

City Planning Commission
Sacramento, California

Members in Session:

SUBJECT: Revocation or Modification of a Special Permit to establish an auto dismantling facility (P5690).

LOCATION: 7901 Merced Avenue

SUMMARY:

On January 8, 1974, the Planning Commission approved a special permit to operate an auto dismantling yard on four lots at the above mentioned location (P5690). On February 27, 1986, the Planning Commission denied a special permit to expand the existing dismantling yard onto the adjacent lot. The applicant appealed the Commission action to the City Council, which denied the appeal (P86-041).

Subsequent to the granting of the original special permit, the dismantling yard has been illegally expanded onto adjacent lots and has not complied with the conditions of approval in the original special permit. The property owner and the operator have been cited by the City and a preliminary injunction was issued in Superior Court to enjoin these violations. The City Attorney's office has, therefore, requested that the Planning Division initiate a revocation hearing for the subject special permit (P5690). It is recommended this special permit be revoked.

BACKGROUND INFORMATION:

The Nuisance Abatement Division has had an ongoing problem concerning the dismantling business located at 7901 Merced Avenue. The major problems concerning this dismantling business have been the loading and off-loading of vehicles on the public right-of-way, more particularly outside the fenced perimeter of the dismantling yard; the storage of the vehicles on the public right-of-way; and Parcel No. 061-081-2200 having been illegally included in the dismantling yard without having first obtained a special use permit.

A complaint to enjoin these violations was filed against Kier Palo the operator and the owner, Maria Teresa Gonzales, in Superior Court, Case No. 33716. An order granting the preliminary injunction was issued against Kier Palo on March 19, 1986.

Included in the order issued by Judge Warren is that the defendants "shall be and hereby are required and ordered to: Forthwith begin, and complete within 30 days after the date of service of this order, the removal from Parcel No. 061-081-2200, Merced Avenue, Sacramento, California, all of the abandoned, wrecked, dismantled or inoperative vehicles, operable vehicles, automotive parts and equipment, vehicle waste materials, and other miscellaneous junk, trash, and debris." This order was predicated upon the fact that Kier Palo had no special use permit. In the event that Kier Palo was to obtain the necessary special use permit, this part of the Court's order would be suspended.

Prior to the issuance of the court order, Kier Palo had applied to the Planning Commission (Application No. P86-041) to modify the special permit to expand the existing auto dismantling facility, and for a lot line adjustment to merge Parcel 061-081-2200 into the other four lots. The Planning Commission denied such expansion and lot line adjustment. Thereafter, Kier Palo appealed to the City Council. Mr. Palo, the operator,

did not appear at the Council hearing; however, the Council upheld the Commission action and denied the appeal. The Superior Court order remains in effect and enforceable.

Staff Comment: Staff's consideration in revoking the Special Permit is relative to noncompliance with site development standards, illegal expansion of the dismantling yard, and creation of a public safety hazard.

A. Non-compliance With Site Development Standards:

1. The special permit was approved to allow an auto dismantling operation on four (4) lots (see Exhibit A). All auto dismantling yards must comply with the minimum site development criteria set forth in Resolution #85 (see Exhibit B).

The operator, Mr. Palo, is in violation of Resolution 85 (Nos. 2, 3, 7, 12) as concerns Permit No. P5690, in that:

- a. He is blocking the fire lanes, one of which is on East Railroad and the other on 18th Avenue. Those fire lanes have been blocked continuously since the Planning Commission hearing. (No. 12)
- b. It also appears that he is continuing to load and off-load outside the fenced perimeter of his dismantling yard, based upon the fact that driveways, more particularly the fire lanes, are blocked, which would be a violation of No. 2 of Resolution 85.
- c. Wrecked cars are being stacked higher than the screening fence and the customers parking spaces are not striped (#3 and #7 of Resolution 85). Further, Nuisance Abatement officer David Moncada has observed the loading and off-loading of vehicles occurring on the adjacent property.

Staff finds the operator has not complied with conditions of Resolution 85 and P-5690 and therefore the Special Permit (P-5690) should be revoked.

B. Illegal Expansion of Use:

The operator of the auto dismantling yard, Mr. Palo, is in violation of the Superior Court order, in that he has not removed the vehicle parts from Parcel 061-081-2200. He has, within the last two months, without the benefit of a building permit, constructed thereon a building in violation of Chapter 9 of the Sacramento City Code, Uniform Building Code 301 (a). Further, he is using Parcel No. 061-081-2200 as part and parcel of his dismantling business, in direct violation of the court order and in contravention to the denial by the Planning Commission and City Council of a permit to do so.

The operator has expanded his operation illegally onto seven additional parcels of property. Four parcels are contiguous to his operation; the other three are across the street to the south of Palo's operation. This expansion is illegal, in that Mr. Palo has neglected to obtain a special use permit for any of the seven parcels, and his use of those parcels are trespassory in nature, as owners of those parcels have told Mr. Palo he cannot use the land, and to remove the vehicles and parts. Mr. Palo has not complied with these requests.

C. Public Safety:

The operator has been observed and has been cited for stacking vehicles higher than six feet, for blocking fire lanes with dismantled vehicles and for loading and unloading vehicles in the public right-of-way (East Railroad Street and Merced Avenue). These violations create a situation which could prove hazardous to the property owner, adjacent property owners and emergency personnel in the event of a fire. Vehicles being loaded or unloaded in the right-of-way could also create a hazard to traffic and increase the potential for collisions. In conclusion, the operator, Mr. Palo, has not only failed to comply with the Superior Court order to remove wrecked vehicles from parcel No. 061-081-2200 but has also illegally expanded onto adjacent properties. In addition, the operator has not complied with all conditions of the original Special Permit (P-5690) and Resolution No. 85. Therefore, staff recommends revocation of Special Permit (P-5690) and requests the City Nuisance Abatement Division and City Attorney's Office to enforce this action.

STAFF RECOMMENDATION: Staff recommends that the special permit be revoked, based on the Findings of Fact which follow:

1. The subject site and use are not in compliance with the original special permit (P5690) and Resolution #85. In addition, the use has been expanded beyond the area originally approved for the dismantling operation.
2. The current utilization of the subject site for a dismantling yard is detrimental to public health, safety and welfare in that vehicles are being loaded and unloaded in the public right-of-way, fire lanes are blocked and vehicles are stacked in a height greater than six feet.
3. The current use of the subject site is contrary to the General Plan goals of:

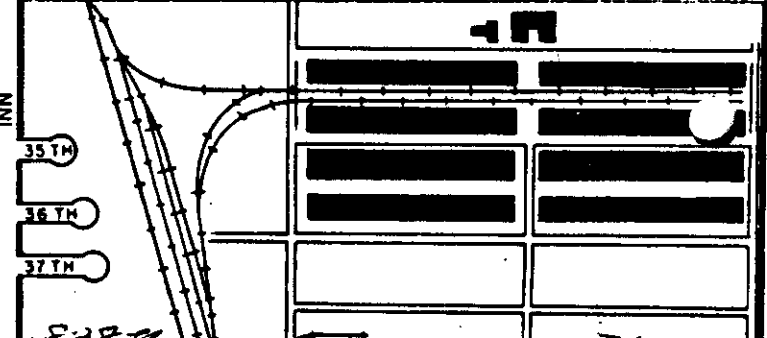
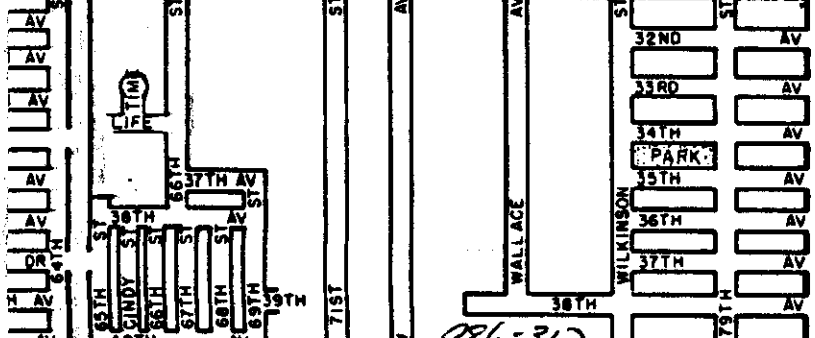
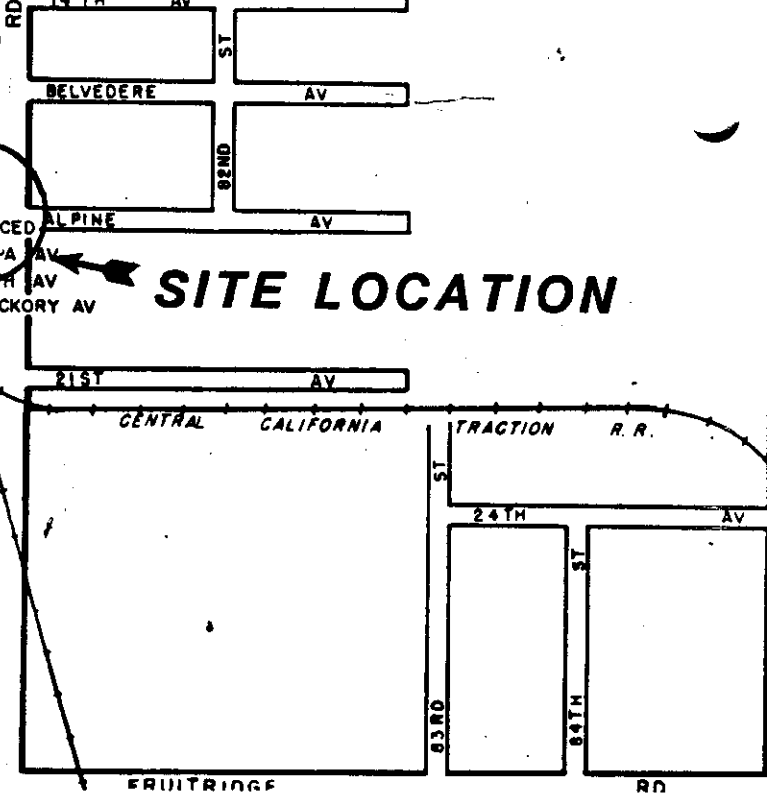
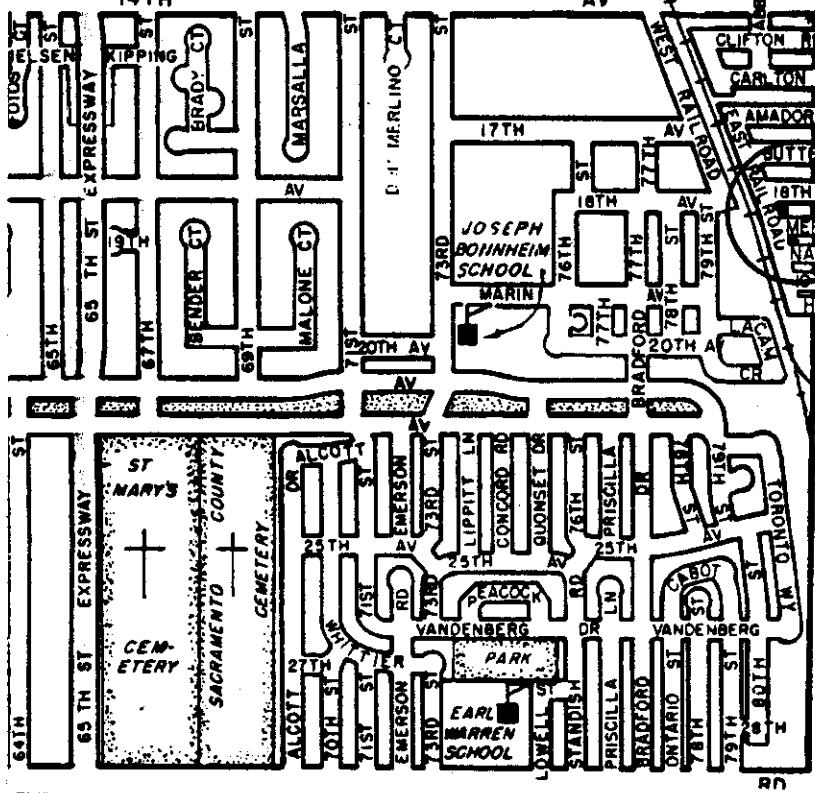
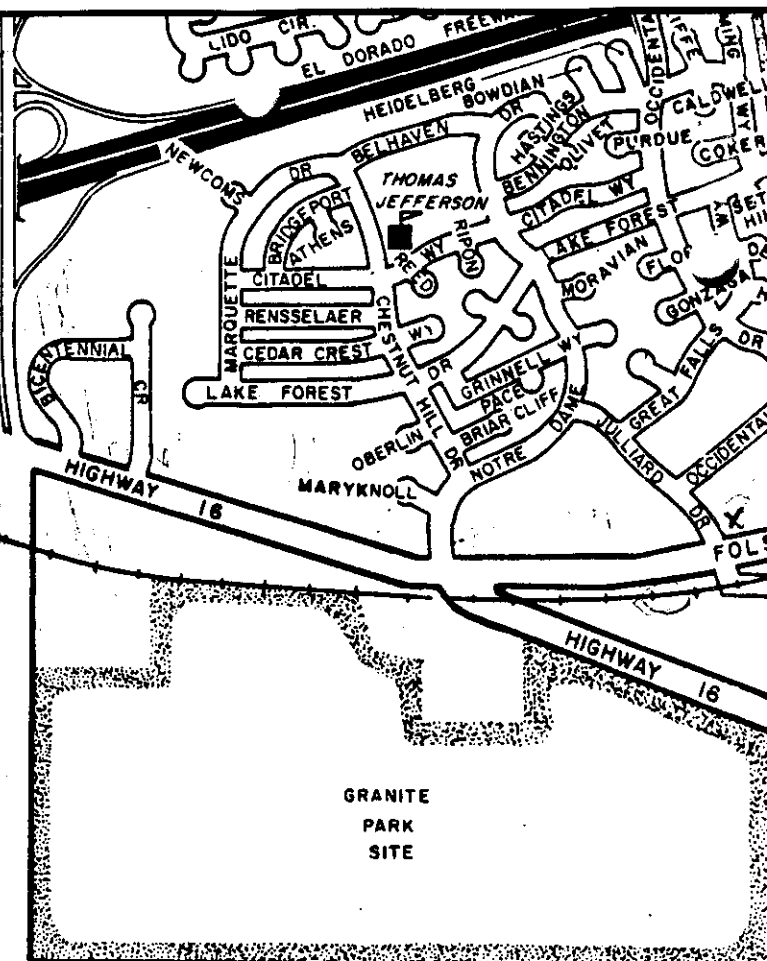
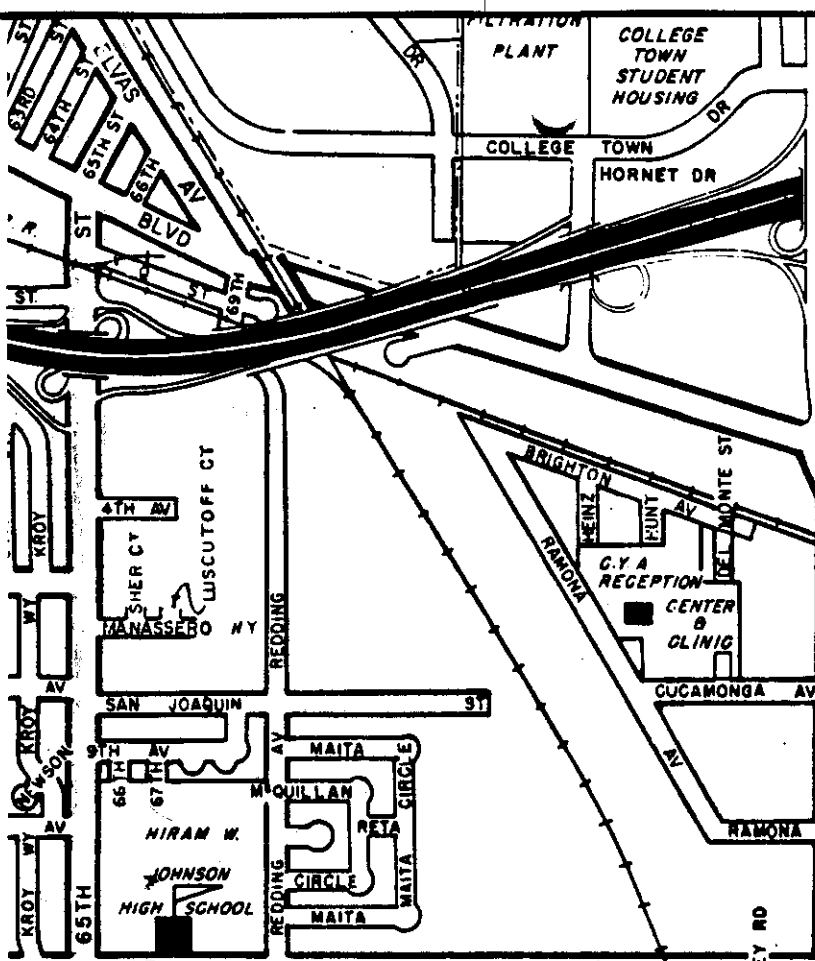
"Allocate residential, commercial, industrial and other land uses in such a manner as to result in a desirable urban environment which satisfies the needs of the total community."

