



**CITY OF HAYWARD**  
**AGENDA REPORT**

Planning Commission

Meeting Date 7/29/04

Agenda Item 1

**TO:** Planning Commission

**FROM:** Carl T. Emura, Associate Planner

**SUBJECT:** **Variance No. PL-2004-0195 George Fernandes (Applicant/Owner): To Allow an 8-Foot Front Setback Where 20 Feet Minimum is Required, a 3-Foot Side Setback Where 5 Feet Minimum is Required and 42 Percent Lot Coverage Where a 40 Percent Maximum Is Allowed**

The Property is Located at 22824 High Street in the Medium-Density Residential District

**RECOMMENDATION:**

Staff recommends that the Planning Commission:

1. Find that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, Section 15305, Class 5, Minor Alterations in Land Use Limitations.
2. Approve the Variance, subject to the attached findings and conditions of approval.

**DISCUSSION:**

The property is located on High Street, just off of D Street and is surrounded by duplexes to the north and east and a single-family dwelling to the south. The property is in the Medium Density Residential (RM) District. The applicant's home was built in 1935 with a detached single car garage on a 2,500 square foot lot, 50 feet wide by 50 feet deep with a living area of 816 square feet. The original garage was 8 feet from the front property line and approximately 18 inches from the side property line. The applicant removed the garage when it deteriorated. The parcel is half the size of the minimum lot size (5000 square feet) for a parcel in the RM District.

The property has been vacant for some time and the applicant would like to restore the home so that he and his wife may live there. The applicant would like to rebuild a garage attached to the house and is requesting a variance to allow an 8-foot setback from the front property line where at least 20 feet is required, a 3-foot side yard setback where at least 5 feet is required and a 42 percent lot coverage where 40 percent maximum is allowed. The footprint of the house and garage would be 1056 square feet. The footprint would exceed the maximum lot coverage allowed by 50 square feet.

There are several homes in the vicinity with front setbacks less than 20 feet. On the same side of the street there are 4 homes with front setbacks ranging from 4 feet to 14 feet and on the opposite side of the street, two homes with zero front setbacks. Within the past year a variance for a front and side setback was approved for a garage expansion at 24025 Second Street.

Staff supports the variance, as there are several homes in the vicinity with front setbacks less than twenty feet. In addition, the size of the parcel provides a special circumstances regarding the property and granting the variance would not be granting the applicant a special privilege as another property in the area has been granted variance on side and front setbacks.

To offset the visual prominence of the garage, conditions of approval require front yard landscaping and installation of a street tree.

**ENVIRONMENTAL REVIEW:**

The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15303, Class 3,

**PUBLIC NOTICE:**

On April 22, 2004, a Referral Notice was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records and the Upper B Street Task Force members. The Referral Notice provided an opportunity for persons to comment on the project. There were two responses suggesting a preference for a carport rather than a garage and one response expressing concern about safety. On June 29, 2004, a Notice of Public Hearing for the Planning Commission meeting was mailed.

**CONCLUSION:**

There are special circumstances regarding the property. The lot is half the size of a typical Medium Density Residential lot and several homes in the vicinity have front setbacks less than then 20-feet. Therefore, staff recommends approval of the variance.

