



# **PLANNING COMMISSION AGENDA REPORT**

VI.2

MEETING DATE: NOVEMBER 9, 2009

ITEM NUMBER:

**SUBJECT: PLANNING APPLICATION PA-09-14 – DESIGN REVIEW TO  
LEGALIZE THE DIVISION OF AN EXISTING RENTAL UNIT INTO TWO UNITS  
251 AVOCADO STREET**

**DATE: OCTOBER 29, 2009**

**FOR FURTHER INFORMATION CONTACT: WENDY SHIH, ASSOCIATE PLANNER 714-754-5136  
EMAIL: WSHIH@CI.COSTA-MESA.CA.US**

---

## **DESCRIPTION**

Design review to legalize the division of an existing rental unit (Unit D) into two units for a total of five units on the property.

## **APPLICANT**

Melad Hanna is part owner of the property and the authorized agent for property owners Haitham Hanna, Sahar Barjoud, and Wafa Hanna.

## **RECOMMENDATION**

Approve by adoption of Planning Commission resolution, subject to conditions.

  
WENDY SHIH  
Associate Planner

  
KHANH NGUYEN  
Acting Asst. Development Services Director

**PLANNING APPLICATION SUMMARY**

Location: 251 Avocado Street Application: PA-09-14

Request: Design review to legalize the division of an existing rental unit (Unit D) into two for a total of five units on the property.

**SUBJECT PROPERTY:**

Zone: R3  
 General Plan: High Density Residential  
 Lot Dimensions: 62.5 FT X 297.5 FT  
 Lot Area: 18,594 SF  
 Existing Development: One duplex at the front of the property and two detached rental units to the rear.

**SURROUNDING PROPERTY:**

North: R1 – Single-family residential  
 South: C2 - Commercial  
 East: R3 – Multi-Family Residential  
 West: I&R - church

**DEVELOPMENT STANDARD COMPARISON**

<u>Development Standard</u>	<u>Required/Allowed<sup>1</sup></u>	<u>Proposed/Provided</u>
<b>Lot Size:</b>		
Lot Width	100 FT	62.5 FT <sup>1</sup>
Lot Area	12,000 SF	18,594 SF
<b>Density:</b>		
Zone/General Plan	1 du/2,178 SF	1 du/3,718 SF
<b>Building Coverage:</b>		
Buildings	N/A	27% (5,048 SF)
Paving	N/A	33% (6,069 SF)
Open Space	Minimum 40% (7,437 SF)	40% (7,477 SF)
TOTAL	100% (18,594 SF)	100% (18,594 SF)
Building Height:	2 stories/27 FT maximum	1-story/12 FT (existing Unit D)
Distance between Buildings	Min. 10 FT	Min. 10 FT
<b>Setbacks</b>		
Front	20 FT	20 FT
Side (left/right)	5 FT/5 FT	5 FT/9 FT
Rear	10 FT	15 FT
<b>Existing Parking for 4 units</b>		
Covered	Legal Nonconforming	2
Open		6
<i>Subtotal</i>		8 existing spaces
<b>New Parking Required for Unit E:<sup>2</sup></b>		
Covered	1	1
Open	2	3
Guest	1	
<i>Subtotal</i>	4 new spaces	4 new spaces
<b>TOTAL</b> Parking Required	(8 existing + 4 new) 12 spaces	12 spaces
Driveway Width	Min. 16 FT	Min. 16 FT
CEQA Status	Exempt, Class 3	
Final Action	Planning Commission	

1 Existing, nonconforming lot width and parking requirements.  
 2 New parking requirement accounts for one carport and 3 open spaces (4 total).

**BACKGROUND**

***Project Site***

The property is located to the west of Fairview Road, surrounded by Seventh Day Adventist Church to the west, apartments to the east, a commercial property to the south, and single family residence across Avocado Street to the north. The property is zoned R3 and has a General Plan land use designation of High Density Residential. It contains four rental units in three detached structures:

- A single-story duplex at the front of the property that was constructed prior to the City's incorporation in 1953.
- A two-story apartment constructed prior to the City's incorporation.
- A single-story apartment with a two-car garage, which has been illegally converted, at the rear of the lot constructed in 1960.

***Legal Nonconforming Parking***

The property does not have any striped open parking spaces. However, based on the existing site configuration and Code requirements at the time of the most recent construction (1960), six open parking spaces and two garage spaces (eight total) were required for the four units.

