

P. 250-255
53(9)
CITY COUNCIL MEETING

JULY 21, 1982

APPEAL OF OWNERS
OF PROPERTY AT 412,
415, 423, and 431
S. SACRAMENTO STREET
RE DEVELOPMENT
IMPROVEMENTS

Agenda item K-2 - "Appeal of owners of property at 412, 415, 423, and 431 South Sacramento Street redevelopment improvements was introduced by Public Works Director Ronsko.

Mr. Ronsko stated that in October of 1979, Muller Equipment Company took out a building permit for construction of a new warehouse valued at \$76,000. Prior to issuance of a permit, at the request of the City, the following took place:

1. Since the proposed building straddled a property line, the necessary paperwork was processed to remove the property line, creating one larger parcel out of two, as shown on sketch provided for Councils perusal and identified as Parcels 1A and 1B.
2. In conformance with Section 5-24 of the Code of the City of Lodi, a deed of dedication for five feet along all the frontage both controlled and used by the company was prepared by the City and signed by the owners, (Parcels 1A, 1B, and 2 of sketch).
3. In conformance with Section 5-22 (b) of the Code, an agreement to install improvements along the frontage described in 2 above, was also prepared by the City and signed by the owner.

The frontage on the east side of Sacramento Street included in the dedication and agreement for improvement was based on the use of the property by the company for manufacturing, warehousing, and storage. The existing property line, between the two included parcels (1A, 1B and 2), appears to be historical only, as both parcels are used as one by the owner. It should be noted, however, that either parcel 1A, 1B or 2 could be sold separately.

Parcel 3 as shown on the sketch is also owned by the same company, however, because it is used for other purposes, it was not included in either the dedication or agreement to improve.

At the time all items were returned to the City, and the permit issued, Mr. Muller said that he did not think we were being fair and that he wished to appeal our decision. Rather than record documents, and then re-record or abandon if the appeal was granted, it was elected to hold the signed documents until such time as the outcome of the appeal was known.

A copy of Mr. Muller's appeal letter was presented for Council's perusal.

*Public Works to take
care of follow up -
All Amended
Agreements*

The City Council heard and discussed the appeal of Mr. Phil Muller regarding the development requirements on his property located at 412 S. Sacramento Street, Lodi. Following discussion Mr. Muller withdrew his appeal covering 415, 423, and 431 S. Sacramento Street. The City Staff pointed out that the development requirements being questioned were related to an interpretation of the ordinance.

Following receipt of testimony by Mr. Muller and his engineers and Staff's presentation, Council Member Olson moved that the property owner be allowed to redevelop a property line south of the new building by means of a parcel map and that development off-site improvements only be applicable to the frontage of the new lot. The motion was seconded by Council Member Pinkerton and carried by unanimous vote.

K-2

June 30, 1982

Mr. Glen Baumbach
Baumbach and Piazza
323 W. Elm Street
Lodi, California 95240

Dear Glen:

This letter will confirm that the appeals of the owners of 412, 415, 423, and 431 South Sacramento Street regarding improvements at the subject parcels has been placed in the Agenda file for the Wednesday, July 21, 1982 Council Meeting.

When the formal Agenda is prepared, you will be forwarded a copy.

If you have any questions regarding this matter, please do not hesitate to call.

Very truly yours,

ALICE M. REINCHÉ
City Clerk

civil engineers

BAUMBACH & PIAZZA

June 2, 1982

Mrs. Alice Reimche
City Clerk
City of Lodi
Lodi, California

Dear Alice:

We hereby request that Item (J) on your regular calendar of June 2, 1982, regarding an appeal of owners of property in the 400 block of South Sacramento Street, be delayed and reset for your next council meeting.

Thank you,


GLEN I. BAUMBACH

GIB:jc

CC: Mr. Phil Muller

RECEIVED
323 West Elm Street
Lodi, California 95240
Phone (909) 368-8618
JUN 11 11:05
ALICE M. REINCHE
CITY CLERK
CITY OF LODI



CITY OF LODI

PUBLIC WORKS DEPARTMENT

COUNCIL COMMUNICATION

K-2

TO: City Council
FROM: City Manager
DATE: May 25, 1982
SUBJECT: Development of 412 S. Sacramento Street

RECOMMENDED ACTION: That the City Council hear the appeal of the owner of 412 S. Sacramento Street, and authorize the City Manager and City Clerk to execute the appropriate agreement.

