

**COUNCIL ACTION FORM**

**SUBJECT: BLOOMINGTON HEIGHTS WEST TOWNHOMES REQUEST FOR CITY TO ACCEPT JURISDICTION OF PRIVATE STREETS**

**BACKGROUND:**

The attached letter was submitted to City Council on behalf of the Bloomington Heights West Townhomes property owners requesting that the City assume jurisdiction for the streets within the townhome area. City Council referred this request to staff, asking for a report on the impacts of the City taking over maintenance of these private streets.

The Bloomington Heights West Townhomes development is generally located north and west of the Harrison Road and Hyde Avenue intersection (see attached aerial photograph). It was platted in two phases in 2003 and 2004 as a planned residential development (PRD). The basic concept is that homeowners own the “footprint” upon which their respective homes are built, and the homeowners collectively own the surrounding property, including the streets. These streets, which serve as private joint access to the townhomes, were privately constructed and are privately maintained. The issues regarding the City of Ames accepting ownership and maintenance of these streets are summarized below.

Right-of-way. These private streets would most closely function as a local residential street, as detailed in the City of Ames Municipal code, which would require dedicating a minimum right-of-way width of 55’. As was mentioned above, these streets are privately owned, and public right-of-way does not currently exist.

Setback. The minimum front yard setback in a residential area is 25’. In combination with a 55’ right-of-way, the minimum distance across a street between homes in a standard subdivision would be 105’. The typical distance between homes in this area is approximately 75’.

Street Width. The City’s subdivision standards provide for a local residential street to have a minimum width of 26’. On average, the streets in this area are 22’ wide.

Pavement. For local streets, 7” is the minimum thickness for concrete pavement. The concrete must meet mix design requirements of the Iowa DOT including type of cement, aggregate, water and any additives. Construction must be inspected by the City to ensure compliance with design requirements. The streets in this complex are concrete, but because the development was private, the construction was not inspected by the City. Therefore, staff cannot verify that all of these parameters and requirements were met.

Sidewalks. The City's subdivision standards require that residential areas have sidewalks on both sides of the street. In a typical setting, as detailed above, the front of walk would be 9.5' behind the back of curb. This space is for safety, snow storage, and utilities. This development has sidewalks; however, they are located immediately against the back of curb.

