



# CITY OF CARSON

## PLANNING COMMISSION STAFF REPORT

NEW BUSINESS DISCUSSION: November 24, 2008  
SUBJECT: Modification No. 2 to Variance (Zone Exception Case) No. 85-76  
APPLICANT: City of Carson  
REQUEST: Modification to allow for translucent, non-operable openings on a wall along a property line for certain properties  
PROPERTIES INVOLVED: 17404 and 17410 Sudbury Court

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### COMMISSION ACTION

Concurred with staff  
 Did not concur with staff  
 Other

### COMMISSIONERS' VOTE

AYE	NO		AYE	NO	
		Faletogo – Chairperson			Saenz
		Cannon			Verrett
		Graber			

## I. Introduction

### *Applicant*

- City of Carson  
701 E. Carson Street  
Carson, CA 90745

### *Property Owners*

- Reginald and Carmen Gentry  
17404 Sudbury Court  
Carson, CA 90746
- Charles Peters  
17410 Sudbury Court  
Carson, CA 90746

### *Project Address*

- 17404 and 17410 Sudbury Court

### *Proposed Project*

The property owners located at 17404 Sudbury Court constructed an addition to their home in 2004. The addition and original home are located along the southern property line. The remodel includes two windows that face toward the neighboring property to the south. Condition No. 15 of Resolution No. 362 requires, "That there be no openings on the wall of the homes with zero sideyard." The condition will be amended by adding the following underlined text:

15. That there be no openings on the wall of the homes with zero sideyard, except that the property located at 17404 Sudbury Court may install translucent, non-operable openings on the southern wall facing the property located at 17410 Sudbury Court, subject to review and approval by the Planning Division and Building and Safety Division.

## II. Background

On November 23, 1976, the Planning Commission approved Variance/Zoning Exception Case No. 85-76 to allow for a zero side yard setback for the 96 properties located at:

- 802-835 Sandpoint Court
- 776-784 Meadbrook Street
- 17516-17718 Rainsbury Avenue
- 803-819 Haxby Court
- 17402-17539 Sandlake Avenue
- 17349-17515 Sudbury Court



Of those properties, 88 were developed in the late 1970s with zero side yard setbacks. Three of the remaining properties on Rainsbury Avenue have been developed in the last few years without zero side yard setbacks; the remaining properties are vacant.

On January 15, 2004, the city issued a building permit for a new addition in the rear of the property located at 17404 Sudbury Court. The new addition included a window along the southern wall and a new window in the kitchen. The plan showed that the new addition met setback requirements. As such, the addition and new windows were approved based on the plan presented to staff.

During construction, it was brought to staff's attention that the new addition was being constructed along the southern property line with no setback. If so, the placement of windows did not meet zoning requirements and building standards. However, at the time, staff did not find evidence that showed the addition to be built with a zero side yard setback. As such, construction was allowed to continue and the building permit was finalized on October 28, 2004.

In March 2008, it was brought to staff's attention by the neighbor at 17410 Sudbury Court that the windows were nonconforming and that the plan approved in 2004 was in fact erroneous because it did not correctly show the location of the southern property line. Staff was provided additional information including a title report that showed a four-foot easement on the southern property for overhanging eaves or other structural components associated with the home to the north. This showed that, indeed, the home to the north was in fact located along the property line with zero side yard setback. Further research revealed that in 1976 the Planning Commission had restricted openings for walls along a property line with this subdivision. At this point, it was evident that the plan approved in 2004 was erroneous and the new windows did not meet zoning and building code requirements.

Staff believes there is an acceptable solution for this issue. The building code requires a one-hour fire wall with no windows if a building has a zero side yard setback. However, recent changes to the building code allow fire-resistance-rated glazing to be utilized in an exterior fire wall subject to certain requirements. Thus, instead of windows that can be opened, a non-operable opening that meets the building code requirements for fire safety may be installed. In order to protect the privacy of the adjacent neighbor, the opening should be translucent – permitting light to pass through but diffusing it so that persons, objects, etc., on the opposite side are not clearly visible. Translucent glass block or similar material can be installed.

#### *Previously Approved Discretionary Permits*

- On January 14, 1975, the Planning Commission approved an application from Future Communities Building Corp. for Zone Exception Case (ZEC) No. 79-74 to allow for a zero side yard setback for 96 properties located on Sandpoint Court, Meadbrook Street, Rainsbury Avenue, Haxby Court, Sandlake Avenue, and Sudbury Court. The permit expired because it was not used.



