



City of Billings

PUBLIC WORKS DEPARTMENT



ENGINEERING DIVISION
2224 Montana Avenue
Billings, MT 59101
Office (406) 237-6204
Fax (406) 237-6291

May 20, 2019

Introduction

City staff has prepared a packet of information to address issues that were brought up at the city council meeting on May 13, 2019 in regards to the Missing Sidewalk Program. The packet includes information regarding the authority of the city to require sidewalks, program communication, purpose of this year’s locations, and details for each property on 54th Street West. We did not include details for other locations as we addressed concerns with the property owners directly and they were not discussed at the city council meeting, however, we can provide information on individual locations if requested.

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7-14-4109. Power to order certain improvements without creation of special improvement district.

(1) Without the formation of a special improvement district, the city council may order sidewalks, curbs, or gutters constructed in front of any lot or parcel of land and may order alley approaches constructed or replaced adjacent to any lot or parcel of land.

(2) Whenever the council orders a sidewalk, curb, or gutter constructed or an alley approach constructed or replaced, the order must be entered upon the minutes of the council and must name the street along which the sidewalk, curb, or gutter is to be constructed or along which the alley approach is to be constructed or replaced.

(3) After issuing an order, the council shall provide a written notice to the owner or agent of the owner and to any purchaser under contract for deed of the property or the owners or agents of all adjacent owners having access to their properties by the alley approach, as appropriate.

(4) If the owner or agent of the owner of a lot or parcel of land or if the owners or agents of all adjacent owners having access to their property by the alley approach fail or neglect for a period of 30 days after the date of service of the notice to cause the sidewalk, curb, or gutter to be constructed or to cause the alley approaches to be constructed or replaced, the city may construct or cause the sidewalk, curb, or gutter to be constructed or may construct or cause the alley approach to be constructed and shall assess the cost of those improvements, including engineering costs and the costs enumerated in 7-12-4121 and 7-12-4169, against the property in front of which those improvements are constructed or against the lots or parcels of land having access via the constructed alley approaches. The collection of the assessed costs is provided in 7-12-4181 through 7-12-4191.

(5) (a) When any sidewalk, curb, or gutter or alley approach is constructed by or under direction of the city council, payment for the construction must be made by special warrants or bonds in a form that is prescribed by ordinance or resolution and drawn against a fund to be known as the special sidewalk, curb, and gutter fund or the special alley approach fund. The council may provide for the payment of interest annually or semiannually. Except as otherwise expressly provided in 7-14-4110 and this section, the warrants or bonds that the city council authorizes may be issued subject to the terms and security provisions provided in Title 7, chapter 12, parts 41 and 42.

(b) The warrants drawn on the special alley approach fund shall bear interest at a rate pursuant to 17-5-102.

City of Billings Sidewalk Resolution: 18-10719

RESOLUTION 18-10719

A RESOLUTION REPEALING 99-17447 AND 04-18137 AND ADOPTING THE CITY OF BILLINGS POLICY FOR CONSTRUCTION AND REPAIR OF CURB, GUTTER AND SIDEWALKS

WHEREAS, the City of Billings desires to construct and maintain a safe and efficient street network, including the installation and maintenance of curb, gutter, and sidewalk, and

WHEREAS, the safety of pedestrians is a concern properly addressed by the City of Billings, and

WHEREAS, streets within the City of Billings not previously constructed to a full maintainable standard, including the installation of curb, gutter, and sidewalk should be upgraded on an ongoing basis, and

WHEREAS, curb, gutter, and sidewalk improvements, once installed, need to be subject to a regular maintenance program;

WHEREAS, for the purpose of this resolution, residential properties are defined as lots or parcels with single family or duplex dwelling units on it. Non-residential properties are defined as lots or parcels with commercial buildings on it and lots or parcels with 3 or more residential dwelling units on it.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

Installation of New or Missing Curb, Gutter, and Sidewalk Improvements in Established Neighborhoods

For this program, curb, gutter, and sidewalk, together with or without corresponding street improvements are completed within those areas of the city where the work has not previously been addressed.

