

CITY OF ONTARIO PLANNING COMMISSION/ HISTORIC PRESERVATION MEETING AGENDA

May 24, 2022

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 and on the City website at www.ontarioca.gov/Agendas/PlanningCommission.

- *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

Anderson __ Dean __ DeDiemar __ Gage __ Lampkin __ 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 April 26, 2022, approved as written.

A-02. GENERAL PLAN CONSISTENCY FINDING PURSUANT TO GOVERNMENT CODE

SECTION 65402: A request for a determination of General Plan consistency pursuant to Government Code Section 65402 for properties located at 120 West D Street and 420 North Laurel Avenue, to determine that the sale of approximately 0.792 acres of land, between the City of Ontario and D Street Townhome Apartments, LLC., is consistent with The Ontario Plan Policy Plan (General Plan); (APNS: 1048-354-12 and 1048-354-02). **City Initiated**

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, unless there are a number of person's wishing to speak and then the Chairperson will allow only three (3) minutes, to accommodate for more persons. The Planning/Historic Preservation 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.

HISTORIC PRESERVATION / PLANNING COMMISSION ITEMS

B. ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT AGREEMENT REVIEW

FOR FILE NO. PDA21-007: A Public Hearing to consider a Development Agreement (File No. PDA21-007) between the City of Ontario and Remington APG LLC., to establish the terms and conditions associated with a Development Plan (File No. PDEV21-024) to construct three industrial buildings totaling 200,322 square feet on 10.2 acres of land, located at the northeast

corner of Remington Avenue and the Cucamonga Creek Flood Control Channel, within the Industrial (PA-3) land use district of the Colony Commerce Center East Specific Plan (File No. PSP16-003). The environmental impacts of this project were previously reviewed in conjunction with the Colony Commerce Center East Specific Plan (File No. PSP16-003), for which an Environmental Impact Report (State Clearinghouse No. 2017031048) was certified by City Council on May 1, 2018. This application introduces no new significant environmental impacts, and all previously adopted mitigation measures are a condition of project approval. 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. The project site is also located within the Airport Influence area of Chino Airport and is consistent with policies and criteria set forth within the 2011 California Airport Land Use Planning Handbook published by the California Department of Transportation, Division of Aeronautics; (APNs: 0218-311-07 and 0218-311-13); **submitted by Remington APG LLC. City Council action is required.**

1. CEQA Determination

No action necessary – use of previous EIR

2. File No. PDA21-007 (Development Agreement)

Motion to recommend Approval/Denial

C. ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT PLAN REVIEW FOR FILE NO. PDEV21-040: A public hearing to consider a Development Plan (File No. PDEV21-040) to construct one industrial building totaling 1,255,320 square feet on 60.7 acres of land locate at 4902 S. Baker Avenue, within the industrial land use district of the Merrill Commerce Center Specific Plan (MCCSP) zoning district. The environmental impacts of this project were previously reviewed in conjunction with the Merrill Commerce Center Specific Plan (File No. PSP 18-001), for which an Environmental Impact Report (SCH #2019049079) was certified by the City Council on February 2, 2021. This application introduces no new significant environmental impacts, and all previously-adopted mitigation measures are a condition of project approval. 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. The project site is also located within the Airport Influence area of Chino Airport and is consistent with policies and criteria set forth within the 2011 California Airport Land Use Planning Handbook published by the California Department of Transportation, Division of Aeronautics; (APNs: 1054-151-03, 1054-201-03, 1054-351-03) **submitted by Prologis LP.**

1. CEQA Determination

No action necessary – use of previous EIR

2. File No. PDEV21-040 (Development Plan)

Motion to Approve/Deny

D. ENVIRONMENTAL ASSESSMENT AND TENTATIVE PARCEL MAP AND DEVELOPMENT PLAN REVIEW FOR FILE NOS. PMTT22-007 AND PDEV22-002: A public hearing to consider a Tentative Parcel Map (File No. PMTT22-007 – TPM 20537) to subdivide 119.94 acres of land into three (3) parcels and a Development Plan (File No. PDEV22-002) to construct two (2) industrial buildings totaling 2,237,458 square feet on 119.94 acres of

land, located at the northeast corner of Merrill Avenue and Grove Avenue, within PA-1 and PA-2 of the Industrial land use district of the Merrill Commerce Center Specific Plan. The environmental impacts of this project were previously reviewed in conjunction with the Merrill Commerce Center Specific Plan (File No. PSP 18-001), for which an Environmental Impact Report (SCH #2019049079) was certified by the City Council on February 2, 2021. This application introduces no new significant environmental impacts, and all previously-adopted mitigation measures are a condition of project approval. 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. The project site is also located within the Airport Influence area of Chino Airport and is consistent with policies and criteria set forth within the 2011 California Airport Land Use Planning Handbook published by the California Department of Transportation, Division of Aeronautics; (APNs: 1054-111-03, 1054-141-03, 1054-221-03, 1054-331-03, 1054-331-04,) **submitted by Prologis, LP.**

1. CEQA Determination

No action necessary – use of previous EIR

2. File No. PMTT22-007 (TPM 20537) (Tentative Parcel Map)

Motion to Approve/Deny

3. File No. PDEV22-002 (Development Plan)

Motion to Approve/Deny

MATTERS FROM THE PLANNING/HISTORIC PRESERVATION COMMISSION

- 1) Old Business
 - Reports From Subcommittees
 - Historic Preservation (Standing): Did not meet this month.
- 2) New Business
- 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, Gwen Berendsen, 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, May 20, 2022**, at least 72 hours prior to the meeting per Government Code Section 54954.2 at 303 East "B" Street, Ontario.



Gwen Berendsen, Secretary Pro Tempore



Rudy Zeledon, Planning Director
Planning/Historic Preservation
Commission Secretary

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

MINUTES

April 26, 2022

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

MINUTES

April 26, 2022

REGULAR MEETING: City Hall, 303 East B Street
Called to order by Chairman Willoughby at 6:34 PM

COMMISSIONERS

Present: Chairman Willoughby, Vice-Chairman DeDiemar, Anderson, Dean, Lampkin and Ricci

Absent: Gage

OTHERS PRESENT: Planning Director Zeledon, City Attorney Guiboa, Principal Planner Mercier, Principal Planner Ruddins, Senior Planner Mejia, Associate Planner Antuna, Community Development Administrative Office Womble, Assistant City Engineer Lee, and Planning Secretary Berendsen

PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was led by Commissioner Dean.

ANNOUNCEMENTS

Mr. Zeledon stated that there are revised Engineering conditions for Item D and that C & D will be taken together as one presentation.

Mr. Lampkin talked about the Seeds of Joy community garden Earth Day event.

PUBLIC COMMENTS

No one responded from the audience.

CONSENT CALENDAR ITEMS

A-01. MINUTES APPROVAL

Planning/Historic Preservation Commission Minutes of March 22, 2022, approved as written.

A-02. GENERAL PLAN CONSISTENCY FINDING PURSUANT TO GOVERNMENT CODE SECTION 65402: A request for a determination of General Plan consistency pursuant to Government Code Section 65402, to determine that the sale of approximately 2.13 acres of land, between the City of Ontario and Ontario D Block, LLC, for properties located at 404, 416 and 414 North Euclid Avenue and 401 and 418 North Lemon Avenue, is consistent with The Ontario Plan Policy Plan (General Plan); (APNS: 1048-363-02, 1048-363-03, 1048-363-04, and 1048-363-05). **City Initiated**

PLANNING COMMISSION ACTION

It was moved by DeDiemar, seconded by Anderson, to approve the consent calendar.

Item A-01, Planning Commission Minutes from March 22, 2022. Roll call vote: AYES, Anderson, Dean, DeDiemar, and Willoughby; NOES, none; RECUSE, Lampkin and Ricci; ABSENT, Gage. The motion was carried 4 to 0.

Item A-02, General Plan Consistency. Roll call vote: AYES, Anderson, Dean, DeDiemar, Lampkin, Ricci, and Willoughby; NOES, none; RECUSE, none; ABSENT, Gage. The motion was carried 6 to 0.

PUBLIC HEARING ITEMS

- B. TWENTY-SECOND ANNUAL MODEL COLONY AWARDS FILE NO. PHP22-008:** A request for the Historic Preservation Commission to accept the nominations for the Twenty-second Annual Model Colony Awards; **submitted by City of Ontario. City Council presentation of Awards. City Council action is required.**

Associate Planner Antuna presented the staff report

No one responded.

PUBLIC TESTIMONY

No one responded.

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

Mr. Lampkin spoke positively about Logan's Candies.

Ms. DeDiemar commended the Planning staff regarding Historic Preservation.

Mr. Willoughby echoed the comments of Ms. DeDiemar.

PLANNING COMMISSION ACTION

It was moved by Lampkin, seconded by Ricci, to Approve the Model Colony Awards, File No. PHP22-008 for City Council Presentation. Roll call vote: AYES, Anderson, Dean, DeDiemar, Lampkin, Ricci, and Willoughby; NOES, none; RECUSE, none; ABSENT, Gage. The motion was carried 6 to 0.

- C. ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT AGREEMENT REVIEW FOR FILE NO. PDA21-014:** A public hearing to consider a Development Agreement between the City of Ontario and BrookCal Ontario, LLC, to establish the terms and conditions associated with the development of Tentative Tract Map No. 20449 (File No. PMTT21-014), a 35.65 gross acre property located at the southeast corner of Haven Avenue and Ontario Ranch Road, within Planning Area 9A (Residential & Commercial) land use district of the Rich Haven Specific Plan. The environmental impacts of this project were previously analyzed in an addendum to the Rich Haven Specific Plan Environmental Impact Report (State Clearinghouse No. 2006051081) and an Addendum to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140). This application is consistent with the previously adopted environmental impact reports and introduces no new significant environmental impacts. 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); (APN: 218-211-01) **submitted by BrookCal Ontario LLC. City Council action is required.**

- D. ENVIRONMENTAL ASSESSMENT AND TENTATIVE TRACT MAP REVIEW FOR FILE NO. PMTT21-014:** A public hearing to consider Tentative Tract Map No. 20449, subdividing 35.65 gross acres of land into 92 numbered lots and 55 lettered lots for residential and commercial uses, public/private streets, landscape neighborhood edges and common open space purposes for a property located on southeast corner of Ontario Ranch Road and Haven Avenue, within the Mixed-Use District Planning Area 9A (Regional Commercial and Stand-Alone Residential Overlay) of the Rich Haven Specific Plan. The environmental impacts of this project were previously analyzed in an addendum to the Rich Haven Specific Plan Environmental Impact Report (State Clearinghouse No. 2006051081) and an Addendum to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140). This application is consistent with the previously adopted Environmental Impact Reports and introduces no new significant environmental impacts. 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); (APN: 218-211-01) **submitted by BrookCal Ontario LLC.**

Senior Planner Mejia, presented the staff report. She stated that staff is recommending the Planning Commission recommend approval to City Council for File No. PDA21-014, and approve File No. PMTT21-014, pursuant to the facts and reasons contained in the staff report and attached resolutions, and subject to the conditions of approval.

Mr. Lampkin wanted clarification on the future park arrow on Exhibit C.

Ms. Mejia responded that this is a conceptual idea and this would be commercial with an open space going there.

Mr. Zeledon responded that the idea would be to integrate the commercial, with the community for events, like it is at Haven Marketplace.

Mr. Lampkin wanted to clarify who would be responsible for finishing the southern boarder once Edison is closed off.

Ms. Mejia stated they are paying in-leu fees, so when the developer to the south comes in they would use the in-leu fees to complete those improvements.

Mr. Willoughby wanted to know the size of the Haven Marketplace area.

Mr. Zeledon stated it's about 10 acres.

PUBLIC TESTIMONY

Meagan Knecht with Brookfield was present and spoke in favor of the project.

Mr. Willoughby asked if she accepted the conditions as written.

Ms. Knecht stated yes.

Mr. Lampkin wanted to know the developers vision for the south boarder.

Ms. Knecht stated a solid block wall was proposed on the south boarder.

Mr. Lampkin asked regarding consideration of a see through wall for visibility and PD safety.

Ms. Knecht stated she would be open to work with staff and PD for the security and safety of the community.

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

There was no Planning Commission deliberation.

PLANNING COMMISSION ACTION

It was moved by Lampkin, seconded by Dean, to approve a resolution for File No. PMTT21-014, subject to conditions of approval. Roll call vote: AYES, Anderson, Dean, DeDiemar, Lampkin, Ricci, and Willoughby; NOES, none; RECUSE, none; ABSENT, Gage. The motion was carried 6 to 0.

It was moved by Ricci, seconded by Anderson, to recommend adoption of a resolution to approve the Development Agreement, File No., PDA21-014, subject to conditions of approval. Roll call vote: AYES, Anderson, Dean, DeDiemar, Lampkin, Ricci, and Willoughby; NOES, none; RECUSE, none; ABSENT, Gage. The motion was carried 6 to 0.

E. **ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT CODE AMENDMENT REVIEW FOR FILE NO. PDCA22-003:** A public hearing to consider certain clarifications and revisions to the City of Ontario Development Code, addressing the following:

- Time extension limits for discretionary projects (Development Code Section 2.02.025.B.2.c).
- Public notification requirements for Minor Variances (Development Code Section 2.03.010).
- Administrative exception provisions (Development Code Sections 4.02.020 and 4.03.050, and Tables 2.02-1 and 2.03-1).
- Specific plan minor amendments provisions (Development Code Section 4.02.080).
- Housing and reasonable accommodations provisions (Development Code Sections 4.02.035 and 4.03.055, and Tables 2.02-1 and 2.03-1).
- Accessory dwelling units (ADUs), adding the requirements of Assembly Bill 345 related to the separate conveyance of ADUs (Development Code Section 5.03.010).
- Minimum useable rear yard area for single-family dwellings (Development Code Section 5.03.011).
- Banquet facilities in conjunction with commercial structures on historic properties (Development Code Section 5.03.067).
- Retail sales events and other similar business events (Development Code Section 5.03.395 and Table 8.01-1).
- Conversion of garages to accommodate accessory dwelling units (Development Code section 6.01.010).
- Definition for “garage” (Development Code Section 9.01.010.G).
- Single-family two-unit projects and urban lot splits, rescinding Urgency Ordinance No. 3200 and adopting permanent standards (Development Code Sections 5.03.403 and 6.08.060, and Tables 2.02-1 and 2.03-1).
- Certain allowed land use descriptions (Development Code Table 5.02-1).

The proposed Development Code Amendment is exempt from the requirements of the California Environmental Quality Act (“CEQA”) and the guidelines promulgated thereunder, pursuant to Section 15061(b)(3) of the CEQA Guidelines. The proposed Development Code Amendment affects properties 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; **City Initiated. City Council action is required.**

Principal Planner Mercier, presented the staff report. He stated that staff is recommending the Planning Commission recommend approval to City Council for File No. PDCA22-003, pursuant to the facts and reasons contained in the staff report and attached resolutions, and subject to the conditions of approval.

Mr. Lampkin wanted to know if the Development Code differentiates between a carport versus garage.

Mr. Mercier stated yes it does.

Mr. Lampkin wanted clarification on the definition of a carport.

Mr. Mercier stated a carport doesn’t have to be enclosed on any sides.

Mr. Lampkin gave a scenario of someone converting a garage to an ADU and then having a carport for parking.

Mr. Mercier stated yes is was correct.

Ms. DeDiemar wanted clarification on #6.

Mr. Mercier stated it applies to the sale of an ADU, separate from the primary dwelling.

Ms. DeDiemar wanted to know what the benefit of this is.

Mr. Mercier stated none to the city, but the idea is to provide affordable housing and it is a state mandate.

Ms. DeDiemar wanted to know if there were any of these in the city or any proposed.

Mr. Mercier stated none that he is aware of.

Ms. DeDiemar wanted clarification on #10 and if this would mean zero parking spaces provided.

Mr. Mercier stated there would most likely be parking on the driveway or property, but this is a state mandate.

Mr. Zeledon clarified the state mandate.

Mr. Willoughby gave a scenario that would skirt the issue.

Mr. Zeledon stated no, we would still regulate parking, because with ADUs there is a covenant that runs with the land and has restrictions.

Mr. Willoughby wanted to know if we have a code to deal with that.

Mr. Zeledon yes, but it is getting less and less as we get more regulation from the State and even the State code allows to convert the front lawn to parking.

Mr. Willoughby wanted to clarify if they are selling the ADU separately, that there will still be setbacks.

Mr. Zeledon stated that is correct.

Mr. Willoughby clarified that if they sell the ADU and then have the neighbors complain, this protects us.

Mr. Mercier stated yes.

Mr. Ricci wanted clarification regarding on #9 sales on holidays, and if someone could do one 8 week event.

Mr. Mercier stated yes, they can do them all together.

Mr. Zeledon stated that they would still have to get a TUP (Temporary Use Permit) which is regulated by us.

Mr. Ricci wanted to know if this was brought forward because of COVID and doing more things outside.

Mr. Zeledon stated that with COVID we are trying to provide businesses more flexibility, but we will still regulate them.

Mr. Lampkin wanted to know if that would effect parking on future development of commercial.

Mr. Mercier stated no, this is not changing parking requirements.

Mr. Lampkin further clarified Senate Bill 9 and parking in the future.

Mr. Mercier stated that is correct.

Mr. Willoughby spoke in favor of Item #9, as being business friendly.

PUBLIC TESTIMONY

No one responded.

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

There was no Planning Commission deliberation.

PLANNING COMMISSION ACTION

It was moved by Lampkin, seconded by Ricci, to recommend adoption of a resolution to approve the Development Code Amendment, File No., PDCA22-003, subject to conditions of approval. Roll call vote: AYES, Anderson, Dean, DeDiemar, Lampkin, 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 did not meet.

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

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

New Business

Mr. Willoughby stated the Subcommittee appoints have been assigned and all the commissioners were given a new chart of appointments.

NOMINATIONS FOR SPECIAL RECOGNITION

None at this time.

DIRECTOR'S REPORT

Mr. Zeledon stated the Monthly Activity Reports were in their packets and that many of the Subcommittees would be meeting soon.

ADJOURNMENT

Ricci motioned to adjourn, all were in favor. The meeting was adjourned at 7:46 PM, to the next meeting on May 24, 2022.

Secretary Pro Tempore

Chairman, Planning Commission

SUBJECT: A hearing to consider a determination of General Plan consistency pursuant to Government Code Section 65402 for properties located at 120 West D Street and 420 North Laurel Avenue, to determine that the sale of approximately 0.792 acres of land, between the City of Ontario and D Street Townhome Apartments, LLC., is consistent with The Ontario Plan Policy Plan (General Plan); (APNS: 1048-354-12 and 1048-354-13).

PROPERTY OWNER: City of Ontario

RECOMMENDED ACTION: That the Planning Commission finds that, pursuant to Government Code Section 65402, the sale of approximately 0.792 acres of land, located 120 West D Street, is consistent with The Ontario Plan Policy Plan (General Plan).

PROJECT SETTING: The project site is comprised of approximately 0.792 acres of land located at 120 West D Street and 420 North Laurel Avenue, within the MU-1 (Downtown Mixed Use) zoning district, depicted in Figure 1: Project Location, below. The project site is developed with a City owned public parking lot. Existing surrounding land uses include commercial office building and parking lot to the north, vacant commercial building and parking lot to the south, restaurant (Gloria’s) and retail uses to the east and parking lots to the west. The existing surrounding land uses, zoning, and general plan and specific plan land use designations are summarized in the “Surrounding Zoning & Land Uses” table located in the Technical Appendix of this report.

PROJECT ANALYSIS:

(1) Background — The City of Ontario (“the City”) and D Street Townhome Apartments, LLC., are in negotiations to execute a Disposition and Development Agreement with D Street Townhome Apartments, LLC., for the sale and redevelopment of approximately 0.792 acres of land located at 120 West D Street and 420 North Laurel Avenue (Northeast corner of D street and Laurel Avenue). The terms of the sale would

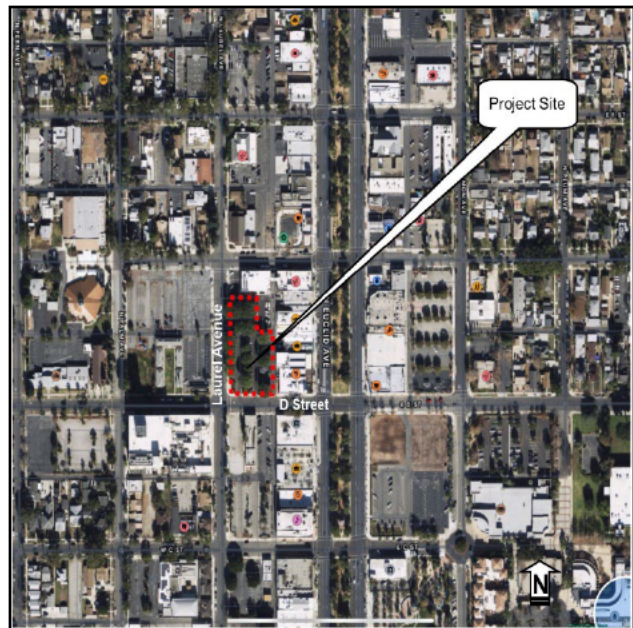



Figure 1: Project Location

Case Planner:	Rudy Zeledon, Planning Director
Planning Director Approval:	
Submittal Date:	N/A

Hearing Body	Date	Decision	Action
DAB			
PC	05/24/2022		Final
CC			

require D Street Townhome Apartments, LLC., to redevelop the site with a three story 26-unit townhome project.

(2) Compliance with The Ontario Plan — Government Code Section 65402 provides that a local agency may not acquire real property for a public purpose until the Planning Commission determines that the location, purpose, and extent of the acquisition is in conformance with the general plan.

The Ontario Plan (“TOP”) Policy Plan (General Plan) land use plan designates the 2.13-acre subject property as Mixed-Use (Downtown Mixed-Use Area). The Mixed-Use land use designation is intended as an intensive vertical and horizontal mixture of retail, office, and residential uses in a pedestrian friendly atmosphere. The future redevelopment of the site with a three story 26-unit townhome project would be in conformance with The Ontario Plan Policy Plan (General Plan).

The proposed sale of the properties is in the City’s best interest because it achieves the City’s goals of activating underutilized City assets to help in the City’s revitalization efforts for the downtown. The proposed use of the properties is consistent with TOP Policy Plan goals and polices, and the land use designations for the properties (see Exhibit A: TOP Policy Plan Land Use Plan). More specifically, the goals and policies of TOP that are furthered by the proposed project are as follows:

(1) City Council Goals.

- Invest in the Growth and Evolution of the City’s Economy
- Operate in a Businesslike Manner
- Focus Resources in Ontario’s Commercial and Residential Neighborhoods

(2) Vision.

Distinctive Development:

- Commercial and Residential Development
 - Development quality that is broadly recognized as distinctive and not exclusively tied to the general suburban character typical of much of Southern California.

(3) Governance.

Decision Making:

- Goal G1: Sustained decision-making that consistently moves Ontario towards its Vision by using The Ontario Plan as a framework for assessing choices.
 - G1-2 Long-term Benefit. We require decisions to demonstrate and document how they add value to the community and support the Ontario Vision

(4) Policy Plan (General Plan)

Land Use Element:

- Goal LU1: A community that has a spectrum of housing types and price ranges that match the jobs in the City and that 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.

- LU1-6 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. (Refer to Complete Community Section of Community Economics Element).

Housing Element:

- Goal H2: Diversity of types of quality housing that are affordable to a range of household income levels, accommodate changing demographics, and support and reinforce the economic sustainability of Ontario.

Goal H5: A full range of housing types and community services that meet the special housing needs for all individuals and families in Ontario, regardless of income level, age, or other status.

- H5-2 Family Housing. We support the development of larger rental apartments that are appropriate for families with children, including, as feasible, the provision of services, recreation, and other amenities.

Community Economics Element:

- Goal CE1: A complete community that provides for all incomes and stages of life.

- CE1-6 Diversity of Housing. We collaborate with residents, housing providers and the development community to provide housing opportunities for every stage of life; we plan for a variety of housing types and price points to support our workforce, attract business and foster a balanced community.

- 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.

Community Design Element:

- 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.
 - CD1-2 Growth Areas. We require development in growth areas to be distinctive and unique places within which there are cohesive design themes.
- 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.
 - CD3-1 Design. We require that pedestrian, vehicular, bicycle and equestrian circulation on both public and private property be coordinated and designed to maximize safety, comfort, and aesthetics.
 - 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.
 - CD3-3 Building Entrances. We require all building entrances to be accessible and visible from adjacent streets, sidewalks, or public open spaces.

ENVIRONMENTAL REVIEW: The proposed acquisition of the project site is exempt from review under the California Environmental Quality Act pursuant to Section 15061 (b) (3) of the Guidelines, as there is no possibility that such acquisition will have a significant effect on the environment.

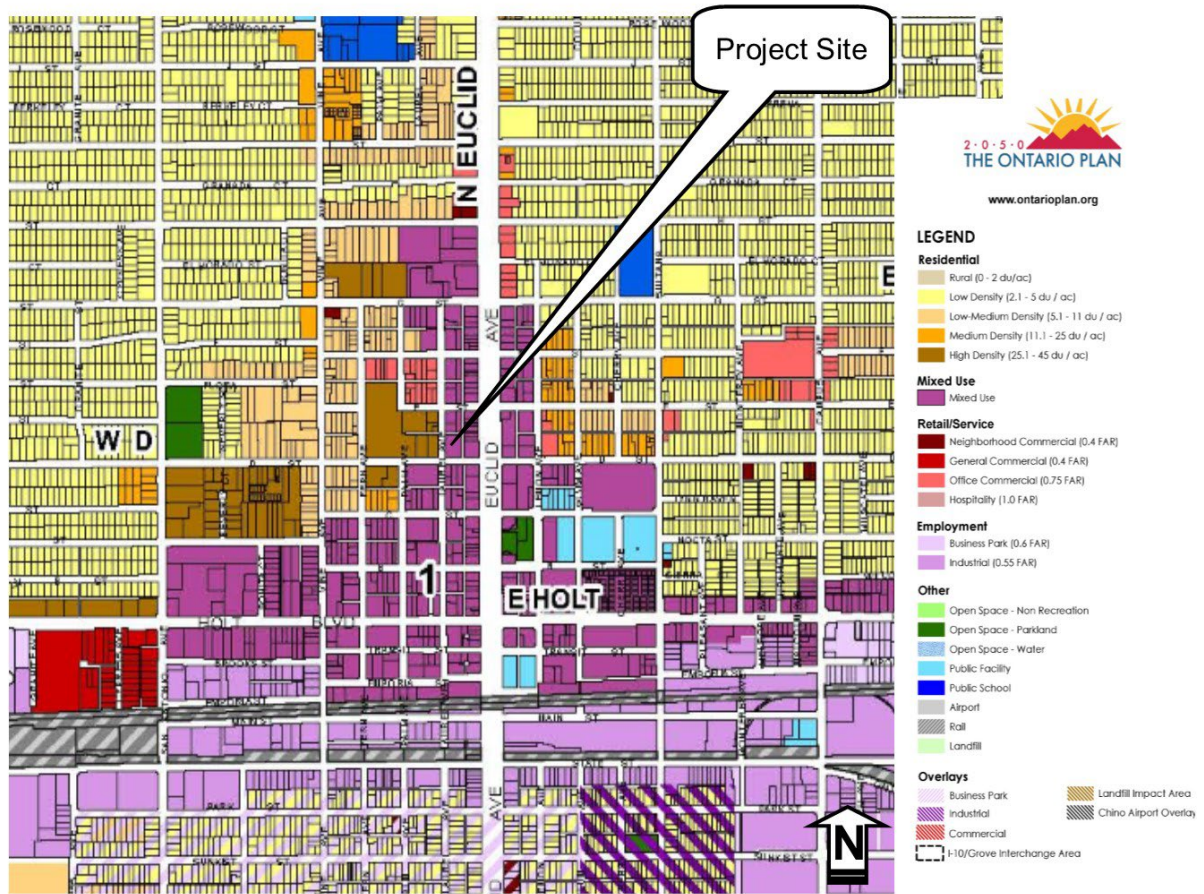
TECHNICAL APPENDIX:

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>	City Parking Lot	Mixed-Use (Downtown Mixed-Use Area).	MU-1 (Downtown Mixed Use)	N/A
<i>North</i>	Commercial Office Building/ Parking Lot	Mixed-Use (Downtown Mixed-Use Area).	MU-1 (Downtown Mixed Use)	N/A
<i>South</i>	Vacant Commercial Building/Parking Lot	Mixed-Use (Downtown Mixed-Use Area).	MU-1 (Downtown Mixed Use)	N/A
<i>East</i>	Restaurant/Retail Uses	Mixed-Use (Downtown Mixed-Use Area).	MU-1 (Downtown Mixed Use)	N/A
<i>West</i>	Parking Lots	High Density Residential (25.1 to 45 du/ac)	HDR45 (High Density Residential (25.1 to 45 du/ac)	N/A

EXHIBIT A: TOP Policy Plan Land Use Plan

**EXHIBIT LU-01
 LAND USE PLAN**



RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, MAKING A DETERMINATION OF GENERAL PLAN CONSISTENCY PURSUANT TO GOVERNMENT CODE SECTION 65402 FOR PROPERTIES LOCATED AT 120 WEST D STREET AND 420 NORTH LAUREL, DETERMINING THAT THE SALE OF APPROXIMATELY 0.792 ACRES OF LAND, BETWEEN THE CITY OF ONTARIO AND D STREET TOWNHOME APARTMENTS, LLC., IS CONSISTENT WITH THE ONTARIO PLAN POLICY PLAN (GENERAL PLAN), AND MAKING FINDINGS IN SUPPORT THEREOF—APNS: 1048-354-12 AND 1048-351-13.

WHEREAS, The City of Ontario ("Applicant") has requested a determination of General Plan consistency pursuant Government Code Section 65402, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to approximately 0.792 acres of land located 120 West D Street and 420 North Laurel Avenue, within the MU-1 (Downtown Mixed Use) zoning district, and is presently improved with public parking lot; and

WHEREAS, Government Code Section 65402 provides that a local agency may not acquire real property for a public purpose, if such agency has adopted a general plan, until the location, purpose and extent of the acquisition has been submitted to and reported upon by the planning agency having jurisdiction, as to the conformity of the proposed acquisition with the general plan; and

WHEREAS, the City of Ontario ("the City") and D Street Townhome Apartments, LLC., are in negotiations to execute a Disposition and Development Agreement with D Street Townhome Apartments, LLC., for the sale and redevelopment of approximately 0.792 acres of land located at 120 West D Street and 420 North Laurel Avenue (Northeast corner of D street and Laurel Avenue). The terms of the sale would require D Street Townhome Apartments, LLC., to redevelop the site with a three story 26-unit townhome project; and

WHEREAS, the Ontario Plan ("TOP") Policy Plan (General Plan) land use plan designates the 0.792-acre of land as Mixed-Use (Downtown Mixed-Use Area). The Mixed-Use land use designation is intended as an intensive vertical and horizontal mixture of retail, office, and residential uses in a pedestrian friendly atmosphere. The future redevelopment of the site with a three story 26-unit townhome project would be in conformance with The Ontario Plan Policy Plan (General Plan); and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act, commencing with Public Resources Code Section 21000 (hereinafter referred to as "CEQA"); 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, Ontario Development Code Table 2.02-1 (Review Matrix) grants the Planning Commission the responsibility and authority to review and act on the subject Application; and

WHEREAS, on May 24, 2022, 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: Environmental Determination and Findings. As the decision-making authority 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:

(1) The administrative record has been completed in compliance with CEQA, the State CEQA Guidelines, and the City of Ontario Local CEQA Guidelines; and

(2) The Project is exempt from environmental review pursuant to Section 15061(b)(3) of the CEQA Guidelines, as there is no possibility that the proposed property acquisition will have a significant effect on the environment; and

(3) The determination of CEQA exemption reflects the independent judgment of the Planning Commission.

SECTION 2: Planning Commission Action. 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 that the proposed property transfer and acquisition is consistent with

TOP Policy Plan (General Plan) goals and policies, and the land use designation for the project sites.

SECTION 3: Based upon the findings and conclusions set forth in Sections 1 and 2 above, the Planning Commission hereby approves the Project.

SECTION 4: *Custodian of Records.* 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 5: *Certification to Adoption.* 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 24th day of May 2022, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Jim Willoughby
Planning Commission Chairman

ATTEST:

Rudy Zeledon
Planning Director and
Secretary to the Planning Commission

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

I, Gwen Berendsen, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC22-XX, was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on May 24, 2022, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Gwen Berendsen
Secretary Pro Tempore

FILE NO: PDA21-007

SUBJECT: A public hearing to consider a Development Agreement (File No. PDA21-007) between the City of Ontario and Remington APG, LLC, to establish the terms and conditions associated with a Development Plan (File No. PDEV21-024) to construct three industrial buildings totaling 200,322 square feet on 10.2 acres of land, located at the northeast corner of Remington Avenue and the Cucamonga Creek Flood Control Channel, within the Industrial (PA-3) land use district of the Colony Commerce Center East Specific Plan (File No. PSP16-003); (APNs: 0218-311-07 and 0218-311-13) **submitted by Remington APG, LLC. City Council action is required.**

PROPERTY OWNER: Marchris Corporation, a California corporation

RECOMMENDED ACTION: That the Planning Commission consider and recommend City Council adoption of an ordinance approving the Development Agreement (File No. PDA21-007) between the City of Ontario and Remington APG, LLC, pursuant to the facts and reasons contained in the staff report and attached resolution.


PROJECT SETTING: The project site is comprised of 10.2 acres of land located at the northeast corner of Remington Avenue and the Cucamonga Creek Flood Control Channel, within the Industrial (PA-3) land use district of the Colony Commerce Center East Specific Plan and is depicted in Figure 1: Project Location.

PROJECT ANALYSIS:

(1) Background — On May 1, 2018, the City Council certified the Environmental Impact Report (State Clearinghouse No. 2017031048) (“EIR”) and related Colony Commerce Center East Specific Plan, File No. PSP16-003 (the “Specific Plan”). The Specific Plan currently addresses the development of 94.4 acres within the Specific Plan boundaries and includes the potential development of 2,362,215 square feet of business park and industrial uses.



Figure 1: Project Location

Case Planner:	Derrick Womble, Administrative Officer
Planning Director Approval:	
Submittal Date:	07/30/21

Hearing Body	Date	Decision	Action
DAB	N/A	N/A	N/A
PC	05/24/22		Recommend
CC	06/21/22		Final

The Ontario Ranch financial commitments required for construction of properties within a specific plan are substantial. Therefore, in order to adequately forecast these costs and gain assurance that the project may proceed under the existing policies, rules, and regulations, Remington APG, LLC ("Owner"), has requested that the City enter into negotiations to create a Development Agreement ("Agreement").

In accordance with California Government Code Section 65865, which in part states that that "[a]ny 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 in part states 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 setting forth the procedures and requirements for consideration of Development Agreements. Pursuant to these procedures and requirements, staff entered into negotiations with the Owner to create a Development Agreement for consideration by the Planning Commission and City Council.

The proposed Agreement (File No. PDA21-007) is based upon the model Development Agreement that was developed in coordination with the City Attorney and legal counsel for NMC Builders. This model Development Agreement is consistent with the provisions of the Construction Agreement. The terms of the 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 Agreement proposes to include 10.2 acres of land within the Industrial (PA-3) land use district of the Specific Plan, as shown on the attached Exhibit A. The Agreement grants the Owner a vested right to develop Planning Area 3, provided the Owner complies with the terms and conditions of the Specific Plan and related EIR.

On July 1, 2021, the Applicant submitted a Development Plan (File No. PDEV21-024) as shown in the Site Plan (Exhibit B), requesting approval to construct three industrial buildings totaling 200,322 square feet, within Planning Area 3 (PA-3 Industrial) land use district of the Specific Plan.

On May 16, 2022, the City of Ontario's Development Advisory Board ("DAB") issued Decision No. DAB22-013, approving the Development Plan. It is important to note, that per the Development Code, the approved Development Plan does not require Planning Commission approval. However, in order to ensure the vested interests of the Applicant and the City of Ontario, and pursuant to the Construction Agreement with NMC Builders, the Applicant is required to enter into the proposed Agreement.

The term of the Agreement is for 10 years, with a 5 year option to renew. 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, sewer, water, storm drain and fiber); Public Service

Funding to ensure adequate provisions of public services (police, fire and other public services); and the creation of a Community Facilities District ("CFD") for the maintenance of public facilities.

Staff finds that the 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 Planning Commission finds the 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 Goals.

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

Distinctive Development:

- Commercial and Residential Development
 - Development quality that is broadly recognized as distinctive and not exclusively tied to the general suburban character typical of much of Southern California.

(3) Governance.

Decision Making:

- Goal G1: Sustained decision-making that consistently moves Ontario towards its Vision by using The Ontario Plan as a framework for assessing choices.
 - G1-2 Long-term Benefit. We require decisions to demonstrate and document how they add value to the community and support the Ontario Vision

(4) Policy Plan (General Plan)

Land Use Element:

- Goal LU1: A community that has a spectrum of housing types and price ranges that match the jobs in the City and that 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.
 - LU1-6 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. (Refer to Complete Community Section of Community Economics Element).
- 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:

- Goal CE1: A complete community that provides for all incomes and stages of life.
- 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:

- 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:

- 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.
 - CD1-2 Growth Areas. We require development in growth areas to be distinctive and unique places within which there are cohesive design themes.
 - 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.
- 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.

➤ CD2-10 Surface Parking Areas. We require parking areas visible to or used by the public to be landscaped in an aesthetically pleasing, safe and environmentally sensitive manner. Examples include shade trees, pervious surfaces, urban run-off capture and infiltration, and pedestrian paths to guide users through the parking field.

➤ 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.

➤ CD2-12 Site and Building Signage. We encourage the use of sign programs that utilize complementary materials, colors, and themes. Project signage should be designed to effectively communicate and direct users to various aspects of the development and complement the character of the structures.

➤ 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.

▪ 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.

➤ CD3-1 Design. We require that pedestrian, vehicular, bicycle and equestrian circulation on both public and private property be coordinated and designed to maximize safety, comfort, and aesthetics.

➤ 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.

➤ CD3-3 Building Entrances. We require all building entrances to be accessible and visible from adjacent streets, sidewalks, or public open spaces.

- 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.
 - 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.

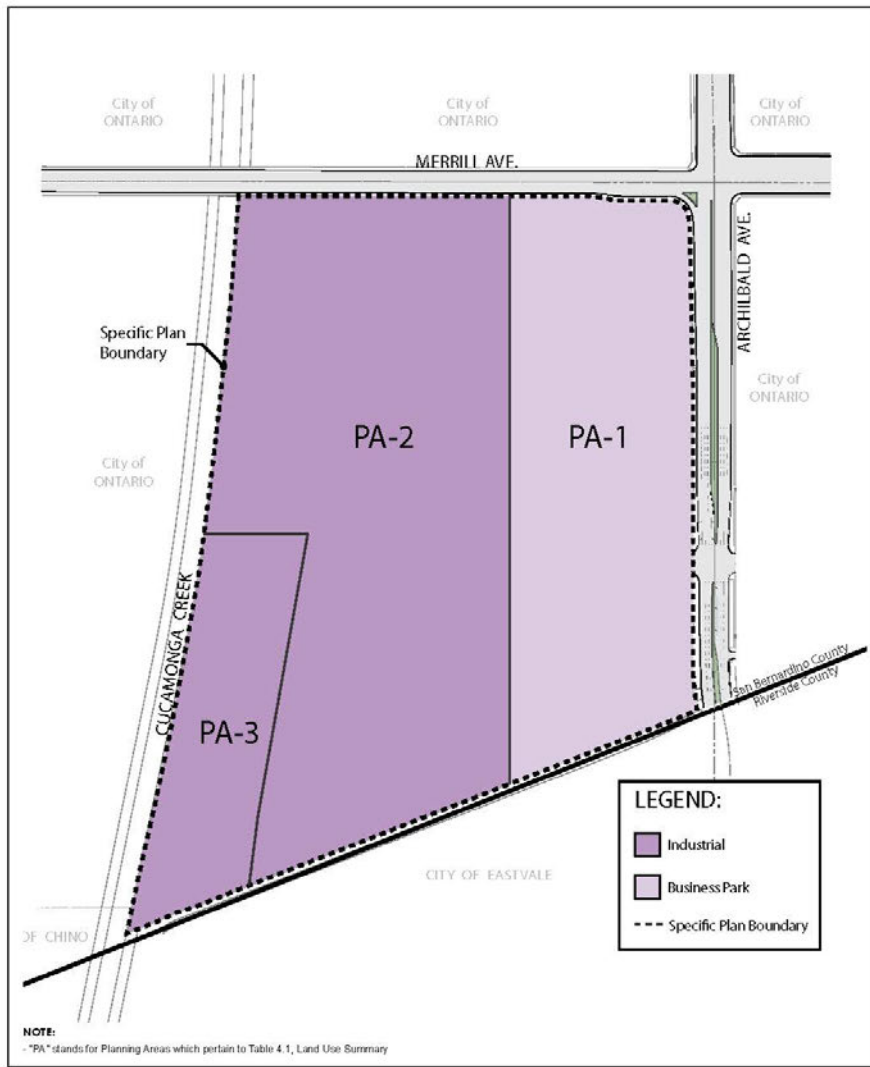
HOUSING ELEMENT COMPLIANCE: Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the recommending body for the Project, the Planning Commission finds that based on the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the Project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the Project is not one of the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

AIRPORT LAND USE COMPATIBILITY PLAN (ALUCP) COMPLIANCE: The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan. On April 19, 2011, the City Council of the City of Ontario approved and adopted the Ontario International Airport Land use Compatibility Plan ("ALUCP"), establishing the Airport Influence Area for Ontario International Airport, which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. 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 ALUCP. Any special conditions of approval associated with uses in close proximity to the airport are included in the conditions of approval provided with the attached Resolution. The project site is also located within the Airport Influence area of the Chino Airport and is consistent with policies and criteria set forth within the 2011 California Airport Land Planning Handbook published by the California Department of Transportation, Division of Aeronautics.

ENVIRONMENTAL REVIEW: The environmental impacts of this project were previously reviewed in conjunction with the Colony Commerce Center East Specific Plan (File No. PSP16-003), for which an Environmental Impact Report (State Clearinghouse No. 2017031048) was certified by City Council on May 1, 2018. This application introduces no new significant environmental impacts, and all previously adopted mitigation measures are a condition of project approval.

Exhibit A—COLONY COMMERCE CENTER EAST SPECIFIC PLAN LAND USE MAP

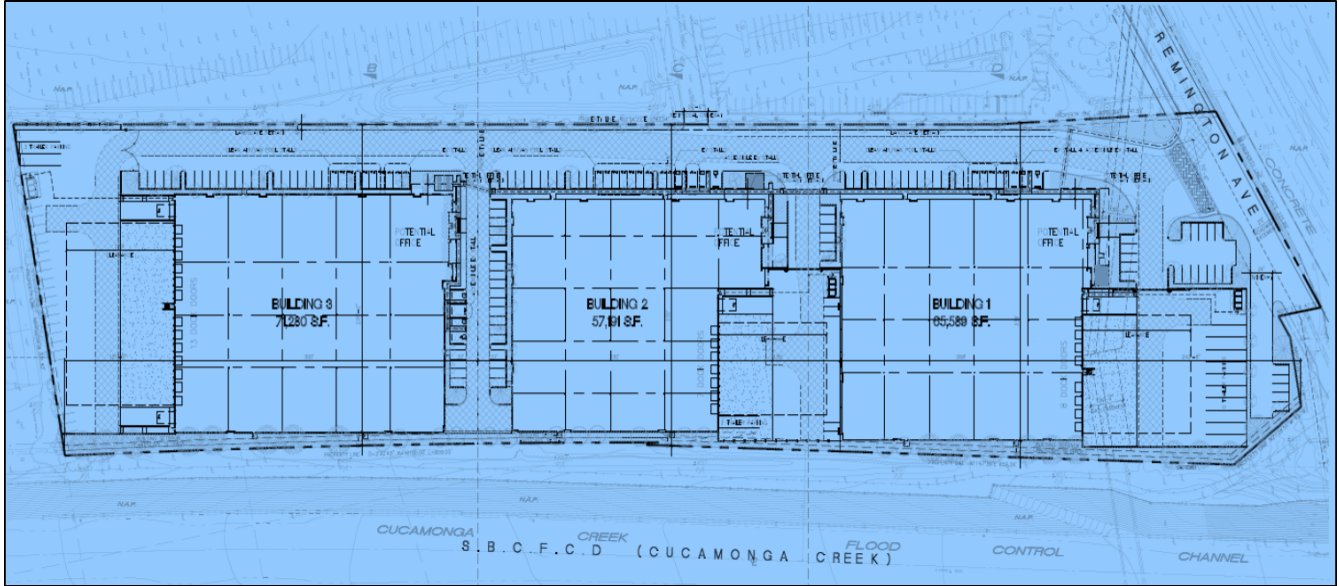
Exhibit 4.1, Land Use Plan



Source: Douglas Franz Architects

N. T. S.

Exhibit B—DEVELOPMENT SITE PLAN (FILE NO. PDEV21-024)



RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING THE CITY COUNCIL APPROVE FILE NO. PDA21-007, A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND REMINGTON APG LLC, TO ESTABLISH THE TERMS AND CONDITIONS ASSOCIATED WITH A DEVELOPMENT PLAN (FILE NO. PDEV21-024) TO CONSTRUCT THREE INDUSTRIAL BUILDINGS TOTALING 200,322 SQUARE FEET ON 10.2 ACRES OF LAND LOCATED AT THE NORTHEAST CORNER OF REMINGTON AVENUE AND THE CUCAMONGA CREEK FLOOD CONTROL CHANNEL, WITHIN THE INDUSTRIAL (PA-3) LAND USE DISTRICT OF THE COLONY COMMERCE CENTER EAST SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: 0218-311-07 AND 0218-311-13.

WHEREAS, Remington APG LLC., ("Applicant") has filed an Application for the approval of a Development Agreement, File No. PDA21-007, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 10.2 acres of land generally located near the northeast corner of Remington Avenue and the Cucamonga Creek Flood Control Channel, within the Industrial (PA-3) land use district of the Colony Commerce Center East Specific Plan; and

WHEREAS, the Applicant has submitted a Development Plan (File No. PDEV21-024) to construct three industrial buildings totaling 200,322 square feet on 10.2 acres of land; and

WHEREAS, the environmental impacts of this project were previously reviewed in conjunction with the Colony Commerce Center East Specific Plan (File No. PSP16-003), for which an Environmental Impact Report (State Clearinghouse No. 2017031048) was certified by City Council on May 1, 2018. This Application introduces no new significant environmental impacts, and all previously adopted mitigation measures are a condition of project approval; 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, Ontario Development Code Table 2.02-1 (Review Matrix) grants the Planning Commission the responsibility and authority to review and make recommendations to the City Council on the subject Application; and

WHEREAS, the Project has been reviewed for consistency with the Housing Element of the Policy Plan component of The Ontario Plan, as State Housing Element law (as prescribed in Government Code Sections 65580 through 65589.8) requires that development projects must be consistent with the Housing Element, if upon consideration of all its aspects, it is found to further the purposes, principals, goals, and policies of the Housing Element; and

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport, which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and is subject to, and must be consistent with, the policies and criteria set forth in the Ontario International Airport Land Use Compatibility Plan (“ALUCP”), which applies only to jurisdictions within San Bernardino County, and addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; and

WHEREAS, City of Ontario Development Code Division 2.03 (Public Hearings) prescribes the manner in which public notification shall be provided and hearing procedures to be followed, and all such notifications and procedures have been completed; and

WHEREAS, on May 16, 2022, the Development Advisory Board of the City of Ontario conducted a hearing to consider the Development Plan (File No. PDEV21-024), and concluded said hearing on that date and issuing Decision No. DAB22-013, approving the Development Plan; and

WHEREAS, on May 24, 2022, 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: Environmental Determination and Findings. As the recommending authority for the Project, the Planning Commission has reviewed and considered the information contained in the previous Certified EIR and supporting documentation. Based upon the facts and information contained in the previous Certified EIR and supporting documentation, the Planning Commission finds as follows:

(1) The environmental impacts of this project were previously reviewed in conjunction with the Colony Commerce Center East Specific Plan (File No. PSP16-003), for which an Environmental Impact Report (State Clearinghouse No. 2017031048) was

certified by the City Council on May 1, 2018. This Application is consistent with the previously Certified Environmental Impact Report (the "Certified EIR") and introduces no new significant environmental impacts; and

(2) The previous Certified EIR contains a complete and accurate reporting of the environmental impacts associated with the Project; and

(3) The previous Certified EIR was completed in compliance with CEQA and the Guidelines promulgated thereunder; and

(4) The previous Certified EIR reflects the independent judgment of the Planning Commission; and

(5) The proposed project will introduce no new significant environmental impacts beyond those previously analyzed in the previous Certified EIR, and all mitigation measures previously adopted with the Certified EIR, are incorporated herein by this reference.

SECTION 2: Subsequent or Supplemental Environmental Review Not Required. Based on the information presented to the Planning Commission, and the specific findings set forth in Section 1, above, the Planning Commission finds that the preparation of a subsequent or supplemental Certified EIR is not required for the Project, as the Project:

(1) Does not constitute substantial changes to the Certified EIR that will require major revisions to the Certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

(2) Does not constitute substantial changes with respect to the circumstances under which the Certified EIR was prepared, that will require major revisions to the Certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and

(3) Does not contain new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the Certified EIR was certified/adopted, that shows any of the following:

(a) The project will have one or more significant effects not discussed in the Certified EIR; or

(b) Significant effects previously examined will be substantially more severe than shown in the Certified EIR; or

(c) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the City declined to adopt such measures; or

(d) Mitigation measures or alternatives considerably different from those analyzed in the Certified EIR would substantially reduce one or more significant effects on the environment, but which the City declined to adopt.

SECTION 3: *Housing Element Compliance.* Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the recommending authority for the Project, the Planning Commission finds that based on the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the Project is not one of the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

SECTION 4: *Ontario International Airport Land Use Compatibility Plan (“ALUCP”) Compliance.* The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan. On April 19, 2011, the City Council of the City of Ontario approved and adopted the ALUCP, establishing the Airport Influence Area for Ontario International Airport, which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. As the recommending authority for the Project, the Planning Commission has reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors, including [1] Safety Criteria (ALUCP Table 2-2) and Safety Zones (ALUCP Map 2-2), [2] Noise Criteria (ALUCP Table 2-3) and Noise Impact Zones (ALUCP Map 2-3), [3] Airspace protection Zones (ALUCP Map 2-4), and [4] Overflight Notification Zones (ALUCP Map 2-5). The project site is also located within the Airport Influence area of the Chino Airport and is consistent with policies and criteria set forth within the 2011 California Airport Land Planning Handbook published by the California Department of Transportation, Division of Aeronautics. As a result, the PLANNING COMMISSION, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the ALUCP.

SECTION 5: *Concluding Facts and Reasons.* 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 through 4, above, the Planning Commission hereby concludes as follows:

(1) The Development Agreement applies to approximately 10.2 acres of land located near the northeast corner of Remington Avenue and the Cucamonga Creek Flood Control Channel, within the Industrial (PA-3) land use district of the Colony Commerce Center East Specific Plan (File No. PSP16-003); and

(2) The Development Agreement establishes parameters for the development of the Planning Area 3A (Industrial) land use district of the Colony Commerce Center East Specific Plan. The Development Agreement also grants the Applicant, 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 Colony Commerce Center East Specific Plan; and

(3) The Development Agreement grants the Owner a vested right to construct the Development Plan (File No. PDEV21-024) as long as the Owner complies with the terms and conditions of the Specific Plan and EIR. The Development Plan is located near the northeast corner of Remington Avenue and the Cucamonga Creek Flood Control Channel, and proposes to construct three industrial buildings totaling 200,322 square feet on 10.2 acres of land; and

(4) The Development Agreement has been prepared in conformance with the goals and policies of The Ontario Plan Policy Plan (General Plan); and

(5) 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

(6) This Development Agreement will promote the goals and objectives of the Land Use Element of the Policy Plan; and

(7) This Development Agreement will not be materially injurious or detrimental to the adjacent properties and will not have a significant impact on the environment or the surrounding properties. The environmental impacts of this project were previously reviewed in conjunction with the Colony Commerce Center East Specific Plan (File No. PSP16-003), for which an Environmental Impact Report (State Clearinghouse No. 2017031048) was certified by City Council on May 1, 2018; and

(8) This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are a condition of project approval and are incorporated herein by this reference.

SECTION 6: Planning Commission Action. Based upon the findings and conclusions set forth in Sections 1 through 5, above, the Planning Commission hereby RECOMMENDS THE CITY COUNCIL APPROVE the herein described Application, subject to each and every condition set forth in the Development Agreement (File No. PDA21-007) attached hereto as “Attachment A,” and incorporated herein by this reference.

SECTION 7: Indemnification. 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 8: Custodian of Records. 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 9: Certification to Adoption. 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 24th day of May 2022, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Jim Willoughby
Planning Commission Chairman

ATTEST:

Rudy Zeledon
Planning Director and
Secretary to the Planning Commission

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

I, Gwen Berendsen, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC22-____, was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on May 24, 2022, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Gwen Berendsen
Secretary Pro Tempore

ATTACHMENT A:

File No. PDA21-007

DEVELOPMENT AGREEMENT

By and Between

**City of Ontario
a California municipal corporation**

and

**Remington APG LLC.,
a Delaware limited liability company**

(Development Agreement to follow this page)

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

CITY OF ONTARIO
CITY CLERK / RECORDS MANAGEMENT
303 EAST "B" STREET
ONTARIO, CA 91764-4196

Exempt from Fees Per Gov. Code § 6103

Space above this line for Recorder's Use Only

FILE NO. PDA21-007

DEVELOPMENT AGREEMENT

By and Between

**City of Ontario
a California municipal corporation**

and

**Remington APG LLC
a Delaware limited liability company**

_____, 2022

San Bernardino County, California

DEVELOPMENT AGREEMENT NO. PDA21-007

This Development Agreement (hereinafter "Agreement") is entered into effective as of the ____ day of _____, 2022 by and among the City of Ontario, a California municipal corporation (hereinafter "CITY"), and Remington APG LLC, a Delaware 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 Section 4.01.015 of the Ontario Development 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 Colony Commerce East Specific Plan Environmental Impact Report (State Clearinghouse No. 2017031048 (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 Colony Commerce Center East 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".

WHEREAS, Owner's Property is within the boundaries defined in Exhibit A of the Construction Agreement between the CITY and NMC Builders and the Property covered by this Agreement is what is known as a "Phase 2 Water Property" as such, shall be required to provide funding for CITY's future construction of the "Phase 2 Water Improvements" which will result in the availability of additional Net MDD Water Availability required for the development as shown on Exhibit "I-1"..

WHEREAS, the property developer/owner is made aware of the South Archibald Trichloroethylene (TCE) Plume "Disclosure Letter" (Exhibit "J"). Property owner may wish to provide the attached Letter as part of the Real Estate Transfer Disclosure requirements under California Civil Code Section 1102 et seq. This may include notifications in the Covenants, Conditions and Restrictions (CC&Rs) or other documents related to property transfer and disclosures. Additional information on the plume is available from the Santa Ana Regional Water Quality Control Board at http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T10000004658.

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 future amendments thereto and including the First Amended and Restated Agreement for the Financing and Construction of Limited Infrastructure Improvements to Serve an Easterly Portion of the New Model Colony entered into between the CITY and NMC Builders as of the 21st day of August, 2012 and the Amendment to the 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 19th day of September 2017.

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.

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 superseded, including by amendment or replacement.

1.1.8 “Development Plan” means the Existing Development Approvals, the Existing Land Use Regulations applicable to development of the Property and the Development Plan (File No. PDEV21-024) and any future Development Plans approved by CITY.

