

**PUBLIC
HEARINGS**

**APPEAL RE
VARIANCE TO
PERMIT
CONSTRUCTION OF
A FOUR-PLEX AT
1324 S. HUTCHINS,
LODI**

Notice thereof having been published in accordance with law and affidavit of publication being on file in the office of the City Clerk, Mayor Katnich called for the Public Hearing to consider the appeal of William E. Ruff of the Planning Commission's denial of his request for a variance to permit the construction of a four-plex at 1324 S. Hutchins Street, Lodi.

Mayor Pro Tempore McCarty asked to abstain from discussion and voting on the matter because of a possible conflict of interest.

The matter was introduced by Community Development Director Schroeder who presented a diagram of the subject area. As requested by the Lodi City Council at its October 15, 1980 meeting, a report detailing those parcels and buildings on South Hutchins Street where variances have been granted was presented for Council's perusal. An exhibit which listed all structures built in the subject area since 1962 was also presented for Council's perusal. A diagram depicting all the variances which had been granted in the subject area was also presented and detailed for Council's information.

Speaking on behalf of his appeal was Mr. William E. Ruff, P.O. Box 14, Lodi, California.

There being no other persons wishing to speak on the matter, the public portion of the hearing was closed.

A very lengthy discussion followed with questions being directed to Staff and to Mr. Ruff.

On motion of Councilman Murphy, Pinkerton second, Council denied the appeal of William E. Ruff of the Planning Commission's denial of his request for a variance to permit the construction of a four-plex at 1324 S. Hutchins Street, Lodi. The

motion carried by the following vote:

Ayes: Councilmen - Murphy, Pinkerton, and Katnich

Noes: Councilmen - None

Absent: Councilmen - Hughes

Abstain: Councilmen - McCarty

CITY COUNCIL

WALTER KATNICH, Mayor
JAMES A. McCARTY, Mayor Pro Tem
RICHARD L. HUGHES
ROBERT G. MURPHY
JAMES W. PINKERTON, Jr.

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
LODI, CALIFORNIA 95240
(209) 334-5634

HENRY A. GLAVES, Jr.
City Manager

ALICE M. REIMCHE
City Clerk

RONALD M. STEIN
City Attorney

January 9, 1981

Mr. William E. Ruff
P.O. Box 14
Lodi, CA 95241

Re: Zoning Variance - 1324 S. Hutchins Street

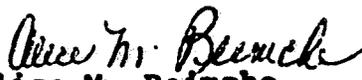
Dear Mr. Ruff:

At its meeting of Wednesday, January 7, 1981, the Lodi City Council denied your appeal of the Planning Commission's denial of your request for a variance to permit the construction of a four-plex at 1324 South Hutchins Street on a parcel containing 6300 square feet where the zoning ordinance requires 7000 square feet in an area zoned R-MD, Medium Density Multiple-Family Residential.

In denying your request, the City Council determined that a "hardship" as defined in the zoning ordinance did not exist and therefore no basis could be found for the approval of the variance

Should you have any questions regarding this action, please do not hesitate to call.

Very truly yours,


Alice M. Reimche
City Clerk

AR:dg

cc: Community Development Director

NOTICE OF PUBLIC HEARING BY THE CITY COUNCIL OF THE CITY OF LODI TO CONSIDER THE APPEAL OF MR. WILLIAM E. RUFF, P.O. BOX 14, LODI, OF THE PLANNING COMMISSION'S DENIAL OF HIS REQUEST FOR A VARIANCE TO PERMIT THE CONSTRUCTION OF A FOUR-PLEX AT 1324 S. HUTCHINS STREET, LODI

NOTICE IS HEREBY GIVEN that on Wednesday, January 7, 1981, at the hour of 8:00 p.m. or as soon thereafter as the matter may be heard, the Lodi City Council will conduct a public hearing in the Council Chambers, City Hall, 221 West Pine Street, Lodi, California, to consider the appeal of Mr. William E. Ruff, P.O. Box 14, Lodi, of the Planning Commission's denial of his request for a variance to permit the construction of a four-plex at 1324 S. Huthcins Street, Lodi, on a Parcel containing 6300 square feet where the zoning ordinance requires 7000 square feet in an area zoned R-MD, Medium Density Multiple-Family Residential.

