



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

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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 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 the Moratorium affects more than 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 continue 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 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 TZC 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.

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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,

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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