

COUNCIL ACTION FORM

SUBJECT: **PRELIMINARY PLAT FOR THE LIFESTYLE CENTER SUBDIVISION AND WAIVER OF THE REQUIREMENT FOR THE INSTALLATION OF SIDEWALK IN THE RIGHT-OF-WAY FOR 570TH AVENUE**

BACKGROUND:

Date Prepared: October 19, 2007

Meeting Dates: October 17, 2007 (Planning and Zoning Commission)
October 23, 2007 (City Council)

Property Owners: Cecil Rueter and Todd Rueter
KCSL Ames Iowa LLC
Patrick T. Payer, Irrevocable Trust
Christine A. Hunziker

Location: 3499 East 13th Street
(Northeast of the intersection of I-35 and East 13th Street.)

Zoning: "A" (Agricultural)
Rezoning approved and pending for all parcels for "PRC" (Planned Regional Commercial) and "O-GNE (Northeast Gateway Overlay District).

Project Description. The site consists of two properties totaling approximately 139.64 acres, including 2.79 acres of presently established road right-of-way. Both properties are presently used as agricultural land for crop production. The site is located northeast of the intersection of Interstate 35 and East 13th Street.

The proposed Preliminary Plat includes twenty-three (23) lots for development, ten (10) lots for access and road right-of-way purposes, two (2) outlots for storm water management and one (1) outlot to serve as a landscape buffer. The amount of land area included in each lot is shown on the Preliminary Plat.

The following table identifies the existing land use, existing zoning, and LUPP designation of the properties surrounding the subject site.

Area	LUPP Designation	Zoning	Land Uses
North	Ag/Farmstead & Greenway	Agricultural (A1, Story Co.)	Crop Production Ketelsen Marsh
South	Regional Commercial	Planned Regional Commercial (PRC) and Northeast Gateway Overlay (O-GNE) Pending	Crop Production
East	Planned Industrial	Agricultural (A1, Story Co.)	Crop Production
West	Government/Airport	Government/Airport (GA)	Interstate 35 & Veterinary Research

Utilities.

Water. A 12-inch water main was constructed along East 13th Street and south along 570th Avenue with the development of the Barilla property. Water service will be extended to each lot in the proposed subdivision from the main in East 13th Street.

Sanitary Sewer. An 18-inch sanitary sewer main currently exists at the intersection of East 13th Street and Dayton Avenue. This 18-inch main will be extended to the site in the right-of-way for East 13th Street. Sanitary sewer service will be extended to each lot in the proposed subdivision from the main in East 13th Street.

Storm Sewer. The natural drainage of the annexation area east of Interstate 35 is from north to south, away from Ketelsen Marsh.

Storm sewer will be installed throughout the subdivision to accommodate storm water drainage. Storm water detention areas are planned for Outlots “B” and “C” and bioswales will accommodate a portion of the storm water drainage on the site.

There is a “General Floodplain” located on the southeast corner of the proposed subdivision. The Zoning Board of Adjustment has granted the applicant a Conditional Use Permit for the work planned in this General Floodplain. This is required to allow grading for storm water detention.

The filling and drainage work proposed will result in the following changes to the General Floodplain areas:

- Increasing the flood storage capacity north of East 13th Street
- Increasing the storm water discharge rate on the north side of East 13th Street
- Eliminating the General Floodplain zone from the north side of East 13th Street
- Increasing the flood storage capacity south of East 13th Street

- Relocating the General Floodplain zone within the parcels on the side of East 13th Street to locations where no buildings are planned.
- Maintaining the storm water discharge rate from the south site after all sites (north and south) are developed to be no more than the current, predevelopment rate.

Electric. Electric service will be provided to the subdivision by Consumers Energy. The subdivision is located outside the City of Ames Electric Service Boundary. Electric upgrades, such as substation improvements, will be needed to support planned regional commercial land uses.

Access Easements. Access easements are shown on the Preliminary Plat as a means of public access to lots throughout the subdivision. All of the access easements, except for two, are designated as "lettered lots. These include Lots C, D, E, F, G, H, I, and J. The remaining two access easements are a part of lots planned for development. An access easement is shown across Lot 3, as a means of access to Lot 2, and an access easement is shown across Lot 5 as a means of access to Lot 4. Widths of the access easements vary from 32 feet to 92 feet, with only three of the easement widths greater than 60 feet.

Building Setbacks. When the City Council approved the Master Plan for this project, a stipulation was included that all building facades facing the central entrance boulevard shall be located no more than eighty (80) feet and no less than sixty five (65) feet from the centerline of the central entrance boulevard (Item #1 in Resolution No. 06-506). Approval of the Master Plan also included a stipulation that there shall be a building setback of ten (10) feet from the roadway property line of any other outparcels (Item #2 in Resolution No. 06-506). The proposed Preliminary Plat of Lifestyle Center Subdivision satisfies Stipulations #1 and #2 of Resolution No. 06-506, as it relates to the location of building setback lines.

