



# CITY OF LODI

# COUNCIL COMMUNICATION

**AGENDA TITLE:** Public Hearing to Consider Appeal from Gilbert and Betty Kampe Regarding Development Requirements at Property Located at 2024 Edgewood Drive

**MEETING DATE:** November 2, 1994

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** That the City Council conduct a public hearing to consider an appeal from Gilbert and Betty Kampe regarding development requirements for the construction project located at 2024 Edgewood Drive and take the appropriate action. Staff recommends that the appeal be denied.

**BACKGROUND INFORMATION:** In August of this year, Gilbert and Betty Kampe submitted a building permit application to the City for a new home on a vacant lot at 2024 Edgewood Drive. In accordance with various City ordinances, the Public Works Department responded to the application with a letter to the applicants and a memo to the Building Division listing development requirements. Briefly, the requirements were:

1. Install a cleanout on the sewer service (by developer);
2. Repair broken sidewalk (by developer);
3. Pay the wastewater connection fee (\$2,623.75);
4. Pay for a water meter and service upgrade to accommodate the meter (\$625.00);
5. Pay Development Impact Mitigation Fees (\$8,431.50).

The letter, memo and attachments are included as the following exhibits:

**Note:** The attachments refer to additional attachments. To avoid duplication and confusion, notes have been added to the correspondence indicating the exhibit letters used in this report.

**Exhibit A - September 1 letter to Mr. and Mrs. Kampe**

This standard letter cites the reasons for the review and requirements. The major item, Development Impact Mitigation Fees, is explained in the italicized portion.

**Exhibit B - September 1 memo to the Building Division**

This standard memo lists the development requirements, including fees.

**Exhibit C - Chapter 15.64 of the Lodi Municipal Code on Development Impact Mitigation Fees**

APPROVED

THOMAS A. PETERSON  
City Manager



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**Exhibit D - Development Impact Mitigation Fee Summary Sheet**

The bill referred to in the memo only indicates the total amount. The summary sheet shows the fee calculation and breakdown among the eight fee categories.

The Kampes responded with a letter dated September 6, attached as Exhibit E, questioning the requirements. The reply letter, dated September 15 from the City Engineer, is attached as Exhibit F. The Kampes sent another letter, dated September 19, which is attached as Exhibit G. We also met with Mrs. Kampe between September 15 and 19, discussed the issues and, hopefully, resolved some of them. The development requirements and discussions are as follows:

**1. Install a cleanout on the sewer service**

On older wastewater services, cleanouts were not installed as they are now required (see Exhibit F, Page 3, first paragraph). This is a relatively small cost item, particularly if done along with construction of a new home, and we understand the Kampes are satisfied with our explanation and the requirement.

**2. Repair broken sidewalk**

The City's Sidewalk Repair Policy has been debated many times by the City Council. The main issue with the Kampes seems to be whether or not this is the responsibility of the previous owner (see Exhibit F, Page 3, second and third paragraph, and Exhibit G, fifth paragraph). The requested sidewalk repair is one that did not show up on the last City inspection done a few years ago. We are not aware of any prior contacts with the property owner on this subject. The broken sidewalk is not one we would take action on other than requiring repair as part of a building permit.

Again, although the Kampes may not be satisfied with this explanation, the cost will be less than \$150.00 if done along with construction of a new home.

**3. Pay the wastewater connection fee (\$2,623.75)**

The fee of \$2,623.75 is based on a three-bedroom home as was indicated on the building permit application reviewed by Public Works staff. The Building Department has since corrected the application to two bedrooms which will reduce the fee to \$2099.00. This fee has been charged on new homes for many years. Again, we see no basis for waiving the requirement unless the Council wishes to change the ordinance and the entire funding mechanism for the Wastewater Treatment Plant.

**4. Pay for a water meter and service upgrade to accommodate the meter (\$625.00)**

Apparently the Kampes are satisfied with the meter charge although confused about the cost, as noted in their last letter (see Exhibit G, fourth paragraph). We have not been able to find anyone on staff who recalls talking to them about this item, but it is understandable why there would be some confusion since the cost depends on many individual

circumstances, including the fact that the service size and meter size are often different. The typical circumstances and costs for a residential service are:

- |   |           |
|---|-----------|
| • Complete new 1-inch service with 3/4-inch meter         | \$ 875.00 |
| • Upgrade 1-inch service line and box with 3/4-inch meter | \$ 725.00 |
| • Upgrade 1-inch service box with 3/4-inch meter          | \$ 625.00 |
| • Install 3/4-inch meter in existing suitable service     | \$ 180.00 |

Public Works staff will attempt to clarify these typical charges the next time the "Fee and Service Charge Schedule" is updated.

#### 5. Pay Development Impact Mitigation Fees (\$8,431.50)

This is obviously the major item of contention and there are two issues involved. The first is whether or not the fees are appropriately charged in accordance with the ordinance and the second has to do with the Kampes' and the previous owners' knowledge of the fees.

The discussion on Development Impact Mitigation fees on the first page of Exhibit F describes the background and explanation for the first issue. The fee ordinance exemption for "projects in progress" (Exhibit C, §15.64.110 E.) provided the "transition" from vacant land subject to the fees to those that had already developed and paid the appropriate fees. The key was development approval and payment of the then-current impact fee, the Master Storm Drainage fee. The City collected this fee from, literally, dozens of parcels in the years prior to the adoption of the Development Impact Mitigation fees in 1991. Included in these was another vacant parcel on Edgewood Drive on which the owners built a new home. Thus, the precedent of collecting impact fees on parcels that were created many years ago has been set and practiced for quite some time. Changing the ordinance to provide further exemptions for this type of project would involve significant changes to the entire program and would need to be studied in detail by the consulting firms who helped the City establish the program in 1991. This could take several months to a year and would likely mean that the costs of additional facilities to serve these projects would have to be borne by the General Fund, which means all the taxpayers.

Since adoption of the current impact fees in 1991, the City has collected fees from eleven parcels which were already partially developed and were adding new buildings or other improvements on vacant land. An additional two residential projects paid impact fees on lots in the older parts of town that were created by parcel maps utilizing vacant space on existing lots.

The only exception that has been granted by the City Council involved two industrial parcels that had a unique set of circumstances. The Council report on that exception is attached as Exhibit I. Finding 2. was the key item which referred to a letter specifically deferring impact fees that had already been billed. The Council made the findings as described and the owners subsequently paid the prior impact (drainage) fees. These circumstances do not apply to this case.

The other issue involving knowledge of the fee is more difficult, although it probably has no bearing on the first issue. The Kampes and others involved in the sale of the lot apparently made some contacts regarding utility services. Various Planning and Electric Utility staff recall discussing problems with setbacks and easements, but no discussion about impact fees. While we continue to remind counter staff to mention possible connection and impact fees, it is possible that these can be overlooked when the conversation focuses on other building issues. This is not typical however. Building questions are routinely answered at the front counter and the customer referred to the Public Works Department for other fee and improvement issues. We also have a preliminary development checklist (the "pink sheet") that would have revealed these issues if the Realtor or contractor had requested one from the Public Works Department. Just this week we responded to questions from a contractor on another vacant parcel on Edgewood Drive and have also spoken to the Realtor. The thorough review process that generates detailed requirements can only be done when the applicant presents detailed plans for a building permit or some special review.

**SUMMARY:** The City's Development Impact Mitigation Fee ordinance is clear that this project is subject to payment of fees. Staff has been consistent in the application of the fee ordinance and has charged many projects upon development of vacant land within the older parts of the City. We see three possible courses of action:

1. Deny the appeal as recommended;
2. Direct the City Attorney to further review the matter although his preliminary review found no basis to support the appeal;
3. Direct Staff to work on a modification to the fee ordinance to exempt this type of project which would entail a new fee study.

**FUNDING:** To be determined if needed.



Jack L. Ronsko  
Public Works Director

Prepared by Richard C. Prima, Jr., City Engineer

JLR/RCP/Im

Attachments

cc: Gilbert and Betty Kampe  
City Attorney

CITY COUNCIL

JACK A. SIEGLOCK, Mayor  
STEPHEN J. MANN  
Mayor Pro Tempore  
RAY G. DAVENPORT  
PHILLIP A. PENNINGO  
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CITY OF LODI

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**EXHIBIT A**

THOMAS A. PETERSON  
City Manager  
JENNIFER M. PERRIN  
City Clerk  
BOB McNATT  
City Attorney

September 1, 1994

Mr. and Mrs. Gilbert Kampe  
2925 Rockford Avenue  
Stockton, California 95207

SUBJECT: Construction Application #7926  
2024 Edgewood Drive, Lodi, California

Your construction application has been reviewed by the Public Works Department for conformance with City off-site improvement and dedication requirements. This review is required by the Lodi City Municipal Code (Chapter 15.44) when the valuation of the proposed work exceeds \$27,400. The requirements are described on the attached sheet which has been forwarded to the Building Division for inclusion in your permit.

