

CITY OF ONTARIO
CITY COUNCIL AND HOUSING AUTHORITY
AGENDA
MARCH 1, 2016

Paul S. Leon
Mayor

Debra Dorst-Porada
Mayor pro Tem

Alan D. Wapner
Council Member

Jim W. Bowman
Council Member

Paul Vincent Avila
Council Member



Al C. Boling
City Manager

John E. Brown
City Attorney

Sheila Mautz
City Clerk

James R. Milhiser
Treasurer

WELCOME to a meeting of the Ontario City Council.

- All documents for public review are on file with the Records Management/City Clerk's Department located at 303 East B Street, Ontario, CA 91764.
- Anyone wishing to speak during public comment or on a particular item will be required to fill out a blue slip. Blue slips must be turned in prior to public comment beginning or before an agenda item is taken up. The Clerk will not accept blue slips after that time.
- Comments will be limited to 3 minutes. Speakers will be alerted when they have 1 minute remaining and 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 Council's jurisdiction. Remarks on other agenda items will be limited to those items.
- Remarks from those seated or standing in the back of chambers will not be permitted. All those wishing to speak including Council and Staff need to be recognized by the Chair before speaking.

ORDER OF BUSINESS The regular City Council and Housing Authority meeting begins with Public Comment at 6:30 p.m. immediately followed by the Regular Meeting and Public Hearings. No agenda item will be introduced for consideration after 10:00 p.m. except by majority vote of the City Council.

(EQUIPMENT FOR THE HEARING IMPAIRED AVAILABLE IN THE RECORDS MANAGEMENT OFFICE)

CALL TO ORDER (*OPEN SESSION*)

6:30 p.m.

ROLL CALL

Dorst-Porada, Wapner, Bowman, Avila, Mayor/Chairman Leon

PLEDGE OF ALLEGIANCE

Mayor pro Tem Dorst-Porada

INVOCATION

Pastor David Gaunt, Sunrise Church

PUBLIC COMMENTS

6:30 p.m.

The Public Comment portion of the Council/Housing Authority meeting is limited to 30 minutes with each speaker given a maximum of 3 minutes. An opportunity for further Public Comment may be given at the end of the meeting. Under provisions of the Brown Act, Council is prohibited from taking action on oral requests.

As previously noted -- if you wish to address the Council, fill out one of the blue slips at the rear of the chambers and give it to the City Clerk.

AGENDA REVIEW/ANNOUNCEMENTS The City Manager will go over all updated materials and correspondence received after the Agenda was distributed to ensure Council Members have received them. He will also make any necessary recommendations regarding Agenda modifications or announcements regarding Agenda items to be considered.

SPECIAL CEREMONIES

RECOGNITION OF OUTGOING MUSEUM BOARD MEMBERS

CONSENT CALENDAR

All matters listed under **CONSENT CALENDAR** will be enacted by one motion in the form listed below – there will be no separate discussion on these items prior to the time Council votes on them, unless a member of the Council requests a specific item be removed from the Consent Calendar for a separate vote.

Each member of the public wishing to address the City Council on items listed on the Consent Calendar will be given a total of 3 minutes.

1. APPROVAL OF MINUTES

Minutes for the regular meeting of the City Council/Housing Authority/Successor Agency to the Ontario Redevelopment Agency of February 2, 2016 approving same as on file in the Records Management Department.

2. BILLS/PAYROLL

Bills January 10, 2016 through January 23, 2016 and **Payroll** January 10, 2016 through January 23, 2016, when audited by the Finance Committee.

3. A RESOLUTION APPROVING AMENDMENTS TO THE OMNITRANS JOINT POWERS AUTHORITY AGREEMENT, ADOPTING AN AMENDED AND RESTATED JOINT POWERS AUTHORITY AGREEMENT, AND AUTHORIZING THE CITY OF ONTARIO TO TAKE RELATED ACTIONS

That the City Council adopt a resolution approving amendments to the Omnitrans Joint Powers Authority agreement; adopt an Amended and Restated Joint Powers Agreement, and authorize the City of Ontario to take related actions.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA APPROVING AMENDMENTS TO THE OMNITRANS JOINT POWERS AUTHORITY AGREEMENT, ADOPTING AN AMENDED AND RESTATED JOINT POWERS AUTHORITY AGREEMENT, AND AUTHORIZING THE CITY OF ONTARIO TO TAKE RELATED ACTIONS.

4. A RESOLUTION AUTHORIZING THE FILING OF THE SECTION 190 APPLICATION FOR THE NORTH VINEYARD AVENUE GRADE SEPARATION PROJECT

That the City Council adopt a resolution authorizing the filing of an application to obtain \$5 million of California Public Utilities Commission (CPUC) Section 190 funds for the North Vineyard Avenue Grade Separation Project.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING FILING OF A SECTION 190 APPLICATION, VERIFYING THAT ALL MATTERS PREREQUISITE TO THE AWARDED OF THE CONSTRUCTION CONTRACT CAN BE ACCOMPLISHED WITHIN TWO YEARS AFTER ALLOCATION OF THE FUNDS FOR THE PROJECT BY THE CALIFORNIA TRANSPORTATION COMMISSION, AND VERIFYING THAT SUFFICIENT LOCAL FUNDS WILL BE MADE AVAILABLE AS THE WORK OF THE PROJECT PROGRESSES FOR THE NORTH VINEYARD AVENUE GRADE SEPARATION AT THE UNION PACIFIC RAILROAD ALHAMBRA SUBDIVISION P.U.C. NO. 001B-522.40.

5. A RESOLUTION APPROVING FINAL PARCEL MAP NO. 19646 LOCATED ON INLAND EMPIRE BOULEVARD APPROXIMATELY 200 FEET WEST OF MILLIKEN AVENUE

That the City Council adopt a resolution approving Final Parcel Map No. 19646 for condominium purposes located on Inland Empire Boulevard approximately 200 feet west of Milliken Avenue.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FINAL PARCEL MAP NO. 19646 FOR CONDOMINIUM PURPOSES LOCATED ON INLAND EMPIRE BOULEVARD APPROXIMATELY 200 FEET WEST OF MILLIKEN AVENUE.

6. A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL PARCEL MAP NO. 19650 LOCATED AT THE NORTHEAST CORNER OF ARCHIBALD AVENUE AND MISSION BOULEVARD

That the City Council adopt a resolution approving an improvement agreement, improvement security and Final Parcel Map No. 19650 located at the northeast corner of Archibald Avenue and Mission Boulevard within the Airport Business Park (Hofer Ranch) Specific Plan area.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL PARCEL MAP NO. 19650 LOCATED AT THE NORTHEAST CORNER OF ARCHIBALD AVENUE AND MISSION BOULEVARD

7. AGREEMENT WITH THE SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT (SCAQMD) FOR REIMBURSEMENT OF CERTAIN COSTS ASSOCIATED WITH EXPANSION OF THE CNG FUELING STATION

That the City Council approve an agreement with the South Coast Air Quality Management District (SCAQMD) (on file with the Records Management Department) to participate in the Local Government Match Program to receive reimbursements of up to \$150,000 for expansion of the CNG fueling station and authorize the City Manager to execute said agreement.

8. AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT WITH MWH CONSTRUCTORS FOR CONSTRUCTION MANAGEMENT & INSPECTION SERVICES RELATED TO THE WELL NO. 41 WELLHEAD TREATMENT PROJECT

That the City Council approve and authorize the City Manager to execute an amendment to the existing Professional Services Agreement (on file with the Records Management Department) with MWH Constructors of Pasadena, California, to provide additional construction management and inspection services for the Well No. 41 Wellhead Treatment Project in the amount of \$200,000.

PUBLIC HEARINGS

Pursuant to Government Code Section 65009, if you challenge the City's zoning, planning or any other decision 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 City Council at, or prior to the public hearing.

9. AN ORDINANCE ADDING ARTICLE 4 TO CHAPTER 1 OF TITLE 6 OF THE ONTARIO MUNICIPAL CODE, ADOPTING STANDARDS FOR THE CARE AND TREATMENT OF ANIMALS OFFERED FOR SALE AT SWAP MEETS

That the City Council introduce and waive further reading of an ordinance adopting standards for the care and treatment of animals offered for sale at swap meets.

Notice of public hearing has been duly given and affidavits of compliance are on file in the Records Management Department.

Written communication.

Oral presentation.

Public hearing closed.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADDING ARTICLE 4 TO CHAPTER 1 OF TITLE 6 OF THE ONTARIO MUNICIPAL CODE, ADOPTING STANDARDS FOR THE CARE AND TREATMENT OF ANIMALS OFFERED FOR SALE AT SWAP MEETS.

10. AN ORDINANCE ESTABLISHING TITLE 5, CHAPTER 22 (PROPERTY APPEARANCE-NUISANCE) OF THE ONTARIO MUNICIPAL CODE, WHICH ESTABLISHES THE CONDITIONS UNDER WHICH THE MAINTENANCE OF PROPERTY MAY BE DETERMINED TO BE A NUISANCE, AND THE PROCEDURES TO ABATE SUCH NUISANCES

That the City Council conduct a public hearing to consider the introduction and waive further reading of an ordinance approving File No. PDCA16-001, an amendment to Ontario Municipal Code Title 5, establishing Chapter 22 (Property Appearance — Nuisance).

Notice of public hearing has been duly given and affidavits of compliance are on file in the Records Management Department.

Written communication.

Oral presentation.

Public hearing closed.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA16-001, AN ORDINANCE ESTABLISHING TITLE 5, CHAPTER 22 (PROPERTY APPEARANCE — NUISANCE) OF THE ONTARIO MUNICIPAL CODE, WHICH ESTABLISHES THE CONDITIONS UNDER WHICH THE MAINTENANCE OF PROPERTY WITHIN THE CITY MAY BE DETERMINED TO BE A NUISANCE, AND THE PROCEDURES TO ABATE SUCH NUISANCES, AND MAKING FINDINGS IN SUPPORT THEREOF.

11. A PUBLIC HEARING TO CONSIDER AN APPEAL OF THE PLANNING COMMISSION'S DECISION TO UPHOLD THE ZONING ADMINISTRATOR'S DENIAL OF A CONDITIONAL USE PERMIT (FILE NO. PCUP15-016) FOR THE ESTABLISHMENT AND OPERATION OF AN ORGANIC MATERIALS FACILITY (COMPOSTING OF GREEN WASTE, MANURE, FOOD MATERIALS, FATS OILS AND GREASE) ON A 34.76-ACRE PORTION OF 37.4 ACRE PARCEL OF LAND WITHIN THE AG (AGRICULTURE) OVERLAY ZONING DISTRICT, LOCATED AT THE SOUTHWEST CORNER OF SCHAEFER AVENUE AND CAMPUS AVENUE, AT 7435 EAST SCHAEFER AVENUE (APNS: 1053-101-01, 02, AND 1053-091-01)

That the City Council consider an appeal of the Planning Commission's decision denying File No. PCUP15-016, a Conditional Use Permit for the establishment and operation of an organic materials facility (composting of green waste, manure, and food materials) within the AG (Agriculture) Overlay zoning district, located at the southwest corner of Schaefer Avenue and Campus Avenue at 7435 East Schaefer Avenue; and take further actions necessary and consistent with the City Council's final determination and decision on the matter.

Notice of public hearing has been duly given and affidavits of compliance are on file in the Records Management Department.

Written communication.

Oral presentation.

Public hearing closed.

STAFF MATTERS

City Manager Boling

COUNCIL MATTERS

Mayor Leon

Mayor pro Tem Dorst-Porada

Council Member Wapner

Council Member Bowman

Council Member Avila

ADJOURNMENT

CITY OF ONTARIO

Agenda Report

March 1, 2016

SECTION: CONSENT CALENDAR

SUBJECT: A RESOLUTION APPROVING AMENDMENTS TO THE OMNITRANS JOINT POWERS AUTHORITY AGREEMENT, ADOPTING AN AMENDED AND RESTATED JOINT POWERS AUTHORITY AGREEMENT, AND AUTHORIZING THE CITY OF ONTARIO TO TAKE RELATED ACTIONS

RECOMMENDATION: That the City Council adopt a resolution approving amendments to the Omnitrans Joint Powers Authority agreement; adopt an Amended and Restated Joint Powers Agreement, and authorize the City of Ontario to take related actions.

**COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Operate in a Businesslike Manner**

FISCAL IMPACT: None.

BACKGROUND: The City of Ontario is a member of the Omnitrans Joint Powers Authority (JPA). Omnitrans' JPA agreement was executed on March 8, 1976, and has not been amended since.

In May 2015, Omnitrans began the process of reviewing the JPA agreement and identifying ways to update and improve it. After a lengthy committee process and review by member agencies, on February 3, 2016, the Omnitrans Board of Directors voted to approve a proposed Restated and Amended Joint Powers Authority Agreement, which incorporates changes identified through that process.

Most notably, the changes include:

- Provisions which mitigate risk to member agencies, including indemnity, risk management and insurance requirements
- Changes relating to voting, including the requirement of a majority of the total membership to issue bonds
- An explicit power to obtain insurance and apply for federal, state and local grants
- Financial accountability measures creating budgetary and audit requirements

STAFF MEMBER PRESENTING: Al C. Boling, City Manager

Prepared by: David Sheasby
Department: Citywide Administration

City Manager
Approval: 

Submitted to Council/O.H.A. 03/01/2016

Approved: _____

Continued to: _____

Denied: _____

3

- Addition of the names of member agencies that have joined since the execution of the original agreement
- Update to position titles and responsibilities

The proposed amendments cannot take effect until approved and adopted by all member agencies. The Omnitrans Board has requested that all member agencies vote on the proposed amendments within 45 days of submission. Upon approval of all member agencies, the Amended and Restated Joint Powers Agreement will be filed with the Secretary of State.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA APPROVING AMENDMENTS TO THE OMNITRANS JOINT POWERS AUTHORITY AGREEMENT, ADOPTING AN AMENDED AND RESTATED JOINT POWERS AUTHORITY AGREEMENT, AND AUTHORIZING THE CITY OF ONTARIO TO TAKE RELATED ACTIONS.

WHEREAS, Omnitrans is a Joint Powers Authority (JPA), the members of which include the County of San Bernardino and numerous cities in the San Bernardino Valley, including the City of Ontario; and

WHEREAS, the original Omnitrans JPA agreement, to which the City of Ontario was a member, was executed in 1976; and

WHEREAS, there have been no amendments to the JPA agreement since that time, and

WHEREAS, the Omnitrans Board of Directors, on February 3, 2016, determined that amendments were needed to the existing JPA agreement to reflect membership and organizational changes, as well as to bring Omnitrans into line with best practices for a transit provider, and thereby adopted a proposed Amended and Restated Joint Powers Agreement; and

WHEREAS, the member agencies must now approve of the proposed amendments, and adopt the Amended and Restated Joint Powers Agreement;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Ontario, California:

SECTION 1. The City Council hereby approves the proposed amendments, and adopts the proposed Amended and Restated Joint Powers Agreement (attached as Exhibit A).

SECTION 2. The Mayor shall affix his signature to the Amended and Restated Joint Powers Agreement as official adoption of the agreement.

SECTION 3. The City Council hereby finds that adoption of this Resolution is not a "project" under the California Environmental Quality Act, because the Resolution does not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment, as contemplated by Title 14, California Code of Regulations, Section 15378(b)(4).

SECTION 4. This Resolution shall take effect immediately upon its adoption. The City Clerk is hereby authorized and directed to transmit a certified copy of this resolution as well as an executed copy of the Amended and Restated Joint Powers

Authority agreement to the CEO/General Manager of Omnitrans, P. Scott Graham, at: 1700 West Fifth Street, San Bernardino, CA 92411.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 1st day of March 2016.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2016- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held March 1, 2016 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2016- duly passed and adopted by the Ontario City Council at their regular meeting held March 1, 2016.

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

AMENDED AND RESTATED JOINT POWERS AGREEMENT BETWEEN THE COUNTY OF SAN BERNARDINO AND THE CITIES OF CHINO, CHINO HILLS, COLTON, FONTANA, GRAND TERRACE, HIGHLAND, LOMA LINDA, MONTCLAIR, ONTARIO, RANCHO CUCAMONGA, REDLANDS, RIALTO, SAN BERNARDINO, UPLAND, AND YUCAIPA CREATING A COUNTY WIDE TRANSPORTATION AUTHORITY TO BE KNOWN AS “OMNITRANS”.

THIS AGREEMENT, originally dated for convenience on the 8th day of March, 1976, is hereby amended and restated on _____, 2016, is entered into by and between the COUNTY OF SAN BERNARDINO and the Cities of CHINO, CHINO HILLS, COLTON, FONTANA, GRAND TERRACE, HIGHLAND, LOMA LINDA, MONTCLAIR, ONTARIO, RANCHO CUCAMONGA, REDLANDS, RIALTO, SAN BERNARDINO, UPLAND and YUCAIPA, all of which are bodies politic in the STATE OF CALIFORNIA;

WITNESSETH:

WHEREAS, the County of San Bernardino (hereinafter sometimes referred to as “County”) and the Cities of Chino, Chino Hills, Colton, Fontana, Grand Terrace, Highland, Loma Linda, Montclair, Ontario, Rancho Cucamonga, Redlands, Rialto, San Bernardino, Upland, and Yucaipa (hereinafter sometimes referred to as “Cities”) have a mutual interest in deciding upon and implementing a public transit system to serve all the parties, and

WHEREAS, previously certain transit service authorities served sub-areas of the County, utilizing either the County of San Bernardino or San Bernardino Transit System as transit operators; and

WHEREAS, the parties now wish to continue to better coordinate transit efforts by amending and restating the agreement used in creating a single umbrella agency which will provide transit services as requested by the transit service authorities, and will serve the transit needs of the San Bernardino Valley and other areas as required.

NOW, THEREFORE, the County and Cities above mentioned, for and in consideration of the mutual promises and agreements herein contained, do agree as follows:

SECTION 1. PURPOSE.

Each party to this Agreement has the power to own, maintain, and operate a public transportation system. Under authority of Title I, Division 7, Chapter 5, as amended, of the Government Code of the State of California, the parties desire by joint exercise of their common power, to create and constitute a public transportation entity separate and distinct from each of the parties to be known as “Omnitrans”, which will own, maintain, operate and administer a public transportation system. This transportation system will serve as a unifying umbrella agency to coordinate service desires of the various transit service authorities throughout the San Bernardino Valley, and to provide such service either directly or through subcontract with other operators. The transportation system initially absorbed the public transportation operations of the San Bernardino Transit System, and the County of San Bernardino Transportation Department’s Public Transit Division. Omnitrans will provide a standardized system of fares, a universal system of transfers, and expanded transit services and facilities for the benefit of the citizens of the parties.

SECTION 2. CREATION OF AUTHORITY.

Omnitrans was created pursuant to Section 6506 of the California Government Code and said Authority is a public entity separate and apart from the Cities and County which are parties to this Agreement.

SECTION 3. GOVERNING BOARD.

A. Membership.

The Authority (Omnitrans) shall be administered by a Board of Directors. The membership of the Board of Directors shall consist of an officially designated Mayor or Council Member from each member City and four seats to be officially designated members from the Board of Supervisors who currently hold the office of Supervisor of the County of San Bernardino. Each City representative may have one alternate who shall be a Mayor or City Council Member officially designated by the City Council. The County representatives may have one alternate who shall be a County Supervisor. The alternates shall serve in an official capacity and be entitled to vote only in the absence of the official representatives.

B. Voting.

Each member of the Board of Directors shall have one vote. A quorum shall consist of a majority of the membership of the Board of Directors, except that all County representatives on the Board of Directors shall be counted as one for the purpose of establishing a quorum. Less than a quorum may adjourn from time to time. All actions taken by the Board shall require a majority vote of the members present, with a quorum in attendance, provided, however, that adoption of By-laws, Amendment of By-laws, adoption of an annual budget and such other matters as the Board may designate shall require a majority vote of the entire membership of the Board. An abstention shall be considered neither an affirmative nor a negative vote, but the presence of the member abstaining shall be counted in determining whether or not there is a quorum in attendance.

Votes to issue bonded debt shall require a majority vote of the total membership.

C. Meetings.

(1) Regular Meetings.

The Board of Directors shall provide for its regular meetings; provided, however, it shall hold at least one (1) regular meeting during each quarter of each fiscal year. The dates, hour, and place of the holding of the regular meetings shall be fixed by the Board by resolution.

(2) Ralph M. Brown Act.

All meetings of the Governing Board, including, without limitation, regular, adjourned regular, and special meetings, shall be called, noticed, held, and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with Section 54950 of the Government Code).

(3) Minutes.

The Secretary of the Board shall cause to be kept minutes of regular, adjourned regular, and special meetings of the Governing Board, and shall cause a copy of the minutes to be forwarded to each member of the Board and to each of the parties hereto.

D. Officers.

The Board shall select a Chairman, a Vice Chairman, and other necessary officials. The Secretary shall be the Chief Executive Officer of Omnitrans. The Treasurer of the Authority shall be the Chief Executive Officer of Omnitrans who shall be the depositary and have custody of all money of the Authority from whatever sources. Omnitrans' Director of Finance shall be the Controller of the Authority and shall draw all warrants to pay demands against the Authority. The Attorney for the Authority shall be designated by the Board. The public officers or persons who have charge of, handle or have access to any property of the Authority shall file an official bond in accordance with Section 6505.1 of the California Government Code. The Authority shall have the authority to appoint or employ such other officers, employees, consultants, advisors, and independent contractors as it may deem necessary.

E. Functions.

The Board of Directors shall perform the following functions:

- (1) Adopt the budget;
- (2) Appoint a Chief Executive Officer;
- (3) Appoint a technical committee;
- (4) Establish policy, including but not limited to:
 - (a) Uniform fares;
 - (b) Procurement Policies;
 - (c) Personnel Policies
- (5) Adopt rules and regulations for the conduct of business; and
- (6) Perform such other functions as are required to accomplish the purposes of this Agreement.

SECTION 4. POWERS.

Omnitrans shall have the common power of the parties to own, operate and maintain a public transit system; and, in the exercise of the power under this Agreement, Omnitrans is authorized in its own name to:

- (1) Sue and be sued;
- (2) Employ agents and employees and contract for professional services;

- (3) Make and enter contracts;
- (4) Acquire, convey, construct, manage, maintain and operate buildings and improvements;
- (5) Acquire and convey real and personal property;
- (6) Incur debts, obligations and liabilities, provided, however, the debts, obligations and liabilities incurred by Omnitrans shall not be, nor shall they be deemed to be, debts, obligations, or liabilities of any party;
- (7) Levy a fee, assessment or tax;
- (8) Power of eminent domain
- (9) Invest funds not required for immediate use as the Board determines advisable -
- in the same manner and upon the same conditions as other local entities in accordance with Section 53601 of the Government Code; and
- (10) Do all other acts reasonable and necessary to carry out the purpose of this Agreement;
- (11) Obtain insurance;
- (12) Apply for grants under federal, state and local programs.

Such powers are subject to the statutory restrictions upon the manner of exercising the powers of the County of San Bernardino.

SECTION 5. FISCAL YEAR.

For the purposes of this Agreement, the term “Fiscal Year” shall mean the twelve (12) month period from July 1 to and including the following June 30.

SECTION 6. FINANCIAL SUPPORT.

At the time of preparing Omnitrans annual proposed operating budget and proposed capital expenditure budget, the Board shall consider the amount of financial support to be allocated by the San Bernardino Associated Governments (SANBAG) on behalf of members’ jurisdictions. SANBAG as the Transportation Planning Agency for San Bernardino County, and acting as the County Transportation Commission, is responsible for allocating Transportation Development Act (TDA) funding sources for transit and non-transit related purposes that comply with regional transportations plans.

