CITY OF ONTARIO
CITY COUNCIL/HOUSING AUTHORITY
AGENDA
OCTOBER 19, 2021

Paul S. Leon
Mayor

Alan D. Wapner
Mayor pro Tem

Jim W. Bowman
Council Member

Debra Dorst-Porada
Council Member

Ruben Valencia
Council Member

Sheila Mautz
City Clerk

James R. Milhiser
Treasurer

Scott Ochoa
City Manager

Ruben Duran
City Attorney

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 in person 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. To comment by email, submit your comments no later than 4:00 p.m. on the day of the meeting by emailing your name, agenda item you are commenting on and your comments to publiccomments@ontarioca.gov. All comments received by the deadline will be forwarded to the City Council for consideration before action is taken on the matter and will be entered into the record.**
- **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)

WEARING A MASK DURING THE PUBLIC MEETING IS STRONGLY ENCOURAGED.

If you need special assistance or accommodations to participate in this meeting, please contact the City Clerk's office at 909-395-2009. Prior notification will help the City make reasonable arrangements. Equipment for the hearing impaired is available in the Records Management Office.

CALL TO ORDER (6:00 p.m.)

ROLL CALL

Wapner, Bowman, Dorst-Porada, Valencia, 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:
Donastorg v. City of Ontario, et al., U.S. District Court, Central District of California, Case No. 5:18-cv-00992 JGB (SPX)

GC 54956.9(e)(5), CONFERENCE WITH LEGAL COUNSEL – SIGNIFICANT EXPOSURE TO

LITIGATION
A copy of the documented threats are available in the Records Management Department.
ATTACHMENT: 20211019 Closed Session.pdf

PLEDGE OF ALLEGIANCE

Mayor pro Tem Wapner

INVOCATION

Pastor Leon Lin, Great Commission Church International

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.

To comment by email, submit your comments by email no later than 4:00 p.m. on the day of the meeting by emailing your name, agenda item you are commenting on and your comment to publiccomments@ontarioca.gov. All Comments received by the deadline will be forwarded to the City Council for consideration before action is taken on the matter and entered into the record.

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 special meetings of the City Council and Housing Authority on September 20, 2021 and September 21, 2021; and the regular meetings of the City Council and Housing Authority of September 21, 2021, and approving same as on file in the Records Management Department.

ATTACHMENT: 20210920S (not official until approved).pdf
ATTACHMENT: 20210921S (not official until approved).pdf
ATTACHMENT: 20210921 (not official until approved).pdf

2. BILLS & PAYROLL

Bills September 17, 2021 through September 30, 2021 and Payroll September 12, 2021 through September 25, 2021 when audited by the Finance Committee.

3. LEGISLATIVE UPDATE

That the City Council receive and file the legislative update.

4. A RESOLUTION FOR PLACEMENT OF SPECIAL ASSESSMENTS ON THE SAN BERNARDINO COUNTY TAX ROLLS

That the City Council adopt a Resolution for recovery of fees and costs incurred in abating property and dangerous building violations, as well as administrative citations and civil penalties associated with property maintenance violations, and placing assessments on the San Bernardino County Tax Rolls.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING A REPORT REQUESTING THE PLACEMENT OF SPECIAL ASSESSMENTS ON PROPERTY TAX BILLS FOR CIVIL PENALTIES OR RECOVERY OF COSTS INCURRED FOR ABATEMENT OF VIOLATIONS OF CITY CODES AND ORDINANCES.

ATTACHMENT: 20211019 Comm Imp Special Assessments for County Tax Rolls 02^RESO^RM
ATTACHMENT: 20211019 Comm Imp Special Assessments for County Tax Rolls^03 EXH A
ATTACHMENT: 20211019 Comm Imp Special Assessments for County Tax Rolls^04 EXH B
ATTACHMENT: 20211019 Comm Imp Special Assessments for County Tax Rolls^05 EXH C.

5. ***A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT AND IMPROVEMENT SECURITY FOR LOTS 2 THROUGH 4 OF FINAL TRACT MAP NO. 20316, LOCATED AT THE NORTHWEST CORNER OF EUCALYPTUS AVENUE AND ARCHIBALD AVENUE***

That the City Council adopt a Resolution approving an Improvement Agreement and Improvement Security for Lots 2 through 4 of Final Tract Map No. 20316, located at the northwest corner of Eucalyptus Avenue and Archibald Avenue.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN IMPROVEMENT AGREEMENT AND IMPROVEMENT SECURITY FOR LOTS 2 THROUGH 4 OF FINAL TRACT MAP NO. 20316, LOCATED AT THE NORTHWEST CORNER OF EUCALYPTUS AVENUE AND ARCHIBALD AVENUE.

ATTACHMENT: 20211019 Tract Map No. 20316^02 RESO^RM
ATTACHMENT: 20211019 Tract Map No. 20316^01 EXH A

6. ***AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICES AGREEMENT WITH HARRIS & ASSOCIATES TO CREATE THE CITY OF ONTARIO'S STREET LIGHTING MAINTENANCE DISTRICT'S CAPITAL REPLACEMENT PLAN***

That the City Council authorize the City Manager to negotiate and execute an amendment to the existing agreement with Harris & Associates to create the City of Ontario's Street Lighting Maintenance District's Capital Replacement Plan, not to exceed $25,900, subject to non-substantive changes as mutually agreed to by the City and Harris & Associates of Irvine, California.

ATTACHMENT: 20211019 Street Lighting Capital Replacement Plan^02 EXH

7. ***AN AMENDMENT TO THE MAINTENANCE SERVICES AGREEMENT WITH RYMAX ELECTRICAL, INC. FOR ON-CALL ELECTRICAL SERVICES***

That the City Council approve and authorize the City Manager to execute Amendment No. 2 to the Maintenance Services Agreement (on file in the Records Management Department) with Rymax Electrical, Inc. of Upland, California, for on-call electrical services in the amount of $225,000, for a revised not to exceed amount of $370,952; and to exercise the two option years and extend the term of the agreement to June 30, 2025.

8. ***PROFESSIONAL SERVICES AGREEMENT FOR IMPLEMENTATION OF INTEGRATED WASTE ROUTING SOFTWARE***

That the City Council authorize the City Manager to execute a one-year Professional Services Agreement (on file in the Records Management Department) with Routeware, Inc., of Portland, Oregon, for the implementation of Integrated Waste Collection Routing Software with a one-time charge in the amount of $390,115 and monthly recurring cost for nine months in the amount of $105,451, for a total amount not to exceed $495,566; and authorize the City Manager to extend the agreement for up to two additional one-year terms at the City's discretion for an amount not to exceed $776,767 over a three-year term, consistent with future budgets approved by the City Council.

9. CONSTRUCTION CONTRACT FOR THE CNG COMPRESSOR REPLACEMENT AND UPGRADE

That the City Council take the following actions:

A. Authorize the City Manager to execute Construction Contract No. D&C19-006 – CNG Compressor Replacement Project with EFS West of Valencia, California, for the replacement and upgrade of the Compressed Natural Gas Compressors located at 1425 South Bon View Avenue in an amount not to exceed $2,038,000;
B. Authorize the City Manager or his designee to approve change orders and a 10% contingency of $203,800 to address any unforeseen issues that may arise during construction; and
C. Authorize the City Manager or his designee to execute all documents required for the completion of the project including, but not limited to, contracts, agreements, assessments, easements, reduction of retention accounts, and filing a notice of completion at the conclusion of all construction related activities.

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. Affidavits of posting compliance, for all items below, are on file with the Records Management Department.

10. A PUBLIC HEARING TO CONSIDER RESOLUTION REGARDING THE FORMATION OF CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 62 (ONTARIO COMMERCE CENTER SERVICES); AND INTRODUCTION OF AN ORDINANCE LEVYING SPECIAL TAXES

That the City Council consider and:

A. Adopt a Resolution of formation of the City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services), authorizing the levy of special tax within the Community Facilities District; and establishing an appropriations limit for the Community Facilities District
B. Adopt a Resolution calling a special election for City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services);
C. Adopt a Resolution declaring results of the special election and directing the recording of a Notice of Special Tax Lien; and
D. Introduce and waive further reading of an ordinance levying special taxes within City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services).

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF FORMATION OF THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 62 (ONTARIO COMMERCE CENTER SERVICES), AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN THE COMMUNITY FACILITIES DISTRICT AND ESTABLISHING AN APPROPRIATIONS LIMIT

FOR THE COMMUNITY FACILITIES DISTRICT.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING A SPECIAL ELECTION FOR CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 62 (ONTARIO COMMERCE CENTER SERVICES).

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DECLARING RESULTS OF A SPECIAL ELECTION AND DIRECTING RECORDING OF NOTICE OF SPECIAL TAX LIEN.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 62 (ONTARIO COMMERCE CENTER SERVICES).

ATTACHMENT: 20211019 CFD No. 62 Ontario Commerce Center Services^01 RESO Formation^RM
ATTACHMENT: 20211019 CFD No. 62 Ontario Commerce Center Services^01A RMA EXH B
ATTACHMENT: 20211019 CFD No. 62 Ontario Commerce Center Services^02 RESO Calling Special Election^RM
ATTACHMENT: 20211019 CFD No. 62 Ontario Commerce Center Services^03 RESO Declaring Results^RM
ATTACHMENT: 20211019 CFD No. 62 Ontario Commerce Center Services^04 ORD^RM

11. A PUBLIC HEARING TO CONSIDER AN APPEAL OF THE PLANNING COMMISSION'S ACTION TO UPHOLD THE ZONING ADMINISTRATOR'S APPROVAL AND DENY THE APPEAL OF A CONDITIONAL USE PERMIT TO ESTABLISH AND CONSTRUCT A SECOND FLOOR, 574 SQUARE FOOT ACCESSORY DWELLING UNIT (ADU) EXCEEDING 16 FEET IN HEIGHT ON 0.245-ACRE OF LAND LOCATED AT 1515 SOUTH SAN ANTONIO AVENUE, WITHIN THE RE-2 (RURAL ESTATE 0 TO 2.0 DU/ACRE) ZONING DISTRICT (APN: 1050-031-44).

That the City Council conduct a public hearing on the Appeal and, after receiving all public testimony, uphold the Planning Commission's approval and denying the appeal of a Conditional Use Permit, File No. PCUP21-002, to establish and construct an Accessory Dwelling Unit (ADU) exceeding 16 feet in height, on property located at 1515 S. San Antonio Avenue.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, UPHOLDING THE PLANNING COMMISSION'S DECISION TO UPHOLD THE ZONING ADMINISTRATOR'S ACTION TO APPROVE FILE NO. PCUP21-002, A CONDITIONAL USE PERMIT TO ESTABLISH AND CONSTRUCT A 574 SQUARE FOOT ACCESSORY DWELLING UNIT ("ADU") EXCEEDING 16 FEET IN HEIGHT ON 0.245-ACRE OF LAND LOCATED AT 1515 SOUTH SAN ANTONIO AVENUE, WITHIN THE RE-2 (RURAL ESTATE - 0 TO 2.0 DU/ACRE) ZONING DISTRICT; AND MAKING FINDINGS IN SUPPORT THEREOF - APN: 1050-031-44.

ATTACHMENT: 20211019 File No. PCUP21-002 PC Appeal^01 EXH A
ATTACHMENT: 20211019 File No. PCUP21-002 PC Appeal^02 EXH B
ATTACHMENT: 20211019 File No. PCUP21-002 PC Appeal^03 PC Backup

STAFF MATTERS

CITY MANAGER OCHOA

COUNCIL MATTERS

MAYOR LEON
MAYOR PRO TEM WAPNER
COUNCIL MEMBER BOWMAN
COUNCIL MEMBER DORST-PORADA
COUNCIL MEMBER VALENCIA

ADJOURNMENT

CITY OF ONTARIO
CLOSED SESSION REPORT
City Council // Housing Authority // Other // *(GC 54957.1)*
October 19, 2021

ROLL CALL: Wapner _, Bowman _, Dorst-Porada _, Valencia _, Mayor / Chairman Leon _.

STAFF: City Manager / Executive Director __, City Attorney __

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

- GC 54956.9 (d)(1), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION: Donastorg v. City of Ontario, et al., U.S. District Court, Central District of California, Case No. 5:18-cv-00992 JGB (SPX)

No Reportable Action	Continue	Approved
/ /	/ /	/ /

Disposition: _____

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

- GC 54956.9(e)(5), CONFERENCE WITH LEGAL COUNSEL – SIGNIFICANT EXPOSURE TO LITIGATION
  A copy of the documented threat is available in the Records Management Department.

No Reportable Action	Continue	Approved
/ /	/ /	/ /

Disposition: _____

Reported by:

_____
City Attorney / City Manager / Executive

SPECIAL ONTARIO CITY COUNCIL/
ONTARIO HOUSING AUTHORITY
MINUTES
SEPTEMBER 20, 2021
(Not official Until Approved)

JOINT MEETINGS

Special Meetings of the Ontario City Council/Ontario Housing Authority were held on Monday, September 20, 2021, via live stream at www.ontarioca.gov/agendas/citycouncil.

CALL TO ORDER

Mayor Leon called the Joint City Council and Ontario Housing Authority meetings to order at 9:05 a.m.

ROLL CALL

PRESENT:	Mayor/Chairman	Paul S. Leon
	Mayor pro Tem/Vice Chair	Alan D. Wapner
	Council/Authority Members:	Jim W. Bowman, and Debra Dorst-Porada
ABSENT:	Council/Authority Members:	Ruben Valencia (excused)

Also present were City Manager/Executive Director Scott Ochoa, City Attorney/Legal Counsel Ruben Duran and Assistant City Clerk/Assistant Secretary Claudia Y. Isbell.

The Pledge of Allegiance was led by Mayor Leon.

CLOSED SESSION PUBLIC COMMENT

Mayor Leon inquired whether persons were on the phone line who wished to speak to the Closed Session items.

Xochitl Escamilla, spoke about her discontent with the City Manager's performance.

Hearing no one else, City Attorney Duran announced the matters for discussion, as listed on the agenda, and the City Council, with the exception of Council Member Valencia, recessed to Closed Session at 9:13 a.m. for discussion of the following:

CLOSED SESSION

Gc 54957, PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Title: City Manager

REPORT ON CLOSED SESSION

The City Council reconvened at 12:21 p.m. City Attorney Duran announced Council Member Valencia was absent from Closed Session and that there was no reportable action.

ADJOURNMENT

Mayor Leon adjourned the meetings of the Joint Agencies at 12:22 p.m.

Respectfully submitted,

_____
CLAUDIA Y. ISBELL, CITY CLERK/SECRETARY

APPROVED:

_____
PAUL S. LEON, MAYOR/CHAIRMAN

SPECIAL ONTARIO CITY COUNCIL/
ONTARIO HOUSING AUTHORITY
MINUTES
SEPTEMBER 21, 2021
(Not official Until Approved)

JOINT MEETINGS

Special Meetings of the Ontario City Council/Ontario Housing Authority were held on Tuesday, September 21, 2021, via live stream at City Hall, 303 E. B Street, Ontario, California.

CALL TO ORDER

Mayor Leon called the Joint City Council and Ontario Housing Authority meetings to order at 3:46 p.m.

ROLL CALL

PRESENT:	Mayor/Chairman	Paul S. Leon
	Mayor pro Tem/Vice Chair	Alan D. Wapner
	Council/Authority Members:	Jim W. Bowman, Debra Dorst-Porada and Ruben Valencia.
ABSENT:	Council/Authority Members:	None.

Also present were Assistant City Manager/Assistant Executive Director Darlene M. Sanchez, City Attorney/Legal Counsel Ruben Duran and Assistant City Clerk/Assistant Secretary Claudia Y. Isbell.

CLOSED SESSION PUBLIC COMMENT

Mayor Leon inquired whether persons were on the phone line who wished to speak to the Closed Session items. Hearing no one, City Attorney Duran announced the matters for discussion, as listed on the agenda, and the City Council recessed to Closed Session at 3:48 p.m. for discussion of the following:

CLOSED SESSION

GC 54957, PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

Closed Session report was delivered at the regular meeting of September 21, 2021.

ADJOURNMENT

Mayor Leon adjourned the meetings of the Joint Agencies at 5:30 p.m.

Respectfully submitted,

_____
CLAUDIA Y. ISBELL, CITY CLERK/SECRETARY

APPROVED:

_____
PAUL S. LEON, MAYOR/CHAIRMAN

ONTARIO CITY COUNCIL/
ONTARIO HOUSING AUTHORITY
MINUTES
SEPTEMBER 21, 2021
(Not Official Until Approved)

JOINT MEETINGS

Regular meetings of the Ontario City Council and Ontario Housing Authority were held on Tuesday, September 21, 2021 at the Ontario City Hall, 303 East B Street, Ontario, California.

CALL TO ORDER

Mayor Leon called the Joint City Council and Ontario Housing Authority meetings to order at 6:00 p.m.

ROLL CALL

PRESENT:	Mayor/Chairman	Paul S. Leon
	Mayor pro Tem/Vice Chair	Alan D. Wapner
	Council/Authority Members:	Jim W. Bowman, Debra Dorst-Porada and Ruben Valencia
ABSENT:	Council/Authority Members:	None

Also present were Assistant City Manager / Assistant Executive Director Darlene M. Sanchez, City Attorney/Legal Counsel Ruben Duran, and City Clerk/Secretary Sheila Mautz.

CLOSED SESSION

Mayor Leon inquired whether persons were present who wished to speak to the Closed Session item. Hearing no one, City Attorney Duran announced the matters for discussion, as listed on the agenda, and the City Council recessed to Closed Session at 6:01 p.m. for discussion of the following:

- GC 54956.9(d), CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION - *One (1) case*

CALL TO ORDER – OPEN SESSION

Mayor Leon called the City Council and Ontario Housing Authority meetings to order at 6:31 p.m.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Dorst-Porada.

INVOCATION

The invocation was offered by Dr. Silvia Lee Mann, Bethel Congregational Church.

REPORT ON CLOSED SESSION

City Attorney Duran announced there was no reportable action.

He also announced Council considered a Public Employee Discipline/Dismissal/Release matter during Closed Session at a special meeting on September 21, 2021, with no reportable action.

PUBLIC COMMENTS

Assistant City Clerk Isbell announced there were no emailed comments.

Roberto Rangel, invited all to National Walk to School Day.

Juana Castaneda, announced an upcoming Meet and Greet for health care professionals.

Oscar Hernandez, spoke about National Emergency Preparedness month and announced Ready Ontario Seminar.

Marcellus McMillan, announced an upcoming grand re-opening and welcoming of the D'Andre Lampkin Foundation.

Valerie Carrick, submitted a petition with signatures to have the reading room in the Ovitt Family Library named after local author, Beverly Cleary.

Armando Rodriguez, announced upcoming events for the Ontario Hispanic Chamber of Commerce.

Karen Haughey, representative for County Supervisor Curt Hagman, announced upcoming events.

AGENDA REVIEW/ANNOUNCEMENTS

Assistant City Manager Sanchez made no updates.

CONSENT CALENDAR

MOTION: Moved by Council Member Dorst-Porada, seconded by Council Member Bowman and carried by unanimous 5-0 vote, to approve the Consent Calendar as presented.

1. APPROVAL OF MINUTES

The City Council approved Minutes for the special meetings of the City Council and Housing Authority on July 29, 2021, and regular meetings of the City Council and Housing Authority on August 17, 2021, approving same as on file in the Records Management Department.

2. BILLS/PAYROLL

The City Council approved **Bills** for the period August 20, 2021, through September 2, 2021, in the amount of $21,085,828.85 and **Payroll** for the period August 15, 2021, through August 28, 2021, in the amount of $3,467,093.39 when audited by the Finance Committee.

3. LEGISLATIVE UPDATE

The City Council received and filed the legislative update.

4. A LEASE AGREEMENT BETWEEN THE UNIVERSITY OF LA VERNE AND THE CITY OF ONTARIO

The City Council considered the lease of City owned property at 214 E. Holt Boulevard; and adopted a resolution approving a Ground Lease ("Lease") between the City of Ontario and the University of La Verne; and authorized the City Manager to execute the Lease and all other documents required for implementation of the Lease.

RESOLUTION NO. 2021-146 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, (I) DECLARING THAT CERTAIN REAL PROPERTY LOCATED AT 214 E. HOLT AVE. IN ONTARIO, CALIFORNIA TO BE EXEMPT SURPLUS LAND; (II) APPROVING A LEASE AGREEMENT WITH THE UNIVERSITY OF LA VERNE; (III) AUTHORIZING THE CITY MANAGER TO TAKE ALL ACTIONS NECESSARY WITH RESPECT THERETO; AND (IV) FINDING THAT NO FURTHER CEQA ANALYSIS IS NECESSARY.

5. A CONSTRUCTION CONTRACT AND AN AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT FOR ATP CYCLE 4: SAFE ROUTES TO SCHOOL PEDESTRIAN IMPROVEMENTS AROUND HAYNES, VISTA GRANDE AND OAKS SCHOOLS

The City Council took the following actions:

1. Awarded a construction contract with All American Asphalt of Corona, California, for ATP Cycle 4: Safe Routes to School Pedestrian Improvements around Haynes, Vista Grande and Oaks Schools in the bid amount of $5,934,634 plus a ten percent (10%) contingency of $593,463, for a total authorized expenditure of $6,528,097 and authorized the City Manager to execute said contract and all related documents and file a notice of completion at the conclusion of all construction activities; and
2. Approved and authorized the City Manager to execute an amendment to the professional services agreement with KOA Corporation of Monterey Park, California, in the amount of $360,220 plus a ten percent (10%) contingency of $36,022 for a total amount of $396,242 for construction management and inspection services.

6. FIRST AMENDMENT TO THE REGIONAL STORM DRAINAGE IMPROVEMENT REIMBURSEMENT AGREEMENT WITH THE CITY OF CHINO

The City Council approved the First Amendment to the Regional Storm Drainage Improvement Reimbursement Agreement with the City of Chino and authorized the City Manager to execute said First Amendment.

7. AGREEMENTS FOR THE PAYMENT OF OPERATIONS AND MAINTENANCE COSTS FOR THE MILL CREEK WETLANDS AND THE KIMBALL STORM DRAIN BASIN

The City Council took the following actions:

A. Approved an agreement for the payment of Operations and Maintenance (O&M) Costs for the Mill Creek Wetlands (MCW) with the City of Chino (Chino), Chino Holding Company LLC (CHC), Chino Preserve Development Corporation (CPDC) and Preserve Master Maintenance Corporation (PMMC);
B. Approved an agreement for the payment of O&M Costs for the Kimball Storm Drain Basin with Chino, Chino Development Corporation (CDC) and PMMC; and
C. Authorized the City Manager to execute said agreements and future amendments within the City Council approved budget.

8. A RESOLUTION ADOPTING THE MEASURE I FIVE-YEAR CAPITAL PROJECT NEEDS ANALYSIS FOR FISCAL YEARS 2022-23 TO 2026-27

The City Council considered and adopted a Resolution approving the FY2022-23 through FY2026-27 Measure I Five-Year Capital Project Needs Analysis (CPNA) and authorized the City Manager to approve changes to the plan as may be required by the City and/or San Bernardino County Transportation Authority (SBCTA).

RESOLUTION NO. 2021-147 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING THE MEASURE I FIVE-YEAR CAPITAL PROJECT NEEDS ANALYSIS FOR FY2022-23 TO FY2026-27.

9. ONTARIO HOUSING AUTHORITY ANNUAL REPORT FOR FISCAL YEAR 2020-21

The Board of Directors of the Ontario Housing Authority ("OHA") approved the OHA Annual Report for the Fiscal Year 2020-21 and authorized the Executive Director of the OHA to transmit to the California Department of Housing and Community Development the OHA Annual Report as required by State law.

10. AUTHORIZE THE PURCHASE OF DESKTOP TELEPHONES

The City Council awarded Bid No. 1462 and authorized the purchase of telephone equipment from CompuNet, Inc. of Meridian, Idaho, in the amount of $225,836.

11. AN AMENDMENT TO THE GOODS AND SERVICES AGREEMENT WITH MYERS & SONS HI-WAY SAFETY INC. FOR PROCUREMENT OF TRAFFIC CONTROL DEVICES AND MATERIALS

The City Council approved and authorized the City Manager to execute Amendment No. 1 to the Goods and Services Agreement with Myers & Sons Hi-Way Safety Inc. of Chino, California, for procurement of traffic control devices and materials in the amount of $96,000, for a revised not to exceed amount of $171,000; and to exercise the three option years and extend the term of the agreement to June 30, 2024.

12. AUTHORIZE THE PURCHASE OF FLEET VEHICLES

The City Council:

A. Authorized the cooperative purchase and delivery of three Ford Escape vehicles in the amount of $83,883, two for the Integrated Waste Department and one for the Community Life and Culture Agency, three Chevrolet Colorado trucks in the amount of $81,834, two for the Utilities Department and one for the Planning Department, one Chevrolet Silverado truck in the amount of $33,840 for the Integrated Waste Department, and one Ford Transit Van in the amount of $30,280 for the Utilities Department from National Auto Fleet Group of Watsonville, California, consistent with the terms and conditions of the Sourcewell Cooperative Contract No. 120716-NAF.

B. Authorized the cooperative purchase and delivery of one John Deere 210L Loader in the amount of $115,804 for the Parks and Maintenance Department from RDO Equipment Company of Riverside, California, consistent with the terms and conditions of the Sourcewell Cooperative Contract No. 032119-JDC.
C. Authorized the cooperative purchase and delivery of three BMW Police Motorcycles in the amount of $103,744 for the Police Department from Long Beach BMW Motorcycles of Long Beach, California, consistent with the terms and conditions of the Los Angeles County Sheriff Contract No. PO-SH-21009529-1, Bid No. RFB-IS-21200889-1.
D. Authorized the cooperative purchase and delivery of one CNG Peterbilt Refuse Automated Side Loading truck in the amount of $346,387 and one CNG Peterbilt Refuse Front Loading truck in the amount of $349,100 for the Integrated Waste Department from Rush Truck Centers of Pico Rivera, California, consistent with the terms and conditions of the Sourcewell Cooperative Contract No. 060920-PMC.
E. Authorized the cooperative purchase and delivery of two CNG Freightliner Dump trucks in the amount of $439,920, one for the Parks and Maintenance Department and one for the Utilities Department, one CNG Ford F750 Stakebed truck in the amount of $162,861 for the Integrated Waste Department, and one CNG Freightliner Water Service Body truck in the amount of $350,927 for the Utilities Department from PB Loader Corporation of Fresno, California, consistent with the terms and conditions of the Sourcewell Cooperative Contract No. 052417-PBL.

13. AMENDMENT TO THE STREET SWEEPING SERVICES AGREEMENT WITH CLEANSTREET, INC.

The City Council authorized the City Manager to execute the Third Amendment to the existing five-year Maintenance Service Agreement for contract No. SM1617-2 with CleanStreet, Inc., located in Gardena, California, in the amount of $79,699 to perform street sweeping services for the newly acquired areas located within Ontario Ranch and provide illegally dumped tires disposal services.

PUBLIC HEARINGS

14. A PUBLIC HEARING TO CONSIDER THE SALE OF CITY OWNED PROPERTY IN ACCORDANCE WITH GOVERNMENT CODE SECTION 52201 ET. SEQ., MAKING CERTAIN FINDINGS; AND ADOPTION OF A RESOLUTION APPROVING A DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND RWSS DEVELOPMENT LLC.

The City Council conducted a public hearing to consider the sale of City owned property; and adopt a Resolution approving a Disposition and Development Agreement ("Agreement") between the City of Ontario ("City") and RWSS Development LLC, ("Developer") (on file with the Records Management

Department); and authorize the City Manager to execute the Agreement and all other documents required for implementation of the Agreement.

RESOLUTION NO. 2021-148 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND RWSS DEVELOPMENT LLC. FOR THE DISPOSITION AND DEVELOPMENT OF CERTAIN REAL PROPERTY LOCATED AT 125 WEST EMPORIA STREET, ONTARIO.

Notice of public hearing was duly given and affidavits of compliance are on file in the Records Management Department. There were no written communications.

Mayor Leon opened the public hearing asking those persons interested in this item to speak. Hearing no one, Mayor Leon closed the public hearing.

MOTION: Moved by Council Member Bowman, seconded by Council Member Dorst-Porada, and carried by a unanimous 5-0 vote, to adopt Resolution No. 2021-148.

15. A PUBLIC HEARING TO RECEIVE TESTIMONY AND ADOPT THE CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER) FOR THE 2020-21 FISCAL YEAR

The City Council:

A. Held a public hearing to receive testimony on the draft Consolidated Annual Performance and Evaluation Report (CAPER) for the 2020-21 Fiscal Year;
B. Directed staff to prepare and transmit to the U.S. Department of Housing and Urban Development (HUD) the final CAPER, which will address all public comments received on the draft CAPER; and
C. Authorized the City Manager to execute any and all documents necessary and/or desirable to transmit the CAPER to HUD.

Notice of public hearing was duly given and affidavits of compliance are on file in the Records Management Department. There were no written communications.

Mayor Leon opened the public hearing asking those persons interested in this item to speak. Hearing no one, Mayor Leon closed the public hearing.

MOTION: Moved by Council Member Bowman, seconded by Council Member Dorst-Porada, and carried by a unanimous 5-0 vote, to adopt the Consolidated Annual Performance and Evaluation Report.

16. A PUBLIC HEARING TO CONSIDER A RESOLUTION CALLING A SPECIAL ELECTION FOR PROPOSED CHANGES TO THE RATE AND METHOD OF APPORTIONMENT OF THE EXISTING SPECIAL TAX OF CITY OF ONTARIO

COMMUNITY FACILITIES DISTRICT NO. 57 (NEUHOUSE); RESOLUTION OF CHANGE DECLARING RESULTS OF A SPECIAL ELECTION, DETERMINING THAT CHANGES TO THE RATE AND METHOD OF APPORTIONMENT OF THE EXISTING SPECIAL TAX ARE LAWFULLY AUTHORIZED AND DIRECTING THE RECORDING OF AN AMENDMENT TO NOTICE OF SPECIAL TAX LIEN; AND AN ORDINANCE AMENDING AND RESTATING ORDINANCE NO. 3174 LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 57 (NEUHOUSE)

The City Council:

A. Adopted a resolution of the City Council of the City of Ontario, California, calling a special election for proposed changes to the Rate and Method of Apportionment of the Existing Special Tax of City of Ontario Community Facilities District No. 57 (Neuhouse),
B. Adopted a resolution of change of the City Council of the City of Ontario, California, declaring results of the special election, determining that changes to the Rate and Method of Apportionment of the Existing Special Tax of City of Ontario Community Facilities District No. 57 (Neuhouse) are lawfully authorized and directing recording of an amendment to Notice of Special Tax Lien; and
C. Introduced and waived further reading of an amended and restated Ordinance No. 3174 levying special taxes within City of Ontario Community Facilities District No. 57 (Neuhouse).

Notice of public hearing was duly given and affidavits of compliance are on file in the Records Management Department. There were no written communications.

Mayor Leon opened the public hearing asking those persons interested in this item to speak. Hearing no one, Mayor Leon closed the public hearing.

