

COUNCIL ACTION FORM

SUBJECT: ZONING ORDINANCE TEXT AMENDMENT AMENDING THE DEFINITION OF OPEN SPACE TO BE EXCLUDED FROM THE MINIMUM NET DENSITY CALCULATION IN SUBURBAN RESIDENTIAL ZONING DISTRICTS

BACKGROUND:

New residential developments in expanding areas of Ames are required to meet a minimum net average density, or average dwelling units per acre. The purpose of this provision is to carry out the City's land use goals to increase the supply of housing while making efficient use of taxpayers' and utility rate payers' money and preserving the traditional character and quality of Ames neighborhoods as new neighborhoods are built.

However, this requirement could make it very difficult to protect steep slopes, sensitive natural areas, and even open space from development if they are included in the calculation. These "green" areas are major assets of Ames, assets that many people value and believe help to make Ames a great place to live. Therefore, the City zoning code allows such areas to be removed from the density calculation.

The recent Northwood Heights plat presented a dilemma for this approach. Although the project did not include any steep slopes or sensitive natural areas, it did provide four separate individually-owned parcels as open space that technically met the required minimum average net density. (See Attachment A) While reviewing this plat Council questioned whether the three-acre outlots of "private open space," which would be owned and maintained by the owner of each one-acre lot that surrounds it, truly function as open space. It was questioned whether the development would look any different than a development with four-acre lots.

To address concerns raised by the novel approach pursued in the Northwood Heights 4th Addition for open space, the City Council directed staff and the Planning and Zoning Commission to consider an amendment to the definition of *open space* used for determining compliance with the City's minimum density policies. It was further emphasized that these proposed changes should be brought back to the Council as soon as possible to prevent this situation from occurring in developments within the City limits.

Current Zoning Text

Section 29.1202(2) establishes principles for development in Floating Suburban Residential zoning districts (FS-RL, FS-RM): "Property that is developed according to the F-S requirements shall create a development pattern that adheres to the following development

principles: . .

. . . (d) The provision of common open space in residential areas where the maintenance of the open space is the responsibility of those directly benefiting.” (emphasis added)
In addition to Supplemental Development Standards set out in 29.1202(5), Section 29.1202(6) establishes the following regulations for FS-RL zoning districts.

The minimum average density for one and two-family dwelling units, two-family dwelling units, and single family attached dwelling units in areas zoned FS-RL shall be 3.75 dwelling units per net acre. Net acres shall be determined by subtracting from the gross acreage of a subdivision the land area devoted to the following uses or containing the following characteristics:

1. Public or private right-of-way;
2. Public or private open space;
3. Areas of severe slope where the topography exceeds 10% as determined by the Story County Soil Survey;
4. Areas containing natural resources as identified in the Natural Areas Inventory of the City of Ames dated 1994.

The same table also describes the “Open Space Requirement:”

A minimum of 10% of the gross area shall be devoted to private or public open space. A minimum of 15% of the gross area shall be devoted to private or public open space for back-to-back single family attached dwellings. Ownership and maintenance responsibility of the open space shall be a Homeowner’s Association or a similar private entity.

(See Table 29.1202(6) Attachment B)

The last sentence of this requirement refers to a form of private ownership but not to public ownership, which contradicts the reference in the first sentence to “private or public open space.” Neither provision specifies use of the open space, but zoning definitions do:

Section 29.201(129) defines open space as

“useable open space designed and intended for the use of all residents of a residential development, including space dedicated to the public.”

The zoning code does not define “private” open space, which was the open space included in the Northwood Heights project. However, Section 29.201(35) does define common open space as:

“...an area of land, water or combination thereof planned for active or passive recreation, but not including areas utilized for streets, alleys, driveways or private roads, off-street parking or loading areas, or required yards. The area of

recreational activities such as swimming pools, tennis courts, shuffle board courts, etc., may be included as common open space.”

Proposed Text Changes

The issue of concern is the potential conflict between the requirement that open space be available for use by all residents and the control of the future improvement, management and therefore use of parcels that are individually and privately owned by the owner/occupant of an adjacent property. What assurance is there that the open space will not evolve into use only by its property owner? The proposed text amendment addresses the issue by eliminating the use of the term “private” open space that is not defined and instead using the term “common” open space. This term is in the purpose statement of the FS zoning districts and is also defined in the zoning code. The proposed text amendment is as follows.

