CITY OF ONTARIO CITY COUNCIL AND HOUSING AUTHORITY AGENDA **DECEMBER 17, 2013** Paul S. Leon **Chris Hughes** Mayor **City Manager** Jim W. Bowman John E. Brown Mayor pro Tem **City Attorney** Alan D. Wapner Mary E. Wirtes, MMC **Council Member City Clerk Debra Dorst-Porada** James R. Milhiser **Council Member** Treasurer CORPO **Paul Vincent Avila Council Member**

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 Closed Session and Closed Session Comment at 6:00 p.m., 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)

6:00 p.m.

ROLL CALL

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

CLOSED SESSION PUBLIC COMMENT The Closed Session Public Comment portion of the Council/Housing Authority meeting is limited to a maximum of 3 minutes for each speaker and comments will be limited to matters appearing on the Closed Session. Additional opportunities for further Public Comment will be given during and at the end of the meeting.

CLOSED SESSION

• GC 54956.9 (d)(1), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION: City of Ontario vs. City of Los Angeles, Los Angeles World Airports, and Los Angeles Board of Airport Commissioners, RIC 1306498

In attendance: Bowman, Wapner, Dorst-Porada, Avila, Mayor/Chairman Leon

PLEDGE OF ALLEGIANCE

Mayor pro Tem Bowman

INVOCATION

Pastor Hugh Hairiston, Loveland Worship Center

REPORT ON CLOSED SESSION

City Attorney

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.

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 and Housing Authority of November 19, 2013, and approving same as on file in the Records Management Department.

2. BILLS/PAYROLL

Bills November 3, 2013 through November 16, 2013 and **Payroll** November 3, 2013 through November 16, 2013, when audited by the Finance Committee.

3. AMENDMENT TO LOCATION AGREEMENT WITH ULINE, INCORPORATED

That the City Council adopt a resolution approving an amendment to the location agreement (on file in the Records Management Department) with Uline, Incorporated of Pleasant Prairie, Wisconsin and authorize the City Manager to execute said amendment subject to non-substantive changes as necessary.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A FIRST AMENDMENT TO LOCATION AGREEMENT WITH ULINE, INCORPORATED.

4. A RESOLUTION EXTENDING DEVELOPMENT IMPACT FEE DEFERRAL PROGRAMS

That the City Council adopt a resolution to extend the Residential and Non-Residential Development Impact Fee Deferral Programs through December 31, 2014.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, TO EXTEND THE DIF DEFERRAL - ECONOMIC STIMULUS PROGRAMS FOR AN ADDITIONAL ONE YEAR PERIOD ENDING DECEMBER 31, 2014.

5. AN ORDINANCE AMENDING THE ONTARIO DEVELOPMENT CODE, ARTICLE 13 (FILE NO. PDCA13-005) TO CONDITIONALLY PERMIT HOOKAH ESTABLISHMENTS WITHIN THE C2 (CENTRAL BUSINESS DISTRICT COMMERCIAL) AND C3 (COMMERCIAL SERVICE) ZONING DISTRICTS

That the City Council adopt an ordinance approving Development Code Amendment File No. PDCA13-005 to conditionally permit hookah establishments within the C2 and C3 zoning districts.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA13-005, A DEVELOPMENT CODE AMENDMENT REVISING TITLE 9 (DEVELOPMENT CODE), ARTICLE 13, TABLE 13-1 (PERMITTED, CONDITIONAL AND ANCILLARY LAND USES–ALL ZONING DISTRICTS) TO CONDITIONALLY PERMIT HOOKAH ESTABLISHMENTS WITHIN THE C2 (CENTRAL BUSINESS DISTRICT COMMERCIAL) AND C3 (COMMERCIAL SERVICE) ZONING DISTRICTS, AND MAKING FINDINGS IN SUPPORT THEREOF.

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.

6. AN ORDINANCE GRANTING A ONE-YEAR TIME EXTENSION TO APPROVED DEVELOPMENT PLAN, CONDITIONAL USE PERMIT AND VARIANCE APPLICATIONS THAT ARE DUE TO EXPIRE ON OR BEFORE MARCH 1, 2015

That the City Council introduce and waive further reading of an ordinance granting a one-year time extension to approved Development Plan, Conditional Use Permit and Variance applications that are due to expire on or before March 1, 2015.

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, GRANTING A ONE-YEAR TIME EXTENSION TO ANY APPROVED DEVELOPMENT PLAN, CONDITIONAL USE PERMIT OR VARIANCE APPLICATION THAT IS ACTIVE AND DUE TO EXPIRE ON OR BEFORE MARCH 1, 2015, AND MAKING FINDINGS IN SUPPORT THEREOF.

7. A PUBLIC HEARING TO CONSIDER AN ORDINANCE APPROVING AN AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN CV INLAND INVESTMENTS 1, LP, AND THE CITY OF ONTARIO TO UPDATE CERTAIN PROVISIONS OF THE EXISTING DEVELOPMENT AGREEMENT AND TO PROVIDE FOR PHASING OF THE CONSTRUCTION OF PUBLIC INFRASTRUCTURE

That the City Council introduce and waive further reading of an ordinance approving an amendment (File No. PDA13-002) to the Development Agreement between CV Inland Investments 1, LP, and the City of Ontario to update certain provisions of the existing Development Agreement to conform with the Construction Agreement Amendment with NMC Builders, LLC, and to provide for phasing of the construction of public infrastructure.

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 AN AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND CV INLAND INVESTMENTS 1, LP, FILE NO. PDA13-002, TO UPDATE CERTAIN PROVISIONS OF THE **EXISTING** DEVELOPMENT AGREEMENT TO CONFORM WITH THE CONSTRUCTION AGREEMENT AMENDMENT WITH NMC BUILDERS LLC, AND TO PROVIDE FOR PHASING OF THE CONSTRUCTION OF PUBLIC INFRASTRUCTURE AS PROVIDED IN TRACT MAP NOS. 18476 AND 18477, AND MAKING FINDINGS IN SUPPORT THEREOF . (APN: 0218-151-19 AND 23).

8. A PUBLIC HEARING TO CONSIDER AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN JS BRAY, LLC, JA BRAY, LLC, AND THE CITY OF ONTARIO TO PROVIDE FOR THE CONSTRUCTION OF UP TO 52 RESIDENTIAL UNITS AND REQUIRED INFRASTRUCTURE ON 9.43 ACRES OF LAND WITHIN THE COUNTRYSIDE SPECIFIC PLAN, LOCATED ON THE NORTH SIDE OF CHINO AVENUE, WEST OF ARCHIBALD AVENUE

That the City Council adopt a resolution approving an addendum to the Countryside Specific Plan and introduce and waive further reading of an ordinance approving the Development Agreement (File No. PDA13-004) between JS Bray, LLC, JA Bray, LLC, of Newport Beach, CA and the City of Ontario to provide for the construction of up to 52 residential units on 9.43 acres of land within the Countryside Specific Plan, located on the north side of Chino Avenue, west of Archibald Avenue (APNs: 0218-111-54 and 55).

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.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING AN ADDENDUM TO THE COUNTRYSIDE SPECIFIC PLAN ENVIRONMENTAL IMPACT REPORT (SCH#2004071001) ADOPTED FOR FILE NO. PSP04-001, PREPARED FOR FILE NO. PDA13-004, FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND MAKING FINDINGS IN SUPPORT THEREOF (APN: 0218-111-54 AND 55).

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND JS BRAY, LLC, AND JA BRAY, LLC., FILE NO. PDA13-004, TO PROVIDE FOR THE CONSTRUCTION OF UP TO 52 RESIDENTIAL UNITS ON 9.43 ACRES WITHIN THE COUNTRYSIDE SPECIFIC PLAN, LOCATED ON THE NORTH SIDE OF CHINO AVENUE, WEST OF ARCHIBALD AVENUE (APNS: 0218-111-54 AND 55).

9. A PUBLIC HEARING TO CONSIDER: [1] A RESOLUTION APPROVING A GENERAL PLAN AMENDMENT REVISING EXHIBIT LU-03 (FUTURE BUILDOUT) AND THE LAND USE PLAN CONTAINED WITHIN THE POLICY PLAN COMPONENT OF THE ONTARIO PLAN AND [2] A RESOLUTION APPROVING A SPECIFIC PLAN AMENDMENT REVISING THE BORBA VILLAGE SPECIFIC PLAN

That the City Council adopt a resolution approving an addendum to the previous Mitigated Negative Declaration adopted by the Ontario City Council on February 10, 2004 in conjunction with File No. PGPA03-002; a resolution approving a General Plan Amendment (File No. PGPA13-002) revising Exhibit LU-03 (Future Buildout) and the Land Use Plan contained within the Policy Plan component of The Ontario Plan; and a resolution approving a Specific Plan Amendment revising the Borba Village Specific Plan changing the land use designation on 14.6 (net) acres of land located at the northeast corner of Riverside Drive and Fern Avenue from medium density residential (11.1-25.0 dwelling units per acre) to low-medium density residential (5.1-11.0 dwelling units per acre); amending the allowed land uses and establishing development standards to accommodate the development of small lot, single-family dwellings on the project site, not to exceed 130 dwelling units.

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.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING AN ADDENDUM TO THE MITIGATED NEGATIVE DECLARATION ADOPTED FOR FILE NOS. PGPA03-002, PZC03-004, PSP03-001 & TT16514, PREPARED FOR FILE NOS. PGPA13-002, PSPA13-001, PMTT13-009 (TT18911) AND PDEV13-017, FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND MAKING FINDINGS IN SUPPORT THEREOF (APN: 1051-511-17).

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PGPA13-002, A GENERAL PLAN AMENDMENT REVISING THE LAND USE ELEMENT OF THE POLICY PLAN, INCLUDING CHANGES TO EXHIBIT LU-01 (LAND USE PLAN) AND EXHIBIT LU-03 (FUTURE BUILDOUT) TO REFLECT A LAND USE CHANGE ON 14.6 ACRES OF LAND LOCATED AT THE NORTHEAST CORNER OF FERN AVENUE AND RIVERSIDE DRIVE, FROM MEDIUM DENSITY RESIDENTIAL (11.1-25.0 DWELLING UNITS PER ACRE) TO LOW-MEDIUM DENSITY RESIDENTIAL (5.1-11.0 DWELLING UNITS PER ACRE), AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 1051-511-17.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PSPA13-001, A SPECIFIC PLAN AMENDMENT REVISING THE BORBA VILLAGE SPECIFIC PLAN TO ACCOMMODATE THE DEVELOPMENT OF SMALL LOT SINGLE-FAMILY DWELLINGS, NOT TO EXCEED 130 DWELLINGS, ON 14.6 ACRES OF LAND LOCATED AT THE NORTHEAST CORNER OF FERN AVENUE AND RIVERSIDE DRIVE, AND MAKING FINDINGS IN SUPPORT THEREOF - APN: 1051-511-17.

10. A PUBLIC HEARING TO CONSIDER A REQUEST TO CHANGE THE ZONING DESIGNATION OF A 5.4-ACRE PARCEL FROM R2 TO R3, LOCATED AT THE SOUTHWEST CORNER OF PHILADELPHIA STREET AND CUCAMONGA AVENUE

That the City Council approve a resolution adopting a Mitigated Negative Declaration; and introduce and waive further reading of an ordinance approving the Zone Change (File No. PZC13-001) from R2, Medium Density Residential (11.1-16 dus/acre) to R3, High Density Residential (16.1-25 dus/acre), for property located at 1056 East Philadelphia Street (APN: 1051-141-03).

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.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING A MITIGATED NEGATIVE DECLARATION, FOR WHICH AN INITIAL STUDY WAS PREPARED IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND ADOPTING A RELATED MITIGATION MONITORING AND REPORTING PROGRAM FOR FILE NOS., PZC13-001, PRD13-001, PDEV13-014 AND PMTT13-008 (TM 18909), AND MAKING FINDINGS IN SUPPORT THEREOF - APN: 1051-141-03.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PZC13-001, A REQUEST TO CHANGE THE ZONING DESIGNATION OF A 5.4-ACRE PARCEL FROM R2, MEDIUM DENSITY RESIDENTIAL (11.1 TO 16.0 DU/AC), TO R3. HIGH DENSITY RESIDENTIAL (16.1 TO 25.0 DU/AC), LOCATED AT THE SOUTHWEST CORNER OF PHILADELPHIA STREET AND CUCAMONGA AVENUE, AT 1056 EAST PHILADELPHIA AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 1051-141-03.

11. A PUBLIC HEARING TO CONSIDER A REQUEST TO CHANGE THE ZONING DESIGNATION OF A 0.57-ACRE PARCEL FROM AR TO R2, LOCATED NEAR THE NORTHEAST CORNER OF PALMETTO AVENUE AND PHILLIPS STREET

That the City Council introduce and waive further reading of an ordinance approving the Zone Change (File No. PZC13-003) from AR, Agriculture Residential (0-2.0 dus/acre) to R2, Medium Density Residential (11.1-16 dus/acre) for property located at 1229 South Palmetto Avenue (APN: 1011-551-01).

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. PZC13-003, A REQUEST TO CHANGE THE ZONING DESIGNATION OF A 0.57-ACRE PARCEL FROM AR, AGRICULTURE RESIDENTIAL (0 TO 2.0 DU/AC) TO MEDIUM DENSITY RESIDENTIAL, R2 (11.1 TO 16.0 DU/AC), LOCATED NEAR THE NORTHEAST CORNER OF PALMETTO AVENUE AND PHILLIPS STREET, AT 1229 SOUTH PALMETTO AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 1011-551-01.

COUNCIL MATTERS

Mayor Leon Mayor pro Tem Bowman Council Member Wapner Council Member Dorst-Porada Council Member Avila

STAFF MATTERS

City Manager Hughes

ADJOURNMENT

CITY OF ONTARIO CLOSED SESSION REPORT City Council / / Housing Authority / /

Other / / Housing Authority / / Other / / (GC 54957.1) December 17, 2013

ROLL CALL: Bowman __, Wapner __, Dorst-Porada __, Avila __ Mayor / Chairman Leon __.

STAFF: City Manager / Executive Director ___, City Attorney ____

In attendance: Bowman _, Wapner _, Dorst-Porada _, Avila _, Mayor / Chairman Leon _

• GC 54956.9 (d)(1), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION: *City of Ontario vs. City of Los Angeles, Los Angeles World Airports, and Los Angeles Board of Airport Commissioners, RIC 1306498*

	No Reportable Action	Continue	Approved
	/ /	/ /	/ /
Disposition:			

Reported by:

City Attorney / City Manager / Executive Director

CITY OF ONTARIO

Agenda Report December 17, 2013

SECTION: CONSENT CALENDAR

SUBJECT: AMENDMENT TO LOCATION AGREEMENT WITH ULINE, INCORPORATED

RECOMMENDATION: That the City Council adopt a resolution approving an amendment to the location agreement (on file in the Records Management Department) with Uline, Incorporated of Pleasant Prairie, Wisconsin and authorize the City Manager to execute said amendment subject to non-substantive changes as necessary.

COUNCIL GOALS: <u>Develop Strategies and Take Actions, Including Regaining Local Control of</u> <u>the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial</u> <u>Downturn on Ontario's Economy and the City's Fiscal Health</u> <u>Invest in the Growth and Evolution of the City's Economy</u>

FISCAL IMPACT: Payments to Uline will continue to be 50% of the local sales tax revenue received by the City. The agreement term is being extended to coincide with Uline's current and future leases and/or occupancy of properties within the City.

BACKGROUND: The City of Ontario and Uline, entered into a Location Agreement on July 17, 2007. Under the terms of this agreement, Uline agreed to operate a facility within Ontario for its retail shipping and packaging products distribution business for a period of 10 years. In consideration of these terms, the City agreed to provide payments to Uline equal to fifty percent (50%) of the business local sales tax revenue generated during the term of the agreement.

Uline's location in the City has resulted in substantial benefits, including the creation of new jobs, business attraction, and investment.

Due to the substantial benefits that Uline provides to the City, staff recommends extending the term of the agreement for a period equal to Uline's lease of property within the City, plus any option periods.

STAFF MEMBER PRESENTING: John Andrews, Economic Development Director

Prepared by: Department:	John Andrews Economic Development	Submitted to Cou Approved:	uncil/O.H.A.	12/17/2013
City Manager Approval:	Che f	Continued to: Denied:		3

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A FIRST AMENDMENT TO LOCATION AGREEMENT WITH ULINE, INCORPORATED.

WHEREAS, City of Ontario ("City") and Uline, Incorporated ("Uline") entered into that certain Location Agreement (Uline, Incorporated), dated July 17, 2007 (the "Agreement"), pursuant to which Uline agreed to operate a facility within the City for the purpose of conducting its retail shipping and packaging products distribution business ("Business") for a period of ten years ("Term") and, in consideration for such agreements, City agreed to provide payments to Uline equal to fifty percent (50%) of the local sales tax revenue received by the City for the Business during the Term; and

WHEREAS, the conduct of the Business in the City has resulted in substantial benefits to the City, including the creation of new job opportunities for City and area residents as well as assisting the City to foster a business and civic environment that may attract additional businesses and investment and create additional job opportunities in the City and increase the jobs/housing balance in the City; and

WHEREAS, Uline's existing lease agreement for the Property expires in 2017, but grants Uline the option to extend the term of the lease agreement for two five-year periods; and

WHEREAS, due to the substantial benefits that the Business provides to the City, City and Uline desire to extend the Term of the Agreement for a period equal to Uline's lease of property within the City, plus any options to extend, to ensure that Uline will continue to maintain the Business in the City and, to that purpose, have negotiated the terms of a First Amendment to Location Agreement (Uline, Incorporated) ("Amendment"), a copy of which is attached to this Resolution as <u>Exhibit A</u>; and

WHEREAS, the Amendment to extend the Term of the Agreement will provide significant public benefit by ensuring that Uline will remain in the City, will continue to provide a significant source of revenue to the City, and will continue to foster an environment that may attract additional businesses and investment in the community due to the availability of the increased services and economic activity which Uline has brought to the City; and

WHEREAS, Uline's commitment to the City through the execution of the Amendment further provides the City with certainty regarding this source of continued revenue at a time when many sources of municipal revenue are diminishing or being eliminated, which provides additional public benefit; and

WHEREAS, City staff has determined that the City's approval of the Amendment is exempt from the California Environmental Quality Act ("CEQA"), pursuant to CEQA Guidelines Section 15378, because the Amendment is a government fiscal activity not involving any commitment to a specific project which may result in a potentially significant physical impact on the environment. NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

<u>SECTION 1.</u> <u>Recitals</u>. The above recitals are true and correct, and are incorporated into this Resolution by reference as though fully set forth herein.

<u>SECTION 2.</u> <u>Approval of Amendment</u>. The City Council hereby approves the Amendment substantially in the form attached to this Resolution as <u>Exhibit A</u>. The City Council hereby authorizes the City Manager, with the concurrence of the City Attorney, to execute and deliver on behalf of the City the Amendment and such other documents and instruments as may be necessary or convenient in furtherance of the actions authorized in this Resolution.

<u>SECTION 3.</u> <u>Authorization</u>. The City Council hereby authorizes and directs City staff to do all that is necessary to effectuate the intent of the Amendment and this Resolution.

<u>SECTION 4.</u> <u>CEQA Compliance</u>. The City Council hereby authorizes and directs City staff to file a Notice of Exemption under CEQA with the Clerk of San Bernardino County within five (5) calendar days following approval of this Resolution.

<u>SECTION 5.</u> <u>Effective Date</u>. This Resolution shall become effective immediately upon its adoption.

<u>SECTION 6.</u> <u>Certification</u>. The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 17th 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 STATE OF CALIFORNIA)COUNTY OF SAN BERNARDINO)CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2013- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 17, 2013 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2013- duly passed and adopted by the Ontario City Council at their regular meeting held December 17, 2013.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

EXHIBIT A FIRST AMENDMENT TO LOCATION AGREEMENT (Uline, Incorporated)

[Attached behind this cover page]

FIRST AMENDMENT TO LOCATION AGREEMENT (Uline, Incorporated)

THIS FIRST AMENDMENT TO LOCATION AGREEMENT (Uline, Incorporated) ("First Amendment") is executed and effective as of this ______ day of ______, 2013, by and between the CITY OF ONTARIO, a California municipal corporation and general law city ("City") and ULINE, INCORPORATED, a Delaware corporation ("Uline"). City and Uline previously entered into that certain "Location Agreement (Uline, Incorporated)" dated July 17, 2007 (the "Agreement"). All defined terms not otherwise defined in this Amendment will have the same meaning as set forth in the Agreement.

1. <u>Recitals</u>

(a) City and Uline entered into the Agreement pursuant to which Uline agreed to operate a facility within the City of Ontario for the purpose of conducting its retail shipping and packaging products distribution business ("Business") for a period of ten years ("Term") and, in consideration for such agreements, City agreed to provide payments to Uline equal to fifty percent (50%) of the local sales tax revenue received by the City for the Business during the Term.

(b) The conduct of the Business in the City has resulted in substantial benefits to the City, including the creation of new job opportunities for City and area residents as well as assisting the City to foster a business and civic environment that may attract additional businesses and investment and create additional job opportunities in the City and increase the jobs/housing balance in the City.

(c) Uline's existing lease agreement for the Property expires in 2017, but grants Uline the option to extend the term of the lease agreement for two five-year periods. Due to the substantial benefits that the Business provides to the City, City and Uline desire to extend the Term of the Agreement for a period equal to Uline's lease of property within the City, plus any options to extend, to ensure that Uline will continue to maintain the Business in the City. This Amendment to extend the Term of the Agreement will provide significant public benefit by ensuring that Uline will remain in the City, will continue provide a significant source of revenue to the City, and will continue to foster an environment that may attract additional businesses and investment in the community due to the Agree of continued revenue at a time when many sources of municipal revenue are diminishing or being eliminated, which provides additional public benefit.

