



# **CITY COUNCIL AGENDA REPORT**

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MEETING DATE: JULY 18, 2006

ITEM NUMBER:

**SUBJECT: APPEAL OF PLANNING APPLICATION PA-06-27  
258 AND 260 SANTA ISABEL AVENUE**

**DATE: JULY 6, 2006**

**FROM: DEVELOPMENT SERVICES DEPARTMENT/PLANNING DIVISION**

**PRESENTATION BY: MEL LEE, AICP, SENIOR PLANNER**

**FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, SENIOR PLANNER  
(714)754-5611**

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## **RECOMMENDATION:**

Conduct a public hearing and adopt resolution either upholding, reversing, or modifying Planning Commission's decision.

## **BACKGROUND:**

In October, 2002, Planning Commission approved a design review to construct 4, two-story, single-family residences (a parcel map to subdivide the property into four single-family lots was also approved at a later date). During the construction of the homes, the developer modified the roof framing of the two rear units, which resulted in an increase in building height from 27 feet (the maximum building height allowed under the Zoning Code) to 29 feet, 6 inches; 2.5 feet higher than allowed under code<sup>1</sup>. The developer requested approval of a variance to legalize the increased roof height for the rear units.

On June 26, 2006, Planning Commission, on a 4-1 vote (Commissioner Garlich voting no) denied the requested variance. On June 29, 2006, Farhad Edward Khosravi, the developer, filed an appeal of the Planning Commission's decision.

## **ANALYSIS:**

The appellant states that special circumstances exist to justify the approval of the variance. Also, the appellant states that the increased roof height was not intentional, as was implied by public testimony during the hearing, and that rebuilding the upper story would be extremely costly since the project is in the final stages of construction. Finally,

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<sup>1</sup> The approved construction drawings reflected the 27-foot maximum height per Code and, according to the Building Safety Division; the developer modified the roof height during construction without City approval.

the appellant states that the increased roof height is virtually undetectable to the surrounding properties and the overall project will have a substantial, positive impact on the surrounding neighborhood.

At the meeting several people spoke in opposition to granting the variance. The Commission concluded that special circumstances such as unusual lot size, shape, or topography, did not exist to justify granting of the variance because the project site is large, rectangular, and relatively flat. Additionally, the code does not recognize the financial impacts of correcting a code deficiency as a variance justification. Finally, based on the written evidence and oral testimony presented at the hearing, the Commission concluded the increased building height is intrusive to surrounding residential properties.

**ALTERNATIVES CONSIDERED:**

City Council may consider the following alternatives:

- (1) Uphold Planning Commission's decision to deny the variance, which would require the appellant to modify the building height to comply with code; or
- (2) Reverse Planning Commission's decision and approve the variance. If the City Council wishes to approve the variance, modifications to the findings will need to be made.

**FISCAL REVIEW:**

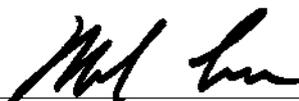
Fiscal review is not necessary.

**LEGAL REVIEW:**

Legal review is not necessary.

**CONCLUSION:**

Planning Commission denied the variance approved the project because there was no justification for the variance and the increased building height is intrusive to surrounding residential properties.

  
\_\_\_\_\_  
MEL LEE, AICP  
Senior Planner

  
\_\_\_\_\_  
DONALD D. LAMM, AICP  
Deputy City Mgr./Development Svs. Dir.

DISTRIBUTION: City Manager  
Asst. City Manager  
City Attorney  
City Clerk (2)  
Staff (4)  
File

Farhad Edward Khosravi  
264 Santa Isabel Avenue  
Costa Mesa, CA 92627

- ATTACHMENTS:
1. Location Map
  2. Plans
  3. Draft City Council Resolution
  4. Exhibit "A" Draft Findings
  5. Exhibit "B" Conditions of Approval
  6. Appeal
  7. Correspondence received from public
  8. Minutes from Planning Commission Meeting of June 26, 2006
  9. Planning Staff Report and Attachments
  10. Planning Commission Resolution

File Name: 070306PA0627	Date: 070306	Time: 8:45 a.m.
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# ZONING/LOCATION MAP

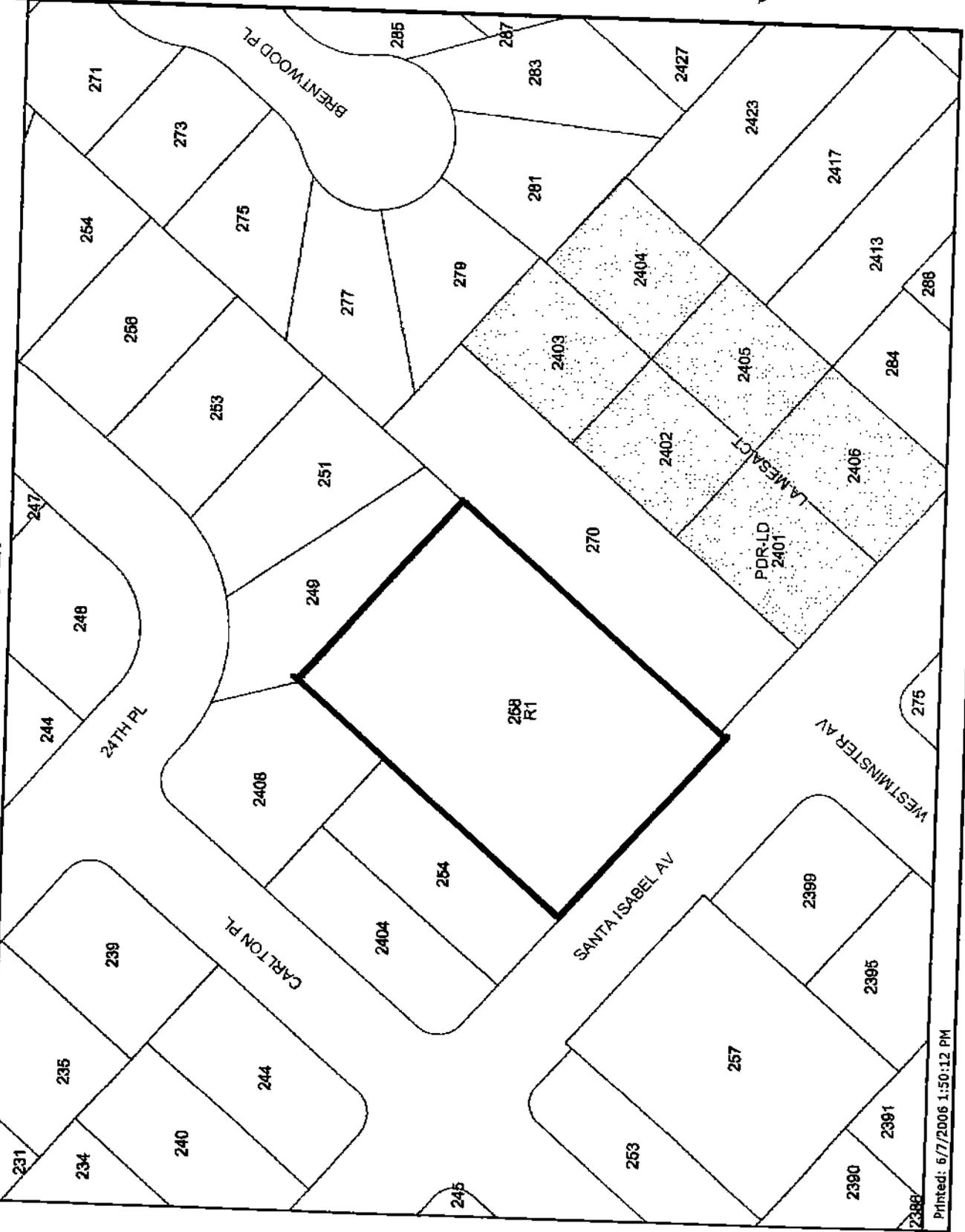
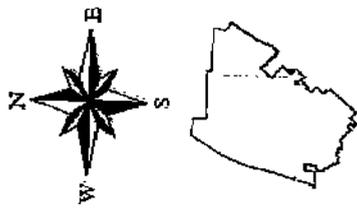
PA-06-27

