



CITY OF HAYWARD

AGENDA REPORT

Meeting Date 01/26/06
Agenda Item 1

TO: Planning Commission

FROM: Erik J. Pearson, AICP, Associate Planner

SUBJECT: **Site Plan Review Application No. PL-2005-0522 & Variance Application No. PL-2005-0488 - Hossien Mehrizi (Applicant/Owner) - Request to Build Additions to Two Residential Units and Maintain a 12-Foot-Wide Driveway for Five Units where a 20-Foot-Wide Driveway Is Required**

The Property is Located at 24073 through 24103 Silva Avenue in a RMB4 (Residential-Medium Density) Zoning District.

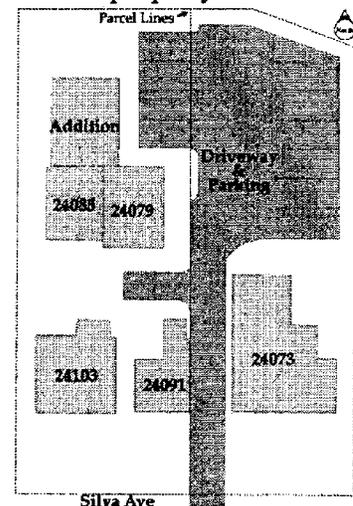
RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Find that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15270, *Projects Which Are Disapproved*; and
2. Deny the appeal, upholding the Planning Director's decision to deny the Site Plan Review and Variance, subject to the attached findings.

DISCUSSION:

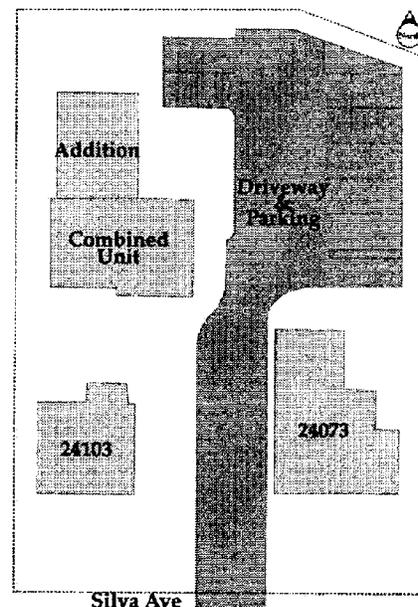
The Planning Director denied the site plan review and variance request on October 19, 2005 and the applicant filed an appeal on November 1, 2005. The 15,264-square-foot property consists of two lots of 7,950 square feet and 7,314 square feet each with a total of five residential units. Three units are detached and two are attached. According to County Assessor records, the house at 24073 Silva Avenue was built in 1895 and the two units at 24091 and 24103 Silva Avenue were built in 1910. According to the City's historical maps and aerial photographs, the duplex at 24079 and 24085 Silva Avenue was constructed between 1962 and 1976. In 1992, the zoning for the property was changed from General Commercial (CG) to Medium-Density Residential (RMB4). The current zoning requires at least 4,000 square feet of lot area per residential unit. Because each lot is less than 8,000 square feet, each lot can only support one unit. If the two lots were merged, then three units would be permitted.



The applicant has requested to construct an addition to the two attached units (24079 and 24085). The two units would be increased from 400 square feet to 966 square feet and from 390 square feet to 1,038 square feet respectively. The five units are served by a 12-foot-wide driveway leading to a partially paved parking area at the rear of the site. There is a strip of grass on the right side of the driveway approximately 18 inches wide. On the left side the driveway directly abuts the house at 24091 Silva Avenue, which creates a constricted feeling between the buildings. There are indications that cars have hit the house on several occasions. The proposal includes formalizing the parking area by creating landscaped setbacks, new paving and striping for the required 11 spaces. The City's Off-Street Parking Regulations would require the driveway to be at least 20 feet wide with 5 feet of landscaping on each side.

As mentioned above, the zoning would allow three units if the two lots were merged, making two of the units nonconforming. Due to regulations limiting the changes that can be made to nonconforming units, the applicant proposes to designate two of the units fronting on Silva Avenue (24091 and 24103) as the two nonconforming units. No changes are proposed for these units. The designation of the two rear units as conforming units would allow for significant changes, such as the proposed addition, to be made to the units. The intent of the Zoning Ordinance, with respect to nonconforming uses, is that they eventually cease to exist. If investment is focused on the two rear units and the two front units are left as they are, then the two front units will eventually be demolished as necessary repairs become too extensive and costly. This would result in an unattractive "hole" in the street pattern. It is unknown what this space would be used for in the future. It could become an attractive nuisance as the space might be used for parking or other storage. Staff does not support any development scenario in which the front units are designated as nonconforming.

