



CITY OF POMONA

COUNCIL REPORT

June 6, 2022

To: Honorable Mayor and Members of the City Council

From: James Makshanoff, City Manager

Submitted By: Anita D. Gutierrez, Development Services Director

SUBJECT: DISCUSSION ON POTENTIAL MORATORIUM AND OTHER STRATEGIES TO ADDRESS CUMULATIVE IMPACTS FROM WAREHOUSING DEVELOPMENT IN THE CITY OF POMONA

RECOMMENDATION:

It is recommended that the City Council take the following actions:

1. Engage in a Discussion on a potential moratorium and other strategies to address cumulative impacts from warehousing developments in the City of Pomona; and
2. Direct Staff to prepare necessary ordinances, procedures and studies to pursue the four strategies recommended.

EXECUTIVE SUMMARY:

Due to high market demand, Pomona and the surrounding region is experiencing increased interest in the development and redevelopment of industrially zoned land. The warehousing demand, if fulfilled in Pomona without additional regulation, will likely increase impacts from truck traffic, poor warehouse design, and location to sensitive receptors. Staff has identified four strategies for Council's consideration to address the cumulative impacts from unprecedented warehousing demand in the region—an immediate moratorium, updating the City's zoning code, creating an Environmental Justice element in the General Plan, and adopting a warehouse tax.

FISCAL IMPACT:

The adoption of a moratorium will not result in any direct financial impact. However, staff presents an option for Council's consideration that could generate funding for road and right-of-way improvements in industrially zoned areas through the adoption of a warehouse tax. The cost associated with preparing the appropriate studies to support a warehouse tax is estimated at \$20,000. A more in-depth description of this option is described in the strategies section of this staff report.

DISCUSSION:

Current Warehousing Demand

There is unprecedented demand for new warehousing nationally and locally. This demand is acute in the Inland Empire, which includes San Bernardino and Riverside Counties, where there are 30

million square feet of new warehousing under development, in contrast to 4 million square feet under development in the Los Angeles market. Only 0.4 percent of existing warehousing space in the Inland Empire is available to lease, further increasing demand¹.

The demand for warehousing is unique from previous business cycles in the following ways:

1. The acceleration of warehousing development is due to several large real estate investment firms that have entered the industrial market over the last 10 years specifically to focus on the acquisition and redevelopment of industrial properties. This is distinct from warehousing development initiated by an existing property owner or tenant seeking expansion or redevelopment, or individual real estate investors seeking to pursue a single warehouse project. In contrast, real estate investment firms are actively buying properties specifically for infill industrial redevelopment.
2. Warehousing development is an attractive investment for real estate investment firms because there is a need to support a growing logistics and e-commerce economy nationwide.
3. Warehouses under development typically include:
 - a. At least one dock-high door per 8,000-10,000 square feet.
 - b. Ceiling heights of 24 feet or higher, to accommodate storage racks.
 - c. Dedicated truck courts that facilitate truck trailer parking and maneuvers.
 - d. Built-to-suit, or speculative, which means a tenant does not need to be secured to build the warehouse, making future operational conditions unclear.

