



City of Santa Ana
20 Civic Center Plaza, Santa Ana, CA 92701
Staff Report
April 1, 2025

TOPIC: Ten-Day Written Report Pursuant to California Government Code Section 65858(d) Following the Adoption of Urgency Ordinance No. NS-3064 Moratorium Extension (Transit Zoning Code (SD-84) Moratorium)

AGENDA TITLE

Ten-Day Written Report Pursuant to California Government Code Section 65858(d) Following the Adoption of Urgency Ordinance No. NS-3064 Extension of Ten (10) Months and Fifteen (15) Days, Pursuant to California Government Code Section 65858(a), regarding a Moratorium on the Approval, Commencement, Establishment, Relocation, or Expansion of Industrial Uses within Specific Development No. 84 (Transit Zoning Code (SD-84) Moratorium)

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 Ordinance No. NS-3064 on May 21, 2024, regarding a moratorium extension of ten (10) months and fifteen (15) days on the approval, commencement, establishment, relocation, or expansion of industrial uses within Specific Development No. 84 (the Transit Zoning Code (SD-84) Moratorium).

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 (10) days prior to the expiration of Urgency [Ordinance No. NS-3064](#) describing the measures the City has taken to alleviate the conditions which led to the adoption of Ordinance No. NS-3064.

On May 21, 2024, the City Council adopted Urgency [Ordinance No. NS-3064](#), which establishes a ten (10) months and fifteen (15) days extension period of a moratorium on the approval, commencement, establishment, modification, relocation, or expansion of industrial uses in [Specific Development No. 84 \(SD-84\)](#), also known as the Transit Zoning Code (commonly referred to as the "Transit Zoning Code" or "TZC") while City staff researches appropriate permanent regulations and determines whether an additional extension, pursuant to California Government Code [Section 65858\(a\)](#), is necessary.

Ten-Day Report Describing Measures Taken to Alleviate the Conditions which Led to the Adoption of Urgency Ordinance No. NS-3064 (Transit Zoning Code Moratorium Extension)

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Urgency Ordinance No. NS-3064 shall have no further force and effect ten (10) months and fifteen (15) days from the date of its adoption, unless, after a report during the TZC moratorium extension period and a public hearing, the City Council members, again by four/fifths (4/5) vote, extend the Ordinance for up to an additional twelve (12) months beyond the additional ten (10) months and fifteen (15) days of the initial Ordinance extension. Based on the adoption date of May 21, 2024, the Ordinance is scheduled to expire on April 15, 2025.

City staff continues to analyze and develop permanent regulations to address industrial business uses within the TZC. Staff continues to research, obtain community feedback, and work with planning and legal environmental consultants to prepare recommendations for the City Council's consideration, following the Planning Commission's recommendation to do so on March 6, 2025. Such actions 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](#), establishing a 45-day moratorium on the approval, commencement, establishment, relocation, or expansion of industrial uses within the TZC. The purpose of the moratorium was to immediately offer protection of public health, safety, and welfare from industrial uses significantly causing pollution burden to adjacent residential neighborhoods within the TZC.

On May 7, 2024, the City Council issued a 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 the moratorium.

On May 21, 2024, the City Council adopted [Ordinance No. NS-3064](#) to extend the moratorium for an additional ten (10) months and fifteen (15) days pursuant to the Government Code as necessary to provide sufficient time for staff to continue with data tracking and reporting, research appropriate regulations, and coordinate with outside regulatory agencies and City departments to determine whether further, permanent action was necessary and to generate recommendations to the Planning Commission and City Council. During the moratorium period, the City has not issued permits that have resulted in the approval, commencement, establishment, modification, relocation, or expansion of industrial uses in the TZC.

Staff held a work-study session at the Planning Commission on February 10, 2025, which was open to the public. During the work-study session, Planning Commission members

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and members of the community posed additional questions and provided input on topics of key importance surrounding land use, code violations, the role of outside agencies and their enforcement, and financial and legal implications that required staff to carry out additional research. On February 24, 2025 and March 6, 2025, the Planning Commission held a public hearing and recommended approval of the TZC ordinance and map amendments with clarifying edits. However, this recommendation is advisory and the City Council retains the ultimate authority to approve, modify, or reject the proposed amendments after their own review and consideration of all presented information, including the Planning Commission's recommendations, staff reports, and public input.

Measures Taken

Review of City Department Activities

During the initial 45-day moratorium and the moratorium extension of ten (10) month and fifteen (15) days, City staff conducted interagency meetings that included representatives from multiple City departments: the Planning Division, Building Safety Division, Code Enforcement Division, Business License, and Information Technology. Additionally, engagement with agencies such as the Santa Ana Police Department (SAPD), Public Works Agency, and the Community Development Agency's Economic Development Division has produced critical information illustrating the extent to which industrial activities interface 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 application of the moratorium affects up to 127 industrial businesses in the TZC. Of the affected businesses, approximately three have active applications for permits, primarily seeking to legalize unpermitted work on industrial properties.

City staff has continued to review public safety data from SAPD and Orange County Fire Authority (OCFA) to assess community concerns regarding emergency responses in the TZC. SAPD records show a total of 18,736 calls for service between March 2023 and July 2024, with 226 of those occurring between April and July 2024 within the Logan and Lacy neighborhoods. These calls encompassed a wide range of incidents, including patrol checks, disturbances, and traffic-related issues. Notably, 1,909 calls involved collisions, vehicle impoundments, domestic violence, and SAMC violations. OCFA data from 2022 to August 2024 indicates 238 calls for advanced life support emergencies. In 2022, 29 calls were related to respiratory issues, chest pain, and cardiac arrest, with a subsequent 7% increase in health-related calls in 2023. While the data reflects a broad spectrum of emergency responses, the concentration of industrial businesses in the TZC raises the possibility that some of these calls, particularly those related to respiratory issues and traffic incidents, may be influenced by industrial operations.

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Currently, City staff has an internal process established that continues to track and monitor incoming notices of compliance or notices of violations from outside regulatory agencies issued to a particular business/operator. City Code Enforcement activities and implementation of the City's Noxious Uses Ordinance continue being monitored at these facilities. Code Enforcement data show enforcement activity within the TZC, where at the time of adoption of the moratorium, 16 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. Recent code enforcement complaints on properties in the Logan neighborhood involve complaints for recurring unpermitted work and land use violations that involve large commercial vehicles blocking street access and impacting nearby residents. In the past 12 months, the Code Enforcement Division conducted investigations at over 35 commercial and industrial properties within the TZC. These investigations led to administrative citations, ongoing enforcement actions, and onsite meetings with business owners.

The City of Santa Ana Code Enforcement Division is currently addressing 21 open code enforcement violations or compliance reviews specifically involving industrial businesses within the TZC area. This activity demonstrates the City's direct involvement in overseeing these businesses to mitigate potential environmental and public health risks.

Review of Records and Activities of External Agencies

To broaden the analysis beyond the City's local land use impacts, City staff have received public records requested of compliance status, 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 (SARQWCB), the Department of Toxic Substances Control (DTSC), Certified Unified Program Agencies (CUPA), California Environmental Reporting System (CERS), and others responsible for issuing regulatory 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 the TZC zoning district.

Data from outside regulatory agencies 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

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businesses in historically environmentally disadvantaged communities, specifically the Logan and Lacy neighborhoods.

Records show SCAQMD issued two notices to comply with one industrial business on August 2023 and April 2024 for failure to maintain records, such as temperature graphs, poundage logs, and source test data. SCAQMD issued several permits to construct and to operate to the new operator of this same facility, which is currently in compliance with SCAQMD. Two notices of violation were issued to one industrial business for operating a paint spray booth without a valid permit to operate from SCAQMD.

The report from the SARWQCB from 2024 shows three (3) active industrial business in the TZC in violation of their permit for providing a late report or incomplete and/or insufficient information for their Stormwater Pollution Prevention Plan (SPPP). In March 2025, one of the three businesses with active violations concluded a financial settlement directly with the SARWQCB agency.

Public records from the CUPA for Orange County, spanning 2022-2024, reveal a pattern of non-compliance with environmental and hazardous materials regulations among industrial businesses within the TZC. While some 2023 violations related to Hazardous Material Business Plan staff training and reporting were later corrected, current records indicate four businesses still have multiple open violations. These ongoing issues include non-compliance with documentation for hazardous waste transportation and disposal, as well as deficiencies in industrial stormwater reporting requirements. These violations highlight potential risks to public health and the environment.

Air emission complaints continue to be reported to SCAQMD. These complaints included one involving black smoke and another regarding unpermitted soil vapor extraction equipment onsite. SCAQMD staff has clarified that for air quality complaints they receive, their inspector is required to be physically present to observe the activity from the facility described in the complaint to determine if the complaint warrants further investigation or enforcement action in accordance with SCAQMD Rules 401 (Visible Emissions), 402 (Public Nuisance), and 403 (Fugitive Dust). Therefore, although community members continue to share concerns with City and SCAQMD staff, the turnaround time for an SCAQMD inspector to be physically present at an SCAQMD-permitted facility to investigate an air quality complaint, especially if a complaint is reported after working hours or on weekends, is ineffective in addressing the immediate needs of the community.

