

# CITY PLANNING COMMISSION

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

APPLICANT	Helen M. Schmidt - 708 San Antonio Way, Sacramento, CA 95819		
OWNER	Helen M. Schmidt - 708 San Antonio Way, Sacramento, CA 95819		
PLANS BY	Helen M. Schmidt - 708 San Antonio Way, Sacramento, CA 95819		
FILING DATE	2-2-89	ENVIR. DET.	Exempt 15301
ASSESSOR'S PCL. NO.	004-0285-012		
	REPORT BY BW:sq		

- APPLICATION:
- A. Special Permit to allow an existing 532 sq. ft. second residential unit on 0.11± developed acres in the Standard Single Family (R-1) zone
  - B. Variance to waive the required covered, enclosed garage for a second residential unit
  - C. Variance to reduce the required side yard setback from 5 ft. to 0 ft. for a second residential unit
  - D. Variance to reduce the required rear yard setback from 15 ft. to 2 ft. 4 inches for a second residential unit

LOCATION: 708 San Antonio Way

PROPOSAL: The applicant is requesting the necessary entitlements to allow an existing second residential unit.

PROJECT INFORMATION:

General Plan Designation:	Low Density Residential (4-15 du/na)
Existing Zoning of Site:	R-1
Existing Land Use of Site:	Two residential units

Surrounding Land Use and Zoning:	Setbacks:	Required	Provided
		<u>Second Unit</u>	
North: Residential; R-1	Side(Int):	5'	0'
South: Residential; R-1	Rear:	15'	2'4"
East: Residential; R-1			
West: Residential; R-1			

Parking Required:	2
Parking Provided:	1 (driveway)
Property Dimensions:	50' x 104'
Property Area:	0.11± acres
Square Footage of Building:	Second unit - 532 sq. ft.
Height of Building:	Second unit - 12 ft.
Topography:	Flat
Street Improvements:	Existing
Utilities:	Existing
Exterior Building Materials:	Plaster brick
Roof Material:	Asphalt shingle

APPLC. NO. P89-079 MEETING DATE March 23, 1989 ITEM NO. 24

PROJECT EVALUATION: Staff has the following comments:

A. Land Use and Zoning

The subject site consists of one developed parcel on 0.11± acres in the Standard Single Family (R-1) zone. The subject site is an interior lot developed with two single family homes. The second residential home is 532 square feet in size. The General Plan designates the site for Low Density Residential. Surrounding land uses and zoning include residential to the north, south, east and west zoned R-1.

B. Applicant's Proposal

The applicant is requesting a special permit to allow a 532 square foot second residential unit at the rear of the subject site. The applicant is also requesting a variance to waive the required covered, enclosed garage for both units and a variance to reduce the required side yard setback from 5 feet to zero feet. Lastly, the applicant is requesting a variance to reduce the required rear yard setback from 15 feet to 2 feet, 4 inches. The applicant is, therefore, requesting the above entitlements to allow the existing second residential unit to become legal.

C. Garage Conversion

The applicant has indicated to staff that the garage became a guest home in 1956, however, the City Building Division has no record of a building permit to convert the garage into a guest home. The only building permit on record issued for the garage was to remodel the existing garage into a two car garage. This building permit was issued in 1938. The applicant has illegally converted the structure for a second residential unit.

In 1987 the Planning Division was informed by the City Building Division that the structure was cited as an illegal building and the applicant must apply for a special permit and variance in order to convert the garage. The structure also does not meet building code requirements. At that time, staff observed that the tentative improvements were being done on the garage. Staff proceeded to contact the property owner in April 1988 by letter and in a meeting to inform the applicant of the illegal structure and that a special permit and variance shall be requested. Since 1987 the property owner has not conformed to the Planning Division's standards nor the Building Division's regulations. The City has since then taken legal action. On November 2, 1988 a court order required that the owner/applicant obtain both a building permit and a special permit to allow a detached accessory building as living quarters on the subject site. The court order required that the applicant complete the necessary action within 90 days (see attached Exhibit C).

