

COUNCIL ACTION FORM

SUBJECT: SOUTH ANNEXATION REQUEST PROJECT BOUNDARIES

BACKGROUND:

The City of Ames received two annexation petitions for several properties south of the city limits of Ames. One petition containing approximately 204 acres was submitted to accommodate the proposed expansion of the ISU Research Park. In addition, the Reyes application for approximately 20 acres of land is intended for residential development south of the existing Wessex Apartment complex.

These annexation requests lay within the Ames Urban Fringe in an area designated for annexation and development. The area between Cedar Lane and University Boulevard (530th Avenue) is in the Urban Residential area and lies within the Southwest Allowable Growth Area. The area between University Boulevard and South Riverside Drive is designated as Planned Industrial. This portion of the Urban Fringe Plan map is shown in Attachment A.

At its March 22 meeting, the City Council combined these two petitions into a single annexation request. Council further directed staff to speak with other property owners in the area to gauge their interest in joining this annexation and to consider including additional non-consenting properties under the “80/20” rule to create more uniform boundaries as allowed by Chapter 368.7 of the Code of Iowa¹. The City Council was also reminded of the annexation request last year by Christoffersons for the annexation of their 20 acres that abuts the Reyes annexation. Mr. Christofferson subsequently withdrew that request after issues of storm water drainage were raised by neighbors.

Since the March 22 meeting, City staff spoke with, wrote to, or met with several property owners in this growth area. **At this time, none of them have indicated an interest to join in this voluntary annexation process. All, to varying degrees, were opposed to coming in as non-consenting owners for a variety of reasons.** A review of FAQs related to annexation that was provided to these land owners is Attachment E to this report. This responds to a number of the questions and comments we have heard about annexing.

Annexation Boundary Options:

Staff has prepared three options for consideration of setting the initial boundaries of the annexation. All involve, to some degree, the inclusion of non-consenting owners. Once a territory is selected for the initial boundary and the notice and hearing process begun, additional properties cannot be added to the territory without starting the process over again from the beginning. However, properties can be removed from the initial territory

¹ As noted in Chapter 368.7, “...territory comprising not more than twenty percent of the land area may be included in the application without the consent of the owner to avoid creating an island or to create more uniform boundaries.”

prior to final action without restarting the process. Attachments H and I includes a map and index of properties in the area for the three options.

OPTION 1: MINIMUM AREA- ATTACHMENT B

Of the three options, this one comprises the smallest geographic area. **Non-consenting owners are limited to only those necessary to avoid creating islands.** Attachment G includes an ownership map with an index to map numbers as noted behind the names. The property owners and the acreages involved are:

Consenting Owner/Map Number

Reyes/1	18.61 acres
Reyes/4	0.53 acres
RDJ Holdings/2	0.35 acres
RDJ Holdings/3	0.48 acres
ISU Research Park/6-8	9.90 acres
ISU Foundation/12-14	98.31 acres
<u>Hunziker/17-18.....</u>	<u>79.72 acres</u>
Total Consenting	207.90 acres

Non-consenting Owner/Map Number

Plagmann/5	0.59 acres
Forth/9.....	2.26 acres
Harder/10	4.42 acres
Smith/11	1.46 acres
Riley/15	2.57 acres
<u>May/16</u>	<u>5.00 acres</u>
Total Non-consenting	16.30 acres

This option results in a total annexation of 224.20 acres, of which 92.7% are consenting and 7.3% are non-consenting. This option is depicted in Attachment B.

OPTION 2: NORTH-TO-SOUTH PRIORITY-ATTACHMENT C

This option includes all the properties as listed in Option 1. It also includes the three Christofferson properties as well as three additional properties along 530th Avenue (University Boulevard). **This option attempts to fill in portions of land in the Allowable Growth Area from north to south.** By creating more uniform boundaries in this fashion, further annexation and development to the south will be more feasible in the future.

Additional Non-consenting Owner/Map Number

Christofferson/19.....	14.67 acres
Christofferson/20	0.45 acres
Christofferson/21	5.10 acres
Fuchs/30	5.27 acres
Morrison/Jones/31.....	1.96 acres
<u>Cammack, et al/32</u>	<u>2.89 acres</u>
Additional Non-consenting	30.34 acres

This option results in a total annexation of 254.54 acres of which 81.7% are consenting and 18.3% are non-consenting. This option is depicted in Attachment C.

Staff has spoken with Mr. Christofferson, who has indicated that he does not wish to be annexed at this time. He still has concerns with storm water drainage and his fear is that development will exacerbate those concerns. Staff has addressed storm water drainage issues in the area with a site visit and review of an engineering study in the summer of 2013 and has found it to be unlikely that development would impact the surrounding areas. An engineering review of storm water management would occur concurrent with any future subdivision review in the area. Staff was forwarded a letter from an attorney representing the recent purchasers of the Christofferson property. That letter expresses the new owners' desire to not be included in the annexation; and is included as Attachment F.

Staff has also spoken with Cammack, et al. They are concerned about what the development of a research park to the east and an expansion of Wessex behind them would do to their property values. They are also concerned about how access to their property would be impacted with the paving of University Boulevard.

Staff has corresponded with Morrison/Jones. They also oppose annexation and have provided a letter which is included as Attachment G.

Staff has spoken to Daniel Fuchs. He indicated he is not interested in annexation and has supplied an e-mail included as Attachment H.