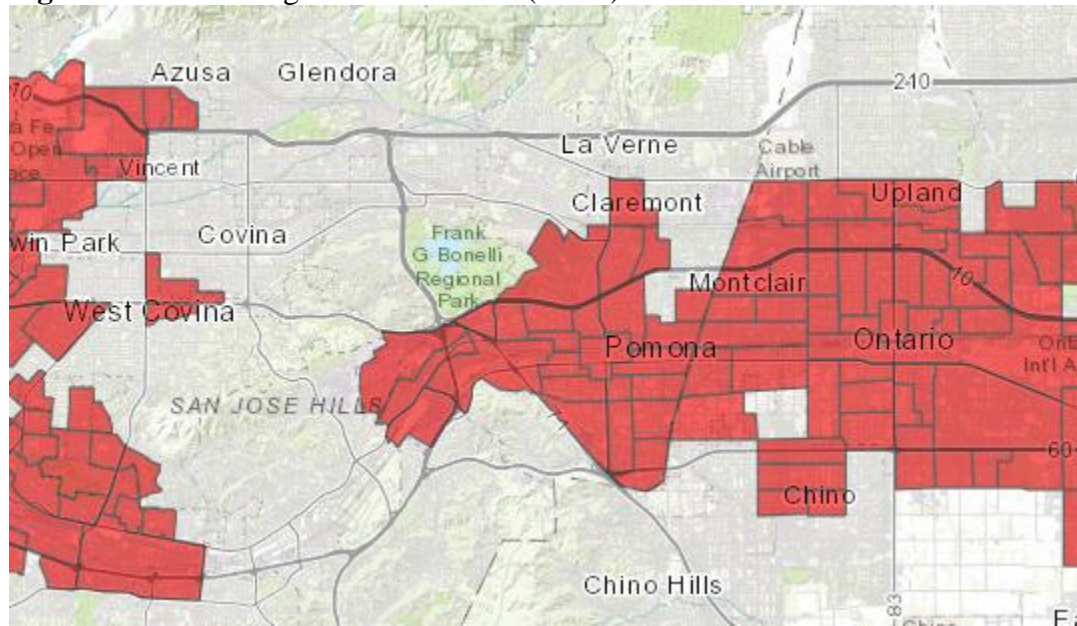
Current Warehousing Demand Meets Existing Cumulative Impacts

The environmental health of a city is typically measured by studying different public health variables. When these variables are looked at together, they are referred to as “cumulative impacts.” The State currently measures environmental burden by census tract, using a tool called CalEnviroScreen². The public health variables measured include ozone, particulate matter (PM2.5, Diesel PM), pesticides, toxic releases, traffic, drinking water contaminants, lead in housing, cleanup sites, groundwater threats, and hazardous waste. By ranking census tracts across all of these variables, the State is able to measure cumulative impacts, not just impacts from a single risk variable or the impacts of a single development. These variables are then layered onto demographic variables that consider socioeconomic status of those census tracts. The top 25 percent most burdened census tracts are considered disadvantaged. The majority of the City’s census tracts are designate as disadvantaged, as depicted in Figure 1.

¹ Jones Lang LaSalle Industrial Insight, Q1 2022

² The State refers to the California Office of Environmental Health Hazard Assessment. CalEnviroScreen may be accessed at <https://oehha.ca.gov/calenviroscreen>

Figure 1. Disadvantaged Census Tracts (in red)



Since many Pomona census tracts have been identified by State metrics as burdened by cumulative impacts, it is important to adequately study any new environmental impacts from current warehousing demand that may accelerate these cumulative impacts.

Community Concerns of Cumulative Impacts on Pomona Residents

The community has long advocated for addressing cumulative impacts in Pomona, and continues to do so in response to the current warehousing demand. In 2016, community advocates including United Voices for Pomona and Clean and Green Pomona called for a moratorium on waste, recycling, auto dismantling, pallet yard, and related uses due to their cumulative impacts on nearby residents. This led to the City Council adopting Ordinance 4234 in 2017, which permanently prohibited such uses in the City. In 2019, community advocates called for modification to the City’s official truck route designations, which led to the City Council adopting Ordinance 4255, which amended Chapter 58 of the City Code to eliminate certain truck routes that contributed to cumulative impacts on nearby residents. Today, advocates are expressing their concerns about what the warehouse demand and its associated truck trips in the region may mean for cumulative impacts to residents of Pomona. Clean and Green Pomona expressed these concerns at a City Council meeting on May 2, 2022 (Attachment 1).

Defining the Geographic Risk of Infill Industrial Redevelopment in Pomona

While the majority of Pomona’s census tracts are disadvantaged as defined by the State for environmental burden, industrial zoning is limited to certain parts of the City. Pomona’s risk of redevelopment for new warehousing is distinct from neighboring communities because it is largely based upon the potential to re-develop existing, older industrial buildings into new warehouses, rather than the development of vacant parcels or the annexation of new unincorporated land, which may be the reality for neighboring cities. A key indicator to help frame the risk of warehouse development is the Year Built of existing warehouses. Warehouses in Pomona that were built between 1950 and 2000 are good candidates for investors who may deem such buildings as “Class B” or “Class C” assets that could be redeveloped into “Class A” assets, which represents the most

attractive building type for investment purposes³. In contrast, warehouses built after 2000 are more likely already considered Class A assets and would not pose an immediate risk for infill industrial redevelopment. As illustrated in Table 1, there are 1,120 acres of land in the City of Pomona that represent the greatest risk of infill industrial redevelopment, based on existing defining characteristics and the average Year Built of buildings on these parcels. Some areas of Pomona, such as the Mission 71 Business Park, represent Class A properties built over the past 20 years that are unlikely to be targeted for redevelopment at this time. The existing warehousing demand, if fulfilled in these areas of Pomona, will likely increase truck traffic, particulate matter exposure, and other pollution variables in Pomona's census tracts if not adequately regulated through new protection and/or design measures.