With the exception of the smallest unit at the front of the site, 24091 Silva, each building has stucco siding and aluminum frame windows. The house at 24091 Silva has original wood siding and wood-frame windows. As it appears that this house has had the least amount of improvement over the years, it may be appropriate for this to be the first house to be removed. The houses at 24073 and 24103 appear to be in the best condition. Staff would support the removal of this smallest house and the combination of the two rear units to create one large house in the rear. Only seven parking spaces would be required for the three units. Due to the reduction in the number of parking spaces, the required driveway width would be 18 feet rather than 20 feet. Staff's suggested site plan would look like the image to the right.



If either the owner's proposal or staff's recommended alternative is approved, a condition of approval would be for the owner to merge the two lots together due to the size of each individual lot. However, the City's Subdivision ordinance states that lots may not be merged when they are not in conformance with the General Plan and Zoning Ordinance. Therefore, the lots could only be

merged after two units were eliminated. Merging the lots would also ensure that the residential units could never be sold without the necessary access and parking.

ENVIRONMENTAL REVIEW:

The proposed project is Categorical Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15270, *Projects Which Are Disapproved*.

PUBLIC NOTICE:

On October 19, 2005, a Referral Notice was sent to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. The Referral Notice provided an opportunity for persons to comment on the project. No comments were received.

On January 13, 2006, a Notice of Public Hearing for the Planning Commission meeting was mailed. In addition, a public notice sign was placed at the site prior to the Public Hearing to help notify neighbors and interested parties residing outside the 300-foot radius.

CONCLUSION:

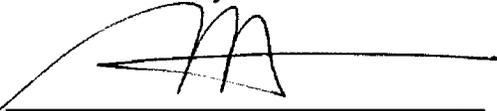
The proposed project is not consistent with the requirements of the zoning district in which the property is located and is not consistent with the City's Subdivision Ordinance. Furthermore, the variance necessary to construct the addition to the duplex would result in improvement of a driveway that is too narrow.

Prepared by:



Erik J. Pearson, AICP
Associate Planner

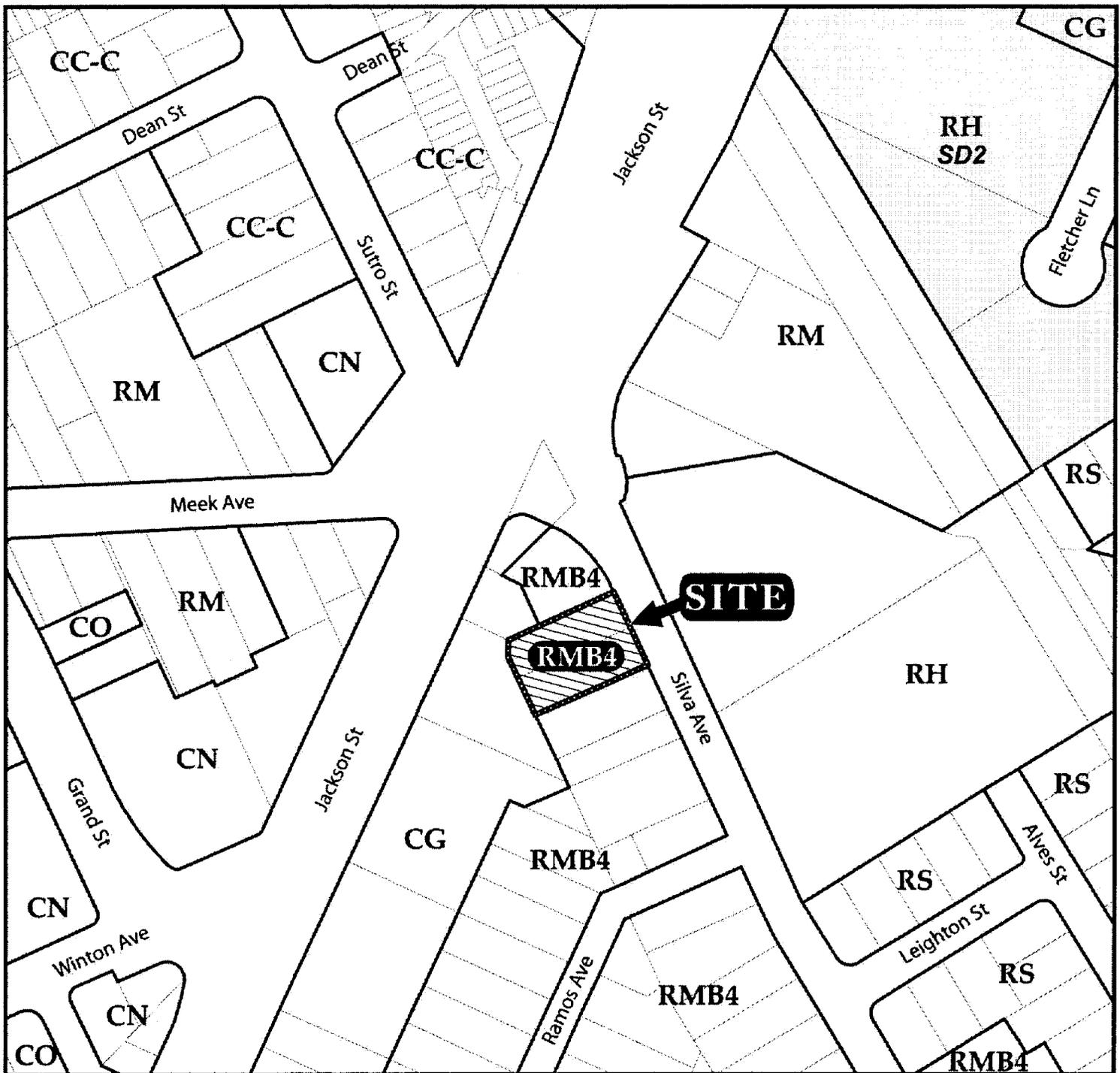
Recommended by:



Richard E. Patenaude, AICP
Principal Planner

Attachments:

- A. Area & Zoning Map
- B. Findings for Denial
- C. Appeal Letter
Plans



Area & Zoning Map

PL-2005-0448-VAR/05-0522-SPR

Address: 24073-24103 Silva Avenue

Applicant: Hossien Mehrizi

Owner: Hossien Mehrizi

Zoning Classifications

RESIDENTIAL

- RH** High Density Residential, min. lot size 1250 sqft
- RM** Medium Density Residential, min. lot size 2500 sqft
- RMB4** Medium Density Residential, min. lot size 4000 sqft
- RS** Single Family Residential, min. lot size 5000 sqft

COMMERCIAL

- CG** General Commercial
- CN** Neighborhood Commercial
- CO** Commercial Office

CENTRAL CITY

- CC-C** Central City - Commercial

SPECIAL DESIGN DISTRICT OVERLAY

- SD5** Mission-Garin Area Special Design District Overlay



**CITY OF HAYWARD
PLANNING DIVISION
SITE PLAN REVIEW
& VARIANCE DENIAL**

**SITE PLAN REVIEW & VARIANCE APPLICATION NO. PL-2005-0522 & PL-2005-0488:
Hossien Mehrizi (Applicant/Owner) – Request to Build Additions to Two Residential Units and Maintain a 12-Foot-Wide Driveway for Five Units where a 20-Foot-Wide Driveway Is Required.**

The project location is 24073 through 24103 Silva Avenue in a RMB4 (Residential-Medium Density) Zoning District with a minimum lot area of 4,000 square feet per unit.

FINDINGS FOR DENIAL:

Site Plan Review

- A. That denial of Site Plan Review Permit No. PL-2005-0522 and Variance No. PL-2005-0488, will have no significant impact on the environment, cumulative or otherwise, and the project reflects the City's independent judgment and is exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15270 of the CEQA Guidelines (Projects Which Are Disapproved).
- B. The development is not compatible with on-site and surrounding structures and uses and is not an attractive addition to the City in that the designation of the two front units as the non-conforming units would lead to the property eventually creating a "hole" in the street pattern.
- C. The development does not take into consideration physical and environmental constraints in that the proposal is designed around buildings that are not expected to remain on the property for a long period of time.
- D. The development does not comply with the intent of City development policies and regulations including, but not limited to the Zoning Ordinance, the City's Design Guidelines and the General Plan in that the overall property has five residential units where only three are permitted by the current Zoning regulations. The project would require the merging of the two parcels, however, the City's Subdivision regulations prohibit a merger of property that is not in conformance with the General Plan or Zoning Ordinance.
- E. The development will not be operated in a manner determined to be acceptable and compatible with surrounding development in that the five units would be served by a substandard driveway that allows only one-way traffic.

Variance

- F. There are no special circumstances applicable to the property including size, shape, topography, location, or surroundings, or other physical constraints. The property is flat and has five older rental houses that restrict the driveway width. The current Zoning allows only 3 houses. The elimination of two units would enable the property owner to widen the driveway.
- G. Strict application of the Zoning Ordinance would not deprive such property of privileges enjoyed by other property in the vicinity under the same zoning classification in that no similar variances have been granted in the neighborhood.
- H. The variance would constitute granting a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated in that any other similar properties where a significant addition is proposed would also be required to meet current parking and driveway standards.

