

COUNCIL ACTION FORM

SUBJECT: REQUEST FOR WAIVER OF SUBDIVISION REGULATIONS,
REGARDING SIDEWALKS FOR SOUTHERN HILLS WEST PLAT 2,
AIRPORT ROAD

BACKGROUND:

An application for minor final plat approval has been submitted by Scott Renaud (representing Marguerite, Karin, and Randy Sevde, and also representing Al Myer of Ag Leader) to subdivide Plat 2 of the Southern Hills West Subdivision. Concurrent with that application, the applicant has submitted a request to waive the sidewalk requirements of Section 23.403(14). A copy of the waiver request is provided as Attachment A to this report.

Code provisions pertaining to sidewalks in both the Subdivision Code and SUDAS standards are identified in Attachment B of this report. Code provisions for waivers from the subdivision regulations are contained in Section 23.103 of the Subdivision Code, which states as follows:

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.

This is the second waiver request submitted for this site. The first sidewalk waiver request was submitted to the City Council via the City Clerk on November 20, 2008. It was submitted independent of any plans or proposals for the site. The Council chose not to refer the waiver request. The Sevde's have submitted this second waiver request for the same site with the expectation that the Council can better determine the merits of a waiver with a proposed plat accompanying the request.

The site was not developed with a sidewalk when it was first platted in 2004; instead, a frontage road was installed and was labeled as a "bike path". A note on the plat indicates that the frontage road also serves as a sidewalk for the property.

This plat was approved during a period when the City Council was deliberating on the requirements for sidewalks. That deliberation was brought about by numerous requests for sidewalk waivers, which raised concern over how the granting of these waivers would affect the City's future sidewalk system. One of the questions considered was whether sidewalks should be required in industrial areas. It was recommended that sidewalks be required on at least one side of the street to facilitate people who wish to walk to a Cy-Ride bus stop, for recreation on their lunch break, or for emergency purposes (such as walking for help with car trouble).

The Council ultimately adopted standards that required sidewalks within all residentially and commercially zoned areas, and along at least one side of any street within industrially zoned areas. The amendments did not provide specific criteria for sidewalk waivers; rather, they provided provisions and strict criteria for sidewalk deferral. Under the adopted language, sidewalks could only be deferred (rather than waived) when (1) topographic conditions make installation difficult, or (2) installation is premature. These standards were adopted in May 2004. Also, in February 2005, the City Council adopted by resolution the Iowa Statewide Urban Design and Specification (SUDAS) standards. These standards specifically defined, and differentiated between, sidewalks, shared use paths, bicycle lanes and signed shared roadways.

Although the Southern Hills West plat was reviewed during the time the sidewalk issue was being discussed, it was nonetheless submitted, vested, and approved under the old code (i.e., prior to adoption of the current deferral provisions, and prior to the adoption of SUDAS standards (see Attachment B). Additionally, the lack of a sidewalk was specifically approved via a note on Preliminary Plat, because it was suggested to the Council at that time that a sidewalk was not feasible.

The subdivision code now requires sidewalks in all areas, and additionally requires bikeways when a lot is subject to a "bicycle route master plan". Nonetheless, the City has in some areas allowed shared use paths, as defined in SUDAS to meet the requirement for both sidewalks and bikeways. The frontage road on the Southern Hills West Plat does not meet the definition of a "sidewalk" because it is not improved for preferential or exclusive use by pedestrians. Although it is the only route available for pedestrians, it functions primarily as a frontage road. However, it also does not meet the definition of shared use path because it is not physically separated from the motorized vehicular traffic, and because it allows motorized users. Accordingly, the existing frontage road does not meet current code standards for either sidewalks or shared use paths. It more closely functions as a "signed shared roadway", except that it is not signed as a designated bike route as SUDAS standards otherwise describe.

