

**COUNCIL ACTION FORM**

**SUBJECT: PRELIMINARY PLAT FOR ROSE PRAIRIE SUBDIVISION LOCATED AT GRANT AVENUE AND 190<sup>TH</sup> STREET**

**BACKGROUND:**

Rose Prairie is a proposed subdivision of 287 lots for single family residences on gently-rolling terrain one-quarter mile north of Ames on Grant Avenue in Section 21 of Grant Township in Story County, Iowa. It is west of Ada Hayden Heritage Park and east of the Ames Golf and Country Club. (See Location Map attached) The property is 224 acres in size, 217 acres without road rights-of-way.

The project design process involved elements of a conservation design approach. Major drainage channels, floodplains, wet soils, steep slopes, and other conditions least suitable for development were identified. The project design worked around these areas. (See Overall Layout Plan attached) The proposed roads and lots generally follow the contours of the land. Most of the lots back up to areas that are developed with ponds, intermittent drainage ways and impoundments, and native plants. Stormwater runoff from the development is directed to these naturalized areas, which are intended to improve water quality by filtering out sediments and substances that, when concentrated, can be harmful to water bodies downstream. The naturalized open space is expected to be an attractive amenity containing a path system throughout the project. At the southeast portion of the project site, a pond is proposed, which is the final stage of the natural filter system helping to improve the quality of the storm water runoff entering the Ames Ada Hayden Heritage Park and Lake to the east.

The development plan incorporates an existing house, currently the Sturges residence, on a knoll above the future pond. An existing wireless communication tower and an existing equestrian center remain to the north of the project, along the south side of 190<sup>th</sup> Street. Additional pasture land for the horses is provided between the equestrian center and the residences. Outlot P is also in this northwest portion of the site, undeveloped land designated for future two-unit, attached single family homes. To the west of the project is an active railroad right-of-way with the Ames Golf and Country Club beyond. On this west edge, the development will accommodate a multi-use trail that will connect Ames and Gilbert, planned by others independently from this project. The project's trail and walk system connect to this future improvement. The project plan also provides for two future street connections to the south, where agricultural ground separates Rose Prairie from the current city limits, in addition to the three street access points on Grant Avenue and one on 190<sup>th</sup> Street.

Overall, Rose Prairie provides 93 acres of open spaces and 320 single family residential lots on 84 acres, for an overall net density of 3.8 units per acre. This is suburban type residential development at a density similar to Ames neighborhoods. However, with 47 percent of the developed site in open space interspersed among most of the lots, and 20 acres of equestrian facilities and pastures to the north, the development may exhibit some rural characteristics.

## Utilities.

City utility systems extend to the city limits, which is one-quarter mile south of the subject property. A 24-inch sanitary sewer trunk line extends to where Stone Brooke Road meets the south edge of Ada Hayden Heritage Park, one-third to one-half mile from the edge of the subject property (depending on the route). There are eight-inch water mains at the city limits on Hyde Avenue and at several other locations west of Hyde Avenue. As discussed further below, it is the City's current policy not to extend city utility systems beyond the city limits, except to interconnect with other public utility providers.

The subject property is within the service area of Xenia Rural Water Association. Ames City Council approved this service by Resolution No. 96-498 on October 22, 1996.

## Zoning.

The following table describes the current zoning surrounding the subject property. The zoning of most of the surrounding property is under the jurisdiction of Story County. A portion of the area to the east is Ada Hayden Heritage Park, within Ames, with the zoning under the jurisdiction of the City of Ames. (See also the attached Zoning Map)

Area	Zoning Designation	Current Land Use
North	A-1 Agricultural (Story County)	Row crop, equestrian facility, communication tower
South	A-1 Agricultural (Story County)	Row crop
East	A-1 Agricultural, (Story County) S-GA Government/airport (Ames)	Row crop, park, residences
West	A-1 Agricultural (Story County) R-2 Residential (Story County)	Row crop, golf course

The zoning of the subject property is under the jurisdiction of Story County and not the City of Ames. The developer applied to Story County for rezoning from (A-1) Agricultural to R-2 Residential base zoning, with R-C Residential Conservation Design overlay zoning for all of the subject property. The City of Ames provided input to that rezoning process.

Because the County zoning regulations and standards have not yet been modified to implement the *Ames Urban Fringe Plan*, in approving the rezoning Story County included zoning conditions that add requirements consistent with the *Ames Urban Fringe Plan* (Story County Ordinance No. 187). These conditions require the project to follow the concept plan presented at the time of rezoning and also include:

- minimum density
- infrastructure that meets urban standards
- minimum and maximum number of lots
- naturalized green space to control the quality of storm water runoff and
- infrastructure meeting standards set by the City of Ames

The complete list of zoning conditions is attached. Where relevant, this report addresses whether the proposed Preliminary Plat meets these zoning conditions.

Although the Story County Board of Supervisors approved the rezoning request, it delayed official publication of the rezoning ordinance until the preliminary plat of Rose Prairie has been reviewed by the County Planning and Zoning Commission and a recommendation forwarded to the County Board of Supervisors.

## **DEVELOPMENT REVIEW PROCESS**

After Eller Development and Civil Design Advantage first presented the development concept, City staff pointed out the difficulties of reviewing a plat for land uses for which the City and County have not yet adopted standards or regulations. It was agreed that the Rose Prairie project would be approached as an aid to developing those standards and regulations. City and County staff met with the developer several times between August and November 2007.

The developer then presented a new concept plan for the project that included the development of the Sturges property. In December 2007 the developer submitted a Pre-application Sketch Plan. In a letter of December 12, 2007 acknowledging receipt of the Sketch Plan (attached) and in the Sketch Plan letter dated February 7, 2008 (attached), the City Department of Planning and Housing stated that current codes require the subdivision and infrastructure to meet full urban infrastructure standards as identified in the Ames Municipal Code and that issues raised by these requirements for rural development would need to be resolved by the City Council. The February 7, 2008 letter stated the City's determination that the subdivision would be a major subdivision. On April 2, 2008, the Developer submitted a formal Preliminary Plat application. The Ames Municipal Code requires the Preliminary Plat to be reviewed based on the regulations in effect on that date.

A detailed chronology of the development review and approval process to date is attached.

## **LAND USE**

### **Land Use – Applicable Law and Policy**

One of the goals of the City's land use policy is to coordinate growth of the city with the protection of the area's natural resources and rural areas (LUPP Goal 2). To accomplish this, the City seeks to integrate its planning with that of Story County (LUPP Objective 2.E.). Therefore, the City of Ames, the City of Gilbert and Story County have adopted a joint plan that describes the land use policies for the land area within two-miles of the Ames city limits, *Ames Urban Fringe Plan*. This policy is a portion of the City's comprehensive plan, which is the Ames Land Use Policy Plan.

The *Ames Urban Fringe Plan* establishes three broad classes of land use:

- Rural Service and Agricultural Conservation Area with land uses that will remain rural in character, such as agricultural operations, farmsteads, acreages, and rural residential subdivisions.
- Urban Services Area, into which Ames and Gilbert will grow by annexation and where land uses in the meantime will remain rural, reducing impediments to such planned growth.

- Rural/Urban Transition Areas that serve as a transition between rural and urban land uses. Any development will 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*.

The following table identifies the existing land use and *Ames Urban Fringe Plan* (AUF) or Ames Land Use Policy Plan (LUPP) designation of the properties surrounding the subject site. (See also the attached Land Use Map)

Area	Land Use Designation	Current Land Use
North	Agriculture and Farm Service and Story County Study Area (AUF)	Row crop, equestrian facility, communication tower
South	Agriculture and Farm Service (AUF)	Row crop
East	Priority Transitional Residential (AUF) Greenway. Environmentally Sensitive Area (LUPP)	Row crop, park, residences
West	Parks and Recreation (AUF) Priority Transitional Residential (AUF)	Row crop, golf course

### Land Use – Findings

The proposed Rose Prairie project is within an area classified as Rural/Urban Transition Area and carries two more specific land use designations: Priority Transitional Residential (PTR) and Watershed Protection Area (WPA). The Priority Transitional Residential land use designates single-family residential land use with the same net density and other lot characteristics as in suburban areas of the city. The Preliminary Plat is consistent with single-family residential uses and the average net density is above the 3.75 dwelling units/acre called for by the *Ames Urban Fringe Plan's* PTR Policy (see "Project Description" above).

The Watershed Protection Area overlay designation reflects the importance of the watershed of the Ada Hayden Heritage Park and Lake and allows development if it includes facilities and practices to protect its water quality from negative impacts of stormwater runoff. As described in "Project Description" above, the project's stormwater design includes elements of low impact development to control the rate and quality of storm water runoff. For further analysis of this issue, see "Environmental Protection" and "Waste Treatment" below.