The TDA provides two funding sources:

1. Local Transportation Fund (LTF), which is derived from a ¼ cent of the general sales tax collected statewide.
2. State Transit Assistance fund (STA), which is derived from the statewide sales tax on gasoline and diesel fuel.

SECTION 7. CHIEF EXECUTIVE OFFICER.

The Chief Executive Officer of Omnitrans shall serve at the pleasure of and upon the terms prescribed by the Board of Directors.

The Chief Executive Officer shall be responsible for carrying out the policy and directives of the Board of Directors. The duties of the Chief Executive Officer shall include:

1. The preparation and submission to the Board of Directors of the annual operating and capital improvement budgets;
2. The appointment, assignment, direction, supervision, and subject to the personnel rules adopted by the Board of Directors, the discipline or removal of Omnitrans employees;
3. Advising the Board of Directors concerning all matters relating to the operation of Omnitrans and the various programs of work, promotion and expansion;
4. Providing periodic financial reports covering Omnitrans and its operations in the manner and at the times determined by the Board of Directors; and
5. Approving for payment, under the procedure adopted by the Board of Directors, all valid demands against Omnitrans.

SECTION 8. TREASURER.

The Treasurer of the Authority shall receive, have custody of, and disburse Authority funds pursuant to the accounting procedures developed by the Authority Board in conformance with Government Accounting Standards, and shall make disbursements required by this Agreement to carry out any of the provisions or purposes of this Agreement.

SECTION 9. CONTROLLER.

The Director of Finance, as Controller, shall issue checks to pay demands against Omnitrans, which have been approved by the Chief Executive Officer. He shall be responsible on his official bond for his approval for the disbursement of Omnitrans money.

The Controller shall keep and maintain records and books of accounts on the basis of the uniform classification of accounts adopted by the State Controller. The books of accounts shall include records of assets and liabilities.

There shall be strict accountability of all funds by the Controller. All revenues and expenditures shall be reported by the Controller to the Board of Directors on a quarterly basis, unless otherwise required by the Board of Directors.

Books and records of the Authority shall be open to inspection at all times during normal business hours by any representative of a member of the Board of Directors, or by any accountant or other person authorized by a member of the Board of Directors to inspect said books or records.

SECTION 10. BUDGET AND ACCOUNTING.

The Chief Executive Officer shall prepare and submit to the Board of Directors in sufficient time for revision and adoption prior to July 1 of each year, the annual budget of the Authority for the next succeeding Fiscal Year.

All expenditures of the Authority shall be within the approved annual budget and in accordance with the bylaws of the Authority and all applicable rules, policies, and procedures adopted by the Board of Directors. No expenditures in excess of those budgeted shall be made without the approval of the Board of Directors.

The books of account and other financial records of the Authority shall be audited annually, or biennially if so authorized by the Board of Directors, by an independent certified public accountant and any cost of the audit shall be paid by the Authority. The minimum requirements shall be those prescribed by the State Controller under California Government Code Section 26909 and in conformance with generally accepted auditing standards. The annual audit, or biennial as the case may be, shall be submitted to the Board of Directors when completed.

SECTION 11. PARTIES' LIABILITY.

Each party to this Agreement, whether individually or collectively, does not assume, nor shall a party be deemed to assume, liability for:

- (1) Any act of Omnitrans or for any act of Omnitrans agents or employees;
- (2) The payment of wages, benefits, or other compensation of officers, agents or employees of Omnitrans; or
- (3) The payment of workmen's compensation or indemnity to agents or employees of Omnitrans for injury or illness arising out of performance of this Agreement.

Indemnity by Authority: Provided that a party has acted in good faith and in accordance with this Agreement, the Authority shall defend, indemnify and hold such party free and harmless from any loss, liability or damage incurred or suffered by such party by reason of litigation arising from or as a result of any of the following: the party's participation in the Authority, or any other act performed or to be performed by the party pursuant to this Agreement, provided, however, that such indemnification or agreement to hold harmless pursuant to this Section shall be recoverable only out of Authority assets (including insurance proceeds) and not from other parties to this Agreement.

Risk Management and Insurance: The Authority shall employ the principles of sound risk management in its operations. Risks shall be identified, evaluated, and treated in a manner that protects the Authority and each party to this Agreement. The Authority shall acquire and maintain throughout the term of this Agreement insurance in the amounts and types necessary and sufficient to protect the interest of the Authority and each party to this Agreement. Unless otherwise agreed upon by the Board of Directors, each party hereto shall be named as an additional insured on the Authority's liability coverage.

SECTION 12. ASSIGNABILITY.

With the unanimous approval of, and upon the terms agreed upon by the parties hereto, all or any of the rights and property subject to this Agreement may be assigned to facilitate, under the direction of another, the purpose of this Agreement, provided, however, no right or property of Omnitrans shall be assigned without compliance with all conditions imposed by any State or Federal entity from whom Omnitrans has procured financial assistance.

SECTION 13. ADDITIONAL PARTIES.

Any general purpose local public jurisdiction may join Omnitrans. Any such jurisdiction so joining shall become a member subject to:

- (1) Approval of the Board of Directors;
- (2) Execution of this Joint Powers Agreement.

Any such agency meeting the above conditions shall be entitled to appropriate representation on the Board of Directors as provided in Section 3.

SECTION 14. TERM.

This original Agreement become effective on March 3, 1976, and this Amended and Restated Agreement shall become effective on _____, and shall continue in force until terminated by mutual agreement of the parties.

SECTION 15. WITHDRAWAL OF PARTY.

Any party may withdraw from this Agreement as of the first day of July of any year following six (6) months' notice to the other parties by resolution of intent to withdraw adopted by the legislative body of the party. A withdrawing party shall be compensated for its total capital asset value contributed less appreciation, by return of capital assets and/or cash payment, over a period not to exceed five (5) years, the method to be determined by the Board of Directors.

SECTION 16. DISSOLUTION PROCEDURES.

A. General Provision.

If this Agreement is terminated, assigned, or transferred in whole or in part, except as provided in subsection B., all assets owned by Omnitrans shall be distributed to the parties. Distribution to each party shall be made in the same proportion as that reflected in the parties' accumulated capital contribution accounts as shown in the Controller's books of accounts. Cash may be distributed in lieu of property or equipment.

If the parties cannot agree as to the valuation of property or to the manner of its distribution, the distribution or valuation shall be made by a panel of three (3) referees. One (1) referee shall be appointed by the objecting entity(ies) and one (1) referee shall

be selected and appointed by the Board of Directors, and those referees shall appoint a neutral referee.

This Agreement shall not terminate until all property has been distributed in accordance with this provision; and the winding up and property distribution hereunder shall be effected in the manner calculated to cause the least disruption to existing public transportation service.

- B. In the event that Omnitrans opts to dissolve for purposes of changing its governance structure, all assets and liabilities will transfer to the successor agency.

SECTION 17. PARTIAL INVALIDITY.

If any one or more of the terms, provisions, promises, covenants, or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void, or voidable for any reason whatsoever by a Court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants, and conditions of this Agreement shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

SECTION 18. SUCCESSORS.

This Agreement shall be binding upon and inure to the benefit of the successors of the parties.

SECTION 19: MULTIPLE COUNTERPARTS.

This Agreement may be executed in multiple counterparts and a copy may be used as an original.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their proper officers thereunto duly authorized, and their official seals to be hereto affixed, as of the day and year first above written.

Dated: _____

COUNTY OF SAN BERNARDINO

ATTEST:

Clerk of the Board Laura Welch

Chairman, Board of Supervisors James Ramos

Dated: _____

CITY OF CHINO

ATTEST:

City Clerk Angela Robles

Mayor Dennis R. Yates

Dated: _____

CITY OF CHINO HILLS

ATTEST:

City Clerk Cheryl Balz

Mayor Cynthia Moran

Dated: _____

CITY OF COLTON

ATTEST:

City Clerk Carolina R. Padilla

Mayor Richard A. DeLaRosa

Dated: _____

CITY OF FONTANA

ATTEST:

City Clerk Tonia Lewis

Mayor Aquanetta Warren

Dated: _____

CITY OF GRAND TERRACE

ATTEST:

City Clerk Pat Jacquez-Nares

Mayor Darcy McNaboe

Dated: _____

CITY OF HIGHLAND

ATTEST:

City Clerk Betty Hughes

Mayor Larry McCallon

Dated: _____

CITY OF LOMA LINDA

ATTEST:

City Clerk Pamela Byrnes-O'Camb

Mayor Rhodes Rigsby

Dated: _____

CITY OF MONTCLAIR

ATTEST:

Deputy City Clerk Andrea M. Phillips

Mayor Paul M. Eaton

Dated: _____

CITY OF ONTARIO

ATTEST:

City Clerk Mary E. Wirtes

Mayor Paul S. Leon

Dated: _____

CITY OF RANCHO CUCAMONGA

ATTEST:

City Clerk Janice C. Reynolds

Mayor L. Dennis Michael

Dated: _____

CITY OF REDLANDS

ATTEST:

City Clerk Sam Irwin

Mayor Paul W. Foster

Dated: _____

CITY OF RIALTO

ATTEST:

City Clerk Barbara A. McGee

Mayor Deborah Robertson

Dated: _____

CITY OF SAN BERNARDINO

ATTEST:

City Clerk Georgeann Hanna

Mayor R. Carey Davis

Dated: _____

CITY OF UPLAND

ATTEST:

Deputy City Clerk Debbi Covington

Mayor Ray Musser

Dated: _____

CITY OF YUCAIPA

ATTEST:

City Clerk Jennifer Shankland

Mayor Dennis Hoyt

CITY OF ONTARIO

Agenda Report

March 1, 2016

SECTION: CONSENT CALENDAR

SUBJECT: A RESOLUTION AUTHORIZING THE FILING OF THE SECTION 190 APPLICATION FOR THE NORTH VINEYARD AVENUE GRADE SEPARATION PROJECT

RECOMMENDATION: That the City Council adopt a resolution authorizing the filing of an application to obtain \$5 million of California Public Utilities Commission (CPUC) Section 190 funds for the North Vineyard Avenue Grade Separation Project.

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Pursue City's Goals and Objectives by Working with Other Governmental Agencies
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: The Fiscal Year 2015-16 Budget includes appropriations for the construction of the North Vineyard Avenue Grade Separation Project. Per the Cooperative Agreement with San Bernardino Associated Governments (SANBAG), the City's share is 20% of the actual expenses and is split in accordance with the City's adopted Development Impact Fee (DIF) program and SANBAG's approved Measure I Nexus Study. Successful receipt of the CPUC Section 190 funds will reduce SANBAG's and the City's contribution by the 80/20 split consistent with the Measure I Nexus Study. Of the \$5 million available for the project, SANBAG would realize a \$4 million savings in Measure I funds and the City would realize a \$1 million savings in DIF funds.

BACKGROUND: The CPUC Section 190 Grade Separation Program is a state funding program that typically provides approximately \$15 million distributed among 3 projects each fiscal year. Last year, the City passed a similar resolution to apply for Section 190 funding for this same Grade Separation Project, but was unsuccessful. A priority list is generated by the CPUC every 2 years ranking each project eligible for funds. The North Vineyard Avenue Grade Separation Project is ranked 47. Only projects on the CPUC priority list that are ready for construction are eligible to receive funding. Lower ranked projects may be funded if higher ranked projects are not ready to be built. If the City is successful in obtaining CPUC funding, revenue and expenditure budgets will be adjusted in future budget periods.

STAFF MEMBER PRESENTING: Louis Abi-Younes, P.E., City Engineer

Prepared by: Jay Bautista
Department: Engineering

City Manager
Approval: 

Submitted to Council/O.H.A. 03/01/2016
Approved: _____
Continued to: _____
Denied: _____

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING FILING OF A SECTION 190 APPLICATION, VERIFYING THAT ALL MATTERS PREREQUISITE TO THE AWARDING OF THE CONSTRUCTION CONTRACT CAN BE ACCOMPLISHED WITHIN TWO YEARS AFTER ALLOCATION OF THE FUNDS FOR THE PROJECT BY THE CALIFORNIA TRANSPORTATION COMMISSION, AND VERIFYING THAT SUFFICIENT LOCAL FUNDS WILL BE MADE AVAILABLE AS THE WORK OF THE PROJECT PROGRESSES FOR THE NORTH VINEYARD AVENUE GRADE SEPARATION AT THE UNION PACIFIC RAILROAD ALHAMBRA SUBDIVISION P.U.C. NO. 001B-522.40.

WHEREAS, Section 2456 of the Streets and Highways Code of the State of California requires that local agencies requesting allocations for railroad grade separation projects furnish evidence that sufficient funds from the local agency are committed, and that all matters prerequisite to awarding the construction contract within a period of two years have been or can be taken care of within that time; and

WHEREAS, the 2015-16 fiscal year budget provides for the City of Ontario's cash flow requirements and the City's share of the cost of the North Vineyard Avenue Grade Separation at the Union Pacific Railroad Alhambra Subdivision, P.U.C. No. 001B-522.40; and

WHEREAS, the City of Ontario has obtained all necessary orders from the Public Utilities Commission of the State of California, will execute all necessary agreements with the Union Pacific Railroad Company, has acquired all necessary rights-of-way or obtained an order of the court granting to said City the immediate possession thereof, and will accomplish all other requirements prerequisite to awarding a contract for the construction of the North Vineyard Avenue Grade Separation at the Union Pacific Railroad Alhambra Subdivision (Public Utilities Crossing No. 001B-522.40) in the City of Ontario, within a period of two (2) years after the date the California Transportation Commission has made an allocation of funds to said construction project.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Ontario, California:

1. That sufficient funds are included in the City of Ontario's Fiscal Year 2015-16 Budgets; and
2. That the City of Ontario has awarded the construction contract for the North Vineyard Avenue Grade Separation at the Union Pacific Railroad Alhambra Subdivision; and

3. That the City Manager, as agent of the City, is authorized to conduct all negotiations, execute and submit all documents including but not limited to applications, agreements, payment request, etc., which may be necessary for completion of the aforementioned project.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 1st day of March 2016.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2016- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held March 1, 2016 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2016- duly passed and adopted by the Ontario City Council at their regular meeting held March 1, 2016.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report

March 1, 2016

SECTION: CONSENT CALENDAR

SUBJECT: A RESOLUTION APPROVING FINAL PARCEL MAP NO. 19646 LOCATED ON INLAND EMPIRE BOULEVARD APPROXIMATELY 200 FEET WEST OF MILLIKEN AVENUE

RECOMMENDATION: That the City Council adopt a resolution approving Final Parcel Map No. 19646 for condominium purposes located on Inland Empire Boulevard approximately 200 feet west of Milliken Avenue.

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Invest in the Growth and Evolution of the City's Economy

FISCAL IMPACT: None. All public infrastructure improvements required for this map were constructed by the developer per Parcel Map No. 15284.

BACKGROUND: Final Parcel Map No. 19646 for condominium purposes, consisting of one commercial lot on 1.85 acres, as shown on Exhibit A of this report, has been submitted by the developer, Staples The Office Superstore, LLC, (Mr. David A. Schulman, Vice President), of Delaware.

Tentative Parcel Map No. 19646 was approved by the Planning Commission on October 27, 2015.


The map meets all conditions of the Subdivision Map Act and the Ontario Municipal Code and has been reviewed and approved by the City Engineer.

STAFF MEMBER PRESENTING: Louis Abi-Younes, P.E., City Engineer

Prepared by: Miguel Sotomayor

Department: Engineering

City Manager

Approval: 

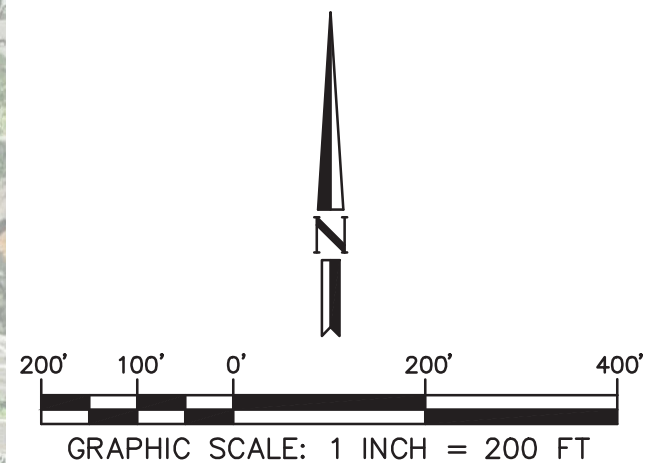
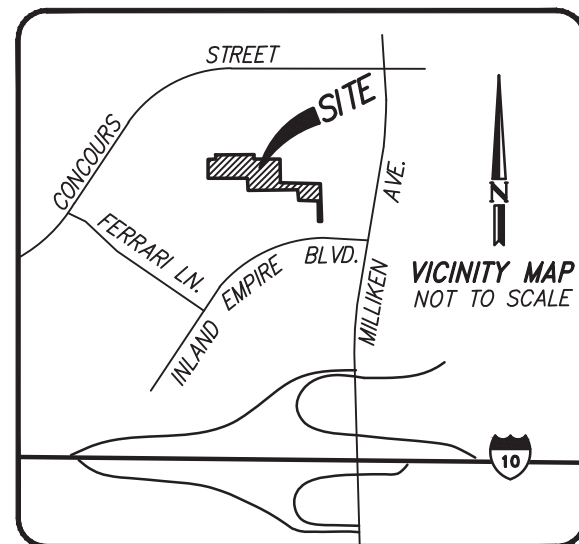
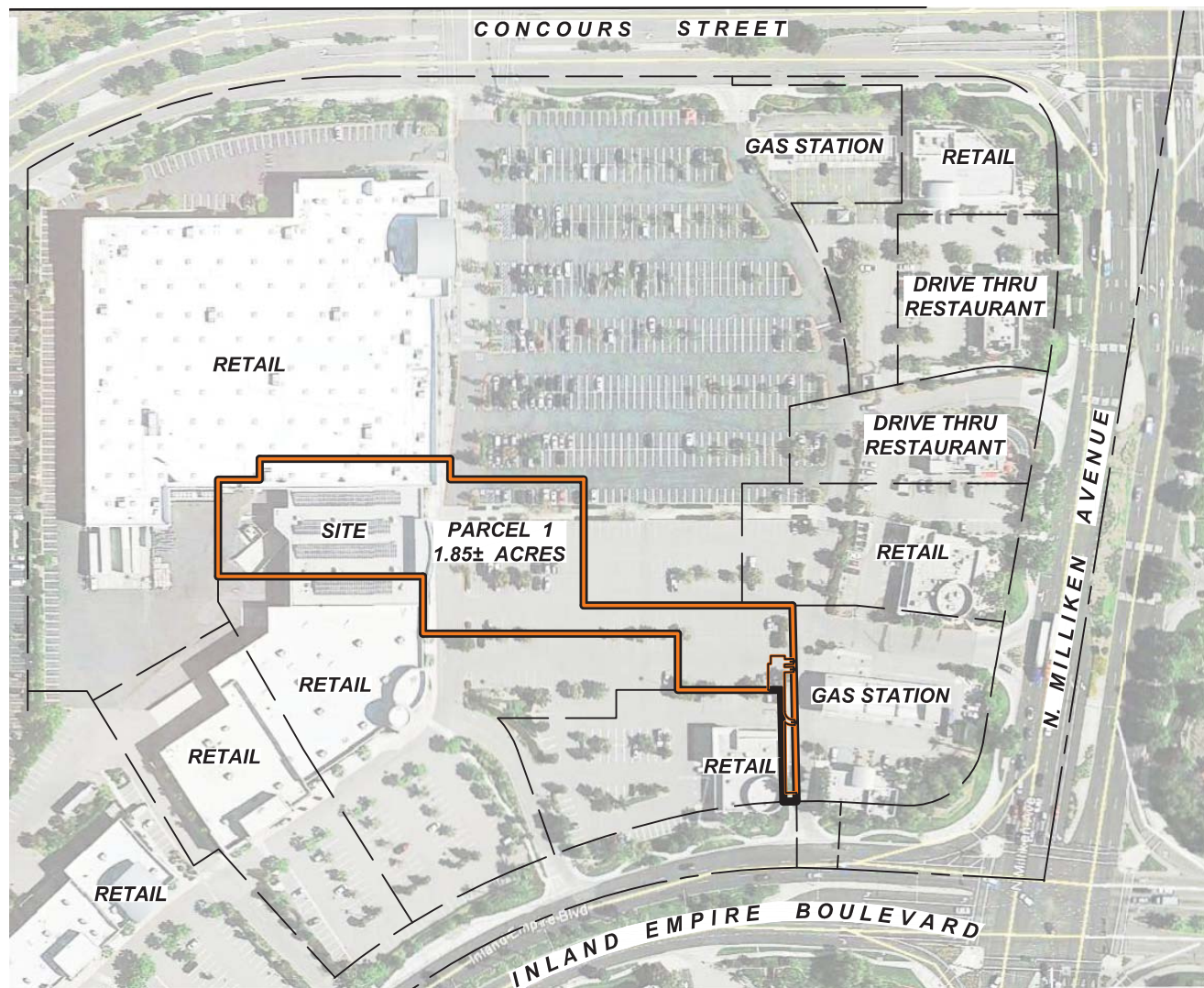
Submitted to Council/O.H.A. 03/01/2016

Approved: _____

Continued to: _____

Denied: _____

EXHIBIT A



DATE: 06-02-2015	APPLICANT:
J/N: 15-786	OA PARTNERS LLC 921 N. MILLIKEN AVENUE
DRAWN BY: GTS	PROJECT:
SCALE: 1"=200'	SITE UTILIZATION MAP ONTARIO, CA
SHEET 1 OF 1	

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FINAL PARCEL MAP NO. 19646 FOR CONDOMINIUM PURPOSES LOCATED ON INLAND EMPIRE BOULEVARD APPROXIMATELY 200 FEET WEST OF MILLIKEN AVENUE.

WHEREAS, Tentative Parcel Map No. 19646 submitted for approval by the developer, Staples The Office Superstore, LLC, (Mr. David A. Schulman, Vice President), of Delaware, consists of one commercial lot, being a subdivision of Parcel B of Lot Line Adjustment No. LLA01-06, recorded as Document No. 2001-0584462, inclusive, Records of San Bernardino County, California, was approved by the Planning Commission of the City of Ontario on October 27, 2015; and

WHEREAS, all necessary public improvements for said map required as prerequisite to final approval of a final map have been previously constructed and accepted as complete by the City; and

WHEREAS, said developer has prepared Covenants, Conditions and Restrictions (CC&R's), approved by the City Attorney's Office, to ensure the right to mutual ingress and egress and continued maintenance of common facilities by commonly affected property owners.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Ontario, California, that Final Parcel Map No. 19646 be approved and that the City Clerk be authorized to execute the statement thereon on behalf of said City.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 1st day of March 2016.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2016- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held March 1, 2016 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2016- duly passed and adopted by the Ontario City Council at their regular meeting held March 1, 2016.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report

March 1, 2016

SECTION: CONSENT CALENDAR

SUBJECT: A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL PARCEL MAP NO. 19650 LOCATED AT THE NORTHEAST CORNER OF ARCHIBALD AVENUE AND MISSION BOULEVARD

RECOMMENDATION: That the City Council adopt a resolution approving an improvement agreement, improvement security and Final Parcel Map No. 19650 located at the northeast corner of Archibald Avenue and Mission Boulevard within the Airport Business Park (Hofer Ranch) Specific Plan area.

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Invest in the Growth and Evolution of the City's Economy
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities).

FISCAL IMPACT: None. All public infrastructure improvements required for this subdivision will be constructed by the developer at its sole cost.