Street Improvements. The proposed subdivision includes Lot "A" and Lot "B" to be dedicated to the City of Ames, as part of the Final Plat approval, as public right-of-way. Lot "A" includes street right-of-way, street improvements, and a portion of the sidewalk improvements for East 13th Street. Lot "B" includes street right-of-way, street improvements for 570th Avenue and public sidewalk.

Turning lanes and traffic signals are to be constructed as part of the East 13th Street improvements at the primary access to the subdivision. The entire width of the roadway for 570th Avenue will be paved. The east one-half of the roadway is outside the boundaries of Lot "B" and may be dedicated to the City of Ames as right-of-way at a later date, as decided by the City of Ames and Story County, or as land adjacent to the east is developed.

Sidewalk and Bicycle Path. The proposed subdivision includes sidewalk in the public right-of-way for East 13th Street (between 570th Avenue and the west boundary of Lot 17). In addition, the Preliminary Plat identifies sidewalk along 570th Avenue (between East 13th Street and the north boundary of the proposed subdivision). Subdivision regulations require a minimum of a four-foot wide concrete sidewalk in the public right-of-way along each side of any street within a commercially zoned area. A bicycle path can serve as a multi-use path and meets the sidewalk requirements.

The approved Master Plan for this site shows the bicycle path on the north side of East 13th Street. City staff recommends that the planned location for the bicycle path be moved to the south side of East 13th Street due to traffic conflicts that may occur with potential future improvements to the Interstate 35 interchange. More specifically, land located to the east of the proposed Lifestyle Center Subdivision is designated for "Planned Industrial" land use on the Land Use Policy Plan Map. Upon development of the land as "industrial", increased traffic volumes would most likely require the addition of a west-to-south bound "loop" ramp located in the northwest quadrant of the interchange. Its purpose would be to separate out conflicting westbound left-turn movements from oncoming eastbound through movements. The addition of this "loop" ramp would create additional safety concerns for cyclists or pedestrians crossing the "loop" ramp to and from the area east of I-35. Therefore, staff recommends constructing the bicycle path on the south side of East 13th Street to avoid this future traffic conflict as industrial growth occurs.

Sidewalk Waiver. The applicant has requested, as part of the approval of the Preliminary Plat, that the City Council waive the requirement to install sidewalk along the west side of 570th Avenue. A letter requesting the waiver was submitted by the applicant (see attached). The applicant asserts that the request for a "waiver" should be granted by the City Council, not because of an extraordinary hardship or unusual topography, but because of "other conditions". One of the "other conditions" listed by the applicant is that the land to the east of the proposed subdivision is zoned as "industrial", which requires sidewalk on only one side of the street. The land to the east of this subdivision is not inside the corporate limits of Ames, and is zoned as "A-1" (Agricultural). The Land Use Policy Plan Map for the City of Ames does designate land to the east of the proposed subdivision as "Planned Industrial."

The second reason provided by the applicant as justification for granting the waiver addresses a concern for constructing a sidewalk that leads to Ketelsen Marsh and suggests that it would be more appropriate to construct the sidewalk on the other side of 570th Avenue, away from the natural approach to the marsh.

The third reason given by the applicant as a basis for the City Council to grant the waiver references the bicycle path and sidewalk along East 13th Street that will be constructed by the Developer and will provide convenient access and connectivity to the City-wide sidewalk system.

The Municipal Code provides criteria for the City Council to use in deciding whether to waive a particular requirement of the Subdivision regulations.

Section 23.103 (1), Waiver/Modification, reads as follows:

"Where, in the case of a particular subdivision, it can be shown that strict compliance with the requirements of the Regulations would result in extraordinary hardship to the applicant or would prove inconsistent with the purpose of the Regulations because of unusual topography or other conditions, the City Council may modify or waive the requirements of the Regulations so that substantial justice may be done and the public interest secured provided, however, that such modification or waiver shall not have the effect of nullifying the intent and purpose of the Regulations. In no case shall any modification or waiver be more than necessary to eliminate the hardship or conform to the purpose of the

Regulations. In so granting a modification or waiver, the City Council may impose such additional conditions as are necessary to secure substantially the objectives of the requirements so modified or waived."

Applicable Law. The laws applicable to this request for approval of a Preliminary Plat are included with this Action Form as "Attachment A."

