



CITY OF ONTARIO  
**ZONING ADMINISTRATOR**  
AGENDA

December 5, 2016

Ontario City Council Chambers, 2 PM  
303 East "B" Street, Ontario

---

All documents for public review are on file with the Planning Department located at  
City Hall, 303 East "B" St., Ontario, CA 91764

**PUBLIC HEARINGS**

- A. **ENVIRONMENTAL ASSESSMENT AND A VARIANCE REVIEW FOR FILE NO. PVAR16-006**: A Variance request to deviate from the minimum required side yard setback, from 10 feet to 1'10" and 4'10", to accommodate the construction of a 1,548 square foot detached accessory structure, to include a 400 square foot 2-car garage, a 640 square foot second dwelling unit, and 2 patio covers (covering a total of 508 square foot), located at 213 East La Denev Drive, within the LDR-5 (Low Density Residential 2.1 to 5.0 DUs/Acre). Staff has determined that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15303 (New Construction or Conversion of Small Structures) and Section 15305 (Minor Alterations in Land Use Limitations) of the CEQA guidelines. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT), and was evaluated and found to be consistent with the policies and criteria of the ONT Airport Land Use Compatibility Plan (ALUCP). (APN: 1047-352-04); **submitted by Gilbert Lascurain.**

If you wish to appeal a decision of the Zoning Administrator, you must do so within ten (10) days of the Zoning Administrator action. Please contact the Planning Department for information regarding the appeal process.

If you challenge any action of the Zoning Administrator 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 written correspondence delivered to the Zoning Administrator at, or prior to, the public hearing.

I, Gwen Berendsen, Office Specialist of the City of Ontario, or my designee, hereby certify that a true, accurate copy of the foregoing agenda was posted on or before **December 1, 2016**, at least 72 hours prior to the meeting per Government Code Section 54954.2 at 303 East "B" Street, Ontario.

  
\_\_\_\_\_



# ZONING ADMINISTRATOR DECISION HOMEOWNER VARIANCE

December 5, 2016

**DECISION NO.:** [insert #]

**FILE NO.:** PVAR16-006

**DESCRIPTION:** A Variance request to deviate from the minimum required side yard setback, from 10 feet to 1'10" and 4'10", to accommodate the construction of a 1,548 square foot detached accessory structure, which includes a 400 square foot 2-car garage, a 640 square foot second dwelling unit, and 2 patio covers (covering a total of 508 square foot), located at 213 East La Deney Drive, within the LDR-5 (Low Density Residential 2.1 to 5.0 DUs/Acre). APN: 1047-352-04; **submitted by Gilbert Lascurain.**

## ***PART I: BACKGROUND & ANALYSIS***

GILBERT LASCURIAN, herein after referred to as "the applicant," has filed an application requesting Variance approval, File No. PVAR16-006, as described in the subject of this Decision (herein after referred to as "Application" or "Project").

**(1) Project Setting:** The project site is comprised of .20 acres of land located at 213 East La Deney Drive within the La Deney Drive Historic District, and is depicted in *Exhibit A: Aerial Photograph*, attached. Existing land uses and General Plan and zoning designations on and surrounding the project site are as follows:

	<i>Existing Land Use</i>	<i>General Plan Designation</i>	<i>Zoning Designation</i>
<i>Site</i>	Single-family Residential	Low Density Residential	LDR5 Low Density Residential
<i>North</i>	Single-family Residential	Low Density Residential	LDR5 Low Density Residential
<i>South</i>	Single-family Residential	Low Density Residential	LDR5 Low Density Residential
<i>East</i>	Single-family Residential	Low Density Residential	LDR5 Low Density Residential
<i>West</i>	Single-family Residential	Low Density Residential	LDR5 Low Density Residential

