

ITEM: 35  
DATE: 08-09-22

**COUNCIL ACTION FORM**

**SUBJECT: REQUEST FOR WAIVER OF PLATTING AUTHORITY IN THE URBAN FRINGE AT HIDDEN CREEK FARM, LLC (PARCEL 05-15-300-320) IN STORY COUNTY**

**BACKGROUND:**

At the July 12, 2022 meeting, City Council referred to staff a request from John Gade (FOX Strand, on behalf of Hidden Creek Farms, LLC) to have the City waive its **platting authority within two miles of the Ames City Limits in the Urban Fringe and waive subdivision requirements including conservation subdivision requirements, public infrastructure requirements including extension of water, sanitary sewer, and road improvements.** (see Attachment C).

The property in question, a 30.70-acre parcel (Parcel 05-15-300-320) is located at the northeast corner of W 190<sup>th</sup> Street and Grant Avenue (see Attachment A). The property owner, Hidden Creek Farm, LLC, wishes to subdivide the parcel into two parcels, with the intent of gifting approximately 16 acres to a local church for future development. The remaining land would remain agricultural.

Presently, this land north of 190<sup>th</sup> Street is designated as Agricultural & Farm Service and is within the Story County Study Area based on Ames Urban Fringe Plan (AUFPP). The Story County Study Area is land located within two miles of the Gilbert city boundary and within Ames two-mile jurisdictional area. The AUFPP states that cities shall retain their jurisdictional power and maintain land use, subdivision, and zoning until joint decisions can be made, and that shared and consistent planning objectives need to be identified to manage development in and around communities.

Presently, staff is working with Story County and the City of Gilbert to update to the Ames Urban Fringe Plan that could lead to changes in AUFPP land use designations and the Story County Study Area designation. In the draft plan, this area was shown as Urban Reserve, which mirrors Ames Plan 2040 expectations for the area.

Ames Plan 2040 designates this area as Urban Reserve. Urban Reserve is for lands that may, with other infrastructure improvements, be desirable and suitable for annexation to the City. The scenario work for Ames Plan 2040 considered the areas to be Tier 3 for the larger overall area between 190<sup>th</sup> and 180<sup>th</sup> Streets. It does not identify expansion of the City in the immediate future but does indicate that Tier 3 can become serviceable if certain infrastructure is extended.

The land included within the proposed request also lies within the Ada Hayden Watershed. Under the City's Subdivision regulations, platting and development would be required to comply with Section 23.600 - Conservation Subdivisions.

State law authorizes cities to extend their subdivision jurisdiction up to two miles from the city; it also allows for cities to waive their requirements. Article IV in Chapter 23 the subdivision chapter of the Ames *Municipal Code* addresses platting and waiving of the right to review subdivision. The City also typically uses covenants concerning future infrastructure and annexation as conditions of waiving jurisdiction.

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.

#### **ALTERNATIVES:**

1. Deny the Applicant's request to waive the City Subdivision requirements and platting authority at this time.

After a full review is completed, the Staff will be in a better position to determine which, if any, requirements can be waived.

2. Approve a waiver of all City Subdivision requirements and platting authority for the property in its entirety. (Applicant's Request)
3. Decline to waive the subdivision requirements and platting authority.
4. Refer this request back to staff and/or the applicant for additional information.