(d) City and Uline therefore desire to amend the Agreement as set forth in this Amendment.

2. <u>Amendment</u>.

follows[.]

"Eligibility Period" means and refers to the time period commencing on the first calendar day of Business Operating Quarter 1 and ending: (a) on the last day of Business Operating Quarter 40 if Uline terminates the Lease Agreement; or (b) if Uline extends, amends, renews or enters into a new Lease Agreement, on the last day of Business Operating Quarter 60. Notwithstanding the foregoing, in the event that the Lease Agreement is amended, renewed, extended or a new Lease Agreement is entered into for a term that exceeds Business Operating Quarter 60, the City Manager, on behalf of the City and in his or her sole discretion, may extend the Eligibility Period for a period of time that is less than or equal to the term of the Lease Agreement.

(b) Section 3.27 is hereby added to the Agreement to read as follows:

"Business Operating Year" means and refers, individually, to each twelve month period during the Eligibility Period, with the first Business Operating Year commencing on the Business Opening Date and each subsequent Business Operating Year commencing on the anniversary of the Business Opening Date.

(c) Section 3.28 is hereby added to the Agreement to read as follows:

"Lease Agreement" means and refers to the existing lease agreement entered into by Uline for the leasehold interest of the Property; provided, however, that if Uline terminates the existing lease agreement and enters into another lease agreement for property located within the jurisdictional boundaries of the City, then, upon a finding by the City Manager, on behalf of the City, that the new lease agreement does not impact the City or this Agreement in any way, the City Manager, in his or her sole discretion, may approve the continuation of this Agreement pursuant to the new lease agreement and the new lease agreement shall be deemed to be the "Lease Agreement," as such term is used in this Agreement.

3. <u>Agreement Unchanged</u>. Except as modified by this Amendment, the Agreement is unchanged and is in full force and effect between the Parties.

4. <u>Counterparts</u>. This Amendment may be executed in counterparts and when so executed by both Parties, each such counterpart will constitute an original document.

[Signatures on following page]

SIGNATURE PAGE TO FIRST AMENDMENT TO LOCATION AGREEMENT (Uline, Incorporated)

CITY:

CITY OF ONTARIO, a California municipal corporation and general law city

Dated: _____, 2013

By:

Chris Hughes City Manager

Attest:

By:

City Clerk

Approved as to legal form: Best Best & Krieger LLP

By:

City Attorney

ULINE:

ULINE, INCORPORATED, a Delaware corporation

By:	
Its:	
By:	
Its:	
	Ву:

CITY OF ONTARIO

Agenda Report December 17, 2013

SECTION: CONSENT CALENDAR

SUBJECT: A RESOLUTION EXTENDING DEVELOPMENT IMPACT FEE DEFERRAL PROGRAMS

RECOMMENDATION: That the City Council adopt a resolution to extend the Residential and Non-Residential Development Impact Fee Deferral Programs through December 31, 2014.

COUNCIL GOALS: <u>Develop Strategies and Take Actions, Including Regaining Local Control of</u> <u>the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial</u> <u>Downturn in Ontario's Economy and the City's Fiscal Health</u> <u>Invest in the Growth and Evolution of the City's Economy</u> <u>Operate in a Businesslike Manner</u> <u>Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)</u>

FISCAL IMPACT: The extension of the Development Impact Fees (DIF) deferral programs will continue the deferral of the payment of most DIF from the time of building permit issuance to the time of final inspection for residential and non-residential projects that enter into a DIF Deferral Agreement with the City. This will impact the potential earnings the City would have received during the period of fee deferral (up to one year). The loss of earnings does not impact General Fund revenues as interest earnings on Development Impact fees must be segregated from other City revenues and remain in the Development Impact Fee program accounts.

BACKGROUND: On May 6, 2008, the City Council approved a temporary DIF Deferral Program for residential development. The initial period for the program was 8 months through December 31, 2008. The DIF Deferral Program for residential development was extended in August 2008 for an additional 12 months through December 31, 2009. In May 2009, the DIF Deferral Program was expanded to include non-residential development and both of the DIF Deferral Programs were extended through December 31, 2010. Towards the end of each of the next 3 calendar years (2010, 2011 and 2012), both programs were extended through the end of the following calendar year, with the most recent extensions

STAFF MEMBER PRESENTING: Otto Kroutil, Development Director

	Bob Chandler Management Services	Submitted to Council/O.H.A. Approved:	12/17/2013
City Manager Approval:	h h	Continued to: Denied:	
			4

having been authorized in December 2012, when both residential and non-residential programs were extended through December 31, 2013.

The DIF Deferral Programs for residential and non-residential development allow developers to enter into an agreement with the City to defer the payment of most DIF from the time of building permit issuance until final inspection. If the DIF Deferral Programs are not extended by Council action, they will end effective December 31, 2013. The proposed resolution extends the DIF Deferral Programs for both residential and non-residential developers for an additional one-year period under the terms and conditions previously established by the City Council.

Staff has notified the Building Industry Association (BIA) of the proposed extension of the DIF Deferral Programs. The resolution extending the DIF Deferral Programs is proposed to be effective upon adoption.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, TO EXTEND THE DIF DEFERRAL – ECONOMIC STIMULUS PROGRAMS FOR AN ADDITIONAL ONE YEAR PERIOD ENDING DECEMBER 31, 2014.

WHEREAS, the nation is continuing to experience an economic downturn that has seriously impacted the construction industry; and

WHEREAS, the Southern California region, including the City of Ontario, has been particularly impacted by the significant reductions in the number of new home purchases and this has consequently curtailed residential construction; and

WHEREAS, the Southern California region, including the City of Ontario, has also been impacted by the significant reduction in commercial and industrial development; and

WHEREAS, one of the costs of development is the development impact fee obligation that is imposed on new development; and

WHEREAS, the City Council recognizes the importance of encouraging continuing investment in the City's residential, commercial and industrial development, including development in the New Model Colony, and the City's role in providing relief, when needed during such economic downturns; and

WHEREAS, at the same time, the City Council recognizes the importance of providing for needed infrastructure that is made necessary by new development; and

WHEREAS, weighing the needs of private development and the needs of public infrastructure, the City Council determines that deferring the timing of development impact fee payments to the time of request for final inspection adequately accomplishes the needs of obtaining funding for needed public infrastructure, while at the same time alleviating the burden imposed on development of having to pay those development impact fees at the building permit stage; and

WHEREAS, the City Council desires to extend the temporary period for the DIF Deferral Programs for an additional twelve months, beginning January 1, 2014 and ending December 31, 2014, during which time the City will provide an option for a developer of a qualifying project to temporarily defer the payment of certain Development Impact Fees.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ONTARIO:

<u>SECTION 1</u>. The temporary period during which a developer of multiple residential units may elect to temporarily defer the payment of Development Impact Fees for all fee categories (except the Species, Habitat Conservation and Open Space Mitigation fee) on a phase of construction of residential units is hereby extended for an additional twelve (12) months ending December 31, 2014.

<u>SECTION 2</u>. The temporary period during which a developer of a qualifying project may elect to temporarily defer the payment of Development Impact Fees for all fee categories (except the Species, Habitat Conservation and Open Space Mitigation fee) on a non-residential development project is hereby extended for an additional twelve (12) months ending December 31, 2014.

<u>SECTION 3.</u> All other requirements of the DIF Deferral Programs for residential and non-residential development shall remain unchanged, including the requirement that the developer shall enter into a standardized agreement with the City acknowledging that Development Impact Fees that are otherwise due and payable upon the issuance of a building permit are being deferred until the developer requests a final inspection of the first completed unit of the phase of development, or until twelve months have elapsed since the issuance of the first building permit, whichever comes first. Such agreements may require the developer to provide security in the amount of the deferred fees. The City Manager shall be authorized to execute such standardized agreement, without further action of the City Council. Such agreement shall provide that the developer agrees to indemnify, defend and hold harmless the City and its officials, officers, agents, and employees for any claims, causes of action or damages/costs arising from the City's temporary deferral of said fees.

<u>SECTION 4.</u> This extension of the Development Impact Fee deferral option shall be available to qualified developers that obtain building permits prior to December 31, 2014 only. Thereafter, the fee deferral option shall no longer be available, unless the period is further extended by action of the City Council.

<u>SECTION 5.</u> A processing and administration fee continues to be authorized to be collected at the time a deferral agreement is executed. This fee will be based upon the City's estimated costs to process and administer the individual agreements between the City and the participating developer, and the costs of tracking and eventual collection of the deferred fees.

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

PASSED, APPROVED, AND ADOPTED this 17th day of December 2013.

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP CITY ATTORNEY STATE OF CALIFORNIA)COUNTY OF SAN BERNARDINO)CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2013- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 17, 2013 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2013- duly passed and adopted by the Ontario City Council at their regular meeting held December 17, 2013.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report December 17, 2013

SECTION: CONSENT CALENDAR

SUBJECT: AN ORDINANCE AMENDING THE ONTARIO DEVELOPMENT CODE, ARTICLE 13 (FILE NO. PDCA13-005) TO CONDITIONALLY PERMIT HOOKAH ESTABLISHMENTS WITHIN THE C2 (CENTRAL BUSINESS DISTRICT COMMERCIAL) AND C3 (COMMERCIAL SERVICE) ZONING DISTRICTS

RECOMMENDATION: That the City Council adopt an ordinance approving Development Code Amendment File No. PDCA13-005 to conditionally permit hookah establishments within the C2 and C3 zoning districts.

COUNCIL GOALS: <u>Develop Strategies and Take Actions, Including Regaining Local Control of</u> the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health <u>Invest in the Growth and Evolution of the City's Economy</u> <u>Operate in a Businesslike Manner</u> Focus Resources in Ontario's Commercial and Residential Neighborhoods

FISCAL IMPACT: None.

BACKGROUND: On December 3, 2013, the City Council introduced the ordinance to approve a Development Code Amendment to conditionally permit hookah establishments within the C2 and C3 zoning districts. In 2007, as a result of issues with an existing hookah lounge in the City, the Ontario Development Code was amended to prohibit hookah establishments within the City. Since adoption of the Code Amendment, hookah has become more of a mainstream business in Southern California. Within the past year, the City has received several inquiries from individuals wishing to establish a hookah lounge in the City. During meetings with the representatives, staff was provided information on hookah establishments in other cities. The representatives indicated that many of the cities allow hookah establishments but differed on the process for approving them. Staff took the information provided and

STAFF MEMBER PRESENTING: Scott Murphy, Assistant Planning Director

	Luis E. Batres	Submitted to Council/O.H.A. Approved:	12/17/2013
City Manager Approval:	Cliff	Continued to: Denied:	5

contacted several cities to gain a better understanding of the conditions under which hookah establishments were allowed.

The cities contacted included Anaheim, Riverside, San Bernardino, Corona, Upland, Pomona, Chino, and Rancho Cucamonga and the counties of San Bernardino and Riverside. Of the ten agencies contacted, only the County of Riverside prohibited the use like Ontario. Three agencies allowed hookah by right and six required the hookah business to file a Conditional Use Permit (CUP).

As a result of the study findings, City staff from Police, Fire, Planning, Code Enforcement and the City Attorney's office met and determined that hookah could be adequately controlled in certain areas of the City by using a combination of requiring a CUP and the establishment of strict operating criteria. The criteria includes the following:

- The use can be a stand alone use (lounge).
- The use can be part of a sit-down restaurant with an outside open patio area for outside smoking or as part of an ABC licensed bona-fide eating establishment.
- Hookah cannot be associated with live entertainment.
- Hookah cannot be part of a stand alone bar or nightclub that serves alcoholic beverages.
- The establishment must be in compliance with state laws and regulations pertaining to a smoking facility (limitation on numbers of paid staff, must meet CAL-OSHA requirements for air filtration and circulation and meet fire standards for smoking lounges).
- The establishment must dispose of ash and coals in accordance with fire department requirements.

On November 18, 2013, the Planning Commission considered an application to amend the Development Code to conditionally permit hookah establishments within the C2 (Central Business District Commercial) and C3 (Commercial Service) zoning districts and establish operational criteria for such a use. In considering the request, the Commission found that each establishment could be adequately regulated with the CUP and operating conditions. They indicated that with the Conditional Use Permit (CUP), the City will be able to impose conditions of approval; such as regulating business hours, requiring proper ventilation and imposing security requirements. They also indicated that since the approval of a CUP would be discretionary, the City will still have the ability to deny an establishment for cause if the location is not appropriate or complimentary to other existing land uses. The Planning Commission voted to recommend City Council approval of PDCA13-005

ENVIRONMENTAL REVIEW: Pursuant to the California Environmental Quality Act (CEQA), the proposed Development Code amendment is exempt from CEQA (codified as Public Resources Code Sections 21000 et seq.) ("CEQA") and the State CEQA Guidelines, pursuant to CEQA Guidelines Section 15061(b)(3), which states that the activity is covered by 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.



SUBJECT: A request to amend the Development Code (File No. PDCA13-005) to conditionally permit hookah establishments within the C2 (Central Business District Commercial) and C3 (Commercial Service) land use designations. **City Initiated.**

RECOMMENDED ACTION: That the Planning Commission recommend City Council approval of File No. PDCA13-005 regarding the conditional permitting of Hookah establishments in certain zones of the City and under certain standards, pursuant to the facts and reasons contained in the staff report and attached resolution.

Hookah Defined

Hookah, also known as a water pipe or shisha (which refers specifically to Egyptian hookahs), is a single or multi-stemmed instrument for vaporizing and smoking flavored tobacco. The vapor or smoke is passed through a water basin (often glass-based) before inhalation. Depending on the placement of the coal above the shisha, a hookah can be used to produce smoke by burning the shisha or used to create water vapor by melting it at a lower temperature. Hookah is believed to be originated in India. In the Middle East and Arab world, people smoke water pipes as part of their culture. Hookah cafes are widespread and, in many cases, are a social gathering place. The photos below illustrate some of the typical hookah pipes used:







PROJECT ANALYSIS:

In April 2007, the City approved a business license application for a retail cigar shop. However, the business owner decided to open a hookah lounge known as the Velvet Room. Following the opening of the Velvet Room, the City began receiving complaints from the surrounding business community. Complaints included individuals loitering

Case Planner: Luis E. Batres	Hearing Body	Date	Decision	Action
Planning Director	DAB			
Approval: 1 2 Low Low	ZA			1/2-
Submittal Date: N/A	PC	11/18/2013	APPRONED	Recommend
Hearing Deadline: N/A	CC	12/3/2013		Final

outside the parking lot, the business operating as a night club, car racing, and hookah smoke penetrating into the adjacent tenant spaces. At the time, the City did not prohibit hookah establishments and, as a result, many of the complaints could not be addressed. Following the Velvet Lounge's establishment, the City amended the Development Code to prohibit hookah establishments within the City.

Since adoption of the Code Amendment, hookah has become more mainstream and staff has learned more about hookah and hookah establishments. Staff, including the Police Department, now believes that hookah establishments can be adequately regulated with the discretionary approval of a Conditional Use Permit (CUP). With the CUP, the City can impose conditions of approval on hookah establishments such as regulating business hours, requiring proper ventilation and imposing security requirements. Since approval would be discretionary in nature, the City will have the ability to deny the CUP if the location is not appropriate or not complimentary to other existing land uses.

Within this past year, the City has received several inquiries from individuals wishing to establish a hookah lounge in the City. As noted above, the current code prohibits them. During meetings with the representatives, staff was provided information on hookah establishments in other cities. The representatives indicated that many of the cities allow hookah establishments but differed on the process for approving them. Staff took the information provided and contacted the cities to gain a better understanding of the conditions under which hookah establishments were allowed. The following table summarizes the process required by other agencies and any requirements for the use:

Agency	Regulations	CUP Required
City of Anaheim	Regulated as a smoking lounge.	CUP
	Allowed within commercial zones with a CUP.	
City of Riverside	Has no code regulating them. Allowed as retail use.	No
	Not allowed within the University Avenue Specific Plan Area because it does not allow tobacco shops.	Prohibited
	CUP only required if Hookah use is in conjunction with a bar/night club.	CUP
County of Riverside	County prohibits hookah lounges.	Prohibited
City of San	No regulations. Allowed as general retail	No
Bernardino	use.	
County of San Bernardino	Similar to a café. They either require a Minor Use Permit or Major Use Permit. (Use permit similar to our CUP)	Minor/Major CUP

Agency	Regulations	CUP Required
	Public notice of use will determine if it's a minor or major use permit.	
	Goes to Zoning Administrator	
City of Corona	Allowed in all commercial areas with Minor CUP. Hookah not allowed with alcohol sales or live entertainment.	Minor CUP
City of Upland	Only allowed as ancillary use with a restaurant. Smoking must be outside in an open patio.	No
City of Pomona	Allowed anywhere where cigarette/cigar shops are allowed with a CUP. They want to push them to their Downtown Area only. Have no standards.	CUP
н	Cigarette/cigar shops are defined as establishments that 20% of their gross receipts are cigarette related items.	

Of the eight (8) different agencies contacted, four agencies permit hookah establishments subject to a Conditional Use Permit (CUP), three permit the use outright (no special permit required), and one prohibits hookah establishments. Of those cities that require a CUP, the terminology varies (minor CUP or major CUP) but the review process is similar to our current CUP review process.

CUP Requirement

The intent of a CUP application and its review is to ensure that the proposed use will be operated in a manner consistent with all local regulations. In addition, it is to ensure that the use will not be detrimental to the public health, safety, or welfare, or materially injurious to uses, properties or improvements in the vicinity. The City of Ontario's Development Code describes a Conditional Use Permit as the following: "§ Sec. 9-1.0900: *Purposes and Authorization* – Conditional Use Permits are required for land use classifications typically having unusual site development features or operating characteristics requiring special consideration so that they may be designed, located, and operated compatibly with uses on adjoining properties and in the surrounding area." Approval of a CUP requires making certain findings, which show that the proposed use is consistent with all the City of Ontario development codes, land uses, and other applicable requirements. Additionally, the use must be compatible with the other surrounding uses; therefore, approving a CUP is discretionary in nature.

Based on a review of the information presented, discussions with the the hookah establishment representatives, consultation with City staff (Police, Code Enforcement, and Fire Departments), and in an effort to be consistent with the principles, goals and policies of The Ontario Plan (TOP) which encourage land use flexibility while still

achieving our vision and the creation of a complete community, staff recommends a Development Code Amendment that will conditionally permit hookah establishments subject to a CUP, in the C2 (Central Business District) and C3 (Commercial Service District) zones of the City. Further, staff recommends the following restrictions on hookah establishments in order to protect the health, safety and welfare of the community:

- Use can be a standalone use (lounge); and
- Use can be part of a sit-down restaurant or ABC licensed bona-fide eating establishment with an outside open patio area for smoking; and
- Hookah cannot be associated with live entertainment; and
- · Hookah cannot be part of a bar or nightclub; and
- Establishment must comply with state laws and regulations pertaining to a smoking facility (limitation on numbers of paid staff, must meet CAL-OSHA requirements for air filtration and circulation and meet fire standards for smoking lounges); and
- Disposal of ash and coals shall be in accordance with Fire Department requirements.

<u>COMPLIANCE WITH THE ONTARIO PLAN</u>: The proposed project is consistent with the principles, goals and policies contained within each of The Ontario Plan (TOP) components. The goals and policies of The Ontario Plan that are furthered by this project are as follows:

<u>Vision</u>

- A reputation for being good for business to work with while still satisfying broader community interests.
- A community that is widely recognized as a creative and effective partner and a leader within the Southern California region and the Inland Empire.

Policy Plan

Land Use

- LU3 Staff, regulations and processes that support and allow flexible response to conditions and circumstances in order to achieve the Vision.
- LU3-3 <u>Land Use Flexibility.</u> We consider uses not typically permitted within a land use category if doing so improves livability, reduces vehicular trips, creates community gathering places and activity nodes, and helps create identity.
- LU1-6 <u>Complete Community.</u> We incorporate a variety of land uses and building types in our land use planning efforts that result in a complete community where residents at all stages of life, employers, workers and visitors have a

wide spectrum of choices of where they can live, work, shop and recreate within Ontario.

- LU2-1 <u>Land Use Decisions.</u> We minimize adverse impacts on adjacent properties when considering land use and zoning requests.
- LU2-4 <u>Regulation of Nuisances</u>. We regulate the location, concentration and operations of uses that have impacts on surrounding land uses.

Community Economics

- CE1 A complete community that provides for all incomes and stages of life.
- CE1-4 <u>Business Retention and Expansion</u>. We continuously improve two-way communication with the Ontario business community and emphasize customer service to existing businesses as part of our competitive advantage.
- CE1.7 <u>Retail Goods and Services.</u> We seek to ensure a mix of retail businesses that provide the full continuum of goods and services for the community.

Safety Element

Provides policies that minimize potential dangers to residents, businesses, workers and visitors.

Reduction in the loss of life, injury, private property damage, infrastructure damage, economic losses and social dislocation can be achieved through planning and preparedness.

City Council Priorities

Primary:

Develop Strategies and Take Actions, including Regaining Local Control of the Ontario International Airport, to minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health

Secondary:

Invest in the Growth and Evolution of the City's Economy

Maintain the Current High Level of Public Safety

Operate in a Businesslike Manner

Focus Resources in Ontario's Commercial and Residential Neighborhoods

ENVIRONMENTAL REVIEW: Staff has determined that the proposed Development Code amendment is exempt from the California Environmental Quality Act (codified as Public Resources Code Sections 21000 et seq.) ("CEQA") and the State CEQA Guidelines, pursuant to CEQA Guidelines Section 15061(b)(3).

