

**COUNCIL ACTION FORM**

**SUBJECT: INITIATION OF ANNEXATION FOR 5871 ONTARIO STREET IN THE SOUTHWEST GROWTH AREA**

**BACKGROUND:**

The City of Ames received an annexation petition for the property at 5871 Ontario Street. The property lies on the north side of Ontario Street and south of the Union Pacific railroad. It abuts the existing city limits (see Location Map in Attachment A).

Rich Fitch, representing the owner (D & R Furman LLC), seeks to annex this 34.25 acres for residential development. His application is found in Attachment C.

Southwest Allowable Growth Area and Urban Fringe Plan.: The Land Use Policy Plan (LUPP) has identified areas intended to be annexed and developed for residential purposes, known as Allowable Growth Areas. Although lying north of Ontario Street, the subject property is within the Southwest I Allowable Growth Area—the Northwest Growth Area lies north of the Union Pacific railroad (see Attachment B).

The area also lies within the Urban Residential area of the Ames Urban Fringe Plan. This designation indicates that upon annexation the land will receive the Village/Suburban Residential land use designation.

It is within the Ames Community School District.

Service and Infrastructure Issues: City infrastructure is currently available at the adjacent Brookview Place subdivision to the east. Staff has determined that capacity is available to serve the proposed development and needs only the extension of utilities. There are no issues with any rural water provider to serve the area.

Annexations are governed by the Code of Iowa Section 368.7, and are initiated by the City Council. Annexation requests filed as an application are classified as a voluntary application with consenting property owners. With a voluntary application, the City may include up to 20 percent of the total annexed land area with additional non-consenting property owners. This is often times done to create more uniform boundaries, or to avoid creating islands, since the Code of Iowa does not allow islands to be created as land is annexed into the city. This is commonly referred to as the “80/20 rule.” The owners of a minimum of 80 percent of the total land area must consent to annexation, leaving no more than 20 percent of the land area under the ownership of non-consenting owners. The current annexation request is 100 percent consenting, comprising a single property owner.

In addition to requirements of the Code of Iowa, the City’s intergovernmental agreement implementing the Ames Urban Fringe Plan (AUF) requires the City to consider annexation applications only for those areas designated as “Urban Residential” or

“Planned Industrial” in the Ames Urban Fringe Plan. The land area proposed for annexation is consistent with this agreement.

Next Steps:

Typically, when an annexation request is submitted, especially one of substantial size, the City Council has directed City staff to meet with other property owners to gauge their interest in joining an annexation. However, this parcel is relatively small and only a single owner. In addition, adjacent property owners are not constrained from seeking annexation in the future. Those parcels to the west mostly contain rural residential uses and the owners could pursue annexation at any future time. The development of this Furman parcel would include the extensions of infrastructure for possible future service.

In this instance, the City Council can accept the annexation petition and refer it to the Ames Planning and Zoning Commission with the condition that the City receives the signed waiver of the right to withdraw prior to any statutory notification requirements.

**ALTERNATIVES:**

1. The City Council can accept the petition for annexation from D & R Furman LLC as a 100 percent consenting annexation without seeking whether other owners wish to annex, conditioned upon receiving a signed waiver of the right to withdraw the petition.

*This option would allow the owner to proceed with annexation and development of the property without the added process time of a potential 80/20 annexation. This option would include having the owner submit a binding waiver of his right to withdraw their petition prior to commencing statutory noticing requirements for the annexation area. The petition would then be referred to the Ames Planning and Zoning Commission. City staff would also schedule a consultation with the Story County Supervisors and Franklin Township Trustees.*

2. The City Council can accept the petition for annexation from D & R Furman LLC and direct staff to seek other owners in the Southwest Allowable Growth Area who may wish to seek annexation and return with a report on March 22, 2016.

*This option would delay the initiation of annexation of the property until a report is provided to the Council about the interest from other property owners joining in the annexation. At that time the City Council can determine the extent of the boundaries of the proposed annexation. In addition, this alternative will include having the owner submit a binding waiver of his right to withdraw his petition prior to commencing statutory noticing requirements for the annexation area.*

3. The City Council can choose to not move forward with this annexation request at this time.

**MANAGER’S RECOMMENDED ACTION:**

The Southwest Allowable I Growth Area is a relatively easy area to annex and develop since utility extensions have been extended for the previous westward growth of Ames.