RESOLUTION NO. 2021-149 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING A SPECIAL ELECTION FOR PROPOSED CHANGES TO THE RATE AND METHOD OF APPORTIONMENT OF THE EXISTING SPECIAL TAX OF CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 57 (NEUHOUSE).

MOTION: Moved by Council Member Dorst-Porada, seconded by Council Member Bowman, and carried by a unanimous 5-0 vote, to adopt Resolution No. 2021-149.

City Clerk Mautz opened the ballot and stated the ballot was in support.

RESOLUTION NO. 2021-150 A RESOLUTION OF CHANGE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DECLARING RESULTS OF SPECIAL ELECTION, DETERMINING THAT CHANGES TO THE RATE AND MEHTOD OF APPORTIONMENT OF THE EXISTING SPECIAL TAX OF CITY OF ONTARIO

COMMUNITY FACILITIES DISTRICT NO. 57 (NEUHOUSE) ARE LAWFULLY AUTHORIZED AND DIRECTING RECORDING OF AN AMENDMENT TO NOTICE OF SPECIAL TAX LIEN.

MOTION: Moved by Council Member Valencia, seconded by Council Member Dorst-Porada, and carried by a unanimous 5-0 vote, to Resolution No. 2021-150.
ORDINANCE NO. 3191 (FIRST READING) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING AND RESTATING ORDINANCE NO. 3174 LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 57 (NEUHOUSE).

MOTION: Moved by Council Member Bowman, seconded by Council Member Dorst-Porada, and carried by a unanimous 5-0 vote, introduce Ordinance No. 3191 for its first reading.

STAFF MATTERS

Assistant City Manager Sanchez made no comments.

COUNCIL MATTERS

Council Member Dorst-Porada announced the upcoming Art Festival on October 16th.

Mayor pro Tem Wapner announced an opening on the San Bernardino County Transportation Authority's Oversight Board.

Council Member Bowman spoke on the positive turnout at the Route 66 Cruisin Reunion.

Council Member Valencia thanked Ontario Police and Fire Departments for their work in the community and shared a thank you card from an Ontario resident.

Mayor Leon spoke on his positive experience at the Hispanic Chamber of Commerce event, Fiestas Patrias.

ADJOURNMENT

Mayor Leon adjourned the meetings of the Joint Agencies at 7:07 p.m. and announced the next regular meeting to be held on Tuesday, October 5, 2021.

Respectfully submitted,

_____
SHEILA MAUTZ, CITY CLERK/SECRETARY

APPROVED:

_____
PAUL S. LEON, MAYOR/CHAIRMAN

CITY OF ONTARIO *Agenda Report* **October 19, 2021**	**SECTION:** **CONSENT CALENDAR**
Department: Communications and Community Relations Prepared By: Tricia Almiron Staff Member Presenting: Dan Bell, Communications and Community Relations Director Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 3

SUBJECT: LEGISLATIVE UPDATE

RECOMMENDATION: That the City Council receive and file the legislative update.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Pursue City's Goals and Objectives by Working with Other Governmental Agencies

FISCAL IMPACT: There is no direct fiscal impact associated with the receiving and filing of this report.

BACKGROUND & ANALYSIS: **State Update:**
The Legislature is out of Session until January 3, 2022. Until then they will be developing individual bill packages. In addition to the two-year bills that carried over from 2021, thousands more will be introduced. Governor Newsom will be developing his Administration's Budget proposal and his priorities will be presented in January.

Federal Update:
In Washington, Congress is aiming to pass both a bipartisan infrastructure bill and a broader investment in social programs by the end of October of this year. President Biden signed a one-month extension of the Surface Transportation programs, which will now expire October 31, 2021. The House of Representatives has until then to pass the Infrastructure Investment and Jobs Act and the Build Back Better Act, also referred to as the Budget Reconciliation Bill. House leadership is negotiating amongst themselves to find a compromise between $1.5 - $3.5 trillion.

On the last day of the Federal fiscal year, September 30, 2021, Congress passed a Continuing Resolution (H.R. 5305) to fund the federal government, which is set to expire on December 3, 2021. The $3.5 trillion budget reconciliation package faces hurdles. None of the 12 annual appropriations bills for Fiscal Year 2022 have been signed into law. Congress will still need to address the debt ceiling, and Treasury Secretary Yellen has expressed that a default on the debt could occur as soon as October 18, 2021 if no action is taken.

CITY OF ONTARIO *Agenda Report* **October 19, 2021**	**SECTION:** **CONSENT CALENDAR**
Department: Community Improvement Prepared By: Douglas J Sorel Staff Member Presenting: Scott Murphy, Executive Director Community Development Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 4

SUBJECT: A RESOLUTION FOR PLACEMENT OF SPECIAL ASSESSMENTS ON THE SAN BERNARDINO COUNTY TAX ROLLS

RECOMMENDATION: That the City Council adopt a Resolution for recovery of fees and costs incurred in abating property and dangerous building violations, as well as administrative citations and civil penalties associated with property maintenance violations, and placing assessments on the San Bernardino County Tax Rolls.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Operate in a Businesslike Manner
Focus Resources in Ontario's Commercial and Residential Neighborhoods

FISCAL IMPACT: The levy of special assessments will result in the recovery of $59,510.38 in costs that the City has expended for inspection or abatement of property violations, as well as the collection of $11,648 associated with civil penalties and/or fines for continued violations, for a total of $71,158.38 related to 99 parcels. When received, these reimbursements will be deposited into the General Fund. The special assessment revenue is included in the Fiscal Year 2021-22 Adopted Budget.

BACKGROUND & ANALYSIS: The City has established revolving funds to cover the City costs for abatement of property and dangerous building violations as a result of Community Improvement activities. Additionally, the City has established administrative citations and fines for property maintenance violations and fees and penalties associated with the Systematic Health and Safety Inspection Program, Abandoned and Distressed Property Program, and Weed and Refuse Abatement Program. These costs, fines, fees, and penalties are recovered through placement of special tax assessments upon the properties. The placement of special assessments and collection of revenue is done under Ordinance 3046, Property Appearance (Title 5, Chapter 22 of the Ontario Municipal Code); Chapter 9 of the Uniform Code for the Abatement of Dangerous Buildings; and, Ordinance 2920 for civil penalties for continued violations of the Ontario Municipal Code and fines associated with administrative citations (Title 1, Chapters 2 and 5 of the Ontario Municipal Code). The City and County currently have a contractual agreement regarding implementation of special assessments; however, a Resolution authorizing the placement of the specific assessments is required.

During this assessment cycle, the Community Improvement Department has billed property owners for: the abatement of violations; the issuance of fines associated with administrative citation; the issuance of fees and penalties associated with the Systematic Health and Safety Inspection Program; the issuance of registration fees and civil penalties associated with the Abandoned and Distressed Property Program;

the issuance of notice and re-inspection fees; and civil penalties for the Weed and Refuse Abatement Program on 175 parcels. Of these, there are remaining amounts due on 99 parcels. Attached are itemized accounts of: (1) costs associated with inspection or abatement as shown in Exhibit A of the Resolution; (2) civil penalties and/or fines for continued violations as shown in Exhibit B of the Resolution; and (3) total amounts per parcel as shown in Exhibit C of the Resolution. The expenditure list, with any necessary corrections and adjustments, will be submitted to the County prior to August 2022 for its 2022-2023 tax rolls.

All affected property owners were given notice of the imposition of special assessments via certified mail as provided in Ontario Municipal Code Section 1-4.05(a) and have either not requested an appeal or have exhausted the appellate procedure in Ontario Municipal Code Section 1-4.05(b).

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING A REPORT REQUESTING THE PLACEMENT OF SPECIAL ASSESSMENTS ON PROPERTY TAX BILLS FOR CIVIL PENALTIES OR RECOVERY OF COSTS INCURRED FOR ABATEMENT OF VIOLATIONS OF CITY CODES AND ORDINANCES.

WHEREAS, Ordinance No. 3046, Property Appearance (Title 5, Chapter 22, of the Ontario Municipal Code) and Chapter 9 of the Uniform Code for the Abatement of Dangerous Buildings provide for the abatement of property nuisances by repair, rehabilitation, demolition or removal; and

WHEREAS, under Resolution 94-112, Resolution ORA-499, and the Cooperation and Reimbursement Agreement entered into on the 15th day of November, 1994, by the City of Ontario and the Ontario Redevelopment Agency, the Ontario Redevelopment Agency made a one-time advance to the City of One Hundred Fifty Thousand Dollars ($150,000) to repair or abate dangerous buildings and properties throughout the City; and

WHEREAS, under a first amendment to the Cooperation and Reimbursement Agreement entered into on the 16th day of July 1996, by the City of Ontario and the Ontario Redevelopment Agency, the Ontario Redevelopment Agency made an additional advance to the City of One Hundred Thousand Dollars ($100,000) to continue to repair or abate dangerous buildings and properties throughout the City; and

WHEREAS, under Resolution 94-113, Resolution ORA-500, and the Cooperation and Reimbursement Agreement entered into on the 15th day of November 1994, by the City of Ontario and the Ontario Redevelopment Agency, the Ontario Redevelopment Agency made a one-time advance to the City of Thirty Thousand Dollars ($30,000) to repair or abate dangerous buildings and properties in the 6th and Grove area; and

WHEREAS, under Resolution 94-12, Resolution ORA-464, and the Cooperation and Reimbursement Agreement entered into on the 22nd day of February 1994, by the City of Ontario and the Ontario Redevelopment Agency, the Ontario Redevelopment Agency made a one-time advance to the City of One Hundred Fifty Thousand Dollars ($150,000) to repair or demolish dangerous buildings throughout the City; and

WHEREAS, Ordinance No. 2894, Systematic Health and Safety Inspection Program (Title 8, Chapter 17, of the Ontario Municipal Code), provides for the collection of unpaid service fees, plus any penalties and accrued interest by Special Assessment; and

WHEREAS, Ordinance No. 2920, provides for the assessment of civil penalties for continued violations of the Ontario Municipal Code (Title 1, Chapter 2 of the Ontario Municipal Code), and for fines associated with administrative citations to be collected by Special Assessment (Title 1, Chapter 5 of the Ontario Municipal Code), and establishes a uniform procedure before imposing such Special Assessments (Title 1, Chapter 4 of the Ontario Municipal Code); and

WHEREAS, the above said ordinances, resolutions and agreements provide for recovery of costs incurred in the abatement of violations by means of a Special Assessment placed on the tax rolls; and

WHEREAS, the City has incurred costs involved in the abatement of violations under the Ontario Municipal Code and Uniform Code for the Abatement of Dangerous Buildings, issuing Notices of Violation, and administering the Systematic Health and Safety Program and wishes to recover said costs; and

WHEREAS, the owners of all parcels listed in Exhibit A, B, and C were given notice of imposition of such Special Assessment as provided in Ontario Municipal Code Section 1-4.05(a), and either have not requested an appeal, or have exhausted the appellate procedure provided in Ontario Municipal Code Section 1-4.05(b); and

WHEREAS, the City has an executed contract with the San Bernardino County Board of Supervisors for collection of said assessments;

NOW, THEREFORE, BE IT RESOLVED that the City Council:

1. Confirmed the costs associated with inspection or abatement on the properties as set forth in the report in Exhibit A; and

2. Confirmed the civil penalties and/or fines for continued violations on the properties as set forth in the report in Exhibit B; and

3. Confirmed that Exhibit C contains the total amount assessed for both confirmed costs and confirmed civil penalties and/or fines for each of the properties; and

4. Found and determined that the report, and Exhibits contained therein are true and accurate; and

5. Adopts the above said report and finds that the costs of inspection or abatement on the properties listed are the costs set forth in Exhibit A, the civil penalties and/or fines for continued violations are the penalties and/or fines as set forth in Exhibit B, and the same are hereby charged and placed as special assessments upon the respective properties; and

6. Directs Exhibit C shall be sent to the Auditor-Controller of San Bernardino County and shall be collected on the County tax roll.

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

PASSED, APPROVED, AND ADOPTED this 19th day of October 2021.

_____
PAUL S. LEON, MAYOR

ATTEST:

_____
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

_____
BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2021- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held October 19, 2021 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2021- duly passed and adopted by the Ontario City Council at their regular meeting held October 19, 2021.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

City of Ontario
Community Improvement Department
2022/2023 Tax Roll Year Special Assessments
Exhibit A - Costs Associated with Inspection or Abatement

Parcel Number	Address	Amount Due
0108-412-18	1722 N DEL NORTE AV, Ontario, CA 91764	1,077.09
0108-493-37	1521 N MARIPOSA AV, Ontario, CA 91764	547.00
0108-523-07	1305 N LASSEN AV, Ontario, CA 91764	91.00
0108-532-08	1688 E FIFTH ST, Ontario, CA 91764	91.00
0108-601-69	1503 N LASSEN AV, Ontario, CA 91764	1,872.60
0110-013-20	1205 E D ST, Ontario, CA 91764	404.00
0110-061-01	1375 E HOLT BL, Ontario, CA 91761	1,733.76
0110-121-03	1512 E HOLT BL, Building:1, Ontario, CA 91761	91.00
0110-121-08	1366 E HOLT BL, Building:1, Ontario, CA 91761	91.00
0110-121-09	1390 E HOLT BL, Ontario, CA 91761	91.00
0110-144-65	1671 E G ST, Unit:167, Ontario, CA 91764	1,982.39
0110-321-74	2350 E INLAND EMPIRE BL, Ontario, CA 91764	91.00
0110-332-02	1808 E FOURTH ST, Unit:A, Ontario, CA 91764	183.50
0110-365-02	935 N SACRAMENTO AV, Ontario, CA 91764	13,351.40
0113-285-08	2401 S VINEYARD AV, Building:1, Unit:A, Ontario, CA 91761	450.48
0113-361-54	1401 S GROVE AV, Ontario, CA 91761	468.00
0113-414-13	1625 S BAKER AV, Ontario, CA 91761	148.00
0210-331-56	1306 N DEL RIO WY, Ontario, CA 91764	593.00
0216-491-50	1419 E RIVERSIDE DR, Ontario, CA 91761	416.87
0218-111-56	9510 E CHINO AV, Ontario, CA 91761	996.50
0218-122-01	0 E CHINO AV, Ontario, CA 91761	91.00
0218-191-15	0 S ARCHIBALD AV, Ontario, CA 91761	140.00
0218-891-15	3142 S CLOVER LN, Ontario, CA 91761	684.50
0218-921-19	3258 S HAMPSHIRE DR, Ontario, CA 91761	148.00
0218-921-22	3940 E OAKWOOD DR, Ontario, CA 91761	148.00
0238-014-05	4900 E FOURTH ST, Ontario, CA 91764	91.00
1008-521-26	1147 W PRINCETON ST, Unit:B, Ontario, CA 91762	533.45
1008-572-24	1504 W FOURTH ST, Ontario, CA 91762	58.50
1010-131-33	1240 W ROSEWOOD CT, Ontario, CA 91762	745.68
1010-132-02	1025 N MOUNTAIN AV, Building:1, Ontario, CA 91762	91.00
1010-455-03	1116 W D ST, Ontario, CA 91762	554.00
1010-521-30	151 N MOUNTAIN AV, Ontario, CA 91762	91.00
1011-121-24	1345 W HOLT BL, Building:1, Ontario, CA 91762	683.32
1011-134-05	234 S MOUNTAIN AV, Building:1, Ontario, CA 91762	105.50
1011-141-39	960 W BROOKS ST, Building:1, Ontario, CA 91762	91.00
1011-551-20	1205 S PALMETTO AV, Unit:G, Ontario, CA 91762	768.50
1014-181-17	1734 S BRIAR AV, Ontario, CA 91762	91.00
1014-221-38	1221 W LOCUST ST, Ontario, CA 91762	91.00
1015-131-24	2236 S MOUNTAIN AV, Building:1, Ontario, CA 91762	921.00
1046-511-17	0 E EIGHTH ST, Ontario, CA 91764	91.00
1047-143-01	1235 E EIGHTH ST, Ontario, CA 91764	1,612.54
1047-321-24	1350 N CHAFFEY CT, Ontario, CA 91762	887.65
1047-391-03	1414 N CAMPUS AV, Ontario, CA 91764	91.00
1047-473-15	1054 E PRINCETON ST, Ontario, CA 91764	484.00

City of Ontario
Community Improvement Department
2022/2023 Tax Roll Year Special Assessments
Exhibit A - Costs Associated with Inspection or Abatement

Parcel Number	Address	Amount Due
1048-022-34	1010 N SAN ANTONIO AV, Ontario, CA 91762	2,941.00
1048-093-26	627 E J ST, Ontario, CA 91764	1,265.50
1048-103-19	851 E J ST, Ontario, CA 91764	91.00
1048-211-20	859 E GRANADA CT, Ontario, CA 91764	2,772.35
1048-305-05	726 N CYPRESS AV, Ontario, CA 91762	1,021.55
1048-471-14	1117 E HOLT BL, Ontario, CA 91761	91.00
1048-481-06	947 E HOLT BL, Ontario, CA 91761	148.00
1048-511-01	136 N CAMPUS AV, Ontario, CA 91761	796.55
1048-511-05	210 N CAMPUS AV, Ontario, CA 91761	105.50
1048-522-09	523 E HOLT BL, Ontario, CA 91764	105.50
1048-523-15	111 N MONTEREY AV, Ontario, CA 91761	944.15
1048-571-01	425 W D ST, Ontario, CA 91762	157.09
1049-063-05	226 E HOLT BL, Building:1, Ontario, CA 91761	710.88
1049-101-34	767 E EMPORIA ST, Ontario, CA 91761	686.35
1049-101-39	844 E HOLT BL, Ontario, CA 91761	580.38
1049-101-40	900 E HOLT BL, Ontario, CA 91761	1,723.47
1049-111-05	810 E MAIN ST, Building:2, Ontario, CA 91761	511.09
1049-131-04	918 E HOLT BL, Ontario, CA 91761	91.00
1049-141-24	1194 E HOLT BL, Ontario, CA 91761	148.00
1049-194-10	1048 E STATE ST, Ontario, CA 91761	91.00
1049-194-20	1041 E WASHINGTON ST, Ontario, CA 91761	91.00
1049-196-03	1018 E JEFFERSON ST, Ontario, CA 91761	91.00
1049-203-03	0 S TAYLOR AV, Ontario, CA 91761	91.00
1049-204-05	840 E ONTARIO BL, Ontario, CA 91761	91.00
1049-204-06	840 E ONTARIO BL, Ontario, CA 91761	91.00
1049-204-07	842 E ONTARIO BL, Ontario, CA 91761	91.00
1049-221-05	557 E NEVADA ST, Ontario, CA 91761	231.00
1049-232-20	560 E PARK ST, Ontario, CA 91761	827.23
1049-246-08	514 S CHERRY AV, Ontario, CA 91761	601.00
1049-246-09	329 E SUNKIST ST, Ontario, CA 91761	1,148.08
1049-312-04	0 W MISSION BL, Ontario, CA 91762	91.00
1049-362-03	736 E CALIFORNIA ST, Ontario, CA 91761	2,411.95
1049-362-04	740 E CALIFORNIA ST, Ontario, CA 91761	91.00
1050-282-03	1712 S PALM AV, Ontario, CA 91762	320.00
1050-371-27	1856 S EUCLID AV, Ontario, CA 91762	558.08
1050-551-06	645 E SPRUCE ST, Ontario, CA 91761	658.56
1050-624-15	2115 S SAN ANTONIO AV, Ontario, CA 91762	1,041.50
1050-632-33	2045 S CYPRESS AV, Ontario, CA 91762	1,700.39
1083-321-01	2249 S HAVEN AV, Building:11, Ontario, CA 91761	239.00
		59,510.38

City of Ontario
Community Improvement Department
2022/2023 Tax Roll Year Special Assessments
Exhibit B - Civil Penalties and/or Fines for Continued Violations

Parcel Number	Address	Amount Due
0108-523-07	1305 N LASSEN AV, Ontario, CA 91764	470.00
0110-121-09	1390 E HOLT BL, Ontario, CA 91761	58.00
0110-322-32	2200 E HOLT BL, Ontario, CA 91761	520.00
0113-361-54	1401 S GROVE AV, Ontario, CA 91761	500.00
0113-414-13	1625 S BAKER AV, Ontario, CA 91761	500.00
0209-331-18	1902 E DEODAR ST, Ontario, CA 91764	120.00
0210-041-58	1434 N SAN DIEGO PL, Ontario, CA 91764	340.00
0218-191-04	13990 S ARCHIBALD AV, Ontario, CA 91761	220.00
0218-554-32	4904 S ROSEMARY WY, Ontario, CA 91762	170.00
0218-615-18	3164 E YOSEMITE DR, Ontario, CA 91762	190.00
0218-831-59	2901 E GREENBRIAR DR, Ontario, CA 91761	490.00
0218-911-20	3070 E THOROUGHBRED ST, Ontario, CA 91761	120.00
0218-921-19	3258 S HAMPSHIRE DR, Ontario, CA 91761	500.00
0218-921-22	3940 E OAKWOOD DR, Ontario, CA 91761	500.00
1010-132-02	1025 N MOUNTAIN AV, Building:1, Ontario, CA 91762	170.00
1010-521-30	151 N MOUNTAIN AV, Ontario, CA 91762	640.00
1014-561-11	2155 S HELEN AV, Ontario, CA 91762	520.00
1047-143-01	1235 E EIGHTH ST, Ontario, CA 91764	500.00
1047-281-62	1511 N AMBER CT, Ontario, CA 91762	320.00
1047-391-03	1414 N CAMPUS AV, Ontario, CA 91764	170.00
1048-103-19	851 E J ST, Ontario, CA 91764	120.00
1048-111-16	753 E PLAZA SERENA ST, Ontario, CA 91764	340.00
1048-211-31	807 E GRANADA CT, Ontario, CA 91764	120.00
1048-481-06	947 E HOLT BL, Ontario, CA 91761	500.00
1048-522-09	523 E HOLT BL, Ontario, CA 91764	520.00
1049-101-34	767 E EMPORIA ST, Ontario, CA 91761	420.00
1049-141-24	1194 E HOLT BL, Ontario, CA 91761	500.00
1049-246-09	329 E SUNKIST ST, Ontario, CA 91761	420.00
1049-292-11	613 W NEVADA ST, Ontario, CA 91762	340.00
1050-251-01	1727 S EUCLID AV, Ontario, CA 91761	490.00
1052-451-01	13315 S BON VIEW AV, Ontario, CA 91761	240.00
1053-301-02	7330 E EDISON AV, Ontario, CA 91761	120.00
1083-321-01	2249 S HAVEN AV, Building:11, Ontario, CA 91761	500.00
		11,648.00

City of Ontario
Community Improvement Department
2022/2023Tax Roll Year Special Assessments
Exhibit C - Total Amounts per Parcel

Parcel Number	Address	Amount Due
0108-412-18	1722 N DEL NORTE AV, Ontario, CA 91764	1,077.09
0108-493-37	1521 N MARIPOSA AV, Ontario, CA 91764	547.00
0108-523-07	1305 N LASSEN AV, Ontario, CA 91764	561.00
0108-532-08	1688 E FIFTH ST, Ontario, CA 91764	91.00
0108-601-69	1503 N LASSEN AV, Ontario, CA 91764	1,872.60
0110-013-20	1205 E D ST, Ontario, CA 91764	404.00
0110-061-01	1375 E HOLT BL, Ontario, CA 91761	1,733.76
0110-121-03	1512 E HOLT BL, Building:1, Ontario, CA 91761	91.00
0110-121-08	1366 E HOLT BL, Building:1, Ontario, CA 91761	91.00
0110-121-09	1390 E HOLT BL, Ontario, CA 91761	149.00
0110-144-65	1671 E G ST, Unit:167, Ontario, CA 91764	1,982.39
0110-321-74	2350 E INLAND EMPIRE BL, Ontario, CA 91764	91.00
0110-322-32	2200 E HOLT BL, Ontario, CA 91761	520.00
0110-332-02	1808 E FOURTH ST, Unit:A, Ontario, CA 91764	183.50
0110-365-02	935 N SACRAMENTO AV, Ontario, CA 91764	13,351.40
0113-285-08	2401 S VINEYARD AV, Building:1, Unit:A, Ontario, CA 91761	450.48
0113-361-54	1401 S GROVE AV, Ontario, CA 91761	968.00
0113-414-13	1625 S BAKER AV, Ontario, CA 91761	648.00
0209-331-18	1902 E DEODAR ST, Ontario, CA 91764	120.00
0210-041-58	1434 N SAN DIEGO PL, Ontario, CA 91764	340.00
0210-331-56	1306 N DEL RIO WY, Ontario, CA 91764	593.00
0216-491-50	1419 E RIVERSIDE DR, Ontario, CA 91761	416.87
0218-111-56	9510 E CHINO AV, Ontario, CA 91761	996.50
0218-122-01	0 E CHINO AV, Ontario, CA 91761	91.00
0218-191-04	13990 S ARCHIBALD AV, Ontario, CA 91761	220.00
0218-191-15	0 S ARCHIBALD AV, Ontario, CA 91761	140.00
0218-554-32	4904 S ROSEMARY WY, Ontario, CA 91762	170.00
0218-615-18	3164 E YOSEMITE DR, Ontario, CA 91762	190.00
0218-831-59	2901 E GREENBRIAR DR, Ontario, CA 91761	490.00
0218-891-15	3142 S CLOVER LN, Ontario, CA 91761	684.50
0218-911-20	3070 E THOROUGHBRED ST, Ontario, CA 91761	120.00
0218-921-19	3258 S HAMPSHIRE DR, Ontario, CA 91761	648.00
0218-921-22	3940 E OAKWOOD DR, Ontario, CA 91761	648.00
0238-014-05	4900 E FOURTH ST, Ontario, CA 91764	91.00
1008-521-26	1147 W PRINCETON ST, Unit:B, Ontario, CA 91762	533.45
1008-572-24	1504 W FOURTH ST, Ontario, CA 91762	58.50
1010-131-33	1240 W ROSEWOOD CT, Ontario, CA 91762	745.68
1010-132-02	1025 N MOUNTAIN AV, Building:1, Ontario, CA 91762	261.00
1010-455-03	1116 W D ST, Ontario, CA 91762	554.00
1010-521-30	151 N MOUNTAIN AV, Ontario, CA 91762	731.00
1011-121-24	1345 W HOLT BL, Building:1, Ontario, CA 91762	683.32
1011-134-05	234 S MOUNTAIN AV, Building:1, Ontario, CA 91762	105.50
1011-141-39	960 W BROOKS ST, Building:1, Ontario, CA 91762	91.00
1011-551-20	1205 S PALMETTO AV, Unit:G, Ontario, CA 91762	768.50

City of Ontario
Community Improvement Department
2022/2023Tax Roll Year Special Assessments
Exhibit C - Total Amounts per Parcel

Parcel Number	Address	Amount Due
1014-181-17	1734 S BRIAR AV, Ontario, CA 91762	91.00
1014-221-38	1221 W LOCUST ST, Ontario, CA 91762	91.00
1014-561-11	2155 S HELEN AV, Ontario, CA 91762	520.00
1015-131-24	2236 S MOUNTAIN AV, Building:1, Ontario, CA 91762	921.00
1046-511-17	0 E EIGHTH ST, Ontario, CA 91764	91.00
1047-143-01	1235 E EIGHTH ST, Ontario, CA 91764	2,112.54
1047-281-62	1511 N AMBER CT, Ontario, CA 91762	320.00
1047-321-24	1350 N CHAFFEY CT, Ontario, CA 91762	887.65
1047-391-03	1414 N CAMPUS AV, Ontario, CA 91764	261.00
1047-473-15	1054 E PRINCETON ST, Ontario, CA 91764	484.00
1048-022-34	1010 N SAN ANTONIO AV, Ontario, CA 91762	2,941.00
1048-093-26	627 E J ST, Ontario, CA 91764	1,265.50
1048-103-19	851 E J ST, Ontario, CA 91764	211.00
1048-111-16	753 E PLAZA SERENA ST, Ontario, CA 91764	340.00
1048-211-20	859 E GRANADA CT, Ontario, CA 91764	2,772.35
1048-211-31	807 E GRANADA CT, Ontario, CA 91764	120.00
1048-305-05	726 N CYPRESS AV, Ontario, CA 91762	1,021.55
1048-471-14	1117 E HOLT BL, Ontario, CA 91761	91.00
1048-481-06	947 E HOLT BL, Ontario, CA 91761	648.00
1048-511-01	136 N CAMPUS AV, Ontario, CA 91761	796.55
1048-511-05	210 N CAMPUS AV, Ontario, CA 91761	105.50
1048-522-09	523 E HOLT BL, Ontario, CA 91764	625.50
1048-523-15	111 N MONTEREY AV, Ontario, CA 91761	944.15
1048-571-01	425 W D ST, Ontario, CA 91762	157.09
1049-063-05	226 E HOLT BL, Building:1, Ontario, CA 91761	710.88
1049-101-34	767 E EMPORIA ST, Ontario, CA 91761	1,106.35
1049-101-39	844 E HOLT BL, Ontario, CA 91761	580.38
1049-101-40	900 E HOLT BL, Ontario, CA 91761	1,723.47
1049-111-05	810 E MAIN ST, Building:2, Ontario, CA 91761	511.09
1049-131-04	918 E HOLT BL, Ontario, CA 91761	91.00
1049-141-24	1194 E HOLT BL, Ontario, CA 91761	648.00
1049-194-10	1048 E STATE ST, Ontario, CA 91761	91.00
1049-194-20	1041 E WASHINGTON ST, Ontario, CA 91761	91.00
1049-196-03	1018 E JEFFERSON ST, Ontario, CA 91761	91.00
1049-203-03	0 S TAYLOR AV, Ontario, CA 91761	91.00
1049-204-05	840 E ONTARIO BL, Ontario, CA 91761	91.00
1049-204-06	840 E ONTARIO BL, Ontario, CA 91761	91.00
1049-204-07	842 E ONTARIO BL, Ontario, CA 91761	91.00
1049-221-05	557 E NEVADA ST, Ontario, CA 91761	231.00
1049-232-20	560 E PARK ST, Ontario, CA 91761	827.23
1049-246-08	514 S CHERRY AV, Ontario, CA 91761	601.00
1049-246-09	329 E SUNKIST ST, Ontario, CA 91761	1,568.08
1049-292-11	613 W NEVADA ST, Ontario, CA 91762	340.00
1049-312-04	0 W MISSION BL, Ontario, CA 91762	91.00

City of Ontario
Community Improvement Department
2022/2023Tax Roll Year Special Assessments
Exhibit C - Total Amounts per Parcel

Parcel Number	Address	Amount Due
1049-362-03	736 E CALIFORNIA ST, Ontario, CA 91761	2,411.95
1049-362-04	740 E CALIFORNIA ST, Ontario, CA 91761	91.00
1050-251-01	1727 S EUCLID AV, Ontario, CA 91761	490.00
1050-282-03	1712 S PALM AV, Ontario, CA 91762	320.00
1050-371-27	1856 S EUCLID AV, Ontario, CA 91762	558.08
1050-551-06	645 E SPRUCE ST, Ontario, CA 91761	658.56
1050-624-15	2115 S SAN ANTONIO AV, Ontario, CA 91762	1,041.50
1050-632-33	2045 S CYPRESS AV, Ontario, CA 91762	1,700.39
1052-451-01	13315 S BON VIEW AV, Ontario, CA 91761	240.00
1053-301-02	7330 E EDISON AV, Ontario, CA 91761	120.00
1083-321-01	2249 S HAVEN AV, Building:11, Ontario, CA 91761	739.00
99		**71,158.38**

CITY OF ONTARIO *Agenda Report* **October 19, 2021**	**SECTION:** **CONSENT CALENDAR**
Department: Engineering Prepared By: Jesus Plasencia Staff Member Presenting: Scott Murphy, Executive Director Community Development Reviewed By: Raymond Lee, Khoi Do, Judy Witrago Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 5

SUBJECT: A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT AND IMPROVEMENT SECURITY FOR LOTS 2 THROUGH 4 OF FINAL TRACT MAP NO. 20316, LOCATED AT THE NORTHWEST CORNER OF EUCALYPTUS AVENUE AND ARCHIBALD AVENUE

RECOMMENDATION: That the City Council adopt a Resolution approving an Improvement Agreement and Improvement Security for Lots 2 through 4 of Final Tract Map No. 20316, located at the northwest corner of Eucalyptus Avenue and Archibald Avenue.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Invest in the Growth and Evolution of the City's Economy
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)
Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in Ontario Ranch

FISCAL IMPACT: There is not a direct fiscal impact associated with this action. All public infrastructure improvements required will be constructed by the Developer at its sole cost.

