

ITEM # 14
DATE 12/09/08

COUNCIL ACTION FORM

SUBJECT: WAIVER OF CITY SUBDIVISION REGULATIONS FOR RURAL PROPERTY IN STORY COUNTY AT 3634 WEST 190TH STREET

BACKGROUND:

An Ames family intends to subdivide property at 3634 West 190th Street, located in the unincorporated area northwest of Ames generally on the east side of the Squaw Creek valley. The property is one mile from the Ames city limits, which is well within the two mile Extra-Territorial Subdivision Jurisdiction (see sketch plan attached). The property is north and east of the Squaw Valley Subdivision, as well as west of the Ames Golf and Country Club.

The family's purpose is to sell an existing home and maintain ownership of the crop land. The county zoning for the cropland is A-1, which requires that the lot be a minimum of 35 acres before a home can be built. The county zoning for the two lots that will be created is R-1, which allows single-family residential homes. One lot already contains an existing single family home.

On September 9, 2008, the applicant requested that the City Council waive the City's subdivision public improvement requirements as described in Article IV of Chapter 23 of the Ames Municipal Code (see letter attached). The applicant also requested waiver of the Preliminary Plat requirement. On October 14, 2008, the City Council referred this request to staff.

Ames Municipal Code Section 23.103 provides for the City Council waiving subdivision requirements when those requirements would result in an extraordinary hardship to the applicant or due to conditions that would be inconsistent with the purpose of the subdivision regulations. However, the waiver of the requirements may not nullify the intent and purpose of the regulations and the scope of the waiver may not be more than is needed eliminate the hardship or is needed to meet the purpose of the regulations. Also, Section 23.103 allows the City Council to impose conditions on any waiver in order to make sure that the objectives of the regulations are being carried out.

Section 23.102(1) describes the purposes of the City's subdivision regulations in summary as follows:

- To provide accurate, clear and concise legal descriptions of real estate.
- To provide balance between the rights of the landowner and the economic, social and environmental concerns of the public.
- To encourage orderly development of the city, extension of public improvements, services, utilities, land improvement, and subdivision design consistent with the City's land use plans and other plans.

The City's land use policy for the subject area is stated in the Ames Urban Fringe Plan (AUF), which designates the use for the subject property as Rural Transitional Residential (RTR) (see included excerpt of the Ames Urban Fringe Plan Land Use Framework map). This designation is part of the Rural/Urban Transition Area class of land uses, which is expected to act as a buffer between dense urban development and intense agricultural land uses common in the region. Generally, this Rural Transitional Residential land use designation provides for single- or two-family residences at one unit per acre or higher density, with rural services and decentralized systems. The Plan states that a goal for this area is to prepare non-agricultural development for efficient rural-to-urban transition (RUTA Goal 3.2), either at such time that the city becomes contiguous or to meet the market demand for larger lot residences outside the city (paragraph 3 under RUTA land use class). The Plan states that urban infrastructure may not be in place for a time period beyond the Ames Urban Fringe Plan time horizon; therefore, the infrastructure policy for this designation is on a case-by-case basis depending on the location, density, timing, development design, clustering of proposed sites or other considerations. If the City does not require urban infrastructure at the time of the subdivision, assessment agreements will be required (RTR Policy 4).

Current subdivision regulations require subdivisions to be served by sanitary sewer and water systems according to City plans and specifications. When no City sewer collection system and water system are available at a development site, the developer must extend these (Ames Municipal Code Section 23.404 and 23.405). Current City policy and practice is to not extend connections between the City's utilities and land outside the city.

