

COUNCIL ACTION FORM

**SUBJECT: SUBDIVISION REGULATION WAIVER REQUEST FOR RURAL
PROPERTY AT 55497 – 265th STREET**

BACKGROUND:

David and Carlene Norris would like to subdivide property that they own less than a mile from the Ames city limits for future residential development. This land is well within the City's two-mile extra-territorial subdivision jurisdiction. The property is in Section 24 in Washington Township, south of Ames, north of 265th Street (E57), east of U.S Highway 69 and west of the Skunk River (see Location Map – Attachment A).

This property is approximately 86 acres in size. The county zoning for the cropland is A-1, which requires that a lot be a minimum of 35 acres before a home can be built. As illustrated on the Sketch Plan (Attachment B), the proposal is to divide the property into ten lots.

On April 2, 2009, the applicant requested that the City Council waive the City's subdivision public improvement requirements as described in Article IV of Chapter 23 of the Ames Municipal Code (see Request - Attachment C). The request also describes current uses of the property.

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

Section 23.102(1) describes the purposes of the City's subdivision regulations, which are summarized as follows:

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

The City's land use policy for the subject area is stated in the Ames Urban Fringe Plan (AUF), which designates the use for a portion of the subject property as Agriculture and Farm Service (AFS) and Natural Areas (NA) for the other portion (see included excerpt of the Land Use Plan - Attachment D). Generally, the Agriculture and Farm Service land use designation provides for farming and agricultural production and industrial and commercial land uses dependent on proximity to local agricultural land uses. The purposes of Natural Areas include providing habitat for wildlife, minimizing storm water run-off, stabilizing soils, modifying climactic effects, providing for visual attractiveness, and serving some recreational purposes. This designation seeks to conserve such natural resources and to prevent development encroachment. Neither of the land use designations of the subject property support new residential development.

The property owner has requested that the City Council waive the current subdivision regulations that require subdivisions to be served by City streets, sanitary sewers, storm sewers, water systems, sidewalks and street trees. None of this city infrastructure is available within a half mile of the subject property. Current City policy and practice is to not extend connections between the City's utilities and land outside the city.

In cases where the City Council has waived its subdivision requirements for rural property, it has required covenants binding property owners and future property owners to waive rights to protest future assessments for public improvements, waive rights to protest future annexation, and to bind current and future property owners to pay the full cost of abandoning rural water systems in the future. At the time this Council Action Form was prepared, these covenants were not yet completed. Alternative 2 below includes a condition that these covenants be executed before the waiver takes affect.

ALTERNATIVES:

1. The City Council can deny the waiver of public improvement requirements for the proposed subdivision of the property at 55497 – 265th Street.
2. The City Council can approve the waiver of public improvement requirements as described in Article IV of Chapter 23 of the Ames Municipal Code for the proposed subdivision of the property at 55497 – 265th Street subject to the signed covenants submitted by the applicant binding on future property owners, including:
 - a. an agreement waiving their rights to object to future assessments for public improvements,
 - b. an agreement that they are responsible for the costs associated with buying out the rural water and sewer systems at the time of any future annexation, and
 - c. an agreement to annex the property to the City of Ames in the future under certain circumstances.

Under this Alternative, the Preliminary and Final Plats would be submitted for City Council approval.

3. The City Council can waive its requirement for subdivision approval under Section 23.102(2)(b) of the Ames Municipal Code for the property at 55497 – 265th Street.

Under this Alternative, the City Council would have no further involvement in the project's approval.

