

# ZONING ADMINISTRATOR DECISION VARIANCE



## DECISION NO. 2013-12

HEARING DATE: July 1, 2013

DECISION DATE: July 10, 2013

FILE NO.: PVAR13-005

SUBJECT: A Variance to reduce the "building to vehicle drive-aisle" setback from 10-feet to 2-feet, for the purpose of installing an elevator, located near the northeast corner of Vineyard Avenue and Holt Boulevard, at 204 North Vineyard Avenue, within the C4 (Airport Service Commercial) zoning district.

### STAFF

RECOMMENDATION:  Approval  Approval, subject to conditions  Denial

### PART A: BACKGROUND & ANALYSIS

LFA HOTELS, INC., herein after referred to as "the applicant," has filed an application requesting Variance approval, described as follows:

(a) Project Description: A Variance (**File No. PVAR13-005**) request to reduce the "building to vehicle drive-aisle" setback from 10-feet to 2-feet for the purpose of constructing an elevator in conjunction with the existing 2-story Magnuson Grand Hotel, located near the northeast corner of Vineyard Avenue and Holt Boulevard, at 204 North Vineyard Avenue, within the C4 (Airport Service Commercial) zoning district.

(b) TOP Policy Plan Land Use Map Designation: Hospitality

(c) Zoning Designation: C4 (Airport Service Commercial)

(d) Surrounding Zoning and Land Uses:

	<u>Zoning</u>	<u>Existing Land Use</u>
North:	C4 (Airport Service Commercial)	Doubletree Hotel
South:	C4 (Airport Service Commercial)	Ayres Hotel & Suites
East:	C4 (Airport Service Commercial)	Ontario Convention Center
West:	C4 (Airport Service Commercial)	Best Western Hotel

(e) Site Area: 2.28 acres

(f) Assessor's Parcel No: 0110-321-62

Project Analysis: The project site, located at 204 North Vineyard Avenue, contains an existing hotel, originally constructed in the year 1990 as a two-story, Country Side Suites (**Exhibit A: Aerial Map**). The hotel contains 105 rooms and includes amenities such as a large front entrance with porte-cochere, a pool and spa, and a conference room. The hotel brand has recently changed from Country Side Suites to the Magnuson Grand Hotel.

The hotel was constructed with four separate stairwells, one at each elevation, to provide access to the second-story; however, there is no elevator. As a convenience to future patrons and to provide an alternative for those with accessible needs, the owner of the Magnuson Grand Hotel would like to construct an elevator (**Exhibit F: Applicant Statement**). Based upon the pre-existing floor plan and general site layout, the only feasible location to construct a new elevator is at the south-facing elevation, adjacent to the front lobby (**Exhibit B: Site Plan**). Currently, along the south elevation, there is a 10-foot building setback to the southern drive-aisle, with the exception of a 2-foot architectural "pop-out", which spans approximately 16-feet in width (**Exhibit D: Site Photos**). The Ontario Development Code requires buildings within the C4 (Airport Service Commercial) zoning district to have a 10-foot landscaped buffer between a building and internal drive-aisles. However, there is a provision within the Development Code to allow architectural building elements to project into the setback up to 25%, which accounts for the "pop-out".

In order to construct the elevator, the same 16-foot wide building "pop-out" area, would extend further south into the setback area, resulting in a 2-foot setback from the drive-aisle, rather than the existing 8-foot setback. The building façade would be reconstructed, utilizing the same stone material, wood trim, and paint scheme, to fully match the existing architectural theme (**Exhibit C: Elevations**).

Elevators are the most common way to comply with the Americans with Disabilities Act ("ADA") and provide access in multi-story buildings. Title III of the ADA, however, contains certain exceptions to the general rule requiring elevators. Specifically, elevators are not required in facilities under three stories or with fewer than 3,000 square-feet per floor (it need not meet both criteria), unless the building is a shopping center or mall, professional office of a health care provider, public transit station, or airport passenger terminal. The Magnuson Grand Hotel is exempt from retroactively being required to install a new elevator under these ADA provisions; however the owner would like to provide an elevator as an amenity to its patrons and give those patrons and employees with accessible needs a reasonably accommodating way of accessing the second story.