**Legend**

- Parcel Addresses
- Street Names
- Parcel Lines
- Zoning

AP	C1	C1-S	C2	CL	16R	16R-S	MG	MP	P	PDC	PDI	PDR-HD	PDR-LD	PDR-MD	PDR-NCM	R1	R2-HD	R2-MD	R3	TC
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Parcels



4

# PA-06-27

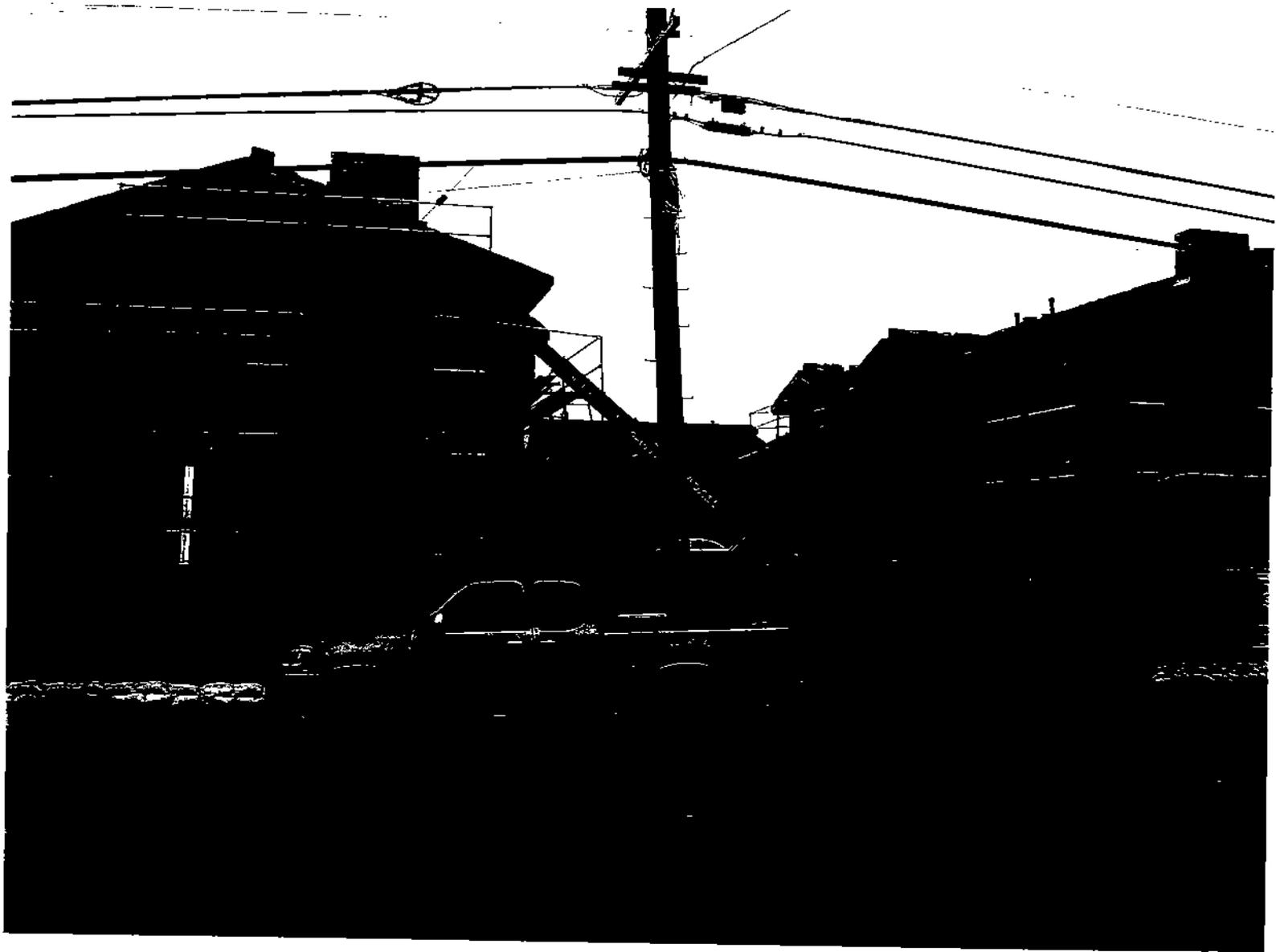
## Legend

- Parcel Addresses
- Street Names
- Parcel Lines
- Ortho Photography
- Parcels

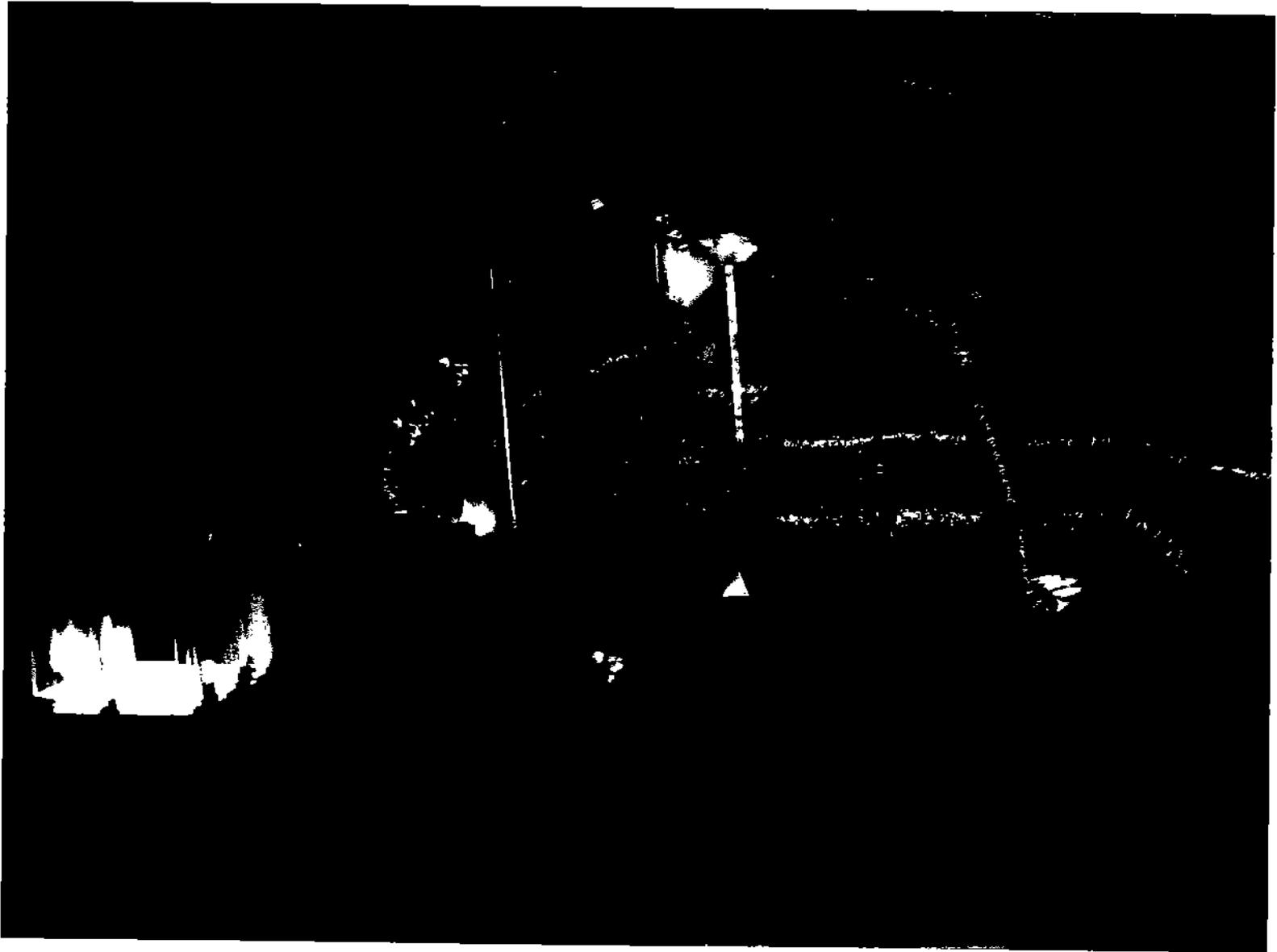


EFFECTED AREA









**RESOLUTION NO. 06-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
COSTA MESA DENYING PLANNING APPLICATION PA-06-27**

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS  
FOLLOWS:

WHEREAS, an application was filed by was filed by Farhad E. Khosravi,  
owner of real property located at 258 and 260 Santa Isabel Avenue, requesting approval of  
a variance from building height to legalize two single-family residences (currently under  
construction) that exceed the maximum building height allowed under code; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on  
June 26, 2006.