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

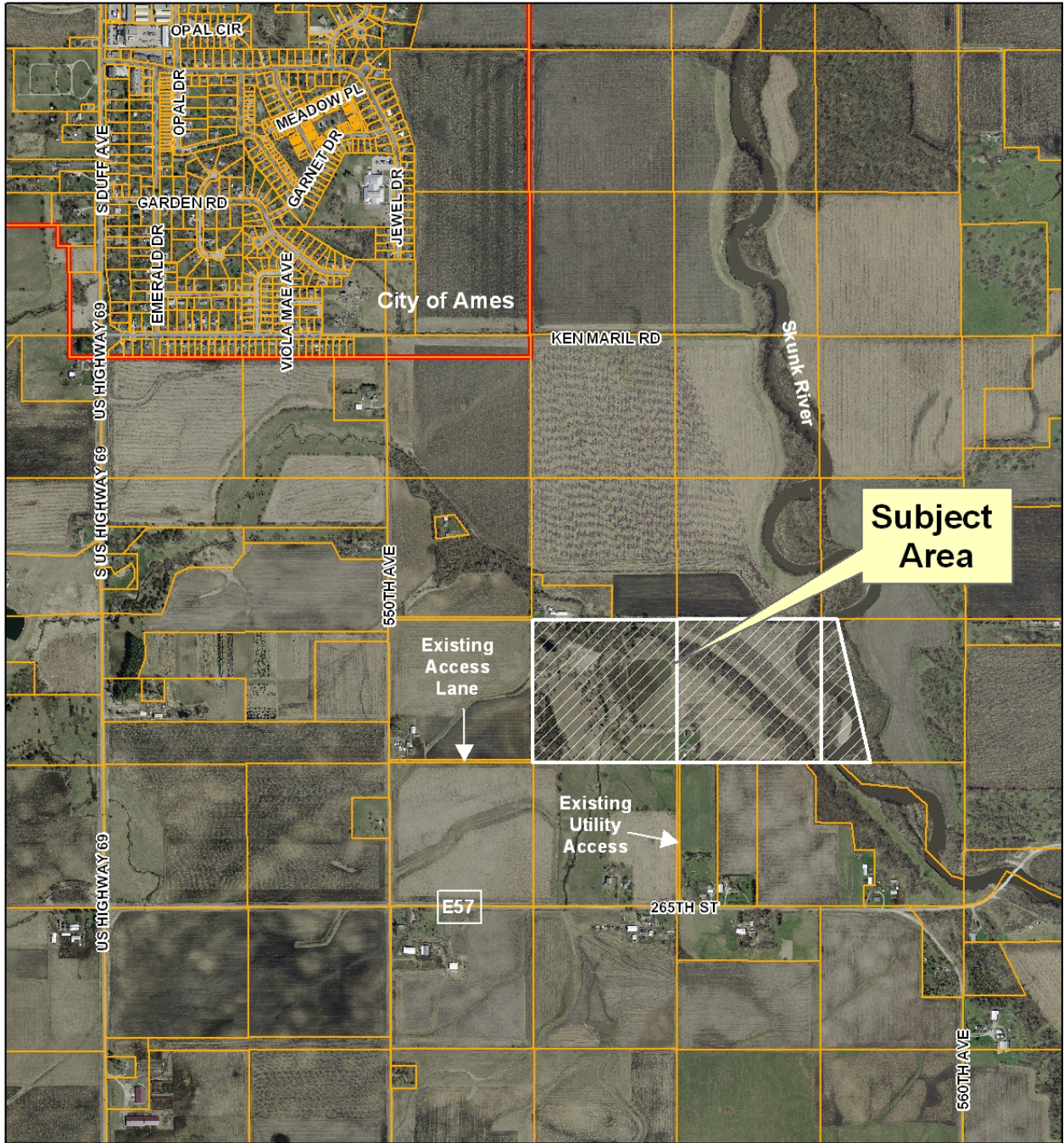
MANAGER'S RECOMMENDED ACTION:

City staff began working with the applicants on this development request in 2006 after the adoption of the Ames Urban Fringe Plan. We informed them at that time that the proposed use was inconsistent with the Plan and thus with the City's land use policies. Since that time, the applicants have sent letters to the Ames City Council requesting it and the other Ames Urban Fringe Plan jurisdictions consider a revision to the Plan that would accommodate the proposed development. Although the Ames City Council has discussed a process for revising the Plan with the other jurisdictions, thus far there is no agreed-upon process for the applicant to follow. Therefore, the applicants have proposed a subdivision and brought this waiver request to the City Council so that they can either proceed with the subdivision or address the Council on their request for a process to consider a revision to the Ames Urban Fringe Plan.

The standards for waiving the City's subdivision requirements do not support a waiver when it would nullify the intent and purpose of the subdivision regulations. One of the purposes of these regulations is to carry out the City's land use policies. The proposed use for the subdivision is not consistent with the City's land use policies. **Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, thereby denying the waiver of public improvement requirements for the proposed subdivision of the property at 55497 – 265th Street.**

The Council should be aware that the city staff is working with the Story County staff to finalize a 28E agreement that would include a process for amending the Fringe Area Plan. It is anticipated that this matter will be brought to Council within the next three months.