Staff Analysis. The properties are designated as "Regional Commercial" on the Land Use Policy Plan (LUPP) Map. The proposed Preliminary Plat is consistent with the Land Use Policy Plan and the associated Land Use Policy Plan Map designations on the site. Staff is not aware of any other inconsistencies with the Land Use Policy Plan, therefore, staff concludes that Code of Iowa Chapter 354, Section 8 has been satisfied.

The applicant has requested that the City Council "waive" the requirement to install sidewalk in the public right-of-way along 570th Avenue. To grant a "waiver", the City Council must find that **strict compliance with the requirement for sidewalk would result in extraordinary hardship to the applicant or would prove inconsistent with the purpose of the regulations because of unusual topography or other conditions.**

Section 23.403(14) in the Municipal Code addresses requirements for sidewalks. It states that a minimum of a four-foot wide 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.

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.

The applicant has chosen to seek a "waiver" of the requirements for a sidewalk along 570th Avenue, as opposed to a deferment of the sidewalk installation. The Municipal Code offers "deferment" as an option to applicants in cases where it doesn't make sense to install the sidewalk at this time. This could be the case if no other sidewalk exists in the vicinity, or if development of the site is planned for a later date and use of the sidewalk at this time is not likely.

In reviewing the proposed Preliminary Plat, staff finds that requirements for approval of the Preliminary Plat have been satisfied, with the following recommended stipulations:

1. **Public improvement plans** shall be submitted to the Public Works Department for review and approval prior to installation of public improvements and prior to submittal of the Final Plat.
2. **Public utility easements** shall be included on the Preliminary Plat for all public utility lines, prior to submittal of the Final Plat. The width of public utility easements shall be fifteen (15) feet for water, fifteen (15) feet for storm sewer, and twenty (20) feet for sanitary sewer.
3. Lots "A" and "B" shall be dedicated to the City of Ames as **public street right-of-way** at the time of approval of the Final Plat.
4. Lots C, D, E, F, G, H, I, and J, as shown on the Preliminary Plat, shall at the time of Final Plat approval, be established as **access easements**, to which the City of Ames shall be named as a party.
5. The **access easement**, shown on the Preliminary Plat as crossing Lot 3 to provide access to Lot 2, to which the City of Ames is a party, shall be established at the time of approval of the Final Plat.
6. The **access easement**, shown on the Preliminary Plat as crossing Lot 5 to provide access to Lot 4, to which the City of Ames is a party, shall be established at the time of approval of the Final Plat.
7. At the time of construction of street improvements for East 13th Street, the Developer shall construct the **bicycle path**, 10 feet wide, along the south side of the East 13th Street right-of-way, from the I-35 right-of-way to Lot "H", as shown on the Preliminary Plat.
8. At the time of construction of street improvements for East 13th Street, the Developer shall construct the **public sidewalk**, 4 feet wide, along the right-of-way for East 13th Street between Lot "H" and 570th Avenue.
9. A **Master Plan** minor amendment with the change in location of the bicycle path as shown on the Preliminary Plat for Lifestyle Center Subdivision be submitted by the applicant, and approved by City staff.
10. The "**PRC**" (**Planned Regional Commercial**) and "**O-GNE**" (**Northeast Gateway Overlay**) District zoning designations take legal effect.

Recommendations of the Planning & Zoning Commission. At its meeting of October 17, 2007, the Planning and Zoning Commission held a public hearing. Several people spoke either against approval or supporting a delay. Issues addressed by these people included:

- Mr. Joe Rippetoe emphasized the need for the Planning and Zoning Commission to let the public review the final traffic study before making a decision on the Major Site Development Plan.
- The amount of square footage of building space and the area of land rezoned in comparison to other regional commercial centers. Sue Ravenscroft presented a list of shopping centers both locally and nationally describing building square footage and land area for each shopping center.
- Ms. Sue Ravenscroft also described an area of the acreage of the lifestyle center site imposed over the urban core area of Ames to illustrate the extent of the urban core area in comparison to the size of the proposed Lifestyle Center Subdivision. She wished to compare traffic volumes in the urban core area to that which may occur as a result of the lifestyle center development.
- Mr. Rippetoe said that the developers should purchase all of the property and show evidence of leases and financing before the Major Site Development Plan is considered.
- Ms. Sheila Condon inquired about the location of the bike path on the south side of 13th Street. She stated that she was a bicyclist and that for safety reasons the location of the multi-use path on 13th Street should minimize crossings of 13th Street by pedestrians and bicycles.

With a vote of 5-1, the Planning and Zoning Commission recommended that the City Council deny the applicant's request to waive the requirement for the installation of sidewalk in the right-of-way for 570th Avenue. The Planning and Zoning Commission discussed the criteria for waiving the sidewalk requirement and discussed whether it would be better for the sidewalk to be installed on the industrial side of 570th Avenue at the time of development. Some members of the Commission felt that this would be decided at the Council level and would therefore not argue against the staff's recommendation to deny the waiver request.