Nov. 1-05

To: City of Hayward

Department of Community and Economic
Development

Dear MR. Erik Jo Pearson:

I would like to appeal the decision of the director of the Planning to the Planning Commission of the City of Hayward on site plan Review Application No. PL 2005-0522 and Variance No. PL-2005-0488 at 24079 and 24085 Silva Ave, Hayward-CA,

The reasons are: I like to ~~be~~ improve the property, these units have been in use with this 12 Foot driveway since they have been built. I am not adding any new units, but just adding only 28' x 21' Foot Print to the properties to make them nicer. This is a very small project and there is enough space here. All units still we have enough parking even with 2.1 parking per unit. These two

ATTACHMENT C

lots always have been used together with
this common 12' driveway. Thank you
for your kind consideration.

Sincerely

Hossein Mehzi

GENERAL NOTES

- CONTRACTOR AND ALL SUBCONTRACTORS SHALL VERIFY ALL CRITICAL DIMENSIONS AND CONDITIONS BEFORE PROCEEDING WITH JOB AND SHALL NOTIFY THE DESIGNER (LINEWORK DESIGN, INC.) AND/OR ENGINEER IMMEDIATELY IN THE EVENT OF DISCREPANCIES BETWEEN THE ACTUAL CONDITIONS AND THE CONTRACT DOCUMENTS.
- LINEWORK DESIGN, INC. HAS PREPARED THESE DRAWINGS AND SPECIFICATIONS FROM INFORMATION PROVIDED TO US. BASED ON THIS INFORMATION, LINEWORK DESIGN, INC. HAS MADE EVERY EFFORT TO MAINTAIN A HIGH DEGREE OF ACCURACY. SHOULD A DISCREPANCY ARISE IN THE DRAWINGS OR BETWEEN THE DIMENSIONS, SPECIFICATIONS AND/OR TO MATERIALS, SUCH DISCREPANCIES SHALL BE BROUGHT TO THE ATTENTION OF THE CONTRACTOR AND HE SHALL CONTACT LINEWORK DESIGN, INC. FOR CLARIFICATION PRIOR TO COMMENCING WITH THE JOB. LINEWORK DESIGN, INC. WILL NOT ASSUME RESPONSIBILITY FOR WORK WHICH DIFFERS FROM THAT SHOWN ON, OR FOR WORK NOT PERFORMED IN ACCORDANCE WITH THE CONTRACT DOCUMENTS. MATERIALS PROVIDED FOR THIS JOB SHALL BE OF HIGH QUALITY AND SHALL BE ACCEPTABLE TO ALL PARTIES CONCERNED. IN THE EVENT OF A DISCREPANCY BETWEEN THE CONSTRUCTION DOCUMENTS, SPECIFICATIONS OR CODE, THE MOST STRINGENT OF THE MEASUREMENTS SHALL PREVAIL AND SHALL BE BROUGHT TO THE ATTENTION OF LINEWORK DESIGN, INC. AND/OR ENGINEER PRIOR TO COMMENCING WORK. ALL WORK SHALL COMPLY WITH THE LATEST EDITIONS OF THE UNIFORM BUILDING CODE, MECHANICAL CODE, ELECTRICAL CODE, PLUMBING CODE AND ALL APPLICABLE CODES AND ORDINANCES.
- ANY DEVIATIONS FROM THE CONSTRUCTION DOCUMENTS SHALL BE COORDINATED WITH THE ENGINEER AND/OR LINEWORK DESIGN, INC. LINEWORK DESIGN, INC. AND/OR THE ENGINEER SHALL BE EXEMPT FROM LIABILITY IN CHANGES WHICH IMPACT THE WORK AREA OR RELATED AREAS WITHOUT PRIOR CONSULT AND WRITTEN APPROVAL.
- CONTRACTOR SHALL NOT SCALE DRAWINGS. IF NEEDED, THE DESIGNER (LINEWORK DESIGN, INC.) AND/OR THE ENGINEER SHALL BE CONSULTED FOR CLARIFICATION.
- ALL WORK PERFORMED UNDER THIS CONTRACT SHALL INCLUDE, BUT IS NOT NECESSARILY LIMITED TO, FURNISHING ALL LABOR, MATERIALS, ACCESSORIES, TOOLS, TRANSPORTATION, FEES, PERMITS AND TAXES TO COMPLETE THE WORK IN PLACE.
- IN THE ABSENCE OF ANY MATERIAL DESCRIPTION IN PART OR WHOLE, THE CONTRACTOR SHALL FURNISH AND INSTALL ALL COMPONENTS NECESSARY FOR COMPLETION OF THE WORKOR SYSTEM IN SIMILAR QUALITY TO SPECIFIED CONSTRUCTION TO THE SATISFACTION OF THE OWNER AND OF LINEWORK DESIGN, INC. AND/OR ENGINEER.
- CONTRACTOR SHALL MATCH EXISTING MATERIALS, FINISHES AND WORKMANSHIP AS REQUIRED.
- VERIFY EXISTING STRUCTURAL CONDITIONS AND FOUNDATION REQUIREMENTS WITH CLIENTS PRIOR TO START OF JOB.
- VERIFY EXISTING ELECTRICAL AND PLUMBING CONDITIONS, INTERIOR ROOM FINISHS AND FLOOR COVERING WITH OWNER PRIOR TO START OF JOB.
- UPDATE EXISTING ELECTRICAL SYSTEM AS REQUIRED BY CODE.
- DO NOT SCALE DRAWINGS.

