

CITY PLANNING COMMISSION

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

APPLICANT	Kyung Suk Burgos, 811 White Wing Lane, Suisun City, CA 94585		
OWNER	Curtis Kaufman, 2727 B Street, Sacramento, CA		
PLANS BY	Curtis Kaufman, 2727 B Street, Sacramento, CA		
FILING DATE	11/14/86	ENVIR. DET. Ex 15301 a	REPORT BY EG/vf
ASSESSOR'S PCL. NO.	61-061-37		

APPLICATION: Special Permit to allow an adult-related business.

LOCATION: 8178 Belvedere Avenue

PROPOSAL: The applicant is requesting the necessary entitlements to allow an adult related business.

PROJECT INFORMATION:

1974 General Plan Designation:	Industrial
1967 College Greens Community Plan Designation:	Industrial
Existing zoning of site:	M-2S
Existing land use of site:	Office/Warehouse

Surrounding Land Use and Zoning:

North:	Office/Warehouse; M-2S
South:	Office; M-2S
East :	Office/Warehouse; M-2S
West :	Office/Warehouse; M-2S

Setbacks:

Front:	Existing
Side (Int):	Building

Parking Required:	8 spaces
Parking Provided:	10 spaces
Property Dimensions:	252' x 297.5'
Property Area:	1.72+ acres
Square footage of building:	20,250 total; 4,050-adult business
Height of Building:	One story
Topography:	Flat
Street Improvements:	Existing
Utilities:	Existing
Exterior Building Materials:	Tilt-up concrete (white and blue)

PROJECT EVALUATION: Staff has the following comments:

A. Land Use:

The subject site is a 1.72+ acre lot which is developed with two industrial office/warehouse buildings containing various commercial/industrial-oriented businesses (see Exhibit A). The site is zoned Heavy Industrial (M-2S) and is designated for industrial uses in both the General Plan and the 1967 College Greens Community Plan. The adult-related business will be conducted in a portion of Building B. The site is surrounded by vacant lots, businesses, and office/warehouse uses (see Exhibit-Land Use/Zoning Map).

APPLC. NO. P86-459 MEETING DATE 1-8-87 ~~September 18, 1986~~ ITEM NO. 12

B. Project Proposal:

The applicant is proposing to locate an adult-related business consisting of private hot tubs, steam baths, public suntan rooms, sauna, Japanese style community hot baths and accupressure massage.

C. City Ordinance:

The project proposes a number of activities which are defined as adult-related establishments by Ordinance 83-145 (adopted December 6, 1983). The ordinance provides that a special permit is required to establish an adult-related establishment. The intent of the ordinance is to avoid detrimental effects upon the adjacent area so as not to contribute to the downgrading of the neighborhood or to interfere with the operation of existing business.

In order for the Planning Commission to grant a special permit for the proposed use, the following minimum standards have to be met:

1. That said use is situated more than one thousand (1,000) feet measured from the nearest property lines of each of the affected parcels from any residential or agricultural zone.
2. That said use is situated more than one thousand (1,000) feet, measured from the nearest property lines of each parcel containing such use, from any school, children's day care facility, gymnasium for children, church, temple or other place of religious worship, park, roller skating rink, ice skating rink, playground, or similar use, and outside of and more than one thousand (1,000) feet from the Old Sacramento Historical Park.
3. That said use is situated more than one thousand (1,000) feet measured from the nearest property lines of each parcel containing such use, from any other adult-related establishment, or any adult bookstore, adult cabaret, adult motion picture theater, adult arcade or adult hotel-motel.

Staff has reviewed the application for compliance with the aforementioned standards and has found that the proposed use meets the minimum standards.

In addition, the City is required to notify all property owners within 1,000 feet from the property for which an application for a special permit for an adult-related establishment has been filed. Staff posted the site on December 5, 1986 with the required public hearing notice and the required public hearing notices were mailed to all 53 affected property owners on the same day.

D. Site Plan:

The site is developed with two buildings. Both buildings are presently being utilized by commercial industrial businesses. The subject building

is located on the West side of the property. The entire site is developed with the required front yard landscape strip and 46 on-site parking spaces will be provided for the entire site.

There are no physical or geographically unique features located on the site.