BACKGROUND: Final Parcel Map No. 19650, consisting of three parcels for industrial use on 5.11 acres, as shown on the attached Exhibit A, has been submitted by the developer Orbis Archibald, LLC, a California Limited Liability Company of Newport Beach, California (Mr. Grant Ross, Manager).

Tentative Parcel Map No. 19650 was approved by the Planning Commission on August 25, 2015 and is consistent with the Airport Business Park (Hofer Ranch) Specific Plan area.

Improvements will include recycled water main and services, storm drain main, water service laterals, sewer laterals, driveway approaches, ADA access ramps, and landscaped parkway. Improvements in parkway landscaping will be consistent with current City approved drought measures. The developer has entered into an improvement agreement with the City for Parcel Map No. 19650 and has posted adequate security to ensure construction of the required improvements.

STAFF MEMBER PRESENTING: Louis Abi-Younes, P.E., City Engineer

Prepared by: Naiim Khoury
Department: Engineering

City Manager
Approval: 

Submitted to Council/O.H.A. 03/01/2016

Approved: _____

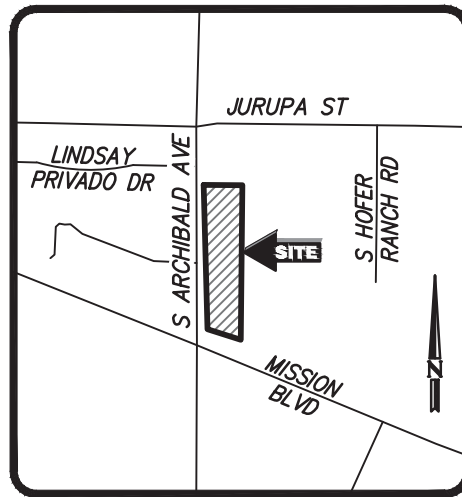
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Denied: _____

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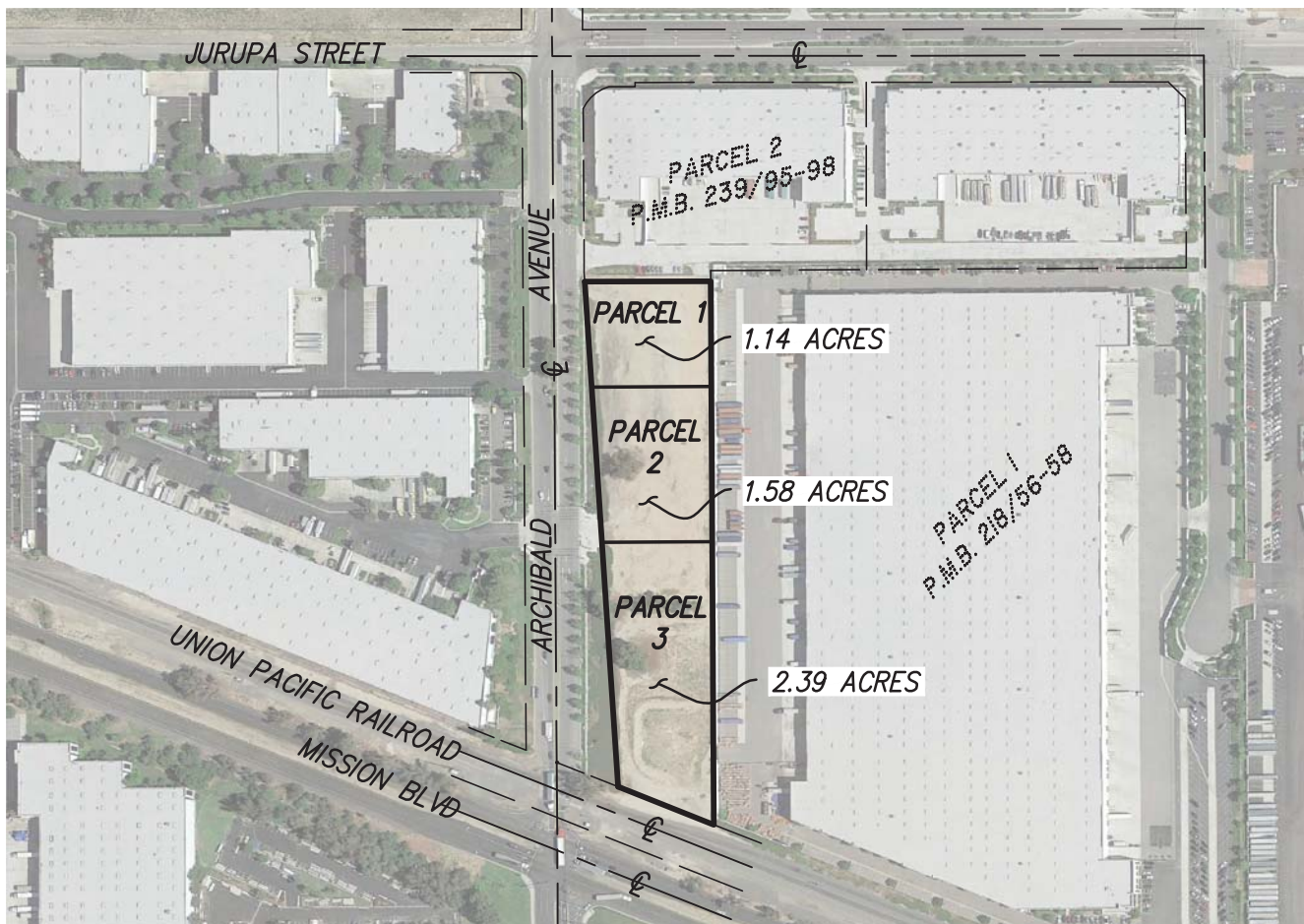
This map meets all conditions of the Subdivision Map Act and the Ontario Municipal Code and has been reviewed and approved by the City Engineer.

EXHIBIT A PM-19650



LOCATION MAP

N.T.S.



PREPARED BY:



160 S. Old Springs Road, Ste. 210
Anaheim Hills, California 92808
(714) 685-6860

CITY OF ONTARIO
ENGINEERING DEPARTMENT

FILE NO. PM-19650

APPLICANT: ORBIS ARCHIBALD, LLC

PROJECT: PARCEL MAP NO. 19650

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL PARCEL MAP NO. 19650 LOCATED AT THE NORTHEAST CORNER OF ARCHIBALD AVENUE AND MISSION BOULEVARD.

WHEREAS, Tentative Parcel Map No. 19650, submitted for approval by the developer, Orbis Archibald, LLC, a California Limited Liability Company of Newport Beach, California (Mr. Grant Ross, Manager) was approved by the Planning Commission of the City of Ontario on August 25, 2015; and

WHEREAS, Tentative Parcel Map No. 19650 consisting of three parcels for industrial use on 5.11 acres; all being a subdivision of the Remainder Parcel as shown on Parcel Map No. 19342 in the City of Ontario, County of San Bernardino, State of California, Filed in Book 239, pages 95 to 98, inclusive of Parcel Maps, in the Office of the County Recorder of San Bernardino County, California; and

WHEREAS, to meet the requirements established as prerequisite to final approval of Final Parcel Map No. 19650, said developer has offered to enter into an improvement agreement together with good and sufficient security, in conformance with the City Attorney's approved format, for approval and execution by the City; and

WHEREAS, said developer has prepared Covenants, Conditions and Restrictions (CC&R's), reviewed and approved by the City Attorney's Office and the City Engineer, to ensure the right to mutual ingress and egress and continued maintenance of common facilities by commonly affected property owners.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Ontario, California, as follow:

1. That said improvement agreement be, and the same are, approved and the City Manager is authorized to execute same on behalf of said City, and the City Clerk is authorized to attest thereto; and
2. That said improvement security is accepted as good and sufficient, subject to approval as to form and content thereof by the City Attorney; and
3. That Final Parcel Map No. 19650 be approved and that the City Clerk be authorized to execute the statement thereon on behalf of said City.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 1st day of March 2016.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2016- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held March 1, 2016 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2016- duly passed and adopted by the Ontario City Council at their regular meeting held March 1, 2016.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report

March 1, 2016

SECTION: CONSENT CALENDAR

SUBJECT: AGREEMENT WITH THE SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT (SCAQMD) FOR REIMBURSEMENT OF CERTAIN COSTS ASSOCIATED WITH EXPANSION OF THE CNG FUELING STATION

RECOMMENDATION: That the City Council approve an agreement with the South Coast Air Quality Management District (SCAQMD) (on file with the Records Management Department) to participate in the Local Government Match Program to receive reimbursements of up to \$150,000 for expansion of the CNG fueling station and authorize the City Manager to execute said agreement.

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Operate in a Businesslike Manner
Pursue City's Goals and Objectives by Working with Other Governmental Agencies

FISCAL IMPACT: The City has been awarded grant funds from the Mobile Source Air Pollution Reduction Review Committee (MSRC) Local Government Match Program in an amount of up to \$150,000 for planned expansion of the City's CNG slow fill fueling station. The Fiscal Year 2015-16 Mobil Source Air Budget includes appropriations in the amount of \$300,000 for expansion of the CNG slow fill fueling station. There is no impact to the General Fund.

BACKGROUND: The MSRC Local Government Match Program was designed to encourage the development and increased availability of alternative-fuel refueling infrastructure within the SCAQMD. The program offers to co-fund projects implemented by cities and counties that utilize their Motor Vehicle Registration Fee Subvention Funds (AB2766 Subvention Funds) and local resources to expand access to and availability of CNG, along with the use of alternative fuel vehicles.

The funding identified in this grant will be used to assist with the expansion of the existing CNG fueling station in order to meet operational needs of the growing CNG vehicle fleet. The project includes the installation of 12 new dual hose time fill posts providing the capability to fuel 24 additional vehicles and new security lighting and cameras.

STAFF MEMBER PRESENTING: Brent D. Schultz, Housing and Municipal Services Director

Prepared by: Michael Johnson
Department: Housing/Municipal Services

City Manager
Approval: 

Submitted to Council/O.H.A. 03/01/2016

Approved: _____

Continued to: _____

Denied: _____

CITY OF ONTARIO

Agenda Report

March 1, 2016

SECTION: CONSENT CALENDAR

SUBJECT: AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT WITH MWH CONSTRUCTORS FOR CONSTRUCTION MANAGEMENT & INSPECTION SERVICES RELATED TO THE WELL NO. 41 WELLHEAD TREATMENT PROJECT

RECOMMENDATION: That the City Council approve and authorize the City Manager to execute an amendment to the existing Professional Services Agreement (on file with the Records Management Department) with MWH Constructors of Pasadena, California, to provide additional construction management and inspection services for the Well No. 41 Wellhead Treatment Project in the amount of \$200,000.

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: The Fiscal Year 2015-16 Capital Improvement Program includes appropriations from the Water Capital Fund for this project in the amount of \$1,647,409. Additional appropriations in the amount of \$200,000 from the Water Capital Fund are required to complete this project, for a total project appropriation of \$1,847,409. If approved, the additional appropriations will be included in the next budget update to the City Council.

The City will pursue liquidated damages from the construction contractor in order to recover these additional costs. There is no impact to the General Fund.

BACKGROUND: On June 3, 2014, the City Council approved a contract with MWH Constructors to provide construction management and inspection services during construction of the Well No. 41 Wellhead Treatment Project. The wellhead treatment facility includes an ion exchange treatment system for perchlorate and the installation of approximately 1,300 linear feet of 16-inch diameter water transmission pipeline from Well No. 41 to the treatment site (former Well No. 18 site).

STAFF MEMBER PRESENTING: Scott Burton, Utilities General Manager

Prepared by: Katie Gienger/Engineering
Department: MU/Engineering

City Manager
Approval: 

Submitted to Council/O.H.A. 03/01/2016

Approved: _____

Continued to: _____

Denied: _____

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The project construction timeline was anticipated to be 10 months, and the construction management agreement with MWH Constructors was negotiated accordingly. The professional services agreement with MWH Constructors is \$304,245 plus previous amendments of \$295,637, for a current total of \$599,882. The construction contractor is unable to complete the project within the contractual timeline. There have been weather incidents, performance issues by the construction contractor, and delays in meeting milestones. These issues have resulted in the need to extend both the construction and construction management contracts. MWH Constructors' expertise in project management is required to ensure the project is completed in an acceptable manner. The City will pursue liquidated damages from the construction contractor in order to recover these additional costs.

CITY OF ONTARIO

Agenda Report

March 1, 2016

SECTION: PUBLIC HEARINGS

SUBJECT: AN ORDINANCE ADDING ARTICLE 4 TO CHAPTER 1 OF TITLE 6 OF THE ONTARIO MUNICIPAL CODE, ADOPTING STANDARDS FOR THE CARE AND TREATMENT OF ANIMALS OFFERED FOR SALE AT SWAP MEETS

RECOMMENDATION: That the City Council introduce and waive further reading of an ordinance adopting standards for the care and treatment of animals offered for sale at swap meets.

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Operate in a Businesslike Manner

FISCAL IMPACT: None. The City has an existing contract with the Humane Society of the Inland Valley, Inc. for the enforcement of City ordinances on the treatment of animals, under which it currently monitors animal sales at swap meets.

BACKGROUND: In 2013, the California Legislature passed legislation, Assembly Bill 339 ("AB 339"), which permits swap meet vendors to offer animals for sale only if the local jurisdiction has established a standard for care and treatment of such animals. While the City has the option to refrain from establishing a standard for care and treatment, failure to do so would result in the discontinuance of the sale of animals within city limits by existing businesses and vendors. Further, any vendors that sell in the absence of an authorizing ordinance would be subject to fines under the California Health and Safety Code.

AB 339 sets out strict guidelines for how the City can regulate the standard of care for these animals, addressing the need to protect the animals offered for sale. The guidelines include mandatory requirements for sanitary conditions, proper heating and ventilation, and veterinary treatment, amongst others. The proposed ordinance would comply with those guidelines.

STAFF MEMBER PRESENTING: Al C. Boling, City Manager

Prepared by: David Sheasby
Department: Citywide Administration

City Manager
Approval: 

Submitted to Council/O.H.A. 03/01/2016

Approved: _____

Continued to: _____

Denied: _____

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The Humane Society of the Inland Valley has been consulted, and is in support of the proposed ordinance. If adopted, animal sales will continue to be permitted at any swap meets within the City in accordance with the standards for care and treatment.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADDING ARTICLE 4 TO CHAPTER 1 OF TITLE 6 OF THE ONTARIO MUNICIPAL CODE, ADOPTING STANDARDS FOR THE CARE AND TREATMENT OF ANIMALS OFFERED FOR SALE AT SWAP MEETS.

WHEREAS, in 2013, the California Legislature passed legislation, Assembly Bill 339 ("AB 339"), which permits swap meet vendors to offer animals for sale only if the local jurisdiction has established a standard for care and treatment of such animals; and

WHEREAS, AB 339 also subjects a swap meet vendor to fines the sale of an animal occurs in a jurisdiction where the local government has not yet adopted an ordinance establishing standards for care and treatment in accordance with AB 339; and

WHEREAS, at present, the City of Ontario has not established a standard for care and treatment of such animals; and

WHEREAS, the City of Ontario desires to permit the continued sale of animals at swap meets within the jurisdiction and, therefore, wishes to adopt provisions setting for the appropriate standard of care and treatment of such animals in accordance with AB 339.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND ORDAINED by the City Council of the City of Ontario as follows:

SECTION 1. Findings. The above recitals are true and correct and are incorporated herein by this reference. The findings associated with the adoption of AB 339 are also incorporated by reference.

SECTION 2. Article 4 of Chapter 1 of Title 6 is hereby added to the Ontario Municipal Code to read, in its entirety, as follows:

"Article 4. Standard for Care and Treatment for Sale of Animals at Swap Meets

Sec. 6-1.400. Definitions.

(a) For the purposes of this article, "vendor" shall include any person offering for sale an animal at a swap meet, flea market, or open-air market.

(b) For the purposes of this article, "sale" shall include any exchange for value, trade, or adoption, so long as a change in ownership of the animal occurs.

Sec. 6-1.401. Standard of Care.

A vendor is charged with care and treatment of the animal offered for sale during transport to the site of sale, while the animal is present at the site of sale, and transport from the site of sale. In particular, a vendor must do all of the following:

- (a) Maintain the facilities used for the keeping of animals in a sanitary condition.
- (b) Provide proper heating and ventilation for the facilities used for the keeping of animals.
- (c) Provide adequate nutrition for, and humane care and treatment of, all animals that are under the vendor's care and control.
- (d) Take reasonable care to release for sale, trade, or adoption only those animals that are free of disease or injuries.
- (e) Provide adequate space appropriate to the size, weight, and species of animals.
- (f) Have a documented program of routine care, preventative care, emergency care, disease control and prevention, and veterinary treatment and euthanasia that is established and maintained by the vendor in consultation with a licensed veterinarian employed by the vendor or a California- licensed veterinarian at least once a year.
- (g) Provide buyers of an animal with general written recommendations for the generally accepted care of the type of animal sold, including recommendations as to the housing, equipment, cleaning, environment, and feeding of the animal. This written information shall be in a form determined by the vendor and may include references to Internet Web sites, books, pamphlets, videos, and compact discs.
- (h) Present for inspection and display a current business license issued by the local jurisdiction where the animals are principally housed.
- (i) Maintain records for identification purposes of the person from whom the animals offered for sale were acquired, including that person's name, address, e-mail address, and telephone number and the date the animals were acquired.

Sec. 6-1.402 Enforcement.

This Article shall be enforced by the City Manager, the Police Chief, the Humane Officer, the City Health Officer, or such other person as the Council or City Manager may designate.

Sec. 6-1.403. Penalties.

(a) Any person who violates or to fails to comply with any provision of this Article shall be subject to any of the penalties and procedures set forth in Chapter 2 of Title 1 of the Ontario Municipal Code.

(b) The provisions and procedures concerning administrative citations set forth in Chapter 5 of Title 1 of the Ontario Municipal Code shall apply to any administrative citations issued for violations of this Article. A violation of this Article shall constitute a “transient” violation within the meaning of that Chapter.”

SECTION 3. CEQA. The City Council hereby finds that adoption of this Ordinance is not a “project” under the California Environmental Quality Act, because the Resolution does not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment, as contemplated by Title 14, California Code of Regulations, Section 15378(b)(4).

SECTION 4. Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings and this Ordinance are based are located at the City Clerk’s office located at 303 East “B” Street, Ontario, CA 91764. The custodian of these records is the City Clerk.

SECTION 5. Severability. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The People of the City of Ontario hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 6. Effective Date. This Ordinance shall become effective thirty (30) days following its adoption.

SECTION 7. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2016.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held _____ and adopted at the regular meeting held _____, 2016 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. _____ duly passed and adopted by the Ontario City Council at their regular meeting held _____ and that Summaries of the Ordinance were published on _____ and _____, in the Inland Valley Daily Bulletin newspaper.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report

March 1, 2016

SECTION: PUBLIC HEARINGS

SUBJECT: AN ORDINANCE ESTABLISHING TITLE 5, CHAPTER 22 (PROPERTY APPEARANCE—NUISANCE) OF THE ONTARIO MUNICIPAL CODE, WHICH ESTABLISHES THE CONDITIONS UNDER WHICH THE MAINTENANCE OF PROPERTY MAY BE DETERMINED TO BE A NUISANCE, AND THE PROCEDURES TO ABATE SUCH NUISANCES

RECOMMENDATION: That the City Council conduct a public hearing to consider the introduction and waive further reading of an ordinance approving File No. PDCA16-001, an amendment to Ontario Municipal Code Title 5, establishing Chapter 22 (Property Appearance — Nuisance).

COUNCIL GOALS: Regain Local Control of Ontario International Airport
Operate in a Businesslike Manner

Encourage, Provide or Support Enhanced Recreational, Educational, Cultural and Healthy City Programs, Policies and Activities

Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony

FISCAL IMPACT: None.

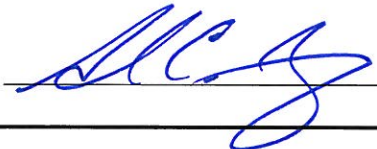
BACKGROUND: On December 1, 2015, the City Council approved a comprehensive update to the City's Development Code, which became effective on January 1, 2016. The update included provisions relative to property maintenance, definition of a nuisance, and procedures for abating a nuisance within Division 6.10 of the Ontario Development Code. Since the adoption of the Development Code update, staff has determined that, from an operational standpoint, the regulations, definitions, and procedures pertaining to nuisances are more appropriately placed in the Ontario Municipal Code under Title 5, Public Welfare, Morals, and Conduct. Therefore, staff is recommending inclusion of the same provisions contained in Development Code Division 6.10 be provided in Title 5, Chapter 22, of the Ontario Municipal Code – no modifications to the definitions, procedures or requirements are proposed.

STAFF MEMBER PRESENTING: Scott Murphy, Planning Director

Prepared by: Charles Mercier

Department: Planning

City Manager

Approval: 

Submitted to Council/O.H.A. 03/01/2016

Approved: _____

Continued to: _____

Denied: _____

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ENVIRONMENTAL REVIEW: The project is not subject to environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, which is the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA16-001, AN ORDINANCE ESTABLISHING TITLE 5, CHAPTER 22 (PROPERTY APPEARANCE — NUISANCE) OF THE ONTARIO MUNICIPAL CODE, WHICH ESTABLISHES THE CONDITIONS UNDER WHICH THE MAINTENANCE OF PROPERTY WITHIN THE CITY MAY BE DETERMINED TO BE A NUISANCE, AND THE PROCEDURES TO ABATE SUCH NUISANCES, AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, the City of Ontario ("Applicant") has initiated an amendment to the Ontario Municipal Code, File No. PDCA16-001, as described in the title of this ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, on December 1, 2015, the City Council approved a comprehensive update to the City's Development Code, which became effective on January 1, 2016. The update included provisions relative to property maintenance, definition of a nuisance, and procedures for abating a nuisance within Division 6.10 (Property Appearance and Maintenance) of the Ontario Development Code; and

WHEREAS, since the adoption of the Development Code update, staff has determined that, from an operational standpoint, the regulations, definitions, and procedures pertaining to nuisances are more appropriately placed in the Ontario Municipal Code under Title 5, Public Welfare, Morals, and Conduct; and

WHEREAS, the project is not subject to environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, which is the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and

WHEREAS, on March 1, 2016, the City Council of the City of Ontario conducted a hearing to consider the proposed amendment to the Ontario Municipal Code, and concluded said hearing on that date; and

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

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND ORDAINED by the City Council of the City of Ontario, as follows:

SECTION 1. As the decision-making body for the Project, the City Council 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 City Council, the City Council finds as follows:

a. The project is not subject to environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines — there is no possibility that the activity in question may have a significant effect on the environment; therefore, the activity is not subject to CEQA; and

b. The determination of CEQA exemption reflects the independent judgement of the City Council.

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

a. The proposed Municipal Code Amendment 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

b. The proposed Municipal Code Amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.

SECTION 3. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the City Council hereby APPROVES the establishment of Ontario Municipal Code Title 5, Chapter 22 (Property Appearance — Nuisance), attached hereto as Exhibit A.

SECTION 4. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is for any reason held to be invalid, unconstitutional or otherwise struck-down by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more portions of this ordinance might be declared invalid.

SECTION 5. 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 6. 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 7. Severability. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The People of the City of Ontario hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 8. Effective Date. This Ordinance shall become effective 30 days following its adoption.

SECTION 9. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2016.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held _____ and adopted at the regular meeting held _____, 2016 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. _____ duly passed and adopted by the Ontario City Council at their regular meeting held _____ and that Summaries of the Ordinance were published on _____ and _____, in the Inland Valley Daily Bulletin newspaper.

