



CITY OF POMONA COUNCIL REPORT

April 24, 2017

To: Honorable Mayor and Members of the City Council

From: Linda Lowry, City Manager

Prepared By: Andrew L. Jared, Assistant City Attorney
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Subject: **Joint Study Session of Pomona City Council and the Los Angeles County Fair Association- Discussion of F-Zone Land Uses**

OVERVIEW

Recommendation – That the City Council conduct a study session with the Los Angeles County Fair Association about the historical and current regulations in the F-zone land use section of the Pomona Zoning Ordinance. At the end of the session it is recommended that the Council provide staff with direction on how to proceed with follow-up processing and/or action in relation to the F-zone land use regulations.

Fiscal Impact – None with this action. Further work by staff will produce costs that depend on the amount of outreach, number of meetings, and series of draft code amendments conducted, and therefore cannot be estimated at this time.

Public Noticing Requirements – None.

Previous Related Action – On December 7, 1970, the City Council approved Ord. No. 2450 which added a zoning district known as the “F” Fairgrounds Zone. (Attachment 1). On October 2, 2004, the City Council approved Ord. No. 4012 amending Pomona Zoning Ordinance sections .435-.438 relating to the “F” (Fair) Zone. (Attachment 2).

On September 14, 2015 and October 17, 2016, reports regarding existing land uses allowed in the F-zone was provided to the City Council for discussion of the uses allowed in that zone. Council subsequently directed staff to bring back a discussion item pertaining to the F-zone at a future meeting.

EXECUTIVE SUMMARY

At a recent meeting, the City Council directed staff to schedule a study session to include members of the Los Angeles County Fairplex Association Board of Directors (Board) to discuss the F-zone land use regulations. Over the past few years, mostly in response to “Raves” and “Electronic Dance Music” festivals (EDM) that were held at the Fairplex, the City Council and staff have received numerous public comments regarding placing restrictions on the type of events that can be held at the Fairplex and the manner in which large events must be conducted.

Following a presentation by staff from the City and from Fairplex, staff is looking for direction on what changes, if any, the City Council would like to see to the land use regulations.

Staff is recommending that:

1. the City Council form a Council F Zone ad hoc committee of three council members to conduct meetings over the next several months with the Fairplex regarding issues with Fairplex uses and the surrounding community, and
2. the Council F Zone ad hoc committee members attend meetings facilitated by the Fairplex as regularly as possible as it continues its current strategic planning process, and
3. the Council ad hoc F Zone committee bring recommendations to the entire City Council with recommendations for the F-zone.

DISCUSSION

Fairplex History

In 1922, the Los Angeles County Fair was first held at the fairgrounds in Pomona, later known as the Fairplex. Since 1924, the Fair has been held every September, with the exception of 1942-47. Since 1951, drag racing has been held by the National Hot Rod Association (NHRA) at what was known as “the Pomona Raceway” at the western-most portion of the Fairplex.

In 1980, the Child Development Center was established. In 1984, Expo Hall 4 was renovated to encourage year-round use as a show and exposition complex, and the fairgrounds were renamed as the “Fairplex.” In 1986, the racetrack grandstand and clubhouse were expanded. In 1988, the Fair Association entered into a 56-year Ground Lease with the County of Los Angeles (Attachment 3). Exhibit C to the Ground Lease (final page of Attachment 3) indicated eleven Fair Association Projects to be accomplished. In 1989, a \$27 million revenue bond was issued by the Pomona Redevelopment Agency (Series B) to fund major development at the Fairplex. In 1992, the Sheraton hotel was constructed and opened. As indicated on the LACF.org website, in the 2000’s, there were new businesses, improved facilities, and a focus on growing year-round programming.

History of Land Use Regulations

In general the City of Pomona has broad powers when it comes to regulating the time, place, and

manner in which land uses are conducted. That means that the City can regulate where in the City certain uses are allowed, what hours per day they can be conducted, how much noise they are allowed to make, what the size and design of buildings can be and where they must be located on a site, and other regulations that determine how uses relate to other uses in the City. Due to First Amendment rights, the City cannot regulate the “content” of the uses conducted: the City cannot identify which types of music or events that are allowed or not allowed.