Exhibit B

The CONSTRUCTION REQUIREMENTS and FEES sections will be handled by the Building Division in conjunction with the issuance of your Building Permit.

*Payment of Development Impact Mitigation Fees is also required on this project. Although this lot was created in 1967, the development impact mitigation fee ordinance allows fee exemptions only for those parcels which have paid previous mitigation fees (\$15.64.110). Our records indicate that no mitigation fees have been paid on this lot. A copy of Lodi Municipal Code Section 15.64 which covers development impact mitigation fees is enclosed for your information.*

Exhibit C

*Due to the amount and detail of the impact fee calculation, a separate billing has been prepared and is attached to this letter. Payment is required prior to issuance of your building permit.*

Exhibit D

The work listed under the ENCROACHMENT PERMIT section requires that your contractor obtain an encroachment permit from the Public Works Department for the items indicated. There is no fee for this permit. The encroachment permit should be obtained at the time of issuance of the building permit or as soon thereafter as possible so as not to delay your project.

Should you have any questions, please call me at 333-6800 ext. 659.



Sharon A. Welch  
Associate Civil Engineer

cc: Building Division  
Mid-Cal Contractors

**MEMORANDUM, City of Lodi, Public Works Department**

**To:** Chief Building Official  
**From:** Associate Civil Engineer - Development Services  
**Date:** September 1, 1994  
**Subject:** Construction Application #7926  
2024 Edgewood Drive, Lodi, California

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**CONSTRUCTION REQUIREMENTS:**

Please add the following construction requirements to the Plans and the Building Permit for the subject project:

- Install a cleanout conforming to Standard Plan 201 on the sewer service.
- Repair broken sidewalk (approximately 6'). Sidewalk repairs to conform to Standard Plan 117. See Encroachment Permit Section below.

**FEES:**

Please collect the following Public Works fees at the time of issuance of the Building Permit:

- Wastewater Connection Fee for 1.25 SSU's (\$2,623.75).
- Water Service Charges for work by City: \$500.00 for water service upgrade to include meter box.
- Water Meter Installation by City: \$125.00 for ¾-inch water meter.
- Development Impact Mitigation Fees are required for this project. See Addition Items section below.

**ENCROACHMENT PERMIT:**

The following work is a condition of the Building Permit and should be marked on the Plans. The work is to be done prior to occupancy under the terms of an encroachment permit from the Public Works Department:

- Repair damaged sidewalk as indicated above under Construction Requirements.

**ADDITIONAL ITEMS:**

The following additional items are required of the project and will be handled by the Public Works Department:

- Development Impact Mitigation Fees are required on this project. A separate billing has been issued for these fees. The fees need to be paid prior to the issuance of the building permit.

Senior Building Official  
September 1, 1994  
Page 2

**Please notify the Development Services Section when the fees to be collected by the Building Division are paid.**

Thank you,



Sharon A. Welch  
Associate Civil Engineer

cc: Mr. & Mrs. Gilbert Kampe  
Mid-Cal Constructors

15.60.200

sances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

E. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the provisions of Section 15.60.190(C) are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

F. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest flood elevation below the regulatory flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest flood elevation. A copy of the notice shall be recorded by the flood-plain board in the office of the San Joaquin County recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land. (Ord. 1426 (part), 1988)

**Chapter 15.64**

**DEVELOPMENT IMPACT  
MITIGATION FEES**

**Sections:**

- 15.64.010 Findings and purpose.
- 15.64.020 Definitions.
- 15.64.030 Development impact funds.
- 15.64.040 Payment of fees.

- 15.64.050 Adoption of study, capital improvement program and fees.
- 15.64.060 Calculation of fees.
- 15.64.070 Residential acre equivalent factor.
- 15.64.080 Credit and reimbursement for construction of facilities.
- 15.64.090 Other authority.
- 16.64.100 Findings regarding use of fees.
- 15.64.110 Fee exemptions.
- 15.64.120 Fee adjustment or waiver.
- 15.64.130 Appeal procedure.
- 15.64.140 Severability.

**15.64.010 Findings and purpose.**

The council finds and declares as follows:

A. In order to implement the goals of the City of Lodi's general plan and to mitigate the impacts caused by new development in the city, certain public improvements must be or had to be constructed. The city council determines that development impact mitigation fees are needed to finance these public improvements and to pay for new developments' fair share of the construction costs of these improvements. In establishing the fees described in this chapter, the city council finds the fees to be consistent with its general plan and, pursuant to Government Code Section 65913.2, has considered the effects of the fees with respect to the city's housing needs as established in the housing element of the general plan.

B. The purpose of this chapter is to implement the general plan requirements set forth in this subsection and subsection A of

this section and to impose mitigation fees to fund the cost of certain facilities and services, the demand for which is directly or indirectly generated by the type of new development proposed in the general plan, under the authority of:

1. The police power of the city granted under Article XI, Section 7, of the California Constitution;

2. The provisions of the California Environmental Quality Act, Public Resources Code, Section 21000 et seq., which in general requires that all developments mitigate environmental impacts;

3. The provisions of the California Government Code regarding general plans at Section 65300 et seq. including but not limited to the provisions of Government Code Section 65400.

C. It is further the purpose of this chapter to require that adequate provisions are made for developer-financed facilities and services within the city limits as a condition to the approval of a new development.

D. Development impact mitigation fees are established on development in the city. Development impact mitigation fees shall consist of separate fees as described in Section 15.64.030 of this chapter. The city council shall, by resolution, set forth the specific amount of the fees; describe the benefit and impact area on which the fee is imposed; refer to the specific improvements to be financed, their estimated cost and reasonable relationship between this fee and the various types of new developments; and set forth time for payment. Adoption of such fee resolutions shall be done in compliance with Government Code Sections 66016 et seq.

E. The specific improvements to be financed by the fee are described in the City

of Lodi Development Impact Fee Study prepared for the city by Nolte and Associates and Angus McDonald & Associates, dated August, 1991, a copy of which is on file with the city clerk. The calculation of the fee is based upon the findings in the referenced study.

F. New development will generate new demand for facilities which must be accommodated by construction of new or expanded facilities. The amount of demand generated and, therefore, the benefit gained, varies according to kind of use. Therefore, a "residential acre equivalent" (RAE) factor was developed to convert the service demand for general plan based land use categories into a ratio of the particular use's rate to the rate associated with a low-density, single-family dwelling gross acre. The council finds that the fee per unit of development is directly proportional to the RAE associated with each particular use.

G. The city has previously approved various development projects which have made significant financial expenditures towards completion, including the payment of the then current development impact mitigation fees; but have not obtained a building permit. The city council finds and declares that such projects should be allowed to proceed without the imposition of new development impact mitigation fees imposed under this chapter. (Ord. 1547 § 1, 1992; 1526 § 1, 1991; Ord. 1518 § 1 (part), 1991)

#### 15.64.020 Definitions.

A. "Acreage" means the gross acreage for fee calculation purposes of any property within the city general plan area not including the acreage of dedicated street right-of-way existing prior to development, except

that the area of new dedicated street right-of-way in excess of thirty-four feet on one side of a street shall not be included in gross acreage.

B. "Building permit" means the permit issued or required for the construction, improvement or remodeling of any structure pursuant to and as defined by the city building code.

C. "Costs" means amounts spent, or authorized to be spent, in connection with the planning, financing, acquisition and development of a facility or service including, without limitation, the costs of land, construction, engineering, administration, and consulting fees.

D. "Development" or "project" means any of the following:

1. For water, sewer and storm drainage impact fees: any new connection to the city system or increase in service demand;

2. For streets impact fees: any project that increases traffic;

3. For police, fire, parks and recreation and general facilities impact fees: any project generating new or increased service demand.

E. "Facilities" means those public facilities designated in the City of Lodi Development Impact Fee Study and as subsequently designated by the city council.