- On November 23, 1976, the Planning Commission approved an application from Marlborough Development Corp. for Zone Exception Case (Variance) No. 85-76 to allow for a zero side yard setback (Resolution No. 362) for 96 properties located on Sandpoint Court, Meadbrook Street, Rainsbury Avenue, Haxby Court, Sandlake Avenue, and Sudbury Court. The permit covered the same properties as the expired ZEC No. 79-74. On May 10, 1977, the Planning Commission approved a modification for 849 E. Bitterlake Street because of its unusual shape due to the curve at the intersection of Sudbury Court and Bitterlake Street.

#### *Public Safety Issues*

- Public Safety is involved with the processing of the current application. Other complaints involving nuisance and public safety issues have also been addressed by Public Safety.

### **III. Analysis**

#### *Location/Site Characteristics/Existing Development*

- The subject properties are part of a residential development established in the late 1970s by Marlborough Development Corp. The development encompasses a total of 96 lots of which 88 have been developed with zero side yard setbacks. The lots are located at 802-835 Sandpoint Court, 776-784 Meadbrook Street, 17516-17718 Rainsbury Avenue, 803-819 Haxby Court, 17402-17539 Sandlake Avenue, and 17349-17515 Sudbury Court.
- According to the building permits, the two homes on the subject properties were issued a certificate of occupancy in 1978. Since the properties are part of a larger development, the homes are consistent in size and architecture with surrounding homes.

#### *Zoning/General Plan/Redevelopment Area Designation*

- The subject properties are part of a residential neighborhood in the RS (Residential, Single-family) zoning district. Stevenson Park is located approximately 150 feet to the east on Lysander Drive and is in the OS (Open Space) zoning district.
- The subject properties are designated under the General Plan Land Use as Low Density Residential. Surrounding properties have the same land use designation with the exception of Stevenson Park which is designated as Recreational Open Space.
- The subject properties and surrounding area are not located within a Redevelopment Project Area.

#### *Applicable Zoning Ordinance Regulations*

The subject properties are subject to the requirements of Part 2 (Residential Zones) and Part 6 (General Development Standards) of Chapter 1 (Zoning), Article IX (Planning and Zoning) of the Carson Municipal Code (CMC).

*Required Findings: Variance No. 85-76*

Resolution No. 362 adopted by the Planning Commission on November 23, 1976, included four findings in support of a variance request to vary from the side yard setback requirement. Since then, the city has adopted the current Zoning Ordinance (Article IX of the CMC adopted on October 3, 1977) and has updated the zoning map. Besides those changes, the development requirements have essentially remained the same and the current proposal would be consistent with the findings in Resolution No. 362. The proposed modification would modify Condition No. 15 regarding openings on the wall of homes with zero side yard setback for the subject properties.

*Issues of Concern*

- Issue – Fairness: The proposed modification will only affect the properties located at 17404 and 17410 Sudbury Court. All other properties covered under Variance No. 85-76 will not be affected. The purpose of the modification is to accommodate the hardship acquired by the property owners at 17404 Sudbury Court who have installed windows on the wall along the southern property line. Those windows are directed toward the backyard of the neighboring property located at 17410 Sudbury Court and create a privacy issue. It is staff's opinion that the proposed modification is a fair compromise that would allow the owner at 17410 Sudbury Court to retain privacy while allowing the owners at 17404 Sudbury Court to receive light for their family room and kitchen. According to the 2007 California Building Code, fire-resistance-rated glazing may be installed as a fire barrier subject to certain criteria.
- Issue – Light: The property owners located at 17404 Sudbury Court have expressed their concern with receiving proper lighting for their addition. Staff has met with the property owners who are willing to replace the windows with translucent, non-operable glass block that can provide adequate lighting.
- Issue – Privacy: The property owner located at 17410 Sudbury Court has expressed concern about privacy. Translucent, non-operable glass will ensure that light is diffused so that persons, objects, etc. on the outside are not clearly discernable from the living area of 17404 Sudbury Court, and vice versa.

**IV. Environmental Review**

Pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines, the proposed code amendment will not have the potential to cause a significant effect on the environment and is therefore exempt from further environmental review.

**V. Conclusion**

It is staff's opinion that the proposed modification is an acceptable solution for the situation located at these two properties. The compromise allows the property owners to the north the ability to receive adequate lighting into their living area while still granting privacy to the neighbor to the south.