"Provide safe, stable and attractive residential areas in which to live; functional and efficient commercial and industrial areas in which to work."

Respectfully submitted,

Wilfred Weitman
Senior Planner

WW:tc



SITE LOCATION

SUBJECT SITE

ORIGINAL SPECIAL
PERMIT P-5690

18th AVE.

EXPANDED SITE
DENIED BY CPC
(Parcel 22)

MERCED AVE.

ILLEGAL EXPANDED
AREA-STORAGE
OF VEHICLES
(7 LOTS)

POWER INN ROAD

SOUTHERN PACIFIC RAILROAD
EAST RAILROAD ST.

NAPA AVE.

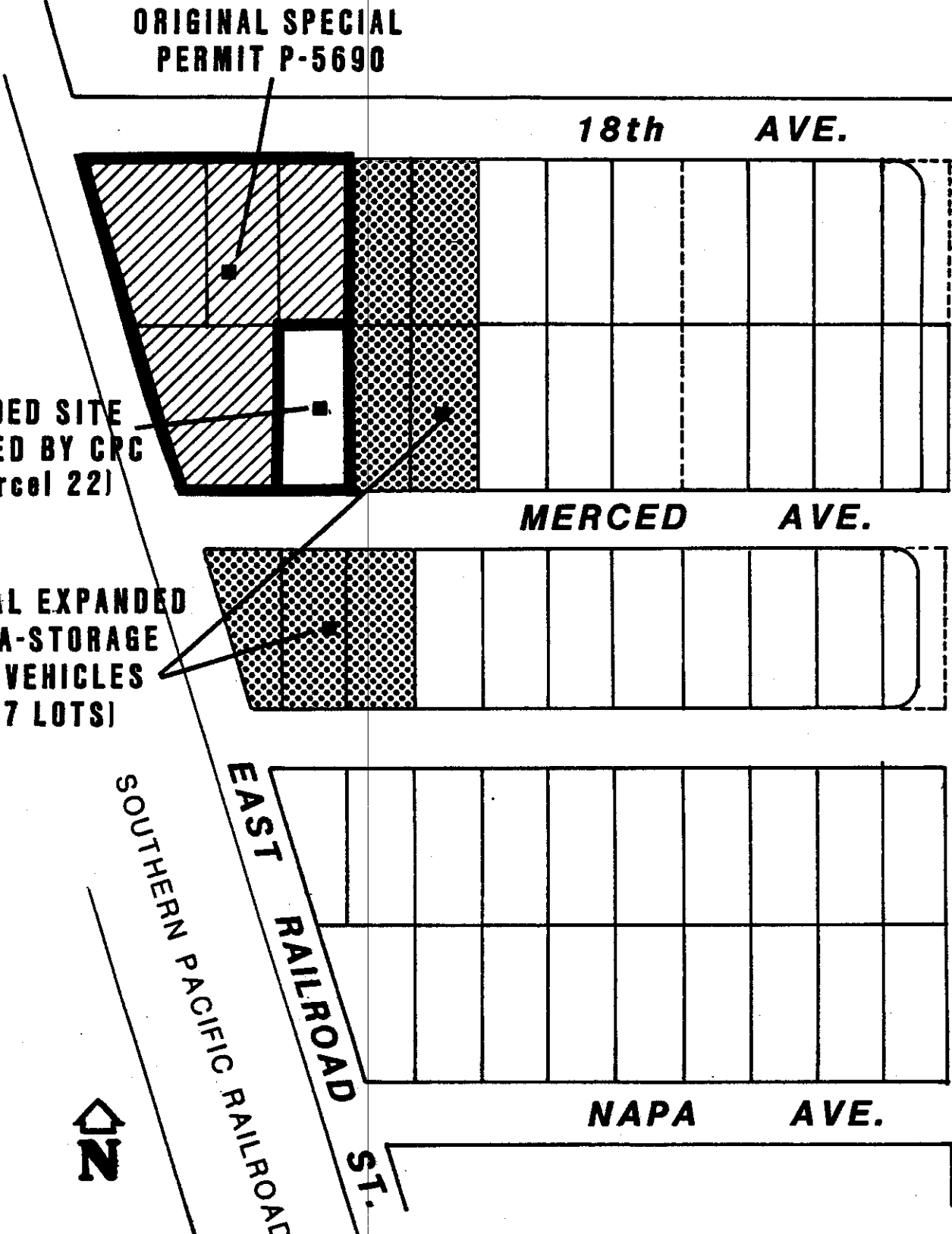


EXHIBIT "A"APPLICATION: Special Permit (P-5690)LOCATION: Southeast corner of East Railroad Avenue and 18th Avenue
(AP 061-081-1, 2, 3 & 23)APPLICANT'S PROPOSAL: Applicant requests a Special Permit to develop an automobile dismantling yard in the "M-2" zone (CPC Resolution No. 85).PROJECT INFORMATION: The subject property contains approximately 0.6+ acres (4 parcels) of land. The submitted site plan indicates a customer parking area (5 parking spaces) located on the northeast corner of East Railroad Avenue and Merced Avenue. The subject property will be enclosed by a 6 foot wire woven fence with redwood slats. A six foot fence will separate the parking area from the dismantling yard.

A driveway (24 feet wide) for the purpose of loading and unloading of vehicles is located on the northerly portion of the subject site. Entrances for this driveway (gates will be provided) are located on 18th Avenue and East Railroad Avenue. In addition, no buildings are proposed to be developed on this site at this time.

Contiguous land to the east contains a vehicle storage yard (enclosed by a wire woven fence) and a vacant single-family residence; to the north across 18th Avenue there is an auto wrecking yard enclosed by a corrugated steel fence; to the west there is the Southern Pacific Railroad R/W; and to the south there are vacant residential buildings.

ADDITIONAL DATA: The proposed auto dismantling yard (site is vacant) is located in the "M-2", Heavy Industrial Zone.