BACKGROUND INFORMATION: In October of 1979, Muller Equipment Company took out a building permit for construction of a new warehouse valued at \$76,000. Prior to issuance of a permit, at the request of the City, the following took place:

1. Since the proposed building straddled a property line, the necessary paperwork was processed to remove the property line, creating one larger parcel out of two, as shown on the attached sketch as parcels 1A and 1B.
2. In conformance with Section 5-24 of the Code of the City of Lodi (copy attached), a deed of dedication for five feet along all the frontage both controlled and used by the company was prepared by the City and signed by the owners, (Parcels 1A, 1B, and 2 of sketch).
3. In conformance with Section 5-22 (b) of the Code, an agreement to install improvements along the frontage described in 2 above, was also prepared by the City and signed by the owner (copy attached).

The frontage on the east side of Sacramento Street included in the dedication and agreement for improvement was based on the use of the property by the company for manufacturing, warehousing, and storage. The existing property line, between the two included parcels (1A, 1B and 2), appears to be historical only, as both parcels are used as one by the owner. It should be noted, however, that either parcel 1A, 1B or 2 could be sold separately.

Parcel 3 on the sketch is also owned by the same company, however, because it is used for other purposes, it was not included in either the dedication or agreement to improve.

At the time all items were returned to the City, and the permit issued, Mr. Muller said that he did not think we were being fair and that he wished to appeal our decision. Rather than record documents, and then re-record or abandon if the appeal was granted, it was elected to hold the signed documents until such time as the outcome of the appeal was known.

APPROVED:

HENRY A. GLAVES, City Manager

FILE NO.

K-2

Council Communication - Development of 412 S. Sacramento St.
May 25, 1982
Page 2

Muller Supply Co. submitted the attached letter appealing the requirements of the City.

Mr. Muller, representing the owners, has been sent a copy of this memorandum and is expected to be present at the Council meeting at which the matter is discussed.



Jack L. Ronsko
Public Works Director

Attachments

cc: Mr. Muller

JLR/GR/eeh

INTERLOCKING PAVING STONES

K-2

City of Lodi
Public Works Department
Attn: Mr. Glen Robinson
Lodi, Ca. 95240

May 16, 1980

Dear Mr. Robinson;

Reference is made to our previous discussions regarding the construction of my new warehouse at 410-412 South Sacramento St. Lodi.

At the time my preliminary plans were presented to the Public Works Dept. I was advised by Rick Cowperthwaite, by letter, dated 1-30-79, that the proposed building could not be constructed over two parcels of property. After the above date I requested that the two parcels be consolidated into one parcel so that the subject building could be constructed. On December 21, 1979 I received a building permit #10461 which was subject to signing a agreement with the City of Lodi which is attached. This agreement requires the property owners, Spiekerman Properties, to construct or remove sidewalks and driveways from the south one-half of lot 9 through lot 22 of Larsons addition. The improvements described in the agreement would not be required until the City notifiys the property owners when Sacramento St. is widened.

At the time the property owners signed the agreement I requested that you hold the agreement until a formal appeal was made to the Public Works Dept. and/or the City Council. This letter will serve as my appeal to the City of Lodi ordanance #1142.

Due to the consolidation of Lots 9 & 10, into the adjacent parcel we will now be obligated to remove and replace a minimum of 600' of sidewalk rather then 100' to 150' of sidewalk. If my new warehouse had not encroached onto lot #10 I would have been obligated to install approx. the footage mentioned above. I can understand the logic involved for the lots affected but, feel that it improper that all lots in the parcel be subject to this ordance.

If additional information is required, please contact me.

Secretary,

Butler Supply Co.

