



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Public Hearing to Consider Request from Gordon B. Roget, M.D., for Waiver of Development Impact Mitigation Fees for Parks and Recreation Facilities for 409, 511, 519 and 527 South Orange Avenue

MEETING DATE: September 3, 1997

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council conduct a public hearing to consider a request from Gordon B. Roget, M.D., for waiver of the Development Impact Mitigation Fees for Parks and Recreation Facilities for 409, 511, 519 and 527 South Orange Avenue. Staff recommends that the request be denied.

BACKGROUND INFORMATION: In 1993, Dr. Roget submitted a tentative parcel map which reconfigured three existing parcels into five parcels, as shown on Exhibit A. One of the conditions of approval for the tentative map was the payment of Development Impact Mitigation Fees at the time of building permit issuance for each parcel, with credit against fees being given for any existing development on the respective parcels. With the recordation of the final parcel map, the existing development, a medical office building and associated parking area, were substantially contained on Parcel 5. Parcels 3 and 4 contained some paved parking areas which had been used for overflow parking for the medical offices and Parcels 1 and 2 contained no improvements.

During the map approval process, Mr. Ken Hyske, working with Dr. Roget, requested estimates for the Development Impact Mitigation Fees which would be required for Parcels 1 through 4 assuming a duplex was constructed on each parcel. These estimates were provided and are attached as Exhibit B. As mentioned above, two of the estimates were adjusted to reflect credit against Development Impact Mitigation Fees for storm drainage for the existing paved portions of the parcels.

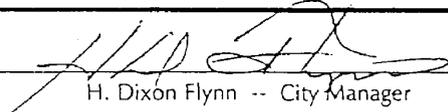
Dr. Roget has requested that the Development Impact Mitigation Fees for Parks and Recreation Facilities for Parcels 1 through 4 be waived (Exhibit C). The basis for this request is that his father donated park land to the City (Exhibit D).

The City Attorney has prepared a legal opinion regarding the waiver request which is attached as Exhibit E.

Public Works staff also has the following comments to make regarding the waiver request and the impact fee program in general:

1. The park land donated by Dr. Roget's father was given as a gift to the City. There was no stipulation of any kind that the land was being given in lieu of fees.

APPROVED: _____


H. Dixon Flynn -- City Manager

2. The Development Impact Mitigation Fees for Parks and Recreation are used in part to acquire land for neighborhood parks to meet the goals set forth in the Parks Master Plan. The fees are based on estimates of future land and development costs and are applied on a City-wide basis without regard to the specific location of the Master Plan park sites. The fees have not been adjusted for this park land gift to the City. The acquisition of land at no cost at one site is used to offset higher than estimated costs for land at another site. In other words, the properties surrounding the donated park site will receive no reduction in fees because a portion of the land for the neighborhood park in their area was received at no cost. For example, the Sunwest XIV residential project, which is immediately adjacent to the park site, will be paying park and recreation impact fees of \$221,221.
3. Development Impact Mitigation Fees are used to fund City-wide improvements. The installation of improvements which benefit a specific parcel, such as water, sewer and street improvements, are the responsibility of the property owner or developer and are not paid for by impact fees. The impact fees fund improvements which benefit the community as a whole, such as traffic signals, street widening, and new water wells. Therefore, the presence of facilities fronting Dr. Roget's parcels is not relevant with respect to the impact fee program.

This matter is also of concern to the Parks and Recreation Commission and has been placed on their September 2, 1997 agenda for discussion and development of a recommendation to be presented to the City Council during the public hearing.

FUNDING: None required.



