

ITEM #: 21  
DATE: 01/22/08

## COUNCIL ACTION FORM

**SUBJECT:** WAIVER OF CITY SUBDIVISION STANDARDS FOR RURAL PROPERTY IN BOONE COUNTY: OUTLOT H, GENE HARRIS 2<sup>ND</sup> SUBDIVISION AT 230<sup>TH</sup> STREET AND X AVENUE

### **BACKGROUND:**

The City Council referred to staff a request to waive City subdivision standards for property in Boone County on the north side of 230<sup>th</sup> Street (Lincoln Way) and east of X Avenue (see attached letter). The property is located west and within two miles of the corporate limits of the City of Ames (see attached Location Map). The proposed subdivision has since been simplified to include only the splitting of Outlot H into two parcels (see attached Sketch Plan).

The proposed subdivision involves land owned by Kinzler Walters LLC. The proposal involves a vacant property, 26 acres in size, which the applicant proposes to subdivide into two parcels, Lot 1, proposed to be 17.4 acres and Lot 2 proposed to be 8.6 acres. Access and frontage on public right-of-way is provided for both properties. Lot 1 is proposed to be the site of a new manufacturing facility, Power Film, which also has an existing facility a few hundred yards to the east. City staff has determined that since the property does not contain public infrastructure, a Major Subdivision would be required.

Along 230<sup>th</sup> Street in Boone County, within two miles of the Ames city limits, are three developed areas: the area adjacent to the proposed subdivision to the east, an area about one mile to the west, and an area south of 230<sup>th</sup> Street. These areas include dozens of developed properties, created by subdivisions, some with multiple additions or by development of multiple buildings and businesses on a single large parcel. The uses are generally commercial in nature, with two residential subdivisions to the far west. (See Land Use Map).

In reviewing earlier subdivisions involved in this rural development, the City of Ames, which generally requires access to public streets, waived its standards for public improvements. The City also required the owners to sign and provide covenants waiving the right of whoever owns the property to protest future assessments for public improvements, and binding property owners and future property owners to pay the full cost of abandoning rural water systems in the future. In its reports on these subdivisions, staff has generally stated that the City is unlikely to annex the land along this corridor in the future, and cited on-going urban fringe planning in cooperation with the County.

The City of Ames has now completed an Urban Fringe Plan that includes this corridor, and although it is not yet a cooperative plan with Boone County, it is the policy of the City. That Plan identifies Highway Oriented Commercial as the future land use for these three development areas, with Agricultural and Farm Service as the proposed land use for areas along the corridor in between the developed areas (see attached portion of Ames Urban Fringe Land Use Framework Map). Highway Oriented Commercial land uses are within the



Rural/Urban Transitional Areas land use class. City policies for these areas are attached. Neither the Ames Urban Fringe Plan nor the Ames Land Use Policy Plan identifies this corridor as a community entry. In summary, the Plan anticipates that Highway Oriented Commercial land uses will develop outside of the City, preferably in clusters, and that public improvements may be required depending on the location, anticipated traffic, intensity, and type of use and other factors.

Although Boone County provided input into the land uses shown on the current Ames Urban Fringe Plan, it is clear that future adjustments were likely to be needed once Boone County completed a countywide Comprehensive Plan update. Boone County has completed and approved that Comprehensive Plan, which designates commercial and industrial land uses for all of the land on both sides of 230<sup>th</sup> Street from the Ames city limits to the west edge of the Ames Urban Fringe area.

The pending Boone County zoning ordinance provides for a wide range of uses in commercial and light industrial area. For example, permitted commercial uses include professional offices, corporate headquarters, research facilities, grocery stores, restaurants, and residences above the first floor. Examples of permitted industrial uses are cabinet shops, lumber yards, warehousing, enameling and lacquering, and manufacturing of a wide range of products. Conditional uses include auto wrecking, animal rendering, adult entertainment, and further manufacturing uses. Protection of the public and neighboring properties from negative impacts of these uses is through general performance standards to be imposed and enforced by County staff. The Boone County comprehensive plan designates residential uses for most of the rest of the Ames Urban Fringe within Boone County. Boone County and Ames staffs are now determining the best way to proceed for the County and City to coordinate completing the Ames Urban Fringe Plan.

