

COUNCIL AGENDA: JUNE 17, 2014

SUBJECT: REQUEST FOR WAIVER OF SIDEWALK INSTALLATION AT 925 E. VANDALIA AVENUE

SOURCE: Public Works Department - Engineering Division

COMMENT: Mr. & Mrs. Eloy Flores ask that the City Council waive the sidewalk requirement as a condition of their swimming pool permit. The pool permit secured by the Flores has an \$80,000 valuation and their barbeque station has \$25,000 valuation. Both permits exceed the \$18,421 two-year permit valuation threshold.

The Flores letter provides four main arguments against the installation of the curb, gutter and sidewalk.

1. The extreme cost to install the concrete improvements (\$10,000 to \$20,000, Flores estimate), which was not considered in their budget.
2. There is no correlation between a swimming pool permit and the requirement to install concrete improvements.
3. No sidewalks in their immediate neighborhood.
4. Installing sidewalks will require the removal of mature pine trees located on the corner.

Regarding 1: The Flores estimate a concrete construction cost of \$10,000 to \$20,000. The neighborhood was constructed in the County with roll curbs throughout. Therefore, curb & gutter will not be required as a part of the permit condition. The City estimates the cost of constructing approximately 765 sf of sidewalk at \$7,000. This estimate includes the cost to remove the pine trees. It has been the City's long-standing policy that the cost to construct street returns (i.e., disabled ramps) be borne by the City.

Regarding 2: Sections 20-40.1 "When Construction of Curbs, Gutters & Sidewalks Required" and Section 20-40.2 "Exceptions To Construction Requirements" clearly state that the property owner is responsible for the construction of concrete improvements as a condition of a building permit and establishes the monetary threshold for the requirement to apply.

Dir BSV Appropriated/Funded \_\_\_\_\_ CM 

Item No. 23

Regarding 3: Sidewalks have been required and have been installed in the immediate neighborhood. A general locator map is attached identifying the properties that have sidewalks. There are 29 properties in the immediate area and 34% (10) have sidewalks. Photos of 925 E. Vandalia and some of the neighborhood properties with sidewalks are attached.

Regarding 4: There are four mature pines trees that provide excellent shade to the property. These trees will have to be removed to properly install the street return. It appears that there is enough room to install the street return and leave the trees, but there is the concern that the tree roots will eventually damage or lift the concrete improvements.

In this scenario, staff is limited in its options. Staff does not have the authority to waive concrete improvements required as a condition of a building permit. The only flexibility staff has is to accept cash equal to the cost of the sidewalk improvements if, in the opinion of the City Engineer, it is not feasible to construct the sidewalk at this time. Staff's field review strongly suggests that this is the right time to construct the sidewalk.

If funds are collected in lieu of constructing the sidewalk, the funds will be deposited in an account assigned to 925 E. Vandalia Avenue. When a more appropriate time arrives to construct the sidewalk, such as under a larger City concrete improvement project, or when adjacent neighbors install sidewalks, the funds deposited with 925 E. Vandalia can be used to cover the cost of construction.

**RECOMMENDATION:** That the City Council provide direction to staff on this matter.

**ATTACHMENTS:** Flores Letter  
Municipal Code Sections 20-40.1 and 20.40.2  
Locator Map  
Neighborhood Photos



Mr. & Mrs. Flores  
925 Vandalia Ave  
Porterville CA 93257

May 27, 2014

To Whom It May Concern:

We have hired Peterson Pools and Kaylor Landscape to renovate our back yard. They submitted the application for permits to do the necessary work as required. Once we were notified of the permit approval we were also informed that in order to have a pool added to our back yard, we would be required to update the front of our property with sidewalks and curbs at our own expense. We are respectfully requesting the waiver of this requirement for several reasons listed herein.

The first of those reasons is the extreme cost associated with the sidewalk project. We have had plans drawn up and set a budget for this project. We do not feel that it is reasonable that we be forced to financially support an unwanted and unnecessary expense in the amount of \$10,000-\$20,000 for sidewalks on our property. Secondly, we do not see how the addition of a pool in our backyard correlates to the request for sidewalks in the front of our property. We feel that it should be noted that the surrounding properties do not have these sidewalks and the addition of them around our property would create an eyesore in this neighborhood. One of the most appealing features of this neighborhood is that it is not overly urbanized. It has a small town charm and feel to it which is the main reason we chose to purchase our home there. Lastly, and certainly one of the most important points, is our trees in the front of our property. We sit on a corner lot. At the very edge of the property line are four beautiful, mature pine trees that have been a part of this property since it was built. These trees not only provide the only real privacy for our home but they provide the majority of the shade for the entire back corner of the neighborhood and the majority of our home. This shade provides a cool place for the neighborhood children to ride their bikes and play outside. In order for this sidewalk project to take place it would be necessary for these beautiful trees to be removed. My family and I feel very strongly about protecting the environment. I cannot imagine removing these amazing trees in order to replace them with unnecessary concrete slabs. Although it would break my heart to have to disappoint my children by telling them that they cannot have the pool that I promised them in our backyard, I cannot continue with this project if it means destroying these trees.

