



DATE: May 5, 2021

TO: Mayor and Members of the City Council

FROM: John R. Gillison, City Manager

INITIATED BY: Anne McIntosh, AICP, Planning Director
Mike Smith, Principal Planner

SUBJECT: Report in Conformance with California Government Code Section 65858(D) on Measures Taken to Alleviate the Need for Interim Ordinance No. 980. (CITY)

RECOMMENDATION:

Staff recommends the City Council issue the attached report in conformance with California Government Code Section 65858 on the measures taken by the City to alleviate the need for Interim Ordinance No. 980.

BACKGROUND:

At the regular City Council meeting of March 17, 2021, the City Council directed the City Manager to research and compile information about service stations in the City related to the following topics of concern:

- The number and location of existing service stations in the city;
- Analysis of the land use benefits of service stations to the community;
- Analysis of the fiscal benefits of service stations and how this compares to other retail uses;
- Land use impacts of service stations on the surrounding commercial districts and/or residential neighborhoods;
- Costs to the City of providing service at service station locations, particularly calls for public safety services;
- Land use policies that will be included in the General Plan update the City is currently preparing and which will be available in draft form within the next month; and
- Possible performance stations and/or conditions that could be placed on service station projects in the future.

On April 21, 2021 at 4:00 PM, the City Council conducted a special study session during which they received a report prepared by staff that described the impacts of service stations in the City. The City Council then discussed these impacts, the moratorium's purpose, and the applicability/timing of the moratorium. At their regular meeting at 7:00 PM on that date, the City Council subsequently adopted Urgency Ordinance No. 980 (Attachment 2) establishing an interim urgency zoning Ordinance, pursuant to Government Code Section 65858, establishing a moratorium on the approval of applications for building permits or other entitlements for new service station uses or the expansion of existing service station uses in the City. The temporary interim urgency ordinance, if not extended, is set to expire on June 5, 2021.

ANALYSIS:

Section 65858(d) of the California Government Code provides that, *“Ten days prior to the expiration of that interim ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance.”* The 10-day report does not modify nor extend the City’s existing moratorium related to service stations. Rather, issuance of the 10-day report satisfies a statutory step in the process to permit the City Council to consider that potential extension at its next regular meeting on June 2, 2021.

The following specific activities are currently being undertaken to alleviate the conditions which led to the adoption of Interim Ordinance 980.

- The City is currently in the process of updating the General Plan, the Zoning Map, and the Development Code to incorporate appropriate land use regulations and technical/design standards for all types of development within the City. As a part of this effort, the City has also begun the process of identifying updates that will specifically address the development and operation of service stations.

In considering land use and zoning provisions for service stations, staff will be evaluating whether the City’s residents and visitors are adequately served by the 32 existing service stations in the City. This will assist in determining whether there is a need for more service stations. Or, if the needs of the City are being met, that the City has reached a saturation point with service stations. As the City becomes more “built-out” there is less vacant land available for development that will fulfill the City Council’s and community’s vision for ‘A World Class Community.’ Thus, the answers to this evaluation also will be critical in shaping the next phase of development, and the pattern of that development, in the City for decades into the future.

Most of the remaining vacant land in the City is surrounded by existing development that are considered “sensitive” uses such as residential neighborhoods, schools, and parks. As a result, it has become more important and relevant to consider surrounding uses and context/compatibility when reviewing proposals for service stations. Their location near sensitive uses increases the risk of contaminant exposure to vulnerable populations. This problem is magnified in instances where a service station may become obsolete and become a “brownfield” site, i.e. a property of which the expansion, redevelopment, or reuse may be complicated by the presence or potential presence of a hazardous substance(s), pollutant(s), or contaminant(s). Exposure to the types of contaminants that are present, or are potentially present, at service stations threatens the public health, safety or welfare of neighboring sensitive uses. This outcome is not accounted for in the City’s current land use regulations and, as a result, they will be updated.

