

## COUNCIL ACTION FORM

**SUBJECT:** REQUEST FOR WAIVER OF SUBDIVISION REGULATIONS FOR 533  
193<sup>RD</sup> STREET

**BACKGROUND:**

At the September 14 City Council meeting, Council referred to staff the letter from William Black and Maria Blanco seeking a waiver of the City's subdivisions standards. These applicants are proposing a subdivision of land within two miles of the corporate limits of Ames and are, therefore, subject to provisions of the City's subdivision regulations.

The proposed division of land is a two-lot split of a 6.45-acre parcel. One lot is 2.5 acres on which a home is proposed to be built, while the remainder is about 4 acres on which an existing home is located. The site lies approximately 600 feet east of U.S. 69 on 193<sup>rd</sup> Street and about 1,400 feet northeast 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 Rural Transitional Residential and Natural Area.

The Plan describes Rural Transitional Residential as follows:

*Areas designated Rural Transitional Residential are located in areas where urban infrastructure may not be in place for a time period beyond the Ames Urban Fringe Plan planning horizon. Rural Transitional Residential development is designed to transition seamlessly into adjacent rural residential and agricultural land use, providing buffers where necessary to separate residences from particularly intense or noxious agricultural activities. Residential densities with this designation are between rural densities and urban densities.*

Policy 1 specifically addresses residential development within this area.

*RTR Policy 1: This land use designation includes all single-family and two-family residential land uses/developments that involve average net densities between one unit per acre and 3.75 units per acre. (Relates to RUTA Goal 3.2)*

The applicants propose a two-lot subdivision that will meet the density standards that are consistent with the Rural Transitional Residential designation. This will be accomplished by netting out of the density calculations the wooded area and natural prairie areas on the site, which will be protected through a conservation easement. Much of these areas is designated Natural Area on the Urban Fringe Plan, so the designation of these with a conservation easement is consistent with the Plan. These easements and their geographic extent will be finalized as part of the subdivision platting process.

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.

In this case, 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 waives 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, 6.45-acre subdivision on 193rd Street. The waiver would be effective if, within six months following the date of the resolution, signed covenants and an application for the minor 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 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.

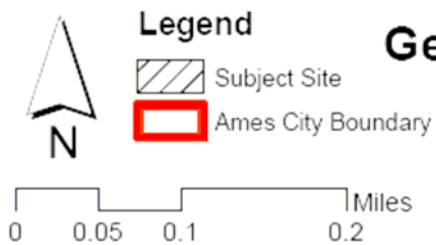
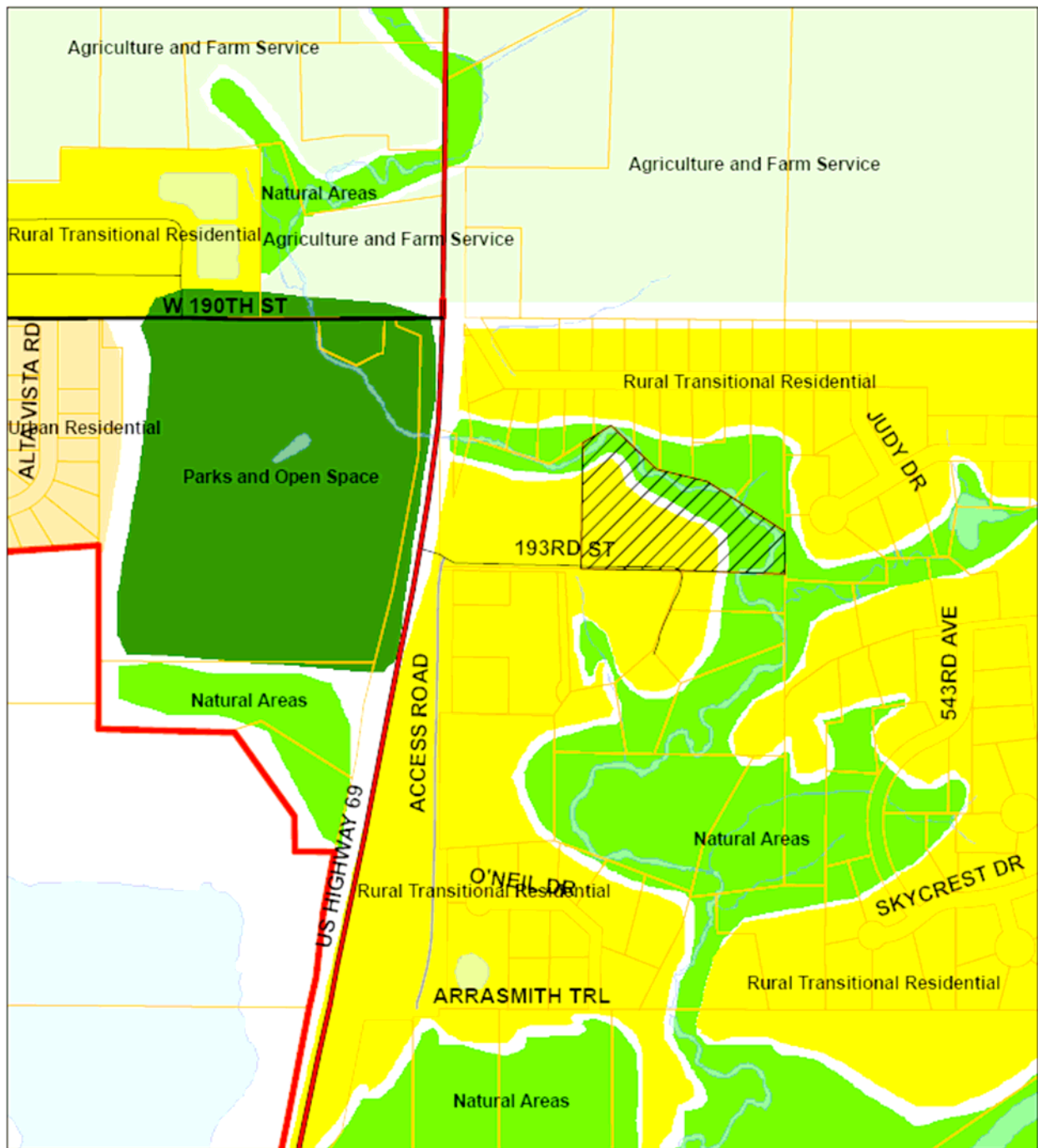
This alternative would require the developer to prepare and submit a preliminary plat indicating how the standards will be met.