In the case of this particular Variance request, the Fair Housing Act supersedes local jurisdiction with regards to providing a reasonable accommodation to persons with accessible needs. As a result, separate findings pursuant to the Act, and not the local jurisdiction's Variance findings, are required to be made. The federal Equal Employment Opportunity Commission ("EEOC") administers the ADA, which determines the rights and responsibilities of employers and individuals with disabilities concerning

Reasonable Accommodation. The Act defines Reasonable Accommodation as the following: A necessary and appropriate modification and adjustment not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.

The inclusion of an elevator enclosure into the City imposed "building to drive-aisle" setback area, meets the Fair Housing Act's findings and will not affect any vehicular or pedestrian pathways, nor negatively affect the environment.

(g) Departmental Review: Each City department has been provided the opportunity to review and comment on the subject application and recommend conditions of approval to be imposed upon the application. At the time of the Decision preparation, recommended conditions of approval were provided and are attached to this report. The Planning Department supports the proposed reduction in a "building to drive-aisle" setback, for the purpose of including a building elevator.

(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 for existing and new 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 Variance, and no comments were received opposing the proposed use; and

WHEREAS, on the 1<sup>st</sup> day of July 2013, 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. Following staff's presentation, the Zoning Administrator opened the public hearing.

(b) Alex Chu, the hotel owner's son, attended the hearing on behalf of the applicant, Roger Chu.

(c) The Zoning Administrator, Scott Murphy, asked Alex Chu if he had read the staff report and agreed to the final Conditions of Approval. Alex Chu replied that he had not, as he was asked to attend the hearing at the last minute. John Hildebrand added that an email exchange between the project applicant, Roger Chu, resulted in an agreement with the staff report and conditions of approval. Roger Chu had no objections.

(d) Mr. Murphy further added that since a section of landscape area would be removed as a result of the elevator enclosure, replacement plant material should be located elsewhere on-site. It was suggested that an additional tree and accompanying shrubbery be added just west of the new elevator enclosure, to fill in an area that appeared to be sparse. Alex Chu agreed to the additional landscaping and John Hildebrand stated that he would work with the applicant to include the appropriate additional plant material.

(e) There being no one else to offer testimony regarding the application, the Zoning Administrator closed the public hearing.

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 makes the following Fair Housing Act's findings:

(1) The persons who will use the subject property are protected under federal and state fair housing laws.

(2) The requested exception is necessary to make specific housing/lodging available to a person who will occupy the subject property and who is protected under federal and state fair housing laws.

(3) The requested exception will not impose an undo financial or administrative burden upon the City.

(4) The requested exception will comply with all applicable Building and Fire Codes and will not result in a fundamental alteration of the planning, zoning, and development laws and procedures of the City.

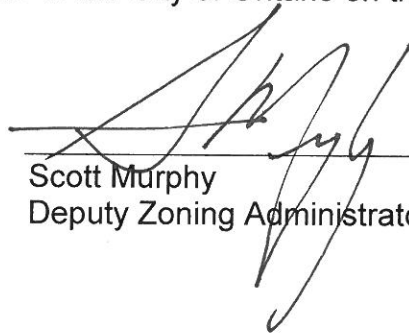
(c) The Zoning Administrator hereby finds and determines that the proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for ONT.

(d) 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.

(e) Based upon the findings and conclusions set forth in Parts A, B and C above, the Zoning Administrator hereby approves File No. PVAR13-005, subject to the conditions of approval attached hereto and incorporated herein by this reference.