### **(2) Project Analysis:**

**(a) Background** — On November 5, 2015, the Planning Department became aware that the historic single-car garage had been demolished and a replacement accessory structure totaling 1,589 square foot (365 square foot garage, 770 square foot second dwelling unit, and 454 square foot covered patio) were constructed without required City permits and approval. Pursuant to the Section 7.01.060, Enforcement and Penalties of the Development Code, a civil penalty was assessed for the demolition and has been paid by the property owner. Efforts to resolve code violations

Prepared: DA 11/15/2016	Reviewed: RZ 11/16/2016	Decision: [enter initial/date]
-------------------------	-------------------------	--------------------------------

and salvage as much of the built structure as possible were undertaken by Planning Department, with the property owner's participation, in an attempt to prepare site plan for construction plans. Many different design scenarios were discussed and considered. The property owner has agreed to reduce the second dwelling unit to 640 square feet, 10 feet below maximum allowable size, increase the garage to the minimum 400 square feet, and to remove the walls at the northeast corner of the building creating a covered patio area. The property owner is seeking a Variance approval to deviate from the required 10 foot side yard setback for structures greater than 25 feet in depth. An approval would allow for the built structure to remain at 1'10" for the first 20 feet (garage) and at 4'10" for the remaining 31 feet (second dwelling unit) from the west side yard property line.

**(b) Site Design/Building Layout** — The project site is a rectangular shaped parcel with a lot width of 57 feet and lot depth of approximately 150 feet, depicted in *Exhibit B: Site Plan*. The site is developed with 2-story, single-family residence that was constructed in 1931. The footprint is L-shaped and is setback 27 feet from the front property line. The residence features 2 balconies located on the front and rear elevations. There is a driveway, approximately 9 feet wide, which leads to the rear of the property. On the northeast corner of the property is a rectangular shaped swimming pool approximately 12 feet by 24 feet.

Previously, the driveway led to a 360 square foot, detached historic garage. The garage was setback approximately 1 foot from the west property line and 10 feet behind the rear of the house. The building layout is typical of the period in which the lot was developed and is evident in the surrounding historic neighborhood.

Once the historic garage was demolished, a new garage with an attached second dwelling unit was constructed at the same location. The new accessory structure is setback 3' 7" from the rear property line and 14 feet from the existing swimming pool to the east. The distance between the rear of the house and the front of the accessory structure is 10.5 feet. Currently, the garage has a 10 foot wide, single-bay opening and a shed roof covered man door. Staff has added a condition of approval requiring the removal of the man door and a minimum 16 foot garage bay opening as was previously existing. Attached under the same roof is a 373 square foot patio. Walls at the northeast corner of the structure will be removed and the roof cover will remain creating a new 135 square foot patio area leading to the main entrance of the unit, depicted in *Exhibit C: Floor Plan*.

**(c) Architecture** — The single-family residence was constructed in the Monterey Revival style of architecture and was owned by Marius Biane of Virginia Dare Winery from 1924 through 1943. The Marius Biane House was designated as a Contributor to the La Deney Drive Historic District on July 18, 2000. The home has many of the elements typically found in the Monterey Revival style including a low pitched red-tiled roof, stucco siding, multi-paned casement windows, a wood paneled front door, an archway at the entry, and a stucco covered chimney.

The accessory structure includes similar architectural elements that are featured on the house, such as a low pitched roof covered with red barrel tiles, small or no eaves, and smooth stucco walls, and is depicted in *Exhibit D: Site Photos*. To achieve maximum compatibility, a condition of approval has been added to the project requiring all windows to match the wood framed, multi-paned casement windows that are on the residence. In addition, all doors, light fixtures, and patio post columns are required to compliment the Monterey Revival style of architecture.