F. "Land use" means the planned use as shown on the general plan land use map defined by the following categories based on the designations in the city general plan:

1. Low-density Residential. Single-family detached and attached homes, secondary residential units, and similar uses not exceeding seven units per gross acre;

2. Medium-density Residential. Single-family and multi-family residential units and

similar uses between 7.1 and twenty units per gross acre;

3. High-density residential. Multi-family residential units, group quarters, and similar uses between 20.1 and thirty units per gross acre;

4. East Side Residential. This designation reflects the city council's adoption of Ordinance No. 1409. This designation provides for single-family detached and attached homes, secondary residential units, and similar uses not exceeding seven units per gross acre;

5. Planned Residential. Single-family detached and attached homes, secondary residential units, multi-family residential units, and similar uses and is applied to largely undeveloped areas in the unincorporated area of the general plan. All development under this designation shall be approved pursuant to a specific development plan. As specific development plans are approved, the planned residential designation shall be replaced with a low, medium, or high density residential designation, or a public/quasi-public designation based on its approved use and density;

6. Commercial-Retail. Retail uses, restaurants, wholesale commercial uses, hotel and motel uses and service uses, public and quasi-public uses, and similar uses with a floor/area ratio not exceeding 0.40;

7. Commercial-Office. Professional and administrative offices, medical and dental clinics, laboratories, financial institutions, and similar uses with a floor/area ratio not exceeding 5.0;

8. Light Industrial. Industrial parks, warehouses, distribution centers, light manufacturing, and similar uses with a floor/area ratio not exceeding 0.50;

9. Heavy Industrial. Manufacturing, processing, assembling, research, wholesale and storage uses, trucking terminals, railroad facilities, and similar uses with a floor/area ratio not exceeding 0.50;

10. Public/Quasi-Public. Government-owned facilities, public and private schools, and quasi-public uses such as hospitals and churches with a floor/area ratio not exceeding 0.50. The appropriate residential acre equivalent factor for these uses shall be determined on a case-by-case basis by the public works director.

G. "Program fee per residential acre equivalent" means the total program costs, for a particular category of facility divided by the total number of residential acre equivalents and adjusted for price changes up to the year of construction and for the cost of financing, as identified in the City of Lodi Development Impact Fee Study or subsequent update for that particular category.

H. "Residential acre equivalent factor" (RAE) is a conversion factor used to reflect the service demand for each land use, with respect to the same characteristics for a low-density, single-family detached dwelling unit zoned in a residential zoning category ("R-LD" low-density) based on the city general plan. (Ord. 1547 § 2, 1992; Ord. 1518 § 1 (part), 1991)

#### 15.64.030 Development impact funds.

A. The city finance director shall create in the city treasury the following special interest-bearing trust funds into which all amounts collected under this chapter shall be deposited:

1. Water facilities;
2. Sewer facilities;

- a. General sewer facilities.
- b. Kettleman Lane lift station.
- c. Harney Lane lift station.
- d. Cluff Avenue lift station.
3. Storm drainage facilities;
4. Street improvements;
5. Police facilities;
6. Fire facilities;
7. Parks and recreation facilities;
8. General city facilities and program administration.

B. The fees shall be expended solely to pay the costs of facilities (including interest on interfund loans) or to reimburse developers entitled to reimbursement under this chapter. The funds for the categories listed above shall be kept separate. For purposes of this chapter, they are referred to in aggregate as the "development impact fee fund."

C. The city manager shall have the authority to make loans among the development impact fee funds to assure adequate cash flow. Interest charged on each loan shall be the same as the rate earned on other city funds. (Ord. 1518 § 1 (part), 1991)

#### 15.64.040 Payment of fees.

A. The property owner of any development project causing impacts to public facilities shall pay the appropriate development mitigation fee as provided in this chapter. The amount shall be calculated in accordance with this chapter and the program fee per residential acre equivalent as established by council resolution.

B. When such payment is required by this chapter, no final subdivision map, building permit or grading permit shall be approved for property within the city unless the development impact mitigation fees for

15.64.040

that property are paid or guaranteed as provided in this chapter.

C. The fees shall be paid before the approval of a final subdivision map, building permit or grading permit, whichever occurs first except as provided in subsection E of this section.

D. If a final subdivision map has been issued before the effective date of the ordinance codified in this chapter, then the fees shall be paid before the issuance of a building permit or grading permit, whichever comes first except as exempted under Section 15.64.110 of this chapter.

E. Where the development project includes the installation of public improvements, the payment of fees for Police, Fire, Parks and Recreation and general city facilities and program administration may be deferred and shall be collected prior to acceptance of the public improvements by the city council. Payment of all deferred fees shall be guaranteed by the owner prior to deferral. Such guarantee shall consist of a surety bond, instrument of credit, cash or other guarantee approved by the city attorney. (Ord. 1526 § 2, 1991; Ord. 1518 § 1 (part), 1991)

**15.64.050 Adoption of study, capital improvement program and fees.**

A. The city council adopts the City of Lodi Development Fee Study dated August, 1991 and establishes a future capital improvement program consisting of projects shown in said study. The city council shall review that study annually, or more often if it deems it appropriate, and may amend it by resolution at its discretion.

B. The city council shall include in the city's annual capital improvement program

appropriations from the development impact fee funds for appropriate projects.

C. Except for facilities approved by the public works director for construction by a property owner under Section 15.64.080 or as shown in the annual capital improvement program, all facilities shall be constructed in accordance with the schedule established in the development impact fee study.

D. The program fee per residential area equivalent (RAE) shall be adopted by resolution and shall be updated annually, or more frequently if directed by the city council, by resolution after a noticed public hearing. The annual update shall be based on a report by the public works director including the estimated cost of the public improvements, the continued need for those improvements, and the reasonable relationship between such need and the impacts of the various types of development pending or anticipated and for which this fee is charged. In the absence of substantial changes in the projects or unit prices, the change in project cost shall be estimated by the change in the Engineering News Record 20 Cities Construction Cost Index. (Ord. 1518 § 1 (part), 1991)

**15.64.060 Calculation of fees.**

A. The development impact mitigation fees required under Section 15.64.040 are calculated as follows:

$$F = P \times RAE$$

$$T = A \times F$$

where:

**A** = acreage, computed to the nearest 0.01 acre;

**F** = fee per acre per land use category per the definitions in this chapter, rounded to the nearest ten dollars;

**P** = program fee per residential acre equivalent as established by resolution; and

**RAE** = the residential acre equivalent (RAE) factor for the appropriate land use category (see Section 15.64.070);

T = the total mitigation fee for each category of public facility.

B. The calculated fees are subject to adjustment per Section 15.64.120 of this code. (Ord. 1518 § 1 (part), 1991)

**15.64.070 Residential acre equivalent factor.**

A. The residential acre equivalent factor is based on the development impact fee study.

B. The residential acre equivalent (RAE) factors are as set out in the following table.

Land Use Categories	Water RAE	Sewer RAE	Storm Drainage RAE	Streets RAE	Police RAE	Fire RAE	Parks & Recreation RAE	General Facilities RAE
<b>RESIDENTIAL</b>								
Low Density	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Medium Density	1.96	1.96	1.00	1.96	1.77	1.96	1.43	1.43
High Density	3.49	3.49	1.00	3.05	4.72	4.32	2.80	2.80
<b>East Side Residential</b>								
Residential	1.00	1.00	1.00	1.00	1.09	1.10	1.10	1.10
<b>PLANNED RESIDENTIAL</b>								
Low Density	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Medium Density	1.96	1.96	1.00	1.96	1.77	1.96	1.43	1.43
High Density	3.49	3.49	1.00	3.05	4.72	4.32	2.80	2.80
<b>COMMERCIAL</b>								
Retail Commercial	0.64	0.94	1.33	2.08	4.12	2.69	0.32	0.89
Office Commercial	0.64	0.94	1.33	3.27	3.72	2.46	0.54	1.53
<b>INDUSTRIAL</b>								

15.64.070

Land Use Categories	Water RAE	Sewer RAE	Storm Drainage RAE	Streets RAE	Police RAE	Fire RAE	General Facilities	
							Parks & Recreation RAE	RAE
<b>INDUSTRIAL</b>								
Light Industrial	0.26	0.42	1.33	2.00	0.30	0.64	0.23	0.64
Heavy Industrial	0.26	0.42	1.33	1.27	0.19	0.61	0.33	0.93

(Ord. 1547 § 3, 1992; Ord. 1518 § 1 (part), 1991)

**15.64.080 Credit and reimbursement for construction of facilities.**

**A. Construction of Facilities in Program Year.**

1. The public works director may direct or authorize the owner to construct certain facilities specified in the development impact fee study, or portions thereof, at the time and as designated in the study, in lieu of all, or a portion of, the fee required by this chapter. The owner is entitled to a credit if the owner: (1) constructs the improvements, (2) finances an improvement by cash or other means approved by the council, or (3) a combination of the above. The credit to be provided to the property owner shall be determined by the public works director based on prevailing construction costs plus ten percent for engineering and administration and shall be approved by the council. The construction of a facility authorized by this section must consist of a usable facility or segment and be approved by the city and constructed in accordance with the city's public improvement design standards. The property owner must post a bond or other security in a form acceptable to the director for the complete performance of the construction before credit is given.

