

COUNCIL ACTION FORM

SUBJECT: MINOR SUBDIVISION FINAL PLAT FOR ROSE PRAIRIE SUBDIVISION

BACKGROUND:

Story County Land, LC is requesting approval of a final plat within the two mile fringe area in the County for the Rose Prairie property. The property was the subject of an Urban Fringe Plan map change (April 13, 2010) and approval of the Pre-Annexation Agreement (July 20, 2010). The developer's intent is to annex the property without the inclusion of the Canterbrooke Stable site. In order to accomplish this goal, approval of this final plat is required. After annexation into the City, the developer will be required to submit a new final plat for Council approval reflecting his desired ultimate build out of the site. Review of this proposed plat reveals three issues for Council consideration:

Outlot Designation

In anticipation of the current plat proposal, the City Council approved a waiver of subdivision improvements on May 11, 2010. That waiver allowed the division of the property without requiring the installation of City infrastructure and utilities. The resolution approving the waiver is attached. It is useful to note that while the resolution anticipated that the horse stables at Canterbrooke would be within a newly-created lot, it stated that "the remainder of the Story County Land property would become an outlot precluding any development until further subdivision. . . ." Outlots, by definition, are not developable lots.

The designation of an outlot as previously reviewed by the Council is not included on the proposed plat; rather it is designated as Lot 2, a buildable lot. Changing the labeling of the large lot to "Lot 2" rather than "Outlot" is inconsistent with the waiver that was requested and granted in May. The implication of this change is that the property could be developed without further review and without annexation in any manner allowed under County standards. More importantly, the property would be platted in a manner that does not meet the City's Urban Fringe Plan density requirement. Within the Urban Residential area of the Fringe Plan, development shall be at urban densities—a minimum of 3.75 units per acre. The proposed Lot 2 would have a density of 0.0059 units per acre. Under current county zoning, no new home could be built on the lot as it already has an existing home.

In addition, approving the plat with Lot 2 as a buildable lot rather than an outlot, preserves the possibility of developing the lot in accordance with the previously recorded horizontal property regime should the property not be annexed into the City, for whatever reason. While the horizontal property regime will technically would meet density requirements, the Council might not want to facilitate this type of development with the approval of this plat.

It should be emphasized that there is no indication the developer does not intend to request annexation into the City and forgo the horizontal property regime. He has signed the Pre-

Annexation Agreement which states that it is his intent to “apply to the City for voluntary annexation and rezoning of [Rose Prairie].” Nonetheless, approving the plat without the outlot designation would not be consistent with adopted policy, and would not be consistent with how the same issue was addressed on recent plat approvals. Specifically, the outlot designation was required on the Fieldstone plat to allow the splitting off of the farmstead while ensuring compliance with adopted density requirements.

A means for addressing the density issue under this current proposal, would be to include a notation of the plat stating that Lot 2 must be developed according to City density standards. The developer has indicated a willingness to include such notation.

Major Subdivision Requirements

Another change to the proposed subdivision that makes the plat non-compliant with adopted standards is the number of proposed lots. The proposed plat would create five new lots, as follows:

- Proposed Lot 1 represents and separates off the Canterbrooke horse stable so that it can avoid annexation along with Rose Prairie. This division was anticipated when the City Council amended the Urban Fringe Plan map to designate Canterbrooke as Priority Transitional Residential last spring.
- Proposed Lot 2 is the largest of the lots, comprising the bulk of the Story County Land, LC property. It is the lot that will support the actual site development, but is also the lot that the resolution approving the waiver stated would become an outlot precluding any development until further subdivision. The outlot designation is not included in the proposed plat.
- Proposed Outlot X is a narrow strip abutting the south side of the Sturges property. This division was anticipated in the pre-annexation agreement signed by the developer and the City this past summer.
- Proposed Street Lots A and B were required as a condition of approval by the County. These lots were not anticipated by the City for this current platting process, but will eventually be required when the Rose Prairie development is further platted.

When this proposal was reviewed by staff during sketch plan review, and also when it was reviewed by Council during the request for waiver of infrastructure requirements, the plat included only two lots. It now includes five lots, as described above. The application is for minor subdivision, but a minor subdivision process is for divisions creating no more than three lots. Accordingly, the five-lot subdivision should be reviewed as a major subdivision.