Dated: December 17, 1980

By Order of the City Council

Alice M. Reimche
ALICE M. REIMCHE
City Clerk

CITY COUNCIL

WALTER KATNICH, Mayor
JAMES A. McCARTY, Mayor Pro Tem
RICHARD L. HUGHES
ROBERT G. MURPHY
JAMES W. PINKERTON, Jr.

CITY OF LODI

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HENRY A. GLAVES, Jr.
City Manager

ALICE M. REIMCHE
City Clerk

RONALD M. STEIN
City Attorney

October 27, 1980

Mr. William Ruff
P. O. Box 14
Lodi, CA 95240

Dear Mr. Ruff:

This letter will confirm action taken by the Lodi City Council at its regular meeting of October 15, 1980, following a public hearing on your appeal of the Planning Commission's denial of your request for a variance to permit the construction of a four-plex at 1324 S. Hutchins Street, Lodi, whereby Council directed Staff to prepare a report on structures which had been constructed on South Hutchins Street for which variances were granted; referred the matter to the Planning Commission for recommended changes or refinement to the subject ordinances; and asked that this matter again be placed on the Council Agenda for the regular Council Meeting of December 17, 1980.

Should you have any questions regarding this matter, please do not hesitate to ask.

Very truly yours,


ALICE M. REIMCHE
City Clerk

AR:dg

cc: James B. Schroeder
Community Development Director

SOUTH HUTCHINS STREET STUDY

Prepared by

City of Lodi Community Development Department
At the request of the Lodi City Council

December 2, 1980

PURPOSE OF THE STUDY

On October 15, 1980, the Lodi City Council directed staff to prepare a report detailing those parcels and buildings on South Hutchins Street where variances have been granted.

PARTS OF THE STUDY

The complete study consists of 1) this written report, including background, ordinances and a summary of use permits, variances, and significant construction along South Hutchins Street; 2) a listing of use permits and variances keyed to the map; 3) a listing of significant construction since 1967 keyed to the map; 4) a display map locating the use permits, variances, and dedications for street purposes on South Hutchins Street between Lodi Avenue and Kettleman Lane; 5) an aerial photo strip map for display; and 5) supplementary transparencies of plot plans for 1041 South Hutchins Street (for display).

BACKGROUND

On August 25, 1980 the Lodi City Planning Commission denied the requests of William E. Ruff and Marnie L. Ruff (A-80-37) to vary the required 7000 square foot minimum parcel size to 6255 square feet, and to vary the required five foot sideyards to 2.5 feet each at 1324 South Hutchins Street, as shown on Exhibit A. The latter request was withdrawn by the applicants at the meeting.

¹The second request for reduced sideyards (which was withdrawn) related to the parking. Parking requirements in the R-MD zone are 1½ spaces per unit. In residential zones the approved parking area is not permitted in the required yard areas without a variance. In this case the required sideyard is five feet on each side. The width of the parcel is 61 feet and the required six spaces, designed to City standards, requires 56 feet. It should be noted that after the street is widened cars exiting the parking lot as currently designed will have to back onto the sidewalk or directly into the street.

The parcel currently contains 7170 square feet, which would permit the construction of a fourplex, as planned by Mr. Ruff; however, a 15-foot dedication of property is required for the widening of Hutchins Street, thereby reducing the lot size to 6255 square feet. The parcel is in the R-MD zone which requires 7000 square feet for a fourplex (6000 square feet for a triplex). There is a negative difference of 745 square feet or 11%. In denying the area variance request, the Planning Commission determined that a "hardship", as defined in the zoning ordinance did not exist, and, therefore, no basis could be found for the approval of the variance. The denial was subsequently appealed to the Lodi City Council for hearing on October 15, 1980. At that time the Council directed staff to prepare a study, and referred the matter to the Planning Commission for recommended changes or refinement to the subject ordinances.

