

## COUNCIL ACTION FORM

**SUBJECT: JODY MCCASKEY REQUEST FOR WAIVER OF SUBDIVISION REGULATIONS**

**BACKGROUND:**

At the February 15 City Council meeting, Council referred to staff a letter from Jody McCaskey seeking a waiver of the City's subdivisions standards. Mr. McCaskey 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 Mr. McCaskey and met with him on February 2. The proposed division of land is a two-lot split of a 40-acre parcel. One proposed lot is about 6.5 acres on which there is currently a home, while the remainder is about 33.5 acres and will remain in agricultural production. The site lies approximately two miles southwest of the Ames City limits in Boone County. 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.*

Since the proposed lot is the site of a farmstead, the division of the quarter-quarter section is consistent with the Plan. The remaining 33.5-acre lot 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 divisions of land in those areas of the Urban Fringe where annexation by the City is not anticipated in the foreseeable future. These waivers have been recommended on those occasions when the proposed development is consistent with the use and density standards of the Plan.

In the past 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 infrastructure to the site is extraordinarily costly given the distance from existing city boundaries. 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 Urban Fringe Plan proposes that the county's rural infrastructure standards are appropriate in areas designated Agricultural/Farm Service.

If the City Council were to waive the infrastructure requirements for this current request, the owner could then proceed with the preparation of a minor final plat for consideration by the 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 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. These covenants would be recorded if the final plat is approved.

The applicant needs approval of the final plat by both the City Council and the Boone 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 the request to waive the City's design and infrastructure standards for subdivisions for the proposed two-lot, 40-acre subdivision on X Avenue. 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. The waiver would be valid only for this division. Any subsequent division of land would need to request a new waiver.
2. The City Council can deny the request to waive the City's design and infrastructure standards for this proposed subdivision.

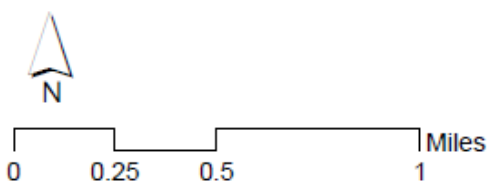
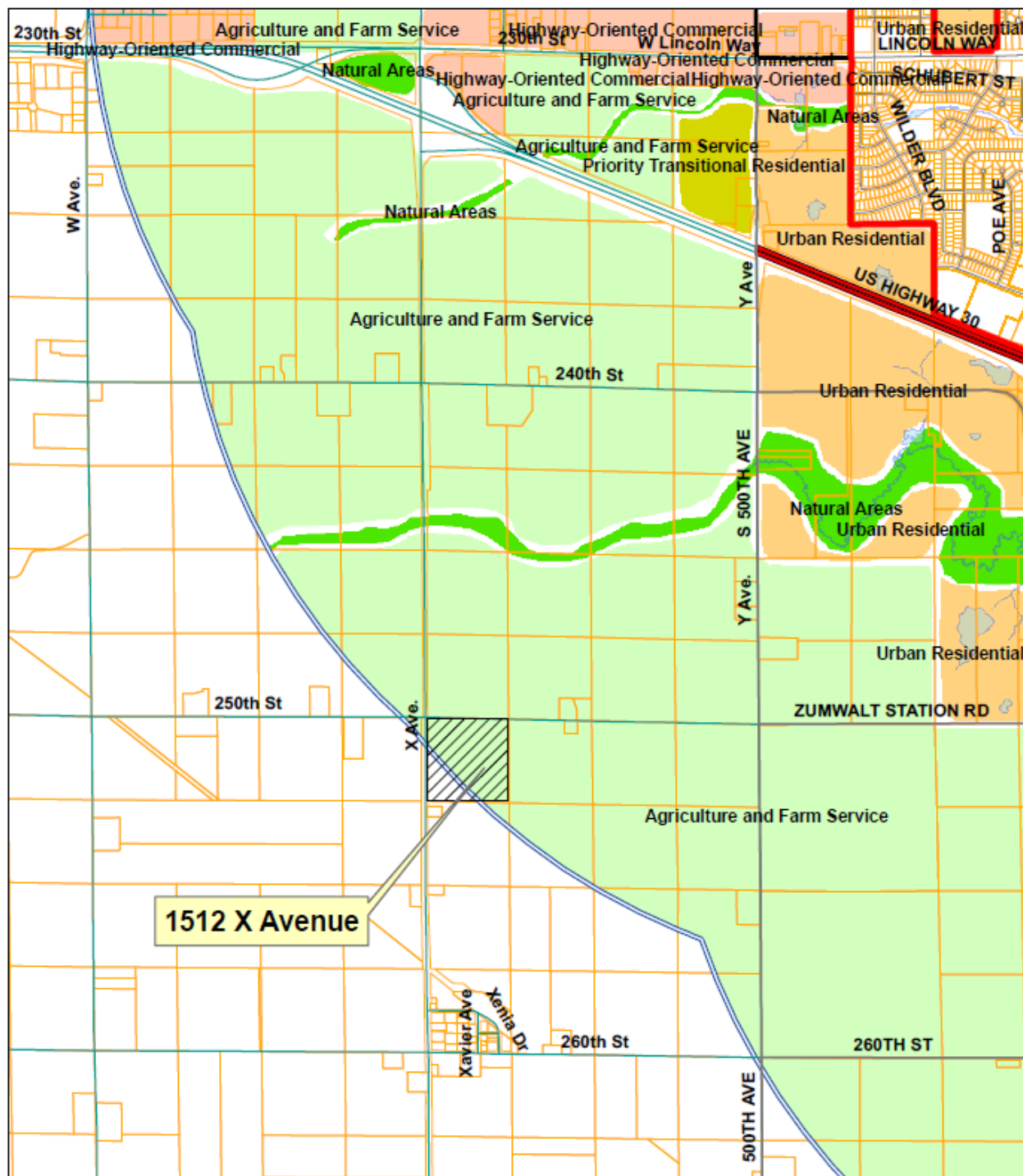
This alternative would require the developer to prepare and submit a preliminary plat indicating how the standards will be met.

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

### **MANAGER'S RECOMMENDED ACTION:**

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 is becoming standard practice and ensures that approved waivers will not be outstanding indefinitely.

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 at 1512 X Avenue. 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

- City Limits
- Ames 2 Miles Limit