OPTION 3: EAST-TO-WEST PRIORITY-ATTACHMENT D

This option includes all the properties as listed in Option 1. However, it emphasizes the importance of 530th as the University Boulevard extension by including as many properties as possible with frontage on this future city street. **This option attempts to fill in this portion of the Allowable Growth Area from east to west.**

In addition to the owners listed in Option 1, this option also includes:

Additional Non-consenting Owner/Map Number

Fuchs	5.27 acres
Morrison/Jones.....	1.96 acres
Cammack, et al	2.89 acres
<u>Roth.....</u>	<u>22.04 acres</u>
Additional Non-consenting	32.16 acres

This option results in a total annexation of 256.36 acres of which 81.1% are consenting and 18.9% are non-consenting. This option is depicted in Attachment D.

Staff has spoken with Jim Roth who has indicated that he is not interested in annexation.

Annexation Process:

Once the City Council decides to move forward with a particular annexation boundary description, there are a number of prescribed steps prior to returning to the City Council for a public hearing and vote on the annexation. Assuming the City Council moves forward at the April 22 meeting, the schedule will be as follows:

April 29	Consultation with Story County Supervisors and Washington Township Trustees designees
May 20	Notice of Public Hearing mailed
May 21	Planning and Zoning Commission meeting for recommendation
June 10	City Council Public Hearing on annexation and vote on resolution
July 9.....	City Development Board Review and Set Public hearing
August 13.....	City Development Board Public Hearing and Action

Under any scenario, this annexation will contain some number of non-consenting property owners. Therefore, the City Development Board in Des Moines will need to conduct a public hearing on the annexation request. This item will be forwarded to that Board for their review at their July meeting. A public hearing of the City Development Board and final approval will likely occur in August with final recording in September.

Service and Infrastructure Issues:

The City’s goal, in this and previous annexations, is to be able to provide full City services and infrastructure to the newly incorporated area. This can include City water, sanitary sewer, paved streets, fire and police protection, and street maintenance. (Electric service boundaries are outside the control of the City and are rarely amended. Likewise, school district boundaries are independent of the expansion of City boundaries.)

In order to accomplish these goals, there are often agreements with those seeking annexation to ensure the provision of services. Of concern in this area is the relationship that many of the property owners have with the Xenia Rural Water District. Those owners receiving service from Xenia or within the Xenia territory **that are consenting to the annexation** will need to have an agreement with the City prior to final approval on the annexation that they will disconnect from Xenia and pay any costs associated with the disconnection and the buyout of the territory from Xenia prior to development or connecting to City water.

Non-consenting owners have no obligation to disconnect from Xenia upon being annexed and may continue to receive water service from Xenia. However, if they chose to receive water from the City in the future, they will be obligated to pay Xenia’s disconnection and buyout costs, if any, prior to connecting to City water. City services would be required for future subdivision and development of property.

Properties in this area are also served by individual septic systems. These properties would also be allowed to continue on septic systems as long as the system is in good condition and the City does not have service connections available within 200 feet of the

structure as defined by the Code of Iowa. At time of any future development of these properties, City sewer connections would be required at the cost of the property owner.

Non-consenting Issues:

The City Council has trod carefully in previous annexations by seeking to include only those properties where the owners have actively sought annexation. For instance, the previous City Council approved two annexations in December, 2013. The Athen and the Quarry Estates annexations were both 100% consenting.

However, there are times when such consideration has been an impediment to subsequent annexations and development. For instance, when the Rose Prairie property was annexed north of the City in 2010, the Sturges property was not included, although it could have been under the 80/20 rule. This has made subsequent annexation of adjacent land very difficult, possibly resulting in a “flagpole” approach to ensure that an island is not created when the Hunziker property seeks annexation.

Another example is in west Ames immediately to the east of the Sunset Ridge development. This irregular boundary with a flagpole has precluded further annexation in that area. Likewise on State Avenue, near the former ISU Press building, requested annexations had to be denied because to do so would have necessitated the creation of an island.

Non-consenting property owners often are concerned with the burden placed on them following annexation. These owners are often living on the land they bought—not for investment purposes—but to enjoy the rural lifestyle they desire. Annexation into the City brings with it City rules, codes, standards, and taxes. Staff has listened to their concerns and has answered many of their questions. A fact sheet was prepared and can be found in Attachment E.

In an attempt to address similar concerns in the northern growth area, the City Council authorized staff to offer certain incentives to existing home owners to voluntarily annex. These included reduced costs for connecting to City water and sanitary sewer at a future time of the home owner’s choosing.

While the City Council is rightly cognizant of the desires of property owners adjacent to the City limits, the long term interests of growth, consistent with the City’s Land Use Policy Plan and Urban Fringe Plan, may lead to conflicts between the desires of property owners to remain outside the City and the needs of the City for rational growth and development.

It should also be noted that all these property owners use City streets, have access to the Ames Library, and enjoy the employment, educational, cultural, and shopping opportunities that are available in the City, yet are not City property tax payers. It is also true that the City currently has no obligation to provide fire and police protection, water, and sanitary sewer to those property owners.

ALTERNATIVES:

1. The City Council can selection Option 2 as the preferred annexation territory and begin the process of annexation by referring the annexation requests to the Planning and Zoning Commission and designating Charlie Kuester as City representative for the April 29th consultation meeting with the Story County Supervisors and the Washington Township Trustees.
2. The City Council can select one of the other Options as the preferred annexation territory and begin the process of annexation by referring the annexation requests to the Planning and Zoning Commission and designating Charlie Kuester as City representative for the April 29th consultation meeting with the Story County Supervisors and the Washington Township Trustees.
3. The City Council can defer action at this time.

