

ZONING ADMINISTRATOR DECISION VARIANCE



DECISION NO. 2011-13

HEARING DATE: July 6, 2011
DECISION DATE: July 27, 2011
FILE NO.: PVAR11-002
SUBJECT: A homeowner's variance to reduce the front-yard setback, from 20 feet to 10.5 feet, in conjunction with the construction of a 104 square-foot residential addition, located near the southeast corner of Euclid Avenue and Park Street, at 112 East Park Street, within the R3 (High Density Residential) zoning district.

STAFF

RECOMMENDATION: Approval Approval, subject to conditions Denial

PART A: BACKGROUND & ANALYSIS

GEORGE JOAQUIN ARIAS, herein after referred to as "the applicant," has filed an application requesting Variance approval, described as follows:

(a) Project Description: A homeowner's Variance to reduce the front-yard building setback from 20 feet to 10.5 feet, located at 112 East Park Street within the R3 (High Density Residential) zoning district.

(b) TOP Policy Plan Land Use Map Designation: Low Density Residential

(c) Zoning Designation: R3 (High Density Residential)

(d) Surrounding Zoning and Land Uses:

	<u>Zoning</u>	<u>Existing Land Use</u>
North:	M1 (Limited Industrial)	Residential
South:	R3 (High Density Residential)	Residential
East:	R2 (Medium Density Residential)	Residential
West:	R3 (High Density Residential)	Residential

(e) Site Area: 0.06 acres

(f) Assessor's Parcel No(s): 1049-242-08

(g) Project Analysis: The owner of a single-family detached dwelling unit, located at 112 East Park Street (**Exhibit A: Aerial Map**), is requesting a Variance to reduce the front building setback from 20 feet to 10.5 feet. The house, constructed in 1920, is not historic and is 483 square feet in area, with an additional 108 square foot front patio (**Exhibit B: Site Plan & Exhibit C: Floor Plan**).

Pursuant to the Development Code, when subdivided, lots within the R3 (High Density Residential) zoning district are required to be a minimum of 5,000 square feet in area and have minimum dimensions of 50 feet in width and 100 feet in depth. The subject site, at 2,280 square feet in area and 48 feet in width by 47.6 feet in depth, is approximately one-half of the area and dimensions required by the Development Code. The property was previously subdivided prior to the current R3 (High Density Residential) Development Code requirements and is a legally recognized non-conforming lot.

As a result of the small lot size, the property owner has constraints not shared by other property owners in the area. The patio exists at 10.5 feet from the front property line and the overall footprint of the house is not expanding. Rather, the existing 108 square foot patio area was enclosed to provide additional dwelling space. There is Code Enforcement action against the property, which is a result of unpermitted construction. Although a majority of the work has been completed, upon approval of this Variance, the property owner will finish the construction and acquire all necessary Building permits. The house will not encroach any further into the building setback area. The lot fronts Park Street, but has an alley running along the east side. The lot also contains a single-car garage on the west-side property line, which is attached to another single-car garage on the adjacent property (**Exhibit D: Site Photos**),

Due to the small, non-conforming lot size and the negligible impact of enclosing the patio, staff is in support of this Variance for a reduced front-yard building setback and recommends approval, subject to the attached conditions.

(h) Public Notification: The subject application was advertised as a public hearing in at least one newspaper of general circulation in the City of Ontario (the Inland Valley Daily Bulletin newspaper). In addition, notices were mailed to all owners of real property located within 300 feet of the exterior boundaries of the property that is the subject of the hearing, as shown on the records of the County Assessor.

(i) Correspondence: As of the preparation of this Decision, Planning Department staff has not received any written or verbal communications from the owners of properties surrounding the project site or from the public in general, regarding the subject application.

PART B: RECITALS

WHEREAS, the City of Ontario has received a request for Variance approval as described in Part A, above; and

WHEREAS, Ontario Municipal Code § 9-1.0405(f) provides that the Zoning Administrator has the responsibility and authority to review and act upon Variances; and

WHEREAS, all members of the Development Advisory Board of the City of Ontario were provided the opportunity to review and comment on the requested Variance, and no comments were received in opposition of the Variance; and

WHEREAS, On the 6th day of July 2011, the Zoning Administrator of the City of Ontario conducted a duly noticed public hearing on the application, as follows:

- (a) John Earle Hildebrand III, *Associate Planner*, presented the staff report on the proposed use, indicating the staff recommendation of approval, subject to the attached conditions. The Zoning Administrator held a lengthy discussion with staff regarding non-conforming properties, other past variances for similar properties in the area, other properties in the area with minimal setbacks, and future zoning issues for the area. The Zoning Administrator then opened the public hearing.
- (b) George Joaquin Arias, the Applicant, explained the reason he was requesting the variance.
- (c) There being no one else to offer testimony regarding the application, the Zoning Administrator closed the public hearing.
- (d) The Zoning Administrator indicated that he had driven through the area and observed several properties with setbacks of less than ten feet, some at zero, and indicated that other variances had been issued to similar properties that did not meet minimum lot size/configuration in this area in the past.

WHEREAS, all legal prerequisites to the adoption of this Decision have occurred.

PART C: THE DECISION

NOW, THEREFORE, it is hereby found, determined and resolved by the Zoning Administrator of the City of Ontario as follows:

- (a) All facts set forth in this Zoning Administrator Report and Decision are true and correct.
- (b) Based upon the evidence presented to the Zoning Administrator during the above-referenced public hearing, the Zoning Administrator hereby concludes as follows:
 - (1) The strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the Development Code. The City of Ontario's Development Code and General Plan encourages the construction, maintenance, and rehabilitation of dwelling units. Compliance with the Development Code front-yard setback requirements would result in physical hardship for the homeowner due to the

preexisting condition regarding the location of the dwelling unit as well as non-conforming lot size and lot dimensions. Strict compliance with the setback requirement creates a practical difficulty in the objective of preserving and refurbishing housing stock.

(2) There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties in the same zoning district. At 2,280 square feet in area, the subject site is approximately one-half of the 5,000 square foot minimum lot size required for the R3 (High Density Residential) designated lots. Additionally, the minimum lot dimensions required for the R3 designation is 50 feet in width by 100 feet in length. The subject site's lot dimensions are 48 feet in width and 47.6 feet in length. As a result, the subject site includes constraints not shared by other properties in the surrounding community and in the same zoning district.

