

Arguments Against the Proposed NE 18th Street Overpass

The Cost of the NE 18th Overpass is Not in the Best Financial Interests of Ankeny at this Time:

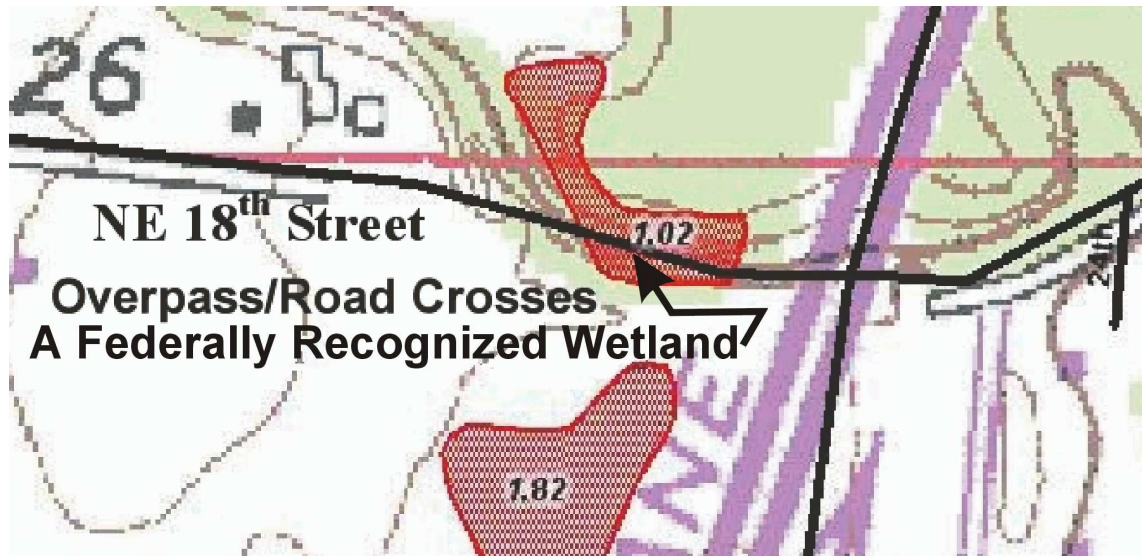
- a) Housing is beginning to slow down. Expending additional resources at this time would be an unwise use of taxpayers money.
- b) Interest rates are rising which means financing will be more expensive.
- c) At some point Ankeny's bond rating may suffer as debt accumulates increasing the financial burden on the city.
- d) No federal or state funding has been obtained at this time.
- e) The construction of two bridges will be required along with the creation of a frontage road. This will be quite costly.
- f) This is an expensive project with many engineering problems.

Engineering Problems:

- a) The road crosses a federally recognized wetland and flood plain areas which would increase costs or make the project potentially impossible or impractical.

From the NE 18 Street Feasibility Study Ankeny, Iowa Project No. 104.0640

Environmental impact to Fourmile Creek was limited to filling in the floodplain and crossing a recognized wetland shown on the current National Wetland Inventory (NWI) map.



- b) There will be significant filling in of the floodplain fringe on both sides of I-35 which will reduce the water storage buffer area. Ankeny was supposed to be mitigating the expansion of flooding in the area not making the problem even worse.

Flood Protection

Reference: U.S. Environmental Protection Agency. 1995b. America's wetlands: Our vital link between land and water. Office of Water, Office of Wetlands, Oceans and Watersheds. EPA843-K-95-001.

Wetlands function as natural sponges that trap and slowly release surface water, rain, snowmelt, groundwater and flood waters. Trees, root mats, and other wetland vegetation also slow the speed of flood waters and distribute them more slowly over the floodplain. This combined water storage and braking action lowers flood heights and reduces erosion. Wetlands within and downstream of urban areas are particularly valuable, counteracting the greatly increased rate and volume of surface-water runoff from pavement and buildings. The holding capacity of wetlands helps control floods and prevents water logging of crops. Preserving and restoring wetlands, together with other water retention, can often provide the level of flood control otherwise provided by expensive dredge operations and levees. The bottomland hardwood- riparian wetlands along the Mississippi River once stored at least 60 days of floodwater. Now they store only 12 days because most have been filled or drained.

- c) There is a lack of fill dirt on the east side of the interstate which will increase costs.

From the NE 18 Street Feasibility Study Ankeny, Iowa Project No. 104.0640

One drawback would be obtaining borrow on the east side of Interstate 35 without a long haul route. It may be necessary to have two borrow sites for this project.

d) There are alignment problems due to the presence of the wetlands, existing flood plain areas and existing residential housing. The bridge is not intersecting the interstate at a right angle (not perpendicular) increasing construction costs.

e) There is no way to maintain the aesthetic qualities of the area. A reduction of quality of life and property values will occur for existing residents. The removal of numerous large Oak trees and other trees will increase costs and reduce the aesthetic quality of the area. The oxbow pond located on 2480 NE 102nd Avenue will be filled in also increasing costs and damages. The road will be extremely close to 2480 NE 102nd Avenue, reducing privacy and safety. The road bed will be significantly elevated in relation to the surrounding houses obstructing the view of the area and further reducing privacy, property values and safety. The proposed NE 18th street overpass will create an “eyesore” for the current residents of the area. The natural beauty of the area will be devastated. There doesn’t appear to be any engineering solutions or compensation associated with the destruction of the natural landscape of the area in the NE 18th overpass street feasibility study.

Citizens Desires:

a) The city council and Mayor as public servants have an obligation to listen to the wishes of the citizens of Ankeny.

From the City of Ankeny 2005 Citizen Survey Executive Summary

Growth and Land Use Planning

Residents were asked about a number of aspects related to growth over the past years. Residents were also asked to rate the quality and variety of residential and business/retail development. Sixty-six percent [62% - 2003] of respondents felt that the rate of population growth in the City was “too fast”; while 0% [1% - 2003] felt it was “too slow.”

Appendix A: Verbatim Responses

First 10 Responses in Report of Open-ended Question Citizen Survey 2006

- Stop expanding & take care of what we have. It’s a nice town, but getting too large.
- Less development, the city is growing extremely fast and congestion is starting to occur for a wide range of services.
- Better planning & zoning. Better traffic pattern planning.
- Finding a balance, because better then now will only lead to worse. Subtracting from now will be worse, no more growth, no change Ankeny is a great place to be considering how close it is to Des Moines access to life outside Ankeny. Good standard of living. Not to be so obsessed with growing bigger.
- Slow the growth. Ask the police dept to stop running unnecessary speed traps and to focus on neighborhood patrol. Ask police dept to stop profiling the young people in this town and to maintain order without arrogance and self righteousness.
- Stop growing so fast. It is making for crowding in our schools. I don't want to see having to build a new high school. It would divide the town. Also, a hospital would be nice for the elderly.
- Curb the builders in this town. We are seeing more and more urban sprawl. New exit on i-35 very disturbing to know Ankeny was involved in such a crooked and possibly unlawful endeavor.
- Stop/limit the growth of development of housing & annexation. Don't trust gov't officials after reading the article in the Des Moines Register about the dot & driver's license station. Construction at 1st and Delaware Streets took forever.
- Don't allow houses to be built so close together.
- Instead of city officials doing the talk, better do the walk. Quit catering to developers, nothing has to be inevitable.

