

City Planning Commission  
Sacramento, California

Members in Session:

Subject: Appeal of the Planning Director's Decision to deny a variance to allow a six foot high wood fence in the front yard setback. (P86-383)

Location: 2417 W Street

BACKGROUND: Complaint was received by the Nuisance Abatement Division on September 25, 1985, regarding the location of the applicant's six foot high wood fence in the front yard setback. The applicant was cited for a code violation by the City and ordered to legalize this fence by October 15, 1985. The applicant has not complied with the City's request to legalize this fence.

SUMMARY: The applicant bases his justification for retaining the existing six foot high fence on three principle reasons, noise, security and privacy.

The applicant has indicated the wood fence provides some noise reduction. Although Caltrans did not perform a noise study on the subject site, they concluded the wood fence may do some good in reducing noise for the immediate area behind the fence. See Exhibit B.

This variance request was reviewed by a noise specialist at the County Environmental Health Department. He concluded a greater interior noise reduction could be achieved by double glazing the windows in the front and along both interior property lines than in placing a six foot high wood fence on the front property line.

In the opinion of Jim Barclay, Crime Prevention Officer of the Sacramento Police Department, a six foot high wrought iron fence is a greater deterrent to crime than a six foot high wood fence. A six foot high wood fence does not allow visibility behind the fence, thus presenting a potential dangerous situation to a police officer than a wrought iron fence.

In conclusion, the applicant has created a self-imposed hardship because there are other alternatives available which would address both crime and noise.

STAFF RECOMMENDATION: Denial of the appeal of the Planning Director's decision based upon the Findings of Fact which follow:

Findings of Fact:

- A. Granting the variance would constitute a special privilege extended to an individual applicant in that there is no hardship nor unusual circumstance involved to support the request.
- B. Granting the variance would be injurious to public welfare, by reducing visibility in the front setback area.

Respectfully submitted,

Wilfred Weitman  
Senior

WW:CV:tc

P86-383

December 18, 1986

Item 34

NOTICE OF APPEAL OF THE DECISION OF THE  
SACRAMENTO CITY PLANNING COMMISSION DIRECTOR

DATE: 11-27-86

TO THE PLANNING DIRECTOR:

I do hereby make application to appeal the decision of the City  
Planning Commission of 11-27-86 when:  
(Date)

Rezoning Application  Variance Application  
 Special Permit Application \_\_\_\_\_

was:  Granted  Denied by the Commission

GROUNDS FOR APPEAL: (Explain in detail) To reduce crime,  
and privacy, safety, good eye contact, security.  
Please be kind when the fence was built I  
~~did not~~ did not know it was illegal or against  
the law. also please read everything in file carefully.

PROPERTY LOCATION: 2417 W street

PROPERTY DESCRIPTION: Multiple family residential "please note"  
They each have the same amount of space "fence sits on original border"

ASSESSOR'S PARCEL NO. 010 - 0171 - 018

PROPERTY OWNER: Axel Herbol

ADDRESS: 2417 W st. # C Sacramento Ca. 95818

APPLICANT: Axel Herbol 2417 W st # C

ADDRESS: Sacramento Ca. 95818

APPELLANT: ( [Signature] ) (Axel Herbol)  
(SIGNATURE) PRINT NAME

ADDRESS: 2417 W st # C Sac Ca 95818

FILING FEE: \$125.00

by Applicant: \$125.00 RECEIPT NO. \_\_\_\_\_

by 3rd party: 60.00

FORWARDED TO CITY CLERK ON DATE OF: \_\_\_\_\_

P- 86-383

5/82

DISTRIBUTE TO -  
(4 COPIES REQUIRED): MVD  
#AG  
WW  
LO  
SG - (orig)

November 25, 1984

## 20: Sacramento Planning Commission:

I have gone over the reasons given by the Planning Director and I disagree.

Here is why:

### 1.) Noise

I live here at 2417 W Street and there is a very noticeable difference. Meaning it is much more quiet because of the fence.

### 2.) Crime:

I contacted Jim Overton at the Crime Prevention Office of the Sacramento Police Department and he explained that a six-foot, wooden fence would clearly define "defensible space". He also stated that if a criminal did not see anything of value that there would be no crime.

