

ITEM #: 22
DATE: 01/22/08

COUNCIL ACTION FORM

SUBJECT: WAIVER OF CITY SUBDIVISION STANDARDS FOR RURAL PROPERTY IN BOONE COUNTY: LOT 4 WESTWOODS PLAT 2 AT 2228 229TH PLACE

BACKGROUND:

The City Council referred to staff a request to waive City subdivision standards for property in Boone County on the north side of 230th Street (Lincoln Way) on 229th Place. 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 involves land owned by S & K Properties LC. The proposal involves a property with one building, 4.27 acres in size, which the applicant proposes to subdivide into two parcels, to allow for another building for commercial uses. Access and frontage on public right-of-way is provided for both properties. City staff has determined that since the property does not contain public infrastructure, a Major Subdivision would be required.

Along 230th 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 230th 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 230th 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.

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 Lot 4 Westwoods Plat 2 at 2228 229th Place, 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 Lot 4 Westwoods Plat 2 at 2228 229th Place, without stipulations.
3. The City Council can deny the request for a waiver of its subdivision regulations for the installation of public improvements for Lot 4 Westwoods Plat 2 at 2228 229th Place, 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.

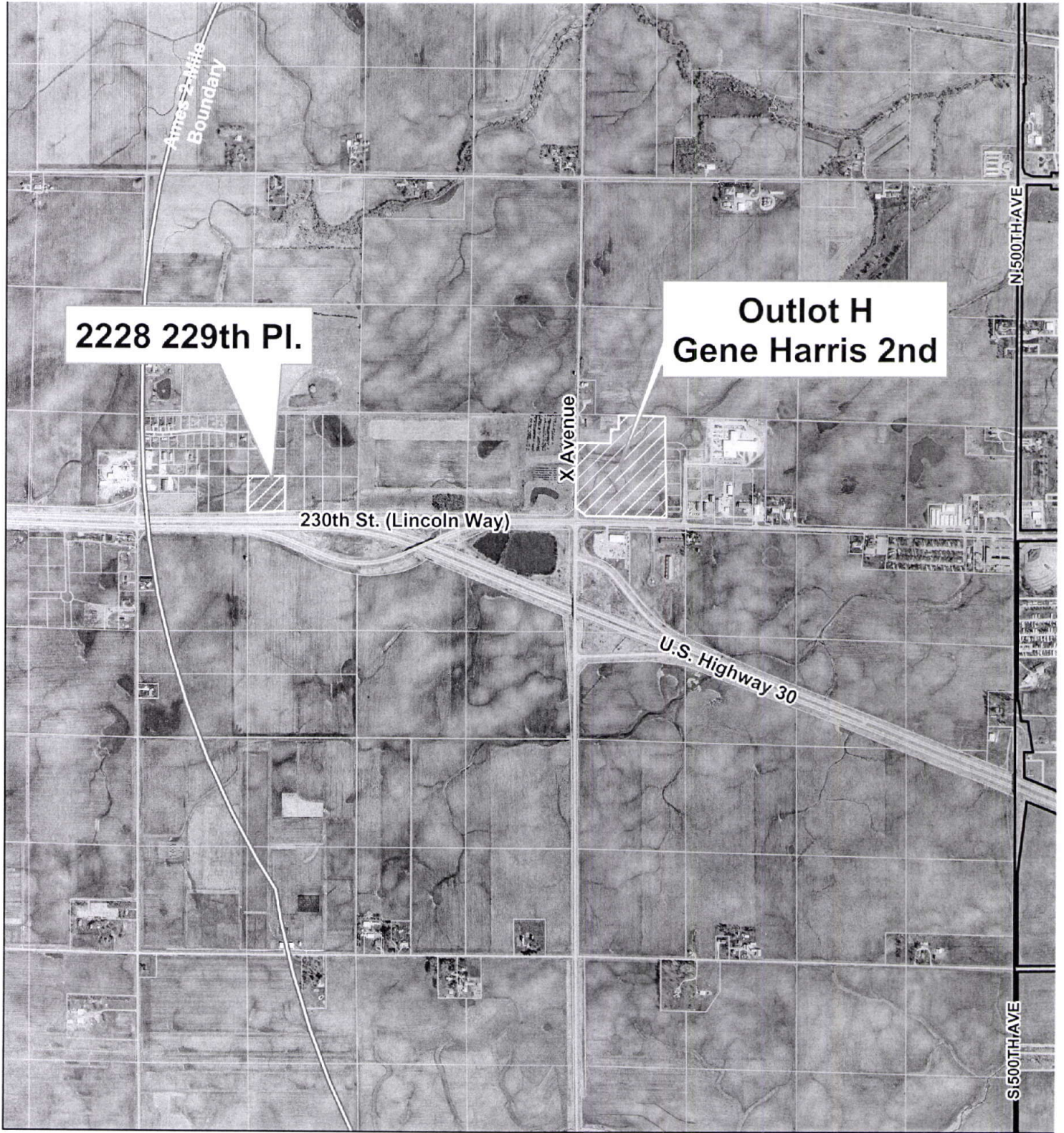
MANAGER'S RECOMMENDED ACTION:

In the past, the City has reviewed subdivisions in Boone County on a case-by-case basis, citing the ongoing planning in cooperation with Boone County as the best way to develop more consistent policy. Although that planning is not yet completed, it has yielded a comprehensive land use proposal for this part of our urban fringe. It 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, and the main traffic access is the main east-west traffic artery into Ames. Clearly, the City needs to study the impacts of this proposed area-wide land use and work with Boone County to manage any impacts on our community.**

In the meantime, Boone County property owners such as this one 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, it is the recommendation of the City Manager

that the City Council approve Alternative #1. This action will approve a resolution waiving the City's subdivision regulations for the installation of public improvements for Lot 4 Westwoods Plat 2 at 2228 229th Place, 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.

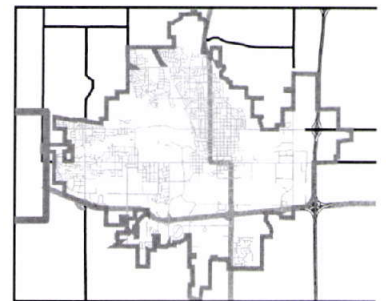
In addition, the City Council should also direct staff to place a high priority on analyzing the impacts of the current Boone County Comprehensive Plan on the City. The City Council could consider delaying action on future subdivision requests in Boone County until the City understands and is prepared to manage these impacts on an area-wide basis.