Much of the area is not within Xenia service territory and, therefore, can be readily served by Ames water without lengthy negotiations.

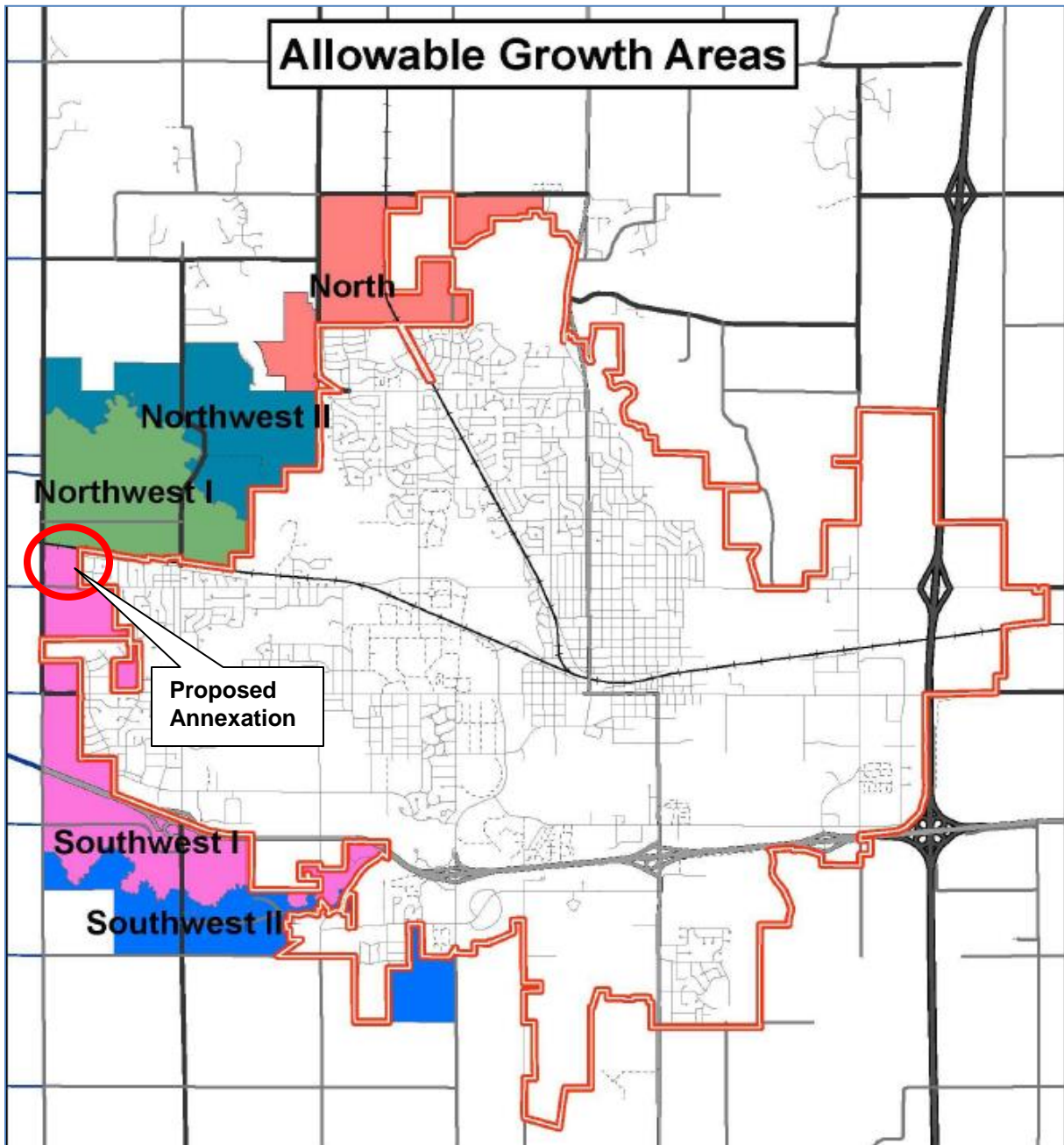
The area lying north of Ontario Street and south of the Union Pacific railroad has seen regular expansion of the city boundaries in 1966, 1977, and 1992. This proposed annexation would not quite reach to the Boone County boundary but may be the ultimate annexation since grade changes would make further annexation westward problematic for sanitary sewer extension.

