

ITEM #:	<u>33</u>
DATE:	<u>03-11-25</u>
DEPT:	<u>P&amp;H</u>

### **COUNCIL ACTION FORM**

**SUBJECT:     **UPDATE ON APPLICATIONS RECEIVED FOR NORTH AMES VOLUNTARY  
ANNEXATION OF MULTIPLE PROPERTIES GENERALLY BETWEEN  
GEORGE W. CARVER AVENUE AND HYDE AVENUE&NBSP;****

**BACKGROUND:**

On January 14, 2025, City Council initiated a voluntary annexation of approximately 400 acres of land in north Ames along George W. Carver and Hyde (see attached Annexation Area Map). The initiation occurred after the City received annexation petitions from the Robert J. Borgmeyer Trust and Margaret A. Borgmeyer Trust, Northridge Heights Homeowners Association, and Erben and Margaret Hunziker Apartments, LLC, for seven properties east of George W. Carver Avenue extending to Hyde Avenue and south of Ames Golf and Country Club (AGCC). The Borgmeyer properties represent the largest share of property ownership within the annexation area and a new development opportunity once annexed.

**The annexation of these properties triggered consideration by City Council of:**

- 1) including non-consenting properties in the annexation territory that would otherwise become islands, and**
- 2) exercising provisions of previously agreed-upon covenants for future annexation of several contiguous properties.**

**Along Hyde, properties with annexation agreements include the Sturges and Iowa Natural Heritage Foundation (INHF)-owned properties.**

**Along George W. Carver, North of the Borgmeyer properties, the City also has annexation agreements with the Ames Golf and Country Club (AGCC) and the homes in the rural subdivision known as The Irons. Previously, the City waived certain subdivision standards to allow rural subdivisions of these properties in exchange for agreements to annex in the future at such time requested by City Council. In the case of the Irons, City infrastructure was not available at the time of subdivision development and covenants for future City infrastructure installation were also entered into with the annexation agreements, this was done in order to allow for the development to occur at that time and not wait until development would be contiguous with the City and have extension of City utilities.**

In January 2025, staff provided Council options for the phasing of the annexation and deferring annexation of the Irons and AGCC given the number of property owners involved. **Ultimately, due to the efficiency of processing one annexation, Council decided to initiate one annexation of the entire potential annexation territory, including non-consenting properties and properties with which the City holds annexation agreements** (see attached map of the annexation area). Council did consider the extended amount of time this option would take in order to obtain all the required annexation applications from those impacted by annexation agreements, which could delay the annexation of new development areas. This report provides an update on the status and overall projected timeline of annexation.

## **PUBLIC OUTREACH:**

Since the initiation, staff sent notice to property owners affected by the annexation agreements requesting they submit voluntary annexation applications by February 28. Due to the large number of homeowners in the Irons, staff held a meeting on February 17 for Irons residents at the AGCC. A couple dozen people attended in person and virtually.

Staff has since received applications for the INHF and Sturges properties. Staff also received an application from Hayden's Preserve, LLC, for its property along Hyde.

**Staff has not received an application from Ames Golf and Country Club and has received only four applications from the 34 residential lot owners in the Irons. Two of these property owners have requested to withdraw their applications; however, the annexation agreement waives their right to withdraw. The homeowners' associations and the have also not submitted applications.**

Feedback provided to staff at the meeting and in other correspondence indicated that some Homeowners have a misconception that utility service was to be available prior to annexation. The agreement has no such provision, it was to be at the direction of the City Council. In addition, there was a common opinion that if annexed prior to the extension of utilities, they would be paying City property taxes without being provided full city services. Staff explained at the February 17 meeting that the City property tax levy does not cover the cost of utility services as those are chargers by utilities for usage. Property taxes provide for other services, such as police, fire, road maintenance, etc. Staff noted that it is very common to annex properties prior to utilities being made available.

The infrastructure agreement for the Irons indicates that annexation is to occur first, not utilities first. A copy of the annexation agreement and infrastructure installation agreement are attached. More information on the outreach and points of discussion from the February 17 meeting are included in the attached addendum, as well as a summary of communications received from the AGCC and Irons residents.

**Despite this clarifying information, staff believes there is still a general unwillingness to annex, likely related to the costs Irons residents will incur from building a sanitary sewer main to serve their subdivision once the City extends a main to the property line, as required by the infrastructure covenant, and from the increase in property taxes. Residents do not believe there are any additional benefits to them from City services.**

## **ANNEXATION STATUS:**

**As a result of the many of Irons property owners and AGCC's noncompliance with the annexation agreement, at this time nonconsenting property owners total more than 20% of the annexation area, violating the 80/20 voluntary annexation rule provided for under state statute for voluntary annexation. Staff believes that although the agreements require them to apply for voluntary annexation, to meet state law we must in fact have their signed applications to include them as voluntary.** See Table 1 below for a breakdown of the acreage in the annexation area.