***Existing Nonconforming Parking***

<b>Existing Rental Units</b>	<b>Bedroom Mix</b>	<b>Parking Spaces</b>
Unit A	2 bedrooms	2
Unit B	2 bedrooms	2
Unit C	2 bedrooms	2
Unit D	3 bedrooms	2 garage spaces
<b>TOTAL PARKING</b>		<b>8 spaces</b>

***Project Description***

In June 2009, a Code Enforcement complaint revealed that there were illegal construction activities occurring on the property. Specifically, the property owner was in the process of making interior alterations to create four rental units from the one-unit building in the rear. Three units were to be created in the existing habitable space, and a third unit was created in the area of the two-car garage. At the time the complaint was filed, it appeared to Code Enforcement that the two-car garage had already been converted into living space.

The owner obtained a building permit to restore the structure to a single dwelling unit. However, prior to removing the illegal construction, the owner filed this design review application to legalize the division of the existing unit into two for a total of five units on the property. The proposal included restoration of the garage area for vehicle parking only.

## **ANALYSIS**

### ***Justification for Approval of Design Review***

The Zoning Code requires a design review for any construction that results in three or more dwelling units on a property in a residential zone. The parking supply for the existing units is considered legal nonconforming. It should be noted that Code does not require the entire site to be brought into compliance with regard to parking. Any newly created unit is required to comply with current parking requirements for the additional unit.

Staff supports approval of the division of the existing rental unit into two units for the following reasons:

- *Approval of the project will result in substantial required upgrades to the overall site.*

The original construction occurred prior to the City's incorporation and no significant improvements have been made to the property other than the asphalt paving (see Attachment 5 Site Photos). As conditions of approval, staff recommends the following upgrades to the property in conjunction with the construction of the additional unit:

- Condition No. 2 requires landscaping to be brought into compliance with current Code requirements. This will include new turf and/or groundcover in the place of the existing dead grass and new shrubs and trees to improve the view of the property from the street.
  - Condition No. 3 requires exterior upgrades, including, but not limited to, new paint, window trim, shutters and siding. These exterior improvements shall be shown on the plans as part of the plan check submittal package and shall be approved by the Planning Division prior to permit issuance for Unit "E."
  - Condition No. 4 requires replacement or construction of a 6-foot high perimeter wall or fence. The property line abutting the commercial property to the rear shall have a 6-foot high solid masonry wall.
  - Code requires double striping of open parking stalls in compliance with the City's parking design standards and new hardscape/paving.
- *The project complies with all applicable sections of the Zoning Code.*

The proposal involves interior alterations to create two units within the existing footprint of the rear structure; no additional square footage is proposed. The existing development is nonconforming with respect to parking. Excluding the nonconforming parking, the existing buildings are in compliance with current Code requirements for main building setbacks, open space, and building separations.

- Additional off-street parking spaces will be provided to support the fifth unit.

Code requires four parking spaces (1 covered and 3 open) for the additional two-bedroom unit for a total of 12 off-street parking spaces. The proposed plan shows clearly marked and reconfigured parking spaces to accommodate the additional off-street parking. The Transportation Division has verified that the proposed open parking spaces shown on the plans will comply with the City's parking design standards in terms of standard dimensions and back-out requirements. In addition, a proposed carport will comply with the one covered parking space requirement.

### **GENERAL PLAN CONFORMITY**

The property has a General Plan designation of High Density Residential. Under this designation a maximum of eight dwelling units are allowed on the property. Therefore, the proposal for five rental units is consistent with the use and density allowed by the City's General Plan.

### **ALTERNATIVES**

The Planning Commission may consider the following alternatives:

1. Approve the application. This would allow the division of the rear unit into two for a total of five units on the property, as well as substantial upgrades to the overall property. The creation of a new fifth unit would be consistent with the maximum density allowed in the R3 zone.
2. Deny the application. If Commission denies the application, the unit may not be divided. The applicant will be required to restore the structure to a single unit and a two-car garage by January 31, 2010. A similar request may not be submitted for six months.

### **ENVIRONMENTAL DETERMINATION**

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 15303 for New Construction or Conversion of Small Structures. If the project is denied, it is exempt from the provisions of CEQA Section 15270(a) for Projects Which Are Disapproved.

### **CONCLUSION**

Staff recommends approval of the application because the proposal complies with all applicable sections of the Zoning Code, additional off-street parking spaces will be provided to accommodate the fifth unit, and the project will result in substantial site improvements for a property that was developed and unimproved since prior to the City's incorporation.