The proposed annexation has been identified for annexation and residential development in the Ames Urban Fringe Plan and the Land Use Policy Plan. Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative 1, accepting the annexation petition of the D & R Furman and referring it to the Ames Planning and Zoning Commission with the condition that a waiver of the owner's right to withdraw is provided.

# ATTACHMENT A: LOCATION MAP AND AUF DESIGNATION



**ATTACHMENT B: ALLOWABLE GROWTH AREAS**





ATTACHMENT C: ANNEXATION PETITION

RECEIVED

Annex-16-01

Effective Date: February 3, 2014

FEB 23 2016

Voluntary Annexation Petition

Application Form

CITY OF AMES, IOWA DEPT. OF PLANNING & HOUSING

(This form must be filled out completely before your application will be accepted.)

1. Property Address for this Voluntary Annexation or a Description of the General Location if an Address has not been assigned: 5871 Ontario St.

2. Legal Description (attach, if lengthy) See Attached

4. Property Owner: Rich Fitch

Business: D&R Furman LLC

Address: 2607 Northridge Prwy Ames IA 50010 (Street) (City) (State) (Zip)

Telephone: 515-232-8884 (Home) (Business) (Fax)

Please attach separate sheets for each Property Owner and Legal Description.

5. Applicant: Rich Fitch

Business: D&R Furman LLC

Address: 2607 Northridge Prwy Ames IA 50010 (Street) (City) (State) (Zip)

Telephone: 515-232-8884 (Home) (Business) (Fax)

6. Contact Person: Greg Broussard

Business: Bolton & Menk

Address: 2730 Ford St. Ames IA 50010 (Street) (City) (State) (Zip)

Telephone: 515-233-6100 (Home) (Business) (Fax)

E-mail address: gregbr@bolton-menk.com

### Signature Page

*I (We) certify that I (we) am (are) familiar with applicable state and local codes and ordinances, the procedural requirements of the City of Ames and have submitted all the required information.*

Legal Description: See Attached Legal Description

Signed by:  Date: 2-23-16  
Property Owner(s)\*

Richard L. Fitch  
Print Name(s)

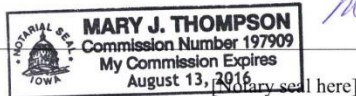
*(Note: No other signature may be substituted for the Property Owner's Signature.)*


State of Iowa

County of Story

Signed and sworn to (or affirmed) before me on February 23, 2016

by Mary J. Thompson (name of person(s))



  
(signature of Notary Public)

**Please attach additional Signature Pages for the notarized signature of all consenting Property Owner and Contract Buyer (if any). Original signatures for all consenting Property Owners and Contract Buyers (if any) must accompany this application**

\* If a limited liability corporation, association, trust, non-profit organization, or any other legal entity owns the property proposed for voluntary annexation, an agent or agents responsible for the affairs of the legal entity must sign the application as the property owner(s). It must be noted that the assignee(s) is (are) acting on behalf of the legal entity. In addition, documentation, such as incorporation documents, must be included that show the assignee's (assignees') authority to act on behalf of the legal entity. If the property owner is a religious institution, a written explanation must be provided on the institution's letterhead that the person(s) signing the application can act on behalf of the institution. One or more established leaders of the religious congregation must also attest to the letter.

# Voluntary Annexation Petition Checklist

(This form must be filled out completely and the required information must be attached to this form before your application will be accepted.)

**The following information is required as part of the submittal of a Petition for Voluntary Annexation:**

- A **Legal Description** of the each property proposed for annexation, including the amount of land to be annexed. *(Please attach.)*
- A **Plat** that includes the following:
  - Boundaries of the property proposed for annexation, drawn to scale with North indicated. If the Voluntary Annexation request includes non-consenting owners needed to avoid creating an island or to create more uniform boundaries (as allowed by Chapter 368.7(1)(a) of the Code of Iowa), these must be included in the Plat. The Plat shall indicate which parcels are owned by consenting and which are owned by non-consenting owners.
  - The Plat must show the relationship of the subject property(ies) to the existing corporate limits. (For recording purposes, the County Recorder’s office requires that the City of Ames corporate limits be clearly shown and labeled as “City of Ames Corporate Limits.”)
  - The Plat must be prepared by a licensed professional surveyor. A previously prepared plat of survey or subdivision plat is acceptable.
  - If the Voluntary Annexation request is within 2 miles of another city, the plat document must have the following notation on the Annexation Plat:  
"WITHIN TWO MILES OF \_\_\_\_\_".  
(City's name)



