

COUNCIL ACTION FORM

SUBJECT: STEVE O'ROURKE REQUEST FOR WAIVER OF SUBDIVISION REGULATIONS

BACKGROUND:

At the February 15 City Council meeting, Council referred to staff the letter from Steve O'Rourke seeking a waiver of the subdivisions standards. Mr. O'Rourke is proposing a 3-lot subdivision of land (Hickory Hills Subdivision II) within two miles of the corporate limits of Ames and is, therefore, subject to the provisions of the Ames subdivision regulations. Hickory Hills is a proposed residential development comprising three lots on Cameron School Road at Hickory Hills Drive northwest of Ames. A map of the site is attached. It is located in the area of the Ames Urban Fringe Plan that is identified as Rural Residential.

The Plan describes Rural Residential as follows:

Residential land uses within Rural Residential designated areas are developed at a rural density and in areas where urban infrastructure may not be in place for a time period beyond the Ames Urban Fringe Plan. The Rural Residential designation recognizes a residential market segment seeking large lots in a rural setting, benefiting from agricultural activities on a small scale

Policy 1 specifically addresses the density of residential development within this area.

RR Policy 1: This land use designation includes all single-family residential land uses/developments that involve maximum average net densities of one unit per acre.

The proposed division of a 6.45-acre lot into a total of three lots for residential development is consistent with the density requirements of the Urban Fringe Plan.

In Chapter 23, the City's subdivision ordinance 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, which requires 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 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 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 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, 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 needs approval of the final plat by both the City Council and the Story County Board of Supervisors. After obtaining resolutions from both the City and County approving the final plat, the subdivision 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 three-lot residential subdivision on Hickory Hills Drive. 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.

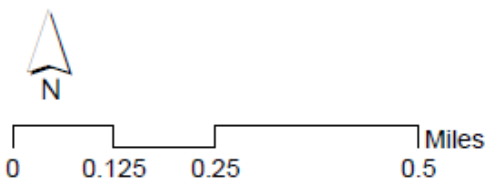
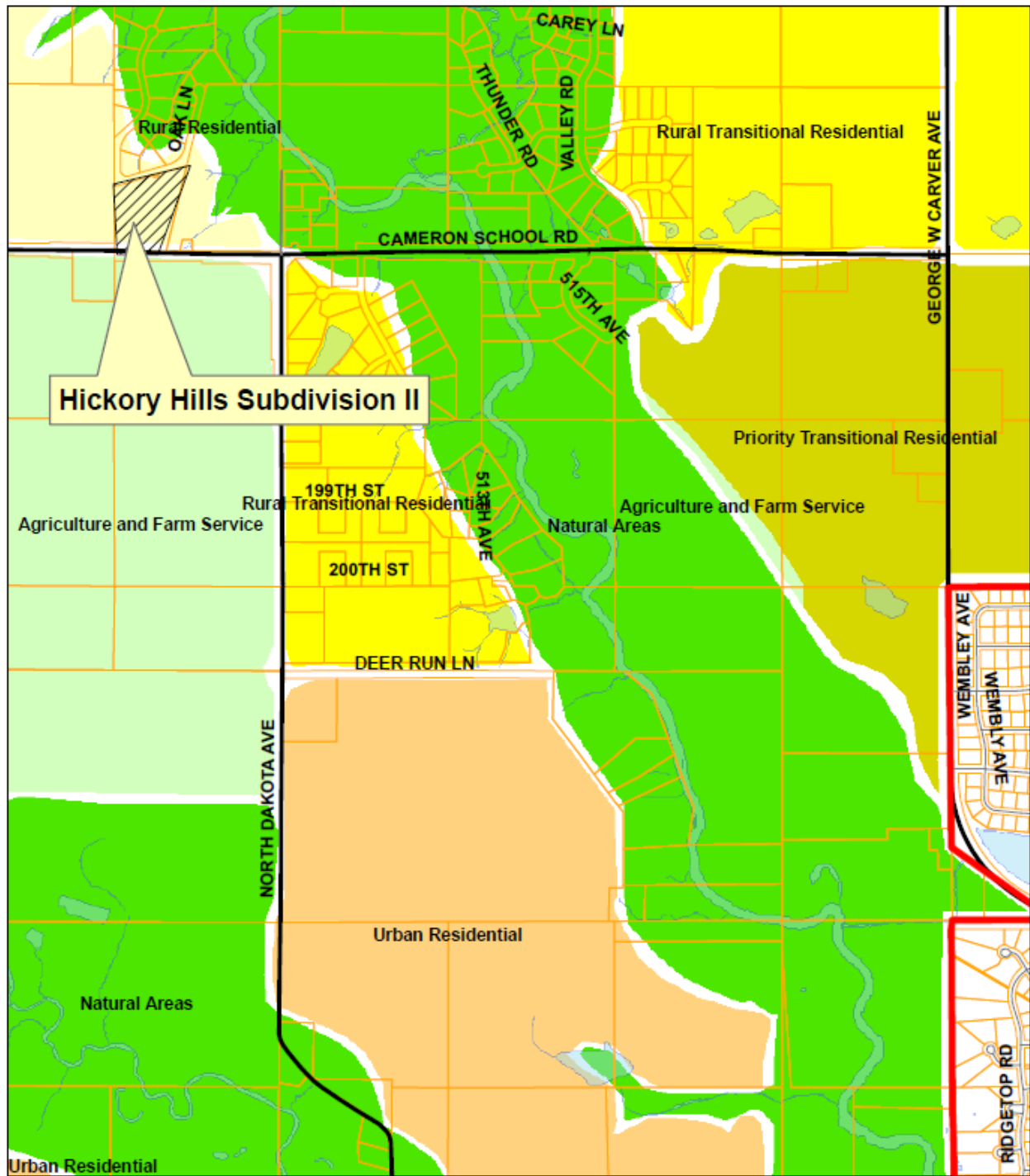
3. The City Council can refer this request back to staff and/or the applicant for additional information.

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 three-lot, 6.5-acre residential subdivision on Hickory Hills Drive. The waiver will be effective if, within six months following the date of the resolution, signed covenants and application for the final plat are submitted to the City.

Under the proposed implementation agreement of the Urban Fringe Plan between the City and County, residential subdivisions in the Rural Residential areas of the Plan such as this will no longer need to seek waivers or approvals from the City.



Legend

- City Limits
- Ames 2 Miles Limit