1. The City Engineer's office shall periodically recommend infill improvements to the City Council based on one or more of the following:
 - a. Citizen request.
 - b. Staff recommendations.
 - c. Coordination with other projects.
 - d. Along school walking routes.
 - e. Other public interest.
2. Improvements are to be assessed to fronting property owners.

City of Billings Sidewalk Resolution *Continued*: 18-10719

3. For residential corner lots, improvements along the addressed side of the lot and private property specific improvements (i.e. drive approaches) along the non-addressed side serving the property will be assessed to the property owner. All other improvements along the non-addressed side of the lot will be paid by the City.
4. For non-residential corner lots, improvements along both sides will be assessed to the property owner.

Repair and Maintenance of Existing Curb, Gutter and Sidewalk Improvements

These projects provide for the ongoing maintenance of curb, gutter and sidewalk previously constructed. The general policy for repair and maintenance programs is as follows:

1. The City Engineer's office shall periodically recommend repair and maintenance programs based upon:
 - a. Complaints.
 - b. Staff recommendations.
 - c. Property owner requests.
2. The City Engineer's office has developed a policy statement for defective sidewalk, curb, and gutter and driveways which shall be used as a baseline for the inventory of work recommended for repair, followed by discussions with individual property owners.
3. The following construction costs are assessed to the fronting property owners as follows:
 - a. Sidewalk repair or replacement.
 - b. Landscaping necessary for sidewalk repair or replacement.
 - c. Tree removal necessary to repair sidewalk.
 - d. Drive approaches and driveway repair or replacement.
 - e. Adjacent asphalt to assessed improvements
4. Curb and gutter repair or replacement, storm drain improvements, and adjacent asphalt will be paid for by the City of Billings.
5. For residential corner lots, improvements along the addressed side of the lot and drive approaches along the non-addressed side serving the property will be assessed to the property owner. All other improvements along the non-addressed side of the lot will be paid by the City.

City of Billings Sidewalk Resolution Continued: 18-10719

6. For non-residential corner lots, improvements along both sides will be assessed to the property owner.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, this 14th day of May 2010.



CITY OF BILLINGS

By: William A. Cole
William A. Cole, Mayor

ATTEST:

By: Toni Kechner
Toni Kechner, Deputy City Clerk

Billings Municipal City Code: Article 13-1200

ARTICLE 13-1200. - FINANCING SIDEWALKS REPAIRS

Sec. 13-1201. - Purpose.

The purpose of this program is to provide financial assistance to real property owners by allowing alternative payment options to address the replacement or repair of a sidewalk which has been identified as posing a public hazard.

(Ord. No. 18-5707, § 1, 5-29-18)

Sec. 13-1202. - Scope.

Upon receipt of notice to the real property owner where a sidewalk hazard has been located, the owner will have thirty (30) days to execute the described remedy outlined in the notice. If the property owner fails to complete the required repairs then the city shall construct or cause such sidewalk to be constructed and shall assess the cost thereof against the property in front of which the same are constructed.

(Ord. No. 18-5707, § 1, 5-29-18)

Sec. 13-1203. - Sidewalk construction programs.

All sidewalk repairs will be classified as appropriate for either the annual sidewalk construction program or the on-going sidewalk construction program by the city engineer at the time the sidewalk defect is identified.

(Ord. No. 18-5707, § 1, 5-29-18)

Sec. 13-1204. - Payment of construction cost—Annual sidewalk program.

Sidewalk repairs categorized in the annual sidewalk construction program will be ordered in by resolution by city council. Payment for the construction costs including engineering, inspection, and administrative costs must be made by special warrants or bonds.

(Ord. No. 18-5707, § 1, 5-29-18)

Sec. 13-1205. - Same—Ongoing sidewalk program.

