

SUPERSEDED

CITY PLANNING COMMISSION
SACRAMENTO, CALIFORNIA
MEMBERS IN SESSION:

ITEM # 3
May 13, 1999
PAGE 1

P98-132 - Northern California Prep School

- REQUEST:
- A. **Environmental Determination:** Categorical Exemption (CEQA Section 15301)
 - B. **Special Permit** to establish a 10,000± square foot, 50± student school in existing buildings on 2.8± developed acres in the R2B-R (Multi-family Review) zone;
 - C. **Plan Review** for establishment of a 10,000± square foot, 50± student school in existing buildings on 2.8± developed acres in the R2B-R (Multi-family Review) zone.
 - D. **Variance** to waive the solid masonry wall requirement for a non-residential land use abutting residential zoned or used properties.

LOCATION: 6046 Lemon Hill Avenue
APN: 038-0091-016
South Sacramento Community Plan Area
Council District 6

APPLICANT:	Tamre Burns, 369-0130 4370 Mather School Road Rancho Cordova, CA 95655
OWNER:	Tamre Burns, 369-0130 4370 Mather School Road Rancho Cordova, CA 95655
APPLICATION FILED/COMPLETED:	December 2, 1998
STAFF CONTACT:	Brad Shirhall, 916-264-7483

SUMMARY: The applicant proposes to reuse an existing, vacant, 44 bed elderly residential care facility. The new use would be as a 50 student private school providing an alternative school setting to students from regional school districts, but primarily the Sacramento City Unified School District.

RECOMMENDATION: Staff recommends approval of the Special Permit and the Plan Review because the proposed use, as conditioned, will provide a service to school districts in the region, and has not raised any objections in the community. Staff recommends denial of the Variance because the proposed use must provide adequate buffering between itself and the abutting residential uses or zones.

PROJECT INFORMATION:

General Plan Designation:	Medium Density Residential
Community Plan Designation:	Residential (11-21 units per net acre)
Existing Land Use of Site:	Vacant convalescent home
Existing Zoning of Site:	Multi-Family Review (R2B-R) zone

Surrounding Land Use and Zoning:

North: Vacant & Church; Standard Single Family (R-1) zone
 South: Mobile Homes; Standard Single Family (R-1) zone
 East: Single Family; Multi-Family Review (R2B-R) zone
 West: Vacant; Multi-Family Review (R2B-R) zone

Setbacks:	Required	Provided
Front:	25'	0'
Side(Int):	5'	7'
Rear:	15'	127'

Property Dimensions:	175' x 650'
Property Area:	2.6± gross acres
Square Footage of Building:	10,000± square feet
Height of Building:	8 feet, 1 story
Exterior Building Materials:	Stucco & Wood
Roof Material:	Composite Shingle
Hours of Operation:	8:00 A.M. to 4:00 P.M.
Parking Provided:	22 spaces
Parking Required:	No City standard
Topography:	Flat
Street Improvements:	Existing
Utilities:	Existing

OTHER APPROVALS REQUIRED: In addition to the entitlements requested, the applicant will also need to obtain the following permits or approvals, including, but not limited to:

Permit
Building Permits

Agency
Building Division

BACKGROUND INFORMATION: On November 9th, 1965 the Planning Commission approved the Salvation Army's request for a Special Permit to open a 20 room dormitory and emergency shelter for girls (P2480). On September 8th, 1975, the Planning Commission approved a request for a Special Permit to expand the dormitory to 44 beds for a senior residential care facility (P6752). The last use of this facility occurred approximately 2 years ago. The facility has been vacant since.

STAFF EVALUATION: Staff has the following comments:

A. Policy Considerations

General Plan

Section 7-18 - Goal A Continue to assist school districts in providing quality education facilities the will accommodate projected student enrollment growth.

Zoning Ordinance

The applicant's request is to establish a 50 student school in an alternative setting, for children that would normally be enrolled in schools from Sacramento Unified School District and, on occasion, from schools in other districts in the region. The City's Zoning Ordinance allows schools to be established in residential zones if a Special Permit is granted. The zoning of the site requires that a Plan Review also be approved.

B. Site Plan Design/Zoning Requirements

1. Setbacks

All potentially occupied structures on the site meet all setback requirements found in the Zoning Ordinance. However, a block wall built at the back of the sidewalk along Lemon Hill Avenue has been constructed in the front yard setback area. This wall was constructed at the back of the sidewalk and is in nonconformance with the setback provisions of the Zoning Ordinance. Records indicate that the wall was probably constructed in the early 1960s. The Public Works Department has indicated that the wall presents a sight distance problem for vehicles exiting the property onto Lemon Hill Avenue. In response, a portion of the wall will have to be removed, or relocated so as to provide adequate sight distance. This has been incorporated as a condition of approval.

2. Parking/Circulation

Staff routed the project to the Public Works and Fire departments for a review of the existing access, and parking lot off of Lemon Hill Avenue. The driveway does not meet minimum width requirements as per City Code. The existing gate does not meet City Code requirements. It must be located a minimum of 20 feet from the existing Lemon Hill Avenue right-of-way (Exhibit 1A). The applicant has agreed to modify both the driveway and gate to the satisfaction of the Public Works Department.

The Fire Department indicated that a driveway exceeding 150 feet in depth was unacceptable. In response they require that the applicant construct a turn-around area for fire trucks. The applicant has agreed to this condition.

The on-site parking lot has 22 parking spaces, two of which are marked for handicap access. This meets and exceeds the existing Accessibility standards. The Zoning Ordinance does not have any specific requirements for the number of spaces in school parking lots. However, the applicant has indicated that students are transported to the site in four school owned vans, and that there are about 10 staff members and one or two visitors on site at any one time. Given these facts, staff's opinion is that the on-site 22 space parking lot is sufficient for this use.

3. Landscaping

The existing landscaping consists primarily of lawn areas and shade trees. The applicant has proposed no changes to any of the existing landscaping. The existing parking lot does not conform to the tree shading regulations found in the Zoning Ordinance. However, it was constructed prior to adoption of those regulations and is, therefore, not required to be shaded.

4. Fencing / Walls

Section 3 of the City Zoning Ordinance requires that non-residential land uses shall have a six foot tall, solid wall of masonry, brick or similar material along all property lines abutting residentially zoned or used properties. The purpose of the wall is to provide a visual and noise barrier so as to be more compatible with abutting uses. Any deviation from this requires a Variance from the Planning Commission.

