

COUNCIL ACTION FORM

SUBJECT: ZONING AGREEMENT FOR MASTER PLAN FOR FS-RL ZONING OF SCENIC VALLEY SUBDIVISION

BACKGROUND INFORMATION:

The City Council approved the first reading of the proposed rezoning of Scenic Valley on April 22, 2014. At that meeting, the Council reviewed and accepted the accompanying Master Plan (see Attachment A). Prior to final approval of a rezoning with a Master Plan, a Zoning Agreement is required of the property owner acknowledging that the property must be developed in accordance with the Master Plan.

If the City Council gives final reading of the ordinance to rezone the property at its May 27th meeting, the Council should also approve the Zoning Agreement (see Attachment B) with the owner, Hunziker Development Co., LLC. This agreement assures that development of this site will be in compliance with the Master Plan subject to subsequent subdivision approval of preliminary and final plat. Attachment C contains the applicable portion of the Municipal Code.

ALTERNATIVES:

1. The City Council can approve the Zoning Agreement for the Scenic Valley Subdivision Master Plan prior to the third reading of the rezoning ordinance.
2. The City Council can decline the Zoning Agreement and choose to not require a Master Plan.
3. The City Council can defer action on this request and refer it back to City staff and/or the applicant for additional information.

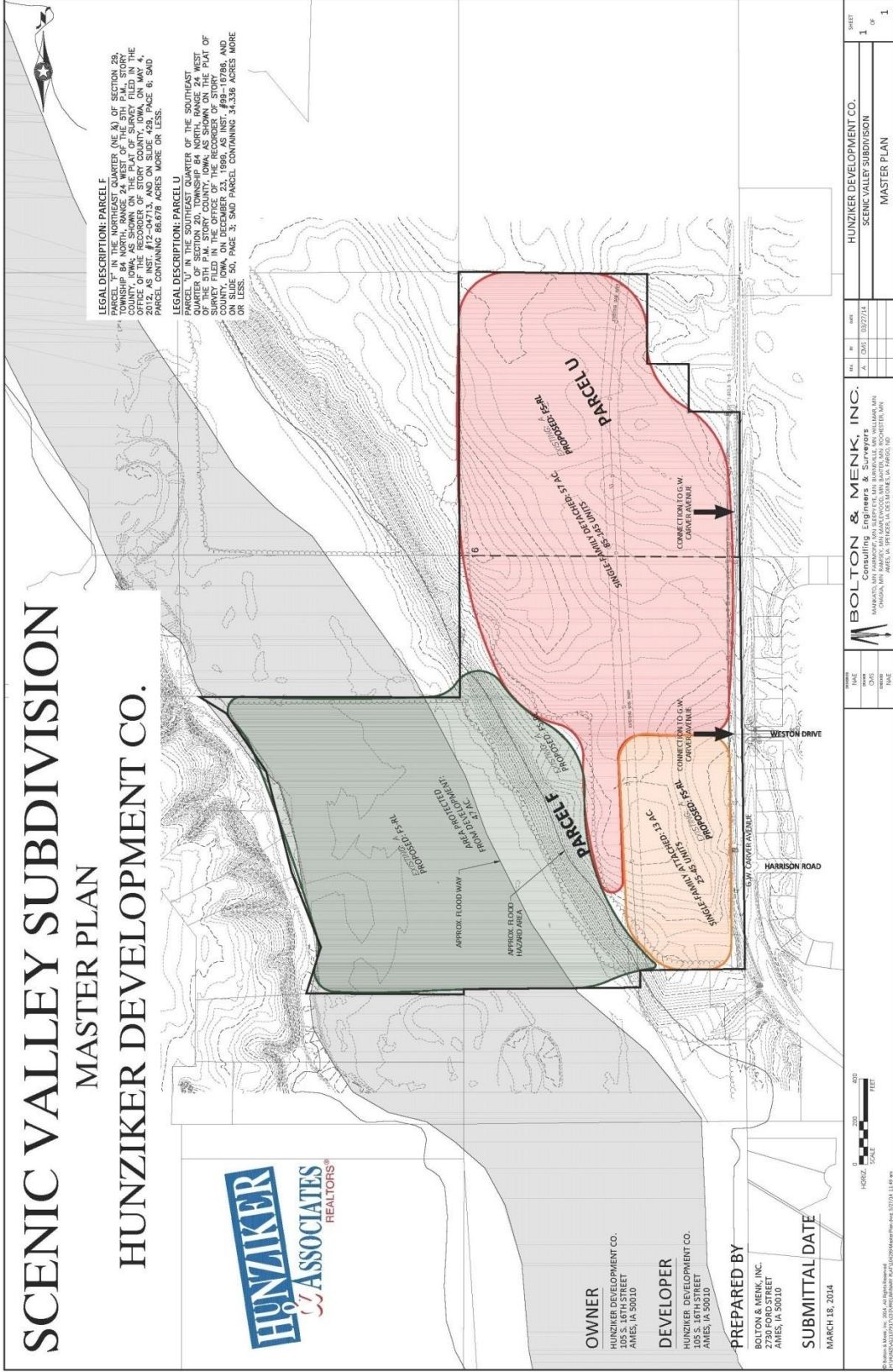
RECOMMENDED ACTION:

The City Council reviewed the proposed Master Plan at its April 22nd meeting when it gave approval of the first reading of the rezoning. This Zoning Agreement ensures that the proposed preliminary plat and all subsequent development actions will be consistent with that Master Plan.

Therefore, it is the recommendation of the City Manager that the City Council accept Alternative #1, thereby approving the Zoning Agreement for the Scenic Valley Subdivision Master Plan.

Attachment A: Master Plan

SCENIC VALLEY SUBDIVISION MASTER PLAN HUNZIKER DEVELOPMENT CO.



LEGAL DESCRIPTION: PARCEL F
 THE SOUTHWEST 1/4 OF SECTION 28, TOWNSHIP 84 NORTH, RANGE 24 WEST OF THE 5TH PL. MERIDIAN, IOWA, AS SHOWN ON THE PLAT OF SURVEY FILED IN THE PUBLIC RECORDS OF STORY COUNTY, IOWA, ON DECEMBER 23, 1999, AS INST. #99-10786, AND PARCELS CONTAINING 66.678 ACRES MORE OR LESS.

LEGAL DESCRIPTION: PARCEL U
 PARCEL U, IN THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 84 NORTH, RANGE 24 WEST OF THE 5TH PL. MERIDIAN, IOWA, AS SHOWN ON THE PLAT OF SURVEY FILED IN THE PUBLIC RECORDS OF STORY COUNTY, IOWA, ON DECEMBER 23, 1999, AS INST. #99-10786, AND PARCELS CONTAINING 34.539 ACRES MORE OR LESS.



OWNER
 HUNZIKER DEVELOPMENT CO.
 105 S. 16TH STREET
 AMES, IA 50010

DEVELOPER
 HUNZIKER DEVELOPMENT CO.
 105 S. 16TH STREET
 AMES, IA 50010

PREPARED BY
 BOLTON & MENK, INC.
 2730 CONDE STREET
 AMES, IA 50010

SUBMITTAL DATE
 MARCH 18, 2014

NO.	DATE	BY	REVISION

DATE DATE DATE DATE	NAME NAME NAME NAME	BOLTON & MENK, INC. <small>AMARANTH ENVIRONMENTAL CONSULTANTS AND ENGINEERS</small> <small>3700 UNIVERSITY AVENUE, SUITE 200, WASHINGTON, DC 20004</small> <small>1000 B STREET, SUITE 200, WASHINGTON, DC 20004</small> <small>4000 L STREET, SUITE 200, WASHINGTON, DC 20004</small> <small>1100 K STREET, SUITE 200, WASHINGTON, DC 20004</small> <small>1100 L STREET, SUITE 200, WASHINGTON, DC 20004</small> <small>1100 M STREET, SUITE 200, WASHINGTON, DC 20004</small> <small>1100 N STREET, SUITE 200, WASHINGTON, DC 20004</small>
SHEET NO. 1 OF 1		HUNZIKER DEVELOPMENT CO. SCENIC VALLEY SUBDIVISION MASTER PLAN

Attachment B: Zoning Agreement (3 pages)

DO NOT WRITE IN THE SPACE ABOVE THIS LINE; RESERVED FOR RECORDER

Prepared by: Judy Parks, City of Ames Legal Department, 515 Clark Ave., Ames, IA 50010; 515-239-5146

Return to: Ames City Clerk, Ames City Hall, 515 Clark Ave., P.O. Box 511, Ames, IA 50010

