

CC538

pg 407

CITY COUNCIL MEETING  
APRIL 17, 1985

M AND R PACKING  
RIGHT-OF-WAY  
APPEAL GRANTED

Agenda item k-1 - "Memo regarding M and R Packing Right-of-way Appeal" was introduced by City Manager Peterson.

733 STOCKTON  
STREET DEVELOPMENT

Public Works Director Ronsko presented the following background information regarding the subject, presented diagrams of the subject area, and responded to questions as were posed by Council.

In January of 1983, Robert Mullen, acting in behalf of Central California Traction Company, submitted a Tentative Parcel Map for a lot split of the OCT Co. parcel at the southwest corner of Stockton and Tokay Street.

The map was circulated by the Community Development Department, submitted to the Planning Commission, and approved by the Commission on February 14, 1983 with conditions as shown on a two page letter attached as Exhibit B. Item 6 of the conditions required dedication of 5½ feet in conformance with the Specific Plan for Stockton Street in effect at that time. (35½ feet on both sides of CL).

On May 4, 1983, the City Council adopted Ordinance #1286, amending the Stockton Street Specific Plan to 40 feet on both sides of the centerline.

In late November 1983, the final map was returned and all conditions of the tentative map were met. OCT Co.'s agent had been informed of the change in setbacks, and in answer had pointed out that if a map was filed within 18 months of the tentative map approval, the conditions cannot be changed. The final map dedicated the 5½ feet in conformance with the conditions of the tentative map. The map was sent to the title company for transmittal to the County Recorder, and was recorded on December 1, 1983.

On March 5th of this year, M & R Packing, the new owners of one of the parcels, applied for a permit valued at approximately \$25,000. The owners were notified of the requirement for dedication of an additional 4½ feet in conformance with the newer specific plan line. After several discussions with their engineer, their lawyer, and themselves, it was determined that in order for the City to issue a permit, it would be necessary for them to dedicate the 4½ feet, and that the City of Lodi would enter into an agreement with them concerning future widening similar to a prior agreement with a local foundry. They were told that, in the interests of time, the City would issue the permit but not record the deed or agreement for 30 to 60 days if they wished to appeal to the City Council.

The City received the signed deed and agreement in mid March and issued the building permit on March 22, 1985. In accordance with the City's offer, and their request, the deed and agreement are being held pending their appeal.

Mr. C. M. Sullivan, Attorney-at-law, then addressed the Council regarding the matter on behalf of his client, M and R Packing Company, presenting background information concerning the subject, addressing facts pertaining to their appeal, and responding to questions as were directed by the Council.

Following a lengthy discussion regarding the matter with questions being directed to Staff and to Mr. Sullivan, Council, on motion of Council Member Snider, Olson second, granted the appeal regarding the parcel situated at 733 South Stockton Street, Lodi. The motion carried by unanimous vote.



# CITY OF LODI

PUBLIC WORKS DEPARTMENT

## COUNCIL COMMUNICATION

TO: City Council  
FROM: City Manager  
DATE: April 11, 1985  
SUBJECT: Appeal of M & R Packing

BACKGROUND INFORMATION: In January of 1983, Robert Mullen, acting in behalf of Central California Traction Co., submitted a Tentative Parcel Map for a lot split of the CCT Co. parcel at the southwest corner of Stockton and Tokay Street, copy attached as Exhibit A.

The map was circulated by the Community Development Department, submitted to the Planning Commission, and approved by the Commission on February 14, 1983 with conditions as shown in the two page letter attached as Exhibit B. Item 6 of the conditions required dedication of 5½ feet in conformance with the Specific Plan for Stockton Street in effect at that time. (35½ feet on both sides of 'L').

On May 4, 1983, the City Council adopted Ordinance #1286, amending the Stockton Street Specific Plan to 40 feet on both sides of the centerline.

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On March 5th of this year, M & R Packing, the new owners of one of the parcels, applied for a permit valued at approximately \$25,000. The owners were notified of the requirement for dedication of an additional 4½ feet in conformance with the newer specific plan line. After several discussions with their engineer, their lawyer, and themselves, it was determined that in order for the City to issue a permit, it would be necessary for them to dedicate the 4½ feet, and that the City of Lodi would enter into an agreement with them concerning future widening similar to a prior agreement with a local foundry. They were told that, in the interests of time, the City would issue the permit but not record the deed or agreement for 30 to 60 days if they wished to appeal to the City Council.

The City received the signed deed and agreement in mid March and issued the building permit on March 22, 1985. In accordance with the City's offer, and their request, the deed and agreement are being held pending their appeal.

APPROVED:

  
THOMAS A. PETERSON, City Manager

FILE NO.