Infrastructure Arguments, Poor Allocation of Limited Funds:

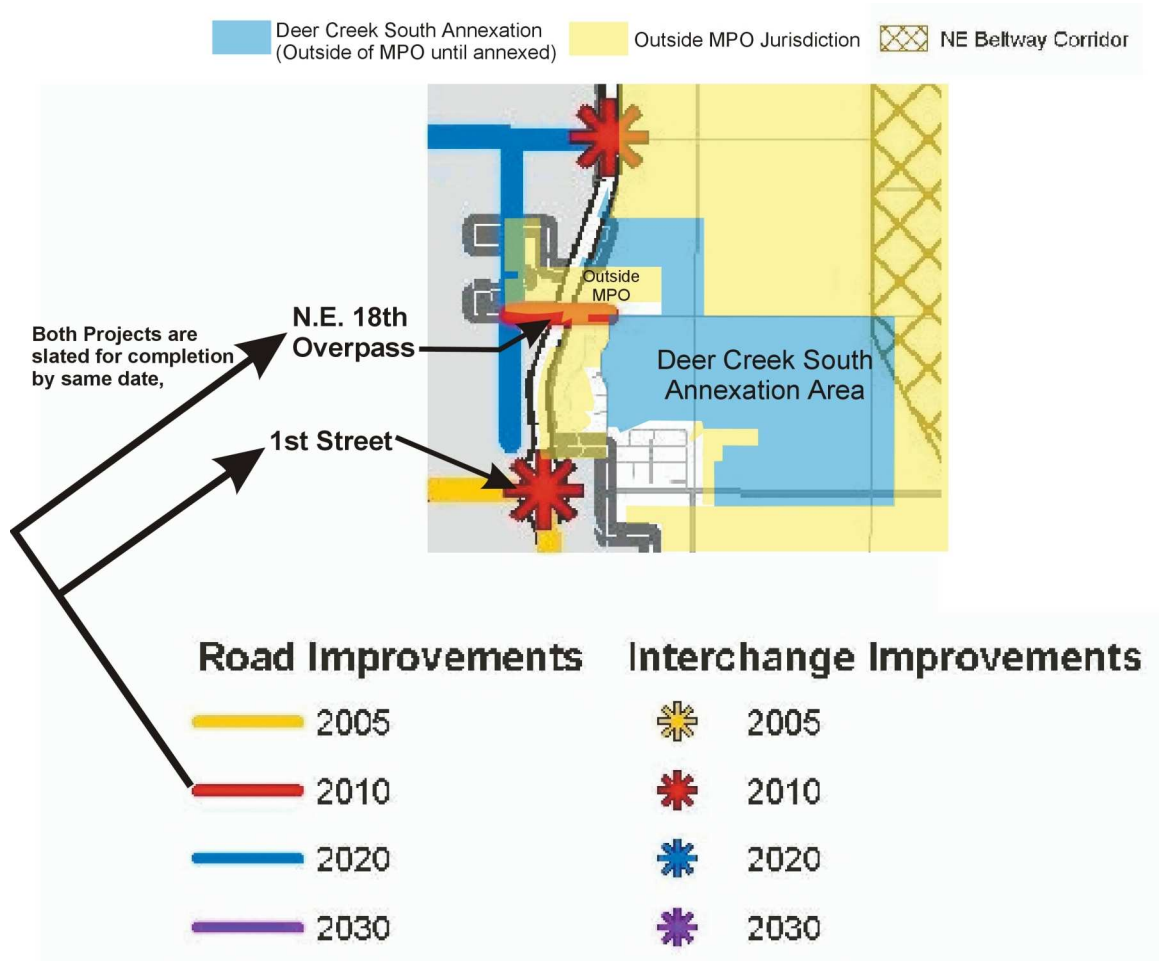
a) The primary concern on the east side of Ankeny should be the 1st street/I-35 interchange.

From Polk County 2030 Comprehensive Plan- Infrastructure

Areas of congestion are typically defined as areas with a “capacity deficiency” – where current traffic volumes exceed the corridor’s acceptable traffic volume. Based on current count data and the existing transportation network, the following corridor segments and intersections within the County (shown on Figure 4.5) experience recurring congestion on a daily basis. Level-of-service (LOS) is determined based on average traffic speed throughout a corridor and delay at intersections; LOS “D” is generally considered the minimum acceptable level within the Des Moines metro area.

I-35 junction with East 1 Street/NE 94 Avenue in Ankeny (LOS E).

The I-35 junction with East 1 Street/NE 94 Avenue in Ankeny has a Level-of-Service rating of “E” which is considered unacceptable. If you look at the MPO LRTP map in the Polk County Comprehensive Plan they are giving the NE 18th Street the same level of priority as 1st street. Both are to be completed by 2010.



b) Federal Code indicates the MPO is to emphasize improvements to existing roads, not create new roads and bridges unless necessary. Due to the rural nature and low population of the area that the proposed NE 18th overpass goes into, it will not significantly reduce vehicular congestion.

Title 23 Chapter 1 Subchapter I § 134

(2) Long-range transportation plan.— A long-range transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

- (C) Assess capital investment and other measures necessary to—
 - (i) ensure the preservation of the existing metropolitan transportation system, including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization, and rehabilitation of existing and future transit facilities; and
 - (ii) make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods.

§450.316 Metropolitan transportation planning process: Elements.

1) Preservation of existing transportation facilities and, where practical, ways to meet transportation needs by using existing transportation facilities more efficiently.

c) Infrastructure is not currently being extended to existing developments that are within the city limits.

Lack of Necessity:

a) There is insufficient traffic in the area to justify the huge expenses required. This is a predominately rural area.



b) Even if development occurs, which is not guaranteed, the areas east of the interstate can be served by 1st and 36th Street. The NE 18th Street overpass would be of limited benefit at this time.

From the NE 18 Street Feasibly Study Ankeny, Iowa Project No. 104.0640

The proposed NE 18th street extension across Interstate 35 would primarily serve expected residential development east of Interstate 35. In addition to the proposed extension, East 1 Street and NE 36 Street will provide east-west access across and to Interstate 35. Construction of the extension would somewhat reduce traffic levels on these alternate routes.

Focusing on improving 1st Street and 36th Street would provide sufficient infrastructure for any development in the area in the future assuming this development occurs. Justifying the NE 18th project as a way to reduce traffic congestion would, by any honest assessment, be a very poor expenditure of Ankeny’s money and provide limited benefits.

c) There is already sufficient room for growth in existing areas of Ankeny. The ISU research farm has 1,031 acres that are located inside of Ankeny. This area known as Prairie Trail development opens up large areas of land. Other substantial areas of undeveloped land lie within the Ankeny city limits. There are also hundreds of houses currently for sale within the Ankeny city limits. The city should concentrate on getting services to the areas currently within Ankeny’s own city limits. There is no need for Ankeny to create expensive infrastructure leading into a low population area in an effort to encourage additional growth when ample areas for growth already exist.

d) There appears to be an argument among certain city officials that NE 18th overpass project could be used to relieve traffic when working on the 1st street/I-35 intersection. The NE 18th street functional classification is as a local street and/or local road. It is not suitable to relieve traffic during the construction phase of the 1st street/I-35 intersection.