WHEREAS, on June 29, 2006, Planning Commission's denial of PA-06-27 was  
appealed by the applicant to City Council; and

WHEREAS, a duly noticed public hearing was held by the City Council on July  
18, 2006.

BE IT RESOLVED that, based on the evidence in the record and the findings  
contained in Exhibit "A", the City Council hereby **DENIES** Planning Application PA-06-  
27 with respect to the property described above.

**PASSED AND ADOPTED this 18th day of July, 2006.**

ATTEST:

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**Deputy City Clerk of the City of  
Costa Mesa**

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**Mayor of the City of Costa Mesa**

**APPROVED AS TO FORM:**

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**City Attorney**

ATTEST:

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**Deputy City Clerk of the City of  
Costa Mesa**

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**Mayor of the City of Costa Mesa**

**APPROVED AS TO FORM:**

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**City Attorney**

## EXHIBIT "A"

### FINDINGS

- A. The variance does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
- The development is not compatible and harmonious with uses on surrounding properties.
  - Safety and compatibility of the design of the buildings and other site features have been considered.
  - The development is not consistent with the General Plan.
  - The cumulative effects of all planning applications have been considered.
- B. The information presented does not comply with Section 13-29(g)(1) of the Costa Mesa Municipal Code in that special circumstances applicable to the property do not exist to justify granting of the variance from building height. Specifically, the site is rectangular and relatively flat, so there are no special circumstances applicable to the property to justify the variance. Additionally, based on the evidence and testimony presented at the hearing, the increased building height will be intrusive to surrounding residential properties, which are predominately one-story single-family homes.
- C. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines; and the City environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities.
- D. The project is exempt from Chapter XII, Article 3, and Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

**RESOLUTION NO. 06-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY  
OF COSTA MESA APPROVING PLANNING  
APPLICATION PA-06-27**

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by was filed by Farhad E. Khosravi, owner of real property located at 258 and 260 Santa Isabel Avenue, requesting approval of a variance from building height to legalize two single-family residences (currently under construction) that exceed the maximum building height allowed under code; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on June 26, 2006.

WHEREAS, on June 29, 2006, Planning Commission's denial of PA-06-27 was appealed by the applicant to City Council; and

WHEREAS, a duly noticed public hearing was held by the City Council on July 18, 2006.

NOW, THEREFORE, BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", and subject to the conditions contained in Exhibit "B", the City Council hereby **APPROVES** Planning Application PA-06-27 for the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa City Council does hereby find and determine that adoption of this resolution is expressly predicated upon the activity as described in the staff report for Planning Application PA-06-27 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B". Should any material change occur in the operation, or should the applicant fail to comply with the Conditions of Approval, then this Resolution, and any recommendation for approval herein contained, shall be deemed null and void.

**PASSED AND ADOPTED this 18th day of July, 2006.**

RECEIVED  
CITY CLERK

CITY OF COSTA MESA  
P. O. Box 1200  
Costa Mesa, CA 92628-1200

FEE: \$ 1,070.00

2006 JUN 29 PM 3:12

APPLICATION FOR REVIEW, APPEAL OR REHEARING

CITY OF COSTA MESA

Applicant Name BY FARHAD EDWARD KHOSRAVI

Address 264 SANTA ISABEL AVE, COSTA MESA, CA 92627

Phone (949) 632-9126 Representing\* \_\_\_\_\_

REQUEST FOR:  REVIEW\*\*  APPEAL  REHEARING

Decision of which review, appeal or rehearing is requested: (give number of rezone, zone exception, ordinance, etc., if applicable, and the date of the decision, if known.) PA-06-27

Decision by: PLANNING COMMISSION Reasons for requesting review, appeal or rehearing: AS stated in the planning Commission Agenda Report of June 15, 2006. Our project complies with Costa Mesa Municipal Code Section 13-29(g)(1), in that special circumstances exist that justify the granting of a variance from building height.  
The project is in its final stages and received all the required approvals prior to the "Stop Work" Order. The overage in height was determined to be a mistake on the part of one of our sub-contractors. It was in no way intentional, and unfortunately was not detected by either our subcontractor, or the City's inspector, until long past the point where the exterior walls were erected and the roof superstructure put in place.  
It's important to note that while the difference of 2.5 feet will be virtually undetectable even by the closest neighbors, the financial impact of nearly rebuilding the upper story of two of the four homes on the site will be extremely costly. Lastly, we strongly believe that our project not only meets the city's housing objectives but as very high quality, single family homes, will have a substantial, positive impact on the immediate area. Thank you for your consideration and we respectfully ask for acceptance of our appeal.

Date: 6-28-2006 Signature: [Signature]

For office use only - do not write below this line

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:  
if review, appeal or rehearing is for person or body other than City Council/Planning Commission, date of hearing of review, appeal or rehearing:

\* If you are serving as the agent for another person, please identify the person you represent and provide proof of agency.  
\*\* Review may be requested only by City Council or City Council Member  
Costa Mesa Forms Application for Review-Appeal-Rehearing

Leigh & Sharon Knudson  
270 Santa Isabel  
Costa mesa, CA 92627  
6/22/06

RECEIVED  
CITY OF COSTA MESA  
DEVELOPMENT SERVICES  
JUN 23 2006

Costa Mesa Planning Commission

Dear Sirs:

This letter explains our feelings about the Kosravi Reality development at 258-260 Santa Isabel, CM, CA.

We are possibly the single most affected residence in this neighborhood yet we did not get a written notification of this meeting and pending variance request. An informal poll in the neighborhood indicates that about three in ten property owners didn't get notification and we request you start over and prepare full notifications.

Possibly the ugliest wall in the city has been built five feet from our residence and it is a full 9.5 feet high, We don't need a 29 foot high house blocking our sunlight as well.

When I look into the "attic" area of the adjacent property I see the workers walking around without bending or ducking down. I noticed that when the floor was laid it fully covered the ceilings joists allowing a spacious area for recreation or ? There are big expensive skylights installed to give lots of natural light so I have trouble believing this is not to be living space.

Our neighborhood is predominately single story homes, many with ultra low seven foot plate lines. While the home we have built a 270 Santa Isabel is two story, we made every effort to reduce visual intrusion. The Kosravi properties seemed to take the opposite approach as they built the highest and biggest properties, rivaling both city hall and the dorms at Vanguard College.

This developer has already wasted a lot of our time by trying to cram five structures on a four residence piece of property. Give us our Monday nights back and stop wasting our time with variance problems that would detract from the neighborhood if allowed.

I might add that his developer has followed a pattern in his denial that city regulations should be heeded. First it was five units on the four unit sized lot. Then we had 24 trash cans per week flooding our refuse disposal company with building debris. Work on this property continues seven days a week, early starting time regulations are ignored and quitting time is when the last worker goes home and that has no bearing on Costa Mesa building ordinances.

I have a really hard time believing this height transgression was anything but intentional. The construction superintendent was on site everyday all day while the extra high roofs were being framed. Since this is the exact same person that drew the plans he knew what was to be done and what was being done. There was no mistake made but a

calculated risk taken. It didn't work and the extra height was caught so we should thank our Costa Mesa city building inspectors for being so observant.

Sincerely:

A handwritten signature in cursive script, appearing to read "L. Knudson".