FLOOR PLAN NOTES

- ALL STAIRS TO BE 24" AT 16" O.C., UNO.
- PROVIDE 5/8" THICK TYPE "X" EPSIUM BOARD ALONG WALL BETWEEN HOUSE AND GARAGE.
- ALL BEDROOM WINDOWS SHALL HAVE A MAXIMUM SILL HEIGHT OF 41".
- PROVIDE APPROVED SPARK ARRESTOR AT CHIMNEY IF NOT EXISTING.
- PROVIDE TURNUP OR RAMP/SHOULDER WALL LIVING FROM FLOOR TO CEILING ON ALL SHOWER AND TUB AREAS.
- WATER CLOSET TANKS SHALL HAVE A MAXIMUM CAPACITY OF 1.6 GALLONS PER FLUSH.
- ALL ELECTRICAL FIXTURES AT ALL BATHROOM AREAS SHALL BE SUITABLE FOR BATHROOM USE.
- GENERAL LIGHTING AS ALL BATHROOM AND KITCHEN MUST BE HIGH EFFICACY, 40 LUMENS PER WATT OR GREATER.
- ALL SOUND GLASS DOORS AND WINDOWS SHALL BE DOUBLE GLAZED.
- ALL SHOWER DOORS SHALL BE TEMPLERED GLASS.
- PROVIDE SMOKE DETECTORS AT HALLWAYS OR AS NOTED ON PLAN AND TO ALL EXISTING BEDROOMS.
- ALL FINISHING FIXTURES FOR BATHROOMS AND KITCHEN SHALL BE 1/2" AFD APPROVED.
- FURNISH SPECIFICATIONS:
 - WALL & MODELS: RATED BOMBEN CAPACITY: SEE 1-24
 - INSULATION:
 - WALLS: R-13 BATHS INSULATION
 - UNDER FLOOR: R-19 BATHS INSULATION
 - ROOF (ATTIC): R-30 BATHS INSULATION
- SMOKE DETECTORS SHALL RECEIVE THEIR PRIMARY POWER FROM THE BUILDING WIRING WHEN SUCH WIRING IS SERVED FROM COMMERCIAL SOURCE AND SHALL BE EQUIPPED WITH A BATTERY BACK-UP. THE DETECTOR SHALL EMIT A SIGNAL WHEN THE BATTERIES ARE LOW.
- ALL TOILET FAN UNITS ARE TO BE INSTALLED WITH BACKDRAFT DAMPERS.
- SHOWER & SHOWER TUB SHIELD ARE TO BE INSTALLED WITH MINIMUM CONTROL VALVES TO THE PRESSURE OF THE DETERMINISTIC WATER VALVE SIZE.

PROJECT INFORMATION

SITE ADDRESS: 24079 & 24085 SILVA AVENUE
HAYWARD, CA. 94544

SCOPE OF WORK: ONE STORY AND SECOND STORY ADDITION

DATE OF CONSTRUCTION: N/A

ZONING: SPHINNALENE, NOT REQUIRED

OCCUPANCY: RA & LI1

EXISTING FLOOR AREA:

UNIT #2 (24085) 400.0 SQ. FT.
UNIT #4 (24079) 390.0 SQ. FT.