Upon completion of construction of the sidewalk by the city for a repair categorized in the ongoing sidewalk construction program, an invoice for the total cost of the sidewalk including construction, engineering, inspection, and administrative costs will be sent to the real property owner. The real property owner will have sixty (60) days to pay the assessed amount in whole.

(Ord. No. 18-5707, § 1, 5-29-18)

Sec. 13-1206. - Property lien—Upon nonpayment of ongoing sidewalk construction program cost.

If any portion of the assessed amount remains unpaid for a period of more than sixty (60) days after the city has made proper notification, the city may impose the total amount due as a special assessment lien against the property. Interest will accrue and be assessed from sixty-one (61) days after the invoice date until the time all assessed costs are received by the city.

(Ord. No. 18-5707, § 1, 5-29-18)

Sec. 13-1207. - Payment of assessment in installments—Eligibility for ongoing sidewalk construction program costs.

If the total assessed amount is less than five hundred dollars (\$500.00) the assessment will be due and payable in one lump sum to be paid at the same time as other property taxes and assessments. The real property owner may apply for an exception with the public works director or designee. For amounts five hundred dollars (\$500.00) or greater, the assessment may be payable in installments to be paid at the same time as other property taxes and assessments each year for five (5) years.

(Ord. No. 18-5707, § 1, 5-29-18)

Billings Municipal City Code *Continued*: Article 13-1200

ARTICLE 13-1200. - FINANCING SIDEWALKS REPAIRS

Sec. 13-1208. - Application for installment exception.

A real property owner who has received an assessment of less than five hundred dollars (\$500.00) being payable in one lump sum may request an exception from the public works director or designee to have the assessment distributed over a period of five (5) years. An application will be provided upon receipt of request from the real property owner.

(Ord. No. 18-5707, § 1, 5-29-18)

Sec. 13-1209. - Security agreement requirement.

If the assessment amount is to be imposed as a special assessment lien against the property and qualifies for payment in installments, the real property owner must execute a security agreement to be filed of record that the loan plus any accrued interest will be paid in full upon the death of the owner provided the spouse is not also a legal owner of the property or upon sale or any other disposition of property.

(Ord. No. 18-5707, § 1, 5-29-18)

Sec. 13-1210. - Failure to execute security agreement.

If the real property owner fails to execute the required security agreement, the assessed amount will become ineligible for payment in installments and the total amount owing will be due and payable in one lump sum to be paid at the same time as other property taxes and assessments.

(Ord. No. 18-5707, § 1, 5-29-18)

Sec. 13-1211. - Assessment of unpaid costs.

Annually the public works director or designee shall prepare a list of all parcels of real property from which sidewalks were replaced or repaired and assessed costs have not yet been paid. The assessment list shall be incorporated into a special assessment resolution and presented to the city council. Upon passage of the resolution, the assessments stated therein, together with interest costs shall constitute a special assessment lien upon the lot. Failure of the owner to pay the special assessment lien may be recovered according to the provision and authority of MCA 7-14-4122.

(Ord. No. 18-5707, § 1, 5-29-18)

Sec. 13-1212. - Interest rate.

A fixed interest will be charged on all costs remaining unpaid after a period of more than sixty (60) days at the assessed interest rate as determined by the most recent bond issue sold for the annual miscellaneous sidewalk, curb and gutter improvements program.

(Ord. No. 18-5707, § 1, 5-29-18)

Sec. 13-1213. - Creation of sidewalk hazard fund.

There is hereby created a sidewalk hazard fund from which loans for the purposes of this ordinance shall be made. The city shall transfer moneys from the gas tax fund to the sidewalk hazard fund as required up to the budgeted amount authorized by city council. The city shall disburse moneys from the sidewalk hazard fund to the contractor on behalf of the property owner. All proceeds from the assessment payments and accrued interest shall be deposited in the sidewalk hazard fund. At any time, the public works director or designee determines that there is more money in the sidewalk hazard fund than is necessary to carry out the intent of this ordinance the excess shall be returned to the gas tax fund as repayment of the advance. It is intended that the sidewalk hazard fund will eventually be supported by interest earnings.