The Sevde's have stated, in part, that the waiver is needed because the sidewalk is constrained by topography, trees, limited area, surface drainage, and the rural road section of the current frontage road. Upon reviewing the site, the Municipal Engineer, provided the following comments:

It appears physically feasible to install a 4-foot sidewalk just behind the Airport Road back of curb. At the west side of the property, where the ground elevation

risers, the sidewalk can be constructed toward the frontage road to then connect into the existing shared use path at an angle that we prefer. I do not recommend building an embankment to support the sidewalk since that would impact the existing street trees, as well as the capacity of the swale. Considering the alignment above, the cost (\$16 per linear foot) to install 4-foot concrete sidewalk is estimated to be \$12,800.

Public Works supports a waiver of sidewalk requirements for this project. During several past projects a frontage road has been utilized for pedestrians/bicycles due to the low volume of traffic. This includes part of the East Lincoln Way Widening project completed west of Dayton Avenue. When the Public Works Department installed Airport Road, including the shared use path, we deliberately connected the path into the frontage road as connection to the shared use path within the ISU Research Park. When this area was subdivided in 2003, it was included in the Council Action Form (approved on 08-12-2003) that "therefore there is no requirement that the developer construct a sidewalk or bike path in this location."

Based upon Public Works comments, the project would not comply with the deferral provisions for sidewalks because there are no topographic conditions that would make installation difficult. Nor would it be premature to install the sidewalks because the area is already developed with a shared use path. The only means of granting relief from the sidewalk requirement would be through the standard waiver provision of the subdivision code. As noted above, Public Works supports the request for a waiver due to expected low volume in the industrial zone and the fact that the City determined that there would be no sidewalk requirement for the original subdivision approved in 2003.

Walking and jogging have become popular activities along this corridor, and the trees and landscaping likely contribute to the appeal of the area for these purposes. Public Works finds that the frontage road is adequate for this purpose due to its low volume. The Council could, therefore, find that the waiver of the sidewalk requirement would not nullify the intent and purpose of the sidewalk regulation, thereby meeting the standards for a waiver. However, the Council should also ensure that the waiver is no more than necessary to eliminate the hardship or conform to the purpose of the regulations. Accordingly, the City could install signage along the frontage road designating the road as a "shared roadway", consistent with SUDAS standards for recreational trails.

ALTERNATIVES:

1. The City Council can grant the waiver of sidewalk requirements.
2. The City Council can deny the waiver of sidewalk requirements, and require that a minimum 4-foot sidewalk be located in the public right-of-way near the back of curb, thereby retaining the existing trees.
3. The City Council can refer this back to staff for further information or analysis.

MANAGER'S RECOMMENDED ACTION:

Based on the staff's belief that a frontage road along low volume roadways can adequately accommodate pedestrian, bicycle, and automobile traffic, it is the recommendation of the City Manager that the City Council approve Alternative #1 and grant the requested sidewalk waiver.

ATTACHMENT "A"

March 23, 2009

Honorable Mayor & City Council
City of Ames
515 Clark Avenue
Ames, Iowa 50010

RE: Request for Waiver from Section 23.403(14) for Consideration with the Minor Plat
of Southern Hills West Plat 2

Honorable Mayor & City Council:

In accordance with City of Ames Code Chapter 23.103 we are requesting a modification of regulations by the City Council pertaining to the installation of sidewalks required by Chapter 23.403(14). Sidewalks are being required along Airport Road as part of the Southern Hills West Plat 2. Under a previous platting of the area the City agreed that the frontage road would serve as the bike path along Airport Road. A bike path easement was granted to the City to that effect. The frontage road is a low traffic volume, low speed road actively used in its current condition by pedestrians and bicycles. The frontage road has been used by bicycles and pedestrians for 15 years without incident.

The installation of the sidewalk is constrained by topography, trees, limited area, surface drainage, and the rural road section used for the current frontage road. The construction of approximately 800 feet of sidewalk would add a \$15,000+ expense to a pedestrian system that is already functioning well as it is.

It is our contention that the frontage road meets the needs of the pedestrians and bicyclists and no further improvement is necessary. In addition, if a sidewalk was required, then substantial regrading and drainage improvements would be required resulting in the loss of street trees and site landscaping. We have included photos of the frontage road for your review.