Public Engagement and Planning Commission Recommendation

Following City Council's extension of the TZC moratorium on May 21, 2024, City staff have been developing permanent regulations for the TZC district for the City Council's consideration. Leading up to the special Planning Commission meeting held on March 6,

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2025, City staff engaged in a comprehensive outreach effort regarding TZC regulations, holding 20 meetings in various formats with affected stakeholders. This included:

- Direct engagement through eight individual and group meetings with business owners and brokers,
- Two focus group meetings with TZC business owners,
- Community outreach involving two neighborhood/resident group meetings,
- Two City-hosted TZC (SD-84) meetings: the October 22, 2024 City Informational Meeting and the March 3, 2025 Community Meeting,
- Three site visits at the request of businesses, and
- Three Planning Commission meetings (February 10, 2025 Study Session and February 24/March 6 Public Hearings).

This extensive engagement aimed to gather diverse input for the development of permanent TZC regulations. To proactively ensure important communications reached all stakeholders, City staff mailed notices to all property owners and occupants, comprising 3,599 addresses, within the Transit Zoning Code area for each of the following meetings: the October 22, 2024 City Informational Meeting, the Planning Commission February 10, 2025 Study Session and February 24, 2025 Public Hearing notice, and the City Council April 1, 2025 Public Hearing Notice.

City staff from the Neighborhood Initiatives and Environmental Services (NIES) section of the Planning Division 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.

Next Steps

To address polluting industrial uses in the TZC during the ten (10) month and fifteen (15) day extension of the moratorium approved by Urgency Ordinance No. NS-3064, staff continues interagency coordination efforts, stakeholder outreach, and data analysis to inform permanent code amendments to the TZC zoning district that will be presented to City Council for their consideration. Permanent code amendments to address incompatible land uses in the TZC may include a zoning map amendment, zoning text amendment, or both, which would permanently address industrial land uses in the TZC (SD-84).

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ENVIRONMENTAL IMPACT

There is no environmental impact associated with this action.

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 (without attachments)
3. Ten-Day Written Report – May 7, 2024
4. Adopted Urgency Interim Ordinance No. NS-3064
5. May 21, 2024 City Council Staff Report (without attachments)

Submitted By: Ali Pezeshkpour, AICP, Acting Executive Director, Planning and Building Agency

Approved By: Alvaro Nuñez, City Manager

ORDINANCE NO. NS-3063

AN URGENCY ORDINANCE OF THE CITY OF SANTA ANA PURSUANT TO GOVERNMENT CODE SECTION 65858 ADOPTING A 45-DAY MORATORIUM ON THE APPROVAL, COMMENCEMENT, ESTABLISHMENT, RELOCATION OR EXPANSION OF INDUSTRIAL USES WITHIN SPECIFIC DEVELOPMENT NO. 84 ZONING DISTRICT

WHEREAS, the City of Santa Ana has the police power pursuant to Article XI, section 7 of the California Constitution, to make and enforce ordinances to regulate the use of land within its jurisdictional boundaries; and

WHEREAS, Government Code Section 65858 expressly authorizes the City Council, in order to protect the public health, safety and welfare, to adopt an interim urgency ordinance prohibiting a use that is in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission, or the planning department is considering or studying or intends to study within a reasonable time, provided that the urgency measure shall require a four-fifths vote of the legislative body for adoption, and shall be of no further force and effect forty-five (45) days from its date of adoption, unless duly extended; and

WHEREAS, Specific Development No. 84 zoning district, also known as the Transit Zoning Code (TZC), located in the central core of Santa Ana, comprises approximately 450 acres, encompasses the Logan, Lacy, and Downtown neighborhoods, and was adopted by the City Council on June 7, 2010; and

WHEREAS, upon the initial adoption of the TZC in 2010, the General Plan of the City of Santa Ana was updated with new land use designations for the areas covered by the TZC to allow for new, mixed-use residential and commercial communities; and

WHEREAS, the goals of the TZC are to provide a transit-supportive, pedestrian-oriented development framework to support the addition of new and enhancement of existing communities through transit infrastructure; to preserve and reinforce the existing character and pedestrian nature of the City by strengthening urban form through improved development and design standards; to encourage alternative modes of transportation; to provide zoning for the integration of new infill development into existing neighborhoods; to provide for a range of housing options; and to allow for the reuse of existing structures; and

WHEREAS, industrial uses were established within the Logan and Lacy neighborhoods in close proximity to sensitive land uses such as residences and schools prior to the adoption of the TZC, as far back as the late 19th century, predating modern

zoning practices that take into account irreconcilable land use conflicts among variegated land uses; and

WHEREAS, the TZC provides new mixed-use zoning for properties contained within its boundary while creating industrial overlay zones allowing properties being used as industrial uses at the time of its adoption to continue to be governed by industrial zoning districts until such time that properties were converted to the mixed-use zones allowed by the TZC; and

WHEREAS, Senate Bill (SB) 1000 went into effect in 2018, requiring local governments to identify environmental justice communities, called “disadvantaged communities”, in their jurisdictions and address environmental justice in their general plans through facilitating transparency and public engagement in the planning and decision-making processes, reducing harmful pollutants and the associated health risks in disadvantaged communities, and promoting equitable access to health-inducing benefits such as healthy housing options; and

WHEREAS, the City of Santa Ana completed a comprehensive update of its General Plan in April 2022; and

WHEREAS, the Office of the Attorney General of the State of California was actively involved in ensuring Santa Ana’s General Plan update complied with all aspects of SB 1000 prior to its adoption; and

WHEREAS, as required by SB 1000, update of the General Plan and its associated land use plan identified and addressed long standing environmental justice issues throughout all of its elements, which include 77 implementation actions aimed at reducing harmful pollutants and associated health risks in disadvantaged communities; and

WHEREAS, numerous policies of the General Plan are inconsistent with the present, irreconcilable land use pattern of the TZC. Specifically, these policies include Policy LU-1.1 (Compatible Uses), Policy LU-3.8 (Sensitive Receptors), Policy LU-3.9 (Noxious, Hazardous, Dangerous, and Polluting Uses), Policy LU-3.11 (Air Pollution Buffers), Policy LU-4.3 (Sustainable Land Use Strategies), Policy LU-4.6 (Healthy Living Conditions), Policy CM-3.2 (Healthy Neighborhoods), Policy EP-1.9 (Avoid Conflict of Uses), and Policy CN-1.5 (Sensitive Receptor Decisions), which are targeted at correcting past land use planning practices that have placed an unequitable environmental and health burden on certain neighborhoods now termed disadvantaged communities; and

WHEREAS, the industrial overlay zones in the TZC perpetuate past planning practices of locating industrial uses, or other noxious and unwanted uses, in close proximity to communities of color; and

WHEREAS, the Logan neighborhood is the oldest Mexican and Mexican-American neighborhood in Santa Ana and one of the oldest in Orange County, and one of the few places where Mexicans and those of Mexican descent were allowed to buy land due to restrictions and covenants based on race during the first half of the 20th century and

WHEREAS, the construction of Santa Ana (I-5) Freeway through Santa Ana in the 1950s resulted in a number of families being displaced through the demolition of single-family homes in the northeastern portion of the Logan neighborhood; and

WHEREAS, in the 1970s a proposed expansion of an arterial highway along Civic Center Avenue would have demolished a significant portion, if not all, of the Logan neighborhood; and

WHEREAS, the Logan and Lacy neighborhoods are within the second and third highest scored census tracts in Santa Ana, each with a composite score of 90 percent or greater, ranking in the 90th percentile or greater of census tracts in the State, and identified as “disadvantaged communities” by the Office of Environmental Health Hazard Assessment (OEHHA) in its CalEnviroScreen model; and

WHEREAS, Assembly Bill (AB) 686 requires local jurisdictions to take deliberate actions to explicitly address, combat, and relieve disparities to disadvantaged communities, such as Logan and Lacy neighborhoods, resulting from past patterns of segregation, disinvestment, and planning practices; and

WHEREAS, the updated land use plan in the Land Use Element of the General Plan does not designate any properties within the TZC, including the Logan or Lacy neighborhoods, as industrial; rather, are designated as varying intensities of District Center or Urban Neighborhood land use designations—both of which are inconsistent with industrial uses; and

WHEREAS, there are pressing and growing code enforcement complaints stemming from the irreconcilable land use conflicts in the TZC. Specifically, in the Logan and Lacy neighborhoods, the City's Code Enforcement Division has investigated over 33 commercial and industrial properties in the past nine months and currently has 17 active open cases that have been 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. The close proximity of active open industrial cases during a short period of time is creating a public nuisance that is draining City resources and that is harming public health, safety, and general welfare of the TZC's existing and new residential neighborhoods from the concentration of open code enforcement cases nearby; and

