

**CITY OF SACRAMENTO
DEPARTMENT OF PLANNING & DEVELOPMENT
ZONING ADMINISTRATOR
1231 I Street, Sacramento, CA 95814**

ACTION OF THE ZONING ADMINISTRATOR

On Wednesday, June 4, 1997, the Zoning Administrator denied a special permit to allow a second residential unit for the project known as Z97-026. Findings of Fact for the project are listed on page 5.

Project Information

Request: Zoning Administrator Special Permit to allow a converted 620 square foot detached garage (400 square feet of living space) to remain a second residential unit on 0.14± developed acres in the Standard Single Family (R-1) zone.

Location: 2728 Portola Way (D5, Area 3)

Assessor's Parcel Number: 013-0123-005

Applicant: James Lenau
2728 Portola Way
Sacramento, CA 95818

Property Owner: Same as Applicant

General Plan Designation: Low Density Residential (4-15 du/na)
Existing Land Use of Site: Single Family Residence
Existing Zoning of Site: Standard Single Family (R-1)

Surrounding Land Use and Zoning:	Setbacks	Required	Existing	Proposed
North: R-1; Single Family Residence	Front:	25'	26'	26'
South: R-1; Single Family Residence	Side(W.):	5'	10'	2'
East: R-1; Single Family Residence	Side(E.):	5'	10.5'	10.5'
West: R-1; Single Family Residence	Rear:	15'	40'	0'

Property Dimensions: 50' x 121'
Property Area: 0.14± acres

Square Footage of Buildings:

Existing residence-	2,195 square feet
Proposed 2nd Unit-	400 square feet
Garage/Porch	220 square feet
Total-	2,815 square feet

Height of Building:

Existing House-	Two Story
Proposed Unit-	One Story, 13 feet

Exterior Building Materials: Cedar Shake
 Roof Materials: Composition Shingles
 Topography: Flat
 Street Improvements: Existing
 Utilities: Existing

Project Plans: See Exhibits A-C

Previous Files: None

Background Information: The applicant was cited by the Building Division on July 2, 1996, for doing work and converting a detached garage without building permits. The applicant applied for a Building Permit for a "studio/game room" interior remodel on the same day. The permit indicated previous permits pulled in 1935 for the structure so no new plans were required for the nature of the work indicated. The permit was not for any type of second unit conversion because additional plans would have been required and different fees would have been charged. The applicant continued working on the project and moved in a tenant prior to a Final Inspection of the structure (which was not to be signed off as a living space). In October, 1996, complaints were received about the tenant moving into the accessory building. The applicant was informed that a Special Permit was required to convert the previous garage/art studio into a second residential unit. A code enforcement case was opened by Neighborhood Services for violation of the Zoning Ordinance by having a tenant in the converted garage with no special permit for the use. The applicant removed the stove and the bed from the structure and told the enforcement personnel that the unit was no longer inhabited, but that the tenant moved into the main structure. Since the Zoning Ordinance allows accessory buildings to have a full bathroom and a sink, but no cooking facilities; the case was closed. However, the applicant was required to finalize the accessory structure with the Building Division; and the applicant has still not complied with that requirement. The applicant filed an application for a special permit for the second residential unit on March 13, 1997.

Additional Information: The applicant is requesting to allow a second residential unit to remain which was illegally converted from an existing garage with an artist studio. The detached garage structure totals 620 square feet and 400 square feet is living space. There is still a single car garage that has access from the alley. The structure is two feet from the west (side) property line and on the rear property line. The Zoning Ordinance allows accessory structures to be located on the property line; however, it requires a five foot side yard setback and a 15 foot rear yard setback for living units. (The Zoning Administrator may modify these setbacks for existing structures as part of a second unit special permit request). There is an existing parking pad adjacent to the structure to the east with a gated entrance to the alley. The Zoning Ordinance requires a ten foot by 20 foot parking pad for the additional unit.

The alley was recently gated and close off due to previous criminal activity in the alley. The gates are recessed from each end and all property owners along the alley with access to the alley have keys to the gate as well as police and fire.

Neighborhood Comments: The project was noticed and staff received approximately five calls from surrounding neighbors in opposition to the proposed second unit and one call in support. There were three letters in support of the project and four letters in opposition as well as a petition in opposition with 16 signatures. The major concerns were the proposed use of the recently closed alley by the tenant, safety of the alley if a tenant is allowed access off the alley, and setting precedent for future conversion of other accessory structures. Many other callers in opposition expressed concern with allowing an additional rental unit on the property. All letters received by staff are located in the project file.

The site is located within the Sierra Curtis Neighborhood Association area. The proposed plans were submitted to the neighborhood association and no comments were received by staff.

Agency Comments

The proposed project has been reviewed by the City Public Works- Transportation and Engineering Planning Division, the Building Division, Utilities, the Fire Department, and the Police Department. The department comments are summarized below.

1. Police Department staff comments:

Police did not oppose the project and indicated the following requirements should be added as conditions if the project was approved:

- a. Clearly visible and lit address numbering on rear structure and on the front structure for the rear structure; and
- b. 1 foot candle lighting fixture attached to second unit to maintain 1 footcandle illumination from dusk to dawn.

2. Fire Department staff comments:

The project was reviewed by Elaine Clarke, Permit Services, who stated that the length of the lot may necessitate fire sprinklers for the second unit and that a fire hydrant may also be required if there was not one within 300 vehicular feet from the new structure.

3. Building staff comments:

The applicant would have to apply for a permit for a second residential unit and would be required to bring the structure up to Building Code for the new use which would include, at a minimum:

- a. Firewall separation between the garage and living space;
- b. One hour firewall protection for the entire building structure;
- c. Eliminate the window on the west side;
- d. Window area equal to or greater than 10 percent of living floor area;
- e. Compliance with Title 24 energy requirements; and
- f. Installation of a solid core door between the garage and living space.

ZONING ADMINISTRATOR HEARING:

There were approximately 18 people in attendance at the two hour public hearing. Testimony in support and in opposition to allowing the second unit was heard by the Zoning Administrator. The large opposition contingent echoed the previously mention concerns that had been submitted in letters. Sandra Yope, staff Planner presented the specifics of the project including the history, other departmental review, and requirements to bring the second unit up to legal Building Code requirements.

After listening to public testimony, the Zoning Administrator closed the public hearing, and denied the special permit. At the public meeting, the Zoning Administrator made the finding that the project would be detrimental to the neighborhood due to the applicant's history of continued non-compliance with Zoning Ordinance and Building Code requirements since original citing in July, 1996.

Environmental Determination: This project will not have a significant effect on the environment and is exempt from environmental review pursuant to State EIR Guidelines {California Environmental Quality Act, Sections 15303(a)}.

Findings of Fact- Denial of Special Permit:

1. The project will be detrimental to the public health, safety, and welfare and result in a nuisance in that:

- a. the applicant has a history of continued non-compliance with Zoning Ordinance and Building Code requirements for the structure since originally cited for work without a permit in July, 1996 (the accessory building remodel has yet to be finalized);
- b. there will not be adequate residential setbacks from the adjacent property to the west; and
- c. the second unit will substantially alter the characteristics of the surrounding single family neighborhood.

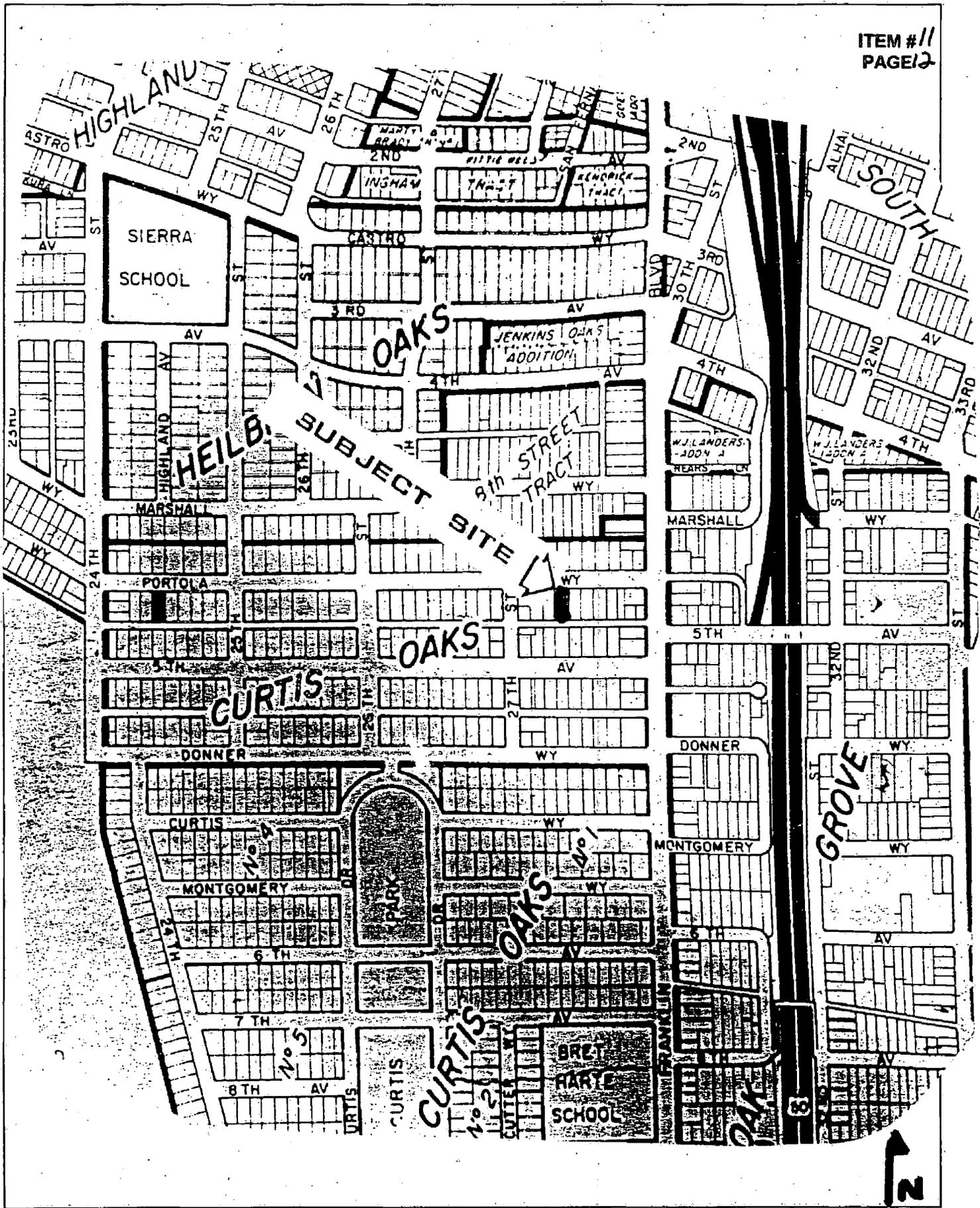
Joy D. Patterson

Joy D. Patterson
Zoning Administrator

A use for which a Variance is granted must be established within two years after such permit is approved. If such use is not so established the Variance shall be deemed to have expired and shall be null and void. A Variance which requires a Building Permit shall be deemed established when such Building Permit is secured and construction thereunder physically commenced. If no building permit is required, the use shall be deemed established when the activity permitted has been commenced.

The decision of the Zoning Administrator may be appealed to the Planning Commission. An appeal must be filed within 10 days of the Zoning Administrator's hearing. If an appeal is not filed, the action of the Zoning Administrator is final.

cc: File ✓
Applicant ✓
ZA Log Book ✓
Brad Boehm, Chief Building Official ✓
Angie Bahner, Neighborhood Services ✓
John Vanella, Neighborhood Services ✓
Tare Zimmerman; 2725 5th Avenue; Sacramento, CA 95818 ✓



VICINITY MAP

JAKS, HEILBRON OAKS & 28th ST. TR.

Tax Area Code

ITEM #11
PAGE 13

09

WAY

28th ST.

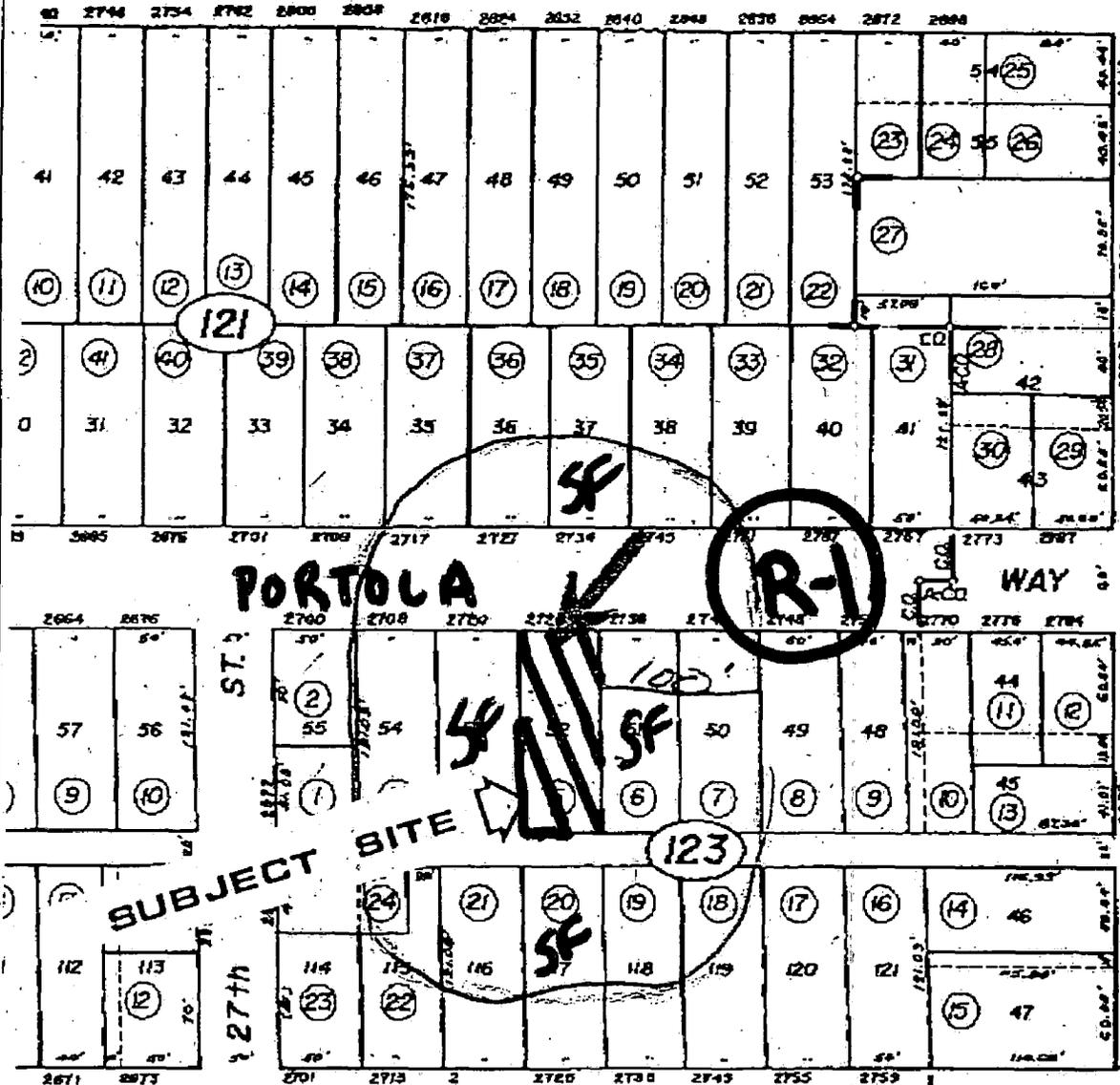
BLVD.

MARSHAL WAY

5th AVE.

FRANKLIN

AVE.

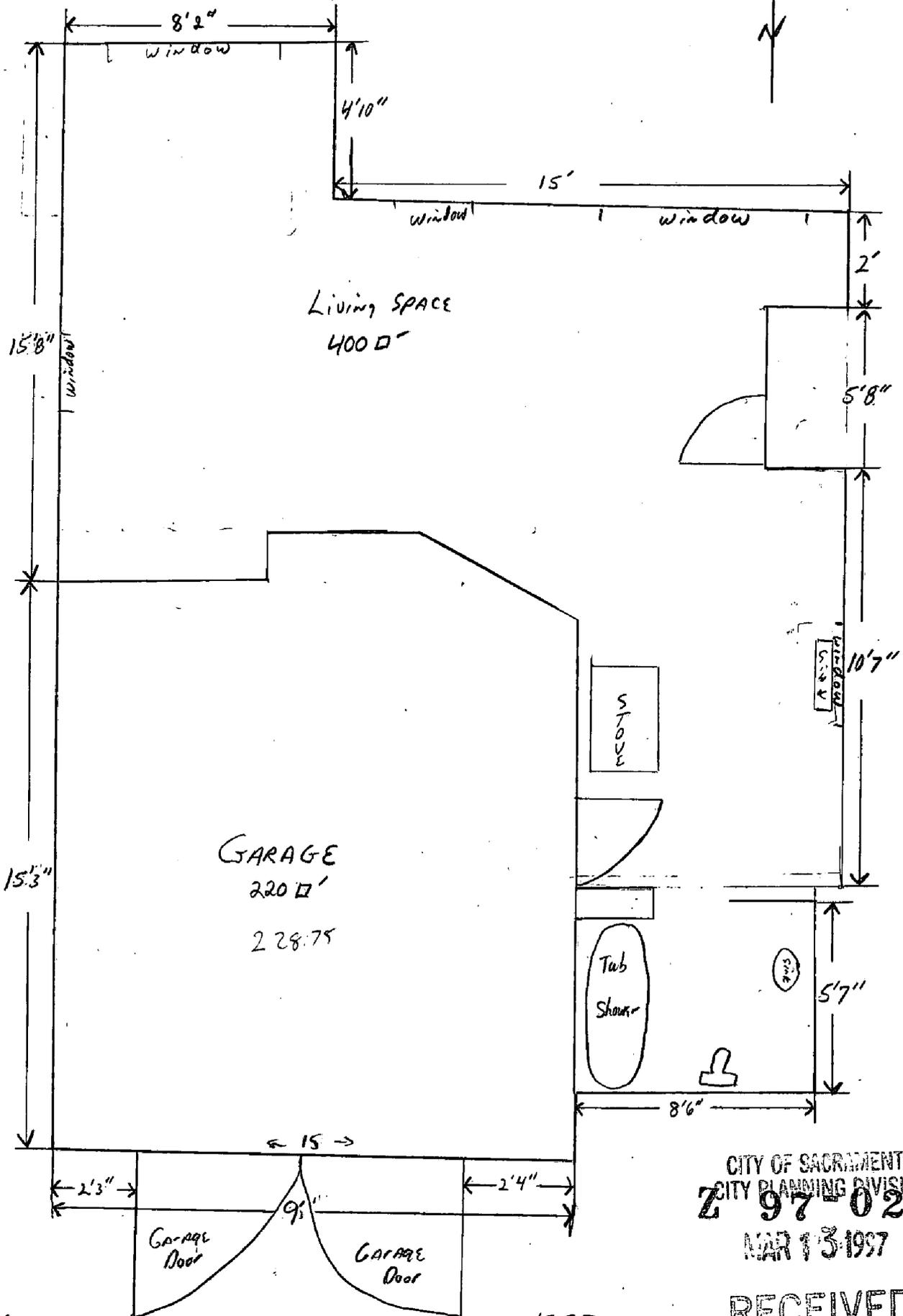


LAND USE & ZONING MAP

First Floor Plan Existing Detached Garage

EXHIBIT B

Scale 1" = 4'