E. Building Plan:

The subject building is 20,250+ square feet in size. The adult business will occupy only 4050+ square feet of the building. The building is of concrete tilt-up construction. The exterior color of the building is white and blue. The proposed business would require only interior remodeling to accommodate the uses (see exhibit B). The applicant estimates a total occupancy of the portion of the building being used would be 25 persons (customers and employees). The business would be open from 8 am to 10 pm and employ five people. Ten parking spaces have been allotted for the business while only eight spaces are required.

F. Other comments:

The proposed project has been reviewed by City Fire, Building Inspections, Police, Revenue, City Manager's Office, City Attorney, Councilman Smallman's office and County Health Department.

The following comments were received:

City Attorney: Assuming that the proposed location meets the distance requirements of 2-E-24a of the Zoning Ordinance issuance of the special permit appears appropriate.

Police: Appears to be no conflict with the City's adult business ordinance. It should be noted that the applicant currently operates an adult-oriented establishment at 3228 Broadway (Tokyo Spa).

Building Inspections: Must meet building codes.

Health Department: Approval will be required of all plans and water temperatures.

ENVIRONMENTAL DETERMINATION:

The proposed project is exempt from environmental review pursuant to State EIR Guidelines (CEQA Section 15301 (a)).

RECOMMENDATION:

Since the application complies with the minimum standards set forth by Ordinance 83-45, staff recommends the following action.

Approval of the special permit subject to conditions and based upon findings of fact which follow:

Conditions:

1. A minimum of ten (10) parking spaces shall be provided on-site for the proposed use.
2. The proposed business operating hours are limited to the hours of 8 am to 10 pm.
3. The applicant shall submit a signage program for the proposed business for review and approval by staff prior to the issuance of sign permits.

Findings of Fact:

1. The project, as conditioned, is based upon sound principles of land use in that:
 - a. said use is situated more than 1,000 feet from any residential or agricultural zone.
 - b. said use is not located within 1,000 feet of a similar adult-related business;
 - c. said use is located more than 1,000 feet from any school, church, park, day care center, or similar use;
 - d. the area is stable and not blighted based on a visual survey conducted by staff.
2. The project, as conditioned, will not be detrimental to the public health, safety or welfare, nor result in the creation of a nuisance in that:
 - a. adequate parking is provided on-site;
 - b. the subject site has not been established or targeted for redevelopment.
3. The proposed project is consistent with the City's Discretionary Interim Land Use Policy, in that the site is designated for industrial use by the 1974 General Plan and the proposed adult business with a special permit conforms with the plan designation.

Adult Business Ord.

CERTIFIED AS TRUE COPY OF
Ordinance No. 83-145 4th Series

ORDINANCE NO. 83-145

DATE CERTIFIED DEC 14 1983

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

Gene J. Mason
City Clerk, City of Sacramento

DEC 6 1983

~~Assistant~~

AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SACRAMENTO (ORDINANCE NO. 2550 FOURTH SERIES AS AMENDED) PERTAINING TO ADULT-RELATED ESTABLISHMENTS, ADULT BOOKSTORES, ADULT CABARETS, ADULT MOTION PICTURE THEATERS, ADULT ARCADES AND ADULT HOTELS-MOTELS AND DECLARING THE ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO AS FOLLOWS:

SECTION 1.

The City Council finds that certain uses of real property, specifically adult-related establishments, have serious objectionable effects, particularly when several of such uses are located in close proximity of each other; that such concentration tends to create a "skid-row" atmosphere and has a detrimental effect upon the adjacent area; that regulation of the locations of these uses is necessary to insure that such adverse effects will not contribute to the blight or downgrading neighborhoods or deter or interfere with the operation and development of hotels, motels, and lodging houses and other businesses in the City and that the regulations and standards hereinafter set forth in this ordinance are reasonably necessary and will tend to prevent the clustering of such establishments.

The Council further finds that, although the control of the concentration or clustering of such uses in any one area will tend to prevent the creation of "skid-row" and be otherwise beneficial to the people of the City, it will not prevent the deleterious effect of blight and devaluation of residential property resulting from the establishment of any of the above specified uses which is in close proximity to and which impacts residentially zoned property; that the regulations hereinafter set forth in this ordinance encourage and foster concern for the orderly planning and development of neighborhoods as well as to preserve existing neighborhoods; that the regulations set forth in this ordinance restricting the location of such uses with reference to residentially zoned property, a church, temple, or other place used exclusively for religious worship, school, park, playground, a children's day care facility, gymnasium for children, roller skating and ice skating rinks, or similar uses and Old Sacramento Historical Park, are reasonably necessary and will tend to prevent said deleterious effects.