A disproportionate amount of the City’s existing service stations uses are concentrated in the southwest and central areas of the City. The proliferation of service stations in these areas of the City inequitably increases health risks for the residents of in these locations due to the potential contaminants present at service stations. Under consideration will be where service station uses are designated as a permitted or conditionally permitted use in the City’s General Plan and Zoning Map, and how such uses are regulated in the Development Code. The purpose of this will be minimize the undue concentration of service stations in any one area of the City. The updates to these documents also will include an analysis of the land use compatibility of service stations with sensitive uses. Further analysis will be conducted on the contribution of service

stations to the fiscal vitality of the City and demand for public safety services generated by service stations. These topics are both further discussed below;

- Staff has begun researching the fiscal impacts of existing service stations in the City. Staff will be evaluating, for example, the sales tax revenue of each of the existing and potential service stations in the City and comparing their fiscal performance with other commercial uses that could potentially be developed on the property. Based on staff's preliminary analysis, the collective sales tax revenue of the existing service stations in the City has been generally trending downward. Staff also will be researching, for example, the tax revenue generated by service stations in other cities to see how they compare the revenue generated in the City. Note that trends in changing technology may further erode and depress sales tax revenue. As part of staff's efforts, there will be an evaluation of service stations fiscal performance in this context and whether such uses could become obsolete. Staff will also be evaluating the fiscal performance of service stations relative to the demand on public safety services (and the cost to provide them);
- Staff has begun researching the demand for public safety services generated by existing service stations in the City. Based on staff's preliminary analysis using data provided by the San Bernardino County Sheriff's Department, total calls for service of any kind at service stations in the City have generally increased since 2016. There were 637 calls for service in 2016 compared to 1,059 calls for service in 2020. Data for 2021 is incomplete but thus far there has been 135 calls for service. Over that 5-year period, this equates to an average of about 924 calls for service. Similarly, the time spent by deputies on these calls during the same period has increased from about 1,101 hours to about 2,455 hours. The average amount of time spent on location is about 1,870 hours.

The number of calls for service and the time spent at service stations cause public safety resources to be used in a likely inefficient and potentially unsustainable manner. Furthermore, service stations draw away an important and critical service from other areas of the City. Including 2021 to date, there has been a combined total of 4,754 calls for service for all service stations. The total calls for service are not equal among the various service stations. It is not yet clear why this disparity exists. As part of the evaluation of the demand for public safety services, staff will reach-out to representatives from the Sheriff's Department to determine what they believe are the underlying causes for the increase in calls and time spent on location. Staff will also be researching the operating characteristics of all 32 service stations in the City. Staff believes that the disparity in total calls for service may be due to service stations having different operating characteristics. For example, if a service station sells alcohol; is open 24 hours; has accessory uses such as a car wash or a restaurant; or provides services such as vehicle repair, then staff will utilize that information to determine the relationship with demands on public safety resources. If necessary, staff will develop new regulations and standards that will allow public safety resources to be used more efficiently and sustainably;

- Staff has begun researching how conventional service stations may be affected by: advancements in electric vehicle (EV) technology such as increases in their range due to more efficient batteries; the adoption of EVs as a practical alternative to fossil fuel powered vehicles due to the introduction of chargers that bring the batteries of EVs to a full charge faster or batteries that have the capacity to power heavier vehicles such as trucks; the availability of a variety different mobility options, or the preference for them, such as ridesharing services and mass transit; and new government regulations restricting or prohibiting the sale of vehicles with conventional combustion engines at a specified time in the future;

- Staff is drafting amendments to the Development Code, and other relevant documents as necessary, related to technical/design standards and requirements for service stations within the City for consideration by the Planning Commission and City Council by June 30, 2022. As part of this process, staff will be developing new regulations such as those that would, for example, regulate physical requirements such as the number of service stations at street intersections and the minimum distance, or separation, between services stations; regulate operating conditions such as the hours that service stations are open and whether they sell alcohol; and determine what accessory uses or services could (or if the City prefers, should) be included with service stations such as the sale of fresh food.

As part of this effort, staff will be reviewing the municipal/development codes of neighboring jurisdictions to determine how they regulate service stations and the technical/design standards that those communities apply to them. Similarly, staff will be researching how older, built-out communities manage service stations within their jurisdictions. When possible, staff will contact their counterparts at these other jurisdictions to discuss their experiences with service stations.

The above reflect the actions taken since the adoption of Interim Ordinance No. 980. The City Council must issue the attached report that describes these actions in order to extend the interim urgency ordinance currently in effect. An opportunity for full public comment on the extension of Interim Ordinance No. 980 will be provided at the City Council's Public Hearing to be held on June 2, 2021 prior to the City Council's consideration of an ordinance to extend Interim Ordinance No. 980.