MPO Year 2030 Long Range Transportation Plan- Future Conditions

2010	67	Ankeny	E 1 st Street	Ankeny Boulevard	E Trilein Drive	Widen from 4 lanes undivided to 5 lanes undivided	Minor Arterial
2010	68	Ankeny	N Ankeny Boulevard	N 18 th Street	N 36 th Street	Widen from 2 lanes undivided to 4 lanes divided	Principal Arterial
2010	69	Ankeny	NE 18 th Street	NE Delaware Avenue	NE Frisk Drive	Add 2 lanes undivided, Interstate Crossing	Local
2010	70	Ankeny	W 1 st Street	Iowa 415	Irvinedale Drive	Add 2 lanes undivided	Minor Arterial

United States Department of Transportation - Federal Highway Administration

FUNCTIONAL CLASSIFICATION (Chapter 3) -Refer to Chapter I of the AASHTO Green Book

Functional classification is the process by which streets and highways are grouped into classes, or systems, according to the character of traffic service that they are intended to provide. There are three highway functional classifications: arterial, collector, and local roads. All streets and highways are grouped into one of these classes, depending on the character of the traffic (i.e., local or long distance) and the degree of land access that they allow.

Arterial- Provides the highest level of service at the greatest speed for the longest uninterrupted distance, with some degree of access control.

Collector- Provides a less highly developed level of service at a lower speed for shorter distances by collecting traffic from local roads and connecting them with arterials.

Local-Consists of all roads not defined as arterials or collectors; primarily provides access to land with little or no through movement.

It is presumed that the majority of the traffic using a NE 18th street overpass would use Frisk drive during this process of relieving 1st street during the construction phase of its improved interchange. NE 102 Avenue could not be used since it goes east and transitions into a gravel road. Frisk drive has no shoulders, a steep embankment and a pronounced S-curve. Mark Kramme a manager for Deer Creek Estates LLC stated that they would have to find an alternate route into their housing development that did not utilize this section of the street. If there were safety concerns based on the traffic that Deer Creek Estates development could potentially create how can traffic be routed through this area during the 1st street construction phase? How can it relieve traffic when it has the functional classification as a local road? Any counter argument that traffic relief in the area would be minor and thus be appropriate even though these were local roads would mean that the City of Ankeny was proposing spending millions of dollars to relieve a minor traffic problem during a temporary construction project. Maybe the real motivation for the NE 18th street overpass is providing an alternate route into Deer Creek Estates using the pretense that it will relieve traffic. Would the citizens of Ankeny approve of paying substantial sums of money for improved access for an out of town developer into an undeveloped rural area?

Dangerous Curvy section on Frisk Drive



Blind curve on Frisk Drive



It is inappropriate and unsafe to use the NE 18th street overpass and NE 18th to funnel “through” traffic movement in an attempt to relieve traffic that would typically go down East 1st street during the construction phase of the E. 1st interchange.

Jurisdictional & Legal Problems:



a) The NE 18th Street road/overpass project is being recommended by the Des Moines Area MPO in their LRTP (Long Range Transportation Plan). This plan is being adopted by Polk County. The MPO appears to be planning for areas outside of its jurisdiction. The properties owned by Scott Campbell, Dewayne & Marilyn Ehler, Scott P. Hammes, Delores J. Spahr and Wayne R. Westendorf are land uses classified as Estate Residential. All of these properties are outside of the city limits of Ankeny, are single residences with greater than 3 acres of land. Ray D. Campbell’s land is classified as agricultural. In Addition the N.E. 18th Street plans also influence areas within the 100 year flood zone of Four Mile Creek. The N.E. 18th overpass project greatly exceeds the planning scope dictated in Polk Counties Comprehensive Plan in areas not within MPO jurisdictional areas.

From Polk County 2030 Comprehensive Plan- Infrastructure

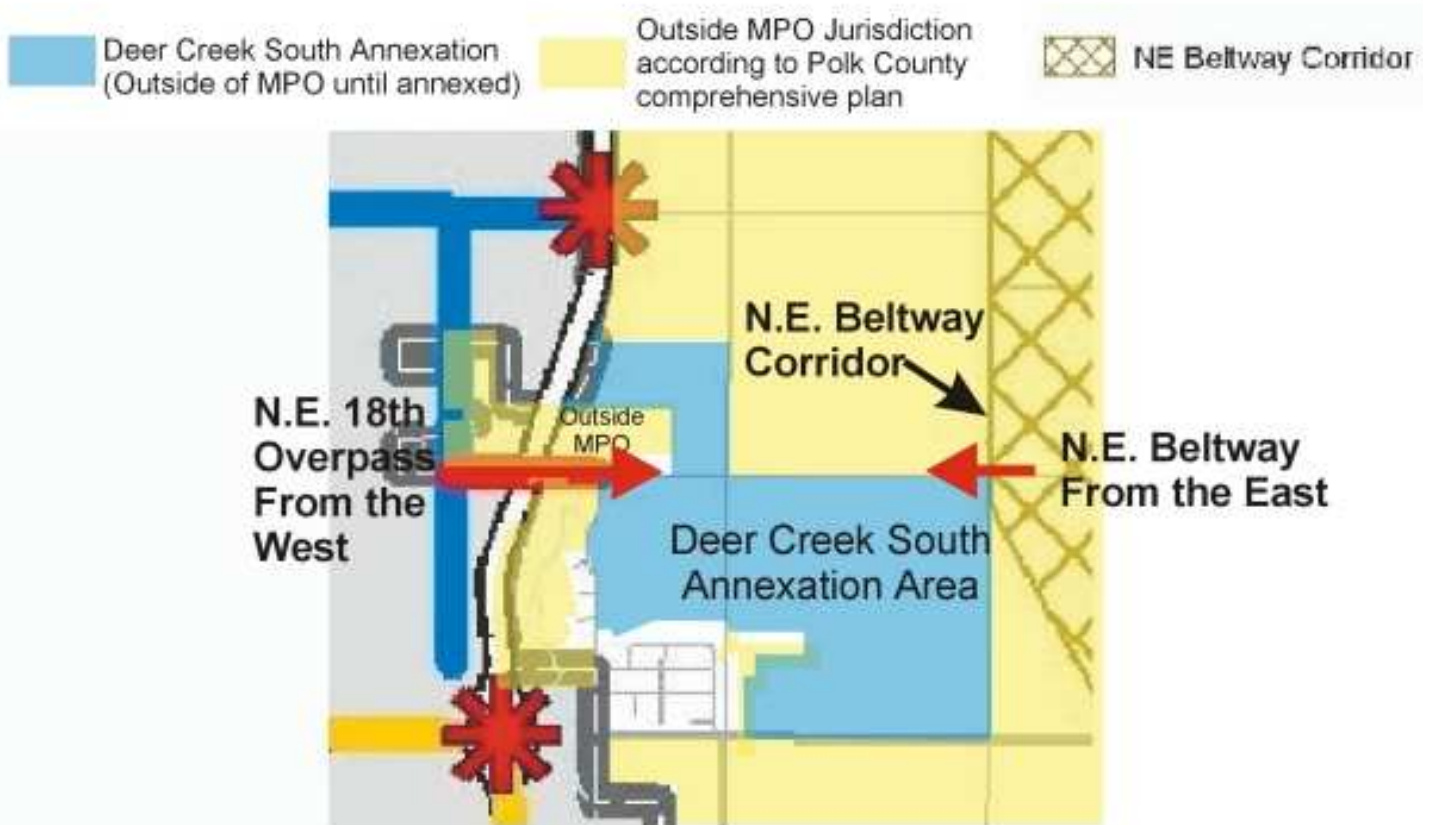
The Des Moines Area MPO jurisdiction does not cover the entire limits of Polk County. Current and/or planned land uses in areas within the County but outside MPO limits largely fall into the following categories:

- **Agriculture**
- Agricultural Transition
- Countryside and **Estate residential** (densities of one unit per 10 acres and **one per 3 acres respectively**)
- Open Space – County Conservation Board and DNR lands, as well as **lands with the 100-year flood zone** of the Des Moines River, Skunk River, Indian Creek and **other waterways.**

**The following Comes from the Polk County Comprehensive Plan.
Residential Estate and Rural Residential are clearly defined.**

Land Use Categories and Intent/Description	Density / Intensity / Design	Illustration Example
Estate Residential		
<p>This district is intended to provide for very low-density residential development, with on-site septic systems. There is an emphasis on retaining natural features and creating a connected network of open space. The district retains the existing residential estate zoning pattern, but with an increased emphasis on conservation (cluster) development, which may be required in some areas.</p>	<p>1 unit per 3 acres (gross); incentives for preservation of natural features, stormwater management.</p>	
Rural Residential		
<p>This district retains the existing Suburban Estate density pattern of low-density residential development with on-site septic systems. It is restricted primarily to infill or minor expansion of areas already developed at these densities, where public sewer service is impractical. Conservation development may be feasible in some areas where soils can support community wastewater systems.</p>	<p>1 unit per acre (gross)</p>	

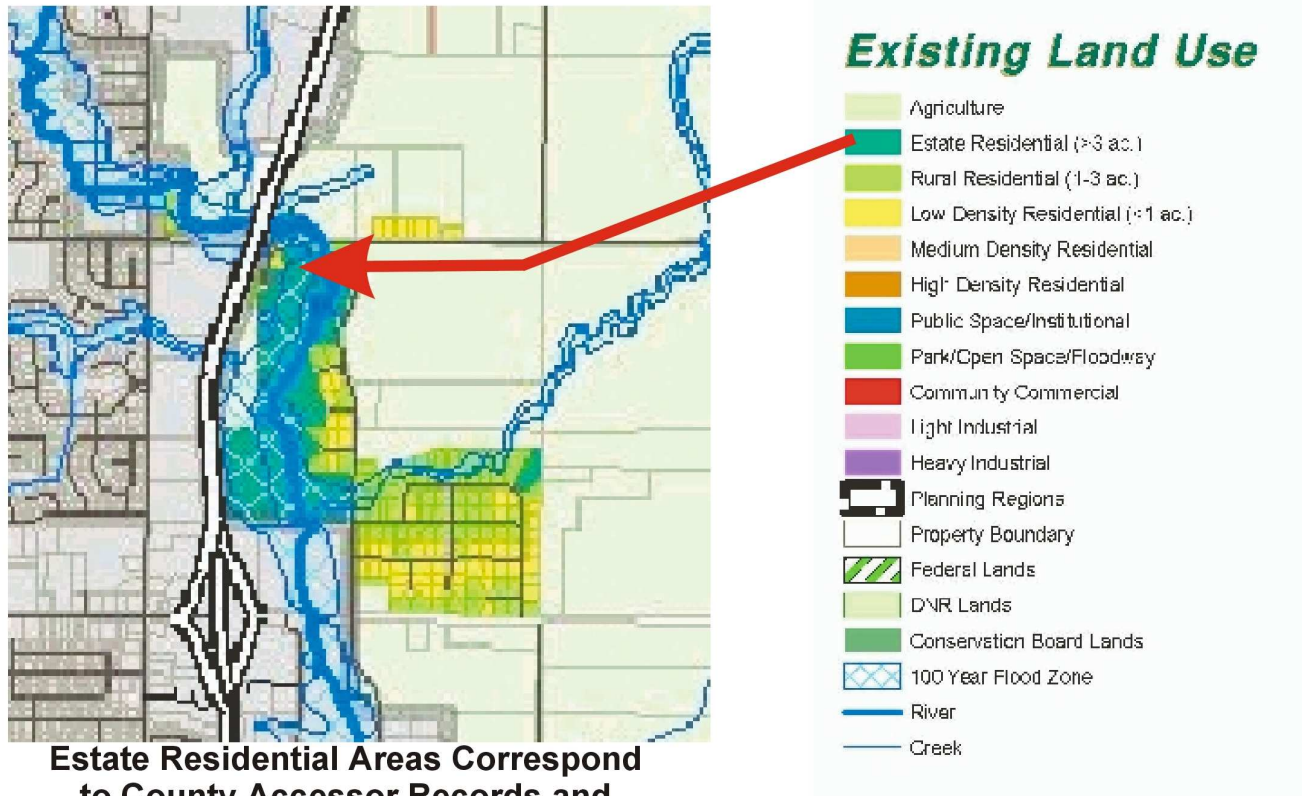
This map was created based on the description of areas classified as outside of the MPO according to the Polk County comprehensive plan. The map shows that the proposed NE 18th Street overpass largely falls outside the planning area of the Des Moines Area MPO.



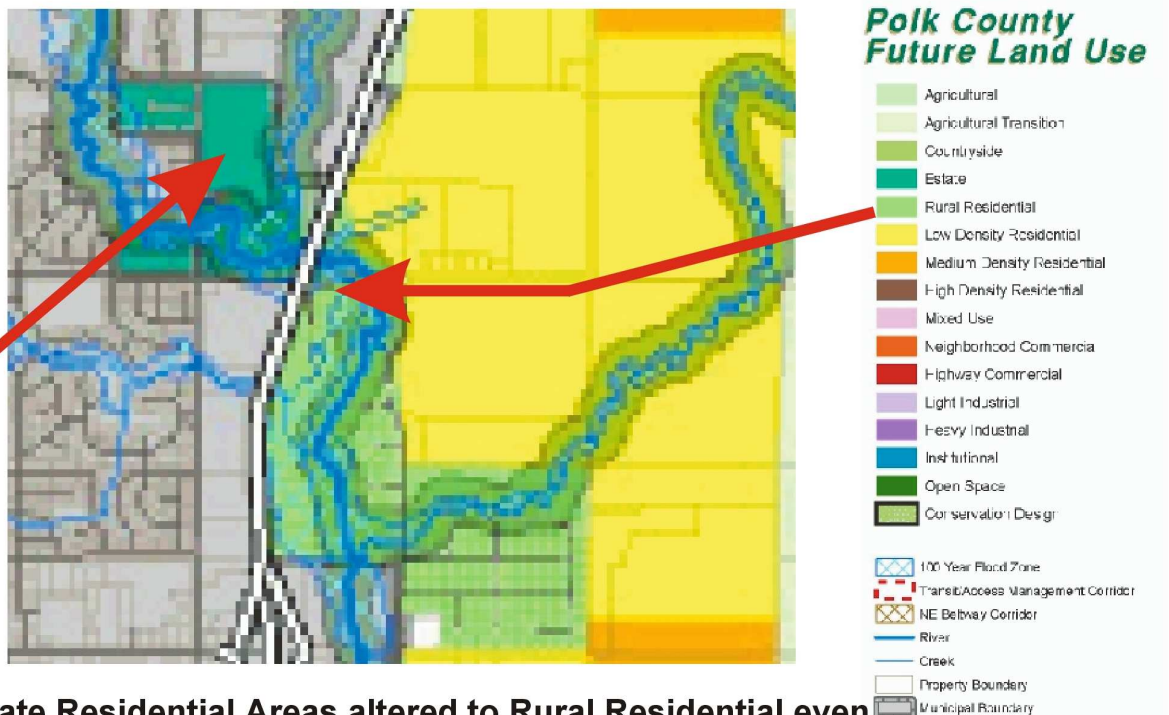
Yellow areas are outside of the MPO according to Polk County comprehensive plan.