SHEILA MAUTZ, CITY CLERK

(SEAL)

**EXHIBIT A;
CHAPTER 22: PROPERTY APPEARANCE — NUISANCE**

Sec. 5-22.01: Definitions
Sec. 5-22.02: Maintenance of Property
Sec. 5-22.03: Abatement
Sec. 5-22-04: Notice of Violation
Sec. 5-22.05: Hearing of Determination
Sec. 5-22.06: Record of Cost of Abatement
Sec. 5-22.07: Assessment of Costs
Sec. 5-22.08: Violations

Sec. 5-22.01: Definitions

For the purpose of this chapter, unless otherwise apparent from the context, certain words and phrases used herein are defined as follows:

(a) "Nuisance" means anything which is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use in the customary manner of any public park, street, sidewalk, alleyway, highway or other public easement is a nuisance.

(b) "Nuisance vegetation" means weeds and wild grasses, such as those commonly known as foxtails, tumbleweeds, devil thorns, puncture vines, horehound gourd vines, and other similar grasses and weeds.

(c) "Owner" means any person in possession and also the person(s) shown as owner(s) on the last equalized property tax assessment rolls.

(d) "Public nuisance" means one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

(e) "Trash containers" means any container such as trash bags, boxes or bins used to store trash, rubbish or other such refuse matter that meets the requirements of Section 6-3.11(c) of the Ontario Municipal Code and is placed at a collection point.

(f) "Yard" means a tract of ground adjacent to, surrounding, or surrounded by a building or group of buildings.

Sec. 5-22.02: Maintenance of Property

It is a public nuisance for any person owning, leasing, occupying or having charge of any premises in this City to maintain such premises in such manner that any of the following conditions are found to exist thereon:

(a) Land, topography , geology or configuration of which, whether in natural state or as a result of grading operations, excavation or fill, causes erosion, subsidence or surface water drainage problems of such magnitude to be injurious or potentially injurious to the public health, safety and welfare or to adjacent properties;

(b) Buildings which are abandoned, partially destroyed or permitted to rein unreasonably in a state of partial construction;

(c) The failure to close, by such means as will protect against entry without the use of substantial force, all doorways, windows and other openings leading into vacant structures;

(d) Paint deterioration upon buildings, causing dry rot and warping or lack of weather protection;

(e) Broken windows constituting a hazardous condition, or inviting trespassers and malicious mischief, or constituting a condition tending to depreciate the aesthetic and property values of surrounding properties;

(f) Overgrown vegetation:

(1) Likely to harbor rats, vermin and other vectors;

(2) Constituting unsightly appearance;

(3) Having a tendency to depreciate the aesthetic and property values of surrounding properties; or

(4) Causing a fire hazard;

(g) Dead, decayed, diseased or hazardous trees, and other nuisance vegetation:

(1) Constituting unsightly appearance;

(2) Creating fire hazards or health problems dangerous to public safety and welfare; or

(3) Having a tendency to depreciate the aesthetic and property values of surrounding properties;

(h) Wrecked or otherwise disabled or abandoned vehicles, except in cases of emergency and in no event for a period longer than 5 days, and motors, equipment, and automotive parts or accessories stored anywhere other than within a fully enclosed space, carport, garage, or approved automobile wrecking yard;

(i) Vehicles, trailers, recreational vehicles, and boats kept or stored in yard areas, other than on paved driveways installed in accordance with the City's land use and development standards, where they are not screened from streets or highways;

(j) The existence of rubbish, tin cans, or other waste matter of any type upon any alley, sidewalk or vacant lot within the City;

(k) Accessible conditions dangerous to children, including:

(1) Abandoned and broken equipment;

(2) Refrigerators or freezers with latching doors;

(3) Unprotected and/or hazardous pools, ponds and excavations; or

(4) Neglected machinery;

(l) Broken or discarded furniture and household equipment on the premises for unreasonable periods and visible from the street or neighboring properties, and having a tendency to depreciate the aesthetic and property values of surrounding properties;

(m) Boxes, lumber, trash, rubbish and other debris either inside or outside buildings and visible from public streets or neighboring properties for unreasonable periods, and having a tendency to depreciate the aesthetic and property values of surrounding properties;

(n) The accumulation of rubbish, litter or debris in vestibules, doorways or the adjoining sidewalks of commercial or industrial buildings;

(o) Trash containers stored in front or side yards and visible from public streets except when placed in places of collection at the time permitted;

(p) Keeping of property with a lack of adequate landscaping or ground cover sufficient to prevent blowing dust and erosion;

(q) Any device, decoration, design, graffiti, fence structure, clothes line, or vegetation, which is unsightly by reason of its condition or its inappropriate location;

(r) The outside storage of building materials, machinery, or other material or equipment used in or for a business on any lot in any residential district, except during construction on the lot;

(s) The maintenance of signs and/or sign structures relating to uses no longer conducted, or products no longer sold on vacant commercial, industrial, or institutional buildings more than 45 days after such building becomes vacant;

(t) The maintenance of any structure in a state of substantial deterioration, such as peeling paint on a facade, broken windows, roofs in disrepair, damaged porches, broken steps, or other such deterioration or disrepair not otherwise constituting a violation, and which is visible from a public right-of-way or neighboring properties, where such condition would have a tendency to depreciate the aesthetic and property values of surrounding properties;

(u) The substantial lack of maintenance of grounds within the City, on which structures exist, where the grounds are visible by the public from a public right-of-way or neighboring properties, where such condition would have a tendency to depreciate the aesthetic and property values of surrounding properties;

(v) Property maintained (in relation to others) so as to establish a prevalence of depreciated values, impaired investment, and social and economic maladjustments that the capacity to generate taxes is reduced and tax receipts from such particular area are inadequate for the cost of public services rendered therein;

(w) The maintenance of any yard, including any parkway as defined in Section 7-3.03, which is visible from the public right-of-way without live and healthy grass and/or landscaping, or the failure to adequately irrigate such yard or parkway. If such yard or parkway is so maintained, the City may, pursuant to this Chapter, abate such conditions and collect the costs thereof by any reasonable method, including the installation and maintenance of healthy grass and/or landscaping and/or an irrigation sprinkler system, as well as the continued utilization of such irrigation sprinkler system;

(x) The maintenance of any vacant lot without live and healthy grass, landscaping, or screening combined with perimeter landscaping, where such lot is adjacent to an improved sidewalk and/or parkway;

(y) The existence of solid waste such as excessive animal feces or human waste of any kind;

(z) The presence of any abandoned shopping cart, to the extent not otherwise remedied by law.

Sec. 5-22.03: Abatement

All or any part of premises found, as provided herein, to constitute a public nuisance, shall be abated by rehabilitation, demolition or repair, or any other reasonable means pursuant to the procedures set forth in this Chapter. The procedures set forth herein shall not be exclusive, and shall not in any manner limit or restrict the City from enforcing other City ordinances, or abating public nuisances in any other manner provided by law.

Sec. 5-22.04: Notice of Violation

(a) If the Code Enforcement Director, or his or her designee, after investigation, believes that one or more public nuisance exist on premises within the City, the Code Enforcement Director, or his or her designee, shall cause to be served upon the owner, lessee, occupant or person having charge of the affected premises, a Notice of Violation. The Notice of Violation shall list the conditions constituting a public nuisance, and shall order the owner, lessee, occupant or person having charge of the affected premises to abate the nuisance or nuisances listed in the Notice of Violation. The Notice of Violation shall provide a reasonable time in which the owner, lessee, occupant or person having charge of the premises may abate the nuisance or nuisances cited in the Notice of Violation.

(b) Service of the Notice of Violation shall be made upon the owner, lessee, occupant or person having charge of the affected premises pursuant to Subdivisions (b) or (c) of Section 5-22.07 (Assessment of Costs).

(c) Any property owner, lessee, occupant, or person having charge of the affected premises, shall have the right to have any such premises rehabilitated, or to have the cited nuisance or nuisances abated in accordance with the Notice of Violation, at his or her own expense, provided the same is done prior to the expiration of the abatement period set forth in the Notice of Violation. Upon such abatement in full, proceedings under this Ordinance shall terminate.

(d) To the extent such nuisance is not completely abated by the owner, lessee, occupant, or person having charge of the affected premises, as directed within the designated period of abatement, the Code Enforcement Director, or his or her designee, is authorized and directed to cause the same to be abated by City forces or private contract in any reasonable manner; and the Code Enforcement Director, or his or her designee, is expressly authorized to enter the affected premises for such purpose. Upon request of the designated official, other City departments shall cooperate fully and shall render all reasonable assistance in abating any such nuisance.

Sec. 5-22.05: Hearing and Determination

(a) Upon request by the owner, lessee, occupant, or person having of the affected premises and if received by the Code Enforcement Director within 10 days after mailing of the Notice of Violation, the Code Enforcement Director or his or her designee shall hold a hearing, which shall be open to the public. The Code Enforcement Director or his or her designee shall hear and consider objections and/or protests from any owner, lessee, occupant, person having charge of the affected premises, or other interested persons relative to the served Notice of Violation.

(b) The Code Enforcement Director, or his or her designee, shall hear and receive all relevant evidence and testimony relative to the alleged public nuisance and shall consider methods to abate such nuisance. This hearing may be continued from time to time.

(c) Upon or after the conclusion of the hearing, the Code Enforcement Director, or his or her designee, shall, based upon the evidence presented at the hearing, determine whether the affected premises, or any part thereof, as maintained, constitute a public nuisance as defined herein.

Sec. 5-22.06: Record of Cost of Abatement

(a) The Code Enforcement Director, or his or her designee, shall keep an account of the cost (including incidental expenses) of abating such nuisance of each separate lot or parcel of land where the work is done, and shall prepare an itemized account showing the cost of abatement, including any salvage value relating thereto.

(b) The Code Enforcement Director shall serve on the owner, lessee, occupant or person in charge of the affected premises a copy of the itemized account pursuant to Section 5-22.07 (Assessment of Costs). Such service shall notify the recipient that failure to pay the amount listed in the account within 30 days of receipt by the recipient shall, upon a determination by the City Manager, or his or her designee, constitute a personal obligation of the recipient and may be collected by a lien on the affected premises or may be collected as a special assessment against the affected premises.

(c) "Incidental expenses" include, but are not limited to, the actual expenses and costs of the City in abating the public nuisance, including the preparation of the Notice of Violation, specifications and contracts, inspecting the work, attorneys' fees and costs, conducting the hearing pursuant to Section 5-22.05 (Hearing and Determination), and other costs associated with carrying out the provisions of this Chapter. The recovery of attorneys' fees and costs shall extend to any prevailing party, including the City. Attorneys' fees and costs, may be recovered by a prevailing party only in those proceedings in which the City has notified the owner, lessee, occupant or person having charge of the affected premises, in the Notice of Violation, that the City intends to seek recovery of its attorneys' fees and costs. In no event shall an award of attorneys' fees and costs to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the City in the proceeding.

Sec. 5-22.07: Assessment of Costs

(a) To the extent the Code Enforcement Director, or his or her designee, determines that the public nuisance or nuisances cited in the Notice of Violation existed on the affected premises, and the cost of abatement of such nuisance or nuisances was reasonable, the Code Enforcement Director, or his or her designee, shall make a written order setting forth these findings and ordering that, if such costs are not paid within a specified period, the owner, lessee, occupant, or other person having charge of the affected premises, shall be personally liable for such costs. Upon resolution of the City Council, such costs shall be collected by:

(1) A lien on the affected premises pursuant to California Government Code Section 38773.1; or

(2) A special assessment against the affected premises pursuant to California Government Code Section 38773.5.

(b) If the City chooses to collect its abatement costs through a lien on the affected premises, the notices to the owner of the affected premises required by this Chapter shall be served in the same manner as summons in a civil action pursuant to Code of Civil Procedure Part 2, Title 5, Chapter 4, Article 3 (commencing with Section 415.10). If the owner of record of the parcel of land on which the nuisance is maintained, based on the last equalized assessment roll or the supplemental roll, whichever is more current, after diligent search cannot be found, notices to the owner may be served by posting a copy thereof in a conspicuous place upon the affected premises for a period of 10 days, and publication thereof in a newspaper of general circulation, published in San Bernardino County pursuant to California Government Code Section 6062. The lien shall be recorded in the San Bernardino County Recorder's Office, and from the date of recording, shall have the force, effect, and priority of a judgment lien. The lien shall specify the amount of the lien, the name of the City as the agency on whose behalf the lien is filed, the date of the Notice of Violation and order of the City Council, the street address, legal description and assessor's parcel number of the affected premises on which the lien is imposed, and the name and address of the recorded owner of the affected premises. In the event that the lien is discharged, released, or satisfied, either through payment or foreclosure, notice of the discharge containing the information specified in the preceding sentence shall be recorded by the City. The lien and the release of the lien shall be indexed in the grantor-grantee index. The lien may be foreclosed by an action brought by the City for a monetary judgment.

(c) If the City chooses to collect its abatement costs through a special assessment, the notices required by this Chapter shall be provided to the owner by certified mail, as determined from the County Assessor's or County Recorder's records. Notice of the special assessment, and requests for a hearing regarding the special assessment, shall be in accordance with Section 1-4.05 (Appeal Hearing for Special Assessments) of this Code.

The special assessment shall be collected at the same time and in the same manner as ordinary City taxes are collected, and shall be subject to the same penalties, and the same procedure and sale in case of delinquency as provided for ordinary City taxes. All laws applicable to the levy, collection and enforcement of City taxes shall be applicable to the special assessment. If any real property to which the cost of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrance for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property, but instead shall be transferred to the unsecured roll for collection. The City may conduct a sale of vacant residential developed property for which the payment of such assessment made pursuant to this subdivision is delinquent. Notices or instruments relating to the abatement proceeding or special assessment may be recorded.

(d) All other notices required by this Chapter shall be delivered by certified US Mail, postage prepaid to the recipient thereof.

Sec. 5-22.08: Violations

(a) The owner, lessee, occupant, or other person having charge of any such buildings or premises who maintains any public nuisance, as defined in Section 5-22.01 (Definitions), Subsections (a) and (d), of this Chapter, or who neglects to comply with the Notice of Violation pursuant to Section 5-22.04 (Notice of Violation) of this Chapter, is guilty of an infraction.

(b) Any occupant or lessee in possession of any such building or structure who refuses to vacate the building or structure, in accordance with an order given as herein provided, is guilty of an infraction.

(c) Any person who removes any notice or order posted as herein required for the purpose of interfering with the enforcement of these provisions shall be guilty of an infraction.

(d) No person shall obstruct, impede, or interfere with any representative of the City Council, or any representative of a City department, or with any person who owns or holds any estate or interest in a building that has been ordered to be vacated, repaired, rehabilitated, or demolished and removed, or with any person to whom any such building has been lawfully sold pursuant to these provisions whenever any such representative of the City Council, representative of the City, purchaser or person having any interest or estate in such building is engaged in vacating, repairing, rehabilitating, or demolishing and removing any such building pursuant to these provisions, or in performing any necessary act preliminary to or incidental to such work as herein authorized or directed. It is a defense to prosecution under this Division (d) that the alleged obstruction or interference consisted of constitutionally protected speech only.

(e) Any prevailing party in an action to abate a public nuisance shall be entitled to attorneys' fees and costs, to the extent such attorneys' fees and costs do not exceed the reasonable attorneys' fees and costs incurred by the City. The City may limit recovery of attorneys' fees and costs by the prevailing party to those individual actions which the City elects, at the initiation of that individual action, to seek recovery of its own attorneys' fees and costs.

(f) Upon entry of a second or subsequent civil or criminal judgment within a 2-year period finding that an owner of property is responsible for a public nuisance, except for conditions abated pursuant to California Health & Safety Code Section 17980, the owner shall be liable to the City for treble the costs of the abatement.

CITY OF ONTARIO

Agenda Report

March 1, 2016

SECTION: PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING TO CONSIDER AN APPEAL OF THE PLANNING COMMISSION'S DECISION TO UPHOLD THE ZONING ADMINISTRATOR'S DENIAL OF A CONDITIONAL USE PERMIT (FILE NO. PCUP15-016) FOR THE ESTABLISHMENT AND OPERATION OF AN ORGANIC MATERIALS FACILITY (COMPOSTING OF GREEN WASTE, MANURE, FOOD MATERIALS, FATS OILS AND GREASE) ON A 34.76-ACRE PORTION OF 37.4 ACRE PARCEL OF LAND WITHIN THE AG (AGRICULTURE) OVERLAY ZONING DISTRICT, LOCATED AT THE SOUTHWEST CORNER OF SCHAEFER AVENUE AND CAMPUS AVENUE, AT 7435 EAST SCHAEFER AVENUE (APNS: 1053-101-01, 02, AND 1053-091-01)

RECOMMENDATION: That the City Council consider an appeal of the Planning Commission's decision denying File No. PCUP15-016, a Conditional Use Permit for the establishment and operation of an organic materials facility (composting of green waste, manure, and food materials) within the AG (Agriculture) Overlay zoning district, located at the southwest corner of Schaefer Avenue and Campus Avenue at 7435 East Schaefer Avenue; and take further actions necessary and consistent with the City Council's final determination and decision on the matter.

COUNCIL GOALS: Regain Local Control of the Ontario International Airport
Invest in the Growth and Evolution of the City's Economy
Operate in a Businesslike Manner
Pursue City's Goals and Objectives by Working with Other Governmental Agencies

FISCAL IMPACT: None.

BACKGROUND: On June 16, 2015, Harvest Power applied for Conditional Use Permit (PCUP15-016) approval to establish and operate an organic materials facility (composting of green waste, manure, food materials, fats oils and grease) on the site of a former dairy farm, located at the southeast corner of Schaefer Avenue and Campus Avenue.

STAFF MEMBER PRESENTING: Scott Murphy, Planning Director

Prepared by: Jeanie Irene Aguilo
Department: Planning

City Manager
Approval: 

Submitted to Council/O.H.A. 03/01/2016
Approved: _____
Continued to: _____
Denied: _____

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On November 24, 2015, the Zoning Administrator held a public hearing to consider the application. On December 8, 2015, the Zoning Administrator denied the Conditional Use Permit (CUP) based on the fact that the CUP did not comply with The Ontario Plan Land Use Policies pertaining to compatibility between uses – specifically distance separation and that traffic generated by the proposed CUP may overload the capacity of the surrounding street system.

On December 16, 2015, Harvest Power (“Appellant”) submitted an appeal of the Zoning Administrator’s decision to deny File No. PCUP15-016. The basis for the applicant’s appeal lies in their belief that information presented at the Zoning Administrator public hearing, which was important to the full understanding of the proposed uses, was not readily understood by the Zoning Administrator due to lack of well thought revised exhibits and written clarifications. The applicant further asserts that had the additional information and clarifications provided with the appeal application been available during the public hearing, a favorable outcome would have resulted.

On January 26, 2016, the Planning Commission held a public hearing to consider the application. Following a presentation of staff’s findings and after receipt of all public testimony, the Planning Commission addressed the application, stating their concerns with the proposed use, and voted to uphold the Zoning Administrator’s decision to deny the application. The Planning Commission subsequently signed Resolution No. PC16-001 on January 26, 2016, denying File No. PCUP15-016.

APPEAL: On January 29, 2016, Councilmember Wapner had requested the project be called up for City Council consideration in accordance with Section 2.04.020 of the Ontario Development Code (Exhibit “A”). Councilmember Wapner believes that the Planning Commission failed to consider the proposed changes proposed by the Appellant and incorrectly interpreted the intent of the Council Resolution 2013-127 in denying the CUP application. In addition, Councilmember Wapner believes it is incumbent on the City Council to review the facts and findings surrounding the application, the interpretations made by the Planning Commission, and, where necessary, clarify the City Council’s intent.

Subsequently, on February 4, 2016, the Appellant submitted an appeal of the Planning Commission’s action to uphold the Zoning Administrator’s decision and deny File No. PCUP15-016. A copy of the Appeal Application and Appellant Statement to the City Council is included as Exhibit “B” to this report. The Appellant’s statement reiterates the responses to the ZA findings found in the appeal to the Planning Commission. The Appellant argues that the Planning Commission ignored the provided revisions to exhibits and clarifications to the project description, which demonstrated that the proposed facility would meet the land use buffers required by City Council Resolution 2013-127 (see Exhibit “C”), for composting facilities.

The distance separations outlined in City Council Resolution 2013-127 require that a buffer be maintained between composting facilities and sensitive land uses (school, day care, hospitals, elderly care facility, etc.). A ¼-mile separation is required for manure only facilities, and a ½-mile separation is required for green waste or combination green waste and manure facilities. As stated in City Council Resolution 2013-127, the term “combination” refers to the physical mixture of both green waste and manure materials. The Appellant has clarified that green waste and manure materials will remain as separate products, and will not be combined. The applicants revised exhibits demonstrate that the proposed facility will meet the intent of the operational requirements as outlined within City Council Resolution 2013-127. The proposed project site plan demonstrates that the manure composting on the

west portion of site and green waste along the east portion of site pond, complies with the buffer distance requirements to sensitive uses.

Additionally, the Appellant proposed certain adjustments to their business operations in response to the public testimony received during both Zoning Administrator and Planning Commission public hearings, which includes the elimination of digestate, fats, oils and grease as part of the materials to be composted on site. Manure, green waste, and food materials (produce waste) will be allowed. Additionally, the Appellant has eliminated grinding from their on-site operations. All materials will be delivered to the site presorted, ground and cleaned, thereby allowing the composting process to be started at time of material arrival. This will minimize windblown debris and the potential for fires from uncomposted stockpiles waiting to be sorted, ground, and/or cleaned.

CONCLUSION: The environmental impacts of the subject Conditional Use Permit were fully considered during the review of the Harvest Power Composting Facility, File No. PCUP15-016. The applications were reviewed for their compliance with City and State codes, and were found to be consistent.

Staff recommends that the City Council consider all public testimony on the appeal. After considering all testimony, the City Council has the following options available:

- (1) Uphold the Planning Commission's action and deny the appeal; or
- (2) Adopt the Mitigated Negative Declaration, including the Mitigated Monitoring and Reporting Program, and approve the Conditional Use Permit application, overturning the Planning Commission's action, subject to the conditions of approval as contained in the Planning Commission packet, which includes conditions that all green waste composting shall be conducted at least ½-mile from sensitive land uses and that no digestate, fats, oils and grease be composted on-site.



CITY OF ONTARIO MEMORANDUM

TO: Scott Murphy, AICP, Planning Director

FROM: Alan D. Wapner, Councilmember *AW*

DATE: January 29, 2016

SUBJECT: ENVIRONMENTAL ASSESSMENT AND CONDITIONAL USE PERMIT
FILE NO. PCUP15-016

On January 26, 2016, the Planning Commission denied an appeal filed by Harvest Power for the construction and operation of a manure and green waste composting facility. The applicant had made several modifications to the site plan and operations in response to specific concerns raised by the Zoning Administrator. Additionally, in their deliberations, the Planning Commission raised several questions about interpretations of City Council Resolution No. 2013-127. I believe the Planning Commission failed to consider the proposed changes and incorrectly interpreted the intent of the resolution in denying the application. I believe it is incumbent on the City Council to review the facts and findings surrounding the application, the interpretations made and, where necessary, clarify the City Council's intent.

As a result, I request this item be called up for City Council consideration in accordance with Section 2.04.020 of the City's Development Code.

Appeal of Planning Commission Decision – PCUP 15-016

Harvest Power California, LLC, ("Harvest Power") submits the following in support of its appeal of the denial of Conditional Use Permit 15-016 ("PCUP 15-016") to allow an organic materials composting facility ("Facility"). As set forth below, we respectfully request the City Council reverse the Planning Commission's January 26, 2016 decision to uphold the Zoning Administrator's denial and approve PCUP 15-016, subject to the amended conditions of approval, for the following reasons:

- Planning Commission Resolution 2016-001 is not based on the revised project description or supported by substantial evidence,
- Harvest Power is a national leader in the organics management industry with a proven record for safely operating compost facilities,
- The City of Chino Water Treatment Plant will be protected from nuisances,
- Groundwater quality will be protected from potential contaminants,
- The Facility will not result in windblown debris,
- The Facility will not cause nuisances, and
- The Facility will not result in fires.