The purposes of state laws allowing City jurisdiction over rural subdivisions include managing impacts on the City's infrastructure and environment and to provide for efficient and orderly expansion of cities. When the City of Ames staff has reviewed the impacts of each of the many subdivisions in Boone County under which this corridor has developed, not surprisingly the impact of each project by itself has not been very significant. What has changed now is that Boone County has adopted a comprehensive proposal for land use for the entire area, which anticipates a mixed commercial, industrial, and residential area many times larger than what is there now. To formulate policy for review of subdivisions in Boone County, the City of Ames should consider potential impacts, such as the following:

- Traffic on City and surrounding streets
- Stormwater runoff into College Creek and Clear Creek
- Waste treatment systems on the College Creek and Clear Creek watersheds
- Water use on Ames water supply
- Rural style development blocking future urban expansion

**Especially important is to consider the impacts of the most intense type of development allowed by the zoning classifications that the Boone County Comprehensive Plan supports in this area.** Once property is zoned and subdivided, the property owner or a future property owner has a right to develop it for any use that the



zoning allows. Although Boone County staff has some authority to require improvements to waste treatment systems and/or nuisance abatement, the City of Ames has no further role as long as subdivision is not required. This is why the City and County need agreement on land uses comprehensively up front. Without that, the City must still rely on its own assessment of impacts at the time of subdivision.

Boone County has already approved Limited Industrial Zoning for the subject property. The applicant is proceeding with the platting process in Boone County and the applicant and County seek decisions on platting from the City of Ames before completing the Preliminary Plat in Boone County. If the City takes no action or declines to waive its infrastructure requirement, the property owner must provide streets, sanitary sewer, and water systems meeting City standards, some of which cannot be put into service at this time because the City has not extended its infrastructure to the site.

### **ALTERNATIVES:**

1. The City Council can approve a resolution waiving its subdivision regulations for the installation of public improvements for Outlot H, Gene Harris 2<sup>nd</sup> Subdivision at 230<sup>th</sup> Street And X Avenue, with the stipulation that recorded covenants be provided binding property owners and future property owners to waive rights to protest future assessments for public improvements, and binding property owners and future property owners to pay the full cost of abandoning rural water systems in the future.
2. The City Council can approve a resolution waiving its subdivision regulations for the installation of public improvements for Outlot H, Gene Harris 2<sup>nd</sup> Subdivision at 230<sup>th</sup> Street and X Avenue, without stipulations.
3. The City Council can deny the request for a waiver of its subdivision regulations for the installation of public improvements for Outlot H, Gene Harris 2<sup>nd</sup> Subdivision at 230<sup>th</sup> Street and X Avenue, due to expected and unknown impacts of development of the area on City infrastructure, environment, and growth.
4. The City Council can refer this request back to staff and/or the applicant for additional information.

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

In the past, the City has reviewed subdivisions in Boone County on a case-by-case basis, citing the ongoing Ames Urban Fringe planning with Boone County as the best way to develop more policy that is consistent. Although Fringe planning for this area is not yet complete, Boone County has proposed a comprehensive land use plan for this part of our urban fringe. It's plan provides for development with a total area that is similar in size to all of the private, developed property of west Ames, north of Lincoln Way. All of this land in Boone County is in watersheds that drain into Ames. The main traffic access for this development area is the main east-west traffic artery in Ames. **Because of these three factors, the City needs to study the impacts of this proposed land use and work with Boone County to manage any impacts on our community.**

In the meantime, Boone County property owners have been making plans for the use and development of their property based on the past practices of the City for similar situated land. More important than halting small projects in mid-stream that may or may not by themselves have significant impact is to work with Boone County on the comprehensive scale. Therefore, at this time, it is the recommendation of the City Manager that the City Council approve Alternative #1. This action will approval a resolution waiving its subdivision regulations for the installation of public improvements for Outlot H, Gene Harris 2<sup>nd</sup> Subdivision at 230<sup>th</sup> Street And X Avenue, with the stipulation that recorded covenants be provided binding property owners and future property owners to waive rights to protest future assessments for public improvements, and binding property owners and future property owners to pay the full cost of abandoning rural water systems in the future.

However, the City should direct staff to place a high priority on analyzing the impacts of the current Boone County Comprehensive Plan on the City. Also, the City Council should delay action on future subdivision requests in Boone County until the City can understand and manage these impacts or deny future requests to waive its subdivision requirements.



