



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Adopt Resolution Approving Improvement **Deferral** Agreement for
710 Willow Avenue

MEETING DATE: April **19,2006**

PREPARED **BY**: Public Works Director

RECOMMENDED ACTION: That the City Council adopt a resolution approving an improvement deferral agreement for 710 Willow Avenue and authorize the City Manager and City Clerk to execute the agreement on behalf of the City.

BACKGROUND INFORMATION: The owner of the property, Rosalie Hayles, has submitted a building permit application to construct a pool house/recreation room on the subject property.

Installation of frontage improvements (curb, gutter, sidewalk and pavement) and street lights is required as a condition of building **permit** issuance, **as** set forth in Lodi Municipal Code **15.44**. Since there are currently no other street lights and frontage improvements on the adjacent properties in the area, the owner has requested a deferral agreement for such improvements. Staff feel that this is reasonable based on past practice for similar requests in the same area. Staff recommends deferral, based on what we understand was Council's preference that was incorporated into the draft policy (see attached), which was not adopted due to other issues.

The owner has signed an improvement deferral agreement and paid the necessary document preparation and recording fees for the agreement. The agreement, in part, states that the owner will pay for and complete the design and installation of the required improvements at time of installation of such improvements on adjacent parcels, or at the request of the City, whichever occurs first.

Staff recommends approval of the improvement deferral agreement

FISCAL IMPACT: Improvement Deferral Agreement Fee (\$1,500) and recording fees have been paid by the property owner.

FUNDING AVAILABLE: Not applicable

Richard C. Prima, Jr.
Public Works Director

Prepared by Lyman Chang, Associate Civil Engineer

RCP/LC/pmf

cc Rosalie J Hayles
Associate Civil Engineer, Chang

APPROVED:

Blair King, City Manager

Resolution xx-xx adopted by the City Council at its meeting of September 7, 2005.

I. GOALS - The goals of this policy are to:

- a) Improve the City's sidewalk system to encourage walking and improve safety by eliminating "gaps" in the sidewalk network
- b) Utilize opportunities provided by State law to place costs with the appropriate party
- c) Provide for procedures that are efficient to administer

II. SIDEWALK INSTALLATION

- a) Curb, gutter and sidewalk installation (and repair) is required with new development and with certain building permits per the Lodi Municipal Code.
- b) In other circumstances, the City will provide grant funding, as available, for new installations at residential properties which completely fill in gaps in the sidewalk system. Phase 1 of the grant program consists of 50% grant funding (100% grant for persons with full disability and low-income eligibility). This phase will extend through 2010 unless modified by the City Council. Phase 2 consists of remaining residential parcels from Phase 1 in which the owner declined to participate and other parcels and will be property-owner funded. It is the City's intent to require installation of sidewalk in Phase 2.
- c) "Residential properties" is intended, for the purpose of this policy, to mean residentially-zoned property being used for housing. However, the City Manager may authorize exceptions at "gap" locations where there exists a mixture of residential properties and non-residential uses.
- d) To receive grant funding, the property owner must agree to provide right-of-way for the new sidewalk and relocate fences and sprinklers if necessary, at no cost to the City. The City will relocate its utilities if necessary at no cost to the property owner.
- e) City staff shall report to Council near the completion of Phase 1, prior to moving into Phase 2. The report shall include the then-current locations of missing sidewalk.
- f) This program does not apply to entire subdivisions which were approved for development without sidewalks (Kristmont Acres, Peach and Willow Streets).

III. FEES, PAYMENT & DEFERRAL

- a) Encroachment permit and administrative fees will be waived for property owners who undertake installation/maintenance without formal notice. Fees are applicable to cases in which the City (or its contractor) does the work and processes formal notices.
- b) The City will advance funds for installation without interest if the property owner agrees to make payments over the course of 12 months and upon execution of a written payment agreement with the City.
- c) The City Manager is authorized to establish procedures to implement this policy and to execute payment agreements pertaining to this policy and to file liens with the County Tax Collector and/or Recorder as appropriate to secure payment.

WHEN RECORDED, RETURN TO:

City Clerk
City of Lodi
221 West Pine Street
Lodi, CA 95240

~~PERMIT DEFERRAL AGREEMENT~~
710 Willow Avenue, Lodi, California
(APN 027-110-13)

THIS AGREEMENT is made and entered into by and between the CITY OF LODI, hereinafter referred to as "City" and ROSALIE J. HAYLES, Trustee of the HAYLES REVOCABLE TRUST Dated April 8, 1997, hereinafter referred to as "Owner".

RECITALS:

Owner is the owner of that certain real property situated in the City of Lodi, County of San Joaquin, known as 710 Willow Avenue (APN 027-110-13) and described as follows:

LOT 2 of TRACT NO. 139 WISNER TRACT, FILED FOR RECORD JANUARY 7, 1947, IN VOLUME 11 OF MAPS AND PLATS, PAGE 131, SAN JOAQUIN COUNTY RECORDS.

