

P3 182  
00-13(A)

CITY COUNCIL MEETING

MAY 19, 1982

PUBLIC HEARINGS

DENIAL OF APPEAL  
OF DENNIS LEWIS,  
9 MULBERRY COURT,  
LODI, TO CONSTRUCT  
A SOLAR COLLECTION  
RACK IN A REQUIRED  
REAR YARD SETBACK  
AT THAT ADDRESS  
REVERSED

Notice thereof having been published in accordance with law and affidavit of publication being on file in the office of the City Clerk, Mayor Reid called for the Public Hearing to consider the appeal of Dennis Lewis, 9 Mulberry Court of the Planning Commission's denial of his request to construct a solar collection rack in a required rear yard setback at 9 Mulberry Court, Lodi (Assessor's Parcel No. 057-360-49).

The matter was introduced by Community Development Director Schroeder who presented diagrams of the subject area.

Speaking on behalf of the appeal were:

- a) Mr. Dennis Lewis, 9 Mulberry Court, Lodi
- b) Mr. Chas Loy, Seivamatic Solar Systems, 1064 Woodland Avenue, Modesto.

The following neighbors of Mr. Lewis spoke, stating that they would not be offended by the proposed installation and would be in favor of the subject installation.

- a) Scott Robison, 15 Mulberry Court, Lodi
- b) Veronica Koenig, 138 Mulberry Circle, Lodi

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

On motion of Councilman Pinkerton, Murphy second, Council reversed the Planning Commission's denial of the appeal of Dennis Lewis, 9 Mulberry Court, Lodi, to construct a solar collection rack in a required rear yard setback at that address (Assessor's Parcel No. 057-360-49) and determined that the subject solar collection rack was not a structure based on the following findings:

- 1) Neighbors giving testimony before the Council were not opposed to the installation.
- 2) The proposed installation is an energy conservation effort.

P.N.

RECEIVED May 30, 1982

1982 APR 33 AM 8 55

ALICE M. REIMCHE  
CITY CLERK  
CITY OF LODI

Mrs. Alice M. Reimche  
City Hall  
221 West Pine St.  
Lodi, California  
95240

Re: Appeal - Solar Collector Rack - 9 Mulberry Ct.

Dear Mrs. Reimche,

I wish to appeal the Planning Commissions determination that the Solar Panel Support partially constructed in my rear yard at 9 Mulberry Ct. constitutes a structure.

In Feb. '82, I contacted the City Building / Planning Dept. and was referred to Mr. Morimoto. I explained to him that because my residence doesn't have either a South face for solar or adequate roof space to contain the Solar System I planned to purchase, I would have to build a Solar Rack in my rear yard ten feet wide and forty-five feet long. I inquired of Mr. Morimoto if a solar rack built as specified and against my rear fence (which separates 9 Mulberry Ct. from 132 Mulberry Circle) could be built and what permits would be needed. I explained that the solar Rack would have to be built against the rear fence because it was the sole location which would offer adequate space for the rack even though the rack would extend over five feet into my pool area. Thusly, the rack would have to be built at least ten feet above the ground in order to clear the swimming pool and surrounding three foot deck. I also explained that the portion of the rack against my rear fence would be approx. twelve feet above the ground to hide the solar system from view for my neighbors.

Mr. Morimoto informed me that as long as the sole purpose of Solar Collector Rack was to place solar collectors upon it, it was not considered a Structure and did not need permits or variances from existing City Codes. I made it clear to Mr. Morimoto that the Rack was going against the rear fence and would be forty-five feet long. Mr. Morimoto was definite in stating that the rack was not a structure and could be built against the rear fence.

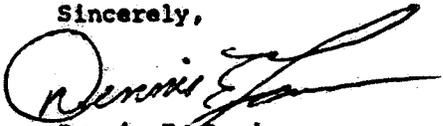
I began building the Solar Rack by placing sixteen foot 4x4 Redwood posts three feet into the ground. However, My neighbor at 132 Mulberry Circle complained to the City Planning Dept. and I was instructed by a letter signed by Mr. Morimoto to cease construction until the Planning Commission could interpret existing codes and ordinances to determine if the Solar Rack was a structure. The Planning Commission voted on 042682 to classify my Solar Rack as a Structure. I feel it is not a structure as its sole purpose is to support a solar system for my swimming pool and spa.