## Applicable Law

Chapter 354 of the Code of Iowa includes provisions for the division and subdivision of land. Section 354.9 addresses the "Review of subdivision plats within two miles of a city." Subsection two (2) includes the following provision:

Section 354.8. ". . . Governing bodies shall apply reasonable standards and conditions in accordance with applicable statutes and ordinances for the review and approval of subdivisions. The governing body, within sixty days of application for final approval of the subdivision plat, shall determine whether the subdivision conforms to its comprehensive plan and shall give consideration **to the possible burden on public improvements** and to a balance of interests between the proprietor, future purchasers, and the public interest in the subdivision when reviewing the proposed subdivision and when requiring the installation of public improvements in conjunction with approval of a subdivision. . . ."

Section 354.9(2). "*...Either the city or county may, by resolution, waive its right to review the subdivision or waive the requirements of any of its standards, or conditions for approval of subdivisions, and certify the resolution which shall be recorded with the plat.*"

Chapter 23 of the Municipal Code includes provisions for the subdivision of land in Ames and within two (2) miles of the corporate limits. Section 23.103 addresses "Waiver/Modification." Subsection (1) reads as follows:

Section 23.103 (1). "*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.*"

Section 23.302(10)(c) states that "The City Council may:

- (i) deny any subdivision where the reasonably anticipated impact of such subdivision will create such a burden on existing public improvements or such a need for new public improvements that the area of the City affected by such impact will be unable to conform to level of service standards set forth in the Land Use Policy Plan or other capital project or growth management plan of the City until such time that the City upgrades such public improvements in accordance with schedules set



- forth in such plans; or
- (ii) approve any subdivision subject to the condition that the applicant contribute to so much of such upgrade of public improvements as the need for such upgrade is directly and proportionately attributable to such impact as determined at the sole discretion of the City. The terms, conditions and amortization schedule for such contribution may be incorporated within an Improvement Agreement as set forth in Section 23.304 of the Regulations.



# Ames Urban Fringe Plan Policies

## Land Use Designations and Policies for Rural/Urban Transition Area

This area is intended to be rural in character as it develops, but within an urban setting at some time in the future, beyond the time horizon of the Ames Urban Fringe Plan. Urban services and development standards are required for non-agricultural development in certain critical locations within this area. Annexation agreements and/or other tools also may be utilized to ensure that the future transition into the City of Ames or City of Gilbert is a smooth one.

The following policies apply to the entire Rural/Urban Transition Area (RUTA)

RUTA Policy 1: Rural-type services and development standards are often acceptable in the Rural/Urban Transition Area, but urban services and standards may be required in certain critical locations or in response to certain intensities of development. (Relates to RUTA Goal 3.1, 3.3)

RUTA Policy 2: At the discretion of the cities, annexation agreements and other tools may be utilized to ensure that new development is prepared for potential annexation in the future. (Relates to RUTA Goal 3.2)

RUTA Policy 3: Ames, Gilbert, Story County, and Boone County seek to accommodate public preferences by permitting an expanded range of rural development options that allow orderly and efficient future transition between urban and rural land uses. (Relates to RUTA Goal 3.1, 3.4)

RUTA Policy 4: Permit interim development to occur in a manner that will support long-term urbanization of the Ames Urban Fringe. (Relates to RUTA Goal 3.2)

RUTA Policy 5: Limit development in areas that would create a need for the upgrade of roads before they are scheduled in the appropriate jurisdiction's capital improvements program. Where proposed development will potentially increase the traffic volumes in excess of the current road capacity, provide for the cost of road improvements at the time of development. (Relates to RUTA Goal 3.5)

## Highway-Oriented Commercial (HOC)

This designation applies to commercial land uses along arterial corridors that are primarily designed to accommodate the automobile. It is intended to provide for an orderly and efficient transition between existing or future urban areas and the rural, unincorporated areas.

HOC Policy 1: Highway-Oriented Commercial designation includes commercial uses that are more compatible with the characteristics of rural areas than with urban commercial corridors and centers.