MANAGER'S RECOMMENDED ACTION:

Most recent annexations were supported by the City Council to accommodate residential growth and development to the north. In this instance, however, the bulk of the territory is intended for industrial expansion, bringing jobs to the community. In recognizing the need for further housing, adjacent land is also seeking annexation for residential development.

This annexation request, at a minimum, will require the inclusion of six non-consenting owners as they would be "islands" within voluntarily annexed territory. Annexation requests in the past have typically included only those non-consenting properties necessary to avoid creating islands. In some instances, however, the result has been very irregular boundaries that have prevented or delayed later growth. Irregular boundaries also lead to questions of jurisdiction and provision of services when, for instance, half of a road right-of-way is within the City and half remains within the unincorporated portion of the county.

These types of annexation situations are always difficult for City Councils. The City Council is faced with the choice of respecting the wishes of individual property owners to maintain their rural lifestyle (even as urban development approaches), or of supporting the logical arrangement and expansion of the City limits.

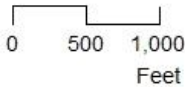
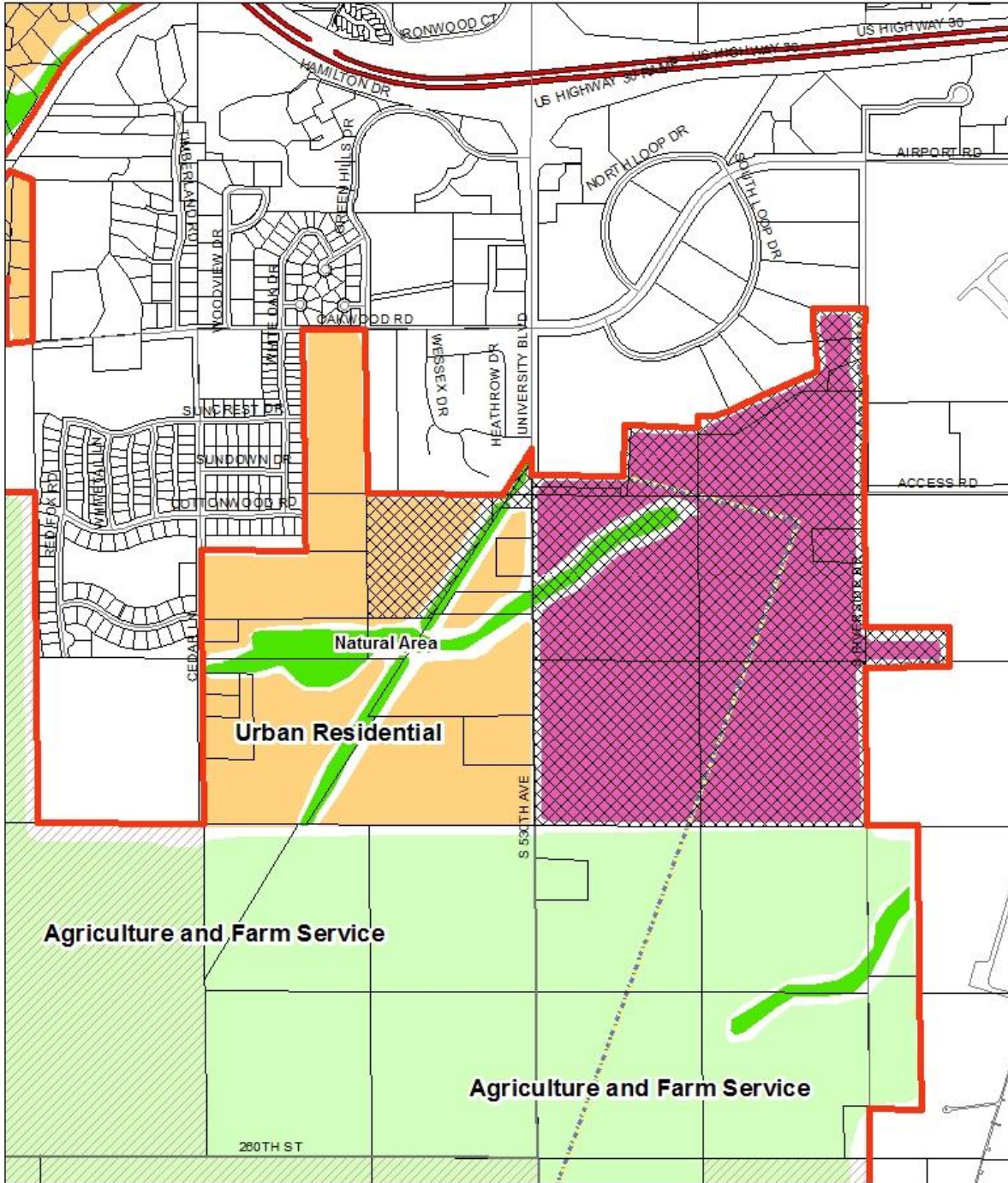
In this instance, further inclusion of non-consenting owners as described in Option 2 will help further the Land Use Policy Plan goal of extending the City limits to incorporate the Southwest Allowable Growth Area east of Cedar Lane and west of University Boulevard (530th Avenue). Including the long peninsula of the Christofferson property will provide the most opportunities for logical future annexations. If the Christofferson property is not annexed with this application, then it would be very difficult for future properties to the south to voluntarily annex, due to the State prohibition against creating islands and its 80/20 rule.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 2, thereby initiating the annexation of 254.54 acres of land,

comprising 46.64 percent of land owned by non-consenting owners. This land is owned by Plagmann, Forth, Harder, Smith, Riley, May, Christofferson, Fuchs, Morrison/Jones, and Cammack, et al.