Further, with a vote of 6-0, the Planning and Zoning Commission recommended approval of the Preliminary Plat for Lifestyle Center Subdivision subject to:

- The City Council's decision on the requirement to either install sidewalk along 570th Avenue, or to waive the sidewalk requirements:
- The nine stipulations described in the Commission Action Form; and,
- One additional stipulation that the "PRC" (Planned Regional Commercial) and O-GNE" (Northeast Gateway Overlay) District zoning designations take legal effect. This condition was suggested by staff at the meeting to correct an oversight. The condition was inadvertently left out of the Preliminary Plat report, even though it was included in the Major Site Development Plan report.

ALTERNATIVE ACTIONS – SIDEWALK WAIVER REQUEST:

1. The City Council can deny the applicant's request to waive the requirement for the installation of sidewalk in the right-of-way for 570th Avenue.

Under this Alternative, the applicant will be required to install sidewalk in the right-of-way for 570th Avenue, for the entire length of the east boundary of the proposed Lifestyle Center Subdivision, prior to the issuance of a Certificate of Occupancy for any lot in the subdivision.

2. The City Council can deny the applicant's request and instead grant a deferral for the installation of a portion of the sidewalk in the right-of-way for 570th Avenue.

Under this Alternative, the applicant will be required to install sidewalk in the right-of-way for 570th Avenue, for the entire length of the subdivision boundary between East 13th Street and the south property line of Lot 8, prior to the issuance of a Certificate of Occupancy for Lot 1, 4, 5, 9, or 10.

The applicant will be granted a deferral of the installation of sidewalk in the right-of-way for 570th Avenue, adjacent to Lots 6, 7, and 8 until development occurs, but prior to the issuance of a Certificate of Occupancy. A sidewalk shall be constructed by the applicant in the right-of-way for 570th Avenue adjacent to Outlot A, as development occurs on Lot 6.

The applicant shall sign a sidewalk deferment agreement, to be prepared by the City Attorney and executed by the applicant and the City of Ames, accompanied by financial security to be provided by the applicant at the time of approval of the Final Plat, in the amount of \$11,214.00 for the estimated cost of sidewalk construction in the right-of-way for 570th Avenue, between the south property line of Lot 8 and the north boundary of the Lifestyle Center Subdivision.

3. The City Council can approve the applicant's request to waive the requirement for the installation of sidewalk in the right-of-way for 570th Avenue.

Under this Alternative, the City Council will be finding that strict compliance with the sidewalk requirements will result in extraordinary hardship or will prove inconsistent with the purpose of the sidewalk regulations due to unusual topography or other conditions, in accordance with Section 23.103(1) of the Municipal Code.

4. Action on this request can be postponed and referred back to City staff and/or the applicant for additional information.

ALTERNATIVE ACTIONS - PRELIMINARY PLAT APPROVAL REQUEST:

1. The City Council can approve the Preliminary Plat for the Lifestyle Center Subdivision, located northeast of the intersection of Interstate 35 and East 13th, subject to the Council's decision on the requirement to either install sidewalk along 570th Avenue, or to waive the sidewalk requirements, and subject to the following additional stipulations:
 - a.) **Public improvement plans** shall be submitted to the Public Works Department for review and approval prior to installation of public improvements and prior to submittal of the Final Plat.
 - b.) **Public utility easements** shall be included on the Preliminary Plat for all public utility lines, prior to submittal of the Final Plat. The width of public utility easements shall be fifteen (15) feet for water, fifteen (15) feet for storm sewer, and twenty (20) feet for sanitary sewer.
 - c.) Lots "A" and "B" shall be dedicated to the City of Ames as **public street right-of-way** at the time of approval of the Final Plat.
 - d.) Lots C, D, E, F, G, H, I, and J, as shown on the Preliminary Plat, shall at the time of Final Plat approval, be established as **access easements**, to which the City of Ames shall be named as a party.
 - e.) The **access easement**, shown on the Preliminary Plat as crossing Lot 3 to provide access to Lot 2, to which the City of Ames is a party, shall be established at the time of approval of the Final Plat.
 - f.) The **access easement**, shown on the Preliminary Plat as crossing Lot 5 to provide access to Lot 4, to which the City of Ames is a party, shall be established at the time of approval of the Final Plat.
 - g.) At the time of construction of street improvements for East 13th Street, the Developer shall construct the **bicycle path**, 10 feet wide, along the south side of the East 13th Street right-of-way, from the I-35 right-of-way to Lot "H", as shown on the Preliminary Plat.
 - h.) At the time of construction of street improvements for East 13th Street, the Developer shall construct the **public sidewalk**, 4 feet wide, along the right-of-way for East 13th Street between Lot "H" and 570th Avenue.
 - i.) A **Master Plan** minor amendment with the change in location of the bicycle path as shown on the Preliminary Plat for Lifestyle Center Subdivision be submitted by the applicant, and approved by City staff.
 - j.) The "**PRC**" (**Planned Regional Commercial**) and "**O-GNE**" (**Northeast Gateway Overlay**) District zoning designations take legal effect.