In 1970, the City Council passed Ordinance Number 2450 to address the uses permitted at the fairgrounds. As stated in the ordinance, the intent and purpose of the zoning district was:

“The Fairgrounds Zoning District is intended to provide for the use of the public Fairgrounds in a manner so as to not create smoke, gas, odor, dust, sound, vibration, soot or other lighting or other nuisance in any degree which might be termed obnoxious or offensive to persons residing in or conducting business in either this or any other zoning district of the City.”

The ordinance listed 13 use types that were allowed without any other permits. All of the use types were Fair uses and those closely related to Fair uses. For example, exhibitions and craft shows, livestock events, religions and community events, commercial warehousing, parking and the outdoor public address system between the hours of 9:00 AM and 9:00 PM.

The 1970 ordinance added a requirement that all uses other than those listed in the allowed uses would be required to obtain a Conditional Use Permit (CUP) in order to be approved. As proof at the time that the Fairplex was primarily used for the annual Fair, any CUP approved would have to have a finding made that, “the use shall not add to the existing non-fair activities to a point that non-fair activities become the principal use of the Fairgrounds.”

In 2004, the Council passed Ordinance 4012, which expanded the permitted fair related uses, fair related structures that could be constructed, and the uses requiring a conditional use permit. The ordinance modified the intent of the district to allow for uses to turn the Fairplex into a year-round event center. Specifically, the new intent section stated:

“The fairgrounds zoning district is intended to provide for the use of the public fairgrounds in a manner so as to not create smoke, gas, odor, dust, sound, vibration, soot or lighting or other nuisance in any degree which might be termed obnoxious or offensive to persons residing in or near the Fairplex and is intended to allow a range of public entertainment, exhibition, commercial, conference, equine, and other uses on a year-round basis as previously permitted by Ordinance No. 2450...”

The changes to the ordinance that were made in 2004 are codified in the Pomona Zoning Ordinance (PZO) as sections .435-.438 (Attachment 2). They are the current land use regulations that govern the Fairplex today.

Repeal of the F Zone Ordinance

At recent Council meetings, members of the public and the City Council have requested that the F zone be “repealed” or “revoked”.¹ Staff has interpreted this to mean to establish land use regulations to take the F-zone from an area that allows year-round events with concerts and activities to a district that is more related to just the annual Fair event. The City Council could “repeal” Ordinance No. 4012 and reinstate the provisions under the former Ordinance No. 2450. That action would require that any future additions or changes to uses or buildings at the Fairplex that were not part of the original list of allowed uses would require a CUP being issued by the City. That requirement would apply to any new changes or additions. However, because of the fact that many of the Fairplex activities and buildings were granted permits and permission and were allowed at the time of approval, those uses could likely continue on as a legal non-conforming uses.

For example, the new trade and conference center would have required a CUP under the 1970 zoning. Because the building and the uses that are contained in the building were approved under the 2004 ordinance, repealing that ordinance would not require -- for example-- that the trade and conference center be demolished or not used anymore .²

Public Comments Regarding the Fairplex

Over the past three years, the City has received many comments in opposition to and in favor of the Fairplex. Many of the concerns were voiced after the two-day concert events that were held August 1-2, 2015, though similar noise and traffic concerns have been raised in the past. Included in a list as Attachment 4 is a summary of many of the concerns and opinions about the Fairplex that have been voiced at various City Council meetings and other public meetings.

As discussed earlier, the City has the ability through land use regulations to regulate the time, place, and manner of how business is conducted in the City. Of the concerns voiced by the public, changes to the land use regulations could focus on noise, hours of operation, parking, and traffic issues. The following concerns could be addressed through land use regulations:

- Traffic congestion for closest neighbors. They sometimes can’t even leave their own homes.
- Noise nuisance coming from Fairplex.
- City needs more oversight of all events at Fairplex
- City needs more involvement in the planning process with public input including consideration of traffic impacts, parking needs, screening of visual problems,

1 Revoke and repeal are addressed together here. Technically, removing the current F-zone ordinance (Ord. 4012) would be a repeal of that ordinance and amending the code to revert back to the 1970 ordinance. Revocation involves taking away an existing right, such as a conditional use permit (CUP), and requires due process to cause such activities to no longer be conducted at a location.

