

TO: James L. App, City Manager
FROM: Ron Whisenand, Director of Community Development
SUBJECT: Code Amendment Regarding Required Street Improvements
DATE: June 6, 2006

Needs: That the City Council consider adopting an ordinance revision to Title 11 of the Municipal Code modifying the effective permit valuation limit and expanding requirements to include alley paving.

Facts:

1. As a prerequisite to the issuance of a building permit for the construction, repair, addition or alteration of any structure within the City, installation of sidewalk, curb, gutter and driveway apron improvements shall be provided.
2. An exception to the street improvement requirement exists where, “the value of the improvements to the property is under ten thousand dollars (\$10,000) as defined by the ICBO Uniform Building Standards”. The valuation exception was originally set at four thousand dollars (\$4,000) in 1972.
3. The City Engineer has received three letters in the last year requesting relief from the street improvement requirements. Each of the three permits involve minor building additions or alterations with values of twenty thousand dollars (\$20,000) or less.
4. The same section of the Code addresses the scope of work required. Alley paving is currently not specified in this scope of work. Alleys in the City, particularly on the west side, are used to provide access to many parcels. Many existing alleys are not paved, and many others have sub-standard paving.

**Analysis
and**

Conclusion: Building Permits with Limited Scope and Valuation

The Municipal Code has included provisions for construction of curbs, gutters and sidewalks associated with building permits for many years. The Council affirmed their support of this policy in 2003 when the Code was amended to include an in-lieu fee obligation for properties receiving waivers due to topographic and other reasons.

Historically, the Code has recognized that certain building improvements, while subject to permits, were not significant enough to warrant being subject to the curb and sidewalk requirement. In 1972, the following exception language was established:

“When the value of 25 percent of the improvements to be made on the property is under \$1,000, then the curb, gutter, sidewalks and driveway aprons will not be required”.

The effect of the language above is that permits with a valuation of \$4,000 or less would be exempt from the street improvement requirement. In 1997, the Code was amended to raise the permit valuation exception to \$10,000.

Three letters are attached that call into question whether their relatively small home improvement projects should be subject to the curb and sidewalk requirements. In each of these cases the building project has a value of approximately \$20,000. In accordance with the current Code, each would then have an obligation of a street improvement not to exceed a cost of \$5,000 (25 percent). Examples of projects with a valuation of between \$10,000 and \$20,000 would be a 400 square-foot garage or a 300 square-foot room addition.

The 25 percent limitation precludes smaller building project from generating the funds needed to complete a property frontage with curbs and sidewalks. In most cases, completing just a portion of a property frontage does not result in an attractive or viable street improvement. In these cases the City Engineer has the authority to accept the in-lieu fee. In the three cases referenced, this fee would be approximately \$5,000. This fee would be in addition to other permit fees; all in relation to a home improvement project with a limited value.

The US Census Web-site indicates that housing construction costs have risen nearly 600% since 1972. Raising the limitation of curb and sidewalk requirements to permits with a value of \$25,000 appears more consistent with the intention of the Code as adopted in 1972 (limitation set at \$4,000) and would seem to result in a more reasonable Code in terms of its implementation on home improvement projects that involve relatively small scopes of work. Further, it would seem reasonable to raise the valuation limitation each year in accordance with the Engineering News Record’s construction cost index, as is applied to the City’s Development Impact Fee schedule.

Alley Paving

In recent years we have seen increased building activity on the west side of the City resulting in many attractive improvements. It has been the practice of the City Planning Commission to require alley paving in association with Conditional Use Permits, Development Plans and subdivisions for many years. In those cases where a new development does not need Planning Commission approval, the Community Development Department has required alley paving, citing the provisions of the Zoning Code for paved access.

While addressing revisions to Municipal Code Section 11.030 it would seem appropriate to add alley paving to the current requirements of curbs, gutters, sidewalks and driveway aprons as a prerequisite to issuance of all building permits.

Policy

Reference: City Municipal Code Sections 11.12.030, 21.22.060C6

Fiscal

Impact: None.