2. If the amount of credit is less than the amount of the otherwise applicable fee, the property owner shall pay the amount which, when added to the credit received for the construction of facilities, equals the fee obligation.

3. If the amount of credit is greater than the amount of the otherwise applicable mitigation fee, the property owner shall be paid the difference only from the appropriate development impact fee fund, after the project is accepted by the city, and at the end of the year in which the project is planned to be completed under this study.

**B. Construction of Facilities Prior to Program Year.**

1. If the construction described in subsection A of this section occurs before the fiscal year for which construction is scheduled under the study, the property owner shall receive no immediate credit against the applicable fee. The property owner shall be reimbursed from the appropriate development impact fee fund at the end of the year

in which the project is planned under the study program year. The reimbursable amount shall be the estimated cost of the facility as determined in subsection A.1 of this section. With specific approval of the council, reimbursement may occur after the year in which the project is planned, if in the opinion of the public works director, the delay is necessary to assure the orderly implementation of the city capital improvement program.

2. To implement subsection B.1 of this section, the property owner and the city shall first enter into a reimbursement agreement. In addition to its other terms, the agreement shall provide that:

a. The general fund of the city is not liable for payment of any obligations arising from the agreement;

b. The credit or taxing power of the city is not pledged for the payment of any obligations arising from the agreement;

c. The land owner shall not compel the exercise of the city taxing power or the forfeiture of any of its property to satisfy any obligations arising from the agreement;

d. The obligation arising from the agreement is not a debt of the city, nor a legal or equitable pledge, charge, lien, or encumbrance, upon any of its property, or upon any of its income, receipts or revenues, and is payable only from the fees deposited in the appropriate city development impact fee fund;

e. The reimbursable amount shall be increased annually to include an amount attributable to interest. This amount shall be based on the change in the Engineering News Record 20 Cities Construction Cost Index from the January 1st index of the year of construction to the January 1st index

of the year of reimbursement. (Ord. 1518 § 1 (part), 1991)

#### 15.64.090 Other authority.

This chapter is intended to establish a supplemental method for funding the cost of certain facilities and services, the demand for which will be generated by the level and type of development proposed in the city general plan. The provisions of this chapter shall not be construed to limit the power of the city council to impose any other fees or exactions or to continue to impose existing ones on development within the city, but shall be in addition to any other requirements which the city council is authorized to impose, or has previously imposed, as a condition of approving a plan, rezoning or other entitlement within the city. In particular, individual property owners shall remain obligated to fund, construct, and/or dedicate the improvements, public facilities and other exactions required by, but not limited to, the city code, public improvement design standards and other applicable documents. Any credits or reimbursements under Section 15.64.080 shall not include the funding, construction, or dedications described in this section. (Ord. 1518 § 1 (part), 1991)

#### 15.64.100 Findings regarding use of fees.

A. As required under Government Code Section 66001(d), the city shall make findings once each fiscal year with respect to any portion of the fee remaining unexpended or uncommitted in its account five or more years after deposit of the fee, to identify the purpose to which the fee is to be put and demonstrate a reasonable relationship between the fee and the purpose for which it was charged.

15.64.100

B. As required under Government Code Section 66001(e), the city shall refund to the current record owner on a prorated basis the unexpended or uncommitted portion of the fee, and any interest accrued thereon, for which need cannot be established. (Ord. 1518 §1 (part), 1991)

15.64.110 Fee exemptions.

The following developments are exempt from payment of fees described in this chapter:

- A. City projects;
- B. Projects constructed or financed under this chapter;
- C. Reconstruction of, or residential additions to single-family dwellings, but not including additional dwelling units;
- D. Property which has paid a master storm drain fee pursuant to Resolution 3618 or Ordinance No. 1440 is exempt from payment of the storm drainage impact fee except for changes in land use as described in the fee resolution.

E. Additional exemption for development projects in progress:

1. A project on a parcel (or portion of a parcel) which has, on the effective date of the ordinance codified in this section, received the appropriate development approval, but has not obtained a building permit and has paid appropriate mitigation fees under Resolution 3618 or Ordinance 1440, shall be exempt from imposition of the development impact mitigation fees imposed under this chapter except the sewer lift station area fees.

2. For purposes of this subsection, "appropriate development approval" shall include:

- a. An approved or conditionally approved tentative map;

b. An approved final subdivision or parcel map;

c. An approved use permit when no map was required;

d. An approved public improvement agreement.

3. The exemption under this subsection shall not apply to changes in land use, pursuant to subsection D of this section for storm drainage impact fees.

4. The exemption under this subsection shall apply on projects which include a change in land use to a more intensive use as defined in this chapter only to the extent that the previously approved land use shall be considered an existing use and the project shall be charged the appropriate incremental increase as provided in this chapter and the fee resolution. (Ord. 1526 § 3, 1991; Ord. 1518 § 1 (part), 1991)

15.64.120 Fee adjustment or waiver.

A. The owner of a project subject to a fee under this chapter may apply to the public works director for an adjustment to or waiver of that fee. The waiver of this fee shall be based on the absence of any reasonable relationship between the impact on public facilities of that development and either the amount of fee charged or the type of facilities to be financed.

B. The application for adjustment or waiver shall be made in writing and filed with the city clerk no later than ten days after formal notification of the fee to be charged. The application shall state in detail the factual basis and legal theory for the claim of adjustment or waiver.

C. It is the intent of this chapter that:

- 1. The land use categories are based on general plan designations which are an average of a wide range of specific land

uses; thus substantial variation must be shown in order to justify a fee adjustment;

2. The public works director may calculate a fee and/or require additional improvements where the service demand of a particular land use exceeds the standards shown in the definitions or used in determining the improvements needed under the fee program;

3. The fee categories shall be considered individually; thus it may occur that a fee adjustment or waiver is made in one category and not another; and

4. Where improvements providing capacity for the subject parcel have already been constructed, a downward adjustment of the fee is not appropriate.

D. The public works director shall consider the application at an informal hearing held within sixty days after the filing of the fee adjustment or waiver application. The decision of the public works director is appealable pursuant to Section 15.64.130.

E. The applicant bears the burden of proof in presenting substantial evidence to support the application. The public works director shall consider the following factors in its determination whether or not to approve a fee adjustment or waiver:

1. The factors identified in Section 66001:

a. The purpose and proposed uses of the fee,

b. The type of development,

c. The relationship between the fee's use and type of development,

d. The need for improvements and the type of development, and

e. The amount of the fee and the portion of it attributable to the development; and

2. The substance and nature of the evidence including the development impact fee study and the applicant's technical data supporting its request. The applicant must present comparable technical information to show that the fee is inappropriate for the particular development. (Ord. 1518 § 1 (part), 1991)

#### 15.64.130 Appeal procedure.

A. The public works director is responsible for administering, collecting, crediting, adjusting, and refunding development fees. A decision by the public works director regarding a fee imposed under this chapter is appealable in accordance with this section. A person seeking judicial review shall first seek an appeal under this section.

B. A person appealing a decision under this chapter shall file a request with the public works director who is responsible for processing the appeal. The appeal shall be in writing, stating the factual and legal grounds, and shall be filed within ten calendar days following the decision of the public works director being appealed.

C. The public works director shall notify the city manager of the appeal. The city manager shall set the matter for hearing before the city council and notify the person appealing in writing of the time and place.

D. The city council shall conduct the hearing, prepare written findings of fact and a written decision on the matter, and shall preserve the complete administrative record

of the proceeding. The council shall consider all relevant evidence presented by the appellant, the public works director or other interested party.