According to Division 7.01- Historic Preservation of the Ontario Development Code, Guidelines for the Treatment of Historic Properties, new garages and accessory structures should be detached and located out of public view within rear yards. The purpose of this is to avoid adverse impacts by minimizing alterations to the historic resource. In this case, if the detached accessory structure was constructed with the required 10 foot side yard setback, the garage would need to be placed an additional 10 feet from rear of the residence to allow for vehicular maneuvering and access, thus resulting in a smaller sized second unit and an excess of driveway paving. Furthermore, the existing pool, as previously stated, is located in the northeast corner of the lot and limits the ability to expand the second unit into this area. The detached accessory structure will not detract from the primary architectural style of the main dwelling unit and will utilize the existing driveway, resulting in the least potential impact to the resource and neighborhood.

Due to the original layout and design of property, which includes a non-conforming setback, staff is in support of this Variance for a reduced interior side yard setback and recommends approval, subject to the attached conditions.

**(1) Airport Land Use Compatibility Plan:** This project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for ONT. Any special conditions of approval associated with uses in close proximity to the airport are attached to this report.

**(2) 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, no recommended conditions of approval were provided, with exception from the Planning Department. Planning Department conditions of approval are attached to this report.

**(3) 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.

**(4) Correspondence:** As of the preparation of this Decision, Planning Department staff has not received any written or verbal communications from the owners of properties surrounding the project site or from the public in general, regarding the subject application.

### ***PART B: RECITALS***

WHEREAS, the City of Ontario has received a request for Variance approval as described in Part A, above; and

WHEREAS, Ontario Development Code Table 2.02-1 (Review Matrix) establishes that the Zoning Administrator has the responsibility and authority to review and act upon Homeowner Variances; 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 Variance, and no comments were received opposing the proposed use; and

WHEREAS, on December 5, 2016, the Zoning Administrator of the City of Ontario conducted a duly noticed public hearing on the application, as follows:

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

(2) [insert speaker's name], the applicant/representing the applicant, explained the business operation and spoke in favor of the application.

(3) [insert additional speaker info]

(4) [insert additional speaker info]

(5) 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 C: THE DECISION***

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

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

(2) Based upon the evidence presented to the Zoning Administrator during the above-referenced public hearing, the Zoning Administrator hereby makes the following Variance findings:

(a) *The strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the Development Code.* The Policy Plan envisions a 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. As such, the Development Code allows for additions of second dwelling units to be constructed on traditional single-family residential properties within the AR-2 Agricultural Residential, RE-2 Residential Estate, RE-4 Residential Estate, LDR-5 Low Density Residential, and MDR-11 Multiple-Family Residential zoning districts. A strict or literal interpretation of the Development Code, would limit the ability to construct a second dwelling unit, increase driveway and pavement, and result in an inferior site design.

(b) *There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties in the same zoning district.* The project site is located within a designated historic district and the single-family residence is defined as historic resource. In order to minimize alterations to historic resources, Division 7.01- Historic Preservation of the Ontario Development Code, Guidelines for the Treatment of Historic Properties states that new garages and accessory structures should be detached and located out of public view within rear yards. In this case, if the detached accessory structure was constructed with the required 10 foot side yard setback, the garage would need to be placed on the lot an additional 10 feet from the rear of the residence to allow for vehicular maneuvering and access, thus resulting in a smaller sized second unit and an excess of driveway paving.

(c) *The strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties in the same zoning district.* The project site is located within a designated historic district that was developed during the 1930s. The site was developed with a single-family residence and a detached garage less than 2 feet from the side yard property line. This site design and building layout allowed for the focus to be placed on the residence, and not the garage, while minimizing the amount of paving. Additionally, there is an existing swimming pool located in northeast portion of the rear yard that limits the construction to the northwest portion of the lot.

(d) *The granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.* Due to the existing site design, building layout, and swimming pool, the detached accessory structure will be placed where the previous garage was and where other garages are placed within the historic district, thus not granting a special privilege.

(e) *The granting of the Variance will not be detrimental to the public health, safety or welfare, or be materially injurious to properties or improvements in the vicinity.* Granting a Variance to reduce the side yard setback will not negatively affect the general public as the majority of the construction is located at the rear of the lot with minimal visibility from public view. Furthermore, the accessory structure will require building permits and issuance of building occupancy prior to use.

