ITEM # <u>25a</u> DATE: 10-23-12

COUNCIL ACTION FORM

SUBJECT: REQUEST FOR WAIVER OF MINIMUM DENSITY STANDARDS FOR URBAN RESIDENTIAL LAND USE DESIGNATION AT 3618 CEDAR LANE

BACKGROUND:

On September 25, 2012, the City Council referred to staff the attached letter from Steve Burgason, on behalf of Verle and Jo Ann Burgason, requesting a waiver of density standards of the Ames Urban Fringe Plan in order to divide land located at 3618 Cedar Lane. The division of land would not actually create a new lot, but would enlarge an existing lot by adjusting its boundary. This division is called a boundary line adjustment. Attachment 2 shows the existing lot configuration and Attachment 3 shows the proposed lot configuration.

The property is located outside the City limits but within the 2 mile Ames Urban Fringe. The area proposed for the boundary line adjustment is within the "Urban Service Area" of the Ames Urban Fringe Plan and designated as an Urban Residential land use designation (Attachment 4, location map). The request of the waiver is to allow the owners to modify the boundary of the southernmost one acre parcel into a larger four acre parcel. The reason this is contrary to current density standards is that the property is located within the Urban Service Area of the Ames Urban Fringe and has an Urban Residential land use designation, which is planned for a minimum density of 3.75 dwelling units per acre. The proposal to enlarge the developed parcel further reduces the density under the minimum requirement.

The Urban Service Area of the Ames Urban Fringe contains lands which are adjacent to city limits and identified for urban development once annexed into corporate boundaries. These areas were established to allow for unified growth for efficient extension of public facilities and services once developed. The plan demonstrates that these designated land uses of Urban Residential should be protected from inappropriate development which would hinder the planned growth of the surrounding communities.

The Ames Urban Fringe Plan defines the Urban Residential designation as follows:

"This land use designation applies to areas reserved for future city growth. Residential land uses within Urban Residential designated areas are annexed and then developed at an urban density and with infrastructure and subdivision according to urban standards."

The Urban Residential designation identifies five policies (Attachment 5) which guides future develop to meet the urban standards so once annexed, development can fit

seamlessly into the City's development characteristics. One of the Urban Residential policies identifies options for urban densities which would allow for the urban development standard to be met. UR Policy 1 identifies conventional single-family/suburban residential development as an acceptable development type, provided that it achieves the 3.75 minimum density target.

The owners have expressed in the attached letter and maps that the need for the proposed boundary line adjustment (a) is due to a pending sale of the property, where the buyer's desire is to own the full four acre parcel, (b) that the additional 3 acre parcel proposed for addition contains a barn, utility line, driveway encroachment, and septic system lateral field which serves the one acre site, and (c) if maintenance or replacement was ever needed on the septic system, the one acre parcel would not be able to accommodate such replacement area due to the soils and the location of the existing residence. However, the letter does reference an existing L-shaped easement for such services located off of the existing one acre parcel.

The City's Interests

As long as Ames anticipates an increasing population, land necessary to accommodate that population needs to be identified and protected against development patterns that would preclude or make it unnecessarily expensive or cumbersome to annex. Some areas on the periphery of Ames have developed in patterns that would make it difficult to annex. That difficulty can lie within substandard right-of-way widths, rural water systems, sanitary septic systems, lot arrangements, and unpaved roads.

The LUPP recognizes that maintaining certain minimum densities is important to achieve a number of goals. Creating a dense urban environment promotes cost-effective and efficient provisions of services, creates a greater sense of place, strengthening the connectivity of neighborhoods and building community identity and spirit, and allows for a more efficient use of private transportation. It may be difficult in the future, once annexed, to develop this area within the urban standard planned in the LUPP.

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 lowa* 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, this waiver request is not within the density standards for the Urban Residential land use designation and would not be consistent with City Council policy.

Mr. Burgason does clarify in the request that the need for the waiver for the boundary line adjustment is to allow for the sale of the property in which the services (i.e. service barn, utility lines, driveway, and septic lateral field) are located off of the existing parcel. However, the proposed waiver for the boundary line adjustment causes concern for future subdivision and development of the larger parcel for the connection of streets, lot layouts, and possibly the efficient and cost effective extension of City services.