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 on or 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 date of the first reading of the Ordinance adopting and approving this Agreement. 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 such date.

1.1.12 “General Plan” means The Ontario Plan adopted on January 26, 2010.

1.1.13 “Improvement” or “Improvements” means those public improvements required to support the development of the Project as described in the Development Plan conditions for Development Plan No. PDEV21-024, 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 "Net MDD" means net maximum daily water demand.

1.1.17 "NMC Builders" means the consortium of investors and developers responsible for the construction of infrastructure within the New Model Colony incorporated as NMC Builders, LLC.

1.1.18 "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.

1.1.19 "Phase 2 Water EDUs" means the number of equivalent dwelling units or non-residential square footage assigned to OWNER upon payment to City of the Phase 2 Water Participation Fee for the Project and evidenced by the issuance by CITY of a Certificate of Phase 2 Net MDD Availability in the form attached as Exhibit G.

1.1.20 "Phase 2 Water Improvements" means the future water infrastructure Improvements required for the issuance by CITY of the "Water Availability Equivalents" (WAE) for the Project.

1.1.21 "Phase 2 Water Participation Fee" means the fee paid to City upon City approval of the first Development Entitlement for the Project, to fund the Property's respective share of the projected costs of the design and construction of the Phase 2 Water Improvements by City. The Phase 2 Water Participation Fee shall be the calculated amount of the Regional Water DIF for the Project based upon the number of units, and land use category for residential units or the number of square feet, and land use category for non-residential square footage of the Project.

1.1.22 "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.

1.1.23 “Property” means the real property described on Exhibit “A” and shown on Exhibit “B” to this Agreement.

1.1.24 “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.

1.1.25 “Amendment to the Construction Agreement” means the amendment to the Construction Agreement modifying the boundaries of the property in Exhibit A of such Construction Agreement to include the Property covered by this Agreement and to provide for the additional funds required for CITY’s future construction of the “Phase 2 Water Improvements” described in a modification to Exhibit C-3 of the Construction Agreement.

1.1.26 “Specific Plan” means that certain specific plan adopted by the City Council, and entitled, “Colony Commerce Center East Specific Plan.”

1.1.27 “Subsequent Development Approvals” means all discretionary Development Approvals required subsequent to the Effective Date in connection with development of the Property.

1.1.28 “Subsequent Land Use Regulations” means any discretionary Land Use Regulations adopted and effective after the Effective Date of this Agreement.

1.1.29 “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 approval of the Development Plan shall be based upon water demand factors and assumptions listed in the Construction Agreement and shown in Exhibit “I-2”.

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” — Description of Required Improvements

Exhibit “F” — Depiction of Infrastructure Improvements

Exhibit “G” – Form of Certificate of Net MDD to be issued by CITY

Exhibit “H” – Form of Certificate of DIF Credit to be issued by CITY

Exhibit “I-1” – Ontario Ranch Water Supply Phasing Plan

Exhibit “I-2” – Water Demand Equivalents by Land Use

Exhibit “J” - Form of Disclosure letter

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) 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 with respect to the portion of the Property sold 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. OWNER may be required to provide disclosure that the Property is within the South Archibald Trichloroethylene (TCE) Plume (Exhibit “J”). OWNER may wish to

provide the attached Disclosure Letter (Exhibit I) as part of the Real Estate Transfer Disclosure requirements under California Civil Code Section 1102 et seq.

(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.

(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 an agreement as 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 (if any) to secure performance of its obligations hereunder which are to be performed upon portion of the Property sold, transferred or assigned .

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 parcel 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 of the parcel. 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 parcel, 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.

2.6 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 on which construction has not yet begun shall be refunded to OWNER by CITY within ten (10) business days.

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:

Scott Ochoa, City Manager
City of Ontario
303 East "B" Street
Ontario, CA 91764

If to OWNER:

Remington APG LLC
100 Bayview Circle #310
Newport Beach, CA 92660
Attn: Clark Neuhoff

with a copy to:

Ruben Duran, City Attorney
Best Best & Krieger, LLP
2855 E Guasti Road
Ontario, CA 91761

With a copy to (if applicable):

John A. Ramirez
Rutan & Tucker, LLP
18575 Jamboree Road, 9th Floor
Irvine CA, 92612

(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 in Section 3.4, 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 in Section 3.4, 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 Cal. 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.

3.3.1 Infrastructure Improvement Exhibit. Attached hereto as Exhibit “F” are a description of the Infrastructure Improvements needed for the development of the Property (“the Infrastructure Improvement Exhibits”).

3.4 Reservations of Authority.

3.4.1 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 and the building codes in effect as of the Effective Date;

(d) Regulations that may conflict with this Agreement and the Development Plan but that are reasonably necessary to protect the occupants 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 and which do not impose additional obligations, costs, and expenses on Owner or the Project;

(f) Regulations that may conflict but to which the OWNER consents.

3.4.2 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 and/or the Existing Development Approvals, 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 and/or the Existing Development Approvals.

3.4.3 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).

3.4.4 Intent.

3.5 Public Works; Utilities. If OWNER is required by this Agreement or a condition of project approval 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 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, gas, electric, and other utility service to the Project. As a further condition of development approval, OWNER shall to the extent possible 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.

3.5.1 OWNER agrees that development of the Project shall require the construction of storm drain Improvements from the Property to the connection with the Cucamonga Creek Channel as described in Exhibit E and depicted in Exhibit F. OWNER shall be responsible for the construction of the necessary extension of storm drain facilities, as described in Exhibit E and depicted in Exhibit F. OWNER and CITY agree that CITY may issue grading, building permits and other required permits for OWNER to initiate construction of structures for the Property according to plans approved by CITY and OWNER agrees that OWNER shall not request and CITY shall not issue a final occupancy permit for any buildings prior to completion of the storm drain Improvements described in Exhibit E and depicted in Exhibit F. CITY agrees that OWNER may request that CITY issue temporary certificates of occupancy on a building-by-building basis prior to completion of the storm drain improvements and City shall in its sole discretion issue such requests for temporary certificates of occupancy upon request by Owner.

3.5.2 OWNER agrees that development of the Project shall require the construction of street improvements as described in Exhibits E and depicted in Exhibit F. OWNER and CITY agree that CITY may issue grading, building permits and other required permits for OWNER to initiate construction of structures for the Property according to plans approved by CITY and OWNER agrees that OWNER shall not request and CITY shall not issue a final occupancy permit for any buildings on the Property prior to Substantial Completion of the street Improvements as described in Exhibits E and

depicted in Exhibit F. For purposes of the foregoing, street improvements shall be deemed Substantially Complete even if the final lift of pavement has not been completed (i.e., Owner may install the final lift after completion of all other construction). CITY agrees that OWNER may request that CITY issue temporary certificates of occupancy on a building-by-building basis prior to completion and subject to final acceptance by CITY of the street improvements and City shall in its sole discretion issue such requests for temporary certificates of occupancy upon request by Owner. OWNER agrees that the street improvements shall be completed and subject to final acceptance by CITY prior to the release of any security for the construction of the street improvements.

3.5.3 OWNER agrees that development of the Property shall require the extension of water and recycled water utility Improvements as described in Exhibit E and depicted Exhibit F. OWNER and CITY agree that CITY may issue grading, building and other required permits for OWNER to initiate construction of structures for the Property according to plans approved by CITY upon completion of sufficient water and recycled water improvements to serve the Property from at least one point of connection and OWNER agrees that OWNER shall not request and CITY shall not issue a final occupancy permit for any buildings on the Property until the completion of the water and recycled water improvements described in Exhibit E and depicted Exhibit F. City agrees that OWNER may request that CITY issue temporary certificates of occupancy on a building-by-building basis prior to completion of the water and recycled water improvements if there is available permanent water and recycled water service from a minimum of one point of connection and sufficient water is available for fire protection purposes for any buildings while under construction. Provided there is sufficient water as described in the previous sentence, City shall in its sole discretion issue such requests for temporary certificates of occupancy upon request by Owner

3.5.4 OWNER agrees that development of the Property shall require the construction of sewer Improvements as described in Exhibit E and depicted in Exhibit F. OWNER and CITY agree that CITY may issue grading, building permits and other required permits for OWNER to initiate construction of structures for the Property according to plans approved by CITY and OWNER agrees that OWNER shall not request and CITY shall not issue a final occupancy permit for any buildings prior to completion of the sewer improvements described in Exhibit E and depicted in Exhibit F. CITY agrees that OWNER may request that CITY issue temporary certificates of occupancy on a building-by-building basis prior to the completion of the sewer improvements described in Exhibit E and depicted in Exhibit F and City shall in its sole discretion issue such requests for temporary certificates of occupancy upon request by Owner.

3.5.5 OWNER agrees that development of the Property shall require the construction of fiber optic communications infrastructure, at OWNER's sole cost and expense, as described in the attached Exhibit E and depicted in Exhibit F consisting generally of the construction of fiber optic communications infrastructure to serve the Property. OWNER and CITY agree that CITY may issue grading, building and other required permits for OWNER to initiate construction of structures for the Property according to plans approved by CITY and OWNER agrees that OWNER shall not request and CITY shall not issue a final occupancy permit for any buildings prior to completion of

the fiber optic communications infrastructure, as described in Exhibit E and depicted in Exhibit F. CITY agrees that OWNER may request that CITY issue temporary certificates of occupancy on a building-by-building basis prior to the completion of the fiber optic communications infrastructure, as described in Exhibit E and depicted in Exhibit F and City shall in its sole discretion issue such requests for temporary certificates of occupancy upon request by Owner.

3.6 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 3.6 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.

3.6.1 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 3.6.1 and 3.6.2 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 3.6.1 The CITY and OWNER acknowledge that the timelines set forth in this Section 3.6.1 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.

3.6.2 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.

3.7 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.

3.8 Tentative Parcel Maps; Extension. With respect to applications by OWNER for tentative parcel 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 building (subject to the application/use of available fee deferrals or credits), 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

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 shall 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 Development Plan conditions. Unless otherwise specified in the Development Plan conditions, and subject to the provisions of Section 3.5 and 3.6, all other required Improvements for each Development Plan, shall be completed and operational prior to, and as a condition precedent to, OWNER requesting and CITY's granting of a final occupancy permit for any buildings to be constructed on the Property. All Infrastructure and Improvements shall be completed as required by the Subdivision Agreement and/or Development Plan conditions for Development Plan (File No. PDEV21-024).

4.3.2 Availability and Use of Recycled Water. OWNER agrees that recycled water shall be available and utilized by OWNER for all construction-related water uses including prior to, and during, any grading of the Property.

4.3.3 Construction of DIF Program Infrastructure To the extent OWNER is required to construct and completes construction of public improvements that are included in CITY's Development Impact Fee Program. CITY agrees that CITY shall issue DIF Credit in accordance with the provisions of a separate Fee Credit Agreement between CITY and OWNER. Limitations 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. 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 Public Services Funding Fee.

4.4.1 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 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.

4.4.2 Public Services Funding Fee Amount. OWNER shall pay a Public Services Funding fee in a single installment payment in the amount of Seventy Cents (\$.70) per square foot of each non-residential building. The single installment for non-residential uses shall be due and payable on a building-by-building basis 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 (Riverside-San Bernardino-Ontario, CA), (December 2017=100) over the preceding year on January 1st of each year, beginning on January 1, 2023. 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

4.5 Net MDD/Water Availability Equivalents.

4.5.1 Effectiveness of Agreement. Notwithstanding anything else set forth in this Agreement, CITY and OWNER each acknowledge, confirm, and agree, that (i) the City approval of this Agreement and (ii) the effectiveness of this Agreement, in each case, is conditioned upon OWNER’s admission to NMC Builders as a “Member” thereof pursuant to the terms and conditions of the operating agreement of NMC Builders. OWNER and CITY agree that OWNER shall become a Member of NMC Builders within 30 days of the effective date of this Agreement.

4.5.2 Assigned Net MDD/Water Availability Equivalents. OWNER acknowledges that the City has agreed with NMC Builders 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 and/or OWNER. OWNER acknowledges that the provisions of the Construction Agreement Amendment require that the City shall not issue building permits or certificates of occupancy for the area of development within the New Model Colony served by the water system improvements funded by NMC Builders, except to the bearer of a Certificate of Net MDD Water Availability.

4.5.3 Requirement for NMC Builders LLC Membership as a Phase 2 Water Member. OWNER and CITY agree that OWNER’s payment to CITY required by Section 4.5.3 below represents OWNER’s contribution to the funding required for the future construction of the Phase 2 Water Improvements and the availability of additional Net MDD Water Availability required for the development of the Property described in Exhibit A of this Agreement.

4.5.4 CITY issuance of Water Availability Equivalents. Within 30 days after the effectiveness of this Development Agreement OWNER shall pay or have paid to City the applicable Phase 2 Water Participation Fee. The Phase 2 Water Participation Fee shall be the calculated based on the amount of the Regional Water DIF for the applicable land use category and the square footage of the applicable buildings. The calculated amount of the Phase 2 Water Participation Fee shall be paid to City within 30 days after the effective date of this Agreement or, at OWNER's option, the Phase 2 Water Participation Fee may be paid to City in two (2) installments. The first installment shall be fifty percent (50%) of the total Phase 2 Water Participation Fee and such first installment shall be due and payable to City within 30 days after the effective date of this Development Agreement. The second installment shall be the remaining amount of the Phase 2 Water Participation Fee and such second installment shall be due and payable to City within one (1) year after the payment of the first installment, or prior to, and as a condition precedent to, the OWNER's request for occupancy for any building on the Property, whichever occurs first. Upon OWNER's complete payment to CITY of the Phase 2 Water Participation Fee CITY shall issue a Certificate of Water Availability Equivalents in the form attached hereto as Exhibit G. Such Water Availability Equivalents Certificate shall be issued by CITY within thirty (30) days of the receipt of such required payment. CITY and OWNER agree that the amount of Water Availability Equivalents issued to OWNER shall be based on the maximum projected need for Water Availability Equivalents required for the Property based upon water demand factors and assumptions listed in Exhibit C-2R of the Phase 2 Water Amendment to the Construction Agreement "Water Demand Equivalents by Land Use" for each land use category. Additionally, within five (5) business days of CITY's receipt of OWNER's payment as required under this Section 4.5.2, CITY shall issue a certificate of DIF Credit against OWNER's DIF obligations in the Regional Water DIF Category.

4.6 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 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.

4.7 Compliance with Public Benefits Requirements.

4.7.1 Failure to Provide Public Benefits. In the event OWNER fails or refuses to comply with any condition referenced in Section 4.1 through 4.6, 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. Nothing herein shall waive Owner's right to assert a default (or failure to perform) by the City has excused Owner's performance under this Agreement.

5. FINANCING OF PUBLIC IMPROVEMENTS.

5.1 Financing Mechanism(s). OWNER agrees that prior to the request for a building permit of any building on the Property, the property subject to such Development Plan or any future Development Plan(s) shall be included in a CFD to finance City services through annual special taxes that will initially be Twenty-Nine (\$0.29) 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 unless otherwise modified by the City. Depending on the fiscal year that the CFD is formed and the CFD tax is levied, the annual special taxes may be higher. 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 5.1 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.

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:

- (a) Recommendation of the Planning staff;
- (b) Affirmative vote of at least four (4) members of the Planning Commission; or
- (c) 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 this Agreement 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. [OMITTED]

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 nondamage 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, to the extent 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, to the extent 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 during OWNER'S period of ownership of the Property, including, but not limited to, soil and groundwater conditions caused by OWNER, 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.

10.1 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

(e) In the event of a default by Owner, any Mortgagee shall have the right to remedy, or cause to be remedied, such default within sixty (60) days following the later to occur of (i) the date of Mortgagee's receipt of the notice referred to in Section 10.1(b) above, or (ii) the expiration of the period provided herein for Owner to remedy or cure such default, and City shall accept such performance by or at the insistence of the Mortgagee as if the same had been timely made by Owner; provided, however, that (i) if such default is not capable of being cured within the timeframes set forth in this Section and Mortgagee commences to cure the default within such timeframes, then Mortgagee shall have such additional time as is required to cure the default so long as Mortgagee diligently prosecutes the cure to completion and (ii) if possession of the Property (or portion thereof) is required to effectuate such cure or remedy, the Mortgagee shall be deemed to have timely cured or remedied if it commences the proceedings necessary to obtain possession thereof within sixty (60) days after receipt of the copy of the notice, diligently pursues such proceedings to completion, and, after obtaining possession, diligently completes such cure or remedy.

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, pandemics or governmental orders issues in connection therewith, supply chain delays in procuring construction and related materials, 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.

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 requested by Owner 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
FILE NO. PDA21-007**

“OWNER”

REMINGTON APG LLC.,
a Delaware limited liability company

By: Alere Property Group LLC, a Delaware
limited liability company, its sole member

By: _____
Name: _____
Its: _____
Date: _____

“CITY”

CITY OF ONTARIO

By: _____
Scott Ochoa
City Manager

Date: _____

ATTEST:

City Clerk, Ontario

**APPROVED AS TO FORM:
BEST BEST & KRIEGER, LLP**

City Attorney

ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF _____)

On _____, 20____, before me, _____,
Date *Insert Name and Title of the Officer*

personally appeared _____
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person 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, 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

Place Notary Seal Above

ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF _____)

On _____, 20____, before me, _____,
Date *Insert Name and Title of the Officer*

personally appeared _____
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person 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, 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

Place Notary Seal Above

EXHIBIT "A"
TO DEVELOPMENT AGREEMENT

Legal Description of Property

EXHIBIT "A"

SHEET 1 OF 2

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF ONTARIO IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL A:

A PORTION OF THAT PART OF GOVERNMENT LOT 8, SECTION 22, TOWNSHIP 2 SOUTH, RANGE 7 WEST, SAN BERNARDINO MERIDIAN, AS SHOWN ON THE PLAT RECORDED IN BOOK 3, PAGE 71 RECORDS OF SURVEY, RECORDS OF SAID COUNTY, DESCRIBED IN DOCUMENT RECORDED IN BOOK 1720, PAGE 136 OFFICIAL RECORDS OF SAID COUNTY, SAID PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTERLINE OF REMINGTON AVENUE (50 FEET WIDE) WITH A LINE THAT IS PARALLEL WITH AND DISTANT EASTERLY 110 FEET FROM THAT CERTAIN DESCRIBED CENTERLINE IN "PARCEL A" IN DOCUMENT RECORDED IN BOOK 9271, PAGE 394 OFFICIAL RECORDS OF SAID COUNTY, SAID INTERSECTION BEING DISTANT ALONG THE CENTERLINE OF REMINGTON AVENUE, SOUTH 88° 55' 14" EAST 1961.96 FEET FROM A 1-INCH SAN BERNARDINO COUNTY SURVEYOR'S MONUMENT MARKING THE INTERSECTION OF SAID CENTERLINE WITH THE CENTERLINE OF CARPENTER AVENUE (50 FEET WIDE); THENCE ALONG SAID PARALLEL LINE NORTH 12° 46' 21" EAST, 777.98 FEET TO THE EASTERLY LINE OF SAID PARCEL OF LAND DESCRIBED IN SAID DOCUMENT RECORDED IN BOOK 1720, PAGE 136 OFFICIAL RECORDS; THENCE ALONG SAID EASTERLY LINE SOUTH 0° 47' 18" WEST (RECORDED SOUTH 0° 06' WEST), 761.85 FEET TO THE CENTERLINE OF SAID REMINGTON AVENUE; THENCE ALONG THE CENTERLINE OF REMINGTON AVENUE NORTH 88° 55' 14" WEST, 161.40 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION LYING WITHIN THE FOLLOWING DESCRIBED PARCEL OF LAND:

BEGINNING AT THE SAID INTERSECTION OF THE CENTERLINE OF SAID REMINGTON AVENUE WITH SAID PARALLEL LINE; THENCE ALONG SAID PARALLEL LINE NORTH 12° 46' 21" EAST, 125.73 FEET; THENCE SOUTH 26° 30' 15" EAST, 93.78 FEET TO A LINE THAT IS PARALLEL WITH AND DISTANT NORTHERLY 40.00 FEET FROM THE CENTERLINE OF SAID REMINGTON AVENUE; THENCE PARALLEL WITH THE CENTERLINE OF REMINGTON AVENUE, SOUTH 88° 55' 14" EAST, 69.18 FEET; THENCE NORTH 69° 37' 40" EAST, 24.79 FEET TO THE EASTERLY LINE OF SAID PARCEL OF LAND DESCRIBED IN DOCUMENT RECORDED IN BOOK 1720, PAGE 136 OFFICIAL RECORDS OF SAID COUNTY; THENCE ALONG SAID EASTERLY LINE SOUTH 0° 47' 18" WEST (RECORDED SOUTH 0° 06' WEST), 49.07 FEET TO THE CENTERLINE OF SAID REMINGTON AVENUE; THENCE ALONG SAID CENTERLINE NORTH 88° 55' 14" WEST, 161.40 FEET TO THE POINT OF BEGINNING.

PARCEL B:

THAT PORTION OF GOVERNMENT LOTS 5 AND 8, IN FRACTIONAL SECTION 22, TOWNSHIP 2 SOUTH, RANGE 7 WEST, SAN BERNARDINO BASE AND MERIDIAN DESCRIBED IN DEED TO OSCAR K. IMBACH, ET. UX., RECORDED JUNE 10, 1944 IN BOOK 1683, PAGE 350 OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID SAN BERNARDINO COUNTY AND THAT PORTION OF THE FRACTIONAL SOUTHEAST ONE-QUARTER OF SAID SECTION 22 AND THE FRACTIONAL NORTHEAST ONE-QUARTER OF SECTION 27 IN SAID TOWNSHIP 2 SOUTH, RANGE 7 WEST DESCRIBED IN DEED TO OSCAR IMBACH, ET. UX., RECORDED JANUARY 22, 1959 AS INSTRUMENT NO. 1959-5716 OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID RIVERSIDE COUNTY, LYING WESTERLY OF A LINE PARALLEL WITH AND DISTANT EASTERLY, 230.00 FEET, MEASURED AT RIGHT ANGLES FROM THE FOLLOWING DESCRIBED SURVEYED REFERENCE LINE:

BEGINNING AT A POINT IN THE NORTHERLY LINE OF THE FRACTIONAL SOUTHEAST ONE-QUARTER OF SAID SECTION 22, SAID POINT BEING SOUTH 88° 54' 26" EAST 959.04 FEET, MEASURED ALONG SAID NORTHERLY LINE FROM A FOUND SAN BERNARDINO COUNTY SURVEYOR'S NAIL AND FLASH SET AT THE CENTER ONE-QUARTER CORNER OF SAID SECTION 22, SAID POINT ALSO BEING NORTH 88° 54' 26" WEST 1672.94 FEET, MEASURED ALONG SAID NORTHERLY LINE FROM A FOUND SAN BERNARDINO COUNTY SURVEYOR'S MONUMENT SET AT THE EAST ONE-QUARTER CORNER OF SAID SECTION 22; THENCE SOUTH 3° 23' 57" WEST 941.26 FEET; THENCE SOUTH 11° 03' 04" WEST 1444.72 FEET; THENCE SOUTH 8° 01' 16" WEST 3020.52 FEET TO A POINT IN THE SOUTHERLY LINE OF SAID FRACTIONAL NORTHEAST ONE-QUARTER OF SECTION 27, SAID POINT BEING SOUTH 89° 21' 30" EAST 112.29 FEET, MEASURED ALONG SAID SOUTHERLY LINE FROM A FOUND 2 INCH IRON PIPE SET AT THE SOUTHWEST CORNER OF THE LAND SHOWN AS "PARCEL 2" ON THAT CERTAIN RECORD OF SURVEY RECORDED IN BOOK 34, PAGE 81 OF RECORDS OF SURVEY IN THE OFFICE OF THE COUNTY RECORDER OF RIVERSIDE COUNTY, SAID POINT ALSO BEING NORTH 89° 21' 30" WEST 2414.61 FEET, MEASURED ALONG SAID SOUTHERLY LINE FROM A FOUND RIVERSIDE COUNTY SURVEYOR'S MONUMENT, IN WELL, SET AT THE EAST ONE-QUARTER CORNER OF SAID SECTION 27.

**EXHIBIT "A" CONTINUED
TO DEVELOPMENT AGREEMENT**

Legal Description of Property

EXHIBIT "A"

SHEET 2 OF 2

LEGAL DESCRIPTION

EXCEPTING THEREFROM THAT PORTION LYING WITHIN THE LAND DESCRIBED IN DEED TO KENNETH EARLE IMBACH, ET AL., RECORDED JANUARY 13, 1960 AS INSTRUMENT NO. 1960-3050 OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID RIVERSIDE COUNTY.

ALSO EXCEPTING THEREFROM THAT PORTION LYING WITHIN THE LAND DESCRIBED IN DEED TO THE SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT RECORDED SEPTEMBER 22, 1944 IN BOOK 1711, PAGE 162 OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID SAN BERNARDINO COUNTY.

ALSO EXCEPTING FROM THAT PORTION OF GOVERNMENT LOTS 5 AND 8, HEREINBEFORE DESCRIBED, AN UNDIVIDED ONE-HALF INTEREST IN THE OIL AND MINERAL RIGHTS ON, IN OR UNDER SAID LAND AS PROVIDED IN AGREEMENT BETWEEN HELEN CURRIE MORGAN, ET. AL., AND OSCAR IMBACH, ET. UX., RECORDED JUNE 10, 1944 IN BOOK 1684, PAGE 378 OFFICIAL RECORDS.

ALSO EXCEPTING THE REMAINING INTEREST IN THE OIL AND MINERAL RIGHTS ON, IN OR UNDER THE HEREINBEFORE DESCRIBED LAND, TOGETHER WITH THE RIGHT TO USE THAT PORTION ONLY OF SAID LAND WHICH UNDERLIES A PLANE PARALLEL TO AND FIVE HUNDRED (500) FEET BELOW THE PRESENT SURFACE OF SAID LAND, FOR THE PURPOSE OF PROSPECTING FOR, DEVELOPING AND/OR EXTRACTING SAID URANIUM, THORIUM, AND OTHER FISSIONABLE MATERIALS, OIL, GAS, PETROLEUM, ASPHALTUM, AND OTHER MINERAL OR HYDROCARBON SUBSTANCES FROM SAID LAND, IT BEING EXPRESSLY UNDERSTOOD AND AGREED THAT SAID GRANTORS, THEIR HEIRS AND ASSIGNS, SHALL HAVE NO RIGHT TO ENTER UPON THE SURFACE OF SAID LAND, OR TO USE SAID LAND OR ANY PORTION THEREOF TO SAID DEPTH OF FIVE HUNDRED (500) FEET, FOR ANY PURPOSE WHATSOEVER, AS RESERVED IN THE DEED FROM OSCAR IMBACH, ET. AL., RECORDED DECEMBER 20, 1974 IN BOOK 8581, PAGE 201 OFFICIAL RECORDS, AND RE-RECORDED MAY 5, 1975 IN BOOK 8671, PAGE 237 OFFICIAL RECORDS, RECORDS OF SAN BERNARDINO COUNTY AND RECORDED DECEMBER 20, 1974 AS INSTRUMENT NO. 1974-160889 OFFICIAL RECORDS AND RE-RECORDED MARCH 20, 1975 AS INSTRUMENT NO. 1975-31976 OFFICIAL RECORDS OF RIVERSIDE COUNTY.

APN: 0218-311-07-0-000, 0218-311-13-0-000 (FUTURE APN: 1073-151-12-0-000 AND 1073-151-15-0-000)

PARCEL C:

A NON-EXCLUSIVE EASEMENT FOR PEDESTRIAN AND VEHICULAR INGRESS, EGRESS AND ACCESS AND FOR EMERGENCY PEDESTRIAN AND VEHICULAR INGRESS, EGRESS AND ACCESS AS DESCRIBED IN THAT CERTAIN ACCESS EASEMENT AGREEMENT RECORDED JULY 14, 2020 AS INSTRUMENT NO. 2020-0234093 OFFICIAL RECORDS.

EXHIBIT "B"
TO DEVELOPMENT AGREEMENT

Map showing Property and its location

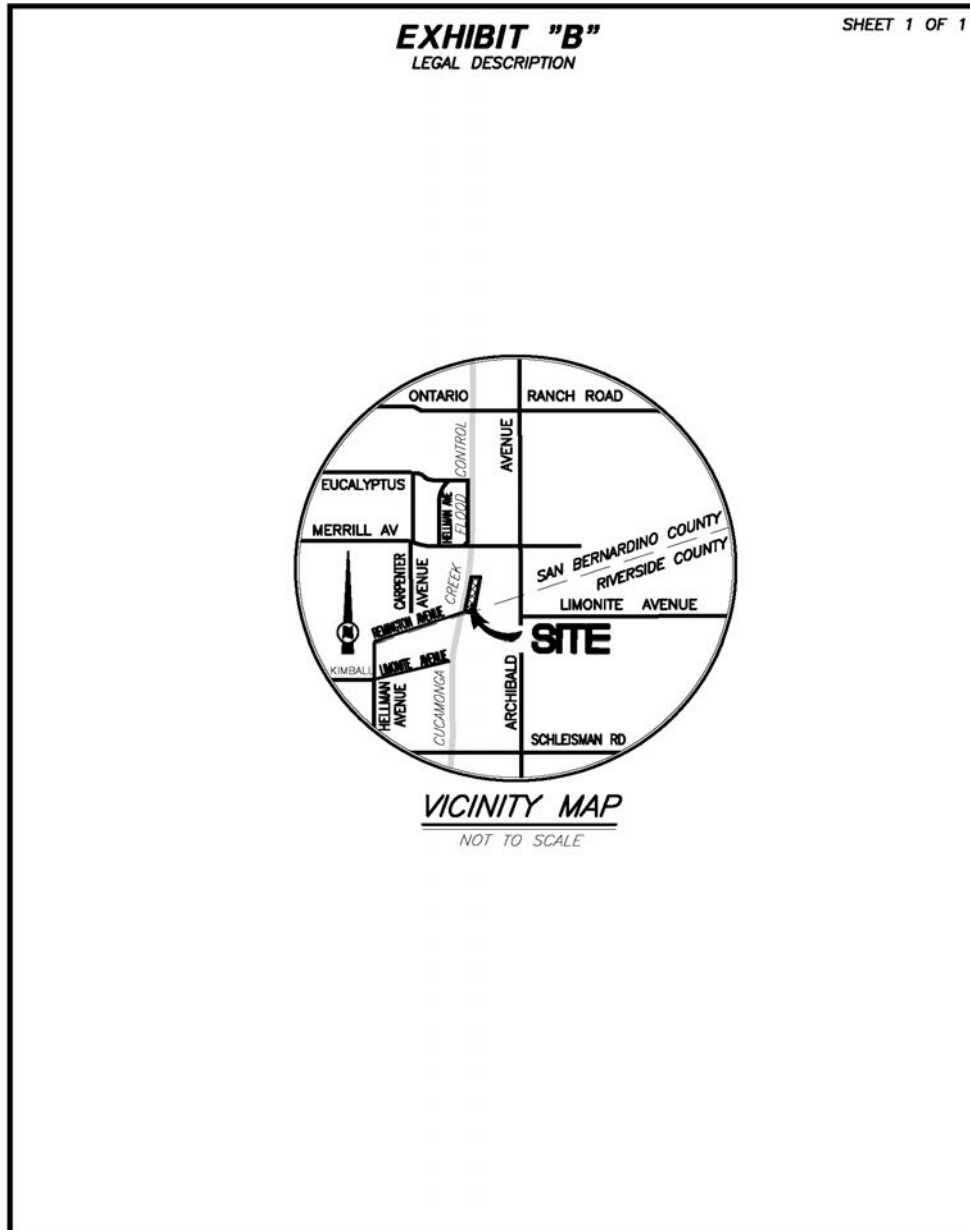


EXHIBIT "C"
TO DEVELOPMENT AGREEMENT

Existing Development Approvals

On March 27, 2018 the Planning Commission:

- a) Issued Resolution PC18-029 recommending City Council certification of the Colony Commerce Center East Specific Plan EIR (SCH#2017031048).
- b) Issued Resolution PC18-030 recommending to City Council approval of the Colony Commerce Center East Specific Plan (File No. PSP16-003).

On April 17, 2018, the City Council:

- a) Issued Resolution 2018-034 for the certification of the Colony Commerce Center East Specific Plan EIR (SCH#2017031048).

On May 1, 2018, the City Council:

- a) Adopted Ordinance 3097 approving the Colony Commerce Center East Specific Plan (File No. PSP16-003).

EXHIBIT "D"
TO DEVELOPMENT AGREEMENT

Existing Land Use Regulations

These documents are listed for reference only:

1. Colony Commerce Center East Specific Plan (File No. PSP16-003), Ordinance No. 3097.
2. Colony Commerce Center East Specific Plan Environmental Impact Report (SCH #2017031048).
3. 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 "E"
TO DEVELOPMENT AGREEMENT

Description of required Infrastructure Improvements

OWNER shall design, construct, and complete including but not limited to the following Street, Sewer, Storm Drain, Potable Water, Recycled Water, and Fiber Optic improvements, prior to OWNER's request for any final certificate of occupancy permit for any building within the Property.

**EXHIBIT "F"
TO DEVELOPMENT AGREEMENT**

Required Infrastructure Improvements

(SEE ATTACHED)

EXHIBIT "F-1" REQUIRED WATER INFRASTRUCTURE IMPROVEMENTS

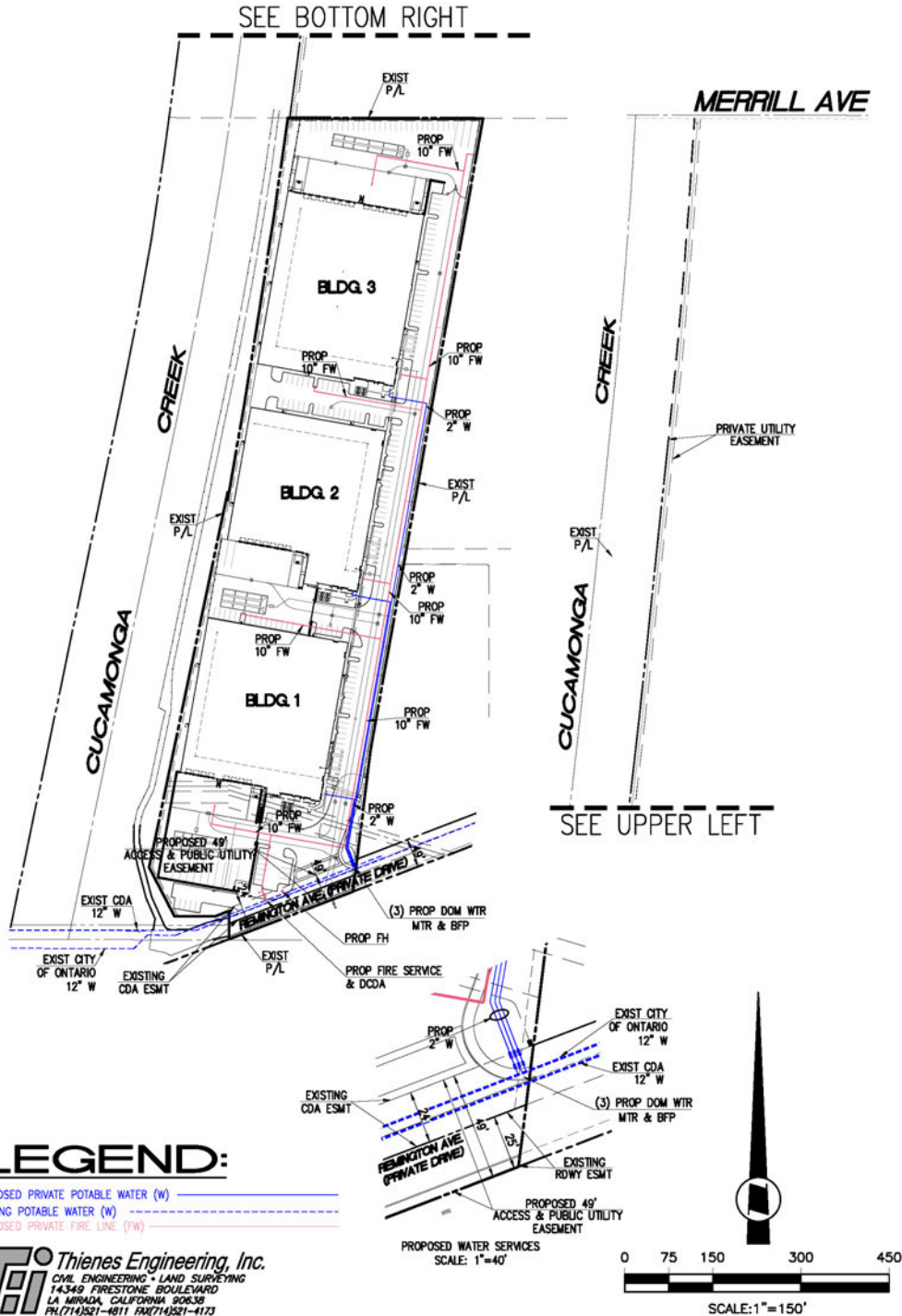
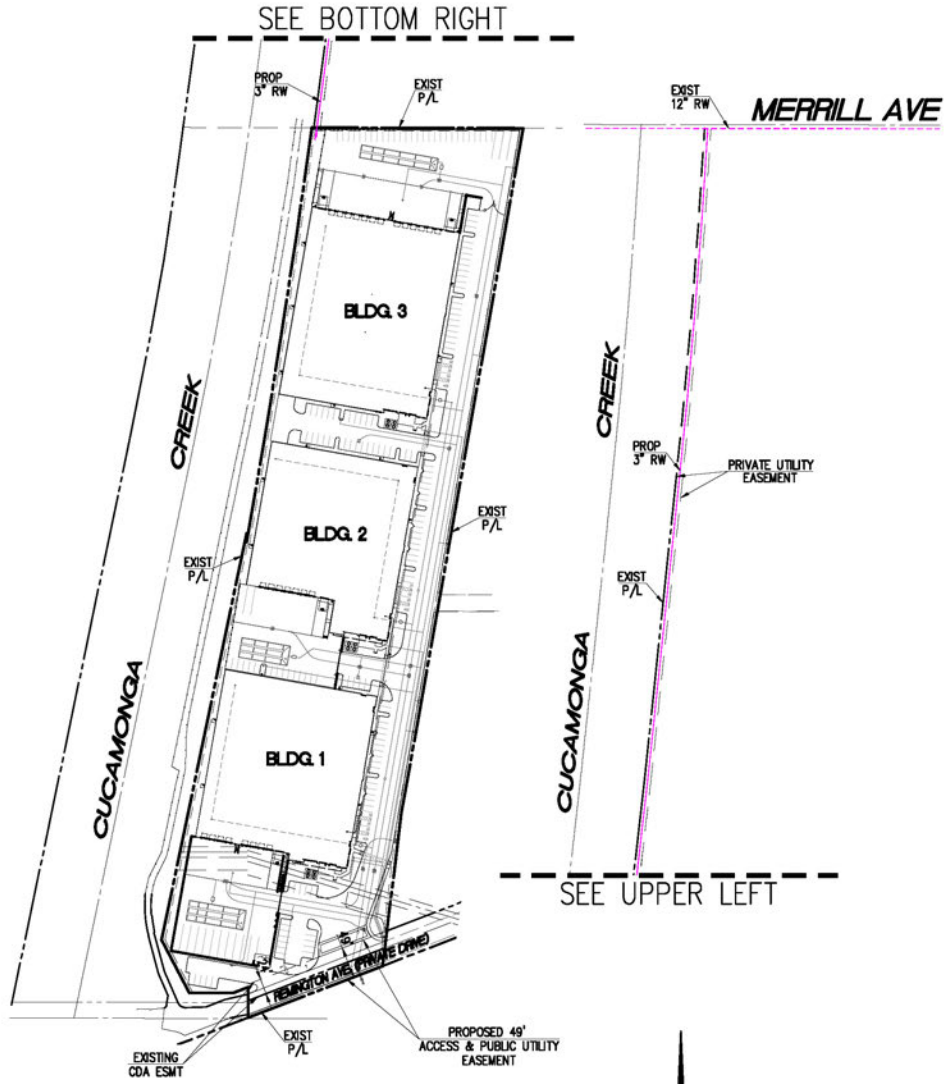


EXHIBIT "F-2"
REQUIRED RECYCLED WATER
INFRASTRUCTURE IMPROVEMENTS



LEGEND:

- PROPOSED PRIVATE RECYCLED WATER (RW) ————
- EXISTING RECYCLED WATER (RW) - - - - -

T*e*i **Thienes Engineering, Inc.**
 CIVIL ENGINEERING • LAND SURVEYING
 14349 FIRESTONE BOULEVARD
 LA MIRADA, CALIFORNIA 90638
 PH:(714)521-4811 FAX:(714)521-4173

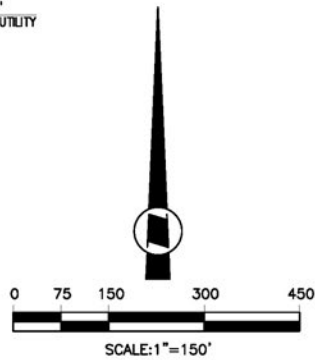
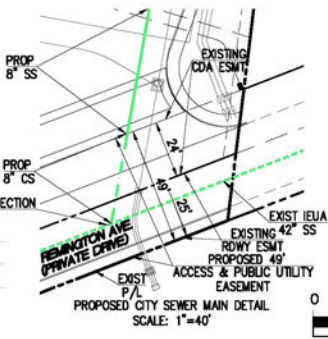
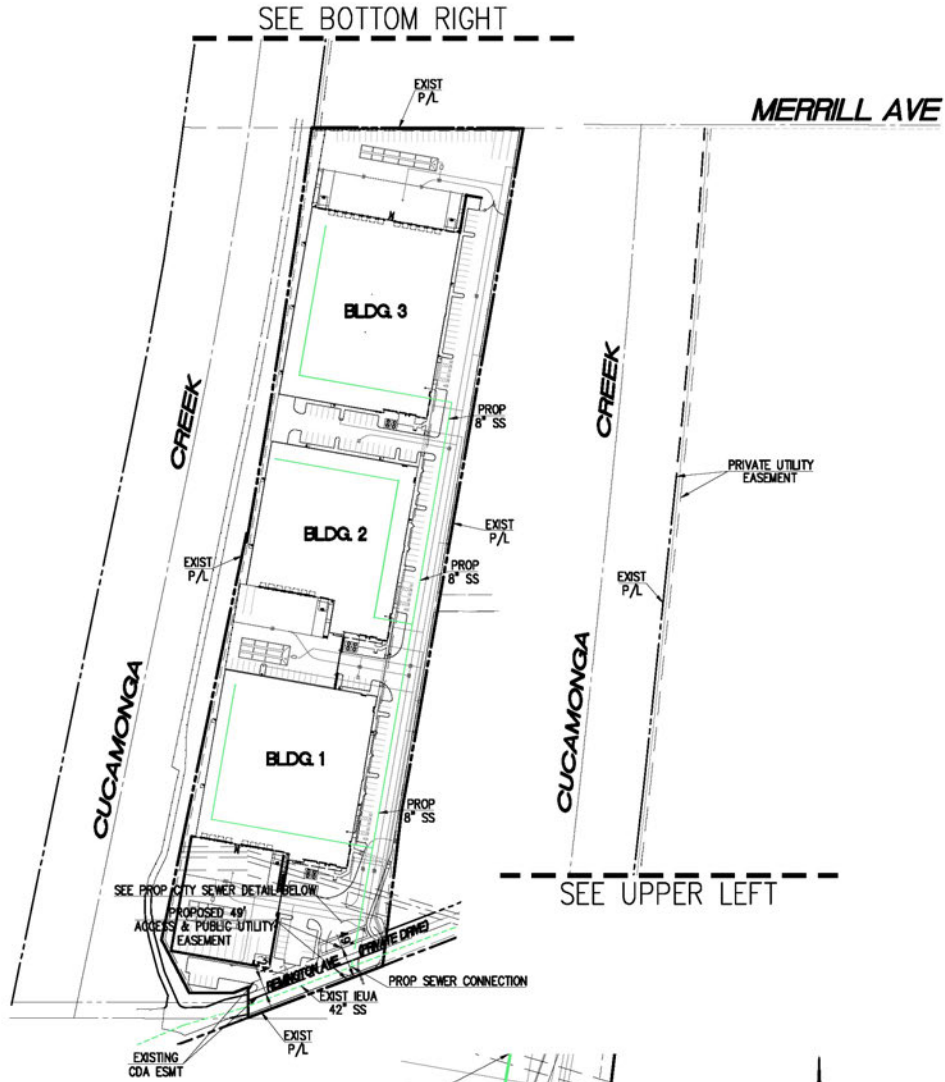


EXHIBIT "F-3" REQUIRED SEWER INFRASTRUCTURE IMPROVEMENTS



- LEGEND:**
- PROPOSED PRIVATE SANITARY SEWER (SS) ———
 - PROPOSED CITY SEWER MAIN (CS) ———
 - EXISTING SANITARY SEWER (SS) - - - - -

T*e*i *Thienes Engineering, Inc.*
 CIVIL ENGINEERING • LAND SURVEYING
 14349 FIRESTONE BOULEVARD
 LA MIRADA, CALIFORNIA 90638
 PH: (714) 521-4811 FAX: (714) 521-4173

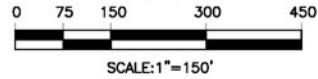
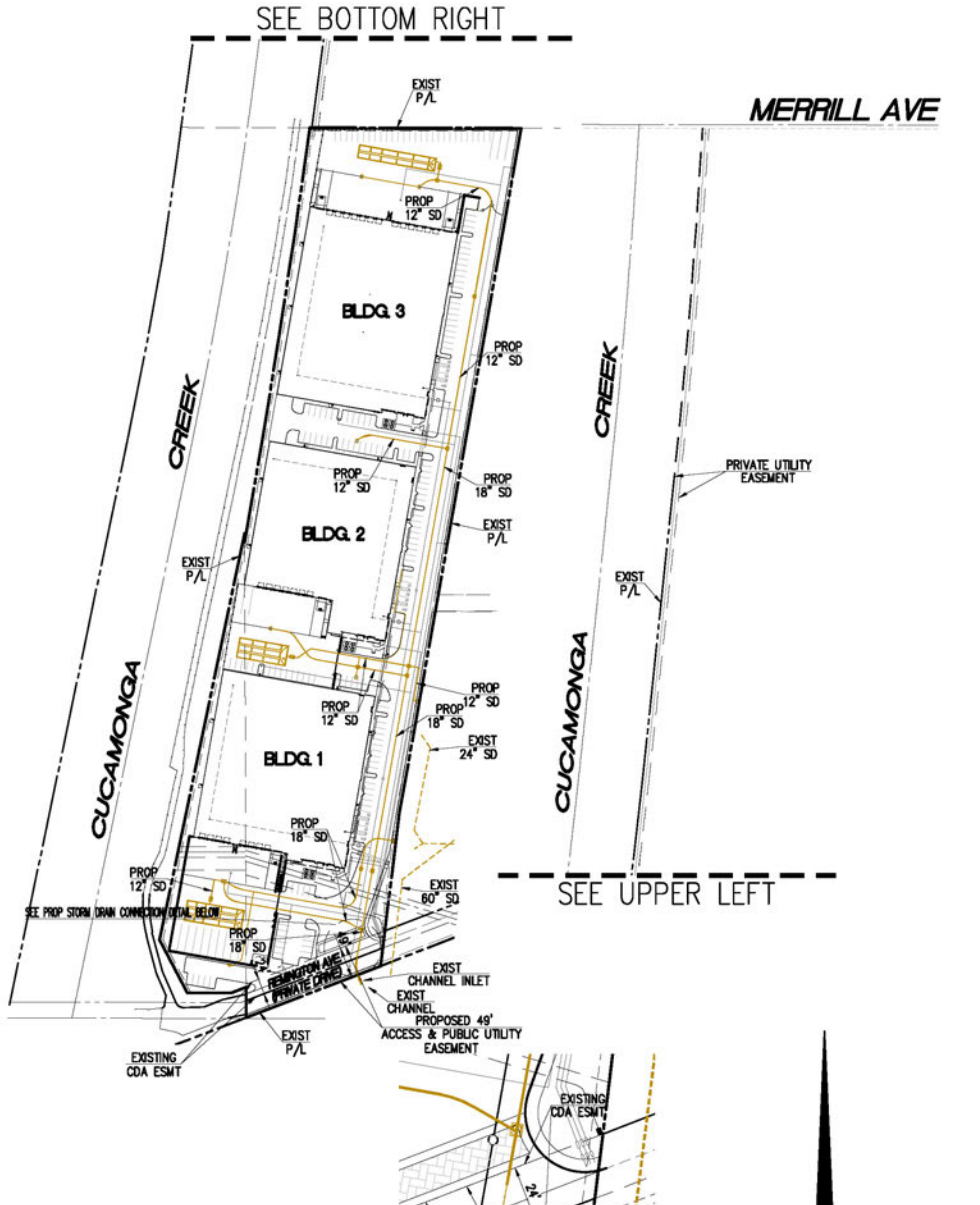


EXHIBIT "F-4" REQUIRED STORM DRAIN INFRASTRUCTURE IMPROVEMENTS



LEGEND:

- PROPOSED PRIVATE STORM DRAIN (SD) ————
- PROPOSED STORM DRAIN WITHIN PUE ESMT (SD) ————
- EXISTING STORM DRAIN (SD) - - - - -

TEI Thienes Engineering, Inc.
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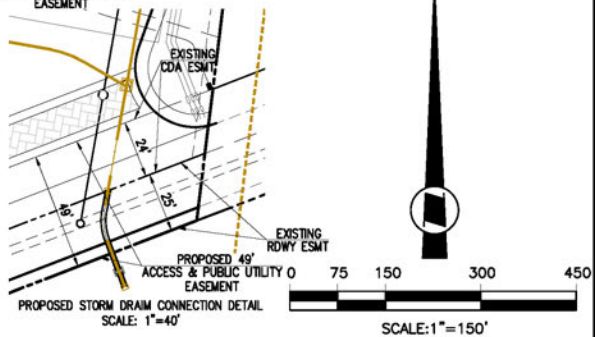
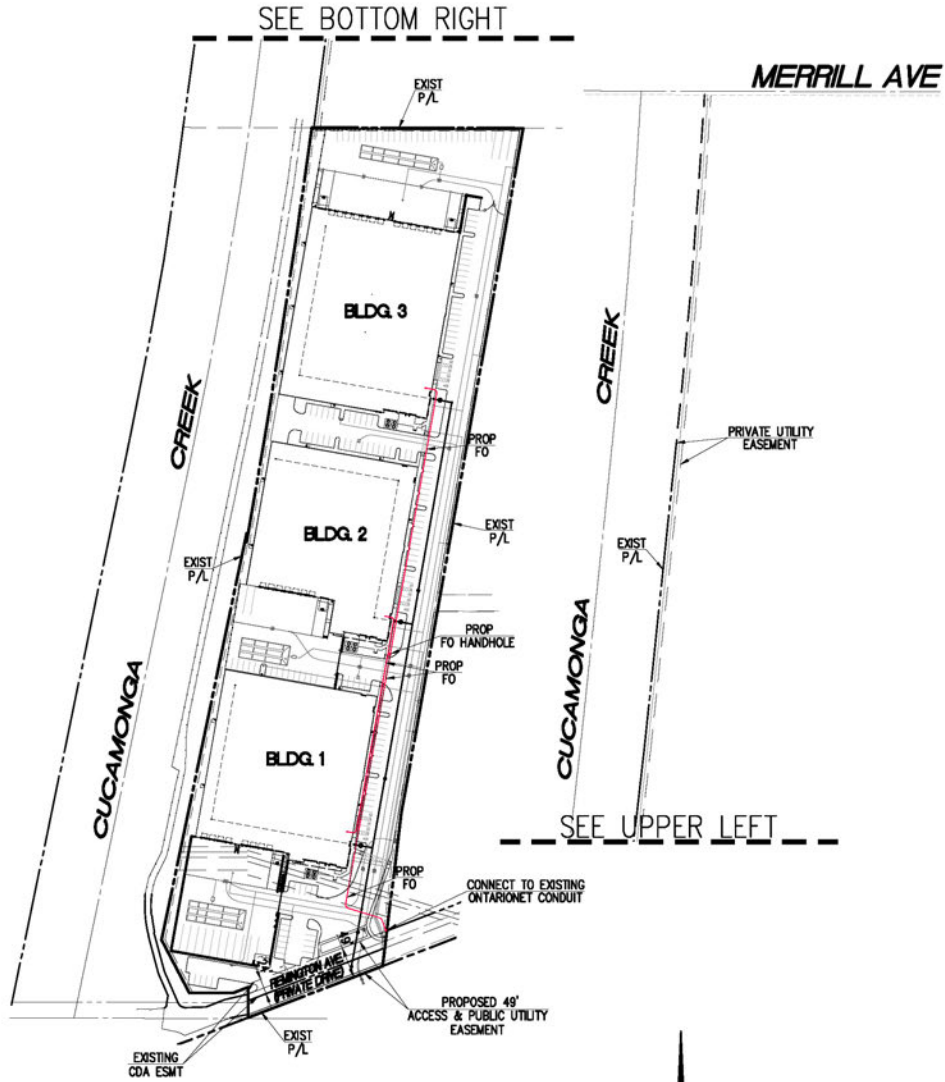


EXHIBIT "F-5"
REQUIRED FIBER OPTIC
INFRASTRUCTURE IMPROVEMENTS



LEGEND:

- PROPOSED PRIVATE FIBER OPTIC (FO) ————
- EXISTING FIBER OPTIC (FO) - - - - -

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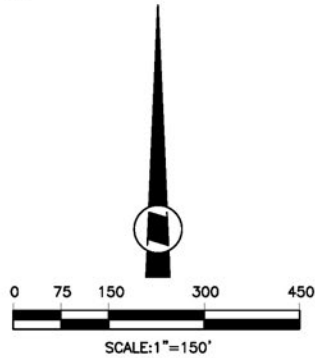


EXHIBIT "G"
TO DEVELOPMENT AGREEMENT

FORM OF CERTIFICATE OF NET MDD AVAILABILITY

Pursuant to Section ____ of this Agreement between the City of Ontario, a California municipal corporation, and _____, a _____ company, hereinafter called "OWNER", the terms and definitions of which are hereby incorporated herein by this reference and hereinafter called "Agreement", the City of Ontario hereby certifies based on CITY receipt of payment of OWNER's share of the funding for the Phase 2 Water Improvements, that OWNER is entitled to the following Net MDD Water Availability.

Amount of Net MDD _____ gpm

Scott Ochoa, City Manager

Dated: _____

Exhibit "H"

FORM OF CERTIFICATE OF REGIONAL DIF CREDIT

Pursuant to Section 4.5.2 of this Agreement by and between the City of Ontario and _____, dated _____, 201_, the terms and definitions of which are hereby incorporated herein by this reference and hereinafter called the "Development Agreement", the City of Ontario hereby certifies that OWNER is entitled to the following amount and nature of DIF Credits in the Regional Water DIF Infrastructure Category:

Amount of Credit: \$ _____

Scott Ochoa, City Manager

Dated: _____

Exhibit "I-1"

ONTARIO RANCH WATER SUPPLY PHASING PLAN

<u>Phase 2</u>	<u>Water Availability Equivalency</u>	<u>Estimated Net MDD Available¹</u>
<u>Phase 2 A</u>		
<u>Supply & Storage</u>		
1. 1 - Additional Ground Water Well and Collection lines - Design and Construction	8,250 gpm ²	7,750 gpm²
<u>Pipelines (Transmission & Distribution)²</u>		
2. 925 Zone Transmission lines – Design and Construction		
3. Temporary Pressure Reducing Station ³ – Design and Construction		
<u>Phase 2B</u>		
<u>Supply & Storage</u>		
4. 1 – Additional Ground Water Well and Collection lines – Design and Construction	10,500 gpm ²	9,860 gpm²
5. 1 – 6 million gallon Reservoir – 925 Zone – Design and Construction		

(1) Upon Completion of the construction of all of the improvements described for each Phase a Certificate of Net MDD Availability shall be issued to Developer for the corresponding amount of Net MDD. Net MDD means the maximum daily demand on the potable water supply, net of the water requirements for public schools and parks. The Water Availability Equivalency includes the estimated requirements for public schools and parks. The amount of Net MDD specified is the cumulative amount for which building permits may be issued upon funding of the corresponding and all preceding Phases of improvements.