Section 2E(26)(i) of the Zoning Ordinance requires that a dwelling or mobile home have an enclosed garage (either attached or detached) if more than 50% of

other dwellings or mobile homes located within 1,000 feet, measured structure to structure, have enclosed garages. Staff surveyed the area and found that the majority of the homes in the area have one or two car garages. There are no other existing homes on the entire block of San Antonio Way with a second residential unit. The residential neighborhood is a well kept area with a great deal of character and style. The existing homes are in very good condition. The subject site's second unit is in substandard condition and is an eye-sore on the block. Debris and litter also exist on the subject site. The Building Division has indicated to staff that the existing second residential unit is a hazardous structure and must be brought up to code for a living unit or converted back into a two car garage. Staff recommends that the applicant convert the second residential structure back into a two car garage. Staff does not support a variance to waive the required covered, enclosed garage into a second residential unit.

At this time, no parking spaces, except the existing driveway, are provided on the lot. Staff has recommended approval of some second residential units on interior lots in an R-1 zone. These projects, however, retained two car garages, built new garages or made modifications to the structure to comply with City standards.

D. Side Yard and Rear Yard Setbacks

A second residential unit in an R-1 zone has a required 5 foot side yard setback and a 15 foot rear yard setback. The applicant is proposing to provide a zero foot side yard setback and a 2 foot, 4 inches rear yard setback which are the existing setbacks of the secondary unit. In previous second residential unit approvals, projects on interior lots were able to provide the required rear yard and side yard setbacks. Some projects on corner lots have been granted a variance to reduce the rear yard or side yard setback.

A window exists on the second residential unit which is facing the back yard of the adjacent property owner to the west. The adjacent property owner is opposed to this window and would like to see the unit converted back into a garage. The Building Division informed staff that the window was put in the second unit in 1987. The adjacent property owner indicated to staff that the unit was converted two years ago.

Staff was also informed by the property owner to the north that the existing second residential unit is located on their property. A surveyor appraised the property to the north and determined that the second unit is illegally encroaching on the north property. The owner (north) has since then put up a 6 foot fence and a 4 foot block wall.

Staff does not support the variance to reduce the rear yard and side yard setbacks for the interior lot in an R-1 zone. The proposed setbacks would result in an adverse impact for the existing residential unit on the subject site and adjacent dwellings.

3. Building permits are required and shall be obtained and structure shall meet all building codes within 30 days.

EAST SACRAMENTO IMPROVEMENT ASSOCIATION (see attached letter Exhibit D)

The East Sacramento Improvement Association strongly opposes the proposed secondary unit.

ADJACENT PROPERTY OWNER (see attached letter Exhibit E)

The adjacent property owner objects to the secondary residential unit.

In addition, staff has received a number of phone calls from the surrounding neighbors opposing the secondary unit.

ENVIRONMENTAL DETERMINATION: This project is exempt from environmental review pursuant to State EIR Guidelines (CEQA Section 15301).

- A. Deny the special permit to allow an existing 532 square foot garage into a second residential unit based on findings of fact which follow;
- B. Deny the variance to waive the required covered, enclosed garage for a second residential unit based on findings of fact;
- C. Deny the variance to allow a second residential unit within the required 5 foot side yard setback based on findings of fact which follow; and
- D. Deny the variance to allow a second residential unit within the required 15 foot rear yard setback based on findings of fact which follow.

Findings of Fact - Special Permit

1. The project is not based on sound principles of land use in that:
  - a. the proposed second residential unit is not compatible with existing one and two car garages in the area; and
  - b. the second unit is a rental use which is inconsistent with the surroundingsingle family character of the neighborhood.
2. The project would be detrimental to the public health, safety and welfare in that:

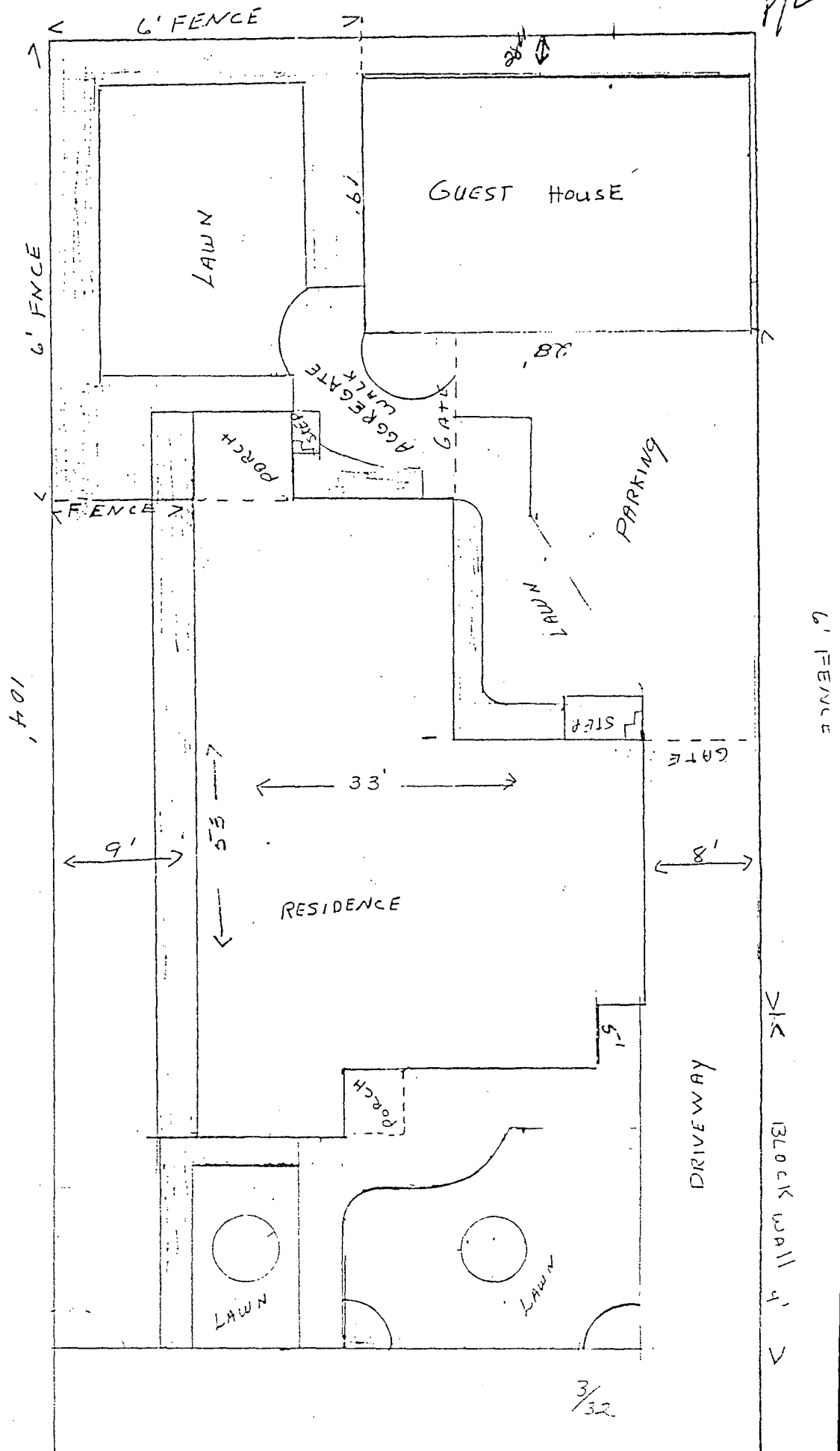
a precedent would be set to allow conversion of necessary parking garages in order to illegally construct second residential units, which could lead to significant density increases and parking shortages in a single family area.

Findings of Fact - Variances

1. Granting the variances would constitute a special privilege extended to an individual applicant in that:
  - a. a variance would not be granted to other property owners facing similar circumstances;
  - b. the structure was illegally converted two years ago and no building permits were issued; and
  - c. there is not hardship involved to support the request.
  