(Ord. No. 18-5707, § 1, 5-29-18)

Program Communication:

The state law requires that property owners are notified after the city council passes the resolution. However, city staff has always communicated multiple times with property owners before sidewalks are installed in front of their property. This year, all property owners with missing sidewalk were notified in a letter sent in February that sidewalk was planned to be installed and that they would be getting additional information regarding the project and the cost to them. We received five phone calls after this letter went out. A second letter went out to property owners in April letting them know the assessment information and the schedule for when council would act on the resolution and when construction would begin. We received calls from 19 property owners after that letter was sent. The third letter went out Friday, May 17 in accordance with the state law that requires notice of passage of the resolution. This letter starts the “30 day” clock for work to be done by the property owner instead of the city. Our letter actually says they need to apply for the permit within 30 days but we give them another 60 days to complete the work knowing that it is hard to get a contractor lined up quickly.

At the city council meeting, I indicated that the letter sent in April met a 30 day requirement, which it does for tripping hazards, not missing sidewalk. We use the same letter for all of the property owners in the program which includes all missing sidewalk and sidewalk in need of repair. City code 13-1202 gives property owners 30 days from the dates of notice of the tripper to repair their sidewalks so we need to ensure that the tripping language is included in the letter. As I stated above, there is not a notification requirement for missing sidewalk but staff does it to try to give property owners as much time as possible to prepare so we send the two letters prior to the council action.

The three letters are included for your information.

Program Communication Continued:

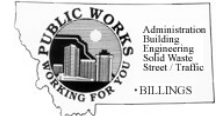
Missing Sidewalk Letter- February 2019



City of Billings

**Public Works Department
Engineering Division**

2224 Montana Avenue
Billings, Montana 59101
Office (406) 237-6204
Fax (406) 237-6291



Dear Property Owner,

In an effort to promote safety, as well as improve the appearance of our neighborhoods, the City of Billings adopted a comprehensive policy for construction and repair of sidewalks, and curb and gutter, drive aprons and other right-of-way features through a construction program administered by the City. Your property has been added to this year's program and we will be installing sidewalk fronting your property this construction season.

The City's Program constructs public improvements fronting property by selling bonds and assessing the cost of the improvements, including bond costs and project administration, back to the property owner over a period of 12 years. For residential lots, improvements along the addressed side of the lot and private property specific improvements (i.e. drive approaches) along the non-addressed side serving the property will be assessed to the property owner. All other improvements along the non-addressed side of the lot will be paid by the City. Our office is working on the creation of this project. Later this spring you will receive a notice with more details including estimated costs and your options.

Please contact me with any other questions or concerns you may have at (406) 237-6204 or bishoptr@ci.billings.mt.us.

Sincerely,

Travis Bishop
Engineering Construction Inspector II
(406) 237-6204
bishoptr@ci.billings.mt.us

Program Communication Continued:

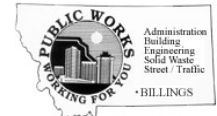
Initial Notice to Property Owners Letter- April 2019



City of Billings

**Public Works Department
Engineering Division**

2224 Montana Avenue
Billings, Montana 59101
Office (406) 237-6204
Fax (406) 237-6291



Dear Property Owner,

In an effort to promote safety, as well as improve the appearance of our neighborhoods, the City of Billings adopted a comprehensive policy for construction and repair of sidewalks, and curb & gutter, drive aprons and other right-of-way features through a construction program administered by the City. Properties are added to the project due to following reasons:

- 1.Complaints
- 2.Staff recommendations
- 3.Property owner requests
- 4.Pedestrian safety hazards

The City's Program constructs public improvements fronting property by selling bonds and assessing the cost of the improvements, including bond costs and project administration, back to the property owner over a period of 12 years. Your property will be added to this year's program. Attached is information showing the necessary work fronting your property including estimated costs. Typically, the cost to repair or construct sidewalk and drive approaches is the responsibility of the property owner and the cost to repair curb and gutter is borne by the City. If there is a tripping hazard fronting your property, the city is required to send out a 30-day notice to you. Please consider this to be your 30-day notice to correct the tripping hazard.

