

**CITY OF ONTARIO
PLANNING COMMISSION/
HISTORIC PRESERVATION
MEETING AGENDA**

April 26, 2016

Ontario City Hall
303 East "B" Street, Ontario, California 91764

6:30 PM

WELCOME to a meeting of the Ontario Planning/Historic Preservation Commission.

All documents for public review are on file in the Planning Department located at 303 E. B Street, Ontario, CA 91764.

- *Anyone wishing to speak during public comment or on a particular item should fill out a green slip and submit it to the Secretary.*
- *Comments will be limited to 5 minutes. Speakers will be alerted when their time is up. Speakers are then to return to their seats and no further comments will be permitted.*
- *In accordance with State Law, remarks during public comment are to be limited to subjects within the Commission's jurisdiction. Remarks on other agenda items will be limited to those items.*
- *Remarks from those seated or standing in the back of the chambers will not be permitted. All those wishing to speak including Commissioners and Staff need to be recognized by the Chair before speaking.*
- *The City of Ontario will gladly accommodate disabled persons wishing to communicate at a public meeting. Should you need any type of special equipment or assistance in order to communicate at a public meeting, please inform the Planning Department at (909) 395-2036, a minimum of 72 hours prior to the scheduled meeting.*
- *Please turn off all communication devices (phones and beepers) or put them on non-audible mode (vibrate) so as not to cause a disruption in the Commission proceedings.*

ROLL CALL

DeDiemar __ Delman __ Downs __ Gage __ Gregorek __ Ricci __ Willoughby __

PLEDGE OF ALLEGIANCE TO THE FLAG

ANNOUNCEMENTS

- 1) Agenda Items
- 2) Commissioner Items

PUBLIC COMMENTS

Citizens wishing to address the Planning/Historic Preservation Commission on any matter that is not on the agenda may do so at this time. Please state your name and address clearly for the record and limit your remarks to five minutes.

Please note that while the Planning/Historic Preservation Commission values your comments, the Commission cannot respond nor take action until such time as the matter may appear on the forthcoming agenda.

CONSENT CALENDAR ITEMS

All matters listed under CONSENT CALENDAR will be enacted by one summary motion in the order listed below. There will be no separate discussion on these items prior to the time the Commission votes on them, unless a member of the Commission or public requests a specific item be removed from the Consent Calendar for a separate vote. In that case, the balance of the items on the Consent Calendar will be voted on in summary motion and then those items removed for separate vote will be heard.

A-01. MINUTES APPROVAL

Planning/Historic Preservation Commission Minutes of March 22, 2016, approved as written.

A-02. ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT PLAN REVIEW

FOR FILE NO. PDEV15-030: A Development Plan (File No. PDEV15-030) to construct a 59-foot tall stealth wireless telecommunication facility (mono-Eucalyptus) on approximately 4.137 acres of land located at the southwest corner of Riverside Drive and Vineyard Avenue, at 8875 East Riverside Drive, within the AG (Agriculture Overlay) zoning district. Staff has determined that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to § Section 15332 (Class 32: In-Fill Development Projects) of the State CEQA Guidelines. 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 ONT Airport Land Use Compatibility Plan (ALUCP). (APN: 0216-174-17); **submitted by Verizon Wireless.**

A-03. ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT PLAN REVIEW

FOR FILE NO. PDEV15-028: A Development Plan to construct 91 alley loaded single-family homes on approximately 7.34 acres of land within Planning Area 10A of The Avenue Specific Plan, generally located south of Schaefer Avenue, north of Ontario Ranch Road between Haven and Turner Avenues. The impacts to this project were previously analyzed in an addendum to The Avenue Specific Plan EIR (SCH# 2005071109) that was adopted by the City Council on June 17, 2014 and was prepared pursuant to the requirements of California Environmental Quality Act. 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 ONT Airport Land Use Compatibility Plan (ALUCP). (APNs: 218-462-53 thru 79, 218-502-37 thru 70, 218-452-13 thru 16 and 218-513-01 thru 22); **submitted by Brookfield Residential.**

- A-04. ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT PLAN REVIEW FOR FILE NO. PDEV14-046:** A Development Plan to construct 104 single-family homes on approximately 8.25 acres of land within Planning Area 10A of The Avenue Specific Plan, generally located south of Schaefer Avenue, north of Ontario Ranch Road between Haven and Turner Avenues. The impacts to this project were previously analyzed in an addendum to The Avenue Specific Plan EIR (SCH# 2005071109) that was adopted by the City Council on June 17, 2014 and was prepared pursuant to the requirements of California Environmental Quality Act. 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 ONT Airport Land Use Compatibility Plan (ALUCP). (APNs: 218-472-01 thru 19, 218-445-01 thru 15, 218-442-40 thru 70, 218-442-01 thru 09 and 218-462-01 thru 15); **submitted by Brookfield Residential.**

PLANNING COMMISSION PUBLIC HEARING ITEMS

For each of the items listed under PUBLIC HEARING ITEMS, the public will be provided an opportunity to speak. After a staff report is provided, the chairperson will open the public hearing. At that time the applicant will be allowed five (5) minutes to make a presentation on the case. Members of the public will then be allowed five (5) minutes each to speak. The Planning Commission may ask the speakers questions relative to the case and the testimony provided. The question period will not count against your time limit. After all persons have spoken, the applicant will be allowed three minutes to summarize or rebut any public testimony. The chairperson will then close the public hearing portion of the hearing and deliberate the matter.

- B. ENVIRONMENTAL ASSESSMENT AND CONDITIONAL USE PERMIT FOR FILE NO. PCUP15-027:** An Appeal of the Zoning Administrator's decision to deny a Conditional Use Permit request to establish an approximate 5,100 square-foot bar/nightclub and live entertainment for Mix Champagne Bar Lounge, on approximately 3.44 acres of land, located at 4481 Ontario Mills Parkway, within the Commercial/Office land use district of the California Commerce Center North (The Mills) Specific Plan. The project is categorically exempt from environmental review pursuant to State CEQA Guidelines Section 15301 (Existing Facilities). 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 ONT Airport Land Use Compatibility Plan (ALUCP). (APN: 0238-014-10); **submitted by: Mix Champagne Bar Lounge.**

1. CEQA Determination

No action necessary – Exempt: CEQA Guidelines Section § 15301

2. **File No. PCUP15-027** (Conditional Use Permit)

Motion to Approve/Deny

- C. **ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT AGREEMENT FOR FILE NO. PDA15-005**: A Development Agreement between the City of Ontario and Brookcal Ontario, LLC, for the development of up to 108 residential units (TT19907) on 27.09 gross acres of land within the Conventional Medium Lot Residential district (Planning Area 29) of the Subarea 29 Specific Plan, located at the southwest corner of Haven Avenue and Park View Street. The environmental impacts of this project were previously analyzed in an addendum to the Subarea 29 Specific Plan EIR (SCH# 2004011009) that was adopted by the City Council. All adopted mitigation measures of the addendum shall be a condition of approval for the project and are incorporated herein by reference. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and Chino Airport, and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for both airports. (APN: 0218-321-17); **submitted by Brookcal Ontario, LLC. City Council action is required.**

1. **CEQA Determination**

No action necessary – use of previous EIR

2. **File No. PDA15-005** (Development Agreement)

Motion to recommend Approval/Denial

- D. **ENVIRONMENTAL ASSESSMENT AND TENTATIVE TRACT MAP REVIEW FOR FILE NO. PMTT14-024**: A Tentative Tract Map (TT19907) to subdivide 27.09 gross acres into 108 single-family lots and 20 lettered lots within the Conventional Medium Lot Residential district (Planning Area 29) of the Subarea 29 Specific Plan, located at the southwest corner of Haven Avenue and Park View Street. The environmental impacts of this project were previously analyzed in an addendum to the Subarea 29 Specific Plan EIR (SCH# 2004011009) that was adopted by the City Council. All adopted mitigation measures of the addendum shall be a condition of approval for the project and are incorporated herein by reference. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and Chino Airport, and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for both airports. (APN: 0218-321-17); **submitted by Brookcal Ontario, LLC.**

1. **CEQA Determination**

No action necessary – use of previous EIR

2. **File No. PMTT14-024** (Tentative Tract Map)

Motion to Approve/Deny

- E. **ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT AGREEMENT FOR FILE NO. PDA15-006**: A Development Agreement between the City of Ontario and Roseville NMC, LLC, for the development of up to 118 residential units (TT19909) on 26.81 gross acres of land within the Conventional Medium Lot Residential district (Planning Area 28) of the Subarea 29 Specific Plan, located at the northwest corner of Haven Avenue and Merrill Avenue. The environmental impacts of this project were previously analyzed in an addendum to the Subarea 29 Specific Plan EIR (SCH# 2004011009) that was adopted by the City Council. All adopted mitigation measures of the addendum shall be a condition of approval for the project and are incorporated herein by reference. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and Chino Airport, and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for both airports. (APN: 0218-321-30); **submitted by Richland Ontario Developers, LLC. City Council action is required.**

1. **CEQA Determination**

No action necessary – use of previous EIR

2. **File No. PDA15-006** (Development Agreement)

Motion to recommend Approval/Denial

- F. **ENVIRONMENTAL ASSESSMENT AND TENTATIVE TRACT MAP REVIEW FOR FILE NO. PMTT14-025**: A Tentative Tract Map (TT19909) to subdivide 26.81 gross acres into 118 single-family lots and 17 lettered lots within the Conventional Medium Lot Residential district (Planning Area 28) of the Subarea 29 Specific Plan, located at the northwest corner of Haven Avenue and Merrill Avenue. The environmental impacts of this project were previously analyzed in an addendum to the Subarea 29 Specific Plan EIR (SCH# 2004011009) that was adopted by the City Council. All adopted mitigation measures of the addendum shall be a condition of approval for the project and are incorporated herein by reference. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and Chino Airport, and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for both airports. (APN: 0218-321-30); **submitted by Richland Ontario Developers, LLC.**

1. **CEQA Determination**

No action necessary – use of previous EIR

2. File No. PMTT14-025 (Tentative Tract Map)

Motion to Approve/Deny

MATTERS FROM THE PLANNING/HISTORIC PRESERVATION COMMISSION

- 1) Old Business
 - Reports From Subcommittees
 - Historic Preservation (Standing):
- 2) New Business
 - Subcommittee Appointments
- 3) Nominations for Special Recognition

DIRECTOR'S REPORT

- 1) Monthly Activity Report

If you wish to appeal any decision of the Planning/Historic Preservation Commission, you must do so within ten (10) days of the Commission action. Please contact the Planning Department for information regarding the appeal process.

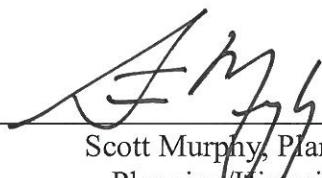
If you challenge any action of the Planning/Historic Preservation Commission in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning/Historic Preservation Commission at, or prior to, the public hearing.



I, Marci Callejo, Administrative Assistant, of the City of Ontario, or my designee, hereby certify that a true, accurate copy of the foregoing agenda was posted on **Friday, April 22, 2016**, at least 72 hours prior to the meeting per Government Code Section 54954.2 at 303 East "B" Street, Ontario.



Marci Callejo, Secretary Pro Tempore



Scott Murphy, Planning Director
Planning/Historic Preservation
Commission Secretary

**CITY OF ONTARIO PLANNING COMMISSION/
HISTORIC PRESERVATION MEETING**

MINUTES

March 22, 2016

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**CITY OF ONTARIO PLANNING COMMISSION/
HISTORIC PRESERVATION MEETING**

MINUTES

March 22, 2016

REGULAR MEETING: City Hall, 303 East B Street
Called to order by Chairman Willoughby at 6:37 p.m.

COMMISSIONERS

Present: Chairman Willoughby, Vice-Chairman Downs, DeDiemar, Delman, Gage, and Gregorek.

Absent: Gage.

Late: Ricci.

OTHERS PRESENT: Planning Director Murphy, City Attorney Rice, Principal Planner Zeledon, Senior Planner Mercier, Senior Planner Mullis, Senior Planner Ayala, Associate Planner Burden, Associate Planner Mejia, Assistant Planner Antuna, Assistant City Engineer Do, and Planning Secretary Callejo.

PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was led by Commissioner Gregorek.

SPECIAL CEREMONIES

Mr. Willoughby welcomes new Planning Commissioner Nancy DeDiemar and recognizes former Planning Commissioner Sheila Mautz who resigned to assume the role of City Clerk. Ms. Mautz was presented with a plaque of appreciation and a short recess was called for a cake reception in her honor.

ANNOUNCEMENTS

No one responded from the audience.

PUBLIC COMMENTS

Brian Terry resides at 150 N. Bonita Court and came to speak. He spoke about parking on Bonita Court and that it is horrendous. He states that he contacted Mayor Leon and the Mayor had him contact another person in the City for assistance. Mr. Terry gives various examples of the trouble on Bonita Court from a stabbing incident, trash pick-up, vagrancy, and mainly parking problems. He also explained that there are only a few properties that have driveways and thus, there are many homeowners vying for parking space along the public streets.

Mr. Willoughby stated that it sounds like both Code Enforcement and Police issues and they would try to get Mr. Terry in touch with the appropriate staff persons regarding these issues.

Mohamed Cotel asked if he could come up and speak on a non-agenda item. He stated his property is located at 1253 East Holt Blvd. which is located next to a residential complex (Holt & Grove). Mr. Cotel states that the nearby curb has red painted fire zoning but next to his property, the curb is not red painted. The problem is, vehicles park on the street and cannot view on-coming traffic when entering or exiting the carwash business. There have been many car accidents and he is requesting red zoning for no parking.

Mr. Willoughby asks if his property is the car wash.

Mr. Cotel confirms it is.

Mr. Willoughby says they will put Mr. Cotel in contact with the appropriate person who can help resolve this issue.

Mr. Fuentes came up to speak on a non-agenda item. He resides at 1251 S. Cypress. He states that the stop sign at Cypress and Phillips Street is difficult to see because there is no light. He is requesting a traffic signal be placed at that location because cars do not stop there.

Mr. Willoughby confirmed that the stop sign is on Phillips Street and sends him to Khoi Do, Assistant City Engineer for assistance.

Ron Anthony came up to speak on a non-agenda item. He resides at 1163 East Nocta Street. He states there is a vacant lot near his home and the road is not widened. Mr. Anthony says since the population has increased and the road has not widened, there is no parking on the south side of the street and no sidewalk. He continues to explain there's a hazard for children to walk and barely enough room for cars to drive both ways. He questions if the City has future plans to put a sidewalk and curb in.

Mr. Willoughby pointed him to someone who oversees the streets, Khoi Do, Assistant City Engineer for assistance.

CONSENT CALENDAR ITEMS

Agenda item A-02 was pulled for separate discussion.

A-01. MINUTES APPROVAL

Planning/Historic Preservation Commission Minutes of February 23, 2016, approved as written.

It was moved by Gregorek, seconded by Downs, to approve the Planning Commission Minutes of February 23, 2015, as written. The motion was carried 5 to 0. Commissioner Gage was absent and Commissioner DeDiemar abstained. File No. PDEV15-020 passed with a vote of 6-0 with Commissioner Gage absent.

A-02. ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT PLAN REVIEW FOR FILE NO. PDEV15-020: A Development Plan to construct 149 single-family homes on approximately 14.5 acres of land within Planning Area 10A of The Avenue Specific Plan, generally located south of Schaefer Avenue, north of Ontario Ranch Road between Haven and Turner Avenues. The impacts to this project were previously analyzed in an addendum to The Avenue Specific Plan EIR (SCH# 2005071109) that was adopted by the City Council on June 17, 2014 and was prepared pursuant to the requirements of California Environmental Quality Act. 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 ONT Airport Land Use Compatibility Plan (ALUCP). (APNs: 218-444-10 thru 17, 218-444-25 thru 41, 218-444-43, 218-452-10, 11, 12, 218-462-16 thru 25, 218-462-36 thru 52, 218-482-25 thru 48, 218-483-23 thru 48 and 218-503-01 thru 44); **submitted by Brookfield Residential.**

PUBLIC HEARING ITEMS

B. ENVIRONMENTAL ASSESSMENT, DEVELOPMENT PLAN AND CONDITIONAL USE PERMIT REVIEW FOR FILE NOS: PDEV15-018 & PCUP15-011: A Development Plan to construct a 54-foot tall stealth wireless telecommunication facility and a Conditional Use Permit to operate the wireless facility within 500-feet of residentially zoned property, located within an existing 2.68-acre site at 602 N. Virginia Avenue, within the MDR-18 (Medium Density Residential-11.1 to 18.0 DU/Acres) zoning district. Staff has determined that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to § 15332 (Class 32: In-Fill Development Projects) of the State CEQA Guidelines. 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. (APN: 1048-451-51); **submitted by Verizon Wireless.**

Principal Planner, Rudy Zeledon, presented the staff report. He stated the project is proposed to construct a 54-foot stealth wireless telecommunication church tower. The tower will be located just in front of the sanctuary area in the front parking lot and take up one parking space. Mr. Zeledon explains the details of the enclosed structure and landscape which will surround it. He states the tower is designed to complement the existing church which is a Colonial Revival style. The equipment enclosure will be screened from public view. He stated that staff is recommending the Planning Commission approve File Nos. PDEV15-018 and PCUP15-011, pursuant to the facts and reasons contained in the staff report and attached resolutions, and subject to the conditions of approval.

No one responded.

PUBLIC TESTIMONY

Christine Song, applicant from Verizon Wireless came up to speak. She began by thanking Planning staff for working so diligently with them on the application and review process; they were very grateful. She said she would answer any questions.

Mr. Ricci asked if there would be room for expansion in the future.

Ms. Song stated there is that possibility and could be something that would be explored if another carrier approached Verizon for co-location possibilities. She says she would imagine there would need to be some kind of modification to the current proposed tower design to accommodate another carrier.

Mr. Willoughby asks that the current design it would only support one antenna.

Ms. Song states she believes so.

As there was no one else wishing to speak, Chairman Willoughby closed the public testimony

Mr. Gregorek stated that churches look better for stealth design than trees.

PLANNING COMMISSION ACTION

It was moved by Delman, seconded by Ricci, to adopt resolutions to approve the Development Plan, File No. PDEV15-018 and a Conditional Use Permit, File No. PCUP15-011 subject to conditions of approval. Roll call vote: AYES, DeDiemar Delman, Downs, Gregorek, Ricci, and Willoughby; NOES, none; RECUSE, none; ABSENT, Gage. The motion was carried 6 to 0.

C. ENVIRONMENTAL ASSESSMENT, AND GENERAL PLAN AMENDMENT

REVIEW FOR FILE NO. PGPA16-001: A City initiated request to change the General Plan land use designations on 83 properties generally located south of Fourth Street and west of Euclid Avenue, and modify the Future Buildout Table to be consistent with the land use designation changes (amending Exhibits LU-01 and LU-03). Staff is recommending the adoption of an Addendum to an Environmental Impact Report (State Clearinghouse No. 2008101140) adopted by City Council on January 27, 2010 in conjunction with File No. PGPA06-001. The environmental impacts of this project were previously analyzed in an Environmental Impact Report (State Clearinghouse No. 2008101140) adopted by City Council on January 27, 2010 in conjunction with File No. PGPA06-001. 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. (APNs: Various) **City initiated. City Council action is required.**

D. ENVIRONMENTAL ASSESSMENT, AND ZONE CHANGE REVIEW FOR FILE

NO. PZC16-001: A City initiated request to change the zoning designations on 881 properties generally located south of Fourth Street and west of Euclid Avenue, 127 properties along East Holt Boulevard, and 37 other properties located throughout the City in order to make the zoning consistent with The Ontario Plan land use designations of the properties. The environmental impacts of this project were previously analyzed in an Environmental Impact Report (State Clearinghouse No. 2008101140) adopted by City Council on January 27, 2010 in conjunction with File No. PGPA06-001. 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. (APNs: Various) **City initiated. City Council action is required.**

Associate Planner, Clarice Burden, presented the staff reports for both Items C and D together. Ms. Burden stated these items were taken to community open houses on January 25 and 27, 2016 to introduce them and get feedback. She shared that approximately 250 individuals attended the meetings and staff received written comment cards from 52 people and, out of those, 19 did not support the proposed changes. Ms. Burden stated there were no specific comments about the proposed General Plan Amendment. She explained that the Zone Change encompasses approximately 1,100 properties and is part of The Ontario Plan (TOP) consistency project which is intended to make all the zoning in the city consistent with The General Plan, which was adopted in 2010. Ms. Burden gave some of the reasons why the changes are being proposed, including to encourage the elimination of strip-commercial along Holt Blvd. to revitalize the corridor, to allow isolated rural properties that are surrounded by single-family homes to convert to single-family zoning, to eliminate split-zoning which will result in better development and to accommodate housing sites per the City's Housing Element. She stated some of the concerns which were expressed were related to Holt Blvd. The proposed concerns included: parking, traffic and higher density. She also explained that parking and traffic were analyzed during The General Plan adoption in 2010. She stated that staff is requesting the Planning Commission recommend to the City Council approval of File Nos. PGPA16-001 and PZC16-001.

Mr. Downs asked for clarification on what strip development along Holt Boulevard is and what the intent for clean-up is.

Ms. Burden stated that they are sites not part of a larger center and they are more of a stop and shop type of destination.

Mr. Murphy added that if one remembers the development of Holt in the 50s and 60s, there were several single standing business on the west side. Currently, there are many strip mall developments which offer multi-shopping stores and that adds to traffic on the streets. There are also now areas where there are conflicts between commercial and residential zones. He states there is commercial backing onto residential and the idea is to take those older retail areas and transition them into either commercial centers or residential.

Ms. Burden mentioned a late correspondence received earlier in the day from the Harwick Family, which was available to the Planning Commission and public for review.

PUBLIC TESTIMONY

Gina Ramirez came up to speak and stated she is a homeowner in Charter Village Green at 946 Coneflower Lane, behind Holt Blvd. She shared her concerns with changing the zoning to high-density is the parking situation and traffic. She stated currently there is a parking situation that is out of control. She questions why the businesses are not being asked to be spruced up and look a little more modern and contribute to the community.

Wes Chambers stated he resides at 1836 S. Palmetto. He stated staff should have a letter

dated March 5 that states everything he wants to say – he opposes at this time. He explained they have had horses on the property since 1965. He stated there are apartments to the west, north, and south and his neighbor is the open space. He says there has never been a complaint in years from the City or neighbors. He stated that if you [City] want to make it consistent, they [City] should make it R1 (Single Family Dwelling) or R2 (Medium Density Dwelling).

Mr. Willoughby questions what his property is zoned and what it was changing to.

Ms. Burden states it is proposed to go to Low-Density Residential (LDR-5).

Mr. Chambers said he should have stated it's going to Low-Density Residential from Agricultural Residential (AR).

Linda Meza stated she resides at 2008 S. Fern. Ms. Meza began with questioning Planning staffs response of her receiving the community mailer. Her property is not being changed, but she lives immediately across the street from proposed zone-changing property. Staff told her she would not be affected and she disagrees.

Mr. Willoughby explained mailers are sent to property owners within a certain radius of projects to notify them of the actions being proposed.

Ms. Meza stated that's exactly why she was there and what she wanted to address. Ms. Meza read some points of concern. She stated she has lived on Fern Ave. for 40 years and is right across the street the proposed change in zone from AR-2 to MDR-18. Ms. Meza stated she came to the January 25th community outreach and spoke with Senior Planner, Melanie Mullis, and she explained that the City was rezoning as part of The General Plan and that there are no plans for any buildings in her area. Ms. Meza stated that the last time her area was trying to be rezoned, she attended a City Council meeting and the plan ended up being to try and buy people out of her area and build condos, townhouses and apartments. She stated a real estate company was courting their neighborhood to buy their properties. She continued by saying she thinks there are enough apartments in their little area and there are commercial buildings to the north, south and west of their neighborhood already. She said they deal with issues such as traffic, graffiti and crime. Now there is a possibility that the City will be able to build whatever they want contrary to what staff told her. She questioned if there weren't enough run down, abandoned buildings in Ontario already. She stated that the City starts huge projects which they don't finish and turns housing which doesn't sell into low-income or Section 8 housing and leasing them. She questioned why the City has to intrude in their neighborhood, is it because they have access to the 60 FWY? She stated that is a problem in itself, the roar of the cars and the noise from the Ontario Airport. However their little neighborhood puts up with it because their love they homes. She continued by asking the City to not disrupt their lives and make this zone change look like something advantageous.

Ron Anthony stated he resides at 1163 East Nocta. Mr. Anthony stated he had spoken with Senior Planner, Melanie Mullis, and he has concerns regarding the property which is currently zoned Medium-Density Residential and is proposed to Mixed-Use. He stated it would be a great place for a large mall and he heard the changes wanting to be made to Holt, but these changes would also cause more traffic. He said one of his concerns with

these larger shopping centers would be they would have large trucks coming through and large brick walls go up and the people backing up to this area would be greatly affected. He questioned why there needs to be rezoning when there are so many empty buildings along Holt and empty spaces and potentially affect the daily lives of folks who live in that area. He stated you can make any type of commercial you want with something like Old Town Pasadena which is more walking friendly and that can be done with incentives through the City. He stated there are already big conglomerates in places on Vineyard and around the City so you don't need one here. He asked why there is a need to take the old part of Ontario and change it into a shopping mall.

Mr. Willoughby asked staff to clarify that they are not looking for a large shopping mall.

Mr. Murphy stated this is proposed to be mixed-use development which provides for residential and commercial. He stated it allows for a great amount of flexibility of how that is designed. He continued by saying you have a number of small properties in that area that can be consolidated into larger properties and can be developed residentially and commercially. Mr. Murphy stated that ideally, they would love some design that works with the neighborhood where residents could walk to the shopping and not have to get into their cars and drive. He says the Mixed-Use zone provides for that flexibility.

Mr. Anthony questioned if the mixed-use/commercial zoning can be developed as all commercial or does it have to be Mixed-Use.

Mr. Murphy states it would have to mixed-use. It cannot be 100% commercial.

Mr. Anthony then questioned why put this use in a Residential area. He asked why not put this use out towards Holt and reserve the back half for residential. He stated that is about 2 city blocks.

Mr. Willoughby explained that from Holt to Nocta it would be a mix of residential and if commercial were to come in, the bulk would likely still be residential. He also stated that some of the parcels might be consolidated and housing development could be done as an infill project, but it would not be solely commercial or big box type facilities.

Mr. Anthony questioned that potentially there could be commercial stores on Nocta.

Mr. Murphy stated that the potential exists but when they begin to look at laying out the plans, they look at the transition of uses. He said they question how will there be a transition from residential to commercial. He said they typically don't go and put in commercial and have homes across the street. Mr. Murphy stated that if there is commercial which goes in there, they would have notices go out and this process would start all over and they would get residents comments on the design.

Mr. Anthony again stated he just doesn't understand why the City needs to go in and put commercial in an area where residential is currently. He understands it all is "if" and "potential", but why even give it that possibility.

Mr. Willoughby stated maybe he has misunderstood that it's not commercial, but mixed-use so a big box could not come into that area. He also stated that the Planning staff has a

pretty good track record of keeping things where they should be and that they mix with the neighborhood.

Mr. Murphy pointed out that currently, between Virginia and Grove, the current zoning is residential. However, if you go west and east, the commercial zoning does extend all the way to Nocta.

Mr. Anthony said it may be zoned that way, but it's all residential in that area, there's nothing but houses except one liquor store.

Mr. Murphy said, that's probably true, but from a "use" standpoint, the current zoning is for commercial and those homes could "in theory" be demolished and a commercial use could come in all the way to Nocta. So, he explained, the mixed-use doesn't change anything expect for the properties between Virginia and Grove. It just provides move flexibility in how those properties are being designed and laid out.

Mr. Anthony concluded by saying he feels they are taking Old Ontario history and changing it into business.

Hamid Amini, stated his business is at 740 W. Holt. His question is regarding the current zoning of C3 (Commercial Service) to group A45 (proposed MDR-25 – Medium-High Density Residential). He stated the businesses next to his, are zoned Community Commercial and his is proposed Medium-High Density Residential. He stated he feels this would diminish the value of his property changing from commercial to residential.

Mr. Willoughby asks for clarification from planning staff.

Planning Staff tried to verify what the current zoning is and Mr. Murphy stated that for some of the properties along Holt, the Interim Community Commercial Overlay has been applied (ICC Overlay). He explained that this gives businesses the ability to continue to operate and expand. He said the uses which are allowed are those within the overlay currently. Mr. Murphy says that if the Commission would choose to, they can apply the ICC Overlay for 740 W. Holt.

Mr. Willoughby stated the use stays unless someone comes along in the future and wants to develop using the Medium-High Density residential use.

Mr. Amini questioned if the commercial use would be limited to what he does right now.

Mr. Murphy stated that if the following zone change take place, his property would become MDR-25 and the used car facility would be considered legal non-conforming. It could continue to operate as long as Mr. Amini wanted to. If he wanted to sell, he could and a new operator could go in and operate as a used car lot. However, he could not expand the use. It would have to be consistent to what he has out there right now. Mr. Murphy continued to say that if the ICC Overlay is applied, other uses which are currently allowed within the Community Commercial Overlay zone would be allowed on this site. There are still some limitations of how much he could expand; only 25%. There are still limitations and the ultimate goal is develop residential, and the intent is to have residential, but this would be a placeholder until that time.

Mr. Amini stated he can expand or another owner can do other types of uses within the ICC Overlay.

Mr. Murphy stated a new owner can have uses within the ICC Overlay. The limitations come up when expansion takes place. He would only be up to expand up to 25% of what already exists.

Mr. Amini questioned what the difference is between groups A36 and A41.

Mr. Murphy stated those properties are proposed with the MDR-25 and the ICC Overlay is being applied. He said if the Commission were to include this property with the ICC Overlay, it would be the same thing.

After conferring with the Commission, Mr. Willoughby stated the Commission would like to see the whole strip have the ICC Overlay so all properties are consistent. He made sure this is fine with Mr. Amini, who stated that is good.

Earl Campio came up to speak and stated his family had been in the city since 1945. Mr. Campio stated he owns the property at 1340 W. Holt Blvd. which when operating was a pottery yard. He stated at one point there was both a business and residence on the property and in 1952 it was zoned business, residential and light manufacturing. He continued by sharing that they manufactured pottery and his father was the last Native American from Prado Dam. His father was born at Prado as part of the El Rincon Reservation. He wants to know how the ICC Interim Overlay is granted; is it by how long you've lived there, pure history, or money.

Mr. Willoughby stated none of the above.

Mr. Campio stated he would disagree.

Mr. Willoughby stated it's based on the consistency of the use of the surrounding property.

Mr. Campio stated that by looking at the map [on the overhead], there are only two properties that currently have the ICC Overlay. One is Vince's Spaghetti, which he said his business was there at the same time. He shared their business no longer has a business license and they were no longer open. However, they still have a residence. He wants to know he can't have the interim overlay use.

Mr. Murphy asked Mr. Campio what use he has on the property now.

Mr. Campio stated strictly residential.

Mr. Murphy stated that is likely why the use of ICC Overlay was not considered. He said when they looked at rezoning; they were looking at existing commercial business and their longevity. This property has a residential use which it is consistent with the new zoning.

Mr. Campio asked if he can still live on his property, his children can live on this property.

Mr. Murphy confirmed they can.

Mr. Campio stated that he has been approached by state and maybe federal government about having his property donated as historical because his father was one of the last potters and a book has been written about his family. He shared his family decided not to go on the Reservation and they are featured in a book called *Oh My Ancestors*. He wanted to know if he decided to donate his home, would there be any conflict.

Mr. Murphy stated not at all; the City has a number of historic properties in commercial, residential and single and multi-family zones. He said they receive their own review as a historic property and whether they are eligible for state or national register would be determined at that review.

Jose Luis Barrera – did not come up to speak.

Erina Higa, who resides at 229 N. Vine referred to map 5. She stated she had comments about Holt/Vesta and San Antonio/Vine. She said the zoning is to change from medium-residential to commercial. She invited the Commission to drive down that neighborhood to see how commercial would look since it's a historic neighborhood. She also brought up the same parking issues and stabbing referred to by an earlier speaker.

Lorree Masonis referred to map 10, but didn't know if it affects her property since she lives at 1837 E. Fifth Street, off Vineyard and close to the 10 FWY.

Staff looked to see if her property is affected by any of the zone changes.

Mr. Willoughby stated her property is not impacted.

Ms. Masonis stated she still had questions. She asked about the Airport Influence (ACLUP).

Mr. Willoughby stated we were not dealing with the airport tonight and thanked her.

Mr. Willoughby asked if there was anyone else wanting to speak on these two items. A few hands went up in the chambers. Mr. Willoughby called them forward.

John Guerro came up to speak and stated he resides at 1752 S. Cypress. He stated he has concerns about Fern Ave. He stated the current zoning is Residential Agricultural and is changing to Medium-Density Residential. He is asked that the zoning stay the same. He stated that there's a nursery on Euclid that back's up to the property and if the zoning changes, his neighbors might develop apartments around him and that's a big concern.

Mr. Willoughby asked if he had a specific question for staff.

Mr. Guerro questioned if the zoning did change, will all the properties be developed separately or does there have to be a certain amount of property owned before it can be

developed.

Mr. Murphy stated they were trying to figure out what the minimum lot size for development was. He stated in theory they could be developed individually, however, as long and narrow as those lots are, it is unlikely to get a good configuration on them and meet the density requirement. He stated probably more likely and over time, someone will go in and consolidate the property and development all together. He said at this point in time it's hard to say.

Maria Alvara came with her son, who helped interpret on her behalf. He stated they reside at 1434 W. Stoneridge. They were questioning if they were going to build more houses and make it a higher residential area.

Mr. Willoughby asked staff to clarify what the proposed zoning is.

Ms. Burden stated that on the south side of Stoneridge they are proposing for HDR-45; which is High-Density Residential. She stated that most of these properties are developed.

Ms. Alvara's son stated this was another question, knowing there are already homes and apartments with little parking. They wondered if they would be forced to sell and what about the parking issue which already exists.

Mr. Willoughby explained there are no plans on the books, they are trying to bring the current zoning into consistency with The General Plan.

Mr. Murphy agreed with Mr. Willoughby stating that most of the properties down in that area are pretty well developed and are smaller apartment buildings. He states it is a bit of a challenge to think of redeveloping that area because there are so many owners that are out there and trying to go out and acquire all of those and redevelop all of those would be very difficult.

Joe Small came up to speak and stated he lives in Upland but owns the apartments located at 210 & 220 West D Street. He stated his apartments are the only thing on that lot and he's surrounding by parking lots. The zoning is changing to high-density and he feels this makes the property more enticing to sell. He wanted to know why it can't stay parking rather than changing to High-Density Residential.

Mr. Willoughby stated that they are making zoning consistent with The General Plan.

Mr. Small questioned if it wouldn't be advantageous to the City to stay parking.

Irma Diaz was there as a business owner and stated her neighboring land is being proposed to go from Heavy Industrial (IH) to General Industrial (IG). She wanted to know if that affects her neighboring property. She stated her property is located at Shea Center Drive.

Mr. Murphy stated Shea Center Drive is under a Specific Plan. He explained that the property going from Heavy Industrial (IH) to General Industrial (IG) which limits the

types of uses which can go on the property. The uses can't be as heavy as they currently allow. He said it's more compatible with what is out there now.

Mr. Willoughby called for a 3-5 minute recess.

As there was no one else wishing to speak, Chairman Willoughby closed the public testimony

Mr. Murphy wanted to put some of the expressed concerns by property owners at ease and explain what happens to legal uses if the proposed zoning is passed. He stated any use which is legally established, whether it is keeping horses or a used car lot, whatever the case may be, the zone change puts them in a category referred to as legal-nonconforming. He said the use can continue for as long as the owner wants it, they can sell their property and the same use can continue. He said it's only in the event when that use is discontinued for a period of time, and that varies depending on if it's commercial or residential property of whether it's 120 or 180 days. If that use is discontinued, they would not be able to re-establish that use. So, as long as they keep that use, they can have it for as long as they wish. He states that also applies to horse-keeping.

Mr. Willoughby asked for confirmation if the timeframe for residential had been extended up to 180 days.

Mr. Murphy said that was correct. It used to be 90 days. He shared that for commercial properties it went from 90 days to 120 days.

Mr. Gregorek questions the property at 740 W. Holt and if it would be brought into the ICC Overlay.

Mr. Willoughby stated that if the Commission is in agreement, this property would be made consistent with the surrounding properties and brought into the ICC Overlay.

Mr. Ricci asks for clarification regarding high-density residential. He had questions about parking requirements; how they relate to new development and the Development Code.

Mr. Murphy states the Development Code has standards for all new developments. Also, many of the apartment buildings and complexes which were mentioned were built with standards from many years/decades ago and that has led to the parking problems being experienced today.

Mr. Ricci asked if all new development would have to include some sort of provision for parking. For example so many spaces per dwelling. This might help with some of the concerns expressed.

Mr. Murphy stated that an even bigger concern for staff would be those projects along Holt Blvd. No parking is allowed on Holt, so parking must be provided on-site so it's not spilling off onto the streets and into the other neighborhoods. That would not be a good design on our part.

Mr. Willoughby stated that we must also realize that over the past 40 years car usage has changed quite a bit, as well as dwelling has changed. He stated planning staff has kept parking issues as a concern for all new development and any new development would have to meet current criteria, codes and zoning.

PLANNING COMMISSION ACTION

It was moved by Gregorek, seconded by Downs, to recommend City Council adopt the CEQA Determination of an Addendum to a previous EIR, Roll call vote: AYES, DeDiemar, Delman, Downs, Gregorek, Ricci, and Willoughby; NOES, none; RECUSE, none; ABSENT, Gage. The motion was carried 6 to 0.

It was moved by Ricci, seconded by Gregorek, to recommend City Council adopt a resolution to approve the General Plan Amendment, File No. PGPA16-001. Roll call vote: AYES, DeDiemar, Delman, Downs, Gregorek, Ricci, and Willoughby; NOES, none; RECUSE, none; ABSENT, Gage. The motion was carried 6 to 0.

It was moved by Gregorek, seconded by Delman, to recommend City Council adopt a resolution to approve the Zone Change, File No. PZC16-001 including the property at 740 W. Holt into the ICC Overlay. Roll call vote: AYES, DeDiemar, Delman, Downs, Gregorek, Ricci, and Willoughby; NOES, none; RECUSE, Gage; ABSENT, none. The motion was carried 6 to 0.

E. ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT CODE AMENDMENT REVIEW FOR FILE NO. PDCA16-002:

A Development Code Amendment proposing various modifications and clarifications to the following provisions of the Ontario Development Code:

[1] Revise Section 3.02.030 (Amortization and Abatement of Nonconforming Signs), deleting “billboard signs” from the nonconforming sign amortization list (Table 3.02-1: Amortization Period of Certain Classifications of Nonconforming Signs);

[2] Revise Division 5.02 (General Land Use Provisions), Division 5.03 (Standards for certain Land Uses, Activities, and Facilities), and Division 6.01 (District Standards and Guidelines), deleting all references to the CCC zoning district;

[3] Revise Table 5.02-1 (Land Use Matrix), adding “Escape and Exit Rooms” (live interactive adventure, labyrinth, leadership, and strategy games) to the list of allowed land uses in the CC (Community Commercial), CR (Regional Commercial), MU-1 (Mixed Use - Downtown), BP (Business Park), IL (Light Industrial), and IG (General Industrial) zoning districts;

[4] Revise Section 5.03.025 (Alcoholic Beverage Sales) to clarify that the Public Convenience or Necessity determination criteria (Paragraph F.3) only applies to off-premise Alcoholic Beverage Control licenses;

[5] Revise Section 5.03.395 (Temporary and Interim Land Uses, Buildings, and Structures) to clarify that a temporary outdoor sales event may only be allowed in conjunction with a legally established business that has been operated for a period of at least 180 days prior to the event;

[6] Revise Section 6.01.035 (Overlay Zoning Districts) to clarify that within the ICC Overlay District (Paragraph B.5), building alteration or expansion is only allowed in conjunction with an existing, legally established, commercial land use;

[7] Revise Section 8.01.020 (Sign Standards) to combine various Political Sign provisions into a single Subsection (8.01.020.K), and include provisions clarifying the purpose and intent of the Political Sign standards; and

[8] Revise Table 8.01-1 (Sign Regulation Matrix) to clarify timeframes for the issuance of temporary promotional and special event signs and banners.

The environmental impacts of this project were previously reviewed in conjunction with an Addendum to the Ontario Plan Environmental Impact Report (SCH# 2008101140) prepared for File No. PDCA11-003, which was adopted by the Ontario City Council (by Resolution No. 2015-095) on September 1, 2015. This Application introduces no new significant environmental impacts. 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 ONT Airport Land Use Compatibility Plan (ALUCP). **City Initiated. City Council action is required.**

Senior Planner, Chuck Mercier, presented the staff report. Mr. Mercier stated staff is recommending several clarifications and modifications to the Development Code as a clean-up to the recent Development Code Update. He explained in detail each of the recommended changes and revisions being proposed and why. He stated that staff is requesting the Planning Commission recommend to the City Council approval of File No. PDCA16-002.

PUBLIC TESTIMONY

No one responded.

As there was no one else wishing to speak, Chairman Willoughby closed the public testimony

PLANNING COMMISSION ACTION

It was moved by Gregorek, seconded by Downs, to recommend City Council adopt a resolution to approve the Development Code Amendment File No. PDCA16-002. Roll call vote: AYES, DeDiemar, Delman, Downs, Gregorek, Ricci, and Willoughby; NOES, none; RECUSE, none; ABSENT, Gage. The motion was carried 6 to 0.

F. CERTIFICATE OF APPROPRIATENESS AND ENVIRONMENTAL ASSESSMENT FOR FILE NO. PHP16-001:

A request for a Certificate of Appropriateness to construct 2 single story, single family residences (approximately 1750 square feet each) with detached garages (441 square feet each) on approximately 0.3 acres of land within the College Park Historic District, located at 326 East Fourth Street (APN: 1048-063-05) and 330 East Fourth Street (APN: 1048-063-06), within the LDR-5 (Low Density Residential – 2.1 to 5.0 DUs/Acre) zoning district. The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15303 (New Construction or Conversion of Small Structures). **Submitted by Kirk and Elena Wallace.**

Assistant Planner, Elly Antuna, presented the staff report. She stated the property is located within the College Park District and directly across from the Historic Graber

Cannery. Ms. Antuna stated the College Park was established in 2000 and is made up of mostly single-family residences. She shared there is an eclectic mix of architectural styles within the College Park District. Currently the proposed site is vacant except for an irrigation system. She stated the removal of the irrigation system will not affect the integrity of the College Park District according to an architectural historian survey. The parcels will have two single-family residences and have a detached garage. Ms. Antuna shared the architectural styles of each home and how they will fit into the College Park District. She stated notices were sent out property owners within 300 feet and to date, two neighboring property owners came to the Planning Counter and she shared with them the plans and design. Ms. Antuna says they both in support of the project. She also shared the Historic Preservation Subcommittee reviewed this project on March 10, 2016 at its regular meeting and has recommended approval with conditions. She stated that staff is recommending the Planning Commission approve File No. PHP16-001, pursuant to the facts and reasons contained in the staff report and attached resolution, and subject to the conditions of approval.

No one responded.

PUBLIC TESTIMONY

Francisco Campos the designer/architect of the houses appeared as the representative of the project.

Mr. Willoughby told him his designs were really nice and compliment the neighborhood.

As there was no one else wishing to speak, Chairman Willoughby closed the public testimony

Mr. Delman stated that the Historic Preservation Subcommittee proudly recommended this infield project.

PLANNING COMMISSION/HISTORIC PRESERVATION COMMITTEE ACTION

It was moved by Downs, seconded by Gregorek, to adopt a resolution to approve the Certificate of Appropriateness, File No. PHP16-001, subject to conditions of approval. Roll call vote: AYES, DeDiemar, Delman, Downs, Gregorek, Ricci, and Willoughby; NOES, none; RECUSE, none; ABSENT, Gage. The motion was carried 6 to 0.

- G. **SIXTEENTH ANNUAL MODEL COLONY AWARDS FOR FILE NO. PADV16-001**: A request for the Historic Preservation Commission to accept the nominations for the Sixteenth Annual Model Colony Awards; **submitted by City of Ontario. City Council presentation of Awards.**

Assistant Planner, Elly Antuna, presented the staff report. She stated that in conjunction with National Historic Preservation Month in May, the City recognizes historic achievements in preservation so the Model Colony Awards are awarded during this time. This year's ceremony will be held on Tuesday, May 3rd, during the scheduled City Council meeting. This year's theme is *Past Forward: Forging the Future with the Past*

and there are four nominees. Ms. Antuna shared information about each nominee, which are each a single-family residence. She gave background on their architectural style, significance and which award they will be receiving. The awards include: 2 Restoration Awards (located on Holt Boulevard and D Street), a John S. Landscape Award (located on Euclid Avenue) and an Award of Merit (located on Armsley Square). She stated that staff is requesting the Planning Commission recommend to City Council the presentation of the Model Colony Awards for File No. PADV16-001.

No one responded.

PUBLIC TESTIMONY

No one responded.

As there was no one else wishing to speak, Chairman Willoughby closed the public testimony

Mr. Willoughby stated these were four excellent houses.

PLANNING COMMISSION/HISTORIC PRESERVATION COMMITTEE ACTION

It was moved by Delman, seconded by DeDiemar, to recommend to City Council a presentation of the Sixteenth Annual Model Colony Awards, File No. PADV16-001. Roll call vote: AYES, DeDiemar, Delman, Downs, Gregorek, Ricci, and Willoughby; NOES, none; RECUSE, none; ABSENT, Gage. The motion was carried 6 to 0.

MATTERS FROM THE PLANNING COMMISSION

Old Business Reports From Subcommittees

Historic Preservation (Standing): This subcommittee met on March 10, 2016

- *Reviewed and recommended the Certificate of Appropriateness (PHP16-001)*
- *Welcomed Commissioner Gregorek in replacement of Commissioner Mautz*
- *Heard the Clift Notes version for the Model Colony Awards*

Development Code Review (Ad-hoc): This subcommittee did not meet.

Zoning General Plan Consistency (Ad-hoc): This subcommittee did not meet.

New Business

- Election of Officers
 - Chair – Mr. Downs makes a motion to nominate Mr. Willoughby
 - All in favor to keep the same
 - Vice All in favor to keep the same
 - All in favor to keep the same
 - The Chairman has the responsibility to next month come back with new subcommittee appointments if he so chooses.

NOMINATIONS FOR SPECIAL RECOGNITION

None at this time.

Mr. Delman hands out postcards for the Model Colony Awards to be held on May 3, 2016 during the City Council meeting at 6:30 p.m.

DIRECTOR'S REPORT

After Mr. Delman stated he will share his learning experiences from San Ramon (Planning Commissioners Academy) from earlier in the month, at a later time due to the late night; Mr. Murphy explained that when any Commissioner attends a conference they are obligated to share what they learned with the rest of the Commission.

ADJOURNMENT

Gregorek motioned to adjourn, seconded by Ricci. The meeting was adjourned at 9:27 p.m.

Secretary Pro Tempore

Vice-Chairman, Planning Commission



PLANNING COMMISSION STAFF REPORT

April 26, 2016

SUBJECT: A Development Plan (File No. PDEV15-030) to construct a 59-foot tall stealth wireless telecommunication facility (mono-Eucalyptus) on approximately 4.137 acres of land located at the southwest corner of Riverside Drive and Vineyard Avenue, at 8875 East Riverside Drive, within the SP (Specific Plan) zoning district, and the AG (Agriculture Overlay) district. (APNs: 0216-174-17); **submitted by Verizon Wireless.**

PROPERTY OWNER: Barth-Orion

RECOMMENDED ACTION: That the Planning Commission approve File No. PDEV15-030 based upon the facts and reasons contained in the staff report and attached resolution, and subject to the conditions of approval contained in the attached departmental reports.

PROJECT SETTING: The project site, depicted in Figure 1: Project Location, below, is comprised of 4.137 acres of land located at southwest corner Riverside Drive and Vineyard Avenue, at 8875 East Riverside Drive, within the SP zoning district and the AG (Agriculture Overlay) district, and is improved with an existing plant nursery (see Attachment A: Site Plan). The property accesses from Riverside Drive, and is secured with a chain link fence along the perimeter of the property. The site is heavily landscaped, which is attributable to the existing nursery business.

The areas to the west, south and east of the project site are zoned SP, are within the AG Overlay district. The property to the west is developed with residential and ancillary agricultural uses to the west. The property to the south contains commercial animal keeping (livestock farm). To the east is vacant land. The area north of the project site, across Riverside Drive, is developed with residential land uses, including a mobile home park and single-family dwellings.



Figure 1: Project Location

Case Planner:	Jeanie Irene Aguilo	Hearing Body	Date	Decision	Action
Planning Director Approval:		DAB	04/18/16	Approved	Recommend
Submittal Date:	08/31/15	ZA			
Hearing Deadline:	n/a	PC	04/26/16		Final
		CC			

PROJECT ANALYSIS:

[1] Background — On August 31, 2015, Verizon Wireless submitted a Development Plan (PDEV15-030) requesting approval to construct and operate a stealth telecommunications facility, with a 59-foot tall cell tower designed as a Eucalyptus tree. The facility will occupy a 672-square foot lease area (28' x 24') located at the southwest corner of Riverside Drive and Vineyard Avenue, on the site of an existing plant nursery located at the southeast corner of Schaefer Avenue and Campus Avenue, depicted in **Exhibit A: Aerial Map**, attached.

On April 18, 2016, the Development Advisory Board reviewed the subject application, and recommended that the Planning Commission approve the proposed project.

[2] Site Design — The proposed mono-Eucalyptus wireless telecommunication tower will be located on the southern portion of the existing nursery. The tower will measure 59 feet to the top of the proposed antennas and includes an additional 7 feet, measured to the top of the foliage, for an overall height of 66 feet.

Along with the cell tower, the facility will include a 672-square foot (28 feet x 24 feet) equipment enclosure, constructed of decorative masonry block, which will house the cell tower's operating equipment. The project site plan and tower elevations are depicted in **Exhibit B: Site Plan and Exhibit C: Elevations**.

Exhibits D-1 and D-2: Wireless Coverage Map, attached, depicts the wireless coverage before and after activation of the proposed wireless telecommunications facility. The "before" exhibit clearly shows a lack of coverage within the area surrounding the project site and further indicates that the proposed Verizon facility will enhance the wireless coverage in the area.

[3] Site Access/Circulation/Parking — The project will use an existing dirt access road currently used by the nursery. Access to the project site will be taken from Riverside Drive at the northwest driveway into the property. The driveway leads to a road that runs south through the project site, to the proposed Verizon wireless facility. A parking area will be provided immediately north of the equipment enclosure. A metal gate will be integrated into the enclosure design to allow access into the enclosure from the parking area. The new wireless facility will not create a significant new source of vehicle or truck traffic. In accordance to the Development Code, the project will provide one parking space on site, which will be used once or twice a month, when maintenance engineers visit the site.

[4] Architecture — The proposed project is consistent with the design guidelines set forth in the Ontario Development Code. The proposed mono-Eucalyptus cell tower

meets the City's design guidelines, and will blend in with the surrounding scenery. In addition, the following conditions of approval have been placed on the project to assure that the project will blend with the existing plant nursery:

[a] The mono-Eucalyptus shall include heavy, dense foliage with a minimum branch count of 3 branches per lineal foot of trunk height. Branches shall be randomly dispersed, and shall be of differing lengths, to provide a natural appearance. Branch density shall be consistent throughout the tree and shall not be concentrated in any one area. The branches shall have a natural shape and appearance, as depicted in **Exhibit E: Photo Simulations**, attached.

[b] Simulated bark shall extend the entire length of the pole (trunk), or the branch count shall be increased so that the pole is not visible.

[c] Branches and foliage shall extend beyond an antenna array, a minimum of 2 feet horizontally and 7 feet vertically, in order to adequately camouflage the array, antennas, and bracketry. In addition, antennas and supporting bracketry shall be wrapped in artificial Eucalyptus foliage.

[d] All antennas shall be fully concealed within the branches. Furthermore, all wires and connectors shall be fully concealed within the trunk, and all unused ports (for co-location) shall have covers installed.

The proposed location provides an opportunity for the carrier (Verizon) to provide telecommunication coverage on residentially zoned properties to the north, and agricultural and future development to the south. Furthermore, the telecommunication facility has a stealth design to mitigate its visual impact, and has been designed for collocation, which will potentially eliminate the need for an additional facility in the area. The facility location is separated from the mobile home park to the north by Riverside Drive and is set back more than 500 feet south of the front property line. Additional specimen trees will screen the stealth mono-Eucalyptus from view from the southeast and will blend into the surrounding scenery. These separations will provide a buffer between the telecommunication facility and neighboring residential and agricultural uses.

[5] Landscaping — The project proposes the installation of new landscaping adjacent to the equipment enclosure. Furthermore, the project will provide three new 36-inch box coast live oak trees to compliment the mono-Eucalyptus facility design. Five-gallon wax-leaf privets will also be installed along the perimeter of the equipment enclosure. A condition of approval has also been placed on the project requiring the applicant to replace any dead and missing landscaping around the existing telecommunication facility.

[6] Signage — Pursuant to Development Code requirements, an informational sign (measuring 2 feet x 2 feet), which includes the carriers information and an emergency contact number, will be installed outside the facility enclosure.

COMPLIANCE WITH THE ONTARIO PLAN: The proposed project is consistent with the principles, goals and policies contained within the Vision, Governance, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan (TOP). More specifically, the goals and policies of TOP that are furthered by the proposed project are as follows:

[1] City Council Priorities

Primary Goal: Regain Local Control of Ontario International Airport

Supporting Goals:

- Invest in the Growth and Evolution of the City's Economy
- Operate in a Businesslike Manner

[2] Policy Plan (General Plan)

Land Use Element — Compatibility

- Goal LU2: Compatibility between a wide range of uses.
 - LU2-6: Infrastructure Compatibility. We require infrastructure to be aesthetically pleasing and in context with the community character.

Community Economics Element — Place Making

- Goal CE2: A City of distinctive neighborhoods, districts, and corridors, where people choose to be.
 - CE2-1 Development Projects. We require new development and redevelopment to create unique, high-quality places that add value to the community.
 - CE2-2 Development Review. We require those proposing new development and redevelopment to demonstrate how their projects will create appropriately unique, functional and sustainable places that will compete well with their competition within the region.
 - CE2-4 Protection of Investment. We require that new development and redevelopment protect existing investment by providing architecture and urban design of equal or greater quality.

➤ CE2-5 Private Maintenance. We require adequate maintenance, upkeep, and investment in private property because proper maintenance on private property protects property values.

Community Design Element — Image & Identity

▪ Goal CD1: A dynamic, progressive city containing distinct neighborhoods and commercial districts that foster a positive sense of identity and belonging among residents, visitors, and businesses.

➤ CD1-1 City Identity. We take actions that are consistent with the City being a leading urban center in Southern California while recognizing the diverse character of our existing viable neighborhoods.

➤ CD1-3 Neighborhood Improvement. We require viable existing residential and non-residential neighborhoods to be preserved, protected, and enhanced in accordance with our land use policies.

Community Design Element — Design Quality

▪ Goal CD2: A high level of design quality resulting in public spaces, streetscapes, and developments that are attractive, safe, functional and distinct.

➤ CD2-1 Quality Architecture. We encourage all development projects to convey visual interest and character through:

- Building volume, massing, and height to provide appropriate scale and proportion;
- A true architectural style which is carried out in plan, section and elevation through all aspects of the building and site design and appropriate for its setting; and
- Exterior building materials that are visually interesting, high quality, durable, and appropriate for the architectural style.

➤ CD2-7 Sustainability. We collaborate with the development community to design and build neighborhoods, streetscapes, sites, outdoor spaces, landscaping and buildings to reduce energy demand through solar orientation, maximum use of natural daylight, passive solar and natural ventilation, building form, mechanical and structural systems, building materials and construction techniques.

➤ CD2-9 Landscape Design. We encourage durable landscaping materials and designs that enhance the aesthetics of structures, create and define public and private spaces, and provide shade and environmental benefits.

➤ CD2-13 Entitlement Process. We work collaboratively with all stakeholders to ensure a high degree of certainty in the efficient review and timely processing of all development plans and permits.

Community Design — Protection of Investment

▪ Goal CD5: A sustained level of maintenance and improvement of properties, buildings and infrastructure that protects the property values and encourages additional public and private investments.

➤ CD5-1 Maintenance of Buildings and Property. We require all public and privately owned buildings and property (including trails and easements) to be properly and consistently maintained.

AIRPORT LAND USE COMPATIBILITY PLAN COMPLIANCE: The project site is located within the Airport Influence Area of LA/Ontario International Airport and has been found to be consistent with the policies and criteria set forth within the LA/Ontario International Airport Land Use Compatibility Plan (ALUCP).

ENVIRONMENTAL REVIEW: The proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15332 (Class 32: In-Fill Development) of the CEQA Guidelines, based on the following:

- The project is consistent with the general plan designation and all the general plan policies as well as with the zoning designation and regulations;
- The project occurs within city limits on a site of less than five acres, and is substantially surrounded by urban uses;
- The site has no value as habitat for endangered, rare or threatened species because the site is fully developed with structures and surface parking; and
- The site can be adequately served by all required utilities and public services.

CONDITIONS OF APPROVAL: See attached department reports.

TECHNICAL APPENDIX:

Surrounding Zoning and Land Use:

	<i>Existing Land Use</i>	<i>General Plan Designation</i>	<i>Zoning Designation</i>	<i>Specific Plan Land Use</i>
<i>Site</i>	Nursery	NC (Neighborhood Commercial)	AG (Agriculture Overlay)	N/A
<i>North</i>	Mobile Home Park	Low-Medium Density Residential	MHP (Mobile Home Park)	N/A
<i>South</i>	Livestock	Low Density Residential	AG (Agriculture Overlay)	N/A
<i>East</i>	Vacant	Low Density Residential	AG (Agriculture Overlay)	N/A
<i>West</i>	Single Family Residential	NC (Neighborhood Commercial)	AG (Agriculture Overlay)	N/A

EXHIBITS

Exhibit A: Aerial Map

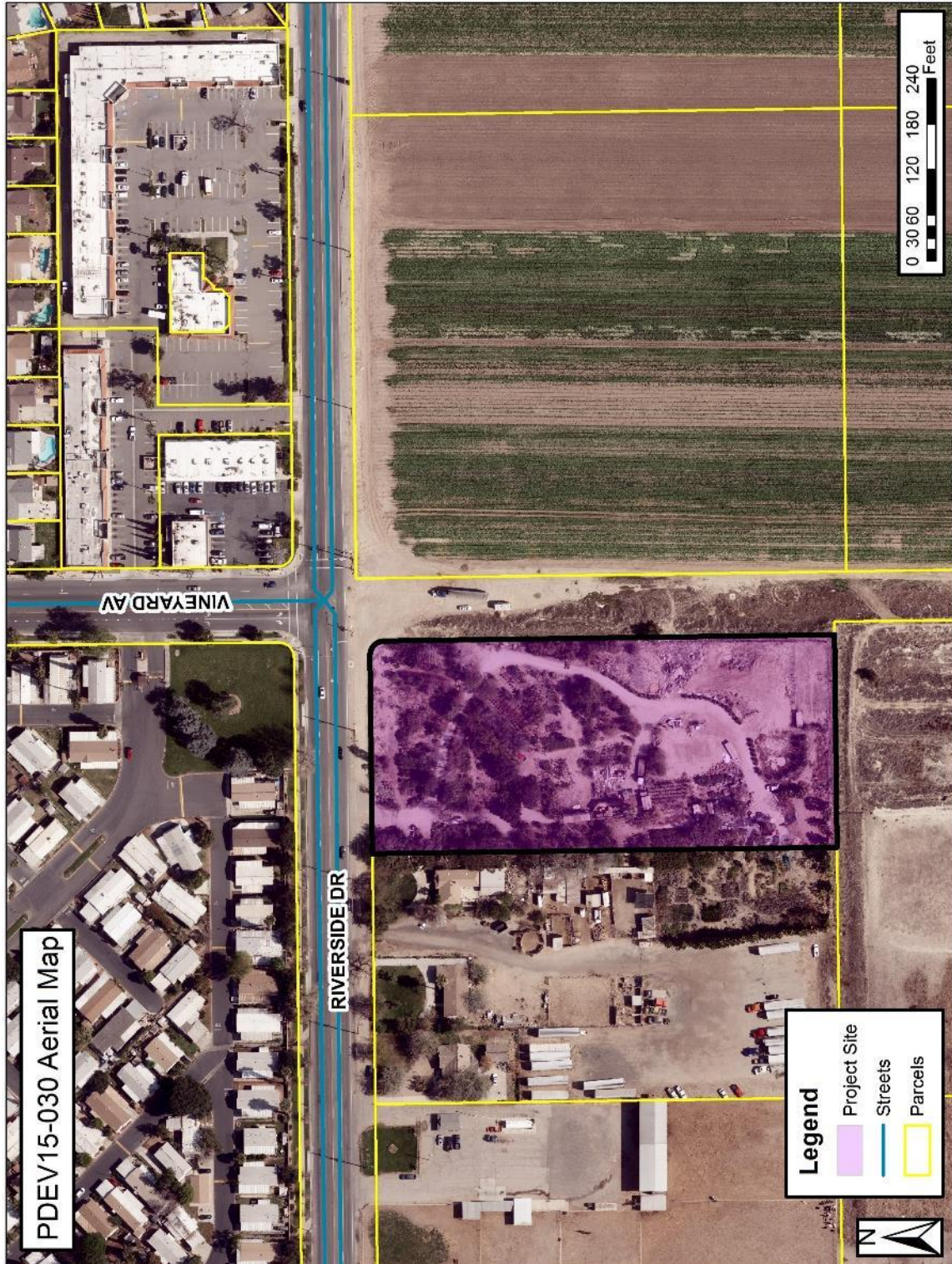


Exhibit B: Site Plan

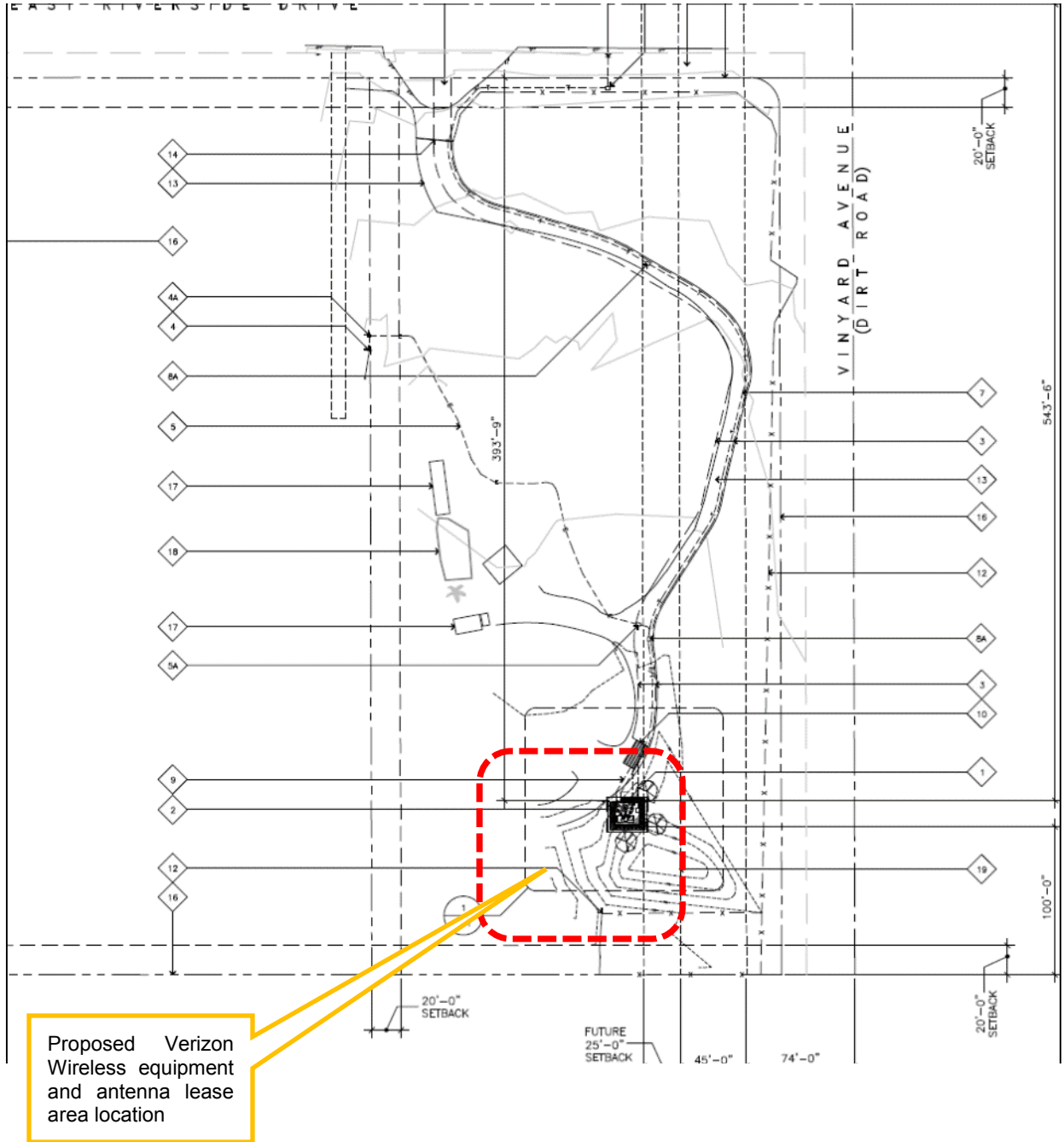


Exhibit B: Site Plan – Enlarged

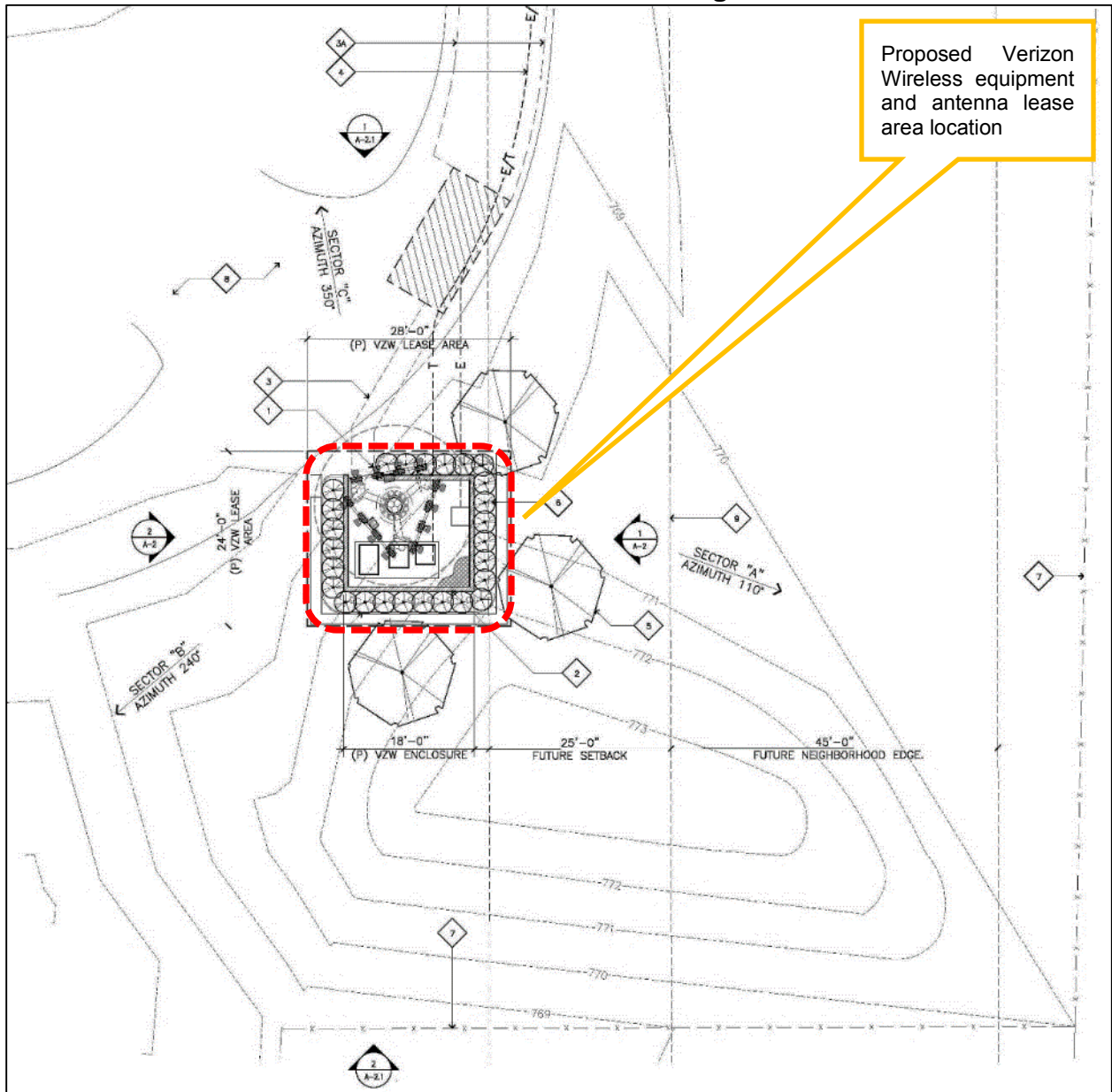


Exhibit C-1: Elevations

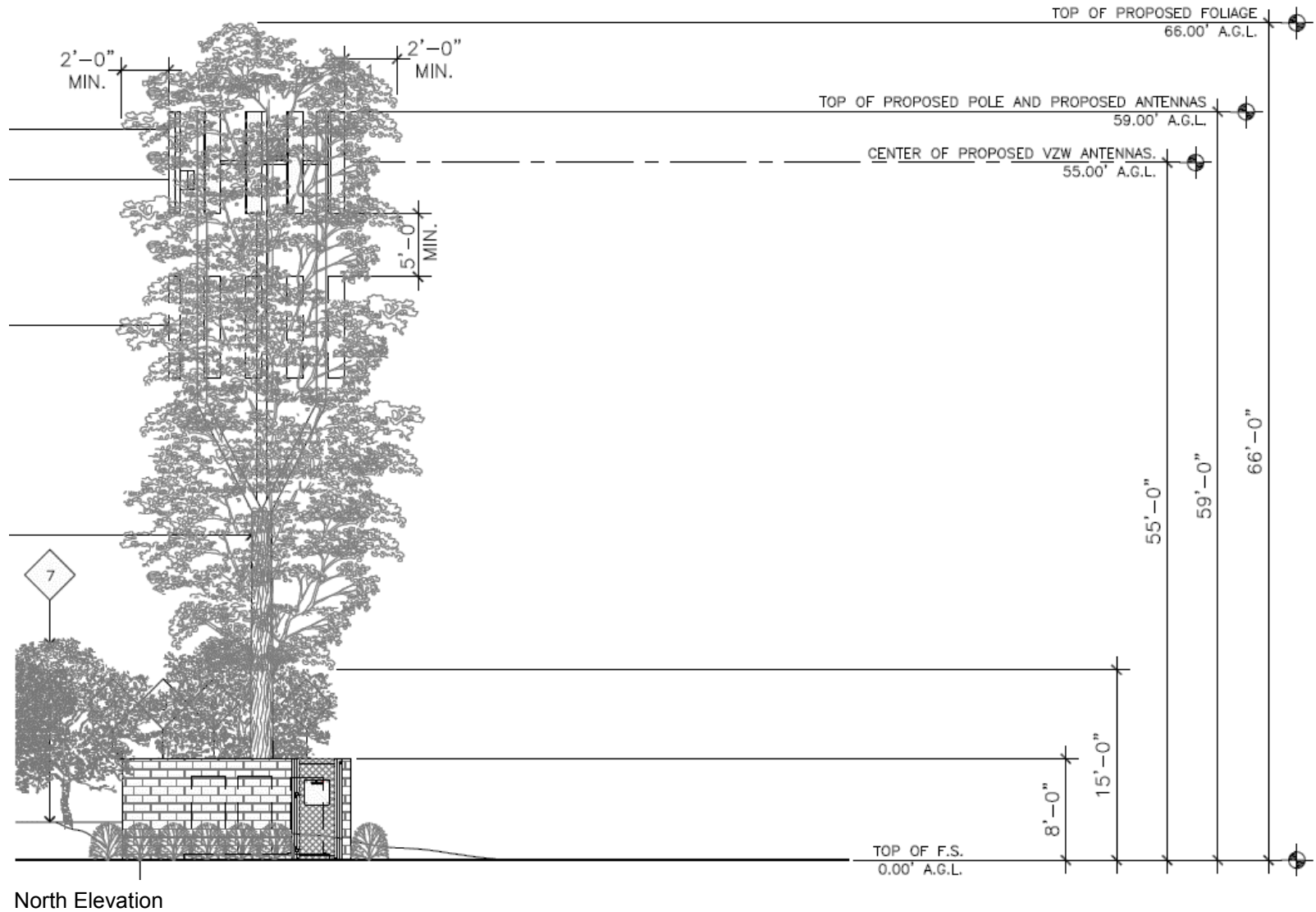


Exhibit C-2: Elevations

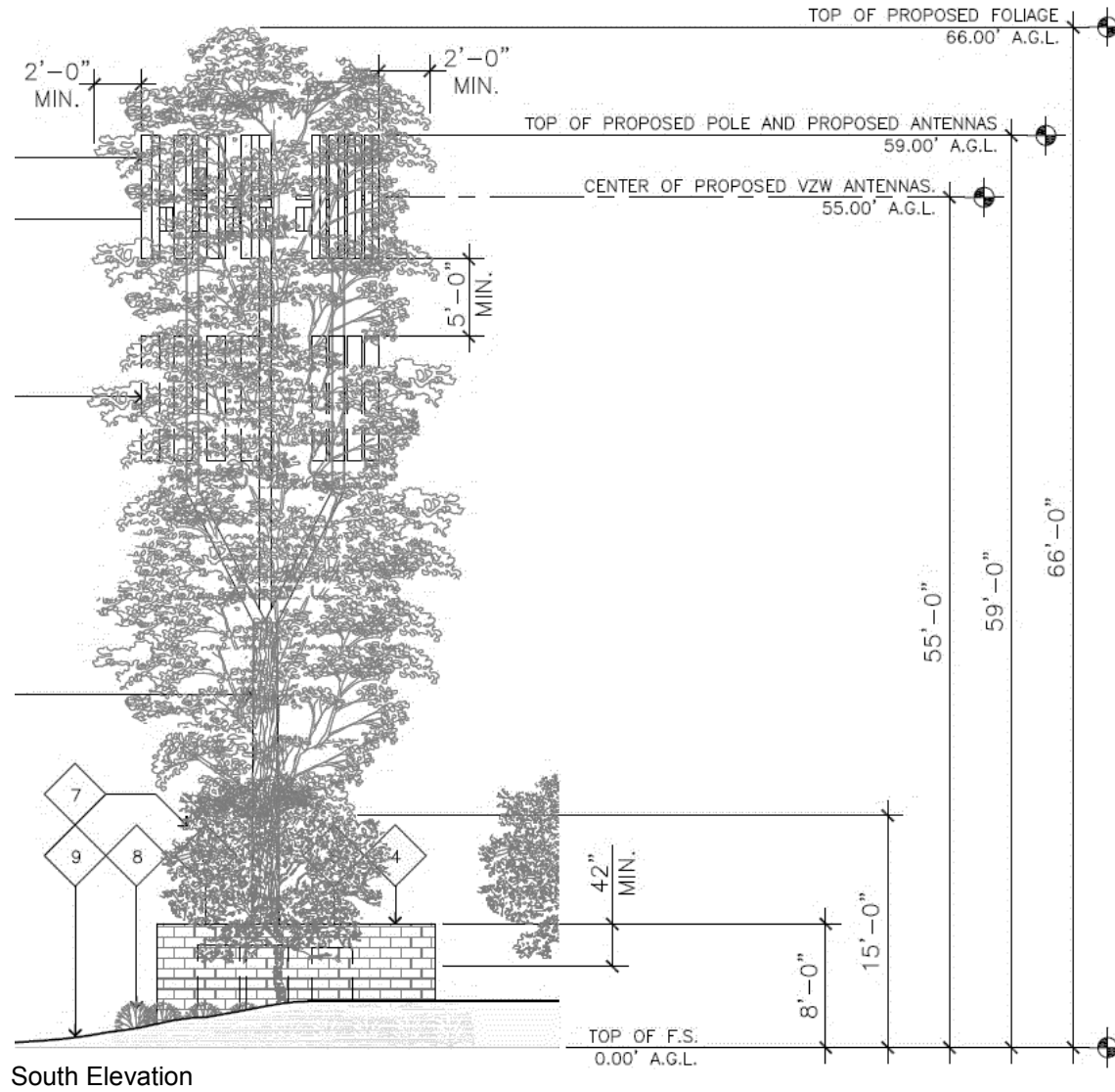
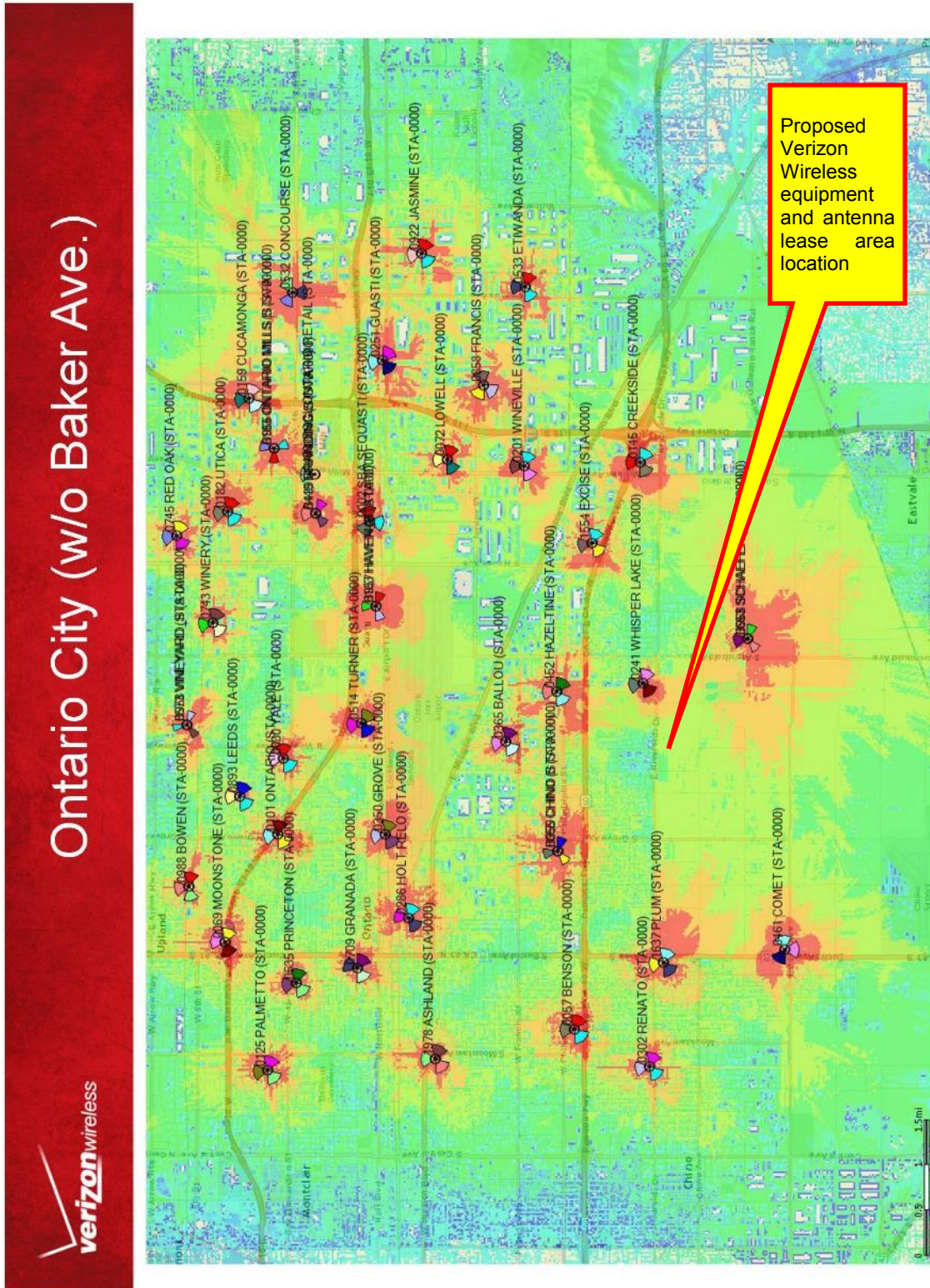
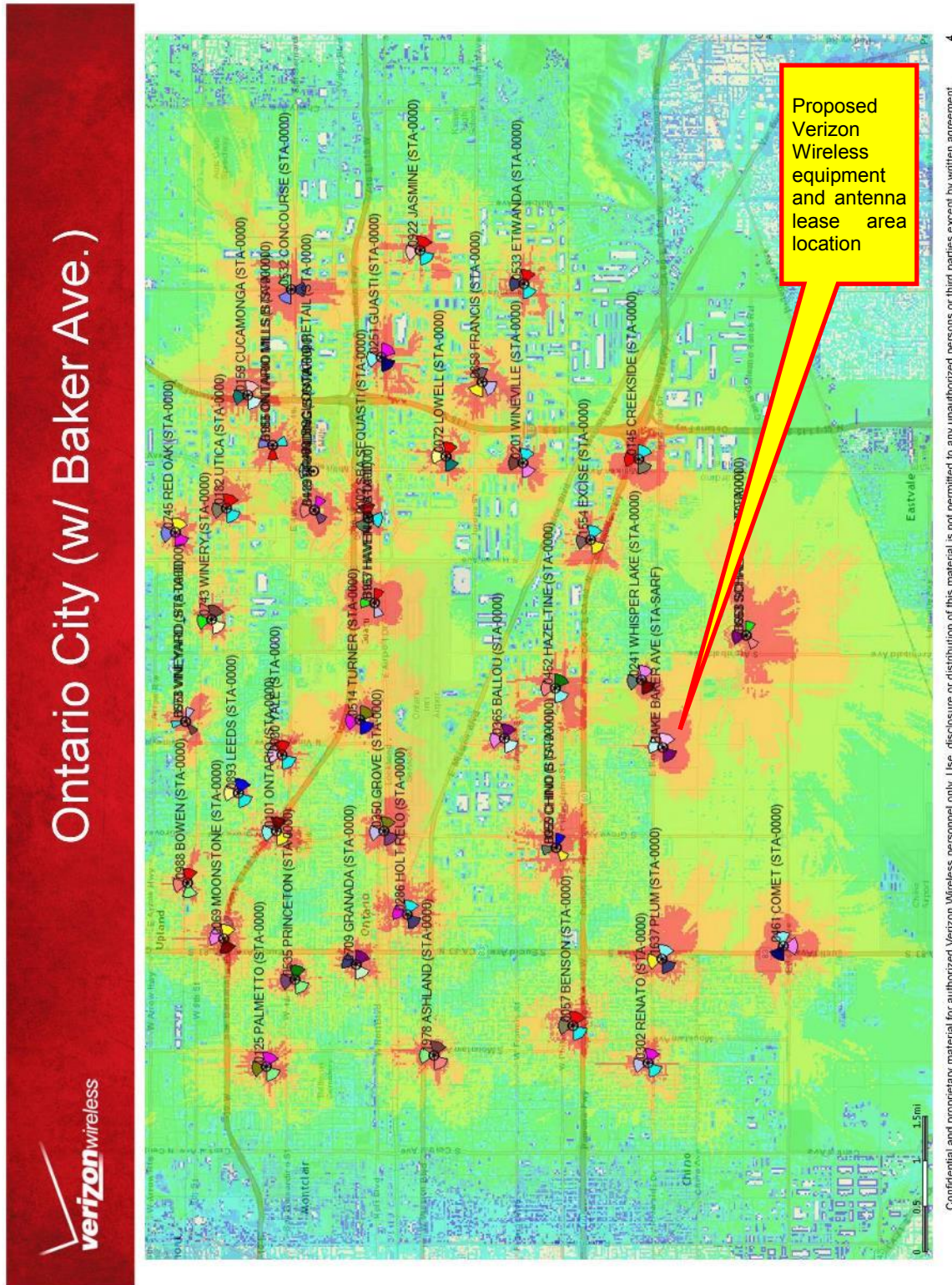


Exhibit D-1: Coverage Before Proposed Tower



Confidential and proprietary material for authorized Verizon Wireless personnel only. Use, disclosure or distribution of this material is not permitted to any unauthorized persons or third parties except by written agreement.

Exhibit D-2: Coverage After Proposed Tower



Confidential and proprietary material for authorized Verizon Wireless personnel only. Use, disclosure or distribution of this material is not permitted to any unauthorized persons or third parties except by written agreement.

Exhibit E-1: Photo Simulations

EXISTING

LOCATION

PROPOSED

PROPOSED MONOECALYPTUS LOCATION

Baker Ave
8775 East Riverside Drive
Ontario, CA 91761

VIEW 1

APPLICANT
Verizon Wireless
15505 Sand Canyon Avenue
Building "D" 1st Floor
Irvine, CA 92618

CONTACT
Coastal Business Group Inc.
16150 Scientific Way
Irvine, CA 92618
p 949.336.1550

Completed August 20, 2015

BLUE WATER DESIGN
bluewater-design.net
michelle@bluewater-design.net
p 714.473.2942

Photo simulation accuracy is based on information provided to Blue Water Design by the applicant.

Exhibit E-2: Photo Simulations

EXISTING

verizonwireless

LOCATION

PROPOSED

PROPOSED MONOEUCALYPTUS LOCATION

Baker Ave
8775 East Riverside Drive
Ontario, CA 91761

VIEW 2

APPLICANT
Verizon Wireless
15505 Sand Canyon Avenue
Building "D" 1st Floor
Irvine, CA 92618

CONTACT
Coastal Business Group Inc.
16150 Scientific Way
Irvine, CA 92618
p 949.336.1550

Completed August 20, 2015

BLUE WATER DESIGN
bluewater-design.net
michelle@bluewater-design.net
p 714.473.2942

Photo simulation accuracy is based on information provided to Blue Water Design by the Applicant.

Exhibit E-3: Photo Simulations

EXISTING

verizonwireless

LOCATION

PROPOSED

PROPOSED MONOEUCALYPTUS LOCATION

Baker Ave
8775 East Riverside Drive
Ontario, CA 91761
VIEW 3

APPLICANT
Verizon Wireless
15505 Sand Canyon Avenue
Building "D" 1st Floor
Irvine, CA 92618

CONTACT
Coastal Business Group, Inc.
16150 Scientific Way
Irvine, CA 92618
p 949.336.1550

Completed August 20, 2015

BLUE WATER DESIGN
bluewaterdesign.net
michelle@bluewater-design.net
p 714.473.2942

Photo simulation accuracy is based on information provided to Blue Water Design by the applicant.

Exhibit E-4: Photo Simulations

EXISTING

verizonwireless

LOCATION

PROPOSED

PROPOSED MONOEUCALYPTUS LOCATION

Baker Ave
8775 East Riverside Drive
Ontario, CA 91761
VIEW 4

APPPLICANT
Verizon Wireless
15505 Sand Canyon Avenue
Building "D" 1st Floor
Irvine, CA 92618

CONTACT
Coastal Business Group Inc.
16150 Scientific Way
Irvine, CA 92618
p 949.336.1550

Completed August 20, 2015

BLUE WATER DESIGN
bluewater-design.net
michelle@bluewater-design.net
p 714.473.2942

Photo simulation accuracy is based on information provided to Blue Water Design by the applicant.

RESOLUTION NO. PC16-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDEV15-030, A 59-FOOT TALL STEALTH WIRELESS TELECOMMUNICATION FACILITY (MONO-EUCALYPTUS) ON APPROXIMATELY 4.137 ACRES OF LAND LOCATED AT THE SOUTHWEST CORNER OF RIVERSIDE DRIVE AND VINEYARD AVENUE, AT 8875 EAST RIVERSIDE DRIVE, WITHIN THE SP (SPECIFIC PLAN) ZONING DISTRICT AND AG (AGRICULTURE OVERLAY) DISTRICT, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: 0216-174-17.

WHEREAS, VERIZON WIRELESS ("Applicant") has filed an Application for the approval of a Development Plan, File No. PDEV15-030, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 4.137 acres of land generally located at the southwest corner of Riverside Drive and Vineyard Avenue, at 8875 East Riverside Drive within the SP (Specific Plan) zoning district and AG (Agriculture Overlay) district, and is presently improved with a plant nursery; and

WHEREAS, the property to the north of the Project site is within the MHP (Mobile Home Park) zoning district, and is developed with a mobile home park. The property to the east is within the SP (Specific Plan) zoning district and AG (Agriculture Overlay) district and is currently vacant. The property to the south is within the SP zoning district and AG overlay district and is developed with a livestock farm. The property to the west is within the SP zoning district and AG overlay district and is developed with a single-family home; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"); and

WHEREAS, the proposed project is located within the Airport Influence Area of Ontario International Airport, and was evaluated and found to be consistent with the policies and criteria of the Ontario International Airport Land Use Compatibility Plan (ALUCP); and

WHEREAS, the Project is exempt from CEQA pursuant to a categorical exemption (listed in CEQA Guidelines Article 19, commencing with Section 15300) and the application of that categorical exemption is not barred by one of the exceptions set forth in CEQA Guidelines Section 15300.2; and

WHEREAS, on April 18, 2016, the Development Advisory Board of the City of Ontario conducted a hearing and issued a Decision No. DAB16-013 recommending the Planning Commission approve the Application; and

WHEREAS, on April 26, 2016, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND RESOLVED by the Planning Commission of the City of Ontario, as follows:

SECTION 1. As the decision-making body for the Project, the Planning Commission has reviewed and considered the information contained in the administrative record for the Project. Based upon the facts and information contained in the administrative record, including all written and oral evidence presented to the Planning Commission, the Planning Commission finds as follows:

a. The Project is categorically exempt from environmental review pursuant to Section 15332 (32, In-Fill Development) of the CEQA Guidelines, based on the following:

- The project is consistent with the general plan designation and all the general plan policies as well as with the zoning designation and regulations;
- The project occurs within city limits on a site of less than five acres, and is substantially surrounded by urban uses;
- The site has no value as habitat for endangered, rare or threatened species because the site is fully developed with structures and surface parking; and
- The site can be adequately served by all required utilities and public services.

b. The application of the categorical exemption is not barred by one of the exceptions set forth in CEQA Guidelines Section 15300.2; and

c. The determination of CEQA exemption reflects the independent judgment of the Planning Commission.

SECTION 2. Based upon the substantial evidence presented to the Planning Commission during the above-referenced hearing and upon the specific findings set forth in Section 1 above, the Planning Commission hereby concludes as follows:

a. The proposed development at the proposed location is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan.

b. The proposed development is compatible with those on adjoining sites in relation to location of buildings, with particular attention to privacy, views, any physical constraint identified on the site and the characteristics of the area in which the site is located. The project is a compatible use with the project site, and the surrounding area. The proposed telecommunication tower has been architecturally designed to complement the existing nursery and landscaping on site and adjacent undeveloped properties. In addition, the proposed height of 59 feet is below the allowed height of 65 feet. Once completed, the proposed telecommunication tower will appear as an integral part of the original development of the site.

c. The proposed development will complement and/or improve upon the quality of existing development in the vicinity of the project and the minimum safeguards necessary to protect the public health, safety and general welfare have been required of the proposed project. The proposed wireless telecommunication tower will provide necessary coverage for Verizon customers in the area, where there is currently deficient coverage. By improving coverage in the immediate area, this will also improve public safety because both the public and police will be able to communicate better.

d. The proposed development is consistent with the development standards and design guidelines set forth in the Development Code, or applicable specific plan or planned unit development. The project is consistent with the development standards set forth in the Ontario Development Code. The project is not requesting any variances. If the proposed Conditional Use Permit is approved, the proposed telecommunication tower will meet all the Development Code requirements as specified in the Ontario Development Code.

SECTION 3. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the Planning Commission hereby APPROVES the herein described Application subject to each and every condition set forth in the Department reports, attached hereto and incorporated herein by this reference.

SECTION 4. 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 this approval. 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.

SECTION 5. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 6. The Secretary shall certify to the adoption of the Resolution.

The Secretary Pro Tempore for the Planning Commission of the City of Ontario shall certify as to the adoption of this Resolution.

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 26 day of April 2016, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

James Downs
Planning Commission Vice-Chairman

ATTEST:

Scott Murphy
Planning Director/Secretary of Planning
Commission

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, Marci Callejo, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC16-[insert #] was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on April 26, 2016, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marci Callejo
Secretary Pro Tempore



Planning Department Conditions of Approval

Prepared: April 18, 2016

File No: PDEV15-030

Related Files:

Project Description: A Development Plan to construct a 59-foot tall stealth wireless telecommunication facility (mono-Eucalyptus) on approximately 4.137 acres of land located at the southwest corner of Riverside Drive and Vineyard Avenue, at 8875 East Riverside Drive, within the AG (Agriculture Overlay) zoning district. (APNs: 0216-174-17); **submitted by Verizon Wireless.**

Prepared by: Jeanie Irene Aguilo, Assistant Planner

Phone: (909) 395-2036; **Email:** jaguilo@ontarioca.gov; **Fax:** (909) 395-2420

CONDITIONS OF APPROVAL

The above-described Project shall comply with the following conditions of approval:

1.0 Standard Conditions of Approval. The project shall comply with the *Standard Conditions for New Development*, adopted by City Council Resolution No. 2010-021 on March 16, 2010. A copy of the *Standard Conditions for New Development* may be obtained from the Planning Department or City Clerk/Records Management Department.

2.0 Special Conditions of Approval. In addition to the *Standard Conditions for New Development* identified in condition no. 1.0, above, the project shall comply with the following special conditions of approval:

2.1 Time Limits. Project approval shall become null and void 2 years following the effective date of application approval, unless a building permit is issued and construction is commenced, and diligently pursued toward completion, or a time extension has been approved. This condition does not supersede any individual time limits specified herein, or any other departmental conditions of approval applicable to the Project, for the performance of specific conditions or improvements.

2.2 Mono-Eucalyptus Design Details.

(a) The mono-Eucalyptus shall include heavy, dense foliage with branch count minimum of 3 branches per lineal FT of trunk height. Branches shall be randomly dispersed and of differing lengths to provide a natural appearance. Branch density shall be consistent throughout the tree and shall not be concentrated in any one area. The branches shall have a natural shape and appearance.

(b) Simulated bark shall extend the entire length of the pole (trunk), or the branch count shall be increased so that the pole is not visible.

(c) Branches and foliage shall extend beyond an antenna array a minimum of 2 FT horizontally and 7 FT vertically, in order to adequately camouflage the array, antennas and bracketry. In addition, antennas and supporting bracketry shall be wrapped in artificial Eucalyptus foliage.

(d) All antennas shall be fully concealed within the branches. Furthermore, all wires and connectors shall be fully concealed within the trunk, and all unused ports (for co-location) shall have covers installed.

2.3 Signs.

(a) A sign measuring 2 FT high by 2 FT wide shall be posted at the exterior entrance of wireless telecommunications facilities, and clearly visible to the public, identifying the carrier(s) and contact telephone number(s) for reporting emergency and maintenance issues.

2.4 Graffiti Abatement.

(a) An anti-graffiti coating shall be applied to the exterior of the enclosure.

(b) All graffiti shall be removed within 48 hours.

2.5 Maintenance.

(a) Verizon Wireless is required to maintain their portion of the site. The enclosure shall be repaired/repainted as necessary over time. The mono-Eucalyptus structure shall be repaired/replaced with new branches over time, as needed.

(b) All new landscaping that is required to be installed in conjunction with this project shall be adequately watered and generally maintained. Should plant material die-off, replacement of similar plant material is required.

2.6 Business License.

(a) Verizon Wireless is required to obtain and maintain a City Business License for operating at the project site.

2.7 Environmental Review.

(a) The proposed project is categorically exempt from the requirements of the California Environmental Quality Act of 1970 (CEQA), as amended, and the Guidelines promulgated thereunder, pursuant to § Section 15332 (Class 32: In-Fill Development Projects) of the CEQA Guidelines.

(b) 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.

(c) If human remains are found during project grading/excavation/construction activities, the area shall not be disturbed until any required investigation is completed by the County Coroner and Native American consultation has been completed (if deemed applicable).

(d) If any archeological or paleontological resources are found during project grading/excavation/construction, the area shall not be disturbed until the significance of the resource is determined. If determined to be significant, the resource shall be recovered by a qualified archeologist or paleontologist consistent with current standards and guidelines, or other appropriate measures implemented.

2.8 Additional Fees.

(a) After project's entitlement approval and prior to issuance of final building permits, the Planning Department's Plan Check (\$1,301) and Inspection (\$278) fees shall be paid at the rate established by resolution of the City Council.

(b) Within 5 days following final application approval, the Notice of Determination (NOD), Notice of Exemption (NOE), filing fee of \$50 shall be provided to the Planning Department. The fee shall be paid by check, made payable to the "Clerk of the Board of Supervisors", which will be forwarded to the San Bernardino County Clerk of the Board of Supervisors, along with all applicable environmental forms/notices, pursuant to the requirements of the California Environmental Quality Act (CEQA). Failure to provide said fee within the time specified may result in the 30-day statute of limitations for the filing of a CEQA lawsuit being extended to 180 days.

2.9 Additional Requirements.

(a) A final inspection from Planning shall be required prior to a final given by Building and Safety.

**CITY OF ONTARIO
 LANDSCAPE PLANNING
 DIVISION**

303 East "B" Street, Ontario, CA 91764

CONDITIONS OF APPROVAL

Sign Off	
	1/06/16
Carolyn Bell, Sr. Landscape Planner	Date

Reviewer's Name: Carolyn Bell, Sr. Landscape Planner	Phone: (909) 395-2237
--	---------------------------------

D.A.B. File No.: PDEV15-030 Rev 2	Case Planner: Jeanie Aguilo
--------------------------------------	--------------------------------

Project Name and Location: Verizon Baker Ave 8775 East Riverside Drive	
Applicant/Representative: Coastal Business Group – Damian Pichardo 15505 Sand Canyon Ave Irvine, CA 92618	

<input checked="" type="checkbox"/>	A Preliminary Landscape Plan (dated 12/10/2015) meets the Standard Conditions for New Development and has been approved with the consideration that the following conditions below be met upon submittal of the landscape construction documents.
<input type="checkbox"/>	A Preliminary Landscape Plan dated has not been approved. Corrections noted below are required prior to Preliminary Landscape Plan approval.

CORRECTIONS REQUIRED

For construction phase:

1. Provide landscape and irrigation plans. Include automatic irrigation system with anti-siphon valves, underground PVC pipe, pop up stream bubblers, 3 per tree or drip line for shrubs and 3 microspray heads for trees min 30gph on an automatic controller. Show controller on outside of enclosure, provide electrical connection.
2. Note for regular maintenance minimum every 60 days to clean up leaves or debris, check irrigation, fertilize, re-stake trees, prune dead branches, etc. as needed.
3. Provide grading plans to show enclosure on level grade.



CITY OF ONTARIO

MEMORANDUM

TO: Otto Kroutil, Development Director
Scott Murphy, Planning Director
Cathy Wahlstrom, Principal Planner (Copy of memo only)
Charity Hernandez, Economic Development
Kevin Shear, Building Official
Raymond Lee, Assistant City Engineer
Carolyn Bell, Landscape Planning Division
Sheldon Yu, Municipal Utility Company
Doug Sorel, Police Department
Art Andres, Deputy Fire Chief/Fire Marshal
Brent Schultz, Housing and Neighborhood Revitalization Director (Copy of memo only)
Julie Bjork, Housing Manager
Tom Danna, T. E., Traffic/Transportation Manager
Lorena Mejia, Associate Planner, Airport Planning (Copy of memo only)
Steve Wilson, Engineering/NPDES
Bob Gluck, Code Enforcement Director

FROM: Jeanie Aguilo,

DATE: December 10, 2015

SUBJECT: FILE #: PDEV15-030

Finance Acct#:


The following project has been resubmitted for review. Please send one (1) copy and email one (1) copy of your DAB report to the Planning Department by **Thursday, December 24, 2015**.

PROJECT DESCRIPTION: A Development Plan to construct a wireless telecommunications facility (monoeucalyptus) totaling 360 square feet on approximately 4.1 acres of land located at the southwest corner of Riverside Drive and Vineyard Ave, within the SP(AG) zoning district (APN: 0216-174-17).

- The plan does adequately address the departmental concerns at this time.
- No comments
- See previous report for Conditions
- Report attached (1 copy and email 1 copy)
- Standard Conditions of Approval apply
- The plan does not adequately address the departmental concerns.
- The conditions contained in the attached report must be met prior to scheduling for Development Advisory Board.