(2) The ability of a particular development to utilize Net MDD assigned to it by the Developer will require the completion of design and construction of Master-planned potable and recycled water transmission and distribution pipelines for the respective pressure zone. Other factors may include its location, the particular land use and Water Availability Equivalents assigned to it as specified in Exhibit C-2.

(3) Pressure reducing stations are a component of the pipeline transmission and distribution system.

EXHIBIT "I-2"

Available Water Supply - See Exhibit C-1R for Net MDD Available

Table A - Water Demand Equivalents By Land Use

The Ontario Plan Land Use	Potable Water			Recycled Water	
	Water Demand Factor (ADD)		Water Demand Equivalents (WDE) ²	Recycled Water Demand Factor ¹ (ADD)	Recycled Water Demand Of Total Water Demand
	(gpd/du)	(gpd/ac)	(gpm/unit)	(gpd/ac)	(%)
Detached Dwellings (less than 5 units per acre)	544		0.57	900	28%
Detached or Attached Dwellings (between 5 and 11 units per acre)	464		0.48	1,000	21%
Attached Dwellings (between 11 and 25 units per acre)	323		0.34	1,500	18%
High Density Dwellings (25+ units per acre)	152		0.16	1,500	27%
Commercial Lodging	150		0.16	1,700	50%
Retail/Services Uses		2,200	2.29	2,300	51%
Office Uses		3,400	3.54	2,300	40%
Business Park Uses		2,200	2.29	2,200	50%
Industrial Uses		2,000	2.08	2,200	52%
Institutional Use		2,200	2.29	1,600	42%
Parks		1,000	1.04	1,400	58%
Schools		3,500	3.65	1,600	31%

¹ Recycled Water Demands include irrigation for right-of-way (medians and parkways), neighborhood edge, pocket parks, and common areas.

² The WDE is based on the Maximum Day Demand (MDD) with a peaking factor of 1.5 in the NMC for all land use categories.

Table B - Example Water Supply Calculation

Land Use	Acres ¹ (gross)	Residential Units	WDE Factor (gpm)	Potable MDD (gpm)	Recycled Water ADD (gpm)
Development					
Detached Dwellings (less than 5 units per acre)	1,284	5,061	0.57	2,868	803
Detached or Attached Dwellings (between 5 and 11 units per acre)	369	2,530	0.48	1,223	256
Attached Dwellings (between 11 and 25 units per acre)	194	3,410	0.34	1,147	202
Retail/Services Uses (per acre) ²	104		2.29	239	166
TOTAL	1,950	11,001		5,477	1,428

Three (3) Wells Are required to Support this example, assuming each well produces 2,000 gpm and connection to the Recycled Water System maximizing Recycled Water Use.

¹ Residential Acres are estimated based on the weighted average derived from the average number of units per land use category.

² Commercial acreage is calculated from a total square footage of 1,361,000 SF with an average Floor to Area Ratio (FAR) of 0.30 for commercial services in The Ontario Plan.

Exhibit "JI"

FORM OF PLUME DISCLOSURE LETTER

C I T Y O F



O N T A R I O

ONTARIO MUNICIPAL UTILITIES COMPANY

PAUL S. LEON
MAYOR

DEBRA DORST-PORADA
MAYOR PRO TEM

ALAN D. WAPNER
JIM W. BOWMAN
RUBEN VALENCIA
COUNCIL MEMBERS

March 2017

AL C. BOLING
CITY MANAGER

SHEILA MAUTZ
CITY CLERK

JAMES R. MILHISER
TREASURER

SCOTT BURTON
UTILITIES GENERAL MANAGER

**DISCLOSURE NOTICE
SOUTH ARCHIBALD TRICHLOROETHYLENE PLUME**

Dear Property Owner/Developer/Applicant:

The City of Ontario ("City") has approved or will be approving development in the Ontario Ranch area in the next few years, subject to the appropriate and required statutory process. This letter is intended to serve as notice to all potential property owners of the existence of a groundwater plume, known as the South Archibald Trichloroethylene (TCE) Plume which may exist in, under or near owner's property.

The groundwater plume is in an area in the central Chino Basin south of the Pomona Freeway, west of Turner Avenue, east of Grove Avenue, and north of Kimball Avenue. The plume primarily consists of TCE, a discontinued industrial solvent, and is subject to a clean-up under the oversight and direction of the Santa Ana Regional Water Quality Control Board ("Regional Board").

The Regional Board's approved clean-up procedure involves the removal and treatment of groundwater containing TCE via groundwater wells to reduce the plume concentrations and control its migration. In addition, the City is providing potable water supplies for domestic purposes to residences with private domestic wells affected by the plume. Finally, the Regional Board will continue to monitor all impacted areas and private domestic wells to ensure that residents' health and the environment are properly safeguarded. These remedial actions are documented in a Remedial Action Plan approved by the Regional Board in September 2016.

Further and current information may be found on the Regional Board's Geotracker website at https://geotracker.waterboards.ca.gov/profile_report?global_id=T10000004658.

Property owners may wish to include this letter as a part of a Real Estate Transfer Disclosure under California Civil Code Section 1102 *et seq.*

1425 SOUTH BON VIEW - ONTARIO, CALIFORNIA 91761-4406 - (909) 395-2605 - FAX (909) 395-2601

FILE NO: PDEV21-040

SUBJECT: A public hearing to consider a Development Plan (File No. PDEV21-040) to construct one industrial building totaling 1,255,320 square feet on 60.7 acres of land located at 4902 South Baker Avenue, within the Industrial land use district of Merrill Commerce Center Specific Plan (APNs: 1054-151-03, 1054-201-03, and 1054-351-03); **submitted by Prologis LP.**

PROPERTY OWNER: Prologis LP


RECOMMENDED ACTION: That the Planning Commission consider and approve File No. PDEV21-040, 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 60.7 acres of land located at 4902 South Baker Avenue, within Planning Areas 3 and 4 of the Merrill Commerce Center Specific Plan (“MCCSP”) zoning district, and is depicted in Figure 1: Project Location, below. The Project site is boarded by private properties to the north, Merrill Avenue to the south, future Baker Avenue to the east, and future Walker Avenue to the west. The properties to the north are currently vacant and located with the MCCSP zoning district and designated as Business Park land use. The properties to the south are located within the City of Chino and developed with industrial buildings. The property to the east of the project is under construction for a warehouse fulfillment center. The properties to the west are currently vacant and planned for future development with warehouse distribution buildings proposed under a separate application. The existing surrounding land uses, zoning, and general plan and specific plan land use designations are summarized in the “Surrounding Zoning & Land Uses” table located in the Technical Appendix of this report.



Figure 1: Project Location

PROJECT ANALYSIS:

Case Planner:	Edmelynn V. Hutter
Planning Director Approval:	
Submittal Date:	November 3, 2021

Hearing Body	Date	Decision	Action
DAB	05/16/2022	Approval	Recommend
PC	05/24/2022		Final
CC			

(1) Background — On February 2, 2021, the City Council approved the introduction (first reading) of Ordinance No. 3178 for the Merrill Commerce Center Specific Plan ("MCCSP"), adopted Resolution No. R2021-011, certifying the MCCSP Final Environmental Impact Report ("Certified EIR"; State Clearinghouse No. 2019049047), and adopted Resolution No. R2021-012, approving the associated General Plan Amendment (File No. PGPA18-003) establishing the Business Park (0.6 FAR) and Industrial (0.55 FAR) land uses on the Project site. On February 16, 2021, the City Council adopted (second reading) Ordinance No. 3178, approving the MCCSP (File No. PSP18-001). The MCCSP establishes the land use designations, development standards, and design guidelines on 376.3 acres of land, which includes the potential development of up to 8,455,000 square feet of industrial and business park development.

On March 23, 2021, the Planning Commission approved Tentative Parcel Map No. 20273, a request to subdivide the Merrill Commerce Center Specific Plan area to create 22 numbered lots, 22 lettered lots, public streets and to facilitate future development of industrial and business park projects. On November 16, 2021, the City Council approved Final Parcel Map No. 20273.

On November 3, 2021, the applicant submitted the subject Development Plan (File No. PDEV21-040) to develop Parcels 7, 8, and 9 of Parcel Map No. 20273 with one industrial building, referred to as Building 7, to be used as a warehouse distribution center totaling 1,255,320 square feet of gross floor area and having a floor area ratio ("FAR") of 0.47. The applicant has also submitted a Lot Line Adjustment application (File No. E202200199) to merge the Project site into one parcel.

On May 16, 2022, the Development Advisory Board reviewed the item and recommended the Planning Commission approve the Project, subject to the conditions of approval included with the resolution provided with this report.

(2) Site Design/Building Layout — The proposed development includes a warehouse distribution building, with a footprint of 1,240,320 square feet, located on Parcels 7, 8, and 9 of Parcel Map No. 20273. The building is centrally located on the Project site, setback approximately 340 feet from future Baker Avenue, 200 feet from Merrill Avenue, 230 feet from future Walker Avenue, and 145 feet from the north property line (see Exhibit C), which abuts two properties designated as Business Park land uses. These parcels north of the Project site are planned for Business Park developments and will be processed under future Development Plan applications.

The proposed warehouse building is rectangular in shape, oriented in a north-south position, and includes potential office areas planned in the building corners. The building is approximately 380 feet wide by 1,780 feet long, with a total gross floor area of 1,255,320 square feet, including 30,000 square feet of office and mezzanine area. The parking lot areas are located at the north and south sides of the building, and gated truck yards are located along the east and west sides of the building.

(3) Site Access/Circulation — The Project site will be accessible by trucks and passenger vehicles from Baker Avenue to the east, Merrill Avenue to the south, and Walker Avenue to the west. Driveways on Baker Avenue and Merrill Avenue will provide access for both passenger vehicles and trucks. A separate driveway on Merrill Avenue, located midway between Walker Avenue and Baker Avenue, is provided for passenger vehicles only. Two driveways along Walker Avenue will allow both passenger vehicle and truck access. Lastly, the east and west truck yards each provide an additional driveway that is restricted to outbound trucks.

Internal circulation is provided with minimum 24-foot-wide drive aisles throughout the site. The north end of the Project site provides passenger vehicle parking, as well as a dedicated drive lane that trucks can use to access the east and west sides of the building. The south end of the Project site provides larger parking lot areas, with the south and north parking lots separated by gated truck yards along the east and west sides of the building.

(4) Parking — The Project is required to provide 638 passenger vehicle parking spaces and 49 trailer parking spaces. The Project provides 644 passenger vehicle parking spaces and 338 trailer parking spaces, exceeding the minimum requirements. Table 1 provides a parking summary for the Project.

Table A: Parking Summary					
Type of Use	Building Area	Trailer Parking		Vehicle Spaces	
		Required	Provided	Required	Provided
Warehouse / Distribution	1,255,320 SF	49	338	638	644

(5) Architecture — The Project incorporates a Contemporary Architectural style. The proposed building will be of concrete tilt-up construction with a variety of wall finishes, including monochromatic color blocking, score patterns, and color banding. Accent material such as metal awnings, fiber cement siding, and glazing are incorporated on all building elevations in various combinations. The proposed fiber cement material will have a wood grain finish to incorporate the appearance of natural material and color tones. The proposed design creates visual interest throughout and presents a unique entry design with the use of geometric shaped metal canopies at the office entries.

(6) Chino Airport Land Use Compatibility Compliance — The project site is located within the Chino Airport Influence Area (AIA). Pursuant to the California Airport Land Use Planning Handbook, the Project site is located within Safety Zones 4 and 6, as shown on Exhibit G – Chino Airport Safety Zones, attached. Safety Zones 4 and 6 are subject to intensity limits (number of people on the site) and open land criteria requirements. The Project shall be required to be consistent with the policies and criteria of the Caltrans Division of Aeronautics – California Airport Land Use Planning Handbook.

(7) Landscaping — The MCCSP requires a minimum 10 percent landscape coverage be provided for buildings within the industrial and Business Park land use districts. As proposed, the Project landscape coverage is 10.2 percent, meeting the minimum requirement. The Project provides landscaping around the project perimeter, adjacent to the building, and throughout the parking lot to soften the appearance of these areas and provide additional shade. The landscape plan includes 350 box trees, such as Chinese Flame Tree, Crape Myrtle, oak, olive, California sycamore and pine varieties. Landscape plans also incorporate low-water usage and drought-tolerant shrubs and ground covers throughout the site.

The Project includes right-of-way improvements (street, curb, gutter, sidewalk, and parkway) along the surrounding streets. The proposed on-site and off-site landscape improvements will assist toward creating safe paths and areas for pedestrians to access the Project site. In compliance with the MCCSP, a multi-purpose trail and neighborhood edge will also be installed along Merrill and Walker Avenues.

(8) Signage — All future signage will be subject to review and approval of a comprehensive sign program for the Specific Plan area. A sign program will facilitate integration of the signs with the overall site and building design to create a unified visual statement and provide for flexible application of sign regulations in the design and display of multiple signs. Key provisions will include an entry monument, center and tenant identification signage, traffic and wayfinding signs, building signs, secondary monumentation, and visitor and directional signage.

(9) Utilities (drainage, sewer) — The Project will be required to construct infrastructure improvements per the Development Agreement (File No. PDA18-004) and requirements of the MCCSP. Furthermore, the Applicant has submitted a Preliminary Water Quality Management Plan ("PWQMP"), which establishes the Project's compliance with storm water discharge/water quality requirements. The PWQMP includes site design measures that capture runoff and pollutant transport by minimizing impervious surfaces and maximizes low impact development ("LID") best management practices ("BMPs"), such as retention and infiltration, biotreatment, and evapotranspiration. The PWQMP proposes the use of underground storm water retention chambers to receive, retain, and treat storm water runoff.

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 Goals.

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

- 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) Vision.

Distinctive Development:

- Commercial and Residential Development
 - Development quality that is broadly recognized as distinctive and not exclusively tied to the general suburban character typical of much of Southern California.

(3) Governance.

Decision Making:

- Goal G1: Sustained decision-making that consistently moves Ontario towards its Vision by using The Ontario Plan as a framework for assessing choices.
 - G1-2 Long-term Benefit. We require decisions to demonstrate and document how they add value to the community and support the Ontario Vision

(4) Policy Plan (General Plan)

Land Use Element:

- Goal LU1: A community that has a spectrum of housing types and price ranges that match the jobs in the City and that 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. (Refer to Complete Community Section of Community Economics Element).

- 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.
 - LU2-9: Methane Gas Sites. We require sensitive land uses and new uses on former dairy farms or other methane-producing sites be designed to minimize health risks.

Community Economics Element:

- Goal CE1: A complete community that provides for all incomes and stages of life.
 - 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:

- 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.
- Goal S3: Reduce risk of death, injury, property damage and economic loss due to fires, accidents and normal everyday occurrences through prompt and capable emergency response.

➤ S3-8 Fire Prevention through Environmental Design. We require new development to incorporate fire prevention consideration in the design of streetscapes, sites, open spaces, and buildings.

Community Design Element:

▪ 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.

➤ CD1-2 Growth Areas. We require development in growth areas to be distinctive and unique places within which there are cohesive design themes.

➤ 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.

▪ 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.

➤ CD2-5 Streetscapes. We design new and, when necessary, retrofit existing streets to improve walkability, bicycling and transit integration, strengthen connectivity, and enhance community identity through improvements to the public right of way such as sidewalks, street trees, parkways, curbs, street lighting and street furniture.

➤ 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.

➤ CD2-10 Surface Parking Areas. We require parking areas visible to or used by the public to be landscaped in an aesthetically pleasing, safe and environmentally sensitive manner. Examples include shade trees, pervious surfaces, urban run-off capture and infiltration, and pedestrian paths to guide users through the parking field.

➤ 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.

➤ CD2-12 Site and Building Signage. We encourage the use of sign programs that utilize complementary materials, colors, and themes. Project signage should be designed to effectively communicate and direct users to various aspects of the development and complement the character of the structures.

➤ 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.

▪ 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.

➤ CD3-1 Design. We require that pedestrian, vehicular, bicycle and equestrian circulation on both public and private property be coordinated and designed to maximize safety, comfort and aesthetics.

➤ 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.

➤ CD3-3 Building Entrances. We require all building entrances to be accessible and visible from adjacent streets, sidewalks, or public open spaces.

- 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.
 - 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, as the project site is not one of the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

AIRPORT LAND USE COMPATIBILITY PLAN (ALUCP) COMPLIANCE: The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan. On April 19, 2011, the City Council of the City of Ontario approved and adopted the Ontario International Airport Land use Compatibility Plan ("ALUCP"), establishing the Airport Influence Area for Ontario International Airport, which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. 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 ALUCP. Any special conditions of approval associated with uses in close proximity to the airport are included in the conditions of approval provided with the attached Resolution.

The project site is also located within the Airport Influence area of Chino Airport and is consistent with policies and criteria set forth within the 2011 California Airport Land Use Planning Handbook published by the California Department of Transportation, Division of Aeronautics. The proposed Project as evaluated and found to be consistent with the policies and criteria set forth within the Handbook, subject to conditions.

ENVIRONMENTAL REVIEW: The environmental impacts of this project were previously reviewed in conjunction with the Merrill Commerce Center Specific Plan (File No. PSP18-001), for which an Environmental Impact Report (State Clearing House No. 2019049079) was adopted by the City Council on February 2, 2021. This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are a condition of project approval and are incorporated herein by this reference.

CONDITIONS OF APPROVAL: See attached department reports.

TECHNICAL APPENDIX:

Surrounding Zoning and Land Use:

	Existing Land Use	General Plan Designation	Zoning Designation	Specific Plan Land Use
Site	Vacant	Industrial (0.55 FAR)	Merrill Commerce Center Specific Plan	Industrial
North	Vacant	Business Park (0.6 FAR)	Merrill Commerce Center Specific Plan	Business Park
South	Warehouse Distribution (City of Chino)	Light Industrial (City of Chino)	Preserve Specific Plan (City of Chino)	Light Industrial (City of Chino)
East	Warehouse / Fulfillment Center (under construction)	Industrial (0.55 FAR)	Merrill Commerce Center Specific Plan	Industrial
West	Vacant	Industrial (0.55 FAR)	Merrill Commerce Center Specific Plan	Industrial

General Site & Building Statistics

Item	Proposed	Min./Max. Standard	Meets Y/N
Project Area:	60.7	N/A	N/A
Lot/Parcel Size:	60.7 acres	1 acre (Min.)	Y
Building Area:	1,255,320 square feet	N/A	N/A
Floor Area Ratio:	0.47	0.55 (Max.)	Y
Building Height:	52 feet	85 feet (Max.)	Y

Off-Street Parking:

Type of Use	Building Area	Trailer Parking		Vehicle Spaces	
		Required	Provided	Required	Provided
Warehouse / Distribution	1,255,320 SF	49	338	638	644

EXHIBIT A—VICINITY MAP

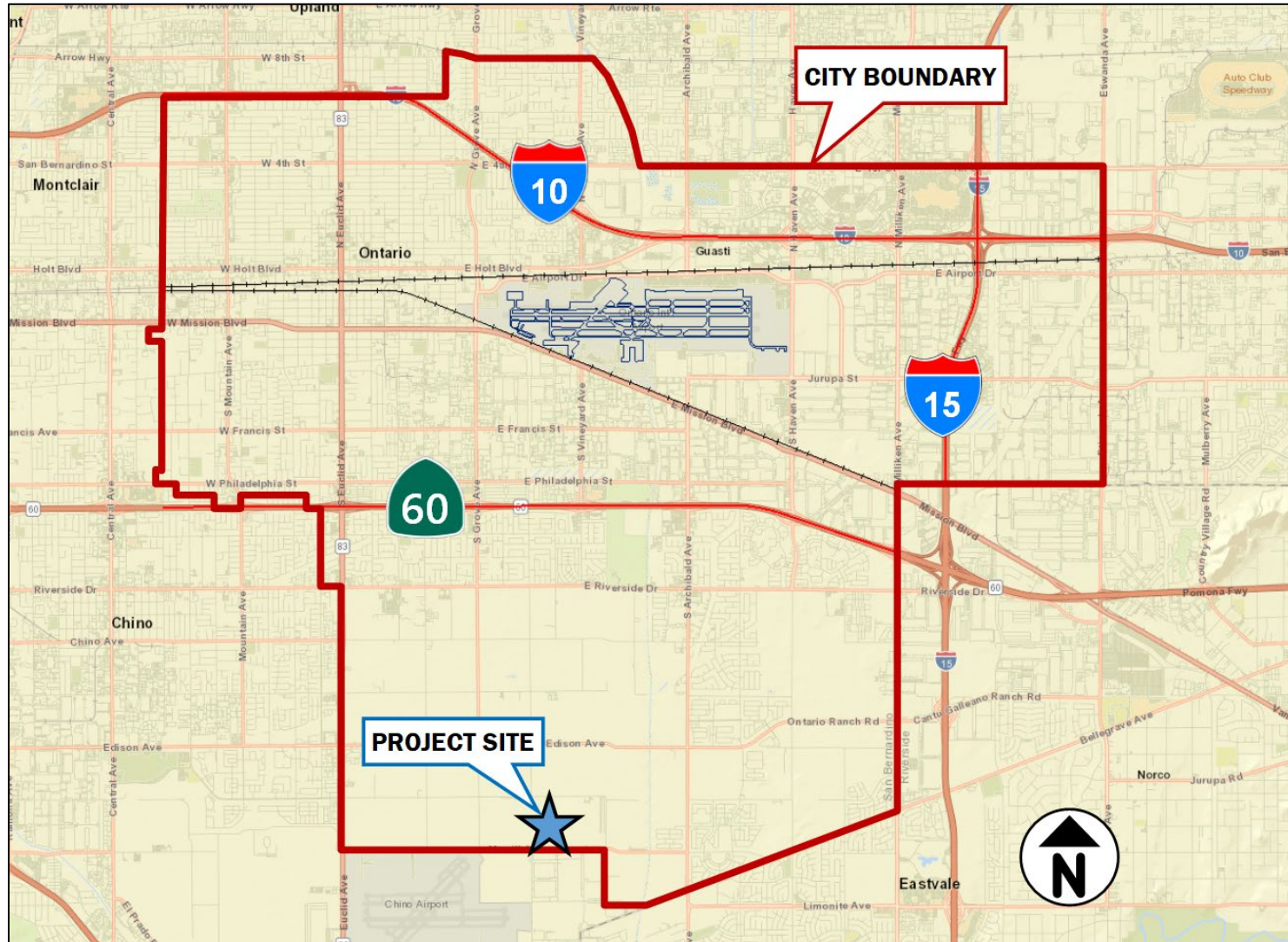


EXHIBIT B—PROJECT LOCATION MAP

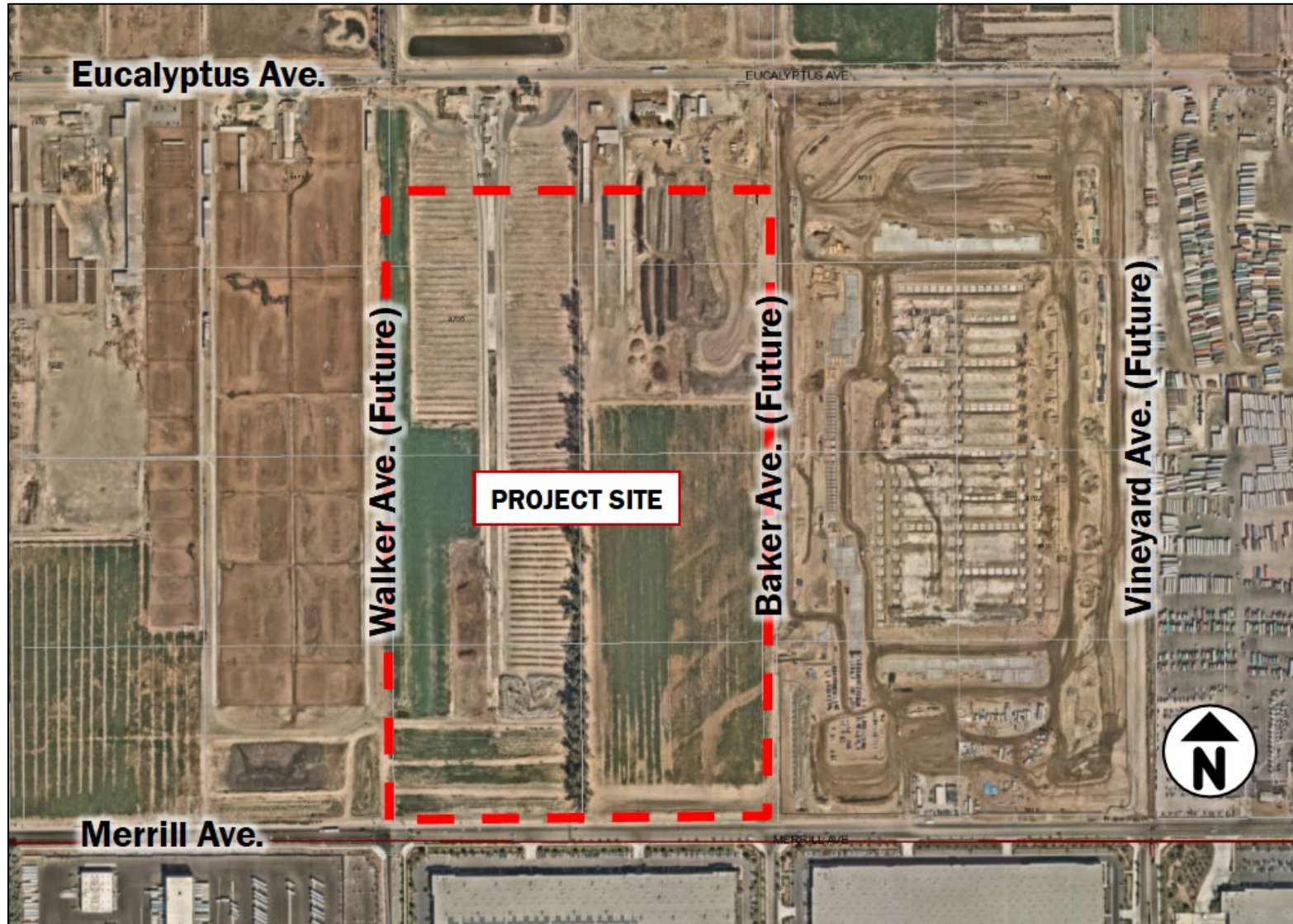


EXHIBIT C—SITE PLAN

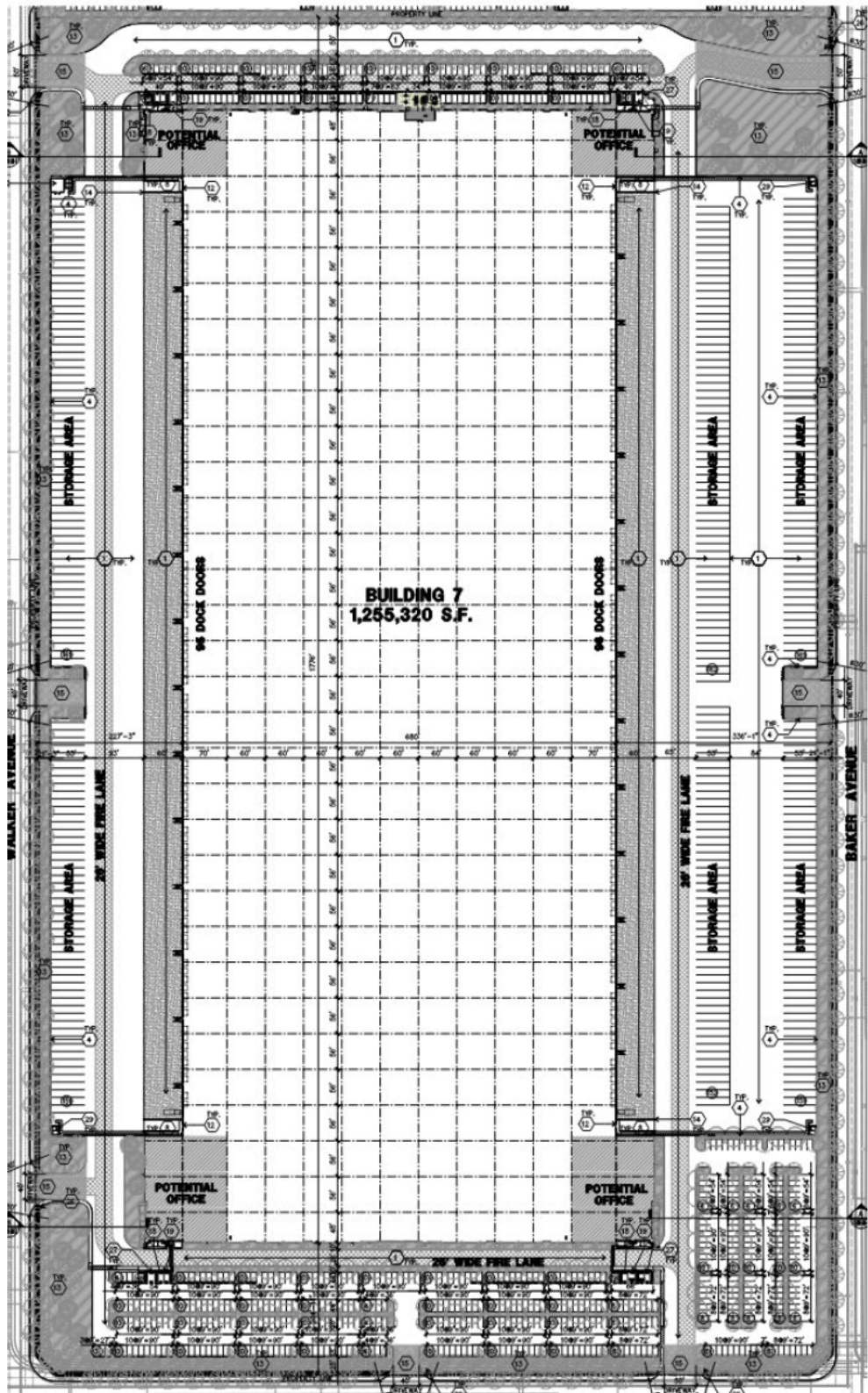


EXHIBIT D—BUILDING ELEVATIONS



West Elevation



South Elevation

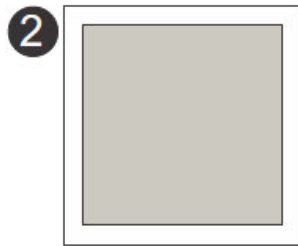


Enlarged Office Elevation

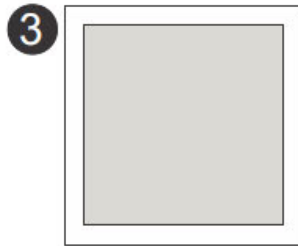
EXHIBIT E—SAMPLE MATERIALS BOARD



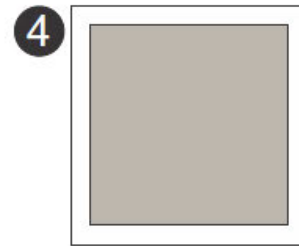
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PLD-9
Pure White
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A-100 Exterior Flat 5 Gallon Formula



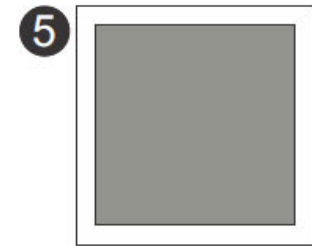
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Prologis std. Grey-
PLD-6
Sable
(RGB: 204, 201, 192)
A-100 Exterior Flat 5 Gallon Formula



3
Prologis std. Grey-
PLD-10
First Star
(RGB: 218, 217, 212)
A-100 Exterior Flat 5 Gallon Formula



4
Prologis std. Grey-
PLD-7
Liquorice Tint
(RGB: 188, 183, 173)
A-100 Exterior Flat 5 Gallon Formula



5
Prologis std. Grey-
PLD-8
Drake
(RGB: 146, 148, 141)
A-100 Exterior Flat 5 Gallon Formula



6
Prologis std. Grey-
PLD-5
New Dark Green
(RGB: 1, 109, 96)
A-100 Exterior Flat 5 Gallon Formula



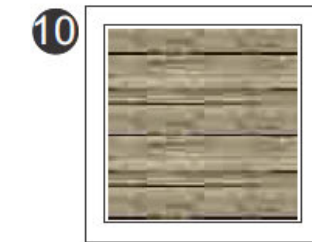
7
Aluminum
Black Anodized
MULLIONS



8
Blue Reflective
GLAZING

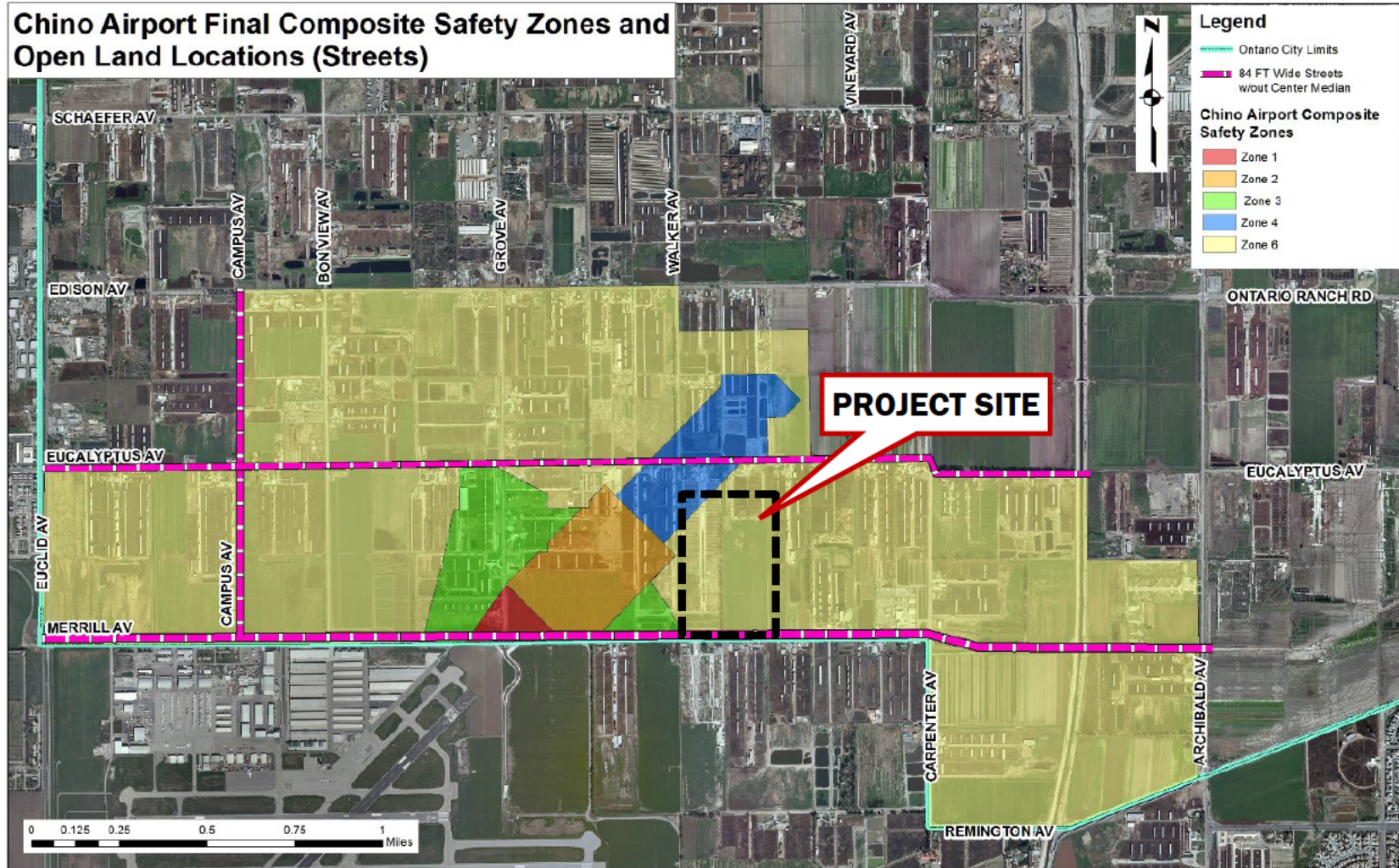


9
Sherwin Williams
Acrylic Latex Systems
High Gloss/High performance
in color: SW 6989 Domino
@ Metal AWNING



10
Wood Siding
Nichiha VintageWood
Fiber Cement
SPRUCE

EXHIBIT G—CHINO AIRPORT SAFETY ZONES



Attachment A—Departmental Conditions of Approval

(Departmental conditions of approval follow this page)

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDEV21-040, A DEVELOPMENT PLAN TO CONSTRUCT A 1,255,320-SQUARE-FOOT INDUSTRIAL BUILDING ON 60.7 ACRES OF LAND LOCATED AT 4902 SOUTH BAKER AVENUE, WITHIN THE INDUSTRIAL LAND USE DISTRICT OF THE MERRILL COMMERCE CENTER SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APNS: 1054-151-03, 1054-201-03, AND 1054-351-03.

WHEREAS, PROLOGIS LP ("Applicant") has filed an Application for the approval of a Development Plan, File No. PDEV21-040, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 60.7 acres of land generally located at the northwest corner of Merrill Avenue and future Baker Avenue, at 4902 South Baker Avenue within the Merrill Commerce Center Specific Plan, and is presently vacant land; and

WHEREAS, the property to the north of the Project site is within the Merrill Commerce Center Specific Plan zoning district and is designated for Business Park land uses but is currently vacant land. The property to the east is within the Merrill Commerce Center Specific Plan zoning district and is being developed with a warehouse/distribution center. The properties to the south are within the City of Chino and developed with industrial buildings. The property to the west is within the Merrill Commerce Center Specific Plan and warehouse distribution is currently proposed under a separate Development Plan application; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act — Public Resources Code Section 21000 et seq ("CEQA") and an initial study has been prepared to determine possible environmental impacts; and

WHEREAS, the environmental impacts of this project were previously reviewed in conjunction with File No. PGPA18-003, a General Plan Amendment, and File No. PSP18-001, the Merrill Commerce Center Specific Plan, for which an Environmental Impact Report (State Clearinghouse No. 2019049079) ("Certified EIR") was adopted by the City Council on February 2, 2021, 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, Ontario Development Code Table 2.02-1 (Review Matrix) grants the Planning Commission the responsibility and authority to review and act on the subject Application; and

WHEREAS, the Project has been reviewed for consistency with the Housing Element of the Policy Plan component of The Ontario Plan, as State Housing Element law (as prescribed in Government Code Sections 65580 through 65589.8) requires that development projects must be consistent with the Housing Element, if upon consideration of all its aspects, it is found to further the purposes, principals, goals, and policies of the Housing Element; and

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport, which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and is subject to, and must be consistent with, the policies and criteria set forth in the Ontario International Airport Land Use Compatibility Plan (“ALUCP”), which applies only to jurisdictions within San Bernardino County, and addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; and

WHEREAS, the project site is also located in the Airport Influence Area of Chino Airport and must be consistent with policies and criteria set forth within the 2011 California Airport Land Use Planning Handbook published by the California Department of Transportation, Division of Aeronautics, which addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; and

WHEREAS, City of Ontario Development Code Division 2.03 (Public Hearings) prescribes the manner in which public notification shall be provided and hearing procedures to be followed, and all such notifications and procedures have been completed; and

WHEREAS, on May 16, 2022, the Development Advisory Board of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date, voting to issue Decision No. DAB22-014, recommending the Planning Commission approve the Application; and

WHEREAS, on May 24, 2022, 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: Environmental Determination and Findings. As the decision-making authority for the Project, the Planning Commission has reviewed and considered the information contained in the previous Certified EIR and supporting documentation. Based upon the facts and information contained in the previous Certified EIR and supporting documentation, the Planning Commission finds as follows:

(1) The environmental impacts of this project were previously reviewed in conjunction with File No. PGPA18-003, a General Plan Amendment, and File No. PSP18-001, the Merrill Commerce Center Specific Plan, for which a Certified EIR was adopted by the City Council on February 2, 2022; and

(2) The previous Certified EIR contains a complete and accurate reporting of the environmental impacts associated with the Project; and

(3) The previous Certified EIR was completed in compliance with CEQA and the Guidelines promulgated thereunder; and

(4) The previous Certified EIR reflects the independent judgment of the City Council; and

(5) The proposed project will introduce no new significant environmental impacts beyond those previously analyzed in the previous Certified EIR, and all mitigation measures previously adopted with the Certified EIR, are incorporated herein by this reference.

SECTION 2: Subsequent or Supplemental Environmental Review Not Required. Based on the information presented to the Planning Commission, and the specific findings set forth in Section 1, above, the Planning Commission finds that the preparation of a subsequent or supplemental Certified EIR is not required for the Project, as the Project:

(1) Does not constitute substantial changes to the Certified EIR that will require major revisions to the Certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

(2) Does not constitute substantial changes with respect to the circumstances under which the Certified EIR was prepared, that will require major revisions to the Certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and

(3) Does not contain new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the Certified EIR was certified/adopted, that shows any of the following:

(a) The project will have one or more significant effects not discussed in the Certified EIR; or

(b) Significant effects previously examined will be substantially more severe than shown in the Certified EIR; or

(c) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the City declined to adopt such measures; or

(d) Mitigation measures or alternatives considerably different from those analyzed in the Certified EIR would substantially reduce one or more significant effects on the environment, but which the City declined to adopt.

SECTION 3: *Housing Element Compliance.* Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the decision-making authority for the Project, the Planning Commission finds that based on the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the project site is not one of the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

SECTION 4: *Airport Land Use Compatibility Plan (“ALUCP”) Compliance.* The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State and rely upon the 2011 California Airport Land Use Planning Handbook published by the California Department of Transportation, Division of Aeronautics; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan.

(1) On April 19, 2011, the City Council of the City of Ontario approved and adopted the ALUCP, establishing the Airport Influence Area for Ontario International Airport, which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. As the decision-making authority for the Project, the Planning Commission has reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors,

including [1] Safety Criteria (ALUCP Table 2-2) and Safety Zones (ALUCP Map 2-2), [2] Noise Criteria (ALUCP Table 2-3) and Noise Impact Zones (ALUCP Map 2-3), [3] Airspace protection Zones (ALUCP Map 2-4), and [4] Overflight Notification Zones (ALUCP Map 2-5). As a result, the Planning Commission, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the ALUCP; and

(2) Chino Airport is owned and operated by the County of San Bernardino and is situated within the boundaries of the City of Chino, immediately south of Ontario. Portions of the City of Ontario are impacted by aircraft operations at Chino Airport. The adopted ALUCP for Chino Airport was approved in 1991 and does not reflect the most recently adopted 2005 Airport Master Plan. Also, the existing Chino Airport Land Use Compatibility Plan does not reflect the 2011 Caltrans Airport Land Use Planning Handbook. Public Utilities Code Section 21670.1(c) requires local jurisdictions under the “alternative process” to “rely upon” the California Airport Land Use Planning Handbook (Handbook) published by the California Department of Transportation (Caltrans), Division of Aeronautics in October 2011, for preparing Compatibility Plans and to utilize the Handbook’s height, land use, noise, safety, and density criteria. Although the City of Ontario does not have the formal responsibility under the “alternative process” to prepare a compatibility plan for Chino Airport, the City of Ontario has completed an Airport Land Use Compatibility Assessment that analyzes Chino Airport’s impacts on Ontario, consistent with policies and criteria set forth within the Caltrans 2011 California Airport Land Use Planning Handbook. The City of Ontario is currently working towards completing an Airport Land Use Compatibility Plan for portions of the City that are impacted by aircraft operations at Chino Airport. The proposed Project is located within the Airport Influence Area of Chino Airport and was evaluated and found to be consistent with the California Airport Land Use Planning Handbook and the City of Ontario’s Chino Airport Land Use Compatibility Assessment. As the decision-making authority for the Project, the Planning Commission has reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors, including Safety, Noise, Airspace Protection, Overflight. As a result, the Planning Commission, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the California Airport Land Use Planning Handbook and the City of Ontario’s Chino Airport Land Use Compatibility Assessment.

SECTION 5: Concluding Facts and Reasons. 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 through 4, above, the Planning Commission hereby concludes as follows:

(1) ***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 proposed Project is located within the Industrial land use district of the Policy Plan Land Use Map, and the Merrill Commerce Center Specific Plan zoning district. The development standards and conditions under which the proposed Project will be constructed 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.

(2) ***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 has been designed consistent with the requirements of the City of Ontario Development Code and the Merrill Commerce Center Specific Plan zoning district, including standards relative to the particular land use proposed (warehouse distribution), as-well-as building intensity, building and parking setbacks, building height, number of off-street parking and loading spaces, on-site and off-site landscaping, and fences, walls and obstructions.

(3) ***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 Development Advisory Board has required certain safeguards, and impose certain conditions of approval, which have been established to ensure that: [i] the purposes of the Merrill Commerce Center Specific Plan are maintained; [ii] the project will not endanger the public health, safety or general welfare; [iii] the project will not result in any significant environmental impacts; [iv] the project will be in harmony with the area in which it is located; and [v] the project will be in full conformity with the Vision, City Council Priorities and Policy Plan components of The Ontario Plan, and the Merrill Commerce Center Specific Plan.

(4) ***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 proposed Project has been reviewed for consistency with the general development standards and guidelines of the Merrill Commerce Center Specific Plan that are applicable to the proposed Project, including building intensity, building and parking setbacks, building height, amount of off-street parking and loading spaces, parking lot dimensions, design and landscaping, bicycle parking, on-site landscaping, and fences and walls, as-well-as those development standards and guidelines specifically related to the particular land use being proposed (warehouse distribution). As a result of this review, the Development Advisory Board has determined that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the development standards and guidelines described in the Merrill Commerce Center Specific Plan.

SECTION 6: *Planning Commission Action.* Based upon the findings and conclusions set forth in Sections 1 through 5, above, the Planning Commission hereby APPROVES the herein described Application, subject to each and every condition set forth in the Department reports attached hereto as “Attachment A,” and incorporated herein by this reference.

SECTION 7: *Indemnification.* 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 8: *Custodian of Records.* 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 9: *Certification to Adoption.* 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 24th day of May 2022, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Jim Willoughby
Planning Commission Chairman

ATTEST:

Rudy Zeledon
Planning Director and
Secretary to the Planning Commission

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

I, Gwen Berendsen, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC22-___ was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on May 24, 2022, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Gwen Berendsen
Secretary Pro Tempore

ATTACHMENT A:

**File No. PDEV21-040
Departmental Conditions of Approval**

(Departmental conditions of approval to follow this page)



LAND DEVELOPMENT DIVISION CONDITIONS OF APPROVAL

303 East B Street, Ontario, California 91764 Phone: 909.395.2036 / Fax: 909.395.2420

Date Prepared: 5/16/2022

File No: PDEV21-040

Related Files: PMTT21-010

Project Description: A Development Plan to construct one industrial building totaling 1,255,320 square feet on 60.7 acres of land located at 4902 S. Baker Avenue, within the industrial land use district of the Merrill Commerce Center Specific Plan (MCCSP) zoning district; (APNs: 1054-151-01, 1054-151-02, 1054-201-01, 1054-201-02, 1054-351-01, 1054-351-02); **submitted by Prologis LP.**

Prepared By: Edmelynn V. Hutter, Senior Planner
Phone: 909.395.2429 (direct)
Email: ehutter@ontarioca.gov

The Planning Department, Land Development Section, conditions of approval applicable to the above-described Project, are listed below. The Project shall comply with each condition of approval listed below:

1.0 Standard Conditions of Approval. The project shall comply with the *Standard Conditions for New Development*, adopted by City Council Resolution No. 2017-027 on April 18, 2017. 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 Lot Line Adjustment Approval. Development Plan approval shall not be final and complete until such time that the associated Lot Line Adjustment (File No. E202200199) has been approved by the City and recorded with the County of San Bernardino.

2.2 Time Limits. Development Plan 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 by the Planning Director. 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.

2.3 General Requirements. The Project shall comply with the following general requirements:

(a) All construction documentation shall be coordinated for consistency, including, but not limited to, architectural, structural, mechanical, electrical, plumbing, landscape

and irrigation, grading, utility and street improvement plans. All such plans shall be consistent with the approved entitlement plans on file with the Planning Department.

(b) The project site shall be developed in conformance with the approved plans on file with the City. Any variation from the approved plans must be reviewed and approved by the Planning Department prior to building permit issuance.

(c) The herein-listed conditions of approval from all City departments shall be included in the construction plan set for project, which shall be maintained on site during project construction.

2.4 Architecture.

(a) Exterior building wall materials, roof types and colors shall be shown on development construction drawings.

(b) Roof access ladders shall be located on the inside of the building.

(c) All building drainage gutters, down spouts, vents, etc., shall be completely concealed from public view or shall be architecturally compatible (decorative) with the exterior building design and color.

(d) All tower elements on the building(s) shall be fully walled and finished on all sides and include detailing appropriate to the architectural style proposed, so as to be a fully three-dimensional, four-sided element of the building, to the satisfaction of the Planning Director. The term "tower elements" means architectural elements of the building that are that are substantially taller than the adjacent parapet wall or roof, as determined by the Planning Director.

2.5 Landscaping and Site Amenities.

(a) The Project shall provide and continuously maintain landscaping and irrigation systems in compliance with the provisions of Ontario Development Code Division 6.05 (Landscaping).

(b) The Project shall provide outdoor amenities such as employee break areas and include tables, seating and shade opportunities, subject to Planning Department review and approval.

(c) Comply with the conditions of approval of the Planning Department; Landscape Planning Division.

(d) Landscaping shall not be installed until the Landscape and Irrigation Construction Documentation Plans required by Ontario Development Code Division 6.05 (Landscaping) have been approved by the Landscape Planning Division.

(e) Changes to approved Landscape and Irrigation Construction Documentation Plans, which affect the character or quantity of the plant material or irrigation system design, shall be resubmitted for approval of the revision by the Landscape Planning Division, prior to the commencement of the changes.

2.6 Walls and Fences. All Project walls and fences shall comply with the requirements of Ontario Development Code Division 6.02 (Walls, Fences and Obstructions).

(a) Within industrial zoning districts, walls and fences within the front yard building setback area shall not exceed 6 feet in height, with at least 90 percent of the vertical surface open and non-view obstructing and shall be setback a minimum of 5 feet behind the street property line.

(b) Long expanses of fence or wall (50 or more FT in length) adjacent to a public right-of-way shall have offset areas (decorative pilasters or a jog in the wall) along its length and shall be architecturally designed to prevent monotony. Construction plans shall include wall plans and details that show compliance with this condition of approval.

(c) The height of a wall or fence shall be measured on the exterior side, at the highest point of the natural ground or finished grade at the base of the fence or wall to the top of the fence or wall above the same base point.

(d) For gated sites, sufficient area shall be provided in front (exterior side) of vehicular access gates, to allow stacking of at least one tractor/trailer outside of the public street right-of-way.

(e) Development plans and construction drawings shall indicate materials, colors, and height of proposed and existing walls/fences and shall include a cross-section of walls/fences indicating adjacent grades. Walls shall be designed as an integral part of the architecture for the development.

(f) Walls shall be treated with a graffiti-proof coating at locations visible to the public.

2.7 Refuse Storage (Trash Enclosures).

(a) All refuse shall be stored in an appropriate container. Furthermore, all refuse containers shall be stored within a City-approved enclosure, which shall be designed so as to be consistent with the building architecture on the project site.

(b) The number of enclosures, and their precise locations, dimensions, and design shall be provided consistent with the *Solid Waste Department Refuse and Recycling Planning Manual* (the manual may be obtain online at http://www.ontarioca.gov/sites/default/files/Ontario-Files/Municipal-Utilities-Company/planning_manual-2016_update.pdf).

(c) Signs clearly identifying all recycling and refuse collection areas, and the materials accepted for recycling shall be posted adjacent to all points of access to each trash enclosure.

(d) Trash enclosures shall be bordered by a minimum 5-FT wide planter and screened with landscaping on all exposed sides, excluding the side with bin access gates.

2.8 Parking, Circulation and Access.

(a) The Project shall comply with the applicable off-street parking, loading and lighting requirements of City of Ontario Development Code Division 6.03 (Off-Street Parking and Loading).

(b) All drive approaches shall be provided with an enhanced pavement treatment. The enhanced paving shall extend from the back of the approach apron, into the site, to the first intersecting drive aisle or parking space.

(c) Areas provided to meet the City's parking requirements, including off-street parking and loading spaces, access drives, and maneuvering areas, shall not be used for the outdoor storage of materials and equipment, nor shall it be used for any other purpose than parking.

(d) The required number of off-street parking spaces and/or loading spaces shall be provided at the time of site and/or building occupancy. All parking and loading spaces shall be maintained in good condition for the duration of the building or use.

(e) Parking spaces specifically designated and conveniently located for use by the physically disabled shall be provided pursuant to current accessibility regulations contained in State law (CCR Title 24, Part 2, Chapters 2B71, and CVC Section 22507.8).

(f) The use of compact parking spaces is not permitted.

(g) Wheel stops shall be provided where necessary, to protect structures and parked vehicles.

(h) Striping of parking spaces, aisles, and driveways conforming to the provisions of Development Code Division 6.03 (Off-Street Parking and Loading), and directional signs conforming to the provisions of Development Code Division 8.01 (Sign Regulations), shall be provided.

(i) Bicycle parking facilities, including bicycle racks, lockers, and other secure facilities, shall be provided in conjunction with development projects pursuant to current regulations contained in CALGreen (CAC Title 24, Part 11) and subject to Planning review.

2.9 Outdoor Loading and Storage Areas.

(a) Loading facilities shall be designed and constructed pursuant to Development Code Division 6.03 (Off-Street Parking and Loading).

(b) Areas designated for off-street parking, loading, and vehicular circulation and maneuvering, shall not be used for the outdoor storage of materials or equipment.

(c) Outdoor loading and storage areas, and loading doors, shall be screened from public view pursuant to the requirements of Development Code Paragraph 6.02.025.A.2 (Screening of Outdoor Loading and Storage Areas, and Loading Doors) Et Seq.

(d) Outdoor loading and storage areas shall be provided with gates that are view-obstructing by one of the following methods:

(i) Construct gates with a perforated metal sheet affixed to the inside of the gate surface (50 percent screen); or

(ii) Construct gates with minimum one-inch square tube steel pickets spaced at maximum 2-inches apart.

(e) The development shall maintain a minimum of 49 off-street loading spaces. Dock-high loading zones intended for tractor-trailers shall have a clear dimension of 12 FT wide by 45 FT long. All at-grade loading doors shall have a 12-FT wide by 18-FT deep unobstructed loading zone directly in front of the door, free of access drives.

(f) Truck loading and maneuvering areas in front of dock-high loading areas shall require a clear area of 120 FT.

(g) Loading areas shall be designed to provide for backing and maneuvering completely on-site, and not from a public street.

(h) Loading areas shall not encroach into landscape or building setbacks.

(i) All loading doors, areas, and activities shall be completely screened from public view, as well as from public, residential, and commercial uses, whether on the same lot or on neighboring properties, by a decorative masonry wall. Chain link fencing with slats or tennis windscreen material shall not be used as screening for storage areas.

(j) The height of screen and wing walls shall be determined by a sight-line analysis/wall section plan. The sight-line analysis/wall section plan shall show that all roll-up doors will be screened from view from adjoining parcels and public streets. The following criteria shall apply:

(i) Roll-up doors and openings in the screen wall shall be positioned such that the doors are not visible from the street.