Leigh Knudson

June 24, 2006

Costa Mesa Planning Commission

1 of 2  
RECEIVED  
CITY OF COSTA MESA  
DEVELOPMENT SERVICES DEPARTMENT

RE: Planning Application PA-06-27 for Khosrav

JUN 26 2006

Dear Planning Commission,

We have agreed to previous requests for variances, but this one we strongly disagree with.

It is apparent to us; the code violation was deliberate. These two homes at 29.5 ft are intrusive of our neighborhood.

We will not approve this variance for the homes to be taller than the code of 27 ft.

Sincerely,

24<sup>th</sup> Place & Hill Place Residents

Sign Name	Print Name	Address
<u>Stewart Silva</u>	STEWART SILVA	247 Hill Pl. C.M.
<u>Greta Silva</u>	Greta Silva	247 Hill Pl., C.M.
<u>Tim Murman</u>	Tim Murman	254 Hill Pl. C.M.
<u>Cindy Murman</u>	CINDY MURMAN	254 Hill Pl., C.M.
<u>Alice Hernandez</u>	ALICE HERNANDEZ	244-24 <sup>th</sup> C.M.
<u>Tom Kishner</u>	TOM KISHNER	235 Hill Pl. C.M. 92627
<u>Gant Cerum</u>	GANT CERUM	244 Hill Pl. C.M. 92627
<u>China Prentice</u>	China Prentice	244 Hill Pl. C.M. 92627
<u>Dorothy Moore</u>	DOROTHY MOORE	234 Hill Pl. C.M.
<u>Dorell Moore</u>	DORSELL MOORE	234 Hill Pl. C.M. 92627

June 24, 2006

2 of 2

Costa Mesa Planning Commission

RE: Planning Application PA-06-27 for Khosrav

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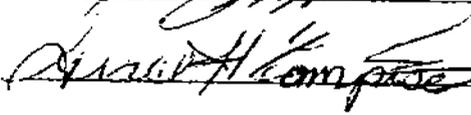
Sincerely,

24<sup>th</sup> Place & Hill Place Residents

Sign Name

Print Name

Address

	FRANK Hernandez	244 24 <sup>th</sup> Pl C.M.
	Jesse Carden	240 Hill Pl. C. 16
Jud Focht	Jewel Focht	248 24 <sup>th</sup> Pl C 12
Marcia Reed	MARCIA REED	239 24 <sup>th</sup> Pl. (C) 11
	Sally Bartz	256 Hill Place C. 10
Marie Kulisz	MARIE KULISZ	250 Hill Place C. 10
	Susan Janochek	248 Hill Pl. C.M.
	Compise Grace	244 Santa Isabel A



TIFFANY, JANE

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**From:** LEE, MEL  
**Sent:** Monday, June 26, 2006 12:16 PM  
**To:** TIFFANY, JANE  
**Subject:** Please Print for Commissioners

Mrs. Jeanette Ficquette, of 275 Santa Isabel Avenue left a voice message opposing the approval of the variance for PA-06-27 (258 and 260 Santa Isabel Avenue) because it could set a precedent for similar variances in the future.

Mel

Excerpt from the minutes of the Planning Commission meeting of June 26, 2006

PLANNING APPLICATION  
PA-06-27

Khosravi

The Chair opened the public hearing for consideration of Planning Application PA-06-27 for Farhad Edward Khosravi, for a variance to legalize a 29.5-foot building height for two single-family houses (27 feet permitted), located at 258 and 260 Santa Isabel Avenue in an R1 zone. Environmental determination: exempt.

Senior Planner Mel Lee reviewed the information in the staff report and gave a presentation. He said staff has noted that the affected units are the two units at the rear of the property which should minimize the building mass impact from Santa Isabel Avenue. He said the roof peaks at the 29.5-foot point which is set back approximately 35 feet from the rear property line, therefore, minimizing the impacts to the rear property. Based upon these two factors he said he believed there was justification for a variance and staff is recommending approval, by adoption of Planning Commission resolution, subject to conditions.

Commissioner Garlich asked for a history of variances where common errors were made that were unintentional and a variance was necessary. Mr. Lee said approximately 4 years ago, a second-story extension was proposed on a cul-de-sac off of Riverside Place and the existing structure was already at a height that exceeded the 27' allowed under code; and was actually built when code was 30 feet maximum. They had basically extended the second story to the same height as the existing second-story addition. The Planning Commission approved that variance based upon the fact that there was an existing circumstance where the roof peak was already at that height. There was further discussion regarding this subject between Commissioner Garlich, Mr. Robinson, and Mr. Lee related to required additional height approved for the residential parties of the Home Ranch development.

In this case, the additional height was justified to accommodate the different architectural styles of the homes and the fact that the development was a self-contained and designed neighborhood.

In response to a question from Commissioner Garlich, Mr. Lee confirmed the height errors were made on the two rear units and not the front units. He also confirmed that Planning Division received 6 letters (1 in support of the request, and 5 expressing concerns with the request). In further response, Mr. Lee confirmed that no one objected to the height before they knew the height was incorrect via the noticing of the project.

Farhad Edward Khosravi, 264 Santa Isabel Avenue, Costa Mesa, agreed to the conditions of approval. Mr. Khosravi briefly reviewed his plans of the homes on the subject property and described the attributes of the project.

Mr. Khosravi said when he arrived this evening, Mr. Lee gave him copies of letters and a petition which he said was initiated by his neighbor Leigh Knudsen. Mr. Khosravi said it was important for him to address these issues to the Commission. He said the signatures on the petition are from addresses on the cul-de-sac at 24<sup>th</sup> Place/Hill Street; he noted that his

property is on Santa Isabel Avenue. He commented that they evidently have a different view and they are entitled to it and none of the names are within a 500 foot radius of his Santa Isabel project. He said his next door neighbor has sent a letter stating her support for the project.

In response to the Chair regarding the building height, Mr. Khosravi stated that when the framer was putting up the pitch, the sheathing subcontractor made an error and caused it to be higher than planned. The actual building height is at 28.5. The Chair pointed out it was still over 27 feet. He asked Mr. Khosravi to tell him how the Commission could justify it. Mr. Khosravi said when the roofing was signed off by the inspector, this subcontractor finished the sheathing work and when he was done and the nailing was checked by the inspector, he basically demanded full payment from the framing contractor. Since then, they have not been able to conduct legal action because the costs would put this project in jeopardy and the framer would have to file for bankruptcy and/or would be unable to perform his work.

Commissioner Garlich stated that he met with the applicants at their request prior to this hearing. He said he wanted to confirm Mr. Khosravi's previous statement that the building of the two rear units that are 29.5 feet was not intentional or directed, and was a mistake. Mr. Khosravi confirmed this was so.

In response to a question from Vice Chair Hall, Mr. Khosravi explained the pitch again. Vice Chair Hall commented that because a lot of the heating ducts are located in that area they would all have to be relocated. Mr. Khosravi explained that a lot of the work has already been completed for the two homes in the rear. He said there has been almost an 8-week delay in the project because of this error and the costs would be prohibitive to take it down and start over again. In response to another question from Vice Chair Hall, Mr. Khosravi stated that the company responsible for the error is Unique Homes by Caspian.

The following neighbors: Leigh Knudsen, 270 Santa Isabel; Richard Schmidt, 1911 Port Province, Newport Beach (at the meeting on behalf of his brother Michael Schmidt, who's working directly behind the property); Eli Wendell; 251 24<sup>th</sup> Place, Mike Schmidt, 249 24<sup>th</sup> Place, Larry Koh, 248 24<sup>th</sup> Place; Frank Hernandez (project faces his front door); opposed the project and made the following comments: Some said it was the developer's fault for not discovering it sooner; he planned it that way because he wanted a higher pitch in the roof and he got caught; it doesn't appear to be an unintentional violation because in Newport Beach the volume of the structure increases property values; a 10% height increase is a pretty big mistake; financial hardship isn't a good reason for a variance; 29.5 feet is not that much, but assuming they knew they were framing it was too high, the neighborhood feels they were thinking it was better to get their hands slapped later than to ask for a variance up front and they have to stick together and stop these things from happening in their neighborhoods.