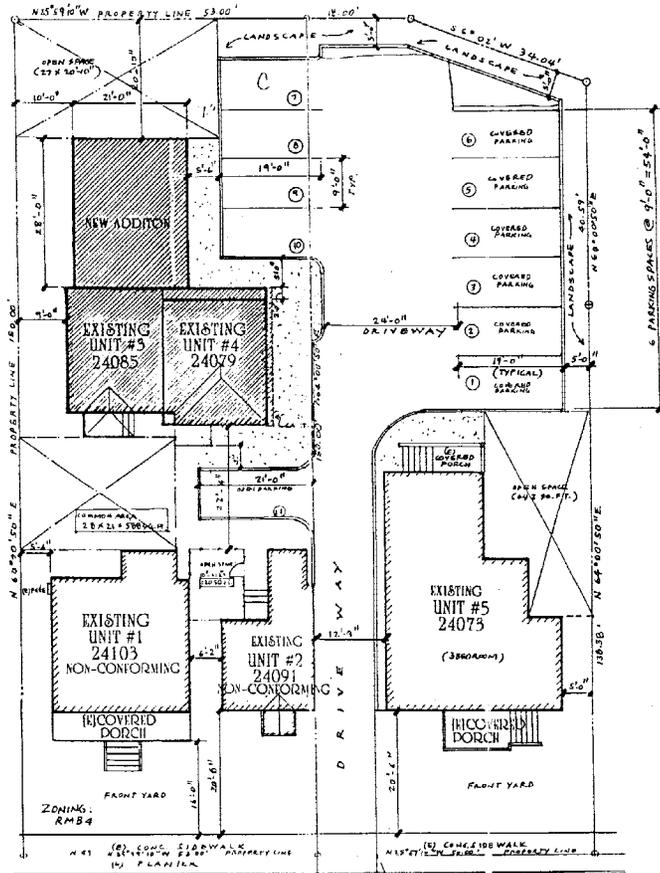
PROPOSED ADDITION:

UNIT #3
ONE STORY: 504.0 SQ. FT.
SECOND STORY: 467.0 SQ. FT. } 966.0 SQ. FT.

UNIT #4
ONE STORY: 540.0 SQ. FT.
SECOND STORY: 488.0 SQ. FT. } 1,038.0 SQ. FT.

TOTAL FLOOR AREA (EXISTING) 790.0 SQ. FT.

APPLICABLE CODES USED:



(A) SITE PLAN
SCALE: 1"=10'-0"

OPEN SPACE CALCULATIONS:

UNIT 1 0 SQ. FT.
UNIT 2 120 SQ. FT.
UNIT 3 448 SQ. FT.
UNIT 4 640 SQ. FT.
UNIT 5 304 SQ. FT.

TOTAL: 1340 X 2 = 2,720 SQ. FT.
COMMON AREA:
28' X 21' = 588 SQ. FT.

PARKING SPACES PROVIDED:
2.1 PER UNIT (RFR-160)
2.1 X 5 UNITS = 10.5 PARKING-SPACE
5 COVERED PARKING (9' X 11')
6 OPEN PARKING (9' X 11')

RECEIVED

JUL 10 2005
PLANNING DIVISION

Project #
PL-2005-0448 VAR
PL-2005-0522 SPR

ONE & SECOND STORY ADDITION FOR:
M. HOSSAIN MHI/IA
24079 & 24085 SILVA AVENUE HAYWARD, CA. 94544
P: 01798-1945

A1

NOTE ON ROOF TRUSS SUBMITTAL:
ROOF TRUSS SUBMITTAL CALCULATIONS ARE TO BE SUBMITTED AS A DEFINED PLAN CHECK ITEM. THE TRUSS SUBMITTAL NEEDS TO BE SUBMITTED TO THE BUILDING DEPARTMENT FOR REVIEW & APPROVAL PRIOR TO CONSTRUCTION.