RESOLUTION NO. PC13-066

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING APPROVAL OF A DEVELOPMENT CODE AMENDMENT (FILE NO. PDCA13-005) AMENDING THE DEVELOPMENT CODE TO CONDITIONALLY PERMIT HOOKAH ESTABLISHMENTS WITHIN THE C2 (CENTRAL BUSINESS DISTRICT COMMERCIAL) AND C3 (COMMERCIAL SERVICE) LAND USE DESIGNATIONS, AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, the City of Ontario has initiated a Development Code Amendment, File No. PDCA13-005, as described in the title of this Resolution (hereinafter referred to as "Project"); and

WHEREAS, the City is initiating a Development Code Amendment to (File No. PDCA13-005) to conditionally permit hookah establishments within the C2 (Central Business District Commercial) and C3 (Commercial Service) land use designations; and

WHEREAS, California Government Code Section 65800 et seq. authorizes the adoption and administration of zoning laws, ordinances, rules and regulations by cities as a means of implementing the General Plan; and

WHEREAS, the proposed Development Code Amendment is exempt from the California Environmental Quality Act (codified as Public Resources Code Sections 21000 et seq.) ("CEQA") and the State CEQA Guidelines, pursuant to CEQA Guidelines Section 15061(b)(3), which states that the activity is covered by 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.

WHEREAS, on November 18, 2013, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

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

SECTION 1. As the decision-making body for the Project, the Planning Commission has reviewed and considered the information contained in the administrative record for the Project. Based upon the facts and information contained in Planning Commission Resolution File No. PDCA13-005 November 18, 2013 Page 2

the administrative record, including all written and oral evidence presented to the Planning Commission, the Planning Commission finds as follows:

a. The proposed Development Code amendment is exempt from the California Environmental Quality Act (codified as Public Resources Code Sections 21000 et seq.) ("CEQA") and the State CEQA Guidelines, pursuant to CEQA Guidelines Section 15061(b)(3), which states that the activity is covered by 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.

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

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

a) The proposed Development Code Amendment is consistent with the goals and policies of the Policy Plan component of The Ontario Plan;

b) The proposed Development Code Amendment will provide land use flexibility in the city and it will assist in the goal of creating a complete community; and

c) The proposed Development Code Amendment will allow the city to provide land use flexibility, and the amendment will also be consistent with the requirements of surrounding agencies; and

d) The propose Development Code Amendment will support the vision of the City to be a leader within Southern California and the Inland Empire; and

e) The proposed Development Code Amendment will not have a significant adverse impact on the environment.

SECTION 3. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the Planning Commission hereby recommends the City Council approve File No. PDCA13-005, amending Development Code, Chapter 1, Article 13, Table 13-1 to conditionally permit hookah establishment within the C2 (Central Business District Commercial) and C3 (Commercial Service) land use designations subject to the following restrictions:

Planning Commission Resolution File No. PDCA13-005 November 18, 2013 Page 3

- 1) Use can be a standalone use (lounge); and
- 2) Use can be part of a sit-down restaurant or ABC licensed bona-fide eating establishment with an outside open patio area for smoking; and
- 3) Hookah cannot be associated with live entertainment; and
- 4) Hookah cannot be part of a bar or nightclub; and
- 5) Establishment must comply with state laws and regulations pertaining to a smoking facility (limitation on numbers of paid staff, must meet CAL-OSHA requirements for air filtration and circulation and meet fire standards for smoking lounges); and
- 6) Disposal of ash and coals shall be in accordance with Fire Department requirements.

SECTION 4. The documents and materials that constitute the record of proceedings on which these findings have been based upon are located at the City of Ontario City Hall, 303 East B Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 5. The Secretary shall certify to the adoption of the Resolution.

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

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 18th day of November, 2013, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Rick age.

Planning Commission

Chairman

Planning Commission Resolution File No. PDCA13-005 November 18, 2013 Page 4

ATTEST:

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Jerry L. Blum, Planning Director/ Secretary of Planning Commission

Planning Commission Resolution File No. PDCA13-005 November 18, 2013 Page 4

STATE OF CALIFORNIA COUNTY OF SAN BERNARDINO CITY OF ONTARIO

I, Jeanina M. Romero, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC13-066 was duly passed and adopted by the Planning Commission of the City of Ontario at their special meeting held on November 18, 2013 by the following roll call vote, to wit:

- AYES: Delman, Downs, Gage, Gregorek, Mautz, Ricci, Willoughby
- NOES: None
- ABSENT: None
- ABSTAIN: None

Jeanina M. Romero, Secretary Pro Tempore ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA13-005, A DEVELOPMENT CODE AMENDMENT REVISING TITLE 9 (DEVELOPMENT CODE), ARTICLE 13, TABLE 13-1 (PERMITTED, CONDITIONAL AND ANCILLARY LAND USES-ALL ZONING DISTRICTS) TO CONDITIONALLY PERMIT HOOKAH ESTABLISHMENTS WITHIN THE C2 (CENTRAL BUSINESS DISTRICT COMMERCIAL) AND C3 (COMMERCIAL SERVICE) ZONING DISTRICTS, AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS the City of Ontario ("Applicant") has initiated a Development Code Amendment, File No. PDCA13-005, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application proposes to revise the provisions of Ontario Municipal Code Title 9 (Development Code), Chapter 1 (Zoning and Land Use Requirements), Part 3 (Zoning Districts and Land Use), Article 13 (Land Use and Special Requirements), Table 13-1 (Permitted, Conditional and Ancillary Land Uses – All Zoning Districts) which regulates the establishment of land uses, activities and facilities within each zoning district within the City; and

WHEREAS, the Application proposes to allow hookah establishments as a conditionally permitted use within the C2 (Central Business District Commercial) and C3 (Commercial Service) zoning districts; and

WHEREAS, the C2 (Central Business District Commercial) and the C3 (Commercial Service) zoning districts are to allow the development of commercial establishments typically found in shopping centers serving the day-to-day shopping and service needs of residents and the business community. Further, the corresponding land use in TOP identifies General Commercial as "local and regional serving retail, personal service, entertainment, dining, office, tourist-serving, and related commercial uses"; and

WHEREAS, the proposed Development Code amendment is exempt from the California Environmental Quality Act (codified as Public Resources Code Sections 21000 et seq.) ("CEQA") and the State CEQA Guidelines, pursuant to CEQA Guidelines Section 15061(b)(3), which states that the activity is covered by 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 November 18, 2013, the Planning Commission of the City of Ontario conducted a duly noticed public hearing to consider and concluded said hearing on that date. After deliberating the matter, the Commission voted to recommend approval of the application to the City Council; and WHEREAS, on December 3, 2013, the City Council conducted a duly noticed public hearing and concluded said hearing on that date; and

WHEREAS, on December 17, 2013, the City Council conducted a duly noticed public hearing 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:

<u>SECTION 1</u>. As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the administrative record of 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 proposed Development Code amendment is exempt from the California Environmental Quality Act (codified as Public Resources Code Sections 21000 et seq.) ("CEQA") and the State CEQA Guidelines, pursuant to CEQA Guidelines Section 15061(b)(3), which states that the activity is covered by 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.

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

<u>SECTION 2</u>. 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 Development Code Amendment is consistent with the goals and policies of the Policy Plan component of The Ontario Plan;

b) The proposed Development Code Amendment will provide land use flexibility in the city and it will assist in the goal of creating a complete community; and

c) The proposed Development Code Amendment will allow the city to provide land use flexibility, and the amendment will also allow the City to be consistent with what other surrounding agencies are already doing; and

d) The propose Development Code Amendment will support the vision of the City to be a leader within Southern California and the Inland Empire; and

e) The proposed development code amendment will not have a significant adverse impact on the environment.

<u>SECTION 3</u>. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the City Council approves File No. PDCA13-005, amending Development Code Chapter 1, Article 13, Table 13-1 to allow hookah establishments as a conditionally permitted use within the C2 (Central Business District Commercial) and C3 (Commercial Service) zoning districts subject to the following restrictions and as shown on Exhibit "A" attached:

- 1) The use can be a standalone use (lounge); and
- The use can be part of a sit-down restaurant with an outside open patio area for outside smoking or as part of an ABC licensed bona-fide eating establishment; and
- 3) Hookah cannot be associated with live entertainment; and
- 4) Hookah cannot be part of a bar or nightclub; and
- 5) The establishment must be in compliance with state laws and regulations pertaining to a smoking facility (limitation on numbers of paid staff, must meet CAL-OSHA requirements for air filtration and circulation and meet fire standards for smoking lounges); and
- 6) The use must dispose of ash and coals in accordance with fire department requirements.

<u>SECTION 4</u>. 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.

<u>SECTION 5</u>. The documents and materials that constitute the record of proceedings on which these findings have been based upon 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.

<u>SECTION 6.</u> 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 _____2013.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP CITY ATTORNEY STATE OF CALIFORNIA)COUNTY OF SAN BERNARDINO)CITY OF ONTARIO)

I, MARY E. WIRTES, 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 December 3, 2013 and adopted at the regular meeting held _____, 2013 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, 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.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

Exhibit "A"

Table 13-1: Permitted, Conditional, and Ancillary Land Uses – All Zoning Districts (excerpt)

Use Legend:

P: Permitted C: Conditional Use Permit required U: Refer to underlying zoning district ---: Prohibited

Professional and Commercial Districts						
AP	NC	C1	C2	С3	C4	EA
		Р	Р	Р	Р	
			С	С		
			AP NC C1	AP NC C1 C2	AP NC C1 C2 C3	AP NC C1 C2 C3 C4

CITY OF ONTARIO

Agenda Report December 17, 2013

SECTION: PUBLIC HEARINGS

SUBJECT: AN ORDINANCE GRANTING A ONE-YEAR TIME EXTENSION TO APPROVED DEVELOPMENT PLAN, CONDITIONAL USE PERMIT AND VARIANCE APPLICATIONS THAT ARE DUE TO EXPIRE ON OR BEFORE MARCH 1, 2015

RECOMMENDATION: That the City Council introduce and waive further reading of an ordinance granting a one-year time extension to approved Development Plan, Conditional Use Permit and Variance applications that are due to expire on or before March 1, 2015.

COUNCIL GOALS: <u>Develop Strategies and Take Actions, Including Regaining Local Control of</u> <u>the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial</u> <u>Downturn on Ontario's Economy and the City's Fiscal Health</u> <u>Invest in the Growth and Evolution of the City's Economy</u>

FISCAL IMPACT: Adoption of the resolution could result in the loss of fees for the processing of time extension requests (at the rate of \$490 per application). Conversely, future building permit fees, development impact fees and property tax revenues could be lost should current development applications be allowed to expire.

BACKGROUND: The Development Code establishes the regulatory framework for controlling the development and use of land in the City. These regulations generally require an applicant to submit and have approved a Development Plan, and in some cases, a Conditional Use Permit and/or Variance application. City regulations further provide for the expiration of a Development Plan, Conditional Use Permit or Variance approval within a specified one-to two-year timeframe unless a building permit is issued or the approved use has commenced.

To assist developers, landowners and business owners during the economic slowdown, the City Council approved Ordinance No. 2910 in March 2009, extending the expiration date for approved Development Plan, Conditional Use Permit and Variance applications by one year. In January 2010, March 2011,

STAFF MEMBER PRESENTING: Scott Murphy, Assistant Planning Director

Prepared by:	Charles Mercier	Submitted to Council/O.H.A.	12/17/2013
Department:	Planning	Approved:	
City Manager Approval:	Cheff	Continued to: Denied:	6

December 2011, and March 2013, the City Council approved Ordinances 2917, 2933, 2947, and 2960, respectively, extending the expiration dates for a total of five years.

Although the economy is showing signs of recovery, developers, and land and business owners face the prospect of having their Development Plan, Conditional Use Permit and Variance approvals expire before they can obtain financing. Therefore, staff recommends the City Council grant an additional one-year time extension for all active Development Plan, Conditional Use Permit and Variance approvals which are due to expire before March 1, 2015. Attachment 1 is a listing of the affected applications. This action is consistent with the State Legislature and Governor's approval of several Senate and Assembly Bills over the past 3 years which have extended the expiration dates of any tentative subdivision maps that have not yet expired for a total of 7 years.

- SB 1185, approved in July 2008, extended the expiration date of any tentative subdivision map that had not expired by January 1, 2011, by one year;
- AB 333, approved in July 2009, extended the expiration date of any tentative subdivision map that had not expired by January 1, 2012, by two years;
- AB 208, approved in July 2011, extended the expiration date of any tentative subdivision map that had not expired by July 15, 2011, by two years; and most recently
- AB 116, approved in July 2013, extends the expiration date of any tentative subdivision map that was approved on or after January 1, 2000, and that has not expired on or before July 11, 2013, by two years. The bill additionally requires the extension of a tentative subdivision map approved on or before December 31, 1999, upon application by the subdivider at least 90 days prior to the expiration of the map.

ENVIRONMENTAL REVIEW: The project is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to § 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.

ATTACHMENT 1: PROJECTS SUBJECT TO TIME EXTENSION

<u>File #</u>	<u>Applicant</u>	Description
Residential		
PDEV05-042	Huntec Development	9 multiple-family units @ 1655 East Fourth Street
PDEV06-048	Neal Sullivan	3 multiple-family units @ 1516 West Stoneridge Court
PDEV09-016	Brian Johnson	178 multiple-family units @ NWC Milliken Avenue and Riverside Drive (Tuscana)
PDEV10-007	T-Mobile	Wireless telecommunication tower @ 602 North Virginia Avenue
PDEV10-016	T-Mobile	Wireless telecommunication tower @ 2713 South Grove Avenue
PDEV11-003	Creative Design	4 multiple-family units @ 904 South Palmetto Avenue
PDEV11-005	Spectrum Engineering	Monopine @ 1025 North Vine Avenue
PDEV12-013	Brookfield	110 multiple-family townhouse units @ Festival SP
<u>Commercial</u>		
PDEV06-036	Eric Au	28,000 SF addition @ NWC Vineyard Avenue and Walnut Street
PDEV06-058	Shiv Talwar	122, 4-story hotel @ NWC I-10 Freeway and Haven Avenue (Staybridge)
PDEV07-042	TGA Development	161-room, 4-story hotel @ SEC Haven Avenue and I-10 Freeway (Summerhill)
PDEV07-049	Oliver McMillan	2-story, 114,654 SF office building @ Guasti SP
PDEV08-008	Danny Yang	3,920 SF retail building @ SEC Archibald Avenue and Oakhill Street
PDEV08-018	Sares Regis	19,530 SF office building @ SEC Haven Avenue and Francis Street
PDEV08-024	Oliver McMillan	Two new retail/restaurant buildings, and reuse 4 historic structures @ Guasti SP
PDEV09-017	Brian Johnson	26,000 SF commercial/retail @ NWC Milliken Avenue and Riveside Drive (Tuscana SP)
PDEV10-010	Autozone	6,815 SF retail store @ SEC Holt Avenue and Pleasant Street
PDEV10-013	JAFAM	Mixed-use project with 177 senior apartments and 19,000 SF retail @ NEC Mountain Avenue and Sixth Street
PDEV11-001	Richard Barton Ent	935 SF building addition @ 845 North Euclid
PDEV11-020	Spectrum Engineering	Monopine @ 1833 East Fourth
Industrial		
PDEV07-001	Koll Co	7 industrial buildings totaling 178,368 SF @ n/s California Street, between Campus and Taylor Avenues
PDEV10-008	Myung Chung	17,000 SF metal building @ 13500 South Milliken (Fuji Foods)
PDEV10-014	Verizon	Monopole @ 2315 East Philadelphia
PDEV11-016	Newcastle partners	90,591 SF warehouse @ SWC Cedar/Cucamonga
PDEV12-010	Los Angeles SMSA	Monopine @ Metrolink station

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, GRANTING A ONE-YEAR TIME EXTENSION TO ANY APPROVED DEVELOPMENT PLAN, CONDITIONAL USE PERMIT OR VARIANCE APPLICATION THAT IS ACTIVE AND DUE TO EXPIRE ON OR BEFORE MARCH 1, 2015, AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, existing City regulations establish, pursuant to the Development Code, a regulatory framework for controlling the development and use of land, which generally require a developer to submit and have approved by the City, a Development Plan, and in some cases, a Conditional Use Permit and/or Variance application. City regulations further provide for the expiration of Development Plans, Conditional Use Permits and Variances after specified periods of time, including two years for Development Plans and one year for Conditional Use Permits and Variances; and

WHEREAS, with the slow recovery in the economy, developers, and land and business owners face the prospect of having their Development Plan, Conditional Use Permit and Variance approvals expire before they can obtain financing or have their projects make any sort of economic sense to build; and

WHEREAS, the proposed measure is necessary to support of the economic recovery of the City. Over the past few years, the building industry has been mired in a deep recessionary trough and, because of the difficulty of securing financing, many projects for which Development Plans, Conditional Use Permits and Variances have already been approved, will expire within the next year, thereby, requiring developers to go through the entitlement process again, if a time extension is not requested; and

WHEREAS, the building industry wants to be in a position to take full advantage of any economic resurgence; and

WHEREAS, this measure is proposed in order to spare developers, landowners and business owners within the City the added time and expense of obtaining new approvals when the economic picture brightens in the future; and

WHEREAS, the activity is not a project as defined in Section 15378 of the California Environmental Quality Act Guidelines; and

WHEREAS, on December 17, 2013, the City Council of the City of Ontario conducted a public hearing to introduce the ordinance 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:

<u>SECTION 1</u>. The City Council finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b)(3) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment directly or indirectly it prevents changes in the environment pending the completion of the contemplated Zoning Ordinance review

<u>SECTION 2</u>. 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 that:

1. The proposed measure is necessary to support the economic recovery of the City. The building industry has been hindered by recession followed by a slow economic recovery, and because of the difficulty of securing financing, many projects for which Development Plans, Conditional Use Permits and Variances have already been approved will soon expire within the next year, thereby, requiring developers to go through the entitlement process again, if a time extension is not requested; and

2. The proposed measure will spare developers, landowners and business owners within the City the added time and expense of obtaining new approvals when the future economic picture brightens, thereby aiding the City in a rapid economic recovery.

<u>SECTION 3</u>. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the City Council hereby approves an ordinance granting a one year time extension to all active Development Plan, Conditional Use Permit and Variance approvals, which are active and due to expire on or before March 1, 2015.

<u>SECTION 4</u>. Severability. 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 jobs, 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.

<u>SECTION 5</u>. 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 E. B Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

<u>SECTION 6.</u> Publication. 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 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 _____ 2014.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

JOHN E. BROWN, CITY ATTORNEY

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

I, MARY E. WIRTES, 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 December 17, 2013 and adopted at the regular meeting held ______, 2014 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, 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 ______, 2014 and that Summaries of the Ordinance were published on ______ and _____, in the Inland Valley Daily Bulletin newspaper.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report December 17, 2013

SECTION: PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING TO CONSIDER AN ORDINANCE APPROVING AN AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN CV INLAND INVESTMENTS 1, LP, AND THE CITY OF ONTARIO TO UPDATE CERTAIN PROVISIONS OF THE EXISTING DEVELOPMENT AGREEMENT AND TO PROVIDE FOR PHASING OF THE CONSTRUCTION OF PUBLIC INFRASTRUCTURE

RECOMMENDATION: That the City Council introduce and waive further reading of an ordinance approving an amendment (File No. PDA13-002) to the Development Agreement between CV Inland Investments 1, LP, and the City of Ontario to update certain provisions of the existing Development Agreement to conform with the Construction Agreement Amendment with NMC Builders, LLC, and to provide for phasing of the construction of public infrastructure.

COUNCIL GOALS: <u>Develop Strategies and Take Actions, Including Regaining Local Control of</u> <u>the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial</u> <u>Downturn on Ontario's Economy and the City's Fiscal Health</u>

Invest in the Growth and Evolution of the City's Economy

Operate in a Businesslike Manner

Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains, and Public Facilities) Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony

FISCAL IMPACT: The proposed Development Agreement Amendment will update certain provisions of the existing Development Agreement to conform with the Construction Agreement Amendment with NMC Builders, LLC, and to provide for phasing of the construction of public infrastructure. In addition, the City will receive Public Service Funding fees plus development impact, compliance processing, licensing, and permitting fees. No Original Model Colony revenue will be used to support the New Model Colony development. The Development Agreement and the related tract map conditions require the developer to construct public infrastructure.

STAFF MEMBER PRESENTING: Scott Murphy, Assistant Planning Director

Prepared by:	Scott Murphy	Submitted to Council/O.H.A.	12/17/2013
Department:	Planning	Approved:	
City Manager Approval:		Continued to: Denied:	7

BACKGROUND: CV Inland Investments 1, LP, and the City recognized that the financial commitment required for construction in the New Model Colony was substantial. To adequately forecast these costs and gain assurance that the project may proceed under the existing policies, rules and regulations, CV Inland entered into a Development Agreement with the City providing for the development of up to 143 dwelling units. The Development Agreement, approved in September 2007, addressed issues of parkland, public facilities, public services funding, infrastructure and affordable housing.

The Amendment incorporates new and modified provisions to conform to the Construction Agreement Amendment, including:

- Continues the requirement for funding of Fire Station No. 9
- Requires CV Inland to have evidence of compliance with the Construction Agreement requirements for participation in funding of regional water infrastructure and regional storm water treatment facilities (Mill Creek Wetlands)
- Modifies the amounts and escalation factors for the funding for City services

The amendment also incorporates specific requirements for the phased construction and completion of required public infrastructure, including regional and local streets and traffic signals, water and sewer utilities, and regional and local storm drain improvements.

The Development Agreement and the amendment continue to require funding for all new City expenses created by the development of the project. These expenses include all additional City-provided services, infrastructure and affordable housing requirements.