I am sure with careful consideration you would agree with me that protecting our natural resources is much more important than the construction of sidewalks in a neighborhood that is perfectly happy with the way it currently is. I pray that you will consider all I have said and grant us this request to waive the sidewalk requirement in favor of protecting our trees and allow us to move forward with our backyard project as planned. Thank you for your time and consideration.

The Flores Family

20-40.1

20-40.2

20-40.1: **WHEN CONSTRUCTION OF CURBS, GUTTERS AND SIDEWALKS REQUIRED:** Any owner, lessee, agent, licensee, or other person, corporation, association or firm who is:

Constructing or arranging for the construction of a building, dwelling, or any other improvement; or

Arranging for the remodeling, improving, modifying or otherwise altering in any manner whatsoever, an existing building, dwelling, or other improvement;

upon any lot or parcel of real property in the city of Porterville shall provide, subject to the provisions of this article and chapter and to the ordinances and regulations of the city of Porterville that may now be or hereafter be in effect, for the construction of concrete curbs, gutters, and sidewalks unless in accordance with city specifications therefor, they already exist in a satisfactory condition along all street frontages adjoining the lot or lots, parcel or parcels of land on which the building, dwelling, or other improvement is to be constructed or remodeled or modified. In lieu of installation of concrete improvements, payment for said concrete improvements shall be provided to the city upon development of the property as specified above, if said concrete improvements have been installed by the city. In the event the construction of improvement is being made upon a portion of an undeveloped parcel and the portion to be developed does not exceed fifty percent (50%) of the entire undeveloped parcel, and the concrete improvements have not already been installed by the city, the curbs, gutters, and sidewalks shall be provided on the street frontage so that said curbs, gutters, and sidewalks will extend the length of the building or improvement and to include side yard requirements as set forth in the zoning ordinance. In determining whether the developed portion exceeds fifty percent (50%) of the entire portion there shall be considered the portion of the parcel on which the building or other improvement rests, together with all yard and open area requirements required by the zoning ordinance. (Ord. 826 § A, 8-5-1965; Ord. 1070 § B, 1-28-1975; Ord. 1644 § 1, 1-20-2004)

20-40.2: **EXCEPTIONS TO CONSTRUCTION REQUIREMENTS:**

- A. In the event any public improvements are required under the provisions of this article and chapter, the provisions of this article and chapter shall not apply unless the construction or remodeling set forth in section 20-40.1 of this article shall be the cost of fifteen thousand dollars (\$15,000.00) or more within a two (2) year period.



This valuation is to be adjusted, by resolution, each year to reflect changes in the cost of construction as indicated in the engineering news record. This exception does not pertain to street dedication requirements.

- B. Payment for city installed concrete improvements shall not be required when said improvements have been installed with grant funds. (Ord. 826 § A, 8-5-1965; Ord. 1070 § B, 1-28-1975; Ord. 1224 § 1, 11-18-1980; Ord. 1644 § 2, 1-20-2004).