Engineering (Land)

Department


Signature

Eng. Assistant
Title

12/15/15
Date



CITY OF ONTARIO

MEMORANDUM

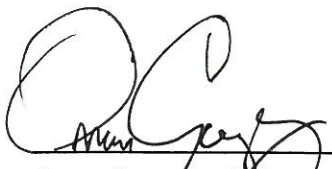
ENGINEERING DEPARTMENT CONDITIONS OF APPROVAL

(Traffic/Transportation Division and Municipal Utilities Agency, and Environmental Section Conditions incorporated)

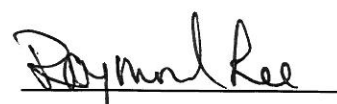
DATE: 12/15/2015
PROJECT: PDEV15-030, Mono-Eucalyptus
APN: 0216-174-17
LOCATION: 8875 E Riverside Drive
PROJECT ENGINEER: Antonio Alejos
PROJECT PLANNER: Jeanie Aguilo

The following items are the Conditions of Approval for the subject project:

1. No Conditions.


Omar Gonzalez, P.E.
Senior Associate Engineer

12/15/15
Date


Raymond Lee, P.E.
Assistant City Engineer

12/15/15
Date

AIRPORT LAND USE COMPATIBILITY PLANNING

CONSISTENCY DETERMINATION REPORT



Project File No.: PDEV15-030

Address: 8875 E RIVERSIDE DR

APN: 216-174-17

Existing Land Use: Agriculture & Dairy Farm

Proposed Land Use: wireless facility 65' mono-eucalyptus

Site Acreage: 4.13 Proposed Structure Height: 65 feet

ONT-IAC Project Review: N/A

Airport Influence Area: ONT

Reviewed By: Lorena Mejia

Contact Info: 909-395-2276

Project Planner: Jeanie Aguilo

Date: 10/20/15

CD No.: 2015-044

PALU No.: n/a

The project is impacted by the following ONT ALUCP Compatibility Zones:

Safety	Noise Impact	Airspace Protection	Overflight Notification
<input type="radio"/> Zone 1	<input type="radio"/> 75+ dB CNEL	<input type="radio"/> High Terrain Zone	<input type="radio"/> Avigation Easement Dedication
<input type="radio"/> Zone 1A	<input type="radio"/> 70 - 75 dB CNEL	<input checked="" type="checkbox"/> FAA Notification Surfaces	<input type="radio"/> Recorded Overflight Notification
<input type="radio"/> Zone 2	<input type="radio"/> 65 - 70 dB CNEL	<input checked="" type="checkbox"/> Airspace Obstruction Surfaces	<input checked="" type="checkbox"/> Real Estate Transaction Disclosure
<input type="radio"/> Zone 3	<input type="radio"/> 60 - 65 dB CNEL	<input type="radio"/> Airspace Avigation Easement Area	
<input type="radio"/> Zone 4		Allowable Height: 200 + feet	
<input type="radio"/> Zone 5			

The project is impacted by the following Chino ALUCP Compatibility Zones:

Zone A
 Zone B1
 Zone C
 Zone D
 Zone E

CONSISTENCY DETERMINATION

This proposed Project is: Exempt from the ALUCP Consistent Consistent with Conditions Inconsistent

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 Airport Land Use Compatibility Plan (ALUCP) for ONT provided that the following conditions are met:

See Attached

Airport Planner Signature: _____

AIRPORT LAND USE COMPATIBILITY PLANNING

CONSISTENCY DETERMINATION REPORT

CD No.: 2015-044
PALU No.: n/a

PROJECT CONDITIONS

1. The project applicant is required to file a FAA Form 7460-1 due to potential electronic interference to aircraft in flight and receive a determination of “No Hazard” from FAA prior to project approval, the website link is provided below.

<https://oeaaa.faa.gov/oeaaa/external/portal.jsp>

CITY OF ONTARIO

MEMORANDUM

TO: PLANNING DEPARTMENT, Jeanie Aguilo
FROM: BUILDING DEPARTMENT, Kevin Shear
DATE: September 10, 2015
SUBJECT: PDEV15-030

-
- The plan **does** adequately address the departmental concerns at this time.
- No comments
- Report below.

Conditions of Approval

1. The address for the project will be 1720 E. Riverside Drive.

KS : kb



CITY OF ONTARIO

MEMORANDUM

TO: Otto Kroutil, Development Director
 Scott Murphy, Planning Director
 Cathy Wahlstrom, Principal Planner (Copy of memo only)
 Charity Hernandez, Economic Development
 Kevin Shear, Building Official
 Raymond Lee, Assistant City Engineer
 Carolyn Bell, Landscape Planning Division
 Sheldon Yu, Municipal Utility Company
 Doug Sorel, Police Department
 Art Andres, Deputy Fire Chief/Fire Marshal
 Brent Schultz, Housing and Neighborhood Revitalization Director (Copy of memo only)
 Julie Bjork, Housing Manager
 Tom Danna, T. E., Traffic/Transportation Manager
 Lorena Mejia, Associate Planner, Airport Planning (Copy of memo only)
 Steve Wilson, Engineering/NPDES
 Bob Gluck, Code Enforcement Director

FROM: Jeanie Aguilo,

DATE: September 01, 2015

SUBJECT: FILE #: PDEV15-030

Finance Acct#:

The following project has been submitted for review. Please send one (1) copy and email one (1) copy of your DAB report to the Planning Department by **Tuesday, September 15, 2015**.

- Note:**
- Only DAB action is required
 - Both DAB and Planning Commission actions are required
 - Only Planning Commission action is required
 - DAB, Planning Commission and City Council actions are required
 - Only Zoning Administrator action is required

PROJECT DESCRIPTION: A request for Development Plan approval to construct an unmanned telecommunications facility (mono-Eucalyptus) totaling 360 square feet on approximately 4.137 acres of land located at the southwest corner of Riverside Dr and Vineyard Ave, within the SP(AG) zoning district (APN 21617417).

The plan does adequately address the departmental concerns at this time.

- No comments
- Report attached (1 copy and email 1 copy)
- Standard Conditions of Approval apply

The plan does not adequately address the departmental concerns.

- The conditions contained in the attached report must be met prior to scheduling for Development Advisory Board.

Building

Department

Signature


Title

Date



CITY OF ONTARIO MEMORANDUM

TO: Otto Kroutil, Development Director
 Scott Murphy, Planning Director
 Cathy Wahlstrom, Principal Planner (Copy of memo only)
 Charity Hernandez, Economic Development
 Kevin Shear, Building Official
 Raymond Lee, Assistant City Engineer
 Carolyn Bell, Landscape Planning Division
 Sheldon Yu, Municipal Utility Company
 Doug Sorel, Police Department
 Art Andres, Deputy Fire Chief/Fire Marshal
 Brent Schultz, Housing and Neighborhood Revitalization Director (Copy of memo only)
 Julie Bjork, Housing Manager
 Tom Danna, T. E., Traffic/Transportation Manager
 Lorena Mejia, Associate Planner, Airport Planning (Copy of memo only)
 Steve Wilson, Engineering/NPDES
 Bob Gluck, Code Enforcement Director

City of Ontario
 Housing & Municipal Services
 SEP 02 2015
 Received by 

FROM: Jeanie Aguilo,

DATE: September 01, 2015

SUBJECT: FILE #: PDEV15-030 Finance Acct#:

The following project has been submitted for review. Please send one (1) copy and email one (1) copy of your DAB report to the Planning Department by **Tuesday, September 15, 2015**.

- Note:
- Only DAB action is required
 - Both DAB and Planning Commission actions are required
 - Only Planning Commission action is required
 - DAB, Planning Commission and City Council actions are required
 - Only Zoning Administrator action is required

PROJECT DESCRIPTION: A request for Development Plan approval to construct an unmanned telecommunications facility (mono-Eucalyptus) totaling 360 square feet on approximately 4.137 acres of land located at the southwest corner of Riverside Dr and Vineyard Ave, within the SP(AG) zoning district (APN 21617417).

- The plan does adequately address the departmental concerns at this time.
 - No comments
 - Report attached (1 copy and email 1 copy)
 - Standard Conditions of Approval apply
- The plan does not adequately address the departmental concerns.
 - The conditions contained in the attached report must be met prior to scheduling for Development Advisory Board.

Housing & Municipal Services

Department

Signature

Housing & Municipal Services Dir.

Title

Date



CITY OF ONTARIO

MEMORANDUM

TO: Otto Kroutil, Development Director
Scott Murphy, Planning Director
Cathy Wahlstrom, Principal Planner (Copy of memo only)
Charity Hernandez, Economic Development
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Lorena Mejia, Associate Planner, Airport Planning (Copy of memo only)
Steve Wilson, Engineering/NPDES
Bob Gluck, Code Enforcement Director

FROM: Jeanie Aguilo,

DATE: September 01, 2015

SUBJECT: FILE #: PDEV15-030

Finance Acct#:

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- Note:
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 - Both DAB and Planning Commission actions are required
 - Only Planning Commission action is required
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POLICE
Department

D. SOREL
Signature

MANAGEMENT ANALYST
Title

9/2/15
Date

Jeanie Aguilo

From: Pianalto, Dwane <dpianalto@sbcfire.org>
Sent: Monday, September 21, 2015 4:50 PM
To: Jeanie Aguilo
Subject: PDEV15-030

Hi Jeanie,

Rudy gave me your information from today's DPR meeting regarding this project. We regulate the use and storage of hazardous materials within the county and when there are projects that propose this type of use we provide conditions so that the owner/operator is not surprised after approval when they find out about our requirements for their project. I have included my comments below to forward on to the developer. If you have any questions feel free to contact me. Thanks

1. Prior to installation, plans for underground storage tank systems shall be reviewed and approved by Office of the Fire Marshal, Hazardous Materials Division. For information contact (909) 386-8464.
2. Prior to occupancy, operator shall submit a Business Emergency/Contingency Plan for emergency release or threatened release of hazardous materials and wastes or a letter of exemption. The Business Plan must be submitted using the California Environmental Reporting System (CERS). The website is located at <http://cers.calepa.ca.gov/>. For information, contact the Office of the Fire Marshal, Hazardous Materials Division at (909) 386-8432.
3. Prior to occupancy, applicant shall be required to apply for one or more of the following: a Hazardous Materials Handler Permit, a Hazardous Waste Generator Permit, and/or an Underground Storage Tank Permit. For information, contact the Office of the Fire Marshal, Hazardous Materials Division at (909) 386-8401.

Dwane Pianalto, R.E.H.S.

San Bernardino County Fire Department

Hazardous Materials Division

620 South E Street

San Bernardino, CA 92415

Phone (909) 386-8401

Fax (909) 386-8460





PLANNING COMMISSION STAFF REPORT

April 26, 2016

SUBJECT: A Development Plan to construct 91 alley loaded single-family homes on approximately 7.34 acres of land within Planning Area 10A of The Avenue Specific Plan, generally located south of Schaefer Avenue, north of Ontario Ranch Road between Haven and Turner Avenues. (APNs: 218-462-53 thru 79, 218-502-37 thru 70, 218-452-13 thru 16 and 218-513-01 thru 22); **submitted by Brookfield Residential.**

PROPERTY OWNER: Brookcal Ontario, LLC

RECOMMENDED ACTION: That the Planning Commission approve File No. PDEV15-028, pursuant to the facts and reasons contained in the staff report and attached resolution, and subject to the conditions of approval contained in the attached departmental reports.

PROJECT SETTING: The project site is comprised of 7.34 acres of land generally located south of Schaefer Avenue, north of Ontario Ranch Road between Haven Avenue and Turner Avenue, within the Low Density Residential and Medium Density Residential land use designations of The Avenue Specific Plan, and is depicted in Figure 1: Project Location, to the right. The project site gently slopes from north to south and is currently mass graded. The site is surrounded by residential development, a community park/clubhouse and vacant land that has been mass graded.

PROJECT ANALYSIS:

[1] Background — The Avenue Specific Plan and Environmental Impact Report (EIR) were approved by the City Council on December 19, 2006. The Avenue Specific Plan established the land use designations, development standards, and design guidelines for 568 acres, which includes the potential development of 2,875 dwelling units and

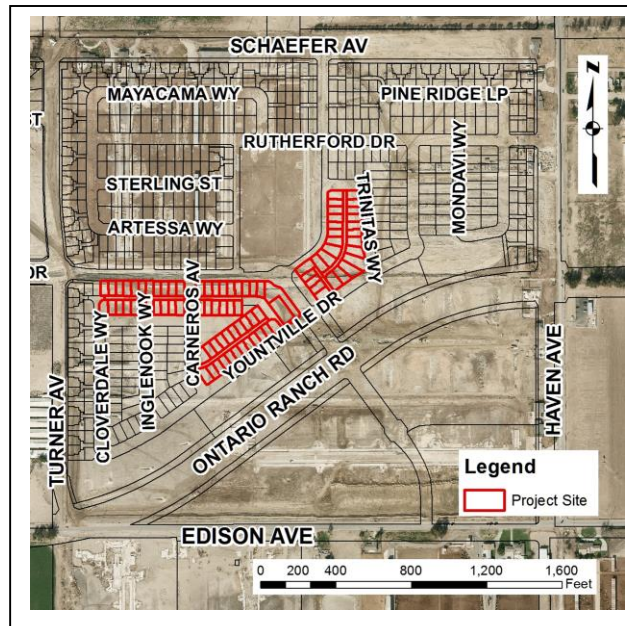
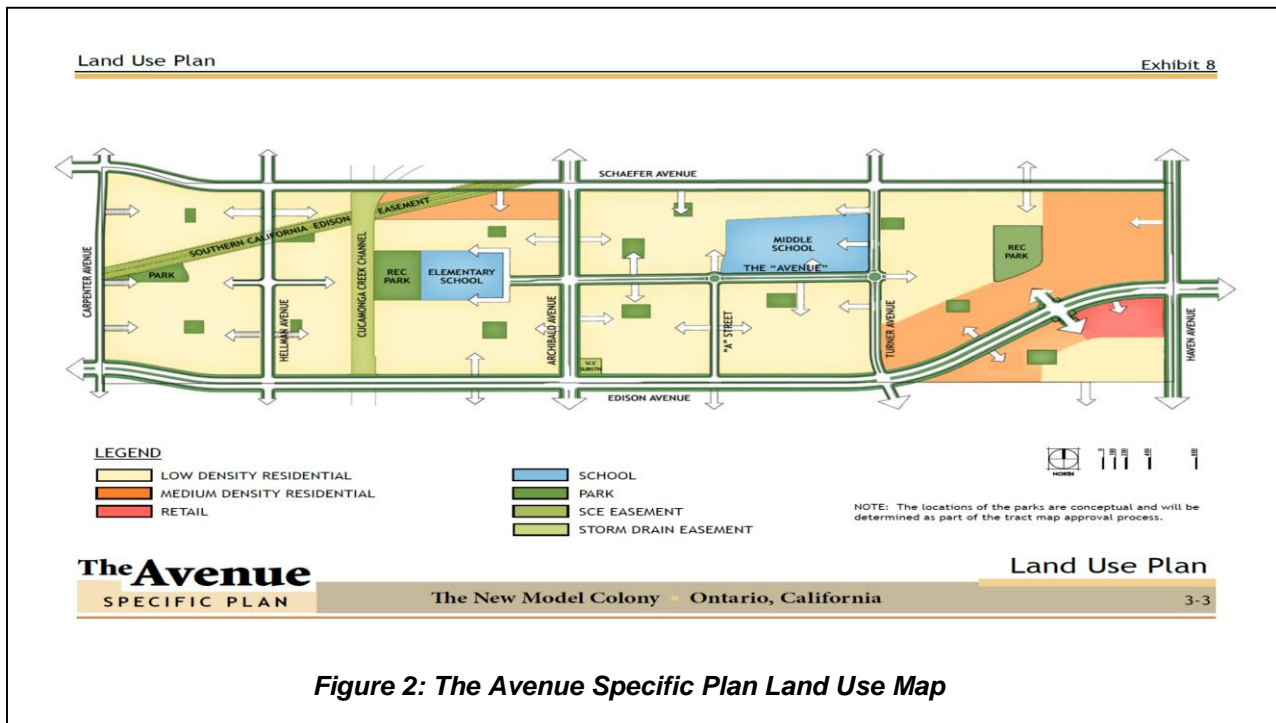


Figure 1: Project Location

Case Planner:	Lorena Mejia	Hearing Body	Date	Decision	Action
Planning Director Approval:		DAB	4/18/2016		Recommend
Submittal Date:	8/08/2015	ZA			
Hearing Deadline:		PC	4/26/2016		Final
		CC			

approximately 131,000 square feet of commercial.

On April 8, 2014, the Planning Commission approved Tentative Tract Map 18922 (referred to as an “A” Map) for Planning Areas 9A and 10A of The Avenue Specific Plan. The approved “A” Map facilitates the backbone infrastructure improvements (major streets, sewer, water and storm drain facilities) and the creation of park/recreational facilities and residential neighborhoods in the eastern portion of the Specific Plan (see **Figure 2: The Avenue Specific Plan Land Use Plan**, below).



On August 26, 2014, the Planning Commission approved Tentative Tract Maps 18991, 18992, 18993 and 18994 (referred to as “B” Maps) for the subdivision of Planning Areas 9A and 10A of The Avenue Specific Plan. The approval of tentative tract maps subdivided the area into a combination of residential lots and lettered lots (private drive aisles, alleys, landscape buffers and parking) to accommodate conventional, alley loaded, and cluster (6-pack) single-family products and multi-family rowtown and autocourt products being marketed as the “New Haven” community. The applicant, Brookfield Residential, has submitted a development application for the construction of 104 single-family homes for a 6-pack cluster product. To date there have been four Development Plans approved for the New Haven community that include:

- Holiday – A 98-unit autocourt project consisting of seven two-story buildings;
- Summerset - 112 single-family conventional homes (55'x90' lots);

- Waverly – A 6-pack cluster product with 135 single-family homes; and
- Poppy - 149 single-family conventional homes (45'x90' lots).

[2] Site Design/Building Layout — The 91 single-family alley loaded homes will be located in two separate neighborhoods within Planning Area 10A of the Specific Plan. (**Exhibit A: Site Plan**). The lots range in size from 3,105 to 7,267 square feet. Three floor plans are proposed with three elevations per plan. The three plans are described in the following table:

Plan 1	Plan 2	Plan 3
<ul style="list-style-type: none"> • 1,930 SF • 4 bedrooms & 3 bath • 2-stories • 33 Units (36%) • 2-car garage 	<ul style="list-style-type: none"> • 2,026 SF • 4 bedrooms & 3 bath • 2-stories • 29 Units (32%) • 2-car garage 	<ul style="list-style-type: none"> • 2,204 SF • 4 bedrooms & 3 bath • 2-stories • 29 Units (32%) • 2-car garage with optional 3rd bay

The single-family alley loaded product type is characterized by having all main entries to the home accessed from the public street with garage access taken from an alley. The homes are rectangular in shape with the building recessed midpoint, creating a private courtyard for each resident. The lack of driveways and vehicles within the front yard area creates an attractive, diverse streetscape that is accented further by the proposed plotting of varied front yard setbacks with porch entryways. The alley loaded lots also include a reciprocal use easement to expand side yard areas for each unit that increase each courtyard area by a minimum of 5 feet as shown in **Figure 3: Typical Plotting**.

In addition, to creating an attractive streetscape, special attention was also given to the elevations along the alleyways by carrying architectural treatments and material from the front elevations and by recessing the second stories along the alleyways, as well as the landscaping that will be provided. All three plans have an open concept with the main living and kitchen areas oriented towards the expanded courtyard areas, providing opportunities to extend the living areas into outdoor patio

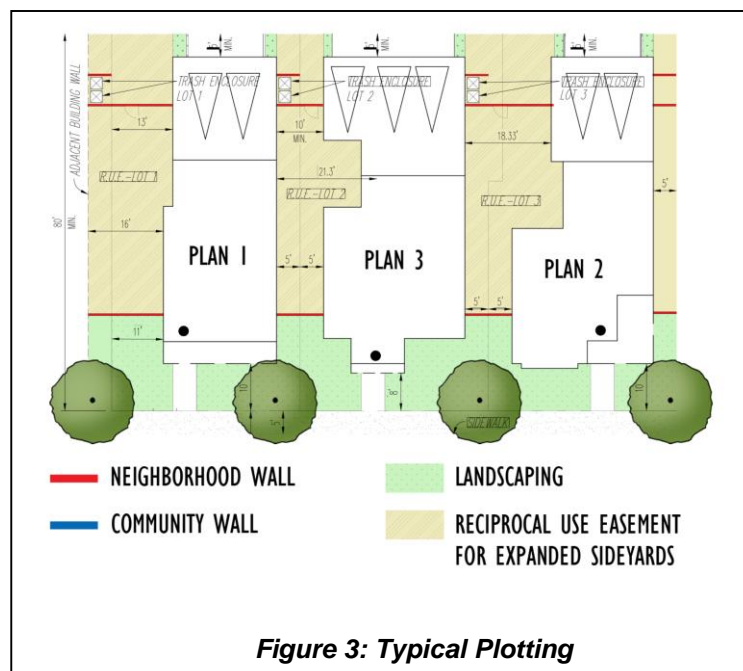


Figure 3: Typical Plotting

areas (see **Exhibit B – Floor Plans**). All plans incorporate various design features such as single and second story massing, varied covered entries, front porches and 2nd floor laundry facilities.

[3] Site Access/Circulation — The approved Tentative Tract Map 18922 (“A” Map) has facilitated the construction of the backbone streets and primary access points into Planning Area 10A of The Avenue Specific Plan, which include primary access points from Turner Avenue, Ontario Ranch Road, Schaefer Avenue and Haven Avenue. The approved “B” Maps for the area (TT18991, TT18992, TT18993 and TT18994) continue to facilitate the construction of the interior neighborhood streets serving the project site (see **Exhibit A: Site Plan**).

[4] Parking — Each plan provides a minimum 2-car garage, except for Plan 3 that includes the option for a 3-car garage. Parking requirements are consistent with the parking requirements of the Development Code and The Avenue Specific Plan.

[5] Architecture — The architectural styles of the proposed single-family homes include Spanish Colonial, American Farmhouse and California Ranch (see **Figure 4: Conceptual Rendered Street Scene**). The American Farmhouse architectural style is not included within The Avenue Specific Plan, however, it meets the design guidelines and increases the diversity of architectural styles and design within the community. These styles complement one another through the overall scale, massing, proportions and details. Also, detailing, architectural treatments, and articulation are provided on all four sides of the proposed elevations. The three architectural styles proposed will include the following (see **Exhibit C - Elevations**):

Spanish Colonial: Varying gable and shed roofs with concrete “S” tile roof; roof overhangs; second story pop-out features; stucco exterior; arched entry openings with stucco trim; a combination of square and recessed multi-paned windows and shutters.

American Farmhouse: Varying high pitched gable roofs with flat tile; roof overhangs; second story pop-out features; a combination of vertical siding, brick veneer and stucco exterior; shed roof canopy over the front entryways; and multi-paned windows with shutters and enhanced gable ends.

California Ranch: Varying low pitched gable roofs with flat tile; roof overhangs; second story pop-out features; horizontal siding and stucco exterior (enhanced façade at gable ends with vertical foam treatment and triangular knee brackets); front porch entries with a low pitched gable entry for Plans 1; shed roof canopy over the entryway for Plans 2 and 3; and multi-paned windows with enlarged trim surround with shutters



[6] Landscaping — The Development Plan includes sidewalks separated from the street by landscaped parkways, which provides visual interest and promotes pedestrian mobility. All the single-family homes will be provided with front yard landscaping (lawn, shrubs and trees) and an automatic irrigation system to be installed by the developer. The homeowner will be responsible for side and rear yard landscape improvements.

The Ontario Plan (TOP) Policy PR1-1 requires new developments to provide a minimum of 2 acres of private pocket park per 1,000 residents. To satisfy the park requirement, a 6.8 acre park, as part of the related “A” Map (TT18922), has been constructed at the center of Planning Area 10A. The park features an 8,348 square foot club house, two pools and a spa, open lawn area and other recreational amenities. Some of the lots proposed for development are located directly across from the park and all are within walking distance of the park.

[7] CC&R's — CC&R's were prepared and recorded with the related Tract Map 18922. The CC&R's outline the maintenance responsibilities for open space areas, utilities and upkeep of the entire site to ensure the on-going maintenance of the common areas and facilities.

COMPLIANCE WITH THE ONTARIO PLAN: The proposed project is consistent with the principles, goals and policies contained within the Vision, Governance, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan (TOP). More specifically, the goals and policies of TOP that are furthered by the proposed project are as follows:

[1] City Council Priorities

Primary Goal: Regain Local Control of Ontario International Airport

Supporting Goals:

- Invest in the Growth and Evolution of the City's Economy;
- Maintain the Current High Level of Public Safety;

- Operate in a Businesslike Manner;
- Focus Resources in Ontario's Commercial and Residential Neighborhoods; and
- Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony.

[2] Policy Plan (General Plan)

Land Use Element — Balance

- Goal LU1: A community that has a spectrum of housing types and price ranges that match the jobs in the City and make it possible for people to live and work in Ontario and maintain a quality of life.
 - LU1-1: Strategic Growth. We concentrate growth in strategic locations that help create place and identity, maximize available and planned infrastructure, and foster the development of transit.
 - LU1-3 : Adequate Capacity. We require adequate infrastructure and services for all development.
 - LU1-6: Complete Community. We incorporate a variety of land uses and building types in our land use planning efforts that result in a complete community where residents at all stages of life, employers, workers and visitors have a wide spectrum of choices of where they can live, work, shop and recreate within Ontario.

Land Use Element — Neighborhood & Housing

- Goal H2: Diversity of types of quality housing that are affordable to a range of household income levels, accommodates changing demographics, and support and reinforce the economic sustainability of Ontario.
 - H2-4: New Model Colony. We support a premier lifestyle community in the New Model Colony distinguished by diverse housing, highest design quality, and cohesive and highly amenitized neighborhoods.
- Goal H3: A City regulatory environment that balances the need for creativity and excellence in residential design, flexibility and predictability in the project approval process, and the provision of an adequate supply and prices of housing.
 - H3-1: Community Amenities. We shall provide adequate public services, infrastructure, open space, parking and traffic management, pedestrian, bicycle and equestrian routes and public safety for neighborhoods consistent with City master plans and neighborhood plans.

➤ H3-3: Development Review. We maintain a residential development review process that provides certainty and transparency for project stakeholders and the public yet allows for the appropriate review to facilitate quality housing development.

Parks and Recreation Element – Planning & Design

▪ Goal PR1: A system of safe and accessible parks that meets the needs of the community.

➤ PR1-1: Access to Parks. We strive to provide a park and/or recreational facility within walking distance (¼ mile) of every residence.

➤ PR1-9: Phased Development. We require parks be built in new communities before a significant proportion of residents move in.

Mobility Element – Bicycles and Pedestrians Diversity

▪ Goal M2: A system of trails and corridors that facilitate and encourage bicycling and walking.

➤ M2-3: Pedestrian Walkways. We require walkways that promote safe and convenient travel between residential areas, businesses, schools, parks, recreation areas, and other key destination points.

Community Economics Element — Place Making

▪ Goal CE2: A City of distinctive neighborhoods, districts, and corridors, where people choose to be.

➤ CE2-1 Development Projects. We require new development and redevelopment to create unique, high-quality places that add value to the community.

➤ CE2-2 Development Review. We require those proposing new development and redevelopment to demonstrate how their projects will create appropriately unique, functional and sustainable places that will compete well with their competition within the region.

➤ CE2-4 Protection of Investment. We require that new development and redevelopment protect existing investment by providing architecture and urban design of equal or greater quality.

➤ CE2-5 Private Maintenance. We require adequate maintenance, upkeep, and investment in private property because proper maintenance on private property protects property values.

Safety Element — Seismic & Geologic Hazards

▪ Goal S1: Minimized risk of injury, loss of life, property damage and economic and social disruption caused by earthquake-induced and other geologic hazards.

➤ S1-1 Implementation of Regulations and Standards. We require that all new habitable structures be designed in accordance with the most recent California Building Code adopted by the City, including provisions regarding lateral forces and grading.

Community Design Element — Image & Identity

▪ Goal CD1: A dynamic, progressive city containing distinct neighborhoods and commercial districts that foster a positive sense of identity and belonging among residents, visitors, and businesses.

➤ CD1-1 City Identity. We take actions that are consistent with the City being a leading urban center in Southern California while recognizing the diverse character of our existing viable neighborhoods.

➤ CD1-3 Neighborhood Improvement. We require viable existing residential and non-residential neighborhoods to be preserved, protected, and enhanced in accordance with our land use policies.

Community Design Element — Design Quality

▪ Goal CD2: A high level of design quality resulting in public spaces, streetscapes, and developments that are attractive, safe, functional and distinct.

➤ CD2-1 Quality Architecture. We encourage all development projects to convey visual interest and character through:

- Building volume, massing, and height to provide appropriate scale and proportion;
- A true architectural style which is carried out in plan, section and elevation through all aspects of the building and site design and appropriate for its setting; and
- Exterior building materials that are visually interesting, high quality, durable, and appropriate for the architectural style.

➤ CD2-7 Sustainability. We collaborate with the development community to design and build neighborhoods, streetscapes, sites, outdoor spaces, landscaping and

buildings to reduce energy demand through solar orientation, maximum use of natural daylight, passive solar and natural ventilation, building form, mechanical and structural systems, building materials and construction techniques.

➤ CD2-8 Safe Design. We incorporate defensible space design into new and existing developments to ensure the maximum safe travel and visibility on pathways, corridors, and open space and at building entrances and parking areas by avoiding physically and visually isolated spaces, maintenance of visibility and accessibility, and use of lighting.

➤ CD2-9 Landscape Design. We encourage durable landscaping materials and designs that enhance the aesthetics of structures, create and define public and private spaces, and provide shade and environmental benefits.

➤ CD2-13 Entitlement Process. We work collaboratively with all stakeholders to ensure a high degree of certainty in the efficient review and timely processing of all development plans and permits.

Community Design — Protection of Investment

▪ Goal CD5: A sustained level of maintenance and improvement of properties, buildings and infrastructure that protects the property values and encourages additional public and private investments.

➤ CD5-1 Maintenance of Buildings and Property. We require all public and privately owned buildings and property (including trails and easements) to be properly and consistently maintained.

➤ CD5-2 Maintenance of Infrastructure. We require the continual maintenance of infrastructure.

HOUSING ELEMENT COMPLIANCE: The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the number of dwelling units (91) and density (12) specified in the Available Land Inventory.

AIRPORT LAND USE COMPATIBILITY PLAN COMPLIANCE: The project site is located within the Airport Influence Area of LA/Ontario International Airport and has been found to be consistent with the policies and criteria set forth within the LA/Ontario International Airport Land Use Compatibility Plan (ALUCP).

ENVIRONMENTAL REVIEW: The environmental impacts of this project were previously reviewed in conjunction with a Specific Plan Amendment for The Avenue Specific Plan (PSPA13-003), for which an addendum to The Avenue Specific Plan EIR (SCH# 2005071109) was adopted by the City Council on June 17, 2014. This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are be a condition of project approval and are incorporated herein by reference.

CONDITIONS OF APPROVAL: See attached department reports.

TECHNICAL APPENDIX:

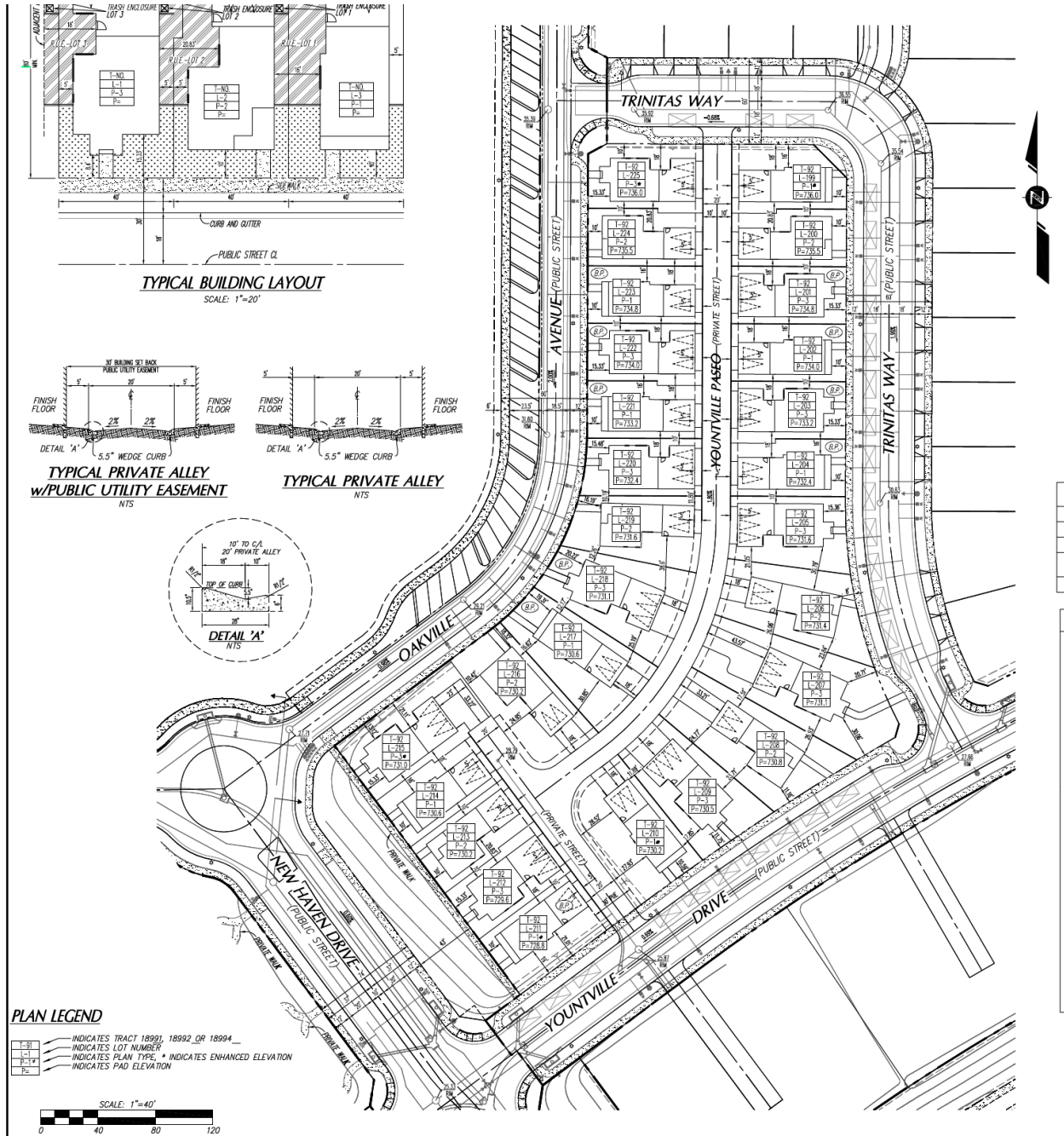
Surrounding Zoning and Land Use:

	<i>Existing Land Use</i>	<i>General Plan Designation</i>	<i>Zoning Designation</i>	<i>Specific Plan Land Use</i>
<i>Site</i>	Vacant and Graded	Low Density and Medium Density Residential	The Avenue Specific Plan	Planning Area 10A - Low Density and Medium Density Residential
<i>North</i>	Vacant/Graded/Residential/Open Space	Low Density and Medium Density Residential	The Avenue Specific Plan	Planning Area 10A - Low Density and Medium Density Residential
<i>South</i>	Vacant/Graded/Residential	Medium Density Residential	The Avenue Specific Plan	Planning Area 10A - Medium Density Residential
<i>East</i>	Vacant/Graded/Residential/Open Space	Low Density and Medium Density Residential	The Avenue Specific Plan	Planning Area 10A - Low Density and Medium Density Residential
<i>West</i>	Vacant/Graded/Residential/Open Space	Low Density and Medium Density Residential	The Avenue Specific Plan	Planning Area 10A - Low Density and Medium Density Residential

The Avenue Specific Plan (Table 3d – Product Type 2 Development Standards):

<i>Item</i>	<i>Required Min./Max.</i>	<i>Provided (Ranges)</i>	<i>Meets Y/N</i>
<i>Maximum coverage (in %):</i>	55%	33% -55%	Y
<i>Minimum lot size (in SF):</i>	2,380 SF	3,106 -7,267 SF	Y
<i>Front yard setback (in FT):</i>	10'	10' – 30'	Y
<i>Side yard setback (in FT):</i>	5'	4'	Y
<i>Rear yard setback (in FT):</i>	5'	5' – 43'	Y
<i>Maximum height (in FT):</i>	35'	24'-28'	Y
<i>Parking – resident:</i>	2-Car Garage	2 - 3 Car Garage	Y

Exhibit A: Site Plan



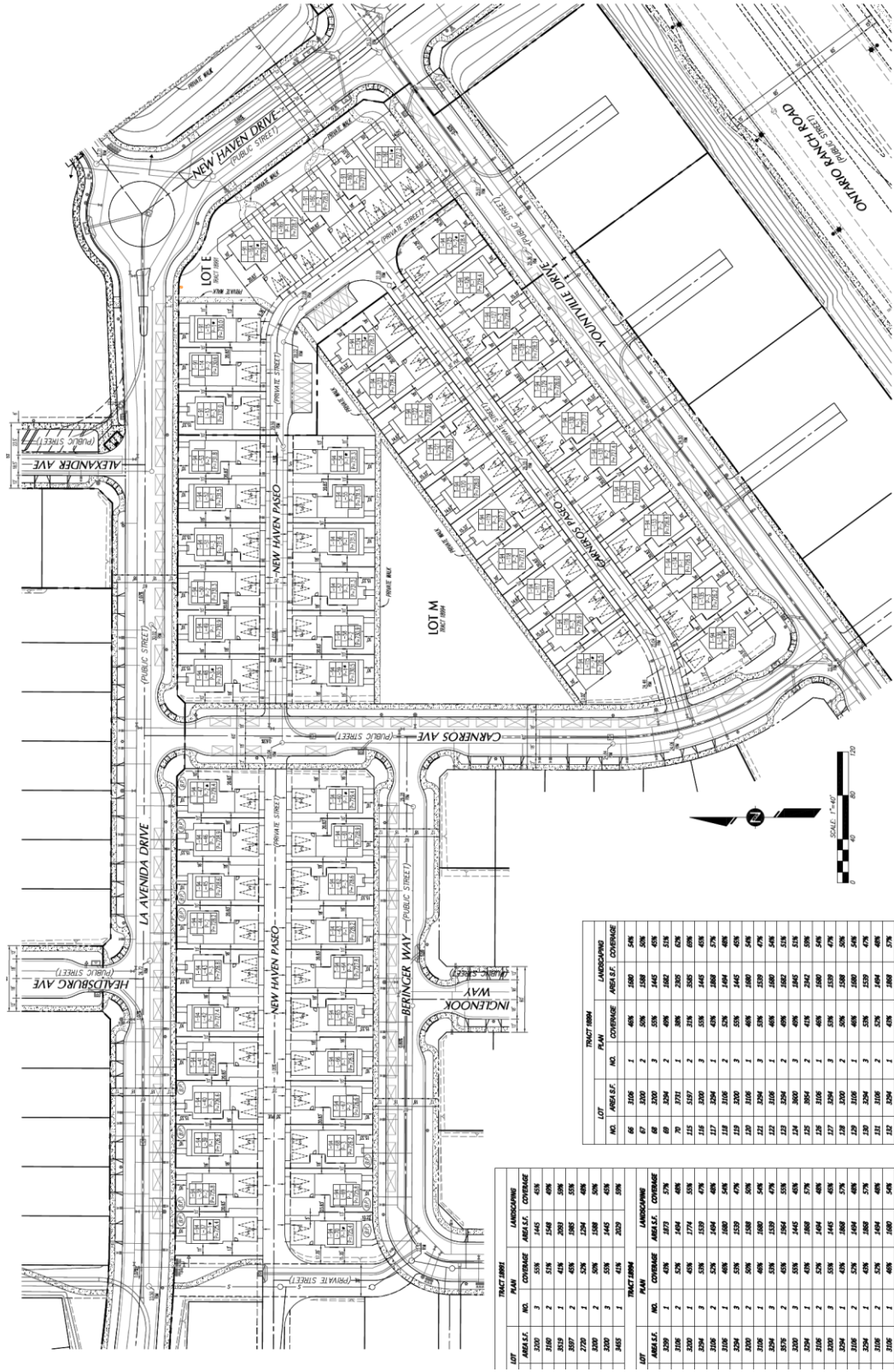
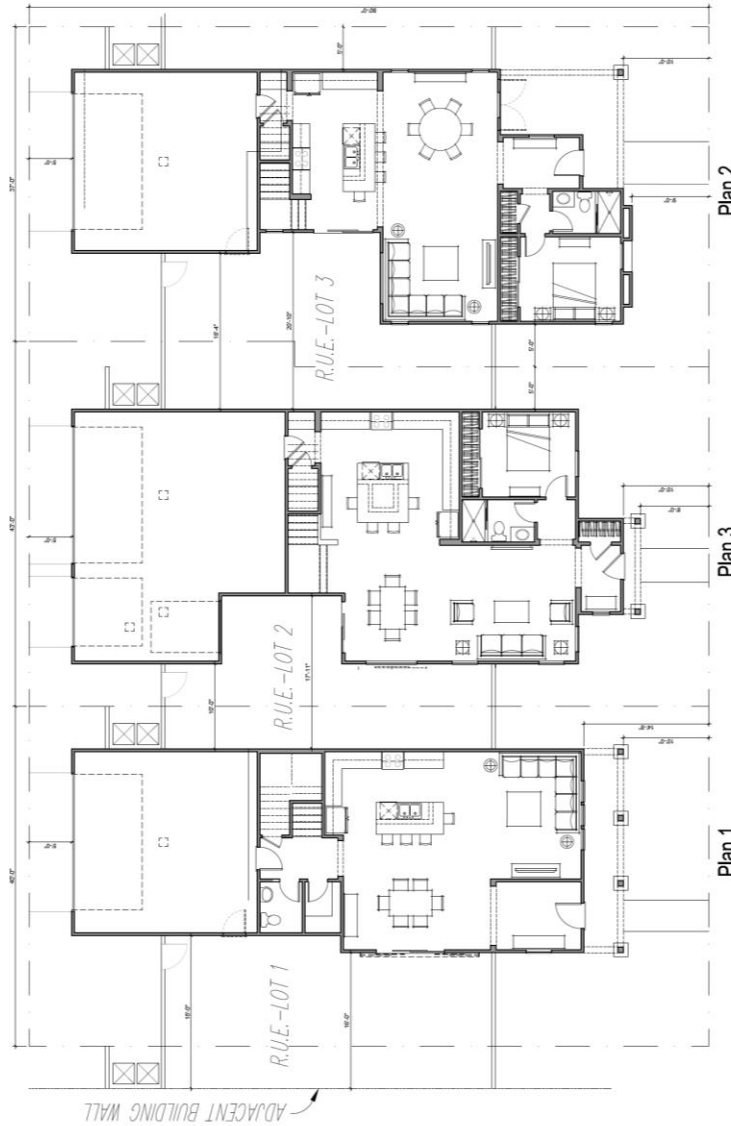


Exhibit B: Floor Plan

Plan 1 - 1,930 SF
 - Lower Square Footage: 833 SF
 - Upper Square Footage: 1,047 SF
 - Side Yard Square Footage: 657 SF
 3 Bedroom / 2.5 Bath / 2-Car Garage

Plan 2 - 2,026 SF
 - Lower Square Footage: 954 SF
 - Upper Square Footage: 1,072 SF
 - Side Yard Square Footage: 631 SF
 4 Bedroom / 3 Bath / 2-Car Garage

Plan 3 - 2,204 SF
 - Lower Square Footage: 983 SF
 - Upper Square Footage: 1,211 SF
 - Side Yard Square Footage: 498 SF
 4 Bedroom / 3 Bath / 3-Car Garage



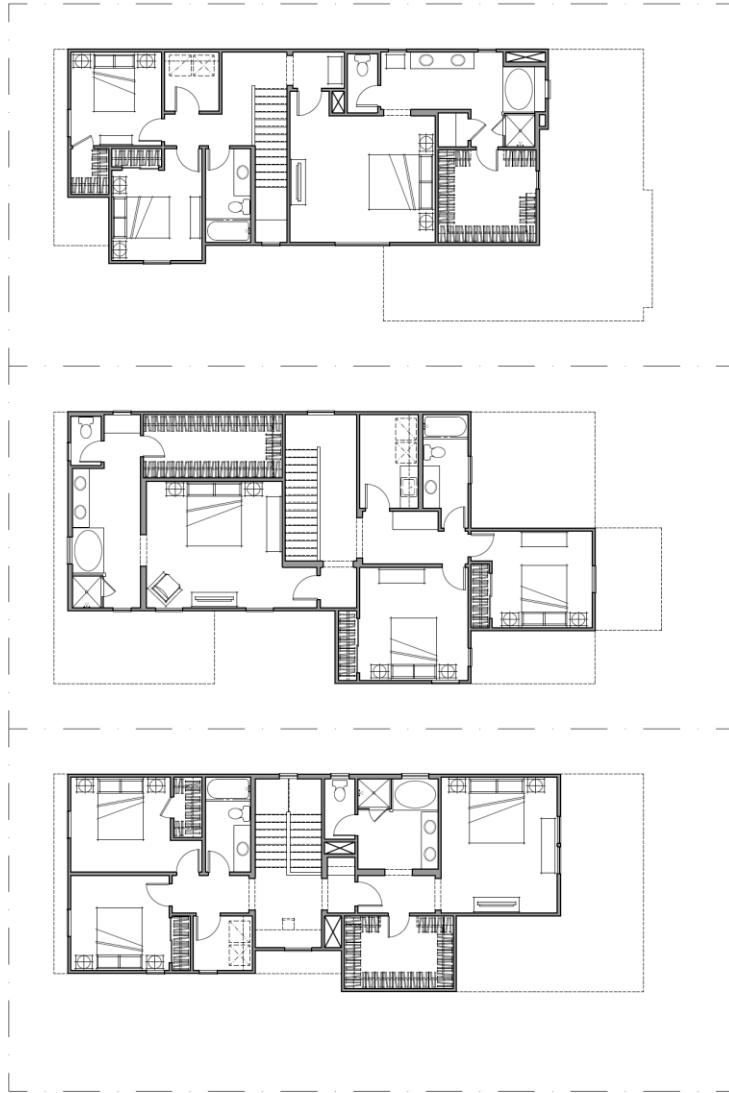
PLOT PLAN - LOWER

New Haven - 40' x 80' Lots

Plan 1 - 1,930 SF
 - Lower Square Footage: 833 SF
 - Upper Square Footage: 1,047 SF
 - Side Yard Square Footage: 657 SF
 3 Bedroom / 2.5 Bath / 2-Car Garage

Plan 2 - 2,026 SF
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 4 Bedroom / 3 Bath / 2-Car Garage

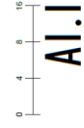
Plan 3 - 2,204 SF
 - Lower Square Footage: 983 SF
 - Upper Square Footage: 1,211 SF
 - Side Yard Square Footage: 498 SF
 4 Bedroom / 3 Bath / 3-Car Garage



Plan 2

Plan 3

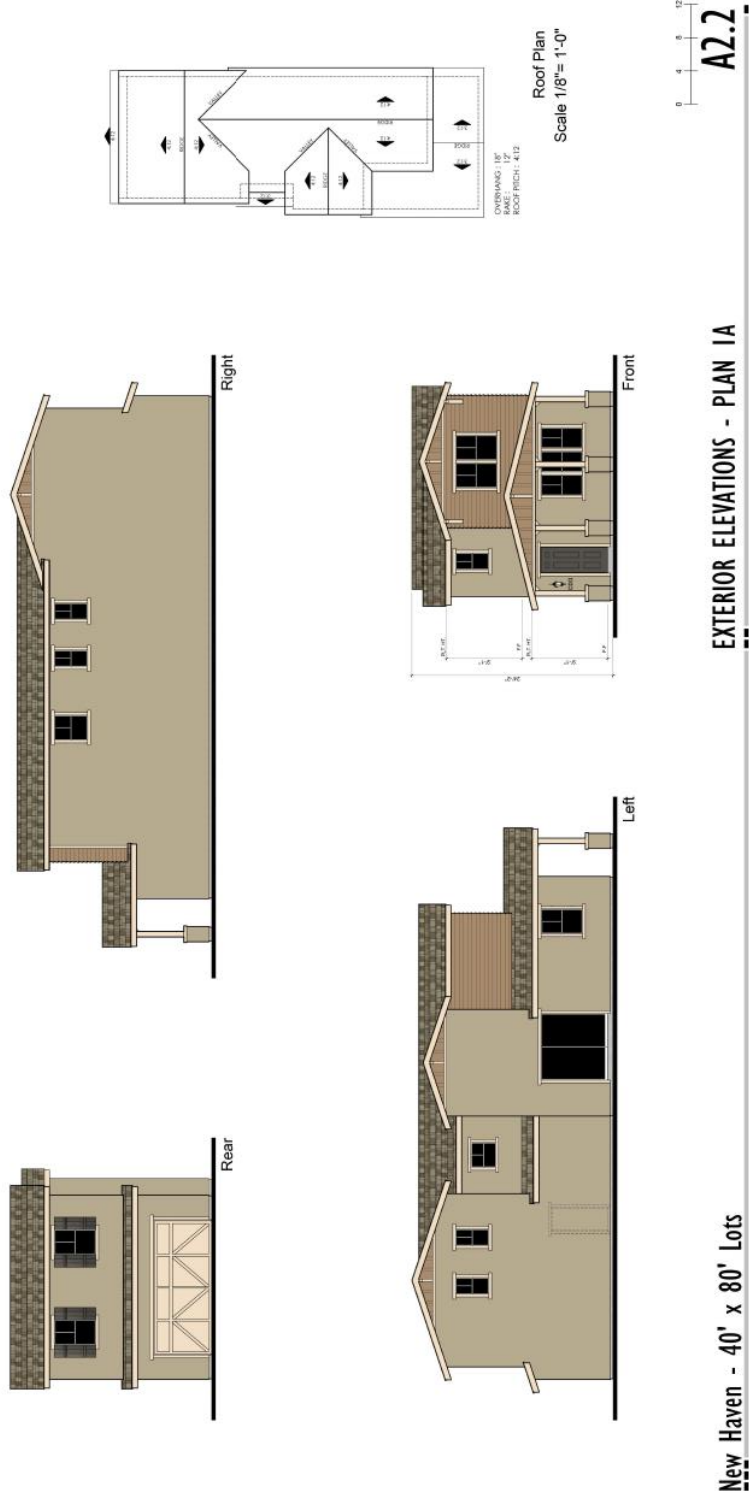
Plan 1



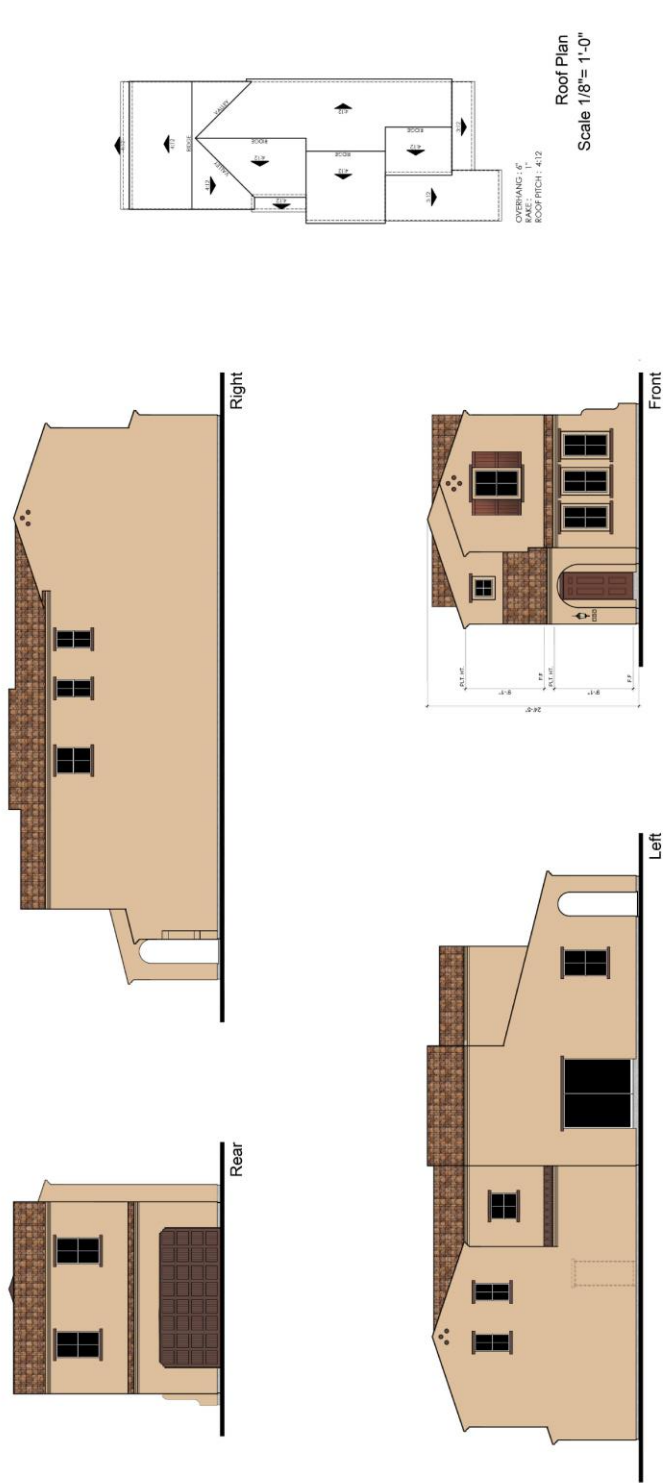
PLOT PLAN - UPPER

New Haven - 40' x 80' Lots

Exhibit C: Elevations







Roof Plan
 Scale 1/8" = 1'-0"



A2.4

EXTERIOR ELEVATIONS - PLAN 1C

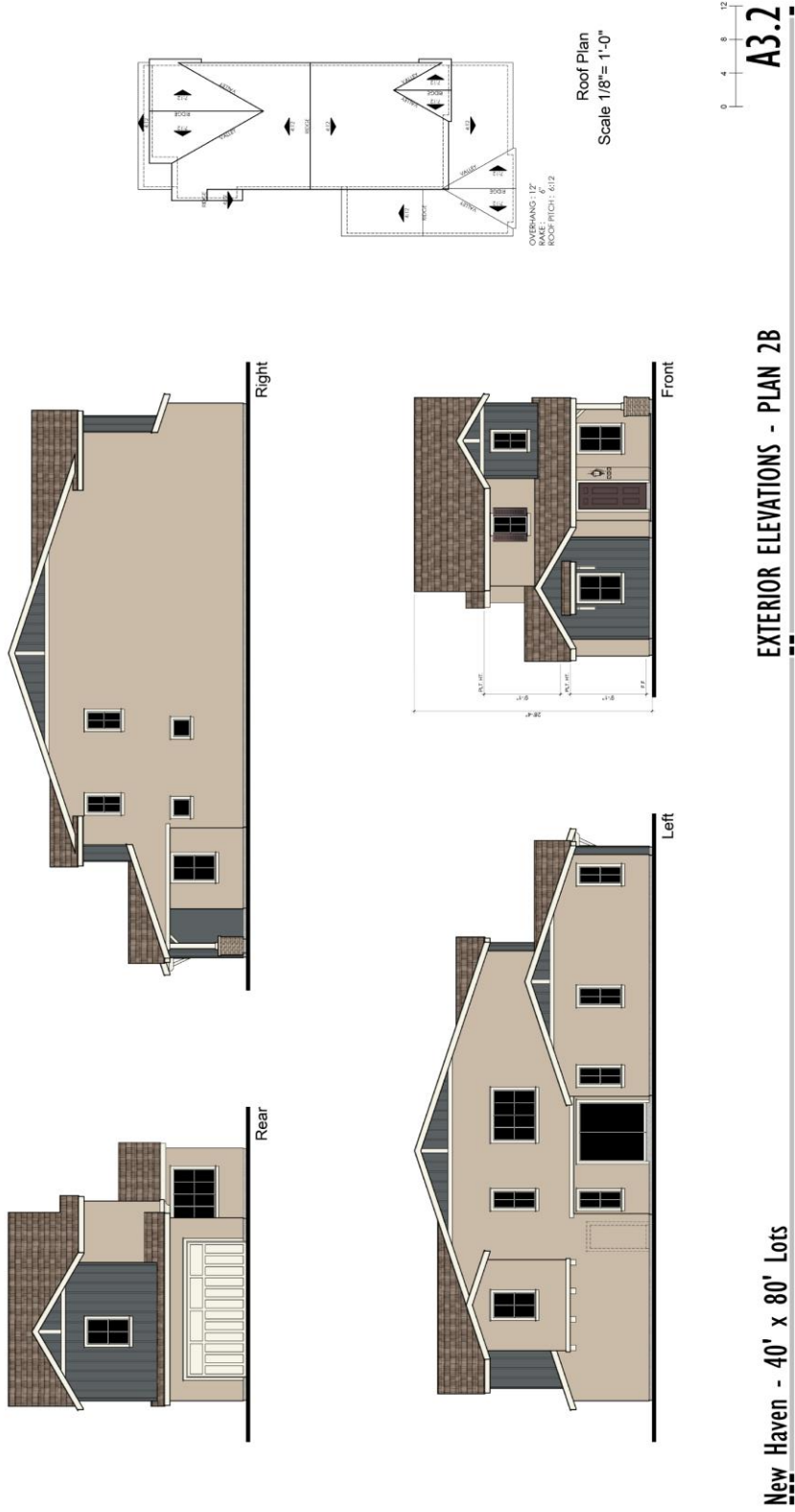
New Haven - 40' x 80' Lots

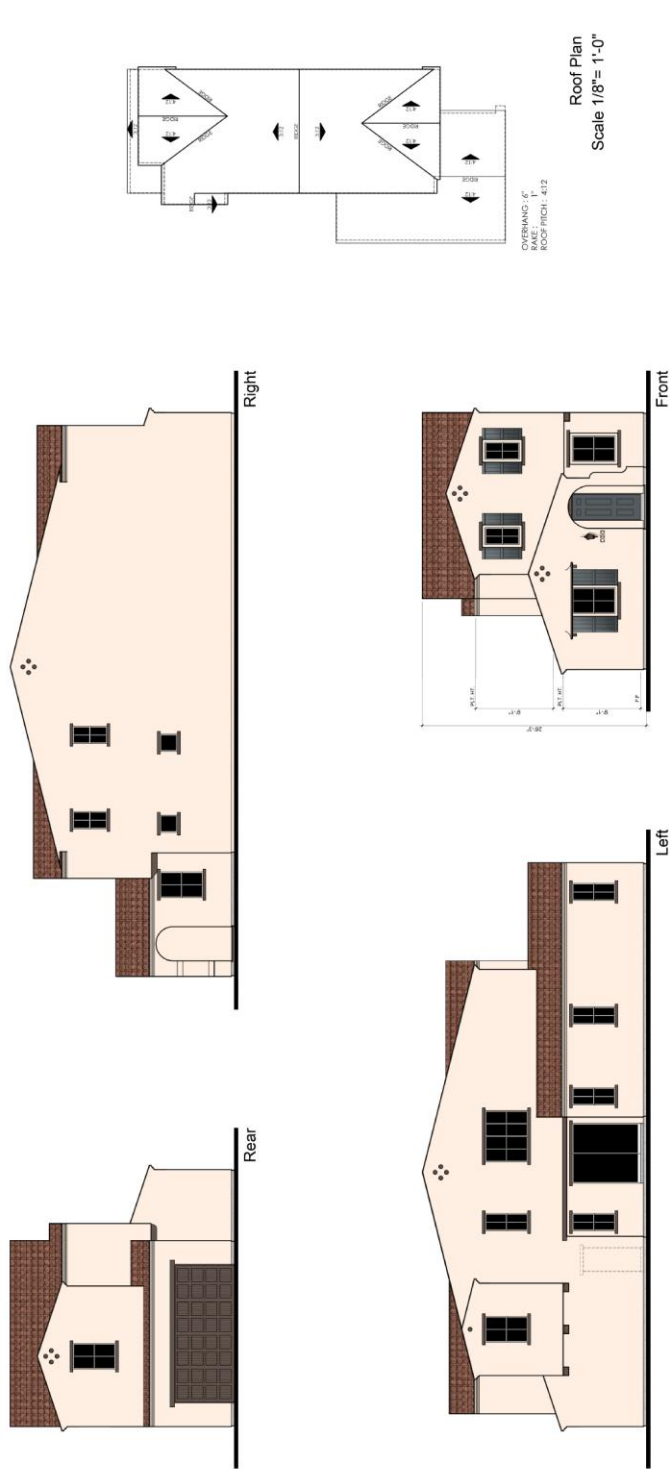


0 4 8 12
A3.2

EXTERIOR ELEVATIONS - PLAN 2A

View Haven - 40' x 80' Lots





New Haven - 40' x 80' Lots
 EXTERIOR ELEVATIONS - PLAN 2C
A3.4
 0 4 8 12

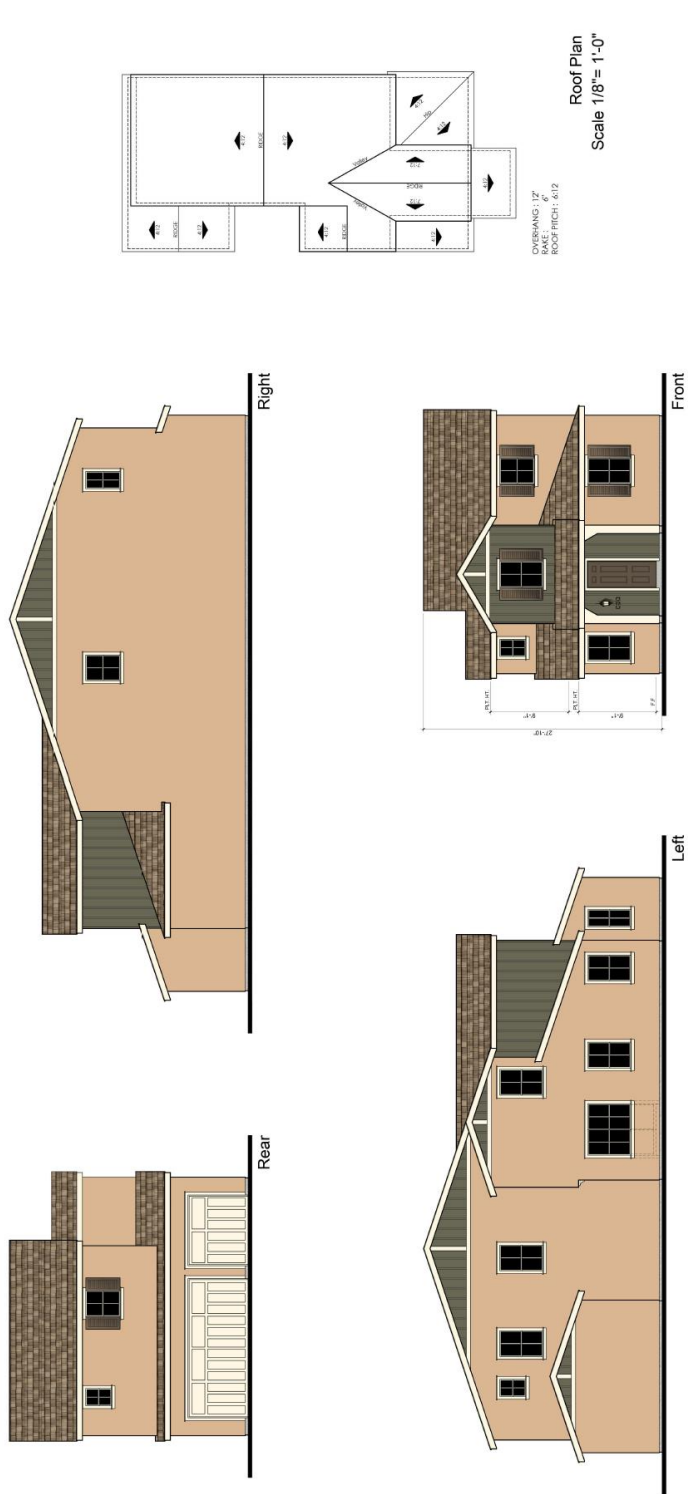


Roof Plan
 Scale 1/8" = 1'-0"

0 4 8 12
A4.2

EXTERIOR ELEVATIONS - PLAN 3A

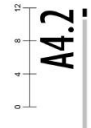
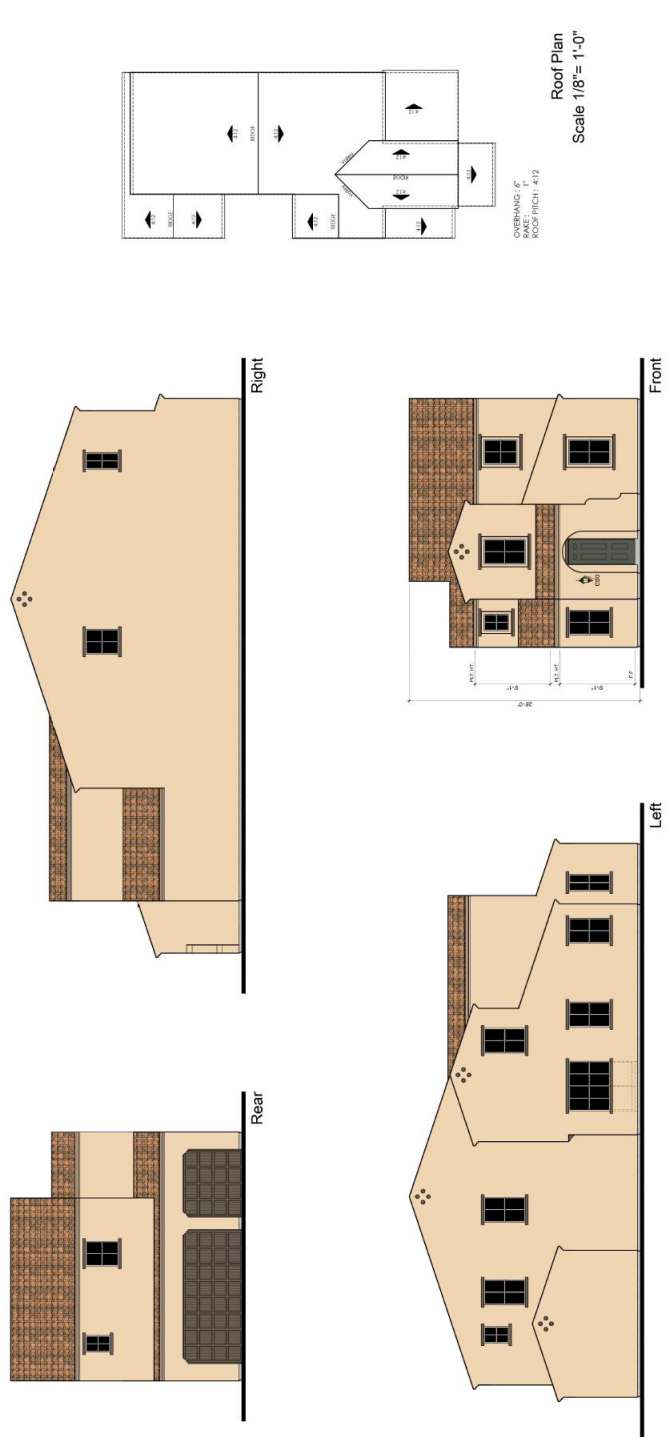
New Haven - 40' x 80' Lots



0 4 8 12
A4.3

EXTERIOR ELEVATIONS - PLAN 3B

New Haven - 40' x 80' Lots



EXTERIOR ELEVATIONS - PLAN 3C

New Haven - 40' x 80' Lots

A4.2

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDEV15-028, FOR 91 SINGLE-FAMILY HOMES ON APPROXIMATELY 7.34 ACRES OF LAND GENERALLY LOCATED SOUTH OF SCHAEFER AVENUE, NORTH OF ONTARIO RANCH ROAD BETWEEN HAVEN AVENUE AND TURNER AVENUE, WITHIN PLANNING AREA 10A OF THE AVENUE SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APN NO'S: 218-462-53 THRU 79, 218-502-37 THRU 70, 218-452-13 THRU 16 AND 218-513-01 THRU 22.

WHEREAS, Brookfield Residential ("Applicant") has filed an Application for the approval of a Development Plan, File No. PDEV15-028, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 7.34 acres of land generally located south of Schaefer Avenue, north of Ontario Ranch Road between Haven and Turner Avenues, within the Planning Area 10A of The Avenue Specific Plan, and is presently mass graded and improved with model/production homes and a community park (clubhouse); and

WHEREAS, the properties to the north, south, east and west of the Project site are within Planning Area 10A of The Avenue Specific Plan, and are vacant/mass graded and improved with model/production homes and a community park (clubhouse); and

WHEREAS, there are 91 single-family residential alley loaded lots proposed to be developed and Product Type 2 Development Standards of The Avenue Specific Plan are being applied; and

WHEREAS, the lots range in size from 3,105 to 7,267 square feet. Three floor plans are proposed with 3 elevations per plan; and

WHEREAS, an alley loaded product type is characterized by having all main entries to the home accessed from the public street with garage access taken from an alley and the lack of driveways and vehicles within the front yard area creates an attractive diverse streetscape that is accented further by the proposed plotting of varied front yard setbacks with porch entryways; and

WHEREAS, the alley loaded lots also include a reciprocal use easement to expand side yard areas for each unit by a minimum of 5 feet; and

WHEREAS, the architectural styles of the proposed single-family homes include Spanish Colonial, California Ranch and American Farmhouse styles; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"); and

WHEREAS, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the number of dwelling units (91) and density (12) specified in the Available Land Inventory.

WHEREAS, 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; and

WHEREAS, the environmental impacts of this project were previously reviewed in conjunction with Specific Plan Amendment for The Avenue Specific Plan (PSPA13-003), for which an addendum to The Avenue Specific Plan EIR (SCH# 2005071109) was adopted by the City Council on June 17, 2014, and this Application introduces no new significant environmental impacts; and

WHEREAS, the City's "Local Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed; and

WHEREAS, on April 18, 2016, the Development Advisory Board of the City of Ontario conducted a hearing and issued Decision No. DAB16-012 recommending the Planning Commission approve the Application; and

WHEREAS, on April 26, 2016, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND RESOLVED by the Planning Commission of the City of Ontario, as follows:

SECTION 1. As the decision-making body for the Project, the Planning Commission has reviewed and considered the information contained in the previously adopted addendum to The Avenue Specific Plan EIR (SCH# 2005071109) and supporting documentation. Based upon the facts and information contained in the addendum to The Avenue Specific Plan EIR (SCH# 2005071109) and supporting documentation, the Planning Commission finds as follows:

- a. The previous addendum to The Avenue Specific Plan EIR (SCH# 2005071109) contains a complete and accurate reporting of the environmental impacts associated with the Project; and
- b. The previous addendum to The Avenue Specific Plan EIR (SCH# 2005071109) was completed in compliance with CEQA and the Guidelines promulgated thereunder; and
- c. The previous addendum to The Avenue Specific Plan EIR (SCH# 2005071109) reflects the independent judgment of the Planning Commission; and
- d. All previously adopted mitigation measures, which are applicable to the Project, shall be a condition of Project approval and are incorporated herein by reference.

SECTION 2. Based upon the substantial evidence presented to the Planning Commission during the above-referenced hearing and upon the specific findings set forth in Section 1 above, the Planning Commission hereby concludes as follows:

a. The proposed development at the proposed location is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan. The Project is compatible with adjoining sites in relation to location of buildings, with particular attention to privacy, views, any physical constraint identified on the site and the characteristics of the area in which the site is located. The existing site is vacant/mass graded and improved with model/production homes and a community park (clubhouse) and the proposed development will be compatible with future developments within The Avenue Specific Plan. The Development Plan has been required to comply with all provisions of Product Type 2 Residential Development Standards of The Avenue Specific Plan. Future neighborhoods within the Avenue Specific Plan and surrounding area will provide for a diverse housing and highly amenitized neighborhoods that will be compatible in design, scale and massing to the proposed development.

b. The proposed development is compatible with those on adjoining sites in relation to location of buildings, with particular attention to privacy, views, any physical constraint identified on the site and the characteristics of the area in which the site is located. The Project will complement the quality of existing development in the vicinity of the project and the minimum safeguards necessary to protect the public health, safety and general welfare have been required of the proposed project. The proposed location of the Development Plan and the proposed conditions under which it will operate or be maintained will be consistent with TOP Policy Plan and Specific Plan and therefore not be detrimental to health; safety and welfare. In addition, the environmental impacts of

this project were reviewed in conjunction with the previously adopted addendum to The Avenue Specific Plan EIR.

c. The proposed development will complement and/or improve upon the quality of existing development in the vicinity of the project and the minimum safeguards necessary to protect the public health, safety and general welfare have been required of the proposed project. The Project will not have a significant adverse impact on the environment. The environmental impacts of this project were previously reviewed in conjunction with The Avenue Specific Plan Environmental Impact Report (SCH#2005071109). This application is consistent with the previously adopted EIR and introduces no new significant environmental impacts.

The proposed development is consistent with the development standards and design guidelines set forth in the Development Code. The Project is consistent with applicable development standards set forth in The Avenue Specific Plan. The Development Plan complies with all provisions of Product Type 2 Residential Design Guidelines and Development Standards of The Avenue Specific Plan.

d. All previously adopted mitigation measures, which are applicable to the Project, shall be a condition of Project approval and are incorporated herein by reference.

SECTION 3. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the Planning Commission hereby APPROVES the herein described Application subject to each and every condition set forth in the Department reports, attached hereto and incorporated herein by this reference.

SECTION 4. 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 this approval. 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.

SECTION 5. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 6. The Secretary shall certify to the adoption of the Resolution.

The Secretary Pro Tempore for the Planning Commission of the City of Ontario shall certify as to the adoption of this Resolution.

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 26th day of April 2016, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

James Downs
Planning Commission Vice-Chairman

ATTEST:

Scott Murphy
Planning Director/Secretary of Planning
Commission

Planning Commission Resolution
File No. PDEV15-028
April 26, 2016
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STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, Marci Callejo, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC16-[insert #] was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on April 26, 2016, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marci Callejo
Secretary Pro Tempore



Planning Department Conditions of Approval

Prepared: April 7, 2016

File No: PDEV15-028

Related Files: N/A

Project Description: A Development Plan to construct 91 alley loaded single-family homes on approximately 7.34 acres of land within Planning Area 10A of The Avenue Specific Plan, generally located south of Schaefer Avenue, north of Ontario Ranch Road between Haven and Turner Avenues. (APNs: 218-462-53 thru 79, 218-502-37 thru 70, 218-452-13 thru 16 and 218-513-01 thru 22); **submitted by Brookfield Residential.**

Prepared by: Lorena Mejia, Associate Planner

Phone: (909) 395-2036; **Email:** lmejia@ontarioca.gov; **Fax:** (909) 395-2420

CONDITIONS OF APPROVAL

The above-described Project shall comply with the following conditions of approval:

1.0 Standard Conditions of Approval. The project shall comply with the *Standard Conditions for New Development*, adopted by City Council Resolution No. 1020-021 on March 16, 2010. A copy of the *Standard Conditions for New Development* may be obtained from the Planning Department or City Clerk/Records Management Department.

2.0 Special Conditions of Approval. In addition to the *Standard Conditions for New Development* identified in condition no. 1.0, above, the project shall comply with the following special conditions of approval:

2.1 Time Limits. Project approval shall become null and void 2 years following the effective date of application approval, unless a building permit is issued and construction is commenced, and diligently pursued toward completion, or a time extension has been approved. This condition does not supersede any individual time limits specified herein, or any other departmental conditions of approval applicable to the Project, for the performance of specific conditions or improvements.

2.2 Architectural Treatment.

(a) All 2nd story corner lots shall be treated with enhanced elevations to include the following: lots 199, 210, 211, 215 and 225 of Tract 18992; and lots 1, 3, 4, 5, 115, 125 and 136 of Tract 18994. These lots shall be treated with enhanced gable ends and shutters along the 2nd story street facing elevations.

(b) Lot 16 of Tract 18991 shall require approval of a new tentative tract map prior to developing the proposed 5 units. Corner street facing units labeled as 16A and 16E will require 2nd story enhanced elevations as described in 2.2(a).

(c) Front/alley facing elevation stone/brick veneer base treatments shall be wrapped to a logical point or to side yard return wall.

(d) Each side yard gate shall complement the architectural style and color scheme of each residential unit.

2.3 Disclosure Statements.

(a) A copy of the Public Report from the Department of Real Estate, prepared for the subdivision pursuant to Business and Professions Code Section 11000 et seq., shall be provided to each prospective buyer of the residential units and shall include a statement to the effect that:

(i) This tract is subject to noise from the Ontario International Airport and may be more severely impacted in the future.

(ii) Some of the property adjacent to this tract is zoned for agricultural uses and there could be fly, odor, or related problems due to the proximity of animals.

(iii) The area south of Riverside Drive lies within the San Bernardino County Agricultural Preserve. Dairies currently existing in that area are likely to remain for the foreseeable future.

(iv) This tract is part of a Landscape Maintenance District. The homeowner(s) will be assessed through their property taxes for the continuing maintenance of the district.

2.4 Environmental Review.

(a) The environmental impacts of this project were reviewed in conjunction with Specific Plan Amendment for The Avenue Specific Plan (PSPA13-003), for which an addendum to The Avenue Specific Plan EIR (SCH# 2005071109) was adopted by the City Council on June 17, 2014. This application introduces no new significant environmental impacts. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference.

(b) 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.

(c) If human remains are found during project grading/excavation/construction activities, the area shall not be disturbed until any required investigation is completed by the County Coroner and Native American consultation has been completed (if deemed applicable).

(d) If any archeological or paleontological resources are found during project grading/excavation/construction, the area shall not be disturbed until the significance of the resource is determined. If determined to be significant, the resource shall be recovered by a qualified archeologist or paleontologist consistent with current standards and guidelines, or other appropriate measures implemented.

2.5 Additional Fees.

(a) After project's entitlement approval and prior to issuance of final building permits, the Planning Department's Plan Check and Inspection fees shall be paid at the rate established by resolution of the City Council.

(b) Within 5 days following final application approval, the Notice of Determination (NOD), Notice of Exemption (NOE), filing fee shall be provided to the Planning Department. The fee shall be paid by check, made payable to the "Clerk of the Board of Supervisors", which will be forwarded to the San Bernardino County Clerk of the Board of Supervisors, along with all applicable environmental

forms/notices, pursuant to the requirements of the California Environmental Quality Act (CEQA). Failure to provide said fee within the time specified may result in the 30-day statute of limitations for the filing of a CEQA lawsuit being extended to 180 days.

2.6 Additional Requirements.

(a) The applicant shall contact the Ontario Post Office to determine the size and location of mailboxes for this project. The location of the mailboxes shall be submitted to the Planning Department for review and approval prior to the issuance of building permits.

(b) The project shall be consistent with Development Agreement (File No. PDA10-002).

(c) The applicant (Developer) shall be responsible for providing fiber to each home per City requirements and standards.

(d) Prior to the issuance of grading permits, (Rough or Precise Grading). Mitigation Measures (MM), from The Avenue Specific Plan EIR, pertaining to Grading Activities must be met prior to issuance of grading permits.

(e) All applicable conditions of approval of The Avenue Specific Plan shall apply to this tract.

(f) All applicable conditions of approval of the "A" Map TT 18922 (File No. PMTT13-010) and "B" Maps TT18991 (File No. PMTT14-013), TT 18992 (File No. PMTT14-014) and TT 18994 (File No. PMTT14-016) shall apply to this tract.

(g) The Ontario Climate Action Plan (CAP) requires new development to be 25% more efficient. The applicant has elected to utilize the Screening Tables provided in the CAP instead of preparing separate emissions calculations. By electing to utilize the Screening Tables the applicant shall be required to garner a minimum of 100 points to be consistent with the reduction quantities outlined in the CAP. The applicant shall identify on the construction drawings the items identified in the attached residential Screening Tables.

CEQA THRESHOLDS AND SCREENING TABLES

Table 1: Screening Table for Implementation of GHG Reduction Measures for Residential Development

Feature	Description	Assigned Point Values	Project Points
Reduction Measure PS E1: Residential Energy Efficiency			
Building Envelope			
Insulation	2008 Baseline (walls R-13; roof/attic: R-30)	0 points	12
	Modestly Enhanced Insulation (walls R-13; roof/attic: R-38)	12 points	
	Enhanced Insulation (rigid wall insulation R-13, roof/attic: R-38)	15 points	
	Greatly Enhanced Insulation (spray foam wall insulated walls R-15 or higher, roof/attic R-38 or higher)	18 points	
Windows	2008 Baseline Windows (0.57 U-factor, 0.4 solar heat gain coefficient (SHGC))	0 points	6
	Modestly Enhanced Window Insulation (0.4 U-Factor, 0.32 SHGC)	6 points	
	Enhanced Window Insulation (0.32 U-Factor, 0.25 SHGC)	7 points	
	Greatly Enhanced Window Insulation (0.28 or less U-Factor, 0.22 or less SHGC)	9 points	
Cool Roof	Modest Cool Roof (CRRR Rated 0.15 aged solar reflectance, 0.75 thermal emittance)	10 points	10
	Enhanced Cool Roof(CRRR Rated 0.2 aged solar reflectance, 0.75 thermal emittance)	12 points	
	Greatly Enhanced Cool Roof (CRRR Rated 0.35 aged solar reflectance, 0.75 thermal emittance)	14 points	
Air Infiltration	Minimizing leaks in the building envelope is as important as the insulation properties of the building. Insulation does not work effectively if there is excess air leakage.		10
	Air barrier applied to exterior walls, caulking, and visual inspection such as the HERS Verified Quality Insulation Installation (QII or equivalent)	10 points	
	Blower Door HERS Verified Envelope Leakage or equivalent	8 points	
Thermal Storage of Building	Thermal storage is a design characteristic that helps keep a constant temperature in the building. Common thermal storage devices include strategically placed water filled columns, water storage tanks, and thick masonry walls.		
	Modest Thermal Mass (10% of floor or 10% of walls: 12" or more thick exposed concrete or masonry. No permanently installed floor covering such as carpet, linoleum, wood or other insulating materials)	2 points	
	Enhanced Thermal Mass (20% of floor or 20% of walls: 12" or more thick exposed concrete or masonry. No permanently installed floor covering such as carpet, linoleum, wood or other insulating materials)	4 points	

CEQA THRESHOLDS AND SCREENING TABLES

Feature	Description	Assigned Point Values	Project Points
Indoor Space Efficiencies			
Heating/ Cooling Distribution System	Minimum Duct Insulation (R-4.2 required)	0 points	
	Modest Duct insulation (R-6)	7 points	
	Enhanced Duct Insulation (R-8)	8 points	
	Distribution loss reduction with inspection (HERS Verified Duct Leakage or equivalent)	12 points	
Space Heating/ Cooling Equipment	2008 Minimum HVAC Efficiency (SEER 13/60% AFUE or 7.7 HSPF)	0 points	4
	Improved Efficiency HVAC (SEER 14/65% AFUE or 8 HSPF)	4 points	
	High Efficiency HVAC (SEER 15/72% AFUE or 8.5 HSPF)	7 points	
	Very High Efficiency HVAC (SEER 16/80% AFUE or 9 HSPF)	9 points	
Water Heaters	2008 Minimum Efficiency (0.57 Energy Factor)	0 points	15
	Improved Efficiency Water Heater (0.675 Energy Factor)	12 points	
	High Efficiency Water Heater (0.72 Energy Factor)	15 points	
	Very High Efficiency Water Heater (0.92 Energy Factor)	18 points	
	Solar Pre-heat System (0.2 Net Solar Fraction)	4 points	
	Enhanced Solar Pre-heat System (0.35 Net Solar Fraction)	8 points	
Daylighting	Daylighting is the ability of each room within the building to provide outside light during the day reducing the need for artificial lighting during daylight hours.		
	All peripheral rooms within the living space have at least one window (required)	0 points	
	All rooms within the living space have daylight (through use of windows, solar tubes, skylights, etc.)	1 points	
	All rooms daylighted	2 points	
Artificial Lighting	2008 Minimum (required)	0 points	10
	Efficient Lights (25% of in-unit fixtures considered high efficacy. High efficacy is defined as 40 lumens/watt for 15 watt or less fixtures; 50 lumens/watt for 15-40 watt fixtures, 60 lumens/watt for fixtures >40watt)	8 points	
	High Efficiency Lights (50% of in-unit fixtures are high efficacy)	10 points	
	Very High Efficiency Lights (100% of in-unit fixtures are high efficacy)	12 points	
Appliances	Energy Star Refrigerator (new)	1 points	2
	Energy Star Dish Washer (new)	1 points	
	Energy Star Washing Machine (new)	1 points	

CEQA THRESHOLDS AND SCREENING TABLES

Feature	Description	Assigned Point Values	Project Points
Miscellaneous Residential Building Efficiencies			
Building Placement	North/South alignment of building or other building placement such that the orientation of the buildings optimizes natural heating, cooling, and lighting.	5 point	
Shading	At least 90% of south-facing glazing will be shaded by vegetation or overhangs at noon on Jun 21 st .	4 Points	
Energy Star Homes	EPA Energy Star for Homes (version 3 or above)	25 points	
Independent Energy Efficiency Calculations	Provide point values based upon energy efficiency modeling of the Project. Note that engineering data will be required documenting the energy efficiency and point values based upon the proven efficiency beyond Title 24 Energy Efficiency Standards.	TBD	
Other	This allows innovation by the applicant to provide design features that increases the energy efficiency of the project not provided in the table. Note that engineering data will be required documenting the energy efficiency of innovative designs and point values given based upon the proven efficiency beyond Title 24 Energy Efficiency Standards.	TBD	
Existing Residential Retrofits	<p>The applicant may wish to provide energy efficiency retrofit projects to existing residential dwelling units to further the point value of their project. Retrofitting existing residential dwelling units within the City is a key reduction measure that is needed to reach the reduction goal. The potential for an applicant to take advantage of this program will be decided on a case by case basis and must have the approval of the Ontario Planning Department. The decision to allow applicants to ability to participate in this program will be evaluated based upon, but not limited to the following;</p> <p>Will the energy efficiency retrofit project benefit low income or disadvantaged residents?</p> <p>Does the energy efficiency retrofit project fit within the overall assumptions in reduction measures associated with existing residential retrofits?</p> <p>Does the energy efficiency retrofit project provide co-benefits important to the City?</p> <p>Point value will be determined based upon engineering and design criteria of the energy efficiency retrofit project.</p>	TBD	
Reduction Measure PS E2: Residential Renewable Energy Generation			
Photovoltaic	<p>Solar Photovoltaic panels installed on individual homes or in collective neighborhood arrangements such that the total power provided augments:</p> <p>Solar Ready Homes (sturdy roof and solar ready service panel)</p> <p>10 percent of the power needs of the project</p> <p>20 percent of the power needs of the project</p> <p>30 percent of the power needs of the project</p> <p>40 percent of the power needs of the project</p> <p>50 percent of the power needs of the project</p> <p>60 percent of the power needs of the project</p> <p>70 percent of the power needs of the project</p> <p>80 percent of the power needs of the project</p>	<p>2 points</p> <p>10 points</p> <p>15 points</p> <p>20 points</p> <p>28 points</p> <p>35 points</p> <p>38 points</p> <p>42 points</p> <p>46 points</p>	2

CEQA THRESHOLDS AND SCREENING TABLES

Feature	Description	Assigned Point Values	Project Points
	90 percent of the power needs of the project	52 points	
	100 percent of the power needs of the project	58 points	
Wind turbines	Some areas of the City lend themselves to wind turbine applications. Analysis of the area’s capability to support wind turbines should be evaluated prior to choosing this feature. Individual wind turbines at homes or collective neighborhood arrangements of wind turbines such that the total power provided augments: 10 percent of the power needs of the project 20 percent of the power needs of the project 30 percent of the power needs of the project 40 percent of the power needs of the project 50 percent of the power needs of the project 60 percent of the power needs of the project 70 percent of the power needs of the project 80 percent of the power needs of the project 90 percent of the power needs of the project 100 percent of the power needs of the project	10 points 15 points 20 points 28 points 35 points 38 points 42 points 46 points 52 points 58 points	
Off-site renewable energy project	The applicant may submit a proposal to supply an off-site renewable energy project such as renewable energy retrofits of existing homes that will help implement renewable energy within the City. These off-site renewable energy retrofit project proposals will be determined on a case by case basis and must be accompanied by a detailed plan that documents the quantity of renewable energy the proposal will generate. Point values will be determined based upon the energy generated by the proposal.	TBD	
Other Renewable Energy Generation	The applicant may have innovative designs or unique site circumstances (such as geothermal) that allow the project to generate electricity from renewable energy not provided in the table. The ability to supply other renewable energy and the point values allowed will be decided based upon engineering data documenting the ability to generate electricity.	TBD	
Reduction Measure PS W1: Residential Water Conservation			
Irrigation and Landscaping			
Water Efficient Landscaping	Limit conventional turf to < 50% of required landscape area Limit conventional turf to < 25% of required landscape area No conventional turf (warm season turf to < 50% of required landscape area and/or low water using plants are allowed) Only California Native Plants that requires no irrigation or some supplemental irrigation	0 points 4 points 6 points 8 points	10

CEQA THRESHOLDS AND SCREENING TABLES

Feature	Description	Assigned Point Values	Project Points
Water Efficient irrigation systems	Low precipitation spray heads < .75"/hr or drip irrigation	2 point	5
	Weather based irrigation control systems or moisture sensors (demonstrate 20% reduced water use)	3 points	
Recycled Water	Recycled connections (purple pipe) to irrigation system on site	6 points	
Water Reuse	Gray water Reuse System collects Gray water from clothes washers, showers and faucets for irrigation use,	12 points	
Storm water Reuse Systems	Innovative on-site stormwater collection, filtration and reuse systems are being developed that provide supplemental irrigation water and provide vector control. These systems can greatly reduce the irrigation needs of a project. Point values for these types of systems will be determined based upon design and engineering data documenting the water savings.	TBD	
Potable Water			
Showers	Water Efficient Showerheads (2.0 gpm)	3 points	3
Toilets	Water Efficient Toilets (1.5 gpm)	3 points	3
Faucets	Water Efficient faucets (1.28 gpm)	3 points	3
Dishwasher	Water Efficient Dishwasher (6 gallons per cycle or less)	1	
Washing Machine	Water Efficient Washing Machine (Water factor <5.5)	1	
WaterSense	EPA WaterSense Certification	12 points	
Reduction Measure PS T1: Land Use Based Trips and VMT Reduction			
Mixed Use	Mixes of land uses that complement one another in a way that reduces the need for vehicle trips can greatly reduce GHG emissions. The point value of mixed use projects will be determined based upon a Transportation Impact Analysis (TIA) demonstrating trip reductions and/or reductions in vehicle miles traveled. Suggested ranges:	TBD	14
	Diversity of land uses complementing each other (2-28 points) 5 Increased destination accessibility other than transit (1-18 points) 2 Increased transit accessibility (1-25 points) 2 Infill location that reduces vehicle trips or VMT beyond the measures described above (points TBD based on traffic data). 5	14	
Residential Near Local Retail (Residential only Projects)	Having residential developments within walking and biking distance of local retail helps to reduce vehicle trips and/or vehicle miles traveled. The point value of residential projects in close proximity to local retail will be determined based upon traffic studies that demonstrate trip reductions and/or reductions in vehicle miles traveled (VMT)	TBD	

CEQA THRESHOLDS AND SCREENING TABLES

Feature	Description	Assigned Point Values	Project Points
Other Trip Reduction Measures	Other trip or VMT reduction measures not listed above with TIA and/or other traffic data supporting the trip and/or VMT for the project.	TBD	
Reduction Measure PS T2: Bicycle Master Plan			
Bicycle Infrastructure	<p>Ontario’s Bicycle Master Plan is extensive and describes the construction on 11.5 miles of Class I bike paths and 23 miles of Class II and Class III bikeways to build upon the current 8 miles of bikeways.</p> <p>Provide bicycle paths within project boundaries.</p> <p>Provide bicycle path linkages between residential and other land uses.</p> <p>Provide bicycle path linkages between residential and transit.</p>	<p>TBD</p> <p>2 points</p> <p>5 points</p>	5
Reduction Measure PS T3: Neighborhood Electric Vehicle Infrastructure			
Electric Vehicle Recharging	<p>Provide circuit and capacity in garages of residential units for use by an electric vehicle. Charging stations are for on-road electric vehicles legally able to drive on all roadways including Interstate Highways and freeways.</p> <p>Install electric vehicle charging stations in the garages of residential units</p>	<p>1 point</p> <p>8 points</p>	1
Total Points Earned by Residential Project:			113

CITY OF ONTARIO
LANDSCAPE PLANNING DIVISION
 303 East "B" Street, Ontario, CA 91764

PRELIMINARY PLAN CORRECTIONS	
Sign Off	
	03/11/2016
Jamie Richardson, Associate Landscape Planner	Date

Reviewer's Name: Jamie Richardson, Associate Landscape Planner	Phone: (909) 395-2615
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D.A.B. File No.: PDEV15-028 Rev 2	Case Planner: Lorena Mejia
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Project Name and Location:
 The Avenue, New Haven – Planning Area 10A
 40 x 80' Alley Loaded

Applicant/Representative:
 Brookfield Residential, Monika Green
 3200 Park Center Dr. Ste 1000
 Costa Mesa, CA 92626

<input checked="" type="checkbox"/>	A Preliminary Landscape Plan (dated 02/22/2016) meets the Standard Conditions for New Development and has been approved with the consideration that the following conditions below be met upon submittal of the landscape construction documents.
<input type="checkbox"/>	A Preliminary Landscape Plan dated has not been approved. Corrections noted below are required prior to Preliminary Landscape Plan approval.

CORRECTIONS REQUIRED

Previous DAB Conditions of Approval – 10/15/2015

1. Provide an overall tree plan showing front yard and parkway trees.
2. Show sideyards access gates on plans.
3. Show a durable path min 28" wide, at sideyards for trash cans and access.
4. Show AC units located on non-access side yards.
5. Show gas and electric meters in sideyards in front of access gates.
6. Note outdoor/security lighting on building walls and addresses to be coordinated with tree plantings to avoid blocking light.
7. Note automatic irrigation to be water efficient, appropriate for the landscape, hydrozones separated and provides 100% coverage.
8. Show MAWA and ETWU calculations.
9. Avoid invasive, high water using, short lived, high maintenance or poor performing plant.
10. Show concrete mowstrips or headerboard to identify property lines.
11. Typical lot drainage shall include a catch basin with gravel sump below before exiting property.



CITY OF ONTARIO

MEMORANDUM

TO: Lorena Mejia, Planning Department

FROM: Douglas Sorel, Police Department

DATE: September 21, 2015

SUBJECT: PDEV15-028 – A Development Plan to construct 124 alley-loaded single-family dwellings located near the northeast corner of Edison Avenue and Turner Avenue.

All Police “Standard Conditions of Approval” contained in Resolution No. 2010-021 apply. Applicant shall read and be thoroughly familiar with these conditions, including, but not limited to, the requirements below.

- Required lighting for parking and walkway areas, **including private drives, alleys and access easements**, shall be provided. Required lighting shall operate on photosensor. Photometrics shall be provided and include the types of fixtures proposed and demonstrate that such fixtures meet the vandal-resistant requirement. All exterior doors shall also be properly lighted pursuant to the standard conditions.
- Doors and windows, including all hardware, must meet minimum requirements of the standard conditions.
- Address signage shall be added to the alley side of each unit so as to be visible at pedestrian scale.
- Required construction site security measures shall be provided as stated in the standard conditions. Measures include required fencing, lighting and site security guard.

The Applicant is invited to call Douglas Sorel at (909) 395-2873 regarding any questions or concerns.

AIRPORT LAND USE COMPATIBILITY PLANNING

CONSISTENCY DETERMINATION REPORT



Project File No.: PDEV15-028

Address: NEC of Edison Avenue and Turner Avenue

APN: 238-392-10, 16 & 218-402-23 & 24

Existing Land Use: Agriculture and Dairy

Proposed Land Use: 86 Alley Loaded Single Family Residential Units

Site Acreage: 16.89 Proposed Structure Height: 28'

ONT-IAC Project Review: N/A

Airport Influence Area: ONT

Reviewed By: Lorena Mejia

Contact Info: 909-395-2276

Project Planner: Lorena Mejia

Date: 10/19/15

CD No.: 2015-041

PALU No.: n/a

The project is impacted by the following ONT ALUCP Compatibility Zones:

Safety	Noise Impact	Airspace Protection	Overflight Notification
<input type="radio"/> Zone 1	<input type="radio"/> 75+ dB CNEL	<input type="radio"/> High Terrain Zone	<input type="radio"/> Avigation Easement Dedication
<input type="radio"/> Zone 1A	<input type="radio"/> 70 - 75 dB CNEL	<input checked="" type="checkbox"/> FAA Notification Surfaces	<input type="radio"/> Recorded Overflight Notification
<input type="radio"/> Zone 2	<input type="radio"/> 65 - 70 dB CNEL	<input type="radio"/> Airspace Obstruction Surfaces	<input checked="" type="checkbox"/> Real Estate Transaction Disclosure
<input type="radio"/> Zone 3	<input type="radio"/> 60 - 65 dB CNEL	<input type="radio"/> Airspace Avigation Easement Area	
<input type="radio"/> Zone 4		Allowable Height: _____	
<input type="radio"/> Zone 5			

The project is impacted by the following Chino ALUCP Compatibility Zones:

Zone A
 Zone B1
 Zone C
 Zone D
 Zone E

CONSISTENCY DETERMINATION

This proposed Project is: Exempt from the ALUCP Consistent Consistent with Conditions Inconsistent

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 Airport Land Use Compatibility Plan (ALUCP) for ONT.

Airport Planner Signature: _____

AIRPORT LAND USE COMPATIBILITY PLANNING

CONSISTENCY DETERMINATION REPORT

CD No.: 2015-041
PALU No.: n/a

PROJECT CONDITIONS

The applicant is required to meet the Real Estate Transaction Disclosure in accordance with California Codes (Business and Professions Code Section 11010-11024). New residential subdivisions within an Airport Influence Area are required to file an application for a Public Report consisting of a Notice of Intention (NOI) and a completed questionnaire with the Department of Real Estate and include the following language within the NOI:

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.



CITY OF ONTARIO

MEMORANDUM

ENGINEERING DEPARTMENT CONDITIONS OF APPROVAL

(Engineering Services Division [Land Development and Environmental], Traffic/Transportation Division,
Ontario Municipal Utilities Company and Management Services Department)

DATE: **March 29, 2016**

DAB MEETING DATE: **April 18, 2016**

PROJECT ENGINEER: **Naiim Khoury, Associate Engineer**

PROJECT PLANNER: **Lorena Mejia, Associate Planner**

PROJECT: **PDEV 15-028; A Development Plan to construct 86 Single SFR within The Avenue Specific Plan. Related Files Tract Map Nos. TM18922-1 and TM18922-3 (A-Maps) and TM18991, TM18992 and TM18994 (B-Maps).**

APPLICANT: **BrookCal, LLC – Brookfield Residential**

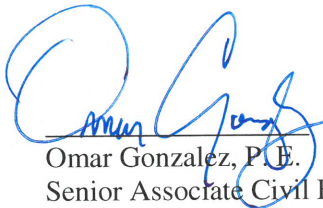
LOCATION: **North of Ontario Ranch Road and west of Haven Avenue**


This project shall comply with the requirements set forth in the General Standard Conditions of Approval adopted by the City Council (Resolution No. 2010-021) and the Project Specific Conditions of Approval specified herein. The Applicant shall be responsible for the completion of all conditions prior to issuance of permits and/or occupancy clearance.

- 1) Design and construct full public improvements in accordance with the City of Ontario Municipal Code, current City standards and specifications, master plans and The Avenue specific Plan. All public improvements for TM18922-1, TM18922-3, TM18991, TM18992 and TM18994 shall be complete and operational.
- 2) Design proposed retaining walls to retain up to a maximum of three (3) feet of earth. In no case shall a wall exceed an overall height of nine (9) feet (i.e. maximum 6-foot high wall on top of a maximum 3-foot high retaining wall).
- 3) The applicant/developer shall be responsible to design and construct in-tract fiber optic conduit system and connect to the fiber optic system constructed per TM18922-1, TM18922-3, TM18991, TM18992 and TM18994.



- 4) The proposed 5 single family homes on lots 16A-91, 16B-91, 16C-91, 16D-91 and 16E-91 requires changes to the limits of Lot 16 of Tract Map 18991 which originally proposed for townhomes product-type on one single lot. The applicant/developer shall submit a map for review and approval in order to subdivide parcel 16 into 5 parcels and adjust the limits of Lot E/Lot 16 prior to issuance of any permits.