The main points of the Development Agreement including the provisions of the amendment are as follows:

Term:		Maintains the same term of ten (10) years with a five (5) year option.
Assign	nment:	Assignable with all terms and conditions applying to the assignee. New provisions are added in the Amendment to recognize and provide City approval of all partial assignments.
Fees:	Development Impact Fees:	To be paid at current amounts; varies by category (i.e.; Streets and Bridges, Police, Fire, Open Space/Parks etc.). This is a separate fee from existing City licensing fees and permits and is due at building permit issuance for each unit.
	Public Services Funding Fees:	Reduces the fee from \$1,980/unit to \$1,800/unit due in two (2) installments:

	 \$900/unit with the issuance of each building permit or within 30 days of City commencing construction of Fire Station No. 9, whichever occurs first.
	2) \$900 upon issuance of each remaining building permits, the cost of which shall increase each January 1, beginning January 1, 2014.
Community Facilities	
District (CFD):	City will cooperate with Owner to form a CFD to reimburse costs of the regional backbone infrastructure construction and maintenance of public facilities.
Parks/Open Space:	Maintains The Ontario Plan (General Plan) requirement of five (5) acres per 1,000 projected population through park dedication and/or the payment of in-lieu fees.
Housing:	Maintains the provision of affordable housing as required by the General Plan through construction, rehabilitation, or by paying an In-Lieu Fee.
Schools:	Maintains the requirement to satisfy Mountain View Elementary School District and Chaffey High School District school facilities requirements.
Termination:	Maintains the City's ability to terminate the Agreement if substantial evidence is found of noncompliance.

In considering the application at their meeting November 18, 2013, the Planning Commission found that the Development Agreement Amendment is consistent with State law, The Ontario Plan, the City's Development Agreement policies, and other Development Agreements previously approved for NMC development, and unanimously recommended approval of the Development Agreement Amendment to the City Council.

ENVIRONMENTAL REVIEW: The environmental impacts of this project were previously reviewed in conjunction with the West Haven Specific Plan, for which an Environmental Impact Report (SCH #2004071095) was certified by the City Council on January 16, 2007. This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are a condition of project approval and are incorporated herein by reference.

EXHIBIT "A" WEST HAVEN SPECIFIC PLAN LAND USE MAP



ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND CV INLAND INVESTMENTS 1, LP, FILE NO. PDA13-002, TO UPDATE CERTAIN PROVISIONS OF THE EXISTING DEVELOPMENT AGREEMENT TO CONFORM WITH THE CONSTRUCTION AGREEMENT AMENDMENT WITH NMC BUILDERS LLC, AND TO PROVIDE FOR PHASING OF THE CONSTRUCTION OF PUBLIC INFRASTRUCTURE AS PROVIDED IN TRACT MAP NOS. 18476 AND 18477, AND MAKING FINDINGS IN SUPPORT THEREOF. (APN: 0218-151-19 AND 23).

WHEREAS, California Government Code Section 65864 now provides, in pertinent part, as follows:

"The Legislature finds and declares that:

(a) The lack of certainty in the approval process of development projects can result in a waste of resources, escalate the cost of housing and other developments to the consumer, and discourage investment in and commitment to comprehensive planning which would make maximum efficient utilization of resources at the least economic cost to the public.

(b) Assurance to the Applicant for a development project that upon approval of the project, the Applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development."

WHEREAS, California Government Code Section 65865 provides, in pertinent part, as follows:

"Any city ... may enter into a Development Agreement with any person having a legal or equitable interest in real property for the development of such property as provided in this article ..."

WHEREAS, California Government Code Section 65865.2. provides, in part, as follows:

"A Development Agreement shall specify the duration of the Agreement, the permitted uses of the property, the density of intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The Development Agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms, restrictions, and requirements for discretionary actions shall not prevent development of the land for the uses and to the density of intensity of development set forth in this Agreement ..."

WHEREAS, on the 4th day of April 1995, the City Council of the City of Ontario adopted Resolution No. 95-22 establishing procedures and requirements whereby the City of Ontario may consider Development Agreements; and

WHEREAS, on the 10th day of September 2002, the City Council of the City of Ontario adopted Resolution No. 2002-100 which revised the procedures and requirements whereby the City of Ontario may consider Development Agreements; and

WHEREAS, on the 4th day of September 2007, the City Council of the City of Ontario adopted Ordinance No. 2873, approving a Development Agreement between Ontario West Haven Associates, LP, and the City; and

WHEREAS, CV Inland Investments 1, LP, has acquired the property that is the subject of the Development Agreement and Amendment; and

WHEREAS, attached to this Ordinance, marked Exhibit "A" and incorporated herein by this reference, is the proposed Amendment to the Development Agreement between CV Inland Investments 1, LP, and the City of Ontario, File No. PDA13-002. Hereinafter in this Ordinance, the Development Agreement is referred to as the "Amendment"; and

WHEREAS, the environmental impacts of this project were previously reviewed in conjunction with the West Haven Specific Plan, for which an Environmental Impact Report (SCH #2004071095) was certified by the City Council on January 16, 2007. This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are be a condition of project approval and are incorporated herein by reference; and

WHEREAS, on November 18, 2013, the Planning Commission of the City of Ontario conducted a hearing to consider the Amendment and concluded said hearing on that date. After considering all public testimony, the Planning Commission unanimously recommended approval of the Amendment to the City Council; and

WHEREAS, on December 17, 2013, the City Council of the City of Ontario conducted a hearing to consider the Amendment 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:

<u>SECTION 1</u>. Based upon substantial evidence presented to the City Council during the above-referenced hearing on December 17, 2013, including written and oral staff reports, together with public testimony, the City Council hereby specifically finds as follows:

a. The Amendment to the Development Agreement applies to 37.77 acres of residential land within the West Haven Specific Plan, generally located on the east side of Turner Avenue, south of Chino Avenue and is presently vacant; and

b. The properties to the north and west of the Project site are within the R1 (Single Family Residential) zoning designation and are developed with houses. The property to the south of the project site within The Avenue Specific Plan, planned for single family residential development, and is vacant. The property to the east is within Planning Areas 5 and 8 of the West Haven Specific Plan, are planned for single family development, and are vacant; and

c. The Development Agreement and the Amendment to the Development Agreement establishes parameters for the development of the West Haven residential projects. The Development Agreement also grants CV Inland Investments 1, LP, the right to develop, the ability to quantify the fees; and establish the terms and conditions that apply to those projects. These terms and conditions are consistent with The Ontario Plan Policy Plan (General Plan), design guidelines and development standards for the West Haven Specific Plan; and

d. The Amendment to the Development Agreement focuses revisions to the Development Agreement to bring it into consistency with the Construction Agreement between the City and New Model Colony Builders, ("NMC"), LLC; and

e. The Amendment to the Development Agreement will provide for the phasing of various improvements established by the West Haven Specific Plan; and

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

g. The Amendment to the Development Agreement does not conflict with the Land Use Policies of The Ontario Plan Policy Plan (General Plan) and will provide for development, within the district, in a manner consistent with the Policy Plan and with related development; and

h. The Amendment to the Development Agreement will promote the goals and objectives of the Land Use Element of the Policy Plan; and,

i. The Amendment to the Development Agreement will not be materially injurious or detrimental to the adjacent properties and will have a significant impact on the environment or the surrounding properties but the benefits of the project outweighs the potential environmental impacts and the mitigation of these impacts were addressed in the West Haven Specific Plan EIR certified by the City Council on January 16, 2007.

<u>SECTION 2</u>. Based upon the findings and conclusions set forth in Section 1 above, the City Council hereby approves the Project.

<u>SECTION 3</u>. 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.

<u>SECTION 4</u>. 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.

<u>SECTION 5</u>. 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.

<u>SECTION 6</u>. Effective Date. This Ordinance shall become effective 30 days following its adoption.

<u>SECTION 7.</u> 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 _____2014.

PAUL S. LEON, MAYOR

ATTEST:

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP CITY ATTORNEY STATE OF CALIFORNIA)COUNTY OF SAN BERNARDINO)CITY OF ONTARIO)

I, MARY E. WIRTES, 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 December 17, 2013 and adopted at the regular meeting held _____, 2014 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, 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.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

Exhibit A – First Amendment to the Development Agreement (See Attached)

CITY OF ONTARIO

Agenda Report December 17, 2013

SECTION: PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING TO CONSIDER AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN JS BRAY, LLC, JA BRAY, LLC, AND THE CITY OF ONTARIO TO PROVIDE FOR THE CONSTRUCTION OF UP TO 52 RESIDENTIAL UNITS AND REQUIRED INFRASTRUCTURE ON 9.43 ACRES OF LAND WITHIN THE COUNTRYSIDE SPECIFIC PLAN, LOCATED ON THE NORTH SIDE OF CHINO AVENUE, WEST OF ARCHIBALD AVENUE

RECOMMENDATION: That the City Council adopt a resolution approving an addendum to the Countryside Specific Plan and introduce and waive further reading of an ordinance approving the Development Agreement (File No. PDA13-004) between JS Bray, LLC, JA Bray, LLC, of Newport Beach, CA and the City of Ontario to provide for the construction of up to 52 residential units on 9.43 acres of land within the Countryside Specific Plan, located on the north side of Chino Avenue, west of Archibald Avenue (APNs: 0218-111-54 and 55).

COUNCIL GOALS: <u>Develop Strategies and Take Actions, Including Regaining Local Control of</u> <u>the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial</u> <u>Downturn on Ontario's Economy and the City's Fiscal Health</u> <u>Invest in the Growth and Evolution of the City's Economy</u> <u>Operate in a Businesslike Manner</u> <u>Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains, and Public Facilities)</u> <u>Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New</u> <u>Model Colony</u>

FISCAL IMPACT: The proposed Development Agreement will provide funding from a community facilities district (CFD) for additional City services required to support the Countryside Specific Plan development, thereby mitigating the increased cost associated with such services. In addition, the City will receive Public Service Funding fees plus development impact, compliance processing, licensing, and permitting fees. No Original Model Colony revenue will be used to support the New Model Colony development.

STAFF MEMBER PRESENTING: Scott Murphy, Assistant Planning Director

Prepared by:	Scott Murphy	Submitted to Council/O.H.A.	12/17/2013
Department:	Planning	Approved:	
City Manager Approval:	Ch /	Continued to: Denied:	° &

BACKGROUND: JS Bray, LLC, JA Bray, LLC, and the City recognize that the financial commitment required for construction in the New Model Colony is substantial. To adequately forecast these costs and gain assurance that the project may proceed under the existing policies, rules and regulations, Bray is entering into a Development Agreement with the City providing for the development of up to 52 dwelling units. The Development Agreement provides funding for new City expenses created by the project, including operational costs related to the review, approval and administration of the Bray project, additional project related services, infrastructure and affordable housing requirements.

The Development Agreement proposes to include 9.43 acres of residential development as shown in Exhibit A (Specific Plan Map). The Agreement grants Bray a vested right to develop their project as long as Bray complies with the terms and conditions of the Countryside Specific Plan and EIR.

The main points of the Agreement are as follows:

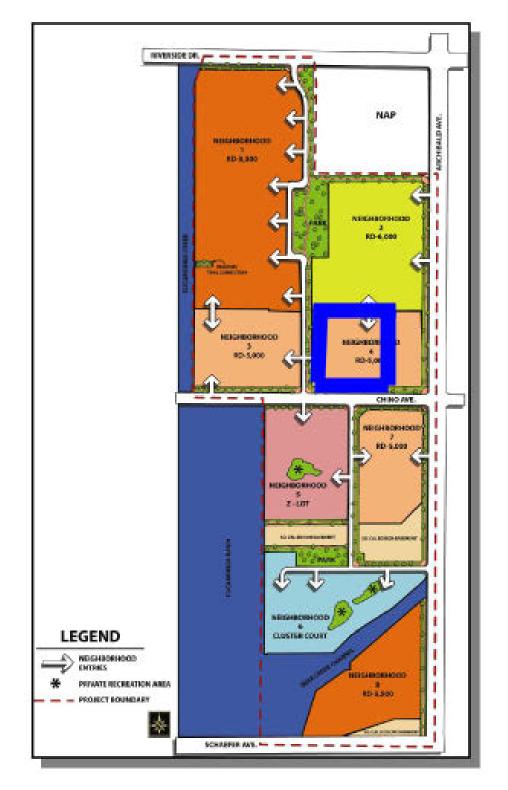
Term:	Ten (10) years with a five (5) year option.
Assignment:	Assignable with all terms and conditions applying to the assignee. The City has conditional approval and City will assess a processing fee.
Fees: Development Impact:	Varies by category (i.e.; Streets and Bridges, Police, Fire, Open Space/Parks etc.). This is a separate fee from existing City licensing fees and permits.
Public Services Funding	 \$1,800/unit fee due in two (2) installments: \$900 within 30 days following the City's start of construction of Fire Station No. 9. \$900 upon issuance of remaining building permits, the cost of which shall increase each January 1, beginning January 1, 2014.
Community Facilities District (CFD):	City will cooperate with Owner to form a CFD to reimburse costs of the regional backbone infrastructure construction and maintenance of public facilities.
Parks/Open Space:	As required by the General Plan, Owner will supply five (5) acres per 1,000 projected population through park dedication and/or the payment of in-lieu fees.
Housing:	Provide affordable housing as required by the General Plan through construction, rehabilitation, or by paying an In-Lieu Fee.
Compliance:	Owner will submit an annual monitoring report which the City will review for compliance. The City will assess a review/approval processing fee. If Owner is found to be in compliance, the City will

	issue a Certificate of Compliance. If noncompliance is identified, a letter of correction will be issued.
Schools:	Must satisfy Mountain View Elementary School District and Chaffey High School District school facilities requirements.
Termination:	The City may terminate the agreement if substantial evidence is found of noncompliance.

In considering the application at their meeting of November 18, 2013, the Planning Commission found that the Development Agreement was consistent with State law, The Ontario Plan, the City's Development Agreement policies, and other Development Agreements previously approved for NMC development, and unanimously recommended approval of the Development Agreement to the City Council.

ENVIRONMENTAL REVIEW: Pursuant to CEQA section 21166 and sections 15162 and 15163 of the CEQA Guidelines, an Addendum to the Certified Environmental Impact Report for the Countryside Specific Plan (SCH# 2004071001) was prepared by the City with regard to the Project ("Addendum"). The Addendum incorporates, by reference, the analysis contained in the Certified Environmental Impact Report for the Countryside Specific Plan, and addresses only those issues specific to the Project. As described in the Addendum and the Initial Study, the Certified Environmental Impact Report for the Countryside Specific Plan adequately describes the activity proposed. The Addendum concludes that the Project will not result in new, or substantially more adverse, significant environmental impacts than those disclosed in the Certified Environmental Impact Report for the Countryside Specific Plan.

EXHIBIT "A" COUNTRYSIDE SPECIFIC PLAN



RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING AN ADDENDUM TO THE COUNTRYSIDE SPECIFIC PLAN ENVIRONMENTAL IMPACT REPORT (SCH#2004071001) ADOPTED FOR FILE NO. PSP04-001, PREPARED FOR FILE NO. PDA13-004, FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND MAKING FINDINGS IN SUPPORT THEREOF (APN: 0218-111-54 AND 55).

WHEREAS, prior to the adoption of this Resolution, the Planning Director of the City of Ontario prepared an Initial Study and an Addendum to the Countryside Specific Plan Environmental Impact Report (EIR) File No. PSP04-001 for Planning File No. PDA13-004 (the "Addendum"), all in accordance with the requirements of the California Environmental Quality Act of 1970, together with state and local guidelines implementing said Act, all as amended to date (collectively "CEQA"); and

WHEREAS, Planning File No. PDA13-004 (the "Project") analyzed under the Addendum consists of a Development Agreement and related Tentative Tract Map request to subdivide 9.43 acres of land acres into 52 numbered lots, within Planning Area 4 (Single Family Conventional – 5,000 SF Minimum Lots) of the Countryside Specific Plan, located on the north side of Chino Avenue, west of Archibald Avenue; and

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

WHEREAS, on April 18, 2006, the City Council certified an EIR (SCH#2004071001) and a related Mitigation Monitoring and Reporting Program for File No. PSP04-001; and

WHEREAS, pursuant to Public Resources Code Section 21166 and Sections 15162 and 15163 of the State CEQA Guidelines, the Addendum to the Countryside Specific Plan EIR for File No. PSP04-001 was prepared by the City with regard to the Project (File No. PDA13-004). The Addendum incorporates, by reference, the analysis contained in the certified EIR and related Mitigation Monitoring and Reporting Program for File No. PSP04-001, and addresses only those issues specific to the Project. The Addendum concludes that the Project will not result in impacts beyond what was previously analyzed in the certified EIR, because the Project does not have new or substantially more severe significant environmental impacts, either directly or indirectly; and

WHEREAS, the City of Ontario is the lead agency on the Project, and the City Council is the decision-making body for the proposed approval to construct and otherwise undertake the Project; and

WHEREAS, the City Council has reviewed and considered the Addendum for the Project, and intends to take actions on the Project in compliance with CEQA, and state and local guidelines implementing CEQA; and

WHEREAS, the Addendum for the Project and the certified EIR for File No. PSP04-001 are on file in the Planning Department, located at 303 East B Street, Ontario, CA 91764, and are available for inspection by any interested person at that location and are, by this reference, incorporated into this Resolution as if fully set forth herein;

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ONTARIO AS FOLLOWS:

<u>SECTION 1</u>. THAT THE CITY COUNCIL does hereby make the following findings: (1) it has independently reviewed and analyzed the Addendum/Initial Study and other information in the record and has considered the information contained therein, prior to acting upon or approving the Project, (2) the Addendum prepared for the Project has been completed in compliance with CEQA and is consistent with state and local guidelines implementing CEQA, and (3) the Addendum represents the independent judgment and analysis of the City of Ontario, as lead agency for the Project.

<u>SECTION 2</u>. THAT THE CITY COUNCIL does hereby find that based upon the entire record of proceedings before it and all information received and pursuant to State CEQA Guidelines Section 15162 and 15164, that there is no substantial evidence that the Project will result in any new, increased, or substantially different significant impacts, other than those previously considered and addressed in the Countryside Specific Plan EIR for File No. PSP04-001 and that no changes or additions to the adopted EIR analyses are necessary, nor is there a need for any additional mitigation measures (Planning File No. PMTT13-003), and that none of the conditions described in State CEQA Guidelines Section 15162 that would require subsequent or supplemental CEQA review for the Project otherwise exist.

<u>SECTION 3</u>. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the City Council approves the Project.

<u>SECTION 4</u>. 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.

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

PASSED, APPROVED, AND ADOPTED this 17th 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 STATE OF CALIFORNIA)COUNTY OF SAN BERNARDINO)CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2013- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 17, 2013 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2013- duly passed and adopted by the Ontario City Council at their regular meeting held December 17, 2013.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND JS BRAY, LLC, AND JA BRAY, LLC., FILE NO. PDA13-004, TO PROVIDE FOR THE CONSTRUCTION OF UP TO 52 RESIDENTIAL UNITS ON 9.43 ACRES WITHIN THE COUNTRYSIDE SPECIFIC PLAN, LOCATED ON THE NORTH SIDE OF CHINO AVENUE, WEST OF ARCHIBALD AVENUE (APNS: 0218-111-54 AND 55).

WHEREAS, California Government Code Section 65864 now provides, in pertinent part, as follows:

"The Legislature finds and declares that:

(a) The lack of certainty in the approval process of development projects can result in a waste of resources, escalate the cost of housing and other developments to the consumer, and discourage investment in and commitment to comprehensive planning which would make maximum efficient utilization of resources at the least economic cost to the public.

(b) Assurance to the Applicant for a development project that upon approval of the project, the Applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development."

WHEREAS, California Government Code Section 65865 provides, in pertinent part, as follows:

"Any city ... may enter into a Development Agreement with any person having a legal or equitable interest in real property for the development of such property as provided in this article ..."

WHEREAS, California Government Code Section 65865.2. provides, in part, as follows:

"A Development Agreement shall specify the duration of the Agreement, the permitted uses of the property, the density of intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The Development Agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms, restrictions, and requirements for discretionary actions shall not prevent development of the land for the uses and to the density of intensity of development set forth in this Agreement ..." WHEREAS, on the 4th day of April 1995, the City Council of the City of Ontario adopted Resolution No. 95-22 establishing procedures and requirements whereby the City of Ontario may consider Development Agreements.

WHEREAS, on the 10th day of September 2002, the City Council of the City of Ontario adopted Resolution No. 2002-100 which revised the procedures and requirements whereby the City of Ontario may consider Development Agreements.