297-026

JUNE 4, 1997

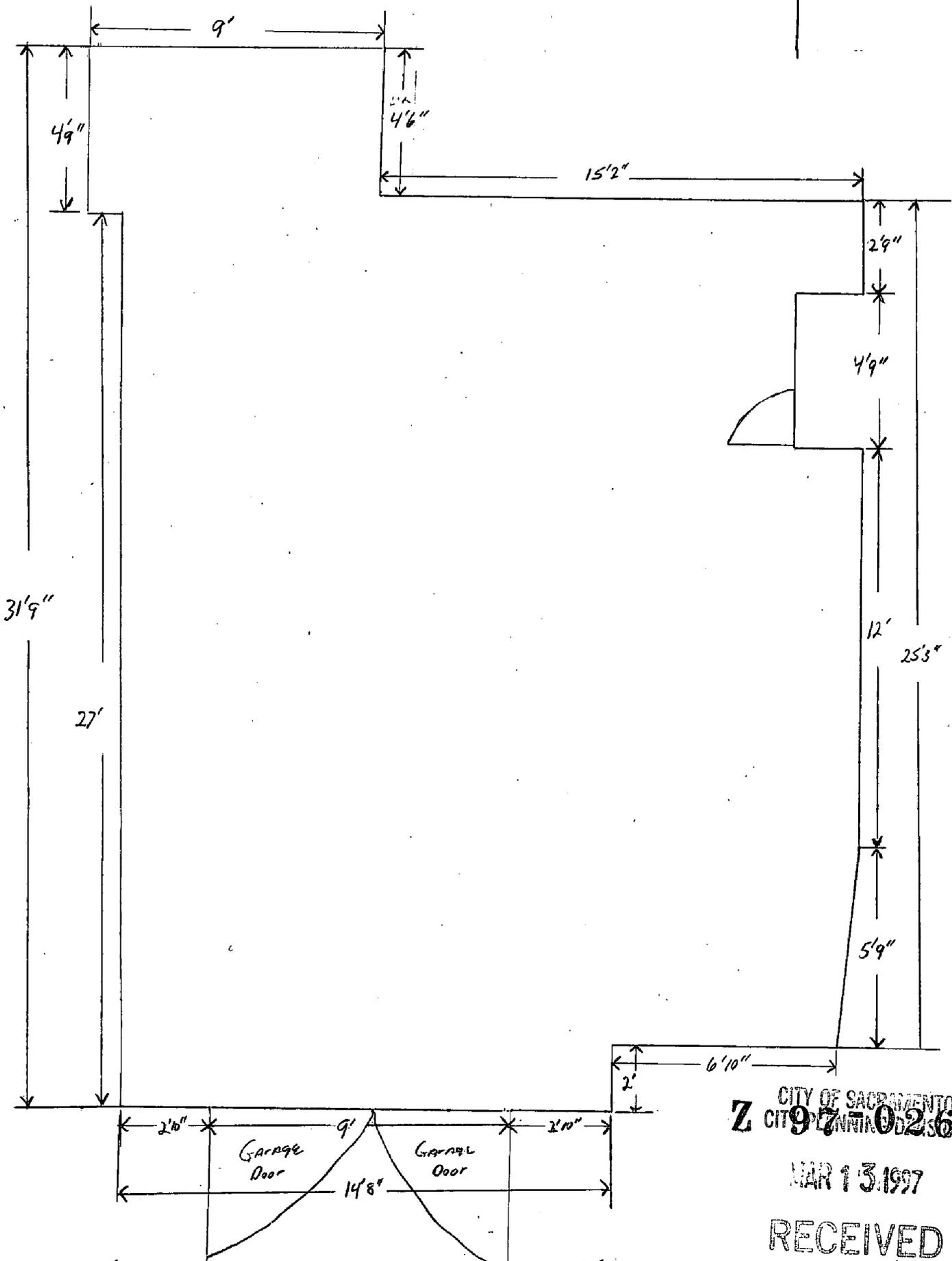
CITY OF SACRAMENTO
CITY PLANNING DIVISION
Z 97-026
MAR 13 1997

RECEIVED
Item #3

Foot Print Existing Detached Garage

Scale 1" = 4'
N

EXHIBIT - C



297-026

JUNE 4, 1997

Z CITY OF SACRAMENTO
 CITY PLANNING DEPARTMENT
 97-026
 MAR 13 1997
 RECEIVED
 Item #3



Sandra
File

DEPARTMENT OF
NEIGHBORHOODS, PLANNING
AND DEVELOPMENT

CITY OF SACRAMENTO
CALIFORNIA

1231 I STREET
ROOM 200
SACRAMENTO, CA
95814-2998

PLANNING SERVICES
916-264-5381
FAX 916-264-7046

September 23, 1997

City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: Councilmember Call Up of Portola Way Second Unit Appeal

- A. Environmental Determination (Exemption)
- B. Councilmember Call Up of Planning Commission's Approval of an Appeal of a Zoning Administrator Special Permit Denial to allow a converted 620 square foot detached garage (400 square feet of living space) to remain a second residential unit on 0.14 ± developed acres in the Standard Single Family (R-1) zone.

LOCATION: 2728 Portola Way

RECOMMENDATION:

The City Planning Commission recommends that the City Council adopt the attached Notice of Decision and Findings of Fact (Attachment 1) approving the appeal of the Zoning Administrator's Decision to deny a Special Permit to allow a converted 620 square foot detached garage (400 square feet of living space) to remain a second residential unit.

CONTACT PERSON:

Sandra Yope, Associate Planner
Planning & Development Department, 264-7158

FOR COUNCIL MEETING OF

October 7, 1997

SUMMARY:

On June 4, 1997, the Zoning Administrator denied a special permit request to allow an illegally converted second unit within a detached garage to remain. The Zoning Administrator made the findings that the project would be detrimental to the neighborhood due to the applicant's history of continued non-compliance with Zoning Ordinance and Building Code requirements, the structure lacked adequate setbacks, and the unit would substantially alter the characteristics of the surrounding single family neighborhood. On July 10, 1997, the Planning Commission heard the appeal of the Zoning Administrator's denial of the special permit. The Planning Commission directed the applicant to provide architectural drawings of the project to staff and for staff to return with conditions and findings for approval on the August 14, 1997, Planning Commission meeting. The item was continued until the August 28, 1997, hearing to allow adequate time for plan submittal and review. On August 28, 1997, the Planning Commission approved the appeal, overturning the denial of the special permit request, and allowed the second unit to remain subject to conditions. On September 2, 1997, Councilmember Hammond took action to call the item up for City Council review.

BACKGROUND INFORMATION:

The applicant is requesting to allow a second residential unit to remain which was illegally converted from an existing garage with an artist studio (there are no building permits on file for the artist studio). The detached garage structure totals 620 square feet (400 square feet is living space) and is located behind an existing single family residence on a 0.14± acre parcel in the Standard Single Family (R-1) zone. There is still a single car garage that has access from the alley. The structure is two feet from the west (side) property line and on the rear property line.

The applicant was cited by the Building Division on July 2, 1996, for doing work and converting a detached garage without building permits. The applicant applied for a Building Permit for a "studio/game room" interior remodel on the same day. The permit indicated previous permits pulled in 1935 for the structure so no new plans were required for the nature of the work indicated. The permit was not issued for a second unit conversion because additional plans would have been required and different fees would have been charged. The applicant continued working on the project and moved in a tenant prior to a Final Inspection of the structure. In October, 1996, complaints were received about the tenant moving into the accessory building. The applicant was informed that a Special Permit was required to convert the previous garage/artist studio into a second residential unit. A code enforcement case was opened by Neighborhood Services for violation of the Zoning Ordinance by having a tenant in the converted garage with no special permit for the use. The applicant removed the stove and the bed from the structure and told the enforcement personnel that the unit was no longer inhabited and that the tenant moved into the main structure. Since the Zoning Ordinance allows accessory buildings to have a full bathroom and a sink, but no cooking facilities; the case was closed. However, the applicant was required to finalize the accessory structure with the Building Division; the applicant has still not complied with that requirement. The applicant filed an application for a special permit for the second residential unit on March 13, 1997.

At the June 4, 1997, public hearing, the Zoning Administrator denied the special permit after listening to public and staff testimony. The applicant appealed the decision to the Planning Commission and on July 10, 1997, the Planning Commission heard the appeal. After lengthy public testimony, the Planning Commission continued the item to a later hearing with an Intent to Approve subject to the applicant submitting additional drawings and staff drafting conditions. The item was further discussed and approved on August 28, 1997. Conditions of approval for

the second unit include providing a parking pad, meeting building code requirements for a residence, painting and adding security lighting, and owner occupancy of one of the units on the property at all times. On September 2, 1997, Councilmember Hammond called up the project for City Council review.

PLANNING COMMISSION ACTION

On August 28, 1997, by a vote of seven ayes and one no, the Planning Commission voted to approve the appeal of the Zoning Administrator's Decision to deny a Special Permit to allow a converted detached garage to remain a second residential unit.

FINANCIAL CONSIDERATIONS

None.

ENVIRONMENTAL CONSIDERATIONS

This project will not have a significant effect on the environment and is exempt from environmental review pursuant to State EIR Guidelines {California Environmental Quality Act, Section 15303(a)}.

POLICY CONSIDERATIONS

The project is consistent with the General Plan land use designation of Low Density Residential (4-15 du/na).

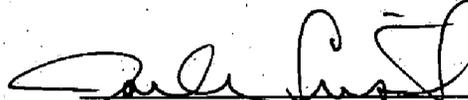
MBE/WBE:

None.

Respectfully submitted,



GARY STONEHOUSE, GENERAL MANAGER
PLANNING AND DEVELOPMENT



JACK CRIST, DEPUTY CITY MANAGER

FOR CITY COUNCIL INFORMATION:
WILLIAM H. EDGAR, City Manager

Attachment: Notice of Decision (Includes Site Plan, Floor Plan, Elevations)

**CALL UP OF THE PLANNING COMMISSION'S
APPROVAL OF AN APPEAL OF THE ZONING
ADMINISTRATOR'S DENIAL OF A SPECIAL PERMIT
FOR A SECOND RESIDENTIAL UNIT IN THE STANDARD
SINGLE FAMILY (R-1) ZONE LOCATED AT 2728
PORTOLA WAY (Z97-026).**

**NOTICE OF DECISION
AND
FINDINGS OF FACT**

At its regular meeting of October 7, 1997, the City Council heard and considered evidence in the above entitled matter. Based on verbal and documentary evidence at said hearing, the Council took the following action:

Upheld the Planning Commission's Decision to Approve a Special Permit to allow a converted 620 square foot detached garage (400 square feet of living space) to remain a second residential unit on 0.14± developed acres in the Standard Single Family (R-1) zone.

The City Council actions were based upon the following findings of fact and subject to the following conditions:

Findings of Fact

1. The proposed project, as conditioned, is based upon sound principles of land use in that:
 - a. the proposed second unit will not substantially alter the characteristics of the surrounding neighborhood; and
 - b. the proposed second unit will provide additional alternative affordable housing;
 - c. the proposed second unit meets the requirements of the Zoning Ordinance to include not exceeding 850 square feet of living area.
2. The project will not be detrimental to the public health, safety, or welfare nor result in a nuisance in that:
 - a. there will be adequate yard area;
 - b. there will be adequate landscaping, and on-site parking for the proposed second unit;
 - c. the second unit will not substantially alter the characteristics of the surrounding residential neighborhood; and
 - d. the unit will be located within an existing structure that was previously used as a studio/workroom.

3. The project is consistent with the General Plan which designates the subject site as Low Density Residential (4-15 du/na).

Conditions of Approval

1. The living area shall conform to the plans submitted.
2. All conditions shall be complied with prior to any occupancy of the second residential unit.
3. The applicant shall obtain all necessary building permits to legalize the second residential unit that shall include, but is not limited to the following improvements to the structure to meet the requirements of the Uniform Building Code:
 - a. Firewall separation between the garage and living space;
 - b. One hour firewall protection for the entire building structure and the one hour fire wall along the west property line will also require a parapet wall;
 - c. Eliminate the window, opening for HVAC, and overhang on the west side;
 - d. Window area equal to or greater than 10 percent of living floor area;
 - e. Comply with Title 24 energy requirements;
 - f. Install a solid core door between the garage and living space; and
 - g. Provide an emergency escape from the bedroom.
4. The applicant shall install a lighted address on the second residential unit garage (visible from the alley) and the building at the front of the lot (visible from Portola Way).
5. The applicant shall install lights on all sides of the house that work on timers to be lighted at dusk through at least sunrise, daily. The type of lighting shall be subject to the review of the Zoning Administrator staff in consultation with the Police Department staff.
6. The applicant shall also install a fire hydrant if one is not within 300 feet of the unit to the satisfaction of the Fire Department (Elaine Clarke, 264-5936).
7. The garage shall have an automatic garage door opener. No cars shall overhang into the alley. No cars shall park in the alley (visitors shall park on Portola Way).
8. Any construction activities of any type on the site shall comply with the City Code which limits construction work noise 7 a.m. to 6 p.m., Monday through Saturday and 9 a.m. through 6 p.m. on Sundays.
9. The rear unit and the front unit shall be painted.

10. The new residential setbacks for the second unit are only for the second unit and are not to be interpreted as new overall setbacks for the parcel. There shall be no encroachment by any other addition or new structure into any required setback area.
11. The owner shall include language in any lease for the proposed second unit that indicates the second unit is a result of a discretionary permit and that all tenants shall adopt a "Good Neighbor Policy". Such areas of concern include, but are not limited to, maintaining the property both physical buildings and landscaping and abiding by the conditions.
12. The applicant shall make his name and phone number available to all people attending the public hearing and within a 100 feet of the site as a contact for any problems resulting from any of the tenants in the existing or proposed unit.
13. To maintain use of the second residential dwelling unit, the owner of the subject property shall be the occupant of the primary residence or the second residential dwelling unit at all times that the second residential dwelling unit is occupied. Upon sale of the property, the subsequent owner shall file an affidavit with the City acknowledging the foregoing condition, and stating either that the owner is an owner occupant, or that the owner will be an occupant of either the primary residence or the second residential unit if and when the second residential dwelling unit is occupied.

Failure to satisfy the foregoing condition shall be grounds for revocation of the special permit, in addition to any other remedies, sanctions or relief that may be available under the Zoning Ordinance or any other statute, law or regulation.

14. The applicant shall replace the fence along the rear property line to include a gate that slides open to the parking pad.
15. Planning shall confirm all conditions are met prior to any issuance of occupancy for the second unit (call Sandra Yope, 264-7158 for appointment).
16. The applicant shall be responsible, in accordance with the rules and procedures of the Sacramento Municipal Utility District (SMUD), for the installation of a "SMUD Light" on the SMUD pole located nearest to the second unit. The owner of the subject property shall be responsible for the maintenance and utility costs associated with the SMUD Light for the duration of the special permit.

MAYOR

ATTEST:

CITY CLERK

Z97-026



J. T. I. DRAFTING and DESIGN
CITY OF SACRAMENTO, CALIFORNIA
PH. 916-441-1000

EXHIBIT A

AB-BUILT SECOND UNIT CONVERSION
2728 PORTOLA WAY
CITY OF SACR.