Building applications (B16815) has been submitted to construct a pool house/recreation room on the subject property. Installation of public improvements along Willow Avenue are required as a condition of permit issuance in accordance with existing City ordinances and policies regarding off-site improvements as set forth in Title 15, Chapter 15.44 of the Lodi Municipal Code. Required improvements include the installation of curb, gutter, sidewalks, asphalt pavement and streetlight along the Willow Avenue right-of-way fronting the subject parcel. Owner is desirous of complying with existing City ordinances and policies regarding off-site improvements. However, since the street frontage improvements have not been installed on the adjacent properties on Willow Avenue, Owner has requested that the required improvements on Willow Avenue to be deferred.

Council of the City will approve the deferral of the required Willow Avenue improvements on condition that the Owner first enter into and execute this agreement with City.

NOW THEREFORE, in order to insure satisfactory performance by Owner of Owner's obligations under said City Code, the parties agree as follows:

1. Owner agrees to pay for and complete the design and installation of the required improvements on Willow Avenue in accordance with City Standards, including payment for engineering and other applicable City fees, at the time of development of adjacent parcels, or at the request of the City, whichever occurs first.
2. Owners agrees to dedicate the necessary easements to allow construction of the said improvements at the time of such improvement installation is required.

3. Owner agrees to undertake the design and construction of the required improvements within **90** days after written notice is given by the City, and will complete the required improvements within 120 days from the date of notice.
4. This agreement shall run with the land and be binding on the Owner, its heirs, successors or assigns.
5. If Owner fails to complete the required improvements with the time period specified in Item **#3** above, the City is hereby authorized to complete the improvements for the account at the expense of Owner, and may file suit against Owner, its heirs, successors or assigns for the costs incurred, as well as for a reasonable sum to be allowed as and for the City's attorney fees incurred in connection with such litigation for the collection of the monies due or may file a lien against said property for the costs incurred.
6. A copy of the Agreement shall be recorded in the office of the San Joaquin County Records, P. O. Box **1968**, Stockton, California **95201-1968**.
7. All notices herein required shall be in writing, and delivered in person or sent by registered mail, postage prepaid.

Notices required to be given to City shall be addressed as follows:

Richard C. Prima, Jr.
Public Works Director
City of Lodi
P. O. Box **3006**
Lodi, CA **95240-1910**

Notices required to be given to Owner shall be addressed as follows:

Rosalie Hayles
710 Willow Avenue
Lodi, CA **95242**

IN WITNESS WHEREOF, the parties hereto have set their hands the day, month and year appearing opposite their names.

CITY OF LODI, a Municipal Corporation

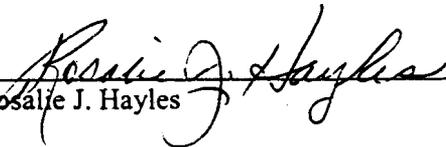
Dated: _____ 2006

By: _____
Blair King, City Manager

Attest: _____
Susan J. Blackston, City Clerk

Owner

Dated: 4-4-06 2006



Rosalie J. Hayles

Approved as to form: _____
D. Stephen Schwabauer, City Attorney

Dated: _____ 2006

RESOLUTION NO. 2006-61

A RESOLUTION OF THE LODI CITY
COUNCIL APPROVING IMPROVEMENT
DEFERRAL AGREEMENT FOR
710 WILLOW AVENUE

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve an Improvement Deferral Agreement for **710** Willow Avenue; and

BE IT FURTHER RESOLVED that the City Manager and City Clerk are hereby authorized to execute the Agreement on behalf of the City of Lodi.

Dated: April **19, 2006**

I hereby certify that Resolution No. **2006-61** was passed and adopted by the City Council of the City of Lodi in a regular meeting held April **19, 2006**, by the following vote:

AYES: COUNCIL MEMBERS – Beckman, Hansen, Johnson, Mounce,
and Mayor Hitchcock

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None



SUSAN J. BLACKSTON
City Clerk

CITY COUNCIL

SUSAN HITCHCOCK.

Mayor

BOB JOHNSON.

Mayor Pro Tempore

JOHN BECKMAN

LARRY O. HANSEN

JOANNE MOUNCE

CITY OF LODI



PUBLIC WORKS DEPARTMENT

CITY HALL, 221 WEST PINE STREET / P.O. BOX 3006

LODI, CALIFORNIA 95241-1910

TELEPHONE (209) 333-6706 / FAX (209)333-6710

EMAIL pwdept@lodi.gov

<http://www.lodi.gov>

BLAIR KING,
City Manager

SUSAN J. BLACKSTON,
City Clerk

D. **STEPHEN** SCHWABAUER.
City Attorney

RICHARD C. PRIMA, JR.,
Public Works Director

April 13, 2006

Ms. Rosalie J. Hayles
710 Willow Avenue
Lodi, CA 95242

SUBJECT: Adopt Resolution Approving Improvement Deferral Agreement for
710 Willow Avenue

Enclosed is a copy of background information on an item on the City Council agenda of Wednesday, April 19, 2006. The meeting will be held at 7 p.m. in the City Council Chamber, Carnegie Forum, 305 West Pine Street.

This item is on the consent calendar and is usually not discussed unless a Council Member requests discussion. The public is given an opportunity to address items on the consent calendar 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 Susan Blackston, City Clerk, at (209) 333-6702.

If you have any questions about the item itself, please call Lyman Chang, Associate Civil Engineer, at (209) 333-6800, extension 2665.

for , Richard C. Prima, Jr.
Public Works Director

RCP/pmf

Enclosure

cc: City Clerk