

**COUNCIL ACTION FORM**

**SUBJECT: 2516 LINCOLN WAY DEVELOPMENT PROJECT STORM DRAIN  
EASEMENT AND CSC ZONING DISTRICT CLAY BRICK BUILDING  
MATERIAL STANDARD TEXT AMENDMENT**

**BACKGROUND:**

The property owner, F F & F of Ames, LLC has submitted a Minor Site Development Plan application for a two-story bar and restaurant to be constructed at 2516 Lincoln Way.

Presently, this is a vacant site. Previous development consisted of three buildings constructed across three lots. The previous buildings were constructed over the in-place box culvert constructed in 1935. This culvert conveys College Creek under the site as well as beneath the building at 122 Hayward Avenue. Ultimately, College Creek flows towards Lake LaVerne on the Iowa State University Campus. A map of the area is in Attachment A.

At the time of redevelopment at 122 Hayward Avenue, it was determined that the culvert could stay in place as long as an existing conditions assessment of the existing box culvert was performed, in-situ condition of the existing box culvert for load/vibration impacts must be monitored during construction, and a post-construction assessment of the existing box culvert must be completed, all at the developer's expense.

There are a total of four properties that site atop the box culvert, this property at 2516 Lincoln Way that is set for redevelopment, 122 Hayward Avenue that was redeveloped in 2015, Lot X, the City owned parking area, and 110 Hayward Avenue Rear currently used for parking.

Staff directed the property owner of 2516 Lincoln way to go through the same process and enter into an easement agreement with the City. On May 25, 2022 City Staff along with engineers on behalf of the developer conducted an inspection of the box culvert and deemed it safe to proceed with construction a top of the structure.

Attached is the proposed easement agreement and easement exhibit to be entered into if City Council approves. The easement gives the ability to perform maintenance to the box culvert and the City has no liability for damage to the property. The applicant will provide a signed final copy prior to the City Council meeting on Tuesday.

**CAMPUSTOWN CLAY BRICK ZONING STANDARD:**

As part of the review of the proposed facility the applicant has concerns about the CSC Zoning District standards for 50% of each façade having clay brick building materials. The project proposed to have a zero-lot line condition along its east property line. The applicant has submitted a letter describing their issues with construction of a zero lot of building and use of clay brick without securing construction easements or changing construction methods.

If the City Council is interested in addressing the applicant's concern, it would require a change to the building material standard with a zoning text amendment. **The proposed change would be to modify the 50% per façade requirement to 50% of the building.** The overall total amount of brick would be the same but it would grant the applicant latitude on how to apply it.

Prior to 2017, the City did not specify that each façade must contain brick, just that it must be the primary material on a building. To clarify the intent of the majority of each building façade containing clay brick, the standard was changed to the current language. Although there could be some situations with walls that have no brick if a change is approved, it would be similar to existing conditions in Campustown and it would allow the developer to invest in priority facades of the project. If City Council initiates the text amendment, staff would draft specific language to address the change and it would proceed to a P&Z for a recommendation and a public hearing with the City Council.