The City Council will hold a consultation with the Story County Supervisors and Washington Township Trustees on April 29th at 5:30 pm. The Planning and Zoning Commission will be asked to provide a recommendation on the annexation on May 21. Final action will occur following a public hearing on June 10th.

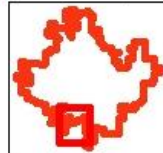
Attachment A: Urban Fringe Plan Map (Excerpt)



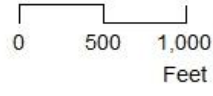
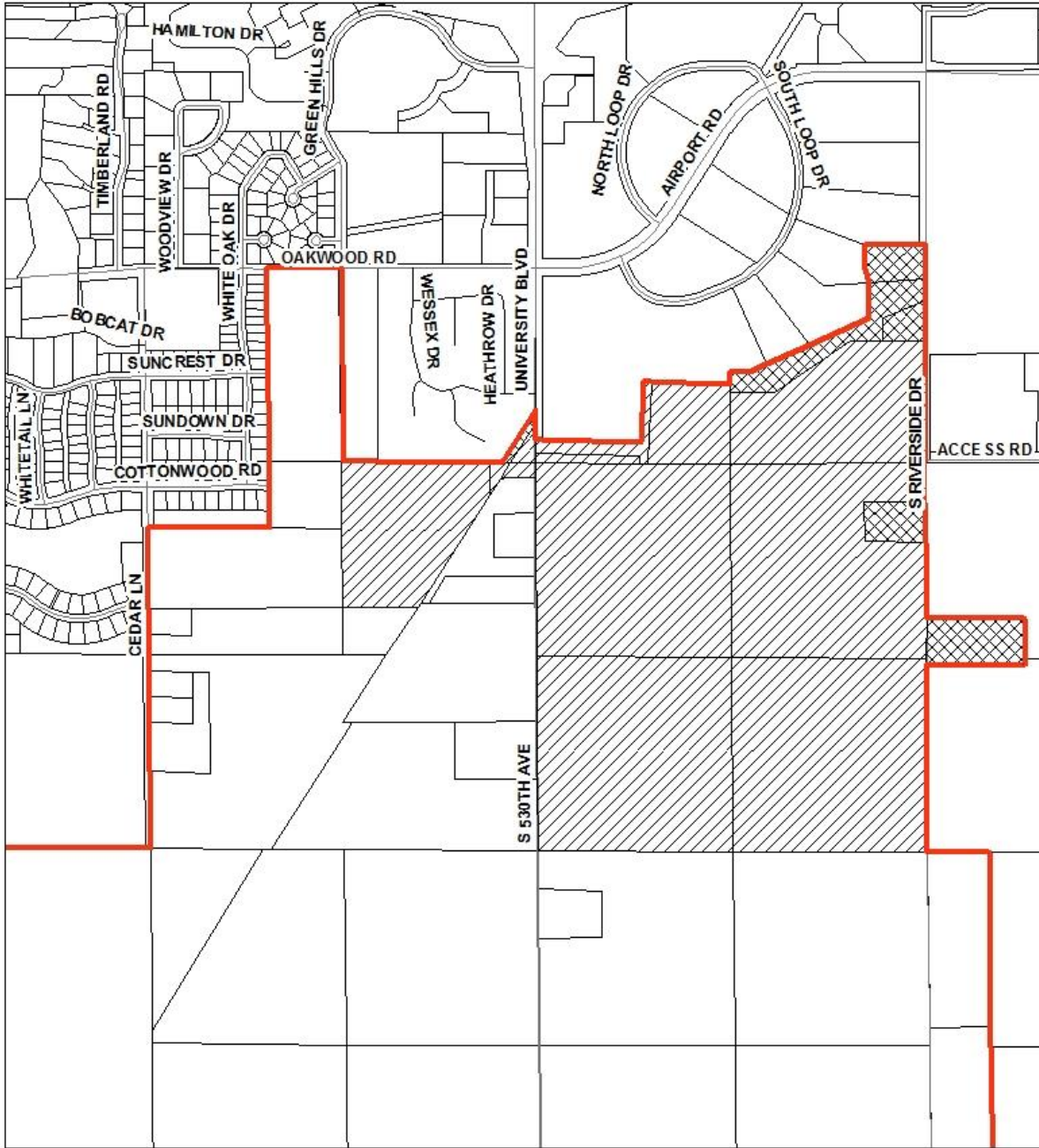
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 Ames City Boundary