HOC Policy 2: Strategically locate Highway-Oriented Commercial in targeted areas along high traffic transportation corridors. (Relates to RUTA Goal 3.2, 3.5)

HOC Policy 3: Give preference to clustering of uses in order to limit the short-term and long-term costs associated with infrastructure improvements and the distribution of public services. (Relates to RUTA Goal 3.2, 3.4)



HOC Policy 4: Require urban transportation infrastructure to meet the demands of high vehicular movement. (Relates to RUTA Goal 3.2, 3.3)

HOC Policy 5: Require full urban infrastructure standards under certain conditions such as location with respect to existing or planned urban infrastructure, intensity or size of development improvements, timing of development, development design, and commercial use, such as a restaurants, water intensive uses, or places designed for the gathering of people. Such urban infrastructure standards may include, but not be limited to, wastewater treatment and potable water distribution of sufficient size to support emergency services. If these improvements are not installed at the time of development, require infrastructure assessment agreements. (Relates to RUTA Goal 3.2, 3.3)

HOC Policy 6: Where the city does not require urban standards, require temporary common wastewater collection systems that meet IDNR and city specifications, and temporary common water distribution systems, such as wells or rural water services, that meet specifications of the City of Ames or City of Gilbert. Require agreements that if and when the property is annexed to a city, the land developer and/or landowner shall be responsible for the full cost of abandoning the rural systems and connecting to urban infrastructure. (Relates to RUTA Goal 3.2, 3.3)

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*Pkts. 11-14-07  
Copy: Steve O.*

December 14, 2007

Honorable Ann Campbell, Mayor  
and Ames City Council  
515 Clark Ave.  
Ames, IA 50010

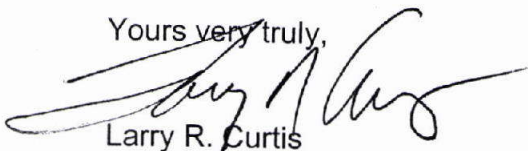
RE: Subdivision of Property in Boone County  
within two (2) mile extended jurisdiction

Dear Mayor Campbell and City Council Members:

On behalf of our client, PowerFilm, Inc., 2337 230<sup>th</sup> Street, Ames, Iowa, we request that the City of Ames waive its subdivision standards for subdivisions for certain property located at 1281, 1283, 1287 XE Place, and for property designated as Outlot H, Gene Harris 2<sup>nd</sup> Subdivision, Boone County, Iowa, to facilitate the development and construction of a new production facility for PowerFilm, Inc.

Furthermore, we would request that this matter be referred to the City of Ames Planning Department for immediate review and recommendation. Your attention to this matter is greatly appreciated.

Yours very truly,



Larry R. Curtis  
Attorney for PowerFilm, Inc.

