

ORDINANCE NO. 3055

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA16-003, A DEVELOPMENT CODE AMENDMENT PROPOSING VARIOUS CLARIFICATIONS TO THE ONTARIO DEVELOPMENT CODE: [1] AMEND TABLE 5.02-1 (LAND USE MATRIX) TO PROHIBIT "USED CAR SALES" WITHIN THE CC (COMMUNITY COMMERCIAL) ZONE AND ICC (INTERIM COMMUNITY COMMERCIAL) OVERLAY DISTRICT, ALLOW "FITNESS AND RECREATION SPORT CENTERS", 10,000 SQUARE FEET OR MORE IN AREA, AS A CONDITIONALLY PERMITTED LAND USE WITHIN THE CN (NEIGHBORHOOD COMMERCIAL) ZONE, AND ALLOW "WIRELESS TELECOMMUNICATIONS FACILITIES" AS A CONDITIONALLY PERMITTED LAND USE IN THE AG (AGRICULTURE) OVERLAY DISTRICT; [2] AMEND SECTION 5.03.150 (DRIVE-THRU FACILITIES) TO PROHIBIT DRIVE-THRU FACILITIES WITHIN THE MU-1 (DOWNTOWN MIXED-USE) ZONING DISTRICT; [3] AMEND SECTION 5.03.420 (WIRELESS TELECOMMUNICATIONS FACILITIES) TO ALLOW A MAXIMUM HEIGHT OF 75 FEET FOR COLLOCATED ANTENNAS WITHIN THE IL (LIGHT INDUSTRIAL), IG (GENERAL INDUSTRIAL), AND IH (HEAVY INDUSTRIAL) ZONES; [4] AMEND TABLE 2.02-1 (REVIEW MATRIX) TO CLARIFY THAT PUBLIC NOTIFICATION IS NOT REQUIRED FOR A DEVELOPMENT ADVISORY BOARD RECOMMENDATION TO THE PLANNING COMMISSION; [5] AMEND SECTION 8.01.020 (SIGN STANDARDS) TO CLARIFY THAT FREESTANDING SIGNS CANNOT ENCROACH WITHIN THE PUBLIC RIGHT-OF-WAY, AND MUST BE WHOLLY LOCATED BEHIND THE RIGHT-OF-WAY LINE; [6] AMEND SECTION 8.1.025 (DESIGN GUIDELINES) TO CLARIFY THAT MONUMENT SIGNS SHOULD BE PROVIDED WITH A 12- TO 18-INCH HIGH BASE; [7] REVISE SECTION 9.01.010 (TERMS AND PHRASES) TO CLARIFY THE DEFINITION FOR "DENSITY," INCLUDING RULES FOR ROUNDING DENSITY CALCULATIONS; AND [8] AMEND MUNICIPAL CODE SECTION 5-29.04 (EXTERIOR NOISE STANDARDS) TO CORRECT THE ALLOWED EQUIVALENT NOISE LEVEL FOR NOISE ZONE IV (RESIDENTIAL PORTION OF MIXED USE) TO BE CONSISTENT WITH NOISE ZONE II (MULTI-FAMILY RESIDENTIAL AND MOBILE HOME PARKS), AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, The City of Ontario ("Applicant") has initiated an Application for the approval of a Development Code Amendment, File No. PDCA16-003, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Development Code (Ontario Municipal Code Title 9) provides the legislative framework for the implementation of The Ontario Plan, which states long-term principles, goals, and policies for guiding the growth and development of the City in a manner that achieves Ontario's vision and promotes and protects the public health, safety, comfort, convenience, prosperity, and welfare of its citizens; and

WHEREAS, on December 1, 2015, the City Council approved a comprehensive update to the Ontario Development Code (Ordinance No. 3028), which became effective on January 1, 2016. City staff has initiated several minor alterations to the Development Code to adjust and further clarify the previously adopted comprehensive update; and

WHEREAS, pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, the Application was reviewed for consistency with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan and was found to be consistent with the Housing Element, as the project does not affect the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix; and

WHEREAS, the project site is located within the Airport Influence Area of Ontario International Airport (ONT), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and has been found to be consistent with the policies and criteria set forth within 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, the Application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"); and

WHEREAS, the environmental impacts of this project were previously reviewed in conjunction with an Addendum to the Ontario Plan Environmental Impact Report (SCH# 2008101140) previously prepared for File No. PDCA11-003, which was adopted by the Ontario City Council (Resolution No. 2015-095) on September 1, 2015. The Addendum found that subject application will not introduce any new significant environmental impacts. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. All previously adopted mitigation measures are a condition of project approval and are incorporated by this reference; and

WHEREAS, the City's "Local Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed; and

WHEREAS, on May 24, 2016, the Planning Commission of the City of Ontario conducted a public hearing to consider the Application, and concluded the hearing on that date. Upon conclusion of the public hearing, the Planning Commission voted 6-0 to approve Resolution No. PC16-024, recommending that the City Council approve the Application; and

WHEREAS, on July 5, 2016, the City Council of the City of Ontario conducted a public hearing to consider the Application and concluded said hearing on that date. Upon conclusion of the public hearing, the City Council approved the introduction (first reading) of this Ordinance and waived further reading of the Ordinance; and

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

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

SECTION 1. *Development Code Chapter 2.0 (Administration and Procedures).* Amend Chapter 2.0 of the City of Ontario Development Code (Ordinance No. 3028), modifying Note 2 of Table 2.03-1 (Notification Matrix), to read as follows:

“Notification shall not be required for Development Advisory Board or Historic Preservation Subcommittee hearings when acting in the capacity of an Advisory Authority.”