### 3.) Planning Director's Comment:

They say that there aren't any lots in this vicinity with six-foot or higher fences. This is not true and as proof, here are some examples:

Examples:

2431 'V' Street - 8' wood  
2501 'U' Street - 6' wood  
2224 - 26th Street - 6' wood  
on W St. w/ivy over 9' tall.

2027 - 23rd Street - 6' wood (new)  
2009 - 23rd Street - 6' wood  
2001 - 'T' Street - 5' wood



Sincerely,

A handwritten signature in cursive script, appearing to read "Axel Herbon".

Axel Herbon - owner  
2417 W Street  
Sacramento, CA 95818

# PLANNING DIRECTOR'S VARIANCE

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

|                            |  |                    |                        |
|----------------------------|--|--------------------|------------------------|
| <b>APPLICANT</b>           | Axel Herbon, 2417 W Street, #C, Sacramento, CA 95818 |                    |                        |
| <b>OWNER</b>               | Axel Herbon, 2417 W Street, #C, Sacramento, CA 95818 |                    |                        |
| <b>PLANS BY</b>            | Linda L. Miller, Sacramento, CA                      |                    |                        |
| <b>FILING DATE</b>         | 9/30/86  | <b>ENVIR. DET.</b> | Ex 153011(L4)          |
| <b>ASSESSOR'S-PCL. NO.</b> | 010-0171-018   |                    | <b>REPORT BY</b> CV/tc |

**APPLICATION:** Planning Director's Variance to allow a six foot high wood fence in the front yard setback. (P86-383)

**LOCATION:** 2417 W Street

**PROPOSAL:** The applicant is requesting the necessary entitlements to permit an existing six foot high wood fence located on the front property line.

**PROJECT INFORMATION:**

1974 General Plan Designation: Residential  
1980 Central City Community Plan Designation: Multiple family residential  
Existing zoning of Site: R-3A  
Existing Land Use of Site: Three one bedroom single family residences

| Surrounding Land Use and Zoning: | Setbacks:   | Required | Provided |
|----------------------------------|-------------|----------|----------|
| North: Apartments; R-3A          | Front:      | 10'      | 10'      |
| South: Interstate 80; TC         | Side (Int:) | 5'       | 5' - 9'  |
| East: Apartments; R-3A           |             |          |          |
| West: Apartments; R-3A           |             |          |          |

Property Dimensions: 40' x 160'  
Property Area: 0.15+ acres  
Height of Building: 1 story  
Topography: Flat  
Street Improvements: Existing  
Utilities: Existing

**BACKGROUND:** A complaint was received by the Nuisance Abatement Division on September 25, 1985 regarding the location of the applicant's six foot high wood fence in the front yard setback. The applicant was cited for a code violation by the City and ordered to legalize the fence by October 15, 1985. The applicant has not complied with the City's request to legalize this fence.

**A. Land Use/Zoning:**

The subject site is presently developed with three one bedroom cottages and is zoned light density multiple family residential (R-3A). Surrounding land uses include apartments to the north, west and east. An elevated section of Interstate 80 is located directly across W Street from the subject site.

**B. Fence:**

The applicant presently has a six foot high wood fence located on the front property

line. The fence ordinance only allows a three foot high wood fence or a six foot high wrought iron fence to be located within the front building setback.

The applicant bases his justification for the fence on three principle reasons; noise, security and privacy. The site is located directly across the street from an elevated section of I-80. Additional vehicular noise is generated by auto and truck traffic along W street, a three lane (onedirection) high volume local street. The applicant has submitted a letter from the manager of the apartments adjacent to the west of the subject site stating there had been three robberies in this apartment complex. The applicant also indicates this fence offers some privacy from the freeway and the two adjacent two story apartment buildings located in the east and west of the subject site.

C. Noise:

The applicant has indicated the wood fence provides some noise reduction. See Exhibit A. The applicant requested the State Department of Transportation (Caltrans) to evaluate the noise levels for both the west bound lanes of I-80 and W Street. Caltrans concluded local street traffic, particularly trucks, contributed as much noise as did the freeway traffic. The wood fence, Caltrans stated, may do some good in reducing noise for the immediate area behind the fence. See Exhibit B.