*Prepared by:*



Carl T. Emura ASLA  
Associate Planner

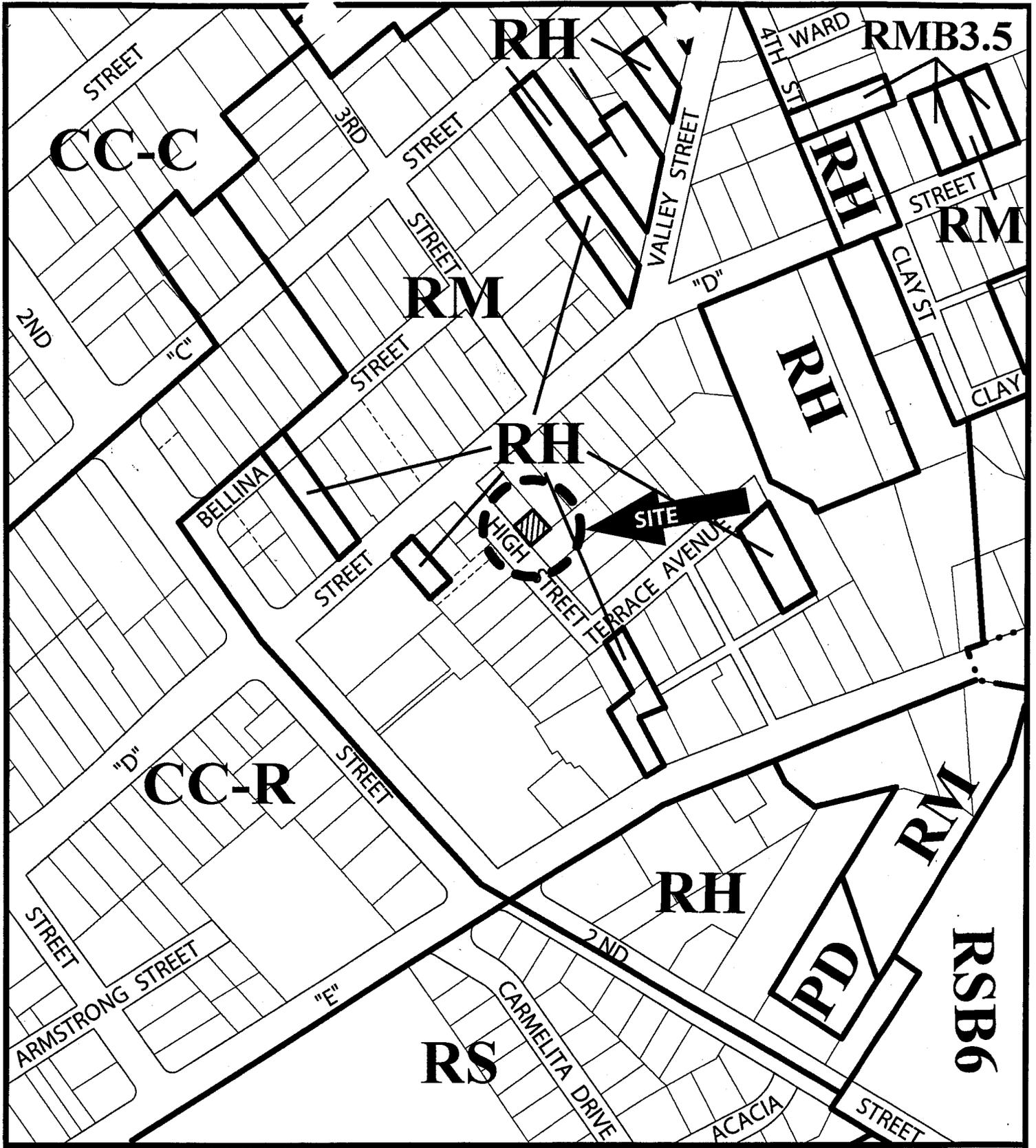
*Recommended by:*



Dyana Anderly, AICP  
Planning Manager

**Attachments:**

- A. Area Map
- B. Sanborn Map
- C. Findings for Approval
- D. Conditions of Approval  
Plans