 Research Park and Reyes Request

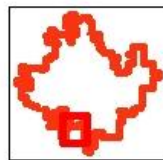


ATTACHMENT B: OPTION 1

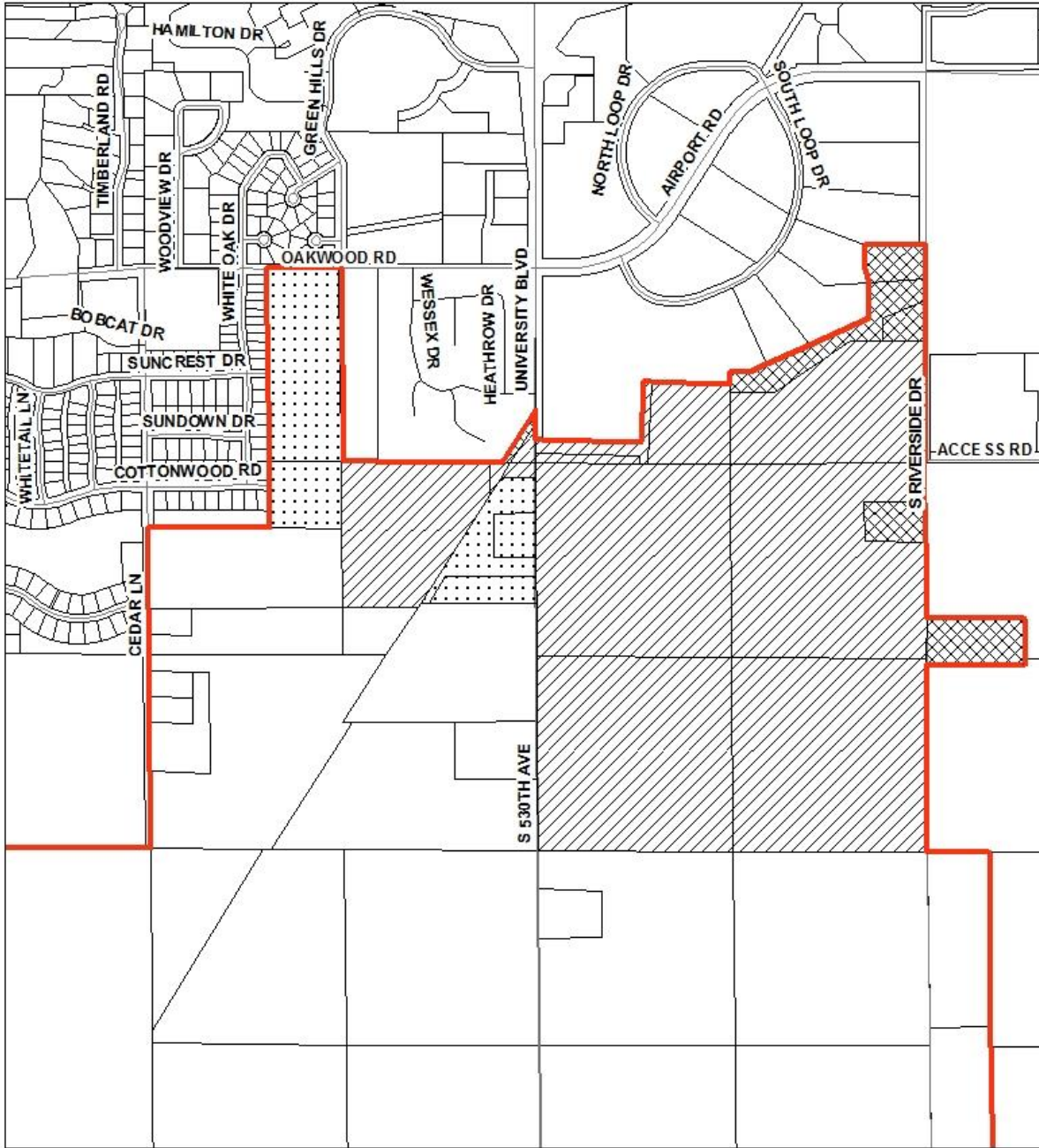


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
-  Ames Corporate Limits
-  Consenting Properties
-  Non-consenting-Avoid Islands




ATTACHMENT C: OPTION 2




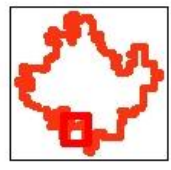
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-  Ames Corporate Limits
-  Consenting Properties
-  Non-consenting-Avoid Islands
-  Non-consenting-Uniform Boundaries #1

