



City of Santa Ana
20 Civic Center Plaza, Santa Ana, CA 92701
Staff Report
May 7, 2024

TOPIC: Ten-Day Written Report Pursuant to California Government Code Section 65858(d) Following the Adoption of Urgency Interim Ordinance No. NS-3063

AGENDA TITLE

Ten-Day Written Report Pursuant to California Government Code Section 65858(d) Following Adoption of Urgency Interim Ordinance No. NS-3063, a 45-day Moratorium on the Approval, Commencement, Establishment, Relocation, or Expansion of Industrial Uses within Specific Development No. 84

RECOMMENDED ACTION

Issue and file a Council report to the public, pursuant to Section 65858(d) of the California Government Code, describing the City's measures to alleviate conditions that led to the adoption of Urgency Interim Ordinance No. NS-3063, on April 16, 2024, regarding a 45-day moratorium on the approval, commencement, establishment, relocation, or expansion of industrial uses within Specific Development No. 84 (the Transit Zoning Code).

GOVERNMENT CODE §84308 APPLIES: No

EXECUTIVE SUMMARY

Pursuant to Section 65858(d) of the California Government Code, the purpose of this staff report is to provide a written report no less than ten days prior to the expiration of Urgency Interim Ordinance No. NS-3063 describing the measures City staff has taken to alleviate the condition which led to the adoption of the Ordinance.

On April 16, 2024, the City Council adopted Urgency Interim Ordinance No. NS-3063, which establishes a 45-day moratorium on the approval, commencement, establishment, modification, relocation, or expansion of industrial uses in Specific Development No. 84, also known as the Transit Zoning Code (commonly referred to as the "Transit Zoning Code" or "TZC") while City staff researches appropriate regulations and determines whether an extension pursuant to the Government Code is necessary.

Urgency Interim Ordinance No. NS-3063 shall have no further force and effect 45 days from the date of its adoption, unless, after a report on the first 45 days and a public hearing, the City Council members, again by four/fifths (4/5) vote, extend the Ordinance

for an initial extension period of ten (10) months and fifteen (15) days. Based on the adoption date of April 16, 2024, the Ordinance is scheduled to expire on June 1, 2024.

As City staff begins to analyze and prepare an evaluation of industrial business uses within the TZC, the evaluation will enable staff to generate recommendations to the Planning Commission and City Council to determine whether further, permanent action is necessary. Such action may entail a zoning map amendment, zoning text amendment, or both, which would address industrial land uses in the TZC.

DISCUSSION

Background

On April 16, 2024, the City Council adopted Urgency Interim Ordinance No. NS-3063 to immediately offer protection of public health, safety, and welfare from industrial uses significantly causing pollution burden to adjacent neighborhoods through the following conditions, including: code enforcement active cases; irreconcilable land use conflicts in the TZC; alarming air quality, noise, traffic, proximity to noxious use facilities, and public health concerns; and external regulatory agency responsiveness. During the urgency interim moratorium period, the City will not issue permits that result in the approval, commencement, establishment, modification, relocation, or expansion of industrial uses in the TZC.

Measures Taken

Review of City Department Activities

Immediately following the adoption of the 45-day moratorium, staff conducted an interagency meeting, which included representatives from multiple City departments. These departments include the Planning Division, Building Safety Division, Code Enforcement Division, Business License, and Information Technology. Moreover, engagement with additional agencies such as the Police Department, Public Works Agency, and the Community Development Agency's Economic Development Division has produced critical information illustrating the extent to which industrial activities are intertwined with residential land uses in the TZC area, specifically and most concentrated in the Logan and Lacy neighborhoods.

Data based on Business License and Economic Development records indicate that the application of Urgency Interim Ordinance No. NS-3063 affects up to 130 industrial businesses in the TZC. Of these, over one-dozen have active applications for permits, the majority of which are to legalize unpermitted work on industrial properties and address ongoing Code Enforcement Division notices of violation.

City staff continues to gather, review, and analyze information regarding affected industrial businesses within the TZC. Specific data and reporting pertains to applications submitted by industrial businesses for permits, entitlements, certificates of occupancy, business licenses, and other relevant records immediately prior to and following the adoption of the Urgency Interim Ordinance and currently being reviewed by City staff. Requests for information on calls for service and incident activities responded to by public safety departments of the Santa Ana Police Department and Orange County Fire Authority (OCFA) are being reviewed by City staff to understand and validate public safety concerns or impacts shared by neighbors in disadvantaged communities with actual calls and emergencies reported.