#### **ALTERNATIVES:**

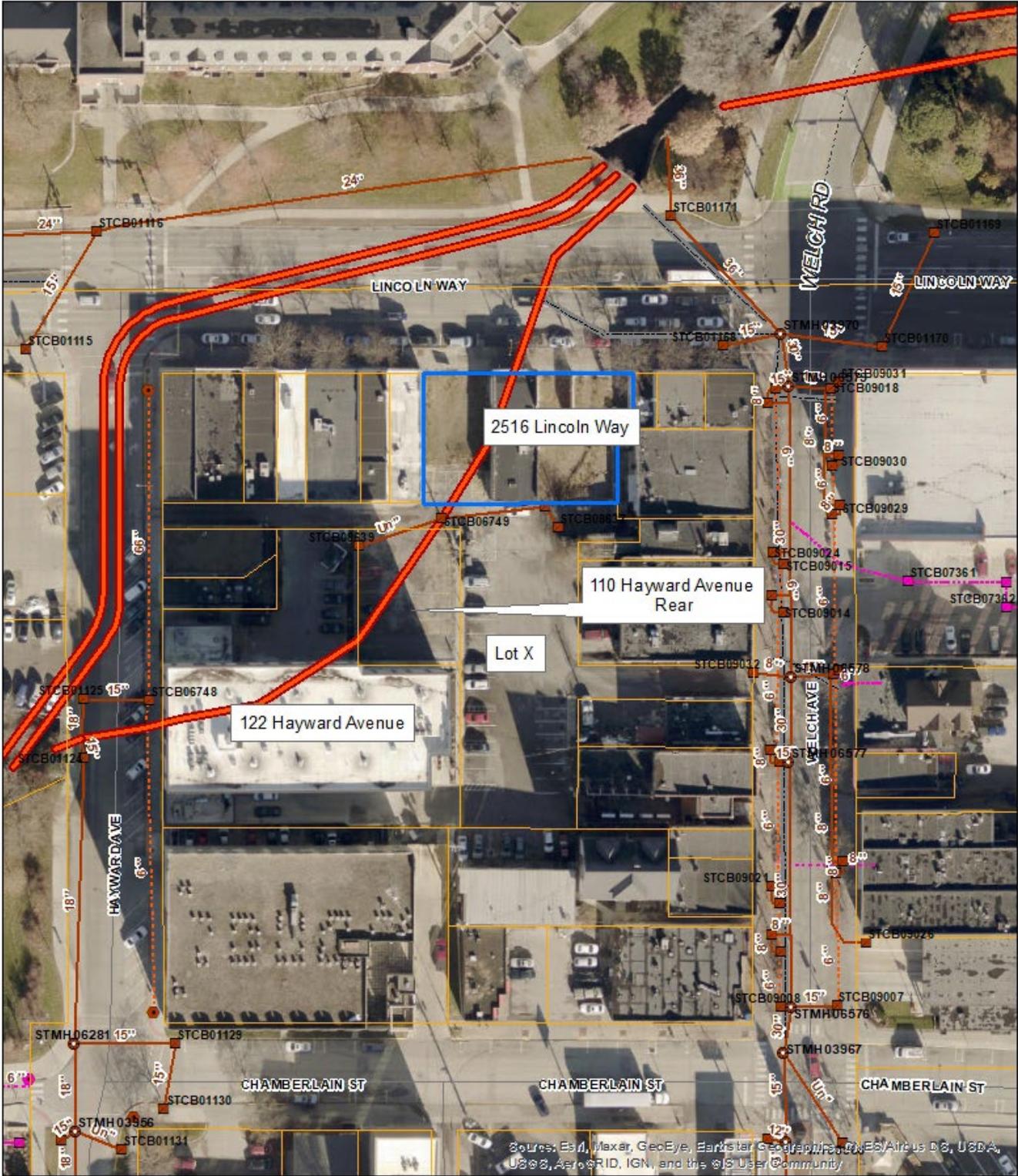
1. City Council may approve the proposed easement for the box culvert and initiate a zoning text amendment to allow 50% clay brick for all building facades.
2. City Council may approve the proposed easement for the box culvert and decline to initiate a zoning text amendment.
3. City Council may refer these issues back to staff or the applicant for more information.

#### **CITY MANAGER'S RECOMMENDED ACTION:**

The developer of 2516 Lincoln Way asks for City Council to accept the proposed easement and initiate a change to the zoning standard in order to facilitate redevelopment of this now vacant site in Campustown. The box culvert is a unique issue where it is located with buildings across the top of the culvert. Staff believes the language of the easement protects the City's interest for maintenance of the facility and to hold the City harmless for allowing the building encroachment.