Fariba Fordabi, 256 Santa Isabel, said she was hoping this project would soon be finished so their family could move in. She said these homes have beautified the neighborhood compared to the shacks that there were there before.

Siede Ascari, 258 Santa Isabel, in answer to a question that was raised about seeking counsel to litigate the framer, he said they did seek counsel and were told it would take 9 to 18 months to complete litigation and even if they were successful, there was no guarantee that this man will not file for bankruptcy. Mr. Ascari said he was glad the neighbors said they first heard the information from Gary Hook that the building was too high. What he didn't understand was if the City knew about it, why didn't they come to the applicant first, because according to the neighbors who spoke this evening, Mr. Hook told them first. Had it not been for the notice that was sent to these gentlemen, they would never have known the difference.

Albert Lundene, representing Michael Schmidt, attorney with Baker, Burton & Lundene said he was asked by Michael Schmidt to analyze the legal ramifications in terms of the overbuilding this property. He also said Michael Schmidt stated the property has been raised 5 feet. The attorney then surmised there was another 2-1/2 feet that would be added to that. Mr. Lundene said they don't meet condition of approval #1 and they don't qualify for a variance. He said the applicant also does not quality for condition of approval #2.

The Chair requested that Mr. Lee explain the 5 feet Mr. Lundene spoke about. Mr. Lee explained that he knows the property was raised in order to provide drainage to Santa Isabel, but without checking the grading plans, he could not confirm how high it was raised. Mr. Lee said the standard condition of approval says it cannot exceed 30 inches over abutting property.

City Engineer Ernesto Munoz, having checked the grading plans, said the applicant raised the property approximately 3 feet.

Mr. Khosravi said that with respect to the 2 conditions of approval, his lot is close to 30,000 square feet and is within the City's guidelines. He said the grading plans called for 2.8 feet of fill.

No one else wished to speak and the Chair closed the public hearing.

MOTION:  
PA-06-27  
Denied

A motion was made by Vice Chair Hall, seconded by Egan and carried 3-2 (Garlich and Fisler voted no) to deny Planning Application PA-06-27, by adoption of Planning Commission Resolution PC-06-49, based on information and analysis in the Planning Division staff report, public testimony, and findings contained in exhibit "A" as follows:

*Replace Findings as follows:*

A. The variance does not comply with Costa Mesa Municipal Code Section 13-29(e) because:

- The development is not compatible and harmonious with uses on surrounding properties.

- Safety and compatibility of the design of the buildings and other site features have been considered.
- The development is not consistent with the General Plan.
- The cumulative effects of all planning applications have been considered.

B. The information presented does not comply with Section 13-29(g)(1) of the Costa Mesa Municipal Code in that special circumstances applicable to the property do not exist to justify granting of the variance from building height. Specifically, the site is rectangular and relatively flat, so there are no special circumstances applicable to the property to justify the variance. Additionally, based on the evidence and testimony presented at the hearing, the increased building height will be intrusive to surrounding residential properties, which are predominately one-story single-family homes.

C. Same.

D. Same.

During discussion on the motion, Commissioner Garlich said he would not support the motion because he believed there are grounds for granting a variance, and staff did find grounds or they would not have been suggested. He also did not believe the error was intentional on the part of the applicant.

Commissioner Egan said she doubted that it was intentional, however, just as it's not the Commission's job to punish people, it's not their job to rescue them from their mistakes, especially at the expense of the neighborhood. She said she did not see a basis for the variance. She stated that the one on Riverside Place had an existing, legal, nonconforming condition and that was the reason for that variance. As for the Home Ranch, the key finding there was that it was a totally self-contained development. All of the houses were isolated from any surrounding residential developments; nobody was going to be impacted by this which is just the opposite of what we have here—neighbors who are tremendously impacted by it and there is no basis for a variance.

The Chair explained the appeal process.



# **PLANNING COMMISSION AGENDA REPORT**

IV.10

MEETING DATE: JUNE 26, 2006

ITEM NUMBER:

SUBJECT: PLANNING APPLICATION PA-06-27  
258 AND 260 SANTA ISABEL AVENUE

DATE: JUNE 15, 2006

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, SENIOR PLANNER  
(714) 754-5611

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## **DESCRIPTION**

The applicant is requesting approval of a variance from building height to legalize two single-family residences (currently under construction) that exceed the maximum building height allowed under code.

## **APPLICANT**

The applicant is Farhad Edward Khosravi, who is also the developer and owner of the properties.

## **RECOMMENDATION**

Approve by adoption of the attached resolution, subject to conditions.

MEL LEE, AICP  
Senior Planner

  
R. MICHAEL ROBINSON, AICP  
Asst. Development Services Director

## PLANNING APPLICATION SUMMARY

Location: 258 and 260 Sanja Isabel Ave. Application: PA-08-27

Request: Variance from building height for two residential units under construction

**SUBJECT PROPERTY:**

**SURROUNDING PROPERTY:**

Zone: R1 North: Surrounding properties are zoned R1 (Single Family Residential) and contain residential structures.

General Plan: Low Density Residential South: Residential

Lot Dimensions: 69.5 FT x 20 FT (Each Lot) East:

Lot Area: 8,463 SF (Each Lot) West:

Existing Development: Two 2-story residences (under construction)

**DEVELOPMENT STANDARD COMPARISON**

Development Standard	Required/Allowed	Proposed/Provided
Lot Size:	50 FT	69 FT, 6 IN
Lot Width	6,000 SF	5,463 SF
Lot Area		
Density:		
General Plan	1 du/8,000 SF	1 du/8,463 SF
	1 du/5,463 SF	1 du/5,463 SF
Building Coverage (Bolt Lots):	NA	5,932 SF (11%)
Buildings	NA	1,430 SF (11%)
Paving	5,170 SF (40%)	6,164 SF (48%)
Open Space		12,828 SF (100%)
TOTAL		
Building Height	2 Stories 27 FT	2 Stories 29 FT, 6 IN (1)
Chimney Height	29 Feet	27 Feet
First Floor Area (Including Garage)	NA	2,968 SF
Second Floor Area	NA	1,908 SF
2nd Floor % of 1st Floor	00%	50%
Setbacks:		
Front	20 FT	112 FT
Side (all/light)	5 FT/5 FT	5 FT/5 FT
Rear	10 FT (1 Story) 20 FT (2 Story)	10 FT (2)
Rear Yard Coverage	25% (347 SF)	25% (347 SF)
Parking:		
Covered	4	4
Open	4	4
TOTAL	8 Spaces	8 Spaces
Vehicle Backed Area	25 FT	25 FT
Driveway Width:	20 FT	20 FT

NA = Not Applicable or No Requirement  
 (1) Does not comply with Code, variance requested.  
 (2) Revisions increasing 1st floor building height previously approved by Planning Commission.  
 CEQA Status Planning Commission  
 Final Action Planning Commission

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## **BACKGROUND**

On October 14, 2002, Planning Commission approved a design review to demolish 5 one-story residences on the property and construct 4, two-story, single-family residences. On March 10, 2003, Planning Commission approved Parcel Map PM-03-101 to subdivide the property into four lots to accommodate the development. The units are under construction.

## **ANALYSIS**

During construction, the developer modified the roof framing of the two rear units (addressed as 258 and 260 Santa Isabel Avenue), which resulted in an increase in building height from 27 feet (the maximum building height allowed under the Zoning Code) to 29 feet, 6 inches; a difference of 2.5 feet. The developer is requesting approval of a variance to legalize the increased roof height for the rear units. The roof height for the front units (256 and 264 Santa Isabel Avenue) were not modified and comply with Code.

Code Section 13-29(g)(1) allows granting a variance where special circumstances applicable to the property exist, such as an unusual lot size, lot shape, topography, or similar features, and where strict application of the zoning ordinance would deprive the property owner of privileges enjoyed by owners of other properties in the vicinity under an identical zoning classification. Other factors (such as existing site improvements) may also be considered.