Staff reviewed this proposal with a noise specialist at the County Environmental Health Department. This specialist agreed there would be some noise reduction in the area immediately behind the fence by a factor of five to seven dBA. However, a greater interior noise reduction could be achieved by double glazing the windows on the front and along both interior noise reduction could be achieved by double glazing the windows on the front and along both interior property lines. This could reduce the interior noise level by at least 10 dBA.

D. Crime:

The applicant has submitted two letters from residents indicating robberies have occurred on both the subject site and the apartment complex adjacent to the west of the subject site. See exhibits C and D.

Staff contacted Jim Barclay, Crime Prevention Office, of the Sacramento Police Department, regarding what type of fence would be most effective as a crime deterrent; in the opinion of Jim Barclay, a six foot high wrought iron fence is a greater deterrent to crime than a six foot high wood fence. A six foot high wood fence does not allow visibility behind the fence, thus, presenting a more dangerous situation to a police officer than a wrought iron fence.

E. Staff Comments:

Staff surveyed other lots in the vicinity of the subject site along W street and found no other six foot high wood fences located in the front yard setbacks.

The applicant has constructed a six foot high wood fence without obtaining the necessary variance. The applicant has created a self-imposed hardship because there

are other alternatives available which would address both crime and noise. A six foot high wrought iron fence may be constructed in the front setback. The front and side windows can be double glazed to reduce the interior noise levels.

ENVIRONMENTAL DETERMINATION:

This project is exempt from environmental review pursuant to State EIR Guidelines (CEQA, Section 15301 (L4)).

STAFF RECOMMENDATION:

It is recommended the variance be denied based upon the Finding of Fact which follow:

Findings of Fact:

- A. Granting the variance would constitute a special privilege extended to an individual applicant in that there is no hardship nor unusual circumstances involved to support the request.
- B. Granting the variance would be injurious to public welfare, by reducing visibility in the front setback area.

REPORT PREPARED BY:

Carl Vandagriff  
Carl Vandagriff, Assistant Planner

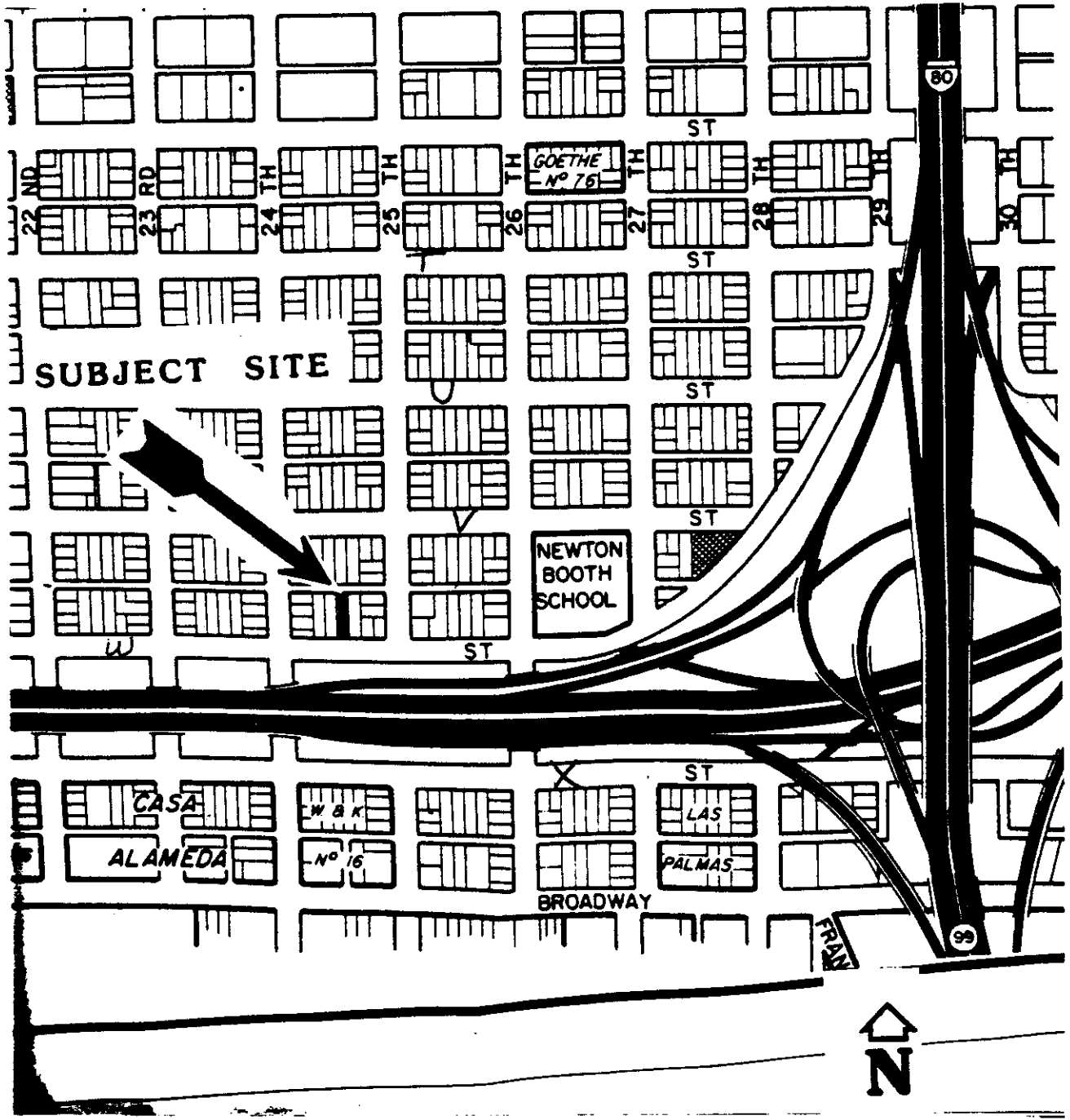
11-5-86  
Date

RECOMMENDATION APPROVED:

Marty Van Duyn  
Marty Van Duyn, Planning Director

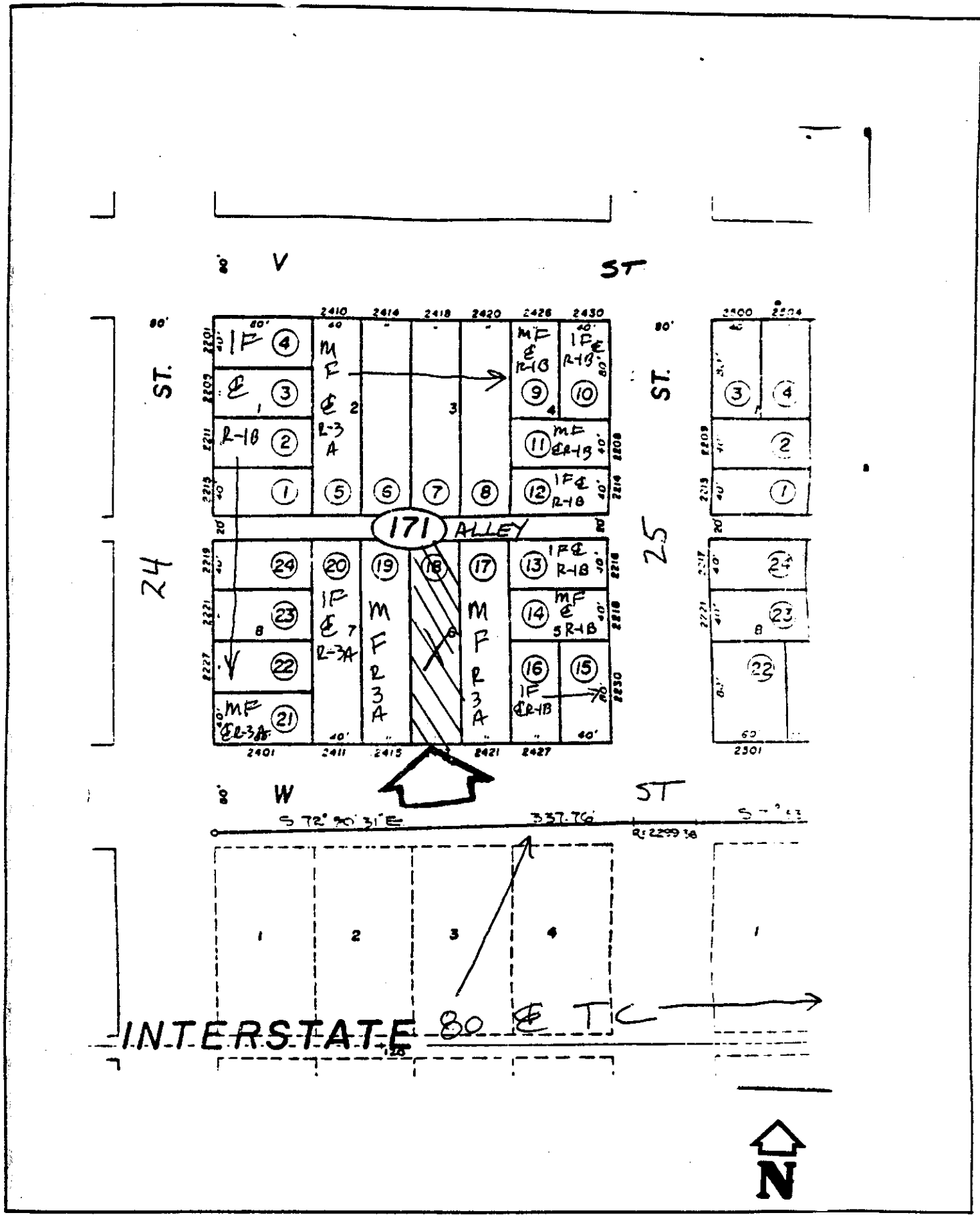
11-6-86  
Date

CV/vf



**VICINITY MAP**



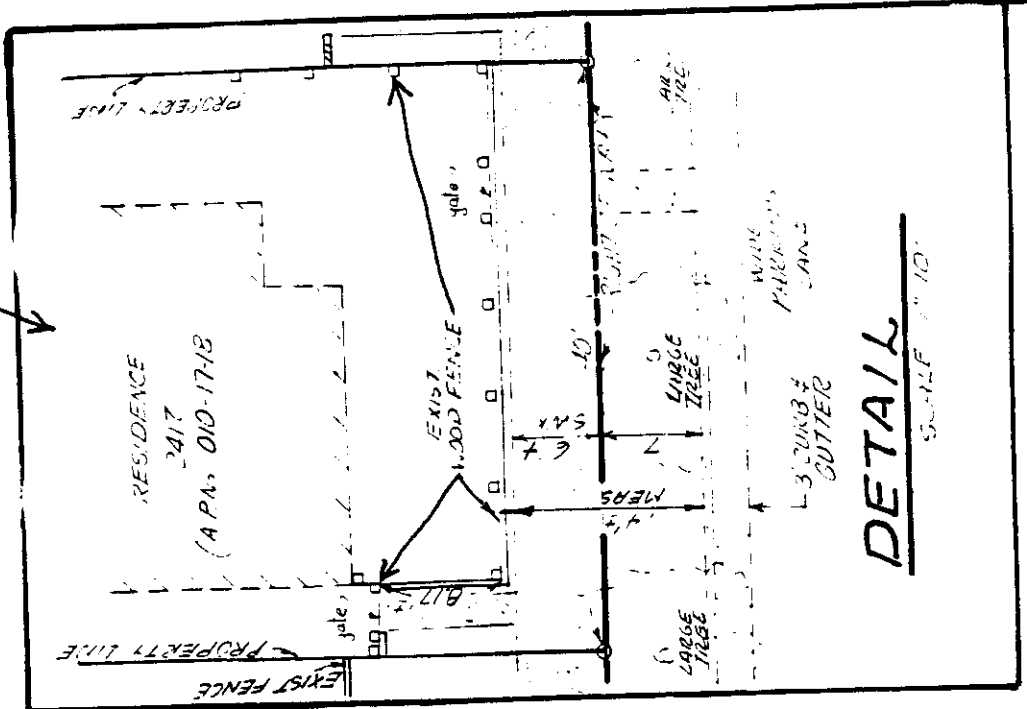


# LAND USE & ZONING MAP

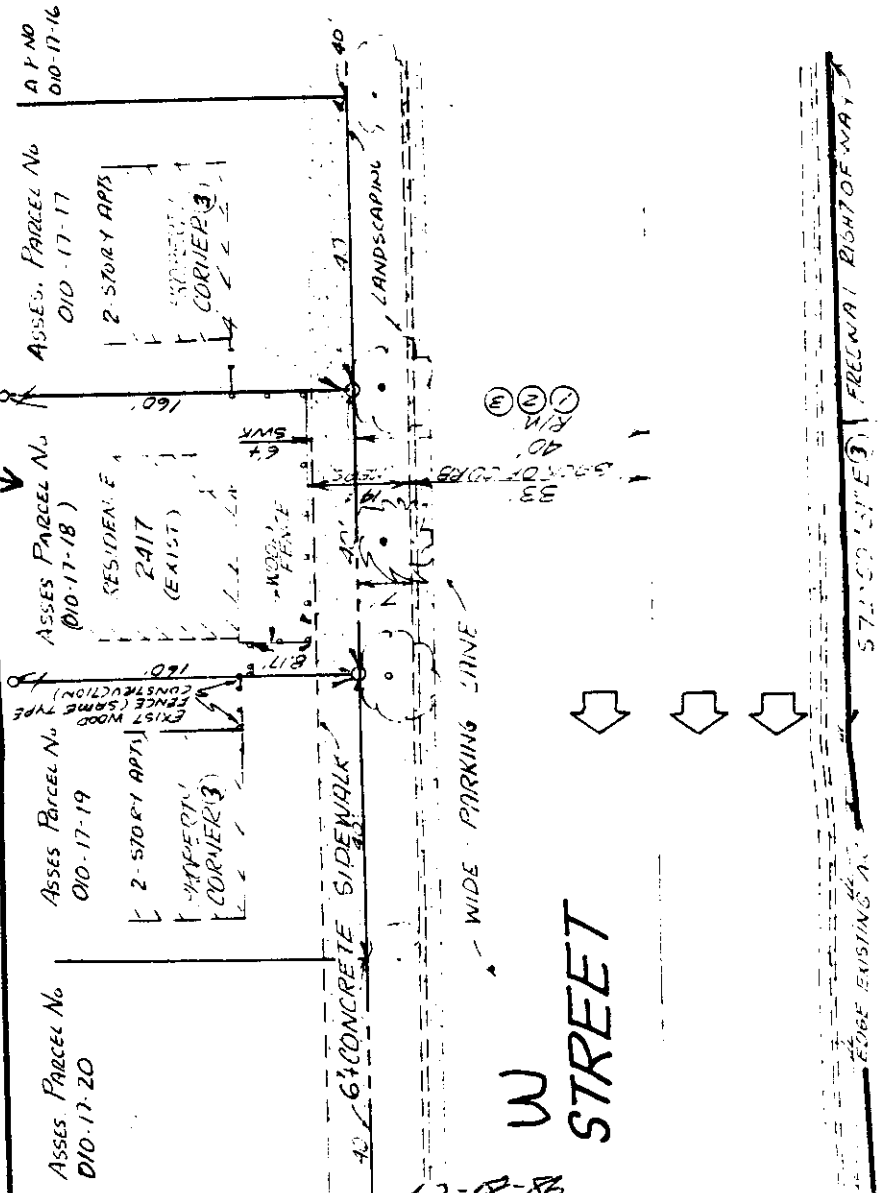
# SITE PLAN

SUBJECT SITE

SUBJECT SITE



**DETAIL**  
SCALE 1" = 10'



W STREET

GENERATION LANE

571' CO. SITE 3' FREIGHT RIGHT OF WAY

086-383

98-B-86

#34

Axel Herbon  
2417 "W" St. #C  
Sacramento, CA 95818

**P 86383** October 27, 1985

**EXHIBIT A**

Department of Planning  
and Development  
1221 "I" Street  
Sacramento, CA 95814  
Case No. 85-02125-X

Dear Mr. Long,

In response to your letter from October 15, 1985, I am filing an application for Special Permit and Variance for the following reasons:

The fence in question can be considered as a justifiable partition. The fence was built in front of a onestory 1-bedroom house on Lot 18 (map). This house faces "W" Street and its adjacent Interstate Freeway. This freeway is a great eye sore and generates a great deal of noise around the clock. On the east side of lot # 18 is lot # 17, which consists of a two-story apartment complex. On the west of lot #18 is lot # 19, which is also a two-story apartment complex. On lot # 18 there are three separate single family one-bedroom houses which sit behind each other. The part of the fence that is in question is only 34'9" long and is in front of the first house.

Please, I need your approval of this fence. With two apartment buildings looking down on us and the freeway in front of us, the fence in question provides some very needed noise reduction, security, and privacy.