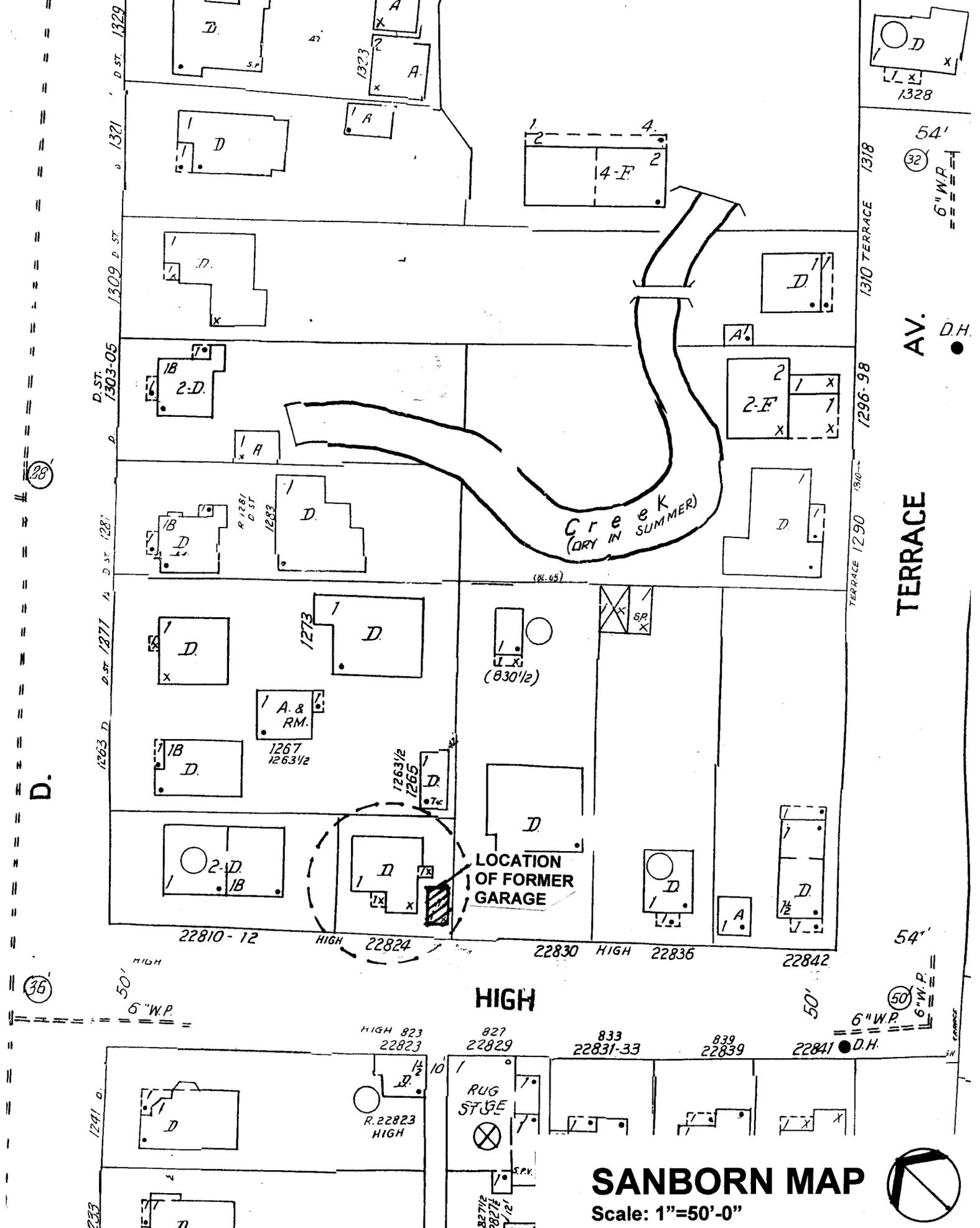


**Area & Zoning Map**

PL-2004-0195 VAR  
 Address: 22824 High Street  
 Applicant: George Fernandes  
 Owner: George Fernandes

- CC-C-Central City-Commercial
- CC-R-Central City-Residential
- PD-Planned Development
- RH-High Density Residential RHB 7
- RM-Medium Density Residential RMB 3.5, RMB 4
- RS-Single-Family Residential,RSB4,RSB6





(38)

(35)

54'  
 (32)  
 6" W.P.

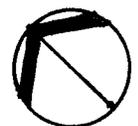
AV. D.H.

TERRACE

54'

50'  
 6" W.P.

**SANBORN MAP**  
 Scale: 1"=50'-0"



**CITY OF HAYWARD  
PLANNING DIVISION  
VARIANCE  
July 29, 2004**

**VARIANCE NO. PL-2004-0195 – George Fernandes (Applicant/Owner)-**  
Authorizing Allow an 8-Foot Front Setback Where 20 Feet is Required, a 3-Foot Side Setback Where 5 Feet is Required and 42 Percent Lot Coverage Where 40 Percent Is Allowed.

