

COUNCIL ACTION FORM

REQUEST: **FINAL PLAT FOR 2617 BOBCAT DRIVE
(RINGGENBERG PARK SUBDIVISION, 5TH ADDITION)**

BACKGROUND:

Friedrich Land Development Company, LLC, the property owner of 2617 Bobcat Drive, requests approval of a Final Plat subdividing a 1.45 acre site that is currently Outlot A from the Ringgenberg Park 4th Addition Subdivision. The property is located on the north side of Bobcat Drive, south of Oakwood Road and west of Cedar Lane. (See *Attachment A – Location Map*). The site is zoned FS-RM and is subject to a Master Plan Amendment that was approved by the City Council on October 11th, as well as a related Major Site Development Plan.

The proposed Final Plat is a layout of 13 single-family attached home lots and two outlots as the Ringgenberg Park 5th Addition (See *Attachment B*). The Preliminary Plat approved by City Council in October included a request for approval of a waiver to lot, block, and street improvement requirements for a local residential street to allow for Bobcat Drive to be recognized as a private street in order to comply with street frontage requirements of the FS-RM zoning district. Bobcat Drive was built as a 26-foot wide private driveway to serve the apartment building sites, but does not include other features of a public street, including lighting, curbs and gutters, sidewalks, and street trees. This waiver request for public improvement standards was approved by City Council as part of the preliminary plat approval.

City Council approved the preliminary plat with the following three conditions to be completed prior to final plat approval:

1. Provide evidence that all of the properties within the Ringgenberg 4th and proposed 5th Addition have a legal right to use and enjoy the common spaces located within the Ringgenberg PRD and have an obligation to participate in its maintenance and upkeep.

*The developer has drawn up new covenants for the PRD common area that allow for use of the common area and participation in its upkeep and maintenance. **However, the developer has not yet provided the signed agreements.** The developer believes that, based upon correspondence from the Village Co-op Board President, they will agree to requirements of the covenants to satisfy this condition. However, the Board will not have voted on these covenants until their next Board meeting in December. (See Attachment C - Village Co-op Email.) **The developer requests that City Council approve the final plat and allow it to be recorded based upon the correspondence from the Village Co-op president. This is important to the developer so that he***

may seek a building permit as soon as December 1st and not wait for the final signed agreements before recording the plat, which could otherwise take one to two weeks longer to complete.

It is highly unusual for the City Council to be asked to approve a final plat prior to completion of all conditions from the preliminary plat with signed documents, and even more so to allow for a plat to be recorded without the receipt of the final signed documents. Staff does not find the approach of recording a plat based upon correspondence to meet the requirements of the conditions and would not propose releasing the plat for recording without the signed agreements from the Village Co-op.

As an alternative to the developer's request, City Council could approve the plat with a condition to not release the plat for recording until signed documents have been returned to the City. City Council could also postpone its action on this final plat approval until the December 13th City Council meeting and have the developer complete all of the requirements on the regular review schedule.

2. Complete a private sidewalk connection to Cedar Lane to the east and connect with the Village Co-op sidewalk or provide written acknowledgement and financial security for completing the sidewalk.

The developer has provided an email from the Board President of the Village Co-op stating they are agreeable to the sidewalk connection. The developer will post financial security prior to recording of the plat. Staff finds these steps to be consistent with this condition.

3. Provide a common maintenance agreement among all the beneficiaries of the cross access easement area of Bobcat Drive within the Ringgenberg 4th and 5th Additions.

The developer has prepared updated covenants for all the properties in the Ringgenberg 4th and 5th Additions. Staff finds these steps to be consistent with this condition.

ALTERNATIVES:

1. The City Council can approve the Final Plat for Ringgenberg Park Subdivision, 5th Addition, based upon findings that the Final Plat conforms to relevant and applicable design standards, ordinances, policies and plans, and that the applicant will have provided evidence to satisfy the conditions of approval after the Village Co-op agreement is received. Under this alternative, final signed agreements must be provided to the City prior to recording of the final plat.

This is a conditional approval of the final plat, and would allow for the recording of

the plat with the County only after the City has received a properly signed agreement from the Village Co-op. The developer would likely be able to receive building permits prior to the December 13th City Council meeting if the signed Village Co-op common open space agreement is provided to the City next week.

2. The City Council can approve the Final Plat for Ringgenberg Park Subdivision, 5th Addition, based upon findings that the Final Plat conforms to relevant and applicable design standards, ordinances, policies, and plans, and that the applicant has provided evidence to satisfy the conditions of approval and allow for the recording of the Final Plat immediately on November 30th.

This is the developer's request. The recording of the formal agreement for the common open space with the Village Co-op would occur subsequently to recording of the final plat.

3. The City Council can postpone approval of the Final Plat for Ringgenberg Park Subdivision, 5th Addition, until December 13th to assure that signed agreements for participation in the Ringgenberg PRD for the common open space are provided to the City for all properties within the existing 4th Addition.

This option would follow the City's standard practice of approving final plats on regularly scheduled meetings once all final documents have been received and reviewed by City staff.