The nearest existing City sanitary sewer collection system and water system are about a mile to the southeast where George Washington Carver Avenue is adjacent to the northwest corner of Northridge Heights Subdivision. However, the property is currently served with rural water (Xenia). It can be concluded that these conditions present an extraordinary hardship to the applicants for subdividing the subject property. To meet City subdivision standards for public improvements in creating four lots, the applicants would need to extend City sanitary sewer and water mains at least a mile, would need to provide streets, storm sewers, sidewalks, and other public improvements to City standards, and would need to annex the property into the City. The City land use plan does not support annexation in this area prior to the Southwest Growth Priority Area, but it does support rural transitional residential development, in some cases without City services or improvements to City standards. The applicant proposes only one new buildable lot; therefore, an extension of services seems unreasonable at this time. **The new buildable lot is proposed only because of the AUF Plan net density requirement of this area.** The remaining 35 acres is being designated as an Outlot, because **the intent of the applicant is to continue agricultural production.** However, due to the County not having a definition for Outlot, City staff is recommending a note on the plat which will state that the Outlot is reserved for agricultural uses only, or for future re-platting. This restriction against the construction of a home will accomplish the purpose of the AUF Plan for this area, which is to prepare land for a smooth transition to urban development. This is important because the County's zoning designation of A-1 would allow the construction of one home, since the Outlot is over 35 acres.

The impossible situation of infrastructure requirements for the applicant does not provide for a balance between property owner rights and the public interest, is inconsistent with the City's land use policy, and thus is in conflict with the purpose of the subdivision regulations.

Furthermore, City subdivision standards for a Major Subdivision require a topographic survey of the entire property and preparation and public hearings by the City Planning and Zoning Commission and City Council of a Preliminary Plat, as well as City Council review of a Final Plat. However, if the requirement for public improvements is waived, requiring this City Major Subdivision review process serves no purpose that cannot be served by a Minor Subdivision Final Plat.

In several similar cases, the City Council has asked for covenants binding property owners and future property owners to waive rights to protest future assessments for public improvements, waive rights to protest future annexation, and also binding current and future property owners to pay the full cost of abandoning rural water systems in the future. The trustee of record for the family signed the covenants following the form provided by the City of Ames.

ALTERNATIVES:

1. The City Council may approve the waiver of public improvement requirements as described in Article IV of Chapter 23 of the Ames Municipal Code and the Major Subdivision requirement of Ames Municipal Code Section 23.301(5)(d) for the proposed subdivision of the property at 3634 West 190th Street subject to the following note being placed on the plat:

- "Outlot A is reserved for agricultural use only, or for future platting"

and also subject to the signed covenants submitted by the applicant that is binding on future property owners, including:

- a. an agreement waiving their rights to object to future assessments for public improvements,
- b. an agreement that they are responsible for the costs associated with buying out the rural water and sewer systems at the time of any future annexation, and
- c. an agreement to annex the property to the City of Ames in the future under certain circumstances.

2. The City Council may approve the waiver of public improvement requirements as described in Article IV of Chapter 23 of the Ames Municipal Code and the Major Subdivision requirement of Ames Municipal Code Section 23.301(5)(d) for the proposed subdivision of the property at 3634 West 190th Street, without conditions.

3. The City Council may deny the waiver of public improvement requirements and the Major Subdivision requirement for the proposed subdivision of the property at 3634 West 190th Street.

4. The City Council may refer the waiver request to City staff for further information.

MANAGER'S RECOMMENDED ACTION:

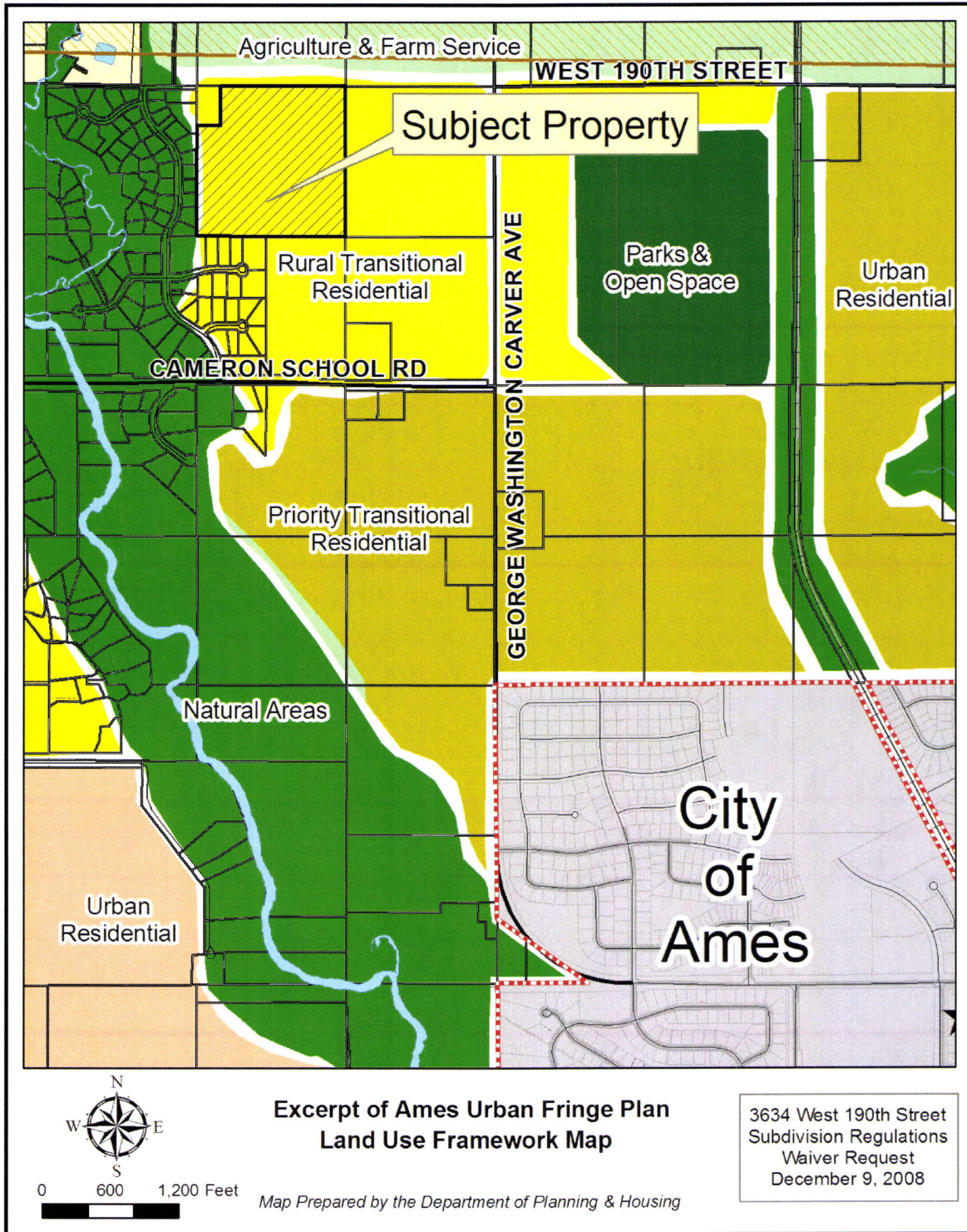
Requiring public improvements to meet City standards for subdividing the subject property when only one new buildable lot is created is not consistent with the City's land use policy at this time, for this area along West 190th Street. Requiring public improvements and a Major Subdivision meeting City standards would be an extraordinary hardship to the applicant, and would be inconsistent with the purpose of the subdivision regulations. It would accomplish no purpose that cannot be accomplished without these requirements. The covenants that the City Council has required in the past would promote orderly development of the city and future extension of public improvements, services, and utilities if current policies and plans change, or if the current and future owners wish to change plans and subdivide the cropland into buildable lots.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, thereby approving the waiver of public improvement requirements as described in Article IV of Chapter 23 of the Ames Municipal Code and the Major Subdivision requirement of Ames Municipal Code Section 23.301(5)(d) for the proposed subdivision of the property at 3634 West 190th Street, subject to the following note being placed on the plat:

- "Outlot A is reserved for agricultural uses only, or for future platting"

and also subject to the signed covenants submitted by the applicant that are binding on future property owners, including:

- a. an agreement waiving their rights to object to future assessments for public improvements,
- b. an agreement that they are responsible for the costs associated with buying out the rural water and sewer systems at the time of any future annexation, and
- c. an agreement to annex the property to the City of Ames in the future under certain circumstances.



