



CITY OF HAYWARD AGENDA REPORT

Meeting Date 05/19/05
Agenda Item 2

TO: Planning Commission

FROM: Carl T. Emura, ASLA, Associate Planner

SUBJECT: VARIANCE NO. PL-2005-0124 – Ryan Akin (Applicant/Owner) - Request to Allow a Bedroom Addition with a One-Car Carport and an Uncovered Parking Space Where a Two-Car Garage Is Required.

The Property Is Located at 1090 Highland Boulevard, in a Single-Family Residential (RS) Zoning District

RECOMMENDATION

Staff recommends that the Planning Commission:

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

DISCUSSION

The applicant proposes to add a bedroom and bathroom to the residence. The Zoning Ordinance requires:

“At the time that cumulative additions to a single-family dwelling increase the original building floor area by more than 50 percent or increase the number of bedrooms, the dwelling shall be required to provide all required off-street parking.”

The Off-Street Parking Regulations requires a two-car garage for each single-family dwelling unit. The applicant does not propose any changes to the parking facilities, consisting of a single-car carport and an open parking space. Therefore, he is requesting a variance to allow adding the bedroom without a two-car garage.

Background

The property, located on a curved and inclined portion of Highland Boulevard, slopes down from the street to the rear of the property. There is an 8- to 14-foot drop in elevation from the street to

the front of the house. The house, approximately 1,300 square feet, has three bedrooms and 1 bath; one bedroom is a legal garage conversion. The parcel contains 8,100 square feet. The applicant has a single car carport and an uncovered parking space. Two neighbors easterly of his property have uncovered parking spaces, the neighbor westerly of the property has uncovered parking spaces and the neighbor further up has a carport. No street parking is allowed on the applicant's side of the street.

In May 1966, a building permit was issued to construct a retaining wall between the curb and house to create a street-level parking area. In November 1972, the City cited the previous property owner for a garage conversion without a permit and required a building permit be obtained, noting the approved retaining wall blocked access to the converted garage. The owner complied and the file was closed.

In March 1973, the City issued a building permit to build a single-car carport on the street-level parking area. A recently topographic survey shows the carport extends 2 feet into the public right-of-way. The carport was built per the approved plans which showed the street curb, sidewalk, carport and retaining wall, but no property lines. Highland Boulevard, constructed to a 40-foot residential street standard with on-street parking alternating from side to side, has a 60-foot public right-of-way. The City has no plans to widen the street and a barricade further up blocks access to Campus Drive. The carport is considered a legal non-conforming structure and would be required to comply with the Zoning Ordinance if altered.

Discussion

The approval of a variance requires that all the following findings be made:

- 1) *There are special circumstances applicable to the property including size, shape, topography, location, or surroundings, or other physical constraints,*
- 2) *Strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity under the same zoning classification, and*
- 3) *Approval of the variance would not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.*

In this case, the property is a hillside lot sloping downward from the street. The change in elevation from the street to the front property line ranges from 5 to 10 feet. The applicant has provided two off-street parking spaces, albeit not by a garage, which meets the intent of the Off-Street Parking Regulations.

In this neighborhood, between 1978 and 1990, the Planning Commission approved three variances for garage conversions without otherwise providing the required two car garage. In 1993, five garage conversions were approved under the City's amnesty program. In addition, a building permit was issued in 1990 to add a bedroom where the garage had been converted and only uncovered parking was provided. Therefore, approving the variance would not be granting the applicant a special privilege not afforded to other homeowners in the neighborhood.

The applicant states a garage creates an unsafe condition and is out of character with the surrounding neighborhood. A car reversing from a garage, up a sloped driveway and on to a curved and steep street would have poor site lines from oncoming cars. Furthermore a detached garage would dominate the property and obscure views of the house below and surrounding greenery, whereas a carport or uncovered parking space would blend in with the neighborhood.

The applicant provided letters from his two neighbors on either side of him who support his application stating concern that a garage located substantially higher than the house would dominate the site, block views of their homes, hinder views of the landscape and would detract from, rather than enhance the attractiveness of their neighborhood.