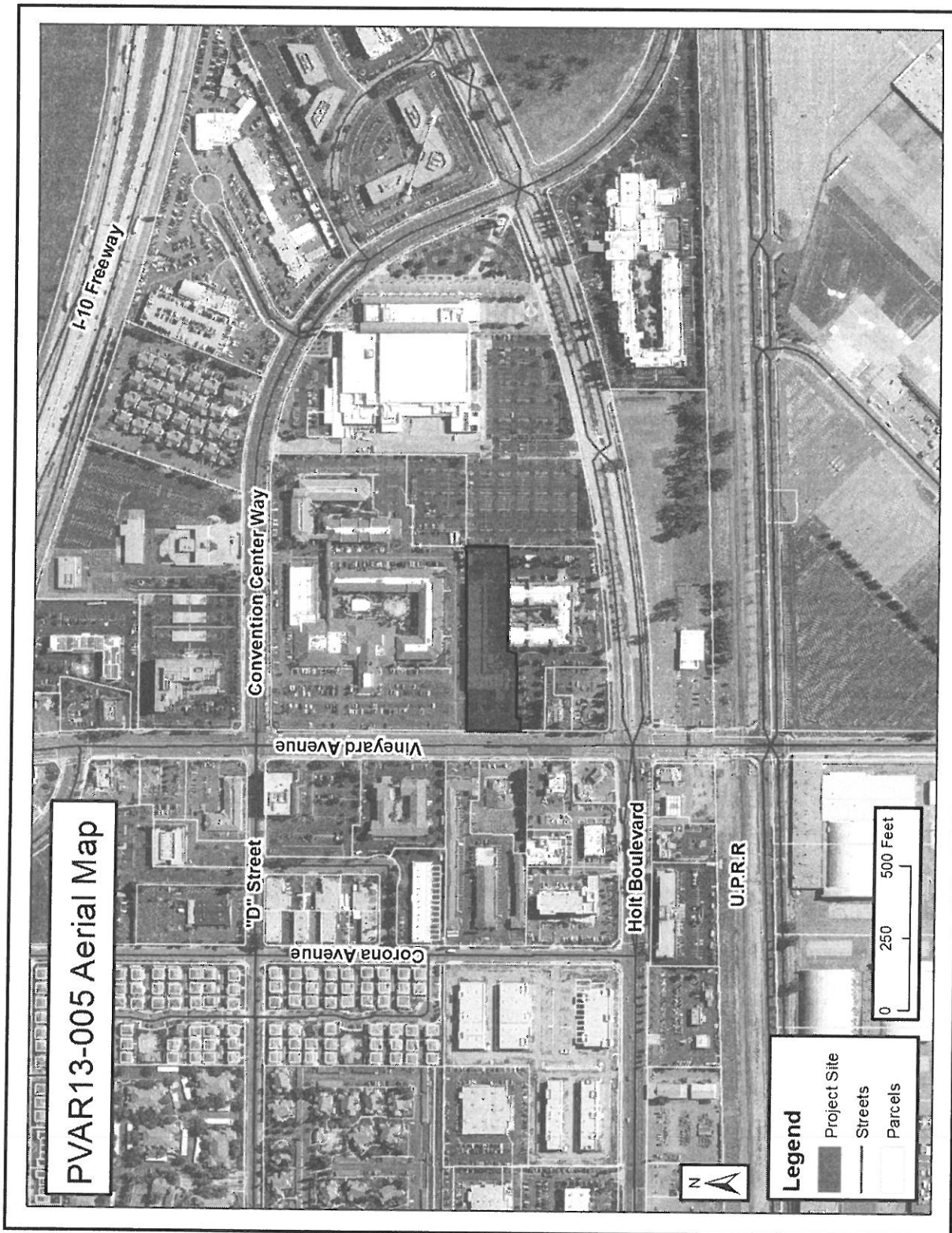
APPROVED by the Zoning Administrator of the City of Ontario on this 10<sup>th</sup> day of July, 2013.

  
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Scott Murphy  
Deputy Zoning Administrator