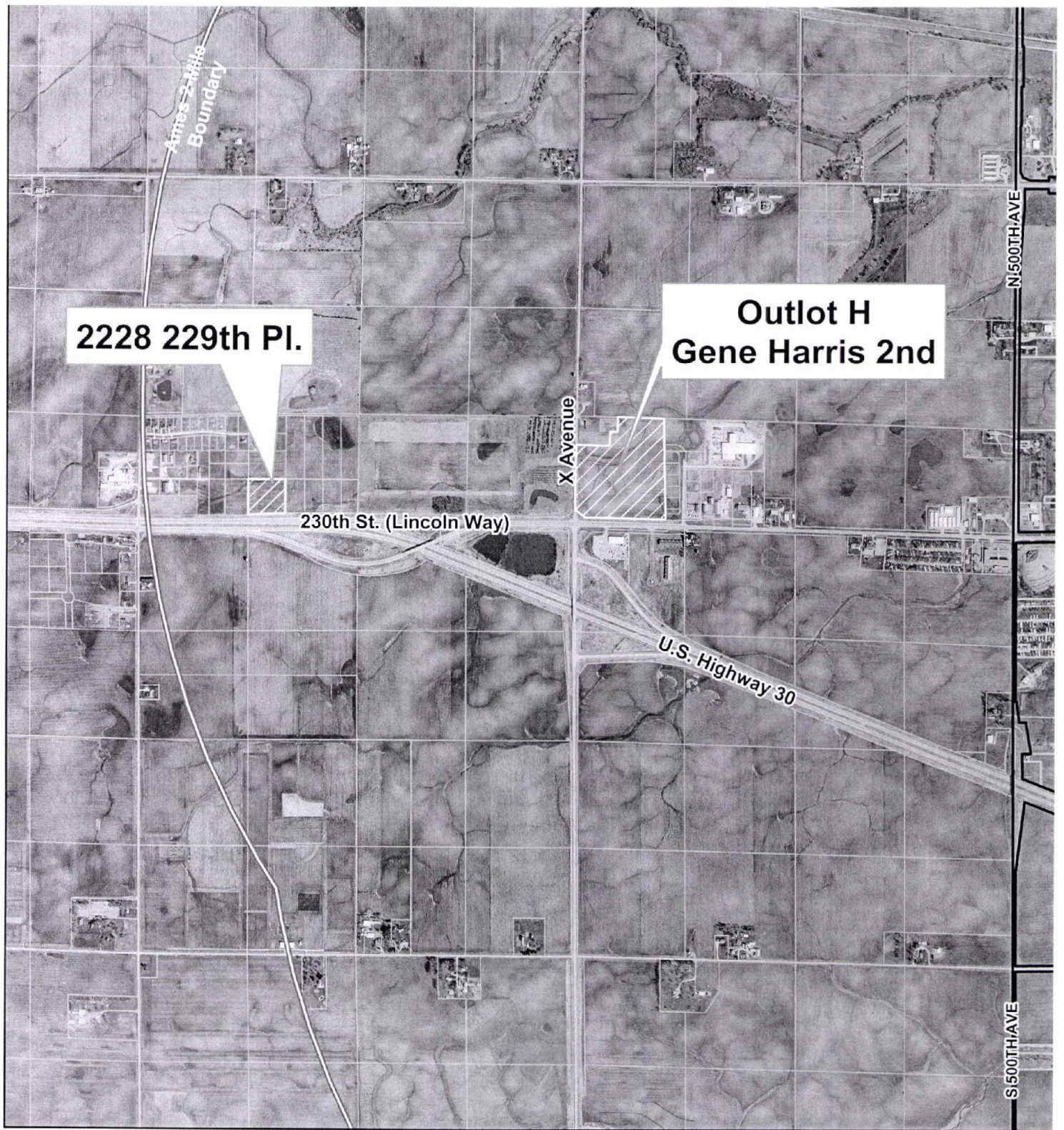
LRC:plo

cc: Frank Jeffrey, CEO, PowerFilm, Inc.  
Mike Coon, CFO, PowerFilm, Inc.  
Steve Shinker, Ames City Manager  
Doug Marek, Ames City Attorney  
Jesse Tibodeaux, HWS (233 S. Walnut Ave., Ste, D, Ames, IA 50010)





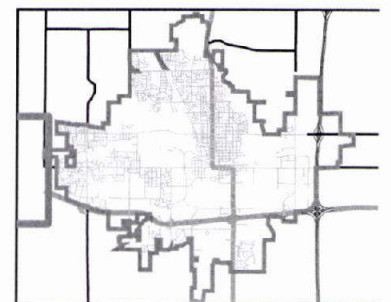




## Location Map Boone County Subdivisions



0 875 1,750 3,500  
Feet









## **Ames Urban Fringe Plan Policies**

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## SECTION 15: C-1 COMMERCIAL DISTRICT

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Statement of Intent. The C-1 District is intended and designed to provide for the normal commercial uses required to serve families living in the various areas of the County, located so as to be easily accessible within minimum distances of homes which can economically support such uses. The establishments allowed cater to the day-to-day needs of the families residing nearby. This district will normally be used for new, small or existing commercial uses where the planned district is not appropriate.

#### A. Principal Permitted Uses.

Only the use of structures or land listed in this section shall be allowed in the C-1 District.

1. Agricultural uses.
2. Retail business, service establishments, recreational uses such as the following:

- Antique shops.
- Art shops.
- Book, flower and gift shops.
- Confectionery stores, dairy stores, including ice cream or snack bars.
- Grocery stores.
- Coin operated laundromats and dry cleaning establishments.
- Restaurants and Taverns.
- Dance academy, fitness club, health club, exercise club, and the like.
- Animal hospitals, veterinary clinics.
- Automobile, mobile home, motorcycle, snowmobile, boat and farm implement establishments for display, hire, rental, and sales (including sales lots); including as incidental to these major uses all repair work in connection with company or customer vehicles.
- Automobile accessory stores.
- Bowling alleys.
- Carwashes.
- Commercial swimming pools, skating rinks, golf driving ranges, miniature golf courses, and similar recreational uses and facilities.
- Gas stations and garages for general motor vehicle repair including body and fender work, but not including automobile, tractor, or machinery wrecking and used parts yards.
- Motels.
- Lumber yards.
- Monument sales yards.
- Restaurants, (including drive-in restaurants, taverns, bars, and nightclubs).
- Theaters, including drive-in theaters.
- Nurseries and greenhouses.
- Broadcasting and telecasting stations, studios, and offices.



