

COUNCIL ACTION FORM

SUBJECT: Minor Final Plat of Sturges Subdivision, First Addition

BACKGROUND:

Leroy and Sue Sturges (property owners), together with the Iowa Natural Heritage Foundation (INHF), purchaser of Outlot A, are requesting approval of a Minor Final Plat for 36.12 acres at 5019 Hyde Avenue in the Ames Urban Fringe (see *Attachment A – Location Map*). The subdivision includes Lot 1 (approximately 4.56 acres), for the existing Sturges home; Outlot A (approximately 30.18 acres), a natural area and flood plain that cannot be developed without replating as a buildable lot; and Lot A (approximately 1.38 acres), to be dedicated as street right-of-way for Hyde Avenue (see *Attachment B – Proposed Final Plat*).

A minor subdivision includes three, or fewer, lots and does not require additional public improvements other than sidewalks or a bike path. A Minor Subdivision does not require a Preliminary Plat and may be approved by the City Council as a Final Plat, subject to meeting the requirements of Chapter 23, Subdivisions in the *Municipal Code*.

The proposed subdivision is located adjacent to the current City limits of Ames in the unincorporated area of Story County. The Ames Urban Fringe Plan designates the land as “Urban Residential” (a subcategory of the Urban Service Area) (see *Attachment C – Excerpt of Land Use Framework Map of the Ames Urban Fringe Plan*). The 28E Agreement between the City of Ames, Story County and the City of Gilbert, states that in areas designated Urban Services Area, the County agrees to waive the exercise of its subdivision authority. This land use designation applies to areas reserved for future city growth and development through subdivision is not permitted prior to annexation into the City. **The applicants request the City Council approve the Minor Final Plat at this time, prior to the land be annexed to the City.**

The deferral of annexation is due to the timing of the INHF’s ability to acquire Outlot A with funding from a specified donor. Although the current property abuts the City and can be annexed, the timing of annexation would extend past the INHF’s deadline on their option to purchase the property and meet the donor’s parameters. This is a unique proposal to defer annexation for a property that abuts the City. The applicant proposes to enter into an agreement for future annexation based upon one of two conditions, whichever occurs first. Annexation would occur either when 1) Outlot A is replatted into a developable lot or 2) after March 1, 2024 at the City’s discretion. The agreement requires the owners to file the annexation application with the City prior to recording the Final Plat so the City can act on the annexation in the future.

Although the land is and will remain in the County at the time of Final Plat approval, the division is subject to City of Ames subdivision standards. Since a new developable lot is not created with the Final Plat, no new infrastructure is triggered with the division.

However, City subdivision standards require all divisions to provide for sidewalks across a lot's frontage. In this case there is approximately 1041 linear feet of frontage on Hyde Avenue subject to a 5-foot sidewalk improvement. **The INHF is requesting waiver (Attachment F) of the requirement to install sidewalk and post security for its installation with the proposed subdivision.** The request to waive the sidewalk requirement is based upon the prior commitment by the developer of the Hayden's Preserve (north of this site) to construct a 10-foot trail from 190th Street all the way to the south side of this site within two-years of their first final plat. The developer of Hayden's Preserve is in the process of seeking preliminary plat approval in March 2022.

Section 23.103(1), Waiver/Modification, of the Subdivision Ordinance states the following:

- (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 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."*

Section 23.403 Streets

14. Sidewalks and Walkway

(c) A deferment for the installation of sidewalks may be granted by the City Council when topographic conditions exist that make the sidewalk installation difficult or when the installation of the sidewalk is premature. Where the installation of a sidewalk is deferred by the City Council, an agreement will be executed between the property owner/developer and the City of Ames that will ensure the future installation of the sidewalk. The deferment agreement will be accompanied by a cash escrow, letter of credit, or other form of acceptable financial security to cover the cost of the installation of the sidewalk

Typically, a developer would have up to three years to make a required improvements and provide financial security for its installation to be completed within three years. In this case, staff does not prefer the installation of the 5-foot sidewalk as a 10-foot trail is actual needed improvement and it is unlikely that constructing a 5-foot sidewalk now could be matched up well with a second half of future path. If City Council believes this site needs to fulfill the typical subdivision improvement requirement for a sidewalk, staff would prefer to work with the owner to create a substitute improvement of a portion of a 10-foot trail for approximately half of the site frontage in lieu of a complete sidewalk across the entire frontage or to have cash in lieu for future trail improvements. **If the requested waiver is not approved, City Council will need to defer action on the Final Plat until a sidewalk agreement and financial security or cash in lieu is provided with the Final Plat.**

The site is currently served by Xenia Rural Water. The owner can continue to stay on rural water service for as long as they choose. The City has an agreement with Xenia for transfer of the property as water service territory to the City at such time as the owner wants to end service by Xenia and the land is annexed. The owner would be subject to whatever terms Xenia has for continuing or discontinuing water service. No new rural water services would be allowed. The proposed agreement addresses requirements for future water and sewer connections.

