



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

STAFF REPORT
January 04, 2007

Honorable Members of the
Law and Legislation Committee

Subject: Amend Section 18.04.040 of the City Code Relating to Right-of-Way
Improvements for Development of Single and Two Family Residences.

Location/Council District: Citywide

Recommendation:

Direct staff to prepare an ordinance amending Section 18.04.040 of the City Code to provide the City with the discretionary authority to waive or defer right-of-way improvement requirements established by Section 18.04.020 of the City Code. Section 18.04.040 currently mandates waiver of right of way improvements for certain types of development, including single and two family residences.

Contact: Azadeh Doherty, Principal Planner, 808-3137

Presenter: Jerry Way, Director of Transportation

Department: Transportation

Division: Office of the Director

Organization No: 3416

Description/Analysis:

Issue: Section 18.04.020 of the City Code requires, as a general rule, that as a condition of a building permit, the owner/developer must dedicate and improve one half of the street or streets abutting the lot on which the building is being constructed or enlarged. This includes curb, gutter and sidewalk as set forth in the right-of-way guidelines established pursuant to Section 18.04.170.

Section 18.04.040 provides a series of exceptions to the general improvement requirements of Section 18.04.020. The exceptions include any lot used exclusively for single-family and two family residential purposes (excluding condominium, townhouse, cluster housing and similar residential uses); creation of an off-street parking area in connection with the construction or improvement of a single family or two-family residence; additions and accessory buildings incidental to a residential building legally existing on the lot, provided no additional dwelling units or guest rooms are created; additions and accessory

buildings incidental to other than a residential building existing on the lot on the effective date provided that the total cumulative floor area of all such additions and accessory buildings shall not exceed five hundred square feet; and the creation of, alteration of or the addition to an off-street parking area, off-street loading or unloading area, off-street pickup and delivery area, or storage, sale, rental or service area, subject to the permit requirements of Chapter 10.24 (size, weight and load restrictions), when the additional surfaced area created does not exceed one thousand (1,000) square feet, or ten (10) percent of the gross area of the lot whichever is the lesser sum.

At the August 15, 2006 Council meeting, Councilmember Tretheway requested that consideration be given to repealing or modifying the exceptions of Section 18.04.040 and asked that the matter be taken up by the Law and Legislation Committee.

Policy Considerations: The proposed amendments would provide the City Council with greater discretionary authority relative to right-of-way improvements for certain types of development.

Environmental Considerations: This report is not considered a project and therefore has no potential for an effect on the environment as stated by the provisions of the California Environmental Quality Act (Section 15061(b)(3)).

Rationale for Recommendation: Pursuant to Section 18.04.040, builders of single and two family residences are able to seek and obtain a waiver of standard right-of-way improvements, such as sidewalks. While the projects for which a waiver is sought are often infill projects of one or two units, there have been larger projects that have utilized Section 18.04.040 to avoid standard improvements. In North Sacramento, there are a number of lots which were created by subdivisions approved prior to annexation in the City and which lack standard City improvements, such as curb, gutter and sidewalk, access by means of standard local streets, and sometimes water and sewer hook-ups to the City's water and sewer systems. These lots are referred to as "heritage lots."

The language of Section 18.04.040 provides a mandatory, rather than discretionary, waiver of standard improvements. Council members have expressed concerns about the likelihood that the City will end up bearing the cost of installing the sidewalks for infill projects for which there is a waiver under 18.04.040 as well as developments being built with substandard right of way improvements.

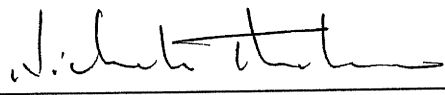
As noted above, there are a number of lots that were created by maps approved some time ago. Under state law, a local agency may not impose conditions on a building permit that it could have imposed as a condition of a tentative map approved within the prior five years (California Gov. Code Sec. 65961). Given the age of the maps creating the parcels, this restriction should not present a problem if the City wishes to amend or repeal Section 18.04.040.

There are options available to the City to address the concerns expressed by Council

members including repealing Section 18.04.040 resulting in a mandate that all parcels comply with dedication and improvement requirements. However, there may be situations where waiver or deferral of right of way improvements may be desirable or appropriate. Staff is recommending that the Committee direct staff to prepare an ordinance amending Section 18.04.040 to provide the City with the discretionary authority, rather than a mandatory obligation, to waive or defer right of way improvements in appropriate situations.

Financial Considerations: None as result of this action.

Emerging Small Business Development (ESBD): There are no ESBD considerations as no goods or services are being purchased.

Approved by: 
Jerry Way
for Director of Department of Transportation

Recommendation Approved:

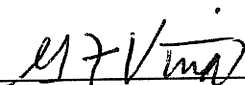

GUSTAVO F. VINA
Assistant City Manager

Table of Contents:
Pg 1-3 Report