2 Used as an example only: there has been no public comment or staff recommendation about requiring the trade and conference center to obtain a CUP, cease use, or be removed. It is being used merely as an example.

environmental impacts, and City licensing of alcohol and marijuana establishments³

- City needs to have more control over things that go on in the F-Zone.
- City should have the power to approve or deny events held at Fairplex.
- F-Zone needs regulations for marijuana sales, street rehabilitation, provisions for emergency lanes and a plan to keep traffic off of neighborhood streets.
- City Council should look at the zoning that was in place prior to 2004 and see that the Fairplex would not be put out of business. Once the 2004 F-Zone is suspended, the City should be encouraged to look at the changes that need to be updated to make it a 2017 F-Zone.

Other land use factors that should be considered include the facts that the current zoning would allow buildings of up to 30,000 square feet to be built on both sides of White Avenue without any public process with the Planning Commission or City Council and that the Fairplex has the ability to add ABC licenses at facilities -- such as the Finish Line-- without a public hearing or CUP process. In all other zones in the City, establishments selling or serving alcohol requires a Conditional Use Permit.

Also, the recent adoption of the Airport Land Use Compatibility Plan (ALUCP) for Brackett Field restricts uses areas of the F-Zone properties and requires that applications of new development projects be processed through the LA County Planning Department for a review of consistency with the Plan. These issues have been voiced at public meetings in the past.

Electronic Dance Music Concerts

In the summer of 2015, there were several calls and comments regarding the uses at the Fairplex, most notably regarding the effects of the Hard Summer concert, August 1-2, 2015. The Hard Summer event was a two-day Electronic Dance Music (EDM) concert. The event was conducted from 11 AM. to 11 PM. on Saturday August 1, and from 11 AM to 10 PM on Sunday August 2. In order for the event to have amplified music over a public address system beyond 10 PM, Fairplex was required to get a CUP to hold the outdoor concert after 10 PM. Fairplex was also required to get a variance from the Chief of Police pursuant to PCC section 18-306 to allow amplified music from the Fairplex up to a measured sound level of 75dB(A). The CUP included continuous live monitoring of sound levels at numerous points on and off the property, and the ability of the audio monitoring consultant to instruct concert operators to lower the volume at specific concert stages.

During the Hard Summer event, there were no violations of the City's sound ordinance, and only 6 complaints relating to noise.

However, there were significant crowd control, parking, traffic, and public safety issues encountered. Traffic issues – specifically pedestrian traffic—was a significant unmitigated issue

³ Medical marijuana facilities are already an expressly prohibited use. (PZO sec. 437.5(a)). Bars and drinking facilities are allowed by right. (PZO sec. 436.2(c.)).

that was encountered at that event due to a very high number of attendees being dropped-off, using Uber/Lyft services, or parking at great distances to avoid paying for parking. Subsequent EDM events at Fairplex included parking in the price of admission as a way to address pedestrian traffic. Improvements to the sound equipment and other logistical improvements were implemented during the subsequent events that successfully mitigated the traffic, noise and pedestrian impacts, though those events were not as large. Also, it should be noted that as a result of public input, the Fairplex Board has imposed on itself a moratorium on future rave-type music festivals.⁴

From a public safety perspective, the following table outlines the various statistics compiled by the Pomona Police Department and the Los Angeles County Fire Department*:

	Saturday, Aug. 1	Sunday, Aug. 2
PD STATISTICS		
- Attendance	64,943	56,749
- Vehicles (Parking lot counts)	14,940	13,700
- Noise Violations	0	0
- Noise Complaints	6 (0 from Pomona)	2 (1 from Pomona)
- Arrests	42 (not broken down by day)	
- Citations (ABC Related)	185 (not broken down by day)	
Drugs Recovered		
- Cocaine	53.99 g	97.13 g
- Meth and Ecstasy/Molly/MDMA	317.50 g	197.57 g
- Hallucinogenic mushrooms	27.17 g	34.02 g
- Marijuana	563.64 g	720.57 g
FD STATISTICS		
- Fatalities (died in hospital)	2	0
- Critical airlift to Trauma Center	1	0
- Critical ground transport to Trauma Center	0	1
- Critical, Advanced Life Support	22	19
- Persons requiring treatment	750+	540+

*Data from the Los Angeles County Fire Department made available for the September 2015 City Council report. Data is for “inside Fairplex” incidents only; additional information for “outside Fairplex” data was requested but not provided.