2. If the City Council finds that the proposed Preliminary Plat does not conform to all adopted standards and applicable law pertaining to subdivisions, the City Council may deny the Preliminary Plat for the Lifestyle Center Subdivision, located northeast of the intersection of Interstate 35 and East 13th Street.

Under this Alternative, The City Council shall describe specifically how the proposal does not meet adopted requirements for subdivisions.

3. If the City Council finds that the proposed Preliminary Plat does conform to all adopted standards and applicable law pertaining to subdivisions, the City Council can approve the Preliminary Plat for the Lifestyle Center Subdivision, located northeast of the intersection of Interstate 35 and East 13th Street, with modifications.
4. Action on this request can be postponed and referred back to City staff and/or the applicant for additional information.

In accordance with Section 23.302(6) of the Municipal Code, the City Council is required to approve, approve subject to conditions, or disapprove the Preliminary Plat within thirty (30) days of the referral of the Preliminary Plat and report of recommendations to the City Council by the Planning and Zoning Commission.

MANAGER'S RECOMMENDED ACTION:

Request to waive the requirement for the installation of sidewalk in the right-of-way for 570th Avenue. The reasons provided by the applicant for granting of the waiver do not lead staff to a conclusion that the waiver must be granted. Therefore, it is the recommendation of the City Manager that the City Council act in accordance with Alternative #1. This action will deny the applicant's request to waive the requirement for the installation of sidewalk in the right-of-way for 570th Avenue.

The applicant will be required to install sidewalk in the right-of-way for 570th Avenue, for the entire length of the east boundary of the proposed Lifestyle Center Subdivision, prior to the issuance of a Certificate of Occupancy for any lot in the subdivision.

Request to approve the Preliminary Plat for Lifestyle Center Subdivision. It is the recommendation of the City Manager that the City Council act in accordance with Alternative #1. This action will approve the Preliminary Plat for Lifestyle Center Subdivision, located northeast of the intersection of Interstate 35 and East 13th Street, subject to the Council's decision on the requirement to either install sidewalk along 570th Avenue, or to waive the sidewalk requirements, and subject to the following additional stipulations:

1. **Public improvement plans** shall be submitted to the Public Works Department for review and approval prior to installation of public improvements and prior to submittal of the Final Plat.
2. **Public utility easements** shall be included on the Preliminary Plat for all public utility lines, prior to submittal of the Final Plat. The width of public utility easements shall be fifteen (15) feet for water, fifteen (15) feet for storm sewer, and twenty (20) feet for sanitary sewer.
3. Lots "A" and "B" shall be dedicated to the City of Ames as **public street right-of-way** at the time of approval of the Final Plat.
4. Lots C, D, E, F, G, H, I, and J, as shown on the Preliminary Plat, shall at the time of Final Plat approval, be established as **access easements**, to which the City of Ames shall be named as a party.
5. The **access easement**, shown on the Preliminary Plat as crossing Lot 3 to provide access to Lot 2, to which the City of Ames is a party, shall be established at the time of approval of the Final Plat.
6. The **access easement**, shown on the Preliminary Plat as crossing Lot 5 to provide access to Lot 4, to which the City of Ames is a party, shall be established at the time of approval of the Final Plat.
7. At the time of construction of street improvements for East 13th Street, the Developer shall construct the **bicycle path**, 10 feet wide, along the south side of the East 13th Street right-of-way, from the I-35 right-of-way to Lot "H", as shown on the Preliminary Plat.
8. At the time of construction of street improvements for East 13th Street, the Developer shall construct the **public sidewalk**, 4 feet wide, along the right-of-way for East 13th Street between Lot "H" and 570th Avenue.
9. A **Master Plan** minor amendment with the change in location of the bicycle path as shown on the Preliminary Plat for Lifestyle Center Subdivision be submitted by the applicant, and approved by City staff.
10. The "**PRC**" (**Planned Regional Commercial**) and "**O-GNE**" (**Northeast Gateway Overlay**) District zoning designations take legal effect.