**The Project Is Located at 22824 High Street in a Medium Density Residential (RM) District (APN 427 0026 059)**

**FINDINGS FOR APPROVAL**

- A. Approval of PL 2004-0195, as conditioned, will have no significant impact on the environment, cumulative or otherwise, and the project reflects the City's independent judgment and is exempt from CEQA review under Section 15305, Class 5a, Minor Alterations in Land Use Limitations.
- B. There are special circumstances applicable to the property in that the property is half the minimum lot size of a parcel in the Medium Density Residential District.
- C. Strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other properties in Hayward in that homes located in the vicinity have front setbacks less than 20-feet and a variance for a lesser front and side setback for a garage in the vicinity has been approved.
- D. The variance does not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zoning district in that a variance for a lesser front and side setback for a garage in the vicinity has been approved.

**CITY OF HAYWARD  
PLANNING DIVISION  
VARIANCE  
July 29, 2004**

**VARIANCE NO. PL-2003-0195 – George Fernandes (Applicant/Owner)-**  
Authorizing Allow an 8-Foot Front Setback Where 20 Feet is Required, a 3-Foot Side Setback Where 5 Feet is Required and 42 Percent Lot Coverage Where 40 Percent Is Allowed.

**The Project Is Located at 22824 High Street in a Medium Density Residential (RM) District (APN 427 0026 059)**

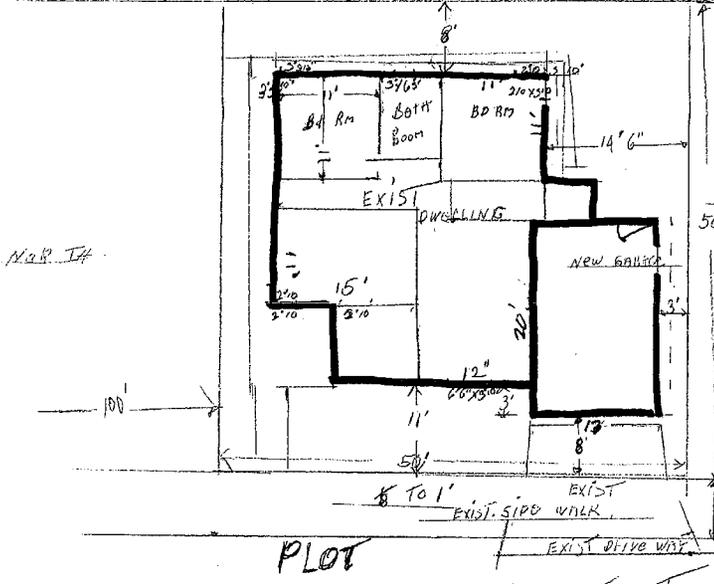
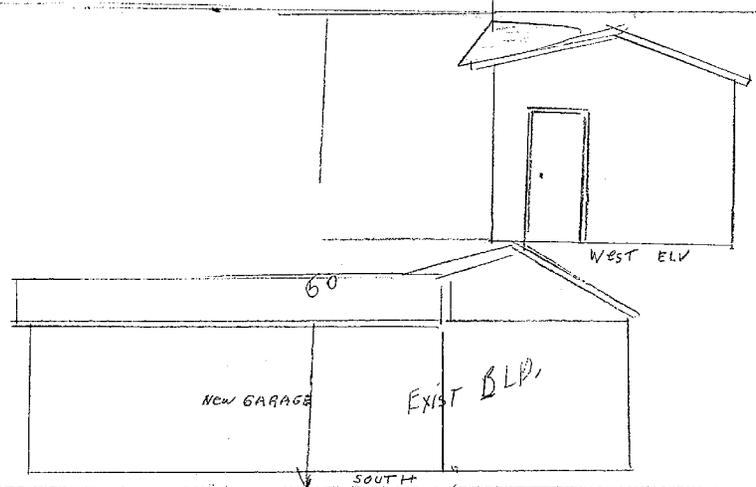
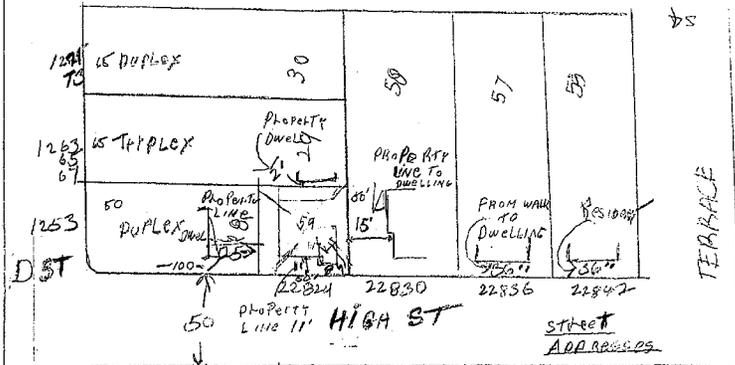
**CONDITIONS OF APPROVAL**