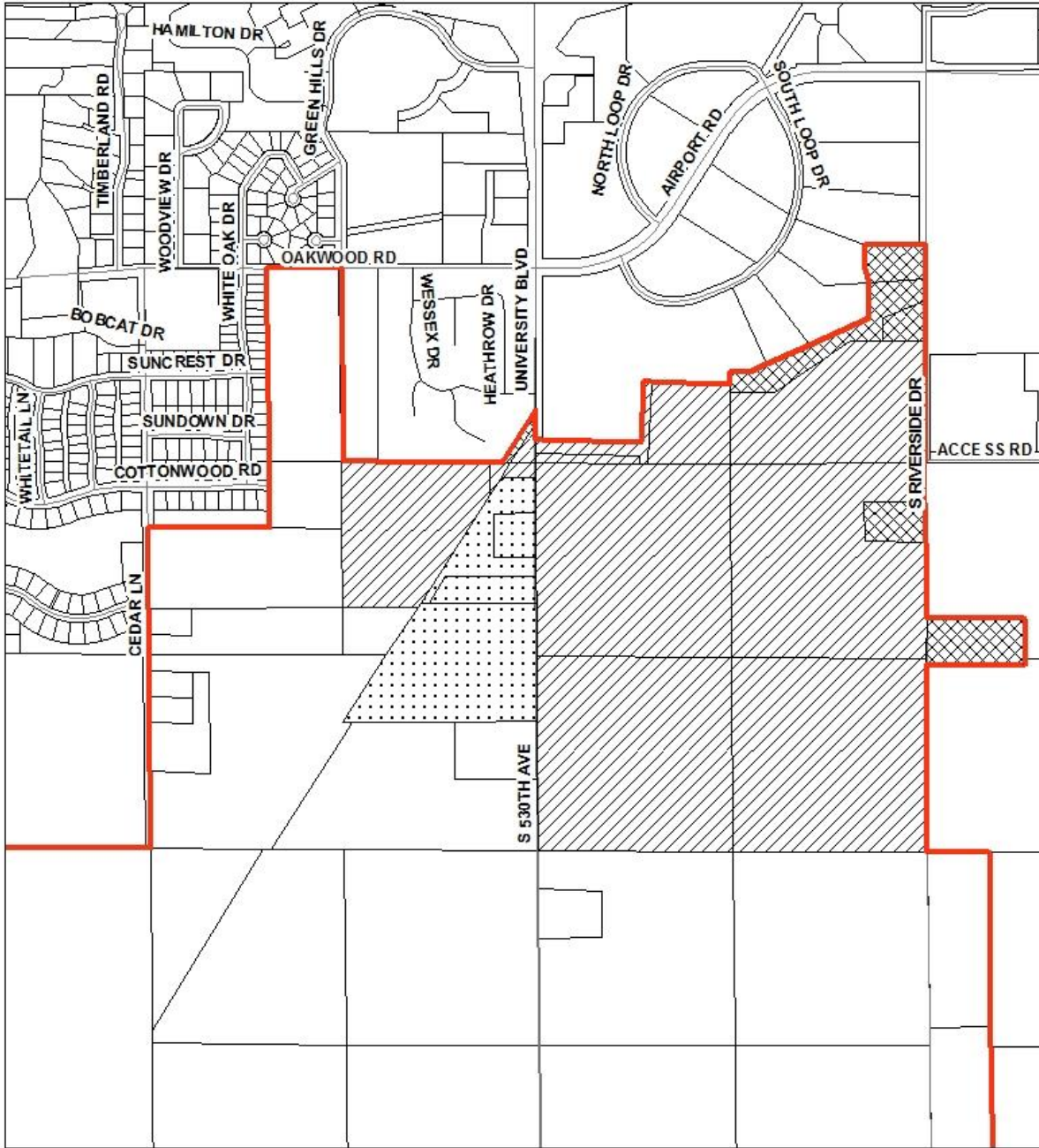
0 500 1,000 Feet

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
 CITY OF Ames




ATTACHMENT D: OPTION 3




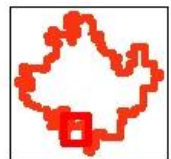
Legend

-  Ames Corporate Limits
-  Consenting Properties
-  Non-consenting-Avoid Islands
-  Non-consenting-Uniform Boundaries #2

0 500 1,000 Feet

 N

 CITY OF Ames



ATTACHMENT E: FREQUENTLY ASKED QUESTIONS

QUESTIONS REGARDING ANNEXATION

What will be the zoning of my property after annexation and what does that mean? Will it have to change?

Upon annexation, a property is automatically zoned A-Agriculture. It will remain A-Agriculture until action by the City Council to change the zoning map. According to Ames City Code, the property owner, the Planning and Zoning Commission, or the City Council can initiate a zoning map change.

The property will be subject to all the zoning requirements of the City. For any specific question about how the requirements impact a particular property, please contact the Planning Division. However, a residential property in the A-Agriculture zoning district would be allowed to maintain that use indefinitely. If damaged or destroyed, a residential use could be re-established subject to the zoning requirements regarding setback, height, etc. There may be greater restrictions than the county would have on accessory and out buildings.

Inside the City, there are other restrictions that are often not found in the county. For example, discharging a firearm (except on agricultural land) and the burning of garbage is prohibited.

Am I required to disconnect from Xenia and hook up to water service when it comes near my property? Will there be connection fees? Can I connect to the new water main with my existing service line? What inspections will I need?

There is no requirement to connect to city water upon annexation unless you are subject to a covenant with the City of Ames to connect and pay the costs associated with the buyout of rural water. You may continue to use a well or, if you are already an existing Xenia customer, you may continue to purchase water from Xenia. If you choose to connect to the City of Ames water system, you may have to pay the costs of buying out water service territory from Xenia. New connections to Xenia will not be possible.

If you choose to connect to the public water system, you may be subject to an inspection of your plumbing system to determine whether the system has adequate venting and backflow protection to protect the public water system. You will need to correct any deficiencies found in that inspection prior to connecting to the public water system. It may be possible to use your existing service lines if it can be verified that they are made of approved materials and are in a safe condition. Any connection will need a plumbing permit and an inspection. Unless you are subject to a previous agreement with the City, there is a water connection fee, subject to change, of \$18 per linear foot of frontage.

Am I required to hook up to the sanitary sewer when it comes near my property? Will there be connection fees? What inspections will I need?

A connection to the City sanitary sewer system is required only if the existing system needs to be repaired and it is within 200 feet of a public sanitary sewer. The owner will need to obtain a plumbing permit and the connection is subject to review by the Inspections Division. Unless you are subject to a previous agreement with the City, there is a sewer connection fee, subject to change, of \$18 per linear foot of frontage.

The Story County Environmental Health Department does not determine if the septic system is functioning at the time of annexation, nor does the City. The County does inspect on-site septic systems when a house with a septic system is sold, whether it is in the city or out in the county.

If an on-site septic system is abandoned, the septic tank shall be pumped, the tank lid crushed into the tank, and the tank filled with sand or soil. The Story County Environmental Health Department can provide further information.

How will my taxes change after annexation?

After annexation, your property will be subject to the City of Ames levy, but no longer subject to the Rural Service Basic levy. Other levies, for example school district and county, will remain. The total levy for properties in Ames and in the Ames Community School District (for taxes payable July 1, 2013 through June 30, 2014) is \$32.40069 per \$1,000 of taxable valuation. This compares with \$25.51437 per \$1,000 of taxable valuation for property owners in Washington Township in the Ames Community School District. The new levy will not be applied immediately upon annexation but will appear in your property tax statements about 20 months after the first day of the year that the City assessor revalues the property. The Story County web site has a tool to help you estimate your taxes, based on the city and school district in which your property is located. It can be found at: <http://www.storycountyiowa.gov/index.aspx?nid=968>.