EXHIBITS

Exhibit A: Aerial Map



PVAR13-005 Aerial Map

Exhibit B: Site Plan

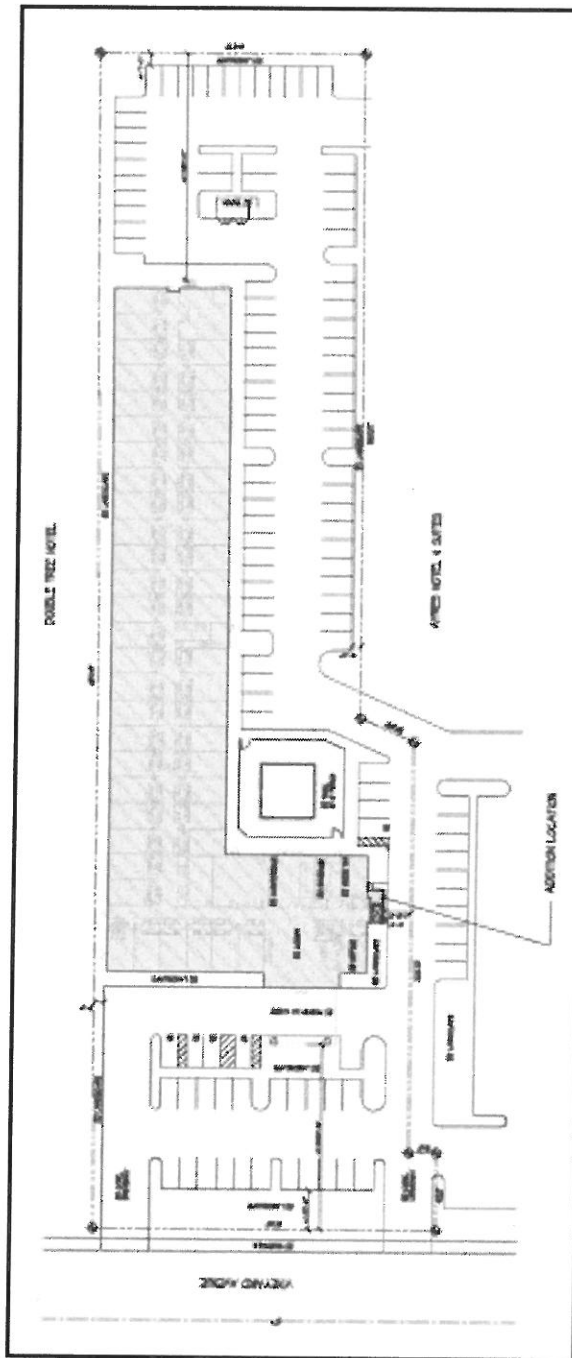
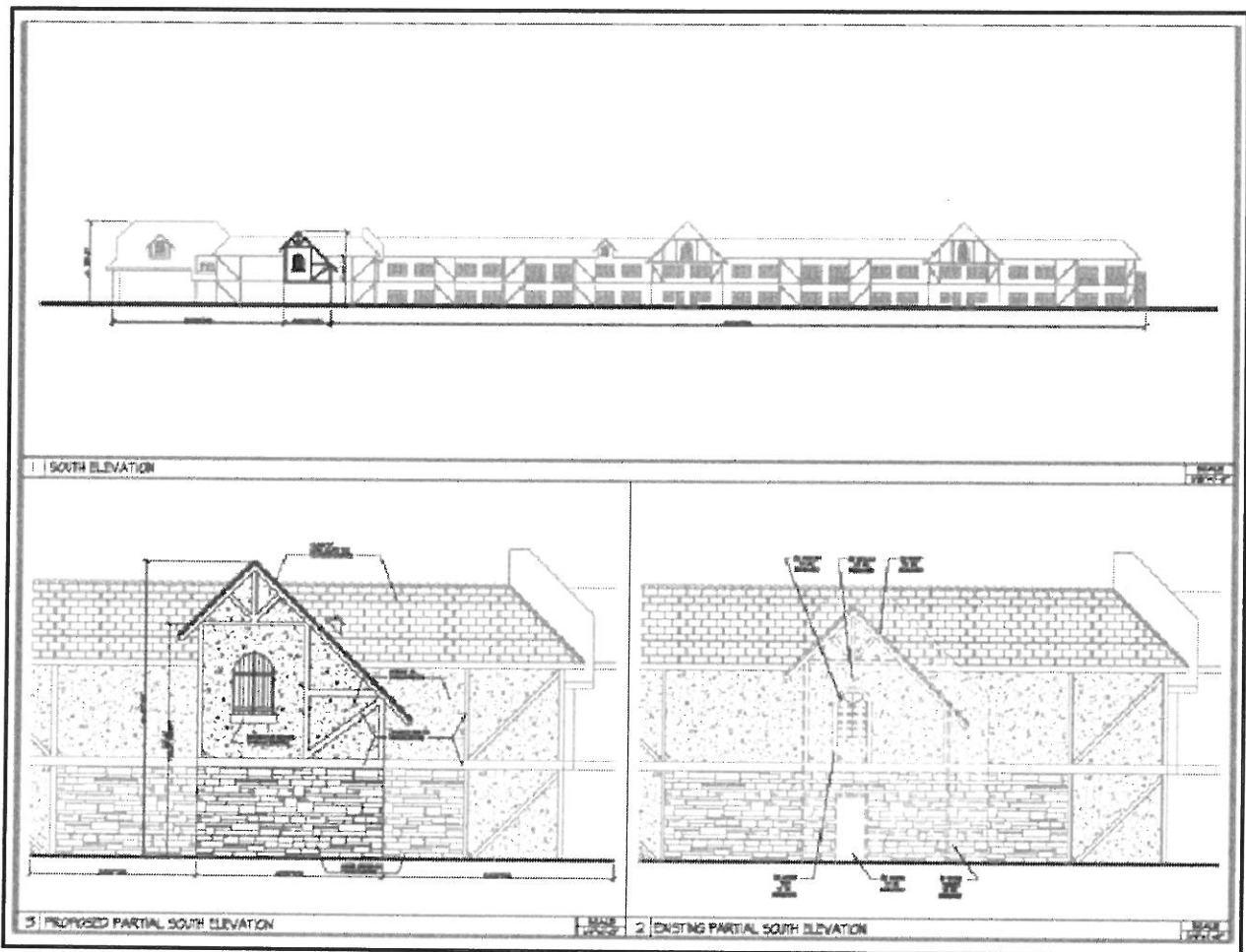