ORDINANCES

On November 7, 1962 the Lodi City Council passed Ordinance 738 (Exhibit B) which established the Hutchins Street setback line at 40 feet on each side of centerline. This ordinance was recorded with the San Joaquin County Recorder on November 15, 1962 (Instrument number 52815, book 2621, page 78.) This action made the setback line a part of the deeds of all affected property owners to assure that future buyers, etc. would be aware of the setback and possible dedication conditions. Historically, the front yard setback was determined by the average setback of existing structures in the block.

Ordinance 629 (Exhibit C) approved December 3, 1958, provided for the establishment of setback lines and prohibited the erection of buildings and structures within the setback area. The ordinance designated the specific setback lines as precise plans.²

Section 6 of Ordinance 629 states that all applicable zoning yard requirements and building code requirements shall be based on the future curb line of the street.

SUMMARY OF MAP AND LISTING INFORMATION

The Lodi Community Development Department has a record of 15 use permit requests along Hutchins Street between Lodi Avenue and Kettleman Lane (Exhibit D): Two were for parking adjoining a commercial use; three for signs; one each for pony rides, child care in the home, the Milk Stop and a church; and five are for beauty shops in the home. Excluding the Ruff request, there is a record of six Variance requests: two for signs; one for a carport; one for a reduction in minimum lot width and lot size³; and

²Precise plans were defined by State law. The pertinent State law has not been located.

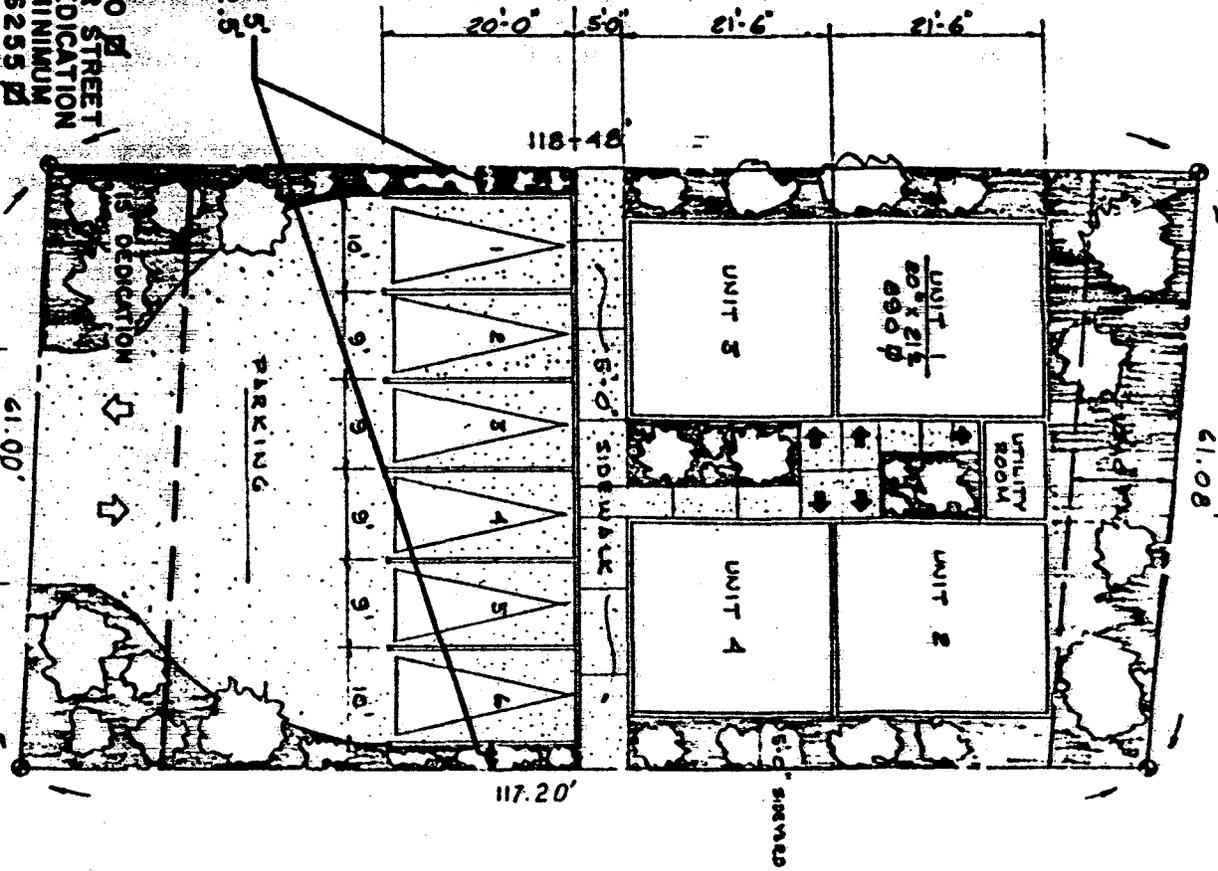
³A variance of 3% - does not include square footage between Hutchins Street setback as defined by Ordinance 738, which was approved only six months before this application (Milligan A-63-13).