The Rack, when built, would be twelve feet high along the rear fence and slanting towards my pool to ten feet above the pool. This would hide the solar collectors from view from my neighbors yard and would lessen the chances of water flooding into their yards should a leak occur. The height would allow me to utilize

the pool as the rack extends over five feet into my pool and would discourage climbing and jumping into the pool by my three year old son or others. My yard is being landscaped and leveled to drain towards my residence to underground drains which are being installed to catch any run-off from the pool or solar system. The existing five foot fence between my yard and 132 Mulberry Circle is being raised to the seven foot limit to discourage fence climbing.

In summary, I would not have expended over \$600.00 in materials to build the solar rack let alone purchased a solar system I cannot use on Mr. Morimotos assurances the proposed solar rack was not a structure had I known the Planning Commission was going to use me as a test case.

Sincerely,



Dennis E. Lewis  
9 Mulberry Ct.  
Lodi, California

Follow-up  
CITY COUNCIL

FRED M. REID, Mayor  
ROBERT G. MURPHY,  
Mayor Pro Tempore  
EVELYN M. OLSON  
JAMES W. PINKERTON, Jr.  
JOHN R. (Randy) SNIDER

# CITY OF LODI

CITY HALL, 221 WEST PINE STREET  
POST OFFICE BOX 320  
LODI, CALIFORNIA 95241  
(209) 334-5634

HENRY A. CLAVES, Jr.  
City Manager

ALICE M. REIMCHE  
City Clerk

RONALD M. STEIN  
City Attorney

June 3, 1982

Mr. G. H. Joldersma  
132 Mulberry Circle  
Lodi, CA 95240

Dear Mr. Joldersma:

Your June 2, 1982 telegram was received and was reviewed by Mayor Fred Reid, Community Development Director Schroeder and City Attorney Stein.

Please be advised that at its regular meeting of May 19, 1982, the Lodi City Council, following a Public Hearing on the matter, reversed the Planning Commission's denial of the appeal of Dennis Lewis, 9 Mulberry Court, Lodi, to construct a solar collection rack in a required rear yard setback at that address (Assessor's Parcel No. 057-360-49) and determined that the subject solar collection rack was not a structure.

Enclosed herewith is a copy of the "Short Minutes" of the May 19, 1982 Council Meeting. A certified copy of the regular minutes will be forwarded to you as requested upon their approval by the Council. I have also enclosed a copy of the affidavit of publication for the Public Hearing regarding this matter.

As indicated in the foregoing information, Council has acted in this matter; however, you can request that Council reconsider.

Please feel free to call this office if we can be of further assistance.

Very truly yours,

Alice M. Reimche  
City Clerk

AR:dg

Enc.

SHORT MINUTES

TO: Honorable Mayor and City Council

DATE: May 20, 1982

FROM: Alice M. Reinche  
City Clerk

SUBJECT: Short Minutes of Regular City Council  
Meeting of May 19, 1982

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The City Council of the City of Lodi met in a Regular Meeting held May 19, 1982 and took the following actions:

1. Following a Public Hearing on the matter, Council reversed the Planning Commission's denial of the appeal of Dennis Lewis, 9 Mulberry Court, Lodi, to construct a solar collection rack in a required rear yard setback at that address (Assessor's Parcel No. 057-360-49) and determined that the subject solar collection rack was not a structure.
2. The following items were referred to Staff for investigation and a followup report back to the Council:
  - a) Complaint of Jim Coe, 224 $\frac{1}{2}$  E. Tokay Str., Lodi regarding condition of Stadium West softball field
  - b) Request of Lodi Racquetball and Swim Club asking Council to "take another look" at the parking situation at that facility. (Matter to be discussed at future Shirtsleeve Meeting)
3. Council granted an Encroachment Permit to Tim Brophy, 15 S. School Street granting permission to encroach into the mall area south of the restaurant for an outdoor cafe and approved Mr. Brophy's request to serve wine and beer at that location.
4. Council approved transfer of permit to operate the City Cab Company of Lodi from Wynston Margrave and Rae Neel Margrave, his wife to Rae Neel Margrave, doing business as City Cab Company of Lodi.
5. By Consent Calendar, Council took the following actions:
  - a) Approved Claims in the amount of \$1,462,363.49.
  - b) Approved the Minutes of April 7, 1982, April 20, 1982, and April 21, 1982.
  - c) Council adopted Resolution No. 82-46 awarding the bid for "Catch Basin Replacement, Chestnut Street and Lee Avenue, Daisy Avenue and Pleasant Avenue, Pleasant Avenue and Forrest Avenue, Daisy Avenue and Lincoln Avenue" to Bower's Company, the low

