

ITEM #:	<u>44</u>
DATE:	<u>06-09-26</u>
DEPT:	<u>P&H</u>

COUNCIL ACTION FORM

**SUBJECT: FINAL PLAT APPROVAL WITH SUBDIVISION WAIVERS FOR THE BLUFFS
LOCATED AT 3220 CAMERON SCHOOL ROAD.**

BACKGROUND:

Friedrich Land Development Company, LLC is requesting approval of a Major Final Plat creating 4 lots in what is known as The Bluffs Subdivision. The site is located west of GW Carver Avenue and south of Cameron School Road on 19.11 acres of land at 3220 Cameron School Road. **The site is subject to number of recent approvals and agreements that are tied to approval of a Final Plat. The developer has requested unique waivers in relation to this Final Plat application that are discussed in more detail below** (See Attachment A- Location Map).

Previous approvals related to development of this site include:

1. 2022 Pre-annexation agreement with requirement for street improvements (on-site and off-site) at the developer's cost and tied to Final Plat approval.
2. Rezoning with Master Plan approved September 23, 2025 for Senior Living facility (Dover) planned for Lot 4, and commercial development on Lots 1,2,3.
3. A Preliminary Plat for The Bluffs was approved on October 14, 2025.
4. City Council Development Incentive and Roundabout Project Options December 16, 2025 (see related Development Outline, Item #43, on this same agenda).
5. Dover Driveway Access to GW Carver Waiver Request on March 24, 2026, conditioned on approval of improvements with Final Plat.
6. Dover Special Use Permit approval April 22, 2026 for Senior Living Facility with Driveway to GW Carver, conditional approval subject to Final Plat approval.

The Bluffs Final Plat creates Lots 1-4 for development. Additionally, Street Lot A (GW Carver Avenue) and Street Lot B (Columbus Drive) are being created to dedicate right-of-way accordingly (see Attachment B- Final Plat). Note that the site abuts the extension of Everest Avenue along its west boundary, but Everest improvements are not part of this plat and included with The Bluffs at Dankbar Farms 5th Addition. The sidewalk deferral agreement for The Bluffs includes language requiring sidewalk construction along Everest even though it is not within the boundary of this Final Plat.

Columbus Drive is being constructed as an east-west street between GW Carver Avenue, which abuts the east side of The Bluffs, and Everest Avenue, which abuts the west side of the

Bluffs. Columbus Drive bisects the site and is the boundary between the FS-RM zoned residential area to the south where the Senior Living and Memory Care Facility will be constructed on Lot 4 and the commercial lots to the north.

The completion of the paving of Columbus and installation of public utilities are part of the standard deferral with Financial Security for a Public Improvement Agreement. The Public Improvement Agreement is providing for security in the amount of \$255,735, which covers construction of Columbus Drive and other public improvements within the subdivision.

However, the Final Plat also includes Cameron School Road and GW Carver Avenue along its frontage. Improvements are planned for the intersection of GW Carver and Cameron School Road in the near future and require that certain lane widening and reconstruction improvements occur as a result. **The requirements for lane widening and intersection improvements were originally agreed upon in 2022 as the responsibility of the developer. The final plans are not yet complete and have not been secured as would normally be expected with a Final Plat.**

The cost of these improvements was estimated by the developer in December 2025 to be in excess of \$1,000,000. Consistency with the 2022 Pre-annexation Agreement and standard financial security requirements of Chapter 23 of the Ames Municipal Code would require an additional \$1,000,000 of cash or letter of credit, in excess of the security that has already been provided.

As a result, the developer requests a waiver of the full financial security amount in consideration of the pending Development Agreement. If the requested waiver is not approved, additional financial security in the amount approved by Council is required to approve the final plat and have it released to the developer.

WAIVER OF PARTIAL PUBLIC IMPROVEMENT FINANCIAL SECURITY:

The developer is requesting a highly unusual waiver for financial security of Public Improvements due to timing of their desire to record the Final Plat and close on the sale of Lot 4 to Dover. The proposed financial security waiver is predicated on the City Council providing direction (Council Agenda Item #43) regarding the final financial incentive and preparation of a development agreement amendment to address the GW Carver/Cameron roadway improvements.

The partial waiver request correlates to the desire by the developer that the City Council approves an option where the City is responsible for the construction of the roadway improvements, not the developer, and it reduces the developer's obligation from \$1,000,000 to a lower value. That timing allows for the dual use of the proposed \$255,735 Letter of Credit for Columbus and additional roadway improvements.

Approval of a waiver by the City Council requires a finding per 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.

The developer asks for the waiver as "inconsistent with the Purpose of the Regulations" due to "other conditions," primarily tied to the proposed development agreement that may modify the developer obligations for construction of roadway improvements. **If Council supports changing the developer responsibility for roadway construction, it is then a question of the amount and timing of needed financial security.**

The purpose of the regulations is to ensure that public improvements are completed in a timely manner and that the City does not have a financial burden of completing improvements. In this case the subject improvements are a widening of a roadway that already exists and the widening has not yet begun, as compared to the Columbus improvement which is a partially constructed new public improvement. **The request is highly unusual and staff is not aware of a precedent for this type of waiver request based upon timing issues of the developer.**

If a waiver is approved, the developer proposes that the financial security for GW Carver Avenue and Cameron School Road be waived while remaining design details and any future Development Agreement are finalized. However, the proposed Public Improvement Agreement contains language that provides for the Letter of Credit of \$255,735 to be applied to the internal Columbus improvements and to future GW Carver and Cameron School Road improvements, based upon an assumption that no additional security is required by the City Council while maintaining the obligations to construct improvements consistent with the 2022 Pre-annexation agreement within three years of Final Plat approval.