0 600 1,200 Feet

**Excerpt of Ames Urban Fringe Plan
Land Use Framework Map**

Map Prepared by the Department of Planning & Housing

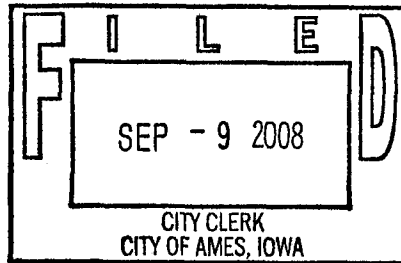
3634 West 190th Street
Subdivision Regulations
Waiver Request
December 9, 2008

STUMBO AND ASSOCIATES LAND SURVEYING
510 S. 17TH ST. / P.O. BOX 1664
AMES, IA 50010
PHONE: (515) 233-3689 FAX: (515) 233-4403

Plots. 9-12-08
copy: Steve O.

September 9, 2008

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



Dear Mayor and Council Members:

On behalf of property owner representative Kristen Mangels I am requesting that the City of Ames grant a waiver of the Major Subdivision Requirements for the property that is shown on the drawing accompanying this letter. The property is located in the Northwest Quarter of the Northeast Quarter of Section 20-84-24 in Story County and is within the two-mile jurisdictional limit of the City of Ames. The property will be serviced by a private septic system and by rural water, gas, telephone and electrical lines located along 190th Street.

To be more specific, I am requesting that the City of Ames grant a waiver of the requirement to install public infrastructure. I am also requesting a waiver or modification of the Major Subdivision requirement of preparing both a Preliminary and Final Plat, allowing our client to follow the Minor Subdivision Final Plat process instead. One of the main differences between a Major Subdivision and a Minor Subdivision is that we will not be required to go to the added expense of gathering topographical information for Outlot A if we are allowed to follow the Minor Subdivision process. The Minor Subdivision process is also more closely aligned with the Story County subdivision requirements for this subdivision, which will expedite the platting process.

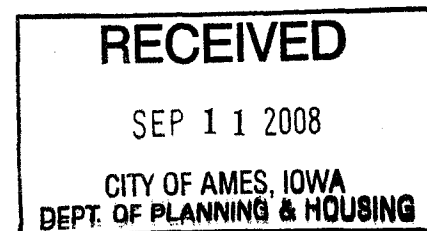
Thank you for your attention to this matter.

