



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.

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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