(3) The strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties in the same zoning district. The non-conforming lot size and property dimensions create a condition that restricts building expansion in such way that is not consistent with other properties in the area. As a result, the literal enforcement of the Development Code results in a burden which deprives the applicant of a privilege to which other property owners in the area are entitled. Other variances for the same reason have been approved for similar reasons in this neighborhood. Several properties in the neighborhood have front setbacks less than the required ten feet.

(4) The granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district. Approval of the Variance would not constitute a grant of special privilege due to the circumstances and constraints on the subject property, such as non-conforming lot size and dimensions, which are not shared by other properties in the area.


(5) The granting of the Variance will not be detrimental to the public health, safety or welfare, or be materially injurious to properties or improvements in the vicinity. Granting a reduction in the front-yard setback would not be detrimental to the general health, safety, or welfare of the surrounding community.

(c) The Zoning Administrator hereby finds and determines that the project identified in this Decision is categorically exempt from the requirements of the California Environmental Quality Act of 1970, as amended, and the Guidelines promulgated thereunder, pursuant to Section § 15301 (Existing Facilities) of the State CEQA Guidelines.

(d) Based upon the findings and conclusions set forth in Parts A, B and C above, the Zoning Administrator hereby approves File No. PVAR11-002, subject to the conditions of approval attached hereto and incorporated herein by this reference.



APPROVED by the Zoning Administrator of the City of Ontario on this 27th day of July, 2011.



