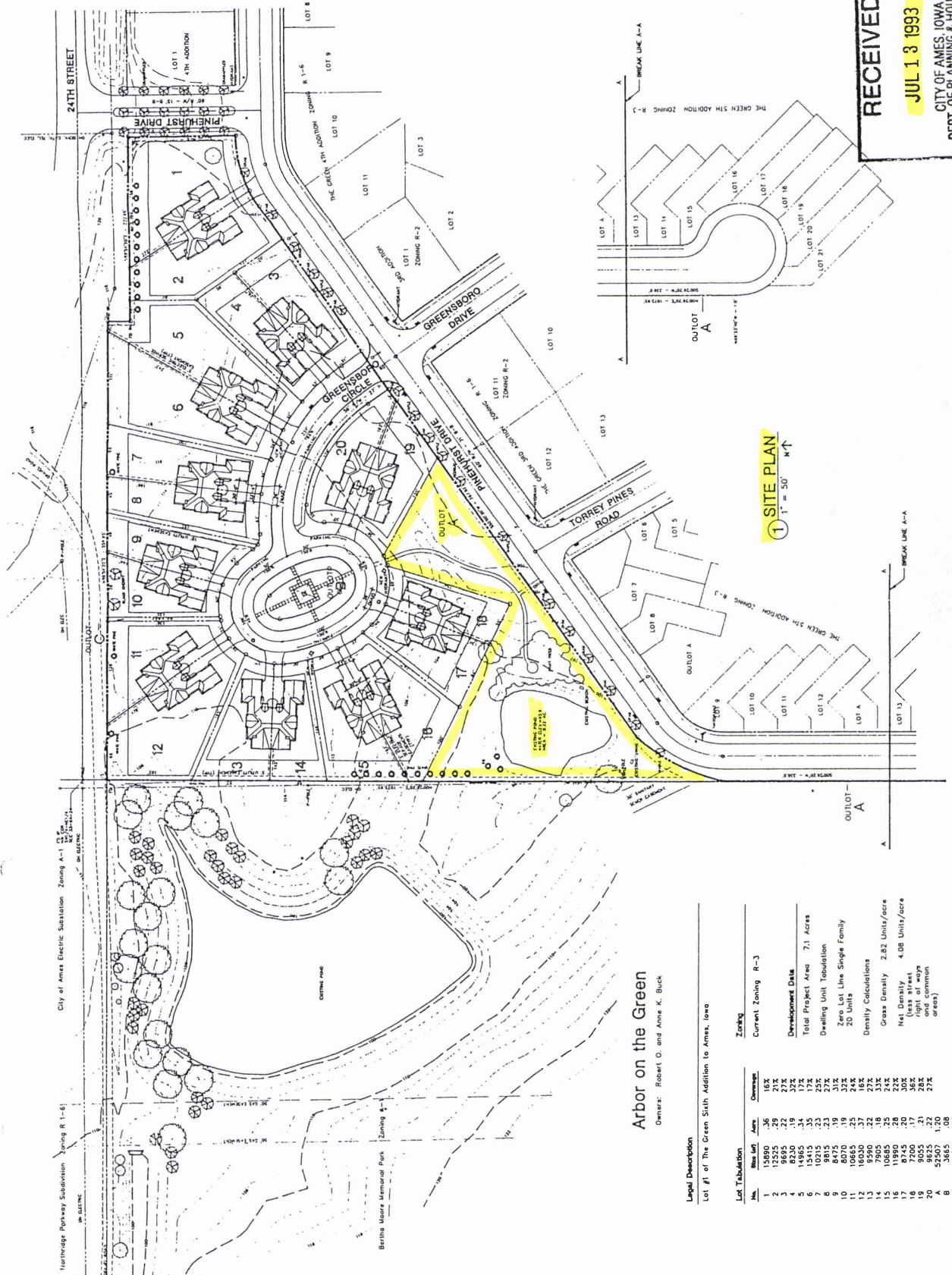
Geographic Information System (GIS) Product Disclaimer: City of Ames GIS map data does not replace or modify land surveys, deeds, and/or other legal instruments defining land ownership & land use nor does it replace field surveys of utilities or other features contained in the data. All features represented in this product should be field verified. This Product is provided "as is" without warranty or any representation of accuracy, timeliness or completeness. The burden for determining accuracy, completeness, timeliness, merchantability and fitness for or the appropriateness for use rests solely on the User.