The site plan has been reviewed by the City Engineer, Traffic Engineer, and the Fire Marshal. The City Engineer has indicated that a driveway culvert is required on 18th Avenue, the Traffic Engineer has approved the driveway location and indicated that a driveway permit(s) is required; and the Fire Marshal requires a fire hydrant on Merced Avenue to provide fire protection.

Resolution No. 85, adopted by the Planning Commission on July 13, 1971, establishes minimum site development criteria for the development of automobile dismantling yards under Special Permit proceedings. The subject proposal conforms to Resolution No. 85 except for the following:

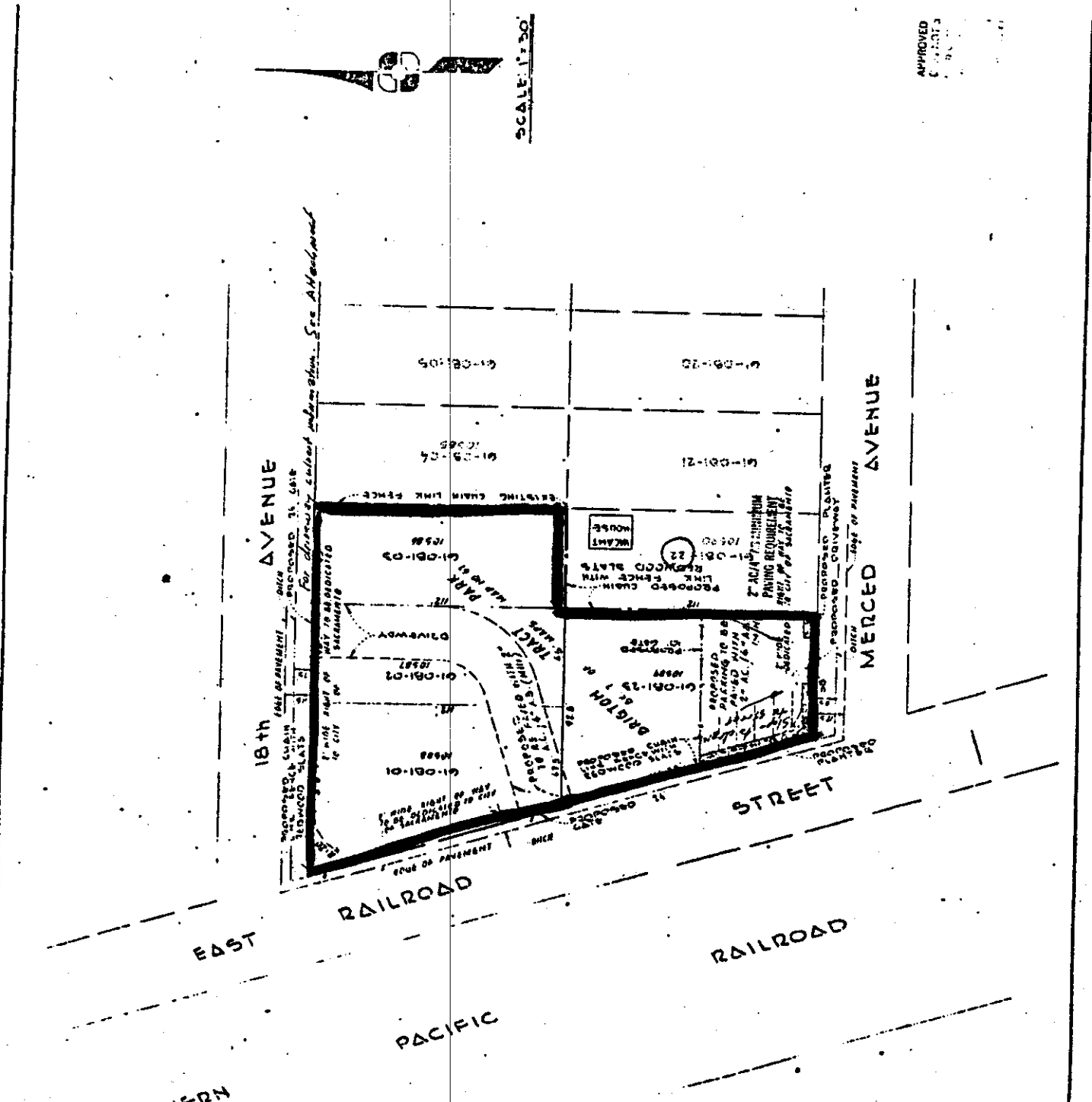
1. Toilet facilities shall be provided on the site.
2. Water service shall be provided on the site and connected so as to provide fire protection in accordance with the requirements of the City Fire Marshal.

(over)

APPL. NAME Maurilio Gonzalez ADDRESS 4308 33rd Street, Sacramento, CAOWNERS NAME same ADDRESS sameAPPLICATION No.: REZONING _____, S.P. P-5690, VARIANCE _____, OTHER _____ E.I.R. PROJECT EXEMPT _____, NEG. DEC. RECOMMENDED X _____, E.I.R. RECOMMENDED _____CURRENT ZONING "M-2", PROPOSED _____, APPLICATION DATE 10-30-73, ITEM No. 8

STAFF COMMENTS: Should the Commission give favorable consideration to the Special Permit request, it is suggested the following conditions be made a part of such approval:

1. Subject to site plan review and approval by the staff.
2. The applicant resolve all matters relating to fire hydrant location, sanitary sewer, driveway culverts and driveway permits to the satisfaction of the appropriate public agencies.
3. Subject to compliance with provisions of Resolution No. 85, particularly related to toilet facilities and water service requirements.
4. Business, dismantling or storage operations shall not commence on any property until the Planning Staff has inspected and approved the site for compliance with all terms of the Special Permit.
5. Subject to annual review of the Special Permit by the Planning Commission.