In the project description/justification form provided by the applicant (a copy of which is attached to this report), the applicant states that denial of the variance would result in substantial financial hardship due to the expense of rebuilding the roof to comply with the Code and the originally approved plans.<sup>1</sup> While the code does not recognize financial hardship as a variance justification, staff notes that the two affected units are located at the rear of the subject property, behind the two 2-story units that are also being constructed, which should minimize the building mass impact from Santa Isabel Avenue. With regard to the impacts on the properties at the rear of the site, code requires a 20-foot rear setback for second story structures. The highest point of the roof peak, at 29 feet, 6 inches, is setback approximately 35 feet from the rear property line; therefore, the additional 15-foot setback from the rear property line to the roof peak should minimize any impacts<sup>2</sup>.

Based on the above, it is staff's opinion that there is sufficient justification for approval of the variance.

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<sup>1</sup>The construction drawings reflected the 27-foot maximum height per Code and, according to the Building Safety Division the developer modified the roof height during construction without City approval.

<sup>2</sup> Planning Commission previously approved a modification to the first floor height on the rear elevations to accommodate a vaulted ceiling.

**GENERAL PLAN CONFORMITY**

The property has a general plan designation of Low Density Residential. Under the general plan designation, one unit for each lot is allowed and one unit for each lot is proposed. As a result, the use and density conforms to the City's General Plan.

**ALTERNATIVES**

The Planning Commission has the following alternatives:

1. Approve the variance with the appropriate findings as recommended by staff; or
2. Deny the variance. If the variance is denied, the developer would be required to redesign and reconstruct the roof framing to comply with the 27-foot maximum height required by Code.

**ENVIRONMENTAL DETERMINATION**

The project is exempt from the provisions of the California Environmental Quality Act under Section 15301 for Existing Facilities.

**CONCLUSION**

It is staff's opinion that the additional 2.5 feet of roof height will not adversely impact surrounding properties. Therefore, staff recommends approval of the variance.

Attachments:

- Draft Planning Commission Resolution
- Exhibit "A" - Draft Findings
- Exhibit "B" - Draft Conditions of Approval
- Applicant's Project Description and Justification
- Zoning Map/Location Map
- Plans

cc: Deputy City Manager - Dev. Svs. Director

Assistant City Attorney

Assistant City Engineer

Fire Protection Analyst

Staff (4)

File (2)

Farhad Edward Khosravi  
264 Santa Isabel Avenue  
Costa Mesa, CA 92627

**Description / Justification:**

1. Fully describe your request.

We are requesting approval of a variance to increase the roof line height by 2.5 feet for a residence currently under construction from approved plans. The residence will remain two stories, but the roof line will be increased from the currently allowed requirement of 27 feet to 29.5 feet.

2. B) The property in question is a new single family residence being built by the owners of the property to occupy. The construction of this home should be considered a betterment of the neighborhood.

- The Owners hired an experienced and highly recommended framing contractor familiar with home building construction of this type. The framing contractor constructed the project from City approved plans and during the course of construction made some field changes to reflect building code requirements to improve the building's safety and quality. The framing has been completed.

-After the framing was completed, the roof plywood sheeting was installed and was inspected by the City on March 9, 2006. This too was approved by the inspector. Since these approvals, the following items of work have been constructed and completed:

- 1) The roofing subcontractor installed the 2 layers of #40 roofing material and completed the Torch down areas of the roof making the building water proof;
- 2) The shear walls have been constructed;
- 3) The roof tiles have been purchased and delivered to the construction site. The materials are ready to be loaded onto the roof, and, the roofing subcontractor is ready to proceed to complete its scope of work;
- 4) The HVAC unit and required ducting have been installed and completed including all roof penetration penetrations;
- 5) The Fire sprinkler system has already been completely installed;
- 6) All of the exterior windows have been installed;
- 7) The stucco scaffolding has been installed and the stucco contractor subcontractor is ready to wrap and water proof the walls;
- 8) All of the plumbing lines and bath tubs have been installed; and,
- 9) The central vacuum system lines have been installed.

The project has been stopped pending the decision of this request for variance. The stopping of the project has caused substantial financial hardship in terms of delay costs and disruption of the construction process. If this variance is not granted by the City, the financial consequences of undertaking to reduce the roof line to an already framed structure (by lowering it 2.5 feet) would be so costly that this undue impose an additional financial burden as to be unbearable for the owners and tantamount to an economic waste. Additionally, because of the scope of any alteration that would be required absent a variance, it would create a hardship necessarily involving many third parties including financial institutions, insurance companies, multiple subcontractors, designers, engineers and architects. This also impacts the neighborhood as construction will proceed longer than anticipated. The project exterior is nearly complete and therefore the continuation, including any demolition of exterior construction, would further impact the quiet enjoyment of the area when it otherwise would have been minimized or eliminated.

**TYCO CONSTRUCCION**  
18911 FAIRHAVEN, N.TUSTIN, CA

April 24, 2006

Farhad Edward Khosravi  
264 Santa Isabel Ave.  
Costa Mesa, Ca 92627

I reviewed your project located at 258-260 Santa Isabel Ave, Costa Mesa. To determine and evaluate the feasibility and cost of lowering the building heights by 2.5 feet. I have conducted a through field review of the subject structure and in my professional contractor opinion having built over 40 custom homes, It would require substantial rework including lowering the entire structure to the first floor and reframing the structure.

This rework which includes demolition and reconstruction will take approximately three months to complete and in my opinion would be cost prohibitive.

Sincerely,



Tyrone Hurtado, Contractor

LIC# 813009

**FYP ENGINEERING**  
58 Feather Ridge  
Mission Viejo, Ca 92692

April 20, 2006

Ed Khosravi  
264 Santa Isabel Ave.  
Costa Mesa, CA 92627

In my professional engineering opinion, the current project meets all building and safety code requirements. However if the City required the home owner to reduce the building height by 2.5 feet, a new set of structural plans and calculations will have to be performed. Since there will be a new loading conditions that will require new structural supports to be designed.



Fred Yazdan, P.E.  
RCE 35704

30A)



**CITY OF COSTA MESA, BUILDING SAFETY DIVISION**  
**POST IN CONSPICUOUS PLACE ON THE JOB**  
**NOTICE**

Schedule inspection one workday in advance. To schedule inspections, call (714) 754-5626 Provide the following information:  
 1) Permit number, 2) Job address, 3) Inspection item number.

Building Address: <u>260 Santa Feabel Ave</u>		Owner: <u>Khosravi</u>
Building Permit #: <u>PC4-1057</u>		Contractor: <u>owner</u>
Mechanical Permit #		Job Description: <u>New 3,435A SFD</u>
Plumbing Permit #		
NEW <input checked="" type="checkbox"/>	ADD <input type="checkbox"/>	ALTER <input type="checkbox"/>
REPAIR <input type="checkbox"/>	MOVING <input type="checkbox"/>	DEMOLISH <input type="checkbox"/>
ISSUE DATE: <u>8/16/05</u>		