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

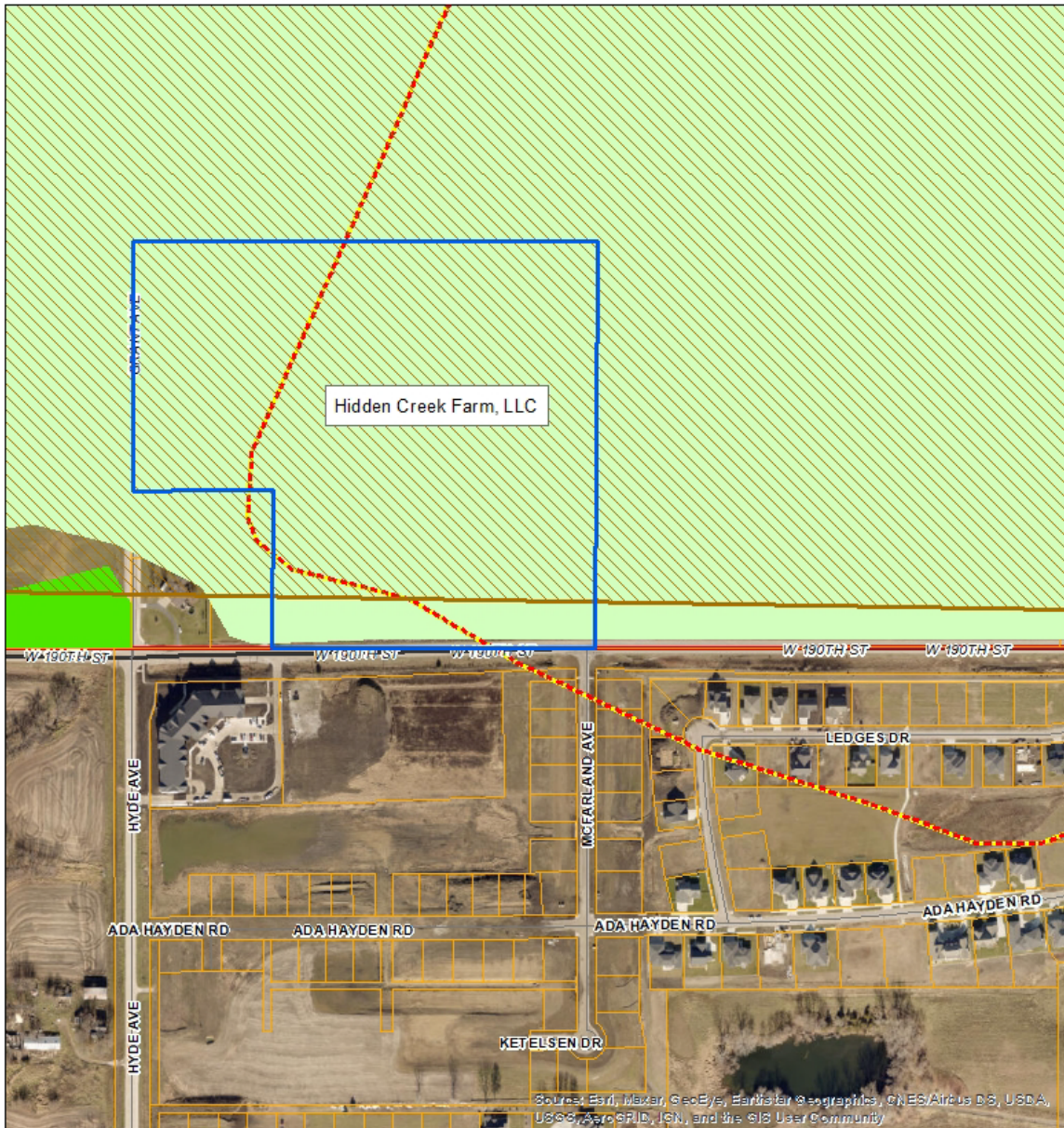
There are no new public improvements planned for the proposed division at this time. Subdividing the property will provide more development flexibility for the owner to carry out their wish of gifting the land to a local church. The development of a church in the future would be within Story County's conditional use permit authority, of which the City would have no direct influence on it.

Staff has briefly reviewed the proposed division and has some concerns about ensuring continuity with future development. Issues that staff believes should be addressed before a conditional use permit process for a future church begins, include access locations, future road extension of McFarland Ave. to the north, right-of-way dedication, and if conservation subdivision requirements and other improvement items that could impact surrounding areas within the City's jurisdiction if subdivision authority is waived.