Arbor on the Green
Pond and Adjacent Projects
Attachment B



Scale: 1 in = 125 ft
Date: 5/4/2015



① SITE PLAN
1" = 50'

Arbor on the Green

Owners: Robert O. and Anne K. Buck

Legal Description

Lot #1 of The Green Sixth Addition to Ames, Iowa

| Lot Tabulation | | Zoning | |
|---|--------|-----------------|--------|
| No. | Area | Current | Future |
| 1 | 1.0000 | R-3 | R-3 |
| 2 | 1.0000 | R-3 | R-3 |
| 3 | 1.0000 | R-3 | R-3 |
| 4 | 1.0000 | R-3 | R-3 |
| 5 | 1.0000 | R-3 | R-3 |
| 6 | 1.0000 | R-3 | R-3 |
| 7 | 1.0000 | R-3 | R-3 |
| 8 | 1.0000 | R-3 | R-3 |
| 9 | 1.0000 | R-3 | R-3 |
| 10 | 1.0000 | R-3 | R-3 |
| 11 | 1.0000 | R-3 | R-3 |
| 12 | 1.0000 | R-3 | R-3 |
| 13 | 1.0000 | R-3 | R-3 |
| 14 | 1.0000 | R-3 | R-3 |
| 15 | 1.0000 | R-3 | R-3 |
| 16 | 1.0000 | R-3 | R-3 |
| 17 | 1.0000 | R-3 | R-3 |
| 18 | 1.0000 | R-3 | R-3 |
| 19 | 1.0000 | R-3 | R-3 |
| 20 | 1.0000 | R-3 | R-3 |
| 21 | 1.0000 | R-3 | R-3 |
| Total Project Area | | 7.1 Acres | |
| Dwelling Unit Tabulation | | 20 Units | |
| Zero Lot Line Single Family | | 20 Units | |
| Density Calculations | | 2.82 Units/Acre | |
| Gross Density | | 4.08 Units/Acre | |
| Net Density (including right of way and common areas) | | 2.82 Units/Acre | |

RECEIVED

JUL 13 1993

CITY OF AMES, IOWA
DEPT. OF PLANNING & HOUSING

1.0

Roseland Architects
2001 1st Avenue
Ames, Iowa 50010
516/232-4076

Arbor On The Green
Site Plan

Print record
DATE REVIEWED 7/10/93
FOR REVIEW & ZONING REVIEW 7/10/93

Consultant

DO NOT WRITE IN THE SPACE ABOVE THIS LINE, RESERVED FOR RECORDER

Prepared by: Jessica D. Spoden, City of Ames Legal Department, 515 Clark Avenue, Ames, IA 50010; Ph.: 515-239-5146
Return recorded document to: Ames City Clerk, City of Ames, 515 Clark Avenue, Ames, IA 50010

**EASEMENT AGREEMENT
ARBOR ON THE GREEN POND MAINTENANCE**

Nov. THIS EASEMENT AGREEMENT (hereinafter "Agreement") is made as of 17th day of _____, 2015 between ARBOR ON THE GREEN HOMEOWNERS ASSOCIATION, INC., their successors and assigns, (hereinafter "Grantor") and the City of Ames, a municipal corporation (hereinafter "Grantee").

- A. Grantor, as part of a homeowners association, is the owner in common of certain real property locally known as Arbor on the Green Pond (hereinafter "Property"), and more particularly described as:

Arbor on the Green Pond, contained within Outlot A, Arbor on the Green Pond Subdivision, Ames, Story County, Iowa

as shown on Exhibit A attached hereto and incorporated herein.

- B. Grantor desires to grant certain easement rights to and upon the Property in connection with the transfer of certain long-term maintenance responsibilities.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor and Grantee agree as follows:

1. Circumstance & Purpose. Grantor owns the Property in common as part of a homeowners association; however, the Property has historically been utilized as a public space benefitting all citizens. Grantor desires to transfer the long-term maintenance responsibilities related to the Property to the Grantee.

2. Grant. Subject to the restrictions set forth in this Agreement, Grantor hereby grants to Grantee a nonexclusive perpetual easement over, under, along, across and through a portion of the Property legally described as

Outlot A, Arbor on the Green Pond Subdivision, Ames, Story County, Iowa

as shown on Exhibit A attached hereto and incorporated herein (the "Easement Area").