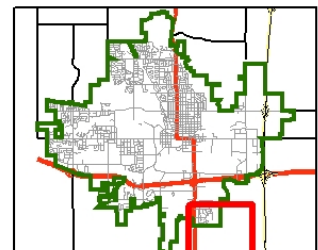
ATTACHMENT A



**Location Map
55497 265th Street**

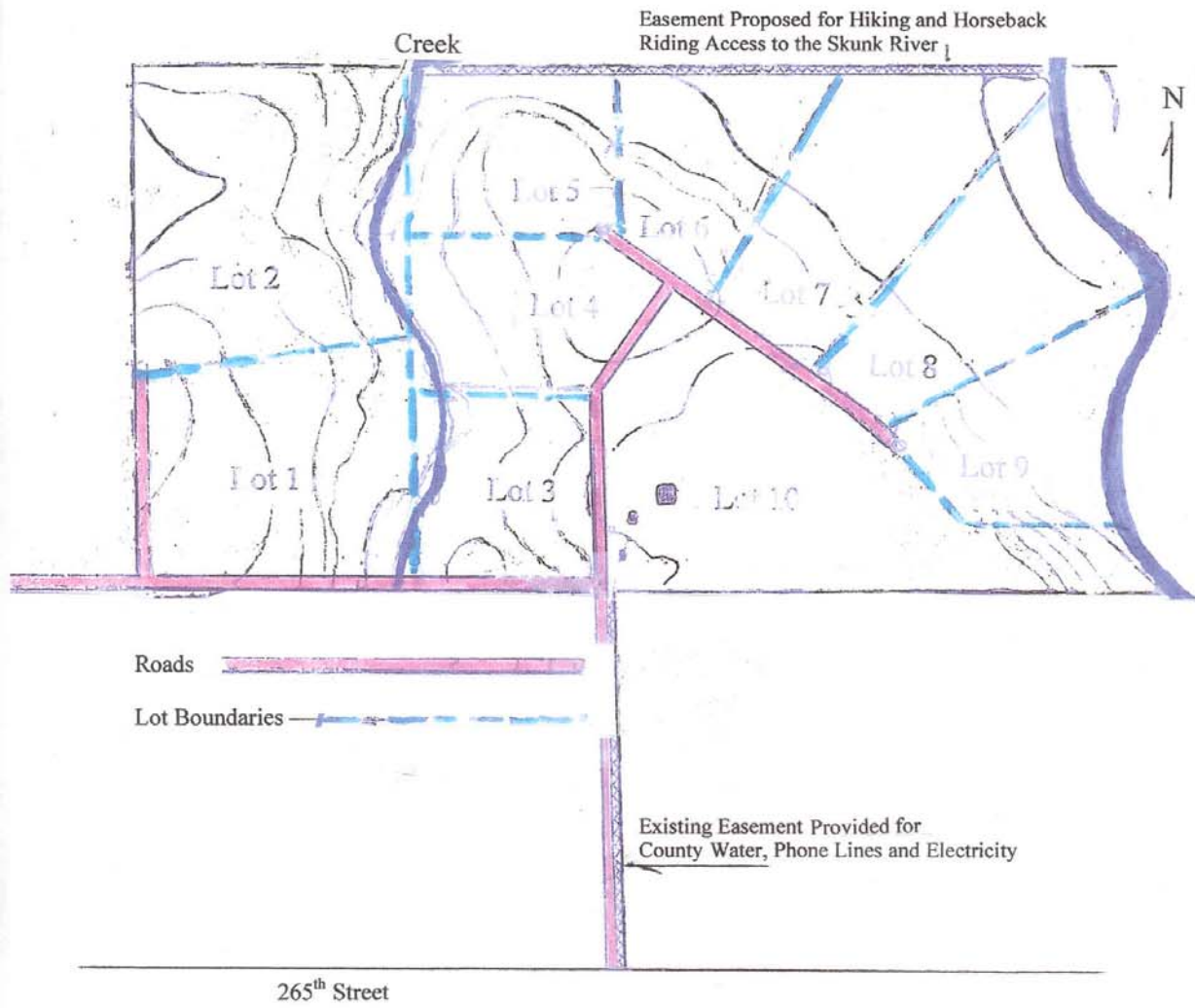


0 600 1,200 2,400
Feet



ATTACHMENT B

Sketch Plan Pre-application Conference
Timber Ridge Estates Project
General Location and Dimension of Lots, Roads and Easements



5

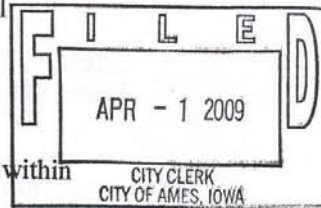
ATTACHMENT C



Pkts. 4-3-09
COPY: Steve O.
April 1, 2009

Request to Meet With the Ames City Council

To: The Ames City Council



We ask the Council to consider a waiver of the subdivision standards within the Two-Mile Ames Urban Fringe Plan.

Proposed Subdivision - Timber Ridge Estates, 55497 265th Street, Ames, Iowa 50010
Owners - David A. and Carlene H. Norris

The Story County *Property Research Report* and *Conceptual Review* with department officers was completed nearly three years ago.

The property lies along the Skunk River and is accessible by two quarter-mile lanes from the property to the county road. We have owned it for 35 years and it is virtually unmoled. The land consists of approximately 20% timber, 20% pasture, 20% sloping CPR land, 20% cropland and 20% flood zone. Subject to Story County regulations, it is suitable for ten acreages, ranging from 4 to 16 acres - total of 86+/- acres.

