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CITY ATTORNEY

REPORT NO. R 2 2 - 0 2 3 6

JUN 2 7 2022

REPORT RE:

DRAFT INTERIM CONTROL ORDINANCE PROHIBITING THE ISSUANCE OF PERMITS OR CERTIFICATES OF OCCUPANCY ASSOCIATED WITH DEMOLITION, BUILDING, USE OF LAND, OR GRADING FOR ALL TRUCKING-RELATED USES, INCLUDING BUT NOT LIMITED TO, TRUCK PARKING, TRUCK STORAGE, TRUCKING YARD AND TRUCKING TERMINAL ON ALL INDUSTRIALLY ZONED PROPERTIES WITHIN THE WILMINGTON-HARBOR CITY COMMUNITY PLAN AREA TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 22-0231

Honorable Members:

We are transmitting to you for your action, approved as to form and legality, a final draft ordinance or interim control ordinance (ICO) that would prohibit the issuance of permits or certificates of occupancy associated with demolition, building, use of land, or grading for all trucking-related uses, including, but not limited to, truck parking, truck storage, trucking yard and trucking terminal on all industrially zoned properties within the Wilmington-Harbor City Community Plan area, generally bounded by Sepulveda Boulevard and Lomita Boulevard to the north, Alameda Street to the east, Western Avenue to the west, and the jurisdictional boundary with the Port of Los Angeles to the south (generally Harry Bridges Boulevard), except the Wilmington Industrial Park area south of G Street and east of Broad Avenue.

Government Code Section 65858

Government Code Section 65858 authorizes a legislative body to adopt an ICO as an urgency measure, without following the procedures otherwise required by law prior to the adoption of the ordinance, to protect the public safety, health, and welfare by prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body is considering or studying. The ordinance must contain legislative findings specifying a current and immediate threat to the public health, safety, or welfare, and that approval of additional entitlements or building permits would result in that threat to public health, safety or welfare. The urgency measure requires a four-fifths vote and shall be of no further force and effect 45 days from the date of its adoption unless extended pursuant to statute, for a total period of not more than 24 months. Thereafter, another interim ordinance can only be adopted to protect the public safety, health, and welfare from an event, occurrence, or set of circumstances different from the event, occurrence, or set of circumstances that led to the adoption of the prior interim ordinances. (Gov't Code Section 65858(f).)

Summary of Ordinance Provisions

The draft ordinance prohibits all trucking-related uses, including, but not limited to, truck parking, truck storage, trucking yard and trucking terminal on industrial land in the Wilmington-Harbor City Community Plan Area, except for the area east of Alameda Street and the Wilmington Industrial Park area located south of G Street and east of Broad Avenue. The Planning Department expanded the ICO boundary to include Harbor City (area west of I-110) which, due to its close proximity to the Port of Los Angeles, resulted in a high level of interest for trucking-related uses to locate and operate within this side of the Plan area.

A detailed analysis of the draft ordinance is included in the Planning Department's Report Relative to Proposed Trucking-Related Uses, dated June 22, 2022, and incorporated herein (Planning Department's Report).

The draft ordinance would be in effect for 45 days from its effective date with the possibility of a 10-month and 15-day extension, which may be further extended for an additional one year from the effective date of this ordinance, or until the Wilmington-Harbor City Community Plan Update is adopted or other appropriate land use regulatory controls which regulate trucking-related uses within the area covered by the draft ordinance are adopted, whichever occurs first. The ordinance contains an urgency clause for the reasons stated in the Planning Department's Report, which specifies the events, occurrences, or set of circumstances different from those that led to the adoption of prior interim ordinances.

Charter Findings

Pursuant to Charter Section 559, the Director of Planning has approved this draft ordinance on behalf of the City Planning Commission and recommends that the City Council adopt it. Should the City Council adopt this ordinance, the City Council may comply with the provisions of Charter Section 558 by either adopting the findings of the Director of Planning as set forth in the Planning Department's Report, or by making its own findings.

CEQA Findings

Regarding a finding pursuant to the California Environmental Quality Act (CEQA), the Department of Planning determined that the proposed ordinance is exempt from CEQA, pursuant to Article I9, Section 15308, Class 8 of the State CEQA Guidelines, which "consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement or protection of the environment where the regulatory process involves procedures for protection of the environment." The proposed ICO will place a temporary prohibition on the establishment of new or expansion of existing trucking-related uses within the ICO boundary. The establishment of new trucking-related uses could continue to impact the safety and environmental conditions of the residential and commercial areas in Wilmington and Harbor City resulting in potentially irreversible adverse impacts on the community. Thus, the use of Categorical Exemption Class 8 from the State CEQA Guidelines for the ICO is consistent with other California jurisdictions, which find that the regulations placed upon the subject uses are necessary for the protection of the environment and will prevent any further impacts associated with the establishment of such uses within the Wilmington-Harbor City Community Plan Area.

Moreover, the proposed ICO is exempt from the City's CEQA Guidelines pursuant to Article II Section 2 (m) in that it is only a temporary measure until appropriate land use regulatory controls are established and will not result in any impacts on the physical environment.

The City Council may rely on these findings or make its own findings.

Council Rule 38 Referral

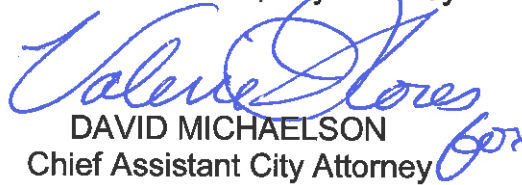
A copy of the final draft ordinance was sent, pursuant to Council Rule 38, to the Department of Building and Safety. We requested the Department to report its comments directly to you.

If you have any questions, please contact Senior Assistant City Attorney Terry Kaufmann Macias at (213) 978-8233 or Deputy City Attorney Adrienne Khorasanee at (213) 978-8246. They or another member of this Office will be available when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By


DAVID MICHAELSON
Chief Assistant City Attorney

DM:TPKM:ASK:ev
Transmittal