BACKGROUND & ANALYSIS: Final Tract Map No. 20316, submitted by SC Ontario Development Company, LLC, was approved by the City Council for Condominium purposes on February 2, 2021. All backbone public infrastructure improvements required to allow for future development within Lots 1 through 4 of Final Tract Map No. 20316 is complete or currently under construction.

Lots 2 through 4 of Final Tract Map No. 20316 were subsequently sold to The New Home Company, LLC (Developer). The Developer obtained Planning Commission approval on May 26, 2020 for a Development Plan (File No. PDEV19-064), as shown on Exhibit A, to construct 540 single family homes and a recreation center within Final Tract Map No. 20316. Improvements will include storm drain, domestic water, recycled water, and fiber optic conduits to be located within public easements on private streets and alleys. The Developer has entered into an Improvement Agreement with the City for Lots 2 through 4 of Final Tract Map No. 20316 and has posted adequate security to ensure construction of the required improvements.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN IMPROVEMENT AGREEMENT AND IMPROVEMENT SECURITY FOR LOTS 2 THROUGH 4 OF FINAL TRACT MAP NO. 20316, LOCATED AT THE NORTHWEST CORNER OF EUCALYPTUS AVENUE AND ARCHIBALD AVENUE.

WHEREAS, Tract Map No. 20316, submitted for approval by SC Ontario Development Company, LLC was approved by the City Council of the City of Ontario on February 2, 2021; and

WHEREAS, Tract Map No. 20316 consists of 4 numbered lots and 8 lettered lots for Condominium purposes within the Parkside Specific Plan being all of Lots 4, 6, 9, 10, 11, 12, 13,14, portion of Lot F, and Lots G, H, K, and M of Tract No. 18048, as per Map recorded inclusive of maps, in the County of San Bernardino, State of California; and

WHEREAS, SC Ontario Development Company, LLC has subsequently sold Lots 2 through 4 of Final Tract Map No. 20316 to the New Home Company Southern California, LLC (Developer); and

WHEREAS, said Developer has offered the improvement agreement together with good and sufficient improvement security, in conformance with the City Attorney's approved format, for approval and execution by the City.

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

1. That said Improvement Agreement be, and the same is, approved and the City Manager is authorized to execute same on behalf of said City, and the City Clerk is authorized to attest thereto; and

2. That said Improvement Security is accepted as good and sufficient, subject to approval as to form and content thereof by the City Attorney.

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

PASSED, APPROVED, AND ADOPTED this 19th day of October 2021.

_____
PAUL S. LEON, MAYOR

ATTEST:

_____
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

_____
BEST, BEST & KREIGER, LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2021- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held October 19, 2021 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2021- duly passed and adopted by the Ontario City Council at their regular meeting held October 19, 2021.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A
ON-SITE IMPROVEMENTS
TR 20316
AUGUST 05, 2021

LEGEND

NEW HOME COMPANY

SC ONTARIO

FUTURE PHASE

APN
021-823-132

ARCHIBALD AVENUE

APN
021-823-128

E. GRIFFITH CT

LOT 1

LOT 2

E. FORBES

S. FORSYTH PSO

LOT 3

LOT A

E. HYDE PSO

S. MILLENNIUM PSO

EUCALYPTUS AVENUE

APN
021-823-120

E. STANLEY PSO

S. BRYANT PSO

LOT 4

S. GRANT PSO

APN
021-823-128

APN
021-823-122

CUCAMONGA CREEK CHANNEL

APN
021-823-108

SCALE: 1"=50'

50 0 50 100

SHEET 1 OF 1

RICK ENGINEERING COMPANY
San Diego

5620 FRIARS ROAD
SAN DIEGO, CA 92110
619.291.0707
(FAX)619.291.4165
rickengineering.com
Riverside - Orange - San Luis Obispo - Denver - Sacramento - Phoenix - Tucson

© 2019 Rick Engineering Company

PLOT DATE: 10-08-2021 JN 19033B

C:\RICK\PROJECTS\C19000\19033_PARKSIDE\19033-B\19033-BC\CIVIL\REFS\MA\19033B-C-EXB10-RESPONSIBILITY.DWG

CITY OF ONTARIO *Agenda Report* **October 19, 2021**	**SECTION:** **CONSENT CALENDAR**
Department: Investments & Revenue Resources Prepared By: Christina C Aguirre Staff Member Presenting: Armen Harkalyan, Executive Director of Finance Reviewed By: Jason M Jacobsen, Armen Harkalyan Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 6

SUBJECT: AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICES AGREEMENT WITH HARRIS & ASSOCIATES TO CREATE THE CITY OF ONTARIO'S STREET LIGHTING MAINTENANCE DISTRICT'S CAPITAL REPLACEMENT PLAN

RECOMMENDATION: That the City Council authorize the City Manager to negotiate and execute an amendment to the existing agreement with Harris & Associates to create the City of Ontario's Street Lighting Maintenance District's Capital Replacement Plan, not to exceed $25,900, subject to non-substantive changes as mutually agreed to by the City and Harris & Associates of Irvine, California.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Operate in a Businesslike Manner

FISCAL IMPACT: The proposed amendment is for the remaining contract term; the agreement will expire on June 30, 2022. Any agreement extensions will be negotiated, and any price increases will be consistent with annual inflation factors that are generally consistent with the existing agreement. The total cost of the amendment will not exceed $25,900 and will be determined based on the finalized scope of work and the rates established by the amendment. The Adopted Fiscal Year 2021-22 Operating Budget does not include appropriations for these services, which will be paid out of the Street Lighting Maintenance District reserve funds and reimbursed from the approved Fiscal Year 2022-23 levy. If Council approves this item, the appropriation will be included in the Fiscal Year 2021-22 First Quarter Budget Update. There will be no fiscal impact to the General Fund with the approval of this amendment. If approved, the contract's new total not-to-exceed amount will be $178,400.

BACKGROUND & ANALYSIS: The City has two Street Lighting Maintenance Districts (SLMDs), which provide a dedicated source of funds to cover costs associated with the operation and maintenance of improvements providing a special benefit to parcels within each District. The City has identified a need to develop a Capital Replacement Plan for the districts that identifies the future maintenance/replacement of current improvements as they reach the end of their useful life. Each SLMD was formed in compliance with the requirements of Article 4, Chapter 1 of the Landscaping and Lighting Act of 1971, which is Part 2, Division 15 of the California Street and Highways Code (The Act). The Act permits the formation of assessment districts by cities for the purpose of providing for the maintenance and operation of public improvements. The definition of maintenance in the Act

includes repair, removal, or replacement of all or any part of any improvement within a district. Pursuant to the Act, the City has the responsibility to plan ahead for both the maintenance and replacement of eligible infrastructure within the City's two Street Lighting Maintenance Districts.

It is recommended to have Harris & Associates assist the City in developing a capital replacement plan for both Street Lighting Maintenance Districts to finance future maintenance and replacement of approved infrastructure within the districts. As proposed, Harris & Associates will perform the following Scope of Services:

Task 1: Kick-off meeting and information gathering.

Task 2: After reviewing the information gathered under Task 1, Harris will develop the Capital Replacement Plan for the Districts, which will include the following tasks:

- Create a breakdown of the lights, type, and watt/lumens;
- Review current revenues and expenditures for the districts and expected useful life schedule of the streetlight inventory;
- Review and update the annual Operating Reserve requirements;
- Determine the normal annual replacement and maintenance needs based on the District streetlight inventory;
- Establish the cashflow timing and a schedule for the capital replacement funding through existing district assessment revenue; and,
- Create a capital replacement plan for post-LED Upgrade.

Task 3: Present Report Findings.

Scope of Work

The Scope of Work provided below itemizes, by task, the services to be provided for the development of a Capital Replacement Plan based on our prior experience with similar projects.

Task 1: Kick-off Meeting and Information Gathering

Harris will participate in a kick-off meeting to discuss the Districts, status of the citywide project, the goals for the project, and any outstanding data needs. The City has already provided Harris with some of the information we need to get started on the project and will provide additional data Harris needs. Harris will review this information prior to the kick-off meeting and bring and follow up questions based on the information already provided. We will also discuss the project schedule and communication protocols. Depending on the current COVID safety requirements in California, Harris is able to complete this task via teleconference (Microsoft Teams or Zoom).

Task 2: Capital Replacement Plan

After we review the information from Task 1, Harris will develop the Capital Replacement Plan for the Districts, which will include the following tasks:

- Create a breakdown of the lights, type, and watt/lumens based on the information provided by the City in Task 1.
- Review current revenues and expenditures for the Districts and expected useful life schedule of the streetlight inventory.
- Review and update the annual Operating Reserve requirement.
- Determine the normal annual replacement and maintenance needs based on the District streetlight inventory.
- Establish the cashflow timing and a schedule for the capital replacement funding through existing district assessment revenue.
- Create capital replacement plan for post-LED Upgrade.

Harris will prepare a draft matrix for City review. After the City reviews the information and provides any comments, Harris will revise the matrix and prepare the draft Capital Replacement Plan. This task includes up to four (4) teleconferences.

Task 3: Present Report Findings

Harris will present the findings to the staff for direction and potential incorporation to the Engineer's Reports. After staff reviews the draft Capital Replacement Plan, Harris will incorporate any changes into a final document. Harris staff will make a presentation to City Council if required and attend up to two (2) meetings with City staff. It is important to note that the incorporation of findings in the Engineer's Report is not included in this task. If the incorporation of findings in Engineer's Report is needed, Harris and the City will discuss the next steps at that time.

FEES

Harris has prepared the following not to exceed time-spent basis for the work based on the proposed scope of work. The fee includes all indirect expenses such as travel, meals, and reproduction.

Invoices will be submitted monthly for services provided in the previous month and shall be paid within thirty (30) days of receipt in accordance with our current professional services agreement. Additional services outside the original Scope of Work will be provided as authorized for a mutually acceptable fee and in accordance with the Schedule of Hourly Rates current at the time services are provided.

A breakdown of the estimated hours by task is shown on the following page based upon the Scope of Work shown above. It is estimated that all work would be completed within a schedule that works for the City.

	Project Director $260/hr Hours	Project Manager $200/hr Hours	Deputy Project Manager $150/hr Hours	Total Estimated Hours	Subtotal Estimated Fee (Rounded)
Task 1: Kick-off Meeting and Information Gathering	1	8	6	15	$ 2,760
Task 2: Capital Replacement Plan	4	45	45	94	$ 16,790
Task 3: Present Report Findings (Up to 2 City Council Meetings)	2	20	12	34	$ 6,320
Total (Rounded)	**7**	**73**	**63**	**143**	**$ 25,900**

CITY OF ONTARIO *Agenda Report* **October 19, 2021**	**SECTION:** **CONSENT CALENDAR**
Department: Municipal Services Prepared By: Michael Johnson Staff Member Presenting: Tito Haes, Executive Director Public Works Reviewed By: Fabiola Contreras Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 7

SUBJECT: AN AMENDMENT TO THE MAINTENANCE SERVICES AGREEMENT WITH RYMAX ELECTRICAL, INC. FOR ON-CALL ELECTRICAL SERVICES

RECOMMENDATION: That the City Council approve and authorize the City Manager to execute Amendment No. 2 to the Maintenance Services Agreement (on file in the Records Management Department) with Rymax Electrical, Inc. of Upland, California, for on-call electrical services in the amount of $225,000, for a revised not to exceed amount of $370,952; and to exercise the two option years and extend the term of the agreement to June 30, 2025.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Operate in a Businesslike Manner
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: The Fiscal Year 2021-22 Adopted Budget includes appropriations in the Facilities Maintenance Fund for unanticipated emergency repairs and in the General Fund for fire extractor installation services. This amendment would require an increase in appropriations of $45,000. The total compensation paid by the City will be contingent upon actual services provided at the contracted fixed hourly rates as set forth in the agreement and shall not exceed $370,952 over a 5-year term.

BACKGROUND & ANALYSIS: The Facilities Maintenance Department is responsible for the maintenance and repair of 35 city-owned and operated buildings, not including park restrooms, concession stands, monuments, etc. Due to aging infrastructure, high volumes of service requests from both the public and City staff, vandalism, and other factors, there are times the City requires on-call services to deal with various issues that may arise. Many types of work require licensed professionals to perform maintenance and repair services with specialized equipment according to strict standards that City staff cannot always perform. Having an on-call electrical company allows the City to quickly perform work needed to ensure we are providing a safe environment and minimizing impact to the public and City operations. The current agreement with Rymax Electrical, Inc. covers the period of July 14, 2020 to June 30, 2023. This action would exercise the two option years, so that the agreement covers until June 30, 2025.

CITY OF ONTARIO *Agenda Report* **October 19, 2021**	**SECTION:** **CONSENT CALENDAR**
Department: Integrated Waste Prepared By: Benjamin Mayorga Staff Member Presenting: Tito Haes, Executive Director Public Works Reviewed By: Fabiola Contreras Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 8

SUBJECT: PROFESSIONAL SERVICES AGREEMENT FOR IMPLEMENTATION OF INTEGRATED WASTE ROUTING SOFTWARE

RECOMMENDATION: That the City Council authorize the City Manager to execute a one-year Professional Services Agreement (on file in the Records Management Department) with Routeware, Inc., of Portland, Oregon, for the implementation of Integrated Waste Collection Routing Software with a one-time charge in the amount of $390,115 and monthly recurring cost for nine months in the amount of $105,451, for a total amount not to exceed $495,566; and authorize the City Manager to extend the agreement for up to two additional one-year terms at the City's discretion for an amount not to exceed $776,767 over a three-year term, consistent with future budgets approved by the City Council.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Operate in a Businesslike Manner

FISCAL IMPACT: The Fiscal Year 2021-22 Integrated Waste Fund includes appropriations for the implementation of technology to improve routing and service efficiency. This Agreement would require an increase in appropriations of $460,415 in the Integrated Waste Fund that will be included in the Fiscal Year 2021-22 First Quarter Budget update.

The estimated total cost for this project is $776,767 over a three-year term. This cost includes a one-time charge $390,115 for purchase of hardware, software, and services (installation/training) and a $11,717 monthly recurring fee for cloud hosting, cellular data, software interfacing, maintenance, upgrades, and 24/7 technical support.

BACKGROUND & ANALYSIS: The Integrated Waste Department has a fleet consisting of 83 Integrated Waste trucks and runs 56 daily collection and support routes. With the continuous growth in the Ontario Ranch area and new development in the existing Old Model Colony, there is a need to optimize routing efficiency and streamline periodic adjustments to refuse, organics and recycling routes. Daily route optimization increases collection productivity and saves on fuel and vehicle maintenance costs.

The routing software will allow Staff to fluctuate stop and bin counts to ensure that the City is reaching the target weight of 10.5 tons per load each trip, which in turn will reduce the number of trips to the disposal facility. As the number of trips to the disposal facility is reduced, the City will save money on fuel, wear and tear on the vehicles and increase productivity of Staff by reducing transit time and

increase collection time. Staff solicited proposals to implement route optimization software that would result in significant financial and operational savings. The City received three proposals in response to the May 4, 2021 Request for Proposal: Routeware, Inc. of Portland, Oregon; Univerus of Chicago, Illinois; and Rubicon Global, LLC of Atlanta, Georgia. Staff reviewed the proposals consistent with requirements related to selection of professional services.

Routeware, Inc. fully met the qualifications set forth in the Scope of Services. Additionally, it fully integrates with the City's software, Customer Information System (CIS), that is already used by the Utilities Customer Services Department and provides the best cost benefit solutions. Trained Integrated Waste Department Staff will rapidly perform future routing adjustments to maintain a high level of efficiency while allowing for increased field supervision and other operational necessities. In addition to routing software and training, Routeware, Inc. provides initial route optimization services, which will allow the City to achieve efficiencies within a short period of time. As such, Routeware, Inc. is recommended based on their broad range of expertise as demonstrated by their services provided.

CITY OF ONTARIO *Agenda Report* **October 19, 2021**	**SECTION:** **CONSENT CALENDAR**
Department: Public Works Prepared By: Daniel P Beers Staff Member Presenting: Tito Haes, Executive Director Public Works Reviewed By: Fabiola Contreras Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 9

SUBJECT: CONSTRUCTION CONTRACT FOR THE CNG COMPRESSOR REPLACEMENT AND UPGRADE

RECOMMENDATION: That the City Council take the following actions:

A. Authorize the City Manager to execute Construction Contract No. D&C19-006 – CNG Compressor Replacement Project with EFS West of Valencia, California, for the replacement and upgrade of the Compressed Natural Gas Compressors located at 1425 South Bon View Avenue in an amount not to exceed $2,038,000;
B. Authorize the City Manager or his designee to approve change orders and a 10% contingency of $203,800 to address any unforeseen issues that may arise during construction; and
C. Authorize the City Manager or his designee to execute all documents required for the completion of the project including, but not limited to, contracts, agreements, assessments, easements, reduction of retention accounts, and filing a notice of completion at the conclusion of all construction related activities.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: The Fiscal Year 2021-22 Budget includes appropriations for this project. The construction cost for the CNG Compressor Replacement project is $2,038,000, with a 10% contingency of $203,800, for a total not to exceed of $2,241,800. This Agreement would require an increase in appropriations of $345,100 in the Mobile Source Air Fund and Integrated Waste Fund that will be included in the Fiscal Year 2021-22 First Quarter Budget update.

BACKGROUND & ANALYSIS: The compressors for the CNG system have been rebuilt several times and have outlived its useful life span. The City of Ontario is increasing the amount of CNG vehicles and the system needs to be upgraded to meet the future demand.

On July 22, 2021, Staff began soliciting bids for the CNG Compressor Replacement and Upgrade. On August 20, 2021, staff received three (3) construction bids ranging from $2,038,000 to $3,011,774.14 for the project. After review of the bids, it was determined EFS West was the lowest responsible bidder at $2,038,000.

All the bids received are listed below:

Vendor	**Location**	**Amount**
EFS West	Valencia, CA	$2,038,000.00
CJW Construction, Inc	Santa Ana, CA	$2,884,000.00
TruStar Energy	Rancho Cucamonga, CA	$3,011,774.14

EFS West located in Valencia, California, submitted the lowest bid that met all the required specifications with a base cost of $2,038,000. Based on the bid, credentials, pricing and favorable reference checks, Staff recommends awarding Construction Contract No. D&C19-006 – CNG Compressor Replacement to EFS West. Staff anticipates the CNG Compressor Replacement Project will be completed by Fall of 2022.

CITY OF ONTARIO *Agenda Report* **October 19, 2021**	**SECTION:** **PUBLIC HEARINGS**
Department: Investments & Revenue Resources Prepared By: Cruz Torres Staff Member Presenting: Armen Harkalyan, Executive Director of Finance Reviewed By: Jason M Jacobsen, Armen Harkalyan Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 10

SUBJECT: A PUBLIC HEARING TO CONSIDER RESOLUTION REGARDING THE FORMATION OF CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 62 (ONTARIO COMMERCE CENTER SERVICES); AND INTRODUCTION OF AN ORDINANCE LEVYING SPECIAL TAXES

RECOMMENDATION: That the City Council consider and:

A. Adopt a Resolution of formation of the City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services), authorizing the levy of special tax within the Community Facilities District; and establishing an appropriations limit for the Community Facilities District
B. Adopt a Resolution calling a special election for City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services);
C. Adopt a Resolution declaring results of the special election and directing the recording of a Notice of Special Tax Lien; and
D. Introduce and waive further reading of an ordinance levying special taxes within City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services).

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Maintain the Current High Level of Public Safety
Operate in a Businesslike Manner
Focus Resources in Ontario's Commercial and Residential Neighborhoods
Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in Ontario Ranch

FISCAL IMPACT: The use of Mello-Roos financing for Community Facilities District No. 62 (Ontario Commerce Center Services) is projected to generate approximately $295,435.24 per year, at build-out, to fund municipal services required for the district. The use of Mello-Roos financing for the Ontario Commerce Center Services development will not generate funds for facilities, and bonds will not be issued as part of this formation.

BACKGROUND & ANALYSIS: The Mello-Roos Community Facilities Act of 1982 provides local government the authority to establish a community facilities district (CFD) for the purpose of levying special taxes to finance municipal services. Municipal services that may be funded by a community facilities district include police protection services; fire protection and suppression services; ambulance

and paramedic services; maintenance and lighting of parks, parkways, streets, roads, and open space; flood and storm drain protection services; and maintenance and operation of any real property or tangible property with an estimated useful life of five or more years that is owned by the governmental entity.

On September 7, 2021, the City Council approved Resolution No. 2021-144, a Resolution of Intention to establish City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services) and to authorize the levy of special taxes within the district. The Ontario Commerce Center Services is proposed to be 998,092 square feet of light-industrial, neighborhood-commercial, and business-park space that addresses the development of approximately 47.4 gross acres located on the southwest corner of Riverside Drive and Milliken Avenue.

City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services) is being formed pursuant to the provisions of the landowner's Development Agreement. Included, as part of the Resolution of Intention approved on September 7, 2021, was the proposed Rate and Method of Apportionment of Special Tax for the district. The terms of the Rate and Method of Apportionment of Special Tax are consistent with the City Council's adopted Mello-Roos Local Goals and Policies (Resolution No. 2006-021), and City Staff have discussed the proposed Rate and Method of Apportionment of Special Tax with the landowner. The Resolution of Intention also set the public hearing on the establishment of Community Facilities District No. 62 (Ontario Commerce Center Services) for October 19, 2021. In accordance with requirements of the resolution, and pursuant to Section 53322 of the California Government Code, the City Clerk has published a notice of the time and place of this hearing at least seven days before the hearing.

Attached are three Resolutions and an ordinance. The first Resolution establishes the community facilities district, with the rate and method of apportionment of special tax (see Exhibit B) and authorizes the levy of special tax within the district. The second Resolution calls for a special landowner election to be held on October 19, 2021. The third Resolution declares the results of the election and includes a statement from the City Clerk as to the canvass of ballots and directs the recording of the Notice of Special Tax Lien. Last, the attached ordinance authorizes the levying of special taxes within the district. As noted, the issuance of bonds is not being contemplated for this project; therefore, a Resolution to issue bonds is not needed as part of this formation.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF FORMATION OF THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 62 (ONTARIO COMMERCE CENTER SERVICES), AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN THE COMMUNITY FACILITIES DISTRICT AND ESTABLISHING AN APPROPRIATIONS LIMIT FOR THE COMMUNITY FACILITIES DISTRICT.

WHEREAS, on September 7, 2021, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District Proposed to be Named City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services) and to Authorize the Levy of Special Taxes" (the "Resolution of Intention"), stating its intention to establish a community facilities district (the "Community Facilities District") proposed to be named City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services), to authorize the levy of special taxes within the Community Facilities District to finance certain services and setting the date for a public hearing to be held on the establishment of the Community Facilities District; and

WHEREAS, pursuant to the Resolution of Intention, notice of said public hearing was published in the *Inland Valley Daily Bulletin*, a newspaper of general circulation published in the area of the Community Facilities District, in accordance with the Act; and

WHEREAS, on this date, the City Council opened, conducted and closed said public hearing; and

WHEREAS, pursuant to the Resolution of Intention, each officer of the City who is or will be responsible for providing one or more of the proposed types of services was directed to study, or cause to be studied, the proposed Community Facilities District and, at or before said public hearing, file a report with the City Council containing a brief description of the services by type that will in his or her opinion be required to adequately meet the needs of the Community Facilities District, and his or her estimate of the cost of providing such services, and such officers were also directed to estimate the fair and reasonable cost of the incidental expenses proposed to be paid; and

WHEREAS, said report was so filed with the City Council and made a part of the record of said public hearing; and

WHEREAS, at the hearing, the testimony of all persons for or against the establishment of the Community Facilities District, the extent of the Community Facilities District and the furnishing of the specified types of services was heard; and

WHEREAS, written protests against the establishment of the Community Facilities District, the furnishing of any specified type or types of services within the Community Facilities District or the levying of any specified special tax were not made or filed at or before said hearing by 50% or more of the registered voters, or six registered voters,

whichever is more, residing within the territory proposed to be included in the Community Facilities District, or the owners of one-half or more of the area of land in the territory proposed to be included in the Community Facilities District and not exempt from the special tax; and

WHEREAS, there has been filed with the City Clerk of the City a letter from the Registrar of Voters of the County of San Bernardino indicating that no persons were registered to vote within the territory of the proposed Community Facilities District as of September 16, 2021, and, accordingly, that 12 or more persons have not been registered to vote within the territory of the proposed Community Facilities District for each of the 90 days preceding the close of said public hearing; and

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

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. The Community Facilities District is hereby established pursuant to the Act.

SECTION 3. The Community Facilities District is hereby named "City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services)."

SECTION 4. The services (the "Services") proposed to be financed by the Community Facilities District pursuant to the Act are described under the caption "Services" on Exhibit A hereto. The incidental expenses proposed to be incurred are described under the caption "Incidental Expenses" on Exhibit A hereto. No facilities are proposed to be financed by the Community Facilities District.

SECTION 5. The proposed special tax to be levied within the Community Facilities District has not been precluded by majority protest pursuant to Section 53324 of the Act.

SECTION 6. Except where funds are otherwise available, a special tax sufficient to pay for all Services, secured by recordation of a continuing lien against all nonexempt real property in the Community Facilities District, will be annually levied within the Community Facilities District. The rate and method of apportionment of the special tax (the "Rate and Method"), in sufficient detail to allow each landowner within the proposed Community Facilities District to estimate the maximum amount that he or she will have to pay, is described in Exhibit B attached hereto, which is by this reference incorporated herein. The obligation to pay the special tax may not be prepaid and permanently satisfied. The special tax will be collected in the same manner as ordinary *ad valorem* property taxes or in such other manner as the City Council shall determine, including direct billing of the affected property owners.

The special tax may only finance the Services to the extent that they are in addition to those provided in the territory of the Community Facilities District before the Community Facilities District is created. The Services may not supplant services already available within that territory when the Community Facilities District is created.

SECTION 7. The name, address and telephone number of the office that will be responsible for preparing annually a current roll of special tax levy obligations by assessor's parcel number and that will be responsible for estimating further special tax levies pursuant to Section 53340.2 of the Act are as follows: Management Analyst, Financial Services, City of Ontario, 303 East B Street, Ontario, California 91764, (909) 395-2341.

SECTION 8. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property in the Community Facilities District and this lien shall continue in force and effect until the special tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the tax by the City Council ceases.

SECTION 9. The boundary map of the Community Facilities District has been recorded in San Bernardino County in Book 89 at Page 85 of Maps of Assessments and Community Facilities Districts in the San Bernardino County Recorder's Office (Document No. 2021-0411983).

SECTION 10. The annual appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of the Community Facilities District is hereby established at $15,000,000.

SECTION 11. Pursuant to the provisions of the Act, the levy of the special tax and a proposition to establish the appropriations limit specified above shall be subject to the approval of the qualified electors of the Community Facilities District at a special election. The City Council hereby finds and determines that that no persons were registered to vote within the territory of the proposed Community Facilities District as of September 16, 2021, and that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearing held by the City Council on the establishment of the Community Facilities District. Accordingly, pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Community Facilities District and each person who is the owner of land as of the close of said public hearings, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District not exempt from the special tax. The voting procedure shall be by mailed or hand-delivered ballot.

SECTION 12. The City Council hereby finds and determines that all proceedings up to and including the adoption of this Resolution were valid and in conformity with the requirements of the Act. In accordance with Section 53325.1 of the Act, such finding shall be final and conclusive.

SECTION 13. All actions heretofore taken by the officers, employees and agents of the City with respect to the establishment of the Community Facilities District, or in connection with or related to any of the matters referred to herein, are hereby approved, confirmed and ratified.

SECTION 14. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things which they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 15. This Resolution shall take effect immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 19th day of October 2021.

_____
PAUL S. LEON, MAYOR

ATTEST:

_____
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

_____
BEST BEST & KRIEGER, LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2021- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held October 19, 2021 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2021- duly passed and adopted by the Ontario City Council at their regular meeting held October 19, 2021.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

SERVICES AND INCIDENTAL EXPENSES

Services

The types of services to be financed by the Community Facilities District are police protection services, fire protection and suppression services, ambulance and paramedic services, maintenance and lighting of parks, parkways, streets, roads and open space, flood and storm protection services and maintenance and operation of any real property or other tangible property with an estimated useful life of five or more years that is owned by the City.

Incidental Expenses

The incidental expenses proposed to be incurred include the costs associated with the creation of the Community Facilities District, determination of the amount of taxes, collection of taxes, payment of taxes, or costs otherwise incurred in order to carry out the authorized purposes of the Community Facilities District.

EXHIBIT B

PROPOSED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 62
(ONTARIO COMMERCE CENTER SERVICES)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax shall be levied on all Assessor's Parcels in the City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services) ("CFD No. 62") and collected each Fiscal Year commencing in Fiscal Year 2022-23, in an amount determined by the City Council of the City of Ontario through the application of the Rate and Method of Apportionment, as described below. All of the real property in CFD No. 62, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent, and in the manner herein provided.

A. DEFINITIONS

The terms as may hereinafter be set forth have the following meanings:

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 of Part 1 of Division 2 of Title 5 of the California Government Code.

"Administrative Expenses" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 62: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or CFD No. 62 or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City or CFD No. 62 related to an appeal of the Special Tax; the City's administration fees and third party expenses; the costs of City staff time and reasonable overhead related to CFD No. 62; and amounts estimated or advanced by the City or CFD No. 62 for any other administrative purposes of CFD No. 62, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

"Assessor's Parcel" means a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel Number.

"Assessor's Parcel Map" means an official map of the Assessor of the County designating parcels by Assessor's Parcel Number.

"Assessor's Parcel Number" means, with respect to an Assessor's Parcel, that number assigned to such Assessor's Parcel by the County for purposes of identification.

"CFD Administrator" means an official of the City responsible for determining the Special Tax Requirement, providing for the levy and collection of the Special Tax, and performing the other duties provided for herein.