E. The decision of the city council is final; it is reviewable by a court under Code of Civil Procedure Section 1094.5.

F. The city adopts the Code of Civil Procedure, Section 1094.5, for the purposes of judicial review under this section. A petition seeking review of a decision under this chapter shall be filed not later than the ninetieth day following the date on which the decision of the hearing officer becomes final. (Ord. 1518 § 1 (part), 1991)

#### 15.64.140 Severability.

If any provision or clause of the ordinance codified in this chapter or the application thereof to any person or circumstance is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other ordinance provisions or clauses or applications thereof which can be implemented without the invalid provision or clause or application, and to this end the provisions and clauses of the ordinance codified in this chapter are declared to be severable. (Ord. 1518 § 1 (part), 1991)

# EXHIBIT D



## CITY OF LODI PUBLIC WORKS DEPARTMENT

## Development Impact Mitigation Fee Summary Sheet

Subdivision: Lakewood Unit No. 4 n/a n/a

Parcel: 2024 Edgewood Drive, Lodi, CA 7926

Address Const. Appl. #

039-094-0013

AP #

Developer/Owner: Mr. and Mrs. Gilbert Kampe

Name

2925 Rockford Avenue, Stockton, CA 95207

Address

Project Description: Single-Family Residence

GP Land Use Category: R-1

Parcel Project (if different)

Fee Category	Account #	P	RAE	Adj.	F	A	T
1) Water Facilities	60.1-661	\$ 5,690.00	1.00		\$ 5,690.00	0.21	\$ 1,194.90
2) Sewer Facilities - General	60.2-661	\$ 1,060.00	1.00		\$ 1,060.00	0.21	\$ 222.60
- Lift Station							
3) Storm Drainage Facilities	60.3-661	\$ 7,630.00	1.00		\$ 7,630.00	0.21	\$ 1,602.30
4) Street Improvements	60.4-661	\$ 5,440.00	1.00		\$ 5,440.00	0.21	\$ 1,142.40
5) Police Protection Facilities	60.5-661	\$ 1,130.00	1.00		\$ 1,130.00	0.21	\$ 237.30
6) Fire Protection Facilities	60.6-661	\$ 540.00	1.00		\$ 540.00	0.21	\$ 113.40
7) Parks & Recreation Facilities	60.7-661	\$ 11,830.00	1.00		\$ 11,830.00	0.21	\$ 2,484.30
8) General City Fac. & Prog. Admin.	60.8-661	\$ 6,830.00	1.00		\$ 6,830.00	0.21	\$ 1,434.30

**Total 1-8: \$8,431.50**  
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. Adick Approved: Richard P. [Signature] Record #: \_\_\_\_\_

Date Billed: 9/1/94

Date Paid: \_\_\_\_\_ (Fee category 1 thru 8)

**EXHIBIT E**

Gilbert and Betty Kampe  
2925 Rockford Avenue  
Stockton, California 95207

RECEIVED

September 6, 1994

SEP 6 1994

CITY OF LODI  
PLANNING DEPARTMENT

City of Lodi  
P. O. Box 3006  
Lodi, California 95241

Attention: Sharon A. Welch, Associate Civil Engineer

RE: YOUR LETTER OF SEPTEMBER 1, 1994, MR. AND MRS. GILBERT KAMPE  
CONSTRUCTION APPLICATION NUMBER 7925, 2024 EDGEWOOD DRIVE,  
LODI, CALIFORNIA - MITIGATION FEES AND CONSTRUCTION  
REQUIREMENTS

Ms. Welch:

This date we received the above referenced letter via U.S. Mail, to say we were very surprised, appalled and shocked at the assessment of the Mitigation Fees is a gross understatement. Additionally we were surprised at the Construction Fees and Requirements.

FIRST WE WILL ADDRESS THE MITIGATION FEES:

In February of this year prior to the purchase of the property located at 2024 Edgewood Drive, Lodi, California, we were assured by one of the sellers Theodore Hutz that all services, water, sewer, telephone, electric and gas were all on the property and available for connection. The property listing showed all of these items as well as sidewalks, street lights ect. (copy included). Even though we were assured by Mr. Hutz as a condition of the sales contract prior to completing the sales agreement we made inquiry of the City of Lodi. On February 15, 1994 a message was left at the City of Lodi. Dave Comer. Mr. Comer returned the call and at that time we asked him about all of the services, water, sewer, electric and gas, whether these services were on the property available for connection and what if any charges for them would be due. We were directed to Pacific Gas & Electric for information regarding the availability of the gas. Mr. Comer said he would get back to us with the information we requested but it might be a few days. We were called back in three (3) days after a site inspection by the City of Lodi and advised that water, sewer and electric were at the property and available for connection. However, we would have to pay for water meter, the cost for a 1" meter would be Nine Hundred Dollars (\$900.00).

September 6, 1994

City of Lodi  
Page 2

Mr. Maiciel Fernandez of Pacific Gas & Electric, after site inspection advised us of the gas location. Both of these gentlemen were very helpful. We were also advised by Lodi Unified School District of the School Tax Fee, the amount to be Two Hundred Dollars (\$200.00) per bedroom. When we were advised of the water meter charge we made a request, through our Real Estate Agent for the Sellers to pay this fee. Mr. Theodore Hutz one of the sellers, refused on the grounds that no other homeowner in the Lakewood Area had been required to pay or have a water meter installed. We continued to stand that the charge for the meter should be the responsibility of the sellers as they guaranteed us that all the utilities were on the site and ready for connection. Our real estate agent, Mandy Gerlack called the City of Lodi to verify the water meter charge and was told the cost would be Five Hundred Dollars (\$500.00). Mr. Hutz was adamant in refusing to pay for the meter and suggested that we close and sue him in small claims court. We decided to continue the sale and sue him for the cost of the meter when or if we were required to install one.

Why are these fees being charged now, without the new property owner having any prior knowledge? Section 15.64.040 Payment of Fee, why have none of these conditions been met? Several Owners, no payments made, did any of these Owners have knowledge of these Fees? The Title Search conducted for Hutz and Kampe earlier this year showed no report of any Mitigation Fees, were Fees missed by Chicago Title Company?

Why were we not advised of Mitigation Fees by the City of Lodi when we inquired in February of this year?

Are Fee costs based on the rate due in 1967?

We feel that we made every effort to find out any costs that might be due prior to the purchase of the property located at 2024 Edgewood Drive, Lodi, California. We would not have purchased this property if these facts were known to us as we already had another lot in escrow and were waiting for the completion of the subdivision. Our Budget for Construction did not include these costs and we are not in a position to pay them.

SECOND WE WILL ADDRESS FEES:

How is the Wastewater Connection Fee developed?

September 6, 1994

City of Lodi  
Page 3

THIRD WE WILL ADDRESS THE CONSTRUCTION REQUIREMENTS:

Why would a new property owner be required to repair a broken sidewalk, broken long before we considered the purchase of this property? Are the sidewalks in Lodi maintained by the property owner? If so this should be a cost to a prior Owner. This sidewalk could have been broken by City Crews working on the utilities, the Utility Company or the Fence Company erecting the fence for the City or anyone driving a heavy vehicle over it.

Is the waste water cleanout the responsibility of the Lodi property Owner? Typically the city provides the waste water cleanout and the Owner is responsible to come in and connect behind the waste water cleanout.

We appeal these Mitigation Fees and ask for your prompt response to questions addressed in this letter.

Sincerely,

*Betty Kampe*

Betty Kampe

c.c. City of Lodi Building Department  
Mid-Cal Constructors  
Chicago Title Company  
Fortune Realty, T. Hutz

CITY COUNCIL

JACK A. SIEGLOCK, Mayor  
STEPHEN J. MANN  
Mayor Pro Tempore  
RAY G. DAVENPORT  
PHILLIP A. PENNINGO  
JOHN R. (Randy) SNIDER

CITY OF LODI

CITY HALL, 221 WEST PINE STREET  
P.O. BOX 3006  
LODI, CALIFORNIA 95241-1910  
(209) 334-5634  
FAX (209) 333-6795

**EXHIBIT F**

THOMAS A. PETERSON  
City Manager  
JENNIFER M. PERRIN  
City Clerk  
BOB McNATE  
City Attorney

September 15, 1994

Mr. and Mrs. Gilbert Kampe  
2925 Rockford Avenue  
Stockton, California 95207

**SUBJECT: Construction Requirements and Fees**  
Construction Application #7928  
2024 Edgewood Drive, Lodi, California

The purpose of this letter is to respond to the questions and comments contained in your letter dated September 6, 1994, regarding the construction and fee payment requirements for the subject project. Copies of our memorandum to the Building Division and letter to you dated September 1, 1994, which set forth the requirements, are attached for ease of reference. We will start by addressing the development impact mitigation fees and move on to an explanation of the Public Works fees and construction requirements.