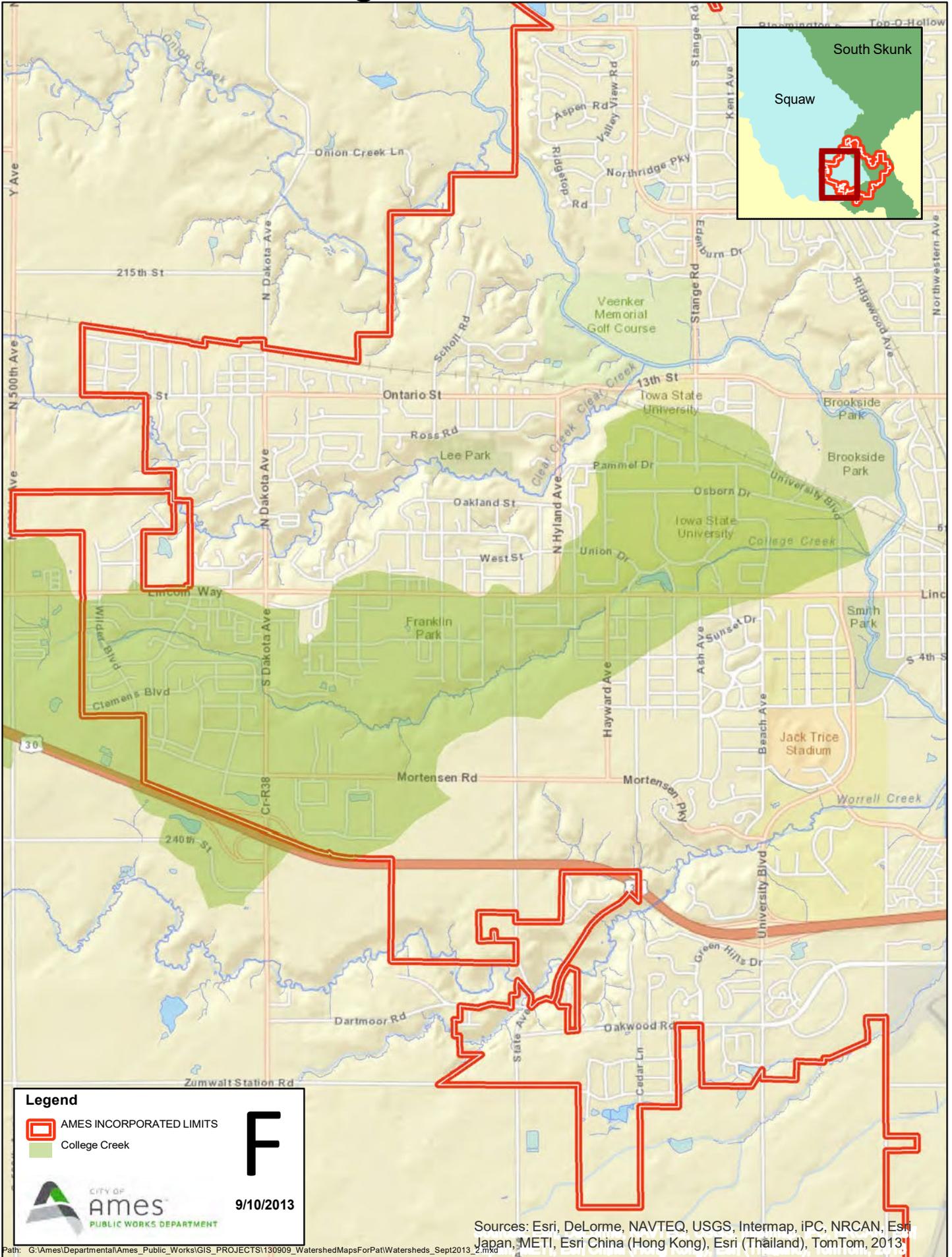
The zoning text amendment change relates to a development condition of building at a zero lot line condition. The developer does not believe they can set the building back to allow construction of clay brick clad wall and still have a viable project. They believe they can deliver a better project by using the same amount of brick overall, but placing it on the higher profile facades of the building. Staff believes the proposed change in the required percentage of clay brick would not be detrimental to the character of Campustown.

Therefore, the City Manager recommend City Council approve Alternative #1.