EXHIBIT A

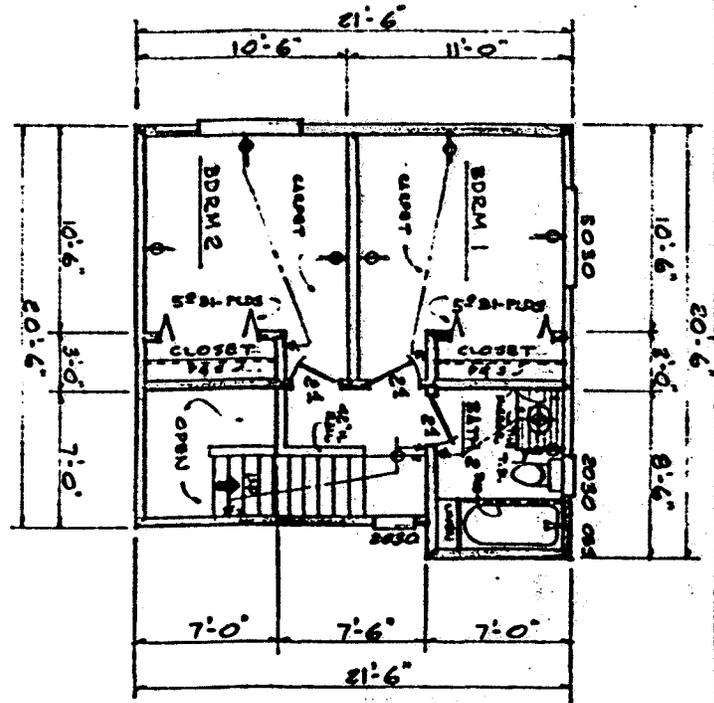
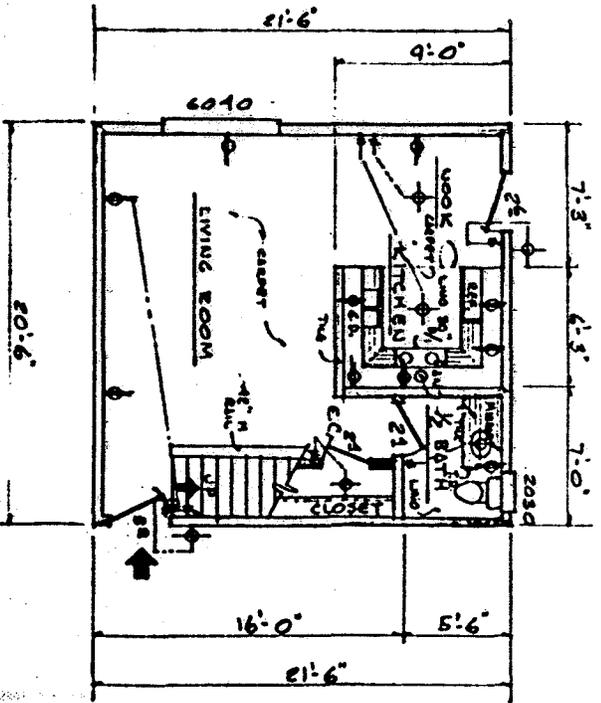
RUFF USE PERMIT & VARIANCE REQUEST