**20-40.3: REPAIR AND MAINTENANCE OF RESIDENTIAL BUILDINGS; APPLICATION OF PROVISIONS:**

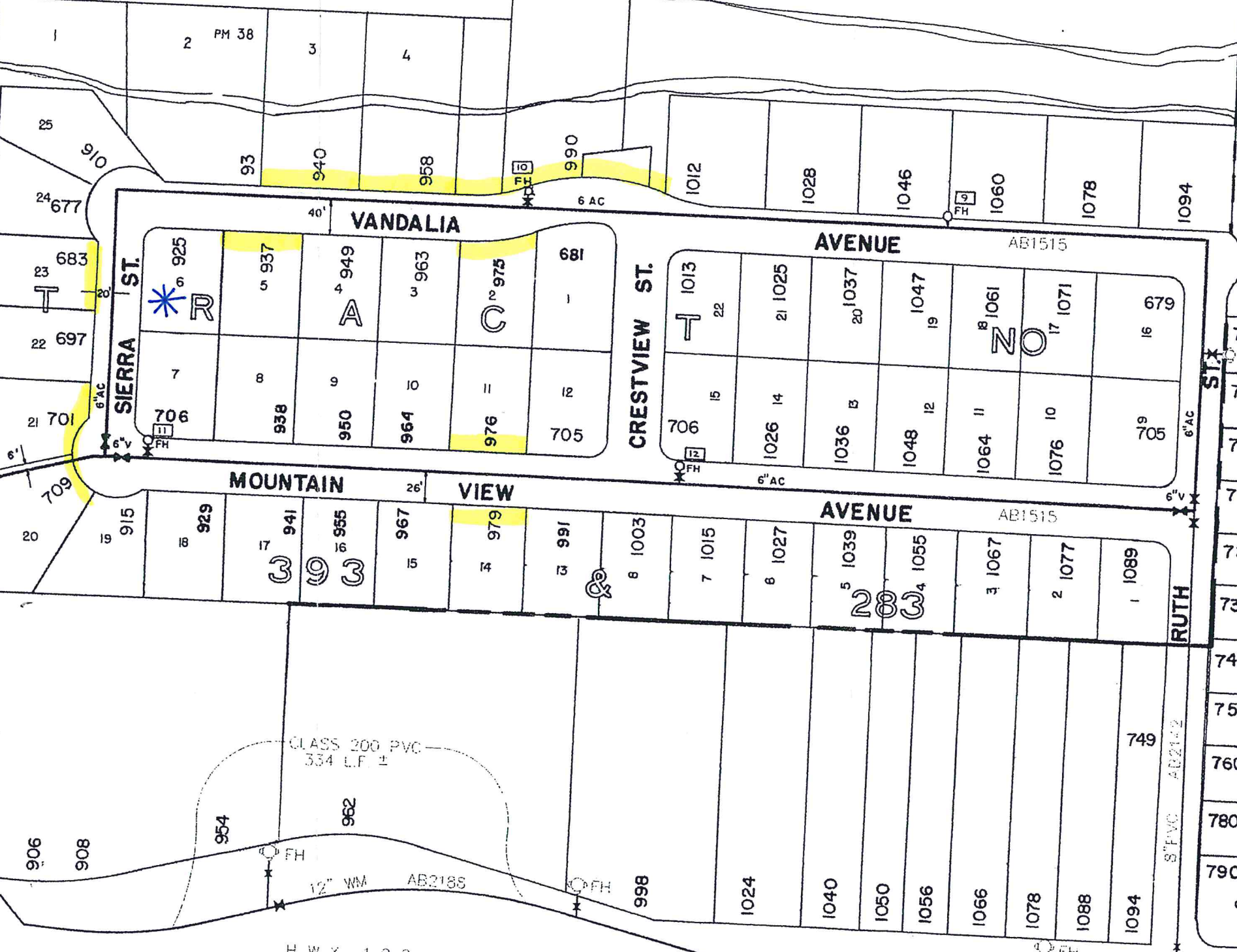
- A. Whenever it is deemed by the city that in the best interest of public health, safety or welfare it is necessary to maintain and repair a building or dwelling used exclusively for residential purposes or to correct damage caused by fire, flood, earthquake or act of God, the provisions of this article and chapter shall not apply, unless that within any consecutive twelve (12) month period the total dollar amount of building permits issued to maintain and repair the building or dwelling will exceed fifty percent (50%) of the total current building cost value of the building or dwelling following the completion of the repairs. As used herein the term "necessary maintenance and repair" shall be defined as maintenance and repair required by any law, ordinance, code or regulation of any political subdivision in effect in the city of Porterville.
- B. Whenever it is deemed by the city that improvements, maintenance, or repairs to a building or dwelling used exclusively for residential purposes are for the purpose of weatherization, the provisions of this article and chapter shall not apply, unless that within any consecutive twelve (12) month period the total dollar amount of building permits issued to maintain and repair the building or dwelling will exceed fifty percent (50%) of the total current building cost value of the building or dwelling following the completion of the repairs. (Ord. 826 § A, 8-5-1965; Ord. 1070 § B, 1-28-1975; Ord. 1644 § 3, 1-20-2004)

**20-40.4: LOCATION OF CURBS, GUTTERS AND SIDEWALKS:** The construction of curbs, gutters, and sidewalks in accordance with the provisions of this article and chapter shall be located on a line and at a place to be determined by the city of Porterville and in determining this line the city shall take into consideration the ultimate right of way presently

COUNTY CITY

PM 56

PM 38



HWY. 190 ENTRANCE



STATE HIGHWAY 190

8" PVC 12" WM





925 E. Vandalia













958 E. Vandalia





975 E. Vandalia





940 E. Vandalia