

COUNCIL ACTION FORM

**SUBJECT: CHARLES AND JACQUELYN OLSON REQUEST FOR WAIVER OF
SUBDIVISION REGULATIONS**

BACKGROUND:

At the July 10 City Council meeting, Council referred to staff the letter from Charles and Jacquelyn Olson seeking a waiver of the City's subdivisions standards. The Olsons are proposing a subdivision of land within two miles of the corporate limits of Ames which is, therefore, subject to the provisions of the Ames subdivision regulations. The site is located at 3957 Deer Run Lane, east of North Dakota Avenue and west of Squaw Creek. An attached map shows the general location of the subject site.

Staff reviewed the sketch plan submitted by the Olsons and met with them on July 16. The proposed division of land is a four-lot split of a 10-acre tract. The lot is part of Deer Run Development, an auditor's plat recorded in 1977. The subject lot is approximately 11.83 acres with a single family home. The Olsons wish to further subdivide Lot 5 to create three additional lots, for a total of four. Since the subdivision seeks to create more than three lots and since there is no infrastructure, a preliminary plat will need to be prepared to show how the infrastructure shall be provided. The Olsons requested a waiver from the infrastructure requirements of the subdivision regulations, known as Division IV.

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.

The lot lies within the Natural Area of the Ames Urban Fringe Plan. An attached map shows the Urban Fringe Plan designations of this area. The Plan describes Natural Areas as:

Natural Areas are vital to the region. They provide habitat for wildlife, minimize storm water run-off, stabilize soils, modify climactic effects, provide for visual attractiveness, and serve some recreational purposes. This designation seeks to conserve such natural resources. This designation is intended to prevent development encroachment and encourage greater mitigation standards. A buffer or other mitigation device may be necessary to fully protect Natural Areas.

Policy No. 2 states.

NA Policy 2: Prevent subdivisions for new non-farm residential development. However, Natural Areas may include farm and non-farm residences 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.

The existing subdivision was established well before the adoption of the Ames Urban Fringe Plan. Since then, however, the Plan has sought to protect environmentally sensitive areas within the urban fringe. The Natural Area designation was placed over the Squaw Creek floodplain and the adjacent wooded corridor. The policies of the Natural Area recognize that residences may exist within this corridor but that the establishment of new non-farm residential development is to be prohibited.

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.**

In this case, this waiver request is the first step in the submittal of a plat application that would not be consistent with City Council policy, because it would divide lots off in a Natural Area that the Council's Urban Fringe Plan indicates should not be further divided.

ALTERNATIVES:

1. The City Council can **deny** the request to waive the City's design and infrastructure standards for subdivisions for the proposed four-lot, 11.83-acre subdivision on Deer Run Lane. **This denial is supported by the Ames Urban Fringe Plan which designates this area as Natural Area. This designation precludes further development of non-farm residential homes.**
2. The City Council can approve the request to waive the City's design and infrastructure standards for the proposed development on Deer Run Lane.

Approval of this waiver of the City's design and infrastructure standards is not consistent with the policies and intent of the Ames Urban Fringe Plan or with past practices of the City Council since the Urban Fringe Plan was adopted. **If the City Council were, however, to grant the waiver, staff would recommend that it be effective for only six months, by which time a complete application for a major subdivision preliminary plat must be submitted. The application must be accompanied by the three covenants.**

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

MANAGER'S RECOMMENDED ACTION:

This property consists of a lot platted in 1977, before the adoption of the Urban Fringe Plan. Deer Run Development was approved in accordance with the requirements at that time and, subsequently, a home was built on the lot. **The Ames Urban Fringe Plan designates this area as a Natural Area whose policy is to prohibit further residential development. The Plan acknowledges that some Natural Areas may already be developed with homes, but is explicit in its language to, "Prevent subdivisions for new non-farm residential development."**

Since the proposed development is inconsistent with the policies and intent of the City Council's Urban Fringe Plan, it is the recommendation of the City Manager that the City Council act in accordance with Alternative #1, and deny the waiver of the subdivision standards.