bidder, in the amount of \$23,709.00.

- d) Council approved the specifications and authorized the call for bids for the possible sale of the Scenic Overlook property. 12.
  - e) Council approved the plans and specifications for "Emerson Park Curb and Gutter," and authorized the City Clerk to advertise for bids thereon. 17
  - f) Council adopted Resolution No. 82-47 authorizing the Mayor and City Clerk to execute easements with the Southern Pacific Railroad Company for 100' x 80' crossings at Lockeford Street, Locust Street, Elm Street, and Lodi Avenue.
  - g) Council adopted Resolution No. 82-48 authorizing the Mayor and City Clerk to execute a Utilities Agreement with the State covering the relocation of power lines at the intersection of Kettleman Lane and Hutchins Street.
  - h) Council accepted the improvements in "Salas Park Concession Stand Fill" and directed the Public Works Director to file a Notice of Completion with the County Recorder's Office.
  - i) Council approved the subdivision map for Tract No. 1795 Lodi Medical Condos and authorized the City Clerk to execute same on behalf of the City.
6. Following a presentation by Robert Sternfels, Attorney representing Betty Semas in an action against the City, Council by motion action voted to take no action on the matter.
  7. Council introduced Ordinance No. 1262 - An Ordinance of the City Council of the City of Lodi amending Article V (Stopping, Standing, and Parking) of Chapter 27 (Motor Vehicles and Traffic) of the Lodi City Code.
  8. Council, by motion action, determined not to enter into an NCPA Phase 2 Agreement covering the Wind 1 (Cameron Ridge Power Plant) Project.
  9. Council approved the Employees' Deferred Compensation Plan; appointed the following persons to the Advisory Committee: Jerry Glenn, Chairman, Robert Holm, Gary Mai, Alice Reimche, Glen Robison and Elsie Temp; and authorized Jerry Glenn or Alice Reimche to execute the necessary documents.
  10. Council introduced Ordinance No. 1263 revising the order of business on the Council agenda.
  11. By motion action, Council determined not to change the hour of commencing City Council meetings.

12. Council adopted Resolution No. 82-49 - Resolution of the City Council of the City of Lodi, making applicable the provisions of Code of Civil Procedure Section 1094.6 providing for judicial review of administrative decisions.
13. Council adopted Resolution No. 82-50 approving the 1982-83 San Joaquin County Council of Governments Budget as submitted.
14. Council adopted Resolution No. 82-51 awarding the bid for "Lodi Community Center Demolition of Excess Buildings" to R.L. Hunger Building and Wrecking, the low bidder, in the amount of \$0.00 for Alternate "A", with the City of Lodi to pay for the \$50,000 Performance Bond, and directing Staff to negotiate with Mr. Hunger for the yellow brick at the site.
15. Council adopted Resolution No. 82-52 - Resolution adopting an Appropriations Spending Limit for 1982-83 in compliance with Proposition 4 Article XIII B of the State Constitution.
16. City Clerk Reimche was directed to forward a letter on behalf of the Council to our State legislators urging that there be no elimination of additional City subventions i.e. suspension of vehicle in lieu license fees and cigarette tax.
17. Mayor Reid, with the concurrence of the City Council, appointed Cecil Dillon to fill the unexpired term of Ronald D. Slate (4 year term) on the Economic Development Commission.
18. Mayor Reid, with the concurrence of the City Council, submitted the name of Naomi McCallum Carey for appointment to the San Joaquin County Arts Commission.
19. Mayor Reid directed that Staff prepare recommendations for presentation at the June 2, 1982 Council meeting for the forming of a five-member Task Force to look into problems at Lodi Lake Park, including a possible Noise Ordinance. The Task Force is to consist of a City Council member, representative of the Planning Dept., Parks and Recreation Dept., Police Dept., and a representative from the young people from the area of concern at the lake.
20. Council adopted the following ordinances:
  - a) Ordinance No. 1257 - General Plan-Land Use Element Amendment No. GPA-LU-82-1, containing 4 sections.
  - b) Ordinance No. 1258 - Ordinance amending P-D(21), Planned Development District No. 21, by eliminating Single-Family Development and permitting professional offices and condominiums at 1600 West Kettleman Lane and 1500 through 1524 Lakeshore Drive.