(3) The Zoning Administrator hereby finds and determines that the project identified in this Decision is categorically exempt from the requirements of the California Environmental Quality Act of 1970, as amended, and the Guidelines promulgated thereunder, pursuant to Section 15303 (New Construction or Conversion of Small Structures) and Section 15305 (Minor Alterations in Land Use Limitations) of the State CEQA Guidelines.

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

(5) Based upon the findings and conclusions set forth in Parts A, B and C above, the Zoning Administrator hereby approves File No. PVAR16-006, subject to the conditions of approval attached hereto and incorporated herein by this reference.

-----

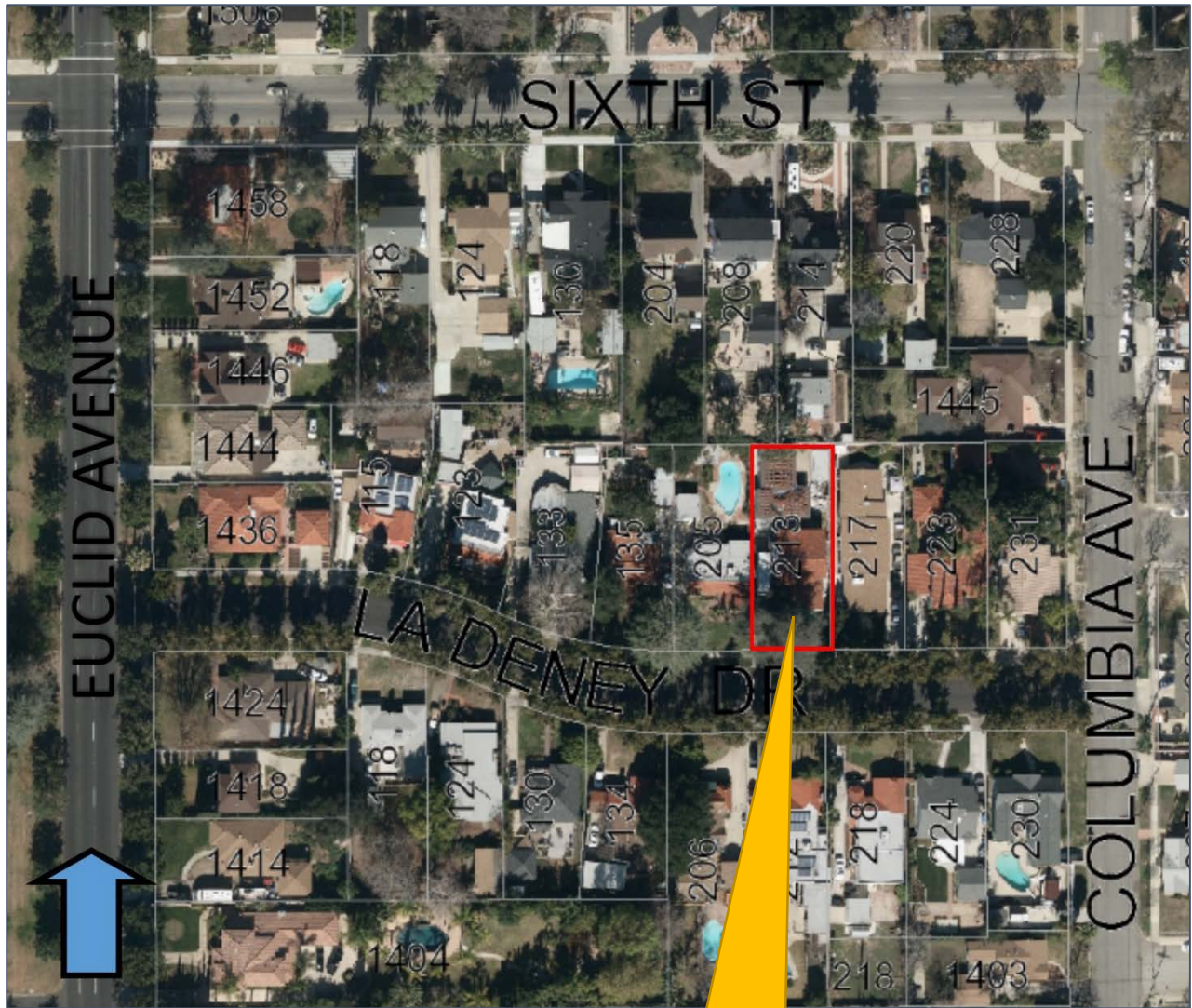
APPROVED AND ADOPTED this 5th day of December 2016.