Location Map Boone County Subdivisions

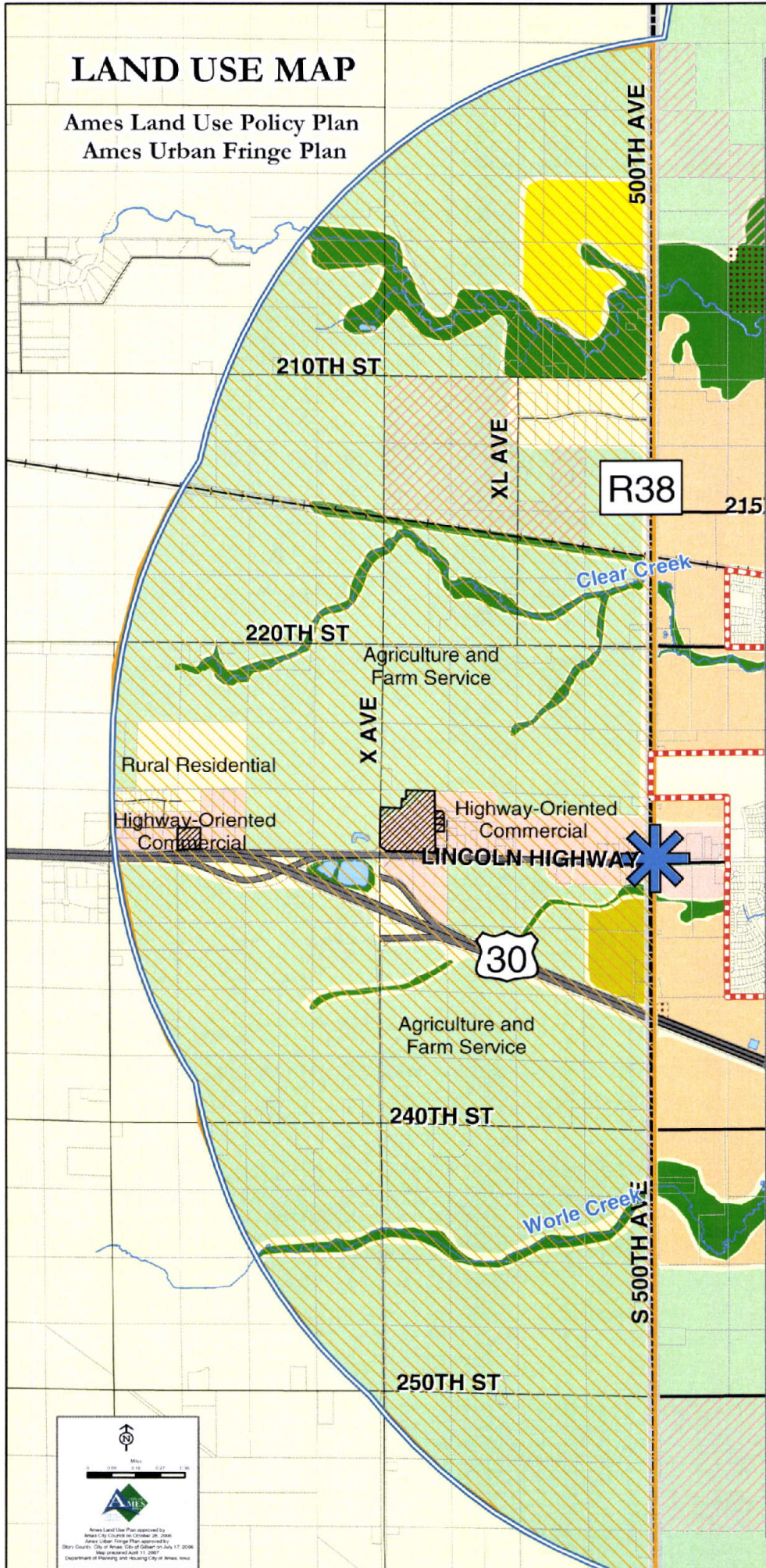


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Feet



LAND USE MAP

Ames Land Use Policy Plan
Ames Urban Fringe Plan



LEGEND

Ames Urban Fringe Designations (outside Ames City Boundary)

Rural Service and Agricultural Conservation Area

- Agriculture and Farm Service
- Rural Residential
- Parks and Recreation Areas

Urban Service Area

- Urban Residential
- Planned Industrial
- Community Commercial Node
- Convenience Commercial Node

Rural Urban Transition Area

- Rural Transitional Residential
- Priority Transitional Residential
- Highway-Oriented Commercial
- General Industrial
- Industrial Reserve/Research Park
- Agricultural/Subsurface Mining
- Agricultural/Long-term Industrial Reserve
- Gateway Protection Area
- Watershed Protection Area
- Airport Protection Area
- Natural Areas

Ames City Boundary

- Ames 2 Miles Limit and Urban Fringe Boundary
- Iowa State University Property
- Government Owned land

Boone County Future Land Use

- Ames Urban Fringe Area located in Boone County. Future Land Use to be determined following completion of Boone County's Comprehensive Plan Update and discussion with other governments.

Story County Study Area

- Ames Urban Fringe Area located in 'Story County Study Area'. Future Land Use to be determined following the completion of Story County's study and discussion with other governments.

Ames Land Use Plan approved by Ames City Council on October 20, 2004.
Ames Urban Fringe Plan approved by Boone County Board of Supervisors on July 17, 2006.
Map prepared April 11, 2007.
Department of Planning and Housing City of Ames, Iowa

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)

HOC Policy 7: Make provisions to protect environmental resources, environmentally sensitive areas and adjacent Natural Areas. (Relates to RUTA Goal 3.4)

HOC Policy 8: Mitigate and manage stormwater run-off, soil erosion, and wastewater discharge according to IDNR, county and city standards. (Relates to RUTA Goal 3.4)

HOC Policy 9: Require annexation and development agreements to guide future transition of the subdivision/development into the City of Ames or City of Gilbert. (Relates to RUTA Goal 3.2)

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.