Omar Gonzalez, P.E. 3/21/16
Senior Associate Civil Engineer Date


Khoi Do, P. E. 4/30/16
Assistant City Engineer Date

- c: Khoi Do, P.E., Engineering/Land Development
 Omar Gonzalez, P.E., Engineering/Land Development
 Stephen Wilson, Engineering/Environmental
 Larry Tay, Engineering/Traffic
 Sheldon Yu, Ontario Municipal Utility Company

CITY OF ONTARIO

MEMORANDUM

TO: PLANNING DEPARTMENT, Lorena Mejia
FROM: BUILDING DEPARTMENT, Kevin Shear
DATE: August 19, 2015
SUBJECT: PDEV15-028

1. The plan **does** adequately address the departmental concerns at this time.
No comments.

cc: File

KS:kb



PLANNING COMMISSION STAFF REPORT

April 26, 2016

SUBJECT: A Development Plan to construct 104 single-family homes on approximately 8.25 acres of land within Planning Area 10A of The Avenue Specific Plan, generally located south of Schaefer Avenue, north of Ontario Ranch Road between Haven and Turner Avenues. (APN No's: 218-472-01 thru 19, 218-445-01 thru 15, 218-442-40 thru 70, 218-442-01 thru 09 and 218-462-01 thru 15); **submitted by Brookfield Residential.**

PROPERTY OWNER: Brookcal Ontario, LLC

RECOMMENDED ACTION: That the Planning Commission approve File No. PDEV14-046, pursuant to the facts and reasons contained in the staff report and attached resolution(s), and subject to the conditions of approval contained in the attached departmental reports.

PROJECT SETTING: The project site is comprised of 8.25 acres of land generally located south of Schaefer Avenue, north of Ontario Ranch Road between Haven Avenue and Turner Avenue, within the Low Density Residential and Medium Density Residential land use designations of The Avenue Specific Plan, and is depicted in Figure 1: Project Location, to the right. The project site gently slopes from north to south and is currently mass graded. The site is surrounded by residential development and vacant land that has been mass graded.

PROJECT ANALYSIS:

[1] Background — The Avenue Specific Plan and Environmental Impact Report (EIR) were approved by the City Council on December 19, 2006. The Avenue Specific Plan established the land use designations, development standards, and design guidelines for 568 acres, which includes the potential

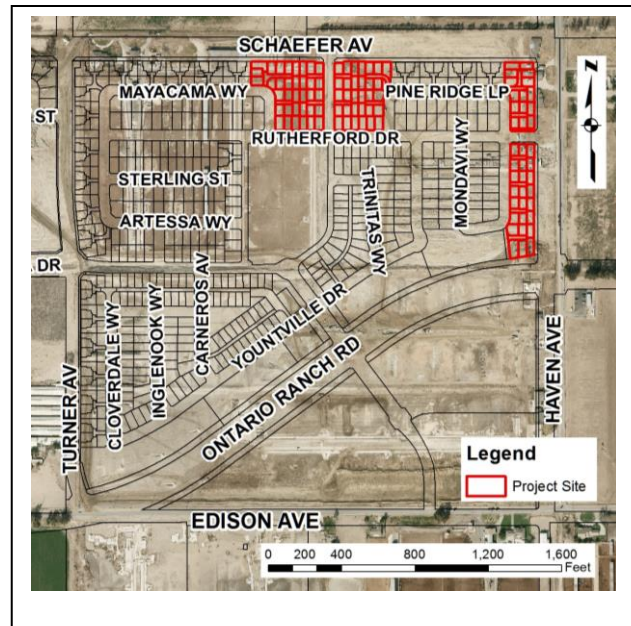
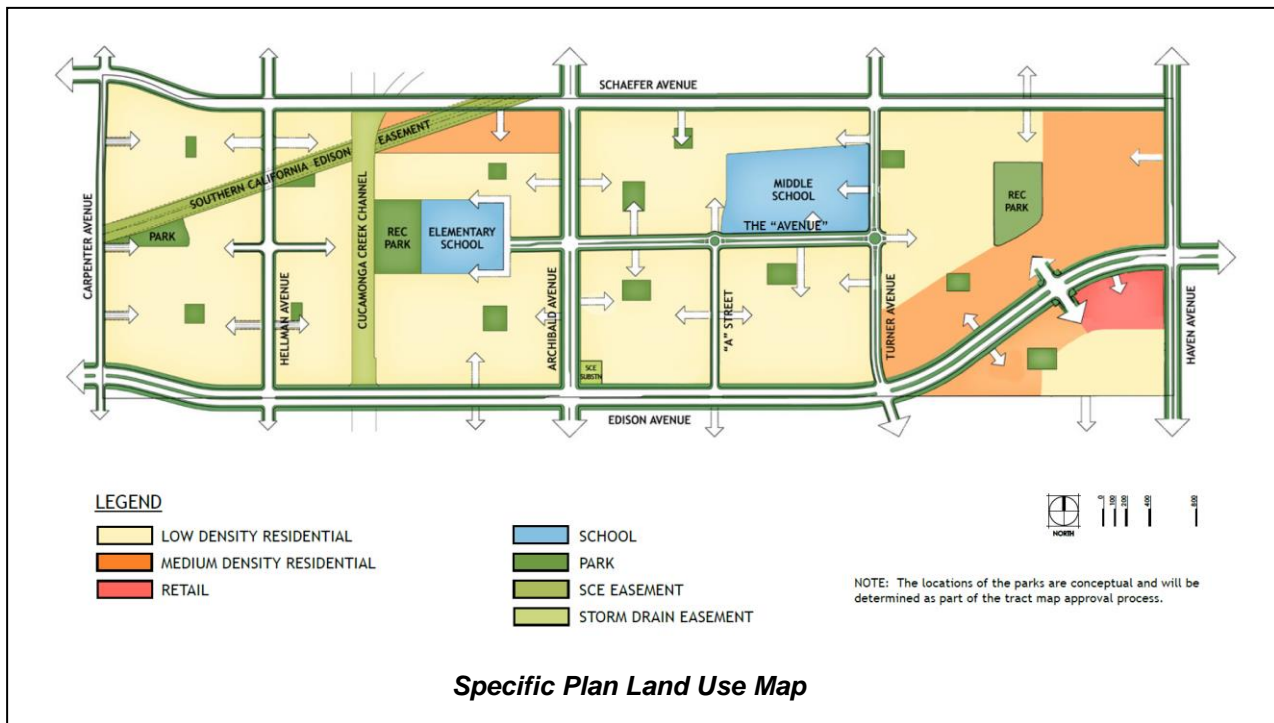


Figure 1: Project Location

Case Planner:	Lorena Mejia	Hearing Body	Date	Decision	Action
Planning Director Approval:		DAB	4/18/16		Recommend
Submittal Date:	9/15/14	ZA			
Hearing Deadline:		PC	4/26/18		Final
		CC			

development of 2,875 dwelling units and approximately 131,000 square feet of commercial.

On April 8, 2014, the Planning Commission approved Tentative Tract Map 18922 (referred to as an “A” Map) for Planning Areas 9A and 10A of The Avenue Specific Plan. The approved “A” Map facilitates the backbone infrastructure improvements (major streets, sewer, water and storm drain facilities) and the creation of park/recreational facilities and residential neighborhoods in the eastern portion of the Specific Plan (see **Figure 2: The Avenue Specific Plan Land Use Plan**, below).



On August 26, 2014, the Planning Commission approved Tentative Tract Maps 18991, 18992, 18993 and 18994 (referred to as “B” Maps) for the subdivision of Planning Areas 9A and 10A of The Avenue Specific Plan. The approval of tentative tract maps subdivided the area into a combination of residential lots and lettered lots (private drive aisles, alleys, landscape buffers and parking) to accommodate conventional, alley loaded, cluster (6-pack) single-family products and multi-family rowtown and autocourt products being marketed as the New Haven community. The Applicant, Brookfield Residential, has submitted a development application for the construction of 104 single-family homes for a 6-pack cluster product. To date there have been four Development Plans approved for the New Haven community that include:

- Holiday – A 98-unit autocourt project consisting of seven two-story buildings;
- Summerset - 112 single-family conventional homes (55'x90' lots);

- Waverly – A 6-pack cluster product with 135 single-family homes; and
- Poppy - 149 single-family conventional homes (45'x90' lots).

[2] Site Design/Building Layout — The Development Plan proposes 104 single-family homes, in a 6-pack cluster design, located in three neighborhoods within Planning Area 10A of The Avenue Specific Plan (see **Exhibit A: Site Plan**). Each cluster lot has minimum exterior dimensions of 145'x130' and is divided into six lots ranging in size from 2,750 to 4,985 square feet. The 6-pack cluster product is characterized by a private lane that provides both garage and front entry access to each unit (see **Figure 3: Typical Plotting**). The private lanes will be enhanced with decorative pavers.

Three distinct floor plans are proposed for each cluster with three elevations per plan. Each lot was designed to incorporate an 18' minimum driveway in addition to the required 2-car garage, providing a total of four parking spaces per unit. The three proposed floor plans are described further in the following table:

Plan 1	Plan 2	Plan 3
<ul style="list-style-type: none"> • 1,815 SF • 3 bedrooms, 3 bath • 2-stories • 2-car garage 	<ul style="list-style-type: none"> • 1,969 SF • 3 bedrooms, 3 bath • Bonus room • 2-stories • 2-car garage 	<ul style="list-style-type: none"> • 2,071 SF • 3 bedrooms (optional 4th bedroom), 3 bath • 2-stories • 2-car garage

In a 6-pack cluster configuration, not all front building elevations are visible from the public street. Plan 2 is oriented toward the public street (architectural forward), with front entry and walk facing the street and garage access taken from the private lane. The rectangular floor plan is configured with the living areas oriented towards the street and private yards. Plan 2, the center units, are the least visible from the public street. These units feature a square-shaped floor plan with the front entry and garage access from the private lane. The Plan 3, the rear units, front onto the private lane and are visible from the public street. The floor plan is rectangular in shape with the living areas oriented towards the private yards and the unit entry and garage access taken from the private lane. Plan 1 and 2 feature use easements that extend the side yard areas into the adjoining lot for a more useable yard area. Figure 3: *Typical Plotting*, demonstrates how the side yard easements function and further illustrate how the side yard areas of each dwelling unit is maximized.

The development meets the minimum setback standards of the Specific Plan. The varied entryways and architectural styles creates an attractive diverse streetscape along both the private lane and the public street. Enhanced architectural treatment is required for properties located on corner lots, such as 2nd story shutters and enhanced gable ends. All three plans have an open concept with the main living and kitchen areas oriented towards the rear yards, providing opportunities to extend the living areas into outdoor patio rooms.

[3] Rutherford Drive lots Alternate Site Design/Building Layout — The Development Plan includes 12 lots that are configured in a conventional lot setting with narrow lot widths ranging from 40 to 44 feet wide along Rutherford Drive, located across the street from the community park (**Figure 4: Rutherford Lot Plotting**). These properties have garage access from the public street and their front entries are accessed from a shared interior courtyard as shown in **Figure 5: Rutherford Lot Front entry access**. The Plan 1 and 2 were utilized for Rutherford lots and alternate enhanced elevations are provided for the Plan 2 Spanish Colonial and American Farmhouse architectural styles along the street facing elevations as shown in **Figure 6: Rutherford Plan 2 Enhanced Elevations**.

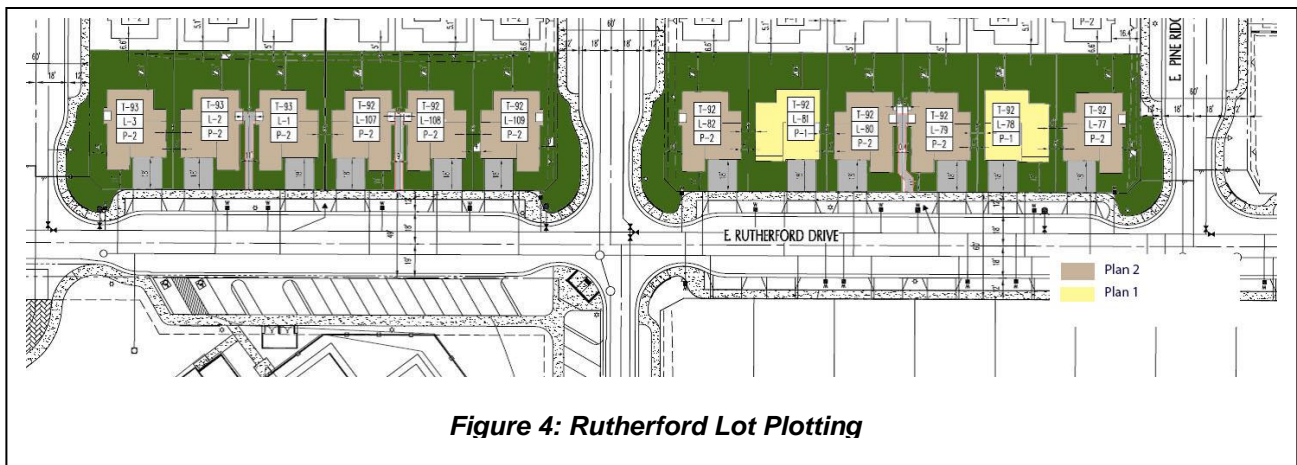
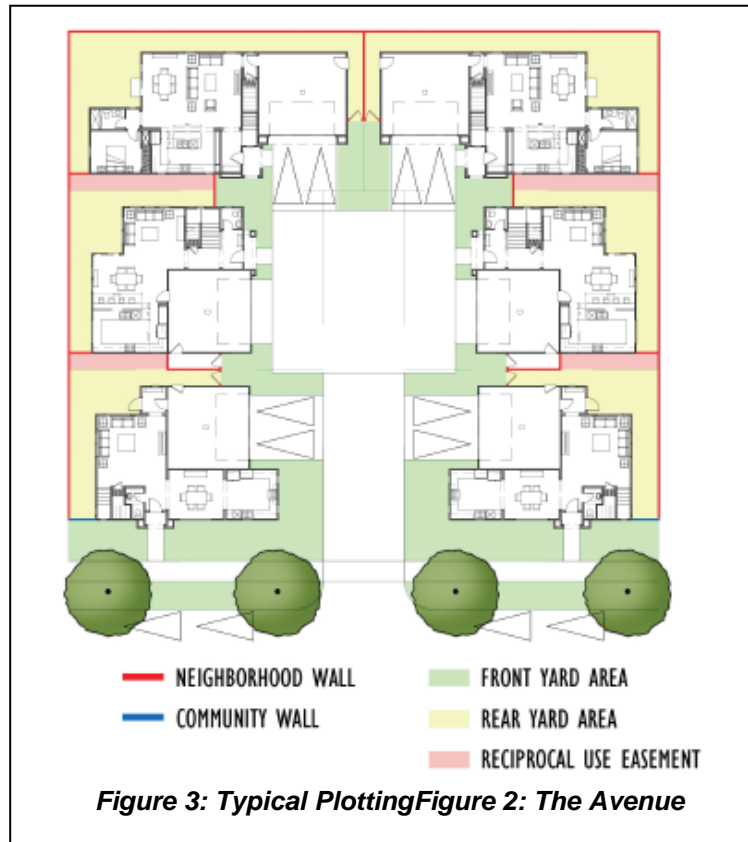


Figure 4: Rutherford Lot Plotting

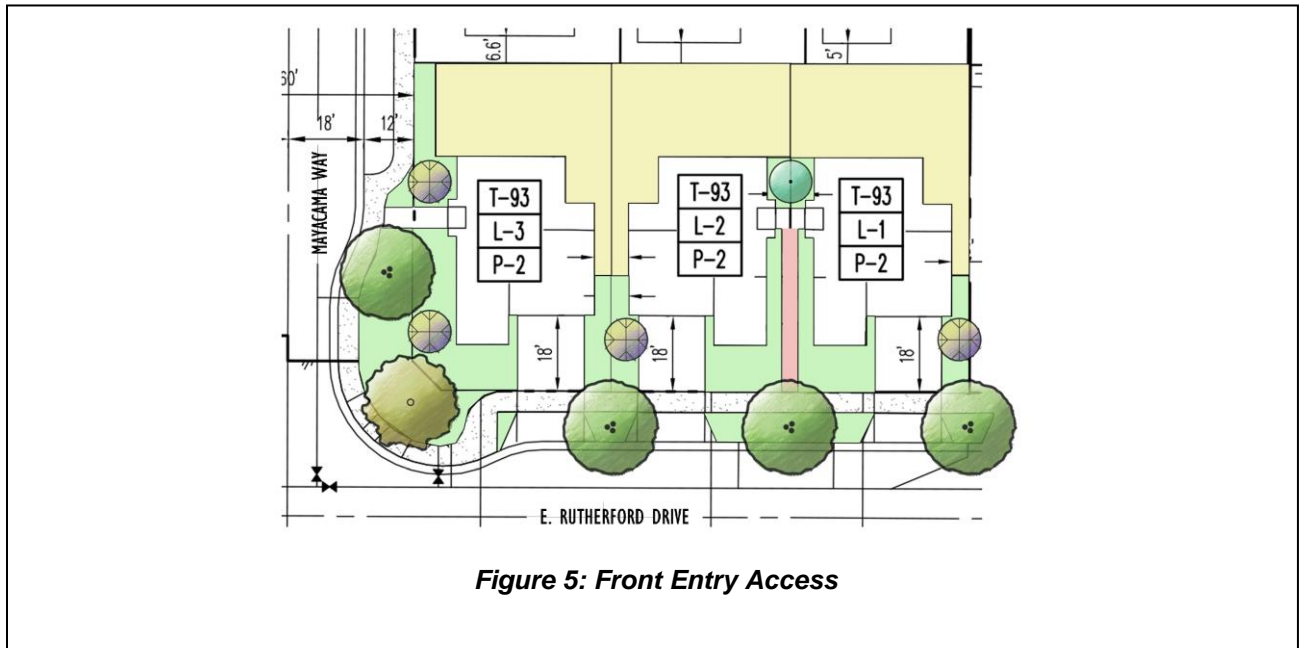


Figure 5: Front Entry Access

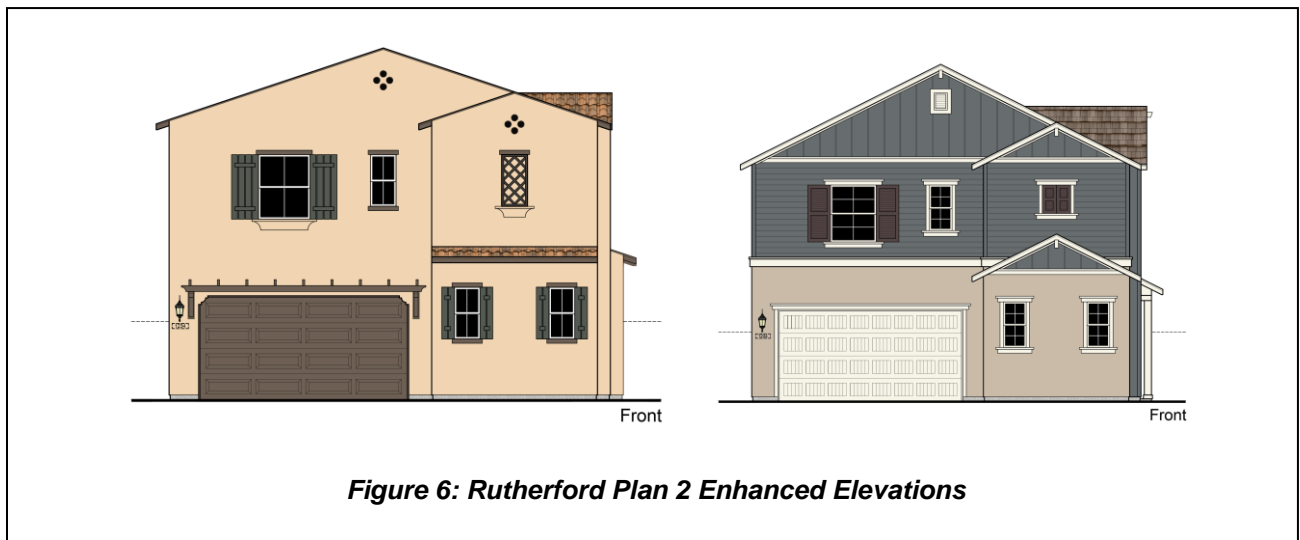


Figure 6: Rutherford Plan 2 Enhanced Elevations

[4] Site Access/Circulation — The approved related Tentative Tract Map 18922 (“A” Map) will facilitate the construction of the backbone streets and primary access points into Planning Areas 10A of the Specific Plan, which included primary access points from Turner Avenue, Edison Avenue, Schaefer Avenue and Haven Avenue. The approved “B” Maps for the area (TT18991, TT18992, TT18993 and TT18994) will facilitate the construction of the interior neighborhood streets serving the project site (see **Exhibit A: Site Plan**).

[5] Parking — The Avenue Specific Plan requires a 2-car garage for each single-family home and the plan provides a 2-car garage in addition to 2-driveway spaces, providing a total of four parking spaces per unit. On-street parking is also available to serve the units, though not included in the parking calculation.

[6] Architecture — The architectural styles of the proposed single-family homes include Spanish Colonial, California Ranch Bungalow and American Farmhouse (see **Figure 4: Conceptual Street Scene**). These styles complement one another through the overall scale, massing, proportions and details. Also, detailing, architectural treatments, and articulation are provided on all four sides of the proposed elevations. The three architectural styles proposed will include the following (see **Exhibit C - Elevations**):

Spanish Colonial: Low and shallow-pitched “S” tile roof with intersecting gables; roof overhangs; second story pop-out features; stucco exterior; arched entryways; recessed multi-paned windows; decorative window sill trim and shutters.

California Ranch Bungalow: Varying low pitched gable roofs with flat tile; roof overhangs; second story pop-out features; decorative triangular knee brackets; a combination of horizontal siding, stone veneer and stucco exterior (enhanced façade at gable ends with vertical foam treatment); shed and gable front entries with columns treated with stone veneer; and multi-paned windows with trim surrounding enhanced and shutters.

American Farmhouse: Varying high pitched gable roofs with flat tile; roof overhangs; second story pop-out features; a combination of vertical siding, brick veneer and stucco exterior; shed and gable front entries with square columns; and multi-paned windows and shutters.



Figure 4: Conceptual Street Scene

[7] Landscaping — The Development Plan includes sidewalks separated by landscaped parkways which provides visual interest and promotes pedestrian mobility. The local streets within the development will provide a 12-foot wide combination sidewalk and landscaped parkway. All the homes will be provided with front yard/private lane courtyard landscaping (lawn, shrubs and trees) and an automatic irrigation system to be installed by the developer. The homeowner will be responsible for rear yard landscape improvements.

The Ontario Plan (TOP) Policy PR1-1 requires new developments to provide a minimum of 2 acres of private pocket park per 1,000 residents. To satisfy the park requirement, a 6.8 acre park, as part of the related “A” Map (TT18922), has been constructed at the center of Planning Area 10A. The park features an 8,348 square foot club house, two pools and a spa, open lawn area and other recreational amenities. Some of the lots proposed for development are located directly across from the park or within walking distance of the park.

[8] CC&R's — CC&R's were prepared and recorded with the related Tract Map 18922. The CC&R's outline the maintenance responsibilities for open space areas, utilities and upkeep of the entire site to ensure the on-going maintenance of the common areas and facilities.

COMPLIANCE WITH THE ONTARIO PLAN: The proposed project is consistent with the principles, goals and policies contained within the Vision, Governance, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan (TOP). More specifically, the goals and policies of TOP that are furthered by the proposed project are as follows:

[1] City Council Priorities

Primary Goal: Regain Local Control of Ontario International Airport

Supporting Goals:

- Invest in the Growth and Evolution of the City's Economy;
- Maintain the Current High Level of Public Safety;
- Operate in a Businesslike Manner;
- Focus Resources in Ontario's Commercial and Residential Neighborhoods; and
- Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony.

[2] Policy Plan (General Plan)

Land Use Element — Balance

- Goal LU1: A community that has a spectrum of housing types and price ranges that match the jobs in the City and make it possible for people to live and work in Ontario and maintain a quality of life.
 - LU1-1: Strategic Growth. We concentrate growth in strategic locations that help create place and identity, maximize available and planned infrastructure, and foster the development of transit.
 - LU1-3: Adequate Capacity. We require adequate infrastructure and services for all development.
 - LU1-6: Complete Community. We incorporate a variety of land uses and building types in our land use planning efforts that result in a complete community where residents at all stages of life, employers, workers and visitors have a wide spectrum of choices of where they can live, work, shop and recreate within Ontario.

Land Use Element — Neighborhood & Housing

- Goal H2: Diversity of types of quality housing that are affordable to a range of household income levels, accommodates changing demographics, and support and reinforce the economic sustainability of Ontario.
 - H2-4: New Model Colony. We support a premier lifestyle community in the New Model Colony distinguished by diverse housing, highest design quality, and cohesive and highly amenitized neighborhoods.
- Goal H3: A City regulatory environment that balances the need for creativity and excellence in residential design, flexibility and predictability in the project approval process, and the provision of an adequate supply and prices of housing.
 - H3-1: Community Amenities. We shall provide adequate public services, infrastructure, open space, parking and traffic management, pedestrian, bicycle and equestrian routes and public safety for neighborhoods consistent with City master plans and neighborhood plans.
 - H3-3: Development Review. We maintain a residential development review process that provides certainty and transparency for project stakeholders and the public yet allows for the appropriate review to facilitate quality housing development.

Parks and Recreation Element – Planning & Design

- Goal PR1: A system of safe and accessible parks that meets the needs of the community.

➤ PR1-1: Access to Parks. We strive to provide a park and/or recreational facility within walking distance (¼ mile) of every residence.

➤ PR1-9: Phased Development. We require parks be built in new communities before a significant proportion of residents move in.

Mobility Element – Bicycles and Pedestrians Diversity

▪ Goal M2: A system of trails and corridors that facilitate and encourage bicycling and walking.

➤ M2-3: Pedestrian Walkways. We require walkways that promote safe and convenient travel between residential areas, businesses, schools, parks, recreation areas, and other key destination points.

Community Economics Element — Place Making

▪ Goal CE2: A City of distinctive neighborhoods, districts, and corridors, where people choose to be.

➤ CE2-1 Development Projects. We require new development and redevelopment to create unique, high-quality places that add value to the community.

➤ CE2-2 Development Review. We require those proposing new development and redevelopment to demonstrate how their projects will create appropriately unique, functional and sustainable places that will compete well with their competition within the region.

➤ CE2-4 Protection of Investment. We require that new development and redevelopment protect existing investment by providing architecture and urban design of equal or greater quality.

➤ CE2-5 Private Maintenance. We require adequate maintenance, upkeep, and investment in private property because proper maintenance on private property protects property values.

Safety Element — Seismic & Geologic Hazards

▪ Goal S1: Minimized risk of injury, loss of life, property damage and economic and social disruption caused by earthquake-induced and other geologic hazards.

➤ S1-1 Implementation of Regulations and Standards. We require that all new habitable structures be designed in accordance with the most recent California

Building Code adopted by the City, including provisions regarding lateral forces and grading.

Community Design Element — Image & Identity

- Goal CD1: A dynamic, progressive city containing distinct neighborhoods and commercial districts that foster a positive sense of identity and belonging among residents, visitors, and businesses.
 - CD1-1 City Identity. We take actions that are consistent with the City being a leading urban center in Southern California while recognizing the diverse character of our existing viable neighborhoods.
 - CD1-3 Neighborhood Improvement. We require viable existing residential and non-residential neighborhoods to be preserved, protected, and enhanced in accordance with our land use policies.

Community Design Element — Design Quality

- Goal CD2: A high level of design quality resulting in public spaces, streetscapes, and developments that are attractive, safe, functional and distinct.
 - CD2-1 Quality Architecture. We encourage all development projects to convey visual interest and character through:
 - Building volume, massing, and height to provide appropriate scale and proportion;
 - A true architectural style which is carried out in plan, section and elevation through all aspects of the building and site design and appropriate for its setting; and
 - Exterior building materials that are visually interesting, high quality, durable, and appropriate for the architectural style.
 - CD2-7 Sustainability. We collaborate with the development community to design and build neighborhoods, streetscapes, sites, outdoor spaces, landscaping and buildings to reduce energy demand through solar orientation, maximum use of natural daylight, passive solar and natural ventilation, building form, mechanical and structural systems, building materials and construction techniques.
 - CD2-8 Safe Design. We incorporate defensible space design into new and existing developments to ensure the maximum safe travel and visibility on pathways, corridors, and open space and at building entrances and parking areas by avoiding physically and visually isolated spaces, maintenance of visibility and accessibility, and use of lighting.

➤ CD2-9 Landscape Design. We encourage durable landscaping materials and designs that enhance the aesthetics of structures, create and define public and private spaces, and provide shade and environmental benefits.

➤ CD2-13 Entitlement Process. We work collaboratively with all stakeholders to ensure a high degree of certainty in the efficient review and timely processing of all development plans and permits.

Community Design — Protection of Investment

▪ Goal CD5: A sustained level of maintenance and improvement of properties, buildings and infrastructure that protects the property values and encourages additional public and private investments.

➤ CD5-1 Maintenance of Buildings and Property. We require all public and privately owned buildings and property (including trails and easements) to be properly and consistently maintained.

➤ CD5-2 Maintenance of Infrastructure. We require the continual maintenance of infrastructure.

HOUSING ELEMENT COMPLIANCE: The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the number of dwelling units (104) and density (12) specified in the Available Land Inventory.

AIRPORT LAND USE COMPATIBILITY PLAN COMPLIANCE: The project site is located within the Airport Influence Area of LA/Ontario International Airport and has been found to be consistent with the policies and criteria set forth within the LA/Ontario International Airport Land Use Compatibility Plan (ALUCP).

ENVIRONMENTAL REVIEW: The environmental impacts of this project were previously reviewed in conjunction with a Specific Plan Amendment for The Avenue Specific Plan (PSPA13-003), for which an addendum to The Avenue Specific Plan EIR (SCH# 2005071109) was adopted by the City Council on June 17, 2014. This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are a condition of project approval and are incorporated herein by reference.

CONDITIONS OF APPROVAL: See attached department reports.

TECHNICAL APPENDIX:

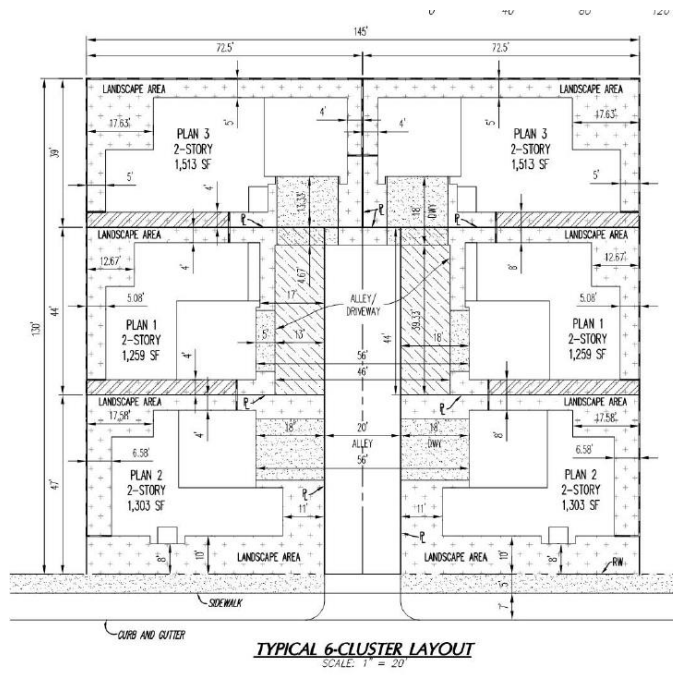
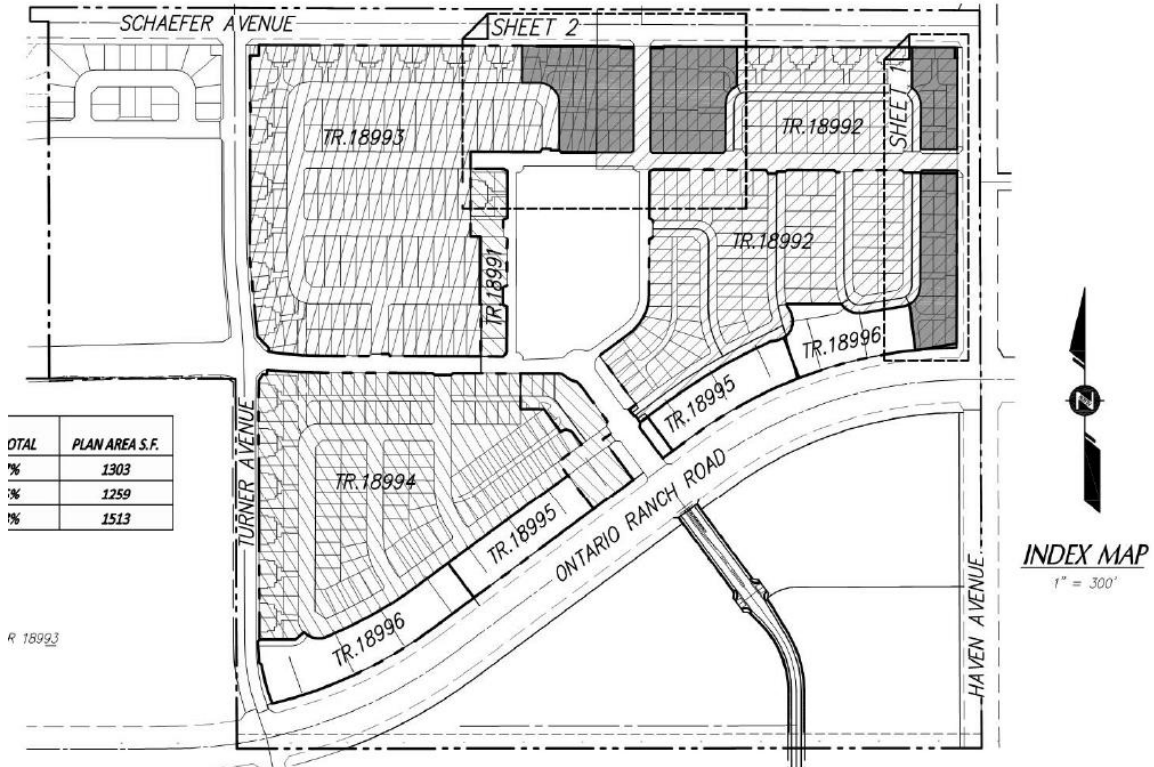
Surrounding Zoning and Land Use:

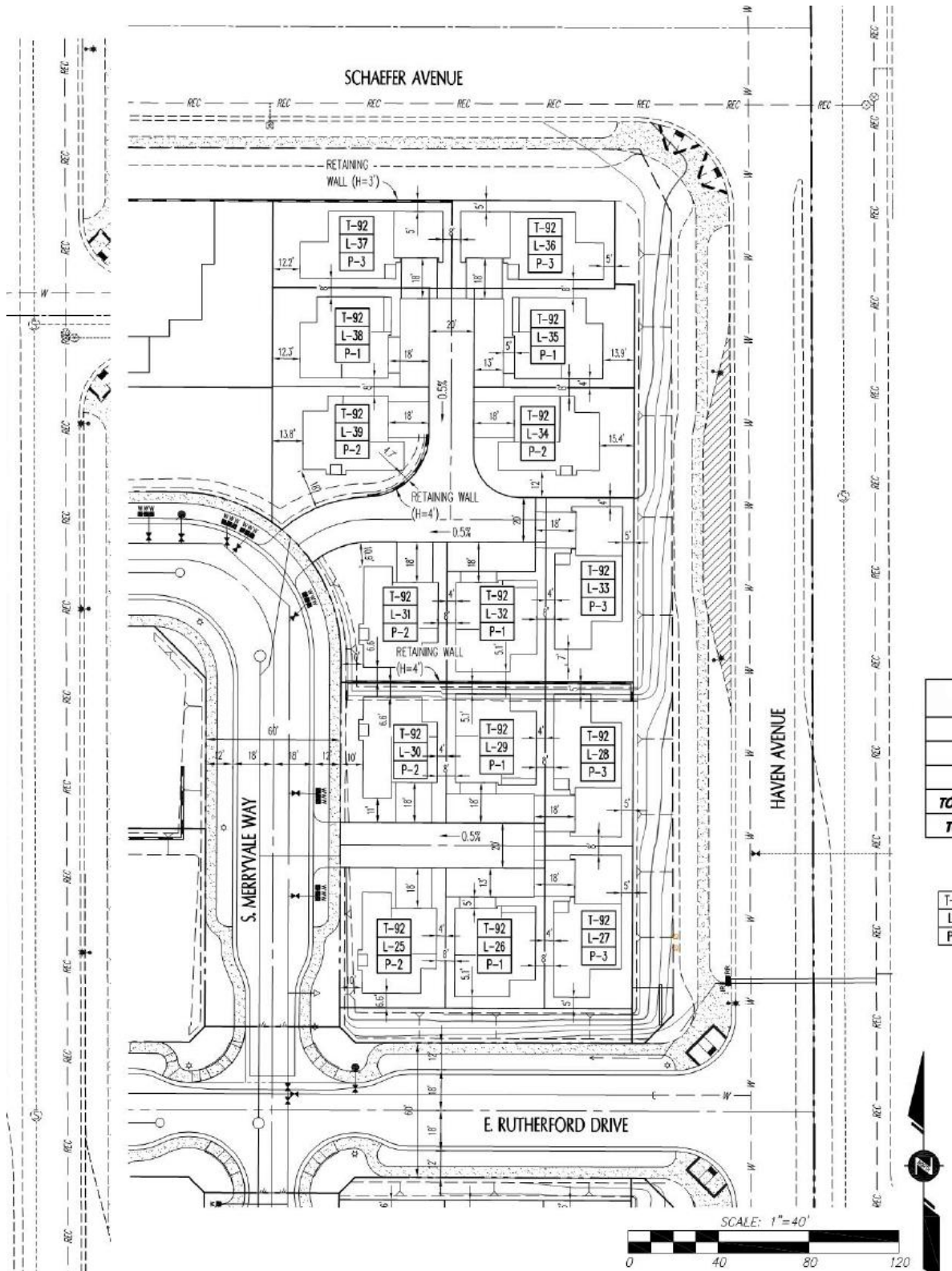
	<i>Existing Land Use</i>	<i>General Plan Designation</i>	<i>Zoning Designation</i>	<i>Specific Plan Land Use</i>
Site	Vacant and Graded	Low Density and Medium Density Residential	The Avenue Specific Plan	Planning Area 10A - Low Density and Medium Density Residential
North	Vacant/Graded/Residential/Open Space	Low Density, Medium Density Residential, Open Space Recreational and Open Space Non-Recreational	The Avenue Specific Plan & West Haven Specific Plan	Planning Area 10A - Low Density, Medium Density Residential & SCE Easement
South	Vacant/Graded/Residential/Community Park	Low Density and Medium Density Residential	The Avenue Specific Plan	Planning Area 10A - Medium Density Residential and Park
East	Vacant/Graded/Residential	Low Density/Medium Density Residential/ Mixed Use	The Avenue Specific Plan & Rich Haven Specific Plan	Planning Area 10A - Low Density, Medium Density Residential and Residential 6.1-12 du/ac
West	Vacant/Graded/Residential	Low Density and Medium Density Residential	The Avenue Specific Plan	Planning Area 10A - Low Density and Medium Density Residential

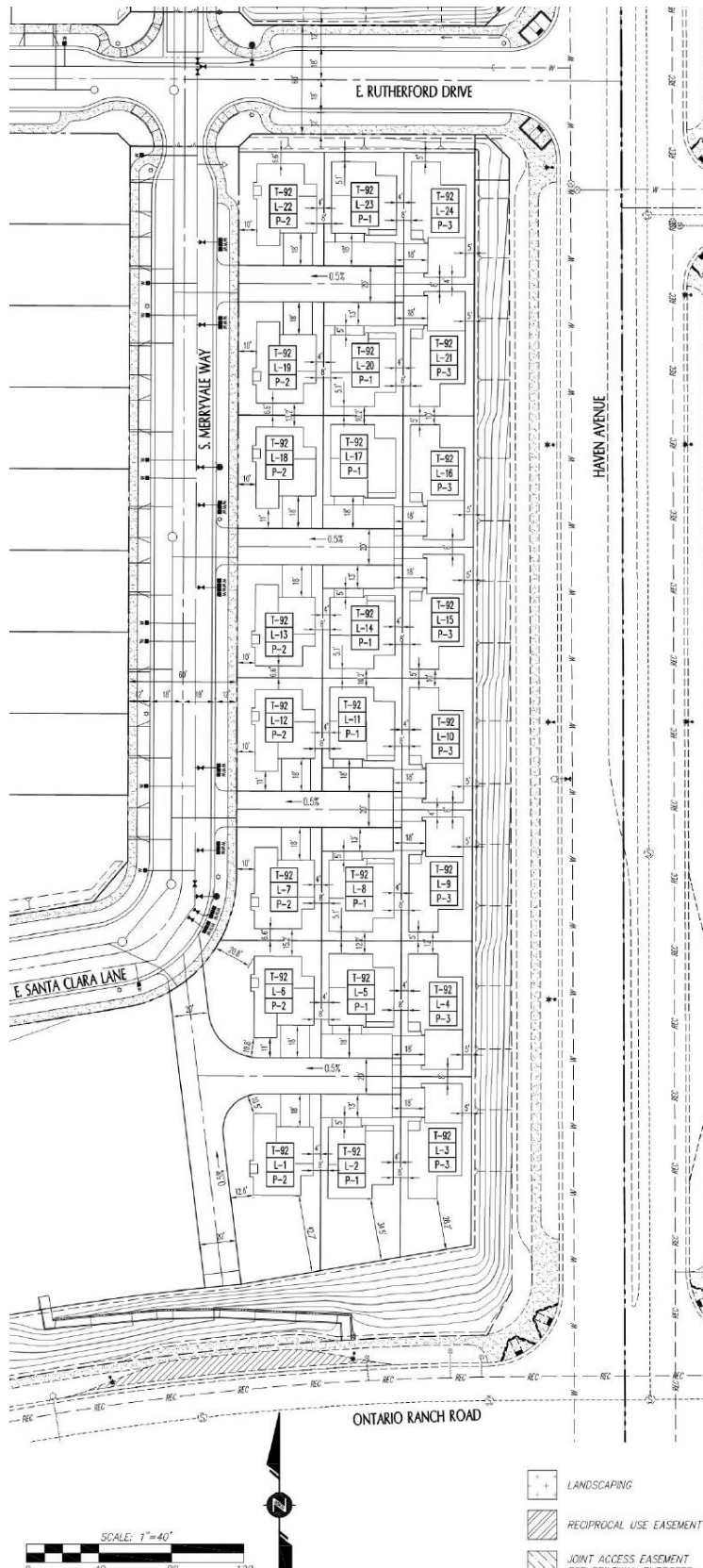
The Avenue Specific Plan (Table 3e – Product Type 3 Development Standards):

<i>Item</i>	<i>Required Min./Max.</i>	<i>Provided (Ranges)</i>	<i>Meets Y/N</i>
<i>Maximum coverage (in %):</i>	65%	25%-54%	Y
<i>Minimum lot size (in SF):</i>	2,000 SF	2,827 SF to 4,985 SF	Y
<i>Front yard setback (in FT):</i>	10 FT Living Area	10 – 20 FT	Y
<i>Side yard setback (in FT):</i>	4 FT	4 FT	Y
<i>Rear yard setback (in FT):</i>	5 FT	5 – 42 FT	Y
<i>Maximum height (in FT):</i>	35 FT	24 – 29 FT	Y
<i>Parking:</i>	2-car garage	2-car garage	Y

Exhibit A: Site Plan







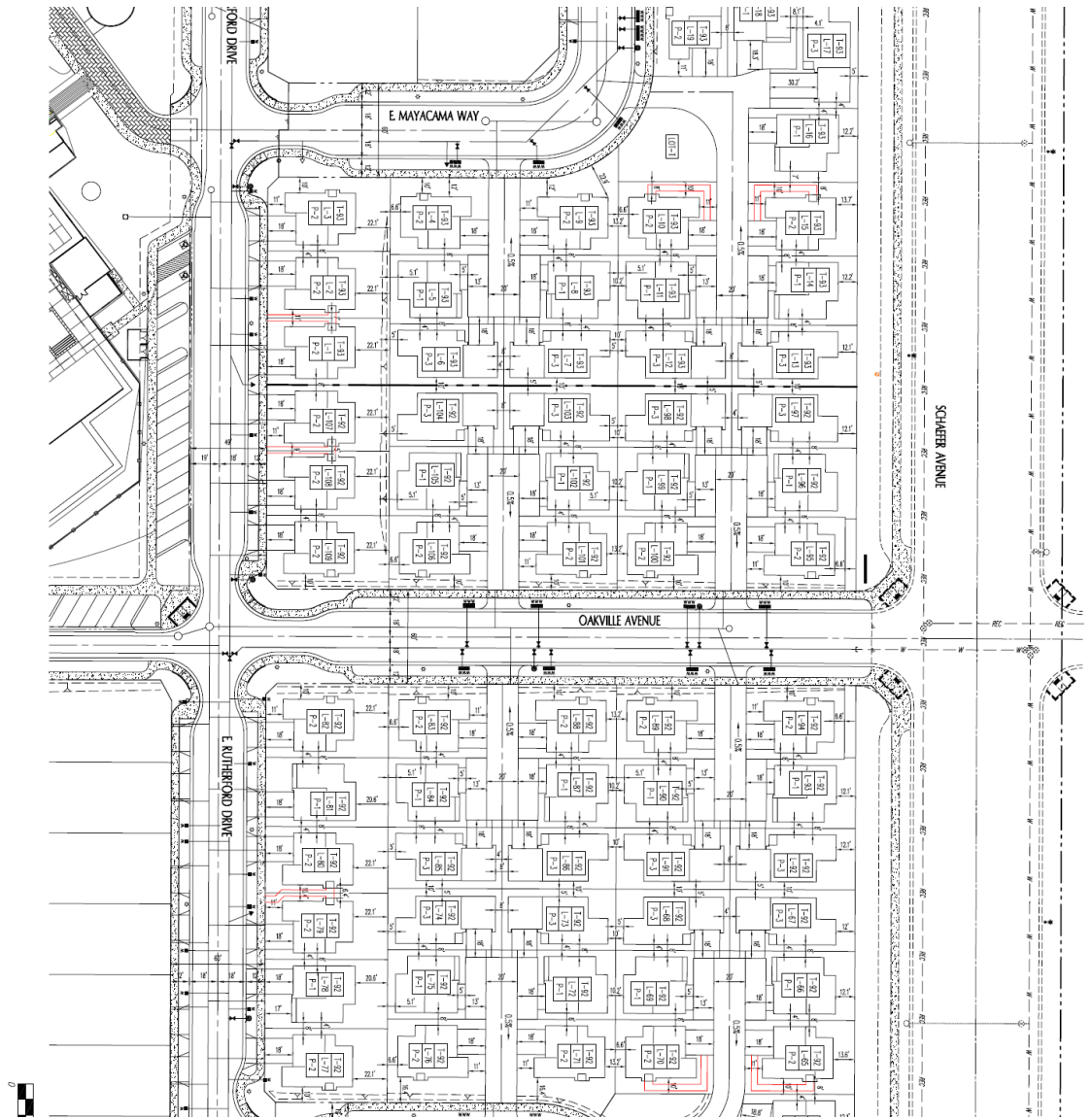


Exhibit B: Floor Plan



Plan 3 - 2,071 SF

- Lower Square Footage: 1,011 SF
- Upper Square Footage: 1,060 SF
- Usable Rear Yard Square Footage: 326 SF

3 Bedroom / 3 Bath / Den / 2-Car Garage

Plan 1 - 1,815 SF

- Lower Square Footage: 807 SF
- Upper Square Footage: 1,008 SF
- Usable Rear Yard Square Footage: 256 SF

3 Bedroom / 2.5 Bath / 2-Car Garage

Plan 2 - 1,969 SF

- Lower Square Footage: 796 SF
- Upper Square Footage: 1,173 SF
- Usable Rear Yard Square Footage: 263 SF

3 Bedroom / 2.5 Bath / Bonus / 2-Car Garage

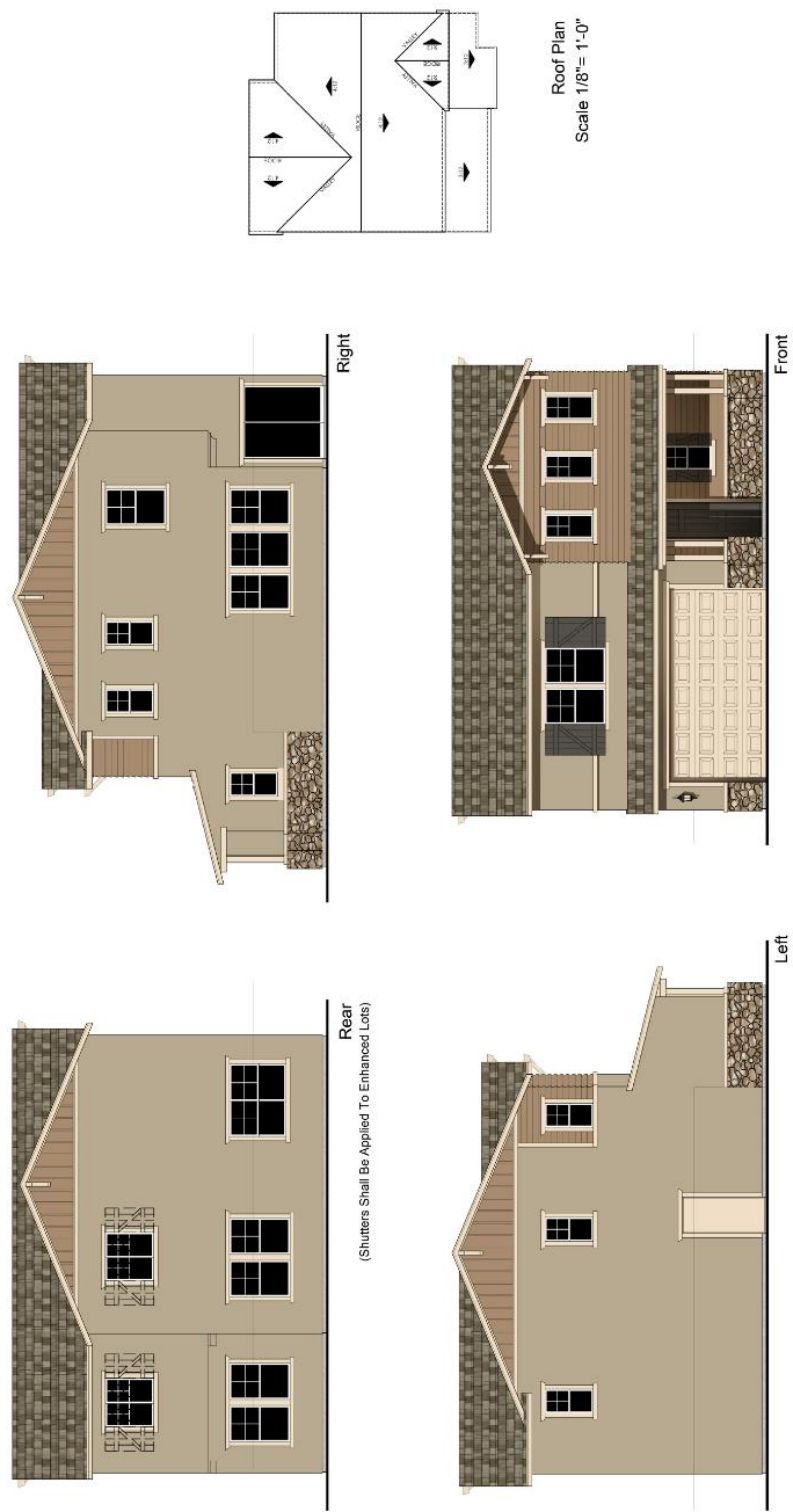
Cluster

PLOT PLAN - UPPER

2nd Story Floor Plan

Exhibit C: Elevations





New Haven - 145' x 130' Cluster

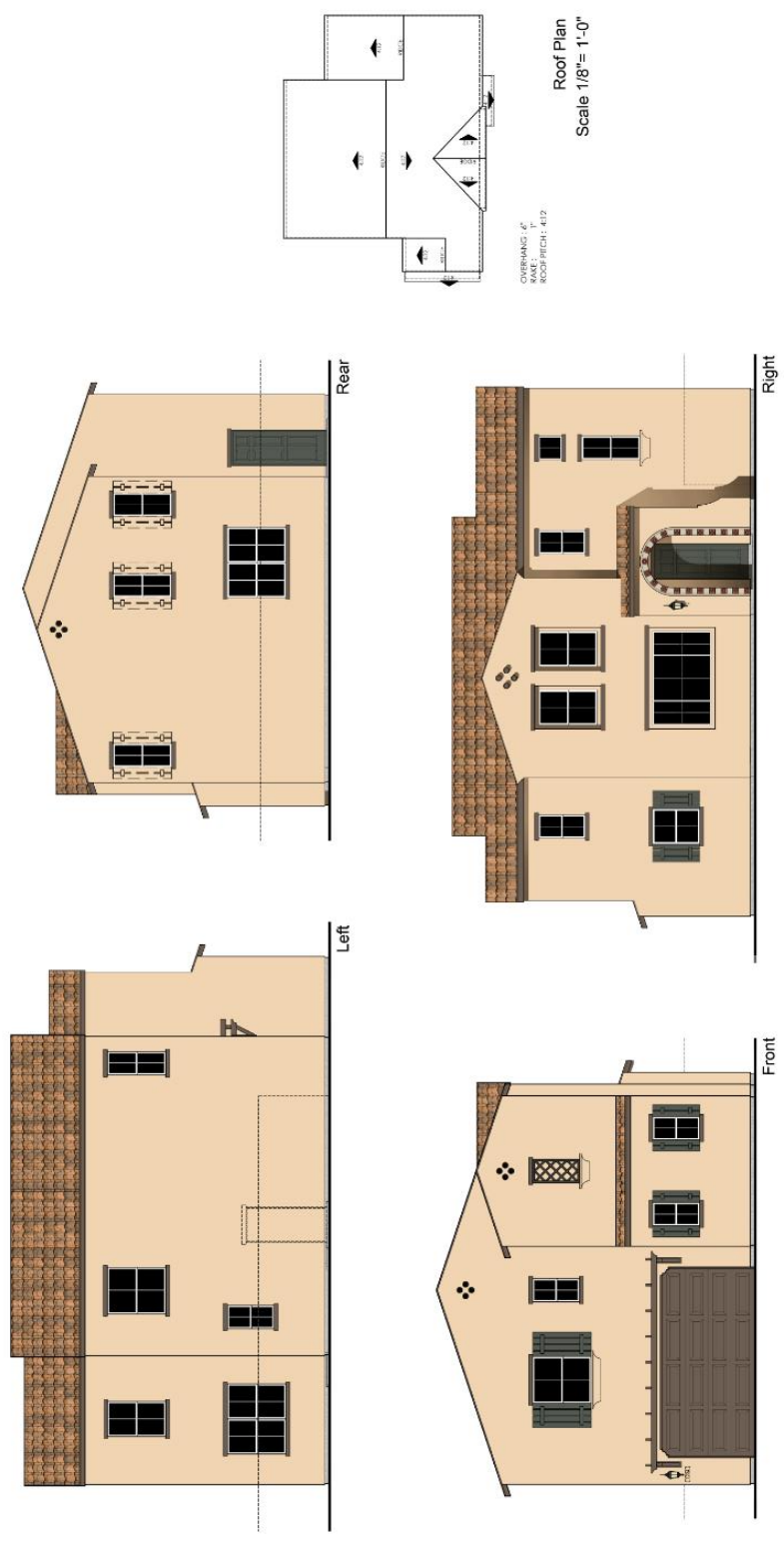
EXTERIOR ELEVATIONS - PLAN 1B



EXTERIOR ELEVATIONS - PLAN 2A

New Haven - 145' x 130' Cluster

0 2 4
A3.1



PLAN 2A ENHANCED ELEVATIONS
 EXTERIOR ELEVATIONS - FRONTING RUTHERFORD STREET
 A3.5
 New Haven - 145' x 130' Cluster



EXTERIOR ELEVATIONS - PLAN 2B

New Haven - 145' x 130' Cluster

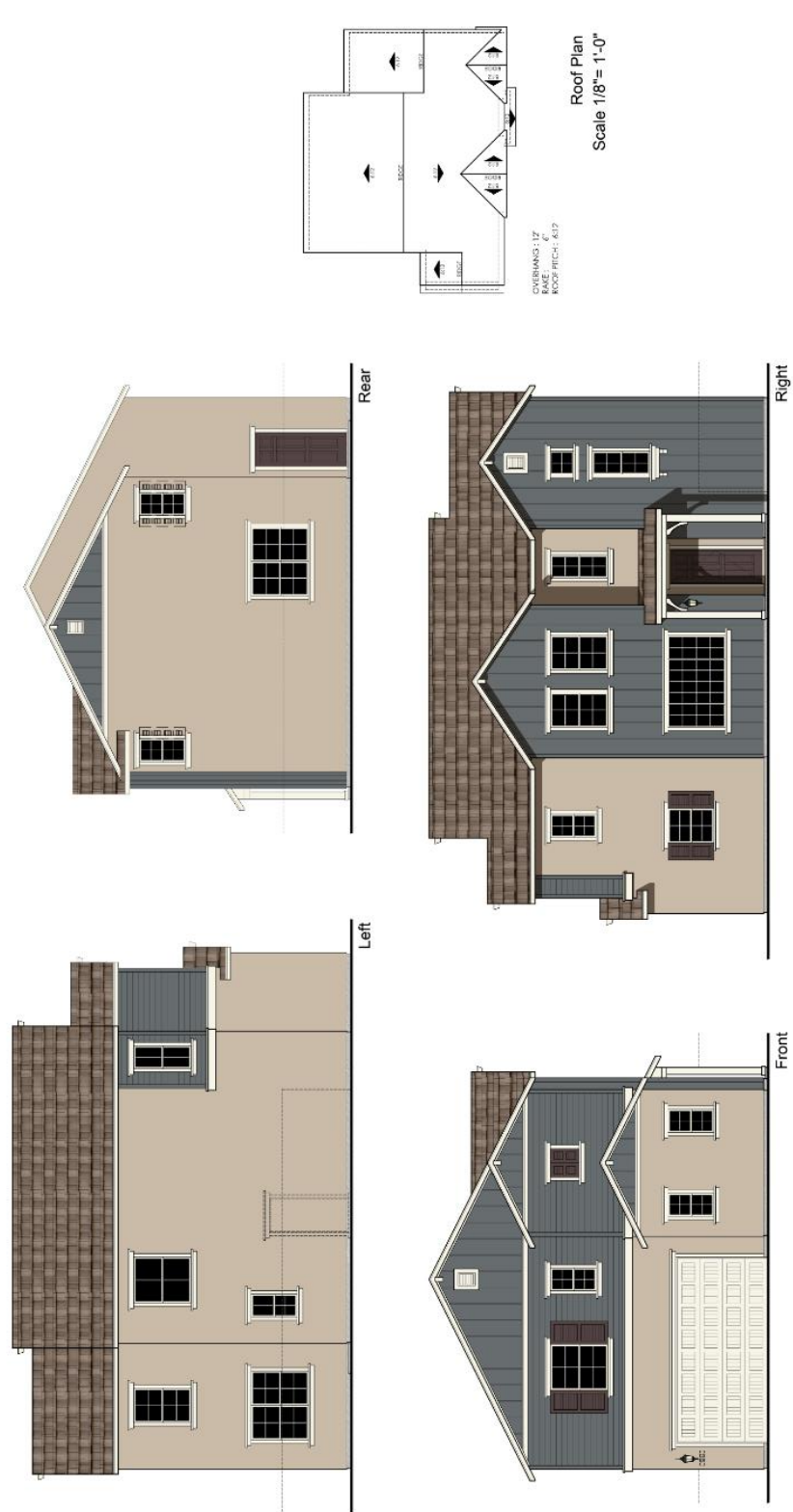
A3.3



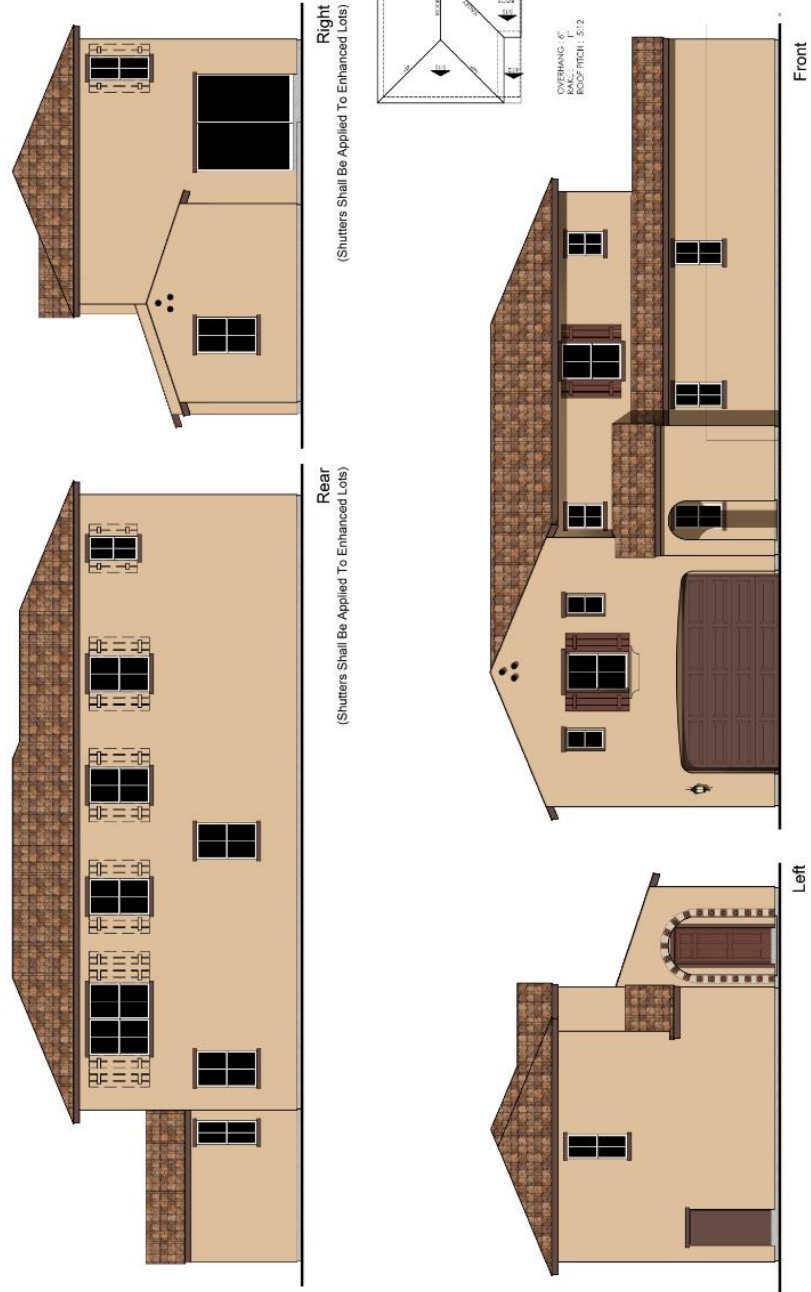
0 2 4
A3.4

EXTERIOR ELEVATIONS - PLAN 2C

New Haven - 145' x 130' Cluster



PLAN 2C ENHANCED ELEVATIONS
 EXTERIOR ELEVATIONS - FRONTING RUTHERFORD STREET
 A3.6
 New Haven - 145' x 130' Cluster



0 2 4 8
A4.2

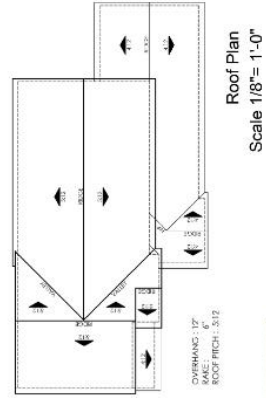
EXTERIOR ELEVATIONS - PLAN 3A

New Haven - 145' x 130' Cluster



Right
 (Shutters Shall Be Applied To Enhanced Lots)

Rear
 (Shutters Shall Be Applied To Enhanced Lots)



Front

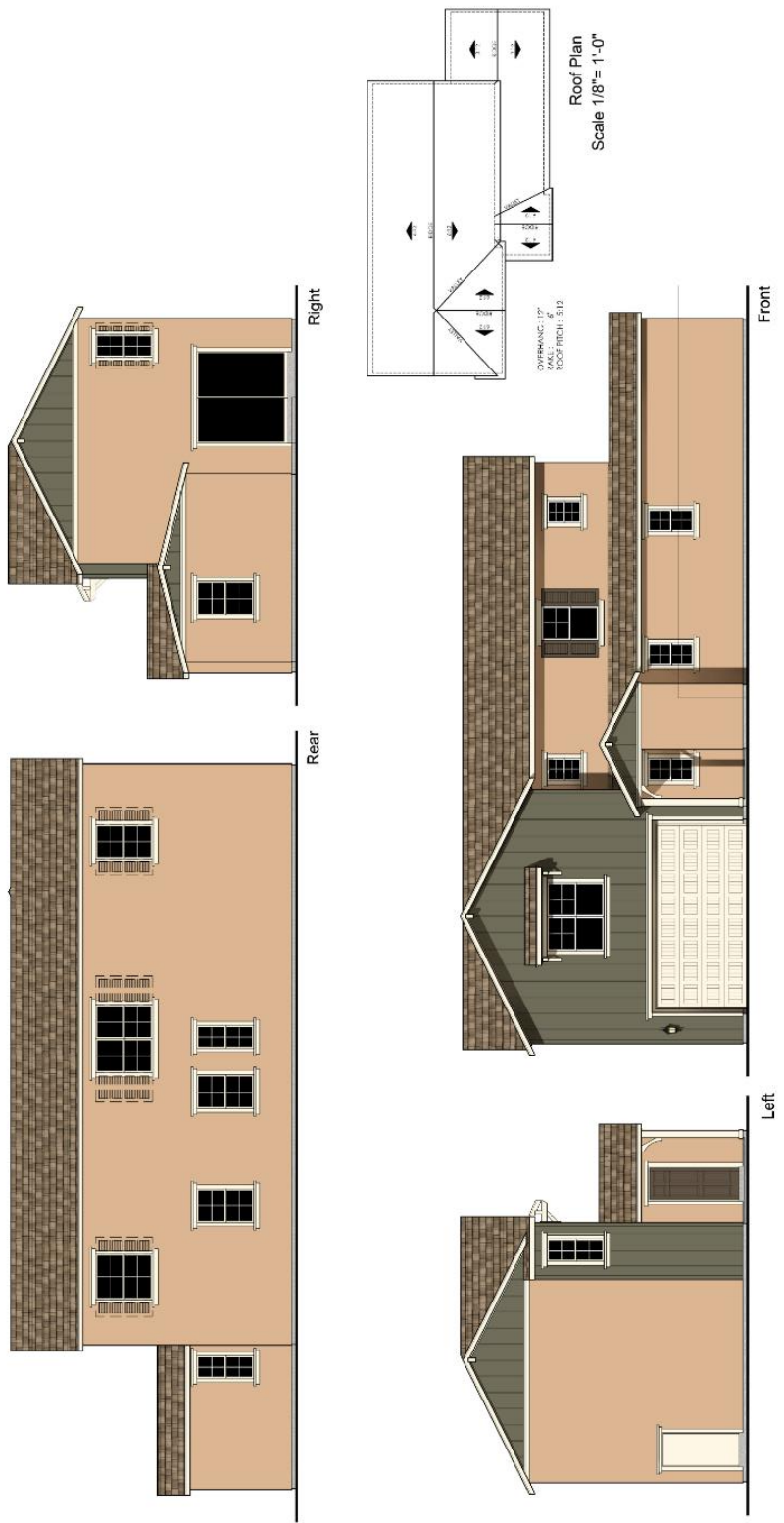
Left



A4.3

EXTERIOR ELEVATIONS - PLAN 3B

New Haven - 145' x 130' Cluster



A4.2

EXTERIOR ELEVATIONS - PLAN 3C

New Haven - 145' x 130' Cluster

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDEV14-046, FOR 104 SINGLE-FAMILY HOMES ON APPROXIMATELY 8.25 ACRES OF LAND GENERALLY LOCATED SOUTH OF SCHAEFER AVENUE, NORTH OF ONTARIO RANCH ROAD BETWEEN HAVEN AVENUE AND TURNER AVENUE, WITHIN PLANNING AREA 10A OF THE AVENUE SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THERE OF—APN NO'S: 218-472-01 THRU 19, 218-445-01 THRU 15, 218-442-40 THRU 70, 218-442-01 THRU 09 AND 218-462-01 THRU 15.

WHEREAS, Brookfield Residential ("Applicant") has filed an Application for the approval of a Development Plan, File No. PDEV14-046, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 8.25 acres of land generally located south of Schaefer Avenue, north of Ontario Ranch Road between Haven and Turner Avenues, within the Planning Area 10A of The Avenue Specific Plan, and is presently mass graded and improved with model/production homes and a community park (clubhouse); and

WHEREAS, the properties to the north of the Project site are within Planning Area 10A of The Avenue Specific Plan and within SCE Easement land use area of the West Haven Specific Plan, and are vacant/mass graded and improved with model/production homes and a community park (clubhouse); and

WHEREAS, the properties to the south and west of the Project site are within Planning Area 10A of The Avenue Specific Plan and are currently vacant/mass graded and improved with model/production homes and a community park (clubhouse); and

WHEREAS, the properties to the east of the Project site are within Planning Area 10A of The Avenue Specific Plan and within Mixed Use land use designation of the Rich Haven Specific Plan, and are vacant/mass graded and improved with model/production homes and a community park (clubhouse); and

WHEREAS, the Development Plan proposes to construct 104 single-family homes in a 6-pack cluster layout. The 6-pack cluster product is characterized by a private lane that provides both garage and front entry access to each home; and

WHEREAS, the Development Plan includes 12 lots that are configured in a conventional setting with narrow lot widths ranging from 40 to 44 feet wide along and have garage access from the public street and their front entries are accessed from a shared interior courtyard; and

WHEREAS, the 6-pack cluster product type has a minimum exterior dimension of 145'x130' per cluster and each lot ranges in size from 2,827 to 4,985 square feet, which meets the minimum lot size of 2,000 square feet consistent with the Product Type 3 Development Standards of The Avenue Specific Plan; and

WHEREAS, the three floor plans are proposed with 3 elevations per plan; and

WHEREAS, the architectural styles of the proposed single-family homes include Spanish Colonial, California Ranch Bungalow and American Farmhouse styles; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"); and

WHEREAS, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the number of dwelling units (104) and density (12) specified in the Available Land Inventory.

WHEREAS, 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; and

WHEREAS, the environmental impacts of this project were previously reviewed in conjunction with a Specific Plan Amendment for The Avenue Specific Plan (PSPA13-003), for which an addendum to The Avenue Specific Plan EIR (SCH# 2005071109) was adopted by the City Council on June 17, 2014, and this Application introduces no new significant environmental impacts; and

WHEREAS, the City's "Local Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed; and

WHEREAS, on April 18, 2016, the Development Advisory Board of the City of Ontario conducted a hearing and issued Decision No. DAB16-011 recommending the Planning Commission approve the Application; and

WHEREAS, on April 26, 2016, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND RESOLVED by the Planning Commission of the City of Ontario, as follows:

SECTION 1. As the decision-making body for the Project, the Planning Commission has reviewed and considered the information contained in the previously adopted addendum to The Avenue Specific Plan EIR (SCH# 2005071109) and supporting documentation. Based upon the facts and information contained in the addendum and supporting documentation, the Planning Commission finds as follows:

a. The previous addendum to The Avenue Specific Plan EIR (SCH# 2005071109) contains a complete and accurate reporting of the environmental impacts associated with the Project; and

b. The previous addendum to The Avenue Specific Plan EIR (SCH# 2005071109) was completed in compliance with CEQA and the Guidelines promulgated thereunder; and

c. The previous addendum to The Avenue Specific Plan EIR (SCH# 2005071109) reflects the independent judgment of the Planning Commission; and

d. All previously adopted mitigation measures, which are applicable to the Project, shall be a condition of Project approval and are incorporated herein by reference.

SECTION 2. Based upon the substantial evidence presented to the Planning Commission during the above-referenced hearing and upon the specific findings set forth in Section 1 above, the Planning Commission hereby concludes as follows:

a. The proposed development at the proposed location is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan. The Project is compatible with adjoining sites in relation to location of buildings, with particular attention to privacy, views, any physical constraint identified on the site and the characteristics of the area in which the site is located. The existing site is vacant/mass graded and improved with model/production homes and a community park (clubhouse) and the proposed development will be compatible with future developments within The Avenue Specific Plan. The Development Plan has been required to comply with all provisions of Product Type 3 Residential Development Standards of The Avenue Specific Plan. Future neighborhoods within the Avenue Specific Plan and surrounding area will provide for a

diverse housing and highly amenitized neighborhoods that will be compatible in design, scale and massing to the proposed development.

b. The proposed development is compatible with those on adjoining sites in relation to location of buildings, with particular attention to privacy, views, any physical constraint identified on the site and the characteristics of the area in which the site is located. The Project will complement the quality of existing development in the vicinity of the project and the minimum safeguards necessary to protect the public health, safety and general welfare have been required of the proposed project. The proposed location of the Development Plan and the proposed conditions under which it will operate or be maintained will be consistent with TOP Policy Plan and Specific Plan and therefore not be detrimental to health; safety and welfare. In addition, the environmental impacts of this project were reviewed in conjunction with the previously adopted addendum to The Avenue Specific Plan EIR.

c. The proposed development will complement and/or improve upon the quality of existing development in the vicinity of the project and the minimum safeguards necessary to protect the public health, safety and general welfare have been required of the proposed project. The Project will not have a significant adverse impact on the environment. The environmental impacts of this project were previously reviewed in conjunction with The Avenue Specific Plan Environmental Impact Report (SCH#2005071109). This application is consistent with the previously adopted EIR and introduces no new significant environmental impacts.

The proposed development is consistent with the development standards and design guidelines set forth in the Development Code. The Project is consistent with applicable development standards set forth in The Avenue Specific Plan. The Development Plan complies with all provisions of Product Type 3 Residential Design Guidelines and Development Standards of The Avenue Specific Plan.

d. All previously adopted mitigation measures, which are applicable to the Project, shall be a condition of Project approval and are incorporated herein by reference.

SECTION 3. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the Planning Commission hereby APPROVES the herein described Application subject to each and every condition set forth in the Department reports, attached hereto and incorporated herein by this reference.

SECTION 4. 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 this approval. 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.

SECTION 5. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 6. The Secretary shall certify to the adoption of the Resolution.

The Secretary Pro Tempore for the Planning Commission of the City of Ontario shall certify as to the adoption of this Resolution.

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 26th day of April 2016, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

James Downs
Planning Commission Vice-Chairman

ATTEST:

Scott Murphy
Planning Director/Secretary of Planning
Commission

Planning Commission Resolution
File No. PDEV14-046
April 26, 2016
Page 6

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, Marci Callejo, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC16-[insert #] was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on April 26, 2016, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marci Callejo
Secretary Pro Tempore



Prepared: April 18, 2016

File No: PDEV14-046

Related Files: N/A

Project Description: A Development Plan to construct 104 single-family homes on approximately 8.25 acres of land within Planning Area 10A of The Avenue Specific Plan, generally located south of Schaefer Avenue, north of Ontario Ranch Road between Haven and Turner Avenues. (APN No's: 218-472-01 thru 19, 218-445-01 thru 15, 218-442-40 thru 70, 218-442-01 thru 09 and 218-462-01 thru 15); **submitted by Brookfield Residential.**

Prepared by: Lorena Mejia, Associate Planner

Phone: (909) 395-2036; **Email:** lmejia@ontarioca.gov; **Fax:** (909) 395-2420

CONDITIONS OF APPROVAL

The above-described Project shall comply with the following conditions of approval:

1.0 Standard Conditions of Approval. The project shall comply with the *Standard Conditions for New Development*, adopted by City Council Resolution No. 1020-021 on March 16, 2010. A copy of the *Standard Conditions for New Development* may be obtained from the Planning Department or City Clerk/Records Management Department.

2.0 Special Conditions of Approval. In addition to the *Standard Conditions for New Development* identified in condition no. 1.0, above, the project shall comply with the following special conditions of approval:

2.1 Time Limits. Project approval shall become null and void 2 years following the effective date of application approval, unless a building permit is issued and construction is commenced, and diligently pursued toward completion, or a time extension has been approved. This condition does not supersede any individual time limits specified herein, or any other departmental conditions of approval applicable to the Project, for the performance of specific conditions or improvements.

2.2 Architectural Treatment.

(a) All 2nd story street facing corner lots and rear street facing lots shall be treated with enhanced elevations to include the following: lots 1, 2, 3, 4, 9, 10, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, 36, 37, 64, 65, 66, 67, 92, 93, 94, 95, 96 and 97 of Tract 18992; and lots 13, 14, 15, 16 and 17 of Tract 18993. Construction drawings shall include architectural enhancements for the above mentioned lots.

(b) All Plan 2 elevations along Rutherford Drive shall be treated with the alternate enhanced elevations to include the following: lots 77, 79, 80, 82, 107, 108 and 109 of Tract 18992; and lots 1, 2 and 3 of Tract 18993.

(c) Front elevation stone/brick veneer base treatments shall be wrapped to a logical point or to side yard return wall.

(d) Each side yard gate shall complement the architectural style and color scheme of each residential unit.

2.3 Disclosure Statements.

(a) A copy of the Public Report from the Department of Real Estate, prepared for the subdivision pursuant to Business and Professions Code Section 11000 et seq., shall be provided to each prospective buyer of the residential units and shall include a statement to the effect that:

(i) This tract is subject to noise from the Ontario International Airport and may be more severely impacted in the future.

(ii) Some of the property adjacent to this tract is zoned for agricultural uses and there could be fly, odor, or related problems due to the proximity of animals.

(iii) The area south of Riverside Drive lies within the San Bernardino County Agricultural Preserve. Dairies currently existing in that area are likely to remain for the foreseeable future.

(iv) This tract is part of a Landscape Maintenance District. The homeowner(s) will be assessed through their property taxes for the continuing maintenance of the district.

2.4 Environmental Review.

(a) The environmental impacts of this project were reviewed in conjunction with Specific Plan Amendment for The Avenue Specific Plan (PSPA13-003), for which an addendum to The Avenue Specific Plan EIR (SCH# 2005071109) was adopted by the City Council on June 17, 2014. This application introduces no new significant environmental impacts. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference.

(b) 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.

(c) If human remains are found during project grading/excavation/construction activities, the area shall not be disturbed until any required investigation is completed by the County Coroner and Native American consultation has been completed (if deemed applicable).

(d) If any archeological or paleontological resources are found during project grading/excavation/construction, the area shall not be disturbed until the significance of the resource is determined. If determined to be significant, the resource shall be recovered by a qualified archeologist or paleontologist consistent with current standards and guidelines, or other appropriate measures implemented.

2.5 Additional Fees.

(a) After project's entitlement approval and prior to issuance of final building permits, the Planning Department's Plan Check and Inspection fees shall be paid at the rate established by resolution of the City Council.

(b) Within 5 days following final application approval, the Notice of Determination (NOD), Notice of Exemption (NOE), filing fee shall be provided to the Planning Department. The fee shall be paid by check, made payable to the "Clerk of the Board of Supervisors", which will be forwarded to the San Bernardino County Clerk of the Board of Supervisors, along with all applicable environmental

forms/notices, pursuant to the requirements of the California Environmental Quality Act (CEQA). Failure to provide said fee within the time specified may result in the 30-day statute of limitations for the filing of a CEQA lawsuit being extended to 180 days.

2.6 Additional Requirements.

(a) The applicant shall contact the Ontario Post Office to determine the size and location of mailboxes for this project. The location of the mailboxes shall be submitted to the Planning Department for review and approval prior to the issuance of building permits.

(b) The project shall be consistent with Development Agreement (File No. PDA10-002).

(c) The applicant (Developer) shall be responsible for providing fiber to each home per City requirements and standards.

(d) Prior to the issuance of grading permits, (Rough or Precise Grading). Mitigation Measures (MM), from The Avenue Specific Plan EIR, pertaining to Grading Activities must be met prior to issuance of grading permits.

(e) All applicable conditions of approval of The Avenue Specific Plan shall apply to this tract.

(f) All applicable conditions of approval of the "A" Map TT 18922 (File No. PMTT13-010) and "B" Maps TT 18992 (File No. PMTT14-014) and TT 18993 (File No. PMTT14-015) shall apply to this tract.

(g) The proposed private lane shall be constructed with decorative pavers.

Airport Land Use Compatibility Planning

Consistency Evaluation Report



Project File No.: PDEV14-046
 Address: SWC of Schaefer Ave & Haven Ave
 APN: 0218-201-05 & 0218-201-30
 Existing Land Use: Vacant Land/Dairy/Agriculture
 Proposed Land Use: 104 Single Family Detached Homes
 Site Acreage: 78.21 ac
 ONT-IAC Project Review: N/A
 Airport Influence Area: ONT

Reviewed By: Lorena Mejia
 Contact Info: 909-395-2276
 Project Planner: Lorena Mejia
 Date: 10/1/14
 CE No.: 2014-073
 PALU No.: n/a

CONSISTENCY EVALUATION DETERMINATION

This proposed Project is: Exempt from the ALUCP Consistent ● Consistent with Conditions Inconsistent

ANALYSIS

See Attached

Airport Planner Signature: 

ONT ALUCP COMPATIBILITY FACTORS (Check all that Apply)

Safety Zones	Noise Impact Zones	Airspace Protection	Overflight
<input type="radio"/> Zone 1	<input type="radio"/> 75+ dB CNEL	<input type="checkbox"/> High Terrain Zone	<input type="radio"/> Avigation Easement
<input type="radio"/> Zone 1A	<input type="radio"/> 70 - 75 dB CNEL	<input type="radio"/> Pierce Part 77 Surfaces	<input type="checkbox"/> Recorded Overflight
<input type="radio"/> Zone 2	<input type="radio"/> 65 - 70 dB CNEL	<input type="radio"/> FAA Notification	<input checked="" type="checkbox"/> Real Estate Disclosure
<input type="radio"/> Zone 3	<input checked="" type="checkbox"/> 60 - 65 dB CNEL		<input type="radio"/> Airport Influence Area
<input type="radio"/> Zone 4			
<input type="radio"/> Zone 5			

CHINO ALUCP COMPATIBILITY FACTORS (Check all that Apply)

Zone A
 Zone B1
 Zone C
 Zone D
 Zone E

Airport Land Use Compatibility Planning

Consistency Evaluation Report

CE No.: 2014-073
PALU No.: n/a

PROJECT CONDITIONS

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 Airport Land Use Compatibility Plan (ALUCP) for ONT. The applicant is required to meet the Real Estate Transaction Disclosure in accordance with California Codes (Business and Professions Code Section 11010-11024). New residential subdivisions within an Airport Influence Area are required to file an application for a Public Report consisting of a Notice of Intention (NOI) and a completed questionnaire with the Department of Real Estate and include the following language within the NOI:

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.



CITY OF ONTARIO

MEMORANDUM

ENGINEERING DEPARTMENT CONDITIONS OF APPROVAL

(Engineering Services Division [Land Development and Environmental], Traffic/Transportation Division,
Ontario Municipal Utilities Company and Management Services Department)

DATE: **March 29, 2016**

DAB MEETING DATE: **April 18, 2016**

PROJECT ENGINEER: **Naiim Khoury, Associate Engineer**

PROJECT PLANNER: **Lorena Mejia, Associate Planner**

PROJECT: **PDEV 14-046; A Development Plan to construct 104 cluster SFR within The Avenue Specific Plan. Related Files Tract Map Nos. TM18922-1 and TM18922-2 (A-Maps) and TM18991, TM18992 and TM18993 (B-Maps).**

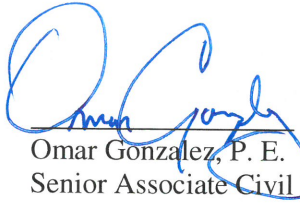
APPLICANT: **BrookCal, LLC – Brookfield Residential**


LOCATION: **South of Schaefer Avenue and west of haven Avenue**

This project shall comply with the requirements set forth in the General Standard Conditions of Approval adopted by the City Council (Resolution No. 2010-021) and the Project Specific Conditions of Approval specified herein. The Applicant shall be responsible for the completion of all conditions prior to issuance of permits and/or occupancy clearance.

- 1) Design and construct full public improvements in accordance with the City of Ontario Municipal Code, current City standards and specifications, master plans and The Avenue specific Plan. All public improvements for TM18922-1, TM18922-2, TM18991, TM18992 and TM18993 shall be complete and operational.
- 2) Design proposed retaining walls to retain up to a maximum of three (3) feet of earth. In no case shall a wall exceed an overall height of nine (9) feet (i.e. maximum 6-foot high wall on top of a maximum 3-foot high retaining wall).
- 3) The applicant/developer shall be responsible to design and construct in-tract fiber optic conduit system and connect to the fiber optic system constructed per TM18922-1, TM18922-2, TM18991, TM18992 and TM18993.



 4/2/16
Omar Gonzalez, P. E. Date
Senior Associate Civil Engineer

 4/2/16
Khoi Do, P. E. Date
Assistant City Engineer

- c: Khoi Do, P.E., Engineering/Land Development
- Omar Gonzalez, P.E., Engineering/Land Development
- Stephen Wilson, Engineering/Environmental
- Larry Tay, Engineering/Traffic
- Sheldon Yu, Ontario Municipal Utility Company

CITY OF ONTARIO

MEMORANDUM

TO: PLANNING DEPARTMENT, Lorena Mejia
FROM: BUILDING DEPARTMENT, Kevin Shear
DATE: September 23, 2015
SUBJECT: PDEV14-046

1. The plan **does** adequately address the departmental concerns at this time.
No comments.

cc: File

KS:kb



CITY OF ONTARIO

MEMORANDUM

TO: Lorena Mejia, Associate Planner
Planning Department

FROM: Adam A. Panos, Fire Protection Analyst
Fire Department

DATE: October 19, 2015

SUBJECT: A Development Plan to construct 104 SFD (Single Family Detached) homes, on 14.7 acres generally located on the southwest corner of Schaefer Ave and Haven Ave, within the Low to Medium Density land use designations of Avenue Specific Plan. Submitted by: KB Home APNs: 0218-201-05 and 0218-201-30

-
- The plan **does** adequately address Fire Department requirements at this time.
- No comments.
 - Standard Conditions of Approval apply, as stated below.
- The plan **does NOT** adequately address Fire Department requirements.
- The comments contained in the attached report must be met prior to scheduling for Development Advisory Board.

SITE AND BUILDING FEATURES:

- A. Type of Building Construction Used: VB wood NR
- B. Roof Materials Used: Wood NR
- Ground Floor Area(s):
 - Plan 1 – 1,839 sq. ft.
 - Plan 2 – 1,928 sq. ft.
 - Plan 3 – 1,993 sq. ft.
- C. Number of Stories: 2
- D. Total Square Footage: N/A
- E. Type of Occupancy: R-3

CONDITIONS OF APPROVAL:

1.0 GENERAL

- 1.1 The following are the Ontario Fire Department (“Fire Department”) requirements for this development project, based on the current edition of the California Fire Code (CFC), and the current versions of the Fire Prevention Standards (“Standards.”) It is recommended that the applicant or developer transmit a copy of these requirements to the on-site contractor(s) and that all questions or concerns be directed to the Bureau of Fire Prevention, at (909) 395-2029. For copies of Ontario Fire Department Standards please access the City of Ontario web site at www.ci.ontario.ca.us, click on “Fire Department” and then on “Standards and Forms.”
- 1.2 These Fire Department conditions of approval are to be included on any and all construction drawings.

2.0 FIRE DEPARTMENT ACCESS

- 2.1 Fire Department vehicle access roadways shall be provided to within 150 ft. of all portions of the exterior walls of the first story of any building, unless specifically approved. Roadways shall be paved with an all-weather surface and shall be a minimum of twenty (20) ft. wide. See Standard #B-004.
- 2.2 In order to allow for adequate turning radius for emergency fire apparatus, all turns shall be designed to meet the minimum twenty five feet (25’) inside and forty-five feet (45’) outside turning radius per Standard #B-005.
- 2.3 Fire Department access roadways that exceed one hundred and fifty feet (150’) in length shall have an approved turn-around per Standard #B-002.
- 2.4 Access drive aisles which cross property lines shall be provided with CC&Rs, access easements, or reciprocating agreements, and shall be recorded on the titles of affected properties, and copies of same shall be provided at the time of building plan check.
- 2.5 "No Parking-Fire Lane" signs and /or red painted curbs with lettering are required to be installed in interior access roadways, in locations where vehicle parking would obstruct the minimum clear width requirement. Installation shall be per Standard #B-001.
- 2.6 Security gates or other barriers on fire access roadways shall be provided with a Knox brand key switch or padlock to allow Fire Department access. See Standards #B-003, B-004 and H-001.

3.0 WATER SUPPLY

- 3.1 The required fire flow per Fire Department standards, based on the 2013 California Fire Code, Appendix B, is 1000 gallons per minute (g.p.m.) for 2 hours at a minimum of 20 pounds per square inch (p.s.i.) residual operating pressure.

- 3.2 Off-site street fire hydrants are required to be installed on all frontage streets, at a minimum spacing of three hundred foot (300') apart, per Engineering Department specifications.
- 3.3 Buildings that exceed 100,000 square feet in floor area shall provide an onsite looped fire protection water line around the building(s.) The loops shall be required to have two or more points of connection from a public circulating water main.
- 3.4 The public water supply, including water mains and fire hydrants, shall be tested and approved by the Engineering Department and Fire Department prior to combustible construction to assure availability and reliability for firefighting purposes.

4.0 FIRE PROTECTION SYSTEMS

- 4.1 On-site private fire hydrants are required per Standard #D-005, and identified in accordance with Standard #D-002. Installation and locations(s) are subject to the approval of the Fire Department. An application with detailed plans shall be submitted, and a construction permit shall be issued by the Fire Department, prior to any work being done.
- 4.2 Underground fire mains which cross property lines shall be provided with CC & R, easements, or reciprocating agreements, and shall be recorded on the titles of affected properties, and copies of same shall be provided at the time of fire department plan check. The shared use of private fire mains or fire pumps is allowable only between immediately adjacent properties and shall not cross any public street.
- 4.3 An automatic fire sprinkler system is required. The system design shall be in accordance with National Fire Protection Association (NFPA) Standard 13 D. All new fire sprinkler systems, except those in single family dwellings, which contain twenty (20) sprinkler heads or more shall be monitored by an approved listed supervising station. An application along with detailed plans shall be submitted, and a construction permit shall be issued by the Fire Department, prior to any work being done.
- 4.4 Fire Department Connections (FDC) shall be located on the address side of the building within one hundred fifty feet (150') of a public fire hydrant on the same side of the street. Provide identification for all fire sprinkler control valves and fire department connections per Standard #D-007. Raised curbs adjacent to Fire Department connection(s) shall be painted red, five feet either side, per City standards.
- 4.5 A fire alarm system is required. The system design shall be in accordance with National Fire Protection Association (NFPA) Standard 72. An application along with detailed plans shall be submitted, and a construction permit shall be issued by the Fire Department, prior to any work being done.
- 4.6 Portable fire extinguishers are required to be installed prior to occupancy per Standard #C-001. Please contact the Fire Prevention Bureau to determine the exact number, type and placement required.

- 4.7 A fixed fire extinguishing system is required for the protection of hood, duct, plenum and cooking surfaces. This system must comply with National Fire Protection Association (NFPA) Standards 17A and 96. An application with detailed plans shall be submitted, and a construction permit shall be issued by the Fire Department, prior to any work being done.
- 4.8 Hose valves with two and one half inch (2 ½”) connections will be required on the roof, in locations acceptable to the Fire Department. These hose valves shall be take their water supply from the automatic fire sprinkler systems, and shall be included in the design submitted for these systems. Identification shall be provided for all hose valves per Standard #D-004.
- 4.9 Due to inaccessible rail spur areas, two and one half inch 2-1/2” fire hose connections shall be provided in these areas. These hose valves shall be take their water supply from the automatic fire sprinkler systems, and shall be included in the design submitted for these systems. Identification shall be provided for all hose valves per Standard #D-004.

5.0 BUILDING CONSTRUCTION FEATURES

- 5.1 The developer/general contractor is to be responsible for reasonable periodic cleanup of the development during construction to avoid hazardous accumulations of combustible trash and debris both on and off the site.
- 5.2 Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Multi-tenant or building projects shall have addresses and/or suite numbers provided on the rear of the building. Address numbers shall contrast with their background. See Section 9-1.3280 of the Ontario Municipal Code and Standards #H-003 and #H-002.
- 5.3 Single station smoke alarms and carbon monoxide alarms are required to be installed per the California Building Code and the California Fire Code.
- 5.4 Multiple unit building complexes shall have building directories provided at the main entrances. The directories shall be designed to the requirements of the Fire Department, see Section 9-1.3280 of the Ontario Municipal Code and Standard #H-003.
- 5.5 All residential chimneys shall be equipped with an approved spark arrester meeting the requirements of the California Building Code.
- 5.6 Knox ® brand key-box(es) shall be installed in location(s) acceptable to the Fire Department. All Knox boxes shall be monitored for tamper by the building fire alarm system. See Standard #H-001 for specific requirements.
- 5.7 Placards shall be installed in acceptable locations on buildings that store, use or handle hazardous materials in excess of the quantities specified in the CFC. Placards shall meet the requirements of National Fire Protection Association (NFPA) Standard 704.
- 5.8 The building shall be provided with a Public Safety 800 MHZ radio amplification system per the Ontario Municipal Code Section 4-11.09 (n) and the CFC. The design and installation shall be approved by the Fire Department.

6.0 OTHER SPECIAL USES

- 6.1 The storage, use, dispensing, or handling of any hazardous materials shall be approved by the Fire Department, and adequate fire protection features shall be required. If hazardous materials are proposed, a Fire Department Hazardous Materials Information Packet, including Disclosure Form and Information Worksheet, shall be completed and submitted with Material Safety Data Sheets to the Fire Department along with building construction plans.
- 6.2 Any High Piled Storage, or storage of combustible materials greater than twelve (12') feet in height for ordinary (Class I-IV) commodities or storage greater than six feet (6') in height of high hazard (Group A plastics, rubber tires, flammable liquids, etc.) shall be approved by the Fire Department, and adequate fire protection features shall be required. If High Piled Storage is proposed, a Fire Department High Piled Storage Worksheet shall be completed and detailed racking plans or floor plans submitted prior to occupancy of the building.
- 6.3 Underground fuel tanks, their associated piping and dispensers shall be reviewed, approved, and permitted by Ontario Building Department, Ontario Fire Department, and San Bernardino County Fire Department Hazardous Materials Division. In fueling facilities, an exterior emergency pump shut-off switch shall be provided.



CITY OF ONTARIO

MEMORANDUM

TO: Otto Kroutil, Development Director
 Scott Murphy, Planning Director
 Cathy Wahlstrom, Principal Planner (Copy of memo only)
 Charity Hernandez, Economic Development
 Kevin Shear, Building Official
 Raymond Lee, Assistant City Engineer
 Carolyn Bell, Landscape Planning Division
 Sheldon Yu, Municipal Utility Company
 Scott Melendrez, Police Department
 Art Andres, Deputy Fire Chief/Fire Marshal
 Brent Schultz, Housing and Neighborhood Revitalization Director (Copy of memo only)
 Sigfrido Rivera, Housing Manager
 Tom Danna, T. E., Traffic/Transportation Manager
 Lorena Mejia, Associate Planner, Airport Planning (Copy of memo only)
 Steve Wilson, Engineering/NPDES
 Mark Chase, Community & Public Services Director

FROM: Lorena Mejia,

DATE: September 16, 2014

SUBJECT: FILE #: PDEV14-046

Finance Acct#:

The following project has been submitted for review. Please send one (1) copy and email one (1) copy of your DAB report to the Planning Department by **Tuesday, September 30, 2014**.

- Note:**
- Only DAB action is required
 - Both DAB and Planning Commission actions are required
 - Only Planning Commission action is required
 - DAB, Planning Commission and City Council actions are required
 - Only Zoning Administrator action is required

PROJECT DESCRIPTION: A Development Plan to construct 104 SFD (Single Family Detached) homes, on 78.21 acres generally located on the southwest corner of Schaefer Ave and Haven Ave, within the Low to Medium Density land use designations of Avenue Specific Plan. Submitted by: KB Home
 APNs: 0218-201-05 and 0218-201-30

The plan does adequately address the departmental concerns at this time.

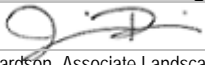
- No comments
- Report attached (1 copy and email 1 copy)
- Standard Conditions of Approval apply

The plan does not adequately address the departmental concerns.

- The conditions contained in the attached report must be met prior to scheduling for Development Advisory Board.

Police *[Signature]* ADMINISTRATIVE OFFICER 10/19/14
 Department Signature Title Date

CITY OF ONTARIO
LANDSCAPE PLANNING DIVISION
 303 East "B" Street, Ontario, CA 91764

CONDITIONS OF APPROVAL	
Sign Off	
	3/14/2016
Jamie Richardson, Associate Landscape Planner	Date

Reviewer's Name: Jamie Richardson, Associate Landscape Planner	Phone: (909) 395-2615
--	---------------------------------

D.A.B. File No.: PDEV14-046 Rev 2	Case Planner: Lorena Meija
--------------------------------------	-------------------------------

Project Name and Location: The Avenue 104 SF Homes- PA 11A Cluster SF homes SWC of Schaefer and Haven Ave

Applicant/Representative: Brookfield Residential 3200 Park Center Drive, Suite 1000 Costa Mesa, CA 92626

<input checked="" type="checkbox"/>	A Preliminary Landscape Plan (dated 02/22/2016) meets the Standard Conditions for New Development and has been approved with the consideration that the following conditions below be met upon submittal of the landscape construction documents.
<input type="checkbox"/>	A Preliminary Landscape Plan (dated) has not been approved. Corrections noted below are required prior to Preliminary Landscape Plan approval.

CORRECTIONS REQUIRED

Previous Preliminary Plan Corrections – 10/15/2015

1. Provide an overall tree plan showing front yard and parkway trees.
2. Show sideyards access gates on plans.
3. Show a durable path min 28" wide, at sideyards for trash cans and access.
4. Show AC units located on non-access side yards.
5. Show gas and electric meters in sideyards in front of access gates.
6. Note outdoor/security lighting on building walls and addresses to be coordinated with tree plantings to avoid blocking light.
7. Note automatic irrigation to be water efficient, appropriate for the landscape, hydrozones separated and provides 100% coverage.
8. Show MAWA and ETWU calculations.
9. Avoid invasive, high water using, short lived, high maintenance or poor performing plant.
10. Show concrete mowstrips or headerboard to identify property lines.
11. Typical lot drainage shall include a catch basin with gravel sump below before exiting property.

Previous Preliminary Plan Corrections – 03/14/2016

12. Show any entry courtyards or patio areas, if proposed. Provide planting and irrigation for private courtyards; include a stub out for potable water irrigation, outdoor protected electrical outlet and hose bib vacuum breaker.



PLANNING COMMISSION STAFF REPORT

April 26, 2016

SUBJECT: An Appeal of the Zoning Administrator’s decision to deny a Conditional Use Permit request to establish an approximate 5,100 square-foot bar/nightclub and live entertainment for Mix Champagne Bar Lounge, on approximately 3.44 acres of land, located at 4481 Ontario Mills Parkway, within the Commercial/Office land use district of the California Commerce Center North (The Mills) Specific Plan. (APN: 0238-014-10); submitted by: Mix Champagne Bar Lounge.

PROPERTY OWNER: Allan & Beverly Sebanc Family Trust

RECOMMENDED ACTION: That the Planning Commission uphold the Zoning Administrator Decision No. 2016-001 denying File No. PCUP15-027, pursuant to the facts and reasons contained in the staff report and attached resolution.

PROJECT SETTING: The project site is comprised of 3.44 acres of land located at 4481 Ontario Mills Parkway, within the Commercial/Office land use district of the California Commerce Center North (Ontario Mills) Specific Plan, and is depicted in Figure 1: Project Location, below. The project site is located within an existing 5,076-square foot vacant commercial building (**See Exhibit B: Site Plan and Exhibit C: Exterior Site Photos**). The project site is located within an existing multi-tenant commercial shopping center, which includes the Chopstick House, a hookah lounge, and a nail salon.

PROJECT ANALYSIS:

[1] Background – A Conditional Use Permit (CUP) application was submitted by Mix Champagne Bar Lounge on November 6, 2015, requesting approval of a Type 48 (Bar, Night Club) ABC license and live entertainment in conjunction with Mix Champagne Bar Lounge, located at 4481 Ontario Mills Parkway. On February 17, 2016, the



Figure 1: Project Location

Case Planner:	Henry K. Noh	Hearing Body	Date	Decision	Action
Planning Director Approval:		DAB			
Submittal Date:	11/6/15	ZA	3/7/16	Denied	Appealed
Hearing Deadline:	n/a	PC	4/26/16		Final
		CC			

Deputy Zoning Administrator held a public hearing to consider the application and subsequently denied the application. The Deputy Zoning Administrator's decision to deny the application was based upon the fact that the project did not meet the required CUP findings and it did not meet the required findings for Public Convenience and Necessity ("PCN") for on-sale licenses in an over-concentrated Census Tract. A copy of the Zoning Administrator's Decision No. 2016-001 denying File No. PCUP15-027 is attached as **Appendix A** and includes a full description and analysis of the proposed use along with the Zoning Administrator's findings and determination.

[2] Appeal — On March 15, 2016, Mix Champagne Bar Lounge ("Appellant") submitted an appeal of the Zoning Administrator's decision to deny File No. PCUP15-027. The basis for the appeal lies in the Appellant's belief that the Zoning Administrator's Decision is not supported by the record and the Appellant Statement is included with this report as **Appendix B** and summarized below.

