

Staff Report

**REQUEST FOR PARTIAL WAIVER OF PAVING FOR 700 FEET OF CEDAR LANE
RELATED TO THE ANSLEY DEVELOPMENT**

September 10, 2024

BACKGROUND:

This request is to remove the paving requirement for a portion of Cedar Lane. City Council first reviewed this request on September 12, 2023 and deferred taking action until staff could review the request in light of consideration of potential Pioneer Infrastructure policies that may be applicable to the site. The original request and staff report with background information are unchanged and [can be found at this link](#).

The paving requirement is for construction of 700 feet of Cedar Lane (See attached graphic). The 700 feet is the frontage of three parcels (two developed, one vacant) along the east side of Cedar Lane that are not included within the Ansley development. However, because the second entrance to Ansley is located south of the subject 700-foot, gravel segment of Cedar Lane, the Subdivision Code requires the Ansley developer to have a paved access to the second entrance. Fortunately, for the developer, a prior agreement will require ISU to pay half of this improvement cost.

The developer estimated his cost at \$150,000 for half of the 700 feet of road improvement in his letter to Council. Public Works estimated City costs to be approximately \$200,000 for the half street improvement of 700 feet of Cedar Lane.

The original three options to address the request are also still applicable: 1) Waive the requirement for Ansley, 2) Approve a development agreement for required improvements with full or partial responsibility assigned to the City, or 3) Take no action on the request with an option to reconsider at the time of platting of the phase with the improvement requirement (see Options section below for details).

Although City staff has not yet presented the City Council with a proposed policy related to infrastructure costs and assistance for pioneer infrastructure or oversizing, staff is bringing back this request at the request of Steve Burgason. Apparently, he needs a decision regarding this matter in order to finalize the funding for his second phase. City staff described pioneer infrastructure interests as part of the staff report to the City Council in response to the AEDC Short Term Housing Taskforce letter. The working definition is for infrastructure that is necessary to serve large areas of growth as identified within Plan 2040 or is needed to fill a gap between developable areas to make a larger area developable. Improvements could include water main extensions, sewer trunk lines, or road paving. Examples of projects include recent City water and sewer line extensions to serve growth to the east, south, and west.

Public Works and Planning staff have reviewed potential projects meeting this working definition, but have not yet reached a conclusion on cost estimates and potential financing strategies to finalize a policy with the City Council. The City Council may choose to take responsibility for all or some of the

costs for pioneer infrastructure as city projects, shared cost development agreement projects, connection districts, or as property assessments.

After considering initial pioneer examples, staff does not believe Cedar Lane clearly fits within the scope of improvements contemplated for pioneer infrastructure. This is primarily because the Cedar Lane segment serves a second entrance to Ansley and ISU land that is not currently available for development. Completing this segment does not open up additional development area. If Council believed this segment was a gap between developments, it could be treated as a pioneer infrastructure opportunity, and the subsequent question would be how to determine an appropriate cost share, if any.

The developer's requirement to pave this portion of Cedar Lane was agreed to with the rezoning and as part of the subdivision approval. The Subdivision Code requires paved access to subdivisions, which has been applied in practice as requiring at least a two-lane paved road section to subdivision entrances from existing paved roads.

There is little precedent for this situation as there have not typically been gravel roads on the periphery of developments, with two exceptions: 1) Paving Grant Avenue (Hyde Avenue) as a City street assessment project, and 2) a requirement for the former Regional Mall development to pave 570th Avenue for access to its site. Looking forward, there will be larger scale street paving questions for gravel roads within growth areas, such as 550th and 265th Street in the South Growth Area, 570th Avenue to the east, and County Line Road to the west of the City all as potential pioneer infrastructure projects. However, these are larger scale projects compared to this request.

Regardless of the Pioneer Infrastructure classification, Council could determine that a waiver of the paving requirement is justified because of "extreme hardship" to the developer or "inconsistent of the purpose of the regulations" as provided for in Chapter 23.103 of the Municipal Code. With this outcome, the developer would still be required to pave all of their Cedar Lane frontage related to Ansley. In addition, the paving would not occur unless the existing lots redevelop or the City is involved in paving the street in the future. Although one of the lots is vacant, the City currently exempts construction of new one- and two-family homes from triggering missing infrastructure improvements.

