



Legislation Details (With Text)

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Title: Request from Mayor Speake to have the City Council consider waiving the construction of the missing sidewalk improvements on the south side of Orange Heights Lane between Main Street and Jasper Drive.

Sponsors:

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Attachments: 1. Staff Report, 2. Exhibit 1 - Location map, 3. Exhibit 2 - Future Agenda Item Request Form, 4. Exhibit 3 - Powerpoint Presentation

Date	Ver.	Action By	Action	Result
12/7/2022	1	City Council	approved	

REQUEST FOR CITY COUNCIL ACTION

DATE: 12/07/2022

TO: Honorable Mayor and City Council Members

FROM: Planning and Development Department and
Public Works Department

SUBJECT:

Request from Mayor Speake to have the City Council consider waiving the construction of the missing sidewalk improvements on the south side of Orange Heights Lane between Main Street and Jasper Drive.

EXECUTIVE SUMMARY:

Mayor Speake is asking the City Council to consider waiving the construction of the missing sidewalk improvements on the south side of Orange Heights Lane between Main Street and Jasper Drive. The north side of Orange Heights Lane is an improved local street, with curb, gutter, sidewalk and streetlights. The south side of Orange Heights Lane within this segment is unimproved and consists of eight single family residences, each on approximately 5-acre parcels. The public right-of-way on the south side is fully dedicated to the City and [Corona Municipal Code Section 15.48.020](#) requires the construction of said improvements under the present conditions.

RECOMMENDED ACTION:

That the City Council direct staff to:

- a. Implement the requirements of [CMC Section 15.48.020](#).
- b. The property owner to pay the City the cost of the public improvements as was done with the other property owners on this section of Orange Heights Lane.
- c. Defer the construction of the public improvements adjacent to 234 Orange Heights Lane until a future time when all funds have been collected, and the project can be constructed at one time.

BACKGROUND:

Orange Heights Lane is a local street, improved with curb, gutter, sidewalk, and streetlights, except for the south side of the street between Main Street and Jasper Drive. The south side of Orange Heights Lane within this segment consists of eight single family residences, each on an approximately 5-acre parcel. The property owner of 234 Orange Heights Lane applied for a building permit at the Planning and Development Department to construct a new, two-story accessory building totaling approximately 11,600 square feet. [Corona Municipal Code Section 15.48.020](#) requires the construction of the missing public improvements adjacent to properties when an applicant applies for a building permit for construction of a new building or a building addition that exceeds 650 square feet. Public improvements include, but are not limited to, curb, gutter, sidewalk, driveway approaches, streetlights, and fire hydrants.

The required right-of-way for Orange Heights Lane has been dedicated to the City through the recordation of various parcel maps and tract maps recorded along this street to support the construction of single-family homes. The right-of-way for the south side of Orange Heights Lane between Main Street and Jasper Drive was dedicated to the City at the time of recordation of Parcel Map 54/36 and Parcel Map 65/45, recorded on September 1, 1978, and May 24, 1979, respectively. Although the City has the dedicated right-of-way for this segment of the street, Orange Heights Lane still has missing public improvements directly adjacent to the eight residential parcels on the south side of the mentioned street segment.

The following table generally describes the public improvements that are missing adjacent to the eight residential properties. The south side of street is also subject to streetlights and fire hydrants that would be spaced accordingly per the City’s approved standards.

Address	Approximate Date of Single- Family Residence	Missing Public Improvements	Has the City Received Payment or Security for Missing Improvements
696 Orange Heights Lane	1989	Curb, gutter and sidewalk	No
532 Orange Heights Lane	2006	Curb, gutter and sidewalk	Yes/Property Lien Recorded 2010

520 Orange Heights Lane	2004	Curb, gutter and sidewalk	Yes/Property Lien Recorded 2004
430 Orange Heights Lane	1983	Sidewalk	No
376 Orange Heights Lane	1993	Sidewalk	Yes/Property Lien Recorded 1992
300 Orange Heights Lane	1980	Sidewalk	No
234 Orange Heights Lane	1980	Sidewalk	No
3762 Main Street (corner of Orange Heights Lane)	1983	Curb, gutter and sidewalk	No