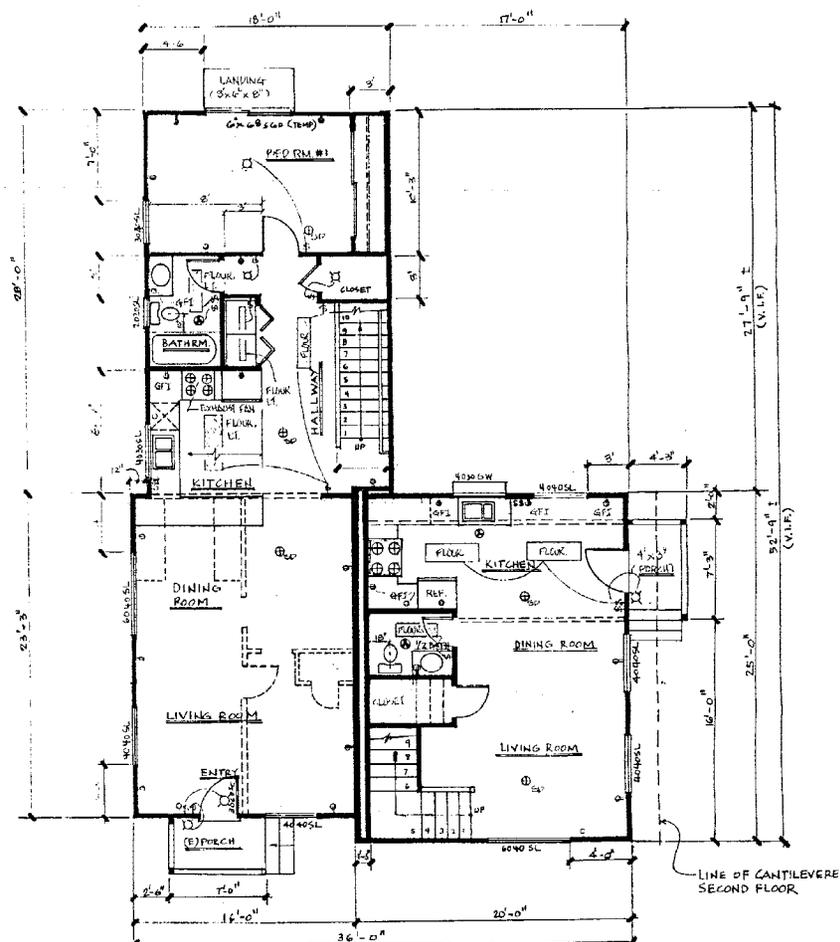
REVISIONS BY

Linework Design, Inc.
440 Westwood Avenue, Suite 200
Hayward, CA 94542
Tel: (925) 781-1945
Fax: (925) 781-1945
www.lineworkdesign.com

STATEMENT OF LIMITED LIABILITY:

The undersigned architect (hereinafter "Architect") is not responsible for any errors or omissions in the drawings or specifications prepared by the Architect or any other person or entity, including but not limited to, the manufacturer of any equipment, material, or product, or any other person or entity, which may be used in the construction of the project. The Architect's liability is limited to the amount of any fee or other compensation received by the Architect for the project. The Architect's liability is limited to the amount of any fee or other compensation received by the Architect for the project. The Architect's liability is limited to the amount of any fee or other compensation received by the Architect for the project.

Furthermore, the undersigned architect (hereinafter "Architect") is not responsible for any errors or omissions in the drawings or specifications prepared by the Architect or any other person or entity, including but not limited to, the manufacturer of any equipment, material, or product, or any other person or entity, which may be used in the construction of the project. The Architect's liability is limited to the amount of any fee or other compensation received by the Architect for the project. The Architect's liability is limited to the amount of any fee or other compensation received by the Architect for the project.



A2 FIRST FLOOR PLAN
SCALE: 1/4" = 1'-0"

Project #
PI-2005-0448 VAR
PI-2005-0522 SPR

RECEIVED
PLANNING DEPARTMENT

ONE & SECOND STORY ADDITION FOR:
MR. JOSSIE MHIRZI
 24079 & 24085 SILVA AVENUE, MILWAUKEE, WI 53224
 414-798-1945

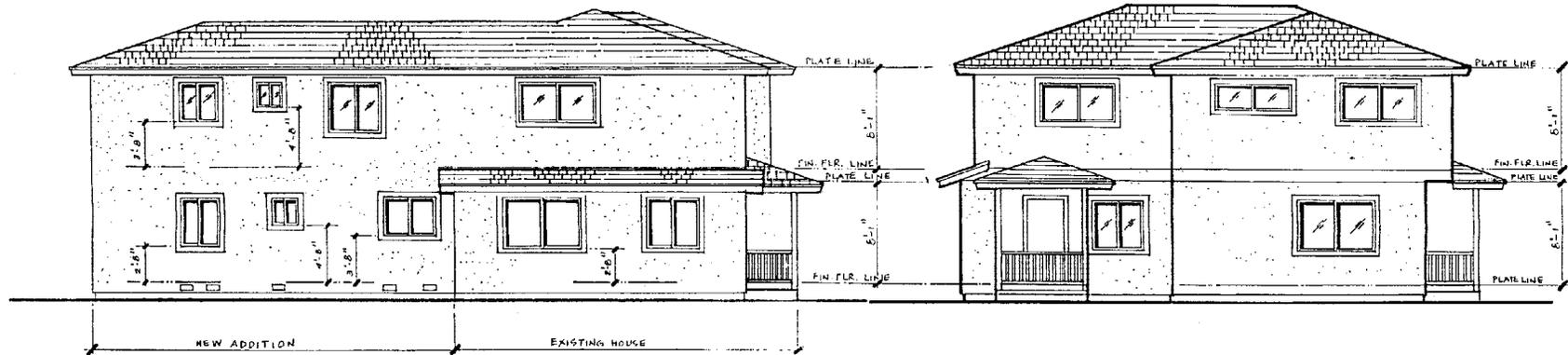
DATE: 5-12-05
 SCALE: NOTED
 DRAWN: ZLR
 JOB: 25014
 SHEET: **A2**
 OF 4 SHEETS

REVISIONS BY

LINEWORK DESIGN, INC.