OPTIONS:

OPTION 1: Subdivision Amendment for No Paving of 700 Feet of Cedar Lane

This option would require the developer to seek approval of a new preliminary plat as a major amendment to the approved preliminary plat in order to remove paving of 700 feet of Cedar Lane. **This option would allow for consideration of a new plat and would not specify any obligation for paving of Cedar Lane related to the development.**

Future paving of Cedar Lane would be accomplished over time only if, or when, each of the properties along this road section are further subdivided. In the meantime, the road segment will remain unpaved. The Ansley developer would have no responsibility for this segment. The City could elect to pave the segment at Council's discretion at some point in the future.

With this option, the Developer would apply for a major amendment to the Preliminary Plat to consider approving the development without the paving requirement.

OPTION 2: Development Agreement for City Responsibility to Complete Paving of the 700 Feet of Cedar Lane, Rather Than the Developer

This option would not require an amendment to the subdivision approval. However, it would require an agreement with the City to share in the cost of paving Cedar Lane specifically for the 700 feet between the entrances of the subdivision. If the City Council assumes 100% of the Developer's responsibility, the current cost estimate is \$200,000 to the City. The paving would not be required until three or more years after the start of the first phase of Ansley and would be coordinated with future Ansley phases.

With this agreement, the developer would be responsible for providing plans for the improvements, but the City would be responsible for constructing the project because state law would require bidding of the project as a public improvement.

As an alternate, the City Council could commit to provide partial funding of developer's share to improve the 700 feet of Cedar Lane, rather than 100% of the developer's obligation.

With this option, staff would prepare an agreement for coordination of plans and cost sharing with the Developer as directed by the City Council. No amendment to the Preliminary Plat would be required. The agreement would be required prior to final plat approval for a future phase that would require paving of Cedar Lane.

OPTION 3: Defer Action or Decline the Request

The developer is looking forward to future phases of the project and desires clarity as to their future obligations. The current request is based upon cost escalation of the overall development since the time of the original approval related to their first phase. Future phases to the south are anticipated being ready for development three or more years from the start of the first phase. **City Council could either: 1) take no action on the request at this time by determining that the improvements to be constructed with the development are required for the project as approved, or 2) take no action at this time because the paving issue will not be required until a later phase of the project when updated cost estimates will be known along with pace of development buildout to guide a City Council decision.**

STAFF COMMENTS:

The history of paving streets has primarily been the responsibility of the development, including the example of Cedar Lane paved north of Ansley with the Ringgenberg subdivision. The developer has a 50% responsibility due to prior agreements for the property to the west of their development site and City Council has already waived the long-term extension of Cedar Lane to the south that would extend past their planned southern entrance.

The developer believes the overall costs for development of the project with the Cedar Lane paving are a hurdle to continuing with development of future phases. Cost escalation over the past two years has impacted multiple subdivisions within Ames. The developer indicated to staff that although the improvement is not required until a later phase of the project, they desire to have Council remove the obligation now to assist in the financing of upcoming phases.

City Council has not adopted a particular policy to consider infrastructure assistance for any projects and staff does not believe the 700-foot segment is truly pioneer infrastructure per staff's initial

evaluation. Although there is no infrastructure assistance policy, since last September the City has adopted a citywide property tax abatement incentive to encourage new ownership housing construction in an effort to support developers' efforts to build additional housing.

As a unique request, there are few, if any precedents to rely on in this instance. Council would have to consider the options to waive or modify the paving requirement in consideration of Subdivision criteria and how proportionally the offsite improvement relates to the development and the inherited future expense to the City for assisting with the paving.

Option 1 is the original request of the developer to remove the paving requirement, which would result in the City being the responsible party for paving the segment at a time of the City's choosing. Option 2 would also meet the needs of the developer by removing some or all of the paving cost, but with a development agreement to provide engineered plans and to share some cost as so determined by the Council.

If the City Council selects either Option 1 or 2, follow up action will be needed to modify the Plat approval or to approve an actual development agreement. Option 3 requires no further action.

ATTACHMENT(S):

[Ansley Cedar Ln.pdf](#)