The property is currently surrounded by a combination of fencing types. The northern property line, and approximately 120 feet of the eastern property line, is enclosed by a six foot high solid masonry wall. The remaining 530 feet (approximate) of the eastern property line and the entire 650 feet of western property line is enclosed by a six foot high chainlink fence with wood or plastic slats. The 175 foot southern property line, which is shared by an adjacent mobile

home park, is enclosed by a six foot high wood fence. This fencing was adequate for the previous land uses on this site.

The applicant is requesting that the Planning Commission grant a Variance from this requirement. The applicant's justification (Attachment 6) is based on the fact that other schools within the City of Sacramento have been constructed and opened within residential zones, and have not been required to construct solid masonry walls. Staff informed the applicant that the reason for this is that those schools are part of a public school district. School districts have the ability to exempt themselves from the City's Zoning Ordinance given that they themselves are self-governing entities. The applicant's justification also illustrates their belief that there is "no evidence in the record" that indicates the use of the property for a school with 40 students (the application is actually for a school of 50 students) would result in any visual, audible, or other intrusion upon neighboring properties.

Staff does not support the Variance request based on the following facts:

- the applicant's justification does not state that there is some unique or unusual condition on or about the property that precludes them from meeting the standard set in the Zoning Ordinance;
- granting the variance for a commercial use would present a noise and aesthetic nuisance to adjacent property owners, that would be reduced or eliminated with construction of the wall.
- there is no written evidence from adjacent property owners indicating their willingness to support waiving the wall requirement.

Staff has added the construction of this wall as a condition of approval

5. Trash Enclosure

The site plan submitted by the applicant did not indicate a location for a trash enclosure. A site visit by staff indicated that a 2 to 4 yard mobile container is on site. Staff has conditioned the project to submit a revised plan for, and construct a trash enclosure meeting the requirements of Section 34 of the City's Zoning Ordinance.

6. Signage

The applicant has proposed no signage. Any signage placed on the site at a later date will be subject to the provisions of the City's Sign Ordinance and must be accompanied by the appropriate sign permit.

C. Building Design

The site has three existing structures all of which were built in the mid 1960s. Two of the structures were constructed as single family residences and are both single story and approximately 15 feet tall. Neither structure is currently occupied and the applicant has indicated that they plan to leave them vacant. If, at a later time, the school needs more office space, these two residential units could be used for that purpose. Therefore, staff has included a condition which would allow the conversion to office use as long as the office use is directly related to the school.

The main structure where the school will be housed is single story, approximately eight feet tall, and approximately 10,000 square feet. All of the structures, including the two unused residential units, are constructed of wood and stucco, and have composite shingle roofs. All of the structures have been subject to review by the City's Building Division. The applicant has proposed no external changes to the structures, except that they plan to construct a shade trellis over the front entrance. Staff has no objection to the trellis addition as long as the structure meets requirements of the Zoning Ordinance and the Uniform Building Code.

The project is not in a Design Review district and is, therefore, not subject to approval from the Design Review Board.

PROJECT REVIEW PROCESS:

A. Environmental Determination

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

B. Public/Neighborhood/Business Association Comments

Staff sent a written request for comments to all property owners within a 200 foot radius of the subject property. However, at the time of the written request, staff was not aware the applicant would be requesting a Variance. Therefore the property owners may be unaware of the request. Staff did suggest that the applicant contact the adjacent property owners and ask them for their preferences regarding a masonry wall. To date, no comments, for or against the project, have been received.

Staff also requested comments from the *Fruitridge Manor Neighborhood Association* and from *All Churches Together*. Neither association responded with comments.

Staff received two unsolicited letters of support for the project; one from the *Stockton Boulevard International Marketplace*, and one from the *Stockton Boulevard Redevelopment Area Project Area Committee*. The letters are included as Attachments 4 and 5.

C. Summary of Agency Comments

The project has been reviewed by several City Departments and other agencies. The following summarizes the comments received:

1. *Public Works Department*

Public Works requested that the applicant modify the existing gate and driveway consistent with City Code. They requested that appropriate site distance at the driveway be achieved and maintained and that curb, gutter, sidewalk, and street lighting standards be achieved. These have all been incorporated as conditions of approval.

2. *Fire Department*

The Fire Department requested that a "turn-around" area for fire trucks be constructed, "No Parking" signs be installed, as well as a Knox Box at the street entrance. These have all been incorporated as conditions of approval.

3. *Utilities Department*

The Utilities Department provided advisory comments.

PROJECT APPROVAL PROCESS: Of the entitlements below, Planning Commission has the authority to approve or deny A, B, and C. The Planning Commission action may be appealed to the City Council. The appeal must occur within 10 days of the Planning Commission action.

RECOMMENDATION:

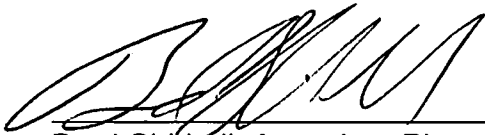
Staff recommends the Planning Commission take the following actions:

- A. Adopt the attached Notice of Decision and Findings of Fact which finds that the project is Exempt pursuant to CEQA Section 15301;
- B. Adopt the attached Notice of Decision and Findings of Fact approving the Special Permit to establish a 10,000± square foot, 40± student school in existing buildings on 2.8± developed acres in the R2B-R (Multi-family Review) zone;

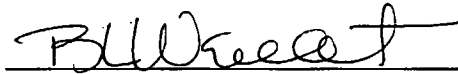
- C. Adopt the attached Notice of Decision and Findings of Fact approving the Plan Review for establishment of a 10,000± square foot, 40± student school in existing buildings on 2.8± developed acres in the R2B-R (Multi-family Review) zone.
- D. Adopt the attached Notice of Decision and Findings of Fact denying the Variance to waive the solid masonry wall requirement for a non-residential land use abutting residential zoned or used properties.