[Signature]
P.H. Butler, President

A Concrete Product Manufacturer

MULLER SUPPLY COMPANY / 424 SOUTH MAIN STREET / LODI,

INDIANA 95240 / TELEPHONE (209) 334-3781

Article V. Off-site Improvements and Dedications.

Sec. 5-19. Purpose.

The purpose of this article is to set forth requirements for the installation of nonexistent or inadequate nonconforming public off-site improvements and the dedication of public rights-of-way and easements as a condition to the issuance of a building permit or development approval in order to protect and improve the public's safety, convenience and general welfare.

Sec. 5-20. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectfully ascribed to them by this section:

"Development" means all residential, commercial and industrial construction or remodeling, as well as developments of public agencies, including but not limited to on-site parking facilities, open storage areas, and other similar improvements which may or may not require a building permit.

"Off-site improvement" means all publicly owned facilities that are or will be located in the public right-of-way which typically include, but are not limited to, curbs, gutters, sidewalks, street paving, storm drains, water mains, sewer lines, fire hydrants, electrical facilities, street lights and landscaping.

Sec. 5-21. Development must comply.

No building permit shall be issued for a development nor shall an on-site parking facility, open storage area or other similar improvement be created or constructed within the city unless compliance is made with the public off-site improvements and dedication requirements set forth in this article.

Sec. 5-22. Exceptions and deferments.

(a) The requirements of section 5-21 shall not apply if the cost of development within any twelve-month period is determined by the public works director to be less than ten thousand dollars.

This amount shall be adjusted by the public works director on July 1st of each year based upon the change of the U.S. Average Engineering News-Record Building Cost Index, using the following formula:

$$\text{Amount} = \$10,000 \times \frac{\text{ENR Index for June}}{1936 \text{ (ENR Index for June 1980)}}$$

and that the amount shall be rounded to the nearest one hundred dollars.

(b) The city may defer compliance with the requirements of section 5-21 if the public works director determines that it would be in the best interest of the city to cause all or a portion of the work to be done on an area-wide basis; provided, that the property owner enters into an agreement with the city agreeing

that the property owner will undertake and start the construction of the required improvements within ninety days after notice is given by the city. The agreement shall further provide that in the event of default in undertaking and completing the required improvements within the time specified, the city may cause such work to be done and the cost thereof to be assessed as a lien against the property. Such agreement shall also be considered as a covenant running with the land and shall be recorded in order to constitute notice to any prospective buyer of such property. The city manager is authorized to execute such an agreement for and on behalf of the city.

Sec. 5-23. Off-site improvement requirements.

The off-site improvements required for all developments under this article are as follows:

(a) Curb, gutter, sidewalk, driveways and street improvements shall be installed fronting all portions of the developer's property being developed which fronts upon a public street or future public street. Said improvements shall be in accordance with the then current city policies and city standards.

(b) Water, sewer, storm drains, and landscaping shall be installed in accordance with the then current city policies and city standards.

(c) Electrical facilities and street lights shall be installed in accordance with plans prepared and approved by the city utility department.

(d) Plans showing the off-site improvements shall be prepared by a registered civil engineer unless waived by the public works director.

(e) The installation of off-site improvements within existing public right-of-way requires an encroachment permit from the city.

(f) If off-site improvements exist that do not meet existing city standards or are inadequate or a hazard to the general public, then these off-site improvements shall be reconstructed to current city standards.

(g) No occupancy permit shall be issued or utility connections made unless the required off-site improvements and dedications have been completed and approved.

Sec. 5-24. Standard dedications.

The public right-of-way and easement dedications required under this article shall be in conformance with the then current city design standards and adopted specific plans. The required dedications shall be made prior to the issuance of a building permit or allowing the development to proceed.

Sec. 5-25. Guarantee and permit issuance.

Any person required to construct off-site improvements under this article shall either complete same to city specifications or shall guarantee such completion by furnishing to the city, prior to the issuance of a building permit, or allowing a development to proceed, a surety bond, instrument of credit, or cash in the amount of the development's construction cost.

Sec. 5-26. Inspection and approval.

Off-site improvements required under this article are subject to the inspection and approval of the public works director.

Sec. 5-27. Fees.