Enclosed - site location page.

Enclosed - general location and dimension of lots, roads, and easements.
Pre-existent easement location for utilities along the south entry is shown.

Enclosed - overview photo.

No portion of the development is to be reserved or dedicated to public use.

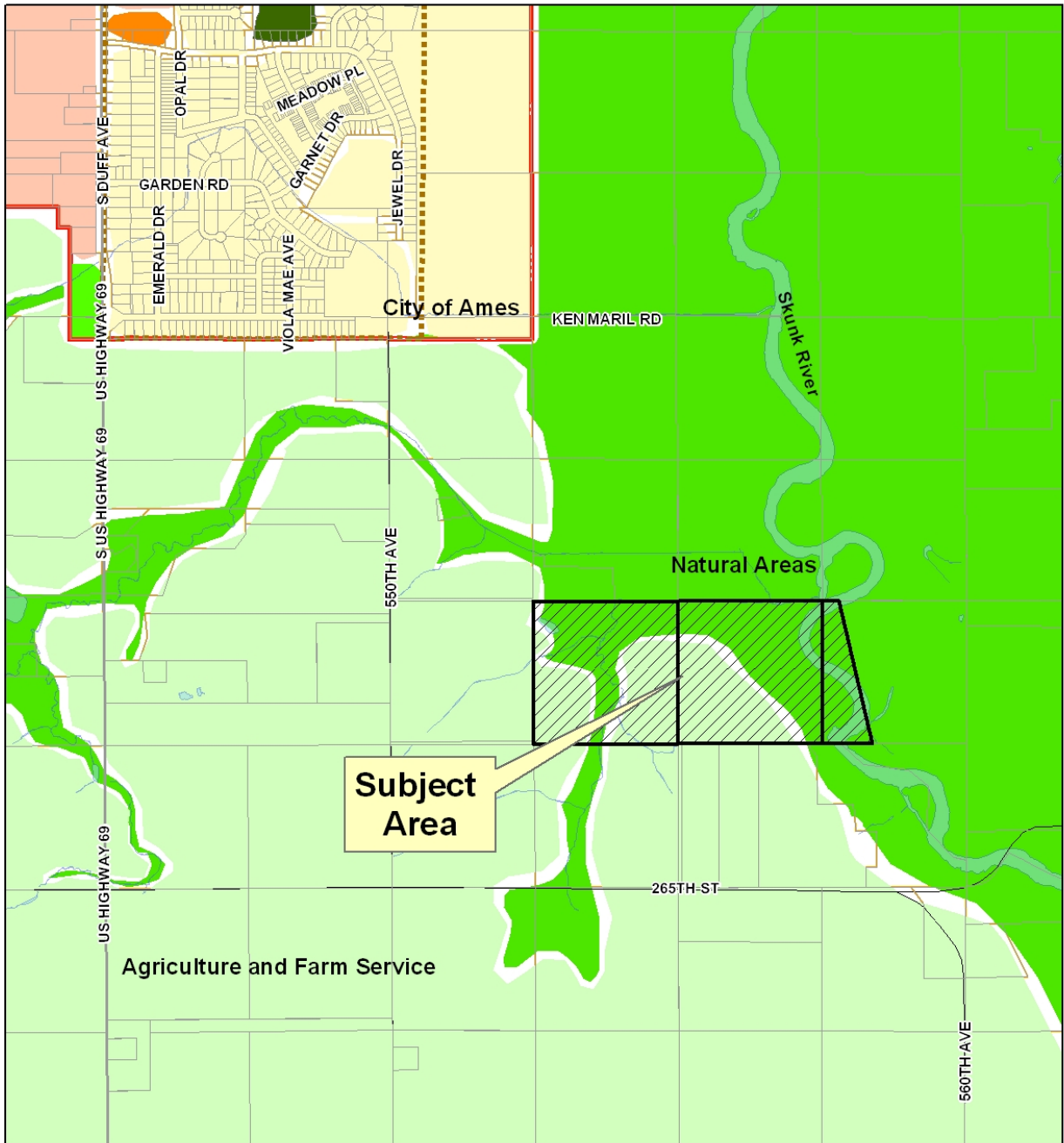
No public infrastructure, water mains, sanitary sewer available.
Property now has adequate county water for the development.

If the waiver is granted, the property would be classified as a Minor Subdivision and County Rural Residential regulations would apply.

David A. Norris
Carlene H. Norris

David A. and Carlene H. Norris
1616 Grand Avenue, Ames, Iowa 50010
515-232-1054
dnorr@att.net

ATTACHMENT D



Land Use Map
55497 265th Street



0 625 1,250 2,500
Feet