Sincerely,

Owner and occupant of #C



Enclosures:

Letters from my tenants who occupy houses #A and #B.  
Application for Special Permit and Variances.  
Map of property in question and surrounding area.

EXHIBIT

STATE OF CALIFORNIA--TRANSPORTATION AGENCY

GEORGE DEUKMEJIAN, Governor

DEPARTMENT OF TRANSPORTATION

DISTRICT 3  
P.O. BOX 911, MARYSVILLE 95901  
(916) 741-4225



May 15, 1986

03-Sac-50 (Business 80  
Near 24th & W Streets)

Mr. Axel Herbon  
2417 W Street, Unit C  
Sacramento, CA 95819

Dear Mr. Herbon:

As was mentioned in your May 14 phone call to Mr. Hardie, Caltrans took noise measurements August 26, 1982, along W and X Streets.

The noise levels were high enough to qualify the area for consideration in the Community Noise Abatement Program. However, the heavy truck count was higher on the local street, either W or X, than on the near freeway lanes and in your case the westbound lanes. The westbound-lane structures block the noise to your area from the eastbound lanes.

Under the comments made by those who took the noise measurements: "Truck count is one direction only. Local traffic contribution is as great as freeway noise. Many local trucks to 90 dBA. NO WALLS RECOMMENDED."

If the State were to build a wall at the edge of the freeway, this site would still be exposed to high noise levels from W Street. The wall on the freeway would only reduce the noise level at your lot by about 50 percent, and you would still be exposed to the traffic noise from the City street.

Your wood fence may do some good in the immediate vicinity behind the fence. If it is not solid, without cracks between boards, it probably is not reducing the noise very much.

Very truly yours,

*B. E. Brockett*

B. E. Brockett  
Chief, Design Branch A

P86383

EXHIBIT C

To Whom It May Concern;

I am writing in regard to the complaint about the security fence surrounding the grounds of 2417 'W' Street in Sacramento. As tenant in the cottage directly adjacent to the thoroughfare, and victim of theft and vandalism at the address; I was greatly relieved when the fence was constructed.

Please allow me to outline pertinent considerations in support of a special permit for this structure:

1. The fence does not obstruct clear vision for neighbors or traffic.
2. The fence is attractive and well constructed.
3. The fence encloses an area large enough, and secure enough to contain my watch-dog with humanity and comfort.
4. The fence is a deterrent to crime and other invasions of privacy.
5. The fence reduces considerably the invasive noise pollution from the elevated section of I-80 adjacent to the cottage entrance.

I believe that, in light of the above considerations, there is ample support for granting of the requested permit. However, I feel compelled to add (if all goes well) that I will soon become a father. The quiet security of this location suits me well in ~~its~~<sup>its</sup> current condition. Without the fence, confidence and my sense of well-being would be challenged, or lost entirely. Economic circumstances abolish any thoughts of a change in residence any time during the foreseeable future.

Begging is certainly uncomfortable for me, but in this case I must, in fact, beg you to reconsider this issue. The fence is very important to me. Please try to place yourself in my situation as you view this case and realize that the facts of the matter have demanded an exception.

Your time and careful consideration are greatly appreciated.

Sincerely,

R. Deen Poole  
2417 A 'W' Street  
Sacramento, CA

P86-383

12-18-86

#34

P 35883

EXHIBIT D

March 19, 1985

To whom it may concern:

Apparently my neighbor seems to be in violation of a city ordinance regarding his fence. I personally do not see why. The fence has been neatly constructed and is very beneficial not only to Axel and his residents but also for the neighboring buildings.

The fence was built out of necessity. As you may or may not be aware there have been several robberies on W Street. Three of which have taken place in my complex alone. (This fact may be verified with the Sacramento Police Department)

I am the manager at 2415 W Street and we have four families here with small children. The fence prevents the dog from entering our yard--greatly reducing the risk of harm to our children due to an animal bite.

The fence should remain as it is whereas it helps secure the building against possible robberies and vandalism, more importantly it reduces the risk to our children.

We are very fortunate to have a neighbor who is concerned about the safety and appearance of our neighborhood.

Sincerely,

*Tracey L. Hartshorn*

Tracey L. Hartshorn  
Manager

2415 W Street Apartments  
Sacramento, CA 95818  
(916) 454-9146

2917

P86-383

10-18-86

#34