**ALTERNATIVES:**

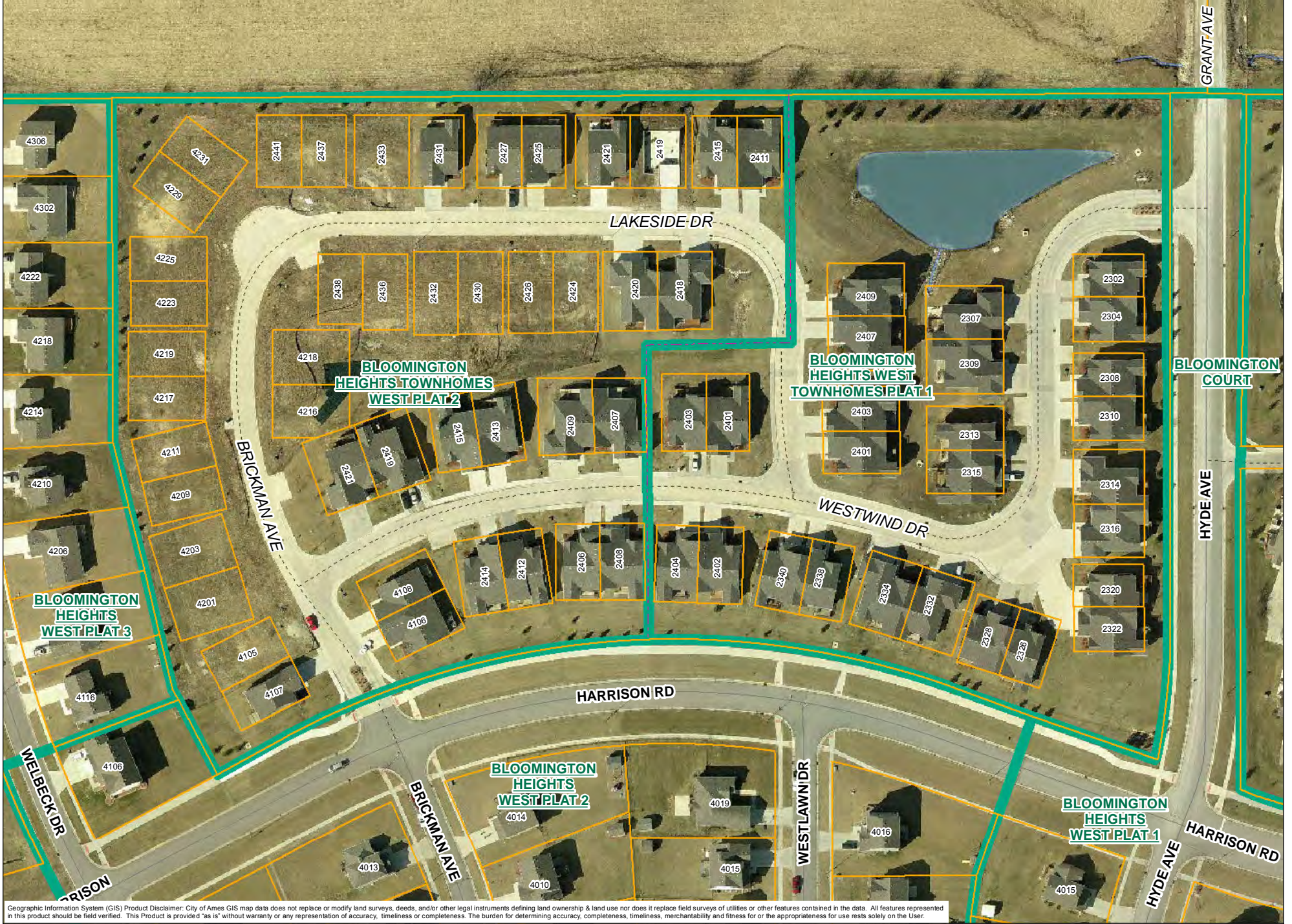
1. Do not pursue accepting jurisdiction for the private streets in the Bloomington Heights West Townhomes development.
2. Direct staff to continue investigating acceptance of the private streets in the Bloomington Heights West Townhomes development, which would include a detailed forensic engineering report on the street pavement.
3. Accept jurisdiction of the private streets in Bloomington Heights West Townhomes development in the current condition.

**MANAGER'S RECOMMENDED ACTION:**

The standards outlined above summarize the many differences between public streets and the private streets that were constructed within the Bloomington Heights West Townhomes development. Infrastructure within Planned Residential Developments such as this were originally constructed to standards lower than the City's subdivision standards in order to have more flexibility in design and to make the development more affordable. Since the infrastructure might not be as durable, however, the PRD owners' association – rather than City taxpayers at large – assumes responsibility for maintenance and replacement of the infrastructure. It should be noted that previous requests for the City to assume responsibility for private areas in other townhouse neighborhoods have been rejected by the City Council.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, thereby not pursuing acceptance of jurisdiction for the private streets in the Bloomington Heights West Townhomes development.

However, should the Council desire to continue investigating this request, a detailed forensic engineering study of the current pavement condition should be required at the Townhomes' expense. This would be needed to determine the type, strength, and thickness of concrete used for the pavement. It would also need to include an evaluation of the existing pavement condition and a recommendation for the appropriate rehabilitation required to bring the pavement up to City standards.



Geographic Information System (GIS) Product Disclaimer: City of Ames GIS map data does not replace or modify land surveys, deeds, and/or other legal instruments defining land ownership & land use nor does it replace field surveys of utilities or other features contained in the data. All features represented in this product should be field verified. This Product is provided "as is" without warranty or any representation of accuracy, timeliness or completeness. The burden for determining accuracy, completeness, timeliness, merchantability and fitness for or the appropriateness for use rests solely on the User.