2. Granting the variances would be injurious to the public health, safety, and welfare, in that adequate setbacks and parking would promote future surrounding residences to develop a similar structure.

EXHIBIT A  
SITE PLAN

708 SAN ANTONIO WY  
SACTO



PLANTERS

SCALE 3/32

P-89079

3-23-89 50'

Item 24

SAN ANTONIO WY

1 JAMES P. JACKSON, City Attorney  
 CITY OF SACRAMENTO  
 2 TAMARA L. MILLIGAN-HARMON,  
 Deputy City Attorney  
 3 812 Tenth Street, Suite 201  
 Sacramento, CA 95814  
 4 Telephone: (916) 449-5346

5 Attorneys for Plaintiff,  
 CITY OF SACRAMENTO

ENDORSED

NOV - 2 1988  
NOV - 2 1988JOYCE RUSSELL  
By C. LONE, Deputy

7 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 8 IN AND FOR THE COUNTY OF SACRAMENTO

11 CITY OF SACRAMENTO,	)	NO. 504049
a municipal corporation,	)	
12	)	
Plaintiff,	)	<u>PERMANENT INJUNCTION</u>
13	)	
vs.	)	
14	)	
HELEN SCHMIDT and DOES	)	
15 I through XX, inclusive,	)	DATE: November 2, 1988
16	)	TIME: 8:30 A.M.
Defendants.	)	DEPT: 28
	)	

17 TO: HELEN SCHMIDT

18 You and your officers, agents, servants, employees, represen-  
 19 tatives, and all persons acting in concert or participating with  
 20 you, are hereby enjoined and restrained from engaging in, com-  
 21 mitting, or performing, directly or indirectly, by any means  
 22 whatsoever, the following:

23 Maintaining at 708 San Antonio Way, Sacramento, California, a  
 24 detached accessory building as living quarters without first  
 25 obtaining both a building permit and a special permit.

26 IT IS FURTHER ORDERED that you shall forthwith begin, and  
 27 complete within ninety (90) days, the removal of all improvements  
 28

2734

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3-23-89

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1 located in the attached accessory building located at 708 San  
2 Antonio Way, Sacramento, California, unless prior to the expira-  
3 tion of the ninety (90) days, you have obtained both a building  
4 permit and a special permit.

5 DATED: NOV - 2 1988

6 ANTHONY D. WESTFORD, JR.  
7 \_\_\_\_\_  
8 JUDGE OF THE SUPERIOR COURT  
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East Sacramento

686! 9 MAR Improvement Association, Inc

CITY PLANNING DIVISION  
CITY OF SACRAMENTO  
MARTY VAN DUYN  
PLANNING DIRECTOR  
CITY OF SACRAMENTO  
1231 I STREET  
SACRAMENTO, CALIF 95814

P.O. Box 19147  
Sacramento, CA 95819  
MARCH 6, 1989

RE: P-89-079: SECOND  
RESIDENTIAL UNIT AT  
708 SAN ANTONIO WAY

DEAR MR. VAN DUYN:

THE EAST SACRAMENTO IMPROVEMENT ASSOCIATION IS  
STRONGLY OPPOSED TO THE PROPOSED 2<sup>ND</sup> RESIDENTIAL  
UNIT AND VARIANCES AT 708 SAN ANTONIO WAY.

WE ARE OPPOSED BECAUSE:

1. THIS "GRANNY" APARTMENT UNIT IS A RENTAL AND  
SUCH A USE IS INCONSISTANT WITH ITS SINGLE FAMILY  
NEIGHBORS;
2. THE CITY'S 2<sup>ND</sup> RESIDENCE ORDINANCE REQUIRES THAT  
SUCH "GRANNY" UNITS COMPLY WITH ALL OTHER EXISTING  
ORDINANCES. BEFORE A SPECIAL PERMIT MAY BE  
GRANTED, THIS UNIT VIOLATES A VARIETY OF ZONING  
ORDINANCES AND THE OWNER IS REQUESTING VARIANCES.  
THEY PROPOSE A ZERO SET-BACK. THERE IS NO  
JUSTIFICATION FOR ANY VARIANCES AND IT WOULD BE  
TOTALLY INAPPROPRIATE TO ALLOW A RENTAL APT.  
SO CLOSE TO NEIGHBORS. THE COMMISSION REQUIRED  
A PREVIOUS APPLICANT TO MOVE HIS GARAGE TO COMPLY  
WITH SET-BACK LAWS. IT WOULD BE UNFAIR TO REQUIRE  
ANYTHING LESS OF THIS APPLICANT;

P89-079

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East Sacramento  
Improvement Association, Inc