(ii) Screening shall include a combination of screen walls, sight-obscuring gates, ornamental landscaping, and/or portions of the building such that the roll-up doors are not visible from the public street.

(iii) Upon Planning Department request, a “horizontal height mock up” shall be constructed for review and approval by Planning Department staff to verify adequacy of screen wall height from the freeway and streets. Mock up should be located at the lowest elevation on the site.

(k) The minimum gate height for screen wall openings shall be established based upon the corresponding wall height, as follows:

<i>Screen Wall Height</i>	<i>Minimum Gate Height</i>
14 feet:	10 feet
12 feet:	9 feet
10 feet:	8 feet

Screen Wall Height	Minimum Gate Height
8 feet:	8 feet
6 feet:	6 feet

2.10 Site Lighting.

(a) Site lighting shall be reviewed and approved by the Planning and Police Departments prior to the issuance of building permits.

(b) All off-street parking facilities shall be provided with nighttime security lighting pursuant to Ontario Municipal Code Section 4-11.09 (Special Commercial/Industrial Building Provisions), designed to confine emitted light to the parking areas. Parking facilities shall be lighted from sunset until sunrise, daily, and shall be operated by a photocell switch.

(c) The maximum height of luminaires shall be as follows:

(i) When a light source or luminaire has no cutoff (the point at which all light rays are completely shielded), the maximum permitted height of the luminaire shall be 14 FT.

(ii) When a luminaire has a total cutoff of light at an angle of 90 degrees or greater, the maximum permitted height of the luminaire shall be 24 FT.

(iii) When a luminaire has a total cutoff of light at an angle of less than 90 degrees, the maximum permitted height of the luminaire shall be 30 FT.

(d) Unless intended as part of a master lighting program, no operation, activity, or lighting fixture shall create illumination on any adjacent property.

(e) Along pedestrian movement corridors, the use of low mounted bollard light standards, which reinforce pedestrian scale, shall be used. Steps, ramps and seatwalls should be illuminated wherever possible, with built-in light fixtures.

(f) The location of light fixtures should correspond to anticipated use. Lighting of pedestrian movement paths should illuminate changes in grade, path intersections, seating areas and any other uses along the movement path that, if left unlighted, would create an unsafe situation.

(g) Night lighting of buildings is encouraged, but should be accomplished in a selective manner, avoiding overall building illumination that produces an undesirable look. Night lighting of buildings may be used to highlight special building features, emphasize repeated or decorative features, and use the juxtaposition of light and shadow to articulate the building façade.

2.11 Mechanical and Rooftop Equipment.

(a) All exterior roof-mounted mechanical, heating and air conditioning equipment, and all appurtenances thereto, shall be completely screened from public view by parapet walls or roof screens that are architecturally treated so as to be consistent with the building architecture. The plans shall include a cross-section drawing showing how the equipment is to be screened from view (include dimensions, materials, colors, etc.).

(b) All ground-mounted utility equipment and structures, such as tanks, transformers, HVAC equipment, and backflow prevention devices, shall be located out of view from a public street, or adequately screened through the use of landscaping and/or decorative low garden walls.

(c) Rooftop equipment and ground-mounted screening shall be verified at occupancy. Additional screening will be required if determined necessary.

2.12 Architectural Treatment.

(a) Exterior building wall materials, roof types and colors shall be shown on development construction drawings.

(b) Roof access ladders shall be located on the inside of the building.

(c) All building drainage gutters, down spouts, vents, etc., shall be completely concealed from public view or shall be architecturally compatible (decorative) with the exterior building design and color.

(d) All tower elements on the building(s) shall be fully walled and finished on all sides and include detailing appropriate to the architectural style proposed, so as to be a fully three-dimensional, four-sided element of the building, to the satisfaction of the Planning Director. The term "tower elements" means architectural elements of the building that are that are substantially taller than the adjacent parapet wall or roof, as determined by the Planning Director.

(e) At locations where changes in parapet wall height meet, the taller parapet must return into the building for a minimum distance of 6 FT, so that the actual thickness of the parapet wall cannot be observed or readily discerned.

(f) At building corners, where conditions exist that would allow the public to view the back (interior) side of parapet walls resulting from changes in parapet heights, the raised parapet area shall be constructed so as to be a fully three-dimensional, four-sided element of the building, to the satisfaction of the Planning Director.

(g) Colored elevations incorporating required exterior elevation changes shall be provided.

(h) The following architectural changes, detail and other information shall be incorporated into the construction drawings and are subject to City Staff review and approval:

(i) Show deeper recesses on the tilt-up wall panels. The proposed two feet is minimal, considering the scale and length of the building. Please provide plan details of the proposed tilt-up wall recesses and wall offsets including dimensions.

(ii) Show dimension of changes in parapet height on the elevation drawings.

(iii) Provide dimensioned details and elevation on scoring patterns for the tilt-up walls.

(iv) Provide dimension, plan, elevations, material, and color information on the proposed angled awning/cover at the office entries.

- (v) Revise plans to avoid placing downspout locations over glazing.

2.13 Security Standards. The Project shall comply with all applicable requirements of Ontario Municipal Code Title 4 (Public Safety), Chapter 11 (Security Standards for Buildings).

2.14 Signs. All Project signage shall comply with the requirements of Ontario Development Code Division 8.1 (Sign Regulations).

2.15 Sound Attenuation. The Project shall be constructed and operated in a manner so as not to exceed the maximum interior and exterior noised levels set forth in Ontario Municipal Code Title 5 (Public Welfare, Morals, and Conduct), Chapter 29 (Noise).

2.16 Trip Reduction Measures. The Project shall comply with the following trip reduction measures, as applicable:

- (a) Safe and convenient access to bicycle racks shall be provided from public streets. Bicycle racks or other secure bicycle parking, and shower/changing rooms, shall be provided pursuant to current regulations contained in CALGreen (CAC Title 24, Part 11).

- (b) On-site pedestrian walkways shall be provided, which connect each building in a development to bicycle parking facilities (if required) and public streets.

- (c) Passenger loading areas shall be provided pursuant to current regulations contained in CALGreen (CAC Title 24, Part 11).

- (d) Parking spaces reserved for use by carpool/vanpool vehicles shall be provided pursuant to current regulations contained in CALGreen (CAC Title 24, Part 11).

- (e) Transit facilities, such as bus shelters, bus pullouts, and bus pads, shall be provided if the Planning Director, in consultation with local transit providers, determines they are needed to serve the development.

2.17 Environmental Review.

- (a) The environmental impacts of this project were previously reviewed in conjunction with File No. PSP18-001, a Specific Plan for which the Merrill Commerce Center Specific Plan Environmental Impact Report (State Clearinghouse No. 2019049079) was previously adopted by the City Council on 2/2/2021. 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. The previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by this reference.

- (b) MCCSP EIR (State Clearinghouse No. 219049047) Mitigation Measure 4.10.1 – Mitigation for potential impacts to residences and dairy properties at 14651 South Grove Avenue and 8643 West Eucalyptus Avenue shall be provided consistent with City requirements, to include:

- (i) Payment of mitigation fees;

(ii) Provisions of as-built drawings and Historic American Buildings Survey (HABS) photo documentation; and

(iii) Development of Historic Context Reports for significant persons in the dairy farm industry, such as the Borba Family.

(c) The HABS documentation shall be prepared and submitted to the City for review and approval prior to issuance of any building permit.

(d) The Project shall be designed and constructed in compliance with the associated Greenhouse Gas Reduction Measures Screening Table for this Project.

(e) 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).

(f) 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.

2.18 Indemnification. 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.

2.19 Additional Requirements.

(a) The Development Plan is subject to applicable conditions of approval stipulated in Resolution No. PC21-017 (File No. PMTT20-010: Parcel Map No. 20273).

2.20 Additional Fees

(a) The Project shall be subject to the Development Impact Fees and required payment timelines stipulated in the associated Development Agreement (PDA18-004).

(b) Within 5 days following final application approval, the Notice of Determination ("NOD") 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 shall 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 will result in the extension of the statute of limitations for the filing of a CEQA lawsuit from 30 days to 180 days.

(c) After the 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.



**ENGINEERING DEPARTMENT
CONDITIONS OF APPROVAL**

(Engineering Services Division [Land Development Section and Environmental Section], Traffic & Transportation Division, Ontario Municipal Utilities Company and Broadband Operations & Investment and Revenue Resources Department Conditions incorporated)

<input checked="" type="checkbox"/> DEVELOPMENT PLAN <input type="checkbox"/> OTHER	<input type="checkbox"/> PARCEL MAP <input type="checkbox"/> TRACT MAP <input type="checkbox"/> FOR CONDOMINIUM PURPOSES
PROJECT FILE NO. PDEV21-040 RELATED FILE NO(S). PMTT20-010	
<input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> REVISED: __/__/__	

CITY PROJECT ENGINEER & PHONE NO: Miguel Sotomayor, P.E., (909) 395-2108 *MS*

CITY PROJECT PLANNER & PHONE NO: Edmelyne Hutter, AICP, (909) 395-2429

DAB MEETING DATE: May 16, 2022

PROJECT NAME / DESCRIPTION: A Development Plan to construct one industrial building totaling 1,255,320 square feet on 60.7 acres of land located within the industrial land use district of the Merrill Commerce Center Specific Plan zoning district

LOCATION: 4902 S. Baker Avenue

APPLICANT: Prologis-Exchange CA 2009, LLC

REVIEWED BY: *Raymond Lee* *5/13/22*
 Raymond Lee, P.E. Date
 Assistant City Engineer

APPROVED BY: *[Signature]* *5-16-22*
 Khoi Do, P.E. Date
 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. 2017-027) 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, the right-of-way, described below:
 _____ feet on _____
 Property line corner 'cut-back' required at the intersection of _____
 and _____.
- 1.02 Dedicate to the City of Ontario, the following easement(s): _____

- 1.03 Restrict vehicular access to the site as follows: _____
- 1.04 Vacate the following street(s) and/or easement(s):
 A. All interfering on-site easements shall be quitclaimed, vacated, and/or submit non-interference letter from affected owner/utility company.
- 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 For all development occurring south of the Pomona Freeway (60-Freeway) and within the specified boundary limits (per Boundary Map found at <http://tceplumecleanup.com/>), the property developer/owner is made aware of the South Archibald Trichloroethylene (TCE) Plume "Disclosure Letter". Property owner may wish to provide this Letter as part of the Real Estate Transfer Disclosure requirements under California Civil Code Section 1102 et seq. This may include notifications in the Covenants, Conditions and Restrictions (CC&Rs) or other documents related to property transfer and disclosures. Additional information on the plume is available from the Santa Ana Regional Water Quality Control Board at http://geotracker.waterboards.ca.gov/profile_report?global_id=T10000004658.
- 1.08 File an application for Reapportionment of Assessment, together with payment of a reapportionment processing fee, for each existing assessment district listed below. Contact the Financial Services Department at (909) 395-2124 regarding this requirement.
 (1) _____
 (2) _____
- 1.09 Prepare a fully executed Subdivision Agreement (on City approved format and forms) with



accompanying security as required, or complete all public improvements.

- 1.10 Provide a monument bond (i.e. cash deposit) in an amount calculated by the City's approved cost estimate spreadsheet (available for download on the City's website: www.ci.ontario.ca.us) or as specified in writing by the applicant's Registered Engineer or Licensed Land Surveyor of Record and approved by the City Engineer, whichever is greater.
- 1.11 Provide a preliminary title report current to within 30 days.
- 1.12 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 Investment and Revenue Resources at (909) 395-2341 to initiate the CFD application process.
- 1.13 Ontario Ranch 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).
- 1.14 Other conditions: _____

2. PRIOR TO ISSUANCE OF ANY PERMITS, APPLICANT SHALL:

**A. GENERAL
 (Permits includes Grading, Building, Demolition and Encroachment)**

- 2.01 Record Parcel Map/Tract Map No. _____ pursuant to the Subdivision Map Act and in accordance with the City of Ontario Municipal Code.
- 2.02 Submit a PDF of the recorded map to the City Engineer's office.
- 2.03 **Note that the subject parcels are recognized parcels in the City of Ontario Per PM-20273.**
- 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 March 4, 1972.
- 2.05 **Apply for a:**
 - Certificate of Compliance with a Record of Survey;
 - Lot Line Adjustment (Record a Conforming Deed with the County of San Bernardino within six months of the recordation of the Lot Line Adjustment to conform the new LLA legal description. Submit a copy of the recorded Conforming Deed to the Engineering Department.);**
 - 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 For all development occurring south of the Pomona Freeway (60-Freeway) and within the specified boundary limits (per Boundary Map found at <http://tceplumecleanup.com/>), the property developer/owner is made aware of the South Archibald Trichloroethylene (TCE) Plume "Disclosure Letter". Property owner may wish to provide this Letter as part of the Real Estate Transfer Disclosure requirements under California Civil Code Section 1102 et seq. This may include notifications in the Covenants, Conditions and Restrictions (CC&Rs) or other documents related to property transfer and disclosures. Additional information on the plume is available from the Santa Ana Regional Water Quality Control Board at http://geotracker.waterboards.ca.gov/profile_report?global_id=T10000004658.
- 2.08 Submit a soils/geology report.
- 2.09 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: _____
- 2.10 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 _____.
- 2.11 Dedicate to the City of Ontario the following easement(s): _____
- 2.12 Vacate the following street(s) and/or easement(s):
 - A. All interfering on-site easements shall be quitclaimed, vacated, and/or submit non-interference letter from affected owner/utility company.
- 2.13 Ontario Ranch 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.

2.14 Submit a security deposit to the Engineering Department to guarantee construction of the public improvements required herein valued at 100% of the approved construction cost estimate. 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.

2.15 The applicant/developer shall submit all necessary survey documents prepared by a Licensed Surveyor registered in the State of California detailing all existing survey monuments in and around the project site. These documents are to be reviewed and approved by the City Survey Office.

2.16 Pay all Development Impact Fees (DIF) to the Building Department. Storm Drain Development Impact Fee, approximately \$2,430,307.00, shall be paid to the Building Department. Final fee shall be determined based on the approved site plan.

2.17 Other conditions:

- a. Submit a Final Utilities Systems Map (USM) as part of the precise grading plan submittal that meets all the City's USM requirements. These requirements include to show and label all existing and proposed utilities (including all appurtenances such as backflow devices, DCDAs, etc.), sizes, points of connection, and any easements. The final utility design shall comply with all Division of Drinking Water (CCR §64572) Separation Requirements. See *Utility Systems Map (USM) Requirements* document for details.
- b. The applicant/developer shall be responsible to acquire all necessary right-of-way and approvals to construct the required public improvements.
- c. All interfering on-site easements shall be quitclaimed, vacated, and/or submit a non-interference letter from affected owner/utility company.



B. PUBLIC IMPROVEMENTS
 (See attached Exhibit 'A' for plan check submittal requirements.)

- 2.17 Design and construct full public improvements in accordance with the City of Ontario Municipal Code, current City standards and specifications, master plans and the adopted specific plan for the area, if any. These public improvements shall include, but not be limited to, the following (checked boxes):

Improvement	Merrill Avenue	Walker Avenue	Baker Avenue	Eucalyptus Avenue
Curb and Gutter	<input checked="" type="checkbox"/> New; 42 ft. North of C/L <input type="checkbox"/> Replace damaged <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New; 32 ft. from C/L both sides <input type="checkbox"/> Replace damaged <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New; 24 ft. from C/L both sides <input type="checkbox"/> Replace damaged <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New; 42 ft. South of C/L <input type="checkbox"/> Replace damaged <input type="checkbox"/> Remove and replace
AC Pavement (see Sec. 2.37)	<input checked="" type="checkbox"/> Replacement <input checked="" type="checkbox"/> Widen 40 ft. from C/L north, including pavement transitions	<input type="checkbox"/> Replacement <input checked="" type="checkbox"/> Widen 30 ft. from C/L both sides	<input type="checkbox"/> Replacement <input checked="" type="checkbox"/> Widen 20 ft. from C/L both sides along frontage	<input type="checkbox"/> Replacement <input checked="" type="checkbox"/> Widen 40 ft. from C/L south along frontage, including pavement Transitions
PCC Pavement (Truck Route Only)^(a)	<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	<input type="checkbox"/> New <input type="checkbox"/> Modify existing
Drive Approach	<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
Sidewalk	<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
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 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 / Upgrade <input type="checkbox"/> Relocation	<input checked="" type="checkbox"/> New / Upgrade <input type="checkbox"/> Relocation	<input checked="" type="checkbox"/> New / Upgrade <input type="checkbox"/> Relocation	<input checked="" type="checkbox"/> New / Upgrade <input type="checkbox"/> Relocation



Improvement	Merrill Avenue	Walker Avenue	Baker Avenue	Eucalyptus Avenue
Sewer (see Sec. 2.C)	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral
Water (see Sec. 2.D)	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral
Recycled Water (see Sec. 2.E)	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral
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 checked="" 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 / Upgrade <input type="checkbox"/> Relocation	<input checked="" type="checkbox"/> New / Upgrade <input type="checkbox"/> Relocation	<input checked="" type="checkbox"/> New / Upgrade <input type="checkbox"/> Relocation	<input checked="" type="checkbox"/> New / Upgrade <input type="checkbox"/> Relocation
Bus Stop Pad or Turn-out (see Sec. 2.F)	<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
Storm Drain (see Sec. 2G)	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral
Fiber Optics (see Sec. 2K)	<input checked="" type="checkbox"/> Conduit / Appurtenances	<input checked="" type="checkbox"/> Conduit / Appurtenances	<input checked="" type="checkbox"/> Conduit / Appurtenances	<input checked="" type="checkbox"/> Conduit / Appurtenances
Overhead Utilities	<input checked="" type="checkbox"/> Underground <input type="checkbox"/> Relocate	<input checked="" type="checkbox"/> Underground <input type="checkbox"/> Relocate	<input checked="" type="checkbox"/> Underground <input type="checkbox"/> Relocate	<input checked="" type="checkbox"/> Underground <input type="checkbox"/> Relocate
Removal of Improvements	_____	_____	_____	_____
Other Improvements	_____	_____	_____	_____

Specific notes for improvements listed in item no. 2.17, above:

- a. PCC pavement shall be constructed along signalized intersections per City Standards.

2.18 Construct a 2" asphalt concrete (AC) grind and overlay on the following street(s): _____



- 2.19 Reconstruction of the full pavement structural section, per City of Ontario Standard Drawing number 1011, may be required based on the existing pavement condition and final street design. Minimum limits of reconstruction shall be along property frontage, from street centerline to curb/gutter.
- 2.20 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.
- 2.21 **Overhead utilities shall be under-grounded, in accordance with Title 7 of the City's Municipal Code (Ordinance No. 2804 and 2892).**
- 2.22 Other conditions: _____

C. SEWER

- 2.23 A _____ inch sewer main is available for connection by this project in _____ (Ref: Sewer plan bar code: _____)
- 2.24 Design and construct a sewer main extension. A sewer main is not available for direct connection. The closest main is approximately _____ feet away.
- 2.25 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.
- 2.26 **Other conditions:**

**Changes have been made to the required sewer infrastructure. Sewer infrastructure conditions superseding previous conditions are as follows:
(Please contact OMUC for further information)**

- a. **Install a Master Plan 20-inch Sewer main in Walker Avenue between Eucalyptus Avenue and Merrill Avenue.**
- b. **Install a Master Plan 30-inch Sewer main in Merrill Avenue between Walker Avenue and Grove Avenue.**
- c. **Install a Master Plan 20-inch Sewer main in Grove Avenue between Eucalyptus Avenue and Merrill Avenue.**
- d. **Install an 18-inch Sewer main in Baker Avenue from Eucalyptus Avenue to Merrill Avenue.**
- e. **Install a 12-inch Sewer main in Eucalyptus Avenue from west of Walker Avenue (Parco Avenue) to Grove Avenue.**
- f. **Install an 18-inch Sewer main in Merrill Avenue between Baker Avenue and Walker Avenue.**

D. WATER

- 2.27 A _____ inch water main is available for connection by this project in _____ (Ref: Water plan bar code: _____)
- 2.28 Design and construct a water main extension. A water main is not available for direct connection. The closest main is approximately _____ feet away.



- 2.29 Other conditions:**
- a. **The Applicant/Developer shall comply with the requirements specified in the Merrill Commerce Center Specific Plan, the Development Agreement (PDA18-004), and the Conditions of Approval for TPM-20273.**

E. RECYCLED WATER

- 2.30 A _____ inch recycled water main is available for connection by this project in _____.
(Ref: Recycled Water plan bar code:_____)
- 2.31 Design and construct an on-site recycled water system for this project. A recycled water main does exist in the vicinity of this project.
- 2.32 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. If Applicant would like to connect to this recycled water main when it becomes available, the cost for the connection shall be borne solely by the Applicant.
- 2.33 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.

- 2.34 Other conditions:**
- a. **The applicant/developer shall comply with the requirements specified in the Merrill Commerce Center Specific Plan, the Development Agreement (PDA18-004), and the Conditions of Approval for TPM-20273.**

F. TRAFFIC / TRANSPORTATION

- 2.35 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
- 2.36 New traffic signal installations shall be added to Southern California Edison (SCE) customer account number # 2-20-044-3877.
- 2.37 Other conditions:**
- a. **The applicant/developer shall be responsible to design and construct the following streets to their ultimate half-width including additional pavement for circulation lanes and graded shoulder (where applicable) beyond the centerline of the roadway along the project frontage and limits provided below:**
- i. **Merrill Avenue from Baker Ave to Grove Ave**
 - **If at the time of development of PDEV21-040, Ontario Ranch Business Park Specific Plan and/or South Ontario Logistics Business Center Specific Plan has not constructed Merrill Avenue improvements, PDEV21-040 shall also be responsible to construct half-width street improvements on Merrill Avenue including additional pavement for circulation lanes and graded shoulder (where applicable) beyond the centerline of the roadway from Grove Avenue to Euclid Avenue, including a traffic signal modification at Merrill Avenue and Euclid Avenue.**



ii. Eucalyptus Avenue from Baker Ave to Grove Ave

Additional R/W shall be provided to accommodate additional left turn and right turn lanes at intersections based on required queue lengths per the Merrill Commerce Center Specific Plan TIA by Urban Crossroads. Improvements shall include, but not be limited to concrete curb and gutter, sidewalk, LED street lights, landscaped parkways, signing & striping, and necessary pavement transitions.

- b. The applicant/developer shall be responsible to design and construct the following streets to their ultimate full-width including additional pavement for circulation lanes and graded shoulder (where applicable) beyond the centerline of the roadway along the project frontage and limits provided below:
 - i. Baker Avenue from Merrill Ave to Eucalyptus Ave
 - ii. Walker Avenue from Merrill Ave to Ontario Ranch Rd.

Additional R/W shall be provided to accommodate additional left turn and right turn lanes at intersections based on required queue lengths per the Merrill Commerce Center Specific Plan TIA by Urban Crossroads. Improvements shall include, but not be limited to concrete curb and gutter, sidewalk, LED street lights, landscaped parkways, signing & striping, and necessary pavement transitions.

- c. The applicant/developer shall be responsible to design and construct the necessary pavement and striping transitions from existing roadway conditions to the widened roadway portions along all project frontages. Striping improvements shall include the removal existing interim signing and striping beyond the project frontage limits and the installation of ultimate signing and striping necessary to accommodate fully widened street improvements.
- d. The applicant/developer shall be responsible to design and construct traffic signals at the following intersections:
 - a) Merrill Avenue at Baker Avenue
 - b) Merrill Avenue at Walker Avenue
 - c) Eucalyptus Avenue at Baker Avenue
 - d) Eucalyptus Avenue at Walker Avenue
 - e) Borba Street (Street "A") at Walker Avenue

The new traffic signal shall include video detection, fiber optic communication conduit, cable and equipment, 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, unless precluded by right-of-way limitations.

- e. The applicant/developer shall be responsible to design and construct street improvements along property frontage in accordance with conditions issued by City's Land Development Division. These, and all other street improvements required herein, shall include, but not be limited to, concrete curb and gutter, sidewalk, LED street lights, signing and striping, and parkway landscaping.
- f. Design and construct proposed driveways in accordance with City of Ontario Standard Drawing No. 1204 for Commercial Driveway along Eucalyptus Avenue, Walker Avenue, Merrill Avenue, and Baker Avenue.
- g. Property frontage along Eucalyptus Avenue, Walker Avenue, Merrill Avenue, and Baker Avenue shall be signed "No Parking Anytime".
- h. The applicant/developer shall be responsible to design and construct in-fill public street lights and a potential new service along its project frontage on Eucalyptus Avenue, Walker Avenue, Merrill Avenue, and Baker Avenue. Street lighting shall be LED-type and in accordance with City's Traffic and Transportation Design Guidelines.



- i. **The applicant/developer's engineer-of-record shall meet with City Engineering staff prior to designing and submitting for plan check the traffic signal, starting signing/stripping and street lighting design plans to define limits of improvements.**

G. DRAINAGE / HYDROLOGY

- 2.38 A _____ inch storm drain main is available to accept flows from this project in _____. (Ref: Storm Drain plan bar code:_____)
- 2.39 **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.**
- 2.40 An adequate drainage facility to accept additional runoff from the site does not currently exist downstream of the project. Design and construct a storm water detention facility on the project site. 100 year post-development peak flow shall be attenuated such that it does not exceed 80% of pre-development peak flows, in accordance with the approved hydrology study and improvement plans.
- 2.41 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.
- 2.42 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.
- 2.43 **Other conditions:**
- a. **Design and construct the following storm drain improvements in accordance with the Development Agreement and as outlined below:**
- i. **13'x 8' RCB on Eucalyptus Avenue from east of Walker Avenue to Vineyard Avenue**
 - ii. **13'x 8' RCB on Vineyard Avenue from Eucalyptus Avenue to Merrill Avenue**
 - iii. **36" RCP on Baker Avenue from south of Eucalyptus Avenue to Merrill Avenue**
 - iv. **Double 5' x 3' RCB on Walker Avenue from E. Borba Street to Merrill Avenue**
 - v. **Double 9' x 5' – 9' x 7' RCB on Merrill Avenue from west of Walker Avenue to Baker Avenue**
 - vi. **Double 9'x 9' RCB on Merrill Avenue from Baker Avenue to Vineyard Avenue**
 - vii. **Double 12'x10' RCB on Merrill Avenue from Vineyard Avenue to the point of connection west of Carpenter Avenue on Merrill Avenue**
- b. **The applicant/developer shall mitigate the historical drainage from the properties to the north of PDEV21-040. Design shall be to the satisfaction of the City Engineer.**



H. STORM WATER QUALITY / NATIONAL POLLUTANT DISCHARGE AND ELIMINATION SYSTEM (NPDES)

- 2.44 401 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.
- 2.45 **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>.**
- 2.46 **Design and construct a Connector Pipe Trash Screen or equivalent Trash Treatment Control Device, per catch basin located within or accepting flows tributary of a Priority Land Use (PLU) area that meets the Full Capture System definition and specifications, and is on the Certified List of the State Water Resources Control Board. The device shall be adequately sized per catch basin and include a deflector screen with vector control access for abatement application, vertical support bars, and removable component to facilitate maintenance and cleaning.**
- 2.47 Other conditions: _____

J. SPECIAL DISTRICTS

- 2.48 **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 Investment and Revenue Resources at (909) 395-2341 to initiate the CFD application process.**
- 2.49 Other conditions: _____

K. FIBER OPTIC

- 2.50 A _____ fiber optic line is available for connection by this project in _____.
(Ref: Fiber Optic plan bar code: _____)
- 2.51 **Design and construct fiber optic system to provide access to the City's conduit and fiber optic system per the City's Fiber Optic Master Plan. Building entrance conduits shall start from the closest OntarioNet hand hole constructed along the project frontage in the ROW and shall terminate in the main telecommunications room for each building. Conduit infrastructure shall interconnect with the primary and/or secondary backbone fiber optic conduit system at the nearest OntarioNet hand hole. Construct all Fiber Optic Improvements included in the Development Agreement (DA18-004), Exhibit F-6, Phase A and B. Final limits and layout shall be determined during plan check.**
- 2.52 **Refer to the City's Fiber Optic Master Plan for design and layout guidelines. Contact the Broadband Operations Department at (909) 395-2000, regarding this requirement.**



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 The applicant/developer shall submit all final survey documents prepared by a Licensed Surveyor registered in the State of California detailing all survey monuments that have been preserved, revised, adjusted or set along with any maps, corner records or Records of Survey needed to comply with these Conditions of Approvals and the latest edition of the California Professional Land Survey Act. These documents are to be reviewed and approved by the City Survey Office.
- 3.04 Ontario Ranch Projects: For developments located at an intersection of any two collector or arterial streets, the applicant/developer shall set a monument if one does not already exist at that intersection. Contact the City Survey office for information on reference benchmarks, acceptable methodology and required submittals.
- 3.05 Confirm payment of all Development Impact Fees (DIF) to the Building Department.
- 3.06 Submit electronic copies (PDF and Auto CAD format) of all approved improvement plans, studies and reports (i.e. hydrology, traffic, WQMP, etc.).

4. PRIOR TO FINAL ACCEPTANCE, APPLICANT SHALL:

- 4.01 Complete all Conditions of Approval listed under Sections 1-3 above.
- 4.02 Pay all outstanding fees pursuant to the City of Ontario Municipal Code, including but not limited to, plan check fees, inspection fees and Development Impact Fees.
- 4.03 The applicant/developer shall submit a written request for the City's final acceptance of the project addressed to the City Project Engineer. The request shall include a completed Acceptance and Bond Release Checklist, state that all Conditions of Approval have been completed and shall be signed by the applicant/developer. Upon receipt of the request, review of the request shall be a minimum of 10 business days. Conditions of Approval that are deemed incomplete by the City will cause delays in the acceptance process.
- 4.04 Submit record drawings (PDF) for all public improvements identified within Section 2 of these Conditions of Approval.



EXHIBIT 'A'

ENGINEERING DEPARTMENT First Plan Check Submittal Checklist

Project Number: **PDEV21-040**

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. **Include a PDF (electronic submittal) of each required improvement plan at every submittal.**
6. **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).**
7. **Three (3) sets of Public 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 Fiber Optic plan (include Auto CAD electronic submittal)**
15. **Three (3) sets of Dry Utility plans within public right-of-way (at a minimum the plans must show existing and ultimate right-of-way, curb and gutter, proposed utility location including centerline dimensions, wall to wall clearances between proposed utility and adjacent public line, street work repaired per Standard Drawing No. 1306. Include Auto CAD electronic submittal)**
16. **Three (3) sets of Traffic Signal improvement plan and One (1) copy of Traffic Signal Specifications with modified Special Provisions. Please contact the Traffic Division at (909) 395-2154 to obtain Traffic Signal Specifications.**
17. **Two (2) copies of Water Quality Management Plan (WQMP), including one (1) copy of the approved Preliminary WQMP (PWQMP).**
18. **One (1) copy of Hydrology/Drainage study**
19. **One (1) copy of Soils/Geology report**
20. **Payment for Final Map/Parcel Map processing fee**



21. Three (3) copies of Final Map/Parcel Map
22. One (1) copy of approved Tentative Map
23. One (1) copy of Preliminary Title Report (current within 30 days)
24. One (1) copy of Traverse Closure Calculations
25. 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.
26. **Two (2) copies of Engineering Report and an electronic file (include PDF format electronic submittal) for recycled water use**
27. **Other:**
 - a. **Lot Line Adjustment**

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

CONDITIONS OF APPROVAL

Sign Off



05/03/2022

Jamie Richardson, Sr. Landscape Planner

Date

Reviewer's Name:

Jamie Richardson, Sr. Landscape Planner

Phone:

(909) 395-2615

D.A.B. File No.:
 PDEV21-040

Case Planner:
 Edmelynn Hutter

Project Name and Location:

Industrial Building
 4902 S Baker Ave

Applicant/Representative:

Prologis, L.P. – HPA Jaime@hpaarchs.com (949) 862-2110
 18831 Bardeen Avenue, Suite 100
 Irvine, CA 92612



Preliminary Plans (dated 4/25/2022) meet the Standard Conditions for New Development and have been approved considering that the following conditions below be met upon submittal of the landscape construction documents.



Preliminary Plans (dated) have not been approved. Corrections noted below are required before Preliminary Landscape Plan approval.

A RESPONSE SHEET IS REQUIRED WITH RESUBMITTAL OR PLANS WILL BE RETURNED AS INCOMPLETE.

Landscape construction plans with plan check number may be emailed to:
landscapeplancheck@ontarioca.gov

PREVIOUS COMMENTS (Clarifications provide in red)

1. Show and identify any on-site stormwater infiltration areas or stormwater infiltration devices proposed in parkways or other landscape areas. **Locate the underground infiltration systems away from landscape areas; reconfigure so they are designed under parking areas and move around island and landscape planters.**
2. Show or note transformers shall be in planter areas and set back 3' from paving for small transformers less than 4' high and 5' setback for large transformers greater than 4' high. Locate on level grade. Coordinate with landscape plans. **Show locations on both civil and landscape plans and add notes and dimensions.**
3. Show or note backflow devices shall be in planter areas and set back min 3' from paving. Locate on level grade. Coordinate with landscape plans. **Show locations on both civil and landscape plans and add notes and dimensions.**
4. Wall footings shall not restrict landscape; max 12" in front of footing with 12" of cover. **Condition.**
5. Show on plans step-outs at parking spaces adjacent to planters; 12" wide monolithic curb, 12" compacted decomposed granite or pavers adjacent to the 6" curb. **Provide detail.**
6. Provide an outdoor employee area with places to sit and shade trees or structures. **Show on plans.**
7. Provide a tree inventory for existing trees, including genus, species, trunk diameter, canopy width, and condition. Show and note existing trees in good condition to remain and note trees proposed to be removed. Include existing trees within 15' of adjacent property affected by new walls, footings, or on-site tree planting. Add tree protection notes on construction and demo plans. Aerial photographs identify an existing windrow that will need to be included in the inventory. **Submit inventory; this inventory will include any existing windrows or trees within 15' of the property. Recent site inspections have identified that the trees have been removed. Please forward the arborist report. If an arborist report was not prepared as required, we will need to discuss mitigation measures based on aerial and site photographs; coordinate with a certified arborist or the landscape architect. Replacement and mitigation for removed trees shall be equal to the trunk diameter of heritage trees**

removed per the Development Code Tree Preservation Policy and Protection Measures, section 6.05.020.

8. Add notes for any tree removal to occur outside of typical nesting season (February 1 through August 31) or per the specific plan EIR mitigation Measures. **Condition.**
9. Replacement and mitigation for removed trees shall equal the trunk diameter of heritage trees removed per the Development Code Tree Preservation Policy and Protection Measures, section 6.05.020. Show on demo plans and landscape construction plans trees to be preserved, removed or mitigation measures for trees removed, such as: **Condition.**
 - a. New 15 gallon trees min 1" diameter trunk, in addition to trees required.
 - b. New 24" box trees min 1.5" diameter trunk, in addition to trees required.
 - c. Upsizing trees on the plan one size larger such as 15 gallon to 24" box, or 24" to 36" box size.
 - d. Monetary value of the trees removed as identified in the "Guide for Plant Appraisal," approved certified arborist plant appraiser, or may be equal to the value of the installation cost of planting, fertilizing, staking, and irrigating 15-gallon trees (100\$ each) to the City of Ontario Historic Preservation Fund for city tree planting or city approved combination of the above items.
10. Show corner ramp and sidewalk per city standard drawing 1213 with max 10' or 13' of ramp and sidewalk behind corners. **Remove the expanse of concrete at corners; maximum 4' behind the ramp.**

Landscape Plans

11. Provide an arborist report and tree inventory as noted in #8 & 10. **Submit inventory; this inventory will include any existing windrows or trees within 15' of the property. Recent site inspections have identified that the trees have been removed. Please forward the arborist report. If an arborist report was not prepared as required, we will need to discuss mitigation measures based on aerial and site photographs; coordinate with a certified arborist or the landscape architect. Replacement and mitigation for removed trees shall be equal to the trunk diameter of heritage trees removed per the Development Code Tree Preservation Policy and Protection Measures, section 6.05.020.**
12. Landscape plans for offsite improvements shall be submitted to the Engineering Department.
13. Show corner ramp and sidewalk per city standard drawing 1213. **Remove the expanse of concrete at corners; maximum 4' behind the ramp.**
14. Show accessible route from the public sidewalk, accessible path to employee break area, and accessible path to adjacent industrial buildings within the same development. Include required accessible parking spaces and access aisles. **Show accessible routes.**
15. Show outdoor employee break area with table or bench and shade trees on the south and west sides. **Show the outdoor area and accessible access.**
16. After a project's entitlement approval, the applicant shall pay all applicable fees for landscape plan check and inspections at a rate established by resolution of the City Council. Landscape construction plans with building permit number for plan check may be emailed to: landscapeplancheck@ontarioca.gov



CITY OF ONTARIO

MEMORANDUM

TO: Edmelynn Hutter, Senior Planner
Planning Department

FROM: Paul Ehrman, Sr. Deputy Fire Chief/Fire Marshal
Fire Department

DATE: November 22, 2021

SUBJECT: PDEV21-040 - A Development Plan to construct one industrial building totaling 1,255,320 square feet on 60.7 acres of land locate at 4902 S. Baker Avenue, within the industrial land use district of the Merrill Commerce Center Specific Plan (MCCSP) zoning district. (APNs: 1054-151-01, 1054-151-02, 1054-201-01, 1054-201-02, 1054-351-01, 1054-351-02). Related File No. PMTT20-010.

-
- The plan **does** adequately address Fire Department requirements at this time.
- Standard Conditions of Approval apply, as stated below.

SITE AND BUILDING FEATURES:

- A. 2019 CBC Type of Construction: Type II B
- B. Type of Roof Materials: Panelized
- C. Ground Floor Area(s): 1,240,320 Sq. Ft.
- D. Number of Stories: 1 w/ Mezzanine
- E. Total Square Footage: 1,255,320 Sq. Ft.
- F. 2019 CBC Occupancy Classification(s): S

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.ontarioca.gov/Fire/Prevention.
- ☒ 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-four (24) 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.
- ☒ 2.7 Any time PRIOR to on-site combustible construction and/or storage, a minimum twenty-four (24) ft. wide circulating all weather access roads shall be provided to within 150 ft. of all portions of the exterior walls of the first story of any building, unless specifically approved by fire department and other emergency services.

3.0 WATER SUPPLY

- ☒ 3.1 The required fire flow per Fire Department standards, based on the 2019 California Fire Code, Appendix B, is 4000 gallons per minute (g.p.m.) for 4 hours at a minimum of 20 pounds per square inch (p.s.i.) residual operating pressure.
- ☒ 3.2 Off-site (public) 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 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

- ☒ 4.2 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. 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.
- ☒ 4.5 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.
- ☒ 4.6 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.
- ☒ 4.7 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.

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 6.06 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 6.06 of the Ontario Municipal Code and Standard #H-003.
- ☒ 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.

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: Edmelyne Hutter, Senior Planner

FROM: Officer Tony Galban, Police Department

DATE: November 10, 2021

SUBJECT: PDEV21-040 - A DEVELOPMENT PLAN TO CONSTRUCT ONE INDUSTRIAL BUILDING TOTALING 1,255,320 SQUARE FEET, LOCATED AT 4902 SOUTH BAKER AVENUE.

The “Standard Conditions of Approval” contained in Resolution No. 2017-027 apply. The applicant shall read and be thoroughly familiar with these conditions, including, but not limited to, the requirements below.

- Required lighting for all walkways, driveways, doorways, parking lots, hallways and other areas used by the public shall be provided. Lights shall operate via photosensor. Photometrics shall be provided to the Police Department and include the types of fixtures proposed and demonstrate that such fixtures meet the vandal-resistant requirement. Planned landscaping shall not obstruct lighting.
- Rooftop addresses shall be installed on the buildings as stated in the Standard Conditions. The numbers shall be at a minimum 6 feet tall and 2 foot wide, in reflective white paint on a flat black background, and oriented with the bottom of the numbers towards the addressed street. Associated letters shall also be included.
- First floor common stairwells shall be constructed to either allow for visibility through the stairwell risers or to prohibit public access to the areas behind stairwells
- The Applicant shall comply with construction site security requirements as stated in the Standard Conditions.

The Applicant is invited to contact Officer Tony Galban at (909) 408-1006 with any questions or concerns regarding these conditions.

AIRPORT LAND USE COMPATIBILITY PLANNING

CONSISTENCY DETERMINATION REPORT



Project File No.: PDEV21-040

Address: NEC Merrill Avenue & Walker Avenue

APN: 1054-151-01, 02, 1054-201-01, 02 & 1054-351-01,02

Existing Land Use: Vacant/Mass Graded

Proposed Land Use: Development Plan to construct a 1,255,320 SF industrial building

Site Acreage: 60.7 Proposed Structure Height: 51 FT

ONT-IAC Project Review: n/a

Airport Influence Area: ONT & Chino

Reviewed By: Lorena Mejia

Contact Info: 909-395-2276

Project Planner: Edmelyne Hutter

Date: 5/12/2022

CD No.: 2021-062 Rev. 1

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

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

Zone 1
 Zone 2
 Zone 3
 Zone 4
 Zone 5
 Zone 6

Allowable Height: 145 - 120 FT

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 policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for ONT.

The project is located within Safety Zones 4 and 6 of the Chino Airport Influence Area, and is consistent with policies and criteria set forth within the 2011 California Airport Land Use Planning Handbook published by the California Department of Transportation, Division of Aeronautics. See attached Conditions

Airport Planner Signature: _____

AIRPORT LAND USE COMPATIBILITY PLANNING

CONSISTENCY DETERMINATION REPORT

CD No.: 2021-062

PALU No.: _____

PROJECT CONDITIONS

1. The project will need to provide a minimum of 6.18 of open land and 7.97 acres of open land has been provided.
2. The attached open land exhibit identifies the interior truck yard as an acceptable location for meeting the open land requirements. The area within the truck yard designated for open land shall be remain free of permanent structures and other major obstacles such as walls, large trees or poles (greater than 4 inches in diameter, measured 4 feet above the ground), and overhead wires.
3. Project is located within Safety Zone 4 and 6 and above ground storage of hazardous materials greater than 6,000 gallons is not allowed.
4. The project site is located within an area where 120-145 foot building heights are allowed. Allowable building heights gradually decrease from the southwest to the northeast corner of the project site. Given its close proximity to Chino Airport the applicant will be required to file for an FAA Obstruction Evaluation/Airport Airspace Analysis (FAA Form 7460-1) for any temporary construction equipment such as cranes and receive a Determination of No Hazard for any temporary structures/objects that are over 100 feet in height.
5. The planting palette will need to include tree species that will not grow to a mature height that would create future hazards to aircraft in flight and shall have a mature height of no more than 120 feet in height.
6. Attached is the land use intensity calculation for the proposed building. Future land uses that deviate from what is currently being approved must meet the policies and criteria of the 2011 California Airport Land Use Planning Handbook published by the California Department of Transportation, Division of Aeronautics.

Intensity Calculations for PDEV21-040

Intensity Calculations								
				Load Factors	Sitewide Average Calculations (Zone 4 = 150 P/AC max)	Sitewide Average Calculations (Zone 6= 300 P/AC max)	Zone 4 Single Acre Land Use SF (Zone 4 = 450 P/AC max)	Single Acre Intensity Calculations (Zone 6 = 1,200 P/AC max)
Building No.	Proposed Land Use	Zone 4 Land Use SF	Zone 6 Land Use SF	ALUCP Load Factor	ALUCP Load Factor	ALUCP Load Factor		ALUCP Load Factor
Building 7	Warehouse	4,959	1,235,361	1,000	5	1235	4.96	40
Building 7	Office	12,924	2,076	215	60	10	60	17
Totals					20	21.7	65	57
Site Information								
Safety Zone	Acreage	Square Footage						
Zone 4	3.22	140,263						
Zone 6	57.48	2,503,829						
Totals	60.7	2,644,092						
Sitewide Average Calculation				Single Acre Intensity Calculation				
Safety Zone 4 = 20 Safety Zone 6 = 22				Safety Zone 4 = 65 Safety Zone 6 = 57				
<hr/>								

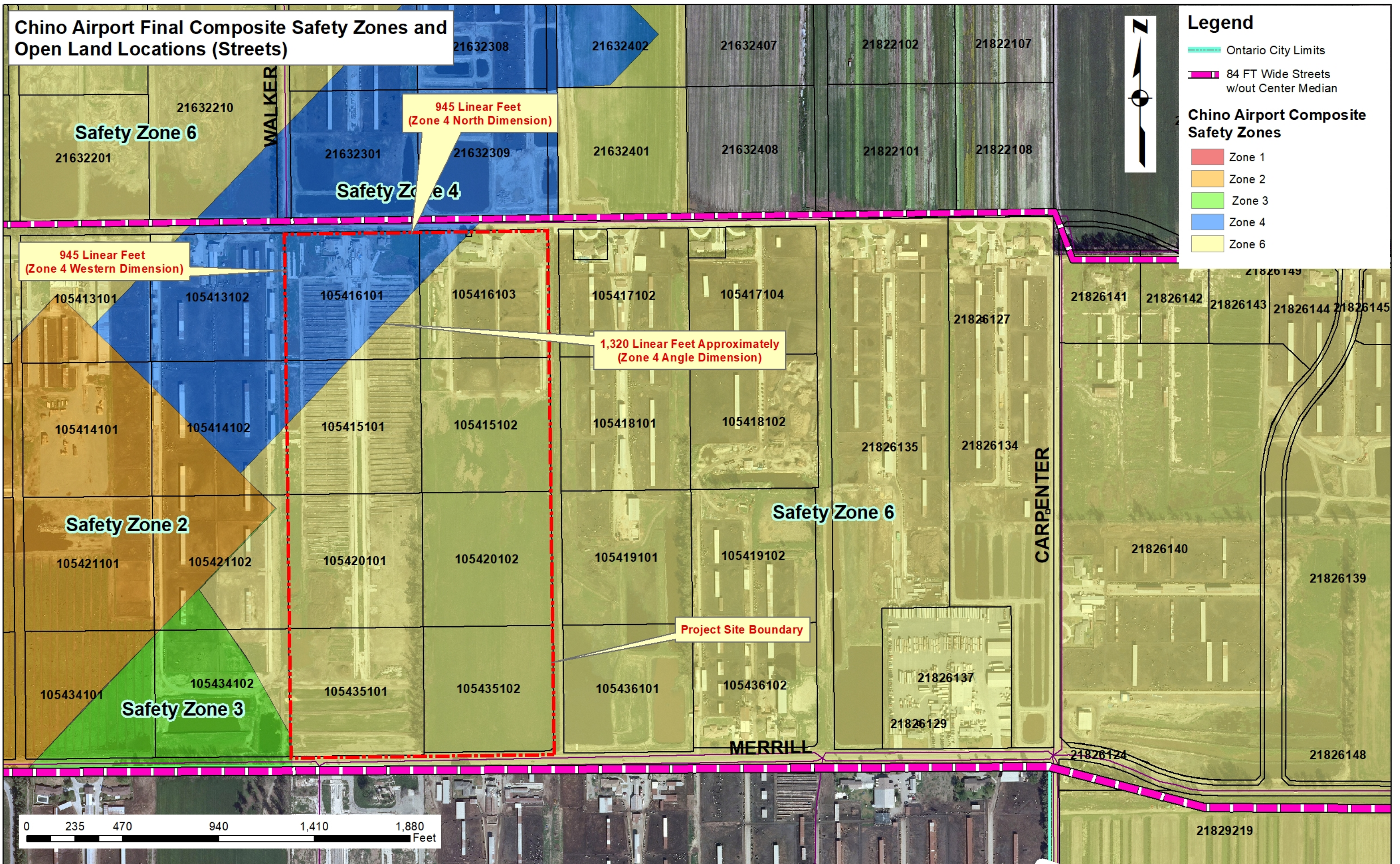
Chino Airport Final Composite Safety Zones and Open Land Locations (Streets)

Legend

- Ontario City Limits
- 84 FT Wide Streets w/out Center Median

Chino Airport Composite Safety Zones

- Zone 1
- Zone 2
- Zone 3
- Zone 4
- Zone 6



FILE NOS: PMTT22-007 & PDEV22-002

SUBJECT: A hearing to consider: (1) Tentative Parcel Map No. 20537 (File No. PMTT22-007), subdividing 119.94 acres of land into three parcels; and (2) a Development Plan (File No. PDEV22-002) to construct two industrial buildings totaling 2,237,458 square feet on 119.94 acres of land located at the northeast corner of Merrill Avenue and Grove Avenue, within PA-1 and PA-2 of the Industrial land use district of the Merrill Commerce Center Specific Plan; (APNs: 1054-111-03, 1054-141-03, 1054-221-03, 1054-331-03, and 1054-331-04) **submitted by Prologis LP.**

PROPERTY OWNER: Prologis LP.

RECOMMENDED ACTION: That the Planning Commission consider and approve File Nos. PMTT22-007 and PDEV22-002, pursuant to the facts and reasons contained in the staff report and attached resolutions, and subject to the conditions of approval contained in the attached departmental reports.

PROJECT SETTING: The project site is comprised of 119.94 acres of land located at the northeast corner of Merrill and Grove Avenues, within the Merrill Commerce Center Specific Plan, and is depicted in Figure 1: Project Location, below. The property to the north of the Project site is within the Merrill Commerce Center Specific Plan and is currently vacant and designated for Industrial uses. The property to the east is within the Merrill Commerce Center Specific Plan and proposed for construction with a warehouse/distribution project that is proposed under a separate Development Plan application. The property to the south is within the City of Chino and developed with industrial buildings and agriculture uses. The property to the west is within the South Ontario Logistics Center Specific Plan and is currently used as an agricultural dairy. The existing surrounding land uses, zoning, and general plan and specific plan land use designations are summarized in the "Surrounding Zoning

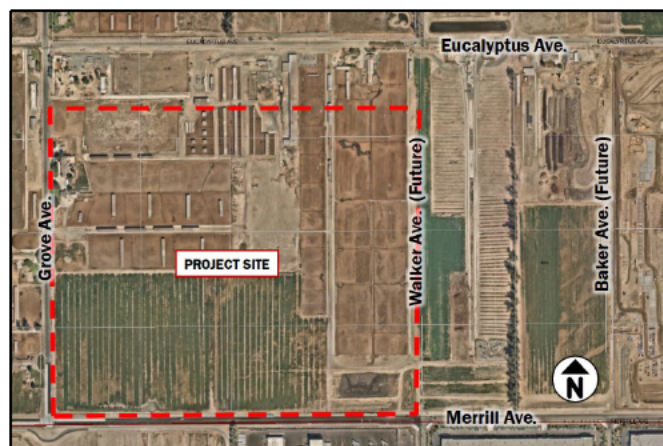



Figure 1: Project Location

Case Planner:	Edmelynn V. Hutter, Senior Planner
Planning Director Approval:	
Submittal Date:	January 10, 2022

Hearing Body	Date	Decision	Action
DAB	05/16/2022	APPROVAL	Recommend
PC	05/24/2022		Final
CC			

& Land Uses" table located in the Technical Appendix of this report.

PROJECT ANALYSIS:

(1) Background — On February 2, 2021, the City Council approved the introduction (first reading) of Ordinance No. 3178 for the Merrill Commerce Center Specific Plan ("MCCSP"), adopted Resolution No. R2021-011, certifying the MCCSP Final Environmental Impact Report ("Certified EIR"; State Clearinghouse No. 2019049047), and adopted Resolution No. R2021-012, approving the associated General Plan Amendment (File No. PGPA18-003) establishing the Business Park (0.6 FAR) and Industrial (0.55 FAR) land uses on the Project site. On February 16, 2021, the City Council adopted (second reading) Ordinance No. 3178, approving the MCCSP (File No. PSP18-001). The MCCSP establishes the land use designations, development standards, and design guidelines on 376.3 acres of land, which includes the potential development of up to 8,455,000 square feet of industrial and business park development.

On March 23, 2021, the Planning Commission approved Tentative Parcel Map No. 20273, a request to subdivide the Merrill Commerce Center Specific Plan area to create 22 numbered lots, 22 lettered lots, public streets, and to facilitate future development of industrial and business park projects. On November 16, 2021, the City Council approved Final Parcel Map No. 20273.

On January 10, 2022, the applicant submitted the subject Development Plan (File No. PDEV22-002) to develop the 119-acre Project site with two industrial buildings, to be used as warehouse/distribution centers totaling 2,237,458 square feet of gross floor area. On February 22, 2022, the applicant submitted Tentative Parcel Map No. 20537 (File No. PMTT22-007) to subdivide the Project site to combine existing parcels to accommodate the proposed warehouse buildings.

(2) Tentative Parcel Map No. 20537 — Proposed Tentative Parcel Map No. 20537 (see Exhibit C) would: (1) merge two existing parcels into one parcel, (2) merge another three existing parcels into one parcel, and (3) realign East Borba Street. Proposed Parcel 1 of Tentative Parcel Map No. 20537 will be 57.598 acres in size and located on the north side of East Borba Street, between Walker and Grove Avenues.

Proposed Parcel 2 will be 54.232 acres in size and located to the south of Borba Street and north of Merrill Avenue.

The tentative parcel map also includes Parcel 3 that is 5.132 acres in size and maintains a no-build parcel established by Parcel Map No. 20273.

(3) Development Plan

(a) Site Design/Building Layout — The proposed development includes two warehouse distribution buildings, referred to as Building 4 and Building 5. The Project site

plan (see Exhibit D) locates Building 4 at the southwest corner of future Walker Avenue and future East Borba Street. Building 4 is bounded by Borba Street on the north, Merrill Avenue on the south, future Walker Avenue on the east, and Grove Avenue on the west. The warehouse building is proposed to be 1,072,097 square feet in size, including approximately 16,000 square feet of office area. The building is rectangular in shape and oriented in an east-west direction, with the primary office entrances facing east, towards Walker Avenue. The floor area ratio ("FAR") for Building 4 is 0.45, which is below the 0.55 FAR maximum allowed by the MCCSP and The Ontario Plan.

Building 5 is located at the northwest corner of future Walker Avenue and future East Borba Street, and is bounded by private property on the north, future Borba Street on the south, future Walker Street on the east, and Grove Avenue on the west. This warehouse building is proposed to be 1,166,668 square feet in size, including approximately 16,000 square feet of office area. Similar to Building 4, Building 5 is rectangular in shape and oriented in an east-west direction, with the primary office entrances facing east, toward Walker Avenue. The FAR for Building 5 is 0.46, and also meets the maximum 0.55 FAR allowed by the MCCSP and The Ontario Plan.

The north Project site boundary abuts four properties that are designated for Business Park land uses. These parcels will be proposed for Business Park developments in the future and under separate Development Plan applications.

Both buildings have parking lots located on the east end of the parcels, along Walker Avenue. On the west side, on Grove Avenue, truck access is provided by one access drive for each building, which leads to queuing areas that can accommodate at least twelve truck trailers. In addition, both building sites are designed with truck docks and trailer parking on the north and south sides of each building, with a larger trailer parking area on the west side of the buildings. In addition, both building sites provide outdoor amenities for employee use, including covered areas with tables and seating.

(b) Site Access/Circulation — The proposed warehouse buildings are provided with multiple access points for trucks and passenger vehicles. Building 4 is designed with passenger vehicle driveway access at two locations along its Walker Avenue frontage, as well as one location on Borba Street, near the intersection with Walker Avenue. Primary truck access is located on Grove Avenue and provides room for twelve trucks with trailers to queue at the truck yard gate.

As designed, passenger vehicle access and circulation are generally separate from truck access and truck yard areas.

(c) Parking — The Project is required to provide a total of 1,139 passenger vehicle parking spaces and 75 trailer parking spaces. The Project provides 1,254 passenger vehicle parking spaces and as much as 1,081 trailer parking spaces, exceeding the minimum parking requirements. Table A, below, provides a parking summary for the Project.