You do have the option to hire a contractor to complete the work yourself. If you would like to hire your own contractor or have any concerns, please feel free to contact me at (406) 237-6204. I can identify the concrete features that need to be replaced/install in order for you to get a bid from a contractor. Our office would be happy to set a time to meet with you at your location to discuss options and methods to achieve the required repairs and how to proceed.

Finally, if you do not elect to do the work yourself, you will be included in this year's program. The project will be presented to city council for approval on May 13th. Construction will begin in June with completion by the end of October. The improvements at your property will be completed somewhere in that time frame.

If you have any questions or concerns please feel free to contact me at (406) 237-6204 or by email at bishoptr@ci.billings.mt.us.

Sincerely,

Travis Bishop
Engineering Construction Inspector II

Attachment:

Program Communication Continued:

30-Day Notice to Property Owners Letter- May 2019



City of Billings

PUBLIC WORKS DEPARTMENT

ENGINEERING DIVISION

2224 Montana Avenue

Billings, MT 59101

May 17, 2019

Dear Property Owner:

At the May 13th City Council meeting, Council passed a resolution that formally created the Missing Sidewalk project. The improvements detailed in the estimate mailed to you in the April 25th letter were included in the resolution and are required to be completed. Below is a description of the options available to you to complete the work:



- 1) Homeowners may hire a contractor of their choice to complete the work. Contractors must be licensed, bonded, and insured to work within the public right-of-way. If you elect to complete the improvements yourself, the improvements must be fully designed, inspected, permitted, and meet all City of Billings requirements. Please contact our office to discuss the arrangements if interested in this option. We will make appointments to meet with you or your representative at the job location to explain what work needs to be done, and the process that must be followed.

If you choose this method, you will have 30 days from the mailing of this notice to select an approved contractor, and have the contractor apply for a permit through the City Engineer's Office. After the permit is issued, the work must be completed within 60 days.

As shown on the estimate mailed to you with the April 25th letter, work items directly assessed are shown in bold and are coded "BR" (Bond Related) under the title fund. The remaining items were to be paid by the City. Please note that if you choose to hire a contractor to complete these improvements yourself, City funds will not be eligible to offset the cost of completing the improvements.

- 2) The second option is to let the improvements be completed with the missing sidewalk project. If you elect this option, improvements will be completed as detailed on your preliminary estimate. Final assessments to property owners will be based upon bid prices received by the contractor and actual quantities installed.

After the project construction is completed and final assessments have been determined, the City will send you a notice of the assessment amount that will be placed on your property taxes. The letter will also include contact information for the City Finance Department where you can get information about paying off the assessment at any time after it has been placed on taxes.

We anticipate construction to start the middle of June, 2019. The contractor will work through October to try to complete the work. Please remove any landscaping items within the right-of-way that may interfere with the work that you would like to keep, i.e. plants, bushes, small trees, fences, landscape rock, etc. prior to the start of construction. Functioning sprinkler systems damaged during the work will be repaired by the construction contractor. A door hanger will be left at your house prior to the construction adjacent to your property.

If you have questions or would like additional information, please contact me at (406) 237-6204 or at bishoptr@billingsmt.gov. Thank you.