P86-459

1-8-87
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Item 12

The Council finds that due to the large numbers and concentrations of adult-related establishments which do not conform to the requirements of this ordinance, the elimination of such nonconforming uses through the reasonable amortization provisions of this ordinance is necessary in order to reverse the blight and deterioration caused by the clustering of such uses or their location in close proximity to residential property, or to churches, temples, or other places used exclusively for religious worship, schools, parks, playgrounds, children's day care facilities, gymnasiums for children, roller skating and ice skating rinks or similar uses, and Old Sacramento Historical Park.

SECTION 2.

Section 22-A-75 hereby is added to the Comprehensive Zoning Ordinance, Ordinance No. 2550, Fourth Series, as amended [hereinafter "Zoning Ordinance"] to read:

75. Outcall Massage Service.

Any business or establishment where the primary function of such business is to engage in or carry on massage for pecuniary compensation or consideration, hire or reward not at a fixed location, but at a location designated by the customer or client.

SECTION 3.

Section 22-A-76 hereby is added to the Zoning Ordinance to read:

76. Adult-Related Establishment.

A bathhouse, escort bureau, massage parlor, out call massage service, modeling studio or sexual encounter center, as defined by this section. "Adult-related establishment" also includes any other business or establishment which has available for or offers any patron, for pecuniary compensation, consideration, hire or reward, services or entertainment or activities which involve "specified sexual activities" or the display of "specified anatomical areas." "Adult-related establishment" does not include an adult bookstore, adult cabaret, adult motion picture theatre, adult arcade, or adult hotel-motel as defined in Section 22-A-55.

(a) Bathhouse. An establishment whose primary business is to provide, for pecuniary compensation, consideration, hire or reward, access to any kind of bath facility, including showers, saunas and hot tubs.

(b) Escort. A person who, for pecuniary compensation, consideration, hire or reward, (i) accompanies others to or about social affairs, entertainment or places of amusement, or (ii) keeps company with others about any place of public resort or within any private quarters.

(c) Escort Bureau. A business which, for pecuniary compensation, consideration, hire or reward, furnishes or offers to furnish escorts.

(d) Figure Model. Any person who, for pecuniary compensation, consideration, hire or reward, poses to be observed, sketched, painted, drawn, sculptured, photographed or otherwise depicted.

(e) Modeling Studio. "Modeling studio" means a business which provides, for pecuniary compensation, consideration, hire or reward, figure models who, for the purpose of sexual stimulation of patrons, display, "specified anatomical areas" to be observed, sketched, photographed, painted, sculpted or otherwise depicted by persons paying such consideration. "Modeling studio" does not include schools maintained pursuant to standards set by the State Board of Education. "Modeling studio" further does not include a studio or similar facility owned, operated or maintained by an individual artist or group of artists, and which does not provide, permit, or make available "specified sexual activities."

(f) Sexual Encounter Center. A business which provides two or more persons, for pecuniary compensation, consideration, hire, or reward, with a place to assemble for the purpose of engaging in "specified sexual activities" or displaying "specified anatomical areas". "Sexual encounter center" does not include hotels or motels.

SECTION 4.

Section 22-A-77 is hereby added to the Zoning Ordinance to read:

77. Specified Anatomical Areas.

"Specified Anatomical Areas" shall include:

(1) Less than completely and opaquely covered (i) human genitals or pubic region; (ii) buttock; and (iii) female breast below a point immediately above the top of the areola; and,

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SECTION 5.

Sections 2-A-77(a) and 2-A-77(b) are hereby added to the Zoning Ordinance to read:

77(a) Children's Day Care Facility.

A children's day care facility is a facility which provides nonmedical care to infants, preschool or school age children under 18 years of age during a portion of the day.

77(b) Gymnasium for Children.

A gymnasium for children is a gymnasium in which programs or activities are offered which are specifically intended for participation by persons under eighteen (18) years of age. As used herein, gymnasium means a building used for physical exercise or for indoor sports such as basketball, volleyball and gymnastics.

SECTION 5.

