

ITEM #: 40
DATE: 04-23-24
DEPT: P&H

COUNCIL ACTION FORM

SUBJECT: AMENDMENT TO CHAPTER 22.31 AND CHAPTER 5.118 EXPANDING OPTION FOR WAIVERS FOR MISSING INFRASTRUCTURE IMPROVEMENT REQUIREMENTS AND AMENDING THE SUBSTANTIAL IMPROVEMENT FINANCIAL THRESHOLD.

BACKGROUND:

Last fall the City Council placed on the Planning Department work plan a referral to draft a zoning text amendment to Chapter 22 addressing the issue of limited development along non-residential streets with missing infrastructure. This referral was based upon an issue of cost and feasibility brought up by the Bob Schaeffer for a property they own on the unimproved street of Pullman.

The City Council reviewed a staff report which included options for addressing this issue and directed staff to write language addressing development proposals on existing sites along certain unimproved non-residential streets such as Pullman Street, Carnegie Avenue, Freel Drive. Staff also indicated with the referral they would review issues for other nonconforming street conditions, waiver of sidewalks in relation to Intensive Industrial zoned sites, and the sidewalk improvements triggers related to remodeling and additions, known as Substantial Improvements.

In 2015, the City of Ames established requirements that new development, as well as projects that were Substantial Improvements (building permit value of \$100,000 or more) to existing sites, would be required to construct missing public improvements that would otherwise be required with new development in subdivisions. At the time, the only trigger for finishing street paving, sidewalks, streetlights, dedicate ROW, was and actual subdivision that created new lots. This left many legacy sites without a requirement to complete infrastructure that matches current requirements or fills in missing gaps.

The 2015 ordinance set requirements tied to the issuance of building permits to allow for incremental improvements with new construction. The ordinance also defined limited waiver allowances to ensure improvements were constructed contemporaneously with development and not deferred for long periods of time that required tracking and monitoring by City staff and a hardship limitation of 20% of the project cost for additions and remodels, new development includes no hardship provision.

On occasion, as illustrated by the Shafer situation on Pullman, the missing infrastructure on unimproved legacy streets can be substantial and not match the ability of one project to make complete improvements. These improvements can involve paving streets or installing water and sewer mains or installing sections of public improvements that create undesirable partial segments of improvement that are impracticable for small projects. In other cases, significant amounts of non-conforming rights-of-way with wide accesses and parking for properties may inhibit the ability to meet current standards, such as Sondrol Avenue. This can hinder or create excessive time and cost for property owners related to their desired improvements. As a result, projects that would otherwise occur along these unimproved or atypical streets likely won't be able to proceed.

The current ordinance overall has served its primary purpose well with new development completing appropriate infrastructure extensions and filling gaps. **At this time Council is being asked to consider changes related to unique conditions of fully unimproved streets, atypical street ROW dimensions, and the Significant Improvement financial threshold. The proposed changes would create greater discretion for the Public Works Director to waive or defer improvements, primarily related to smaller projects.**

PROPOSED ORDINANCE:

Chapter 22 is the Street and Sidewalks Chapter of the Ames Municipal Code and includes the Missing Infrastructure standards and process. Chapter 5 is the City's Building Code Chapter that includes the requirement to make improvements in relation to the issuance of a building permit, including the dollar value of a Significant Improvement.

Unimproved and Atypical Streets

The proposed changes to Section 22.31 create a new section that addresses when the Public Works Director may waive some or all of the required Public Improvements when development is proposed in relation to specific streets identified in the ordinance, i.e. Pullman, Carnegie, Edison, Freel, Cherry, Sondrol, McCormick, Flemming. The language creates a threshold for what is considered limited development by allowing the Public Works Director discretion to require public improvements if a high demand on public services is determined through review. This means, it is possible for a small project to not install and or all water main, sewer main, street paving, sidewalks, street light improvements otherwise required through a waiver by the Public Work. However, if there is a health and safety need for any of these improvements to get a building permit they can still be required.