# Bloomington Heights Townhomes



Scale: 1 in = 120 ft
Date: 4/5/2011

**COUNCIL ACTION SUMMARY**

***Meeting Date: 3/01/11***

***Agenda Item #: Comments***

**SUBJECT:** Letter from Bloomington Heights Townhomes

**ACTION TAKEN:** Referred to staff for a report on the possibility of the City taking over maintenance of private streets..

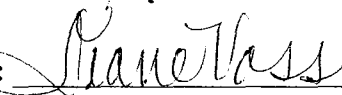
**MOTION BY:** Larson

**SECOND BY:** Goodman

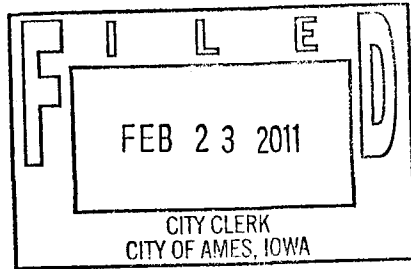
**VOTING AYE:** Davis, Goodman, Larson, Mahayni, Orazem, Wacha

**VOTING NAY:** None

**ABSENT:** None

**By:**   
\_\_\_\_\_  
Diane Voss, City Clerk

Copy to: John Joiner ✓



2310 Westwind Dr.  
Ames, IA 50010

February 22, 2011

The Honorable Mayor Ann Campbell  
The Honorable Ames City Council  
515 Clark Avenue  
P.O. Box 811  
Ames, IA 50010

Dear Mayor Campbell and Ames City Council:

When Regency Homes initially platted Bloomington Heights Townhomes in 2003(+/-), the streets were to be maintained by Regency Homes until such time that all lots in the development were sold and built upon. At that point in time, the bylaws of the development would allow the formation of an independent association of homeowners that would assume control of public features of the development.

However, with the bankruptcy of Regency Homes in 2008, our situation changed dramatically. As a creditor of Regency Homes, Bankers Trust assumed control of the unimproved lots (approximately 21 housing units or about 1/3 of the total). Their preference is to sell the remaining lots together, but they have been unable to find a suitable buyer. Technically, they will control the development until all lots are built upon and the formal association of homeowners is allowed. I represent the resident advisory committee established by Bankers Trust to help them in decisions made affecting the development.

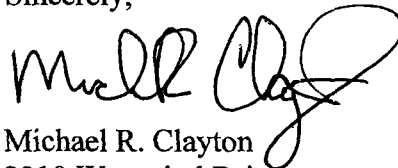
During this same time, Bankers Trust has shown little or no interest in the streets, so general upkeep of them has fallen to current residents as part of our monthly dues. Recent developments unrelated to the streets (Regency's use of roofing materials incompatible with our extreme weather conditions) will necessitate a special assessment and raise monthly dues to approximately \$200 per month for the next twelve years (assumes the shingle manufacturer is unwilling to honor their warranty, which appears to be the case). Bankers Trust will not be selling many lots with this level of monthly dues.

I recently approached the Public Works Department regarding the possibility of the city taking over jurisdiction of Bloomington Heights Townhomes' streets. I was invited to meet with John Joiner and Tracy Warner on February 17, 2011 to discuss the proposal. They indicated that any such decision would ultimately be up to the mayor and city council. We understand that in preparation for your consideration of this request, a pavement investigation may need to be conducted, either by city staff or a consultant hired

by Bloomington Heights Townhomes. This investigation would be intended to identify pavement strengths and deficiencies.

On behalf of Bloomington Heights Townhomes, please consider our request that the City of Ames assume jurisdiction of the streets within the subdivision. I will be glad to meet with city staff to answer any questions you may have. I can be reached by phone at 292-6604 or by email at [m.clayton@mchsi.com](mailto:m.clayton@mchsi.com). Note: I will be out of town until March 1, 2011.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Clayton", with a large, stylized flourish at the end.

Michael R. Clayton  
2310 Westwind Drive