Jerry L. Blum
Zoning Administrator

EXHIBITS

Exhibit A: Aerial Map

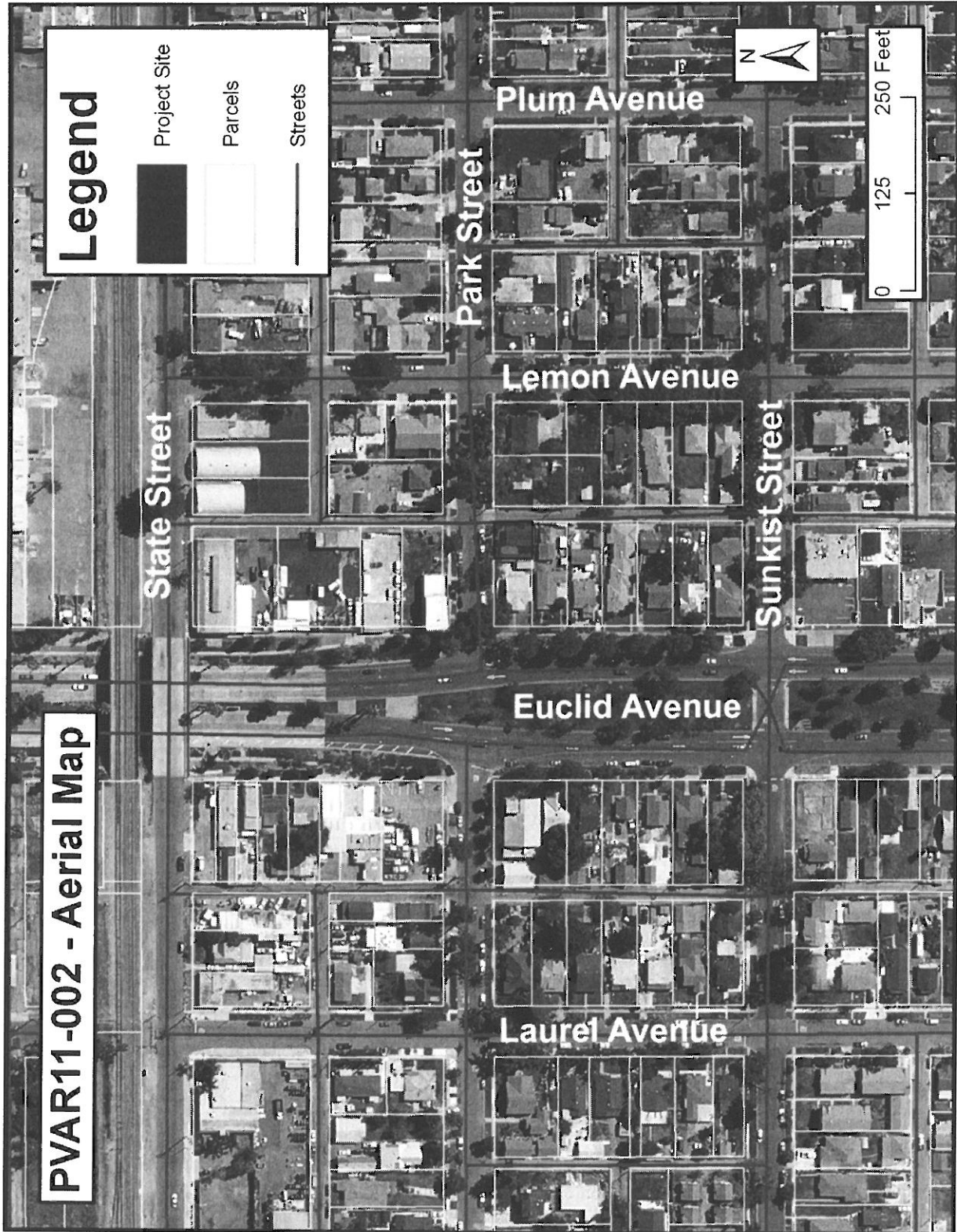


Exhibit B: Site Plan

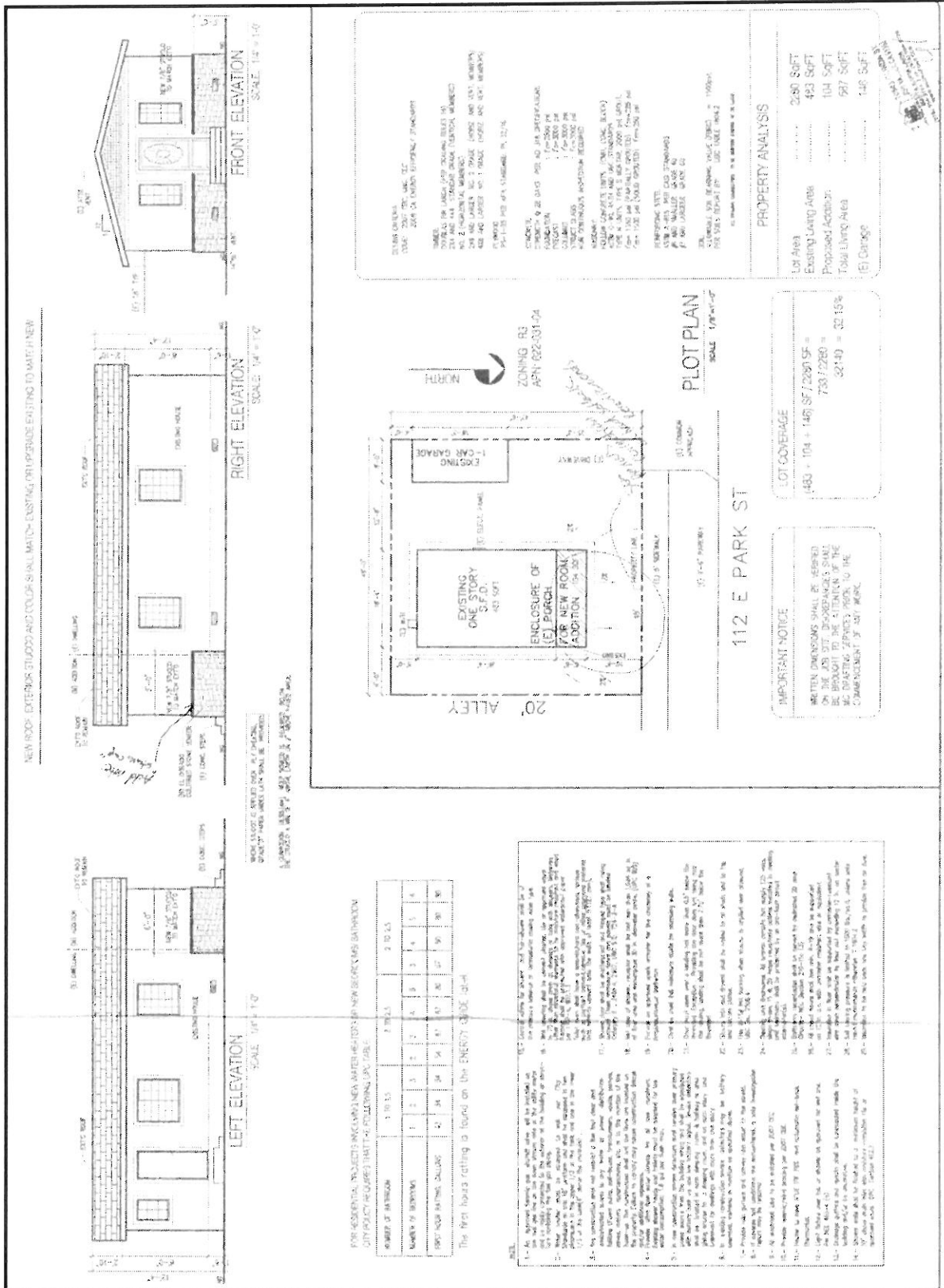


Exhibit C: Floor Plan

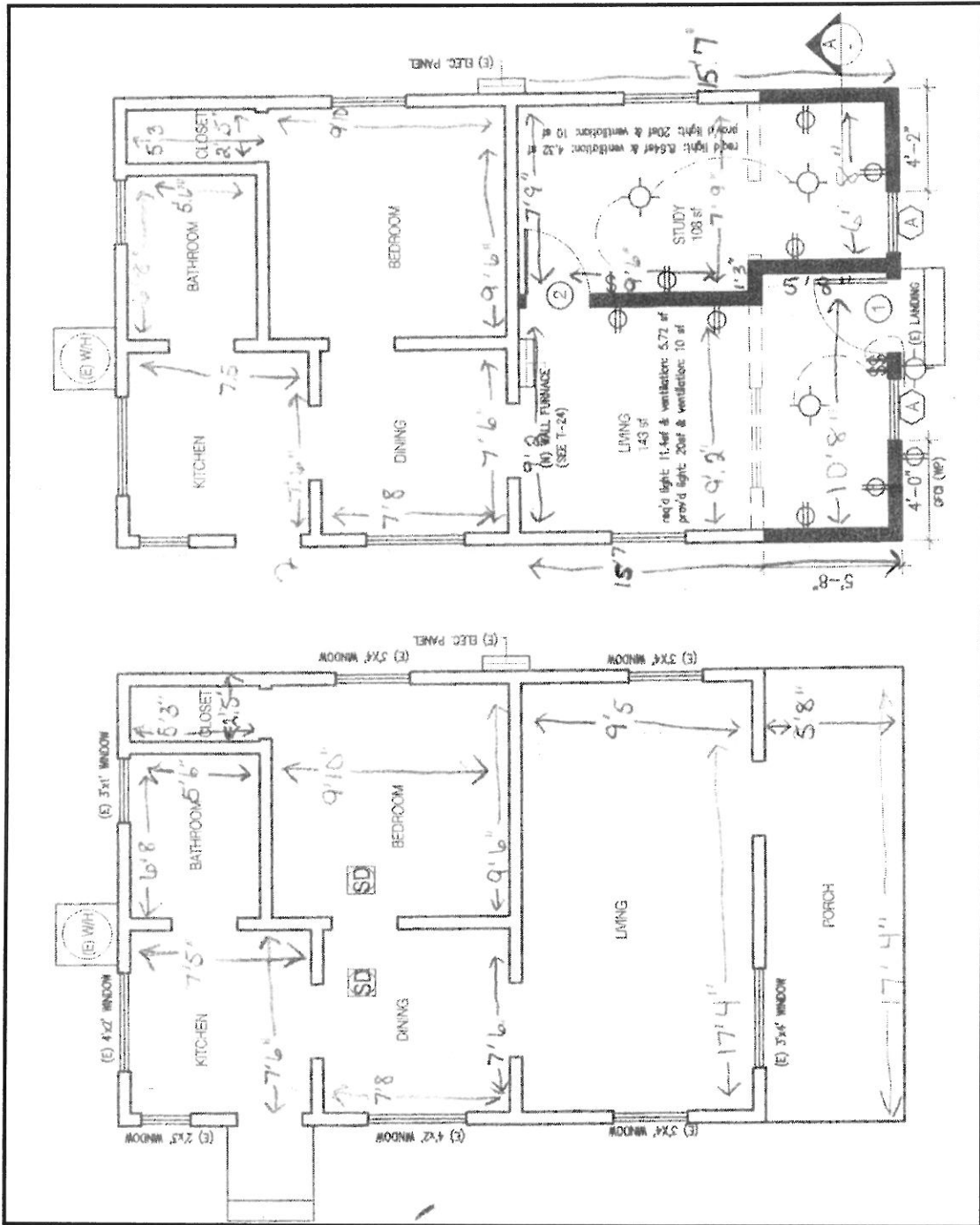
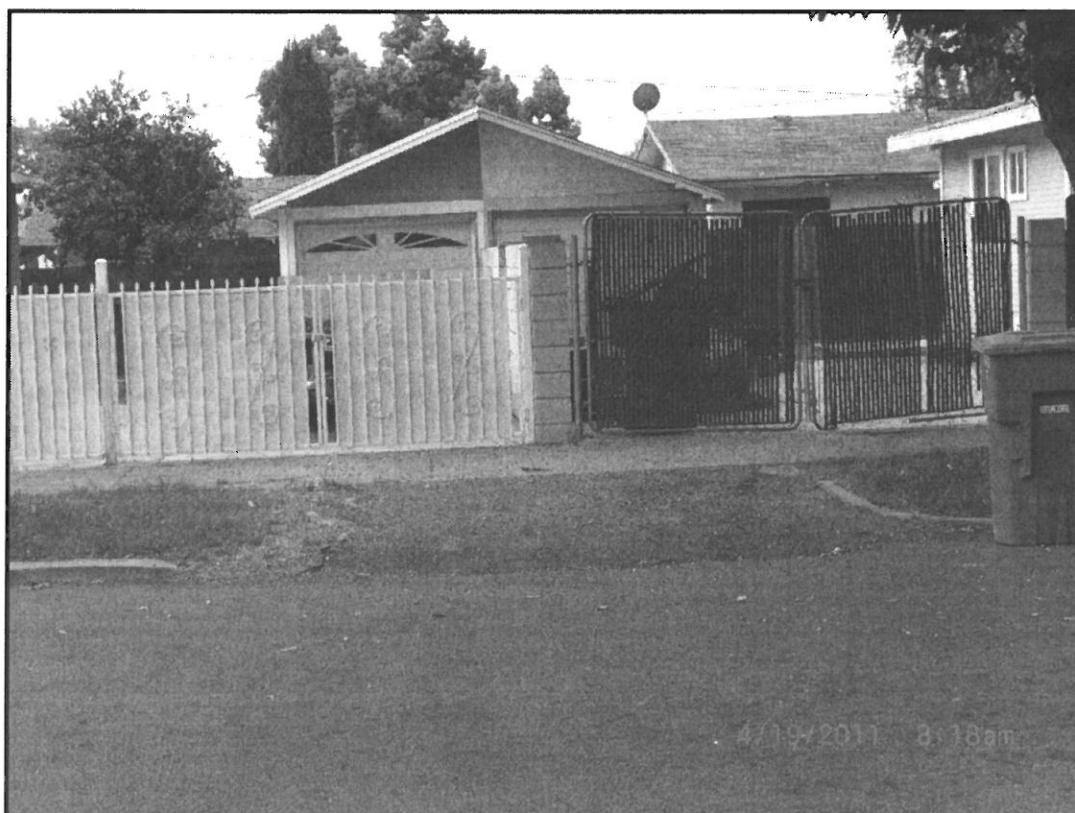
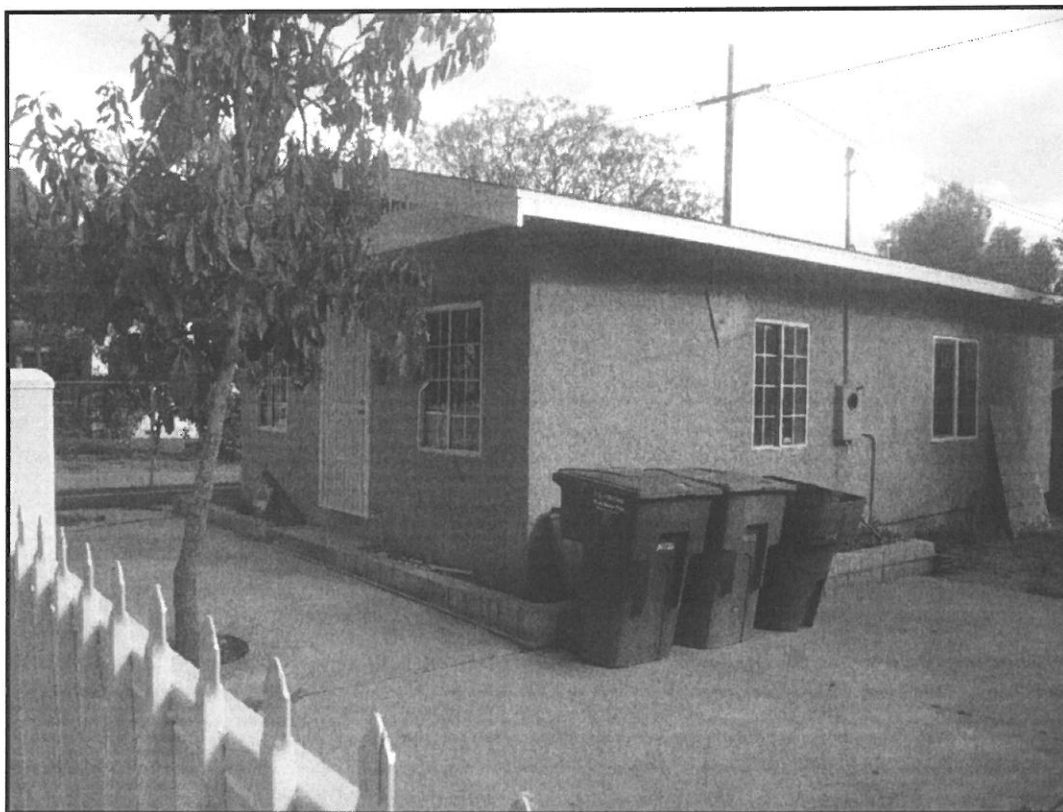


Exhibit D: Site Photos





ZONING ADMINISTRATOR DECISION CONDITIONAL USE PERMIT



DECISION NO. 2011-14

HEARING DATE: July 6, 2011

DECISION DATE: July 27, 2011

FILE NO.: PCUP11-010

SUBJECT: A request to modify a previously approved Conditional Use Permit (File No. 4493-CUP as modified by File No. PCUP09-014) by adding 1,385 square feet to an existing beauty school and salon (Marinello School of Beauty), located in the C1 zoning designation at the northeast corner of Mountain Avenue and I Street at 940 N. Mountain Avenue and consolidate said Conditional Use Permits as File No. PCUP10-011.