Exhibits  
B & A

**Development Impact Mitigation Fees**

Development Impact Mitigation Fees were adopted by the City Council in November 1991. The fees are based on the type of development (residential, commercial, industrial) and consist of eight categories: water, sewer, storm drainage, streets, police, fire, parks and recreation and general city facilities. These fees are collected at the time of subdivision map filing for new subdivisions and at the time of building permit issuance for existing lots in subdivisions which are subject to the fees.

Prior to the adoption of the current fees, mitigation fees consisted of a fee for storm drainage which was instituted in 1972. Subdivisions developed after 1972 were required to pay this fee at the time the subdivision map was filed. Any unimproved lots in subdivisions developed prior to 1972 were required to pay the storm drainage fee at the time of building permit issuance.

At the time the current mitigation fees were adopted there was much discussion regarding payment of fees on unimproved parcels within existing subdivisions. The City Council decided that those developments which had approved maps and had paid the prior mitigation fee (storm drainage) prior to adoption of the current fees, would be exempt from the new fees. This decision is embodied in the Lodi Municipal Code (LMC) in Chapter 15.64 which was provided to you with our original correspondence. The Council decision was made with the realization that there would be unimproved lots in subdivisions developed prior to 1972 which would be subject to the current mitigation fees. Your lot falls into this category.

Exhibit C

### **Public Works Fees**

The Public Works fees to be collected include charges for wastewater connection, water service upgrade, and water meter installation. Since the charges for these services are dependent upon the type of improvements to be made on the parcel, they are not collected until a construction application and plans have been submitted.

The amount of the wastewater connection fee for residential property is based on the number of bedrooms in the residence. The fee schedule for this service is approved and adopted by the City Council. The fees are based on sewer service units (SSU's) with a two bedroom house representing one SSU. The fees increase by 0.25 SSU's for each additional bedroom. The information provided by the Building Division indicated that the proposed residence will have three bedrooms. Thus the wastewater connection fee of \$ 2,623.75 for your project is based on 1.25 SSU's. Each SSU is \$2,099.00.

The existing water service for the subject lot does not meet current city standards. The service therefore needs to be upgraded to meet current standards in conformance with LMC Chapter 15.44 which is discussed below under Construction Requirements. The upgrade consists of installing a meter box and the necessary valving to accommodate a water meter. This work is performed by City crews. Per our published fee schedule, the cost to upgrade a 1-inch water service is \$500.00.

Monthly charges for residential water use are currently a flat rate based on the number of bedrooms in the residence. However, due to the severe drought conditions experienced in California in the recent past, the establishment of a residential water meter program has been mandated by the State. In order to meet this mandate, the City is requiring that all new residential construction pay for the installation of a water meter. The charge for a ¾-inch water meter in conjunction with a water service upgrade is \$125.00. Metered rates for residential water use will be instituted at some time in the future, but a projected timetable for this change has not yet been adopted.

### **Construction Requirements**

As stated in our letter to you, Lodi Municipal Code (LMC) Chapter 15.44 requires review for off-site improvement requirements whenever the valuation of the project work exceeds \$27,400.00. A copy of this section of the code was not included with the original paperwork, but is attached for your review. Section 15.44.050(D) states that existing improvements that do not meet existing city standards shall be reconstructed to current city standards. The installation of the sewer cleanout in conformance with Standard Plan 201, the repair of the broken sidewalk and the water service upgrade mentioned above fall under this code section.

Exhibit H

City crews do not install cleanouts on existing sewer services. This is the responsibility of the property owner or developer. The cleanouts have been included with new services since 1986.

With regard to your inquiry regarding responsibility for sidewalk maintenance, under the Streets and Highways Code of the State of California, sidewalk maintenance is the responsibility of the property owner. A copy of the City's curb, gutter and sidewalk repair policy is attached for future reference.

Clearly, these items are the responsibility of the property owner. The issue of whether the cost should be borne by you or the previous owner is a matter to be settled between you and your respective realtors.

We hope the above information clarifies the requirements placed on the issuance of your permit. We have attempted to trace the source of the information you and your real estate agent were provided when you inquired about the subject property earlier this year. Mr. Dave Comer of the Electric Utility Department recalls a conversation regarding electrical service to the lot, but does not recall providing any information regarding fees to be charged by the Public Works Department. We have also been unable to locate anyone in the Building Division who recalls providing information for this parcel. If you could provide us with the names of the other staff members you contacted, it would be greatly appreciated. Inquiries regarding development requirements should be referred by other departments to staff in the Development Services Division of the Public Works Department who are knowledgeable on the fees and requirements for development and routinely answer inquiries regarding these matters. Unfortunately, these requirements can be complicated since each project has its own unique set of circumstances to consider. It is impossible for any one person to be knowledgeable in all these areas.

We would be happy to meet with you to discuss the fees and requirements. The sections of the Municipal Code which affect your building permit application contain procedures for appealing the requirements to the City Council. If you have any questions regarding the information provided, please call me or Sharon Welch, Associate Civil Engineer, at (209) 333-6708.



Richard C. Prima, Jr.  
City Engineer

RCP/SAW

cc: Associate Civil Engineer  
Building Division  
Mid-Cal Constructors

**EXHIBIT G**

**RECEIVED**

SEP 21 1994



**CITY OF LODI**  
PUBLIC WORKS DEPARTMENT

September 19, 1994

City of Lodi  
P. O. Box 3006  
Lodi, California 95241-1910

Attention: Richard C. Prima, Jr.  
City Engineer

RE: LOT LOCATED AT 2024 WEST EDGEWOOD DRIVE, LODI, CALIFORNIA

Mr. Prima:

We received your letter (dated September 15, 1994) today via U.S. Mail, thank you for responding to the questions asked of Ms. Welch.

I still do not understand if the Migration Fees are a matter of Public Record, I assume they are not since that question was not addressed. I can not believe that we were not made aware of these charges, surely someone at the city knew they existed even if they did not know the amount.

As to the wastewater connection fee thank you for your explanation. To clarify the record our proposed residence will have two (2) bedrooms. When asked anyone at the Lodi Building Department(s) should have been able to advise us of this fee and of the requirements to install sewer clean out.

I'm still confused about the water service (size) but we were advised by the city of the meter requirements before purchasing the property at 2024 West Edgewood and thus we were prepared for the cost, although unsure of the amount.

The sidewalk while not a large issue, has undoubtedly been broken for many years. It must have been missed on many City Inspections or the prior owner(s) never made the repairs when notified. Clearly the responsibility for the work rests with the property Owners, the manual was clear, too bad it was not provided earlier. Is there a way to find out if a request was made of a prior owner to repair the sidewalk? I would like to obtain more information to ascertain if the seller, Mr. Hutz, knew all or part of these requirements and fees and just failed to disclose them to us.

I would agree that it would be impossible for all Building Department Employees to be knowledgeable of all fees but it would seem when requests are made regarding fees and services that the customer would be directed to the knowledgeable person and that standard fees and requirements should be known by all.

September 19, 1994

City of Lodi  
Page 2

We assumed our questions were answered correctly. We were treated in a courteous and helpful manner in all cases but one and it was never our intention to indicate otherwise. Undoubtly when our questions were asked and we were directed to Dave Comer (we did not know his title) and he confirmed our questions regarding the Utilities held by the City of Lodi were at the property, we trusted him. I can only assume that if he is in charge of the electrical only that he must have made inquires from his fellow colleagues to arrive at the answers given to us. We were directed to contact PG & E for their input on the fees and availability on the gas, which we did. If Mr. Comer had directed us to contact any other department in the City of Lodi for additional information, you can be certain that we would have, as this was information necessary to making a decision as to which lot we should purchase. I can only hope out of our distress that some new procedures will be mandated so as to avoid this happening to anyone else.

We have invested a lot of heart and soul as well as money in our dream to make our home in Lodi and we will appeal these fees. I am sure if this happen to you or anyone else after making every effort to obtain the proper information you would have much the same feeling we experience. These fees are no small amount of money to the average family and there should be a way to know about them before getting in our situation. Feeling very squeezed, unhappy and discouraged and wondering what next, makes us ponder if our dream is not just a nightmare!

We will contact Ms. Welch as to the proper procedure to appeal this decision.