- c) Ordinance No. 1259 rezoning the parcels at 428, 440, 448, 452, 458 and 464 Almond Drive from Low Density Residential to Medium Density Residential.
- d) Ordinance No. 1260 rezoning the parcel at 301 North Pleasant Avenue from R-C-P, Residential-Commercial-Professional, to C-2, General Commercial.
- e) Ordinance No. 1261 rezoning the parcel at 105 East Turner Road (i.e. Scenic Overlook Property) from F-P, Floodplain to R-1, Single-Family Residential.

**PROOF OF PUBLICATION**

(2015.5 C.C.P.)

STATE OF CALIFORNIA,

County of San Joaquin.

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of the Lodi News-Sentinel, a newspaper of general circulation, printed and published daily, except Sundays and holidays, in the City of Lodi, California, County of San Joaquin, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court, Department 3, of the County of San Joaquin, State of California, under the date of May 26th, 1953, Case Number 65990; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

May 8, .....

all in the year 19..82..

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated at Lodi, California, this 8th day of

May....., 1982..

*Steve Battilana*  
Signature

This space is for the County Clerk's Filing Stamp

Proof of Publication of

PUBLIC HEARING

9 MULBERRY COURT

NOTICE OF PUBLIC HEARING BY THE CITY COUNCIL OF THE CITY OF LODI TO CONSIDER THE APPEAL OF DENNIS LEWIS, 9 MULBERRY COURT OF THE PLANNING COMMISSION'S DENIAL OF HIS REQUEST TO CONSTRUCT A SOLAR COLLECTION RACK IN A REQUIRED REAR YARD SETBACK AT 9 MULBERRY COURT (ASSESSOR'S PARCEL NO. 037-300-47).

NOTICE IS HEREBY GIVEN that on Wednesday, May 19, 1982 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 Dennis Lewis, 9 Mulberry Court of the Planning Commission's denial of his request to construct a solar collection rack in a required rear yard setback at 9 Mulberry Court (Assessor's Parcel No. 037-300-47).

Information regarding this item may be obtained in the office of the Community Development Director at 221 West Pine Street, Lodi, California. All interested persons are invited to present their views either for or against the above proposal. Written statements may be filed with the City Clerk at any time prior to the hearing scheduled herein and oral statements may be made at said hearing.

Dated: May 3, 1982  
By Order of the City Council  
ALICE M. BEIMCHE  
City Clerk  
May 8, 1982