The Priority Transitional Residential Policy 4 and 5 require infrastructure that meets both rural and urban standards. In order to accommodate future annexation, infrastructure is to meet City standards. If this infrastructure cannot be used at the time of development, such as sewer lines not connected to City waste water collection systems, then the development may also need to provide rural systems, such as a community waste treatment system. The purpose is to identify all costs associated with development and future annexation and to assign all of these costs to the development at the time of development, thereby protecting City residents from the costs of future annexation. (Ames Land Use Policy Plan Objective 5D and Capital Investment Strategy) For further analysis of these issues, see "Waste Treatment," "Other Public Improvements" and "Infrastructure Impacts" below.

Although Ames, Gilbert, and Story County have adopted the *Ames Urban Fringe Plan*, none has adopted implementing regulations and standards, a process that is on-going. This status has had impact on the zoning of the subject property and on the standards for review of this subdivision plat, as described in this report.

### **Land Use Policy – Conclusions**

**The proposed plat is consistent with the *Ames Urban Fringe Plan* in its land use, density, and overall concept for stormwater management.** However, since the regulations and standards have not been adopted that would fully implement the *Ames Urban Fringe Plan*, it is not possible at this time to find that the development will meet all of the other more detailed land use policies. The City may therefore rely upon standards currently in place, many of which predate adoption of the *Ames Urban Fringe Plan*.

**The *Ames Urban Fringe Plan* identifies development that may be appropriate in a given location long-term, but does not obligate the City to approve any project at any time.** The policies for the Priority Transitional Residential land use anticipate rural residential development only when conditions for development, as required by policies and regulations, can be met. However, if regulations have not been developed and adopted for fully implementing the *Ames Urban Fringe Plan*, or if existing regulations do not support development otherwise anticipated by the *Ames Urban Fringe Plan*, then development may be premature. The remainder of this report addresses these questions.

### **SUBDIVISION REVIEW AUTHORITY**

#### **Subdivision Review Authority– Applicable Law and Policy**

Code of Iowa Chapter 354 allows municipal governments to review subdivision plats within two miles of their city limits. Ames Municipal Code Section 23.102(2)(b) and Section 23.302(2)(b) establish this authority for the City of Ames. When the proposed subdivision lies within overlapping, two-mile extraterritorial review areas established by two cities, under Code of Iowa Chapter 354 Section 9 the city which is closest to the boundary of the subdivision has review authority, unless the two cities have established other geographic boundaries for review.

Code of Iowa Chapter 354 Section 8 requires that the governing body determine whether the subdivision conforms to its comprehensive plan, to consider the possible burden on public improvements and to balance interests between the property owner/developer, future purchasers, and the public interest. Code of Iowa Chapter 354 Sections 8 and 9 state that the city government shall approve the plat if it conforms to the standards and conditions that the city applies to subdivisions within the city, unless the city and county have established other standards and conditions by an intergovernmental agreement. Under Ames Municipal Code Section 23.107, these standards and conditions for review of subdivisions include all other applicable City, county, state and federal statutes or regulations as well as all other City plans, regulations or ordinances, including (but not limited to) Land Use Policy Plan, Transportation Plan and Parks Master Plan. Plats may be disapproved on the basis of the above.

Ames Municipal Code Section 23.302(6)(a) requires the City Council to consider all of these ordinances, policies, standards, and conditions in its review of this plat. It shall also consider the possible burden of the proposed subdivision on public improvements. Section 23.302(6)(b) requires the City Council to make a decision within 30 days of the Planning and Zoning Commission recommendation. This decision may include approving, disapproving or approving with conditions the Preliminary Plat.

### **Subdivision Review Authority – Findings**

The Cities of Ames and Gilbert have established authority for subdivision review within two miles of their respective city limits. Although they, along with Story County, have been working toward into an intergovernmental agreement establishing boundaries for subdivision review in the overlapping areas, Ames and Gilbert have not approved such an agreement. The boundary of the proposed project is one-quarter mile from the Ames city limits and one and one-half mile from the Gilbert city limits.

The City of Ames and Story County also have not yet entered into an intergovernmental agreement establishing subdivision standards specifically for unincorporated areas within two miles of Ames. Thus the only subdivisions standards applicable to the proposed site are those contained in the Ames Municipal Code Chapter 23.

In April 2000 the Stormwater Management Plan: Halletts Quarry Lake Watershed (attached) was completed which included analysis and recommendations regarding water quality.

The Planning and Zoning Commission made its recommendation to the City Council on the Preliminary Plat for Rose Prairie Subdivision on January 21, 2009.

### **Subdivision Review Authority – Conclusions**

**The City of Ames has authority to review and either approve or deny the proposed Preliminary Plat based on the possible burden on public improvements, on its subdivision regulations, on the Ames Land use Policy Plan, and on all other City plans, regulations or ordinances. Story County also has the authority to review and approve or deny the proposed Preliminary Plat. However, it is the subdivision regulations of the City of Ames that apply to this Plat.** The standards for this review by the City include, but are not limited to, the Ames Land Use Policy Plan, the *Ames Urban Fringe Plan*, the Ames Metropolitan Planning Organization Long Range Transportation Plan and the Ames Municipal Code. To facilitate review, the City has also accepted by resolution the Stormwater Management Plan: Halletts Quarry Lake Watershed. The City of Gilbert does not have authority to review this Plat.

The Ames City Council must make a decision on the Preliminary Plat for Rose Prairie Subdivision by February 20, 2009.

## **COMMUNITY GROWTH**

### **Community Growth – Applicable Law and Policy**

The Ames Land Use Policy Plan, along with the *Ames Urban Fringe Plan*, set policies for future development within Ames and beyond its city limits.

Goal No. 1 of the Ames Land Use Policy Plan is to plan for and manage growth within the context of the community's capacity and preferences. Goal No. 2 is to assure the availability of developable land and at the same time to guide the character, location and compatibility of growth with the area's natural resources and rural areas. The objectives under this goal call for limited intensification of existing areas but recognize the need for future annexation and development of new areas.

Guiding Principle 6 of the adopted *Ames Urban Fringe Plan* is to establish growth policy for unincorporated areas within two miles of Ames that allows development in some locations, when it can be made compatible with natural resources and when environmental resources can be protected. Common Goal 1.2 seeks to prevent premature development. Common Goal 1.6 supports protection and preservation of sensitive natural resources, including floodplains, woodland areas, wetlands, and other sensitive natural areas.

### **Community Growth – Findings**

The Ames Land Use Policy Plan accommodates growth through infill development, development at the edges of the community within the city limits, and areas for expansion of the city limits. The current Land Use Map, adopted by City Council on April 22, 2008, establishes expansion areas to the northwest and southwest. Several subsequent studies, the most recent in 2008, have confirmed that these expansion areas provide ample capacity for projected development. The City has also confirmed several times that these northwest and southwest areas are the preferred areas for future suburban development. The proposed development is located outside city limits and also outside the southwest and northwest expansion areas.

The *Ames Urban Fringe Plan* preserves the City's options for future growth beyond the planning horizon for which the Plan identifies future annexation areas. State law prohibits growth by annexation when the area to be annexed would surround and make an island of an unincorporated area. Without the consent of these land owners to annexation, the only ways such an area can be annexed is through an involuntary annexation or an 80/20 voluntary annexation. Both of these annexation methods are more difficult and the outcome less certain than a completely voluntary annexation. An example of such a small group of properties inhibiting future annexation is the Meadow Glen development on State Street south of Ames. This neighborhood is surrounded on three sides by the city limits of Ames. Annexation of one more land parcel would make it an island. To reduce such impediments to future growth by voluntary annexation, the *Ames Urban Fringe Plan* provides for agreements regarding future annexation, which seek to bind current and future land owners to voluntary annexation when the City requests it. There is very little history on the implementation of such agreements and no case law.

## **Community Growth – Conclusions**

**The City seeks to provide adequate land use areas within the city limits and within specified targeted growth areas beyond city limits. The proposed development is not within a targeted growth area, so this development is not supported by the targeted growth priorities of the Land Use Policy Plan.**

## **ENVIRONMENTAL PROTECTION**

### **Environmental Protection – Applicable Law and Policy**

Ames Land Use Policy Plan Objective No. 3B states the need to maintain and enhance the functions and value of the stream corridors in Ames as drainageways and flood management areas, plant and animal habitats, recreational and scenic areas and pathways. Objective No. 3C addresses protecting and conserving water resources and their functions and value, including aquifer and water quality protection, plant and animal life support; water-borne recreation; scenic open space. This objective addresses the value of a long-term/reliable/safe source of water for human consumption and economic/recreational activities.

### **Environmental Protection – Findings**

The subject property is entirely within the watershed that drains into the lake at Ada Hayden Heritage Park. This lake was created as a result of surface mining, known as Halletts Quarry. In 2000, Bonestroo, Rosene Anderlik & Associates completed Stormwater Management Plan: Halletts Quarry Lake Watershed, which analyzed watershed inputs and lake water quality under conditions existing at that time and the potential consequences of future land use changes. The report noted the potential importance of this water body to Ames both as a back-up water supply and a recreational facility. The people of Ames emphasized this importance by approving, with more than an 80% majority, a \$4.9 million general obligation bond issue that resulted in a \$6.8 million project to acquire the 130-acre lake and 400 acres of the watershed and install improvements to protect the quality of its water. The lake and the land surrounding it, now known as Ada Hayden Heritage Park, not only serve as a back-up water supply, but also serve the entire community as a very popular recreational facility. Activities include boating; although gasoline fueled motors are prohibited. While phosphorus may not adversely impact the water for drinking purposes, it could have adverse impacts on the lake as a recreational facility.