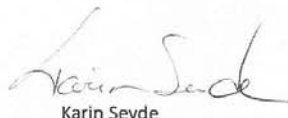
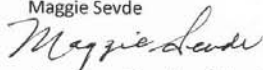
The sidewalk, if installed, would not connect to any other sidewalk. The sidewalk would only be in front of Lots 1 and 2. The frontage road currently connects the bike path at the west end at North Loop Drive and the at the east end at Riverside Drive.

Since Staff has agreed that the bike path requirements have been met (in accordance with the City's bike path Master Plan) it begs the question of when a bike path is not a sidewalk. Bike paths are commonly used by pedestrians whereas sidewalks are not used by bicyclists. Are we to infer from the City that both a bike path and sidewalk is required for this project?

Thank you for your time and consideration in this matter.

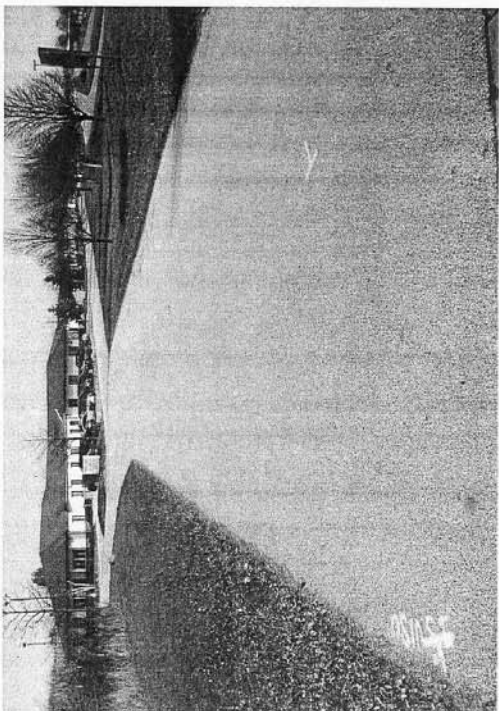
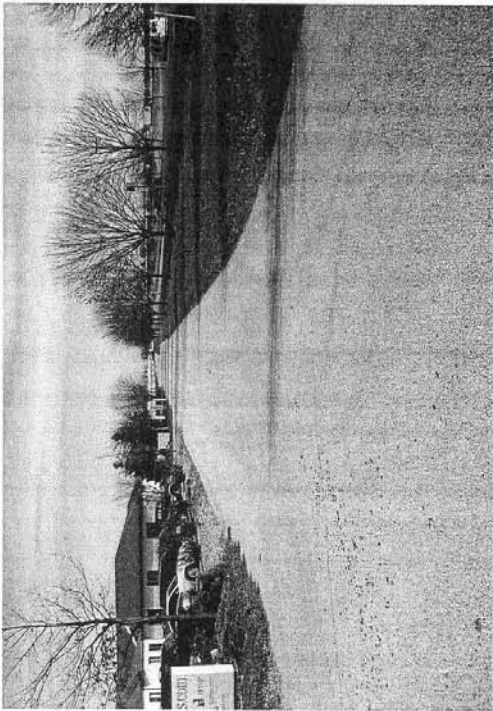
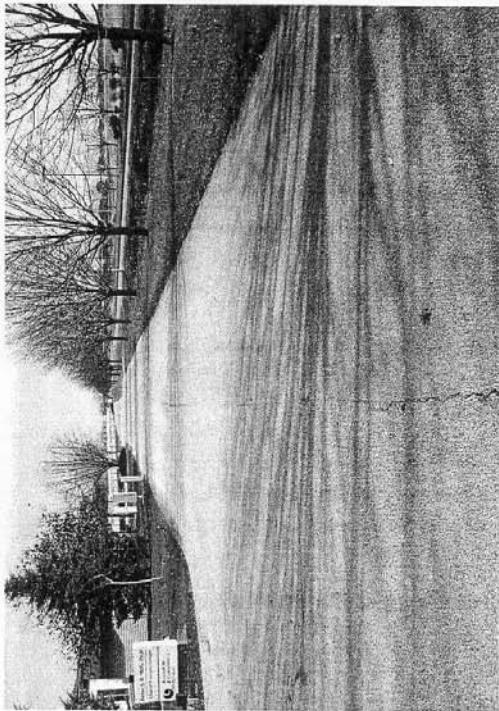
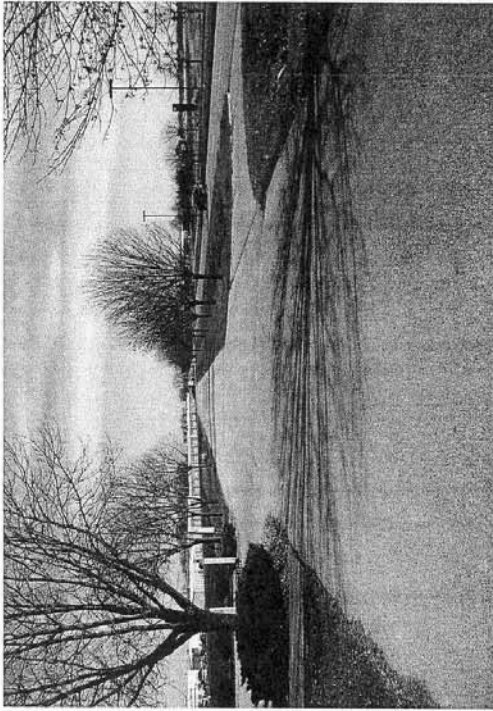
Sincerely,