**Therefore, staff is supportive of considering the waiving of some subdivision requirements. However, staff believes that Alternative #1 would allow a review of the subdivision while evaluating potential impacts to future development patterns and allowing some relief to development requirements that may not be applicable given its location and policies of the AUFPP. When this issue comes before the City Council later in the process for approving the subdivision, the Staff will be in a better position to recommend which, if any, requirements can be waived. Therefore, it is the recommendation of the City Manager that the City Council approves Alternative #1.**

If the City Council chooses Alternative #2 to proceed with waiving all subdivision authority, Staff would still expect the property owner to enter into covenants that waive the rights of the owner to protest future special assessments and agree to voluntarily annexation in the future if requested by the City. Additional covenants, or limitations on a plat may also be necessary to address other compatibility issues described by staff.

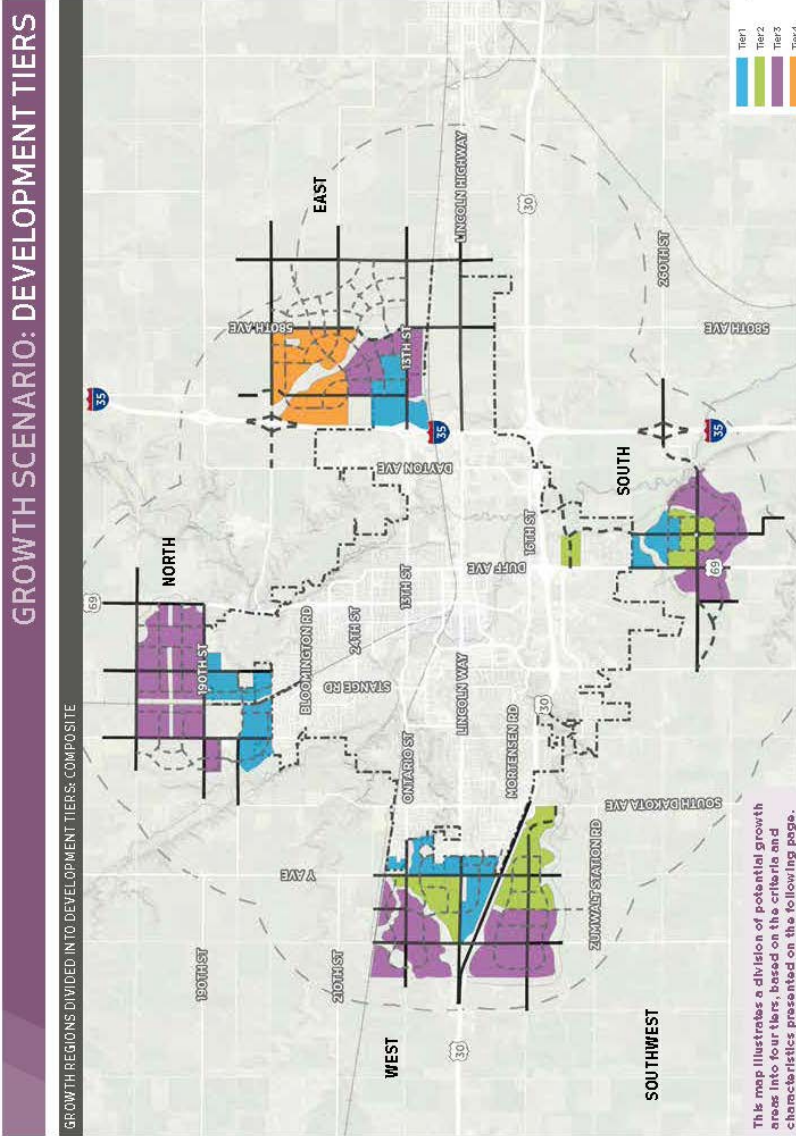
## Attachment A- Location Map & AUFP Designations