Sincerely,

*Betty Kampe*  
Betty Kampe

c.c. Mid-Cal Constructors  
Hakeem, Ellis and Simonelli

**15.40.100**

The sign face shall be white in color. All lettering or printing shall be red in color, and all two-inch letters shall have a minimum one-fourths-inch stroke, and all one-inch letters shall have a minimum three-sixteenths-inch stroke.

D. Prosecutions. Chapter 1.08 of this code applies to prosecutions under this section. (Ord. 1384 § 1, 1986; prior code § 5-40)

**15.40.110 Alteration or modification.**

On-site fire protection facilities, whether installed before or after the effective date of the ordinance codified in this chapter, may be altered or repaired with the written consent of the fire chief; provided, that such alterations or repairs shall be carried out in conformity with the provisions of Section 15.40.030. (Prior code § 5-39)

**Chapter 15.44**

**OFF-SITE IMPROVEMENTS AND DEDICATIONS**

**Sections:**

- 15.44.010 Purpose.**
- 15.44.020 Definitions.**
- 15.44.030 Compliance required.**
- 15.44.040 Exemption or deferment.**
- 15.44.050 Improvements required.**
- 15.44.060 Right-of-way and easement dedications.**
- 15.44.070 Completion or guarantee.**
- 15.44.080 Inspection and approval.**
- 15.44.090 Fees.**
- 15.44.100 Appeal.**

**15.44.010 Purpose.**

The purpose of this chapter 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. (Prior code § 5-19)

**15.44.020 Definitions.**

For the purpose of this chapter, the following words and phrases have the meanings respectively ascribed to them by this section:

A. "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.

B. "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. (Prior code § 5-20)

**15.44.030 Compliance required.**

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 chapter. (Prior code § 5-21)

**15.44.040 Exemption or deferment.**

A. The requirements of Section 15.44.030 do not apply if the cost of development within any twelve-month period is determined by the public works director to be less than twenty-five thousand dollars. This amount shall be adjusted by the public works director on July 1st of each year, beginning on July 1, 1994, based upon the change of the U.S. Average Engineering News-Record Building Cost Index, using the following formula:

$$\text{Amount} = \$25,000 \times \frac{\text{ENR Index for June}}{2838 \text{ (ENR Index for June 1992)}}$$

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

B. The city may defer compliance with the requirements of Section 15.44.030 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. (Prior code § 5-22; Ord. 1569 § 1, 1993)

**15.44.050 Improvements required.**

A. The off-site improvements required for all developments under this chapter are as follows:

1. 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. The improvements shall be in accordance with the then-current city policies and city standards.

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

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

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

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

D. 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.

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

F. Street improvements and dedications made pursuant to this chapter are eligible for reimbursement as provided in Chapter 16.24 of this code. (Ord. 1527 § 9, 1991; prior code § 5-23)

#### 15.44.060 Right-of-way and easement dedications.

The public right-of-way and easement dedications required under this chapter 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. (Prior code § 5-24)

#### 15.44.070 Completion or guarantee.

Any person required to construct off-site improvements under this chapter 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. (Prior code § 5-25)

#### 15.44.080 Inspection and approval.

Off-site improvements required under this chapter are subject to the inspection and approval of the public works director. (Prior code § 5-26)

#### 15.44.090 Fees.

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

- A. Development impact mitigation fees;
- B. Wastewater connection fee;
- C. Engineering fee;
- D. Other established development fees

and fees for service. (Ord. 1518 §3, 1991; prior code § 5-27)

#### 15.44.100 Appeal.

A. Any person required to make improvements or dedications under this chapter may appeal any decision of the public works director to the city council. Such appeals shall be in writing and shall be filed

15.44.100

with the city clerk within fifteen days of the date notice of the decision is made.

B. 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. (Prior code § 5-28)

#### Chapter 15.48

### SCHOOL FACILITIES DEDICATIONS

#### Sections:

#### Article I. General Provisions

- 15.48.010 Title and purpose.
- 15.48.020 Statutory authority—  
Conflicts.
- 15.48.030 General plan  
conformance.
- 15.48.040 Regulation  
promulgation.

#### Article II. Definitions

- 15.48.050 Applicability.
- 15.48.060 Developer.
- 15.48.070 Dwelling unit.
- 15.48.080 Mobilehome space.
- 15.48.090 School districts.
- 15.48.100 Conditions of  
overcrowding.
- 15.48.110 Reasonable methods of  
mitigating conditions of  
overcrowding.
- 15.48.120 Residential  
development.

#### Article III. Procedure and Requirements

- 15.48.130 Notice of overcrowding  
by school districts—  
Findings.
- 15.48.140 Notice of overcrowding  
by school districts—  
Contents.
- 15.48.150 Designation of  
overcrowded school.
- 15.48.160 Residential development  
approval—Findings  
required.
- 15.48.170 Residential development  
approval—Exemptions.
- 15.48.180 District schedule of use.
- 15.48.190 Land or fees—  
Preference of developer.
- 15.48.200 Land or fees—  
Determination.
- 15.48.210 Dedication.
- 15.48.220 Fee payment.
- 15.48.230 Amount required.
- 15.48.240 Use of land and fees.
- 15.48.250 Accounting and report  
by school district.
- 15.48.260 Termination of  
requirements.
- 15.48.270 School capacity  
determination.

#### Article I. General Provisions

- 15.48.010 Title and purpose.

The ordinance codified in this chapter shall be known as the "school facilities dedication ordinance." The purpose of this chapter is to provide a method for financing interim school facilities necessitated by new residential developments



# CITY OF LODI

## EXHIBIT I

### COUNCIL COMMUNICATION

**AGENDA TITLE:** Request For Development Impact Mitigation Fee Waiver or Adjustment at 225 North Guild Avenue (APN 049-040-61)

**MEETING DATE:** November 18, 1992

**PREPARED BY:** City Attorney

**RECOMMENDED ACTION:** Council consideration and possible action on request for exemption, waiver or adjustment of Development Impact Mitigation fees.

**BACKGROUND:** At the meeting of October 21, 1992, the City Council was asked by Civil Engineer Cecil Dillon to consider an adjustment or waiver of Development Impact Mitigation fees on the Teresi property, a five-acre parcel at the southwest corner of Victor Road (Highway 12) and Guild Avenue. Specifically, Mr. Dillon felt it was equitable to apply the fees in place prior to adoption of Ordinance 1526 because the City had prior to that time approved the deferral of the storm drain fees on the parcel by letter of October 25, 1990 (Attachment A).

As the Council will recall, at the time Ordinance 1518 was adopted, there was a lengthy discussion of how vacant parcels with frontage improvements already in were to be treated. It was decided that there might be some circumstances in which exemptions were appropriate, and these situations should be considered per Lodi Municipal Code Section 15.64.110 et seq. The major considerations discussed at that time were regarding "projects in progress" in which substantial investment and approvals had been made, and that no further approvals except a building permit were required. Council then modified Ordinance 1518 with Ordinance 1526 providing exemptions for "projects in progress".

If the City Council wishes to grant the request, it is necessary under LMC Section 15.64.130 to prepare written findings, identifying the basis upon which the request is made and the circumstances justifying the granting of the exemption. Should the Council wish to grant the request, the following language may be used:

"The City Council hereby finds and declares that it is appropriate to impose upon the subject parcel only those fees in place prior to adoption of Ordinance 1518 because:

1. At the time of adoption of Ordinance 1526, the subject parcel met the requirements of Section 15.64.110(E)(2);

APPROVED: \_\_\_\_\_

THOMAS A. PETERSON  
City Manager



Request For Development Impact Mitigation Fee Waiver or Adjustment at  
225 North Guild Avenue (APN 049-040-61)

November 18, 1992

Page Two

2. The letter from Assistant City Engineer Richard Prima to Dillon Engineering dated October 25, 1990, granting a deferral of storm drainage fees until building permits were issued, implies a preexisting waiver of the additional fees imposed by Ordinance 1518;

3. In order to meet the conditions for exemption found in Lodi Municipal Code Section 15.64.110(E)(1), the owner of the parcel shall, within thirty days from the date of this approval, pay all fees which would have been due prior to adoption of Ordinance 1518."

To the best of staff's knowledge, only one other parcel meets these exact circumstances. That parcel is APN 049-040-57, 1371 E. Pine Street, which was split as part of the Teresi project on the west side of Guild Avenue. Note that the October 25, 1990 letter was copied to Mr. Ted Molfino, the property owner and joint developer of this project with Mr. Teresi. (Attachment B) If Council wishes to approve this request, it should apply to that parcel as well.