AGREEMENT FOR ADOPTION OF THE MASTER PLAN FOR SCENIC VALLEY SUBDIVISION 3699 GEORGE WASHINGTON CARVER

THIS AGREEMENT, made and entered into this ____ day of _____, 2014, by and between the City of Ames, Iowa (hereinafter called "City") and Hunziker Land Development Company, L.L.C. (hereinafter called "Developer"), its successors and assigns, both collectively being referred to as the "Parties,"

WITNESSETH THAT:

WHEREAS, the Parties hereto desire the improvement and development of an area which has been recently annexed into the City, formerly known as the Athen Property and now proposed to be known as "Scenic Valley Subdivision," (hereinafter referred to as the "Site"); and

WHEREAS, the Parties entered into an Agreement Pertaining to Voluntary Annexation of the Site, pursuant to which the Developer agreed to seek rezoning of the Site; and

WHEREAS, the Site is designated on the Land Use Policy Plan as Village/Suburban Residential with certain portions therein also designated as Environmentally Sensitive Overlay areas; and the Developer is seeking rezoning of the Site from A - Agriculture zoning to FS-RL - Suburban Low Density Residential consistent with the LUPP designations and in conformance with the Agreement Pertaining to Voluntary Annexation; and

WHEREAS, the City Council resolved that a Master Plan accompany this rezoning, pursuant to Ames Municipal Code section 29.1507(3), and the Developer has submitted a Master Plan in conformance with the requirements set forth in Ames Municipal Code section 29.1507(4); and

WHEREAS, Ames Municipal Code section 29.1507(5) requires approval of a zoning agreement when a Master Plan is required and that all development of the Site comply with the Master Plan.

NOW, THEREFORE, the Parties hereto have agreed and do agree as follows:

**I.
SCENIC VALLEY MASTER PLAN ADOPTED**

The Master Plan set forth at Attachment A and incorporated by reference in this agreement shall be the Master Plan for the Scenic Valley Subdivision.

**II.
NON-INCLUSION OF OTHER OBLIGATIONS**

The Parties acknowledge and agree that this Agreement is being executed to fulfill a specific requirement of section 29.1507(5) of the Ames Municipal Code. It is also understood that this Agreement supplements but does not replace or supersede any agreements made with the City or third parties as necessary to complete annexation.

The Parties understand that the Master Plan adopts a general conceptual plan for development, without review or approval of specific subdivision plats or site plans for development of the Site. The Parties therefore acknowledge that the Master Plan adoption does not anticipate or incorporate all the additional approvals or requirements that may be required to properly and completely develop the Site and does not relieve the developer of compliance with other provisions of the Ames Municipal Code, the Iowa Code, SUDAS, or other federal, state or local laws or regulations.

**III.
MODIFICATION OF AGREEMENT**

Any modifications or changes to the Master Plan shall be undertaken in accordance with the process provided for in Ames Municipal Code section 29.1507(5).

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed effective as of the date first above written.

CITY OF AMES, IOWA

STATE OF IOWA, COUNTY OF STORY, ss:

By _____
Ann H. Campbell, Mayor

Attest _____
Diane R. Voss, City Clerk

On this ____ day of _____, 2014, before me, a Notary Public in and for the State of Iowa, personally appeared Ann H. Campbell and Diane R. Voss, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Ames, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the corporation; and that the instrument was signed and sealed on behalf of the corporation by authority of its City Council, as contained in Resolution No. _____ adopted by the City Council on the ____ day of _____, 2014, and that Ann H. Campbell and Diane R. Voss acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

Notary Public in and for the State of Iowa

HUNZIKER LAND DEVELOPMENT
COMPANY, L.L.C.

STATE OF IOWA, COUNTY OF STORY, ss:

By _____
Dean Hunziker, Manager

This instrument was acknowledged before me on _____, 2014, by Dean Hunziker and Charles E. Winkleblack as Managers of Hunziker Land Development Company, L.L.C.

By _____
Charles E. Winkleblack, Manager

Notary Public in and for the State of Iowa

Attachment C: Applicable Zoning Law

The laws applicable to the Master Plan approval are found in Section 29.1507(5).

- (5) **Compliance with Master Plan.** When a Master Plan is required and the proposed zoning map amendment is approved, a zoning agreement shall be approved by the City and agreed to by the owners of the property in the area of the proposed zoning map amendment that requires all development to be in compliance with the Master Plan. No Preliminary Plat, Final Plat, Major Site Development Plan, Minor Site Development Plan or Special Use Permit shall be approved that does not comply with the approved Master Plan. The process for amending the Master Plan shall be the process specified in this section for a zoning map amendment.