1. The Variance Application No. PL-2004-0195, to allow an 8-foot setback where 20 feet is required, a 3-foot side setback where 5 feet is required and 42 percent lot coverage where 40 percent is allowed, is approved by the Planning Commission on July 29, 2004 subject to these conditions of approval and the plans, labeled Exhibit "A".
2. This approval is void one year after the effective date of approval unless a building permit application has been issued by the Building Official. Any modifications to the approved site plan or conditions shall require prior review and approval from the Planning Director.
3. The conditions of approval shall be shown of the plans submitted for a building permit.
4. If a building permit is issued for construction of improvements authorized by the Variance approval, the Variance approval shall be void two years after issuance of the building permit, or three years after approval of the application, whichever is later, unless the construction authorized by the building permit has been substantially completed or substantial sums have been expended in reliance upon the Variance approval.
5. The garage shall have an automatic garage door opener.
6. Prior to final inspection/occupancy of the addition, all improvements and conditions of approval shall be completed to the satisfaction of the Planning Director.
7. A 15-gallon street tree (type subject to approval by the City Landscape Architect) shall be planted and maintained between the sidewalk and the curb per the City tree planting detail SD-122. Street tree shall be planted a minimum of 5-feet from

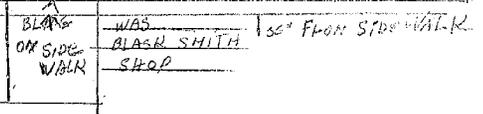
any utility.

8. Landscaping shall be provided in the street landscape planter and front yard. Plantings shall be kept low (maximum height of 3 feet) adjacent to the garage to provide maximum visibility of a car pulling out of the garage.
9. Front-yard landscaping and street trees shall be installed prior to occupancy of home
10. Landscaping shall be maintained in a healthy, weed-free condition at all times with replacement plants provided where necessary. Required street tree that are severely topped or pruned shall be immediately replaced as determined by the City Landscape Architect.

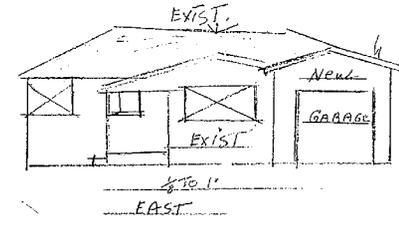
PROPERTY AT HIGH ST 22824  
NEW APD ON GARAGE



- SIDE WALK REAR YD
- DATE LINES
- EXISTING GARAGE REMOVED
- GARAGE WAS 12' FROM LINE
- EXIST GARAGE DEMOLISHED
- SAVITT 610P
- NO OFF STREET CAR IN GARAGE
- SIDE WALK AROUND HOUSE
- HOUSE



- CONC. 65% MIX
- HAIR D. F. No. 1018
- NEW MOOF
- " BELT FIT
- WINDOWS
- CURTIN
- CONC. SIDE WALK
- BR. FOLK NEW
- REPAIR SH. Bd. BH.