Jack L. Ronsko
Public Works Director

Prepared by Sharon A. Welch, Associate Civil Engineer

JLR/SAW/im

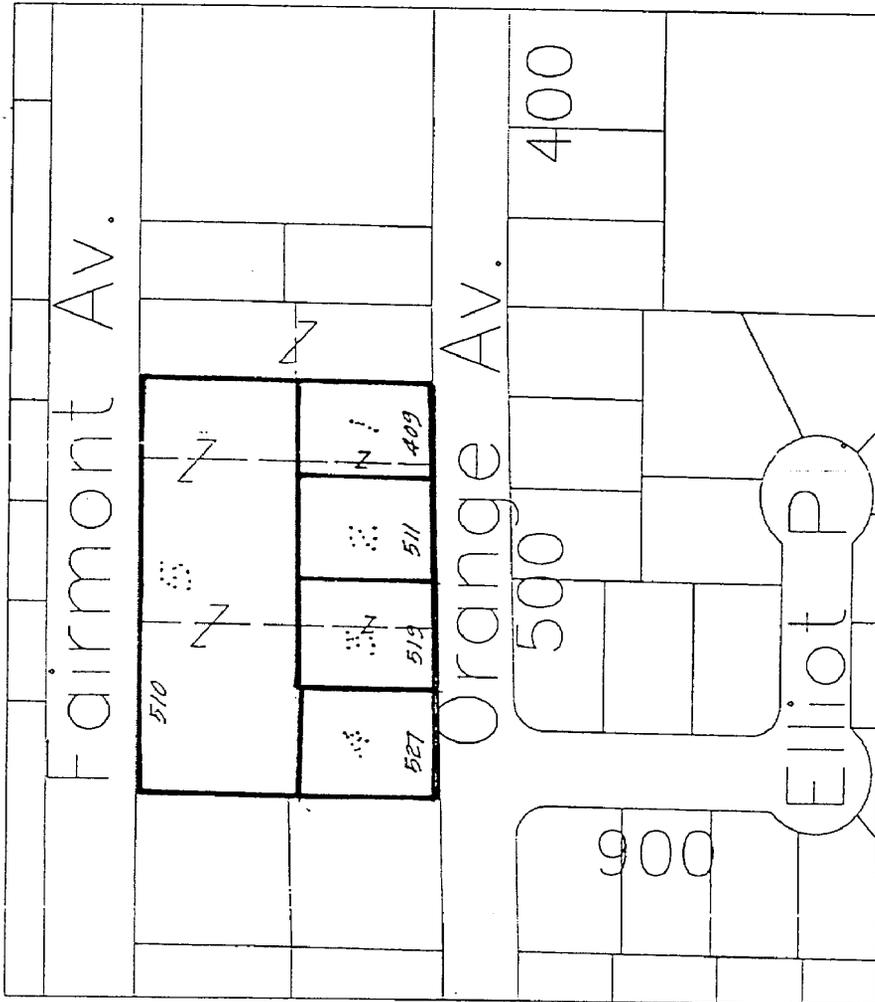
Attachments

cc: Parks and Recreation Director
Associate Civil Engineer - Development Services
Gordon B. Roget, M.D.



CITY OF LODI
PUBLIC WORKS DEPARTMENT

EXHIBIT A



N.T.S.

EXHIBIT B



CITY OF LODI
PUBLIC WORKS DEPARTMENT

Development Impact Mitigation Fee Summary Sheet

Subdivision: n/a n/a n/a
Name Tract # File #
 Parcel: Portion of 500 and 510 S. Fairmont Avenue
Address n/a
North 48' of the East 100" of 033-080-0027
and the South 18' of the East 96' of 033-080-0028 Const. Appl. #

Developer/Owner: Ken Hyske
Name

PRELIMINARY ESTIMATE
 BASED ON INFORMATION
 AVAILABLE 10/25/93

Address

Project Description: Construct duplex

GP Land Use Category: R-MD

Parcel

Project (if different)

Fee Category	Account #	P	RAE	Adj.	F	A	T
1) Water Facilities	60.1-501	\$ 5,690.00	1.96		\$ 11,150.00	0.15	\$ 1,672.50
2) Sewer Facilities - General - Lift Station	60.2-501	\$ 1,050.00	1.96		\$ 2,080.00	0.15	\$ 312.00
3) Storm Drainage Facilities	60.3-501	\$ 7,530.00	0.27	x	\$ 2,060.00	0.15	\$ 309.00
4) Street Improvements	60.4-501	\$ 5,440.00	1.96		\$ 10,660.00	0.15	\$ 1,599.00
5) Police Protection Facilities	60.5-501	\$ 1,130.00	1.77		\$ 2,000.00	0.15	\$ 300.00
6) Fire Protection Facilities	60.6-501	\$ 540.00	1.96		\$ 1,060.00	0.15	\$ 159.00
7) Parks & Recreation Facilities	60.7-501	\$ 11,830.00	1.43		\$ 16,920.00	0.15	\$ 2,538.00
8) General City Fac. & Prog. Admin.	60.8-501	\$ 6,830.00	1.43		\$ 9,770.00	0.15	\$ 1,465.50

