

# CITY PLANNING COMMISSION

1231 'I' STREET, SUITE 200, SACRAMENTO, CA 95814

Research  
295-019

<b>APPLICANT</b>	David Allen, 1700 Alhambra Boulevard, #103, Sacramento, CA 95816		
<b>OWNER</b>	David Allen, A Professional Law Corporation, 1450 - 42nd St. Sac., CA 95816		
<b>PLANS BY</b>	David Allen, 1700 Alhambra Boulevard, #103, Sacramento, CA 95816		
<b>FILING DATE</b>	12/14/87	<b>ENVIR. DET.</b>	Ex. 15303 o
<b>ASSESSOR'S PCL. NO.</b>	008-0262-010		
<b>REPORT BY</b>	JP/vf		

**APPLICATION**

Vertical to exceed the six (6) maximum height limit for a fence masonry wall and to locate a masonry wall within the five-foot street side yard setback and 25 ft. front yard setback in the R 1 zone.

**LOCATION:**

1450 42nd Street

**PROJECT INFORMATION**

General Plan Designation:	Low Density Residential
Existing Zoning of Site:	R 1
Existing Land Use of Site:	Single Family Residence

**Surrounding Land Use and Zoning:**

North:	Single Family
South:	Single Family and Commercial R 1 and R 2B R
East:	Single Family R 1
West:	Single Family R 1

**Property Dimensions:**

Approximately 25' x 237' (corner lot)

**Property Area:**

2.26+ acres

**Height of Wall:**

Eight feet along the south property line, drops to height of 4 ft. 10 in. at corner. Wall then ramps to 7 ft. wrought iron fence along east property line.

**Setback of Wall:**

Approximately 25' from south property line.

**Wall Materials:**

Decorative wrought iron fence.

**PROJECT EVALUATION:**

Staff has the following comments regarding this proposal:

**Existing Land Use and Zoning**

The subject site is a 11,645 square foot corner lot located in the Standard Single Family (R 1) zone. A two story single family residence is located on the site. Surrounding land uses are single family residences in the R 1 zone to the north, south, east and west and a high rise condominium development (1100 Tolson) in the Multi Family Revier (R 2B R) zone is located to the south. The site is designated low density Residential by the General Plan.

## B. Background Information

In December of 1986, the applicant began construction of an eight foot high solid masonry wall on the subject site approximately 18 inches from the south property line adjacent to the Folsom Boulevard side of way. The construction of the wall was being done in conjunction with the remodeling of the existing residence on the site. The City Zoning Ordinance indicates the following requirements regarding walls and fences in residential zones:

1. A wall or fence not exceeding three feet in height may be placed within the front yard and street side yard setback areas.
2. A decorative open metal wrought iron fence not exceeding six feet in height may be placed within the front yard and street side yard setback areas.
3. A wall or fence not exceeding six feet in height may be placed within the street side yard setback area if it is located at least five feet from the street side yard property line.

The wall located on the subject site is in violation of these requirements in that a portion of the wall is eight feet in height and exceeds the maximum six foot height limit for walls and a solid wall over three feet in height is located within five feet of the street side yard property line and a portion of the 25 foot front yard setback. The wrought iron fence located adjacent to the front yard property line complies with the height and complies with Zoning Ordinance requirements.

Code Enforcement records indicate that on December 2, 1986, an initial inspection of the site was made while the wall was under construction. At that time, the applicant's contractor was informed that the wall was not in compliance with Zoning Ordinance requirements. The contractor, however, continued working on the wall. On December 12, 1986, a zoning violation notice was sent to the applicant. On December 29, 1986, Code Enforcement noted that the wall was almost completed. On October 2, 1987, a Code Enforcement Officer re-inspected the subject site and noted that the wall was completed and no effort had been made to comply with Zoning Ordinance requirements. The case was then referred by Code Enforcement to the City Legal Department.

## C. Applicant's Proposal

The applicant is requesting a variance to allow the existing wall to remain on the subject site. The applicant indicates that the wall is necessary to buffer noise from Folsom Boulevard, provide a solid barrier between Folsom Boulevard and the subject property and for personal safety and privacy. The applicant has noted that there are similar walls and fences in the surrounding neighborhood. The applicant has also planted climbing vines in the 18 inch wide area along the south side of the wall.

#### D. Staff Evaluation

Planning staff cannot support the applicant's request. The purpose of requiring a five foot street side yard setback for fences in the front setback was to avoid creating a walled effect along City Streets and to provide adequate landscaped areas. The applicant has not demonstrated a hardship as to why the wall could not have been constructed five feet from the street side yard property line and comply with the fence requirements for the front yard setback area. Two small trees are located approximately three feet north of the wall. Staff does not find that these two trees are of significant size to warrant placing the wall closer to the street side yard property line. These trees could have been removed and new trees planted when the area north of the wall was landscaped or the wall could have been constructed north of the two trees. The wall could have been constructed in compliance with present Zoning Ordinance requirements and still have provided the applicant with the desired noise, visual and safety barrier from Folsom Boulevard. Staff, therefore, recommends denial of the applicant's request.

#### E. Neighborhood Comments

The applicant has submitted eight letters from neighborhood residents indicating that they have no objections to the existing wall (Exhibit C).