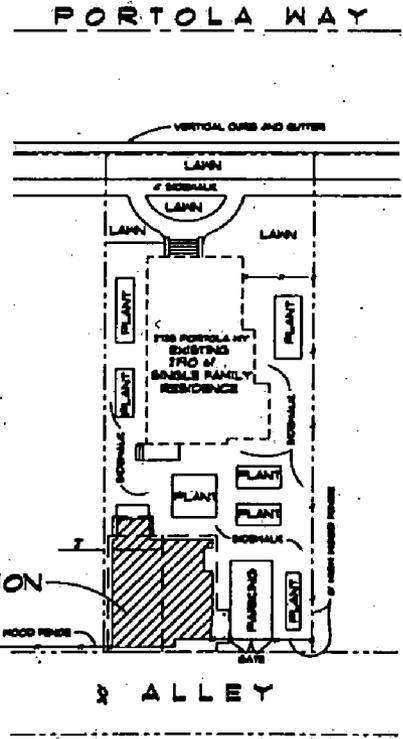
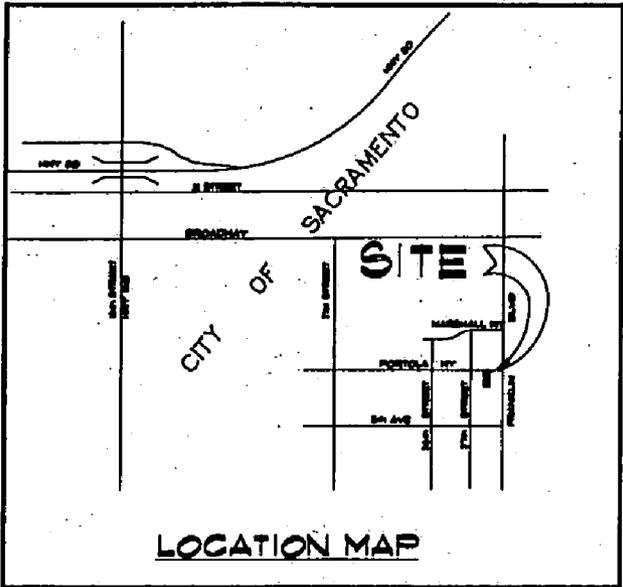
SITE PLAN

SHEET NO

013

297-026

AB-BUILT SECOND UNIT CONVERSION PLANS FOR: 2728 PORTOLA WAY, CITY OF SACRAMENTO A.P.N. 013 - 123 - 05



LEGEND

- 1. SITE PLAN
- 2. FLOOR PLAN
- 3. EXTERIOR ELEVATIONS

CITY OF SACRAMENTO
PERMIT ASSISTANCE

AUG 06 1997

RECEIVED



SITE PLAN

297-026



I.T.I. DRAFTING and DESIGN
CALIFORNIA
1000 S. ST. #100
SACRAMENTO, CA 95811

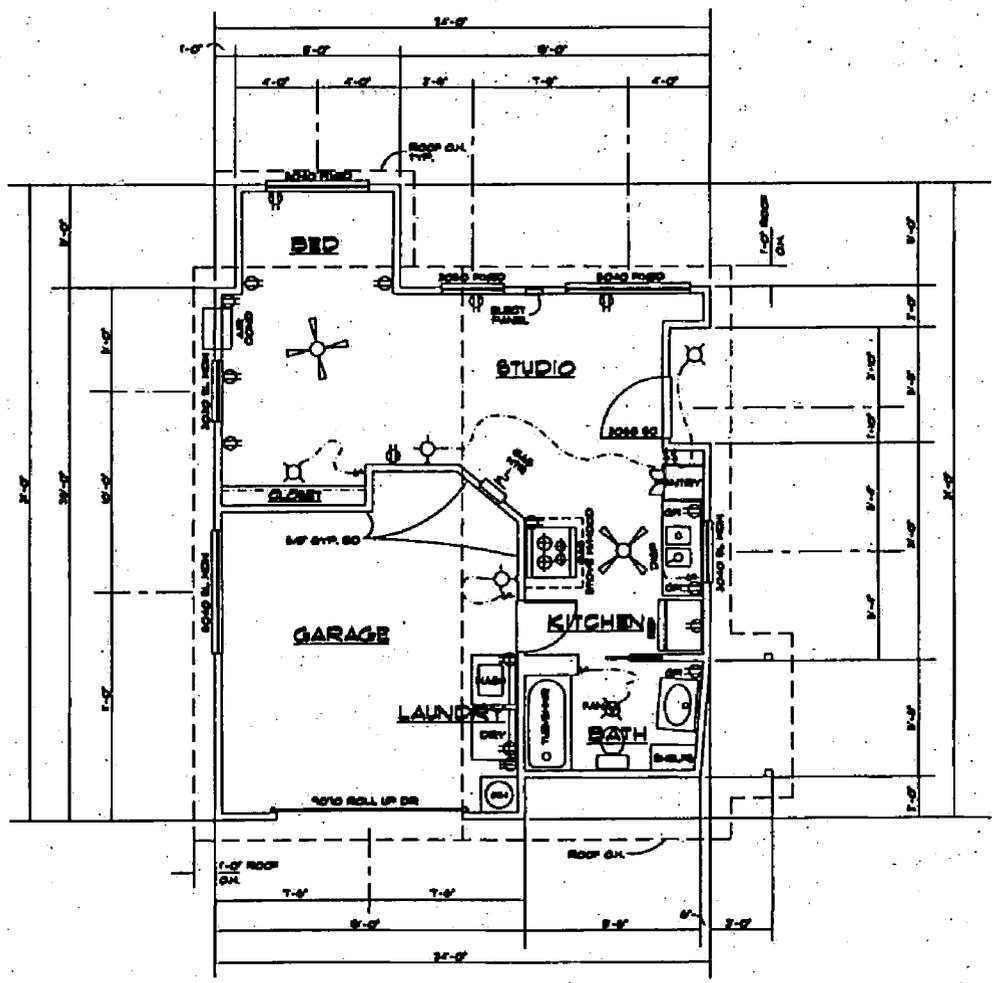
AS-BUILT SECOND UNIT CONVERSION
2728 PORTOLA WAY
CITY OF SAC

FLOOR PLAN

SHEET NO
2
of 3

970-117

- LEGEND**
- CEILING HOUSING LIGHT FIXTURE
 - HALL HOUSING LIGHT FIXTURE
 - CEILING FAN W/ LIGHT
 - 120V DUPLEX OUTLET
 - 120V DUPLEX OUTLET
 - 120V BROAD HALLY OUTLET
 - SINGLE POLE LIGHT SWITCH



FLOOR PLAN
SCALE: 1/4"=1'-0"



CITY OF SACRAMENTO
PERMIT ASSISTANCE

AUG 06 1997

RECEIVED

307-026

AUG 06 1997

RECEIVED



T.T.T. DRAFTING and DESIGN
1000 J STREET
SACRAMENTO, CALIFORNIA

AS-BUILT SECOND UNIT CONVERSION
2728 PORTOLA WAY
CITY OF SACRAMENTO CALIFORNIA

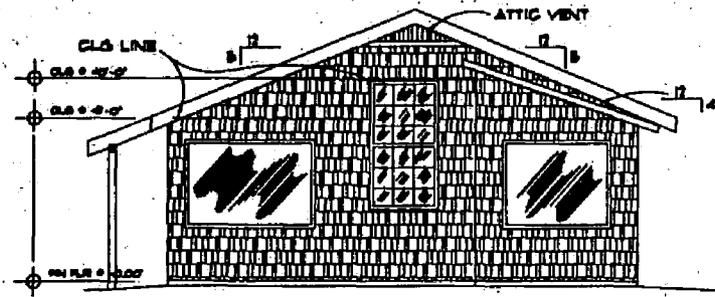
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SHEET 76

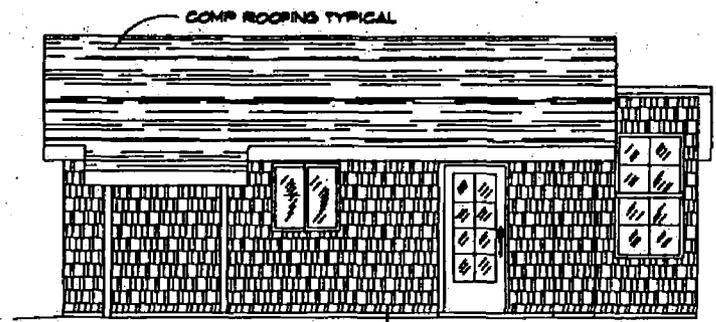
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of 3

2728 PORTOLA WAY

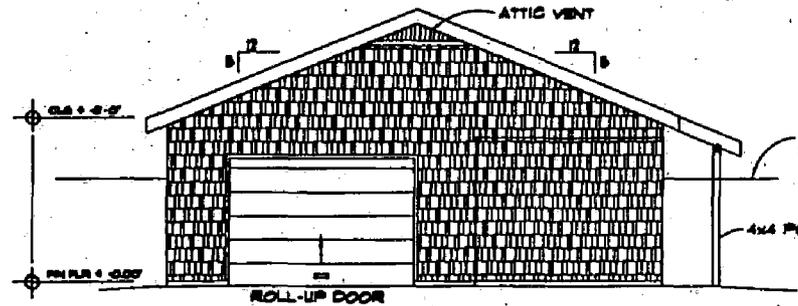
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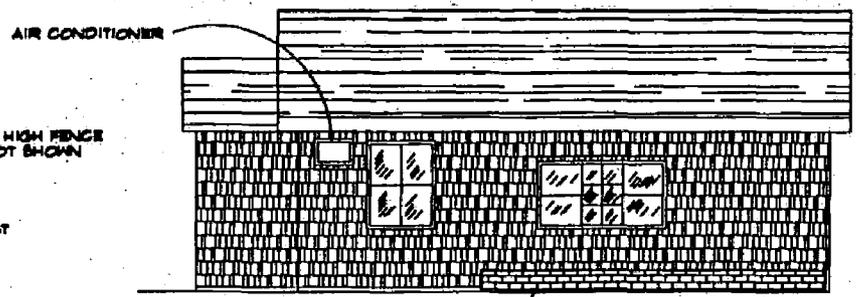
NORTH ELEVATION



EAST ELEVATION



SOUTH ELEVATION



WEST ELEVATION

337-026

EXTERIOR ELEVATIONS
SCALE 1/4" = 1'-0"

File
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CITY PLANNING COMMISSION
SACRAMENTO, CALIFORNIA
MEMBERS IN SESSION:

ITEM #3
August 28, 1997
PAGE 1

Z97-026 PORTOLA WAY SECOND UNIT APPEAL

REQUEST: A. Environmental Determination (Exemption)

B. Appeal of a Zoning Administrator Special Permit Denial to allow a converted 620 square foot detached garage (400 square feet of living space) to remain a second residential unit on 0.14± developed acres in the Standard Single Family (R-1) zone.

LOCATION: 2728 Portola Way
Assessor's Pcl. No. 013-0123-005
Land Park Community Plan Area
Sacramento Unified School District
Council District 5

APPLICANT: James Lenau, 454-5124
2728 Portola Way; Sacramento, CA 95818
OWNER: Same as Applicant
APPLICATION FILED: March 13, 1997
STAFF CONTACT: Sandra Yope, 264-7158

SUMMARY: On July 10, 1997, the Planning Commission heard the appeal of the Zoning Administrator's denial to allow an illegally converted second unit within a detached garage to remain. The Planning Commission directed the applicant to provide architectural drawings of the project and staff to return with conditions and findings for approval on the August 14, 1997 Planning Commission meeting. The item was continued until the August 28, 1997 hearing to allow adequate time for plan submittal and review.

RECOMMENDATION: Staff recommends that the appeal be approved and the decision of the Zoning Administrator to deny the special permit request reversed; approving the Special Permit with conditions. This recommendation is based on upon the findings that the second unit will not significantly change the surrounding area and is compatible with surrounding properties.

PROJECT INFORMATION: See Attached Zoning Administrator's Report

OTHER APPROVALS REQUIRED: In addition to the entitlements requested, the applicant is required to obtain a building permit from the City's Building Division.

BACKGROUND INFORMATION: See Attached Planning Commission and Zoning Administrator's Reports for project history.

The applicant submitted new architectural drawings for the proposed second unit project. The Building Division has reviewed the new drawings and has made additional conditions and will require the applicant to provide additional drawings and information during a building permit process. The applicant has been informed of the Building Division requirements for building permit submittal that includes: architectural drawings, building sections, California Energy Documentations, electrical, plumbing, and mechanical plans, and pay all appropriate fees for a second residential unit.

Staff has proposed conditions of approval relating to design and site conditions. Staff also added an owner occupancy condition that the applicant agreed to support. The neighbors submitted project conditions that were reviewed by staff and some were already included as staff proposed project conditions. Staff believed several of their submitted conditions were beyond the scope of the entitlement requested; however, have included them for Planning Commission review as Attachment 2.

PROJECT REVIEW PROCESS:

A. **Environmental Determination**

This project will not have a significant effect on the environment and is exempt from environmental review pursuant to State EIR Guidelines {California Environmental Quality Act, Sections 15303(a)}

B. **Public/Neighborhood and Business Association Comments**

The original neighborhood response to the project is discussed in the original Planning Commission report. Since the Planning Commission Hearing, staff has received one additional letter and one letter outlining the neighborhoods' desired conditions.

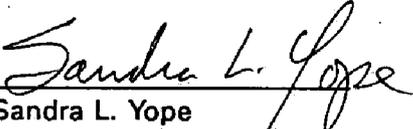
PROJECT APPROVAL PROCESS: The Planning Commission has the authority to approve or deny the appeal of the Zoning Administrator's decision to deny the special permit request. This decision cannot be appealed to the City Council; however, it may be called up by the Mayor or District 5 Councilmember.

RECOMMENDATION: Staff recommends the Planning Commission take the following action:

- A. Adopt the attached Notice of Decision and Findings of Fact (Attachment 1) with the Environmental Determination that the project is Exempt from further environmental review pursuant to the California Environmental Quality Act.
- B. Adopt the attached Notice of Decision and Findings of Fact (Attachment 1) approving the appeal of the Zoning Administrator's Decision to deny a Special Permit to allow a converted 620 square foot detached garage (400 square feet of living space) to remain a second residential unit on 0.14± developed acres in the Standard Single Family (R-1)

zone.

Report Prepared By,


Sandra L. Yope
Associate Planner

Report Reviewed By,


Joy D. Patterson
Senior Planner

Attachments

Attachment 1

Notice of Decision and Findings of Fact

Exhibit A - Site Plan

Exhibit B - Floor Plan

Exhibit C - Floor Plan

Attachment 2

Neighbors' Proposed Conditions

Attachment 3

Letter in Opposition

Attachment 4

Planning Commission Report (7-10-97)

Includes the following:

Zoning Administrator's Notice of Decision

Vicinity Map

Land Use and Zoning Map

Exhibit A - Site Plan

Exhibit B - Floor Plan

Exhibit C - Floor Plan

Appeal

New Petition in Opposition to the Project

New Letter Opposition

AMENDED BY CPC 8-28-97

ATTACHMENT 1**NOTICE OF DECISION AND FINDINGS OF FACT FOR PORTOLA WAY SECOND UNIT APPEAL, LOCATED ON AT 2728 PORTOLA WAY IN THE STANDARD SINGLE FAMILY (R-1) ZONE. (Z97-026)**

At the regular meeting of August 28, 1997, the City Planning Commission heard and considered evidence in the above entitled matter. Based on verbal and documentary evidence at said hearing, the Planning Commission took the following actions for the location listed above:

- A. **Environmental Determination (Exemption)**
- B. **Approve the Appeal of the Zoning Administrator's Decision to deny a Special Permit, thus approving the Special Permit to allow a converted 620 square foot detached garage (400 square feet of living space) to remain a second residential unit on 0.14± developed acres in the Standard Single Family (R-1) zone.**

These actions were made based upon the following findings of fact and subject to the following conditions:

FINDINGS OF FACT

- A. **Categorical Exemption:** The City Planning Commission finds and determines that the proposed project is exempt from environmental review pursuant to Sections 15301 and 15303(a) of the California Environmental Quality Act.
- B. **Appeal of the Zoning Administrator's Decision to Deny a Special Permit:** The appeal of the Zoning Administrator's Denial of a Special Permit for the proposed second unit is approved subject to the following findings of fact:
 1. The proposed project, as conditioned, is based upon sound principles of land use in that:
 - a. the proposed second unit will not substantially alter the characteristics of the surrounding neighborhood; and
 - b. the proposed second unit will provide additional alternative affordable housing; and
 - c. the proposed second unit meets the requirements of the Zoning Ordinance to include not exceeding 850 square feet of living area.

2. The project will not be detrimental to the public health, safety, or welfare nor result in a nuisance in that:
 - a. there will be adequate yard area;
 - b. there will be adequate landscaping, and on-site parking for the proposed second unit;
 - c. the second unit will not substantially alter the characteristics of the surrounding residential neighborhood; and
 - d. the unit will be located within an existing structure that was previously used as a studio/workroom.
3. The project is consistent with the General Plan which designates the subject site as Low Density Residential (4-15 du/na).

CONDITIONS OF APPROVAL

- B. The Zoning Administrator Special Permit for the proposed second unit (Exhibits A-C) is hereby approved subject to the following conditions:
- B1. The living area shall conform to the plans submitted.
 - B2. All conditions shall be complied with prior to any occupancy of the second residential unit.
 - B3. The applicant shall obtain all necessary building permits to legalize the second residential unit that shall include, but is not limited to the following improvements to the structure to meet the requirements of the Uniform Building Code:
 - a. Firewall separation between the garage and living space;
 - b. One hour firewall protection for the entire building structure and the one hour fire wall along the west property line will also require a parapet wall;
 - c. Eliminate the window, opening for HVAC, and overhang on the west side;
 - d. Window area equal to or greater than 10 percent of living floor area;
 - e. Comply with Title 24 energy requirements;
 - f. Install a solid core door between the garage and living space; and
 - g. an emergency escape is required from bedroom.

- B4. The applicant shall install a lighted address on the second residential unit garage (visible from the alley) and the building at the front of the lot (visible from Portola Way).
- B5. The applicant shall install lights on all sides of the house that work on timers to be lighted at dusk through at least sunrise, daily. The type of lighting shall be subject to the review of the Zoning Administrator staff in consultation with the Police Department staff.
- B6. The applicant shall also install a fire hydrant if one is not within 300 feet of the unit to the satisfaction of the Fire Department (Elaine Clarke, 264-5936).
- B7. The garage shall have an automatic garage door opener. No cars shall overhang into the alley. No cars shall park in the alley (visitors shall park on Portola Way).
- B8. Any construction activities of any type on the site shall comply with the City Code which limits construction work noise 7 a.m. to 6 p.m., Monday through Saturday and 9 a.m. through 6 p.m. on Sundays.
- B9. The rear unit and the front unit shall be painted.
- B10. The new residential setbacks for the second unit are only for the second unit and are not to be interpreted as new overall setbacks for the parcel. There shall be no encroachment by any other addition or new structure into any required setback area.
- B11. The owner shall include language in any lease for the proposed second unit that indicates the second unit is a result of a discretionary permit and that all tenants shall adopt a "Good Neighbor Policy". Such areas of concern include, but are not limited to, maintaining the property both physical buildings and landscaping and abiding by the conditions.
- B12. The applicant shall make his name and phone number available to all people attending the public hearing and within a 100 feet of the site as a contact for any problems resulting from any of the tenants in the existing or proposed unit.
- B13. To maintain use of the second residential dwelling unit, the owner of the subject property shall be the occupant of the primary residence or the second residential dwelling unit at all times that the second residential dwelling unit is occupied. Upon sale of the property, the subsequent owner shall file an affidavit with the City acknowledging the foregoing condition, and stating either that the owner is an owner occupant, or that the owner will be an occupant of either the primary residence or the second residential unit if and when the second residential dwelling unit is occupied.