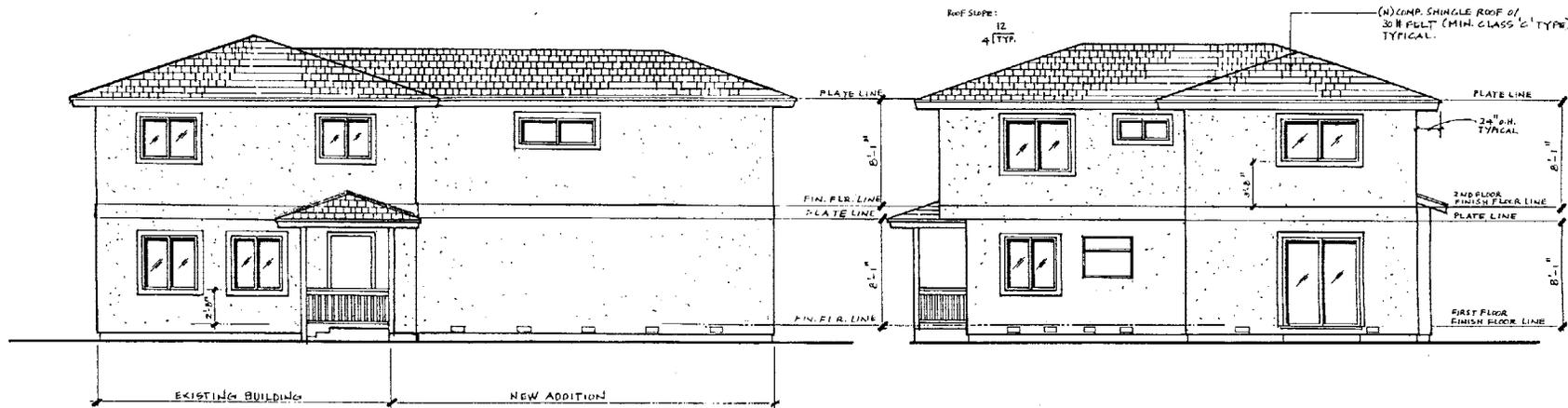
NOTES:

1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
2. FINISH FLOOR LINE IS TO BE MAINTAINED AT ALL TIMES.
3. ROOF SHALL BE AS SHOWN AND SHALL BE RESPONSIBLE FOR PROTECTING THE INTERIOR OF THE BUILDING.
4. ALL ROOFING SHALL BE 30 YEAR MINIMUM LIFE EXPECTANCY.
5. ALL ROOFING SHALL BE 1/2" MINIMUM THICKNESS.
6. ALL ROOFING SHALL BE 1/2" MINIMUM THICKNESS.
7. ALL ROOFING SHALL BE 1/2" MINIMUM THICKNESS.
8. ALL ROOFING SHALL BE 1/2" MINIMUM THICKNESS.
9. ALL ROOFING SHALL BE 1/2" MINIMUM THICKNESS.
10. ALL ROOFING SHALL BE 1/2" MINIMUM THICKNESS.



C LEFT SIDE ELEVATION
A4 SCALE: 1/4" = 1'-0"

A FRONT ELEVATION
A4 SCALE: 1/4" = 1'-0"



D RIGHT SIDE ELEVATION
A4 SCALE: 1/4" = 1'-0"

B REAR ELEVATION
A4 SCALE: 1/4" = 1'-0"

RECEIVED
DATE: 5-12-05
SCALE: NOTED
DRAWN: CLE
JOB: 25014
SHEET: A4

REVISIONS BY

ONE & SECOND STORY ADDITION FOR:
MR. HOSSAIN MEIRJI
24079 & 24085 SHIVA AVENUE, TINYARD, CH. 94544
1510798-1945

DATE: 5-12-05
SCALE: NOTED
DRAWN: CLE
JOB: 25014
SHEET: A4

LINEWORK DESIGN, INC.
1450 W. 14TH AVENUE, DENVER, CO 80202
(303) 733-1100 FAX: (303) 733-1101
DRAWINGS PREPARED BY:
EXTENSIVE 300PI