Exhibit C: Elevations

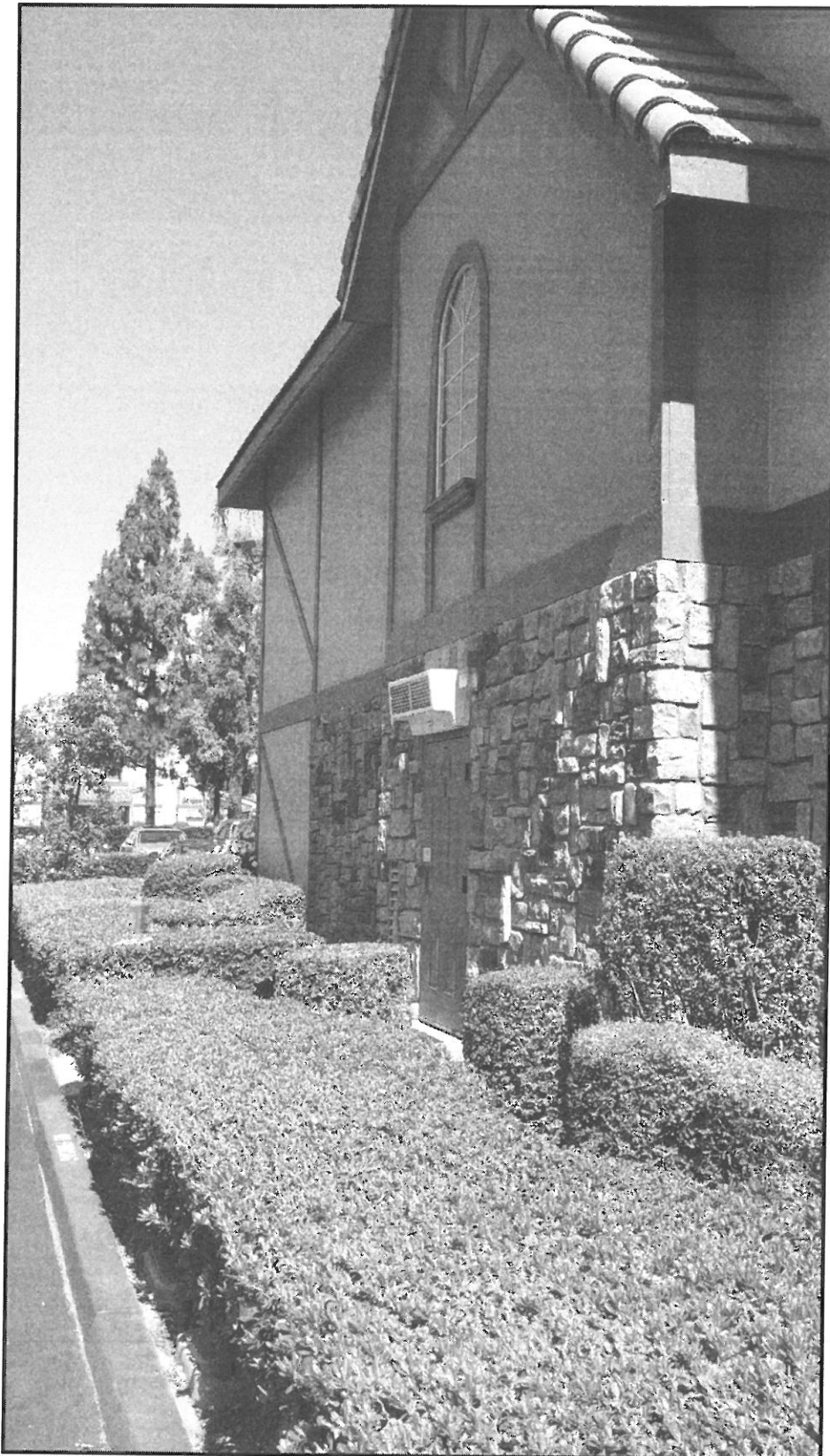




**Exhibit D: Site Photos**



**Exhibit D: Site Photos (Continued)**



**Exhibit F: Applicant Statement**

Date: June 03, 2013  
Address: 204 N. Vineyard Ave.