Section 22-A-55 of the Zoning Ordinance is hereby amended to read:

55. Adult bookstores, adult cabarets, adult motion picture theaters, adult arcades, and adult hotels-motels.

(a) Adult Bookstore. Adult bookstore is a building or portion thereof used by an establishment having a substantial part of its stock in trade for sale to the public or certain members thereof, books, magazines, and other publications which are distinguished or characterized by their emphasis on matters depicting, describing, or relative to "specified sexual activities" as hereinafter defined; and which establishment restricts admission to such building or portion thereof to adults only.

(b) Adult Cabaret. Adult cabaret is a building or portion thereof or area in which a substantial portion of the total presentation time is devoted to the presentation or exhibition or featuring of any or all of the following activities for observation by patrons or customers, and which establishment restricts admission to such building, or portion thereof, or area, to adults only:

(i) male or female topless or bottomless dancers, male or female impersonators, or similar entertainers;

(ii) male or female stripteasers, whether nude or partially clothed;

(iii) burlesque-type entertainment, including shows or skits which include topless or bottomless dancing, male or female impersonators, striptease, or similar entertainment.

(c) Adult Motion Picture Theater. Adult motion picture theater is a building or portion thereof or area, open or enclosed, in which a substantial portion of the total presentation time is devoted to the presentation of motion pictures distinguished or characterized by their emphasis on matters depicting, describing or relating to "specified sexual activities" as hereinafter defined, for observation by patrons or customers; and which establishment restricts admission to such building or portion thereof or area to adults only.

(d) Adult Arcade. An adult arcade is a building or portion thereof open or enclosed, wherein coin or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any time, and where a substantial portion of the images so displayed are distinguished or characterized by an emphasis on matters depicting or describing "specified sexual activities" as hereinafter defined; and which establishment restricts admission to such building or portion thereof to adults only.

(e) Adult Hotel-Motel. A hotel-motel wherein a substantial portion of material is presented which is distinguishable or characterized by an emphasis on depicting or describing "specified sexual activities" as hereinafter defined, and which establishment restricts admission to such building or portion thereof to adults only.

SECTION 7.

Section 22-A-56 of the Zoning Ordinance is hereby amended to read:

56. "Specified sexual activities" shall include the following:

(a) Actual or simulated intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of sexual relationship, or the use of excretory functions in the context of sexual relationship, and any of the following depicted sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty; or,

(b) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or,

(c) Use of human or animal masturbation, sodomy, oral copulation, coitus, ejaculation; or,

(d) Fondling or touching of nude human genitals, pubic region, buttocks or female breasts; or,

(e) Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or,

(f) Erotic or lewd touching, fondling or other contact with an animal by a human being; or,

(g) Human excretion, urination, menstration, vaginal or anal irrigation.

SECTION 8.

Section 2-E-24 of the Zoning Ordinance is hereby amended to read:

24. A special permit shall be required to establish an adult-related establishment in this zone.

(a) No special permit shall be issued for such use unless the following minimum standards have been met:

(1) That said use is situated more than one thousand (1,000) feet, measured from the nearest property lines of each of the affected parcels from any residential or agricultural zone.

SECTION 10.

Sections 12-B and 12-C of the Zoning Ordinance are hereby amended to read:

B. Adult Bookstores, Adult Cabarets, Adult Motion Picture Theaters, Adult Arcades and Adult Hotels-Motels. The following regulations shall apply to nonconforming adult bookstores, adult cabarets, adult motion picture theaters, adult arcades and adult hotels-motels, in addition to the requirements of subsection "A" of this section:

1. Nonconforming Uses Defined. All Adult Bookstores, Adult Cabarets, Adult Motion Picture Theaters, Adult Arcades and Adult Hotels-Motels legally established or in legal existence prior to the effective date of Ordinance No. 4114, Fourth Series, shall be deemed non-conforming and may continue to operate subject to the provisions of this section.

2. No legally established adult bookstore, adult cabaret, adult motion picture theater, adult arcade and adult hotel-motel shall be deemed nonconforming solely by virtue of the subsequent creation or expansion of any use or zone designated in section 2-E-22-(a)(1) or 2-E-22-(a)(2).

