

## Staff Report

**NEIGHBORHOOD SIDEWALK INSTALLATION**

January 26, 2010

**SIDEWALK INSTALLATION PROCEDURES / PAST PRACTICE:**

On January 19, 2010, City Council referred a request from Mark Goodale for the installation of sidewalk in the Summit Avenue/Crescent Street/Ridgewood Avenue neighborhood. This is a residential area south of Ames High School and east of the Furman Aquatic Center. It is bordered by 16<sup>th</sup> Street on the north, 13<sup>th</sup> Street on the south, and the Union Pacific northern line on the east (see attached aerial map).

As in many other communities, the installation of sidewalks within developed portions of our City has been the subject of considerable public discussion.

In 2004 the City went through the process of gaining public input on the potential for a city-wide program to proactively address the installation of sidewalks in areas currently without pedestrian or shared use facilities. At that time, City Council affirmed the policy for new developments requiring sidewalks on both sides of a street in residential and commercial areas and on one side in industrial areas. After receiving considerable public input, the Council ultimately also decided not to move forward with a proactive, community-wide installation program for these missing gap areas, except for along arterial streets that are also "safe routes to school". These latter areas, along North and South Dakota Avenue, have already been addressed through the City's Capital Improvements Plan.

State law provides for a City Council to install sidewalks at any time in cases deemed necessary. The installation of a sidewalk is a public improvement that enhances the value of abutting property, so costs may be recovered by levying special assessments. Iowa Code §384.38. When the City receives a request for installation of sidewalks, the City Council typically gauges the impact on and support of the affected neighborhood. The installation of sidewalks may be completed by the property owner at the owner's expense, or by the City under a city-administered contract. Should the City contract for construction of the walks, the costs may be specially assessed to benefited property owners upon completion of the work.

The philosophy behind this approach is that each property owner should be responsible for the installation costs of sidewalk adjacent to his or her property. In new subdivisions, the developer or homebuilder is responsible for installation of sidewalks, passing these costs along to the buyer through the sale of the lot. In infill cases, the costs may be borne by the abutting property owner through a special assessment.

For this Summit Avenue/Crescent Street/Ridgewood Avenue neighborhood, an aerial map is attached showing the areas of missing walk. Cost estimates for the City to construct sidewalks are as follows:

|   |               |
|---|---------------|
| Summit Avenue (13 <sup>th</sup> St. to Ridgewood)               | \$ 25,760     |
| Crescent Street (Summit to Ridgewood)                           | 8,535         |
| Ridgewood Avenue (13 <sup>th</sup> St. to 16 <sup>th</sup> St.) | <u>26,375</u> |
| Total:  | \$ 60,670     |

**THE AMERICANS WITH DISABILITIES ACT:**

Mr. Goodale’s recent communication contended that the present sidewalk situation in the residential area south of Ames High School may be a violation of the Americans with Disabilities Act (ADA). Mr. Goodale pointed to recent litigation in California between a disability rights organization and the department of transportation (Caltrans) as support for his assertions. The Caltrans case was resolved through a mediated settlement and therefore does not provide any legal precedent to the City regarding ADA compliance and sidewalks.

The ADA provides that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” 42 USC § 12132. In general, courts interpreting these provisions hold that local governments must maintain existing sidewalks to insure that they are accessible to disabled individuals.

There is flexibility within which cities can find compliance with the ADA. The ADA does not necessarily require the City to install sidewalks on each and every street, and on both sides of the street. However, the ADA does require that there be some kind of accessible route for disabled individuals to reach city “services, programs and activities.” Additionally, the ADA requires that where sidewalks are installed they be built in a manner that follows the federal and local standards regarding accessibility and that alternate routes be established where street maintenance and repairs are taking place.