- Attachments: 1. Planning Commission Resolutions  
2. Applicant's Project Description Letter  
3. Location/Aerial Map  
4. Plans  
5. Site Photos

Distribution: Acting Development Services Director  
Deputy City Attorney  
City Engineer  
Fire Protection Analyst  
Staff (4)  
File (2)

Melad Hanna  
15 Blue Spruce  
Irvine, CA 92620

File: 110909PA0914

Date: 102909

Time: 11:00 a.m.

# ATTACHMENT 1A

## RESOLUTION NO. PC-09-

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA APPROVING PLANNING APPLICATION PA-09-14

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

WHEREAS, an application was filed by Melad Hanna, part owner and authorized agent for property owners Haitham Hanna, Sahar Barjoud, and Wafa Hanna, with respect to the real property located at 251 Avocado Street, requesting approval of a design review to legalize the division of an existing apartment (Unit D) into two units (Units D and E) for a total of five units on the property, in the R3 zone;

WHEREAS, a duly noticed public hearing was held by the Planning Commission on November 9, 2009, with all persons provided an opportunity to speak for and against the proposed project.

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 Planning Commission hereby **APPROVES** Planning Application PA-09-14 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission 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-09-14 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B", as well as with compliance of all applicable federal, state, and local laws. Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

**PASSED AND ADOPTED this 9<sup>th</sup> day of November 2009.**

---

James Righeimer, Chair  
Costa Mesa Planning Commission

STATE OF CALIFORNIA )  
 )ss  
COUNTY OF ORANGE )

I, Khanh Nguyen, Secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on November 9, 2009, by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

---

Khanh Nguyen, Secretary  
Costa Mesa Planning Commission

## EXHIBIT "A"

**FINDINGS (for approval)**

- A. The project complies with Costa Mesa Municipal Code Section 13-29 (e) because:
- a. The proposed construction and use is compatible and harmonious with uses both on-site as well as those on surrounding properties.
  - b. Safety and compatibility of the design of the building and other site features, including functional aspects of the site development, have been considered.
  - c. The project is consistent with the General Plan designation of High Density Residential. Under this designation a maximum of eight dwelling units are allowed on the subject property and five dwelling units are proposed.
  - d. The planning application is for a project-specific case and does not establish a precedent for future development.
- B. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(14) in that the project is substantially compatible and harmonious with existing and/or anticipated development on surrounding properties. This includes site planning, landscaping, appearance, scale of structures, location of windows, and any other applicable features relative to a compatible and attractive development. The proposed construction is consistent with the City's General Plan and applicable sections of the Zoning Code; additional off-street parking spaces will be provided to accommodate the fifth unit and the project will result in substantial site improvements on the property.
- C. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures, and has been found to be exempt from CEQA under Section 15303 for New Construction or Conversion of Small Structures.
- D. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

## EXHIBIT "B"

**CONDITIONS OF APPROVAL**

- Plng.
1. The approved address of individual units (A through E) shall be blueprinted on the site plan and on all floor plans in the working drawings as part of the plan check submittal package.
  2. Landscaping shall be brought into compliance with current Code requirements, including new turf and/or ground cover in the place of the existing dead grass and new shrubs and trees on the property. Submit two (2) sets of detailed landscaped and irrigation plans which comply with Municipal Code requirements regarding irrigation and landscaping materials.
  3. All new and existing building elevations shall be architecturally compatible with regards to materials, style, colors, etc. Specifically, exterior upgrades shall include new paint, window trim, shutters and siding. Plans submitted for plan check shall indicate how this will be accomplished. The finished elevations of all buildings shall be approved by the Planning Division prior to issuance of building permits.
  4. Repair, replace, or construct 6-foot high, opaque interior property line walls and/or fences under the direction of the Planning Division. The property line abutting the commercial property to the rear shall have a 6-foot high solid masonry wall.
  5. It is recommended that the project incorporate green building design and construction techniques where feasible. The applicant may contact the Building Safety Division at (714) 754-5273 for additional information.
  6. The applicant shall contact the current cable company prior to issuance of building permits to arrange for pre-wiring for future cable communication service.
  7. Prior to issuance of building permits, applicant shall contact the US Postal Service with regard to location and design of mail delivery facilities. Such facilities shall be shown on the site plan, landscape plan, and/or floor plan.
  8. The conditions of approval, code requirements, and special district requirements of Planning Application PA-09-14 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
  9. The applicant shall contact the Planning Division to arrange for an inspection of the site prior to final occupancy. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
  10. Grading, materials delivery, equipment operation, and other construction-related activity shall be limited to between the hours of 7 a.m. and 8 p.m., Monday through Friday, and 8 a.m. to 6 p.m. Saturday. Construction is prohibited on Sundays and federal holidays. Exceptions may be made for activities that will not generate noise audible from off-site, such as painting and other quiet interior work.
- Eng.
11. Maintain the public right-of-way in a "wet-down" condition to prevent excessive dust and promptly remove any spillage from the public right-of-way by sweeping or sprinkling.