A-80-37
1324 SOUTH HUTCHINS STREET (745-130-23)

VARY 5' SIDE YARD TO 2.5'
CURRENTLY 7' TO 6' AFTER STREET DEDICATION
-6255 R
VARY 7'000 R MINIMUM LOT SIZE TO 6255 R



HUTCHINS STREET PLOT PLAN
41'-0"



two for yard setbacks and parking, both of which were on the Hess parcel. Variances A-76-59 of Mr. Hess (Map Number 8a) was denied, and the project redesigned to meet the minimum required 20 foot front yard setback; however, a second application was required because adjoining homes on Park Street were constructed with a 25 foot setback. The transparencies pertain to this variance.

Since 1962 there have been a total of 23 building projects along South Hutchins Street between Lodi Avenue and Kettleman Lane, 15 of which are residential (three permits were for the same project to have been considered one project). A listing of projects is given in Exhibit E, which also indicates these projects conforming to the adopted 40-foot to center-line setback; those which conform to the maximum density after the future right-of-way is subtracted, and those which conform to the average setback in the block, in lieu of conformity to the adopted setback. Eight of the projects conform to the adopted setback. All of those which do not conform to the latter (except the Milligan project, which maintained 20 feet from property line) do, however, conform to the average setback established by existing structures in the block. Twelve of the projects will conform to the maximum density permitted after future right-of-way is subtracted. Of the three projects which will not conform to density requirements, one was granted a variance (Milligan); the second, an eight unit apartment, will be 900 square feet short; and the third, a fourplex, will be 500 square feet (8%) short. Both of the latter are in conformance at present, not considering the future right-of-way.

EXHIBIT B

ORDINANCE NO. 629

***AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF SETBACK LINES
AND PROHIBITING THE ERECTION OF BUILDINGS AND STRUCTURES WITHIN
THE SETBACK AREA***

The City Council of the City of Lodi does ordain as follows:

Section 1. Purpose and Authority

This ordinance is adopted to promote the public health, safety and general welfare by providing for the establishment of setback lines to protect the future rights-of-way for existing and planned streets. The specific setback lines which are provided for in this ordinance are hereby designated precise plans as authorized in Section 65601 of the Government Code.

Section 2. Definitions

For the purpose of this ordinance, the following words shall have the meaning indicated.

1. **Building** - any structure having a roof supported by columns or walls.
2. **Setback Line** - a line parallel to the future centerline of a street and designating the future right-of-way line of the street.
3. **Setback Area** - the area lying between setback lines established on each side of a street or planned street and including the full width of the future right-of-way.
4. **Structure** - anything constructed or erected which requires permanent location on the ground or which is attached to something requiring permanent location on the ground.

Section 3. Procedure for the Establishment of Setback Lines

1. When the Planning Commission or the City Council determines that a setback line is desirable and necessary in the public interest, either body may initiate proceedings by declaring its intention to establish a specific setback line.
2. The Planning Commission shall then hold at least one public hearing on the proposed setback line and shall make a recommendation and report to the City Council. Notice of the hearing shall be published at least 10 days prior to the hearing.

3. Upon receipt of the recommendation and report from the Planning Commission, the City Council shall hold a public hearing and may adopt an ordinance establishing the setback line. Notice of the hearing shall be published at least 10 days prior to the hearing.
4. If the City Council proposes a change in the setback line recommended by the Planning Commission, the change shall be referred to the Planning Commission for a report before the ordinance is adopted.
5. During the period between the declaration of intention to establish a setback line and the effective date of an ordinance establishing the setback line, no building permit shall be issued for the erection of a building or structure in the proposed setback area.

Section 4. Applicability of Setback Lines

1. After the adoption of a specific setback line of an existing or planned street, no building or structure or addition thereto shall be erected closer to the centerline of the street than the setback line so established, except as otherwise provided in this ordinance.