"CFD No. 62" means City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services).

"City" means the City of Ontario, California.

"City Council" means the City Council of the City, acting as the legislative body of CFD No. 62.

"County" means the County of San Bernardino.

"Fiscal Year" means the period starting July 1 and ending on the following June 30.

"Gated Community Attached Dwelling Unit" means a Unit within any residential building containing two or more dwelling units (including attached condominiums, townhouses, duplexes, triplexes, and apartments) within a gated community that, within such community, is primarily served by private interior streets.

"Land Use Class" means any of the classes listed in Table 1 below.

"Lower Income Household Welfare Exemption Property" means, for each Fiscal Year, an Assessor's Parcel within the boundaries of CFD No. 62 that is subject to a welfare exemption under subdivision (g) of Section 214 of the California Revenue and Taxation Code (or any successor statute), as indicated in the most recent County assessor's roll finalized prior to such Fiscal Year.

"Maximum Special Tax" means, with respect to an Assessor's Parcel of Taxable Property, the maximum Special Tax determined in accordance with Section C below that can be levied in any Fiscal Year on such Assessor's Parcel of Taxable Property.

"Multiple Family Dwelling Unit" means a Unit within any residential building containing two or more dwelling units, including attached condominiums, townhomes, duplexes, triplexes, and apartments, but excluding Gated Community Attached Dwelling Units.

"Non-Residential" means any buildings that are for commercial lodging use, commercial retail use, institutional use (e.g., churches, private schools), commercial restaurant use, office use, or industrial use.

"Non-Residential Property" means, for each Fiscal Year, an Assessor's Parcel for which a building permit for new construction was issued after January 1, 2021, and before May 1 of the prior Fiscal Year, for a Non-Residential use.

"Property Owner Association Property" means, for each Fiscal Year, property within the boundaries of CFD No. 62 that was owned by a property owner association, including any master or sub-association, as of January 1 of the prior Fiscal Year.

"Proportionately" means that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor's Parcels of Taxable Property.

"Public Property" means, for each Fiscal Year, property within the boundaries of CFD No. 62 that is (a) owned by, irrevocably offered to, or dedicated to the federal government, the State, the County, the City, or any local government or other public agency or (b) encumbered by an easement for purposes of public or utility right-of-way that makes impractical its use for any purpose other than that set forth in such easement, provided that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified according to its use.

"Rate and Method of Apportionment" means this Rate and Method of Apportionment of Special Tax.

"Residential Property" means, for each Fiscal Year, an Assessor's Parcel for which a building permit for new construction of one or more Units was issued after January 1, 2021, and before May 1 of the prior Fiscal Year.

"Services" means the services authorized to be financed, in whole or in part, by CFD No. 62, including: police protection services; fire protection and suppression services; ambulance and paramedic services; maintenance and lighting of parks, parkways, streets, roads, and open space; flood and storm protection services; and maintenance and operation of any real property or other tangible property with an estimated useful life of five or more years that is owned by the City.

"Single Family Detached Dwelling Unit" means any residential building containing only one Unit on one legal lot, including single family residences and single family detached residential condominium units.

"Special Tax" means the special tax authorized by the qualified electors of CFD No. 62 to be levied within the boundaries of CFD No. 62.

"Special Tax Requirement" means the amount necessary in any Fiscal Year to pay the cost of the Services, Administrative Expenses, and an amount equal to Special Tax delinquencies based on the historical delinquency rate for Special Taxes, as determined by the CFD Administrator.

"Square Footage" or **"Sq. Ft."** means, with respect to a building of Non-Residential Property, the gross floor area square footage reflected on the original construction building permit, or as set forth in other official records maintained by the City's Building Department or other appropriate means selected by CFD No. 62, for such building, plus any square footage subsequently added to a building of Non-Residential Property after issuance of a building permit for expansion or renovation of such building.

"State" means the State of California.

"Taxable Property" means, for each Fiscal Year, all Assessor's Parcels of Residential Property and Non-Residential Property within the boundaries of CFD No. 62 which are not exempt from the Special Tax pursuant to law or Section E below.

"Unit" means an individual single-family detached or attached home, townhome, condominium, apartment unit, or other residential dwelling unit, including each separate living area within a half-plex, duplex, triplex, fourplex, or other residential structure.

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year, beginning with Fiscal Year 2022-23, all Taxable Property within CFD No. 62 shall be classified as Residential Property (Single Family Detached Dwelling Unit, Multiple Family Dwelling Unit, or Gated Community Attached Dwelling Unit) or Non-Residential Property and shall be subject to Special Taxes in accordance with the Rate and Method of Apportionment as determined pursuant to Sections C and D below.

C. MAXIMUM SPECIAL TAX

The Maximum Special Tax for each Assessor's Parcel classified as Taxable Property shall be determined by reference to Table 1 below.

TABLE 1
MAXIMUM SPECIAL TAX

Land Use Class	Maximum Special Tax Fiscal Year 2022-23
Residential Property:	
Single Family Detached Dwelling Unit	$1,623.20 per Unit
Multiple Family Dwelling Unit	$1,406.69 per Unit
Gated Community Attached Dwelling Unit	$1,179.66 per Unit
Non-Residential Property	$0.296000 per Sq. Ft.

On January 1 of each Fiscal Year, commencing January 1, 2023, the Maximum Special Tax to be applied in the next Fiscal Year shall be subject to an automatic increase at a rate equal to 4.0% of the amount in effect for the prior Fiscal Year.

In some instances an Assessor's Parcel of Taxable Property may contain more than one Land Use Class. The Maximum Special Tax levied on such Assessor's Parcel shall be the sum of the Maximum Special Tax for all Units of Residential Property and Square Footage of Non-Residential Property (based on the applicable building permits, final subdivision map, parcel map, condominium plan, or other recorded County map) located on that Assessor's Parcel.

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Each Fiscal Year, beginning with Fiscal Year 2022-23, the CFD Administrator shall determine the Special Tax Requirement. The Special Tax shall then be levied Proportionately on each Assessor's Parcel of Taxable Property up to 100% of the applicable Maximum Special Tax for such Assessor's Parcel, until the Special Tax Requirement is satisfied. However, the Special Tax levied in any Fiscal Year shall not increase by more than 4.0% of the amount of the Special Tax levied in the prior Fiscal Year.

E. EXEMPTIONS

Notwithstanding anything in this Rate and Method of Apportionment to the contrary, no Special Tax shall be levied on Public Property or Property Owner Association Property.

No Special Tax shall be levied on Lower Income Household Welfare Exemption Property; provided, however, that if, in any Fiscal Year, applicable law does not require that Lower Income Household Welfare Exemption Property be exempt from some portion, or all, of the Special Tax, such portion, or all, of the Special Tax shall be levied on such property in accordance with this Rate and Method of Apportionment based on the Land Use Class to which the Assessor's Parcel is assigned.

F. APPEALS

Any property owner may file a written appeal of the Special Tax with CFD No. 62 claiming that the amount or application of the Special Tax is not correct. The appeal must be filed not later than one calendar year after having paid the Special Tax that is disputed, and the appellant must be current in all payments of Special Taxes. In addition, during the term of the appeal process, all Special Taxes levied must be paid on or before the payment date established when the levy was made.

The appeal must specify the reasons why the appellant claims the Special Tax is in error. The CFD Administrator shall review the appeal, meet with the appellant if the CFD Administrator deems necessary, and advise the appellant of its determination.

If the property owner disagrees with the CFD Administrator's decision relative to the appeal, the owner may then file a written appeal with the City Council, whose subsequent decision shall be final and binding on all interested parties. If the decision of the CFD Administrator or subsequent decision by the City Council requires the Special Tax to be modified or changed in favor of the property owner, then the CFD Administrator shall determine if sufficient Special Tax revenue is available to make cash refund. If a cash refund cannot be made, then an adjustment shall be made to credit future Special Tax levy(ies).

This procedure shall be exclusive and its exhaustion by any property owner shall be a condition precedent to filing any legal action by such owner.

G. MANNER OF COLLECTION

The Special Taxes shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that the Special Taxes may be collected in such other manner as the City Council shall determine, including direct billing of affected property owners.

H. TERM OF SPECIAL TAX

The Special Tax shall continue to be levied indefinitely on an annual basis on all Taxable Property in CFD No. 62.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING A SPECIAL ELECTION FOR CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 62 (ONTARIO COMMERCE CENTER SERVICES).

WHEREAS, on this date, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District" (the "Resolution of Formation"), establishing City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services) (the "Community Facilities District"), authorizing the levy of a special tax within the Community Facilities District and establishing an appropriations limit for the Community Facilities District; and

WHEREAS, pursuant to the provisions of the Resolution of Formation, the propositions to levy a special tax within the Community Facilities District and to establish an appropriations limit for the Community Facilities District are to be submitted to the qualified electors of the Community Facilities District as required by the Act; and

WHEREAS, the City Council desires to designate the City Clerk of the City (the "City Clerk") as the election official for the special election provided for herein; and

WHEREAS, there has been filed with the City Clerk a letter from the Registrar of Voters of the County of San Bernardino indicating that no persons were registered to vote within the territory of the proposed Community Facilities District as of September 16, 2021, and, accordingly, that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearings on the establishment of the Community Facilities District; and

WHEREAS, there has been filed with the City Clerk consents and waivers of all of the landowners of record in the Community Facilities District waiving any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said special election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), consenting to the holding of said special election on October 19, 2021 and waiving any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act; and

WHEREAS, the City Clerk has concurred in said waivers and has concurred in holding said special election on October 19, 2021; and

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

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. Pursuant to Sections 53326 and 53325.7 of the Act, the propositions to levy a special tax within the Community Facilities District and to establish an appropriations limit for the Community Facilities District shall be submitted to the qualified electors of the Community Facilities District at an election called therefor as provided below.

SECTION 3. The City Clerk is hereby designated as the official to conduct said election.

SECTION 4. As authorized by Section 53353.5 of the Act, the propositions to levy a special tax within the Community Facilities District and to establish an appropriations limit for the Community Facilities District shall be combined into one ballot proposition.

SECTION 5. The City Council hereby finds and determines that no persons were registered to vote within the territory of the proposed Community Facilities District as of September 16, 2021, and that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearings heretofore held by the City Council on the establishment of the Community Facilities District. Accordingly, pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Community Facilities District and each person who is the owner of land as of the close of said public hearings, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District not exempt from the special tax.

SECTION 6. The City Council hereby finds and determines that the qualified electors of the Community Facilities District have unanimously consented (a) to the waiver of any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said election, (b) to the holding of said election on October 19, 2021, and (c) to the waiver of any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act. The City Council herby finds and determines that the City Clerk has concurred in said waivers and has concurred in holding said election on October 19, 2021.

SECTION 7. The City Council hereby calls a special election to submit to the qualified electors of the Community Facilities District the combined proposition to levy a special tax within the Community Facilities District and to establish an appropriations limit for the Community Facilities District, which election shall be held at 303 East B Street, Ontario, California, on October 19, 2021. The City Council has caused to be provided to the City Clerk, as the official to conduct said election, the Resolution of Formation, a certified map of sufficient scale and clarity to show the boundaries of the Community Facilities District, and a sufficient description to allow the City Clerk to determine the boundaries of the Community Facilities District.

The voted ballots shall be returned to the City Clerk not later than 7:30 p.m. on October 19, 2021; provided, however, that if all of the qualified electors have voted prior to such time, the election may be closed with the concurrence of the City Clerk.

SECTION 8. Pursuant to Section 53326 of the Act, the election shall be conducted by mail or hand-delivered ballot pursuant to Section 4000 *et. seq.* of the California Elections Code. Except as otherwise provided in the Act, the provisions of law regulating elections of the City, insofar as they may be applicable, will govern the election.

SECTION 9. The form of the ballot for said election is attached hereto as Exhibit A and by this reference incorporated herein, and such form of ballot is hereby approved. The City Clerk shall cause to be delivered to each of the qualified electors of the Community Facilities District a ballot in said form. Each ballot shall indicate the number of votes to be voted by the respective landowner to which it pertains.

Each ballot shall be accompanied by all supplies and written instructions necessary for the use and return of the ballot. The identification envelope for return of the ballot shall be enclosed with the ballot, shall have the return postage prepaid, and shall contain: (a) the name and address of the landowner, (b) a declaration, under penalty of perjury, stating that the voter is the owner of record or the authorized representative of the landowner entitled to vote and is the person whose name appears on the identification envelope, (c) the printed name, signature and address of the voter, (d) the date of signing and place of execution of the declaration described in clause (b) above, and (e) a notice that the envelope contains an official ballot and is to be opened only by the canvassing board.

Analysis and arguments with respect to the ballot proposition are hereby waived, as provided in Section 53327 of the Act.

SECTION 10. The City Clerk shall accept the ballots of the qualified electors in the office of the City Clerk at 303 East B Street, Ontario, California, to and including 7:30 p.m. on October 19, 2021, whether said ballots be personally delivered or received by mail. The City Clerk shall have available ballots which may be marked at said location on the election day by said qualified electors.

SECTION 11. The City Council hereby determines that the services financed by the Community Facilities District are necessary to meet increased demands placed upon local agencies as a result of development occurring in the Community Facilities District.

SECTION 12. All actions heretofore taken by the officers, employees and agents of the City with respect to the special election called for herein, or in connection with or related to any of the matters referred to herein, are hereby approved, confirmed and ratified.

SECTION 13. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things which they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 14. This Resolution shall take effect immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 19th day of October 2021.

_____
PAUL S. LEON, MAYOR

ATTEST:

_____
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

_____
BEST BEST & KRIEGER, LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2021- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held October 19, 2021 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2021- duly passed and adopted by the Ontario City Council at their regular meeting held October 19, 2021.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

OFFICIAL BALLOT

CITY OF ONTARIO
OCTOBER 19, 2021

SPECIAL ELECTION

This ballot is for a special, landowner election. The number of votes to be voted pursuant to this ballot is __.

INSTRUCTIONS TO VOTERS:

To vote on the measure, mark a cross (+ or X) in the voting square after the word "YES" or after the word "NO". All distinguishing marks or erasures are forbidden and make the ballot void. If you wrongly mark, tear, or deface this ballot, return it to the City Clerk of the City of Ontario and obtain another.

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 62
(ONTARIO COMMERCE CENTER SERVICES)

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall the City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services) (the "Community Facilities District") be authorized to levy a special tax in order to finance certain services and shall the annual appropriations limit of the Community Facilities District be established in the amount of $15,000,000, all as specified in the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District," adopted by the City Council of the City of Ontario on October 19, 2021?	Yes: ☐ No: ☐

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DECLARING RESULTS OF A SPECIAL ELECTION AND DIRECTING RECORDING OF NOTICE OF SPECIAL TAX LIEN.

WHEREAS, on October 19, 2021, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, Calling Special Election for City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services)" (the "Resolution Calling Election"), calling for a special election of the qualified electors within City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services) (the "Community Facilities District");

WHEREAS, pursuant to the terms of the Resolution Calling Election and the provisions of the Act, the special election was held on October 19, 2021; and

WHEREAS, the City Clerk of the City (the "City Clerk") has certified the canvass of the returns of the election and has filed a Canvass and Statement of Results of Election (the "Canvass"), a copy of which is attached hereto as Exhibit A;

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

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. The City Council has received, reviewed and hereby accepts the Canvass.

SECTION 3. The City Council hereby finds and declares that the ballot proposition submitted to the qualified electors of the Community Facilities District pursuant to the Resolution Calling Election has been passed and approved by such electors in accordance with Section 53328 and Section 53325.7 of the Act.

SECTION 4. The City Clerk is hereby directed to execute and cause to be recorded in the office of the County Recorder of the County of San Bernardino a notice of special tax lien in the form required by the Act, said recording to occur no later than fifteen days following adoption by the City Council of this Resolution.

SECTION 5. All actions heretofore taken by the officers, employees and agents of the City with respect to the special election, or in connection with or related to any of the matters referred to herein, are hereby approved, confirmed and ratified.

SECTION 6. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things which they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 7. This Resolution shall take effect immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 19th day of October 2021.

_____
PAUL S. LEON, MAYOR

ATTEST:

_____
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

_____
BEST BEST & KRIEGER, LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2021- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held October 19, 2021 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2021- duly passed and adopted by the Ontario City Council at their regular meeting held October 19, 2021.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 62
(ONTARIO COMMERCE CENTER SERVICES)

CANVASS AND STATEMENT OF RESULTS OF ELECTION

I hereby certify that on October 19, 2021, I canvassed the returns of the special election held on October 19, 2021, for the City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services), that the total number of ballots cast in said Community Facilities District and the total number of votes cast for and against the proposition are as follows and that the totals as shown for and against the proposition are true and correct:

	Qualified Landowner Votes	Votes Cast	YES	NO
City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services) Special Election, October 19, 2021	48	__	__	__

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall the City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services) (the "Community Facilities District") be authorized to levy a special tax in order to finance certain services and shall the annual appropriations limit of the Community Facilities District be established in the amount of $15,000,000, all as specified in the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District," adopted by the City Council of the City of Ontario on October 19, 2021?

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND this 19th day of October, 2021.

By: _____
Sheila Mautz, City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 62 (ONTARIO COMMERCE CENTER SERVICES).

WHEREAS, on September 7, 2021, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District Proposed to be Named City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services) and to Authorize the Levy of Special Taxes" stating its intention to establish City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services) (the "Community Facilities District") and to finance certain services (the "Services");

WHEREAS, on October 19, 2021, the City Council held a noticed public hearing on the establishment of the Community Facilities District, as required by the Act;

WHEREAS, subsequent to the close of said hearing, the City Council adopted resolutions entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District" (the "Resolution of Formation") and "A Resolution of the City Council of the City of Ontario, California, Calling Special Election for City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services)," which resolutions established the Community Facilities District, authorized the levy of a special tax within the Community Facilities District and called an election within the Community Facilities District on the proposition of levying a special tax within the Community Facilities District and establishing an appropriations limit for the Community Facilities District, respectively; and

WHEREAS, on October 19, 2021, an election was held in which the qualified electors of the Community Facilities District approved said proposition by more than the two-thirds vote required by the Act;

THE CITY COUNCIL OF THE CITY OF ONTARIO DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby authorizes and levies special taxes within the Community Facilities District pursuant to Sections 53328 and 53340 of the Act, at the rate and in accordance with the method of apportionment set forth in Exhibit B to the Resolution of Formation (the "Rate and Method of Apportionment"). The special taxes are hereby levied commencing in fiscal year 2022-23 and in each fiscal year thereafter until the last fiscal year in which such special taxes are authorized to be levied pursuant to the Rate and Method of Apportionment.

SECTION 2. The City Council may, in accordance with subdivision (b) of Section 53340 of the Act, provide, by resolution, for the levy of the special tax in future tax years at the same rate or at a lower rate than the rate provided by this Ordinance. In no event shall the special tax be levied on any parcel within the Community Facilities District in excess of the maximum tax specified therefor in the Rate and Method of Apportionment.

SECTION 3. The special tax shall be levied on all of the parcels in the Community Facilities District, unless exempted by law or by the Rate and Method of Apportionment.

SECTION 4. The proceeds of the special tax shall only be used to pay, in whole or in part, the cost of providing the Services and incidental expenses pursuant to the Act.

SECTION 5. The special tax shall be collected in the same manner as ordinary *ad valorem* property taxes are collected and shall be subject to the same penalties and the same procedure, sale and lien priority in the case of delinquency as is provided for *ad valorem* taxes, unless another procedure is adopted by the City Council.

SECTION 6. If for any reason any portion of this Ordinance is found to be invalid, or if the special tax is found inapplicable to any particular parcel within the Community Facilities District, by a court of competent jurisdiction, the balance of this Ordinance and the application of the special tax to the remaining parcels within the Community Facilities District shall not be affected.

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

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

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2021.

_____
PAUL S. LEON, MAYOR

ATTEST:

_____
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

_____
BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held _____ and adopted at the regular meeting held _____, 2021 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

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

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO *Agenda Report* **October 19, 2021**	**SECTION:** **PUBLIC HEARINGS**
Department: Planning Prepared By: Lorena Mejia Staff Member Presenting: Scott Murphy, Executive Director Community Development Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 11

SUBJECT: A PUBLIC HEARING TO CONSIDER AN APPEAL OF THE PLANNING COMMISSION'S ACTION TO UPHOLD THE ZONING ADMINISTRATOR'S APPROVAL AND DENY THE APPEAL OF A CONDITIONAL USE PERMIT TO ESTABLISH AND CONSTRUCT A SECOND FLOOR, 574 SQUARE FOOT ACCESSORY DWELLING UNIT (ADU) EXCEEDING 16 FEET IN HEIGHT ON 0.245-ACRE OF LAND LOCATED AT 1515 SOUTH SAN ANTONIO AVENUE, WITHIN THE RE-2 (RURAL ESTATE 0 TO 2.0 DU/ACRE) ZONING DISTRICT (APN: 1050-031-44).

RECOMMENDATION: That the City Council conduct a public hearing on the Appeal and, after receiving all public testimony, uphold the Planning Commission's approval and denying the appeal of a Conditional Use Permit, File No. PCUP21-002, to establish and construct an Accessory Dwelling Unit (ADU) exceeding 16 feet in height, on property located at 1515 S. San Antonio Avenue.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Invest in the Growth and Evolution of the City's Economy
Operate in a Businesslike Manner
Focus Resources in Ontario's Commercial and Residential Neighborhoods

FISCAL IMPACT: There is no direct fiscal impact associated with this action.

BACKGROUND & ANALYSIS: On October 5, 2021 the City Council continued this item to the October 19, 2021 City Council meeting. On February 2, 2021, Won Jun Choi, (the "Applicant") submitted a Conditional Use Permit ("CUP") application requesting approval to establish and construct a 574-square-foot accessory dwelling unit ("ADU") that exceeds 16 feet in height. The proposed ADU will be ancillary to an existing single-family dwelling constructed in 2004 on a 0.245-acre lot located at 1515 South San Antonio Avenue. The ADU will be attached to the rear of the existing dwelling, on the second floor, in place of an existing patio cover.

On April 19, 2021, the Zoning Administrator conducted a duly noticed public hearing on the application. During the public hearing, Vincent Roldan and Aimee Roldan spoke in opposition to the proposed application and stated that there were existing privacy issues between their property and the project site. Mr. and Ms. Roldan stated that the proposed second-story addition would create shadows over their property and existing pool, would further intrude upon the family's privacy, reduce their ability to enjoy the pool, and block scenic views of the sky. The Zoning Administrator concluded the hearing and explained that he would take all comments under consideration during the project

deliberation process.

On May 17, 2021, the Zoning Administrator issued Decision No. ZA21-006, approving the proposed ADU subject to departmental conditions of approval. The Zoning Administrator's decision was subsequently appealed to the Planning Commission.

On July 27, 2021, the Planning Commission conducted a duly noticed public hearing to consider the Appeal request. Following staff's presentation and testimony from the Appellant, the Project Applicant, and members of the public, the Planning Commission voted unanimously (7-0) to adopt Resolution No. PC21-050, upholding the Zoning Administrator's decision and denying the Appeal.

APPEAL: On August 4, 2021, Vincent Roldan ("Appellant"), submitted an Appeal of the Planning Commission's decision to uphold the Zoning Administrator's decision and deny the Appeal of the Conditional Use Permit, File No. PCUP21-002. A copy of the Appeal application and Appellant statement is included as Exhibit "A" of this report.

Pursuant to Development Code Section 2.04.010.B.2, an appeal of the Planning Commission's action is limited to those matters raised during the public hearing and contained in the Appeal Statement. In acting on the Appeal, the Approving Authority (in this case, the City Council) cannot consider any matter or issue that was not raised during the public hearing and contained in the Appeal Statement. Staff has reviewed the Appeal request and has provided the following responses to the Appeal Statement:

Appellant Issue No. 1: *Loss of Privacy.* The proposed ADU's staircase, landing, and doorway location would result in a loss of privacy by creating direct views into the Appellant's master bathroom window. The proposed staircase should be enclosed to eliminate the privacy issue.

Staff Response: The proposed ADU will replace the existing patio cover located near the southeast corner of the project site, behind the existing single-family residence, and was designed to mitigate any privacy concerns. Future residents of the ADU would have limited northerly views of the Appellant's lawn area and driveway while traveling up and down the staircase, as shown in Exhibit B (Staircase Northern View). The proposed staircase, landing, and doorway will be setback 35 feet from the north property line, which is shared with the Appellant's property, and approximately 70 feet from the Appellant's master bathroom window, a small, rectangular window that is positioned on the upper part of the wall, at the head level, which is typical for bathrooms in order to address privacy concerns. Additionally, to further address privacy issues and concerns, there is an existing six-foot-high block wall located along the property line between the subject site and the Appellant's property and, consistent with the Development Code requirements, the proposed ADU will incorporate privacy glass on the east and north elevation windows, to obscure views into adjoining properties.

The project site is located within the RE-2 (Rural Estate – 0 to 2.1 du/ac) zoning district, which allows single-story and two-story residences up to 35 feet in height. If the applicant was proposing a new residence or a second-story addition to the home, the two-story house/addition could be as close as 10 feet to the property line versus the 35 feet proposed. The City's Development Code requires ADUs in excess of 16 feet in height to be reviewed and approved through the Conditional Use Permit process.

In addition, it is important to note that the Appellant's property sits at higher grade than the subject site (approximately one foot), creating privacy issues for the subject site. During the Planning Commission meeting, the Appellant testified that they had direct views into the subject site and could easily see into windows and view activity within the home. The existing block wall separating the properties measures

six feet in height on the subject site's side and five feet in height on the Appellant's side. The extra foot of wall height on the subject site's side adds to the Appellant's privacy and reduces the subject site's privacy.

Appellant Issue No. 2: *Design Issues.* The ADU is poorly designed and has a free-standing "tree house" appearance. The ADU should be designed to enclose the staircase and area under the patio cover, along with connecting the proposed roof line into the existing roof, to improve the overall ADU design.

Staff Response: The proposed ADU is designed to be constructed above the existing patio cover to maintain access to the rear yard from the existing residence and preserve open space in the rear yard. Presently, there are two bedrooms located along the east building elevation that contain two sliding doors, providing direct access to the rear yard area and providing emergency egress as required by the Building Code. By constructing the second-story ADU over the covered patio, the direct access to the rear yard and views of the backyard can be maintained. Furthermore, if the proposed staircase was enclosed, windows could still be installed along the northern elevation, to provide visibility and natural light into the stairwell; however, the additional construction costs associated with enclosing the staircase and patio cover, and extending the roofline, would make the project infeasible to construct for the property owner.

Appellant Issue No. 3: *Planning Commission Decision.* The Planning Commissioners asked about alternative building designs and should have been allowed to review the plans further and supply alternatives to improve the project.

Staff Response: During the July 27, 2021, Planning Commission meeting, the Planning Commission did ask Staff about alternative design scenarios for the ADU, however, the City Attorney explained that the Planning Commission's role was to act on the Appeal (approve or deny) based on its merits of the project (i.e.. the appropriateness of the ADU in excess of 16 feet in height) and that the Planning Commission could not make recommendations or place conditions on the project to alter the ADU building design.

CONCLUSION: Staff recommends that the City Council consider all public testimony on the Appeal and uphold the Planning Commission's decision to uphold Zoning Administrator Decision No. ZA21-006 and deny the Appeal of the Conditional Use Permit, File No. PCUP21-002.

CITY OF ONTARIO PLANNING DEPARTMENT

Appeal Application Form

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

Instructions:

1. *Pursuant to Ontario Development Code Division 2.04 (Appeals), any person having legal standing may appeal and action or decision to the Appeal Authority, including but not limited to an applicant, resident, business owner, or any person owning real property within the City, that is aggrieved by an interpretation, action, or decision made by any City agency or department, or by an Approving Authority.*

2. *Within 10 days following the action or decision being appealed, an appeal request must be filed with the Planning Department on an Appeal Application Form, along with the required filing fees. The appeal request must include a statement identifying the specific action or decision that is being appealed, the specific grounds for the appeal, and the relief requested from the Appeal Authority.*

3. *An appeal of an action or decision made by an Approving Authority following a hearing, is limited to those matters raised during the hearing and contained in an appeal statement. The Appeal Authority cannot consider any matter that was not raised during the hearing before the Approving Authority and contained in the appeal statement.*

4. *The Appeal Authority that will hear the appeal request is limited to taking testimony and making its decision based solely on the specific grounds specified by the appellant in the Appeal Application Form, insofar as they make an adequate claim pursuant to Ontario Development Code Section 2.04.010. When the decision of an Approving Authority*

GENERAL INFORMATION (PRINT OR TYPE)

Appellant: Vincent Roldan

Address: 555 W Em St

Ontario

Phone: 909-262-2569

Email: vroldan909@gmail.com

Appellant's Representative: _____

Address: _____

_____

Phone: _____

Email: _____

(For staff use only)

File No(s): PCUP21-002

Date: 8/4/2021

Rec'd by: DR

Fees Paid: $130

☐ Cash ☒ Check (# _____)

☐ Credit Card

Receipt No.: 317609

SUBJECT OF APPEAL

This application is hereby filed pursuant to Ontario Development Code Division 2.04 (Appeals), appealing a decision or action of the following Authority:

☐ Department/Agency Head ☐ Development Advisory Board ☐ Zoning Administrator

☐ Historic Preservation Subcommittee ☐ Historic Preservation Commission ☒ Planning Commission

Project File No(s).: PCUP21-002 Date of Action/Decision: 8-4-2021

The application being appealed requests the following *(attach additional sheets as necessary)*:

List the specific action(s) or decision(s) that is/are being appealed (attach additional sheets as necessary):

- The approval of the second story ADU above the current patio
- Not requiring building to look like a part of the house instead of a tree house/hotel room
- Not requiring additional elevation inhancements to block looking at and blocking being looked at
- Not requiring the patio to be inclosed to appear as part of the house not a tree house
- Not requiring the staircase to be enclosed or orginating from within the current patio causing the the privacy problem
- Not requiring roofline of ADU to flow with the house design

APPEAL STATEMENT

Please check the box that best describes your reason(s) for the appeal:

- [x] Abuse of discretion.
- [ ] Decision was not supported by the record.
- [ ] Abuse of discretion and decision was not supported by the record.

State the specific grounds for the appeal and the relief requested (please be specific and attach additional sheets if necessary):

The ADU sitting a top of a covered patio causes a loss of privacy and large eye score.
As argued before the
- The home owner could add the square footage with a simple addition to the rear of house
- The staircase, landing and doorway look right into my master bathroom
- ADU is poorly designed and has the appearance of a "tree house" or "a hotel from Holt Blvd"
- City Attorney only stated that the permit had to be approved or denied but could have been continued to come up with a happy medium with discovery on additional optons at the appeal with the commissioners
- City commisioners really looked and asked into alternatives to having to build on top of a patio
- If the city has no power to say no to bad plans because they are disguised as an AUD and are forced into allowing the 2nd story in a single story area, the City must require the ADU to not look like a tree house or hotel room. By enclosing the current patio and building the ADU above it it will no longer look like a tree house. This will allow the staircase to come from within and take away the privacy issue. The issue of the tree house look and being an eye sore was addressed with the planning commioners and they asked Rudy-Planning ZAR to make sure the build is to highest standards. The high standards would require the roof line of the ADU to be attached to the main house instead of looking like a freestanding tree house

APPELLANT ACKNOWLEDGEMENT

I, the undersigned, hereby certify that the statements and information provided in this **Appeal Application Form**, and in any attached exhibits, present the data and information required for this application to the best of my ability, and that the facts, statements and information presented are true and correct to the best of my knowledge and belief.