The lake drains to the South Skunk River, which flows through the alluvial area in which some of the wells that serve Ames are located. In 2003 the Iowa Department of Natural Resources found that alluvial portions of the aquifer are highly susceptible to contamination because the characteristics of the aquifer and the minimal overlying materials allow contaminants to move through the aquifer fairly quickly. The 2000 study of the lake watershed identified phosphorus content as the most important factor for current and future water quality. It identified surface runoff from the watershed as the major source of phosphorus loading, but stressed that further study is needed on surface-to-groundwater relationships.



Recent research indicates that the levels of nutrients and common pollutants are fairly low, but that phosphorus levels are quite high. Results of recent research by Dr. William Simpkins of Iowa State University indicate that up to 85 percent of the phosphorus in the lake may come from groundwater sources. Groundwater moves very slowly to the lake; it takes from several weeks to several years for groundwater to reach the lake from the area from which the groundwater comes. The sources of the phosphorus in the groundwater are unknown at this time.

*Stormwater Management Plan: Halletts Quarry Lake Watershed* states that urban and suburban land uses typically produce more phosphorus loads in surface runoff than agricultural or open space uses. Higher proportions of impervious cover in urban and suburban areas prevent infiltration, and storm sewer systems quickly remove storm runoff in order to prevent the safety hazards of localized flooding. This runoff from pavements carries with it sediment, salts, oils, and other pollutants. The Plan states that other urban and suburban activities also contribute to phosphorus loading through runoff, including maintenance of lawns, gardens and open space; operation of vehicles; construction and pet activities.

Some septic systems used to treat waste water in rural development also contribute to phosphorus in both surface and ground water. The proposed waste treatment at Rose Prairie is addressed below.

The project plan proposes various physical improvements, such as surface water courses, detention basins, constructed wetlands and areas of native vegetation, intended to reduce these impacts of urban and suburban development. These improvements, which can be termed "green infrastructure" and their locations, follow the recommendations of the *Stormwater Management Plan: Halletts Quarry Lake Watershed*. These systems promote settling of sediments that carry nutrients and pollutants and provide habitat for organisms that absorb them.

However, the effectiveness of these systems at preventing downstream pollution varies depending on the substance being considered. Recent research indicates that the amount of phosphorus in Ada Hayden Lake has not changed very much since 2001. We do not know at this time to what degree the phosphorus that is captured by green infrastructure infiltrates into the groundwater and reaches the lake by that route.

Story County required this green infrastructure as a condition of the residential zoning for this site (see "Zoning" above). These conditions also require a detailed management plan for the community open space and a maintenance and legal framework for carrying it out. The developer has verbally stated he will install this green infrastructure and that he will be involved with the project long enough to get the natural landscape established. The developer has stated his intent to form a homeowners association that will require the alternative maintenance practices and reduce the residents' use of phosphorus. The developer will further initiate a homeowner education program to raise awareness and promote patience in establishing this non-traditional approach.

The City of Ames does not have any regulatory authority over the future use or operations of the built-out residential subdivision. Ames would have no role in making sure that management and maintenance of these improvements provide the benefits of green infrastructure that the *Stormwater Management Plan: Halletts Quarry Lake* calls for. Ames also would have no authority to enforce any standards for lawn and garden maintenance activities, or any activities in the development that are intended to protect Ada Hayden Lake from higher phosphorus loads. City staff is not aware of any such standards or regulations of Story County and therefore the County also would have no means of enforcing standards for lawn and garden stormwater maintenance.

### **Environmental Protection – Conclusions**

The Ames community and the policies of the City and of the City/County joint plan have all established the importance of protecting the Ada Hayden Lake and its watershed. The potential for adverse impacts on the park land and lake from suburban residential development has been documented. Phosphorus levels are the most important concern in the Ada Hayden Lake.

At this time, it appears that a significant portion of the phosphorus in the lake is contributed by groundwater. The source of this phosphorus is not well understood, nor is the degree to which the land use of the subject site contributes to this phosphorus.

The proposed project plan includes green infrastructure that is intended to help protect these resources, including capturing phosphorus from the surface runoff. Many of the homes will back up to the naturally landscaped open space that comprises much of this green infrastructure. Natural landscaping requires time to become established and thrive and requires different types of maintenance from the more traditional turf with trees and shrubs. Without adequate maintenance natural landscaping becomes a weedy, brushy area that is not aesthetically pleasing for most people. Sometimes this leads to the removal of the natural landscape to be replaced with a more traditional or domestic landscape. A developer's agreement or restrictive covenants can ensure that the open space system is completed and establish proper maintenance and management practices.

The more traditional turf grass landscape is the preference of many, perhaps most, homeowners. To protect the watershed resources from impacts associated with this development, alternative maintenance practices will have to be adopted for the private yards and any traditionally landscaped open space. These alternative maintenance practices include fertilizers with no phosphorus and careful timing and application of fertilizers and other chemicals to minimize runoff of these substances. A homeowners association would be responsible for maintenance.

The City of Ames has in some cases depended upon homeowners associations to manage and maintain stormwater facilities where there are a few environmentally sensitive areas. Homeowners associations are often managed by volunteers who are untrained in managing natural systems or maintaining reserve funds needed to sustain these systems over time. The City is also aware of homeowners associations that in time ceased to exist. **In this area of critical and sensitive environmental resources, the potential consequences of a homeowners association or other private management operation either failing to**

**perform or failing entirely could be severe (see article from *Governing* attached). The City would be left without remedy in this case.**

Based on current knowledge, the most effective means of reducing phosphorus in the lake is by preventing it from being added to the surface of the watershed. One of the arguments in favor of the proposed development is that it can be more successful at reducing the use of phosphorus than can be accomplished with agricultural use of this land. This would be done through maintenance practices for common areas and through education of homeowners, backed up by homeowner's association covenants. However, in the end, all of this will be voluntary. State law does not allow legal bans or limits on phosphorus application. As maintenance becomes more expensive, the association can change these practices. If some homeowners do not agree, or those that have become educated move away and the education lags, more residents may add phosphorus to their yards. The development will already be in place and the City of Ames will have no authority or means to correct the problem.

After this project is built, Ames would have little power to protect its environment and infrastructure from damage due to the maintenance operations and other activities within the project. **It has not been demonstrated that the project provides both short- and long-term protection of the Ada Hayden Lake and its environs. Because environmental protection would be largely out of the City's control, the City concludes that the proposed development does not include provisions for adequate protection of the environment.**

## **WASTE TREATMENT**

### **Waste Treatment - Applicable Law and Policy**

In addition to the laws and policies applicable to environmental protection (above) the following apply to this case.

Ames Municipal Code Section 23.401 states that the City's subdivision improvement standards are the minimum requirements and that the City Council may apply more stringent standards when conditions require it. These more stringent standards must be consistent with the City's Land Use Policy Plan. For the location of the proposed development, the *Ames Urban Fringe Plan* is the City's land use policy.

The *Ames Urban Fringe Plan* designates the subject property as Priority Transitional Residential land use and as a Watershed Protection Area. The policy allows the City to require compliance with City standards for urban sanitary systems. The City has adopted the Iowa *Statewide Urban Design and Specifications* guidelines (SUDAS) and supplemental standards. If the City does not require these improvements to be installed at the time of subdivision, it requires infrastructure assessment agreements. Wastewater discharge also must be mitigated and managed according to Iowa Department of Natural Resources standards (PTR Policy 4 and Ames Municipal Code Section 23.401). Mitigation facilities must protect effectively the water resources within the watershed. Mitigation facilities must be developed according to City standards (WPA Policy 2).

Currently the City has no standards for rural, community waste treatment systems. As described in Section 23.401 and above, the City Council can apply standards, with specific considerations including preserving and integrating natural features, as well as the capacity and capability of infrastructure facilities, utility service and community facility service.

Ames Municipal Code Section 23.405 requires subdivisions to be served by sanitary sewer systems according to City plans and specifications and prohibits any area of land from being served by individual sanitary disposal systems. The City has not allowed community treatment systems to be installed within the city limits. When no City sewer collection system is available at a development site, Section 23.405 requires a sanitary sewer to be extended at the developer's expense, built according to City standards and turned over to the City upon completion.

Ames Municipal Code Section 28.503 prohibits any connection to the City's utility systems for any building or property outside the city limits, unless authorized by the City Manager. The City Manager can also establish conditions to ensure compliance with the City's policies, procedures and development plans for municipal utilities. The City Manager has a policy to not extend connections between the City's utilities and land outside the City because such connections encourage development outside the city limits, which later can be an impediment to future annexation. These residents will work, shop and recreate in the city and would then receive the benefits of City services, while the City has no means to recoup the extra costs to provide those services to more non-residents. The City does have an agreement with another municipality, the City of Kelley, that provides for the waste from Kelley being treated at the Ames Water Pollution Control Plant.