The appellant believes the decision rendered by the Deputy Zoning Administrator was not supported by facts or statistics and that the Deputy Zoning Administrator's decision was based on conclusive testimonial evidence provided from an adjacent property owner. The Appellant believes that the Zoning Administrator's decision was not supported by the facts, findings and recommendations presented in the City's Planning Staff report. Additionally, the Appellant believes that they have met or exceeded every condition imposed upon the CUP application to demonstrate that they are capable of running a safe and responsible business.

[3] Staff Analysis — All requests for alcohol sales in the City of Ontario require a Conditional Use Permit prior to establishment of the use. In order for the hearing body to grant a CUP, all of the following findings must be considered and clearly established:

- The scale and intensity of the proposed land use would be consistent with the scale and intensity of land uses intended for the particular zoning or land use district;
- The proposed use at the proposed location, and the manner in which it will be operated and maintained, is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan;
- The proposed use at the proposed location, and the manner in which it will be operated and maintained, is consistent with the objectives and requirements of this Development Code and any applicable specific plan or planned unit development; and
- The proposed use at the proposed location would be consistent with the provisions of the Airport Land Use Compatibility Plan.

- The establishment, maintenance, and operation of the proposed use at the proposed location would not be detrimental or injurious to property and improvements within the vicinity, nor would it be detrimental to the health, safety, or general welfare of persons residing or working in the surrounding neighborhood.

When considering the establishment of additional alcoholic beverage licenses within an over-concentrated census tract, ABC generally defers the decision to approve or deny the license to the affected local jurisdiction provided that all PCN findings can be made. The project site is located within Census Tract 21.09 (**See Exhibit D: Census Tract Map**), which is over concentrated with on-sale licenses. Per the current standards of ABC, 3 licenses are permitted within Census Tract 21.09 and 39 licenses were active (**See Exhibit E: Active On-Sale ABC Licenses**) when the Zoning Administrator Staff Report was drafted. The PCN findings for on-sale licenses are as follows:

- The proposed retail alcohol license is not located within a high crime area, defined as an area characterized by a high ratio of Police Department calls for service to alcohol-related incidences, not to exceed 20 percent greater than the average number of alcohol-related incidences reported for the City as a whole;
- The property/building/use has no outstanding Building or Health Code violations or Code Enforcement activity; and
- The site is properly maintained, including building improvements, landscaping, and lighting.

The Deputy Zoning Administrator's Decision to deny the application is based on the following findings not being met. Also, included in the discussion below, is the direct response to the Deputy Zoning Administrator's Decision by the Appellant, if provided.

CUP Finding 1: The Proposed location of the Conditional Use Permit is not in accord with the objectives and purposes of the Ontario Development Code and the zoning designation within which the site is located.

ZA Discussion: Type 48 (Bar, Night Club) ABC licenses with live entertainment in conjunction with a bars/cocktail lounge are allowed with Conditional Use Permit (CUP) approval within the Commercial/Office Land Use designation of the California Commerce Center North (The Mills) Specific Plan. Part of the analysis in evaluating the Conditional Use Permit is whether the proposed location is within a census tract that is over-concentrated for on-sale licenses and, if so, whether findings of Public Convenience and Necessity ("PCN") can be made and are warranted. Pursuant to ABC criteria, three on-sale licenses would be permitted – the census tract currently has 39 on-sale licenses. The vast majority of these licenses, however, are Type 41 or Type 47 licenses, providing alcohol sales/services in conjunction with bona-fide eating establishments (restaurant). As such, alcohol sales tend to be an ancillary service, rather than the primary focus of the

business operation. Additionally, the census tract in which the CUP is considered a high crime rate area of the City. As noted during the public testimony by an adjacent property owner, the introduction of a Type 48 license has the potential to exacerbate the existing crime in the area, especially when considering alcohol-related crimes. Since a concentration of restaurants with on-sale alcohol exist within close proximity to the proposed CUP, a PCN is not warranted.

Appellant Response: The Deputy Zoning Administrator's decision that the introduction of an additional Type 48 ABC license would potentially exacerbate the existing alcohol-related crimes within the area was based on conclusive testimonial evidence from an adjacent property owner and not on factual evidence. The Appellant further argues that out of the existing 39 on-sale ABC licenses within Census Tract 21.09, there is only one Type 48 ABC license (Spectators Sports Bar) that is located approximately 3.5 miles away from the proposed project site. Additionally, the Appellant argues that the Deputy Zoning Administrator's decision did not acknowledge that the Police Department was supportive of the application provided that all City and ABC rules, regulations and conditions are met and followed.

Staff Response: After the conclusion of the Zoning Administrator's hearing, Police Department staff verified that the proposed project site is located within a high crime area in that the census tract alcohol-related incidences exceeds 20 percent greater than the average number of alcohol-related incidences reported for the City as a whole.

The Deputy Zoning Administrator's decision acknowledged that the vast majority of existing ABC licenses within Census Tract 21.09 are Type 41 or Type 47 licenses that provide alcohol sales/services in conjunction with a bona-fide eating establishment (restaurant). As such, alcohol sales tend to be an ancillary service, rather than the primary focus of the business operation. The Deputy Zoning Administrator stated that the introduction of an additional Type 48 license has the potential to exacerbate the existing crime in the area, especially when considering alcohol-related crimes. Since a concentration of restaurants with on-sale alcohol exist within close proximity to the proposed CUP, a PCN finding was not warranted.

The Deputy Zoning Administrator based her decision on the evidence provided within the ZA Staff Report and during the Zoning Administrator public hearing, which included the Police Department's report and conditions of approval. Therefore, the Deputy Zoning Administrator did take into account the Police Department's report and conditions of approval when rendering her decision.

CUP Finding 2: The proposed use at the proposed location, and the manner in which it will be operated and maintained, is not consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan.

ZA Discussion: The proposed Mix Champagne Bar Lounge is located within the Commercial/Office Land Use designation of the California Commerce Center North (The Mills) Specific Plan, which permits bars/cocktail lounges as a conditionally permitted use. Part of the analysis in evaluating the Conditional Use Permit is whether the proposed project is compatible with surrounding uses. Policy Plan policies related to land use compatibility include:

- *LU2-2 Land Use Decisions. We minimize adverse impacts on adjacent properties when considering land use and zoning requests;*
- *LU2-4 Regulation of Nuisances. We regulate the location, concentration and operations of potential nuisances; and*
- *LU2-5 Regulation of Uses. We regulate the location, concentration and operations of uses that have impacts on surrounding land uses.*

The CUP process regulates land uses in order to minimize adverse impacts to surrounding properties. The ABC license process regulates the concentration of ABC licenses to minimize alcohol-related nuisances. As noted above, the census tract is over-concentrated but the majority of the on-sale licenses are associated with restaurants, offering alcohol sales/services as an ancillary use. Public testimony has noted the past alcohol-related issues with existing on-sale facilities and the potential for new issues from the application. The proposed CUP is within a Census Tract that is over-concentrated for On-Sale ABC licenses and is not compatible with surrounding uses, therefore, is not consistent with the Policy Plan.

Appellant Response: See response and discussion for CUP Finding 1 above.

PCN Finding: For On-Sale alcoholic beverage license types located within overconcentrated census tracts (high density of alcoholic beverage sales locations as defined by the Alcoholic Beverage Control Act commencing with Business and Professions Code Section 23000 et Seq.), the Zoning Administrator hereby finds that the following PCN findings cannot be met.

ZA Discussion: California Business and Professional Code Section 23958.4 provides that the City shall have authority to review a retail alcoholic beverage license application proposed within an area having an “undue concentration” (high density of alcoholic beverage sales locations and/or high rate of crime) of ABC licenses; determine whether public convenience or necessity would be served by license issuance; and inform ABC of the determination.” The proposed CUP is in Census Tract 21.09, which has an over-concentration of On-Sale ABC licenses and a high crime rate. ABC has authorized 3 On-Sale ABC licenses for Census Tract 21.09 and, according to **Exhibit E: Active On-Sale ABC Licenses**, there are currently 39 active On-Sale ABC licenses. Although the area surrounding the Mills is a hub for entertainment, a significant number of establishments with on-sale alcohol already exist and therefore, a PCN determination is not warranted.

Appellant Response: See response and discussion for CUP Finding 1 above.

[4] Conclusion — The Deputy Zoning Administrator, during her review of the proposed use, fully considered the concerns raised by the Appellant and the public prior to taking action to deny File No. PCUP15-027. It is staff's belief that the Appeal Application does not introduce any evidence that the Zoning Administrator's Decision is not supported by the record. Therefore the Zoning Administrator's decision to deny the Conditional Use Permit Application should be upheld.

AIRPORT LAND USE COMPATIBILITY PLAN COMPLIANCE: The project site is located within the Airport Influence Area of LA/Ontario International Airport and has been found to be consistent with the policies and criteria set forth within the LA/Ontario International Airport Land Use Compatibility Plan (ALUCP).

ENVIRONMENTAL REVIEW: The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section Section 15301 (Existing Facilities) of the CEQA Guidelines, which consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structure, facility, mechanical equipment, or topographical features, involving no expansion of use beyond that existing at the time of the lead agency's determination. The proposed use is located within an existing building and does not include any negligible building additions or operational changes and is therefore categorically exempt.

CONDITIONS OF APPROVAL: See attached department reports.

TECHNICAL APPENDIX:

Surrounding Zoning and Land Use:

	<i>Existing Land Use</i>	<i>General Plan Designation</i>	<i>Zoning Designation</i>	<i>Specific Plan Land Use</i>
<i>Site</i>	Commercial	Mixed Use (Ontario Mills)	California Commerce Center North (The Mills) Specific Plan	Commercial/Office
<i>North</i>	Commercial	Mixed Use (Ontario Mills)	California Commerce Center North (The Mills) Specific Plan	Mall
<i>South</i>	Commercial	Mixed Use (Ontario Mills)	California Commerce Center North (The Mills) Specific Plan	Commercial/Office
<i>East</i>	Commercial	Mixed Use (Ontario Mills)	California Commerce Center North (The Mills) Specific Plan	Mall
<i>West</i>	Commercial	Mixed Use (Ontario Mills)	California Commerce Center North (The Mills) Specific Plan	Commercial/Office

Exhibit A: Project Site



Exhibit B: Site Plan

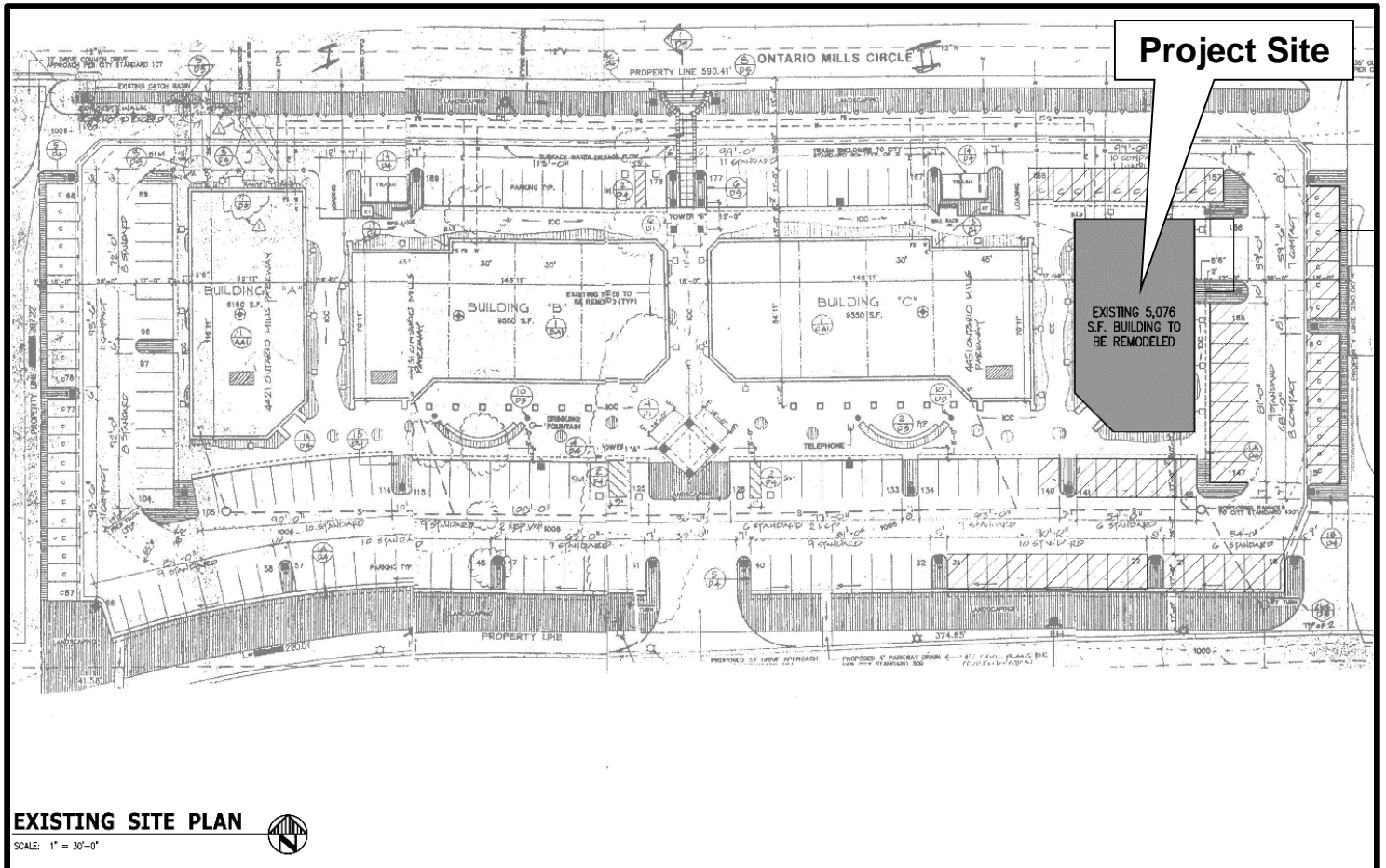


Exhibit C: Site Photos



View of South Elevation (Entrance)



View of West Elevation (Paseo)



View of East Elevation (Proposed Patio Area)



North Elevation of Project Site

Exhibit D: Census Tract Map

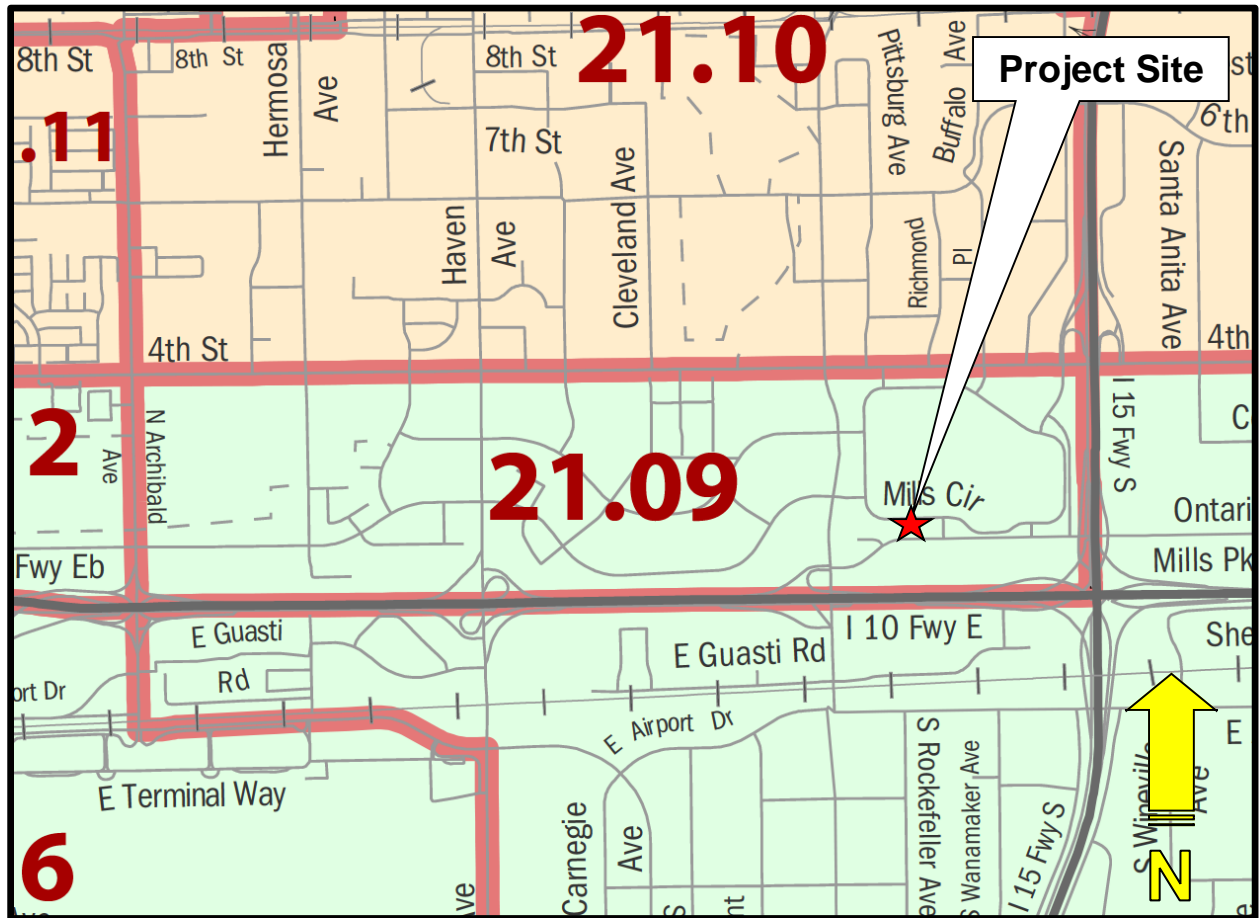


Exhibit E: Active On-Sale ABC Licenses



**California Department of Alcoholic Beverage Control
 For the County of SAN BERNARDINO - (On-Sale Licenses)
 and Census Tract = 21.09**

Report as of 2/3/2016

	License Number	Status	License Type	Orig. Iss. Date	Expir Date	Primary Owner and Premises Addr.	Business Name	Mailing Address	Geo Code
1)	333875	ACTIVE	47	11/30/1998	10/31/2016	MILL RING RESTAURANT PARTNERS L-PSHIP 950 ONTARIO MILLS DR ONTARIO, CA 91764 Census Tract: 0021.09	NEW YORK GRILL	PO BOX 5337 DIAMOND BAR, CA 91765	3607
2)	338162	ACTIVE	47	12/4/1998	6/30/2016	BENIHANA ONTARIO CORP 3760 INLAND EMPIRE BLVD ONTARIO, CA 91764 Census Tract: 0021.09	BENIHANA OF TOKYO	21500 BISCAYNE BLVD, STE 900 AVENTURA, FL 33180-1257	3607
3)	339389	ACTIVE	41	4/6/1998	12/31/2016	RUBIOS RESTAURANTS INC 980 ONTARIO MILLS DR, STE A ONTARIO, CA 91764 Census Tract: 0021.09	RUBIOS FRESH MEXICAN GRILL 40	1902 WRIGHT PL, STE 300 CARLSBAD, CA 92008-6583	3607
4)	340038	ACTIVE	47	6/16/1998	5/31/2016	INNSUITES HOTELS INC 3400 SHELBY ST ONTARIO, CA 91764 Census Tract: 0021.09	HOLIDAY INN ONTARIO	1625 E NORTHERN AVE, STE 201 PHOENIX, AZ 85020	3607
5)	356989	ACTIVE	70	9/27/1999	8/31/2016	COUNTRY SUITES ONTARIO MILLS L-PSHIP 4370 MILLS CIR ONTARIO, CA 91764 Census Tract: 0021.09	COUNTRY SUITES ONTARIO MILLS	355 BRISTOL ST, STE F COSTA MESA, CA 92626-7968	3607
6)	375961	ACTIVE	47	10/15/2001	6/30/2016	RAINFOREST CAFE INC 4810 MILLS CIR ONTARIO, CA 91764 Census Tract: 0021.09	RAINFOREST CAFE	1510 WEST LOOP S ATTN LICENSING DEPT HOUSTON, TX 77027-9505	3607

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7)	376666	ACTIVE	47	8/30/2001	7/31/2016	MARKET BROILER ONTARIO LLC 4557 MILLS CIR ONTARIO, CA 91764 Census Tract: 0021.09	ONTARIO MARKET BROILER	7119 INDIANA AVE RIVERSIDE, CA 92504-4543	3607
8)	379534	ACTIVE	47	5/31/2002	4/30/2016	ONTARIO STEAKHOUSE L-PSHIP 4492 ONTARIO MILLS PKWY ONTARIO, CA 91764 Census Tract: 0021.09	OUTBACK STEAKHOUSE	1250 PROSPECT ST, STE 305 LA JOLLA, CA 92037-3618	3607
9)	381577	ACTIVE	41	11/26/2001	10/31/2016	BARRANCA MANAGEMENT INC 4451 ONTARIO MILLS PKWY, STE B ONTARIO, CA 91764 Census Tract: 0021.09	CHOPSTICKS HOUSE		3607
10)	381960	ACTIVE	47	11/4/2002	2/29/2016	ONTARIO WINGS LLC 725 N MILLIKEN AVE ONTARIO, CA 91764-5011 Census Tract: 0021.09	HOOTERS RESTAURANT	3186 VISTA WAY, STE 200 OCEANSIDE, CA 92056-3621	3607
11)	382656	ACTIVE	47	12/28/2001	11/30/2016	COMEDY CLUB OF BREA LLC 4555 MILLS CIR ONTARIO, CA 91764-5220 Census Tract: 0021.09	IMPROV	6701 CENTER DR W, STE 1111 LOS ANGELES, CA 90045-1552	3607
12)	403739	ACTIVE	41	10/6/2003	9/30/2016	TRILLIONS INVESTMENT GROUP INC 990 ONTARIO MILLS DR, STE H ONTARIO, CA 91764 Census Tract: 0021.09	YUZU SUSHI		3607
13)	410479	ACTIVE	47	7/8/2005	6/30/2016	TOKYO WAKO ONTARIO INC 4480 ONTARIO MILLS PKWY ONTARIO, CA 91764 Census Tract: 0021.09		411 E HUNTINGTON DR, STE 305 ARCADIA, CA 91006-3736	3607
14)	432625	ACTIVE	48	11/14/2005	8/31/2016	SPECTATORS SPORTS BAR INC 750 N ARCHIBALD AVE, STE B ONTARIO, CA 91764 Census Tract: 0021.09	SPECTATORS SPORTS BAR		3607
15)	435929	ACTIVE	41	3/22/2006	2/29/2016	CHO, JUNG OK 790 N ARCHIBALD AVE, STE B ONTARIO, CA 91764-4648	JOEYS PIZZA NO 1		3607

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 File No.: PCUP15-027
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						Census Tract: 0021.09			
16)	443437	ACTIVE	47	3/28/2008	2/29/2016	DAVE & BUSTERS OF CALIFORNIA INC 4821 MILLS CIR ONTARIO, CA 91764-5226 Census Tract: 0021.09	DAVE & BUSTERS	2481 MANANA DR DALLAS, TX 75220-1203	3607
17)	467136	ACTIVE	47	6/27/2008	5/31/2016	APPLE SOCAL LLC 1021 N MILLIKEN AVE ONTARIO, CA 91764-5023 Census Tract: 0021.09	APPLEBEES NEIGHBORHOOD GRILL & BAR	PO BOX 507, ATTN CHERYL MILLS WEST LINN, OR 97068	3607
18)	470009	ACTIVE	47	10/15/2008	9/30/2016	LEVY PREMIUM FOODSERVICE L-PSHIP 4000 ONTARIO CENTER PKWY ONTARIO, CA 91764-7966 Census Tract: 0021.09	LEVY RESTAURANTS AT CITIZENS BUSINESS BANK ARENA	980 N MICHIGAN AVE, STE 400 CHICAGO, IL 60611-4518	3607
19)	474454	ACTIVE	47	5/20/2009	12/31/2016	N AND D RESTAURANTS INC 4403 MILLS CIR ONTARIO, CA 91764 Census Tract: 0021.09	OLIVE GARDEN ITALIAN RESTAURANT THE 1579	PO BOX 695016 ORLANDO, FL 32869-5016	3607
20)	477208	ACTIVE	47	6/4/2009	12/31/2016	BLACK ANGUS STEAKHOUSES LLC 3640 PORSCHE WAY ONTARIO, CA 91764-4905 Census Tract: 0021.09	BLACK ANGUS STEAKHOUSE 1088	4410 EL CAMINO REAL, STE 201 LOS ALTOS, CA 94022-1002	3607
21)	478545	ACTIVE	41	7/29/2009	6/30/2016	OCHOA, ANA GUADALUPE 710 N ARCHIBALD AVE, STE B ONTARIO, CA 91764-4642 Census Tract: 0021.09	LOS JALAPENOS 3		3607
22)	485267	ACTIVE	41	4/1/2010	3/31/2016	COCOS RESTAURANTS INC 4360 MILLS CIR ONTARIO, CA 91764-5217 Census Tract: 0021.09	COCOS RESTAURANT 5009	120 CHULA VISTA HOLLYWOOD PARK, TX 78232	3607
23)	485499	SUREND	47	8/25/2010 2:23:19 PM	7/31/2016	FIRST FUSIONS BAR & GRILL ONTARIO GROUP INC 3550 PORSCHE WAY ONTARIO, CA 91764-4909 Census Tract: 0021.09	FUSIONS BAR & GRILL	8468 CHERRY BLOSSOM ST RANCHO CUCAMONG A, CA 91730-3240	3607
24)	485667	ACTIVE	47	2/16/2010	1/31/2016	PRIME HOSPITALITY LLC 3333 SHELBY ST ONTARIO, CA 91764-4872	ONTARIO GRAND INN AND SUITES	16850 BEAR VALLEY RD VICTORVILLE, CA 92395-5794	3607

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						Census Tract: 0021.09			
25)	502051	ACTIVE	70	11/16/2010 10:33:43 AM	10/31/2016	CARDIFF COUNTRY INN INC 4395 E ONTARIO MILLS PKWY ONTARIO, CA 91764-5105 Census Tract: 0021.09	AYRES INN & SUITES ONTARIO AT THE MILLS MALL	355 BRISTOL ST, STE F COSTA MESA, CA 92626-7968	3607
26)	508525	ACTIVE	47	12/9/2011 4:20:14 PM	11/30/2015	SGW ENTERTAINMENT INC 1 MILLS CIR 4541 ONTARIO, CA 91764 Census Tract: 0021.09	GAMEWORKS	4541 MILLS CIRCLE ONTARIO, CA 91764	3607
27)	510751	ACTIVE	41	9/26/2011 10:19:45 AM	12/31/2016	LUBY'S FUDDRUCKERS RESTAURANTS, LLC 4423 MILLS CIR ONTARIO, CA 91764-5204 Census Tract: 0021.09	FUDDRUCKERS	30 MASSACHU SETTES AVE, STE. 101 NORTH ANDOVER, MA 01845	3607
28)	520606	ACTIVE	47	10/30/2012 1:36:02 PM	3/31/2016	RM CHEVYS LLC 4551 MILLS CIR ONTARIO, CA 91764 Census Tract: 0021.09	CHEVYS	5660 KATELLA AVE, STE 200, C/O LEASE ADMINISTRA TION CYPRESS, CA 90630- 5058	3607
29)	521125	ACTIVE	47	10/29/2012 1:41:15 PM	12/31/2016	RM EL TORITO LLC 3680 INLAND EMPIRE BLVD ONTARIO, CA 91764 Census Tract: 0021.09	EL TORITO	5660 KATELLA AVE, STE 200, C/O LEASE ADMINISTRA TION CYPRESS, CA 90630- 5058	3607
30)	536185	ACTIVE	47	10/3/2013 8:16:34 AM	9/30/2016	BRAVO LIQUOR LICENSE MANAGEMENT LLC 700 N HAVEN AVE ONTARIO, CA 91764-4902 Census Tract: 0021.09	ONTARIO INTERNATIONA L AIRPORT HOTEL AND CONFERENCE CENTER		3607
31)	536646	ACTIVE	41	12/10/2013 10:11:45 AM	11/30/2015	MINATO RESTAURANT INC 701 N MILLIKEN AVE, STE D ONTARIO, CA 91764-5018 Census Tract: 0021.09	LUXE BUFFET THE	5112 LIPIZZAN PL RANCHO CUCAMONG A, CA 91737- 6734	3607
32)	537516	ACTIVE	47	9/8/2015 9:32:48 AM	8/31/2016	AMERICAN MULTI-CINEMA INC 4549 MILLS CIRCLE ONTARIO, CA 91764-5220	AMC ONTARIO MILLS 30	11500 ASH ST	3607

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						Census Tract: 0021.09		LEAWOOD, KS 66211- 7804	
33)	538441	ACTIVE	41	1/13/2014 4:48:42 PM	12/31/2016	SUB PERMPOON LLC 4275 CONCOURS DR, #130 ONTARIO, CA 91764 Census Tract: 0021.09	@ HOME THAI FUSION BISTRO		3607
34)	546224	ACTIVE	47	8/18/2014 11:41:24 AM	7/31/2016	LING SEA STAR INC 3495 CONCOURS, D & E ONTARIO, CA 91764-4995 Census Tract: 0021.09	B & F JAPANESE BBQ & SUSHI		3607
35)	547408	ACTIVE	47	3/19/2015 9:58:57 AM	12/31/2016	RED LOBSTER HOSPITALITY LLC 4413 MILLS CIR ONTARIO, CA 91764 Census Tract: 0021.09	RED LOBSTER #6270	PO BOX 6508, ATTN: LICENSING DEPARTMEN T ORLANDO, FL 32802- 6508	3607
36)	549740	ACTIVE	47	7/17/2015 1:11:20 PM	6/30/2016	PINK BULL INC, THE 3550 E PORSCHE WAY ONTARIO, CA 91764-4909 Census Tract: 0021.09	HAMBURGER MARYS BAR AND GRILLE	12223 HIGHLAND AVE, STE 106 & 331 RANCHO CUCAMONG A, CA 91739- 2574	3607
37)	553336	SUREN D	41	3/5/2015 12:46:44 PM	2/29/2016	BIG CATCH ONTARIO LLC 765 N MILLIKEN AVE, STE C & D ONTARIO, CA 91764-5015 Census Tract: 0021.09	BIG CATCH SEAFOOD THE	716 MONTEREY PASS RD MONTEREY PARK, CA 91754-3607	3607
38)	554218	ACTIVE	47	8/4/2015 3:57:56 PM	7/31/2016	BIG CATCH ONTARIO LLC 765 N MILLIKEN AVE, STE C & D ONTARIO, CA 91764-5015 Census Tract: 0021.09	BIG CATCH SEAFOOD	716 MONTEREY PASS RD MONTEREY PARK, CA 91754-3607	3607
39)	563764	ACTIVE	41	12/22/2015 2:29:25 PM	11/30/2016	HPO LP 4760 E MILLS CIR ONTARIO, CA 91764-5223 Census Tract: 0021.09	HYATT PLACE ONTARIO MILLS	227 S MUIRFIELD RD LOS ANGELES, CA 90004- 3730	3607

--- End of Report ---

For a definition of codes, view our [glossary](#).

Inserted from <<http://www.abc.ca.gov/datport/AHCountyRep.asp>>

APPENDIX A

Zoning Administrator Decision No. 2016-001



ZONING ADMINISTRATOR DECISION NO. 2016-001

February 17, 2016

FILE NO.: PCUP15-027

DESCRIPTION: A Conditional Use Permit request to establish an approximate 5,100 square-foot bar/nightclub with live entertainment for Mix Champagne Bar Lounge, on approximately 3.44 acres of land, located at 4481 Ontario Mills Parkway, within the Commercial/Office land use district of the California Commerce Center North (The Mills) Specific Plan. (APNs: 0238-014-10); **submitted by Mix Champagne Bar Lounge.**

PART I: BACKGROUND & ANALYSIS

MIX CHAMPAGNE BAR LOUNGE, (herein after referred to as "Applicant") has filed an application requesting Conditional Use Permit approval for File No. PCUP15-027, as described in the subject of this Decision (herein after referred to as "Application" or "Project").

(1) Project Setting: The project site is comprised of 3.44 acres of land located at 4481 Ontario Mills Parkway, and is depicted in *Exhibit A: Aerial Photograph*, attached. Existing land uses, General Plan and zoning designations, and specific plan land uses on and surrounding the project site are as follows:

	<i>Existing Land Use</i>	<i>General Plan Designation</i>	<i>Zoning Designation</i>	<i>Specific Plan Land Use</i>
<i>Site</i>	Commercial	Mixed Use (Ontario Mills)	California Commerce Center North (The Mills) Specific Plan	Commercial/Office
<i>North</i>	Commercial	Mixed Use (Ontario Mills)	California Commerce Center North (The Mills) Specific Plan	Mall
<i>South</i>	Commercial	Mixed Use (Ontario Mills)	California Commerce Center North (The Mills) Specific Plan	Commercial/Office
<i>East</i>	Commercial	Mixed Use (Ontario Mills)	California Commerce Center North (The Mills) Specific Plan	Mall
<i>West</i>	Commercial	Mixed Use (Ontario Mills)	California Commerce Center North (The Mills) Specific Plan	Commercial/Office

(2) Project Analysis:

(a) Proposed Use — The applicant is requesting approval of a Conditional Use Permit (CUP) to allow a Type 48 (Bar, Night Club) ABC license with live

<i>Prepared:</i> HKN:02/04/16	<i>Reviewed:</i> RZ:02/09/16	<i>Decision:</i> CW: 03/07/16
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entertainment in conjunction with Mix Champagne Bar Lounge. The project site is located within an existing 5,076-square foot vacant commercial building (see *Exhibit B: Site Plan and Exhibit C: Exterior Site Photos*). The project site is generally located at the northwest corner of Ontario Mills Parkway and Franklin Avenue, at 4481 Ontario Mills Parkway. The project site is located within an existing multi-tenant commercial shopping center, which includes the Chopstick House, a hookah lounge, and a nail salon.

The applicant proposes to establish an upscale luxury cocktail lounge that specializes in martinis, sparkling wines and champagne. The lounge will also have a full service bar that will offer beer, wine and other spirits (see *Exhibit D: Sample Menu*). The applicant proposes to provide an elegant interior décor such as custom mirrors, flat screen high definition televisions, leather lounge chairs and couches, granite bar counter tops and LED lighting (see *Exhibit E: Interior Décor Samples*).

The applicant is also proposing a new enclosed patio seating area located at the northeast corner of the existing building. The State of California Alcohol Beverage Control (ABC) requires that outdoor seating areas be enclosed if an establishment is to serve alcohol in that area. The Police Department has also required that patio walls be a minimum height of 5 feet to prevent patrons from passing alcohol drinks to minors, or to people in a public area. The applicant is proposing a 5-foot tall combination block wall with tempered glass on top to enclose the proposed patio area.

The applicant is required to file an application with ABC for the issuance of a Type 48 license, which upon issuance, will allow the sale of beer, wine and distilled spirits within the confines of the building. A Type 48 ABC license is defined by the State Department of ABC as a bar or night club authorized to sell beer, wine or distilled spirits for consumption on the licenses premises and is required to meet the following requirements:

- *Food service is not required; and*
- *Minors are not allowed on the premises.*

(b) Operations — The proposed project will employ approximately 7 to 17 persons per shift. The facility can accommodate approximately 116 (96 interior and 20 exterior) patrons at any given time (see *Exhibit F: Floor Plan*). The proposed hours of operation include:

- Monday and Tuesday: The venue would be closed to the public, but could be reserved for private events (i.e. weddings, anniversaries, corporate events, private parties, etc.).
- Wednesday thru Sunday: Open from 6 p.m. to 2 a.m. with daily social hour from 6 p.m. to 9 p.m.

The applicant is also proposing live entertainment, such as live jazz bands, disc jockeys, karaoke and dancing. All special events, which exceed the scope and approval of this Conditional Use Permit are required to be reviewed and approved through a Temporary

Use Permit, prior to the event occurring. A special event can include, but is not limited to, anything occurring outside of the facility such as a parking lot event, or any form of live entertainment not specifically identified within the approved Conditions of Approval.

(c) Parking and Access — The Parkway Plaza Shopping Center has direct access from both Mills Circle and Ontario Mills Parkway. The proposed project is required to provide a total of 57 parking spaces based on the Ontario Development Code parking standards for a *Drinking Place* (bar, cocktail lounge or nightclub) that requires 1 parking space per 100 square feet of gross floor area. The existing shopping center provides a total of 188 parking spaces and the current existing uses require a total of 171 parking spaces (*See Parking Table Below for details*). A number of tenant spaces are currently vacant within the center, therefore staff utilized the General Commercial parking requirements to calculate the total required parking for the retail center. Typically, a bar/nightclub has a peak parking demand from 9 p.m. to 2 a.m., which is usually when general commercial tenants are closed. Additionally, the shopping center has a non-exclusive use of parking for the center’s tenants (*see Exhibit G: Property Management Parking Letter*). Therefore, staff believes that the proposed use will not adversely affect the parking demand within the center.

Summary of Parking Analysis				
Land Use	Gross Floor Area (SF)	Parking Ratio	Required Parking	Total Parking Provided
Bar/Night Club	5,652 SF	1 space per 100 SF of GFA	57	
Full Service Restaurant	2,200 SF	1 space per 100 SF of GFA	22	
General Retail	23,060 SF	1 space per 250 SF of GFA	92	
	30,336 SF		171	188

(d) ABC License Concentrations — The California Department of Alcohol Beverage Control (ABC) is the controlling State entity which grants, renews, and revokes all ABC licenses. ABC determines how many On-Sale and Off-Sale alcoholic beverage license types should be issued per Census Tract, based upon their populations. The proposed project is located within Census Tract 21.09, which is generally bounded by 4th Street on the north, I-15 Freeway on the east, I-10 Freeway on the south, and Archibald Avenue on the west, as depicted in *Exhibit H: Census Tract Map*. ABC has determined that Census Tract 21.09 can support 3 On-Sale license types. As of February

3, 2016, the latest ABC report shows Census Tract 21.09 as having a total number of 39 active On-Sale licenses (see *Exhibit I: Active On-Sale ABC Licenses*). As a result, the Census Tract is considered over-concentrated.

When considering the establishment of additional ABC licenses within over-concentrated Census Tracts, the Department of Alcoholic Beverage Control generally defers the decision making process to local jurisdictions, although they can override any local approval and ultimately deny issuing the license. Local jurisdictions are required to establish an approval process, typically Conditional Use Permit review, as well as making Public Convenience and Necessity (“PCN”) findings. Should the local jurisdiction be able to make all necessary findings and approve a business for alcoholic beverage sales, ABC will typically issue the license. Both the local jurisdiction and ABC can impose certain operating restrictions associated with the business and alcohol sales, to mitigate any potential impacts the business may generate. Non-compliance with the conditions can result in CUP revocation by the local jurisdiction, as well as license termination by ABC.

The project site is located within the Ontario Mills area that generally has a higher rate of crime due to the intensification of retail, entertainment and lodging facilities within the immediate area. The Ontario Plan (TOP) provides direction of the City’s vision of growth in the future and provides goals and policies to assist in reaching this vision. Within TOP the Ontario Mills area is identified as a “Growth Area” and is envisioned to be developed in a manner that has a more intensification of uses, such as entertainment uses to provide our residents and visitors with the opportunity to live, work and play within our City. The Police Department has reviewed the application and is supporting the Type 48 ABC License provided that all City and State Department of Alcohol Beverage Control rules, regulations and conditions are met and followed. Subsequently, staff has placed specific conditions of approval for the proposed project to assist in ensuring the safe operation of the business.

(e) Land Use Compatibility — The intent of a CUP application and review is to ensure that the proposed use will be operated in a manner consistent with all local regulations, and to ensure that the use will not be detrimental to the public health, safety, or welfare, or materially injurious to uses, properties or improvements in the vicinity. The City of Ontario’s Development Code describes a CUP as the following: Sec. 4.02.015 (A): *Purpose* – The purpose of this Section is to establish a procedure to ensure that a degree of compatibility is maintained with respect to certain uses on certain properties, due to their nature, intensity or size, or to compensate for variations and degrees of technological processes and equipment as related to the generation of noise, smoke, dust, fumes, vibration, odors and other practical hazards. Approval of a CUP first requires making certain findings, which show that the proposed use is consistent with all City of Ontario development codes, land uses, and other applicable requirements. Additionally, the use must be compatible with the other surrounding uses; therefore, approving a CUP is discretionary in nature.

The project site is located within the Commercial/Office Land Use designation of the California Commerce Center North (The Mills) Specific Plan. Within this district, alcoholic beverage sales and live entertainment are conditionally permitted uses. It is staff's belief that the recommended conditions of approval will sufficiently mitigate any potential impacts associated with the use. Additionally, businesses within the surrounding area will not be exposed to any impacts resulting from alcoholic beverage sales or live entertainment, beyond those that would normally be associated with any other use similarly allowed within the Commercial/Office Land Use designation of the California Commerce Center North (The Mills) Specific Plan.

(3) Airport Land Use Compatibility Plan: This 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. Any special conditions of approval associated with uses in close proximity to the airport are attached to this report.

(4) 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.

(5) 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.

(6) 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 II: RECITALS

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

WHEREAS, on February 17, 2016, the Zoning Administrator of the City of Ontario conducted a duly noticed public hearing on the application, as follows:

(1) Henry K. Noh, Senior Planner, presented the staff report on the proposed use, indicating the staff recommendation of approval. Following staff's presentation, the Zoning Administrator opened the public hearing.

(2) The Deputy Zoning Administrator asked staff to clarify the lighting and video surveillance requirement for the paseo located west of the proposed project site and if there are existing lights within the paseo.

(3) Planning staff explained that the applicant is required to submit a photometric study for review and approval for the parking area and pedestrian pathways for the project, which includes the paseo in question, and that the Planning and Police Departments will verify that a minimum 1.0 foot candle is provided within these areas for safety concerns. Additionally, Planning staff explained that there are existing lights within the paseo area. Corporal Munoz confirmed that the Police Department will review the lighting photometrics as part of the plan check process. Additionally, Corporal Munoz asked to revise their condition to include a video camera for the paseo area and reiterated that Police's condition for the cameras shall be a minimum of 15 frames per second for quality purposes.

(4) Deputy Zoning Administrator invited the applicant/representative, Lamont Carr, to the podium to speak on the project and asked Mr. Carr if he read, understands and agrees with the project conditions including the additional camera for the paseo area.

(5) Lamont Carr, the business owner, explained the business operation and spoke in favor of the application including the conditions. Mr. Carr explained that he wants to run a safe business and he will comply with Police's condition and provide approximately 12-16 video cameras including the paseo area in question to survey both the interior and exterior of the business.

(6) Jocelyn Gubler, Vice President of Real Estate for Simon Properties, the owner of Ontario Mills, spoke in opposition of the project due to past alcohol-related problems with Dave and Busters that resulted in the highest police call volumes in the City, requiring them to revise their last call for alcohol to 11:45 p.m., as well as Toby Keith's in Rancho Cucamonga, that ultimately lead to their closure. Ms. Gubler explained that the campus in and around Ontario Mills has a neighborhood culture aimed at providing family-oriented entertainment with restaurants such as Olive Garden and Red Lobster, and family activities such as L.O.L. Kids Club and Fast Lap Indoor Kart Racing. Ms. Gubler concluded that bars and nightclubs have had a negative impact on our

community and are not compatible with the vision and demographics of the Mills area. Ms. Gubler stated further that, as the leading driver of economic development and commerce in the City, the Ontario Mills believes that it is imperative to maintain an environment that keeps our local and visiting shoppers returning again and that this project could jeopardize that environment.

(7) Mr. Carr, explained that he intended to be an asset to the community and to provide an additional entertainment option to the community. Even though his business is not family-oriented, he intends to run a quality business that isn't a detriment to the City.

(8) The Deputy Zoning Administrator asked Mr. Carr if he had any experience in running this type of business.

(9) Mr. Carr explained that he had over 25 years of experience in this business and that he has an existing bar/lounge in the City of Lancaster that has been open for the past two years.

(10) 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 III: THE DECISION

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

(1) All facts set forth in this Zoning Administrator Report and Decision are true and correct.

(2) Based upon the evidence presented to the Zoning Administrator during the above-referenced public hearing, the Zoning Administrator hereby finds as follows:

(a) The Proposed location of the Conditional Use Permit is not in accord with the objectives and purposes of the Ontario Development Code and the zoning designation within which the site is located.

Fact: Type 48 (Bar, Night Club) ABC licenses with live entertainment in conjunction with a bars/cocktail lounge are allowed with Conditional Use Permit (CUP) approval within the Commercial/Office Land Use designation of the California Commerce Center North (The Mills) Specific Plan. Part of the analysis in evaluating the Conditional Use Permit is whether the proposed location is within a census tract that is over-concentrated for On-Sale licenses and, if so, whether findings of Public Convenience and Necessity ("PCN") can be made and are

warranted. Pursuant to ABC criteria, three on-sale licenses would be permitted – the census tract currently has 39 on-sale licenses. The vast majority of these licenses, however, are Type 41 or Type 47 licenses, providing alcohol sales/services in conjunction with bona-fide eating establishments (restaurant). As such, alcohol sales tend to be an ancillary service, rather than the primary focus of the business operation. Additionally, the census tract in which the CUP is considered a high crime rate area of the City. As noted during the public testimony by an adjacent property owner, the introduction of a Type 48 license has the potential to exacerbate the existing crime in the area, especially when considering alcohol-related crimes. Since a concentration of restaurants with on-sale alcohol exist within close proximity to the proposed CUP, a PCN is not warranted.

(b) The proposed use at the proposed location, and the manner in which it will be operated and maintained, is not consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan.

Fact: The proposed Mix Champagne Bar Lounge is located within the Commercial/Office Land Use designation of the California Commerce Center North (The Mills) Specific Plan, which permits bars/cocktail lounges as a conditionally permitted use. Part of the analysis in evaluating the Conditional Use Permit is whether the proposed project is compatible with surrounding uses. Policy Plan policies related to land use compatibility include:

LU2-2 Land Use Decisions. We minimize adverse impacts on adjacent properties when considering land use and zoning requests; LU2-4 Regulation of Nuisances. We regulate the location, concentration and operations of potential nuisances; and LU2-5 Regulation of Uses. We regulate the location, concentration and operations of uses that have impacts on surrounding land uses.

The CUP process regulates land uses in order to minimize adverse impacts to surrounding properties. The ABC license process regulates the concentration of ABC licenses to minimize alcohol-related nuisances. As noted in Fact (a) above, the census tract is over-concentrated but the majority of the on-sale licenses are associated with restaurants, offering alcohol sales/services as an ancillary use. Public testimony has noted the past alcohol-related issues with existing on-sale facilities and the potential for new issues from the application. The proposed CUP is within a Census Tract that is over-concentrated for On-Sale ABC licenses and is not compatible with surrounding uses, therefore, is not consistent with the Policy Plan.

(c) For On-Sale alcoholic beverage license types located within overconcentrated census tracts (high density of alcoholic beverage sales locations as defined by the Alcoholic Beverage Control Act commencing with Business and

Professions Code Section 23000 et Seq.), the Zoning Administrator hereby finds that the following PCN findings cannot be met:

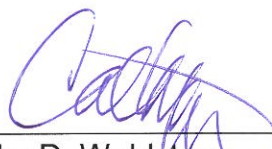
Fact: California Business and Professional Code Section 23958.4 provides that the City shall have authority to review a retail alcoholic beverage license application proposed within an area having an “undue concentration” (high density of alcoholic beverage sales locations and/or high rate of crime) of ABC licenses; determine whether public convenience or necessity would be served by license issuance; and inform ABC of the determination.” The proposed CUP is in Census Tract 21.09, which has an over-concentration of On-Sale ABC licenses and a high crime rate. ABC has authorized 3 On-Sale ABC licenses for Census Tract 21.09 and, according to **Exhibit I**, there are currently 39 active On-Sale ABC licenses. Although the area surrounding the Mills is a hub for entertainment, a significant number of establishments with on-sale alcohol already exist and therefore, a PNC determination is not warranted.

(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) 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.

(f) Based upon the findings and conclusions set forth in Parts I, II and III above, the Zoning Administrator hereby **DENIES** File No. PCUP15-027, subject to the conditions of approval attached hereto and incorporated herein by this reference.

APPROVED AND ADOPTED this 7th day of March, 2016.



Cathy D. Wahlstrom
Deputy Zoning Administrator

Exhibit A: Aerial Photograph



Exhibit B: Site Plan

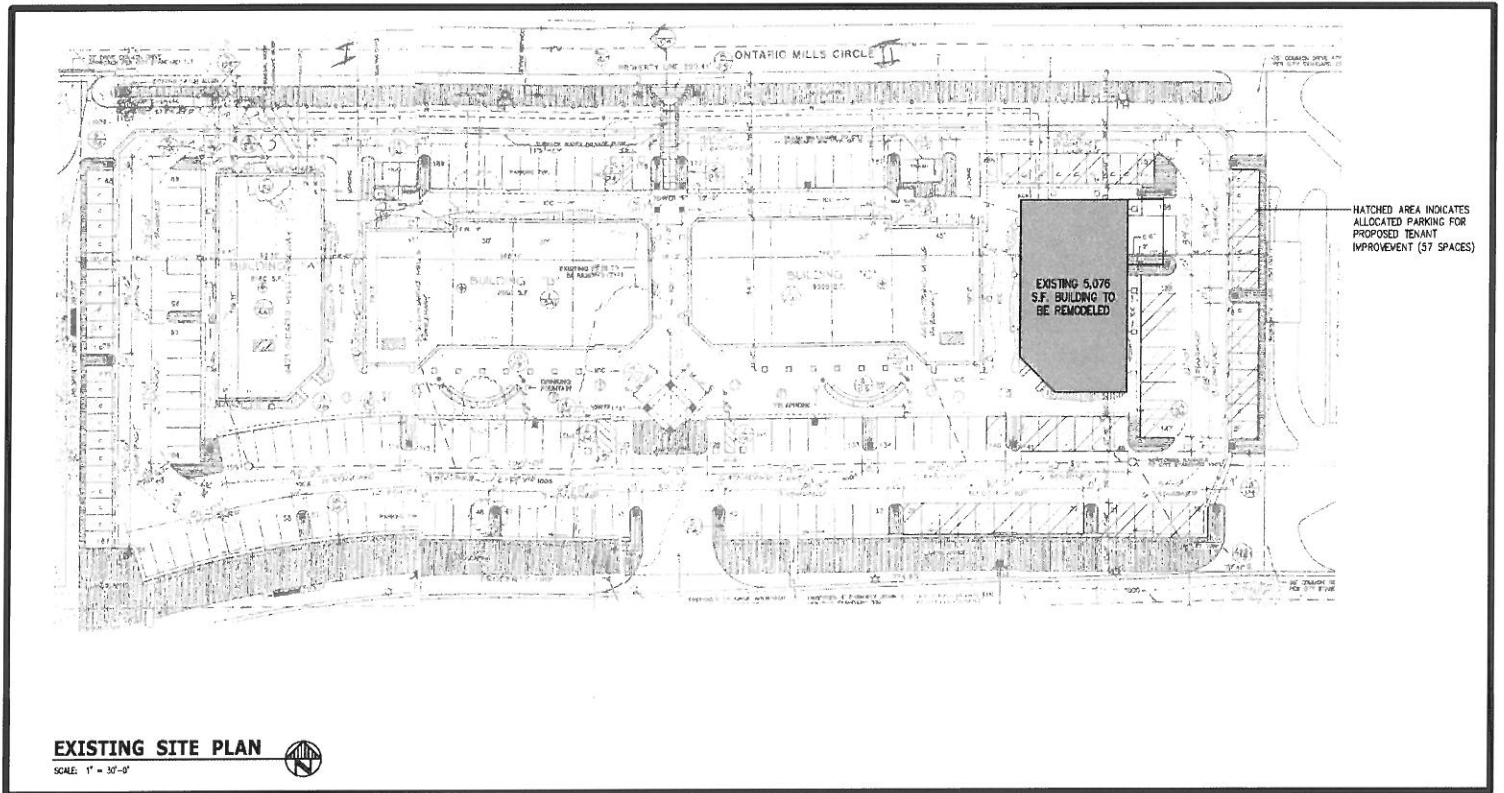


Exhibit C: Exterior Site Photos



View of South Elevation (Entrance)



View of West Elevation (Paseo)



View of East Elevation (Proposed Patio Area)



North Elevation of Project Site

Exhibit D: Sample Menu

Mix

Example Menu

Specialty Drinks \$9

- Coconut Vanilla Bellini- Prosecco, coconut juice, vanilla and coconut sprinkles
- Mango Lime Bellini- Mango Puree, lime juice and sparkling wine
- Creamsicle Mimosas- Marshmallow vodka, champagne, and oj, top w/ whip cream
- Poolside Mimosas- vodka, pineapple juice, Grand Imperial champagne
- Cherry Pop- Three olives cherry vodka, Imperial champagne, grenadine orange juice
- Gummy bear – Absolute vodka, raspberry and peach schnapps lime gummy bear
- Mango Breeze- Mango vodka, cranberry, Korbel sweet Cuvee, mango puree'
- Peach Tea- Three Olives Peach vodka, gin, rum, peach snaps, sprite, peach nectar
- Fireman- Fireball, whisk sweet n sour and diet coke
- Margarita Fizz- Tequila, margarita mix, Korbel champagne
- Melon Dew- Cazadores tequila, melon liqueur, peach schnapps, sweet and sour
- Grand Margarita-Grand Marnier, gold tequila, raspberry, sweet and sour

Martini \$10

- Raspberry Lemon Drop- Citrus Vodka, raspberry, triple sec, lime and fresh lemon
- White Peach- Ciroc Peach vodka, peach liquor , peach nectar and sprite
- Very Berry Cosmo-three olives berry, raspberry, triple sec,sweet and sour and cranberry
- Candy Apple Martini- Titos Vodka, apple pucker, grenadine, sweet and sour
- Chocolate Drop- Vanilla vodka, Godiva chocolate liquor, rimmed in chocolate

Champagne by the bottle

Moet	\$150
Veuve Clicquot 2004	\$200
Henriot	\$300
Piper-Heidsieck	\$300
Dom Perignon 2003	\$500
Belle Epoque Rose 2004	\$800
Ace of Spades Rose	\$1500

Other bottles available upon request

Exhibit D: Sample Menu Cont'd

Mix

Example Menu

Draft Beer \$5

Coors Light, 805, Blue Moon, Dos Equis, Stella, New Castle

Bottle Beer

Domestic \$4

Imports \$5

Wines by Glass

Kendall Jackson Chardonay \$10

Redtree Chardonnay \$8

Esser Vineyard Cabernet \$8

Kenwood Vineyard Zinfandel \$12

Blackstone Merlot \$8

Fetzer Vally Oaks Merlot \$9

Cupcake Vineyard Prosecco \$12

Barefood Bubbly Pink Moscato \$9

Yellow Tale Bubbly Rose \$8

Korbel champagne split \$7

Exhibit E: Interior Decor Samples



Exhibit F: Floor Plan

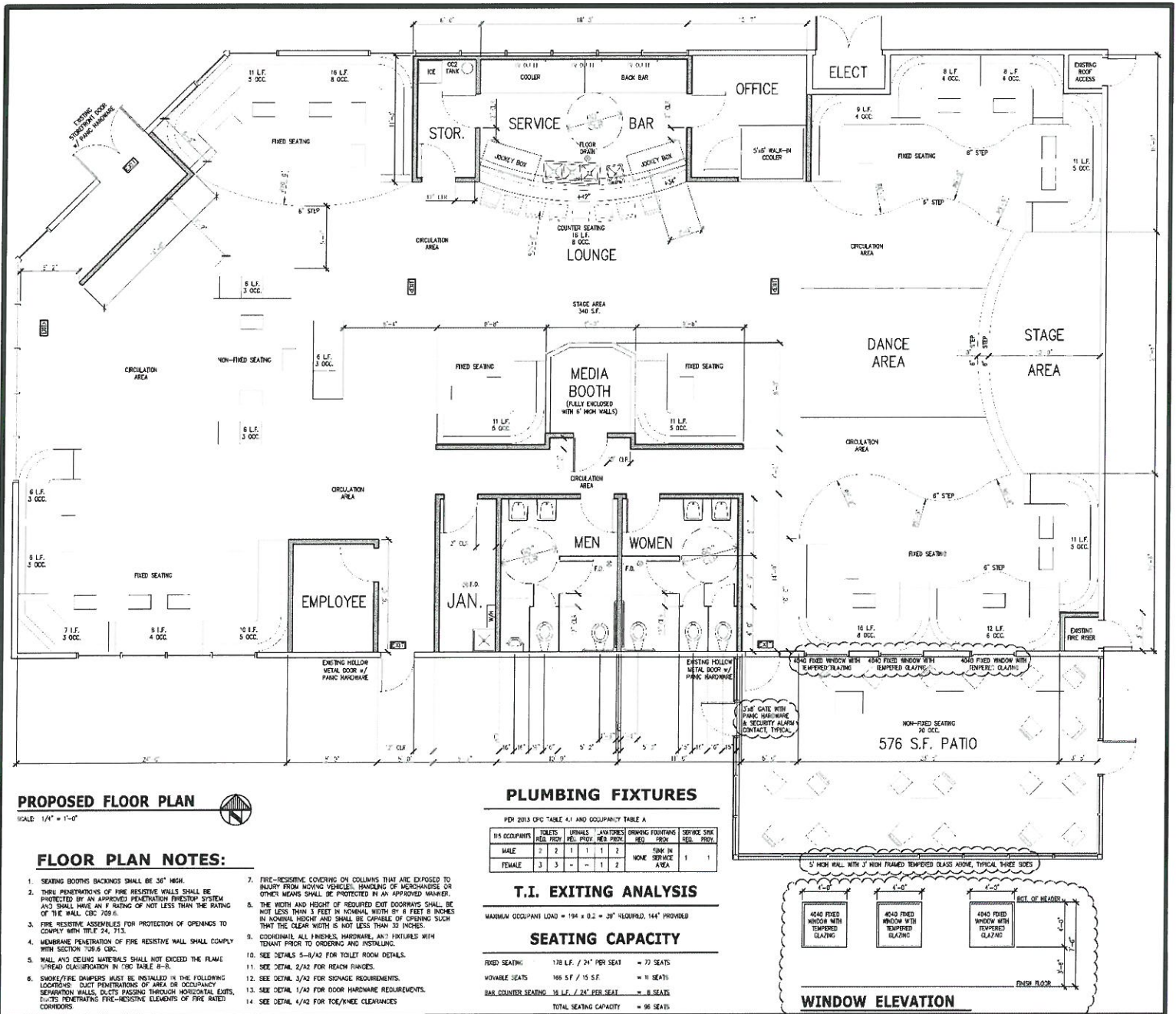


Exhibit G: Property Management Parking Letter



December 7, 2015

RE: PARKING ALLOCATION
4481 "A" Ontario Mills Parkway
Ontario, CA

Mr. Lamont Carr,

This letter is to clarify the allocation of the parking at Parkway Plaza.

The center has 184 spaces, the total rentable are is 29,960 SF. At these numbers each unit is allocated 6.13 spaces per 1,000 SF.

Your unit, 4481 "A" has 5,076 SF of space which grants you 32 spaces. All spaces in the center are allocated as "Non Exclusive" use of parking. In case you are in need of more parking you may use any available parking throughout the center. The above description and language is reflective of the language in the actual lease, paragraph 1.2 (b) and 2.6. Any additional parking required above the allotted number will be addressed in the lease.

Since the center is 74% vacant I'm sure there will be enough space to accommodate your business.

I hope this clarifies your parking concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Molnar". The signature is written in a cursive, flowing style.

Michael Molnar
Property Manager

Exhibit H: Census Tract Map

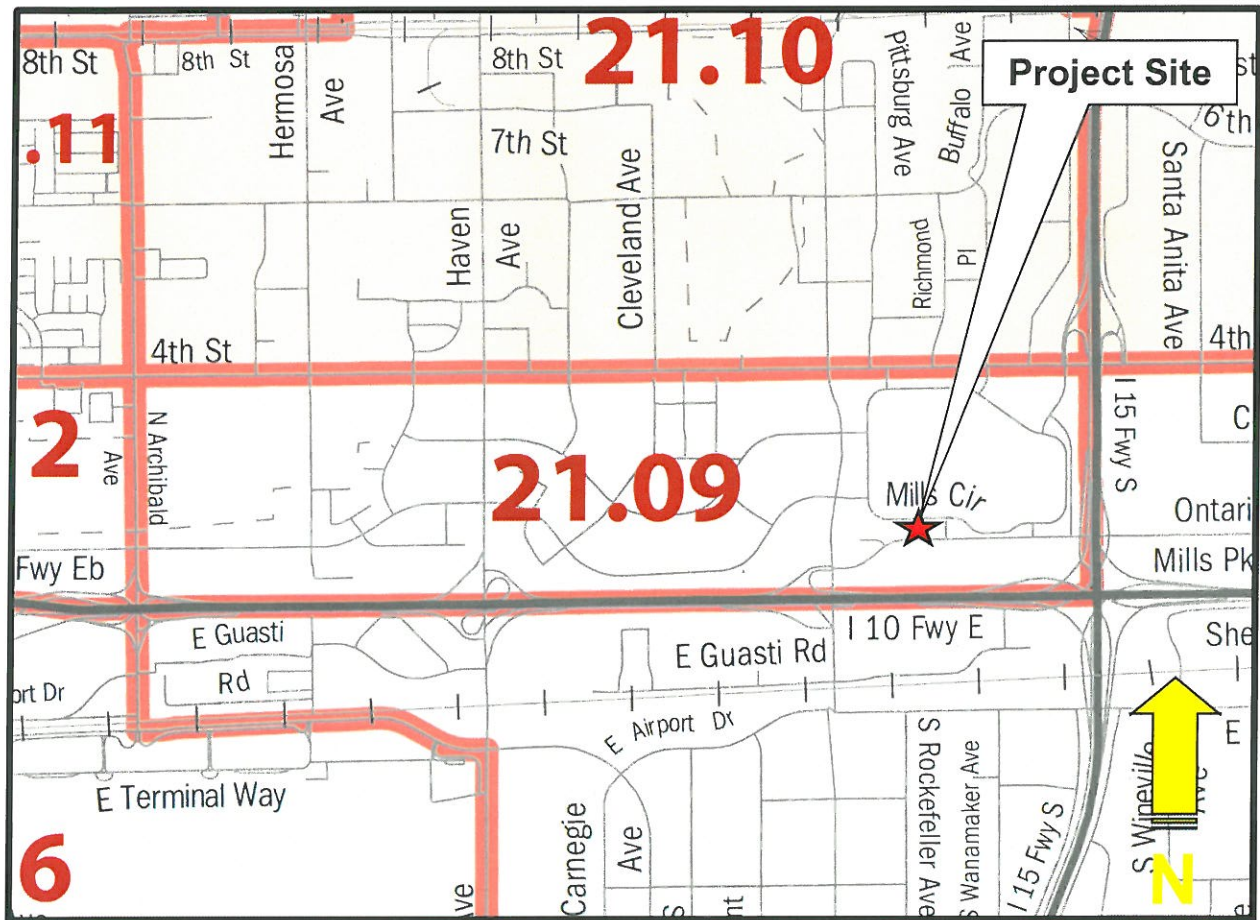


Exhibit I: Active On-Sale ABC Licenses



**California Department of Alcoholic Beverage Control
 For the County of SAN BERNARDINO - (On-Sale Licenses)
 and Census Tract = 21.09**

Report as of 2/3/2016

	License Number	Status	License Type	Orig. Iss. Date	Expir Date	Primary Owner and Premises Addr.	Business Name	Mailing Address	Geo Code
1)	333875	ACTIVE	47	11/30/1998	10/31/2016	MILL RING RESTAURANT PARTNERS L-PSHIP 950 ONTARIO MILLS DR ONTARIO, CA 91764 Census Tract: 0021.09	NEW YORK GRILL	PO BOX 5337 DIAMOND BAR, CA 91765	3607
2)	338162	ACTIVE	47	12/4/1998	6/30/2016	BENIHANA ONTARIO CORP 3760 INLAND EMPIRE BLVD ONTARIO, CA 91764 Census Tract: 0021.09	BENIHANA OF TOKYO	21500 BISCAYNE BLVD, STE 900 AVENTURA, FL 33180-1257	3607
3)	339389	ACTIVE	41	4/6/1998	12/31/2016	RUBIOS RESTAURANTS INC 980 ONTARIO MILLS DR, STE A ONTARIO, CA 91764 Census Tract: 0021.09	RUBIOS FRESH MEXICAN GRILL 40	1902 WRIGHT PL, STE 300 CARLSBAD, CA 92008-6583	3607
4)	340038	ACTIVE	47	6/16/1998	5/31/2016	INNSUITES HOTELS INC 3400 SHELBY ST ONTARIO, CA 91764 Census Tract: 0021.09	HOLIDAY INN ONTARIO	1625 E NORTHERN AVE, STE 201 PHOENIX, AZ 85020	3607
5)	356989	ACTIVE	70	9/27/1999	8/31/2016	COUNTRY SUITES ONTARIO MILLS L-PSHIP 4370 MILLS CIR ONTARIO, CA 91764 Census Tract: 0021.09	COUNTRY SUITES ONTARIO MILLS	355 BRISTOL ST, STE F COSTA MESA, CA 92626-7968	3607
6)	375961	ACTIVE	47	10/15/2001	6/30/2016	RAINFOREST CAFE INC 4810 MILLS CIR ONTARIO, CA 91764 Census Tract: 0021.09	RAINFOREST CAFE	1510 WEST LOOP S ATTN LICENSING DEPT HOUSTON, TX 77027-9505	3607

7)	376666	ACTIVE	47	8/30/2001	7/31/2016	MARKET BROILER ONTARIO LLC 4557 MILLS CIR ONTARIO, CA 91764 Census Tract: 0021.09	ONTARIO MARKET BROILER	7119 INDIANA AVE RIVERSIDE, CA 92504-4543	3607
8)	379534	ACTIVE	47	5/31/2002	4/30/2016	ONTARIO STEAKHOUSE L-PSHIP 4492 ONTARIO MILLS PKWY ONTARIO, CA 91764 Census Tract: 0021.09	OUTBACK STEAKHOUSE	1250 PROSPECT ST, STE 305 LA JOLLA, CA 92037-3618	3607
9)	381577	ACTIVE	41	11/26/2001	10/31/2016	BARRANCA MANAGEMENT INC 4451 ONTARIO MILLS PKWY, STE B ONTARIO, CA 91764 Census Tract: 0021.09	CHOPSTICKS HOUSE		3607
10)	381960	ACTIVE	47	11/4/2002	2/29/2016	ONTARIO WINGS LLC 725 N MILLIKEN AVE ONTARIO, CA 91764-5011 Census Tract: 0021.09	HOOTERS RESTAURANT	3186 VISTA WAY, STE 200 OCEANSIDE, CA 92056-3621	3607
11)	382656	ACTIVE	47	12/28/2001	11/30/2016	COMEDY CLUB OF BREA LLC 4555 MILLS CIR ONTARIO, CA 91764-5220 Census Tract: 0021.09	IMPROV	6701 CENTER DR W, STE 1111 LOS ANGELES, CA 90045-1552	3607
12)	403739	ACTIVE	41	10/6/2003	9/30/2016	TRILLIONS INVESTMENT GROUP INC 990 ONTARIO MILLS DR, STE H ONTARIO, CA 91764 Census Tract: 0021.09	YUZU SUSHI		3607
13)	410479	ACTIVE	47	7/8/2005	6/30/2016	TOKYO WAKO ONTARIO INC 4480 ONTARIO MILLS PKWY ONTARIO, CA 91764 Census Tract: 0021.09		411 E HUNTINGTON DR, STE 305 ARCADIA, CA 91006-3736	3607
14)	432625	ACTIVE	48	11/14/2005	8/31/2016	SPECTATORS SPORTS BAR INC 750 N ARCHIBALD AVE, STE B ONTARIO, CA 91764 Census Tract: 0021.09	SPECTATORS SPORTS BAR		3607
15)	435929	ACTIVE	41	3/22/2006	2/29/2016	CHO, JUNG OK 790 N ARCHIBALD AVE, STE B ONTARIO, CA 91764-4648 Census Tract: 0021.09	JOEYS PIZZA NO 1		3607

16)	443437	ACTIVE	47	3/28/2008	2/29/2016	DAVE & BUSTERS OF CALIFORNIA INC 4821 MILLS CIR ONTARIO, CA 91764-5226 Census Tract: 0021.09	DAVE & BUSTERS	2481 MANANA DR DALLAS, TX 75220-1203	3607
17)	467136	ACTIVE	47	6/27/2008	5/31/2016	APPLE SOCAL LLC 1021 N MILLIKEN AVE ONTARIO, CA 91764-5023 Census Tract: 0021.09	APPLEBEES NEIGHBORHOOD GRILL & BAR	PO BOX 507, ATTN CHERYL MILLS WEST LINN, OR 97068	3607
18)	470009	ACTIVE	47	10/15/2008	9/30/2016	LEVY PREMIUM FOODSERVICE L-PSHIP 4000 ONTARIO CENTER PKWY ONTARIO, CA 91764-7966 Census Tract: 0021.09	LEVY RESTAURANTS AT CITIZENS BUSINESS BANK ARENA	980 N MICHIGAN AVE, STE 400 CHICAGO, IL 60611-4518	3607
19)	474454	ACTIVE	47	5/20/2009	12/31/2016	N AND D RESTAURANTS INC 4403 MILLS CIR ONTARIO, CA 91764 Census Tract: 0021.09	OLIVE GARDEN ITALIAN RESTAURANT THE 1579	PO BOX 695016 ORLANDO, FL 32869-5016	3607
20)	477208	ACTIVE	47	6/4/2009	12/31/2016	BLACK ANGUS STEAKHOUSES LLC 3640 PORSCHE WAY ONTARIO, CA 91764-4905 Census Tract: 0021.09	BLACK ANGUS STEAKHOUSE 1088	4410 EL CAMINO REAL, STE 201 LOS ALTOS, CA 94022-1002	3607
21)	478545	ACTIVE	41	7/29/2009	6/30/2016	OCHOA, ANA GUADALUPE 710 N ARCHIBALD AVE, STE B ONTARIO, CA 91764-4642 Census Tract: 0021.09	LOS JALAPENOS 3		3607
22)	485267	ACTIVE	41	4/1/2010	3/31/2016	COCOS RESTAURANTS INC 4360 MILLS CIR ONTARIO, CA 91764-5217 Census Tract: 0021.09	COCOS RESTAURANT 5009	120 CHULA VISTA HOLLYWOOD PARK, TX 78232	3607
23)	485499	SUREND	47	8/25/2010 2:23:19 PM	7/31/2016	FIRST FUSIONS BAR & GRILL ONTARIO GROUP INC 3550 PORSCHE WAY ONTARIO, CA 91764-4909 Census Tract: 0021.09	FUSIONS BAR & GRILL	8468 CHERRY BLOSSOM ST RANCHO CUCAMONG A, CA 91730-3240	3607
24)	485667	ACTIVE	47	2/16/2010	1/31/2016	PRIME HOSPITALITY LLC 3333 SHELBY ST ONTARIO, CA 91764-4872 Census Tract: 0021.09	ONTARIO GRAND INN AND SUITES	16850 BEAR VALLEY RD VICTORVILLE, CA 92395-5794	3607

25)	502051	ACTIVE	70	11/16/2010 10:33:43 AM	10/31/2016	CARDIFF COUNTRY INN INC 4395 E ONTARIO MILLS PKWY ONTARIO, CA 91764-5105 Census Tract: 0021.09	AYRES INN & SUITES ONTARIO AT THE MILLS MALL	355 BRISTOL ST, STE F COSTA MESA, CA 92626-7968	3607
26)	508525	ACTIVE	47	12/9/2011 4:20:14 PM	11/30/2015	SGW ENTERTAINMENT INC 1 MILLS CIR 4541 ONTARIO, CA 91764 Census Tract: 0021.09	GAMEWORKS	4541 MILLS CIRCLE ONTARIO, CA 91764	3607
27)	510751	ACTIVE	41	9/26/2011 10:19:45 AM	12/31/2016	LUBY'S FUDDRUCKERS RESTAURANTS, LLC 4423 MILLS CIR ONTARIO, CA 91764-5204 Census Tract: 0021.09	FUDDRUCKERS	30 MASSACHU SETTES AVE, STE. 101 NORTH ANDOVER, MA 01845	3607
28)	520606	ACTIVE	47	10/30/2012 1:36:02 PM	3/31/2016	RM CHEVYS LLC 4551 MILLS CIR ONTARIO, CA 91764 Census Tract: 0021.09	CHEVYS	5660 KATELLA AVE, STE 200, C/O LEASE ADMINISTRA TION CYPRESS, CA 90630- 5058	3607
29)	521125	ACTIVE	47	10/29/2012 1:41:15 PM	12/31/2016	RM EL TORITO LLC 3680 INLAND EMPIRE BLVD ONTARIO, CA 91764 Census Tract: 0021.09	EL TORITO	5660 KATELLA AVE, STE 200, C/O LEASE ADMINISTRA TION CYPRESS, CA 90630- 5058	3607
30)	536185	ACTIVE	47	10/3/2013 8:16:34 AM	9/30/2016	BRAVO LIQUOR LICENSE MANAGEMENT LLC 700 N HAVEN AVE ONTARIO, CA 91764-4902 Census Tract: 0021.09	ONTARIO INTERNATIONA L AIRPORT HOTEL AND CONFERENCE CENTER		3607
31)	536646	ACTIVE	41	12/10/2013 10:11:45 AM	11/30/2015	MINATO RESTAURANT INC 701 N MILLIKEN AVE, STE D ONTARIO, CA 91764-5018 Census Tract: 0021.09	LUXE BUFFET THE	5112 LIPIZZAN PL RANCHO CUCAMONG A, CA 91737- 6734	3607
32)	537516	ACTIVE	47	9/8/2015 9:32:48 AM	8/31/2016	AMERICAN MULTI-CINEMA INC 4549 MILLS CIRCLE ONTARIO, CA 91764-5220 Census Tract: 0021.09	AMC ONTARIO MILLS 30	11500 ASH ST LEAWOOD, KS 66211- 7804	3607

33)	538441	ACTIVE	41	1/13/2014 4:48:42 PM	12/31/2016	SUB PERMPOON LLC 4275 CONCOURS DR, #130 ONTARIO, CA 91764 Census Tract: 0021.09	@ HOME THAI FUSION BISTRO		3607
34)	546224	ACTIVE	47	8/18/2014 11:41:24 AM	7/31/2016	LING SEA STAR INC 3495 CONCOURS, D & E ONTARIO, CA 91764-4995 Census Tract: 0021.09	B & F JAPANESE BBQ & SUSHI		3607
35)	547408	ACTIVE	47	3/19/2015 9:58:57 AM	12/31/2016	RED LOBSTER HOSPITALITY LLC 4413 MILLS CIR ONTARIO, CA 91764 Census Tract: 0021.09	RED LOBSTER #6270	PO BOX 6508, ATTN: LICENSING DEPARTMEN T ORLANDO, FL 32802- 6508	3607
36)	549740	ACTIVE	47	7/17/2015 1:11:20 PM	6/30/2016	PINK BULL INC, THE 3550 E PORSCHE WAY ONTARIO, CA 91764-4909 Census Tract: 0021.09	HAMBURGER MARYS BAR AND GRILLE	12223 HIGHLAND AVE, STE 106 & 331 RANCHO CUCAMONG A, CA 91739- 2574	3607
37)	553336	SUREN D	41	3/5/2015 12:46:44 PM	2/29/2016	BIG CATCH ONTARIO LLC 765 N MILLIKEN AVE, STE C & D ONTARIO, CA 91764-5015 Census Tract: 0021.09	BIG CATCH SEAFOOD THE	716 MONTEREY PASS RD MONTEREY PARK, CA 91754-3607	3607
38)	554218	ACTIVE	47	8/4/2015 3:57:56 PM	7/31/2016	BIG CATCH ONTARIO LLC 765 N MILLIKEN AVE, STE C & D ONTARIO, CA 91764-5015 Census Tract: 0021.09	BIG CATCH SEAFOOD	716 MONTEREY PASS RD MONTEREY PARK, CA 91754-3607	3607
39)	563764	ACTIVE	41	12/22/2015 2:29:25 PM	11/30/2016	HPO LP 4760 E MILLS CIR ONTARIO, CA 91764-5223 Census Tract: 0021.09	HYATT PLACE ONTARIO MILLS	227 S MUIRFIELD RD LOS ANGELES, CA 90004- 3730	3607

--- End of Report ---

For a definition of codes, view our [glossary](#).

Inserted from <<http://www.abc.ca.gov/datport/AHCountyRep.asp>>

APPENDIX B

Appeal Application



**City of Ontario
Planning Department**
303 East "B" Street
Ontario, CA 91764
Phone: (909) 395-2036
Fax: (909) 395-2420
www.ci.ontario.ca.us

Appeal Application

GENERAL INFORMATION (print or type)

Appellant: Mix Champagne Bar Lounge
 Address: 38713 Tierra Subida, #200639, Palmdale, CA 93551
 Telephone No.: 310 663 6545 Fax No.: _____
 Email: myloungeinc@gmail.com

Appellant's Representative: R. Steven Derryberry
 Address: 641 West Lancaster Blvd, Suite 205, Lancaster, CA 93534
 Telephone No.: 661 945 6115 Fax No.: 661 948 4772
 Email: steven@kestlerderryberry.com

(For staff use only)

File No.: PCUP15-027
 Date: 3/15/16
 Rec'd by: K.N.
 Fees Paid: 752
 Receipt No.: 272623

SUBJECT OF APPEAL

This application is hereby filed pursuant to Title 9, Section 1, Part 2, Article 5 of the Ontario Municipal Code, appealing the action of the following reviewing authority:

- | | | |
|--|---|--|
| <input type="checkbox"/> Administrative Decision | <input type="checkbox"/> Administrative Decision for Historical Resources | <input type="checkbox"/> Development Advisory Board Decision |
| <input type="checkbox"/> Historic Preservation Subcommittee Decision | <input checked="" type="checkbox"/> Zoning Administrator Decision | <input type="checkbox"/> Historic Preservation Commission Decision |
| <input type="checkbox"/> Planning Commission Decision | | |

Date of decision: February 17, 2016 Project File Nos.: PCUP15-027

The application requests: A Conditional Use Permit request to establish an approximate 5,100 square-foot bar/nightclub with live entertainment for Mix Champagne Bar Lounge, on approximately 3.44 acres of land, located at 4481 Ontario Mills Parkway, within commercial/office land use district of the California Commerce Center North (The Mills) Specific Plan. (Apns: 0238-014-10; submitted by Mix Champagne Bar Lounge.

ACTION/DECISION

Identify the specific action or decision which is being appealed: Denial of File No. PCUP15-027



**City of Ontario
Planning Department**
303 East "B" Street
Ontario, CA 91764
Phone: (909) 395-2036
Fax: (909) 395-2420
www.ci.ontario.ca.us

Mailing List/ Letter of Certification

MAILING LIST INSTRUCTIONS

At the filing of the appeal, the appellant shall provide the following information:

1. Property Ownership List: A mailing list containing the names, addresses, and assessor's parcel number of all owners of real property within a radius of 300 feet (300') of the site, measured from the exterior boundaries of the property. This information shall be obtained from the latest equalized assessment rolls of San Bernardino County (*property ownership information may be obtained from the San Bernardino County Assessor's Office, 172 W. Third, Third Floor, San Bernardino, CA. 92415. (www.sbcounty.gov/assessor)* Include the name and address of the property owner, applicant, and representative of the mailing list. **A copy of the ownership mailing labels shall be submitted on CD. The City of Ontario uses Microsoft Word, Excel and Access.**
2. Mailing Envelopes: One set of stamped (pre-paid postage) business-size envelopes, with the name and address of each person on the mailing list. The return address shall read: "City of Ontario, Planning Department, 303 East "B" Street, Ontario, CA 91764.
3. Radius Map: A map illustrating the three hundred foot (300') radius boundary and all parcels within the boundary (copies of the assessor's maps will be accepted).

<p>City of Ontario Planning Department 303 East B Street Ontario, CA 91764</p>	<div style="border: 1px solid black; width: 60px; height: 40px; margin: 0 auto; display: flex; align-items: center; justify-content: center;"> <i>stamp</i> </div>
<div style="border: 1px solid black; width: 180px; height: 20px; margin: 0 auto; display: flex; align-items: center; justify-content: center;"> Assessor's Parcel Number </div> <p style="margin-top: 10px;">0000-000-00 John and Mary Doe 1234 E. First Street Ontario, CA 91764</p>	

EXAMPLE OF ADDRESSING ENVELOPE

CERTIFICATION (required for public hearings)

I, LAMAR CARON, hereby certify that the attached list contains the names and addresses of all persons to whom all property is assessed as they appear on the latest available assessment roll of the County of San Bernardino within the area described and for a distance of 300-feet from the exterior boundaries of the property.

Date: 3/15/16 Signature: [Signature]

Name (print or type): LAMAR CARON

REQUEST FOR RELIEF FROM ZONING ADMINISTRATION DECISION
NO. 2016-001

BACKGROUND

On or about February 17, 2016, City of Ontario, Zoning Administrator denied Mix Champagne Bar Lounge's ("Appellant") request for a Conditional Use Permit ("CUP"). Appellant is seeking a CUP to establish an approximately 5,100 square-foot bar/nightclub with live entertainment (ABC License Type 48) located at 4481 Ontario Mills Parkway, within the Commercial/Office land use district of the California Commerce Center North ("The Mills") Specific Plan. The denial of Appellant's CUP was based on the following grounds:

- a) The Proposed location of the [CUP] is not in accord with the objectives and purposes of the Ontario Development Code and the zoning designation within which the site is located.
- b) The Proposed use at the proposed location, and the manner in which it will be operated and maintained, is not consistent with the goals, policies plans and exhibits of the Vision, policy Plan (General Plan), and City Council Priorities components of The Ontario Plan.
- c) For On-Sale alcoholic beverage license types located within overconcentrated census tracts (high density of alcoholic beverage sales locations as defined by the Alcoholic Beverage Control Act commencing with Business and Professions Code Section 23000 et seq.), the Zoning Administrator hereby finds that the following PCN Findings cannot be met:

Fact: California Business and Professional Code Section 23958.4 provides that the City shall have authority to review a retail alcoholic beverage license application proposed within an area having an "undue concentration" (high density of alcoholic beverage sales locations and/or high rate of crime) of ABC licenses; determine whether public convenience or necessity would be served by license issuance; and inform ABC of the determination." The proposed CUP is in Census Tract 21.09, which has an over-concentration of On-Sale ABC licenses and a high crime rate. ABC has authorized 3 On-Sale ABC licenses for Census Tract 21 .09 and, according to Exhibit I, there are currently 39 active On-Sale ABC licenses. Although the area surrounding the Mills is a hub for entertainment, a significant number of establishments with on-sale alcohol already exist and therefore, a PNC determination is not warranted.

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ARGUMENT

In rendering its decision to deny Appellant's request, Zoning Administrator relies on the argument that introduction of a Type 48 ABC License into the tract will adversely effect the City as it fails to comply with Ontario Development Code and the zoning designation within which the site is located; is not consistent with the goals, policies plans and exhibits of the Vision, policy Plan (General Plan), and City Council Priorities components of The Ontario Plan; and will further saturate and over-concentrated tract.

OVER-CONCENTRATION ANALYSIS

"When considering the establishment of additional ABC licenses within over-concentrated Census Tracts, the Department of Alcoholic Beverage Control generally defers the decision making process to local jurisdictions, although they can override any local approval and ultimately deny issuing the license. Local jurisdictions are required to establish an approval process, typically Conditional Use Permit review, as well as making Public Convenience and Necessity ("PCN") findings. Should the local jurisdiction be able to make all necessary findings and approve a business for alcoholic beverage sales, ABC will typically issue the license." *Zoning Administrator Decision No. 2016-001, Pg 4 Para 1.*

The conditions imposed upon the Appellant appear to be, (1) Land Use Compatibility, (2) Airport Land Use Compatibility, (3) Departmental Review, (4) Public notification, (5) Correspondence, and (6) ABC License Approval. Aside from the Approval of the ABC License, Appellant has satisfied all other conditions imposed upon it.

ABC License Approval

On the Issue of License Approval, the only negative evidence provided was in the form of testimony at the public hearing related to the potential that another Type 48 ABC License introduced into an already over-concentrated tract will create an undue increase in the risk of elevated crime, specifically alcohol related crime.

Jocelyn Gubler, Vice President of Real Estate for Simon Properties, the owner of Ontario Mills, spoke in opposition of the project due to past alcohol-related problems with Dave and Busters that resulted in the highest police call volumes in the City, requiring them to revise their last call for alcohol to 11:45 p.m., as well as Toby Keith's in Rancho Cucamonga, that ultimately lead to their closure. Ms. Gubler explained that the campus in and around Ontario Mills has a neighborhood culture aimed at providing family-oriented entertainment with restaurants such at Olive Garden and Red Lobster, and family activities such as L.O.L. Kids Club and Fast Lap Indoor Kart Racing. Ms. Gubler concluded that bars and nightclubs have had a negative impact on our community and are not compatible with the vision and demographics of the Mills area. Ms. Gubler stated further that, as the leading driver of economic development and commerce in the City, the Ontario Mills believes that it is imperative to maintain an environment that keeps our local and visiting shoppers returning again and that this project could jeopardize that environment. Ms. Gubler fails to provide factual support for her conclusions which Zoning

Administrator relies on as a bases for its decision. Specifically, she provides no factual basis regarding the circumstances surrounding the closure of the Toby Keith's in Rancho Cucamonga (an out-of-tract, type 47 restaurant/bar).

Despite the conclusory nature of Ms. Gubler's testimony, the Zoning Administrator relies on the testimony of Ms. Gubler, when it stated "[a]s noted during the public testimony by an adjacent property owner, the introduction of a Type 48 license has the potential to exacerbate the existing crime in the area, especially when considering alcohol-related crimes. Since a concentration of restaurants with on-sale alcohol exist within close proximity to the proposed CUP, a PCN is not warranted." *Zoning Administrator Decision No. 2016-001, Pg 8 Para 1.*

However, by Zoning Administrator's own admission, "the project site is located within the Ontario Mills area that generally has a higher rate of crime due to the intensification of retail, entertainment and lodging facilities within the immediate area." *Zoning Administrator Decision No. 2016-001, Pg 4 Para 2.*

These statements do not align. On one hand the Zoning Administrator states that the elevated levels of crime are due to the generally higher rate of crime due to the higher density of retail, entertainment, and lodging facilities in the vicinity and, on the other hand, Zoning administrator leans only on the testimonial conclusions made by Ms. Gubler that Type 48 licenses have the "potential" to exacerbate alcohol related crimes when rendering its decision. There has been no statistical evidence supporting these claims.

At no point in The Decision does Zoning Administrator acknowledge the Police Department's recommendation that, "The Police Department [had] reviewed the application and is supporting the Type 48 ABC License provided that all City and State Department of Alcohol Beverage Control rules, regulations and conditions are met and followed."

In The City of Ontario Memorandum from Corporal Munoz/ Officer Quinones to Henry Noh, Associate Planner dated February 5, 2016 (attached as Exhibit 1), the Police Department prescribes numerous conditions to its approval and reiterates in its Conclusion that "[i]f alcohol related crimes at this location are higher than other similar establishments in the overall City during any quarter, the CUP will automatically be refened to the Zoning Administrator for review and re-conditioning, or revocation, of the permit. The Police Department may, at their sole discretion, request a revocation hearing if they determine that the establishment is being operated in violation of this CUP, or has violated the laws of the State or City, or the intent of this action." Further, "the Police Department will conduct a review in six months to determine whether additional conditions will be needed."

Appellant argues, that although there are already 39 other ABC licenses administered within the tract, there is only one (1) other Type 48 License in the tract. Spectators Sports Bar ("Spectators") is a Type 48 facility and is located approximately 3.5 miles from the site of the Appellants proposed facility. The most notable difference between the Type 47 and Type 48 facilities is their hours of operation. Spectators operates from 11:30 am until 2:00 am, 7 days per week with its peak business coming Friday and Saturday from 9:00 pm until 2:00 am. With these

two businesses being the only Type 48 Licensed facilities within the tract the impact of alcohol related crimes will be negligible compared to the other 38 facilities. It can hardly be said that the addition of a second Type 48 facility will have a significant negative impact, especially as the only facility within the immediate Mills Plan. These Type 48 business are held to a higher level of scrutiny, as demonstrated by the concerns presented in the denial, and should be allowed to be a part of the economic environment if they can prove to operate responsibly.

Appellant further argues, that the existence of a business such as Appellant's will retain business that will assuredly leave the area. With an event as large as the NASCAR race that draws such an enormous adult crowd and economic flow to the vicinity, it makes sense that such an adult environment as Appellant's would be a desirable business to add to such an important hub. Appellant is unwaveringly committed to being a positive and responsible business presence within the Ontario community and specifically as part of the Mills hub.

CONCLUSION

Zoning Administrator's decision to deny PCU15-027 is unsupported by the facts. The only evidence presented supporting Zoning Administrator's decision comes by way of conclusive testimonial evidence only. No other facts or statistics have been presented to support this position. However, Appellant has met and exceeded every condition imposed upon it and the approval of the Police Department with compliance to its conditions demonstrates that Appellant is capable of running a safe and responsible business and should be granted the Type 48 ABC License.

RESOLUTION NO. PC

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, UPHOLDING THE ZONING ADMINISTRATOR'S DECISION AND DENYING FILE NO. PCUP15-027, A CONDITIONAL USE PERMIT REQUEST TO ESTABLISH AN APPROXIMATE 5,100 SQUARE-FOOT BAR/NIGHTCLUB AND LIVE ENTERTAINMENT FOR MIX CHAMPAGNE BAR LOUNGE, ON APPROXIMATELY 3.44 ACRES OF LAND, LOCATED AT 4481 ONTARIO MILLS PARKWAY, WITHIN THE COMMERCIAL/OFFICE LAND USE DISTRICT OF THE CALIFORNIA COMMERCE CENTER NORTH (THE MILLS) SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: 0238-014-10.

WHEREAS, Mix Champagne Bar Lounge ("Applicant") has filed an Application for the approval of a Conditional Use Permit, File No. PCUP15-027, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 3.44 acres of land located at 4481 Ontario Mills Parkway, within the Commercial/Office land use district of the California Commerce Center North (The Mills) Specific Plan, and is presently an existing 5,076-square foot vacant commercial building; and

WHEREAS, the property to the north of the Project site is within the Mall land use district of the California Commerce Center North (The Mills) Specific Plan, and is developed as a regional mall. The property to the east is within the Mall land use district of the California Commerce Center North (The Mills) Specific Plan, and is developed with a commercial retail center. The property to the south is within the Commercial/Office land use district of the California Commerce Center North (The Mills) Specific Plan, and is developed with a commercial retail center. The property to the west is within the Commercial/Office land use district of the California Commerce Center North (The Mills) Specific Plan, and is developed with a commercial retail center; and

WHEREAS, on November 6, 2015, the applicant submitted File No. PCUP15-027 requesting approval of a Type 48 (Bar, Night Club) ABC license and live entertainment in conjunction with Mix Champagne Bar Lounge; and

WHEREAS, on February 17, 2016, the Deputy Zoning Administrator held a public hearing to consider the Application, and concluded said hearing on that date; and

WHEREAS, on March 7, 2016, the Deputy Zoning Administrator rendered Decision No. 2016-001 denying Conditional Use Permit No. PCUP15-027; and

WHEREAS, the Deputy Zoning Administrator's decision to deny the application was based upon the fact that the project did not meet the required Conditional Use Permit

findings and Public Convenience and Necessity findings for an on-sale alcohol license in an over-concentrated Census Tract; and

WHEREAS, On March 15, 2016, the applicant submitted an appeal of the Deputy Zoning Administrator's decision to deny File No. PCUP15-027 and the basis for the appeal lies with the applicant's belief that the Zoning Administrator's Decision is not supported by the facts; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"); and

WHEREAS, the proposed project is located within the Airport Influence Area of Ontario International Airport, and was evaluated and found to be consistent with the policies and criteria of the Ontario International Airport Land Use Compatibility Plan (ALUCP); and

WHEREAS, the Project is exempt from CEQA pursuant to a categorical exemption (listed in CEQA Guidelines Article 19, commencing with Section 15300) and the application of that categorical exemption is not barred by one of the exceptions set forth in CEQA Guidelines Section 15300.2; and

WHEREAS, on April 26, 2016, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND RESOLVED by the Planning Commission of the City of Ontario, as follows:

SECTION 1. As the decision-making body for the Project, the Planning Commission has reviewed and considered the information contained in the administrative record for the Project. Based upon the facts and information contained in the administrative record, including all written and oral evidence presented to the Planning Commission, the Planning Commission finds as follows:

a. The application of the categorical exemption is not barred by one of the exceptions set forth in CEQA Guidelines Section 15300.2; and

b. The determination of CEQA exemption reflects the independent judgment of the Planning Commission.

SECTION 2. Based upon the substantial evidence presented to the Planning Commission during the above-referenced hearing and upon the specific findings set forth in Section 1 above, the Planning Commission hereby concludes as follows:

a. The proposed location of the Conditional Use Permit is not in accord with the objectives and purposes of the Ontario Development Code and the zoning designation within which the site is located.

Fact: Type 48 (Bar, Night Club) ABC licenses with live entertainment in conjunction with a bars/cocktail lounge are allowed with Conditional Use Permit (CUP) approval within the Commercial/Office Land Use designation of the California Commerce Center North (The Mills) Specific Plan. Part of the analysis in evaluating the Conditional Use Permit is whether the proposed location is within a census tract that is over-concentrated for On-Sale licenses and, if so, whether findings of Public Convenience and Necessity ("PCN") can be made and are warranted. Pursuant to ABC criteria, three on-sale licenses would be permitted – the census tract currently has 39 on-sale licenses. The vast majority of these licenses, however, are Type 41 or Type 47 licenses, providing alcohol sales/services in conjunction with bona-fide eating establishments (restaurant). As such, alcohol sales tend to be an ancillary service, rather than the primary focus of the business operation. Additionally, the census tract in which the CUP is considered a high crime rate area of the City. As noted during the public testimony by an adjacent property owner, the introduction of a Type 48 license has the potential to exacerbate the existing crime in the area, especially when considering alcohol-related crimes. Since a concentration of restaurants with on-sale alcohol exist within close proximity to the proposed CUP, a PCN is not warranted.

b. The proposed use at the proposed location, and the manner in which it will be operated and maintained, is not consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan.

Fact: The proposed Mix Champagne Bar Lounge is located within the Commercial/Office Land Use designation of the California Commerce Center North (The Mills) Specific Plan, which permits bars/cocktail lounges as a conditionally permitted use. Part of the analysis in evaluating the Conditional Use Permit is whether the proposed project is compatible with surrounding uses. Policy Plan policies related to land use compatibility include:

LU2-2 Land Use Decisions. We minimize adverse impacts on adjacent properties when considering land use and zoning requests; LU2-4 Regulation of Nuisances. We regulate the location, concentration and operations of potential nuisances; and LU2-5 Regulation of Uses. We regulate the location, concentration and operations of uses that have impacts on surrounding land uses.

The CUP process regulates land uses in order to minimize adverse impacts to surrounding properties. The ABC license process regulates the concentration of ABC licenses to minimize alcohol-related nuisances. As noted in Fact (a) above, the census tract is over-concentrated but the majority of the on-sale licenses are associated with restaurants, offering alcohol sales/services as an ancillary use. Public testimony has noted the past alcohol-related issues with existing on-sale facilities and the potential for new issues from the application. The proposed CUP is within a Census Tract that is over-concentrated for On-Sale ABC licenses and is not compatible with surrounding uses, therefore, is not consistent with the Policy Plan.

c. For On-Sale alcoholic beverage license types located within over-concentrated census tracts (high density of alcoholic beverage sales locations as defined by the Alcoholic Beverage Control Act commencing with Business and Professions Code Section 23000 et Seq.), the Zoning Administrator hereby finds that the following PCN findings cannot be met.

Fact: California Business and Professional Code Section 23958.4 provides that the City shall have authority to review a retail alcoholic beverage license application proposed within an area having an “undue concentration” (high density of alcoholic beverage sales locations and/or high rate of crime) of ABC licenses; determine whether public convenience or necessity would be served by license issuance; and inform ABC of the determination.” The proposed CUP is in Census Tract 21.09, which has and over-concentration of On-Sale ABC licenses and a high crime rate. ABC has authorized 3 On-Sale ABC licenses for Census Tract 21.09 and there are currently 39 active On-Sale ABC licenses. Although the area surrounding the Mills is a hub for entertainment, a significant number of establishments with on-sale alcohol already exist and therefore, a PNC determination is not warranted.

SECTION 3. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the Planning Commission hereby upholds the Zoning Administrator’s Decision No. 2016-001 and denying File No. PCUP15-027.

SECTION 4. 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 this approval. 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.

SECTION 5. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East “B” Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 6. The Secretary shall certify to the adoption of the Resolution.

The Secretary Pro Tempore for the Planning Commission of the City of Ontario shall certify as to the adoption of this Resolution.

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 26th day of April 2016, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

James Downs
Planning Commission Vice-Chairman

ATTEST:

Scott Murphy
Planning Director/Secretary of Planning
Commission

Planning Commission Resolution
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STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, Marci Callejo, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on April 26, 2016, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marci Callejo
Secretary Pro Tempore



PLANNING COMMISSION STAFF REPORT

April 26, 2016

SUBJECT: A Development Agreement (File No. PDA15-005) between the City of Ontario and Brookcal Ontario, LLC, for the development of up to 108 residential units (TT19907) on 27.09 gross acres of land within the Conventional Medium Lot Residential district (Planning Area 29) of the Subarea 29 Specific Plan, located at the southwest corner of Haven Avenue and Park View Street (APN: 0218-321-17). Submitted by Brookcal Ontario, LLC. City Council action is required.

PROPERTY OWNER: Brookcal Ontario, LLC.

RECOMMENDED ACTION: That the Planning Commission recommend City Council adoption of an ordinance approving the Development Agreement File No. PDA 05-005 between Brookcal Ontario, LLC, and the City of Ontario.

PROJECT SETTING: The project site is comprised of 27.09 acres of land located at the southwest corner of Haven Avenue and Parkview Street, within Planning Area 29 (Conventional Medium Lot Residential District) of the Subarea 29 Specific Plan, and is depicted in Figure 1: Project Location. The project site gently slopes from north to south and is vacant and previously used for dairy and agricultural uses.

PROJECT ANALYSIS:

[1] Background — In October 2006, the City Council approved the Subarea 29 Specific Plan (File No. PSP03-003) and the Environmental Impact Report (EIR). The Specific Plan established the land use designations, development standards, and design guidelines for approximately 540 gross acres of land, which included the potential development of 2,293 single-family units and 87,000 square feet of commercial.

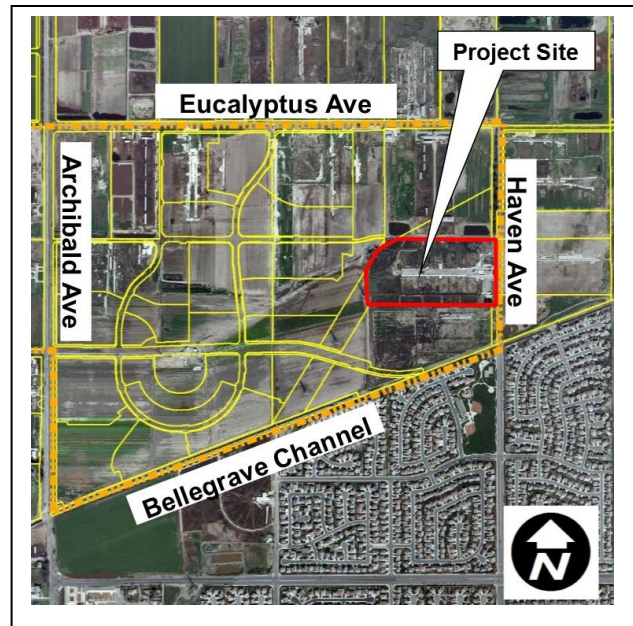


Figure 1: Project Location

Case Planner:	Rudy Zeledon, Principal Planner	Hearing Body	Date	Decision	Action
Planning Director Approval:		DAB	NA	NA	
Submittal Date:	11/13/15	ZA			
Hearing Deadline:	5/13/16	PC	4/26/16		Recommend
		CC			

The financial commitments required for construction of properties within the specific plan are substantial. To adequately forecast these costs and gain assurance that the project may proceed under the existing policies, rules and regulations, Brookcal Ontario, LLC., has requested that staff enter into negotiations to create a Development Agreement (“Agreement”) with the City.

In accordance with California Government Code Section 65865 that states, in part, that “Any city...may enter into a Development Agreement with any person having a legal or equitable interest in real property for the development of such property...” and California Government Code Section 65865.52 which states, in part, that “A Development Agreement shall specify the duration of the Agreement, the permitted uses of the property... and may include conditions, terms, restrictions...,” the City of Ontario adopted Resolution No. 2002-100 that sets forth the procedures and requirements for consideration of Development Agreements. Furthermore, the Financing and Construction Agreement with the NMC Builders LLC (NMC Builders) requires those developments wishing to use the infrastructure it creates, enter into Development Agreements with the City of Ontario. Pursuant to these procedures and requirements, staff entered into negotiations with the Owner to create a Development Agreement staff would recommend to the Planning Commission and City Council.