C. Adult-Related Establishments. The following regulations shall apply to nonconforming adult-related establishments in addition to the requirements of subsection "A" of this section. The provisions of this subsection shall prevail in the event of conflict with the provisions of subsection "A":

1. Nonconforming Uses Defined. All adult-related establishments legally established or legally in existence prior to to effective date of this Section C and which do not comply with the provisions of Sections 2-E-24(a)(1), 2-E-24(a)(2), and 2-E-24(a)(3) shall be deemed nonconforming and may continue to operate provided, however, that any adult-related establishment legally established or legally in existence will further be subject to the provisions of this Section C. No adult-related establishment shall be deemed to be legally established or legally in existence prior to the effective date of this section unless:

(a) in the case of any massage parlor, a valid permit therefor pursuant to Article IV of Chapter 28 of the Sacramento City Code was in effect on the effective date of this ordinance;

(b) in the case of any adult-related establishment other than a massage parlor, a permit therefor has been applied for pursuant to City Code Section 28.42 on or before November 7, 1983, and such permit is subsequently issued.

2. No adult-related establishment legally established or legally in existence shall be deemed nonconforming solely by virtue of the subsequent creation or expansion of any use or zone designated in Sections 2-E-22(a)(1), 2-E-22(a)(2), 2-E-24(a) or 2-E-24(b).

3. Discontinuance of Nonconforming Activities. Within three (3) years from the effective date of this section, all adult-related establishments which do not conform to the provisions of Section 2-E-24(a)(1), 2-E-24(a)(2) and 2-E-24(a)(3) shall be discontinued or brought into full conformity with this ordinance.

A special permit shall be issued to permit the activity to be continued for a period of time exceeding three (3) years, but in no event exceeding five (5) years, if the commission finds that the activity involves investment of money in leasehold or improvements such that the longer period is the minimum necessary to prevent undue financial hardship by permitting amortization of such funds invested.

4. In determining the extent of investment involved in the activity, the Commission shall only consider leases and improvements directly related to the particular adult entertainment establishment and acquired or entered into prior to the effective date of Ordinance No. 83-034.

5. The Planning Commission in granting a special permit may impose reasonable conditions as may be necessary to carry out the intent and purpose of this ordinance.

6. No existing lease for such a nonconforming use shall be renewed or extended, unless such lease is renewed or extended pursuant to an option agreement entered into prior to the effective date of Ordinance 83-034. Any new owner or operator of a leased adult-related establishment shall prove that he has received either an assignment or sublease from the previous tenant.

7. Any nonconforming use which has been unoccupied or out of business for sixty (60) days or more, shall be deemed abandoned and shall not be reestablished except by the granting of special permit in accordance with Section 2-E-24.

8. In the event two or more lawfully established adult-related establishments are rendered nonconforming solely because of their location within one thousand (1,000) feet of one another, the adult-related establishment or establishments last established shall be the establishments required to discontinue operations or bring such operations into conformity with this ordinance.

SECTION 11.

Section 2-E-22-(a) of the Zoning Ordinance is hereby amended to read:

22. Adult bookstores, adult cabarets, adult motion picture theaters, adult arcades and adult hotels-hotels are permitted uses in the zones indicated subject to the limitations contained in subsection (a) and (b) below.

(a) The location of such uses in any of the zones indicated must meet the following minimum standards, unless a waiver of the standards is granted under subsection (b) below:

SECTION 15.

This is hereby declared to be an emergency measure to take effect immediately. The facts constituting the emergency are the need for this ordinance to take effect before the expiration of the current moratorium ordinance prohibiting the establishment of all adult-related establishments, which will expire on December 7, 1983.

ENACTED: DEC 6 1983

EFFECTIVE: DEC 6 1983

ANNE RUDIN
MAYOR

ATTEST:

ANNE J. MASON
Assistant CITY CLERK



#22

CITY OF SACRAMENTO

CITY PLANNING DIVISION

DEPARTMENT OF PLANNING AND DEVELOPMENT

1231 I Street

Sacramento, Ca 95814

DEC 18 1986

PUBLIC NOTICE

RECEIVED

Administration
Room 300 449-5571
Building Inspections
Room 200 449-5716
Planning
Room 200 449-5604

Date: December 5, 1986

Dear Property Owner:

The Planning Division is notifying all owners of property within 100/300 feet of the proposed project (described below) that the Sacramento City Planning Commission will consider this proposal at a public hearing scheduled to begin at 5:30 PM in room 102, first floor, 1231 I Street, Sacramento, California, on December 18, 1986.

The proposed project is:

P86-459 Special Permit to allow an adult-related business consisting of a private steam bath, hot tub, suntan room, sauna, Japanese style community hot baths and accupressure business on 1.72+ developed ac. in the Light Industrial (M-1) zone. Loc: 8178 Belvedere Ave., Suite A APN: 61-061-37.

