

COUNCIL ACTION FORM

SUBJECT: TIMBER ROAD ESTATES REQUEST FOR WAIVER OF SUBDIVISION REGULATIONS

BACKGROUND:

At the April 13 City Council meeting, Council referred to staff the letter from Jared Willis seeking a waiver of the subdivisions standards and requested a written background report. Mr. Willis is proposing a subdivision of land (Timber Road Estates) within two miles of the corporate limits of Ames and is, therefore, subject to the provisions of the Ames subdivision regulations. Timber Road Estates is a proposed residential development comprising of five lots on Timber Road south of Ames. A map of the site is attached. It is located in the area of the Ames Urban Fringe Plan that is identified as Rural Residential.

The Plan describes Rural Residential as follows:

Residential land uses within Rural Residential designated areas are developed at a rural density and in areas where urban infrastructure may not be in place for a time period beyond the Ames Urban Fringe Plan. The Rural Residential designation recognizes a residential market segment seeking large lots in a rural setting, benefiting from agricultural activities on a small scale

The full policy section of the Plan for Rural Residential is attached.

In Chapter 23, the City's subdivision ordinance contains the site design standards for the creation of new subdivisions. This ordinance describes the minimum standards for streets and rights-of-way, public utilities (water, sanitary sewer, and storm water management), residential landscaping, street lighting, and all other public improvements necessary for an urban development.

Since the proposed subdivision contains more than three lots and lacks the public improvements described in Division IV, the subdivision regulations classify this as a major subdivision, which requires a preliminary plat to be submitted that identifies how the infrastructure requirements will be met.

However, Section 23.103(1) of the ordinance allows the City Council to waive or modify the requirements of the subdivision regulations where "...strict compliance with the requirements of the regulations would result in extraordinary hardship to the Applicant or would prove inconsistent with the purpose of the Regulations because of unusual topography or other conditions...provided, however, that such modification or waiver shall not have the effect of nullifying the intent and purpose of the Regulations.... In so granting a modification or waiver, the City Council may impose such additional conditions as are

necessary to secure substantially the modifications of the requirements so modified or waived.” In addition, Chapter 354.9(2) of the *Code of Iowa* allows cities to “...waive the requirements of any of its standards or conditions....”

The City Council has routinely granted waivers to Division IV of Chapter 23 for residential development in those areas of the Urban Fringe where annexation by the City is not anticipated in the foreseeable future. These waivers, however, have been recommended only when the proposed development is consistent with the use and density standards of the Plan.

These waivers have been justified for a number of reasons. First, the expectation of the Plan is that the development would be allowed and that it is not anticipated to be a part of the City in the foreseeable future. Second, the extension of utilities to the site is a costly endeavor. Third, features common to rural development, such as large open ditches adjacent to roads, would not readily accommodate urban sidewalks and street trees. Fourth, the workable scenario outlined in the implementation section of the Urban Fringe Plan proposes that rural infrastructure standards are appropriate.

If the City Council were to waive the infrastructure requirements, the owner would still need to prepare a preliminary plat for consideration by the City Council, since the proposed division is for more than three lots. In such cases, the City has deferred to the design and infrastructure standards of the County. Along with the submittal of the preliminary plat, the applicant would also submit the three standard covenants with original signatures suitable for recording in the Story County Recorder’s office. These covenants bind the owners and successors to (1) agree to annexation at the time the City requests, (2) waive objections to assessments that may be imposed in the future if public improvements are brought to the site as an assessment project, and (3) pay any fees associated with the buy-out of rural water. These covenants would be recorded if the preliminary plat is approved.

After approval of the preliminary plat by the City, the applicant could then submit a final subdivision plat for consideration by the City Council. After obtaining resolutions from both the City and County approving the final plat, the subdivision plat could then be recorded.

ALTERNATIVES:

1. The City Council can approve a request to waive the City’s design and infrastructure standards for subdivisions for the proposed five-lot, 20-acre residential subdivision on Timber Road. The waiver would be effective only if, within six months following the date of the resolution, signed covenants and an application for the preliminary plat are submitted to the City. The waiver would be valid only for this division. Any subsequent division of land would need to request a new waiver.