ALTERNATIVES:

- The City Council can deny the request to waive the City's density standard for the Urban Residential designation for the proposed Plat of Survey on Cedar Lane. This denial is supported by the Ames Urban Fringe Plan which designates this area as Urban Residential and establishes a policy for conventional singlefamily/suburban residential development to maintain a minimum 3.75 dwelling unit per net acre density standard.
- 2. The City Council can approve the request to waive the City's density standard for the Urban Residential designation for the proposed Plat of Survey on Cedar Lane if it finds that approval of this waiver is consistent with the policies and intent of the Ames Urban Fringe Plan or with past practices of the City Council since the Urban Fringe Plan was adopted.
- 3. The City Council can refer this request back to staff and/or the applicant for additional information.

MANAGER'S RECOMMENDED ACTION:

Offering a recommendation regarding this request is very difficult. It should be noted that the current lots in the vicinity of the subject parcel currently do not meet the City's density requirements for Urban Residential Area. It is only because the existing situation would be altered through a boundary line adjustment that the newly enlarged parcel is now required to meet the City's minimum density requirement. No new residential units are being added, and thereby no increase in density will result from this request.

The Municipal Code allows the City Council to waive this density requirement as requested. To do so, however, the City Council must determine that 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 so long as the waiver does not have the effect of nullifying the intent and purpose of the regulations.

Since the proposed request is inconsistent with the policies and intent of the Urban Residential designation of the City Council's Urban Fringe Plan and it is not clear how the denial of the request would result in "extraordinary hardship" to the applicant, it is the recommendation of the City Manager that the City Council adopt Alternative #1, thereby denying the request for waiver of the density standards.

However, if the City Council determines that the conditions reflected in the Municipal Code to justify the waiver of the density requirement in this unique situation <u>have</u> been met, then the Council should adopt Alternative #2, thereby approving the request to waive the City's density standard for the Urban Residential designation for the proposed Plat of Survey on Cedar Lane.

Attachment 1

September 27, 2012

Honorable Mayor Campbell Members of the Ames City Council

FROM: Steve Burgason (on behalf of Verle and Jo Ann Burgason)

RE: Request for Waiver to the Density Standard in the L.U.P.P. Based on Unusual Circumstances

Greetings Honorable Mayor and Council,

I am writing at the request of my parents, Verle and JoAnn Burgason, requesting that the Ames City Council grant a waiver regarding the property located at 3618 Cedar Lane and three acres of land which has been a perpetual easement since 2008. Verle and JoAnn Burgason have lived at this location since 1967. They own a total of 54.46 acres that is likely, due to the land use policy, as area that will be developed as the City of Ames expands to the southern direction.

Pursuant to Section 23.103 of the Ames City Code, we are requesting that you grant a waiver to the L.U.P.P. density standards for four acres of this real estate. You can identify these acres by looking at Exhibits A and B, which are attached. On Exhibit A there are three lots of approximately one acre size, the southern most of those uniformed shaped lots is the residential lot at issue. Then on Exhibit A the parcel identified as 3A is an L-shaped easement that serves the Verle and Jo Ann Burgason lot.

We understand that this waiver would allow the present proposed purchasers to be able to purchase the four acre parcel under an amended Plat of Survey rather than the one acre lot alone where the residence is currently situated.

When my father sold the property, he entered into an agreement to sell both the one acre parcel and the L-shaped easement in the transaction. We have since learned from the Planning and Housing Department, on submittal of an amended boundary plat that the plat would be rejected because of the density requirements.

We hope that our appeal results in a win-win agreement that represents success for all parties involved, my parents, the new homeowners, and the City of Ames in its future expansion plans. The first of the extenuating circumstances are that my parents have lived at this location since 1966, a time that pre-dates the density requirements. They have recently moved to Green Hills for their retirement years, and had found a buyer for the real estate. The buyers are desirous of owning the entire four acres, because as the easement area greatly enhances the residence.

Attachment 1 (Cont.)