Sincerely,

Travis Bishop
Engineering Inspector II

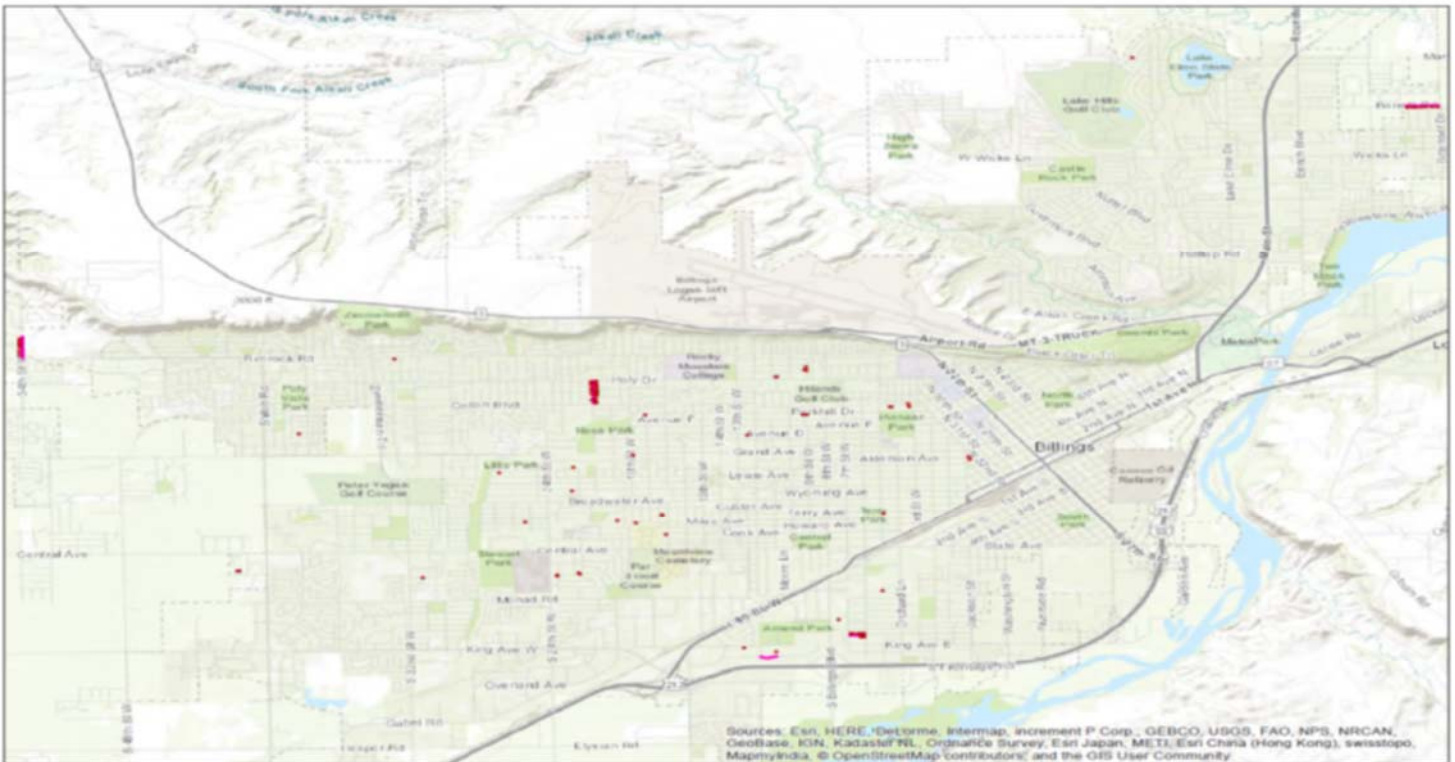
Summary of Purpose:

Priorities:

- Arterials/collectors
- School routes
- Heavily traveled pedestrian routes
- Throughout city instead of one area