The proposed Development Agreement with Owner is based upon the model development agreement that was developed in coordination with the City attorney’s office and legal counsel for NMC Builders. This model Development Agreement is consistent with the provisions of the Construction Agreement. The LLC agreement between NMC Builders’ members requires that members of the LLC enter into Development Agreements that are consistent with the provisions of the Construction Agreement.

[2] Staff Analysis — The Development Agreement proposes to include 27.09 acres of land within Planning Area 29 of the Subarea 29 Specific Plan as shown in Exhibit A (Subarea 29 Specific Plan Map). The Agreement grants Brookcal a vested right to develop Tentative Tract Map 19907 as long as the Brookcal complies with the terms and conditions of the Subarea 29 Specific Plan and Environmental Impact Report.

The term of the Development Agreement is for ten years with a five year option. The main points of the agreement address funding for all new City expenses created by the project which includes; Development Impact Fees (DIF) for construction of public improvements (i.e. streets and bridges, police, fire, open space/parks etc.); Public Service Funding to ensure adequate provisions of public services (police, fire and other public services); the creation of a Community Facilities District (CFD) for reimbursement of public improvements and maintenance of public facilities; and the Park/Open Space Policy Plan requirement of five acres per 1,000 projected population through park dedication and/or the payment of in-lieu fees.

Other points addressed by the Agreement include provisions for affordable housing, as required by the Policy Plan, through construction, rehabilitation, or by paying an in-lieu fee, and satisfaction of the Mountain View Elementary School District and Chaffey High School District school facilities requirements.

In addition to the main points as stated above, the Development Agreement states the terms for the timing of the construction for the open space park area within Tentative Tract Map 19907. The park within Tentative Tract Map 19907 is a portion of a combined open space park area. The combined open space park area also includes Lot A of Tract Map No. 19909, which is owned by others. The Applicant agrees that both Lot A of Tract Map No. 19907 and Lot J of Tract Map No. 19909 will be developed as a single open space park area at the same time. The Development Agreement requires that if the combined open space park area has not been developed and improved by others prior to applicant requesting the first building permit for production units, the applicant will be required to develop both Lot A of Tentative Tract Map No. 19907 and Lot J of Tentative Tract Map No. 19909 as a combined open space park area, at applicants sole expense. Such combined open space park shall be transferred to a single homeowners' association. The homeowners' association shall be responsible for all maintenance of the combined open space park area

Staff finds that the Development Agreement is consistent with State law, The Ontario Plan, and the City's Development Agreement policies. As a result, staff is recommending approval of the application to the Planning Commission. If the Commission finds the Development Agreement is acceptable, a recommendation of approval to the City Council would be appropriate.

COMPLIANCE WITH THE ONTARIO PLAN: The proposed project is consistent with the principles, goals and policies contained within the Vision, Governance, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan (TOP). More specifically, the goals and policies of TOP that are furthered by the proposed project are as follows:

[1] City Council Priorities

Primary Goal: Regain Local Control of Ontario International Airport

Supporting Goals:

- Invest in the Growth and Evolution of the City's Economy
- Maintain the Current High Level of Public Safety
- Operate in a Businesslike Manner
- Focus Resources in Ontario's Commercial and Residential Neighborhoods
- Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

- Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony

[2] Policy Plan (General Plan)

Land Use Element – Balance

- Goal LU1: A community that has a spectrum of housing types and price ranges that match the jobs in the City and make it possible for people to live and work in Ontario and maintain a quality of life.

➤ LU1-1 Strategic Growth. Development Projects. We concentrate growth in strategic locations that help create place and identity, maximize available and planned infrastructure, and foster the development of transit.

➤ LU1-3 Adequate Capacity. We require adequate infrastructure and services for all development.

➤ LU1-6 Complete Community. We incorporate a variety of land uses and building types in our land use planning efforts that result in a complete community where residents at all stages of life, employers, workers and visitors have a wide spectrum of choices of where they can live, work, shop and recreate within Ontario.

Land Use Element— Flexibility

- Goal LU1: A community that has a spectrum of housing types and price ranges that match the jobs in the City and make it possible for people to live and work in Ontario and maintain a quality of life.

➤ LU3-1 Development Standards. We maintain clear development standards which allow flexibility to achieve our vision.

➤ LU3-3 Land Use Flexibility. We consider uses not typically permitted within a land use category if doing so improves livability, reduces vehicular trips, creates community gathering places and activity nodes, and helps create identity.

Land Use Element — Phased Growth

- Goal LU4: Development that provides short-term value only when the opportunity to achieve our Vision can be preserved.

➤ LU4-1 Commitment to Vision. We are committed to achieving our vision but realize that it may take time and several interim steps to get there.

➤ LU4-3 Infrastructure Timing. We require that the necessary infrastructure and services be in place prior to or concurrently with development.

Housing Element — Neighborhood & Housing

▪ Goal H3: A City regulatory environment that balances the need for creativity and excellence in residential design, flexibility and predictability in the project approval process, and the provision of an adequate supply and prices of housing.

➤ H1-3 Community Amenities. We shall provide adequate public services, infrastructure, open space, parking and traffic management, pedestrian, bicycle and equestrian routes and public safety for neighborhoods consistent with City master plans and neighborhood plans.

➤ H3-3 Development Review. We maintain a residential development review process that provides certainty and transparency for project stakeholders and the public yet allows for the appropriate review to facilitate quality housing development.

Community Design Element — Design Quality

▪ Goal CD2: A high level of design quality resulting in the public spaces, streetscapes, and development that are attractive, safe, functional and distinct

➤ CD2-13 Entitlement Process. We work collaboratively with all stakeholders to ensure a high degree of certainty in the efficient review and timely processing of all development plans and permits.

Community Design Element — Protection of Investment

▪ Goal CD5: A sustained level of maintenance and improvement of properties, buildings and infrastructure that protects the property values and encourages additional public and private investments.

➤ CD5-2 Improvements to property and Infrastructure. We provide programs to improve property and Infrastructure

HOUSING ELEMENT COMPLIANCE: The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the number of dwelling units (108) and density (4.30 DU/Acre) specified in the Available Land Inventory.

AIRPORT LAND USE COMPATIBILITY PLAN COMPLIANCE: The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and Chino Airport, and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for both airports.

ENVIRONMENTAL REVIEW: The environmental impacts of this project were previously analyzed in an addendum to the Subarea 29 Specific Plan EIR (SCH# 2004011009) that was adopted by the City Council on April 21, 2015. This application is consistent with the previously adopted addendum and introduces no new significant environmental impacts. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference.

Exhibit "A"
Subarea 29 Specific Plan

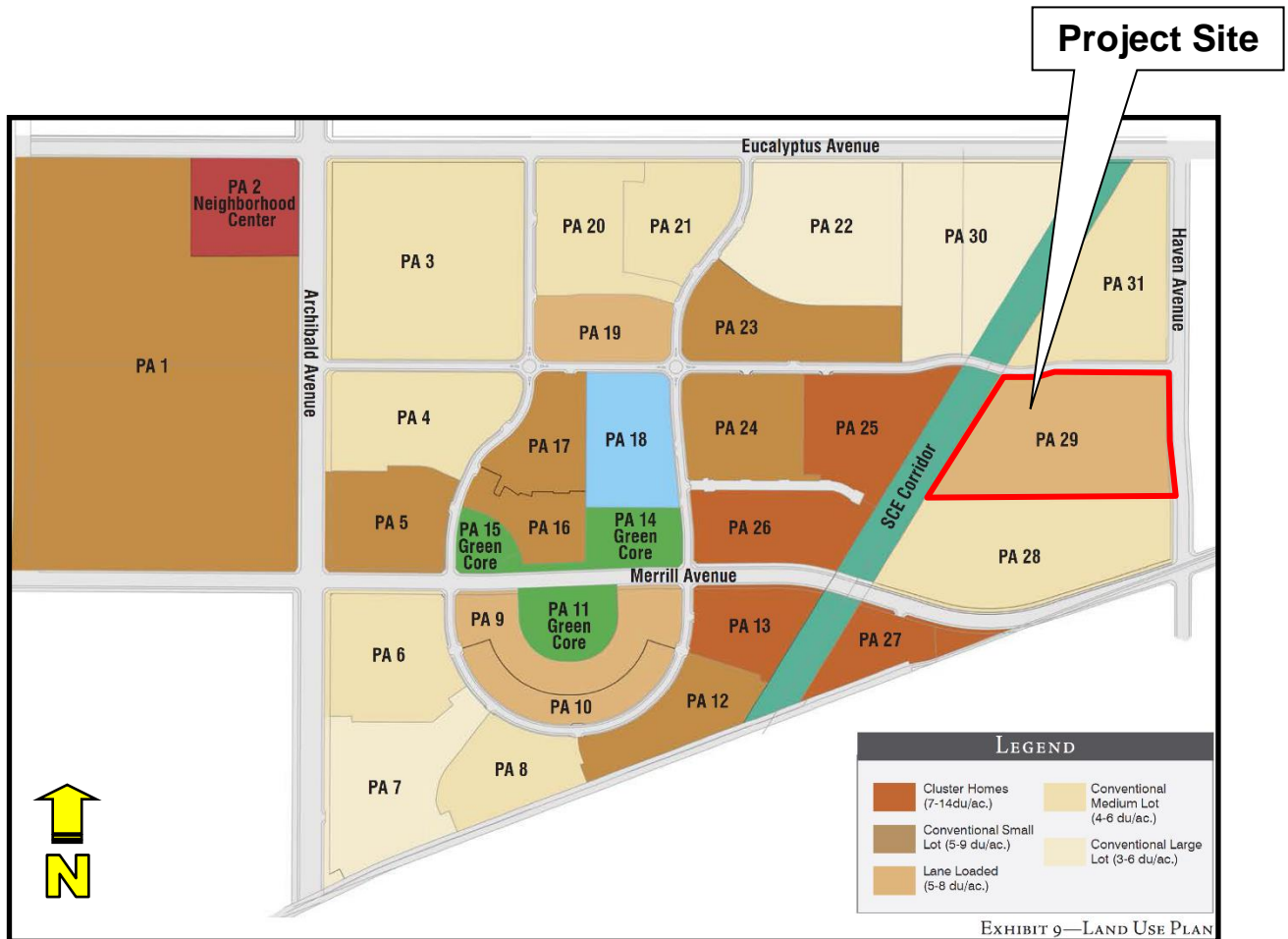


Exhibit "B"
Tentative Tract Map 19907



RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING THE CITY COUNCIL APPROVE A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND BROOKCAL ONTARIO, LLC., FILE NO. PDA15-005 (TT19907), TO ESTABLISH THE TERMS AND CONDITIONS FOR DEVELOPMENT OF UP TO 108 RESIDENTIAL UNITS ON 27.09 ACRES WITHIN PLANNING AREA 29 OF THE SUBAREA 29 SPECIFIC PLAN, LOCATED ON THE AT THE SOUTHWEST CORNER OF HAVEN AVENUE AND PARK VIEW STREET, AND MAKING FINDINGS IN SUPPORT THEREOF (APN:0218-321-17).

A. Recitals.

(i) California Government Code Section 65864 now provides, in pertinent part, as follows:

“The Legislature finds and declares that:

(a) The lack of certainty in the approval process of development projects can result in a waste of resources, escalate the cost of housing and other developments to the consumer, and discourage investment in and commitment to comprehensive planning which would make maximum efficient utilization of resources at the least economic cost to the public.

(b) Assurance to the Applicant for a development project that upon approval of the project, the Applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development.”

(ii) California Government Code Section 65865 provides, in pertinent part, as follows:

“Any city ... may enter into a Development Agreement with any person having a legal or equitable interest in real property for the development of such property as provided in this article ...”

(iii) California Government Code Section 65865.2. provides, in part, as follows:

“A Development Agreement shall specify the duration of the Agreement, the permitted uses of the property, the density of intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The Development Agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms, restrictions, and requirements for discretionary actions shall not prevent development of the land for the uses and to the density of intensity of development set forth in this Agreement ...”

(iv) On the 4th day of April 1995, the City Council of the City of Ontario adopted Resolution No. 95-22 establishing procedures and requirements whereby the City of Ontario may consider Development Agreements.

(v) On the 10th day of September 2002, the City Council of the City of Ontario adopted Resolution No. 2002-100 which revised the procedures and requirements whereby the City of Ontario may consider Development Agreements; and

(vi) Attached to this resolution, marked Exhibit “A” and incorporated herein by this reference, is the proposed Development Agreement between Brookcal Ontario, LLC., and the City of Ontario, File No. PDA15-005, concerning those 27.09 acres of land within Planning Area 29 of the Subarea 29 Specific Plan, located on the southwest corner of Haven Avenue and Park View Street and as legally described in the attached Development Agreement. Hereinafter in this Resolution, the Development Agreement is referred to as the “Development Agreement”; and

(vii) On the 26th day of September 2006, the Planning Commission of the City of Ontario conducted a duly noticed public hearing and issued Resolution PC06-095 recommending City Council certification of the Subarea Specific EIR and Issued Resolution PC06-097 recommending approval of the Subarea Specific Plan (File No. PSP03-003); and

(viii) On the 19th day of October 2006, the City Council of the City of Ontario certified the Subarea 29 Specific Plan EIR (SCH #2004011009); and

(ix) On the 7th day of November 2006, the City Council of the City of Ontario adopted Ordinance No. 2845 approving the Subarea 29 Specific Plan; and

(x) The environmental impacts of this project were previously analyzed in an addendum to the Subarea 29 Specific Plan EIR (SCH# 2004011009) that was adopted by the City Council on April 21, 2015. This application is consistent with the previously adopted addendum and introduces no new significant environmental impacts. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference.

B. Resolution.

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

SECTION 1. The Planning Commission hereby specifically finds that all facts set forth in the Recitals, Part A, of this Resolution are true and correct.

SECTION 2. Based upon substantial evidence presented to the Planning Commission during the above-referenced hearing on April 26, 2016, including written and oral staff reports, together with public testimony, the Planning Commission hereby specifically finds as follows:

a. The Development Agreement applies to 27.09 acres of land located at the southwest corner of Haven Avenue and Parkview Street within Planning Area 29 (Conventional Medium Lot Residential) of the Subarea 29 Specific Plan, and is presently vacant and previously used for dairy and agricultural uses; and

b. The property to the north of the Project site is within Planning Area 31 (Conventional Medium Lot Residential) of the Subarea 29 Specific Plan, and is presently vacant and previously used for dairy and agricultural uses. The property to the east is within the Specific Plan (Ag Preserve) zoning district, and is presently vacant and previously used for dairy and agricultural uses. The property to the south is within Planning Area 28 (Conventional Medium Lot Residential) of the Subarea 29 Specific Plan, and is presently vacant and previously used for dairy and agricultural uses. The property to the west is within the SCE Corridor/Easement of the Subarea 29 Specific Plan, and is developed as an SCE Easement; and

c. The Development Agreement establishes parameters for the development of Tentative Tract Map 19907 within Subarea 29 of the Subarea 29 Specific Plan for residential development. The Development Agreement also grants Brookcal Ontario, LLC., the right to develop, the ability to quantify the fees; and establish the terms and conditions that apply to those projects. These terms and conditions are consistent with The Ontario Plan Policy Plan (General Plan), design guidelines and development standards for the Subarea 29 Specific Plan.

d. The Development Agreement focuses on 27.09 acres, consisting of Tentative Tract Map 19907, which subdivides 27.09 acres of land into 108 residential lots and 10 lettered lots within Planning Area 29; and

e. The Development Agreement will provide for the development of up to 108 residential units as established for Planning Area 29 of the Subarea 29 Specific Plan; and

f. The Development Agreement has been prepared in conformance with the goals and policies of The Ontario Plan Policy Plan (General Plan); and

g. The Development Agreement does not conflict with the Land Use

Policies of The Ontario Plan Policy Plan (General Plan) and will provide for development, within the district, in a manner consistent with the Policy Plan and with related development; and

h. This Development Agreement will promote the goals and objectives of the Land Use Element of the Policy Plan; and,

i. This Development Agreement will not be materially injurious or detrimental to the adjacent properties and will have a significant impact on the environment or the surrounding properties but the benefits of the project outweighs the potential environmental impacts and the mitigation of these impacts were addressed in the Subarea 29 Specific Plan EIR certified by the City Council on October 19, 2006.

SECTION 3. Based upon the substantial evidence presented to the Planning Commission during the above-referenced hearing and upon the specific findings set forth in paragraphs 1 and 2 above, this Commission hereby concludes as follows:

a. The subject property is suitable for the uses permitted in the proposed district in terms of access, size, and compatibility with existing land use in the surrounding area;

b. The proposed Development Agreement will have significant impacts on the environment or the surrounding properties but the benefits of the project outweighs the potential environmental impacts and the environmental impacts have been adequately addressed in the Subarea 29 Specific Plan EIR (SCH# 2004011009); and

c. The proposed Development Agreement is in conformance with The Ontario Plan Policy Plan (General Plan).

SECTION 4. Based upon the facts and information contained together with all written and oral reports included for the environmental assessment for the application, the Planning Commission finds that the environmental impacts of this Development Agreement were reviewed in conjunction with the Subarea 29 Specific Plan EIR (SCH# 2004011009). All applicable mitigation measures adopted with the certification by the City Council of the EIR will become a condition of project approval.

SECTION 5. Based upon the findings and conclusions set forth in paragraphs 1, 2, 3 and 4 above, the Planning Commission hereby RECOMMENDS APPROVAL of the Development Agreement to the City Council subject to each and every condition set forth in the Subarea 29 Specific Plan and EIR, incorporated by this reference.

SECTION 6. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 7. The Secretary shall certify to the adoption of the Resolution.

The Secretary Pro Tempore for the Planning Commission of the City of Ontario shall certify as to the adoption of this Resolution.

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 26th day of April 2016, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

James Downs
Planning Commission Vice-Chairman

ATTEST:

Scott Murphy
Planning Director/Secretary of Planning
Commission

Planning Commission Resolution
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STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, Marci Callejo, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC16-[insert #] was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on April 26, 2016, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marci Callejo
Secretary Pro Tempore

Planning Commission Resolution
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April 26, 2016
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Attachment "A"
Development Agreement

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

City of Ontario
303 East "B" Street
Ontario California, California 91764
Attn: City Clerk

Exempt from Fees Per Gov. Code § 6301

Space above this line for Recorder's Use Only

DEVELOPMENT AGREEMENT

By and Between

City of Ontario, a California municipal corporation,

and

BrookCal Ontario L.L.C.

a California limited liability company

_____, **2016**

San Bernardino County, California

DEVELOPMENT AGREEMENT NO. PDA15-005

This Development Agreement (hereinafter "Agreement") is entered into effective as of the ____ day of _____, 2016 by and among the City of Ontario, a California municipal corporation (hereinafter "CITY"), and BrookCal Ontario LLC, California limited liability company (hereinafter "OWNER"):

RECITALS

WHEREAS, CITY is authorized to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property, pursuant to Section 65864, et seq. of the Government Code; and

WHEREAS, OWNER has requested CITY to enter into a development agreement and proceedings have been taken in accordance with the rules and regulations of CITY; and

WHEREAS, by electing to enter into this Agreement, CITY shall bind future City Councils of CITY by the obligations specified herein and limit the future exercise of certain governmental and proprietary powers of CITY; and

WHEREAS, the terms and conditions of this Agreement have undergone extensive review by CITY and the City Council and have been found to be fair, just and reasonable; and

WHEREAS, the best interests of the citizens of the CITY and the public health, safety and welfare will be served by entering into this Agreement; and

WHEREAS, all of the procedures of the California Environmental Quality Act have been met with respect to the Project and the Agreement in Subarea 29 Specific Plan (State Clearinghouse No. 2004011009 (the "FEIR")). The City Council found and determined that the FEIR was prepared in accordance with the requirements of the California Environmental Quality Act and adequately describes the impacts of the project described in the FEIR, which included consideration of this Agreement; and

WHEREAS, this Agreement and the Project are consistent with the CITY's Comprehensive General Plan and Subarea 29 Specific Plan; and

WHEREAS, all actions taken and approvals given by CITY have been duly taken or approved in accordance with all applicable legal requirements for notice, public hearings, findings, votes, and other procedural matters; and

WHEREAS, development of the Property in accordance with this Agreement will provide substantial benefits to CITY and will further important policies and goals of CITY; and

WHEREAS, this Agreement will eliminate uncertainty in planning and provide for the orderly development of the Property, ensure progressive installation of necessary improvements, provide for public services appropriate to the development of the Project, and generally serve the purposes for which development agreements under Sections 65864 et seq. of the Government Code are intended; and

WHEREAS, OWNER has incurred and will in the future incur substantial costs in order to assure development of the Property in accordance with this Agreement; and

WHEREAS, OWNER has incurred and will in the future incur substantial costs in excess of the generally applicable requirements in order to assure vesting of legal rights to develop the Property in accordance with this Agreement.

WHEREAS, the Property is located in an area of the City of Ontario that has been known as the “New Model Colony” area and the New Model Colony area has now been renamed as “Ontario Ranch.”

COVENANTS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. DEFINITIONS AND EXHIBITS.

1.1 Definitions. The following terms when used in this Agreement shall be defined as follows:

1.1.1 “Agreement” means this Development Agreement.

1.1.2 “CITY” means the City of Ontario, California, a California municipal corporation.

1.1.3 “Construction Agreement” means that certain Agreement for the Financing and Construction of Phases I and II Infrastructure Improvements to Serve an Easterly Portion of the New Model Colony, entered into between the CITY and NMC Builders as of the 4th day of October, 2005, and all amendments thereto and “Construction Agreement Amendment” means that First Amended and Restated Agreement for the Financing and Construction of Limited Infrastructure Improvements to Serve and Easterly Portion of the New Model Colony entered into between the CITY and NMC Builders as of the 21st day of August 2012.

1.1.4 “Development” means the improvement of the Property for the purposes of completing the structures, improvements and facilities comprising the Project including, but not limited to: grading; the construction of public infrastructure and public facilities related to the Project whether located within or outside the Property; the construction of buildings and structures; and the installation of landscaping. “Development” does not include the maintenance, repair, reconstruction or

redevelopment of any building, structure, improvement or facility after the construction and completion thereof.

1.1.5 "Development Approvals" means all permits and other entitlements for use subject to approval or issuance by CITY in connection with development of the Property including, but not limited to:

- (a) specific plans and specific plan amendments;
- (b) tentative and final subdivision and parcel maps;
- (c) development plan review;
- (d) conditional use permits (including model home use permits), public use permits and plot plans;
- (e) zoning;
- (f) grading and building permits.

1.1.6 "Development Exaction" means any requirement of CITY in connection with or pursuant to any Land Use Regulation or Development Approval for the dedication of land, the construction of improvements or public facilities, or the payment of fees in order to lessen, offset, mitigate or compensate for the impacts of development on the environment or other public interests.

1.1.7 "Development Impact Fee" means a monetary exaction, other than a tax or special assessment, whether characterized as a fee or a tax and whether established for a broad class of projects by legislation of general applicability or imposed on a specific project on an ad hoc basis, that is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project, and, for purposes of this Agreement only, includes fees collected under development agreements adopted pursuant to Article 2.5 of the Government Code (commencing with Section 65864) of Chapter 4. For purposes of this Agreement only, "Development Impact Fee" shall not include processing fees and charges imposed by CITY to cover the estimated actual costs to CITY of processing applications for Development Approvals or for monitoring compliance with any Development Approvals granted or issued, including, without limitation, fees for zoning variances; zoning changes; use permits; building inspections; building permits; filing and processing applications and petitions filed with the local agency formation commission or conducting preliminary proceedings or proceedings under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3 (commencing with Section 56000) of Title 5 of the Government Code; the processing of maps under the provisions of the Subdivision Map Act, Division 2 (commencing with Section 66410) of Title 7 of the Government Code; or planning services under the authority of Chapter 3 (commencing with Section 65100) of Division 1 of Title 7 of the Government Code, fees and charges as described

in Sections 51287, 56383, 57004, 65104, 65456, 65863.7, 65909.5, 66013, 66014, and 66451.2 of the Government Code, Sections 17951, 19132.3, and 19852 of the Health and Safety Code, Section 41901 of the Public Resources Code, and Section 21671.5 of the Public Utilities Code, as such codes may be amended or superceded, including by amendment or replacement.

1.1.8 “Development Plan” means the Existing Development Approvals and the Existing Land Use Regulations applicable to development of the Property.

1.1.9 “Effective Date” means the date that the ordinance approving this Agreement goes into effect.

1.1.10 “Existing Development Approvals” means all Development Approvals approved or issued prior to the Effective Date. Existing Development Approvals includes the Approvals incorporated herein as Exhibit “C” and all other Approvals which are a matter of public record on the Effective Date.

1.1.11 “Existing Land Use Regulations” means all Land Use Regulations in effect on the Effective Date. Existing Land Use Regulations includes the Regulations incorporated herein as Exhibit “D” and all other Land Use Regulations that are in effect and a matter of public record on the Effective Date.

1.1.12 “General Plan” means the General Plan adopted on January 27, 2010.

1.1.13 “Improvement” or “Improvements” means those public improvements required to support the development of the Project as described in the Tract Map conditions for Tract No. 19907 and as further described in Exhibit “F” (the “Infrastructure Improvements Exhibit”).

1.1.14 “Land Use Regulations” means all ordinances, resolutions, codes, rules, regulations and official policies of CITY governing the development and use of land, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, timing and phasing of development, the maximum height and size of buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable to the development of the Property. “Land Use Regulations” does not include any CITY ordinance, resolution, code, rule, regulation or official policy, governing:

- (a) the conduct of businesses, professions, and occupations;
- (b) taxes and assessments;
- (c) the control and abatement of nuisances;
- (d) the granting of encroachment permits and the conveyance of similar rights and interests that provide for the use of or the entry upon public property;
- (e) the exercise of the power of eminent domain.

1.1.15 “Mortgagee” means a mortgagee of a mortgage, a beneficiary under a deed of trust or any other security-device lender, and their successors and assigns.

1.1.16 “Model Units” means a maximum of six (6) units constructed by OWNER prior to the construction of any Production units and not offered for sale and occupancy for a period of time after the issuance of permits for Production Units and any structures in the open space or common areas of Tract 19907.

1.1.17 “OWNER” means the persons and entities listed as owner on page 1 of this Agreement and their permitted successors in interest to all or any part of the Property.

1.1.18 “Production Unit(s)” means all units constructed for sale and occupancy by OWNER and excludes the specified number of Model Units constructed by OWNER for promotion of sales.

1.1.19 “Project” means the development of the Property contemplated by the Development Plan, as such Plan may be further defined, enhanced or modified pursuant to the provisions of this Agreement.

1.1.20 “Property” means the real property described on Exhibit “A” and shown on Exhibit “B” to this Agreement.

1.1.21 “Reservations of Authority” means the rights and authority excepted from the assurances and rights provided to OWNER under this Agreement and reserved to CITY under Section 3.6 of this Agreement.

1.1.22 “Specific Plan” means that certain specific plan adopted by the City Council, and entitled, “The Sub Area 29 Specific Plan.”

1.1.23 “Storm Water Treatment Capacity Availability” means a designated portion of the total Storm Water Treatment Capacity Availability made available through the completion of construction of a Phase of regional storm water treatment facilities by the NMC Builders LLC as described in the Construction Agreement Amendment. The amount, in acres, of Storm Water Treatment Capacity Availability required for the issuance of a grading permit shall be based upon the factors and assumptions listed in the Construction Agreement Amendment.

1.1.24 “Subsequent Development Approvals” means all Development Approvals required subsequent to the Effective Date in connection with development of the Property.

1.1.25 “Subsequent Land Use Regulations” means any Land Use Regulations adopted and effective after the Effective Date of this Agreement.

1.1.26 “Trail Portion” means the portion of Lot I of Tract 19907, which is to be constructed on Lot I of Tract 19907 as an open space trail area, approximately fifty (50) feet in width and as shown on the attached Exhibit F.

1.1.26 “Water Availability Equivalent (WAE)” means a designated portion of the total Net MDD made available through the construction of each Phase described in the Water Phasing Plan of the Construction Agreement. The number of Water Availability Equivalents (of portions thereof) required for the issuance of each building permit shall be based upon water demand factors and assumptions listed in the Construction Agreement and Construction Agreement Amendment as “Water Availability Equivalents by Land Use” for each land use category.

1.2 Exhibits. The following documents are attached to, and by this reference made a part of, this Agreement:

Exhibit “A” — Legal Description of the Property.

Exhibit “B” — Map showing Property and its location.

Exhibit “C” — Existing Development Approvals.

Exhibit “D” — Existing Land Use Regulations.

Exhibit “E” — (Reserved – Not used)

Exhibit “F” — Infrastructure Improvements Exhibits.

2. GENERAL PROVISIONS.

2.1 Binding Effect of Agreement. The Property is hereby made subject to this Agreement. Development of the Property is hereby authorized and shall be carried out only in accordance with the terms of this Agreement.

2.2 Ownership of Property. OWNER represents and covenants that it is the owner of the fee simple title to the Property or a portion thereof, or has the right to acquire fee simple title to the Property or a portion thereof from the current owner(s) thereof. To the extent OWNER does not own fee simple title to the Property, OWNER shall obtain written consent from the current fee owner of the Property agreeing to the terms of this Agreement and the recordation thereof.

2.3 Term. The term of this Agreement shall commence on the Effective Date and shall continue for an initial term of ten (10) years thereafter unless this term is modified or extended pursuant to the provisions of this Agreement. The term of this Agreement may be extended for an additional five (5) years following expiration of the initial ten (10) year term, provided the following have occurred:

(a) OWNER provides at least 180 days written notice to CITY prior to expiration of the initial term; and

(b) In non-mixed use projects, the OWNER shall have obtained, as applicable, building permits for at least forty percent (40%) of the actual number of residential units permitted under this Agreement; and

(c) OWNER is not then in uncured default of this Agreement.

2.4 Assignment.

2.4.1 Right to Assign. OWNER shall have the right to sell, transfer or assign the Property in whole or in part (provided that no such partial transfer shall violate the Subdivision Map Act, Government Code Section 66410, et seq.), to any person, partnership, limited liability company, joint venture, firm or corporation at any time during the term of this Agreement; provided, however, that any such sale, transfer or assignment shall include the assignment and assumption of the rights, duties and obligations arising under or from this Agreement and be made in strict compliance with the following:

(a) No sale, transfer or assignment of any right or interest under this Agreement shall be made unless made together with the sale, transfer or assignment of all or a part of the Property.

(b) Concurrent with any such sale, transfer or assignment, or within fifteen (15) business days thereafter, OWNER shall notify CITY's City Manager, in writing, of such sale, transfer or assignment and shall provide CITY with: (1) an executed agreement, in a form reasonably acceptable to CITY, by the purchaser, transferee or assignee and providing therein that the purchaser, transferee or assignee expressly and unconditionally assumes all the duties and obligations of OWNER under this Agreement with respect to the portion of the Property so sold, transferred or assigned; and (2) the payment of the applicable processing charge to cover the CITY's review and consideration of such sale, transfer or assignment.

(c) Any sale, transfer or assignment not made in strict compliance with the foregoing conditions shall constitute a default by OWNER under this Agreement. Notwithstanding the failure of any purchaser, transferee or assignee to execute the agreement required by Paragraph (b) of this Subsection 2.4.1, the burdens of this Agreement shall be binding upon such purchaser, transferee or assignee, but the benefits of this Agreement shall not inure to such purchaser, transferee or assignee until and unless such agreement is executed. The City Manager shall have the authority to review, consider and either approve, conditionally approve, or deny any proposed sale, transfer or assignment that is not made in compliance with this section 2.4.

2.4.2 Release of Transferring Owner. Notwithstanding any sale, transfer or assignment, a transferring OWNER shall continue to be obligated under this Agreement unless such transferring owner is given a release in writing by CITY, which release shall be provided by CITY upon the full satisfaction by such transferring owner of the following conditions:

(a) OWNER no longer has a legal or equitable interest in all or any part of the portion of the Property sold, transferred or assigned.

(b) OWNER is not then in default under this Agreement.

(c) OWNER has provided CITY with the notice and executed agreement required under Paragraph (b) of Subsection 2.4.1 above.

(d) The purchaser, transferee or assignee provides CITY with security equivalent to any security previously provided by OWNER to secure performance of its obligations hereunder.

2.4.3 Effect of Assignment and Release of Obligations. In the event of a sale, transfer or assignment pursuant to the provisions of Section 2.4.2 above:

(a) The assignee shall be liable for the performance of all obligations of OWNER with respect to transferred property, but shall have no obligations with respect to the portions of the Property, if any, not transferred (the "Retained Property").

(b) The owner of the Retained Property shall be liable for the performance of all obligations of OWNER with respect to Retained Property, but shall have no further obligations with respect to the transferred property.

(c) The assignee's exercise, use and enjoyment of the Property or portion thereof shall be subject to the terms of this Agreement to the same extent as if the assignee were the OWNER.

2.4.4 Subsequent Assignment. Any subsequent sale, transfer or assignment after an initial sale, transfer or assignment shall be made only in accordance with and subject to the terms and conditions of this Section 2.4.

2.4.5 Termination of Agreement With Respect to Individual Lots Upon Sale to Public and Completion of Construction. The provisions of Subsection 2.4.1 shall not apply to the sale or lease (for a period longer than one year) of any lot which has been finally subdivided and is individually (and not in "bulk") sold or leased to a member of the public or other ultimate user. Notwithstanding any other provisions of this Agreement, this Agreement shall terminate with respect to any lot and such lot shall be released and no longer be subject to this Agreement without the execution or recordation of any further document upon satisfaction of both of the following conditions:

(a) The lot has been finally subdivided and individually (and not in "bulk") sold or leased (for a period longer than one year) to a member of the public or other ultimate user; and,

(b) A certificate of occupancy has been issued for a building on the lot, and the fees set forth under Section 4 of this Agreement have been paid.

2.5 Amendment or Cancellation of Agreement. This Agreement may be amended or cancelled in whole or in part only in the manner provided for in Government Code Section 65868.1. Any amendment of this Agreement, which amendment has been requested by OWNER, shall be considered by the CITY only upon the payment of the applicable processing charge. This provision shall not limit any remedy of CITY or

OWNER as provided by this Agreement. Either Party or successor in interest, may propose an amendment to or cancellation, in whole or in part, of this Agreement. Any amendment or cancellation shall be by mutual consent of the parties or their successors in interest except as provided otherwise in this Agreement or in Government Code Section 65865.1. For purposes of this section, the term "successor in interest" shall mean any person having a legal or equitable interest in the whole of the Property, or any portion thereof as to which such person wishes to amend or cancel this Agreement. The procedure for proposing and adopting an amendment to, or cancellation of, in whole or in part, this Agreement shall be the same as the procedure for adopting and entering into this Agreement in the first instance. Notwithstanding the foregoing sentence, if the CITY initiates the proposed amendment to, or cancellation of, in whole or in part, this Agreement, CITY shall first give notice to the OWNER of its intention to initiate such proceedings at least sixty (60) days in advance of the giving the public notice of intention to consider the amendment or cancellation.

2.5.1 Amendment To Reflect Consistency With Future Amendments to the Construction Agreement. To the extent any future amendment to the Construction Agreement provides for modifications to rights or obligations that differ from or alter the same or similar rights or obligations contained in this Development Agreement, OWNER reserves the right to request an amendment to the Development Agreement to reflect any or all of such modifications.

2.6 Termination. This Agreement shall be deemed terminated and of no further effect upon the occurrence of any of the following events:

(a) Expiration of the stated term of this Agreement as set forth in Section 2.3.

(b) Entry of a final judgment setting aside, voiding or annulling the adoption of the ordinance approving this Agreement.

(c) The adoption of a referendum measure overriding or repealing the ordinance approving this Agreement.

(d) Completion of the Project in accordance with the terms of this Agreement including issuance of all required occupancy permits and acceptance by CITY or applicable public agency of all required dedications.

Termination of this Agreement shall not constitute termination of any other land use entitlements approved for the Property. Upon the termination of this Agreement, no party shall have any further right or obligation hereunder except with respect to any obligation to have been performed prior to such termination or with respect to any default in the performance of the provisions of this Agreement which has occurred prior to such termination or with respect to any obligations which are specifically set forth as surviving this Agreement. Upon such termination, any public facilities and services mitigation fees paid pursuant to Section 4.2 of this Agreement by

OWNER to CITY for residential units on which construction has not yet begun shall be refunded to OWNER by CITY.

2.7 Notices.

(a) As used in this Agreement, “notice” includes, but is not limited to, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, appointment or other communication required or permitted hereunder.

(b) All notices shall be in writing and shall be considered given either: (i) when delivered in person, including, without limitation, by courier, to the recipient named below; or (ii) on the date of delivery shown on the return receipt, after deposit in the United States mail in a sealed envelope as either registered or certified mail with return receipt requested, and postage and postal charges prepaid, and addressed to the recipient named below. All notices shall be addressed as follows:

If to CITY:

Al C. Boling, City Manager
City of Ontario
303 East “B” Street
Ontario California, California 91764

with a copy to:

John Brown, City Attorney
Best Best & Krieger
2855 East Guasti Road, Suite 400
Ontario CA 91761

If to OWNER:

Dave Bartlett
BrookCal Ontario, LLC
3090 Bristol Street, Suite 200
Costa Mesa, CA 92626
Email: Dave.Bartlett@Brookfieldrp.com
Phone: 714.200.1533
Fax: 714.200.1833

with a copy to:

John A. Ramirez
Rutan & Tucker, LLP
611 Anton Blvd.
Suite 1400

Costa Mesa, CA 92626
Phone: (714) 662-4610
Fax: (714) 546-9035

(c) Either party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or representative of a party, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

3. DEVELOPMENT OF THE PROPERTY.

3.1 Rights to Develop. Subject to the terms of this Agreement including the Reservations of Authority, OWNER shall have a vested right to develop the Property in accordance with, and to the extent of, the Development Plan. The Project shall remain subject to all Subsequent Development Approvals required to complete the Project as contemplated by the Development Plan. Except as otherwise provided in this Agreement, the permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, and provisions for reservation and dedication of land for public purposes shall be those set forth in the Development Plan.

3.2 Effect of Agreement on Land Use Regulations. Except as otherwise provided under the terms of this Agreement including the Reservations of Authority, the rules, regulations and official policies governing permitted uses of the Property, the density and intensity of use of the Property, the maximum height and size of proposed buildings, and the design, improvement and construction standards and specifications applicable to development of the Property shall be the Existing Land Use Regulations. In connection with any Subsequent Development Approval, CITY shall exercise discretion in accordance with the same manner as it exercises its discretion under its police powers, including the Reservations of Authority set forth herein; provided however, that such discretion shall not prevent development of the Property for the uses and to the density or intensity of development set forth in this Agreement.

3.3 Timing of Development. The parties acknowledge that OWNER cannot at this time predict when or the rate at which phases of the Property will be developed. Such decisions depend upon numerous factors which are not within the control of OWNER, such as market orientation and demand, interest rates, absorption, completion and other similar factors. Since the California Supreme Court held in Pardee Construction Co. v. City of Camarillo (1984) 37 Ca1. 3d 465, that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the parties' intent to cure that deficiency by acknowledging and providing that OWNER shall have the right to develop the Property in such order and at such rate and at such times as OWNER deems appropriate within the exercise of its subjective business judgment.

3.4 Requirement for Public Infrastructure Improvements. Development of the Property is contingent in part on the phasing of area-wide infrastructure improvements over which the OWNER has control. The issuance of building permits by CITY for Model Units and Production Units is, in general, contingent on OWNER's completion of needed infrastructure improvements and the availability of improvements and services to serve the Property.

3.4.1 Attached hereto as Exhibit "F" is a description of the infrastructure improvements needed for the development of the Property ("the Infrastructure Improvement Exhibit").

3.4.2 Subject to the prior submittal by OWNER and approval by CITY of a plan to provide sufficient public infrastructure for the construction of a maximum number of six (6) Model Units and any structures associated with the development of the open space park area, CITY may issue a maximum of six (6) building permits for Model Units and building permits for any structures associated with the development of the open space park area. The plan to be submitted by OWNER for CITY approval shall describe the utilities and other infrastructure necessary to provide sufficient fire protection and other public health and safety requirements for the Model Units and the other facilities.

3.5 Changes and Amendments. The parties acknowledge that refinement and further development of the Project will require Subsequent Development Approvals and may demonstrate that changes are appropriate and mutually desirable in the Existing Development Approvals. In the event OWNER finds that a change in the Existing Development Approvals is necessary or appropriate, OWNER shall apply for a Subsequent Development Approval to effectuate such change and CITY shall process and act on such application in accordance with the Existing Land Use Regulations, except as otherwise provided by this Agreement including the Reservations of Authority. If approved, any such change in the Existing Development Approvals shall be incorporated herein as an addendum to Exhibit "C", and may be further changed from time to time as provided in this Section. Unless otherwise required by law, as determined in CITY's reasonable discretion, a change to the Existing Development Approvals shall be deemed "minor" and not require an amendment to this Agreement provided such change does not:

- (a) Alter the permitted uses of the Property as a whole; or,
 - (b) Increase the density or intensity of use of the Property as a whole;
- or,
- (c) Increase the maximum height and size of permitted buildings; or,
 - (d) Delete a requirement for the reservation or dedication of land for public purposes within the Property as a whole; or,

(e) Constitute a project requiring a subsequent or supplemental environmental impact report pursuant to Section 21166 of the Public Resources Code.

3.6 Reservations of Authority.

3.6.1 Limitations, Reservations and Exceptions. Notwithstanding any other provision of this Agreement, the CITY shall not be prevented from applying new rules, regulations and policies upon the OWNER, nor shall a development agreement prevent the CITY from denying or conditionally approving any subsequent development project application on the basis of such new rules, regulations and policies where the new rules, regulations and policies consist of the following:

- (a) Processing fees by CITY to cover costs of processing applications for development approvals or for monitoring compliance with any development approvals;
- (b) Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records and any other matter of procedure;
- (c) Regulations, policies and rules governing engineering and construction standards and specifications applicable to public and private improvements, including all uniform codes adopted by the CITY and any local amendments to those codes adopted by the CITY; provided however that, OWNER shall have a vested right to develop the Property in accordance with, and to the extent of, the standards and specifications that are expressly identified in the Specific Plan;
- (d) Regulations that may conflict with this Agreement and the Development Plan but that are reasonably necessary to protect the residents of the project and/or of the immediate community from a condition perilous to their health or safety;
- (e) Regulations that do not conflict with those rules, regulations and policies set forth in this Agreement or the Development Plan;
- (f) Regulations that may conflict but to which the OWNER consents.

3.6.2 Subsequent Development Approvals. This Agreement shall not prevent CITY, in acting on Subsequent Development Approvals, from applying Subsequent Land Use Regulations that do not conflict with the Development Plan, nor shall this Agreement prevent CITY from denying or conditionally approving any Subsequent Development Approval on the basis of the Existing

Land Use Regulations or any Subsequent Land Use Regulation not in conflict with the Development Plan.

3.6.3 Modification or Suspension by State or Federal Law. In the event that State or Federal laws or regulations, enacted after the Effective Date of this Agreement, prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations, provided, however, that this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce. In the event OWNER alleges that such State or Federal laws or regulations preclude or prevent compliance with one or more provisions of this Agreement, and the CITY does not agree, the OWNER may, at its sole cost and expense, seek declaratory relief (or other similar non-monetary remedies); provided however, that nothing contained in this Section 3.6.3 shall impose on CITY any monetary liability for contesting such declaratory relief (or other similar non-monetary relief).

3.6.4 Intent. The parties acknowledge and agree that CITY is restricted in its authority to limit its police power by contract and that the foregoing limitations, reservations and exceptions are intended to reserve to CITY all of its police power which cannot be so limited. This Agreement shall be construed, contrary to its stated terms if necessary, to reserve to CITY all such power and authority which cannot be restricted by contract.

3.7 Public Infrastructure and Utilities. OWNER is required by this Agreement to construct any public works facilities which will be dedicated to CITY or any other public agency upon completion, and if required by applicable laws to do so, OWNER shall perform such work in the same manner and subject to the same requirements as would be applicable to CITY or such other public agency should it have undertaken such construction. As a condition of development approval, OWNER shall connect the Project to all utilities necessary to provide adequate water, recycled water, sewer, storm drain, fiber optic communications, gas, electric, and other utility service to the Project. As a further condition of development approval, OWNER shall contract with the CITY for CITY-owned or operated utilities for this purpose, for such price and on such terms as may be available to similarly situated customers in the CITY.

3.7.1 OWNER agrees that development of the Project shall require the construction of Storm Drain facilities from the Property to the connection with the County Line Channel as described in the attached Exhibit F. OWNER shall be responsible for the construction of the necessary extension of master planned Storm Drain facilities.

3.7.2 OWNER agrees that development of the Project shall require the construction of street improvements on Haven Avenue including a signalized

intersection of Haven and Merrill Avenues and as further described in the attached Exhibit F.

3.7.2.1 OWNER agrees that OWNER shall either design and construct the signalized intersection on Haven Avenue and Park View Street or make a payment in-lieu for the design and construction of a portion of a signalized intersection on Haven Avenue and Park View Street. The amount of the in-lieu payment shall be Sixty-Two Thousand and Thirteen dollars (\$62,013), which is twenty-five percent (25%) of the estimated cost of the design and construction of the signalized intersection. The completion of the signal or in-lieu payment is to be made to CITY at the time that OWNER requests the first building permit for Production Units.

3.7.3 OWNER agrees that development of the Property shall require the extension of permanent master planned water and recycled water utility infrastructure as described in Exhibit F consisting generally of the construction of the extension of permanent master planned water and recycled water utility infrastructure to serve the Property. OWNER agrees that no building permits shall be issued by CITY for Production Units prior to completion of the water and recycled water Improvements as described in Exhibit F.

3.7.4 OWNER agrees that NMC Builders shall be responsible for funding a portion of the design and construction of an additional extension of master planned recycled water infrastructure in Riverside and Haven Avenues to be constructed by CITY. These master planned recycled water Improvements shall also serve the Project. OWNER shall deposit, or shall have deposited, with NMC Builders an amount equal to the OWNER's capital contribution for the design and construction of the NMC Builders portion of the recycled water improvements in Riverside and Haven Avenues known as the "Phase 2 Recycled Water Improvements" prior to September 1, 2016. If OWNER has not deposited such amount, with NMC Builders prior to September 1, 2016 then CITY shall be entitled to withhold issuance of any further building permits for the Project unless and until OWNER deposits the amount of OWNER's capital contribution with NMC Builders for the design and construction of the NMC Builders portion of the Phase 2 Recycled Water System Improvements.

3.7.5 OWNER agrees that development of the Property shall require the extension of permanent master planned sewer infrastructure as described in the attached Exhibit F consisting generally of the construction of the extension of sewer infrastructure to serve the Property.

3.7.6 OWNER agrees that development of the Property shall require the extension of permanent master planned fiber optic communications infrastructure as described in the attached Exhibit F consisting generally of the construction of the extension of fiber optic communications infrastructure to serve the Property.

3.8 Acquisition of Offsite Provision of Real Property Interests. In any instance where OWNER is required by any Development Approval or Land Use Regulation and the Construction Agreement to construct any public improvement on land not owned by OWNER ("Offsite Improvements"), the CITY and OWNER shall cooperate in acquiring the necessary legal interest ("Offsite Property") in accordance with the procedures set forth in Section 2.4 of the Construction Agreement. This section 3.8 is not intended by the parties to impose upon the OWNER an enforceable duty to acquire land or construct any public improvements on land not owned by OWNER, except to the extent that the OWNER elects to proceed with the development of the Project, and then only in accordance with valid conditions imposed by the CITY upon the development of the Project under the Subdivision Map Act or other legal authority.

3.8.1 CITY Acquisition of Non-Construction Agreement Offsite Property. In the event OWNER is required to construct any public improvements on land not owned by OWNER, but such requirement is not based upon the Construction Agreement, Sections 3.8.1 and 3.8.2 shall control the acquisition of the necessary property interest(s) ("Non-Construction Agreement Offsite Property"). If the OWNER is unable to acquire such Non-Construction Agreement Offsite Property, and following the written request from the OWNER to CITY, CITY agrees to use reasonable and diligent good faith efforts to acquire the Non-Construction Agreement Offsite Property from the owner or owners of record by negotiation to the extent permitted by law and consistent with this Agreement. If CITY is unable to acquire the Non-Construction Agreement Offsite Property by negotiation within thirty (30) days after OWNER'S written request, CITY shall, initiate proceedings utilizing its power of eminent domain to acquire that Non-Construction Agreement Subject Property at a public hearing noticed and conducted in accordance with California Code of Civil Procedure Section 1245.235 for the purpose of considering the adoption of a resolution of necessity concerning the Non-Construction Agreement Offsite Property, subject to the conditions set forth in this Section 3.8. The CITY and OWNER acknowledge that the timelines set forth in this Section 3.8.1 represent the maximum time periods which CITY and OWNER reasonably believe will be necessary to complete the acquisition of any Non-Construction Agreement Offsite Property. CITY agrees to use reasonable good faith efforts to complete the actions described within lesser time periods, to the extent that it is reasonably able to do so, consistent with the legal constraints imposed upon CITY.

3.8.2 Owner's Option to Terminate Proceedings. CITY shall provide written notice to OWNER no later than fifteen (15) days prior to making an offer to the owner of the Non-Construction Agreement Offsite Property. At any time within that fifteen (15) day period, OWNER may, at its option, notify CITY that it wants CITY to cease all acquisition proceedings with respect to that Non-Construction Agreement Offsite Property, whereupon CITY shall cease such proceedings. CITY shall provide written notice to OWNER no later than fifteen (15) days prior to the date of the hearing on CITY'S intent to consider the adoption of a resolution of necessity as to any Non-Construction Agreement Offsite Property.

At any time within that fifteen (15) day period, OWNER may, at its option, notify CITY that it wants CITY to cease condemnation proceedings, whereupon CITY shall cease such proceedings. If OWNER does not notify CITY to cease condemnation proceedings within said fifteen (15) day period, then the CITY may proceed to consider and act upon the Non-Construction Agreement Offsite Property resolution of necessity. If CITY adopts such resolution of necessity, then CITY shall diligently institute condemnation proceedings and file a complaint in condemnation and seek an order of immediate possession with respect to the Non-Construction Agreement Offsite Property.

3.9 Regulation by Other Public Agencies. It is acknowledged by the parties that other public agencies not within the control of CITY possess authority to regulate aspects of the development of the Property separately from or jointly with CITY and this Agreement does not limit the authority of such other public agencies. CITY agrees to cooperate fully, at no cost to CITY, with OWNER in obtaining any required permits or compliance with the regulations of other public agencies provided such cooperation is not in conflict with any laws, regulations or policies of the CITY.

3.10 Tentative Tract Maps; Extension. With respect to applications by OWNER for tentative subdivision maps for portions of the Property, CITY agrees that OWNER may file and process tentative maps in accordance with Chapter 4.5 (commencing with Section 66498.1) of Division 2 of Title 7 of the California Government Code and the applicable provisions of CITY's subdivision ordinance, as the same may be amended from time to time. In accordance with the provisions of Section 66452.6 of the Government Code, each tentative subdivision map or tentative parcel map, heretofore or hereafter approved in connection with development of the Property, shall be deemed to have been granted an extension of time to and until the date that is five (5) years following the Effective Date of this Agreement.; The CITY's City Council may, in its discretion, extend any such map for an additional period of up to five (5) years beyond its original term, so long as the subdivider files a written request for an extension with the City prior to the expiration of the initial five (5) year term.

4. PUBLIC BENEFITS.

4.1 Intent. The parties acknowledge and agree that development of the Property will result in substantial public needs that will not be fully met by the Development Plan and further acknowledge and agree that this Agreement confers substantial private benefits on OWNER that should be balanced by commensurate public benefits. Accordingly, the parties intend to provide consideration to the public to balance the private benefits conferred on OWNER by providing more fully for the satisfaction of the public needs resulting from the Project.

4.2 Development Impact Fees.

4.2.1 Amount of Development Impact Fee. Development Impact Fees (DIF) shall be paid by OWNER. The Development Impact Fee amounts to be paid by OWNER shall be the amounts that are in effect at the time such amounts are

due. Nothing contained in this Agreement shall affect the ability of the CITY to impose new Development Impact Fees or amend the amounts of existing Development Impact Fees. Additionally, nothing contained in this Agreement shall affect the ability of other public agencies that are not controlled by CITY to impose and amend, from time to time, Development Impact Fees established or imposed by such other public agencies, even though such Development Impact Fees may be collected by CITY.

4.2.2 Time of Payment. The Development Impact Fees required pursuant to Subsection 4.2.1 shall be paid to CITY prior to the issuance of building permit for each applicable residential or other unit, except for the Open Space and Habitat Acquisition Development Impact fee, which shall be paid by OWNER to CITY prior to the issuance of a grading permit. Deferral of the payment of Development Impact Fees may be granted pursuant to a separate agreement approved by CITY pursuant to City policy.

4.2.3 Parkland and Quimby Act Fees. Pursuant to the General Plan (OntarioPlan) Goal PR1, Policy PR1-5 (achievement of a park standard of 5 acres of parkland per 1,000 residents). In order to meet this standard OWNER shall provide improved parks, developed in accordance with the City's park standards in an amount equal to two (2) acres per 1,000 of projected population without credit, reimbursement, offset or consideration from CITY. CITY and OWNER agree that Lot A of Tract No. 19907 consisting of 1.21 net acres shall be improved as an open space park area and transferred to a homeowner's association to meet OWNER's additional park requirements. The homeowner's association shall be responsible for the maintenance of the developed open space park area on Lot A of Tract No. 19907. OWNER shall also pay the full Development Impact Fee for the Parkland Acquisition and Development Fee category (Quimby Act fees) for the Project.

4.2.3.1 OWNER acknowledges that Lot A of Tract Map No. 19907 is a portion of a combined open space park area. The combined open space park area also includes Lot J of Tract Map No. 19909, which is owned by others. OWNER agrees that both Lot A of Tract Map No. 19907 and Lot J of Tract Map No. 19909 shall be developed as a single open space park area at the same time. OWNER agrees that if the combined open space park area has not been developed and improved by others prior to OWNER requesting the first building permit for Production Units, OWNER agrees that OWNER shall be required to develop both Lot A of Tract Map No. 19907 and Lot J of Tract Map No. 19909 as a combined open space park area, at OWNER's sole expense. Such combined open space park shall be transferred to a single homeowners' association. The homeowners' association shall be responsible for all maintenance of the combined open space park area.

4.2.3.2 CITY and OWNER agree that Lot I of Tract No. 19907 contains Southern California Edison (SCE) utility infrastructure and such Lot I is encumbered by an easement granted to SCE. Lot I shall be retained as

open space area and transferred to the single homeowners' association. The OWNER agrees that open space trail improvements are to be constructed by OWNER on the Trail Portion of Lot I. Such open space improvements on the Trail Portion of Lot I shall be an approximate width of fifty (50) feet over the Trail Portion of Lot I. The approximate location of open space improvements on the Trail Portion of Lot I are shown on the attached Exhibit F. OWNER shall complete the construction of the open space improvements on the Trail Portion of Lot I prior to, and as a condition precedent to, CITY's issuance of the 54th building permit within Tract 19907. Upon completion of the construction and acceptance by CITY of the open space improvements on the Trail Portion, the improvements on the Trail Portion of Lot I shall be maintained by the CITY. OWNER shall provide an easement to CITY for the purpose of maintaining the Trail Portion of the open space improvements on Lot I of Tract 19907.

4.3 Responsibility for Construction of Public Improvements.

4.3.1 Timely Construction of Public Infrastructure. The phasing of the areawide infrastructure construction within the Ontario Ranch area of the City of Ontario will be as approved by the CITY. OWNER shall be responsible for the timely construction and completion of all public infrastructure required for the Project as shown on the attached Exhibit "F" and any and all tentative tract map conditions. Unless otherwise specified in the Subdivision Agreement/Tract Map conditions, all other required Improvements for Tract No. 19907 shall be completed and operational prior to, and as a condition precedent to, OWNER requesting and CITY's granting of the first building permit for Production Units for Tract No. 19907. All Infrastructure and Improvements shall be completed as required by the Subdivision Agreement/Tract Map conditions for Tract No. 19907.

4.3.2 Construction of DIF Program Infrastructure (Construction Agreement). To the extent OWNER is required to construct and completes construction of public improvements that are included in CITY's Development Impact Fee Program and the Construction Agreement between CITY and NMC Builders LLC, CITY agrees that CITY shall issue DIF Credit in accordance with the provisions of the Construction Agreement and any amendments thereto. Use of DIF Credit issued to OWNER as a member of NMC Builders LLC to offset OWNER's DIF payment obligations shall also be subject to the provisions of the Construction Agreement and any amendments thereto.

4.3.3 Construction of DIF Program Infrastructure (Non-Construction Agreement). To the extent OWNER is required to construct and completes construction of public improvements that are included in CITY's Development Impact Fee Program and such public improvements are not included the Construction Agreement between CITY and NMC Builders LLC, CITY agrees that CITY shall issue DIF Credit and DIF Reimbursement in accordance with the provisions of a separate Fee Credit Agreement between CITY and OWNER.

Limitation on the use of DIF Credit issued to OWNER to offset OWNER's DIF payment obligations shall also be subject to the provisions of a separate Fee Credit Agreement. OWNER may also be eligible to receive reimbursement from DIF collected by CITY and paid by other development that benefits from OWNER's construction of DIF Program Infrastructure. Any such DIF Reimbursement shall be subject to a Fee Credit Agreement between CITY and OWNER. CITY and OWNER agree that the Fee Credit Agreement between CITY and OWNER shall comply with CITY's adopted policies applicable to such agreements.

4.4 Affordable Housing Requirement.

4.4.1 Affordable Housing- Number of Units. OWNER shall provide a minimum number of affordable housing units, equivalent to 10% of the OWNER's total approved residential units within the Project, that are affordable to very low, low and moderate income households. Such requirement for affordable housing shall be met through one, or a combination of one or more, of the options provided in the following Sections 4.3.2.1 through 4.3.2.1. For the purposes of this Section, any term not defined in this Agreement shall be as defined by California Community Redevelopment Law (California Health and Safety Code Section 33000 et seq.).

4.4.2 Affordability Spread. Of the total number of residential dwelling units specified in Section 4.4.1, to be constructed or rehabilitated pursuant to Sections 4.4.2.1 or 4.4.2.2 respectively, thirty percent (30%) shall be available to very low income, thirty percent (30%) shall be available to low income and forty percent (40%) shall be available to moderate income households. "Households" shall be as defined by California Health and Safety Code Section 50053.

4.4.2.1 New Construction. If OWNER elects to fully or partially satisfy the affordable housing requirement by the construction of new residential units, it shall construct and restrict the affordability of residential dwelling units within its Project or, at OWNER's option and with the approval of the CITY, within another project elsewhere within the City. The affordable units constructed shall be intermingled with other units as part of the Project, and shall be built to the same construction, design and aesthetic standards, as well as number of rooms, as other units constructed as part of that OWNER's Project. In addition, the percentage ratio of affordable units offered for sale versus those offered for rent shall equal the percentage ratio of other units offered for sale versus for rent within OWNER's Project. Such construction shall be completed no later than the date that is five (5) years following the issuance of the first building permit for OWNER's Project; provided however that to the extent OWNER has not constructed the required percentage of units, based on the number of building permits for non-restricted units, OWNER shall, prior to the issuance of such building permits, provide security (in the form and substance approved by the City Manager and City Attorney) to City in order to ensure the faithful

completion of such required percentage of construction of affordable units. If OWNER elects the option of constructing new affordable units, a detailed Affordable Housing Agreement specifying terms for the allowable monthly housing costs or rents (as applicable) and maintenance and occupancy standards shall be prepared, executed and recorded against such units as a condition to the issuance of a building permit. The Affordable Housing Agreement shall hold a recorded priority position senior to any other non-statutory lien or encumbrance affecting the unit.

4.4.2.2 Rehabilitation. If OWNER elects to fully or partially satisfy the affordable housing requirement by the substantial rehabilitation of existing residential units in the City, it shall substantially rehabilitate and restrict the affordability of, the number of residential units specified in Section 4.4.1, provided that such units shall be provided elsewhere within the City. The rehabilitation work shall be substantial and of high quality and shall also address any deferred property maintenance issues on the property. "Substantial rehabilitation" shall mean rehabilitated multi-family rented dwelling units with three or more units and the value of the rehabilitation constitutes 25 percent of the after rehabilitation value of the dwelling, inclusive of land value pursuant to Health and Safety Code Section 33413(b)(2)(A)(iii-iv) as such section exists as of the Effective Date of this Agreement. If OWNER chooses the option of rehabilitation of existing housing units within the City, a detailed Affordable Housing Agreement specifying the terms for the allowable month housing costs or rents (as applicable) and maintenance and occupancy standards shall be prepared, executed and recorded against such units as a condition to the issuance of a building permit. Such rehabilitation shall be completed no later than the date that is five (5) years following the issuance of the first building permit for OWNER's Project; provided however that to the extent OWNER has not rehabilitated the required percentage of units, based on the number of building permits, OWNER shall, prior to the issuance of such building permits, provide security (in the form and substance approved by the City Manager and City Attorney) to the City in order to ensure the faithful completion of such required percentage of rehabilitation.

4.4.2.3 In-Lieu Fee. If OWNER has not fully complied with the requirements of Section 4.3.1 by providing the minimum number of affordable units through the construction of new affordable units or by the substantial rehabilitation of existing units, shall pay an "Affordability In-Lieu Fee". If OWNER has not provided any affordable residential units by construction or rehabilitation, the Affordability In-Lieu fee shall be equal to Two Dollars and Thirty-four Cents (\$2.34) per square foot of residential development within OWNER's Project or, if pre-paid as set forth below, Two Dollars and Five Cents (\$2.05) per square foot of residential development within OWNER's Project. If OWNER has partially complied with the requirements of Section 4.4.1 by construction or rehabilitation of

less than the minimum number of units, then the Affordability In-lieu Fee shall be recalculated and reduced in consideration of the number and type of affordable units provided. The Affordability In-Lieu Fee shall be paid by OWNER to City no later than prior to the issuance of each building permit within OWNER's Project based on the square footage of the residential unit for which such building permit is sought; provided however that OWNER may, at OWNER's election, pre-pay such Affordability In-Lieu Fee by paying such Affordability In-Lieu Fee within thirty (30) days following the earliest discretionary approval by the City for OWNER's Project, including, but not limited to, any general plan amendment, specific plan adoption, development agreement, tentative map approval, variance, conditional use permit, or resolution of intention to form any public financing mechanism. The Two Dollars and Thirty-four Cents (\$2.34) and the Two Dollars and Five Cents (\$2.05) per square foot amounts shall automatically be increased annually, commencing on July 1, 2016, and automatically each July 1 thereafter. Such adjustment shall be based on the percentage increase (but no decrease) in the Consumer Price Index (Los Angeles-Anaheim-Riverside County), 1950-2001 (1982-84=100) over the preceding year. The pre-paid Affordability In-Lieu Fee shall be calculated based on the maximum floor area ratio (FAR) permitted within the General Plan and any applicable FAR contained within the applicable specific plan, whichever is greater, and the Maximum Development Density. For purposes of this Agreement, "**Maximum Development Density**" shall be determined by multiplying the OWNER's Project's density for residential development potential as set forth in the General Plan or the applicable Specific Plan, whichever is less, by the net acreage of land within OWNER's Project. All "Affordability In-Lieu Fees" collected by the City shall be used to promote the construction of affordable housing within the City.

4.4.2.4 Affordability Covenants. Prior to the issuance of the first building permit for any affordable unit, the City and OWNER shall enter into an Affordable Housing Agreement. Affordability shall be assured for a period of forty five (45) years for for-sale units and fifty five (55) years for rentals. For rental units, base rents shall be established by the City and rental adjustments required by the City shall be performed on an annual basis. In addition, the Affordable Housing Agreement shall impose maximum occupancy limits of 2 occupants per bedroom plus 1 additional occupant per dwelling unit, and a requirement for the owner or tenant to properly maintain each dwelling unit.

4.4.2.5 Transfer of Affordable Project. No transfer of title to any affordable housing project shall occur without the prior written consent of the City. In the event OWNER transfers title to any affordable housing project required to be constructed pursuant to this Agreement to a non-profit entity, or other entity, that receives an exemption from ad valorem real property taxes, the

City shall be required to assure payment of an annual in lieu fee to the City on July 1 of each year equal to one-tenth of one percent (0.1%) of the assessed value of such project. The City may permit OWNER to satisfy this obligation by recorded covenants against the property and enforceable against said entity by the City. Any such covenants shall be approved by the Planning Director and the City Attorney.

4.5 Schools Obligations.

4.5.1 Written Evidence of Compliance with Schools Obligations.

OWNER shall, either through joint or individual agreements between OWNER and the applicable school district(s), shall satisfy its new school obligations. The new school obligations for the Mountain View School District in the Ontario Ranch area have been projected to include the acquisition or dedication of school sites for, and construction of, up to eight (8) schools. Of these eight (8) schools, six (6) are to be elementary (K-5) grade schools and two (2) are to be middle grade schools. The new school obligations for the Chaffey Joint Union High School District in the Ontario Ranch area have been projected to include the dedication of a school site for, and construction of, an additional high school. The new school obligations for the applicable school district shall be met by a combination of the following: (1) designating and dedicating school site(s) within the Property as set forth in the General Plan, and/or (2) paying school impact fees, (3) entering into a joint mitigation agreement or individual mitigation agreements, or (4) any combination of the foregoing. Written evidence of approval by the applicable school district that OWNER has met their school obligations may be required by the City as the condition to the issuance by the City of any entitlements for OWNER's Project. In the event OWNER is unable to provide such written evidence from the applicable school district(s), the City shall have the right to decline to honor any DIF Credit, Certificates of MDD Availability, Certificates of Storm Water Treatment Capacity Availability, or any combination thereof, presented by such OWNER, without liability to the City. To the extent that a joint mitigation agreement is approved by the applicable school district(s), and OWNER is a participant in good standing in such mitigation agreement, OWNER shall be deemed to have mitigated its new school obligations under this Section 4.4.1.

4.6 Public Services Funding Fee.

4.6.1 Requirement for Payment of Public Services Funding Fee. In order to ensure that the adequate provision of public services, including without limitation, police, fire and other public safety services, are available to the residents of each Project in a timely manner, OWNER shall pay to CITY a "Public Services Funding Fee." The Public Services Funding Fee shall apply to residential and non-residential uses as set forth below.

4.6.2 Public Services Funding Fee Amount. OWNER shall pay a Public Services Funding fee in the total amount of One Thousand Eight Hundred

Seventy Three Dollars (\$1,873.00) per residential dwelling unit. The Public Services Funding Fee shall be paid in one (1) installment within one hundred eighty (180) calendar days after the effective date of the Development Agreement or in two (2) installments, at OWNER's option, as follows:

4.6.2.1 First Installment (Residential uses). The First Installment of the Public Services Funding Fee shall be Nine Hundred Thirty Six dollars and fifty cents (\$936.50) per residential dwelling unit. The First Installment shall be based upon the "Maximum Development Density" of the OWNER Project, as defined in Section 3.7.2.3 of the First Amended and Restated Construction Agreement. The First Installment shall be due and payable at either 30 days following CITY's start of construction of Fire Station No. 9 or paid at the time of the issuance of each building permit for the Project.

If the First installment amount is not paid for all residential dwelling units within the Project (based on the Maximum Development Density, or the number of units described on "B Maps" if approved) by January 1, 2017, the amount of the First Installment shall be increased. Such increase shall be based on the percentage increase (but no decrease) in the Consumer Price Index (Los Angeles-Anaheim-Riverside County), 1950-2001 (1982-84=100) over the preceding year. Additionally, the amount shall be further increased automatically by the percentage increase in the Consumer Price Index (Los Angeles-Anaheim-Riverside) on each January 1 thereafter.

4.6.2.2 Second Installment (Residential Uses). The Second Installment of the Public Services Funding Fee shall be Nine Hundred Thirty Six dollars and fifty cents (\$936.50) per residential unit. The Second Installment shall be paid at the time of the issuance of each building permit for the Project. The amount of the Second Installment shall increase automatically by percentage increase (but no decrease) in the Consumer Price Index (Los Angeles-Anaheim-Riverside County), 1950-2001 (1982-84=100) over the preceding year on January 1st of each year, beginning on January 1, 2017. OWNER may exercise the option to pay the Second Installment amount for all residential units, a portion of the residential units, or for the remainder of the residential units within OWNER's Project on or before each December 31st, before the Second Installment amount is automatically increased.

4.6.2.3 Single Installment (Non-residential Uses). A single installment payment of the Public Services Funding Fee shall be required in the amount of Fifty Six Cents (\$.56) per square foot of non-residential buildings. The single installment for non-residential uses shall be due and payable prior to the issuance of the building permit for a non-residential building. The amount of the Single Installment for non-residential uses shall automatically increase by percentage increase (but no decrease) in the Consumer Price Index (Los Angeles-Anaheim-Riverside County), 1950-2001 (1982-84=100) over the preceding year on January 1st of each year, beginning on January 1, 2017. OWNER may exercise the option to pay

any single installment amounts for the remainder of the non-residential square footage within the Project on or before December 31st, before the Single Installment amount is automatically increased.

4.7 Net MDD/Water Availability Equivalents.

4.7.1 Assigned Net MDD/Water Availability Equivalents. The CITY has agreed with NMC Builders LLC to reserve exclusively for Members of NMC Builders, including OWNER, Net MDD made available through the construction of water system improvements funded by NMC Builders LLC. NMC Builders has assigned to OWNER its allocable share of the Net MDD issued by CITY. The provisions of the Construction Agreement Amendment requires that the City shall not issue building permits or certificates of occupancy for the area of development within the Ontario Ranch served by the water system improvements funded by NMC Builders LLC, except to the bearer of an Assignment of Net MDD Water Availability.

4.7.2 Use of Assigned Net MDD Water Availability. OWNER shall provide evidence of sufficient Net MDD Water Availability Equivalents (or portions thereof) prior to and as a condition precedent to, CITY's approval of the final Tract Map for Tract No. 19907. The amount of Net MDD Water Availability Equivalents required shall be based upon water demand factors and assumptions listed in Exhibit C-2R of the Construction Agreement Amendment as "Water Demand Equivalents by Land Use" for each land use category.

4.7.3 Requirement for other Water System Improvements. A Certificate of Net MDD Availability is evidence only of available water capacity and does not satisfy any other conditions applicable to an OWNER's Project, including those relating to design and construction of master-planned potable water and recycled water transmission and distribution system for the respective pressure zone and other public infrastructure requirements.

4.8 Storm Water Capacity Availability.

4.8.1 Requirement for Storm Water Treatment Capacity Availability. OWNER shall provide evidence of sufficient Storm Water Treatment Capacity Availability as reserved in a Certificate of Storm Water Treatment Capacity Availability the same manner and subject to the same limitations as provided for the assignment of Certificates of Net MDD Availability in Section 4.6 of this Agreement.

4.8.1.1 Temporary Deferral of Requirement for Storm Water Treatment Capacity Availability. At this time, the regional storm water treatment facilities constructed by NMC Builders do not meet the requirements of the NPDES permit for the Property. Therefore, the CITY and NMC Builders have agreed that the provisions of Section 3.8 of the Construction Agreement have been temporarily suspended for an interim period and the requirements for evidence of Storm Water Treatment

Capacity shall not apply to the Property, if OWNER's application for a tentative subdivision map is approved during this interim period of the suspension. If it is later determined that the regional storm water treatment facilities constructed by NMC Builders may be utilized to meet the requirements of the NPDES permit for the Property and OWNER elects to utilize the regional storm water treatment facilities to meet the requirements of the NPDES permit then the requirements of Section 3.8 of the Construction Agreement shall be applicable to the Property and OWNER shall be required to provide evidence of sufficient Storm Water Treatment Capacity Availability for the total Net Residential Acreage.

4.8.2 Use of Storm Water Treatment Capacity Availability. The amount of Storm Water Treatment Capacity Availability required for the issuance of a grading permit to OWNER shall be based upon the Net Residential Acreage of the area to be graded regardless of the corresponding use.

4.8.3 Requirement for other Storm Water Improvements. The Certificate of Storm Water Treatment Capacity Availability is evidence only of available storm water treatment capacity and does not satisfy any other conditions applicable to a particular development project, including those relating to on-site water treatment, water quality, connection to the storm water collection system, or other public infrastructure requirements.

4.9 Maintenance of Open Space. OWNER shall provide for the ongoing maintenance of all park and open space areas within the Project as more particularly set forth in the Specific Plan, through a homeowners' association as approved by the CITY. Covenants, conditions and restrictions establishing any homeowners' association shall be approved by the Planning Director and City Attorney.

4.10 Edison Easement Improvements. OWNER shall develop as open space that area within the Project owned in fee by Southern California Edison or in which Southern California Edison has an easement or license, as more particularly set forth in the Specific Plan. Notwithstanding OWNER's development of open space areas as required by Sections 4.2.3. and 4.2.3.2 OWNER shall not be entitled to any credit, offset or reimbursement from the CITY for such open space development.

4.11 Compliance with Public Benefits Requirements.

4.11.1 Failure to Provide Public Benefits. In the event OWNER fails or refuses to comply with any condition referenced in Section 4.1 through 4.9, or challenges (whether administratively or through legal proceedings) the imposition of such conditions, OWNER shall be deemed in default of this Agreement pursuant to Section 8 hereof, thereby entitling the CITY to any and all remedies available to it, including, without limitation, the right of the CITY to withhold OWNER's Project-related building permits, certificates of occupancy, or discretionary approvals, without liability.

5. FINANCING OF PUBLIC IMPROVEMENTS.

5.1 Financing Mechanism(s). In accordance with the Memorandum of Agreement between CITY and NMC Builders LLC, CITY will cooperate with OWNER in the formation of a CFD, or CFDs, to include all of the Project, to provide a financing mechanism to reimburse the OWNER for funds paid to NMC Builders LLC for OWNER's share of the costs of public infrastructure pursuant to the Construction Agreement and to acquire other public facilities constructed by OWNER subject to the provisions of the Memorandum of Agreement between CITY and NMC Builders LLC. Notwithstanding such reimbursements and acquisitions, OWNER shall remain entitled to DIF Credits as provided for in Article 3 of the Construction Agreement and/or as provided for in a separate Fee Credit Agreement between CITY and OWNER. OWNER agrees that, prior to the recordation of any Tract Map for the Property, the Property shall be included in a CFD to finance City services through annual special taxes that will initially be \$1,442.00 per Single Family Detached Dwelling Unit, \$1,250.00 per Multiple-Family Dwelling Unit, \$1,048.00 per Gated Apartment Community Dwelling Unit, and \$.27 per square foot for Non-Residential buildings. These amounts shall be subject to an automatic increase at a rate not to exceed four (4%) percent per year. CITY shall be the sole and exclusive lead agency in the formation of any CFD, assessment district or other public financing mechanism within the Property; provided however, that the proceeds of any such CFD, assessment district, or financing mechanism may be used, subject to restrictions that may be imposed by applicable law, for the purposes of acquiring, constructing or maintaining public facilities to be owned or operated by other public agencies, including, without limitation those facilities owned or operated by a school district. In addition to the rights of the CITY pursuant to section 5.2 hereof, CITY shall have the right, but not the obligation, to condition the formation of any CFD, assessment district or other public financing mechanism within the Property on the OWNER mitigating all Project-related impacts to the applicable school district(s) as required by such school district(s). Written evidence by such school district(s) may be required by the CITY as the condition to the formation of any CFD, assessment district or other public financing mechanism within the Property, or any steps preliminary thereto, including, without limitation, the adoption of any resolution of intention to form such CFD, assessment district or other public financing mechanism within the Property. It is not the intent of the parties hereto, by this provision, to prohibit or otherwise limit the City's ability to take any and all necessary steps requisite to the formation of the CFD to finance City services through annual special taxes as set forth in this Section 5.1. Formation of any CFD, assessment district or other public financing mechanism within the Property, shall be subject to CITY's ability to make all findings required by applicable law and complying with all applicable legal procedures and requirements including, without limitation, CITY's public financing district policies as such policies may be amended from time to time. Notwithstanding the foregoing, it is acknowledged and agreed by the parties that nothing contained in this Agreement shall be construed as requiring CITY or the City Council to form any such district or to issue and sell bonds.

6. REVIEW FOR COMPLIANCE.

6.1 Periodic and Special Reviews.

6.1.1 Time for and Initiation of Periodic Review. The CITY shall review this Agreement every twelve (12) months from the Effective Date in order to ascertain the good faith compliance by the OWNER with the terms of this Agreement. The OWNER shall submit an Annual Monitoring Report to CITY, in a form acceptable to the City Manager, along with any applicable processing charge within ten (10) days after each anniversary date of the Effective Date of this Agreement. Within fifteen (15) days after the receipt of the Annual Monitoring Report, CITY shall review the Annual Monitoring Report. Prior to the expiration of the fifteen (15) day review period, CITY shall either issue a notice of continuing compliance or a notice of non-compliance and a notice of CITY's intent to conduct a Special Review pursuant to Sections 6.1.2 through 6.1.6. Issuance of a notice of continuing compliance may be issued by the City Manager or his designee.

6.1.2 Initiation of Special Review. A special review may be called either by agreement between the parties or by initiation in one or more of the following ways:

- (1) Recommendation of the Planning staff;
- (2) Affirmative vote of at least four (4) members of the Planning Commission; or
- (3) Affirmative vote of at least three (3) members of the City Council.

6.1.3 Notice of Special Review. The City Manager shall begin the special review proceeding by giving notice that the CITY intends to undertake a special review of this Agreement to the OWNER. Such notice shall be given at least ten (10) days in advance of the time at which the matter will be considered by the Planning Commission.

6.1.4 Public Hearing. The Planning Commission shall conduct a hearing at which the OWNER must demonstrate good faith compliance with the terms of this Agreement. The burden of proof on this issue is upon the OWNER.

6.1.5 Findings Upon Public Hearing. The Planning Commission shall determine upon the basis of substantial evidence whether or not the OWNER has, for the period under review, complied in good faith with the terms and conditions of this Agreement.

6.1.6 Procedure Upon Findings.

(a) If the Planning Commission finds and determines on the basis of substantial evidence that the OWNER has complied in good faith with the terms and conditions of this Agreement during the period under review, the review for that period is concluded.

(b) If the Planning Commission finds and determines on the basis of substantial evidence that the OWNER has not complied in good faith with the terms and conditions of this Agreement during the period under review, the Planning Commission may recommend to the City Council to modify or terminate this Agreement.

(c) The OWNER may appeal a determination pursuant to paragraph (b) to the City Council in accordance with the CITY's rule for consideration of appeals in zoning matters generally.

6.2 Proceedings Upon Modification or Termination. If, upon a finding under Section 6.1.6(b), the CITY determines to proceed with modification or termination of this Agreement, the CITY shall give notice to the property OWNER of its intention so to do. The notice shall contain:

(a) The time and place of the hearing;

(b) A statement as to whether or not the CITY proposes to terminate or to modify this Agreement; and

(c) Other information that the CITY considers necessary to inform the OWNER of the nature of the proceeding.

6.3 Hearing on Modification or Termination. At the time and place set for the hearing on modification or termination, the OWNER shall be given an opportunity to be heard. The OWNER shall be required to demonstrate good faith compliance with the terms and conditions of this Agreement. The burden of proof on this issue shall be on the OWNER. If the City Council finds, based upon substantial evidence in the administrative record, that the OWNER has not complied in good faith with the terms and conditions of the agreement, the City Council may terminate or modify this Agreement and impose those conditions to the action it takes as it considers necessary to protect the interests of the CITY. The decision of the City Council shall be final, subject only to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

6.4 Certificate of Agreement Compliance. If, at the conclusion of a Periodic or Special Review, OWNER is found to be in compliance with this Agreement, CITY shall, upon written request by OWNER, issue a Certificate of Agreement Compliance ("Certificate") to OWNER stating that after the most recent Periodic or Special Review and based upon the information known or made known to the Planning Director and City Council that (1) this Agreement remains in effect and (2) OWNER is not in default. The Certificate shall be in recordable form, shall contain information necessary to communicate constructive record notice of the finding of compliance, shall state whether the Certificate is issued after a Periodic or Special Review and shall state the anticipated date of commencement of the next Periodic Review. OWNER may record the Certificate with the County Recorder. Whether or not the Certificate is relied upon by assignees or other transferees or OWNER, CITY shall not be bound by a Certificate

if a default existed at the time of the Periodic or Special Review, but was concealed from or otherwise not known to the Planning Director or City Council.

7. [RESERVED]

8. DEFAULT AND REMEDIES.

8.1 Remedies in General. It is acknowledged by the parties that CITY would not have entered into this Agreement if it were to be liable in damages under this Agreement, or with respect to this Agreement or the application thereof.

In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement, except that CITY shall not be liable in damages to OWNER, or to any successor in interest of OWNER, or to any other person, and OWNER covenants not to sue for damages or claim any damages:

(a) For any breach of this Agreement or for any cause of action which arises out of this Agreement; or

(b) For the taking, impairment or restriction of any right or interest conveyed or provided under or pursuant to this Agreement; or

(c) Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

8.2 Specific Performance. The parties acknowledge that money damages and remedies at law generally are inadequate and specific performance and other non-monetary relief are particularly appropriate remedies for the enforcement of this Agreement and should be available to all parties for the following reasons:

(a) Money damages are unavailable against CITY as provided in Section 8.1 above.

(b) Due to the size, nature and scope of the project, it may not be practical or possible to restore the Property to its natural condition once implementation of this Agreement has begun. After such implementation, OWNER may be foreclosed from other choices it may have had to utilize the Property or portions thereof. OWNER has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing even more significant time and resources in implementing the Project in reliance upon the terms of this Agreement, and it is not possible to determine the sum of money which would adequately compensate OWNER for such efforts.

8.3 Release. Except for non-damage remedies, including the remedy of specific performance and judicial review as provided for in Section 6.5, OWNER, for itself, its successors and assignees, hereby releases the CITY, its officers, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, including, but not limited

to, any claim or liability, based or asserted, pursuant to Article I, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution, or any other law or ordinance which seeks to impose any other liability or damage, whatsoever, upon the CITY because it entered into this Agreement or because of the terms of this Agreement.

8.4 Termination or Modification of Agreement for Default of OWNER. Subject to the provisions contained in Subsection 6.3 herein, CITY may terminate or modify this Agreement for any failure of OWNER to perform any material duty or obligation of OWNER under this Agreement, or to comply in good faith with the terms of this Agreement (hereinafter referred to as "default"); provided, however, CITY may terminate or modify this Agreement pursuant to this Section only after providing written notice to OWNER of default setting forth the nature of the default and the actions, if any, required by OWNER to cure such default and, where the default can be cured, OWNER has failed to take such actions and cure such default within 60 days after the effective date of such notice or, in the event that such default cannot be cured within such 60 day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such 60 day period and to diligently proceed to complete such actions and cure such default.

8.5 Termination of Agreement for Default of CITY. OWNER may terminate this Agreement only in the event of a default by CITY in the performance of a material term of this Agreement and only after providing written notice to CITY of default setting forth the nature of the default and the actions, if any, required by CITY to cure such default and, where the default can be cured, CITY has failed to take such actions and cure such default within 60 days after the effective date of such notice or, in the event that such default cannot be cured within such 60 day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such 60 day period and to diligently proceed to complete such actions and cure such default.

9. THIRD PARTY LITIGATION.

9.1 General Plan Litigation. CITY has determined that this Agreement is consistent with its Comprehensive General Plan, as such General Plan exists as of the Effective Date ("General Plan"), and that the General Plan meets all requirements of law. OWNER has reviewed the General Plan and concurs with CITY's determination. CITY shall have no liability in damages under this Agreement for any failure of CITY to perform under this Agreement or the inability of OWNER to develop the Property as contemplated by the Development Plan of this Agreement as the result of a judicial determination that on the Effective Date, or at any time thereafter, the General Plan, or portions thereof, are invalid or inadequate or not in compliance with law.

9.2 Third Party Litigation Concerning Agreement. OWNER shall defend, at its expense, including attorneys' fees, indemnify, and hold harmless CITY, its agents, officers and employees from any claim, action or proceeding against CITY, its agents, officers, or employees to attack, set aside, void, or annul the approval of this Agreement or the approval of any permit granted pursuant to this Agreement. CITY shall promptly

notify OWNER of any such claim, action or proceeding, and CITY shall cooperate in the defense. If CITY fails to promptly notify OWNER of any such claim, action or proceeding, or if CITY fails to cooperate in the defense, OWNER shall not thereafter be responsible to defend, indemnify, or hold harmless CITY. CITY may in its discretion participate in the defense of any such claim, action or proceeding.

9.3 Indemnity. In addition to the provisions of 9.2 above, OWNER shall indemnify and hold CITY, its officers, agents, employees and independent contractors free and harmless from any liability whatsoever, based or asserted upon any act or omission of OWNER, its officers, agents, employees, subcontractors and independent contractors, for property damage, bodily injury, or death (OWNER's employees included) or any other element of damage of any kind or nature, relating to or in any way connected with or arising from the activities contemplated hereunder, including, but not limited to, the study, design, engineering, construction, completion, failure and conveyance of the public improvements, save and except claims for damages arising through the sole active negligence or sole willful misconduct of CITY. OWNER shall defend, at its expense, including attorneys' fees, CITY, its officers, agents, employees and independent contractors in any legal action based upon such alleged acts or omissions. CITY may in its discretion participate in the defense of any such legal action.

9.4 Environment Assurances. OWNER shall indemnify and hold CITY, its officers, agents, and employees free and harmless from any liability, based or asserted, upon any act or omission of OWNER, its officers, agents, employees, subcontractors, predecessors in interest, successors, assigns and independent contractors for any violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene or to environmental conditions on, under or about the Property, including, but not limited to, soil and groundwater conditions, and OWNER shall defend, at its expense, including attorneys' fees, CITY, its officers, agents and employees in any action based or asserted upon any such alleged act or omission. CITY may in its discretion participate in the defense of any such action.

9.5 Reservation of Rights. With respect to Sections 9.2, 9.3 and 9.4 herein, CITY reserves the right to either (1) approve the attorney(s) which OWNER selects, hires or otherwise engages to defend CITY hereunder, which approval shall not be unreasonably withheld, or (2) conduct its own defense, provided, however, that OWNER shall reimburse CITY forthwith for any and all reasonable expenses incurred for such defense, including attorneys' fees, upon billing and accounting therefor.

9.6 Survival. The provisions of this Sections 9.1 through 9.6, inclusive, shall survive the termination of this Agreement.

10. MORTGAGEE PROTECTION.

The parties hereto agree that this Agreement shall not prevent or limit OWNER, in any manner, at OWNER's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. CITY acknowledges that

the lenders providing such financing may require certain Agreement interpretations and modifications and agrees upon request, from time to time, to meet with OWNER and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. CITY will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement. Any Mortgagee of the Property shall be entitled to the following rights and privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Property made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, which Mortgagee, has submitted a request in writing to the CITY in the manner specified herein for giving notices, shall be entitled to receive written notification from CITY of any default by OWNER in the performance of OWNER's obligations under this Agreement.

(c) If CITY timely receives a request from a Mortgagee requesting a copy of any notice of default given to OWNER under the terms of this Agreement, CITY shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to OWNER. The Mortgagee shall have the right, but not the obligation, to cure the default during the remaining cure period allowed such party under this Agreement.

(d) Any Mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have an obligation or duty under this Agreement to perform any of OWNER's obligations or other affirmative covenants of OWNER hereunder, or to guarantee such performance; provided, however, that to the extent that any covenant to be performed by OWNER is a condition precedent to the performance of a covenant by CITY, the performance thereof shall continue to be a condition precedent to CITY's performance hereunder, and further provided that any sale, transfer or assignment by any Mortgagee in possession shall be subject to the provisions of Section 2.4 of this Agreement.

11. MISCELLANEOUS PROVISIONS.

11.1 Recordation of Agreement. This Agreement and any amendment or cancellation thereof shall be recorded with the San Bernardino County Recorder by the City Clerk within the ten (10) days after the CITY executes this Agreement, as required by Section 65868.5 of the Government Code. If the parties to this Agreement or their successors in interest amend or cancel this Agreement as provided for herein and in Government Code Section 65868, or if the CITY terminates or modifies the agreement as provided for herein and in Government Code Section 65865.1 for failure of the applicant to comply in good faith with the terms or conditions of this Agreement, the City

Clerk shall have notice of such action recorded with the San Bernardino County Recorder.

11.2 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the parties, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

11.3 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement. Notwithstanding the foregoing, the provision of the Public Benefits set forth in Section 4 of this Agreement, including the payment of the fees set forth therein, are essential elements of this Agreement and CITY would not have entered into this Agreement but for such provisions, and therefore in the event such provisions are determined to be invalid, void or unenforceable, this entire Agreement shall be null and void and of no force and effect whatsoever.

11.4 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

11.5 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

11.6 Singular and Plural. As used herein, the singular of any word includes the plural.

11.7 Joint and Several Obligations. Subject to section 2.4, if at any time during the term of this Agreement the Property is owned, in whole or in part, by more than one owner, all obligations of such owners under this Agreement shall be joint and several, and the default of any such owner shall be the default of all such owners. Notwithstanding the foregoing, no owner of a single lot which has been finally subdivided and sold to such owner as a member of the general public or otherwise as an ultimate user shall have any obligation under this Agreement except as provided under Section 4 hereof.

11.8 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

11.9 Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

11.10 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

11.11 Force Majeure. Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond the party's control, (including the party's employment force), government regulations, court actions (such as restraining orders or injunctions), or other causes beyond the party's control. If any such events shall occur, the term of this Agreement and the time for performance by either party of any of its obligations hereunder may be extended by the written agreement of the parties for the period of time that such events prevented such performance, provided that the term of this Agreement shall not be extended under any circumstances for more than five (5) years.

11.12 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

11.13 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. All provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land. Each covenant to do or refrain from doing some act hereunder with regard to development of the Property: (a) is for the benefit of and is a burden upon every portion of the Property; (b) runs with the Property and each portion thereof; and, (c) is binding upon each party and each successor in interest during ownership of the Property or any portion thereof.

11.14 Counterparts. This Agreement may be executed by the parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

11.15 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of San Bernardino, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court.

11.16 Project as a Private Undertaking. It is specifically understood and agreed by and between the parties hereto that the development of the Project is a private development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between CITY and OWNER is that of a government entity regulating the development of private property and the owner of such property.

11.17 Further Actions and Instruments. Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement. The City Manager may delegate his powers and duties under this Agreement to an Assistant City Manager or other management level employee of the CITY.

11.18 Eminent Domain. No provision of this Agreement shall be construed to limit or restrict the exercise by CITY of its power of eminent domain.

11.19 Agent for Service of Process. In the event OWNER is not a resident of the State of California or it is an association, partnership or joint venture without a member, partner or joint venturer resident of the State of California, or it is a foreign corporation, then in any such event, OWNER shall file with the Planning Director, upon its execution of this Agreement, a designation of a natural person residing in the State of California, giving his or her name, residence and business addresses, as its agent for the purpose of service of process in any court action arising out of or based upon this Agreement, and the delivery to such agent of a copy of any process in any such action shall constitute valid service upon OWNER. If for any reason service of such process upon such agent is not feasible, then in such event OWNER may be personally served with such process out of this County and such service shall constitute valid service upon OWNER. OWNER is amenable to the process so served, submits to the jurisdiction of the Court so obtained and waives any and all objections and protests thereto. OWNER for itself, assigns and successors hereby waives the provisions of the Hague Convention (Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters, 20 U.S.T. 361, T.I.A.S. No. 6638).

11.20 Estoppel Certificate. Within thirty (30) business days following a written request by any of the parties, the other party shall execute and deliver to the requesting party a statement certifying that (i) either this Agreement is unmodified and in full force and effect or there have been specified (date and nature) modifications to the Agreement, but it remains in full force and effect as modified; and (ii) either there are no known current uncured defaults under this Agreement or that the responding party

alleges that specified (date and nature) defaults exist. The statement shall also provide any other reasonable information requested. The failure to timely deliver this statement shall constitute a conclusive presumption that this Agreement is in full force and effect without modification except as may be represented by the requesting party and that there are no uncured defaults in the performance of the requesting party, except as may be represented by the requesting party. OWNER shall pay to CITY all costs incurred by CITY in connection with the issuance of estoppel certificates under this Section 11.20 prior to CITY's issuance of such certificates.

11.21 Authority to Execute. The person or persons executing this Agreement on behalf of OWNER warrants and represents that he or she/they have the authority to execute this Agreement on behalf of his or her/their corporation, partnership or business entity and warrants and represents that he or she/they has/have the authority to bind OWNER to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set forth below.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

**SIGNATURE PAGE
TO DEVELOPMENT AGREEMENT**

**BROOKCAL ONTARIO LLC
"OWNER"**

BrookCal Ontario LLC, a California limited liability company

By: _____

Name:

Title: Authorized Representative

Date: _____

"CITY"

CITY OF ONTARIO

By: _____

Al C. Boling
City Manager

Date: _____

ATTEST:

City Clerk, Ontario

APPROVED AS TO FORM:

BEST, BEST & KREIGER LLP

City Attorney

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF STATE)
) ss.
 COUNTY OF SAN BERNARDINO)

On _____, 2016 _____,
 before me, _____,
Date Name And Title Of Officer (e.g. "Jane Doe, Notary Public")

personally appeared _____,
Name of Signer(s)

personally known to me – **OR** – proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

 Signature of Notary Public

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- Individual
- Corporate Officer

Title(s)

Title or Type of Document

- Partner(s) Limited
- General

Number Of Pages

- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other: _____

Date Of Document

Signer is representing:
 Name Of Person(s) Or Entity(ies)

Signer(s) Other Than Named Above

EXHIBIT "A"
TO DEVELOPMENT AGREEMENT

Legal Description of Property

Real property in the City of Ontario, County of San Bernardino, State of California, described as follows:

PARCEL 2 OF CERTIFICATE APPROVING LOT LINE ADJUSTMENT OWNER'S CERTIFICATE NO. LLA-06-08, RECORDED MARCH 15, 2007 AS INSTRUMENT NO. 2007-163169 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

THAT PORTION OF LOT 4 OF THE BONITO RANCHO SUBDIVISION, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 20, PAGE 49, OF MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHWESTERLY LINE OF SAID LOT 4 WITH THE NORTHWESTERLY LINE OF A STRIP OF LAND SEVENTY-FIVE (75) FEET WIDE DESCRIBED IN THE DEED TO SOUTHERN CALIFORNIA EDISON COMPANY, RECORDED MAY 18, 1953 IN BOOK 3169, PAGE 535 OF OFFICIAL RECORDS IN THE OFFICE OF SAID COUNTY RECORDER; THENCE ALONG SAID NORTHWESTERLY LINE OF SAID LOT 4 NORTH 62° 24' 03" EAST, 243.17 FEET TO THE SOUTHERLY LINE OF THE LAND DESCRIBED IN THE GRANT DEED TO BAS VAN DAM AND NELLIE VAN DAM, RECORDED FEBRUARY 16, 1966 IN BOOK 6571, PAGE 977 OF SAID OFFICIAL RECORDS; THENCE ALONG SAID SOUTHERLY LINE SOUTH 89° 56' 41" EAST, 1168.22 FEET TO THE EASTERLY LINE OF SAID LOT 4; THENCE ALONG SAID EASTERLY LINE SOUTH 0° 06' 09" WEST, 797.50 FEET TO THE NORTHERLY LINE OF THE LAND DESCRIBED IN THE GRANT DEED TO RICHLAND ROSEVILLE, LTD., RECORDED JULY 18, 2003 AS INSTRUMENT NO. 2003-0528688 OF SAID OFFICIAL RECORDS; THENCE ALONG SAID NORTHERLY LINE SOUTH 89° 48' 05" WEST, 1513.33 FEET TO THE EASTERLY LINE OF THE LAND DESCRIBED IN THE GRANT DEED TO GEORGE BUCCOLA AND IDA BUCCOLA, RECORDED MAY 5, 1947 IN BOOK 2049, PAGE 151 OF SAID OFFICIAL RECORDS; THENCE ALONG SAID EASTERLY LINE NORTH 2° 11' 57" WEST, 448.49 FEET TO SAID NORTHWESTERLY LINE OF SAID STRIP OF LAND SEVENTY-FIVE (75) FEET WIDE; THENCE ALONG SAID NORTHWESTERLY LINE NORTH 31° 22' 45" EAST, 284.70 FEET TO THE POINT OF BEGINNING.