WHEREAS, attached to this Resolution, marked Exhibit "A" and incorporated herein by this reference, is the proposed Development Agreement between JS Bray, LLC, and JA Bray, LLC, and the City of Ontario, File No. PDA13-004. Hereinafter in this Resolution, the Development Agreement is referred to as the "Agreement"; and

WHEREAS, on November 18, 2013, the Planning Commission of the City of Ontario conducted a hearing to consider the Agreement and concluded said hearing on that date. After considering the public testimony, the Planning Commission voted unanimously to recommend approval of the Agreement to the City Council; and

WHEREAS, as the first action on the Project, on December 17, 2013, the City Council approved a Resolution adopting an Addendum to the Countryside Specific Plan Environmental Impact Report (SCH #2004071001) adopted by City Council on April 18, 2006, for File No. PSP04-001. The Addendum finds that the proposed project introduces no new significant environmental impacts, and all previously adopted mitigation measures are incorporated into the Project by reference; and

WHEREAS, on December 17, 2013, the City Council of the City of Ontario conducted a hearing to consider the Agreement and concluded said hearing on that date; and

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

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

<u>SECTION 1</u>. Based upon substantial evidence presented to the City Council during the above-referenced hearing on December 17, 2013, including written and oral staff reports, together with public testimony, the City Council hereby specifically finds as follows:

a. The Development Agreement applies to 9.43 acres of residential land within the Countryside Specific Plan, generally located on the north side of Chino Avenue, west of Archibald Avenue and is presently vacant; and

b. The property to the north is within Planning Area ("PA") 3 of the Countryside Specific Plan and developed with agriculture uses. The properties to the south are located within the Countryside Specific Plan, zoned PA 5 and 7 (Z-lot and alley-loaded, respectively) and developed with a single family residence. The property

to the east is located within the Countryside Specific Plan, zoned PA 4 (SF Conventional – 5,000 SF Min. Lots) and developed with agriculture uses. The property to the west is located within the Countryside Specific Plan, zoned PA 3 (SF Conventional – 5,000 SF Min. lot size) and is developed with agriculture uses; and

c. The Development Agreement establishes parameters for the development of the Countryside residential projects. The Development Agreement also grants JS Bray, LLC, and JA Bray, LLC, the right to develop, the ability to quantify the fees; and establish the terms and conditions that apply to those projects. These terms and conditions are consistent with The Ontario Plan Policy Plan (General Plan), design guidelines and development standards for the Countryside Specific Plan; and

d. The Development Agreement focuses on the 9.43 acres of residential development within the Countryside Specific Plan; and

e. The Development Agreement will provide for development of up to 52 residential units as established by the Countryside Specific Plan; and

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

g. The Development Agreement does not conflict with the Land Use Policies of The Ontario Plan Policy Plan (General Plan) and will provide for development, within the district, in a manner consistent with the Policy Plan and with related development; and

h. This Development Agreement will promote the goals and objectives of the Land Use Element of the Policy Plan; and,

i. This Development Agreement will not be materially injurious or detrimental to the adjacent properties and will have a significant impact on the environment or the surrounding properties but the benefits of the project outweighs the potential environmental impacts and the mitigation of these impacts were addressed in the Countryside Specific Plan EIR certified by the City Council on April 18, 2007.

<u>SECTION 2</u>. Based upon the findings and conclusions set forth in Sections 1 above, the City Council hereby approves the Project.

<u>SECTION 3</u>. 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.

<u>SECTION 4</u>. 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.

<u>SECTION 5</u>. 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.

<u>SECTION 6</u>. Effective Date. This Ordinance shall become effective 30 days following its adoption.

<u>SECTION 7.</u> 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 _____2014.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP CITY ATTORNEY STATE OF CALIFORNIA)COUNTY OF SAN BERNARDINO)CITY OF ONTARIO)

I, MARY E. WIRTES, 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 December 17, 2013 and adopted at the regular meeting held _____, 2014 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, 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.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

Exhibit A – Development Agreement (See Attached)

CITY OF ONTARIO

Agenda Report December 17, 2013

SECTION: PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING TO CONSIDER: [1] A RESOLUTION APPROVING A GENERAL PLAN AMENDMENT REVISING EXHIBIT LU-03 (FUTURE BUILDOUT) AND THE LAND USE PLAN CONTAINED WITHIN THE POLICY PLAN COMPONENT OF THE ONTARIO PLAN AND [2] A RESOLUTION APPROVING A SPECIFIC PLAN AMENDMENT REVISING THE BORBA VILLAGE SPECIFIC PLAN

RECOMMENDATION: That the City Council adopt a resolution approving an addendum to the previous Mitigated Negative Declaration adopted by the Ontario City Council on February 10, 2004 in conjunction with File No. PGPA03-002; a resolution approving a General Plan Amendment (File No. PGPA13-002) revising Exhibit LU-03 (Future Buildout) and the Land Use Plan contained within the Policy Plan component of The Ontario Plan; and a resolution approving a Specific Plan Amendment revising the Borba Village Specific Plan changing the land use designation on 14.6 (net) acres of land located at the northeast corner of Riverside Drive and Fern Avenue from medium density residential (11.1-25.0 dwelling units per acre) to low-medium density residential (5.1-11.0 dwelling units per acre); amending the allowed land uses and establishing development standards to accommodate the development of small lot, single-family dwellings on the project site, not to exceed 130 dwelling units.

COUNCIL GOALS: <u>Develop Strategies and Take Actions, Including Regaining Local Control of</u> <u>the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial</u> <u>Downturn on Ontario's Economy and the City's Fiscal Health</u> <u>Focus Resources in Ontario's Commercial and Residential Neighborhoods</u>

FISCAL IMPACT: The proposed General Plan and Specific Plan Amendments would result in the following fiscal impacts:

- While the number of residential units is proposed to be decreased, the per-unit value of single family residences is higher than multi-family units. As a result, the property taxes revenue anticipated from the development is negligible; and
- Short term gains resulting from the receipt of plan check fees and development impact fees for a

STAFF MEMBER PRESENTING: Scott Murphy, Assistant Planning Director

Prepared by:	Charles Mercier	Submitted to Council/O.H.A.	12/17/2013
Department:	Planning /	Approved:	1
		Continued to:	
City Manager		Denied:	
Approval:	M		9

130-unit project proposed by the applicant, and facilitated by the proposed General Plan and Specific Plan Amendments.

BACKGROUND: Frontier Communities is requesting the approval of a General Plan Amendment (GPA) and Specific Plan Amendment (SPA) affecting a 14.6-acre (net) parcel of land generally located at the north east corner of Fern Avenue and Riverside Drive to facilitate the development of the property with 130 small lot single-family dwellings at a density of 8.9 dwelling units per acre, along with a system of private streets and alleyways, and common recreation amenities (see Attachment 1 - Illustrative Site Plan/Landscape Plan).

Existing land uses surrounding the project site include conventional single-family residential dwellings to the north; big-box retail (Home Depot) to the east; vacant property across Riverside Drive to the south, which is within the City of Chino and is planned for general commercial and office-commercial development; and small lot single-family residential development across Fern Avenue to the west, which is also within the City of Chino.

The proposed GPA will revise the Land Use Plan contained within the Policy Plan component of The Ontario Plan, amending the land use designation on the project site from Medium Density Residential (11.1-25.0 dus/acre) to Low-Medium Density Residential (5.1-11.0 dus/acre). Furthermore, the proposed residential density change will be reflected in changes to the Policy Plan's Future Buildout table, shown in Attachment 2 (Proposed Revisions to The Ontario Plan's Future Buildout Table) of this report.

The reduction in residential density resulting from the proposed GPA will allow for residential development that is more in keeping with the density of residentially designated properties adjacent to the project site, including the existing small lot single-family residential development to the west, which is developed at a density of approximately 10.5 dwelling units per acre, and the existing single-family residential development to the north, which is developed at a density of approximately 4.1 dwelling units per acre.

The proposed SPA will revise the Borba Village Specific Plan to accommodate the development of small lot single-family dwellings. Generally, changes to the specific plan include:

- Establishment of the small lot single-family land use district, allowing development on the 14.6acre project site at 11.0 dwelling units per acre, not to exceed 130 dwellings on lots with a minimum area of 2,500 square feet;
- Necessary revisions to exhibits to reflect the new small lot single-family land use district and development type; and
- Establishment of small lot single-family development standards, included as Attachment 3 of this report.

The small lot single-family development standards proposed by the Specific Plan Amendment are similar to the standards of adopted specific plans within the New Model Colony, as well as those standards adopted with the Ontario Festival Specific Plan (currently under construction by KB Home).

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

detailed in the Planning Commission staff report dated November 18, 2013 (attached), and are contained in the City Council resolution approving the Specific Plan Amendment.

COMPLIANCE WITH THE AIRPORT LAND USE COMPATIBILITY PLAN: The proposed project is located within the Airport Influence Area of Ontario International Airport ("ONT") and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan ("ALUCP") for ONT. The project is required to meet the Real Estate Transaction Disclosure pursuant to Business and Professions Code Sections 11010 through 11024. New residential subdivisions within an Airport Influence Area are required to file a Public Report application, which consists of a Notice of Intention ("NOI") and a completed questionnaire, with the Department of Real Estate. Pursuant to the ALUCP Compatibility Analysis, the following language will be included within the NOI:

NOTICE OF AIRPORT IN VICINITY

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

PLANNING COMMISSION REVIEW: On November 18, 2013, the Planning Commission voted unanimously (7-0) to recommend the City Council approve the proposed GPA and SPA. Furthermore, the Planning Commission approved the development project proposed by the applicant, including Tentative Tract Map No. 18911 (File No. PDEV13-009) and a Development Plan (File No. PDEV13-017), subject to the approval of the proposed GPA and SPA by the City Council.

ENVIRONMENTAL REVIEW: Staff recommends the adoption of an Addendum to a previous Mitigated Negative Declaration adopted by the Ontario City Council on February 10, 2004 in conjunction with File No. PGPA03-002. The Addendum finds that the proposed Specific Plan Amendment introduces no new significant environmental impacts. Moreover, the Addendum notes that the change in residential land use (decrease in residential density) would have a reduction in trip generation and, as a result, a corresponding reduction in greenhouse gas emissions.

All previously adopted mitigation measures are a condition of project approval and are incorporated into the proposed project by reference. The environmental documentation for this project is available for review at the Planning Department public counter upon request.

<u>ATTACHMENT 1:</u> <u>ILLUSTRATIVE SITE/LANDSCAPE PLAN</u>



<u>ATTACHMENT 2:</u> <u>PROPOSED REVISIONS TO THE ONTARIO PLAN'S FUTURE BUILDOUT TABLE</u>

LU-03 Future Buildout

Land Use	Acres	Assumed Density/Intensity	Units	Population	Non-Residential Square Feet	Jobs
Residential	-		-			
Rural	458	2.0 du/ac	916	3,660		
Low Density	7,454	4.0 du/ac (OMC) 4.5 du/ac (NMC)	31,400	125,506		
Low-Medium	829	8.5 du/ac	7,042	28,148		
Density	<u>843</u>		<u>7,166</u>	<u>28,644</u>		
Medium Density	1,946	18.0 du/ac (OMC)	39,265	137,321		
	1,931	22.0 du/ac (NMC)	<u>39,002</u>	<u>136,318</u>		
High Density	236	35.0 du/ac	8,259	27.643		
Subtotal	10,923		86,882	322,278		
			86,743	<u>321,771</u>		

<u>Note</u>: Deletions to the table are shown in red strikethrough text, and additions are shown in <u>blue</u> <u>underlined text</u>.

<u>ATTACHMENT 3:</u> <u>BORBA VILLAGE SPECIFIC PLAN;</u> <u>SMALL LOT SINGLE-FAMILY DEVELOPMENT STANDARDS</u>

6.15.2 SMALL LOT SINGLE FAMILY DETACHED (SLSFD)

a. General

This category includes the development of small lot single family detached residential type dwelling units. The purpose of the residential standards for small lot single family detached uses is to establish the minimum criteria for the development of these types of residences.

b. Permitted Uses

- 1. Small lot single family detached residential units.
- 2. Public or private parks, recreational facilities, greenbelts, or open space
- 3. Accessory uses to include the following:
 - Garages
 - Home occupations
 - Swimming pools, spas, water park, tot lot, dog park, and other similar outdoor recreational amenities
 - Patios and patio covers
 - Mailboxes
 - Community center buildings
 - Monument signage (Project identification signs per the approved sign program)
 - Temporary uses such as model units, sales offices, and subdivision sales trailers, temporary construction offices and facilities, real estate signs, signage indicating future development and directional signage.

TABLE 4 SMALL LOT SINGLE FAMILY DETACHED RESIDENTIAL Site Development Standards

	Small Lot Single Family Detached	
DENSITY	E.	
Maximum Dwelling Units per Acre	11	
Min. Lot Area Min. Lot Area per Unit Min. Lot Width Min. Lot Depth	2,500 NA 50 50	
MINIMUM BUILDING SETBACKS (1)		
FROM RIVERSIDE DRIVE PL, FERN AVENUE PL, ST. ANDREWS STREET (2)		
LIVING AREA	20 ft	
PORCH WITH SINGLE STORY PLATE LINE	15 ft	
ABUTTING SINGLE FAMILY DETACHED	4 ft	
ABUTTING NEIGHBORHOOD COMMERCIAL	10 ft	
From Interior Private Streets & Property Lines		
Living Area	Min. 10 ft	
Minimum Building Separation	9 ft	
Lot Coverage	65%	
Maximum Building Height	30 ft	
Accessory Structures	Per City of Ontario Development Code	
Porches, Decks & Balconies		
SETBACKS: • FROM RIVERSIDE DRIVE & FERN AVENUE PROPERTY LINE	15 ft	
FROM INTERIOR PROPERTY LINE	5 ft	
FROM PRIVATE STREETS & DRIVE AISLES	4 ft	
FROM PARKING STALLS	10 ft	
FROM COMMERCIAL LAND USES	10 ft	
FROM TRADITIONAL SINGLE FAMILY RESIDENTIAL LAND USES	10 ft	
MINIMUM DEPTH DIMENSION	6 ft	
MINIMUM USABLE AREA	70 sf	

WALLS, FENCES, AND HEDGES	Per City of Ontario Development Code	
Maximum Building Length	50 ft	
PARKING	Per City of Ontario Development Code	
OPEN SPACE		
PRIVATE COMMON PARKING AND DRIVE AISLE SETBACKS	215 sf per dwelling unit, with a minimum dimension of 12 ft 10% of project site, with a minimum dimension of 15 ft	
FROM PRIVATE STREETS & DRIVE AISLES TO BUILDINGS FROM PARKING STALLS TO BUILDINGS FROM PARKING STALLS AND DRIVE AISLES TO THE STREET PROPERTY LINE FROM COMMERCIAL LAND USE FROM SINGLE FAMILY RESIDENTIAL LAND USE	17 ft, measured from face-of-curb 10ft 15ft 10ft 10ft	

FOOTNOTES

1. All front and corner side setbacks are measured from the back of sidewalk, unless otherwise stated.

2. All setbacks are measured to habitable area not architectural appurtenance or projection. An architectural projection is defined as an element that articulates the building elevation such as eaves, window and door pop-out surrounds, media niches, bay windows, pot shelves, chimneys, enhanced window sills, shutter details, window trim, balconies and entry gates, and other similar elements. Such elements may project a maximum of 3 feet into required front, rear or side setback areas, however, in no case shall such projection be closer than 3 feet to any property line.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING AN ADDENDUM TO THE MITIGATED NEGATIVE DECLARATION ADOPTED FOR FILE NOS. PGPA03-002, PZC03-004, PSP03-001 & TT16514, PREPARED FOR FILE NOS. PGPA13-002, PSPA13-001, PMTT13-009 (TT18911) AND PDEV13-017, FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND MAKING FINDINGS IN SUPPORT THEREOF (APN: 1051-511-17).

WHEREAS, prior to the adoption of this Resolution, the Planning Director of the City of Ontario prepared an Initial Study and an Addendum to the Mitigated Negative Declaration adopted for File Nos. PGPA03-002, PZC03-004, PSP03-001 & TT16514 for Planning File Nos. PGPA13-002, PSPA13-001, PMTT13-009 (TT18911) & PDEV13-017 (the "Addendum"), all in accordance with the requirements of the California Environmental Quality Act of 1970, together with state and local guidelines implementing said Act, all as amended to date (collectively "CEQA"); and

WHEREAS, Planning File Nos. PGPA13-002, PSPA13-001, PMTT13-009 (TT18911) & PDEV13-017 (the "Project") analyzed under the Addendum consists of a General Plan Amendment, Specific Plan Amendment, Parcel Map, and Development Plan to construct 130 small lot single-family dwellings on approximately 17.5 gross acres of land within the Borba Village Specific Plan, generally located at the northeast corner of Riverside Drive and Fern Avenue (the "Project"); and

WHEREAS, the 130 small lot single-family dwelling development is proposed in lieu of the 196 multi-family dwelling development previously approved by Planning File Nos. PGPA03-002, PZC03-004, PSP03-001 that was analyzed by the Initial Study and Mitigated Negative Declaration adopted for Planning File Nos. PGPA03-002, PZC03-004, PSP03-001 & TT16514; and

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

WHEREAS, on December 16, 2003 the City Council adopted a Mitigated Negative Declaration and a related Mitigation Monitoring and Reporting Program for File Nos. PGPA03-002, PZC03-004, PSP03-001 & TT16514 pursuant to CEQA requirements; and

WHEREAS, pursuant to Public Resources Code Section 21166 and Sections 15162 and 15163 of the State CEQA Guidelines, the Addendum to the Mitigated Negative Declaration for File Nos. PGPA03-002, PZC03-004, PSP03-001 & TT16514 was prepared by the City with regard to the Project (Planning File Nos PGPA13-002, PSPA13-001, PMTT13-009 (TT18911) & PDEV13-017). The Addendum incorporates, by reference, the analysis contained in the adopted Mitigated Negative Declaration and

related Mitigation Monitoring and Reporting Program for File Nos. PGPA03-002, PZC03-004, PSP03-001 & TT16514, and addresses only those issues specific to the Project. The Addendum concludes that the Project will not result in impacts beyond what was previously analyzed in the adopted Mitigated Negative Declaration, because the Project does not have new or substantially more severe significant environmental impacts, either directly or indirectly; and

WHEREAS, the City of Ontario is the lead agency on the Project, and the City Council is the decision-making body for the proposed approval to construct and otherwise undertake the Project; and

WHEREAS, the City Council has reviewed and considered the Addendum for the Project with the General Plan Amendment, Specific Plan Amendment, Parcel Map, and Development Plan, and intends to recommend to the City Council to take actions on the Project in compliance with CEQA, and state and local guidelines implementing CEQA; and

WHEREAS, the Addendum for the Project and the adopted Mitigated Negative Declaration for File Nos. PGPA03-002, PZC03-004, PSP03-001 & TT16514 are on file in the Planning Department, located at 303 East B Street, Ontario, CA 91764, and are available for inspection by any interested person at that location and are, by this reference, incorporated into this Resolution as if fully set forth herein;

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

<u>SECTION 1</u>. As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the Addendum to the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for File Nos. PGPA03-002, PZC03-004, PSP03-001 & TT16514, and approved by the City Council on December 16, 2003, and supporting documentation. Based upon the facts and information contained in the Addendum and supporting documentation, the City Council finds as follows:

a. The Addendum/Initial Study and other information in the record has been independently reviewed and analyzed, and the information contained therein has been thoroughly considered prior to acting upon or approving the Project;

b. The Addendum prepared for the Project has been completed in compliance with CEQA and is consistent with state and local guidelines implementing CEQA; and

c. The Addendum represents the independent judgment and analysis of the City of Ontario, as lead agency for the Project.

<u>SECTION 2</u>. The City Council does hereby find that based upon the entire record of proceedings before it and all information received, and pursuant to State CEQA Guidelines Section 15162 and 15164, that there is no substantial evidence that

the Project will result in any new, increased, or substantially different significant impacts, other than those previously considered and addressed in the Mitigated Negative Declaration adopted for File Nos. PGPA03-002, PZC03-004, PSP03-001 & TT16514, and that no changes or additions to the adopted Mitigated Negative Declaration analyses are necessary, nor is there a need for any additional mitigation measures (Planning File Nos. PGPA13-002, PSPA13-001, PMTT13-009 (TT18911) & PDEV13-017), and that none of the conditions described in State CEQA Guidelines Section 15162 that would require subsequent or supplemental CEQA review for the Project otherwise exist.

<u>SECTION 3</u>. 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.

<u>SECTION 4</u>. The documents and materials that constitute the record of proceedings on which these findings have been based upon 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.

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

PASSED, APPROVED, AND ADOPTED this 17th 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 STATE OF CALIFORNIA)COUNTY OF SAN BERNARDINO)CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2013- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 17, 2013 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2013- duly passed and adopted by the Ontario City Council at their regular meeting held December 17, 2013.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PGPA13-002, A GENERAL PLAN AMENDMENT REVISING THE LAND USE ELEMENT OF THE POLICY PLAN, INCLUDING CHANGES TO EXHIBIT LU-01 (LAND USE PLAN) AND EXHIBIT LU-03 (FUTURE BUILDOUT) TO REFLECT A LAND USE CHANGE ON 14.6 ACRES OF LAND LOCATED AT THE NORTHEAST CORNER OF FERN AVENUE AND RIVERSIDE DRIVE, FROM MEDIUM DENSITY RESIDENTIAL (11.1-25.0 DWELLING UNITS PER ACRE) TO LOW-MEDIUM DENSITY RESIDENTIAL (5.1-11.0 DWELLING UNITS PER ACRE), AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 1051-511-17.

WHEREAS, FH II, LLC has filed an Application for the approval of a General Plan Amendment, File No. PGPA13-002, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the City of Ontario adopted the Policy Plan (General Plan) as part of The Ontario Plan in January 2010. Since the adoption of The Ontario Plan ("TOP"), the City has evaluated Figures LU-01: Official Land Use Plan and LU-03: Future Buildout further and is proposing modifications; and

WHEREAS, the proposed changes to Exhibit LU-01 (Land Use Plan) include changes to land use designations of certain properties shown on Exhibit "A" (TOP Land Use Changes) to make the land use designations of the project site consistent with adjacent properties; and

WHEREAS, Figure LU-03 (Future Buildout) specifies the likely buildout for Ontario with the adopted land use designations. The proposed changes to Figure LU-01 (Land Use Plan) will require Figure LU-03 (Future Buildout) be modified to be consistent with LU-01 (Land Use Plan), as shown on Exhibit "B" (Amended Figure LU-03 - Future Buildout); and

WHEREAS, the project sites are located within the Airport Influence Area of Ontario International Airport and the Project is consistent with the policies and criteria set forth within the Airport Land Use Compatibility Plan; and

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

WHEREAS, on November 18, 2013, the Planning Commission of the City of Ontario conducted a hearing to consider the Project and concluded said hearing on that date. After considering all public testimony, the Planning Commission voted unanimously (7-0) to adopt a resolution recommending City Council approval of the proposed General Plan Amendment; and

WHEREAS, as the first action on the Project, on December 17, 2013, the City Council approved a Resolution adopting a Resolution for an Addendum to the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for File Nos. PGPA03-002, PZC03-004, PSP03-001 & TT16514 and approved by the City Council on December 16, 2003. The Addendum finds that the proposed project introduces no new significant environmental impacts, and all previously adopted mitigation measures are incorporated into the Project by reference; and

WHEREAS, on December 17, 2013, the City Council of the City of Ontario conducted a hearing to consider the Project and concluded said hearing on that date; and

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

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

<u>SECTION 1</u>. As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the Addendum to the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for File Nos. PGPA03-002, PZC03-004, PSP03-001 & TT16514, and approved by the City Council on December 16, 2003, and supporting documentation. Based upon the facts and information contained in the Addendum and supporting documentation, the City Council finds as follows:

a. The Addendum/Initial Study and other information in the record has been independently reviewed and analyzed, and the information contained therein has been thoroughly considered prior to acting upon or approving the Project;

b. The Addendum prepared for the Project has been completed in compliance with CEQA and is consistent with state and local guidelines implementing CEQA; and

c. The Addendum represents the independent judgment and analysis of the City of Ontario, as lead agency for the Project.

d. The proposed project introduces no new significant environmental impacts beyond what was analyzed in the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for File Nos. PGPA03-002, PZC03-004, PSP03-001 & TT16514, and approved by the City Council on December 16, 2003, and all previously adopted mitigation measures are incorporated into the Project by reference.