WHEREAS, in the Logan neighborhood, 52 industrial facilities (automotive, warehouse/storage, crematory, towing yards, construction) are presently in close proximity to sensitive uses monitored by external regulatory agencies such as South

Coast AQMD, Orange County Health Care Agency – Certified Unified Program Agencies (OC CUPA), Santa Ana Regional Water Quality Board (SARWQB), Orange County Fire Authority. Industrial facilities have caused significant pollution exposure to disadvantaged communities, including lead risk in soil and housing, diesel particulate matter from idling trucks, toxic release from facilities, traffic impacts, noise pollution, and airborne particulate matter or fine inhalable particles of 2.5 (PM2.5) microns or less in diameter. CalEnviroScreen reports higher environmental effects from active facility cleanup sites, hazardous waste facilities, and solid waste locations. Cumulative health impacts in the area include asthma, cardiovascular disease, and low birth weight, in this overburdened disadvantaged community factored by socioeconomic indicators of poverty, linguistic isolation, housing burden, and education; and

WHEREAS, in the Lacy neighborhood, 76 industrial facilities (automotive, warehouse/storage, towing yards, construction) are presently in close proximity to sensitive uses monitored by external regulatory agencies such as South Coast AQMD, Orange County Health Care Agency – Certified Unified Program Agencies (OC CUPA), Santa Ana Regional Water Quality Board (SARWQB), Orange County Fire Authority. Industrial facilities have caused significant pollution onto disadvantaged communities, including lead risk exposure, diesel particulate matter from idling trucks, toxic release from facilities, traffic impacts, noise pollution, vibration impacts, and airborne particulate matter or fine inhalable particles of 2.5 (PM2.5) microns or less in diameter. CalEnviroScreen reports higher environmental effects from active facility cleanup sites, hazardous waste facilities, and solid waste locations. Cumulative health impacts in the area include asthma, cardiovascular disease, and low birth weight, in this overburdened disadvantaged community factored by socioeconomic indicators of poverty, linguistic isolation, housing burden, and education; and

WHEREAS, there is a recent surge in residential development activity in the TZC that is exacerbating the irreconcilable land use conflicts between residential and industrial land uses. Examples include the Lacy Crossing residential development with over 100 ownership units directly adjacent to existing industrial land uses, for which the City receives regular complaints from residential occupants of disturbances from noise, vibrations, odors, and truck traffic; and the Rafferty mixed-use development with 218 residential units, including 11 onsite units for very-low income households, which is located less than one-fifth of a mile from industrial land uses; and

WHEREAS, there is a marked increase in the pending and active development applications for industrial land uses in the TZC, including for contractor's yards, construction debris storage yards, manufacturing operations, expansion of existing industrial businesses, and storage and warehousing operations, stemming from shifting economic demands for goods and services emerging from the Covid-19 pandemic; and

WHEREAS, The City Council approved a contract with Moore, Iacofano, Goltsman, Inc. (MIG) on October 17, 2023. 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; and

WHEREAS, MIG and City staff have 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; and

WHEREAS, the policies and implementation actions in the General Plan also require review, study, and possible revision in order to respond to recent concerns relating to the impacts of these industrial business uses in the TZC; and

WHEREAS, given these concerns, the City Council hereby directs that a study be undertaken of the current provisions of the TZC to address industrial business uses and determine whether such uses should be permitted in the zoning district, and if not, proceed with an ordinance amendment to preclude such uses from the district; and

WHEREAS, based on the foregoing, the City Council finds that continuing to issue permits, business licenses, or other applicable entitlements to individuals wishing to use their property located in the TZC for the purposes of industrial business use, prior to the City's completion of its study of the potential impact of such uses, would pose a current and immediate threat to the public health, safety, and welfare, and that a temporary moratorium on the issuance of such permits, licenses, and entitlements in the TZC area is thus necessary; and

WHEREAS, if an industrial business use is permitted in the TZC without further review and potential regulation, it will pose a serious threat to the public interest, health, safety and welfare for the following reasons:

- (1) Adversely impacts surrounding businesses and neighborhoods;
- (2) Adversely impacts sensitive uses such as residences, schools, parks, and places where children congregate;
- (3) Conflicts with the goals and policies of the City's General Plan;
- (4) Long-term incompatibility and inconsistency with surrounding uses; and
- (5) Risks to the public health, safety and welfare of the City; and

WHEREAS, prevention of detrimental impacts to residents, the public interest, health, safety and welfare requires the immediate enactment of this urgency ordinance. The absence of this urgency ordinance will create a serious threat to the orderly and effective implementation of any code amendments, general plan amendments or specific plan amendments which may be adopted by the City; industrial business uses may be in conflict with or frustrate the contemplated updates and revisions to the Code. Moreover, permitting such uses during said studies and implementation would create

impacts on the public health, safety and welfare that the City Council, in adopting this ordinance, has found to be unacceptable; and

WHEREAS, the City Council finds, determines and declares that the current and immediate threat to the public health, safety and welfare of the city and its citizens necessitates the immediate enactment of this urgency ordinance by a four-fifths vote of the City Council.

NOW, THEREFORE, the City Council of the City of Santa Ana does ordain as follows:

Section 1. The recitals above are each incorporated by reference and adopted as findings by the City Council.

Section 2. The City Council finds and determines that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to sections 15061(b)(3) and 15061(b)(5) of the CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, as the ordinance will temporarily preclude the approval, commencement, establishment, relocation or expansion of uses in the zoning district.

Section 3. California Government Code Section 65858 authorizes the City Council to adopt an interim urgency ordinance, without following the procedures otherwise required for the adoption of an ordinance, to protect the public safety, health, and welfare, prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City Council, Planning Commission or the planning department is considering or studying or intends to study within a reasonable time.

Section 4. The City Council, in accordance with Government Code Section 65858, hereby adopts this urgency ordinance establishing a 45-day moratorium on the approval, commencement, establishment, modification, relocation or expansion of industrial uses in the TZC while City staff researches appropriate regulations and whether an extension pursuant to the Government Code is necessary. For the purposes of this Ordinance, "industrial uses" includes those specified by Divisions 18 and 19 of Article III of Chapter 41 of the Santa Ana Municipal Code, and by Section 41-2007 of the Santa Ana Municipal Code and Table 2A in the Transit Zoning Code (Specific Development No. 84).

Section 5. This ordinance shall have no further force and effect forty-five (45) days from the date of its adoption; unless, however, after public hearing the City Council members, by four/fifths (4/5) vote, extend this ordinance for an initial period of ten (10) months and fifteen (15) days and subsequently, after public hearing, the City Council members, by four/fifths (4/5) vote, extend this ordinance one more year.

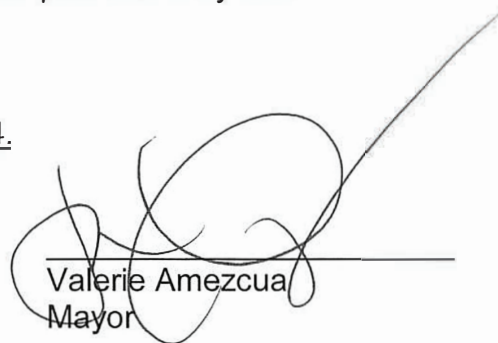
Section 6. It shall be unlawful and a misdemeanor for any person to violate or fail to comply with any provision of the ordinance. The violation of any provision of this ordinance shall be punished as provided in Section 1-8 of Chapter 1 of the Code.

Section 7. If any section, subsection, phrase, or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared invalid or unconstitutional.

Section 8. This ordinance is introduced, passed and adopted at one and the same meeting and is thereafter immediately effective. The City Council finds that this ordinance is necessary to protect the public safety, health and welfare. The reasons for the emergency are set forth in Section 1 of this ordinance.

Section 9. The City Clerk shall certify to the adoption of this ordinance and cause the same to be published in the manner prescribed by law.

ADOPTED this 16th day of April, 2024.



Valerie Amezcua
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho
City Attorney

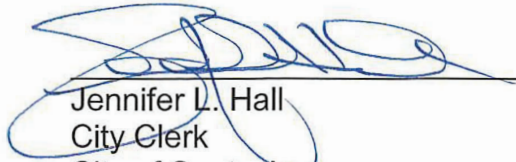
By: Laura A. Rossini
Laura A. Rossini
Chief Assistant City Attorney

AYES:	Councilmembers	<u>Amezcua, Bacerra, Hernande, Lopez,</u> <u>Penaloza Phan, Vazquez (7)</u>
NOES:	Councilmembers	<u>None (0)</u>
ABSTAIN:	Councilmembers	<u>None (0)</u>
NOT PRESENT:	Councilmembers	<u>None (0)</u>

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, JENNIFER L. HALL, City Clerk, do hereby attest to and certify the attached Ordinance No. NS-3063 to be the original ordinance adopted by the City Council of the City of Santa Ana on April 16, 2024.