## SECTION 15: C-1 COMMERCIAL DISTRICT

3. General offices, such as dental or other medical services, financial counseling, etc.
4. Insurance corporations.
5. Corporate headquarters.
6. Laboratories.
7. Research facilities.
8. Professional offices.
9. Private health clubs.
10. Child Day Care Facilities.
11. Retail sales and services, especially smaller shops catering to office users, such as restaurants and gift shops.
12. Banks and similar financial institutions.
13. Barber and beauty shops.
14. Veterinary clinics.
15. Residences located above the ground floor.
16. Health clinics and similar health facilities.
17. Any other use which is deemed by the Zoning Administrator to be a use similar to one of the above-named uses and in conformance with the intent of this District.

### **B. Permitted Accessory Uses.**

Uses of land or structures customarily incidental and subordinate to one of the allowed principal uses, unless otherwise excluded. Residences, provided they are clearly subordinate to the primary use allowed by right.

### **C. Bulk Regulations.**

See Section 9:(Table 9-1).

### **D. Off-Street Parking and Loading.**

Spaces for off-street parking and loading shall be provided in accordance with Section 25: and Section 26:.

**Section 4.11 I-1 Industrial District**

4.11.01 **Intent:** This zoning district is intended to provide for commercial and industrial land uses to provide for labor intensive establishments in rural areas that require railroad or highway accessibility.

Adult Businesses are regulated in order to control the Secondary effects associated with such uses and is not intended to prohibit these uses from exercising their rights under the U.S. Constitution.

4.11.02 **Permitted Principal Uses:**

Uses within this section of the Ordinance are permitted and allowed to exist upon the approval of a zoning permit from the County.

1. Auction, and animal sales yard.
2. Wholesale trade, storage, and warehousing.
3. Building materials, hardware, and garden supply.
4. Farm supplies, feed, equipment, and machinery sales.
5. Railroads and public thoroughfares.
6. Carpenter and cabinet shops
7. Clothes dry cleaning and/or dyeing establishments, including those using flammable cleaning fluids with a flash point higher than 100° F.
8. Building construction, general contractors and builders operations.
9. Non-building construction, general contractors and special trade construction contractors.
10. Railroad, trucking, air, water transportation, freight terminals and warehousing facilities.
11. Lumber and wood products.
12. Printing, publishing, and allied products.
13. Electric, gas, water, and sanitary services.
14. Agricultural products and grain elevators.
15. Storage and sale of liquid or solid fertilizers.
16. Welding and other metal working shops.
17. Carpet and rug cleaning, provided the necessary equipment is installed and operated for the effective precipitation or recovery of dust.
18. Bakeries, other than those whose products are sold at retail on the premises.
19. Carting, express, hauling or storage yards.
20. Concrete mixing and concrete products.
21. Creamery, dairy, bottling works, ice cream manufacturing (wholesale). Ice cream manufacturing and cold storage plants.
22. Enameling or lacquering.
23. Flammable liquids, underground storage only, not to exceed 50,000 gallons or 25,000 gallons if located within 200 feet of any residential use or district.
24. Laboratories – experimental, film, or testing.
25. Machine shops.
26. Manufacturing of personal and household goods, including but not limited to:
  - a. musical instruments,
  - b. novelties,
  - c. electrical appliances,
  - d. electronic devices,
27. Manufacturing of pottery and/or ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.
28. Manufacturing and repair of electric signs and advertising structures.
29. Manufacturing of sheet metal products including heating and ventilating equipment.
30. Manufacturing of wood products, not involving chemical treatment, including sawmills and planing mills.
31. Manufacturing, compounding, processing, packaging or treatment of cosmetics, pharmaceuticals.
32. Manufacturing of meat, food, and kindred products.
33. Manufacturing of textile mill products.
34. Manufacturing of apparel and other products of fabrics, leather, and similar materials.
35. Furniture and fixtures products.
36. Manufacturing of paper and allied products.
37. Manufacturing of chemicals and allied products.
38. Manufacturing of petroleum and related products.



4.11.03 **Conditional Uses:**

The following uses are allowed only when Emmet County has determined that all the conditions for said use have been met and/or that the uses present no threat to the health, safety and general welfare of the general public and/or the natural environment.