4. The City Council can defer action on this request and refer it back to City staff and/or the applicant for additional information or establish a time for a special meeting to approve the final plat at a later date.

CITY MANAGER'S RECOMMENDED ACTION:

The layout of this project is unique in its manner of meeting the intent of the Subdivision Code and Zoning Ordinance with its approved waivers for a private street within a previously approved and developed site, as well as required agreements for common open space usage and street maintenance. The City Council included conditions on the preliminary plat to ensure the responsibilities for maintenance and upkeep of common areas and improvements were clear for all property owners within the Ringgenberg Subdivision.

The final plat will change the designation of the site from an outlot to buildable lots. The development site is currently an outlot, which by definition is an unbuildable lot; and no building permits can be issued for principal building construction. The developer is extremely anxious to have the final plat approved so that lots can be sold and foundations started for homes in this area before winter sets in for the year, ideally as early as this week for building permits.

The developer has addressed the conditions of final plat approval to finalize agreements to ensure that platting of Outlot A as a developable lot. **However, the developer has not secured authorized signatures for all of the agreements, since the Village Co-op Board has not yet voted to approve the common open and green space agreement as is necessary to fulfill the conditions and have the plat recorded.** The developer believes he has substantially complied with these conditions and that approval by the Village Co-op Board will occur before the next regular meeting of the Council. He desires to have City approval as soon as possible, rather than wait for the next Council meeting on December 13th. The developer hopes to have a building permit to start construction as soon as December 1st if the final plat is approved and allowed to be recorded.

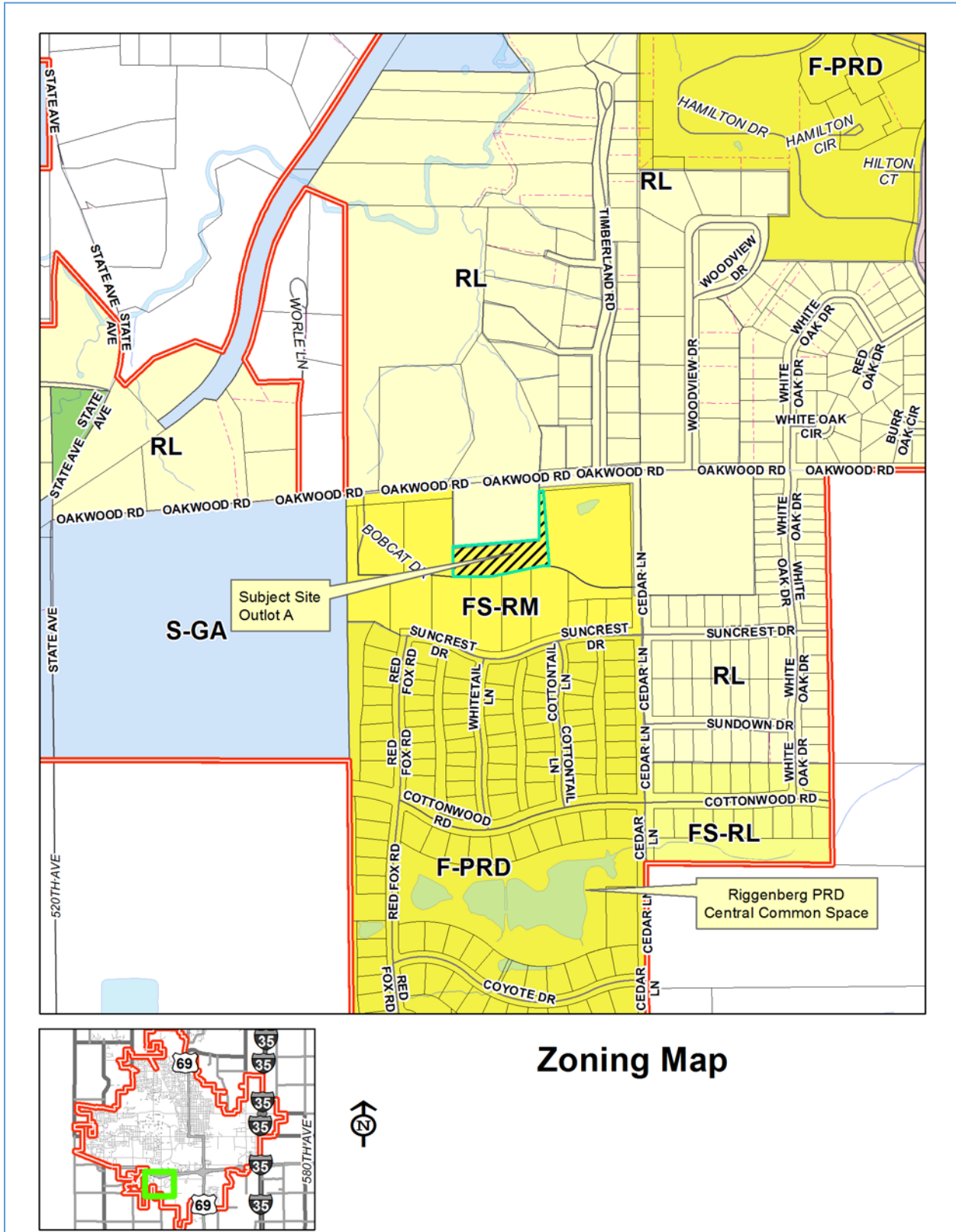
Staff understands the developer's desire to gain this approval in order to get new houses started, and has expedited this process in order to accommodate that consideration by Council. A typical final plat review is a minimum of three weeks in length to coordinate with all City departments review and timing and staff has tried to work in a compressed timeframe to complete the review. However, staff is also concerned that the quality of this review has suffered due to the compressed timeframe in completing the conditions and confirming all elements of the project are completed satisfactorily.