Date: 8-4-21

Signature: Vincent Roldan

Name (print or type): Vincent Roldan

EXHIBIT B – STAIRCASE NOTHERN VIEW



View from project site looking north towards Appellant's property at an elevated height to simulate views from the future staircase and doorway.

CITY OF ONTARIO PLANNING DEPARTMENT

PLANNING COMMISSION STAFF REPORT

July 27, 2021

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

FILE NO.: PCUP21-002 - Appeal

SUBJECT: A Public Hearing to consider an appeal of the Zoning Administrator's decision to approve a Conditional Use Permit to establish and construct a 574-square-foot Accessory Dwelling Unit ("ADU") exceeding 16 feet in height, above an existing covered patio, on 0.245-acre of land located at 1515 South San Antonio Avenue, within the RE-2 (Rural Estate—0 to 2.0 DU/Acre) zoning district; (APN: 1050-031-44) **submitted by Won Jun Choi.**

PROPERTY OWNER: Won Jun Choi

RECOMMENDED ACTION: That the Planning Commission conduct a Public Hearing on the Appeal and, after receiving all public testimony, consider and uphold the Zoning Administrator's approval of File No. PCUP21-002.

PROJECT SETTING: The project site is comprised of 0.245-acre of land located at 1515 South San Antonio Avenue, within the RE-2 (Rural Estate—0 to 2.0 DU/Acre) zoning district, which is fully developed with a single-family dwelling and is depicted in Figure 1: Project Location. The existing surrounding land uses, zoning, general plan, and specific plan land use designations are summarized in the "Surrounding Zoning & Land Uses" table located in the Technical Appendix of this report.



Figure 1: Project Location

PROJECT ANALYSIS:

(1) Background — On February 2, 2021, the Applicant submitted a Conditional Use Permit ("CUP") application requesting approval to establish and construct a 574-square-foot Accessory Dwelling Unit ("ADU") that exceeds 16 feet in height. The proposed ADU will be ancillary to an existing single-family dwelling constructed in 2004 on a 0.245-acre lot located at 1515 South San Antonio Avenue. The ADU will be

Case Planner:	Larissa Lomen/ Lorena Mejia
Planning Director Approval:	
Submittal Date:	2/2/2021

Hearing Body	Date	Decision	Action
ZA	4/15/2021	Approve	Final
PC	7/27/2021	Approved	Final
CC			

attached to the rear of the existing dwelling, on the second floor, above an existing covered patio.

On April 9, 2021, the Planning Department sent project notices to all property owners within a minimum of 300 feet of the project site, that provided a detailed description of the project and invited recipients to the April 19, 2021 Zoning Administrator Meeting.

On April 16, 2021, staff received a call from Vincent Roldan voicing his concerns and opposition to the Project. On April 19, 2021, the Planning Department received an email correspondence from Wendy Roldan, also in opposition to the subject application.

On April 19, 2021, the Zoning Administrator conducted the duly noticed public hearing on the application. During the public hearing, Vincent Roldan and Aimee Roldan spoke in opposition to the proposed application and stated that there were existing privacy issues between their property and the project site. Mr. and Ms. Roldan stated that the proposed second-story addition would create shadows over their property and existing pool, would further intrude upon the family's privacy and reduce their ability to enjoy the pool, and block scenic views of the sky. The Zoning Administrator concluded the hearing and explained that he would take comments under consideration during the project deliberation process.

On May 17, 2021, the Zoning Administrator issued Decision No. ZA21-006, approving the proposed Project, subject to the departmental conditions of approval (included as Attachment B of this report).

(2) Appeal — On June 23, 2021, Vincent Roldan ("Appellant"), submitted an appeal of the Zoning Administrator's decision to approve File No. PCUP21-002. A copy of the Appeal application and Appellant statement is included as Attachment A of this report.

Pursuant to Development Code Section 2.04.010.B.2, an appeal of the Zoning Administrator's action is limited to those matters raised during the Public Hearing and contained in the appeal statement. In acting on the Appeal the Approving Authority (in this case, the Planning Commission) cannot consider any matter that was not raised during the public hearing and contained in the appeal statement. Staff has thoroughly reviewed the appeal and has provided the following responses to the appeal statements:

(a) **Appellant Issue No. 1:** *Privacy and loss of value. The addition of a second story unit will overlook the appellant's yard and cause privacy issues as well as a loss to their property value.*

Response: The proposed ADU will be located above the existing patio cover near the southeast corner of the project site, behind the existing single-family residence and was designed to mitigate any privacy concerns. Future residents of the ADU, may have limited eastern views of the northern property's lawn area and driveway while traveling up and down the staircase. Future ADU residents will not have views of the northern property's

single-family residence and pool area (located over 80 feet away from the ADU), since any views will be blocked by the existing residential structure. In addition, there is an existing five-foot-high block, wall located along the property line between the project site and the Appellant's property, that addresses privacy issues and concerns. Furthermore, the ADU will incorporate privacy glass along the east and north elevation windows, to obscure views of adjoining properties, consistent with the Development Code requirements.

The impact of the proposed ADU design and location on property values cannot be addressed. The proposed second story ADU design and location is consistent with State law, the City of Ontario Development Code, and the RE-2 (Rural Estate – 0 to 2.1 du/ac) zoning district, which allows single-story and two-story residences up to 35 feet in height. The proposed ADU will have an overall building height of 24.65 feet, which is 2 feet above the height of the existing residential structure, maintaining a single-story appearance from San Antonio Avenue.

(b) **Appellant Issue No. 2:** *Design Issues. The proposed ADU can be built to replace the existing covered patio. There is no reason to build the ADU above the covered patio.*

Response: The proposed ADU was designed above the existing patio cover to maintain access to rear yard from the existing residence and preserve open space. Presently, there are two bedrooms located along the east building elevation contains two sliding doors providing direct access to the rear yard area. By constructing the second-story ADU over the covered patio, the direct access to the rear yard can be maintained (see Exhibit C: Existing Residence Floor Plan, attached). Additionally, as set forth in the Development Code, ADUs can exceed 16 feet in height with the approval of a CUP. The applicant applied for a CUP and received Zoning Administrator approval subject to conditions, in order to mitigate any potential impacts, including privacy concerns. Furthermore, as stated above, the project site is located within the RE-2 (Rural Estate – 0 to 2.1 du/ac) zoning district, which allows single-story and two-story residences up to 35 feet in height.

(c) **Appellant Issue No. 3:** *Neighborhood Setting. The proposed second-story addition is not consistent with the look of the neighborhood, which is comprised of single-story houses.*

Response: The Project site is located within a neighborhood that consists of predominantly single-story homes with high pitched roofs. The proposed ADU is consistent with the Development Code and the RE-2 (Rural Estate- 0 to 2.1 du/ac) zoning district, which allows single-story and two-story residences up to 35 feet in height. The proposed ADU will be constructed above the existing patio cover and will have an overall height of 24.65 feet, which is 2 feet above the height of the existing residential structure, maintaining a single-story appearance, as viewed from San Antonio Avenue, and will, therefore, be in keeping with the existing neighborhood setting.

(3) Site Design/Building Layout — The proposed ADU will have an overall building height of 24.65 feet, and contain one bedroom, one bathroom, a kitchen, and a living room (see Exhibit C-1: Proposed ADU Floor Plan, attached). The existing patio cover/ADU will be set back 10 feet from the interior south property line, 35 feet from the interior north property line, and 39 feet from the east (rear) property line (see Exhibit B: Site Plan, attached).

(4) Site Access/Circulation — Access to the unit will be taken from a staircase planned on the north side of the proposed ADU (see Exhibit C-1: Proposed ADU Floor Plan, attached).

(5) Parking — The ADU is located within one-half mile walking distance of public transit and does not require an off-street parking space; however, the existing residence provides a two-car garage with a driveway that accommodates up to three vehicles.

(6) Architecture — The proposed ADU will be designed to complement the architectural style of the existing home (see Exhibit D: Elevations, attached) and will match the existing home's exterior colors, stucco finish, roof, window style, and trim. Privacy glass will be installed on the east and north elevations of the proposed ADU to comply with Development Code Section 5.0310, which requires windows and doors of an ADU to not have direct line-of-sight to an adjoining residential property.

(7) Conclusion — Staff recommends that the Planning Commission consider the Appeal application, including all written and oral evidence concerning the Appeal, and uphold the Zoning Administrator's Decision to approve the Conditional Use Permit, File No. PCUP21-002.

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

(1) City Council Goals.

- Invest in the Growth and Evolution of the City's Economy
- Focus Resources in Ontario's Commercial and Residential Neighborhoods
- Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

(2) Vision.

Distinctive Development:

- Commercial and Residential Development

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

(3) Governance.

Decision Making:

- Goal G1: Sustained decision-making that consistently moves Ontario towards its Vision by using The Ontario Plan as a framework for assessing choices.

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

(4) Policy Plan (General Plan)

Land Use Element:

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

➢ LU1-6 Complete Community: We incorporate a variety of land uses and building types in our land use planning efforts that result in a complete community where residents at all stages of life, employers, workers and visitors have a wide spectrum of choices of where they can live, work, shop and recreate within Ontario. (Refer to Complete Community Section of Community Economics Element).

Housing Element:

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

➢ H2-5 Housing Design. We require architectural excellence through adherence to City design guidelines, thoughtful site planning, environmentally sustainable practices and other best practices.

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

Community Economics Element:

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

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

Safety Element:

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

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

Community Design Element:

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

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

HOUSING ELEMENT COMPLIANCE: The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the project site is not one of the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

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

ENVIRONMENTAL REVIEW: The project is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 15301 (Class 1, Existing Facilities) of the CEQA Guidelines, which consists of additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less; and

CONDITIONS OF APPROVAL: See attached department reports.

TECHNICAL APPENDIX:

Surrounding Zoning and Land Use:

	Existing Land Use	*General Plan Designation*	*Zoning Designation*	*Specific Plan Land Use*
Site	Single Family Residential	Rural Residential (0 – 2.0 du/ac)	RE-2 (Rural Estate - 0 to 2.0 du/ac)	N/A
North	Single Family Residential	Rural Residential (0 – 2.0 du/ac)	AR-2 (Residential Agricultural - 0 to 2.0 du/ac)	N/A
South	Single Family Residential	Rural Residential (0 – 2.0 du/ac)	RE-2 (Rural Estate - 0 to 2.0 du/ac)	N/A
East	Single Family Residential	Rural Residential (0 – 2.0 du/acre)	AR-2 (Residential Agricultural - 0 to 2.0 du/ac)	N/A
West	Single Family Residential	Low Density Residential (2.1 – 5.0 du/ac)	LDR-5 (Low Density Residential - 2.1 to 5.0 du/ac)	N/A

General Site & Building Statistics:

Item	*Required Min./Max.*	*Provided (Ranges)*	*Meets Y/N*
Maximum project density (dwelling units/ac):	2	1	Y
Maximum coverage (in %):	40	32	Y
Minimum lot size (in SF):	10,000	10,683	Y
Minimum lot depth (in FT):	100	152.62	Y
Minimum lot width (in FT):	70	70	Y
Front yard setback (in FT):	30	32.5	Y
Side yard setback (in FT):	10	10	Y
Rear yard setback (in FT):	25	39	Y
Maximum height (in FT):	35	24' - 7 3/4"	Y

Exhibit A: AERIAL PHOTOGRAPH



Exhibit B: SITE PLAN

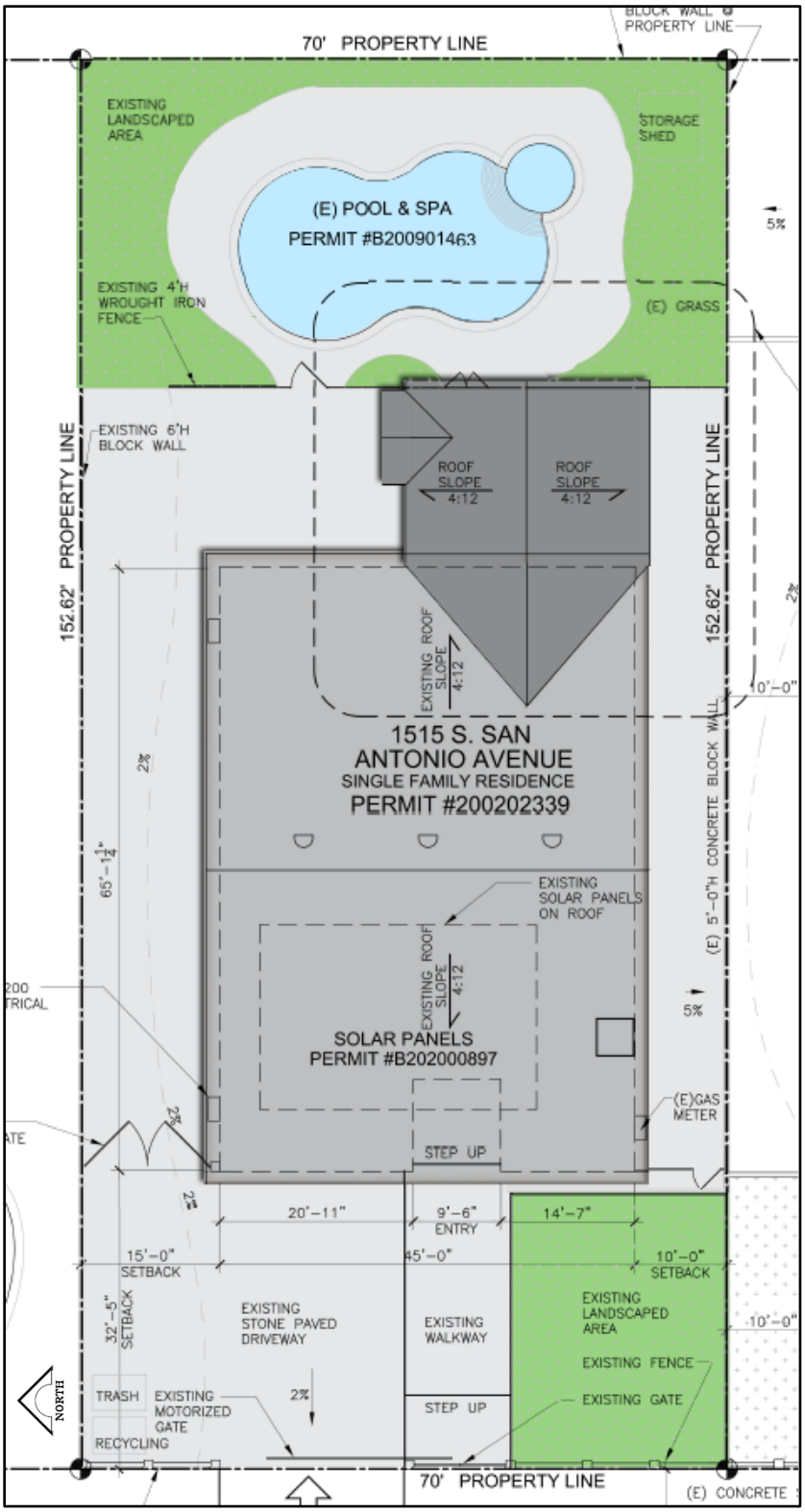


Exhibit C: EXISTING RESIDENCE FLOOR PLAN

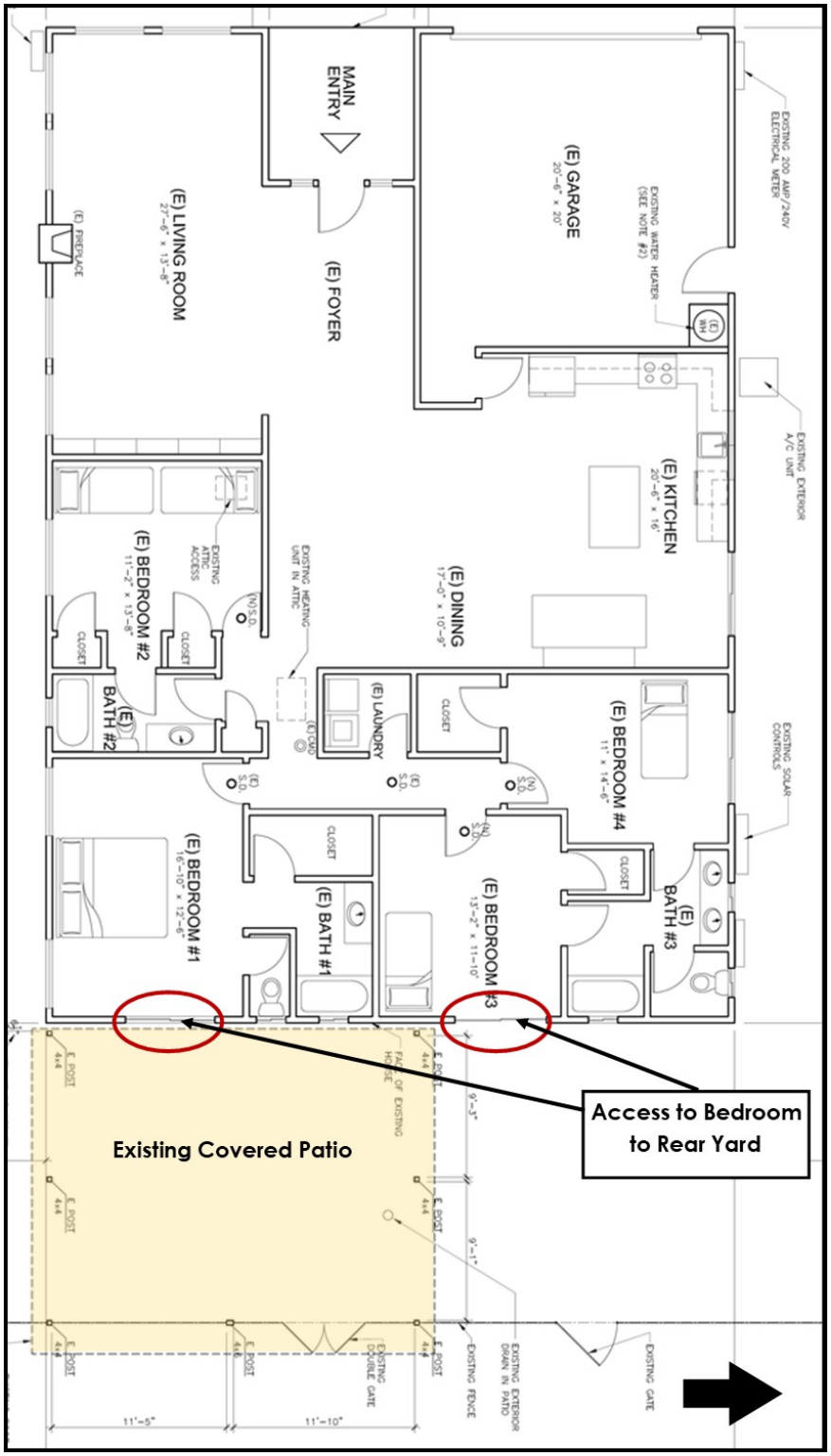


Exhibit C-1: PROPOSED ADU FLOOR PLAN

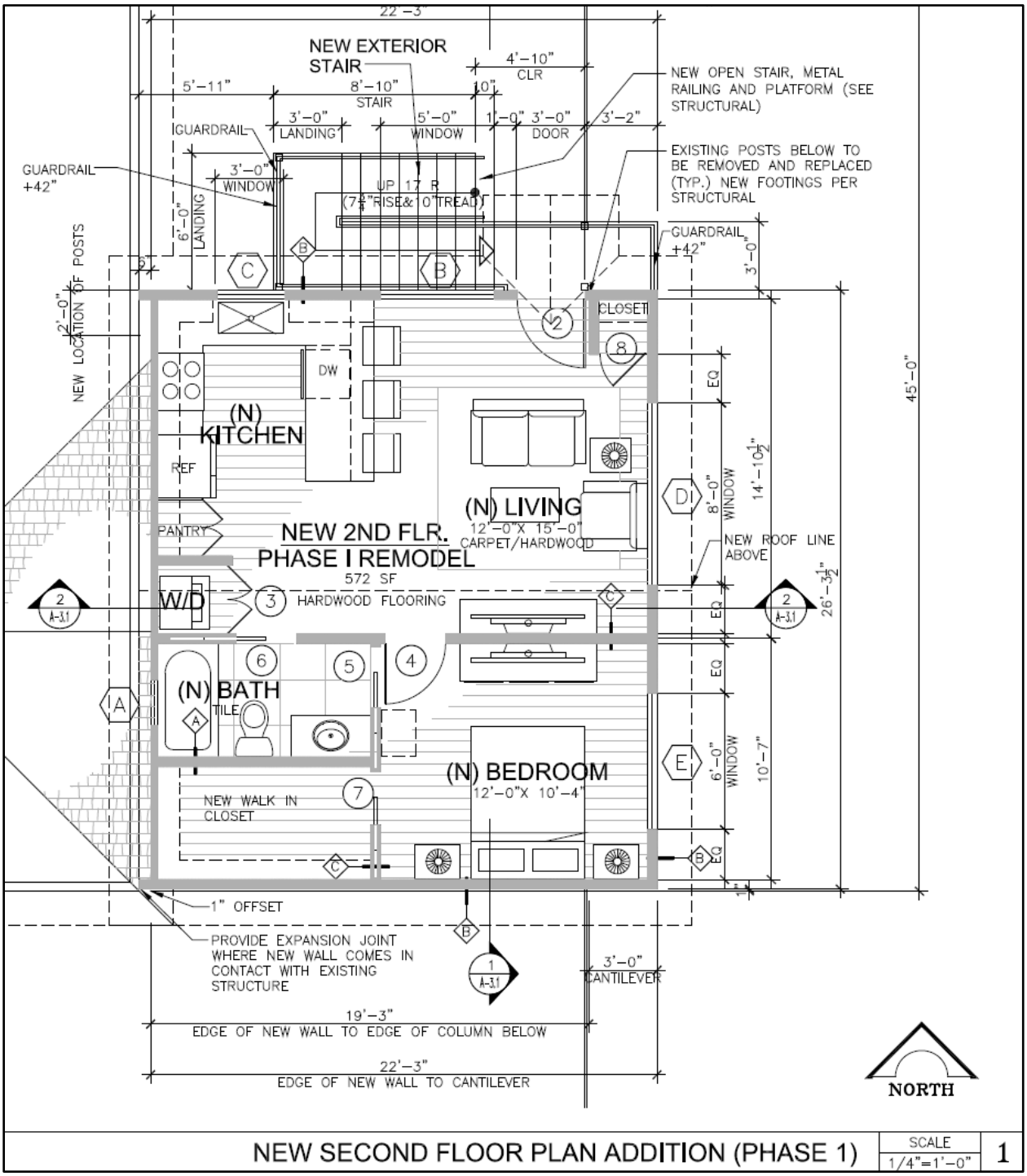
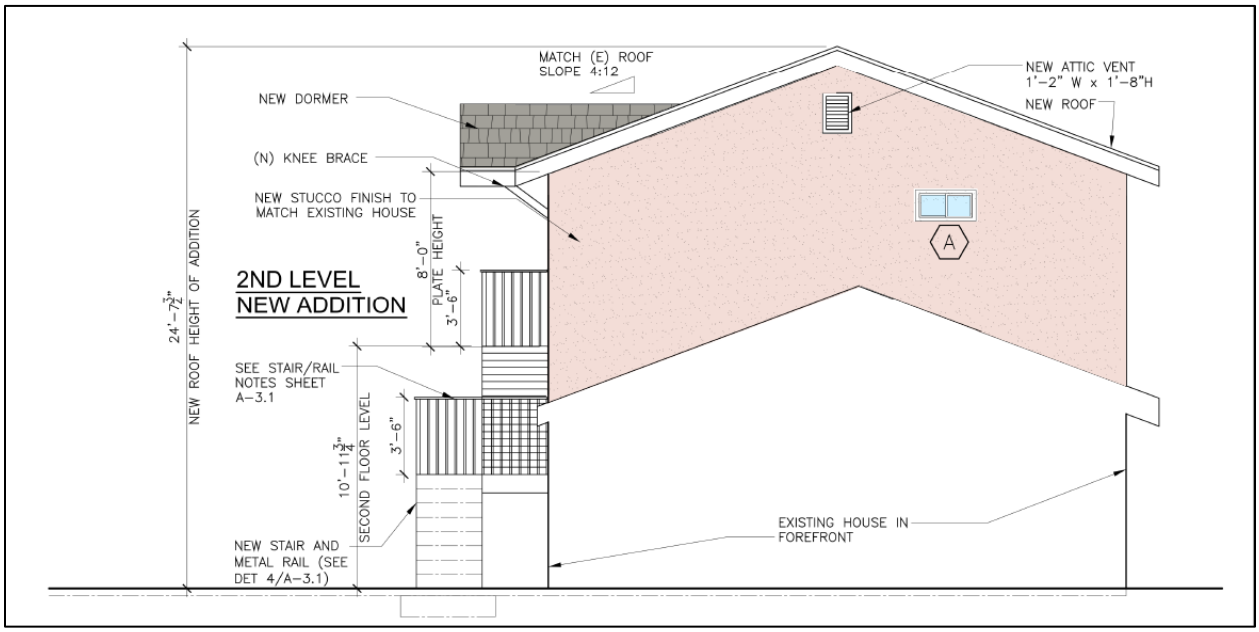
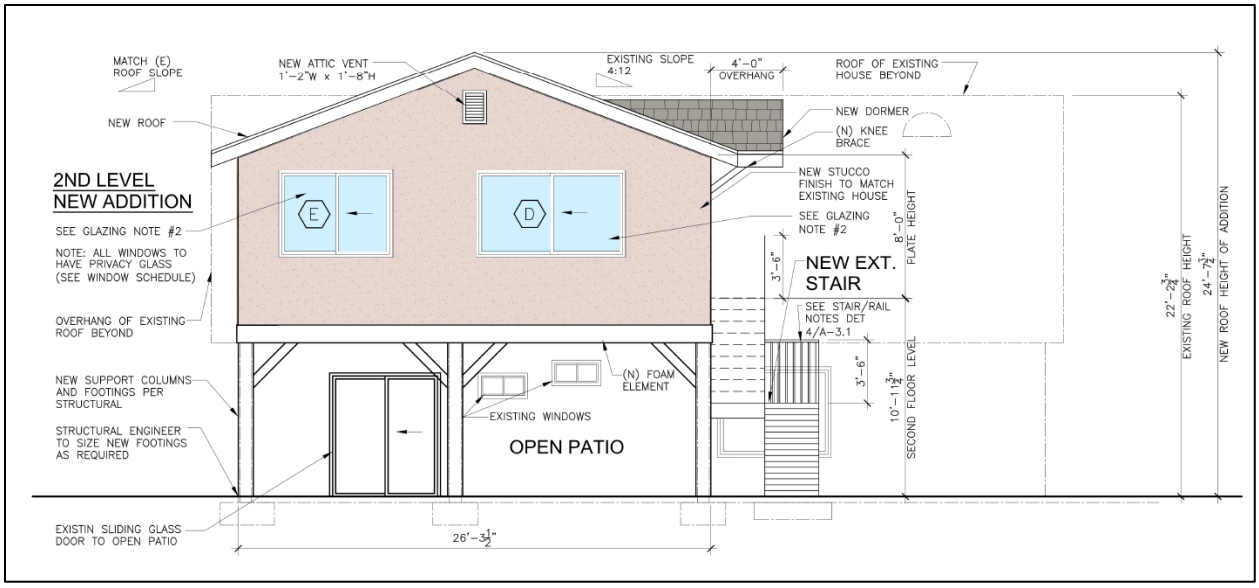


Exhibit D: ELEVATIONS

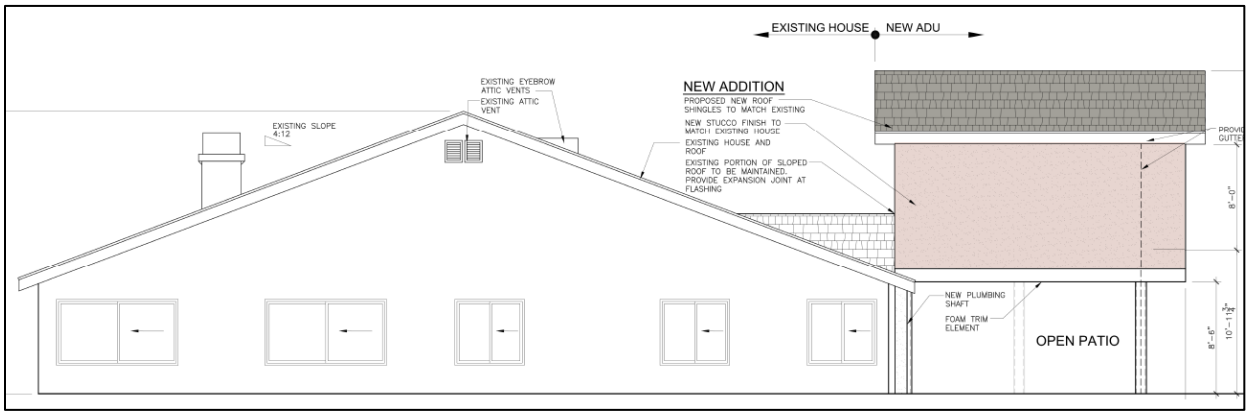


West Elevation

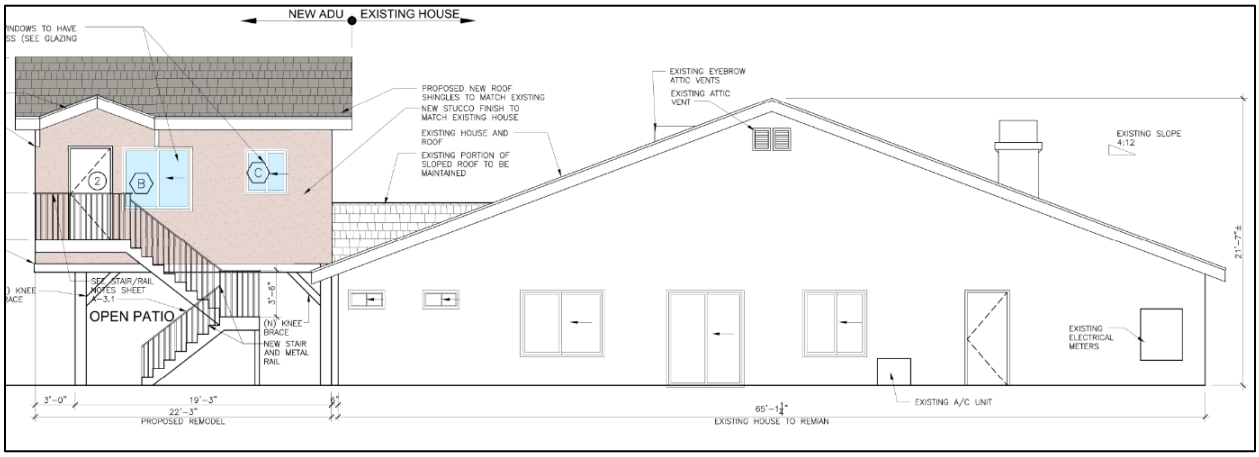


East Elevation

Exhibit D: ELEVATIONS (CONTINUED)



South Elevation



North Elevation

Rev. 10.01.2020

CITY OF ONTARIO PLANNING DEPARTMENT

Appeal Application Form

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

Instructions:

1. *Pursuant to Ontario Development Code Division 2.04 (Appeals), any person having legal standing may appeal and action or decision to the Appeal Authority, including but not limited to an applicant, resident, business owner, or any person owning real property within the City, thot is aggrieved by an interpretation, action, or decision made by any City agency or department, or by an Approving Authority.*

2. *Within 10 days following the action or decision being appealed, an appeal request must be filed with the Planning Department on an Appeal Application Form, along with the required filing fees. The appeal request must include a statement identifying the specific action or decision that is being appealed, the specific grounds for the appeal, and the relief requested fram the Appeal Authority.*

3. *An appeal of an action or decision made by an Approving Authority following a hearing, is limited to those matters raised during the hearing and contained in an appeal statement. The Appeal Authority cannot consider any matter that was not raised during the hearing before the Appraving Authority and contained in the appeal statement.*

4. *The Appeal Authority that will hear the appeal request is limited to taking testimony and making its decisian based solely on the specific grounds specified by the appellant in the Appeal Application Form, insofar as they make an adequate claim pursuant to Ontario Development Code Section 2.04.010. When the decision of an Approving Authority*

GENERAL INFORMATION (PRINT OR TYPE)

Appellant: Vincent Roldan
Address: 555 W Elm St
Ontario, CA 91762
Phone: 909-262-2569
Email: vroldan909@gmail.com

Appellant's Representative: _____
Address: _____
_____
Phone: _____
Email: _____

(For staff use only)

File No(s): PCUP21-002

Date: 6/23/2021
Rec'd by: LL
Fees Paid: 130.00
☐ Cash ☑ Check (# _____)
☐ Credit Card
Receipt No.: 316505

SUBJECT OF APPEAL

This application is hereby filed pursuant to Ontario Development Code Division 2.04 (Appeals), appealing a decision or action of the following Authority:

☐ Department/Agency Head ☐ Development Advisory Board ☑ Zoning Administrotor

☐ Historic Preservation Subcommittee ☐ Historic Preservation Commission ☑ Planning Commission

Appeal Application Form

Project File No(s).: PCUP21-002 Date of Action/Decision: 6-14-2021

The application being appealed requests the following *(attach additional sheets as necessary)*:

List the specific action(s) or decision(s) that is/are being appealed (attach additional sheets as necessary):
The approval of permits to add a second 2nd story dwelling above the current patio

APPEAL STATEMENT

Please check the box that best describes your reason(s) for the appeal:

- [x] Abuse of discretion.
- [ ] Decision was not supported by the record.
- [ ] Abuse of discretion and decision was not supported by the record.

