

**COUNCIL ACTION FORM**

**SUBJECT: NORINE BLACK REQUEST FOR WAIVER OF SUBDIVISION REGULATIONS**

**BACKGROUND:**

At the June 22 City Council meeting, Council referred to staff the letter from Norine Black seeking a waiver of the City's subdivisions standards. Mrs. Black is proposing a subdivision of land within two miles of the corporate limits of Ames and is, therefore, subject to the provisions of the Ames subdivision regulations. Staff reviewed the sketch plan submitted by Mrs. Black on June 9 and met with her on June 14. The proposed division of land is a two-lot split of a 40-acre aliquot parcel. One proposed lot is six acres on which a home is proposed to be built, while the remainder is 34 acres and will remain in agricultural production. The site lies approximately one-quarter mile south of the Ames City limits. A location map is attached. The site is located in the area of the Ames Urban Fringe Plan that is identified as Agriculture/Farm Service.

The Plan describes Agriculture/Farm Service as follows:

*The designation encompasses large areas of highly valuable farmland, with farming and agricultural production as the primary activity. This designation also includes areas where the landowner has chosen not to use the land for agricultural production. The vegetative cover of this land may be native (either original or re-established) or introduced, but not part of the Natural Areas land use designation.*

Policy 4 specifically addresses residential development within this area.

*AFS Policy 4: Limit non-agricultural residences in the Agriculture and Farm Service designation to homes existing at the time of this Plan or remaining scattered building sites where farmstead homes once existed or homes on very large parcels of ground typical of the agricultural setting. Otherwise, subdivision for the creation of new residential development lots is not supported within the Agriculture and Farm Service designation.*

The description of the Agriculture/Farm Services designation and its policies from the Ames Urban Fringe Plan (pages 26-27) are attached.

Since the proposed six-acre lot was once the site of a homestead (verified through the County Planning Department), the redevelopment of the lot for residential uses is consistent with the Plan. The remaining 34-acre lot is too small by County zoning standards to be developed for residential purposes and will remain in agricultural production. Therefore, the proposed subdivision is consistent with the Ames Urban Fringe Plan.

Division IV of Chapter 23, the City's subdivision regulations, 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 lacks the public improvements described in Division IV, the subdivision regulations classify this as a major subdivision, requiring 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 could then proceed with the preparation of a minor final plat for consideration by the City Council. Along with the submittal of the final plat, the applicant will 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 final plat is approved.

The applicant will need approval of the final plat from both the City Council and the County Board of Supervisors. After obtaining resolutions from both the City and County approving the final plat, the subdivision plat can 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 two-lot, 40-acre subdivision on 265<sup>th</sup> Street. The waiver would be effective if, within six months following the date of the resolution, signed covenants and an application for the final plat are submitted to the City.

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.