<u>SECTION 2</u>. Based upon the facts and information contained in the administrative record, including all written and oral evidence presented to the City Council and the specific findings set forth in Section 1 above, the City Council hereby concludes as follows:

a. The proposed General Plan Amendment is consistent with the goals and policies of The Ontario Plan;

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

c. The Land Use Element is a mandatory element allowed four General Plan Amendments per calendar year and this general plan amendment is the fourth amendment to the Land Use Element of the 2013 calendar year consistent with California Government Code Section 65358;

d. During the amendment of the General Plan, opportunities for the involvement of citizens, California Native American Indian tribes (Government Code Section 65352.3.), public agencies, public utility companies, and civic, education, and other community groups, through public hearings or other means were implemented consistent with California Government Code Section 65351.

e. The proposed project is consistent with the adopted Housing Element. The site is not one of the properties listed in the Available Land Inventory in the Housing Element. Changing the land use designation of the subject property from Medium Density (11.1 to 25 du/ac) to Low-Medium Density (6.1 to 11 du/ac) will not impact the City's Regional Housing Needs Allocation obligations or the City's ability to satisfy its share of the region's future housing need.

<u>SECTION 3</u>. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the City Council hereby approves File No. PGPA13-002, an amendment to revise the Land Use Element of the Policy Plan, including Exhibit LU-01 (Land Use Plan), as shown in Exhibit A, attached, and Exhibit LU-03 (Future Buildout), as shown in Exhibit B, attached.

<u>SECTION 4</u>. 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.

<u>SECTION 5</u>. The documents and materials that constitute the record of proceedings on which these findings have been based upon 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.

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

PASSED, APPROVED, AND ADOPTED this 17th 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 STATE OF CALIFORNIA)COUNTY OF SAN BERNARDINO)CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2013- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 17, 2013 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2013- duly passed and adopted by the Ontario City Council at their regular meeting held December 17, 2013.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

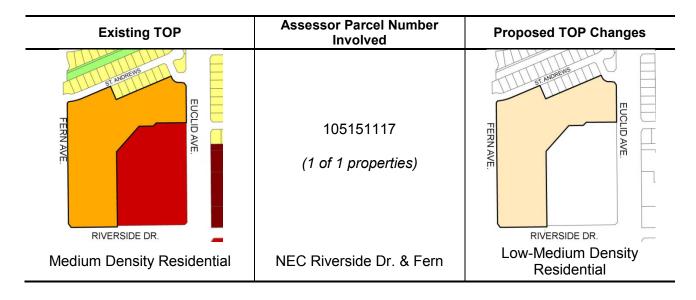


EXHIBIT A: Changes to TOP Exhibit LU-01 (Land Use Map)

EXHIBIT B: Changes to TOP Exhibit LU-03 (Future Buildout)

Land Use	Acres	Assumed Density/Intensity	Units	Population	Non-Residential Square Feet	Jobs
Residential						
Rural	458	2.0 du/ac	916	3,660		
Low Density	7,454	4.0 du/ac (OMC)	31,400	125,506		
-		4.5 du/ac (NMC)				
Low-Medium	829	8.5 du/ac	7,042	28,148		
Density	<u>843</u>		7,166	28,644		
Medium Density	1,946	18.0 du/ac (OMC)	39,265	137,321		
-	<u>1,931</u>	22.0 du/ac (NMC)	39,002	<u>136,318</u>		
High Density	236	35.0 du/ac	8,259	27.643		
Subtotal	10,923		86,882	322,278		
			86,743	321,771		

Note: Deletions to the table are shown in red strikethrough text, and additions are shown in blue underlined text.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PSPA13-001, A SPECIFIC PLAN AMENDMENT REVISING THE BORBA VILLAGE SPECIFIC PLAN TO ACCOMMODATE THE DEVELOPMENT OF SMALL LOT SINGLE-FAMILY DWELLINGS, NOT TO EXCEED 130 DWELLINGS, ON 14.6 ACRES OF LAND LOCATED AT THE NORTHEAST CORNER OF FERN AVENUE AND RIVERSIDE DRIVE, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 1051-511-17.

WHEREAS, FH II, LLC, ("Applicant") has filed an Application for the approval of a Specific Plan Amendment, File No. PSPA13-001, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to approximately 14.6 acres of land located at the northeast corner of Fern Avenue and Riverside Drive, which is currently unimproved; and

WHEREAS, the property to the north of the Project site is within the Single-Family land use district of the Borba Village Specific Plan, and is developed with conventional single-family residential dwellings. The property to the south, across Riverside Drive, is within the City of Chino and is planned for general commercial and office-commercial development. The property to the east is within the Neighborhood Commercial land use district of the Borba Village Specific Plan, and is developed with a home improvement store. The property to the west, across Fern Avenue, is within the City of Chino, and is designated for residential development at a maximum density of 12 dwelling units per acre, and is developed with a small lot single family residential development; and

WHEREAS, in 2004, the City Council approved a General Plan Amendment (File No. PGPA03-001) and the Borba Village Specific Plan ("BVSP") (File No. PSP03-001), which allowed for 13.44 acres of neighborhood commercial land uses, 6.34 acres of single-family residential land uses, and 12.25 acres of multiple-family residential land uses, generally located at the northwest corner of Euclid Avenue and Riverside Drive; and

WHEREAS, in 2007, the City Council approved a General Plan Amendment (File No. PGPA06-008) and Specific Plan Amendment (File No. PSPA06-001), which amended the neighborhood commercial and multiple-family residential land use district boundaries to accommodate the development of a Home Depot on approximately 10.66 acres of land and 196 multiple-family dwellings at density of 13.18 dwelling units per acre, on approximately 14.6 acres of land; and

WHEREAS, the Applicant is requesting the City approve a Specific Plan Amendment, revising the Borba Village Specific Plan to accommodate small lot singlefamily residential development on the project site, not to exceed a maximum of 130 dwellings (8.9 dwelling units per acre); and WHEREAS, The small lot single-family development standards proposed by the Specific Plan Amendment are consistent with the standards that have been adopted with specific plans within the New Model Colony, and within the Ontario Festival Specific Plan; and

WHEREAS, on November 18, 2013, the Planning Commission of the City of Ontario conducted a hearing to consider the Project and concluded said hearing on that date. After considering all public testimony, the planning Commission voted unanimously (7-0-0) to adopt a resolution recommending City Council approval of the proposed Specific Plan Amendment; and

WHEREAS, as the first action on the Project, on December 17, 2013, the City Council approved a Resolution adopting a Resolution for an Addendum to the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for File Nos. PGPA03-002, PZC03-004, PSP03-001 & TT16514 and approved by the City Council on December 16, 2003. The Addendum finds that the proposed project introduces no new significant environmental impacts, and all previously adopted mitigation measures are incorporated into the Project by reference; and

WHEREAS, on December 17, 2013, the City Council of the City of Ontario conducted a hearing to consider the Project and concluded said hearing on that date; and

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

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

<u>SECTION 1</u>. As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the Addendum to the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for File Nos. PGPA03-002, PZC03-004, PSP03-001 & TT16514, and approved by the City Council on December 16, 2003, and supporting documentation. Based upon the facts and information contained in the Addendum and supporting documentation, the City Council finds as follows:

a. The Addendum/Initial Study and other information in the record has been independently reviewed and analyzed, and the information contained therein has been thoroughly considered prior to acting upon or approving the Project;

b. The Addendum prepared for the Project has been completed in compliance with CEQA and is consistent with state and local guidelines implementing CEQA; and

c. The Addendum represents the independent judgment and analysis of the City of Ontario, as lead agency for the Project.

d. The proposed project introduces no new significant environmental impacts beyond what was analyzed in the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for File Nos. PGPA03-002, PZC03-004, PSP03-001 & TT16514, and approved by the City Council on December 16, 2003, and all previously adopted mitigation measures are incorporated into the Project by reference.

<u>SECTION 2</u>. Based upon the facts and information contained in the administrative record, including all written and oral evidence presented to the City Council and the specific findings set forth in Section 1 above, the City Council hereby concludes as follows:

a. The subject property is physically suitable, including, but not limited to parcel size, shape, access, availability of utilities and compatibility with adjoining land uses, for the requested land use designation and anticipated development.

b. The proposed specific plan or specific plan amendment will not be detrimental to the public interest, health, safety, convenience or welfare.

c. The proposed amendment would contribute to the achievement of the purposes of the Policy Plan (General Plan) component of The Ontario Plan, as follows:

LAND USE:

<u>Goal</u>—LU1 A community that has a spectrum of housing types and price ranges that match the jobs in the City and that make it possible for people to live and work in Ontario and maintain a quality of life.

<u>Policy</u>—LU1-1 *Strategic Growth*. We concentrate growth in strategic locations that help create place and identity, maximize available and planned infrastructure, and foster the development of transit.

Policy—LU1-3 *Adequate Capacity*. We require adequate infrastructure and services for all development.

Policy—LU1-6 *Complete Community*. We incorporate a variety of land uses and building types in our land use planning efforts that result in a complete where residents at all stages of life, employers, workers, and visitors have a wide spectrum of choices of where they can live, work, shop, and recreate within Ontario.

<u>Goal</u>—LU2 Compatibility between a wide range of uses.

<u>Policy</u>—LU2-1 *Land Use Decisions*. We minimize adverse impacts on adjacent properties when considering land use and zoning requests.

<u>Policy</u>—LU2-2 *Buffers*. We require new uses to provide mitigation or buffers between existing uses where potential adverse impacts could occur.

<u>Policy</u>—LU2-5 *Regulation of Uses.* We regulate the location of uses that have impacts on surrounding land uses.

<u>Policy</u>—LU2-6 *Infrastructure Compatibility*. We require infrastructure to be aesthetically pleasing and in context with the community character.

COMMUNITY DESIGN:

<u>Goal</u>—CD1 A dynamic, progressive city containing distinct neighborhoods and commercial districts that foster a positive sense of identity and belonging among residents, visitors, and businesses.

<u>Goal</u>—CD2 A high level of design quality resulting in public spaces, streetscapes, and developments that are attractive, safe, functional and distinct.

<u>Policy</u>—CD2-1 *Quality Architecture*. We encourage all development projects to convey visual interest and character through:

• Building volume, massing, and height to provide appropriate scale and proportion;

• A true architectural style which is carried out in plan, section and elevation through all aspects of the building and site design and appropriate for its setting; and

• Exterior building materials that are visually interesting, high quality, durable, and appropriate for the architectural style.

<u>Policy</u>—CD2-2 *Neighborhood Design*. We create distinct residential neighborhoods that are functional, have a sense of community, emphasize livability and social interaction, and are uniquely identifiable places through such elements as:

• A pattern of smaller, walkable blocks that promote access, activity and

safety;

• Variable setbacks and parcel sizes to accommodate a diversity of housing types;

• Traffic calming measures to slow traffic and promote walkability while maintaining acceptable fire protection and traffic flows;

• Floor plans that encourage views onto the street and de-emphasize the visual and physical dominance of garages (introducing the front porch as the "outdoor living room"), as appropriate; and

• Landscaped parkways, with sidewalks separated from the curb.

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

<u>Policy</u>—CD2-6 *Connectivity.* We promote development of local street patterns and pedestrian networks that create and unify neighborhoods, rather than divide them, and create cohesive and continuous corridors, rather than independent "islands" through the following means:

• Local street patterns that provide access between subdivisions and within neighborhoods and discourage through traffic;

• A local street system that is logical and understandable for the user. A grid system is preferred to avoid circuitous and confusing travel paths between internal neighborhood areas and adjacent arterials; and

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

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

<u>Policy</u>—CD2-9 *Landscape Design.* We encourage durable landscaping materials and designs that enhance the aesthetics of structures, create and define public and private spaces, and provide shade and environmental benefits.

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

<u>Policy</u>—CD3-5 *Paving.* We require sidewalks and road surfaces to be of a type and quality that contributes to the appearance and utility of streets and public spaces.

<u>Policy</u>—CD3-6 *Landscaping.* We utilize landscaping to enhance the aesthetics, functionality and sustainability of streetscapes, outdoor spaces and buildings.

<u>Goal</u>—CD5 A sustained level of maintenance and improvement of properties, buildings and infrastructure that protects the property values and encourages additional public and private investments.

<u>Policy</u>—CD5-1 *Maintenance of Buildings and Property.* We require all public and privately owned buildings and property (including trails and easements) to be properly and consistently maintained.

<u>Policy</u>—CD5-2 *Maintenance of Infrastructure.* We require the continual maintenance of infrastructure.

<u>Policy</u>—CD5-3 *Improvements to Property & Infrastructure.* We provide programs to improve property and infrastructure.

HOUSING:

<u>Goal</u>—H1 Stable neighborhoods of quality housing, ample community services and public facilities, well-maintained infrastructure, and public safety that foster a positive sense of identity.

<u>Policy</u>—H1-2 *Neighborhood Conditions.* We direct efforts to improve the long-term sustainability of neighborhoods through comprehensive planning, provision of neighborhood amenities, rehabilitation and maintenance of housing, and community building efforts.

<u>Policy</u>—H1-3 *Community Amenities.* We shall provide adequate public services, infrastructure, open space, parking and traffic management, pedestrian, bicycle and equestrian routes and public safety for neighborhoods consistent with City master plans and neighborhood plans.

<u>Policy</u>—H1-5 *Neighborhood Identity.* We strengthen neighborhood identity through creating parks and recreational outlets, sponsoring neighborhood events and encouraging resident participation in the planning and improvement of their neighborhoods.

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

<u>Policy</u>—H2-1 *Corridor Housing*. We revitalize transportation corridors by encouraging the production of higher density residential and mixed-uses that are architecturally, functionally and aesthetically suited to corridors.

<u>Policy</u>—H2-5 *Housing Design*. We require architectural excellence through adherence to City design guidelines, thoughtful site planning, environmentally sustainable practices and other best practices.

<u>Policy</u>—H2-6 *Infill Development.* We support the revitalization of neighborhoods through the construction of higher-density residential developments on underutilized residential and commercial sites.

ENVIRONMENTAL RESOURCES:

<u>Goal</u>—ER1 A reliable and cost effective system that permits the City to manage its diverse water resources and needs.

<u>Policy</u>—ER1-3 *Conservation.* We require conservation strategies that reduce water usage.

<u>Policy</u>—ER1-6 *Urban Run-off Quantity.* We encourage the use of low impact development strategies to intercept run-off, slow the discharge rate, increase infiltration and ultimately reduce discharge volumes to traditional storm drain systems.

<u>Policy</u>—ER1-7 *Urban Run-off Quality.* We require the control and management of urban run-off, consistent with Regional Water Quality Control Board regulations.

<u>Policy</u>—ER1-8 *Wastewater Management.* We require the management of wastewater discharge and collection consistent with waste discharge requirements adopted by the Regional Water Quality Control Board.

<u>Policy</u>—ER2-1 *Waste Diversion.* We shall meet or exceed AB 939 requirements.

<u>Goal</u>—ER3 Cost-effective and reliable energy system sustained through a combination of low impact building, site and neighborhood energy conservation and diverse sources of energy generation that collectively helps to minimize the region's carbon footprint.

<u>Policy</u>—ER3-1 *Conservation Strategy.* We require conservation as the first strategy to be employed to meet applicable energy-saving standards.

<u>Policy</u>—ER3-2 *Green Development*— *Communities.* We require the use of best practices identified in green community rating systems to guide the planning and development of all new communities.

<u>Policy</u>—ER3-3 *Building and Site Design.* We require new construction to incorporate energy efficient building and site design strategies, which could include appropriate solar orientation, maximum use of natural daylight, passive solar and natural ventilation.

<u>Goal</u>—ER4 Improved indoor and outdoor air quality and reduced locally generated pollutant emissions.

<u>Policy</u>—ER4-4 *Indoor Air Quality.* We will comply with State Green Building Codes relative to indoor air quality.

<u>Policy</u>—ER4-8 *Tree Planting.* We protect healthy trees within the City and plant new trees to increase carbon sequestration and help the regional/local air quality.

COMMUNITY ECONOMICS:

<u>Goal</u>—CE1 A complete community that provides for all incomes and stages of life

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

<u>Goal</u>—CE2 A City of distinctive neighborhoods, districts, and corridors, where people choose to be.

<u>Policy</u>—CE2-1 *Development Projects.* We require new development and redevelopment to create unique, high-quality places that add value to the community.

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

<u>Policy</u>—CE2-4 *Protection of Investment*. We require that new development and redevelopment protect existing investment by providing architecture and urban design of equal or greater quality.

<u>Policy</u>—CE2-5 *Private Maintenance*. We require adequate maintenance, upkeep, and investment in private property because proper maintenance on private property protects property values.

<u>Goal</u>—CE3 Decision-making deliberations that incorporate the full short-term and long-term economic and fiscal implications of proposed City Council actions.

<u>Policy</u>—CE3-1 *Fiscal Impact Disclosure*. We require requests for City Council action to disclose the full fiscal impacts, including direct and indirect costs.

<u>Policy</u>—CE3-2 *General Plan Amendments*. We require those proposing General Plan amendments to disclose reasonably foreseeable impacts through a fiscal analysis.

d. During the amendment of the Specific Plan, opportunities for the involvement of citizens, California Native American Indian tribes (Government Code

Section 65352.3.), public agencies, public utility companies, and civic, education, and other community groups, through public hearings or other means were implemented consistent with California Government Code Section 65351.

<u>SECTION 3</u>. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the City Council hereby approves File No. PSPA13-001, an amendment to the Borba Village Specific Plan, attached as Exhibit "A" of this resolution.

<u>SECTION 4</u>. 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.

<u>SECTION 5</u>. The documents and materials that constitute the record of proceedings on which these findings have been based upon 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.

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

PASSED, APPROVED, AND ADOPTED this 17th 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 STATE OF CALIFORNIA)COUNTY OF SAN BERNARDINO)CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2013- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 17, 2013 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2013- duly passed and adopted by the Ontario City Council at their regular meeting held December 17, 2013.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report December 17, 2013 SECTION: PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING TO CONSIDER A REQUEST TO CHANGE THE ZONING DESIGNATION OF A 5.4-ACRE PARCEL FROM R2 TO R3, LOCATED AT THE SOUTHWEST CORNER OF PHILADELPHIA STREET AND CUCAMONGA AVENUE

RECOMMENDATION: That the City Council approve a resolution adopting a Mitigated Negative Declaration; and introduce and waive further reading of an ordinance approving the Zone Change (File No. PZC13-001) from R2, Medium Density Residential (11.1-16 dus/acre) to R3, High Density Residential (16.1-25 dus/acre), for property located at 1056 East Philadelphia Street (APN: 1051-141-03).

COUNCIL GOALS: <u>Develop Strategies and Take Actions, Including Regaining Local Control of</u> <u>the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial</u> <u>Downturn on Ontario's Economy and the City's Fiscal Health</u> <u>Invest in the Growth and Evolution of the City's Economy</u> <u>Operate in a Businesslike Manner</u> <u>Focus Resources in Ontario's Commercial and Residential Neighborhoods</u>

FISCAL IMPACT: The increase in residential density will provide for more residential units, thus increasing potential property tax revenues received by the City.

BACKGROUND: The project site is located at 1056 East Philadelphia Avenue on the southwest corner of Philadelphia Street and Cucamonga Avenue. It is surrounded by multi-family residential to the west, south, and east with non-conforming single-family residential and a religious assembly use to the north. The 5.4-acre site was previously utilized as a school and continuing education center. The buildings on the property were abandoned over the past year becoming dilapidated, vandalized and creating a public health and safety concern. As a result, all structures were demolished by the applicant in September 2013.

STAFF MEMBER PRESENTING: Scott Murphy, Assistant Planning Director

unning /	Submitted to Council/O.H.A. Approved:	12/17/2013
	Continued to: Denied:	10
	nning	Continued to:

While the property was previously in use as a school, the site was designated R1 (1 to 5.0 dus/acre). In anticipation of the site redeveloping, The Ontario Plan ("TOP") provided a land use designation of MDR (11.1 to 25.0 dus/acre). Earlier this year, as part of the General Plan/Zoning Consistency Program, the City Council approved a Zone Change (File No. PZC12-003), which redesignated the property to R2, Medium Density Residential (11.1 to 16.0 dus/acre). At that time the applicant was in the process of finalizing their project design.

The development plans submitted by the applicant proposes the construction of 139 multi-family units (see Exhibit "C" and "D"). The project includes 16, three-story buildings distributed throughout the site. There are six different floor plans, ranging from one to three bedrooms and from 670 square-feet to 1,262 square feet in floor area.