In essence, the obligation to construct does not change the improvements, but the road improvements would not be fully financially secured assuming the City will take on responsibility for a lane widening or a roundabout. While the Developer is still required to install the improvements to City standards, absent another agreement between the City and the developer, this language is only enforceable through legal proceedings which can be costly and time-consuming to pursue.

If City Council does not approve taking over the construction of the roadway improvements, then the Final Plat cannot be approved as proposed by the developer, and must be revised.

Additionally, if City Council agrees to construct the roadway improvements, it can still require additional security beyond the \$255,575 in any amount that matches the expected contribution of the developer to the project. This amount should be determined by the Council for Item #43 of this Council Agenda. If additional security is needed, the developer would need to provide these funds before release of the Final Plat for recording.

WAIVER OF ACCESS FOR DRIVEWAY TO GW CARVER AVENUE:

Dover Development, the planned purchaser of Lot 4 for development of an Assisted Living and Memory Care Facility on Lot 4, requested a waiver to allow driveway access to GW Carver Avenue. This road is an arterial road that normally restricts access points. City Council has previously given its preliminary approval on March 26. The March 26 discussion involved the waiver criteria and details of the design that at that time were not completely known.

The March preliminary approval was conditioned on completion of a traffic study to define needed turn lane improvements for the driveway and coordination with other improvements. **Since March, staff has determined that a minimum of 50 feet of turning vehicle storage with appropriate tapers are needed. A widening of GW Carver is needed to accomplish this improvement, which is estimated by staff to be the equivalent of approximately 400 feet of a 12-foot wide lane improvement.**

Due to timing of coordination with the developer's (Friedrich Land Development Company, LLC) lane widening improvements or a City roundabout project, staff recommends that a development agreement with Dover be required in relation to the Driveway Waiver. Based upon the final decision on the roadway improvement, Dover may construct the improvement itself or provide cash in lieu to the City, at the discretion of the City.

Dover Development will be providing an agreement with the City prior to the City issuing a building permit for their Senior Living and Memory Care facility on Lot 4. Dover anticipates they will seek a building permit by September 2026.

The Final Plat also includes related easements for utilities and sidewalks located on private property due to the rural cross section of GW Carver and Cameron. A standard sidewalk deferral agreement is part of the Final Plat approval.

ALTERNATIVES:

1. Defer action on the Final Plat and require the developer to provide for an additional \$1 million of financial security with a revised Public Improvements Agreement for the construction of roadway improvements by the developer as required with the 2022 Pre-annexation agreement.

Under this alternative the Final Plat would not be approved at this Council meeting. The item would return for Council approval at a future meeting once new security and documents are provided to the City.

2 . Approve the Final Plat as requested by the developer with waivers and financial security with related agreements as follows:

a . Approval of Driveway Access Waiver for Lot 4 (Dover) subject to a development agreement with the owner of Lot 4 to include all requirements of the City for roadway improvements with turn lane access that includes minimum storage of 50 feet and appropriate tapers as specified by the City's Traffic Engineer prior to issuance of a building permit for Lot 4.

Additionally, the waiver is conditioned upon coordination of the driveway and roadway improvements with the planned lane widening or roundabout intersection improvements along GW Carver and, if determined by the City Council that the project is to be constructed by the City of Ames, the property owner shall provide for cash to the City in lieu of constructing the improvements at the developer's cost. The cash provided would be in an amount based upon the standalone driveway improvement, estimated at approximately \$125,000.

b. Approval of a Waiver of the full financial security requirement for the GW Carver and Cameron School Road improvements as specified within Section V of the 2022 Pre-annexation agreement, conditioned on: 1) using the \$255,575 Letter of Credit as financial security for the completion of Columbus Avenue and other public improvements within the subdivision, and 2) the developer's contribution to the construction of the GW Carver and Cameron School roadway improvements by the City of Ames. The LOC may not be returned or reduced in value until all improvements are accepted as complete by the City of Ames.

(Note: this option requires that the City Council make a finding for a waiver and that the City Council indicates that it will construct the improvements, not the developer. If the developer is responsible for the improvements or additional security is required for its share of improvements, this alternative cannot be approved.)

c. Approve the Public Improvements Agreement and accept the Letter of Credit for \$255,575 to secure all public improvements included within Exhibit A of the agreement, which is consistent with the waiver described above in "b", and accept the sidewalk deferral agreement for all lots within the subdivision for up to three years or at the time of development of a building on the lot, including the provision for construction of the sidewalk along the Everest Avenue extension.

d. Approve the Final Plat for The Bluffs subdivision.

3. Approve the Final Plat and related Waivers, with additional financial security that matches the City Council decision regarding the Developer's contribution to the City's construction of future roadway improvements in an amount of \$200,000 to \$600,000, as determined with the Development Outline Agenda Item #43 on this Council Agenda.

(Note: if this alternative is approved with additional security, the additional security must be provided by the developer before release of the Final Plat for recording.)

CITY MANAGER'S RECOMMENDED ACTION:

The Final Plat as proposed by the developer is contingent upon City Council's decision for Item #43 on this same Council Agenda. The proposed Waiver for financial security is highly unusual and would not be advisable in any circumstance where the developer has the primary responsibility of constructing a public improvement (Alternative #1). However, if the Council chooses to assume responsibility for constructing the off-site road improvements, the details related to Alternative #2 and #3 may need to be adjusted based upon Council's direction on June 9.

In this situation where a decision to approve the Final Plat is tied to a preceding decision on the agenda by the City Council, there is no City Manager recommendation.

ATTACHMENT(S):

Attachments A, B, C.pdf

Attachment D-The Bluffs Final Plat.pdf

Bluffs- Public Improvement Agreement