



CITY OF POMONA COUNCIL REPORT

Date: November 19, 2018

To: Honorable Mayor and Members of the City Council

From: Linda Lowry, City Manager

Submitted by: Mario Suarez, AICP, Development Services Director

Subject: **Public Hearing to Consider Introduction and First Reading of an Ordinance Amending Sections .435 - 437 of the "F" Fairgrounds Zoning District (F-Zone) of the Pomona City Code (Code Amendment CODE 009778-2018).**

OVERVIEW

Recommendation – That the City Council take one of the following courses of action:

- A. Introduce for First Reading an Ordinance approving Code Amendment (Code 9778-2018) pertaining to sections .435-437 of the "F" Fairgrounds Zoning District for properties generally located at 601-1101 W. McKinley Avenue and 2250 Fair Avenue (Fairplex Site) (Attachment 1); or
- B. Provide staff direction to prepare a Development Agreement with Fairplex for the creation of a Specific Plan and Environmental Impact Report for Fairplex Site based on terms outlined in the November 13, 2018 Fairplex Letter (Attachment 2); or
- C. Provide staff with an alternative direction.

Fiscal Impact – If the entitlement requirement under the proposed Code Amendment (Option A) for Conditional Use Permit and Temporary Use Permit is approved, the City would benefit from a minor increase in permit processing fees. There are no other direct impacts associated with the proposed Code Amendment as it relates to current permitted operations at the Fairgrounds. However, if the Development Agreement proposed in Option B is ultimately approved, the City could receive an estimated \$1.5 M of special revenue to mitigate Fairplex environmental impacts as well as one-time General Fund fees to implement a Specific Plan approval process.

Public Noticing Requirements – Notice was published in the Inland Valley Daily Bulletin on Friday, November 9, 2018, and mailed to property owners on Wednesday, November 7, 2018. (Attachment 3). Notice of public hearing is required to be published in a newspaper of local circulation, and sent to property owners within a 400-foot radius of the project site, at least ten days prior to the date of the public hearing (PZO Section .571(D)); Staff extended the noticing radius to 1,000 feet.

Previous Council Action – On November 20, 2017, the City Council requested that the Planning Commission study and report upon the Ad Hoc Committee’s Draft Ordinance. On September 10, 2018, after staff presented an update of the progress made with the Planning Commission, the City Council directed the Planning Commission, pursuant to California Government Code section 65853, to render its report within 40 days, no later than October 21, 2018. At the October 1, 2018, City Council meeting, Council directed staff to prepare the F-Zone report for a public hearing at the November 19, 2018 City Council public hearing.

Previous Related Action - The Planning Commission met four times during regular meetings scheduled between May 9 and September 26, 2018. At the September 26 regular meeting, the Planning Commission voted to approve a Resolution to Deny the Ad Hoc Committee’s recommended Draft Code Amendment. The Resolution passed with a 4-2-0-1 vote. Documents related to the Planning Commission meetings are attached (Attachments 4 and 5)

Environmental Determination – Pursuant to the provisions of the California Environmental Quality Act, CEQA, staff analyzed the Code Amendment for California Environmental Quality Act (CEQA) compliance and determined that there is no possibility that the text amendment request (Option A) may have a significant adverse effect on the environment as it is more restrictive than current code requirements and requires additional environmental review for discretionary approvals. Therefore, the proposed use is exempt under Section 15061(b)(3) of the CEQA Guidelines. Option B includes preparation of a Specific Plan which would require its own CEQA compliance process.

EXECUTIVE SUMMARY

The three proposed alternative recommendations set forth above allow the City Council to proceed with consideration of the Council Ad Hoc Committee’s recommendation to amend the F-Zone (Option A), or proceed with preparation of a development agreement (Option B) along the lines of the Fairplex Letter (Letter) dated November 13, 2018 (Attachment 2), or provide staff with another direction (Option C which has not been determined).

The F-Zone Code Amendment (Option A) constrains future Fairplex events and land use which would be permitted under the current zoning. An analysis of the proposed amendment is attached (Attachment 6). The development agreement (Option B) which would evolve from consideration of the concepts set forth in the Letter would allow limits on certain events, establish compensation for environmental impacts, and create a commitment to prepare a Specific Plan with its appropriate EIR, and other terms. Finally, Option C would include other direction that Council may determine.

BACKGROUND

City Council Meetings

On February 13, 2017, the City Council received a report from staff regarding the historical activities at the Fairplex and the F-Zone. Such meeting resulted in a Joint meeting of the City Council and the Fairplex Board of Directors being requested.

On April 24, 2017, the City Council and the Fairplex Board of Directors convened a meeting of the two bodies to address the concerns of the City as to recent activities in the F-Zone and the impacts of such on the City. It was clarified by the Fairplex that it was engaging in a master planning (aka Strategic Planning) process which would address the Board’s vision for the use of the Fairplex. At the conclusion of such meeting, the Mayor appointed an Ad Hoc Committee comprised of Mayor Sandoval, Councilmember Carrizosa, and Councilmember Torres (collectively, “F” Zone Ad Hoc

Committee”) to consider various options and issues surrounding the F-zone and return to the Council with a recommendation on further action.