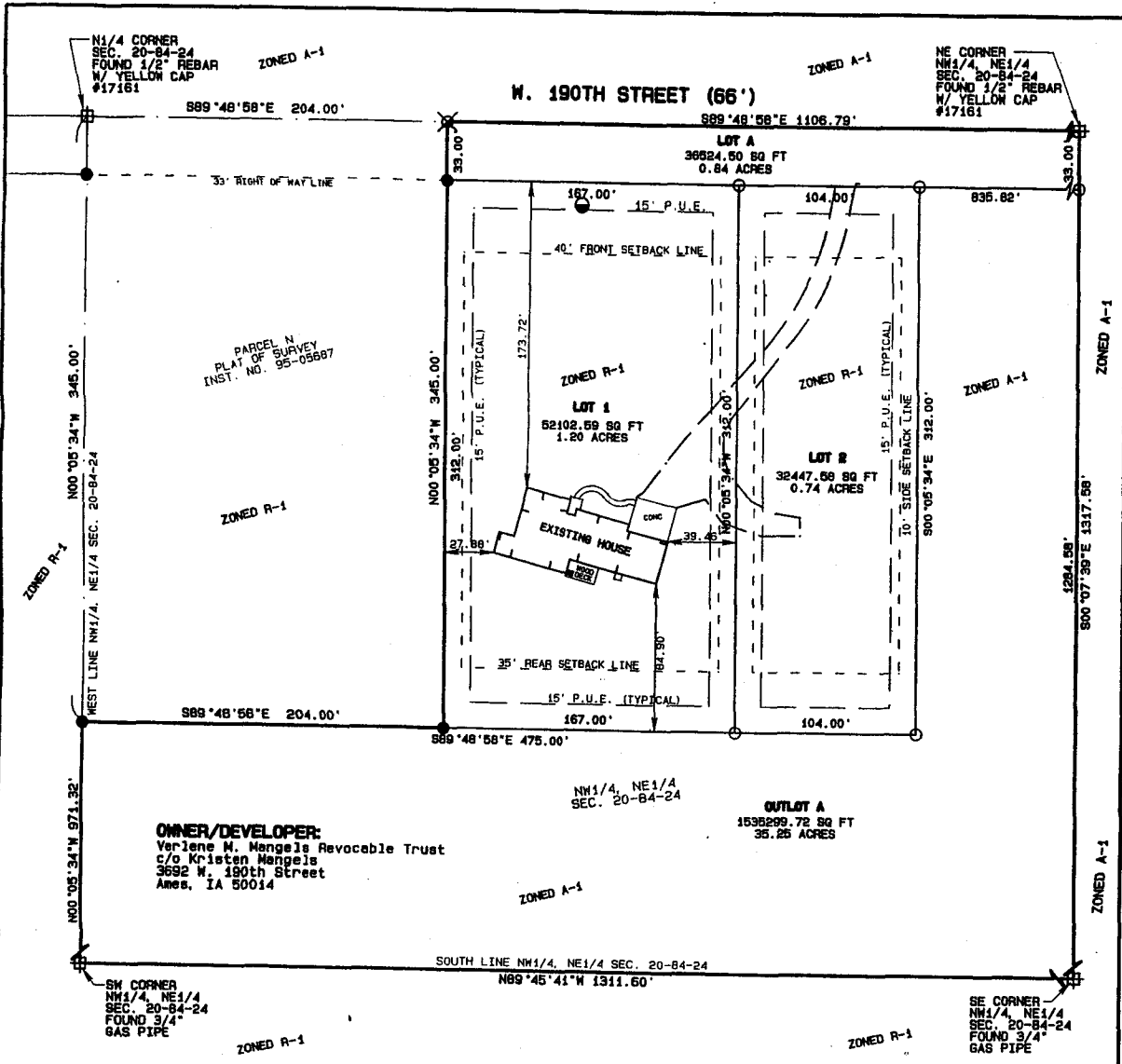
Sincerely,

Brad Larson

Brad Larson

Stumbo and Associates Land Surveying





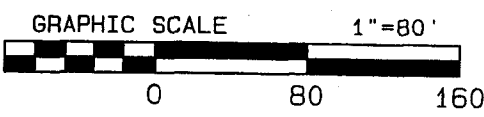
OWNER/DEVELOPER:
 Verlene M. Mergels Revocable Trust
 c/o Kristen Mergels
 3692 W. 190th Street
 Ames, IA 50014

PROPERTY DESCRIPTION OF PROPOSED SUBDIVISION:
 THE NW1/4, NE1/4 OF SECTION 20-84-24, STORY COUNTY, IOWA, EXCEPT PARCEL N.

ZONING:
 LOTS 1 AND 2 ARE ZONED R-1
 OUTLOT A IS ZONED A-1

- NOTES:**
1. THE LANDOWNER DESIRES TO SELL LOTS 1 AND 2 TOGETHER. TWO DEVELOPMENT LOTS WERE CREATED ONLY AT THE REQUEST OF THE CITY OF AMES TO MEET A DENSITY REQUIREMENT.
 2. IF LOTS 1 AND 2 ARE SOLD SEPARATELY, LOT 1 HAS AN EXISTING HOUSE AND THE BUYER OF LOT 2 WOULD BE ABLE TO BUILD A HOUSE.
 3. THE LANDOWNER WILL RETAIN OUTLOT A.

PREPARED BY: BRAD STUMBO 9-09-08
 STUMBO & ASSOCIATES LAND SURVEYING
 P.O. BOX 1664
 AMES, IA 50010
 515-233-3689



VICINITY MAP - NOT TO SCALE