Future connection to the City water system following annexation, is subject to a connection district charge. The water connection fee as of July 1, 2022, is \$1,524/acre, with a 5% annual increase.

The site is served by a septic system which would remain under the authority of Story County, even upon annexation. The septic system use may continue consistent with Story County and state requirements, annexation would not trigger a requirement to connect to City sanitary sewer. Following future annexation, the owner may choose to connect to the City's sanitary sewer upon payment of required connection fees. According to state law, if at any time the home is within two hundred (200) feet of a sanitary sewer system a new or replacement septic system is not permissible, and the owner would have to connect to the sanitary sewer. Currently, there is no sanitary sewer line within two hundred (200) feet of the home. The sanitary sewer connection fee as of July 1, 2022, is \$2,305/acre, with a 5% annual increase.

No connection fees for water and sanitary sewer would be due with the proposed Minor Subdivision Plat to create Lot 1 for the existing Sturges home and Outlot 'A' in Sturges Subdivision, First Addition as no new connections are made to the system.

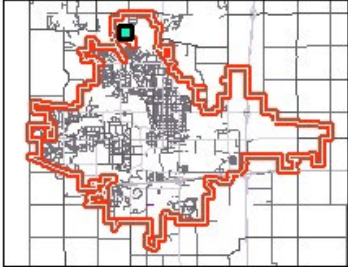
ALTERNATIVES:

1. The City Council may:
 - a. Approve the Annexation Agreement,
 - b. Approve the waiver of sidewalk installation requirements, and
 - c. Approve the Final Plat of Sturges Subdivision, First Addition, based upon the findings and conclusions stated above.
2. The City Council may table consideration of the Final Plat of Sturges Subdivision, First Addition, and the Annexation Agreement, until such time that the property owners have signed a Sidewalk Agreement, or a Deferral Agreement, for the installation of sidewalk, and provided financial security for the estimated cost of sidewalk installation or provided cash in lieu for future sidewalk/trail construction.
3. The City Council may deny the Final Plat of Sturges Subdivision, First Addition, and find that the proposed subdivision does not comply with applicable ordinances, standards, or plans; and direct the property owner to apply for annexation prior to consideration of a subdivision.
4. Refer this request back to staff or the applicant for additional information.

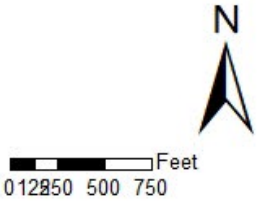
CITY MANAGER'S RECOMMENDED ACTION:

City staff has evaluated the proposed Final Plat and determined that the proposal is consistent with the requirements of the *Municipal Code*. The applicant has signed an Annexation Agreement for the future annexation of the proposed subdivision. Future installation of sidewalks will occur as stated in the June 8, 2021, Addendum to the Pre-Annexation Agreement for Hayden's Preserve (formerly Rose Prairie). **Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative #1 as described above.**