### **Waste Treatment - Findings**

As a condition of its approval of the current zoning for the subject property, Story County requires that the proposed development "meet all Design and Improvement Standards of the City of Ames ordinances, unless specifically waived by the City of Ames and replaced by alternative standards as part of a developer's agreement executed before approval of the Final Plat." Under this provision, the sanitary sewer mains, manholes, and other facilities will be built according to City standards. Although the developer has stated his willingness to comply, this County zoning condition is the only written commitment to this standard. There is no County regulation to this effect, and at this time it is undetermined how this will be confirmed and enforced through design, installation, inspection, and on-going maintenance.

Although there has been much discussion with the developer on the waste treatment system, the City has received very little documentation on what is proposed. The developer has stated that treated effluent from the proposed waste treatment system will be diverted to the Squaw Creek watershed and not discharged in the Ada Hayden watershed. The developer has not submitted a route or discharge location for this treated waste. It is not clear, therefore, if the route will be through public right-of-way or across private property. No easements or other evidence of approval by land owners beyond the subject property has been provided for the sewer outfall.

The *Ames Urban Fringe Plan* and the Boone County Comprehensive Plan together provide for substantial areas of rural development with rural treatment systems within the Squaw Creek watershed (see map of Planned Development in Squaw Creek Watershed attached). No analysis has been done of the future potential impact of all of these systems together relative to State objectives or City objectives for this stream system.

The developer has provided an Iowa Department of Natural Resources "Water Quality Based Permit Limits Work Request Form" dated October 24, 2007 (attached), which describes permit limits for effluent from the proposed treatment system for this project. The developer has provided no evidence that the proposed waste treatment facility has been approved by the State of Iowa.

The developer and a representative of Xenia Rural Water Association have said that Xenia will operate and maintain this treatment system, with operation costs paid for by the Rose Prairie homeowners. No contract or operating agreement has been provided to the City that binds Xenia to operate this system (or for what time period). If an agreement were reached between Xenia and the developer, and if this agreement were to either change or the homeowners association or Xenia were to fail to meet its contract obligations, resolving this problem would be the State's responsibility and currently the City has no authority in the matter.

Typically, the State of Iowa regulates and monitors this type of operation, but does not require Xenia to obtain City approval to provide waste treatment services within two miles of city limits as it has for water services. According to an environmental specialist with the Iowa Department of Natural Resources, who has thirty years experience with reviewing discharge permits, mechanical treatment systems typically are operated by part-time staff and this can have long-term consequences as the system decays and is improperly maintained. There have been reported problems at some of the four facilities of this type around the Ames Urban Fringe. (See February 4, 2009 memo on "Discussion with IDNR representative" attached)

Many waste water treatment systems create odors in the vicinity of the facility. It is unknown at this time if the facility proposed for Rose Prairie will create odors. The Preliminary Plat shows a location for the waste treatment facility in the extreme southeast corner of the subject property. This location is one quarter mile from the Bloomington Heights area in the city and across Grant Avenue from the City's property, Ada Hayden Heritage Park.

### **Waste Treatment – Conclusions**

Under current codes, policies and standards the City of Ames does not allow rural-type community waste treatment systems and requires these areas to be served by urban sanitary sewer systems at the developer's expense, but current City policy does not accommodate extending the City's utilities beyond the city limits. The City of Ames, the City of Gilbert and Story County have not yet adopted implementing regulations to the *Ames Urban Fringe Plan* that might address or resolve these apparent contradictions in the standards for waste treatment.

Until implementing regulations are developed, the only means of complying with all applicable current policies and standards and to provide the enforcement of maintenance is to annex the property. While annexation is not intended to be the sole means of development in this area under the terms of the *Ames Urban Fringe Plan*, it is allowed by the Fringe Plan and therefore allows development consistent with the Plan. However, the timing of annexation is at the City's discretion based upon its ability to service the area. **It is concluded that City standards require the development to be connected to the City system, which can only occur upon annexation, due in part to lack of implementing regulations. Annexation at this time is inconsistent with the *Ames Urban Fringe Plan*.**

The major element of the proposed waste treatment strategy that protects the Ada Hayden watershed is the diversion of the outfall away from the watershed, to the Squaw Creek. **The applicant has demonstrated no legal interest in property beyond the boundaries of the Plat that will facilitate this outfall of the waste treatment system away from the Ada Hayden watershed.**

If this outfall is implemented, the proposed waste treatment strategy meets the policies of the City for protection of the Ada Hayden watershed, as long Xenia Rural Water Association and the Rose Prairie homeowners association properly maintain it and it is regulated and monitored by the State of Iowa under adopted standards. However, operation and maintenance of small, mechanical waste treatment systems have been found to be problematic in some cases. The consequences of improper maintenance or failure of a waste treatment facility can be substantial. As reported in the December 17, 2008 Des Moines Register, the failure of a city-operated facility allowed 3.7 million gallons of raw sewage to dump into a public waterway. The facility was unmanned and depended upon an alarm system to warn staff. The alarm failed and sewage flowed for six days. **No contract or operating agreement has been provided to the City that binds Xenia to operate this system (or for what time period). The City of Ames will have little or no authority over future changes in the standards, conditions or responsibility for waste treatment which result in less protection of the Ada Hayden watershed. The impacts of the waste treatment system on the water quality in Ada Hayden Heritage Park and its lake will be out of the City's hands, as it is today.**

**The proposed waste treatment does not meet the City of Ames subdivision standards. Because of uncertainties about the waste treatment system and its ongoing operation, it is concluded that the proposed waste treatment does not protect adequately the water resources of Ames.**

## **TRAFFIC**

### **Traffic - Applicable Law and Policy**

It is a goal of the Ames Land Use Policy Plan to link the timing of development with the installation of public infrastructure including the multi-modal transportation system (Goal No. 5). One of the goals of the *Ames Urban Fringe Plan* is to coordinate development decisions with the efficient provision of public facilities and services (Common Goal 1.5).

It is a policy of the *Ames Urban Fringe Plan* for the area where the subject property lies to 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. (Rural/Urban Transition Area Policy 5)

Under *Ames Municipal Code* Section 23.107, all plats of land must comply with the City's Transportation Plan, which is the *Ames Area Metropolitan Planning Organization's Long Range Transportation Plan* of 2005.

*Ames Municipal Code* Section 23.302(6) states that the City Council shall determine whether the subdivision conforms to the City's minimum levels of service standards for public infrastructure. The City Council is to consider the possible burden of the proposed subdivision on public improvements and can require the installation of additional public improvements as a condition for approval.

Under *Ames Municipal Code* Section 23.302(10) in a case where it can reasonably be anticipated that the impacts of a subdivision on public improvements will reduce the level of service below the standard set by the City, the City Council may deny subdivision approval until the City upgrades the public improvements in accordance with its Long Range Transportation Plan and Capital Improvements Plan. The City Council can also require that the applicant contribute to the costs of needed upgrading of public improvements based on the proportion of the need that can be directly attributable to impacts of the development, as determined at the sole discretion of the City.

*Ames Municipal Code* Section 23.403 sets standards for streets and requires that their design and installation accommodate the present and future needs of the area, which would include access, circulation and traffic volumes.

### **Traffic - Findings**

The subject property is accessed from the south by Hyde Avenue, which is Grant Avenue north of the city limits one-quarter mile south of the south development boundary. North of the city limits and along the east side of the subject property, the surface of this street is gravel. One mile south Grant/Hyde intersects with Bloomington Road, an arterial street within Ames. Bloomington provides connections to major north-south routes in Ames: Stange Road and George Washington Carver to the west and Grand Avenue (U.S. Highway 69) to the east. On the north side of the site is 190<sup>th</sup> Street, a hard-surfaced county road that intersects with George Washington Carver one half mile west and with U.S. Highway 69 one mile east. The City has established Level of Service C as its standard for street intersections.

The *Rose Prairie Subdivision Traffic Impact Study* of October 2007 (attached) concludes that the full build-out of the Rose Prairie project only will not reduce performance of traffic intersections below the City standards, except for the southbound traffic at the Bloomington Road and Hyde Avenue intersection, which must turn west or east. Although the combination of existing traffic volume and traffic generated by Rose Prairie does not cause the need for geometric improvements or traffic signals, as general population and traffic grow in the community, the study stated that some improvements likely will be needed at this intersection at some time in the future for the southbound turning movements.