Use	Amount	Rate	Parking Spaces
1 Bedroom	54 Units	1.75 Spaces Per Unit	95
2 Bedrooms	70 Units	2.0 Spaces Per Unit	140
3 Bedrooms	15 Units	2.5 Spaces Per Unit	38
		1 Space Per 4 (3-50 Units)	
Visitor	139 Total Units	1 Space Per 5 (51-100 Units)	29
		1 Space Per 6 (100+ Units)	
		Total Parking Spaces Provided:	302

This project includes several amenities in support of the 139 units. A dedicated building for the combined use of a leasing office, business center, fitness room, and lounge with a fireplace, is located adjacent to the pool and spa area. In addition, there are several pedestrian greenbelts, which lead to a central park area. The park includes picnic and BBQ facilities, as well as seating areas. Towards the south end of the property, there is a tot lot area, which includes playground equipment and additional seating areas.

In order to provide for the development of the 139-unit project, the applicant is requesting a zone change from R2 (11.1-16.0 dus/acre) to R3 (16.1-25.0 dus/acre). In considering the request, staff noted that the site bounded on the south and west by existing multi-family developments and a multi-family development exists to the east, across Cucamonga Avenue. The project to the east is developed in the R3 zone, consistent with the proposal. The developments to the south and west are developed under the R2 standards at a density of approximately 15 dwelling units per acre. The change in zoning designation is consistent with TOP land use designation and will provide for the orderly redevelopment of the site.

COMPLIANCE WITH THE ONTARIO PLAN: The proposed project is consistent with the principles, goals and policies contained within the Vision, Governance, Policy Plan (General Plan), and City Council Priorities components of TOP. The goals and policies established by the Policy Plan, which are furthered by the proposed General Plan and Specific Plan Amendments, are detailed in the Planning Commission staff report dated November 18, 2013 (attached).

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

PLANNING COMMISSION REVIEW: On November 18, 2013, the Planning Commission voted unanimously (7-0) to recommend City Council approval of the proposed zone change. Furthermore, the Planning Commission approved the development project proposed by the applicant, including Planned Residential Development (File No. PRD13-001), a Development Plan (File No. PDEV13-014), and a Tentative Tract Map (File No. PMTT13-008), subject to the approval of the proposed Zone Change by City Council.

ENVIRONMENTAL REVIEW: The application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") and an initial study has been prepared to determine possible environmental impacts. On the basis of the initial study, which indicated that all potential environmental impacts from the Project were less than significant or could be mitigated to a level of insignificance, a Mitigated Negative Declaration ("MND") was prepared pursuant to CEQA, the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines. Furthermore, to ensure that the mitigation measures are implemented, a Mitigation Monitoring and Reporting Program has been prepared for the Project pursuant to CEQA Guidelines Section 15097, which specifies responsible agencies/departments, monitoring frequency, timing and method of verification and possible sanctions for non-compliance with mitigation measures. The environmental documentation for this project is available for review at the Planning Department public counter upon request.

Exhibit A: Existing Zoning

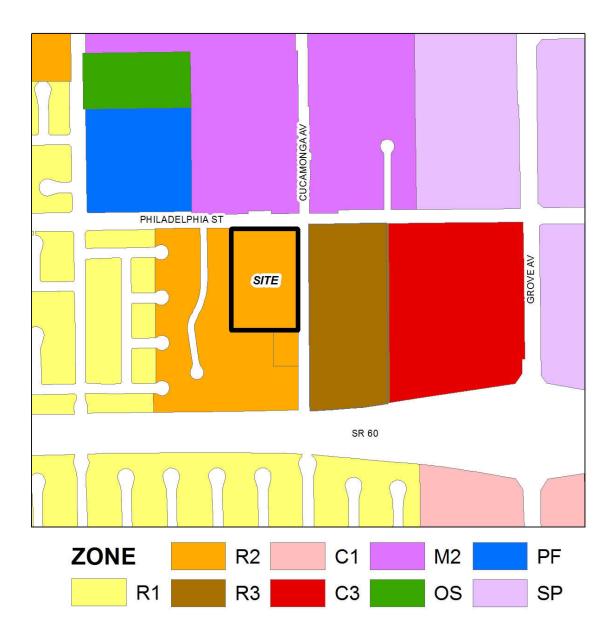
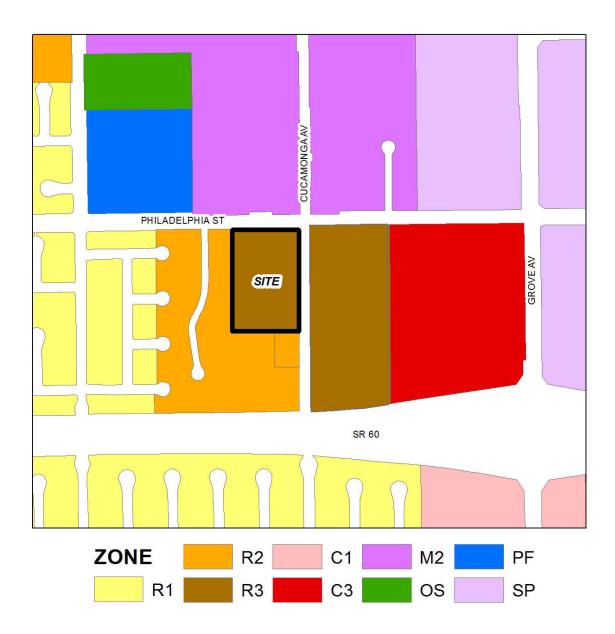


Exhibit B: Proposed Zoning



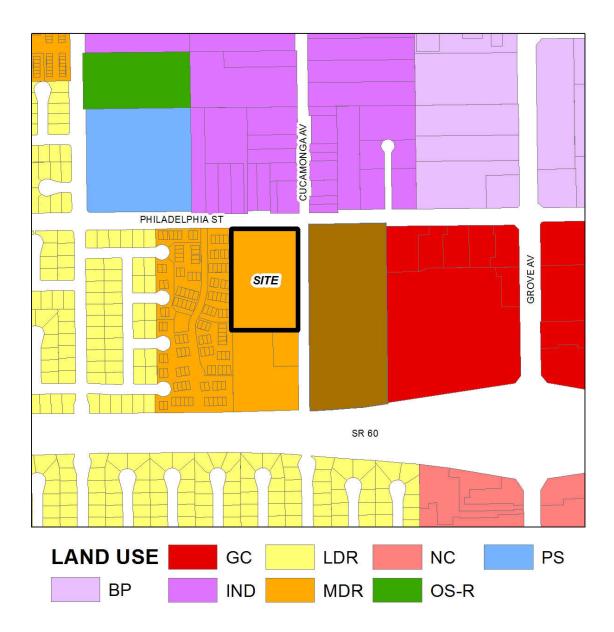


Exhibit C: *Existing TOP Land Use*

Exhibit D: Site Plan



Exhibit E: Building Elevations



RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING A MITIGATED NEGATIVE DECLARATION, FOR WHICH AN INITIAL STUDY WAS PREPARED IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND ADOPTING A RELATED MITIGATION MONITORING AND REPORTING PROGRAM FOR FILE NOS., PZC13-001, PRD13-001, PDEV13-014 AND PMTT13-008 (TM 18909), AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 1051-141-03.

WHEREAS, prior to the adoption of this Resolution, an Initial Study and Mitigated Negative Declaration ("IS/MND") for File Nos. PZC13-001, PRD13-001, PDEV13-014, and PMTT13-008 (TM 18909) ("Project"), were prepared and approved for circulation in accordance with the requirements of the California Environmental Quality Act of 1970, together with state and local guidelines implementing said Act, all as amended to date (collectively "CEQA"); and

WHEREAS, the Application applies to property located at the southwest corner of Philadelphia Street and Cucamonga Avenue, at 1056 East Philadelphia Avenue with a street frontage of 400 feet and a lot depth of 610 feet and is presently a vacant lot; and

WHEREAS, the property to the north of the Project site is within the M2 (Industrial Park) zoning district and is developed with a mixture of non-conforming single-family detached residential structures and a religious assembly use. The property to the south is within the R2 (11.1 to 16.0 du/ac) zoning district and is developed with multi-family residential uses. The property to the east is within the R3 (16.1 to 25.0 du/ac) zoning district and is developed with multi-family residential uses. The property to the west is within the R2 (11.1 to 16.0 du/ac) zoning district and is developed with multi-family residential uses. The property to the west is within the R2 (11.1 to 16.0 du/ac) zoning district and is developed with multi-family residential uses.

WHEREAS, Planning File Nos. PZC13-001, PRD13-001, PDEV13-014, and PMTT13-008 (TT18909) (the "Project") analyzed under the IS/MND consists of a Zone Change, Planned Residential Development, Development Plan, and Tentative Tract Map to construct 139 multi-family units on approximately 5.4 acres of land generally located at the southwest corner of Philadelphia Street and Cucamonga Avenue; and

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

WHEREAS, analysis of the IS/MND in concluded that implementation of the Project would not result in any significant negative environmental effects as a result of identifying certain design and operational mitigation measures, which have been included with the final Project's conditions of approval, as well as identified in the Mitigation Monitoring and Reporting Program; and

WHEREAS, in connection with the approval of a project involving the preparation of an IS/MND that identifies potential environmental effects, CEQA requires the decision-making body of the lead agency to incorporate feasible mitigation measures that would reduce those significant environmental effects to a less-than-significant level; and

WHEREAS, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a lead agency to adopt a Mitigation Monitoring and Reporting Program to ensure compliance with the mitigation measures during project implementation, and as such, a Mitigation Monitoring and Reporting Prepared for the Project for consideration by the decision-maker of the City of Ontario as lead agency for the Project; and

WHEREAS, the City of Ontario is the lead agency on the Project, and the City Council is the final decision-making body for the proposed approval to construct and otherwise undertake the Project; and

WHEREAS, the City Council has reviewed and considered the IS/MND and related Mitigation Monitoring and Reporting Program for the Project and intends to take actions on the Project in compliance with CEQA and state and local guidelines implementing CEQA; and

WHEREAS, the IS/MND and related Mitigation Monitoring and Reporting Program for the Project are on file in the Planning Department, located at 303 East "B" Street, Ontario, CA 91764, and are available for inspection by any interested person at that location and are, by this reference, incorporated into this Resolution.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ONTARIO AS FOLLOWS:

<u>SECTION 1</u>. As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for File Nos. PZC13-001, PRD13-001, PDEV13-014, and PMTT13-008 (TM 18909), and supporting documentation. Based upon the facts and information contained in the Addendum and supporting documentation, the City Council finds as follows:

a. The IS/MND and other information in the record has been independently reviewed and analyzed, and the information contained therein has been thoroughly considered prior to acting upon or approving the Project; and

b. The IS/MND prepared for the Project has been completed in compliance with CEQA and is consistent with state and local guidelines implementing CEQA; and

c. The IS/MND represents the independent judgment and analysis of the City of Ontario, as lead agency for the Project.

<u>SECTION 2</u>. THAT THE CITY COUNCIL does hereby find that based upon the entire record of proceedings before it and all information received that all environmental impacts of the Project are either insignificant or can be mitigated to a level of insignificance pursuant to the mitigation measures outlined in the Initial Study/Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program. The City Council further finds that there is no substantial evidence that the Project will have a significant effect on the environment and does hereby adopt the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program prepared for the Project (Planning File Nos. PZC13-001, PRD13-001, PDEV13-014, and PMTT13-008 (TM 18909), and that all comments received regarding the Project have been examined and determined to not require recirculation of the Mitigated Negative Declaration.

<u>SECTION 3</u>. 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.

<u>SECTION 4</u>. The documents and materials that constitute the record of proceedings on which these findings have been based upon 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.

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

PASSED, APPROVED, AND ADOPTED this 17th 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 STATE OF CALIFORNIA)COUNTY OF SAN BERNARDINO)CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2013- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 17, 2013 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2013- duly passed and adopted by the Ontario City Council at their regular meeting held December 17, 2013.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PZC13-001, A REQUEST TO CHANGE THE ZONING DESIGNATION OF A 5.4-ACRE PARCEL FROM R2, MEDIUM DENSITY RESIDENTIAL (11.1 TO 16.0 DU/AC), TO R3. HIGH DENSITY RESIDENTIAL (16.1 TO 25.0 DU/AC), LOCATED AT THE SOUTHWEST CORNER OF PHILADELPHIA STREET AND CUCAMONGA AVENUE, AT 1056 EAST PHILADELPHIA AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 1051-141-03.

WHEREAS, SC Colony Limited Partnership ("Applicant") has filed an Application for the approval of a Zone Change, File No. PZC13-001, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to property located at the southwest corner of Philadelphia Street and Cucamonga Avenue, at 1056 East Philadelphia Street with a street frontage of 400 feet and a lot depth of 610 feet and is presently a vacant lot; and

WHEREAS, the property to the north of the Project site is within the M2 (Industrial Park) zoning district and is developed with a mixture of non-conforming single-family detached residential structures and a religious assembly use. The property to the south is within the R2 (11.1 to 16.0 du/ac) zoning district and is developed with multi-family residential uses. The property to the east is within the R3 (16.1 to 25.0 du/ac) zoning district and is developed with multi-family residential uses. The property to the west is within the R2 (11.1 to 16.0 du/ac) zoning district and is developed with multi-family residential uses. The property to the west is within the R2 (11.1 to 16.0 du/ac) zoning district and is developed with multi-family residential uses.

WHEREAS, Planning File Nos. PZC13-001, PRD13-001, PDEV13-014, and PMTT13-008 (TT18909) (the "Project") consist of a Zone Change, Planned Residential Development, Development Plan, and Tentative Tract Map to construct 139 multi-family units on approximately 5.4 acres of land generally located at the southwest corner of Philadelphia Street and Cucamonga Avenue; and

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

WHEREAS, on November 18, 2013, the Planning Commission of the City of Ontario conducted a hearing to consider the Project and concluded said hearing on that date. After considering all public testimony, the Planning Commission voted unanimously (7-0) to adopt a resolution recommending City Council approval of the proposed General Plan Amendment; and

WHEREAS, as the first action on the Project, on December 17, 2013, the City Council approved a Resolution adopting a Mitigated Negative Declaration ("MND"). The MND concluded that implementation of the Project would not result in any significant

negative environmental effects as a result of identifying certain design and operational mitigation measures, which have been included with the final Project's conditions of approval, as well as identified in the Mitigation Monitoring and Reporting Program and are hereby incorporated into the Project by reference; and

WHEREAS, on December 17, 2013, the City Council of the City of Ontario conducted a hearing to consider the Project and concluded said hearing on that date; and

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

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

<u>SECTION 1</u>. As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the MND, the initial study and the administrative record for the Project, including all written and oral evidence provided during the comment period. Based upon the facts and information contained in the MND, the initial study and the administrative record, including all written and oral evidence presented to the City Council, the City Council finds as follows:

a. The MND, initial study and administrative record have been completed in compliance with CEQA, the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines.

b. The MND and initial study contain a complete and accurate reporting of the environmental impacts associated with the Project and reflects the independent judgement of the City Council;

c. There is no substantial evidence in the administrative record supporting a fair argument that the project may result in significant environmental impacts.

d. All environmental impacts of the Project are either insignificant or can be mitigated to a level of insignificance pursuant to the mitigation measures outlined in the MND, the Mitigation Monitoring and Reporting Program and the initial study.

<u>SECTION 2</u>. 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.

<u>SECTION 3</u>. Based upon the substantial evidence presented to the City Council during the above-referenced hearing and upon the specific findings set forth in Sections 1 and 2 above, the City Council hereby concludes as follows:

a. The proposed zone change is consistent with the goals and policies of the general plan. The zone change is consistent with The Ontario Plan land use designation of MDR (11.1 to 25.0 du/ac) medium density residential. The zone change will implement The Ontario Plan's vision through construction of 139 multi-family dwelling units in conjunction with an accompanying Development Plan (File No. PDEV13-014).

b. The proposed zone change is reasonable and beneficial, and in the interest of good zoning practice. The zone change will effectuate development that is consistent with The Ontario Plan's vision and Land Use Plan. The zone change is therefore reasonable and necessary to allow development pursuant to the City's long-term goals.

c. The project site is physically suitable, including, but not limited to parcel size, shape, access, availability of utilities and compatibility with adjoining land uses, for the requested zoning designation and anticipated development. The project site is 5.4 acres in area and will be improved with 139 multi-family residential dwelling units, pursuant to an accompanying Development Plan (File No. PDEV13-014). The site is of adequate area and shape to support a zone change.

d. The proposed zone change will not adversely affect the harmonious relationship with adjacent parcels and land uses. The zone change will enable a multi-family residential development that is compatible with the other existing surrounding residential developments.

e. The proposed zone change will not have a significant adverse impact on the environment. The accompanying Mitigated Negative Declaration analyzed the Project's environmental impact. Mitigation measures incorporated into the Project design reduced all impacts to less than significant. As a result, the Project will not create any significant environmental impacts.

<u>SECTION 4</u>. Based upon the findings and conclusions set forth in Section 1, 2, and 3 above, the City Council hereby approves the Zone Change, File No. PZC13-001, as shown on the attached Exhibit "A".

<u>SECTION 5</u>. 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 jobs, 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.

<u>SECTION 6</u>. 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.

<u>SECTION 7</u>. 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 8. The City Clerk shall certify to the adoption of this Ordinance.

<u>SECTION 9.</u> 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 _____2014.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP CITY ATTORNEY STATE OF CALIFORNIA)COUNTY OF SAN BERNARDINO)CITY OF ONTARIO)

I, MARY E. WIRTES, 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 December 17, 2013 and adopted at the regular meeting held ______, 2014 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

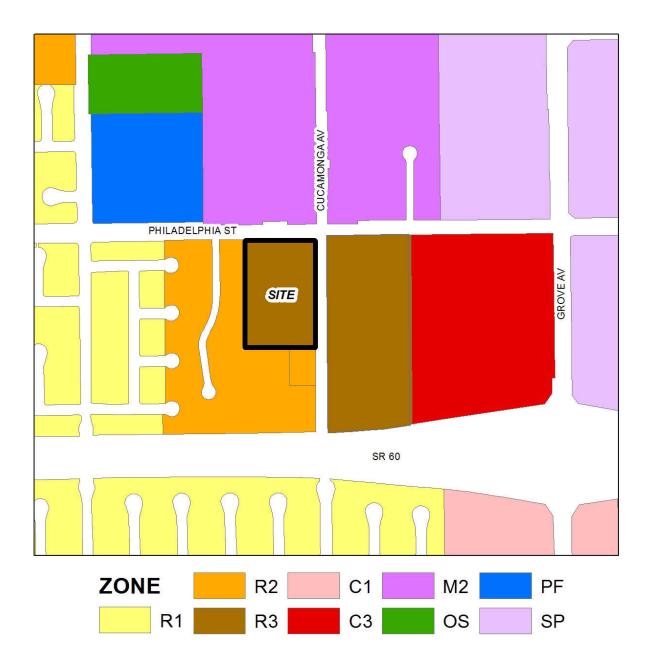
(SEAL)

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.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

Exhibit "A" Zoning Map



CITY OF ONTARIO

Agenda Report December 17, 2013

SECTION: PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING TO CONSIDER A REQUEST TO CHANGE THE ZONING DESIGNATION OF A 0.57-ACRE PARCEL FROM AR TO R2, LOCATED NEAR THE NORTHEAST CORNER OF PALMETTO AVENUE AND PHILLIPS STREET

RECOMMENDATION: That the City Council introduce and waive further reading of an ordinance approving the Zone Change (File No. PZC13-003) from AR, Agriculture Residential (0-2.0 dus/acre) to R2, Medium Density Residential (11.1-16 dus/acre) for property located at 1229 South Palmetto Avenue (APN: 1011-551-01).

COUNCIL GOALS: <u>Develop Strategies and Take Actions, Including Regaining Local Control of</u> <u>the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial</u> <u>Downturn on Ontario's Economy and the City's Fiscal Health</u> <u>Invest in the Growth and Evolution of the City's Economy</u> <u>Operate in a Businesslike Manner</u> <u>Focus Resources in Ontario's Commercial and Residential Neighborhoods</u>

FISCAL IMPACT: None.

BACKGROUND: The application proposes a Zone Change to redesignate a 0.57-acre parcel, at 1229 South Palmetto Avenue (Exhibit A: *Existing Zoning Map*), from AR, Agriculture Residential, (0 to 2 dus/acre) to R2, Medium Density Residential, (11.1 to 16.0 dus/acre). With adoption of The Ontario Plan ("TOP") in 2010, the property was designated as Medium Density Residential (11.1 to 25.0 dus/acre), consistent with the adjoining properties to the north, east, and south. The zoning of the property remains AR, which is inconsistent with TOP. As part of TOP implementation, a General Plan/Zoning consistency program has been underway to bring the zoning of all properties into conformity with TOP land use designations. To date, the zoning designations of 753 properties have been changed consistent with TOP land use plan.

STAFF MEMBER PRESENTING: Scott Murphy, Assistant Planning Director

Prepared by:	John Earle Hildebrand III	Submitted to Council/O.H.A.	12/17/2013
Department:	Planning	Approved:	
City Manager Approval:	Cell	Continued to: Denied:]

Rather than waiting for the City's General Plan/Zoning consistency program to rezone the site, the property owner has submitted a Zone Change request in order to provide consistency with TOP and existing improvements to the property.

TOP Medium Density Residential ("MDR") designation for the site provides a density range of 11.1-25 dus/acre. The R2 Zoning Designation proposed allows for 11.1-16.0 dus/acre. This designation is consistent with the zoning designations of the properties to the north, south, and east. Based upon the parcel size of 0.57-acres, the site could support 6 to 9 dwelling units on the property, provided all development code regulations are met. However, due to the relatively small parcel size, the narrow 80-foot lot width, the existing dwelling units designed as single-family detached homes, and the location of the swimming pool, staff believes the maximum allowed density would not be achievable, but one to two additional units may be possible.