Attachment A Location Map

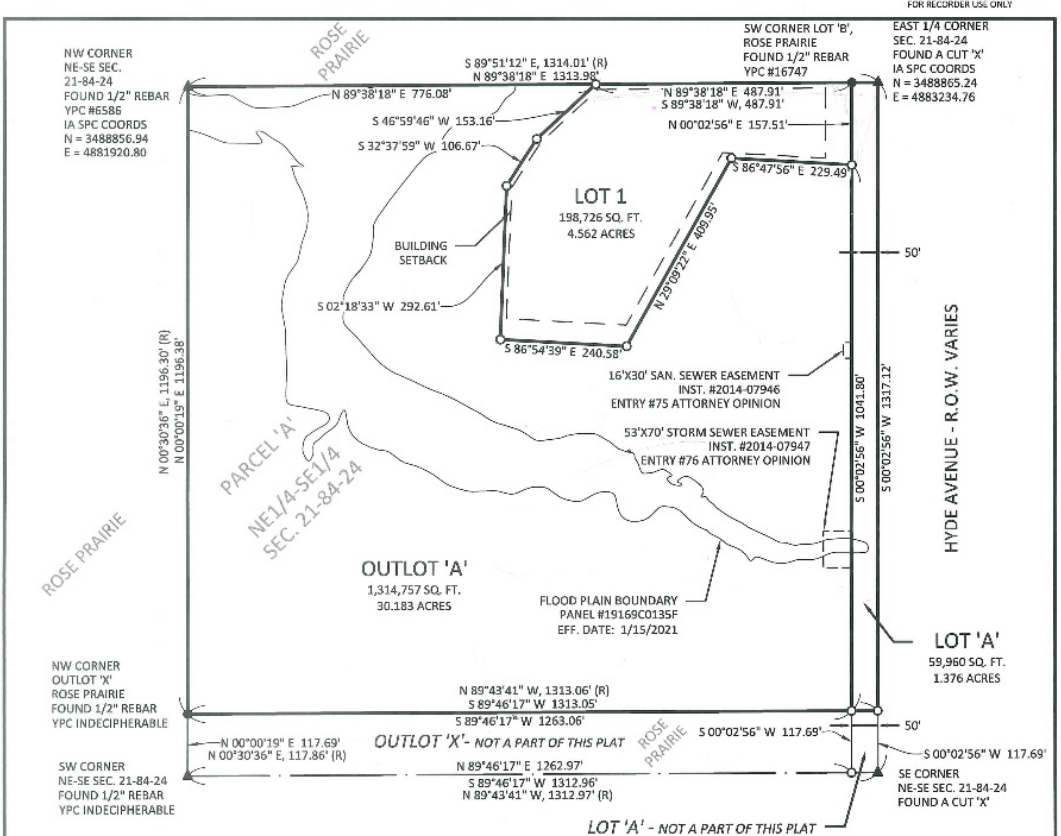


Location Map 5019 Hyde Avenue



Attachment B Proposed Final Plat

INDEX LEGEND	
LOCATION	PARCEL 'A' OF THE NE-SE OF SEC. 21-84-24 STORY CNTY, IA
REQUESTOR:	IOWA NATURAL HERITAGE FOUNDATION
PROPRIETOR:	LEROY D. & SUF A. STURGES
SURVEYOR:	LUKE D. AHRENS, P.L.S. #24413
SURVEYOR COMPANY:	BOLTON & MENK, INC.
RETURN TO:	LUKE D. AHRENS, BOLTON & MENK, INC. 1519 BALTIMORE DRIVE, AMES, IA 50010 (515)-233-6100



NOTES:

- SOIL BORINGS ARE REQUIRED IN AREAS WITHIN THIS PLAT WHICH HAVE BEEN IDENTIFIED BY THE CITY OF AMES AS HAVING SOILS THAT MAKE CONSTRUCTION OF BUILDINGS DIFFICULT.
- THIS PLAT MEETS OR EXCEEDS IOWA CODE 355.
- BEARINGS AND DISTANCES SHOWN ARE FROM THE IOWA STATE PLANE COORDINATE SYSTEM, ZONE NORTH, US SURVEY FOOT.
- THIS PLAT IS SUBJECT TO EASEMENTS APPARENT OR OF RECORD.
- CURRENT DEED OF RECORD FOR PARCEL 'A' IS INST. #99-13128.
- BUILDING SETBACKS AS FOLLOWS:
SIDE - 10 FOOT
REAR - 40 FOOT
FLAG - 20 FOOT
FRONT - 50 FOOT
- THERE ARE TWO XENIA WATER MAIN EASEMENTS THAT ARE DESCRIBED AS BEING 15 FEET ON EACH SIDE OF THE WATER MAIN PIPE AS LAID. THE TWO EASEMENTS ARE RECORDED IN INST. #96-12919 & 96-12917. THE TWO LINES WERE NOT EXPOSED TO VERIFY WHERE THE CENTERLINE IS CURRENTLY. THEY WERE TO BE CONSTRUCTED WITHIN 30 FEET ADJACENT TO THE EXISTING 33' RIGHT-OF-WAY LINE. THESE TWO EASEMENTS ARE NOT SHOWN ON THIS PLAT.
- SURVEY COMPLETED AND FINAL PLAT PREPARED: 2021-12-28
- LOT 'A' IS TO BE DEDICATED TO THE CITY OF AMES FOR STREET PURPOSES

OWNER:

LEROY D. & SUF A. STURGES
5019 HYDE AVENUE
AMES, IOWA, 50010-9497

DEVELOPER:

IOWA NATURAL HERITAGE FOUNDATION
505 5TH AVENUE, SUITE 444
DES MOINES, IOWA 50309

LEGEND:

- FOUND MONUMENT AS NOTED
- SET 1/2"x24" REBAR WITH PINK PLASTIC CAP #24413 (UNLESS OTHERWISE NOTED)
- ▲ FOUND SECTION CORNER AS NOTED
- (R) RECORDED DIMENSION - INST. #96-05211
- YPC YELLOW PLASTIC CAP

LEGAL DESCRIPTION:

PARCEL 'A' OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER IN SECTION 21, TOWNSHIP 84 NORTH, RANGE 24 WEST OF THE 5TH P.M., STORY COUNTY, IOWA, AS SHOWN ON THE "PLAT OF SURVEY" FILED IN THE OFFICE OF THE RECORDER OF STORY COUNTY, IOWA, ON MAY 31, 1996, AS INSTRUMENT NO. 96-05211, IN BOOK 13 AT PAGE 249

FINAL PLAT - STURGES SUBDIVISION, FIRST ADDITION, STORY COUNTY, IOWA
PARCEL 'A' OF THE NE1/4-SE1/4 OF SECTION 21-84-24, STORY COUNTY, IOWA

I hereby certify that this land surveying document was prepared by me and the related field work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of Iowa.

LUKE D. AHRENS, P.L.S.
REG. NO. 24413 DATE: 08/20/03
MY LICENSE RENEWAL DATE IS 12/31/2023
IOWA SURVEYOR'S BOARD (IOWA SURVEYORS ASSOCIATION)
THIS SHEET

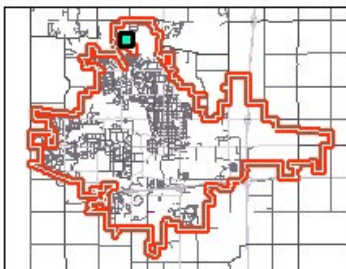


1519 BALTIMORE DRIVE
AMES, IOWA 50010
(515) 233-6100



Attachment C

Excerpt of the Land Use Framework Map – Ames Urban Fringe



Land Use Framework Map Ames Urban Fringe

5019 Hyde Avenue



0 12850 500 750 Feet

Attachment D

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:

Code of Iowa, Chapter 354.8 states in part:

“A proposed subdivision plat lying within the jurisdiction of a governing body shall be submitted to that governing body for review and approval prior to recording. Governing bodies shall apply reasonable standards and conditions in accordance with applicable statutes and ordinances for the review and approval of subdivisions. The governing body, within sixty days of application for final approval of the subdivision plat, shall determine whether the subdivision conforms to its comprehensive plan and shall give consideration to the possible burden on public improvements and to a balance of interests between the proprietor, future purchasers, and the public interest in the subdivision when reviewing the proposed subdivision and when requiring the installation of public improvements in conjunction with approval of a subdivision. The governing body shall not issue final approval of a subdivision plat unless the subdivision plat conforms to sections 354.6, 354.11, and 355.8.”

Ames Municipal Code Section 23.303(3) states:

“(3) City Council Action on Final Plat for Minor Subdivision:

(a) All proposed subdivision plats shall be submitted to the City Council for review and approval in accordance with Section 354.8 of the Iowa Code, as amended or superseded. 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. If the City Council determines that the proposed subdivision will require the installation or upgrade of any public improvements to provide adequate facilities and services to any lot in the proposed subdivision or to maintain adequate facilities and services to any other lot, parcel or tract, the City Council shall deny the Application for Final Plat Approval of a Minor Subdivision and require the Applicant to file a Preliminary Plat for Major Subdivision.”

Attachment E
Annexation Agreement (Page 1)

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

Prepared by: City Attorney's Office, 515 Clark Avenue, Ames, IA 50010; Ph.: 515-239-5146

Return document to: City Clerk, City of Ames, 515 Clark Avenue, Ames, IA 50010

Legal Description: See Page 1.