STAFF

RECOMMENDATION: Approval Approval, subject to conditions Denial

PART A: BACKGROUND & ANALYSIS

MARINELLO SCHOOL OF BEAUTY, herein after referred to as "the applicant," has filed an application requesting Conditional Use Permit approval, described as follows:

- (a) Project Description: A request to modify a previously approved Conditional Use Permit (File No. 4493-CUP as modified by File No. PCUP09-014) by adding 1,385 square feet to an existing beauty school and salon (Marinello School of Beauty), located in the C1 zoning designation at the northeast corner of Mountain Avenue and I Street at 940 N. Mountain Avenue and consolidate said Conditional Use Permits as File No. PCUP10-011.
- (b) TOP Policy Plan Land Use Map Designation: Neighborhood Commercial
- (c) Zoning Designation: C1, Shopping Center

(d) Surrounding Zoning and Land Uses:

	<u>Zoning</u>	<u>Existing Land Use</u>
North:	C1	Shopping Center
South:	C1 & R3	Shopping Center & High Density Residential
East:	R1	Single Family Residential
West:	R1	Single Family Residential

(e) Site Area: A 7.3 acre parcel within a 21.7 acre Shopping Center

(f) Assessor's Parcel No(s): 1010-141-09

(g) Project Analysis:

- Background/Proposed Use: A Conditional Use Permit (File No. 4493-CUP) for the Marinello School of Beauty was approved by the Planning Commission on November 23, 1993. On July 6, 2009, a modification to the CUP (File No PCUP09-014) was approved by the Zoning Administrator to add 2,051 square feet, increasing the school size to 9,093 square feet. The existing school currently accommodates 195 students and 17 employees. Now, the school is proposing a 1,385 square foot expansion to occupy an adjacent tenant space, which will increase the school size to 10,478 square feet. The expanded floor area would accommodate approximately 19 additional students, 1 employee and restroom facilities. The school currently occupies suites on the first and second floors. The proposed expansion will be located on the first floor of the adjacent building (See Figure 7. Site Photos). The school hours of operation are from 8:30 a.m. to 10:30 p.m. Tuesday thru Saturday. The new suite will most likely be used from 8:30 a.m. to 5:00 p.m. Tuesday thru Saturday.
- Land Use Compatibility: Conditional Use Permit reviews are required to ensure the compatibility between adjacent uses, and limit exposure of nearby businesses and property owners to potential nuisance activities. The zoning for the subject property is C1 (Shopping Center). A vocational school is conditionally permitted in the C1 zone. The school is located in an existing shopping center which has commercial uses to the north, and partially on the south. To the south and east is a senior housing project. To the east and west of the shopping center are single family residences. The impacts of the school expansion on the surrounding neighborhood are not anticipated to be different than the impacts of the existing Shopping Center and school.
- Parking: Schools can impact parking in the surrounding area because schools can have significant parking needs that are higher than the parking needs for retail or office uses. The proposed expansion will

occupy a tenant space adjacent to the existing school of approximately 1,400 square feet. If the space were occupied by a retail or office tenant, the parking requirement would be 1 space for each 250 square feet of gross floor area or 6 spaces. For the school, the parking requirement is 1 space per employee and 1 space per 1.6 students. Since the expansion would accommodate 1 employee and 19 students, 13 parking spaces would be required for the school expansion, or an additional 7 spaces.

When the original conditional use permit for the school was issued, in 1993, the parking requirement for the Shopping Center was figured based on the parking standard at the time, which was 1 space per 180 square feet of gross floor area. At that time, the parking provided at the Shopping Center exceeded that requirement by 296 parking spaces. Since that time, the parking standards have changed to 1 space per 250 square feet of retail or office space, which means that the Shopping Center has even more excess parking spaces per the current code. Therefore, the parking provided at the Shopping Center is more than adequate to accommodate the additional 7 spaces required for the school expansion.

- Departments Review: The proposed school expansion was routed to the various City departments for comment. The Police and Planning Departments are supporting the use and have requested the placement of conditions of approval on the use, which are designed to mitigate anticipated impacts from the expansion of the beauty school. The conditions of approval are attached to this report beginning on page 12 and include requirements regarding parking and lighting at this facility.

(h) Public Notification: The subject application was advertised as a public hearing in at least one newspaper of general circulation in the City of Ontario (the Inland Valley Daily Bulletin newspaper). In addition, notices were mailed to all owners of real property located within 300 feet of the exterior boundaries of the property that is the subject of the hearing, as shown on the records of the County Assessor.

(i) Correspondence: As of the preparation of this Decision, Planning Department staff has not received any written or verbal communications from the owners of properties surrounding the project site or from the public in general, regarding the subject application.

PART B: RECITALS

WHEREAS, the City of Ontario has received a request for Conditional Use Permit approval as described in Part A, above; and

WHEREAS, Ontario Municipal Code § 9-1.0405(f) provides that the Zoning Administrator has the responsibility and authority to review and act upon Conditional Use Permits for existing structures; and

WHEREAS, all members of the Development Advisory Board of the City of Ontario were provided the opportunity to review and comment on the requested Conditional Use Permit, and no comments were received opposing the proposed use; and

WHEREAS, on the 6th day of July, 2011, the Zoning Administrator of the City of Ontario conducted a duly noticed public hearing on the application, as follows:

- (a) Chuck Mercier, Senior Planner, presented the staff report explaining the proposed use, and indicating the staff recommendation of approval subject to conditions of approval. Following staff's presentation, the Zoning Administrator opened the public hearing.
- (b) The Zoning Administrator questioned staff about parking in the shopping center. Mr. Mercier indicated that parking is distributed evenly throughout the center, that adequate parking for all business is provided and that he is not aware of any parking issues at the center.
- (c) Carl Franklin, representing the Marinello School of Beauty, explained the business operation and spoke in favor of the application.
- (d) There being no one else to offer testimony regarding the application, the Zoning Administrator closed the public hearing.
- (e) The Zoning Administrator stated that he has been to this shopping center and has not observed any parking problems from an overall point of view. He cautioned staff and the Applicant to monitor the parking situation so that the retail businesses on the south side of the center, by the school, are not negatively impacted by student parking. He stated the business has been a good operator in the City of Ontario and looked forward to a continuing positive relationship with them..

WHEREAS, all legal prerequisites to the adoption of this Decision have occurred.