**VI. Recommendation**

That the Planning Commission:

- **APPROVE** the modification to Condition No. 15 of Resolution No. 362 to add the following underlined text:

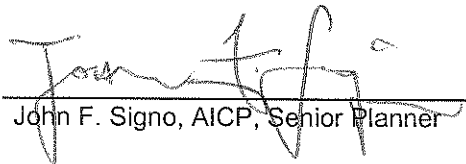
"That there be no openings on the wall of the homes with zero sideyard, except that the property located at 17404 Sudbury Court may install translucent, non-operable openings on the southern wall facing the property located at 17410 Sudbury Court, subject to review and approval by the Planning Division and Building and Safety Division."

- **WAIVE** further reading and **ADOPT** a minute resolution instructing staff to make the necessary change to Resolution No. 362.

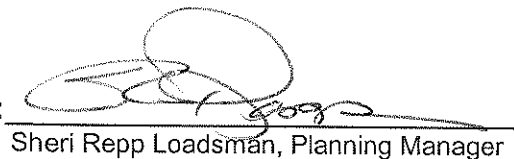
**VII. Exhibits**

1. Tract No. 28669, Sheet 5 of 6, showing subject properties
2. Resolution No. 362
3. Excerpts from the California Building Code

Prepared by:

  
John F. Signo, AICP, Senior Planner

Approved by:

  
Sheri Repp Loadsman, Planning Manager



SCALE: 1" = 40'

BOOK 785 PAGE 46

SHEET 5 OF 6 SHEETS

# TRACT No. 28669

IN UNINCORPORATED TERRITORY OF THE  
COUNTY OF LOS ANGELES

FILED WITH LOS ANGELES  
COUNTY RECORDER, RAY E. LEE

APR 20 1968

E. L. PEARSON AND ASSOCIATES

5/8 line of land described in deed recorded  
in Book D-3872 page 421 O.R.  
as easement to the County of  
Los Angeles for storm drain  
purposes.