Total 1-8: **\$8,355.00**
 due prior to project approval

P = Program Fee per Residential Acre Equivalent (RAE) per Resolution 91-172.
 RAE = Residential Acre Equivalent per LMC \$15.64,070, unless adjusted.
 Adj. = Checked if RAE is adjusted, see Notes below.
 F = Fee per acre (rounded to nearest \$10.00) = P x RAE.
 A = Gross acreage per LMC \$15.64,020A & 15.64,060 (rounded to nearest 0.01 acre).
 T = Total Fee for service category = A x F.

Notes:

1. A portion of the site currently contains a paved parking area for the medical office building at 510 S. Fairmont Avenue. The RAE factor for storm drainage has been adjusted to allow credit for the paved portion of the parcel which currently drains to the street.

By: Sharon A. Walsh

Approved: _____

Record #: _____

Date Billed: _____

Date Paid: _____ (Fee category 1 thru 5)

EXHIBIT B



CITY OF LODI
PUBLIC WORKS DEPARTMENT

Development Impact Mitigation Fee Summary Sheet

Subdivision: n/a n/a n/a
Name Tract # File #
 Parcel: Portion of 410 and 500 S. Fairmont Avenue n/a
Address

North 18' of the East 96' of 033-080-0028
and the East 95' of 033-080-0029

AP #

Developer/Owner: Ken Hyske
Name

PRELIMINARY ESTIMATE
 BASED ON INFORMATION
 AVAILABLE 10/25/93

Address

Project Description: Construct duplex

GP Land Use Category: R-MD

Fee Category	Parcel		Project (if different)					
	Account #		P	RAE	Adj.	F	A	T
1) Water Facilities	60.1-501	\$ 5,690.00	1.96			\$ 11,150.00	0.16	\$ 1,784.00
2) Sewer Facilities - General - Lift Station	60.2-501	\$ 1,060.00	1.96			\$ 2,080.00	0.16	\$ 332.80
3) Storm Drainage Facilities	60.3-501	\$ 7,630.00	1.00			\$ 7,630.00	0.16	\$ 1,220.80
4) Street Improvements	60.4-501	\$ 5,440.00	1.96			\$ 10,660.00	0.16	\$ 1,705.60
5) Police Protection Facilities	60.5-501	\$ 1,130.00	1.77			\$ 2,000.00	0.16	\$ 320.00
6) Fire Protection Facilities	60.6-501	\$ 540.00	1.96			\$ 1,060.00	0.16	\$ 169.60
7) Parks & Recreation Facilities	60.7-501	\$ 11,830.00	1.43			\$ 16,920.00	0.16	\$ 2,707.20
8) General City Fac. & Prog. Admin.	60.8-501	\$ 6,830.00	1.43			\$ 9,770.00	0.16	\$ 1,563.20

Total 1-8: **\$9,803.20**
 due prior to project approval

P = Program Fee per Residential Acre Equivalent (RAE) per Resolution 91-172.
 RAE = Residential Acre Equivalent per LMC \$15,64,070, unless adjusted.
 Adj. = Checked if RAE is adjusted, see Notes below.
 F = Fee per acre (rounded to nearest \$10.00) = P x RAE.
 A = Gross acreage per LMC \$15,64,020A & 15,64,060 (rounded to nearest 0.01 acre).
 T = Total Fee for service category = A x F.