JULY 13, 1971

EXHIBIT B

RESOLUTION NO. 85 (NEW)

- WHEREAS: The City of Sacramento has adopted Zoning Ordinance No. 2550-4th Series, said Ordinance having become effective June 13, 1964, and
- WHEREAS: Sub-section A-4 of Section 2 of said Zoning Ordinance specifies the Planning Commission shall interpret the appropriate zone for any land use not specifically mentioned in sub-section B, C or D of said Section and Ordinance, and
- WHEREAS: The Planning Commission has adopted Resolution No. 50, June 23, 1964, which details the general categories of land uses contained in said Zoning Ordinance, and
- WHEREAS: Said Resolution specifies therein that the location of Junk Yards, including auto wrecking yards (automobile dismantling yards) shall be subject to the granting of a Special Permit in accordance with the provisions of Section 15 of said Zoning Ordinance, and
- WHEREAS: Said Zoning Ordinance, in Section 15 thereof, provides for the granting of a Special Permit subject to such special conditions deemed necessary to carry out the intent and purpose of this Ordinance, and
- WHEREAS: It is deemed desirable to define the special conditions applicable to the granting of a Special Permit relative to the establishment of automobile dismantling yards:

NOW THEREFORE BE IT RESOLVED THAT THE FOLLOWING SPECIAL CONDITIONS ARE HEREBY ADOPTED AS THE MINIMUM SITE DEVELOPMENT CRITERIA FOR THE ESTABLISHMENT OF AUTOMOBILE DISMANTLING YARDS UNDER SPECIAL PERMIT PROCEEDINGS OF THE CITY PLANNING COMMISSION:

1. FENCING: All dismantling operations and storage of vehicles, parts thereof, waste materials or similar items shall be confined to a yard area entirely enclosed by a screening fence at least six feet (6') high. Said fence and gates shall be constructed of woven wire interwoven with redwood slats constructed to the Standard Specifications of the City of Sacramento for chain link fencing. Fences constructed to height greater than six feet (6') require a building permit.
2. LOADING OPERATIONS: Adequate space shall be provided within the fenced yard area to park all vehicles utilized in the operation of this business and to load and unload vehicles delivered to or removed from the premises. No such loading or unloading operations shall be conducted outside said fenced yard area.
3. CUSTOMER PARKING: Customer off-street parking areas shall be provided outside the fenced dismantling yard area. Said customer parking area shall comply with all requirements of the Comprehensive Zoning Ordinance No. 2550-4th Series, City of Sacramento.

4. DRIVEWAYS: A paved driveway not less than 20 feet nor greater than 35 feet in width shall be provided from a public street to all off-street parking areas and all vehicular access gates of the dismantling yard area. Paving shall be 2" compacted asphalt-concrete paving over 4" aggregate base rock or 3" of portland cement concrete paving. Issuance of a driveway permit by the City Traffic Engineer is required.
5. SETBACKS: Required minimum yard setbacks shall comply with the provisions of the Comprehensive Zoning Ordinance No. 2550-4th Series, City of Sacramento.
6. PLANTERS AND SETBACK AREAS: Planter and setback areas shall be developed and maintained in accordance with the requirements of the Comprehensive Zoning Ordinance No. 2550-4th Series, City of Sacramento. An irrigation system shall be installed in landscaped setback areas and in each separated landscaped planter.
7. STACKING OF VEHICLES: Vehicles shall not be stacked to a height which exceeds the height of the surrounding screen fencing.
8. TOILET FACILITIES: Toilet facilities shall be provided on the site for employees. Location and type of said facilities shall be approved by the Planning Director.
9. BURNING: Burning of dismantled vehicles, parts thereof, or waste materials is not permitted.
10. WATER SERVICE: Water service shall be provided on the site and connected so as to provide fire protection to every part of the property in accordance with the requirements of the City Fire Marshal.
11. GROUND SURFACE: The ground surface of the dismantling yard area shall be cleared of all grass, weeds, or other combustible vegetation and treated so as to prevent future growth of combustible vegetation.
12. FIRE TRUCK ACCESS LANE: A 15 foot wide fire truck access lane shall be provided and maintained as required by the City Fire Marshal.
13. EXTINGUISHERS: A dry chemical extinguisher is required at all locations where an acetylene torch is utilized.
14. SITE PLAN APPROVAL: All Special Permits issued by the City Planning Commission shall be subject to site plan approval by the Planning Director.
15. COMMENCEMENT OF OPERATION: Business, dismantling or storage operations shall not commence on any property until the Planning Director has inspected and approved the site for compliance with all terms of the Special Permit.

- 16. REVOCATION OF SPECIAL PERMIT: This Special Permit is subject to revocation by the City Planning Commission, after a public hearing on such revocation, if any condition of this Special Permit is not complied with.
- 17. CODES: All other City Codes and Regulations shall be complied with; these shall include, but not be limited to, the Comprehensive Zoning Ordinance, Building Code, Electrical Code, and Plumbing Code.

ADOPTED: JULY 13, 1971

Henry F. Yee

 HENRY F. YEE
 Acting Chairman

ATTEST:

Paul H. Minichis

 PAUL H. MINICHIS
 Secretary to the Planning Commission

CITY PLANNING COMMISSION

EXHIBIT C

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

APPLICANT <u>Kier Palo, 7901 Merced Avenue, Sacramento, CA 95826</u>	
OWNER <u>Marie Gonzalez, 4308-33rd Street, Sacramento, CA 95826</u>	
PLANS BY <u>Kier Palo, 7901 Merced Avenue, Sacramento, CA 95826</u>	
FILING DATE <u>1-13-86</u>	ENVIR. DET. <u>Exempt 15301(e)</u> REPORT BY <u>FG:bw</u>
ASSESSOR'S-PCL. NO. <u>061-081-01.02.03.22.23</u>	

APPLICATION: A. Special Permit to expand an existing auto dismantling facility
 B. Lot Line Adjustment to merge five lots

LOCATION: 7901 Merced Avenue

PROPOSAL: The applicant is requesting the necessary entitlements to expand an existing auto dismantling facility.

PROJECT INFORMATION:

1974 General Plan Designation:	Industrial
1967 College Greens Community Plan Designation:	Industrial
Existing Zoning of Site:	M-2
Existing Land Use of Site:	Auto dismantling yard

Surrounding Land Use and Zoning:

North: Auto dismantling; M-2
 South: Residence, wrecking yard; M-2
 East: Gravel truck yard; M-2
 West: Railroad tracks; M-2, R-1-R

Setbacks:	Required	Provided
Front:	0'	60'
Side(Int):	0'	16'
Side(St):	0'	100'
Rear:	0'	16'

Property Dimensions:	Irregular
Property Area:	0.71± acre
Topography:	Flat
Street Improvements/Utilities:	Existing

BACKGROUND INFORMATION: On January 8, 1974, the Planning Commission approved a Special Permit (P-5690) to operate an auto dismantling yard on four lots. The applicant was recently cited by the City for operating the business on a fifth lot also. The applicant has been ordered by the court to obtain the necessary permits or discontinue the business on the lot in question. A check of the original special permit application does indicate that the lot in question (APN: 061-081-22) was not included in the application.