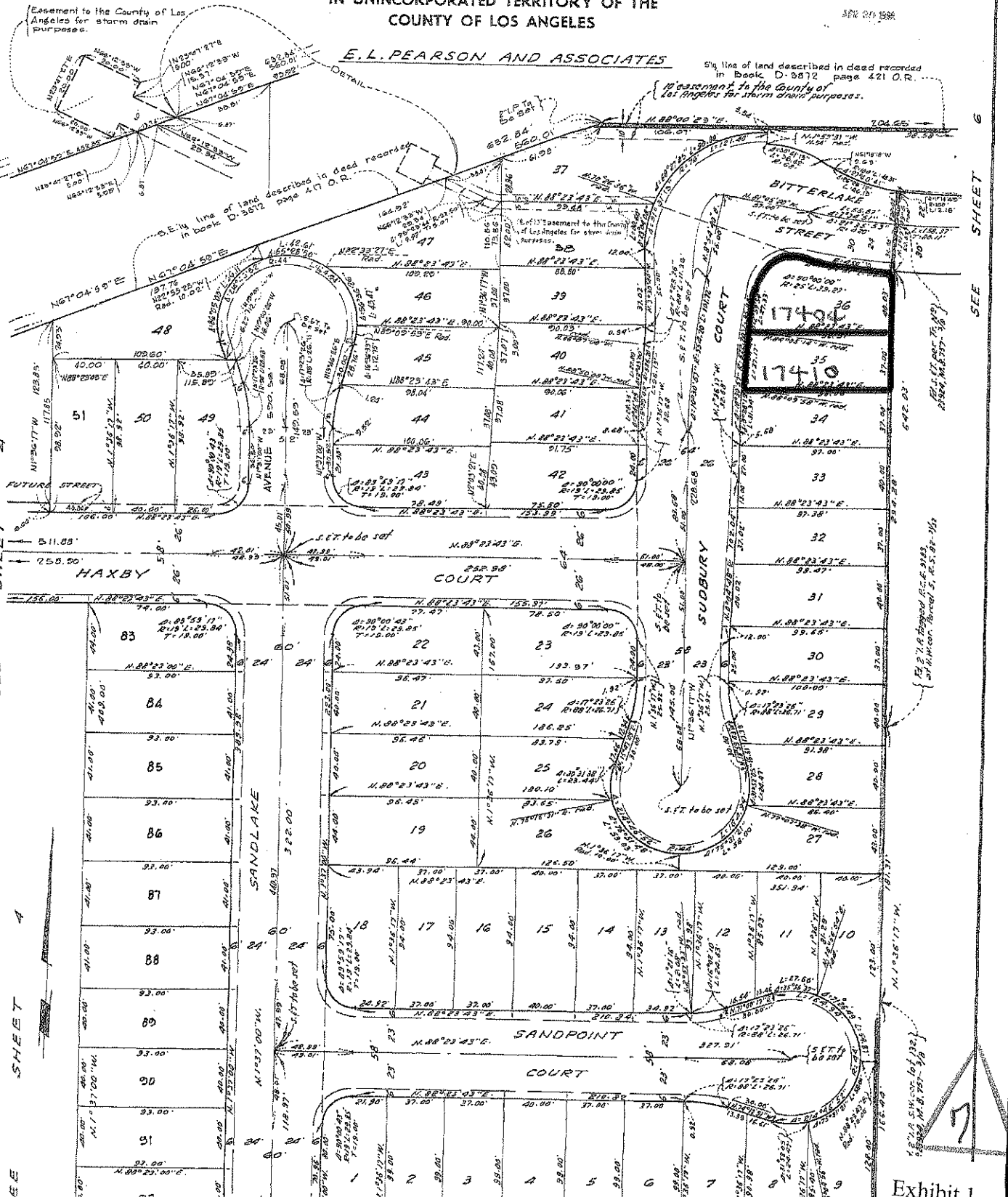


Exhibit I

CITY OF CARSON  
PLANNING COMMISSION  
RESOLUTION NO. 362

A RESOLUTION OF THE PLANNING COMMISSION  
OF THE CITY OF CARSON GRANTING A VARIANCE  
NO. 85-76

The Planning Commission of the City of Carson Hereby  
Finds, Resolves and Orders as Follows:

Section 1. The Planning Commission does hereby find and determine that an application was duly filed by Marlborough Development Corp. with respect to real property described in Exhibit "A" attached hereto, requesting a variance to vary from the sideyard setback requirements, as stated under Section 465.2 of the Carson Zoning Ordinance, in the R-2 6,000 and R-3-18 zone districts; and that a public hearing was duly held on November 23, 1976 at 7:30 P.M. in the Council Chambers, City Hall, 701 E. Carson Street, Carson California; and a notice of the time, date, place and purpose of the aforesaid hearing was duly given.

Section 2. Evidence, both written and oral, was duly presented to and considered by the Planning Commission at the aforesaid public hearing.

Section 3. The Planning Commission finds:

1) The proposed variance is in conformance with the General Plan of Development of the City of Carson which designates the eventual use of the subject property for medium density residential land uses.

2) The subject property is zoned R-2 6,000 (Two Family Resident, 6,000 square foot minimum lot size) and R-3 18 (Limited Multiple Residence, 18 units maximum per acre), and is currently undeveloped, with the exception of three (3) existing oil well sites located on the northerly portion of the site.

Properties to the east are zoned R-2 6,000 and developed with single family residences, a park and oil wells. Properties to the south are zoned R-2 6,000 and R-3 18 and developed with single family residences, and a law school with the remainder being vacant. The property to the west is zoned R-3 18 and is developed with a mobilehome park. To the north is the Artesia Freeway and Frontage Road. The predominant land usage of the area is single family residential.

Exhibit 2





3) The subject lots as recorded are of such a width that the strict application of the Carson Zoning Ordinance would result in side yards which would be unusable. The granting of the subject variance will result in side yards of sufficient size to be usable by the occupants of the proposed development while the homes will be separated by at least eight (8) feet.

4) The overwhelming majority of the single family lots in the area neighboring the subject property are developed to the standards proposed by the subject variance. Without this variance the homes on the subject property would be out of character with the surrounding single family uses, making them harder to sell and more expensive to buy.

Section 4. Based on the aforementioned findings, the Commission hereby grants a variance with respect to the property described in Section 1 hereof subject to the conditions set forth in Exhibit "B" attached hereto.

Section 5. The Planning Commission further finds that the use permitted by the proposed variance will not have a significant effect on the environment and certifies that a Negative Declaration was prepared pursuant to the provisions of the California Environmental Quality Act and the Guidelines thereto, and filed with the County Clerk's office on November 2, 1976.

Section 6. The secretary shall certify to the adoption of the resolution and shall transmit copies of the same to the applicant, and the City Clerk.