Report Prepared By,

Report Reviewed By,



Brad Shiffhall, Associate Planner



Barbara Wendt, Senior Planner

Attachments

Attachment 1	Notice of Decision & Findings of Fact
Exhibit 1A	Site Plan
Exhibit 1B	Floor Plans
Exhibit 1C	Floor Plans
Exhibit 1D	Elevations
Attachment 2	Vicinity Map
Attachment 3	Land Use & Zoning Map
Attachment 4	Letter from the <i>Stockton Boulevard International Marketplace</i>
Attachment 5	Letter from the <i>Stockton Boulevard Redevelopment Area Project Area Committee</i> .
Attachment 6	Letter Justifying Variance Request

**NOTICE OF DECISION AND FINDINGS OF FACT FOR
NORTHERN CALIFORNIA PREP SCHOOL, LOCATED AT 6046 LEMON HILL
AVENUE SACRAMENTO, CALIFORNIA IN THE ZONE. (P98-132)**

At the regular meeting of May 13, 1999, the City Planning Commission heard and considered evidence in the above entitled matter. Based on verbal and documentary evidence at said hearing, the Planning Commission took the following actions for the location listed above:

- A. **Environmental Determination:** Categorical Exemption (CEQA Section 15301);
- B. **Approved a Special Permit** to establish a 10,000± square foot, 40± student school in existing buildings on 2.8± developed acres in the R2B-R (Multi-family Review) zone;
- C. **Approved a Plan Review** for establishment of a 10,000± square foot, 40± student school in existing buildings on 2.8± developed acres in the R2B-R (Multi-family Review) zone.
- D. **Denied the Variance** to waive the solid masonry wall requirement for a non-residential land use abutting residential zoned or used properties.

These actions were made based upon the following findings of fact and subject to the following conditions:

FINDINGS OF FACT

- A. Categorical Exemption: The City Planning Commission finds and determines that the proposed project is exempt from environmental review pursuant to Section 15301 of the CEQA Guidelines.
- B. The Special Permit to establish a 10,000± square foot, 40± student school in existing buildings on 2.8± developed acres in the R2B-R (Multi-family Review) zone is approved subject to the following findings of fact:
 - 1. The proposed use is based upon sound principles of land use in that the proposed use, as conditioned, is compatible with the surrounding residentially used and zoned properties;
 - 2. Granting of the Special Permit shall not be detrimental to the public health, safety, or welfare, and it will not create a public nuisance in that, as conditioned, the use will appropriately be screened from the surrounding residentially used and zoned properties;

3. The proposed use will be compatible with the objectives of the general plan for the area in that it promotes assisting school districts to provide quality educational facilities.
- C. The Plan Review for establishment of a 10,000± square foot, 50± student school in existing buildings on 2.8± developed acres in the R2B-R (Multi-family Review) zone is approved subject to the following findings of fact:
1. The proposed school, when granted a Special Permit, is consistent with the General Plan land use designation of High Density Residential;
 2. Facilities, including utilities, access roads, sanitation, and drainage are all existing and consistent with City standards, and the proposed improvements, as conditioned, are properly related to existing and proposed streets and highways;
 3. The property involved is of more than adequate size and shape to accommodate the existing structures;
 4. Approval of the Plan Review will not be contrary to the public health or safety or injurious to the property or improvements of the adjacent properties.
- D. The Variance to waive the solid masonry wall requirement for a non-residential land use abutting residential zoned or used properties is denied based on the following findings of fact:
1. The Variance would constitute a special privilege extended to one individual property owner in that other property owners wanting to place non-residential land uses next to residentially zoned or used properties would be required to construct a six foot tall solid masonry or brick wall.
 2. The project will be injurious to the public welfare and to the property in the vicinity of the project in that:
 - A. implementation of the project, and the associated noise, without the wall will present a nuisance to adjacent property owners;
 - B. sufficient buffering must be provided between commercial and residential land uses.

CONDITIONS OF APPROVAL

- A. The Special Permit to establish a 10,000± square foot, 40± student school in existing buildings on 2.8± developed acres in the R2B-R (Multi-family Review) zone is hereby approved subject to the following conditions:
- A1. Students shall be limited to 4th grade through 12th grade.
 - A2. School shall be limited to a maximum of 50 students.
 - A3. School shall be limited to hours of operation from 8:00 A.M. to 4:00 P.M. on Monday through Friday.
 - A4. Existing Single family residential structures can be converted to office use as long as that use is directly related to Northern California Preparatory School.
 - A5. Prior to issuance of final Certificate of Occupancy, applicant or owner shall construct a six foot solid masonry, brick, or other similar material wall around the perimeter of the property consistent with requirements found in Section 3-D of the City's Zoning Ordinance.
 - A6. Prior to issuance of Certificate of Occupancy, applicant shall design and construct a trash enclosure, to the satisfaction of the Planning Department. Trash enclosure and location shall comply with Section 34 of the City Zoning Ordinance.
- B. The Plan Review for establishment of a 10,000± square foot, 50± student school in existing buildings on 2.8± developed acres in the R2B-R (Multi-family Review) zone is hereby approved subject to the following conditions:
- B1. The applicant shall obtain all necessary building permits prior to commencing construction.
 - B2. Applicant shall redesign project to indicate location of trash enclosure, to the satisfaction of the Planning Department. Trash enclosure size, construction, and location shall comply with Section 34 of the City Zoning Ordinance and shall be constructed prior to issuance of Certificate of Occupancy.
 - B3. Any signage shall comply with the City's Sign Ordinance.

Public Works Department

The following are conditions for subject project that shall be satisfied prior to issuance of any building permit:

- B4. Dedicate a standard 12½ foot public utility easement for underground and overhead facilities and appurtenances adjacent to Lemon Hill Avenue.
- B5. Remove and reconstruct existing deteriorated curb, gutter, and sidewalk per City standards.
- B6. Gates at driveways shall be a minimum of 20 feet from the public street right of way.
- B7. The driveway shall be a minimum width of 24 feet and a maximum width of 35 feet.
- B8. Standard vehicular sight distance shall be maintained at the driveway. This may require alterations to the existing wall at the back of sidewalk.
- B9. Front gates shall have a Knox Lock prior to issuance of Certificate of Occupancy.
- B10. "No Parking" shall be posted on the east side of the parking lot prior to issuance of Certificate of Occupancy.
- B11. A "turn-around" area meeting the requirements of the Fire Department shall be constructed/included in the parking lot prior to issuance of Certificate of Occupancy.

Utilities Department

- B12. The proposed development is located within Sacramento Sanitation District No. 1. Contact the Regional Sanitation District for sanitary sewer conditions.

Advisory notes

The proposed project is located in the 100 year flood plain, designated as an AR zone on the Federal Emergency Management Agency (FEMA)

Federal Insurance Rate Maps (FIRMs) dated July 6, 1998. With the AR zone the following regulations will apply:

- All new residential and commercial development will be required to be constructed with the lowest floor, including basement, at or above the base flood elevation, or 3 feet above the highest adjacent grade, whichever is lower.
- Commercial projects will have the option of flood proofing in lieu of the elevation requirements.