Can I continue to heat using LP gas? Am I required to connect to natural gas? If so, when will that be brought to my property?

There are no prohibitions on LP tanks in the A-Agriculture zoning district. If you were to seek a change in zoning to some other residential district, there may be restrictions and be subject to the approval of the Ames Fire Department.

The City's natural gas provider is Alliant Energy. Under the terms of the franchise agreement, the provider must provide natural gas to the property line of anyone who requests in writing to Alliant Energy, to be served. If you wish to connect to natural gas, you will need a permit from the City and have the work inspected.

Under what circumstances can I get a burn permit for trees and brush? Are there fees?

The burning of yard waste is prohibited unless you apply for and obtain a burn permit from the Ames Fire Department. When evaluating an application for a burn permit, the Shift Commander will look at a number of factors, such as hydrant location, fire department access, proximity to combustibles, weather conditions, etc. There is no guarantee that a permit will be issued but the department will always do their best to work with you to find a solution. There is no fee for a burn permit.

I have a building under construction. If I am annexed prior to finishing it, will I need permits to complete it?

The County and the City have different permitting requirements and every project is unique. Please coordinate directly with the Ames Inspection Division to determine permitting needs. Also, please contact the Planning Division to determine zoning requirements for your project.

Important Numbers:

Planning Division	515-239-5400
Inspections Division	515-239-5153
Fire Department.....	515-239-5108
Story County Environmental Health Department.....	515-382-7241

ATTACHMENT F: OAKWOOD ACRES LETTER



LEARNED & ASSOCIATES, P.C.

ATTORNEYS AND COUNSELORS AT LAW
812 ASHWORTH ROAD • WEST DES MOINES, IA 50265

TELEPHONE: (515) 225-8488
FACSIMILE: (515) 225-8495
Web: www.learnedlaw.com

April 16, 2014

Ames City Council
P.O Box 811
515 Clark Avenue
Ames, IA 50010

Dear Council Members:

My firm has been informed of an agenda item on the April 22nd City of Ames Council meeting, regarding discussion of an involuntary annexation of three parcels of property in south Ames previously owned by Floyd and Anna Christofferson.

My client Oakwood Akers, LLC purchased the property on April 12, 2014 from the Christofferson's Trust and are opposed to an involuntary annexation of these parcels into the City of Ames.

Oakwood Akers, LLC has no plans for developing the property, and the agricultural acreage will be farmed during the 2014 crop year.

Please feel free to contact me if you have any questions regarding my client's demand. I can be contacted at 515-225-8488.

Sincerely,

Kevin J Studer
Attorney at Law

cc

Ann Campbell, Mayor:
Gloria Betcher, Ward 1:
Tim Gartin, Ward 2:
Peter Orazem, Ward 3:
Chris Nelson, Ward 4:
Mathew Goodman, At-Large:
Amber Corrieri, At-Large:
Alexandria Harvey, Ex-Officio:
Diane Voss, City Clerk:
Steve Schainker, Manager:

ATTACHMENT G: MORRISON/JONES LETTER

April 14, 2014

Mr. Kuester,

We received your letter on Friday, April 11, 2014, and the short answer to your inquiry is that we have absolutely zero interest in annexation.

We looked at numerous homes/properties before we purchased this one, and ended up where we are very specifically because of the agricultural zoning. We are maintaining our hobby farm with its agricultural zoning, and have no interest in being annexed. That would be counter-intuitive to our plans and future.

There is, however, a longer answer that is worth mentioning to you. We used a Hunziker realtor to sell our previous home and buy our current home. Coincidentally, our current home was also listed by Hunziker realty. At the time we raised the specific concern to our realtor about plans for urban growth or research park expansion in the southern direction. Our concerns were quelled at the time and we were assured that there were no such plans in place. However it is now well known that Hunziker has had a great deal to do with the research park expansion; we are disappointed that neither Hunziker associate did anything to make us aware of this.

Furthermore, a year ago, when we first learned about the third phase of the research park expansion, we immediately called both the city and the county to find out as much information as possible about the effects on our property. The county directed us to the city, and after being transferred a few times from person to person, we were assured (verbally) that it would have no bearing on us. We were told that the city does not initiate annexation to private property owners. Regardless, we still did attend both county and city meetings about the subject. Comments that we made at the city meeting should be recorded in the minutes.

Lastly, we spoke to our neighbor this past weekend as he had received a similar letter from you. Interestingly, we learned that neither of us had contacted the city about options for annexation, and as there are not that many of us in this area, we are left wondering which neighbors might have contacted you as you indicated in your letter.

Thank you for contacting us directly.

JoAnn Morrison and Kate Jones

ATTACHMENT H: FUCHS LETTER

Page 1 of 1

Annexation
Dan Fuchs
to:
ckuester@city.ames.ia.us
04/17/2014 04:55 PM
Please respond to Dan Fuchs
Show Details

Dear Mr. Kuester,

This letter is in response to your letter dated April 10, 2014 regarding possible annexation of our property at 3581 530th Ave.
Please let it be known that we do NOT want to be annexed into the city of Ames.