1. Background

i. Proposed Facility

Harvest Power is proposing to construct and operate the Facility on a 34.76-acre property at the southwest corner of Schaefer Avenue and Campus Avenue, at 7435, 7345 and 7365 East Schaefer Avenue (PCUP 15-016). The Facility will be located on land that was previously occupied by two dairies.

The Facility will receive, process (i.e., compost and cure) and market compost made from manure and compost made from green waste. The Facility will not mix or otherwise combine ("co-compost") the manure and green waste, and each of these feed-stocks will be received, processed and marketed separately. Pursuant to the City's Development Code, the Facility will have perimeter berms and fencing and comply with the amended conditions of approval prepared by Staff at the Planning Commission hearing.

Harvest Power has an existing contract with the City's solid waste provider to receive green waste that has been collected from within the City of Ontario once the Facility is operational. Prior to being received at the Facility, the green waste will be sorted to remove trash and ground. There will be no grinding or sorting of green waste at the Facility. The Manure will be received from the local agricultural operations. All composting operations will comply with both Harvest Power's strict operational procedures, and all regulatory and composting permit requirements established by the City of Ontario, CalRecycle, South Coast Air Quality Management ("AQMD") and the Regional Water Quality Control Board – Santa Ana Region ("Regional Board").

Harvest Power has over 300 active accounts in Southern California that will buy the finished manure compost and finished green waste compost. The finished composts will be certified organic and used in both agriculture and horticulture markets.

ii. Planning Commission Hearing.

On January 26, 2016 the City of Ontario Planning Commission voted to uphold the Zoning Administrator's denial of PCUP 15-016. A full copy of Harvest Power's appeal to the Planning Commission is attached (Attachment A).

During the January 26th Planning Commission hearing City Staff presented the Planning Commission with information that showed the Facility met not only all of the City's buffer-zones and zoning requirements but also the environmental requirements from AQMD, Regional Board and CalRecycle (administered by the San Bernardino County Environmental Health Department). In addition, Harvest Power presented letters of support from property owners and Cross Point Church (Exhibit 1). The day care facility that the Zoning Administrator cited as one of the grounds for his denial is located at Cross Point Church.

In summary, between Harvest Power and City Staff, the Planning Commission had substantial evidence to find that the Facility would meet the City's General Plan, development code and City Council Resolution 2013-127 and would not result in nuisances to the surrounding area and approve the Facility. Regardless, the Planning Commission voted to uphold the Zoning Administrator's denial based on inaccurate and unsubstantiated public testimony regarding concerns about the adjacent water treatment plant, dust and fires from existing green waste facilities in the south Ontario area.

2. Analysis

- i. **Planning Commission Resolution 2016-001 is not based on the revised project description or supported by substantial evidence.**

Planning Commission Resolution 2016-001 sets forth information the required findings; however, that information is inaccurate because it is not based on the revised project description and Facility design as set forth below. In addition, no expert testimony or evidence presented to the Planning Commission from which its position could be based. (Please note that the numbering follows the findings listed in Section 1 of Planning Commission Resolution No. 2016-001 ("Resolution"). Language directly from the Resolution is written in ***bold/Italicized*** typeface.)

Resolution Language

a. The proposed location of the requested Conditional Use Permit will not be consistent with the Policy Plan component of The Ontario Plan and may be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

The Ontario Plan (TOP) Policy LU2-2, Buffers, states "We require new uses to provide mitigation or buffers between existing uses where potential adverse impacts could occur." Policy LU2-5, Regulation of Uses, states "We regulate the location, concentration and operations of uses that have impacts on surrounding land uses." City Council Resolution No. 2013-127 establishes guidelines for the operation of composting facilities to ensure compatibility with surrounding land uses. The Resolution specifies a 1/2-mile separation between green waste facilities and residential properties and sensitive land uses (schools, day care facilities, elderly care facilities, hospitals, etc.). The project location is less than 1/2-mile from residential property and a church with day care services.

Contrary to the characterization in the Resolution, the Facility is consistent with the Ontario Plan and will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity. The Facility is generally surrounded by operating dairies and agricultural operations and will receive manure from these businesses. In fact, this site was chosen specifically because of its close proximity to the remaining agricultural operations and would provide a local facility to receive and compost manure from the agricultural operations.

Planning Staff presented to the Planning Commission a site plan of the Facility that showed the green waste composting would comply with the ½ mile buffer zone from the two sensitive receptors located in close proximity to the Facility: (1) Approximately 35 single-family and multi-family homes located on the west side of Euclid Avenue and 600 feet north of Schaefer Avenue in the City of Chino; and (2) the day care at Cross Point Church located at the northeast corner of Fern Avenue and Edison Avenue in the City of Chino. Each of these sensitive receptors is discussed below.

The green waste processing will be more than ½ mile from the residences. As discussed above, the Facility will process manure and green waste separately as required by the permits that Harvest Power will obtain from the AQMD. Thus, in compliance with City Council Resolution 2013-127, Harvest Power would process green waste in the portion of the site that is **outside** of the 1/2 mile radius from the residents. Exhibit 2 depicts the area that the green waste will be processed, and clearly evidences that it is located more than 1/2 mile from the residents. The Exhibit demonstrates that the Facility will compost only manure within the western portion of the Facility as shown in Exhibit 2; in contrast, the eastern portion of the Facility will receive both manure and green waste as the supply of material dictates. In no instance will manure and green waste be co-mingled into a single composting pile.

The church and daycare facility are located on a single lot that is primarily located at the northeast corner of Fern Avenue and Edison. The church and daycare are located in two separate and distinct buildings on the property. As shown on Exhibit 3, the entire daycare facility is located more than 1/2 mile from the southwestern boundary of the Facility. However, as depicted in Exhibit 3, although the church and driveway from Euclid are within 1/2 mile of the facility, the green waste will be processed outside of the 1/2 mile buffer from the church property. Similar to the residences, Exhibit 3 demonstrates that the green waste will be processed outside of the ½ mile buffer from the church property.

Based on the foregoing and as shown in Exhibits 2 and 3, the Facility meets the City Council Resolution 2013-127 because the green waste processing/composting is located more than 1/2 mile from both the existing residents and the church/daycare.

Resolution Language

b. The proposed location of the Conditional Use Permit is not in accord with the objectives and purposes of the Ontario Development Code and the zoning designation within which the site is located, including Article 1: Purposes and Objectives. City Council Resolution No. 2013-127 identifies the intent of the guidelines as providing distance criteria for new composting facilities stemming from resident input at neighborhood meetings on composting facility applications and based on an outpouring of testimony against the location of these composting facilities.

The reasons stated for the opposition includes odors, dust, pathogens, and increased truck traffic along existing streets. The application encroaches into the distance separation identified between composting facilities and residential and sensitive land uses.

Contrary to this language in the Resolution, the proposed location is in accord with the objectives and purposes of the Development Code and zoning designation, including Council Resolution 2013-127.

First, as discussed above, the revised Facility locates the green waste processing on the eastern portion of the site, outside of the ½ mile buffer from the residential and sensitive land uses. With this operational change, the Facility is in compliance with the buffer requirements of City Council Resolution 2013-127. At the Planning Commission hearing, staff proposed a new condition of approval that required the Facility to meet the ½ mile buffer requirement, Harvest Power agreed to comply with this condition. In other words, Harvest Power will comply with the conditions of approval and mitigation measures required by the City for PCUP 15-016.

Second, there is no substantial evidence supporting the Commission's finding that the revised Facility would create odors, dust, pathogens, and increased truck traffic. In fact, expert testimony presented to the Commission and included in the record shows otherwise. Harvest Power will obtain all permits required for a compost facility at this location. The Facility will be permitted and operated in strict compliance with all applicable regulations. The existing regulations from both CalRecycle and the AQMD specify operating parameters to meet odor and vector attraction reduction requirements and to not generate dust. Specifically, the CalRecycle regulations, enforced by the San Bernardino County Environmental Health Department, have operational parameters to achieve pathogen reduction and vector attraction reduction through the use of best

management practices throughout the composting process. CalRecycle is also responsible for odor management and requires an Odor Impact Management Program (OIMP) for the Facility. Harvest Power has prepared an OIMP for the Facility that is currently being reviewed by CalRecycle and will be provided to City staff.

In addition, the AQMD has regulations for green waste composting facilities, Rule 1133.3 ("AQMD Rule"). The AQMD Rule mandates specific dust control measures for all steps in the composting process and controls Volatile Organic Compounds ("VOC") reduction through Best Management Practices. The AQMD Rule requires that compost piles be covered with finished compost and watered prior to the compost piles being turned. Pursuant to the AQMD rule, during periods of high winds, the compost piles and surfaces must be watered and not turned. In addition, the Facility will have a paved entrance road and all access roads within the facility will have an all-weather surface for not only dust control but they are also a condition of approval from the Fire Department.

Between the CalRecycle regulations and AQMD Rule, the Facility is required to operate in a manner that prevents off-site dust and odors. Materials received are required to be put into composting piles and covered with finished compost with 24 hours of windrow formation. There is a prevailing wind from the southwest generally blowing away from sensitive receptors. Sensitive receptors, residential, are located to the northwest of the site and not within the prevailing wind pattern. Regardless of the direction of the wind, the Facility will be operated and maintained in a manner to prevent the generation of odors and dust. The operation of the Facility will not result in any change to the existing air quality in the area.

Further, the Facility will not result in a significant increase in traffic. The property on which the Facility will be located was once two operating dairies. The City's Traffic Engineer reviewed the application and has recommended conditions of approval to address the truck trips to and from the site. A detailed discussion on traffic and the City's conditions of approval to address traffic concerns is discussed in Section c. below.

In summary, the Facility will obtain permits from not only the City, but also CalRecycle, AQMD and the Regional Board. Each of these agencies, including the City, has rigorous inspection and reporting programs with which the Facility must comply. Harvest Power has the expertise and operating experience to ensure the Facility complies with the various agencies' composting regulations

and the City's conditions and complies with the objectives and purposes of the City's Development Code.

Resolution Language

c. Traffic generated by the proposed Conditional Use Permit may overload the capacity of the surrounding street system.

Schaefer Avenue is currently a two-lane road, sized to accommodate anticipated trips associated with agricultural uses. A typical dairy anticipates 12-15 truck trips per week. The project proposes up to 50 trucks per day during normal operations and up to 100 trucks per day during peak season, a substantial increase over existing traffic.

Contrary to the Commission's finding, the City's Engineering Department analyzed the traffic from the Facility and determined that it will not overload Schaefer Ave. The Facility is located ¼ mile east of Euclid Avenue and Euclid Avenue is a designated truck route. The Facility encompasses two former dairies. Based on information from local dairymen, each dairy generated approximately 8 truck trips per day for milk, feed, manure and general deliveries for a total of 16 trips per day. Initially, the Facility will generate approximately 20 trucks per day (only slightly more than the previous uses). The number of trips is expected to increase to an average of 35 to 50 trucks per day when the facility is at capacity. The trips may increase to 75-100 per day during the short peak spring and fall seasons when compost sales to agricultural users are the highest due to seasonal plantings.

The City Engineering Staff explained to the Planning Commission, on January 26th, that the increase in truck trips could be accommodated by specific road improvements. Specifically, the Engineering Department has conditioned the Facility to install the following:

- Design/construct an inbound right-turn lane 100 feet long plus required transition (Engineering Condition No. 2),
- Consolidate the existing westerly driveway into new proposed driveway and provide truck turning templates to show adequate ingress and egress by semi-trucks (Engineering Condition No. 4), and
- Design/Construct driveway throat to accommodate 3 semi-trucks (WB-67) stored in series (Engineering Condition No. 5).

Harvest Power is currently processing construction plans for these street improvements with the City's Engineering Department. Exhibit 4 is a site plan for the Facility that also depicts the above traffic improvements. Based on the review by the City's Engineering Department and their testimony to the Planning Commission, the traffic generated by the Facility will not impact Schaefer Avenue.

Resolution Language

d. The proposed Conditional Use Permit will not comply with each of the applicable provisions of the Ontario Development Code and applicable municipal codes, including Division 5.03 Standards for Certain Land Uses, Activities and Facilities.

City Council Resolution No. 2013-127 establishes guidelines for the operation of composting facilities to ensure compatibility with surrounding land uses. The Resolution specifies a 1/2-mile separation between green waste facilities and residential properties and sensitive land uses. The project location is less than 1/2-mile from residential property and a church with daycare services.

The Resolution is incorrect with respect to the location. In fact, the revised Facility complies with the applicable provisions of the Ontario Development Code, Municipal Code and City Council Resolution 2013-127 (collectively referred to as "City Regulations"). As described in previous sections and in Exhibits 2 and 3, the Facility's green waste will meet the 1/2 mile buffer from the residences and the church/day care property. In addition, the Facility already has the necessary perimeter berms, fences and infrastructure to meet all of the City Regulations. The Facility has been thoroughly reviewed by the City Departments and each Department assigned conditions of approval to ensure the Facility meets the City Regulations.

- ii. Harvest Power is a National Leader in the Organics Management Industry with a proven track record for safety and operating compost facilities.**

Harvest Power is a company focused on generating the maximum value from organic materials through the production of renewable energy, compost, soils, mulches and natural materials. The Company operates over 30 organic materials processing facilities across the United States and Canada and employs approximately 400 employees. Harvest Power is one of the largest organics product recycling companies

in the United States, selling over 45 million bags of compost, soil products and mulch annually.

Harvest Power helps communities across North America better manage and beneficially re-use their organic waste through the production of soils, mulches and natural fertilizers. Harvest Power has garnered numerous awards for its business of organic recycling including the recently 2015 Global Cleantech 100 list of “top private companies that demonstrate the most innovative and promising ideas in clean technology and are best positioned to make the most significant market impact.”¹ Harvest Power is proposing to bring its award winning organics management business to the City of Ontario.

iii. The City of Chino Water Treatment Facility will be protected from nuisances.

The City of Chino (“Chino”) appeared and spoke about its water treatment plant (“Plant”) currently under construction east of and adjacent to the Facility. The City, in responding to questions from the Planning Commission, confirmed that the plant was a “closed system” and that the water tank had “mesh filters” to prevent dust from entering the tank. The Facility is regulated by the AQMD and CalRecycle to prevent off-site nuisances and will not create an impact to the Plant. Note that there is an existing row of mature eucalyptus trees along the eastern boundary of the Facility adjacent to the Plant; in addition, the composting area is further separated from the Plant by an all-weather access road. Chino did not raise concerns with the existing dairies and feed lots adjacent to the Plant, nor did they raise any specific concerns about the Facility that were not addressed by existing regulations.

Harvest Power agrees that safety and the avoidance of risk are foremost concerns. Compliance with existing regulations and conditions placed on composting operations by the AQMD, Regional Board, CalRecycle and City of Ontario will ensure that the Plant is safe. In addition, Harvest Power’s experience in operating composting operations, such as the Facility, will ensure that its composting operations will not negatively impact the Plant.

In addition to Plant safety, Chino indicated they were concerned about receiving permits to expand the Plant in the future. According to Chino, the Plant is currently being constructed to operate at 3,500 gallons per minute (“GPM”) but will eventually expand to 7,000 GPM. No timeline for the expansion was provided. The Facility, like most of the agriculture in the area, is not a permanent use; rather, it is intended to serve

¹ Harvest Power Press Release, January 26, 2016.

as an interim use while the residential market continues to recover. Both the Cities of Chino and Ontario have experienced a decline in agricultural uses while commercial and residential uses are planned for former dairies. Until the new development is constructed, vacant dairy farms can be utilized by interim use, such as composting. The property owners of the Facility intend to construct residential houses in the future. Thus, Harvest Power believes the Facility will operate for approximately seven to ten years. Harvest Power will work with the City on a timeline by which PCUP 15-016 can be reviewed for consistency with Development and a possible timeframe and extension to PCUP 15-016 (i.e., 10 years with possibility for multi-year extensions.)

iv. Groundwater Quality will be protected from potential contaminants.

The Facility will only receive and compost non-hazardous manure and green waste. Harvest Power initially proposed to use some food waste or fats, oils or grease at the Facility; that request, however, was withdrawn. As stated above, Staff presented a condition of approval to the Planning Commission that prohibits composting of these materials at the site. Harvest Power has agreed to that condition.

The State of California Water Resources Control Board, in 2015, adopted General Waste Discharge Requirements for Composting Operations (General Order WQ 2015-0121-DWQ) ("General Order") that sets forth specific water quality protection measures that must be implemented prior to the start of operations at any new composting site. The groundwater protection measures of the General Order are implemented by the Regional Board and require the composting surfaces and all storm water basins ("Basins") be constructed to prevent water infiltration into the ground.

In compliance with General Order requirements, the Facility has been designed to capture all rainwater from a 24 hour, 25 year storm event. All storm water captured in the Basins will be reused in the composting process. In addition to strict design standards, the Regional Board has required soil moisture monitoring under the Basins. Moisture probes will be placed at depths of 12 inches, 24 inches and 60 inches below the Basin to detect water seepage. Data shows that groundwater is approximately 132 feet below the surface of the Facility. The design and operation of the Facility will not result in an impact to the groundwater quality.

v. The Facility will not result in windblown debris.

As previously stated, the green waste received at the Facility will already be ground and any trash will have been removed. The Facility will not receive yard debris or un-ground green waste; instead, it will receive only pre-ground material that meets Harvest Power's high standards so that the compost produced at the Facility can be

certified organic. The City Regulations require a perimeter berm and fence around the perimeter of the Facility and will protect against any material from leaving the site. Harvest Power requires that the employees at the Facility routinely inspect the site and perimeter to collect any trash or debris.

vi. The Facility will not cause Nuisances

The strict composting process followed by Harvest Power and required by the City of Ontario, state regulations and permits will ensure the Facility will not result in off-site nuisances. Harvest Power is required to quickly mix the incoming green waste or manure into windrows for composting and cover with finished compost of the same type (i.e., green waste compost mixed with new green waste or manure compost mixed with new manure. This helps the composting process starts quickly. Turning of the compost windrows will be done when allowed by the regulations and consistent with AQMD Rule 1133.3, water will be added.

The composting regulations, permits and Harvest Power's experience are all geared to preventing nuisances from compost facilities. As discussed above, CalRecycle requires the Odor Impact Minimization Plan ("OIMP"). The OIMP includes not only an operations protocol, but also an odor complaint protocol whereby citizens can call the San Bernardino County Environmental Health Department with complaints about the Facility and procedures that both the County and Harvest Power must follow if there is a complaint. Finally, the AQMD prohibits the generation of dust from composting operations and that agency has a well-established protocol to receive and investigate complaints. The operation of the Facility will not cause nuisance conditions off-site.

vii. The Facility will not result in Fires

Harvest Power understands that there have recently been 2 to 3 fires at existing green waste facilities in the area. Based on records from CalRecycle, it appears that some of those facilities are simple "chip and grind" facilities. It is Harvest Power's experience that fires at green waste facilities generally start with unground green waste that is allowed to be stockpiled or at a grinding operation. Neither of these components will be present at the Facility. The Facility will only receive green waste that has been sorted to remove trash and ground so that the composting process can be started upon arrival.

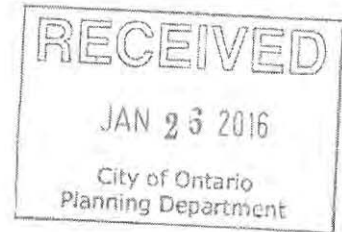
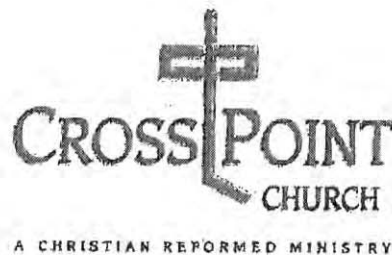
The City's Fire Marshal testified before the Planning Commission that it was his experience that recent fires at green waste facilities resulted from the "gigantic" piles of material, and that the City's Fire Department had now developed new conditions of approval that limit the size (height, width and length) of piles (both composting

windrows and stockpiles) at compost facilities. The Fire Marshall explained to the Planning Commission that the Facility was the first compost facility in the City to be subject to these new conditions. The Site Plan attached as Exhibit 4 accurately depicts the layout of the Facility, including size and spacing of the composting windrows, required by the Fire Department.

Harvest Power has the expertise and professional personnel to operate the Facility in a manner that will produce high-quality organic compost. The compost piles will be routinely watered to adjust the moisture levels to achieve proper and efficient composting process as required by the AQMD and CalRecycle. More importantly, Harvest Power will sell the compost so there are no stockpiles of finished material at the Facility.

3. **Summary**

Harvest Power operates over 30 facilities in North America, including two similar composting facilities in California's Central Valley. All of Harvest Power's facilities operate in strict compliance with local, regional and state-wide regulations. The composting facility in Tulare County is located one-quarter mile from an elementary school. In addition, Harvest Power operates composting facilities in other states that are located in urbanized areas. These facilities are managed and operate in compliance with the applicable local and state laws. Approval of PCUP15-016 will authorize the establishment of a composting facility that will be fully permitted to current regulations as well as provide a facility that can assist the agricultural operators to manage their manure as well as assist the City of Ontario to meet State mandated recycling requirements. Based on the foregoing analysis, Harvest Power respectfully requests the City Council over-turn the Planning Commissions denial of PCUP 15-016 and approve PCUP 15-016 subject to the amended conditions of approval.



Item B

January 20, 2016

City of Ontario
Planning Commission
303 East "B" Street
Ontario, California 91764

Re: Support for Harvest Power's Proposed Composting Facility (PCUP 15-106)

Dear Honorable Members of the Planning Commission:

We understand that the City of Ontario Planning Commission is considering a request to approve a composting facility to be operated by Harvest Power. We also understand that the compost facility will handle manure and green waste as separate materials and not mixed together and that the proposed facility will meet the City of Ontario requirements for a ½ mile buffer from sensitive receptors like the Children's Center facility located on our property. CrossPoint Church supports composting and recycling that helps the local dairies and municipalities recycle organic materials.

As long as the City will require the facility to operate responsibly, and in compliance with all applicable local, county and state regulations, we support the City and Harvest Power in bringing a local recycling facility to the community.

Sincerely,

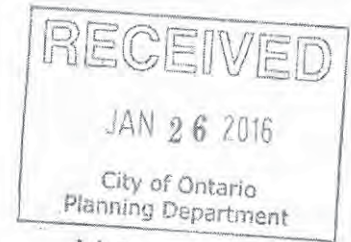
A handwritten signature in black ink, appearing to read "Robert Johnson".

Robert Johnson
Executive Pastor

**Harvest Power
Appeal to City Council
Exhibit No. 1**

Inland Harbor LLC

835 W. State Street, Ontario, CA 91762
Phone 909/986-7577 Fax 909/984-5404



01/21/2016

City of Ontario
Planning Commission
303 East "B" Street
Ontario, California 91764

Re: Support for Harvest Power's Proposed Composting Facility (PCUP 15-106)

Dear Honorable Members of the Planning Commission:

We understand that the City of Ontario Planning Commission is considering a request to approve a composting facility to be operated by Harvest Power. We also understand that the compost facility will handle manure and green waste as separate materials and not mixed together and that the proposed facility will meet the City of Ontario requirements for a ½ mile buffer from sensitive receptors like the day care facility located on our property. Inland Harbor LLC supports composting and recycling that helps the local dairies and municipalities recycle organic materials.