ATTACHMENTS:

Attachment 1 – 10-Day Report
Attachment 2 – Ordinance No. 980

**REPORT ON THE MEASURES TAKEN TO ALLEVIATE
THE CONDITIONS WHICH LED THE CITY OF RANCHO CUCAMONGA
TO ENACT INTERIM URGENCY ORDINANCE NO. 980 ON APRIL 21, 2021, ESTABLISHING
A MORATORIUM ON THE APPROVAL OF BUILDING PERMITS OR OTHER
ENTITLEMENTS FOR NEW SERVICE STATION USES OR THE EXPANSION OF EXISTING
SERVICE STATION USES IN THE CITY OF RANCHO CUCAMONGA**

**ISSUED BY THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA ON MAY 5,
2021 PURSUANT TO GOVERNMENT CODE SECTION 65858(d)**

On April 5, 2021, pursuant to Government Code Section 65858, the Rancho Cucamonga City Council enacted Interim Urgency Ordinance No. 980 to impose a moratorium on the approval of building permits or other entitlements for new service station uses or the expansion of existing service station uses. Absent any additional action by the City Council, the Interim Urgency Ordinance will expire after 45 days (June 5, 2021). However, additional time is necessary to thoroughly research and evaluate a permanent, non-urgency ordinance, updates/amendments to General Plan policies and goals, the Zoning Map, and the Development Code establishing land use regulations and technical/design standards on service station development in the City. City staff has therefore scheduled and will notice a public hearing for June 2, 2021, to extend the Interim Urgency Ordinance.

Measures taken to alleviate the conditions which led to the adoption of Interim Urgency Ordinance No. 980:

- The City is currently in the process of updating the General Plan, the Zoning Map, and the Development Code to incorporate appropriate land use regulations and technical/design standards for all types of development within the City. As a part of this effort, the City has also begun the process of identifying updates that will specifically address the development and operation of service stations.

In considering land use and zoning provisions for service stations, staff will be evaluating whether the City's residents and visitors are adequately served by the 32 existing service stations in the City. This will assist in determining whether there is a need for more service stations. Or, if the needs of the City are being met, that the City has reached a saturation point with service stations. As the City becomes more "built-out" there is less vacant land available for development that will fulfill the City Council's and community's vision for 'A World Class Community.' Thus, the answers to this evaluation also will be critical in shaping the next phase of development, and the pattern of that development, in the City for decades into the future.

Most of the remaining vacant land in the City is surrounded by existing development that are considered "sensitive" uses such as residential neighborhoods, schools, and parks. As a result, it has become more important and relevant to consider surrounding uses and context/compatibility when reviewing proposals for service stations. Their location near sensitive uses increases the risk of contaminant exposure to vulnerable populations. This problem is magnified in instances where a service station may become obsolete and become a "brownfield" site, i.e. a property of which the expansion, redevelopment, or reuse may be complicated by the presence or potential presence of a hazardous substance(s), pollutant(s), or contaminant(s). Exposure to the types of contaminants that are present, or are potentially present, at service stations threatens the public health, safety or welfare of neighboring sensitive uses. This outcome is not accounted for in the City's current land use regulations and, as a result, they will be updated.

A disproportionate amount of the City's existing service stations uses are concentrated in the southwest and central areas of the City. The proliferation of service stations in these areas of the City inequitably increases health risks for the residents of in these locations due to the potential contaminants present at service stations. Under consideration will be where service station uses are designated as a permitted or conditionally permitted use in the City's General Plan and Zoning Map, and how such uses are regulated in the Development Code. The purpose of this will be minimize the undue concentration of service stations in any one area of the City. The updates to these documents also will include an analysis of the land use compatibility of service stations with sensitive uses. Further analysis will be conducted on the contribution of service stations to the fiscal vitality of the City and demand for public safety services generated by service stations. These topics are both further discussed below;

- Staff has begun researching the fiscal impacts of existing service stations in the City. Staff will be evaluating, for example, the sales tax revenue of each of the existing and potential service stations in the City and comparing their fiscal performance with other commercial uses that could potentially be developed on the property. Based on staff's preliminary analysis, the collective sales tax revenue of the existing service stations in the City has been generally trending downward. Staff also will be researching, for example, the tax revenue generated by service stations in other cities to see how they compare the revenue generated in the City. Note that trends in changing technology may further erode and depress sales tax revenue. As part of staff's efforts, there will be an evaluation of service stations fiscal performance in this context and whether such uses could become obsolete. Staff will also be evaluating the fiscal performance of service stations relative to the demand on public safety services (and the cost to provide them);
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