Per [Section 15.48.030 of the CMC](#), the City Council may waive or defer the construction of any public improvement or payment of any construction charges associated with the public improvement. As noted in the table, the City does have lien agreements on 376 Orange Heights Lane, 520 Orange Heights Lane, and 532 Orange Heights Lane to secure the cost of the construction of the public improvements adjacent to these properties. At the time of these agreements, the City Council determined that the construction of the public street improvements in their entirety would be more beneficial to the City and the local area than construction in short incremental sections. They agreed to defer the construction of the public improvements until financing from each parcel on the south side of the street had been secured allowing all the improvements to be constructed simultaneously in the future.

234 Orange Heights Lane

The property owner of 234 Orange Heights Lane recently submitted building plans to the Planning and Development Department for the construction of a two-story accessory building that consists of approximately 8,400 square feet on the ground floor and approximately 3,200 square feet on the second floor, for a total square footage of approximately 11,600 square feet. The property currently contains an existing single-family residence. According to the City’s records, the existing residence is approximately 7,700 square feet and was constructed in 1980.

The new building requires the property owner to construct or guarantee the construction of the missing public improvements adjacent to the property, which includes the sidewalk and the installation of a streetlight. The electrical conduit for the streetlight currently exists within the right-of-way. The estimated construction cost for the public improvements, which includes miscellaneous grading and the relocation of the backflow device is \$46,691.

The property owner was advised of the deferral process listed in CMC Section 15.48.030. The deferral of the public improvements, however, does not relieve the property owner from paying his or her fair share cost associated with the construction of the improvements. Therefore, the property owner would still be responsible for paying the fair share of the cost of the public improvements.

The property owner contacted Mayor Speake and is requesting that the missing sidewalk improvements on Orange Heights Lane adjacent to his property be waived. The property owner said

the construction of the public improvements would be challenging due to the grade of the existing driveway and would affect the walls and gate across the front of the property. On November 2, 2022, the City Council received a presentation from staff on this item. At the meeting, the City Council deferred consideration on this item to a future date.

ANALYSIS:

Street Condition of Orange Heights Lane

Orange Heights Lane is designated a local street and the required right-of-way for the street was dedicated by the parcel maps and tract maps approved in the immediate area to support residential development. The public improvements for Orange Heights Lane have been entirely constructed on the north side of the street with curb, gutter, sidewalk, and streetlights between Main Street and Jasper Drive. The public improvements on Orange Heights Lane beyond Jasper Drive to the west where Orange Heights Lane meets Mountain Gate Drive have also been constructed on both sides of the street.

According to the parcel maps recorded on the properties located on the south side of Orange Heights Lane between Main Street and Jasper Drive, the City's right-of-way extends 24 feet behind the existing curb. Except for the property located at the corner of Orange Heights Lane and Main Street, the properties have walls and gates across the front of the property behind the City's dedicated right-of-way, including the three properties that have liens for the future construction of the missing public improvements.

The existing wall and driveway gate across the property at 234 Orange Heights Lane is setback approximately 42 feet from behind the existing curb, which is 18 feet behind the City's dedicated right-of-way.

City Ordinance

CMC Chapter 15.48 governs off-site improvements associated with new construction. The purpose of the ordinance is to provide safe street designs to minimize hazards to drivers and pedestrians. The City Council at the time of the adoption of the ordinance found that the lack of sidewalks in the City forces school children and other pedestrians to walk in the streets and be subjected to the hazards of vehicular traffic. The Council at the time also found that the lack of adequate streetlights in and along public streets of the City constitutes an immediate hazard to the public health, safety, and general welfare of the City and its residents because it encourages crime.

The ordinance is designed to remedy deficiencies in safe street design throughout the City as improvements occur to the residences. The ordinance does establish criteria that would allow the City Council to consider an application for the waiver or deferral of the construction of public improvements under the following conditions.