Reviewing this as a minor subdivision would therefore require that Council approve a waiver of major subdivision requirements for this proposal. To grant a waiver, the Council would have to find that the requirement for a major subdivision would result in extraordinary hardship to the applicant or prove inconsistent with the purpose of the regulations because of unusual topography or other conditions. In this case the unusual condition may be that the County has imposed a requirement for platted lots for the road, which is something that has not previously been required. This creates a hardship for the applicant because of the

lateness of this requirement in the process and the fact that there was no precedent by previous County actions to make the applicant aware that this may be required in this instance.

In this case, a waiver may be prudent because the two street lots (which trigger major subdivision review) were something that Story County required for purposes of right-of-way designation. This is a change from past practice where the County allowed right-of-way designation by easement. Practically speaking, however, there would only be three developable lots, so the complexity of review, anticipated impacts, and infrastructure requirements are no greater than they would be for a minor subdivision.

Easement Documents

A final issue is that public utility easements are being noted on the plat only; they are not accompanied by the typical grant of easement documents. The bike path/pedestrian easements and utility easements are only being shown for reference only. They will be formally created with all legal documents at the time the Rose Prairie development is platted. **The City Attorney has advised that this may be preferable in this case because the easement documents would place some responsibilities on the City, which would not be advisable while the property is outside City limits.**

ALTERNATIVES:

1. The City Council can grant a waiver of the Major Subdivision requirements of Section 23.302, thereby allowing the proposed plat to be processed as a minor subdivision, and approve the Final Plat for Rose Prairie subject to the condition that a note be placed on the plat that read, "Lot 2 may only be developed according to the City of Ames density requirements of the Ames Urban Fringe Plan".
2. The City Council can deny the waiver of the Major Subdivision requirements and require that the applicant submit an application for Preliminary Plat, per Section 23.302 of the Ames *Municipal Code*.
3. The City Council can deny the Final Plat for Rose Prairie if it finds that the development creates a burden on existing public improvements or creates a need for new public improvements that have not yet been installed. The Council can also deny the plat if it finds that the creation of Lot 2 (rather than as an outlot) is incompatible with the terms of the grant of the waiver of infrastructure standards and that such incompatibility harms the interest of the City. The Council can also deny the plat if it finds that the creation of Lot 2 defies the density requirements of the Ames Urban Fringe Plan.
4. The City Council can refer this request back to staff or the applicant for additional information.

MANAGER'S RECOMMENDED ACTION:

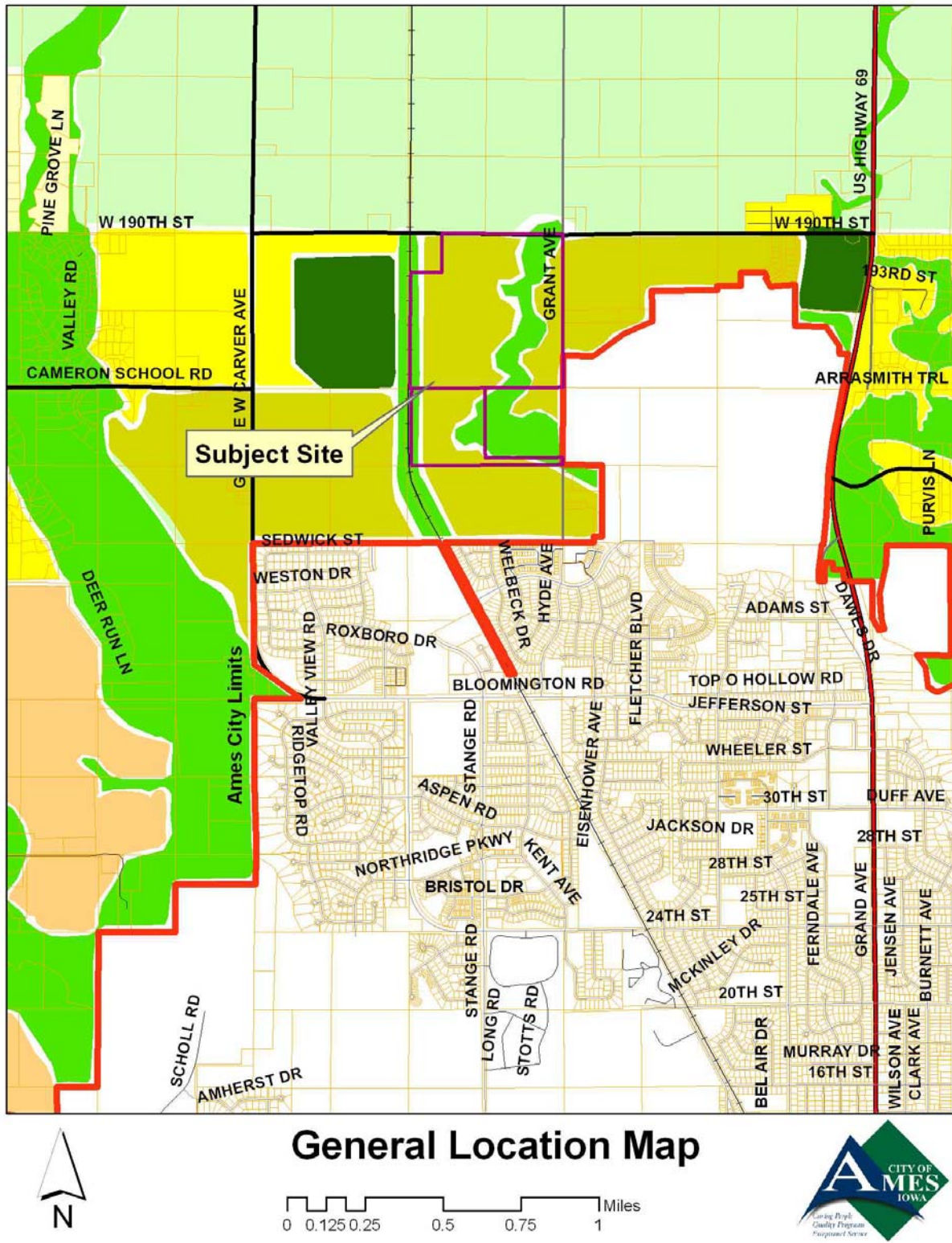
This proposed subdivision is intended to divide Canterbrooke from the remainder of the Story County Land, LC property, as anticipated by the Urban Fringe Plan map change approved in April. The City Council approved a waiver of the subdivision improvement standards in May. However, the plat as submitted for approval differs from that presented to the City Council at the time of the waiver request. The City Council will need to determine if the changes differ enough to warrant a revision to the subdivision plat prior to approval.

As the staff report notes, this change of the designation from an outlot to Lot 2 retains the ability to develop Rose Prairie under the recorded horizontal property regime in the County. This may be contrary to the City's interests. However, it should be noted that Rose Prairie, at this time, can build as a horizontal property regime in the County. The City and Story County Land have entered into an agreement that, when fulfilled, will result in the annexation, rezoning, and development of Rose Prairie as a subdivision within the City of Ames. The Council will have to determine if a note on the plat restricting Lot 2 to required density standards is sufficient, or if the Council is more comfortable requiring the outlot designation that would prevent development of the lot until such time as a plan or plat for the lot's development was submitted to the City for review and approval.

Finally, the Council will have to determine if the requirement for Major Subdivision due to the additional street lots required by Story County results in an extraordinary hardship for the applicant.

Considering the fact that the developer has signed the pre-annexation agreement, has demonstrated his intent to develop the lot according to City density standards, and that the developer is agreeable to a note on the plat the requires proposed Lot 2 to comply with all density standards, it is the recommendation of the City Manager that the Council act in accordance with Alternative #1, which would (1) grant a waiver of the Major Subdivision requirements of Section 23.302, thereby allowing the proposed plat to be processed as a minor subdivision, and (2) approve the Final Plat for Rose Prairie subject to the condition that a note be placed on the plat that read, "Lot 2 may only be developed according to the City of Ames density requirements of the Ames Urban Fringe Plan".

ATTACHMENT 1: GENERAL LOCATION



ROSE PRAIRIE

FINAL PLAT



ATTACHMENT 3: APPLICABLE LAW

The laws applicable to this case file are as follows:

Code of Iowa Chapter 354.8 states in part:

A proposed subdivision plat lying within the jurisdiction of a governing body shall be submitted to that governing body for review and approval prior to recording. Governing bodies shall apply reasonable standards and conditions in accordance with applicable statutes and ordinances for the review and approval of subdivisions. The governing body, within sixty days of application for final approval of the subdivision plat, shall determine whether the subdivision conforms to its comprehensive plan and shall give consideration to the possible burden on public improvements and to a balance of interests between the proprietor, future purchasers, and the public interest in the subdivision when reviewing the proposed subdivision and when requiring the installation of public improvements in conjunction with approval of a subdivision. The governing body shall not issue final approval of a subdivision plat unless the subdivision plat conforms to sections 354.6, 354.11, and 355.8.