Table A: Parking Summary					
Type of Use	Building Area	Trailer Parking		Vehicle Spaces	
		Required	Provided	Required	Provided
Building 4: Warehouse / Distribution	1,072,097 SF	35	539	546	651
Building 5: Warehouse / Distribution	1,166,668 SF	40	542	593	603
Total	2,238,765 SF	75	1,081	1,139	1,254

As proposed, the passenger vehicle parking lot for Building 4 provides 409 spaces and the passenger vehicle parking lot for Building 5 provides 291 spaces. The balance of the required parking spaces can be accommodated within the truck yards of the respective building sites if necessitated by tenant operations.

All access driveways will be restricted with full height gates for the truck yards, or barrier arms for the parking lots and the Project will be conditioned to ensure that operation of the barriers allow proper access to police, fire, emergency services, and waste and recycling collection services.

(d) Architecture — The Project incorporates a Contemporary Architectural style. The proposed buildings will be of concrete tilt-up construction and incorporates color blocking, accent colors, and score patterns. The paint colors proposed for this building are white and varying shades of gray. Dark green will be utilized as an accent color and applied in a vertical pattern adjacent to glazing. Material such as metal awnings, metal canopy, and green-hued vision glazing are applied on the east building elevations and portions of parapet walls.

The architectural design also incorporates wall offsets to create variations in the wall plane, visual depth, shadows, and dimensions. The proposed wall offsets on the building are typically three or four feet.

The proposed employee amenities are provided in the form of covered patio areas that are attached to the warehouse building and designed to architecturally match the structure.

(e) Landscaping — The MCCSP requires a minimum 10 percent landscape coverage be provided for buildings within the industrial and Business Park land use districts. As proposed, the Project's overall landscape coverage is 10.3 percent, which meets the minimum requirement. The Project provides landscaping around the project perimeter, adjacent to the building and throughout the parking lot to soften the appearance of these areas and provide additional shade. The landscape plan includes over 1,000 trees to be planted on-site and within the neighborhood edges. The proposed tree species include Chinese Flame Tree, pine varieties, oak varieties, Crape Myrtle,

California Sycamore, and Italian Cypress. Landscape plans will also incorporate low-water usage and drought-tolerant shrubs and ground covers throughout the site.

The Project includes right-of-way improvements (street, curb, gutter, sidewalk, and parkway) along the surrounding streets. The proposed on-site and off-site landscape improvements will assist toward creating safe paths and areas for pedestrians to access the Project site. In compliance with the MCCSP, a neighborhood edge will be installed along Grove, Merrill, and Walker Avenues, as well as a multi-purpose trail along Merrill Avenue.

(f) Signage — All future signage will be subject to review and approval of a comprehensive sign program for the Specific Plan area. A sign program will facilitate integration of the signs with the overall site and building design to create a unified visual statement and provide for flexible application of sign regulations in the design and display of multiple signs. Key provisions will include an entry monument, center and tenant identification signage, traffic and wayfinding signs, building signs, secondary monumentation, and visitor and directional signage.

(g) Chino Airport Land Use Compatibility Compliance — The project site is located within the Chino Airport Influence Area (AIA). Pursuant to the California Airport Land Use Planning Handbook, the Project site is located within Safety Zones 1, 2, 3, 4 and 6, as shown on Exhibit H – Chino Airport Safety Zones, attached. Safety Zones 1, 2, 3, 4 and 6 are subject to intensity limits (number of people on the site) and open land criteria requirements. The Project shall be required to be consistent with the policies and criteria of the Caltrans Division of Aeronautics – California Airport Land Use Planning Handbook.

(h) Utilities (drainage, sewer) — The Project will be required to construct infrastructure improvements per the Development Agreement (File No. PDA18-004) and requirements of the MCCSP. Furthermore, the Applicant has submitted a Preliminary Water Quality Management Plan ("PWQMP"), which establishes the Project's compliance with storm water discharge/water quality requirements. The PWQMP includes site design measures that capture runoff and pollutant transport by minimizing impervious surfaces and maximizes low impact development ("LID") best management practices ("BMPs"), such as retention and infiltration, biotreatment, and evapotranspiration. The PWQMP proposes the use of a retention basin, underground storm water retention chambers to receive, retain, and treat storm water runoff.

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 Goals.

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

Distinctive Development:

- Commercial and Residential Development
 - Development quality that is broadly recognized as distinctive and not exclusively tied to the general suburban character typical of much of Southern California.

(3) Governance.

Decision Making:

- Goal G1: Sustained decision-making that consistently moves Ontario towards its Vision by using The Ontario Plan as a framework for assessing choices.
 - G1-2 Long-term Benefit. We require decisions to demonstrate and document how they add value to the community and support the Ontario Vision

(4) Policy Plan (General Plan)

Land Use Element:

- Goal LU1: A community that has a spectrum of housing types and price ranges that match the jobs in the City and that 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.
 - LU1-6 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. (Refer to Complete Community Section of Community Economics Element).
- 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.

➤ LU2-9: Methane Gas Sites: We require sensitive land uses and new uses on former dairy farms or other methane-producing sites be designed to minimize health risks.

Community Economics Element:

▪ Goal CE1: A complete community that provides for all incomes and stages of life.

▪ 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:

▪ 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.

▪ Goal S3: Reduce risk of death, injury, property damage and economic loss due to fires, accidents and normal everyday occurrences through prompt and capable emergency response.

➤ S3-8 Fire Prevention through Environmental Design. We require new development to incorporate fire prevention consideration in the design of streetscapes, sites, open spaces and building.

Community Design Element:

▪ 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.

➤ CD1-2 Growth Areas. We require development in growth areas to be distinctive and unique places within which there are cohesive design themes.

➤ 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.

▪ 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.

➤ CD2-5 Streetscapes. We design new and, when necessary, retrofit existing streets to improve walkability, bicycling and transit integration, strengthen connectivity, and enhance community identity through improvements to the public right of way such as sidewalks, street trees, parkways, curbs, street lighting and street furniture.

➤ 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.

➤ CD2-10 Surface Parking Areas. We require parking areas visible to or used by the public to be landscaped in an aesthetically pleasing, safe and environmentally sensitive manner. Examples include shade trees, pervious surfaces, urban run-off capture and infiltration, and pedestrian paths to guide users through the parking field.

➤ 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.

➤ CD2-12 Site and Building Signage. We encourage the use of sign programs that utilize complementary materials, colors, and themes. Project signage should be designed to effectively communicate and direct users to various aspects of the development and complement the character of the structures.

➤ 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.

▪ 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.

➤ CD3-1 Design. We require that pedestrian, vehicular, bicycle and equestrian circulation on both public and private property be coordinated and designed to maximize safety, comfort and aesthetics.

➤ 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.

➤ CD3-3 Building Entrances. We require all building entrances to be accessible and visible from adjacent streets, sidewalks or public open spaces.

- 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.
 - 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, as the project site is not one of the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

AIRPORT LAND USE COMPATIBILITY PLAN (ALUCP) COMPLIANCE: The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan. On April 19, 2011, the City Council of the City of Ontario approved and adopted the Ontario International Airport Land use Compatibility Plan ("ALUCP"), establishing the Airport Influence Area for Ontario International Airport, which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. 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 ALUCP. Any special conditions of approval associated with uses in close proximity to the airport are included in the conditions of approval provided with the attached Resolution.

The project site is also located within the Airport Influence area of Chino Airport and is consistent with policies and criteria set forth within the 2011 California Airport Land Use Planning Handbook published by the California Department of Transportation, Division of Aeronautics. The proposed Project as evaluated and found to be consistent with the policies and criteria set forth within the Handbook, subject to conditions.

ENVIRONMENTAL REVIEW: The environmental impacts of this project were previously reviewed in conjunction with the Merrill Commerce Center Specific Plan (File No. PSP18-001), for which an Environmental Impact Report (State Clearing House No. 2019049079) was adopted by the City Council on February 2, 2021. This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are a condition of project approval and are incorporated herein by this reference.

CONDITIONS OF APPROVAL: See attached department reports.

TECHNICAL APPENDIX:

Surrounding Zoning and Land Use:

	Existing Land Use	General Plan Designation	Zoning Designation	Specific Plan Land Use
Site	Vacant	Industrial (0.55 FAR)	Merrill Commerce Center Specific Plan	Industrial
North	Vacant	Business Park (0.6 FAR)	Merrill Commerce Center Specific Plan	Business Park
South	Agriculture, Industrial (City of Chino)	Public, Light Industrial (City of Chino)	Airport Development, Preserve Specific Plan (City of Chino)	Light Industrial (City of Chino)
East	Vacant	Industrial (0.55 FAR)	Merrill Commerce Center Specific Plan	Industrial
West	Agricultural Dairy	Industrial (0.55 FAR)	South Ontario Logistics Center Specific Plan	Industrial

General Site & Building Statistics

Item	Proposed	Min./Max. Standard	Meets Y/N
Project Area:	119.94 acres	N/A	N/A
Lot/Parcel Size:	Parcel 1: 57.598 acres Parcel 2: 54.232 acres Parcel 3: 5.132 acres	1 acre (Min.)	Y
Building Area:	Building 4: 1,072,097 square feet Building 5: 1,146,668 square feet	N/A	N/A
Floor Area Ratio:	Building 4: 0.45 Building 5: 0.46	0.55 (Max.)	Y
Building Height:	50 feet	85 feet (Max.)	Y

Off-Street Parking:

Table A: Parking Summary					
Type of Use	Building Area	Trailer Parking		Vehicle Spaces	
		Required	Provided	Required	Provided
Building 4: Warehouse / Distribution	1,072,097 SF	35	539	546	651
Building 5: Warehouse / Distribution	1,166,668 SF	40	542	593	603
Total	2,238,765 SF	75	1,081	1,139	1,254

EXHIBIT A—VICINITY MAP

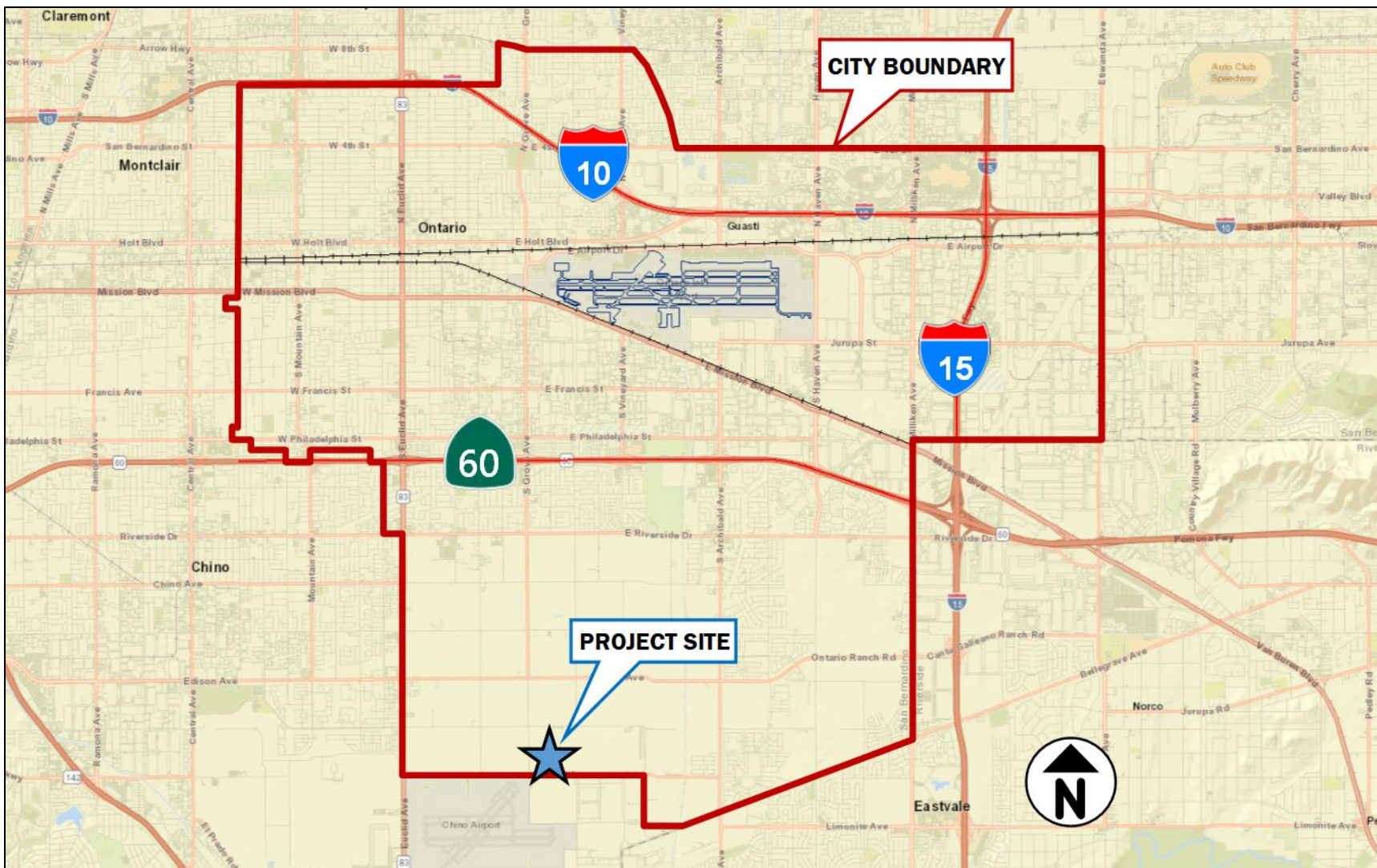


EXHIBIT B—PROJECT LOCATION MAP

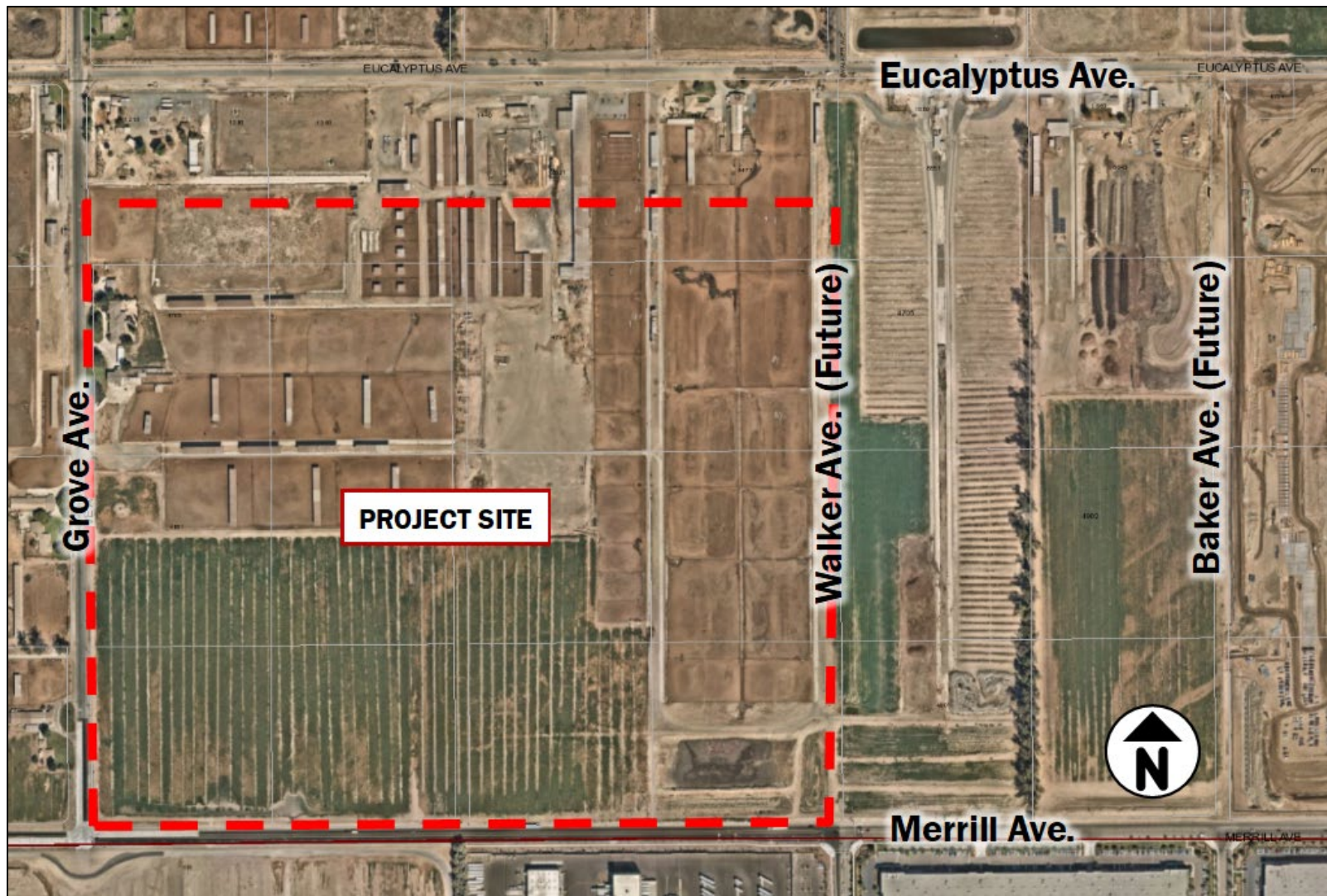


EXHIBIT D—SITE PLAN

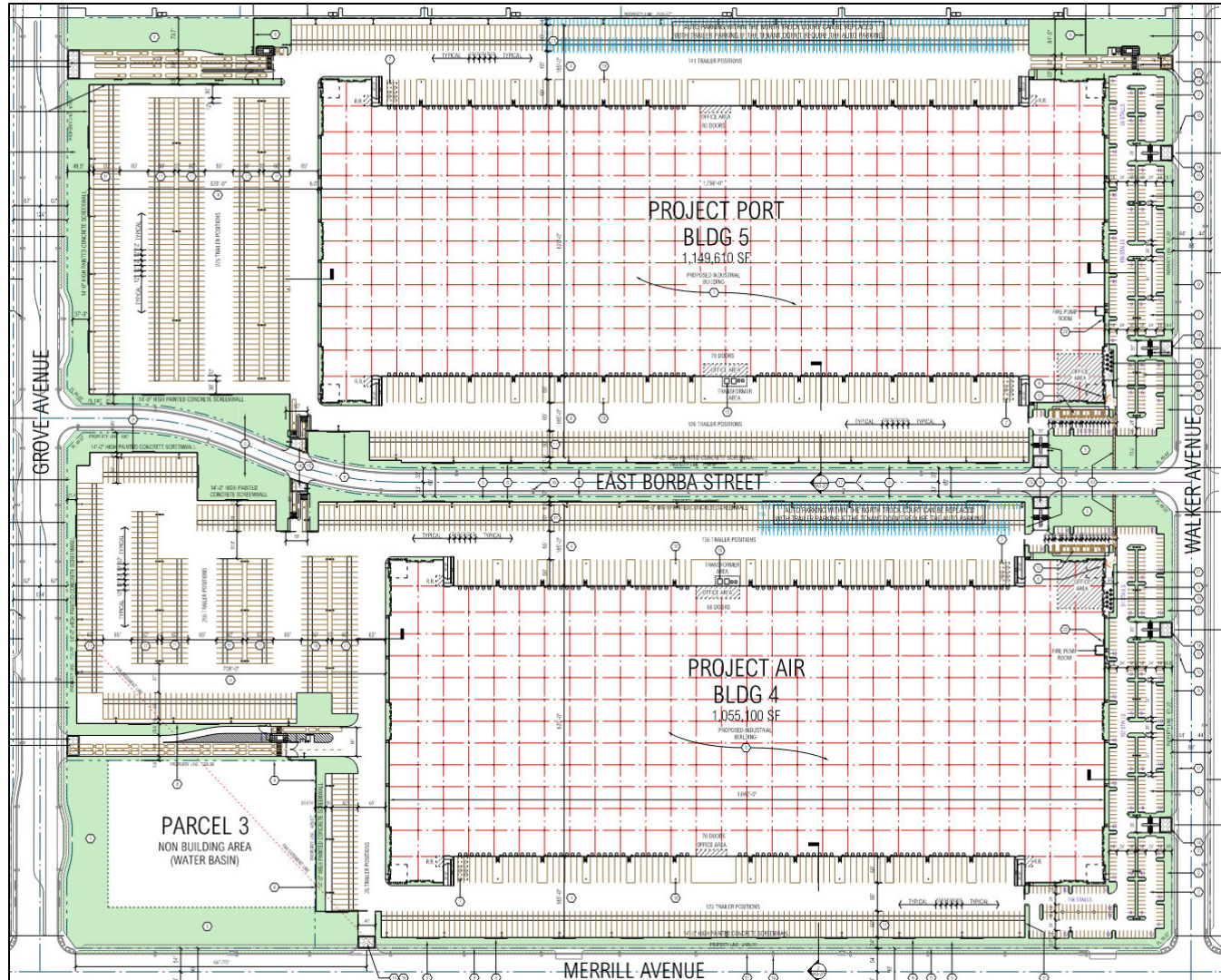


EXHIBIT E—BUILDING ELEVATIONS



North Elevation



South Elevation



West Elevation



East Elevation

EXHIBIT G—CONCEPTUAL LANDSCAPE PLAN

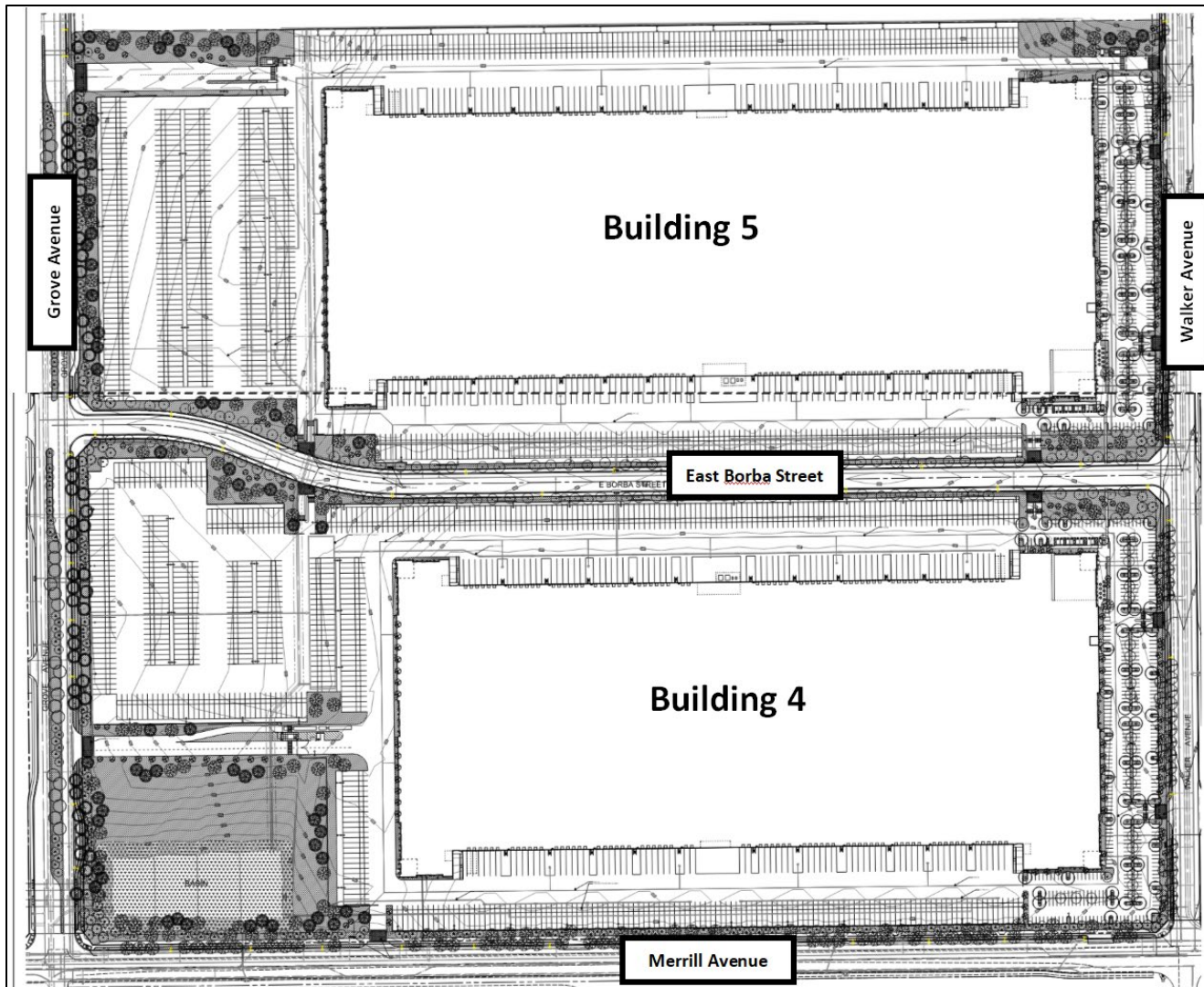
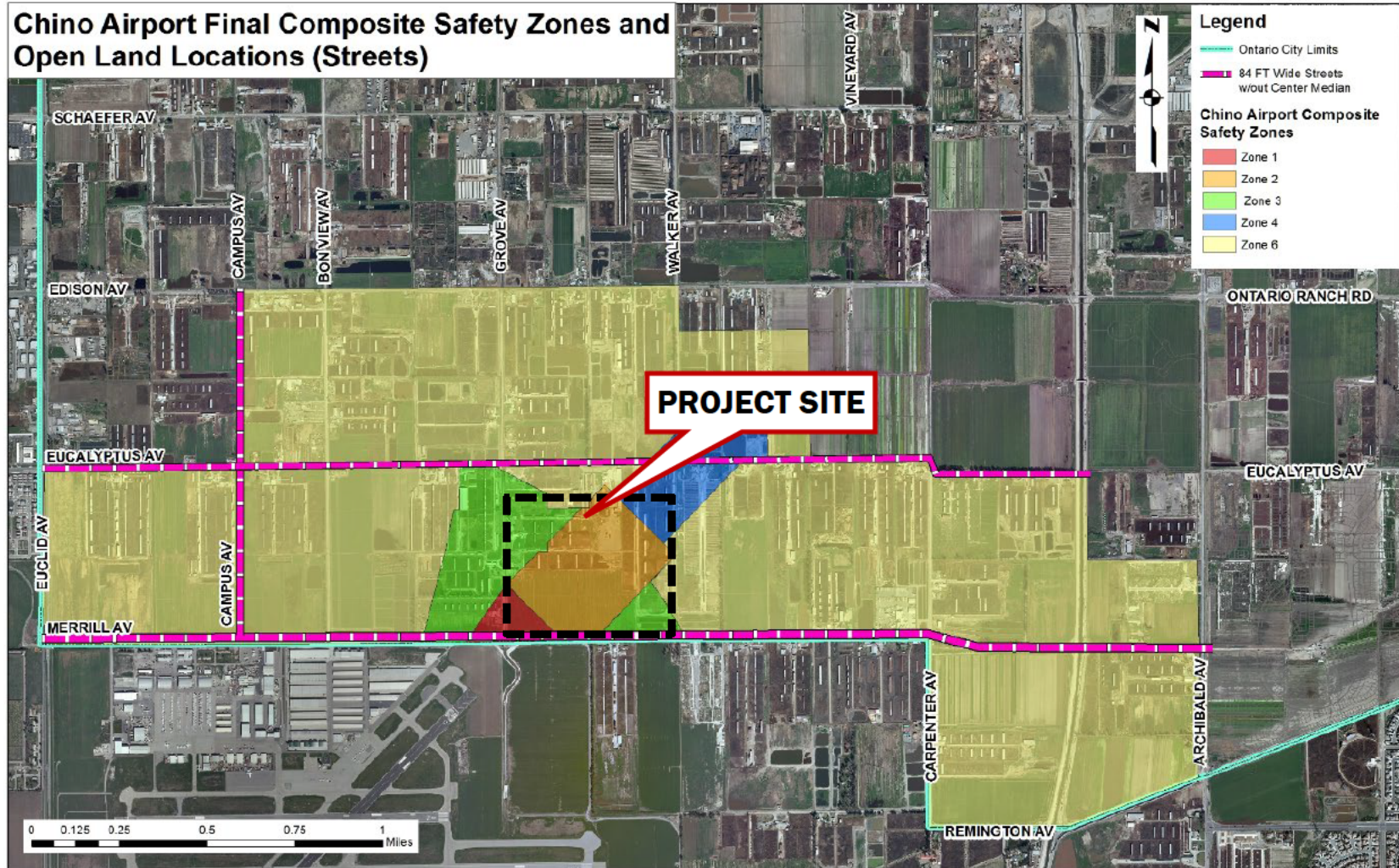


EXHIBIT H—CHINO AIRPORT SAFETY ZONES



Attachment A
Departmental Conditions of Approval

(Departmental conditions of approval follow this page)

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PMTT22-007, TENTATIVE PARCEL MAP NO. 20537, SUBDIVIDING 119.94 ACRES OF LAND INTO THREE PARCELS TO FACILITATE THE DEVELOPMENT OF TWO INDUSTRIAL BUILDINGS AT THE NORTHEAST CORNER OF MERRILL AVENUE AND GROVE AVENUE, WITHIN PA-1 AND PA-2 OF THE INDUSTRIAL LAND USE DISTRICT OF THE MERRILL COMMERCE CENTER SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APNS: 1054-111-03, 1054-141-03, 1054-221-03, 1054-331-03, AND 1054-331-04.

WHEREAS, PROLOGIS LP ("Applicant") has filed an Application for the approval of a Tentative Parcel Map, File No. PMTT22-007, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 119.94 acres of land generally located at the northeast corner of Merrill Avenue and Grove Avenue, within Planning Areas 1 and 2 of the Merrill Commerce Center Specific Plan, and is presently vacant land; and

WHEREAS, the property to the north of the Project site is within the Merrill Commerce Center Specific Plan and is currently vacant and designated for Industrial uses. The property to the east is within the Merrill Commerce Center Specific Plan and a warehouse distribution project is currently proposed under a separate Development Plan application. The property to the south is within the City of Chino and is developed with industrial buildings and agricultural uses. The property to the west is within the South Ontario Logistics Center Specific Plan and is currently used as an agricultural dairy; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act, Public Resources Code Section 21000 et seq ("CEQA"), and an initial study has been prepared to determine possible environmental impacts; and

WHEREAS, the environmental impacts of this project were previously reviewed in conjunction with File No. PGPA18-003, a General Plan Amendment, and File No. PSP18-001, the Merrill Commerce Center Specific Plan, for which an Environmental Impact Report (State Clearinghouse No. 2019049079) ("Certified EIR") was adopted by the City Council on February 2, 2021, 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, Ontario Development Code Table 2.02-1 (Review Matrix) grants the Planning Commission the responsibility and authority to review and act on the subject Application; and

WHEREAS, the Project has been reviewed for consistency with the Housing Element of the Policy Plan component of The Ontario Plan, as State Housing Element law (as prescribed in Government Code Sections 65580 through 65589.8) requires that development projects must be consistent with the Housing Element, if upon consideration of all its aspects, it is found to further the purposes, principals, goals, and policies of the Housing Element; and

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport, which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and is subject to, and must be consistent with, the policies and criteria set forth in the Ontario International Airport Land Use Compatibility Plan ("ALUCP"), which applies only to jurisdictions within San Bernardino County, and addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; and

WHEREAS, the project site is also located in the Airport Influence Area of Chino Airport and must be consistent with policies and criteria set forth within the 2011 California Airport Land Use Planning Handbook published by the California Department of Transportation, Division of Aeronautics, which addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; and

WHEREAS, City of Ontario Development Code Division 2.03 (Public Hearings) prescribes the manner in which public notification shall be provided and hearing procedures to be followed, and all such notifications and procedures have been completed;

WHEREAS, on May 16, 2022, the Development Advisory Board of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date, voting to issue Decision No. DAB22-015, recommending the Planning Commission approve the Application; and

WHEREAS, on May 24, 2022, 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: Environmental Determination and Findings. As the decision-making authority for the Project, the Planning Commission has reviewed and considered the information contained in the previous Certified EIR and supporting documentation. Based upon the facts and information contained in the previous Certified EIR and supporting documentation, the Planning Commission finds as follows:

(1) The environmental impacts of this project were previously reviewed in conjunction with File No. PGPA18-003, a General Plan Amendment, and File No. PSP18-001, the Merrill Commerce Center Specific Plan, for which a Certified EIR was adopted by the City Council on February 2, 2022; and

(2) The previous Certified EIR contains a complete and accurate reporting of the environmental impacts associated with the Project; and

(3) The previous Certified EIR was completed in compliance with CEQA and the Guidelines promulgated thereunder; and

(4) The previous Certified EIR reflects the independent judgment of the Planning Commission; and

(5) The proposed project will introduce no new significant environmental impacts beyond those previously analyzed in the previous Certified EIR, and all mitigation measures previously adopted with the Certified EIR, are incorporated herein by this reference.

SECTION 2: Subsequent or Supplemental Environmental Review Not Required. Based on the information presented to the Planning Commission, and the specific findings set forth in Section 1, above, the Planning Commission finds that the preparation of a subsequent or supplemental Certified EIR is not required for the Project, as the Project:

(1) Does not constitute substantial changes to the Certified EIR that will require major revisions to the Certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

(2) Does not constitute substantial changes with respect to the circumstances under which the Certified EIR was prepared, that will require major revisions to the Certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and

(3) Does not contain new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the Certified EIR was certified/adopted, that shows any of the following:

(a) The project will have one or more significant effects not discussed in the Certified EIR; or

(b) Significant effects previously examined will be substantially more severe than shown in the Certified EIR; or

(c) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the City declined to adopt such measures; or

(d) Mitigation measures or alternatives considerably different from those analyzed in the Certified EIR would substantially reduce one or more significant effects on the environment, but which the City declined to adopt.

SECTION 3: *Housing Element Compliance.* Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the decision-making authority for the Project, the Planning Commission finds that based on the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the project site is not one of the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

SECTION 4: *Airport Land Use Compatibility Plan (“ALUCP”) Compliance.* The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State and rely upon the 2011 California Airport Land Use Planning Handbook published by the California Department of Transportation, Division of Aeronautics; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan.

(1) On April 19, 2011, the City Council of the City of Ontario approved and adopted the ALUCP, establishing the Airport Influence Area for Ontario International Airport, which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. As the decision-making authority for the Project, the Planning Commission has reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors,

including [1] Safety Criteria (ALUCP Table 2-2) and Safety Zones (ALUCP Map 2-2), [2] Noise Criteria (ALUCP Table 2-3) and Noise Impact Zones (ALUCP Map 2-3), [3] Airspace protection Zones (ALUCP Map 2-4), and [4] Overflight Notification Zones (ALUCP Map 2-5). As a result, the Planning Commission, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the ALUCP; and

(2) Chino Airport is owned and operated by the County of San Bernardino and is situated within the boundaries of the City of Chino, immediately south of Ontario. Portions of the City of Ontario are impacted by aircraft operations at Chino Airport. The adopted ALUCP for Chino Airport was approved in 1991 and does not reflect the most recently adopted 2005 Airport Master Plan. Also, the existing Chino Airport Land Use Compatibility Plan does not reflect the 2011 Caltrans Airport Land Use Planning Handbook. Public Utilities Code Section 21670.1(c) requires local jurisdictions under the “alternative process” to “rely upon” the California Airport Land Use Planning Handbook (Handbook) published by the California Department of Transportation (Caltrans), Division of Aeronautics in October 2011, for preparing Compatibility Plans and to utilize the Handbook’s height, land use, noise, safety, and density criteria. Although the City of Ontario does not have the formal responsibility under the “alternative process” to prepare a compatibility plan for Chino Airport, the City of Ontario has completed an Airport Land Use Compatibility Assessment that analyzes Chino Airport’s impacts on Ontario, consistent with policies and criteria set forth within the Caltrans 2011 California Airport Land Use Planning Handbook. The City of Ontario is currently working towards completing an Airport Land Use Compatibility Plan for portions of the City that are impacted by aircraft operations at Chino Airport. The proposed Project is located within the Airport Influence Area of Chino Airport and was evaluated and found to be consistent with the California Airport Land Use Planning Handbook and the City of Ontario’s Chino Airport Land Use Compatibility Assessment. As the decision-making authority for the Project, the Planning Commission has reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors, including Safety, Noise, Airspace Protection, Overflight. As a result, the Planning Commission, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the California Airport Land Use Planning Handbook and the City of Ontario’s Chino Airport Land Use Compatibility Assessment.

SECTION 5: Concluding Facts and Reasons. 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 through 4, above, the Planning Commission hereby concludes as follows:

(1) ***The proposed Tentative Tract/Parcel 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 proposed Tentative Parcel Map is located within the Industrial land use district of the Policy Plan Land Use Map, and the Merrill Commerce Center Specific Plan zoning district. 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, as the project will contribute to the establishment of “[a] dynamic, progressive city containing distinct neighborhoods and commercial districts that foster a positive sense of identity and belonging among residents, visitors, and businesses” (Goal CD1). Furthermore, the project will promote the City’s policy to “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” (Policy CD1-1 *City Identity*).

(2) **The design or improvement of the proposed Tentative Tract/Parcel 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 specific plans and planned unit developments.** The proposed Tentative Parcel Map is located within the Industrial land use district of the Policy Plan Land Use Map, and the Merrill Commerce Center Specific Plan zoning district. The proposed design or improvement of the 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, as the project will provide “[a] high level of design quality resulting in public spaces, streetscapes, and developments that are attractive, safe, functional and distinct (Goal CD2). Furthermore, the project will promote the City’s policy to “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” (Policy CD2-7 *Sustainability*).

(3) **The site is physically suitable for the type of development proposed.** The project site meets the minimum lot area and dimensions of the Merrill Commerce Center Specific Plan zoning district, and is physically suitable for the type of industrial development proposed in terms of zoning, land use and development activity proposed, and existing and proposed site conditions.

(4) **The site is physically suitable for the density/intensity of development proposed.** The project site is proposed for industrial development at floor area ratios of 0.45 (Building 4) and 0.46 (Building 5). The project site meets the minimum lot area and dimensions of the Merrill Commerce Center Specific Plan zoning district, and is physically suitable for this proposed intensity of development.

(5) ***The design of the subdivision or the proposed improvements thereon, are not likely to cause substantial environmental damage, or substantially and avoidably injure fish or wildlife, or their habitat.*** The Project site is not located in an area that has been identified as containing species identified as a candidate, sensitive, or special status species in local or regional plans, policies or regulations or by the California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service, nor does the site contain any riparian habitat or other sensitive natural community, and no wetland habitat is present on site; therefore, the design of the subdivision, or improvements proposed thereon, are not likely to cause substantial environmental damage, or substantially and avoidably injure fish or wildlife, or their habitat.

(6) ***The design of the subdivision, or the type of improvements thereon, are not likely to cause serious public health problems.*** The design of the proposed subdivision, and the warehouse, site and street improvements existing or proposed on the project site, are not likely to cause serious public health problems, as the Project is not anticipated to involve the transport, use, or disposal of hazardous materials during either construction or project implementation, include the use of hazardous materials or volatile fuels, nor are there any known stationary commercial or industrial land uses within close proximity to the subject site that use/store hazardous materials to the extent that they would pose a significant hazard to visitors or occupants to the project site.

(7) ***The design of the subdivision, or the type of improvements thereon, will not conflict with easements acquired by the public at large for access through, or use of property within, the proposed subdivision.*** The proposed subdivision has provided for all necessary public easements and dedications for access through, or use of property within, the proposed subdivision. Furthermore, all such public easements and dedications have been designed pursuant to: (a) the requirements of the Policy Plan component of The Ontario Plan and applicable area plans; (b) applicable specific plans or planned unit developments; (c) applicable provisions of the City of Ontario Development Code; (d) applicable master plans and design guidelines of the City; and (e) applicable Standard Drawings of the City.

SECTION 6: Planning Commission Action. Based upon the findings and conclusions set forth in Sections 1 through 5, above, the Planning Commission hereby APPROVES the herein described Application, subject to each and every condition set forth in the Department reports attached hereto as "Attachment A," and incorporated herein by this reference.

SECTION 7: Indemnification. 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 8: Custodian of Records. 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 9: Certification to Adoption. 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 24th day of May 2022, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Jim Willoughby
Planning Commission Chairman

ATTEST:

Rudy Zeledon
Planning Director and
Secretary to the Planning Commission

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

I, Gwen Berendsen, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC22-____ was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on May 24, 2022, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Gwen Berendsen
Secretary Pro Tempore

ATTACHMENT A:

**File No. PMTT22-007
Departmental Conditions of Approval**

(Departmental conditions of approval to follow this page)

Date Prepared: 5/5/2022
File No: PMTT22-007
Related Files: PDEV22-002, PMTT20-010

Project Description: A Tentative Parcel Map to subdivide 119.94 acres of land into three parcels at the northeast corner of Merrill Avenue and Grove Avenue, within PA-1 and PA-2 of the Industrial land use district of the Merrill Commerce Center Specific Plan to facilitate the development of two (2) industrial buildings proposed in File No. PDEV22-002; (APNs: 1054-111-03, 1054-141-03, 1054-221-03, 1054-331-03, and 1054-331-04); **submitted by Prologis LP.**

Prepared By: Edmelynn V. Hutter, Senior Planner
Phone: 909.395.2429 (direct)
Email: ehutter@ontarioca.gov

The Planning Department, Land Development Section, conditions of approval applicable to the above-described Project, are listed below. The Project shall comply with each condition of approval listed below:

1.0 Standard Conditions of Approval. The project shall comply with the *Standard Conditions for New Development*, adopted by City Council Resolution No. 2017-027 on April 18, 2017. 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. Tentative Parcel Map approval shall become null and void 2 years following the effective date of application approval, unless the final parcel map has been recorded, or a time extension has been approved by the Planning Commission pursuant to Development Code Section 2.02.025 (Time Limits and Extensions). This Permit does not supersede any individual time limits specified herein for performance of specific conditions or improvements.

2.2 Subdivision Map.

(a) The Final Parcel Map shall be in conformance with the approved Tentative Parcel Map on file with the City. Variations from the approved Tentative Parcel Map may be reviewed and approved by the Planning Department. A substantial variation from the approved Tentative Parcel Map may require review and approval by the Planning Commission, as determined by the Planning Director.

(b) Tentative Parcel Map approval shall be subject to all conditions, requirements and recommendations from all other departments/agencies provided on the attached reports/memorandums.

(c) Pursuant to California Government Section 66474.9, the subdivider agrees that it will 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 of this subdivision, which action is brought within the time period provided for in Government Code Section 66499.37. The City of Ontario shall promptly notify the subdivider of any such claim, action or proceeding and the City of Ontario shall cooperate fully in the defense.

2.3 General Requirements. The Project shall comply with the following general requirements:

(a) All construction documentation shall be coordinated for consistency, including, but not limited to, architectural, structural, mechanical, electrical, plumbing, landscape and irrigation, grading, utility and street improvement plans. All such plans shall be consistent with the approved entitlement plans on file with the Planning Department.

(b) The project site shall be developed in conformance with the approved plans on file with the City. Any variation from the approved plans must be reviewed and approved by the Planning Department prior to building permit issuance.

(c) The herein-listed conditions of approval from all City departments shall be included in the construction plan set for project, which shall be maintained on site during project construction.

2.4 Landscaping.

(a) The Project shall provide and continuously maintain landscaping and irrigation systems in compliance with the provisions of Ontario Development Code Division 6.05 (Landscaping).

(b) Comply with the conditions of approval of the Planning Department; Landscape Planning Division.

(c) Landscaping shall not be installed until the Landscape and Irrigation Construction Documentation Plans required by Ontario Development Code Division 6.05 (Landscaping) have been approved by the Landscape Planning Division.

(d) Changes to approved Landscape and Irrigation Construction Documentation Plans, which affect the character or quantity of the plant material or irrigation system design, shall be resubmitted for approval of the revision by the Landscape Planning Division, prior to the commencement of the changes.

2.5 Walls and Fences. All Project walls and fences shall comply with the requirements of Ontario Development Code Division 6.02 (Walls, Fences and Obstructions).

2.6 Parking, Circulation and Access.

(a) The Project shall comply with the applicable off-street parking, loading and lighting requirements of City of Ontario Development Code Division 6.03 (Off-Street Parking and Loading).

(b) All drive approaches shall be provided with an enhanced pavement treatment. The enhanced paving shall extend from the back of the approach apron, into the site, to the first intersecting drive aisle or parking space.

(c) Areas provided to meet the City's parking requirements, including off-street parking and loading spaces, access drives, and maneuvering areas, shall not be used for the outdoor storage of materials and equipment, nor shall it be used for any other purpose than parking.

(d) The required number of off-street parking spaces and/or loading spaces shall be provided at the time of site and/or building occupancy. All parking and loading spaces shall be maintained in good condition for the duration of the building or use.

(e) Parking spaces specifically designated and conveniently located for use by the physically disabled shall be provided pursuant to current accessibility regulations contained in State law (CCR Title 24, Part 2, Chapters 2B71, and CVC Section 22507.8).

(f) Bicycle parking facilities, including bicycle racks, lockers, and other secure facilities, shall be provided in conjunction with development projects pursuant to current regulations contained in CALGreen (CAC Title 24, Part 11).

2.7 Signs. All Project signage shall comply with the requirements of Ontario Development Code Division 8.1 (Sign Regulations).

2.8 Covenants, Conditions and Restrictions (CC&Rs)/Mutual Access and Maintenance Agreements.

(a) This project shall be subject to the CC&Rs document approved in association with Parcel Map No. 20273. Otherwise, separate CC&Rs shall be prepared for the Project and shall be recorded prior to the issuance of a building permit.

(b) The CC&Rs shall be in a form and contain provisions satisfactory to the City. The articles of incorporation for the property owners association and the CC&Rs shall be reviewed and approved by the City.

(c) CC&Rs shall ensure reciprocal parking and access between parcels.

(d) CC&Rs shall ensure reciprocal parking and access between parcels, and common maintenance of:

(i) Landscaping and irrigation systems within common areas;

(ii) Landscaping and irrigation systems within parkways adjacent to the project site, including that portion of any public highway right-of-way between the property line or right-of-way boundary line and the curb line and also the area enclosed within the curb lines

of a median divider (Ontario Municipal Code Section 7-3.03), pursuant to Ontario Municipal Code Section 5-22-02;

- (iii) Shared parking facilities and access drives; and
- (iv) Utility and drainage easements.

(e) CC&Rs shall include authorization for the City's local law enforcement officers to enforce City and State traffic and penal codes within the project area.

(f) The CC&Rs shall grant the City of Ontario the right of enforcement of the CC&R provisions.

(g) A specific methodology/procedure shall be established within the CC&Rs 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 property owners association for all costs incurred.

2.9 Environmental Review.

(a) The environmental impacts of this project were previously reviewed in conjunction with File No. PSP18-001, a Specific Plan for which the Merrill Commerce Center Specific Plan Environmental Impact Report (State Clearinghouse No. 2019049079) was previously adopted by the City Council on 2/2/2021. 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. The previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by this reference.

(b) MCCSP EIR (State Clearinghouse No. 219049047) Mitigation Measure 4.10.1 – Mitigation for potential impacts to residences and dairy properties at 14651 South Grove Avenue and 8643 West Eucalyptus Avenue shall be provided consistent with City requirements, to include:

- (i) Payment of mitigation fees;
- (ii) Provisions of as-built drawings and Historic American Buildings Survey (HABS) photo documentation; and
- (iii) Development of Historic Context Reports for significant persons in the dairy farm industry, such as the Borba Family.

(c) The HABS documentation shall be prepared and submitted to the City for review and approval prior to issuance of any building permit.

(d) The Project shall be designed and constructed in compliance with the associated Greenhouse Gas Reduction Measures Screening Table for this Project.

(e) 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).

(f) 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.

2.10 Indemnification. 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.

2.11 Additional Requirements.

(a) The Project shall comply with all Federal, State, and local regulations regarding use, transportation, and storage of hazardous materials during construction and project implementation.

2.12 Additional Fees.

(a) The Project shall be subject to the Development Impact Fees and required payment timelines stipulated in the associated Development Agreement (PDA18-004).

(b) Within 5 days following final application approval, the Notice of Determination ("NOD") 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 shall 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 will result in the extension of the statute of limitations for the filing of a CEQA lawsuit from 30 days to 180 days.

(c) After the 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.

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDEV22-002, A DEVELOPMENT PLAN TO CONSTRUCT TWO INDUSTRIAL BUILDINGS TOTALING 2,237,458 SQUARE FEET ON 119.94 ACRES OF LAND LOCATED AT THE NORTHEAST CORNER OF MERRILL AVENUE AND GROVE AVENUE, WITHIN PA-1 AND PA-2 OF THE INDUSTRIAL LAND USE DISTRICT OF THE MERRILL COMMERCE CENTER SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: 1054-111-03, 1054-141-03, 1054-221-03, 1054-331-03, AND 1054-331-04.

WHEREAS, PROLOGIS LP. ("Applicant") has filed an Application for the approval of a Development Plan, File No. PDEV22-002, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 119.94 acres of land generally located at the northeast corner of Merrill Avenue and Grove Avenue, within Planning Areas 1 and 2 of the Merrill Commerce Center Specific Plan, and is presently vacant land; and

WHEREAS, the property to the north of the Project site is within the Merrill Commerce Center Specific Plan zoning district and currently vacant and designated for Industrial uses. The property to the east is within the Merrill Commerce Center Specific Plan zoning district and a warehouse distribution project is currently proposed under a separate Development Plan application. The property to the south is within the City of Chino and developed with industrial buildings and agriculture uses. The property to the west is within the South Ontario Logistics Center Specific Plan zoning district and currently used as an agricultural dairy; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act, Public Resources Code Section 21000 et seq, ("CEQA") and an initial study has been prepared to determine possible environmental impacts; and

WHEREAS, the environmental impacts of this project were previously reviewed in conjunction with File No. PGPA18-003, a General Plan Amendment, and File No. PSP18-001, the Merrill Commerce Center Specific Plan, for which an Environmental Impact Report (State Clearinghouse No. 2019049079) ("Certified EIR") was adopted by the City Council on February 2, 2021, 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, Ontario Development Code Table 2.02-1 (Review Matrix) grants the Planning Commission the responsibility and authority to review and act on the subject Application; and

WHEREAS, the Project has been reviewed for consistency with the Housing Element of the Policy Plan component of The Ontario Plan, as State Housing Element law (as prescribed in Government Code Sections 65580 through 65589.8) requires that development projects must be consistent with the Housing Element, if upon consideration of all its aspects, it is found to further the purposes, principals, goals, and policies of the Housing Element; and

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport, which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and is subject to, and must be consistent with, the policies and criteria set forth in the Ontario International Airport Land Use Compatibility Plan ("ALUCP"), which applies only to jurisdictions within San Bernardino County, and addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; and

WHEREAS, the project site is also located in the Airport Influence Area of Chino Airport and must be consistent with policies and criteria set forth within the 2011 California Airport Land Use Planning Handbook published by the California Department of Transportation, Division of Aeronautics, which addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; and

WHEREAS, City of Ontario Development Code Division 2.03 (Public Hearings) prescribes the manner in which public notification shall be provided and hearing procedures to be followed, and all such notifications and procedures have been completed;

WHEREAS, on May 16, 2022, the Development Advisory Board of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date, voting to issue Decision No. DAB22-016, recommending the Planning Commission approve the Application; and

WHEREAS, on May 24, 2022, 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: Environmental Determination and Findings. As the decision-making authority for the Project, the Planning Commission has reviewed and considered the information contained in the previous Certified EIR and supporting documentation. Based upon the facts and information contained in the previous Certified EIR and supporting documentation, the Planning Commission finds as follows:

(1) The environmental impacts of this project were previously reviewed in conjunction with File No. PGPA18-003, a General Plan Amendment, and File No. PSP18-001, the Merrill Commerce Center Specific Plan, for which a Certified EIR was adopted by the City Council on February 2, 2022; and

(2) The previous Certified EIR contains a complete and accurate reporting of the environmental impacts associated with the Project; and

(3) The previous Certified EIR was completed in compliance with CEQA and the Guidelines promulgated thereunder; and

(4) The previous Certified EIR reflects the independent judgment of the Planning Commission; and

(5) The proposed project will introduce no new significant environmental impacts beyond those previously analyzed in the previous Certified EIR, and all mitigation measures previously adopted with the Certified EIR, are incorporated herein by this reference.

SECTION 2: Subsequent or Supplemental Environmental Review Not Required. Based on the information presented to the Planning Commission, and the specific findings set forth in Section 1, above, the Planning Commission finds that the preparation of a subsequent or supplemental Certified EIR is not required for the Project, as the Project:

(1) Does not constitute substantial changes to the Certified EIR that will require major revisions to the Certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

(2) Does not constitute substantial changes with respect to the circumstances under which the Certified EIR was prepared, that will require major revisions to the Certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and

(3) Does not contain new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the Certified EIR was certified/adopted, that shows any of the following:

(a) The project will have one or more significant effects not discussed in the Certified EIR; or

(b) Significant effects previously examined will be substantially more severe than shown in the Certified EIR; or

(c) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the City declined to adopt such measures; or

(d) Mitigation measures or alternatives considerably different from those analyzed in the Certified EIR would substantially reduce one or more significant effects on the environment, but which the City declined to adopt.

SECTION 3: *Housing Element Compliance.* Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the decision-making authority for the Project, the Planning Commission finds that based on the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the project site is not one of the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

SECTION 4: *Airport Land Use Compatibility Plan (“ALUCP”) Compliance.* The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State and rely upon the 2011 California Airport Land Use Planning Handbook published by the California Department of Transportation, Division of Aeronautics; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan.

(1) On April 19, 2011, the City Council of the City of Ontario approved and adopted the ALUCP, establishing the Airport Influence Area for Ontario International Airport, which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. As the decision-making authority for the Project, the Planning Commission has reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors,

including [1] Safety Criteria (ALUCP Table 2-2) and Safety Zones (ALUCP Map 2-2), [2] Noise Criteria (ALUCP Table 2-3) and Noise Impact Zones (ALUCP Map 2-3), [3] Airspace protection Zones (ALUCP Map 2-4), and [4] Overflight Notification Zones (ALUCP Map 2-5). As a result, the Planning Commission, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the ALUCP; and

(2) Chino Airport is owned and operated by the County of San Bernardino and is situated within the boundaries of the City of Chino, immediately south of Ontario. Portions of the City of Ontario are impacted by aircraft operations at Chino Airport. The adopted ALUCP for Chino Airport was approved in 1991 and does not reflect the most recently adopted 2005 Airport Master Plan. Also, the existing Chino Airport Land Use Compatibility Plan does not reflect the 2011 Caltrans Airport Land Use Planning Handbook. Public Utilities Code Section 21670.1(c) requires local jurisdictions under the “alternative process” to “rely upon” the California Airport Land Use Planning Handbook (Handbook) published by the California Department of Transportation (Caltrans), Division of Aeronautics in October 2011, for preparing Compatibility Plans and to utilize the Handbook’s height, land use, noise, safety, and density criteria. Although the City of Ontario does not have the formal responsibility under the “alternative process” to prepare a compatibility plan for Chino Airport, the City of Ontario has completed an Airport Land Use Compatibility Assessment that analyzes Chino Airport’s impacts on Ontario, consistent with policies and criteria set forth within the Caltrans 2011 California Airport Land Use Planning Handbook. The City of Ontario is currently working towards completing an Airport Land Use Compatibility Plan for portions of the City that are impacted by aircraft operations at Chino Airport. The proposed Project is located within the Airport Influence Area of Chino Airport and was evaluated and found to be consistent with the California Airport Land Use Planning Handbook and the City of Ontario’s Chino Airport Land Use Compatibility Assessment. As the decision-making authority for the Project, the Planning Commission has reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors, including Safety, Noise, Airspace Protection, Overflight. As a result, the Planning Commission, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the California Airport Land Use Planning Handbook and the City of Ontario’s Chino Airport Land Use Compatibility Assessment.