The minimum average density for one and two-family dwelling units, two-family dwelling units, and single family attached dwelling units in areas zoned FS-RL shall be 3.75 dwelling units per net acre. Net acres shall be determined by subtracting from the gross acreage of a subdivision the land area devoted to the following uses or containing the following characteristics:

1. Public or private right-of-way;
2. ~~Public or private open space;~~
2. Common open space owned by the City of Ames or owned by all property owners in common through a Homeowner’s Association or a similar private entity
3. Areas of severe slope where the topography exceeds 10% as determined by the Story County Soil Survey;
4. Areas containing natural resources as identified in the Natural Areas Inventory of the City of Ames dated 1994.
5. Areas reserved as an outlot or by easement to the city for planting as woodland, prairie, wetland or other native plant community
6. Stormwater detention areas and stormwater retention ponds required by the Ames Municipal Code or as a condition of a permit or other City approval.
7. Areas reserved as an outlot or by easement to the city to protect natural archeological and/or historic features.

Characteristics #5 and #6 are proposed to accommodate areas that are created to prevent increased rates of storm water runoff and improve water quality, although the current ordinance does not discourage such areas. These are not always also useable open space, but should not be discouraged by the minimum density requirement. For consistency and clarity, amendments are also proposed for the “Open Space Requirement” in the same Table:

A minimum of 10% of the gross area shall be devoted to ~~private or public~~ common open space. A minimum of 15% of the gross area shall be devoted to ~~private or public~~ common open space for back-to-back single family attached dwellings.

~~Ownership and maintenance responsibility of the~~ Common open space shall be owned and maintained by the City of Ames or by a Homeowner's Association or a similar private entity.

Recommendation of the Planning & Zoning Commission. At its meeting of November 4, 2009, the Planning and Zoning Commission moved to delete this item from its agenda, stating that it should be taken under consideration after the new City Council is in place.

ALTERNATIVES:

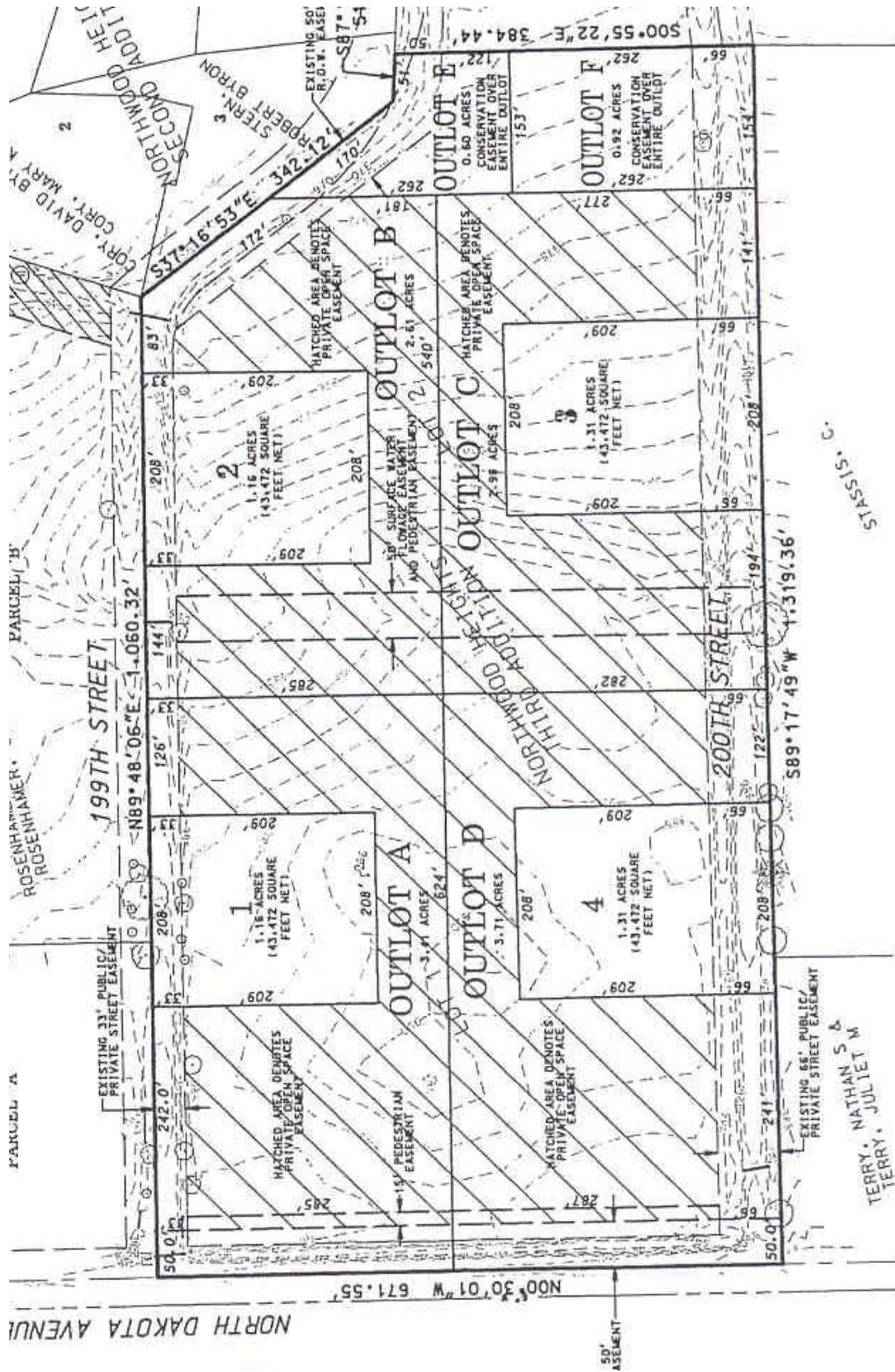
1. The City Council can direct staff to place the proposed revisions in the Zoning Code regarding open space on the December 8 City Council meeting for first reading and to notify the Planning & Zoning Commission that it can yet make a recommendation on this item at its next Planning & Zoning Commission meeting.
2. The City Council may choose to defer this item until after the new City Council is in place as recommended by the Planning and Zoning Commission.
3. The City Council can choose to take no action on the proposed text amendments to Table 29.1202(6) and thus retain the existing language.
4. The City Council can refer this back to staff for additional analysis and/or options.