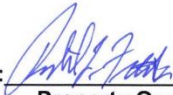
**Voluntary Annexation Petition**  
*Permission to Place a "Zoning Action Pending" Sign  
on Private Property*

(This form must be filled out completely before your application will be accepted.)

Section 29.1500(2)(d)(iii) of the Zoning Ordinance, requires that **notice shall be posted by the City on the subject property**. One notice sign shall be posted for each property. Required signs shall be posted along the perimeter of the subject property in locations that are highly visible from adjacent public streets **prior to the public hearing**.

The owner of property at 5871 Ontario St. hereby grants the City of Ames permission to place "Zoning Action Pending" signs on the property for the purpose of informing interested persons of the request for action by the City of Ames.

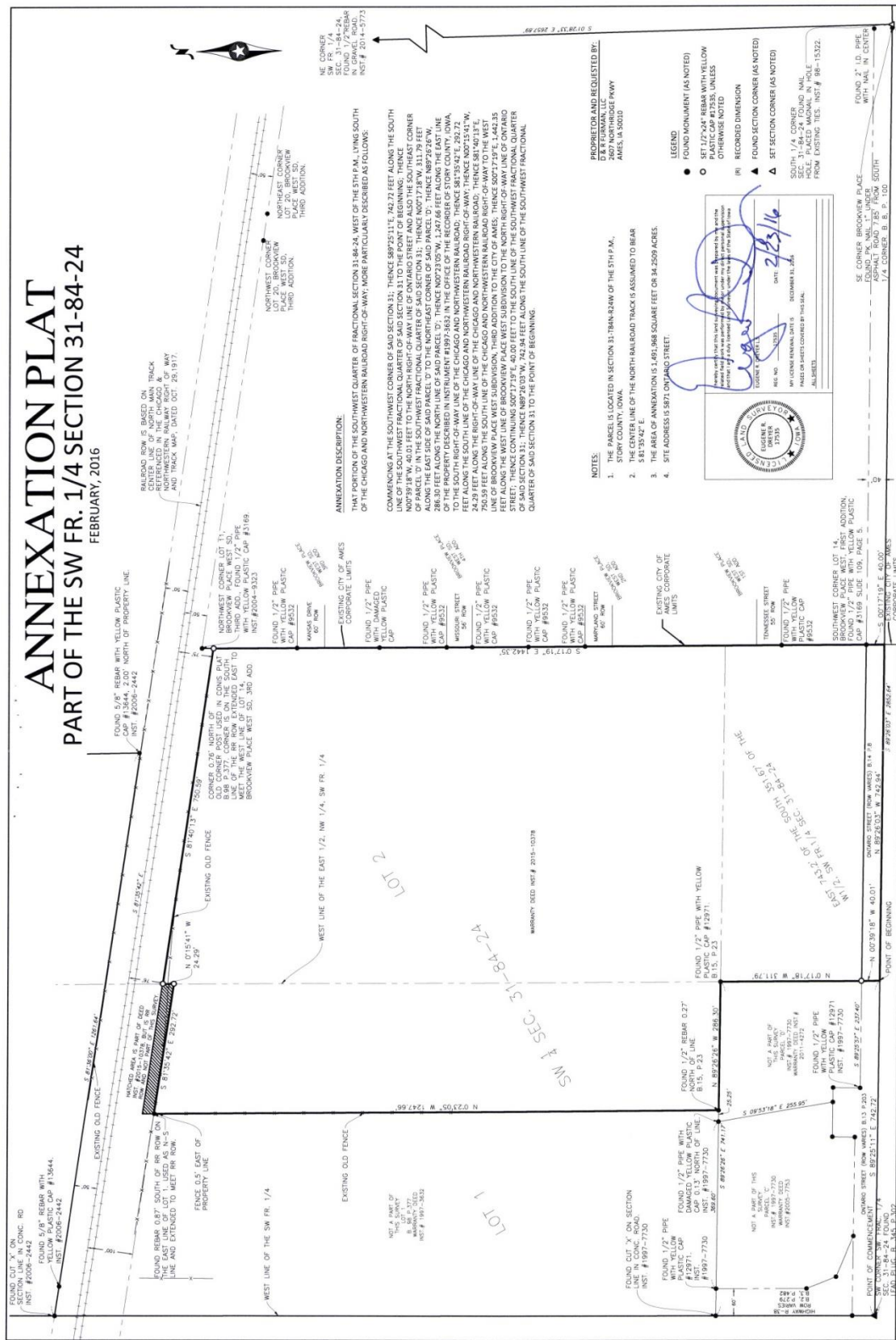
*I understand that the signs will be placed on the property several days prior to action on the request by the Planning and Zoning Commission or the City Council, and may remain on the property until the request has been approved or denied by the City.*