- 1) The strict application of the particular requirement will cause unnecessary hardship to the applicant, which is inconsistent with the findings stated in Section 15.48.010;
- 2) There are exceptional circumstances or conditions applicable to the subject property, or to its proposed use or development which makes the application of the requirement unfair and oppressive to the applicant; and

- 3) The granting of a waiver or deferral from such requirement would not adversely affect the public health, safety, and general welfare, nor be injurious to any property or improvements in the immediate vicinity of the property for which the applicant has pending with the City a request for a building permit.

The City Council may impose any reasonable condition on a grant of a waiver or deferral, including the filing of an improvement security in the case of a deferral.

As previously indicated, the City granted a deferral on the construction of the public improvements adjacent to 376 Orange Heights Lane, 520 Orange Heights Lane, and 532 Orange Heights Lane but secured liens against the properties to cover the cost of the construction of the future improvements. The City Council at the time made the determination that the construction of the public improvements on the south side of Orange Heights Lane between Main Street and Jasper Drive would be better done in its entirety rather than in increments.

At the November 2, 2022, City Council meeting the following concerns were expressed. Staff has attempted to provide responses to address the concerns presented.

- 1. Concern:** The estimated construction cost of \$46,690 does not include reconstruction of driveways, gates, or undergrounding of power poles. Actual costs may be higher.
 - a. Response:** The estimated construction cost only includes costs for work in the public right of way such as driveway approaches, sidewalk, and a street light. It does not include any improvements or modifications on private property such as the driveway, gate, and fence. The property owner would benefit to pay the estimated amount up front for work in the public right of way because it will relieve him from his obligation to construct the public improvements. At a future date, when the City performs the work in the public right of way, it would then be responsible for all costs in the public right of way and any additional work required on private property to make the project whole.
- 2. Concern:** The cost to the property owner does not include undergrounding of power poles.
 - a. Response:** Per Corona Municipal Code Section (CMC) 15.60 to Underground Wires, the applicant is required to underground utility poles as a condition of approval. However, per CMC section 15.60.060, the applicant can apply for a waiver should this requirement be unreasonable, impractical, and cause undue hardship to the applicant. Based upon a similar Southern California Edison underground project, the estimated cost is \$35K-\$40K per pole to underground its facilities. There are total of 10 power poles on the south side of Orange Heights with a capacity of 12 kilovolts. Staff understands that undergrounding one pole in front of the applicant's property is unreasonable as there are adjacent poles that would still be left standing that would not resolve the aesthetic appeal of the neighborhood. The applicant has been informed of the process and fees to apply for the waiver. If the City Council approves the waiver, the applicant will not be responsible for any construction costs for the undergrounding of utilities.
- 3. Concern:** Power lines and poles may conflict with sidewalks and streetlights.
 - a. Response:** There is 24 feet of public right of way between the curb and property line, more than sufficient right of way for a sidewalk. It may be designed to meander following existing grades and around the power pole to minimize any impacts to the existing landscaping. There also appears to be sufficient vertical clearances under the

utility lines to install a streetlight. A streetlight could also be installed on the pole located along the frontage of the property, if vertical clearances become an issue

4. Concern: There is a grade drop of approximately 4-5 feet between the street and the fence at 234 Orange Heights Lane. Constructing a sidewalk would require extensive regrading and modifications to fencing and gate.

a. Response: The 4-5 feet drop spans a horizontal distance of 24 feet from the street curb to the property line and another 18 feet to the property fence. The slope appears to be gradual and, therefore, constructing a 4-foot minimum sidewalk should not have a significant impact along the frontage of the property. The sidewalk can meander, be adjacent to curb, follow existing grades, and go around power poles or trees to avoid excessive grading or require modifications to the existing wall, fence, or gate. The existing driveway slope ranges from 12-15 percent. Modification of the driveway to accommodate a 4-foot sidewalk would not significantly impact the slope of the driveway. Maximum driveway grades can range from 15 to 20 percent.