*Table 1: Breakdown of Annexation by Acreage Based on Applications Received*

	Consenting (Property and City ROW)	Nonconsenting (Property, railroad, County ROW)

<b>Acres</b>	201.39	198.41 (AGCC is approx. 133 acres of the total)
<b>Percent of Annexation Area</b>	50%	50%

### **ANNEXATION PROCESS MOVING FORWARD:**

Given the lack of applications needed to move forward with a voluntary 80/20 annexation as initiated by Council, staff seeks addition direction from Council and has prepared several alternatives for Council to consider for how best to proceed. The alternatives described below include additional notification, bifurcating the annexation territory into parallel processes, or to provide an incentive for immediate participation in the process. The alternatives for annexation have also been updated to reflect plans for residential rezoning of the Irons at the time of annexation to minimize nonconformities with traditional Agricultural zoning.

Part of Council's consideration of these options should include the annexation timeline balanced with the goal of establishing new development land and efficiently executing the prior agreements for annexation. A full list of steps remaining in the annexation process and timeline is included in the addendum. Staff identified a goal of finalizing an annexation with state approval by October 2025, to do that Council would need to have a hearing approving the annexation on June 24, 2025. **Given the notification steps involved to get to the point of a hearing, all necessary applications and a final annexation plat will be required in April.** This timeline aligns the goal of the developer of the Borgmeyer property to seek rezoning and development approvals in the fall to prepare for development in 2026.

### **ALTERNATIVES:**

#### **ALTERNATIVE #1:**

- a. **Maintain the current 400-acre annexation territory boundary and direct the City Attorney to send notice requesting annexation applications from the Irons and AGCC by March 31 and notifying those who remain noncompliant that court action will be pursued to compel performance of the covenant.**
- b. **Initiate rezoning of the residential lots that are part of the Irons to FS-RL to be effective upon annexation.**

**This option would maintain the annexation area as initiated by City Council. The ultimate goal would be to obtain applications representing enough property to proceed with the 80/20 annexation, even if not all signed the applications. The most critical is the AGCC.**

The ability to secure performance of the covenant (i.e., compel applications) through court is set out in the annexation agreement (see attachment). This option may involve additional time if a court decision is needed to secure applications. Staff estimates 1+ years to have the issue resolved in Civil court.

**Even if all Irons residents submitted applications, the acreage would still not be sufficient to complete an 80/20 voluntary annexation that includes the AGCC if the AGCC was nonconsenting. As its property is 135 acres, the AGCC's application is necessary to move forward with an 80/20 voluntary annexation.** An acreage breakdown of the entire annexation area based on applications

received and if AGCC were to submit an application is included in Table 2 below.

*Table 2: Breakdown of Annexation by Acreage Based on Applications Received Plus AGCC Acreage Consenting with no other properties*

	<b>Consenting (Property and City ROW)</b>	<b>Nonconsenting (Property, railroad, County ROW)</b>
<b>Acres</b>	336.79	63.01
<b>Percent of Annexation Area</b>	84%	16%

**ALTERNATIVE #2:**

**Split the Borgmeyer related territory annexation from the Irons Subdivision and the Ames Golf and Country Club and proceed in parallel to:**

- a. **Initiate an 80/20 annexation of the approximately 238 acres along George W. Carver and Hyde related to the Borgmeyer application.**
- b. **At the same time, initiate a 100% voluntary annexation of properties that are part of the Irons Subdivision and the Ames Golf and Country Club by proceeding with the City Attorney notifying those who remain noncompliant that court action will be pursued to compel performance of the covenant. Provide an update to Council within 90 days.**
- c. **Initiate rezoning of the residential lots that are part of the Irons to FS-RL to be effective upon annexation.**

This option was provided to Council for consideration as part of the initial initiation of the annexation. **It would involve two concurrent annexations.** One would be of the four consenting Borgmeyer properties, the consenting Northridge Heights HOA property west of the railroad, and the consenting Hunziker, INHF, Hayden's Preserve, and Sturges properties along Hyde. It would also include nonconsenting territory, with three properties along George W. Carver, the railroad, and four privately owned properties along Hyde Avenue. This would be an 80/20 voluntary annexation with approximately 84% consenting.