Signed by:  Date: 2-23-16  
**Property Owner**  
*(Note: No other signature may be substituted for the Property Owner's Signature.)*

# ANNEXATION PLAT

## PART OF THE SW FR. 1/4 SECTION 31-84-24

FEBRUARY, 2016



**ANNEXATION DESCRIPTION:**  
 THAT PORTION OF THE SOUTHWEST QUARTER OF FRACTIONAL SECTION 31-84-24, WEST OF THE 5TH P.M., LYING SOUTH OF THE CHICAGO AND NORTHWESTERN RAILROAD RIGHT-OF-WAY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 31; THENCE S89°25'11"E, 742.72 FEET ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 31 TO THE POINT OF BEGINNING; THENCE S11°15'00"W, 144.25 FEET ALONG THE EAST SIDE OF SAID PARCEL 'D' TO THE NORTH-EAST CORNER OF SAID PARCEL 'D'; THENCE N00°17'38"W, 311.79 FEET ALONG THE EAST SIDE OF SAID PARCEL 'D' TO THE NORTH-EAST CORNER OF SAID SECTION 31; THENCE N00°17'38"W, 311.79 FEET ALONG THE EAST SIDE OF SAID SECTION 31 TO THE NORTH-EAST CORNER OF SAID SECTION 31; THENCE S89°25'11"E, 742.72 FEET ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 31 TO THE POINT OF BEGINNING.

- NOTES:**
1. THE PARCEL IS LOCATED IN SECTION 31-T8AN-R24W OF THE 5TH P.M., STORY COUNTY, IOWA.
  2. THE CENTER LINE OF THE NORTH RAILROAD TRACK IS ASSUMED TO BEAR S89°25'11"E, 742.72 FEET TO THE POINT OF BEGINNING.
  3. THE AREA OF ANNEXATION IS 1.481 988 SQUARE FEET OR 34.2509 ACRES.
  4. SITE ADDRESS IS 5871 ONTARIO STREET.

**PREPARED AND REQUESTED BY:**  
 AMES, IA 50003

**LEGEND**

- FOUND MONUMENT (AS NOTED)
- SET 1/2" CAP REBAR WITH YELLOW PLASTIC CAP #17535, UNLESS OTHERWISE NOTED
- (R) RECORDED DIMENSION
- ▲ FOUND SECTION CORNER (AS NOTED)
- ▲ SET SECTION CORNER (AS NOTED)

**ENGINEER'S CERTIFICATE:**  
 I, the undersigned, being a duly Licensed Professional Engineer in the State of Iowa, do hereby certify that this plat was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer in the State of Iowa. My license renewal date is December 31, 2016.

**DATE:** 2/23/16

**SCALE:** AS SHOWN

NO.	DATE	REVISION

**BOLTON & MENK, INC.**  
 Consulting Engineers & Surveyors  
 2750 GRAND OAKS BLVD. SUITE 104  
 IOWA CITY, IOWA 52242  
 (515) 281-9800

PARCEL IN THE SW FR. 1/4 OF SECTION 31-84-24  
 ANNEXATION PLAT

SHEET 1 OF 1

SCALE: AS SHOWN

HORIZONTAL SCALE: 1" = 100'

VERTICAL SCALE: 1" = 100'

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 ILLINOIS PROFESSIONAL ENGINEERING REGISTRATION BOARD REG. 221016. 10.10.16