Honorable Mayor Campbell Ames City Council September 27, 2012 Page 2

If you examine Exhibit B attached, you will see that the barn that serves the residence has a utility line encroaching on the easement area, that there is driveway encroachment, and that the laterals for the septic system encroach over a significant portion of the easement area. In the event the septic system would ever have a requirement to be replaced, because of the location of the residence and the nature of the soil, it is probable that the replacement would need to be made in the easement area.

In summary, there are considerable exceptional circumstances for granting a waiver of the density standard as follows:

- The L-shaped three acre easement has been subject to the easement since 2008 with the intention of serving the Burgason residence into the distant future. Because the easement is broad in its grant, the land is rendered unusable for virtually any purpose except service of the one-acre parcel.
- 2. The septic laterals that serve 3618 Cedar lane are located over a substantial part of the three acre easement.
- 3. If at some time the septic system requires replacement, there is insufficient area on the parcel to replace the septic system.
- 4. A driveway providing access to the rear entrance of the house is located over a portion of the easement area.
- 5. Access to the existing barn and the area proposed for expansion is across the existing easement area.
- 6. The utilities for the existing barn cross both the subject lot and the easement area.

When City expansion so requires, the Burgason family will be very cooperative regarding the deployment of City utilities and infrastructure across the property.

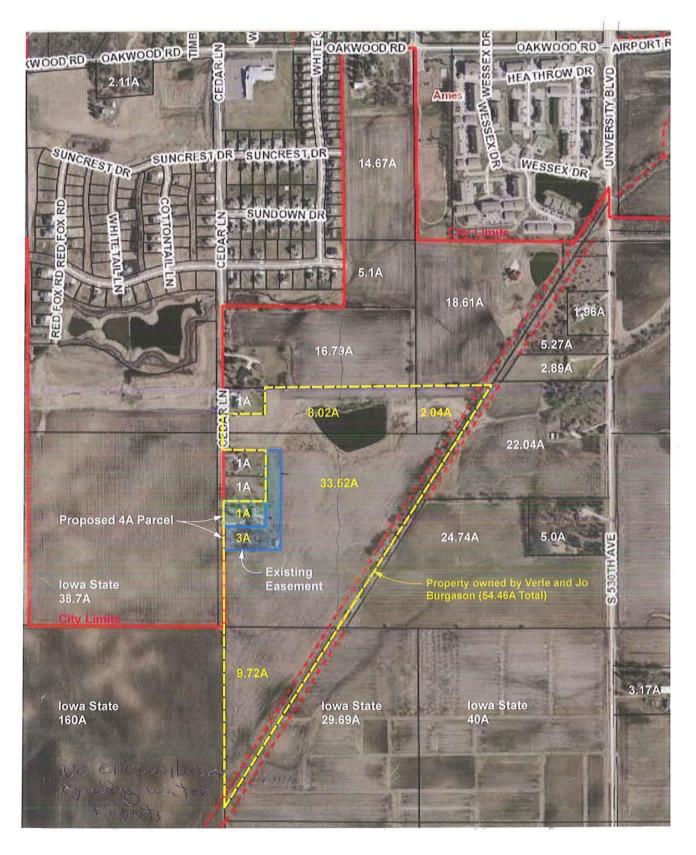
We hope that you agree that a waiver would benefit all parties interested, my parents, the purchasers, and the City.

Thank you for your consideration.