3. Maintenance of Easement Area. Grantee shall be responsible for all required long-term maintenance of the Easement Area including, but not limited to, the dredging or deepening of the pond as necessary. Grantor shall be responsible for short-term care including, but not limited to, mowing and general maintenance of the area and amenities. Both Grantee and Grantor agree that they shall comply with all rules, laws, ordinances and requirements regarding its maintenance and use of the Easement Area and shall obtain any and all required permits and licenses at their sole cost and expense.
4. Indemnification. Grantee shall assume liability for all damage to the real estate described herein to the extent that such damage is caused by failure of the Grantee to use due care in the exercise of the rights granted by this easement. It is agreed that Grantee shall repair and/ or replace all grass, trees, shrubs, and landscaping damaged while exercising rights under this easement. It is further understood that Grantor shall be responsible for mowing, care of trees and shrubs, as well as seeding when not required as a result of Grantee exercising rights under this Agreement.
5. Grantor's Use of Easement Area. Grantor may not erect on the Easement Area any building or other improvement that would interfere with the Grantee's easement rights hereunder without the prior written consent of Grantee. Grantor reserves the right to conduct activities on the premises which do not interfere with the rights under this Agreement.
6. Aerator. Upon the recording of this Agreement, Grantor shall deliver the aerator used for the Property to Grantee. Upon delivery, Grantee shall become the owner and be responsible for future installation and removal. The electrical box serving the aerator has recently been rebuilt and also becomes the property of Grantee.

DATED this 17th day of Nov., 2015.

ARBOR ON THE GREEN HOMEOWNERS
ASSOCIATION, INC.

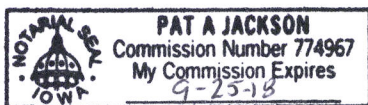
By Patrick W. Brooks
Patrick W. Brooks, President

By Anita Nimtz
Anita Nimtz, Secretary

STATE OF IOWA, COUNTY OF STORY, ss:

This instrument was acknowledged before me on
Nov. 17th, 2015, by Patrick W. Brooks and Anita
Nimtz, as President and Secretary, respectively, of Arbor on
the Green Homeowners Association, Inc.

Pat A Jackson
Notary Public in and for the State of Iowa



CITY OF AMES, IOWA

By _____
Ann H. Campbell, Mayor

Attest _____
Diane R. Voss, City Clerk

STATE OF IOWA, COUNTY OF STORY, ss:

On this _____ day of _____, 2015, before
me, a Notary Public in and for the State of Iowa, personally
appeared Ann H. Campbell and Diane R. Voss, to me
personally known and who, by me duly sworn, did say that
they are the Mayor and City Clerk, respectively, of the City
of Ames, Iowa; that the seal affixed to the foregoing
instrument is the corporate seal of the corporation; and that
the instrument was signed and sealed on behalf of the
corporation, by authority of its City Council, as contained in
Resolution No. _____ adopted by the City Council on the
_____ day of _____, 2015, and that Ann H.
Campbell and Diane R. Voss acknowledged the execution of
the instrument to be their voluntary act and deed and the
voluntary act and deed of the corporation, by it voluntarily
executed.

Notary Public in and for the State of Iowa

Exhibit A



Geographic Information System (GIS) Product Disclaimer: City of Ames GIS map data does not replace or modify land surveys, deeds, and/or other legal instruments defining land ownership & land use nor does it replace field surveys of utilities or other features contained in the data. All features represented in this product should be field verified. This Product is provided "as is" without warranty or any representation of accuracy, timeliness or completeness. The burden for determining accuracy, completeness, timeliness and fitness for or the appropriateness for use rests solely on the User.



Easement for
Arbor on the GreenPond Maintenance



Scale: 1 in = 100 ft
Date: 10/12/2015

DO NOT WRITE IN THE SPACE ABOVE THIS LINE, RESERVED FOR RECORDER

Prepared by Patrick W. Brooks, 2881 Greensboro Circle, Ames, Iowa 50010; 641-485-6413

Return to Patrick W. Brooks at 2881 Greensboro Circle, Ames, Iowa 50010

ABSTRACT OF BOARD MEETING MINUTES

ARBOR ON THE GREEN HOMEOWNERS ASSOCIATION, INC.

STATE OF IOWA, COUNTY OF STORY, SS:

I, Anita Nimtz, am the duly appointed and serving Secretary of the Board of Directors, Arbor On The Green Homeowners Association, Inc., and hereby certify and state under oath the following:

A Special Meeting of the Board of Directors was called for November 13, 2015, at 2pm and the required notice of this meeting was given to all those required to receive such notice. A quorum of those required were present when the meeting was called to order.

At this Special Meeting the following motion was made and seconded concerning Agenda item # 1 which was the matter of the Easement Agreement with the City of Ames:

It is moved that the Board of Directors of the Arbor On The Green Home Owners Association, Inc. approve the Easement Agreement with the City of Ames, direct that the Association

President and Secretary sign this Agreement on behalf of Arbor On The Green Home Owners Association, Inc., and take such additional steps as are required to make this Agreement final.

This motion passed and such passage is recorded in the official minutes of the meeting of November 13, 2015.

The real estate described in the Easement Agreement is "Outlot A, Arbor On The Green Pond Subdivision, Ames, Story County, Iowa".

ARBOR ON THE GREEN HOMEOWNERS ASSOCIATION, INC.