Los Angeles County Board of Supervisors Ordinance

⁴ As discussed further on the following page, because the property is leased by the Los Angeles County Fair Association from the County of Los Angeles, the Los Angeles County Board of Supervisors has imposed significant requirements on any public assembly events.

In response to deaths at various EDM festivals in Los Angeles County, on March 22, 2016, the County of Los Angeles Board of Supervisors adopted an ordinance that created a process for review of health and safety issues for “mass gathering events” on County owned property (Attachment 3). A “mass gathering event” is any non-seated event of 10,000 persons or more. The Fair and events in amphitheaters with permanent seating (with a majority of participants sitting in such seating) are excluded from review.

The process is a review of potential health and safety issues by the “assessment team” which is comprised of representatives from the City Council, police, fire, emergency medical services, and public health departments, and other departments as the need arises for a particular event. The assessment team then reviews the potential threat assessment to determine the threat of a probability of a loss of life or harm to participants at that event. A promoter of the event must make application at least 120 days prior to the event. If the assessment team determines that there is a strong possibility that loss of life or harm to participants may occur, then the assessment team will recommend that the event not be held until the assessment team approves a final action plan.

The new County ordinance is focused on health and safety issues associated with large festival gatherings on County-owned properties. The City may still need to look at additional regulations to mitigate traffic, noise and other impacts on festivals that are held on County-owned properties, as well as to consider how to invoke similar regulations to gatherings that are proposed for non County-owned properties. For example, if an event were proposed for the parking lot on north side of White Avenue, as that property is privately owned by the Fairplex, the County regulations would not apply. Similarly, elsewhere in the City other promoters could propose events that would not be covered by the County regulations.

A full copy of the ordinance adopted by the LA County Board of Supervisors has been included as Attachment 3.

Fairplex Strategic Planning Process

Over the past number of years, one of the difficulties in creating strong land use regulations that would govern the Fairplex has been the desire on the part of the Fairplex to have flexibility to tailor their business model to the changing trends. For example, between 2007 and 2010, Hollywood Park was closing their horse racing facilities and transitioning out of the racing business. In response, the Fairplex was interested in renovating their barns and expanding the race track to accommodate additional horse racing dates outside of the traditional Fair season. At the time, the Fairplex was insistent that the need to transition quickly was imperative to capturing the additional horse racing dates and that a renewed focus on racing was what was necessary to make the Fairplex financially sustainable. Eventually, the board that governs horse racing in California allocated the racing dates elsewhere in California and the plan was not pursued.

Other plans over the years included Major League Soccer teams, a culinary event center

proposed by Lawry's The Prime Rib, a retail and entertainment commercial development, various housing developments and other major plans. In all of these instances, the Fairplex was adamant about having zoning permissive regulations that would allow the property to accommodate the changing trends quickly.

With the hiring of Miguel Santana, the Fairplex has undertaken a strategic planning process that is designed to work with the community and stakeholders in the region to develop a plan that will help the Fairplex achieve its goals of financial sustainability through strengthening its areas of education, healthy lifestyles, entertainment and diversity. The following statement from the Fairplex states their goal for the strategic planning process:

"In keeping with our mission and core values, the Los Angeles County Fair Association (LACFA) has begun a year-long process to develop a strategic plan. The strategic planning process includes a series of meetings that bring together key constituents of LACFA to create a community partnership agreement that builds off of our Vision 2025 and will help guide the future of Fairplex. The steering committee is comprised of representatives from the offices of the County of Los Angeles Board of Supervisors and CEO; our State Senator and Assemblyman; the city of Pomona mayor, council and city manager; and members of our Board and Association. The committee is led by LACFA President and CEO Miguel Santana."

The culmination of the extended process will be a plan that can be utilized to create a master plan or a specific plan that could provide better and more elaborate land use regulations while allowing Fairplex the flexibility it needs to operate successfully as trends change.

Revenues to the City from the Fairplex Property

The City's General Fund received over \$8M in revenues attributable to the Fairplex properties from FY 2014 – FY 2016.