The then current applicable development fees must be paid prior to the issuance of a building permit, or allowing a development to proceed to cover the following:

- (a) Master storm drainage acreage fee;
- (b) In-tract storm drainage acreage fee;
- (c) Engineering fee;
- (d) Other established development fees.

Sec. 5-28. Appeal.

Any person required to make improvements or dedications under this article may appeal any decision of the public works director to the city council. Such appeals shall be in writing and shall be filed with the city clerk within fifteen days of the date notice of the decision is made.

The city council shall hold a hearing on the appeal within thirty days of the date on which the appeal was filed. The city clerk shall send written notice of the hearing to the appellant at least seven days prior to the date of the hearing. The determination of the city council shall be considered as final.

K-2

A G R E E M E N T

THIS AGREEMENT, entered into by and between SPIEKERMAN PROPERTIES, a partnership, hereinafter called Developer, and the CITY OF LODI, a municipal corporation, hereinafter called City.

Developer is owner of that certain real property situate in the County of San Joaquin, State of California, and described as follows:

South one-half of LOT 9 and LOTS 10 through 22 of LARSON'S ADDITION TO LODI.

Developer, at the present time, plans to construct improvements on said property, to wit:

IMPROVEMENTS:

WAREHOUSE BUILDING AND PARKING LOT

and is desirous of complying with existing City ordinances and policies regarding the development of similar property as set forth in Section 5-19, et seq, of the Lodi Municipal Code and this Agreement is being entered into for the purpose of setting forth the prospective rights, duties and obligations of the parties hereto with respect to the following:

1. It is understood that the aforementioned-described property shall be improved as aforementioned, and that Developer shall be responsible for:
 - a. installation of sidewalk and driveways where none are now existing;
 - b. removal and replacement of any abandoned driveways.
2. The City agrees that the installation of the aforesaid off-site and on-site improvements listed in Paragraphs 1, a. and b. need not be made at this time with the understanding that Developer does hereby agree that upon demand of City, that property owner will undertake and start the construction of the required improvements within 90 days after written notice is given by City to Developer.
3. This Agreement shall be binding on the Developer, its heirs, successors or assigns.

K-2

- 4. In the event that the aforesaid improvements are not installed upon demand of City, then City is hereby authorized to install said facilities and may file suit against Developer, 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's fees incurred in connection with such litigation for the collection of the monies due.
- 5. Developer agrees that in the event of the sale of all or any portion of the property first hereinabove-described, that the purchaser shall be given a copy of this Agreement and a statement to that effect shall be delivered to City at the time of the close of the escrow so that the purchaser will be apprised of their obligations and responsibilities hereunder.
- 6. A copy of this Agreement shall be recorded in the office of the San Joaquin County Recorder, Courthouse, Room 151, Stockton, California 95202.

IN WITNESS WHEREOF, the parties hereto have set their hands this _____ day of _____, 1979.

SPIEKERMAN PROPERTIES, a partnership

Robert Spiekerman

By: *Carol Muller*

CITY OF LODI, a municipal corporation

By: _____
Henry A. Glaves, City Manager

Attest: _____



CITY OF LODI

PUBLIC WORKS DEPARTMENT

K-2

COUNCIL COMMUNICATION

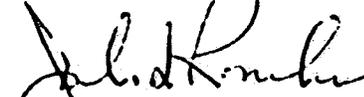
TO: City Council
FROM: City Manager
DATE: May 25, 1982
SUBJECT: Development of 415 - 423 - 431 South Sacramento Street

RECOMMENDED ACTION: That the City Council hear the appeal of the owner of the above parcels, and authorize the City Manager and City Clerk to execute the appropriate agreement.

BACKGROUND INFORMATION: Early this year the owners of the six parcels on the west side of South Sacramento Street, determined that all of the property lines had to be removed and the six parcels made into three as shown on the attached drawing.

Similar to the development across the street, the City asked for dedication on the map of 5' along the frontage and in keeping with City codes, requested that the owner replace all unused driveways along the frontage. Since the entire frontage is continuous, and the area is destined for future widening, the Public Works Department recommended to the owner that an agreement be entered into for replacement of driveways. This would defer the costs of reconstruction to a future date when the widening would take place, hopefully for a much larger frontage, and when the location of all new driveways would be known. A copy of the signed agreement is attached.