The following maps show inconsistency in assignment of land uses. Why did they change? These maps are from the Polk County Comprehensive plan and are based on data from the Des Moines Area MPO.

From Polk County 2030 Comprehensive Plan- Land Use Plan



Estate Residential Areas Correspond to County Accessor Records and Description of Estate Residential



Estate Residential Areas altered to Rural Residential even though they do not meet the criteria for Rural Residential. Notice the Albaugh property is estate residential.

b) Federal Code limits Planning to urban areas. Title 23 Chapter 1 Sub-chapter I § 134

Metropolitan planning

General Requirements.—

(1) Findings.— It is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and **development within and through urbanized areas**, while minimizing transportation-related fuel consumption and air pollution.

(2) Development of plans and programs.— To accomplish the objective stated in paragraph (1), metropolitan planning organizations designated under subsection (b), in cooperation with the State and public transit operators, shall develop transportation plans and programs for **urbanized areas of the State**.

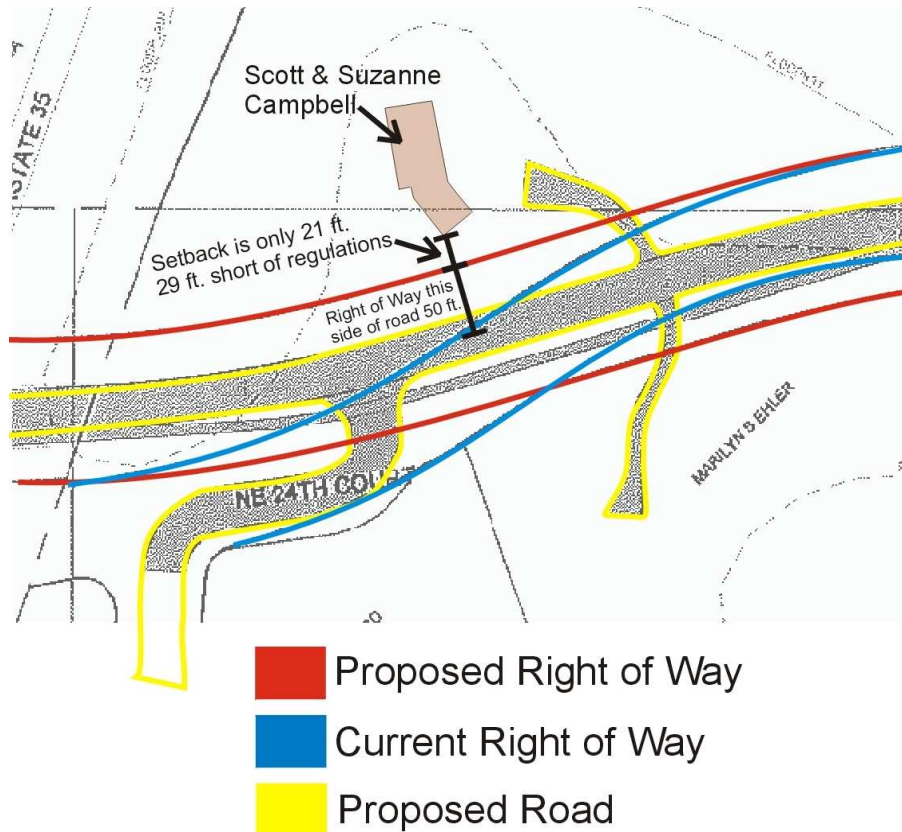
c) There are conflicts with right of way + setback minimum distances with existing structures.

From the NE 18 Street Feasibly Study Ankeny, Iowa Project No. 104.0640

The front yard setback based on current zoning requirements could potentially conflict with existing structures at 2480 NE 102nd Avenue and at 10200 NE Frisk Drive due to the relocated and widened right-of-way for the proposed alignments.

If zoning along the corridor is changed to R-1 (35-foot setback) in the future, there will be a conflict with the existing garage at 2480 NE 102nd Avenue. The house located at 10200 NE Frisk Drive would not have a conflict with Ankeny's setback requirements from the proposed right-of-way line, but would have if the zoning remains SE, which is 50 feet.

The Area is currently still within Polk County. Thus the setback remains 50 feet. There is only a 21 foot setback on the Scott & Suzanne Campbell property, this is 29 feet short of the legal setback. There is a conflict with at least two houses. Purchase of the houses was not included within the feasibility cost study. The owner of the house will not request a variance for this proposed breach of regulation.



Conflicts with Stated Goals or Plans:

a) In the Polk County plan it indicates that there will be no major road improvements outside MPO areas. There is no mention of bridge or major road projects. This appears to substantially deviate from the Polk County comprehensive plan.

From Polk County 2030 Comprehensive Plan- Infrastructure

Therefore, development in the areas outside the MPO boundaries will be limited in scale and extent. The majority of the land will remain in agriculture, with limited low-density residential development and agriculture-related commercial development. Thus, improvements to the county transportation system to support the anticipated development will be limited to:

- Paving projects as development is completed.
- Traffic signals at key intersections where traffic, pedestrian or crash experience results in meeting warrants.
- Extension of the trail systems.

The road improvements are relatively minor and would likely be completed by developers as part of development of the adjacent areas or incorporated in the Capital Improvement Program as development occurs. Trail system extensions are being pursued at a County and regional level, as discussed earlier in this section.

b) The Polk County plan states it will not promote sprawl. The NE 18th street overpass and road will promote sprawl.

From Polk County 2030 Comprehensive Plan- Vision Goals Policies

Policy 2 – Coordinated Growth Patterns Staged development and orderly extensions of street and utility infrastructure is necessary to protect neighborhood, community, and landscape character. Polk County and local governments will work to align City and County land use plans and discourage sprawl, protect social/economic/natural resources, and encourage controlled, orderly growth of cities.

Economic Growth and Land Use Goal
Policy 2 - Regional Growth Management

Regional Growth Management The County is in the unique position of being able to act regionally in regard to development, redevelopment, and growth strategies. Polk County will manage its housing programs on a regional basis, encouraging infill development and redevelopment of urbanized areas and staged urban density annexations in partnership with cities.

c) The Polk County plan states it will attempt to protect prime farmland and direct non-agricultural growth to municipalities.

From Polk County 2030 Comprehensive Plan- Vision Goals Policies

Character of Development Goal
Policy 1 - Preserve Rural Character

Polk County includes large agricultural areas and vibrant rural communities. Polk County will protect prime farmland and maintain the rural character of non-urbanized areas.