The Zoning Ordinance does permit the Planning Commission to apply conditions of approval to a variance as it deems necessary to safeguard the public interest. In this case, it has been discovered that the applicant's carport extends 2 feet into the public right-of-way. Therefore, staff recommends that the non-conforming single-car carport be replaced with a two-car carport that is located such that it meets the setback requirements. The Zoning Ordinance allows a lesser front setback (5 feet) for parking structures on hillside lots, which would permit a carport to be located properly on the site and in generally the same location as the single-car carport.

ENVIRONMENTAL REVIEW

The proposed project is Categorical Exempt from the California Environmental Quality Act (CEQA) review, pursuant to Section 15305, Class 5a, Minor Alterations in Land Use Limitations.

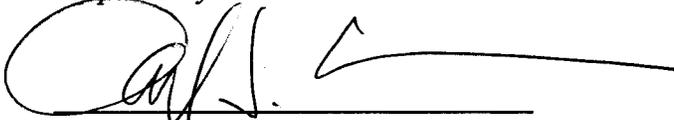
PUBLIC NOTICE

On May 9, 2005, a Notice of Public Hearing for the Planning Commission meeting was sent to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. Notice was also provided to the Mission Foothill Task Force. No comments were received in response to the public notices.

CONCLUSION

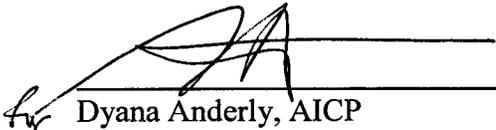
The findings can be made for the variance. There are special circumstances regarding the property and other properties in the vicinity have been allowed to add a bedroom or convert a garage without the required two-car garage. Therefore, staff recommends approval of the application.

Prepared by:



Carl T. Emura, ASLA
Associate Planner

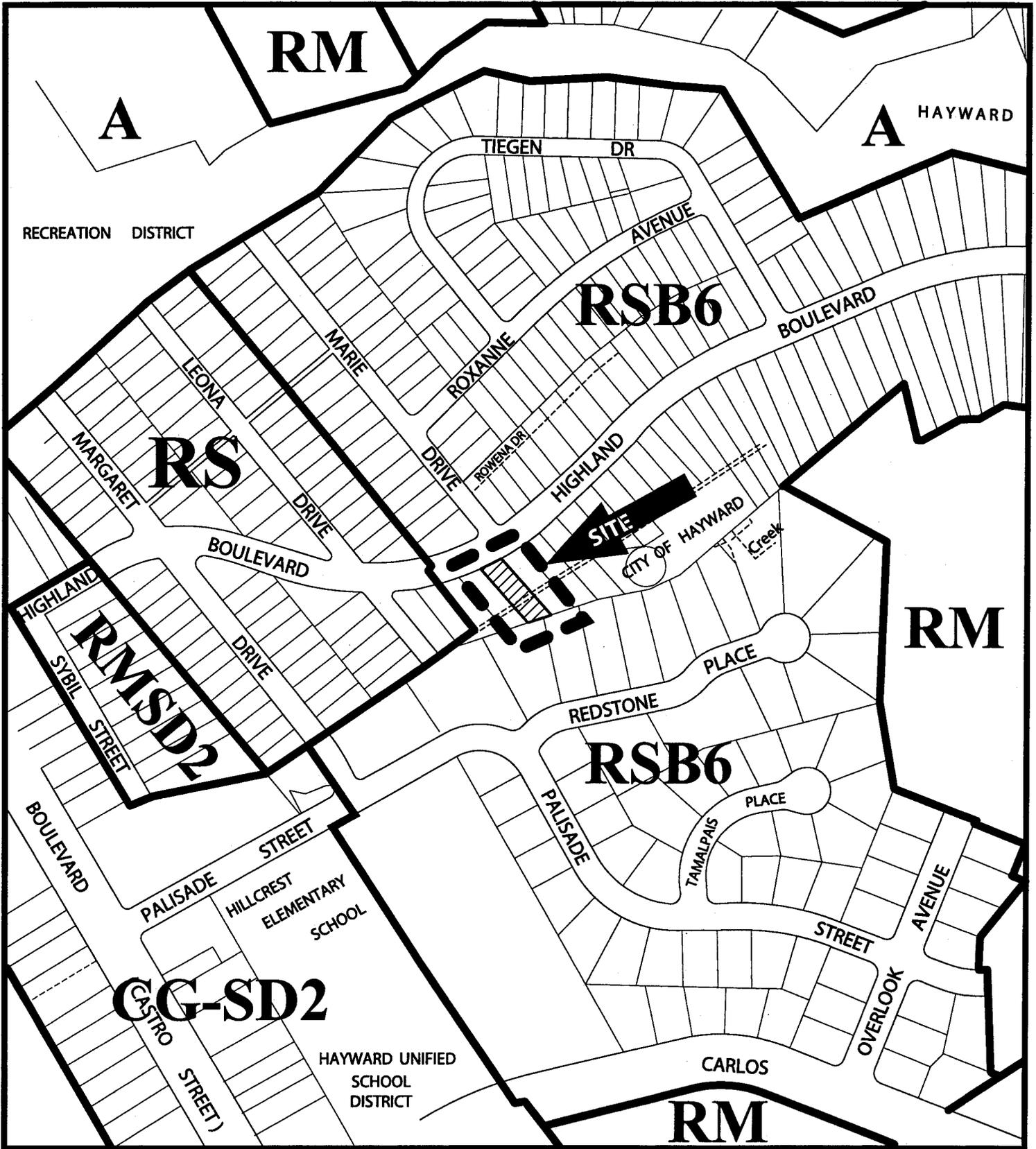
Recommended by:



Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Area & Zoning Map
- B. Findings for Approval
- C. Conditions of Approval
- D. Letter from Applicant dated 3/7/05
- E. Letter from William J. Bishop dated 3/4/05
- F. Letter from Louis Arnold dated 3/6/05
Plans



Area & Zoning Map

PL-2005-0124 VAR

Address: 1090 Highland Blvd.

Applicant:

Owner:

A-Agricultural-ABSA,AB10A,AB100A,AB160A

CG-General Commercial

RM-Medium Density Residential RMB 3.5,RMB 4

RS-Single-Family Residential,RSB4,RSB6

SD-Special Design



**CITY OF HAYWARD
PLANNING DIVISION
FINDINGS OF APPROVAL**

May 19, 2005

Variance No. PL-2005-0124 – Request to allow a bedroom addition with a one car carport and an uncovered parking space where a two car garage is required.

The Property is Located at 1090 Highland Boulevard, in a Single-Family Residential (RS) Zoning District

- A. Variance No. PL 2005-0124, will have no significant impact on the environment, cumulative or otherwise, and the project reflects the City's independent judgment and is statutorily exempt from CEQA review under 15305, Class 5a, Minor Alterations in Land Use Limitations.
- B. There are special circumstances applicable to the property in that it is located on a curved and inclined portion of Highland Boulevard and slopes down from the street to the rear of the property.
- C. Strict application of the Zoning Ordinance would deprive such property of privileges enjoyed by other property in the vicinity under the same zoning classification in that other properties have been allowed to add or convert garages to bedrooms without complying with the Off-Street Parking Regulations.
- D. The variance would not constitute granting a special privilege inconsistent with the limitations upon other properties in the vicinity under the same zoning classification in which the property is situated in that other properties have been allowed to add or convert garages to bedrooms without complying with the Off-Street Parking Regulations.

**CITY OF HAYWARD
PLANNING DIVISION
CONDITIONS OF APPROVAL**

May 19, 2005

Variance No. PL-2005-0124 – Request to allow a bedroom addition with a one car carport and an uncovered parking space where a two car garage is required.

The Property is Located at 1090 Highland Boulevard, in a Single-Family Residential (RS) Zoning District

1. The Variance Application No. PL-2005-0124, to allow a bedroom addition with a one car carport and an uncovered parking space where a two car garage is required, is approved by the Planning Commission on May 19, 2005 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 on 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. A new two-car carport shall be provided which complies with the City's Zoning Ordinance setback requirements.
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 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 public right-of-way and front yard setback. Plantings shall be kept low (maximum height of 3 feet) adjacent to the carport to provide maximum visibility of a car pulling out of the carport.
9. 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.