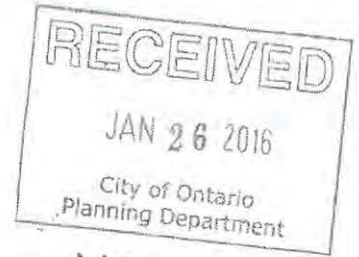
As long as the City will require the facility to operate responsibly, and in compliance with all applicable local, county and state regulations, we support the City and Harvest Power in bringing a local recycling facility to the community.

Sincerely,

A handwritten signature in black ink, appearing to read "John McGraw".

John McGraw
Owner

**Harvest Power
Appeal to City Council
Exhibit No. 1**



January 21, 2016

City of Ontario
Planning Commission
303 East "B" Street
Ontario, California 91764

Re: Support for Harvest Power's Proposed Composting Facility (PCUP 15-106)

Dear Honorable Members of the Planning Commission:

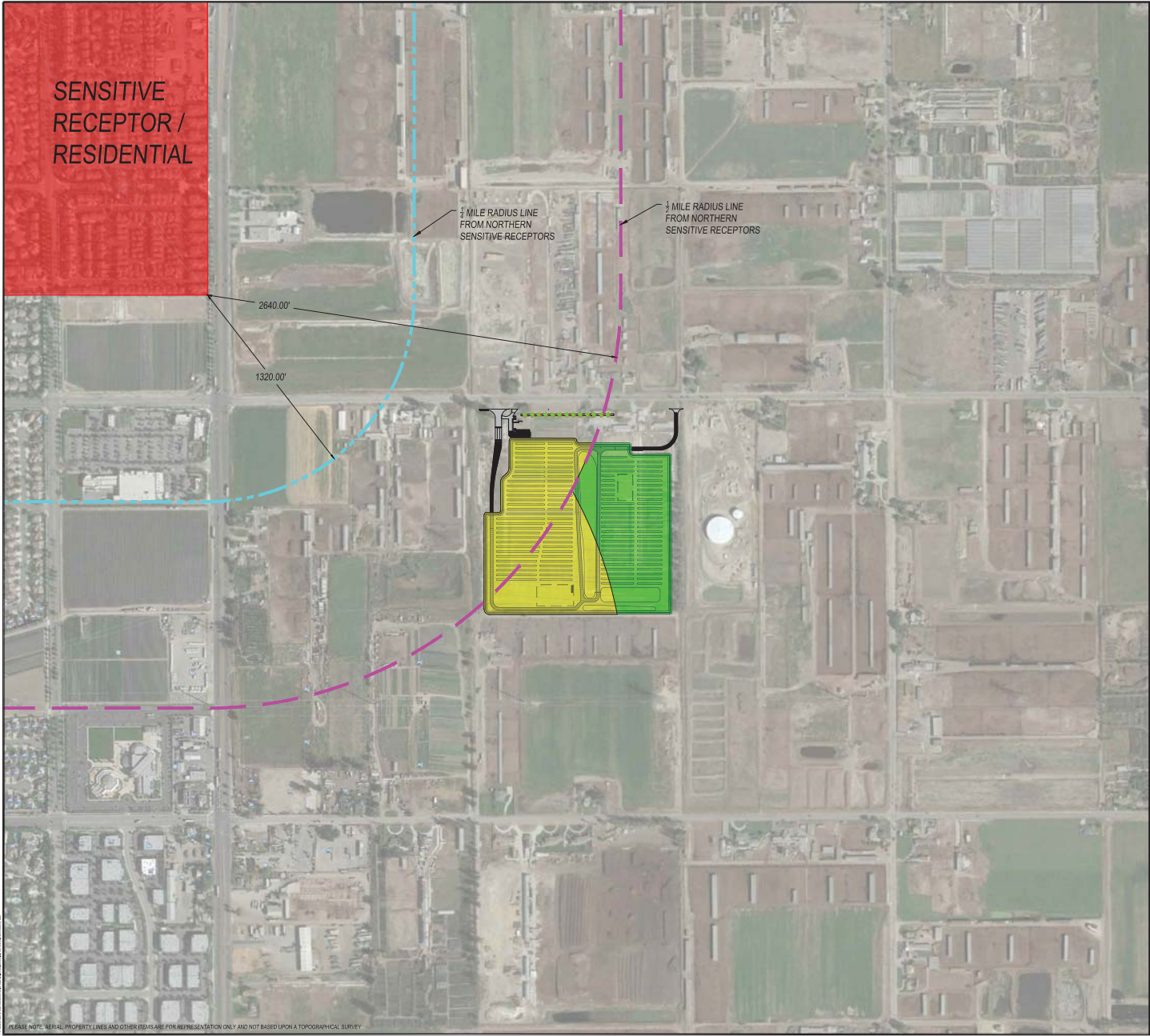
We understand that the City of Ontario Planning Commission is considering a request to approve a composting facility to be operated by Harvest Power. We also understand that the compost facility will handle manure and green waste as separate materials and not mixed together and that the proposed facility will meet the City of Ontario requirements for a ½ mile buffer from sensitive receptors like the day care facility located on our property. Stratham Communities supports composting and recycling that helps the local dairies and municipalities recycle organic materials.

As long as the City will require the facility to operate responsibly, and in compliance with all applicable local, county and state regulations, we support the City and Harvest Power in bringing a local recycling facility to the community.

Sincerely,

Jeff Evans

**Harvest Power
Appeal to City Council
Exhibit No. 1**

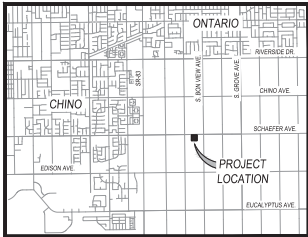


HARVEST-ONTARIO
SENSITIVE RECEPTOR
EXHIBIT
NORTHERN RECEPTOR

7435 & 7345/7365 SCHAEFER AVENUE, ONTARIO, CA 91761

LEGEND

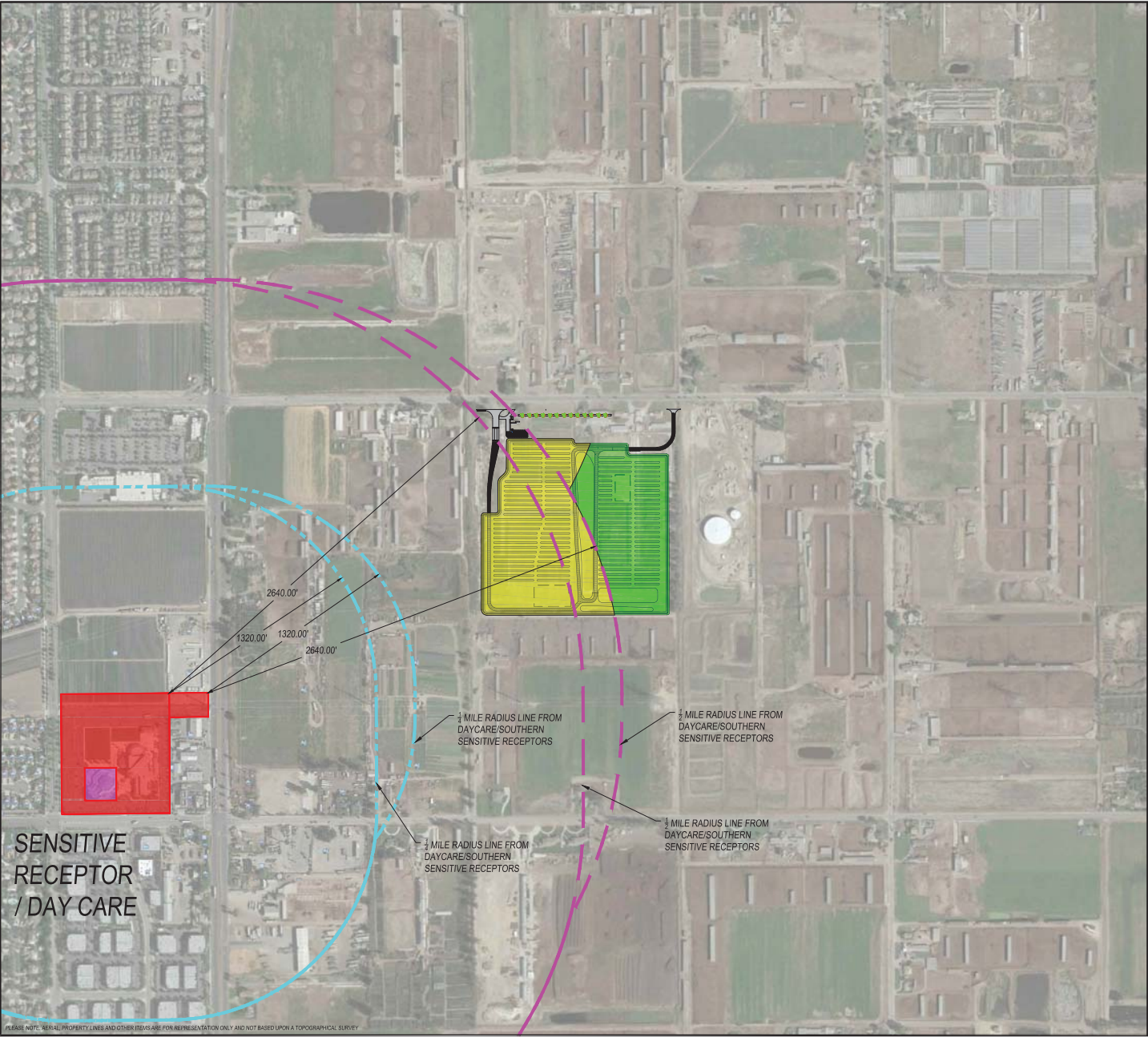
- 1/4 MILE RADIUS FROM SENSITIVE RECEPTOR
- 1/4 MILE RADIUS FROM SENSITIVE RECEPTOR
- SENSITIVE RECEPTOR
- DAY CARE FACILITY
- MANURE COMPOSTING PERMITTED
- GREEN MATERIAL COMPOSTING PERMITTED



VICINITY MAP
SCALENTS

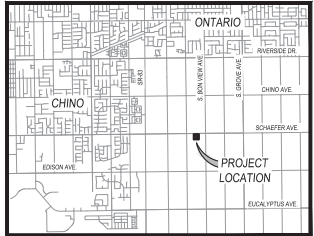
HARVEST-ONTARIO
SENSITIVE RECEPTOR EXHIBIT
SOUTH RECEPTOR

7435 & 7345/7365 SCHAEFER AVENUE, ONTARIO, CA 91761



LEGEND

- 1/2 MILE RADIUS FROM SENSITIVE RECEPTOR
- 1/2 MILE RADIUS FROM SENSITIVE RECEPTOR
- SENSITIVE RECEPTOR
- DAY CARE FACILITY
- MANURE COMPOSTING PERMITTED
- GREEN MATERIAL COMPOSTING PERMITTED



VICINITY MAP
SCALENTS

PLEASE NOTE: AERIAL, PROPERTY LINES AND OTHER ITEMS ARE FOR REPRESENTATION ONLY AND NOT BASED UPON A TOPOGRAPHICAL SURVEY.

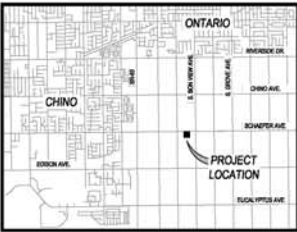
HARVEST-ONTARIO SITE PLAN

7435 & 7345/7365 SCHAEFER AVENUE, ONTARIO, CA 91761

- PROPOSED SITE NOTES:
1. SITE PLAN SHALL MEET ALL CITY ENGINEERING AND K/P D.I.E. REQUIREMENTS
 2. CONDITIONAL USE PERMIT TO ESTABLISH A GREEN WASTE AND MANURE PROCESSING FACILITY
 3. SPVAG ZONING DISTRICT
 4. APN: 158-016-001, 158-016-002, 158-016-003
 5. TOTAL ACRES: 3.4 AC
 6. APPROXIMATE ANNUAL WATER USAGE: 1.5 MILLION GAL
 7. GRADING EQUIPMENT SHALL MEET CITY NOISE STANDARDS
 8. PROJECT SHALL NOT VIOLATE EXISTING DRAINAGE PATTERN AND DRAIN LOCATIONS AT THE CENTRAL AND SOUTHERLY PORTION OF THE SITE
 9. FINAL BERM DETAILS WILL BE DETERMINED AFTER SURVEY OF PROPERTY HAS BEEN COMPLETED
 10. ALL LANDSCAPING PLANTED IN THE PROJECT AREA WILL BE BROUGHT TOLERANT AND SHALL BE APPROVED BY THE CITY OF ONTARIO PRIOR TO PLANTING
- FIRE DEPARTMENT OPERATIONAL REQUIREMENTS:
1. THE FOLLOWING ARE THE ONTARIO FIRE DEPARTMENT (TYPE 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 (FPPS) AND/OR S.
 2. THESE FIRE DEPARTMENT CONDITIONS OF APPROVAL ARE TO BE INCLUDED ON ANY AND ALL CONSTRUCTION DRAWINGS.
 3. STORAGE SITE SHALL BE LEVEL AND ON SOLID GRADING OR OTHER ALL-WEATHER SURFACE (CA FIRE CODE, TITLE 24, PART 8, SECTION 1908.2)
 4. PROPOSED COMPOST PILE (CA FIRE CODE, TITLE 24, PART 8, SECTION 1908.3), NOT TO EXCEED 10 FT. IN HEIGHT, 20 FEET IN WIDTH, AND 200 FT. IN LENGTH
 5. PILES SHALL BE SEPARATED FROM ADJACENT PILES BY APPROVED APPROPRIATE HOADS (CA FIRE CODE, TITLE 24, PART 8, SECTION 1908.4)
 6. ALL TURNS SHALL BE DESIGNATED TO MEET THE MINIMUM TWENTY FIVE FEET (25') ASIDE AND FOURTY FIVE FEET (45') OUTSIDE TURNING RADIUS PER STANDARD 45-000
 7. FIRE DEPARTMENT ACCESS ROADSWAYS THAT EXCEED ONE HUNDRED AND FIFTY FEET (150') IN LENGTH SHALL HAVE AN APPROVED TURN-AROUND PER STANDARD 45-000
 8. STORAGE, ACCUMULATION AND HANDLING OF COMBUSTIBLE MATERIALS AND CONTROL OF VEGETATION SHALL COMPLY WITH CHAPTER 3 OF THE 2010 CFC (CA FIRE CODE SECTION 1908.6)
 9. STATIC PILES SHALL BE MONITORED BY AN APPROVED MEAN TO MEASURE TEMPERATURES WITHIN THE STATIC PILES. INTERNAL TEMPERATURES SHALL BE MONITORED AND RECORDED WEEKLY. RECORDS SHALL BE KEPT ON FILE AT THE FACILITY AND MADE AVAILABLE FOR INSPECTION
 10. FIRE EXTINGUISHERS SHALL BE PROVIDED IN ACCORDANCE WITH 2010 CFC (CA FIRE CODE, SECTION 1908.8)
 11. APPROVED MATERIAL HANDLING EQUIPMENT SHALL BE AVAILABLE FOR MOVING MATERIALS DURING EMERGENCY ON FIREFIGHTING OPERATIONS (CA FIRE CODE, SECTION 1908.8)
 12. OWNER/OPERATOR SHALL DEVELOP AND SUBMIT A PLAN TO CITY FIRE FOR REVIEW AND APPROVAL (CA FIRE CODE, SECTION 1908.10)
 13. THE REQUIRED FIRE FLOW FOR FIRE DEPARTMENT STANDARDS, BASED ON THE 2010 CALIFORNIA FIRE CODE, APPENDIX B, IS 500 GALLONS PER MINUTE (GPM) FOR 1 HOUR AT A MINIMUM OF 20 POUNDS PER SQUARE INCH (PSI) RESIDUAL OPERATING PRESSURE.
 14. THE PUBLIC WATER SUPPLY, INCLUDING WATER MAINS AND FIRE HYDRANTS, SHALL BE TESTED AND APPROVED BY THE ENGINEERING DEPARTMENT AND FIRE DEPARTMENT PRIOR TO COMBUSTIBLE CONSTRUCTION TO ASSURE AVAILABILITY AND RELIABILITY FOR FIREFIGHTING PURPOSES.
 15. PORTABLE FIRE EXTINGUISHERS ARE REQUIRED TO BE INSTALLED PRIOR TO OCCUPANCY PER STANDARD 45-000. PLEASE CONTACT THE FIRE PREVENTION BUREAU TO DETERMINE THE EXACT NUMBER, TYPE AND PLACEMENT REQUIRED.
 16. 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.
 17. APPROVED NUMBER OF ADDRESS 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. ALL TOWN 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 4.1.2.000 OF THE ONTARIO MUNICIPAL CODE AND STANDARD 45-000 AND 45-001.
 18. THE STORAGE, USE, DISTRIBUTION 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.

LEGEND

- 87' LONG TRUCK, 87' TURNING RADIUS
- ALL WEATHER ROAD OR EQUIVALENT
- ASPHALT ROAD
- EXISTING PAVEMENT
- DRAWN/DEVELOPE DIRECTION ARROW





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

Appeal Application

GENERAL INFORMATION (print or type)

Appellant: Harvest Power California LLC
Address: 6943 N. Golden State Blvd. Fresno, CA 93722
Telephone No.: 559-435-1114 Fax No.: 559-435-1007
Email: lnovick@harvestpower.com

Appellant's Representative: Same
Address: _____
Telephone No.: _____ Fax No.: _____
Email: _____

(For staff use only)

File No.: _____
Date: _____
Rec'd by: _____
Fees Paid: _____
Receipt No.: _____

SUBJECT OF APPEAL

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

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

Date of decision: December 8, 2015 Project File Nos.: PCUP 15-016

The application requests: Approval of a Conditional Use Permit to establish an organic materials composting facility on a 34.76 acre site formerly occupied by two dairies. The project site is within the AG/SP zoning district within the New Model Colony.

ACTION/DECISION

Identify the specific action or decision which is being appealed: _____
Denial of the Conditional Use Permit by the Zoning Administrator. Specifically, Zoning Administrator's findings No. 1, 2, 3 and 4 discussed in the attached.



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

Mailing List/ Letter of Certification

MAILING LIST INSTRUCTIONS

At the filing of the appeal, the appellant shall provide the following information:

1. **Property Ownership List:** A mailing list containing the names, addresses, and assessor's parcel number of all owners of real property within a radius of 300 feet (300') of the site, measured from the exterior boundaries of the property. This information shall be obtained from the latest equalized assessment rolls of San Bernardino County (*property ownership information may be obtained from the San Bernardino County Assessor's Office, 172 W. Third, Third Floor, San Bernardino, CA. 92415. (www.sbcounty.gov/assessor)*). Include the name and address of the property owner, applicant, and representative of the mailing list. **A copy of the ownership mailing labels shall be submitted on CD. The City of Ontario uses Microsoft Word, Excel and Access.**
2. **Mailing Envelopes:** One set of stamped (pre-paid postage) business-size envelopes, with the name and address of each person on the mailing list. The return address shall read: "City of Ontario, Planning Department, 303 East "B" Street, Ontario, CA 91764.
3. **Radius Map:** A map illustrating the three hundred foot (300') radius boundary and all parcels within the boundary (copies of the assessor's maps will be accepted).

City of Ontario Planning Department 303 East B Street Ontario, CA 91764	<div>Assessor's Parcel Number</div> 0000-000-00 John and Mary Doe 1234 E. First Street Ontario, CA 91764	<div>stamp</div>
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EXAMPLE OF ADDRESSING ENVELOPE

CERTIFICATION (required for public hearings)

I, Sam Monaco, hereby certify that the attached list contains the names and addresses of all persons to whom all property is assessed as they appear on the latest available assessment roll of the County of San Bernardino within the area described and for a distance of 300-feet from the exterior boundaries of the property.

Date: 12/16/2015

Signature: _____

Name (print or type): Sam Monaco



APPEAL STATEMENT

The hearing body which is to hear the appeal request is limited to taking testimony and making its decision based solely on those specific grounds identified by the appellant in this application and insofar as they make an adequate claim pursuant to Municipal Code Section 9-1.0520. When you appeal the decision of a hearing body you, and anyone speaking at the appeal hearing, are limited to raising only those issues you or someone else raised in the appeal application.

Abuse of discretion & Decision was not supported by record

The specific grounds for the appeal and the relief requested by the appellant is as follows (*be specific, attach additional sheets if necessary*): See attached for details of appeal.

Appeal of Zoning Administrator Decision – PCUP 15-106

Harvest Power California, LLC, submits the following in support of its appeal of the denial of Conditional Use Permit 15-016 (“PCUP 15-016”) to allow an organic materials composting facility. Based on the following information, Harvest Power requests the Planning Commission reverse the Zoning Administrator’s denial and approve PCUP 15-016 subject to the conditions of approval proposed by City staff.

Background

On December 8, 2015, the City of Ontario Zoning Administrator (“Zoning Administrator”) denied PCUP 15-016 to allow Harvest Power California, LLC (“Harvest Power”) to construct and operate a 34.76-acre organic waste composting facility (“Facility”) at the southwest corner of Schaefer Avenue and Campus Avenue, at 7435, 7345 and 7365 East Schaefer Avenue. The Facility is proposed on land that was previously occupied by two dairies. The Facility will receive, process (i.e., grind, compost and cure) and market compost made from manure and compost made from green waste. The Facility will not mix or otherwise combine (“co-compost”) the manure and green waste, and each of these feed-stocks will be received, processed and marketed separately.

City Staff analyzed and recommended approval of PCUP 15-016 subject to conditions that would ensure compliance with not only the City’s Development Code but also with State law. Notwithstanding Staff’s recommendation, however, the Zoning Administrator denied PCUP 15-016 based on inaccurate information and/or a misunderstanding of the project. An analysis of the Zoning Administrator’s decision is set forth below.

(Please note that the numbering follows the findings listed in the December 8, 2015, Zoning Administrator’s decision. Language directly from the Zoning Administrator’s decision is written in **bold** typeface.)

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

The staff report for the project is accurate; however, the Zoning Administrator’s decision, specifically the findings, contains several inaccurate facts about the Facility that were incorrectly used as a basis for the denial.

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

(1) The proposed location of the requested Conditional Use Permit will not be consistent with the Policy Plan component of the Ontario Plan and may be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity. The Ontario Plan (TOP) Policy LU2-2, Buffers, states "We require new uses to provide mitigation or buffers between existing uses where potential adverse impacts could occur." Policy LU2-5, Regulation of Uses, states "We regulate the location, concentration and operations of uses that have impacts on surrounding land uses." City Council Resolution No. 2013-127 establishes guidelines for the operation of composting facilities to ensure compatibility with surrounding land uses. The Resolution specifies a 1/2-mile separation between green waste facilities and residential properties and sensitive land uses (schools, day care facilities, elderly care facilities, hospitals, etc.). The project location is less than 1/2-mile from residential property and a church with day care services.

Contrary to the characterization in the Zoning Administrator's decision, the Facility is compatible with surrounding uses. The Facility is generally surrounded by operating dairies and agricultural operations and will receive manure and green waste from these businesses. In fact, this site was chosen specifically because of its close proximity to the agricultural operations to provide them with a local facility to receive and compost their manure. This Facility would enable the existing agricultural operations to use a local composting Facility for properly handling their manure, thereby reducing unnecessary trips to more distant composting facilities. Additionally, the Facility will receive green waste from local communities to assist those communities in achieving their State-mandated recycling requirements. Moreover, a composting facility as proposed is an allowable use in the New Model Colony, subject to an approved Conditional Use Permit.