PART C: THE DECISION

NOW, THEREFORE, it is hereby found, determined and resolved by the Zoning Administrator of the City of Ontario as follows:

- (a) All facts set forth in this Zoning Administrator Report and Decision are true and correct.
- (b) Based upon the evidence presented to the Zoning Administrator during the above-referenced public hearing, the Zoning Administrator hereby concludes as follows:
 - (1) The proposed location of the Conditional Use Permit and the proposed conditions under which it will be operated or maintained will be consistent with the

General Plan and will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity. The vocational school lies within the Neighborhood Commercial land use designation which is compatible with the proposed use.

(2) The proposed expansion to the vocational school is allowed upon approval of a Conditional Use Permit modification. The project has been conditioned so that the facility and use are operated in a manner that will not be detrimental to the health and safety of the surrounding community.

(3) The proposed location of the Conditional Use Permit is in accord with the objectives and purposes of the Ontario Development Code and zoning designation within which the site is located. The vocational school lies within the C1 (Shopping Center) zone.

(4) Traffic generated by the proposed Conditional Use Permit will not overload the capacity of the surrounding street system and will not create a hazard to public safety.

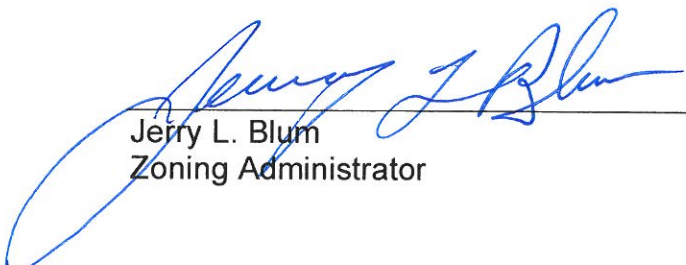
(5) The proposed Conditional Use Permit will comply with each of the applicable provisions of the Ontario Development Code and applicable municipal codes.

(c) The Zoning Administrator hereby finds and determines that the project identified in this Decision is categorically exempt from the requirements of the California Environmental Quality Act of 1970, as amended, and the Guidelines promulgated thereunder, pursuant to § 15301 (Existing Facilities) of the State CEQA Guidelines.

(d) Based upon the findings and conclusions set forth in Parts A, B and C above, the Zoning Administrator hereby approves File No. PCUP11-010 and consolidates the previous Conditional Use Permit (File No. 4493-CUP as modified by File No. PCUP09-014) under File No. PCUP11-010, subject to the conditions of approval attached hereto and incorporated herein by this reference.



APPROVED by the Zoning Administrator of the City of Ontario on this 27th day of July, 2011.