2. Exemptions from the Setback Line

1. Cornices, eaves, canopies, and similar architectural features of a building when conforming to Section 6 of this ordinance.
2. Uncovered terraces and paved areas.
3. Fences and walls not exceeding 42 inches in height.
4. Signs supported back of the setback line when conforming to Section 6 of this ordinance.
5. Public street improvements and utility structures.

Section 5. Encroachments

After a report from the Planning Commission, the City Council may permit the erection of a building or structure within the setback area if the following requirements are met.

1. The strict application of the ordinance will result in unnecessary hardship to the property owner amounting to practical confiscation of the property.

2. The intent of the ordinance to preserve future rights-of-way from obstructions will be observed through the imposition of conditions necessary to protect the public welfare and safety. The conditions may include a recorded agreement from the property owner to remove the encroachment at no expense to the City or State Agency at such time that it becomes necessary to widen the street.

Section 6. Effect on Zoning and Building Requirements

Where a setback line has been established on a street, all applicable zoning yard requirements and building code requirements shall be measured from the setback line and shall be based, where applicable, on the future curb line of the street.

Section 7. Specific Setback Lines

1. All setback lines previously adopted and now in effect in the City of Lodi are hereby continued.
2. All setback lines adopted in the future shall be established in accordance with the provisions of this ordinance.

Section 8. Enactment

This ordinance shall be published once in the Lodi News-Sentinel and shall be in full force and take effect thirty (30) days from and after its passage and approval.

Approved this 3rd day of December, 1958.

/s/ Bozant Katzakian
Mayor of the City of Lodi

EXHIBIT D

SOUTH HUTCHINS STREET STUDY

12-2-80

A Listing of Variances and Use Permits

(Keyed to the 1"=100' display map)

<u>No. on Map</u>	<u>Permit No., Applicant, Request, Location, Action</u>
1	Use Permits 57-44 and 67-42 - request of Douglas Oil for signs at 500 West Lodi Avenue. Approved.
2	Variance request A-67-7 of Hanna Meyer to increase sign area at 400 West Lodi Avenue. Approved.
3	Use Permit request 57-37 and 58-2 of The Milk Stop to permit drive-in retail milk sales and a sign at 321 South Hutchins Street. Approved.
4	Use Permit request 58-18 of Mr. Bayles for pony rides at 701 N. Hutchins. Denied.
5	Use Permit request 59-11 for an in-home beauty shop at 800 South Hutchins Street. Approved.
6	Use Permit request 58-38 of Mr. Colvin for a child care home at 918 South Hutchins Street. Approved.
7	Use Permit request 64-32 of Mr. Helwig to permit parking at 1012 South Hutchins Street for an adjoining restaurant in the C-1 zone. Approved.
8 a.	Variance request A-76-59 of Oskar Hess to reduce required sideyard from 5 feet to 2.5 feet to permit parking and stall overhang; to reduce required rear yard from 7.5 feet to 5 feet; reduce the number of offstreet parking stalls from nine stalls to six; and to reduce the required Hutchins Street front yard setback (after dedication) from 20 feet to 15 feet in conjunction with the construction of a six unit apartment at 1041 South Hutchins Street (519 West Park Street). ¹ Denied by Planning Commission.

¹Property dimensions before dedication were 75 feet x 125 feet = 9,375 square feet. There was a five foot dedication along Hutchins Street in conformance with the setback established by Ordinance 738, thereby decreasing the parcel size to 8,750 square feet. A negative difference of 250 square feet (9,000 - 8,750), or 3%.