In working with Staff on the project, it was understood that the buffer requirements of City Council Resolution No 2013-127 were a City policy intended to guide development, but was not a mandatory requirement. There are in fact two sensitive receptors located in close proximity to the Facility: (1) Approximately 35 single-family and multi-family homes located on the west side of Euclid Avenue and 600 feet north of Schaefer Avenue in the City of Chino; and (2) a church with a day care is located at the northeast corner of Fern Avenue and Edison Avenue in the City of Chino. Each of these sensitive receptors is discussed below.

The residences are located within the ½ mile radius of the Facility. Based on the Zoning Administrator's decision, however, it appears there was a mistaken understanding about the Facility's operations, and confusion as to whether the Facility would be mixing the green waste and manure. As discussed above, the Facility will process manure and green waste separately as required by the permits that Harvest Power will obtain from the South Coast Air Quality Management District ("AQMD"). Thus, in compliance with City Council Resolution 2013-127, Harvest Power would receive and process green waste in the portion of the site that is *outside* of the ½ mile radius from the residents. Exhibit 1 depicts the area that the green waste will be processed, and indicates that it is farther than ½ mile from the residents. Given the confusion about the precise location of the intended activities at the Facility, the specific areas for the composting of manure and green materials are now identified more clearly on Exhibit 1. The Exhibit demonstrates the Facility will compost manure only within the northwest quadrant of the Facility as shown in Exhibit 1; whereas the remainder of the Facility will be permitted to receive both manure and green waste as the supply of material dictates. In no instance will the manure and green waste be co-mingled into a single pile.

The church and daycare facility are located on a single lot that is primarily located at the northeast corner of Fern Avenue and Edison; however, there is a driveway from Euclid. The church and daycare are located in two separate and distinct buildings on the property. As shown on Exhibit 2, the entire daycare facility is located more than ½ mile from the southwestern boundary of the Facility. However, the church and driveway are within ½ mile of the facility. As discussed above, it appears there was confusion by the Zoning Administrator on how the facility would operate and the manure and green waste will not be mixed. Similar to the residences, Exhibit 2 demonstrates that the green waste will be processed outside of the ½ mile buffer from the church property.

Based on the foregoing and as shown in Exhibits 1 and 2, the Facility meets the City Council Resolution 2013-127 because it's green waste processing/composting is located more than ½ mile from both the residents and the church/daycare.

(2) The proposed location of the Conditional Use Permit is not in accord with the objectives and purposes of the Ontario Development Code and the zoning designation within which the site is located, including Article 1: Purposes and Objectives. City Council Resolution No. 2013-127 identifies the intent of the guidelines as providing distance criteria for new composting

facilities stemming from resident input at neighborhood meetings on composting facility applications and based on an “outpouring of testimony against the location of these composting facilities. The reasons stated for the opposition includes odors, dust, pathogens, and increased truck traffic along existing streets.” The application encroaches into the distance separation identified between composting facilities and residential and sensitive land uses.

As discussed above, Harvest Power is proposing to locate the green waste processing on the eastern and southeastern portion of the site so it is also outside of the ½ mile buffer from the residential and sensitive land uses. With this operational change, the Facility is in compliance with the buffer requirements of City Council Resolution 2013-127. The Facility will comply with the conditions of approval and mitigation measures required by the City as well as receive the required composting permits from the AQMD, the Regional Water Quality Control Board – Santa Ana Region and CalRecycle. Each of these agencies has its own set of regulation for composting operations and Harvest Power will comply with each agency’s permits.

The regulatory agencies and Harvest Power are acutely aware of the concerns raised by citizens about compost facilities and identified by the Zoning Administrator (i.e. odors, dust, pathogens and traffic), and all have enacted regulations to ensure that such concerns are adequately mitigated. Because the Facility will be permitted and operated in strict compliance with all applicable regulations for a composting facility, the issues expressed by the community will be adequately addressed. The existing regulations from both CalRecycle and the AQMD specify operating parameters the Facility must follow to meet odor and vector attraction reduction requirements and to not generate dust. Specifically, the CalRecycle regulations, enforced by the San Bernardino County Environmental Health Department, have specific operational parameters to achieve pathogen reduction and vector attraction reduction through the use of best management practices. CalRecycle is also responsible for odor management and requires an Odor Impact Management Program (OIMP) for the Facility. Harvest Power has prepared an OIMP for the Facility that is currently being reviewed by CalRecycle; this document will be provided to City staff for its review as well.

In addition, the AQMD has regulations for green material composting facilities. First, the AQMD controls Volatile Organic Compounds (“VOC”) reduction through Best Management Practices. Second, the AQMD mandates dust control

from all operations at the Facility. The Facility will have a paved entrance road and all access roads within the facility will have an all-weather surface for not only dust control but also to meet the requirement from the Fire Department. Watering will be used to control dust from the composting operations. Pursuant to AQMD rules, during periods of high winds, compost piles and surfaces are watered and not turned.

Further, the Facility will not result in a significant increase in traffic. The property on which the Facility will be located was once two operating dairies. The City's Traffic Engineer reviewed the application and has recommended conditions of approval to address the truck trips to and from the site. A detailed discussion on traffic and the City's conditions of approval to address traffic concerns is discussed in Section 3 below.

In summary, the Facility will obtain permits from not only the City, but also CalRecycle, AQMD and the Regional Board. Each of these agencies, including the City, has rigorous inspection and reporting programs with which the Facility must comply. Harvest Power has the expertise and operating experience to ensure the Facility complies with the various agencies' composting regulations and the City's conditions.

(3) Traffic generated by the proposed Conditional Use Permit may overload the capacity of the surrounding street system. Schaefer Avenue is currently a two-lane road, sized to accommodate anticipated trips associated with agricultural uses. A typical dairy anticipates 12-15 truck trips per week. The project proposes up to 50 trucks per day during normal operations and up to 100 trucks per day during peak season, a substantial increase over existing traffic.

The traffic from the Facility will not overload Schaefer Ave. The Facility is located ¼ mile east of Euclid Avenue and Euclid Avenue is a designated truck route. The Facility encompasses two former dairies. Based on information from local dairyman, each dairy generated approximately 8 truck trips per day for milk, feed, manure and general deliveries for a total of 16 trips per day. The Zoning Administrator mistakenly references that the prior operators generated 15 truck trips per *week*. Initially, the Facility will generate at approximately 20 trucks per day (only slightly more than the previous uses). Although the number of trips is expected to increase to an average of 50 trucks per day (and could increase to 75-100 trips per day during the spring and fall seasons), the City's Engineer Department determined that the increase in trips could be

accommodated by specific road improvements. Specifically, the Engineering Department required the Facility to install the following:

- Design/construct an inbound right-turn lane 100 feet long plus required transition (Engineering Condition No. 2),
- Consolidate the existing westerly driveway into new proposed driveway and provide truck turning templates to show adequate ingress and egress by semi-trucks (Engineering Condition No. 4), and
- Design/Construct driveway throat to accommodate 3 semi-trucks (WB-67) stored in series (Engineering Condition No. 5).

Harvest Power is currently processing construction plans for these street improvements with the City's Engineering Department. Exhibit 3 is a site plan for the Facility that also depicts the above traffic improvements. Based on the review by the City's Engineering Department, the traffic generated by the Facility will not impact Schaefer Avenue.

(4) The proposed Conditional Use Permit will not comply with each of the applicable provisions of the Ontario Development Code and applicable municipal codes, including Article 13: Land Use and Special Requirements and Article 32: General Development Requirements and Exceptions. City Council Resolution No. 2013-127 establishes guidelines for the operation of composting facilities to ensure compatibility with surrounding land uses. The Resolution specifies a 1/2-mile separation between green waste facilities and residential properties and sensitive land uses. The project location is less than 1/2-mile from residential property and a church with daycare services.

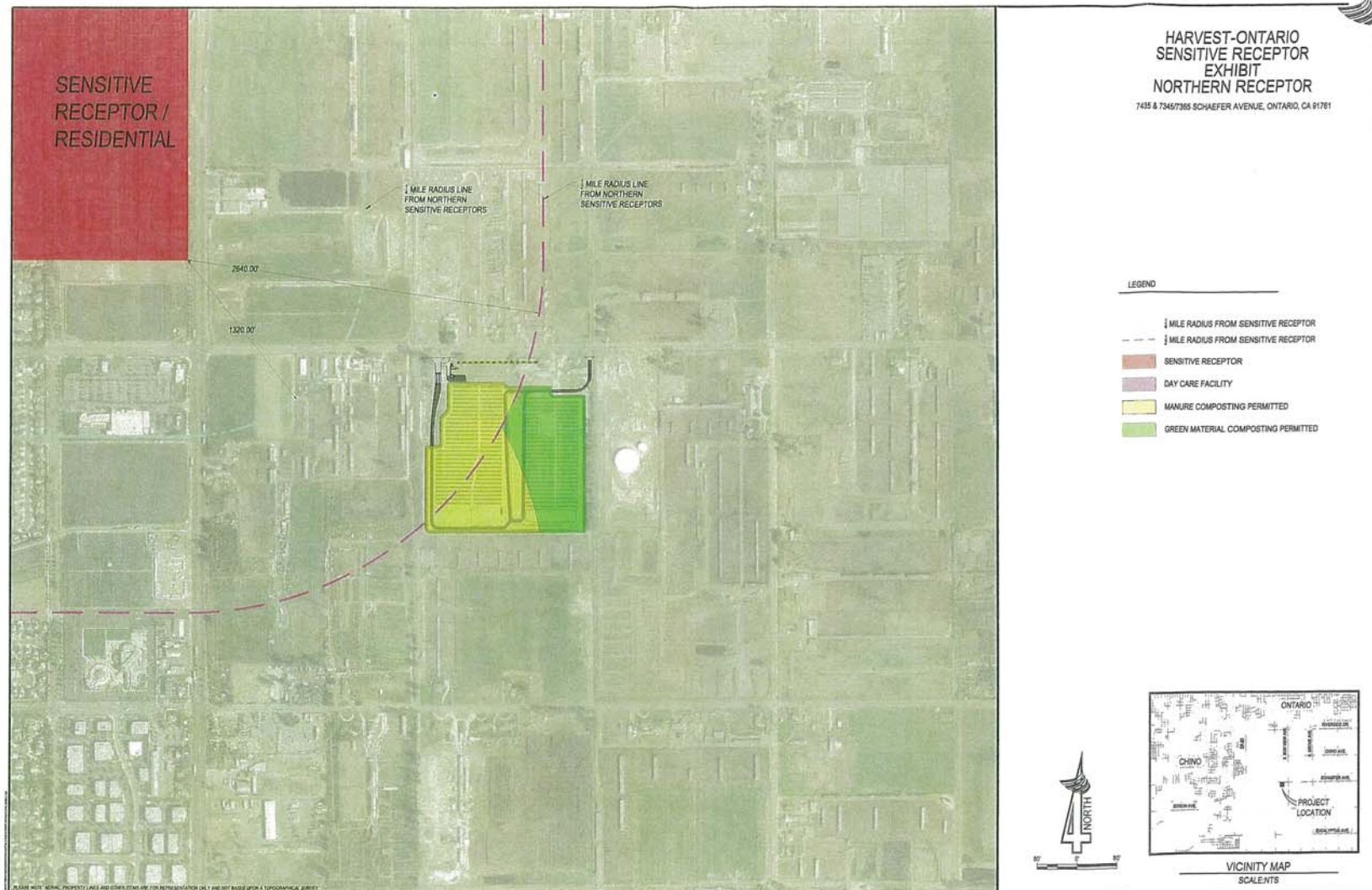
With the clarification about the location of the processing of the green waste, the Facility complies with the applicable provisions of the Ontario Development Code, Municipal Code and City Council Resolution 2013-127. As described in previous sections and in Exhibits 1 and 2, the Facility's green waste will meet the 1/2 mile buffer from the residences and the church/day care property. The Facility has been thoroughly reviewed by the City Departments and each Department assigned appropriate conditions of approval. Staff's analysis of the project and recommendation of approval was and is accurate.

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

Harvest Power concurs with this finding.

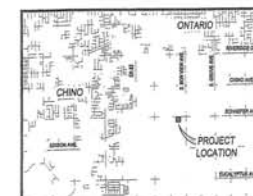
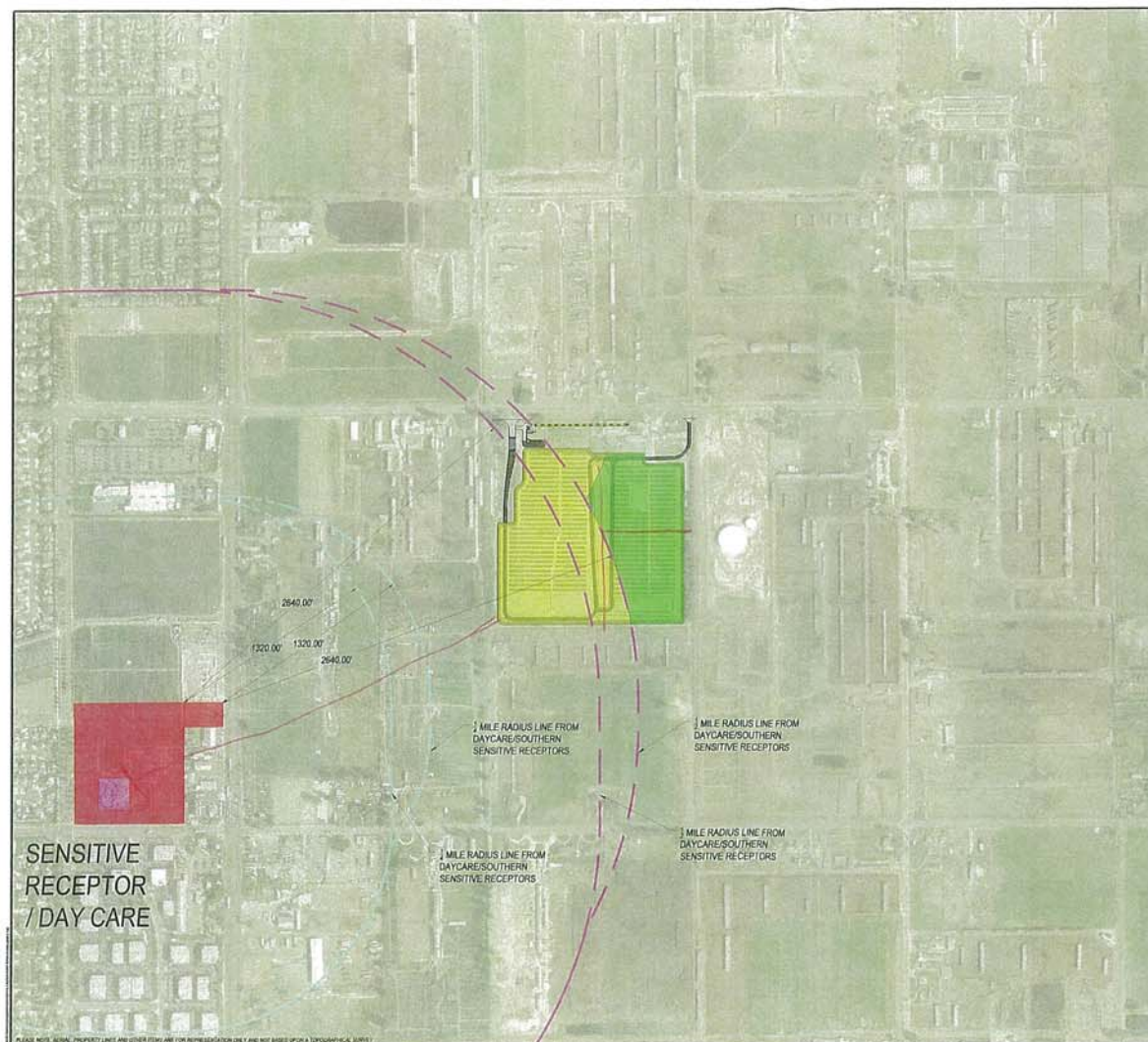
Summary

Harvest operates over 35 facilities in North America, including two similar composting facilities in California's Central Valley. The facilities in California are located in agricultural areas, with scattered residences nearby. The facilities operate in strict compliance with local, regional and state-wide regulations. In addition, Harvest Power operates composting facilities in other states that are located in urbanized areas. These facilities are managed and operate in compliance with the applicable local and state laws. Approval of PCUP15-016 will enable the establishment of a composting facility that will be fully permitted to current regulations as well as provide a facility that can assist the agricultural operators to manage their manure as well as the City of Ontario to meet State mandated recycling goals.



7435 & 7345/7385 SCHAEFER AVENUE, ONTARIO, CA 91761

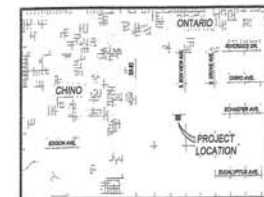
 MILE RADIUS FROM SENSITIVE RECEPTOR
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 DAY CARE FACILITY
 MANURE COMPOSTING PERMITTED
 GREEN MATERIAL COMPOSTING PERMITTED

VICINITY MAP
SCALE/NTS

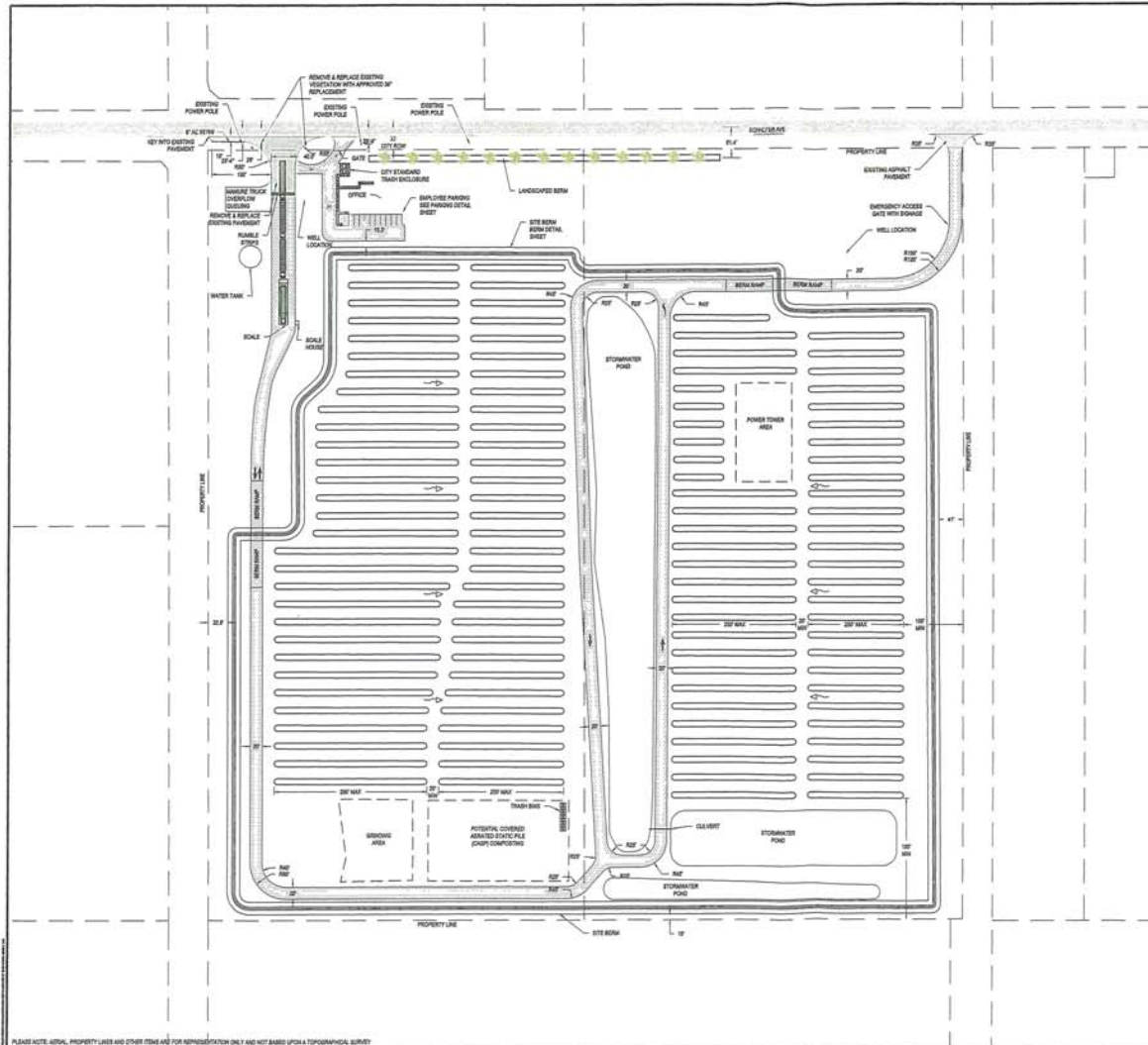
7435 & 7345/7355 SCHAEFER AVENUE, ONTARIO, CA 91761

LEGEND

	80' LONG TRUCK, 30' TURNING RADIUS
	ALL WEATHER ROAD OR EQUIVALENT
	ASPHALT ROAD
	EXISTING PAVEMENT
	DRAINAGE/SLOPE DIRECTION ARROW



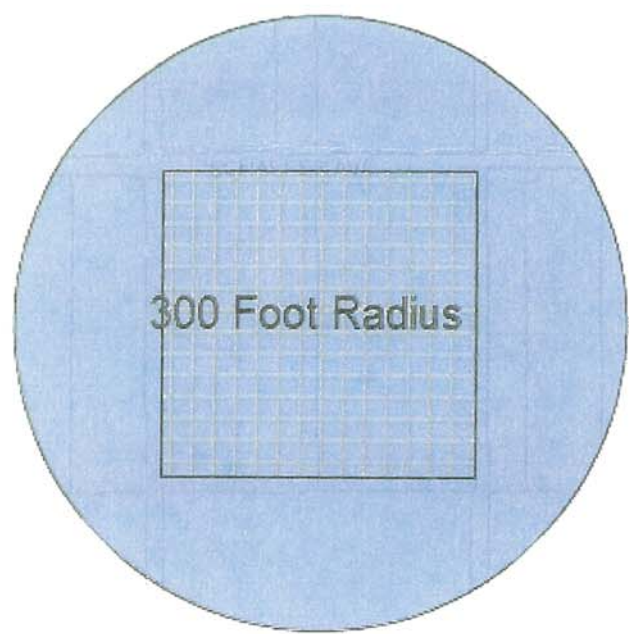
VICINITY MAP
SCALE:NTS



EUCLID AVE

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EUCLID AVE

SITE_ADDR	SITE_CITY	SITE_ZIP	APN	OWNER_NAME_1	MAIL_ADDR
7416 SCHAEFER AVE	ONTARIO	91762	1052-551-01	RODRIGUEZ, MARK D	7416 SCHAEFER AVE
7316 SCHAEFER AVE	ONTARIO	91762	1052-551-02	ZWART, CASE	1211 W CEDAR ST
13647 EUCLID AVE	ONTARIO	91762	1052-381-01	EUCLID SCHAEFER HOLDINGS LLC	14240 SAPPHIRE HILL LN
7271 SCHAEFER AVE	CHINO	91710	1053-081-03	ARTEVEL OF CALIFORNIA LLC	800 WILSHIRE BLVD STE 1500
	ONTARIO	91761	1053-211-05	LMF DEVELOPMENT LLC	650 CAMINO DE GLORIA
CORRALS VACANT LAND		91762	1053-191-01	NEDEREND FAMILY PARTNERSHIP	4998 HOGG RD
	ONTARIO	91761	1053-111-03	CITY OF CHINO	13220 CENTRAL AVE
7520 SCHAEFER AVE	CHINO	91710	1052-531-02	LOURENCO, STEVE	14055 GIANT FOREST LOOP
7436 SCHAEFER AVE	ONTARIO	91762	1052-541-04	LOYOLA PROPERTIES I LP	600 S INDIAN HILL BLVD

MAIL_CITY	MAIL_ZIP	MAIL_STATE	DATE_TRANSFER	VAL_ASSD	VAL_TRANSFER	BUILDING_SQFT	ACREAGE	LAND_SQFT
ONTARIO	91762	CA	10/13/2010 0:00	355207	443000	1148	4.8	209088
ONTARIO	91762	CA	1/9/2001 0:00	983377	800000	2312	13.5	588060
CHINO HILLS	91709	CA	8/17/2009 0:00	1656257			15.85	690427
LOS ANGELES	90017	CA	10/2/2008 0:00	313651	32000		4.05	176419
WALNUT	91789	CA	7/26/2011 0:00	1097172			9.5	413820
HOMEDALE	83628	ID	6/12/2003 0:00	50986			9.62	419047
CHINO	91710	CA	4/30/2004 0:00	397760			8.82	384199
CHINO HILLS	91709	CA	3/8/2001 0:00	376624			9.14	398139
CLAREMONT	91711	CA	4/18/2002 0:00	1513629	1100000	2483	18.75	816750

UNITS_NUMBER	YR_BLT	USE_CODE_STD_CTGR_DESC	USE_CODE_STD_DESC
	1937	AGRICULTURAL	LIVESTOCK, ANIMALS
	1968	AGRICULTURAL	DAIRY
468	1956	VACANT LAND	MISCELLANEOUS VACANT LAND
296		AGRICULTURAL	DAIRY
		AGRICULTURAL	DAIRY
		AGRICULTURAL	DAIRY
		AGRICULTURAL	DAIRY
		AGRICULTURAL	DAIRY
414	1964	AGRICULTURAL	DAIRY

EXHIBIT "C"

RESOLUTION NO. 2013-127

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A POLICY REGARDING REQUIRED BUFFER ZONES FOR NEW COMPOSTING FACILITIES WITHIN THE NEW MODEL COLONY AREA.