**PERMITS EXPIRE 180 DAYS (6 MONTHS) FROM ISSUANCE OR LAST INSPECTION**

CONSTRUCTION APPROVALS							
Item #	STRUCTURAL	Date	Inspector	Item #	POOL & SPA	Date	Inspector
3	Job Site Consult			94	Pool & Equipment Location		
4	Footings/Ufer Ground			96	Steel Reinforcement		
6	Slab <u>10-11-05</u>	<u>10-11-05</u>	<u>GCW</u>	100	Electrical Bonding		
8	Structural Floor <u>Garage slab</u>	<u>10-13-05</u>	<u>GCW</u>	102	Rough Plumb & Pressure Test		
11	Pre-Inspect Roof			104	Approval to Cover - Gunite		
12	Roof Sheathing	<u>7-9-06</u>	<u>GCW</u>	106	Elec Conduit - Underground		
14	T-Bar Ceiling-Structural			108	Gas Pipe/Underground Test		
16	Shear Panel			110	Backwash Lines, P-Trap, Underground		
18	Frame & Flashing						
20	Lathing & Siding			112	Approval to Deck		
22	Insulation			116	Pool Plumbing System - Final		
24	Drywall Nailing			118	Pool Electrical - Final		
26	Plaster Brown Coat			122	Fencing/Access/Alarms Approval		
30	Pre-Groul			124	Approval for Plastering		
33	Disabled Access			126	Pool/Spa Systems - Final		
<b>FIRE DEPARTMENT APPROVAL</b>							
				1610	Overhd Hydro/Overhd Rough		
				1612	Dry Chemical		
				1614	Dry Standpipe		
				1616	Final - Fixed System		
<b>ELECTRICAL</b>							
36	Ufer Ground						
38	Elec Conduit - Underground						
44	Rough Elec - Wiring			<b>FINAL INSPECTIONS</b>			
46	Rough Elec Conduit			(Must be completed prior to requesting occupancy.)			
48	Elec T-Bar Ceiling			Call (714) 754-5626 for the following:			
50	Elec Power Final			200	Final Re-Roof	Date	Inspector
51	Temp Power Final			201	Final Block/Retaining Wall		
				203	Final Sign		
				204	Final Demolition		
				206	Final Mechanical		
				208	Final Plumbing		
				210	Final Electrical		
<b>PLUMBING &amp; MECHANICAL</b>							
52	Soil Pipe - Underground	<u>9-22-05</u>	<u>BN</u>	Call (714) 327-7400 for the following:			
54	Water Pipe - Underground	<u>9-22-05</u>	<u>BN</u>	212	Final Fire Prevention	Date	Inspector
55	Underground Gas			Call (714) 754-5671 two (2) working days prior to final.			
62	Rough Plumbing			216	Final Public Svs. Dept. Approval	Date	Engineer
63	Prewrap			Call (714) 754-5245 for the following:			
64	Rough Mechanical			220	Final Planning Approval	Date	Inspector
66	Rough - Factory Fireplace			Call (714) 754-5626 for the following:			
68	Sewer System			222	Final Site	Date	Inspector
72	Gas Pipe - Rough Test			250	Final Building/Occupancy		
90	Gas Pipe Test - Final						
92	Water Service - Final						

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NOTES: SEE REVERSE

RESOLUTION NO. PC-06-49

**A RESOLUTION OF THE PLANNING COMMISSION OF THE  
CITY OF COSTA MESA DENYING PLANNING APPLICATION  
PA-06-27**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY  
RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by was filed by Farhad E. Khosravi,  
owner of real property located at 258 and 260 Santa Isabel Avenue, requesting  
approval of a variance from building height to legalize two single-family residences  
(currently under construction) that exceed the maximum building height allowed under  
code; and

WHEREAS, a duly noticed public hearing was held by the Planning  
Commission on June 26, 2006.

BE IT RESOLVED that, based on the evidence in the record and the findings  
contained in Exhibit "A, the Planning Commission hereby **DENIES** Planning  
Application PA-06-27 with respect to the property described above.

**PASSED AND ADOPTED this 26th day of June, 2006.**



Bill Perkins, Chair

Costa Mesa Planning Commission

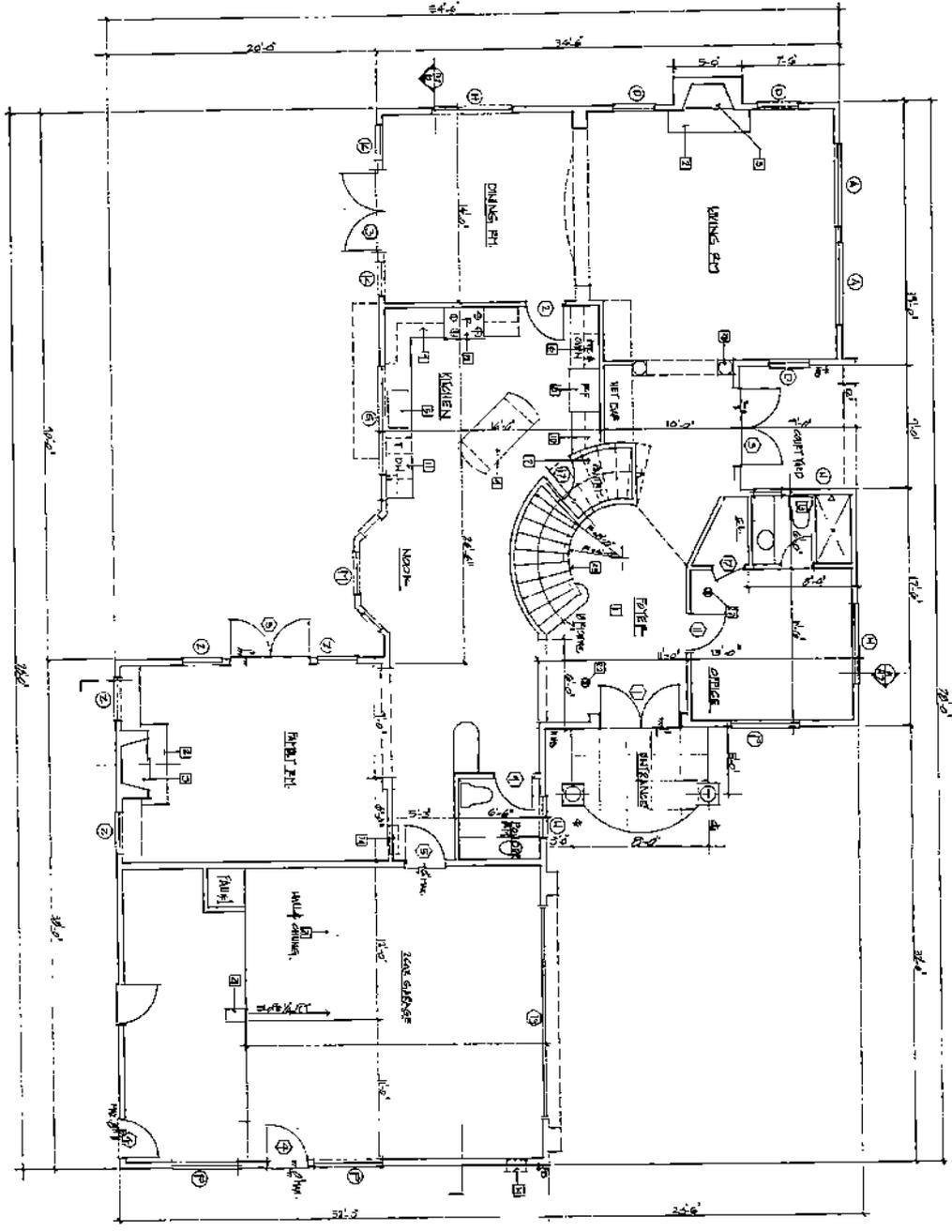


## EXHIBIT "A"

### FINDINGS

- A. The variance does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
- The development is not compatible and harmonious with uses on surrounding properties.
  - Safety and compatibility of the design of the buildings and other site features have been considered.
  - The development is not consistent with the General Plan.
  - The cumulative effect of all planning applications have been considered.
- B. The information presented does not comply with Section 13-29(g)(1) of the Costa Mesa Municipal Code in that special circumstances applicable to the property do not exist to justify granting of the variance from building height. Specifically, the site is rectangular and relatively flat, so there are no special circumstances applicable to the property to justify the variance. Additionally, based on the evidence and testimony presented at the hearing, the increased building height will be intrusive to surrounding residential properties, which are predominately one-story single-family homes.
- C. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines; and the City environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities.
- D. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