Mr. Phil Muller, representing the owners has indicated he would like to appeal this requirement. He has been sent a copy of this memorandum and is expected to be in the audience.


Jack L. Ronsko
Public Works Director

Attachments

cc: Phil Muller

JLR/GER/eeh

APPROVED:

HENRY A. GLAVES, City Manager

FILE NO.

SCHOOL

STREET

N O T U

STREET

CHESTNUT

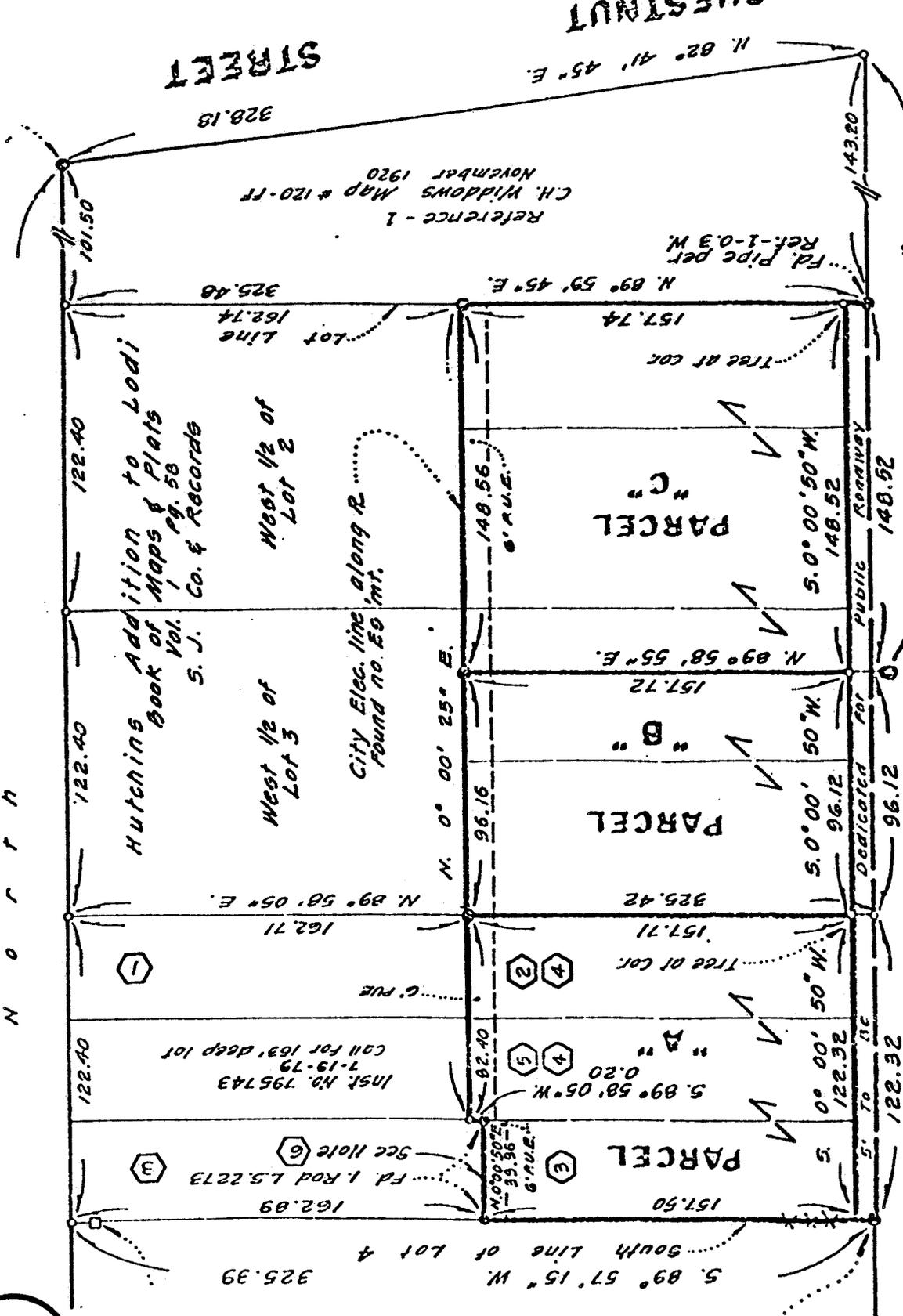
STREET

SACRAMENTO

SACRAMENTO

R-2

PARCEL MAP
415-425-431 SO. SACRAMENTO ST



R-2

PARCEL MAP
415-425-431 SO. SACRAMENTO ST

K-2

AGREEMENT

415-423-431 South Sacramento Street

THIS AGREEMENT, entered into by and between SPIEKERMAN PROPERTIES, a partnership, hereinafter called Developer, and the CITY OF LODI, a municipal corporation, hereinafter called City.

Developer is owner of that certain real property situate in the County of San Joaquin, State of California, and described as follows:

The East 1/2 of Lots 2, 3, and 4 of Hutchins Addition to Lodi.

Developer, at the present time, plans to file a parcel map on said property and is desirous of complying with existing City ordinances and policies regarding the recording of similar maps as set forth in Section 22-13, et seq. of the Lodi Municipal Code and this Agreement is being entered into for the purpose of setting forth the prospective rights, duties and obligations of the parties hereto with respect to the following:

1. It is understood that the property shall be mapped as aforementioned, and that Developer shall be responsible for:
 - a. Installation of new commercial driveways to conform to building plans;
 - b. removal and replacement of all abandoned driveways;
 - c. payment of applicable engineering fees.
2. The City agrees that the installation of the aforesaid off-site and on-site improvements listed above need not be made at this time with the understanding that Developer does hereby agree that upon demand of City, that property owner will undertake and start the construction of the required improvements within 90 days after written notice is given by City to Developer.
3. This Agreement shall be binding on the Developer, its heirs, successors or assigns.