**VARIANCE NARRATIVE  
For  
MAGNUSON GRAND HOTEL**

The applicant is proposing a passenger elevator to be installed at the south exterior wall adjacent to the hotel lobby.

This 105 guest rooms, 2 stories hotel was built in the 1990 with no elevator. The second floor units can only be accessed and served via four sets of stairways.

In order to better serve the hotel guests, and to make the facility more accessible to handicapped person, the new hotel management decides to add a passenger elevator. The ideal location of the elevator is to be closer to the hotel lobby for the convenience of the guests and the management. In addition, the elevator shall also be readily visible. To satisfy these criteria and to keep the impact to the existing floor layout to the minimal, the south exterior wall is considered to be the only choice.

The existing south wall is facing interior drive aisle with a 2' pop-out structure from the building main wall. The addition of the elevator will follow the same design elements and use the same materials of the existing pop-out structure. Therefore, the elevation with the addition will look very similar to the existing. The addition of the elevator will bring the distance between the building to the drive aisle down to 2'-4" from the required 10' setback.

Since the drive aisle the south wall is facing to is an internal one and is barely visible from the street, the visual impact of the reduced setback is therefore not significant. Furthermore, the layout and configuration of the existing hotel makes the south exterior wall the only functional and financial feasible location for the elevator addition.

**DEPARTMENT ADVISORY BOARD  
COMMENTS, CONDITIONS AND RECOMMENDATIONS**

**DATE:** 07/01/2013

**FILE NO.:** PVAR13-005

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The subject application has been reviewed by each agency/department listed below. A copy of each agency/department recommendation and comments are available for review in the Planning Department project file. Conditions of approval have been recommended by those agencies/departments marked below and are attached.

- PLANNING
- ENGINEERING
- UTILITIES/SOLID WASTE
- PUBLIC FACILITIES
  
- BUILDING

- POLICE
- FIRE
- REDEVELOPMENT AGENCY
- HOUSING & NEIGHBORHOOD  
REVITALIZATION
- OTHER: \_\_\_\_\_



## CONDITIONS OF APPROVAL

**DATE:** 07/01/2013

**FILE NO.:** PVAR13-005

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### 1.0 SITE LIGHTING

- 1.1 Site lighting shall be reviewed and approved by the Planning Department and Police Department prior to the issuance of building/electrical permits.
- 1.2 Exterior lighting shall be arranged or shielded in such a manner as to contain direct illumination on the parking area and avoid glare on any adjoining site.
- 1.3 Along pedestrian movement corridors, the use of low mounted bollard light standards, which reinforce pedestrian scale, shall be encouraged. Steps, ramps and seatwalls should be illuminated wherever possible, with built-in light fixtures.

### 2.0 ARCHITECTURAL DESIGN

- 2.1 The addition of an elevator enclosure shall be designed to include similar architectural treatment, materials, and color as that of the existing building.
- 2.2 All sides shall be finished and any removed and/or damaged plant material shall be replaced.

### 3.0 ENVIRONMENTAL REVIEW

- 3.1 The proposed project 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.
- 3.2 The applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees

to attack, set aside, void or annul any approval of the City of Ontario, whether by its City Council, Planning Commission or other authorized board or officer. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

#### **4.0 ADDITIONAL CONDITIONS**

- 4.1 As a result of discussions during the Zoning Administrator hearing and due to a section of plant material being removed as a result of a new elevator enclosure additional plant material, pursuant to the following is required:
- (a) One additional new tree of a compatible type and size, to be located west of the elevator enclosure, where feasible.
  - (b) Additional shrubbery of compatible type and size, to be located around the new tree.
  - (c) Revision of the irrigation system to reflect the building expansion as well as the inclusion of additional plant material.