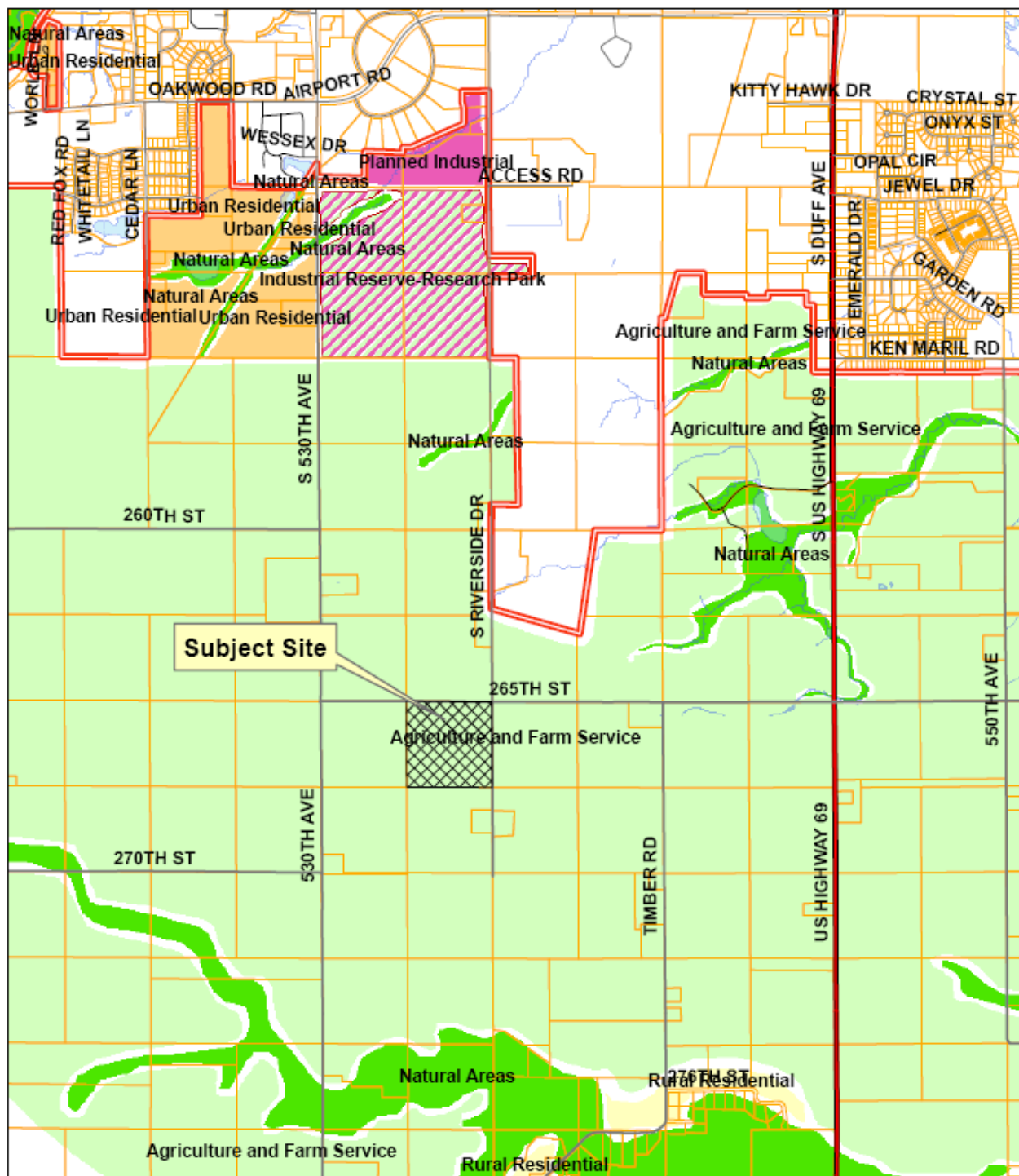
This alternative would require the developer to prepare and submit a preliminary plat indicating how the standards will be met.

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 40-acre aliquot parcel lying within the area identified in the Ames Urban Fringe Plan as Agriculture/Farm Service. 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. If the waiver is granted, the applicant can then submit a minor final plat along with the three covenants, to the City for approval. 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 two-lot, 40-acre subdivision on 265<sup>th</sup> Street. The waiver would be effective only if, within six months following the date of the resolution, signed covenants and application for the minor final plat are submitted to the City.



### Legend

-  Subject Site
-  Ames City Boundary

0 0.25 0.5 1 Miles

## General Location of Proposed Subdivision



## **Agriculture and Farm Service (AFS)**

The designation encompasses large areas of highly valuable farmland, with farming and agricultural production as the primary activity. This designation also includes areas where the landowner has chosen not to use the land for agricultural production. The vegetative cover of this land may be native (either original or re-established) or introduced, but not part of the Natural Areas land use designation.

AFS Policy 1 Recognizing that agricultural land is a natural resource of the Ames Urban Fringe that should be protected, farming and agricultural production is and will continue to be the predominant land use of areas given the Agriculture and Farm Service designation. Land given this designation has been determined to be moderate to high value agricultural land with regard to one or more of the following general factors: soil productivity, effect of surrounding land uses on agricultural use, and physical characteristics that affect the ease with which the land can be utilized for agriculture. (Relates to RSACA Goals 2.1, 2.5)

AFS Policy 2: Recognizing that industrial and commercial land uses dependent on proximity to local agricultural land uses are essential to the continued feasibility of farming in Story County and Boone County, support these services within the Agriculture and Farm Service designation. (Relates to RSACA Goals 2.1, 2.5)

AFS Policy 3: Strategically locate such industrial and commercial uses in order to:

- utilize existing adequate access and road capacity and otherwise assure the existence of adequate public facilities;
- protect productive soils and environmental resources;
- support the continued use of these areas for farming and agricultural production.

(Relates to RSACA Goals 2.1, 2.2, 2.3, 2.6)

AFS Policy 4: Limit non-agricultural residences in the Agriculture and Farm Service designation to homes existing at the time of this Plan or remaining scattered building sites where farmstead homes once existed or homes on very large parcels of ground typical of the agricultural setting. Otherwise, subdivision for the creation of new residential development lots is not supported within the Agriculture and Farm Service designation. (Relates to RSACA Goals 2.1, 2.5)

AFS Policy 5 Allow the clustering of agricultural-related development at a limited scale where properties have adequate access to a public road. Such development shall be configured and designed to be harmonious with agricultural activities and avoid negative impacts to agricultural operations.