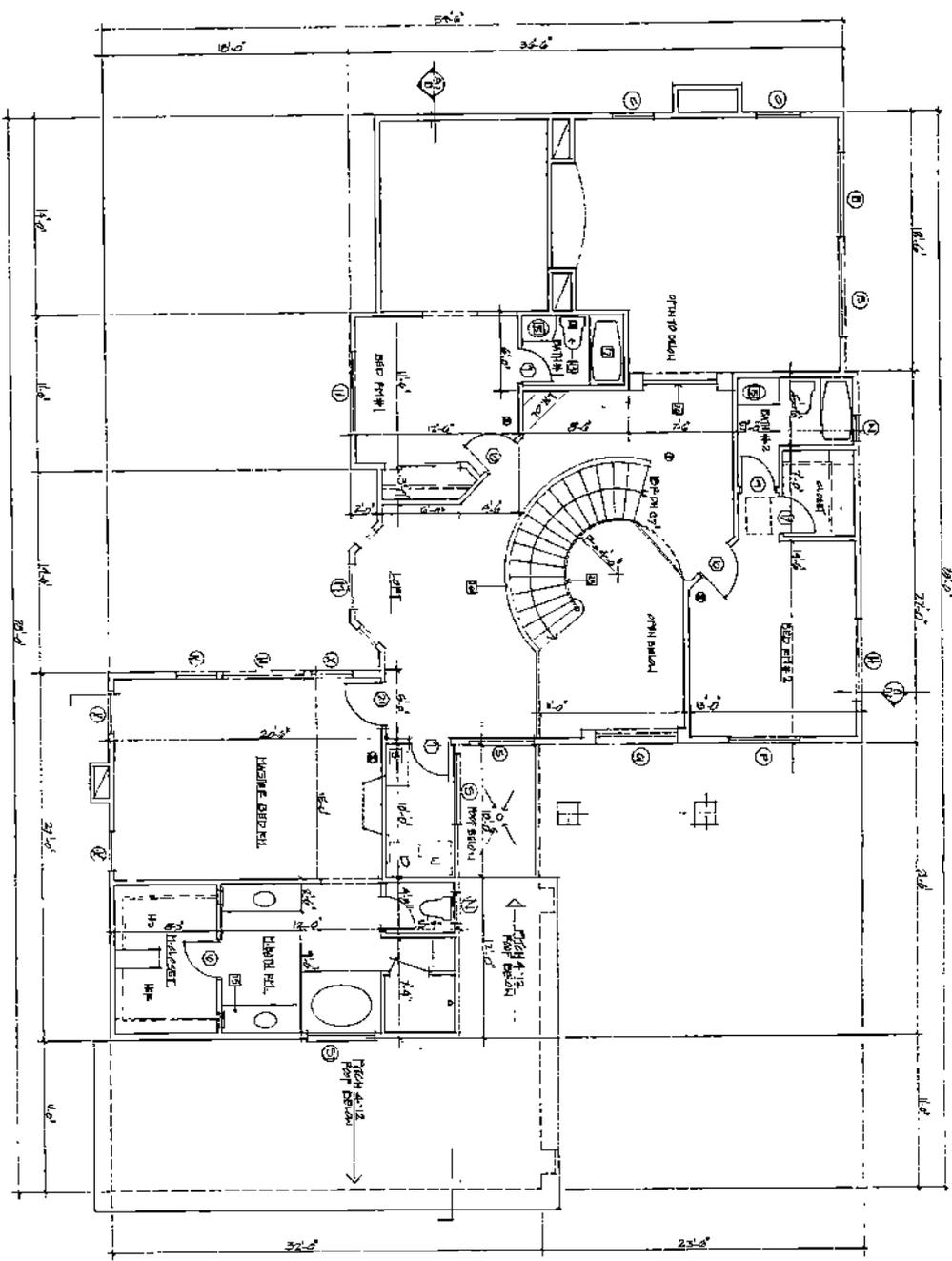




FIRST FLOOR PLAN  
1/4" = 1'-0"

**FLOOR PLAN SCHEDULE:**

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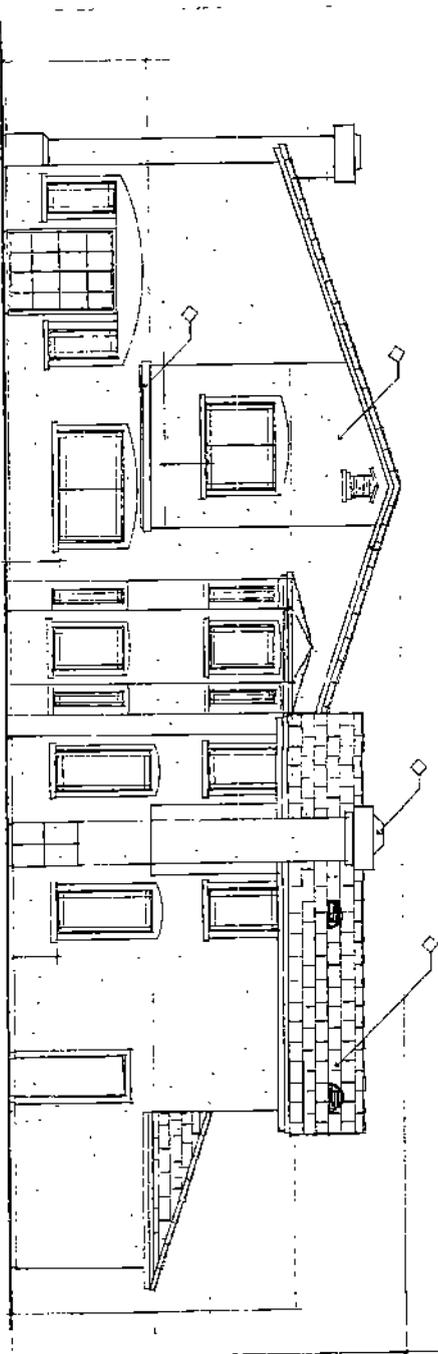
SECOND FLOOR PLAN  
1/25/80

FLOOR PLAN SCHEDULE:

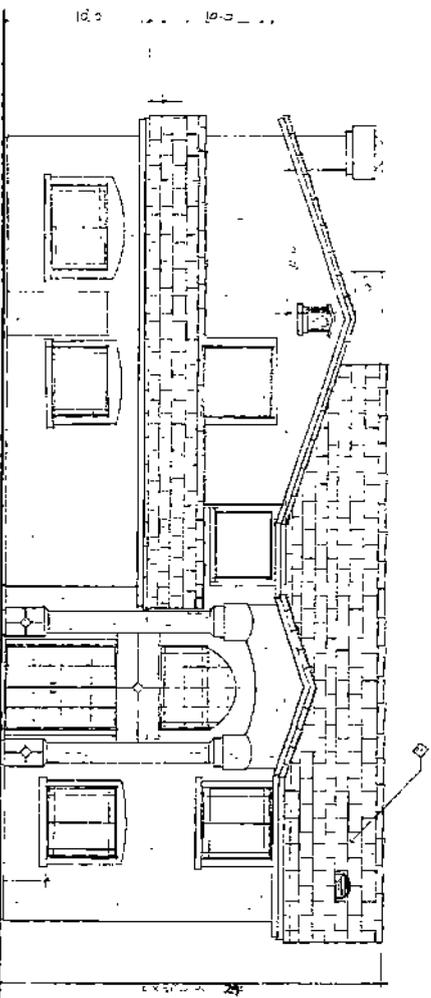
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- 34. FINISH MATERIALS, FINISHES AND COORDINATE WITH DEVELOPER PROVIDED.







WEST ELEVATION



SOUTH ELEVATION

- EXTERIOR FINISH NOTE
1. 200 GRADE CONCRETE W/ 4" REBAR FINISHED OVER 2" POLYMER MODIFIED SAND CONCRETE
  2. FLOOR FINISH OVER CONCRETE ON NO. 12 REBAR CONC. FLOORS
  3. 2" POLYMER MODIFIED SAND CONCRETE OVER EXISTING SAND CONCRETE
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NO.	DATE	DESCRIPTION
1	1/15/20	PREPARED FOR PERMIT
2	2/10/20	REVISED PER COMMENTS
3	3/5/20	REVISED PER COMMENTS
4	4/1/20	REVISED PER COMMENTS
5	5/1/20	REVISED PER COMMENTS
6	6/1/20	REVISED PER COMMENTS
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100	4/1/28	REVISED PER COMMENTS

2.55 SANTA ISABEL AVE  
COSTA MESA, CA 92627  
EXTerior ELEVATIONS

NO. 1355  
A/C