Attachment A

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

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

Ames Municipal Code Section 23.302(3):

(3) *Planning and Zoning Commission Review:*

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

Ames Municipal Code Section 23.302(4):

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

Ames Municipal Code Section 23.302(5):

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

Ames Municipal Code Section 23.302(6):

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

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

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

Ames Municipal Code Section 23.403(14)(a) requires installation of four-foot wide sidewalks within the right-of-way on both sides of a public street.

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

Ames Municipal Code Chapter 23, Subdivisions, Section 23.103(1), provides the criteria for the City Council to waive the requirements of the Subdivision regulations.

An Agreement Pertaining to the Rezoning and Development of Land in the City of Ames. (Approved by the City Council on November 8, 2005.)

Ames Municipal Code Chapter 29, Zoning, Section 29.805, includes standards for the Planned Regional Commercial (PRC) zone.

Ames Municipal Code Section 23.107 reads as follows:

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

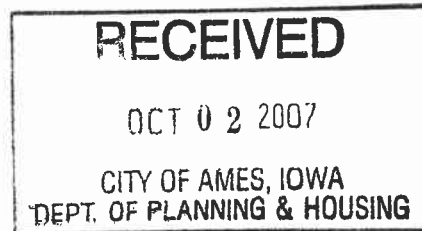
- (1) Land Use Policy Plan*
- (2) Zoning Ordinance*
- (3) Historic Preservation Ordinance*
- (4) Flood Plain Ordinance*
- (5) Building, Sign and House Moving Code*
- (6) Rental Housing Code*
- (7) Transportation Plan*
- (8) Parks Master Plan*
- (9) Bicycle Route Master Plan*

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

Architecture +

October 1, 2007

The Mayor and City Councilors
City of Ames
515 Clark Avenue,
Ames, IA 50010



Re: Major Site Development Plan Submittal
Regional Commercial Development, Lifestyle Center
Northeast Gateway Overlay District, City of Ames, Iowa

Dear Madam Mayor and Members of Council,

To be in compliance with the City of Ames subdivision regulations, Sec.23.403 - "STREETS", Section 14 a, Wolford Development Options, L.L.C. is required to construct a minimum four-foot wide sidewalk along the length of 570th Avenue, being to the East of the above referenced development. As stated in Chapter 23 dealing with Subdivisions, such sidewalk *shall be designed to provide convenient access to all properties and shall connect to the City-wide sidewalk system.*

The required sidewalk is being indicated on the Preliminary Plat and the Site Plans for the Major Site Development Plan, submitted for approval by the Planning and Zoning Commission and by the City Council. As permitted under Sec.23.103. - "WAIVER/MODIFICATION" of Chapter 23 we, on behalf of our client, Wolford Development Options, L.L.C. respectfully request a waiver of the regulation requiring construction of the four-foot wide sidewalk along the length of 570th Avenue.

Strict compliance with the requirements of the regulation cannot be shown to result in *extraordinary hardship* for the Developer or because of *unusual topography*. The request is motivated by *other conditions*, which we expand upon as follows.

1. The development or subdivision is *Regional* with the zoning to the east of 570th being Industrial. Sec.23.403. "STREETS", Section 14 a, referred to in paragraph 1 above, also states, "*along at least one side of any street within industrially zoned areas.*" Albeit this is both Commercial and Industrial zoning, a sidewalk 2,585 ft. in length - just less than half mile - appears to serve little purpose in this Regional Development, which is largely served by automobile traffic. When the Industrial sites are developed in the future, most likely by more than one owner along this distance, it would appear more equitable that the sidewalk be constructed on their side of 570th Avenue.
2. 570th Avenue leads to Ketelsen Marsh, an area the community has been concerned about, and to which the Developer has responded with the Buffer Zone provision and with landscaping. We believe a green fringe with no paved sidewalk along the west side of the avenue leading up to the marsh, would be more in keeping and more environmentally friendly than a hard impervious surface.

The Mayor and City Councilors
October 1, 2007
Page 2

If a sidewalk is required along 570th Avenue to the north, it seems it would be more appropriate to have it on the east side of the avenue away from the natural approach to the Marsh, with its small parking area and plaque in memory of Jim Ketelsen.

3. The Developer is constructing a Bicycle Path and sidewalk adjacent to East 13th Street as part of the improvements he is responsible for in terms of the Development Agreement with the City. These elements will provide convenient access and connectivity to the City-wide sidewalk system.

In conclusion, we do not believe the granting of such waiver would be contrary to "*the public interest being secured*" and trust the request will receive the favorable consideration of Council.