RE: 1090 Highland Blvd.
Hayward, Ca. 94542

March 7, 2005

To the City of Hayward Planning Commission,

First and foremost, I would like to thank you for taking time out of your busy schedule to review my letter. My name is Ryan Akin and I am currently a resident of Hayward. I spent the majority of my childhood here in Hayward, and was very excited when I found a nice house here to purchase. I bought this home in September of 2003 in the Hayward Heights area, and absolutely love it with the exception of its size. My home is approximately 1,000 square feet with two bedrooms, one bath, and sits on an 8,000 square foot lot. Since I bought this home, I've had the intent to build another bedroom and bathroom (master suite) in the back of the house, in order to accommodate my family. I recently started the process of this addition, and have come across a bit of an obstacle.

My contractor recently went to the city planning department to get the plans approved so he can start construction; however, he was told that we could not build another room unless there is a two car garage built first, which must be at least 20 ft. from the sidewalk. Please understand that I live on a hill and there is a carport at the top of my property that does indeed fit two cars, but there would be no room to build a two-car garage 20 ft. from the curb. If I were to build a garage I would also have to build a retaining wall to support it, as there is a significant decrease in elevation from the carport to my house. I have also been told that it is a city regulation that no retaining wall can be taller than 6ft. tall. That means I would have to build *two* retaining walls at least five feet apart! This would leave the closest retaining wall practically right outside of my front window, which would dramatically decrease the value of my home as a view of a retaining wall is not marketable in any neighborhood. In my opinion, as well as my neighbors, a garage would simply tarnish the "cottage like" image that my house portrays.

Keep in mind, I do plan on re-paving and landscaping my carport in the near future, but absolutely do not want to build an enclosed garage. I do understand and appreciate that it is a city regulation to build a two car garage before a third bedroom is built; however I do hope that in my particular situation an exception can be made and my contractors plans may be accepted and approved as requested. I am very confident that if you were to see my property, you would also agree that building a two-car garage would have no effect on the home; weather it is before or after the addition is built.

I implore you to review my case and help me to rectify my problem. I have plenty of room in the back of my property, and it would in no way change the structure or use of my home to add this bedroom. I really do wish to raise my family in this house, however I need the approval of my addition in order to make a little more room for us to live comfortably. I have the full approval and support of my neighbors, and letters of support from them are available upon request. Please feel free to contact me on my cell phone anytime with any questions or concerns you may have. Thanks again for your time.

Sincerely,



Ryan J. Akin
1090 Highland Blvd.
Hayward, Ca. 94542
Hm: 510-881-4752
Cell: 415-577-6400

ATTACHMENT D

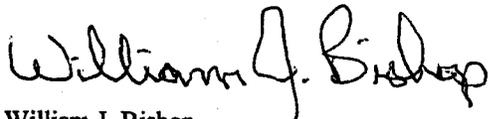
March 4, 2005
Re: Ryan Akin

To the Planning Commission of Hayward,

My name is William J. Bishop and I live at 1096 Highland Blvd.; next door to Ryan Akin. He has been planning on building an addition to the back of his house for quite some time now, and apparently is now having some trouble getting the plans approved because of the regulations of the city. It seems that these regulations are prohibiting an additional bedroom being built without building a two car garage in the front of his property first. I would like to state for the record that it would be a bother to me if he were to build a garage, mainly for the fact that it would block the a portion of the view of my house for anyone driving up our street.

Others reasons of course would be that I, as well as others I'm sure, would much rather look at a nicely landscaped yard and house rather than a garage. Please understand that in our neighborhood we mainly have carports instead of garages because our houses are a lower elevation than the street. There is no reasonable use for a garage that a carport does not already supply except for enclosing one's vehicle. Any garage built would not be touching the house, so the use of a garage would be the same exact one as a carport. Not to mention that if any one of us were to build a garage, it would hinder the views and scenery, particularly Ryan Akin. As I stated before, he lives right next door to me, so if he were to build a garage atop his property, anyone driving eastbound will not get a full view of my yard and house until they were directly in front of it I think this would have an adverse effect on my property value because I would not have the "curb-side appeal" I currently have, which is one of the more important contributing factors in appraising one's property.

Please consider approving Ryan's addition without making him build this garage. It would be nothing but an eye sore on the entire street. I'm sure our other neighbors would agree with me in saying that a garage would be a great detriment to the beauty of our neighborhood. Your consideration for making an exception to this policy would be greatly appreciated.