The *Ames Urban Fringe Plan* designates residential land uses in the Rural/Urban Transition Area along the north side of Ames and between George Washington Carver and U.S. Highway 69 comprising 665 acres. Rose Prairie, a project of 224 acres, is the first portion of this area for which development has been proposed. To understand the impacts from development of the entire 665-acre area north of Ames, a second *Rose Prairie Subdivision Traffic Impact Study* of May 2008 (attached) analyzed the impact of the full build-out of this larger area, with and without the proposed Rose Prairie subdivision. It also assumed full-build out of areas within the City north of Bloomington Road. The study found that growth of the community by 2030 even without development in this Rural/Urban Transition Area may lead to traffic signal improvements at several intersections in the area. To maintain performance of the traffic system within City standards with the full build-out of the study area, turn lanes will also be needed at the Bloomington/U.S. Highway 69 intersection.

The *Rose Prairie Subdivision Traffic Impact Study* of May 2008 also assumed completion of improvements included in the MPO Long Range Transportation Plan serving this area, including the following:

<b>Project Name</b>	<b>Expected Implementation</b>	<b>Budget*</b>
20 <sup>th</sup> St. & U.S. 69 Intersection Improvements	0-5 years	\$1,600,000
13 <sup>th</sup> & U.S. 69 Intersection Improvements	0-5 years	\$4,000,000
Bloomington Road Extension-Grand to 570 <sup>th</sup>	6-15 years	\$24,500,000
13 <sup>th</sup> & Stange Intersection Improvements (part of Elwood Drive extension)	16-25 years	\$9,900,000
U.S. 69 Widening	16-25 years	\$3,200,000

\*Planning level cost in 2005 dollars not including right-of-way acquisition.

Of these five projects, two were included in the City's 2007-2012 Capital Improvements Plan. Since that time, the 13<sup>th</sup> & U.S. 69 intersection improvements project has been replaced with changes to traffic signals. There has been no analysis of the impact of full build-out of the northern Rural/Urban Transition Area on the street system without these improvements being made, nor of the impact of only the Rose Prairie development without these improvements made.

Story County has no policies that require the developer to reconstruct or pave Grant Avenue. Grant Avenue is an extension of Hyde Avenue in Story County that connects to Gilbert. The road surface is rock and at certain times of the year can become quite rough. Ames residents along Hyde and neighborhood groups in the area have complained about the high rate of speed of southbound traffic as it enters the city limits and for quite some distance to the south. Due to the steepness of the road grade, in some locations the sight distance is limited for entering Grant from adjacent land. A one-quarter mile segment of the gravel road between the subject property and the city limits is not adjacent to the subject property.

Grant Avenue is frequently used for trips to the schools in Gilbert, since the south boundary of the Gilbert school district is Bloomington Road in Ames. At its meeting on April 14, 2008, the Gilbert School Board stated its belief that Grant Avenue should be paved from the Ames City Limits to 190th Street, due to traffic from this development (See Record of Communication



with Gilbert School Superintendent of April 15, 2008 (attached).

## Traffic – Conclusions

**According to the traffic studies no traffic system improvements are required due to the proposed Rose Prairie development only.** Any improvements needed would be due to traffic from Rose Prairie combined with traffic from other areas designated for Priority Transitional Residential land use. In order to follow City policy to “link the timing of development with the installation of public infrastructure including . . . multi-modal transportation system,” and of Ames Municipal Code Section 23.302, **off-site traffic signal improvements within and outside Ames city limits as determined by the May 2008 traffic impact analysis will need to be implemented in coordination with the build-out of Rose Prairie and these other residential land uses.**

The transportation system can accommodate the impact of the full build-out of the development in the Rural/Urban Transition Area designated by the *Ames Urban Fringe Plan*, including the proposed Rose Prairie Subdivision, when the transportation improvements listed above as planned in the MPO Long Range Transportation Plan over the next 25 years are completed. **However, permitting such development before these related improvements are provided for would not comply with City policy (LUPP Goal 5) to “link the timing of development with the installation of public infrastructure including . . . multi-modal transportation system” nor with the Ames Urban Fringe policy (RUTA Policy 5) of limiting 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.**

In the absence of any policy or plan to improve these services as this rural area develops, traffic on the north side of Ames may no longer conform to the minimum level of service standards of the City. **Therefore, it is not possible to conclude at this time that this subdivision and others proposed in the future within this area will not place a possible burden on existing public improvements, which is one of the determinations the City Council must make in reviewing a subdivision under Ames Municipal Code section 23.302(6).** The City Council can deny subdivision approval until the road upgrades are made, require road improvements as a condition for approval of the subdivision or require the developer to pay for a portion of the costs of road improvements.

The development proposal raises several important issues regarding Grant/Hyde Avenue. One is the need to limit access from the subject property onto Grant Avenue. Another is the traffic volumes which will increase, as will the requests to pave the road from existing and future residents and parents of Gilbert school students. This will also lead to the need to improve the vertical alignment, which could impact property beyond the current right-of-way. Story County has no plans or funds at this time to reconstruct the road. The costs could also impact other property owners along Grant Avenue, including the City of Ames. Story County does not have the authority to require the developer to pave Grant. **Without provision for paving Grant Avenue the proposed project does not comply with Ames Urban Fringe policy of limiting 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.**

## **OTHER PUBLIC IMPROVEMENTS**

### **Other Public Improvements – Applicable Law and Policy**

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 and connected to the City sidewalk system. Section 23.403.15 requires bikeways consistent with the Bicycle Route Master Plan.

Other sections of Municipal Code Division IV establish City standards for streets, sanitary sewer systems, water supply systems, electrical distribution, storm water management, landscaping, and erosions and sediment control. In addition, the City has adopted Iowa *Statewide Urban Design and Specifications* guidelines (SUDAS) and supplemental standards. Enforcement is through the review and approval of public improvement plans and completion of improvements meeting these standards (or providing a financial Improvement Guarantee) before the City Council approves the Final Plat. Subdivisions within the city are required to follow these standards and procedures. Iowa Code Section 354.9.2 requires that subdivisions within the Ames Urban Fringe follow these same standards and procedures.

Once all required public improvements have been completed in conformance with City standards, the City accepts ownership of streets (Municipal Code Section 23.403.2.b) by deed and of all public utilities by City easement, as well as in some cases green infrastructure by City easement.

### **Other Public Improvements – Findings**

The Iowa Code and the conditional zoning by Story County require public improvements to conform to City standards. The developer has also stated several times his intention to comply with these standards. The submitted plans show some elements that generally comply and some elements that do not. In the following characteristics, the proposed subdivision layout does not conform to City standards cited:

- Proposed plan includes six cul-de-sacs and does not comply with Section 23.401.1 (Note that Northridge Heights, a recent residential subdivision nearby includes one cul-de-sac.)
- Greenview Drive and portions of Ada Hayden and Lakeside Drives exceed maximum block length of Section 23.401.2. If allowed, need mid-block pedestrian connections.
- Red Fox Drive is a dead-end street more than 150 feet in length and does not comply with Section 23.403.7

Before the Preliminary Plat can be approved, the City Council would need to approve waivers to requirements for City ownership of street (Section 23.403(2)(b)) and utilities (Sections 23.404(2), Section 23.405(3), and 23.407(1)(d)), for sidewalk connections to the City sidewalk system (Section 23.403(14)(a)) and various other subdivision standards.

If the project were ever to be annexed to the city, the bus system may be extended into it. Within the city, the bus system routes are identified at the time of development and are built to standards that consider this type of use (Section 23.403(2)(a)). The plan does not identify any future bus system routes.

The City's Bicycle Route Master Plan does not extend into this rural area, but the Rose Prairie plans illustrate connections to the much discussed bicycle route connection to Gilbert and an internal path system within the common open space. No other pedestrian or bicycle route connections are provided through adjacent property to the south, owned by other parties.

The street right-of-way is identified on the proposed plan as "public." However, Story County will not accept ownership of new streets, nor will it maintain them. So there is no public entity to accept ownership and maintenance of the streets.

The water supply and sanitary sewer systems and treatment system, and the green infrastructure, are proposed to be owned by the homeowners association. Some or all of this could be dedicated to the City as a condition of future annexation. Financial responsibility, such as insurance and taxes, and for maintenance would also be the homeowner's association responsibility.

### **Other Public Improvements – Conclusions**

**The developer has stated his intention to comply with the City standards for all improvements to the extent that the City has standards. Several revisions to the Plat are needed for it to conform to City subdivision design standards and the City Council would have to waive several standards that can not be met.** The City can continue to verify this through the platting and construction inspections process. It may be necessary to provide for reimbursement of the City's costs for inspecting the project. Although no public entity will own the streets or utilities, **it appears that the plan can accommodate transfer to the City of the infrastructure if the area is annexed.**

**Future impact on the City and its citizens and future costs will depend largely on the actions of the homeowners association, a private organization over which the City has no authority.** It will be responsible for coordinating and paying the costs for many important functions. Not only will it need to clear snow from the streets, in order to avoid large future costs it will need to maintain the street pavement, repairing, resurfacing and/or replacing. Although the water system will not provide fire protection (due to the limitation of pressure and volume of rural water) without connection to the City's water system, if it is to be able to function properly as a City system in the future, diligent maintenance and repair will be needed. If the waste collection and treatment system is to improve the water quality in Ada Hayden Lake, the Rose Prairie Homeowners Association will need to maintain the integrity of its operation, even when the State has not made an inspection. Especially important is the ecological health of the common natural areas, which the proposal relies upon to improve the quality of surface runoff entering the City, even reducing silt and reducing nutrients in runoff from agricultural operations upstream.