Date: 4/25/2024



Jennifer L. Hall
City Clerk
City of Santa Ana



Planning and Building Agency
www.santa-ana.org/planning-and-building
Item # 28

City of Santa Ana
20 Civic Center Plaza, Santa Ana, CA 92701
Staff Report
April 16, 2024

TOPIC: Transit Zoning Code Urgency Interim Ordinance (Moratorium)

AGENDA TITLE

Urgency Interim Ordinance Pursuant to Section 65858(a) of the California Government Code Adopting a 45-day Moratorium on the Approval, Commencement, Establishment, Relocation, or Expansion of Industrial Uses within Specific Development No. 84

RECOMMENDED ACTIONS

1. Adopt an urgency ordinance by four-fifths (4/5) vote, pursuant to California Government Code Section 65858(a), adopting a 45-day moratorium on the approval, commencement, establishment, relocation, or expansion of industrial uses within Specific Development No. 84 zoning district.

ORDINANCE NO. NS-XXXX entitled AN URGENCY INTERIM ORDINANCE OF THE CITY OF SANTA ANA PURSUANT TO GOVERNMENT CODE SECTION 65858 ADOPTING A 45-DAY MORATORIUM ON THE APPROVAL, COMMENCEMENT, ESTABLISHMENT, RELOCATION OR EXPANSION OF INDUSTRIAL USES WITHIN SPECIFIC DEVELOPMENT NO. 84 ZONING DISTRICT

2. Find that, in accordance with the California Environmental Quality Act (CEQA), the proposed action is not subject to the requirements of the California Environmental Quality Act, pursuant to (Guidelines) Section 15060(c)(2) because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment and 15060(c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly and so is not a project.

GOVERNMENT CODE §84308 APPLIES: No

EXECUTIVE SUMMARY

Staff is recommending adoption of an urgency interim ordinance, pursuant to Government Code Section 65858(a), also known as a moratorium, to address current and immediate threats to public health, safety, and welfare, due to growing code

enforcement complaints stemming from the irreconcilable land use conflicts within the Specific Development No. 84 zoning district (commonly referred to as the “Transit Zoning Code” or “TZC”). Specifically, in the Logan and Lacy neighborhoods, and surrounding areas, the City’s Code Enforcement Division has investigated over 33 commercial and industrial properties in the past nine months and currently has 17 active open cases that have been 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. The close proximity of active open industrial cases during a short period is creating a public nuisance that is straining City resources and that is harming public health, safety, and general welfare of the TZC’s existing and new residential neighborhoods.

If adopted, the urgency ordinance would establish a 45-day moratorium on the approval, commencement, establishment, modification, relocation, or expansion of industrial uses in the TZC while City staff researches appropriate regulations and determines whether an extension pursuant to the Government Code is necessary. The urgency ordinance 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 this ordinance for an initial extension period of ten (10) months and fifteen (15) days.

DISCUSSION

Background

Specific Development No. 84 (the Transit Zoning Code)

The Specific Development No. 84 zoning district, also known as the Transit Zoning Code (“TZC”), is located in the central urban core of the City and comprises over 100 blocks and 450 acres. The TZC includes the Civic Center, Downtown, and the Logan and Lacy neighborhoods, which are among the City’s most historic in age and in established residential communities. As shown in Exhibit 2, the TZC is generally bounded by First Street, Flower Street, Civic Center Drive, Grand Avenue, and the Santa Ana (I-5) Freeway. Prior to the implementation of the TZC, the area consisted of a wide range of civic, commercial, industrial, and residential land uses under a variegated amalgamation of zoning districts and their regulations.

In June 2010, the City Council adopted Ordinance No. NS-2804, adopting various entitlements approving the creation of the TZC. The TZC established a transit-supportive, pedestrian-oriented development framework to support the addition of new transit infrastructure; preserve and reinforce the existing character and pedestrian nature of the City by strengthening urban form through improved development and

design standards; encourage alternative modes of transportation; provide for a range of housing options; and allow for the reuse of existing structures.

Moreover, the TZC provided new zoning for all of the properties contained within its boundary with the exception of those properties zoned Light Industrial (M1) or Heavy Industrial (M2). These M1 and M2 properties retained their existing zoning, but were covered by two overlay zones that allows for the option of future mixed-use development to be exercised at the discretion of the property owner. In support of the TZC, the City Council also approved a General Plan amendment, establishing numerous mixed-use General Plan land use designations for the entirety of the TZC. In these industrial overlay areas, however, the resulting new General Plan land use designations immediately resulted in zoning inconsistencies and land use conflicts between the new General Plan land use designations and the industrial overlays.

Since 2010, and specifically in the Logan and Lacy neighborhoods, these industrial uses have remained, changed ownership, undergone expansions or intensifications, and created numerous land use conflicts and disturbances that affect surrounding residential communities. Specifically, in the Logan neighborhood alone, these land uses create quality of life, health and safety, and other trespass issues for residential properties that often directly abut these industrial land uses. These issues include odors, dust, traffic, noise, vibrations, and other documented impacts that have taken place for nearly a decade and a half, despite the change in underlying General Plan land use designation.

Comprehensive Zoning Code Update

The City Council approved a contract with Moore, Iacofano, Goltsman, Inc. (MIG) on October 17, 2023. 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. Necessary amendments include the creation of new zoning district designations and corresponding development standards; updates to the definitions, signage, nonconforming, and parking sections; reorganization of the entire Zoning Code to a more user-friendly format; and new standards to reflect new land use trends, economic development trends, and land use goals of the City.

MIG and City staff have 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.

Historically Disadvantaged Communities

Prior to the adoption of the City's Transit Zoning Code (TZC), the City permitted industrial uses within the Logan and Lacy neighborhoods in close proximity to sensitive land uses such as residences and schools. By way of context, the Logan neighborhood represents the oldest Mexican and Mexican-American neighborhoods of Santa Ana and one of the oldest barrios in Orange County, and one of the few places where Mexicans and those of Mexican descent were allowed to buy land due to restrictions and covenants based on race during the first half of the 20th century. Moreover, as a neighborhood, the area was established before the modern practice of separating impactful land uses, also known as zoning. The Logan neighborhood itself originated as early as 1886 and was largely settled by 1900, before the practice of zoning was enshrined by *Village of Euclid v. Ambler Realty Co.* in 1926. By then, the neighborhood comprised residential, industrial, commercial, and related land uses, with issues further exacerbated by rail lines, fuel storage depots, and the construction of the Santa Ana Freeway between 1947 and 1956.

Comprehensive data analysis and mapping tools generated by the California EPA (CalEPA), the Center for Diseases Control/Agency for Toxic Substances and Disease Registry (CDC/ATSDR), the U.S. EPA (EPA), and California Healthy Places Index (HPI), present concerning information regarding environmental conditions impacting residents in the Logan and Lacy neighborhoods. Exhibit 3 of this report references EJ maps showing rankings of at least 90% or higher in heavy air pollution attributed to indicators describing exposure to Particulate Matter (PM) 2.5, Diesel Particulate Matter, Air Toxics Cancer Risk, Toxic Releases to Air, and Hazardous Water Proximity exposures. Multiple sources of environmental exposure and pollution burden into communities of color, including the Logan and Lacy neighborhoods, presents an alarming set of challenges and decline in healthy community conditions that will impact their quality of life and life expectancy with continued heavy industrial uses nearby.

Implementation of Senate Bill (SB 1000), City General Plan Update (GPU), and new Environmental Justice (EJ) Policies and Actions

SB 1000 went into effect in 2016, requiring local governments to address pollution and other hazards that disproportionately impact low-income and communities of color within their jurisdiction as a way to proactively plan for and address environmental concerns when developing and updating components of the General Plan. During this period, the City began and extended its comprehensive public engagement process for the General Plan Update through its adoption in April 2022. The City and community worked to ensure that the new General Plan included SB 1000 requirements of addressing environmental justice in local general plans through facilitating transparency and public engagement in the planning and decision-making processes, reducing

harmful pollutants and the associated health risks in disadvantaged communities, and promoting equitable access to health-inducing benefits such as healthy housing options. Of note, the new General Plan mixed-use land use designations in the TZC area were largely left intact, including those in the Lacy and Logan neighborhoods, when the General Plan Update was adopted in 2022.