**Storm Sewer Exhibit**

# College Creek Watershed



**Legend**

-  AMES INCORPORATED LIMITS
-  College Creek

**F**

9/10/2013



Sources: Esri, DeLorme, NAVTEQ, USGS, Intermap, iPC, NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom, 2013

Prepared by, recording requested by and  
return to:

Attorney Kevin J. Roop  
Hale, Skemp, Hanson, Skemp & Sleik  
505 King Street, Suite 300  
P.O. Box 1927  
La Crosse, WI 54602-1927

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## **EASEMENT AND WAIVER DECLARATION**

This Easement and Waiver Declaration (herein "Declaration") is made by and between FF & F of Ames, LLC, an Iowa limited liability company (herein "Grantor" or "Party") in favor of The City of Ames, an Iowa municipality (herein "Grantee" "City" or "Party") (collectively herein "Parties").

### **RECITALS**

WHEREAS, Grantor owns of record the real estate legally described on Exhibit A attached hereto and incorporated herein by reference (herein "Property");

WHEREAS, the Property identified is further described and identified on the ALTA survey attached hereto as Exhibit B and incorporated herein by reference;

WHEREAS, the Property is encumbered by an underground box culvert at the location identified on Exhibit B attached hereto (herein "Box Culvert");

WHEREAS, the location of the Box Culvert on the Property is legally described on Exhibit C attached hereto and incorporated herein by reference;

WHEREAS, the Box Culvert was installed by Grantee and has been maintained by Grantee to control water runoff for the benefit of Grantee and surrounding property owners (herein "Purpose"); and

WHEREAS, Grantor desires to construct a building and other improvements above and around the Box Culvert in a manner that will not interfere with the Purpose.

NOW, THEREFORE, in consideration of the foregoing, the covenants and promises contained herein and other good and valuable consideration, the Grantor declares as follows:

1. **Grant of Easement.** Grantor does hereby grant, convey and warrant to Grantee a non-exclusive ingress and egress easement over and upon the Property, for the purpose of servicing, cleaning, maintaining, repairing and replacing the Box Culvert in its current location, size and configuration.
2. **Waiver.** Grantor does hereby waive any and all claims for any damages which might or may be caused by the construction, reconstruction, perpetuation, repair, maintenance, replacement or overflow of said Box Culvert, and waives any and all claims for damages now or hereafter sustained from any flood water caused by the inability of said Box Culvert to receive and carry the same. Grantor shall not make any connection with said Box Culvert, except with the prior written consent of the City.
3. **Duration.** The easements and obligations created pursuant to this Declaration shall be perpetual in duration.
4. **Covenant Running with the Land.** The easements and obligations created pursuant to this Declaration shall be easements and covenants running with the land.
5. **Additional Provisions.**
  - a. Recitals. The Recitals to this Declaration are incorporated into and made a part of this Declaration by reference.
  - b. Binding Effects and Benefits. This Declaration shall be binding upon and shall be for the benefit of the Parties hereto and their respective heirs, successors, personal representatives, and assigns.
  - c. Headings. Section and other headings contained in this Declaration are for reference purpose only and shall not affect the meaning or interpretation of this Declaration.
  - d. Invalidity. If a court determines any portion or portions of this Declaration to be invalid, such invalidity shall not affect the validity or enforceability of the remainder of this Declaration.