Many residential developments have homeowners associations and many of them do an outstanding job. But the Rose Prairie Homeowners Association will be responsible for an unusual variety of operations, much like a city government. It will be led by volunteers and will retain Xenia Rural Water Association and other qualified service providers to carry out its functions. To do this the Board will need to continually seek money from all homeowners and increase those fees when needed. Sometimes, after the dedicated volunteers have taken their turns and the costs begin to climb, some homeowners associations falter. Leadership

weakens, large costs are deferred and the operations and conditions of the property begin to decline (see article from *Governing* attached). Iowa law also allows such associations to dissolve after 21 years, unless formal steps are taken to extend its life. This can be very difficult for the homeowners to deal with. **Inadequate performance or failure of the homeowners association could have severe impacts on the City and its citizens, who live nearby, downstream. All of this could place some difficult demands in the hands of future City leaders.**

## **INFRASTRUCTURE IMPACTS**

### **Infrastructure Impacts – Applicable Law and Policy**

The City of Ames uses its infrastructure strategies to promote a cost-effective and efficient growth pattern by linking the timing of development with the installation of public infrastructure. (Goal 5) According to the Land Use Policy Plan and the City's Capital Investment Strategy the developer of a property outside of the identified priority growth areas is responsible for all costs associated with the development. These costs include costs associated with an impact from development that exceeds the capacity of the infrastructure and facilities that have already been constructed. The developer is also responsible for costs associated with installation of the infrastructure and facilities that are designed to provide service to the areas being developed.

It is a policy of the *Ames Urban Fringe Plan* for the area where the subject property lies to 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, the cost of road improvements are to be provided for at the time of development. (RUTA Policy 5) To accommodate future annexation, *Ames Urban Fringe Plan* policies also require developers' agreements that secure future costs for buying out rural water and sewer systems, payment of cost to install future sanitary sewer, water and storm sewer systems and for future road improvements. In order to avoid costs for future citywide taxpayers, these policies are also binding on future property owners within the developments.

When the City Council finds that a proposed development is likely to exceed the capacity and capability of infrastructure facilities and services, it may impose more stringent standards than the subdivision code provides. (Ames Municipal Code Section 23.401)

### **Infrastructure Impacts – Findings**

In the previous sections, this report describes infrastructure needs resulting from the proposed project, such as intersection and street improvements beyond the project site and in the city. Although the City's policy is to assign these costs to the development at the time of submittal of the Plat, the City has not yet adopted implementing regulations or procedures.

The land use policies for the subject area and the Priority Transitional Residential land use areas are intended to keep open the option for future annexation of these areas in the long-term future. Annexation is likely to lead to the need to connect the project to the City's

sanitary sewer and water systems, which can be very costly. State law requires the buy-out of rural water systems including lost revenues, a very difficult cost to determine in advance. In order to assign costs for future street and utility system improvements to those who benefit, the City may seek to assess the area residents. To facilitate these annexation processes, the City would require the current property owners to agree to future annexation, to agree to buy out the rural systems and to waive their rights to protest future annexations.

Various long range plans for community infrastructure, such as the *Metropolitan Planning Organization -- Long Range Transportation Plan (LRTP)*, have identified future infrastructure needed to accommodate growth of both the population and boundaries of the city and to provide for timing of the installation of this infrastructure so that it is available as demand grows. Some of these infrastructure improvements may, when completed, reduce impacts and costs from adjacent rural development. For example, future network street improvements may accommodate traffic generated by the proposed Rose Prairie Development; extensions of sewer mains could provide waste treatment service to the project and thus protect the watershed. However, this infrastructure is not planned in the near future and thus may not be available when needed to prevent traffic impacts or to protect the environment from this rural development.

### **Infrastructure Impacts – Conclusions**

This report discusses a wide variety of potential infrastructure impacts associated with this development proposal, many with significant costs. Because policy for rural development of this scale adjacent to the city is new to the City of Ames, there are few detailed procedures or regulations in place to assign these costs to the development and to the future residents of the development, instead of to current and future city tax payers. **It is not possible to conclude that the proposed development meets the requirement of the City's Capital Investment Strategy (LUPP) that the responsibility for all costs be assigned to development at time of development.**

Any procedures developed for this project are likely to set a precedent for other development projects in this Rural/Urban Transition Area. So any ad hoc procedures must be fully considered as policy for all of these areas. For example, what are the impacts of traffic if the plans change for long range road improvements and what will be the costs to accommodate this traffic generated from rural development? Will some of those costs fall on City property tax revenue? How binding on future residents are the water buyout agreements and the agreements not to protest future special property tax assessments or future annexations? Will future property owners be aware of them? Will they sit silent? What will the City do if they do not? Have they been tested in court? Currently, there are no answers to these questions about the future impact on infrastructure and its future costs. **The consequences are unknown if future development similarly situated follows the same approaches to these uses established by this project.**

## **SUMMARY OF CONCLUSIONS**

### **Land Use**

- The proposed plat is consistent with the *Ames Urban Fringe Plan* in its land use, density, lot size, and overall concept for stormwater management.
- The *Ames Urban Fringe Plan* identifies development that may be appropriate in a given location long-term, but does not obligate the City to approve any project at any time.

### **Subdivision Review Authority**

- The City of Ames has authority to review and approve or deny the proposed Preliminary Plat based on the possible burden on public improvements, on its subdivision regulations, on the Ames Land use Policy Plan and all other City plans, regulations or ordinances.

### **Community Growth**

- Project is not required in order for the City of Ames to meet its community growth goals.

### **Environmental Protection**

- It has not been demonstrated that the project provides both short- and long-term protection of the Ada Hayden Lake and its environs. Protection will depend largely on maintenance that a Homeowners Association will be responsible for. In this area of critical and sensitive environmental resources, the potential consequences of a homeowners association or other private management operation either failing to perform or failing entirely could be severe, leaving the City without remedy. Because environmental protection would be largely out of City's control, the City concludes that the proposed development does not include provisions for adequate protection of the environment.

### **Waste Treatment**

- City standards require the development to be connected to the City system, which, under current policy can only occur upon annexation. Annexation at this time is premature.
- The applicant has demonstrated no legal interest in property beyond the boundaries of the Plat that will facilitate outfall of the waste treatment system away from the Ada Hayden watershed, which is the major element of the proposed waste treatment strategy that protects the watershed.
- No treatment system design has been provided and nor has State approval for a waste treatment system been documented.
- No contract or operating agreement has been provided to the City that binds Xenia to operate the rural waste treatment system (or for what time period). Even with such an agreement, the proper maintenance and operation of the waste treatment system will depend on the existence of a Homeowners' Association and its ability to fund the operation and maintenance as the system ages. After completion of the system, the City of Ames will have little or no authority over future changes in the standards, conditions or responsibility for waste treatment which result in less protection of the Ada Hayden watershed. The impacts of the waste treatment system on the water quality in Ada Hayden Heritage Park and its lake will be out of the City's hands, as it is today.

- The proposed waste treatment does not meet the City of Ames subdivision standards. Because of these uncertainties about the waste treatment system and its ongoing operation, it is concluded that the proposed waste treatment does not adequately protect the water resources of Ames.

### **Traffic**

- According to the traffic studies, no traffic system improvements are required due to the proposed Rose Prairie development only. Off-site traffic signal improvements within and outside Ames city limits, as determined by the May 2008 traffic impact analysis, will need to be implemented in coordination with the build-out of Rose Prairie and other residential land uses in the area.
- The Long Range Transportation Plan proposes significant capital improvements in this area, some not implemented for 16 to 25 years. Permitting development of the residential transition area before these capital improvements are provided would not comply with City policy (LUPP Goal 5) to “link the timing of development with the installation of public infrastructure including . . . multi-modal transportation system,” nor with the Ames Urban Fringe policy (RUTA Policy 5) of limiting 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.
- Without provision for paving Grant Avenue, the proposed project does not comply with the Ames Urban Fringe policy of limiting 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.
- It is not possible to conclude at this time that this subdivision and others proposed in the future within this area will not place a possible burden on existing public improvements.

### **Other Public Improvements**

- The developer has stated his intention to comply with the City standards for all improvements, to the extent that the City has standards. Several revisions to the Plat are needed for it to conform to City subdivision design standards and the City Council would have to waive several standards that cannot be met.
- It appears that the plan can accommodate transfer to the City of the infrastructure if the area is annexed.
- In the meantime, streets would not be owned or maintained by any public entity.
- City of Ames would have no control or influence on operation, maintenance and repair of “public” improvements that are required to protect the city from impacts. Inadequate performance or failure of the homeowners association could have severe impacts on the City and its citizens.