Special Note: The Army Corps of Engineers is currently considering reducing the estimated 100-year flows on the American River. If the estimated flows are reduced, the AR flood zone may be replaced with a less restrictive flood zone thus precluding the requirement to elevate or flood proof this project.

CHAIRPERSON

ATTEST:

SECRETARY TO CITY PLANNING COMMISSION

DATE (P98-132)

- Exhibit 1A Site Plan
- Exhibit 1B Floor Plans
- Exhibit 1C Floor Plans
- Exhibit 1D Elevations

Exhibit 1A - Site Plan

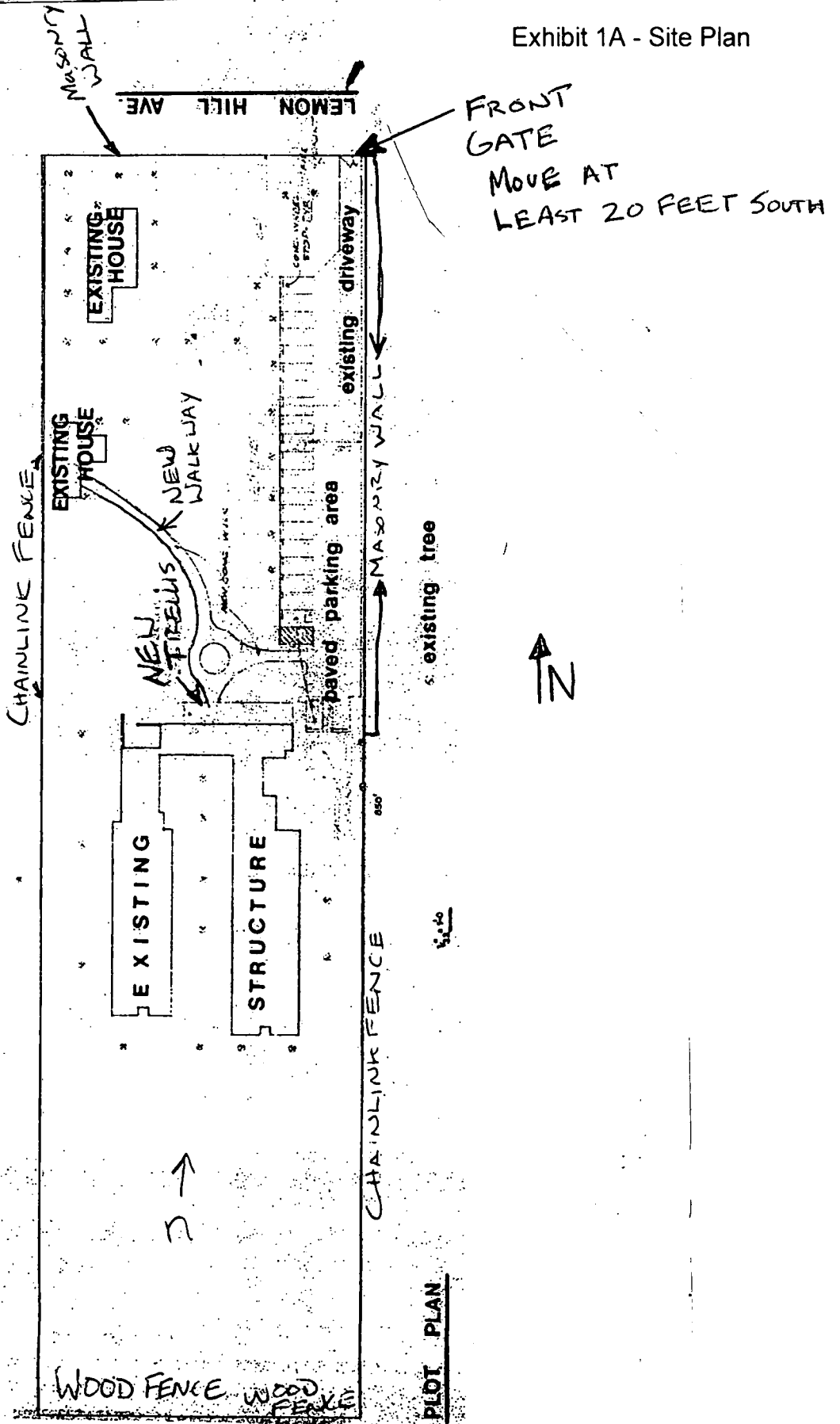
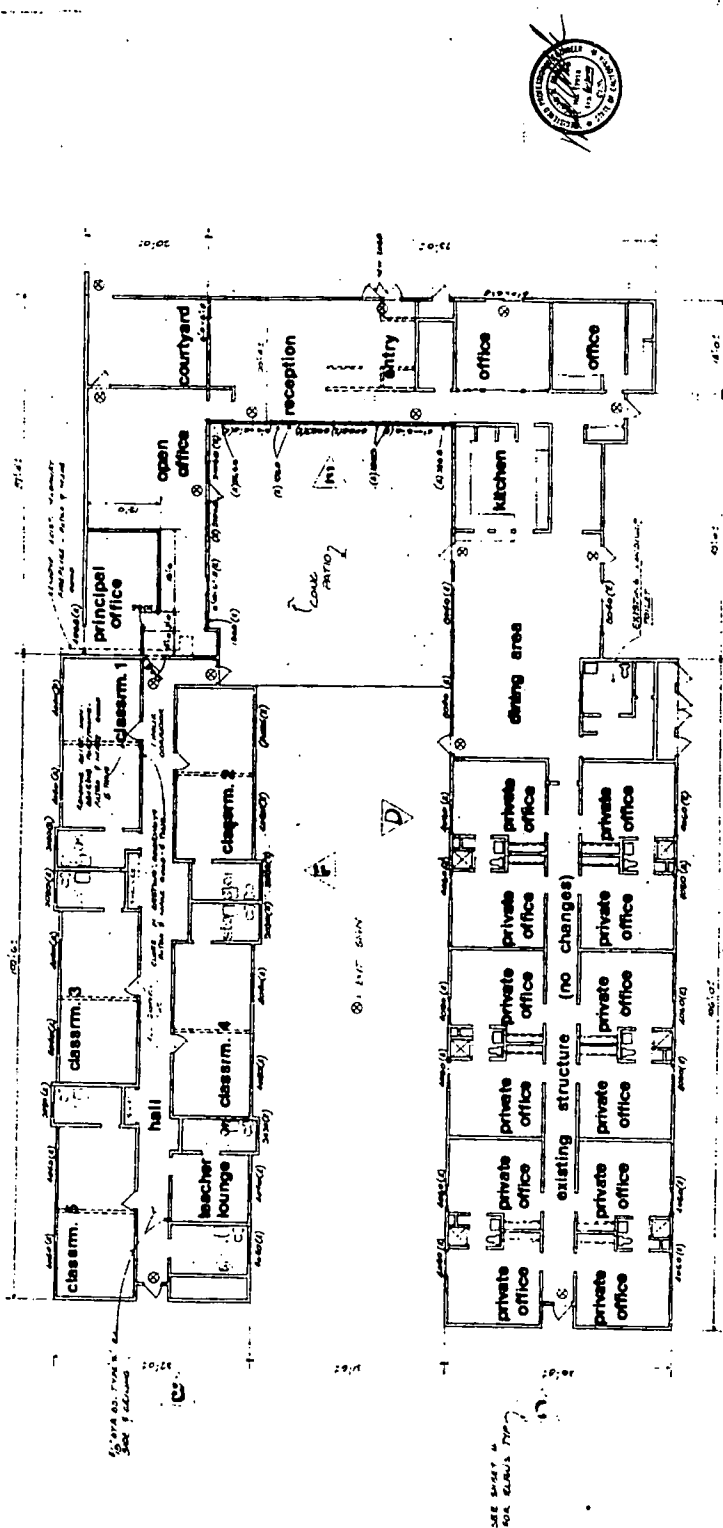
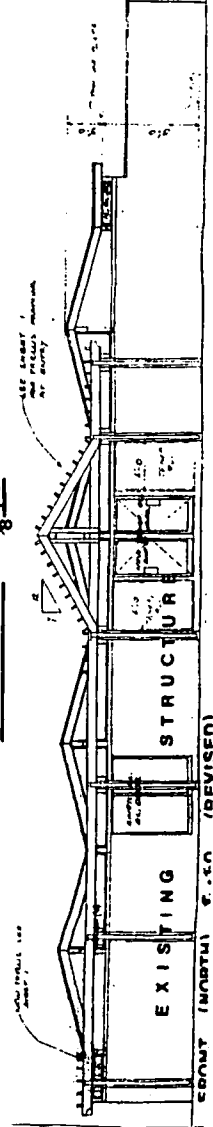