BY: Anita Nimtzt
ANITA NIMTZ, SECRETARY

This document was acknowledged, under oath, before me on Nov. 17th, 2015,
by Anita Nimtzt as Secretary of Arbor On The Green Homeowners Association, Inc.

By: Pat A Jackson

Notary Public in and for the State of Iowa



original

DO NOT WRITE IN THE SPACE ABOVE THIS LINE, RESERVED FOR RECORDER

Prepared by Patrick W. Brooks, 2881 Greensboro Circle, Ames, Iowa 50010; 641-485-6413

Return to Patrick W. Brooks at 2881 Greensboro Circle, Ames, Iowa 50010

ARBOR ON THE GREEN HOMEOWNERS ASSOCIATION, INC.

Statement of Approval as to Easement Agreement between the City of Ames, an Iowa Municipal Corporation, and Arbor On The Green Homeowners Association, Inc., and waiver.

This Easement Agreement (a copy of which is attached hereto) is hereby **APPROVED and AGREED TO** and it is requested that the Board of Directors **APPROVE** this Easement Agreement and the required Officers sign same and perform such acts as are required to complete this transfer.

Each of us signing **WAIVE** further notice concerning this transfer as well as the 90 day notice required by Article IV, Sect. 3 (e), found in the Declaration of Covenants and Restrictions of Arbor On The Green Homeowners Association, Inc.

Each of us signing further understand that with this signed document in hand the Board of Directors will meet in Special Session to vote on final approval and presentation to the Ames City Council for their final approval before recording, at which time this transfer shall be final.

Each of us further understands that before this Easement Agreement can be made final **two-thirds** of qualified voting Association members must agree to approval of this Easement Agreement.

Those of us signing below hereby agree to the transfer under the attached Easement and Agreement and make the waiver(s) recited above.

Barbara Johnsen 10-28-2015

Barbara Johnsen, 2215 Pinehurst Drive, Ames, Iowa 50010

Gerald C. Smith 11-03-15

Ronald and Jacqueline Smith, 2209 Pinehurst Drive, Ames, Iowa 50010

Marvin Beck 10/28/15 Jane Farrell-Beck 10/28/15

Marvin Beck and Jane Farrell-Beck, 2837 Greensboro Circle, Ames, Iowa 50010

William F. Nimitz 10/28/2015 Anita J. Nimitz 10/28/15

William and Anita Nimitz, 2841 Greensboro Circle, Ames, Iowa 50010

Mark H. Hamilton 10-29-15

Mark H. Hamilton, 2845 Greensboro Circle, Ames, Iowa 50010

George and Ann Hausman 11-2-15

George and Ann Hausman, 2849 Greensboro Circle, Ames, Iowa 50010

Phil and Susan Sargent 10/31/15

Phil and Susan Sargent, 2853 Greensboro Circle, Ames, Iowa 50010

Rodney Brink Joyce Brink 10-28-15

Rodney and Joyce Brink, 2857 Greensboro Circle, Ames, Iowa 50010

Franklyn Amos Rosalie Amos 10/28/15

Franklyn and Rosalie Amos, 2861 Greensboro Circle, Ames, Iowa 50010

x C Phillip Baumel 10-25-15

C. Phillip Baumel, 2865 Greensboro Circle, Ames, Iowa 50010

Orley L. Kilburn Charlsie D. Kilburn 10-28-2015
Orley L. and Charlsie D. Kilburn, 2869 Greensboro Circle, Ames, Iowa 50010

Tim Ellett Cindy K Ellett 10-28-15
Timothy and Cindy Ellett, 2877 Greensboro Circle, Ames, Iowa 50010

Patrick W. Brooks, Mary J. Brooks 10-24-15
Patrick W. Brooks, and Mary J. Brooks, 2881 Greensboro Circle, Ames, Iowa 50010

Thomas A. Barta 10-28-15
Thomas Barta, 2882 Greensboro Circle, Ames, Iowa 50010

Marcia Ann Holst Dean M Holst 10-28-15
Marcia Holst, 2878 Greensboro Circle, Ames, Iowa 50010

Virginia Stafford, 2872 Greensboro Circle, Ames, Iowa 50010

Steve Rod 10-30-15
Steven Rodermeel, 2866 Greensboro Circle, Ames, Iowa 50010

Janice G. Walter 10-29-15
Janice G. Walter, 2860 Greensboro Circle, Ames, Iowa 50010

Ann Hawthorne 10-28-15
Ann Hawthorne, 2854 Greensboro Circle, Ames, Iowa 50010

Karen Hoiberg Eric D. Hoiberg 11-3-15
Eric and Karen Hoiberg, 2873 Greensboro Circle, Ames, Iowa 50010