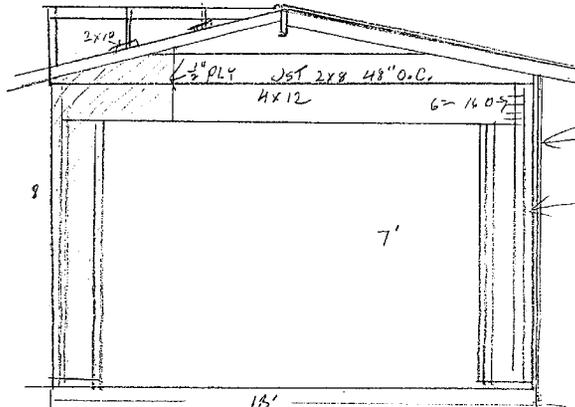
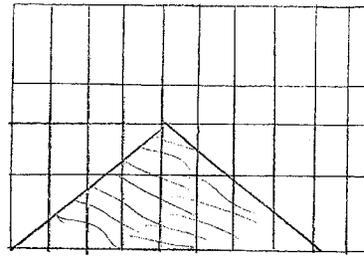


PLOT  
EAST HIGH STREET  
PLOT PLAN

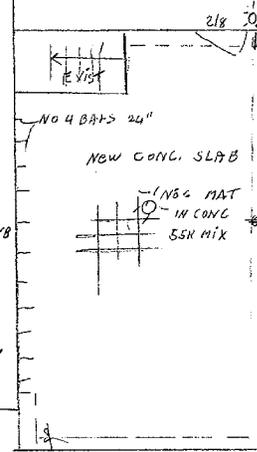
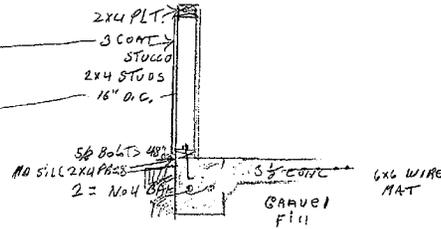
PROJECT#  
PL 2004-0195 VAR

RECEIVED  
APR 13 2004  
PLANNING DIVISION

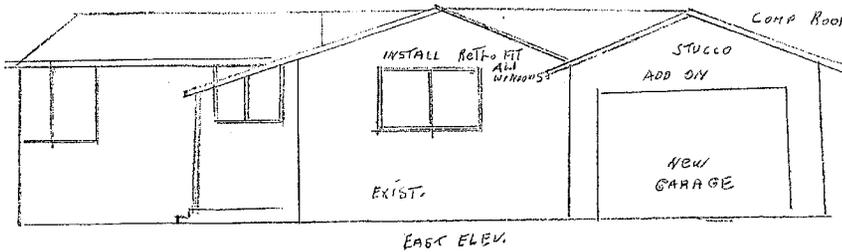
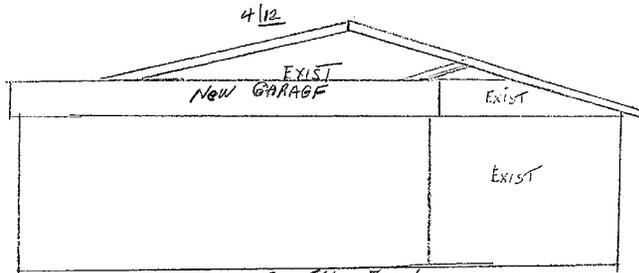
GEORGE FRANKS 22824 HIGH ST		
SCALE: 1/8" = 1'	APPROVED BY:	DRAWN BY:
DATE: 4/6/04		REVISED
HOUSE AND GARAGE 1800 SF FRAME DETAIL PG II		



16'  
SCALE 1/4" = 1'-0" FRAME GARAGE



1/4" = 1'-0"  
SCALE  
SEE FOUNDATION  
DETAIL



<i>George Fernandez</i>		
SCALE:	APPROVED BY:	DRAWN BY (EFS)
DATE:	22 824 HIGH ST	REVISED
		DRAWING NUMBER