Sincerely,

Steve Burgason on behalf of Verle and JoAnn Burgason

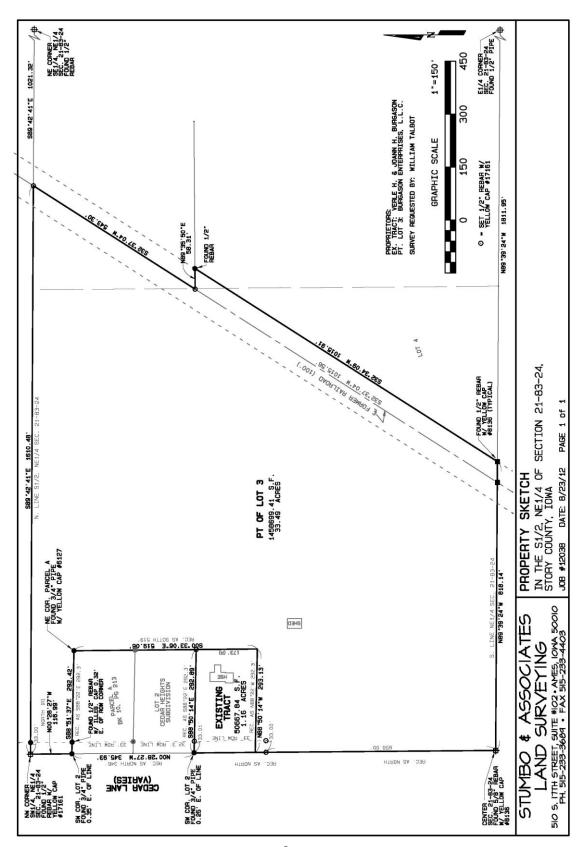
Attachment 1 (Cont.)



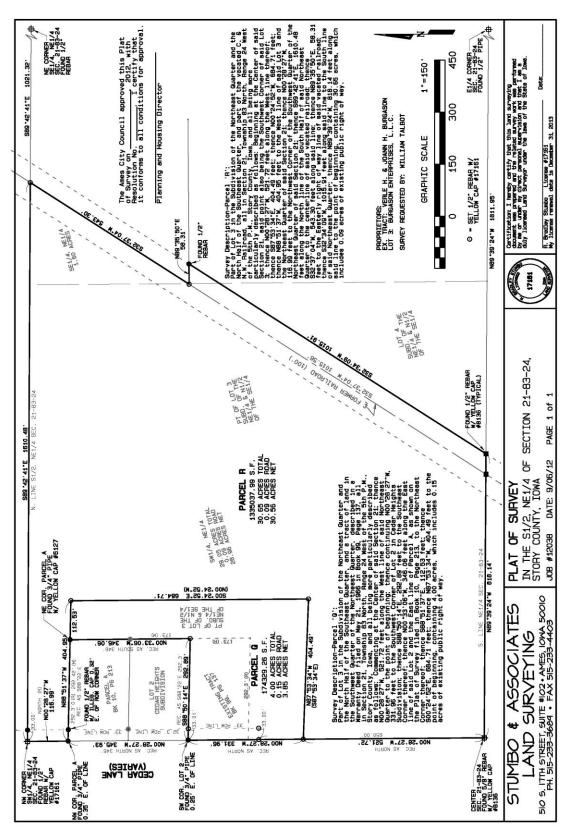
Attachment 1 (Cont.)



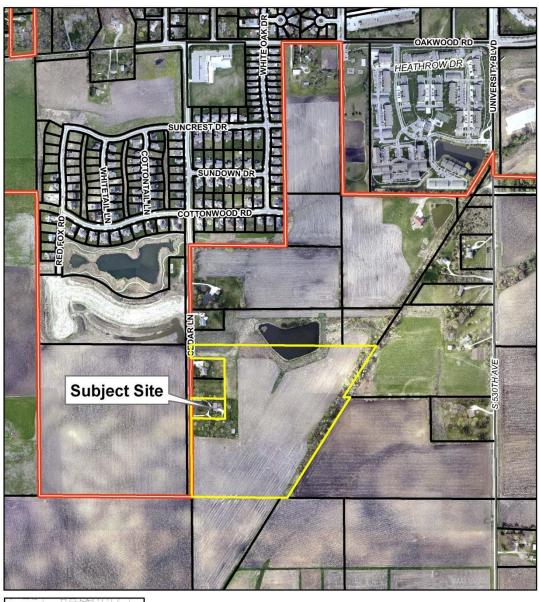
Attachment 2 (Existing)

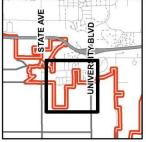


Attachment 3 (Proposed)

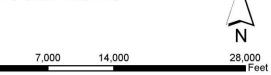


Attachment 4





Location Map 3618 Cedar Lane



Attachment 5

Urban Residential (UR)

This land use designation applies to areas reserved for future city growth. Residential land uses within Urban Residential designated areas are annexed and then developed at an urban density and with infrastructure and subdivision according to urban standards.

