

COPY

MEMORANDUM

TO: Robin Eschliman, City Council

FROM: Greg MacLean, Public Works and Utilities
Marvin Krout, Planning Department 

SUBJECT: REQUEST FOR INFORMATION #16: Private Streets

DATE: October 28, 2008

COPIES: City Council
Roger Figard, Dennis Bartels, Public Works & Utilities
Planning staff

Question: How is it that streets in some developments are private?

Answer: Developers have the option of choosing private or public streets for their development.

Discussion: Some developers choose private roadways because they can be built to a different standard than city streets and may save on construction costs. In addition, private roadways are often platted in a 27 foot wide outlot compared to a 60 foot wide right-of-way for public streets. This often places utilities and sidewalks on private property rather than in the public right-of-way. In some circumstances the 27 foot outlot rather than 60 foot right-of-way may allow for more lots to be developed. Particularly in narrow development parcels and in townhomes developments there are more private roadways.

Background:

The specific private street stated in the email attached to RFI #16 is in relation to S. 85th Circle in Pioneer Greens, one block south of Pioneers Boulevard. This mixed use development was approved by the City Council in 1998. The developer chose private streets for the townhome and commercial area and public streets for the single family detached home portion of the subdivision. The private streets in the townhome area (see air photo on the next page) allowed the developer to have 120 foot deep lots with deeper 150 foot lots next to 84th Street.

Private streets are the responsibility of the homeowner association to maintain, including snow plowing. This is a standard requirement for any development with private streets. The City requires this for the following reasons:

1. Since the street is private property there is the question of liability for doing the work. During snow removal or other maintenance there is damage that occurs to the paving, to the adjacent sod, to mailboxes and to vehicles parked along the street. On public streets Public Works and Utilities can decide the extent and timing of repairs. On private property the liability for the repairs may be out of the City's control. On public streets the city can ban parking and tow vehicles that prevent proper or expedient snow removal. On private streets no such authority exists.
2. Sidewalks, lot lines, and buildings on private streets are typically closer to the paving than a public street. This is the case in Pioneer Greens. This would cause the need to use special equipment costing more time and money to plow snow to avoid damage to private property and have a place to pile the plowed snow. Plowing snow onto private property outside the public access easement on which private roads are located or onto

the sidewalks close to the paving is a potential liability not addressed by current ordinances or easements. Bucketing snow out of these areas to avoid this liability would be an added expense not found on public streets.

3. The city presently struggles to meet expectations for removal of snow on local streets. Assuming this obligation on private streets that would be more expensive and time consuming to perform is not good policy.

Private roads by definition are privately owned and located on private property. Approval of the Pioneer Greens special permit had a specific condition that stated: "All privately owned improvements shall be permanently maintained by the owner or an appropriately established home owners association approved by the city attorney." The City therefore has no obligation and probably no authority to perform snow removal or other street maintenance.

If the developer had any cost savings due to the road construction or by developing additional lots, some of this savings could have been passed to the first lot buyers.

The attached email also asked why taxes were not reduced for properties with less city maintenance. Various properties in the city may require more or less services. Some residents pay taxes to the school district, but don't have children. Apartment residents pay wheel taxes, but don't get their driveways in their complex maintained by the City. Some areas have higher costs to maintain utilities and parks than others. It would be enormously difficult and time consuming to develop a system to track all the differences and adjust taxes accordingly.