12/15/86

Sentham

I wrote Sept. 29 objecting. I still believe this is an inappropriate activity for this area & strongly object. I request the special permit be denied.

W. Blumley

If you challenge the above requested entitlements in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the Planning Commission at or prior to the public hearing.

If you need further information, please contact the planner on duty at the City Planning Division, 449-5604, and please refer to the above 'P' or 'M' number.

Fred Goodrich
Associate Planner

P86-459

1-8-87

#12

L. P. Connelly
41 Birch Road
Bell Canyon, California 91307

September 29, 1986

City of Sacramento
Department of Planning
and Development
1231 "I" Street
Sacramento, California 95814

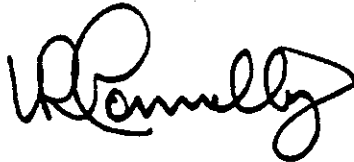
Attention: Fred Goodrich

Gentlemen:

This is to confirm my phone conversation with
Fred Goodrich regarding Special Permit Applica-
tion No. P86-349.

As the owner of the property at 8255 Alpine
Avenue, I strongly object to the establishment
of an adult-related activity in this neighborhood.
This activity seems completely inappropriate in
an industrial manufacturing area, and I believe
it would adversely affect the businesses in this
area.

Sincerely,



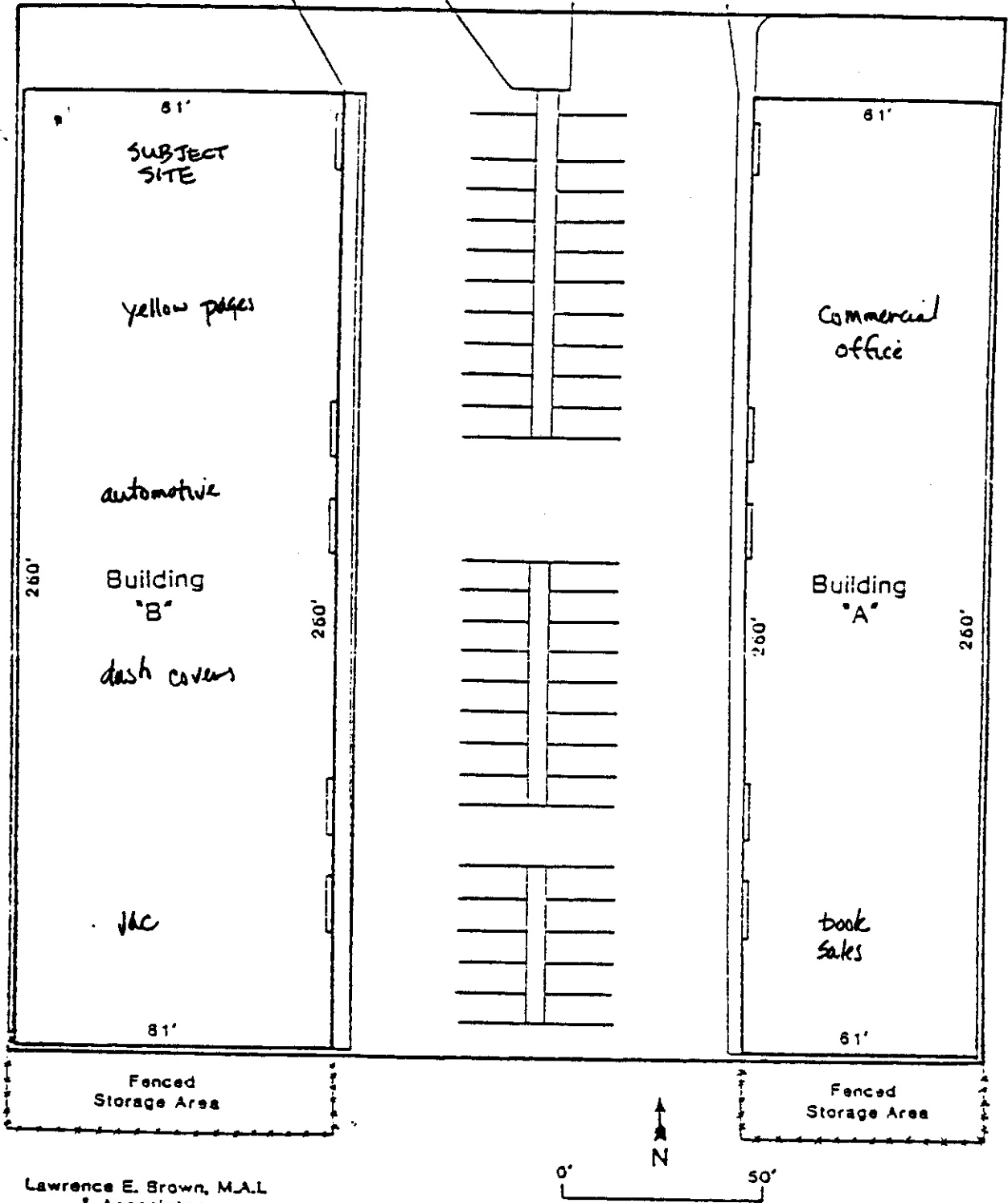
cc: Charles Johnson

P86-459

1-8-87

12

Belvedere Avenue



Lawrence E. Brown, M.A.L.
& Associates

PLOT PLAN

8178-8188

Belvedere Ave.