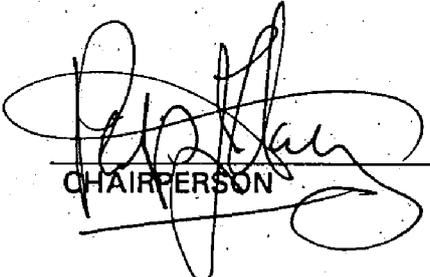
Failure to satisfy the foregoing condition shall be grounds for revocation of the

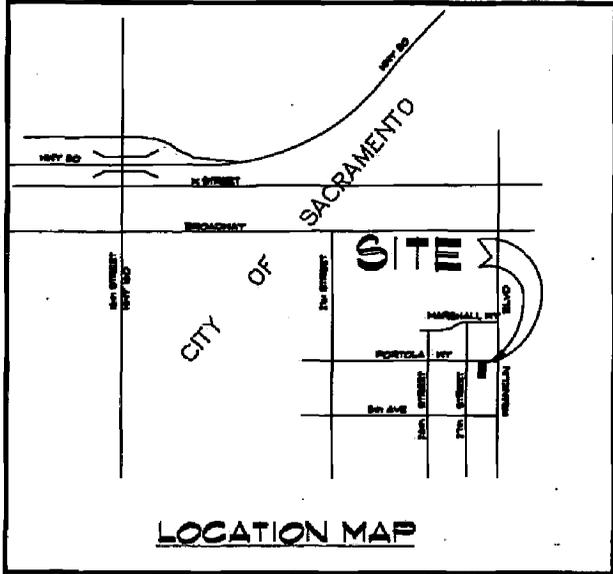
special permit, in addition to any other remedies, sanctions or relief that may be available under the Zoning Ordinance or any other statute, law or regulation.

- B14. The applicant shall replace the fence along the rear property line to include a gate that slides open to the parking pad.
- B15. Planning shall confirm all conditions are met prior to any issuance of occupancy for the second unit (call Sandra Yope, 264-7158 for appointment).
- B16. *The applicant shall be responsible, in accordance with the rules and procedures of the Sacramento Municipal Utility District (SMUD), for the installation of a "SMUD Light" on the SMUD pole located nearest to the second unit. The owner of the subject property shall be responsible for the maintenance and utility costs associated with the SMUD Light for the duration of the special permit. (CPC added)*

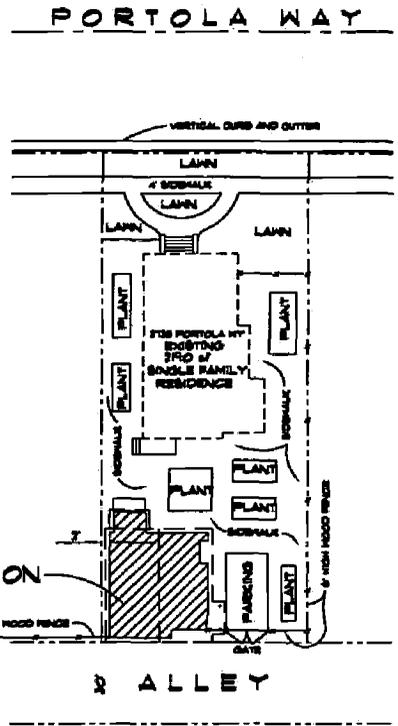
ATTEST:

Gary L. Storch
SECRETARY TO CITY PLANNING COMMISSION
Z97-026


CHAIRPERSON



AS-BUILT SECOND UNIT CONVERSION PLANS FOR:
2728 PORTOLA WAY, CITY OF SACRAMENTO
 A.P.N. 013 - 123 - 05



LEGEND

- 1. SITE PLAN
- 2. FLOOR PLAN
- 3. EXTERIOR ELEVATIONS

CITY OF SACRAMENTO
 PERMIT ASSISTANCE

AUG 06 1997

RECEIVED



S I T E P L A N

J. T. T. DRAFTING and DESIGN
 CIVIL ENGINEER
 CALIFORNIA
 No. 12345

AS-BUILT SECOND UNIT CONVERSION
 2728 PORTOLA WAY
 CITY OF SACR.

SHEET NO
 1
 of 3

EXHIBIT A

297-026

297-026
 Itan

AUG 06 1997

RECEIVED



T. T. I. DRAFTING and DESIGN
1000 S. 10TH ST. SUITE 100
SACRAMENTO, CALIFORNIA 95833
PH: 916.442.1111

AS-BUILT SECOND UNIT CONVERSION
2128 PORTOLA WAY
CITY OF SACRAMENTO CALIFORNIA

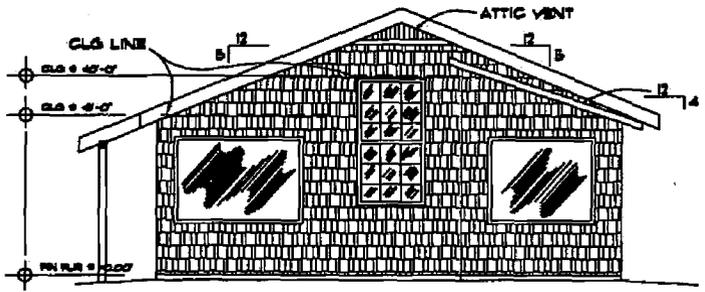
EXTERIOR ELEVATIONS

SHEET 76

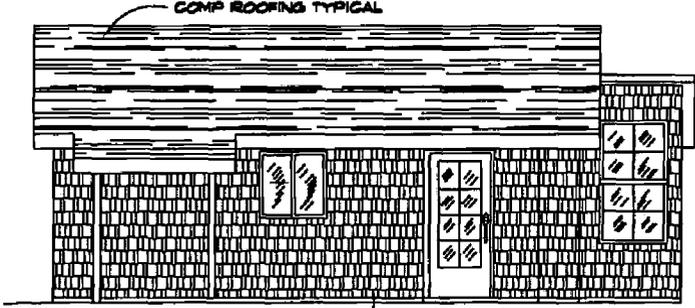


EXHIBIT C

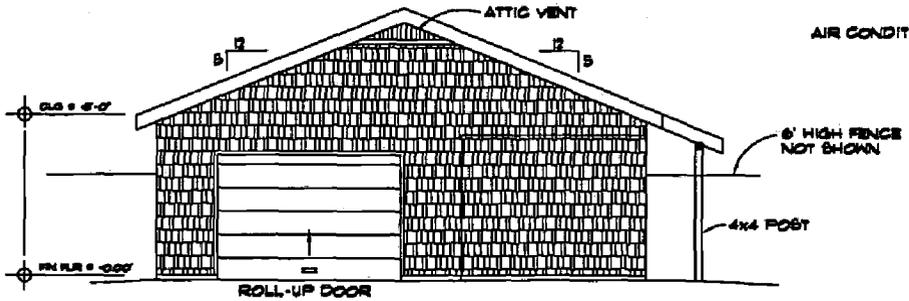
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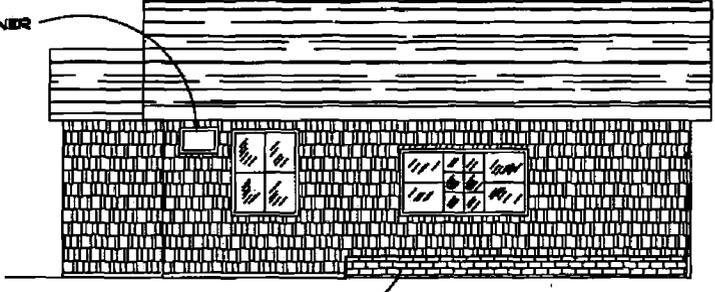
NORTH ELEVATION



EAST ELEVATION



SOUTH ELEVATION



WEST ELEVATION

297-026

EXTERIOR ELEVATIONS
SCALE 1/4" = 1'-0"

Item #3
August 11, 1997
Z97-026

August 7, 1997

Sandra Yope
Associate Planner
Department of Planning and Development
Zoning Administration
1231 I Street, Rm. 200
Sacramento, CA 95814-2998

Conditions to Consider for Inclusion In Your Staff Report Regarding the Intent Motion to Approve James Lenau's Special Permit, With Conditions. File # Z97-026

Dear Ms. Yope:

In addition to homeowner occupancy that carries over to future homeowners, and that stipulates the second unit will be shut down if the owner fails to occupy either unit, here is a list of 9 conditions that Gary and I, and our neighbors, would like to see included in your staff report. The first three conditions are of most importance.

1.) TIME RESTRICTION:

Under Section 15 of Special Permits Regulations, Subsection D, #3, a. & b., "The Commission may condition the permit to either expire automatically or to be renewable after the stated time period has lapsed. In order to impose such time restrictions as a condition of permit approval, one or more of the following findings must be made:

- a. The proposed use is compatible with existing developments but may become incompatible once anticipated development or redevelopment of the area occurs.
- b. The proposed use has the potential to create adverse environmental impacts to surrounding land uses and it is necessary to evaluate whether such impacts have occurred once the use has been in operation.

ITEM b: The gated alleys throughout Sacramento have not been gated long enough to properly and conscientiously evaluate how second units, accessed from the alley, will affect alley security. (Most have been up two years or less, and ours, nine months.) The City staff's beliefs that residents of second units on gated alleys will not leave the gates open, or that residents won't bother to use the gates because of how cumbersome it would be to open and close them, are not founded on any long term factual basis or objective criteria. Also, our gates are installed temporarily because our alley was not a candidate for permanent abandonment. (Too many utility companies need to regularly access the alley to maintain their equipment.) Currently our gates are slated to be up for nine years. No one can say with any certainty that the gates will not be removed before then or after then. Therefore, considering all the unknowns and lack of criteria, our concerns for the future security of our alley would be significantly reduced if we knew this second residential unit could be terminated if it is documented and otherwise shown that this unit

(or similar second units with access behind gated alleys, with no driveways, and with a serious parking problem on the street) compromises alley security. We ask that a time restriction, that costs the applicant nothing (as far as we know), but mitigates the concern of all the neighbors who have homes protected by the gates, be attached as a condition to the applicant's special permit. If possible, we would like the permit reevaluated at least every 3 years for at least nine years, if this amount of time is allowable. Otherwise, the longest allowable time restriction possible would be acceptable.

ITEM a. We are also concerned with how the UP development will affect our fringe neighborhood, and if it will promote a more rapid deterioration than we anticipate with the second unit alone. Increased traffic flows, increased use on the ungated sections of the alley, increased parking problems, and increased crime are all legitimate concerns that can have a devastating affect on our stability and property values. We believe a time limit on the permit will help prevent a negative impact on our neighborhood, if such a negative impact occurs as a result of the UP development's impact on the second unit.

Please help ease our anxieties. So far, despite overwhelming neighborhood opposition, the strong concerns we have expressed for our security and the integrity of our neighborhood have been given little consideration. This as an innocuous condition that we see no legitimate reason for denying.

2.) ACCESS FROM THE FRONT ONLY: If legally possible, we ask that it be required that the unit is to be accessed from the street only, except for loading and unloading large or plentiful objects, not groceries and household products. If this request is legally impossible to impose, we ask that it be required that, as much as possible, this unit is to be accessed from the street. Since it is widely believed by most City staff that this unit will be accessed from the front only, considering how cumbersome it will be to open and close the alley gates, there is no logical reason for not making this widely held assumption a conditional requirement. Once again, this will go a long way to increase our comfort levels with this unit.

3.) A DRIVEWAY: The applicant's home is very big and has at least three bedrooms. This second unit will add another bedroom. The average four bedroom home in our immediate neighborhood has 4-5 cars per home. Most of these cars can only be parked on the street. It is likely Mr. Lenau's property will someday be bought by a family that will at sometime have 3-4 cars, or more, and that the second unit will have one car. All these cars will have to be parked on the street, creating a huge nuisance for all the surrounding neighbors who already suffer a serious parking burden. The street in front of Mr. Lenau's house can tightly accommodate only three of these cars, provided neighbors are not forced to park in front of his house. Also, since the driveway is likely to be used by any tenant living in the second unit, it will further ease our concerns for the security of the alley. If there is enough room, we are asking that the driveway be laid

on the West side of the house only. We think it might be too narrow to meet current driveway ordinances, but we are hoping with variances, that it will be possible. A driveway on the East side is out of the question. Though there may be adequate room on the East side, a driveway will create a serious parking problem for the applicant's East side neighbor. Her house has a narrow driveway that cannot accommodate her big truck, and is barely wide enough for her car. This neighbor already has a problem with people regularly parking in front of her house, leaving little room for her to park in front of her home. Quite often she needs to park her truck so that it is over Mr. Lenau's property. This crossover area is where a driveway would have to be. A driveway would box her in, and at times, would prevent her from parking her truck in front of her house. However, the West side neighbor's already have a very long driveway next to the applicant's house that fits all their cars. If it is determined that the West side of the applicant's property is wide enough for a driveway, with variances, we ask that this be done so that the serious parking problem that already exists won't be aggravated.

4.) If possible, reinstate all the requirements that were previously waived, including raising the foundation. The previous owner had problems with water getting into the unit whenever it rained heavily. Unless this problem has been corrected, water may still be getting into the unit causing a potential health and fire hazard, considering all the additional electrical outlets that have probably been installed inside the unit. After a heavy rain last winter I saw an orange carpet laid out in the alley, presumably to dry, next to the unit. Approving a residential unit in a garage that has been known in the past to have a problem with water seeping into the garage after heavy rains, without affirming, then correcting this problem, would be an endorsement of substandard living spaces.

5.) We request that a gate that slides parallel to the property line be installed. According to the Police Department's Memorandum on Alley Development, page 9, item M, "Fencing shall include gating that slides parallel to the property line and not into the alley." The applicant's flimsy fence and gate opens into the alley. The gate is so weak it wouldn't surprise me that it could be pushed over or opened by a medium to big sized dog. If our gates come down, in the interest of properly protecting the tenant, a strong gate needs to be constructed. The current gate offers little protection and does not meet the Police Department's Alley Development Policy.

6.) We request that the applicant, and future homeowners of the applicant's property, pay the monthly bill of one SMUD installed light in the middle of our currently **unlighted** alley. This will serve to improve alley security and offer additional protection for the tenant, especially if the gates are removed. According to the Police Department's Memorandum on Alley Development, page 8, item C, "alley development **necessitates**", among other things, "**adequate lighting**." The memorandum states, "the City cannot absorb the cost, and should be the burden of the individual who seeks the development." If it is not legal to transfer the responsibility of paying the SMUD bill to future homeowners, then surrounding neighbors will probably assume the cost.

- 7.) The unit is very poorly insulated against noise radiating out the back and East sides. Request that additional soundproofing be installed along the back and East side of the unit, unless the required insulation and firewall will address this problem. In addition, much of the noise radiates through the vent slats located at the rear peak of the garage. If possible, this vent should be covered with soundproofing material. If a vent is required, a roof vent can be installed.
- 8.) If the applicant demonstrates that he cannot work within the legal hours for construction, or if his work is done intermittently and therefore slowly, or if he demonstrates that he can't complete the project within the standard time limit, we ask that a condition be approved requiring a licensed contractor to complete the work. This will prevent the required work from creating an abnormal, prolonged noise nuisance to nearby neighbors. We also ask that time limits for completion of this project not be extended, unless there are extraordinary circumstances that prevent the applicant, or a contractor, from completing the work within the allotted time, i.e., a prolonged illness or injury, or a death in the immediate family.
- 9.) If possible, please make a fire sprinkler system a condition for approval. It will protect the tenant and the property of nearby neighbors. We don't know if there has been a fire behind a gated alley, so we don't know if the gates have slowed the Fire Department's access. However, please consider this: Though the gates were designed with Fire Department access in mind, the gates could cause some delay in response time. It is also possible that the City Firefighters called to this unit might decide it is quicker to access the fire from the street instead of opening the gates, and this could slow their response. There are several neighbors who have expressed a concern for the tenant's safety, and for their safety, if a fire should start in the unit, and the City Firefighter's response is slowed, either by the gates or by accessing the fire from the street. If our alley was not gated, this would not be a concern.

Please let us know as soon as possible if these conditions are acceptable. If you find part of a condition to be unacceptable, please let me know before you reject the entire condition. We might be able to mutually agree on a modification. As usual, we would like a copy of your staff report. Please let us know when it is available. Thank you for all your hard work, and your time and consideration.

Sincerely,



Tair & Gary Zimmerman
2725 5th Avenue
Sacramento CA. 95818
457-5581

LICM #3
AUGUST 28, 1991
Z 97-026
pg 15

Sandra Yope, Associate Planner

Philip J. Harvey
Chairperson, Sacramento Planning Commission
1931 H St.
Sacramento, CA 95814
July 28, 1997

Subject: Informational inquiry
Regarding Z97-026, appeal by Jim Lenau at 2728 Portola Way to Zoning Administrator's denial to grant a special permit and variances and subsequent action by the Planning Commission July 10.

Dear Commission Chair Harvey:

One day in full view upon my stair, next door there was a dwelling that was not there; it was not there-again today. Gee I wish it would go away...

Would someone from the Planning Commission or Department of Planning and Development or City Attorney please explain to me what took place regarding the events leading to the outcome of the above-mentioned hearing July 10? While I was present at the hearing, I don't understand what protocol/procedures were in place. It seems the Commission went from denying the applicant his special permit, with a tie broken by the zoning administrator's report, and then jumped to an "intent motion" to address approving the project with conditions, set for hearing August 13.

Also, regarding protocol, it was particularly disturbing to attend a hearing at which opposition present—some 40 neighbors in the block area signed a petition against it—were told **only at the hearing** they could only address land use, and were ordered not to speak on illegal use/violations in place. Yet, the applicant for an appeal, in his lengthy soliloquy, was allowed to counter every reason why he should not be found in violation and then proceed to character assault. (I documented many times where the applicant, regarding law, said "I didn't know" and "No one told me.") And, why was the "burden of proof," as the opposition was told **only that evening** by the Commission, that it could only show why it deems his use harmful to the neighborhood, **when it he HE who asks that all the rules be broken for his particular project, and he has been deemed a lawbreaker all along?**

And why wasn't the alleged City official(s) he said allowed him to believe he was doing the right thing not brought into the hearing or on record in any manner to testify regarding his project? Is it true that some City official(s) may have been misinformed/misled him and the opposition from the beginning? And is our neighborhood's future to be held hostage and to be exploited by this? I **strongly suggest that it is critical to any upcoming hearing to summon those City officials who acted in any way on his project to testify. It is important that a time line of fact be established regarding this (by all appearances illegal) project.**

Perhaps the need to be encouraged to be the upcoming hearing...
I am sure that the City Attorney will be pleased to...

Also, in Mr. Lenau's self-described "emotional" presentation, which was more like a filibuster, and through the script read by his garage tenant, both ended up calling the situation one of miscommunication plus a personal item regarding that I approached him years ago about sharing cost of replacing badly rotted fencing between our properties. I say—rubbish. Note that I am only one of many, many area residents (renters included) who have objected to his illegal project. **City officials involved all along in that project (which spans involvement of more than a year) need to testify before the Planning Commission Aug 13. We're otherwise dealing with a smokescreen.**

And by golly, gee whiz and aw shucks, when the applicant testified that he was so hurt when he met me in a supermarket and I wouldn't speak to him, I knew I was up against an Emmy-Award-winning performance. The truth—petty that this is to report, but it's symbolic in demonstration of character—is that I met him in the parking lot of a local store, and said, "Hi Jim," in his coming head-on toward me. I don't know that he responded. I have always been civil, and was raised to never to call someone a liar, even if they are—just show by fact if one must where they aren't forthright and truthful. This isn't working with the City. Apparently some Planning Commission members see through his illegal actions, and others do not. **Again, we need the testimony of City officials involved with his project from the get-go. Without such testimony, all the issues and the project itself remain clouded. This experienced landlord's entire defense for what he has illegally done rests on his excuse that he thought it was OK by the City.** If he thought so, for instance, why did he not apply for the proper permits in the first place? I and others say that he wouldn't have applied for a permit of any kind if neighbors hadn't acted early on.