Section 7. This action shall become final and effective fifteen (15) days after the adoption of this resolution unless within such time an appeal is filed with the County Clerk in accordance with the provisions of the Carson Zoning Ordinance.

Passed, Approved and Adopted this 23 day of NOVEMBER, 1976.

Joseph Hadow  
CHAIRMAN

ATTEST:

Richard Simmons  
SECRETARY



Page Three  
Planning Commission Resolution No. 76-362  
Zone Exception Case No. 85-76

EXHIBIT "A"

Lots 1 - 93 inclusive of Tract No. 28669 as shown on map recorded in Book 785  
pages 42 - 47 inclusive of Maps in the office of the Los Angeles County Recorder.



EXHIBIT "B"

CONDITIONS

1. \* That the layout development of all residences on the lots conform to the plot plans entitled "A Proposed Project in the City of Carson by Marborough Development Corporation, Tract No. 28669, (Sheet Nos. 1 and 2)." Modification will permit a reduction in the width of the northerly sideyard of Lot No. 37 from five (5) feet to three (3) feet minimum. The single family residence may be moved in an easterly direction to encroach into the required 20 foot front yard setback. The encroachment should not exceed four (4) feet, and the driveway is permitted, if necessary.
2. That the minimum separation between dwellings shall be restricted to eight (8) feet, front yard setbacks be a minimum of twenty (20) feet, corner lot side yard setbacks be a minimum of ten (10) feet adjacent to the street, and that all rear yard setbacks be a minimum of fifteen (15) feet. The proposed streets, curbs, gutters and sidewalks shall be developed utilizing Alternate Cross-Sections as outlined in Section 54 of the Carson Subdivision Ordinance; therefore, a portion of the public right of way may be used in calculating the required setbacks as provided in Section 54.
3. That four (4) foot easements be recorded in the deeds of all lots adjacent to residences constructed with zero lot line setbacks, to allow for eave overhanging and to enable the owners of said residences to periodically enter onto the premises of adjacent properties for purposes of routine maintenance.
4. That the same soundproofing requirements be applied for the walls on the zero sideyards as applies to common walls for condominiums.
5. That the applicant comply with all requirements of the County of Los Angeles Fire Department and provide required fire flow for zero lot line construction as follows:
  - a) This Department recommends that fire resistive roofs of Class "E" construction be used for this tract.
  - b) This Department recommends that Section #504 of the Building Code be complied with. Openings in exterior walls are not permitted if building is less than three (3) feet from the property line. Exterior walls on the property line shall have a fire resistance of one hour.
  - c) A fire flow of 1250 gallons per minute for a two hour duration must be available at this location before the property can be developed.
6. That the applicant comply with all requirements of the County Engineer's Office as follows:
  - a) The property in and adjacent to the natural drainage courses is subject to flood hazard.
  - b) Portions of the property are subject to sheet overflow and ponding.
  - c) Drainage facilities to remove the flood hazard to the satisfaction of City Engineer and dedication of necessary easements are needed.
  - d) Provision should be made for all natural drainage. All Drainage Plans should be submitted to the City Engineer, Design Division, for approval prior to construction.
  - e) There are existing sewers to serve the subject project.

\* Modified by Planning Commission on May 10, 1977.



- f) All lots within this project should be served by adequately sized water system facilities which should include fire hydrants of the size, and type, and location as determined by the Fire Chief. The water mains should be of sufficient size to accommodate the total domestic and fire flow required for this project. Domestic flows are to be determined by the City Engineer. Fire Flow required are to be determined by the Fire Chief.
7. That the applicant comply with all requirements of the Parks and Recreation Department as follows:
  - a) Parkway Tree requirements will be prescribed when the application for the building permit is submitted.
8. That the applicant shall complete all requirements of this zone exception case within a three (3) year period (November 23, 1979).
9. That the applicant comply with all City, County, State and Federal regulations.
10. That the applicant file an affidavit of acceptance with the Community Development Department within thirty (30) days of receipt of the Resolution.
11. That this permit be declared null and void unless the applicant has commenced development within 180 days of date of approval.
12. It is further made a condition of this approval that if any condition hereof is violated or if any law, statute, or ordinance is violated, the permit shall lapse, provided the applicant has been given written notice to cease such violation, and has failed to do so for a period of thirty (30) days.
13. That Rainsbury Avenue be blocked and that Staff be instructed to initiate action to vacate the street.
14. That gutters be installed on the homes with zero sideyard to insure that water run-off does not go onto adjacent property.
15. That there be no openings on the wall of the homes with zero sideyard.
16. The four foot easements shall be approved by the City Attorney's Office for any possible problems

assembly has a fire-resistance rating of not less than 1 hour.