The table below includes various tax revenues such as sales tax attributable to sales occurring on the Fairplex properties, transient occupancy tax, utility user tax, business license tax, and in-lieu property taxes (possessory interest). The table also includes other revenue sources such as parking fees, pari-mutuel (off-site wagering), miscellaneous permit fees, and commercial business license tax from vendors, concessions, food, and carnival activities on the Fairplex properties. Revenue streams to the City from the Fairplex are directly tied to the success and number of events that are held throughout the year. As the Fairplex has increased their year-round presence, the City's revenue from the property has expanded.

The General Fund also received *reimbursement* for services provided at events located on the Fairplex properties totaling over \$3.2M for the FY 2013/14-15/16 three year period. The reimbursement amount covers overtime cost for the Police Department and an average of \$100K annually in administrative overhead that the General Fund would otherwise have to cover.

Finally, the Successor Agency received approximately \$392K in revenue for possessory interest (a type of property tax on leaseholds) and Barrett's rent.

	FY 2013-14	FY 2014-15	FY 2015-16	3 Year Grand Total
Taxes (Sales, TOT, UUT, BL)	2,020,879	2,227,366	2,258,437	6,506,682
Commercial/Concessions/ Carnival Fees / Other Permit Fees	186,199	167,530	175,844	529,573
Parimutuel	219,586	182,086	168,236	569,907
Parking	140,477	150,484	155,062	446,023
Sub Total General Fund Revenues	2,567,141	2,727,465	2,757,578	8,052,184
Reimbursements	765,273	1,075,659	1,439,702	3,280,634
TOTAL GENERAL FUND	3,332,414	3,803,125	4,197,280	11,332,818
SUCCESSOR AGENCY	244,065	100,848	46,635	391,548

During the study session, staff would like to discuss various options for increasing revenue from the Fairplex to the City's General Fund. Ideas for revenue enhancement could include an admissions tax on ticketed admission events, a parking tax, and/or an increase in the City's Transient Occupancy Tax. Revenues from these types of tax measures could support public safety services and traffic controls around the Fairplex or other event destinations, like downtown Pomona. Any of the proposed tax measures would require being placed on a ballot for approval by the voters.

Joint Study Session Discussion

The purpose of having a joint study session between the City Council and members of the Fair Association Board is to jointly discuss what the goals for the future are at the Fairplex and determine how the City's land use regulations can help meet those goals while protecting the community from nuisance activities. To help guide the discussion, staff has identified a few options can be used to address the current land use regulations in the F-Zone. The options are:

1. Repeal ordinance No. 4012, adopted in 2004, and revert back to the regulations as they were in 1970.
2. Amend the current F-zone by adding regulations that help mitigate impacts on the neighboring community.
3. Another option would be to do nothing at this time and rely on the current zoning

regulations and the new County ordinance to govern events that are staged at the Fairplex.

4. Finally, the two-fold option recommended by staff is to 1) form an ad hoc committee in order to attend the community outreach and other meetings hosted by the LACFA to address issues presented by the future uses at the Fairplex, and to recommend to the City Council any changes to the F-zone to mitigate impacts resulting from new uses, and 2) to negotiate a letter agreement with the Fairplex that will state how the Fairplex will voluntarily operate until new land use regulations can be implemented. This option would allow the Fairplex to complete their strategic planning process and present a request to the City of their desired land use plan. The City could then consider adopting new land use regulations at some point in the future.

During the study session, the City Council can discuss all of the above options as well as any others that are created in consultation with the Los Angeles County Fair Association board members present. In addition, the City Council could decide to create an ad hoc committee of up to three Councilmembers that could meet with staff and representatives of the Fairplex on in an effort to create recommendations for the entire City Council on how to proceed. The ad hoc committee could be charged with discussing any of the above options.

Attachments:

1. Ordinance 2450, F-Zone Ordinance, approved December 7, 1970
2. Ordinance 4012, F-Zone Ordinance, approved October 4, 2004, with staff reports, and Planning Commission reports
3. Los Angeles County Ordinances, Chapter 11.07 - Public Events With Daily Attendance of Over 10,000 Participants (County Ordinance 2006-0015, adopted March 22, 2016)
4. Summary of concerns voiced at various City Council meetings and other public meetings