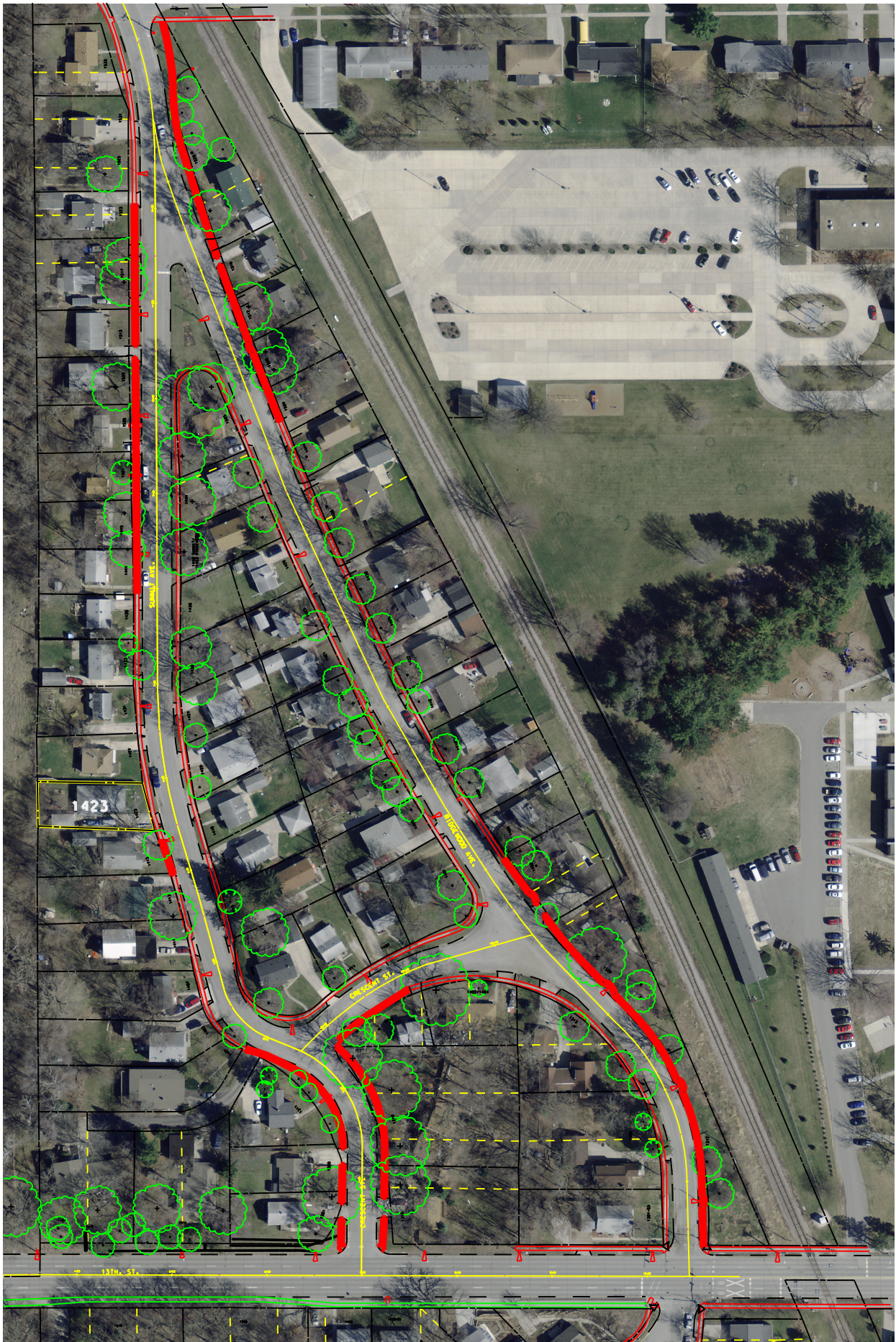
**SUMMARY:**

If a resident asserts that ADA rights are the reason why sidewalks should be installed, it may be appropriate for the City to evaluate and consider any specific mobility needs and the existing sidewalk configuration to determine whether changes are needed.

In the broader sense, if the City Council desires to initiate installation of sidewalks in in-fill situations such as along Summit Avenue, the Council has legal authority to order in those sidewalks, either at abutting property owners’ expense or at the City’s expense. During the 1980’s, the City Council did in fact initiate in-fill sidewalk construction in small portions of a few neighborhoods. Those cases were nearly all driven by groups of

citizens bringing in petitions for construction of the sidewalks, and were generally tied to safety concerns.

It should be noted that some citizens may still be opposed to this action, even if the City paid the cost for sidewalk installation, since they will thereafter become responsible for removal of snow and ice and for replacement of the sidewalk should it become cracked, heaved or deteriorated.



LEGEND

- PROPOSED WALK
- EXISTING WALK
- SHARED USE PATH

SUMMIT/CRESCENT/RIDGEWOOD  
SIDEWALK INFILL