State the specific grounds for the appeal and the relief requested (please be specific and attach additional sheets if necessary):

Adding a second story to the house over looking neighbor's yard, causing privacy issues and loss of value.
The addition could be accomplished by simply enclosing the current patio without going up.
There are no 2 story homes in this area and this was one on the main reasons to buy here.
As stated before the purposed 2nd story looks like one of the hotels that are on Holt Blvd and does not belong in our residenal area. As stated the additional square footage can be obtained by enclosing the current patio, I'm not against the additional dwelling - just not an eye score looking into my bathroom.

APPELLANT ACKNOWLEDGEMENT

I, the undersigned, hereby certify that the statements and information provided in this **Appeal Application Form**, and in any attached exhibits, present the data and information required for this application to the best of my ability, and that the facts, statements and information presented are true and correct to the best of my knowledge and belief.

Date: 6-22-2021 Signature: [signature]

Name (print or type) Vincent Roldan

ATTACHMENT B

CITY OF ONTARIO PLANNING DEPARTMENT

ZONING ADMINISTRATOR DECISION: CONDITIONAL USE PERMIT

April 19, 2021

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

DECISION NO.: **ZA21-006**

FILE NO.: PCUP21-002

DESCRIPTION: A Conditional Use Permit to establish and construct a second floor 574 square foot Accessory Dwelling Unit (ADU) above an existing covered patio exceeding 16 feet in height on 0.245-acre of land located at 1515 South San Antonio Avenue, within the RE-2 (RE-2 Rural Estate – 0 to 2.0 du/ac) zoning district; (APN: 1050-031-44) **submitted by Won Jun Choi.**

PART 1: BACKGROUND & ANALYSIS

WON JUN CHOI, (herein after referred to as "Applicant") has filed an application requesting approval of a Conditional Use Permit, File No. PCUP21-022, as described in the subject of this Decision (herein after referred to as "Application" or "Project").

PROJECT SETTING: The project site is comprised of 0.245-acre of land located at 1515 South San Antonio Avenue, and is depicted in Exhibit A: Aerial Photograph, attached. Existing land uses, General Plan and zoning designations, and specific plan land uses on and surrounding the project site are as follows:

	Existing Land Use	*General Plan Designation*	*Zoning Designation*	*Specific Plan Land Use*
Site:	Single Family Residential	Rural Residential (0 – 2.0 du/ac)	RE-2 (Rural Estate - 0 to 2.0 du/ac)	N/A
North:	Single Family Residential	Rural Residential (0 – 2.0 du/ac)	AR-2 (Residential Agricultural - 0 to 2.0 du/ac)	N/A
South:	Single Family Residential	Rural Residential (0 – 2.0 du/ac)	RE-2 (Rural Estate - 0 to 2.0 du/ac)	N/A
East:	Single Family Residential	Rural Residential (0 – 2.0 du/acre)	AR-2 (Residential Agricultural - 0 to 2.0 du/ac)	N/A
West:	Single Family Residential	Low Density Residential (2.1 – 5.0 du/ac)	LDR-5 (Low Density Residential - 2.1 to 5.0 du/ac)	N/A

PROJECT ANALYSIS:

(1) Background — The project site was developed in 2004, with a single-story, 2,800 square foot single-family home and a 552 square foot attached garage. The single family home consists of four bedrooms and three bathrooms and a rear attached patio cover located along the east elevation, which was built in 2004. The property also features a 605 square foot pool and spa located in the rear yard, which were built in 2009.

The Applicant is proposing to construct a second-story 572 square foot Accessory Dwelling Unit ("ADU") located above the existing rear patio cover (see Exhibit B: Site Plan, attached). The Development Code requires Conditional Use Permit ("CUP") for any ADU that exceeds 16 feet in height. On February 2, 2021, the applicant submitted a CUP application in fulfillment of this requirement.

(2) Proposed Use — The proposed ADU will have an overall building height of 24.65 feet, and contain one bedroom, one bathroom, a kitchen, and a living room (see Exhibit C: Floor Plan, attached). The existing patio cover/ADU will be set back 10 feet from the interior south property line, 35 feet from the interior north property line, and 39 feet from the east (rear) property line. Access to the unit will be taken from a staircase located on the north side of the proposed building. The ADU is located within one-half mile walking distance of public transit and does not require an off-street parking space; however, the existing residence provides a two-car garage with a driveway that accommodates up to three vehicles.

The proposed ADU will be designed to complement the architectural style of the existing home (See Exhibit D: Proposed Elevations, attached) and will match the existing home's exterior colors, stucco finish, roof, window style, and trim. Privacy glass will be installed on the east elevation of the proposed ADU to comply with development code section 5.0310, which requires windows and doors of an ADU to not have direct line of sight to an adjoining residential property. Additionally, staff has imposed a condition of approval that requires all new construction shall be built to match the existing home, including but not limited to, colors, exterior materials and finishes, trim, fascia, and roofing material.

(3) Land Use Compatibility — The Conditional Use Permit review is required to ensure that the proposed use will be operated in a manner consistent with all local regulations and to ensure that the use will not be detrimental to the public health, safety, or welfare, or materially injurious to uses, properties, or improvements in the vicinity. The existing single-family residential home and proposed ADU are located within an established single-family neighborhood, surrounded by predominantly single-family residential uses. Although the project site is primarily surrounded by single-story residential homes, the proposed second floor ADU is setback 10 feet from the property line to the south and 35 feet from the property line to the north. The overall height of the structure is well below the Development Code allowance of 35 feet for the neighborhood. The proposed use is consistent with the surrounding residential uses; therefore, no significant negative impacts are anticipated.

(4) Recommendations — Staff believes that the recommended conditions of approval will sufficiently mitigate any potential impacts that may be associated with the proposed use. Additionally, the proposed use will not expose the surrounding residences to any impacts beyond those that would normally be associated with any other residential use similarly permitted within the RE-2 zoning district.

AIRPORT LAND USE COMPATIBILITY PLAN: This project is located within the Airport Influence Area of Ontario International Airport and was evaluated and found to be consistent with the policies and criteria of the Ontario International Airport Land Use Compatibility Plan ("ALUCP").

DEPARTMENTAL REVIEW: Each City department has been provided the opportunity to review and comment on the subject application and recommend conditions of approval to be imposed upon the application. At the time of the Decision preparation, recommended conditions of approval were provided and are attached to this report.

PUBLIC NOTIFICATION: The subject application was advertised as a public hearing in at least one newspaper of general circulation in the City of Ontario (the Inland Valley Daily Bulletin newspaper). In addition, notices were mailed to all owners of real property located within 300 feet of the exterior boundaries of the property that is the subject of the hearing, as shown on the records of the County Assessor.

CORRESPONDENCE: The Planning Department received an e-mail correspondence from Wendy Roldan on April 19, 2021, in opposition the subject application. Mrs. Roldan comments and concerns are provided below.

"I am co-owner of the home listed as 555 W. Elm Street, Ontario Ca 91762. I am a California Licensed Realtor, and am unable to attend this meeting because I am presently in classes renewing my license of 12 years. My husband and I have lived in our home since 2003. We happily lived in the Walnut, California however wanted an open environment in which we would have open space to live. We chose THIS SPECIFIC AREA of Ontario because the homes were single story, were well-spaced, had large yards, and zoned agricultural. This was perfect for our family and aspirations as we needed a less crowded environment to live. Approximately one year after we moved here the builder built a large box/triangle style home directly in our line of sight cutting off the wonderful openness we had sought out the area for. Every day since, I have had to eat at my dining room table with nothing but a corner of sky visible, as all I can see is a large triangle with stucco, roof and windows. This sight is not pleasant, and is upsetting. To compound the closed in feeling this home gives, I always feel as is someone is watching me from the windows facing the most used portion of our yard and home. We have a pool and it is unnerving to use it for the very same reasons. There IS NOOOOOO PRIVACY any longer. The aforementioned subject home listed in the subject line of this email has matriculated through owners 4 times now, with the newest owner attempting to further cut off any open feeling my home and yard have. Additionally, any tiny bit of privacy is about to be taken away as depicted in the exhibits. The plans indicate they are going up because the area is clearly too small to do a normal style additional unit. Additionally, I do plan to eventually sell my home. Taking away what little privacy my yard has will significantly further reduce the number of buyers, as buyers who can afford the price range our home falls into will simply go elsewhere and buy a home that has the openness ours once did. In simple terms, this will significantly impact and reduce the value of MY HOME, so the city can increase population density. I find this ABSOLUTELY UNACCEPTABLE!"

PART 2: RECITALS

WHEREAS, the City of Ontario has received a request for Conditional Use Permit approval as described in Part I, above; 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, Ontario Development Code Table 2.01-1 (Review Matrix) establishes that the Zoning Administrator has the responsibility and authority to review and act upon Conditional Use Permits for existing structures; and

WHEREAS, all members of the Development Advisory Board of the City of Ontario were provided the opportunity to review and comment on the requested Conditional Use Permit, and no comments were received opposing the proposed use; and

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

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

WHEREAS, on April 19, 2021, the Zoning Administrator of the City of Ontario conducted a duly noticed public hearing on the application, as follows:

(1) Larissa Lomen, Planning Intern, presented the staff report on the proposed use, indicating the staff recommendation of approval. Ms. Lomen also informed the Zoning Administrator that staff received an e-mail in opposition of the Conditional Use Permit from Wendy Roldan a neighboring resident, located north of the project site. Ms. Roldan had concerns with privacy, aesthetic views, decrease in property values, and the overall height of the proposed addition. Following staff's presentation, the Zoning Administrator opened the public hearing.

(2) Tamara Soussan, representing the applicant, described the proposed second story Accessory Dwelling Unit and spoke in favor of the application.

(3) Vincent Roldan, a neighboring resident located north of the project site, spoke against the proposed project, and explained that there were existing privacy issues between his property and project site. Mr. Roldan, stated that the proposed second story addition would create shadows over his property and existing pool, would further intrude upon his family's privacy and reduce his ability to enjoy his pool and block scenic views of the sky.

(4) The Zoning Administrator asked Mr. Roldan to further explain the existing privacy issues and inquired if there was an existing fence or wall between the two properties. Mr. Roldan explained that there was an existing wall between the two properties however, the wall was not tall enough and one could easily look into his backyard. Mr. Zeledon inquired about the wall height and concluded that the wall was approximately 5-feet in height and explained that the wall height could be raised to 6-feet to alleviate existing privacy concerns.

(5) Tamara Soussan, representing the applicant, explained the proposed addition was located and designed to mitigate any privacy concerns. The proposed second floor ADU is setback 35 feet from the property line to the north and the overall height of the structure 24.65 feet, which is 2.5 feet taller than the existing building height and well below the 35-foot maximum allowable height within the residential zone. Ms. Soussan also explained that the privacy glass is also being proposed to mitigate privacy issues and the proposed addition is setback 35 from the northern property line and would not cast shadows onto the northern property or the existing pool.

(5) Aimee Roldan, a neighboring resident located north of the project site, spoke against the proposed project, and had concerns regarding privacy of the proposed addition.

(6) Tamara Soussan, representing the applicant, explained that privacy glass could be added to the north elevation facing windows and was willing to reduce the number of windows to address privacy concerns.

(7) There being no one else to offer testimony regarding the application, the Zoning Administrator closed the public hearing.

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

PART 3: THE DECISION

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED AND DECIDED by the Zoning Administrator of the City of Ontario as follows:

SECTION 1: Environmental Determination and Findings. As the decision-making body for the Project, the Zoning Administrator 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 Zoning Administrator, the Zoning Administrator finds as follows:

(1) The project is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 15301 (Class 1, Existing Facilities) of the CEQA Guidelines, which consists of additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less; and

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

(3) The determination of CEQA exemption reflects the independent judgment of the Zoning Administrator.

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

SECTION 3: Concluding Facts and Reasons. Based upon [1] the substantial evidence presented to the Zoning Administrator in the Background and Analysis of this Decision, [2] the oral information presented during the herein-referenced public hearing, and [3] the findings set forth in Sections 1 and 2, above, the Zoning Administrator hereby concludes as follows:

(a) *The scale and intensity of the proposed land use would be consistent with the scale and intensity of land uses intended for the particular zoning or land use district.* The proposed location of the Conditional Use Permit is in accord with the objectives and purposes of the City of Ontario Development Code and the RE-2 (Rural Estate – 0 to 2.1 du/ac) zoning district, and the scale and intensity of land uses intended for the zoning district in which the use is proposed to be located. The proposed ADU will be constructed above an existing patio cover with an overall height of 24.65 feet, which is 2 feet above the height of the existing structure and below the Development Code allowance of 35 feet in height. Furthermore, the proposed Residential land use will be established and operated consistent with the objectives and purposes, and development standards and guidelines, of the RE-2 (Rural Estate – 0 to 2.1 du/ac) zoning district; and

(b) *The proposed use at the proposed location, and the manner in which it will be operated and maintained, is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan.* The proposed Residential land use will be located within the Rural Residential (0-2.1 du/ac) land use district of the Policy Plan Land Use Map, and the RE-2 (Rural Estate – 0 to 2.1 du/ac) zoning district. The development standards, and the conditions of approval under which the proposed land use will be established, operated, and maintained, are consistent with the goals, policies, plans, and exhibits of the Vision, City Council Priorities, and Policy Plan (General Plan) components of The Ontario Plan; and

(c) *The proposed use at the proposed location, and the manner in which it will be operated and maintained, is consistent with the objectives and requirements of the Development Code and any applicable specific plan or planned unit development.* The proposed ADU land use is located with the Rural Residential land use district, and the RE-2 (Rural Estate – 0 to 2.1 du/ac) zoning district, and has been reviewed and conditioned to ensure the establishment, operation and maintenance of the proposed land use consistent with all applicable objectives, purposes, standards, and guidelines of the Development Code; and

(d) *The establishment, maintenance, and operation of the proposed use at the proposed location would not be detrimental or injurious to property and improvements within the vicinity, nor would it be detrimental to the health, safety, or general welfare of persons residing or working in the surrounding neighborhood.* The Development Advisory Board has required certain safeguards, and impose certain conditions of approval, which have been established to ensure that: [i] the purposes of the Development Code are maintained; [ii] the project will not endanger the public health, safety or general welfare; [iii] the project will not result in any significant environmental impacts; and [iv] the project will be in harmony with the surrounding area in which it is proposed to be located.

SECTION 4: Zoning Administrator Action. Based on the findings and conclusions set forth in Sections 1 through 3, above, the Zoning Administrator hereby APPROVES the Application subject to each and every condition set forth in the Department reports included as "Attachment A" of this Decision and incorporated herein by this reference. Furthermore, in response to the issues raised during the Public Hearing the Zoning Administrator makes the following findings:

- The proposed second story ADU is consistent with the City of Ontario Development Code and the RE-2 (Rural Estate – 0 to 2.1 du/ac) zoning district which allows single-story and two-story residences up to 35 feet in height. The proposed ADU will be constructed above an existing patio cover with an overall height of 24.65 feet, which is 2 feet above the height of the existing residential structure.

- The proposed ADU will be set back 35 feet from the north property line, and approximately 70 feet from the existing single-family residential structure to the north. The property located north of the project site has an existing pool located on the southwest corner of the parcel. The proposed addition will not cast any shadows onto the property to the north including the existing pool. The proposed ADU is located near southeast corner of the project site, behind the existing single-family residence and over 80 feet away from the pool of the neighboring structure. Furthermore, any views of the neighboring pool from the proposed ADU will be blocked by the existing residential structure. Also, there is an existing five-foot high block wall located along the property line between the project site and property to the north that address privacy issues and concerns.

- The proposed ADU was designed and located near the southeast corner of the property to mitigate any privacy concerns. Furthermore, the ADU will incorporate privacy glass along the east and north elevation windows to obscure views of adjoining properties consistent with the Development Code requirements.

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

SECTION 6: Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario. The records are available for inspection by any interested person, upon request.

APPROVED AND ADOPTED this 17th day of May 2021.

Rudy Zeledon
Zoning Administrator

Exhibit A: AERIAL PHOTOGRAPH



Exhibit B: SITE PLAN

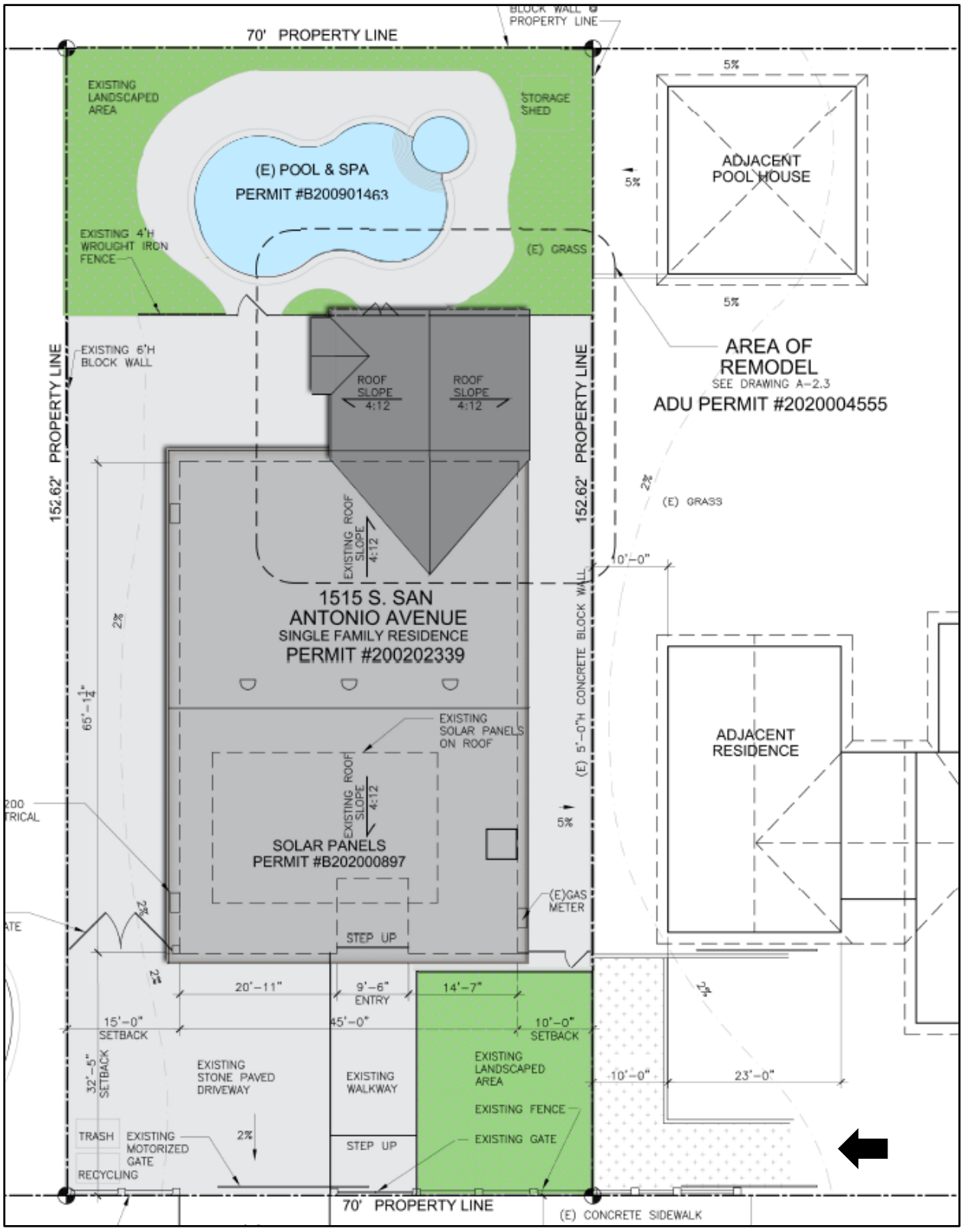


Exhibit C: FLOOR PLAN

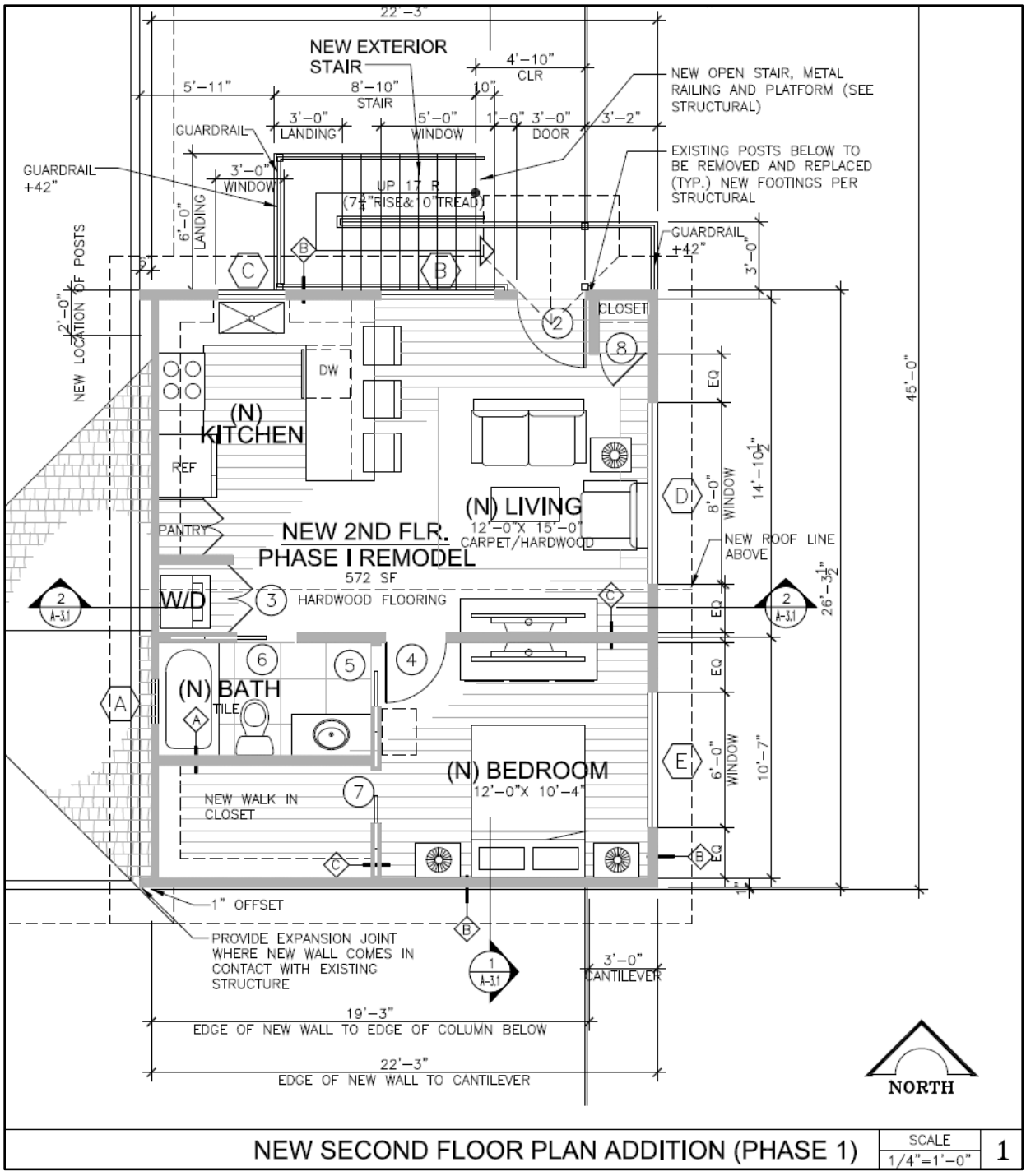
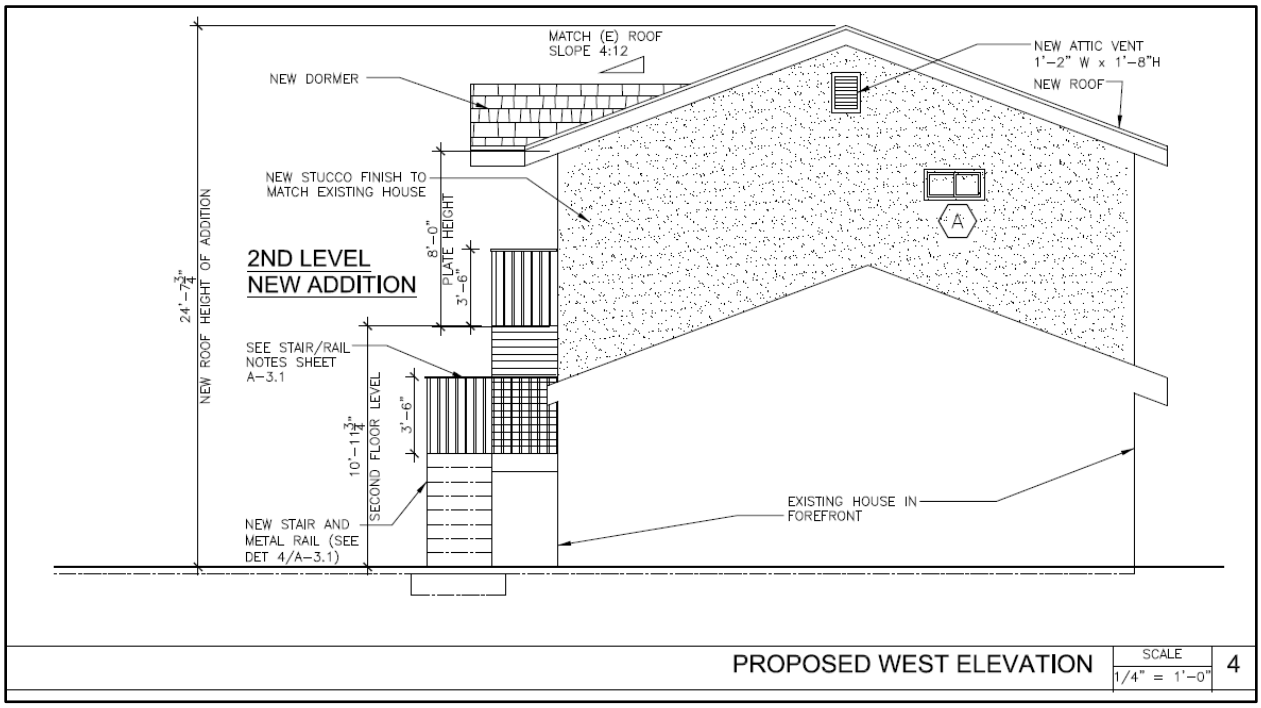


Exhibit D: ELEVATIONS



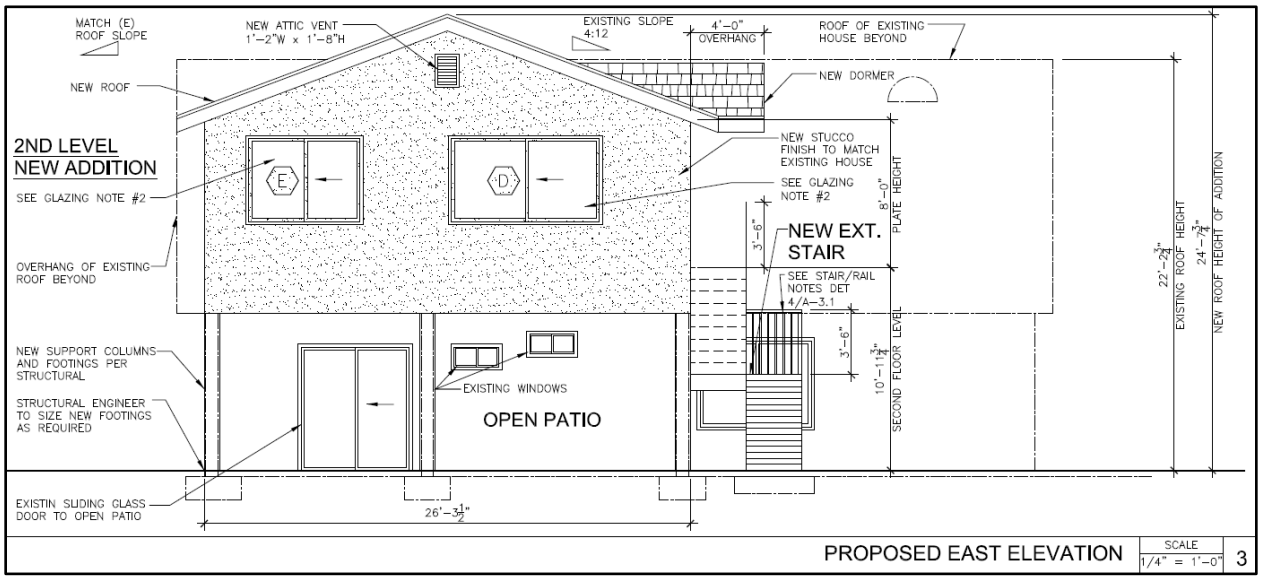
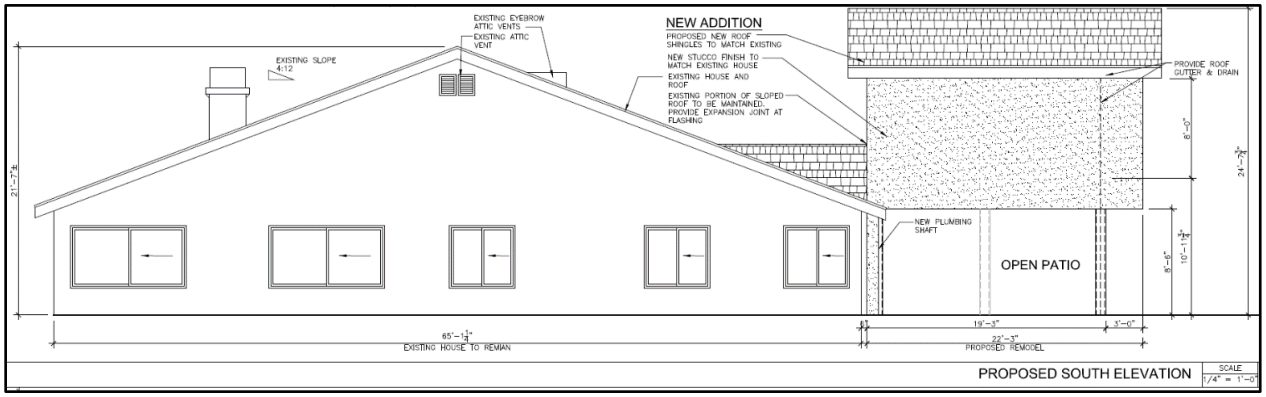


Exhibit D: ELEVATIONS



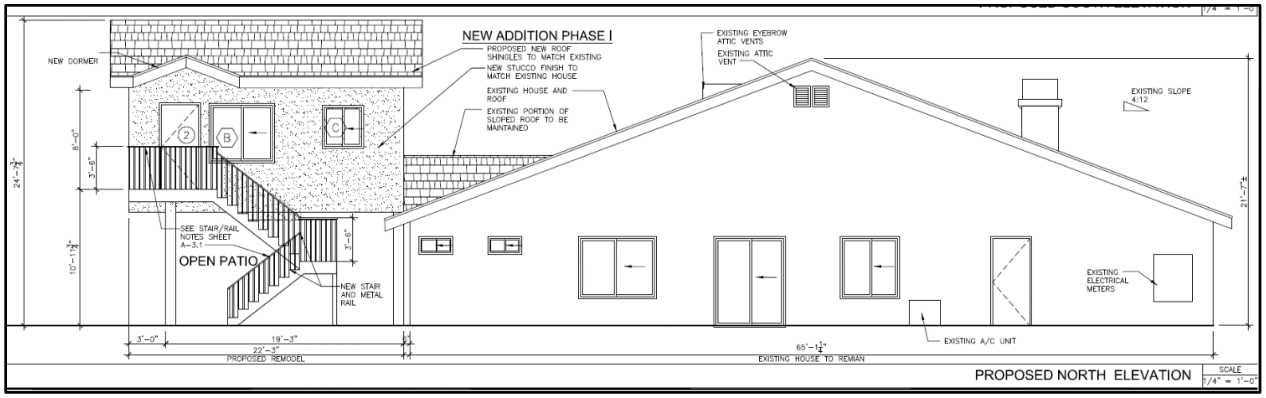


Exhibit E: SITE PHOTOS



Looking South towards open patio



Looking North at patio cover from adjoining property.