MANAGER'S RECOMMENDED ACTION:

In accordance with the City Council's previous direction following the recent review of the Northwood Heights plat, it is the recommendation of the City Manager that the City Council approve Alternative #1 thereby directing the staff to place the proposed revisions in the Zoning Code regarding open space on the December 8 City Council meeting for first reading and to notify the Planning & Zoning Commission that it can yet make a recommendation on this item at its next Planning & Zoning Commission meeting.

At this point, the Planning & Zoning Commission has chosen not to review this issue. The code nonetheless allows the City Council to take action on a text amendment if it provides 30 days notice to the Planning & Zoning Commission. Such notice was provided when the Commission received its packet pertaining to this issue on October 30, 2009. The Council may therefore choose to move forward without a recommendation from the Commission. It can nonetheless inform the Commission that there is yet time to forward a recommendation to the Council prior to adoption of any changes.

Attachment A



Attachment B

Table 29.1202(6)
Suburban Residential Floating Zone Suburban Regulations

SUBURBAN REGULATIONS	F-S ZONE
Minimum Density Suburban Residential Low Density (FS-RL)	*The minimum average density for one and two-family dwelling units, two-family dwelling units, and single family attached dwelling units in areas zoned FS-RL shall be 3.75 dwelling units per net acre. Net acres shall be determined by subtracting from the gross acreage of a subdivision the land area devoted to the following uses or containing the following characteristics: 1. Public or private right-of-way; 2. Public or private open space; 3. Areas of severe slope where the topography exceeds 10% as determined by the Story County Soil Survey; 4. Areas containing natural resources as identified in the Natural Areas Inventory of the City of Ames dated 1994.
Minimum Density Suburban Residential Medium Density (FS-RM)	The minimum density for property developed in the FS-RM zone shall be 10 units per acre.
Lot and Block Design Requirements	Block lengths that exceed 660 feet in length on a block face shall contain a mid-block cut through or cross walk to enable effective pedestrian movement through the block. From one street to another street on the opposite block face.
Open Space Requirement	A minimum of 10% of the gross area shall be devoted to private or public open space. A minimum of 15% of the gross area shall be devoted to private or public open space for back-to-back single family attached dwellings. Ownership and maintenance responsibility of the open space shall be a Homeowner's Association or a similar private entity.
Landscape Buffer Requirement	A landscaped buffer of 10 feet in width shall be provided in the setback area of any lot zoned FS-RM where the lot is adjacent to any lot zoned FS-RL. The landscaping shall adhere to the L.3 Standards as provided for in Section 29.403 of the ordinance.
Parking Requirements	Parking shall be provided to meet the requirement as set forth in Section 29.406 of this ordinance.