Yours faithfully,

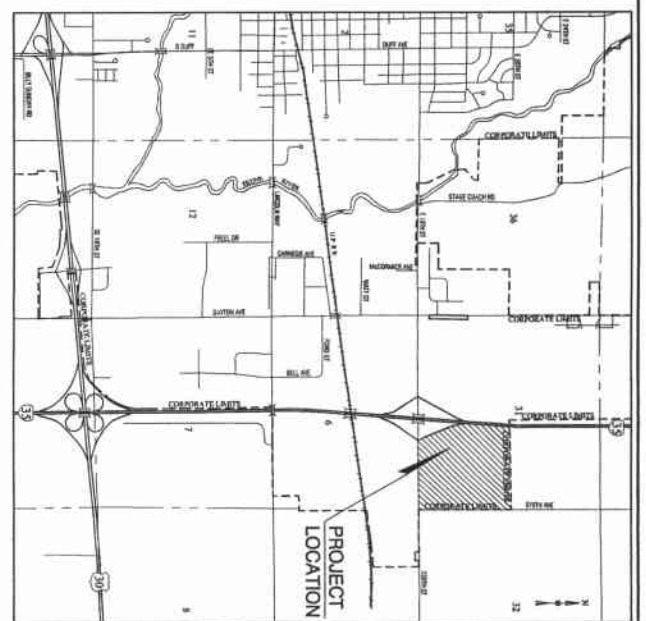
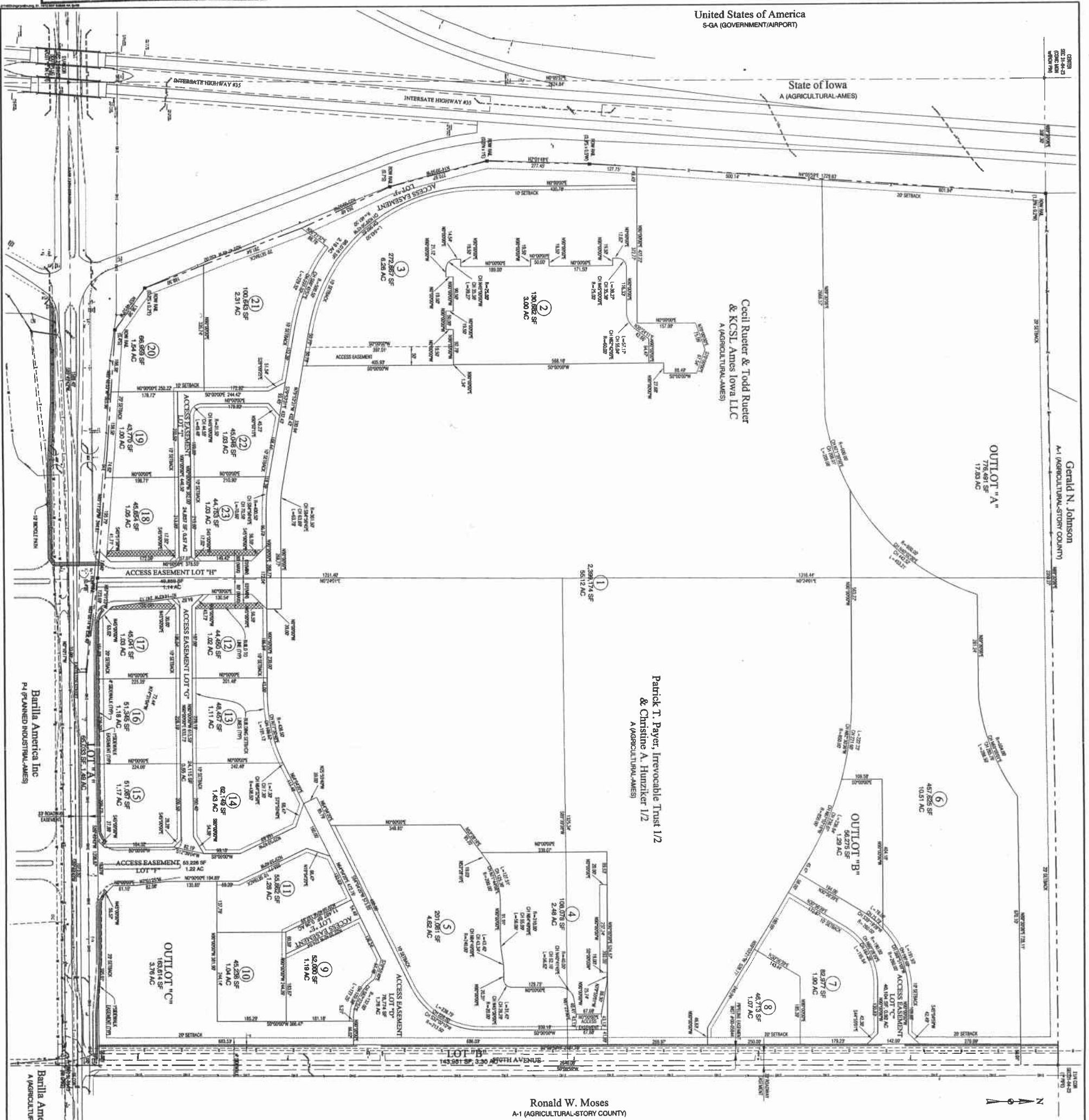
A handwritten signature in black ink that reads "IAN MACASKILL". The signature is written in a cursive, slightly slanted style.

