



Legislation Details (With Text)

**File #:** 21-1743      **Version:** 1      **Name:**

**Type:** Public Hearing      **Status:** Agenda Ready

**File created:** 9/21/2022      **In control:** City Council Meeting

**On agenda:** 10/11/2022      **Final action:**

**Title:** Master Case No. 22-110 and Municipal Code Amendment No. 22-007 - Fontana Municipal Code amendment to Chapter 2 (Administration), (Chapters 9 (Environmental Protection and Resource Extraction) Chapter 25 (Streets, Sidewalk, and Other Public Ways), Chapter 26 (Subdivisions), Chapter 30 (Zoning and Development Code), and Chapter 33 (Cannabis Businesses and Activities).

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachment No. 1 - Ordinance 1906, 2. Attachment No. 2 - Planning Commission Report, 3. Attachment No. 3 - Planning Commission Minutes, 4. Attachment No. 4 - Notice of Exemption, 5. Attachment No. 5 - Public Hearing Notice

Date	Ver.	Action By	Action	Result
10/11/2022	1	City Council Meeting	adopt	Pass
10/11/2022	1	City Council Meeting		

**FROM:**

Planning Department

**SUBJECT:**

Master Case No. 22-110 and Municipal Code Amendment No. 22-007 - Fontana Municipal Code amendment to Chapter 2 (Administration), (Chapters 9 (Environmental Protection and Resource Extraction) Chapter 25 (Streets, Sidewalk, and Other Public Ways), Chapter 26 (Subdivisions), Chapter 30 (Zoning and Development Code), and Chapter 33 (Cannabis Businesses and Activities).

**RECOMMENDATION:**

**COUNCIL GOALS:**

- Promote economic development by pursuing business attraction, retention, and expansion.
- Promote economic development by establishing a quick, consistent development process.

**DISCUSSION:**

Background:

The Planning Commission reviewed Master Case No. 22-110 and Municipal Code Amendment No. 22-007 during its September 20, 2022 meeting. At the conclusion of the hearing, the Planning Commission adopted Resolution PC No. 2022-040 to recommend approval of Municipal Code Amendment No. 22-007 to the City Council.

Analysis:

The City is proposing approval of Municipal Code Amendment No. 22-007 to update Chapter 2, 25, 26, and 30 to remove the Development Advisory Board (DAB) process; Chapter 9 to revise the definition of sensitive receptors; Chapter 30 to modify park/open space requirements within the Form Based Code, add language for density bonus/replacement units to address Senate Bill 330, and provide exemptions for City initiated projects; and Chapter 30 and Chapter 33 to make minor text modifications to the Cannabis Business regulations. The amendments are proposed in order to provide flexibility, clarity, and streamlining of the City's Municipal Code.

The following is a brief summary of the proposed amendments. A detailed list of the proposed amendments are provided under the Ordinance, attached to this staff report as Attachment No. 1.

1. Revisions to Chapter 2, 25, and 26 and 30: This amendment includes the removal of all references to the Development Advisory Board (DAB) process. This will enable staff to facilitate the processing of development projects in a more efficient manner by streamlining the development process.
2. Revisions to Chapter 9, Section 9-71: With implementation of the recently-approved Sustainability Ordinance, staff has identified requirements related to certain (generally nonconforming) residential properties, which are identified as sensitive receptors but which also contain industrial or commercial uses - including storage - operating on the same property as the residence, are resulting in undesirable design outcomes for proposed development adjacent to these properties. For example, commerce center docks and truck circulation routes must be sited away from sensitive receptors, which may require relocation to an area adjacent to the street right of way resulting in a less desirable visual aesthetic, while having little to no beneficial effect on a residence already surrounded by, or at least co-located with, industrial or similar uses. As a result, staff proposes amending the definition of sensitive receptors as identified in the ordinance. Subsequent to the Planning Commission's consideration, minor language was added to allow for future interpretations by the Director of Planning should it be necessary.
3. Revisions to Chapter 30: These amendments will add to or update various sections of the zoning and development code including adding language for city-initiated projects eliminating the requirement to comply with development standards and entitlement requirements, modifying regulations related to Form Based Code open space requirements, and establishing a program for residential replacement units to address SB 330:

Add language to Chapter 30, Section 30-4: Public Projects: Division 1 of Article I of the Development Code does not currently exclude "public projects"; the proposed addition of language to the Development Code of Section 30-3.1 to Chapter 30 will improve the efficiency of public projects by eliminating the need to comply with specific development standards and the requirement for entitlement approvals following the City Council's direction to initiate public projects.

Add language to Chapter 30, Section 30-399 through 404: Public Open Space: Division 10 of Article 3 of the Development Code will be amended to allow developers to build common open space or public open space that includes amenities. Currently,

developers are required to provide public open space for projects over two acres. The public open space was intended to be open to the public and constructed on private properties along street frontages; however, Planning staff has determined this can be a challenge for projects with narrower lots and interior amenities and that the provision of amenities for project residents would provide similar benefit.

Add Article XV (No Net Loss/Density Bonus Program) to Chapter 30: The proposed Development Code Amendment would establish a “No Net Loss Program” to provide that concurrent with the approval of any change in zone from a residential use to a less intensive or non-residential use, replacement units in the form of a density bonus will become available to project applicants subsequently seeking to develop property for residential use within the City. In doing so, the proposed changes will incentivize residential development and ensure that there is no net loss of residential capacity within the City as required by Senate Bill 330 (“SB 330”).

This ordinance provides a mechanism that maintains the total number of potential residential units available to build within the city while also providing immediate and direct incentives for development of properties that may otherwise remain undeveloped. Many cities, including Fontana prior to adoption of the proposed ordinance, address the SB 330 requirements by concurrent rezoning of properties, whereby a reduction in residential uses proposed on one property must be offset by a concurrent rezoning of a separate property that increases residential development potential by the same number of units “lost” on the primary property. Effectively, while meeting the letter of the law, this process focuses on potential development rather than encouraging actual development. This new ordinance provides a density bonus of up to 20% above current zoning, available on a first come, first serve basis, for any landowner or developer within the city. This process provides a valuable incentive for new residential development and places the onus for increased housing activity with the market and the development community.

This approach to meeting the requirements of SB 330 is more flexible and facilitative than simply rezoning a specific alternative property. It is targeted to facilitate development for those who are demonstrably ready, willing, and able to move forward with the development process as evidenced by submittal of entitlements for residential development, whereas a rezoned property may or may not have a property owner that is ready, willing, and able to develop.

Additionally, SB 330 specifically provides for alternative approaches beyond just rezoning property to ensure no net loss in residential capacity. Government Code Section 66300 (i)(1) states that “This section does not prohibit an affected county or an affected city from changing a land use designation or zoning ordinance to a less intensive use *if the city or county concurrently changes the development standards, policies, and conditions applicable to other parcels* within the jurisdiction to ensure that there is no net loss in residential capacity” (*emphasis added*). The proposed ordinance would ensure that upon rezoning properties subject to SB 330, the development standards, policies, and conditions applicable to other parcels are concurrently changed to ensure no net loss in residential capacity. Multiple other cities have adopted similar ordinances to meet the requirements of SB 330.

4. Revisions to Chapter 30 and Chapter 33: These amendments include clarifying inconsistencies with the cannabis application process and land use titles located within permitted uses tables.

In summary, the proposed amendments are proposed in order to provide flexibility in, and streamlining of, the Municipal Code.

**FISCAL IMPACT:**

None.

**MOTION:**

Approve staff recommendation