

Memo

Proposed Sidewalk Ordinance Changes and Crosslot Sidewalks

Background:

Historically, questions have arisen regarding sidewalks on strips of land utilized for pedestrian use, which do not lie along the street frontage of public roads. Rather, these sidewalks most commonly run alongside lot lines between two parcels on strips of land belonging to neither abutting owner. Such sidewalks typically serve as connectors between a street and other public destinations including schools, parks, and other public streets. They have thus been termed “crosslot sidewalks.” However, in the majority of cases, ownership of the land lying under such sidewalks was indeterminate. In addition, the City code definitions and provisions regarding public sidewalks do not cover these facilities. Therefore, responsibility for their repair and maintenance has been unclear. Further, such crosslot sidewalks have not formally been accepted for public use by Council action. The need to address these questions concerning crosslot sidewalks has escalated because of the City’s sidewalk inspection program.

Per City Code, Chapter 49 – *Sidewalks*, Section 4:51. – *Definitions*, **sidewalk** is defined as follows (bold added for emphasis):

*“...shall mean any concrete or bituminous walkway, or walkway of other materials constructed **in the public right of way**, including walks and ramps leading to a crosswalk, and designed particularly for pedestrian, bicycle, or other non-motorized travel.”*

City Code does not define “public right of way” but it is a term commonly used to refer to public street rights-of-way. This definition does not, therefore, address crosslot sidewalks, thus leaving the responsibility for repair or maintenance of the crosslot walks in question.

The City has historically recognized the value of providing crosslot pedestrian connectivity as evidenced by the existence of the platted strips and easements upon which the crosslot walks lie. Provision of such pedestrian connectivity strips were recorded on subdivision plats or site condominium documents duly approved by the City.

Further, in the adopted *City of Ann Arbor Non-Motorized Master Plan*, Section 2.6, *Travel Within Neighborhoods*, clearly states that “Non-motorized connectivity between adjacent residential, commercial, and institutional developments shall be provided.”

Staff Research

A work group comprised of staff from Field Operations, Project Management, Systems Planning and the City Attorney’s Office was assembled to inventory the locations of existing crosslot sidewalks or strips of lands established for pedestrian use. Eighty-three such crosslot walks were identified and data gathered for them, including photographs, walk conditions and related documents. To shed light on ownership status of the strips of land, and to determine if such

crosslot sidewalks appeared to have been intended for public use, copies of the subdivision plats or condominium master deeds upon which the walk strips lay were located and reviewed as applicable.

Six of the identified crosslot walks were determined to lie on City-owned property where the City's responsibility to maintain and repair the walks is clear.

Another fourteen locations are strips of land platted for pedestrian use but which do not physically contain a sidewalk. These locations are not affected by this ordinance recommendation.

One sidewalk was determined to lie within a private road and another was determined to be functioning as an alley or driveway rather than as a sidewalk. Thus, neither function as a public crosslot sidewalk.

With the determination that no further research was needed on the above referenced twenty-two crosslot sidewalks, the group focused on the remaining sixty-one crosslot walks. Issues researched included: whether the strips of land upon which the walks lay had been in any way dedicated to the public; whether the City had accepted such walks for public use; and, whether there was any evidence that documents such as covenants and restrictions placed the obligation for repair and maintenance upon entity other than the City, such as a homeowners association.

Research Results:

Upon completion of its research, the group determined that thirty-three of the sixty-one crosslot walks lay upon land which had either been dedicated for public use via plat or had otherwise been specifically granted through an easement for pedestrian use to the City. It was further determined that these thirty-three existing sidewalks are serving a public purpose, and that no other potential legal or physical issues related to their proposed acceptance were identified.

The remaining twenty-eight crosslot walks require further study and possible additional actions beyond the scope of this proposed ordinance change before they can be considered for acceptance as public walks. However, the staff work group's recommendation is to proceed with the proposed ordinance changes to enable the formal acceptance of the thirty-three crosslot walks as public sidewalks.

Recommended Actions:

In order for the thirty-three referenced crosslot sidewalks to be accepted as "sidewalks" per City Code Chapter 49, the staff work group has determined that a three-step process should be taken:

1. Revise the definition of "sidewalk" per Chapter 49 to include walks that "*lie upon an easement or strip of land taken or dedicated and accepted for public use for pedestrian purposes.*" This will allow for these crosslot sidewalks to be treated in the same manner as sidewalks fronting on public streets. Language is also included to clarify that in

instances where plat or condominium documents explicitly task a non-City entity with repair and maintenance of such walks, such responsibility would be unchanged by the definition revision.

2. Following first reading of the proposed ordinance change, staff will send a notice to all property owners abutting the thirty-three crosslot sidewalks informing them that a resolution to formally accept such walks for public use is upcoming. This notice will include an invitation to an informational meeting with the staff work group as well as an invitation to comment upon the proposed ordinance change and resolution of acceptance.
3. Set second reading of the ordinance change to occur at the second regular City Council meeting following the first reading (to allow time for comment and public engagement) and at the same meeting present a resolution to formally accept the previously described thirty-three crosslot sidewalks for public use.