SECTION 5: Concluding Facts and Reasons. 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 through 4, above, the Planning Commission hereby concludes as follows:

(1) ***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 proposed Project is located within the Industrial land use district of the Policy Plan Land Use Map, and the Merrill Commerce Center Specific Plan zoning district. The development standards and conditions under which the proposed Project will be constructed 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.

(2) ***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 has been designed consistent with the requirements of the City of Ontario Development Code and the Merrill Commerce Center Specific Plan zoning district, including standards relative to the particular land use proposed (warehouse distribution), as-well-as building intensity, building and parking setbacks, building height, number of off-street parking and loading spaces, on-site and off-site landscaping, and fences, walls and obstructions.

(3) ***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 Development Advisory Board has required certain safeguards, and impose certain conditions of approval, which have been established to ensure that: [i] the purposes of the Merrill Commerce Center Specific Plan are maintained; [ii] the project will not endanger the public health, safety or general welfare; [iii] the project will not result in any significant environmental impacts; [iv] the project will be in harmony with the area in which it is located; and [v] the project will be in full conformity with the Vision, City Council Priorities and Policy Plan components of The Ontario Plan, and the Merrill Commerce Center Specific Plan.

(4) ***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 proposed Project has been reviewed for consistency with the general development standards and guidelines of the Merrill Commerce Center Specific Plan that are applicable to the proposed Project, including building intensity, building and parking setbacks, building height, amount of off-street parking and loading spaces, parking lot dimensions, design and landscaping, bicycle parking, on-site landscaping, and fences and walls, as-well-as those development standards and guidelines specifically related to the particular land use being proposed (warehouse distribution). As a result of this review, the Development Advisory Board has determined that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the development standards and guidelines described in the Merrill Commerce Center Specific Plan.

SECTION 6: *Planning Commission Action.* Based upon the findings and conclusions set forth in Sections 1 through 5, above, the Planning Commission hereby APPROVES the herein described Application, subject to each and every condition set forth in the Department reports attached hereto as “Attachment A,” and incorporated herein by this reference.

SECTION 7: *Indemnification.* 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 8: *Custodian of Records.* 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 9: *Certification to Adoption.* 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 24th day of May 2022, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Jim Willoughby
Planning Commission Chairman

ATTEST:

Rudy Zeledon
Planning Director and
Secretary to the Planning Commission

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

I, Gwen Berendsen, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC22-___ was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on May 24, 2022, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Gwen Berendsen
Secretary Pro Tempore

ATTACHMENT A:

**File No. PDEV22-002
Departmental Conditions of Approval**

(Departmental conditions of approval to follow this page)

Date Prepared: 5/5/2022
File No: PDEV22-002
Related Files: PMTT22-007, PMTT20-010

Project Description: A Development Plan to construct two industrial buildings totaling 2,237,458 square feet on 119.94 acres of land located at the northeast corner of Merrill Avenue and Grove Avenue, within PA-1 and PA-2 of the Industrial land use of the Merrill Commerce Center Specific Plan; (APNs: 1054-111-03, 1054-141-03, 1054-221-03, 1054-331-03, and 1054-331-04); **submitted by Prologis LP.**

Prepared By: Edmelynn V. Hutter, Senior Planner
Phone: 909.395.2429 (direct)
Email: ehutter@ontarioca.gov

The Planning Department, Land Development Section, conditions of approval applicable to the above-described Project, are listed below. The Project shall comply with each condition of approval listed below:

1.0 Standard Conditions of Approval. The project shall comply with the *Standard Conditions for New Development*, adopted by City Council Resolution No. 2017-027 on April 18, 2017. 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.

(a) Development Plan 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 by the Planning Director. 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 General Requirements. The Project shall comply with the following general requirements:

(a) All construction documentation shall be coordinated for consistency, including, but not limited to, architectural, structural, mechanical, electrical, plumbing, landscape

and irrigation, grading, utility and street improvement plans. All such plans shall be consistent with the approved entitlement plans on file with the Planning Department.

(b) The project site shall be developed in conformance with the approved plans on file with the City. Any variation from the approved plans must be reviewed and approved by the Planning Department prior to building permit issuance.

(c) The herein-listed conditions of approval from all City departments shall be included in the construction plan set for project, which shall be maintained on site during project construction.

2.3 Architecture.

(a) Exterior building wall materials, roof types and colors shall be shown on development construction drawings.

(b) Roof access ladders shall be located on the inside of the building.

(c) All building drainage gutters, down spouts, vents, etc., shall be completely concealed from public view or shall be architecturally compatible (decorative) with the exterior building design and color.

(d) All tower elements on the building(s) shall be fully walled and finished on all sides and include detailing appropriate to the architectural style proposed, so as to be a fully three-dimensional, four-sided element of the building, to the satisfaction of the Planning Director. The term "tower elements" means architectural elements of the building that are that are substantially taller than the adjacent parapet wall or roof, as determined by the Planning Director.

2.4 Landscaping.

(a) The Project shall provide and continuously maintain landscaping and irrigation systems in compliance with the provisions of Ontario Development Code Division 6.05 (Landscaping).

(b) Comply with the conditions of approval of the Planning Department; Landscape Planning Division.

(c) Landscaping shall not be installed until the Landscape and Irrigation Construction Documentation Plans required by Ontario Development Code Division 6.05 (Landscaping) have been approved by the Landscape Planning Division.

(d) Changes to approved Landscape and Irrigation Construction Documentation Plans, which affect the character or quantity of the plant material or irrigation system design, shall be resubmitted for approval of the revision by the Landscape Planning Division, prior to the commencement of the changes.

2.5 Walls and Fences. All Project walls and fences shall comply with the requirements of Ontario Development Code Division 6.02 (Walls, Fences and Obstructions).

(a) Within industrial zoning districts, walls and fences within the front yard building setback area shall not exceed 6 feet in height, with at least 90 percent of the vertical surface open and non-view obstructing and shall be setback a minimum of 5 feet behind the street property line.

(b) Long expanses of fence or wall (50 or more FT in length) adjacent to a public right-of-way shall have offset areas (decorative pilasters or a jog in the wall) along its length and shall be architecturally designed to prevent monotony. Construction plans shall include wall plans and details that show compliance with this condition of approval.

(c) The height of a wall or fence shall be measured on the exterior side, at the highest point of the natural ground or finished grade at the base of the fence or wall to the top of the fence or wall above the same base point.

(d) For gated sites, sufficient area shall be provided in front (exterior side) of vehicular access gates, to allow stacking of at least one tractor/trailer outside of the public street right-of-way.

(e) Development plans and construction drawings shall indicate materials, colors, and height of proposed and existing walls/fences and shall include a cross-section of walls/fences indicating adjacent grades. Walls shall be designed as an integral part of the architecture for the development.

(f) Walls shall be treated with a graffiti-proof coating at locations visible to the public.

2.6 Refuse Storage (Trash Enclosures).

(a) All refuse shall be stored in an appropriate container. Furthermore, all refuse containers shall be stored within a City-approved enclosure, which shall be designed so as to be consistent with the building architecture on the project site.

(b) The number of enclosures, and their precise locations, dimensions, and design shall be provided consistent with the *Solid Waste Department Refuse and Recycling Planning Manual* (the manual may be obtain online at http://www.ontarioca.gov/sites/default/files/Ontario-Files/Municipal-Utilities-Company/planning_manual-2016_update.pdf).

(c) Signs clearly identifying all recycling and refuse collection areas, and the materials accepted for recycling shall be posted adjacent to all points of access to each trash enclosure.

(d) Trash enclosures shall be bordered by a minimum 5-FT wide planter and screened with landscaping on all exposed sides, excluding the side with bin access gates.

2.7 Parking, Circulation and Access.

(a) The Project shall comply with the applicable off-street parking, loading and lighting requirements of City of Ontario Development Code Division 6.03 (Off-Street Parking and Loading).

(b) All drive approaches shall be provided with an enhanced pavement treatment. The enhanced paving shall extend from the back of the approach apron, into the site, to the first intersecting drive aisle or parking space.

(c) Areas provided to meet the City's parking requirements, including off-street parking and loading spaces, access drives, and maneuvering areas, shall not be used for the outdoor storage of materials and equipment, nor shall it be used for any other purpose than parking.

(d) The required number of off-street parking spaces and/or loading spaces shall be provided at the time of site and/or building occupancy. All parking and loading spaces shall be maintained in good condition for the duration of the building or use.

(e) Parking spaces specifically designated and conveniently located for use by the physically disabled shall be provided pursuant to current accessibility regulations contained in State law (CCR Title 24, Part 2, Chapters 2B71, and CVC Section 22507.8).

(f) Implementation and operation of access restrictions such as gates and/or barrier arms shall provide proper access to police, fire, emergency services and waste and recycling collection services, subject to City review and approval.

(g) The use of compact parking spaces is not permitted.

(h) Wheel stops shall be provided where necessary, to protect structures and parked vehicles.

(i) Striping of parking spaces, aisles, and driveways conforming to the provisions of Development Code Division 6.03 (Off-Street Parking and Loading), and directional signs conforming to the provisions of Development Code Division 8.01 (Sign Regulations), shall be provided.

(j) Bicycle parking facilities, including bicycle racks, lockers, and other secure facilities, shall be provided in conjunction with development projects pursuant to current regulations contained in CALGreen (CAC Title 24, Part 11).

2.8 Outdoor Loading and Storage Areas.

(a) Loading facilities shall be designed and constructed pursuant to Development Code Division 6.03 (Off-Street Parking and Loading).

(b) Areas designated for off-street parking, loading, and vehicular circulation and maneuvering, shall not be used for the outdoor storage of materials or equipment.

(c) Outdoor loading and storage areas, and loading doors, shall be screened from public view pursuant to the requirements of Development Code Paragraph 6.02.025.A.2 (Screening of Outdoor Loading and Storage Areas, and Loading Doors) et seq.

(d) Outdoor loading and storage areas shall be provided with gates that are view-obstructing by one of the following methods:

(i) Construct gates with a perforated metal sheet affixed to the inside of the gate surface (50 percent screen); or

(ii) Construct gates with minimum one-inch square tube steel pickets spaced at maximum 2-inches apart.

(e) The development shall maintain a minimum of 49 off-street loading spaces. Dock-high loading zones intended for tractor-trailers shall have a clear dimension of 12 FT wide by 45 FT long. All at-grade loading doors shall have a 12-FT wide by 18-FT deep unobstructed loading zone directly in front of the door, free of access drives.

(f) Truck loading and maneuvering areas in front of dock-high loading areas shall require a clear area of 120 FT.

(g) Loading areas shall be designed to provide for backing and maneuvering completely on-site, and not from a public street.

(h) Loading areas shall not encroach into landscape or building setbacks.

(i) All loading doors, areas, and activities shall be completely screened from public view, as well as from public, residential, and commercial uses, whether on the same lot or on neighboring properties, by a decorative masonry wall. Chain link fencing with slats or tennis windscreen material shall not be used as screening for storage areas.

(j) The height of screen and wing walls shall be determined by a sight-line analysis/wall section plan. The sight-line analysis/wall section plan shall show that all roll-up doors will be screened from view from adjoining parcels and public streets. The following criteria shall apply:

(i) Roll-up doors and openings in the screen wall shall be positioned such that the doors are not visible from the street.

(ii) Screening shall include a combination of screen walls, sight-obscuring gates, ornamental landscaping, and/or portions of the building such that the roll-up doors are not visible from the public street.

(iii) Upon Planning Department request, a “horizontal height mockup” shall be constructed for review and approval by Planning Department staff to verify adequacy of screen wall height from the freeway and streets. Mockup should be located at the lowest elevation on the site.

(k) The minimum gate height for screen wall openings shall be established based upon the corresponding wall height, as follows:

Screen Wall Height	Minimum Gate Height
14 feet:	10 feet
12 feet:	9 feet
10 feet:	8 feet

Screen Wall Height	Minimum Gate Height
8 feet:	8 feet
6 feet:	6 feet

2.9 Site Lighting.

(a) Site lighting shall be reviewed and approved by the Planning and Police Departments prior to the issuance of building permits.

(b) All off-street parking facilities shall be provided with nighttime security lighting pursuant to Ontario Municipal Code Section 4-11.08 (Special Residential Building Provisions) and Section 4-11.09 (Special Commercial/Industrial Building Provisions), designed to confine emitted light to the parking areas. Parking facilities shall be lighted from sunset until sunrise, daily, and shall be operated by a photocell switch.

(c) The maximum height of luminaires shall be as follows:

(i) When a light source or luminaire has no cutoff (the point at which all light rays are completely shielded), the maximum permitted height of the luminaire shall be 14 FT.

(ii) When a luminaire has a total cutoff of light at an angle of 90 degrees or greater, the maximum permitted height of the luminaire shall be 24 FT.

(iii) When a luminaire has a total cutoff of light at an angle of less than 90 degrees, the maximum permitted height of the luminaire shall be 30 FT.

(d) Unless intended as part of a master lighting program, no operation, activity, or lighting fixture shall create illumination on any adjacent property.

(e) Along pedestrian movement corridors, the use of low mounted bollard light standards, which reinforce pedestrian scale, shall be used. Steps, ramps and seatwalls should be illuminated wherever possible, with built-in light fixtures.

(f) The location of light fixtures should correspond to anticipated use. Lighting of pedestrian movement paths should illuminate changes in grade, path intersections, seating areas and any other uses along the movement path that, if left unlighted, would create an unsafe situation.

(g) Night lighting of buildings is encouraged, but should be accomplished in a selective manner, avoiding overall building illumination that produces an undesirable look. Night lighting of buildings may be used to highlight special building features, emphasize repeated or decorative features, and use the juxtaposition of light and shadow to articulate the building façade.

2.10 Mechanical and Rooftop Equipment.

(a) All exterior roof-mounted mechanical, heating and air conditioning equipment, and all appurtenances thereto, shall be completely screened from public view by parapet walls or roof screens that are architecturally treated so as to be consistent with the

building architecture. The plans shall include a cross-section drawing showing how the equipment is to be screened from view (include dimensions, materials, colors, etc.).

(b) All ground-mounted utility equipment and structures, such as tanks, transformers, HVAC equipment, and backflow prevention devices, shall be located out of view from a public street, or adequately screened through the use of landscaping and/or decorative low garden walls.

(c) Rooftop equipment and ground-mounted screening shall be verified at occupancy. Additional screening will be required if determined necessary.

2.11 Architectural Treatment.

(a) Exterior building wall materials, roof types and colors shall be shown on development construction drawings.

(b) Roof access ladders shall be located on the inside of the building.

(c) All building drainage gutters, down spouts, vents, etc., shall be completely concealed from public view or shall be architecturally compatible (decorative) with the exterior building design and color.

(d) All tower elements on the building(s) shall be fully walled and finished on all sides and include detailing appropriate to the architectural style proposed, so as to be a fully three-dimensional, four-sided element of the building, to the satisfaction of the Planning Director. The term "tower elements" means architectural elements of the building that are that are substantially taller than the adjacent parapet wall or roof, as determined by the Planning Director.

(e) At locations where changes in parapet wall height meet, the taller parapet must return into the building for a minimum distance of 6 FT, so that the actual thickness of the parapet wall cannot be observed or readily discerned.

(f) At building corners, where conditions exist that would allow the public to view the back (interior) side of parapet walls resulting from changes in parapet heights, the raised parapet area shall be constructed so as to be a fully three-dimensional, four-sided element of the building, to the satisfaction of the Planning Director.

(g) Colored elevations incorporating required exterior elevation changes shall be provided.

(h) The following architectural changes, detail and other information shall be incorporated into the construction drawings and are subject to City Staff review and approval:

(i) Show deeper recesses on the tilt-up wall panels. The proposed two feet is minimal, considering the scale and length of the building. Please provide plan details of the proposed tilt-up wall recesses and wall offsets including dimensions.

(ii) Show dimension of changes in parapet height on the elevation drawings.

(iii) Provide dimensioned details and elevation on scoring patterns for the tilt-up walls.

(iv) Provide dimension, plan, elevations, material, and color information on the proposed angled awning/cover at the office entries.

(v) Revise plans to avoid placing downspout locations over glazing.

2.12 Security Standards. The Project shall comply with all applicable requirements of Ontario Municipal Code Title 4 (Public Safety), Chapter 11 (Security Standards for Buildings).

2.13 Signs. All Project signage shall comply with the requirements of Ontario Development Code Division 8.1 (Sign Regulations).

2.14 Sound Attenuation. The Project shall be constructed and operated in a manner so as not to exceed the maximum interior and exterior noised levels set forth in Ontario Municipal Code Title 5 (Public Welfare, Morals, and Conduct), Chapter 29 (Noise).

2.15 Trip Reduction Measures. The Project shall comply with the following trip reduction measures, as applicable:

(a) Bicycle Parking and Shower/Changing Rooms. Safe and convenient access to bicycle racks shall be provided from public streets. Bicycle racks or other secure bicycle parking, and shower/changing rooms, shall be provided pursuant to current regulations contained in CALGreen (CAC Title 24, Part 11).

(b) On-Site Pedestrian Walkways. On-site pedestrian walkways shall be provided, which connect each building in a development to bicycle parking facilities (if required) and public streets.

(c) Passenger Loading Areas. Passenger loading areas shall be provided pursuant to current regulations contained in CALGreen (CAC Title 24, Part 11).

(d) Carpool/Vanpool Parking Spaces. Parking spaces reserved for use by carpool/vanpool vehicles shall be provided pursuant to current regulations contained in CALGreen (CAC Title 24, Part 11).

(e) Transit Facilities. Transit facilities, such as bus shelters, bus pullouts, and bus pads, shall be provided if the Planning Director, in consultation with local transit providers, determines they are needed to serve the development.

(f) On-Site Video Conferencing Facilities. On-site video conferencing facilities shall be provided for office buildings with a capacity of 1,000 employees or greater.

2.16 Environmental Review.

(a) The environmental impacts of this project were previously reviewed in conjunction with File No. PSP18-001, a Specific Plan for which the Merrill Commerce Center Specific Plan Environmental Impact Report (State Clearinghouse No. 2019049079) was previously adopted by the City Council on 2/2/2021. 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. The previously

adopted mitigation measures shall be a condition of project approval and are incorporated herein by this reference.

(b) MCCSP EIR (State Clearinghouse No. 219049047) Mitigation Measure 4.10.1 – Mitigation for potential impacts to residences and dairy properties at 14651 South Grove Avenue and 8643 West Eucalyptus Avenue shall be provided consistent with City requirements, to include:

- (i)** Payment of mitigation fees;
- (ii)** Provisions of as-built drawings and Historic American Buildings Survey (HABS) photo documentation; and
- (iii)** Development of Historic Context Reports for significant persons in the dairy farm industry, such as the Borba Family.

(c) The HABS documentation shall be prepared and submitted to the City for review and approval prior to issuance of any building permit.

(d) The Project shall be designed and constructed in compliance with the associated Greenhouse Gas Reduction Measures Screening Table for this Project.

(e) 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).

(f) 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.

2.17 Indemnification. 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.

2.18 Additional Requirements.

(a) The Development Plan is subject to applicable conditions of approval stipulated in Resolution No. PC21-017 (File No. PMTT20-010; Parcel Map No. 20273).

2.19 Additional Fees.

(a) The Project shall be subject to the Development Impact Fees and required payment timelines stipulated in the associated Development Agreement (PDA18-004).

(b) Within 5 days following final application approval, the Notice of Determination ("NOD") 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 shall 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 will result in the extension of the statute of limitations for the filing of a CEQA lawsuit from 30 days to 180 days.

(c) After the 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.



CITY OF ONTARIO MEMORANDUM

ENGINEERING DEPARTMENT CONDITIONS OF APPROVAL

(Engineering Services Division [Land Development Section and Environmental Section], Traffic & Transportation Division, Ontario Municipal Utilities Company and Information Technology & Management Services Department Conditions incorporated)

PROJECT ENGINEER: Miguel Sotomayor, P.E., (909) 395-2108

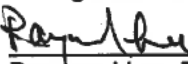
PROJECT PLANNER: Edmelyne Hutter, AICP, (909) 395-2429


DAB MEETING DATE: May 16th, 2022

PROJECT NAME/DESCRIPTION: PM-20537 (PMTT22-007, PDEV22-002), A Parcel Map and Development Plan to subdivide 113.69 acres of land into three (3) parcels located, within PA-1 and PA-2 of the Industrial land use district of the Merrill Commerce Center Specific Plan.

LOCATION: Northeast corner of Merrill Avenue and Grove Avenue

APPLICANT: Prologis-Exchange CA 2009, LLC

REVIEWED BY: 
Raymond Lee, P.E.
Assistant City Engineer
Date: 5/12/22

APPROVED BY: 
Khoi Do, P.E.
City Engineer
Date: 5-12-22

THIS PROJECT SHALL COMPLY WITH THE REQUIREMENTS SET FORTH IN THE GENERAL STANDARD CONDITIONS OF APPROVAL ADOPTED BY THE CITY COUNCIL (RESOLUTION NO. 2017-027) AND THE PROJECT SPECIFIC CONDITIONS OF APPROVAL SPECIFIED IN HEREIN. ONLY APPLICABLE CONDITIONS OF APPROVAL ARE LISTED BELOW. THE APPLICANT SHALL BE RESPONSIBLE FOR THE COMPLETION OF ALL APPLICABLE CONDITIONS OF APPROVAL PRIOR TO ISSUANCE OF PERMITS AND/OR OCCUPANCY CLEARANCE, AS SPECIFIED IN THIS REPORT. SEE ATTACHED EXHIBIT 'A' FOR PLAN CHECK SUBMITTAL REQUIREMENTS.

1. The applicant/developer shall comply with the requirements specified in the Merrill Commerce Center Specific Plan, the Development Agreement (PDA18-004), and the Conditions of Approval for TPM-20273.
2. The applicant/developer shall vacate East Borba Street and rededicate 66 feet of right-of-way to the City of Ontario per the new alignment as shown on the tentative parcel map. All frontage improvements listed as Street "A" on Merrill Commerce Center Specific Plan, the Development Agreement (PDA18-004), and the Conditions of Approval for TPM-20273 shall still apply.
3. The applicant/developer shall be responsible to pay all applicable Development Impact Fees (DIF) to the Building Department prior to Building Permit issuance. Storm Drain Development Impact Fee, approximately \$2,171,260.74 (building 4) and \$2,306,188.80 (building 5) shall be paid to the Building Department. Final fee shall be determined based on the approved site plan.

4. Record Parcel Map No. 20537 pursuant to the Subdivision Map Act and in accordance with the City of Ontario Municipal Code.
5. The applicant/developer shall design and construct the curb returns at the intersections at Merrill/Walker, Merrill/Grove, Grove/Eucalyptus and Eucalyptus/Walker to allow trucks to make proper turns. Design shall be to the satisfaction of the City Engineer. Additional right of way may be required depending on final design.
6. Design and construct proposed driveways in accordance with City of Ontario Standard Drawing No. 1204 for Commercial Driveways along Eucalyptus Avenue, Walker Avenue, Merrill Avenue, Grove Avenue and Borba Street.
7. The applicant/developer's engineer-of-record shall meet with City Engineering staff prior to designing and submitting for plan check the traffic signal, starting signing/stripping and street lighting design plans to define limits of improvements.
8. The applicant/developer shall enter into an encroachment agreement for the proposed private storm drain and hydrogen line crossing East Borba Street. Storm Drain and hydrogen lines shall be installed below (minimum 1' vertical clearance) the proposed public water main. The applicant/developer shall pay the applicable City Attorney fees associated with the review of the encroachment agreement. Final approval of encroachment agreement shall be to the satisfaction of the City Engineer.
9. The applicant/developer shall record a private drainage easement on PM-20537 and maintenance agreement for parcels 1-3 (PM-20537) and parcel 21 (PM-20273) to allow for cross lot drainage between said parcels.
10. Property frontage along Eucalyptus Avenue, Walker Avenue, Merrill Avenue, and Grove Avenue, and Borba Street shall be signed "No Parking Anytime".
11. 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>.
12. Design and construct a Connector Pipe Trash Screen or equivalent Trash Treatment Control Device, per catch basin located within or accepting flows tributary of a Priority Land Use (PLU) area that meets the Full Capture System definition and specifications, and is on the Certified List of the State Water Resources Control Board. The device shall be adequately sized per catch basin and include a deflector screen with vector control access for abatement application, vertical support bars, and removable component to facilitate maintenance and cleaning.
13. Submit a Final Utilities Systems Map (USM) as part of the precise grading plan submittal that meets all the City's USM requirements. These requirements include to show and label all existing and proposed utilities (including all appurtenances such as backflow devices, DCDAs, etc.), sizes, points of connection, and any easements. The final utility design shall comply with all Division of Drinking Water (CCR §64572) Separation Requirements.

14. Sewer Improvements:

Changes have been made to the required sewer infrastructure. Sewer infrastructure conditions superseding previous conditions are as follows:
(Please contact OMUC for further information)


- i. Install a Master Plan 20-inch Sewer main in Walker Avenue between Eucalyptus Avenue and Merrill Avenue.
- ii. Install a Master Plan 30-inch Sewer main in Merrill Avenue between Walker Avenue and Grove Avenue.
- iii. Install a Master Plan 20-inch Sewer main in Grove Avenue between Eucalyptus Avenue and Merrill Avenue.
- iv. Install an 18-inch Sewer main in Baker Avenue from Eucalyptus Avenue to Merrill Avenue.
- v. Install a 12-inch Sewer main in Eucalyptus Avenue from west of Walker Avenue (Parco Avenue) to Grove Avenue.
- vi. Install a 12-inch Sewer main in Eucalyptus Avenue from west of Walker Avenue to Walker Avenue.
- vii. Install an 18-inch Sewer main in Merrill Avenue between Baker Avenue and Walker Avenue.

15. All interfering on-site easements shall be quitclaimed, vacated, and/or submit a non-interference letter from affected owner/utility company.

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

CONDITIONS OF APPROVAL

Sign Off

	5/11/2022
Jamie Richardson, Sr. Landscape Planner	Date

Reviewer's Name: Jamie Richardson, Sr. Landscape Planner	Phone: (909) 395-2615
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D.A.B. File No.: PDEV22-002	Case Planner: Edmelynn Hutter
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Project Name and Location:
 Industrial Buildings
 Northeast Corner of Merrill Ave and Grove Ave

Applicant/Representative:
 RGA Architects Mike Gill
 15231 Alton Parkway, Suite 100
 Irvine, CA 92618

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | Preliminary Plans (dated 5/4/2022) meet the Standard Conditions for New Development and have been approved considering that the following conditions below be met upon submittal of the landscape construction documents. |
| <input type="checkbox"/> | Preliminary Plans (dated) have not been approved. Corrections noted below are required before Preliminary Landscape Plan approval. |

A RESPONSE SHEET IS REQUIRED WITH RESUBMITTAL OR PLANS WILL BE RETURNED INCOMPLETE.
 Landscape construction plans with plan check number may be emailed to:
landscapeplancheck@ontarioca.gov

Civil/ Site Plans

1. Provide an arborist report and tree inventory for existing trees, including genus, species, trunk diameter, canopy width, and condition. Show and note existing trees in good condition to remain and note trees proposed to be removed. Include existing trees within 15' of adjacent property that would be affected by new walls, footings, or on-site tree planting. Add tree protection notes on construction and demo plans to protect trees to remain. Replacement and mitigation for removed trees shall equal the trunk diameter of heritage trees removed per the Development Code Tree Preservation Policy and Protection Measures, section 6.05.020.
2. Show on demo plans and landscape construction plans trees to be preserved, removed or mitigation measures for trees removed, such as:
 - a. New 15 gallon trees min 1" diameter trunk, in addition to trees required.
 - b. New 24" box trees min 1.5" diameter trunk, in addition to trees required.
 - c. Upsizing trees on the plan one size larger such as 15 gallon to 24" box, or 24" to 36" box size.
 - d. Monetary value of the trees removed as identified in the "Guide for Plant Appraisal," approved certified arborist plant appraiser, or may be equal to the value of the installation cost of planting, fertilizing, staking, and irrigating 15-gallon trees (100\$ each) to the City of Ontario Historic Preservation Fund for city tree planting or city approved combination of the above items.
3. Parkway tree locations shall be shown on all plans where utilities are proposed. Parkway trees are 30' apart. Show and note a 10' total space, 5' clearance each side of the tree from any utility or hardscape, including water, sewer, drain lines, driveways, and 10' clear from street lights. Relocate utilities to minimum clearances to allow parkway trees.
4. Before permit issuance, stormwater infiltration devices located in landscape areas shall be reviewed and plans approved by the Landscape Planning Division. Any stormwater devices in parkway areas shall not displace street trees.

5. Show transformers set back 5' from paving all sides. Coordinate with landscape plans.
6. Show backflow devices set back 4' from paving on all sides. Locate on level grade
7. Show corner ramp and sidewalk per city standard drawing 1213 with max 10' or 13' of ramp and sidewalk behind corners. Show 5' sidewalk and 7' parkway within the right of way or as required by Engineering dept.
8. Note for compaction to be no greater than 85% in landscape areas. All finished grades at 1 ½" below finished surfaces. Slopes to be maximum 3:1.
9. Show outdoor employee break area with table or bench and shade trees on the south and west sides.
10. If an infiltration basin is required, add detail and description of the soil. Soils shall be suitable for vegetated swales, such as sandy topsoil mix with a maximum of 5% organic matter and min 1" per hour infiltration rate.

Landscape Plans

11. Provide an arborist report and tree inventory as noted in #1.
12. During plan check, coordinate with Ontario Municipal Utilities Company (OMUC) to submit irrigation plans for recycled water systems to omucwaterquality@ontarioca.gov. OMUC shall review and approve irrigation systems utilizing recycled water before final landscape approval. Submit an electronic approval letter or memo from OMUC with the submittal of the landscape package.
13. Corners; verify dimension and grade for required monumentation (see Specific Plan for detail). Verify any monumentation shown within neighborhood edges for maintenance easements.
14. Show backflow devices with 36" high strappy leaf shrub screening and trash enclosures and transformers, a 4'-5' high evergreen hedge screening. Do not encircle utility; show as masses and duplicate masses in other locations at regular intervals.
15. Locate light standards, fire hydrants, water, and sewer lines to not conflict with required tree locations. Coordinate civil plans with landscape plans
16. Show all utilities on the landscape plans. Coordinate so utilities are clear of tree locations.
17. Show corner ramp and sidewalk per city standard drawing 1213.
18. Show accessible access route from the public sidewalk, accessible path to employee break area, and accessible path to adjacent industrial buildings within the same development. Include required accessible parking spaces and access aisles.
19. Call out the proposed irrigation system (dripline and pop-up stream spray tree bubblers with PCS). Include preliminary MAWA calcs. Proposed water use must meet the water budget.
20. Show landscape hydrozones on plan or legend with plants per WUCOLS. Moderate water plants may be used for part shade north and east-facing locations, low water plants everywhere else.
21. Overhead spray systems shall be designed for plant material less than the height of the spray head.
22. Designer or developer to provide agronomical soil testing and include a report on landscape construction plans.
23. Call out all fences and walls, materials proposed, and heights.
24. Show concrete mowstrips to identify open property lines, separate ownership, or between maintenance areas.
25. Show outdoor employee break area with table or bench and shade trees on the south and west sides.
26. Show 25% of trees as California native (*Platanus racemosa*, *Quercus agrifolia*, *Quercus wislizenii*, *Quercus douglasii*, *Cercis occidentalis*, etc.) in appropriate locations.
27. Landscape construction plans shall meet the requirements of the Landscape Development Guidelines. See <http://www.ontarioca.gov/landscape-planning/standards>
28. After a project's entitlement approval, the applicant shall pay all applicable fees for landscape plan check and inspections at a rate established by resolution of the City Council. Landscape construction plans with building permit number for plan check may be emailed to: landscapeplancheck@ontarioca.gov



CITY OF ONTARIO

MEMORANDUM

TO: Lorena Mejia, Senior Planner
Planning Department

FROM: Paul Ehrman, Sr. Deputy Fire Chief/Fire Marshal
Fire Department

DATE: January 26, 2022

SUBJECT: PDEV22-002 - A Development Plan to construct two (2) industrial buildings totaling 2,237,458 square feet on 119.94 acres of land located at the northeast corner of Merrill Avenue and Grove Avenue, within PA-1 and PA-2 of the Industrial land use district of the Merrill Commerce Center Specific Plan (APN(s): 218-211-31).

-
- The plan **does** adequately address Fire Department requirements at this time.
- Standard Conditions of Approval apply, as stated below.
-

SITE AND BUILDING FEATURES:

- A. 2019 CBC Type of Construction: Type II-B
- B. Type of Roof Materials: Panelized
- C. Ground Floor Area(s): 1,149,610 Sq. Ft. + 1,055,100 Sq. Ft.
- D. Number of Stories: 1
- E. Total Square Footage: 2,238,765 Sq. Ft. (2 Buildings)
- F. 2019 CBC Occupancy Classification(s): S/F

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.ontarioca.gov/Fire/Prevention.
- ☒ 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-four (24) 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.
- ☒ 2.7 Any time PRIOR to on-site combustible construction and/or storage, a minimum twenty-four (24) ft. wide circulating all weather access roads shall be provided to within 150 ft. of all portions of the exterior walls of the first story of any building, unless specifically approved by fire department and other emergency services.

3.0 WATER SUPPLY

- ☒ 3.1 The required fire flow per Fire Department standards, based on the 2019 California Fire Code, Appendix B, is 4000 gallons per minute (g.p.m.) for 4 hours at a minimum of 20 pounds per square inch (p.s.i.) residual operating pressure.
- ☒ 3.2 Off-site (public) 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 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

- ☒ 4.2 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. 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.
- ☒ 4.5 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.
- ☒ 4.6 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.
- ☒ 4.7 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.

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 6.06 of the Ontario Municipal Code and Standards #H-003 and #H-002.
- ☒ 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 6.06 of the Ontario Municipal Code and Standard #H-003.
- ☒ 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.

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: Scott Murphy, Community Development Director (Copy of memo only)
Rudy Zeledon, Planning Director (Copy of memo only)
Diane Ayala, Advanced Planning Division (Copy of memo only)
Charity Hernandez, Economic Development
James Caro, Building Department
Raymond Lee, Engineering Department
Jamie Richardson, Landscape Planning Division
Dennis Mejia, Municipal Utility Company
Jeremy Phillips, Police Department
Paul Ehrman, Deputy Fire Chief/Fire Marshal
Jay Bautista, Traffic/Transportation Manager
Lorena Mejia, Airport Planning
Tricia Espinoza, Engineering/NPDES
Angela Magana, Community Improvement (Copy of memo only)
Jimmy Chang, IT Department
Ben Mayorga, Integrated Waste

REVISION #1
Bluebeam Submittal

FROM: Edmelynne Hutter, Senior Planner

DATE: April 05, 2022

SUBJECT: FILE #: PDEV22-002

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 .

PROJECT DESCRIPTION: A Development Plan to construct two (2) industrial buildings totaling 2,237,458 square feet on 119.94 acres of land located at the northeast corner of Merrill Avenue and Grove Avenue, within PA-1 and PA-2 of the Industrial land use district of the Merrill Commerce Center Specific Plan (APN(s): 218-211-31).

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.

ONTARIO POLICE DEPT.

Department

ANTONIO GALBAN

Signature

POLICE OFFICER

Title

4/8/22

Date

AIRPORT LAND USE COMPATIBILITY PLANNING

CONSISTENCY DETERMINATION REPORT



Project File No.: PDEV22-002 and PMTT22-007
 Address: NEC Merrill Avenue & Grove Avenue
 APN: 1054-111-03, 1054-141-03, 1054-221-03, 1054-331-03, and 1054-331-04
 Existing Land Use: Vacant/Mass Graded
 Proposed Land Use: Development Plan to construct 2 industrial buildings 2,238,765 SF and Tentative Parcel Map to subdivide 119.94 acres into 3 parcels
 Site Acreage: 119.94 Proposed Structure Height: 50 FT
 ONT-IAC Project Review: n/a
 Airport Influence Area: ONT & Chino

Reviewed By: Lorena Mejia
 Contact Info: 909-395-2276
 Project Planner: Edmelyne Hutter
 Date: 5/12/2022
 CD No.: 2022-002
 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="checkbox"/> High Terrain Zone	<input type="checkbox"/> Avigation Easement Dedication
<input type="radio"/> Zone 1A	<input type="radio"/> 70 - 75 dB CNEL	<input type="checkbox"/> FAA Notification Surfaces	<input type="checkbox"/> Recorded Overflight Notification
<input type="radio"/> Zone 2	<input type="checkbox"/> 65 - 70 dB CNEL	<input type="checkbox"/> Airspace Obstruction Surfaces	<input checked="" type="checkbox"/> Real Estate Transaction Disclosure
<input type="checkbox"/> Zone 3	<input type="checkbox"/> 60 - 65 dB CNEL	<input type="checkbox"/> Airspace Avigation Easement Area	
<input type="radio"/> Zone 4		Allowable Height: <u>200 FT +</u>	
<input type="radio"/> Zone 5			

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

Zone 1
 Zone 2
 Zone 3
 Zone 4
 Zone 5
 Zone 6

Allowable Height: 50 - 125 FT

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 policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for ONT.

The project is located within Safety Zones 1, 2, 3, 4 and 6 of the Chino Airport Influence Area, and is consistent with policies and criteria set forth within the 2011 California Airport Land Use Planning Handbook published by the California Department of Transportation, Division of Aeronautics. See attached Conditions

Airport Planner Signature: _____

AIRPORT LAND USE COMPATIBILITY PLANNING

CONSISTENCY DETERMINATION REPORT

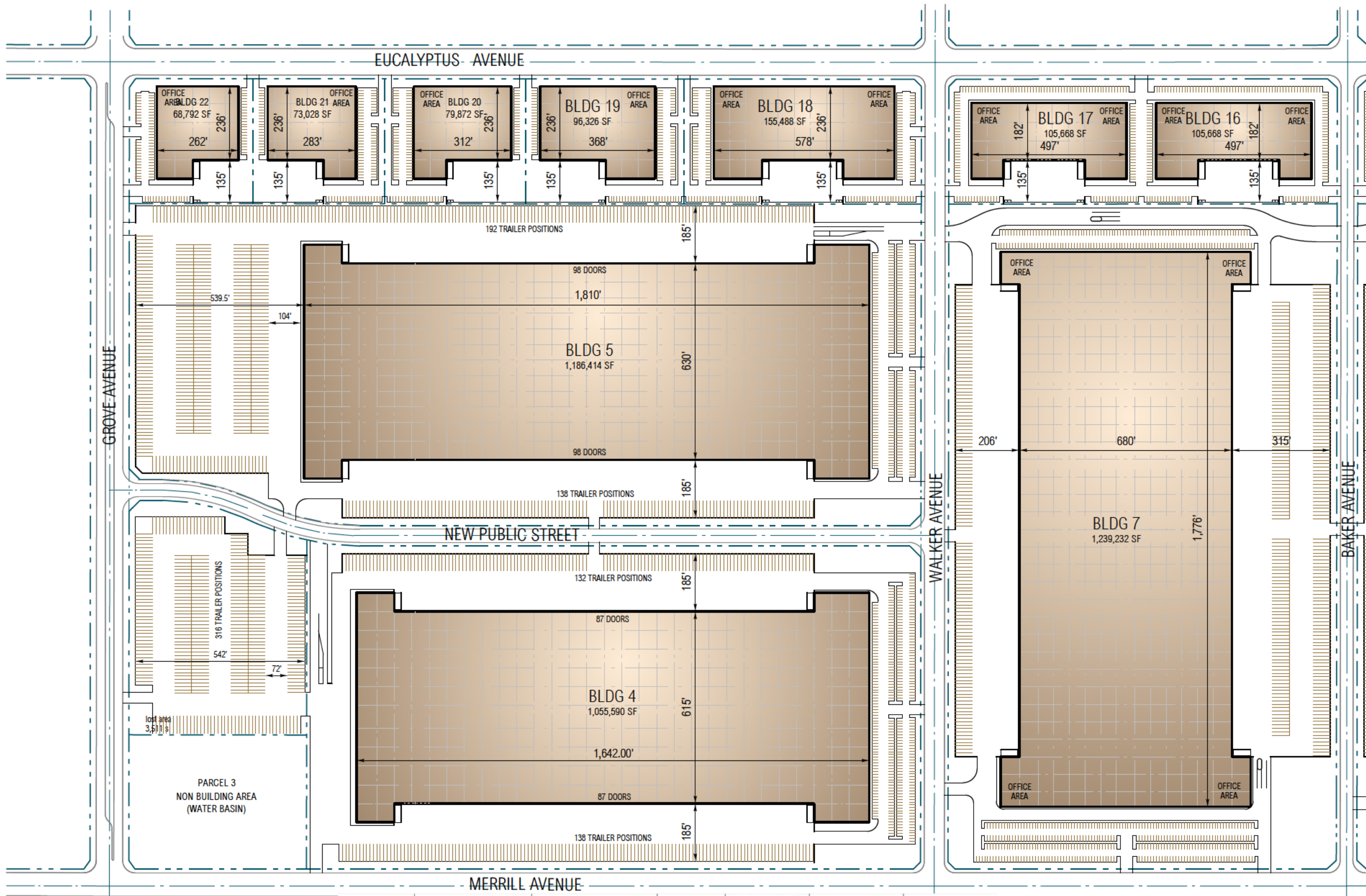
CD No.: 2002-002
PALU No.:

PROJECT CONDITIONS

1. The project will need to provide a minimum of 24.96 of open land and 26.98 acres of open land has been provided.
2. The attached open land exhibit identifies the interior truck yard as an acceptable location for meeting the open land requirements. The area within the truck yard designated for open land shall be remain free of permanent structures and other major obstacles such as walls, large trees or poles (greater than 4 inches in diameter, measured 4 feet above the ground), and overhead wires.
3. Project is located within Safety Zones 1, 2, 3, 4 and 6 and above ground storage of hazardous materials greater than 6,000 gallons is not allowed.
4. The project site is located within an area where 50-125 foot building heights are allowed. Allowable building heights gradually increase from the southwest to the northeast corner of the project site. Given its close proximity to Chino Airport the applicant will be required to file for an FAA Obstruction Evaluation/Airport Airspace Analysis (FAA Form 7460-1) for any temporary construction equipment such as cranes and receive a Determination of No Hazard for any temporary structures/objects that are over 45 feet in height.
5. The planting palette will need to include tree species that will not grow to a mature height that would create future hazards to aircraft in flight and shall have a mature height of no more than 50 feet in height.
6. Attached is the land use intensity calculation for the proposed building. Future land uses that deviate from what is currently being approved must meet the policies and criteria of the 2011 California Airport Land Use Planning Handbook published by the California Department of Transportation, Division of Aeronautics and receive Planning Department approval prior to issuance of any business license.
7. The portion of Merrill Avenue located within Safety Zone 1 must remain clear of permanent aboveground objects. The developer shall coordinate with Chino Airport and FAA to determine allowable heights and structures permitted within Safety Zone 1 near the Grove Avenue/Merrill Avenue intersection such as Traffic signals and street lights. The applicant shall file for an Obstruction Evaluation with the FAA and receive a Determination of No Hazard prior for permit issuance of any street improvements (street lights/traffic signals/street trees).
8. The applicant shall adhere to the conditions set forth in FAA Aeronautical Study No's. 2022-AWP-166-OE, 2022-AWP-167-OE, 2022-AWP-168-OE, 2022-AWP-169-OE, 2022-AWP-170-OE, 2022-AWP-171-OE, 2022-AWP-172-OE and 2022-AWP-173-OE.
9. The proposed 14 foot high screen walls located within Safety Zone 1 shall file for an Obstruction Evaluation with the FAA and receive a Determination of No Hazard prior for permit issuance of any screen walls within Safety Zone 1.

Intensity Calculations for PDEV22-002

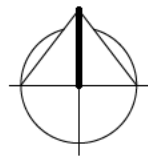
Intensity Calculations													
Building No.	Proposed Land Use	Zone 2 Land Use SF	Zone 3 Land Use SF	Zone 4 Land Use SF	Zone 6 Land Use SF	ALUCP Load Factor	ALUCP Load Factor	ALUCP Load Factor	ALUCP Load Factor	ALUCP Load Factor	Zone 2 Single Acre Land Use SF (Zone 2 = 120 P/AC max)	Zone 3 Single Acre Land Use SF (Zone 3 = 300 P/AC max)	
Building 4	Warehouse	695,716	284,603	0	644,610	1,000	696	285	0	645	44	44	
Building 4	Office	0	0	0	16,374	215	0	0	0	76	0	0	
Totals							18	21		138.3	43.6	44	
Building 5	Warehouse	796,772	127,355	189,233	164,289	1,000	797	127	189	164	33	44	
Building 5	Office	10,647	0	0	5,727	215	50	0	0	27	50	0	
Totals							28	9	20	49.5	82.4	44	
Site Information		Building 4	Building 5										
Safety Zone													
Zone 2		37.92	30.56										
Zone 3		13.54	14.6										
Zone 4		0.00	9.44										
Zone 6		5.21	3.86										
Totals													
Sitewide Average Calculation Safety Zone 2: Bldg.4 = 18, Bldg. 5 = 28 Safety Zone 3: Bldg.4 = 21, Bldg. 5 = 9 Safety Zone 4: Bldg.4 = 0, Bldg. 5 = 20 Safety Zone 6: Bldg.4 = 138, Bldg. 5 = 50				Single Acre Intensity Calculation Safety Zone 2: Bldg.4 = 44, Bldg. 5 = 82 Safety Zone 3: Bldg.4 = 44, Bldg. 5 = 44 Safety Zone 4: Bldg.4 = 0, Bldg. 5 = 64 Safety Zone 6: Bldg.4 = 103, Bldg. 5 = 64									



Structure Name	Latitude (DD-MM-SS.SS)	Longitude (DD-MM-SS.SS)	Site Elevation	Structure Height (AGL)	Requested M&L	ASN
Bldg 4-1	33-59-01.61	117-37-11.94	660	63	None	2022-AWP-166-OE
Bldg 4-2	33-59-01.50	117-37-31.44	660	63	None	2022-AWP-167-OE
Bldg 4-3	33-59-08.86	117-37-31.75	665	63	None	2022-AWP-168-OE
Bldg 4-4	33-59-08.88	117-37-12.00	665	63	None	2022-AWP-169-OE
Bldg 5-1	33-59-12.49	117-37-12.03	665	63	None	2022-AWP-170-OE
Bldg 5-2	33-59-12.36	117-37-33.53	665	63	None	2022-AWP-171-OE
Bldg 5-3	33-59-19.78	117-37-33.59	670	63	None	2022-AWP-172-OE
Bldg 5-4	33-59-19.91	117-37-12.09	670	63	None	2022-AWP-173-OE
Bldg 7-1	33-59-02.19	117-36-57.45	660	53	None	2022-AWP-174-OE
Bldg 7-2	33-59-02.13	117-37-06.95	660	53	None	2022-AWP-175-OE
Bldg 7-3	33-59-19.70	117-37-07.10	670	53	None	2022-AWP-176-OE
Bldg 7-4	33-59-19.75	117-36-57.60	670	53	None	2022-AWP-177-OE

NEW MASTER SITE PLAN

SCALE: 1" = 200'-0"





Mail Processing Center
 Federal Aviation Administration
 Southwest Regional Office
 Obstruction Evaluation Group
 10101 Hillwood Parkway
 Fort Worth, TX 76177

Aeronautical Study No.
 2022-AWP-166-OE

Issued Date: 04/12/2022

Nick Johnson
 Johnson Aviation, Inc.
 6524 Deerbrook Road
 Oak Park, CA 91377

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure: Building 4-1
 Location: Ontario, CA
 Latitude: 33-59-01.61N NAD 83
 Longitude: 117-37-11.94W
 Heights: 660 feet site elevation (SE)
 63 feet above ground level (AGL)
 723 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

- At least 10 days prior to start of construction (7460-2, Part 1)
- Within 5 days after the construction reaches its greatest height (7460-2, Part 2)

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/lighting are accomplished on a voluntary basis, we recommend it be installed in accordance with FAA Advisory circular 70/7460-1 M.

The structure considered under this study lies in proximity to an airport and occupants may be subjected to noise from aircraft operating to and from the airport.

This determination expires on 10/12/2023 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.
- (c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within

6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, effective 21 Nov 2007, will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

If construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

If we can be of further assistance, please contact our office at (847) 294-7575, or vivian.vilaro@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2022-AWP-166-OE.

Signature Control No: 506727992-523336140

(DNE)

Vivian Vilaro
Specialist

Attachment(s)
Map(s)

TOPO Map for ASN 2022-AWP-166-OE







Mail Processing Center
 Federal Aviation Administration
 Southwest Regional Office
 Obstruction Evaluation Group
 10101 Hillwood Parkway
 Fort Worth, TX 76177

Aeronautical Study No.
 2022-AWP-167-OE

Issued Date: 04/12/2022

Nick Johnson
 Johnson Aviation, Inc.
 6524 Deerbrook Road
 Oak Park, CA 91377

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure: Building 4-2
 Location: Ontario, CA
 Latitude: 33-59-01.50N NAD 83
 Longitude: 117-37-31.44W
 Heights: 660 feet site elevation (SE)
 59 feet above ground level (AGL)
 719 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the structure would not be a hazard to air navigation provided the following condition(s) is(are) met:

As a condition to this Determination, the structure is to be marked/lighted in accordance with FAA Advisory circular 70/7460-1 M, Obstruction Marking and Lighting, red lights-Chapters 4,5(Red),&15.

Any failure or malfunction that lasts more than thirty (30) minutes and affects a top light or flashing obstruction light, regardless of its position, should be reported immediately to (877) 487-6867 so a Notice to Airmen (NOTAM) can be issued. As soon as the normal operation is restored, notify the same number.

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

- At least 10 days prior to start of construction (7460-2, Part 1)
- Within 5 days after the construction reaches its greatest height (7460-2, Part 2)

See attachment for additional condition(s) or information.

The structure considered under this study lies in proximity to an airport and occupants may be subjected to noise from aircraft operating to and from the airport.

This determination expires on 10/12/2023 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.
- (c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is subject to review if an interested party files a petition that is received by the FAA on or before May 12, 2022. In the event a petition for review is filed, it must contain a full statement of the basis upon which it is made and be submitted to the Manager of the Rules and Regulations Group. Petitions can be submitted via mail to Federal Aviation Administration, 800 Independence Ave, SW, Washington, DC 20591, via email at OEPetitions@faa.gov, or via facsimile (202) 267-9328.

This determination becomes final on May 22, 2022 unless a petition is timely filed. In which case, this determination will not become final pending disposition of the petition. Interested parties will be notified of the grant of any review. For any questions regarding your petition, please contact Rules and Regulations Group via telephone – 202-267-8783.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, effective 21 Nov 2007, will void this determination. Any future construction or alteration, including increase to heights, power or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

If construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

This aeronautical study considered and analyzed the impact on existing and proposed arrival, departure, and en route procedures for aircraft operating under both visual flight rules and instrument flight rules; the impact on all existing and planned public-use airports, military airports and aeronautical facilities; and the cumulative

impact resulting from the studied structure when combined with the impact of other existing or proposed structures. The study disclosed that the described structure would have no substantial adverse effect on air navigation.

An account of the study findings, aeronautical objections received by the FAA during the study (if any), and the basis for the FAA's decision in this matter can be found on the following page(s).

If we can be of further assistance, please contact Vivian Vilaro, at (847) 294-7575, or vivian.vilaro@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2022-AWP-167-OE.

Signature Control No: 506727993-523335161

(DNH)

Mike Helvey

Manager, Obstruction Evaluation Group

Attachment(s)

Additional Information

Map(s)

Additional information for ASN 2022-AWP-167-OE

AERONAUTICAL STUDY NO. 2022-AWP-167-168-171-172-354-through-356-OE

Abbreviations

VFR - Visual Flight Rules	AGL - Above Ground Level	RWY - Runway
IFR - Instrument Flight Rules	MSL - Mean Sea Level	nm - Nautical Mile
AMSL - Above Mean Sea Level	ARP - Airport Reference Point	
DER - Departure end of RWY	ICA - Initial Climb Area	

Part 77 - Title 14 Code of Federal Regulations (CFR) Part 77, Safe, Efficient Use and Preservation of the Navigable Airspace

The proposed Building and Light Poles have been identified as an obstruction under Part 77 standards. The structures would be located northeast of the Chino Airport (CNO) airport reference point (ARP) in Chino, CA. CNO elevation is 650 feet MSL.

Aeronautical Study Number	AGL/AMSL	CNO ARP	Coordinates	Building
2022-AWP-167-OE	59/719	0.77 nm	33-59-01.50/117-37-31.44	4-2
2022-AWP-168-OE	63/728	0.86 nm	33-59-08.86/117-37-31.75	4-3
2022-AWP-171-OE	63/728	0.89 nm	33-59-12.36/117-37-33.53	5-2
2022-AWP-172-OE	63/733	0.99 nm	33-59-19.78/117-37-33.59	5-3

Light Poles

2022-AWP-354-OE	45/710	0.80 nm	33-59-05.60/117-37-33.24	LP-1
2022-AWP-355-OE	45/710	0.75 nm	33-59-05.56/117-37-39.86	LP-2
2022-AWP-356-OE	45/710	0.82 nm	33-59-11.12/117-37-39.92	LP-3

Section 77.17(a)(3): - A height within a terminal obstacle clearance area, including an initial approach segment, a departure area, and a circling approach area, which would result in the vertical distance between any point on the object and an established minimum instrument flight altitude within that area or segment to be less than the required obstacle clearance.

2022-AWP-167-OE - Chino (CNO) Chino, CA Obstacle penetrates RWY 3 ICA by 21 feet. Qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures NOTE: RWY 3 Building 1966 feet from DER, 206 feet right of centerline, 59 feet AGL/ 719 feet AMSL.

2022-AWP-168-OE - Chino (CNO) Chino, CA Obstacle penetrates RWY 3 ICA by 17 feet. Qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures, NOTE: RWY 3 Building 2479 feet from DER, 335 feet right of centerline, 63 feet AGL/ 728 feet AMSL.

2022-AWP-171-OE - Chino (CNO) Chino, CA Obstacle penetrates RWY 3 ICA by 13 feet. Qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures, NOTE: RWY 3 Building 2627 feet from DER, 689 feet right of centerline, 63 feet AGL/ 728 feet AMSL.

2022-AWP-172-OE - Chino (CNO) Chino, CA Obstacle penetrates RWY 3 ICA by 5 feet. Qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures, NOTE: RWY 3 Building 3159 feet from DER, 1218 feet right of centerline, 63 feet AGL/ 733 feet AMSL.

2022-AWP-354-OE - Chino (CNO) Chino, CA Obstacle penetrates RWY 3 ICA by 7 feet. Qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures, NOTE: RWY 03, light pole 2155 feet from DER, 193 feet left of centerline, 45 feet AGL/ 710 feet AMSL.

2022-AWP-355-OE - Chino (CNO) Chino, CA Obstacle penetrates RWY 3 ICA by 17 feet. Qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures, NOTE: RWY 03, light pole 1762 feet from DER, 588 feet left of centerline, 45 feet AGL/ 710 feet AMSL.

2022-AWP-356-OE - Chino (CNO) Chino, CA Obstacle penetrates RWY 3 ICA by 7 feet. Qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures, NOTE: RWY 03, light pole 2160 feet from DER, 985 feet left of centerline, 45 feet AGL/ 710 feet AMSL.

3. EFFECT ON AERONAUTICAL OPERATIONS

a. The impact on arrival, departure, and en route procedures for aircraft operating under VFR follows: The VFR traffic pattern airspace (TPA) is not penetrated.

FAA Findings

There are no effects on any existing or proposed arrival, departure, or en route visual flight rules (VFR) operations.