Sacramento, California

786-459

~~12-18-86~~
1-8-87

Item 12

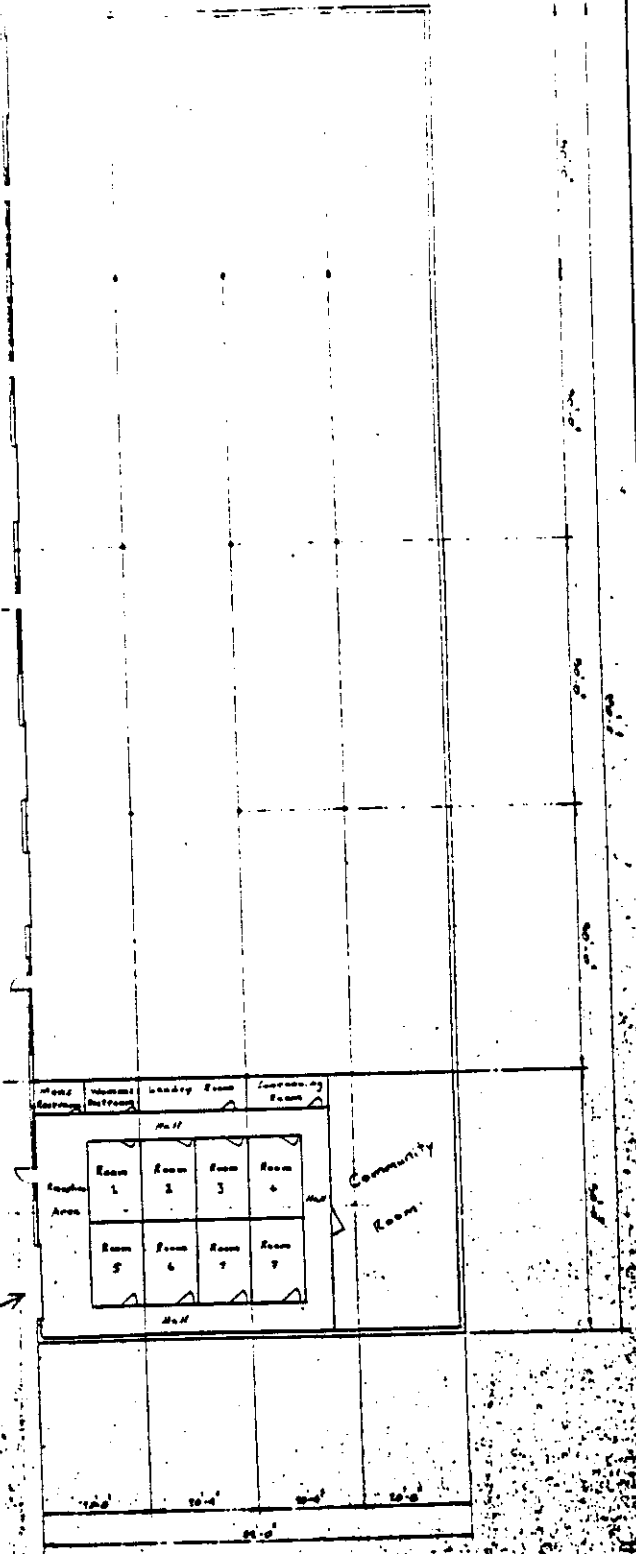
Exhibit B

1.0000
PLAN

Bldg B

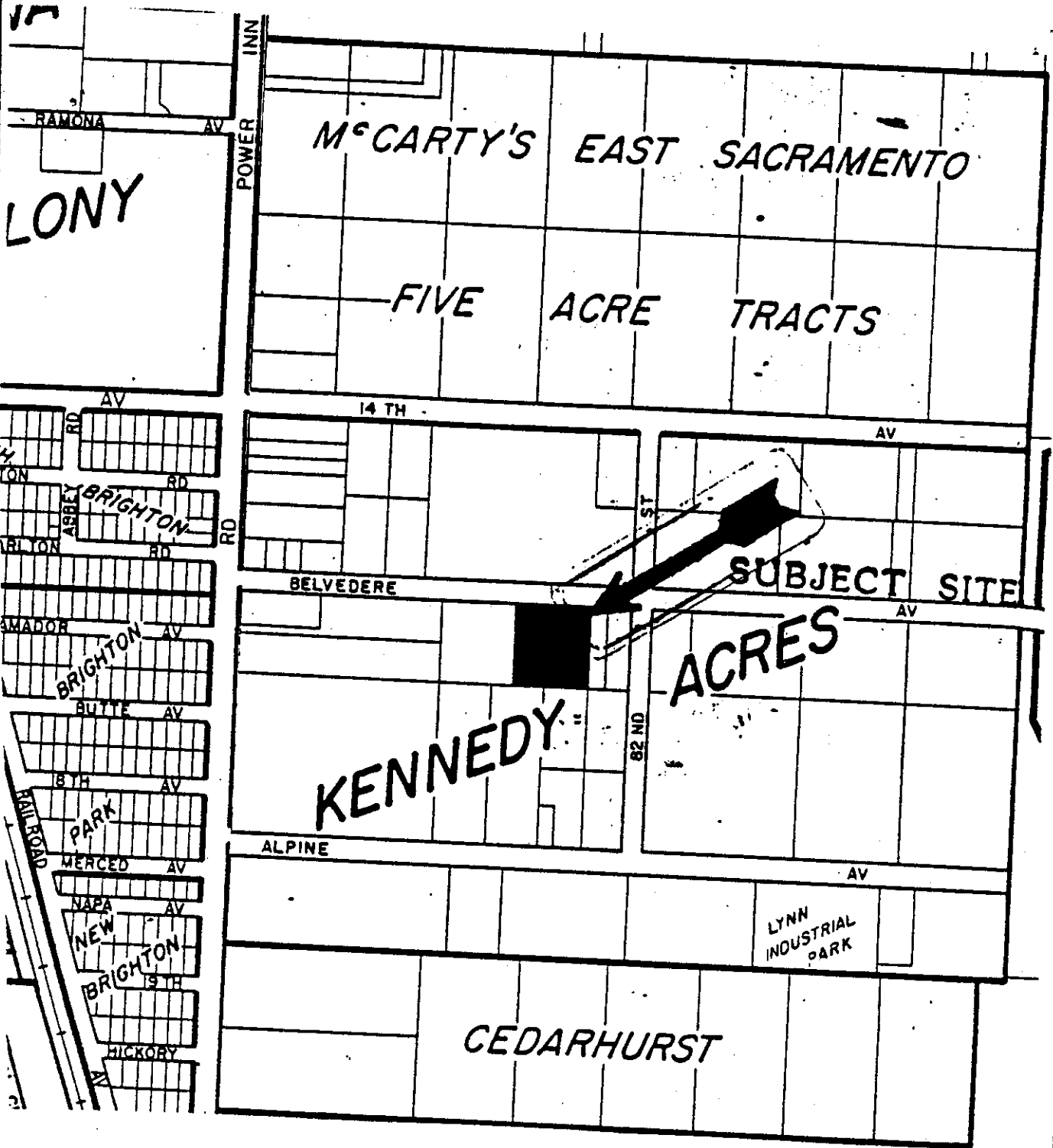


Tokyo
Hot Springs



780-159					

1-8-87
12-16-86



VICINITY MAP

P86-459

~~1-8-99~~
~~12-15-04~~

Item 12

L. P. Connelly
41 Beach Road
Bell Canyon, California 91307

September 29, 1986

City of Sacramento
Department of Planning
and Development
1231 "I" Street
Sacramento, California 95814

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cc: Charles Johnson