FUNDING: None.

Respectfully submitted,



Bob McNatt  
City Attorney

BM/vc

Attachment

cc: Jack Ronsko, Public Works Director  
Richard Prima, Assistant City Engineer  
Mr. John Teresi  
Mr. Cecil Dillon  
Mr. Ted Molfino

CITY COUNCIL

JOHN R. (Randy) SNIDER, Mayor  
DAVID M. HUNCHMAN  
Mayor Pro Tempore  
VELYN M. OLSON  
JAMES W. PINKERTON, Jr.  
FRED M. REID

CITY OF LODI

CITY HALL, 221 WEST PINE STREET  
CALL BOX 3006  
LODI, CALIFORNIA 95241-1910  
(209) 334-5634  
TELECOPIER: (209) 333-6795

October 25, 1990

ATTACHMENT A

THOMAS A. PETERSON  
City Manager

ALICE M. REIMCHE  
City Clerk

BOB McMATT  
City Attorney

RECEIVED

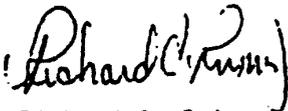
OCT 29 1990

DILLON ENGINEERING

Dillon Engineering  
P.O. Box 2180  
Lodi, CA 95241-2180

SUBJECT: Teresi Industrial Park Street Improvements

The City has approved deferral of the storm drainage fee shown on Invoice #E-913 until the building permits are issued. The property owner will be billed the storm drainage fee in effect at the time the permit is issued.



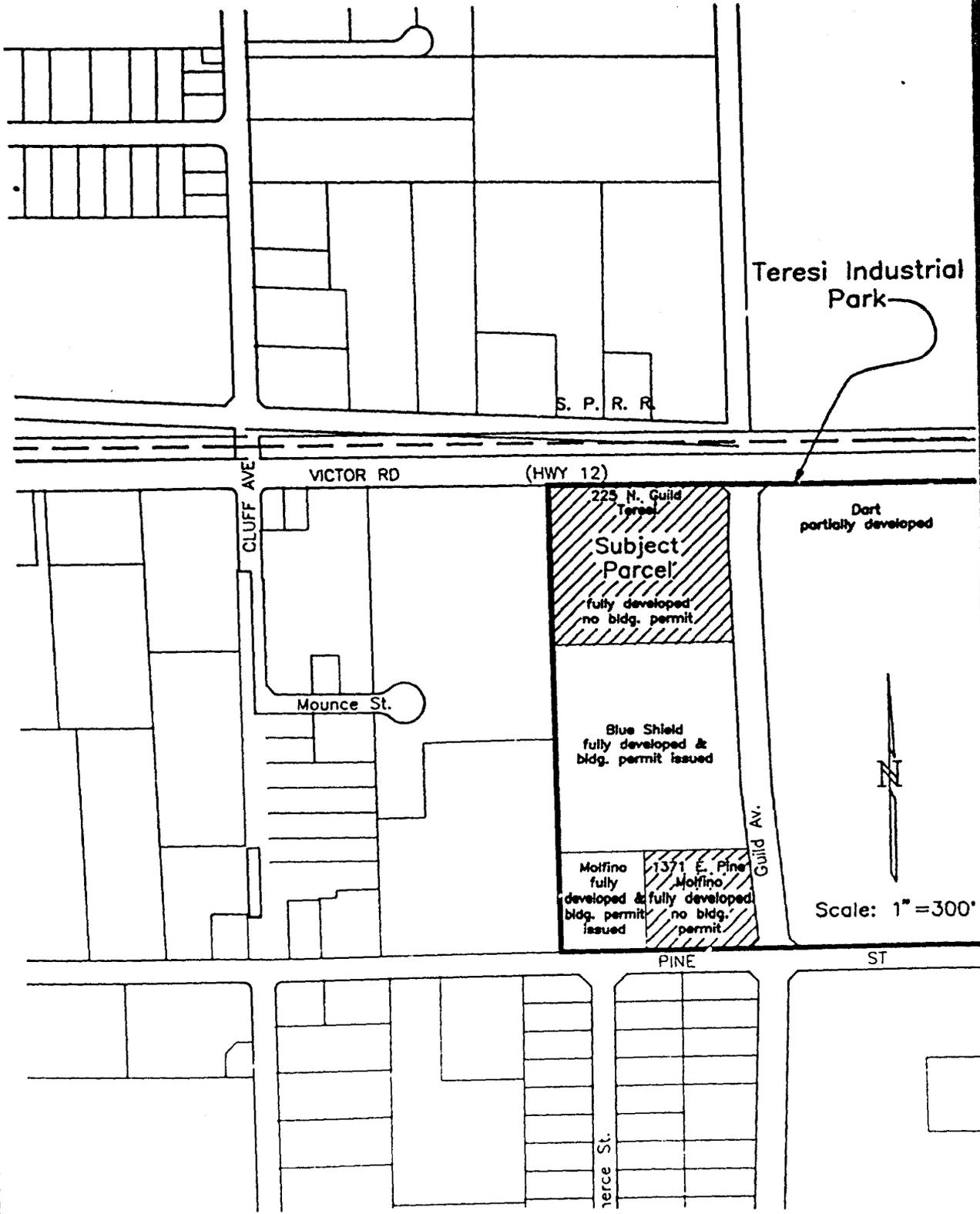
Richard C. Prima Jr.  
Assistant City Engineer

RCP/SB/mt

cc: Teresi Trucking  
Tel Molfino  
Finance Department

LDILLON/TXTW.02M

— ATTACHMENT B —





**CITY OF LODI**  
Carnegie Forum  
305 West Pine Street, Lodi

**NOTICE OF PUBLIC HEARING**

**Date: November 2, 1994**

**Time: 7:00 p.m.**

For information regarding this notice please contact:  
**Jennifer M. Perrin**  
City Clerk  
Telephone: (209) 333-6702

**NOTICE OF PUBLIC HEARING**

**November 2, 1994**

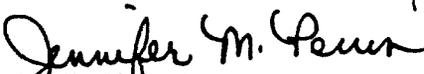
**NOTICE IS HEREBY GIVEN** that on Wednesday, November 2, 1994 at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a Public Hearing to consider the following matter:

- a) Appeal from Gilbert and Betty Kampe regarding development requirements at property located at 2024 Edgewood Drive, Lodi.

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, 221 West Pine Street, at or prior to the Public Hearing.

By Order of the Lodi City Council:

  
Jennifer M. Perrin  
City Clerk

**Dated: October 5, 1994**

Approved as to form:

  
Bobby W. McNatt  
City Attorney

DECLARATION OF MAILING

On October 6, 1994 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.

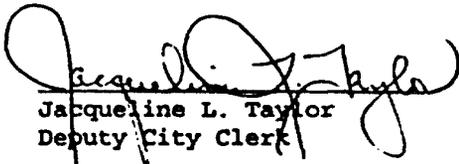
There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

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

Executed on October 6, 1994, at Lodi, California.

---

Jennifer M. Perrin  
City Clerk

  
Jacqueline L. Taylor  
Deputy City Clerk

Gilbert and Betty Kampe  
2024 Edgewood Drive  
Lodi, CA 95240

CITY COUNCIL

JACK A. SIEGLOCK, Mayor  
STEPHEN J. MANN  
Mayor Pro Tempore  
RAY G. DAVENPORT  
PHILLIP A. PENNINO  
JOHN R. (Randy) SNIDER

# CITY OF LODI

CITY HALL, 221 WEST PINE STREET  
P.O. BOX 3006  
LODI, CALIFORNIA 95241-1910  
(209) 334-5634  
FAX (209) 333-6793

THOMAS A. PETERSON  
City Manager  
JENNIFER M. PERRIN  
City Clerk  
BOB McNATT  
City Attorney

October 27, 1994

Mr. and Mrs. Gilbert Kampe  
2925 Rockford Avenue  
Stockton, CA 95207

**SUBJECT: Public Hearing to Consider Appeal from Gilbert and Betty Kampe Regarding Development Requirements at Property Located at 2024 Edgewood Drive**

Enclosed is a copy of background information on an item that is on the City Council agenda of Wednesday, November 2, 1994, at 7 p.m. The meeting will be held 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 Jennifer Perrin, City Clerk, at (209) 333-6702.

If you have any questions about the item itself, please call Richard Prima at (209) 333-6706.

  
Jack L. Ronsko  
Public Works Director

JLR/lm

Enclosure

cc: City Clerk ✓