Agriculture Goal
Policy 3 - Rural Protection

Polk County will protect the rural character of agricultural landscapes and communities by directing non-agricultural growth to municipalities, discouraging municipal expansion into productive farming areas, and allowing rural communities to remain economically sustainable.

A road leading to Deer Creek Estates will certainly not fulfill these objectives.



Deer Creek Estates South Annexation Area. Currently Prime Farmland.

d) Ankeny/Polk County is planning on building a road/overpass through a federally recognized wetland. The proposed road will fill in portions of numerous flood plains as well as a naturally created oxbow pond (former four-mile creek bed) on the Scott Campbell property. The stated goals of Ankeny and Polk county in their comprehensive plans as well as federal directives may be violated.

From Ankeny’s Comprehensive Plan:

Conservation Reserve	-Environmentally sensitive areas, including wooded areas, creek basins, floodplains, and wetlands, that will remain generally undeveloped.	-These areas should remain undeveloped or in passive recreation use.
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From Polk County 2030 Comprehensive Plan- Vision Goals Policies

Environmental Quality Goal
Policy 1 – Protect Natural and Recreational Areas

Existing natural areas, unique natural places, and recreational assets are essential to environmental quality. Polk County will protect, through appropriate land use regulation and incentives, unique natural and wildlife areas, parks, wetlands, and recreational amenities.

Environmental Quality Goal
Policy 2 – Protect Natural Infrastructure

Risks to surface water quality, risks from flooding, and risks to many natural areas can be avoided or mitigated by protecting and investing in the County’s natural infrastructure. Polk County will protect streams, waterways, and floodplains in land use decisions and by directing appropriate investment to enhance the County’s natural infrastructure.

Considering the fact that Ankeny has commissioned studies concerning flooding around four mile creek and that the proposed NE 18th street overpass lies just down stream from properties that recently had flooding problems. The resulting filling of both a wetland and floodplain associated with the NE 18th street overpass would seem to be inconsistent with Ankeny’s stated policy of mitigating flooding. Apparently Ankeny is not concerned about wetlands when it comes to the construction of an overpass and road.

**Manager's Response to McClure Engineering
Four Mile Creek Storm Water Management Plan
March 14, 2005**

2. Intermediate

- McClure Recommendation 6.2.1 is to consider construction of levees or berms to protect homes in the projected flood prone areas.

Response: This measure should be considered only as a last resort. In Section 9 of the Four Mile Creek Storm Water Management Plan concerns about construction in a wetland, creation of additional problems in areas on the opposite side of the creek, cost of construction and dealing with water behind the berm are identified as concerns.

Federal regulations involving metropolitan planning organizations state that they are to consider environmental impacts.

Federal Code

§450.316 Metropolitan transportation planning process: Elements.

14) The likely effect of transportation policy decisions on land use and development and the consistency of transportation plans and programs with the provisions of all applicable short- and long-term land use and development plans (the analysis should include projections of metropolitan planning area economic, demographic, environmental protection, growth management, and land use activities consistent with metropolitan and local/central city development goals (community, economic, housing, etc.), and projections of potential transportation demands based on the interrelated level of activity in these areas);

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 777

[FHWA Docket No. FHWA-97-2514; 96-8]

RIN 2125-AD78

Mitigation of Impacts to Wetlands and Natural Habitat

Executive Order 11990, Protection of Wetlands, (42 FR 26961; 3 CFR, 1977 comp., p. 121) directs Federal agencies to avoid to the extent possible adverse impacts associated with the destruction or modification of wetlands, and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative. Other Federal programs designed to conserve and protect wetlands include the Emergency Wetlands Protection Resources Act of 1986 (16 U.S.C. 3921-3931), the North American Waterfowl Management Plan (16 U.S.C. 4401(a)(12)), and the Wetlands Reserve Program (16 U.S.C. 3837).



Wetland west of I-35. The proposed overpass will pass through the wetland and fill floodplain.



The oxbow pond area east of the Interstate 35 will be filled in. This area is also floodplain.

Many municipalities/Counties seem to feel they can make noble sounding comprehensive plans/policies and then substantially disregard them. The City and Polk County need to be sincere when creating these plans and policies and follow them to the best of their ability.

e) According to information contained within the NE 18th Street Feasibility study construction will deviate from numerous Polk County ordinances concerning construction in floodplains:

SECTION 7111. FLOODPLAINS

H. Protection Levels

For all developments, the level of protection provided floodplains shall distinguish between the floodway and the floodway fringe (as designated on FIRM maps or determined by the required on-site survey.)

1. Floodways

The channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not result in substantially higher flood levels and flow velocities, shall be provided with one-hundred (100) percent protection.

2. Floodway fringes, the remainder of the floodplain, shall be provided with seventy-five (75) percent protection.

All such protected areas shall be permanent open space. No uses or improvements other than those permitted herein shall be permitted in any area consisting of floodway as defined by this Ordinance.

J. General Floodplain Standards

4. Installation of Fill Materials

a. The cross-sectional area of a floodplain shall not be reduced by more than two and one-half (2.5) percent on either side of the centerline of the watercourse. {92/54, 11-12-92}

d. In no instance shall the depth of fill in a floodway fringe exceed five (5) feet, nor shall any fill be placed within twenty-five (25) feet of the floodway or in a location which might be endangered by, or accelerate, a meander. In an inland depressional floodplain, the depth of fill measured from the natural grade to the new surface shall not exceed five (5) feet. {90/96, 5-17-90}

According to information contained within the NE 18th Street Feasibility study construction will deviate from Polk County ordinances item 4a and several items in d. If Polk County were to collaborate with the City of Ankeny on the NE 18th Street overpass project they would have to ignore these ordinances.

f) Development plans are to maintain consistency. The effect of these decisions on development plans such as the building of the NE 18th overpass and road are to be considered and be consistent with stated policies.

§450.316 Metropolitan transportation planning process: Elements.

4) The likely effect of transportation policy decisions on land use and development and the consistency of transportation plans and programs with the provisions of all applicable short- and long-term land use and development plans (the analysis should include projections of metropolitan planning area economic, demographic, environmental protection, growth management, and land use activities consistent with metropolitan and local/central city development goals (community, economic, housing, etc.), and projections of potential transportation demands based on the interrelated level of activity in these areas);

13) The overall social, economic, energy, and environmental effects of transportation decisions (including consideration of the effects and impacts of the plan on the human, natural and man-made environment such as housing, employment and community development, consultation with appropriate resource and permit agencies to ensure early and continued coordination with environmental resource protection and management plans, and appropriate emphasis on transportation-related air quality problems in support of the requirements of 23 U.S.C. 109(h), and section 14 of the Federal Transit Act (49 U.S.C. 1610), sec. 4(f) of the DOT Act (49 U.S.C. 303) & section 174(b) of the Clean Air Act (42 U.S.C. 7504(b)).

IN THE SUPREME COURT OF IOWA

No. 180 / 00-2113

Filed April 2, 2003

Zoning must be in accordance with a comprehensive plan. Iowa Code § 414.3; Wolf v. City of Ely, 493 N.W.2d 846, 849 (Iowa 1992); Brackett v. City of Des Moines, 246 Iowa 249, 256-57, 67 N.W.2d 542, 546 (1954).