In addition, the staff is concerned that City Council's approval of a final plat that includes conditions could contribute to a new expectation that the Council will do the same for other final plat approvals in the future. That type of reactive service level would have significant impacts on Planning staff's ability to process all applications in an orderly manner. Further, conditional approval of a plat could also lead to a potential cloud on the title of whether the conditions were completed satisfactorily, and a second resolution could become necessary in order to clear up the title

The City Manager recommendation for this highly unusual final plat request is that Council accept Alternative No. 1, thereby granting conditional approval of the final plat, but to withhold the release of the plat for recording until the final signed document with the Village Co-op has been provided to the City.

Staff understands this does not fully meet the developer's interests. However, it best maintains the integrity and intent of the conditions that were placed on the preliminary plat. Staff does not recollect Council having granted a conditional approval for a final plat. It is important this option is not viewed as a way to circumvent the established final plat process and the timelines that exist to ensure all of the City's and future property owner's interests are appropriately addressed at the time of creation of individual lots.

Attachment A LOCATION & ZONING MAP



Zoning Map

Attachment C

From: "Dick Richman" <richmand1@mchsi.com>
To: <kdiekmann@city.ames.ia.us>
Cc: "Ken Janssen" <KJsurveyor@hotmail.com>, <Kfriedrich@friedrich-realty.com>

Date: Monday, November 28, 2016 03:56PM
Subject: Village Cooperative Greenspace Agreement

Kelly,

This is to inform you that we reached agreement with Friedrich Realty this afternoon on the Greenspace Agreement for the Ringgenberg Addition as presented by Kurt Friedrich.

Dick Richman
President of the Board
Village Cooperative of Ames

Dick Richman
richmand1@mchsi.com

Applicable Laws and Policies Pertaining to Final Plat Approval

Adopted laws and policies applicable to this case file include, but are not limited to, the following:

Ames *Municipal Code* Section 23.302

(10) City Council Action on Final Plat for Major Subdivision:

(a) All proposed subdivision plats shall be submitted to the City Council for review and approval. Upon receipt of any Final Plat forwarded to it for review and approval, the City Council shall examine the Application Form, the Final Plat, any comments, recommendations or reports examined or made by the Department of Planning and Housing, and such other information as it deems necessary or reasonable to consider.

(b) Based upon such examination, the City Council shall ascertain whether the Final Plat conforms to relevant and applicable design and improvement standards in these Regulations, to other City ordinances and standards, to the City's Land Use Policy Plan and to the City's other duly adopted plans.

(c) The City Council may:

(i) deny any subdivision where the reasonably anticipated impact of such subdivision will create such a burden on existing public improvements or such a need for new public improvements that the area of the City affected by such impact will be unable to conform to level of service standards set forth in the Land Use Policy Plan or other capital project or growth management plan of the City until such time that the City upgrades such public improvements in accordance with schedules set forth in such plans; or,

(ii) approve any subdivision subject to the condition that the Applicant contribute to so much of such upgrade of public improvements as the need for such upgrade is directly and proportionately attributable to such impact as determined at the sole discretion of the City. The terms, conditions and amortization schedule for such contribution may be incorporated within an Improvement Agreement as set forth in Section 23.304 of the Regulations.

(d) Prior to granting approval of a major subdivision Final Plat, the City Council may permit the plat to be divided into two or more sections and may impose such conditions upon approval of each section as it deems necessary to assure orderly development of the subdivision.

(e) Following such examination, and within 60 days of the Applicant's filing of the complete Application for Final Plat Approval of a Major Subdivision with the Department of Planning and Housing, the City Council shall approve, approve subject to conditions, or disapprove the Application for Final Plat Approval of a Major Subdivision. The City Council shall set forth its reasons for disapproving any Application or for conditioning its approval of any Application in its official records and shall provide a written copy of such reasons to the developer. The City Council shall pass a resolution accepting the Final Plat for any Application that it approves.

(Ord. No. 3524, 5-25-99)

Sec. 23.103. WAIVER/MODIFICATION .

- (1) Where, in the case of a particular subdivision, it can be shown 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, the City Council may modify or waive the requirements of the Regulations so that substantial justice may be done and the public interest secured provided, however, that such modification or waiver shall not have the effect of nullifying the intent and purpose of the Regulations. In no case shall any modification or waiver be more than necessary to eliminate the hardship or conform to the 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 objectives of the requirements so modified or waived.