On my part, it's as if I were taking the neighborhood's R-1 zoned, single-family dwelling birth control pill, was raped, and now I have an unwanted pregnancy with which to deal—in this case an evolving second dwelling on one property next door. In the garage dweller's script, she read that she felt she was being spied on. Fact is, if this illegal situation were not so clearly a part of everywhere I, for instance, normally look, or wish I didn't hear, regarding the applicant's illegal use, her issue wouldn't exist. Do I have to go about my life here with head down no matter where I go about in my house or yard because the illegal tenant thinks she's being spied upon? Should I be compelled to wear a bell to alert her of my proximity? (If she were living in the house, as they both say she does, she wouldn't hear my normal answering machine, as she complained, normally click on or off. And if she were living in the house, I wouldn't hear her coming and going from the garage. In fact, it was early on that Neighborhood Services recommended documenting observations about the project because "there is no crime until a crime has been committed.")

Perhaps the media should be encouraged to attend the upcoming hearing. Reporters are usually pretty good with facts and research.

Again, this is not the neighborhood environment I bought into 24 years ago. What I have is property next to me, albeit illegal, that is now solid two dwellings from front property line to back property line. What I bought into has in effect been confiscated from me, and I have been forced for some time to live next door to an illegal activity/use, complete with in past construction noise even at illegal hours.

I suppose it may not be appropriate that I should thank you and Commissioners Shelton J. Duruisseau and Joseph Yee for sensitivity and sensibility regarding the hearing July 10 in voting against the appeal, because you all seemed to see through the applicant's dramatically portrayed counter to an illegal situation. Regarding the other members, if they had done their paperwork investigation, what were they thinking to hand off another chance to a lawbreaker? If this is improper for me to say, please strike this paragraph from the record.

I am the next door neighbor to the East who has been particularly the subject of this nuisance for more than a year on this specific illegal project, the owner's deception to the City, his repeated garbage mountains on the property for several years and his fabrications about the property use. Perhaps it's symbolic that I never had rats in my garage—until he moved in.

At the hearing July 10, Commissioner Myers said that the tenant can (as if by ordinance) stay in the alleged "game room" (formerly/currently used as a dwelling), entertain her guests there, even fall asleep there until 6 a.m., and it's OK, because it's not a dwelling. I will, however, counter here that the tenant, who allegedly may "fall asleep in the unit until 6 a.m.," seems capable of getting up and turning its lights off and remaining inside anywhere from around the prior 10:30 to 12:30 a.m. And when she returns late at night, she returns to the garage, not the house she says she stays in, lets herself into the garage and locks the door behind her.

(In addition, I had an interesting encounter with the garage dweller about a week or so ago, when she left the sprinkler on at the front corner of the main house, next to my property, and by the next day it had flooded my front yard, sidewalk, parking strip and left a gutter river flowing down to Franklin Blvd. to the East, where run-off drains. I just let her talk as I was on the front porch feeding my cat. She said she had gotten home late and forgotten about it. I had heard her let herself into the garage late. Had she lived in the main house, as she says she does, she would have at least heard the sound that use of water makes as it resounds on the plumbing systems of these old houses. She was also watering on a non-allowable day in the city, which makes me "respect" her and her landlord even more...)

I also appreciated Commissioner Yee's comment that our alley gates have only been in place a short time, that we need to take time to pay attention to how this works for the neighborhood, if I am paraphrasing him appropriately. We don't yet know that the chronic crimes that took place in the formerly UNGated alley will not move

to Portola Way and Fifth Avenue or to other nearby alleys and streets.

I was refreshed by the Commission to hear that someone has been on top of the degradation from Broadway south to our area. We in this neighborhood are fronted on at least three sides by bad if not sliding into bad neighborhoods—Broadway to the North, Sutterville Road to the South and Franklin Blvd./Oak Park to the East. We who live here are a diverse mix who are basically working class, and lucky to have found affordable housing here, which is a stretch for some of us to keep affording regarding repairs on these old homes. We are trying to draw a preservation line, which I hope can be drawn. Limiting dwelling density has a lot to do with it. And meanwhile, in Oak Park, an effort is being made by the City to strengthen neighborhoods by making housing more owner-occupied. Are we on a vanguard of a shift to our neighborhood of such conditions that led to the demise of Oak Park?

And do consider we have the SP development project to the West. That would put our neighborhood environment at risk on four sides. Last, and I call this, "Hollywood Squares," at the July 10 hearing, Commissioners Patrick Kennedy and Rita Donahue, who are seated center stage fronting the public, chronically engaged in sharing chatter and laughter, bouncing off shoulders—even during testimony. Their behavior reminded me of celebrity guests on a game show. When it came time for them to respond to or question the public testifying in opposition to the project, a public which has the fate of its lives, community, neighborhood environment and property decided by the Commission, it was clear they hadn't paid attention to testimony as they asked questions off-the-wall, so to speak, that proved they weren't listening. At the very least, I recommend, if only for the sake of Show Biz, City government move them and their act either left or right of center stage.

Due to the apparent inattention on their part, I am left to wonder if I should not have publicly read at the hearing my letter to the Commission, rather than trusting all members would have read comments beforehand, which apparently the public notice encouraged.

Again, thanks for your time. Feel free to share this with the other commissioners.

Sincerely,

Elaine H. Jennings
2736 Portola Way

(neighbor East next to applicant)
Sacramento, CA 95818
work phone: 657-6437; otherwise: 451-5150
cc: Sandra Yope; City Attorney; Mayor
Joe Serna

CITY PLANNING COMMISSION
SACRAMENTO, CALIFORNIA
MEMBERS IN SESSION:

Z97-026 PORTOLA WAY SECOND UNIT APPEAL

REQUEST: A. Environmental Determination (Exemption)

- B. Appeal of a Zoning Administrator Special Permit Denial to allow a converted 620 square foot detached garage (400 square feet of living space) to remain a second residential unit on 0.14± developed acres in the Standard Single Family (R-1) zone.

LOCATION: 2728 Portola Way
Assessor's Pcl. No. 013-0123-005
Land Park Community Plan Area
Sacramento Unified School District
Council District 5

APPLICANT: James Lenau, 454-5124
2728 Portola Way, Sacramento, CA 95818
OWNER: Same as Applicant
APPLICATION FILED: March 13, 1997
STAFF CONTACT: Sandra Yope, 264-7158

SUMMARY: On June 4, 1997, the Zoning Administrator held a public hearing on a request to allow an illegally converted second unit within a detached garage to remain. The living space totaled 400 square feet of the 620 square foot accessory building located behind an existing single family residence on a 0.14± acre parcel in the Standard Single Family (R-1) zone. After hearing testimony from the applicant and surrounding residents of the site, the Zoning Administrator closed the public hearing and denied the special permit request, finding that the project would be detrimental to the neighborhood due to the applicant's history of continued non-compliance with Zoning Ordinance and Building Code requirements since the original citing in July, 1996. The applicant has appealed this decision to the Planning Commission (Attachment 3).

RECOMMENDATION: Staff recommends that the appeal be denied and the decision of the Zoning Administrator to deny the special permit request be upheld. This recommendation is based on upon the findings that the applicant for the proposed project has a history of continued non-compliance with Zoning Ordinance and Building Code requirements for the structure since originally cited for work without a permit in July, 1996 (the accessory building remodel has yet to be finalized); there will not be adequate residential setbacks from the

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adjacent property to the west; and the second unit will substantially alter the characteristics of the surrounding single family neighborhood.

PROJECT INFORMATION: See Attached Zoning Administrator's Report

OTHER APPROVALS REQUIRED: In addition to the entitlements requested, the applicant is required to obtain a building permit from the City's Building Division.

BACKGROUND INFORMATION: The applicant was cited by the Building Division on July 2, 1996, for doing work and converting a detached garage without building permits. The applicant applied for a Building Permit for a "studio/game room" interior remodel on the same day. The permit indicated previous permits pulled in 1935 for the structure so no new plans were required for the nature of the work indicated. The permit was not for any type of second unit conversion because additional plans would have been required and different fees would have been charged. The applicant continued working on the project and moved in a tenant prior to a Final Inspection of the structure (which was not to be signed off as a living space). In October, 1996, complaints were received about the tenant moving into the accessory building. The applicant was informed that a Special Permit was required to convert the previous garage/art studio into a second residential unit. A code enforcement case was opened by Neighborhood Services for violation of the Zoning Ordinance by having a tenant in the converted garage with no special permit for the use. The applicant removed the stove and the bed from the structure and told the enforcement personnel that the unit was no longer inhabited, but that the tenant moved into the main structure. Since the Zoning Ordinance allows accessory buildings to have a full bathroom and a sink, but no cooking facilities; the case was closed. However, the applicant was required to finalize the accessory structure with the Building Division; and the applicant has still not complied with that requirement. The applicant filed an application for a special permit for the second residential unit on March 13, 1997. Staff has received and continues to receive calls from the neighbors stating the tenant is still living in the rear structure.

ZONING ADMINISTRATOR HEARING:

There were approximately 18 people in attendance at the two hour public hearing. Testimony in support and in opposition to allowing the second unit was heard by the Zoning Administrator. The large opposition contingent major concerns were the proposed use of the recently closed alley by the tenant, safety of the alley if a tenant is allowed access off the alley, and setting precedent for future conversion of other accessory structures. Many others in opposition expressed concern with allowing an additional rental unit on the property. Sandra Yope, staff Planner presented the specifics of the project including the history, other departmental review, and requirements to bring the second unit up to legal Building Code requirements.

After listening to public testimony, the Zoning Administrator closed the public hearing, and denied the special permit. At the public meeting, the Zoning Administrator made the finding that the project would be detrimental to the neighborhood due to the applicant's history of continued non-compliance with Zoning Ordinance and Building Code requirements since the original citing in July, 1996.

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PROJECT REVIEW PROCESS:

A. Environmental Determination

This project will not have a significant effect on the environment and is exempt from environmental review pursuant to State EIR Guidelines {California Environmental Quality Act, Sections 15303(a)}

B. Public/Neighborhood and Business Association Comments

The project was noticed and staff received approximately five calls from surrounding neighbors in opposition to the proposed second unit and one call in support. There were three letters in support of the project and four letters in opposition as well as a petition in opposition with signatures of 16 households. The major concerns were the proposed use of the recently closed alley by the tenant, safety of the alley if a tenant is allowed access off the alley, and setting precedent for future conversion of other accessory structures. Many other callers in opposition expressed concern with allowing an additional rental unit on the property. All letters received by staff are located in the project file.

Since the Zoning Administrator's Public Hearing, a new petition in opposition to the project has been submitted with 39 signatures from property owners in the immediate area of the proposed project (see Attachment 4). Staff also received an additional letter from an adjacent property owner stating observations that the tenant appears to still be living in the converted structure (Attachment 5).

The site is located within the Sierra Curtis Neighborhood Association area. The proposed plans were submitted to the neighborhood association and no comments were received by staff.

PROJECT APPROVAL PROCESS: The Planning Commission has the authority to approve or deny the appeal of the Zoning Administrator's decision to deny the special permit request. This decision cannot be appealed to the City Council; however, it may be called up by the Mayor or District 5 Councilmember.

RECOMMENDATION: Staff recommends the Planning Commission take the following action:

- A. Adopt the attached Notice of Decision and Findings of Fact (Attachment 1) with the Environmental Determination that the project is Exempt from further environmental review pursuant to the California Environmental Quality Act.
- B. Adopt the attached Notice of Decision and Findings of Fact (Attachment 1) denying the appeal of the Zoning Administrator's Decision to deny a Special Permit to allow a converted 620 square foot detached garage (400 square feet of living space) to remain a second residential unit on 0.14± developed acres in the Standard Single Family (R-1) zone.

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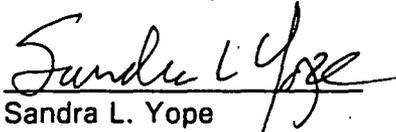
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Report Prepared By,


Sandra L. Yope
Associate Planner

Report Reviewed By,


Joy D. Patterson
Senior Planner

Attachments

- Attachment 1 Notice of Decision and Findings of Fact
- Attachment 2 Zoning Administrator's Notice of Decision
Includes the following:
Vicinity Map
Land Use and Zoning Map
Exhibit A - Site Plan
Exhibit B - Floor Plan
Exhibit C - Floor Plan
- Attachment 3 Appeal
- Attachment 4 New Petition in Opposition to the Project
- Attachment 5 New Letter Opposition

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CITY OF SACRAMENTO
 DEPARTMENT OF PLANNING & DEVELOPMENT
 ZONING ADMINISTRATOR
 1231 I Street, Sacramento, CA 95814

ACTION OF THE ZONING ADMINISTRATOR

On Wednesday, June 4, 1997, the Zoning Administrator denied a special permit to allow a second residential unit for the project known as Z97-026. Findings of Fact for the project are listed on page 5.

Project Information

Request: Zoning Administrator Special Permit to allow a converted 620 square foot detached garage (400 square feet of living space) to remain a second residential unit on 0.14± developed acres in the Standard Single Family (R-1) zone.

Location: 2728 Portola Way (D5, Area 3)

Assessor's Parcel Number: 013-0123-005

Applicant: James Lenau
 2728 Portola Way
 Sacramento, CA 95818
 Property Owner: Same as Applicant

General Plan Designation: Low Density Residential (4-15 du/na)
 Existing Land Use of Site: Single Family Residence
 Existing Zoning of Site: Standard Single Family (R-1)

Surrounding Land Use and Zoning:	Setbacks	Required	Existing	Proposed
North: R-1; Single Family Residence	Front:	25'	26'	26'
South: R-1; Single Family Residence	Side(W.):	5'	10'	2'
East: R-1; Single Family Residence	Side(E.):	5'	10.5'	10.5'
West: R-1; Single Family Residence	Rear:	15'	40'	0'

Property Dimensions: 50' x 121'
 Property Area: 0.14± acres
 Square Footage of Buildings:
 Existing residence- 2,195 square feet
 Proposed 2nd Unit- 400 square feet
 Garage/Porch 220 square feet
 Total- 2,815 square feet
 Height of Building:
 Existing House- Two Story
 Proposed Unit- One Story, 13 feet

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Exterior Building Materials:	Cedar Shake
Roof Materials:	Composition Shingles
Topography:	Flat
Street Improvements:	Existing
Utilities:	Existing

Project Plans: See Exhibits A-C

Previous Files: None

Background Information: The applicant was cited by the Building Division on July 2, 1996, for doing work and converting a detached garage without building permits. The applicant applied for a Building Permit for a "studio/game room" interior remodel on the same day. The permit indicated previous permits pulled in 1935 for the structure so no new plans were required for the nature of the work indicated. The permit was not for any type of second unit conversion because additional plans would have been required and different fees would have been charged. The applicant continued working on the project and moved in a tenant prior to a Final Inspection of the structure (which was not to be signed off as a living space). In October, 1996, complaints were received about the tenant moving into the accessory building. The applicant was informed that a Special Permit was required to convert the previous garage/art studio into a second residential unit. A code enforcement case was opened by Neighborhood Services for violation of the Zoning Ordinance by having a tenant in the converted garage with no special permit for the use. The applicant removed the stove and the bed from the structure and told the enforcement personnel that the unit was no longer inhabited, but that the tenant moved into the main structure. Since the Zoning Ordinance allows accessory buildings to have a full bathroom and a sink, but no cooking facilities; the case was closed. However, the applicant was required to finalize the accessory structure with the Building Division; and the applicant has still not complied with that requirement. The applicant filed an application for a special permit for the second residential unit on March 13, 1997.

Additional Information: The applicant is requesting to allow a second residential unit to remain which was illegally converted from an existing garage with an artist studio. The detached garage structure totals 620 square feet and 400 square feet is living space. There is still a single car garage that has access from the alley. The structure is two feet from the west (side) property line and on the rear property line. The Zoning Ordinance allows accessory structures to be located on the property line; however, it requires a five foot side yard setback and a 15 foot rear yard setback for living units. (The Zoning Administrator may modify these setbacks for existing structures as part of a second unit special permit request). There is an existing parking pad adjacent to the structure to the east with a gated entrance to the alley. The Zoning Ordinance requires a ten foot by 20 foot parking pad for the additional unit.

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The alley was recently gated and close off due to previous criminal activity in the alley. The gates are recessed from each end and all property owners along the alley with access to the alley have keys to the gate as well as police and fire.

Neighborhood Comments: The project was noticed and staff received approximately five calls from surrounding neighbors in opposition to the proposed second unit and one call in support. There were three letters in support of the project and four letters in opposition as well as a petition in opposition with 16 signatures. The major concerns were the proposed use of the recently closed alley by the tenant, safety of the alley if a tenant is allowed access off the alley, and setting precedent for future conversion of other accessory structures. Many other callers in opposition expressed concern with allowing an additional rental unit on the property. All letters received by staff are located in the project file.

The site is located within the Sierra Curtis Neighborhood Association area. The proposed plans were submitted to the neighborhood association and no comments were received by staff.

Agency Comments

The proposed project has been reviewed by the City Public Works- Transportation and Engineering Planning Division, the Building Division, Utilities, the Fire Department, and the Police Department. The department comments are summarized below.

1. Police Department staff comments:

Police did not oppose the project and indicated the following requirements should be added as conditions if the project was approved:

- a. Clearly visible and lit address numbering on rear structure and on the front structure for the rear structure; and
- b. 1 foot candle lighting fixture attached to second unit to maintain 1 footcandle illumination from dusk to dawn.

2. Fire Department staff comments:

The project was reviewed by Elaine Clarke, Permit Services, who stated that the length of the lot may necessitate fire sprinklers for the second unit and that a fire hydrant may also be required if there was not one within 300 vehicular feet from the new structure.