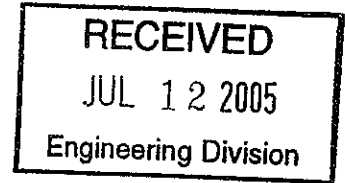
Options: a. Adopt Ordinance No. xxx amending Municipal Code Section 11.12.030 revising the limitation of curb and sidewalk requirements to permits with a valuation of a minimum of \$25,000 and adding alley paving to those requirements.

b. Amend, modify or reject the above option.

Attachments: (4)

1. Flores letter dated 7-12-05
2. Hammer letter dated 8-31-05
3. Erway letter dated 10-4-05
4. Ordinance

B05-0283



Mr. Peter Flores III, USN(Ret)
912 Merry Hill Rd
Paso Robles, CA 93446

July 12, 2005

City of El Paso de Robles
Building Division
(Attn: Mr. John R. Falkenstien, PE)
1000 Spring Street
Paso Robles, CA 93446

Dear Sir:

This letter is in reference to a Construction Permit Estimate Request submitted May 25, 2005, by my agent Mr. John Clark, for the purpose of adding a closet/storage space to my existing home. Initial processing of this request revealed that due to the cost of my addition, estimated at a value of \$18,820.20, that there would be an additional fee of \$118.00 (with a cap of as much as 25% of the improvement value) for the purpose of adding a curb/cutter/sidewalk.

Per our discussion, I would like to request that this cost and requirement for my permit to be approved be re-evaluated for the following reasons:

a. The cost (value) of the project. I would like to request that the city reassess their improvement cost limit of \$10,000.00 for requiring homeowners to be assessed a cost and requirement to add curb/gutter/sidewalk. I do not know when this qualifying limit was initially set or last reviewed, however, based on the limiting amount, I feel it may be outdated and not be reflective of skyrocketing cost of property, inflation, and existing costs of home improvement.

b. Due to where my property sits on the western edge of the city limits, I would like to ask the city to review if it is absolutely necessary to build a curb, gutter or sidewalk. I admit of course that I am not familiar with the city's prospective future growth plan, however, I am not aware of any plans to further build to the west side of my property.

Finally, as I am anxious to proceed with my home improvement, I would like to ask if it might be possible to proceed with approval of my request while simultaneously contesting the curb/gutter/sidewalk requirement.

Thank you for your consideration in this matter and I look forward to hearing from you soon.

Sincerely,

Peter Flores III
(805) 610-5107 – cell
(805) 237-8340 – home

JUL 12 2005

Stephen T. & Nancy J. Hammer
1360 Plum Orchard Lane
Templeton, CA 93465
805-434-1290

August 31, 2005

City of Paso Robles
Planning Department

Re: 130 Vine Street
Paso Robles

Dear Members of the Planning Commission:

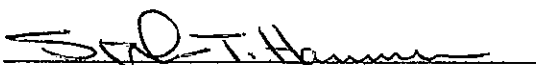
In December 2003, our above-referenced rental house suffered major earthquake damage. Our plans are to repair the damage so that we may again rent the home to tenants. It has been unoccupied since the earthquake.

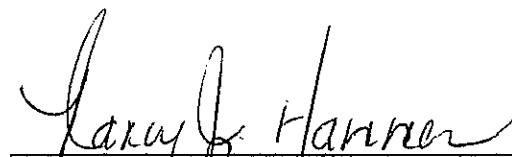
Because the house suffered damage exceeding a repair cost of \$10,000, we are being required to put in sidewalks, curbs and gutters along the frontage of the lot. The City code apparently calls for this improvement if the "improvement" costs exceed \$10,000. However, we are requesting a waiver of this requirement based on the following:

1. Our costs are not for "improvements" but are only for "repairs" to bring the property back up to an occupancy level.
2. We are not a developer/contractor who will profit from the necessary construction. Our only gain will be that we can start receiving rents again after repairs are made. (We have been without any income on this property for twenty months.)
3. It seems unfair that if an owner had damage that would cost him under \$10,000 to repair, he is exempt from the curbs, sidewalks & gutter requirement. But because our damage was more extensive and will cost us much more to repair, then we have the added expense of putting in curbs, gutters & sidewalks. With our repair costs exceeding \$20,000, this requirement adds insult to injury.
4. The damage to the home was caused by an "Act of God". It appears that under code 11.12.030 (D), a waiver of the subject requirement due to an "Act of God" may be given.