AGREEMENT FOR ANNEXATION
(Sturges Subdivision)

WHEREAS this Agreement (the "Agreement"), dated for reference purposes, _____ day of _____, 2022, is made and entered into by and between the City of Ames, Iowa, and Leroy D. Sturges and Sue A. Sturges, husband and wife, (the "Owners"), and Iowa Natural Heritage Foundation and B. Joan White (the "Optionees"); and

WHEREAS the Owners have title to the property (hereinafter the "Property") locally known as 5019 Hyde Avenue and legally known as:

Parcel "A" of the Northeast Quarter of the Southeast Quarter in Section 21, Township 84 North, Range 24 West of the 5th P.M., Story County, Iowa, as shown on the "Plat of Survey" filed in the office of the Recorder of Story County, on May 31, 1996, as Instrument No. 96-05211, in Book 13, at Page 249

And,

WHEREAS, the Property is approximately 36.12 acres and the Owner has optioned approximately 30.86 acres of said Property to the Iowa Natural Heritage Foundation and B. Joan White (hereinafter the "Optionees") by an Option to Purchase Agreement filed November 23, 2021, as Instrument No. 2021-14760 (hereinafter "Option"); and

WHEREAS, the Ames Urban Fringe Plan designates the Property as an Urban Service Area intended for future annexation and subdivision by the City; and

WHEREAS, the City of Ames is a party to a 28E agreement with Story County and under the terms of said 28E Agreement the City has sole subdivision authority over the Property; and

WHEREAS the Owner requests that the City delay annexation of the Property to expedite the approval of a Minor Subdivision Plat for the purpose of facilitating a sale to Optionees as set forth in the Option; and

Attachment E Annexation Agreement (Page 2)

2

WHEREAS, a proposed final subdivision plat of the Property tentatively named Sturges Subdivision, First Addition, Story County, Iowa (the “Subdivision”) is now on file with the City and a copy of the drawing is attached hereto as “Exhibit A”, and

WHEREAS, the City Council, after due and careful consideration, has concluded that this Agreement would further the growth of the City, would provide for the conservation of lands to be maintained as a wildlife habitat and provide for the enhancement of the watershed for Ada Hayden Heritage Park and lake, would enable the City to control the development of the area, and would serve the best interests of the City of Ames.

NOW THEREFORE, IN CONSIDERATION OF THE PROMISES AND THE MUTUAL COVENANTS AND AGREEMENTS HEREIN CONTAINED, IT IS HEREBY AGREED AS FOLLOWS:

SECTION 1. AGREEMENT PURSUANT TO IOWA CODE CHAPTER 368. This Agreement is made pursuant to and in accordance with the provisions of Iowa Code Chapter 368. The forgoing preambles and recitations are made a part of this Agreement.

SECTION 2. TERM. The term of this Agreement is from the date of its execution by all parties until the annexation of the real estate to the City is completed.

SECTION 3. AGREEMENT FOR ANNEXATION. The Owner agrees to voluntarily annex the Property into the City of Ames upon the earlier of the following: (1) when any person submits any application for further subdivision or development of the proposed Outlot A of the Subdivision, or (2) at such time after March 1, 2024, as may be determined by the City.

SECTION 4. EXECUTION OF ANNEXATION PETITION. Each Owner and Optionee, contemporaneous with the execution of this Agreement, will submit to the City Clerk a Voluntary Petition for Annexation of the Property by the City. The City Clerk will file the Petition, submit it to the City Council for consideration at such time and under such circumstances as the City Council deems appropriate, and comply with the requirements of Iowa Code Chapter 368.

SECTION 5. PETITION FILING. Upon the occurrence of an event in Section 3, the City shall give notice to each Owner of the Property by regular mail of the City’s intent to proceed with the agreed annexation, and after 30 days, the voluntary petitions to annex shall be deemed filed.

SECTION 6. IRREVOCABILITY & WAIVERS. Pursuant to Iowa Code section 368.7(e), upon execution of this Agreement, each Owner and Optionee hereby irrevocably waives the right to withdraw or rescind the Petition and hereby irrevocably waives the right to withdraw its consent to the Petition and waives its right to object to the annexation of the Property to the City of Ames.

SECTION 7. ANNEXATION COSTS. Each Owner agrees, jointly and severally, to pay the administrative costs associated with the annexation of the Property, which includes, but is not limited to, filing fees, and preparation of annexation maps and legal descriptions.

SECTION 8. SUBDIVISION APPROVALS. The City Council’s potential approval of the Subdivision shall be contingent upon the cooperation of the Owners and Optionees under this Agreement and upon a

Attachment E
Annexation Agreement (Page 3)

3

final plat of the Subdivision in substantial conformance with Exhibit A, including particularly, the dedication of Lot A as City right-of-way, and the establishment of an "Outlot A," which pursuant to the municipal code may not be further developed without application to the City.