---

Scott Murphy  
Zoning Administrator



**Exhibit A: Aerial Photograph**

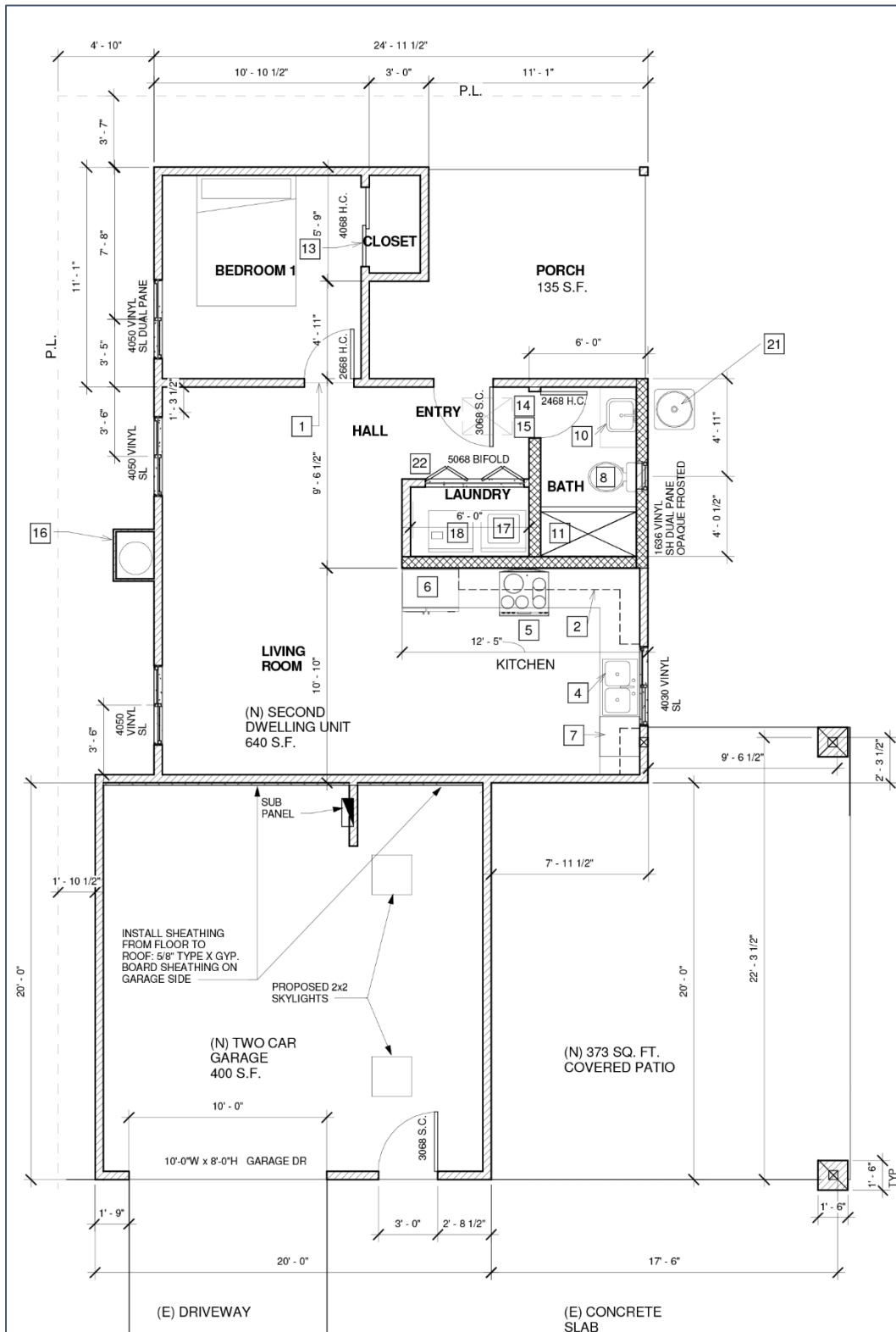


213 E. La Deney Drive





**Exhibit C: Floor Plan**



***Exhibit D: Site Photos***



*Above: South View*

*Below: West View*







*Above: East View*



*Side: North View*



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

*Planning Department  
Land Development Section  
Conditions of Approval*

---

**Meeting Date:** December 5, 2016

**File No:** PVAR16-006

**Related Files:** None

**Project Description:** A Variance request to deviate from the minimum required side yard setback, from 10 feet to 1'10" and 4'10", to accommodate the construction of a 1,548 square foot detached accessory structure, which includes a 400 square foot 2-car garage, a 640 square foot second dwelling unit, and 2 patio covers (covering a total of 508 square foot), located at 213 East La Deney Drive, within the LDR-5 (Low Density Residential 2.1 to 5.0 DUs/Acre).

**Prepared By:** Diane Ayala, Senior Planner  
Phone: 909.395.2428 (direct)  
Email: dayala@ontarioca.gov

---

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

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

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

**2.1** Time Limits.

**(a)** Variance 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.

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

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

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

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

**2.3** Landscaping.

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

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

**2.5** Parking, Circulation and Access.

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

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

**2.6** Mechanical and Rooftop Equipment.

**(a)** All exterior roof-mounted mechanical, heating and air conditioning equipment, and all appurtenances thereto, shall be completely screened from public view by parapet walls or roof screens that are architecturally treated so as to be consistent with the building architecture.

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