Exhibit 1B - Floor Plans



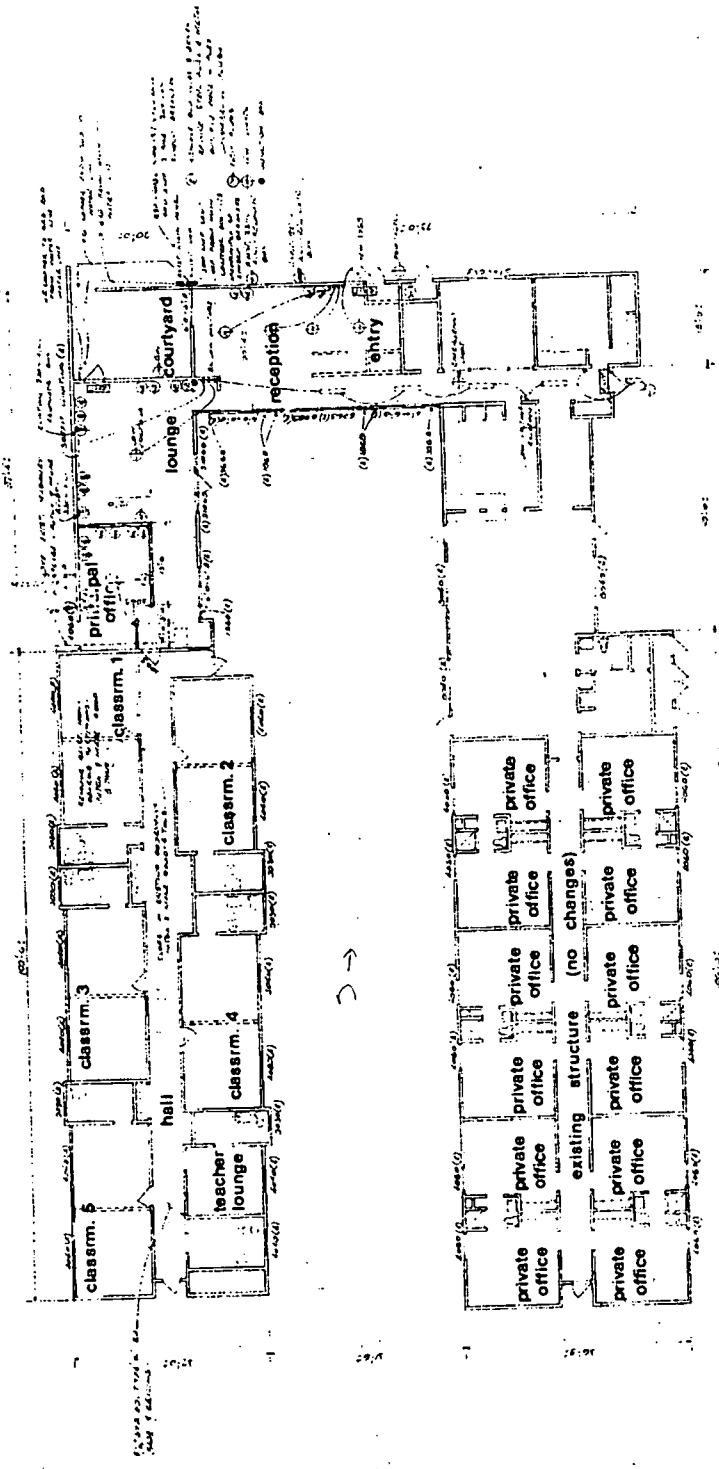
J.C.	James C. ...
Architect	Architect
Professional Seal	Professional Seal
State of California	State of California
Education Center	Education Center
Project No.	98-132
Date	4/8/99

FLOOR PLAN 1:10



EXISTING STRUCTURE (REVISION)