APN: 0218-321-17-0-000

EXHIBIT "B" TO DEVELOPMENT AGREEMENT

Map showing Property and its location

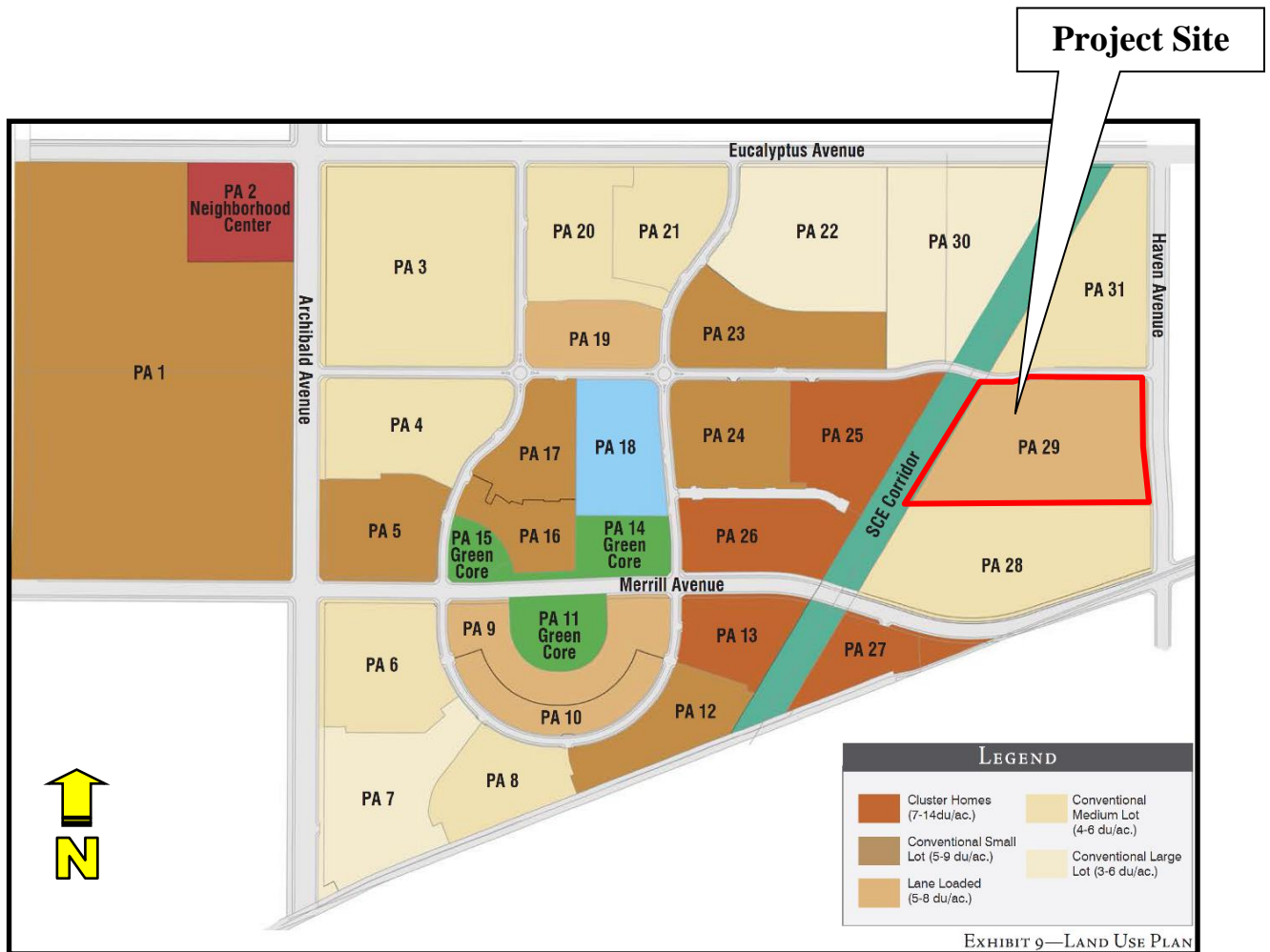


EXHIBIT "C"
TO DEVELOPMENT AGREEMENT

Existing Development Approvals

On September 26, 2006, the Planning Commission:

- a) Issued Resolution No. PC06-095 recommending City Council adopt and certify the Subarea 29 (Park place) Environmental Impact Report;
- b) Issued Resolution No. PC06-096 recommending City Council approval of the General Plan Amendment (PGPA06-003);
- c) Issued Resolution No. PC06-097 recommending City Council approval of the Subarea 29 (Park Place) Specific Plan (PSP03-003); and

On October 19, 2006, the City Council:

- a) Issued Resolution No. 2006-089 certifying the Subarea 29 (Park place) Environmental Impact Report;
- b) Issued Resolution No. 2006-090 approving the General Plan Amendment (PGPA06-003);

On November 7, 2006, the City Council:

- a) Issued Ordinance No. 2845 approving of the Subarea 29 (Park Place) Specific Plan (PSP03-003)

On March 27, 2007, the Planning Commission:

- a) Issued Resolution No. PC07-036 recommending City Council approval of an amendment to the Subarea 29 Specific Plan (PSPA07-007)

On May 1, 2007, the City Council:

- a) Issued Resolution No. 2007-053 approving an amendment to the Subarea 29 Specific Plan

On August 28, 2013 the Zoning Administrator:

- a) Issued Decision No. 2013-025 approving a minor amendment to the Subarea 29 Specific Plan (PSPA13-002)

EXHIBIT "C"
TO DEVELOPMENT AGREEMENT

Existing Development Approvals (Continued)

On March 24, 2015, the Planning Commission:

- b) Issued Resolution No. PC15-035 recommending City Council approval of an amendment to the Subarea 29 Specific Plan (PSPA14-002)

On April 21, 2015 the City Council:

- b) Issued Resolution No. 2015-030 approving an amendment to the Subarea 29 Specific Plan

On April 26, 2016, the Planning Commission:

- a) Issued Resolution No. PC16-*** recommending City Council approval of the Development Agreement (File No. PDA 15-005)
- b) Issued Resolution No. PC16-*** approving Tentative Tract Map 19907 (File No. PMTT14-024)

EXHIBIT "D"
TO DEVELOPMENT AGREEMENT

Existing Land Use Regulations

These documents are listed for reference only:

1. Subarea 29 (Park place) Environmental Impact Report, Resolution No. 2006-089
2. Subarea 29 (Park Place) General Plan Amendment (PGPA06-003), Resolution No. 2006-090
3. Subarea 29 (Park Place) Specific Plan (PSP03-003), Ordinance No. 2845
4. Amendment to the Subarea 29 Specific Plan (PSPA07-003), Resolution No. 2007-053
5. Amendment to the Subarea 29 Specific Plan (PSPA13-002), Decision No. 2013-025
6. Amendment to the Subarea 29 Specific Plan (PSPA14-002), Resolution No. 2015-030
7. Tentative Tract Map No. 19907, Resolution No. PC14-***
8. City of Ontario Municipal Code
 - a. Six – Sanitation & Health
 - b. Seven – Public Works
 - c. Eight – Building Regulations
 - d. Nine – Development Code
 - e. Ten – Parks & Recreation

Exhibit "F"

Required Infrastructure Improvements

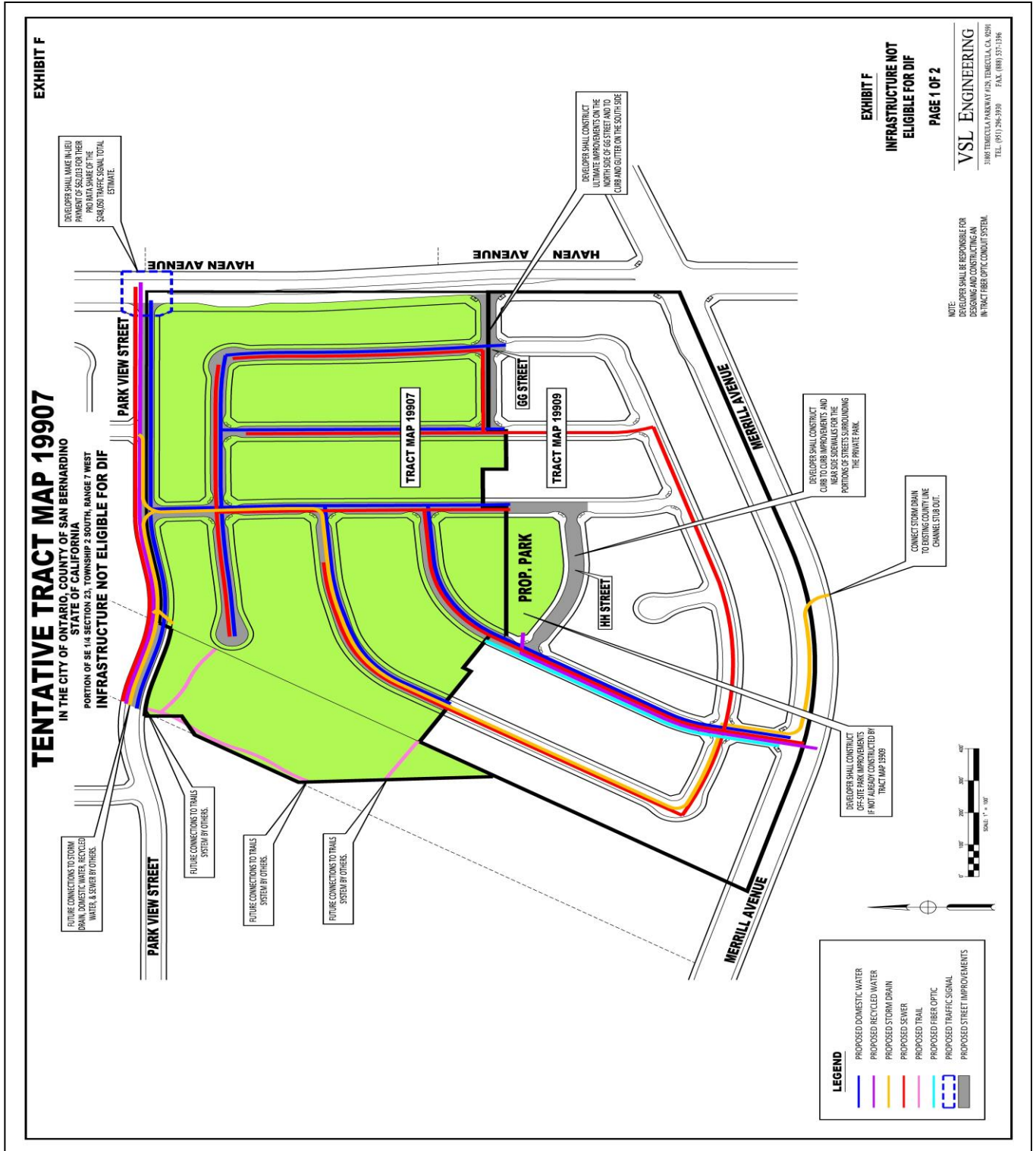
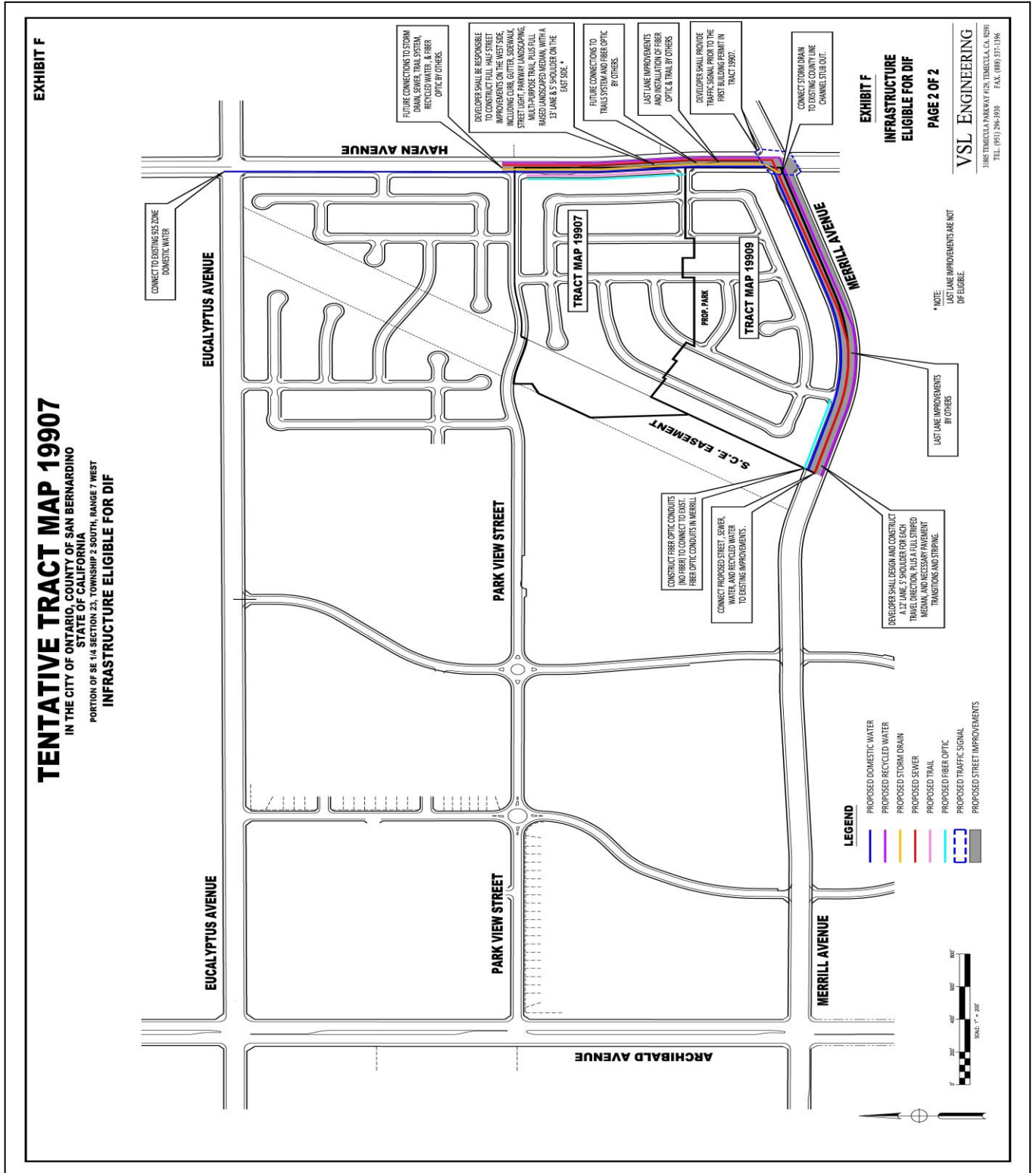


Exhibit "F"

Required Infrastructure Improvements (Continued)





PLANNING COMMISSION STAFF REPORT

April 26, 2016

SUBJECT: A Tentative Tract Map (TT19907) to subdivide 27.09 gross acres into 108 single-family lots and 20 lettered lots within the Conventional Medium Lot Residential District (Planning Area 29) of the Subarea 29 Specific Plan, located at the southwest corner of Haven Avenue and Park View Street. (APN: 0218-321-17); submitted by Brookcal Ontario, LLC.

PROPERTY OWNER: Brookcal Ontario, LLC.

RECOMMENDED ACTION: That the Planning Commission approve File No. PMTT14-024 (TT19907), pursuant to the facts and reasons contained in the staff report and attached resolution(s), and subject to the conditions of approval contained in the attached departmental reports.

PROJECT SETTING: The project site is comprised of 27.09 acres of land located at the southwest corner of Haven Avenue and Parkview Street, within Planning Area 29 (Conventional Medium Lot Residential District) of the Subarea 29 Specific Plan, and is depicted in Figure 1: Project Location. The project site gently slopes from north to south, is vacant, and was previously used for dairy and agricultural uses.

PROJECT ANALYSIS:

[1] Background — In October 2006, the City Council approved the Subarea 29 Specific Plan (File No. PSP03-003) and the Environmental Impact Report (EIR). The Specific Plan established the land use designations, development standards, and design guidelines for approximately 540 gross acres of land, which included the potential development of 2,293 single-family units and 87,000 square feet of commercial.

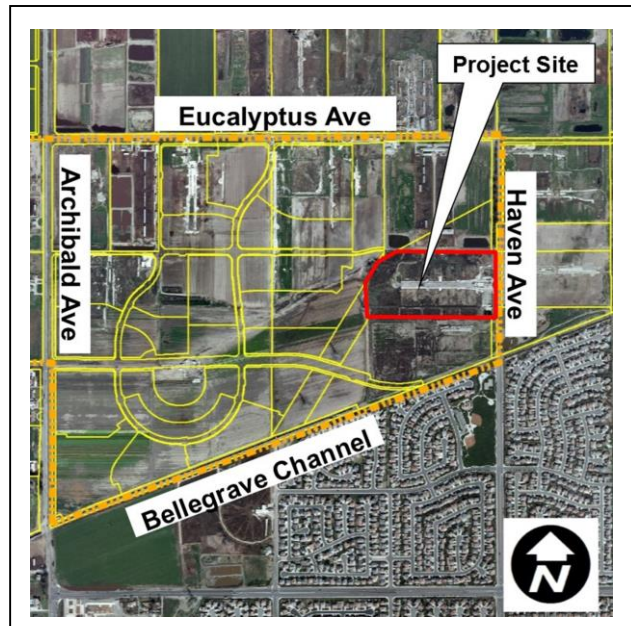
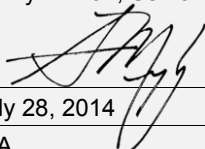


Figure 1: Project Location

Case Planner:	Henry K. Noh, Senior Planner	Hearing Body	Date	Decision	Action
Planning Director Approval:		DAB	4/18/16	Approval	Recommend
Submittal Date:	July 28, 2014	ZA			
Hearing Deadline:	N/A	PC	4/26/16		Final
		CC			

On August 19, 2013, the Planning Commission approved Tentative Tract Map 18913 (referred to as an “A” Map). The approved “A” Map facilitated the backbone infrastructure improvements (major streets, sewer, water and storm drain facilities) and the creation of a school site, two park sites, a recreational center site, and residential neighborhoods within the central portion (Park Place) of the Specific Plan area (**See Figure 2: Subarea 29 Specific Plan Land Use Map**). The proposed Tentative Tract Map will extend the construction of the backbone infrastructure improvements along Parkview Street (east of the SCE Easement to Haven Avenue) and Haven Avenue (along the project street frontage).

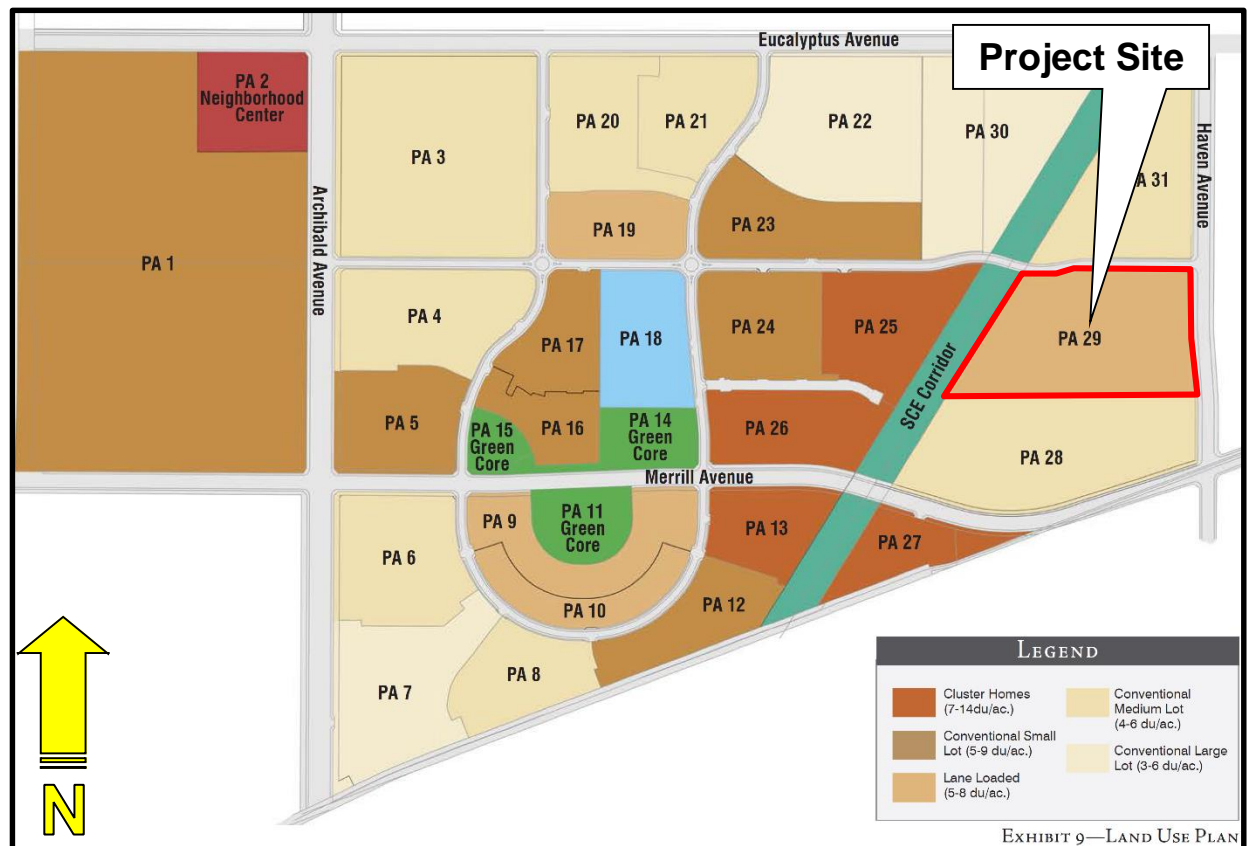


Figure 2: Subarea 29 Specific Plan Land Use Map

[2] Tract Map Subdivision – The proposed Tentative Tract Map will provide additional conventional single-family products that will be developed along the eastern portion of the Subarea 29 Specific Plan as illustrated in (**Exhibit A: Tentative Tract Map 19907**). The 108 single-family lots range in size from 4,931 square feet to 10,915 square feet and have an average lot size of 5,517 square feet. The Subarea 29 Specific Plan requires a minimum lot size of 4,000 square feet for the Conventional Medium Lot Residential land use.

[3] Site Access/Circulation — The previously approved “A” Map facilitated the construction of the backbone streets including the primary access points into the central portion of the Subarea 29 (Park Place) community from Archibald Avenue, Merrill Avenue and Parkview Street. The proposed Tentative Tract Map will facilitate the extension of the street improvements along Parkview Street and frontage improvements Haven Avenue and construct all of the interior neighborhood streets. Primary access into the subdivisions will be from Haven Avenue and Parkview Street. The tract map is consistent with TOP Policy CD2-2 that promotes the importance of neighborhood connectivity through local street patterns, paseos and neighborhood edges as a way to unify neighborhoods.

One of the key elements of projects within the New Model Colony (“NMC”) is pedestrian and vehicular connectivity within the subdivision and to adjoining neighborhoods. The use of a grid system provides multiple options for residents to travel through the subdivision, the specific plan area and the NMC as a whole. Staff routinely uses a model to analyze a project’s connectivity. The model takes into account various links, intersections, and pedestrian paseos to arrive at the connectivity index. The more interconnected streets and fewer cul-de-sac or dead ends, the better connectivity. Using this model, a connectivity index of 1.40 is considered a walkable community. The connectivity analysis for the proposed project results in a value of 1.58.

[4] Open Space — Policy Plan (General Plan) Policy PR1-1 requires new developments to provide a minimum of 2 acres of private park land per 1,000 residents, resulting in a park area requirement of 0.90-acres for the proposed Tentative Tract Map. To satisfy the park requirement, the applicant is proposing a 1.01-acre private park (Lot “A”) that is located within the southern portion of the proposed Tentative Tract Map. In total, Tentative Tract Map 19907 and Tentative Tract Map 19909 (the project to the south) will provide a combined 1.93-acre private park that will be centralized between the two subdivisions and will serve both subdivisions (**See Exhibit B: TT19907 and TT19909 Illustrative Site Plan**). The proposed private park meets the TOP private park requirement and was included in the related Development Agreement (File Nos. PDA15-005). Additionally, the residents of the subdivision will have access to Celebration Park, which was recently completed and is located approximately a quarter mile to the west of the proposed Tentative Tract Map.

The Tentative Tract Map will provide 12-foot parkways that feature sidewalks separated by landscaped parkways, which provides visual interest and promotes pedestrian mobility. Additionally, a paseo connection located within the Tentative Tract Map will provide access to a multi-purpose trail located within the adjacent SCE Easement. A total of 20 lettered lots are proposed for landscape buffers, paseos and a private park.

[5] Parking – The Tentative Tract Map proposes conventional single-family home products with a variety of lot sizes. The conventional single-family homes will have a two-

car garage and a standard two-car driveway, which meets the specific plan and Development Code requirements.

[6] CC&R's — As a Condition of Approval, staff will require that CC&R's be prepared and recorded with the final map. The CC&R's will outline the maintenance responsibilities for the open space areas, recreation amenities, drive aisles, utilities and upkeep of the entire site to ensure the on-going maintenance of the common areas and facilities.

COMPLIANCE WITH THE ONTARIO PLAN: The proposed project is consistent with the principles, goals and policies contained within the Vision, Governance, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan (TOP). More specifically, the goals and policies of TOP that are furthered by the proposed project are as follows:

[1] City Council Priorities

Primary Goal: Regain Local Control of Ontario International Airport

Supporting Goals:

- Invest in the Growth and Evolution of the City's Economy
- Focus Resources in Ontario's Commercial and Residential Neighborhoods
- Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)
- Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony

[2] Policy Plan (General Plan)

Community Economics Element — Place Making

- Goal CE2: A City of distinctive neighborhoods, districts, and corridors, where people choose to be.
 - CE2-1 Development Projects. We require new development and redevelopment to create unique, high-quality places that add value to the community.
 - CE2-2 Development Review. We require those proposing new development and redevelopment to demonstrate how their projects will create appropriately unique, functional and sustainable places that will compete well with their competition within the region.
 - CE2-4 Protection of Investment. We require that new development and redevelopment protect existing investment by providing architecture and urban design of equal or greater quality.

➤ CE2-5 Private Maintenance. We require adequate maintenance, upkeep, and investment in private property because proper maintenance on private property protects property values.

Community Design Element — Image & Identity

▪ Goal CD1: A dynamic, progressive city containing distinct neighborhoods and commercial districts that foster a positive sense of identity and belonging among residents, visitors, and businesses.

➤ CD1-1 City Identity. We take actions that are consistent with the City being a leading urban center in Southern California while recognizing the diverse character of our existing viable neighborhoods.

Community Design Element — Design Quality

▪ Goal CD2: A high level of design quality resulting in public spaces, streetscapes, and developments that are attractive, safe, functional and distinct.

➤ CD2-7 Sustainability. We collaborate with the development community to design and build neighborhoods, streetscapes, sites, outdoor spaces, landscaping and buildings to reduce energy demand through solar orientation, maximum use of natural daylight, passive solar and natural ventilation, building form, mechanical and structural systems, building materials and construction techniques.

➤ CD2-8 Safe Design. We incorporate defensible space design into new and existing developments to ensure the maximum safe travel and visibility on pathways, corridors, and open space and at building entrances and parking areas by avoiding physically and visually isolated spaces, maintenance of visibility and accessibility, and use of lighting.

➤ CD2-9 Landscape Design. We encourage durable landscaping materials and designs that enhance the aesthetics of structures, create and define public and private spaces, and provide shade and environmental benefits.

➤ CD2-11 Entry Statements. We encourage the inclusion of amenities, signage and landscaping at the entry to neighborhoods, commercial centers, mixed use areas, industrial developments, and public places that reinforce them as uniquely identifiable places.

➤ CD2-13 Entitlement Process. We work collaboratively with all stakeholders to ensure a high degree of certainty in the efficient review and timely processing of all development plans and permits.

Community Design — Pedestrian & Transit Environments

- Goal CD3: Vibrant urban environments that are organized around intense buildings, pedestrian and transit areas, public plazas, and linkages between and within developments that are conveniently located, visually appealing and safe during all hours.
 - CD3-2 Connectivity Between Streets, Sidewalks, Walkways and Plazas. We require landscaping and paving be used to optimize visual connectivity between streets, sidewalks, walkways and plazas for pedestrians.
 - CD3-5 Paving. We require sidewalks and road surfaces to be of a type and quality that contributes to the appearance and utility of streets and public spaces.
 - CD3-6 Landscaping. We utilize landscaping to enhance the aesthetics, functionality and sustainability of streetscapes, outdoor spaces and buildings.

Community Design — Protection of Investment

- Goal CD5: A sustained level of maintenance and improvement of properties, buildings and infrastructure that protects the property values and encourages additional public and private investments.
 - CD5-1 Maintenance of Buildings and Property. We require all public and privately owned buildings and property (including trails and easements) to be properly and consistently maintained.
 - CD5-2 Maintenance of Infrastructure. We require the continual maintenance of infrastructure.

HOUSING ELEMENT COMPLIANCE: The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the number of dwelling units (108) and density (4.30 DU/Acre) specified in the Available Land Inventory.

AIRPORT LAND USE COMPATIBILITY PLAN COMPLIANCE: The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and Chino Airport, and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for both airports.

ENVIRONMENTAL REVIEW: The environmental impacts of this project were previously analyzed in an addendum to the Subarea 29 Specific Plan EIR (SCH# 2004011009) that

was adopted by the City Council on April 21, 2015. This application is consistent with the previously adopted addendum and introduces no new significant environmental impacts. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference.

CONDITIONS OF APPROVAL: See attached department reports.

TECHNICAL APPENDIX:

Surrounding Zoning and Land Use:

	<i>Existing Land Use</i>	<i>General Plan Designation</i>	<i>Zoning Designation</i>	<i>Specific Plan Land Use</i>
<i>Site</i>	Vacant Agricultural/Dairy Uses	Low Density Residential	Subarea 29 Specific Plan	Planning Area 29: Conventional Medium Lot or Lane Loaded
<i>North</i>	Vacant Agricultural/Dairy Uses	Low Density Residential	Subarea 29 Specific Plan	Planning Area 31: Conventional Medium Lot
<i>South</i>	Vacant Agricultural/Dairy Uses	Low Density Residential	Subarea 29 Specific Plan	Planning Area 28: Conventional Medium Lot
<i>East</i>	Vacant Agricultural/Dairy Uses	Low Density Residential	Specific Plan (Ag Preserve)	N/A
<i>West</i>	SCE Easement	Open Space – Non Recreation	Subarea 29 Specific Plan	SCE Corridor/Easement

Tentative Tract Map Summary:

<i>Item</i>	<i>TT19907</i>
<i>Total Area Gross (AC)</i>	27.09
<i>Total Area Net (AC)</i>	25.23
<i>Private Park Area (AC)</i>	0.92
<i>Min. Lot Size (Sq. Ft.)</i>	4,931
<i>Max. Lot Size (Sq. Ft.)</i>	10,915
<i>Avg. Lot Size (Sq. Ft.)</i>	5,517
<i>No. of Numbered Lots/Units</i>	108
<i>No. of Lettered Lots</i>	20
<i>Gross Density (du/gross ac)</i>	4.00
<i>Net Density (du/net ac)</i>	4.30

EXHIBIT "A"
Tentative Tract Map 19907

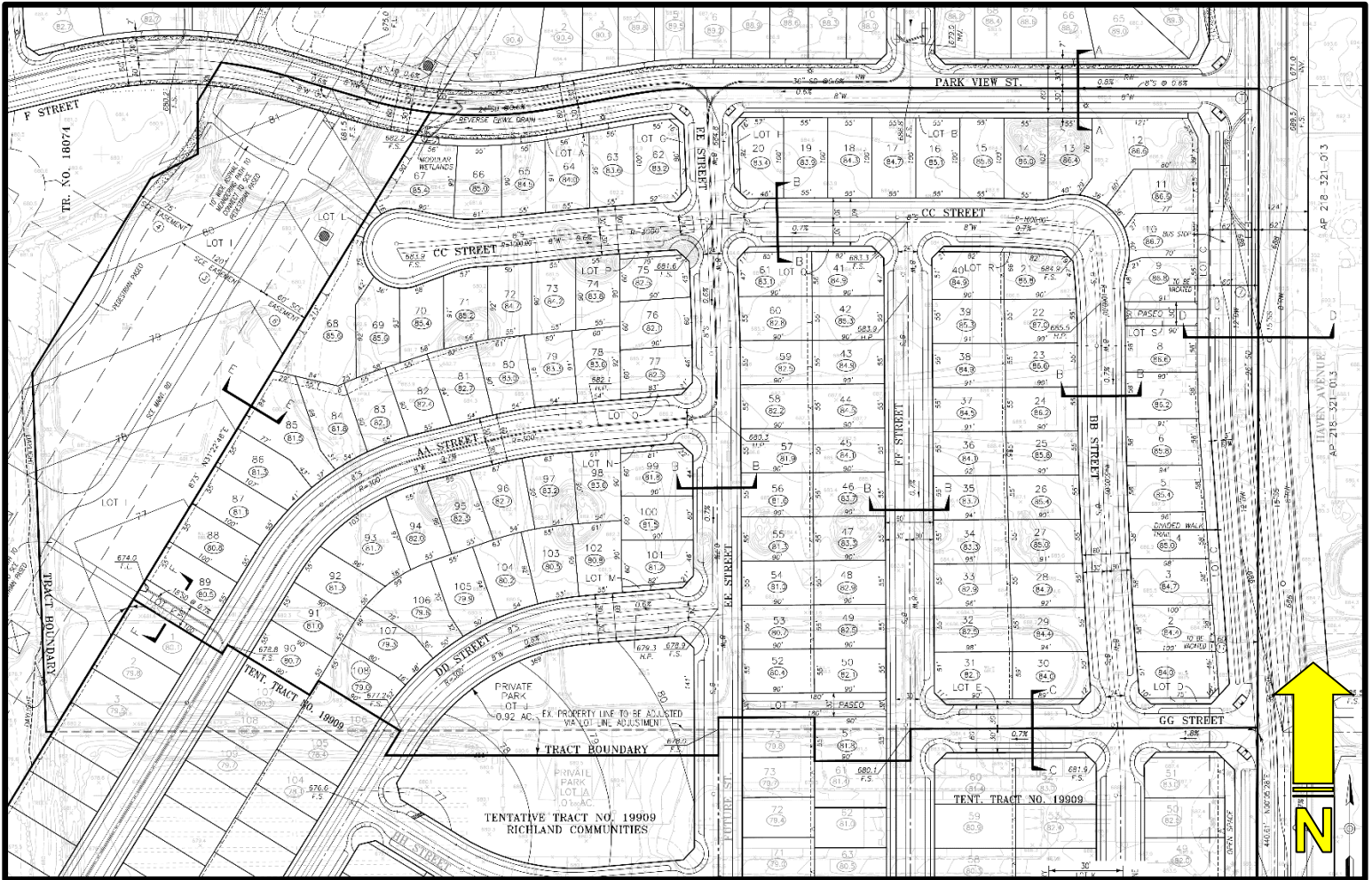
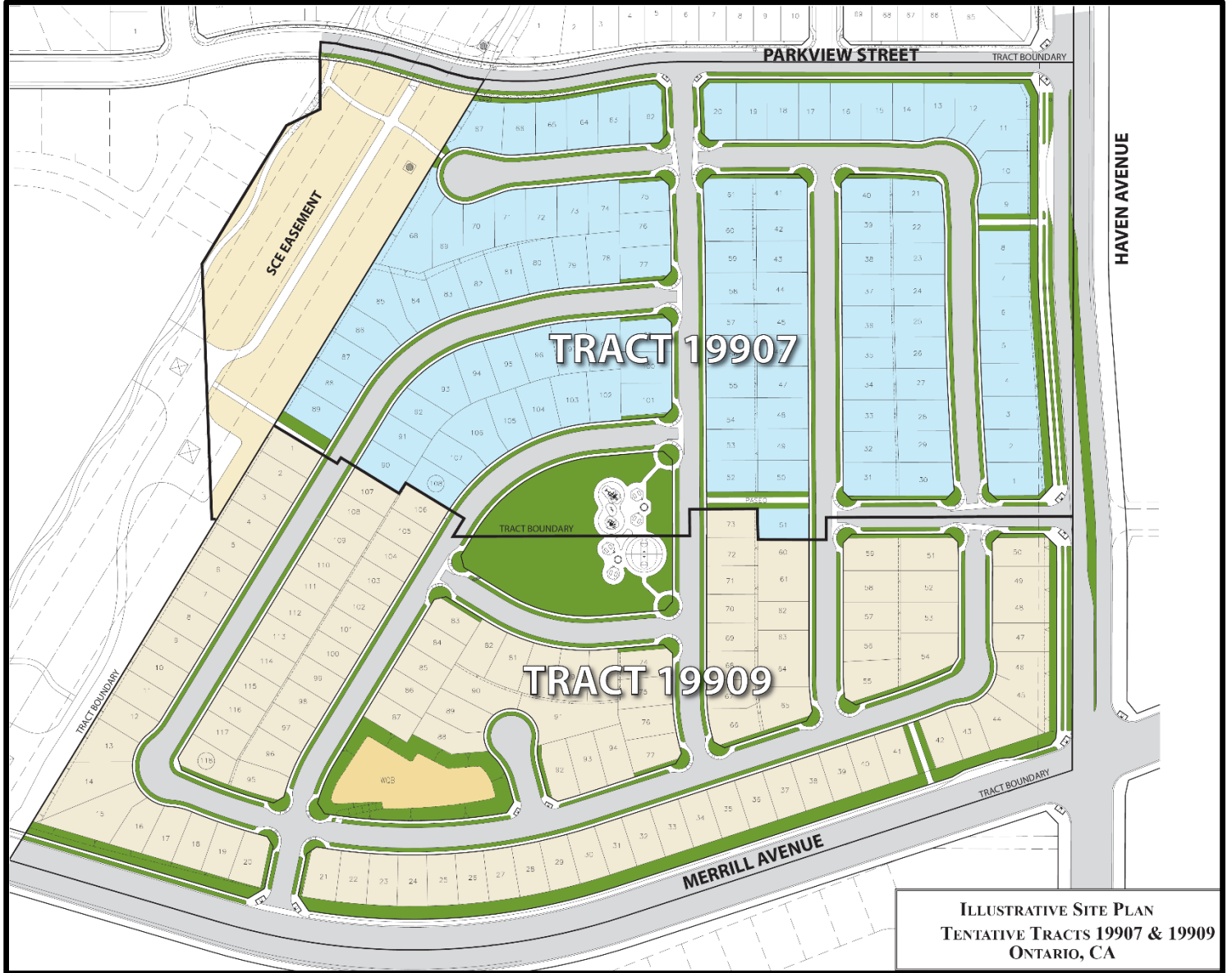


EXHIBIT "B"
TT19907 and TT19909 Illustrative Site Plan



RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PMTT14-024, A TENTATIVE TRACT MAP (TT19907) TO SUBDIVIDE 27.09 GROSS ACRES INTO 108 SINGLE-FAMILY LOTS AND 20 LETTERED LOTS WITHIN THE CONVENTIONAL MEDIUM LOT RESIDENTIAL DISTRICT (PLANNING AREA 29) OF THE SUBAREA 29 SPECIFIC PLAN, LOCATED AT THE SOUTHWEST CORNER OF HAVEN AVENUE AND PARK VIEW STREET, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: 0218-321-17.

WHEREAS, Brookcal Ontario, LLC ("Applicant") has filed an Application for the approval of a Tentative Tract Map, File No. PMTT14-024, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 27.09 acres of land located at the southwest corner of Haven Avenue and Parkview Street within Planning Area 29 (Conventional Medium Lot Residential) of the Subarea 29 Specific Plan and is presently vacant and was previously used for dairy and agricultural uses; and

WHEREAS, the property to the north of the Project site is within Planning Area 31 (Conventional Medium Lot Residential) of the Subarea 29 Specific Plan, and is presently vacant and previously used for dairy and agricultural uses. The property to the east is within the Specific Plan/Ag Overlay zoning district and is presently vacant and previously used for dairy and agricultural uses. The property to the south is within Planning Area 28 (Conventional Medium Lot Residential) of the Subarea 29 Specific Plan and is presently vacant and previously used for dairy and agricultural uses. The property to the west is within the SCE Corridor/Easement of the Subarea 29 Specific Plan and is developed with electrical transmission facilities; and

WHEREAS, the Tentative Tract Map proposed is in compliance with the requirements of the Subarea 29 Specific Plan and is sufficient in size to facilitate and implement the traditional planning concepts for the "Residential Neighborhood" within the Specific Plan; and

WHEREAS, the proposed Tentative Tract Map is located within Planning Area 29 (Conventional Medium Lot) land use district of the Subarea 29 Specific Plan, which establishes a minimum lot size of 4,000 square feet and a development capacity of 108 single-family units; and

WHEREAS, the proposed Tentative Tract Map will subdivide 27.09 acres of land into 108 single-family lots and 20 lettered lots. The residential lots range in size from 4,931 square feet to 10,915 square feet, with an average lot size of 5,517 square feet. The Tentative Tract Map is consistent with the Subarea 29 Specific Plan; and

WHEREAS, TOP Policy PR1-1 requires new developments to provide a minimum of 2 acres of private park land per 1,000 residents, resulting in a park area requirement of 0.90-acres for the proposed Tentative Tract Map. To satisfy the park requirement, the applicant is proposing a 1.01-acre private park (Lot "A") that is located within the southern portion of the proposed Tentative Tract Map. In total, Tentative Tract Map 19907 and Tentative Tract Map 19909 (the project to the south) will provide a combined 1.93-acre private park that will be centralized between the two subdivisions and will serve both. The proposed private park meets the TOP private park requirement and was included in the related Development Agreement (File Nos. PDA15-005). Additionally, the residents of the subdivision will have access to Celebration Park, which was recently completed and is located approximately a quarter mile to the west of the proposed Tentative Tract Map; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"); and

WHEREAS, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the number of dwelling units (108) and density (4.30 DU/Acre) specified in the Available Land Inventory.

WHEREAS, the proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and Chino Airport, and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for both airports; and

WHEREAS, the environmental impacts of this project were previously analyzed in an addendum to the Subarea 29 Specific Plan EIR (SCH# 2004011009) that was adopted by the City Council on April 21, 2015. This application is consistent with the previously adopted addendum and introduces no new significant environmental impacts. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference; and

WHEREAS, the City's "Local Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed; and

WHEREAS, on April 18, 2016, the Development Advisory Board of the City of Ontario conducted a hearing and issued Decision No. DAB16-009 recommending the Planning Commission approve the Application; and

WHEREAS, on April 26, 2016, the Planning Commission of the City of Ontario conducted a hearing to consider the Project and concluded said hearing on that date; and

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

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND RESOLVED by the Planning Commission of the City of Ontario, as follows:

SECTION 1. As the decision-making body for the Project, the Planning Commission has reviewed and considered the information contained in the previously adopted addendum to the Subarea 29 Specific Plan EIR (SCH #2004011009) and supporting documentation. Based upon the facts and information contained in the addendum and supporting documentation, the Planning Commission finds as follows:

a. The previous addendum to the Subarea 29 Specific Plan EIR contains a complete and accurate reporting of the environmental impacts associated with the Project; and

b. The previous addendum to the Subarea 29 Specific Plan EIR was completed in compliance with CEQA and the Guidelines promulgated thereunder; and

c. The previous addendum to the Subarea 29 Specific Plan EIR reflects the independent judgment of the Planning Commission; and

d. All previously adopted mitigation measures, which are applicable to the Project, shall be a condition of Project approval and are incorporated herein by reference.

SECTION 2. Based upon the substantial evidence presented to the Planning Commission during the above-referenced hearing and upon the specific findings set forth in Section 1 above, the Planning Commission hereby concludes as follows:

a. The proposed map is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan, and applicable area and specific plans, and planned unit developments. The subdivision is consistent with The Ontario Plan Policy Plan (General Plan) and the Subarea 29 Specific Plan in that the proposed subdivision and lot sizes comply with the objectives and development standards of the Specific Plan.

b. The design or improvement of the proposed subdivision is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan, and applicable specific plans and planned unit developments. The design or improvement of the subdivision is consistent with all applicable general and specific plans. The Tentative Tract Map meets all minimum size requirements specified within the Conventional Medium Lot (Planning Area 29) land use districts and Development Standards of the Subarea 29 Specific Plan.

c. The site is physically suitable for the type of development proposed. The site is physically suitable for the type of development proposed. The lots that will be created with the Tentative Tract Map subdivision will facilitate the extension of the backbone infrastructure improvements along Parkview Street (east of the SCE Easement to Haven Avenue) and Haven Avenue (along the project street frontage) and the construction of the interior tract streets within Planning Area 29.

d. The site is physically suitable for the proposed density of development. The site is physically suitable for the proposed density of development. The lots that will be created with the Tract Map subdivision meet the development standards of the Subarea 29 Specific Plan – Conventional Medium Lot Homes. The Specific Plan provides for the development of up to 108 residential dwelling units and the density of 5.00 dwelling units per acre. The Tentative Tract Map proposes 108 lots at a density of 4.30 dwelling units per acre.

e. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The design of the subdivision or the proposed improvement is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The environmental impacts of this project were previously reviewed in conjunction with an addendum to the Subarea 29 Specific Plan Environmental Impact Report (SCH#2004011009). This application is consistent with the previously adopted EIR and introduces no new significant environmental impacts.

f. The design of the subdivision or type of improvements are not likely to cause serious public health problems. The design of the subdivision or the proposed improvement is not likely to cause serious public health problems. The environmental impacts of this project were previously reviewed in conjunction with the Subarea 29 Specific Plan Environmental Impact Report (SCH#2004011009). This application is consistent with the previously adopted EIR and introduces no new significant environmental impacts.

g. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. The design of the subdivision will not conflict

with any easement acquired by the public at large, then of record, for access through or use of the property within the proposed subdivision.

SECTION 3. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the Planning Commission hereby APPROVES the herein described Application subject to each and every condition set forth in the Department reports, attached hereto and incorporated herein by this reference.

SECTION 4. 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 this approval. 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.

SECTION 5. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 6. The Secretary shall certify to the adoption of the Resolution.

The Secretary Pro Tempore for the Planning Commission of the City of Ontario shall certify as to the adoption of this Resolution.

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 26th day of April 2016, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

James Downs
Planning Commission Vice-Chairman

ATTEST:

Scott Murphy
Planning Director/Secretary of Planning
Commission

Planning Commission Resolution
File No. PMTT14-024
April 26, 2016
Page 7

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, Marci Callejo, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC16-[insert #] was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on April 26, 2016, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marci Callejo
Secretary Pro Tempore

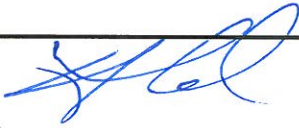


**PLANNING DEPARTMENT
CONDITIONS OF APPROVAL**

File No(s). PMTT14-024

Date: April 18, 2016

Project Description: A Tentative Tract Map (TT 19907) to subdivide 27.09 gross acres of land into 108 single-family lots and 20 lettered lots within the Conventional Medium Lot Residential district of (Planning Area 29) of the Subarea 29 Specific Plan, located at the southwest corner of Haven Avenue and Parkview Street. (APN(s): 0218-321-17); **submitted by Brookcal Ontario, LLC.**

Reviewed by: Henry K. Noh, Senior Planner 
Phone: (909) 395-2429; **Fax:** (909) 395-2420

CONDITIONS OF APPROVAL

The above-described Development Plan application shall comply with the following conditions of approval:

1.0 Standard Conditions of Approval. The project shall comply with the *Standard Conditions for New Development*, adopted by City Council Resolution No. 1020-021, on March 16, 2010. A copy of the *Standard Conditions for New Development* may be obtained from the Planning Department or the City Clerk. Additionally, the project shall comply with the regulations of the Subarea 29 Specific Plan.

2.0 Special Conditions of Approval. In addition to the *Standard Conditions for New Development* identified in condition no. 1.0, above, the project shall comply with the following special conditions of approval:

2.1 Time Limits. Project approval shall become null and void 2 years following the effective date of application approval, unless a building permit is issued and construction is commenced, and diligently pursued toward completion, or a time extension has been approved. This condition does not supersede any individual time limits specified herein, or any other departmental conditions of approval applicable to the Project, for the performance of specific conditions or improvements.

2.2 Subdivision Map. The final tract map or parcel map shall be in conformance with the approved tentative tract map or parcel map on file with the City. Any substantial

variation from the approved tentative tract map or parcel map must be reviewed and approved by the Planning Department.

2.3 All applicable conditions of approval of Development Agreement (File No. PDA15-005) shall apply to this tract.

2.4 All applicable conditions of approval of the Subarea 29 Specific Plan shall apply to this tract.

2.5 Parcelization.

(a) Any future development of this subdivision shall require Development Advisory Board and Planning Commission approval.

2.6 Covenants, Conditions and Restrictions (CC&Rs)/Mutual Access and Maintenance Agreements.

(a) CC&Rs shall be prepared for the Project and shall be recorded prior to the issuance of a building permit.

(b) CC&R's shall include requirements for the home owner's association to be responsible for maintaining any required landscaping and irrigation systems within common areas as well as parkway improvements within the right-of-way of local streets adjacent to residential areas.

(c) CC&Rs shall ensure the maintenance of common area landscape improvements. Private improvements to be maintained by the homeowner's association include:

- (i)** Parkway improvements within the right-of-way of local streets adjacent to residential areas and along private Neighborhood Streets;
- (ii)** All private neighborhood streets and private drive aisles;
- (iii)** On-site private NPDES interim detention basins;
- (iv)** Internal slopes fronting streets and slope areas in the rear of homes;
- (v)** All internal open spaces, walkways, parks, and common areas at neighborhood entries;
- (vi)** Private recreational areas;
- (vii)** Landscaping adjacent to private drive aisle right of way;
- (viii)** Paseos;
- (ix)** All public non-exclusive use landscaped area;
- (x)** Community theme wall and entries;
- (xi)** Entry monuments;
- (xii)** Landscaping and irrigation systems within common areas and parkways.

(d) CC&R's shall include authorization for the City's local law enforcement officers to enforce City and State traffic and penal codes within the project area.

(e) The CC&R'S shall grant the City of Ontario the right of enforcement of the CC&R provisions.

(f) A specific methodology/procedure shall be established within the CC&R's for enforcement of its provisions by the City of Ontario, if adequate maintenance of the development does not occur, such as, but not limited to, provisions that would grant the City the right of access to correct maintenance issues and assess the homeowners association for all costs incurred.

(g) Adequate safeguards shall be incorporated into the CC&R's to guarantee the homeowners association maintains adequate cash reserves for long-term project maintenance (enforcement of the Davis-Sterling Act), such as, but not limited to, requiring that reserve funding studies are performed at regular intervals by the homeowners association and that the association's reserves do not fall below the level initially approved by the State of California Department of Real Estate.

2.7 Disclosure Statements.

(a) A copy of the Public Report from the Department of Real Estate, prepared for the subdivision pursuant to Business and Professions Code Section 11000 et seq., shall be provided to each prospective buyer of the residential units and shall include a statement to the effect that:

(i) This tract is subject to noise from the Ontario International Airport and may be more severely impacted in the future.

(ii) Some of the property adjacent to this tract is zoned for agricultural uses and there could be fly, odor, or related problems due to the proximity of animals.

(iii) The area south of Riverside Drive lies within the San Bernardino County Agricultural Preserve. Dairies currently existing in that area are likely to remain for the foreseeable future.

(iv) This tract is part of a Community Facilities District. The homeowner(s) will be assessed through their property taxes for the continuing maintenance of the district.

(b) 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 Plans (ALUCP) for ONT Airport. The project is located within the Real Estate Transaction Disclosure and in accordance with California Codes: Business and Professions Code Section 11010-11024 new subdivisions within an Airport Influence Area are required to file an application for a

Public Report consisting of a Notice of Intention (NOI) and a completed questionnaire with the Department of Real Estate and include the following language within the NOI:

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

2.8 Environmental Review.

(a) The environmental impacts of this project were previously analyzed in an addendum to the Subarea 29 Specific Plan EIR (SCH #2004011009) that was adopted by the City Council. This application is consistent with the previously adopted EIR and introduces no new significant environmental impacts. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference.

(b) 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.

(c) If human remains are found during project grading/excavation/construction activities, the area shall not be disturbed until any required investigation is completed by the County Coroner and Native American consultation has been completed (if deemed applicable).

(d) If any archeological or paleontological resources are found during project grading/excavation/construction, the area shall not be disturbed until the significance of the resource is determined. If determined to be significant, the resource shall be recovered by a qualified archeologist or paleontologist consistent with current standards and guidelines, or other appropriate measures implemented.

2.9 Additional Fees.

(a) After project's entitlement approval and prior to issuance of final building permits, the Planning Department's Plan Check and Inspection fees shall be paid at the rate established by resolution of the City Council.

(b) Within 5 days following final application approval, the Notice of Determination (NOD), Notice of Exemption (NOE), filing fee shall be provided to the Planning Department. The \$50.00 filing fee shall be paid by check, made payable to the "Clerk of the Board", which will be forwarded to the San Bernardino County Clerk of the Board of Supervisors, along with all applicable environmental forms/notices, pursuant to the requirements of the California Environmental Quality Act (CEQA). Failure to provide said fee within the time specified may result in the 30-day statute of limitations for the filing of a CEQA lawsuit being extended to 180 days.

2.10 Additional Requirements.

(a) Off-Site Subdivision Signs.

The City Council has authorized the Baldy View Chapter of the Building Industry Association to manage a standardized off-site directional sign program on a non-profit basis. The program uses uniform sign structures and individual identification and directional signs for residential development. **No other off-site signing is authorized.** (For additional information, contact the Baldy View Chapter BIA at (909) 945-1884.

(b) The applicant shall contact the Ontario Post Office to determine the size and location of mailboxes for this project. The location of the mailboxes shall be submitted to the Planning Department for review and approval prior to the issuance of building permits.

(c) The applicant (Developer) shall be responsible for providing fiber to each home per City requirements and standards.

(d) Per Development Agreement PDA15-005, the entire Private Park (TT 19907, Lot J and TT 19909, Lot A) shall be fully constructed at the same time. Prior to the issuance of the 54th home certificate of occupancy within TT 19907, the entire Private Park area and the paseo connections/landscape trails (Lots I, K, L, S and T) located within TT 19907 shall be constructed.

(e) Prior to the issuance of grading permits, (Rough or Precise Grading). Mitigation Measures (MM), from the Subarea 29 Specific Plan EIR, pertaining to Grading Activities must be met prior to issuance of grading permits.

(f) Dairy Separation Requirement for Residential Development.

The following separation requirements from existing dairies/feed lots shall apply to new residential development or structures used for public assembly purposes from existing dairies/feed lots.

A minimum 100' separation shall be required between a new residential, commercial or industrial development or structure used for public assembly and an existing animal feed trough, corral/pen or an existing dairy/feed lot including manure stockpiles and related wastewater detention basins. The 100-foot separation requirement may be satisfied by an off-site easement acceptable to the Planning Director with adjacent properties, submitted with the initial final map and recorded prior to or concurrent with the final map.



THIS PROJECT SHALL COMPLY WITH THE REQUIREMENTS SET FORTH IN THE GENERAL STANDARD CONDITIONS OF APPROVAL ADOPTED BY THE CITY COUNCIL (RESOLUTION NO. 2010-021) AND THE PROJECT SPECIFIC CONDITIONS OF APPROVAL SPECIFIED IN HEREIN. ONLY APPLICABLE CONDITIONS OF APPROVAL ARE CHECKED. THE APPLICANT SHALL BE RESPONSIBLE FOR THE COMPLETION OF ALL APPLICABLE CONDITIONS OF APPROVAL PRIOR TO FINAL MAP OR PARCEL MAP APPROVAL, ISSUANCE OF PERMITS AND/OR OCCUPANCY CLEARANCE, AS SPECIFIED IN THIS REPORT.

1. PRIOR TO FINAL MAP OR PARCEL MAP APPROVAL, APPLICANT SHALL: **Check When Complete**

- 1.01 Dedicate to the City of Ontario in fee simple, the right-of-way, described below:
 1. Park View Street to the half ultimate right-of-way width of 30 feet (full ultimate ROW width is 60 ft.) from CL south along tract frontage.
 2. Haven Avenue from right-of-way width of 62 feet towards northerly boundary of tract map tapering to right-of-way width of 33.5 feet towards southerly boundary of tract map (full ultimate ROW width is 124 ft.).
 3. AA, BB, CC, DD, EE and FF streets to the full ultimate right-of-way width of 60 feet.
 4. GG Street to the half ultimate right-of-way width of 30 feet from CL north along tract frontage
 5. Lettered lot C along Haven Ave for "Landscape and Municipal Purposes".
 6. Corner P/L radius (Corner cut-offs) throughout the tract per City Standards and to the satisfaction of the City Engineer.

- 1.02 Dedicate to the City of Ontario, the following easement(s):
 - Maximum easement width of 50 ft. along SCE corridor trail in lot I (SCE Easement area) for maintenance of SCE corridor trail.

- 1.03 Restrict vehicular access to the site as follows:

Access to subdivision shall only be granted at those locations shown in the approved Tentative Map and per latest approved Subarea 29 Specific Plan.

- 1.04 Vacate the following street(s) and/or easement(s):
 1. Easement of 60 ft wide granted to County of San Bernardino for the purpose of Highway or Road and incidental purposes passing across lot 1, 2 and 3 along Haven ave.
 2. 60 feet wide easement granted to Southern California Gas Company along Haven Ave.

- 1.05 Submit a copy of a recorded private reciprocal use agreement or easement. The agreement or easement shall ensure, at a minimum, common ingress and egress and joint maintenance of all common access areas and drive aisles.

- 1.06 Provide (original document) Covenants, Conditions and Restrictions (CC&Rs) as applicable to the project and as approved by the City Attorney and the Engineering and Planning Departments, ready for recordation with the County of San Bernardino. The CC&Rs shall provide for, but not be limited to, common ingress and egress, joint maintenance responsibility for all common access improvements, common facilities, parking areas, utilities, median and landscaping improvements and drive approaches, in addition to maintenance requirements established in the Water Quality Management Plan (WQMP), as applicable to the project. The CC&Rs shall also address the maintenance and repair responsibility for public improvements/utilities (sewer, water, storm drain, recycled water, etc.) located within open space/easements. In the event of any maintenance or repair of these facilities, the City shall only restore disturbed areas to current City Standards.

- 1.07 File an application for Reapportionment of Assessment, together with payment of a reapportionment processing fee, for each existing assessment district listed below. Contact the Management Services Department at (909) 395-2124 regarding this requirement.
 - (1) _____
 - (2) _____



- 1.08 File a Consent and Waiver to Annexation agreement, together with an annexation processing fee, to annex the subject property to a Street Lighting Maintenance Assessment District (SLMD). The agreement and fee shall be submitted a minimum of three (3) months prior to, and the annexation shall be completed, prior to final subdivision map approval or issuance of building permits, whichever occurs first. An annual special assessment shall be levied in the SLMD and will be collected along with annual property taxes. The special assessment will provide funding for costs associated with the annual operation and maintenance of the street lighting facilities and appurtenances that serve the property. Contact Management Services at (909) 395-2124 regarding this requirement.
- 1.09 File an application, together with an initial deposit (if required), to establish a Community Facilities District (CFD) pursuant to the Mello-Roos Community Facilities District Act of 1982. The application and fee shall be submitted a minimum of four (4) months prior to final subdivision map approval, and the CFD shall be established prior to final subdivision map approval or issuance of building permits, whichever occurs first. The CFD shall be established upon the subject property to provide funding for various City services. An annual special tax shall be levied upon each parcel or lot in an amount to be determined. The special tax will be collected along with annual property taxes. The City shall be the sole lead agency in the formation of any CFD. Contact Management Services at (909) 395-2353 to initiate the CFD application process.
- 1.10 New Model Colony (NMC) Developments:
 - 1) Provide evidence of final cancellation of Williamson Act contracts associated with this tract, prior to approval of any final subdivision map. Cancellation of contracts shall have been approved by the City Council.
 - 2) Provide evidence of sufficient storm water capacity availability equivalents (Certificate of Storm Water Treatment Equivalents).
 - 3) Provide evidence of sufficient water availability equivalents (Certificate of Net MDD Availability).
- 1.11 Other conditions:
 1. Lettered lot J (Private Park) shall be owned and maintained by the Home Owner's Association.
 2. Lettered lots A and B along Park View St. shall be landscaped lots, owned and maintained by the Home Owner's Association.
 3. Lettered lot D, E, F, G, H, M, N, O, P, Q and R shall be landscaped lots, owned and maintained by the Home Owner's Association.
 4. Lettered lot I (SCE easements) shall be for open space purpose, owned and maintained by the Home Owner's Association.
 5. Lettered lot K, L, S and T shall be community Portal/Paseo, dedicated to and maintained by the Home Owner's Association.
 6. Prior to recordation of Tract 19907, the applicant/developer shall record the proposed lot line adjustment to change the tract boundary between Tracts 19907 and 19909 (See item no. 2.05 as shown below).

2. PRIOR TO ISSUANCE OF ANY PERMITS, APPLICANT SHALL:

**A. GENERAL
 (Permits includes Grading, Building, Demolition and Encroachment)**

- 2.01 Record Tract Map No. 19907 pursuant to the Subdivision Map Act and in accordance with the City of Ontario Municipal Code. (See item no. 1.11-7 as shown above).
- 2.02 Submit a duplicate photo mylar of the recorded map to the City Engineer's office. Submit electronic copies on .pdf format of all the recorded map.
- 2.03 Note that the subject parcel is a recognized parcel in the City of Ontario per _____



- 2.04 Note that the subject parcel is an 'unrecognized' parcel in the City of Ontario and shall require a Certificate of Compliance to be processed unless a deed is provided confirming the existence of the parcel prior to the date of _____.
- 2.05 Apply for a: Certificate of Compliance with a Record of Survey; **Lot Line Adjustment (See item no. 1.11- 6 as shown above)**
 Make a Dedication of Easement.
- 2.06 Provide (original document) Covenants, Conditions and Restrictions (CC&R's), as applicable to the project, and as approved by the City Attorney and the Engineering and Planning Departments, ready for recordation with the County of San Bernardino. The CC&R's shall provide for, but not be limited to, common ingress and egress, joint maintenance of all common access improvements, common facilities, parking areas, utilities and drive approaches in addition to maintenance requirements established in the Water Quality Management Plan (WQMP), as applicable to the project.
- 2.07 **Submit a soils/geology report.**
- 2.08 Other Agency Permit/Approval: Submit a copy of the approved permit and/or other form of approval of the project from the following agency or agencies:
 - State of California Department of Transportation (Caltrans)
 - San Bernardino County Road Department (SBCRD)
 - San Bernardino County Flood Control District (SBCFCD)
 - Federal Emergency Management Agency (FEMA)
 - Cucamonga Valley Water District (CVWD) for sewer/water service
 - United States Army Corps of Engineers (USACE)
 - California Department of Fish & Game
 - Inland Empire Utilities Agency (IEUA)
 - Other: _____
- 2.09 Dedicate to the City of Ontario the right-of-way described below:
_____ feet on _____
Property line corner 'cut-back' required at the intersection of _____
and _____.
- 2.10 Dedicate to the City of Ontario the following easement(s): _____

- 2.11 **New Model Colony (NMC) Developments:**
 - 1) Submit a copy of the permit from the San Bernardino County Health Department to the Engineering Department and the Ontario Municipal Utilities Company (OMUC) for the destruction/abandonment of the on-site water well. The well shall be destroyed/abandoned in accordance with the San Bernardino County Health Department guidelines.**
 - 2) Make a formal request to the City of Ontario Engineering Department for the proposed temporary use of an existing agricultural water well for purposes other than agriculture, such as grading, dust control, etc. Upon approval, the Applicant shall enter into an agreement with the City of Ontario and pay any applicable fees as set forth by said agreement.**
 - 3) Design proposed retaining walls to retain up to a maximum of three (3) feet of earth. In no case shall a wall exceed an overall height of nine (9) feet (i.e. maximum 6-foot high wall on top of a maximum 3-foot high retaining wall.**



2.12 Submit a security deposit to the Engineering Department to guarantee construction of the public improvements required herein. Security deposit shall be in accordance with the City of Ontario Municipal Code. Security deposit will be eligible for release, in accordance with City procedure, upon completion and acceptance of said public improvements.

2.13 Other conditions: _____

B. PUBLIC IMPROVEMENTS
 (See attached Exhibit 'A' for plan check submittal requirements.)

2.14 Design and construct full public improvements in accordance with the City of Ontario Municipal Code, current City standards and specifications, master plans and Subarea29 specific plan for the area. These public improvements shall include, but not be limited to, the following (checked boxes):

Improvement	Haven Ave	Parkview St	Merrill Ave	Internal Lettered Streets
Curb and Gutter	<input checked="" type="checkbox"/> New; 36 ft. from C/L along project frontage (Westside of Haven Ave) <input type="checkbox"/> Replace damaged <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New; 18 ft. from C/L on both sides <input type="checkbox"/> Replace damaged <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New; ___ ft. from C/L <input type="checkbox"/> Replace damaged <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New; 18 ft. from C/L on both sides (See item no. 2.35-1 & 2.35-2 as shown below) <input type="checkbox"/> Replace damaged <input type="checkbox"/> Remove and replace
AC Pavement	<input type="checkbox"/> Replacement <input checked="" type="checkbox"/> New (See item no. 2.35-9 & 2.35-10 as shown below)	<input type="checkbox"/> Replacement <input checked="" type="checkbox"/> New 18 ft from CL on both sides	<input type="checkbox"/> Replacement <input checked="" type="checkbox"/> New (See item no. 2.35-11 as shown below)	<input type="checkbox"/> Replacement <input checked="" type="checkbox"/> New 18 ft from CL on both sides
PCC Pavement (Truck Route Only)	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing
Drive Approach	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New per Std. Drawing 1205 <input type="checkbox"/> Remove and replace
Sidewalk	<input checked="" type="checkbox"/> New 5 ft along project frontage (Westside of Haven Ave) <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New 5 ft along project frontage (Southside of Park View St) <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New 5ft on both sides (See item no. 2.35-1 & 2.35-2 as shown below) <input type="checkbox"/> Remove and replace
ADA Access Ramp	<input checked="" type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New <input type="checkbox"/> Remove and replace
Parkway	<input checked="" type="checkbox"/> Trees <input checked="" type="checkbox"/> Landscaping (w/irrigation)	<input checked="" type="checkbox"/> Trees <input checked="" type="checkbox"/> Landscaping (w/irrigation)	<input type="checkbox"/> Trees <input type="checkbox"/> Landscaping (w/irrigation)	<input checked="" type="checkbox"/> Trees <input checked="" type="checkbox"/> Landscaping (w/irrigation)



Raised Landscaped Median	<input checked="" type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace
Fire Hydrant	<input checked="" type="checkbox"/> New <input type="checkbox"/> Relocation	<input checked="" type="checkbox"/> New <input type="checkbox"/> Relocation	<input type="checkbox"/> New <input type="checkbox"/> Relocation	<input checked="" type="checkbox"/> New <input type="checkbox"/> Relocation
Sewer (see Sec. 2.C)	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral
Water (see Sec. 2.D)	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Service	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Service	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Service	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Service
Recycled Water (see Sec. 2.E)	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Service	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Service	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Service	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Service
Traffic Signal System (see Sec. 2.F)	<input checked="" type="checkbox"/> New <input type="checkbox"/> Modify existing	<input checked="" type="checkbox"/> New <input type="checkbox"/> Modify existing	<input checked="" type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing
Traffic Signing and Striping (see Sec. 2.F)	<input checked="" type="checkbox"/> New <input type="checkbox"/> Modify existing	<input checked="" type="checkbox"/> New <input type="checkbox"/> Modify existing	<input checked="" type="checkbox"/> New <input type="checkbox"/> Modify existing	<input checked="" type="checkbox"/> New <input type="checkbox"/> Modify existing
Street Light (see Sec. 2.F)	<input checked="" type="checkbox"/> New along project frontage (Westside of Haven Ave) <input type="checkbox"/> Relocation	<input checked="" type="checkbox"/> New along project frontage (Southside of Park View St) <input type="checkbox"/> Relocation	<input type="checkbox"/> New <input type="checkbox"/> Relocation	<input checked="" type="checkbox"/> New (See item no. 2.35-1 & 2.35-2 as shown below) <input type="checkbox"/> Relocation
Bus Stop Pad or Turn-out (see Sec. 2.F)	<input checked="" type="checkbox"/> New (See item no. 2.35-4 as shown below) <input type="checkbox"/> Modify Existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing
Storm Drain (see Sec. 2G)	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral
Overhead Utilities	<input type="checkbox"/> Underground <input checked="" type="checkbox"/> Relocate	<input type="checkbox"/> Underground <input type="checkbox"/> Relocate	<input type="checkbox"/> Underground <input type="checkbox"/> Relocate	<input type="checkbox"/> Underground <input type="checkbox"/> Relocate
Striped Median 14 ft wide	<input type="checkbox"/> New	<input type="checkbox"/> New	<input checked="" type="checkbox"/> New	<input type="checkbox"/> New
Fiber Optic Conduits	<input type="checkbox"/> New	<input type="checkbox"/> New	<input checked="" type="checkbox"/> New	<input checked="" type="checkbox"/> New

Specific notes for improvements listed in item no. 2.15, above: _____



- 2.15 Construct a 0.15' asphalt concrete (AC) grind and overlay on the following street(s): _____
- 2.16 Reconstruct the full pavement structural section based on existing pavement condition and approved street section design. Minimum limits of reconstruction shall be along property frontage, from street centerline to curb/gutter. 'Pothole' verification of existing pavement section required prior to acceptance/approval of street improvement plan.
- 2.17 Make arrangements with the Cucamonga Valley Water District (CVWD) to provide water service sewer service to the site. This property is within the area served by the CVWD and Applicant shall provide documentation to the City verifying that all required CVWD fees have been paid.
- 2.18 Other conditions: _____

C. SEWER

- 2.19 A _____ inch sewer main is available for connection by this project in _____ (Ref: Sewer plan bar code: _____)
- 2.20 Design and construct a sewer main extension. A sewer main is not available for direct connection. The closest main is approximately _____ feet away.
- 2.21 Submit documentation that shows expected peak loading values for modeling the impact of the subject project to the existing sewer system. The project site is within a deficient public sewer system area. Applicant shall be responsible for all costs associated with the preparation of the model. Based on the results of the analysis, Applicant may be required to mitigate the project impact to the deficient public sewer system, including, but not limited to, upgrading of existing sewer main(s), construction of new sewer main(s) or diversion of sewer discharge to another sewer.
- 2.22 **Other conditions:**
 - 1. Design and construct all in-tract sewer mains and laterals.
 - 2. Design and construct the master planned sewer main in Haven Avenue from the northern project boundary to Merrill Avenue.
 - 3. Design and construct the master planned sewer main in Merrill Avenue from Haven Avenue to connect to the existing sewer main (westerly boundary of SCE easement).
 - 4. Design and construct the specific planned sewer main in Park View Street from the Haven Avenue to the westerly boundary of Southern California Edison Easement where necessary based on final design.
 - 5. Acquire right of way, design & construct sewer main along internal streets passing through Tract Map 19909 to connect with sewer main along Merrill Ave.

D. WATER

- 2.23 A _____ inch water main is available for connection by this project in _____ (Ref: Water plan bar code: _____)
- 2.24 Design and construct a water main extension. A water main is not available for direct connection. The closest main is approximately _____ feet away.
- 2.25 Submit documentation that shows expected peak demand water flows for modeling the impact of the subject project to the existing water system. The project site is within a deficient public water system area. Applicant shall be responsible for all costs associated with the preparation of the model. Based on the results of the analysis, Applicant may be required to mitigate the project impacts to the deficient public water system, including, but not limited to upgrading of the existing water main(s) and/or construction of a new main(s).
- 2.26 Design and construct appropriate cross-connection protection for new potable water and fire service connections. Appropriate protection shall be based upon the degree of hazard per Title 17 of the California Code of Regulations. The minimum requirement is the installation of a backflow prevention device per current City standards. All existing potable water and fire services that do not meet the current minimum level of protection shall be upgraded (retrofitted) with the appropriate backflow protection assembly per current City standards.



2.27 Request a water flow test to be conducted, to determine if a water main upgrade is necessary to achieve required fire flow for the project. The application is available on the City website (www.ci.ontario.ca.us) or Applicant can contact the City of Ontario Fire Department at (909) 395-2029 to coordinate scheduling of this test. Applicant shall design and construct a water main upgrade if the water flow test concludes that an upgrade is warranted.

2.28 Other conditions:

1. Design and construct all in-tract water mains and laterals.
2. Two points of connection to the existing 925 Zone domestic water Loop is required.
3. Acquire the right of way, design and construct the master planned water mains in Haven Avenue from Eucalyptus Avenue to Merrill Avenue.
4. Design and construct the master planned water mains in Merrill Avenue from Haven Avenue to connect to the existing water line (westerly boundary of SCE easement).
5. Design and construct the specific planned domestic water main in Park View Street from the Haven Avenue to westerly boundary of Southern California Edison Easement.
6. Acquire right of way, design & construct water main along internal streets passing through Tract Map 19909 to connect with water line along Merrill Ave.

E. RECYCLED WATER

2.29 A _____ inch recycled water main is available for connection by this project in _____.
(Ref: Recycled Water plan bar code:_____)

2.30 Design and construct an on-site recycled water system for this project. A recycled water main does exist in the vicinity of this project.

2.31 Design and construct an on-site recycled water ready system for this project. A recycled water main does not currently exist in the vicinity of this project, but is planned for the near future. Applicant shall be responsible for construction of a connection to the recycled water main for approved uses, when the main becomes available. The cost for connection to the main shall be borne solely by Applicant.

2.32 Submit two (2) hard copies and one (1) electronic copy, in PDF format, of the Engineering Report (ER), for the use of recycled water, to the OMUC for review and subsequent submittal to the California Department of Public Health (CDPH) for final approval.

Note: The OMUC and the CDPH review and approval process will be approximately three (3) months. Contact the Ontario Municipal Utilities Company at (909) 395-2647 regarding this requirement.

2.33 Other conditions:

1. Design and construct the master planned recycled water main in Haven Avenue from the Northern project boundary to Merrill Avenue.
2. Design and construct the master planned recycled water main in Merrill Avenue from Haven Avenue to connect to the existing recycled water line (westerly boundary of SCE easement).
3. Design and construct the specific planned recycled water main in Park View Street from the Haven Avenue to the westerly boundary of Southern California Edison Easement.
4. Acquire right of way, design & construct recycled water along internal streets passing through Tract Map 19909 to connect with recycled water line along Merrill Ave to provide recycled water to Private Park.
5. This development shall comply with and make use of recycled water for landscaping irrigation. Recycled water shall be used at pocket parks, public and HOA neighborhood edges, schools, and parkways/medians.



F. TRAFFIC / TRANSPORTATION

- 2.34 Submit a focused traffic impact study, prepared and signed by a Traffic/Civil Engineer registered in the State of California. The study shall address, but not be limited to, the following issues as required by the City Engineer:
1. On-site and off-site circulation
 2. Traffic level of service (LOS) at 'build-out' and future years
 3. Impact at specific intersections as selected by the City Engineer
- 2.35 Other conditions:
1. Design and construct all internal streets except GG Street to ultimate right of way width of 60 ft. including all ultimate improvements. Ultimate improvements shall include but not be limited to concrete curb and gutter, ac pavement, sidewalk, street lights, signing and striping, parkway landscaping and irrigation.
 2. If, at the time of development of Tract 19907, Tract 19909 has not been constructed, the applicant/developer shall acquire ultimate right of way, design and construct the curb-to-curb improvements on Street GG between Haven Avenue and Street FF as well as ultimate improvements along the project frontage (South side of GG Street). Project frontage improvements shall include but not be limited to concrete curb and gutter, ac pavement, sidewalk, street lights, signing and striping, parkway landscaping and irrigation.
 3. The tract-entry Street GG from Haven Avenue (north of Merrill Avenue) shall be limited to right-turn ingress/egress only.
 4. Design and construct a bus turnout in accordance with Omnitrans Bus Stop Design Guidelines on the west side of Haven Avenue south of Park View Street for southbound traffic. The bus turnout shall be located on the departure side of Park View Street.
 5. If, at the time of development of Tract 19907, Streets BB, DD, and EE have not been constructed south into Tract 19909, the Applicant/Developer shall acquire right of way from Tract 19909 and terminate Street BB, DD and EE as temporary dead end conditions per City of Ontario Standard Drawing No. 1310.
 6. If, at the time of development of Tract 19907, Streets AA, and FF have not been constructed south into Tract 19909, the Applicant/Developer shall acquire right of way from Tract 19909 and terminate Street AA, and FF as a temporary cul-de-sac per City of Ontario Standard Drawing No. 1104.
 7. Acquire ultimate right of way, design and construct the traffic signal at Haven Avenue and Park View St. The new traffic signal shall include, video detection, interconnect cable and conduit, battery back-up, emergency vehicle preemption systems and bicycle detection to the satisfaction of the City Engineer and all new signal equipment shall be installed at its ultimate location or to pay fair-share, in-lieu fee \$62,103 (1/4 share) for the design, construction and contract management of traffic signal system (Construction cost \$205000, Design 10% of Construction cost and contract management 10% of construction cost: total cost of traffic signal \$248050), including, video detection, interconnect cable and battery backup, video detection, and emergency vehicle preemption systems, at Parkview Street and Haven Avenue intersection.
 8. Acquire right of way (ultimate right of way width of 60 ft.), design and construct Parkview Street full width street improvements (curb to curb) from Haven Avenue to westerly boundary of Southern California Edison Easement as well as ultimate improvements along the project frontage (Southside of Parkview Street). Project frontage improvements shall include but not be limited to concrete curb and gutter, ac pavement, sidewalk, street lights, fire hydrant, signing and striping, parkway landscaping and irrigation. All street improvements shall include signing and striping and appropriate pavement transitions as needed to accommodate lane shifts.
 9. Acquire right of way (ultimate right of way width of 124 ft.), design and construct Haven Avenue from the northerly tract boundary to the southerly tract boundary, full half-street improvements along project frontage (on the west) and a 14-foot northbound lane plus a 5-foot shoulder and full raised landscaped median. Project frontage improvements shall include but



not be limited to concrete curb and gutter, ac pavement, sidewalk, street lights, fire hydrant, signing and striping, parkway landscaping and irrigation. All street improvements shall include signing and striping and appropriate pavement transitions as needed to accommodate lane shifts.

10. Acquire right of way (ultimate right of way width of 124 ft.), design and construct Haven Avenue from the southerly tract boundary to Merrill Avenue, a 14-foot lane plus a 5-foot shoulder for each travel direction in addition to the full raised landscaped median. All street improvements shall include signing and striping and appropriate pavement transitions as needed to accommodate lane shifts.
11. Acquire right of way (ultimate right of way width of 108 ft.), design and construct a 14 ft. lane plus 5 ft shoulder for each travel direction in addition to the full striped median along Merrill Avenue from the Haven Avenue to the existing Merrill Avenue, westerly boundary of the Southern California Edison easement. All street improvements shall include signing and striping and appropriate pavement transitions as needed to accommodate lane shifts.
12. Acquire right of way (ultimate right of way width of 60 ft.), design and construct full width street improvements (curb to curb) for the portions of street surrounding the private park as well as ultimate improvements along the private park frontage. Private park frontage improvements shall include but not limited to concrete curb and gutter, sidewalk, street lights, signing and striping, parkway landscaping and irrigation.
13. Acquire ultimate right of way, design and construct the traffic signal at Merrill Avenue and Haven Avenue if the signal has not been installed at the time of construction of Tract 19907. The new traffic signal shall include, video detection, interconnect cable and conduit, battery back-up, emergency vehicle preemption systems and bicycle detection to the satisfaction of the City Engineer. All new signal equipment shall be installed at its ultimate location.

G. DRAINAGE / HYDROLOGY

- 2.36 Submit a hydrology study and drainage analysis, prepared and signed by a Civil Engineer registered in the State of California. The study shall be prepared in accordance with the San Bernardino County Hydrology Manual and City of Ontario standards and guidelines. Additional drainage facilities, including, but not limited to, improvements beyond the project frontage, may be required to be designed and constructed, by Applicant, as a result of the findings of this study.
- 2.37 Design and construct a storm water detention facility on the project site. An adequate drainage facility to accept additional runoff from the site does not currently exist downstream of the project. Post-development flows from the site shall not exceed 80% of pre-development flows, in accordance with the approved hydrology study and improvement plans.
- 2.38 Submit a copy of a recorded private drainage easement or drainage acceptance agreement to the Engineering Department for the acceptance of any increase to volume and/or concentration of historical drainage flows onto adjacent property, prior to approval of the grading plan for the project.
- 2.39 Comply with the City of Ontario Flood Damage Prevention Ordinance (Ordinance No. 2409). The project site or a portion of the project site is within the Special Flood Hazard Area (SFHA) as indicated on the Flood Insurance Rate Map (FIRM) and is subject to flooding during a 100 year frequency storm. The site plan shall be subject to the provisions of the National Flood Insurance Program.
- 2.40 Calculate Storm Drain Impact Fees based on square footage or acreage of the subject site.
- 2.41 Other conditions:
 1. Design and construct all in-tract storm drain mains, laterals and catch basins.
 2. Design and construct the master planned storm drain (96" diameter) in Haven Avenue from the northern project boundary to connect to existing County Line Channel.
 3. Design and construct the storm drain main (24" diameter) in Park View Street from EE Street to westerly boundary of SCE easement with any required laterals and catch basins.
 4. Design and construct the storm drain main (36" diameter) in Park View Street from EE Street to east up to future driveway of North side development with any required point of connection, laterals and catch basins.
 5. Acquire right of way, design & construct the storm drain main (36" diameter) along internal streets passing through Tract Map 19909 and along Merrill Ave (54" diameter)



connecting to the existing County Line Channel.

H. STORM WATER QUALITY / NATIONAL POLLUTANT DISCHARGE AND ELIMINATION SYSTEM (NPDES)

- 2.42 401 Water Quality Certification/404 Permit – Submit a copy of any applicable 401 Certification or 404 Permit for the subject project to the City project engineer. Development that will affect any body of surface water (i.e. lake, creek, open drainage channel, etc.) may require a 401 Water Quality Certification from the California Regional Water Quality Control Board, Santa Ana Region (RWQCB) and a 404 Permit from the United States Army Corps of Engineers (USACE). The groups of water bodies classified in these requirements are perennial (flow year round) and ephemeral (flow during rain conditions, only) and include, but are not limited to, direct connections into San Bernardino County Flood Control District (SBCFCD) channels.
If a 401 Certification and/or a 404 Permit are not required, a letter confirming this from Applicant's engineer shall be submitted.
Contact information: USACE (Los Angeles District) (213) 452-3414; RWQCB (951) 782-4130.
- 2.43 **Submit a Water Quality Management Plan (WQMP). This plan shall be approved by the Engineering Department prior to approval of any grading plan. The WQMP shall be submitted, utilizing the current San Bernardino County Stormwater Program template, available at: <http://www.sbcounty.gov/dpw/land/npdes.asp>.**
- 2.44 **Other conditions:**
If at the time of development of Tract 19907, Water Quality Basin in Tract 19909 has not been constructed, the applicant/Developer shall be responsible to acquire right of way or easement, design and construct water quality basin.

J. SPECIAL DISTRICTS

- 2.45 File an application, together with an initial payment deposit (if required), to establish a Community Facilities District (CFD) pursuant to the Mello-Roos Community facilities District Act of 1982. The application and fee shall be submitted a minimum three (3) months prior to final subdivision map approval, and the CFD shall be established prior to final subdivision map approval or issuance of building permits, whichever occurs first. The CFD shall be established upon the subject property to provide funding for various City services. An annual special tax shall be levied upon each parcel or lot in an amount to be determined. The special tax will be collected along with annual property taxes. The City shall be the sole lead agency in the formation of any CFD. Contact the Management Services Department at (909) 395-2353 to initiate the CFD application process.
- 2.46 File a Consent and Waiver to Annexation agreement, together with an annexation processing fee, to annex the subject property to a Street Lighting Maintenance Assessment District (SLMD). The agreement and fee shall be submitted three (3) months prior to, and the annexation shall be completed prior to, final subdivision map approval or issuance of building permits, whichever occurs first. An annual special assessment shall be levied in the SLMD and will be collected along with annual property taxes. The special assessment will provide funding for costs associated with the annual operation and maintenance of the street lighting facilities and appurtenances that serve the property. Contact the Management Services Department at (909) 395-2124, regarding this requirement.
- 2.47 **Other conditions:**
1. Design and construct community trail within easement area for Southern California Edison (lot I) per the approved Specific Plan
2. Design and construct in-tract fiber optic conduit system.
3. Acquire right of way, design & install fiber optic conduit system along internal streets passing through Tract Map 19909 to make connection to existing fiber optic conduit system on westerly boundary of Southern California Edison Easement on Merrill Avenue.



3. PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY, APPLICANT SHALL:

- 3.01 Set new monuments in place of any monuments that have been damaged or destroyed as a result of construction of the subject project. Monuments shall be set in accordance with City of Ontario standards and to the satisfaction of the City Engineer.
- 3.02 Complete all requirements for recycled water usage.
 - 1) Procure from the OMUC a copy of the letter of confirmation from the California Department of Public Health (CDPH) that the Engineering Report (ER) has been reviewed and the subject site is approved for the use of recycled water.
 - 2) Obtain clearance from the OMUC confirming completion of recycled water improvements and passing of shutdown tests and cross connection inspection, upon availability/usage of recycled water.
 - 3) Complete education training of on-site personnel in the use of recycled water, in accordance with the ER, upon availability/usage of recycled water.
- 3.03 Confirm payment of all Development Impact Fees (DIF) to the Building Department.
- 3.04 Submit electronic copies of all approved studies/reports (i.e. hydrology, traffic, WQMP, etc.).
- 3.05 Submit electronic copies on .pdf format of all approved/accepted improvement plans.



EXHIBIT 'A'

**ENGINEERING DEPARTMENT
First Plan Check Submittal Checklist**

Project Number: PDEV _____, and/or Parcel Map/**Tract Map No. TM 19907**

The following items are required to be included with the first plan check submittal:

1. **A copy of this check list**
2. **Payment of fee for Plan Checking**
3. **One (1) copy of Engineering Cost Estimate (on City form) with engineer's wet signature and stamp.**
4. **One (1) copy of project Conditions of Approval**
5. **Two (2) sets of Potable and Recycled Water demand calculations (include water demand calculations showing low, average and peak water demand in GPM for the proposed development and proposed water meter size).**
6. **Three (3) sets of Public Street improvement plan with street cross-sections**
7. **Three (3) sets of Private Street improvement plan with street cross-sections**
8. **Four (4) sets of Public Water improvement plan (include water demand calculations showing low, average and peak water demand in GPM for the proposed development and proposed water meter size)**
9. **Four (4) sets of Recycled Water improvement plan (include recycled water demand calculations showing low, average and peak water demand in GPM for the proposed development and proposed water meter size and an exhibit showing the limits of areas being irrigated by each recycled water meter)**
10. **Four (4) sets of Public Sewer improvement plan**
11. **Five (5) sets of Public Storm Drain improvement plan**
12. **Three (3) sets of Public Street Light improvement plan**
13. **Three (3) sets of Signing and Striping improvement plan**
14. **Three (3) sets of Traffic Signal improvement plan and One (1) copy of Traffic Signal Specifications with modified Special Provisions. Specifications available at [http:// www.ci.ca.us/index.aspx?page=278](http://www.ci.ca.us/index.aspx?page=278).**
15. **Two (2) copies of Water Quality Management Plan (WQMP)**
16. **One (1) copy of Hydrology/Drainage study**
17. **One (1) copy of Soils/Geology report**
18. **Payment for Final Map/Parcel Map processing fee**
19. **Three (3) copies of Final Map/Parcel Map**
20. **One (1) copy of approved Tentative Map**
21. **One (1) copy of Preliminary Title Report (current within 30 days)**
22. **One (1) copy of Traverse Closure Calculations**
23. **One (1) set of supporting documents and maps (legible copies): referenced improvement plans (full size), referenced record final maps/parcel maps (full size, 18"x26"), Assessor's Parcel map (full size, 11"x17"), recorded documents such as deeds, lot line adjustments, easements, etc.**

Project File No. TTM 19907
Project Engineer: Manoj Hariya
DAB Date: 04/18/2016



24. **Two (2) copies of Engineering Report and an electronic file (PDF format on a compact disc) for recycled water use**

25. Other: _____

CITY OF ONTARIO

MEMORANDUM

TO: PLANNING DEPARTMENT, Henry Noh
FROM: BUILDING DEPARTMENT, Kevin Shear
DATE: July 29, 2014
SUBJECT: PMTT14-024

-
- The plan **does** adequately address the departmental concerns at this time.
- No comments
- Report below.

Conditions of Approval

1. Standard Conditions of Approval apply.

KS : kc

Airport Land Use Compatibility Planning

Consistency Evaluation Report



Project File No.: PMTT14-024
 Address: Subarea 29 SP
 APN: 0218-321-17
 Existing Land Use: Vacant Land
 Proposed Land Use: Tentative Tract Map for 108 numbered lots and 11 lettered lots for future residential uses
 Site Acreage: 26.98
 ONT-IAC Project Review: n/a
 Airport Influence Area: ONT & Chino

Reviewed By: Lorena Mejia
 Contact Info: 909-395-2276
 Project Planner: Henry Noh
 Date: 8/13/14
 CE No.: 2014-055
 PALU No.: n/a

CONSISTENCY EVALUATION DETERMINATION

This proposed Project is: Exempt from the ALUCP Consistent ● Consistent with Conditions Inconsistent

ANALYSIS

See Attached Comments

Airport Planner Signature: _____

ONT ALUCP COMPATIBILITY FACTORS (Check all that Apply)

- | Safety Zones | Noise Impact Zones | Airspace Protection | Overflight |
|-------------------------------|---------------------------------------|---|--|
| <input type="radio"/> Zone 1 | <input type="radio"/> 75+ dB CNEL | <input type="radio"/> High Terrain Zone | <input type="radio"/> Avigation Easement |
| <input type="radio"/> Zone 1A | <input type="radio"/> 70 - 75 dB CNEL | <input type="radio"/> Pierce Part 77 Surfaces | <input type="radio"/> Recorded Overflight |
| <input type="radio"/> Zone 2 | <input type="radio"/> 65 - 70 dB CNEL | <input type="radio"/> FAA Notification | <input checked="" type="checkbox"/> Real Estate Disclosure |
| <input type="radio"/> Zone 3 | <input type="radio"/> 60 - 65 dB CNEL | | <input type="radio"/> Airport Influence Area |
| <input type="radio"/> Zone 4 | | | |
| <input type="radio"/> Zone 5 | | | |

CHINO ALUCP COMPATIBILITY FACTORS (Check all that Apply)

- Zone A Zone B1 Zone C Zone D Zone E

Airport Land Use Compatibility Planning

Consistency Evaluation Report

CE No.: 2014-055

PALU No.: _____

PROJECT CONDITIONS

The proposed project is located within the Airport Influence Areas of Ontario International Airport and Chino Airport and was evaluated and found to be consistent with the Airport Land Use Compatibility Plan (ALUCP) both airports and the following condition is required.

New Residential land uses are required to have a Recorded Overflight Notification appearing on the Property Deed and Title incorporating the following language:

(NOTICE OF AIRPORT IN VICINITY: This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.)

**CITY OF ONTARIO
LANDSCAPE PLANNING DIVISION
303 East "B" Street, Ontario, CA 91764**

CONDITIONS OF APPROVAL	
Sign Off	
<i>Carolyn Bell</i> Carolyn Bell, Sr. Landscape Planner	4/7/16 Date

Reviewer's Name: Carolyn Bell, Sr. Landscape Planner	Phone: (909) 395-2237
--	---------------------------------

D.A.B. File No.: PMTT14-024 Rev 1	Related Files:	Case Planner: Henry Noh
---	----------------	----------------------------

Project Name and Location:
Sub area 29 – PA10A
West of Haven between Bellegrave and Merrill

Applicant/Representative:
Brookfield Residential – Derek Barbour
3090 Bristol St, Suite 200
Costa Mesa, CA 92626

- | | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | A conceptual site plan (dated 7/28/14) meets the Standard Conditions for New Development and has been approved with the consideration that the following conditions below be met upon submittal of the landscape construction documents. |
| <input type="checkbox"/> | A conceptual landscape plan (dated) has not been approved. Corrections noted below are required prior to DAB approval. |

CORRECTIONS REQUIRED - (DESIGNER SHALL CHECK OFF ITEMS WHEN CORRECTED AND RETURN WITH RESUBMITTAL)

1. On construction documents Haven Ave section D-D west side, remove 'bikeway path', shall be called out as 8' multipurpose trail and constructed of compacted stabilized decomposed granite.
2. Parkway on Haven Ave shall be 10' wide
3. On construction documents show typical lot drainage system to include an infiltrating catch basin with 1 cf gravel below each catch basin before exiting property



CITY OF ONTARIO MEMORANDUM

TO: Otto Kroutil, Development Director
 Scott Murphy, Planning Director
 Cathy Wahlstrom, Principal Planner (Copy of memo only)
 Charity Hernandez, Economic Development
 Kevin Shear, Building Official
 Raymond Lee, Assistant City Engineer
 Carolyn Bell, Landscape Planning Division
 Sheldon Yu, Municipal Utility Company
 Scott Melendrez, Police Department
 Art Andres, Deputy Fire Chief/Fire Marshal
 Brent Schultz, Housing and Neighborhood Revitalization Director (Copy of memo only)
 Sigfrido Rivera, Housing Manager
 Tom Danna, T. E., Traffic/Transportation Manager
 Lorena Mejia, Associate Planner, Airport Planning (Copy of memo only)
 Steve Wilson, Engineering/NPDES
 Mark Chase, Community & Public Services Director

City of Ontario
Housing Department

JUL 29 2014

Received by _____

FROM: Henry Noh,

DATE: July 28, 2014

SUBJECT: FILE #: PMTT14-024 Finance Acct#:

The following project has been submitted for review. Please send one (1) copy and email one (1) copy of your DAB report to the Planning Department by **Monday, August 11, 2014**.

- Note:**
- Only DAB action is required
 - Both DAB and Planning Commission actions are required
 - Only Planning Commission action is required
 - DAB, Planning Commission and City Council actions are required
 - Only Zoning Administrator action is required

PROJECT DESCRIPTION: A Tentative Tract Map (TT 19907) to subdivide 26.98 acres into 11 lettered lots and 108 numbered lots, generally located west side of Haven Ave, between Bellgrave and Merrill Street, within Subarea 29.

APN: 0218-321-17

- The plan does adequately address the departmental concerns at this time.
 - No comments
 - Report attached (1 copy and email 1 copy)
 - Standard Conditions of Approval apply

- The plan does not adequately address the departmental concerns.
 - The conditions contained in the attached report must be met prior to scheduling for Development Advisory Board.

Housing & Municipal Services Department *Brent Schultz* Housing & Municipal Services Dir. 7/30/14
 Department Signature Title Date



CITY OF ONTARIO

MEMORANDUM

TO: Henry Noh, Planning Department

FROM: Lora L. Gearhart, Plan Checker – Fire
Bureau of Fire Prevention

DATE: March 9, 2015

SUBJECT: PMTT14-024 – A TENTATIVE TRACT MAP (TT 19907) TO SUBDIVIDE 26.98 ACRES INTO 11 LETTERED LOTS AND 108 NUMBERED LOTS, GENERALLY LOCATED WEST SIDE OF HAVEN AVE, BETWEEN BELLGRAVE AND MERRILL STREET, WITHIN SUBAREA 29. APN: 0218-321-17

-
- The plan **does** adequately address the departmental concerns at this time.
- No comments
- Report below.

CONDITIONS OF APPROVAL:

1. The required fire flow for this tract is 1,500 g.p.m. x 2 hours. Fire flow calculations are approximations only. Final determination and plotted by Engineering and Fire Departments per established standard criterion.
2. Fire hydrant locations and appropriate main sizes will be determined and plotted by Engineering and Fire Departments pre-established standard criterion.
3. The water supply, including mains and hydrants, shall be acceptably tested and approved by the Engineering and Fire Department **PRIOR** to the framing stage of construction to assure availability and reliability for fire fighting purposes.
4. Access roadways providing for an all weather driving surface not less than 20' unobstructed width, capable of supporting the imposed loads of fire apparatus to within 150' of all structures, is required **PRIOR** to the framing stages of construction. This access is required to be maintained in an unobstructed manner throughout construction. See Ontario Fire

Department Standard #B-004.

5. Prior to combustible construction occurring on the 31st lot or dwelling unit, a secondary means of emergency access shall be provided in accordance with fire department requirements. See Ontario Fire Department Standard #B-004.
6. The developer/general contractor is to be responsible for reasonable periodic cleanup of the development during construction to avoid hazardous accumulations of combustible trash and debris both on and off the site.
7. Approved numbers or addresses shall be placed on all new in such a position as to be plainly visible and legible from the street or road fronting the property and comply with the Section 9-1.3280 Street Naming and Street Address Numbering of the Ontario Municipal Code and Ontario Fire Department Standards #H-002.
8. All dwellings shall be equipped with a residential fire sprinkler system.

For copies of Ontario Fire Department Standards please access the City of Ontario web site at www.ci.ontario.ca.us, click on Fire Department and then on forms.



PLANNING COMMISSION STAFF REPORT

April 26, 2016

SUBJECT: A Development Agreement (File No. PDA15-006) between the City of Ontario and Roseville NMC, LLC, Ontario, for the development of up to 118 residential units (TT19909) on 26.81 gross acres of land within the Conventional Medium Lot Residential district (Planning Area 28) of the Subarea 29 Specific Plan, located at the northwest corner of Haven Avenue and Park View Street (APN: 0218-321-30). Submitted by Roseville NMC, LLC. City Council action is required.

PROPERTY OWNER: Roseville NMC, LLC.

RECOMMENDED ACTION: That the Planning Commission recommend City Council adoption of an ordinance approving the Development Agreement File No. PDA 05-006 between Roseville NMC, LLC, and the City of Ontario.

PROJECT SETTING: The project site is comprised of 26.81 acres of land located at the northwest corner of Haven Avenue and Merrill Avenue, within Planning Area 28 (Conventional Medium Lot Residential District) of the Subarea 29 Specific Plan, and is depicted in Figure 1: Project Location. The project site gently slopes from north to south and is vacant and previously used for dairy and agricultural uses.

PROJECT ANALYSIS:

[1] Background — In October 2006, the City Council approved the Subarea 29 Specific Plan (File No. PSP03-003) and the Environmental Impact Report (EIR). The Specific Plan established the land use designations, development standards, and design guidelines for approximately 540 gross acres of land, which included the potential development of 2,293 single-family units and 87,000 square feet of commercial.

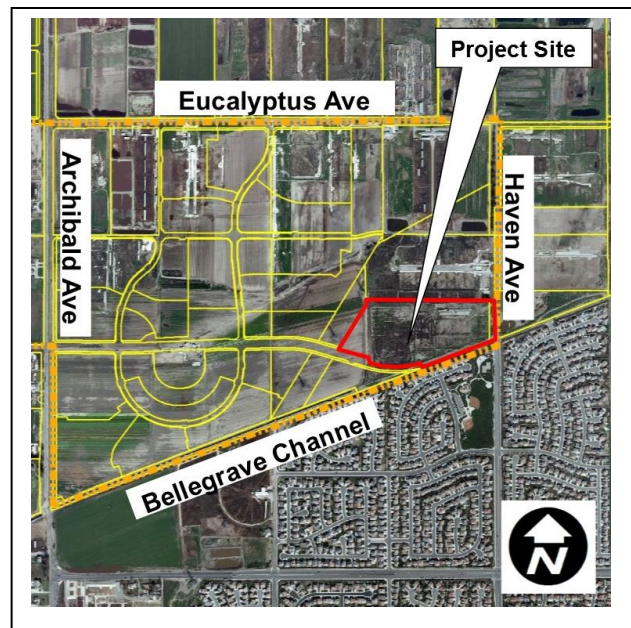


Figure 1: Project Location

Case Planner:	Rudy Zeledon, Principal Planner	Hearing Body	Date	Decision	Action
Planning Director Approval:		DAB	NA	NA	N
Submittal Date:	11/13/15	ZA			
Hearing Deadline:	5/13/16	PC	4/26/16		Recommend
		CC			

The financial commitments required for construction of properties within the specific plan are substantial. To adequately forecast these costs and gain assurance that the project may proceed under the existing policies, rules and regulations, Roseville NMC, LLC., has requested that staff enter into negotiations to create a Development Agreement (“Agreement”) with the City.

In accordance with California Government Code Section 65865 that states, in part, that “Any city...may enter into a Development Agreement with any person having a legal or equitable interest in real property for the development of such property...” and California Government Code Section 65865.52 which states, in part, that a Development Agreement shall specify the duration of the Agreement, the permitted uses of the property... and may include conditions, terms, restrictions...,” the City of Ontario adopted Resolution No. 2002-100 that sets forth the procedures and requirements for consideration of Development Agreements. Furthermore, the Financing and Construction Agreement with the NMC Builders LLC (NMC Builders) requires those developments wishing to use the infrastructure it creates, enter into Development Agreements with the City of Ontario. Pursuant to these procedures and requirements, staff entered into negotiations with the Owner to create a Development Agreement staff would recommend to the Planning Commission and City Council.

The proposed Development Agreement with Owner is based upon the model development agreement that was developed in coordination with the City attorney’s office and legal counsel for NMC Builders. This model Development Agreement is consistent with the provisions of the Construction Agreement. The LLC agreement between NMC Builders’ members requires that members of the LLC enter into Development Agreements that are consistent with the provisions of the Construction Agreement.

[2] Staff Analysis — The Development Agreement proposes to include 26.81 acres of land within Planning Area 28 of the Subarea 29 Specific Plan as shown in Exhibit A (Subarea 29 Specific Plan Map). The Agreement grants Roseville NMC, LLC., a vested right to develop Tentative Tract Map 19907 as long as the Roseville NMC, LLC., complies with the terms and conditions of the Subarea 29 Specific Plan and Environmental Impact Report.

The term of the Development Agreement is for ten years with a five year option. The main points of the agreement address funding for all new City expenses created by the project which includes; Development Impact Fees (DIF) for construction of public improvements (i.e. streets and bridges, police, fire, open space/parks etc.); Public Service Funding to ensure adequate provisions of public services (police, fire and other public services); the creation of a Community Facilities District (CFD) for reimbursement of public improvements and maintenance of public facilities; and the Park/Open Space Policy Plan requirement of five acres per 1,000 projected population through park dedication and/or the payment of in-lieu fees.

Other points addressed by the Agreement include provisions for affordable housing, as required by the Policy Plan, through construction, rehabilitation, or by paying an in-lieu fee, and satisfaction of the Mountain View Elementary School District and Chaffey High School District school facilities requirements.

In addition to the main points as stated above, the Development Agreement states the terms for the timing of the construction for the open space park area within Tentative Tract Map 19909. The park within Tentative Tract Map 19909 is a portion of a combined open space park area. The combined open space park area also includes Lot A of Tract Map No. 19907, which is owned by others. The Applicant agrees that both Lot J of Tract Map No. 19909 and Lot A of Tract Map No. 19907 will be developed as a single open space park area at the same time. The Development Agreement requires that if the combined open space park area has not been developed and improved by others prior to applicant requesting the first building permit for production units, the applicant will be required to develop both Lot J of Tentative Tract Map No. 19907 and Lot A of Tentative Tract Map No. 19909 as a combined open space park area, at applicants sole expense. Such combined open space park shall be transferred to a single homeowners' association. The homeowners' association shall be responsible for all maintenance of the combined open space park area.

Staff finds that the Development Agreement is consistent with State law, The Ontario Plan, and the City's Development Agreement policies. As a result, staff is recommending approval of the application to the Planning Commission. If the Commission finds the Development Agreement is acceptable, a recommendation of approval to the City Council would be appropriate.

COMPLIANCE WITH THE ONTARIO PLAN: The proposed project is consistent with the principles, goals and policies contained within the Vision, Governance, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan (TOP). More specifically, the goals and policies of TOP that are furthered by the proposed project are as follows:

[1] City Council Priorities

Primary Goal: Regain Local Control of Ontario International Airport

Supporting Goals:

- Invest in the Growth and Evolution of the City's Economy
- Maintain the Current High Level of Public Safety
- Operate in a Businesslike Manner
- Focus Resources in Ontario's Commercial and Residential Neighborhoods
- Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

- Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony

[2] Policy Plan (General Plan)

Land Use Element – Balance

- Goal LU1: A community that has a spectrum of housing types and price ranges that match the jobs in the City and make it possible for people to live and work in Ontario and maintain a quality of life.

- LU1-1 Strategic Growth. Development Projects. We concentrate growth in strategic locations that help create place and identity, maximize available and planned infrastructure, and foster the development of transit.

- LU1-3 Adequate Capacity. We require adequate infrastructure and services for all development.

- LU1-6 Complete Community. We incorporate a variety of land uses and building types in our land use planning efforts that result in a complete community where residents at all stages of life, employers, workers and visitors have a wide spectrum of choices of where they can live, work, shop and recreate within Ontario.

Land Use Element— Flexibility

- Goal LU1: A community that has a spectrum of housing types and price ranges that match the jobs in the City and make it possible for people to live and work in Ontario and maintain a quality of life.

- LU3-1 Development Standards. We maintain clear development standards which allow flexibility to achieve our vision.

- LU3-3 Land Use Flexibility. We consider uses not typically permitted within a land use category if doing so improves livability, reduces vehicular trips, creates community gathering places and activity nodes, and helps create identity.

Land Use Element — Phased Growth

- Goal LU4: Development that provides short-term value only when the opportunity to achieve our Vision can be preserved.