### Hidden Creek Farm, LLC Location Map

-  Story County Study Area
-  Watershed Protection Area
- Fringe Land Use Designations**
- Land Use Classification**
-  Agriculture and Farm Service
-  Natural Areas

# Attachment B.- Ames 2040 Map





## Attachment C- Waiver Request



**FOX Strand**  
414 South 17th Street, Suite 107  
Ames, IA 50010  
(P) 515.233.0000  
www.strand.com

July 7, 2022

Honorable Mayor and City Council  
515 Clark Avenue  
Ames, IA 50010

**Re: Hidden Creek Farm, LLC - Plat of Survey - Story County, Iowa**  
Request for Waiver of Subdivision Regulations  
Ref No. 7125.002

Honorable Mayor and City Council:

On the behalf of Hidden Creek Farm, LLC we are requesting the City of Ames waive their subdivision approval authority regarding a proposed plat of survey located in Story County, Iowa. The 30.70 acre parcel is located at the northeast corner of W 190th Street and Grant Avenue (Story County Parcel ID No. 05-15-300-320).

The owner desires to divide the existing property into two parcels. The goal is to gift approximately 16-acres to a local church congregation for future development. It is anticipated the proposed church project will take several years prior to the start of construction. The remaining 15-acre parcel in agricultural production. Story County zoning standards would not allow for new residential development on these parcels.

This parcel is subject to joint City of Ames and Story County subdivision review authority since it is in the Special Study Area as an Agriculture and Farm Services designated property within the current Ames Urban Fringe Plan. The Ames Plan 2040 states this parcel in in the North Growth Region. The property is classified as Tier 3 (requires significant pioneer infrastructure to develop). The parcel is also located within the Ada Hayden Watershed.

The owners request the City of Ames waive their subdivision approval authority and specifically request a waiver of the public improvements standards for the extension of water, sanitary sewer, and road improvements. We also request waiving of the Conservation Subdivision standards. Granting of the waivers would allow for the division of the property into two parcels without preparing a preliminary plat and final plat. The owners acknowledge the City of Ames may require certain agreements/covenants such as:

1. Voluntary annexation into the City of Ames.
2. Waiver of assessment rights for future public improvements.
3. Reimbursement costs associated with disconnection of rural water main connections.
4. Access driveway locations and improvements for any development on the parcel.
5. Design elements associated with the Conservation Subdivision Ordinance.

Thank you for your time and consideration regarding this request.

Sincerely,



John Gade, P.E.  
Project Manager

Attachment: Sketch Plan Plat of Survey

CC: Kurt Friedrich  
Hidden Creek Farm, LLC

## **Attachment F- Subdivision Waiver Standards Section 23.103**

### **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

AFS Policy 3: Strategically locate such industrial and commercial uses in order to:

- utilize existing adequate access and road capacity and otherwise assure the existence of adequate public facilities;
- protect productive soils and environmental resources;
- support the continued use of these areas for farming and agricultural production.

(Relates to RSACA Goals 2.1, 2.2, 2.3, 2.6)

AFS Policy 4: Limit non-agricultural residences in the Agriculture and Farm Service designation to homes existing at the time of this Plan or remaining scattered building sites where farmstead homes once existed or homes on very large parcels of ground typical of the agricultural setting. Otherwise, subdivision for the creation of new residential development lots is not supported within the Agriculture and Farm Service designation. (Relates to RSACA Goals 2.1, 2.5)

AFS Policy 5 Allow the clustering of agricultural-related development at a limited scale where properties have adequate access to a public road. Such development shall be configured and designed to be harmonious with agricultural activities and avoid negative impacts to agricultural operations.

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.

(2) The requirements of the Regulations for the platting of a Minor Subdivision may be waived by city staff when it is determined by city staff that:

(a) A clear and accurate description of the area of land will be provided by means of a plat of survey to be procured by the property owner, and in compliance with Section 23.307.

(b) With respect to that area of land, all substantive requirements and standards of the Regulations are already met.