Table 1. Existing Industrial Zones

Area	Defining Characteristics	Acreage
Eastern Workplace District	Large industrial parcels east of the railroad towards eastern boundary line at East End.	403.80
Eastern Workplace District Edge	Strip of industrial parcels and scattered residential properties between Reservoir Street and railroad.	171.09
East Mission Workplace District Edge	Industrial parcels and residential subdivisions between Holt Ave and Mission Boulevard and Towne Avenue and East End, just north of railroad.	143.04
Eastern Annex Urban Neighborhood	Smaller industrial parcels and residential uses between railroad and Mission Boulevard, and Towne Avenue and Reservoir Street.	76.95
Western Annex Urban Neighborhood	Small industrial parcels and residential uses between railroad and Mission Boulevard, and White Avenue and Oak Ave.	119.85
Western Workplace District	Large and small industrial parcels and business parks along Pomona Boulevard between Temple Avenue and SR-71	205.66
	Total	1,120.39 acres

Existing Environmental Protections in Industrial Zones

The City's existing Zoning Ordinance and City Code offer limited environmental protection for new warehouse developments. The City's industrial zones require a Conditional Use Permit for any new industrial facility that is greater than 20,000 square feet in floor area or on land greater than one acre. This section does not distinguish between speculative, built-to-suit buildings (which means a new warehouse without a tenant or use confirmed), and owner-occupied or tenant-secured projects. Moreover, trucking facilities are permitted on sites greater than one acre, subject to a Conditional Use Permit.

Warehousing and distribution is permitted by right as a land use, which means it is allowed in existing buildings without a public hearing or other discretionary review. The existing code does not distinguish between types of warehousing and distribution, such as e-commerce, transloading, and other fulfillment. The City's industrial zones also contain few development and design

³ Generally, Class A means properties that are the highest quality buildings in their market or area. Class B are older and not well-managed, and Class C are more than 20 years old and in need of renovation.

standards, with the exception of generic architectural standards and a 25-foot front yard requirement.

Therefore, the primarily tool that the City relies upon for environmental protection in its industrial zones is the California Environmental Quality Act (CEQA), when conducting a review of a new Conditional Use Permit application. While CEQA does offer a mechanism for the City to meaningfully analyze and address environmental impacts, it also provides the City a legal pathway to make statements of overriding considerations to approve a project that may have project impacts that cannot be mitigated to a level of no significance, which can be confusing to the community on how industrial development may still proceed in spite of identified environmental impacts.

Housing Density Identified in Pomona General Plan Further Complicates Industrial Impacts

The City's 2014 General Plan established housing density in areas that are currently zoned for industrial uses. As Senate Bill 330 (SB 330) prevents Pomona from reducing or eliminating this approved density without replacing it elsewhere, the City must contend with how to address the introduction of new housing in areas that have historically prohibited housing and that have existing cumulative impacts from industrial land uses. Staff believes this can be meaningfully addressed through the Zoning Code Update.

Potential Strategies to Address Cumulative Impacts of Warehousing Demand in Pomona

Staff has identified four strategies to address the cumulative environmental impacts from unprecedented warehousing demand in the region. Staff recommends that all four strategies be considered at once as a combination of tools to more meaningfully address the issue.

Strategy #1: Enact Moratorium (Impact: Immediate/Near Term)

The most immediate action that the City can take to address the cumulative impacts from existing warehousing demand is to enact a moratorium on new warehousing development. Government Code Section 65858 expressly authorizes Pomona City Council to adopt interim urgency ordinances prohibiting a use in order to protect public health, safety, and welfare, by four-fifths vote, for a 45-day period, unless extended.