- UR Policy 1: This land use designation includes residential use in "traditional" Village Residential Development with minimum average net density of 8 units per acre. It also includes conventional single-family/suburban residential development with 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. When combined in a development or area, conventional suburban single-family and conventional suburban medium density residential developments should not exceed 5 dwelling units per net acre.
- UR Policy 2: Require annexation by the city before land is developed or further subdivided.
- UR Policy 3: Require urban infrastructure and subdivision standards, including urban right-of-way standards, urban street construction, urban sanitary and potable water systems and urban storm water management systems.
- UR Policy 4: Require land development agreements with the city before land is developed or further subdivided.
- UR Policy 5: Mitigate and manage stormwater run-off, soil erosion, and wastewater discharge according to IDNR and city standards.

ITEM # <u>25b</u> DATE: 10-23-12

COUNCIL ACTION FORM

SUBJECT: PLAT OF SURVEY FOR PARCELS R and Q ON CEDAR LANE

BACKGROUND:

An application was submitted by Brad Stumbo, Stumbo & Associates Land Surveying, requesting approval of a Plat of Survey for Mr. and Mrs. Verle and Jo Ann Burgason. The Plat of Survey is for a boundary line adjustment to enlarge an existing parcel of land, Parcel Q, from a one acre parcel into a four acre parcel by shifting the parcel line of Parcel R. (See Attachments B and C.) The property is located outside the City limits but within the 2 mile Ames Urban Fringe area. (See Attachment A). The area proposed for the Plat of Survey is within the "Urban Service Area" of the Ames Urban Fringe Plan with an Urban Residential land use designation.

Staff met with the applicant on September 4th and determined that the proposal does not meet the minimum density standards as established by the Urban Fringe Plan for the Urban Residential designation because the enlargement of the existing developed parcel further reduces its density below the minimum requirement.

Staff explained the options for processing of the submitted application, but noted the proposed Plat of Survey could not be approved unless the Plat could either meet the density standards of the Urban Fringe Plan or a waiver was approved by the City Council to waive the minimum density requirement for the Urban Residential designation.

The applicant then submitted two letters requesting the waiver of the density standards. On September 25th, the City Council referred to staff a letter from Steve Burgason, on behalf of Verle and Jo Ann Burgason, requesting waiver of the Ames Urban Fringe Plan's density standards in order to divide the property at 3618 Cedar Lane. **Staff has processed both the request for waiver and the request for the Plat of Survey concurrently so a decision can be rendered on both of the applicant's requests.**

A copy of the proposed plat of survey is attached for Council consideration. This Plat of Survey would allow for the transfer of the 123,661.42 square feet (2.83 acres) of land from Burgason Enterprises, LLC to Verle and JoAnn Burgason.

Pursuant to Section 23.308(4)(c), a preliminary decision of approval has been rendered by the Planning & Housing Department, conditional upon the Council making appropriate findings to approve the waiver request of the density standard required for the Urban Residential land use designation of the Ames Urban Fringe Plan.

If the Council denies the waiver request, the proposed plat of survey should be sent back to staff for a final decision, which would be to deny the proposed Plat of Survey. The applicant would then have the option to make a formal appeal of that decision.

Under Section 23.308(5), the Council shall render by resolution a final decision of approval if the Council agrees with the Planning & Housing Director's preliminary decision.

ALTERNATIVES:

- 1. If the Council agrees with the Planning & Housing Director's preliminary decision, the Council can adopt the resolution approving the proposed plat of survey. This alternative <u>requires</u> that the waiver request of the density standards be approved prior to approval of the Plat of Survey.
- 2. If the City Council does not approve the waiver request, the Council should refer the proposed Plat of Survey back to staff for a final decision of denial.