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3. Building staff comments:

The applicant would have to apply for a permit for a second residential unit and would be required to bring the structure up to Building Code for the new use which would include, at a minimum:

- a. Firewall separation between the garage and living space;
- b. One hour firewall protection for the entire building structure;
- c. Eliminate the window on the west side;
- d. Window area equal to or greater than 10 percent of living floor area;
- e. Compliance with Title 24 energy requirements; and
- f. Installation of a solid core door between the garage and living space.

ZONING ADMINISTRATOR HEARING:

There were approximately 18 people in attendance at the two hour public hearing. Testimony in support and in opposition to allowing the second unit was heard by the Zoning Administrator. The large opposition contingent echoed the previously mentioned concerns that had been submitted in letters. Sandra Yope, staff Planner presented the specifics of the project including the history, other departmental review, and requirements to bring the second unit up to legal Building Code requirements.

After listening to public testimony, the Zoning Administrator closed the public hearing, and denied the special permit. At the public meeting, the Zoning Administrator made the finding that the project would be detrimental to the neighborhood due to the applicant's history of continued non-compliance with Zoning Ordinance and Building Code requirements since original citing in July, 1996.

Environmental Determination: This project will not have a significant effect on the environment and is exempt from environmental review pursuant to State EIR Guidelines {California Environmental Quality Act, Sections 15303(a)}.

Findings of Fact- Denial of Special Permit:

1. The project will be detrimental to the public health, safety, and welfare and result in a nuisance in that:

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- a. the applicant has a history of continued non-compliance with Zoning Ordinance and Building Code requirements for the structure since originally cited for work without a permit in July, 1996 (the accessory building remodel has yet to be finalized);
- b. there will not be adequate residential setbacks from the adjacent property to the west; and
- c. the second unit will substantially alter the characteristics of the surrounding single family neighborhood.

Joy D Patterson

Joy D. Patterson
Zoning Administrator

A use for which a Variance is granted must be established within two years after such permit is approved. If such use is not so established the Variance shall be deemed to have expired and shall be null and void. A Variance which requires a Building Permit shall be deemed established when such Building Permit is secured and construction thereunder physically commenced. If no building permit is required, the use shall be deemed established when the activity permitted has been commenced.

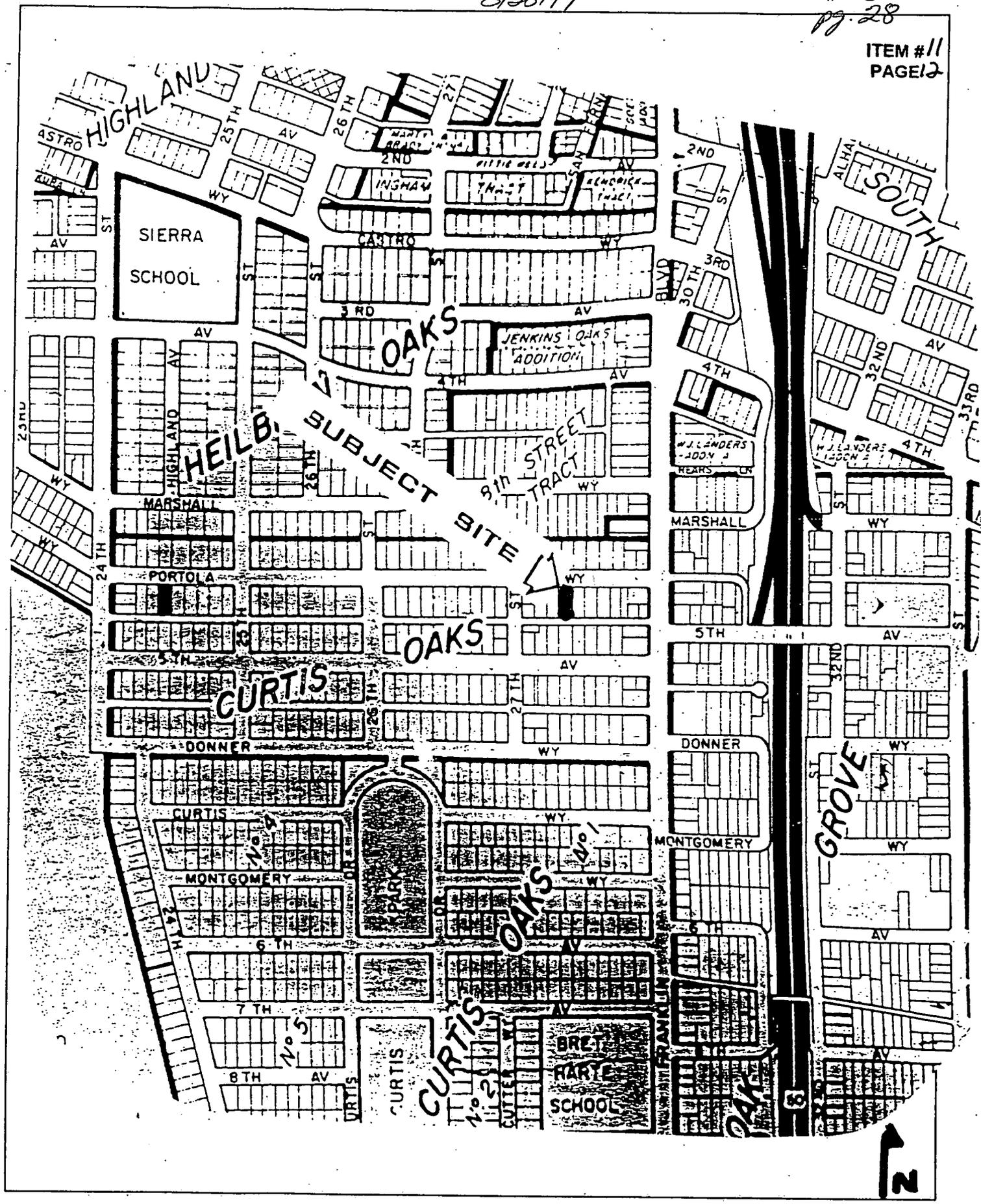
The decision of the Zoning Administrator may be appealed to the Planning Commission. An appeal must be filed within 10 days of the Zoning Administrator's hearing. If an appeal is not filed, the action of the Zoning Administrator is final.

cc: File ✓
Applicant ✓
ZA Log Book ✓
Brad Boehm, Chief Building Official ✓
Angie Bahner, Neighborhood Services ✓
John Vanella, Neighborhood Services ✓
Tare Zimmerman; 2725 5th Avenue; Sacramento, CA 95818 ✓

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VICINITY MAP

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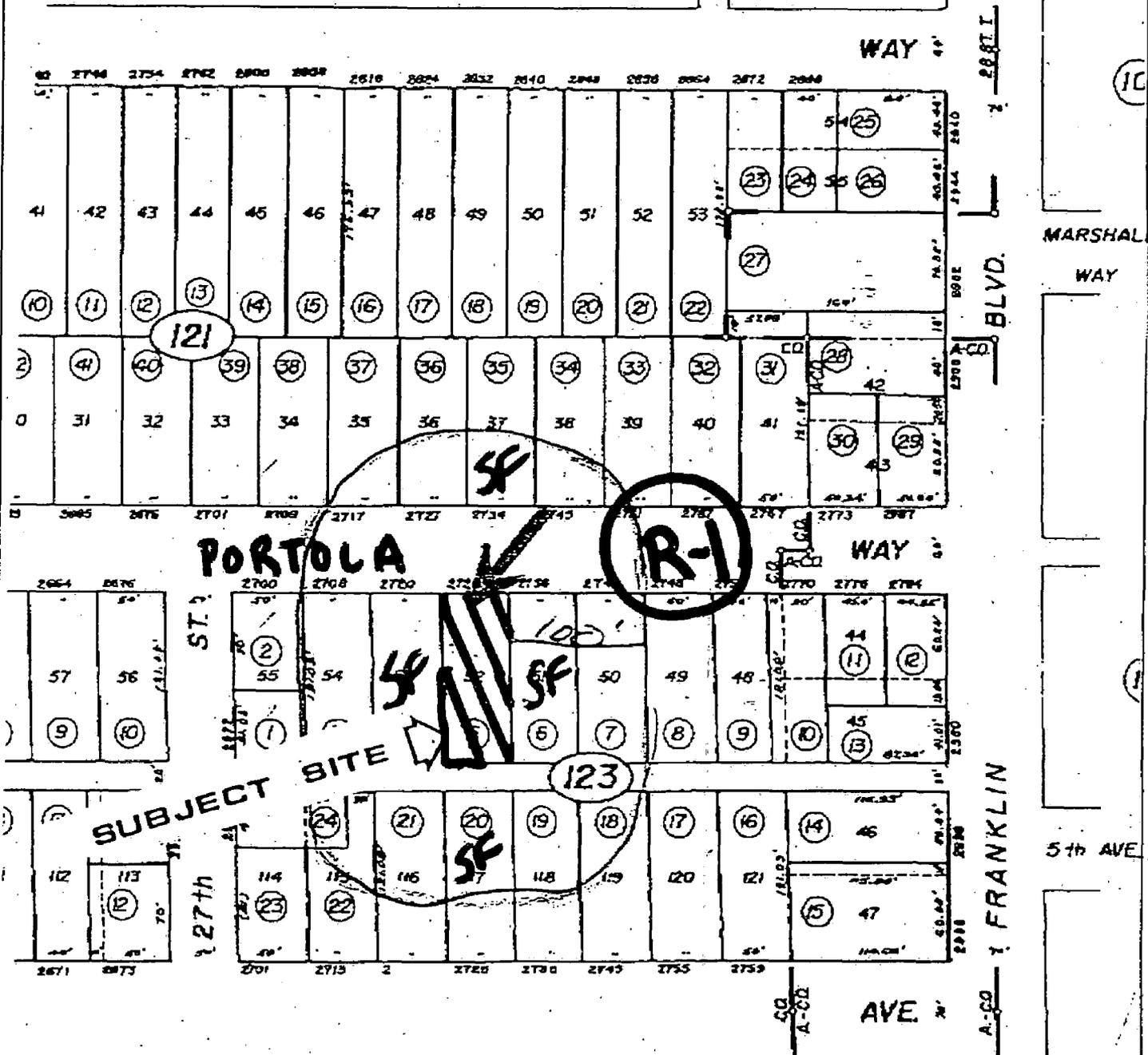
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JAKS, HEILBRON OAKS & 28th ST. TR.

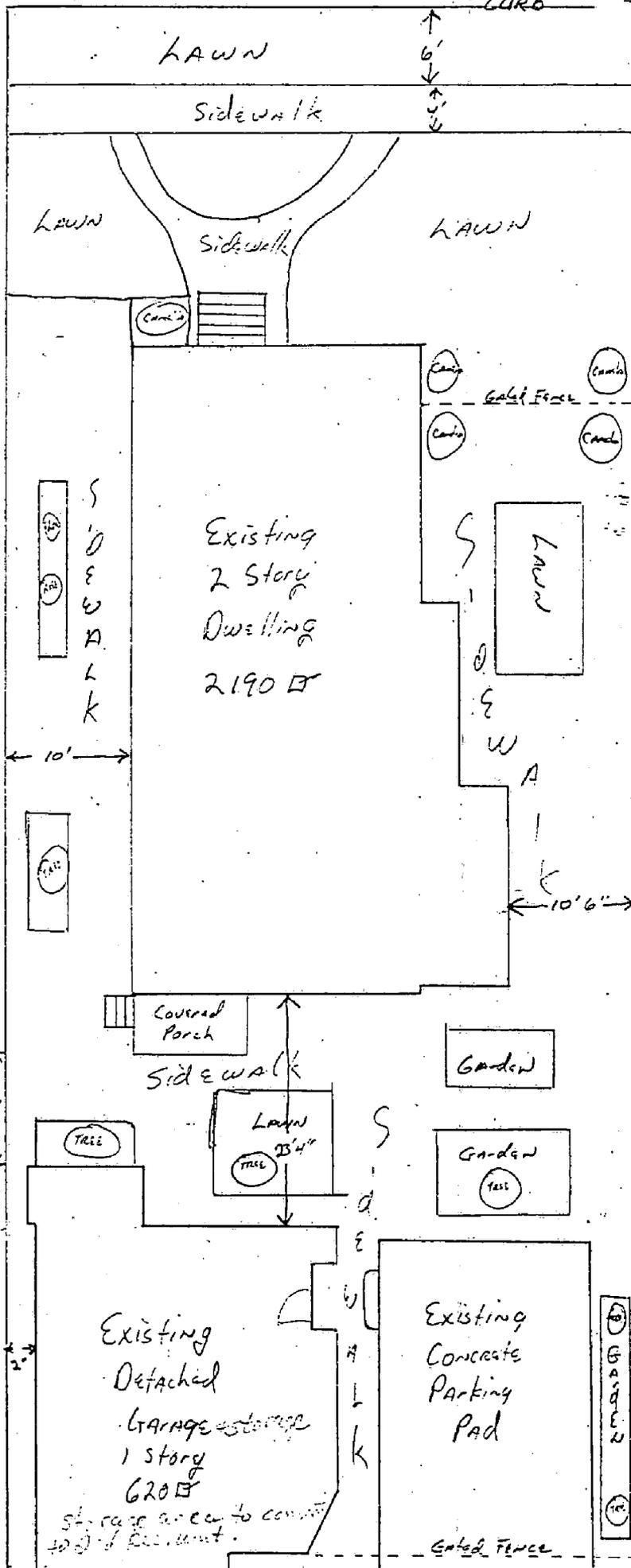
Tax Area Code

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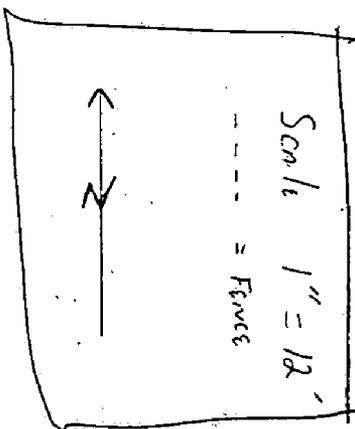
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Orig



Lot Layout Existing
2728 Portola Way
Lot Size 50' x 121.09'



Porch to detached GARAGE

Z 97-026

CITY OF SACRAMENTO
CITY PLANNING DIVISION

MAR 13 1977

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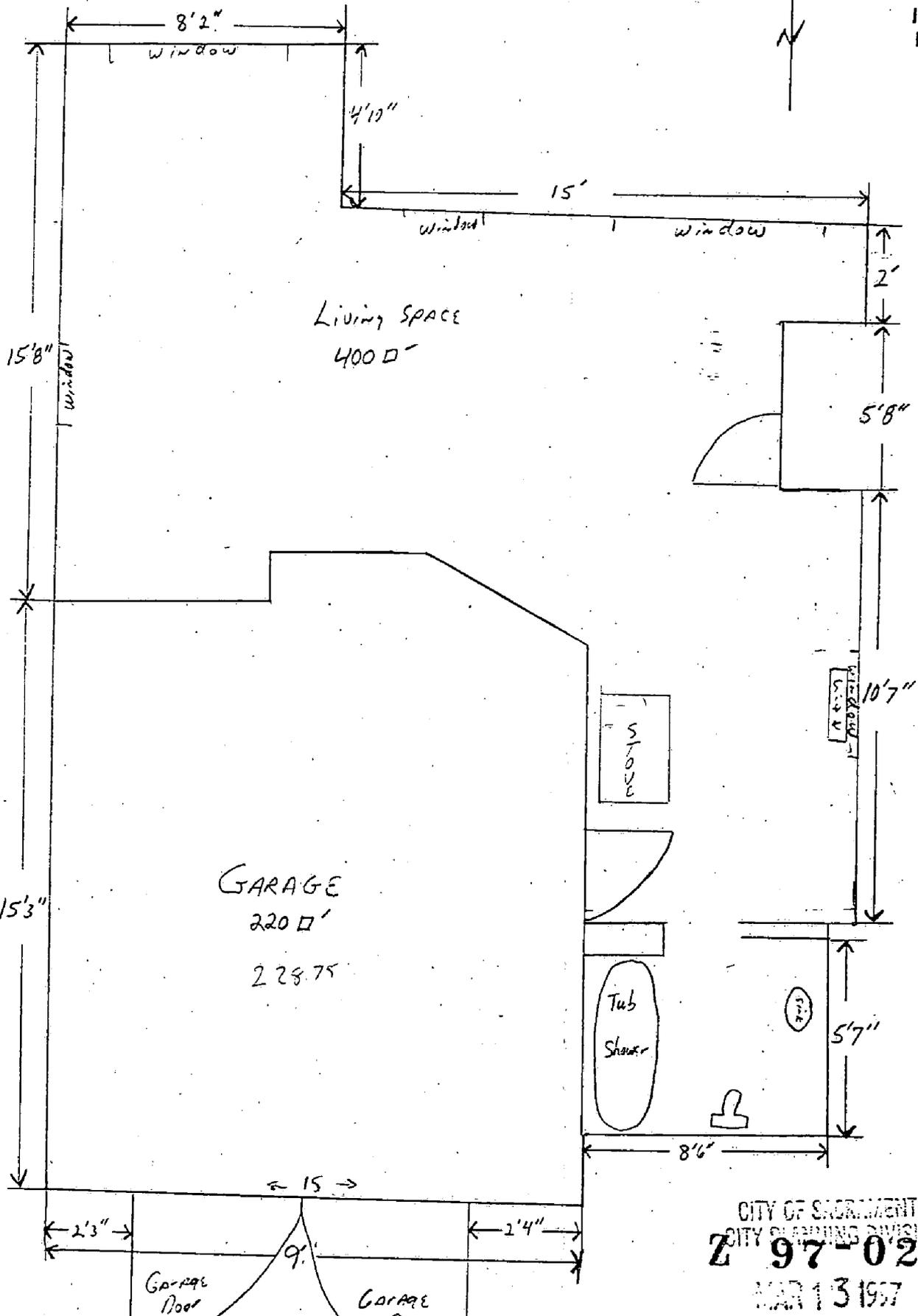
Floor Plans Existing Detached Garage