- 2.2. Openings in the roof shall not be located within 4 feet (1220 mm) of the fire wall.
- 2.3. Each building shall be provided with not less than a Class B roof covering.
3. Walls shall be permitted to terminate at the underside of noncombustible roof sheathing, deck, or slabs where both buildings are provided with not less than a Class B roof covering. Openings in the roof shall not be located within 4 feet (1220 mm) of the fire wall.
4. In buildings of Type III, IV and V construction, walls shall be permitted to terminate at the underside of combustible roof sheathing or decks provided:
  - 4.1. There are no openings in the roof within 4 feet (1220 mm) of the fire wall,
  - 4.2. The roof is covered with a minimum Class B roof covering, and
  - 4.3. The roof sheathing or deck is constructed of fire-retardant-treated wood for a distance of 4 feet (1220 mm) on both sides of the wall or the roof is protected with  $\frac{5}{8}$  inch (15.9 mm) Type X gypsum board directly beneath the underside of the roof sheathing or deck, supported by a minimum of 2-inch (51 mm) nominal ledgers attached to the sides of the roof framing members for a minimum distance of 4 feet (1220 mm) on both sides of the fire wall.
5. Buildings located above a parking garage designed in accordance with Section 509.2 shall be permitted to have the fire walls for the buildings located above the parking garage extend from the horizontal separation between the parking garage and the buildings.

**705.6.1 Stepped buildings.** Where a fire wall serves as an exterior wall for a building and separates buildings having different roof levels, such wall shall terminate at a point not less than 30 inches (762 mm) above the lower roof level, provided the exterior wall for a height of 15 feet (4572 mm) above the lower roof is not less than 1-hour fire-resistance-rated construction from both sides with openings protected by fire assemblies having a fire protection rating of not less than  $\frac{3}{4}$  hour.

**Exception:** Where the fire wall terminates at the underside of the roof sheathing, deck or slab of the lower roof, provided:

1. The lower roof assembly within 10 feet (3048 mm) of the wall has not less than a 1-hour fire-resistance rating and the entire length and span of supporting elements for the rated roof assembly has a fire-resistance rating of not less than 1 hour.
2. Openings in the lower roof shall not be located within 10 feet (3048 mm) of the fire wall.

**705.7 Combustible framing in fire walls.** Adjacent combustible members entering into a concrete or masonry fire wall from opposite sides shall not have less than a 4-inch (102 mm) distance between embedded ends. Where combustible members

frame into hollow walls or walls of hollow units, hollow spaces shall be solidly filled for the full thickness of the wall and for a distance not less than 4 inches (102 mm) above, below and between the structural members, with noncombustible materials approved for fireblocking.

**705.8 Openings.** Each opening through a fire wall shall be protected in accordance with Section 715.4 and shall not exceed 120 square feet (11 m<sup>2</sup>). The aggregate width of openings at any floor level shall not exceed 25 percent of the length of the wall.

**Exceptions:**

1. Openings are not permitted in party walls constructed in accordance with Section 705.1.1.
2. Openings shall not be limited to 120 square feet (11 m<sup>2</sup>) where both buildings are equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1.

**705.9 Penetrations.** Penetrations of fire walls shall comply with Section 712.

**705.10 Joints.** Joints made in or between fire walls shall comply with Section 713.

**705.11 Ducts and air transfer openings.** Ducts and air transfer openings shall not penetrate fire walls.

**Exception:** Penetrations by ducts and air transfer openings of fire walls that are not on a lot line shall be allowed provided the penetrations comply with Sections 712 and 716. The size and aggregate width of all openings shall not exceed the limitations of Section 705.8.

**SECTION 706  
FIRE BARRIERS**

**706.1 General.** Fire barriers installed as required elsewhere in this code or the *California Fire Code* shall comply with this section.

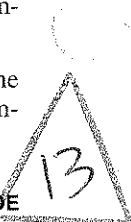
**706.2 Materials.** Fire barriers shall be of materials permitted by the building type of construction.