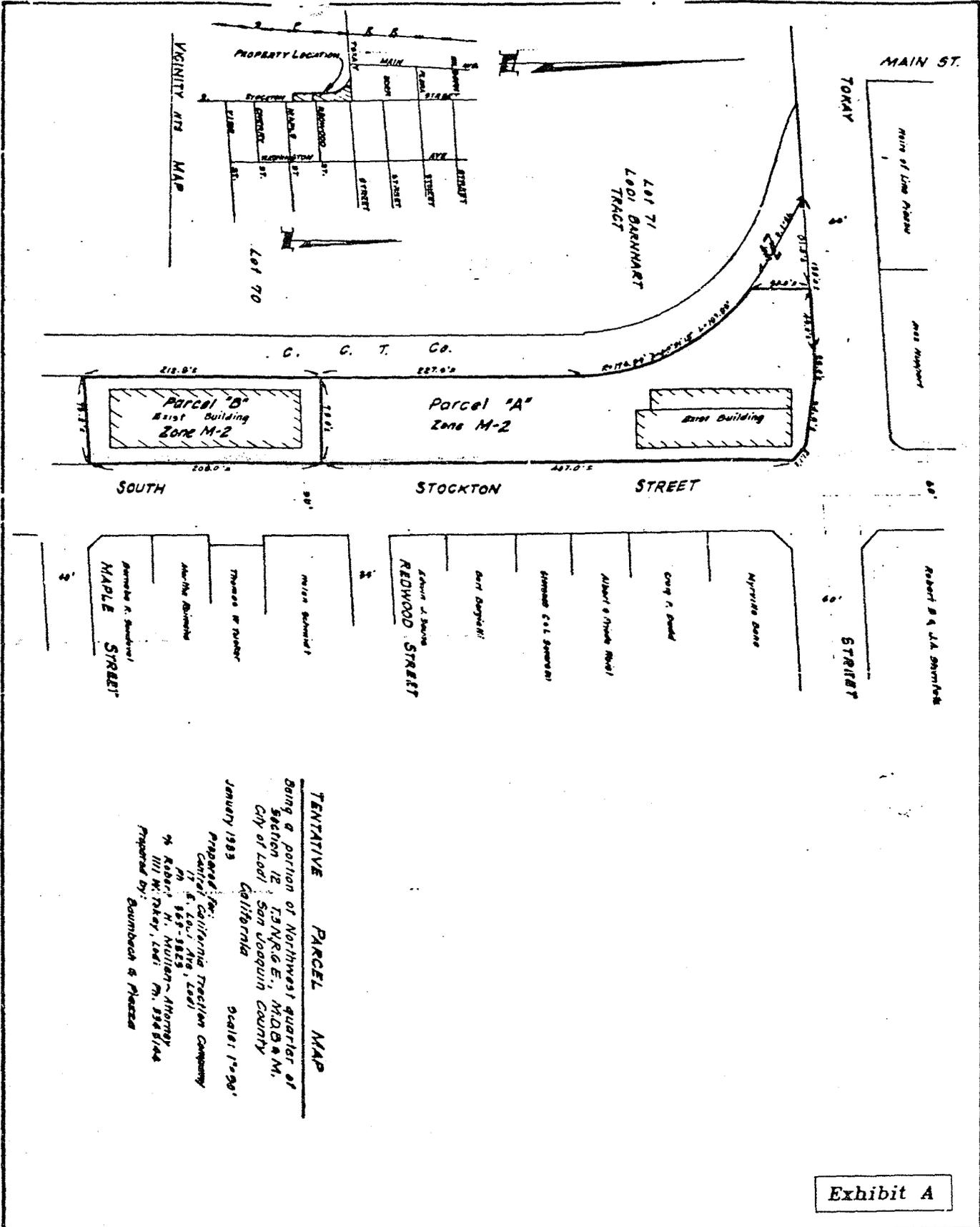
City Council  
April 11, 1985  
Page 2

The City received the attached appeal letter dated March 29, 1985, from Mullen, Sullivan & Newton (Exhibit D).

  
For Jack L. Ronsko  
Public Works Director

Attachments

JLR/cag



**TENTATIVE PARCEL MAP**  
 Being a portion of Northwest quarter of  
 Section 12, T3N R4E, M20&M,  
 City of Lodi, San Joaquin County,  
 California  
 January 1983  
 Prepared for:  
 Central California Traction Company  
 17 S. 4th Ave., Lodi  
 CA 95240-1825  
 by Robert H. Muller - Attorney  
 111 W. 7th St., Lodi, CA 95240-1144  
 Prepared by:  
 Baumbach & Piazza

Exhibit A

DESIGN _____ DRAWN BY _____	<b>BAUMBACH &amp; PIAZZA</b> CIVIL ENGINEERS SURVEYORS 221 W. OAK ST. LODI CALIF. 95240 PH 908-308-0098	Prepared for Central California Traction Co. by Robert H. Muller	SHEET OF _____
APPROVED BY _____ DATE _____		JOB NO. 0302 FILE NO. _____	