EXHIBIT B

Scale 1" = 4' #3

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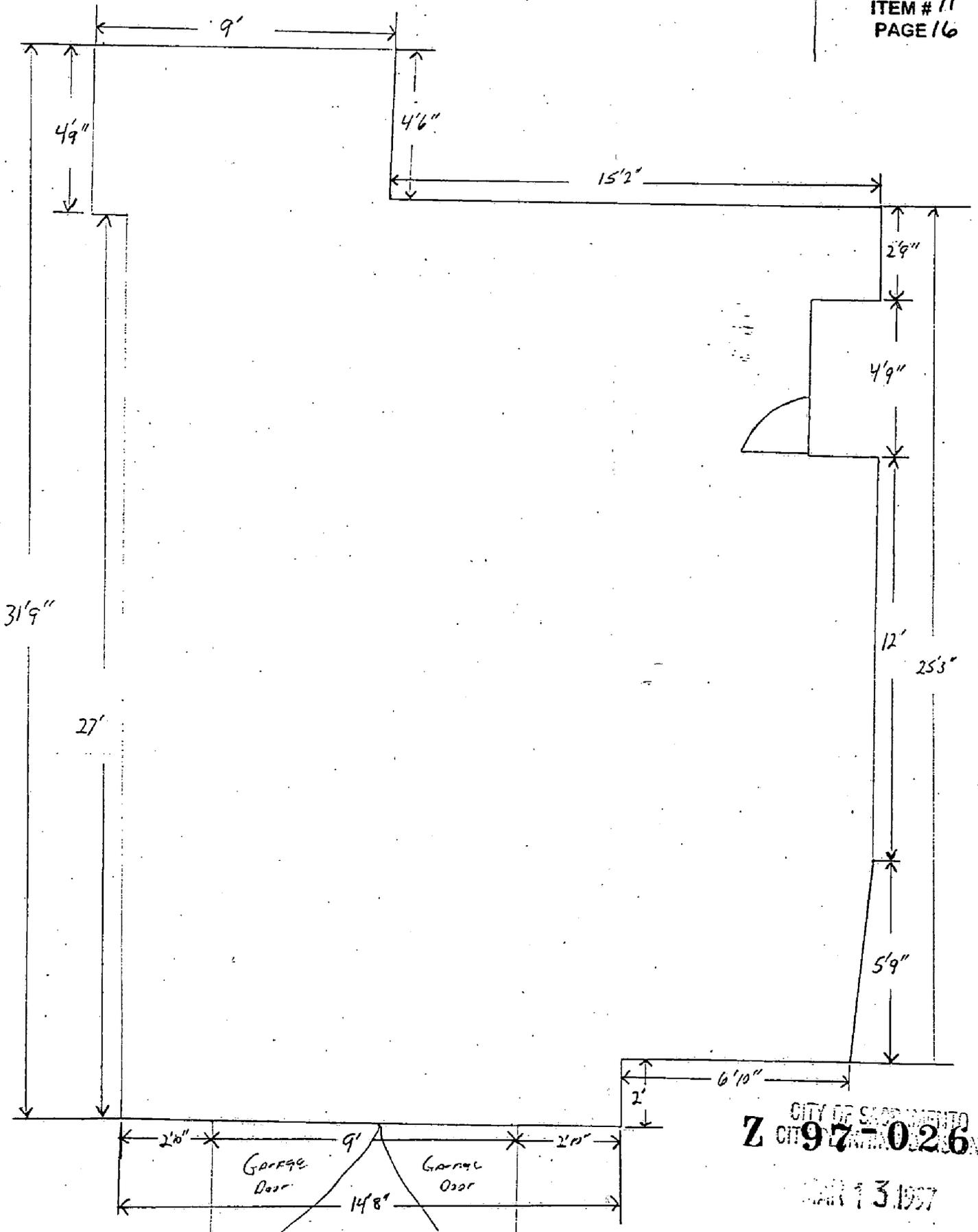


CITY OF SACRAMENTO
CITY PLANNING DIVISION
Z 97-026
MAR 13 1997

Footprint Existing Detached Garage

Scale 1" = 4'
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EXHIBIT - C



CITY OF SACRAMENTO
Z CITY 97-026

DATE 13.1997

CITY OF SACRAMENTO
DEPARTMENT OF PLANNING AND DEVELOPMENT

1231 I Street, Room 200
Sacramento, CA 95814

916-264-5604

APPEAL OF THE DECISION OF THE ZONING ADMINISTRATOR

Date: 6/13/97

TO THE PLANNING DIRECTOR:

I do hereby amke application to appeal the decision of the Zoning Administrator on 6/14/97 for project number 297-026,
(date)

when a: Special Permit Variance
(check appropriate entitlement(s)) Lot Line Adjustment Lot Line Merger
 Other All Other Entitlements

was: Granted Denied by the Zoning Administrator.
(check appropriate action)

Property Location: 2728 Portola Way

Grounds For Appeal: (explain in detail, may attach additional page(s))
The Project meets the Provisions set out ^{By the City Council} ~~under Section 5~~ ~~Access~~
under Zoning Ordinance Amendment 61995-084 - May 28, 1996

Appellant: JAMES J. LENAU Daytime Phone: (916) 454-5124

Address: 2728 Portola Way, Sacramento, CA 95818

Appellant's Signature: [Signature]

OFFICE USE ONLY

Filing Fee (\$340) Received:

Received by: [Signature] Date: 6-13-97

Distribute Copies to: Planning Director
(3 copies + original) Zoning Administrator
CITY OF SACRAMENTO Secretary to Planning Commission
PLANNING DIVISION Original & receipt in file

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4/6/93

JUN 13 1997

Distributed to

6-13-97
New

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June 30, 1997

Ms. Sandra Yope
Associate Planner
Department of Planning and Development
Zoning Administration
1231 I Street, Rm. 200
Sacramento, CA 95814-2998

Dear Ms. Yope:

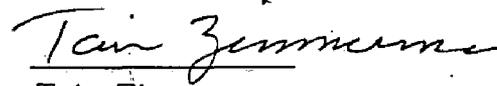
File # Z97-026 -- James J. Lenau's Appeal of the Denial of a Special Use Permit
at 2728 Portola Way, Sacramento

Enclosed please find a copy of the neighborhood petition supporting the Zoning Administrator's denial of a permit for this proposed second residential unit.

PETITION INFORMATION

- The petition has been signed by 39 residents representing 26 households within our immediate neighborhood between Franklin Blvd. & 27th Street and Portola Way & 5th Avenue.
- Of the 23 households surrounding our gated alley, 25 people from 17 households signed the petition. These people represent the households that would be the most adversely affected by the approval of this unit.
- Of the 11 households surrounding the alley within 100 feet of the applicant's unit, 9 households signed the petition.

Sincerely,


Tair Zimmerman

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NEIGHBORHOOD PETITION

WE URGE THE PLANNING COMMISSION TO REJECT MR. JAMES LENAU'S APPEAL OF THE ZONING ADMINISTRATOR'S DENIAL OF A SPECIAL USE PERMIT TO ESTABLISH A SECOND RESIDENTIAL UNIT AT 2728 PORTOLA WAY. FILE # Z97-026

WE SUPPORT THE ZONING ADMINISTRATOR'S DECISION AND FINDINGS FOR THE FOLLOWING 3 REASONS:

1) Granting this permit will reward a person with a history of non-compliance with zoning ordinance and building code requirements.

• We agree with the Zoning Administrator's finding that "The project will be detrimental to the public health, safety, and welfare and result in a nuisance in that:

"a. the applicant has a history of continued non-compliance with Zoning Ordinance and Building Code requirements for the structure since originally cited for work without a permit in July, 1996..."

- In light of the applicant's history of non-compliance, we believe approval of Mr. Lenau's special permit, for any reason, would send a message to all homeowners in Sacramento that the Planning Commission and the City Council reward people who break zoning laws and building codes, while ignoring the strenuous opposition of the great majority of neighbors who want to preserve the characteristics and stability of their neighborhood.

.....

2) The close proximity of the proposed unit to neighbors' property will create unacceptable residential congestion, intrude on neighbors' privacy, lower nearby neighbors' property values and establish a variance that will facilitate the conversion of any of the other 6 alley outbuildings, that are also within 2 feet of property lines, into second residential units.

• We support the Zoning Administrator's additional finding that:

"b. there will not be adequate residential setbacks from the adjacent property to the west..."

.....

3) The approval of this second unit would significantly alter the characteristics of the surrounding, long-established, single family neighborhood. It would set a precedent for creating excessive residential density, promoting blight and the decay of our fringe section of the Curtis Park neighborhood. It will aggravate a nuisance parking problem and undermine the fragile buffer zone that our immediate neighborhood has become.

• We support the Zoning Administrator's final finding that:

"c. the second unit will substantially alter the characteristics of the surrounding single family neighborhood."

- Allowing this second residential unit would establish a precedent with an adverse impact on our immediate, fringe neighborhood between 5th Avenue & Portola Way, and Franklin Blvd. & 27th Street. It will break a solid core of at least 23 single-family homes, averaging 80 to 90 years of age, and facilitate the approval of other second units. There are no second

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residential units, duplexes or apartments among these single-family homes surrounding our alley. The majority of homeowners within this area are long time residents. Many have lived here for 20 to 65 years. A real sense of community exists within this little area. It is one of the important reasons we bought our homes here. We are not opposed to single family homes used as rentals, or to the well-built older duplexes on corner lots that provide privacy, green space and parking off the street, instead of off the alley. However, we are opposed to adding residential units to long-established R-1 lots with one home per lot. Additional residential units on these established single family lots would adversely impact our neighborhood by reducing green space, and by creating a residential congestion that will undermine the fragile stability of our immediate fringe neighborhood and the sense of community we are trying to maintain. **We trust that when the City Council committed itself to "revitalizing the old neighborhoods," it didn't have in mind adding residential congestion to long-established, fringe sections of neighborhoods that have survived more than 85 years because their original residential density has been maintained.**

- Our homes surround a gated alley. Before our alley was gated, it was a hot spot for dangerous criminal activity because it was easily accessed off 5th Avenue from Oak Park. It's clear to us how our immediate neighborhood serves as a buffer zone. We are a part of the fringe section of Curtis Park and, as such, provide affordable housing in this neighborhood. (Houses just one block up fetch, on average, \$25,000 to \$50,000 more than our homes.) The area of our neighborhood between Franklin and 27th Street is struggling for stability. The alley gates have added significantly to our stability and property values, as has the support of long time residents committed to maintaining their homes and preserving the type of affordable, moderate residential density neighborhood first-time homeowners are looking for in the downtown area. Many new homeowners become long time residents because they love the charming character of our single-family neighborhood. Creating unacceptable residential congestion would significantly alter the fragile character of our neighborhood. Second units will damage the market appeal of our homes and thus lower our property values according to every real estate agency contacted. **Lower property values will create a loss of revenue for the City. It will make it difficult for people to get loans to improve and maintain these old homes and, thereby, promote degradation of our fringe neighborhood. The approval of the applicant's unit alone will significantly alter the character of our immediate neighborhood. The Zoning Administrator agrees.**

- Even though the applicant's proposed second residential unit is designed and fully intended to be accessed from the alley, the Sacramento Police Department staff expects the tenant will only access this unit from the front, assuming it will prove too cumbersome to open and close the alley gates to access the parking pad off the alley. Since the applicant's property doesn't have a driveway, any tenant of this second unit will add to the serious parking problem on Portola Way. Only a few homes on the alley side of Portola have driveways. The precedent of allowing this unit in our neighborhood would make it easier for future homeowners to establish second residential units along our alley and elsewhere, exacerbating the parking problem on 5th Avenue as well. None of the homes bordering the alley on 5th Avenue have driveways. Also, many garages were torn down years ago. Of the few remaining garages, most no longer function as garages. The street is the only place to park for nearly all the residents bordering the alley, especially on 5th Avenue. If the parking

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problem created by second units becomes critical, then it's likely tenants will use their parking pads, increasing the chances that our gates will be left open. According to Neighborhood Services they had problems with a gated alley being left open. Neighborhood Services threatened to remove the gates if left open too much. The burden of keeping the gates locked fell on the residents who had to pressure the offender to cooperate. Therefore, if we fail to keep our gates locked, or to convince offenders to lock the gates, we may lose our gates and the crime will return to our alley. So far, our gates are rarely opened because people don't use their garages to park. Accordingly, our gates have never been left open. This can change with the increased traffic of residents accessing parking pads off the alley because of parking problems on the streets, or because they choose to access their units from the alley.

- The surrounding neighborhood around Marshall Way between Franklin Blvd. and 27th street is a good example of how an old, established, Curtis Park buffer zone fell into decay because of second residential units along their alley and elsewhere. Please don't jeopardize another Curtis Park buffer zone by allowing second residential units within our surrounding neighborhood.

PLEASE SHOW US THAT PEOPLE WITH A HISTORY OF NON-COMPLIANCE WITH ZONING LAWS AND BUILDING CODE REQUIREMENTS ARE NOT REWARDED BY THE PLANNING COMMISSION, FOR ANY REASON. PLEASE HELP US MAINTAIN OUR NEIGHBORHOOD STABILITY, INTEGRITY, CHARACTER, SECURITY AND PROPERTY VALUES. MITIGATE A NUISANCE PARKING PROBLEM AND SUPPORT OUR EFFORTS TO PRESERVE A FRAGILE BUFFER ZONE BY DENYING MR. JAMES LENAUS APPEAL.

NAME: Print HAZEL BAUMGARTER Signature Hazel Baumgartner
ADDRESS: 2713 - 5th Ave 455-2734
COMMENTS: _____

NAME: Print MARY LOU JOHNSON Signature Mary Lou Johnson
ADDRESS: 2745 - 5th Ave 456-3543
COMMENTS: _____

NAME: Print Eileen Jutt Signature Eileen Jutt
ADDRESS: 2755 5th Ave 739-0343
COMMENTS: _____

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PLEASE SHOW US THAT PEOPLE WITH A HISTORY OF NON-COMPLIANCE WITH ZONING LAWS AND BUILDING CODE REQUIREMENTS ARE NOT REWARDED BY THE PLANNING COMMISSION, FOR ANY REASON. PLEASE HELP US MAINTAIN OUR NEIGHBORHOOD STABILITY, INTEGRITY, CHARACTER, SECURITY AND PROPERTY VALUES. MITIGATE A NUISANCE PARKING PROBLEM AND SUPPORT OUR EFFORTS TO PRESERVE A FRAGILE BUFFER ZONE BY DENYING MR. JAMES LENAU'S APPEAL.

NAME: Print Timothy N. Tuttle Signature Timothy N. Tuttle
ADDRESS: 2755 5th Ave, Sacramento 95818
COMMENTS: _____

NAME: Print Daniel J. Colson Signature Daniel J. Colson
ADDRESS: 2759 5th Ave, Sac CA 95818
COMMENTS: _____

NAME: Print DAN L Colson Signature Dan L Colson
ADDRESS: 2759 5th Ave, Sacramento 95818
COMMENTS: 451-7798-

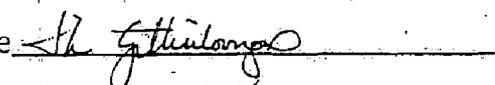
This petition is entirely correct. Please persevere our neighborhood.

NAME: Print Patricia Colson Signature Pat Colson
ADDRESS: 2759 5th Ave, Sacto, Ca 95818
COMMENTS: _____

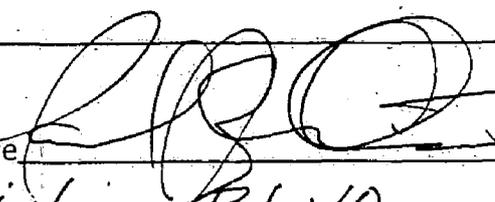
NAME: Print Mike Hegyard Signature Mike Hegyard
ADDRESS: 2980 Franklin Blvd, SAC
COMMENTS: _____

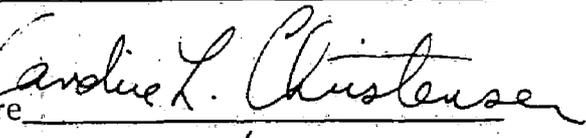
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NAME: Print Awin Gittisubong Signature 
ADDRESS: 2784 Portola Way Sacramento CA 95818
COMMENTS: _____

NAME: Print JENNIFER GITTISUBONG Signature 
ADDRESS: 2784 Portola Way Sacramento CA 95818
COMMENTS: _____

NAME: Print Mary Jensen Signature 
ADDRESS: 2977 27th St
COMMENTS: _____

NAME: Print PAUL RANDOLPH CHRISTENSEN Signature 
ADDRESS: 2986 FRANKLIN BLVD.
COMMENTS: _____

NAME: Print Candice L. Christensen Signature 
ADDRESS: 2986 Franklin Blvd, Sacramento
COMMENTS: _____

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NAME: Print GLEND A SCRIBNER Signature Glenda Scribner
ADDRESS: 2758 PORTOLA WY
COMMENTS: _____

NAME: Print MICHELE NUGENT Signature Michele Nugent
ADDRESS: 2701 5TH Ave
COMMENTS: _____

NAME: Print Joan Maredyth Signature Joan Maredyth
ADDRESS: 2710 - 5TH Ave.
COMMENTS: _____

NAME: Print Robert Kuhlman Signature Robert Kuhlman
ADDRESS: 2709 Portola Way
COMMENTS: _____

NAME: Print LINDA LAWRENCE Signature Linda Lawrence
ADDRESS: 2708 PORTOLA WY SAC CA
COMMENTS: _____

PLEASE SHOW US THAT PEOPLE WITH A HISTORY OF NON-COMPLIANCE WITH ZONING LAWS AND BUILDING CODE REQUIREMENTS ARE NOT REWARDED BY THE PLANNING COMMISSION, FOR ANY REASON. PLEASE HELP US MAINTAIN OUR NEIGHBORHOOD STABILITY, INTEGRITY, CHARACTER, SECURITY AND PROPERTY VALUES. MITIGATE A NUISANCE PARKING PROBLEM AND SUPPORT OUR EFFORTS TO PRESERVE A FRAGILE BUFFER ZONE BY DENYING MR. JAMES LENAU'S APPEAL.

NAME: Print Terrence S. Benyeff Signature Terrence Benyeff
ADDRESS: 2751 Portola Way, Sacramento, CA 95818
COMMENTS: _____

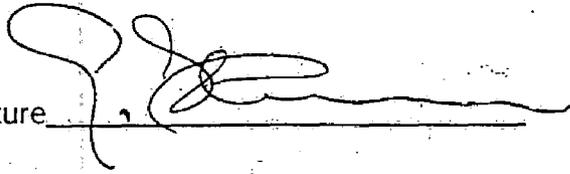
NAME: Print Sandra Bennett Signature Sandra Bennett
ADDRESS: 2751 Portola Way Sacramento Ca 95818
COMMENTS: _____

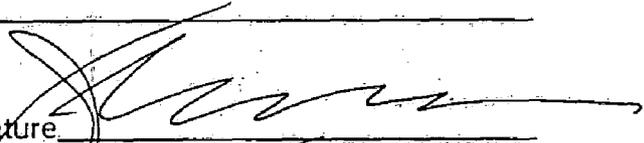
NAME: Print Kathleen Cronin Signature Kathleen Cronin
ADDRESS: 2673 5th Avenue, Sacto. 95818
COMMENTS: _____

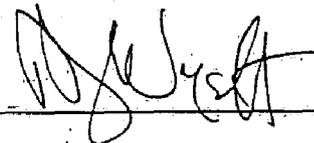
NAME: Print NANCY VICKERS Signature Nancy Vickers
ADDRESS: 2740 Portola Way, Sacramento CA 95818
COMMENTS: We appreciate your shared concern!

