

**COUNCIL ACTION FORM**

**SUBJECT: REQUEST FOR WAIVER OF RIGHT TO REVIEW RURAL SUBDIVISION  
FOR MELVIN BELL**

**BACKGROUND:**

At the July 20 City Council meeting, the Council referred to staff a letter from Melvin Bell seeking a waiver of the City's subdivision standards. Mr. Bell owns an aliquot parcel in Boone County. This 40-acre parcel lies a quarter mile west of Story County and is split by US 30, separating the parcel into two tracts. Mr. Bell desires to sell the portion lying south of US 30 to an abutting landowner and will retain the portion lying north of US 30.

The 40-acre parcel was effectively divided into two tracts when the Iowa Department of Transportation acquired the right-of-way for US 30. However, Boone County still considers it as one parcel. Therefore, to effectuate a division of land, a formal plat needs to be prepared. The site is located in the area of the Ames Urban Fringe Plan that is identified as Agriculture/Farm Service. Two maps are attached. One shows the location of the parcel along with its relation to the City of Ames corporate boundary and Urban Fringe Plan land use designations. The second map is an aerial view of the site showing the existing uses as farmland.

The proposed division of land is intended to transfer the portion of the parcel lying south of US 30 to an abutting landowner. The land will continue to be used for agricultural production, as is consistent with the Urban Fringe Plan Land Use Map.

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....." In addition, Chapter 354.9(2) of the *Code of Iowa* allows a city to "...**waive its right to review the subdivision** or waive the requirements of any of its standards or conditions...."

The City Council has waived its jurisdiction for rural subdivisions in very few instances—usually when the division involves the creation of only a single new tract and usually when land uses are not anticipated to change due to the division. In those instances, the City Council determined that the City will not be harmed by a waiver of its jurisdiction since the impact on future development is minimal or non-existent.

In this instance, the right-of-way of US 30 has created a de facto split of the 40-acre tract. Mr. Bell seeks merely to transfer the ownership of the southern portion to an adjoining landowner because the US 30 has created a physical barrier, limiting access to the southern portion from the northern portion. The southern portion is currently being farmed by Mr. Cooper in combination with other parcels lying south of the highway.

If the City Council were to waive its jurisdictional review, the owner could then proceed with the division of land following the standards of Boone County. There would be no further review of this division by the City of Ames. The owner can record a plat for the division of land only with a resolution from the City of Ames that either approves the plat or waives the City's right to review the plat.

Mr. Bell, in accordance with City policies and practices, has submitted the three standard covenants with original signatures suitable for recording in the Boone 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.

If the City Council were to waive its jurisdictional review of the division of land, staff believes that it is appropriate to return these signed covenants to Mr. Bell unrecorded. He could then dispose of them as he sees fit. The proposed division of land is not for development purposes, but merely to effectuate a change of ownership of a tract of farmland.

### **ALTERNATIVES:**

1. The City Council can approve a request to waive the City's right to review the plat.

Approval of this waiver of the City's right to review the plat is supported by the facts in this rare instance. The 40-acre tract has already been effectively split by the US 30 right-of-way. The existing uses (farming) are consistent with the Ames Urban Fringe Plan; and the proposed division of land creates two parcels for which the uses will remain the same. Any future division of these two new parcels would still be subject to review by the City of Ames.

2. The City Council can approve a waiver only of Division IV (design and infrastructure standards) of the Ames Subdivision Regulations. This waiver would require the owner to prepare a minor subdivision plat for later review and action by the City

Council. The covenants will be retained by the City and recorded along with the approved plat.

