

ORDINANCE NO. 3030

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PZC15-001, A REQUEST TO CHANGE THE ZONING ON 3 PARCELS, TOTALING 1.4 ACRES, FROM R1 (SINGLE FAMILY RESIDENTIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL) AND TO CHANGE THE ZONING ON 11 PARCELS, TOTALING 3.25 ACRES, FROM R2 (MEDIUM DENSITY RESIDENTIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL), LOCATED ON FOURTH STREET BETWEEN BAKER AND CORONA AVENUES FROM 1673 TO 1733 E. FOURTH STREET, AND MAKING FINDINGS IN SUPPORT THEREOF – APNS: 0108-551-01, 0108-551-06 THRU 09; 0108-551-34 THRU 35, AND 0108-551-44 THRU 50.

WHEREAS, Dayu Capital, Inc. ("Applicant") has filed an application for the approval of a zone change, File No. PZC15-001, as described in the title of this Ordinance; and

WHEREAS, the Applicant's application requested a Zone Change for 3 parcels from R1 (Single Family Residential) to HDR-45 (High Density Residential) in order to be consistent with their TOP designation of High Density Residential; and

WHEREAS, the City of Ontario has expanded the application to include 11 additional parcels to the west of the Applicant's parcels that are also in need of a zone change from R2 (Medium Density Residential ) to HDR-45 (High Density Residential) in order to be consistent with their TOP designation of High Density Residential; and

WHEREAS, the combination of the Applicant's application and the additional parcels added by the City of Ontario as shown in Exhibit A are hereinafter referred to as "Application" or "Project"; and

WHEREAS, the Application applies to 14 parcels totaling approximately 4.65 acres of land located on the north side of Fourth Street between Baker and Corona Avenues from 1673 to 1733 E. Fourth Street that are currently developed with a church and single family residences; and

WHEREAS, the zoning of the properties is inconsistent with The Ontario Plan ("TOP") land use designation of the properties and the proposed zone changes will make the zoning consistent with TOP land use designation of the properties as shown in Exhibit A; and

WHEREAS, the City of Ontario held a community open house on July 8, 2015, to gain input from impacted property owners and property owners within a 300 foot radius; 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 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, on August 25, 2015, the Planning Commission of the City of Ontario conducted a duly noticed public hearing and approved Resolution No. PC15-051 recommending City Council approve the application; and

WHEREAS, as the first action on the Project, on October 6, 2015, the City Council approved a resolution adopting an Addendum to a previously approved Environmental Impact Report ("EIR"), prepared pursuant to CEQA, the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines; and

WHEREAS, on October 6, 2015, the City Council of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

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

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

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

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

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

d. All environmental impacts of the Project are either insignificant or can be mitigated to a level of insignificance pursuant to the mitigation measures outlined in the Addendum.

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 zone change is consistent with the goals and policies of the general plan.

b. The proposed zone change is reasonable and beneficial, and in the interest of good zoning practice.

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

d. The proposed zone change will not adversely affect the harmonious relationship with adjacent parcels and land uses.

e. The proposed zone change will not have a significant adverse impact on the environment.

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

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 jurisdiction, 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.

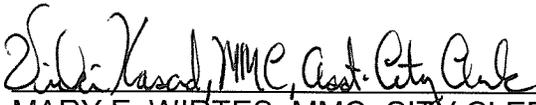
SECTION 8. Effective Date. This Ordinance shall become effective 30 days following its adoption.

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 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.

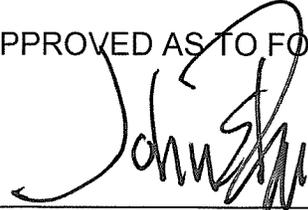
PASSED, APPROVED, AND ADOPTED this 20<sup>th</sup> day of October 2015.

  
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PAUL S. LEON, MAYOR

ATTEST:

  
for MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
BEST BEST & KRIEGER LLP  
CITY ATTORNEY

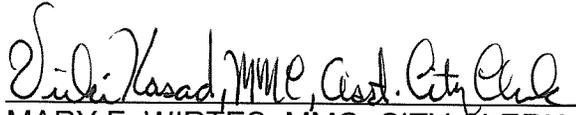
STATE OF CALIFORNIA )  
COUNTY OF SAN BERNARDINO )  
CITY OF ONTARIO )

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 3030 was duly introduced at a regular meeting of the City Council of the City of Ontario held (insert full date written out), and adopted at the regular meeting held October 20, 2015 by the following roll call vote, to wit:

AYES: MAYOR/COUNCIL MEMBERS: LEON, DORST-PORADA, WAPNER,  
BOWMAN AND AVILA

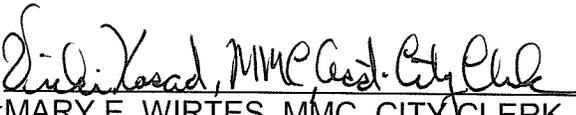
NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

  
for MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. 3030 duly passed and adopted by the Ontario City Council at their regular meeting held October 20, 2015 and that Summaries of the Ordinance were published on October 13, 2015 and October 27, 2015, in the Inland Valley Daily Bulletin newspaper.

  
for MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

**Exhibit A**  
**(Proposed Zone Changes)**

<b>F25 EXISTING ZONING</b>	<b>PARCELS</b>	<b>PROPOSED ZONING</b>
	<p>0108-551-01 0108-551-34 and 0108-551-35</p> <p>(3 Properties)</p>	
<p><b>R1, Single Family Residential</b></p>	<p><b>TOP: High Density Residential</b></p>	<p><b>HDR-45, High Density Residential</b></p>

<b>F26 EXISTING ZONING</b>	<b>PARCELS</b>	<b>PROPOSED ZONING</b>
	<p>0108-551-06 thru 0108-551-09 0108-551-44 thru 0108-551-50</p> <p>(11 Properties)</p>	
<p><b>R2, Medium Density Residential</b></p>	<p><b>TOP: High Density Residential</b></p>	<p><b>HDR-45, High Density Residential</b></p>

**Legend:**

- R1, Single Family Residential
- R2, Medium Density Residential
- C3, Commercial Service
- PF, Public Facilities
- HDR-45, High Density Residential