There are no effects on any existing or proposed arrival, departure, or en route IFR/VFR minimum flight altitudes.

There is no penetration into the VFR traffic pattern airspace.

There are no physical or electromagnetic effects on the operation of air navigation and communications facilities.

There are no effects on any airspace and routes used by the military.

The CNO Airport Master Record can be viewed or downloaded at; <https://adip.faa.gov/agis/public/#/airportData/CNO>. It states that there are three hundred and seventy eight (378) single engine, sixty one (61) multi engine and fifty four (54) jet aircraft based there with 164,588 operations for the 12 months ending 09/30/2016 (latest information).

b. The impact on arrival, departure, and en route procedures for aircraft operating under IFR follows: While this structure would exceed RWY 03 Initial Climb Area (ICA) by the values shown above, it qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures NOTE as stated above.

c. The impact on all planned public-use airports and aeronautical facilities follows: Study did not disclose any adverse effect on existing or proposed public-use or military airports or navigational facilities, nor would the proposed structure affect the capacity of any known existing or planned public-use or military airport.

d. The cumulative impact resulting from the proposed construction or alteration of a structure when combined with the impact of other existing or proposed structures is not considered to be significant.

4. CIRCULATION AND COMMENTS RECEIVED

The study was not circularized for public comments because current FAA policy exempts from circularization those proposals which penetrate the 40:1 departure surface and does not raise minima. This does not affect the public's right to petition for review determinations regarding structures, which exceed the subject obstruction standards.

5. DETERMINATION - NO HAZARD TO AIR NAVIGATION

It is determined that the proposed structure would not have a substantial adverse effect on the safe and efficient use of navigable airspace by aircraft.

6. BASIS FOR DECISION

The proposed structure would exceed the 40:1 departure surface by the values shown above; however, the only IFR impact is to add a Note to the Take-off Minimums and (Obstacle) Departure Procedures. There are no increases to the current CNO climb gradients. No VFR issues could be identified and the VFR traffic pattern airspace is not impacted. The incorporation of obstruction lighting will provide additional pilot conspicuity for IFR and VFR operations conducted in the vicinity of the CNO airport.

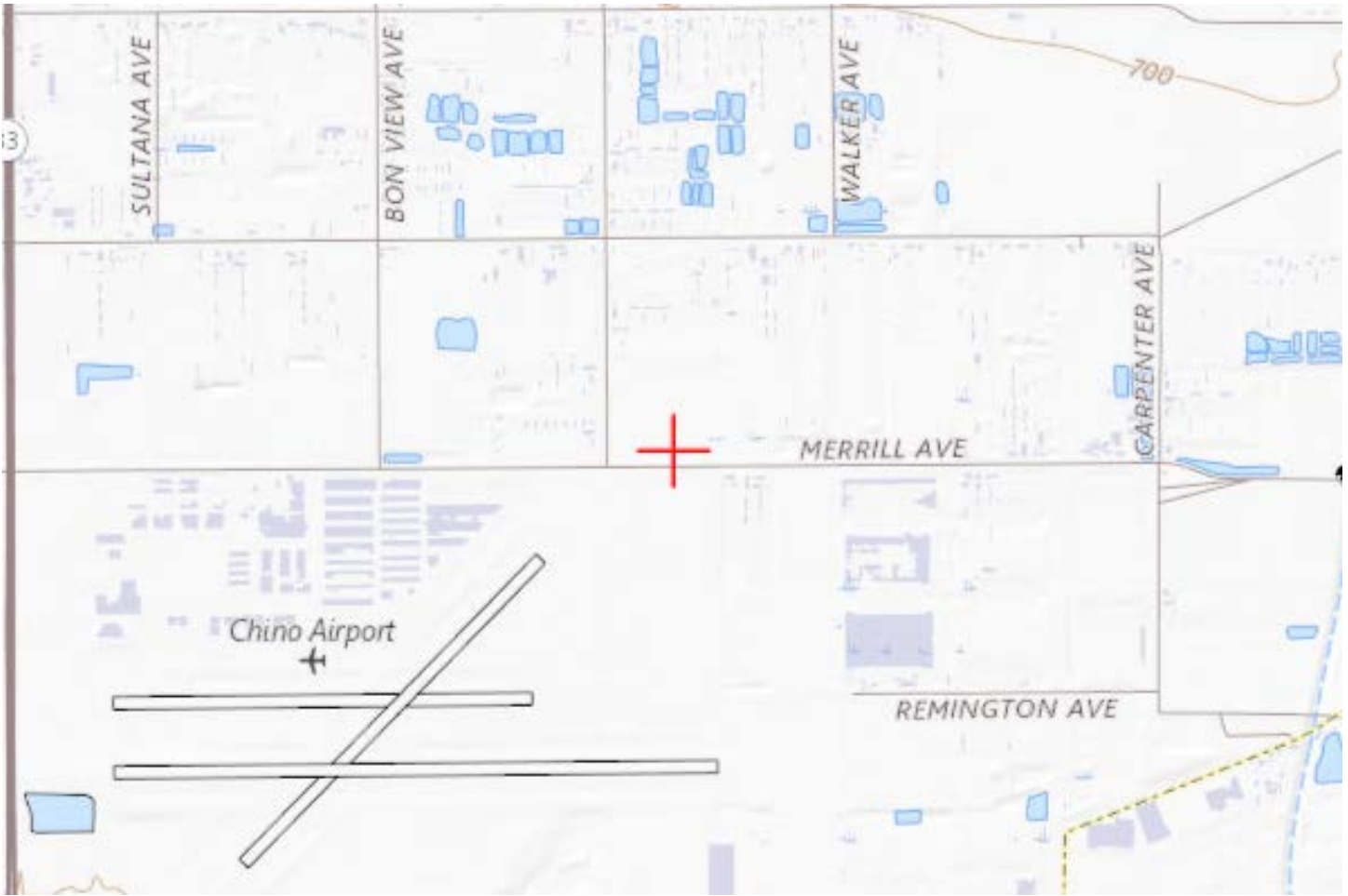
7. CONDITIONS

The structure shall be lighted as outlined in Chapters 4,5(Red) & 15 of the Advisory Circular AC 70/7460-1M. The advisory circular is available online at https://www.faa.gov/regulations_policies/advisory_circulars/index.cfm/go/document.information/documentID/1038519.

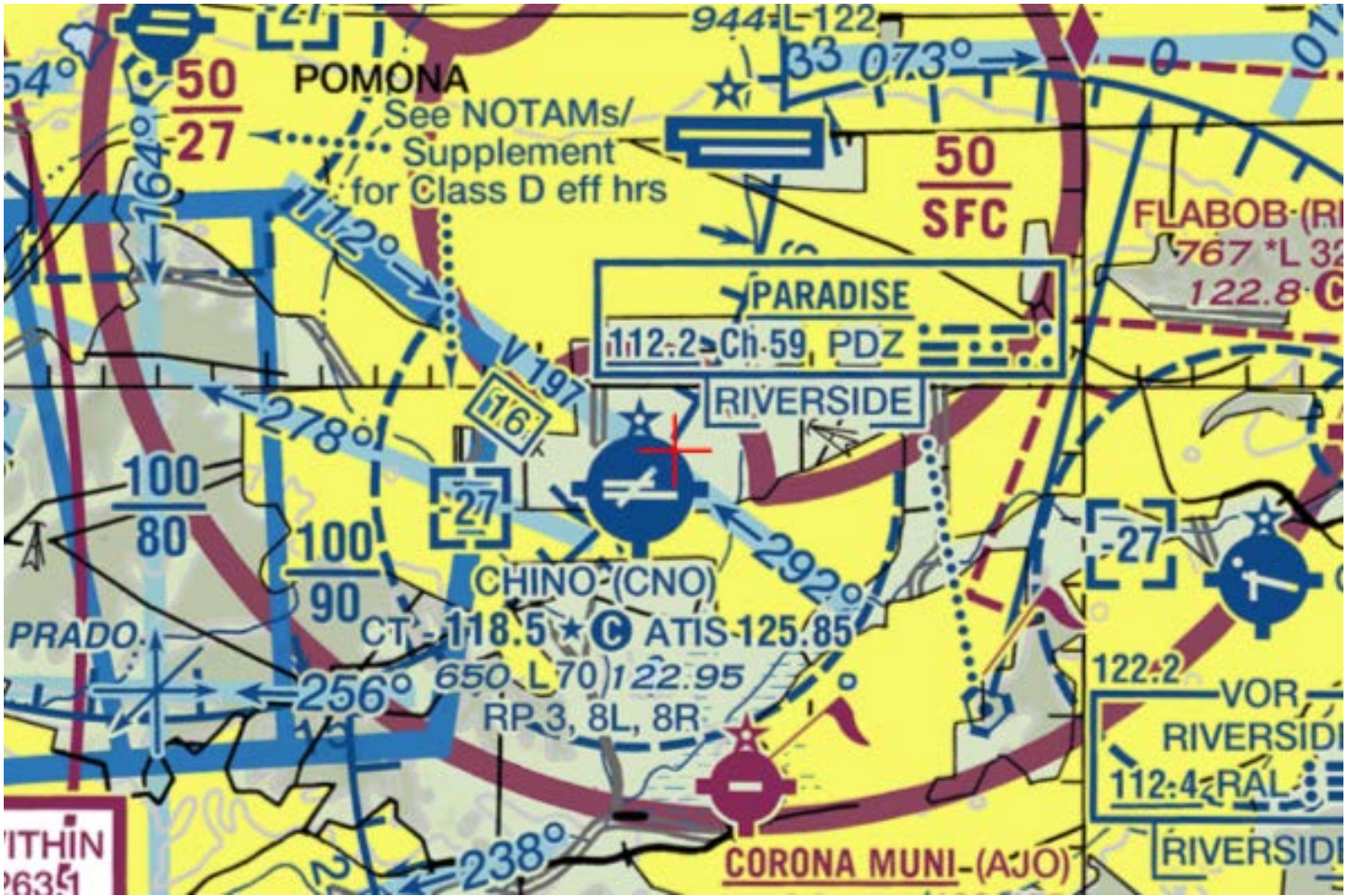
The proponent is required to notify the FAA ten days prior to construction to initiate adding a Note to the Take-off Minimums and (Obstacle) Departure procedures. This can be accomplished by filing a FAA form 7460-2, Actual Construction Notice, Part I, on line at <http://oeaaa.faa.gov/oeaaa>. Detailed instructions are available under the Instruction link.

Within five days after the structure reaches its greatest height, the proponent is required to file on line the Supplemental Notice, FAA form 7460-2, with actual construction details, at the OE/AAA website (<https://oeaaa.faa.gov/oeaaa>). Detailed instructions are available under the Instructions link. This Supplemental Notice notification will be the source document detailing the site location, site elevation, structure height, and date structure was built for the FAA to map the structure on aeronautical charts and update the national database.

TOPO Map for ASN 2022-AWP-167-OE



Sectional Map for ASN 2022-AWP-167-OE





Mail Processing Center
 Federal Aviation Administration
 Southwest Regional Office
 Obstruction Evaluation Group
 10101 Hillwood Parkway
 Fort Worth, TX 76177

Aeronautical Study No.
 2022-AWP-168-OE

Issued Date: 04/12/2022

Nick Johnson
 Johnson Aviation, Inc.
 6524 Deerbrook Road
 Oak Park, CA 91377

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure: Building 4-3
 Location: Ontario, CA
 Latitude: 33-59-08.86N NAD 83
 Longitude: 117-37-31.75W
 Heights: 665 feet site elevation (SE)
 63 feet above ground level (AGL)
 728 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the structure would not be a hazard to air navigation provided the following condition(s) is(are) met:

As a condition to this Determination, the structure is to be marked/lighted in accordance with FAA Advisory circular 70/7460-1 M, Obstruction Marking and Lighting, red lights-Chapters 4,5(Red),&15.

Any failure or malfunction that lasts more than thirty (30) minutes and affects a top light or flashing obstruction light, regardless of its position, should be reported immediately to (877) 487-6867 so a Notice to Airmen (NOTAM) can be issued. As soon as the normal operation is restored, notify the same number.

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

- At least 10 days prior to start of construction (7460-2, Part 1)
- Within 5 days after the construction reaches its greatest height (7460-2, Part 2)

See attachment for additional condition(s) or information.

The structure considered under this study lies in proximity to an airport and occupants may be subjected to noise from aircraft operating to and from the airport.

This determination expires on 10/12/2023 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.
- (c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is subject to review if an interested party files a petition that is received by the FAA on or before May 12, 2022. In the event a petition for review is filed, it must contain a full statement of the basis upon which it is made and be submitted to the Manager of the Rules and Regulations Group. Petitions can be submitted via mail to Federal Aviation Administration, 800 Independence Ave, SW, Washington, DC 20591, via email at OEPetitions@faa.gov, or via facsimile (202) 267-9328.

This determination becomes final on May 22, 2022 unless a petition is timely filed. In which case, this determination will not become final pending disposition of the petition. Interested parties will be notified of the grant of any review. For any questions regarding your petition, please contact Rules and Regulations Group via telephone – 202-267-8783.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, effective 21 Nov 2007, will void this determination. Any future construction or alteration, including increase to heights, power or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

If construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

This aeronautical study considered and analyzed the impact on existing and proposed arrival, departure, and en route procedures for aircraft operating under both visual flight rules and instrument flight rules; the impact on all existing and planned public-use airports, military airports and aeronautical facilities; and the cumulative

impact resulting from the studied structure when combined with the impact of other existing or proposed structures. The study disclosed that the described structure would have no substantial adverse effect on air navigation.

An account of the study findings, aeronautical objections received by the FAA during the study (if any), and the basis for the FAA's decision in this matter can be found on the following page(s).

If we can be of further assistance, please contact Vivian Vilaro, at (847) 294-7575, or vivian.vilaro@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2022-AWP-168-OE.

Signature Control No: 506727994-523335160

(DNH)

Mike Helvey

Manager, Obstruction Evaluation Group

Attachment(s)

Additional Information

Map(s)

Additional information for ASN 2022-AWP-168-OE

AERONAUTICAL STUDY NO. 2022-AWP-167-168-171-172-354-through-356-OE

Abbreviations

VFR - Visual Flight Rules	AGL - Above Ground Level	RWY - Runway
IFR - Instrument Flight Rules	MSL - Mean Sea Level	nm - Nautical Mile
AMSL - Above Mean Sea Level	ARP - Airport Reference Point	
DER - Departure end of RWY	ICA - Initial Climb Area	

Part 77 - Title 14 Code of Federal Regulations (CFR) Part 77, Safe, Efficient Use and Preservation of the Navigable Airspace

The proposed Building and Light Poles have been identified as an obstruction under Part 77 standards. The structures would be located northeast of the Chino Airport (CNO) airport reference point (ARP) in Chino, CA. CNO elevation is 650 feet MSL.

Aeronautical Study Number	AGL/AMSL	CNO ARP	Coordinates	Building
2022-AWP-167-OE	59/719	0.77 nm	33-59-01.50/117-37-31.44	4-2
2022-AWP-168-OE	63/728	0.86 nm	33-59-08.86/117-37-31.75	4-3
2022-AWP-171-OE	63/728	0.89 nm	33-59-12.36/117-37-33.53	5-2
2022-AWP-172-OE	63/733	0.99 nm	33-59-19.78/117-37-33.59	5-3

Light Poles

2022-AWP-354-OE	45/710	0.80 nm	33-59-05.60/117-37-33.24	LP-1
2022-AWP-355-OE	45/710	0.75 nm	33-59-05.56/117-37-39.86	LP-2
2022-AWP-356-OE	45/710	0.82 nm	33-59-11.12/117-37-39.92	LP-3

Section 77.17(a)(3): - A height within a terminal obstacle clearance area, including an initial approach segment, a departure area, and a circling approach area, which would result in the vertical distance between any point on the object and an established minimum instrument flight altitude within that area or segment to be less than the required obstacle clearance.

2022-AWP-167-OE - Chino (CNO) Chino, CA Obstacle penetrates RWY 3 ICA by 21 feet. Qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures NOTE: RWY 3 Building 1966 feet from DER, 206 feet right of centerline, 59 feet AGL/ 719 feet AMSL.

2022-AWP-168-OE - Chino (CNO) Chino, CA Obstacle penetrates RWY 3 ICA by 17 feet. Qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures, NOTE: RWY 3 Building 2479 feet from DER, 335 feet right of centerline, 63 feet AGL/ 728 feet AMSL.

2022-AWP-171-OE - Chino (CNO) Chino, CA Obstacle penetrates RWY 3 ICA by 13 feet. Qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures, NOTE: RWY 3 Building 2627 feet from DER, 689 feet right of centerline, 63 feet AGL/ 728 feet AMSL.

2022-AWP-172-OE - Chino (CNO) Chino, CA Obstacle penetrates RWY 3 ICA by 5 feet. Qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures, NOTE: RWY 3 Building 3159 feet from DER, 1218 feet right of centerline, 63 feet AGL/ 733 feet AMSL.

2022-AWP-354-OE - Chino (CNO) Chino, CA Obstacle penetrates RWY 3 ICA by 7 feet. Qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures, NOTE: RWY 03, light pole 2155 feet from DER, 193 feet left of centerline, 45 feet AGL/ 710 feet AMSL.

2022-AWP-355-OE - Chino (CNO) Chino, CA Obstacle penetrates RWY 3 ICA by 17 feet. Qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures, NOTE: RWY 03, light pole 1762 feet from DER, 588 feet left of centerline, 45 feet AGL/ 710 feet AMSL.

2022-AWP-356-OE - Chino (CNO) Chino, CA Obstacle penetrates RWY 3 ICA by 7 feet. Qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures, NOTE: RWY 03, light pole 2160 feet from DER, 985 feet left of centerline, 45 feet AGL/ 710 feet AMSL.

3. EFFECT ON AERONAUTICAL OPERATIONS

a. The impact on arrival, departure, and en route procedures for aircraft operating under VFR follows: The VFR traffic pattern airspace (TPA) is not penetrated.

FAA Findings

There are no effects on any existing or proposed arrival, departure, or en route visual flight rules (VFR) operations.

There are no effects on any existing or proposed arrival, departure, or en route IFR/VFR minimum flight altitudes.

There is no penetration into the VFR traffic pattern airspace.

There are no physical or electromagnetic effects on the operation of air navigation and communications facilities.

There are no effects on any airspace and routes used by the military.

The CNO Airport Master Record can be viewed or downloaded at; <https://adip.faa.gov/agis/public/#/airportData/CNO>. It states that there are three hundred and seventy eight (378) single engine, sixty one (61) multi engine and fifty four (54) jet aircraft based there with 164,588 operations for the 12 months ending 09/30/2016 (latest information).

b. The impact on arrival, departure, and en route procedures for aircraft operating under IFR follows: While this structure would exceed RWY 03 Initial Climb Area (ICA) by the values shown above, it qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures NOTE as stated above.

c. The impact on all planned public-use airports and aeronautical facilities follows: Study did not disclose any adverse effect on existing or proposed public-use or military airports or navigational facilities, nor would the proposed structure affect the capacity of any known existing or planned public-use or military airport.

d. The cumulative impact resulting from the proposed construction or alteration of a structure when combined with the impact of other existing or proposed structures is not considered to be significant.

4. CIRCULATION AND COMMENTS RECEIVED

The study was not circularized for public comments because current FAA policy exempts from circularization those proposals which penetrate the 40:1 departure surface and does not raise minima. This does not affect the public's right to petition for review determinations regarding structures, which exceed the subject obstruction standards.

5. DETERMINATION - NO HAZARD TO AIR NAVIGATION

It is determined that the proposed structure would not have a substantial adverse effect on the safe and efficient use of navigable airspace by aircraft.

6. BASIS FOR DECISION

The proposed structure would exceed the 40:1 departure surface by the values shown above; however, the only IFR impact is to add a Note to the Take-off Minimums and (Obstacle) Departure Procedures. There are no increases to the current CNO climb gradients. No VFR issues could be identified and the VFR traffic pattern airspace is not impacted. The incorporation of obstruction lighting will provide additional pilot conspicuity for IFR and VFR operations conducted in the vicinity of the CNO airport.

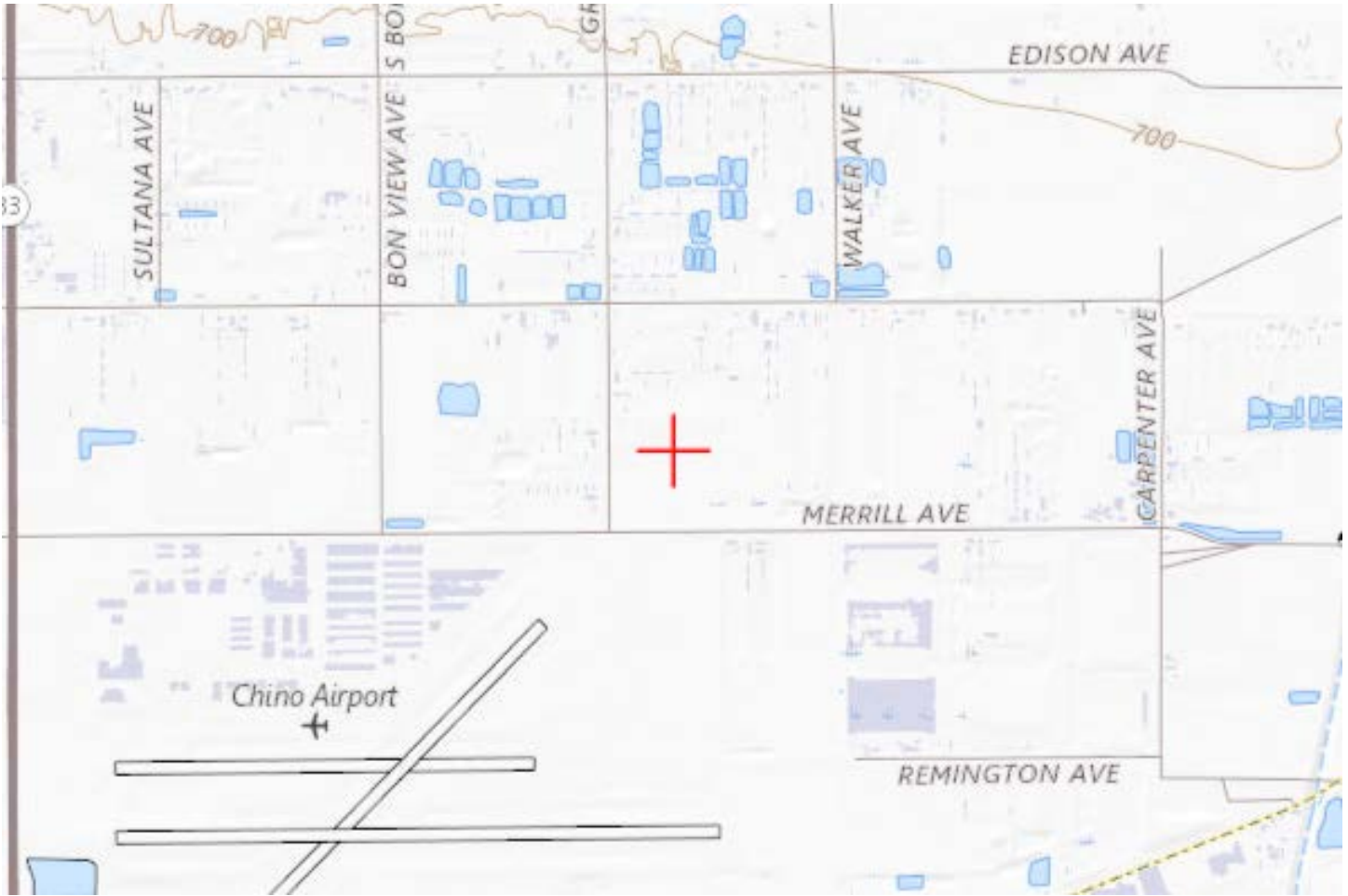
7. CONDITIONS

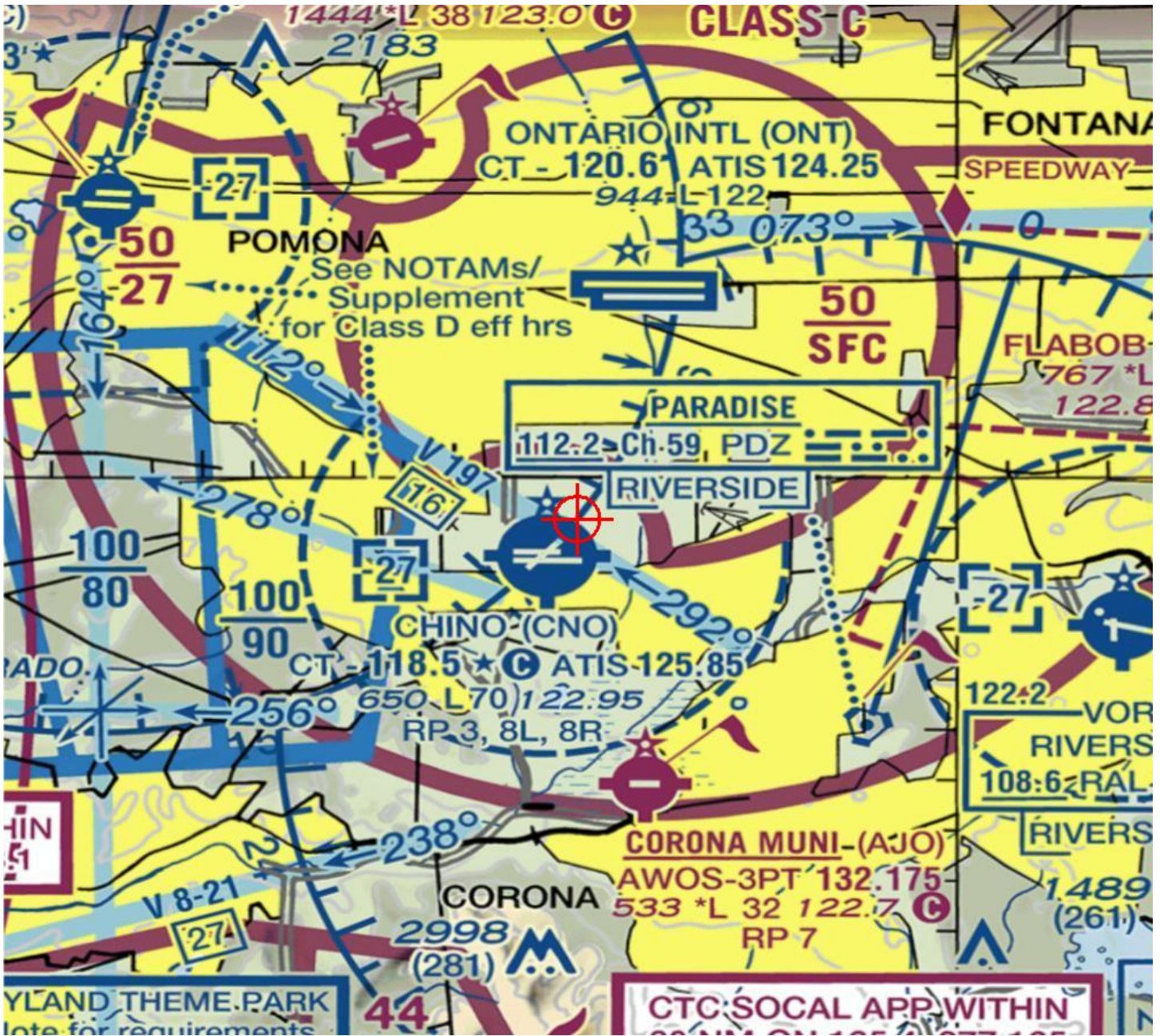
The structure shall be lighted as outlined in Chapters 4,5(Red) & 15 of the Advisory Circular AC 70/7460-1M. The advisory circular is available online at https://www.faa.gov/regulations_policies/advisory_circulars/index.cfm/go/document.information/documentID/1038519.

The proponent is required to notify the FAA ten days prior to construction to initiate adding a Note to the Take-off Minimums and (Obstacle) Departure procedures. This can be accomplished by filing a FAA form 7460-2, Actual Construction Notice, Part I, on line at <http://oeaaa.faa.gov/oeaaa>. Detailed instructions are available under the Instruction link.

Within five days after the structure reaches its greatest height, the proponent is required to file on line the Supplemental Notice, FAA form 7460-2, with actual construction details, at the OE/AAA website (<https://oeaaa.faa.gov/oeaaa>). Detailed instructions are available under the Instructions link. This Supplemental Notice notification will be the source document detailing the site location, site elevation, structure height, and date structure was built for the FAA to map the structure on aeronautical charts and update the national database.

TOPO Map for ASN 2022-AWP-168-OE







Mail Processing Center
 Federal Aviation Administration
 Southwest Regional Office
 Obstruction Evaluation Group
 10101 Hillwood Parkway
 Fort Worth, TX 76177

Aeronautical Study No.
 2022-AWP-169-OE

Issued Date: 04/12/2022

Nick Johnson
 Johnson Aviation, Inc.
 6524 Deerbrook Road
 Oak Park, CA 91377

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure: Building 4-4
 Location: Ontario, CA
 Latitude: 33-59-08.88N NAD 83
 Longitude: 117-37-12.00W
 Heights: 665 feet site elevation (SE)
 63 feet above ground level (AGL)
 728 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

- At least 10 days prior to start of construction (7460-2, Part 1)
- Within 5 days after the construction reaches its greatest height (7460-2, Part 2)

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/lighting are accomplished on a voluntary basis, we recommend it be installed in accordance with FAA Advisory circular 70/7460-1 M.

The structure considered under this study lies in proximity to an airport and occupants may be subjected to noise from aircraft operating to and from the airport.

This determination expires on 10/12/2023 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.
- (c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within

6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, effective 21 Nov 2007, will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

If construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

If we can be of further assistance, please contact our office at (847) 294-7575, or vivian.vilaro@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2022-AWP-169-OE.

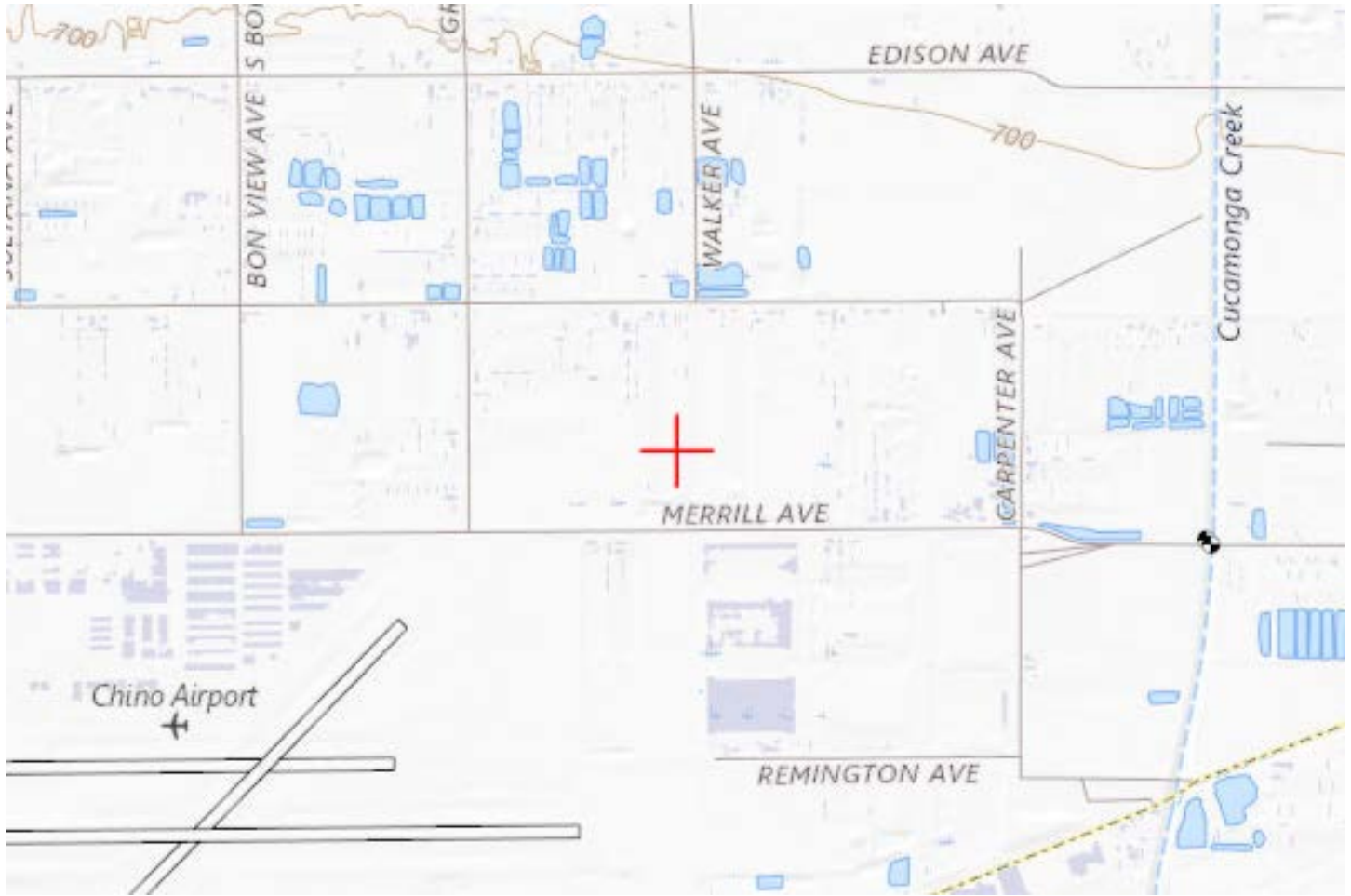
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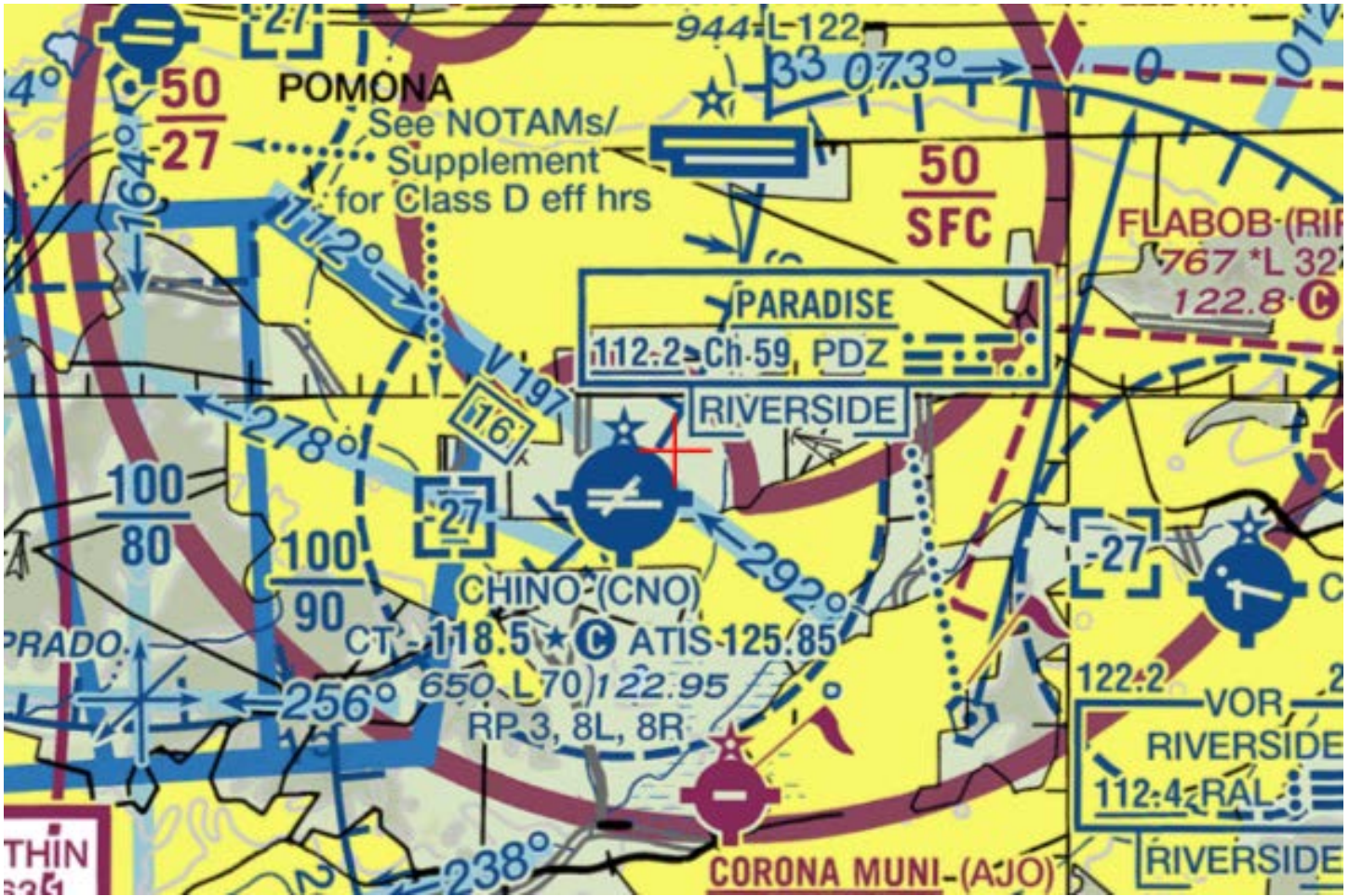
(DNE)

Vivian Vilaro
Specialist

Attachment(s)
Map(s)

TOPO Map for ASN 2022-AWP-169-OE







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 Federal Aviation Administration
 Southwest Regional Office
 Obstruction Evaluation Group
 10101 Hillwood Parkway
 Fort Worth, TX 76177

Aeronautical Study No.
 2022-AWP-170-OE

Issued Date: 04/12/2022

Nick Johnson
 Johnson Aviation, Inc.
 6524 Deerbrook Road
 Oak Park, CA 91377

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure: Building 5-1
 Location: Ontario, CA
 Latitude: 33-59-12.49N NAD 83
 Longitude: 117-37-12.03W
 Heights: 665 feet site elevation (SE)
 63 feet above ground level (AGL)
 728 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

- At least 10 days prior to start of construction (7460-2, Part 1)
- Within 5 days after the construction reaches its greatest height (7460-2, Part 2)

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/lighting are accomplished on a voluntary basis, we recommend it be installed in accordance with FAA Advisory circular 70/7460-1 M.

The structure considered under this study lies in proximity to an airport and occupants may be subjected to noise from aircraft operating to and from the airport.

This determination expires on 10/12/2023 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.
- (c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within

6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, effective 21 Nov 2007, will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

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This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

If we can be of further assistance, please contact our office at (847) 294-7575, or vivian.vilaro@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2022-AWP-170-OE.

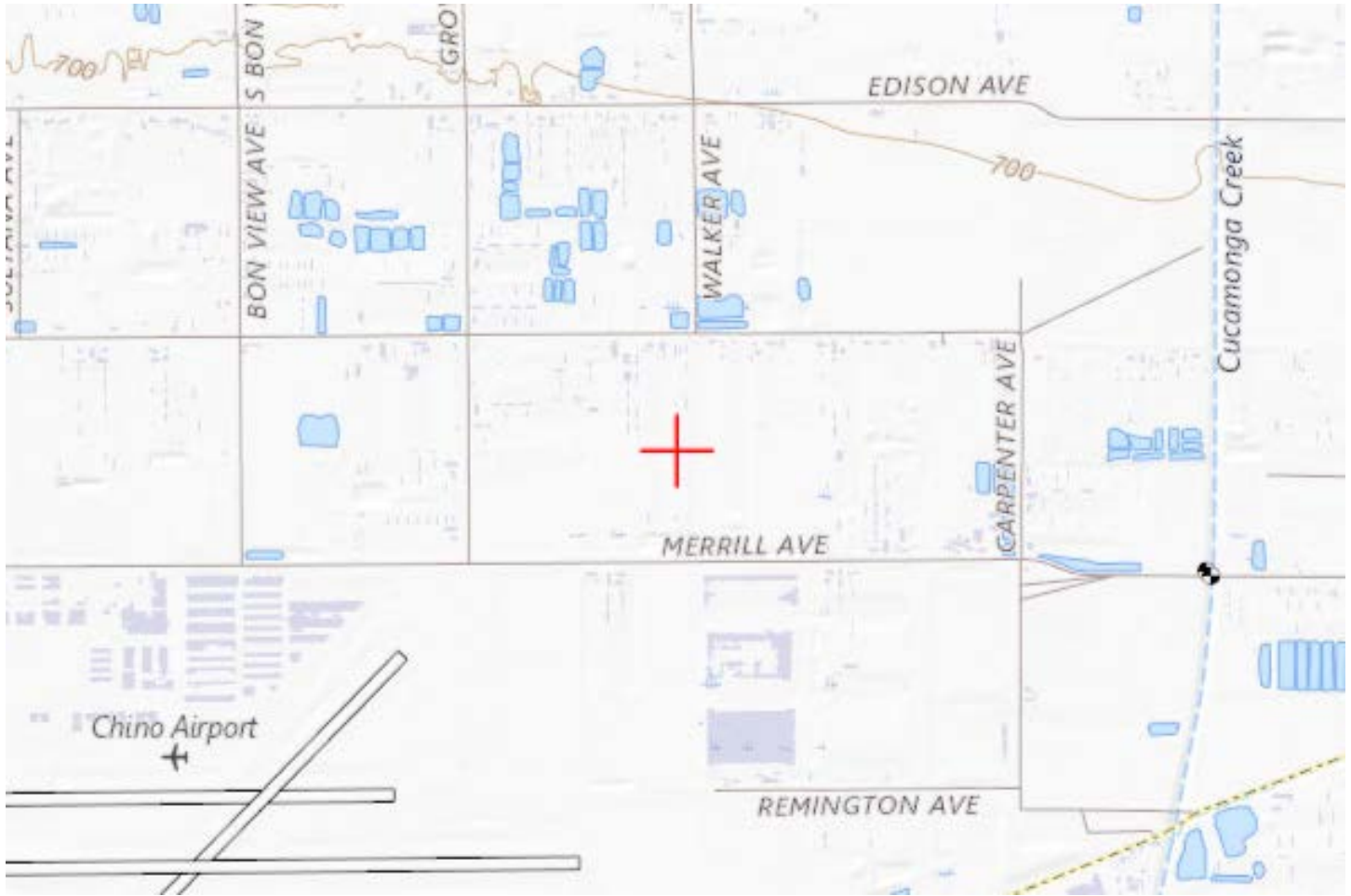
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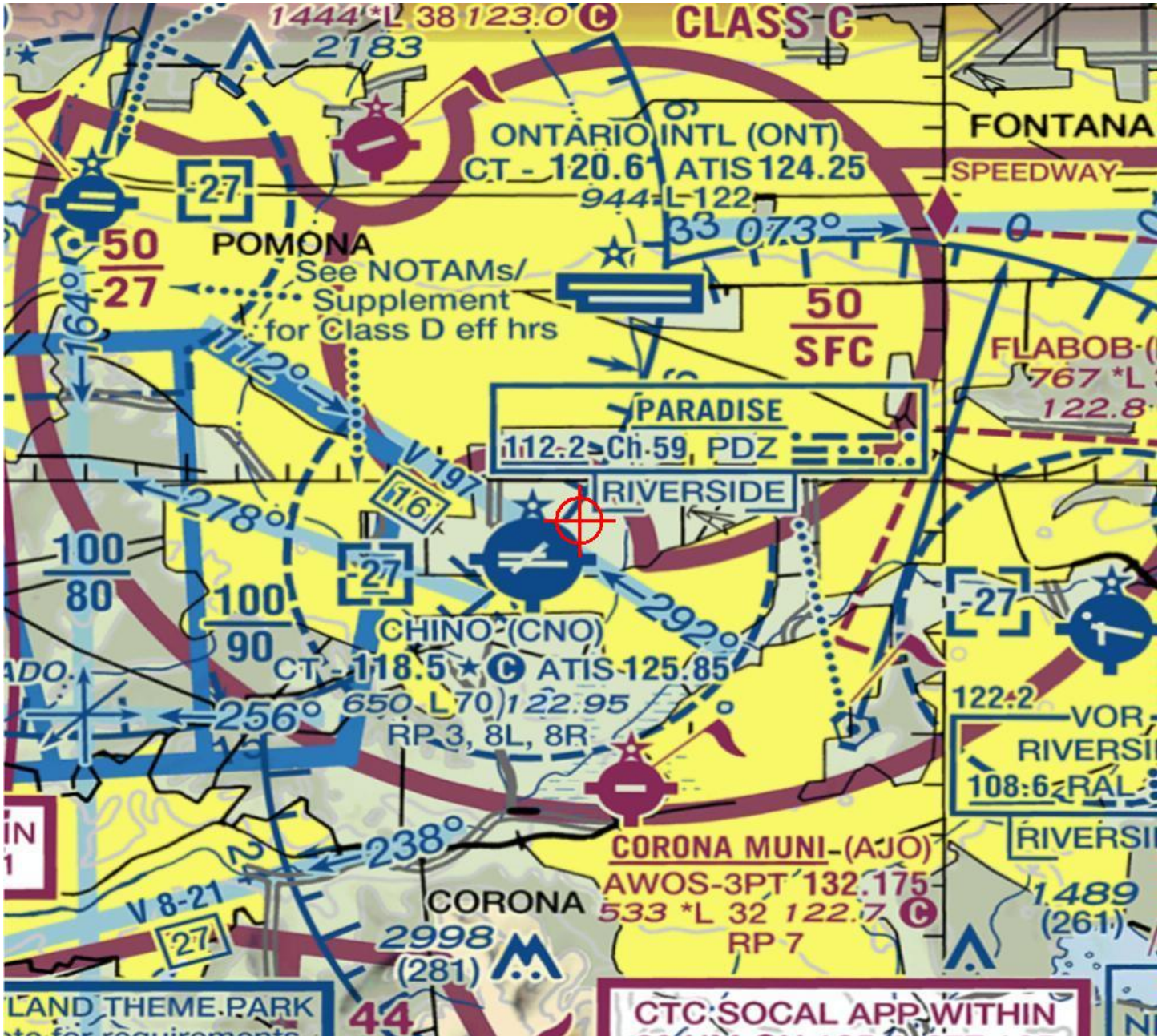
(DNE)

Vivian Vilaro
Specialist

Attachment(s)
Map(s)

TOPO Map for ASN 2022-AWP-170-OE







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Aeronautical Study No.
 2022-AWP-171-OE

Issued Date: 04/12/2022

Nick Johnson
 Johnson Aviation, Inc.
 6524 Deerbrook Road
 Oak Park, CA 91377

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure: Building 5-2
 Location: Ontario, CA
 Latitude: 33-59-12.36N NAD 83
 Longitude: 117-37-33.53W
 Heights: 665 feet site elevation (SE)
 63 feet above ground level (AGL)
 728 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the structure would not be a hazard to air navigation provided the following condition(s) is(are) met:

As a condition to this Determination, the structure is to be marked/lighted in accordance with FAA Advisory circular 70/7460-1 M, Obstruction Marking and Lighting, red lights-Chapters 4,5(Red),&15.

Any failure or malfunction that lasts more than thirty (30) minutes and affects a top light or flashing obstruction light, regardless of its position, should be reported immediately to (877) 487-6867 so a Notice to Airmen (NOTAM) can be issued. As soon as the normal operation is restored, notify the same number.

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

- At least 10 days prior to start of construction (7460-2, Part 1)
- Within 5 days after the construction reaches its greatest height (7460-2, Part 2)

See attachment for additional condition(s) or information.

The structure considered under this study lies in proximity to an airport and occupants may be subjected to noise from aircraft operating to and from the airport.

This determination expires on 10/12/2023 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.
- (c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is subject to review if an interested party files a petition that is received by the FAA on or before May 12, 2022. In the event a petition for review is filed, it must contain a full statement of the basis upon which it is made and be submitted to the Manager of the Rules and Regulations Group. Petitions can be submitted via mail to Federal Aviation Administration, 800 Independence Ave, SW, Washington, DC 20591, via email at OEPetitions@faa.gov, or via facsimile (202) 267-9328.

This determination becomes final on May 22, 2022 unless a petition is timely filed. In which case, this determination will not become final pending disposition of the petition. Interested parties will be notified of the grant of any review. For any questions regarding your petition, please contact Rules and Regulations Group via telephone – 202-267-8783.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, effective 21 Nov 2007, will void this determination. Any future construction or alteration, including increase to heights, power or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

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This aeronautical study considered and analyzed the impact on existing and proposed arrival, departure, and en route procedures for aircraft operating under both visual flight rules and instrument flight rules; the impact on all existing and planned public-use airports, military airports and aeronautical facilities; and the cumulative

impact resulting from the studied structure when combined with the impact of other existing or proposed structures. The study disclosed that the described structure would have no substantial adverse effect on air navigation.

An account of the study findings, aeronautical objections received by the FAA during the study (if any), and the basis for the FAA's decision in this matter can be found on the following page(s).

If we can be of further assistance, please contact Vivian Vilaro, at (847) 294-7575, or vivian.vilaro@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2022-AWP-171-OE.

Signature Control No: 506727998-523335162

(DNH)

Mike Helvey

Manager, Obstruction Evaluation Group

Attachment(s)

Additional Information

Map(s)

Additional information for ASN 2022-AWP-171-OE

AERONAUTICAL STUDY NO. 2022-AWP-167-168-171-172-354-through-356-OE

Abbreviations

VFR - Visual Flight Rules	AGL - Above Ground Level	RWY - Runway
IFR - Instrument Flight Rules	MSL - Mean Sea Level	nm - Nautical Mile
AMSL - Above Mean Sea Level	ARP - Airport Reference Point	
DER - Departure end of RWY	ICA - Initial Climb Area	

Part 77 - Title 14 Code of Federal Regulations (CFR) Part 77, Safe, Efficient Use and Preservation of the Navigable Airspace

The proposed Building and Light Poles have been identified as an obstruction under Part 77 standards. The structures would be located northeast of the Chino Airport (CNO) airport reference point (ARP) in Chino, CA. CNO elevation is 650 feet MSL.

Aeronautical Study Number	AGL/AMSL	CNO ARP	Coordinates	Building
2022-AWP-167-OE	59/719	0.77 nm	33-59-01.50/117-37-31.44	4-2
2022-AWP-168-OE	63/728	0.86 nm	33-59-08.86/117-37-31.75	4-3
2022-AWP-171-OE	63/728	0.89 nm	33-59-12.36/117-37-33.53	5-2
2022-AWP-172-OE	63/733	0.99 nm	33-59-19.78/117-37-33.59	5-3

Light Poles

2022-AWP-354-OE	45/710	0.80 nm	33-59-05.60/117-37-33.24	LP-1
2022-AWP-355-OE	45/710	0.75 nm	33-59-05.56/117-37-39.86	LP-2
2022-AWP-356-OE	45/710	0.82 nm	33-59-11.12/117-37-39.92	LP-3

Section 77.17(a)(3): - A height within a terminal obstacle clearance area, including an initial approach segment, a departure area, and a circling approach area, which would result in the vertical distance between any point on the object and an established minimum instrument flight altitude within that area or segment to be less than the required obstacle clearance.

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2022-AWP-172-OE - Chino (CNO) Chino, CA Obstacle penetrates RWY 3 ICA by 5 feet. Qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures, NOTE: RWY 3 Building 3159 feet from DER, 1218 feet right of centerline, 63 feet AGL/ 733 feet AMSL.

2022-AWP-354-OE - Chino (CNO) Chino, CA Obstacle penetrates RWY 3 ICA by 7 feet. Qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures, NOTE: RWY 03, light pole 2155 feet from DER, 193 feet left of centerline, 45 feet AGL/ 710 feet AMSL.

2022-AWP-355-OE - Chino (CNO) Chino, CA Obstacle penetrates RWY 3 ICA by 17 feet. Qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures, NOTE: RWY 03, light pole 1762 feet from DER, 588 feet left of centerline, 45 feet AGL/ 710 feet AMSL.

2022-AWP-356-OE - Chino (CNO) Chino, CA Obstacle penetrates RWY 3 ICA by 7 feet. Qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures, NOTE: RWY 03, light pole 2160 feet from DER, 985 feet left of centerline, 45 feet AGL/ 710 feet AMSL.

3. EFFECT ON AERONAUTICAL OPERATIONS

a. The impact on arrival, departure, and en route procedures for aircraft operating under VFR follows: The VFR traffic pattern airspace (TPA) is not penetrated.

FAA Findings

There are no effects on any existing or proposed arrival, departure, or en route visual flight rules (VFR) operations.

There are no effects on any existing or proposed arrival, departure, or en route IFR/VFR minimum flight altitudes.

There is no penetration into the VFR traffic pattern airspace.

There are no physical or electromagnetic effects on the operation of air navigation and communications facilities.

There are no effects on any airspace and routes used by the military.

The CNO Airport Master Record can be viewed or downloaded at; <https://adip.faa.gov/agis/public/#/airportData/CNO>. It states that there are three hundred and seventy eight (378) single engine, sixty one (61) multi engine and fifty four (54) jet aircraft based there with 164,588 operations for the 12 months ending 09/30/2016 (latest information).

b. The impact on arrival, departure, and en route procedures for aircraft operating under IFR follows: While this structure would exceed RWY 03 Initial Climb Area (ICA) by the values shown above, it qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures NOTE as stated above.

c. The impact on all planned public-use airports and aeronautical facilities follows: Study did not disclose any adverse effect on existing or proposed public-use or military airports or navigational facilities, nor would the proposed structure affect the capacity of any known existing or planned public-use or military airport.

d. The cumulative impact resulting from the proposed construction or alteration of a structure when combined with the impact of other existing or proposed structures is not considered to be significant.

4. CIRCULATION AND COMMENTS RECEIVED

The study was not circularized for public comments because current FAA policy exempts from circularization those proposals which penetrate the 40:1 departure surface and does not raise minima. This does not affect the public's right to petition for review determinations regarding structures, which exceed the subject obstruction standards.

5. DETERMINATION - NO HAZARD TO AIR NAVIGATION

It is determined that the proposed structure would not have a substantial adverse effect on the safe and efficient use of navigable airspace by aircraft.

6. BASIS FOR DECISION

The proposed structure would exceed the 40:1 departure surface by the values shown above; however, the only IFR impact is to add a Note to the Take-off Minimums and (Obstacle) Departure Procedures. There are no increases to the current CNO climb gradients. No VFR issues could be identified and the VFR traffic pattern airspace is not impacted. The incorporation of obstruction lighting will provide additional pilot conspicuity for IFR and VFR operations conducted in the vicinity of the CNO airport.