Santa Ana's current General Plan champions implementation policies, including 77 EJ actions that address air quality, noxious uses, water safety, residential lead exposure in the soil, and other environmental public health conditions. City staff, over the past year, have worked on a process to create an EJ Action Committee of EJ cluster area residents, community-based organizations (CBOs), and County and City staff representatives, to guide implementation and resource investments to protect neighborhoods from experiencing any further environmental harm. For the Logan and Lacy neighborhoods, incompatible land uses allowed from past zoning decisions, including the industrial overlay zones, have perpetuated the practices of locating industrial uses or other noxious and unwanted uses, in close proximity to communities of color.

Code Enforcement and Immediate Ongoing Issues

In the Lacy and Logan neighborhoods within the TZC, the Code Enforcement Division has investigated over 33 commercial and industrial properties in the past nine months and currently has 17 active open cases that have been 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. These 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.

Since June 2023, the TZC communities have experienced a marked increase in impacts stemming from the irreconcilable industrial and residential land use conflicts in the Logan and Lacy neighborhoods. Residents in the TZC have increased their reporting of complaints and public health concerns to City staff regarding emitted contaminants and zoning violations from industrial businesses in the neighborhoods. Concerns that range from air pollution and smoke, toxic release exposures, idling trucks on residential streets, lead exposure, illegal storage, unpermitted uses, loud noise at night, and other property maintenance pose an immediate public health threat that is straining public resources to continuously investigate and address these matters. Six months ago, a fire incident at Macera Crematory, located at 1020 Fuller Street, alarmed neighbors at 9:18 p.m. on August 29, 2023. Neighbors shared with City officials disturbing video of high flames escaping the stack on the rooftop, the screeching noise that went nonstop for 10 minutes, and what they described as a foul odor attributed to the fire. As City staff

followed up with external regulatory agencies issuing permits to operate this facility, and quickly, staff observed the limitations from regulatory agencies and their compartmentalized processes to investigate and act on enforcement measures.

Since 2022, the City has enhanced community services by restructuring its Planning Division to contain a Neighborhood Initiatives and Environmental Services (NIES) section, which oversees, among other functions, environmental justice efforts in Santa Ana and regional coordination to address such issues. Despite this restructuring, it is now well documented that the NIES section's coordination with external regulatory agencies has not resulted in a favorable outcome in enforcement by responsible external agencies such as South Coast Air Quality Management District (SCAQMD), California Department of Consumer Affairs Cemetery and Funeral Bureau (CFB), and Orange County Fire Authority (OCFA) in many of these investigations. In response, the City has adopted new regulations such as a Noxious Uses Ordinance (Ordinance No. NS-3044, adopted June 20, 2023), which amends Zoning Ordinance No. 2023-01 that includes: a notification requirement to the City by the property owner to obtain a permit from a regulatory public agency; a requirement of a 1,000 linear foot distance buffer measured from the outermost boundary of the subject property; and a conditional use permit requirement from a regulatory public agency to handle, store, emit, or discharge particulate materials, exhaust emissions, or regulated compounds, or chemicals near a public park, school (K-12), or property zoned for residential purposes.

City staff have also researched commercial real estate acquisition data and current for sale properties to identify any trends that could potentially generate an increase in the application of the City's Noxious Uses Ordinance for proposed or expanded industrial uses. From September 2022 to date, seven properties, primarily industrial businesses, sold and three of those businesses (800-808 E. Washington Avenue, 1045 Fuller Street, and 923 N. Logan Street) are located in the Logan neighborhood. Currently, two large properties are in the market for multifamily and land types located in the TZC.

Environmental Justice (EJ)/Disadvantaged Communities (DACs) Profile: Logan and Lacy neighborhood impacts

A demographic profile of the Lacy and Logan neighborhoods combined represent a population of 5,907, which encompass 1,564 households, a median household income of \$56,864, average household size is nearly four persons, median age is 27 years, per-capita income is \$23,495, and 74% comprise renter-occupied units based on demographic forecasts for 2023. Nearly 25% of the population is under 14 years of age and 14% are 55 years of age and older. Nearly 3% of the population attended up to 12th grade with no diploma, over 31% are high school graduates, and nearly 97% of the working population over 16 years of age are employed.

This data illustrates that the Logan and Lacy neighborhoods are within the second and third highest scored census tracts in Santa Ana, each with a composite score of 90% or

greater, ranking in the 90th percentile or greater of census tracts in the State, and identified as “disadvantaged communities” by the Office of Environmental Health Hazard Assessment (OEHHA) in its CalEnviroScreen model. Failure to address ongoing irreconcilable land use conflicts that are the target of this moratorium will further exacerbate the ongoing demographic and environmental justice challenges that these two neighborhoods within the TZC have grappled with since their founding.

General Plan Inconsistency with Present Land Uses

Numerous policies of the General Plan are inconsistent with the present, irreconcilable land use pattern of the TZC. Specifically, these policies include Policy LU-1.1 (Compatible Uses), Policy LU-3.8 (Sensitive Receptors), Policy LU-3.9 (Noxious, Hazardous, Dangerous, and Polluting Uses), Policy LU-3.11 (Air Pollution Buffers), Policy LU-4.3 (Sustainable Land Use Strategies), Policy LU-4.6 (Healthy Living Conditions), Policy CM-3.2 (Healthy Neighborhoods), Policy EP-1.9 (Avoid Conflict of Uses), and Policy CN-1.5 (Sensitive Receptor Decisions), which are targeted at correcting past land use planning practices that have placed an unequitable environmental and health burden on certain neighborhoods now termed disadvantaged communities.

The purpose of the interim ordinance is to immediately offer protection of public health, safety, and welfare from these irreconcilable land use conflicts in the TZC, during the time that City staff analyzes and prepares an evaluation of industrial business uses within the TZC. Such an evaluation will enable staff to generate recommendations to the Planning Commission and City Council to determine whether industrial uses should be permitted in the zoning district, and, if not, proceed with an ordinance and zoning map amendment to the district. During the interim moratorium period, City staff will not issue permits, business licenses, or other applicable entitlements to individuals wishing to use their property for the purposes of industrial business use in the TZC.

ENVIRONMENTAL IMPACT

This ordinance is not subject to the California Environmental Quality Act (“CEQA”), as the proposed action is not subject to the requirements of CEQA, pursuant to Guidelines Section 15060(c)(2) because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment and 15060(c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly and so is not a project, as the ordinance will temporarily preclude the approval, commencement, establishment, relocation, or expansion of uses in the zoning district.

FISCAL IMPACTS

There is no fiscal impact associated with this action.

EXHIBITS

1. Interim Ordinance (Moratorium)
2. Transit Zoning Code (TZC) Map
3. Logan and Lacy Community Summary Infographic and Environmental Justice (EJ) Data Maps City General Plan Environmental Justice Implementation Actions
4. City General Plan Environmental Justice (EJ) Implementation Actions

Submitted By: Ali Pezeshkpour, AICP, Planning Manager

Approved By: Alvaro Nuñez, Acting City Manager



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

UNCODIFIED URGENCY ORDINANCE NO. NS-3064

AN UNCODIFIED URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA ANA, EXTENDING A MORATORIUM ON THE APPROVAL, COMMENCEMENT, ESTABLISHMENT, RELOCATION OR EXPANSION OF INDUSTRIAL USES WITHIN SPECIFIC DEVELOPMENT NO. 84 ZONING DISTRICT FOR AN ADDITIONAL TEN (10) MONTHS AND FIFTEEN (15) DAYS PURSUANT TO GOVERNMENT CODE SECTION 65858

WHEREAS, the City of Santa Ana has the police power pursuant to Article XI, section 7 of the California Constitution, to make and enforce ordinances to regulate the use of land within its jurisdictional boundaries; and

WHEREAS, Government Code Section 65858 expressly authorizes the City Council, in order to protect the public health, safety and welfare, to adopt an interim urgency ordinance prohibiting a use that is in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission, or the planning department is considering or studying or intends to study within a reasonable time, provided that the urgency measure shall require a four-fifths vote of the legislative body for adoption, and shall be of no further force and effect forty-five (45) days from its date of adoption, unless duly extended; and

WHEREAS, on April 16, 2024, the City Council adopted a Moratorium on the approval, commencement, establishment, relocation or expansion of industrial uses within Specific Development No. 84 ("SD-84") also known as the Transit Zoning Code ("TZC") by adoption of Urgency Ordinance No. NS-3063 to immediately offer protection of public health, safety, and welfare from industrial uses significantly causing pollution burden to adjacent residential neighborhoods in the TZC (SD-84) 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; and

WHEREAS, the Moratorium will expire on June 1, 2024 unless extended; and

WHEREAS, Government Code Section 65858 authorizes the City Council, after notice pursuant to Government Code Section 65090 and a public hearing, to adopt an ordinance extending the Moratorium for 10 months and 15 days, upon approval by a fourth-fifths vote, and upon making the same findings required for the adoption of the initial forty-five (45) day Moratorium; and

WHEREAS, Government Code Section 65858(d) requires the City Council, ten days prior to the expiration of the Moratorium or any extension thereof, to issue a written report describing the measures taken to alleviate the condition which led to the adoption of the Moratorium; and