**EXHIBIT A**

Property

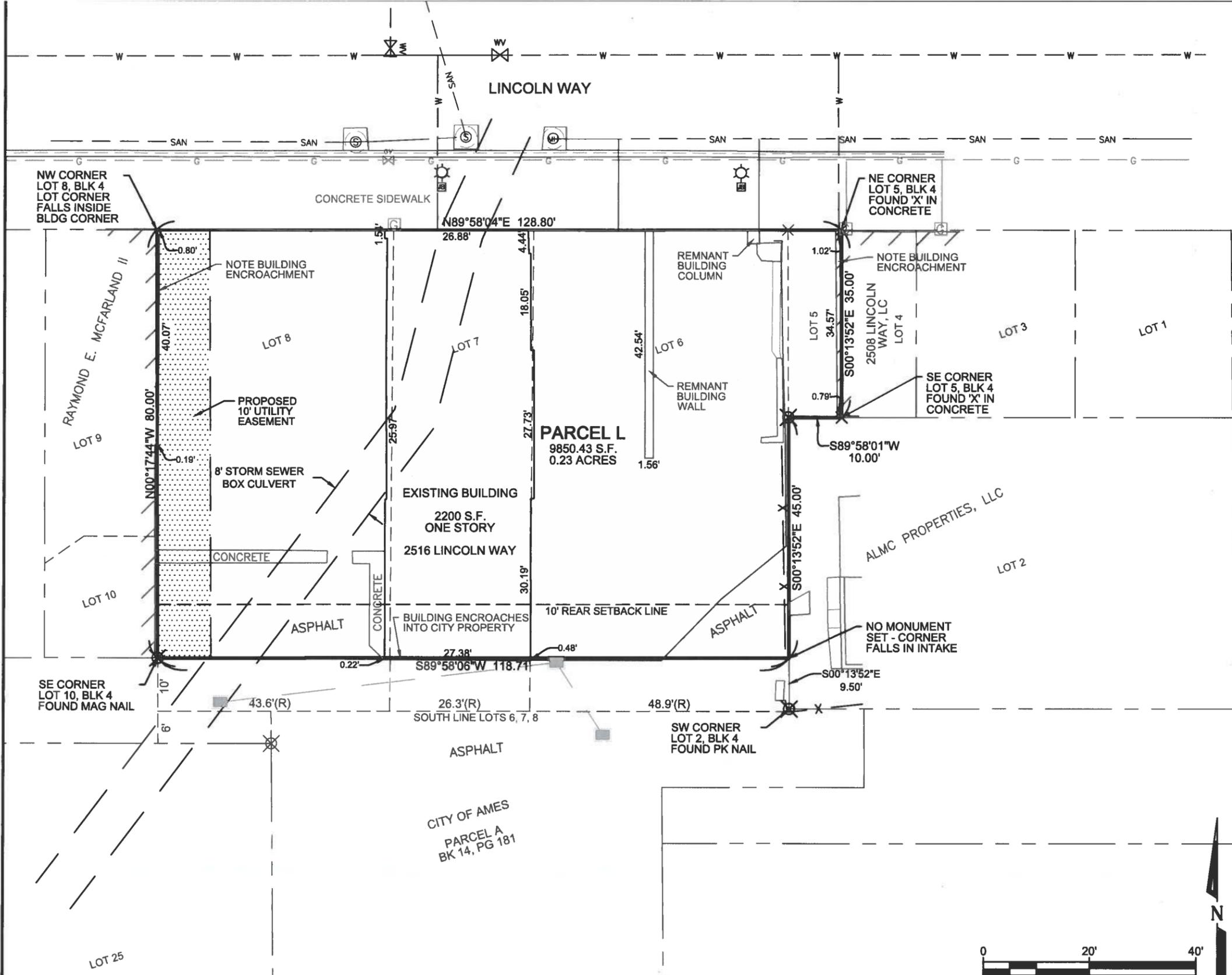
Parcel L of Lots 5, 6, 7, and 8, Block 4 in the Auditor's Replat of Block 3, 4, and 5, Beardshear's Addition and Walter's Subdivision, Ames, Story County, Iowa, as shown on the Plat of Survey recorded on March 13, 2017, at Inst. No. 17-02121, Slide 561, Page 4.

**EXHIBIT B**

ALTA Survey

(ATTACHED)

DRAFT



**OWNER:**  
 Scott E. Randall  
 420 S. 17th St.  
 Ames, IA 50010

**ZONING DISTRICT:**  
 CSC - CAMPUSTOWN SERVICE CENTER  
 Setbacks:  
 Front: 0'  
 Side: 0'  
 Rear: 10' Minimum

**SURVEY DESCRIPTION:**  
 Parcel L of Lots 5, 6, 7, and 8, Block 4 in the Auditor's Replat of Block 3, 4, and 5, Beardshear's Addition and Walter's Subdivision, Ames, Story County, Iowa, as shown on the Plat of Survey recorded on March 13, 2017, at Inst. No. 17-02121, Slide 561, Page 4.

