



DATE: June 2, 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: Public Hearing for Consideration of Adoption of Interim Urgency Ordinance No. 981, Extending for an Additional 10 Months and 15 Days through April 20, 2022, an Existing 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 of Rancho Cucamonga, Declaring the Urgency thereof and Making a Determination of Exemption Under the California Environmental Quality Act (CEQA). **(INTERIM URGENCY ORDINANCE NO. 981) (CITY)**

RECOMMENDATION:

Staff recommends the City Council adopt Interim Ordinance No. 981 entitled "An Interim Urgency Ordinance of the City Council of the City of Rancho Cucamonga Enacted Pursuant to Government Code Section 65858 Extending for an Additional 10 Months and 15 Days, Through April 20, 2022, an Existing 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 of Rancho Cucamonga, Declaring the Urgency Thereof and Making A Determination of Exemption Under the California Environmental Quality Act (CEQA)," by four-fifths vote, waive full reading, and read by title only.

BACKGROUND:

Government Code Section 65858 provides, *"Without following the procedures otherwise required prior to the adoption of a zoning ordinance, the legislative body of a...city...to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be 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. That urgency measure shall require a four-fifths vote of the legislative body for adoption. The interim ordinance shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may extend the interim ordinance for 10 months and 15 days and subsequently extend the interim ordinance for one year. Any extension shall also require a four-fifths vote for adoption. Not more than two extensions may be adopted."*

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 (Attachment 1) 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 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.

The moratorium does not apply to:

- a. the improvement, renovation, or demolition of an existing service station, provided that the development otherwise conforms to applicable law, does not result in an increase to the number of gas/fuel pumps, does not add any new accessory uses on site, and does not require a discretionary entitlement to perform such improvement, renovation, or demolition; or
- b. an application for a service station that has been deemed Complete or received all discretionary entitlements as of the moratorium's effective date, provided that the City has issued a building permit for construction or redevelopment of the proposed service station within six months of the moratorium's effective date (April 21, 2021).

Staff notes that applications submitted during the moratorium may be subject to permanent development standards that are adopted during the moratorium or after the moratorium expires.

ANALYSIS:

Since the approval of the interim urgency ordinance, staff has developed and has begun implementing a plan to evaluate all aspects of service station development in the City. Pursuant to Government Code Section 65858(d), on May 5, 2021, the City Council issued a report (Attachment 3) describing the measures taken to alleviate the conditions which led to the adoption of Interim Urgency Ordinance No. 980. These measures include determining the relevant topics related to service station development that need to be evaluated, the process and timeline for conducting these analyses, and potential solutions to address issues that have been identified with service station development.

The City's Planning and Engineering Services Departments and the Rancho Cucamonga Fire Protection District (RCFPD) are the primary departments tasked with the review of applications for proposed new development/redevelopment, including service station development, in the City. Staff from these departments, in coordination with other departments such as the City's Finance Department and the San Bernardino County Sheriff's Department as necessary, have undertaken, or will undertake, the following specific activities during the moratorium:

- a) 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 will be identifying updates that will specifically address the development and operation of service stations. The public draft of the General Plan will be released for public review in the second quarter of 2021. The associated Environmental Impact Report (EIR) is currently being prepared and will be circulated for public review in mid-2021.

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. This is especially important as staff periodically receives inquiries about service station development. Knowing these answers will assist staff in comprehensively responding to these inquiries.

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 to minimize the undue concentration of service stations in any one area of the City. The updates to these documents will also 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. Both topics are discussed further below:

- b) 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 is generally trending downward. Staff will also be researching, for example, the tax revenue generated by service stations in other cities to see how they compare to 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).
- c) 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 per year. 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 per year. The average amount of time spent on location (all services stations combined) is about 1,870 hours per year.

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. To assist in this evaluation, staff will verify the operational characteristics of each of the service stations in the City and compare that information with the calls for service to determine if there is any relationship between them. If necessary, staff will develop new regulations and standards that will allow public safety resources to be used more efficiently and sustainably;

- d) 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;

- e) After the above-noted research is completed, staff will prepare proposed 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 development 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. This will also include a verification of the number of service stations in these jurisdictions which, in turn, will be used determine whether the number of service stations in the City is sufficient to serve the community's needs.

- f) Next steps - timeline: The next steps and timeline in the process are as follows:
 - 1. Issue identification and discovery - identify problems and validate/calibrate with other City Departments and (when necessary) external stakeholders – current activity and continuing into 3rd and 4th quarter of 2021;
 - 2. Explore options – share initial list of solutions with stakeholders, understand efficacy of the options, and determine support for solutions – current activity and continuing into 3rd and 4th quarter of 2021;
 - 3. Prepare preferred solutions – propose changes to the Development Code (and any other solutions), and understand efficacy of the options, and determine support for solutions – 3rd and 4th quarter of 2021;
 - 4. Planning Commission – recommendations on proposed amendments to the Development Code – 1st or 2nd quarter of 2022;
 - 5. City Council - adoption of permanent development standards for service stations – 2nd quarter 2022.

The existing moratorium adopted pursuant to Interim Urgency Ordinance No. 980 is scheduled to expire on June 5, 2021. The proposed Interim Urgency Ordinance attached to this report as Attachment 4 would extend the moratorium for an additional 10 months and 15 days, through April 20, 2022. If the City is unable to complete the steps outlined above before April 20, 2022, the City Council may, but does not have to, extend the moratorium on new or expanded service stations for up to an additional year.

FISCAL IMPACT:

None with this action.

COUNCIL MISSION / VISION / GOAL(S) ADDRESSED:

Enacting an interim moratorium on service station development in the City will further the City Council's goals for balanced and responsible long term land use planning, fiscally efficient public safety services, and the attainment of economic development diversity. Specifically, it will facilitate the City's core values of providing and nurturing a high quality of life; promoting and enhancing a safe and healthy community; and intentionally embracing and anticipating the future.

ATTACHMENTS:

Attachment 1 – City Council Staff Report (April 21, 2021) for Interim Urgency Ordinance

Attachment 2 – Ordinance No. 980

Attachment 3 – City Council 10-Day Staff Report (May 5, 2021)

Attachment 4 – Ordinance No. 981