PROJECT EVALUATION: Staff has the following comments:

- A. The subject site consists of five lots totaling 0.71+ acre which is developed with an auto dismantling yard. The site is zoned Heavy Industrial (M-2) and is designated for industrial uses in the General Plan and the 1967 College Greens Community Plan.
- B. The applicant is requesting to merge the five lots and to expand the existing dismantling yard to include an additional lot. The lot is presently being used to store auto parts. Surrounding land uses include auto dismantling yards and various industrial/commercial uses.
- C. The original special permit required that the applicant comply with the site development criteria set forth in Resolution No. 85 (Exhibit C). Staff has reviewed the original permit application and conducted a field survey of the site. It is apparent that the applicant has not complied with all conditions of Resolution No. 85. At this time the following violations were observed:
 - 1. Wrecked cars stacked higher than the screening fence (6 feet).
 - 2. Vehicles parked along Railroad Avenue which are located outside the site boundaries.
 - 3. Access driveway is blocked with cars.
 - 4. Parking lot is not striped.
 - 5. Planter areas have not been installed.

Several years ago the subject site contained a single family dwelling. This dwelling was removed in order for the auto wrecking yard to expand its operation. The operation was expanded without the benefit of a special permit.

Staff feels that the applicant has not made a good faith effort to comply with the conditions of the original special permit. The existing dismantling yard does nothing to upgrade the area which is beginning to see new commercial/industrial/office buildings being constructed in the area. A new office building was recently constructed on the corner of Merced Avenue and Power Inn Road which is approximately five lots to the east of the subject wrecking yard.

In addition, staff observed an over concentration of auto wrecking yards and junk yards along East Railroad Street, between Amador Avenue and 19th Avenue (approximately five wrecking yards). Over the years the Planning office has received complaints regarding litter and debris, storage of junk vehicles in street right-of-way, dumping of oil into ditches and vehicles blocking access on public streets. Since 1970, when the first special permits were issued for auto wrecking/salvage yards, this area has become blighted. Any new wrecking yards or expansion of existing wrecking yards would further impede the rejuvenation of this commercial-industrial area with new commercial-office users.

Based upon non-compliance with the original special permit conditions and the over-concentration of dismantling yards in the area, staff would recommend that the expansion be denied and that the applicant correct the apparent violations of the original special permit. If these conditions are not complied within a reasonable time, revocation of the special permit will be initiated by staff.

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

RECOMMENDATION: Staff recommends the following action:

- A. Deny the Special Permit, based upon Findings of Fact which follow.
- B. Approve the Lot Line Adjustment by adopting the attached resolution.

Findings of Fact

- 1. The project is not based upon sound principles of land use, in that the proposed expansion is not compatible with surrounding new development which is commercial/office/industrial uses.
- 2. The project will be detrimental to public health, safety or welfare and result in the creation of a nuisance, in that:
 - a. The operation does not comply with the site development criteria set forth in Resolution No. 85;
 - b. The expanded operation could further deteriorate the neighborhood by increased traffic, storage of vehicles in public streets and visually downgrade the area.

RESOLUTION NO.

ADOPTED BY THE SACRAMENTO CITY PLANNING COMMISSION

on date of

APPROVING A LOT LINE MERGER FOR LOTS 10586,
10587, 10588, 10589 AND 10590 OF THE
BRIGHTON PARK SUBDIVISION NO. 105 (P86-041)

WHEREAS, the Planning Director has submitted to the Planning Commission a report and recommendation concerning the lot line merger for property located at 7901 Merced Avenue; and

WHEREAS, the lot line merger is exempt from environmental review pursuant to State EIR Guidelines (CEQA, Section 15301(e)); and

WHEREAS, the lot line merger is consistent with the 1974 City General Plan and the 1987 College Greens Community Plan;

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Sacramento:

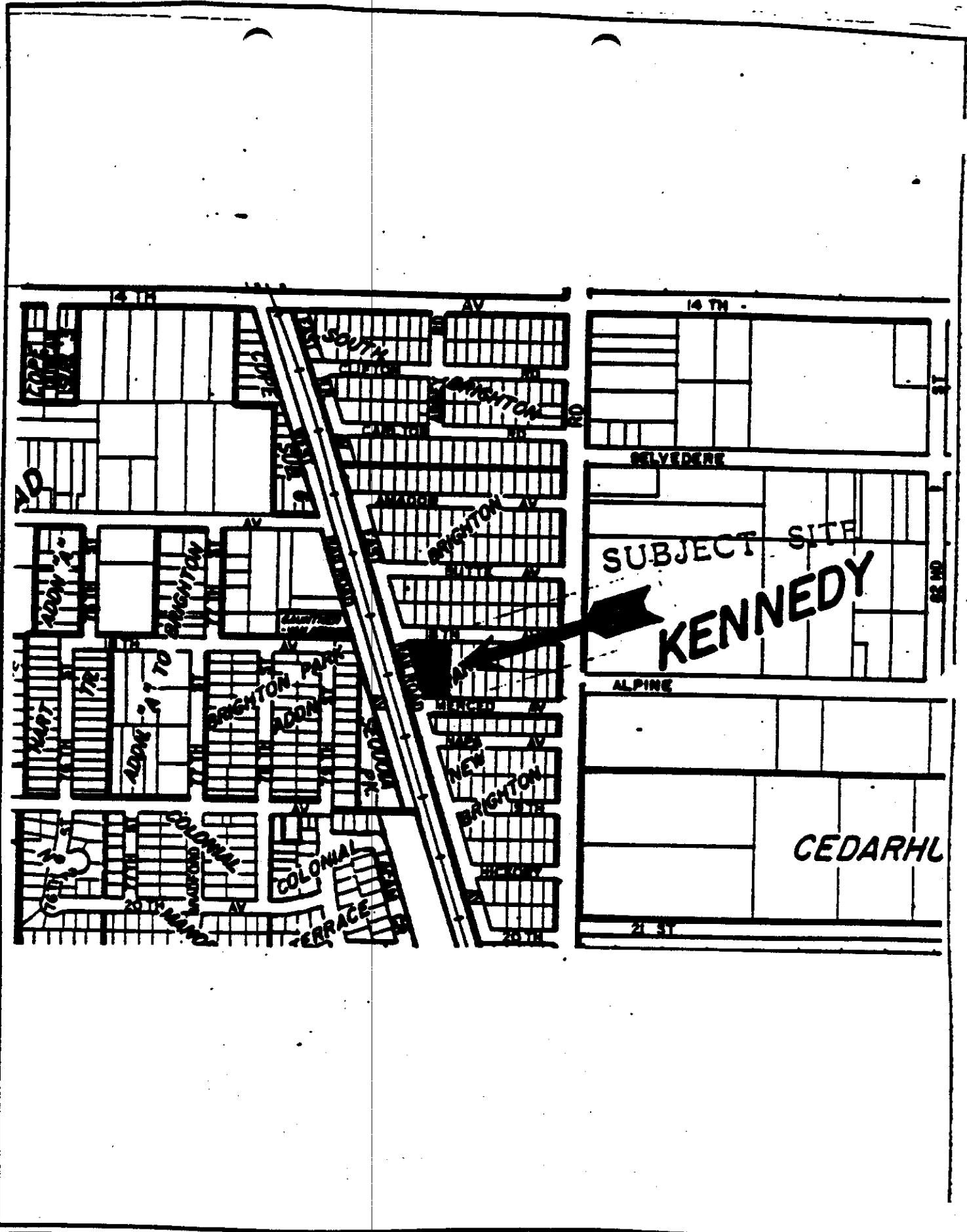
that the lot line merger for property located at 7901 Merced Avenue, City of Sacramento, be approved as shown and described in Exhibits A and B attached hereto, subject to the following condition:

Pay off any existing assessments.