**706.2.1 Fire-resistance-rated glazing.** Fire-resistance-rated glazing, when tested in accordance with ASTM E 119 and complying with the requirements of Section 706, shall be permitted. Fire-resistance-rated glazing shall bear a label or other identification showing the name of the manufacturer, the test standard and the identifier "W-XXX," where the "XXX" is the fire-resistance rating in minutes. Such label or identification shall be issued by an approved agency and shall be permanently affixed to the glazing.

**706.3 Fire-resistance rating.** The fire-resistance rating of fire barriers shall comply with this section.

**706.3.1 Shaft enclosures.** The fire-resistance rating of the fire barrier separating building areas from a shaft shall comply with Section 707.4.

**706.3.2 Exit enclosures.** The fire-resistance rating of the fire barrier separating building areas from an exit shall comply with Section 1020.1.



different uses for fire barriers, as well as the method in which fire barriers are to be constructed.

**706.2.1 Fire-resistance-rated glazing.** Fire-resistance-rated glazing that is tested in accordance with ASTM E 119 is permitted for use as a fire barrier. The labeling requirements are similar to those of Section 715 for glazing used as opening protectives with the exception of the identifier "W-XXX." The "W" indicates that the glazing meets the requirements of ASTM E 119, thus qualifying the glazing to be used as part of a wall assembly. It also indicates that the glazing meets the fire-resistance, hose-stream and temperature-rise requirements of the test standard. The fire-resistance rating of the glazing will then follow the "W" designation. See Figure 706-1.

Although the use of fire-resistance-rated glazing is addressed only in Section 706 regulating fire barriers, it is expected that such glazing is also permitted in other wall assemblies requiring a fire-resistance rating. Complying glazing can be utilized in fire walls, fire partitions, smoke barriers and exterior walls when in conformance with all of the applicable requirements. It is not intended to limit the use of such glazing only to fire barrier conditions.

**706.3 Fire-resistance rating.** A fire barrier shall be used to provide the necessary separation for the following building elements or conditions:

1. Shaft enclosure. The minimum required degree of fire-resistance for fire barriers used to create a shaft enclosure is based primarily on the number of stories connected by the enclosure. A minimum two-hour fire-resistance rating is mandated where four or more stories are connected, with only a 1-hour rating required where connecting only two or three stories. In all cases, the rating of the fire barriers creating a shaft enclosure must equal or exceed that of the floor assembly that is penetrated by the enclosure.
2. Vertical exit enclosure. The separation between a vertical exit enclosure (stair enclosure) and the remainder of the building shall be accomplished with fire barriers having either a 1-hour or 2-hour fire-resistance rating as required by Section 1020.1.
3. Exit passageway. An exit passageway must be isolated from the remainder of the building by minimum 1-hour fire-resistance-rated fire-barrier walls. In multistory buildings, minimum 1-hour fire-resistance-rated horizontal assemblies must also be used to totally isolate the exit passageway. Where an exit passageway is a

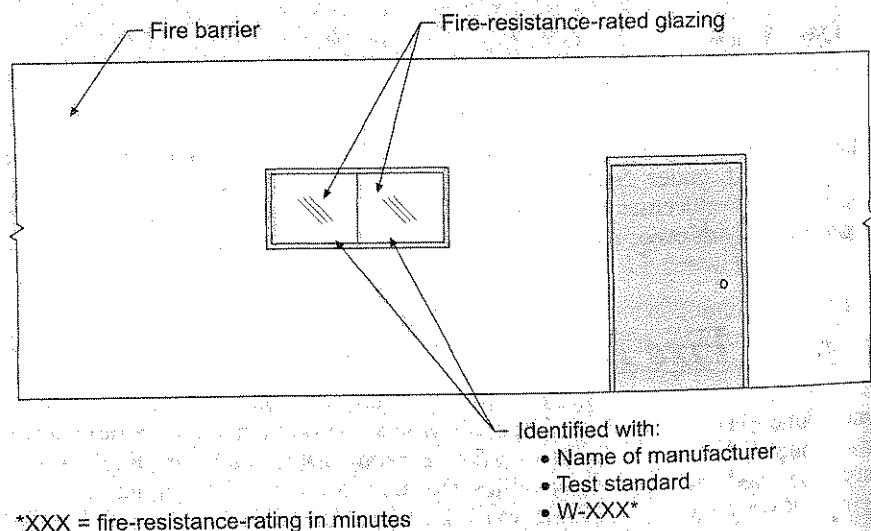


Figure 706-1  
Fire-resistance-  
rated glazing in  
fire barriers