The East Sacramento Apartment Association discussed the wall at their January 1988 Board Meeting. The association took a position that they are concerned when structures are not built in conformance with existing city regulations and do not support buildings, structures which do not conform to existing regulations, or do not first receive the necessary entitlements/permits to waive or modify existing regulations.

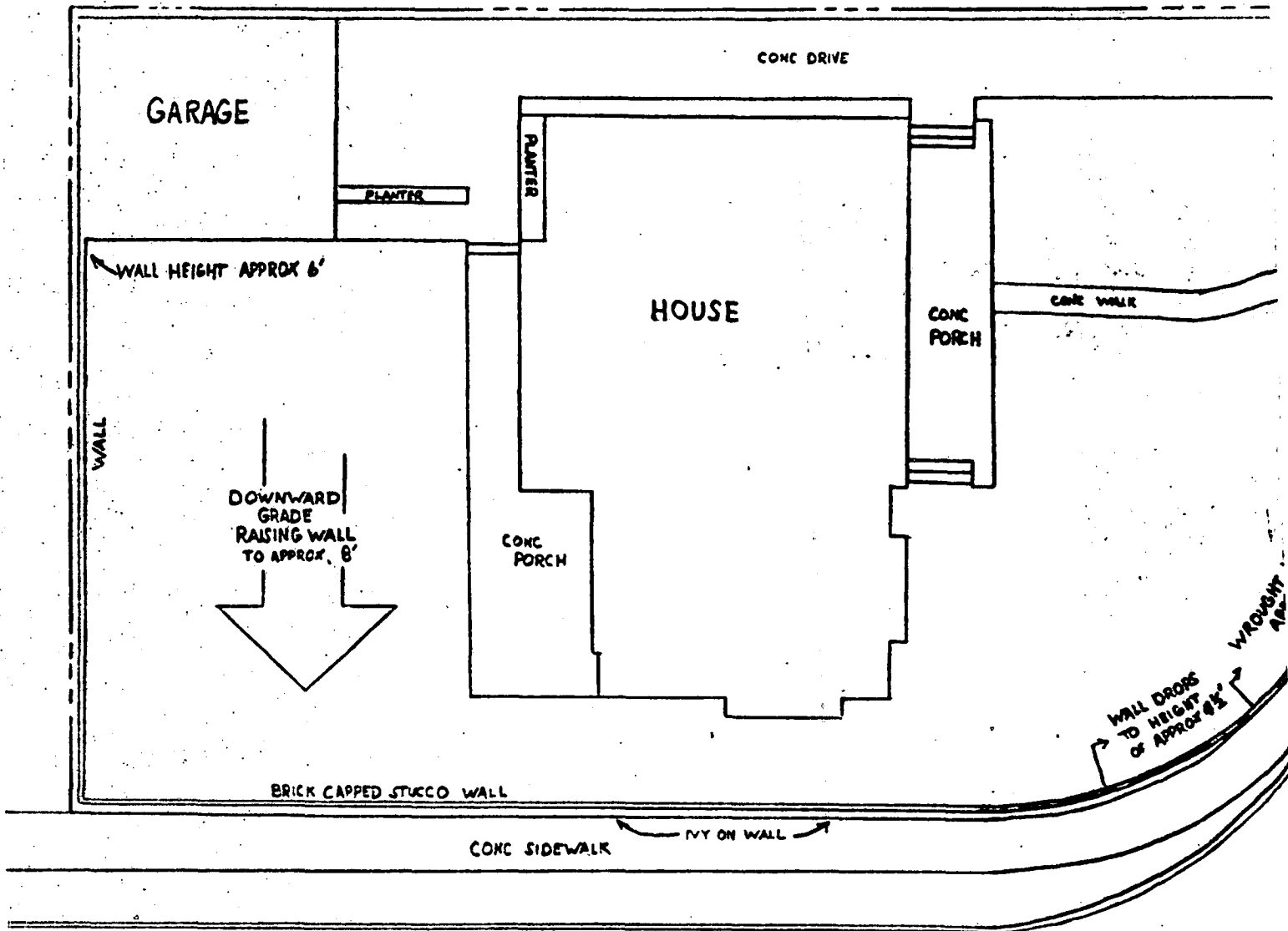
**ENVIRONMENTAL DETERMINATION:** This project is exempt from environmental review pursuant to State 518 Guidelines (1979) Section 15304(f).

**RECOMMENDATION:** Staff recommends denial of the variance request to exceed the six foot height limit for a fence/masonry wall and to locate a wall within the required front and street side yard setbacks based on findings of fact which follow:

#### Findings of Fact

1. Staff cannot find, nor has the applicant presented, any unusual circumstances or hardship to warrant justification for approval of the variance.
2. The proposed variance if approved would constitute a special privilege extended to one individual property owner in that the reason for building the wall, noise visual and safety barrier from Folsom Boulevard, could still have been accomplished if constructed with the required height and setbacks.

1450 42<sup>ND</sup> ST. VARIANCE



FOLSOM BLVD

TRAFFIC COUNT  
APPROX 16,000  
VEHICLES PER DAY

0016<sub>4</sub>