-2485

15.-

Telegram

WU AGENT LOCA

WU INFOMASTER 1-011 31M153 06/02/82

JUN 2 PM 12 14

IGS IPMSISC SLC

ZCZC 03561 AA 06-02 1152A NDT

TLX 172538 WU AGENT LOCA

BT

A-026774S153 06/02/82

IGS IPMNCZ CSP

2093681309 TDRN LODI CA 102 06-02 1247P EST

FMS CITY COUNCIL CITY LODI CITY CLERK RPT DLY MGM, DLR ASAP, DLR

221 WEST PINE ST

LODI CA

TO ALL MEMBERS OF CITY COUNCIL CITY ATTORNEY AND BUILDING INSPECTOR

DUE TO BAD HEALTH WE CANNOT ATTEND COUNCIL MEETING JUNE 2 1982 TO PROTEST GRANTING BUILDING PERMIT TO DENNIS LEWIS AT 9 MULBERRY COURT LODI HEREBY SUBMIT HUMBLE REQUEST TO AFOREMENTIONED PEOPLE TO VISIT PREMISES OF DENNIS LEWIS AND MR AND MRS JOLDERSMA BEFORE GRANTING BUILDING PERMIT FOR SOLAR RACK AS NOW PROPOSED REQUEST STOP ORDER WORK UNTIL ISSUE IS SETTLED JUDGE FAIRLY THE ISSUES INVOLVED RIGHTS OF ALL CONCERNED RIGHTS OF FRESH AIR SUNLIGHT SAFETY OF ALL PERSONS INVOLVED REQUEST THIS BE READ AT THE PUBLIC MEETING OF THIS DATE

MR AND MRS G H JOLDERSMA

132 MULBERRY CIRCLE

LODI CA 95240

1251 EST

NNNN

1251 EST

Jerry Alderson  
132 Mulberry Circle

Re Pennistewis:

Wants to be on agenda

Say news got notice

Wants to Complain about  
Solar Structure

Jan

NOTICE OF PUBLIC HEARING BY THE CITY COUNCIL  
OF THE CITY OF LODI TO CONSIDER THE APPEAL  
OF DENNIS LEWIS, 9 MULBERRY COURT OF THE PLANNING  
COMMISSION'S DENIAL OF HIS REQUEST TO CONSTRUCT  
A SOLAR COLLECTION RACK IN A REQUIRED REAR YARD  
SETBACK AT 9 MULBERRY COURT (ASSESSOR'S PARCEL  
NO. 057-360-49)

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rear yard setback at 9 Mulberry Court (Assessor's Parcel No.  
057-360-49).

Information regarding this item may be obtained in the  
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proposal. Written statements may be filed with the City Clerk  
at any time prior to the hearing scheduled herein and oral  
statements may be made at said hearing.

Dated: May 5, 1982

By Order of the City Council

*Alice M. Reimche*  
ALICE M. REIMCHE  
City Clerk

BLACK PIPING FOR  
SOLAR HEATING OF  
POOL WATER

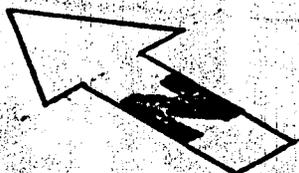
EXISTING 5 FT  
FENCE

12'0"

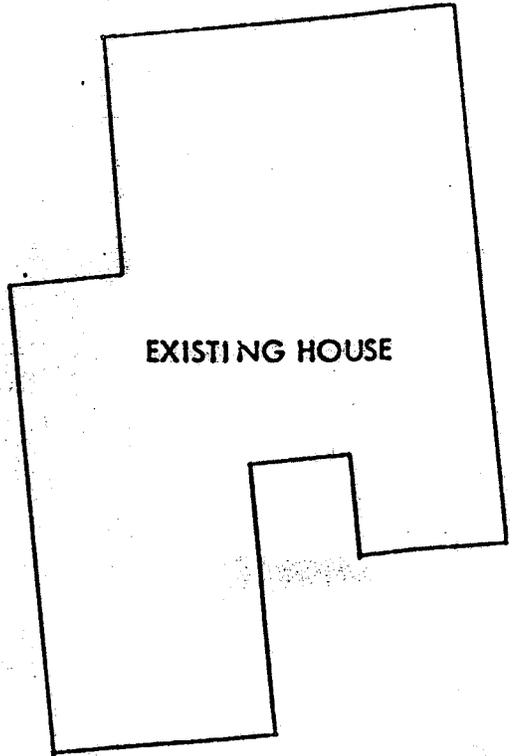
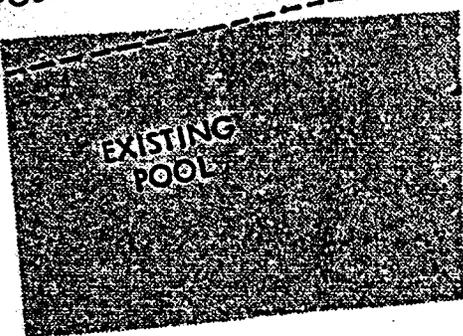
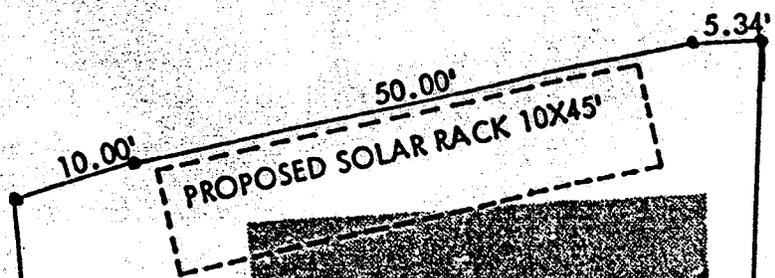
10'0"

