

ORDINANCE NO. 3037

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA15-002, A REQUEST TO AMEND SECTION 9-1.3176 (SECTION 4.02.010 OF THE DEVELOPMENT CODE UPDATE), BILLBOARD RELOCATION AGREEMENTS, TO INCLUDE AN "INTERAGENCY RELOCATION EXCEPTION" TO RELOCATE BILLBOARDS TO THE CITY OF ONTARIO, PROVIDED THE BILLBOARDS MEET CERTAIN LOCATIONAL CRITERIA AND FINDINGS AND INCLUDE THE ELIMINATION OF OTHER BILLBOARDS WITHIN THE CITY.

WHEREAS, THE CITY OF ONTARIO ("Applicant") has initiated an Application for the approval of a revision to Development Code, File No. PDCA15-002, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, in 2003, the City recognized the benefit of allowing billboard relocations as a method of achieving an overall reduction in the number of billboards within the City; and

WHEREAS, public agencies occasionally encounter the need to remove a billboard in order to complete necessary public infrastructure; and

WHEREAS, the removal of billboards in order to install necessary infrastructure improvements can be very costly when considering the anticipated future revenue of a billboard; and

WHEREAS, the City understands the public benefit in reducing the costs of public infrastructure; and

WHEREAS, the City recognizes an opportunity to reduce public infrastructure costs while, at the same time, reducing the overall number of billboards located within the City; and

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

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

WHEREAS, the Application is exempt from the requirements of CEQA pursuant to Section 15601(b)(3) (General Rule) based on the fact that it is not known whether an interagency billboard relocation agreement will be proposed, where the location of any new relocation might occur, and the total number and locations of billboards proposed for removal as part of such an agreement might be.; and

WHEREAS, on November 24, 2015, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date. After considering all public testimony, the Planning Commission adopted their Resolution No. PC15-066, unanimously recommending approval of the project; and

WHEREAS, on December 15, 2015, the City Council of the City of Ontario conducted a public hearing and concluded said hearing on that date; and

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

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

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

- a. The Project is exempt from environmental review pursuant to Section 15601(b)(3) (General Rule) of the CEQA Guidelines; and
- b. The application of the categorical exemption is not barred by one of the exceptions set forth in CEQA Guidelines Section 15300.2; and
- c. The determination of CEQA exemption reflects the independent judgment of the City Council.

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

- a. The proposed Development Code Amendment is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan; and
- b. The proposed Development Code Amendment is consistent with the goals and policies of the Development Code
- c. The proposed Development Code Amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.

SECTION 3. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the City Council hereby approves the amendment to Development Code adding Section 9-1.3176(F)(3)(f) (Section 4.02.010(D)(2)(f) of the Development Code Update) to read as follows:

(f) Interagency Relocation Exception. Notwithstanding the foregoing, a billboard may be relocated from outside the City to any location within the City pursuant to an agreement, approved at the discretion of the City Council, between the City and another public agency so long as the following findings can be met:

(1) A minimum of six (6) existing, legal nonconforming billboards shall be removed, at least five (5) of which must be currently located within the City.

(2) The billboard's relocation is necessitated by work being performed on the same freeway as the planned new site for the billboard.

(3) The public health, safety, and welfare are not impaired by the relocation.

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

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

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

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

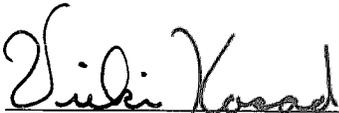
SECTION 8. Effective Date. This Ordinance shall become effective 30 days following its adoption.

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

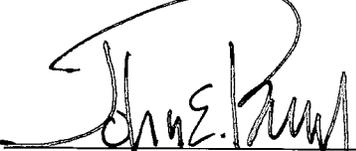
PASSED, APPROVED, AND ADOPTED this 19<sup>th</sup> day of January 2016.

  
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PAUL S. LEON, MAYOR

ATTEST:

  
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VICKI KASAD, MMC, ASSISTANT CITY CLERK

APPROVED AS TO FORM:

  
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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