SECTION 9. CONNECTION COSTS. An Owner shall bear all costs of connection to City water and sewer services following annexation if the Owner chooses to connect to those services. If an Owner currently has sufficient water services and sewer services, the Owner is not required to connect to City water or City sewer. If an Owner has water services from a federally protected rural water provider and the Owner chooses to connect to City water, said Owner shall be responsible for payment of any amount that may be due any rural water provider because of the annexation or disconnection from a rural provider as necessary for the City to serve the Property. The City shall not be required to advance any amount on behalf of an Owner. Each Owner agrees to hold harmless and indemnify the City from and against all claims or damages due a rural water provider arising out of the annexation or a disconnection from a rural water provider, including the City's reasonable costs of defense.

SECTION 10. BINDING EFFECT. This Agreement shall be binding upon the heirs, successors, and assigns of each of the parties hereto. As used in this Agreement, Owner shall mean and include both the current and any successor owner to Lot 1 or Outlot A as shown on the drawing of the Subdivision. Successors and assigns shall cooperate with the City, as may be necessary, to fulfill the voluntary annexation obligations of the Owner under Sections 3 and 4 of this Agreement.

SECTION 11. REMEDIES. In the event of a breach of this Agreement by an Owner or Optionee to pay the costs of annexation, and if the breach has not been cured within 7 days of a notice to cure, the City may advance such funds as may be necessary to fulfill the intent of this Agreement and thereafter assess the amounts due from the breaching party in the manner of a special assessment.

SECTION 12. ENTIRE AGREEMENT. This instrument constitutes the entire agreement of the parties with respect to the subject matter thereof and supersedes all prior oral or written agreements, statements, representations, and promises. No addition to or change in the terms of this Agreement shall be binding upon the parties unless it is expressed in a writing signed and approved by the parties.

Dated this _____ day of February 2022.

OWNERS:

Leroy D. Sturges

Sue A. Sturges

STATE OF IOWA, COUNTY OF STORY, SS.: This instrument was acknowledged before me on February _____, 2022, by Leroy D. Sturges and Sue A. Sturges, husband and wife.

NOTARY PUBLIC

Attachment E
Annexation Agreement (Page 4)

4

OPTIONEES:

**IOWA NATURAL HERITAGE
FOUNDATION**

Dated this _____ day of February 2022.

By:

Joseph A. McGovern, President

STATE OF IOWA, COUNTY OF STORY, SS.:

This instrument was acknowledged before me on February _____, 2022, by Joseph A. McGovern as President of Iowa Natural Heritage Foundation.

NOTARY PUBLIC

Dated this _____ day of February 2022.

B. JOAN WHITE

STATE OF IOWA, COUNTY OF STORY, SS.:

This instrument was acknowledged before me on February _____, 2022, by B. Joan White.

NOTARY PUBLIC

Passed and approved on _____, 2022, by Resolution No. 22- _____ adopted by the City Council of the City of Ames, Iowa.

Attachment E
Annexation Agreement (Page 5)

5

CITY OF AMES, IOWA

By:

John A. Haila, Mayor

Attest:

Diane R. Voss, City Clerk

STATE OF IOWA, COUNTY OF STORY, SS.:

This instrument was acknowledged before me on February ____, 2022, by John A. Haila and Diane R. Voss, as Mayor and City Clerk, respectively, of the City of Ames, Iowa.

NOTARY PUBLIC



505 5th Avenue, Suite 444
Des Moines, IA 50309-2321

www.inhf.org
info@inhf.org
515-288-1846

January 14, 2022

Mayor and City Council of Ames
PO Box 811,
515 Clark Avenue,
Ames, IA 50010

RE: Waiver of Sidewalk and Street Tree Requirement – Sturges Subdivision

Dear Mayor and City Council Members of Ames,

Iowa Natural Heritage Foundation is asking for a waiver of the required sidewalk and street tree agreement and fee with regards to the Sturges Subdivision, First Addition. Prior development plans have already accounted for and agreed to future construction of a 10-foot-wide trail in the right-of-way of Hyde Avenue along the eastern boundary of the Sturges Subdivision.

Furthermore, waiver of the fee will allow for additional resources to aid in the protection and enhancement of the greenspace which is planned for Outlot A in the Sturges Subdivision.

We appreciate your consideration and respectfully ask for waiver of the sidewalk and tree requirement.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe McGovern", with a long horizontal line extending to the right.

Joseph A. McGovern
President
Iowa Natural Heritage Foundation