American Planning Association

Iowa Planning

Spring 2003

Wal-Mart Case and the Comprehensive Plan/Zoning Nexus

The Iowa Supreme Court found that the City of Decorah acted illegally when it allowed a Wal-Mart store to be built in a floodplain in conflict with the Comprehensive Plan

The Court furthermore found that the City's action was in direct conflict with their Comprehensive Plan:

The Court noted:

“Decorah’s comprehensive plan expressly provides for the integrity of its floodplains. Goal number five is:

To provide that in the development and implementation of all land-use plans and policies, protection of the environment is ensured, including:

a. Aesthetic quality; archaeological, historic, and cultural values; the unique geology of the area, and the woodlands and wetlands.

c. The floodplains of the planning area as natural resources that should be preserved for use as permanent open space for parks and recreational uses and for wildlife protection.

d. Regulation of development in the floodplains to protect life and property, prevent water pollution, and reduce costs to taxpayers.

Recommendation of American Planning Association

Respect the Comprehensive Plan. Keep it updated as necessary and tweak (or overhaul as the case may be) the Zoning Ordinance to assure consistency and reinforcement of the Plan. If the Comprehensive Plan needs to be amended so be it, but do not disregard it. As this case has shown, ignoring the Comprehensive Plan could be legally fatal.

It appears as if multiple deviations from the comprehensive plans are being proposed in the NE 18th Street overpass project. In addition construction would deviate from numerous Polk County ordinances. Substantial deviation from the Polk County or Ankeny comprehensive development plans are inconsistent and could be potentially illegal.

Questionable Funding Methods (Funding Via ICAAP):

a) During a recent discussions with city employees they indicated that funding for the NE 18th overpass was to be provided by the City of Ankeny. That no federal, state or private funding was being provided for the overpass. This does not appear to be the case.

**From a recent MPO email:
inTouch Newsletter
Iowa's Clean Air Attainment Program Application**

The Des Moines Area MPO is currently taking project applications for Fiscal Year (FY) 2008 ICAAP funds in order to submit a resolution of support for each applicant project to the Iowa DOT. The MPO staff received Letters of Intent for the following projects:

- * City of Des Moines – East 14th Street Widening at Hull / Grandview Avenue;
- * City of Des Moines – Merle hay Road Traffic Signal Interconnect Upgrade;
- * **City of Ankeny – NE 18th Street / Interstate 35 Overpass;**
- * City of Ankeny – NE 36th Street Interchange;
- * City of Urbandale – Hickman Road and 70th Street Intersection Improvement;
- * Des Moines Metropolitan Transit Authority (MTA) – Indianola / Easter Lake Express;
- * Des Moines MTA – Local Fixed-Route Extension to DOT Facility;
- * Des Moines MTA – Regional Marketing Program;

b) Funding for the NE 18th Street project is being submitted to the MPO for funding via the Iowa Clean Air Attainment Program (ICCAP). The East First Street intersection in Ankeny was previously funded with ICCAP funds in 2004. This was a good candidate for funding since it helped to reduce traffic congestion at the junction of I-35 and E. 1st street. This allowed for reduced vehicle idle time and an increase in average speed resulting in a reduction in vehicle emissions. The NE 18th overpass is a poor candidate for consideration. Its acceptance would not be consistent with the intent of ICAAP. If funding were to be extended by the ICAAP committee for the NE 18th overpass it could be interpreted as a possible misallocation or misuse of federal funding.

Iowa Clean Air Attainment Program Program Purpose

The purpose of Iowa's Clean Air Attainment Program (ICAAP) is to help finance transportation projects and programs that result in attaining or maintaining the national ambient air quality standards (NAAQS) of the 1990 Clean Air Act Amendments (CAAA) with a focus on volatile organic compounds (VOC) and nitrogen oxides (NOx), carbon monoxide (CO) and, under certain conditions, particulate matter (PM-2.5 and PM-10). VOC and NOx contribute to ground-level ozone (O3) formation. ICAAP funds are awarded to projects and programs with the highest potential for reducing transportation-related congestion and air pollution, thereby maintaining Iowa's clean air quality.

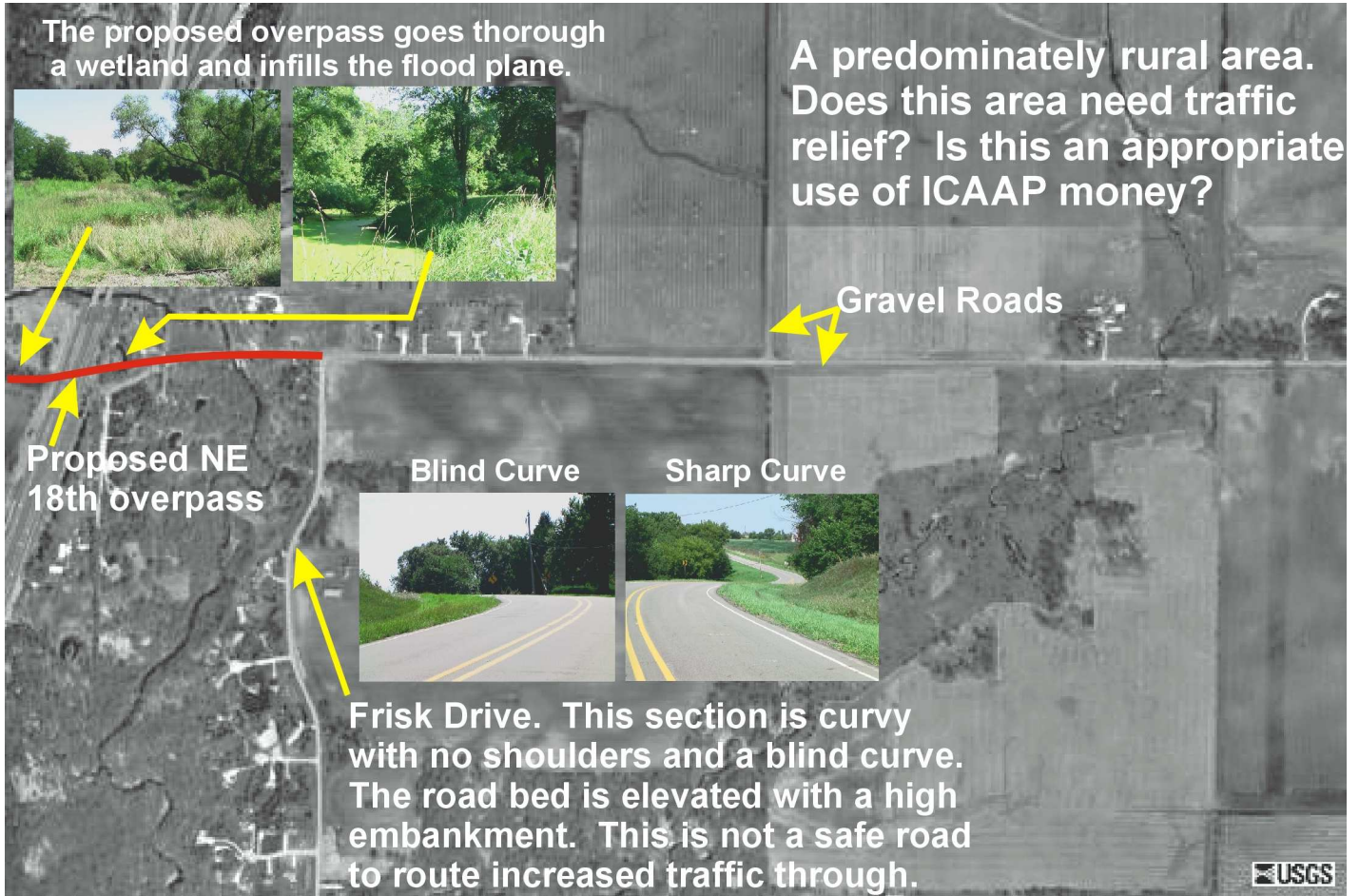
Considering the fact that NE 18th street is a dead end road that leads into a rural area it should be considered a misallocation or misuse of funds to use clean air money for this purpose. The NE 18th over pass thrusts into NE 102 Ave. and Frisk Drive. NE 102 Ave. transitions into a gravel road approximately 1/2 mile away from the end of the NE 18th project. Frisk Drive is a curvy road that has no shoulders with steep embankments. Neither road has the potential to carry substantial traffic. The NE 18th overpass project has a functional classification as a "local" road. The population density of the area the road goes into is low (see Lack of Necessity argument item d).