1. Communications and television services and towers, See Section 6.07
2. Manufacturing of rubber and miscellaneous plastic products.
3. Manufacturing of metal products.
4. Manufacturing of stone, clay, cement, and glass products.
5. Auto wrecking, salvage, or junk yards provided:
  - A. Facilities are enclosed and located at least 150 feet from county roads and 500 feet from state or federally designated highways.
  - B. Said operation shall be located no closer than 2,500 feet from any residential use.
  - C. Facility shall be enclosed with a solid fence not less than six feet in height and no more than 10 feet tall.
  - D. Materials stored within the facility shall not be allowed to be stacked higher than the fencing.
  - E. Facilities shall comply with all Federal and State regulations and permits prior to commencing operations.
  - F. In no case shall hazardous materials be stored on the premises except for motor oil and gasoline, and other approved materials necessary to operate the facilities machinery.
  - G. Any violation of these conditions, additional conditions placed upon a facility, and/or the violation any Federal and/or State regulations may cause this permit to be invalidated and the operation to be closed.
  - H. Upon permanent closure of a facility, for any reason, commencement of clean up and mitigation of all hazardous conditions shall begin and continue until the site has been declared complete by the County, State, and/or Federal authorities.
6. Reconstruction and expansion of nonconforming residences; when possible reconstructed structures shall meet new setbacks.
7. Manufacturing of photographic and optical products.
8. Animal rendering and hide curing.
9. Adult Entertainment establishments.
  - A. No Adult business shall be closer than 1,000 feet to any similar use and no closer than 1,000 feet to a residential district / use, religious uses, educational uses and recreational uses. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult business to the point on the property line of such other adult business, residential district / use, religious use, educational uses and recreational use.
  - B. Said businesses shall be screened along adjoining property lines as to prevent any direct visual contact of the adult business at the perimeter.
  - C. Doors, curtains and any other means of obstruction to the opening of all booths and other preview areas, including but not limited to Adult Novelty Businesses, Adult Motion Picture Arcades, Adult Mini-Motion Picture Theaters, and Adult Motion Picture Theaters shall be removed and kept off at all times during the execution of this Permit. Failure to comply with this condition shall result in revocation of the Conditional Use Permit.
  - D. No adult business shall be open for business between the hours of twelve midnight and six a.m.
  - E. The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety, and general welfare of persons residing or working in adjoining or surrounding property,
  - F. Such use shall not impair an adequate supply of light and air to surrounding property,
  - G. Such use shall not unduly increase congestion in the streets or public danger of fire and safety,
  - H. Such use shall not diminish or impair established property values in adjoining or surrounding property,
  - I. Such use shall be in accord with the intent, purpose and spirit of this Ordinance and the Comprehensive Development Plan of Emmet County,
  - J. Applications for adult businesses under the terms of this Section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a site plan defining the areas to be developed for buildings and structure, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls, the location and type of landscaping, the location,



size and number of signs and the manner of providing water supply and sewage treatment facilities.

- K. An adult business shall post a sign at the entrance of the premises which shall state the nature of the business and shall state that no one under the age of 18 years of age is allowed on the premises. This Section shall not be construed to prohibit the owner from establishing an older age limitation for coming on the premises.
- L. Prohibited Activities of Adult Businesses:
- i. No adult business shall employ any person under 18 years of age
  - ii. No adult business shall furnish any merchandise or services to any person who is under 18 years of age
  - iii. No adult business shall be conducted in any manner that permits the observation of any model or any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult use. No operator of an adult business or any officer, associate, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct in or about the premises which is prohibited by this Ordinance or any other laws of the State.
  - iv. No part of the interior of the adult business shall be visible from the pedestrian sidewalk, walkway, street, or other public or semi-public area.

#### 4.11.04 *Accessory Uses:*

The following accessory buildings and uses are permitted in this District.

1. Buildings and uses customarily incidental to the permitted principal uses.
2. Temporary buildings and uses incidental to construction work, or those necessary in the event of any emergency as determined by the Board, either of which shall be removed upon the completion or abandonment of the construction work or emergency condition.
3. Private recreational facilities used in conjunction with the permitted use.
4. Parking pursuant to Article 6.
5. Signs pursuant to Article 6.