We are requesting that the Planning Department reconsider the requirement for the construction of curbs, gutters and sidewalks and allow a waiver in our case. The cost of the repairs together with the loss of rents has been and will continue to be a financial burden to us.

Thank you for your time and consideration. We hope for a favorable decision.


Stephen T. Hammer


Nancy J. Hammer

**Douglas K Erway
403 Hilltop Drive
Paso Robles, CA 93446**

October 4, 2005

John R Falkenstein, PE
City Engineer
Community Development Dept.
1000 Spring Street
Paso Robles, CA 93446

Reference: 1. City Ordinance Title 11, Chapter 11.12, Para 11.12.030 Required – Curb, gutter, sidewalk, driveway aprons.
2. Standard Details and Specifications, Department of Public Works, City of Paso Robles, March 1995, Pg 13, Para A. 9.

Dear Mr. Falkenstein,

I have applied for a permit to build an 800 square foot workshop behind my home at 403 Hilltop Drive the estimated cost to build was approximately \$26,000. It has been brought to my attention that Ref 1 requires curb, gutter, sidewalk and driveway aprons be installed prior to issuing a building permit.

Hilltop Drive is a fully developed tract and has curbs, gutters and driveway aprons. There are no sidewalks and probably will never be any. This is true of the intersecting streets, Cherry Street and Merry Hill Rd. The traffic on these streets is such that sidewalks are not necessary for safety. Any adjacent further development on these streets would be minimal in that they are already developed. Traffic flowing into these streets from adjacent tracts would be to a destination in this area. It is not a thoroughfare or pass-through tract. In addition sidewalks would degrade the ambience and aesthetics of the area and cause an undue financial burden to the residents. Photos of Hilltop Drive / Cherry Street intersection are enclosed.

Ref 2 outlines exemptions from installing "improvements" in accordance with Ref 1. These exempted tracts currently are: Orchard Bungalow, Tract 95, and Tract 103. The omission of Hilltop Drive, Cherry Street and Merry Hill Rd appear to be an oversight by the approving authority.

Request an exemption for Hilltop Dr, Cherry St and Merry Hill Rd to be included in Ref 2 addressing this disparity. Thank you for your assistance. Please let me know if further information is required.

Sincerely,

Douglas K Erway
(805) 237-0503, Fax (805) 237-0503
Cel (805) 459-7547

Encl: Photos, 403 Hilltop area

PROOF OF PUBLICATION

LEGAL NEWSPAPER NOTICES

PLANNING COMMISSION/CITY COUNCIL
PROJECT NOTICING

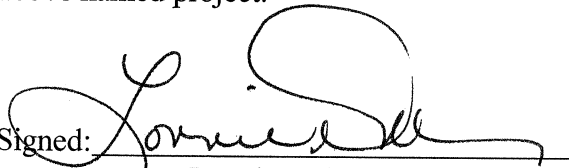
Newspaper: Tribune

Date of Publication: May 26, 2006

Meeting Date: June 6, 2006
(City Council)

Project: Code Amendment regarding
required street improvements
(City initiated)

I, Lonnie Dolan, employee of the Community
Development Department, Planning Division, of the City
of El Paso de Robles, do hereby certify that this notice is
a true copy of a published legal newspaper notice for the
above named project.

Signed: 
Lonnie Dolan

NOTICE OF PUBLIC HEARING
CODE AMENDMENT REGARDING
REQUIRED STREET IMPROVEMENTS
(City initiated)

NOTICE IS HEREBY GIVEN that the City Council of the City of El Paso de Robles will hold a Public Hearing to consider adopting an ordinance revision to Title 11 of the Municipal Code modifying the effective permit valuation limit and expanding requirements to include alley paving. As a prerequisite to the issuance of a building permit for the construction, repair, addition or alteration of any structure within the City, installation of the sidewalk, curb, gutter and driveway apron improvements shall be provided. An exception to the street improvement requirement exists where, "the value of the improvements to the property is under ten thousand dollars (\$10,000) as defined by the ICBO Uniform Building Standards". The focus of the discussion shall be whether to increase that minimum to \$25,000. While addressing revisions to Municipal Code Section 11.030 it would seem appropriate to add alley paving to the current requirements of curbs, gutters, sidewalks and driveway aprons as a prerequisite to issuance of all building permits.