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

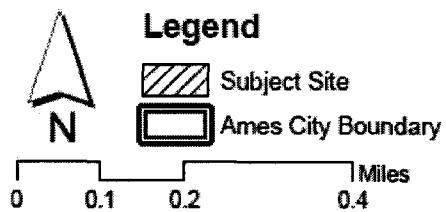
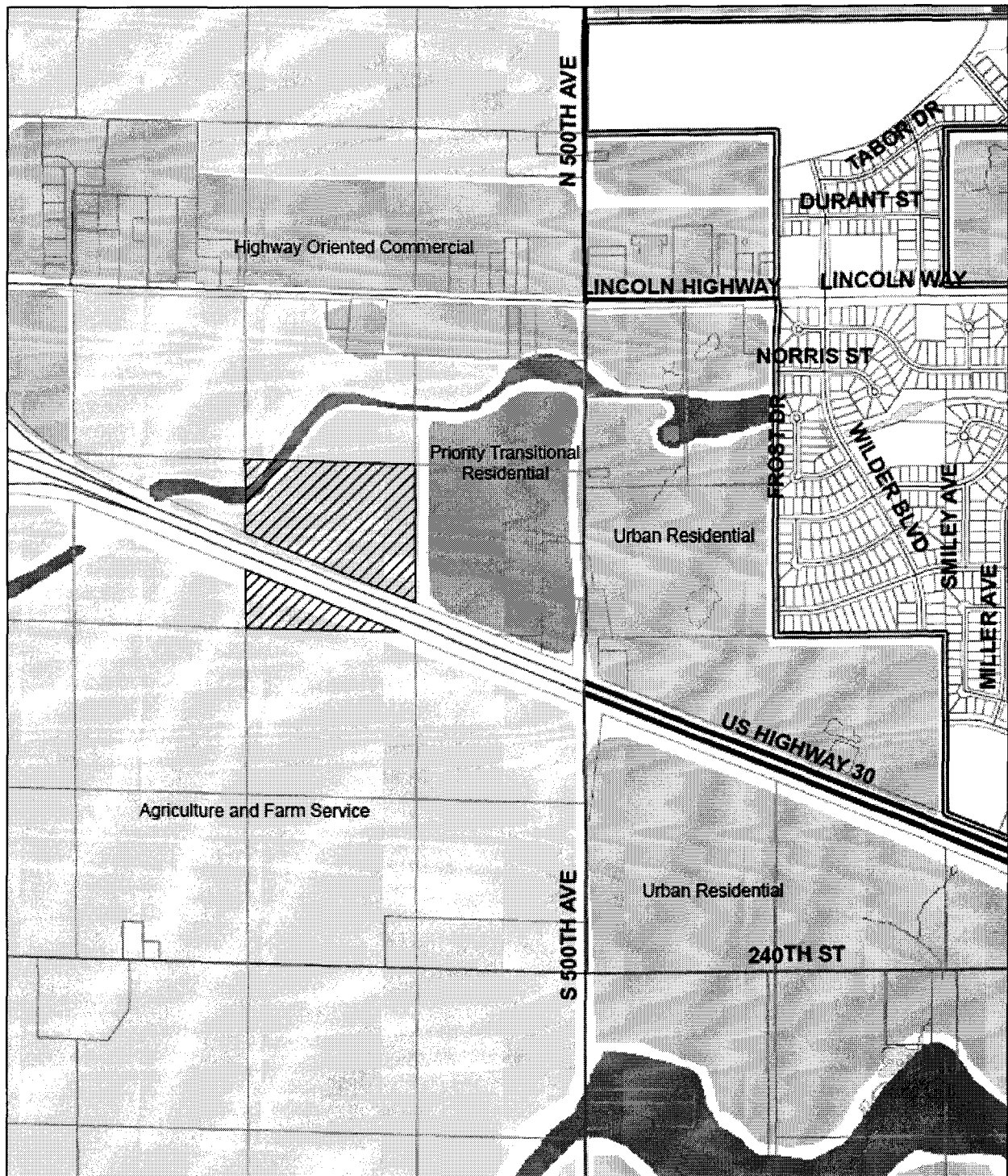
This alternative would require the developer to prepare and submit a preliminary plat indicating how the standards will be met.

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

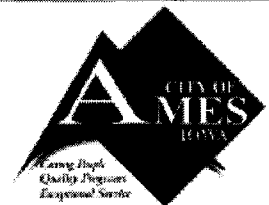
**MANAGER'S RECOMMENDED ACTION:**

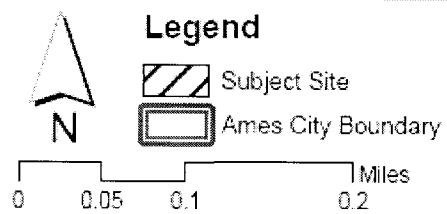
The City has approved a waiver of its right to review subdivisions only in rare instances. Because of the non-existent impact to the City's future development potential and because the current uses of the site are consistent with the Plan and will remain unchanged, it is appropriate to consider this as an instance when the waiver of subdivision review is appropriate.

Therefore, it is the recommendation of the City Manager that the City Council approve Alternative #1, thereby waiving the City's right to review the proposed division of land. This would allow the owner to prepare a plat meeting only the requirements of Boone County. The City would prepare a resolution to be recorded with the plat that states that the City of Ames waives its right to review this division of land. The signed covenants would also be returned to Mr. Bell for disposal.

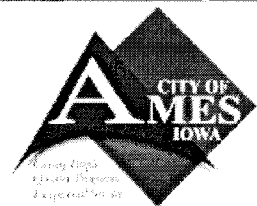


## Location Map





## Aerial Map



## **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.

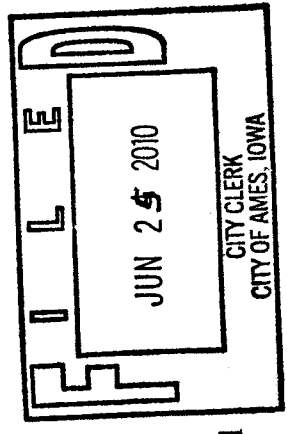
(Relates to RSACA Goals 2.1, 2.2, 2.3, 2.6)

**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.

Photo: 6-25-10  
Copy: Steve O.

June 25, 2010



To: Ames City Council

I, Melvin D. Bell, request a waiver of the City's jurisdiction for the proposed plot of Survey in SW ¼ of NE ¼ of Section 12-83-25.

Melvin D. Bell  
*Melvin D. Bell*  
Cc: Charlie Kuester, Planner, Dept. of Planning & Housing  
Richard Jordan, Attorney