In addition, City staff continues to monitor Code Enforcement Division activities and implementation of the City's Noxious Uses Ordinance pertaining to these facilities. Code Enforcement staff will broaden data reports that show enforcement activity beyond the Lacy and Logan neighborhoods within the TZC, where at the time of adoption of the Urgency Interim Ordinance on April 16, 2024, 17 active open cases were issued Notice of Violations and administrative citations for the following types of violations: illegal storage, land use, zoning, property and landscape maintenance, unpermitted work, business license, and certificate of occupancy. Such violations include issues of odors, dust, traffic, noise, vibrations, and other documented impacts. The close proximity of active open industrial cases during a short period is creating a public nuisance that is harming public health, safety, and general welfare of the two residential neighborhoods from the concentration of open code enforcement cases nearby.

Review of Records and Activities of External Agencies

To broaden the analysis beyond the City's local land use impacts, City staff have initiated public records requests of violation records and violation status of outside regulatory agencies, and have contacted staff from external regulatory agencies such as the South Coast Air Quality Monitoring District (SCAQMD), Santa Ana Regional Quality Water Control Board, the Department of Toxic Substances Control, and others responsible for issuing supportive permits for industrial uses in the TZC. Specifically, these agencies are responsible for permit issuance, compliance activities, and/or monitoring hazardous clean-up sites, or other industrial facility-related activities and have received current data requests for sites located within SD No. 84.

Data from external regulatory agencies would assist City staff in further understanding activities between external regulatory agencies and industrial businesses that may place additional impacts on public health, safety, and welfare in affected neighborhoods adjacent to industrial businesses in the TZC. This information would enable City staff to understand the correlation and environmental burdens that may be attributed to permitted activities for industrial businesses in historically environmentally disadvantaged communities, specifically the Logan and Lacy neighborhoods. In

response to the City's request, SCAQMD clarified the need to process the records request by larger geographic areas, not specifically matching the boundaries of the TZC. When reports become available to the City, additional time will be needed for City staff to carefully review and analyze other internal data to understand all activities (internal and external) and affected industrial businesses.

Comprehensive Zoning Code Update and Neighborhood Engagement

City staff continues to work with Project Consultant Moore, Iacofano, Goltsman, Inc. (MIG) to ensure the City's Zoning Code and General Plan are consistent and, to maintain compliance with state law, comprehensive amendments to the Zoning Code are required. MIG and City staff have already conducted extensive community outreach, stakeholder interviews, and reviews of existing zoning-related codes and policies in Santa Ana. These early efforts have indicated that the irreconcilable land use conflicts and land use inconsistencies in the TZC area are among the top, most pressing topics that must be addressed as part of the comprehensive Zoning Code Update process in order to protect the health, safety, and welfare of the most vulnerable communities that face the impacts of the land use conflicts within the TZC area.

City staff from the Neighborhood Initiatives and Environmental Services (NIES) section of the Planning Division will continue to coordinate with City departments, external regulatory agencies, and staff from other federal and state agencies to identify additional resources available to enhance deeper awareness of pollution exposure in disadvantaged communities, long-term health effects, and immediate solutions. The NIES team has held meetings and discussions with staff from the Centers for Disease Control and Prevention/Agency for Toxic Substances and Disease Registry and CalEPA Environmental Justice Team to identify opportunities for linking environmental justice (EJ) resources and support to the Logan and Lacy neighborhoods. In addition, the NIES team has been working with the residents selected to represent the City's EJ Clusters to complete the formation of the EJ Action Committee, the community-led EJ advocacy group, to guide the prioritization and resource investments to implement the City's General Plan EJ Policies and Implementation Actions.

Next Steps

Staff implements the 45-day moratorium established by Urgency Interim Ordinance No. NS-3063 through ongoing interagency coordination. Moreover, staff will continue to analyze and prepare an evaluation of industrial business uses within the TZC, which will enable staff to generate recommendations to the Planning Commission and City Council to determine whether an extension of the 45-day moratorium is recommended. If an extension is recommended, it would be placed on the May 21, 2024 City Council agenda as a public hearing item, which is prior to the June 1 expiration date.

During the 45-day moratorium and any potential extension period, staff will evaluate if further, permanent action to address the land use conflicts in the TZC is necessary. Such action may entail a zoning map amendment, zoning text amendment, or both, which would permanently address industrial land uses in the TZC.

FISCAL IMPACTS

There is no fiscal impact associated with this action.

EXHIBITS

1. Adopted Urgency Interim Ordinance No. NS-3063
2. April 16, 2024 City Council Staff Report

Submitted By: Minh Thai, Planning and Building Agency Executive Director

Approved By: Alvaro Nuñez, Acting City Manager