WHEREAS, the City of Ontario annexed the San Bernardino Agricultural Preserve to the City in 1999; and

WHEREAS, the City adopted a Right To Farm Ordinance in 1999 that allowed property owners in the area (now known as the New Model Colony, or NMC) the right to continue to farm their land, including dairies; and

WHEREAS, the City further recognizes that the transition of the area will be a gradual process and that there will be a need for regulations to guide agricultural-related development activities for the interim period; and

WHEREAS, the Development Code defines Agricultural Support Services as those uses that are supportive to the farm community. It further defines waste management facilities and fertilizer operations as uses that directly support or which are accessory or incidental to established agricultural uses. It also states that these uses are fully compatible with agricultural uses in the area. Therefore, the Development Code recognizes waste management facilities, such as manure waste facilities, as legitimate uses in the NMC and requires them to process a Conditional Use Permit (CUP). The Development Code does not provide for any distance requirements or buffers, from a waste management facility to other land uses, except for the case of new residential uses moving next to an existing dairy farm; and

WHEREAS, there has been several applications submitted for Conditional Use Permits to establish composting facilities in the NMC. At neighborhood meetings held to discuss the applications with local residents, there has been a large and fairly unanimous outpouring of testimony against the location of these composting facilities. The reasons stated for the opposition includes odors, dust, pathogens, and increased truck traffic along existing streets; and

WHEREAS, the Planning Commission at their meeting of November 18, 2013, received and reviewed a report from the Planning Department on the issue of requiring distance separation or buffer requirements for new composting facilities in the NMC; and

WHEREAS, on November 18, 2013 the Planning Commission did discuss the issue of distance requirements between new composting facilities and sensitive land uses, and did vote to recommend to the City Council adoption of distance requirements and certain operational requirements that should be considered with any new CUP application for such uses.

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

SECTION 1. As the decision-making / policy setting body for the City, the City Council has reviewed and considered the information contained in the Planning Commission's administrative record for this issue and hereby adopts the following as policy of the City:

CITY OF ONTARIO DISTANCE SEPARATION AND OPERATIONAL REQUIREMENTS FOR COMPOSTING FACILITIES IN THE NMC POLICY

In order to minimize the physical and environmental impacts of different types of composting facilities in the NMC, the following regulations shall supplement any and all development and operational regulations contained in the Ontario Development Code relative to composting facilities and shall be considered by the Hearing Body during their deliberations on a Conditional Use Permit or other permit required to operate a composting facility in the NMC.

- a. Continue to allow the composting and removal of manure from individual dairies as a right of use. For new dairies, which require a CUP to establish their use, establish a 100 foot buffer between any existing sensitive land use (i.e.: residential, school, day care, senior citizen care facility, hospital) property line and a dry feed lot, dairy pond, manure storage, etc.
- b. Require a buffer distance of $\frac{1}{4}$ mile for manure only composting facilities to a residential property or a property used for sensitive land uses (school, day care, hospital, elderly care facility, etc.). The distance should be measured from the closest property line of the sensitive land use to the nearest composting material on the facility site and not to the site's property line.
- c. Require a buffer distance of $\frac{1}{2}$ mile for green waste or a combination green waste and manure composting facility to a residential use or a sensitive land use (as described above).
- d. Require a 100 foot setback buffer between material stacks or rows and the site's property line.
- e. As a part of any CUP application for a green waste facility, require a traffic study for the project and condition the use of appropriate routes from the facility to the freeways to minimize impacts to existing residential neighborhoods.
- f. As a part of any CUP application for a composting facility, consider adding the following items to the conditions of approval, as appropriate:
 - (1) Maintain good air flow through the compost material

- (2) Turn compost based on temperature, not a schedule
- (3) Restrict material movement to times when the potential for winds are low and general population is least (i.e.: when people are indoors or away from their homes, and not on weekends)
- (4) Minimize disturbance of dusty areas by equipment
- (5) Minimize dust by adding moisture to material when moving or turning, and regularly water dirt roadways, dry material and unused areas.
- (6) Berms (defined as earthen mounds constructed along the perimeter of a composting site to minimize sight into the property and reduce debris from blowing off-site) shall be a maximum height of fifteen (15) feet, but in no case higher than the allowed material rows.
- (7) Berms shall be set back at least ten (10) feet from public right of ways boundaries and five (5) feet from any other property lines or one half the height of the berm, whichever is greater.
- (8) Berms should be comprised primarily of soil and no steeper than a 2:1 horizontal to vertical (h:v) slope ratio. Berms can be as steep as a 1.5:1 (h:v) slope ratio if properly evaluated, with appropriate calculations, by the City Engineer.
- (9) The surface of the outside portions of the slopes (facing a public street) should have properly installed and maintained landscaping or hydro seeding with jute matting to prevent erosion or sloughing.

SECTION 2. Effective Date. The Mayor shall sign this Resolution and the City Clerk shall attest hereto, and this Resolution shall take effect and be in force on the date of its adoption.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 3rd day of December 2013.

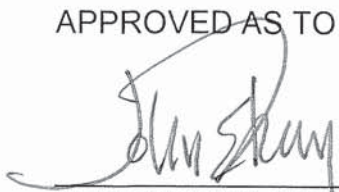


PAUL S. LEON, MAYOR

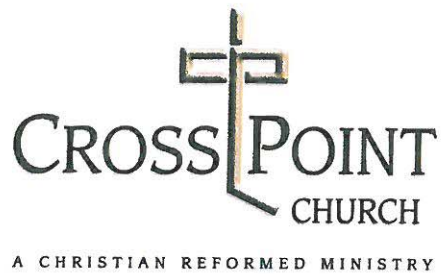
ATTEST:


MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:


BEST BEST & KRIEGER LLP
CITY ATTORNEY

(SEAL)



February 19, 2016

Ontario City Council
303 East "B" Street
Ontario, CA 91764

Re: Proposed Composting Facility (PCUP 15-016)

Dear Honorable Members of the Ontario City Council:

CrossPoint Church, located at 6950 Edison Avenue in Chino, would like to withdraw our letter of support for PCUP 15-016, previously submitted to the Ontario Planning Commission on January 20, 2016.

Sincerely,

Robert Johnson
Executive Pastor

RECEIVED

FEB 24 2016

City of Ontario
Planning Department



DENNIS R. YATES
Mayor

EUNICE M. ULLOA
Mayor Pro Tem

GLENN DUNCAN
EARL C. ELROD
TOM HAUGHEY
Council Members

MATTHEW C. BALLANTYNE
City Manager

CITY of CHINO

February 24, 2016

Honorable Paul Leon and Council Members
Ontario City Hall
303 East "B" Street
Ontario, California 91764

RE: PROPOSED HARVEST POWER PROJECT

Honorable Mayor and Council Members:

A reliable supply of good quality water is of paramount importance to the region and its developing areas. Over the years the cities of Ontario and Chino have taken the necessary steps to ensure that their existing and future customers have ample supplies of good quality water at a reasonable cost. Ontario and Chino are both founding members of the Water Facilities Authority (WFA) and the Chino Basin Desalter Authority (CDA), two joint powers agencies that provide a diversified supply of potable water to support the region. Additionally, both cities have invested millions of dollars in the maintenance and development of the local groundwater resource through the Chino Basin Watermaster regional partnership and through their own individual efforts.

The City of Chino's master plan identifies Chino Basin groundwater as a critical source of supply for satisfying the potable water demands of its existing and future customers, and to date, the City of Chino has invested \$26.5M in new master-planned water infrastructure. The cornerstone of this master-planned infrastructure program is a multi-million dollar water complex, located at 7537 Schaefer Avenue, in Ontario (see attached figure). This water complex, known as the Eastside Water Treatment Facility (EWTF), currently consists of a 3,500 gpm water treatment plant, two potable water reservoirs, two pumping stations for distribution of water to two pressures zones, and two groundwater wells (only one of which is currently equipped). These facilities represent only the first-phase of master-planned facilities for this site. Subsequent phases will expand the treatment plant capacity, add another reservoir, and include equipping of the second onsite well.



The multiple phase EWTF was reviewed and approved by the City of Ontario in August of 2005. That approval included several conditions with which the City of Chino has complied, including the payment of grading permit fees, habitat mitigation fees, development impact fees, and in-lieu fees for future improvements, totaling approximately \$1.34M (an additional \$115,146 will be paid in conjunction with the future phases of EWTF construction).

The proposed Harvest Power project consists of "the operation of an organic materials facility for the composting of green waste, manure, food materials, fats, oils and grease on a 34.76 acre site" to be located on properties addressed as 7345, 7365, and 7435 Schaefer Avenue, Ontario, CA. If approved, the proposed Harvest Power project would be located adjacent to the City's EWTF, and represents potential adverse impacts to the City of Chino's ability to reasonably ensure the quality of water produced and stored at the EWTF. Potential environmental impacts could include:

- Prevailing winds will blow dust and debris, as well as VOC emissions, into the Eastside water facilities' equipment, which vent to the outside.
- Composting facilities are susceptible to spontaneous combustion, and fires have occurred at green waste composting operations. A fire on the site would create smoke and ash, which could damage our water treatment equipment. If the fire spread, it could damage the whole facility.
- The composting facility will allow high amounts of organic matter to build up in the soil. Our water facility is pumping groundwater close by, so we are concerned with potential pollution of that water source, especially if the composting facility draws from a broad waste stream that is not tightly controlled or screened for potential pollutants.
- The odors associated with composting facilities are difficult to control. By locating several of these facilities in the same area, residents to the east will continue to be negatively impacted by odors.

Additionally, it is necessary to point out that the Mitigated Negative Declaration prepared for the project is inadequate with regard to an incomplete analysis of the impacts of the project in many areas, but more specifically in the areas of Air Quality & Greenhouse Gases and Hydrology & Water Quality. For example, there is no analysis or proposed mitigation related to vehicle emissions during loading and unloading of organic material; the increase in the amount of various VOC's including but limited to methane, nitrous oxide, carbon dioxide hydrogen sulfide and other gaseous and particulate matter related directly to the composting of organic matter; and an Odor Impact Minimization Plan (OIMP) is not included as a mitigation measure to demonstrate how odors from the facility will be managed and how they impact adjacent properties and sensitive receptors.

The facility appears to be a Tier II Composting facility. Analysis of potential impacts and mitigation related to compliance with State Water Resource Board Order WQ 2015-0121 DWQ has not been

included. This analysis should include the maximum amounts of additives utilized; the distance from the nearest water supply well and potential impacts to that supply, as well as proposed mitigation; a Water and Waste Water Management Plan; the use and design of any constructed pads; the use of detention ponds related to flooding, overflow, reuse, etc.; requirements for the use of pond liners to minimize leaching of wastewater or other materials (grease, oils, fats, etc.); and reporting and monitoring requirements.

These are just some of the potential problems identified in the Mitigated Negative Declaration. A more thorough review and analysis, which is being conducted by the City of Chino, may yield additional items that have been inadequately studied and/or not fully mitigated.

Because of the proximity of the Harvest Power project to Chino's EWTF and the aforementioned areas of concern (which will be taken into consideration by the California State Water Resources Control Board Division of Drinking Water during periodic reviews and inspections of the City's water facilities; and, when requesting an Amended Operating Permit to expand the EWTF) it is reasonable to anticipate the State will impose additional, costly and burdensome, requirements (designed to further protect the potable quality of the treated/stored water) with which the City of Chino must comply in order to operate its existing and future facilities located at the EWTF site, and with which the City would not otherwise be burdened if not for the Harvest Power project.

For the reasons stated above, the City of Chino respectfully requests the City of Ontario City Council uphold the prior decisions of the Ontario Zoning Administrator and Ontario Planning Commission to not approve the proposed Harvest Power project. By so doing, the City of Ontario will have once again demonstrated its leadership and continuing commitment towards responsible management of the precious Chino Basin groundwater resource the cities of Chino and Ontario depend upon to meet the drinking water needs of their communities.

Yours in Service,

A handwritten signature in dark ink, appearing to read "D. Yates", with a long horizontal flourish extending to the right.

Dennis R. Yates,
Mayor
Chino Pride

Cc: Matt Ballantyne, City Manager
Jose Alire, Assistant City Manager/Public Works
Nick Liguori, Community Development Director



RECEIVED

FEB 24 2016

City of Ontario
Planning Department

February 18, 2016

CITY OF ONTARIO SOUTHERN CALIFORNIA
Attn: City Council Members
City Hall Annex
415 East B Street
Ontario, California 91764

RE: HARVEST POWER

Dear City Council Members:

As a third generation agriculturalist with over 50 years of industry experience and a recognized community leader of agriculture, I have established many lasting business relationships while serving as President of P-R Farms, Incorporated, Palomate Packing Company, Incorporated, and ENZO Olive Oil Company. Therefore, I have learned to only do business with companies that are sound and reputable. This is why I consider Harvest Power to be one of our most loyal and trusted suppliers.

More specifically, as an organic and kosher farmer I have entrusted Harvest Power with providing us with only Organic Materials Review Institute (OMRI) and California Department of Food and Agriculture (CDFA) certified inputs over the last several years. For instance, Harvest Power provides us with compost for our organic olive groves and our organic almond orchards. All in all, Harvest Power continually delivers quality products and customer service, always taking great care in meeting all of our needs. It would be in our best interest and others like myself to continue to have the opportunity to do business with Harvest Power in the future.

If you have any questions, please feel free to contact me at the number provided below. In advance, thank you for your time and consideration.

Respectfully,

Mr. Pat V. Ricchiuti, President
P-R FARMS, INC.
PALOMATE PACKING COMPANY, INC.
ENZO OLIVE OIL COMPANY



Peter A. Rietkerk
Rietkerk Farms
2844 Ottawa Ave.
Corcoran, CA 93212

2/17/2016



To Whom It May Concern,

My name is Peter Rietkerk. I am the owner of Rietkerk Farms in Corcoran, CA, located in the heart of the Central Valley. I grow Pistachios, Almonds, Olives, Cotton, Corn, Wheat & Alfalfa.

I have been a Harvest Power customer for five years. During those years Harvest Power has done a fantastic job of taking care of my crop needs with their top quality compost. It is a very consistent product that is OMRI & CDFA certified. I use it on all my field crops.

Besides selling a top quality product, Harvest Power has a professional staff that answers all my questions and concerns if issues arise. I have never had a problem with their customer service and look forward to working with them in the future.

Sincerely,

Peter A. Rietkerk



Naito Farms
6233 Road 30 ½
Madera, CA 93637

To Whom It May Concern:

My farming operation has been a customer of Harvest Power since the opening of its Fresno location over 5 years ago. We have purchased thousands of tons of compost from Jason Sears/Sam Monaco of Harvest Power over the years and always been well satisfied. The compost that is produced is always very consistent and high quality OMRI/CDFA certified. Our operation has significantly cut the use of fossil fuel based synthetic fertilizers by using composts that Harvest Power produces. They have always been very easy to work with in scheduling of deliveries and dealing with any problems that arise.

Michael Naito

Erickson Farms est. 1879
Madera, California



To whom it may concern,

We have been doing business with Harvest Power for numerous years. We have always been happy with their superior product and service. I feel that Harvest Power strives to create a quality product and takes pride in what they produce. I recommend their product to other growers and I would also recommend to you in allowing their business to grow with you in Ontario I believe you will be happy having them as a business who will help your community prosper.

Jason Erickson
Partner- Erickson Farms



Freeman Farms

11312 Road 21 1/2
Madera, California 93637
Bus (559) 674-5142
Fax (559) 674-4407

February 5, 2016

Ontario City Council Member

To Whom it May Concern;

This is to advise that we have been a customer of Harvest Power for quite a few years and we find that we have had excellent service and professionalism. The products produced consistently with products that are OMRI and CDFA certified. Harvest has been attentive to my needs and has resolved and concerns or issues that I may have had.

Sincerely yours;

Loren Freeman
DBA Freeman Farms
11312 Road 21 1/2
Madera, CA 93637



McCarty's Ag Pest Mgt.
1912 West 3rd St
Madera, CA 93637



2/17/2016

To whom it may concern.

I am a crop consultant that has worked for many years with growers in the central San Joaquin valley.

Most of my customers apply composted dairy and green waste to supply part of their nutrient needs. There have been years when the current number of composting facilities have not been able to meet the needs of the growers.

It is important that we have enough facilities to handle the green urban waste and the agricultural dairy and feedlot waste that is generated. Composting of these products provide an environmentally sound means of reusing them. Their benefits include being high in nutrient content, stable slow release thus decreasing the potential for nitrate nitrogen leaching.

The growers I service have been using Harvest Power composted products for a number of years and have been pleased with the consistent quality of their products, which are OMRI and CDFA certified. Any concerns growers have encountered have been promptly addressed by the professional staff of Harvest Power.

Sincerely

Daniel McCarty



15310 ROAD 19 MADERA, CALIFORNIA 93637 OFFICE 559-673-9113 FAX 559-674-1702

February 22, 2016

To Whom It May Concern,

My name is Rick Cosyns, I am a general partner in Cosyns Farms. I have farmed full time in Madera County for the past 36 years.

Since 2001, I have relied on Harvest Power for the 8000 to 10,000 tons of compost we purchase on an annual basis. The compost supplies nutritional needs in our orchards and vineyard operation. Harvest Power produces a consistent, high quality product that is rich in nutrient content and environmentally responsible.

Their compost facilities are structured for safety and quality, while still maintaining a good neighbor environmentally safe philosophy. Because of their long track record Harvest Power compost is in high demand.

I appreciate the opportunity to comment on this project, as I have sat on your side of the table many times reviewing similar projects. I have served on the Madera County Planning Commission (1995 – 2007), the Madera County Farm Bureau President (2003 – 2005), and Madera Irrigation District Director (2008 – Present). I highly recommend and support the new Harvest Power facility. They are a responsible company to deal with.

Sincerely,

Rick Cosyns

Cosyns Farms

(559)232-0227

SCHAFFER RANCH, INC.

25176 Avenue 5 1/2, Madera, California 93637 • Phone (559) 674-9487 Fax (559) 674-9071



February 10, 2016

To: City Council Members
Ontario, CA

From: Stephen Schafer – Owner

Re: Harvest Power California LLC

Dear,

Members of the Ontario City Council. My name is Stephen Schafer and I am a farmer in Madera, Ca. We have been doing business with Harvest Power California for the past 4 years and currently are using in excess of 10,000 tons of their compost per year.

Harvest Power California LLC supplies a product of consistent quality and value. I am impressed with their dependability in terms of delivering on time in a business that is many times at the mercy of the weather. I do not hesitate in the least in endorsing Harvest Power California LLC as a well run and professionally managed business.

Thank You,

A handwritten signature in black ink, appearing to read "Stephen Schafer", written over a horizontal line.

Stephen Schafer
Schafer Ranch, Inc.

GIC Transport



February 19, 2016

City of Ontario Southern CA
Attn: City Council Members
City Hall Annex
415 East B Street
Ontario, CA 91764

Dear City Council Members:

I am writing in support of the application made by Harvest Power CA to open and operate a compost facility in Ontario, CA. As owner of GIC Transport I have a long history of transporting both finished compost and raw greenwaste material for Harvest Power. In all of my experience with Harvest Power they operate clean, efficient and safe composting sites producing high quality finished compost.

I currently operate a hauling site in Ontario, CA and if Harvest Power is granted the permit to open their site in Ontario, I plan to expand my business in the community hiring additional drivers to haul for Harvest Power. We have a mutually beneficial working relationship and I fully support the proposed site.

Please feel free to contact me if you have any additional questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to be "G. Cruz", written over a horizontal line.

Gabriel Cruz

President / Owner



Liberty Elementary School

1771 E. Pacific Ave, Tulare, CA 93274
559.686.1675, 559.686.2879 (FAX)

Superintendent/Principal

Keri Montoya

Business Manager

Terri Shirk

February 23, 2016

To Whom It May Concern:

Please accept this letter as my recommendation of the company, Harvest Power. I have had the opportunity to work with this company this past year with the implementation of our school garden and donations of materials.

Harvest Power has demonstrated an ethical and professional caliber during this time. The company provides on-site tours for our students and is very cognizant of the environment. We have never had any concerns with dust, fires, or odors from this work site. Safety has been regarded as a priority for this company and has been evident at all times.

Harvest Power is a company that Liberty Elementary will continue to work with in the future for our school garden needs.

If you need further information, please feel free to contact me at 559-686-1675.

Sincerely,

A handwritten signature in black ink, appearing to read "Keri Montoya", with a long, sweeping horizontal stroke at the end.

Keri Montoya
Superintendent/Principal
Liberty Elementary



American Ag Inc.

P.O. Box 20237
Bakersfield, CA 93390
661 833-8311

RECEIVED

FEB 25 2016

City of Ontario
Planning Department

February 25, 2016

Re: Harvest Power Operations

To Whom It May Concern:

American Ag, Inc has been a customer of Harvest Power since they commenced operations in California. The level of service and professionalism of management and their employees goes way beyond many of the other composting operation we have business relationships with.

Many of our customers demand a quality and consistent product delivered year after year, Harvest Power has been able to provide the product we need. In today's market customers are required to deliver a safe food to the consumer and in order to do this the inputs to growing a safe product require strict standards. Harvest power has provided a safe and consistent OMRI and CDFA Certified product that our customers can depend on.

There are many operations that produce compost in our area but many are operating on the edge and can't provide a safe product as does Harvest Power. The final product alone isn't what makes a good compost. It is just as important that the sites are operated well beyond the minimum standards to just get by. I see when I visit Harvest Powers composting operations that they do well more than is needed to just comply with the required laws and regulations. They provide a safe working environment and have friendly and competent employees.

I would have to say that Harvest Power produces the best compost that we supply to our customers and would be happy to see them expand their operations. Harvest Power provides a safe and effective means to recycle products and allow for their reuse.

Thank You,

Edward Needham

American Ag, Inc.