Significant Improvements

City Council determined in 2015 that all types of improvements could trigger infrastructure, if the minimum building permit value exceeded \$100,000. In 2015, it was estimated that only 25% of building permits exceed that value, excluding new construction of buildings. There is also a 20% hardship limitation, meaning if the improvement was \$100,000 a roughly a maximum of \$20,000 could be required for infrastructure as determined by the Public Works Director. Since 2015, costs have gone up for certain projects. Staff reviewed construction costs indexes of various types and found an increase in cost of 30% to 80% from 2015 to 2023.

The proposed amendment includes a higher threshold for substantial improvement to existing buildings when missing sidewalk is required in all non-residential areas across the City by proposing to raise the \$100,000 Substantial Improvement amount to \$200,000. Staff compared this threshold to building permits issues in 2023, and surprisingly the percentage of permits in relation to the \$100,000 threshold vs the \$200,000 were not substantially different. Meaning, 25% of permits were still captured either way. Staff still supports raising the number in light of known increased costs in general. The changes apply to both Section 22.31 and Section 5.118.

Other Waivers and Deferrals City Council

The current language of Chapter 22 requires Industrial zoned properties to have a sidewalk constructed on only one side of the road, following a set of predefined rules. This system also requires that if a site borders non-industrial zoning the sidewalks are automatically required. These standards were all established well before creation of the Prairie View Industrial Park. Development on these large sites along with interspersed Agricultural zoned properties has created concerns about the sidewalk

requirements specifically for new business development. An example would be the first phase of Wyffels where a sidewalk deferral was approved by City Council with no security. **Staff proposes to allow for consideration of II zoned properties differently that other sites due to these conditions and allow City Council approval of waiver or deferral that exceeds other authority of staff, which could then occur outside of a platting process.**

Staff has also added an additional option for sidewalk and shared use path deferrals for other atypical row situations are not addressed in the section above. This standard could apply to narrow rights-of-way or locations where legacy improvements may preclude sidewalk construction in the ROW or on site. An example would be Market Street that has high voltage lines in the ROW and existing site improvements may not permit adding a sidewalk. In these cases there will likely be a balancing decision about practicality of implementing the requirement related to the level of redevelopment.

Overall, the changes described above grant some limited additional flexibility in regard to timing and extent of improvements. Staff believes that the proposed changes will allow property owners to make limited improvements to their properties along these streets without imposing undue cost burden relative to the size of smaller projects. The proposed amendment does maintain that all other building code, environmental and zoning standards must be met regardless of the proposal. This means that if some infrastructure is necessary to serve the site based upon the proposed project, regardless of size, the owner would still need to extend service in accordance with those requirements at their full cost.

ALTERNATIVES:

1. The City Council can approve the proposed changes to Chapter 22.31 and Chapter 5.118 of the Ames Municipal Code allowing for waiver of missing infrastructure requirements on certain unimproved streets and raising the substantial improvement cost threshold.
2. The City Council can approve the proposed changes to Chapter 22.31 and Chapter 5.118 of the Ames Municipal Code allowing for waiver of missing infrastructure requirements on certain unimproved streets and maintaining the existing substantial improvement of existing buildings threshold of \$100,000.
3. The City Council can propose other changes to the proposed new language in Chapter 22.31 and Chapter 5.118 and direct staff to modify the draft ordinance.
4. The City Council can decline to approve the proposed changes to Chapter 22.31 and Chapter 5.118.

CITY MANAGER'S RECOMMENDED ACTION:

Staff believes that the proposed waiver allowance along the streets named in the new ordinance language is adequate to allow for limited small-scale development based upon feasibility and desirability as determined by the Public Works Director. The changes apply only to the listed streets and do not address other situations that could arise related to unique conditions. Staff also believes that raising the Substantial Improvement threshold in Chapters 22.31 and Chapter 5.118 can be seen as appropriate given the current cost of construction. Changes related to atypical ROW and to the II zoning district create a clear process for a deferral or waiver with City

Council approval that does not otherwise exist.

Therefore, it is the recommendation of the City Manager that the City Council act in accordance with Alternative #1 which is to approve the new language in Chapter 22.31 and Chapter 5.118 allowing for waiver of missing infrastructure requirements on certain unimproved streets and raising the substantial improvement cost threshold.

ATTACHMENT(S):

[Ordinance Chapters 5 and 22.PDF](#)