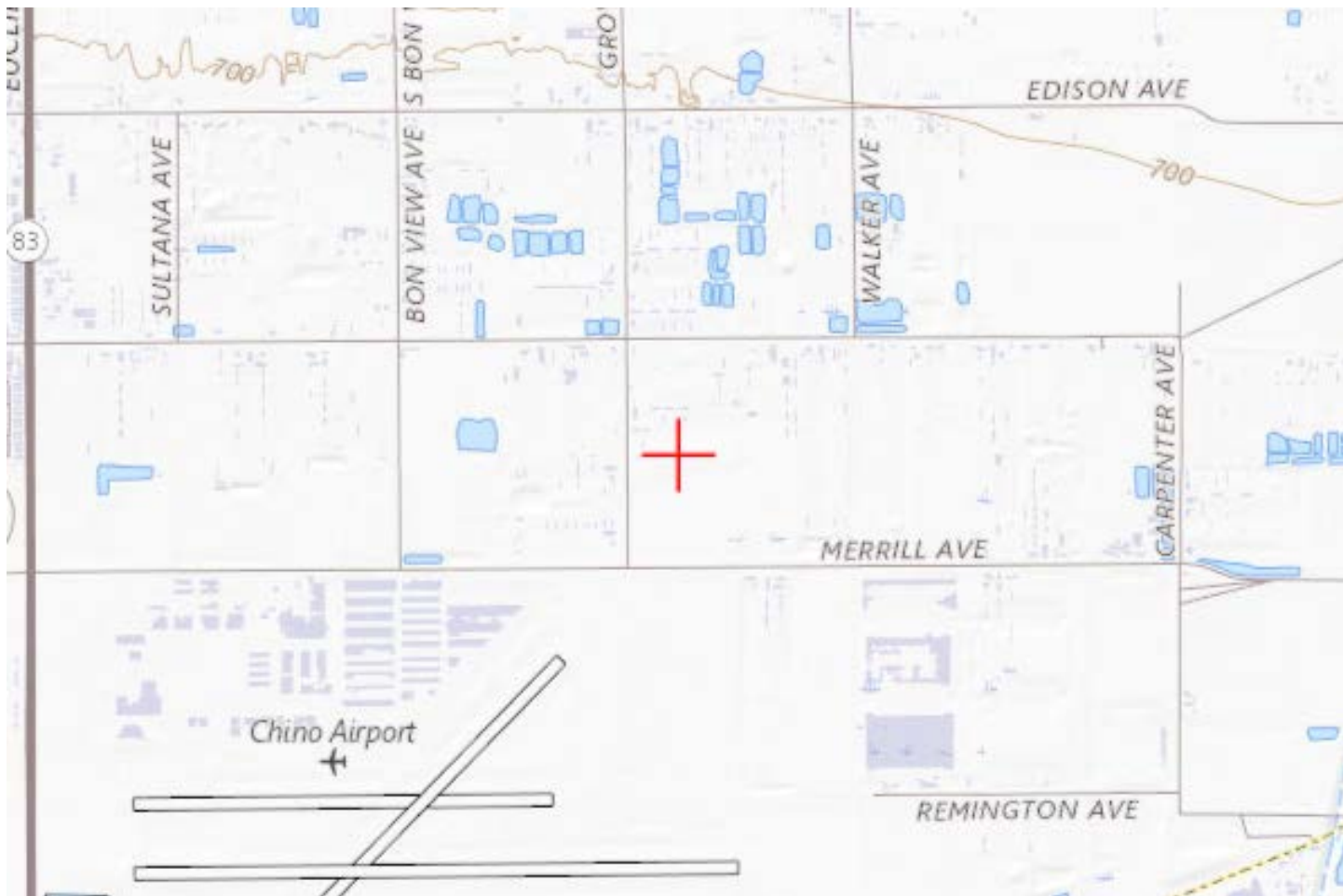
7. CONDITIONS

The structure shall be lighted as outlined in Chapters 4,5(Red) & 15 of the Advisory Circular AC 70/7460-1M. The advisory circular is available online at https://www.faa.gov/regulations_policies/advisory_circulars/index.cfm/go/document.information/documentID/1038519.

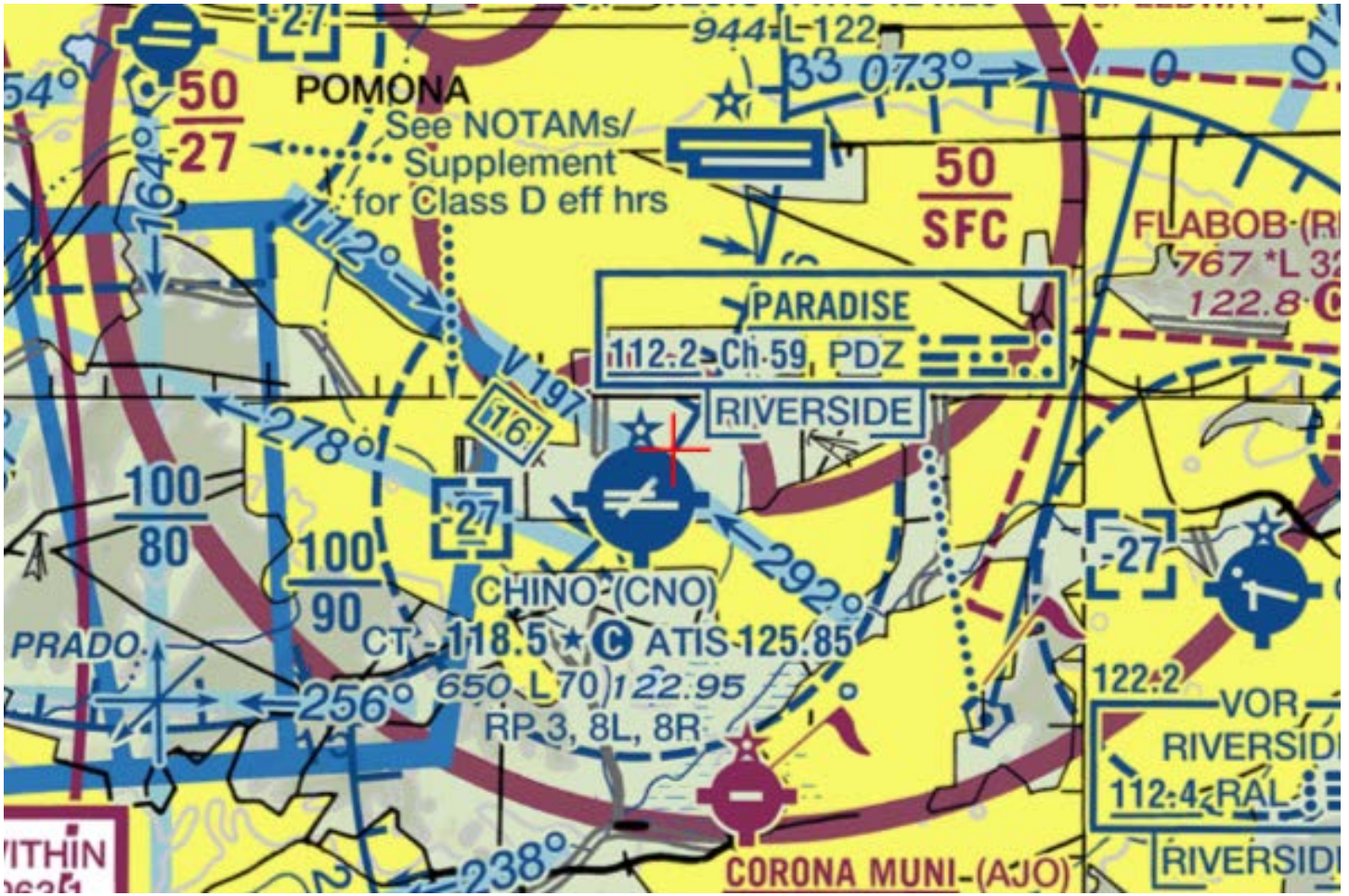
The proponent is required to notify the FAA ten days prior to construction to initiate adding a Note to the Take-off Minimums and (Obstacle) Departure procedures. This can be accomplished by filing a FAA form 7460-2, Actual Construction Notice, Part I, on line at <http://oeaaa.faa.gov/oeaaa>. Detailed instructions are available under the Instruction link.

Within five days after the structure reaches its greatest height, the proponent is required to file on line the Supplemental Notice, FAA form 7460-2, with actual construction details, at the OE/AAA website (<https://oeaaa.faa.gov/oeaaa>). Detailed instructions are available under the Instructions link. This Supplemental Notice notification will be the source document detailing the site location, site elevation, structure height, and date structure was built for the FAA to map the structure on aeronautical charts and update the national database.

TOPO Map for ASN 2022-AWP-171-OE



Sectional Map for ASN 2022-AWP-171-OE





Mail Processing Center
 Federal Aviation Administration
 Southwest Regional Office
 Obstruction Evaluation Group
 10101 Hillwood Parkway
 Fort Worth, TX 76177

Aeronautical Study No.
 2022-AWP-172-OE

Issued Date: 04/12/2022

Nick Johnson
 Johnson Aviation, Inc.
 6524 Deerbrook Road
 Oak Park, CA 91377

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure: Building 5-3
 Location: Ontario, CA
 Latitude: 33-59-19.78N NAD 83
 Longitude: 117-37-33.59W
 Heights: 670 feet site elevation (SE)
 63 feet above ground level (AGL)
 733 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the structure would not be a hazard to air navigation provided the following condition(s) is(are) met:

As a condition to this Determination, the structure is to be marked/lighted in accordance with FAA Advisory circular 70/7460-1 M, Obstruction Marking and Lighting, red lights-Chapters 4,5(Red),&15.

Any failure or malfunction that lasts more than thirty (30) minutes and affects a top light or flashing obstruction light, regardless of its position, should be reported immediately to (877) 487-6867 so a Notice to Airmen (NOTAM) can be issued. As soon as the normal operation is restored, notify the same number.

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

- At least 10 days prior to start of construction (7460-2, Part 1)
- Within 5 days after the construction reaches its greatest height (7460-2, Part 2)

See attachment for additional condition(s) or information.

The structure considered under this study lies in proximity to an airport and occupants may be subjected to noise from aircraft operating to and from the airport.

This determination expires on 10/12/2023 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.
- (c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is subject to review if an interested party files a petition that is received by the FAA on or before May 12, 2022. In the event a petition for review is filed, it must contain a full statement of the basis upon which it is made and be submitted to the Manager of the Rules and Regulations Group. Petitions can be submitted via mail to Federal Aviation Administration, 800 Independence Ave, SW, Washington, DC 20591, via email at OEPetitions@faa.gov, or via facsimile (202) 267-9328.

This determination becomes final on May 22, 2022 unless a petition is timely filed. In which case, this determination will not become final pending disposition of the petition. Interested parties will be notified of the grant of any review. For any questions regarding your petition, please contact Rules and Regulations Group via telephone – 202-267-8783.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, effective 21 Nov 2007, will void this determination. Any future construction or alteration, including increase to heights, power or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

If construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

This aeronautical study considered and analyzed the impact on existing and proposed arrival, departure, and en route procedures for aircraft operating under both visual flight rules and instrument flight rules; the impact on all existing and planned public-use airports, military airports and aeronautical facilities; and the cumulative

impact resulting from the studied structure when combined with the impact of other existing or proposed structures. The study disclosed that the described structure would have no substantial adverse effect on air navigation.

An account of the study findings, aeronautical objections received by the FAA during the study (if any), and the basis for the FAA's decision in this matter can be found on the following page(s).

If we can be of further assistance, please contact Vivian Vilaro, at (847) 294-7575, or vivian.vilaro@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2022-AWP-172-OE.

Signature Control No: 506727999-523335159

(DNH)

Mike Helvey

Manager, Obstruction Evaluation Group

Attachment(s)

Additional Information

Map(s)

Additional information for ASN 2022-AWP-172-OE

AERONAUTICAL STUDY NO. 2022-AWP-167-168-171-172-354-through-356-OE

Abbreviations

VFR - Visual Flight Rules	AGL - Above Ground Level	RWY - Runway
IFR - Instrument Flight Rules	MSL - Mean Sea Level	nm - Nautical Mile
AMSL - Above Mean Sea Level	ARP - Airport Reference Point	
DER - Departure end of RWY	ICA - Initial Climb Area	

Part 77 - Title 14 Code of Federal Regulations (CFR) Part 77, Safe, Efficient Use and Preservation of the Navigable Airspace

The proposed Building and Light Poles have been identified as an obstruction under Part 77 standards. The structures would be located northeast of the Chino Airport (CNO) airport reference point (ARP) in Chino, CA. CNO elevation is 650 feet MSL.

Aeronautical Study Number	AGL/AMSL	CNO ARP	Coordinates	Building
2022-AWP-167-OE	59/719	0.77 nm	33-59-01.50/117-37-31.44	4-2
2022-AWP-168-OE	63/728	0.86 nm	33-59-08.86/117-37-31.75	4-3
2022-AWP-171-OE	63/728	0.89 nm	33-59-12.36/117-37-33.53	5-2
2022-AWP-172-OE	63/733	0.99 nm	33-59-19.78/117-37-33.59	5-3

Light Poles

2022-AWP-354-OE	45/710	0.80 nm	33-59-05.60/117-37-33.24	LP-1
2022-AWP-355-OE	45/710	0.75 nm	33-59-05.56/117-37-39.86	LP-2
2022-AWP-356-OE	45/710	0.82 nm	33-59-11.12/117-37-39.92	LP-3

Section 77.17(a)(3): - A height within a terminal obstacle clearance area, including an initial approach segment, a departure area, and a circling approach area, which would result in the vertical distance between any point on the object and an established minimum instrument flight altitude within that area or segment to be less than the required obstacle clearance.

2022-AWP-167-OE - Chino (CNO) Chino, CA Obstacle penetrates RWY 3 ICA by 21 feet. Qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures NOTE: RWY 3 Building 1966 feet from DER, 206 feet right of centerline, 59 feet AGL/ 719 feet AMSL.

2022-AWP-168-OE - Chino (CNO) Chino, CA Obstacle penetrates RWY 3 ICA by 17 feet. Qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures, NOTE: RWY 3 Building 2479 feet from DER, 335 feet right of centerline, 63 feet AGL/ 728 feet AMSL.

2022-AWP-171-OE - Chino (CNO) Chino, CA Obstacle penetrates RWY 3 ICA by 13 feet. Qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures, NOTE: RWY 3 Building 2627 feet from DER, 689 feet right of centerline, 63 feet AGL/ 728 feet AMSL.

2022-AWP-172-OE - Chino (CNO) Chino, CA Obstacle penetrates RWY 3 ICA by 5 feet. Qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures, NOTE: RWY 3 Building 3159 feet from DER, 1218 feet right of centerline, 63 feet AGL/ 733 feet AMSL.

2022-AWP-354-OE - Chino (CNO) Chino, CA Obstacle penetrates RWY 3 ICA by 7 feet. Qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures, NOTE: RWY 03, light pole 2155 feet from DER, 193 feet left of centerline, 45 feet AGL/ 710 feet AMSL.

2022-AWP-355-OE - Chino (CNO) Chino, CA Obstacle penetrates RWY 3 ICA by 17 feet. Qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures, NOTE: RWY 03, light pole 1762 feet from DER, 588 feet left of centerline, 45 feet AGL/ 710 feet AMSL.

2022-AWP-356-OE - Chino (CNO) Chino, CA Obstacle penetrates RWY 3 ICA by 7 feet. Qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures, NOTE: RWY 03, light pole 2160 feet from DER, 985 feet left of centerline, 45 feet AGL/ 710 feet AMSL.

3. EFFECT ON AERONAUTICAL OPERATIONS

a. The impact on arrival, departure, and en route procedures for aircraft operating under VFR follows: The VFR traffic pattern airspace (TPA) is not penetrated.

FAA Findings

There are no effects on any existing or proposed arrival, departure, or en route visual flight rules (VFR) operations.

There are no effects on any existing or proposed arrival, departure, or en route IFR/VFR minimum flight altitudes.

There is no penetration into the VFR traffic pattern airspace.

There are no physical or electromagnetic effects on the operation of air navigation and communications facilities.

There are no effects on any airspace and routes used by the military.

The CNO Airport Master Record can be viewed or downloaded at; <https://adip.faa.gov/agis/public/#/airportData/CNO>. It states that there are three hundred and seventy eight (378) single engine, sixty one (61) multi engine and fifty four (54) jet aircraft based there with 164,588 operations for the 12 months ending 09/30/2016 (latest information).

b. The impact on arrival, departure, and en route procedures for aircraft operating under IFR follows: While this structure would exceed RWY 03 Initial Climb Area (ICA) by the values shown above, it qualifies as a low close-in penetration with a minimum climb gradient termination altitude of 200 feet or less above DER, requiring Take-Off Minimum and (Obstacle) Departure Procedures NOTE as stated above.

c. The impact on all planned public-use airports and aeronautical facilities follows: Study did not disclose any adverse effect on existing or proposed public-use or military airports or navigational facilities, nor would the proposed structure affect the capacity of any known existing or planned public-use or military airport.

d. The cumulative impact resulting from the proposed construction or alteration of a structure when combined with the impact of other existing or proposed structures is not considered to be significant.

4. CIRCULATION AND COMMENTS RECEIVED

The study was not circularized for public comments because current FAA policy exempts from circularization those proposals which penetrate the 40:1 departure surface and does not raise minima. This does not affect the public's right to petition for review determinations regarding structures, which exceed the subject obstruction standards.

5. DETERMINATION - NO HAZARD TO AIR NAVIGATION

It is determined that the proposed structure would not have a substantial adverse effect on the safe and efficient use of navigable airspace by aircraft.

6. BASIS FOR DECISION

The proposed structure would exceed the 40:1 departure surface by the values shown above; however, the only IFR impact is to add a Note to the Take-off Minimums and (Obstacle) Departure Procedures. There are no increases to the current CNO climb gradients. No VFR issues could be identified and the VFR traffic pattern airspace is not impacted. The incorporation of obstruction lighting will provide additional pilot conspicuity for IFR and VFR operations conducted in the vicinity of the CNO airport.

7. CONDITIONS

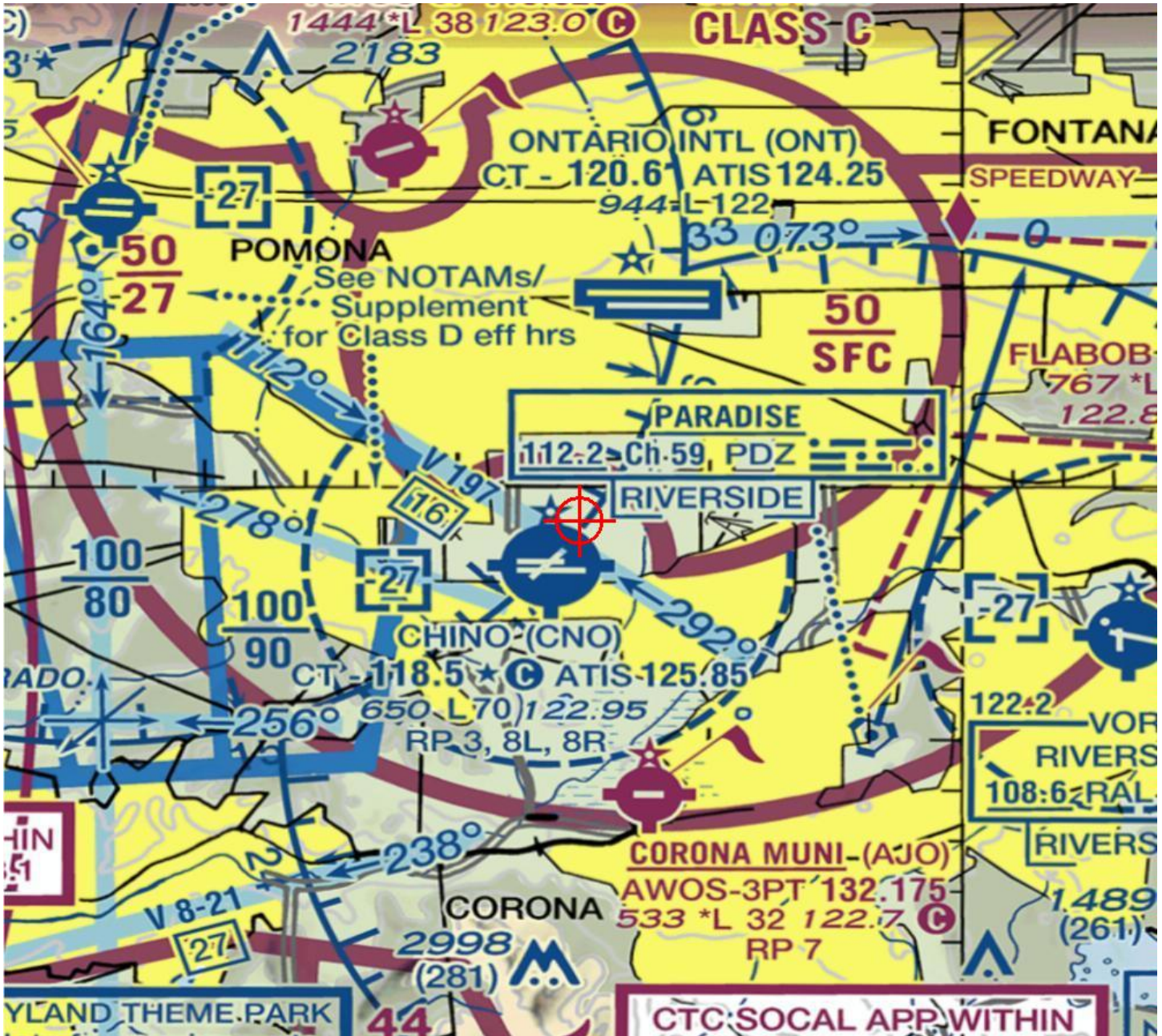
The structure shall be lighted as outlined in Chapters 4,5(Red) & 15 of the Advisory Circular AC 70/7460-1M. The advisory circular is available online at https://www.faa.gov/regulations_policies/advisory_circulars/index.cfm/go/document.information/documentID/1038519.

The proponent is required to notify the FAA ten days prior to construction to initiate adding a Note to the Take-off Minimums and (Obstacle) Departure procedures. This can be accomplished by filing a FAA form 7460-2, Actual Construction Notice, Part I, on line at <http://oeaaa.faa.gov/oeaaa>. Detailed instructions are available under the Instruction link.

Within five days after the structure reaches its greatest height, the proponent is required to file on line the Supplemental Notice, FAA form 7460-2, with actual construction details, at the OE/AAA website (<https://oeaaa.faa.gov/oeaaa>). Detailed instructions are available under the Instructions link. This Supplemental Notice notification will be the source document detailing the site location, site elevation, structure height, and date structure was built for the FAA to map the structure on aeronautical charts and update the national database.

TOPO Map for ASN 2022-AWP-172-OE







Mail Processing Center
Federal Aviation Administration
Southwest Regional Office
Obstruction Evaluation Group
10101 Hillwood Parkway
Fort Worth, TX 76177

Aeronautical Study No.
2022-AWP-173-OE

Issued Date: 04/12/2022

Nick Johnson
Johnson Aviation, Inc.
6524 Deerbrook Road
Oak Park, CA 91377

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure: Building 5-4
Location: Ontario, CA
Latitude: 33-59-19.91N NAD 83
Longitude: 117-37-12.09W
Heights: 670 feet site elevation (SE)
63 feet above ground level (AGL)
733 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

- At least 10 days prior to start of construction (7460-2, Part 1)
 Within 5 days after the construction reaches its greatest height (7460-2, Part 2)

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/lighting are accomplished on a voluntary basis, we recommend it be installed in accordance with FAA Advisory circular 70/7460-1 M.

The structure considered under this study lies in proximity to an airport and occupants may be subjected to noise from aircraft operating to and from the airport.

This determination expires on 10/12/2023 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.
- (c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within

6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, effective 21 Nov 2007, will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

If construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

If we can be of further assistance, please contact our office at (847) 294-7575, or vivian.vilaro@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2022-AWP-173-OE.

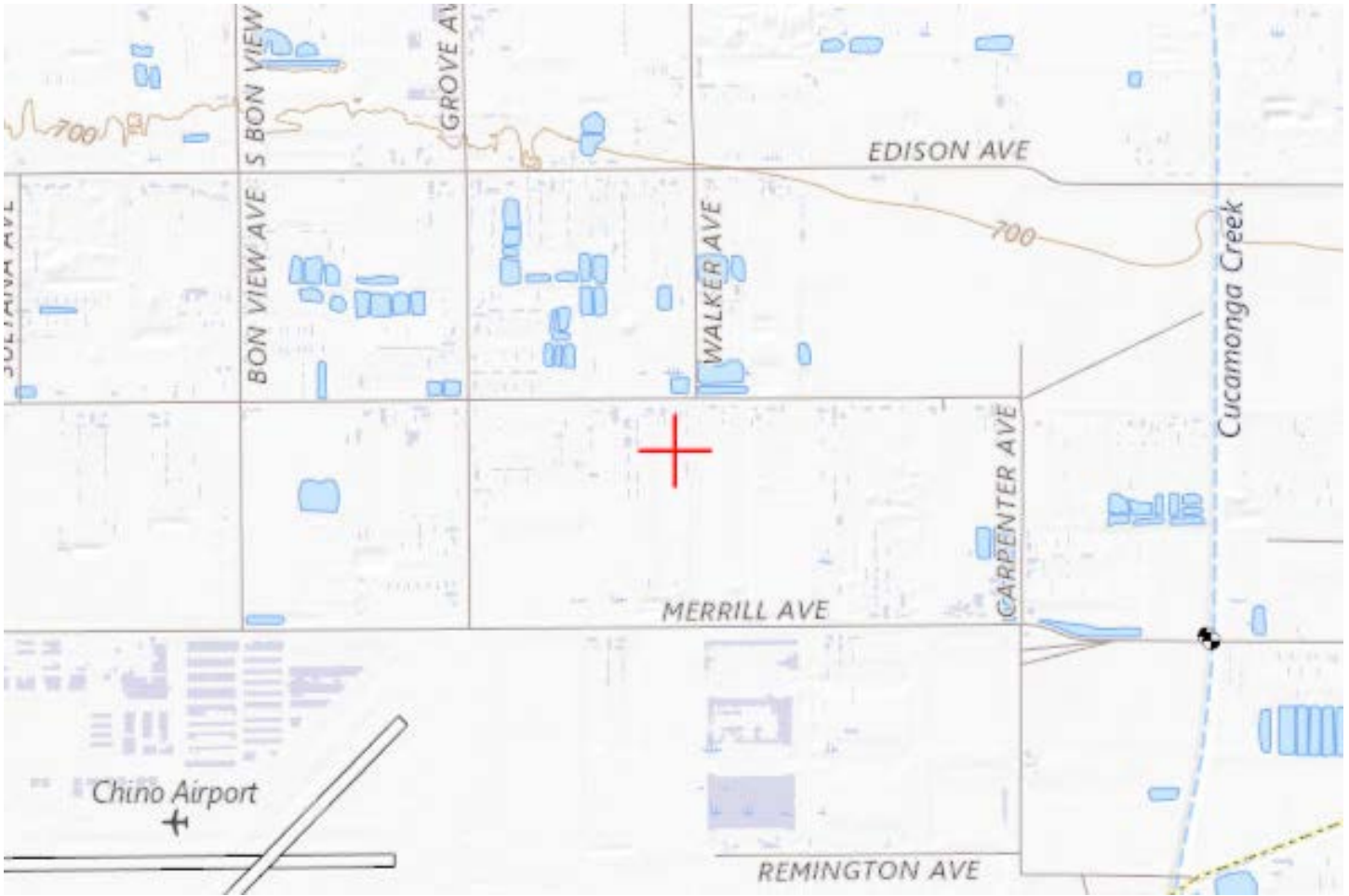
Signature Control No: 506728000-523336142

(DNE)

Vivian Vilaro
Specialist

Attachment(s)
Map(s)

TOPO Map for ASN 2022-AWP-173-OE





PLANNING DEPARTMENT ACTIVITY REPORT

Month of April 2022

303 East B Street, Ontario, California 91764 Phone: 909.395.2036 / Fax: 909.395.2420

TO: Chairman and Members of the Planning Commission

FROM: Rudy Zeledon, Planning Director 

DATE: May 24, 2022

Attached, you will find the Planning Department Monthly Activity Report for the month of April 2022. 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: <https://www.ontarioca.gov/Planning/Reports/MonthlyActivity>.



Monthly Activity Report: Actions

Month of April 2022

303 East B Street, Ontario, California 91764 Phone: 909.395.2036 / Fax: 909.395.2420

DEVELOPMENT ADVISORY BOARD MEETING April 4, 2022

ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT PLAN REVIEW FOR FILE NO. PDEV21-029: A hearing to consider a Development Plan to construct an industrial building totaling 15,132 square feet on 1.24 acres of land located at 5742 Ontario Mills Parkway, within the Light Industrial land use district of the Crossroads Business Park Specific Plan. The environmental impacts of this project were previously reviewed in conjunction with File Nos. PDEV11-010 and PMTT11-010, for which a Mitigated Negative Declaration was adopted by the Planning Commission on June 26, 2012. This application introduces no new significant environmental impacts. 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); (APNs: 0238-021-84) **submitted by Bill Fox.**

Action: The Development Advisory Board adopted a decision approving the Development Plan.

ZONING ADMINISTRATOR MEETING April 4, 2022

ENVIRONMENTAL ASSESSMENT AND CONDITIONAL USE PERMIT REVIEW FOR FILE NO. PCUP21-017: A Conditional Use Permit to establish a two-story 998 square foot Accessory Dwelling Unit (ADU), with a portion above a proposed 420 square foot two-car garage and exceeding 16 feet in height on 0.172-acres of land, located at 715 East Philadelphia Street, within the LDR-5 (Low Density Residential - 2.1 to 5.0 du/ac) zoning district. The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Class 1, Existing Facilities) of the CEQA Guidelines. 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); (APN: 1050-531-02) **submitted by Xin Wang.**

Action: The Zoning Administrator adopted a decision approving the Conditional Use Permit.

CITY COUNCIL/HOUSING AUTHORITY MEETING April 5, 2022

ENVIRONMENTAL ASSESSMENT AND PLANNED UNIT DEVELOPMENT REVIEW FOR FILE NO. PUD22-001: A Planned Unit Development to establish development standards, design guidelines, and infrastructure requirements for 0.86-acre of land located at 125 West Emporia Street, within MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) and EA (Euclid Avenue Overlay) zoning districts. 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 CEQA Guidelines. The proposed project is located within the Airport Influence Area of Ontario



Monthly Activity Report: Actions

Month of April 2022

303 East B Street, Ontario, California 91764 Phone: 909.395.2036 / Fax: 909.395.2420

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); (APN: 1049-059-14) **submitted by RWSS Development LLC. Planning Commission recommended approval of this project on February 22, 2022 with a 7-0 vote.**

Action: The City Council introduced and waived further reading of the Ordinance adopting the Planned Unit Development (File No. PUD22-001).

DEVELOPMENT ADVISORY BOARD MEETING April 18, 2022

ENVIRONMENTAL ASSESMENT AND DEVELOPMENT PLAN REVIEW FOR FILE NO. PDEV22-005: A hearing to consider a Development Plan to construct the Ontario 'Great' Park Phase 1 (Preliminary Park Design) on 130 acres of land, bounded by Grand Park Street to the north, Eucalyptus Avenue to the south, Haven Avenue on the east, and Archibald Avenue on the west, within the Great Park land use district of the Grand Park Specific Plan. Staff has prepared an Addendum to the Grand Park Specific Plan Environmental Impact Report (State Clearinghouse No. 2012061057), certified by City Council on January 21, 2014. This application introduces no new significant environmental impacts. 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); (APNs: 0218-241-58, 0218-241-49, 0218-241-39, 0218-241-45, and 0218-241-47) **submitted by the City of Ontario.**

Action: The Development Advisory Board adopted a decision approving the Development Plan.

ENVIRONMENTAL ASSESSMENT AND TENTATIVE TRACT MAP REVIEW FOR FILE NO. PMT21-014: A hearing to consider Tentative Tract Map No. 20449, subdividing 35.65 gross acres of land into 92 numbered lots and 55 lettered lots for residential and commercial uses, public/private streets, landscape neighborhood edges and common open space purposes for a property located on southeast corner of Ontario Ranch Road and Haven Avenue, within the Mixed-Use District Planning Area 9A (Regional Commercial and Stand-Alone Residential Overlay) of the Rich Haven Specific Plan. The environmental impacts of this project were previously analyzed in an addendum to the Rich Haven Specific Plan Environmental Impact Report (State Clearinghouse No. 2006051081) and an Addendum to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140). This application is consistent with the previously adopted Environmental Impact Reports and introduces no new significant environmental impacts. 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); (APN: 218-211-01) **submitted by BrookCal Ontario LLC. Planning Commission Action is required.**

Action: The Development Advisory Board adopted a decision approving the Tentative Tract Map.

ZONING ADMINISTRATOR MEETING



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Month of April 2022

303 East B Street, Ontario, California 91764 Phone: 909.395.2036 / Fax: 909.395.2420

April 18, 2022

Meeting Cancelled

CITY COUNCIL/HOUSING AUTHORITY MEETING
April 19, 2022

ENVIRONMENTAL ASSESSMENT AND CONDITIONAL USE PERMIT REVIEW FOR FILE NO. PCUP21-009: A public hearing to consider a Conditional Use Permit to establish and operate a limited-service, 4-story, 128-room hotel on 1.83-acres of land, on property located at 5060 East Fourth Street, within the Freeway Commercial land use district of The Exchange Specific Plan. 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 CEQA guidelines. 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); (APN: 0238-012-30) **submitted by Roger Barbosa. The Planning Commission recommended approval of this item on February 22, 2022 with a vote of 7 to 0.**

Action: Continued to 5/3/2022 City Council meeting.

ENVIRONMENTAL ASSESSMENT AND SPECIFIC PLAN AMENDMENT REVIEW FOR FILE NO. PSPA21-001: An Amendment to the Piemonte Overlay at Ontario Center Specific Plan, [1] revising the overlay boundary to add approximately 24.9 acres, comprising of the property located at 4000 Ontario Center Parkway, to the overlay area, [2] changing the land use designation on approximately 4.9 acres of land from Office and Entertainment/Retail to Mixed Use, in an area bounded by Fourth Street to the north, Concourses Street and Ontario Center Parkway to the south, Via Alba to the east, and the Camden Landmark Apartment and vacant land to the west, [3] establish development standards and design guidelines for the Mixed Use land use area within the Piemonte Overlay at Ontario Center Specific Plan. An Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearinghouse No. 89041009) has been prepared. This application introduces no new significant environmental impacts, and all previously-adopted mitigation measures are a condition of project approval. 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); (APNs: 0210-204-12, 0210-204-13, 0210-204-14, 0210-204-15, 0210-204-17, 0210-204-18, 0210-204-20, 0210-204-21, 0210-204-22, 0210-204-23, 0210-204-23, 0210-204-24, 0210-204-25, 0210-204-26, 0210-204-28, 0210-204-36, 0210-204-37, 0210-204-37, 0210-204-38, 0210-204-39, 0210-204-40, 0210-204-41, 0210-531-06, 0210-531-07, 0210-531-08, 0210-531-09, 0210-531-10, 0210-231-11, 0210-231-12, 0210-231-13, 0210-231-14, 0210-231-15, 0210-231-16, 0210-205-01); **City initiated. Planning Commission recommended approval of this project on March 22, 2022 with a 5-0 vote.**

Action: The City Council: [1] adopted a Resolution approving the use of an Addendum to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140); and [2] adopted a resolution approving the Specific Plan Amendment, File No. PSPA21-001.



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PLANNING/HISTORIC PRESERVATION COMMISSION MEETING April 26, 2022

GENERAL PLAN CONSISTENCY FINDING PURSUANT TO GOVERNMENT CODE SECTION 65402: A request for a determination of General Plan consistency pursuant to Government Code Section 65402, to determine that the sale of approximately 2.13 acres of land, between the City of Ontario and Ontario D Block, LLC, for properties located at 404, 416 and 414 North Euclid Avenue and 401 and 418 North Lemon Avenue, is consistent with The Ontario Plan Policy Plan (General Plan); (APNS: 1048-363-02, 1048-363-03, 1048-363-04, and 1048-363-05). **City Initiated.**

Action: The Planning Commission adopted a resolution approving a determination of General Plan consistency pursuant to Government Code Section 65402.

ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT AGREEMENT REVIEW FOR FILE NO. PDA21-014: A public hearing to consider a Development Agreement between the City of Ontario and BrookCal Ontario, LLC, to establish the terms and conditions associated with the development of Tentative Tract Map No. 20449 (File No. PMTT21-014), a 35.65 gross acre property located at the southeast corner of Haven Avenue and Ontario Ranch Road, within Planning Area 9A (Residential & Commercial) land use district of the Rich Haven Specific Plan. The environmental impacts of this project were previously analyzed in an Addendum to the Rich Haven Specific Plan Environmental Impact Report (State Clearinghouse No. 2006051081) and an Addendum to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140). This application is consistent with the previously adopted environmental impact reports and introduces no new significant environmental impacts. 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); (APN: 218-211-01) **submitted by BrookCal Ontario LLC. City Council action is required.**

Action: The Planning Commission adopted resolutions: [1] recommending the City Council approve the use of the Addendum to the Rich Haven Specific Plan Environmental Impact Report (State Clearinghouse No. 2006051081) and the Addendum to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140); and [2] recommending the City Council approve the Development Agreement between the City of Ontario and BrookCal Ontario, LLC.

ENVIRONMENTAL ASSESSMENT AND TENTATIVE TRACT MAP REVIEW FOR FILE NO. PMTT21-014: A public hearing to consider Tentative Tract Map No. 20449, subdividing 35.65 gross acres of land into 92 numbered lots and 55 lettered lots for residential and commercial uses, public/private streets, landscape neighborhood edges and common open space purposes for a property located on southeast corner of Ontario Ranch Road and Haven Avenue, within the Mixed-Use District Planning Area 9A (Regional Commercial and Stand-Alone Residential Overlay) of the Rich Haven Specific Plan. The environmental impacts of this project were previously analyzed in an addendum to the Rich Haven Specific Plan Environmental Impact Report (State Clearinghouse No. 2006051081) and an Addendum to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140). This application is consistent with the previously adopted Environmental Impact Reports and introduces no new significant environmental impacts. 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); (APN: 218-211-01) **submitted by BrookCal Ontario LLC.**

Action: The Planning Commission adopted a resolution approving the Tentative Tract Map, subject to conditions.

ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT CODE AMENDMENT REVIEW FOR FILE NO. PDCA22-003: A public hearing to consider certain clarifications and revisions to the City of Ontario Development Code, addressing the following:

- Time extension limits for discretionary projects (Development Code Section 2.02.025.B.2.c).
- Public notification requirements for Minor Variances (Development Code Section 2.03.010).
- Administrative exception provisions (Development Code Sections 4.02.020 and 4.03.050, and Tables 2.02-1 and 2.03-1).
- Specific plan minor amendments provisions (Development Code Section 4.02.080).
- Housing and reasonable accommodations provisions (Development Code Sections 4.02.035 and 4.03.055, and Tables 2.02-1 and 2.03-1).
- Accessory dwelling units (ADUs), adding the requirements of Assembly Bill 345 related to the separate conveyance of ADUs (Development Code Section 5.03.010).
- Minimum useable rear yard area for single-family dwellings (Development Code Section 5.03.011).
- Banquet facilities in conjunction with commercial structures on historic properties (Development Code Section 5.03.067).
- Retail sales events and other similar business events (Development Code Section 5.03.395 and Table 8.01-1).
- Conversion of garages to accommodate accessory dwelling units (Development Code section 6.01.010).
- Definition for "garage" (Development Code Section 9.01.010.G).
- Single-family two-unit projects and urban lot splits, rescinding Urgency Ordinance No. 3200 and adopting permanent standards (Development Code Sections 5.03.403 and 6.08.060, and Tables 2.02-1 and 2.03-1).
- Certain allowed land use descriptions (Development Code Table 5.02-1).

The proposed Development Code Amendment is exempt from the requirements of the California Environmental Quality Act ("CEQA") and the guidelines promulgated thereunder, pursuant to Section 15061(b)(3) of the CEQA Guidelines. The proposed Development Code Amendment affects properties 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; **City Initiated. City Council action is required.**

Action: The Planning Commission adopted a resolution recommending the City Council approve the Development Code Amendment.



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PCUP22-006:

Submitted by Paladin Equity Capital Mobility

A Conditional Use Permit to establish a 57,664-square-foot, three-story, 118-room hotel (Everhome Suites) on 3.387 acres of land located at 1820 East G Street, within the CCS (Convention Center Support Commercial) zoning district (APN: 0110-241-33). Related Files: PMT21-013 (TPM 20505) and PDEV22-021. **Planning Commission action is required.**

PCUP22-007:

Submitted by Ricardo

A Conditional Use Permit to establish an 854-square-foot ADU on the second floor of an existing residence on a two-unit project site on 0.159-acre of land located at 1239 South Oakland Avenue, within the LDR-5 (Low Density Residential – 2.1 to 5.0 du/ac) zoning district (APN: 1049-592-03). **Zoning Administrator action is required.**

PCUP22-008:

Submitted by Kelly Calderas

A Conditional Use Permit to establish a religious assembly use in an existing 5000-square-foot building on 5.843 acres of land located at 14393 South Euclid Avenue, within the SP (Specific Plan) and AG Overlay zoning districts (APN: 1053-511-01). **Zoning Administrator action is required.**

PCUP22-009:

Submitted by Michael Carpenter

A Conditional Use Permit to establish a 1,940-square foot RV storage garage on 0.479-acre of land located at 1223 South Almond Avenue, within the AR-2 (Residential-Agricultural – 0 to 2.0 du/ac) zoning district (APN: 1011-521-38). Related File: B202106773. **Zoning Administrator action is required.**

PDEV22-016:

Submitted by West Coast Self Storage

A Development Plan to construct three commercial buildings totaling 53,153 square feet on 2.097 acres of land (0.58 FAR) located at 1389 East Holt Boulevard, within the BP (Business Park) zoning district (APN: 0110-071-02). **Planning Commission action is required.**

PDEV22-017:

Submitted by Prologis

A Development Plan to construct a 270,337-square-foot industrial building on 13.08 acres of land (0.47 FAR) located at 5355 East Airport Drive, within the IH (Heavy Industrial) zoning district (APNs: 0238-052-29 and 0238-052-20). **Planning Commission action is required.**

PDEV22-018:

Submitted by New Cingular Wireless PCS LLC

A Development Plan to construct a wireless communications facility with a stealth, 63-foot-tall monoecalypytus antenna and ancillary ground-mounted equipment, on approximately 375 square feet of leased space on a 4.69-acre property located at 1004 South Cypress Avenue, within the OS-R (Open Space-Recreation) zoning district (APN: 1014-401-09). **Planning Commission action is required.**

PDEV22-019:

Submitted by Coastal Business Group

A Development Plan to construct a roof-mounted wireless telecommunications facility (Tier 1), with stealth antenna arrays on an existing building located at 700 North Haven Avenue within the



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Urban Commercial land use district of the Ontario Center Specific Plan (APN: 0210-211-33). **Staff action is required.**

PDEV22-020:

Submitted by Right Structures Inc

A Development Plan to construct a 28,000-square-foot addition to an existing commercial building on 17.01 acres of land located at 4105 East Inland Empire Boulevard, within the Garden Commercial land use district of the Ontario Center Specific Plan (APNs: 0210-205-12). **Development Advisory Board action is required.**

PDEV22-021:

Submitted by Paladin Equity Capital

A Development Plan to construct a 57,664-square-foot, three-story, 118-room hotel (Everhome Suites) hotel and establish a building pad for a 2,771-square-foot fast-food restaurant with drive-thru on 3.387 acres of land located at 1820 East G Street, within the CCS (Convention Center Support Commercial) zoning district (APNs: 0110-241-33). Related Files: PMTT21-013 (TPM 20505) and PCUP22-006. **Planning Commission action is required.**

PDEV22-022:

Submitted by Paladin Equity Capital

A Development Plan to construct a wireless communications facility (Tier 3), with a stealth, 63-foot-tall monopine antenna and ancillary ground-mounted equipment, on approximately 750 square feet of leased space within 2.24 acres of land located at 648 West D Street, within the OS-R (Open Space-Recreation) zoning district (APN: 1048-331-13). **Development Advisory Board action is required.**

PDEV22-023:

Submitted by Tipping Development

A Development Plan to construct 26 multiple-family dwelling units on 0.79-acre of land located at the northeast corner of Laurel Avenue and D Street, at 120 West D Street (and 420 N. Laurel Ave.), within the LUA-1 (Euclid Avenue Entertainment District) land use district of the MU-1 (Downtown Mixed-Use) zoning district (APNs: 1048-354-012 and 1048-354-013). Related Files: PMTT22-014 (TPM 20534) and PUD-22-002. **Planning Commission action is required.**

PDEV22-024:

Submitted by Tamara Soussan

A Development Plan to construct three multiple-family dwellings on 0.09-acre of land located at 213 North Fern Street, within the Holt Boulevard District (LUA-3) of the Downtown Mixed Use (MU-1) zoning district (APN: 1048-572-06). Related Files: PUD-22-003 and PMTT22-015. **Planning Commission action is required.**

PMTT22-013:

Submitted by Paladin Equity Capital

A Tentative Parcel Map (TPM 20505), subdividing 3.387 acres of land into 2 parcels located at 1820 East G Street, within the CCS (Convention Center Support Commercial) zoning district (APN: 0110-241-33). Related Files: PDEV22-021 and PCUP22-006. **Planning Commission action is required.**

PMTT22-014:

Submitted by Tipping Development

A Tentative Parcel Map (TPM 20534) to consolidate 2 existing parcels of land into a single 0.79-acre parcel for condominium purposes, located at the northeast corner of Laurel Avenue and D



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Street, at 120 West D Street (and 420 North Laurel Avenue), within the LUA-1 (Euclid Avenue Entertainment District) land use district of the MU-1 (Downtown Mixed- Use) zoning district (APNs: 1048-354-012 and 1048-354-013). Related Files: PUD-22-002 and PDEV22-023. **Planning Commission action is required.**

PMTT22-015:

Submitted by Tamara Soussan

A Tentative Tract Map for condominium purposes, subdividing approximately 0.09-acre of land into three residential condominium units/lots to facilitate the development of three multiple-family dwellings located at 213 North Fern Street, within the Holt Boulevard District (LUA-3) of the Downtown Mixed Use (MU-1) zoning district (APN: 1048-572-06). Related Files: PUD-22-003 and PDEV22-024. **Planning Commission action is required.**

PPRE22-003:

Submitted by Robert Wang

A Preliminary Plan Review for the proposed development a 5,150-square-foot multi-tenant commercial building on 0.585-acre of land located on the east side of Archibald Avenue, approximately 400 feet south of Philadelphia Street, within the Commercial/Office land use district of the California Commerce Center South Specific Plan (APNs: 1083-071-20). **Staff action is required.**

PSGN22-037:

Submitted by Devon Wesselink

A Sign Plan to install two building wall-mounted signs, two village wall-mounted signs, and ancillary directional signage for SONIC DRIVE THRU, located at 1495 North Mountain Avenue, within the Main Street District of the Mountain Village Specific Plan (APN: 1008-431-25). **Staff action is required.**

PSGN22-038:

Submitted by Friends of Family Health Center

A Sign Plan to install two nonilluminated wall-mounted signs for FRIENDS OF FAMILY HEALTH CENTER, located at 1129 West Fourth Street, within the CC (Community Commercial) zoning district (APN: 1010-132-05). **Staff action is required.**

PSGN22-039:

A Sign Plan to install two wall-mounted signs for R & B TEA, located at 4210 East Inland Empire Boulevard, within the Urban Commercial land use district of the Ontario Center Specific Plan (APN: 0210-211-43). **Staff action is required.**

PSGN22-040:

Submitted by True Jesus Church in Chino Valley

A Sign Plan for a temporary wall-mounted banner sign for TRUE JESUS CHURCH, located at 1429 North Euclid Avenue, within the RE-4 (Residential Estate – 2.1 to 4.0 du/ac) zoning district (APN: 1047-345-01). To be displayed from 4/10/2022 thru 4/17/ 2022. **Staff action is required.**

PSGN22-041:

Submitted by Kraft Cal, Inc.

A Sign Plan to install one interior illuminated wall-mounted sign for SUNNY SMOKE, located at 3045 South Archibald Avenue, Suite G, within the CN (Neighborhood Commercial) zoning district (APN: 0218-141-32). **Staff action is required.**



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PSGN22-042:

Submitted by Azad Golshani

A Sign Plan to remove an existing unpermitted sign on the east elevation and replace a wall sign on the north elevation and reface a legal nonconforming pole sign for BROTHERS BURGERS, located at 843 North Mountain Avenue, within the CN (Neighborhood Commercial) zoning district (APN: 1010-201-15). **Staff action is required.**

PSGN22-043:

Submitted by Encore Image Inc

A Sign Plan to install one non-illuminated wall-mounted sign for LIVING WATER TRADING, located at 315 South Sultana Avenue, within the IG (General Commercial) zoning district (APN: 1049-082-05). **Staff action is required.**

PSGN22-044:

Submitted by Inland Signs Inc

A Sign Plan to remove and replace a damaged monument sign on property located at 1055 North Mountain Avenue within the CC (Community Commercial) zoning district (APN: 1010-132-01). **Staff action is required.**

PSGN22-045:

Submitted by Elephant Signage and Display

A Sign Plan to install two wall-mounted signs and reface an existing monument sign for GANAS AUTO, located at 1201 West Holt Boulevard, within the IP (Industrial Park) zoning district (APN: 1011-121-22). **Staff action is required.**

PSGN22-046:

Submitted by Ital Custom Signs Inc

A Sign Plan to install one wall-mounted sign for DANDELION DENTISTRY, located at 2250 South Archibald Avenue, within the Archibald Center Specific Plan (APN: 1083-011-19). **Staff action is required.**

PSGN22-047:

Submitted by Taylor Communications

A Sign Plan to remove an existing wall sign and install a new wall-mounted sign for TAYLOR COMMUNICATION, located at 425 South Rockefeller Avenue, within the California Commerce Center Specific Plan (APN: 0238-185-20). **Staff action is required.**

PSGN22-048:

Submitted by Elephant Signage and Display

A Sign Plan to install two wall-mounted signs and reface an existing monument sign for GANAS AUTO, located at 1201 West Holt Boulevard, within the IP (Industrial Park) zoning district (APN: 1011-121-22). **Staff action is required.**

PSGN22-049:

A Sign Plan to install one illuminated wall-mounted sign for ONTARIO HOUSE OF SMOKE, located at 2256 South Mountain Avenue, within the CN (Neighborhood Commercial) zoning district (APN: 1015-131-24). **Staff action is required.**



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PSGN22-050:

Submitted by T Signs

A Sign Plan to install one illuminated wall-mounted sign for FISH WORLD, located at 4210 East Inland Empire Boulevard, Suite A, within the Urban Commercial land use district of the Ontario Center Specific Plan (APN: 0210-211-43). **Staff action is required.**

PSGN22-051:

A Sign Plan to install two illuminated wall-mounted signs for ULINE, located at 4810 South Hellman Avenue, within the Merrill Commerce Center Specific Plan (APN: 1073-111-17). **Staff action is required.**

PSGN22-052:

Submitted by Printbyrne Inc.

A Sign Plan to install one internally illuminated wall-mounted sign for KUNG FU TEA, located at 2211 South Mountain Avenue, within the CN (Neighborhood Commercial) zoning district (APN: 1015-131-20). **Staff action is required.**

PSGN22-053:

A Sign Plan to install one illuminated wall-mounted sign for RESTORATION HARDWARE, located at 5170 South Archibald Avenue, within the Colony Commerce Center East Specific Plan (APN: 1073-151-16). **Staff action is required.**

PSGN22-054:

Submitted by Duralum Products Inc

A Sign Plan to install three wall-mounted signs for ANVIL, located at 551 North Loop Drive, within the IG (General Industrial) zoning district (APN: 0238-052-53). **Staff action is required.**

PTUP22-034:

Submitted by City of Ontario Community Life and Culture

A Special Event Permit submitted by City of Ontario Community Life and Culture to host a VIP and community reception event at the Ontario Museum of History and Art and Chaffey Community Museum of Art, located at 217 South Lemon Avenue. Event to be held on 6/11/2022. **Staff action is required.**

PTUP22-035:

Submitted by City of Ontario Community Life and Culture

A Special Event Permit submitted by City of Ontario Community Life and Culture to host its annual Culture Fest event at the Ontario Museum of History and Art, located at 225 South Euclid Avenue. Event to be held on 5/21/2022. **Staff action is required.**

PTUP22-036:

Submitted by Collection Sites LLC

A Temporary Use Permit to continue the temporary operation of a mobile COVID testing site within the Ontario Mills parking lot, located at 1 Mills Circle, Suite 100. Event to be held 4/20/2022 thru 4/20/2023. **Staff action is required.**

PTUP22-037:

Submitted by Caramel Connections Foundation

A Special Event Permit to conduct an Earth Day event at the Seeds of Joy Community Garden at Anthony Munoz Park, located at 1240 West Fourth Street. Event to be held on 4/23/2022. **Staff action is required.**



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PTUP22-038: Submitted by Caramel Connections Foundation

A Special Event Permit to provide activities to help educate the public about mindfulness, yoga, exercise, and healthy cooking and eating at the Seeds of Joy Community Garden at Anthony Munoz Park, located at 1240 West Fourth Street). Event to be held on 5/21/2022. **Staff action is required.**

PTUP22-039: Submitted by The Los Angeles Rams, LLC

A Special Event Permit for a Los Angeles Rams photo opportunity public event, including DJ, merchandise sales, and local food trucks, conducted at Ontario Town Square, located at 216 North Euclid Avenue. Event to be held on 5/15/2022. **Staff action is required.**

PTUP22-040: Submitted by City of Ontario Library

A Special Event Permit for a Veterans Job and Resource Fair located at 215 East C Street. Event to be held on 6/10/2022, 10:00AM to 1:00PM. **Staff action is required.**

PTUP22-041: Submitted by Iglesia De Dios de la Profecia

A Special Event Permit to hold a Flower Sales event hosted by Iglesia De Dios de la Profecia, located at 1130 South Campus Avenue. Event to be held on 5/7/2022. **Staff action is required.**

PTUP22-042: Submitted by D'Andre D. Lampkin Foundation

A Special Event Permit to hold a mobile blood drive event hosted by D'Andre D. Lampkin Foundation, located at 2151 Convention Center Way. Event to be held on 5/25/2022. **Staff action is required.**

PTUP22-043: Submitted by Recreation and Community Services Department

A Special Event Permit application for a "Kids to Parks Day" at five City parks, hosted by the City of Ontario Recreation and Community Services Department. The event includes the following: [1] Vineyard Park will be crafts, face painting, field games; [2] De Anza Park will host art activities & fitness act; [3] Celebration Park North will host water games, nerf games; [4] Anthony Munoz Park will provide Swim assessment and Bubble Soccer; and [5] Town Square will host chalk art and field games. Event to be held on 5/21/2022. **Staff action is required.**

PTUP22-044: Submitted by University of La Verne College of Law

A Special Event permit for University of La Verne College of Law celebration for the graduating class of 2022, located at 320 East D Street. Event to be held on 5/14/2022. **Staff action is required.**

PUD-22-002: Submitted by Tipping Development

A Planned Unit Development to establish development standards on 0.79-acre of land located at the northeast corner of Laurel Avenue and D Street, within LUA-1 (Euclid Entertainment) of the MU-1 (Downtown Mixed-Use) zoning district (APNs: 1048-354-012 and 1048-354-013). Related Files: PMTT22-014 and PDEV22-023. **City Council action is required.**



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PUD-22-003:

Submitted by Tamara Soussan

A Planned Unit Development to establish development standards on approximately 0.09-acre of land located at 213 North Fern Street, within the Holt Boulevard District (LUA-3) of the MU-1 (Downtown Mixed Use) zoning district (APN: 1048-572-06). Related Files: PUD-22-003 and PDEV22-024. **City Council action is required.**

PVER22-030:

Submitted by Planning & Zoning Resource Company

A Zoning Verification for property located at 5555 East Jurupa Street (APN: 0238-101-11). **Staff action is required.**

PVER22-031:

Submitted by Kasey Little

A Zoning Verification for property located at 752 South Campus Avenue (APN: 1049-221-36). **Staff action is required.**

PVER22-032:

Submitted by Lisa Chan

A Zoning Verification for property located at 549 East Nocta Street (APN: 1048-532-18). **Staff action is required.**

PVER22-033:

Submitted by The Planning & Zoning Resource Company

A Zoning Verification for property located at 1656 South Cucamonga Avenue (APN: 1050-201-02). **Staff action is required.**

PZC-22-001:

Submitted by City of Ontario

A Zone Change revising the zoning designation assigned to various properties (109 estimated) located throughout the City in order to make the Official Zoning Map consistent with the TOP 2050 Policy Plan (general plan) Land Use Plan (Exhibit LU-01). **City Council action is required.**