Iowa Clean Air Attainment Program V. Project Eligibility

To be eligible for ICAAP funding, the proposed projects and programs should fit into one or more of the following categories:

Traffic Flow Improvements

Highway and street projects that focus on reducing traffic congestion, vehicle idling time, stop and go driving and travel delays; enhancing bus transit performance; and improving air quality. Projects may include traffic signal modernization, synchronization or coordination; incident management programs, ramp metering, intersection improvements such as adding turn lanes; and other projects that achieve the objectives of the ICAAP.



Currently there is little traffic in the area of the proposed NE 18th Street Overpass



Proposed overpass on the west side of I-35



Proposed overpass on the east side of I-35

c) The NE 18th street overpass does not meet the specified requirements for eligibility and funding.

II. Program History and Description

Examples of eligible activities under the program are proposals that improve motor vehicle traffic flow, public transit service and intermodal freight movement; reduce traffic congestion and single-occupant vehicle travel; and help finance the purchase of publicly owned alternative fuel vehicles and bicycle and pedestrian facilities and programs.

Considering the fact the overpass is to be built by 2010 it is difficult to understand what population this overpass is to serve and how it would help to significantly reduce vehicle emissions. Any attempt to justify ICAAP funding based on projected future traffic in the horizon of 2010-2030 should not be considered. The ICAAP money is for use on currently existing traffic congestion problems.

VIII. Project Sponsor Responsibilities

Sponsors must describe in the application the methodology, assumptions, and sources of data used in the analysis. For air quality improvement analysis, applicants should use the latest available VOC (HC), NO_x, and CO, PM-2.5 and PM-10 emission factors provided by the Iowa DOT. For the traffic congestion reduction analysis, applicants should use travel demand (e.g. average daily traffic volumes) anticipated to occur when the project is implemented. Sponsors may need to provide additional information upon request by the Iowa DOT during its review of applications.

The argument that the overpass could be used as a reliever during 1st Street construction is not only flawed because the current road structure is classified as local and could not support any substantial amount of traffic but is also flawed because the use of the overpass would be temporary and would create a poor costs vs. benefit ratio. The cost vs. benefit ration is the highest weighted criteria used when determining ICAAP funding eligibility.

VII. Project Rating Criteria

The Project Evaluation Committee will determine the eligibility of all proposed ICAAP projects or programs and evaluate and rank them on a competitive basis, using a range of points associated with the criteria listed below. For each criterion, the applicant must show quantitative analysis of the estimated traffic congestion reduction or air quality improvement benefits that will result from the proposed project or program within the study area. The applicants also must document, in the application, the methodology, assumptions and sources of data used in the analysis.

For the air quality improvement analysis, applicants should use the latest available VOC (HC), NO_x, CO, PM-2.5 and PM-10 emission factors provided by the Iowa DOT. Alternative emission estimates prepared with EPA approved factors suitable for Iowa may be substituted for those supplied by the Iowa DOT as long as they are documented.

Points	Criteria
0-25	Traffic flow improvement
0-25	VMT or SOV trip reduction
0-20	Vehicle emission reduction estimates
0-15	Degree of transportation-related air pollution or traffic congestion
0-30	Project cost effectiveness relative to air quality benefits
0-115	Total possible points.

Project Rating Criteria All ICAAP projects

(0-30 points): Project cost-effectiveness relative to associated air quality benefits. Project applicant must calculate the cost-effectiveness of the proposed project by dividing the average annual total cost of the project (total project cost divided by expected project life in years) by the total annual vehicle emissions reduction in kilograms per year for each target pollutant. [Average annual total project cost (dollars)] divided by [emissions reduction (kilograms per year)].

It is apparent that the flawed argument put forth by the City of Ankeny concerning the use of the overpass as a reliever during the construction phase of the East 1st Street interchange is an attempt to justifying the overpass so it will be approved by the MPO/Ankeny Council and by the ICAAP committee. Any study or information concerning traffic flows should be carefully scrutinized for validity and possible conflict of interests. The Snyder Engineering firm has been utilized in numerous controversial engineering projects including the NE Beltway, Corporate Woods interchange and the NE 18th overpass.

**Special Register series: Ankeny license station site picked despite cost, faults
Bert Dalmer & Tim Higgins
November 15, 2005**

Sen. Mike Connolly, a Dubuque Democrat, questioned Wandro about the process used to select the license station site. "I don't want to impugn your integrity at all, but I think some people may feel that there is a misjudgment here," Connolly said of the purchase agreement. "It appears kind of like an inside deal."

Wandro resigned in September as DOT director. He went to work as an executive vice president for Snyder & Associates - a company that employs many former DOT workers, that designed the Corporate Woods interchange and that, according to Knapp's letter to Wandro, laid out the Ankeny site for Wandro's review.

Ankeny does not seem to have an open and competitive bidding process for engineering projects, preferring to repeatedly use the same engineering firms for the same types of projects. As with all critical public information there should be careful scrutiny of data and traffic assessments coming from the MPO and Snyder Engineering.

Conflict of Interest: A Separate Conflict of Interest Document with detailed evidence is attached. This document will be submitted to the appropriate committees, boards and public officials. This information will also be distributed to the public.

Despite the fact that the 18th street overpass and the requested method of funding seems to make no sense (see above arguments). Why is the project being pursued? Who would benefit? The Deer Creek annexation coincides with recently announced road, water and sewer projects. There are no other overpasses proposed in the MPO plans in Ankeny. Interchanges have traditionally been placed at 2 mile intervals. Why is there a proposed overpass at a 1 mile interval at the most difficult to cross point along the interstate? There appears to be an inordinate amount of accommodation occurring by the City of Ankeny for Deer Creek Estates LLC. Political officials at the MPO may be breaking the Iowa conflict of interest statutes. Visit Ankenywatch.com for more information.

Deer Creek LLC was founded and is partially owned by Ed Skinner and R. Bradley Skinner. Geri Huser is a daughter/sister, employee and beneficiary of the Skinner family trust. Geri Huser has used her position as a state representative in the house as a member of the local government committee as well as her position as chair of the Des Moines Area MPO to enable and enhance the viability and profitability of Deer Creek Estates LLC.