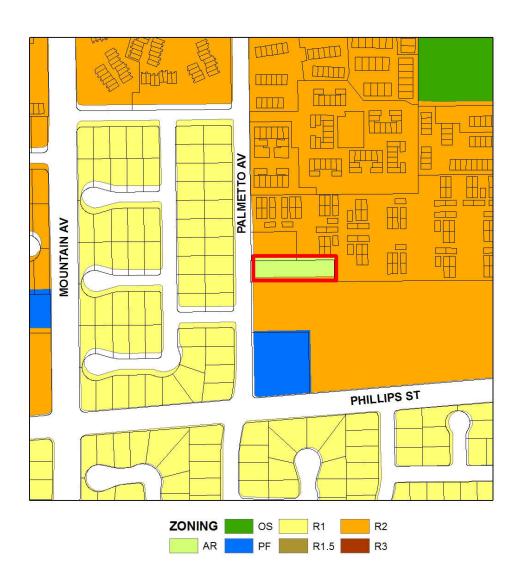
The property has previously been identified as containing an eligible historic resource. The Zone Change does not impact that status. When the property owner submits plans for site and structure improvements, the Historic Preservation Subcommittee ("HPSC") will review the proposed plan to ensure that the changes are consistent with the historic content of the site.

COMPLIANCE WITH THE ONTARIO PLAN: The proposed project is consistent with the principles, goals and policies contained within the Vision, Governance, Policy Plan (General Plan), and City Council Priorities components of TOP. The goals and policies established by the Policy Plan, which are furthered by the proposed General Plan and Specific Plan Amendments, are detailed in the Planning Commission staff report dated November 18, 2013 (attached).

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

PLANNING COMMISSION REVIEW: On October 22 and November 18, 2013, the Planning Commission conducted a public hearing to consider the request. At that time, two residents spoke in opposition to the request, citing concerns with additional traffic and potential parking impacts. In considering their comments, the Commission noted that the number of units that could be constructed on-site will not generate significant additional traffic and that any additional units would required on-site parking consistent with Development Code requirements. As a result, the Planning Commission voted unanimously (7-0) to recommend City Council approval of the Zone Change request.

ENVIRONMENTAL REVIEW: The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section § 15301 (Existing Facilities) of the CEQA Guidelines.







CITY OF ONTARIO MEMORANDUM

TO: Chairman and Members of the Planning Commission

FROM: Jerry L. Blum, Planning Director Jerry Blu

DATE: November 18, 2013

SUBJECT: ENVIRONMENTAL ASSESSMENT AND ZONE CHANGE FOR FILE NO. PZC 13-003: A request to change zoning of a single 0.57-acre parcel from AR (Agricultural Residential) to R2 (Multi-family Residential), located near the northeast corner of Palmetto Avenue and Phillips Street, at 1229 South Palmetto Avenue. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for ONT. The project is exempt from environmental review pursuant to State CEQA Guidelines Section § 15301 (Existing Facilities); (APN: 1011-551-01); submitted by West Ridge Rentals. City Council action is required. (Continued from the meeting of October 22, 2013).

On October 22, 2013, the Planning Commission conducted a public hearing to consider the Zone Change request. At the hearing, two residents spoke, raising potential concerns about traffic and parking associated with the subject site, as well as the surrounding neighborhood. In that the applicant was not present to hear the testimony and respond to the issues, the Planning Commission continued the application. The applicant has since been contacted and is expected to be present at the hearing on November 18, 2013.

As a reminder to the Commission, the proposed Zone Change will bring the subject property into compliance with The Ontario Plan, which shows a Land Use Designation of Medium Density Residential (11.1 to 25.0 du/ac). The proposed Zone Change will enable the subject property to become consistent with the other surrounding properties to the north, east, and west, which are all designated with multi-family residential zoning. Furthermore, the subject property is on the Zoning / General Plan Consistency Program list and would be proposed for rezoning by the Planning Department in the future. The fact that the property owner wishes to move forward with the rezoning at this time should not affect the Commission's decision on the issue.

Attached for your review and consideration is the staff report of October 22, 2013, and the Resolution with recommended conditions.



PLANNING COMMISSION STAFF REPORT October 22, 2013

SUBJECT: A request (**File No. PZC13-003**) to change the zoning designation of a 0.57acre parcel from AR (Agricultural Residential) to R2 (Multi-family Residential), located near the northeast corner of Palmetto Avenue and Phillips Street, at 1229 South Palmetto Avenue. **City Council action is required.**

PROPERTY OWNER: West Ridge Rentals

RECOMMENDED ACTION: That the Planning Commission recommend approval of File No. PZC13-003 to the City Council, pursuant to the facts and reasons contained in the staff report and attached resolution.

PROJECT SETTING: The project site is depicted in **Figure 1:** *Project Location Map*. The project site is a small 0.57-acre parcel, located at 1229 South Palmetto Avenue. The project site includes two existing residential dwelling units and a vacant area in the back. The front unit is 2,087 square-feet in floor area and the second unit is 1,960 square-feet in floor area (**Exhibit B:** *Site Plan*). The vacant area towards the rear of the property could potentially be developed with additional dwelling units.

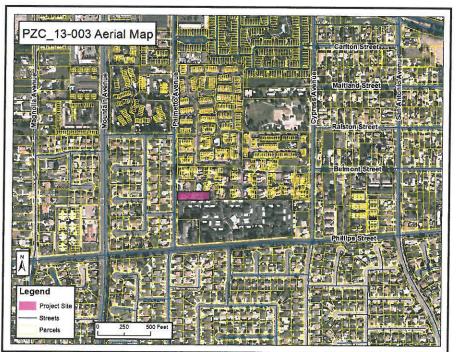


Figure 1: Project Location Map

Case Planner: John Earle Hildebrand III	Hearing Body	Date	Decision	Action
Planning Director	DAB			
Approval: Jung 2 Rlun	ZA			
Submittal Date: 08/14/2018	PC	10/22/2013	Continued	Recommend
Hearing Deadline: N/A	CC	11/19/2013		Final

PROJECT ANALYSIS: This is a Zone Change request to redesignate a 0.57-acre parcel, at 1229 South Palmetto Avenue (**Exhibit A:** *Aerial Map*), from AR (Agricultural Residential) to R2 (Multi-family Residential). With adoption of The Ontario Plan ("TOP") in 2010, the property was designated as Medium Density Residential (11.1 to 25.0 dwelling units per acre ("du/ac")), consistent with the adjoining properties. The zoning of the property remains AR (0 to 2 du/ac), which is inconsistent with TOP. Rather than waiting for the City to rezone the site, the property owner has submitted a Zone Change request, ahead of the City-wide comprehensive Development Code and Zone Change update, to provide consistency with TOP and existing improvements to the property. Once the Zone Change is completed, the owner will submit construction drawings to enable a direct public sewer connection, rather than continued use of the cesspool, as well as general site improvements and structure rehabilitation.

The R2 Zoning Designation allows for 11.1-16.0 du/ac. Based upon the parcel size of 0.57-acres, the site could support a range of 6.0 to 9.0 dwelling units, provided all development code regulations are met. However, due to the relatively small parcel size, the narrow 80-foot lot width, the existing dwelling units designed as single-family detached homes, and the location of the swimming pool, staff believes the maximum allowed density would not be achievable, but one to two additional units may be possible.

The property has previously been identified as containing an eligible historic resource. The Zone Change does not impact that status. When the property owner submits plans for site and structure improvements, the Historic Preservation Subcommittee ("HPSC") will review the proposed plan to ensure that the changes are consistent with the historic content of the site.

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

Vision

COMMERCIAL AND RESIDENTIAL DEVELOPMENT

A demonstrated ability to attract housing in pursuit of our acknowledged responsibility to balance housing with the job growth that drives our quality of life.

Distinctive and well maintained neighborhoods that offer exceptional variety in lifestyles, with convenient access to schools, recreation and cultural facilities, places of worship, places of employment and shopping.

Governance

G1-2: *Long-term Benefit.* We require decisions to demonstrate and document how they add value to the community and support the Ontario Vision.

Policy Plan

Land Use Element

Goal LU2: Compatibility between a wide range of uses.

Policy LU2-1: Land Use Decisions. We minimize adverse impacts on adjacent properties when considering land use and zoning requests.

City Council Priorities

Primary Goal: Develop Strategies and Take Actions, including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health.

Supporting Goals:

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

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

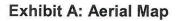
ENVIRONMENTAL REVIEW: The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section § 15301 (Existing Facilities) of the CEQA Guidelines.

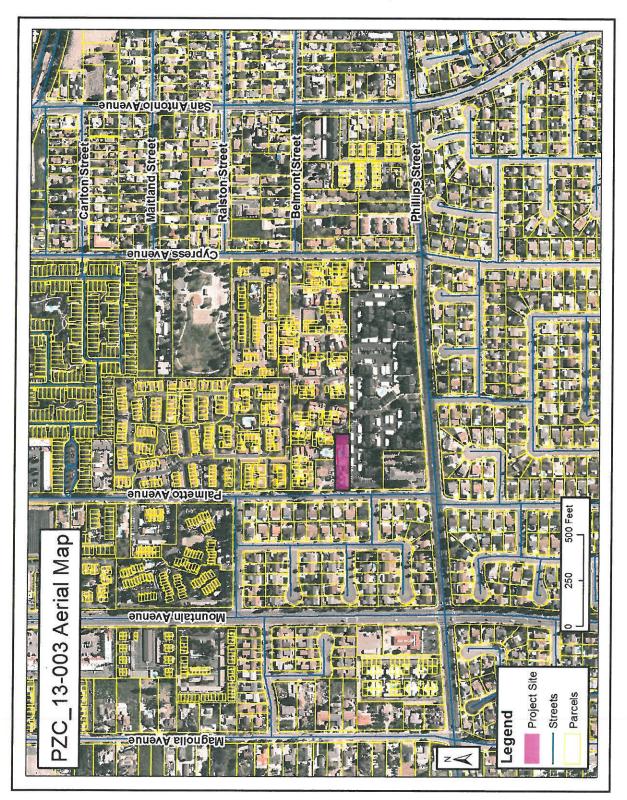
TECHNICAL APPENDIX:

	Existing Land Use	General Plan Designation	Zoning Designation	Specific Plan Land Use
Site	Residential	MDR	AR	N/A
North	Residential	MDR	R2	N/A
South	Residential	MDR	R3	N/A
East	Residential	MDR	R2	N/A
West	Residential	LDR	R1	N/A

Surrounding Zoning and Land Use:

EXHIBITS





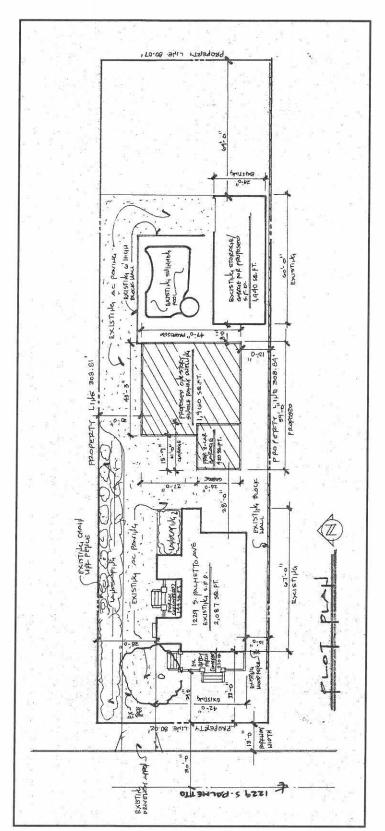


Exhibit B: Site Plan



Exhibit C: Site Photos

House in front, facing Palmetto Avenue.



House in back, facing front.



House in back, backyard pool area.



Vacant area at the back of the property.

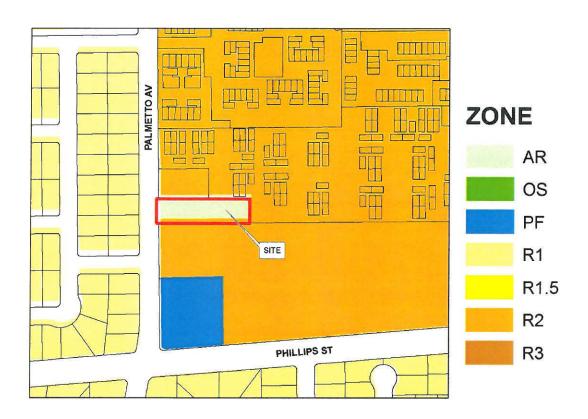
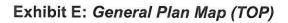
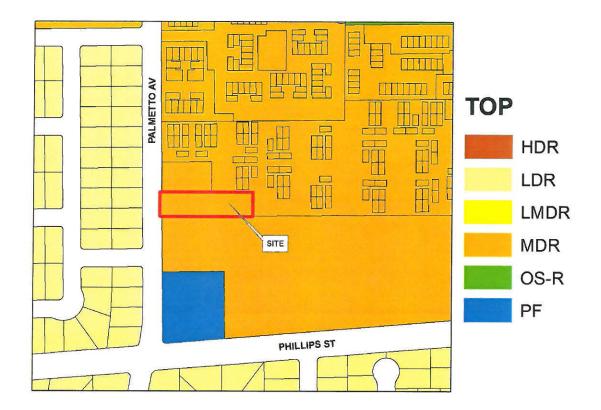


Exhibit D: Zoning Map





RESOLUTION NO. PC13-064

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING APPROVAL OF FILE NO. PZC13-003 TO THE CITY COUNCIL, A REQUEST TO CHANGE THE ZONING DESIGNATION OF A 0.57-ACRE PARCEL FROM AR (AGRICULTURAL RESIDENTIAL) TO R2 (MULTI-FAMILY RESIDENTIAL), LOCATED NEAR THE NORTHEAST CORNER OF PALMETTO AVENUE AND PHILLIPS STREET, AT 1229 SOUTH PALMETTO AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 1011-551-01.

WHEREAS, West Ridge Rentals ("Applicant") has filed an Application for the approval of a Zone Change, File No. PZC13-003, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to property located 1229 South Palmetto Avenue with a street frontage of approximately 80 feet and a lot depth of 308 feet and is presently improved with two residential dwelling units; and

WHEREAS, the property to the north of the Project site is within the R2 (11.1 to 16.0 du/ac) zoning district and is developed with single-family detached and multi-family residential units. The property to the south is within the R3 (16.1 to 25.0 du/ac) zoning district and is developed with multi-family apartments. The property to the east is within the R2 (11.1 to 16.0 du/ac) zoning district and is developed with multi-family apartments. The property to the west is within the R1 (1 to 5.0 du/ac) zoning district and is developed with single-family detached homes; and

WHEREAS, approval of this Zone Change will enable the property to be consistent with The Policy Plan (General Plan) component of The Ontario Plan, which shows the property as having a Land Use designation of MDR (Medium Density Residential); and

WHEREAS, approval of this Zone Change will enable the legalization of the two multi-family dwelling units, pursuant to a multi-family Zoning designation and also enable general site improvements, including public sewer connections and structure rehabilitation; and

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

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

WHEREAS, on October 22, 2013, the Planning Commission of the City of Ontario conducted a hearing to consider the Project. Two individuals voiced concerns about the proposed Zone Change. Because the applicant was not present to respond to the issues, the Planning Commission continued the application to the Planning Commission hearing of November 18, 2013; and

WHEREAS, on November 18, 2013, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

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

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

a. The Project is categorically exempt from environmental review pursuant to Section § 15301 (Existing Facilities) of the CEQA Guidelines; and

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

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

SECTION 2. 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.

SECTION 3. Based upon the substantial evidence presented to the Planning Commission during the above-referenced hearing and upon the specific findings set forth in Sections 1 and 2 above, the Planning Commission hereby concludes as follows:

a. The proposed Zone Change is consistent with the goals and policies of The Ontario Plan. The Zone Change will enable the property to become consistent with The Policy Plan (General Plan) component of The Ontario Plan Land Use Designation of MDR (Medium Density Residential).

b. The proposed Zone Change is reasonable and beneficial, and in the interest of good Zoning practice. The Zone Change is reasonable in that it enables the property to become consistent The Policy Plan (General Plan) component of The

Ontario Plan as well as have a similar designation as the other multi-family properties in the area.

c. The project site is physically suitable, including, but not limited to parcel size, shape, access, availability of utilities and compatibility with adjoining land uses, for the requested Zoning designation and anticipated development. The property is physically suitable to support the multi-family Zoning designation.

d. The proposed Zone Change will not adversely affect the harmonious relationship with adjacent parcels and land uses. The Zone Change enables the property to be more consistent with the surrounding properties, which share multi-family designations.

e. The proposed Zone Change will effects a small 0.57-acre property and will not have a significant negative adverse impact on the environment.

SECTION 4. Based upon the findings and conclusions set forth in Section 1 through Section 3 above, the Planning Commission hereby recommends the City Council approve the Project.

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

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

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

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 18th day of November, 2013, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Rick Gage, Planning Commission Chairman

ATTEST:

Jerry L. Blum, Planning Director/ Secretary of Planning Commission

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

I, Jeanina M. Romero, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC13-064 was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on November 18th, 2013 by the following roll call vote, to wit:

- AYES: Delman, Downs, Gage, Gregorek, Mautz, Ricci, Willoughby
- NOES: None
- ABSENT: None
- ABSTAIN: None

Jeanina M. Romero, Secretary Pro Tempore ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PZC13-003, A REQUEST TO CHANGE THE ZONING DESIGNATION OF A 0.57-ACRE PARCEL FROM AR, AGRICULTURE RESIDENTIAL (0 TO 2.0 DU/AC) TO MEDIUM DENSITY RESIDENTIAL, R2 (11.1 TO 16.0 DU/AC), LOCATED NEAR THE NORTHEAST CORNER OF PALMETTO AVENUE AND PHILLIPS STREET, AT 1229 SOUTH PALMETTO AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF – APN: 1011-551-01.

WHEREAS, West Ridge Rentals ("Applicant") has filed an Application for the approval of a Zone Change, File No. PZC13-003, as described in the title of this ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to property located 1229 South Palmetto Avenue with a street frontage of approximately 80-feet and a lot depth of 308-feet and is presently improved with two residential dwelling units; and

WHEREAS, the property to the north of the Project site is within the Medium Density Residential, R2 (11.1 to 16.0 du/ac) zoning district and is developed with single-family detached and multi-family residential units. The property to the south is within the High Density Residential, R3 (16.1 to 25.0 du/ac) zoning district and is developed with multi-family apartments. The property to the east is within the Medium Density Residential, R2 (11.1 to 16.0 du/ac) zoning district and is developed with multi-family apartments. The property to the east is developed with multi-family apartments. The property to the west is within the Low Density Residential, R1 (1.1 to 5.0 du/ac) zoning district and is developed with single-family detached homes; and

WHEREAS, approval of this Zone Change will enable the property to be consistent with The Policy Plan (General Plan) component of The Ontario Plan, which shows the property as having a Land Use designation of Medium Density Residential, MDR (11.1 to 25.0 du/ac); and

WHEREAS, approval of this Zone Change will enable the legalization of the two multi-family dwelling units, pursuant to a multi-family Zoning designation and also enable general site improvements, including public sewer connections and structure rehabilitation; and

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

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

WHEREAS, on October 22, 2013, the Planning Commission of the City of Ontario conducted a duly noticed public hearing and continued the Project to the November 18, 2013 Planning Commission hearing; and

WHEREAS, on November 18, 2013, the Planning Commission of the City of Ontario conducted a duly noticed public hearing and concluded said hearing at that time. After considering all public testimony, the Planning Commission issued Resolution No. PC13-064, recommending City Council approval of the application; and

WHEREAS, on December 17, 2013, the City Council of the City of Ontario conducted a duly noticed public hearing and concluded said hearing at that time; 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:

<u>SECTION 1</u>. 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 categorically exempt from environmental review pursuant to Section § 15301 (Existing Facilities) of the CEQA Guidelines; and

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

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

<u>SECTION 2</u>. 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.

<u>SECTION 3</u>. Based upon the substantial evidence presented to the City Council during the above-referenced hearing and upon the specific findings set forth in Sections 1 and 2 above, the City Council hereby concludes as follows:

a. The proposed Zone Change is consistent with the goals and policies of The Ontario Plan. The Zone Change will enable the property to become consistent with The Policy Plan (General Plan) component of The Ontario Plan Land Use Designation of MDR (11.1 to 25 du/ac).

b. The proposed Zone Change is reasonable and beneficial, and in the interest of good Zoning practice. The Zone Change is reasonable in that it enables the property to become consistent with The Policy Plan (General Plan) component of The Ontario Plan, as well as establishing a similar designation as the other multi-family properties in the area.

c. The project site is physically suitable, including, but not limited to parcel size, shape, access, availability of utilities and compatibility with adjoining land uses, for the requested Zoning designation and anticipated development. The property is physically suitable to support the multi-family Zoning designation.

d. The proposed Zone Change will not adversely affect the harmonious relationship with adjacent parcels and land uses. The Zone Change enables the property to be more consistent with the surrounding properties, which share multi-family designations.

e. The proposed Zone Change affects a 0.57-acre property and will not have a significant negative adverse impact on the environment.

<u>SECTION 4</u>. Based upon the findings and conclusions set forth in Sections 1, 2, and 3 above, the City Council hereby approves the Project.

<u>SECTION 5</u>. Indemnification. The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

<u>SECTION 6</u>. Severability. 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 jobs, 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.

<u>SECTION 7</u>. 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 E. B Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

<u>SECTION 8</u>. Publication. 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 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 _____2014.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP CITY ATTORNEY STATE OF CALIFORNIA)COUNTY OF SAN BERNARDINO)CITY OF ONTARIO)

I, MARY E. WIRTES, 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 December 17, 2013 and adopted at the regular meeting held ______, 2014 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, 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.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

EXHIBITS

Exhibit A: Zoning Map