William J. Bishop
1096 Highland Blvd.
Hayward, Ca. 94542

Re: 1090 Highland Blvd.

March 6, 2005

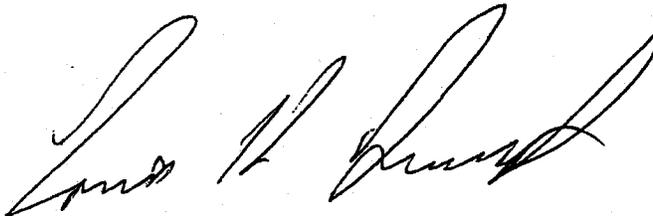
To the City of Hayward,

Hello, my name is Louis Arnold and I live at 1082 Highland Blvd. I am neighbors with Ryan Akin and have recently come to find out that he is intending on building an additional bedroom/bathroom on the back of his house. I in no way have any problems with this of course, as this will raise the value of his house, which will indirectly raise mine, making our neighborhood a more attractive place to live.

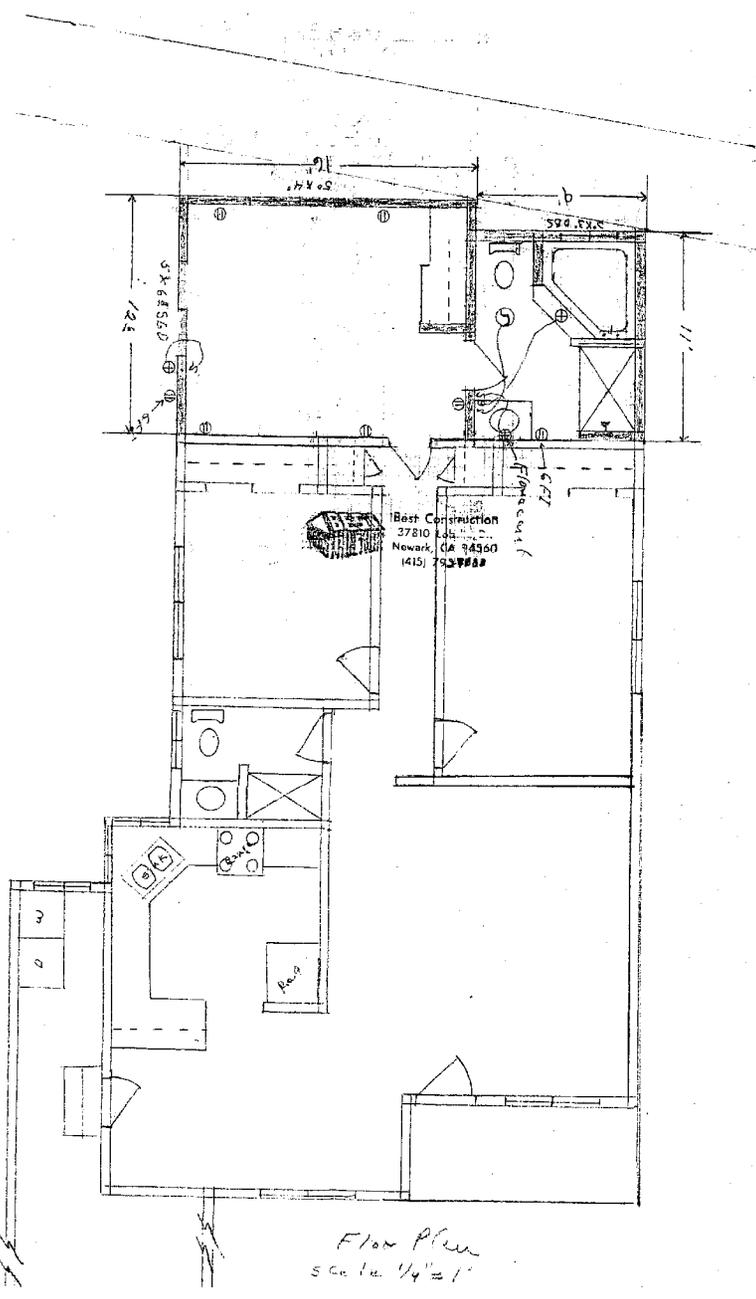
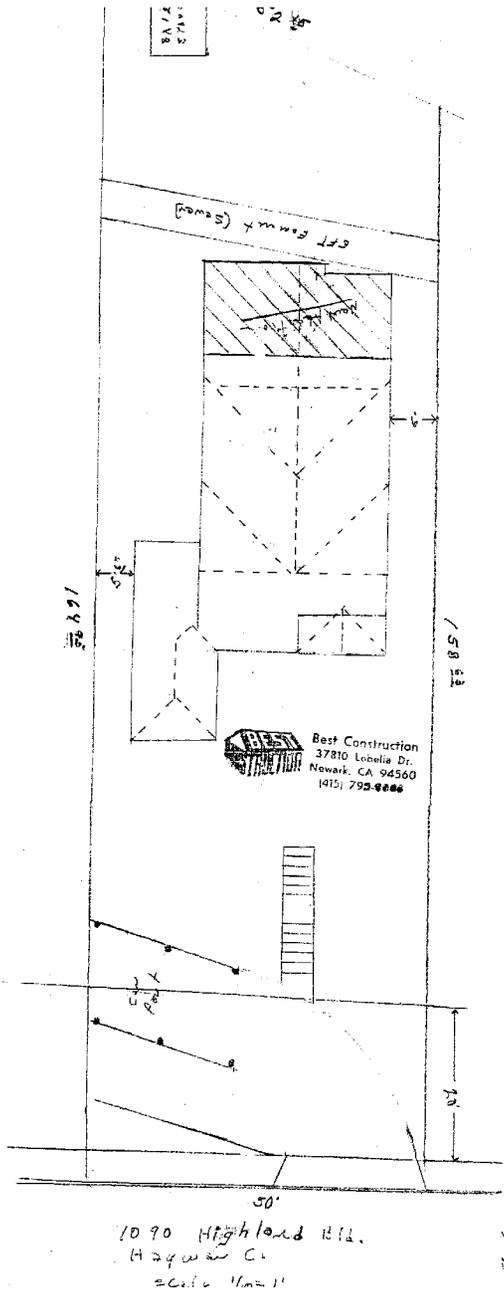
It is to my understanding that the City of Hayward is prompting him to build a garage at the top of his property. He says that it is a city regulation to build a two car garage before any additional bedroom may be built. I would like to state for the record that I do not like the idea of having an enclosed garage atop his property as it would greatly disrupt the conformity of our houses. It is my opinion that a garage would be an un-attractive object sitting right in the front of everybody's view, and would hinder, rather than help the attractiveness of our neighborhood. Currently, most of the homes here have carports or uncovered driveways because our houses are lower in elevation from the street. The carport/ parking area is the first thing viewed from the street. If a garage were built on any of these driveways, there would be no view of the surrounding landscaping, scenery, or even the house itself! It is my opinion that a two car garage would be utilized the same exact way his existing two car carport does.