- LU4-1 Commitment to Vision. We are committed to achieving our vision but realize that it may take time and several interim steps to get there.

➤ LU4-3 Infrastructure Timing. We require that the necessary infrastructure and services be in place prior to or concurrently with development.

Housing Element — Neighborhood & Housing

▪ Goal H3: A City regulatory environment that balances the need for creativity and excellence in residential design, flexibility and predictability in the project approval process, and the provision of an adequate supply and prices of housing.

➤ H1-3 Community Amenities. We shall provide adequate public services, infrastructure, open space, parking and traffic management, pedestrian, bicycle and equestrian routes and public safety for neighborhoods consistent with City master plans and neighborhood plans.

➤ H3-3 Development Review. We maintain a residential development review process that provides certainty and transparency for project stakeholders and the public yet allows for the appropriate review to facilitate quality housing development.

Community Design Element — Design Quality

▪ Goal CD2: A high level of design quality resulting in the public spaces, streetscapes, and development that are attractive, safe, functional and distinct

➤ CD2-13 Entitlement Process. We work collaboratively with all stakeholders to ensure a high degree of certainty in the efficient review and timely processing of all development plans and permits.

Community Design Element — Protection of Investment

▪ Goal CD5: A sustained level of maintenance and improvement of properties, buildings and infrastructure that protects the property values and encourages additional public and private investments.

➤ CD5-2 Improvements to property and Infrastructure. We provide programs to improve property and Infrastructure

HOUSING ELEMENT COMPLIANCE: The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the number of dwelling units (108) and density (4.30 DU/Acre) specified in the Available Land Inventory.

AIRPORT LAND USE COMPATIBILITY PLAN COMPLIANCE: The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and Chino Airport, and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for both airports.

ENVIRONMENTAL REVIEW: The environmental impacts of this project were previously analyzed in an addendum to the Subarea 29 Specific Plan EIR (SCH# 2004011009) that was adopted by the City Council on April 21, 2015. This application is consistent with the previously adopted addendum and introduces no new significant environmental impacts. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference.

Exhibit "A" Subarea 29 Specific Plan

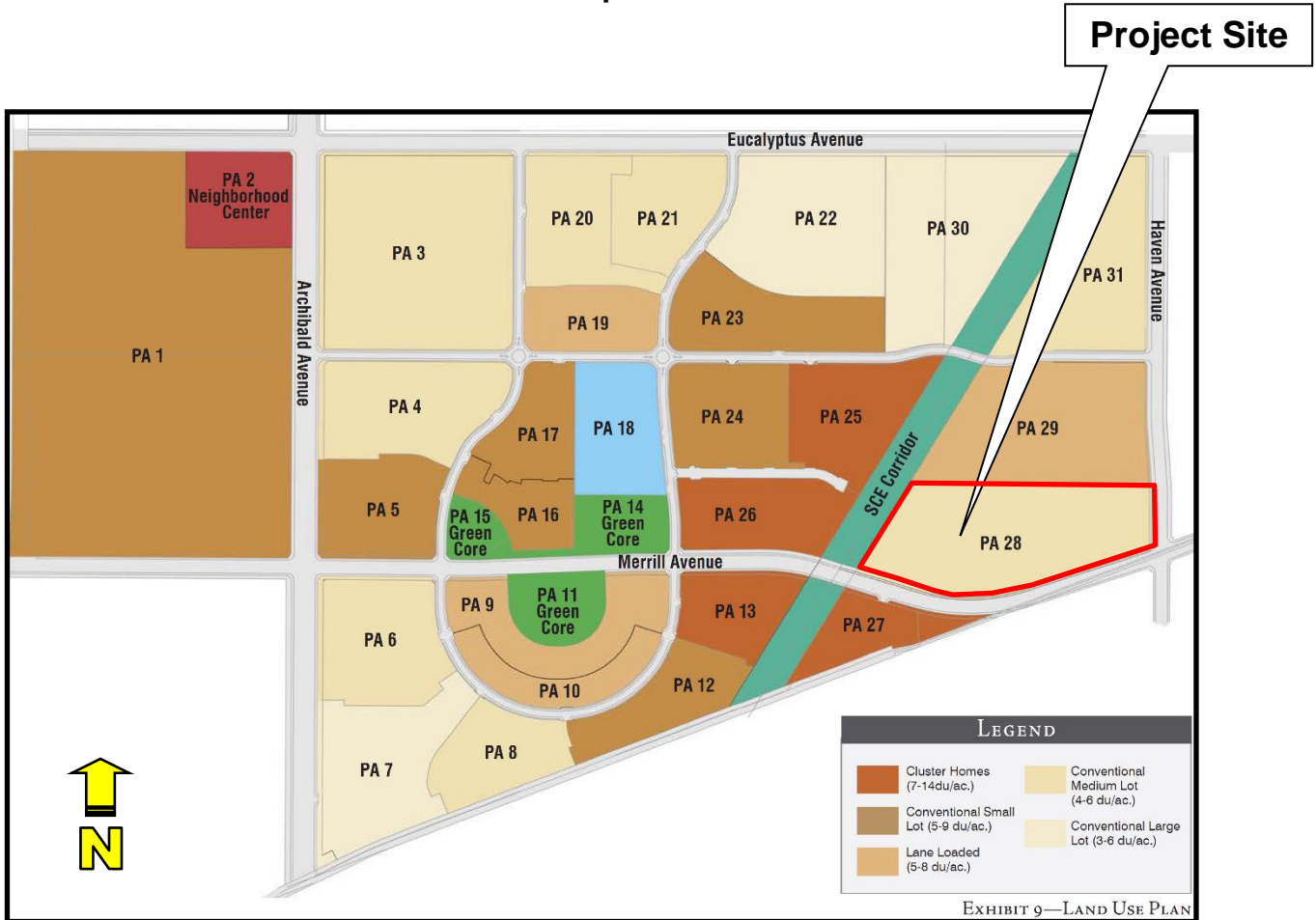
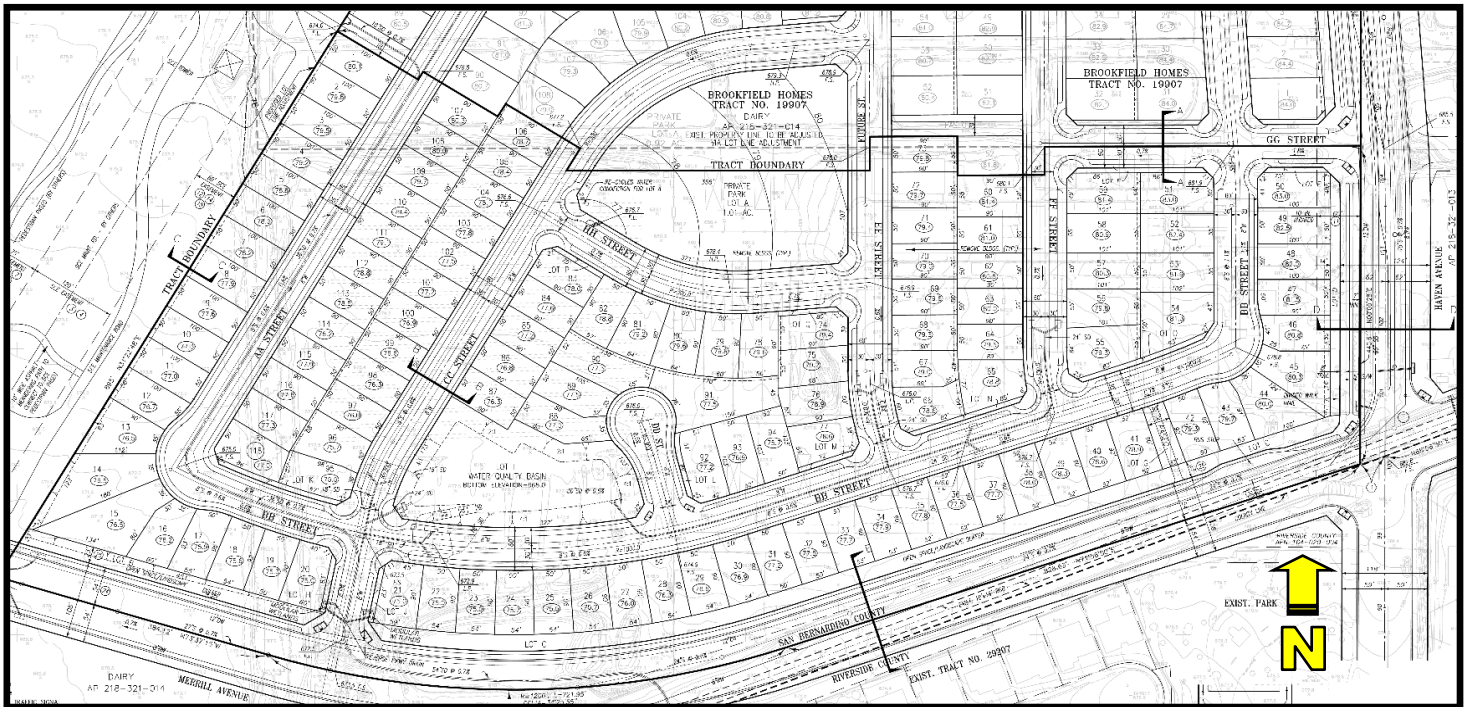


Exhibit "B"
Tentative Tract Map 19909



RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING THE CITY COUNCIL APPROVE A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND ROSEVILLE NMC, LLC., FILE NO. PDA15-006 (TT19909), TO ESTABLISH THE TERMS AND CONDITIONS FOR DEVELOPMENT OF UP TO 118 RESIDENTIAL UNITS ON 26.81 ACRES WITHIN PLANNING AREA 28 OF THE SUBAREA 29 SPECIFIC PLAN, LOCATED ON THE AT THE NORTHWEST CORNER OF HAVEN AVENUE AND PARK VIEW STREET, AND MAKING FINDINGS IN SUPPORT THEREOF (APN:0218-321-30).

A. Recitals.

(i) California Government Code Section 65864 now provides, in pertinent part, as follows:

“The Legislature finds and declares that:

(a) The lack of certainty in the approval process of development projects can result in a waste of resources, escalate the cost of housing and other developments to the consumer, and discourage investment in and commitment to comprehensive planning which would make maximum efficient utilization of resources at the least economic cost to the public.

(b) Assurance to the Applicant for a development project that upon approval of the project, the Applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development.”

(ii) California Government Code Section 65865 provides, in pertinent part, as follows:

“Any city ... may enter into a Development Agreement with any person having a legal or equitable interest in real property for the development of such property as provided in this article ...”

(iii) California Government Code Section 65865.2. provides, in part, as follows:

“A Development Agreement shall specify the duration of the Agreement, the permitted uses of the property, the density of intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The Development Agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms, restrictions, and requirements for discretionary actions shall not prevent development of the land for the uses and to the density of intensity of development set forth in this Agreement ...”

(iv) On the 4th day of April 1995, the City Council of the City of Ontario adopted Resolution No. 95-22 establishing procedures and requirements whereby the City of Ontario may consider Development Agreements.

(v) On the 10th day of September 2002, the City Council of the City of Ontario adopted Resolution No. 2002-100 which revised the procedures and requirements whereby the City of Ontario may consider Development Agreements; and

(vi) Attached to this resolution, marked Exhibit “A” and incorporated herein by this reference, is the proposed Development Agreement between Roseville NMC, LLC., and the City of Ontario, File No. PDA15-006, concerning those 26.81 acres of land within Planning Area 28 of the Subarea 29 Specific Plan, located on the northwest corner of Haven Avenue and Park View Street and as legally described in the attached Development Agreement. Hereinafter in this Resolution, the Development Agreement is referred to as the “Development Agreement”; and

(vii) On the 26th day of September 2006, the Planning Commission of the City of Ontario conducted a duly noticed public hearing and issued Resolution PC06-095 recommending City Council certification of the Subarea Specific EIR and Issued Resolution PC06-097 recommending approval of the Subarea Specific Plan (File No. PSP03-003); and

(viii) On the 19th day of October 2006, the City Council of the City of Ontario certified the Subarea 29 Specific Plan EIR (SCH #2004011009); and

(ix) On the 7th day of November 2006, the City Council of the City of Ontario adopted Ordinance No. 2845 approving the Subarea 29 Specific Plan; and

(x) The environmental impacts of this project were previously analyzed in an addendum to the Subarea 29 Specific Plan EIR (SCH# 2004011009) that was adopted by the City Council on April 21, 2015. This application is consistent with the previously adopted addendum and introduces no new significant environmental impacts. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference.

B. Resolution.

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

SECTION 1. The Planning Commission hereby specifically finds that all facts set forth in the Recitals, Part A, of this Resolution are true and correct.

SECTION 2. Based upon substantial evidence presented to the Planning Commission during the above-referenced hearing on April 26, 2016, including written and oral staff reports, together with public testimony, the Planning Commission hereby specifically finds as follows:

a. The Development Agreement applies to 26.81 acres of land located at the northwest corner of Haven Avenue and Parkview Street within Planning Area 28 (Conventional Medium Lot Residential) of the Subarea 29 Specific Plan, and is presently vacant and previously used for dairy and agricultural uses; and

b. The property to the north of the Project Site is within Planning Area 29 (Conventional Medium Lot Residential) of the Subarea 29 Specific Plan, and is presently vacant and previously used for dairy and agricultural uses. The property to the east is within the Specific Plan (Ag Preserve) zoning district, and is presently vacant and previously used for dairy and agricultural uses. The property to the south is within Planning Area 27 (Cluster Home Residential) of the Subarea 29 Specific Plan, and is presently vacant and previously used for dairy and agricultural uses. The property to the west is within the SCE Corridor/Easement of the Subarea 29 Specific Plan, and is developed as an SCE Easement; and

c. The Development Agreement establishes parameters for the development of Tentative Tract 19909 within Planning Area 28 of the Subarea 29 Specific Plan for residential development. The Development Agreement also grants Roseville NMC, LLC., the right to develop, the ability to quantify the fees; and establish the terms and conditions that apply to those projects. These terms and conditions are consistent with The Ontario Plan Policy Plan (General Plan), design guidelines and development standards for the Subarea 29 Specific Plan.

d. The Development Agreement focuses on 26.81 acres, consisting of Tentative Tract Map 19909, which subdivides 26.81 acres of land into 118 residential lots and 17 lettered lots within Planning Area 28; and

e. The Development Agreement will provide for the development of up to 118 residential units as established for Planning Area 28 of the Subarea 29 Specific Plan; and

f. The Development Agreement has been prepared in conformance with the goals and policies of The Ontario Plan Policy Plan (General Plan); and

g. The Development Agreement does not conflict with the Land Use Policies of The Ontario Plan Policy Plan (General Plan) and will provide for development, within the district, in a manner consistent with the Policy Plan and with related development; and

h. This Development Agreement will promote the goals and objectives of the Land Use Element of the Policy Plan; and,

i. This Development Agreement will not be materially injurious or detrimental to the adjacent properties and will have a significant impact on the environment or the surrounding properties but the benefits of the project outweighs the potential environmental impacts and the mitigation of these impacts were addressed in the Subarea 29 Specific Plan EIR certified by the City Council on October 19, 2006.

SECTION 3. Based upon the substantial evidence presented to the Planning Commission during the above-referenced hearing and upon the specific findings set forth in paragraphs 1 and 2 above, this Commission hereby concludes as follows:

a. The subject property is suitable for the uses permitted in the proposed district in terms of access, size, and compatibility with existing land use in the surrounding area;

b. The proposed Development Agreement will have significant impacts on the environment or the surrounding properties but the benefits of the project outweighs the potential environmental impacts and the environmental impacts have been adequately addressed in the Subarea 29 Specific Plan EIR (SCH# 2004011009); and

c. The proposed Development Agreement is in conformance with The Ontario Plan Policy Plan (General Plan).

SECTION 4. Based upon the facts and information contained together with all written and oral reports included for the environmental assessment for the application, the Planning Commission finds that the environmental impacts of this Development Agreement were reviewed in conjunction with the Subarea 29 Specific Plan EIR (SCH# 2004011009). All applicable mitigation measures adopted with the certification by the City Council of the EIR will become a condition of project approval.

SECTION 5. Based upon the findings and conclusions set forth in paragraphs 1, 2, 3 and 4 above, the Planning Commission hereby RECOMMENDS APPROVAL of the Development Agreement to the City Council subject to each and every condition set forth in the Subarea 29 Specific Plan and EIR, incorporated by this reference.

SECTION 6. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 7. The Secretary shall certify to the adoption of the Resolution.

The Secretary Pro Tempore for the Planning Commission of the City of Ontario shall certify as to the adoption of this Resolution.

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 26th day of April 2016, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

James Downs
Planning Commission Vice-Chairman

ATTEST:

Scott Murphy
Planning Director/Secretary of Planning
Commission

Planning Commission Resolution
File No. PDA15-006
April 26, 2016
Page 6

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, Marci Callejo, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC16-[insert #] was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on April 26, 2016, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marci Callejo
Secretary Pro Tempore

Planning Commission Resolution
File No. PDA15-006
April 26, 2016
Page 7

Attachment "A"
Development Agreement

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

City of Ontario
303 East "B" Street
Ontario California, California 91764
Attn: City Clerk

Exempt from Fees Per Gov. Code § 6301

Space above this line for Recorder's Use Only

DEVELOPMENT AGREEMENT

By and Between

City of Ontario, a California municipal corporation,

and

Roseville NMC, LLC,

a Florida limited liability company

_____, 2016

San Bernardino County, California

DEVELOPMENT AGREEMENT NO. PDA15-006

This Development Agreement (hereinafter "Agreement") is entered into effective as of the ____ day of _____, 2016, by and among the City of Ontario, a California municipal corporation (hereinafter "CITY"), and Roseville NMC, LLC, a Florida limited liability company (hereinafter "OWNER"):

RECITALS

WHEREAS, CITY is authorized to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property, pursuant to Section 65864, et seq. of the Government Code; and

WHEREAS, OWNER has requested CITY to enter into a development agreement and proceedings have been taken in accordance with the rules and regulations of CITY; and

WHEREAS, by electing to enter into this Agreement, CITY shall bind future City Councils of CITY by the obligations specified herein and limit the future exercise of certain governmental and proprietary powers of CITY; and

WHEREAS, the terms and conditions of this Agreement have undergone extensive review by CITY and the City Council and have been found to be fair, just and reasonable; and

WHEREAS, the best interests of the citizens of the CITY and the public health, safety and welfare will be served by entering into this Agreement; and

WHEREAS, all of the procedures of the California Environmental Quality Act have been met with respect to the Project and the Agreement in that Subarea 29 Specific Plan (State Clearinghouse No. 2004011009) (the "FEIR"). The City Council found and determined that the FEIR was prepared in accordance with the requirements of the California Environmental Quality Act and adequately describes the impacts of the project described in the FEIR, which included consideration of this Agreement; and

WHEREAS, this Agreement and the Project are consistent with the CITY's Comprehensive General Plan and the Subarea 29 Specific Plan; and

WHEREAS, all actions taken and approvals given by CITY have been duly taken or approved in accordance with all applicable legal requirements for notice, public hearings, findings, votes, and other procedural matters; and

WHEREAS, development of the Property in accordance with this Agreement will provide substantial benefits to CITY and will further important policies and goals of CITY; and

WHEREAS, this Agreement will eliminate uncertainty in planning and provide for the orderly development of the Property, ensure progressive installation of necessary improvements, provide for public services appropriate to the development of the Project, and generally serve the purposes for which development agreements under Sections 65864 et seq. of the Government Code are intended; and

WHEREAS, OWNER has incurred and will in the future incur substantial costs in order to assure development of the Property in accordance with this Agreement; and

WHEREAS, OWNER has incurred and will in the future incur substantial costs in excess of the generally applicable requirements in order to assure vesting of legal rights to develop the Property in accordance with this Agreement.

WHEREAS, the Property is located in an area of the City of Ontario that has been known as the “New Model Colony” area and the New Model Colony area has now been renamed as “Ontario Ranch.”

COVENANTS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. DEFINITIONS AND EXHIBITS.

1.1 Definitions. The following terms when used in this Agreement shall be defined as follows:

1.1.1 “Agreement” means this Development Agreement.

1.1.2 “CITY” means the City of Ontario, California, a California municipal corporation.

1.1.3 “Construction Agreement” means that certain Agreement for the Financing and Construction of Phases I and II Infrastructure Improvements to Serve an Easterly Portion of the New Model Colony, entered into between the CITY and NMC Builders as of the 4th day of October, 2005, and all amendments thereto and “Construction Agreement Amendment” means that First Amended and Restated Agreement for the Financing and Construction of Limited Infrastructure Improvements to Serve and Easterly Portion of the New Model Colony entered into between the CITY and NMC Builders as of the 21st day of August 2012.

1.1.4 “Development” means the improvement of the Property for the purposes of completing the structures, improvements and facilities comprising the Project including, but not limited to: grading; the construction of public infrastructure and public facilities related to the Project whether located within or outside the Property; the construction of buildings and structures; and the installation of landscaping.

“Development” does not include the maintenance, repair, reconstruction or redevelopment of any building, structure, improvement or facility after the construction and completion thereof.

1.1.5 “Development Approvals” means all permits and other entitlements for use subject to approval or issuance by CITY in connection with development of the Property including, but not limited to:

- (a) specific plans and specific plan amendments;
- (b) tentative and final subdivision and parcel maps;
- (c) development plan review;
- (d) conditional use permits (including model home use permits), public use permits and plot plans;
- (e) zoning;
- (f) grading and building permits.

1.1.6 “Development Exaction” means any requirement of CITY in connection with or pursuant to any Land Use Regulation or Development Approval for the dedication of land, the construction of improvements or public facilities, or the payment of fees in order to lessen, offset, mitigate or compensate for the impacts of development on the environment or other public interests.

1.1.7 “Development Impact Fee” means a monetary exaction, other than a tax or special assessment, whether characterized as a fee or a tax and whether established for a broad class of projects by legislation of general applicability or imposed on a specific project on an ad hoc basis, that is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project, and, for purposes of this Agreement only, includes fees collected under development agreements adopted pursuant to Article 2.5 of the Government Code (commencing with Section 65864) of Chapter 4. For purposes of this Agreement only, "Development Impact Fee" shall not include processing fees and charges imposed by CITY to cover the estimated actual costs to CITY of processing applications for Development Approvals or for monitoring compliance with any Development Approvals granted or issued, including, without limitation, fees for zoning variances; zoning changes; use permits; building inspections; building permits; filing and processing applications and petitions filed with the local agency formation commission or conducting preliminary proceedings or proceedings under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3 (commencing with Section 56000) of Title 5 of the Government Code; the processing of maps under the provisions of the Subdivision Map Act, Division 2 (commencing with Section 66410) of Title 7 of the Government Code; or planning services under the authority of Chapter 3 (commencing with Section

65100) of Division 1 of Title 7 of the Government Code, fees and charges as described in Sections 51287, 56383, 57004, 65104, 65456, 65863.7, 65909.5, 66013, 66014, and 66451.2 of the Government Code, Sections 17951, 19132.3, and 19852 of the Health and Safety Code, Section 41901 of the Public Resources Code, and Section 21671.5 of the Public Utilities Code, as such codes may be amended or superceded, including by amendment or replacement.

1.1.8 “Development Plan” means the Existing Development Approvals and the Existing Land Use Regulations applicable to development of the Property.

1.1.9 “Effective Date” means the date that the ordinance approving this Agreement goes into effect.

1.1.10 “Existing Development Approvals” means all Development Approvals approved or issued prior to the Effective Date. Existing Development Approvals includes the Approvals incorporated herein as Exhibit “C” and all other Approvals which are a matter of public record on the Effective Date.

1.1.11 “Existing Land Use Regulations” means all Land Use Regulations in effect on the Effective Date. Existing Land Use Regulations includes the Regulations incorporated herein as Exhibit “D” and all other Land Use Regulations that are in effect and a matter of public record on the Effective Date.

1.1.12 “Improvement” or “Improvements” means those public improvements required to support the development of the Project as described in the Tract Map conditions for Tract No. 19909 and as further described in Exhibit “F” (the “Infrastructure Improvements Exhibit”).

1.1.13 “General Plan” means the General Plan adopted on January 27, 2010.

1.1.14 “Land Use Regulations” means all ordinances, resolutions, codes, rules, regulations and official policies of CITY governing the development and use of land, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, timing and phasing of development, the maximum height and size of buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable to the development of the Property. “Land Use Regulations” does not include any CITY ordinance, resolution, code, rule, regulation or official policy, governing:

- (a) the conduct of businesses, professions, and occupations;
- (b) taxes and assessments;
- (c) the control and abatement of nuisances;
- (d) the granting of encroachment permits and the conveyance of similar rights and interests that provide for the use of or the entry upon public property;

(e) the exercise of the power of eminent domain.

1.1.15 “Mortgagee” means a mortgagee of a mortgage, a beneficiary under a deed of trust or any other security-device lender, and their successors and assigns.

1.1.16 “Model Units” means a maximum of six (6) units constructed by OWNER prior to the construction of any Production units and not offered for sale and occupancy for a period of time after the issuance of permits for Production Units.

1.1.17 “OWNER” means the persons and entities listed as owner on page 1 of this Agreement and their permitted successors in interest to all or any part of the Property.

1.1.18 “Production Unit(s)” means all units constructed for sale and occupancy by OWNER and excludes a specified number of Model Units constructed by OWNER for promotion of sales.

1.1.19 “Project” means the development of the Property contemplated by the Development Plan, as such Plan may be further defined, enhanced or modified pursuant to the provisions of this Agreement.

1.1.20 “Property” means the real property described on Exhibit “A” and shown on Exhibit “B” to this Agreement.

1.1.21 “Reservations of Authority” means the rights and authority excepted from the assurances and rights provided to OWNER under this Agreement and reserved to CITY under Section 3.6 of this Agreement.

1.1.22 “Specific Plan” means that certain specific plan adopted by the City Council, and entitled, “Subarea 29 Specific Plan.”

1.1.23 “Storm Water Treatment Capacity Availability” means a designated portion of the total Storm Water Treatment Capacity Availability made available through the completion of construction of a Phase of regional storm water treatment facilities by the NMC Builders, LLC, as described in the Construction Agreement Amendment. The amount, in acres, of Storm Water Treatment Capacity Availability required for the issuance of a grading permit shall be based upon the factors and assumptions listed in the Construction Agreement Amendment.

1.1.24 “Subsequent Development Approvals” means all Development Approvals required subsequent to the Effective Date in connection with development of the Property.

1.1.25 “Subsequent Land Use Regulations” means any Land Use Regulations adopted and effective after the Effective Date of this Agreement.

1.1.26 “Water Availability Equivalent (WAE)” means a designated portion of the total Net Maximum Daily Demand (“MDD”) made available through the construction of each Phase described in the Water Phasing Plan of the Construction Agreement. The number of Water Availability Equivalents (of portions thereof) required for the issuance of each building permit shall be based upon water demand factors and assumptions listed in the Construction Agreement and Construction Agreement Amendment as “Water Availability Equivalents by Land Use” for each land use category.

1.2 Exhibits. The following documents are attached to, and by this reference made a part of, this Agreement:

Exhibit “A” — Legal Description of the Property.

Exhibit “B” — Map showing Property and its location.

Exhibit “C” — Existing Development Approvals.

Exhibit “D” — Existing Land Use Regulations.

Exhibit “E” — Reserved (Not Used)

Exhibit “F” — Infrastructure Improvements Exhibits

2. GENERAL PROVISIONS.

2.1 Binding Effect of Agreement. The Property is hereby made subject to this Agreement. Development of the Property is hereby authorized and shall be carried out only in accordance with the terms of this Agreement.

2.2 Ownership of Property. OWNER represents and covenants that it is the owner of the fee simple title to the Property or a portion thereof, or has the right to acquire fee simple title to the Property or a portion thereof from the current owner(s) thereof. To the extent OWNER does not own fee simple title to the Property, OWNER shall obtain written consent from the current fee owner of the Property agreeing to the terms of this Agreement and the recordation thereof.

2.3 Term. The term of this Agreement shall commence on the Effective Date and shall continue for an initial term of ten (10) years thereafter unless this term is modified or extended pursuant to the provisions of this Agreement. The term of this Agreement may be extended for an additional five (5) years following expiration of the initial ten (10) year term, provided the following have occurred:

(a) OWNER provides at least 180 days written notice to CITY prior to expiration of the initial term; and

(b) In non-mixed use projects, the OWNER shall have obtained, as applicable, building permits for at least forty percent (40%) of the actual number of residential units permitted under this Agreement; and

(c) OWNER is not then in uncured default of this Agreement.

2.4 Assignment.

2.4.1 Right to Assign. OWNER shall have the right to sell, transfer or assign the Property in whole or in part (provided that no such partial transfer shall violate the Subdivision Map Act, Government Code Section 66410, et seq.), to any person, partnership, limited liability company, joint venture, firm or corporation at any time during the term of this Agreement; provided, however, that any such sale, transfer or assignment shall include the assignment and assumption of the rights, duties and obligations arising under or from this Agreement and be made in strict compliance with the following:

(a) No sale, transfer or assignment of any right or interest under this Agreement shall be made unless made together with the sale, transfer or assignment of all or a part of the Property.

(b) Concurrent with any such sale, transfer or assignment, or within fifteen (15) business days thereafter, OWNER shall notify CITY's City Manager, in writing, of such sale, transfer or assignment and shall provide CITY with: (1) an executed agreement, in a form reasonably acceptable to CITY, by the purchaser, transferee or assignee and providing therein that the purchaser, transferee or assignee expressly and unconditionally assumes all the duties and obligations of OWNER under this Agreement with respect to the portion of the Property so sold, transferred or assigned; and (2) the payment of the applicable processing charge to cover the CITY's review and consideration of such sale, transfer or assignment.

(c) Any sale, transfer or assignment not made in strict compliance with the foregoing conditions shall constitute a default by OWNER under this Agreement. Notwithstanding the failure of any purchaser, transferee or assignee to execute the agreement required by Paragraph (b) of this Subsection 2.4.1, the burdens of this Agreement shall be binding upon such purchaser, transferee or assignee, but the benefits of this Agreement shall not inure to such purchaser, transferee or assignee until and unless such agreement is executed. The City Manager shall have the authority to review, consider and either approve, conditionally approve, or deny any proposed sale, transfer or assignment that is not made in compliance with this Section 2.4.

2.4.2 Release of Transferring Owner. Notwithstanding any sale, transfer or assignment, a transferring OWNER shall continue to be obligated under this Agreement unless such transferring owner is given a release in writing by CITY, which release shall be provided by CITY upon the full satisfaction by such transferring owner of the following conditions:

(a) OWNER no longer has a legal or equitable interest in all or any part of the portion of the Property sold, transferred or assigned.

(b) OWNER is not then in default under this Agreement.

(c) OWNER has provided CITY with the notice and executed agreement required under Paragraph (b) of Subsection 2.4.1 above.

(d) The purchaser, transferee or assignee provides CITY with security equivalent to any security previously provided by OWNER to secure performance of its obligations hereunder.

2.4.3 Effect of Assignment and Release of Obligations. In the event of a sale, transfer or assignment pursuant to the provisions of Section 2.4.2 above:

(a) The assignee shall be liable for the performance of all obligations of OWNER with respect to transferred property, but shall have no obligations with respect to the portions of the Property, if any, not transferred (the "Retained Property").

(b) The owner of the Retained Property shall be liable for the performance of all obligations of OWNER with respect to Retained Property, but shall have no further obligations with respect to the transferred property.

(c) The assignee's exercise, use and enjoyment of the Property or portion thereof shall be subject to the terms of this Agreement to the same extent as if the assignee were the OWNER.

2.4.4 Subsequent Assignment. Any subsequent sale, transfer or assignment after an initial sale, transfer or assignment shall be made only in accordance with and subject to the terms and conditions of this Section 2.4.

2.4.5 Termination of Agreement With Respect to Individual Lots Upon Sale to Public and Completion of Construction. The provisions of Subsection 2.4.1 shall not apply to the sale or lease (for a period longer than one year) of any lot which has been finally subdivided and is individually (and not in "bulk") sold or leased to a member of the public or other ultimate user. Notwithstanding any other provisions of this Agreement, this Agreement shall terminate with respect to any lot and such lot shall be released and no longer be subject to this Agreement without the execution or recordation of any further document upon satisfaction of both of the following conditions:

(a) The lot has been finally subdivided and individually (and not in "bulk") sold or leased (for a period longer than one year) to a member of the public or other ultimate user; and,

(b) A certificate of occupancy has been issued for a building on the lot, and the fees set forth under Section 4 of this Agreement have been paid.

2.5 Amendment or Cancellation of Agreement. This Agreement may be amended or cancelled in whole or in part only in the manner provided for in Government Code Section 65868.1. Any amendment of this Agreement, which amendment has been requested by OWNER, shall be considered by the CITY only upon the payment of the applicable processing charge. This provision shall not limit any remedy of CITY or OWNER as provided by this Agreement. Either Party or successor in interest, may propose an amendment to or cancellation, in whole or in part, of this Agreement. Any amendment or cancellation shall be by mutual consent of the parties or their successors in interest except as provided otherwise in this Agreement or in Government Code Section 65865.1. For purposes of this section, the term "successor in interest" shall mean any person having a legal or equitable interest in the whole of the Property, or any portion thereof as to which such person wishes to amend or cancel this Agreement. The procedure for proposing and adopting an amendment to, or cancellation of, in whole or in part, this Agreement shall be the same as the procedure for adopting and entering into this Agreement in the first instance. Notwithstanding the foregoing sentence, if the CITY initiates the proposed amendment to, or cancellation of, in whole or in part, this Agreement, CITY shall first give notice to the OWNER of its intention to initiate such proceedings at least sixty (60) days in advance of the giving the public notice of intention to consider the amendment or cancellation.

2.5.1 Amendment To Reflect Consistency With Future Amendments to the Construction Agreement. To the extent any future amendment to the Construction Agreement provides for modifications to rights or obligations that differ from or alter the same or similar rights or obligations contained in this Development Agreement, OWNER reserves the right to request an amendment to the Development Agreement to reflect any or all of such modifications.

2.6 Termination. This Agreement shall be deemed terminated and of no further effect upon the occurrence of any of the following events:

- (a) Expiration of the stated term of this Agreement as set forth in Section 2.3.
- (b) Entry of a final judgment setting aside, voiding or annulling the adoption of the ordinance approving this Agreement.
- (c) The adoption of a referendum measure overriding or repealing the ordinance approving this Agreement.
- (d) Completion of the Project in accordance with the terms of this Agreement including issuance of all required occupancy permits and acceptance by CITY or applicable public agency of all required dedications.

Termination of this Agreement shall not constitute termination of any other land use entitlements approved for the Property. Upon the termination of this Agreement, no party shall have any further right or obligation hereunder except with

respect to any obligation to have been performed prior to such termination or with respect to any default in the performance of the provisions of this Agreement which has occurred prior to such termination or with respect to any obligations which are specifically set forth as surviving this Agreement. Upon such termination, any public facilities and services mitigation fees paid pursuant to Section 4.2 of this Agreement by OWNER to CITY for residential units on which construction has not yet begun shall be refunded to OWNER by CITY.

2.7 Notices.

(a) As used in this Agreement, “notice” includes, but is not limited to, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, appointment or other communication required or permitted hereunder.

(b) All notices shall be in writing and shall be considered given either: (i) when delivered in person, including, without limitation, by courier, to the recipient named below; or (ii) on the date of delivery shown on the return receipt, after deposit in the United States mail in a sealed envelope as either registered or certified mail with return receipt requested, and postage and postal charges prepaid, and addressed to the recipient named below. All notices shall be addressed as follows:

If to CITY:

Al C. Boling, City Manager
City of Ontario
303 East “B” Street
Ontario California, California 91764

with a copy to:

John Brown, City Attorney
Best Best & Krieger
2855 East Guasti Road, Suite 400
Ontario CA 91761

If to OWNER:

Roseville NMC, LLC
3161 Michelson Drive, Suite 425
Irvine, CA 92612
Attn: Craig Cristina
Email: ccristina@richlandcommunities.com
Phone: (949) 383-4124
Fax: (949) 261-7016

with a copy to:

Courtney Nelson
Richland Investments
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(c) Either party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or representative of a party, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

3. DEVELOPMENT OF THE PROPERTY.

3.1 Rights to Develop. Subject to the terms of this Agreement including the Reservations of Authority, OWNER shall have a vested right to develop the Property in accordance with, and to the extent of, the Development Plan. The Project shall remain subject to all Subsequent Development Approvals required to complete the Project as contemplated by the Development Plan. Except as otherwise provided in this Agreement, the permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, and provisions for reservation and dedication of land for public purposes shall be those set forth in the Development Plan.

3.2 Effect of Agreement on Land Use Regulations. Except as otherwise provided under the terms of this Agreement including the Reservations of Authority, the rules, regulations and official policies governing permitted uses of the Property, the density and intensity of use of the Property, the maximum height and size of proposed buildings, and the design, improvement and construction standards and specifications applicable to development of the Property shall be the Existing Land Use Regulations. In connection with any Subsequent Development Approval, CITY shall exercise discretion in accordance with the same manner as it exercises its discretion under its police powers, including the Reservations of Authority set forth herein; provided however, that such discretion shall not prevent development of the Property for the uses and to the density or intensity of development set forth in this Agreement.

3.3 Timing of Development. The parties acknowledge that OWNER cannot at this time predict when or the rate at which phases of the Property will be developed. Such decisions depend upon numerous factors which are not within the control of OWNER, such as market orientation and demand, interest rates, absorption, completion

and other similar factors. Since the California Supreme Court held in Pardee Construction Co. v. City of Camarillo (1984) 37 Ca1. 3d 465, that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the parties' intent to cure that deficiency by acknowledging and providing that OWNER shall have the right to develop the Property in such order and at such rate and at such times as OWNER deems appropriate within the exercise of its subjective business judgment.

3.4 Requirements for Public Infrastructure Improvements. Development of the Property is contingent in part on the phasing of area-wide infrastructure improvements over which the OWNER has control. The issuance of building permits by CITY for Model Units or Production Units is, in general, contingent on OWNER's completion of needed infrastructure improvements and the availability of improvements and services to serve the Property.

3.4.1 Attached hereto as Exhibit "F" is a description of the infrastructure improvements needed for the development of the Property ("the Infrastructure Improvement Exhibit").

3.4.2 Subject to the prior submittal by OWNER and approval by CITY of a plan to provide sufficient public infrastructure for the construction of a maximum number of six (6) Model Units CITY may issue a maximum of six (6) building permits for Model Units. The plan to be submitted by OWNER for CITY approval shall describe the utilities and other infrastructure necessary to provide sufficient fire protection and other public health and safety requirements for the Model Units and other facilities.

3.5 Changes and Amendments. The parties acknowledge that refinement and further development of the Project will require Subsequent Development Approvals and may demonstrate that changes are appropriate and mutually desirable in the Existing Development Approvals. In the event OWNER finds that a change in the Existing Development Approvals is necessary or appropriate, OWNER shall apply for a Subsequent Development Approval to effectuate such change and CITY shall process and act on such application in accordance with the Existing Land Use Regulations, except as otherwise provided by this Agreement including the Reservations of Authority. If approved, any such change in the Existing Development Approvals shall be incorporated herein as an addendum to Exhibit "C", and may be further changed from time to time as provided in this Section. Unless otherwise required by law, as determined in CITY's reasonable discretion, a change to the Existing Development Approvals shall be deemed "minor" and not require an amendment to this Agreement provided such change does not:

- (a) Alter the permitted uses of the Property as a whole; or,

- or,
- (b) Increase the density or intensity of use of the Property as a whole;
 - (c) Increase the maximum height and size of permitted buildings; or,
 - (d) Delete a requirement for the reservation or dedication of land for public purposes within the Property as a whole; or,
 - (e) Constitute a project requiring a subsequent or supplemental environmental impact report pursuant to Section 21166 of the Public Resources Code.

3.6 Reservations of Authority.

3.6.1 Limitations, Reservations and Exceptions. Notwithstanding any other provision of this Agreement, the CITY shall not be prevented from applying new rules, regulations and policies upon the OWNER, nor shall a development agreement prevent the CITY from denying or conditionally approving any subsequent development project application on the basis of such new rules, regulations and policies where the new rules, regulations and policies consist of the following:

- (a) Processing fees by CITY to cover costs of processing applications for development approvals or for monitoring compliance with any development approvals;
- (b) Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records and any other matter of procedure;
- (c) Regulations, policies and rules governing engineering and construction standards and specifications applicable to public and private improvements, including all uniform codes adopted by the CITY and any local amendments to those codes adopted by the CITY; provided however that, OWNER shall have a vested right to develop the Property in accordance with, and to the extent of, the standards and specifications that are expressly identified in the Specific Plan;
- (d) Regulations that may conflict with this Agreement and the Development Plan but that are reasonably necessary to protect the residents of the project and/or of the immediate community from a condition perilous to their health or safety;
- (e) Regulations that do not conflict with those rules, regulations and policies set forth in this Agreement or the Development Plan;
- (f) Regulations that may conflict but to which the OWNER consents.

3.6.2 Subsequent Development Approvals. This Agreement shall not prevent CITY, in acting on Subsequent Development Approvals, from applying Subsequent Land Use Regulations that do not conflict with the Development Plan, nor shall this Agreement prevent CITY from denying or conditionally approving any Subsequent Development Approval on the basis of the Existing Land Use Regulations or any Subsequent Land Use Regulation not in conflict with the Development Plan.

3.6.3 Modification or Suspension by State or Federal Law. In the event that State or Federal laws or regulations, enacted after the Effective Date of this Agreement, prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations, provided, however, that this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce. In the event OWNER alleges that such State or Federal laws or regulations preclude or prevent compliance with one or more provisions of this Agreement, and the CITY does not agree, the OWNER may, at its sole cost and expense, seek declaratory relief (or other similar non-monetary remedies); provided however, that nothing contained in this Section 3.6.3 shall impose on CITY any monetary liability for contesting such declaratory relief (or other similar non-monetary relief).

3.6.4 Intent. The parties acknowledge and agree that CITY is restricted in its authority to limit its police power by contract and that the foregoing limitations, reservations and exceptions are intended to reserve to CITY all of its police power which cannot be so limited. This Agreement shall be construed, contrary to its stated terms if necessary, to reserve to CITY all such power and authority which cannot be restricted by contract.

3.7 Public Infrastructure and Utilities. OWNER is required by this Agreement to construct all public works facilities which will be dedicated to CITY or any other public agency upon completion, and if required by applicable laws to do so, OWNER shall perform such work in the same manner and subject to the same requirements as would be applicable to CITY or such other public agency should it have undertaken such construction. As a condition of development approval, OWNER shall connect the Project to all utilities necessary to provide adequate water, recycled water, sewer, storm drain, fiber optic communications, gas, electric, and other utility service to the Project. As a further condition of development approval, OWNER shall contract with the CITY for CITY-owned or operated utilities for this purpose, for such price and on such terms as may be available to similarly situated customers in the CITY.

3.7.1 OWNER agrees that development of the Project shall require the construction of Storm Drain facilities from the Property to the connection with the County Line Channel as described in the attached Exhibit F. OWNER shall be

responsible for the construction of the necessary extension of master planned Storm Drain facilities.

3.7.1.1 OWNER also acknowledges that Lot I of Tract Map No. 19909 shall be developed as a storm water retention area that provides for storm water retention for both Tract Map Nos. 19907 and 19909. OWNER agrees that OWNER shall accept storm water flows from Tract Map No.19907 and OWNER agrees to allow access for the construction of the combined storm water retention basin as required for the development of Tract Map No. 19907. OWNER also agrees that if the combined storm water retention areas in Tract No. 19909 have not been constructed by others prior to OWNER requesting the first building permit for Production Units, OWNER shall be required to construct all combined storm water retention areas in Tract No. 19909, at OWNER's sole expense. Such combined storm water retention areas shall be transferred to a single homeowner's association and such homeowner's association shall be responsible for all maintenance of the combined storm water retention areas.

3.7.2 OWNER agrees that development of the Project shall require the construction of street improvements on Haven Avenue and Merrill Avenue, including a signalized intersection Haven and Merrill Avenues and as further described in the attached Exhibit F

3.7.3 OWNER agrees that development of the Property shall require the extension of permanent master planned water and recycled water utility infrastructure as described in Exhibit F consisting generally of the construction of the extension of permanent master planned water and recycled water utility improvements to serve the Property. OWNER agrees that no building permits shall be issued by CITY for Production Units prior to completion of the water and recycled water Improvements as described in the attached Exhibit F.

3.7.4 OWNER agrees that NMC Builders shall be responsible for funding a portion of the design and construction of an additional extension of master planned recycled water infrastructure in Riverside and Haven Avenues to be constructed by CITY. These master planned recycled water Improvements shall also serve the Project. OWNER shall deposit, or shall have deposited, with NMC Builders an amount equal to the OWNER's capital contribution for the design and construction of the NMC Builders portion of the recycled water improvements in Riverside and Haven Avenues known as the "Phase 2 Recycled Water Improvements" prior to September 1, 2016. If OWNER has not deposited such amount, with NMC Builders prior to September 1, 2016 then CITY shall be entitled to withhold issuance of any further building permits for the Project unless and until OWNER deposits the amount of OWNER's capital contribution with NMC Builders for the design and construction of the NMC Builders portion of the Phase 2 Recycled Water System Improvements.

3.7.5 OWNER agrees that development of the Property shall require the extension of permanent master planned sewer infrastructure as described in the attached Exhibit F consisting generally of the construction of the extension of sewer infrastructure to serve the Property.

3.7.6 OWNER agrees that development of the Property shall require the extension of permanent master planned fiber optic communications infrastructure as described in the attached Exhibit F consisting generally of the construction of the extension of fiber optic communications infrastructure to serve the Property.

3.7.7 OWNER agrees that development of the adjacent area consisting of Tract Map No. 19907 requires that OWNER provide access as required for the development of Tract Map No. 19907 including access for the construction of utilities within the areas designated as future Streets AA, BB, and CC as shown on Tract Map No. 19909. OWNER also agrees that development of Tract Map No. 19907 shall require that OWNER provide access as required for the full-width construction of Street GG on Tract Map No. 19909. OWNER shall provide access as required for the construction of such utilities and street improvements for the development of Tract Map No. 19907.

3.8 Acquisition of Offsite Provision of Real Property Interests. In any instance where OWNER is required by any Development Approval or Land Use Regulation and the Construction Agreement to construct any public improvement on land not owned by OWNER ("Offsite Improvements"), the CITY and OWNER shall cooperate in acquiring the necessary legal interest ("Offsite Property") in accordance with the procedures set forth in Section 2.4 of the Construction Agreement. This section 3.8 is not intended by the parties to impose upon the OWNER an enforceable duty to acquire land or construct any public improvements on land not owned by OWNER, except to the extent that the OWNER elects to proceed with the development of the Project, and then only in accordance with valid conditions imposed by the CITY upon the development of the Project under the Subdivision Map Act or other legal authority.

3.8.1 CITY Acquisition of Non-Construction Agreement Offsite Property. In the event OWNER is required to construct any public improvements on land not owned by OWNER, but such requirement is not based upon the Construction Agreement, Sections 3.8.1 and 3.8.2 shall control the acquisition of the necessary property interest(s) ("Non-Construction Agreement Offsite Property"). If the OWNER is unable to acquire such Non-Construction Agreement Offsite Property, and following the written request from the OWNER to CITY, CITY agrees to use reasonable and diligent good faith efforts to acquire the Non-Construction Agreement Offsite Property from the owner or owners of record by negotiation to the extent permitted by law and consistent with this Agreement. If CITY is unable to acquire the Non-Construction Agreement Offsite Property by negotiation within thirty (30) days after OWNER'S written request, CITY shall, initiate proceedings utilizing its power of eminent domain to acquire that Non-Construction Agreement Subject Property at a public hearing noticed and conducted in accordance with California Code of Civil Procedure Section 1245.235 for the purpose of

considering the adoption of a resolution of necessity concerning the Non-Construction Agreement Offsite Property, subject to the conditions set forth in this Section 3.8. The CITY and OWNER acknowledge that the timelines set forth in this Section 3.8.1 represent the maximum time periods which CITY and OWNER reasonably believe will be necessary to complete the acquisition of any Non-Construction Agreement Offsite Property. CITY agrees to use reasonable good faith efforts to complete the actions described within lesser time periods, to the extent that it is reasonably able to do so, consistent with the legal constraints imposed upon CITY.

3.8.2 Owner's Option to Terminate Proceedings. CITY shall provide written notice to OWNER no later than fifteen (15) days prior to making an offer to the owner of the Non-Construction Agreement Offsite Property. At any time within that fifteen (15) day period, OWNER may, at its option, notify CITY that it wants CITY to cease all acquisition proceedings with respect to that Non-Construction Agreement Offsite Property, whereupon CITY shall cease such proceedings. CITY shall provide written notice to OWNER no later than fifteen (15) days prior to the date of the hearing on CITY'S intent to consider the adoption of a resolution of necessity as to any Non-Construction Agreement Offsite Property. At any time within that fifteen (15) day period, OWNER may, at its option, notify CITY that it wants CITY to cease condemnation proceedings, whereupon CITY shall cease such proceedings. If OWNER does not notify CITY to cease condemnation proceedings within said fifteen (15) day period, then the CITY may proceed to consider and act upon the Non-Construction Agreement Offsite Property resolution of necessity. If CITY adopts such resolution of necessity, then CITY shall diligently institute condemnation proceedings and file a complaint in condemnation and seek an order of immediate possession with respect to the Non-Construction Agreement Offsite Property.

3.9 Regulation by Other Public Agencies. It is acknowledged by the parties that other public agencies not within the control of CITY possess authority to regulate aspects of the development of the Property separately from or jointly with CITY and this Agreement does not limit the authority of such other public agencies. CITY agrees to cooperate fully, at no cost to CITY, with OWNER in obtaining any required permits or compliance with the regulations of other public agencies provided such cooperation is not in conflict with any laws, regulations or policies of the CITY.

3.10 Tentative Tract Maps; Extension. With respect to applications by OWNER for tentative subdivision maps for portions of the Property, CITY agrees that OWNER may file and process tentative maps in accordance with Chapter 4.5 (commencing with Section 66498.1) of Division 2 of Title 7 of the California Government Code and the applicable provisions of CITY's subdivision ordinance, as the same may be amended from time to time. In accordance with the provisions of Section 66452.6 of the Government Code, each tentative subdivision map or tentative parcel map, heretofore or hereafter approved in connection with development of the Property, shall be deemed to have been granted an extension of time to and until the date that is five (5) years following the Effective Date of this Agreement.; The CITY's City Council may, in its discretion, extend any such map for an additional period of up to five (5) years beyond

its original term, so long as the subdivider files a written request for an extension with the City prior to the expiration of the initial five (5) year term.

4. PUBLIC BENEFITS.

4.1 Intent. The parties acknowledge and agree that development of the Property will result in substantial public needs that will not be fully met by the Development Plan and further acknowledge and agree that this Agreement confers substantial private benefits on OWNER that should be balanced by commensurate public benefits. Accordingly, the parties intend to provide consideration to the public to balance the private benefits conferred on OWNER by providing more fully for the satisfaction of the public needs resulting from the Project.

4.2 Development Impact Fees.

4.2.1 Amount of Development Impact Fee. Development Impact Fees (DIF) shall be paid by OWNER. The Development Impact Fee amounts to be paid by OWNER shall be the amounts that are in effect at the time such amounts are due. Nothing contained in this Agreement shall affect the ability of the CITY to impose new Development Impact Fees or amend the amounts of existing Development Impact Fees. Additionally, nothing contained in this Agreement shall affect the ability of other public agencies that are not controlled by CITY to impose and amend, from time to time, Development Impact Fees established or imposed by such other public agencies, even though such Development Impact Fees may be collected by CITY.

4.2.2 Time of Payment. The Development Impact Fees required pursuant to Subsection 4.2.1 shall be paid to CITY prior to the issuance of building permit for each applicable residential or other unit, except for the Open Space and Habitat Acquisition Development Impact fee, which shall be paid by OWNER to CITY prior to the issuance of a grading permit. Deferral of the payment of Development Impact Fees may be granted pursuant to a separate agreement approved by City pursuant to City policy.

4.2.3 Parkland and Quimby Act Fees. Pursuant to the General Plan (OntarioPlan) Goal PR1, Policy PR1-5 (achievement of a park standard of 5 acres of parkland per 1,000 residents). In order to meet this standard, OWNER shall provide improved parks, developed in accordance with the CITY'S park standards in an amount equal to two (2) acres per 1,000 of projected population without credit, reimbursement, offset or consideration from CITY. CITY and OWNER agree that Lot J of Tract Map No. 19909 of 0.95 net acres shall be improved as an open space park area and shall be transferred to a homeowners' association and the homeowners' association shall be responsible for all maintenance of all developed open space park areas. OWNER shall also pay the full Development Impact Fee for the Parkland Acquisition and Development Fee category (Quimby Act fees) for the Project.

4.2.3.1 OWNER acknowledges that Lot J of Tract Map No. 19909 is a portion of a combined open space park area. The combined open space park

area also includes Lot A of Tract Map No. 19907, which is owned by others. OWNER agrees that both Lot J of Tract Map No. 19909 and Lot A of Tract Map No. 19907 shall be developed as a single open space park area at the same time. OWNER agrees that if the combined open space park area has not been developed and improved by others prior to OWNER requesting the first building permit for Production Units, OWNER agrees that OWNER shall be required to develop both Lot J of Tract Map No. 19907 and Lot A of Tract Map No. 19909 as a combined open space park area, at OWNER's sole expense. Such combined open space park shall be transferred to a single homeowners' association. The homeowners' association shall be responsible for all maintenance of the combined open space park area.

4.3 Responsibility for Construction of Public Improvements.

4.3.1 Timely Construction of Public Infrastructure. The phasing of the area wide infrastructure construction within the Ontario Ranch area will be as approved by the CITY. OWNER shall be responsible for the timely construction and completion of all public infrastructure required for the Project as shown on the attached Exhibit "F" and any and all tentative tract map conditions. Unless otherwise specified in the Subdivision Agreement/Tract Map conditions, all other required Improvements for Tract No. 19909 shall be completed and operational prior to, and as a condition precedent to, OWNER requesting and CITY's granting of the first building permit for Production Units for the Tract Map for Tract No. 19909. All Infrastructure and Improvements shall be completed as required by the Subdivision Agreement/Tract Map conditions for Tract No 19909.

4.3.2 Construction of DIF Program Infrastructure (Construction Agreement). To the extent OWNER is required to construct and completes construction of public improvements that are included in CITY's Development Impact Fee Program and the Construction Agreement between CITY and NMC Builders LLC, CITY agrees that CITY shall issue DIF Credit in accordance with the provisions of the Construction Agreement and any amendments thereto. Use of DIF Credit issued to OWNER as a member of NMC Builders LLC to offset OWNER's DIF payment obligations shall also be subject to the provisions of the Construction Agreement and any amendments thereto.

4.3.3 Construction of DIF Program Infrastructure (Non-Construction Agreement). To the extent OWNER is required to construct and completes construction of public improvements that are included in CITY's Development Impact Fee Program and such public improvements are not included the Construction Agreement between CITY and NMC Builders LLC, CITY agrees that CITY shall issue DIF Credit and DIF Reimbursement in accordance with the provisions of a separate Fee Credit Agreement between CITY and OWNER. Limitation on the use of DIF Credit issued to OWNER to offset OWNER's DIF payment obligations shall also be subject to the provisions of a separate Fee Credit Agreement. OWNER may also be eligible to receive reimbursement from DIF collected by CITY and paid by other development that benefits from OWNER's construction of DIF Program Infrastructure. Any such DIF

Reimbursement shall be subject to a Fee Credit Agreement between CITY and OWNER. CITY and OWNER agree that the Fee Credit Agreement between CITY and OWNER shall comply with CITY's adopted policies applicable to such agreements.

4.4 Affordable Housing Requirement.

4.4.1 Affordable Housing- Number of Units. OWNER shall provide a minimum number of affordable housing units, equivalent to 10% of the OWNER's total approved residential units within the Project, that are affordable to very low, low and moderate income households. Such requirement for affordable housing shall be met through one, or a combination of one or more, of the options provided in the following Sections 4.3.2.1 through 4.3.2.1. For the purposes of this Section, any term not defined in this Agreement shall be as defined by California Community Redevelopment Law (California Health and Safety Code Section 33000 et seq.).

4.4.2 Affordability Spread. Of the total number of residential dwelling units specified in Section 4.4.1, to be constructed or rehabilitated pursuant to Sections 4.4.2.1 or 4.4.2.2 respectively, thirty percent (30%) shall be available to very low income, thirty percent (30%) shall be available to low income and forty percent (40%) shall be available to moderate income households. "**Households**" shall be as defined by California Health and Safety Code Section 50053.

4.4.2.1 New Construction. If OWNER elects to fully or partially satisfy the affordable housing requirement by the construction of new residential units, it shall construct and restrict the affordability of residential dwelling units within its Project or, at OWNER's option and with the approval of the City, within another project elsewhere within the City. The affordable units constructed shall be intermingled with other units as part of the Project, and shall be built to the same construction, design and aesthetic standards, as well as number of rooms, as other units constructed as part of that OWNER's Project. In addition, the percentage ratio of affordable units offered for sale versus those offered for rent shall equal the percentage ratio of other units offered for sale versus for rent within OWNER's Project. Such construction shall be completed no later than the date that is five (5) years following the issuance of the first building permit for OWNER's Project; provided however that to the extent OWNER has not constructed the required percentage of units, based on the number of building permits for non-restricted units, OWNER shall, prior to the issuance of such building permits, provide security (in the form and substance approved by the City Manager and City Attorney) to City in order to ensure the faithful completion of such required percentage of construction of affordable units. If OWNER elects the option of constructing new affordable units, a detailed Affordable Housing Agreement specifying terms for the allowable monthly housing costs or rents (as applicable) and maintenance and occupancy standards shall be prepared, executed and recorded against such units as a condition to the issuance of a building permit. The Affordable Housing

Agreement shall hold a recorded priority position senior to any other non-statutory lien or encumbrance affecting the unit.

4.4.2.2 Rehabilitation. If OWNER elects to fully or partially satisfy the affordable housing requirement by the substantial rehabilitation of existing residential units in the City, it shall substantially rehabilitate and restrict the affordability of, the number of residential units specified in Section 4.4.1, provided that such units shall be provided elsewhere within the City. The rehabilitation work shall be substantial and of high quality and shall also address any deferred property maintenance issues on the property. **“Substantial rehabilitation”** shall mean rehabilitated multi-family rented dwelling units with three or more units and the value of the rehabilitation constitutes 25 percent of the after rehabilitation value of the dwelling, inclusive of land value pursuant to Health and Safety Code Section 33413(b)(2)(A)(iii-iv) as such section exists as of the Effective Date of this Agreement. If OWNER chooses the option of rehabilitation of existing housing units within the City, a detailed Affordable Housing Agreement specifying the terms for the allowable month housing costs or rents (as applicable) and maintenance and occupancy standards shall be prepared, executed and recorded against such units as a condition to the issuance of a building permit. Such rehabilitation shall be completed no later than the date that is five (5) years following the issuance of the first building permit for OWNER’s Project; provided however that to the extent OWNER has not rehabilitated the required percentage of units, based on the number of building permits, OWNER shall, prior to the issuance of such building permits, provide security (in the form and substance approved by the City Manager and City Attorney) to the City in order to ensure the faithful completion of such required percentage of rehabilitation.

4.4.2.3 In-Lieu Fee. If OWNER has not fully complied with the requirements of Section 4.3.1 by providing the minimum number of affordable units through the construction of new affordable units or by the substantial rehabilitation of existing units, shall pay an **“Affordability In-Lieu Fee”**. If OWNER has not provided any affordable residential units by construction or rehabilitation, the Affordability In-Lieu fee shall be equal to Two Dollars and Thirty-four Cents (\$2.34) per square foot of residential development within OWNER’s Project or, if pre-paid as set forth below, Two Dollars and Five Cents (\$2.05) per square foot of residential development within OWNER’s Project. If OWNER has partially complied with the requirements of Section 4.4.1 by construction or rehabilitation of less than the minimum number of units, then the Affordability In-lieu Fee shall be recalculated and reduced in consideration of the number and type of affordable units provided. The Affordability In-Lieu Fee shall be paid by OWNER to City no later than prior to the issuance of each building permit within OWNER’s Project based on the square footage of the residential unit for which such building permit is sought; provided however that

OWNER may, at OWNER's election, pre-pay such Affordability In-Lieu Fee by paying such Affordability In-Lieu Fee within thirty (30) days following the earliest discretionary approval by the City for OWNER's Project, including, but not limited to, any general plan amendment, specific plan adoption, development agreement, tentative map approval, variance, conditional use permit, or resolution of intention to form any public financing mechanism. The Two Dollars and Thirty-four Cents (\$2.34) and the Two Dollars and Five Cents (\$2.05) per square foot amounts shall automatically be increased annually, commencing on July 1, 2016, and automatically each July 1 thereafter. Such adjustment shall be based on the percentage increase (but no decrease) in the Consumer Price Index (Los Angeles-Anaheim-Riverside County), 1950-2001 (1982-84=100) over the preceding year. The pre-paid Affordability In-Lieu Fee shall be calculated based on the maximum floor area ratio (FAR) permitted within the General Plan and any applicable FAR contained within the applicable specific plan, whichever is greater, and the Maximum Development Density. For purposes of this Agreement, "**Maximum Development Density**" shall be determined by multiplying the OWNER's Project's density for residential development potential as set forth in the General Plan or the applicable Specific Plan, whichever is less, by the net acreage of land within OWNER's Project. All "Affordability In-Lieu Fees" collected by the City shall be used to promote the construction of affordable housing within the City.

4.4.2.4 Affordability Covenants. Prior to the issuance of the first building permit for any affordable unit, the City and OWNER shall enter into an Affordable Housing Agreement. Affordability shall be assured for a period of forty five (45) years for for-sale units and fifty five (55) years for rentals. For rental units, base rents shall be established by the City and rental adjustments required by the City shall be performed on an annual basis. In addition, the Affordable Housing Agreement shall impose maximum occupancy limits of 2 occupants per bedroom plus 1 additional occupant per dwelling unit, and a requirement for the owner or tenant to properly maintain each dwelling unit.

4.4.2.5 Transfer of Affordable Project. No transfer of title to any affordable housing project shall occur without the prior written consent of the City. In the event OWNER transfers title to any affordable housing project required to be constructed pursuant to this Agreement to a non-profit entity, or other entity, that receives an exemption from ad valorem real property taxes, the City shall be required to assure payment of an annual in lieu fee to the City on July 1 of each year equal to one-tenth of one percent (0.1%) of the assessed value of such project. The City may permit OWNER to satisfy this obligation by recorded covenants against the property and enforceable against said entity by the City. Any such covenants shall be approved by the Planning Director and the City Attorney.

4.5 Schools Obligations.

4.5.1 Written Evidence of Compliance with Schools Obligations.

OWNER shall, either through joint or individual agreements between OWNER and the applicable school district(s), shall satisfy its new school obligations. The new school obligations for the Mountain View School District in the Ontario Ranch area have been projected to include the acquisition or dedication of school sites for, and construction of, up to eight (8) schools. Of these eight (8) schools, six (6) are to be elementary (K-5) grade schools and two (2) are to be middle grade schools. The new school obligations for the Chaffey Joint Union High School District in the Ontario Ranch area have been projected to include the dedication of a school site for, and construction of, an additional high school. The new school obligations for the applicable school district shall be met by a combination of the following: (1) designating and dedicating school site(s) within the Property as set forth in the General Plan, and/or (2) paying school impact fees, (3) entering into a joint mitigation agreement or individual mitigation agreements, or (4) any combination of the foregoing. Written evidence of approval by the applicable school district that OWNER has met their school obligations may be required by the City as the condition to the issuance by the City of any entitlements for OWNER's Project. In the event OWNER is unable to provide such written evidence from the applicable school district(s), the City shall have the right to decline to honor any DIF Credit, Certificates of MDD Availability, Certificates of Storm Water Treatment Capacity Availability, or any combination thereof, presented by such OWNER, without liability to the City. To the extent that a joint mitigation agreement is approved by the applicable school district(s), and OWNER is a participant in good standing in such mitigation agreement, OWNER shall be deemed to have mitigated its new school obligations under this Section 4.4.1.

4.6 Public Services Funding Fee.

4.6.1 Requirement for Payment of Public Services Funding Fee. In order to ensure that the adequate provision of public services, including without limitation, police, fire and other public safety services, are available to the residents of each Project in a timely manner, OWNER shall pay to CITY a "**Public Services Funding Fee.**" The Public Services Funding Fee shall apply to residential and non-residential uses as set forth below.

4.6.2 Public Services Funding Fee Amount. OWNER shall pay a Public Services Funding fee in the total amount of One Thousand Eight Hundred Seventy-three dollars (\$1,873.00) per residential dwelling unit. The Public Services Funding Fee shall be paid in one (1) installment within one hundred eighty (180) calendar days after the effective date of the Development Agreement or in two (2) installments, at OWNER's option, as follows:

4.6.2.1 First Installment (Residential uses). The First Installment of the Public Services Funding Fee shall be Nine Hundred Thirty Six dollars and

Fifty Cents (\$936.50) per residential dwelling unit. The First Installment shall be based upon the “**Maximum Development Density**” of the OWNER Project, as defined on the approved Tract No. 19909 as 118 dwelling units. The First Installment shall be due and payable 30 days following City’s start of construction of Fire Station No. 9.

If the First installment amount is not paid for all residential dwelling units within the Project (based on the Maximum Development Density, or the number of units described on “B Maps” if approved) by January 1, 2017, the amount of the First Installment shall be increased. Such increase shall be based on the percentage increase (but no decrease) in the Consumer Price Index (Los Angeles-Anaheim-Riverside County), 1950-2001 (1982-84=100) over the preceding year, Additionally, the amount shall be further increased automatically by the percentage increase in the Consumer Price Index (Los Angeles-Anaheim-Riverside) on each January 1 thereafter.

4.6.2.2 Second Installment (Residential Uses). The Second Installment of the Public Services Funding Fee shall be Nine Hundred Thirty Six dollars and Fifty Cents (\$917.500) per residential unit. The Second Installment shall be paid at the time of the issuance of each building permit for the Project. The amount of the Second Installment shall increase automatically by percentage increase (but no decrease) in the Consumer Price Index (Los Angeles-Anaheim-Riverside County), 1950-2001 (1982-84=100) over the preceding year on January 1st of each year, beginning on January 1, 2017. OWNER may exercise the option to pay the Second Installment amount for all residential units, a portion of the residential units, or for the remainder of the residential units within OWNER’s Project on or before each December 31st, before the Second Installment amount is automatically increased.

4.6.2.3 Single Installment (Non-residential Uses). A single installment payment of the Public Services Funding Fee shall be required in the amount of Fifty Six Cents (\$.56) per square foot of non-residential buildings. The single installment for non-residential uses shall be due and payable prior to the issuance of the building permit for a non-residential building. The amount of the Single Installment for non-residential uses shall automatically increase by percentage increase (but no decrease) in the Consumer Price Index (Los Angeles-Anaheim-Riverside County), 1950-2001 (1982-84=100) over the preceding year on January 1st of each year, beginning on January 1, 2017. OWNER may exercise the option to pay any single installment amounts for the remainder of the non-residential square footage within the Project on or before December 31st, before the Single Installment amount is automatically increased.

4.7 Net MDD/Water Availability Equivalents.

4.7.1 Assigned Net MDD/Water Availability Equivalents. The City has agreed with NMC Builders LLC to reserve exclusively for Members of NMC Builders, including OWNER, Net MDD made available through the construction of water system improvements funded by NMC Builders LLC. NMC Builders has assigned to OWNER its allocable share of the Net MDD issued by City. The provisions of the Construction Agreement Amendment requires that the City shall not issue building permits or certificates of occupancy for the area of development within the Ontario Ranch area served by the water system improvements funded by NMC Builders LLC, except to the bearer of an Assignment of Net MDD Water Availability.

4.7.2 Use of Assigned Net MDD Water Availability. OWNER shall provide evidence of sufficient Net MDD Water Availability Equivalents (or portions thereof) prior to and as a condition precedent to, City's approval of the final Tract Map for Tract No. 19909. The amount of Net MDD Water Availability Equivalents required for the issuance of each building permit shall be based upon water demand factors and assumptions listed in Exhibit C-2R of the Construction Agreement Amendment as "Water Demand Equivalents by Land Use" for each land use category.

4.7.3 Requirement for other Water System Improvements. A Certificate of Net MDD Availability is evidence only of available water capacity and does not satisfy any other conditions applicable to an OWNER's Project, including those relating to design and construction of master-planned potable water and recycled water transmission and distribution system for the respective pressure zone and other public infrastructure requirements.

4.8 Storm Water Capacity Availability.

4.8.1 Requirement for Storm Water Treatment Capacity Availability. OWNER shall provide evidence of sufficient Storm Water Treatment Capacity Availability as reserved in a Certificate of Storm Water Treatment Capacity Availability in the same manner and subject to the same limitations as provided for Certificates of Net MDD Availability in Section 4.7 of this Agreement.

4.8.1.1 Temporary Deferral of Requirement for Storm Water Treatment Capacity Availability. At this time, in the current opinion of the Regional Board staff, the regional storm water treatment facilities constructed by NMC Builders do not meet the requirements of the NPDES permit for the Property. Therefore, the CITY and NMC Builders have agreed that the provisions of Section 3.8 of the Construction Agreement have been temporarily suspended for an interim period and the requirements for evidence of Storm Water Treatment Capacity shall not apply to the Property, if OWNER's application for a tentative subdivision

map is approved during this interim period of the suspension. If it is later determined that the regional storm water treatment facilities constructed by NMC Builders may be utilized to meet the requirements of the NPDES permit for the Property and OWNER elects to utilize the regional storm water treatment facilities to meet the requirements of the NPDES permit then the requirements of Section 3.8 of the Construction Agreement shall be fully applicable to the Property and OWNER shall be required to provide evidence of sufficient Storm Water Treatment Capacity Availability for the total Net Residential Acreage.

4.8.2 Use of Storm Water Treatment Capacity Availability. The amount of Storm Water Treatment Capacity Availability required for the issuance of a grading permit to OWNER shall be based upon the Net Residential Acreage of the area to be graded regardless of the corresponding use.

4.8.3 Requirement for other Storm Water Improvements. The Certificate of Storm Water Treatment Capacity Availability is evidence only of available storm water treatment capacity and does not satisfy any other conditions applicable to a particular development project, including those relating to on-site water treatment, water quality, connection to the storm water collection system, or other public infrastructure requirements.

4.9 Maintenance of Open Space. OWNER shall provide for the ongoing maintenance of all park and open space areas within the Project as more particularly set forth in the Specific Plan, through a homeowners' association as approved by the CITY. Covenants, conditions and restrictions establishing any homeowners' association shall be approved by the Planning Director and City Attorney. If requested by OWNER, the CITY shall use good faith efforts to require the adjacent Tract No. 19907 to join such homeowners' association for the purpose of maintaining such parks and open spaces.

4.11 Compliance with Public Benefits Requirements.

4.11.1 Failure to Provide Public Benefits. In the event OWNER fails or refuses to comply with any condition referenced in Section 4.1 through 4.9, or challenges (whether administratively or through legal proceedings) the imposition of such conditions, OWNER shall be deemed in default of this Agreement pursuant to Section 8.4 hereof, thereby entitling the City to any and all remedies available to it, including, without limitation, the right of the City to withhold OWNER's Project-related building permits, certificates of occupancy, or discretionary approvals, without liability.

5. FINANCING OF PUBLIC IMPROVEMENTS.

5.1 Financing Mechanism(s). In accordance with the Memorandum of Agreement between CITY and NMC Builders LLC, CITY will cooperate with OWNER in the formation of a CFD, or CFDs, to include all of the Project, to provide a financing

mechanism to reimburse the OWNER for funds paid to NMC Builders LLC for OWNER's share of the costs of public infrastructure pursuant to the Construction Agreement. Notwithstanding such reimbursements and acquisitions, OWNER shall remain entitled to DIF Credits as provided for in Article 3 of the Construction Agreement and/or as provided for in a separate Fee Credit Agreement between CITY and OWNER. OWNER agrees that, prior to the recordation of any Tract Map, the property subject to such Tract Map shall be included in a CFD to finance City services through annual special taxes that will initially be \$1,442.00 per Single Family Detached Dwelling Unit, \$1,250.00 per Multiple-Family Dwelling Unit, \$1,048.00 per Gated Apartment Community Dwelling Unit, and \$0.27 per square foot for Non-Residential buildings. These amounts shall be subject to an automatic increase at a rate not to exceed four (4%) percent per year. CITY shall be the sole and exclusive lead agency in the formation of any CFD, assessment district or other public financing mechanism within the Property; provided however, that the proceeds of any such CFD, assessment district, or financing mechanism may be used, subject to restrictions that may be imposed by applicable law, for the purposes of acquiring, constructing or maintaining public facilities to be owned or operated by other public agencies, including, without limitation those facilities owned or operated by a school district. In addition to the rights of the CITY pursuant to section 5.2 hereof, CITY shall have the right, but not the obligation, to condition the formation of any CFD, assessment district or other public financing mechanism within the Property on the OWNER mitigating all Project-related impacts to the applicable school district(s) as required by such school district(s). Written evidence by such school district(s) may be required by the CITY as the condition to the formation of any CFD, assessment district or other public financing mechanism within the Property, or any steps preliminary thereto, including, without limitation, the adoption of any resolution of intention to form such CFD, assessment district or other public financing mechanism within the Property. It is not the intent of the parties hereto, by this provision, to prohibit or otherwise limit the City's ability to take any and all necessary steps requisite to the formation of the CFD to finance City services through annual special taxes as set forth in this Section 5.1. Formation of any CFD, assessment district or other public financing mechanism within the Property, shall be subject to CITY's ability to make all findings required by applicable law and complying with all applicable legal procedures and requirements including, without limitation, CITY's public financing district policies as such policies may be amended from time to time. Notwithstanding the foregoing, it is acknowledged and agreed by the parties that nothing contained in this Agreement shall be construed as requiring CITY or the City Council to form any such district or to issue and sell bonds.

6. REVIEW FOR COMPLIANCE.

6.1 Periodic and Special Reviews.

6.1.1 Time for and Initiation of Periodic Review. The CITY shall review this Agreement every twelve (12) months from the Effective Date in order to ascertain the good faith compliance by the OWNER with the terms of this Agreement. The

OWNER shall submit an Annual Monitoring Report to CITY, in a form acceptable to the City Manager, along with any applicable processing charge within ten (10) days after each anniversary date of the Effective Date of this Agreement. Within fifteen (15) days after the receipt of the Annual Monitoring Report, CITY shall review the Annual Monitoring Report. Prior to the expiration of the fifteen (15) day review period, CITY shall either issue a notice of continuing compliance or a notice of non-compliance and a notice of CITY's intent to conduct a Special Review pursuant to Sections 6.1.2 through 6.1.6. Issuance of a notice of continuing compliance may be issued by the City Manager or his designee.

6.1.2 Initiation of Special Review. A special review may be called either by agreement between the parties or by initiation in one or more of the following ways:

- (1) Recommendation of the Planning staff;
- (2) Affirmative vote of at least four (4) members of the Planning Commission; or
- (3) Affirmative vote of at least three (3) members of the City Council.

6.1.3 Notice of Special Review. The City Manager shall begin the special review proceeding by giving notice that the CITY intends to undertake a special review of this Agreement to the OWNER. Such notice shall be given at least ten (10) days in advance of the time at which the matter will be considered by the Planning Commission.

6.1.4 Public Hearing. The Planning Commission shall conduct a hearing at which the OWNER must demonstrate good faith compliance with the terms of this Agreement. The burden of proof on this issue is upon the OWNER.

6.1.5 Findings Upon Public Hearing. The Planning Commission shall determine upon the basis of substantial evidence whether or not the OWNER has, for the period under review, complied in good faith with the terms and conditions of this Agreement.

6.1.6 Procedure Upon Findings.

(a) If the Planning Commission finds and determines on the basis of substantial evidence that the OWNER has complied in good faith with the terms and conditions of this Agreement during the period under review, the review for that period is concluded.

(b) If the Planning Commission finds and determines on the basis of substantial evidence that the OWNER has not complied in good faith with the

terms and conditions of this Agreement during the period under review, the Planning Commission may recommend to the City Council to modify or terminate this Agreement.

(c) The OWNER may appeal a determination pursuant to paragraph (b) to the City Council in accordance with the CITY's rule for consideration of appeals in zoning matters generally.

6.2 Proceedings Upon Modification or Termination. If, upon a finding under Section 6.1.6 (b), the CITY determines to proceed with modification or termination of this Agreement, the CITY shall give notice to the property OWNER of its intention so to do. The notice shall contain:

(a) The time and place of the hearing;

(b) A statement as to whether or not the CITY proposes to terminate or to modify this Agreement; and

(c) Other information that the CITY considers necessary to inform the OWNER of the nature of the proceeding.

6.3 Hearing on Modification or Termination. At the time and place set for the hearing on modification or termination, the OWNER shall be given an opportunity to be heard. The OWNER shall be required to demonstrate good faith compliance with the terms and conditions of this Agreement. The burden of proof on this issue shall be on the OWNER. If the City Council finds, based upon substantial evidence in the administrative record, that the OWNER has not complied in good faith with the terms and conditions of the agreement, the City Council may terminate or modify this Agreement and impose those conditions to the action it takes as it considers necessary to protect the interests of the CITY. The decision of the City Council shall be final, subject only to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

6.4 Certificate of Agreement Compliance. If, at the conclusion of a Periodic or Special Review, OWNER is found to be in compliance with this Agreement, CITY shall, upon written request by OWNER, issue a Certificate of Agreement Compliance ("Certificate") to OWNER stating that after the most recent Periodic or Special Review and based upon the information known or made known to the Planning Director and City Council that (1) this Agreement remains in effect and (2) OWNER is not in default. The Certificate shall be in recordable form, shall contain information necessary to communicate constructive record notice of the finding of compliance, shall state whether the Certificate is issued after a Periodic or Special Review and shall state the anticipated date of commencement of the next Periodic Review. OWNER may record the Certificate with the County Recorder. Whether or not the Certificate is relied upon by assignees or other transferees or OWNER, CITY shall not be bound by a Certificate if a default existed at the time of the Periodic or Special Review, but was concealed from or otherwise not known to the Planning Director or City Council.

7. [RESERVED]

8. DEFAULT AND REMEDIES.

8.1 Remedies in General. It is acknowledged by the parties that CITY would not have entered into this Agreement if it were to be liable in damages under this Agreement, or with respect to this Agreement or the application thereof.

In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement, except that CITY shall not be liable in damages to OWNER, or to any successor in interest of OWNER, or to any other person, and OWNER covenants not to sue for damages or claim any damages:

(a) For any breach of this Agreement or for any cause of action which arises out of this Agreement; or

(b) For the taking, impairment or restriction of any right or interest conveyed or provided under or pursuant to this Agreement; or

(c) Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

8.2 Specific Performance. The parties acknowledge that money damages and remedies at law generally are inadequate and specific performance and other non-monetary relief are particularly appropriate remedies for the enforcement of this Agreement and should be available to all parties for the following reasons:

(a) Money damages are unavailable against CITY as provided in Section 8.1 above.

(b) Due to the size, nature and scope of the project, it may not be practical or possible to restore the Property to its natural condition once implementation of this Agreement has begun. After such implementation, OWNER may be foreclosed from other choices it may have had to utilize the Property or portions thereof. OWNER has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing even more significant time and resources in implementing the Project in reliance upon the terms of this Agreement, and it is not possible to determine the sum of money which would adequately compensate OWNER for such efforts.

8.3 Release. Except for non-damage remedies, including the remedy of specific performance and judicial review as provided for in Section 6.5, OWNER, for itself, its successors and assignees, hereby releases the CITY, its officers, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, including, but not limited to, any claim or liability, based or asserted, pursuant to Article I, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution, or any

other law or ordinance which seeks to impose any other liability or damage, whatsoever, upon the CITY because it entered into this Agreement or because of the terms of this Agreement.

8.4 Termination or Modification of Agreement for Default of OWNER. Subject to the provisions contained in Subsection 6.3 herein, CITY may terminate or modify this Agreement for any failure of OWNER to perform any material duty or obligation of OWNER under this Agreement, or to comply in good faith with the terms of this Agreement (hereinafter referred to as “default”); provided, however, CITY may terminate or modify this Agreement pursuant to this Section only after providing written notice to OWNER of default setting forth the nature of the default and the actions, if any, required by OWNER to cure such default and, where the default can be cured, OWNER has failed to take such actions and cure such default within 60 days after the effective date of such notice or, in the event that such default cannot be cured within such 60 day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such 60 day period and to diligently proceed to complete such actions and cure such default.

8.5 Termination of Agreement for Default of CITY. OWNER may terminate this Agreement only in the event of a default by CITY in the performance of a material term of this Agreement and only after providing written notice to CITY of default setting forth the nature of the default and the actions, if any, required by CITY to cure such default and, where the default can be cured, CITY has failed to take such actions and cure such default within 60 days after the effective date of such notice or, in the event that such default cannot be cured within such 60 day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such 60 day period and to diligently proceed to complete such actions and cure such default.

9. THIRD PARTY LITIGATION.

9.1 General Plan Litigation. CITY has determined that this Agreement is consistent with its Comprehensive General Plan, as such General Plan exists as of the Effective Date (“General Plan”), and that the General Plan meets all requirements of law. OWNER has reviewed the General Plan and concurs with CITY’s determination. CITY shall have no liability in damages under this Agreement for any failure of CITY to perform under this Agreement or the inability of OWNER to develop the Property as contemplated by the Development Plan of this Agreement as the result of a judicial determination that on the Effective Date, or at any time thereafter, the General Plan, or portions thereof, are invalid or inadequate or not in compliance with law.

9.2 Third Party Litigation Concerning Agreement. OWNER shall defend, at its expense, including attorneys’ fees, indemnify, and hold harmless CITY, its agents, officers and employees from any claim, action or proceeding against CITY, its agents, officers, or employees to attack, set aside, void, or annul the approval of this Agreement or the approval of any permit granted pursuant to this Agreement. CITY shall promptly notify OWNER of any such claim, action or proceeding, and CITY shall cooperate in the

defense. If CITY fails to promptly notify OWNER of any such claim, action or proceeding, or if CITY fails to cooperate in the defense, OWNER shall not thereafter be responsible to defend, indemnify, or hold harmless CITY. CITY may in its discretion participate in the defense of any such claim, action or proceeding.

9.3 Indemnity. In addition to the provisions of 9.2 above, OWNER shall indemnify and hold CITY, its officers, agents, employees and independent contractors free and harmless from any liability whatsoever, based or asserted upon any act or omission of OWNER, its officers, agents, employees, subcontractors and independent contractors, for property damage, bodily injury, or death (OWNER's employees included) or any other element of damage of any kind or nature, relating to or in any way connected with or arising from the activities contemplated hereunder, including, but not limited to, the study, design, engineering, construction, completion, failure and conveyance of the public improvements, save and except claims for damages arising through the sole active negligence or sole willful misconduct of CITY. OWNER shall defend, at its expense, including attorneys' fees, CITY, its officers, agents, employees and independent contractors in any legal action based upon such alleged acts or omissions. CITY may in its discretion participate in the defense of any such legal action.

9.4 Environment Assurances. OWNER shall indemnify and hold CITY, its officers, agents, and employees free and harmless from any liability, based or asserted, upon any act or omission of OWNER, its officers, agents, employees, subcontractors, predecessors in interest, successors, assigns and independent contractors for any violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene or to environmental conditions on, under or about the Property, including, but not limited to, soil and groundwater conditions, and OWNER shall defend, at its expense, including attorneys' fees, CITY, its officers, agents and employees in any action based or asserted upon any such alleged act or omission. CITY may in its discretion participate in the defense of any such action.

9.5 Reservation of Rights. With respect to Sections 9.2, 9.3 and 9.4 herein, CITY reserves the right to either (1) approve the attorney(s) which OWNER selects, hires or otherwise engages to defend CITY hereunder, which approval shall not be unreasonably withheld, or (2) conduct its own defense, provided, however, that OWNER shall reimburse CITY forthwith for any and all reasonable expenses incurred for such defense, including attorneys' fees, upon billing and accounting therefor.

9.6 Survival. The provisions of this Sections 9.1 through 9.6, inclusive, shall survive the termination of this Agreement.

10. MORTGAGEE PROTECTION.

The parties hereto agree that this Agreement shall not prevent or limit OWNER, in any manner, at OWNER's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. CITY acknowledges that

the lenders providing such financing may require certain Agreement interpretations and modifications and agrees upon request, from time to time, to meet with OWNER and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. CITY will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement. Any Mortgagee of the Property shall be entitled to the following rights and privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Property made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, which Mortgagee, has submitted a request in writing to the CITY in the manner specified herein for giving notices, shall be entitled to receive written notification from CITY of any default by OWNER in the performance of OWNER's obligations under this Agreement.

(c) If CITY timely receives a request from a Mortgagee requesting a copy of any notice of default given to OWNER under the terms of this Agreement, CITY shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to OWNER. The Mortgagee shall have the right, but not the obligation, to cure the default during the remaining cure period allowed such party under this Agreement.

(d) Any Mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have an obligation or duty under this Agreement to perform any of OWNER's obligations or other affirmative covenants of OWNER hereunder, or to guarantee such performance; provided, however, that to the extent that any covenant to be performed by OWNER is a condition precedent to the performance of a covenant by CITY, the performance thereof shall continue to be a condition precedent to CITY's performance hereunder, and further provided that any sale, transfer or assignment by any Mortgagee in possession shall be subject to the provisions of Section 2.4 of this Agreement.

11. MISCELLANEOUS PROVISIONS.

11.1 Recordation of Agreement. This Agreement and any amendment or cancellation thereof shall be recorded with the San Bernardino County Recorder by the City Clerk within the ten (10) days after the CITY executes this Agreement, as required by Section 65868.5 of the Government Code. If the parties to this Agreement or their successors in interest amend or cancel this Agreement as provided for herein and in Government Code Section 65868, or if the CITY terminates or modifies the agreement as provided for herein and in Government Code Section 65865.1 for failure of the

applicant to comply in good faith with the terms or conditions of this Agreement, the City Clerk shall have notice of such action recorded with the San Bernardino County Recorder.

11.2 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the parties, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

11.3 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement. Notwithstanding the foregoing, the provision of the Public Benefits set forth in Section 4 of this Agreement, including the payment of the fees set forth therein, are essential elements of this Agreement and CITY would not have entered into this Agreement but for such provisions, and therefore in the event such provisions are determined to be invalid, void or unenforceable, this entire Agreement shall be null and void and of no force and effect whatsoever.

11.4 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

11.5 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

11.6 Singular and Plural. As used herein, the singular of any word includes the plural.

11.7 Joint and Several Obligations. Subject to section 2.4, if at any time during the term of this Agreement the Property is owned, in whole or in part, by more than one owner, all obligations of such owners under this Agreement shall be joint and several, and the default of any such owner shall be the default of all such owners. Notwithstanding the foregoing, no owner of a single lot which has been finally subdivided and sold to such owner as a member of the general public or otherwise as an ultimate user shall have any obligation under this Agreement except as provided under Section 4 hereof.

11.8 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

11.9 Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

11.10 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

11.11 Force Majeure. Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond the party's control, (including the party's employment force), government regulations, court actions (such as restraining orders or injunctions), or other causes beyond the party's control. If any such events shall occur, the term of this Agreement and the time for performance by either party of any of its obligations hereunder may be extended by the written agreement of the parties for the period of time that such events prevented such performance, provided that the term of this Agreement shall not be extended under any circumstances for more than five (5) years.

11.12 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

11.13 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. All provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land. Each covenant to do or refrain from doing some act hereunder with regard to development of the Property: (a) is for the benefit of and is a burden upon every portion of the Property; (b) runs with the Property and each portion thereof; and, (c) is binding upon each party and each successor in interest during ownership of the Property or any portion thereof.

11.14 Counterparts. This Agreement may be executed by the parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

11.15 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of San Bernardino, State of California, and the parties

hereto waive all provisions of law providing for the filing, removal or change of venue to any other court.

11.16 Project as a Private Undertaking. It is specifically understood and agreed by and between the parties hereto that the development of the Project is a private development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between CITY and OWNER is that of a government entity regulating the development of private property and the owner of such property.

11.17 Further Actions and Instruments. Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement. The City Manager may delegate his powers and duties under this Agreement to an Assistant City Manager or other management level employee of the CITY.

11.18 Eminent Domain. No provision of this Agreement shall be construed to limit or restrict the exercise by CITY of its power of eminent domain.

11.19 Agent for Service of Process. In the event OWNER is not a resident of the State of California or it is an association, partnership or joint venture without a member, partner or joint venturer resident of the State of California, or it is a foreign corporation, then in any such event, OWNER shall file with the Planning Director, upon its execution of this Agreement, a designation of a natural person residing in the State of California, giving his or her name, residence and business addresses, as its agent for the purpose of service of process in any court action arising out of or based upon this Agreement, and the delivery to such agent of a copy of any process in any such action shall constitute valid service upon OWNER. If for any reason service of such process upon such agent is not feasible, then in such event OWNER may be personally served with such process out of this County and such service shall constitute valid service upon OWNER. OWNER is amenable to the process so served, submits to the jurisdiction of the Court so obtained and waives any and all objections and protests thereto. OWNER for itself, assigns and successors hereby waives the provisions of the Hague Convention (Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters, 20 U.S.T. 361, T.I.A.S. No. 6638).

11.20 Estoppel Certificate. Within thirty (30) business days following a written request by any of the parties, the other party shall execute and deliver to the requesting

party a statement certifying that (i) either this Agreement is unmodified and in full force and effect or there have been specified (date and nature) modifications to the Agreement, but it remains in full force and effect as modified; and (ii) either there are no known current uncured defaults under this Agreement or that the responding party alleges that specified (date and nature) defaults exist. The statement shall also provide any other reasonable information requested. The failure to timely deliver this statement shall constitute a conclusive presumption that this Agreement is in full force and effect without modification except as may be represented by the requesting party and that there are no uncured defaults in the performance of the requesting party, except as may be represented by the requesting party. OWNER shall pay to CITY all costs incurred by CITY in connection with the issuance of estoppel certificates under this Section 11.20 prior to CITY's issuance of such certificates.

11.21 Authority to Execute. The person or persons executing this Agreement on behalf of OWNER warrants and represents that he or she/they have the authority to execute this Agreement on behalf of his or her/their corporation, partnership or business entity and warrants and represents that he or she/they has/have the authority to bind OWNER to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set forth below.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

**SIGNATURE PAGE
TO DEVELOPMENT AGREEMENT**

"OWNER"

Roseville NMC, LLC,
a Florida limited liability company

By: _____

Name: _____

Title: _____

Date: _____

"CITY"

CITY OF ONTARIO

By: _____

Al C. Boling
City Manager

Date: _____

ATTEST:

City Clerk, Ontario

APPROVED AS TO FORM:

BEST, BEST & KREIGER LLP

City Attorney

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF STATE)
) ss.
 COUNTY OF SAN BERNARDINO)

On _____, 2016 _____,
 before me, _____,
Date Name And Title Of Officer (e.g. "Jane Doe, Notary Public")

personally appeared _____,
Name of Signer(s)

personally known to me – **OR** – proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

 Signature of Notary Public

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- Individual
- Corporate Officer

Title(s)

Title or Type of Document

- Partner(s) Limited
- General

Number Of Pages

- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other: _____

Date Of Document

Signer is representing:
 Name Of Person(s) Or Entity(ies)

Signer(s) Other Than Named Above

EXHIBIT "A"
TO DEVELOPMENT AGREEMENT

Legal Description of Property

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

TENTATIVE MAP NO. T/F IS A SUBDIVISION OF THE LAND DESCRIBED AS FOLLOWS:

PARCEL 2 AS SHOWN ON APPROVING LOT LINE ADJUSTMENT LLA NO. 07-012, AS EVIDENCED BY DOCUMENT RECORDED JUNE 10, 2008 AS INSTRUMENT NO. 2008-0263646 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PORTION OF THE BONITO RANCHO SUBDIVISION, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA PER MAP RECORDED IN BOOK 20, PAGE 49 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, AND SECTION 23, TOWNSHIP 2 SOUTH, RANGE 7 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WEST LINE OF HAVEN AVENUE AND THE SAN BERNARDINO-RIVERSIDE COUNTY LINE, SAID WEST LINE BEING 60.00 FEET WESTERLY OF THE CENTERLINE OF HAVEN AVENUE; THENCE NORTH 0°20'57" EAST ALONG SAID WEST LINE, 470.75 FEET; THENCE NORTH 89°57'71" WEST PARALLEL WITH THE NORTHERLY LINE OF SAID SECTION 23, 1456.16 FEET TO THE EASTERLY LINE OF LAND CONVEYED TO GEORGE BUCCOLA AND IDA BUCCOLA BY DEED RECORDED IN BOOK 2049, PAGE 151 OF OFFICIAL RECORDS. THENCE SOUTH 2°05'59" EAST ALONG SAID EASTERLY LINE, 14.74 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF THE EASEMENT DEDICATED TO SOUTHERN CALIFORNIA EDISON COMPANY BY DOCUMENT RECORDED IN BOOK 7283, PAGE 491 OF OFFICIAL RECORDS; THENCE SOUTH 31°37'51" WEST ALONG SAID SOUTHEASTERLY LINE, 683.75 FEET; THENCE SOUTH 73°22'17" EAST, 387.86 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 1200.00 FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 30°03'59" AN ARC DISTANCE OF 629.71 FEET; THENCE SOUTH 13°23'16" EAST, 54.00 FEET TO A POINT ON THE SAN BERNARDINO-RIVERSIDE COUNTY LINE; THENCE NORTH 69°11'33" EAST ALONG SAID COUNTY LINE, 861.04 FEET TO THE POINT OF BEGINNING.

APN: 0218-321-30-0-000

EXHIBIT "B" TO DEVELOPMENT AGREEMENT

Map showing Property and its location

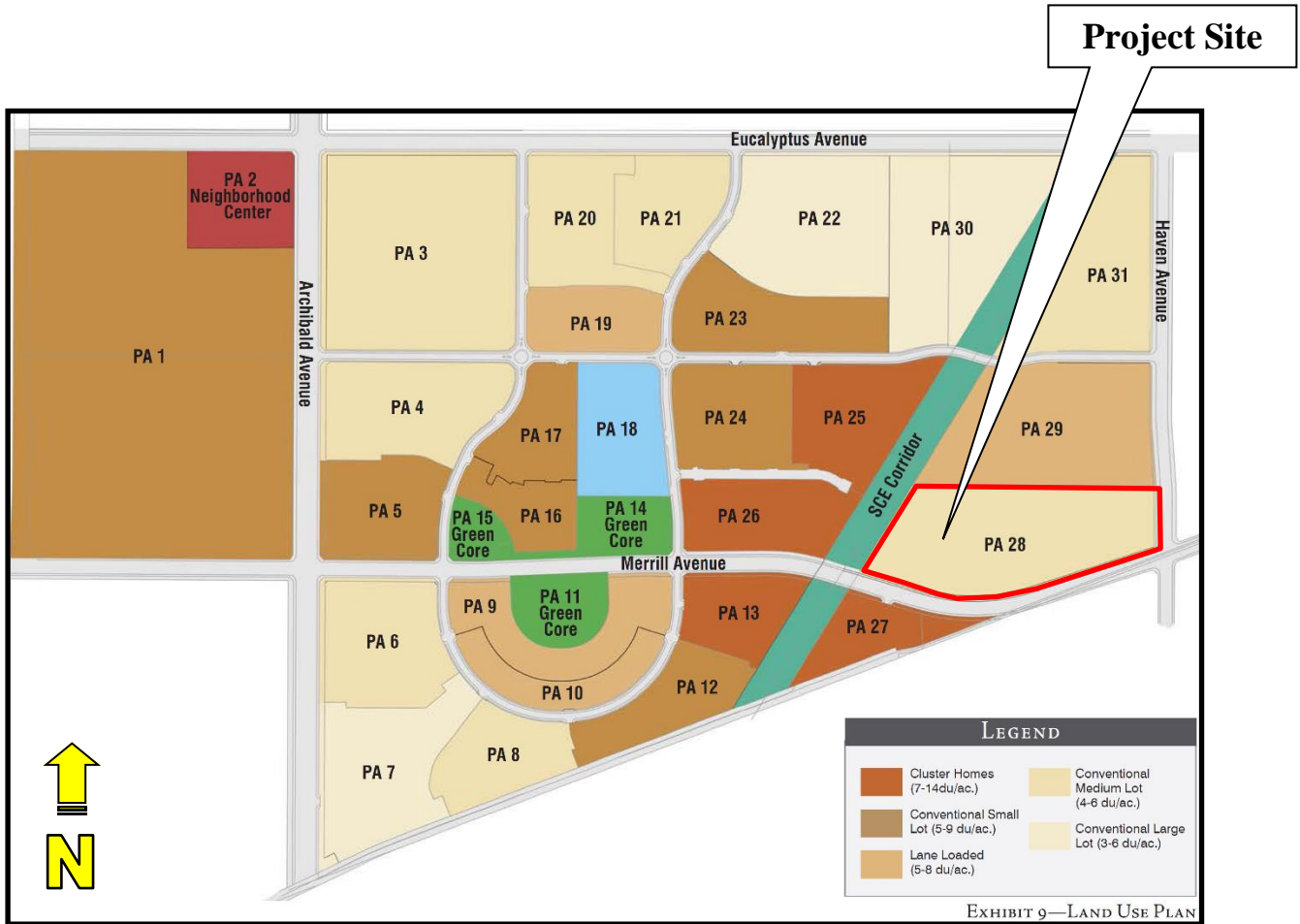


EXHIBIT "C"
TO DEVELOPMENT AGREEMENT

Existing Development Approvals

On September 26, 2006, the Planning Commission:

- a) Issued Resolution No. PC06-095 recommending City Council adopt and certify the Subarea 29 (Park place) Environmental Impact Report;
- b) Issued Resolution No. PC06-096 recommending City Council approval of the General Plan Amendment (PGPA06-003);
- c) Issued Resolution No. PC06-097 recommending City Council approval of the Subarea 29 (Park Place) Specific Plan (PSP03-003); and

On October 19, 2006, the City Council:

- a) Issued Resolution No. 2006-089 certifying the Subarea 29 (Park place) Environmental Impact Report;
- b) Issued Resolution No. 2006-090 approving the General Plan Amendment (PGPA06-003);

On November 7, 2006, the City Council:

- a) Issued Ordinance No. 2845 approving of the Subarea 29 (Park Place) Specific Plan (PSP03-003)

On March 27, 2007, the Planning Commission:

- a) Issued Resolution No. PC07-036 recommending City Council approval of an amendment to the Subarea 29 Specific Plan (PSPA07-007)

On May 1, 2007, the City Council:

- a) Issued Resolution No. 2007-053 approving an amendment to the Subarea 29 Specific Plan

On August 28, 2013 the Zoning Administrator:

- a) Issued Decision No. 2013-025 approving a minor amendment to the Subarea 29 Specific Plan (PSPA13-002)

EXHIBIT "C"
TO DEVELOPMENT AGREEMENT

Existing Development Approvals (Continued)

On March 24, 2015, the Planning Commission:

- b) Issued Resolution No. PC15-035 recommending City Council approval of an amendment to the Subarea 29 Specific Plan (PSPA14-002)

On April 21, 2015 the City Council:

- b) Issued Resolution No. 2015-030 approving an amendment to the Subarea 29 Specific Plan

On April 26, 2016, the Planning Commission:

- a) Issued Resolution No. PC13-*** recommending City Council approval of the Development Agreement (File No. PDA 15-006)
- b) Issued Resolution No. PC13-*** approving Tentative Tract Map 19909 (File No. PMTT14-025)

EXHIBIT "D"
TO DEVELOPMENT AGREEMENT

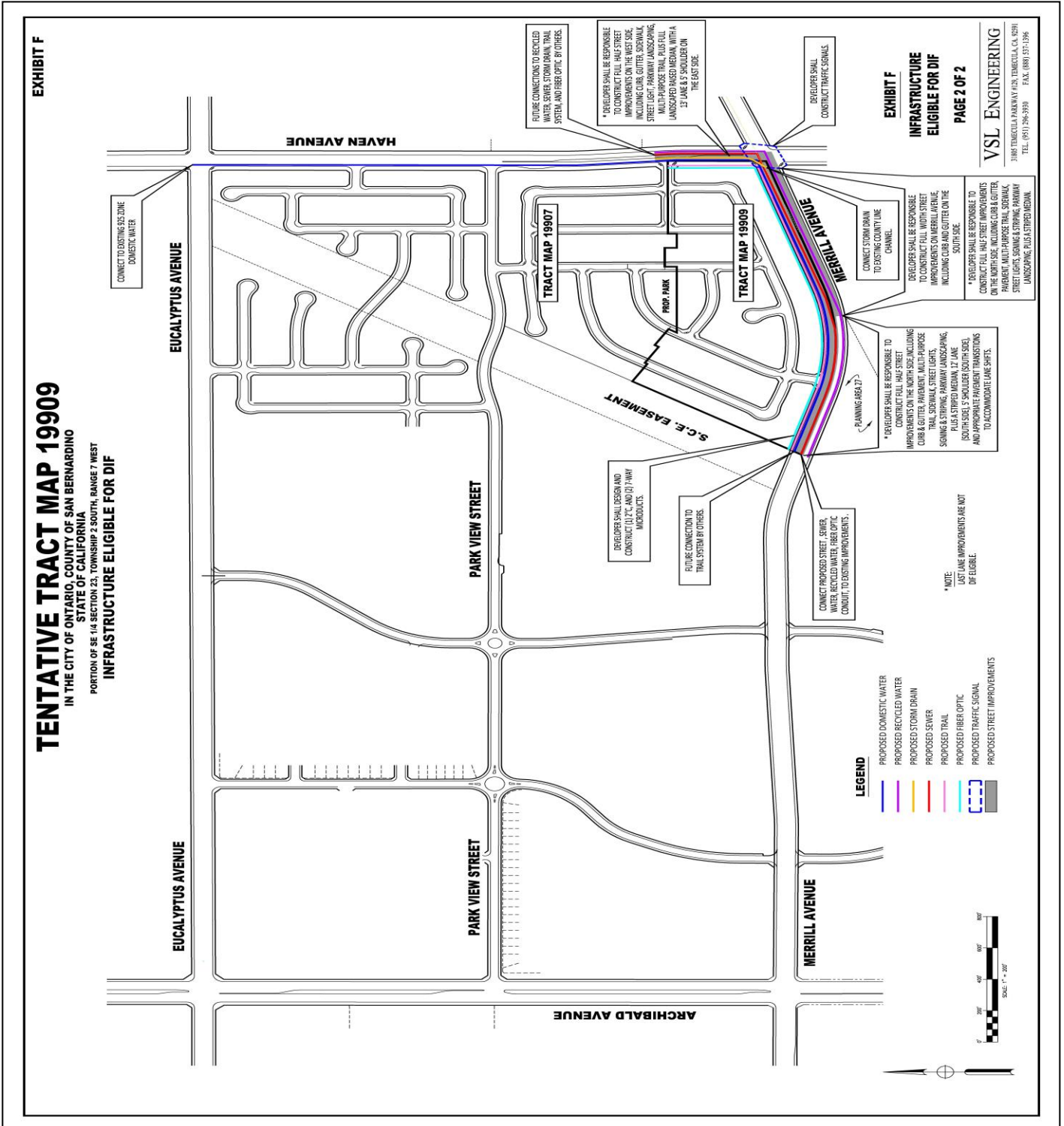
Existing Land Use Regulations

These documents are listed for reference only:

1. Subarea 29 (Park place) Environmental Impact Report, Resolution No. 2006-089
2. Subarea 29 (Park Place) General Plan Amendment (PGPA06-003), Resolution No. 2006-090
3. Subarea 29 (Park Place) Specific Plan (PSP03-003), Ordinance No. 2845
4. Amendment to the Subarea 29 Specific Plan (PSPA07-003), Resolution No. 2007-053
5. Amendment to the Subarea 29 Specific Plan (PSPA13-002), Decision No. 2013-025
6. Amendment to the Subarea 29 Specific Plan (PSPA14-002), Resolution No. 2015-030
7. Tentative Tract Map No. 19909, Resolution No. PC16-***
8. City of Ontario Municipal Code
 - a. Six – Sanitation & Health
 - b. Seven – Public Works
 - c. Eight – Building Regulations
 - d. Nine – Development Code
 - e. Ten – Parks & Recreation

Exhibit "F"

Required Infrastructure Improvements (Continued)





PLANNING COMMISSION STAFF REPORT

April 26, 2016

SUBJECT: A Tentative Tract Map (TT19909) to subdivide 26.81 gross acres into 118 single-family lots and 17 lettered lots within the Conventional Medium Lot Residential district (Planning Area 28) of the Subarea 29 Specific Plan, located at the northwest corner of Haven Avenue and Merrill Avenue. (APN: 0218-321-30); submitted by Richland Ontario Developers, LLC.