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

**2.8** Environmental Review.

**(a)** The proposed project is categorically exempt from the requirements of the California Environmental Quality Act of 1970 (CEQA), as amended, and the Guidelines promulgated thereunder, pursuant to Section 15303 (New Construction or Conversion of Small Structures) and Section 15305 (Minor Alterations in Land Use Limitations) of the CEQA Guidelines.

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

**2.10** Additional Fees.



**(a)** Within 5 days following final application approval, the Notice of Determination (NOD) filing fee shall be provided to the Planning Department. The fee shall be paid by check, made payable to the "Clerk of the Board of Supervisors", which shall be forwarded to the San Bernardino County Clerk of the Board of Supervisors, along with all applicable environmental forms/notices, pursuant to the requirements of the California Environmental Quality Act (CEQA). Failure to provide said fee within the time specified 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.

#### **2.11** Additional Requirements.

**(a)** Existing garage bay opening shall have a minimum width of 16 feet. Garage door shall be in a period appropriate and architecturally compatible design.

**(b)** All windows, including profile, trim, material, and design, on the new construction shall match the existing on the single family residence. To this end, new windows shall be wood framed, multi-pane casement with true divided lights.

**(c)** All exterior doors and light fixtures shall compliment the Monterey Revival style of architecture.

**(d)** An interior clear space dimension of 20'x20' shall be maintained to meet the current parking requirement.

**(e)** Prior to issuance of building permits, a covenant agreement shall be recorded with the County of San Bernardino allowing for a building maintenance easement on the contiguous lot located west of the project site.