February 15, 1983

Mr. Glen I. Baumbach  
c/o Baumbach and Piazza  
Consulting Engineers  
303 West Elm Street  
Lodi, CA 95240

Dear Glen:

RE: Tentative Parcel Map - Central California Traction Company  
Southwest Corner East Tokay Street and South Stockton Street  
File No. M-83-2

At its meeting of Monday, February 14, 1983 the Lodi City Planning Commission approved the request of Central California Traction Company (c/o Robert Mullen, Attorney at Law) for a Tentative Parcel Map to create Parcels "A" and "B" at the southwest corner of East Tokay Street and South Stockton Street in an area zoned M-2, Heavy Industrial.

The Planning Commission's approval was subject to the following conditions:

1. That Parcel "B" provide off-street and loading facilities in conformance with the City's Zoning requirements before the filing of the Final Parcel Map;
2. That the owner pay for separate water and sewer taps to each parcel with said taps being installed by the City;
3. That the owner separate existing utilities if they cross the new property line, and pay for the abandonment of unused water services;
4. That the owner install sidewalk where none exists as required by the Public Works Department;
5. That public utility easements as required by the various utility companies and the City of Lodi be dedicated; and

Exhibit B

1/2

Mr. Glen I. Baumbach  
c/o Baumbach and Piazza  
February 15, 1983  
Page 2

6. That the owner dedicate 5½ feet of street right-of-way on South Stockton Street and a 25 foot radius at the Tokay-Stockton intersection and enter into an agreement with the City of Lodi that the owner can use the buildings until such time as the City widens South Stockton Street, at which time the City will pay for all necessary structural modifications.

Sincerely,

JAMES B. SCHROEDER  
Community Development Director

cc: Robert Mullen, Attorney at Law  
Jack Ronsko, Public Works Director

WHEN RECORDED, RETURN TO:

City of Lodi  
221 West Pine Street  
Lodi, CA 95240

AGREEMENT

733 South Stockton Street  
APN 047-030-17

This Agreement entered into this \_\_\_\_\_ day of \_\_\_\_\_, 1985, between the CITY OF LODI, hereinafter called "City" and ROBERT L. REYNOLDS, CAROLYN W. REYNOLDS, DONALD R. REYNOLDS and BARBARA REYNOLDS, hereinafter called "Owner".

W I T N E S S E T H

Owner has filed an application for a building permit at 733 South Stockton Street, and described as:

Parcel A of the Parcel Map recorded on December 1, 1983, in Book 12 of Parcel Maps at page 111, San Joaquin County Records.

In order to comply with the provisions of Section 22.18, et seq., of the Code of the City of Lodi, it is agreed as follows:

1. Owner is dedicating the necessary land for the future widening of Stockton Street.

2. City acknowledges that it is City's responsibility to modify the buildings and equipment in the newly dedicated right-of-way at such time that City desires to widen Stockton Street and agrees to modify the buildings and equipment at City's cost at such time as City deems it necessary to so widen said streets.

3. Owner acknowledges that in the event the buildings presently in the newly dedicated right-of-way are intentionally demolished or damaged or partially destroyed by fire or any other calamity or act of God to the extent of more than fifty percent of its reasonable value at that time, no repairs or reconstruction shall be made, unless every portion of such building is made to conform to all regulations of the district in which it is located.

4. Both parties agree to the recording of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first hereinabove written.

CITY OF LODI, A Municipal Corporation

By: THOMAS A. PETERSON, CITY MANAGER

Robert L. Reynolds  
Robert L. Reynolds

Attest: Alice M. Reimche, City Clerk

Carolyn W. Reynolds  
Carolyn W. Reynolds

Donald R. Reynolds  
Donald R. Reynolds

Barbara Reynolds  
Barbara Reynolds

State of CALIFORNIA }  
County of SAN JOAQUIN } SS.

On this the 21st day of March 1985, before me,

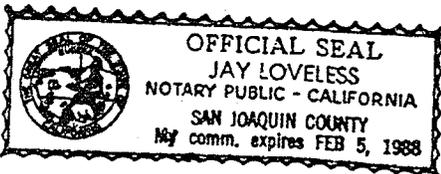
Jay Loveless

the undersigned Notary Public, personally appeared  
ROBERT L. REYNOLDS, CAROLYN W. REYNOLDS,  
DONALD R. REYNOLDS, and BARBARA REYNOLDS

personally known to me  
 proved to me on the basis of satisfactory evidence  
to be the person(s) whose name(s) are subscribed to the  
within instrument, and acknowledged that they executed it.  
WITNESS my hand and official seal.