#### 4.11.05 *Height and Lot Requirements:*

The height and minimum lot requirements shall be as follows:

Use	Lot Area (acres or sq.ft.)	Lot Width (feet)	Front Yard* (feet)	Side Yard* (feet)	Rear Yard* (feet)	Max. Height (feet)
Permitted Uses (with private well and private septic)	3 acres	200	40	0**	10***	45
Permitted Uses (with public water and/or public sewer)	10,000 sq.ft.	60	40	0**	10***	45
Permitted Conditional Uses	3 acres	200	40	0**	10***	45
Accessory Uses	-	-	40	0**	10***	45

\* See 4.10.06 Subsection 1 below.

\*\* Side Yard setback is 0 feet unless adjacent to a Residential District, then the setback shall be a minimum of 25 feet.

\*\*\* The Rear Yard setback shall be a minimum 10 feet unless adjacent to a Residential District, then the setback shall be a minimum of 40 feet.

#### 4.11.06 *Other Applicable Provisions:*

1. No new building shall be hereafter erected or any existing building structurally altered with any portion of said building nearer than 100 feet to the right-of-way line of an U. S. or State designated highway and a County road and/or highway.
2. When the side or rear yard abuts a residential use or district, the outside boundaries shall be screened with approved landscape plant materials, walls, or fencing.
3. Environmental performance standards: Any use under the provisions of this Section shall comply with environmental performance standards relating to noise, emission, dust, odor, glare, and heat. These performance standards are located in Section 4.10.07.
4. In no case shall a structure be constructed in the direct drainage area of a detention or retention structure unless approved by the NRCS.
5. When two lots are established immediately adjacent to one another, the two lots may be required to be served by a single driveway or one access point onto any County Road as approved by the County Engineer, or along any State and/or Federal Road as approved by the Iowa Department of Transportation. Said access road shall be through a common easement of at least fifty feet in



width. Exception to this provision is when said lots are fronting upon a dedicated road/street as part of a subdivision.

6. No structure occupied by humans or animals shall be constructed within 400 yards of any public use area.

#### 4.11.07 *Performance Standards:*

1. **Physical Appearance:** All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles for sale or the storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition.
2. **Fire hazard:** No operation shall involve the use of highly flammable gasses, acid, liquids, grinding processes, or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels and welding gases when handled in accordance with other regulations of local, state, and federal authorities.
3. **Noise:** No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. Noise shall be measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges.
4. **Sewage and Liquid Wastes:** No operation shall be carried on which involves the discharge into a sewer, water course, or the ground, liquid waste of any radioactive or poisonous nature or chemical waste which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.
5. **Air Contaminants:**
  - A. Air Contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one four minute period in each one-half hour. Light colored contaminants of such opacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted.
  - B. Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths (0.2) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit, except for a period of four minutes in any one-half hour, at which time it may equal but not exceed six tenths (0.6) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit.
  - C. Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section, there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public in general; or to endanger the comfort, repose, health, or safety of any such considerable number of persons or to the public in general, or to cause, or have a natural tendency to cause injury or damage to business, vegetation, or property.
6. **Odor:** The emission of odors that are generally agreed to be obnoxious to any considerable numbers of persons, shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this Ordinance.
7. **Gases:** The gases sulphur dioxide and hydrogen sulphide shall not exceed five parts per million, carbon monoxide shall not exceed five parts per million. All measurements shall be taken at the zoning lot line.
8. **Vibration:** All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three thousandths (0.003) of an inch measured at the zoning lot line. The use of steam or broad hammers shall not be permitted in this zone.
9. **Glare and heat:** All glare, such as welding arcs and open furnaces shall be shielded so that they shall not be visible from the zoning lot line. No heat from furnaces or processing equipment shall be sensed at the zoning lot line to the extent of raising the temperature of air or materials more than five degrees Fahrenheit.

## Applicable Law

Chapter 354 of the Code of Iowa includes provisions for the division and subdivision of land. Section 354.9 addresses the "Review of subdivision plats within two miles of a city." Subsection two (2) includes the following provision:

Section 354.9(2). "...Either the city or county may, by resolution, waive its right to review the subdivision or waive the requirements of any of its standards, or conditions for approval of subdivisions, and certify the resolution which shall be recorded with the plat."

### Provision on criteria for review

Chapter 23 of the Municipal Code includes provisions for the subdivision of land in Ames and within two (2) miles of the corporate limits. Section 23.103 addresses "Waiver/Modification." Subsection (1) reads as follows:

Section 23.103 (1). "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."



CAF APPROVAL

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DM Cur JP \_\_\_\_\_

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