10'0" O.C.

OVERALL LENGTH: 45'0"  
OVERALL WIDTH: 10'0"  
MAXIMUM HEIGHT: 12'0"



LEWIS ZONING ORDINANCE INTERPRETATION REQUEST  
to construct a solar collector rack in required rear yard  
9 MULBERRY COURT AP# 057-360-49



124.36'

130.45'

51.68'  
MULBERRY COURT



**LEWIS ZONING ORDINANCE  
INTERPRETATION REQUEST**  
to construct a solar collector rack  
in required rear yard  
9 MULBERRY COURT AP#057-360-49

which does not conform to the use regulations of the district in which it is located.

*Nursing home or convalescent home.* A facility providing bed care or convalescent care for one or more persons, exclusive of relatives who require professional nursing care including close medical supervision, professional observation or the exercise of professional judgment, but not serving or admitting persons with mental or communicable diseases and wherein there is no surgery or other similar activities customarily provided in hospitals. Persons suffering from senility or exhibiting such minor symptoms as confusion, loss of memory or disorientation shall not be considered mental patients within the definition of this chapter.

*Stable.* A private stable is an accessory building in which not more than three horses are kept. A stable with a capacity of more than three horses shall be considered as a public stable.

*Story.* That portion of a building included between the surface of any floor and the surface of the floor next above it, or the ceiling next above it, if there be no floor. A half story is a story with at least two opposite exterior sides meeting a sloping roof not more than two feet above such floor.

*Street.* A public or private thoroughfare more than twenty feet wide, dedicated as such or condemned for use as such, which affords the principal means of access to abutting property. A street line is the boundary line between the street and abutting property.

*Structural alterations.* Any change tending to prolong the life of the supporting members of a building, such as bearing walls, columns, beams or girders.

✓ *Structure.* Anything constructed or erected and the use of which requires permanent location on the ground, but not including walls or fences less than six feet high, or pergolas, or lath houses or other minor improvements.

*Trailer.* A vehicle without motive power, designed to be drawn by a motor vehicle and used for human habitation or carrying persons.

*Use.* The purpose for which premises or a building thereon is designed, arranged or intended, or for which it is or may be occupied or maintained. Any agricultural use of premises in any residence district shall be deemed to be a use which is accessory to the use of the premises for residence purpose.

*Yards.* Open spaces on the same lot with a building and open and unobstructed from the ground upward, except as otherwise herein

follow-up

May 26, 1982

Dennis Lewis  
9 Mulberry Court  
Lodi, CA 95240

Dear Mr. Lewis:

This letter will confirm the action taken by the Lodi City Council at its regular meeting of May 19, 1982, following a public hearing on the matter, whereby the Council reversed the Planning Commission's denial of your appeal to construct a solar collection rack in a required rear yard setback at 9 Mulberry Court, Lodi, California (Assessor's Parcel No. 057-360-49) and determined that the subject solar collection rack was not a structure as defined in the City Code of the City of Lodi.

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

Very truly yours,

Alice M. Reimche  
City Clerk

AR:dg

cc: Jim Schroeder  
Community Development Director