Exhibit 1C - Floor Plans



Model: Northern California Education Center	
floor plan; front elev. 3 of 3	

FLOOR PLAN 1/8"=1'-0" ELECTRICAL

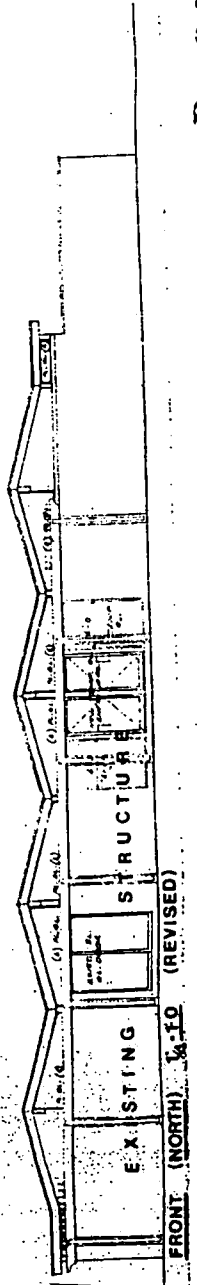
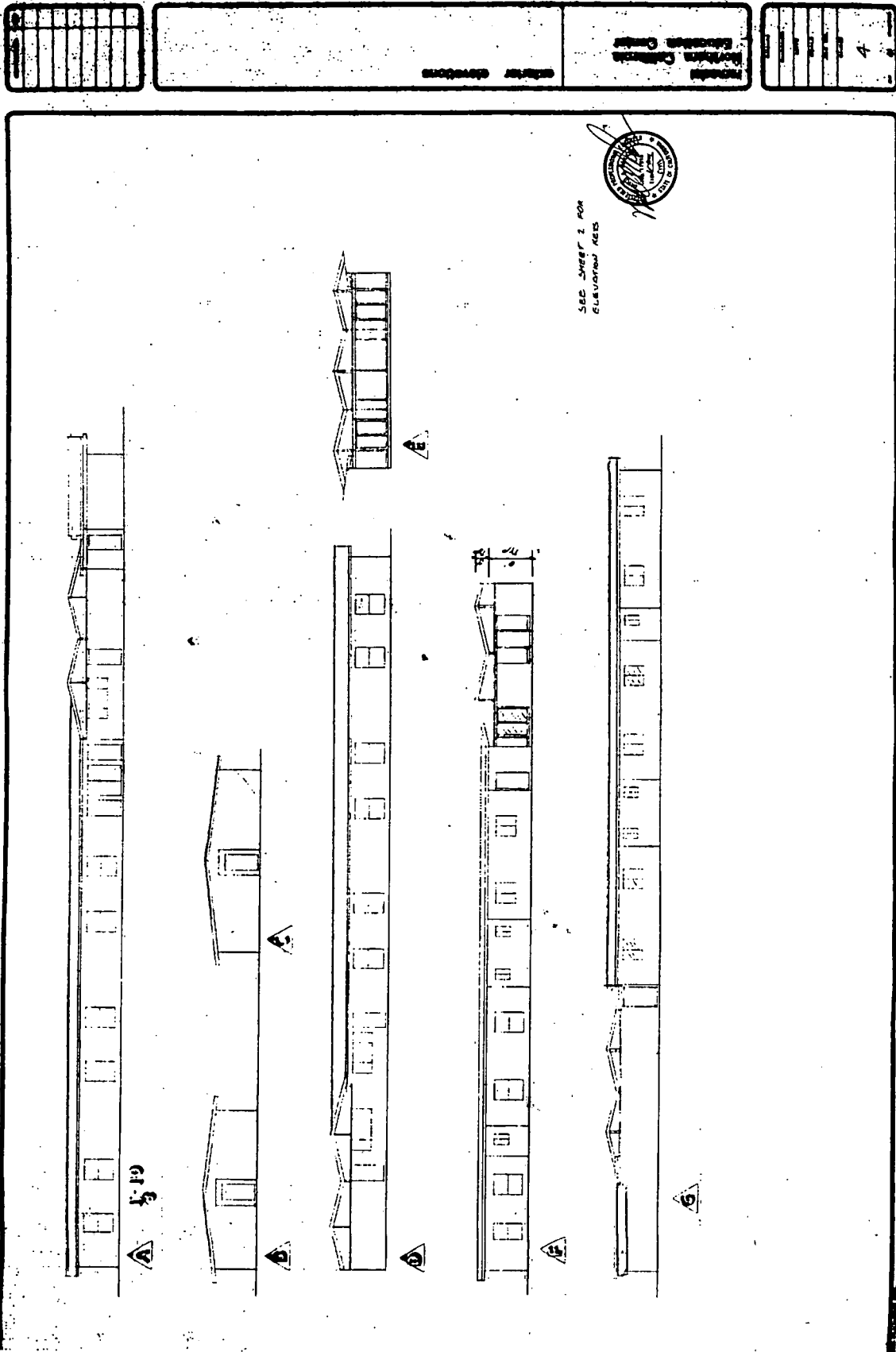
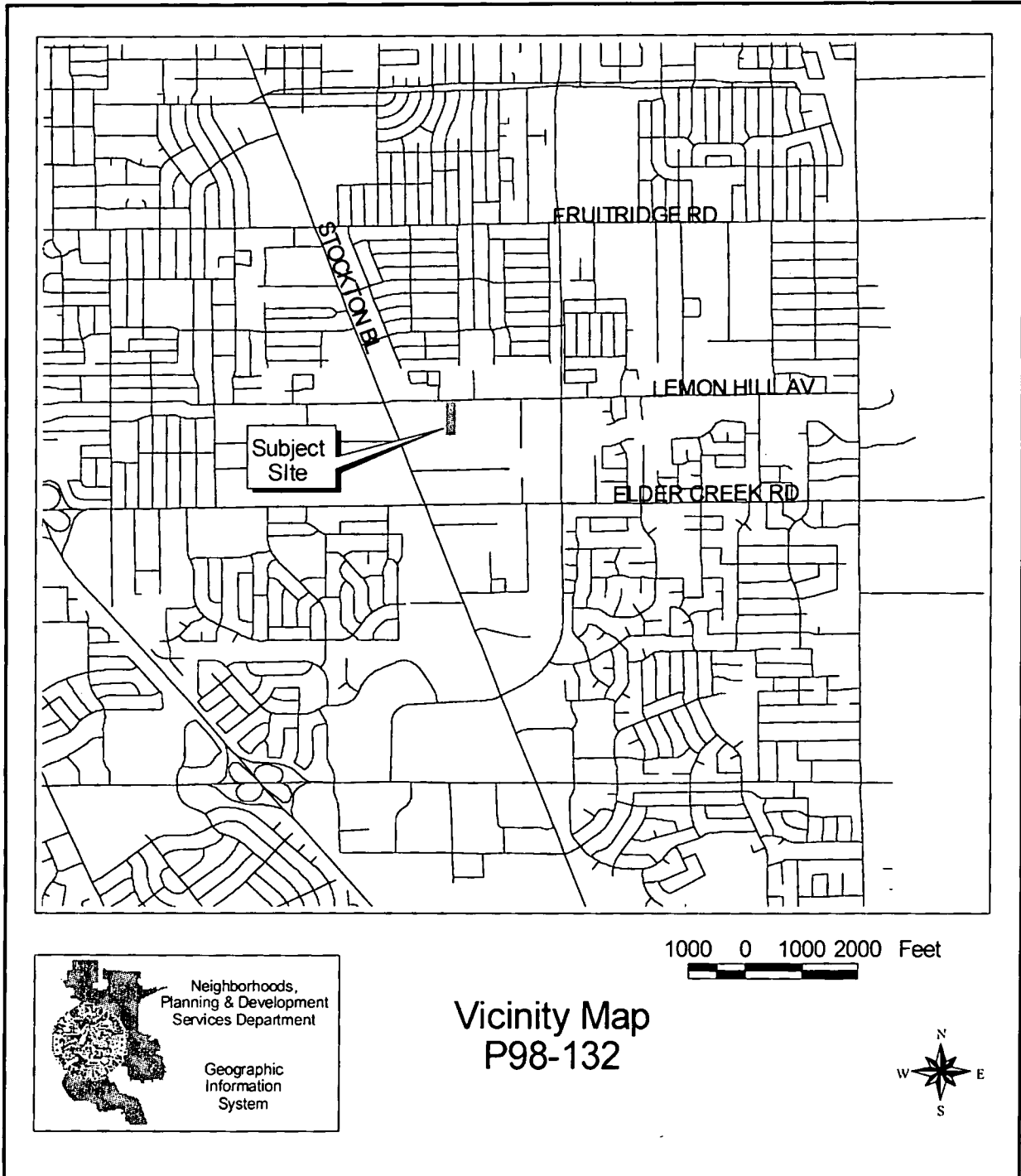
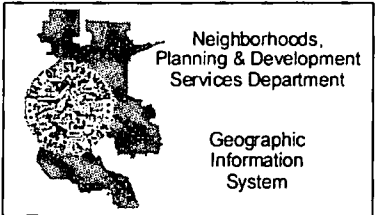
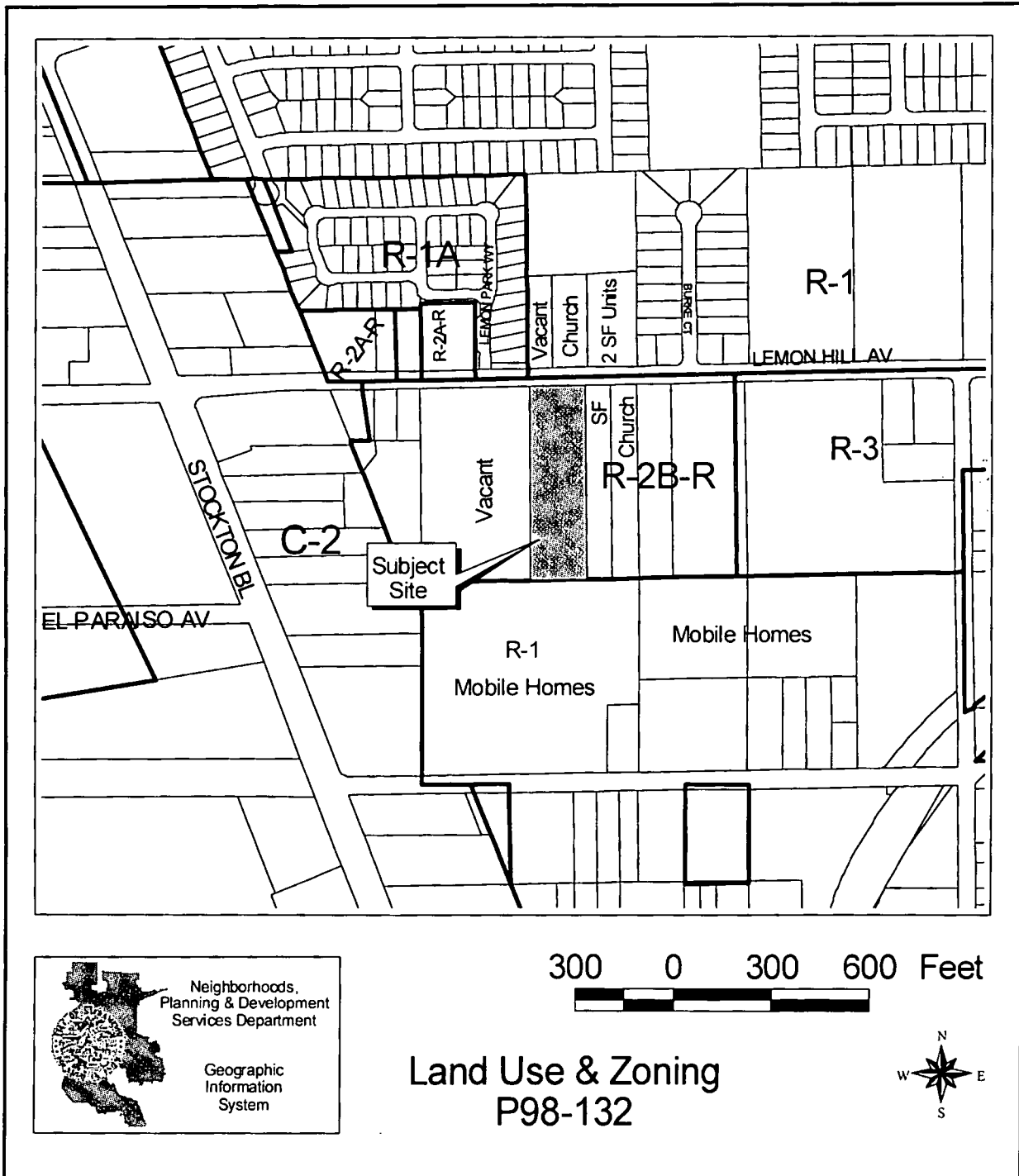


Exhibit 1D - Elevations









Land Use & Zoning
P98-132



Attachment 4

**Stockton
Boulevard** *THE INTERNATIONAL MARKETPLACE*

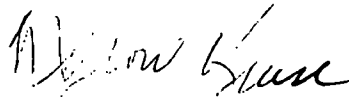
March 8, 1999

City of Sacramento
Planning Commission
1300 I Street
Sacramento, CA. 95824

Subject: Northern California Preparatory School
Lemon Hill Ave

We have reviewed the proposal as presented by Tamre' Burns, Director of the Northern California Preparatory School. This project will rehab a building that has been abandoned for many years. We welcome any viable proposal that improves the commercial revitalization of the Stockton Boulevard corridor. We encourage the commission members to look favorably at this project.