WHEREAS, on May 7, 2024, City staff prepared, and the City Council issued and filed a 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 the Moratorium; and

WHEREAS, Santa Ana Charter Sections 415 and 417 expressly authorize the City Council to enact urgency ordinances, which take effect immediately upon introduction, for the immediate preservation of the public peace, health or safety, containing a declaration of the facts constituting the urgency; and

WHEREAS, Government Code Section 65858, authorizes the City Council to adopt an interim urgency ordinance with a four-fifths vote, without following the procedures otherwise required for the adoption of an ordinance, to protect the public safety, health, and welfare, prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City Council, Planning Commission or the planning department is considering or studying or intends to study within a reasonable time; and

WHEREAS, in unanimously adopting the Moratorium on April 16, 2024, the City Council of the City of Santa Ana established the following findings, all of which below remain true and applicable and necessary to support extending the Moratorium:

- The TZC, located in the central core of Santa Ana, comprises approximately 450 acres, encompasses the Logan, Lacy, and Downtown neighborhoods, and was adopted by the City Council on June 7, 2010; and
- Upon the initial adoption of the TZC in 2010, the General Plan of the City of Santa Ana was updated with new land use designations for the areas covered by the TZC to allow for new, mixed-use residential and commercial communities; and
- The goals of the TZC are to provide a transit-supportive, pedestrian-oriented development framework to support the addition of new and enhancement of existing communities through transit infrastructure; to preserve and reinforce the existing character and pedestrian nature of the City by strengthening urban form through improved development and design standards; to encourage alternative modes of transportation; to provide zoning for the integration of new infill development into existing neighborhoods; to provide for a range of housing options; and to allow for the reuse of existing structures; and
- Industrial uses were established within the Logan and Lacy neighborhoods in close proximity to sensitive land uses such as

residences and schools prior to the adoption of the TZC, as far back as the late 19th century, predating modern zoning practices that take into account irreconcilable land use conflicts among variegated land uses; and

- The TZC provides new mixed-use zoning for properties contained within its boundary while creating industrial overlay zones allowing properties being used as industrial uses at the time of its adoption to continue to be governed by industrial zoning districts until such time that properties were converted to the mixed-use zones allowed by the TZC; and
- Senate Bill (SB) 1000 went into effect in 2018, requiring local governments to identify environmental justice communities, called “disadvantaged communities”, in their jurisdictions and address environmental justice in their general plans through facilitating transparency and public engagement in the planning and decision-making processes, reducing harmful pollutants and the associated health risks in disadvantaged communities, and promoting equitable access to health-inducing benefits such as healthy housing options; and
- The City of Santa Ana completed a comprehensive update of its General Plan in April 2022; and
- The Office of the Attorney General of the State of California was actively involved in ensuring Santa Ana’s General Plan update complied with all aspects of SB 1000 prior to its adoption; and
- As required by SB 1000, update of the General Plan and its associated land use plan identified and addressed long standing environmental justice issues throughout all of its elements, which include 77 implementation actions aimed at reducing harmful pollutants and associated health risks in disadvantaged communities; and
- Numerous policies of the General Plan are inconsistent with the present, irreconcilable land use pattern of the TZC. Specifically, these policies include Policy LU-1.1 (Compatible Uses), Policy LU-3.8 (Sensitive Receptors), Policy LU-3.9 (Noxious, Hazardous, Dangerous, and Polluting Uses), Policy LU-3.11 (Air Pollution Buffers), Policy LU-4.3 (Sustainable Land Use Strategies), Policy LU-4.6 (Healthy Living Conditions), Policy CM-3.2 (Healthy Neighborhoods), Policy EP-1.9 (Avoid Conflict of Uses), and Policy CN-1.5 (Sensitive Receptor Decisions), which are targeted at correcting past land use planning

practices that have placed an unequitable environmental and health burden on certain neighborhoods now termed disadvantaged communities; and

- The industrial overlay zones in the TZC perpetuate past planning practices of locating industrial uses, or other noxious and unwanted uses, in close proximity to communities of color; and
- The Logan neighborhood is the oldest Mexican and Mexican-American neighborhood in Santa Ana and one of the oldest in Orange County, and one of the few places where Mexicans and those of Mexican descent were allowed to buy land due to restrictions and covenants based on race during the first half of the 20th century; and
- The construction of Santa Ana (I-5) Freeway through Santa Ana in the 1950s resulted in a number of families being displaced through the demolition of single-family homes in the northeastern portion of the Logan neighborhood; and
- In the 1970s a proposed expansion of an arterial highway along Civic Center Avenue would have demolished a significant portion, if not all, of the Logan neighborhood; and
- The Logan and Lacy neighborhoods are within the second and third highest scored census tracts in Santa Ana, each with a composite score of 90 percent or greater, ranking in the 90th percentile or greater of census tracts in the State, and identified as “disadvantaged communities” by the Office of Environmental Health Hazard Assessment (OEHHA) in its CalEnviroScreen model; and
- Assembly Bill (AB) 686 requires local jurisdictions to take deliberate actions to explicitly address, combat, and relieve disparities to disadvantaged communities, such as Logan and Lacy neighborhoods, resulting from past patterns of segregation, disinvestment, and planning practices; and
- The updated land use plan in the Land Use Element of the General Plan does not designate any properties within the TZC, including the Logan or Lacy neighborhoods, as industrial; rather, are designated as varying intensities of District Center or Urban Neighborhood land use designations—both of which are inconsistent with industrial uses; and

- There are pressing and growing code enforcement complaints stemming from the irreconcilable land use conflicts in the TZC. Specifically, in the Logan and Lacy neighborhoods, the City's Code Enforcement Division has investigated over 33 commercial and industrial properties in the past nine months and currently has 17 active open cases that have been 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. The close proximity of active open industrial cases during a short period of time is creating a public nuisance that is draining City resources and that is harming public health, safety, and general welfare of the TZC's existing and new residential neighborhoods from the concentration of open code enforcement cases nearby; and
- In the Logan neighborhood, 52 industrial facilities (automotive, warehouse/storage, crematory, towing yards, construction) are presently in close proximity to sensitive uses monitored by external regulatory agencies such as South Coast AQMD, Orange County Health Care Agency – Certified Unified Program Agencies (OC CUPA), Santa Ana Regional Water Quality Board (SARWQB), Orange County Fire Authority. Industrial facilities have caused significant pollution exposure to disadvantaged communities, including lead risk in soil and housing, diesel particulate matter from idling trucks, toxic release from facilities, traffic impacts, noise pollution, and airborne particulate matter or fine inhalable particles of 2.5 (PM2.5) microns or less in diameter. CalEnviroScreen reports higher environmental effects from active facility cleanup sites, hazardous waste facilities, and solid waste locations. Cumulative health impacts in the area include asthma, cardiovascular disease, and low birth weight, in this overburdened disadvantaged community factored by socioeconomic indicators of poverty, linguistic isolation, housing burden, and education; and
- In the Lacy neighborhood, 76 industrial facilities (automotive, warehouse/storage, towing yards, construction) are presently in close proximity to sensitive uses monitored by external regulatory agencies such as South Coast AQMD, Orange County Health Care Agency – Certified Unified Program Agencies (OC CUPA), Santa Ana Regional Water Quality Board (SARWQB), Orange County Fire Authority. Industrial facilities have caused significant pollution onto disadvantaged communities, including lead risk exposure, diesel particulate matter from idling trucks, toxic release from facilities, traffic

impacts, noise pollution, vibration impacts, and airborne particulate matter or fine inhalable particles of 2.5 (PM2.5) microns or less in diameter. CalEnviroScreen reports higher environmental effects from active facility cleanup sites, hazardous waste facilities, and solid waste locations. Cumulative health impacts in the area include asthma, cardiovascular disease, and low birth weight, in this overburdened disadvantaged community factored by socioeconomic indicators of poverty, linguistic isolation, housing burden, and education; and

- There is a recent surge in residential development activity in the TZC that is exacerbating the irreconcilable land use conflicts between residential and industrial land uses. Examples include the Lacy Crossing residential development with over 100 ownership units directly adjacent to existing industrial land uses, for which the City receives regular complaints from residential occupants of disturbances from noise, vibrations, odors, and truck traffic; and the Rafferty mixed-use development with 218 residential units, including 11 onsite units for very-low income households, which is located less than one-fifth of a mile from industrial land uses; and
- There is a marked increase in the pending and active development applications for industrial land uses in the TZC, including for contractor's yards, construction debris storage yards, manufacturing operations, expansion of existing industrial businesses, and storage and warehousing operations, stemming from shifting economic demands for goods and services emerging from the Covid-19 pandemic; and
- The City Council approved a contract with Moore, Iacofano, Goltsman, Inc. (MIG) on October 17, 2023. 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; and
- MIG and City staff have 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; and