Exhibit E: SITE PHOTOS



Looking West at patio cover



Looking East from Patio

Attachment A: Department Reports (Conditions of Approval)

(Department Reports containing conditions of approval follow this page)

City of Ontario
Planning Department
303 East B Street
Ontario, California 91764
Phone: 909.395.2036
Fax: 909.395.2420

Planning Department
Land Development Division
Conditions of Approval

Meeting Date: April 19, 2021

File No: PCUP21-002

Related Files: B202004555

Project Description: A Conditional Use Permit to establish and construct a second floor 574 square foot Accessory Dwelling Unit (ADU) above an existing covered patio exceeding 16 feet in height on 0.245-acres of land, located at 1515 South San Antonio Avenue, within the RE-2 (RE-2 Rural Estate—0 to 2.0 DU/Acre) zoning district. (APN: 1050-031-44) **submitted by Won Jun Choi.**

Prepared By: Larissa Lomen, Planning Intern
Phone: (909) 395-2443 (direct)
Email: llomen@ontarioca.gov

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

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

1.1 Time Limits.

(a) Conditional Use Permit approval shall become null and void one year following the effective date of application approval, unless a building permit is issued and construction is commenced, and diligently pursued toward completion, or a time extension has been approved by the Planning Director, except that a Variance approved in conjunction with a Development Plan shall have the same time limits as said Development Plan. This condition does not supersede any individual time limits specified herein, or any other departmental conditions of approval applicable to the Project, for the performance of specific conditions or improvements.

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

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

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

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

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

1.4 Environmental Review.

(a) The Project is categorically exempt from environmental review pursuant to **Section 15301 (Class 1, Existing Facilities)** of the CEQA Guidelines, which consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible (less than 10,000 square feet) or no expansion.

1.5 Indemnification. The applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul any approval of the City of Ontario, whether by its City Council, Planning Commission or other authorized board or officer. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

1.6 Additional Fees.

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

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

1.7 Additional Requirements.

(a) Prior to issuance of a building permit for an ADU or JADU, a deed restriction must be recorded against the title of the property in the office of the San Bernardino County Recorder and a recorded copy filed with the Planning Director of the City of Ontario, pursuant to the requirements of Development Code Section 5.03.010.E.7 (Deed Restriction). The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City. The deed restriction must be filled out and wet signed (notarized) by the property owner(s).

(b) Privacy glass/glazing shall be installed on east facing windows, which have direct line of sight to the adjoining property.

CITY OF ONTARIO
MEMORANDUM

TO: **Larissa Lomen, Administrative Intern**
Planning Department

FROM: **Mike Gerken, Deputy Fire Chief/Fire Marshal**
Fire Department

DATE: **February 16, 2021**

SUBJECT: **PCUP21-002 - A Conditional Use Permit to establish and construct a second floor 574 square foot ADU above an existing covered patio exceeding 16 feet in height (a 21'-7" building height is proposed) on 0.245-acre of land located at 1515 South San Antonio Avenue, within the RE2 (RE-2 Rural Estate—0 to 2.0 DU/Acre) zoning district (APN: 1050-031-44).**

☒ The plan **does** adequately address Fire Department requirements at this time.

☒ No comments

AIRPORT LAND USE COMPATIBILITY PLANNING
CONSISTENCY DETERMINATION REPORT

ONTARIO AIRPORT PLANNING

Project File No.: PCUP21-002

Address: 1515 South San Antonio Ave

APN: 1050-031-44

Existing Land Use: Single Family Residential

Proposed Land Use: CUP to establish and construct a second story ADU

Site Acreage: n/a

Proposed Structure Height: 22 FT

ONT-IAC Project Review: n/a

Airport Influence Area: ONT

Reviewed By: Lorena Mejia

Contact Info: 909-395-2276

Project Planner: Larissa Lomen

Date: 4/5/2021

CD No.: 2021-010

PALU No.: n/a

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

Safety	Noise Impact	Airspace Protection	Overflight Notification
○ Zone 1	○ 75+ dB CNEL	☐ High Terrain Zone	☐ Avigation Easement Dedication
○ Zone 1A	○ 70 - 75 dB CNEL	☑ FAA Notification Surfaces	☑ Recorded Overflight Notification
○ Zone 2	☐ 65 - 70 dB CNEL	☑ Airspace Obstruction Surfaces	○ Real Estate Transaction Disclosure
☐ Zone 3	☑ 60 - 65 dB CNEL	☐ Airspace Avigation Easement Area	
○ Zone 4		Allowable Height: 200 FT +	
○ Zone 5			

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

☐ Zone 1 ○ Zone 2 ☐ Zone 3 ○ Zone 4 ○ Zone 5 ○ Zone 6

Allowable Height: _____

CONSISTENCY DETERMINATION

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

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

Airport Planner Signature: Lorena Mejia

CITY OF ONTARIO

MEMORANDUM

TO: Scott Murphy, Community Development Director
Rudy Zeledon, Planning Director (Copy of memo only)
Diane Ayala, Advanced Planning Division (Copy of memo only)
Charity Hernandez, Economic Development
James Caro, Building Official
Khoi Do, City Engineer
Jamie Richardson, Landscape Planning Division
Ahmed Aly, Municipal Utility Company
Gabriel Gutierrez, Police Department
Mike Gerken, Deputy Fire Chief/Fire Marshal
Jay Bautista, T. E., Traffic/Transportation Manager
Lorena Mejia, Airport Planning
Eric Woosley, Engineering/NPDES
Robin Lucero, Code Enforcement (Copy of memo only)
Jimmy Chang , IT Department

FROM: Larissa Lomen, Administrative Intern

DATE: February 09, 2021

SUBJECT: FILE #: PCUP21-002 Finance Acct#:

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

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

PROJECT DESCRIPTION: A Conditional Use Permit to establish and construct a second floor 574 square foot ADU above an existing covered patio exceeding 16 feet in height (a 21'-7" building height is proposed) on 0.245-acre of land located at 1515 South San Antonio Avenue, within the RE2 (RE-2 Rural Estate—0 to 2.0 DU/Acre) zoning district (APN: 1050-031-44).

☑ The plan does adequately address the departmental concerns at this time.
- ☐ No comments
- ☐ Report attached (1 copy and email 1 copy)
- ☑ Standard Conditions of Approval apply

☐ The plan does not adequately address the departmental concerns.
- ☐ The conditions contained in the attached report must be met prior to scheduling for Development Advisory Board.

Landscape Planning Division	[signature]	Associate Landscape Planner	2/23/21
Department	Signature	Title	Date

CITY OF ONTARIO

MEMORANDUM

TO: Scott Murphy, Community Development Director
Rudy Zeledon, Planning Director (Copy of memo only)
Diane Ayala, Advanced Planning Division (Copy of memo only)
Charity Hernandez, Economic Development
James Caro, Building Official
Khoi Do, City Engineer
Jamie Richardson, Landscape Planning Division
Ahmed Aly, Municipal Utility Company
Gabriel Gutierrez, Police Department
Mike Gerken, Deputy Fire Chief/Fire Marshal
Jay Bautista, T. E., Traffic/Transportation Manager
Lorena Mejia, Airport Planning
Eric Woosley, Engineering/NPDES
Robin Lucero, Code Enforcement (Copy of memo only)
Jimmy Chang , IT Department

David

FROM: Larissa Lomen, Administrative Intern

DATE: February 09, 2021

SUBJECT: FILE #: PCUP21-002 Finance Acct#:

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

Note:
- ☐ Only DAB action is required
- ☐ Both DAB and Planning Commission actions are required
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- ☒ Only Zoning Administrator action is required

PROJECT DESCRIPTION: A Conditional Use Permit to establish and construct a second floor 574 square foot ADU above an existing covered patio exceeding 16 feet in height (a 21'-7" building height is proposed) on 0.245-acre of land located at 1515 South San Antonio Avenue, within the RE2 (RE-2 Rural Estate—0 to 2.0 DU/Acre) zoning district (APN: 1050-031-44).

☑ The plan does adequately address the departmental concerns at this time.
- ☑ No comments
- ☐ Report attached (1 copy and email 1 copy)
- ☐ Standard Conditions of Approval apply

☐ The plan does not adequately address the departmental concerns.
- ☐ The conditions contained in the attached report must be met prior to scheduling for Development Advisory Board.

ENGINEERING-LAND	[signature]	ENGINEERING ASSISTANT	3·2·2021
Department	Signature	Title	Date

RESOLUTION NO. PC21-050

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, UPHOLDING THE ZONING ADMINSTRATOR'S DECISION TO APPROVE FILE NO. PCUP21-002, A CONDITIONAL USE PERMIT TO ESTABLISH AND CONSTRUCT A 574-SQUARE-FOOT ACCESSORY DWELLING UNIT ("ADU") EXCEEDING 16 FEET IN HEIGHT, ABOVE AN EXISTING COVERED PATIO ON 0.245-ACRE OF LAND LOCATED AT 1515 SOUTH SAN ANTONIO AVENUE, WITHIN THE RE-2 (RURAL ESTATE—0 TO 2.0 DU/ACRE) ZONING DISTRICT; AND MAKING FINDINGS IN SUPPORT THEREOF—APN: 1050-031-44.

WHEREAS, Won Jun Choi ("Applicant") has filed an Application for the approval of a Conditional Use Permit, File No. PCUP21-002, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 0.245-acre of land generally located at 1515 South San Antonio Avenue, within the RE-2 (Rural Estate—0 to 2.0 DU/Acre) zoning district, which is presently improved with a single-family dwelling; and

WHEREAS, the properties to the north, south and west of the Project site are within the AR-2 (Residential Agricultural - 0 to 2.0 du/ac) zoning district and are developed with a single-family dwellings; and

WHEREAS, on February 2, 2021, the Applicant submitted a Conditional Use Permit application requesting approval to establish and construct a 574-square-foot ADU exceeding 16 feet in height, above an existing covered patio. The ADU will have an overall building height of 24.65 feet, and contain one bedroom, one bathroom, a kitchen, and a living room; and

WHEREAS, the existing patio cover/ADU will be set back 10 feet from the (interior) south property line, 35 feet from the (interior) north property line, and 39 feet from the (rear) east property line; and

WHEREAS, access to the unit will be taken from a staircase located on the north side of the proposed building; and

WHEREAS, the ADU is located within one-half mile walking distance of public transit and does not require an off-street parking space; however, the existing residence provides a two-car garage accessed by a driveway that accommodates up to three vehicles; and

WHEREAS, the proposed ADU will be designed to complement the architectural style of the existing home and will match the existing home's exterior colors, stucco finish, roof, window style, and trim; and

WHEREAS, privacy glass will be installed on the east and north elevations of the proposed ADU to comply with Development Code Section 5.0310, which requires windows and doors of an ADU to not have direct line of sight to an adjoining residential property; and

WHEREAS, the Planning Department sent project notices to all property owners within a minimum of 300 feet of the Project site, which provided a detailed description of the project and invited recipients to the April 19, 2021 Zoning Administrator meeting; and

WHEREAS, on April 16, 2021, staff received a call from Vincent Roldan voicing his concerns and opposition to the Project. On April 19, 2021, the Planning Department received an e-mail correspondence from Wendy Roldan, also in opposition to the subject application; and

WHEREAS, on April 19, 2021, the Zoning Administrator of the City of Ontario conducted a duly noticed public hearing on the application. During the public hearing, Vincent Roldan and Aimee Roldan spoke in opposition of the proposed application and stated that there were existing privacy issues between their property and the Project site. Mr. and Ms. Roldan stated that the proposed second story addition would create shadows over their property and existing pool, would further intrude upon the family's privacy, reduce their ability to enjoy the pool, and block scenic views of the sky. The Zoning Administrator concluded the hearing and explained that he would take comments under consideration during the project deliberation process; and

WHEREAS, on May 17, 2021, the Zoning Administrator issued Decision No. ZA21-006, approving File No. PCUP21-002; and

WHEREAS, on June 23, 2021, Vincent Roldan ("Appellant"), submitted an Appeal of the Zoning Administrator's decision to approve File No. PCUP21-002; and

WHEREAS, Pursuant to Development Code Section 2.04.010.B.2, an appeal of the Zoning Administrator's action is limited to those matters raised during the Public Hearing and contained in the appeal statement. In acting on the Appeal application, the Planning Commission cannot consider any matter that was not raised during the public hearing and contained in the appeal statement. Concerns raised by the Appellant and responses to those concerns are as follows:

(a) **Appellant Issue No. 1:** Privacy and loss of value. The addition of a second story unit will overlook the appellant's yard and cause privacy issues as well as a loss to their property value.

Staff Response: The proposed ADU will be located above the existing patio cover near the southeast corner of the project site, behind the existing single-family residence and was designed to mitigate any privacy concerns. Future residents of the ADU, may have limited eastern views of the northern property's lawn area and driveway while traveling up and down the staircase. Future ADU residents will not have views of the northern property's single-family residence and pool area (located over 80 feet away from the ADU), since any views will be blocked by the existing residential structure. In addition, there is an existing five-foot-high block wall located along the property line, between the project site and the Appellant's property, that addresses privacy issues and concerns. Furthermore, the ADU will incorporate privacy glass along the east and north elevation windows, to obscure views of adjoining properties, consistent with the Development Code requirements.

The impact of the proposed ADU design and location on property values cannot be addressed. The proposed second story ADU design and location is consistent with State law, the City of Ontario Development Code, and the RE-2 (Rural Estate – 0 to 2.1 du/ac) zoning district, which allows single-story and two-story residences up to 35 feet in height. The proposed ADU will have an overall building height of 24.65 feet, which is 2 feet above the height of the existing residential structure, maintaining a single-story appearance from San Antonio Avenue.

(b) **Appellant Issue No. 2:** Design Issues. The proposed ADU can be built to replace the existing covered patio. There is no reason to build the ADU above the covered patio.

Staff Response: The proposed ADU was designed above the existing patio cover to maintain access to the rear yard from the existing residence and preserve open space. Presently, there are two bedrooms located along the east building elevation contains two sliding doors providing direct access to the rear yard area. By constructing the second-story ADU over the covered patio, the direct access to the rear yard can be maintained (see Exhibit C: Existing Residence Floor Plan, attached). Additionally, as set forth in the Development Code, ADUs can exceed 16 feet in height with the approval of a CUP. The applicant applied for a CUP and received Zoning Administrator approval subject to conditions, in order to mitigate any potential impacts, including privacy concerns. Furthermore, as stated above, the project site is located within the RE-2 (Rural Estate – 0 to 2.1 du/ac) zoning district, which allows single-story and two-story residences up to 35 feet in height.

(c) **Appellant Issue No. 3:** Neighborhood Setting. The proposed second-story addition is not consistent with the look of the neighborhood, which is comprised of single-story houses.

Staff Response: The Project site is located within a neighborhood that consists of predominantly single-story homes with high pitched roofs. The proposed ADU is

consistent with the Development Code and the RE-2 (Rural Estate- 0 to 2.1 du/ac) zoning district, which allows single-story and two-story residences up to 35 feet in height. The proposed ADU will be constructed above the existing patio cover and will have an overall height of 24.65 feet, which is 2 feet above the height of the existing residential structure, maintaining a single-story appearance, as viewed from San Antonio Avenue, and will, therefore, be in keeping with the existing neighborhood setting.

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act, commencing with Public Resources Code Section 21000 (hereinafter referred to as "CEQA"); and

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

WHEREAS, Ontario Development Code Table 2.02-1 (Review Matrix) grants the Planning Commission the responsibility and authority to review and act on the subject Application; and

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

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

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

WHEREAS, on July 27, 2021, the Planning Commission of the City of Ontario conducted a hearing to consider the Appeal, and concluded said hearing on that date; and

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

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

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

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

(2) The Project is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 15301 (Class 1, Existing Facilities) of the CEQA Guidelines, which consists of additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less; and

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

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

SECTION 2: ***Housing Element Compliance.*** Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the decision-making authority for the Project, the Planning Commission finds that based on the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the project site is not one of the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

SECTION 3: ***Ontario International Airport Land Use Compatibility Plan ("ALUCP") Compliance.*** The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan. On April 19, 2011, the City Council of the City of

Ontario approved and adopted the ALUCP, establishing the Airport Influence Area for Ontario International Airport ("ONT"), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. As the decision-making authority for the Project, the Planning Commission has reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors, including [1] Safety Criteria (ALUCP Table 2-2) and Safety Zones (ALUCP Map 2-2), [2] Noise Criteria (ALUCP Table 2-3) and Noise Impact Zones (ALUCP Map 2-3), [3] Airspace protection Zones (ALUCP Map 2-4), and [4] Overflight Notification Zones (ALUCP Map 2-5). As a result, the PLANNING COMMISSION, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the ALUCP.

SECTION 4: ***Concluding Facts and Reasons.*** Based upon the substantial evidence presented to the Planning Commission during the above-referenced hearing, and upon the specific findings set forth in Sections 1 through 3, above, the Planning Commission hereby concludes as follows:

(1) ***The scale and intensity of the proposed land use would be consistent with the scale and intensity of land uses intended for the particular zoning or land use district.*** The proposed location of the Conditional Use Permit is in accord with the objectives and purposes of the City of Ontario Development Code and the RE-2 (Rural Estate – 0 to 2.1 du/ac) zoning district, and the scale and intensity of land uses intended for the zoning district in which the use is proposed to be located. The proposed ADU will be constructed above an existing patio cover with an overall height of 24.65 feet, well below the Development Code allowance of 35 feet in height. Furthermore, the proposed Residential land use will be established and operated consistent with the objectives and purposes, and development standards and guidelines, of the RE-2 (Rural Estate – 0 to 2.1 du/ac) zoning district; and

(2) ***The proposed use at the proposed location, and the manner in which it will be operated and maintained, is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan.*** The proposed Residential land use will be located within the Rural Residential (0-2.1 du/ac) land use district of the Policy Plan Land Use Map, and the RE-2 (Rural Estate – 0 to 2.1 du/ac) zoning district. The development standards, and the conditions of approval under which the proposed land use will be established, operated, and maintained, are consistent with the goals, policies, plans, and exhibits of the Vision, City Council Priorities, and Policy Plan (General Plan) components of The Ontario Plan; and

(3) ***The proposed use at the proposed location, and the manner in which it will be operated and maintained, is consistent with the objectives and requirements of the Development Code and any applicable specific plan or planned unit development.*** The proposed ADU land use is located with the Rural Residential land use district, and the RE-2 (Rural Estate – 0 to 2.1 du/ac) zoning district, and has been reviewed and conditioned to ensure the establishment, operation and maintenance of the proposed land use consistent with all applicable objectives, purposes, standards, and guidelines of the Development Code; and

(4) ***The establishment, maintenance, and operation of the proposed use at the proposed location would not be detrimental or injurious to property and improvements within the vicinity, nor would it be detrimental to the health, safety, or general welfare of persons residing or working in the surrounding neighborhood.*** The Development Advisory Board has required certain safeguards, and impose certain conditions of approval, which have been established to ensure that: [i] the purposes of the Development Code are maintained; [ii] the project will not endanger the public health, safety or general welfare; [iii] the project will not result in any significant environmental impacts; and [iv] the project will be in harmony with the surrounding area in which it is proposed to be located.

SECTION 5: ***Planning Commission Action.*** Based upon the findings and conclusions set forth in Sections 1 through 4, above, the Planning Commission hereby APPROVES to uphold the Zoning Administrator's decision to approve the herein described Application, subject to each and every condition set forth in the Department reports attached hereto as "Attachment A," and incorporated herein by this reference.

SECTION 6: ***Indemnification.*** The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void, or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action, or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 7: ***Custodian of Records.*** The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 8: ***Certification to Adoption.*** The Secretary shall certify to the adoption of the Resolution.

- - - - - - - - - - - - - -

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

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 27th day of July, 2021, 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:

Rudy Zeledon
Planning Director and
Secretary to the Planning Commission

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

I, Gwen Berendsen, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC21-050, was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on July 27, 2021, by the following roll call vote, to wit:

AYES: Anderson, Dean, DeDiemar, Gage, Lampkin, Ricci, Willoughby

NOES: None

ABSENT: None

ABSTAIN: None

Gwen Berendsen
Secretary Pro Tempore

ATTACHMENT A:

File No. PCUP21-002
Departmental Conditions of Approval

(Departmental conditions of approval to follow this page)

City of Ontario
Planning Department
303 East B Street
Ontario, California 91764
Phone: 909.395.2036
Fax: 909.395.2420

Planning Department
Land Development Division
Conditions of Approval

Meeting Date: April 19, 2021

File No: PCUP21-002

Related Files: B202004555

Project Description: A Conditional Use Permit to establish and construct a second floor 574 square foot Accessory Dwelling Unit (ADU) above an existing covered patio exceeding 16 feet in height on 0.245-acres of land, located at 1515 South San Antonio Avenue, within the RE-2 (RE-2 Rural Estate—0 to 2.0 DU/Acre) zoning district. (APN: 1050-031-44) **submitted by Won Jun Choi.**

Prepared By: Larissa Lomen, Planning Intern
Phone: (909) 395-2443 (direct)
Email: llomen@ontarioca.gov

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

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

1.1 Time Limits.

(a) Conditional Use Permit approval shall become null and void one year following the effective date of application approval, unless a building permit is issued and construction is commenced, and diligently pursued toward completion, or a time extension has been approved by the Planning Director, except that a Variance approved in conjunction with a Development Plan shall have the same time limits as said Development Plan. This condition does not supersede any individual time limits specified herein, or any other departmental conditions of approval applicable to the Project, for the performance of specific conditions or improvements.

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

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

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

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

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

1.4 Environmental Review.

(a) The Project is categorically exempt from environmental review pursuant to **Section 15301 (Class 1, Existing Facilities)** of the CEQA Guidelines, which consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible (less than 10,000 square feet) or no expansion.

1.5 Indemnification. The applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul any approval of the City of Ontario, whether by its City Council, Planning Commission or other authorized board or officer. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

1.6 Additional Fees.

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

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

1.7 Additional Requirements.

(a) Prior to issuance of a building permit for an ADU or JADU, a deed restriction must be recorded against the title of the property in the office of the San Bernardino County Recorder and a recorded copy filed with the Planning Director of the City of Ontario, pursuant to the requirements of Development Code Section 5.03.010.E.7 (Deed Restriction). The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City. The deed restriction must be filled out and wet signed (notarized) by the property owner(s).

(b) Privacy glass/glazing shall be installed on east facing windows, which have direct line of sight to the adjoining property.

CITY OF ONTARIO
MEMORANDUM

TO: **Larissa Lomen, Administrative Intern**
Planning Department

FROM: **Mike Gerken, Deputy Fire Chief/Fire Marshal**
Fire Department

DATE: **February 16, 2021**

SUBJECT: **PCUP21-002 - A Conditional Use Permit to establish and construct a second floor 574 square foot ADU above an existing covered patio exceeding 16 feet in height (a 21'-7" building height is proposed) on 0.245-acre of land located at 1515 South San Antonio Avenue, within the RE2 (RE-2 Rural Estate—0 to 2.0 DU/Acre) zoning district (APN: 1050-031-44).**

☒ The plan **does** adequately address Fire Department requirements at this time.

☒ No comments

AIRPORT LAND USE COMPATIBILITY PLANNING
CONSISTENCY DETERMINATION REPORT

ONTARIO AIRPORT PLANNING

Project File No.: PCUP21-002

Address: 1515 South San Antonio Ave

APN: 1050-031-44

Existing Land Use: Single Family Residential

Proposed Land Use: CUP to establish and construct a second story ADU

Site Acreage: n/a

Proposed Structure Height: 22 FT

ONT-IAC Project Review: n/a

Airport Influence Area: ONT

Reviewed By: Lorena Mejia

Contact Info: 909-395-2276

Project Planner: Larissa Lomen

Date: 4/5/2021

CD No.: 2021-010

PALU No.: n/a

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

Safety	Noise Impact	Airspace Protection	Overflight Notification
○ Zone 1	○ 75+ dB CNEL	☐ High Terrain Zone	☐ Avigation Easement Dedication
○ Zone 1A	○ 70 - 75 dB CNEL	☑ FAA Notification Surfaces	☑ Recorded Overflight Notification
○ Zone 2	☐ 65 - 70 dB CNEL	☑ Airspace Obstruction Surfaces	○ Real Estate Transaction Disclosure
☐ Zone 3	☑ 60 - 65 dB CNEL	☐ Airspace Avigation Easement Area	
○ Zone 4		Allowable Height: 200 FT +	
○ Zone 5			

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

☐ Zone 1 ○ Zone 2 ☐ Zone 3 ○ Zone 4 ○ Zone 5 ○ Zone 6

Allowable Height: _____

CONSISTENCY DETERMINATION

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

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

Airport Planner Signature: Lorena Mejia

CITY OF ONTARIO

MEMORANDUM

TO: Scott Murphy, Community Development Director
Rudy Zeledon, Planning Director (Copy of memo only)
Diane Ayala, Advanced Planning Division (Copy of memo only)
Charity Hernandez, Economic Development
James Caro, Building Official
Khoi Do, City Engineer
Jamie Richardson, Landscape Planning Division
Ahmed Aly, Municipal Utility Company
Gabriel Gutierrez, Police Department
Mike Gerken, Deputy Fire Chief/Fire Marshal
Jay Bautista, T. E., Traffic/Transportation Manager
Lorena Mejia, Airport Planning
Eric Woosley, Engineering/NPDES
Robin Lucero, Code Enforcement (Copy of memo only)
Jimmy Chang , IT Department

FROM: Larissa Lomen, Administrative Intern

DATE: February 09, 2021

SUBJECT: FILE #: PCUP21-002 Finance Acct#:

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

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

PROJECT DESCRIPTION: A Conditional Use Permit to establish and construct a second floor 574 square foot ADU above an existing covered patio exceeding 16 feet in height (a 21'-7" building height is proposed) on 0.245-acre of land located at 1515 South San Antonio Avenue, within the RE2 (RE-2 Rural Estate—0 to 2.0 DU/Acre) zoning district (APN: 1050-031-44).

☑ The plan does adequately address the departmental concerns at this time.
- ☐ No comments
- ☐ Report attached (1 copy and email 1 copy)
- ☑ Standard Conditions of Approval apply

☐ The plan does not adequately address the departmental concerns.
- ☐ The conditions contained in the attached report must be met prior to scheduling for Development Advisory Board.

Landscape Planning Division	[signature]	Associate Landscape Planner	2/23/21
Department	Signature	Title	Date

CITY OF ONTARIO

MEMORANDUM

TO: Scott Murphy, Community Development Director
Rudy Zeledon, Planning Director (Copy of memo only)
Diane Ayala, Advanced Planning Division (Copy of memo only)
Charity Hernandez, Economic Development
James Caro, Building Official
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Lorena Mejia, Airport Planning
Eric Woosley, Engineering/NPDES
Robin Lucero, Code Enforcement (Copy of memo only)
Jimmy Chang , IT Department

David

FROM: Larissa Lomen, Administrative Intern

DATE: February 09, 2021

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☑ The plan does adequately address the departmental concerns at this time.
- ☑ No comments
- ☐ Report attached (1 copy and email 1 copy)
- ☐ Standard Conditions of Approval apply

☐ The plan does not adequately address the departmental concerns.
- ☐ The conditions contained in the attached report must be met prior to scheduling for Development Advisory Board.