By: *Sharon A. Wells* Approved: _____ Record #: _____
 Date Billed: _____
 Date Paid: _____ (Fee category 1 thru 8)

EXHIBIT B



CITY OF LODI
PUBLIC WORKS DEPARTMENT

Development Impact Mitigation Fee
Summary Sheet

Subdivision: n/a n/a n/a

Name Tract # File #

Parcel: Portion of 500 S. Fairmont Avenue n/a

Address

North 72' of the South 90' of the

East 96' of 033-080-0028

AP #

Developer/Owner: Ken Hyske

Name

Address

Project Description: Construct duplex

PRELIMINARY ESTIMATE
BASED ON INFORMATION
AVAILABLE 10/25/93

GP Land Use Category: R-MD

Parcel

Project (if different)

Fee Category	Account #	P	RAE	Adj.	F	A	T
1) Water Facilities	60.1-501	\$ 5,690.00	1.96		\$ 11,150.00	0.16	\$ 1,734.00
2) Sewer Facilities - General - Lift Station	60.2-501	\$ 1,050.00	1.95		\$ 2,080.00	0.16	\$ 332.80
3) Storm Drainage Facilities	60.3-501	\$ 7,530.00	1.00		\$ 7,630.00	0.16	\$ 1,220.80
4) Street Improvements	60.4-501	\$ 5,440.00	1.95		\$ 10,660.00	0.16	\$ 1,705.60
5) Police Protection Facilities	60.5-501	\$ 1,130.00	1.77		\$ 2,000.00	0.16	\$ 320.00
6) Fire Protection Facilities	60.6-501	\$ 540.00	1.95		\$ 1,060.00	0.15	\$ 169.60
7) Parks & Recreation Facilities	60.7-501	\$ 11,830.00	1.43		\$ 16,920.00	0.16	\$ 2,707.20
8) General City Fac. & Prog. Admin.	60.8-501	\$ 6,830.00	1.43		\$ 9,770.00	0.16	\$ 1,563.20
						Total 1-8:	\$9,803.20

due prior to project approval

P = Program Fee per Residential Acre Equivalent (RAE) per Resolution 91-172.

RAE = Residential Acre Equivalent per LMC \$15.64,070, unless adjusted.

Adj. = Checked if RAE is adjusted, see Notes below.

F = Fee per acre (rounded to nearest \$10.00) = P x RAE.

A = Gross acreage per LMC \$15.64,020A & 15.64,060 (rounded to nearest 0.01 acre).

T = Total Fee for service category = A x F.

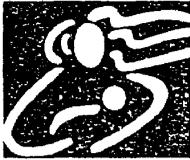
By: Sharon A. Wilch

Approved: _____

Record #: _____

Date Billed: _____

Date Paid: _____ (Fee category 1 thru 8)



Gordon B. Roget, M.D.
Maureen E. Sheehan, C.N.M., B.S.N.

Obstetrics, Gynecology and Midwifery

510 South Fairmont Avenue
Lodi, California 95240
209/334-4975
209/462-9336

RECEIVED

JUL 16 1997



CITY OF LODI

PUBLIC WORKS DEPARTMENT

July 13, 1997

City of Lodi
Attention: Ms. Sharon A. Welch
P.O. Box 3006
Lodi, CA 95241-1910

Dear Members of the Planning Commission and/or City Council:

I am requesting that the Parks and Recreation Fees be waived for the four lots I am developing on Orange Street. I, along with my brothers Randy and Vance inherited this property along with the office directly opposite on Fairmont Street. These properties, along with approximately \$30,000 each in cash, constituted our entire inheritance. In that my father donated property of approximately equal value to the City of Lodi for use as a park, I do not feel it is fair to ask us to make any further contributions to the Department of Parks and Recreation from our portion of the inheritance. As you will see by the enclosed documents, these fees represent only about a fourth of the fees due to the City of Lodi for the development of these lots, so we will still be making a substantial contribution towards streets, sewers, and so on, which were long ago installed and paid for.

Please do not interpret this letter as representing any sort of sour grapes about my father's donation of land for a park. We knew for over twenty years that such was his plan and are very happy to have seen it carried through.

I thank you in advance for your prompt consideration of this matter.

Sincerely,

Gordon B. Roget, M.D.