No. on
Map

Permit No., Applicant, Request, Location, Action

- 8 b. Variance request A-77-10 of Oskar Hess to reduce the required front yard from 25 feet (the average of the adjoining front yards on Park Street) to 20 feet at 519 West Park Street.² Approved by the Planning Commission. Appealed to the City Council by a neighbor on the grounds the 25 foot setback should be maintained. Appeal denied by Council.
- 9 Variance request A-71-9 of Foursquare Colonial Gospel Church to reduce the setback requirements for installation of a sign at 500 West Park Street.
- 10 Variance request A-63-13 of Samuel and Victoria Milligan to reduce the minimum lot area from 22,000 square feet to 21,390 square feet (a negative difference of 610 square feet, or 3%) and to reduce the minimum required lot width from 150 feet to 144 feet, to permit construction of a 10 unit apartment at 1112 South Hutchins Street. Approved. Letter states, "A majority of the Planning Commission felt that the proposal presented for the development of the property justified the granting of a variance in this situation since it would permit the development of this property on an economical basis and would not adversely affect the surrounding property." A dedication of property was not made; however, a 25 foot front setback and 15 foot rear setback were maintained, consistent with adjoining properties. See Summary in the report.
- 11 Use Permit requests 59-3 and 64-39 of M. Dickoff for an in-home beauty shop at 1206 South Hutchins Street. Approved.
- 12 Use Permit request 63-26 of M. Cotta for an in-home beauty shop at 1321 South Hutchins Street. Approved.
- 13 Use Permit request 63-4 for an in-home beauty salon at 1318 South Hutchins Street. Approved.
- 14 Variance request A-80-37 of Mr. Ruff (subject parcel). Denied by Planning Commission; Appealed to City Council.
- 15 Use Permit request U-69-46 of Church of God for conversion of existing structure to a church at 510 Rimby Avenue and construction of a parking lot with a driveway on Hutchins Street. Approved with parking conditions.

²After redesign Hutchins Street became the side yard, necessitating only a 10 foot setback, after dedication of the five feet.

No. on
Map

Permit No., Applicant, Request, Location, Action

- 16 a Variance request in 1854 of Mrs. Cook to permit construction of carport on southern property line at 1332 South Hutchins Street. Approved.
- 16 b Use Permit request U-75-33 of Mr. Perlegos to permit parking for the adjoining store in a C-2 zone on the front portion of the parcel at 1332 South Hutchins Street. Approved.

EXHIBIT E

SOUTH HUTCHINS STREET STUDY
12-2-80

A Listing of Structures Built Since 1962
(Keyed to the 1"=100' display map)

Letter on map	South Hutchins Street Address	Building Permit No.	Date	Structure	Conforms to 40' to center-line setback ¹	Density OK after setback area subtracted	Conforms to August setback in block ¹
A	321	2585 4179A	5/65 8/68	Storage Addn to Milk Stop	n/a	n/a	n/a
B	410 Chestnut		10/77	8 unit apartment	yes	yes	-
C	507	1756A	2/64	sgl fam dwelling	--	yes	yes
D	605	9545A	8/78	0-lot line dwelling	yes	yes	-
E	607	6546A	8/78	"	yes	yes	-
F	609	9907A	3/79	"	yes	yes	-
G	611	9908A	3/79	"	yes	yes	-
H	613	1062A	5/79	"	yes	yes	-
I	615	10063A	5/79	"	yes	yes	-
J	623	4294A	11/68	8 unit apartment	no	yes	unk
K	701	1915A 2591A 5635A	5/64 5/65 11/71	tool shed storage bell tower	n/a n/a n/a	n/a n/a n/a	n/a n/a n/a
L	912	5799A 918A 8636A	3/72 10/76 6/77	10 unit apartment 9 unit apartment addn carport addition	no	yes	yes
M	1012	5163A	12/70	8 unit apartment	no	no	yes
N	519 Park	8363A	2/77	6 unit apartment	yes	yes	-

Continued -----

¹Based on Calculations Using 1"=100' base map and 1"=20' aerial photo.

Continued from page 12

Letter on Map	South Hutchins Street Address	Building Permit No.	Date	Structure	Conforms to 40' to center-line setback ¹	Density OK after setback area subtracted ¹	Conforms to August setback in block ¹
O	1030	6727A	9/73	Sign	n/a	n/a	n/a
P	1112	3725A and 4117A	6/67 6/68	10-unit apartment	no	Var.	no
Q	1128	4368A	2/69	duplex	no	yes	yes
R	1204	7470A	5/75	4-unit apartment	no	no	yes

¹Based on Calculations Using 1"=100' base map and 1"=20' aerial photo