Additionally, staff would also proceed with annexation of the properties that are part of the Irons Subdivision and the Ames Golf and Country Club to the north of the Borgmeyer properties separately. **The annexation of the Irons and AGCC could be 100% voluntary, given the annexation agreement and proper submittal of the application forms. This may require court action to obtain. However, with only application of the AGCC for annexation, all other lots in the Irons could be annexed as part of an 80/20 voluntary annexation, as allowed under state statute to create more uniform boundaries. This annexation process would have all the same steps of notice, Council approval, and state approval.** This is illustrated in Table 3 below.

*Table 3: Breakdown of Annexation by Acreage with AGCC Consenting and Remaining Irons Lots Nonconsenting*

	<b>Consenting (AGCC Property and City ROW)</b>	<b>Nonconsenting (Other Irons Lots, railroad, County ROW)</b>
<b>Acres</b>	135.56	26.1
<b>Percent of Annexation Area</b>	84%	16%

Given the number of outstanding applications from Irons residents and the AGCC, this annexation would likely occur after the annexation of the Borgmeyer properties. **As part of this option, Council would direct the City Attorney to send notice requesting annexation applications from the Irons and AGCC by a deadline determined by staff.** Staff would provide Council with an update on this annexation no later than 90 days from this action on the status of the applications.

**ALTRENAIVE #3:**

- a. **Maintain the current annexation territory boundary and make another request for annexation applications from the Irons and AGCC by March 31 with an offer to transition City imposition of taxes over three years on a 75%, 50%, 25% abatement schedule.**
- b. **Initiate rezoning of the residential lots that are part of the Irons to FS-RL to be effective upon annexation.**

The City has offered lower utility connection fees as incentive for voluntary annexations in the past. In this case it seems that approach is unlikely to create much interest from Irons homeowners to submit their applications. **Iowa Code for annexations allows City Council to grant an incentive to all properties within an annexation territory, consenting and nonconsenting, for the transition of City taxes, not to exceed a schedule set by state statute.** The maximum schedule is a sliding scale over ten years applied to the City tax rates, not other taxing jurisdiction's. A transition could be offered over three years on a 75%, 50%, 25% schedule.

**Council should note, per state statute, a transition of taxes would be required to apply to all properties that are part of the annexation area, including the planned new development site of the Borgmeyer property which is currently undeveloped.**

**This option could maintain the annexation area as initiated by City Council and be offered to all properties part of the annexation area. If Council selected to bifurcate annexation as described in Alternative 2, it could be applied to one or both annexations.**

This option may help address Irons residents' concerns regarding increased property taxes and result in more applications than Alternative 1.

After annexation, properties will be subject to the City of Ames levy, but no longer subject to the Rural Service Basic levy. Other levies (school district and county) will remain. City levy rates will apply to the 2026 valuation, payments for which are due in fall 2027 and spring 2028. County payments will continue to apply to previous valuations.

**Existing Property owners would effectively pay half of the City levy otherwise assessed over the three-year period. Some new construction housing in the Borgmeyer development could benefit from the transition of taxes and the current city-wide abatement program, potentially adding some additional value to future homebuyers in that development. However, these benefits would only apply through 2028.**

**In total, for residential properties in the Irons, the City would forego an estimated \$152,778 in tax revenue and gain \$152,778 with the 3-year abatement schedule. This calculation does not include the AGCC, which is classified commercial for tax purposes and valued around approximately \$3.4 million. Table 4 shows the estimated City tax payments and savings of the average residentially-**

classified property with their 2024 valuations in the Irons under the proposed three-year transition schedule.

*Table 4: Potential Transition Schedule for City Taxes Based on Average Residentially Classified Non-HOA Property in the Irons with 48% Rollback and 2024 Valuations*

	<b>Year 1 (75%)</b>	<b>Year 2 (50%)</b>	<b>Year 3 (25%)</b>	<b>Total</b>
<b>Average City Tax Paid</b>	\$788	\$1577	\$2366	\$4732
<b>Average Savings on City Taxes</b>	\$2366	\$1577	\$788	\$4732

**CITY MANAGER'S RECOMMENDED ACTION:**

Alternative 1 is consistent with Council's original direction, but will likely require an extended timeline to complete if court action is required.

If Council is concerned about delaying the development of the Borgmeyer property, Alternative 2 would break down the annexation into two annexations. With this alternative, staff would restart the annexation process of the AGCC and Irons and report to Council on its status within 90 days. The Borgmeyer component would proceed immediately.

If Council determines to try and proceed quickly with an annexation, staff believes Alternative #2 is most consistent with prior policies of the City and its existing covenants. **Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative #2.**

**ATTACHMENT(S):**

[Annexation Area Map.pdf](#)

[Infrastructure Installation and Conservation Managemnet Agreement.pdf](#)

[Covenant and Agreement for Annexation.pdf](#)

[ADDENDUM.pdf](#)