### **Infrastructure Impacts**

- It is not possible to conclude that the proposed development meets the requirement of the City’s Capital Investment Strategy (LUPP) that the responsibility for all costs be assigned to development at time of development.
- The consequences are unknown if future development similarly situated follows the same approaches to these uses established by this project.

**Recommendation of the Planning & Zoning Commission.** At its meeting of January 21, 2009, with a recommendation of 3-2, the Planning and Zoning Commission recommended denial of the proposed Preliminary Plat for Rose Prairie Subdivision. After a lengthy question and answer period and discussion, each Commission member expressed frustration over the dilemma presented by this issue. They find that the project design is consistent with their vision for the area in many respects, and yet at this point their commitment to protecting the city and its environment and specifically the water resources in Ada Hayden Lake prevent them from supporting this application. They stated that with the lead time that has been available for planning for development in this area, that the City could be in a better position to guide, approve, and manage this type of project. The Planning and Zoning Commission concluded with a vote to recommend that the City Council reconsider and vote again on the annexation plan that was earlier presented to them.

Representatives of the developer presented the reasons they believe the preliminary plat should be approved, why this proposed development is good for the City and the County, why the proposed development opposes any burden on the City, and how it complies with the Urban Fringe Plan. They also explained how this development could be an attractive development for the community, and be a great local example and template for an environmentally sensitive design. They also addressed several of the legal conclusions stated in the City's staff report, including the traffic issue, the City's ability to connect the project to the City's sanitary sewer, the City's ability to oversee the Homeowners' Association activities, the lack of procedures to assign costs to the developer, the duty of the City to proceed with development in accordance with the *Ames Urban Fringe Plan*. The developer believes that the development fully complies with all of the applicable standards. (See excerpt from Planning and Zoning Commission meeting of January 21, 2009 attached.)

Two people spoke at the hearing. Mr. Erv Klaas, 1405 Grand, Ames, Iowa, expressed support for the project, at least if it means bringing it into the City sewer system. He also advocated a comprehensive view of watersheds rather than considering one project separate from the whole watershed. He said he originally opposed the designation of land use as transitional residential when the fringe plan was presented, because he was concerned about protecting Ada Hayden Park. He said if we can handle the sanitary sewer, and annex the project, it would be an improvement over what is going on there now.

Catherine Scott, 1510 Roosevelt, Ames, Iowa, agreed that we should look at the big picture and take the long view. She stated there are lots of things we need to do before approving this Preliminary Plat. Ms. Scott said she doesn't think it is urgent that we need this space for residential development, as we do have land in the southwest and the northwest, where this type of development could also occur. She said we have the time to do the groundwork so that this development could work in the future.



## **ALTERNATIVES:**

1. The City Council can deny the Preliminary Plat for Rose Prairie Subdivision based upon the above findings and conclusions due to impacts on the Ames community of the proposed development.
2. If the City Council wants to approve the Preliminary Plat for Rose Prairie Subdivision, but believes there are unresolved issues for achieving compliance, then it should:
  - a. identify of the Plan elements listed above which the City Council finds that are consistent with all applicable laws and policies of the City and which will not impact the City's public improvements or environment; and
  - b. refer all of the other Plan elements listed above back to the developer to bring them in compliance or propose how impacts will be mitigated; and
  - c. confirm that the applicant waives the requirement that the City Council makes a decision on the Preliminary Plat within 30 days of the Planning and Zoning Commission recommendation.
3. The City Council can approve the Preliminary Plat for Rose Prairie Subdivision if it finds that all impacts of the proposed development can be mitigated and the development is consistent with all applicable laws and policies.

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

Ada Hayden Heritage Park is the kind of public amenity that attracts people—to enjoy, to recreate and to live—especially in Ames. Throughout the history of Ames, homes have been attracted to the natural resources. The residential subdivisions along the wooded eastern side of Squaw Creek were platted between 1906 and 1916. In the following decades, residential developments grew along Clear Creek and College Creek. In the countryside around Ames Worle Creek, Onion Creek, and Squaw Creek all attracted residential areas. As these areas grew, the citizens of Ames were blessed by extensive and beautiful parks in the parts of these stream valleys that were more difficult to develop, mostly by donations from generous property owners.

However, our understanding of the impacts of development adjacent to these natural resource areas has also grown. The history of College Creek illustrates these impacts. Before Ames was founded, College Creek barely existed. Agricultural drainage systems and the building of homes and streets increased the rate of storm runoff, more rapidly forming channels and lengthening the streams. The area in Campustown between Hayward and Sheldon was a bog that drained into where Lake LaVerne was built in the 1930's. For many years, commercial and college housing areas grew on both sides of it, unconnected from each other. Eventually, connections were needed and bridges were built. Later, several hundred feet of College Creek were placed in underground pipes so the surface above could be developed to provide needed services. The water in College Creek eventually made Lake LaVerne too dirty and College Creek was routed around it. The land upstream along College Creek, now reaching into Boone County, accommodated more homes and some businesses along its banks and in its watershed. In the recent past, the water quality in College Creek declined to the point State intervention was needed.

The story of Ada Hayden Heritage Park represents a new chapter in the story of Ames. This land was not hard to develop and it was not donated. The people of Ames recognized its ecological value and its recreational potential and voted to buy it. The City Council created a land use plan that called for its protection. If adjacent land were to be developed, it should be done with an eye to the long term future in a way that protected its water quality and without passing the long-term costs to future Ames residents.

In its design approach and basic characteristics of land uses, layout, density and stormwater management, the proposed Rose Prairie development is a new kind of development that has the potential to preserve the resources of the watershed and the City. In its overall approach it is consistent with the rural transitional development style for which the *Ames Urban Fringe Plan* provides. However, as the above list of operational issues, unknowns and long-term consequences reveals, many issues need to be resolved if it is to be successful.

Future costs to Ames residents could include costs for paving Grant Avenue and for future transportation improvements that will serve the development. The development may prevent increased phosphorus levels in the City's Ada Hayden Lake, if surface runoff contributes a significant share of the phosphorus. Preventing this and other pollutants from entering the lake from the development will depend on proper operation of a common waste system and management of naturalized green infrastructure by a private homeowners association. If this proper management is lacking, the development may contribute to increasing pollutants. The City would have no authority over these operations and would have little recourse if problems develop. If the City or future residents seek annexation as a means of asserting control, challenges could include public costs to repair or replace infrastructure systems and unwillingness of numerous property owners to be annexed.

To the east and west of Rose Prairie are several hundred acres of land also designated as Priority Transitional Residential land use. (See attached map) If approved, any conditions under which Rose Prairie is developed will likely serve as a template for other development. Any problems arising out of the issues and unanswered questions above could be compounded. What is needed now, before land is developed, is sound implementation policies, regulations and standards for this new way of developing.

The City would be accepting a variety of risks to its infrastructure, its environmental quality and to future tax payers by approving this Preliminary Plat at this time. Based upon the Findings of Fact and Conclusions above, it is the recommendation of the City Manager that the City Council adopt Alternative #1, which is to deny the Preliminary Plat for Rose Prairie Subdivision based upon the above findings and conclusions due to impacts on the Ames community of the proposed development.

## **CONDITIONAL ZONING BY STORY COUNTY**

### **From Story County Zoning Ordinance No. 187**

- 1) Development shall not exceed 320 dwelling units and shall not be less than 275 dwelling units.
- 2) Development shall be limited to 76 attached dwelling units and restricted to pods A, B and C, as shown on Exhibit B of the subject application.
- 3) Developments average net residential density shall not be less than 3.75 dwelling units per acre. Determine net residential density by subtracting from the gross acreage of the subject property the land area devoted to the following uses or containing the following characteristics:
  - i) Public or private right-of-way;
  - ii) Open space only as needed to protect the watershed and the Natural Areas as described in these Conditions of Rezoning;
  - iii) Areas where the existing topography exceeds 10% as determined by the Story County Soil Survey.
- 4) Developments storm water shall be managed through the use of conservation design/low impact development best management practices (BMPs).
- 5) Developments common open space shall be prairie/grassland or conservation design stormwater management facilities.
- 6) The existing stream and associated woodlands shall be protected and preserved. A pond may be created within the stream corridor.
- 7) Development shall construct an inter-connecting trail system within the common open space. The trail system shall connect to/incorporate the proposed Ames to Gilbert trail.
- 8) Due to the location of this site within the Ada Hayden Watershed Protection Area and because the site contains Natural Areas (both as designated by the Ames Urban Fringe Plan), development shall mitigate and manage storm water run-off, reduce soil erosion and protect the Natural Areas with the following measures:
  - i) Construct wetlands, vegetated waterways, rain gardens and other Best Management Practices using native prairie plants to filter out pollutants, to reduce rates of storm water runoff below existing rates and to otherwise mitigate impacts of residential development on the region's water resources and to improve the quality of these resources. These measures will be consistent with Stormwater Management Plan for Hallett's quarry take prepared in April 2000 by Boonestro, Rosene, Anderlik and Associates of St. Paul, Minnesota;
  - ii) In the designated Natural Areas, protect existing native plants and re-establish ecologically sustainable habitats for native prairie plants and wildlife. Mitigate negative impacts to these Natural Areas, including, but not limited to: nutrient-loaded urban storm water run-off, active and passive recreational use, encroachment of private property improvements, chemical application, animal confinement and feeding, irrigation, manure storage and fuel storage;
  - iii) Create a continuous "greenway" (Ames Urban Fringe Plan) system of trails and recreational facilities that provides linkages to all portions of the development and to existing and planned trails and recreational facilities adjacent to the site;
  - iv) Create a plan to implement the above measures to protect the watershed and re-establish the Natural Areas and to integrate these measures together and with the other improvements of the development. This plan is to be prepared by professionals qualified in landscape architecture, ecological sciences, and natural resource management. This plan is to include:

- (a) Design of all constructed features and plantings;
  - (b) Long-term resource management measures;
  - (c) Land use guidelines for buffer areas surrounding the Natural Areas; and
  - (d) Management and legal framework that runs with the land.
- 9) Conditions listed in this document notwithstanding, development shall meet all Design and Improvement Standards of the City of Ames ordinances, unless specifically waived by the City of Ames and replaced by alternative standards as part of a developer's agreement executed before approval of the Final Plat. In addition, the following conditions apply:
- i) Wastewater treatment will not be by individual on-site treatment systems on each lot, but rather by a common treatment system that meets performance standards approved by the City of Ames, or any alternative method of treating wastewater approved by the City of Ames. Any treatment system shall also meet all applicable county or State requirements and, in case of conflicts among requirements, the most stringent requirement shall apply;
  - ii) Water will not be provided by individual wells on each lot, but rather by a common water system that meets performance standards approved by the City of Ames, or any alternative method of providing water approved by the City of Ames. Any water system shall also meet all applicable County or State requirements and, in case of conflicts among requirements, the most stringent requirement shall apply;
  - iii) Agreements are required that upon annexation the land developer and/or individual landowners shall be responsible for the full cost of abandoning any portion of these wastewater treatment and water systems and connecting to urban infrastructure.
- 10) Annexation agreement and development agreement are required to assign costs for on-site and off-site improvements and to guide future transition of the subdivision/development into the City of Ames before Final Plat approval by Story County.
- 11) Development shall require sidewalks to be constructed on both sides of each street.

## DEVELOPMENT REVIEW PROCESS

March 2007: The developer began discussing the subject property with City staff.

June 5, 2007: Eller Development and Civil Design Advantage first presented the development concept. At this time the project did not include the Sturges property, but the Sturges family was working separately on a residential subdivision, with A-R Agricultural Residential Zoning approved on November 14, 2006.

July 17, 2007: City of Ames staff provided comment to Story County on the rezoning.

July/August 2007: City and County staff and the development team met several times, which led to agreement on conditions for rezoning. City staff pointed out the difficulties of reviewing a plat for land uses for which the City and have not yet adopted standards or regulations. It was agreed that the Rose Prairie project would be approached as an aid to developing those standards and regulations.

September 24, 2007: Story County Planning and Zoning Commission recommended rezoning to R-2 Residential.

October 23, 2007: Story County Board of Supervisors approved rezoning to R-2 Residential (published November 1, 2007).

November 2007: Developer and City staff continued discussing the issues involved in development.

November 30, 2007: Developer presented a new concept plan for the project that included the development of the Sturges property.

December 5, 2007: Developer submitted a Sketch Plan for the project, which is a required first step for subdivision of property where Ames has subdivision jurisdiction.

February 5, 2008: The City Department of Planning and Housing issued a Sketch Plan letter determining the subdivision to be a major subdivision. This letter stated that current codes require the subdivision and infrastructure to meet full urban infrastructure standards as identified in the Ames Municipal Code and that issues raised by these requirements for rural development would need to be resolved by the City Council. The letter also stated that the Ames Municipal Code requires the Preliminary Plat to be filed by May 12, 2008 or a new Sketch Plan would be required.

April 2, 2008: The Developer submitted Preliminary Plat. The Ames Municipal Code requires the Preliminary Plat to be reviewed based on the regulations in effect on that date.

May 13, 2008: City Council directed staff to report on a targeted growth policy that would include the area within which the subject property is located.

May 21, 2008: Story County Planning and Zoning Director notified Civil Design Advantage that the County and the City have received different Preliminary Plat documents.

May 25, 2008: Eller Development requested that the Preliminary Plat review be put on hold.

May 28, 2008: Civil Design Advantage submitted a revised Preliminary Plat, consistent with the plans that Story County had received.

July 15, 2008: Following report by staff, City Council left targeted growth policies of the City unchanged, which do not include annexation of the north area.

July 18, 2008: Eller Development requested that the review of the Preliminary Plat resume.

September 4, 2008: The City provided to Eller Development the Development Review Committee comments.

October 13, 2008: City provided Eller Development draft report containing applicable law and policy and findings of fact.

October 21, 2008: The attorney for Eller Development requested that consideration by the Planning and Zoning Commission be postponed.

December 8, 2008: Following conversations with Eller Development, this item was placed on the schedule for the January 21, 2009 Planning and Zoning Commission agenda.

January 9, 2009: Staff finalized the Commission Action Form and distributed it to the Commission, the Mayor and Council, and Eller Development and their attorney.

January 21, 2009: Hearing before Ames Planning and Zoning Commission; Commission recommends denial on a vote of 3-2.

**FROM**  
**Minutes of Ames Planning and Zoning Commission**  
**January 21, 2009**

Chuck Becker, Belin Law Firm, 2000 Financial Center, Des Moines, Iowa, attorney for the applicant, addressed several of the legal conclusions stated in the City's staff report.

***Traffic Issue - Page 16 (The Rose Prairie Subdivision Traffic Impact Study of October 2007 concludes that the full build-out of the Rose Prairie project only will not reduce performance of traffic intersections below the City standards ... ).***

- This is the only standard that can be used tonight. The Iowa law doesn't allow you to look beyond that in any event, even if you were in the city you couldn't. You can look to the future and that is a good idea, but you can't impose requirements on this development in anticipation of those that would not be necessary because you don't know when those developments are going to happen.

***Sanitary Sewer - Page 2 ( ... the City's current policy not to extend city utility systems beyond the city limits, except to interconnect with other public utility providers.)***

- The City certainly does have the power to allow Xenia Rural Water Association to hook in and treat the waste that way. If the City doesn't want their money that is fine – we can't force that issue. It baffles him as to why they wouldn't want them to connect to the city sanitary. But it certainly is simply a policy and not a standard, and the Commission is here to look at standards. Sanitary sewer doesn't have any impact limitation at all on the question before the Commission tonight.

***Oversight Issue – Page 10 (The City of Ames does not have any regulatory authority over the future use or operations of the built-out residential subdivision).***

- This one is problematic and understands that. Staff has mentioned several times that the City wouldn't have control over the homeowners associations or over the sanitary system assuming a package plant is put in. First of all, they are willing to work with the City and they can have control if they want it; apparently the City doesn't want it, which is fine. But that is not to say there aren't standards in place or that there isn't any oversight.

***Future Cost – Page 21 ( ... there are few detailed procedures or regulations in place to assign these costs to the development and to the future residents of the development, instead of to current and future city tax payers. It is not possible to conclude that the proposed development meets the requirement of the City's Capital Investment Strategy (LUPP) that the responsibility for all costs be assigned to development at the time of development.)***

- They disagree with the statement that you can assign all costs of development to the development – this simply isn't true. If the City wants to create standards for the urban fringe – then do it; they have had plenty of time and it just hasn't happened. The statute doesn't say that you can ignore it and that you can come up with things that you simply don't like, it states that the ordinances that are currently in place will act as the standards in the urban fringe, which they are and they comply with them – every one of them.

Mr. Becker continued his presentation by stating that the real question is why are they here? The answer isn't for annexation, but wishes it were. He said they are here to seek the approval of the development that is just north of Ames that fully complies with all of the applicable standards. He explained that they had no idea until the application went in and the annexation was rejected that a number of these issues would be raised. He suggested that the City create the additional standards for

the fringe area if they are that concerned about it. They have the right to do so within certain statutory constitutional limitations. However, the statute dealing with fringe area for the City does not say that until those new rules are in place, that everything stops in the fringe; in fact it contemplates just the contrary. The real question here is if this is good development and is it consistent with what you want to see up there if and when there is an annexation.

Mr. Becker concluded his presentation, stating that he is excited about this development because he does environmental law for a living. He said he has never seen a development in the state that creates a method of protection for the environment that really is designed to deal with something off site. This is the first development that is actually going to do something good to adjoining properties, which in this case is the lake. But as far as jumping through the hoops and satisfying all of the standards that are imposed on them, this development does that and more. The only better alternative would be for the City to buy the land. He said they are willing to do what has to be done to protect Ada Hayden Park and are being told no, but this Commission can say yes and urged them to do so tonight.