Jerry L. Blum
Zoning Administrator

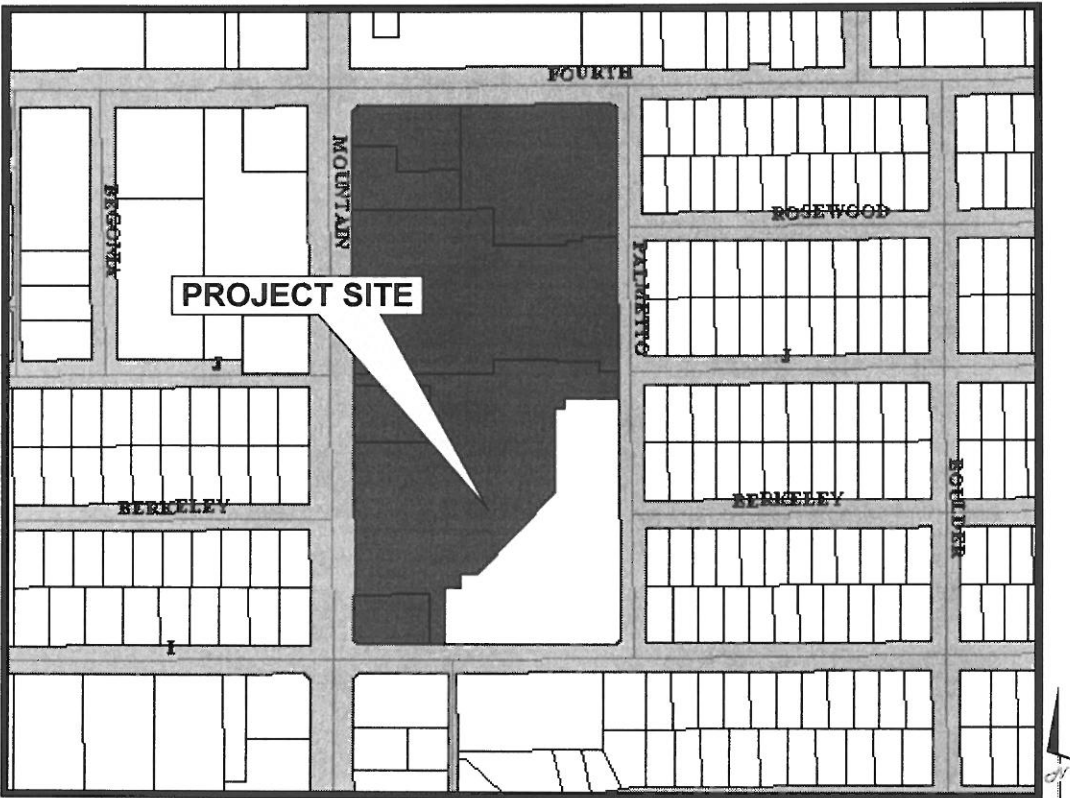


Figure 1. Site Location Map



Figure 2. Site Aerial

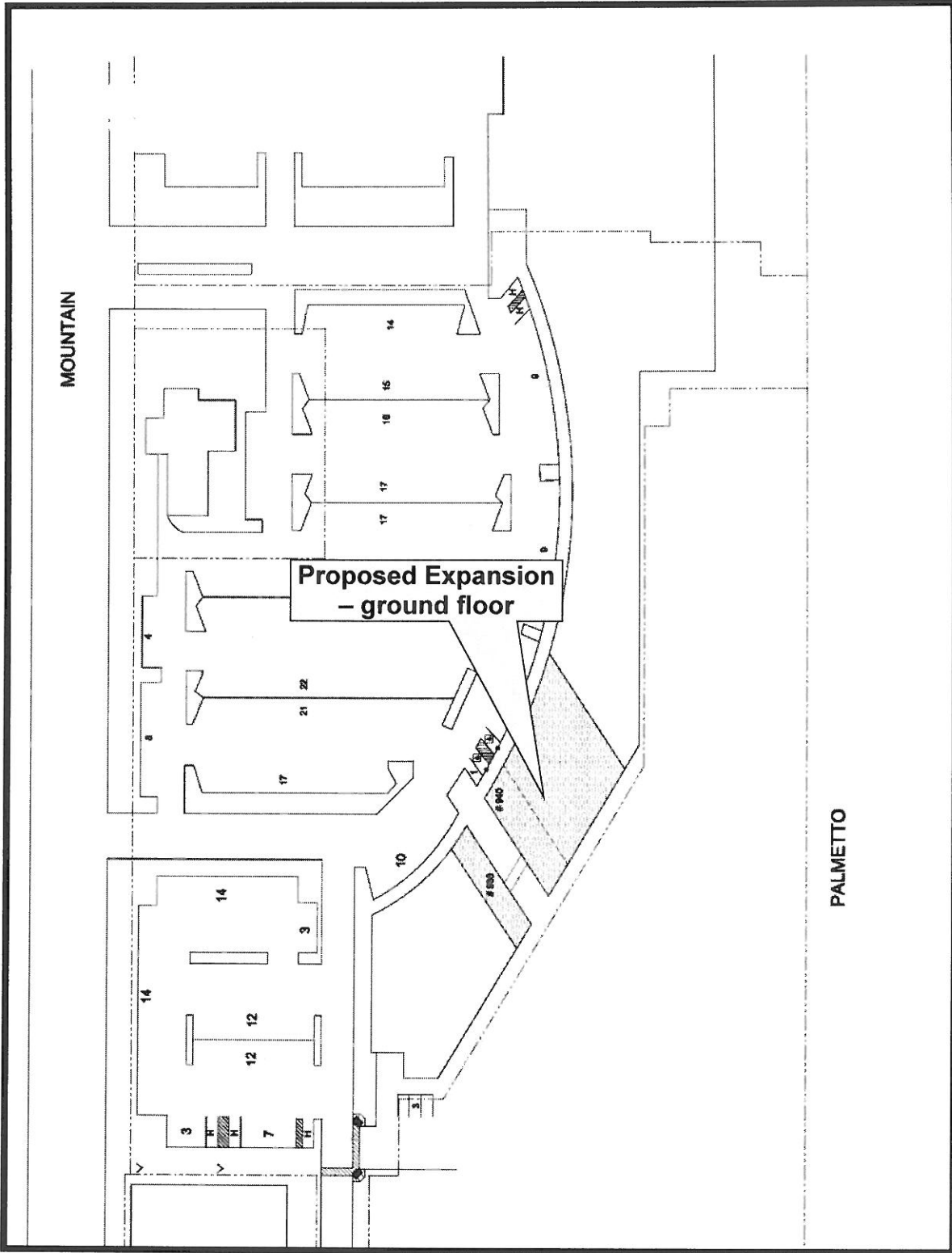


Figure 3. Site Plan