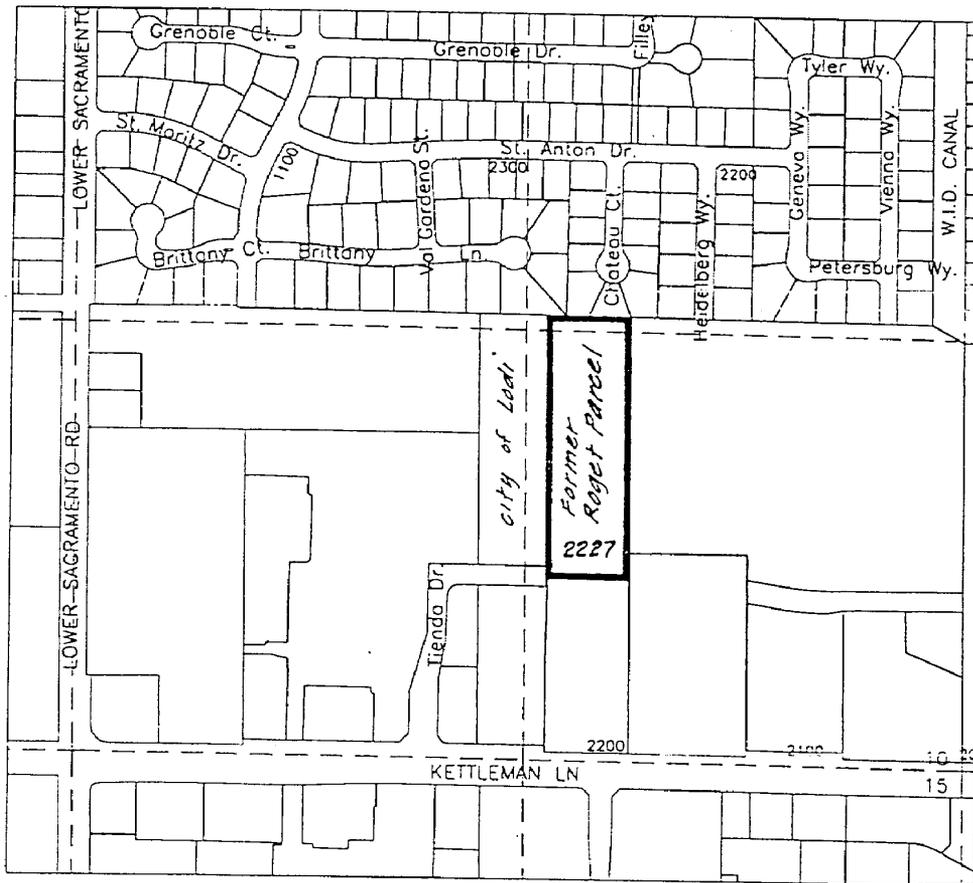
GBR:tmc

Enclosure: Copies of Development Impact Mitigation Fee Summary Sheets.

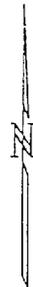


CITY OF LODI
PUBLIC WORKS DEPARTMENT

EXHIBIT D



N.T.S.





M E M O R A N D U M F R O M T H E
O F F I C E O F T H E C I T Y
A T T O R N E Y

DATE: August 25, 1997

TO: Honorable Mayor & City Council Members

FROM: Randy Hays, City Attorney *Randy*

RE: Fee Waiver Request – Dr. Gordon Roget

Dr. Roget has requested, by letter dated July 13, 1997 that Parks and Recreation Facilities Development Impact Mitigation Fees be waived for his development of four lots on Orange Street. The basis for this request is that in carrying out the wishes of his father, Nancy Roget as trustee of the Roget Trust gifted to the City 45 acres of ground near the Target store. This gift was made to the City on December 17, 1993. The deed was recorded December 28, 1993. The City for income tax purposes acknowledged the gift by signing IRS form 8283. This gifting to the City accomplished the desires of Dr. Roget's father which Dr. Roget knew of for over 20 years.