SECTION 2. *Development Code Chapter 5.0 (Zoning and Land Use).* Amend Chapter 5.0 of the City of Ontario Development Code (Ordinance No. 3028), as follows:

a. Amend Table 5.02-1 (Land Use Matrix) of Development Code Division 5.02 (Land Use), as follows:

1. Identify “Used Car Sales” (NAICS441120) as a prohibited land use within the CC (Community Commercial) zoning district and ICC (Interim Community Commercial) Overlay district;

2. Identify “Fitness and Recreation Sport Centers” (NAICS71394), 10,000 square feet or more in area, as a conditionally permitted land use within the CN (Neighborhood Commercial) zoning district; and

3. Identify “Wireless Telecommunications Facilities” as a conditionally permitted land use in the AG (Agriculture) Overlay district.

b. Amend Development Code Division 5.03 (Standards for Certain Land Uses, Activities, and Facilities), as follows:

1. Amend Section 5.03.150 (Drive-Thru Facilities), Subsection A (Location Standards), to read as follows:

“A. Location Standards.

1. The establishment of drive-thru businesses within the MU-1 (Downtown Mixed-Use) zoning district shall be prohibited.

2. Drive-thru businesses shall not disrupt the pedestrian activity of adjacent or nearby commercial uses or commercially zoned property.

3. Drive-thru businesses shall not interfere with the normal use of adjoining properties or potential for planned commercial development.”

2. Amend Section 5.03.420 (Wireless Telecommunications Facilities), Paragraph E.6, to allow a maximum height of 75 feet for collocated antennas within the IL (Light Industrial), IG (General Industrial), and IH (Heavy Industrial) zoning districts;

SECTION 3. *Development Code Chapter 8.0 (Sign Regulations).* Amend Chapter 8.0 of the City of Ontario Development Code (Ordinance No. 3028), as follows:

a. Amend Section 8.01.020 (Sign Standards), Subsection C (Freestanding Signs), modifying Subparagraph 1.f to read as follows:

“No monument sign shall be located within a public right-of-way, and must be wholly located behind the right-of-way line (street property line) for its full height. Furthermore, such signs shall be located a minimum of 10 FT behind the adjacent curb face (public and private streets).”

b. Amend Section 8.01.025 (Design Guidelines), Subsection D (Freestanding Signs), adding Paragraph 6, to read as follows:

“Monument signs should be provided with a base, which measures from 12 to 18 inches in height, to accommodate the growth of landscaping around the sign base, without interrupting view of the sign face.”

SECTION 4. *Development Code Chapter 9.0 (Definitions and Glossary).* Amend Chapter 9.0 of the City of Ontario Development Code (Ordinance No. 3028), modifying Section 9.01.010 (Terms and Phrases), Subsection D (Definitions of Words Beginning with the Letter “D.”), adding the following in correct alphabetical order:

“Density (Residential Density). A quantitative measure of the intensity with which residentially zoned land may be developed in terms of the minimum and maximum number of allowed dwelling units for each net acre of land. In calculating the allowed minimum residential density of a lot, if a fractional number results from calculations performed, the number shall be rounded up, to the higher whole number. In calculating the allowed maximum residential density of a lot, if a fractional number results from calculations performed, the number shall be rounded down, to the lower whole number.”

SECTION 5. Amend Municipal Code Section 5-29.04 (Exterior Noise Standards), Subsection (a), revising the Allowed Equivalent Noise Level for Noise Zone IV (Residential Portion of Mixed Use) to read the same as Noise Zone II (Multi-Family Residential and Mobile Home Parks (65 dBA for 7:00AM to 10:00PM, and 50 dBA for 10:00PM to 7:00AM)).

SECTION 6. *Environmental Determination and Findings.* As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the previously adopted Addendum to The Ontario Plan Environmental Impact Report (SCH# 2008101140), previously prepared for File No. PDCA11-003, which was adopted by the Ontario City Council (Resolution No. 2015-095) on September 1, 2015, and supporting documentation. Based upon the facts and information contained in the he previous Addendum to The Ontario Plan Environmental Impact Report, and supporting documentation, the City Council finds as follows:

- a. The previous Addendum contains a complete and accurate reporting of the environmental impacts associated with the Application; and
- b. The previous Addendum was completed in compliance with CEQA and the Guidelines promulgated thereunder; and.
- c. The previous Addendum reflects the independent judgement of the City Council; and
- d. All previously adopted mitigation measures, which are applicable to the Application, are a condition of Project approval, and are incorporated herein by this reference.

SECTION 7. *Housing Element Consistency.* Based upon the facts and information contained in the Application and supporting documentation, the City Council finds that, at the time of Project implementation, the Project will be consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan.

SECTION 8. *Airport Land Use Compatibility Plan (ALUCP) Consistency.* Based upon the facts and information contained in the Application and supporting documentation, the City Council finds that, at the time of Project implementation, the Project will be consistent with the policies and criteria set forth within the ONT ALUCP.

SECTION 9. *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 Section 1 through 9 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 would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.

SECTION 10. *City Council Action.* Based upon the findings and conclusions set forth in Sections 1 through 9 above, the City Council hereby APPROVES the subject Development Code Amendment, File No. PDCA16-003.

SECTION 11. *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 12. *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 13. *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 14. *Effective Date.* This Ordinance shall become effective 30 days following its adoption.

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

PASSED, APPROVED, AND ADOPTED this 19th day of July 2016.



PAUL S. LEON, MAYOR

ATTEST:



SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

A handwritten signature in black ink, appearing to read "John Smith", is written over a horizontal line. The signature is cursive and somewhat stylized.

BEST BEST & KRIEGER LLP
CITY ATTORNEY