Ames Municipal Code Section 23.303(3) states as follows:

(3) City Council Action on Final Plat for Minor Subdivision:

(a) All proposed subdivision plats shall be submitted to the City Council for review and approval in accordance with Section 354.8 of the Iowa Code, as amended or superseded. Upon receipt of any Final Plat forwarded to it for review and approval, the City Council shall examine the Application Form, the Final Plat, any comments, recommendations or reports examined or made by the Department of Planning and Housing, and such other information as it deems necessary or reasonable to consider.

(b) Based upon such examination, the City Council shall ascertain whether the Final Plat conforms to relevant and applicable design and improvement standards in these Regulations, to other City ordinances and standards, to the City's Land Use Policy Plan and to the City's other duly adopted plans. If the City Council determines that the proposed subdivision will require the installation or upgrade of any public improvements to provide adequate facilities and services to any lot in the proposed subdivision or to maintain adequate facilities and services to any other lot, parcel or tract, the City Council shall deny the Application for Final Plat Approval of a Minor Subdivision and require the Applicant to file a Preliminary Plat for Major Subdivision.

Ames Urban Fringe Plan, Pg. 37, UR Policy 1 for the Urban Residential Land use states, in part:

UR Policy 1: This land use designation includes . . . conventional single-family-suburban residential development with a minimum average net residential densities of 3.75 units per acre and conventional suburban/medium density residential development with minimum average net residential densities of 10 units per acre. . .
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ATTACHMENT 4: RESOLUTION 10-205

RESOLUTION NO. 10-205

RESOLUTION APPROVING WAIVER OF SUBDIVISION REGULATIONS FOR STORY COUNTY LAND, LC (ROSE PRAIRIE) FOR THE CITY OF AMES

WHEREAS, at the April 27, 2010, meeting, the City Council referred to staff a letter from the representative of Story County Land, LC, requesting waiver of subdivision standards; and,

WHEREAS, the developer is proposing a subdivision of land to separate Canterbrooke from the balance of the Story County Land, LC, property west of Ada Hayden Heritage Park; and,

WHEREAS, these parcels are within two miles of the corporate limits of Ames and are subject to the provisions of the Ames subdivision regulations; and,

WHEREAS, this proposed subdivision does not create any new developable lots apart from the proposed Canterbrooke lot, which could be redeveloped; and,

WHEREAS, the horse stables at Canterbrooke would be within a newly-created lot, and the remainder of the Story County Land property would become an outlot, precluding any development until further subdivision; and,

WHEREAS, since that area is designated Urban Residential, no developable lots can be created until the land is annexed into Ames, and at the Council's direction, the staff has been negotiating with the property owners north of town who desire to develop their land to facilitate that annexation; and,

WHEREAS, the proposed subdivision contains fewer than three lots, but lacks the required public improvements, however, the *City Code* allows the Council to waive or modify the requirements of the subdivision regulations; and,

WHEREAS, if the Council were to waive the infrastructure requirements, the owner would not need to prepare a preliminary plat for consideration because the division will then be classified as a minor subdivision, and the applicant would be allowed to prepare and submit a final plat; and,

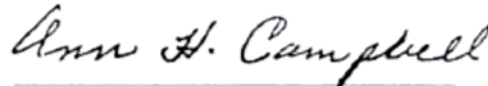
WHEREAS, along with the submittal of a final plat, the applicant would also submit the three standard covenants which bind the owners and successors to, 1) agree to annexation at the time the City requests; 2) waive objections to assessments that may be imposed in the future if public improvements are brought to the site as an assessment project; and, 3) pay any fees associated with buy-out of rural water.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Ames, Iowa, that the waiver of the City's design and infrastructure standards for subdivisions for the proposed two-lot, 188-acre subdivision on Grant Avenue and 190th Street is hereby approved, subject to within six months of this date, signed covenants and an application for the final plat are submitted to the City.

ADOPTED THIS 11th day of May, 2010.



Diane R. Voss, City Clerk



Ann H. Campbell, Mayor

Introduced by:	Davis	
Seconded by:	Orazem	
Voting aye:	Davis, Goodman, Larson, Orazem, Wacha	
Voting nay:	None	Absent: Mahayni

Resolution declared adopted and signed by the Mayor this 11th day of May, 2010.