The City Council hearing will take place in the Conference Room of the Library/City Hall at 1000 Spring Street, Paso Robles, California, at the hour of 7:30 pm on Tuesday, June 6, 2006 at which time all interested parties may appear and be heard.

Written comments on the proposed Code Amendment may be mailed to the Community Development Department, 1000 Spring Street, Paso Robles, CA 93446, provided that the comments are received prior to the time of the public hearing. Oral comments may be made at the hearing. Should you have any questions regarding this application, please call John Falkenstien at (805) 237-3860.

If you challenge the ordinance 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 Council at, or prior to, the public hearing.

John Falkenstien, City Engineer
May 26, 2006 6385924

ORDINANCE NO. XXX N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
AMENDING SECTION 11.12.030 ET SEQ. OF THE MUNICIPAL CODE
(CURBS, SIDEWALKS, ALLEY PAVING)

WHEREAS, the Paso Robles Municipal Code Section 11.12.030 provides for curbs, gutters, sidewalks, and driveway aprons as a prerequisite to the issuance of any building permit; and

WHEREAS, Code Section 11.12.030 B includes an exception to the requirement of installation of curbs, gutters, sidewalks and driveway aprons where the valuation of the permit is less than \$10,000; and

WHEREAS, it is reasonable and prudent to update the exception valuation amount periodically; and

WHEREAS, alleys in the City are used to provide both primary and secondary access to many parcels, particularly on the west side of the City; and

WHEREAS, it has been the policy of the City Planning Commission and City Council to require alley paving with all development projects fronting on City alleys; and

NOW, THEREFORE, BE IT KNOWN that the Paso Robles City Council, based upon the substantial evidence presented at the above referenced public hearing, including oral and written staff reports, finds as follows:

1. The above stated facts of this ordinance are true and correct.
2. This code amendment is consistent with the City's General Plan.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES ORDAIN AS FOLLOWS:

Section 11.12.030 Required curb, gutter, sidewalk and driveway aprons is hereby amended to replace the current text with the text of the code amendment attached and labeled Exhibit "A".

SECTION 1. Publication. The City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Section 36933 of the Government Code.

SECTION 2. Severability. If any section, subsection, sentence, clause, or phrase of the Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed this ordinance by section, subsection,

sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared unconstitutional.

SECTION 3. Inconsistency. To the extent that the terms or provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance(s), motion, resolution, rule, or regulation governing the same subject matter thereof and such inconsistent and conflicting provisions of prior ordinances, motions, resolutions, rules, and regulations are hereby repealed.

SECTION 4. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

Introduced at a regular meeting of the City Council held on February 7, 2006, and passed and adopted by the City Council of the City of El Paso de Robles on the 16th day of May 2006 by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Frank R. Mecham, Mayor

ATTEST:

Deborah D. Robinson, Deputy City Clerk

Exhibit "A" to Code Amendment

11.12.030 Required curb, gutter, sidewalk, driveway aprons, **street and alley paving**

As a prerequisite to the issuance of a building permit for the construction repair, addition or alteration of any structure within the City of El Paso de Robles, installation of sidewalk, curb, gutter, driveway aprons, **street and alley paving** improvements shall provided for as follows:

A. Amount of Improvement. Concrete sidewalk, curb, gutter, driveway aprons, **street and all alley paving** shall be constructed prior to issuance of a certificate of occupancy for the structure. The cost of the amount of required improvements thereof shall not exceed twenty-five percent of the construction cost of the structure improvements being made, the main street frontage shall take precedent over the side street frontage, and curb and gutter shall take precedent over sidewalks, and also that driveway aprons shall be constructed at every driveway.

B. Minimum Amount. When the value of the improvements to be made on the property is under **twenty-five thousand dollars** as defined by ICBO Uniform Building Standards, then the curb, gutter, sidewalks, driveway aprons, **street and alley paving** are not required. **The minimum amount of the improvements value shall be increased yearly in accordance with the Engineering News Record's construction cost index.**