# ATTACHMENT 1B

## RESOLUTION NO. PC-09-

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA DENYING PLANNING APPLICATION PA-09-14

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

WHEREAS, an application was filed by Melad Hanna, part owner and authorized agent for property owners Haitham Hanna, Sahar Barjoud, and Wafa Hanna, with respect to the real property located at 251 Avocado Street, requesting approval of a design review to legalize the division of an existing apartment (Unit D) into two units (Units D and E) for a total of five units on the property, in the R3 zone;

WHEREAS, a duly noticed public hearing was held by the Planning Commission on November 9, 2009, with all persons given the opportunity to speak for and against the proposed project.

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-09-14 with respect to the property described above;

BE IT FURTHER RESOLVED that the denial of Planning Application PA-09-14 constitutes notice of violation of the Costa Mesa Municipal Code Section 5-6(a) and International Building Code Section 105.1 for the conversion of the rear structure without required building permits. The property owners are hereby required to obtain all necessary permits and restore Unit "D" to its original condition as a three-bedroom, two-bath unit with a two-car garage by January 10, 2010. Failure to resolve the violations will result in the next progressive step in enforcement.

**PASSED AND ADOPTED this 9<sup>th</sup> day of November 2009.**

---

James Righeimer, Chair  
Costa Mesa Planning Commission

**EXHIBIT "A"**

**FINDINGS (for denial)**

- A. The proposed project does not comply with Costa Mesa Municipal Code Section 13-29 (e) because:
  - a. The proposed development and use is not compatible and harmonious with uses both on site and those on surrounding properties.
  - b. Safety and compatibility of the design of the building and other site features, including functional aspects of the site development, have been considered.
  - c. The planning application is for a project-specific case and does not establish a precedent for future development.
  
- B. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(14) in that the proposed development is not compatible and harmonious with existing and/or anticipated development on surrounding properties.
  
- C. The Costa Mesa Planning Commission has denied PA-09-14. Pursuant to Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a), CEQA does not apply to this project because it has been rejected and will not be carried out.

Melad M. Hanna, PhD, PE  
15 Blue Spruce  
Irvine, CA 92620  
(949) 433-1698  
DrHannaPhD@hotmail.com

# ATTACHMENT 2

September 12, 2009

**Received**  
City of Costa Mesa  
Development Services Department  
**SEP 15 2009**

Wendy Shih  
Associate Planner  
Planning Division  
City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626

APPLICATION: PLANNING APPLICATION PA-09-14  
251 AVOCADO STREET

Dear Ms. Shih,

This is in response to the City comments on my Planning Application: PA-09-14 (251 Avocado St. Rear Unit (D)). Items below correspond to the City comments:

1. I am sure by now you should have received information from our attorney regarding the cancelation of the foreclosure (attached is an additional copy for your convenience). We are the legal owner of the subject property as of August 1, 2008. The property is owned by Haitham Hanna (my brother) & Sahar Barjoud (Hanna), husband and wife, and Melad & Wafa Hanna, husband and wife. I represent the family for all issues regarding this property. The issue with the previous owners that subjected us to foreclosure has been taken care of as you can see from the attached. Moreover, per your request, attached is a new application form with wet ink signatures from all the legal property owners.
2. On Wednesday, September 2, 2009, I met with you and Mr. Mel Lee. Per our meeting, it was confirmed that the total parking spaces required is 12 not 15. Therefore, the proposed 12 spaces are sufficient for the proposed planning. There will be no need for us to ask for parking variance.
3. Attached is a breakdown of building square footages for each structure (also it is noted on the attached revised Site Plan). As can be seen, our open space is 40.21 percent of the lot area. Therefore, there is no need for open space variance since we meet the City 40% criteria.

Units A & B	1,647 SF	
Unit C	708 SF	
Units D & E	2,531 SF	
Storage Unit	162 SF	
Total Structures Lot Coverage	5,048 SF	

Area of Hardscape	6,069 SF	32.63%
Total Lot Coverage	11,117 SF	59.78%
Open Space/ Landscape Area	7,477 SF	40.21%

4. Please see the revised site plan. The new plan clearly show 8.5ft by 18 ft per each parking space. In addition, whenever a parking space is located adjacent to vertical obstruction, the parking width provided is 9.5ft per City requirement.
5. The plans show clearly paved and the unpaved. We intend to landscape (hydro-seed) the unpaved areas.