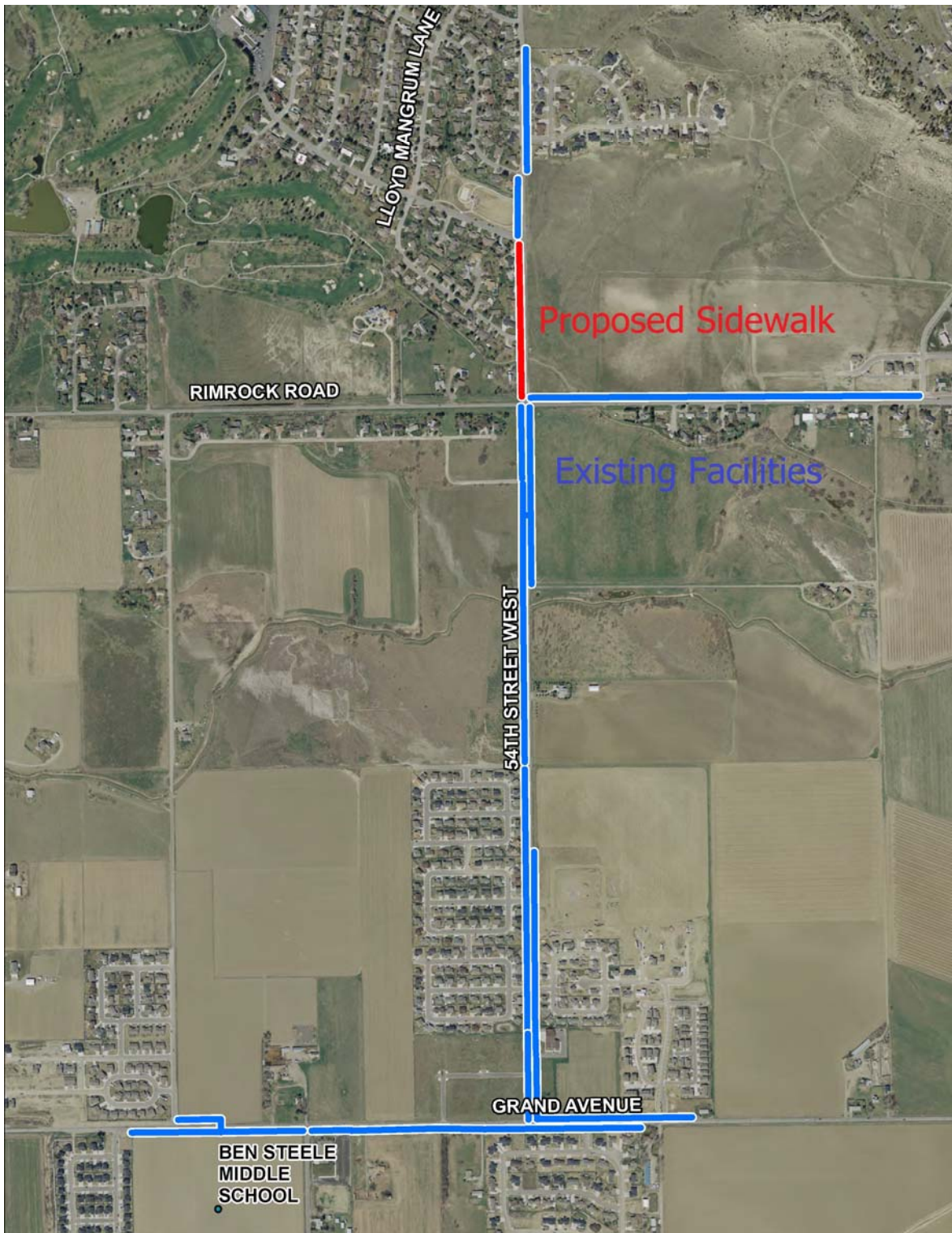
Purpose of sidewalk:

- Murphy: Connection to Newman School
- Barrett: Connection to Medicine Crow
- 54th St W: Connection from Yellowstone Club subdivision to trail system around Ben Steele
- 21st St W: Connection to Rose Park Elementary, Poly Drive School, St. Francis School, and Rose Park
- Southgate: Commercial street with high pedestrian usage – triggered by citizen complaints



Summary of Purpose *Continued*:

There has been a significant amount of work done by several projects and developments to make good multimodal connections in the Rimrock/54th Area. The trail on Rimrock is completed all the way into Shiloh road where it continues on both Shiloh and Rimrock. The trail on 54th is complete south to Grand Ave where it connects with the trail/sidewalk system going to Ben Steele. The sidewalk also connects to sidewalk to the north of Bobby Jones Boulevard. The map below shows the area trail/sidewalk system.