ENGINEERING-LAND	[signature]	ENGINEERING ASSISTANT	3·2·2021
Department	Signature	Title	Date

CITY OF ONTARIO PLANNING COMMISSION/ HISTORIC PRESERVATION MEETING

MINUTES

July 27, 2021

CONTENTS **PAGE**

PLEDGE OF ALLEGIANCE 2

SPECIAL CEREMONIES 2

ANNOUNCEMENTS 3

PUBLIC COMMENTS 3

CONSENT CALENDAR

A-01. Minutes of June 22, 2021 3

PUBLIC HEARINGS

B. Appeal File No. PCUP21-002 3

C. File Nos. PCUP20-008 and PDEV20-010 9

D. File Nos. PCUP20-014 and PDEV20-017 10

E. File Nos. PCUP20-019 and PDEV20-029 11

MATTERS FROM THE PLANNING COMMISSION 12

DIRECTOR'S REPORT 12

ADJOURNMENT 12

CITY OF ONTARIO PLANNING COMMISSION/ HISTORIC PRESERVATION MEETING

MINUTES

July 27, 2021

REGULAR MEETING: City Hall, 303 East B Street
Called to order by Chairman Gage at 6:30 PM

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

Absent: None

OTHERS PRESENT: Planning Director Zeledon, City Attorney Maldonado, Senior Planner Mejia, Senior Planner Grahn, Senior Planner Hutter, Associate Planner Aguilo, Assistant Planner Morales, Planning Intern Lomen, Assistant City Engineer Lee and Planning Secretary Berendsen

PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was led by Commissioner Ricci.

SPECIAL CEREMONIES

Presentation to Robert Gregorek for his services as a Planning Commissioner for the last 25 years.

Mr. Zeledon spoke regarding Mr. Gregorek's 25 years of service on the Planning Commission and the unique perspective his geology background added, his love for the community and it's quality of life for all the citizens. He expressed his thanks for all the many major projects Mr. Gregorek has overseen in those 25 years, and recognized the major contribution he gave to the Historic Preservation Subcommittee and the preservation of the history of the city.

Mr. Murphy, Executive Director of the Community Development Agency, spoke about Mr. Gregorek's history on the Commission and expressed his appreciation of Bob's contribution to the city. Mr. Murphy wished him and his wife well.

Mr. Blum, a former Planning Director for the City of Ontario, spoke about Mr. Gregorek's love of poker and wine and expressed his admiration of the qualities that contributed to him being a successful Commissioner and his focus on the city and his good planning practices.

Mr. Zeledon presented a video in Mr. Gregorek's honor.

Several of the Commissioners expressed their appreciation for Mr. Gregorek's years of service and the example he set and how much he will be missed.

Mr. Gregorek spoke and thanked everyone and stated that was his fun job and how much he enjoyed serving the community and accomplished a lot.

There was a short recess for a reception to honor Mr. Gregorek.

ANNOUNCEMENTS

Mr. Zeledon stated there are revised redlined Engineering conditions for Item C. He also welcomed Commissioner Guadalupe Anderson and gave a little background about her.

PUBLIC COMMENTS

A worker for the D'Andre Lampkin Foundation spoke and informed the Commission of a backpack back-to-school drive coming up, through the D'Andre Lampkin Foundation.

CONSENT CALENDAR ITEMS

A-01. MINUTES APPROVAL

Planning/Historic Preservation Commission Minutes of June 22, 2021, approved as written.

It was moved by DeDiemar, seconded by Ricci, to approve the Planning Commission Minutes of June 22, 2021, as written. The motion was carried 5 to 0. Mr. Willoughby and Ms. Anderson recused themselves, as they were not present at the last meeting.

PUBLIC HEARING ITEMS

B. ENVIRONMENTAL ASSESSMENT AND APPEAL OF CONDITIONAL USE PERMIT FOR FILE NO. PCUP21-002: An appeal of the Zoning Administrator's approval of a Conditional Use Permit to establish and construct a second floor 574 square foot Accessory Dwelling Unit (ADU) above an existing covered patio exceeding 16 feet in height on 0.245-acre of land located at 1515 South San Antonio Avenue, within the RE-2 (Rural Estate—0 to 2.0 DU/Acre) zoning district. The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Class 1, Existing Facilities) of the CEQA Guidelines. The proposed project is located within the Airport Influence Area of Ontario International Airport and was evaluated and found to be consistent with the policies and criteria of the Ontario International Airport Land Use Compatibility Plan (ALUCP); (APN: 1050-031-44) **submitted by Won Jun Choi. The Zoning Administrator approved this item on May 17, 2021.**

Mr. Gage reviewed the procedures for the appeal.

Planning Intern Lomen, presented the staff report. She described the location and surrounding area and the history of the item, and the decision of the Zoning Administrator. She described the site plan, floor plan, elevations, architectural design, height of the project, the appellant's issues and staff response to them, and the conditions surrounding the project. She stated that staff is recommending the Planning Commission uphold the Zoning Administrator's decision to approve File No. PCUP21-002, pursuant to the facts and reasons contained in the staff report and attached resolution, and subject to the conditions of approval.

Mr. Lampkin wanted to know the dimension of the second story landing, in front of the door.

Mr. Zeledon stated it would be 6 feet.

Mr. Willoughby wanted clarification that the zoning allows for homes to be up to 35 feet in height.

Mr. Zeledon stated yes that is correct, the code allows up to 35 feet.

PUBLIC TESTIMONY

The appellant, Mr. Roldan spoke and expressed the reason he purchased this home 20 years ago was because it was a large lot and expressed that his wife is a realtor and that this addition will affect the value of the homes. He stated the proposed ADU on the plans sits on top of the existing patio and looks like a treehouse and appears like some of the hotels on Holt. He stated the exiting patio height is 17 feet and the proposed ADU will take it up by 10 feet. He expressed that the windows that are facing north will have privacy glass but there is a door and a staircase that faces them and there will be no privacy from those. He stated he brought pictures from his master bathroom and sketched what it would look like and all they would see is stucco and that this ADU would be a huge overshadowing where they have barbecues and family time. He stated the area is a single story area and all I see is house, because the gable of the house is already huge and this is going above it and directly in our line of site. He expressed that they could have converted the garage or enclosed the patio, but the neighbor wants it above so they can enjoy their open area, but at our expense and we are discussed by it. He stated the neighbors gave him a deceitful letter that stated it was for his elderly in-laws and he knows that you don't put elderly people upstairs, so the story has changed. He stated the pictures puts in place what we will be looking at and he has shown the facts and impacts on their family. He stated the wall has a grade, their property sits like a stage the wall looks much taller on the neighbors side and this addition will look right into our master bathroom and it will be in front of our kitchen and patio views.

Mr. Willoughby wanted to see Mr. Roldan's pictures and wanted to clarify what was to the right of his lattice patio covered structure.

Mr. Roldan stated that it is the master bathroom area and bedroom.

Mr. Willoughby wanted to clarify that to the east of that is a storage area with sheds.

Mr. Roldan stated that is correct.

Mr. Lampkin sent well wish to Mr. Roldan's wife and wanted clarification on the grade difference.

Mr. Roldan stated that when the pool was being put in, they had to add two more sections so the wall would be high enough on their side. He stated the neighbors patio is the same level as his house and when you stand in the neighbors backyard you are eye level with his covered patio.

Mr. Lampkin wanted to clarify that if picture number 3 of the presentation gives an accurate idea of how the wall compares.

Mr. Roldan stated yes, the window that is showing is the bathroom window, and the patio is exposed and the aerial view where the corner meets the house, that is the kitchen window and we can see all that sky, but all we will see is building when the addition goes in.

Tamara Soussan, the representative for the applicant and designer for the project was present and stated they designed the structure to meet the zoning requirements, and the entire project is 26 x 22 feet and will sit where the open patio is and the height will be about 8 foot higher and with the corner and angle of the house the occupants won't see the pool which is 80 feet away. She stated they have included privacy glass in the kitchen and the small window at the entrance, so the occupant won't be able to see out onto the neighbor's property.

Mr. Willoughby wanted to clarify it would be the same footprint as the existing patio.

Ms. Soussan stated yes.

Mr. Willoughby wanted to know the height of the ADU.

Ms. Soussan stated it would be 24.7 feet above the existing patio and you would see a 3 foot difference from San Antonio.

Mr. Gage wanted to clarify that this project is south of the appellant's property and doesn't hinder a mountain view.

Ms. Soussan stated it didn't appear to hinder a mountain view.

Mr. Lampkin wanted to know if the privacy glass would be a film over the glass or a permanent glass.

Ms. Soussan stated it would be a permanent solution as it is a type of glass and there are several designs to choose from.

Mr. Lampkin wanted to know why the stairway would be placed on the north side versus the east.

Ms. Soussan stated that was the only place, because of the 10 foot setback from the south, and because of the fence and pool, so it was the logical place to put it.

Mr. Lampkin wanted to know what would stop the occupant from hanging out on the landing overlooking the appellant's property.

Ms. Soussan stated it is only 3 foot deep and meant for access only, and the open patio below is the area they would hang out at.

Mr. Lampkin wanted to know if the applicant informed the neighbors that the in-laws would live there.

Ms. Soussan stated that originally when we spoke it was for his elderly in-laws or parents.

Mr. Gage wanted to know why they didn't build it where the patio currently is.

Ms. Soussan stated it would block the windows from the bedrooms below and they wanted to maintain the place to sit for the pool area.

Mr. Willoughby wanted to clarify that if it was built on ground level, if it created a safety access issue for the house.

Ms. Soussan stated they would have to redesign the interior to exit from the backyard door to the patio.

Mr. Gage wanted to know if there was anywhere else a detached ADU could go on the property.

Ms. Soussan stated that for the amount of space needed, she doesn't think so and based on the setbacks and the pool, the answer is no.

Mr. Lampkin wanted clarification regarding the two exits to the rear and if you put the it on the floor level, would all exits be blocked.

Ms. Soussan stated the sliding glass door that is currently below the patio would be blocked

Mr. Lampkin wanted the clarify that not all the exits would be blocked.

Ms. Soussan stated only one would be blocked.

The daughter of the appellant, Aimee Roldan spoke and stated she has spent her life in this home before the neighbor's home was there, once the home goes up and different people are coming in and out of the

home over the years, she started to see men's faces over the wall and could see from our patio, which sits higher because of the grade and she could see into their home and see what was going on. She stated as she grew older, she could see men's faces looking longer, and staring. She stated that because of their raised grade with the entire backyard facing the neighbor's entire side yard, you can see into the neighbor's house and the aerial doesn't show how high our patio sits and how much you can see, unless you are there. She stated that where this intended structure is going to be, people are going to be on the landing, where they will be able to look directly down into the single bathroom in the house, that we all use.

Mr. Willoughby wanted clarification regarding the one bathroom everyone uses.

Ms. Roldan stated there are multiple bathrooms but that is the bathroom everyone uses for showering, because this is the safe place.

Mr. Gage wanted clarification regarding the privacy concerns before the ADU and after the ADU, with the windows you can't see out of.

Ms. Roldan stated there is an uncomfortability she has grown up with because of the position of the house and her bedroom and now this ADU would be taking away any privacy for the yard and this structure would look over from the back corner and you can have privacy glass, but you can't make the staircase private.

Mr. Lampkin wanted to know if typically, when people come over to use the pool, if that is the bathroom primarily used.

Ms. Roldan stated not when other people come over, but more by the family, in the homes daily activities.

Mr. Roldan stated the master bath has a nicer shower for daily use, and his family of four uses that shower. He stated he has the letter from the neighbor regarding his elderly in-laws. He expressed that the neighbors want to keep the patio for their enjoyment, but at his family's expense. He expressed that even though the footprint is 600 square feet, it's straight up, and the footprint upwards is very large. He stated because San Antonio slopes he can see from the kitchen windows past the dairies and stated the value of his home and the neighbor's home and when you put something like this next to a million dollar home it just doesn't function right and doesn't have the flow.

Mr. Willoughby wanted to clarify that because of the slope they can see past the dairies from the kitchen looking across down San Antonio.

Mr. Roldan stated no, that from the back side of the house our view you can currently see to Fern and the picture he brought is our view and it will block everything. He stated he took the picture from the bathroom and looking from the patio and stated his daughter does outdoor gardens in that area.

Mr. Zeledon wanted to give some context that the RE zone does allow for 35 feet structures, but a conditional use permit is required to mitigate impacts. He stated this site was once vacant and people have the ability to develop their property. He stated that the applicant had to meet the 10 foot setbacks, and wanted to utilize the space to the best of their ability. He stated that if they convert the garage, then you have nowhere to park and we looked at the context of the neighborhood and yes it's going to sit above the patio and the appellant states it's going to look like stilts, but we are going to make sure it is designed well and there is a 5 foot wall limiting visibility. He stated the grades do go from north to south which makes the applicant's visibility more limited and we looked at it carefully because we wanted to make sure that the structure above the patio maintained the 10 foot setback which is required and a 35 foot setback from the wall and house would block the view of the neighbor's pool, and second we added the frosted glass. He expressed that we understand that privacy is an important issue and we have mitigated to the best of the ability, but people can enjoy their property and the applicant wanted access to his pool and

when it comes to ADUs we are regulated by the state. He explained that ADUs are to provide additional housing and it doesn't matter who lives or rents there. We hope the new owners are respectful of their neighbors, but we can't control that and this project is consistent with the neighborhood and with the state guidelines. He stated staff still supports the project.

Mr. Willoughby wanted to clarify that it is a five foot wall on the applicant's side.

Mr. Zeledon stated that is correct.

Mr. Willoughby wanted to know if it could be raised a foot.

Mr. Zeledon stated it could be raised a foot to a 6 foot block wall out the house from applicant's side.

Mr. Willoughby wanted to clarify that if it was taken to 6 feet it would block the applicant's view of the house.

Mr. Zeledon stated yes.

Mr. Willoughby stated he wanted to address the concern of the appellant's daughter regarding people looking over.

Mr. Zeledon stated that with the grade as is, at 5 feet, walking back and forth, it would take an effort to look over the wall. He stated that this is becoming pretty common to only have 4 foot setbacks in Ontario Ranch which is why they frost the windows for privacy.

Mr. Dean wanted to confirm that this project follows all state, city and county codes.

Mr. Zeledon stated yes it does.

Mr. Lampkin wanted to know if the project was built on the first floor, could it be consistent with code and state laws.

Mr. Zeledon stated yes, but there would be some issues because of the pool, and the required setbacks from it, or they would have to eliminate the pool and put a detached ADU or covert the garage, but the property is a smaller lot for the area so they are very limited. He stated it would be a challenge.

Mr. Lampkin wanted to know if there are other properties with second story additions to the rear and if staff had aerial shots of those and what is adjacent to that.

Mr. Zeledon stated that because of the high vaulted pitch of the roofs in the area, it is only going to be 3 feet above the existing roof line and staff feels pretty confident the project will maintain the values of the neighborhood.

Mr. Lampkin wanted to know staff was aware if the house down the street with an addition had access from the outside or interior.

Mr. Zeledon stated no, it might be just a regular addition and explained that there are different types of ADUs and most ADUs will have an access from the outside. He explained that the landing is 6 feet wide, but that it is 3 feet at the landing and then 3 feet to the door, this is not a 6 foot area to congregate.

Mr. Lampkin stated that you could put a chair out there.

Mr. Zeledon stated yes.

Mr. Gage wanted to clarify that the applicant wanted to build above the patio, to have access to the pool and is there room north to build it and still have access.

Mr. Zeledon stated that bedroom one and bedroom three currently have access to the backyard area, they would have to redesign the existing access but they could possibly put a smaller unit there, however for functionality and the ability to gather underneath it, next to the pool, going above is a lot easier.

Mr. Gage wanted to know with the state laws regarding ADUs do we have a choice to deny this.

Attorney Maldonado stated it weighs in favor of you not having an option to deny, because it meets all the standards and the decision is based on what is raised in the appeal, so if you deny it you would have to agree with one of the three reasons as to why he wanted you to deny it.

Mr. Lampkin wanted to clarify if we were to ask the designer to place the ADU on the first floor, would that put us within compliance with state law regarding the need to approve or deny.

Attorney Maldonado stated no, because that would require a denial, you have to approve or deny based on the reasons the appellant raised.

Mr. Lampkin wanted clarification on the three reasons the appellant gave for denial.

Mr. Zeledon went over the three reasons.

Mr. Lampkin wanted to clarify that on the appeal form the statement that additional square footage can be obtained by enclosing the patio, is not a bullet point for denial.

Mr. Zeledon stated yes, they could convert the patio and access to the pool is an issue, but as is they meet all state and development codes and it is consistent with the neighborhood.

Mr. Lampkin wanted to clarify it is also within homeowner's right.

Mr. Zeledon stated yes.

Ms. Soussan stated she thinks the staff did an excellent job of presenting the project and she did design it within the parameters of the code and feels they are in compliance.

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

Mr. Lampkin stated that the new state law requires cities to look at options for ADUs and we have to look at it and if it meets the conditions and it is the right of the property owners, and we need to entertain such projects.

Mr. Gage stated that when something like this goes up next to your house, privacy is an issue when it is above a patio. He stated he can understand the reservations of the appellant and they want access to pool and access from the house and laws regulate how close to the pool and the city has mitigated what they can and it won't be 35 feet high and only 3 feet from the current house, with privacy windows and if this was on the north property line, he would have more objections and wanted to know if there were any complaints from southern neighbors.

Mr. Zeledon stated there are no other complaints from the south.

Mr. Gage stated that they would have to depend on the planning department so it is designed to not look like a tree house above a patio. He stated he understands both sides.

Mr. Ricci stated he understands because his property sits the same way and thinks the applicant has mitigate all the concerns and could there be an enclosed staircase, or for upper portion to be enclosed. However, he understands we have to abide by the state and make accommodation for ADUs and one thing we need to do is trust my neighbor to be mindful of other neighbors, when you live in a community and you adapt and trust people don't take advantage.

Mr. Zeledon stated no we haven't, not sure how it would work with a lattice or full enclosure and designed with stucco as you go up and he wanted to remind them that the staircase is 35 feet away from property line.

Mr. Ricci stated he understands and we really have to consider this.

Mr. Lampkin clarified that we have to pay attention to the laws and what we have to do and we sympathize with Mr. Roldan and we have to evaluate it on what the state laws says.

Mr. Willoughby stated that as staff has indicated they have met all the codes, regulations and have tried to mitigate as much as possible and he know we all have to deal with privacy issues and he understands.

PLANNING COMMISSION ACTION

It was moved by Willoughby, seconded by Dean, to adopt a resolution to uphold the Zoning Administrator's decision to approve the Conditional Use Permit, File No., PCUP21-002, subject to conditions of approval. Roll call vote: AYES, Anderson, Dean, DeDiemar, Gage, Lampkin, Ricci and Willoughby; NOES, none; RECUSE, none; ABSENT, none. The motion was carried 7 to 0.

Mr. Zeledon stated they have 10 days to appeal the Planning Commission decision to City Council.

C. ENVIRONMENTAL ASSESSMENT, DEVELOPMENT PLAN REVIEW, AND CONDITIONAL USE PERMIT FOR FILE NOS. PDEV20-010 AND PCUP20-008: A Development Plan (File No. PDEV20-010) to construct a 3,306 square foot convenience store, a 953 square foot carwash and fueling station in conjunction with a Conditional Use Permit (File. No. PCUP20-008) to establish alcoholic beverage sales for a Type 21 ABC License (Off-Sale General) on 0.97 acres of land located on the southeast corner of Holt Boulevard and Grove Avenue, within the Business Park zoning district. Staff has determined that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15332 (Class 32, In-Fill Development Projects) of the CEQA guidelines. The proposed project is located within the Airport Influence Area of Ontario International Airport and was evaluated and found to be consistent with the policies and criteria of the Ontario International Airport Land Use Compatibility Plan; (APNs: 0110-131-01 and 0110-131-19) **submitted by Mr. Amer Chris Sabbah.**

Senior Planner Mejia, presented the staff report. She described the location and surrounding area and current condition of the parcel. She described the site plan and the street widening for BRT that will be coming in the next 3 – 7 years, access and internal circulation, parking, elevations and architectural design, interim landscaping, the convenience store and it's floor plan, and the CUP requested for alcohol sales and the location of the alcohol items. She stated that staff is recommending the Planning Commission approve File Nos. PCUP20-008 and PDEV20-010, pursuant to the facts and reasons contained in the staff report and attached resolutions, and subject to the conditions of approval.

No one responded.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, UPHOLDING THE PLANNING COMMISSION'S DECISION TO UPHOLD THE ZONING ADMINISTRATOR'S ACTION TO APPROVE FILE NO. PCUP21-002, A CONDITIONAL USE PERMIT TO ESTABLISH AND CONSTRUCT A 574 SQUARE FOOT ACCESSORY DWELLING UNIT ("ADU") EXCEEDING 16 FEET IN HEIGHT ON 0.245-ACRE OF LAND LOCATED AT 1515 SOUTH SAN ANTONIO AVENUE, WITHIN THE RE-2 (RURAL ESTATE—0 TO 2.0 DU/ACRE) ZONING DISTRICT; AND MAKING FINDINGS IN SUPPORT THEREOF—APN: 1050-031-44.

WHEREAS, Won Jun Choi ("Applicant") has filed an Application for the approval of a Conditional Use Permit, File No. PCUP21-002, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 0.245-acre of land generally located at 1515 South San Antonio Avenue, within the RE-2 (Rural Estate—0 to 2.0 DU/Acre) zoning district, which is presently improved with a single-family dwelling; and

WHEREAS, the properties to the north, south and west of the Project site are within the AR-2 (Residential Agricultural - 0 to 2.0 du/ac) zoning district and are developed with a single-family dwellings; and

WHEREAS, on February 2, 2021, the Applicant submitted a Conditional Use Permit application requesting approval to establish and construct a 574-square-foot ADU exceeding 16 feet in height, above an existing covered patio. The ADU will have an overall building height of 24.65 feet, and contain one bedroom, one bathroom, a kitchen, and a living room; and

WHEREAS, the existing patio cover/ADU will be set back 10 feet from the (interior) south property line, 35 feet from the (interior) north property line, and 39 feet from the (rear) east property line; and

WHEREAS, access to the unit will be taken from a staircase located on the north side of the proposed building; and

WHEREAS, the ADU is located within one-half mile walking distance of public transit and does not require an off-street parking space; however, the existing residence provides a two-car garage accessed by a driveway that accommodates up to three vehicles; and

WHEREAS, the proposed ADU will be designed to complement the architectural style of the existing home and will match the existing home's exterior colors, stucco finish, roof, window style, and trim; and

WHEREAS, privacy glass will be installed on the east and north elevations of the proposed ADU to comply with Development Code Section 5.0310, which requires windows and doors of an ADU to not have direct line of sight to an adjoining residential property; and

WHEREAS, on April 19, 2021, the Zoning Administrator of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

WHEREAS, on May 17, 2021, the Zoning Administrator of the City of Ontario issued Decision No. ZA21-006, approving File No. PCUP21-002; and

WHEREAS, on June 23, 2021, Vincent Roldan ("Appellant"), submitted an Appeal of the Zoning Administrator's decision to approve File No. PCUP21-002; and

WHEREAS, on July 27, 2021, the Planning Commission of the City of Ontario conducted a hearing to consider the Appeal and concluded said hearing on that date, voting to issue Resolution No. PC21-050 upholding the Zoning Administrator's decision and denying the Appeal; and

WHEREAS, on August 4, 2021, Vincent Roldan ("Appellant"), submitted an Appeal of the Planning Commission's decision to uphold the Zoning Administrator's decision and deny the Appeal of the Conditional Use Permit, File No. PCUP21-002; and

WHEREAS, pursuant to Development Code Section 2.04.010.B.2, an appeal of the Planning Commission's action is limited to those matters raised during the public hearing and contained in the Appeal Statement. In acting on the Appeal, the Approving Authority (in this case, the City Council) cannot consider any matter or issue that was not raised during the public hearing and contained in the Appeal Statement. Staff has reviewed the Appeal request and has provided the following responses to the Appeal Statement:

(a) **Appellant Issue No. 1:** Loss of Privacy. The proposed ADU's staircase, landing, and doorway location would result in a loss of privacy by creating direct views into the Appellant's master bathroom window. The proposed staircase should be enclosed to eliminate the privacy issue.

Staff Response: The proposed ADU will replace the existing patio cover located near the southeast corner of the project site, behind the existing single-family residence, and was designed to mitigate any privacy concerns. Future residents of the ADU would have limited northerly views of the Appellant's lawn area and driveway while traveling up and down the staircase, as shown in Exhibit B (Staircase Northern View). The proposed staircase, landing, and doorway will be setback 35 feet from the north property line, which is shared with the Appellant's property, and approximately 70 feet from the Appellant's master bathroom window, a small, rectangular window that is positioned on the upper part of the wall, at the head level, which is typical for bathrooms in order to address privacy concerns. Additionally, to further address privacy issues and concerns, there is an existing six-foot-high block wall located along the property line between the subject site and the Appellant's property and, consistent with the Development Code requirements, the proposed ADU will incorporate privacy glass on the east and north elevation windows, to obscure views into adjoining properties.

In addition, it is important to note that the Appellant's property sits at higher grade than the subject site (approximately one foot), creating privacy issues for the subject site. During the Planning Commission meeting, the Appellant testified that they had direct views into the subject site and could easily see into windows and view activity within the home. The existing block wall separating the properties measures six feet in height on the subject site's side and five feet in height on the Appellant's side. The extra foot of wall height on the subject site's side adds to the Appellant's privacy and reduces the subject site's privacy.

(b) **Appellant Issue No. 2:** Design Issues. The ADU is poorly designed and has a free-standing “tree house” appearance. The ADU should be designed to enclose the staircase and area under the patio cover, along with connecting the proposed roof line into the existing roof, to improve the overall ADU design.

Staff Response: The proposed ADU is designed to be constructed above the existing patio cover to maintain access to the rear yard from the existing residence and preserve open space in the rear yard. Presently, there are two bedrooms located along the east building elevation that contain two sliding doors, providing direct access to the rear yard area and providing emergency egress as required by the Building Code. By constructing the second-story ADU over the covered patio, the direct access to the rear yard and views of the backyard can be maintained. Furthermore, if the proposed staircase was enclosed, windows could still be installed along the northern elevation, to provide visibility and natural light into the stairwell; however, the additional construction costs associated with enclosing the staircase and patio cover, and extending the roofline, would make the project infeasible to construct for the property owner. The project site is located within the RE-2 (Rural Estate – 0 to 2.1 du/ac) zoning district, which allows single-story and two-story residences up to 35 feet in height. Additionally, as set forth in the Development Code, ADUs can exceed 16 feet in height with the approval of a Conditional Use Permit.

(c) **Appellant Issue No. 3:** Planning Commission Decision. The Planning Commissioners asked about alternative building designs and should have been allowed to review the plans further and supply alternatives to improve the project.

Staff Response: During the July 27, 2021, Planning Commission meeting, the Planning Commission did ask staff about alternative design scenarios for the ADU, however, the City Attorney explained that the Planning Commission’s role was to act on the Appeal (approve or deny) based on its merits and that the Planning Commission could not make recommendations or place conditions on the project to alter the ADU building design.

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act, commencing with Public Resources Code Section 21000 (hereinafter referred to as "CEQA"); and

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

WHEREAS, Ontario Development Code Table 2.02-1 (Review Matrix) grants the City Council the responsibility and authority to review and act on the subject Application; and

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

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

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

WHEREAS, on October 5, 2021, the City Council of the City of Ontario continued the Appeal to the October 19, 2021, hearing date; and

WHEREAS, on October 19, 2021, the City Council of the City of Ontario conducted a hearing to consider the Appeal, 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:

SECTION 1. ***Environmental Determination and Findings.*** 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:

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

(2) The Project is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 15301 (Class 1, Existing Facilities) of the CEQA Guidelines, which consists of additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less; and

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

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

SECTION 2. ***Housing Element Compliance.*** Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the decision-making body for the Project, the City Council finds that based on the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the project site is not one of the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

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

SECTION 4. ***Concluding Facts and Reasons.*** 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 through 3, above, the City Council hereby concludes as follows:

(1) ***The scale and intensity of the proposed land use would be consistent with the scale and intensity of land uses intended for the particular zoning or land use district.*** The proposed location of the Conditional Use Permit is in accord with the objectives and purposes of the City of Ontario Development Code and the RE-2 (Rural Estate – 0 to 2.1 du/ac) zoning district, and the scale and intensity of land uses intended for the zoning district in which the use is proposed to be located. The proposed ADU will be constructed above an existing patio cover with an overall height of 24.65 feet, well

below the Development Code allowance of 35 feet in height. Furthermore, the proposed Residential land use will be established and operated consistent with the objectives and purposes, and development standards and guidelines, of the RE-2 (Rural Estate – 0 to 2.1 du/ac) zoning district.

(2) ***The proposed use at the proposed location, and the manner in which it will be operated and maintained, is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan.*** The proposed Residential land use will be located within the Rural Residential (0-2.1 du/ac) land use district of the Policy Plan Land Use Map, and the RE-2 (Rural Estate – 0 to 2.1 du/ac) zoning district. The development standards, and the conditions of approval under which the proposed land use will be established, operated, and maintained, are consistent with the goals, policies, plans, and exhibits of the Vision, City Council Priorities, and Policy Plan (General Plan) components of The Ontario Plan.

(3) ***The proposed use at the proposed location, and the manner in which it will be operated and maintained, is consistent with the objectives and requirements of the Development Code and any applicable specific plan or planned unit development.*** The proposed ADU land use is located with the Rural Residential land use district, and the RE-2 (Rural Estate – 0 to 2.1 du/ac) zoning district, and has been reviewed and conditioned to ensure the establishment, operation and maintenance of the proposed land use consistent with all applicable objectives, purposes, standards, and guidelines of the Development Code.

(4) ***The establishment, maintenance, and operation of the proposed use at the proposed location would not be detrimental or injurious to property and improvements within the vicinity, nor would it be detrimental to the health, safety, or general welfare of persons residing or working in the surrounding neighborhood.*** The Development Advisory Board has required certain safeguards, and impose certain conditions of approval, which have been established to ensure that: [i] the purposes of the Development Code are maintained; [ii] the project will not endanger the public health, safety or general welfare; [iii] the project will not result in any significant environmental impacts; and [iv] the project will be in harmony with the surrounding area in which it is proposed to be located.

SECTION 5. ***City Council Action.*** Based upon the findings and conclusions set forth in Sections 1 through 4, above, the City Council hereby APPROVES to uphold the Planning Commission's approval and deny the appeal of File No. PCUP21-002 to establish and construct an Accessory Dwelling Unit (ADU) exceeding 16 feet in height, on property located at 1515 South San Antonio Avenue.

SECTION 6. ***Indemnification.*** The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void, or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action, or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 7. ***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.

PASSED, APPROVED, AND ADOPTED this 19th day of October 2021.

_____
PAUL S. LEON, MAYOR

ATTEST:

_____
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

_____
BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2021- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held October 19, 2021, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2021- duly passed and adopted by the Ontario City Council at their regular meeting held October 19, 2021.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)