Maggie Sevde



Karin Sevde

cc: Sam Perry, Planning & Housing, City of Ames
Craig Hastings, Attorney
Scott Renaud, FOX Engineering
Al Myer, Ag Leader Technology



ATTACHMENT "B"

APPLICABLE CODES PERTAINING TO SIDEWALKS AND BIKEWAYS

Current code provisions pertaining to sidewalks as found in the Ames Subdivision Code (ASC) and in SUDAS are as follows:

ASC Section 23.403(14) – Sidewalks and Walkways “. . . shall be installed in the public right-of-way . . . along at least one side of the street in industrial zoned areas”.

Definition of Sidewalk

ASC Section 23.201(29) Sidewalk. A public way ***designed and used for walking*** and located in public right-of-way or private easements.

SUDAS Section 1.3(2) Sidewalk – the portion of a public right-of-way between the curb line or lateral line of a roadway and the adjacent property that is ***improved for preferential or exclusive use by pedestrians***.

ASC Section 23.403(15) – Bikeways – A bicycle path shall be constructed in an area to be subdivided in order to conform with the Bicycle Route Master Plan adopted by the City Council. The dimensions and construction specification of any such bicycle path shall be determined by the number and type of users and the location and purpose of the bicycle path.

Definition of Bikeway - SC

SC Section 23.201(4) Bikeway: A public way ***designed to be used for bicycling***. ***“Bikeway” shall include any Bike Path***, which is a public way *separated from any highway, street or alley and designed for the use of bicycles; and any Bike Lane*, which is *a portion of a highway, street, alley or other public way reserved and marked for the exclusive use of bicycles*.

Definition of Bicycle Route System - SUDAS

SUDAS Section 1.3(6). Bicycle Route system – A system of recreational trails Bike routes should establish a continuous routing, but may be a combination of any and all types of recreational trails.

SUDAS Section 1.5 Recreational Trails Classification – Recreational Trails are classified according to their location; i.e., separated from the roadway (Shared use path) or connected to the existing road system (Bicycle Lanes or Shared Roadway).

SUDAS Section 1.3(1)(A) Class 1 - Shared Use Paths – “A recreational trail (bikeway) physically separated from motorized vehicular traffic by an open space or barrier and either within the roadway right-of-way or with an independent right-of-way. Shared use paths may be used by pedestrians, skaters, wheelchair users, joggers and other non-motorized users.

SUDAS Section 1.5(2) – Class 2 – Bicycle Lanes – “. . . an exclusive one-way lane for bicycle use only. Lanes parallel to motor vehicle travel lanes or parking lanes are designated through the use of signs and pavement markings.

SUDAS Section 1.5(3) – Class 3 - Signed Shared Roadway. Class 3 Recreational trails, also known as signed Shared Roadways, share the traveled portion of the roadway with motor vehicles and do not have striped Bike Lanes