Subject Property Detail: 5407 Rimrock Road



Property owner assessment: \$0
City contribution: \$14,000
Sidewalk location: Curb walk

Issues:

New wall – *located on property line so sidewalk will be outside of wall*

Mailbox – *will be between sidewalk and curb*

Program communication letters:

February, April, May

Property owner communication:

Coordination about wall



Subject Property Detail: 3003 Lloyd Mangrum Lane



Property owner assessment: \$0
City contribution: \$11,000
Sidewalk location: Boulevard and curb walk

Issues:

Fence and landscaping – *will be moved*

Trees – *curb walk around trees,. Will need to be trimmed*

Program communication letters:

February, April, May

Property owner communication:

Discussed project. Property owner was not opposed to sidewalk during discussion.



Subject Property Detail: 3004 Lloyd Mangrum Lane



Property owner assessment: \$0
City contribution: \$11,000
Sidewalk location: Boulevard*

Issues:

Fence – *will be moved by property owner or contractor*

Program communication letters:

February, April, May

Property owner communication:

Concerned about storm drainage – we are working with him to determine issue and see if there is a fix. This is unrelated to sidewalk. Property owner has not expressed concerns about sidewalk.

*Will work with property owner to see if curb walk is desired



Subject Property Detail: 3012 54th Street West



Property owner assessment: \$6,200

City contribution: \$0

Sidewalk location: Boulevard

Issues:

Mailbox – *will be between sidewalk and curb*

*Planned that driveway can be used as sidewalk to save money

Program communication letters:

February, April, May

Property owner communication:

Property owner left message that she was against the project. We returned call to discuss. Unsure of property owner position after conversation. No specific concerns to address.



Subject Property Detail: 3018 54th Street West



Property owner assessment: \$4,700
City contribution: \$0
Sidewalk location: Boulevard

Issues:

Boulder – *can be shifted by contractor to one side of sidewalk*

Mailbox – *will be between sidewalk and curb*

Shorter driveway – *Currently approx. 50 feet between garage and street. If the existing driveway is used for sidewalk (money savings), the driveway will be 40 feet before the sidewalk. If drive approach is replaced and curb-walk installed, 43 feet.*

Storm drainage – *sidewalk won't make this worse. We are working with property owner to see if it can be improved.*

Program communication letters:

February, April, May

Property owner communication:

Discussed all concerns. Property owner generally does not want project to move forward.



Subject Property Detail: 3104 54th Street West



Property owner assessment: \$9,000*

City contribution: \$0

Sidewalk location: Boulevard

Issues:

Tree – *sidewalk will meander around tree*

Mailbox – *will be between sidewalk and curb*

Eminent domain – *existing right of way is sufficient for sidewalk*

Landscape and irrigation – *will be restored after construction*

Program communication letters:

February, April, May

Property owner communication:

Has not communicated directly with staff.
Letter to council with concerns listed above.

*Will try to use existing driveway to reduce this cost, however, condition may be an issue.



Subject Property Detail: 3112 54th Street West



Property owner assessment: \$10,500

City contribution: \$1,425

Sidewalk location: Boulevard and curb walk

Issues:

Mailbox – *will be between sidewalk and curb*

Landscaping– *may use some curb walk to avoid existing landscaping. Property at corner is owned by city and landscaping is maintained by a PMD. Will work with Parks Dept for this section.*

Program communication letters:

February, April, May

Property owner communication:

Property owner has not contacted city staff.