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 6.45-acre parcel lying within the area identified in the Ames Urban Fringe Plan as Rural Transitional Residential and Natural Area. 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, 6.45-acre subdivision on 193<sup>rd</sup> Street. The waiver would be effective if, within six months following the date of the resolution, signed covenants and application for the minor final plat are submitted to the City.



## General Location



## **Rural Transitional Residential (RTR)**

*Areas designated Rural Transitional Residential are located in areas where urban infrastructure may not be in place for a time period beyond the Ames Urban Fringe Plan planning horizon. Rural Transitional Residential development is designed to transition seamlessly into adjacent rural residential and agricultural land use, providing buffers where necessary to separate residences from particularly intense or noxious agricultural activities. Residential densities with this designation are between rural densities and urban densities.*

RTR Policy 1: This land use designation includes all single-family and two-family residential land uses/developments that involve average net densities between one unit per acre and 3.75 units per acre. (Relates to RUTA Goal 3.2)

RTR Policy 2: Strategically locate Rural Transitional Residential land uses in areas where they can provide for an orderly and efficient future transition between land uses within the likely future extent of municipal limits and the unincorporated area. (Relates to RUTA Goal 3.2)

RTR Policy 3: 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 RUTA Goal 3.2, 3.4)

RTR Policy 4: Depending on location, density of units, size of lots, timing of development, development design, clustering of proposed sites, or other considerations, require full urban infrastructure standards. If the City does not require these improvements to be installed at the time of subdivision, require infrastructure assessment agreements. (Relates to RUTA Goal 3.2, 3.3, 3.5)

RTR Policy 5: Any decentralized wastewater treatment facilities, wells and supporting infrastructure shall meet IDNR, county, and city standards. Other rural development standards may be acceptable on a case-by-case basis. Require agreements that if and when the property is annexed to a city, the land developer and/or landowner shall be responsible for the full cost of abandoning the rural systems and connecting to urban infrastructure. (Relates to RUTA Goal 3.2, 3.3)

RTR Policy 6: Make provisions to protect environmental resources, environmentally sensitive areas and adjacent Natural Areas. (Relates to RUTA Goal 3.4)

RTR Policy 8: Mitigate and manage storm water run-off, soil erosion, and wastewater discharge according to IDNR and city standards. (Relates to RUTA Goal 3.4)

RTR Policy 7: Require annexation agreements and developer agreements in instances of new development that is particularly intense, or that occurs in certain critical locations. (Relates to RUTA Goal 3.2)