CHAIR

ATTEST:

SECRETARY TO CITY PLANNING COMMISSION

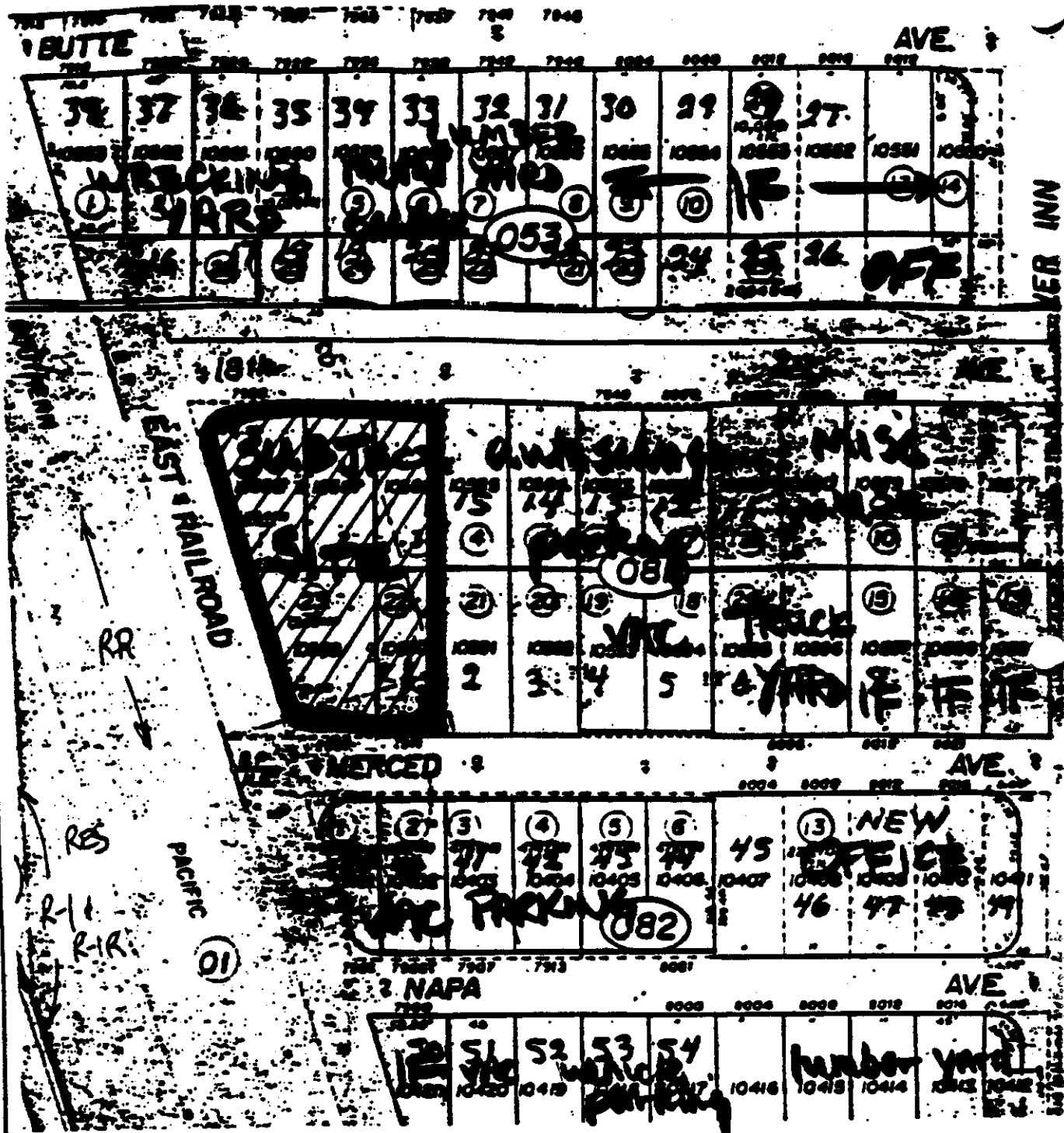


VICINITY MAP

~~PG 312~~
 PG 312

12 ~~7-13-86~~
 8-28-86

Item 176
 25



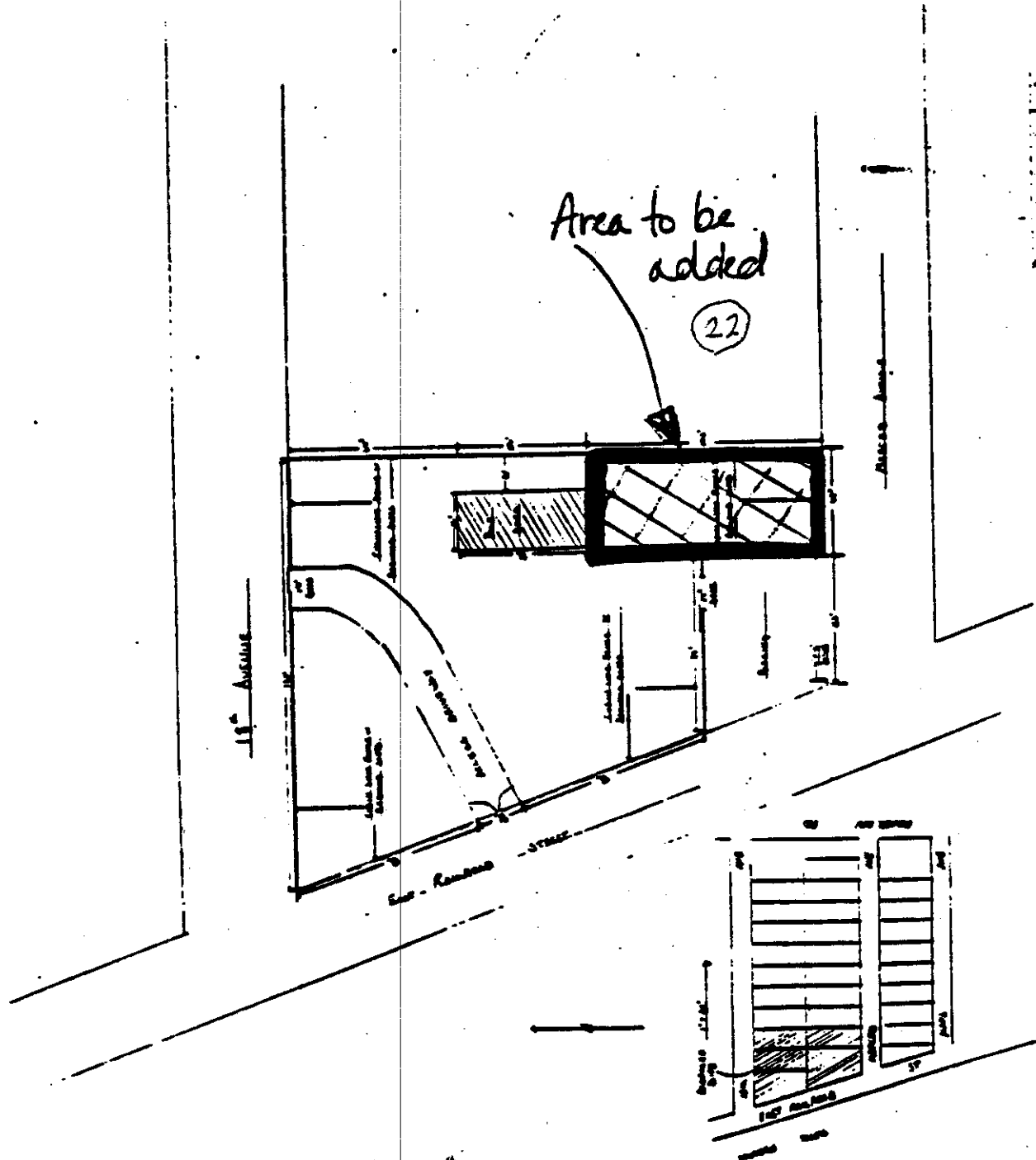
All lots zoned M-2 except as noted

LAND USE & ZONING MAP

REC-04

13-2-86

Item



P 86041

086-210

8-28-86

HO-76

LOTS 10586, 10587, 10588, 10589 AND 10590 OF THE
BRIGHTON PARK SUBDIVISION NO. 105.

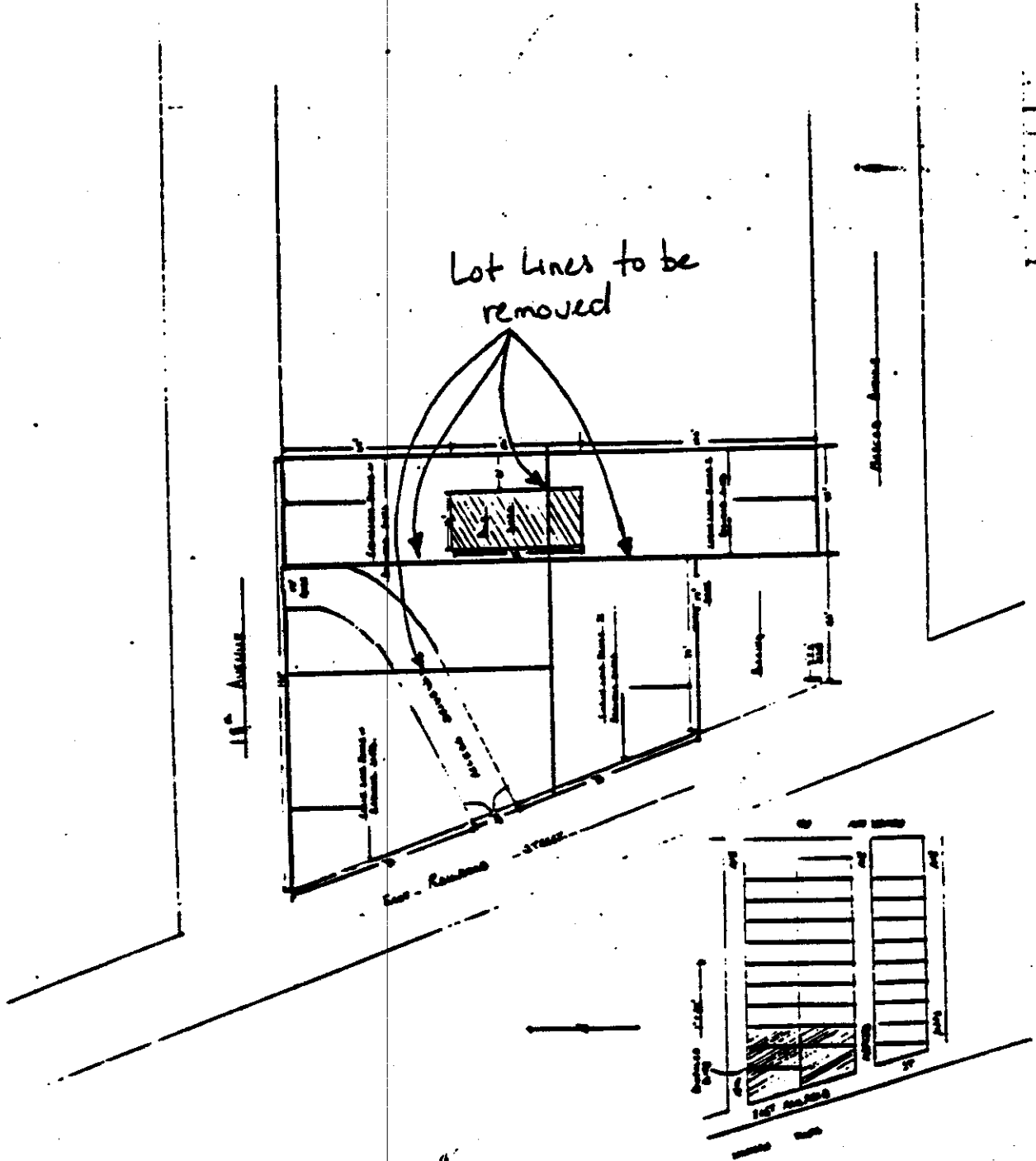
~~P86-041~~

P86-312

~~February 10, 1986~~

8-28-86

Item No. ~~35~~ 35



~~P 88041~~

P86-312

16 ~~201506~~

2-28-07

Item 5

25

CITY PLANNING DIVISION

AUG 21 1986

RECEIVED

August 18, 1986

Planning and Development
(Planning Division)
1231 I Street, Room 200
Sacramento, CA 95814

Gentlemen:

RE: P86-312 Revocation of Special Permit (P5690) for the
operation of an auto wrecking yard on 0.71+ dev. ac.
in Heavy Industrial (M-2) zone, Loc: 7901 Merced Ave.
APN: 61-081-01,02,03,23.

If your staff has made an investigation of this area, you will find these people pumping sewage into the street, cars scattered all over the streets, making streets unpassable. If you would investigate you would not issue any permit, and the Sanitation Dept. would condemn this location. These people are pumping sewage into the ditches surrounding the property and living on the site.

Therefore, I think if you investigate you would not issue a permit for continuance of operation of auto wrecking yard at this location.

I am not signing this because of retaliation, but the conditions aforementioned do exist.

Most Sincerely,

A Concerned Citizen
and Property Owner