Approval of this waiver of the City’s design and infrastructure standards is consistent with past practices of the City Council and with the policies and intent of the Ames Urban Fringe Plan. **The six-month time limit has not been standard practice in**

the past, but would ensure that approved waivers will not be outstanding indefinitely.

2. The City Council can deny the request to waive the City's design and infrastructure standards for this proposed subdivision.

This alternative would require the developer to prepare and submit a preliminary plat indicating how the standards will be met.

3. The City Council can refer this request back to staff and/or the applicant for additional information.

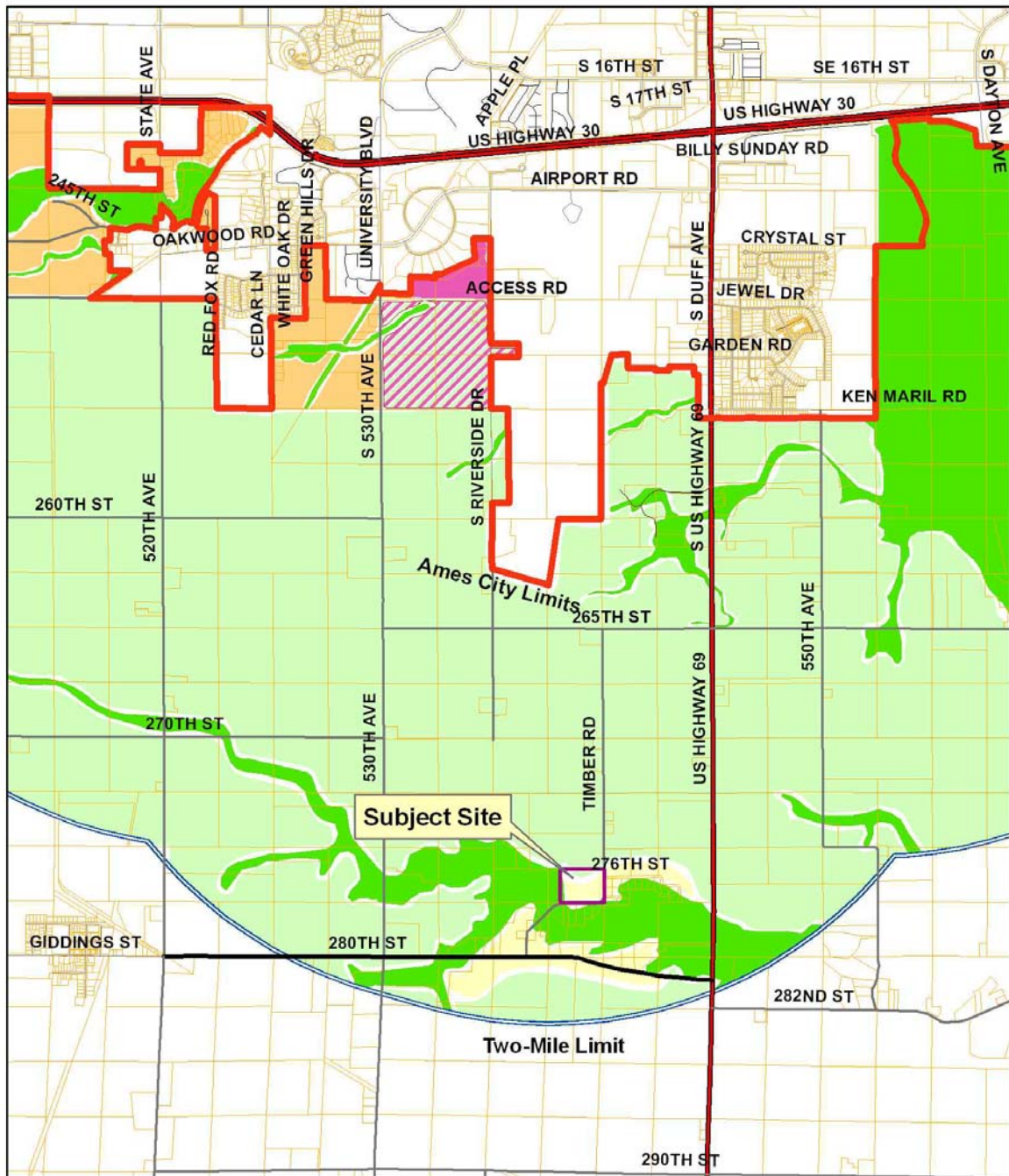
MANAGER'S RECOMMENDED ACTION:

This property currently consists of a 20-acre tract lying within the area identified in the Ames Urban Fringe Plan as Rural Residential. The proposed use is consistent with that Plan, as is the proposed density of development. In the past, when a request has been made for a waiver of the design and infrastructure standards of the subdivision regulations, staff has recommended such a waiver when the proposed development is consistent with the Plan. The City will, in these instances, defer to the standards of the County. The applicant, however, will still need to submit a preliminary plat to the City for approval, as well as the final plat. In addition, the applicant will need to submit the three covenants at the time the City Council considers the preliminary plat.

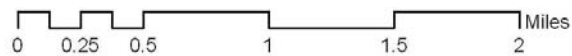
Staff has reviewed the proposed development and finds that a waiver of the design and infrastructure standards is warranted due to the reasons described in the report and that the waiver is consistent with the policies and intent of the Council's adopted Ames Urban Fringe Plan.

Therefore, it is the recommendation of the City Manager that the City Council approve Alternative #1, thereby waiving the City's design and infrastructure standards for subdivisions for the proposed five-lot, 20-acre residential subdivision on Timber Road. The waiver would be effective only if, within six months following the date of the resolution, signed covenants and application for the preliminary plat are submitted to the City.

The City Council should note that the recommended alternative includes a new stipulation that requires the applicant to take the next step and submit an application for a preliminary plat within six months of the City Council's approval of the waiver of the design and infrastructure standards.



General Location Map



Rural Residential (RR)

Residential land uses within Rural Residential designated areas are developed at a rural density and in areas where urban infrastructure may not be in place for a time period beyond the Ames Urban Fringe Plan. The Rural Residential designation recognizes a residential market segment seeking large lots in a rural setting, benefiting from agricultural activities on a small scale

RR Policy 1: This land use designation includes all single-family residential land uses/developments that involve maximum average net densities of one unit per acre.

RR Policy 2: Full urban infrastructure standards are not required. (Relates to RSACA Goal 2.6)

RR Policy 3: Decentralized wastewater treatment facilities and wells shall meet IDNR, county, and city standards. (Relates to RSACA Goal 2.6)

RR Policy 4: Encourage clustering of residential sites within these land areas to limit the short-term and long-term costs associated with infrastructure improvements and the distribution of public services. (Relates to RSACA Goal 2.6)

RR Policy 5: Make provisions to protect environmental resources, environmentally sensitive areas and adjacent Natural Areas. (Relates to RSACA Goal 2.3, 2.4)

RR Policy 6: Mitigate and manage stormwater run-off, soil erosion, and wastewater discharge from Rural Residential land uses according to IDNR and county standards. . (Relates to RSACA Goal 2.3)

RR Policy 7: Protect the rural character of the Rural Service and Agricultural Conservation Area through residential density requirements, buffering requirements between conflicting land uses and other appropriate transitions from urban to rural areas. (Relates to RSACA Goal 2.1)

RR Policy 8: Limit rural residential development on prime agricultural land. Assure that the development on prime agricultural land is farm-related and has adequate access to road systems and potable water. Development should not interfere with agricultural-related activities. . (Relates to RSACA Goal 2.1, 2.2, 2.5, 2.6).

RR Policy 9 Minimize the impact of non-agriculture development in rural areas on existing agricultural operations. . (Relates to RSACA Goal 2.1, 2.5)