5. Concern: Other streets like Gilbert and Garretson between Santana Way and Pacific Road have limited or no sidewalk. Properties along this and other like streets have constructed improvements, such as accessory dwelling units (ADUs), but they were not required to build sidewalks.

a. Response: CMC Chapter 15.48 governs off-site improvements related to new construction with the exception of ADUs, which are regulated by the State and are exempt from construction of public improvements. Development or private improvements, with the exception of ADUs, along these streets with missing public improvements are conditioned to construct, pay their fair share, or enter into liens for future construction of these improvements in order to obtain a building permit.

Mayor Speake's Request

Waive the construction of the missing sidewalk improvements on the south side of Orange Heights Lane between Main Street and Jasper Drive.

Option 1. City Council direct staff to prepare a report with the required findings for the City Council's consideration to waive the sidewalk improvements within the City's dedicated right-of-way on the south side of Orange Heights Lane between Main Street and Jasper Drive.

Pros: Lowers the cost of construction for current and future development on the southern section of Orange Heights Lane between Main Street and Jasper Drive.

Cons: Public improvements would not be built consistent with other areas of the community or for those on this street that have already paid to have the improvements installed. Potentially creates a precedent for waiving the installation of public improvements in other areas of the community.

Option 2. City Council direct staff to implement the requirement of CMC Section 15.48.020 and have the public improvements for properties along Orange Heights Lane deferred and have the property owner pay the City the estimated cost of the public improvements adjacent to the property for the construction of the improvements. Property owner pays the cost upfront now for the improvements, with the City building the improvements at an appropriate point in the future.

Pros: Provides funding to complete the public improvements along the south side of this section of Orange Heights. Cheaper for the resident as they pay out of pocket for only improvements in the public right of way.

Cons: Increases the cost of development to the residents in this area by having to complete additional improvements.

Staff Recommendation

Although the missing public improvements are not proposed to be immediately constructed, the intent is to ultimately have the public improvements constructed when the funding is secured for the improvements from the remaining parcels. The parcels on the south side of Orange Heights Lane are five acres. Substantial space exists on the properties to accommodate the construction of future buildings by the property owners, including the properties of the owners that have not yet paid a share toward the cost of the public improvements. If the construction of buildings occurs on these properties in the future, the City would be able to secure the remaining funding required for the improvements.

The implementation of the CMC 15.48.020 in this case does not appear to meet any of the criteria that would qualify the applicant for a waiver of the requirements noted above. Waiving the requirements would leave this portion of Orange Heights Lane out of conformity with the majority of the roadway that has the required improvements.

Collecting the cost of the improvements when possible and deferring the construction of these improvements to a later date enables the City to secure funding of the missing improvements, reduce construction costs by completing the section in a single project, and guarantees that the community design standards are satisfied for residential areas. Over time, the other owners of the properties that abut Orange Heights Lane and haven't paid for the public improvements on the south side will be required to pay their share of the cost of the improvements.

Staff's recommendation is to continue implementing the requirements of CMC Section 15.48.020, by collecting the fair share cost of the improvements from the property owner of 234 Orange Heights Lane to pay for the cost of the public improvements in the future consistent with the other property owners on this section of Orange Heights Lane, and defer the public improvements adjacent to 234 Orange Heights Lane until they can be constructed at one time.

FINANCIAL IMPACT:

The proposed options presented with this request will have no financial impact on the City.

ENVIRONMENTAL ANALYSIS:

This action is exempt pursuant to Section 15061(b)(3) of the Guidelines for the California Environmental Quality Act (CEQA), which states that a project is exempt from CEQA if the activity is covered by the commonsense exemption that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. There is no possibility that this action will have a significant effect on the environment. Therefore, no environmental analysis is required.

Attachment:

1. Exhibit 1 - Location map
2. Exhibit 2 - Future Agenda Item Request Form
3. PowerPoint Presentation