Jay Loveless  
Notary's Signature Jay Loveless

C 2/2



ROBERT H. MULLEN  
C. M. SULLIVAN, JR.  
THOMAS J. NEWTON  
CRAIG RASMUSSEN  
THOMAS J. DRISCOLL, JR.  
STEPHEN C. SNIDER

MULLEN, SULLIVAN & NEWTON

ATTORNEYS AT LAW  
1111 WEST TOKAY STREET  
P. O. BOX 560

LODI, CALIFORNIA 95241-0560

(209) 334-5144

OF COUNSEL  
ANTHONY N. PEROVICH  
ROBERT C. LITTS

March 29, 1985

RECEIVED

APR 01 1985



CITY OF LODI

PUBLIC WORKS DEPARTMENT

Mr. Glen Robison  
Assistant City Engineer  
City of Lodi  
P. O. Box 320  
Lodi, California 95241

Re: M & R Packing

Dear Glen:

Pursuant to our agreements of February 26 and my letter of March 7, 1985, request is hereby made to schedule a hearing on the right-of-way matter. We would like to appear before the Lodi City Council for a decision on April 17, 1985. I trust that the Council will be meeting at 8:00 p.m. on that date. If this date is inconvenient or inappropriate for some reason, please let me know. On the other hand, if it is satisfactory, please let us know our position on the agenda and when we should be present.

Best regards,

MULLEN, SULLIVAN & NEWTON

By

C. M. SULLIVAN, JR.

CMS:dm

cc: Mr. Jay Loveless  
Mrs. Alice Reimche  
Mr. Thomas A. Peterson

Exhibit D

ROBERT H. MULLEN  
C. M. SULLIVAN, JR.  
THOMAS J. NEWTON  
CRAIG RASMUSSEN  
THOMAS J. DRISCOLL, JR.  
STEPHEN C. SNIDER

MULLEN, SULLIVAN & NEWTON  
ATTORNEYS AT LAW  
1111 WEST TOKAY STREET  
P. O. BOX 560  
LODI, CALIFORNIA 95241-0560  
(209) 334-5144

OF COUNSEL  
ANTHONY N. PEROVICH  
ROBERT C. LITTS

March 7, 1985

City of Lodi  
P. O. Box 320  
Lodi, California 95241

ATTENTION: G. E. Robison,  
Assistant City Engineer

Re: 733 S. Stockton Street - Right-of-Way Agreement and  
Proposed Deed

Gentlemen:

I have your letter of February 26, 1985. My client is willing to sign a right-of-way Agreement and the Deed under the following conditions:

1. You will hold the Deed in escrow and not record the same, nor the Agreement, until such time as the City Council has ruled on the application requesting that the building permit be issued without the necessity of dedicating the 4-1/2 feet. You will hold the Deed in escrow for no less than ninety days from March 15, 1985. In the event the property owner desires to appeal the determination of the City Council to the Superior Court and file suit within said ninety-day period (prior to June 15, 1985,) then the Deed and right-of-way Agreement will be held in abeyance until such time as the Superior Court enters judgment. If the judgment is favorable to the property owner, of course, the Agreement and Deed will be returned, and if it is against the property owner, then you will be permitted to record the enclosed documents.

2. Upon receipt of the Deed and Agreement, you will issue your building permit, assuming a plan check has been completed.

3. The movement or relocation of equipment within the building and the exterior and interior damage to the building, due to the widening of Stockton Street, will be at the sole cost and responsibility of the City.

4. The remaining terms and conditions of our

City of Lodi  
Page Two  
March 7, 1985

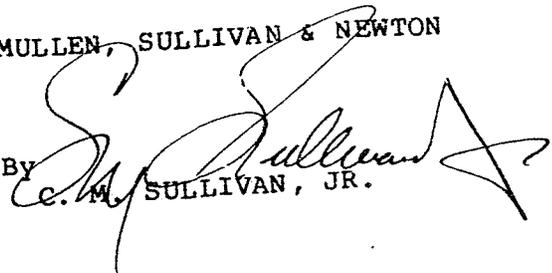
Agreement are as set forth in your letter of February 26, 1985, and the right-of-way Agreement.

If there is anything in this letter that the City takes exception to, please let me know immediately.

Best regards,

MULLEN, SULLIVAN & NEWTON

By

  
C. M. SULLIVAN, JR.

CMS:dm

cc: Mr. Jay Loveless  
Mr. Ronald B. Stein

RECEIVED

DATE: APR 23 1985

April 18, 1985

ALICE M. REIMCHE  
CITY CLERK  
CITY OF LODI

Mr. Bud Sullivan  
Litts, Mullen, Perovich,  
Sullivan & Newton  
1111 W. Tokay  
Lodi, CA 95240

SUBJECT: 733 Stockton Street Development *m/r*

In accordance with the City Council's granting of your appeal regarding the above parcel, we are returning the deed and agreements for your destruction.

Sincerely

G. E. Robison  
Assistant City Engineer

Enclosures

GER/eah