Per your request, attached to this letter, two revised fully scaled plans, two 11 x 17 and one 8½ x 11 reduced copies.

I hope addressing your comments above and the attached revised plans complete our application so your processing of our application continues. Please contact me at your convenience at (949) 443-1698 or [drhannaphd@hotmail.com](mailto:drhannaphd@hotmail.com) should you need me to provide you with additional information or further clarifications.

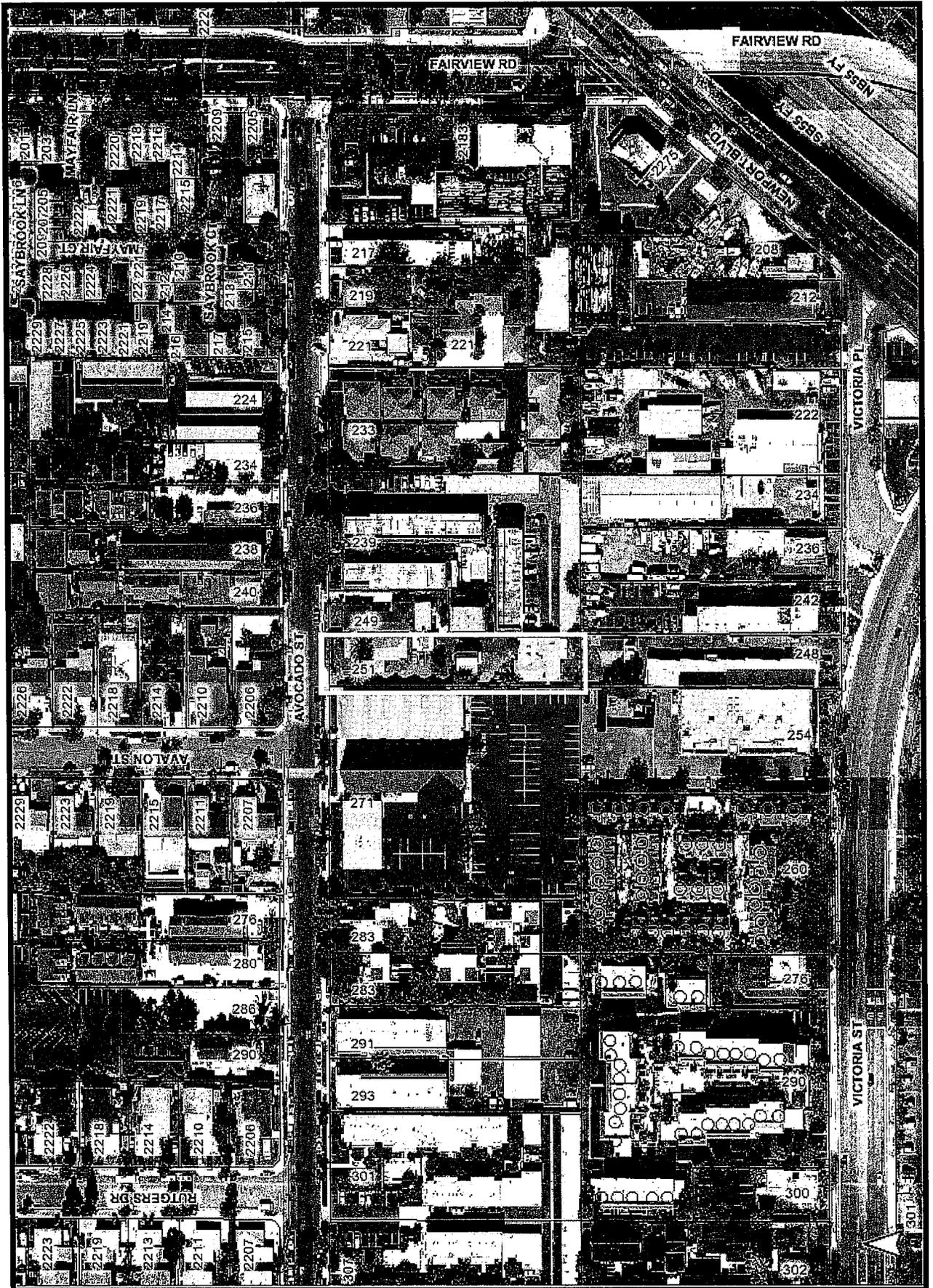
We are looking forward to receiving your approval of our planning application.

Sincerely,



Melad M. Hanna, PhD, PE

ATTACHMENT 3  
LOCATION/AERIAL MAP.



















ATTACHMENT 5