Ian Macaskill, RIBA

cc: James L. "Bucky" Wolford, Wolford Development Options, L.L.C.
File

RECEIVED
 OCT 15 2007
 CITY OF AMES, IOWA
 DEPT. OF PLANNING & HOUSING

United States of America
S-GA (GOVERNMENT/AIRPORT)



Ronald W. Moses
A-1 (AGRICULTURAL-STORY COUNTY)

Patrick T. Payer, Irrevocable Trust 1/2
& Christine A. Hunziker 1/2
A (AGRICULTURAL-AMES)

Cecil Rueter & Todd Rueter
& KCSL Ames Iowa LLC
A (AGRICULTURAL-AMES)

Bartilla America Inc
P4 (PLANNED INDUSTRIAL-AMES)

Bartilla America Inc
A (AGRICULTURAL-AMES)

LEGAL DESCRIPTION:

A PART OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION THIRTY-ONE (31), TOWNSHIP EIGHTY-FOUR (84), RANGE TWENTY-THREE (23) WEST OF THE 5TH P.M. STORY COUNTY, IOWA, FURTHER DESCRIBED AS: BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF SECTION 31, T84N, R23W, STORY COUNTY, IOWA, THENCE S89°46'37" W 107.60' ALONG THE WEST LINE OF SAID QUARTER TO THE NORTH LINE OF EAST 15TH STREET, CITY OF AMES, STORY COUNTY, IOWA, THENCE N89°14' W 258.46' ALONG SAID NORTH LINE; THENCE N89°14' W 258.46' ALONG SAID NORTH LINE; THENCE N89°46'37" W 107.60' ALONG SAID NORTH LINE TO THE INTERSECTION OF SAID NORTH LINE AND EAST 15TH STREET; THENCE S89°46'37" W 107.60' ALONG SAID NORTH LINE TO THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 31; THENCE N89°14' W 258.46' ALONG SAID NORTH LINE TO THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 31 TO THE POINT OF BEGINNING; ESTABLISHED ROAD RIGHT OF WAY.

NOTES:

1. GPS Coordinates were made to establish the bearings and distances shown on this plat. Coordinates shown represent the US State Plane NAD 1983 - Iowa North.
2. Zone 1401 Projection using Goid Model 1996(0984).
3. Zone 1401 Projection using Goid Model 1996(0984).
4. Borehole #1 - Story County GPS Control Monument #507 = 822.15 ft (NAD 83) adjusted to City of Ames Datum = 128.60 ft using correction factor of -623.548 ft.
5. Borehole #2 - Top of 50' bore hole on right pole located at the corner of 15th Street and Sunnyside Avenue.
6. Borehole #3 = 1.11' SE 1/4 of Section 31, 44-23 N 107 E of Township 35 S, Range 23 W, Story County, Iowa, according to Flood Insurance rate map #19000700008 and #19000700009 dated June 1, 1993 and more particularly located on the plat.
7. Current Property Ownership is as identified on the Preliminary Plat.
8. Current Zoning is as identified on the Preliminary Plat. Proposed Zoning will be determined by the City of Ames Planning Commission.
9. Current Zoning is as identified on the Preliminary Plat. Proposed Zoning will be determined by the City of Ames Planning Commission.
10. No parking is permitted on East 15th Street or on 57th Avenue.

This is a Preliminary Plat prepared for submission to the City of Ames for review. It is subject to change without notice. The City of Ames Planning Commission will review this plat and submit its recommendations to the City of Ames upon approval of the plat by the Development Review Commission, Planning Commission, and the Ames City Council. Proposed improvements and property information are subject to change.

DESIGNED:	TJA	DATE:	7-18-07	NO.	REVISION	BY	DATE
DRAWN:	TJA	DATE:	7-31-07				
CHECKED:	TJA	DATE:	8-8-07				
APPROVED:		DATE:					

PRELIMINARY PLAT

LIFESTYLE CENTER SUBDIVISION
AMES, IOWA

CGA
 Clapsdell-Barber Associates, Inc.
 16 East Main Street
 Marshalltown, Iowa 50158
 515-592-5700
 www.cgacons.com

Professional Engineer Seal
 State of Iowa
 License No. 17186
 Name: Albert B. B...
 Date: 10/12/2007