Sincerely,



Myron Kruse
President

**Stockton Boulevard Redevelopment Area
Project Area Committee**
5657 1/2 Stockton Boulevard
Sacramento, CA. 95824

March 8, 1999

City of Sacramento
Planning Commission
1300 I Street
Sacramento, Ca. 95814

Subject: Northern California Preparatory School
Lemon Hill Ave

Our organization represents the Stockton Boulevard neighborhood. We are always sensitive to the concerns of children and their welfare. The services that Tamre' Burns (Northern California Preparatory School) will provide addresses this important issue. We welcome the school to our community. We are available for assistance, within our capacity, to insure the success of the project.

Sincerely,



Melissa Berman
Chairperson

Attachment 6

RECEIVED

APR 27 1999

PLANNING SERVICES

GEORGINNA E. FOONDOS
LAND USE ANALYST

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OF COUNSEL

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VIA FACSIMILE AND HAND-DELIVERY

April 27, 1999

Brad Shirhall, Associate Planner
CITY OF SACRAMENTO
1231 I Street, Suite 300
Sacramento, California 95814

RE: Northern California Preparatory School

Dear Brad:

Thank you for all of your assistance in processing the application for entitlements submitted by Tamre Burns, Executive Director of the Northern California Preparatory School located at 6046 Lemon Hill Avenue in the Stockton Redevelopment Area. ¹ As you know, the applicant for the school is requesting an "E" use for the facility and is requesting a variance from the provisions of section 3-D of the City's Zoning Ordinance to the extent they can be construed to require a 6-foot masonry wall around the perimeter of the school site where it abuts parcels zoned for residential uses. ²

It is within the City's discretion to grant this variance based on findings that establish compliance with the statutory criteria pertaining to variances set forth in Government Code section 65906.

¹ Successful redevelopment of this site will provide valuable and much-needed community services. The Northern California Preparatory School is a private school that collaborates with the Sacramento Unified School District to provide services for a total of 40 to 45 Special Education students in grades 4 through 12. The proposed hours of operation are 8:00 a.m. to 4:00 p.m., Monday through Friday, with students present on-site from 8:30 a.m. to 1:30 p.m.

² Payment to the City of Sacramento in the amount of \$1,600 as the required processing fee for the applicant's request is enclosed herewith.

Brad Shirhall, Associate Planner
April 27, 1999
Page 2

That code section "has three elements: (1) there must be special circumstances applicable to the property; (2) by reason of which the strict application of the zoning ordinance would deprive such property of privileges enjoyed by other property in the vicinity under identical zoning classification; and (3) any variance granted shall be subject to conditions as will assure that the adjustment is not a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is located." (Miller v. Board of Supervisors (1981) 122 Cal.App.3d 539, 544.) We believe that a variance is justified under the circumstances present in this case

First, strict application of the City's Zoning Ordinance would deprive the property of privileges enjoyed by others in the vicinity under the identical zoning classification. Specifically, the requirement of a 6-foot masonry wall along the entire perimeter of the school site imposes an undue burden and unnecessary hardship on the property that is not shared by other similarly situated schools in the City, such as the Matsuyama Elementary School built in 1993 and the new Skills and Business Education Center at 5451 Lemon Hill Avenue, which officially opened this month. Strict application of the Zoning Ordinance would preclude use of the site for a school and would therefore prevent the applicant from utilizing the property to the same extent as other property owners, such as the City of Sacramento, in the same zone. The requirement of a 6-foot masonry wall is not essential to public health, safety, or education of pupils, and should not be allowed to preclude use of the site for a nonpublic school. A variance is necessary to allow a minor adjustment, perhaps subject to other conditions, to place this school in parity with others in the same zone while achieving the objectives of the Zoning Ordinance requirement. (Gov. Code, § 65906.)

Moreover, grant of a variance in this case would not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated, because it would merely enable the applicant to use the site for a school in a manner consistent with the limitations on other schools in the vicinity and zone in which it is located. (See Miller, supra, 122 Cal.App.3d at 544; Topanga Association for a Scenic Community v. County of Los Angeles (1974) 11 Cal.3d 506, 522.)

Furthermore, the grant of a variance would be "in harmony with the general purpose and intent of the zoning laws." (Zakessian v. City of Sausalito (1972) 28 Cal.App.3d 794, 801.) Here, the purpose of the City's masonry wall requirement is to shield residential properties from the adverse impacts, such as noise and aesthetics, of adjoining non-residential development. The record contains no evidence that use of the property as a school for approximately 40 students would result in any visual, audible, or other intrusion upon neighboring properties.³ In contrast,

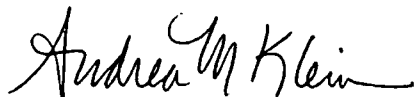
³/ If necessary, moreover, the City could condition the project to make certain that the purposes of the zoning code will be substantially achieved by other means. (Lucas Valley Homeowners Association v. County of Marin (1991) 233 Cal.App.3d 130, 160.)

Brad Shirhall, Associate Planner
April 27, 1999
Page 3

as noted above, several schools recently built by the City accommodate much larger numbers of students with facilities such as expansive parking lots and play fields that arguably intrude visually and audibly on surrounding residential properties, yet no masonry wall was required because they are public schools.

For these reasons, we believe that the grant of a variance from the 6-foot masonry wall requirement is appropriate under the present circumstances. If we can provide any additional information to assist you in preparing for the Planning Commission's consideration of this request at the May 13, 1999, hearing, please do not hesitate to contact me directly. Thank you.

Very truly yours,



Andrea M. Klein

cc: Tamre Burns

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• No opposition from
Newby