- The policies and implementation actions in the General Plan also require review, study, and possible revision in order to respond to recent concerns relating to the impacts of these industrial business uses in the TZC; and
- Given these concerns, the City Council directed that a study be undertaken of the current provisions of the TZC to address industrial business uses and determine whether such uses should be permitted in the zoning district, and if not, proceed with an ordinance amendment to preclude such uses from the district; and
- Based on the foregoing, the City Council found that continuing to issue permits, business licenses, or other applicable entitlements to individuals wishing to use their property located in the TZC for the purposes of industrial business use, prior to the City's completion of its study of the potential impact of such uses, would pose a current and immediate threat to the public health, safety, and welfare, and that a temporary moratorium on the issuance of such permits, licenses, and entitlements in the TZC area is thus necessary; and
- The City Council further found that if an industrial business use is permitted in the TZC without further review and potential regulation, it will pose a serious threat to the public interest, health, safety and welfare for the following reasons:
 - Adversely impacts surrounding businesses and neighborhoods;
 - Adversely impacts sensitive uses such as residences, schools, parks, and places where children congregate;
 - Conflicts with the goals and policies of the City's General Plan;
 - Long-term incompatibility and inconsistency with surrounding uses; and
 - Risks to the public health, safety and welfare of the City; and
- The City Council also determined that prevention of detrimental impacts to residents, the public interest, health, safety and welfare required the immediate enactment of the urgency ordinance and that the absence of the urgency ordinance will create a serious threat to the orderly and effective

implementation of any code amendments, general plan amendments or specific plan amendments which may be adopted by the City; industrial business uses may be in conflict with or frustrate the contemplated updates and revisions to the Code. Moreover, permitting such uses during said studies and implementation would create impacts on the public health, safety and welfare that the City Council, in adopting the ordinance, found to be unacceptable; and

WHEREAS, Since the adoption of the Moratorium, City staff has begun to gather data and research the impact of these industrial uses in the TZC as set forth in the report issued by the City Council on May 7, 2204; and

WHEREAS, there is a need to study further the issues associated with industrial uses in the TZC and the impact that these uses have on the adjacent residential neighborhoods and their residents; and

WHEREAS, City staff, the Planning Commission, and the City Council each require a reasonable period of time to study the existing SD-84/TZC and to evaluate if further, permanent action to address the land use conflicts in the TZC is necessary; and

WHEREAS, the City Council wishes to extend the Moratorium for a period of ten (10) months and fifteen (15) days, or until the City Council adopts an ordinance addressing the issues raised, whichever occurs first; and

WHEREAS, at a duly noticed public hearing on May 21, 2024, the City Council heard testimonial evidence and all other evidence submitted from members of the public that were present and from City staff. The City Council reviewed, analyzed, considered and studied all oral and written testimony and evidence presented at the public hearing, including staff reports and presentations of City staff.

NOW, THEREFORE, the City Council of the City of Santa Ana does ordain as follows:

Section 1. The recitals above are each incorporated by reference and adopted as findings by the City Council.

Section 2. The City Council finds that there is a current and immediate threat to public health, safety and welfare posed by industrial uses in SD-84, also known as, the TZC. If an industrial business use is permitted in the TZC without further review and potential regulation, it will pose a serious threat to the public interest, health, safety and welfare due to adverse impacts on surrounding businesses and neighborhoods; adverse impacts on sensitive uses such as residences, schools, parks, and places where children congregate; conflicts with the goals and policies of the City's General Plan; and the effect of long term incompatibility and inconsistency with surrounding uses.

Section 3. In accordance with Government Code Section 65858(d), on May 7, 2024, the City Council issued a written report describing the measures being taken to alleviate the conditions that lead to the adoption of the Moratorium and this extension thereof, attached hereto as Exhibit A and incorporated herein by reference.

Section 4. Government Code Section 65858 authorizes the City Council to adopt an interim Urgency Ordinance, without following the procedures otherwise required for the adoption of an ordinance, to protect the public safety, health and welfare, prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City Council, Planning Commission of the planning department is considering or studying or intends to study within a reasonable time.

Section 5. Government Code Section 65858(a) provides that the City Council, after notice and a public hearing, may extend the interim Ordinance for 10 months and 15 days and subsequently extend the interim ordinance for one year. Any extension requires a four-fifths vote.

Section 6. The City Council, in accordance with Government Code Section 65858 and Santa Ana Charter Sections 415 and 417 hereby adopts this uncoded Urgency Ordinance extending the Moratorium on the approval, commencement, establishment, modification, relocation or expansion of industrial uses in the TZC for a period of ten (10) months and fifteen (15) days, commencing June 1, 2024. The Moratorium will now expire on April 15, 2025, or until the City Council adopts an Ordinance addressing the issues related to the approval, commencement, establishment, relocation or expansion of industrial uses within SD-84, also known as the TZC. For the purposes of this Urgency Ordinance, "industrial uses" includes those specified by Divisions 18 and 19 of Article III of Chapter 41 of the Santa Ana Municipal Code, and by Section 41-2007 of the Santa Ana Municipal Code and Table 2A in the Transit Zoning Code (Specific Development No. 84).

Section 7. This Ordinance shall have no further force and effect after a period of ten (10) months and fifteen (15) days, commencing June 1, 2024; unless, however, after public hearing the City Council, by four/fifths (4/5) vote, extend this Ordinance for a period of one more year.

Section 8. It shall be unlawful and a misdemeanor for any person to violate or fail to comply with any provision of the ordinance. The violation of any provision of this Ordinance shall be punished as provided in Section 1-8 of Chapter 1 of the Code.


Section 9. The City Council finds and determines that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to sections 15061(b)(3) and 15061(b)(5) of the CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, as the ordinance will temporarily preclude the approval, commencement, establishment, relocation or expansion of uses in the zoning district.

Section 10. If any section, subsection, phrase, or clause of this Ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared invalid or unconstitutional.

Section 11. This Ordinance is introduced, passed and adopted at one and the same meeting and is thereafter immediately effective. The City Council finds that this ordinance is necessary to protect the public safety, health and welfare. The reasons for the emergency are set forth in Section 1 of this Ordinance.

Section 12. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be published in the manner prescribed by law.

ADOPTED this 21st day of May, 2024.



Valerie Amezcua
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney

By: Laura A. Rossini

Laura A. Rossini
Chief Assistant City Attorney

AYES: Councilmembers: Amezcua, Bacerra, Hernandez, Lopez, Penaloza, Phan, Vazquez (7)

NOES: Councilmembers: None (0)

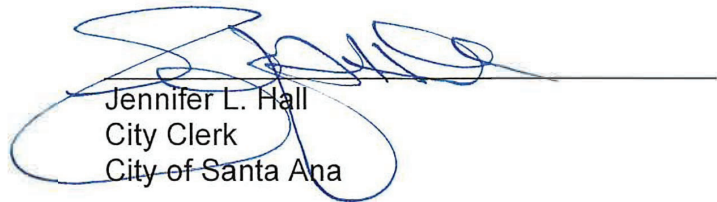
ABSTAIN: Councilmembers: None (0)

NOT PRESENT: Councilmembers: None (0)

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Jennifer L. Hall, City Clerk, do hereby attest to and certify the attached Ordinance No. NS-3064 to be the original ordinance adopted by the City Council of the City of Santa Ana on May 21, 2024.

Date: 5/30/2024


Jennifer L. Hall
City Clerk
City of Santa Ana



City of Santa Ana
20 Civic Center Plaza, Santa Ana, CA 92701
Staff Report
May 21, 2024

TOPIC: Extension of Moratorium on the Approval, Commencement, Establishment, Relocation, or Expansion of Industrial Uses in Specific Development No. 84

AGENDA TITLE

Extension of Moratorium on the Approval, Commencement, Establishment, Relocation, or Expansion of Industrial Uses within Specific Development No. 84 ("SD-84"), Also Known as the Transit Zoning Code ("TZC") for Ten (10) Months and Fifteen (15) Days Pursuant to Government Code Section 65858(a)

Legal notice published in the Orange County Reporter on May 6, 2024.

RECOMMENDED ACTIONS

1. Adopt an urgency ordinance extending a moratorium on the approval, commencement, establishment, relocation, or expansion of industrial uses within SD-84, by four-fifths (4/5) vote, pursuant to California Government Code Section 65858(a), for an additional 10 months and 15 days.

UNCODIFIED URGENCY ORDINANCE NO. NS-XXXX entitled AN UNCODIFIED URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA ANA EXTENDING A MORATORIUM ON THE APPROVAL, COMMENCEMENT, ESTABLISHMENT, RELOCATION OR EXPANSION OF INDUSTRIAL USES WITHIN SPECIFIC DEVELOPMENT NO. 84 ZONING DISTRICT FOR AN ADDITIONAL TEN (10) MONTHS AND FIFTEEN (15) DAYS PURSUANT TO GOVERNMENT CODE SECTION 65858

2. Find that, in accordance with the California Environmental Quality Act (CEQA), the proposed action is not subject to the requirements of the California Environmental Quality Act, pursuant to (Guidelines) Section 15060(c)(2) because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment and 15060(c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly and so is not a project.