PROPERTY OWNER: Roseville NMC, LLC.

RECOMMENDED ACTION: That the Planning Commission approve File No. PMTT14-025 (TT19909), pursuant to the facts and reasons contained in the staff report and attached resolution(s), and subject to the conditions of approval contained in the attached departmental reports.

PROJECT SETTING: The project site is comprised of 26.81 acres of land located at the northwest corner of Haven Avenue and Merrill Avenue, within Planning Area 28 (Conventional Medium Lot Residential District) of the Subarea 29 Specific Plan, and is depicted in Figure 1: Project Location. The project site gently slopes from north to south, is vacant, and was previously used for dairy and agricultural uses.

PROJECT ANALYSIS:

[1] Background — In October 2006, the City Council approved the Subarea 29 Specific Plan (File No. PSP03-003) and the Environmental Impact Report (EIR). The Specific Plan established the land use designations, development standards, and design guidelines for approximately 540 gross acres of land, which included the potential development of 2,293 single-family units and 87,000 square feet of commercial.

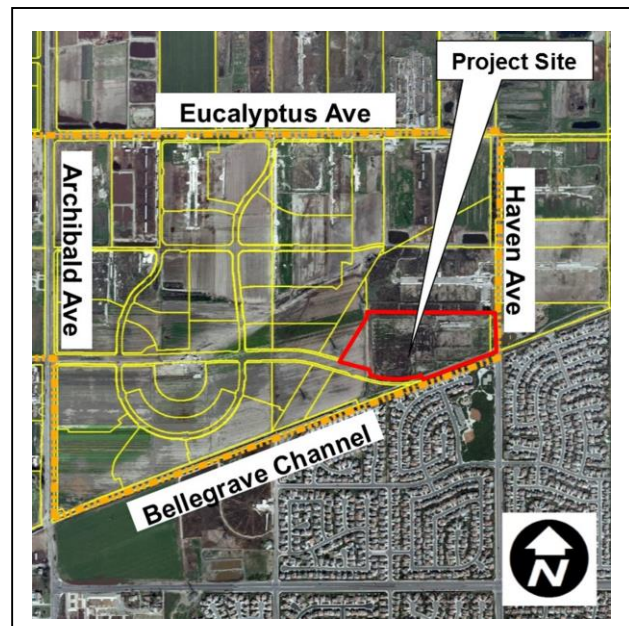


Figure 1: Project Location

Case Planner:	Henry K. Noh, Senior Planner	Hearing Body	Date	Decision	Action
Planning Director Approval:		DAB	4/18/16	Approval	Recommend
Submittal Date:	July 28, 2014	ZA			
Hearing Deadline:	N/A	PC	4/26/16		Final
		CC			

On August 19, 2013, the Planning Commission approved Tentative Tract Map 18913 (referred to as an “A” Map). The approved “A” Map facilitated the backbone infrastructure improvements (major streets, sewer, water and storm drain facilities) and the creation of a school site, two park sites, a recreational center site, and residential neighborhoods within the central portion (Park Place) of the Specific Plan area (**See Figure 2: Subarea 29 Specific Plan Land Use Map**). The proposed Tentative Tract Map will extend the construction of the backbone infrastructure improvements along Merrill Avenue (east of the SCE Easement to Haven Avenue) and Haven Avenue (along the project street frontage).

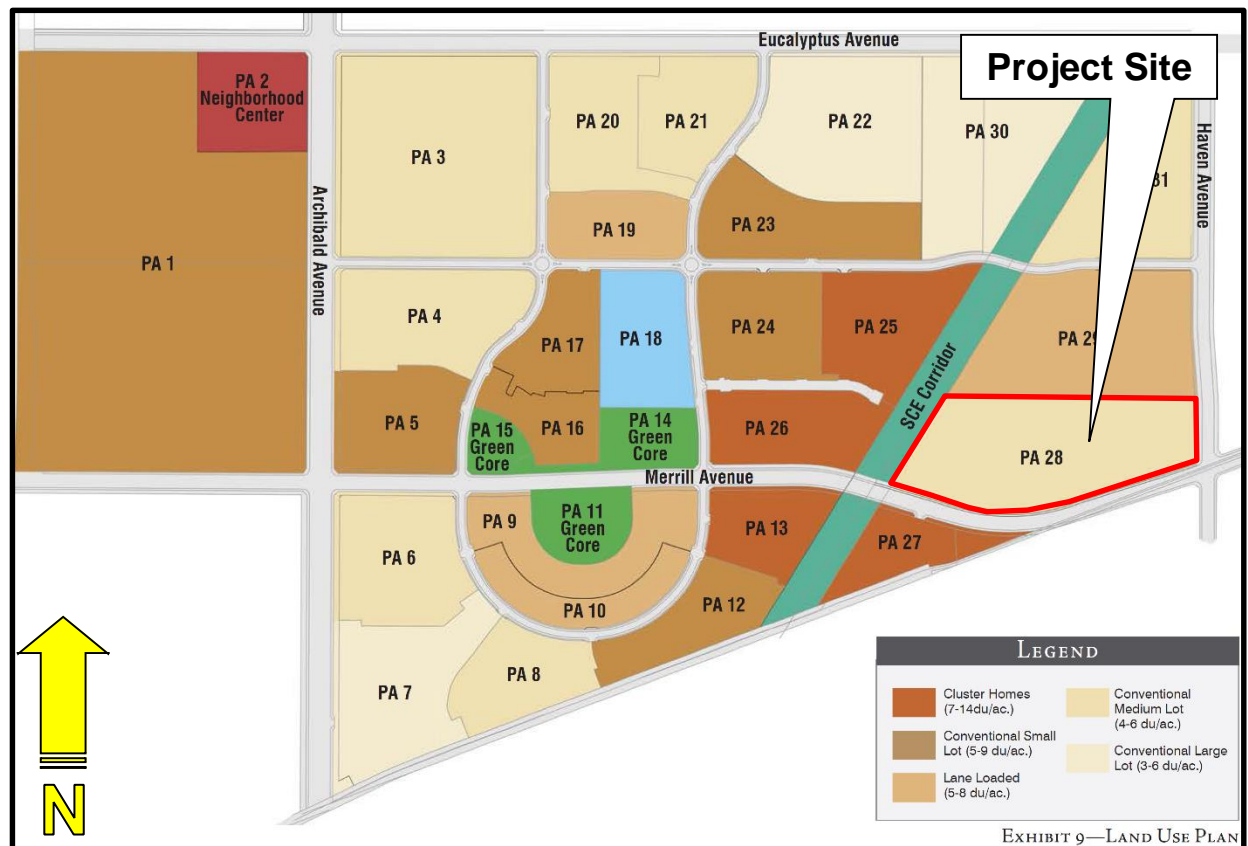


Figure 2: Subarea 29 Specific Plan Land Use Map

[2] Tract Map Subdivision – The proposed Tentative Tract Map will provide additional conventional single-family products that will be developed along the eastern portion of the Subarea 29 Specific Plan as illustrated in (**Exhibit A: Tentative Tract Map 19909**). The 118 single-family lots range in size from 4,485 square feet to 10,500 square feet and have an average lot size of 5,377 square feet. The Subarea 29 Specific Plan requires a minimum lot size of 4,000 square feet for the Conventional Medium Lot Residential land use.

[3] Site Access/Circulation — The previously approved “A” Map facilitated the construction of the backbone streets including the primary access points into the central portion of the Subarea 29 (Park Place) community from Archibald Avenue, Merrill Avenue and Parkview Street. The proposed Tentative Tract Map will facilitate the extension of the street improvements along the Merrill Avenue and Haven Avenue frontages and construct all of the interior neighborhood streets within the subdivision. Primary access into the subdivision will be from Haven Avenue and Merrill Avenue. The tract map is consistent with TOP Policy CD2-2 that promotes the importance of neighborhood connectivity through local street patterns, paseos and neighborhood edges as a way to unify neighborhoods.

One of the key elements of projects within the New Model Colony (“NMC”) is pedestrian and vehicular connectivity within the subdivision and to adjoining neighborhoods. The use of a grid system provides multiple options for residents to travel through the subdivision, the specific plan area and the NMC as a whole. Staff routinely uses a model to analyze a project’s connectivity. The model takes into account various links, intersections, and pedestrian paseos to arrive at the connectivity index. The more interconnected streets and fewer cul-de-sac or dead ends, the better connectivity. Using this model, a connectivity index of 1.40 is considered a walkable community. The connectivity analysis for the proposed project result in an average value of 1.50.

[1] Open Space — Policy Plan (General Plan) Policy PR1-1 requires new developments to provide a minimum of 2 acres of private park land per 1,000 residents, resulting in a park area requirement of 0.90-acres for the proposed Tentative Tract Map. To satisfy the park requirement, the applicant is proposing a 1.01-acre private park (Lot “A”) that is located within the northern portion of the proposed Tentative Tract Map. In total, Tentative Tract Map 19909 and Tentative Tract Map 19907 (the project to the north) will provide a combined 1.93-acre private park that will be centralized between the two subdivisions and will serve both subdivisions (**See Exhibit B: TT19907 and TT19909 Illustrative Site Plan**). The proposed private park meets the TOP private park requirement and was included in the related Development Agreement (File Nos. PDA15-006). Additionally, the residents of the subdivision will have access to Celebration Park, which was recently completed and is located approximately a quarter mile to the west of the proposed Tentative Tract Map.

The Tentative Tract Map will provide 12-foot parkways that feature sidewalks separated by landscaped parkways, which provides visual interest and promotes pedestrian mobility. Additionally, a paseo connection located within Tentative Tract Map 19907 to the north will provide access to a multi-purpose trail located within the adjacent SCE Easement. A total of 17 lettered lots are proposed for landscape buffers, paseos, water quality basin and a private park.

[2] Parking – The Tentative Tract Map proposes conventional single-family home products with a variety of lot sizes. The conventional single-family homes will have a two-

car garage and a standard two-car driveway, which meets the specific plan and Development Code requirements.

[3] CC&R's — As a Condition of Approval, staff will require that CC&R's be prepared and recorded with the final map. The CC&R's will outline the maintenance responsibilities for the open space areas, recreation amenities, drive aisles, utilities and upkeep of the entire site to ensure the on-going maintenance of the common areas and facilities.

COMPLIANCE WITH THE ONTARIO PLAN: The proposed project is consistent with the principles, goals and policies contained within the Vision, Governance, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan (TOP). More specifically, the goals and policies of TOP that are furthered by the proposed project are as follows:

[1] City Council Priorities

Primary Goal: Regain Local Control of Ontario International Airport

Supporting Goals:

- Invest in the Growth and Evolution of the City's Economy
- Focus Resources in Ontario's Commercial and Residential Neighborhoods
- Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)
- Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony

[2] Policy Plan (General Plan)

Community Economics Element — Place Making

- Goal CE2: A City of distinctive neighborhoods, districts, and corridors, where people choose to be.
 - CE2-1 Development Projects. We require new development and redevelopment to create unique, high-quality places that add value to the community.
 - CE2-2 Development Review. We require those proposing new development and redevelopment to demonstrate how their projects will create appropriately unique, functional and sustainable places that will compete well with their competition within the region.
 - CE2-4 Protection of Investment. We require that new development and redevelopment protect existing investment by providing architecture and urban design of equal or greater quality.

➤ CE2-5 Private Maintenance. We require adequate maintenance, upkeep, and investment in private property because proper maintenance on private property protects property values.

Community Design Element — Image & Identity

▪ Goal CD1: A dynamic, progressive city containing distinct neighborhoods and commercial districts that foster a positive sense of identity and belonging among residents, visitors, and businesses.

➤ CD1-1 City Identity. We take actions that are consistent with the City being a leading urban center in Southern California while recognizing the diverse character of our existing viable neighborhoods.

Community Design Element — Design Quality

▪ Goal CD2: A high level of design quality resulting in public spaces, streetscapes, and developments that are attractive, safe, functional and distinct.

➤ CD2-7 Sustainability. We collaborate with the development community to design and build neighborhoods, streetscapes, sites, outdoor spaces, landscaping and buildings to reduce energy demand through solar orientation, maximum use of natural daylight, passive solar and natural ventilation, building form, mechanical and structural systems, building materials and construction techniques.

➤ CD2-8 Safe Design. We incorporate defensible space design into new and existing developments to ensure the maximum safe travel and visibility on pathways, corridors, and open space and at building entrances and parking areas by avoiding physically and visually isolated spaces, maintenance of visibility and accessibility, and use of lighting.

➤ CD2-9 Landscape Design. We encourage durable landscaping materials and designs that enhance the aesthetics of structures, create and define public and private spaces, and provide shade and environmental benefits.

➤ CD2-11 Entry Statements. We encourage the inclusion of amenities, signage and landscaping at the entry to neighborhoods, commercial centers, mixed use areas, industrial developments, and public places that reinforce them as uniquely identifiable places.

➤ CD2-13 Entitlement Process. We work collaboratively with all stakeholders to ensure a high degree of certainty in the efficient review and timely processing of all development plans and permits.

Community Design — Pedestrian & Transit Environments

- Goal CD3: Vibrant urban environments that are organized around intense buildings, pedestrian and transit areas, public plazas, and linkages between and within developments that are conveniently located, visually appealing and safe during all hours.
 - CD3-2 Connectivity Between Streets, Sidewalks, Walkways and Plazas. We require landscaping and paving be used to optimize visual connectivity between streets, sidewalks, walkways and plazas for pedestrians.
 - CD3-5 Paving. We require sidewalks and road surfaces to be of a type and quality that contributes to the appearance and utility of streets and public spaces.
 - CD3-6 Landscaping. We utilize landscaping to enhance the aesthetics, functionality and sustainability of streetscapes, outdoor spaces and buildings.

Community Design — Protection of Investment

- Goal CD5: A sustained level of maintenance and improvement of properties, buildings and infrastructure that protects the property values and encourages additional public and private investments.
 - CD5-1 Maintenance of Buildings and Property. We require all public and privately owned buildings and property (including trails and easements) to be properly and consistently maintained.
 - CD5-2 Maintenance of Infrastructure. We require the continual maintenance of infrastructure.

HOUSING ELEMENT COMPLIANCE: The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the number of dwelling units (118) and density (5.19 DU/Acre) specified in the Available Land Inventory.

AIRPORT LAND USE COMPATIBILITY PLAN COMPLIANCE: The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and Chino Airport, and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for both airports.

ENVIRONMENTAL REVIEW: The environmental impacts of this project were previously analyzed in an addendum to the Subarea 29 Specific Plan EIR (SCH# 2004011009) that

was adopted by the City Council on April 21, 2015. This application is consistent with the previously adopted addendum and introduces no new significant environmental impacts. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference.

CONDITIONS OF APPROVAL: See attached department reports.

TECHNICAL APPENDIX:

Surrounding Zoning and Land Use:

	<i>Existing Land Use</i>	<i>General Plan Designation</i>	<i>Zoning Designation</i>	<i>Specific Plan Land Use</i>
<i>Site</i>	Vacant Agricultural/Dairy Uses	Low Density Residential	Subarea 29 Specific Plan	Planning Area 28: Conventional Medium Lot
<i>North</i>	Vacant Agricultural/Dairy Uses	Low Density Residential	Subarea 29 Specific Plan	Planning Area 29: Conventional Medium Lot or Lane Loaded
<i>South</i>	Vacant Agricultural/Dairy Uses and City of Eastvale	Low Density Residential	Subarea 29 Specific Plan	Planning Area 27: Cluster Homes
<i>East</i>	Vacant Agricultural/Dairy Uses	Low Density Residential	Specific Plan (Ag Preserve)	N/A
<i>West</i>	SCE Easement	Open Space – Non Recreation	Subarea 29 Specific Plan	SCE Corridor/Easement

Tentative Tract Map Summary:

<i>Item</i>	<i>TT19909</i>
<i>Total Area Gross (AC)</i>	26.81
<i>Total Area Net (AC)</i>	22.84
<i>Private Park Area (AC)</i>	1.01
<i>Min. Lot Size (Sq. Ft.)</i>	4,485
<i>Max. Lot Size (Sq. Ft.)</i>	10,500
<i>Avg. Lot Size (Sq. Ft.)</i>	5,377
<i>No. of Numbered Lots/Units</i>	118
<i>No. of Lettered Lots</i>	17
<i>Gross Density (du/gross ac)</i>	4.40
<i>Net Density (du/net ac)</i>	5.19

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PMTT14-025, A TENTATIVE TRACT MAP (TT19909) TO SUBDIVIDE 26.81 GROSS ACRES INTO 118 SINGLE-FAMILY LOTS AND 17 LETTERED LOTS WITHIN THE CONVENTIONAL MEDIUM LOT RESIDENTIAL DISTRICT (PLANNING AREA 28) OF THE SUBAREA 29 SPECIFIC PLAN, LOCATED AT THE NORTHWEST CORNER OF HAVEN AVENUE AND MERRILL AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: 0218-321-30.

WHEREAS, Richland Ontario Developers, LLC ("Applicant") has filed an Application for the approval of a Tentative Tract Map, File No. PMTT14-025, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 26.81 acres of land located at the northwest corner of Haven Avenue and Merrill Avenue within Planning Area 28 (Conventional Medium Lot Residential) of the Subarea 29 Specific Plan, and is presently vacant and previously used for dairy and agricultural uses; and

WHEREAS, the property to the north of the Project Site is within Planning Area 29 (Conventional Medium Lot Residential) of the Subarea 29 Specific Plan and is presently vacant and previously used for dairy and agricultural uses. The property to the east is within the Specific Plan/Ag Overlay zoning district and is presently vacant and previously used for dairy and agricultural uses. The property to the south is within Planning Area 27 (Cluster Home Residential) of the Subarea 29 Specific Plan, and is presently vacant and previously used for dairy and agricultural uses. The property to the west is within the SCE Corridor of the Subarea 29 Specific Plan, and is developed as electrical transmission facilities; and

WHEREAS, the Tentative Tract Map proposed is in compliance with the requirements of the Subarea 29 Specific Plan and is sufficient in size to facilitate and implement the traditional planning concepts for the "Residential Neighborhood" within the Specific Plan; and

WHEREAS, the proposed Tentative Tract Map is located within Planning Area 28 (Conventional Medium Lot) land use district of the Subarea 29 Specific Plan, which establishes a minimum lot size of 4,000 square feet and a development capacity of 121 single-family units; and

WHEREAS, the proposed Tentative Tract Map will subdivide 26.81 acres of land into 118 single-family lots and 17 lettered lots. The residential lots range in size from 4,485 square feet to 10,500 square feet, with an average lot size of 5,377 square feet. The Tract Map is consistent with the Subarea 29 Specific Plan; and

WHEREAS, TOP Policy PR1-1 requires new developments to provide a minimum of 2 acres of private park land per 1,000 residents, resulting in a park area requirement of 0.90-acres for the proposed Tentative Tract Map. To satisfy the park requirement, the applicant is proposing a 1.01-acre private park (Lot "A") that is located within the northern portion of the proposed Tentative Tract Map. In total, Tentative Tract Map 19909 and Tentative Tract Map 19907 (the project to the south) will provide a combined 1.93-acre private park that will be centralized between the two subdivisions and will serve both subdivisions. The proposed private park meets the TOP private park requirement and was included in the related Development Agreement (File Nos. PDA15-006). Additionally, the residents of the subdivision will have access to Celebration Park, which was recently completed and is located approximately a quarter mile to the west of the proposed Tentative Tract Map; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"); and

WHEREAS, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the number of dwelling units (118) and density (5.19 DU/Acre) specified in the Available Land Inventory.

WHEREAS, the proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and Chino Airport, and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for both airports; and

WHEREAS, the environmental impacts of this project were previously analyzed in an addendum to the Subarea 29 Specific Plan EIR (SCH# 2004011009) that was adopted by the City Council on April 21, 2015. This application is consistent with the previously adopted addendum and introduces no new significant environmental impacts. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference; and

WHEREAS, the City's "Local Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed; and

WHEREAS, on April 18, 2016, the Development Advisory Board of the City of Ontario conducted a hearing and issued Decision No. DAB16-010 recommending the Planning Commission approve the Application; and

WHEREAS, on April 26, 2016, the Planning Commission of the City of Ontario conducted a hearing to consider the Project and concluded said hearing on that date; and

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

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND RESOLVED by the Planning Commission of the City of Ontario, as follows:

SECTION 1. As the decision-making body for the Project, the Planning Commission has reviewed and considered the information contained in the previously adopted addendum to the Subarea 29 Specific Plan EIR (SCH #2004011009) and supporting documentation. Based upon the facts and information contained in the addendum and supporting documentation, the Planning Commission finds as follows:

- a. The previous addendum to the Subarea 29 Specific Plan EIR contains a complete and accurate reporting of the environmental impacts associated with the Project; and
- b. The previous addendum to the Subarea 29 Specific Plan EIR was completed in compliance with CEQA and the Guidelines promulgated thereunder; and
- c. The previous addendum to the Subarea 29 Specific Plan EIR reflects the independent judgment of the Planning Commission; and
- d. All previously adopted mitigation measures, which are applicable to the Project, shall be a condition of Project approval and are incorporated herein by reference.

SECTION 2. Based upon the substantial evidence presented to the Planning Commission during the above-referenced hearing and upon the specific findings set forth in Section 1 above, the Planning Commission hereby concludes as follows:

- a. The proposed map is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan, and applicable area and specific plans, and planned unit developments. The subdivision is consistent with The Ontario Plan Policy Plan (General Plan) and the Subarea 29 Specific Plan in that the proposed subdivision and lot sizes comply with the objectives and development standards of the Specific Plan.

b. The design or improvement of the proposed subdivision is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan, and applicable specific plans and planned unit developments. The design or improvement of the subdivision is consistent with all applicable general and specific plans. The Tentative Tract Map meets all minimum size requirements specified within the Conventional Medium Lot (Planning Area 28) land use districts and Development Standards of the Subarea 29 Specific Plan.

c. The site is physically suitable for the type of development proposed. The site is physically suitable for the type of development proposed. The lots that will be created with the Tentative Tract Map subdivision will facilitate the extension of the backbone infrastructure improvements along Merrill Avenue (east of the SCE Easement to Haven Avenue) and Haven Avenue (along the project street frontage) and the construction of the interior tract streets within Planning Area 28.

d. The site is physically suitable for the proposed density of development. The site is physically suitable for the proposed density of development. The lots that will be created with the Tract Map subdivision meet the development standards of the Subarea 29 Specific Plan – Conventional Medium Lot Homes. The Specific Plan provides for the development of up to 121 residential dwelling units and the density of 5.00 dwelling units per acre. The Tentative Tract Map proposes 118 lots at a density of 5.19 dwelling units per acre.

e. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The design of the subdivision or the proposed improvement is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The environmental impacts of this project were previously reviewed in conjunction with an addendum to the Subarea 29 Specific Plan Environmental Impact Report (SCH#2004011009). This application is consistent with the previously adopted EIR and introduces no new significant environmental impacts.

f. The design of the subdivision or type of improvements are not likely to cause serious public health problems. The design of the subdivision or the proposed improvement is not likely to cause serious public health problems. The environmental impacts of this project were previously reviewed in conjunction with the Subarea 29 Specific Plan Environmental Impact Report (SCH#2004011009). This application is consistent with the previously adopted EIR and introduces no new significant environmental impacts.

g. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. The design of the subdivision will not conflict

with any easement acquired by the public at large, then of record, for access through or use of the property within the proposed subdivision.

SECTION 3. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the Planning Commission hereby APPROVES the herein described Application subject to each and every condition set forth in the Department reports, attached hereto and incorporated herein by this reference.

SECTION 4. 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 this approval. 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.

SECTION 5. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 6. The Secretary shall certify to the adoption of the Resolution.

The Secretary Pro Tempore for the Planning Commission of the City of Ontario shall certify as to the adoption of this Resolution.

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 26th day of April 2016, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

James Downs
Planning Commission Vice-Chairman

ATTEST:

Scott Murphy
Planning Director/Secretary of Planning
Commission

Planning Commission Resolution
File No. PMTT14-025
April 26, 2016
Page 7

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, Marci Callejo, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC16-[insert #] was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on April 26, 2016, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marci Callejo
Secretary Pro Tempore




**PLANNING DEPARTMENT
CONDITIONS OF APPROVAL**

File No(s). PMTT14-025

Date: April 18, 2016

Project Description: A Tentative Tract Map (TT 19909) to subdivide 26.81 gross acres of land into 118 single-family lots and 17 lettered lots within the Conventional Medium Lot Residential district of (Planning Area 28) of the Subarea 29 Specific Plan, located at the southwest corner of Haven Avenue and Parkview Street. (APN(s): 0218-321-30); **submitted by Richland Ontario Developers, LLC.**

Reviewed by: Henry K. Noh, Senior Planner 
Phone: (909) 395-2429; **Fax:** (909) 395-2420

CONDITIONS OF APPROVAL

The above-described Development Plan application shall comply with the following conditions of approval:

1.0 Standard Conditions of Approval. The project shall comply with the *Standard Conditions for New Development*, adopted by City Council Resolution No. 1020-021, on March 16, 2010. A copy of the *Standard Conditions for New Development* may be obtained from the Planning Department or the City Clerk. Additionally, the project shall comply with the regulations of the Subarea 29 Specific Plan.

2.0 Special Conditions of Approval. In addition to the *Standard Conditions for New Development* identified in condition no. 1.0, above, the project shall comply with the following special conditions of approval:

2.1 Time Limits. Project approval shall become null and void 2 years following the effective date of application approval, unless a building permit is issued and construction is commenced, and diligently pursued toward completion, or a time extension has been approved. This condition does not supersede any individual time limits specified herein, or any other departmental conditions of approval applicable to the Project, for the performance of specific conditions or improvements.

2.2 Subdivision Map. The final tract map or parcel map shall be in conformance with the approved tentative tract map or parcel map on file with the City. Any substantial

variation from the approved tentative tract map or parcel map must be reviewed and approved by the Planning Department.

2.3 All applicable conditions of approval of Development Agreement (File No. PDA15-006) shall apply to this tract.

2.4 All applicable conditions of approval of the Subarea 29 Specific Plan shall apply to this tract.

2.5 Parcelization.

(a) Any future development of this subdivision shall require Development Advisory Board and Planning Commission approval.

2.6 Covenants, Conditions and Restrictions (CC&Rs)/Mutual Access and Maintenance Agreements.

(a) CC&Rs shall be prepared for the Project and shall be recorded prior to the issuance of a building permit.

(b) CC&R's shall include requirements for the home owner's association to be responsible for maintaining any required landscaping and irrigation systems within common areas as well as parkway improvements within the right-of-way of local streets adjacent to residential areas.

(c) CC&Rs shall ensure the maintenance of common area landscape improvements. Private improvements to be maintained by the homeowner's association include:

- (i) Parkway improvements within the right-of-way of local streets adjacent to residential areas and along private Neighborhood Streets;
- (ii) All private neighborhood streets and private drive aisles;
- (iii) On-site private NPDES interim detention basins;
- (iv) Internal slopes fronting streets and slope areas in the rear of homes;
- (v) All internal open spaces, walkways, parks, and common areas at neighborhood entries;
- (vi) Private recreational areas;
- (vii) Landscaping adjacent to private drive aisle right of way;
- (viii) Paseos;
- (ix) All public non-exclusive use landscaped area;
- (x) Community theme wall and entries;
- (xi) Entry monuments;
- (xii) Landscaping and irrigation systems within common areas and parkways.

(d) CC&R's shall include authorization for the City's local law enforcement officers to enforce City and State traffic and penal codes within the project area.

(e) The CC&R'S shall grant the City of Ontario the right of enforcement of the CC&R provisions.

(f) A specific methodology/procedure shall be established within the CC&R's for enforcement of its provisions by the City of Ontario, if adequate maintenance of the development does not occur, such as, but not limited to, provisions that would grant the City the right of access to correct maintenance issues and assess the homeowners association for all costs incurred.

(g) Adequate safeguards shall be incorporated into the CC&R's to guarantee the homeowners association maintains adequate cash reserves for long-term project maintenance (enforcement of the Davis-Sterling Act), such as, but not limited to, requiring that reserve funding studies are performed at regular intervals by the homeowners association and that the association's reserves do not fall below the level initially approved by the State of California Department of Real Estate.

2.7 Disclosure Statements.

(a) A copy of the Public Report from the Department of Real Estate, prepared for the subdivision pursuant to Business and Professions Code Section 11000 et seq., shall be provided to each prospective buyer of the residential units and shall include a statement to the effect that:

(i) This tract is subject to noise from the Ontario International Airport and may be more severely impacted in the future.

(ii) Some of the property adjacent to this tract is zoned for agricultural uses and there could be fly, odor, or related problems due to the proximity of animals.

(iii) The area south of Riverside Drive lies within the San Bernardino County Agricultural Preserve. Dairies currently existing in that area are likely to remain for the foreseeable future.

(iv) This tract is part of a Community Facilities District. The homeowner(s) will be assessed through their property taxes for the continuing maintenance of the district.

(b) The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and Chino Airport and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plans (ALUCP) for both airports. The project is located within the Real Estate Transaction Disclosure and in accordance with California Codes: Business and Professions Code Section 11010-11024 new subdivisions within an Airport Influence Area are required to

file an application for a Public Report consisting of a Notice of Intention (NOI) and a completed questionnaire with the Department of Real Estate and include the following language within the NOI:

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

2.8 Environmental Review.

(a) The environmental impacts of this project were previously analyzed in an addendum to the Subarea 29 Specific Plan EIR (SCH #2004011009) that was adopted by the City Council. This application is consistent with the previously adopted EIR and introduces no new significant environmental impacts. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference.

(b) 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.

(c) If human remains are found during project grading/excavation/construction activities, the area shall not be disturbed until any required investigation is completed by the County Coroner and Native American consultation has been completed (if deemed applicable).

(d) If any archeological or paleontological resources are found during project grading/excavation/construction, the area shall not be disturbed until the significance of the resource is determined. If determined to be significant, the resource shall be recovered by a qualified archeologist or paleontologist consistent with current standards and guidelines, or other appropriate measures implemented.

2.9 Additional Fees.

(a) After project's entitlement approval and prior to issuance of final building permits, the Planning Department's Plan Check and Inspection fees shall be paid at the rate established by resolution of the City Council.

(b) Within 5 days following final application approval, the Notice of Determination (NOD), Notice of Exemption (NOE), filing fee shall be provided to the Planning Department. The \$50.00 filing fee shall be paid by check, made payable to the "Clerk of the Board", which will be forwarded to the San Bernardino County Clerk of the Board of Supervisors, along with all applicable environmental forms/notices, pursuant to the requirements of the California Environmental Quality Act (CEQA). Failure to provide said fee within the time specified may result in the 30-day statute of limitations for the filing of a CEQA lawsuit being extended to 180 days.

2.10 Additional Requirements.

(a) Off-Site Subdivision Signs.

The City Council has authorized the Baldy View Chapter of the Building Industry Association to manage a standardized off-site directional sign program on a non-profit basis. The program uses uniform sign structures and individual identification and directional signs for residential development. **No other off-site signing is authorized.** (For additional information, contact the Baldy View Chapter BIA at (909) 945-1884.

(b) The applicant shall contact the Ontario Post Office to determine the size and location of mailboxes for this project. The location of the mailboxes shall be submitted to the Planning Department for review and approval prior to the issuance of building permits.

(c) The applicant (Developer) shall be responsible for providing fiber to each home per City requirements and standards.

(d) Per Development Agreement PDA15-006, the entire Private Park (TT 19909, Lot A and TT 19907, Lot J) shall be fully constructed at the same time. Prior to the issuance of the 59th home certificate of occupancy within TT 19909, the entire Private Park area and the paseo connections/landscape trails (Lots G and I) located within TT 19909 shall be constructed.

(e) Prior to the issuance of grading permits, (Rough or Precise Grading). Mitigation Measures (MM), from the Subarea 29 Specific Plan EIR, pertaining to Grading Activities must be met prior to issuance of grading permits.

(f) Dairy Separation Requirement for Residential Development.

The following separation requirements from existing dairies/feed lots shall apply to new residential development or structures used for public assembly purposes from existing dairies/feed lots.

A minimum 100' separation shall be required between a new residential, commercial or industrial development or structure used for public assembly and an existing animal feed trough, corral/pen or an existing dairy/feed lot including manure stockpiles and related wastewater detention basins. The 100-foot separation requirement may be satisfied by an off-site easement acceptable to the Planning Director with adjacent properties, submitted with the initial final map and recorded prior to or concurrent with the final map.



**ENGINEERING DEPARTMENT
CONDITIONS OF APPROVAL**

(Engineering Services Division [Land Development and Environmental], Traffic/Transportation Division,
Ontario Municipal Utilities Company and Management Services Department conditions incorporated herein)

<input type="checkbox"/> DEVELOPMENT PLAN <input type="checkbox"/> OTHER	<input type="checkbox"/> PARCEL MAP <input checked="" type="checkbox"/> TRACT MAP <input type="checkbox"/> FOR CONDOMINIUM PURPOSES
PROJECT FILE NO. <u>TTM 19909</u> RELATED FILE NO(S). <u>PMTT14-025</u>	
<input type="checkbox"/> ORIGINAL <input checked="" type="checkbox"/> REVISED: 04/07/2016	

CITY PROJECT ENGINEER & PHONE NO: Manoj Hariya, P.E., Sr. Associate Civil Engineer, (909) 395-2155

M B. Hariya

CITY PROJECT PLANNER & PHONE NO: Henry Noh, Senior Planner (909) 395-2429

04/07/2016

DAB MEETING DATE: 04/18/2016

PROJECT NAME / DESCRIPTION: A Tentative Tract Map (TT 19909) to subdivide 26.81 acres into 117 numbered lots and 9 lettered lots within Planning Area 28 of the Subarea 29 Specific Plan.

LOCATION: NWC of Haven Ave and Merrill Ave.

APPLICANT: Craig Christina
Richland Roseville
949-383-4124

REVIEWED BY: *Bryan Lirley* *4/7/16*
Bryan Lirley, P.E. Date
Sr. Associate Civil Engineer

APPROVED BY: *Khoi Do* *4/7/16*
Khoi Do, P.E. Date
Assistant City Engineer



THIS PROJECT SHALL COMPLY WITH THE REQUIREMENTS SET FORTH IN THE GENERAL STANDARD CONDITIONS OF APPROVAL ADOPTED BY THE CITY COUNCIL (RESOLUTION NO. 2010-021) AND THE PROJECT SPECIFIC CONDITIONS OF APPROVAL SPECIFIED IN HEREIN. ONLY APPLICABLE CONDITIONS OF APPROVAL ARE CHECKED. THE APPLICANT SHALL BE RESPONSIBLE FOR THE COMPLETION OF ALL APPLICABLE CONDITIONS OF APPROVAL PRIOR TO FINAL MAP OR PARCEL MAP APPROVAL, ISSUANCE OF PERMITS AND/OR OCCUPANCY CLEARANCE, AS SPECIFIED IN THIS REPORT.

1. PRIOR TO FINAL MAP OR PARCEL MAP APPROVAL, APPLICANT SHALL: **Check When Complete**

- 1.01 Dedicate to the City of Ontario in fee simple, the right-of-way, described below:
 1. Merrill Ave to the half ultimate right-of-way width of 54 feet (full ultimate ROW width is 108 ft.) from CL north along tract frontage.
 2. AA, BB, CC, DD, EE and FF streets to the ultimate right-of-way width of 60 feet.
 3. GG Street to the half ultimate right-of-way width of 30 feet from CL south along tract frontage.
 4. The lettered lots B and C along Merrill Ave and lettered lot D along Haven Ave for "Landscape and Municipal Purposes".
 5. Corner P/L radius (Corner cut-offs) throughout the tract per City Standards and to the satisfaction of the City Engineer.

- 1.02 Dedicate to the City of Ontario, the following easement(s):

- 1.03 Restrict vehicular access to the site as follows:

Access to subdivision shall only be granted at those locations shown in the approved Tentative Map and per latest approved Subarea 29 Specific Plan.

- 1.04 Vacate the following street(s) and/or easement(s):
 1. Haven Ave right-of-way width of 32.13 feet along tract frontage needed to be vacated (full ultimate ROW width for Haven Ave is 124 ft.).
 2. Easement of 60 ft in width granted to County of San Bernardino for the purpose of Highway or Road and incidental purposes passing across lot 44 to 50.

- 1.05 Submit a copy of a recorded private reciprocal use agreement or easement. The agreement or easement shall ensure, at a minimum, common ingress and egress and joint maintenance of all common access areas and drive aisles.

- 1.06 Provide (original document) Covenants, Conditions and Restrictions (CC&Rs) as applicable to the project and as approved by the City Attorney and the Engineering and Planning Departments, ready for recordation with the County of San Bernardino. The CC&Rs shall provide for, but not be limited to, common ingress and egress, joint maintenance responsibility for all common access improvements, common facilities, parking areas, utilities, median and landscaping improvements and drive approaches, in addition to maintenance requirements established in the Water Quality Management Plan (WQMP), as applicable to the project. The CC&Rs shall also address the maintenance and repair responsibility for public improvements/utilities (sewer, water, storm drain, recycled water, etc.) located within open space/easements. In the event of any maintenance or repair of these facilities, the City shall only restore disturbed areas to current City Standards.

- 1.07 File an application for Reapportionment of Assessment, together with payment of a reapportionment processing fee, for each existing assessment district listed below. Contact the Management Services Department at (909) 395-2124 regarding this requirement.
 - (1) _____
 - (2) _____



- 1.08 File a Consent and Waiver to Annexation agreement, together with an annexation processing fee, to annex the subject property to a Street Lighting Maintenance Assessment District (SLMD). The agreement and fee shall be submitted a minimum of three (3) months prior to, and the annexation shall be completed, prior to final subdivision map approval or issuance of building permits, whichever occurs first. An annual special assessment shall be levied in the SLMD and will be collected along with annual property taxes. The special assessment will provide funding for costs associated with the annual operation and maintenance of the street lighting facilities and appurtenances that serve the property. Contact Management Services at (909) 395-2124 regarding this requirement.
- 1.09 File an application, together with an initial deposit (if required), to establish a Community Facilities District (CFD) pursuant to the Mello-Roos Community Facilities District Act of 1982. The application and fee shall be submitted a minimum of four (4) months prior to final subdivision map approval, and the CFD shall be established prior to final subdivision map approval or issuance of building permits, whichever occurs first. The CFD shall be established upon the subject property to provide funding for various City services. An annual special tax shall be levied upon each parcel or lot in an amount to be determined. The special tax will be collected along with annual property taxes. The City shall be the sole lead agency in the formation of any CFD. Contact Management Services at (909) 395-2353 to initiate the CFD application process.
- 1.10 New Model Colony (NMC) Developments:
 - 1) Provide evidence of final cancellation of Williamson Act contracts associated with this tract, prior to approval of any final subdivision map. Cancellation of contracts shall have been approved by the City Council.
 - 2) Provide evidence of sufficient storm water capacity availability equivalents (Certificate of Storm Water Treatment Equivalents).
 - 3) Provide evidence of sufficient water availability equivalents (Certificate of Net MDD Availability).
- 1.11 Other conditions:
 - 1. Lettered lot A (Private Park) shall be owned and maintained by the Home Owner's Association.
 - 2. Lettered lot E, F, H, J, K, L, M, N, O, P and Q shall be landscaped lots, owned and maintained by the Home Owner's Association.
 - 3. Lettered lot G shall be community Portal/Paseo, owned and maintained by the Home Owner's Association.
 - 4. Prior to recordation of Tract 19909, the applicant/developer shall record the proposed lot line adjustment to change the tract boundary between Tracts 19907 and 19909 (See item no. 2.05 as shown below).

2. PRIOR TO ISSUANCE OF ANY PERMITS, APPLICANT SHALL:

A. GENERAL (Permits includes Grading, Building, Demolition and Encroachment)

- 2.01 Record Tract Map No. 19909 pursuant to the Subdivision Map Act and in accordance with the City of Ontario Municipal Code. (See item no. 1.11-6 as shown above).
- 2.02 Submit a duplicate photo mylar of the recorded map to the City Engineer's office. Submit electronic copies on .pdf format of all the recorded map.
- 2.03 Note that the subject parcel is a recognized parcel in the City of Ontario per _____
- 2.04 Note that the subject parcel is an 'unrecognized' parcel in the City of Ontario and shall require a Certificate of Compliance to be processed unless a deed is provided confirming the existence of the parcel prior to the date of _____



- 2.05 Apply for a: Certificate of Compliance with a Record of Survey; **Lot Line Adjustment (See item no. 1.11- 6 as shown above)**
 Make a Dedication of Easement.

- 2.06 Provide (original document) Covenants, Conditions and Restrictions (CC&R's), as applicable to the project, and as approved by the City Attorney and the Engineering and Planning Departments, ready for recordation with the County of San Bernardino. The CC&R's shall provide for, but not be limited to, common ingress and egress, joint maintenance of all common access improvements, common facilities, parking areas, utilities and drive approaches in addition to maintenance requirements established in the Water Quality Management Plan (WQMP), as applicable to the project.

- 2.07 **Submit a soils/geology report.**

- 2.08 Other Agency Permit/Approval: Submit a copy of the approved permit and/or other form of approval of the project from the following agency or agencies:
 - State of California Department of Transportation (Caltrans)
 - San Bernardino County Road Department (SBCRD)
 - San Bernardino County Flood Control District (SBCFCD)
 - Federal Emergency Management Agency (FEMA)
 - Cucamonga Valley Water District (CVWD) for sewer/water service
 - United States Army Corps of Engineers (USACE)
 - California Department of Fish & Game
 - Inland Empire Utilities Agency (IEUA)
 - Other: _____

- 2.09 Dedicate to the City of Ontario the right-of-way described below:
_____ feet on _____
Property line corner 'cut-back' required at the intersection of _____
and _____.

- 2.10 Dedicate to the City of Ontario the following easement(s): _____

- 2.11 **New Model Colony (NMC) Developments:**
 - 1) Submit a copy of the permit from the San Bernardino County Health Department to the Engineering Department and the Ontario Municipal Utilities Company (OMUC) for the destruction/abandonment of the on-site water well. The well shall be destroyed/abandoned in accordance with the San Bernardino County Health Department guidelines.**
 - 2) Make a formal request to the City of Ontario Engineering Department for the proposed temporary use of an existing agricultural water well for purposes other than agriculture, such as grading, dust control, etc. Upon approval, the Applicant shall enter into an agreement with the City of Ontario and pay any applicable fees as set forth by said agreement.**
 - 3) Design proposed retaining walls to retain up to a maximum of three (3) feet of earth. In no case shall a wall exceed an overall height of nine (9) feet (i.e. maximum 6-foot high wall on top of a maximum 3-foot high retaining wall.**

- 2.12 Submit a security deposit to the Engineering Department to guarantee construction of the public improvements required herein. Security deposit shall be in accordance with the City of Ontario Municipal Code. Security deposit will be eligible for release, in accordance with City procedure, upon completion and acceptance of said public improvements.

- 2.13 Other conditions: _____



B. PUBLIC IMPROVEMENTS

(See attached Exhibit 'A' for plan check submittal requirements.)

- 2.14 Design and construct full public improvements in accordance with the City of Ontario Municipal Code, current City standards and specifications, master plans and Subarea29 specific plan for the area. These public improvements shall include, but not be limited to, the following (checked boxes):

Improvement	Haven Ave	Merrill Ave (From Haven Avenue to the easterly boundary of Planning Area 27 (SubArea 29))	Merrill Ave (In front of Planning Area 27 (SubArea 29))	Internal Lettered Streets
Curb and Gutter	<input checked="" type="checkbox"/> New; 36 ft. From C/L along project frontage (Westside of Haven Ave) <input type="checkbox"/> Replace damaged <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New; 42 ft. From C/L along both sides <input type="checkbox"/> Replace damaged <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New; 42 ft. From C/L along project frontage (Northside of Merrill Ave) <input type="checkbox"/> Replace damaged <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New; 18 ft. (See item no. 2.35-1 & 2.35-2 as shown below) <input type="checkbox"/> Replace damaged <input type="checkbox"/> Remove and replace
AC Pavement	<input type="checkbox"/> Replacement <input checked="" type="checkbox"/> New (See item no. 2.35-10 as shown below)	<input type="checkbox"/> Replacement <input checked="" type="checkbox"/> New (See item no. 2.35-8 as shown below)	<input type="checkbox"/> Replacement <input checked="" type="checkbox"/> New (See item no. 2.35-9 as shown below)	<input type="checkbox"/> Replacement <input checked="" type="checkbox"/> New 18 ft from CL (See item no. 2.35-1 & 2.35-2 as shown below)
PCC Pavement (Truck Route Only)	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing
Drive Approach	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace <input type="checkbox"/> replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace <input type="checkbox"/> replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace <input type="checkbox"/> replace	<input checked="" type="checkbox"/> New per Std drawing 1205. <input type="checkbox"/> Remove and replace
Sidewalk	<input checked="" type="checkbox"/> New 5 ft (See item no. 2.35-10 as shown below) <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New 5 ft (See item no. 2.35-8 as shown below) <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New 5 ft (See item no. 2.35-9 as shown below) <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New 5 ft (See item no. 2.35-1 & 2.35-2 as shown below) <input type="checkbox"/> Remove and replace
ADA Access Ramp	<input checked="" type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New <input type="checkbox"/> Remove and replace
Parkway	<input checked="" type="checkbox"/> Trees <input checked="" type="checkbox"/> Landscaping (w/irrigation)	<input checked="" type="checkbox"/> Trees <input checked="" type="checkbox"/> Landscaping (w/irrigation)	<input checked="" type="checkbox"/> Trees <input checked="" type="checkbox"/> Landscaping (w/irrigation)	<input checked="" type="checkbox"/> Trees <input checked="" type="checkbox"/> Landscaping (w/irrigation)



Raised Landscaped Median	<input checked="" type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace
Fire Hydrant	<input checked="" type="checkbox"/> New <input type="checkbox"/> Relocation	<input checked="" type="checkbox"/> New <input type="checkbox"/> Relocation	<input checked="" type="checkbox"/> New <input type="checkbox"/> Relocation	<input checked="" type="checkbox"/> New <input type="checkbox"/> Relocation
Sewer (see Sec. 2.C)	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral
Water (see Sec. 2.D)	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Service	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Service	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Service	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Service
Recycled Water (see Sec. 2.E)	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Service	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Service	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Service	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Service
Traffic Signal System (see Sec. 2.F)	<input checked="" type="checkbox"/> New <input type="checkbox"/> Modify existing	<input checked="" type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing
Traffic Signing and Striping (see Sec. 2.F)	<input checked="" type="checkbox"/> New <input type="checkbox"/> Modify existing	<input checked="" type="checkbox"/> New <input type="checkbox"/> Modify existing	<input checked="" type="checkbox"/> New <input type="checkbox"/> Modify existing	<input checked="" type="checkbox"/> New <input type="checkbox"/> Modify existing
Street Light (see Sec. 2.F)	<input checked="" type="checkbox"/> New (See item no. 2.35-10 as shown below) <input type="checkbox"/> Relocation	<input checked="" type="checkbox"/> New (See item no. 2.35-8 as shown below) <input type="checkbox"/> Relocation	<input checked="" type="checkbox"/> New (See item no. 2.35-9 as shown below) <input type="checkbox"/> Relocation	<input checked="" type="checkbox"/> New (See item no. 2.35-1 & 2.35-2 as shown below) <input type="checkbox"/> Relocation
Bus Stop Pad or Turn-out (see Sec. 2.F)	<input type="checkbox"/> New <input type="checkbox"/> Modify	<input checked="" type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing
Storm Drain (see Sec. 2G)	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral
Overhead Utilities	<input type="checkbox"/> Underground <input checked="" type="checkbox"/> Relocate	<input type="checkbox"/> Underground <input type="checkbox"/> Relocate	<input type="checkbox"/> Underground <input type="checkbox"/> Relocate	<input type="checkbox"/> Underground <input type="checkbox"/> Relocate
Striped Median 14 ft wide	<input type="checkbox"/> New	<input checked="" type="checkbox"/> New	<input checked="" type="checkbox"/> New	<input type="checkbox"/> New
Fiber Optic Conduits	<input checked="" type="checkbox"/> New	<input checked="" type="checkbox"/> New	<input checked="" type="checkbox"/> New	<input type="checkbox"/> New

Specific notes for improvements listed in item no. 2.15, above: _____



- 2.15 Construct a 0.15' asphalt concrete (AC) grind and overlay on the following street(s): _____
- 2.16 Reconstruct the full pavement structural section based on existing pavement condition and approved street section design. Minimum limits of reconstruction shall be along property frontage, from street centerline to curb/gutter. 'Pothole' verification of existing pavement section required prior to acceptance/approval of street improvement plan.
- 2.17 Make arrangements with the Cucamonga Valley Water District (CVWD) to provide water service sewer service to the site. This property is within the area served by the CVWD and Applicant shall provide documentation to the City verifying that all required CVWD fees have been paid.
- 2.18 Other conditions: _____

C. SEWER

- 2.19 A _____ inch sewer main is available for connection by this project in _____ (Ref: Sewer plan bar code: _____)
- 2.20 Design and construct a sewer main extension. A sewer main is not available for direct connection. The closest main is approximately _____ feet away.
- 2.21 Submit documentation that shows expected peak loading values for modeling the impact of the subject project to the existing sewer system. The project site is within a deficient public sewer system area. Applicant shall be responsible for all costs associated with the preparation of the model. Based on the results of the analysis, Applicant may be required to mitigate the project impact to the deficient public sewer system, including, but not limited to, upgrading of existing sewer main(s), construction of new sewer main(s) or diversion of sewer discharge to another sewer.
- 2.22 Other conditions:
 - 1. **Design and construct all in-tract sewer mains and laterals.**
 - 2. **Design and construct the master planned sewer main in Haven Avenue from the northern project boundary to Merrill Avenue.**
 - 3. **Design and construct the master planned sewer main in Merrill Avenue from Haven Avenue to connect to the existing sewer (westerly boundary of SCE easement).**

D. WATER

- 2.23 A _____ inch water main is available for connection by this project in _____ (Ref: Water plan bar code: _____)
- 2.24 Design and construct a water main extension. A water main is not available for direct connection. The closest main is approximately _____ feet away.
- 2.25 Submit documentation that shows expected peak demand water flows for modeling the impact of the subject project to the existing water system. The project site is within a deficient public water system area. Applicant shall be responsible for all costs associated with the preparation of the model. Based on the results of the analysis, Applicant may be required to mitigate the project impacts to the deficient public water system, including, but not limited to upgrading of the existing water main(s) and/or construction of a new main(s).
- 2.26 Design and construct appropriate cross-connection protection for new potable water and fire service connections. Appropriate protection shall be based upon the degree of hazard per Title 17 of the California Code of Regulations. The minimum requirement is the installation of a backflow prevention device per current City standards. All existing potable water and fire services that do not meet the current minimum level of protection shall be upgraded (retrofitted) with the appropriate backflow protection assembly per current City standards.
- 2.27 Request a water flow test to be conducted, to determine if a water main upgrade is necessary to achieve required fire flow for the project. The application is available on the City website (www.ci.ontario.ca.us) or Applicant can contact the City of Ontario Fire Department at (909) 395-2029 to coordinate scheduling of this test. Applicant shall design and construct a water main upgrade if the water flow test concludes that an upgrade is warranted.



2.28 Other conditions:

1. Design and construct all in-tract water mains and laterals.
2. Two points of connection to the existing 925 Zone domestic water Loop is required.
3. Acquire the right of way, design and construct the master planned water main in Haven Avenue from Eucalyptus Avenue to Merrill Avenue.
4. Design and construct the master planned water mains in Merrill Avenue from Haven Avenue to connect to the existing water line (westerly boundary of SCE easement).

E. RECYCLED WATER

2.29 A _____ inch recycled water main is available for connection by this project in _____.
(Ref: Recycled Water plan bar code:_____)

2.30 Design and construct an on-site recycled water system for this project. A recycled water main does exist in the vicinity of this project.

2.31 Design and construct an on-site recycled water ready system for this project. A recycled water main does not currently exist in the vicinity of this project, but is planned for the near future. Applicant shall be responsible for construction of a connection to the recycled water main for approved uses, when the main becomes available. The cost for connection to the main shall be borne solely by Applicant.

2.32 Submit two (2) hard copies and one (1) electronic copy, in PDF format, of the Engineering Report (ER), for the use of recycled water, to the OMUC for review and subsequent submittal to the California Department of Public Health (CDPH) for final approval.

Note: The OMUC and the CDPH review and approval process will be approximately three (3) months. Contact the Ontario Municipal Utilities Company at (909) 395-2647 regarding this requirement.

2.33 Other conditions:

1. Design and construct the master planned recycled water main in Haven Avenue from the Northern project boundary to Merrill Avenue.
2. Design and construct the master planned recycled water main in Merrill Avenue from Haven Avenue to connect to the existing recycled water line (westerly boundary of SCE easement). Additionally to design and construct point of connections for future development along south side of Merrill Ave.
3. Design & construct recycled water along CC Street to connect with water line along Merrill Ave to provide recycled water to Private Park.
4. This development shall comply with and make use of recycled water for landscaping irrigation. Recycled water shall be used at pocket parks, public and HOA neighborhood edges, schools and parkways/medians.

F. TRAFFIC / TRANSPORTATION

2.34 Submit a focused traffic impact study, prepared and signed by a Traffic/Civil Engineer registered in the State of California. The study shall address, but not be limited to, the following issues as required by the City Engineer:

1. On-site and off-site circulation
2. Traffic level of service (LOS) at 'build-out' and future years
3. Impact at specific intersections as selected by the City Engineer

2.35 Other conditions:

1. Design and construct all internal streets except GG Street to ultimate right of way width of 60 ft. including all ultimate improvements. Ultimate improvements shall include but not be limited to concrete curb and gutter, ac pavement, sidewalk, street lights, signing and striping, parkway landscaping and irrigation.



2. If, at the time of development of Tract 19909, Tract 19907 has not been constructed, the applicant/developer shall acquire ultimate right of way, design and construct the curb-to-curb improvements on Street GG between Haven Avenue and Street FF as well as ultimate improvements along the project frontage (South side of GG Street). Project frontage improvements shall include but not be limited to concrete curb and gutter, ac pavement, sidewalk, street lights, signing and striping, parkway landscaping and irrigation.
3. The tract entry Street GG from Haven Avenue north of Merrill Avenue shall be limited to right-turn ingress/egress only.
4. If, at the time of development of Tract 19909, Tract 19907 has not been constructed, the applicant/developer shall be responsible to acquire right of way and terminate Street AA as a temporary cul-de-sac per City of Ontario Standard 1104.
5. If, at the time of development of Tract 19909, Street BB, EE, and FF have not been constructed north into Tract 19907, the Applicant/Developer shall acquire right of way and terminate Street BB, EE, and FF as temporary dead end conditions north of Street GG per City of Ontario Standard Drawing No. 1310.
6. Design and construct a bus pad in accordance with Omnitrans Bus Stop Design Guidelines on the north side of Merrill Avenue at Haven Avenue for westbound traffic. The bus pad shall be located on the departure side of Haven Avenue.
7. Acquire Right-of-Way, design and construct the traffic signal at Merrill Avenue and Haven Avenue if the signal has not been installed at the time of construction of Tract 19909. The new traffic signal shall include, video detection, interconnect cable and conduit, battery back-up, emergency vehicle preemption systems and bicycle detection. All new signal equipment shall be installed at its ultimate location.
8. Acquire right of way (ultimate right of way width of 108 ft.), design & construct Merrill Avenue full width street improvements (curb to curb) from Haven Avenue to the easterly boundary of Planning Area 27 (SubArea 29) as well as ultimate improvements along the project frontage (North side of Merrill Ave). Project frontage improvements shall include but not be limited to concrete curb and gutter, ac pavement, sidewalk, street lights, signing and striping, parkway landscaping and irrigation. All street improvements shall include signing and striping and appropriate pavement transitions as needed to accommodate lane shifts.
9. Acquire right of way (ultimate right of way width of 108 ft.), design and construct Merrill Avenue in front of Planning Area 27 (SubArea 29) with full half-street improvements along project frontage (North side of Merrill Ave) and a 14-foot southbound lane plus a 5-foot shoulder and full 14 ft wide striped median. Project frontage improvements shall include but not be limited to concrete curb and gutter, ac pavement, sidewalk, street lights, signing and striping, parkway landscaping and irrigation. All street improvements shall include signing and striping and appropriate pavement transitions as needed to accommodate lane shifts.
10. Acquire right of way (ultimate right of way width of 124 ft.), design and construct Haven Avenue from the northerly tract boundary to Merrill Avenue, full half-street improvements on the west side including curb, gutter, ac pavement, sidewalk, street light, parkway landscaping and irrigation (including neighborhood edge) and multi-purpose trail plus full raised landscaped median, a 14-foot northbound lane and a 5-foot shoulder. All street improvements shall include appropriate pavement transitions as needed to accommodate lane shifts.
11. Acquire right of way, design and construct full width street improvements (curb to curb) for the portions of street surrounding the private park as well as ultimate improvements along the private park frontage. Private park frontage improvements shall include but not be limited to concrete curb and gutter, sidewalk, street lights, signing and striping, parkway landscaping and irrigation.



G. DRAINAGE / HYDROLOGY

- 2.36 Submit a hydrology study and drainage analysis, prepared and signed by a Civil Engineer registered in the State of California. The study shall be prepared in accordance with the San Bernardino County Hydrology Manual and City of Ontario standards and guidelines. Additional drainage facilities, including, but not limited to, improvements beyond the project frontage, may be required to be designed and constructed, by Applicant, as a result of the findings of this study.
- 2.37 Design and construct a storm water detention facility on the project site. An adequate drainage facility to accept additional runoff from the site does not currently exist downstream of the project. Post-development flows from the site shall not exceed 80% of pre-development flows, in accordance with the approved hydrology study and improvement plans.
- 2.38 Submit a copy of a recorded private drainage easement or drainage acceptance agreement to the Engineering Department for the acceptance of any increase to volume and/or concentration of historical drainage flows onto adjacent property, prior to approval of the grading plan for the project.
- 2.39 Comply with the City of Ontario Flood Damage Prevention Ordinance (Ordinance No. 2409). The project site or a portion of the project site is within the Special Flood Hazard Area (SFHA) as indicated on the Flood Insurance Rate Map (FIRM) and is subject to flooding during a 100 year frequency storm. The site plan shall be subject to the provisions of the National Flood Insurance Program.
- 2.40 Calculate Storm Drain Impact Fees based on square footage or acreage of the subject site.
- 2.41 Other conditions:
1. Design and construct all in-tract storm drain mains, laterals and catch basins.
 2. Design and construct the master planned storm drain (96" diameter) in Haven Avenue from the northern project boundary to connect to existing County Line Channel.
 3. Design & construct the storm drain main along internal streets and along Merrill Ave (54" diameter) connecting to the existing County Line Channel.

H. STORM WATER QUALITY / NATIONAL POLLUTANT DISCHARGE AND ELIMINATION SYSTEM (NPDES)

- 2.42 401 Water Quality Certification/404 Permit – Submit a copy of any applicable 401 Certification or 404 Permit for the subject project to the City project engineer. Development that will affect any body of surface water (i.e. lake, creek, open drainage channel, etc.) may require a 401 Water Quality Certification from the California Regional Water Quality Control Board, Santa Ana Region (RWQCB) and a 404 Permit from the United States Army Corps of Engineers (USACE). The groups of water bodies classified in these requirements are perennial (flow year round) and ephemeral (flow during rain conditions, only) and include, but are not limited to, direct connections into San Bernardino County Flood Control District (SBCFCD) channels.
If a 401 Certification and/or a 404 Permit are not required, a letter confirming this from Applicant's engineer shall be submitted.
Contact information: USACE (Los Angeles District) (213) 452-3414; RWQCB (951) 782-4130.
- 2.43 Submit a Water Quality Management Plan (WQMP). This plan shall be approved by the Engineering Department prior to approval of any grading plan. The WQMP shall be submitted, utilizing the current San Bernardino County Stormwater Program template, available at: <http://www.sbcounty.gov/dpw/land/npdes.asp>.
- 2.44 Other conditions:



J. SPECIAL DISTRICTS

- 2.45 File an application, together with an initial payment deposit (if required), to establish a Community Facilities District (CFD) pursuant to the Mello-Roos Community facilities District Act of 1982. The application and fee shall be submitted a minimum three (3) months prior to final subdivision map approval, and the CFD shall be established prior to final subdivision map approval or issuance of building permits, whichever occurs first. The CFD shall be established upon the subject property to provide funding for various City services. An annual special tax shall be levied upon each parcel or lot in an amount to be determined. The special tax will be collected along with annual property taxes. The City shall be the sole lead agency in the formation of any CFD. Contact the Management Services Department at (909) 395-2353 to initiate the CFD application process.

- 2.46 File a Consent and Waiver to Annexation agreement, together with an annexation processing fee, to annex the subject property to a Street Lighting Maintenance Assessment District (SLMD). The agreement and fee shall be submitted three (3) months prior to, and the annexation shall be completed prior to, final subdivision map approval or issuance of building permits, whichever occurs first. An annual special assessment shall be levied in the SLMD and will be collected along with annual property taxes. The special assessment will provide funding for costs associated with the annual operation and maintenance of the street lighting facilities and appurtenances that serve the property. Contact the Management Services Department at (909) 395-2124, regarding this requirement.

- 2.47 Other conditions: _____
 - 1. Design and install fiber optic conduits along Haven Avenue from the northerly tract boundary to Merrill Avenue.
 - 2. Design and install fiber optic conduits along Merrill Avenue from Haven Avenue to the existing fiber optic conduits (westerly boundary of SCE easement).
 - 3. Design and install in-tract fiber optic conduit system.

3. PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY, APPLICANT SHALL:

- 3.01 Set new monuments in place of any monuments that have been damaged or destroyed as a result of construction of the subject project. Monuments shall be set in accordance with City of Ontario standards and to the satisfaction of the City Engineer.

- 3.02 Complete all requirements for recycled water usage.
 - 1) Procure from the OMUC a copy of the letter of confirmation from the California Department of Public Health (CDPH) that the Engineering Report (ER) has been reviewed and the subject site is approved for the use of recycled water.
 - 2) Obtain clearance from the OMUC confirming completion of recycled water improvements and passing of shutdown tests and cross connection inspection, upon availability/usage of recycled water.
 - 3) Complete education training of on-site personnel in the use of recycled water, in accordance with the ER, upon availability/usage of recycled water.

- 3.03 Confirm payment of all Development Impact Fees (DIF) to the Building Department.

- 3.04 Submit electronic copies of all approved studies/reports (i.e. hydrology, traffic, WQMP, etc.).

- 3.05 Submit electronic copies on .pdf format of all approved/accepted improvement plans.

EXHIBIT 'A'



**ENGINEERING DEPARTMENT
First Plan Check Submittal Checklist**

Project Number: PDEV _____ , and/or Parcel Map/Tract Map No. TM 19909

The following items are required to be included with the first plan check submittal:

1. **A copy of this check list**
2. **Payment of fee for Plan Checking**
3. **One (1) copy of Engineering Cost Estimate (on City form) with engineer's wet signature and stamp.**
4. **One (1) copy of project Conditions of Approval**
5. **Two (2) sets of Potable and Recycled Water demand calculations (include water demand calculations showing low, average and peak water demand in GPM for the proposed development and proposed water meter size).**
6. **Three (3) sets of Public Street improvement plan with street cross-sections**
7. **Three (3) sets of Private Street improvement plan with street cross-sections**
8. **Four (4) sets of Public Water improvement plan (include water demand calculations showing low, average and peak water demand in GPM for the proposed development and proposed water meter size)**
9. **Four (4) sets of Recycled Water improvement plan (include recycled water demand calculations showing low, average and peak water demand in GPM for the proposed development and proposed water meter size and an exhibit showing the limits of areas being irrigated by each recycled water meter)**
10. **Four (4) sets of Public Sewer improvement plan**
11. **Five (5) sets of Public Storm Drain improvement plan**
12. **Three (3) sets of Public Street Light improvement plan**
13. **Three (3) sets of Signing and Striping improvement plan**
14. **Three (3) sets of Traffic Signal improvement plan and One (1) copy of Traffic Signal Specifications with modified Special Provisions. Specifications available at [http:// www.ci.ca.us/index.aspx?page=278](http://www.ci.ca.us/index.aspx?page=278).**
15. **Two (2) copies of Water Quality Management Plan (WQMP)**
16. **One (1) copy of Hydrology/Drainage study**
17. **One (1) copy of Soils/Geology report**
18. **Payment for Final Map/Parcel Map processing fee**
19. **Three (3) copies of Final Map/Parcel Map**
20. **One (1) copy of approved Tentative Map**
21. **One (1) copy of Preliminary Title Report (current within 30 days)**
22. **One (1) copy of Traverse Closure Calculations**
23. **One (1) set of supporting documents and maps (legible copies): referenced improvement plans (full size), referenced record final maps/parcel maps (full size, 18"x26"), Assessor's Parcel map (full size, 11"x17"), recorded documents such as deeds, lot line adjustments, easements, etc.**

Project File No. TTM 19909
Project Engineer: Manoj Hariya
DAB Date: 04/18/2016



24. **Two (2) copies of Engineering Report and an electronic file (PDF format on a compact disc) for recycled water use**

25. Other: _____

CITY OF ONTARIO

MEMORANDUM

TO: PLANNING DEPARTMENT, Henry Noh
FROM: BUILDING DEPARTMENT, Kevin Shear
DATE: July 29, 2014
SUBJECT: PMTT14-025

-
- The plan **does** adequately address the departmental concerns at this time.
 No comments
 Report below.

Conditions of Approval

1. Standard Conditions of Approval apply.

KS:kc



CITY OF ONTARIO

MEMORANDUM

TO: Henry Noh, Planning Department

FROM: Lora L. Gearhart, Plan Checker – Fire
Bureau of Fire Prevention

DATE: March 9, 2015

SUBJECT: PMTT14-025 – A TENTATIVE TRACT MAP (TT 19909) TO SUBDIVIDE 26.81 ACRES INTO 117 NUMBERED LOTS AND 9 LETTERED LOTS FOR PROPERTY LOCATED AT THE NORTHWEST CORNER OF HAVEN AVENUE AND BELLEGRAVE AVENUE LOCATED AT 14868 HAVEN AVENUE WITHIN THE SUBAREA 29 SPECIFIC PLAN.

-
- The plan **does** adequately address the departmental concerns at this time.
- No comments
- Report below.

CONDITIONS OF APPROVAL:

1. The required fire flow for this tract is 1,500 g.p.m. x 2 hours. Fire flow calculations are approximations only. Final determination and plotted by Engineering and Fire Departments per established standard criterion.
2. Fire hydrant locations and appropriate main sizes will be determined and plotted by Engineering and Fire Departments pre-established standard criterion.
3. The water supply, including mains and hydrants, shall be acceptably tested and approved by the Engineering and Fire Department **PRIOR** to the framing stage of construction to assure availability and reliability for fire fighting purposes.
4. Access roadways providing for an all weather driving surface not less than 20' unobstructed width, capable of supporting the imposed loads of fire apparatus to within 150' of all structures, is required **PRIOR** to the framing stages of construction. This access is required to be maintained in an unobstructed manner throughout construction. See Ontario Fire

Department Standard #B-004.

5. Prior to combustible construction occurring on the 31st lot or dwelling unit, a secondary means of emergency access shall be provided in accordance with fire department requirements. See Ontario Fire Department Standard #B-004.
6. The developer/general contractor is to be responsible for reasonable periodic cleanup of the development during construction to avoid hazardous accumulations of combustible trash and debris both on and off the site.
7. Approved numbers or addresses shall be placed on all new in such a position as to be plainly visible and legible from the street or road fronting the property and comply with the Section 9-1.3280 Street Naming and Street Address Numbering of the Ontario Municipal Code and Ontario Fire Department Standards #H-002.
8. All dwellings shall be equipped with a residential fire sprinkler system.

For copies of Ontario Fire Department Standards please access the City of Ontario web site at www.ci.ontario.ca.us, click on Fire Department and then on forms.

Airport Land Use Compatibility Planning

Consistency Evaluation Report



Project File No.: PMTT14-025
 Address: Subarea 29 SP
 APN: 0218-321-30
 Existing Land Use: Vacant Land
 Proposed Land Use: Tentative Tract Map for 117 numbered lots and 9 lettered lots for future residential uses
 Site Acreage: 26.81
 ONT-IAC Project Review: n/a
 Airport Influence Area: ONT & Chino

Reviewed By: Lorena Mejia
 Contact Info: 909-395-2276
 Project Planner: Henry Noh
 Date: 8/13/14
 CE No.: 2014-054
 PALU No.: n/a

CONSISTENCY EVALUATION DETERMINATION

This proposed Project is: Exempt from the ALUCP Consistent Consistent with Conditions Inconsistent

ANALYSIS

See Attached Comments

Airport Planner Signature: 

ONT ALUCP COMPATIBILITY FACTORS (Check all that Apply)

- | Safety Zones | Noise Impact Zones | Airspace Protection | Overflight |
|-------------------------------|---------------------------------------|---|--|
| <input type="radio"/> Zone 1 | <input type="radio"/> 75+ dB CNEL | <input type="radio"/> High Terrain Zone | <input type="radio"/> Avigation Easement |
| <input type="radio"/> Zone 1A | <input type="radio"/> 70 - 75 dB CNEL | <input type="radio"/> Pierce Part 77 Surfaces | <input type="radio"/> Recorded Overflight |
| <input type="radio"/> Zone 2 | <input type="radio"/> 65 - 70 dB CNEL | <input type="radio"/> FAA Notification | <input checked="" type="checkbox"/> Real Estate Disclosure |
| <input type="radio"/> Zone 3 | <input type="radio"/> 60 - 65 dB CNEL | | <input type="radio"/> Airport Influence Area |
| <input type="radio"/> Zone 4 | | | |
| <input type="radio"/> Zone 5 | | | |

CHINO ALUCP COMPATIBILITY FACTORS (Check all that Apply)

- Zone A Zone B1 Zone C Zone D Zone E

Airport Land Use Compatibility Planning

Consistency Evaluation Report

CE No.: 2014-054

PALU No.: _____

PROJECT CONDITIONS

The proposed project is located within the Airport Influence Areas of Ontario International Airport and Chino Airport and was evaluated and found to be consistent with the Airport Land Use Compatibility Plan (ALUCP) both airports and the following condition is required.

New Residential land uses are required to have a Recorded Overflight Notification appearing on the Property Deed and Title incorporating the following language:

(NOTICE OF AIRPORT IN VICINITY: This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.)



CITY OF ONTARIO

MEMORANDUM

TO: Otto Kroutil, Development Director
 Scott Murphy, Planning Director
 Cathy Wahlstrom, Principal Planner (Copy of memo only)
 Charity Hernandez, Economic Development
 Kevin Shear, Building Official
 Raymond Lee, Assistant City Engineer
 Carolyn Bell, Landscape Planning Division
 Sheldon Yu, Municipal Utility Company
 Scott Melendrez, Police Department
 Art Andres, Deputy Fire Chief/Fire Marshal
 Brent Schultz, Housing and Neighborhood Revitalization Director (Copy of memo only)
 Sigfrido Rivera, Housing Manager
 Tom Danna, T. E., Traffic/Transportation Manager
 Lorena Mejia, Associate Planner, Airport Planning (Copy of memo only)
 Steve Wilson, Engineering/NPDES
 Mark Chase, Community & Public Services Director

FROM: Henry Noh,

DATE: July 28, 2014

SUBJECT: FILE #: PMTT14-025 Finance Acct#:

The following project has been submitted for review. Please send one (1) copy and email one (1) copy of your DAB report to the Planning Department by **Monday, August 11, 2014**.

- Note:**
- Only DAB action is required
 - Both DAB and Planning Commission actions are required
 - Only Planning Commission action is required
 - DAB, Planning Commission and City Council actions are required
 - Only Zoning Administrator action is required

PROJECT DESCRIPTION: A Tentative Tract map (TT 19909) to subdivide 26.81 acres into 117 numbered lots and 9 lettered lots for property located at the northwest corner of Haven Avenue and Bellegrave Avenue located at 14868 Haven Avenue within the Subarea 29 Specific Plan.

The plan does adequately address the departmental concerns at this time.

- No comments
- Report attached (1 copy and email 1 copy)
- Standard Conditions of Approval apply

The plan does not adequately address the departmental concerns.

- The conditions contained in the attached report must be met prior to scheduling for Development Advisory Board.

Housing & Municipal Services *Brent Schultz* Housing & Municipal Services Dir. 7/30/14
 Department Signature Title Date

CITY OF ONTARIO
LANDSCAPE PLANNING DIVISION
 303 East "B" Street, Ontario, CA 91764

DAB CONDITIONS OF APPROVAL	
Sign Off	
<i>Carolyn Bell</i>	9/15/14
Carolyn Bell, Sr. Landscape Planner	Date

Reviewer's Name: Carolyn Bell, Sr. Landscape Planner	Phone: (909) 395-2237
--	---------------------------------

D.A.B. File No.: PMTT14-025	Related Files:	Case Planner: Henry Noh
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Project Name and Location:
 Subdivide 26.81 acres into 117 lots
 NMC Haven and Bellegrave – Subarea 29

Applicant/Representative:
 Richland Ontario/ VSL Engineering, Richard Valdez
 31805 Temecula Parkway #129 D
 Temecula, CA 92612

<input checked="" type="checkbox"/>	A Tentative Tract Map (dated 7/28/14) has been approved with the consideration that the following conditions below be met upon submittal of the Development Plans
<input type="checkbox"/>	A Tentative Tract Map (dated) has not been approved. Applicable conditions are checked below. Corrections are required for DAB approval.

CONDITIONS OF APPROVAL (APPLICABLE ITEMS ARE CHECKED)

1. Correct Bellegrave Ave to Merrill Ave.
2. Show sidewalk and multi-use trail parallel with street and not meandering.
3. The multi-use trail on Merrill Ave shall be 8' of compacted DG adjacent to the 5' concrete sidewalk.
4. The multi-use trail on Haven ave shall be 8' of compacted DG (separate from the 5' concrete sidewalk).
5. Typical lot drainage shall include a catch basin with gravel sump below each before exiting property.
6. Note on grading plans compaction shall be no greater than 85% at landscape areas.
7. Note all finished grades at 1 1/2" below finished surfaces.
8. All landscaped slopes shall be max 3:1 and incorporate erosion control mesh or blankets.
9. Residential driveways shall be max 16' wide with 3' wide wings on each side if 6" high curbs and 4' wide if 8" high curbs.
10. Where two driveways are adjacent avoid utilities such as water meters, fire hydrants and street lighting between driveways to allow for street trees.
11. Group utilities together at the minimum spacing to allow a 6' wide clear space after setbacks for street trees 25- 30' apart, including in between adjacent driveways.



CITY OF ONTARIO

MEMORANDUM

TO: Chairman and Members of the Planning Commission

FROM: Scott Murphy, Planning Director *SM*

DATE: April 26, 2016

SUBJECT: MONTHLY PLANNING DEPARTMENT ACTIVITY REPORT; MONTH OF MARCH 2016

Attached, you will find the Planning Department Monthly Activity Report for the month of March 2016. The report describes all new applications received by the Planning Department and actions taken on applications during the month. Please contact me if you have any questions regarding this information.

The attached reports, along with reports from past months, may also be viewed on the City's web site at www.ci.ontario.ca.us/index.cfm/22418.

Monthly Activity Report—New Applications

Month of March 2016

PCUP16-007: **Submitted by Gloria Campuzano**

A modification to a previously approved Conditional Use Permit (File No. PCUP09-001) establishing alcoholic beverage sales for consumption on the premises in conjunction with a restaurant (Gloria's Cucina) and banquet hall with live entertainment, located at 401 North Euclid Avenue, within the MU-1 (Downtown Mixed-Use) zoning district and the Euclid Avenue Overlay District (APN: 1048-354-11). Related Files: PHP16-007.

PDEV16-008: **Submitted by Western Realco, LLC**

A Development Plan to construct 4 industrial buildings totaling 189,404 square feet on approximately 9.2 acres of land, generally located on the west side Grove Avenue, at the westerly terminus of Locust Street, within the Business Park land use district of the Grove Avenue Specific Plan (APN: 1050-161-03). Related File: PMTT16-006.

PDEV16-009: **Submitted by Fullmer**

A Development Plan to construct a 52,400-square foot industrial building on approximately 2.8 acres of land, generally located at the northwest corner of Grove Avenue and Mission Boulevard, within the IG (General Industrial) and IL (Light Industrial) zoning districts (APNs: 1049-382-05 and 1049-172-01). Related Files: PMTT16-007 and PVAR16-001.

PDEV16-010: **Submitted by T-Mobile**

Modification of an existing stealth (flap pole) wireless telecommunications facility (T-Mobile), including replacement of 3 antennas & shroud, located at 1157 South Milliken Avenue. Related File: Plan Check No. B201600249.

PDEV16-011: **Submitted by AT&T**

Modification of an existing stealth wireless telecommunications facility (AT&T), including swap-out of 3 diplexors on top of existing street light poles, located at 1053 West Hollowell Street. Related File: Plan Check No. B201600861.

PGPA16-002: **Submitted by REDA, OLV**

A General Plan Amendment to modify the Land Use Element of The Ontario Plan Policy Plan component, [1] to change the land use designation on approximately 54 acres of land, from Business Park to Industrial, located between Carpenter Avenue and Cucamonga Creek flood control channel, approximately 500 feet south of Eucalyptus Avenue and 1,000 feet north of Merrill Avenue, within the AG (Agriculture) Overlay and SP (Specific Plan) zoning district; and [2] revise Exhibit LU-03 (Future Buildout Table) to be consistent with the proposed land use designation change (APNs: 0218-261-23, 0218-261-22, 0218-261-32, 0218-271-08, 0218-271-13, 0218-261-16, 0218-271-18). Related File: PZC16-002 & PSP16-002.

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PHP16-007: **Submitted by Gloria Campuzano**

A Certificate of Appropriateness to construct exterior improvements on an existing commercial building, designated Local Landmark No. 6 (the Ontario Laundry Co. building), located at 401 North Euclid Avenue, within the MU-1 (Downtown Mixed-Use) zoning district (APN: 1048-354-11). Related Files: PCUP16-007.

PMTT16-006: **Submitted by Western Realco**

A Tentative Tract Map to subdivide approximately 9.19 acres of land into 4 parcels, to facilitate the construction of 4 industrial buildings totaling 189,404 square feet, generally located on the west side Grove Avenue, at the westerly terminus of Locust Street, within the Business Park land use district of the Grove Avenue Specific Plan (APN: 1050-161-03). Related File: PDEV16-008.

PMTT16-007: **Submitted by Fullmer**

A Tentative Parcel Map to subdivide approximately 2.8 acres of land into a single parcel, generally located at the northwest corner of Grove Avenue and Mission Boulevard, within the IG (General Industrial) and IL (Light Industrial) zoning districts (APNs: 1049-382-05 and 1049-172-01). Related Files: PDEV16-009 and PVAR16-001.

PSGN16-030: **Submitted by Master Design LA**

A Sign Plan to install a new sign (22 SF) for OPORTUN, located at 1355 East Fourth Street.

PSGN16-031: **Submitted by Sign Art Company**

A Sign Plan to install new signs for NOODLE WORLD JR., located at 960 North Ontario Mills Drive, including a 25 SF primary wall sign with logo, and a 16.3 SF secondary wall sign.

PSGN16-032: **Submitted by Wesco Signs, Inc.**

A Sign Plan to install new 27.92-SF wall sign for DSM, and a 45.05-SF logo, and reface an existing monument sign, located at 1100 South Wanamaker Avenue.

PSGN16-033: **Submitted by ART Furniture, Inc.**

A Sign Plan for a 32-SF temporary banner sign to read: "Warehouse Furniture Sale this Saturday," advertising a temporary outdoor sales event in conjunction with an existing furniture warehouse, located at 1165 South Auto Center Drive.

PSGN16-034: **Submitted by AKC Services Inc.**

A Sign Plan for the installation of a new wall sign (55.66 SF) for CVS Pharmacy, located at 4200 East Fourth Street.

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PSGN16-035: **Submitted by Powersign Classic Neon**

A Sign Plan for the installation of 3 new wall signs (49.64 SF, each) for "Sleep Train," on the north, west and east exterior elevations, located at 4210 East Inland Empire Boulevard.

PSGN16-036: **Submitted by Inland Signs**

A Sign Plan for the installation of a new wall sign for "One West Realty," located at 3155 East Sedona Court, Building C.

PSGN16-037: **Submitted by Beto**

A Sign Plan for the installation of new signage for "Mountain Summit," located at 1352 West Fifth Street.

PSGN16-038: **Submitted by Beto**

A Sign Plan for the installation of new signage for "Metro Apartment Homes," located at 102 North Lemon Avenue.

PSGN16-039: **Submitted by Swain Sign**

A Sign Plan for the installation of two new wall signs for "Hino Trucks" (63 SF each), located at 5300 East Ontario Mills Parkway, Suite 400. Signs consistent with Sign Program No. PSGP06-004.

PSGN16-040: **Submitted by Nite Lite Signs**

A Sign Plan for the installation of two new wall signs for "Yogurtland," located at 1337 North Mountain Avenue (consistent with Sign Program No. PSGP15-007): 1) Front sign – 24 SF, 2) Rear sign - 18.7 SF.

PSGN16-041: **Submitted by ALL SIGNS**

A Sign Plan for the installation of a new wall sign for "Coldwell Banker Commercial" (56 SF), located at 3998 East Inland Empire Boulevard, Suite 300.

PSGN16-042: **Submitted by Eagle Signs**

A Sign Plan for the installation of a new wall sign for "RAB Lighting," located at 5678 East Ontario Mills Parkway.

PSP16-002: **Submitted by REDA, OLV**

A request for Specific Plan approval, establishing land use designations, and development standards and guidelines that will govern the development of 125 acres of land generally bounded by Eucalyptus Avenue to the north, San Bernardino Flood Control channel to the east, Merrill Avenue to the south, and Carpenter Avenue to the west (APNs: 0218-261-23, 0218-261-22, 0218-261-32, 0218-271-08, 0218-271-13, 0218-261-16, 0218-271-18). Related Files: PGPA16-002 & PZC16-002.

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PTUP16-011: **Submitted by On Tap Barbershop**

A Temporary Use Permit for a show/exhibit (car and bike show) for On-Tap Barbershop, located within Mountain Village Center, at 1520 North Mountain Avenue, Suite 124. Event to be held on 4/12/2016, from 3:00PM to 10:00PM.

PTUP16-012: **Submitted by On Tap Barbershop**

A Temporary Use Permit for show/exhibit (car and bike show) for On-Tap Barbershop, located within Mountain Village Center, at 1520 North Mountain Avenue, Suite 101. Event to be held on 4/12/2016, from 3:00PM to 10:00PM. Consists of 100 vehicles, bands, food/clothing vendors. 3 food trucks, and 7 clothing vendors, with anticipated attendance of 400+ people, to be held March 12th from 3:00PM TO 10:00PM.

PTUP16-013: **Submitted by Retail Sports Marketing**

A Temporary Use Permit for a show/exhibit (promotional NASCAR event), located at Ralphs shopping center, 3075 South Archibald Avenue. Event to be held 3/18/2016, 2:00PM TO 6:00PM.

PTUP16-014: **Submitted by MARIA ALONSO**

A Temporary Use Permit for a charitable fund raising event hosted by HUERTA DEL VALLE, located at 803 East Belmont Street. Event includes food sales, vendors, and booths. To be held on 4/2/2016.

PTUP16-015: **Submitted by Frontsight Military Outreach**

A Temporary Use Permit for a charitable fund raising event (car show for awareness of military veteran suicides), located at 1009 West Brooks Street, Unit C. Event to be held on 4/9/2016.

PTUP16-016: **Submitted by Montecito Baptist Church**

A Temporary Use Permit for a show/exhibit (annual pastor's conference), located at 2560 South Archibald Avenue. To be held on 4/1/2016 & 4/2/2016. Tent set up to begin 3/31/2016.

PTUP16-017: **Submitted by Tabares Entertainment**

A Temporary Use Permit for a show/exhibit (Circus Vargas), located at Ontario Mills Mall, 1 East Mills Circle, Suite 100. Event to be held on 4/28/2016 through 5/9/2016, with setup to begin on 3/26/2016.

PTUP16-018: **Submitted by Loma Linda Ronald McDonald House**

Temporary Use Permit for a charitable fundraising event (5K to benefit the Loma Linda Ronald McDonald House), located at Citizen's Business Bank Arena, 4000 Ontario Center Parkway. Event to be held on 4/3/2016.

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PTUP16-019: **Submitted by Hearts of LaLa's Rainbow**

Temporary Use Permit for a charitable fundraising event (1K-5K run/walk hosted by the Hearts of LaLa's Rainbow), located at Citizen's Business Bank Arena, 4000 Ontario Center Parkway. Event to be held on 10/23/2016, with setup to begin 10/22/2016.

PVAR16-001: **Submitted by Fullmer Construction**

A Variance to deviate from the minimum arterial street building setback, from 20 feet to 10 feet, and minimum street fence/wall setback, from 10 feet to 0 feet, in conjunction with the construction of a 52,400 square foot industrial building on approximately 2.8 acres of land generally located at the northwest corner of Grove Avenue and Mission Boulevard, within the IG (General Industrial) and IL (Light Industrial) zoning districts (APNs: 1049-382-05 and 1049-172-01). Related Files: PDEV16-009 and PMTT16-007.

PVER16-007: **Submitted by MARCEL RAUDA**

Zoning Verification for an historic property located at 748 East Holt Boulevard (APN: 1049-101-08).

PVER16-008: **Submitted by Matthew Taylor**

A Zoning Verification for 748 East Holt Boulevard (APN: 1049-101-08).

PVER16-009: **Submitted by Armada Analytics, Inc**

Zoning Verification for Tuscany Village, 1701 East D Street (APN: 0110-032-05).

PVER16-010: **Submitted by ZONING ANALYSIS GROUP**

Zoning Verification for 3303 South Archibald Avenue (APN: 0218-141-22).

PVER16-011: **Submitted by BOCK & CLARK**

Zoning Verification for 5650 East Santa Ana Avenue (APN: 0238-101-85).

PVER16-012: **Submitted by PZR**

Zoning Verification for 3990 and 3998 East Concours Street (APN: 0210-205-17).

PVER16-013: **Submitted by Melanie Williams**

Zoning Verification for 1800 South Archibald Avenue (APN: 0211-242-40).

PVER16-014: **Submitted by Melanie Williams**

Zoning Verification for 2600 through 2620 East Francis Street (APN: 0211-242-39).

PVER16-015: **Submitted by Melanie Williams**

Zoning Verification for 2500 through 2520 East Francis Street (APN: 0211-242-38).

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PVER16-016:

Submitted by The Sterling House

Zoning Verification for 2431 South Seagull Avenue (APN: 1083-091-16).

PVER16-017:

Submitted by Cody Carter

Zoning Verification for 5400 East Jurupa Street (APN: 0238-132-02).

PZC16-002:

Submitted by REDA, OLV

A Zone Change removing the AG (Agricultural) Overlay District on 125 acres of land bordered by Eucalyptus Avenue on the north, San Bernardino County Flood Control District channel on the east, Merrill Avenue on the south, and Carpenter Avenue on the west (APNs: 0218-261-16, 0218-261-22, 0218-261-23, 0218-261-32, 0218-271-08, 0218-271-13, and 0218-271-18). Related File: PGPA16-002.

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CITY COUNCIL

March 1, 2016

FILE NO. PDCA16-001: A public hearing to consider the introduction and waive further reading of an ordinance approving File No. PDCA16-001, an amendment to Ontario Municipal Code Title 5, establishing Chapter 22 (Property Appearance—Nuisance).

Action: Introduced and waived further reading of the ordinance.

FILE NO. PCUP15-016: A public hearing to consider the appeal of the Planning Commission’s decision to deny File No. PCUP15-016, a Conditional Use Permit for the establishment and operation of an organic materials facility (composting of green waste, manure, and food materials) within the AG (Agriculture) Overlay zoning district, located at the southwest corner of Schaefer Avenue and Campus Avenue, at 7435 East Schaefer Avenue; and take further actions necessary and consistent with the City Council’s final determination and decision on the matter.

Action: Continued the public hearing to the 4/5/2016 City Council meeting.

DEVELOPMENT ADVISORY BOARD

March 7, 2016

ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT PLAN REVIEW FOR FILE NO. PDEV15-026:

A Development Plan to construct a 65,024 square foot industrial building on 3.2 acres of land generally located at the northwest corner of Sunkist Street and Taylor Avenue, within the General Industrial (IG) zoning district. The adoption of a Mitigated Negative Declaration of environmental effects is recommended. 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 ONT Airport Land Use Compatibility Plan (ALUCP). (APNs: 1049-201-29 and 1049-202-22 and 23); **submitted by Panattoni Development Company, Inc.**

Action: Approve the Project subject to conditions.

ZONING ADMINISTRATOR

March 7, 2016

Meeting Cancelled

CITY COUNCIL

March 15, 2016

FILE NO. PDCA16-001: A hearing to consider adoption and waive further reading of an ordinance approving File No. PDCA16-001, an amendment to Ontario Municipal Code Title 5, establishing Chapter 22 (Property Appearance—Nuisance).

Action: Approved and waived further reading of the ordinance.

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FILE NO. PSPA16-001: A public hearing to consider a resolution approving an addendum to The Ontario Plan (SCH#2008101140) and Rich-Haven Specific Plan (SCH #2006051081) Environmental Impact Reports, analyzing the environmental effects of the Project, pursuant to State CEQA Guidelines section 15164; and adopt a resolution approving an amendment to Rich-Haven Specific Plan (File No. PSPA16-001) pursuant to the facts and reasons contained in the staff report and attached resolution.

Action: Approved the resolutions.

DEVELOPMENT ADVISORY BOARD

March 21, 2016

ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT PLAN REVIEW FOR FILE NO. PDEV15-020:

A Development Plan to construct 149 single-family homes on approximately 14.5 acres of land within Planning Area 10A of The Avenue Specific Plan, generally located south of Schaefer Avenue, north of Ontario Ranch Road between Haven and Turner Avenues. The impacts to this project were previously analyzed in an addendum to The Avenue Specific Plan EIR (SCH# 2005071109) that was adopted by the City Council on June 17, 2014, and was prepared pursuant to the requirements of California Environmental Quality Act. 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 ONT Airport Land Use Compatibility Plan (ALUCP). (APNs: 218-444-10 through 17, 218-444-25 through 41, 218-444-43, 218-452-10, 11, 12, 218-462-16 through 25, 218-462-36 through 52, 218-482-25 through 48, 218-483-23 through 48 and 218-503-01 through 44); **submitted by Brookfield Residential.** Planning Commission action is required.

Action: Recommended the Planning Commission approve the Project subject to conditions.

ZONING ADMINISTRATOR

March 21, 2016

Meeting Cancelled

PLANNING COMMISSION

March 22, 2016

ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT PLAN REVIEW FOR FILE NO. PDEV15-020:

A Development Plan to construct 149 single-family homes on approximately 14.5 acres of land within Planning Area 10A of The Avenue Specific Plan, generally located south of Schaefer Avenue, north of Ontario Ranch Road between Haven and Turner Avenues. The impacts to this project were previously analyzed in an addendum to The Avenue Specific Plan EIR (SCH# 2005071109) that was adopted by the City Council on June 17, 2014 and was prepared pursuant to the requirements of California Environmental Quality Act. The proposed project is located

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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 ONT Airport Land Use Compatibility Plan (ALUCP). (APNs: 218-444-10 thru 17, 218-444-25 thru 41, 218-444-43, 218-452-10, 11, 12, 218-462-16 thru 25, 218-462-36 thru 52, 218-482-25 thru 48, 218-483-23 thru 48 and 218-503-01 thru 44); **submitted by Brookfield Residential.**

Action: Approved the Project subject to conditions of approval.

ENVIRONMENTAL ASSESSMENT, DEVELOPMENT PLAN AND CONDITIONAL USE PERMIT REVIEW FOR FILE NOS. PDEV15-018 & PCUP15-011: A Development Plan to construct a 54-foot tall stealth wireless telecommunication facility and a Conditional Use Permit to operate the wireless facility within 500-feet of residentially zoned property, located within an existing 2.68-acre site at 602 N. Virginia Avenue, within the MDR-18 (Medium Density Residential-11.1 to 18.0 DU/Acres) zoning district. Staff has determined that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to § 15332 (Class 32: In-Fill Development Projects) of the State CEQA Guidelines. 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. (APN: 1048-451-51); **submitted by Verizon Wireless.**

Action: Approved the Project subject to conditions of approval.

ENVIRONMENTAL ASSESSMENT, AND GENERAL PLAN AMENDMENT REVIEW FOR FILE NO. PGPA16-001: A City initiated request to change the General Plan land use designations on 83 properties generally located south of Fourth Street and west of Euclid Avenue, and modify the Future Buildout Table to be consistent with the land use designation changes (amending Exhibits LU-01 and LU-03). Staff is recommending the adoption of an Addendum to an Environmental Impact Report (State Clearinghouse No. 2008101140) adopted by City Council on January 27, 2010 in conjunction with File No. PGPA06-001. The environmental impacts of this project were previously analyzed in an Environmental Impact Report (State Clearinghouse No. 2008101140) adopted by City Council on January 27, 2010 in conjunction with File No. PGPA06-001. 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. (APNs: Various) **City initiated.** City Council action is required.

Action: Recommended the City Council approve the Project.

ENVIRONMENTAL ASSESSMENT, AND ZONE CHANGE REVIEW FOR FILE NO. PZC16-001: A City initiated request to change the zoning designations on 881 properties generally located south of Fourth Street and west of Euclid Avenue, 127 properties along East Holt Boulevard, and 37 other properties located throughout the City in order to make the zoning consistent with The Ontario Plan land use designations of the properties. The environmental impacts of this project were previously analyzed in an Environmental Impact Report (State Clearinghouse No. 2008101140)

City of Ontario Planning Department
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adopted by City Council on January 27, 2010 in conjunction with File No. PGPA06-001. 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. (APNs: Various) **City initiated**. City Council action is required.

Action: Recommended the City Council approve the Project.

ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT CODE AMENDMENT REVIEW FOR FILE NO. PDCA16-002: A Development Code Amendment proposing various modifications and clarifications to the following provisions of the Ontario Development Code:

[1] Revise Section 3.02.030 (Amortization and Abatement of Nonconforming Signs), deleting “billboard signs” from the nonconforming sign amortization list (Table 3.02-1: Amortization Period of Certain Classifications of Nonconforming Signs);

[2] Revise Division 5.02 (General Land Use Provisions), Division 5.03 (Standards for certain Land Uses, Activities, and Facilities), and Division 6.01 (District Standards and Guidelines), deleting all references to the CCC zoning district;

[3] Revise Table 5.02-1 (Land Use Matrix), adding “Escape and Exit Rooms” (live interactive adventure, labyrinth, leadership, and strategy games) to the list of allowed land uses in the CC (Community Commercial), CR (Regional Commercial), MU-1 (Mixed Use - Downtown), BP (Business Park), IL (Light Industrial), and IG (General Industrial) zoning districts;

[4] Revise Section 5.03.025 (Alcoholic Beverage Sales) to clarify that the Public Convenience or Necessity determination criteria (Paragraph F.3) only applies to off-premise Alcoholic Beverage Control licenses;

[5] Revise Section 5.03.395 (Temporary and Interim Land Uses, Buildings, and Structures) to clarify that a temporary outdoor sales event may only be allowed in conjunction with a legally established business that has been operated for a period of at least 180 days prior to the event;

[6] Revise Section 6.01.035 (Overlay Zoning Districts) to clarify that within the ICC Overlay District (Paragraph B.5), building alteration or expansion is only allowed in conjunction with an existing, legally established, commercial land use;

[7] Revise Section 8.01.020 (Sign Standards) to combine various Political Sign provisions into a single Subsection (8.01.020.K), and include provisions clarifying the purpose and intent of the Political Sign standards; and

[8] Revise Table 8.01-1 (Sign Regulation Matrix) to clarify timeframes for the issuance of temporary promotional and special event signs and banners.

The environmental impacts of this project were previously reviewed in conjunction with an Addendum to the Ontario Plan Environmental Impact Report (SCH# 2008101140) prepared for File No. PDCA11-003, which was adopted by the Ontario City Council (by Resolution No. 2015-095) on September 1, 2015. This Application introduces no new significant environmental impacts. The proposed project is located within the Airport Influence Area of Ontario

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International Airport (ONT), and was evaluated and found to be consistent with the policies and criteria of the ONT Airport Land Use Compatibility Plan (ALUCP). **City Initiated.** City Council action is required.

Action: Recommended the City Council approve the Project.

CERTIFICATE OF APPROPRIATENESS AND ENVIRONMENTAL ASSESSMENT FOR FILE NO. PHP16-

001: A request for a Certificate of Appropriateness to construct 2 single story, single family residences (approximately 1750 square feet each) with detached garages (441 square feet each) on approximately 0.3 acres of land within the College Park Historic District, located at 326 East Fourth Street (APN: 1048-063-05) and 330 East Fourth Street (APN: 1048-063-06), within the LDR-5 (Low Density Residential – 2.1 to 5.0 DUs/Acre) zoning district. The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15303 (New Construction or Conversion of Small Structures); **submitted by Kirk and Elena Wallace.**

Action: Approved the Project subject to conditions of approval.

SIXTEENTH ANNUAL MODEL COLONY AWARDS FOR FILE NO. PADV16-001: A request for the Historic Preservation Commission to accept the nominations for the Sixteenth Annual Model Colony Awards; **submitted by City of Ontario.** City Council presentation of Awards.

Action: Accepted the recommended candidates for the Sixteenth Annual Model Colony Awards.