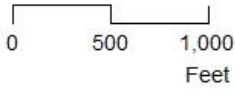
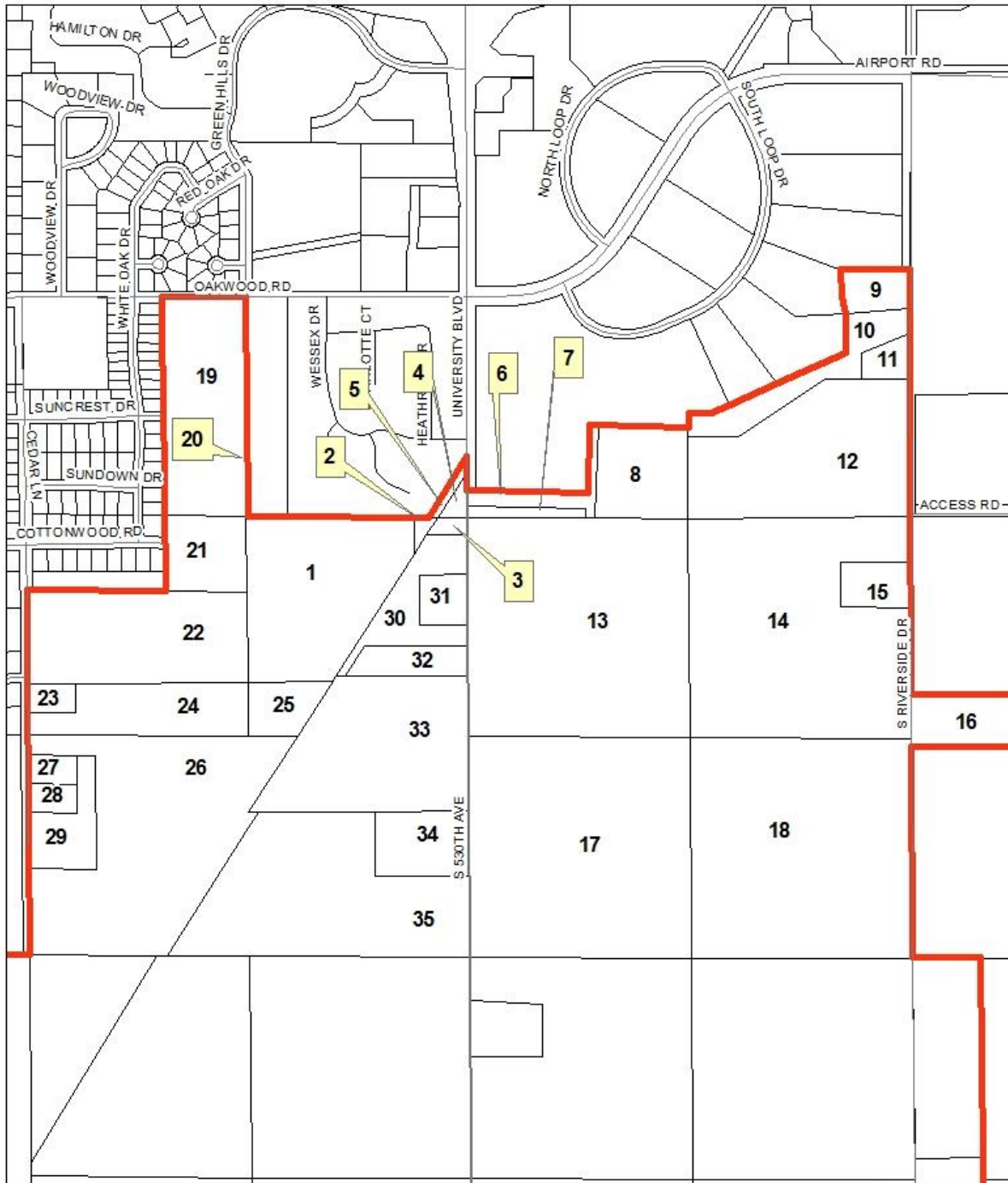
Sincerely,

Daniel and Carmen Fuchs
515-520-1823

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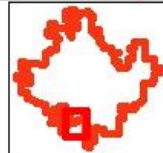
4/18/2014

ATTACHMENT H: OWNERSHIP MAP AND INDEX



Legend

 Ames City Boundary



OWNERSHIP INDEX

MAP NUMBER	NAME	NOTES
1	Reyes	Petitioner
2	RDJ Holdings	Petitioner
3	RDJ Holdings	Petitioner
4	Reyes	Petitioner
5	Plagmann	Needed to avoid an island
6	ISU Research Park	Petitioner
7	ISU Research Park	Petitioner
8	ISU Research Park	Petitioner
9	Forth	Needed to avoid an island
10	Harder	Needed to avoid an island
11	Smith	Needed to avoid an island
12	ISU Foundation	Petitioner
13	ISU Foundation	Petitioner
14	ISU Foundation	Petitioner
15	Riley	Needed to avoid an island
16	May	Needed to avoid an island
17	Hunziker	Petitioner
18	Hunziker	Petitioner
19	Christofferson	Included in Option 2
20	Christofferson	Included in Option 2
21	Christofferson	Included in Option 2
22	Skaarshaug	Part of Allowable Growth Area
23	Engelman	Part of Allowable Growth Area
24	Burgason Enterprises	Part of Allowable Growth Area
25	Burgason Enterprises	Part of Allowable Growth Area
26	Burgason Enterprises	Part of Allowable Growth Area
27	Burgason	Part of Allowable Growth Area
28	Burgason	Part of Allowable Growth Area
29	Harold	Part of Allowable Growth Area
30	Fuchs	Included in Options 2 and 3
31	Morrison/Jones	Included in Options 2 and 3
32	Cammack, et al	Included in Options 2 and 3
33	Roth	Included in Option 3
34	Hicks	Part of Allowable Growth Area
35	Roth	Part of Allowable Growth Area