GOVERNMENT CODE §84308 APPLIES: No

Extension of Moratorium on the Approval, Commencement, Establishment, Relocation,
or Expansion of Industrial Uses in Specific Development No. 84
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Extension of Moratorium on the Approval, Commencement, Establishment, Relocation,
or Expansion of Industrial Uses in Specific Development No. 84

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EXECUTIVE SUMMARY

On April 16, 2024, the City Council adopted a Moratorium on the Approval, Commencement, Establishment, Relocation, or Expansion of Industrial Uses within Specific Development No. 84 Zoning District through adoption of Urgency Interim Ordinance No. NS-3063. The purpose of this Moratorium was to immediately offer protection of public health, safety, and welfare from industrial uses significantly causing pollution burden to adjacent residential neighborhoods in the Transit Zoning Code (Specific Development No. 84) 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 moratorium, the City is not issuing permits that result in the approval, commencement, establishment, modification, relocation, or expansion of industrial uses in the Transit Zoning Code (TZC).

Pursuant to Government Code Section 65858, the Moratorium shall have no further force and effect 45-days from the date of its adoption, which was April 16, 2024, unless extended. An extension requires the City Council issue a written report ten days prior to the expiration of the Moratorium, or extension thereof, describing the measures taken to alleviate the condition which led to the adoption of the Moratorium, provide notice pursuant to Government Code Section 65090, and hold a public hearing. Government Code Section 65858(a) allows an extension for 10 months and 15 days and a subsequent extension for one year. An extension also requires a four-fifths (4/5) vote of the City Council.

On May 7, 2024, the City Council issued a 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 the Moratorium.

City staff has determined that an extension of the Moratorium for an additional ten (10) months and fifteen (15) days pursuant to the Government Code is necessary to continue with data tracking and reporting, research appropriate regulations, and coordinate with outside regulatory agencies and City departments to provide a complete analysis and thorough evaluation of the more than 130 industrial businesses within the TZC.

An extension of the Moratorium would provide sufficient time to enable staff to determine whether further, permanent action is necessary and to generate recommendations to the Planning Commission and City Council. Such action may entail a zoning map amendment, zoning text amendment, or both, which would address industrial land uses in the TZC.

DISCUSSION

Background

Review of City Department Activities

Immediately following the adoption of the 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 TZO 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 the Moratorium affects more than 130 industrial businesses in the TZO. 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 continue to gather, review, and analyze information regarding affected industrial businesses within the TZO. 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 under review 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 (SAPD) and the 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.

Initial reports from the SAPD show calls for service in the TZO totaling 18,510 calls between March 2023 and April 2024. These calls for service included patrol checks, car stops, disturbances, alarm activation, trespassing, and many more types of calls for service. Of the 18,510 calls for service, 1,909 incidents reported were related to collisions, impounded vehicles, hit and run collisions, domestic violence, and Santa Ana municipal code violations. Similarly, data from OCFA shows 62 calls for service in 2022 and 66 calls for service for 2023 for a combined 128 calls for service for both 2022 and 2023 for advanced life support-related emergencies. Specifically, 29 of the service calls responded to by OCFA in 2022 were related to health stemming from respiratory concerns to chest pain and cardiac arrest, along with long-term diabetic issues and chest pains. In 2023, there was nearly a seven percent (7%) increase in the number of health-related calls OCFA responded to related to health issues.

In addition, City staff continue 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 Moratorium, 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 amount of active open industrial cases, in close proximity to one another, during a short period of time is creating a public nuisance and harming the public health, safety, and general welfare of the two residential neighborhoods.

Since the adoption of the Moratorium, City staff have received multiple code enforcement complaints from community members about industrial businesses in the TZC area that were also reported previously before the adoption of the Moratorium. City staff have received repeated code enforcement and air emission complaints about facilities in the Logan neighborhood and are working with Code Enforcement Division and SCAQMD staff to obtain responses, investigations, or reports provided by the Code Enforcement Division and SCAQMD to the complaints reported. Recent code enforcement complaints on properties in the Logan neighborhood involve complaints for recurring unpermitted work and land use violations that involve large commercial vehicles blocking street access and impacting nearby residents.

Code Enforcement Division follow-up has resulted in larger administrative citations, continued enforcement, and onsite meetings with business owners. Moreover, air emission complaints have been reported to SCAQMD. These complaints include one involving black smoke and another regarding unpermitted soil vapor extraction equipment onsite. Part of the jurisdictions that City staff are working with include SCAQMD staff to obtain updates regarding the status of these complaints. SCAQMD staff investigated one complaint that did not result in an enforcement action and is investigating the other complaint. SCAQMD staff has clarified that for air quality complaints they receive, their inspector is required to be physically present to observe the activity from the facility described in the complaint to determine if the complaint warrants further investigation or enforcement action in accordance with South Coast AQMD Rules 401 (Visible Emissions), 402 (Public Nuisance), and 403 (Fugitive Dust). Community members continue to share concerns with City and SCAQMD staff regarding the turnaround time for an SCAQMD inspector to be physically present at an SCAQMD-permitted facility to investigate an air quality complaint, especially if a complaint is reported after working hours or on weekends.

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 from outside regulatory agencies, such as the South Coast Air Quality Monitoring District, Santa Ana Regional Water Quality Control Board, the Department of Toxic Substances Control, and others responsible for issuing supportive permits for industrial uses in the TZC. Such agencies are responsible for permit issuance, compliance activities, and/or monitoring hazardous clean-up sites, or other industrial facility-related activities and received current data requests for sites located within SD No. 84 that were initiated by City staff on April 25, 2024.

Data from outside regulatory agencies will 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, such as zip code area as an example, not specifically matching the boundaries of the TZC. The City has not received responses to its Public Records Act requests and once it does, additional time will be needed for City staff to carefully review and analyze the data in order to understand all activities (internal and external) and affected industrial businesses.

Comprehensive Zoning Code Update and Neighborhood Engagement

City staff continue to work with Project Consultant MIG to ensure the City's Zoning Code and General Plan are consistent. In order to maintain compliance with state law, comprehensive amendments to the Zoning Code will likely be 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 continue to indicate that there are irreconcilable land use conflicts and land use inconsistencies in the TZC area which are among the most pressing topics to 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.

The Neighborhood Initiatives and Environmental Services (NIES) section of the Planning Division continue to coordinate with City departments, outside 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 options for 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. NIES staff also continue to coordinate with residents selected to represent the City's EJ Clusters to complete the formation of the EJ Action Committee, the community-led EJ advocacy group. This group will help guide the prioritization and resource investments to implement the City's General Plan EJ Policies and Implementation Actions.

Next Steps

During the Moratorium, 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.

Staff continues to receive, analyze, and prepare a thorough evaluation of industrial business uses within the TZC. Staff has determined that an extension of the Moratorium for an additional ten (10) months and fifteen (15) days, pursuant to Government Code Section 65858(a), is recommended to provide the additional staff time and resources needed to implement a comprehensive evaluation of the industrial uses in the TZC utilizing the data reporting and tracking, regulatory research, enforcement reports, and department discussions to fully understand the effects of industrial uses in the TZC and to continue to address current and immediate threats to public health, safety, and welfare, due to growing code enforcement complaints stemming from the irreconcilable land use conflicts within the TZC.

On May 7, 2024, a ten-day report was issued by the City Council pursuant to California Government Code Section 65858(d) and is attached and referenced as Exhibit A to the Ordinance attached to this staff report. The April 16, 2024 City Council Meeting staff report is included in this report as Exhibit 3, providing background on the issues and analysis on the original need for the Moratorium.

ENVIRONMENTAL IMPACT

The extension of the Moratorium is not subject to the California Environmental Quality Act ("CEQA"), as the proposed action is not subject to the requirements of CEQA, pursuant to Guidelines Section 15060(c)(2) because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment and 15060(c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly and so is not a project, as the ordinance will temporarily preclude the approval,

Extension of Moratorium on the Approval, Commencement, Establishment, Relocation,
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commencement, establishment, relocation, or expansion of uses in Specific
Development No. 84 (the Transit Zoning Code).

FISCAL IMPACTS

There is no fiscal impact associated with this action.

EXHIBITS

1. Uncodified Urgency Ordinance Extending Moratorium for Ten (10) Months and
Fifteen (15) Days
2. Urgency Interim Ordinance No. NS-3036 adopted on April 16, 2024
3. April 16, 2024 City Council Staff Report and Exhibits
4. Public Notice

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

Approved By: Alvaro Nuñez, Acting City Manager