Ryan had informed me that he is trying to get an exception or "variance" from you to approve his plans for the bedroom without building the garage. I would like to state that I fully support his goals, and I would be thoroughly disappointed if he were to be made to build a two car garage at the top of his property. Please feel free to contact me at any time with regards to this matter. Thank you for your time.

Sincerely,

A handwritten signature in black ink, appearing to read "Louis Arnold". The signature is fluid and cursive, with a large initial "L" and "A".

Louis Arnold
1082 Highland Blvd.



Regina Arin
 WORK 408 551-2171
 Cal 415 577-6400

1090 Highland Blvd.
 Hayward Ca.
 City Hall

Floor Plan
 Scale 1/4" = 1'

TOPOGRAPHIC SURVEY
 IN THE CITY OF HAYWARD
 ALAMEDA COUNTY - CALIFORNIA

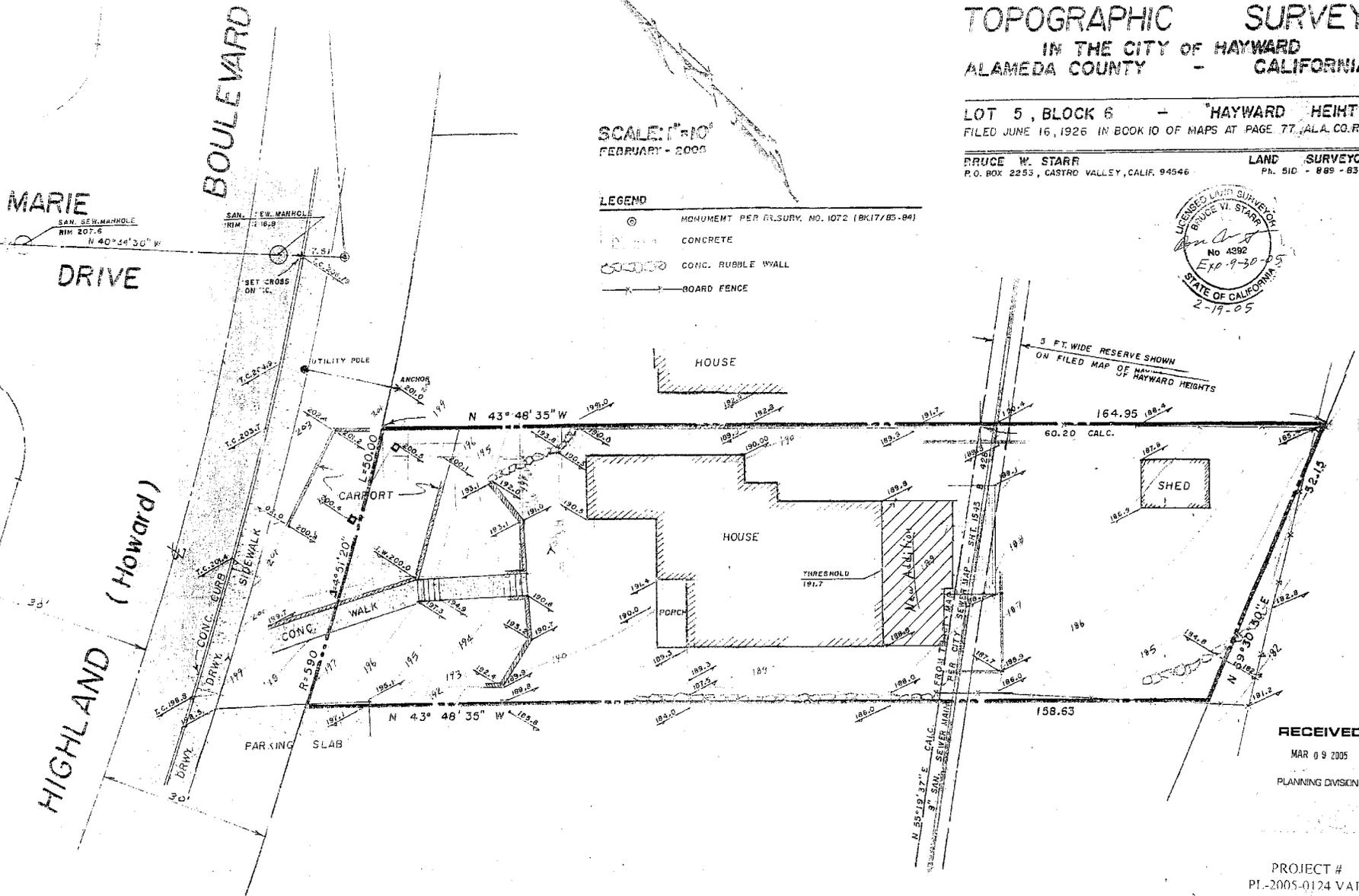
LOT 5, BLOCK 6 - "HAYWARD HEIGHTS"
 FILED JUNE 16, 1926 IN BOOK 10 OF MAPS AT PAGE 77, A.L.A. CO. REC.