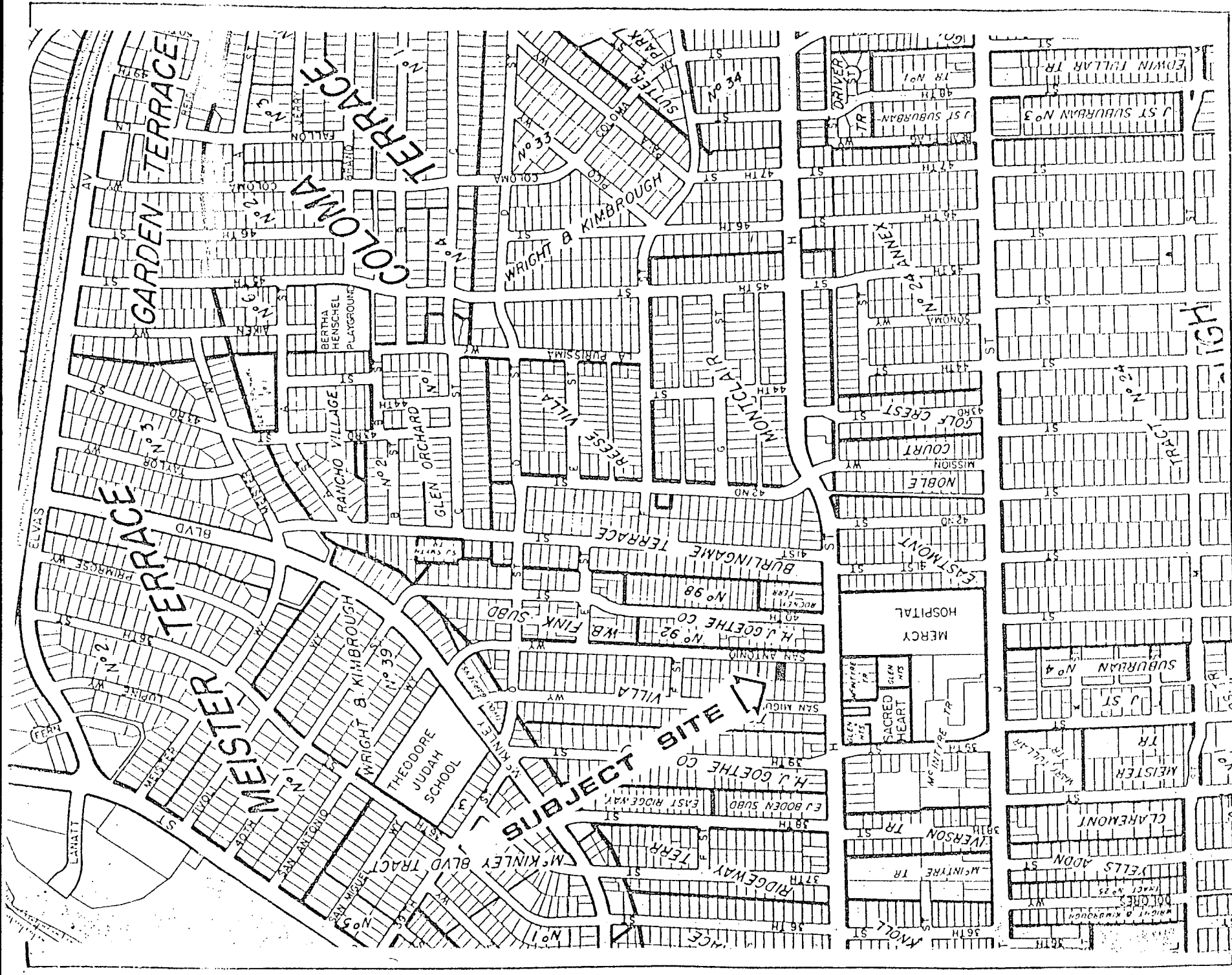
P.O. Box 19147  
Sacramento, CA 95819

3. IT IS OUR UNDERSTANDING THAT THE ILLEGAL APARTMENT ALSO DOES NOT COMPLY WITH BUILDING CODES; AND
4. LASTLY, THIS APARTMENT ADDITION IS UGLY AND THE NEIGHBORS AND CITY STAFF HAVE BEEN TRYING TO REQUIRE THE OWNER TO COMPLY WITH THE LAW FOR OVER 1 YEAR. THE OWNER HAS BEEN UNRESPONSIVE TO ALL REQUESTS (INCLUDING LEGAL) UNTIL NOW.

THE ASSOCIATION REQUESTS THAT YOU DENY THE APPLICANT'S REQUESTS AND ORDER THE IMMEDIATE REMOVAL OF THIS APARTMENT.

SINCERELY YOURS

Rich McWilliam, PRESIDENT ESIA



VICINITY MAP

889-079

9-23-89

HAM 24

MAR 6 1989

RECEIVED

March 5, 1989

Art Gee  
Department of Planning and Development  
City of Sacramento  
1231 I St. Room 200  
Sacramento, California 95814

Dear Art:

I respectfully request that the planning commission deny an application for a land use permit and variance for a garage conversion to an apartment at 708 San Antonio Way.

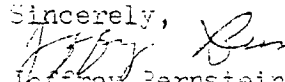
As you are aware, this property is directly adjacent to mine and the rear of their garage abuts my property approximately two feet from the property line. The garage was converted to an apartment without a land use or building permit exactly two years ago this month and includes a new kitchen, bathroom, water heater, windows, television cable, phone line, and an unfinished window that abuts my property and opens to a vista of my backyard and house.

I initiated the complaint procedure with the building department in April, 1987 and have had several correspondences concerning this problem during the past two years with the building department, planning department and city attorney's office. It is clear that the City has made several attempts to convince 708 San Antonio Way to comply with legal requirements with no success until now. It also seems clear that 708 San Antonio Way willfully and deliberately ignored the City's contacts and possibly deceived investigators by reassuring them that she had already or planned to comply by stated deadlines.

I request land use and variance permit denial for the following reasons:

1. The garage abuts my property and sits approximately two feet from the property line.
2. A window has been installed that abuts my property and opens to a vista of my backyard which invades my privacy.
3. The conversion took place two years ago without permits and attempts by the City to force compliance were ignored by the owner.
4. The existing garage conversion to an apartment is incomplete, aesthetically inferior and possibly represents a fire, safety and health risk.

I have attached photographs and copies of earlier correspondences for your perusal. Thank you for your attention to this matter.

Sincerely,  
  
Jeffrey Bernstein

709 San Miguel Way  
Sacramento, California 95819

cc: Doug Pope, Councilmember District 3

189-079

3-23-89

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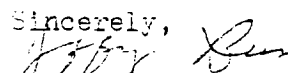
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I request land use and variance permit denial for the following reasons:

1. The garage abuts my property and sits approximately two feet from the property line.
2. A window has been installed that abuts my property and opens to a vista of my backyard which invades my privacy.
3. The conversion took place two years ago without permits and attempts by the City to force compliance were ignored by the owner.
4. The existing garage conversion to an apartment is incomplete, aesthetically inferior and possibly represents a fire, safety and health risk.

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cc: Doug Pope, Councilmember District 3

P89-079

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H2M.24