**SURVEYOR'S REPORT ON SCHEDULE B, PART II:**  
 Commitment for Title Insurance No. C-20C000040, dated January 17, 2020

8. Plat of Survey filed March 13, 2017, as Document No. 17-02121, of the Story County, Iowa Recorder's Office, including easements, building setbacks, restrictions, reservations, and notations. This Plat of Survey is of the subject property.

**SURVEYOR'S CERTIFICATION:**  
 To FF & F of Ames, LLC, Iowa Title Guaranty, a Division of the Iowa Finance Authority and Stewart Title Guaranty Company:

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4, 6(b), 7(a), 8, 11, 16 and 17 of Table A thereof. The fieldwork was completed on February 28, 2020.

WELCH AVENUE

LEGEND			
	Beehive Intake		Property Pin
	Building		Railroad Tracks
	Buried Power		Sanitary Manhole
	Bushes		Sanitary Sewer
	Cable Pedestal		Sign
	Cleanout		Storm Intakes
	Culvert		Storm Sewer
	Curb Stop		Storm Sewer Manhole
	Electric Pedestal		Stump
	Fence		Buried Communication
	Fiber Optic		Telephone Manhole
	Force Main		Telephone Pedestal
	Gas Line		Telephone Pole
	Gas Meter		Traffic Pole
	Gas Valve		Treeline
	Hydrant		Trees
	Electric Junction Box		Water Line
	Light Post		Water Manhole
	Mailbox		Water Meter
	Manhole		Water Valve
	Overhead Communication		Witness Post
	Overhead Power		Yard Hydrant
	Power Pole		

**FOX engineering**  
 FOX Engineering Associates, Inc.  
 414 South 17th Street, Suite 107  
 Ames, Iowa 50010  
 Phone: (515) 233-0000  
 FAX: (515) 233-0103

**ALTA/NSPS LAND TITLE SURVEY**  
 2516 LINCOLN WAY  
 AMES, IOWA

JOB# 5439-18A    DATE: 3/04/20    PAGE 1 OF 1

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

*R. Bradley Stumbo*  
 R. BRADLEY STUMBO, PLS  
 License number 17161  
 My license renewal date is December 31, 2021.

3/04/2020  
 DATE

This signature covers all certifications on this survey.



**EXHIBIT C**

Box Culvert Legal Description

DRAFT



*architecture specialty millwork virtual vision project management*

118 E. 26th Street Suite 300 Mpls, MN 55404 P:612-879-8225 F:612-879-8152 www.tanek.com

May 4, 2022

**RE: Brothers Bar & Grill – 2516 Lincoln Way**

Dear Mr. Diekmann;

We are requesting an alternative proposal to meet the clay brick standard for the project as it relates to the east property line, per our earlier conference phone discussion.

To meet a number of criteria the building provides a rear easement and a non-interior design area to the west which will be a patio. Along the north, south and west faces we can construct a wall assembly that includes appropriate ratios of clay brick.

We have a zero lot line along the street frontage and the east, in part to meet a floor area ratio.

The east façade due to immediate proximity to the neighboring property is only technically feasible to be constructed as what would be considered a “single wythe masonry wall”. This can be done with concrete masonry units that can be assembled from the interior side of the building. We would be unable to construct a wall assembly of multiple layers for the technical aspects of not being able to get to the exterior finish side, or the requirement of having to scaffold upon another neighboring building.

Our proposal is to meet the overall required clay brick ratio by adding the brick ratio of the east façade upon the west façade of the building.

Sincerely,

A handwritten signature in black ink, appearing to read "Nathaniel Shea". The signature is fluid and cursive, starting with a large, sweeping initial "N" and ending with a long, horizontal tail stroke.

Nathaniel Shea, A.I.A.  
*Principal*  
Tanek, Inc.  
Direct: 612-998-8200  
*nshea@tanek.com*