K-2

- 4. In the event that the aforesaid improvements are not installed upon demand of City, then City is hereby authorized to install said facilities and may file suit against Developer, 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's fees incurred in connection with such litigation for the collection of the monies due.
- 5. Developer agrees that in the event of the sale of all or any portion of the property first hereinabove-described, that the purchaser shall be given a copy of this Agreement and a statement to that effect shall be delivered to City at the time of the close of the escrow so that the purchaser will be apprised of their obligations and responsibilities hereunder.
- 6. A copy of this Agreement shall be recorded in the office of the San Joaquin County Recorder, Courthouse, Room 151, Stockton, California 95202.

IN WITNESS WHEREOF, the parties hereto have set their hands this _____ day of _____, 1982.

SPIEKERMAN PROPERTIES, a partnership

CITY OF LODI, a municipal corporation

By: Robert Spiekerman

By: Henry A. Graves, City Manager

Carol Miller

Attest: _____

1 0 7/21 CC-536
CITY COUNCIL

FRED M. REID, Mayor
ROBERT C. MURPHY,
Mayor Pro Tempore
EVELYN M. OLSON
JAMES W. PINKERTON, Jr.
JOHN R. (Randy) SNIDER

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
POST OFFICE BOX 320
LODI, CALIFORNIA 95241
(209) 334-5634

HENRY A. GLAVES, Jr.
City Manager

ALICE M. REINICHE
City Clerk

RONALD M. STEIN
City Attorney

August 20, 1982

Mr. Mike Sabo
4264 East Almond Drive
Lodi, California 95240

Dear Mr. Sabo:

Enclosed herewith please find certified copy of the City Council Minutes of July 21, 1982 reiterating the Council's position on your request for some relief of the front footage charges for your recent water main tap on Almond Drive, whereby, the City Council following lengthy discussion on the matter and review of the City's policy regarding water main extensions, denied your request.

Should you have any questions regarding this action, please do not hesitate to call.

Very truly yours,

Alice M. Reiniche

Alice M. Reiniche
City Clerk

AMR/lf
Enc.