BRUCE W. STARR LAND SURVEYOR
 P.O. BOX 2253, CASTRO VALLEY, CALIF. 94546 Ph. 510 - 889 - 8385



SCALE: 1"=10'
 FEBRUARY - 2005

- LEGEND
- ⊙ MONUMENT PER G.S. SURV. NO. 1072 (BK17/85-84)
 - CONCRETE
 - ▭ CONC. RUBBLE WALL
 - BOARD FENCE

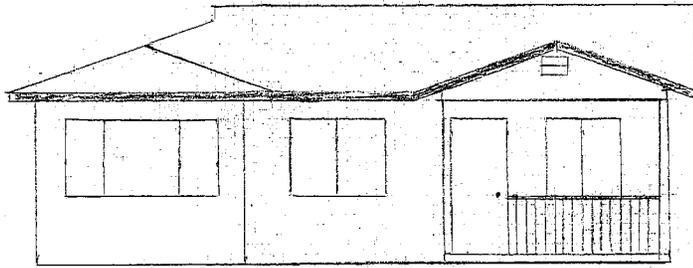


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 MAR 09 2005
 PLANNING DIVISION

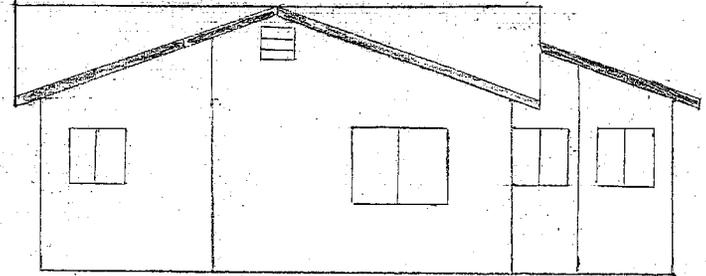
PROJECT #
 PL-2005-0124 VAR

Refer. 1545 B: 426

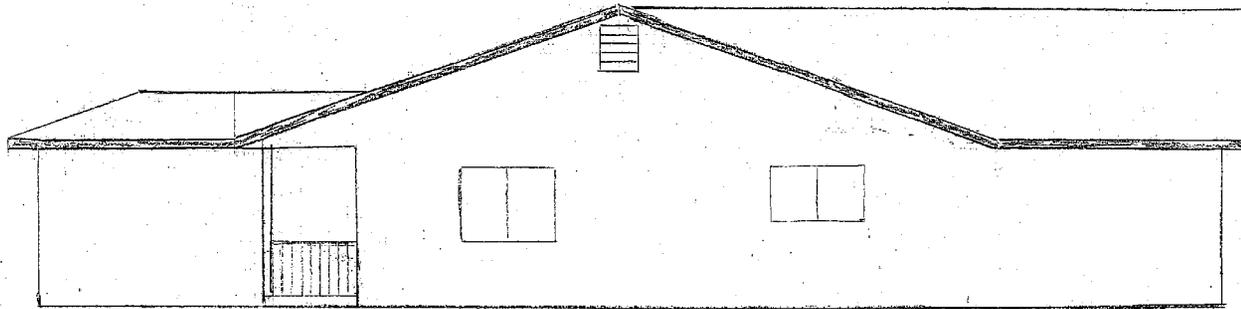
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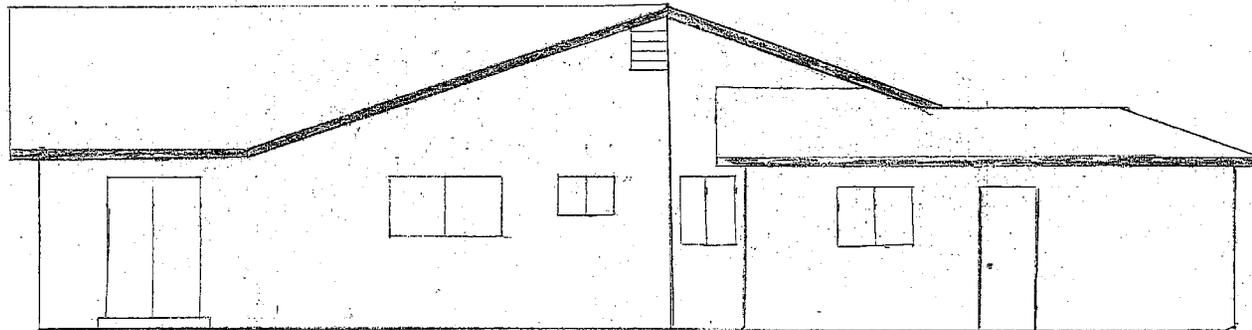
Front



Rear



West



East