LaDon Bader, an attorney here in Lodi, represented Nancy Roget and the trust at the time the gift was made to the City. He still represents Mrs. Roget and the trust. I have spoken to Mr. Bader about this request since I believe that if we allow the waiver the City has then given consideration for the property. This act on our part could change the character of the property which we received from a gift to an acquisition based upon dollars exchanged. That could have tax consequences for Nancy Roget and the Roget Trust.

Mr. Bader has advised me that Dr. Roget has not spoken with him about this request. Mr. Bader made it quite clear to me that Dr. Roget does not represent Nancy Roget or the Trust. Additionally, it was pointed out to me that Dr. Roget received the Orange Street property from an entirely separate trust from the one which provided the gift to the City and its citizens.

Aside from the fact that the City is now being asked to give consideration for what was a gift to the City, the waiver request appears to be untimely made. The Lodi Municipal Code (LMC) at §15.64.120 states that any claim for a waiver is to be made in writing to the City Clerk no later than ten (10) days after notification of the amount of the fee.

Sharon Welch provided notice of the amount of the fees to Ken Hyske. Mr. Hyske was a representative of Dr. Roget at the time the information was provided. The information regarding the amount of the fees was provided October 25, 1993.

It is my recommendation that the request for the fee waiver be denied for the reasons stated namely 1) the City is being asked to now in essence give consideration for gifted property. The interest of the donor was that the City would not have cost associated with the land acquisition. 2) the waiver request is untimely pursuant to LMC §15.64.120.

Attachments



CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING

Date: September 3, 1997

Time: 7:00 p.m.

For information regarding this notice please contact:

Alice M. Reimche

City Clerk

Telephone: (209) 333-6702

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Wednesday, September 3, 1997** at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a Public Hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following matter:

- a) request from Gordon B. Roget, M.D., for Waiver of Development Impact Mitigation Fees for Parks and Recreation Facilities for 409, 511, 519 and 527 South Orange Avenue

All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice or in written correspondence delivered to the City Clerk, P.O. Box 3006, at or prior to the Public Hearing.

Alice M. Reimche
City Clerk

Dated: August 6, 1997

Approved as to form:

Randall A. Hays
City Attorney



CITY OF LODI
P. O. BOX 3006
LODI, CALIFORNIA 95241-1910

ADVERTISING INSTRUCTIONS

SUBJECT: Set Public Hearing for September 3, 1997 to Consider Request from Gordon B. Roget, M.D., for Waiver of Development Impact Mitigation Fees for Parks and Recreation Facilities for 409, 511, 519 and 527 South Orange Avenue

PUBLISH DATES: SATURDAY, AUGUST 9, 1997

TEAR SHEETS WANTED: ONE

AFFIDAVIT AND BILL TO:

ALICE M. REIMCHE
CITY CLERK

DATED: AUGUST 7, 1997

ORDERED BY:



JACQUELINE L. TAYLOR
DEPUTY CITY CLERK

SUSAN SEWARD-LAKE
ADMINISTRATIVE CLERK



DECLARATION OF MAILING

Public Hearing: Consider Request of Gordon Roget RE: Waiver of Impact Mitigation Fees - S. Orange Avenue

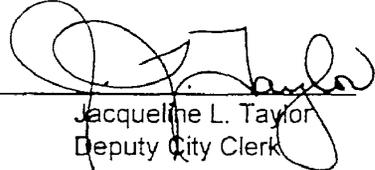
On August 7, 1997, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing a copy of the Notice attached hereto, marked Exhibit "A"; said envelopes were addressed as is more particularly shown on Exhibit "B" attached hereto.

There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 7, 1997, at Lodi, California.