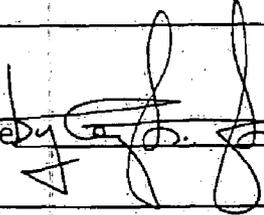
NAME: Print LINDA SANDERSON Signature Linda Sanderson
ADDRESS: 2757 Portola Way SACRAMENTO, CA 95818
COMMENTS: 916-737-2757

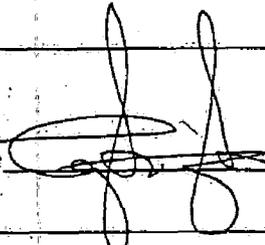
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NAME: Print George Stevenson Signature 
ADDRESS: 2719 5th Ave
COMMENTS: _____

NAME: Print John Anderson Signature 
ADDRESS: 2757 Powell Way
COMMENTS: _____

NAME: Print Donna J. Wycoff Signature 
ADDRESS: 2722 5th Ave
COMMENTS: _____

NAME: Print Ferice Murphy Signature 
ADDRESS: 2740 5th Ave
COMMENTS: _____

NAME: Print Henry Puka Signature 
ADDRESS: 2740 5th Ave
COMMENTS: Keep nice Family Neighborhoods in A.A.

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NAME: Print Elaine Jennings Signature Elaine Jennings
ADDRESS: 2736 Portola Way
COMMENTS: Neighbor next door to subject property.

NAME: Print GILBERT C. LOPEZ Signature Gilbert Lopez
ADDRESS: 2726 5TH AVE
COMMENTS: PRESERVE NEIGHBORHOOD - CONGESTION (LIMIT)

NAME: Print JOHN PICHININO Signature John Pichinino
ADDRESS: 2732 5th ave
COMMENTS: _____

NAME: Print MARTHA SWAIM Signature Martha Swaim
ADDRESS: 2722 5th Ave.
COMMENTS: _____

NAME: Print Lynn Pichinino Signature Lynn Pichinino
ADDRESS: 2732 - 5th Ave, Sec. 95818-
COMMENTS: _____

PLEASE SHOW US THAT PEOPLE WITH A HISTORY OF NON-COMPLIANCE WITH ZONING LAWS AND BUILDING CODE REQUIREMENTS ARE NOT REWARDED BY THE PLANNING COMMISSION, FOR ANY REASON. PLEASE HELP US MAINTAIN OUR NEIGHBORHOOD STABILITY, INTEGRITY, CHARACTER, SECURITY AND PROPERTY VALUES. MITIGATE A NUISANCE PARKING PROBLEM AND SUPPORT OUR EFFORTS TO PRESERVE A FRAGILE BUFFER ZONE BY DENYING MR. JAMES LENAU'S APPEAL.

NAME: Print SOCORRO GUDINA Signature Socorro Gudina
ADDRESS: 2991 27th St Sac CA 95818
COMMENTS: _____

NAME: Print Elizabeth GRIMOLDI Signature Elizabeth Grimoldi
ADDRESS: 2678 9th Avenue Sacramento CA 95818
COMMENTS: _____

NAME: Print DIANE G. REED Signature Diane G Reed
ADDRESS: 2748 Portola Way, Sacramento, CA 95818
COMMENTS: _____

NAME: Print JENNIE Smith Signature Jennie Smith
ADDRESS: 2748 Portola
COMMENTS: _____

NAME: Print Tair Zimmerman Signature Tair Zimmerman
ADDRESS: 2725 5th Ave, Sacramento, 95818
COMMENTS: 457-5581

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PLEASE SHOW US THAT PEOPLE WITH A HISTORY OF NON-COMPLIANCE WITH ZONING LAWS AND BUILDING CODE REQUIREMENTS ARE NOT REWARDED BY THE PLANNING COMMISSION, FOR ANY REASON. PLEASE HELP US MAINTAIN OUR NEIGHBORHOOD STABILITY, INTEGRITY, CHARACTER, SECURITY AND PROPERTY VALUES. MITIGATE A NUISANCE PARKING PROBLEM AND SUPPORT OUR EFFORTS TO PRESERVE A FRAGILE BUFFER ZONE BY DENYING MR. JAMES LENAUS APPEAL.

NAME: Print Gary Zimmerman Signature *Gary Zi*

ADDRESS: 2725 5th Avenue

COMMENTS: _____

NAME: Print _____ Signature _____

ADDRESS: _____

COMMENTS: _____

NAME: Print _____ Signature _____

ADDRESS: _____

COMMENTS: _____

NAME: Print _____ Signature _____

ADDRESS: _____

COMMENTS: _____

NAME: Print _____ Signature _____

ADDRESS: _____

COMMENTS: _____

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2736 Portola Way
Sacramento, CA 95818
Day phone: 657-6437; home phone: 451-5150
June 27, 1997

Sandra Yope re: Z97-026, 2728 Portola Way, owner Jim Lenau
Department of Planning and Development
City of Sacramento
1231 I St., Rm 200
Sacramento, CA 95814

Dear Ms. Yope:

I am the next door neighbor who filed opposition to Lenau's application for a special permit to have a second dwelling on his property in an R-1, single family dwelling zone, a permit that was denied by the zoning administrator June 4. When asked by the administrator, at that hearing, if he had someone living in the outbuilding/garage/game room—whatever it is—he said no, and when she asked where the tenant lives, he stated in his house. This is not the case, for it is business as usual next door, as it has been since the tenant moved with a van-load of furniture and personal property into the garage in mid-October 1996. Just before occupation by the tenant, the unit was gutted, prepared for occupancy and empty of all property. This was obvious from construction work performed late at night with lights on inside the unit and no curtains. One Sunday morning late in summer I was awakened before allowed construction hours to a worker on the property who said he was texturing the walls. Also, Lenau doesn't use the unit, as he told City Code Enforcement officials he does. The belongings in it are hers, not his, which he told code enforcers they were. Does he wear the dresses or other women's clothing that go into and out of the unit? By all appearance and activities, her professions to visitors and the admissions of those few supportive of his project, the unit is her home.

The very evening of the hearing, the next night and henceforth, the tenant, so obvious from my close proximity, has been as usual witnessed spending her time on the property staying in this garage or working in and around the garage, finally retreating into it at night, seen in the garage into the wee hours up to around midnight or so., shutting off the interior lights behind her, and emerging from it in the a.m., leaving from the building in dress attire at the same regular hours, as if when one goes to work, returning there in the same regular hours, as if when one returns from work, unlocking the door, letting herself in wearing the same dress attire noticed when she leaves the building in the a.m., and then exiting wearing informal/shorts attire, to resume working around the unit again. Also recall that she spent all summer and into October working on the unit with him and in his absence.

At no time since the hearing have the lights been on in the main house, except on

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the rare occasion when Lenau was home late at night. The only changes I've noticed since the zoning administrator's hearing are that there is no longer an exterior light turned on at the only entrance to the garage, and a large quilt was hung for some time (left there rain or shine) on a clothesline, I would guess to block as much view from neighbors as possible and not block the doorway.

This is the arrogance with which we're dealing, and proof comes down to me to say what I see as one of only two neighbors within visual and often audio range of this project, and as a next door neighbor who has had this illegal situation in her face for more than a year. Neighbor Tair Zimmerman, who lives across the alley behind the project, has seen the tenant come out of the unit from 6-7 a.m. and go into it as late as 12:30 a.m.

Apparently the owner and the tenant have a cavalier and scofflaw attitude toward the law. The purpose of this letter is to state that the tenant is illegally living in the outbuilding as she has since mid-October. The owner has been repeatedly told she cannot live in that building. Even when he was told by the City he couldn't have a stove in the building or an overnighter, he went ahead and did so, and she emptied the contents of a moving van of her personal furniture and belongings into the unit. He was again told he couldn't have someone living there, and she was evicted. The stove was allegedly removed, but due to all appearances, she has continued to live there. **What can be done about this?**

Just Saturday morning, June 21, shortly after 8 a.m. (her guest's dog's barking woke me up), she emerged, again in nightgown attire, to greet the visitor, then went back into the building and came out some time later in shorts attire. Regarding her residence—the garage—she was later overheard telling yet other visitors about her "home," and referring to "my" this and "my" that. While I don't want to hear her, as mentioned before, she is so loud and the acoustics are such between these old, tall houses that one cannot help but hear a lot. She also emerges from the garage with laundry, hanging a fitted sheet and other sheets on the clotheslines and takes them back into her unit. I suppose the sheets and the nightgowns also live in the main house, where they finally reunite with her.. .

Activity of the guests she has takes place inside and close to the outside of her garage home. Even her dog waits outside the garage door in the a.m., waiting for her to emerge.

Just last night, Thursday, June 26, there was no activity around her unit or the main house all evening. I went to bed early and was awakened about 11:30 p.m. by the explosive barking of my dogs and others in the area, mine barking at her unit, to see by my floodlight, her turn the key and let herself into the unit, then turn the lights on. If she lives in the main house, as owner Lenau attests, why didn't she let herself into it at the front or rear door? She should certainly know by now that dogs bark at

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unusual activity/an intrusion especially late at night when all they know is that there is a disturbance to the norm. My dogs have lived here, one 11 and the other, 12 years. They know their property.

Additionally, I would like to comment about supportive testimony in favor of Lenau's project, supplied by those few people present at the zoning administrator's hearing (three households) or those who sent letters (three households) in support of Lenau's project. All but one of those households live across the street, and three not directly across. As I recall, all expressed in their opinions an admission that the specific tenant lives in the outbuilding, in that, for example, they said at the hearing they didn't mind her being there, it didn't bother them, etc. In so many words, it is local knowledge that she lives there, not just my opinion or that of any others in opposition to Lenau's request and continued illegal use of the garage.

Regarding those supportive neighbors across the street, they have no visual access to or auditory impact from the occupied unit, and there is no alley behind their homes. One of those neighbors (2727 Portola), who has lived here a very short time, directly across the street from the subject property, bought and renovated that home and sold it for a major profit (he's in and out of here—no stake in the neighborhood).

Another (Martha Vogt, who wrote a letter in support) resides in the next block in a home built shortly after 1900 with a downstairs "flat" that was built as part of the house and which has its entrance facing the sidewalk, not a secondary residential unit spilling into a neighbor's backyard. (No problem here; the house was designed for a contained or attached second residence.) Her long-time tenants are her daughter and son-in-law. I noticed that the weekend before the hearing, Lenau's tenant gave Ms. Vogt a tour of "my home."

The homeowners at 2709 Portola Way seem to think, to quote them, "the neighborhood has always provided second residential units to...students, single women and men," etc. This is not so. The neighborhood has several rental properties, which are sometimes occupied by students and others. This is OK. These represent ONE dwelling on ONE lot. There is no rash, as they suggest, of second residential units. Perhaps I can understand one of the resident's sympathies in that she works for McGeorge School of Law. The block of Portola Way and Fifth Avenue on the alley encompassing Lenau's project is solidly single-family dwelling. There are no second dwellings in the area, only a very few attached "flats," built in areas beyond the Portola/Fifth Avenue block, very long ago, such as Martha's Vogt's. There are beyond this block a very few corner lot duplexes, also built very long ago.

Shortly before the hearing June 4, Lenau, as reported by a nearby Portola Way household, brought by his tenant in tow to tell them how much money he had put into his property for his tenant and wouldn't they support him, which they don't and signed the petition against his request. One wonders what these supportive

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folks across the street don't know about the illegalities of his project, and only know what he has grandstanded to them. In fact, one married couple, located across the street from his main house, who attended the hearing, said they had no idea of the crime problems that took place at the site and from alley access. The neighbors across the street have no alley behind them, nor are they directly impacted by Lenau's project.

A major destructive thing that has happened to the neighborhood is that Lenau's exploitive project has divided and eroded a solid core of neighbor-friends just on Portola Way. I am sure he didn't tell these neighbors, in seeking their support, he went about his rental surreptitiously. His actions and whatever he is portraying to these people have placed a wedge between those on the far fringe of his project he sought to support him, and those directly impacted, who say what he is asking for will disintegrate the neighborhood community many of us have enjoyed and supported for decades.

Those in opposition to his project moved here to enjoy an affordable, single-family dwelling, residential area. Some of the renters in the area who oppose Lenau's proposal have also expressed their desire to move here because of the neighborhood environment/community. Many of us homeowners were prior renters, who moved to a neighborhood, albeit on the fringe, that offered a chance to buy into an affordable residential community in which we have taken pride and fix our houses to address this, because we planned to stay, improve the neighborhood and help stabilize this buffer zone.

To set a precedent of allowing Lenau or anyone a special use permit to add secondary housing represents, in effect, a condemnation and confiscation of the environment we all moved to. This isn't inner-city. I would suggest that if his special permit is granted, why not right away get on with exploiting one of the first residential neighborhoods in Sacramento and allow everyone who chooses to stay to establish the money-making second dwelling on their little lot. We could also establish a parking strip for the density of vehicles, associated with such housing that would strain the neighborhood, down the center of both Portola Way and Fifth Avenue.

I also find it noteworthy that the fact we neighbors had to petition for the alley gates now erected due to chronic and serious crime committed in the area demonstrates how fragile a neighborhood we are. The few neighbors across the street supportive of Lenau's project expressed no knowledge of how bad crime was here before the gating. How could they? They didn't live on the crime freeway of our alley.

I additionally find it interesting that one of Lenau's reasons for applying for the special permit mentions "security," when it was he who not only objected to alley gating because he wanted a tenant to have such easy access to his rental, but refused

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to help repair badly eroded fencing between my property and his even before the gating, and even though he had been broken into several times. For my own security, I fronted the cost of a fence from the front of our property line to rear of both houses because of serious security concerns. He opted not to help with any fencing (even that which could have shielded his tenant's garage activity from my view), saying he couldn't afford it, that he had to paint his house, which he didn't. But he pumped much money into a game room? This is not logical. And now his loud tenant tells her guests where he plans to put in a hot tub.

Again, I say Mr. Lenau, an experienced landlord of other rentals, and his co-owners of the property are here to exploit the property and the neighborhood. I again say his various ruses on what he tells City officials he claims to be doing and what he actually does are only self-serving. This is no altruistic move on his part. And please be reminded he has three more partners in ownership of this property, plus he owns in partnership other rentals in the Sacramento area.

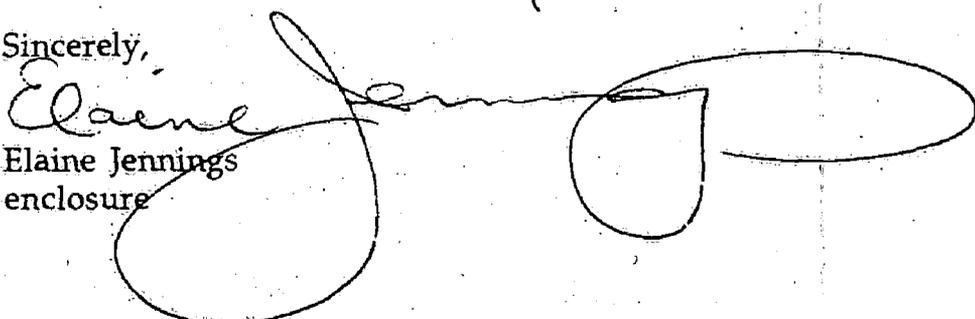
The neighborhood is not to be held responsible, nor should it be sacrificed, for his assuming a mortgage he says he cannot afford without income from this rental unit.

He and his project are a nuisance, and if his permit is granted, we can only look forward to the neighborhood going downhill from here. If his permit is granted, it is granted forever. Please consider this. Perhaps the City Attorney's Office could help? Perhaps City Council? Mayor Joe Serna once lived in this very neighborhood. My children and his spent some time growing up together and as friends here.

Last, I will include a copy of comments I made at the hearing June 4. I would not mind at all if you forwarded this letter and the attachment to the City Planning Commission for the upcoming appeal by Lenau on July 10; in fact, I would encourage it and be grateful. If this communique appears long, please understand it reflects a brief documentation of a long-time occurring, complicated and extremely frustrating situation that bears serious impact on the future of Sacramento and support of its neighborhoods by the people who would like to continue to live here.

Again, thank you for your time.

Sincerely,


Elaine Jennings
enclosure

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Statement for the City hearing before zoning administrator June 4, 1997

My name is Elaine Jennings. I live next door to the applicant. I have unfortunately had a front row seat to all the action there. You have my letters, and they contain the details. I want to make a few quick points, and then I'll sit down.

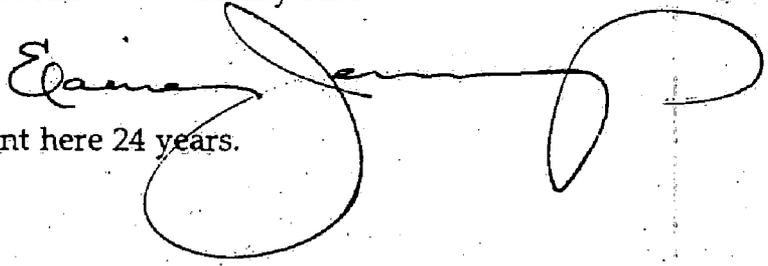
1. This is not a game room; this is a rental unit. It is rented now, and there is no guarantee I won't be back here in six months complaining about the family of six he has living there. The only game being played with that room is by the landlord, and he is playing it with you.
2. This is a sophisticated, knowledgeable landlord, who knows the rules. You shouldn't payoff when he flouts those rules.
3. It is the landlord's continued obfuscation as to the purpose of this room that has brought us here today. You shouldn't payoff to someone who is not candid and forthright about their plans.

You have to ask yourself why the landlord didn't do this in the proper sequence with the proper permits. The answer is obvious. He knows his request is inappropriate for the neighborhood, and a blow to the effort to keep this neighborhood from sliding into decay. That effort is a matter of city policy, since the city has designated the alleyway to be gated and is supporting neighborhood crime abatement efforts.

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The case is like a burglar who has taken your VCR. Now he is on the phone asking you to send him the warranty card.

Sign-off,



...A resident here 24 years.