On November 20, 2017, the City Council was presented with a report and recommendation of the Ad Hoc Committee. The report stated that *“During the deliberations of the Ad Hoc Committee, the majority opinion was that the activities at the Fairplex have gone beyond the intent expressed by the applicant and staff in 2004, and therefore warrant further review and amendment of the code.”* After considerable public testimony and discussion of this item, the City Council directed that “F” Zoning District Draft Ordinance to be studied and reported on by the Planning Commission.

On September 10, 2018, after hearing a status report by staff on the Planning Commission’s progress on this matter, the City Council unanimously requested a report from the Planning Commission on the Draft Ordinance no later than October 21, 2018.

Planning Commission Meetings –

The Planning Commission held four meetings in review and study of the Council’s version of the draft ordinance. The meetings were held from May 9 through September 26, 2018. During this time the Planning Commission directed staff to meet with the public stakeholders, Fairplex and Los Angeles County. Staff completed focused meetings with individual property owners from Mountain Meadows, Ganesha Park and Yorba Drive. In addition, meetings were held with Fairplex and Los Angeles County. Furthermore, a joint meeting was held with focused group members of the community and Fairplex, entering into a dialogue of concerns and issues pertaining to Fairplex events.

On September 26, 2018, the Planning Commission reviewed four alternative recommendations for the F Zone review including: 1. Approval of the City Council’s Ad Hoc Committee’s Draft Ordinance; 2. Approval of a Modification of City Council’s Ad Hoc Committee’s Draft Ordinance; 3. Approval of a Memorandum of Understanding and Specific Plan proposal; or 4. Denial of the City Council’s Ad Hoc Committee’s Draft Ordinance.

After considerable discussion and a failed motion to approve the Code Amendment, the Planning Commission approved a motion to recommend denial of the Ad Hoc Committee’s Proposed Code Amendment to the F-Zone. (Passed 4-2-0-1).

ANALYSIS

Recommendation for Denial by the Planning Commission. If the City Council chooses to accept the Planning Commission’s recommendation to deny the Ad Hoc Committee’s proposed Code Amendment, then the Code Amendment needs no further action beyond a motion to deny Code Amendment 9778-2018. The City Council may also table consideration of action on such amendment and evaluate alternative courses of action, including the November 13, 2018 letter from the Fairplex.

Fairplex Letter Dated November 13, 2018. (Attachment 2). The three-page letter proposes various mitigation measures and project related economic development commitments to address current nuisance issues and future projects at the Fairplex. To establish such an agreement formal “process” steps would need to be undertaken including additional Council action to put such measures and commitments into place. In the Letter Fairplex has proposed that a Specific Plan be prepared which would include the following:

- Preparation of an environmental impact report (EIR) regarding scope of Fairplex site improvements, with approval by the City Council
- Increase to parking mitigation based on a per vehicle fee
- Providing funds to the City for new music events based on a per ticket fee
- Prohibition of nuisance related events
- Fairplex would provide at least two months advance notice for music events where the anticipated attendance is 10,000 persons or more per day, and Fairplex would actively engage in addressing local residents’ concerns on traffic, noise, lighting and trash for such events.

The general areas described above are itemized in the Letter. The bullet points generally address the primary proposals by Fairplex which are either land use or related to financial/economic outcomes, and according to Miguel Santana, President and CEO Fairplex, are “*based on the input from our stakeholders, and in collaboration with Mayor Sandoval and Council Member Torres.*”

Preparation of Development Agreement. A development agreement would be the recommended method for the City Council to cause the specific plan site improvements, mitigation measures, economic development commitments and other aspects of the Fairplex proposal to be considered. The agreement would be prepared pursuant to Government Code Section 65864, *et seq.*, requiring public meetings and opportunities for public review and comment on the approval process. With cooperation from the parties, preparation of a development agreement would likely be accomplished within three months. A development agreement would require staff assistance with collaboration of the City Manager, appropriate Directors, and the City Attorney’s Office. The approval of a development agreement is required to be reviewed by the Planning Commission with final approval by the City Council.

PUBLIC COMMUNICATIONS

A copy of the public hearing notice was published in the Inland Valley Daily Bulletin on November 9, 2018 and was sent to the owners of properties within a 1,000-foot radius of the subject site on November 8, 2018 (Attachment 3). Two letters in opposition of the “F” Zone Code Amendment were received, both being sent prior to the public notice or receipt of the November 15 letter from Mr. Santana. A letter dated October 15, 2018, from Alfred Fraijo, legal counsel representing Fairplex was received objecting to the proposed code amendment. The Fraijo letter does not address the development agreement issues. (Attachment 7). Additionally, a letter from local resident Stephanie Campbell dated November 7, 2018, was received providing her opposition to the Proposed Code Amendment; such letter does not address the development agreement proposal. (Attachment 8)

CONCLUSION

After receiving a brief staff presentation and conducting the public hearing, Council may proceed with it deliberation on the Options outlined in the staff report to approve or deny the Code Amendment, or direct preparation of a development agreement, or make other instruction as determined and directed by Council motion and/or consensus.

ATTACHMENTS

1. Draft Ordinance
2. Fairplex Letter dated 11-13-2018
3. Public Hearing Notice and Radius Map
4. 9-26-2018 Planning Commission Staff Report with Attachments
5. Draft Excerpt of 9-26-2018 Planning Commission Minutes
6. Analysis of Ad Hoc Proposed Code Amendment
7. Sheppard Mullin Letter Dated October 15, 2018
8. S. Campbell Letter Dated November 7, 2018
9. Planning Commission’s recommendation for Denial