Alice M. Reimche
City Clerk



Jacqueline L. Taylor
Deputy City Clerk

Susan Seward-Lake
Administrative Clerk

EXHIBIT B

MAILING LIST

Gordon B. Roget, M.D.
510 S. Fairmont Avenue
Lodi, CA 95240

CITY COUNCIL

PHILLIP A. PENNINO, Mayor
JACK A. SIEGLOCK
Mayor Pro Tempore
KEITH LAND
STEPHEN J. MANN
DAVID P. WARNER

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6706
FAX (209) 333-6710

August 28, 1997

H. DIXON FLYNN
City Manager
ALICE M. REIMCHE
City Clerk
RANDALL A. HAYS
City Attorney

Gordon B. Roget, M.D.
510 S. Fairmont Ave.
Lodi, CA 95240

SUBJECT: Public Hearing to Consider Request from Gordon B. Roget, M.D., for Waiver of Development Impact Mitigation Fees for Parks and Recreation Facilities for 409, 511, 519 and 527 South Orange Avenue

Enclosed is a copy of background information on an item on the City Council agenda of Wednesday, September 3, 1997. The meeting will be held at 7 p.m. in the City Council Chamber, Carnegie Forum, 305 West Pine Street.

The Council will conduct a public hearing on this item. You are welcome to attend and speak at the appropriate time.

If you wish to write to the City Council, please address your letter to City Council, City of Lodi, P. O. Box 3006, Lodi, California, 95241-1910. Be sure to allow time for the mail. Or, you may hand-deliver the letter to City Hall, 221 West Pine Street.

If you wish to address the Council at the Council Meeting, be sure to fill out a speaker's card (available at the Carnegie Forum immediately prior to the start of the meeting) and give it to the City Clerk. If you have any questions about communicating with the Council, please contact Alice Reimche, City Clerk, at 333-6702.

If you have any questions about the item itself, please call Sharon Welch, Associate Civil Engineer, at 333-6800, ext. 659.


Jack L. Ronsko
Public Works Director

JLR/lm

Enclosure

cc: City Clerk ✓



MEMORANDUM

TO: Honorable Mayor
Members of the Lodi City Council
City Manager
City Attorney
City Clerk

FROM: Jennifer M. Perrin 
Deputy City Clerk

DATE: August 29, 1997

SUBJECT: Public Hearing on Behalf of Dr. Roget Scheduled for September 3, 1997

On Friday, August 29, 1997, Dr. Roget contacted Sharon Welch in the Public Works Department to request that his Public Hearing regarding waiver of Development Impact Mitigation fees for Parks and Recreation facilities for 409, 511, 519 and 527 South Orange Avenue scheduled for September 3, 1997 be withdrawn. Sharon suggested that Dr. Roget speak with the City Clerk's office. Dr. Roget was transferred to my extension and left a message for me on my voice mail requesting that, "in view of the City Attorney's opinion" he would like to withdraw his Public Hearing. Dr. Roget also spoke with Susan Lake in our office relaying the same message.

As suggested by the City Attorney, I will place a copy of this memo in the file as an official request to withdraw said Public Hearing.

JMP

cc: City Engineer
Dr. Gordon B. Roget, M.D.

CITY COUNCIL

PHILLIP A. PENNINO, Mayor

JACK A. SIEGLOCK
Mayor Pro Tempore

KEITH LAND

STEPHEN J. MANN

DAVID P. WARNER

CITY OF LODI

CITY HALL, 221 WEST PINE STREET

P.O. BOX 3006

LODI, CALIFORNIA 95241-1910

(209) 333-6702

FAX (209) 333-6807

H. DIXON FLYNN

City Manager

ALICE M. REIMCHE

City Clerk

RANDALL A. HAYS

City Attorney

September 4, 1997

Dr. Gordon B. Roget
510 S. Fairmont Avenue
Lodi, CA 95240

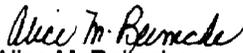
Re: **Public Hearing To Consider The Request From Gordon B. Roget, M.D., For Waiver
Of Development Impact Mitigation Fees For Parks And Recreation Facilities For 409,
511, 519 And 527 South Orange Avenue**

Please let this letter serve as notification of Council action on the above referenced Public Hearing which was heard before the Lodi City Council on September 3, 1997.

Mayor Pennino announced your desire to withdraw this Public Hearing for consideration before the City Council and no discussion or action was taken on this matter.

Should you have any questions, please feel free to contact the City Clerk's office.

Sincerely,


Alice M. Reimche
City Clerk

AMR/JMP

Attachment