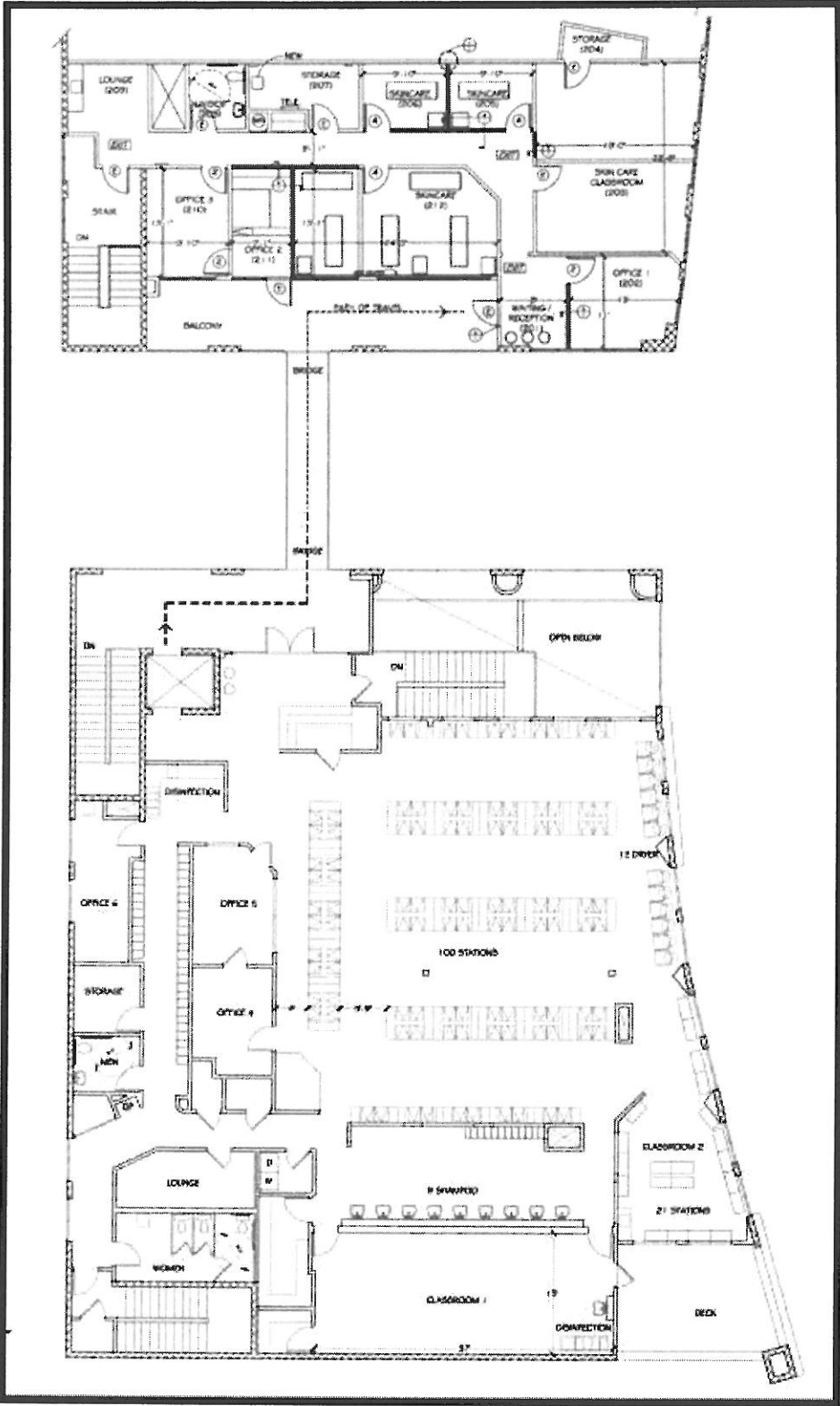
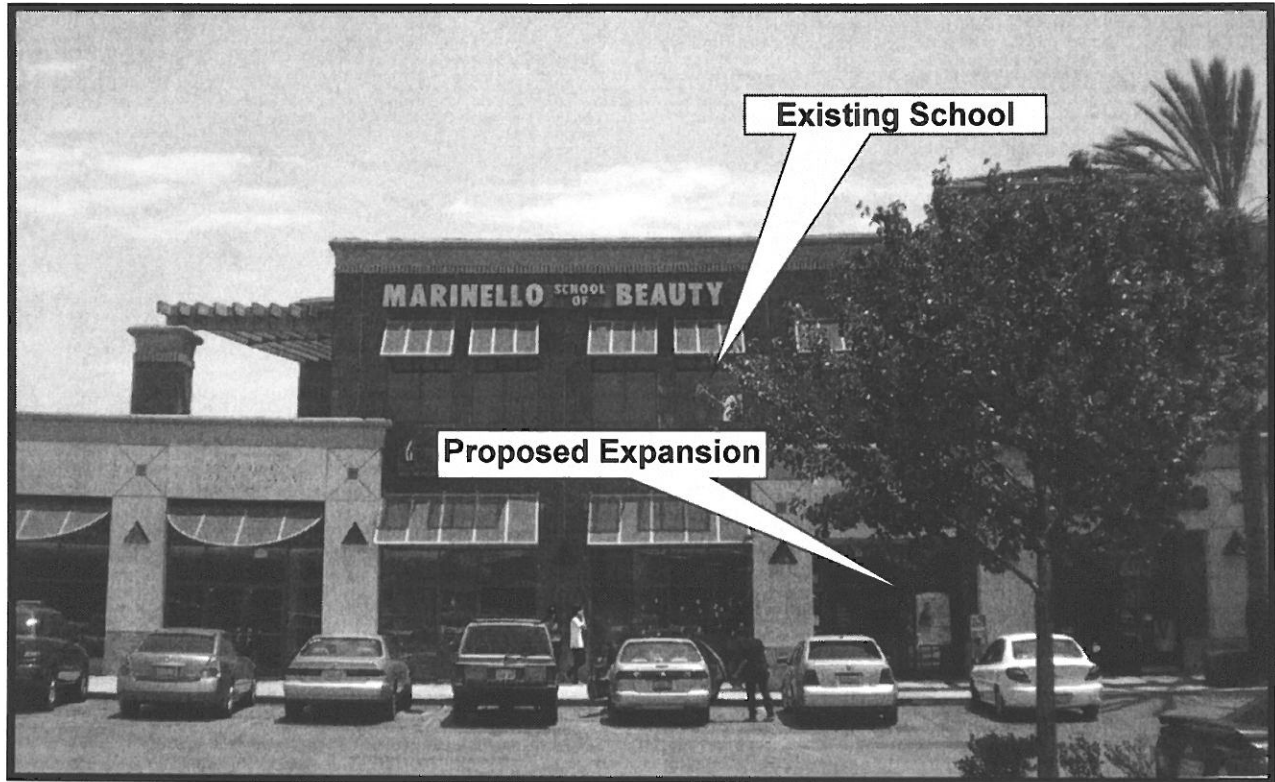
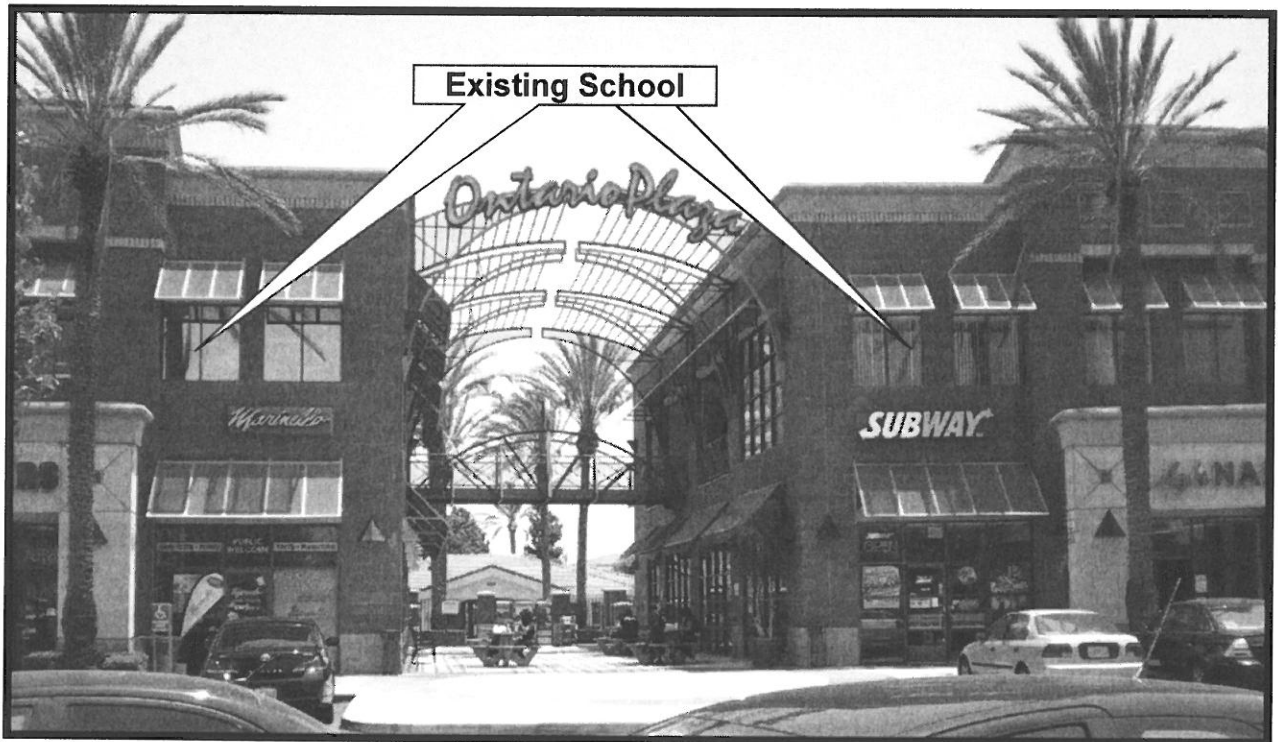


Figure 6. Existing 2nd Floor Plan



School Looking East



Shopping Center Looking East

Figure 7. Site Photos