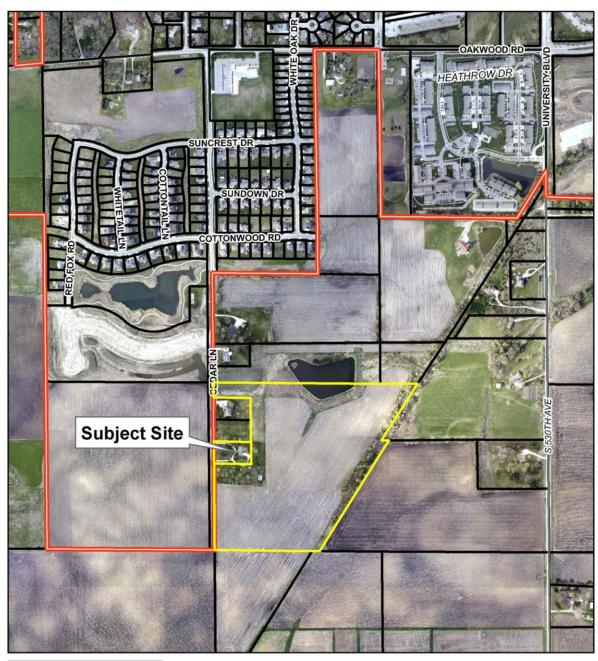
MANAGER'S RECOMMENDED ACTION:

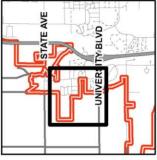
If the City Council determines that the proposed plat of survey satisfies all code requirements, which requires the approval of the waiver of the density standards required for the Urban Residential land use designation of the Ames Urban Fringe Plan, then the Council can adopt the resolution approving the proposed plat of survey.

Assuming that is the case, it is the recommendation of the City Manager that the City Council accept Alternative #1, which is to adopt the resolution approving the proposed plat of survey. Approval of the resolution will allow the applicant to prepare the official plat of survey incorporating all conditions of approval specified in the resolution. It will further allow the prepared plat of survey to be reviewed and signed by the Planning & Housing Director confirming that it fully conforms to City Council approval. Once signed by the Planning & Housing Director, the prepared plat of survey may then be signed by the surveyor, making it the official plat of survey, which may then be recorded in the office of the County Recorder.

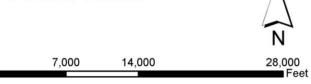
It should be noted that according to Section 23.307(10), the official plat of survey will not be recognized as a binding plat of survey for permitting purposes until a copy of the signed and recorded plat of survey is filed with the Ames City Clerk's office, and a digital image in Adobe PDF format has been submitted to the Planning & Housing Department.

Attachment A

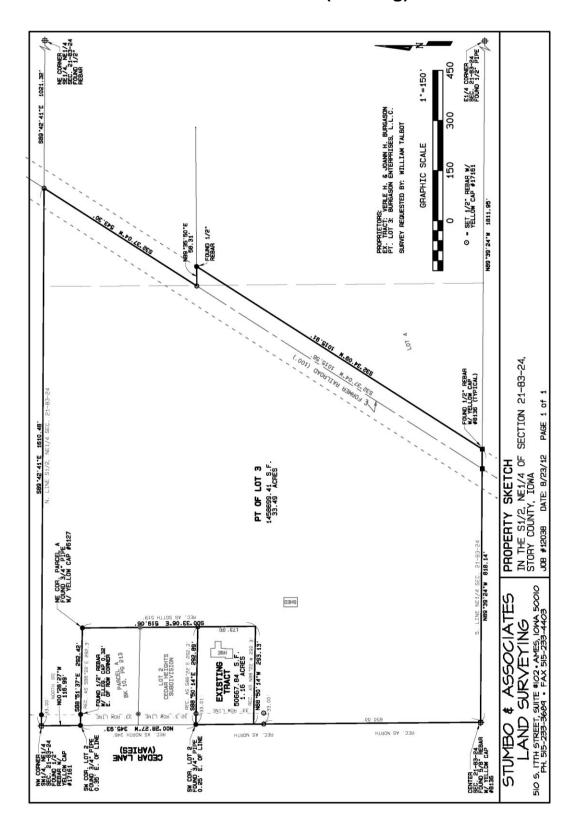




Location Map 3618 Cedar Lane



Attachment B (Existing)



Attachment C (Proposed)