This approach has precedence in the region. Table 2 identifies neighboring cities that have pursued a moratorium for similar reasons.

Table 2. Warehouse Moratoriums in Neighboring Cities

City	Type of Moratorium	Details
City of Chino	Moratorium on any establishment, expansion, or modification of Warehouses and related uses in certain areas.	Ordinance 2021-13 adopted October 19, 2021
City of Colton	Moratorium on any establishment, expansion, or modifications of Warehouses and Truck Storage Facilities (3-axle trucks or greater) citywide.	Ordinance 0-03-21 adopted May 4, 2021. Ordinance 0-05-21 adopted June 15, 2021 extending to May 3, 2022. Ordinance 0-07-22 adopted May 4, 2022 extending to May 3, 2023.

Staff recommends that any proposed warehouse moratorium provide sufficient nuance to prohibit the type of warehousing development observed regionally, which has the potential to create the most impact on the community, but still enable existing property owners to expand their business and enable non-warehousing developments, such as manufacturing uses to redevelop.

Suggested framework for a moratorium:

- Prohibit any new *speculative/built-to-suit* industrial development citywide.
- Prohibit any new *warehousing* development citywide, except for warehouse expansions of existing businesses, no greater than 20,000 square feet, with only a single at-grade roll-up door.
- Prohibit any new trucking facilities citywide.

The moratorium would still allow all other industrial uses, such as manufacturing, to continue. A moratorium could be drafted and brought for City Council consideration on July 18, 2022.

Strategy #2: Update Pomona Zoning Ordinance (Impact: Medium-Term)

The City is currently updating the Pomona Zoning Ordinance, the first comprehensive update since 1949. The code will implement the goals and policies of the 2014 Pomona General Plan. As part of this effort, the land use designations of “Workplace District” and “Workplace District” edge will be implemented, which provides an opportunity to more thoughtfully regulate industrial zones. The following are some of the questions being evaluated by the Planning Division through public engagement and research:

- Does the ratio of number of dock-high doors per one-thousand square feet affect the volume of truck traffic?
- Can maximum square footage of single building footprint control for scale of operations?
- Is a lot coverage percentage cap an effective way to control total square footage?
- How can speculative, built-to-suit construction meaningfully address future impacts?
- Which land uses should be permitted, prohibited, or reduced in intensity?
- Which land uses are job-generating to support a workplace, and which are not?

Neighboring cities have also explored establishing new regulations for industrial development, beyond a moratorium. On April 12, 2022, the City of Fontana adopted Ordinance 1891, which established new sustainability standards for warehouses (50,000 square foot and 400,000 square foot thresholds) and freight operations, including landscape buffers, idling restrictions, truck routing, zero-emission standards, and other regulations.

Staff has begun engagement on industrial-related questions as part of its Spring 2022 pop-up engagement for the zoning code update, and expects to continue this engagement into 2023.

Strategy #3: Establish Environmental Justice Element in General Plan (Impact: Long-Term)

The City’s 2014 General Plan does not contain an Environmental Justice element. Senate Bill 1000 (SB 1000) requires jurisdictions to adopt an Environmental Justice Element upon certain triggers. The City’s Housing Element and Safety Plan updates have triggered the need to draft such an element. An Environmental Justice Element looks at factors similar to Cal Enviro Screen, and

establishes a set of policies and goals to guide the City in making decisions based upon principles such as the sustainability framework.

Writing this element offers the City an opportunity to engage stakeholders who have long advocated for policies and goals to address cumulative environmental impacts, and to draft policy that can meaningfully incorporate a set of environmental justice principles that can be incorporated into future city development.

Strategy #4: Adopt Warehouse Tax (Impact: Long-Term)

Industrial and warehouse uses occupy approximately 8% of the City, however they have damaging impacts on City streets and infrastructure greater than the percentage of territory they occupy. A warehouse tax is one mechanism for consideration that may raise funds to offset these impacts and create a revenue source to improve roads and street maintenance and implement right-of-way improvements.

While not widespread, there are examples of cities that have adopted such a tax. The City of Vernon adopted a Special Parcel Tax in 1998 (modified in 1999 and 2013) that levies an annual tax on warehouses based upon the square footage of land area utilized for warehousing, distribution, truck terminal and freight terminal occupancies. The current Warehouse Tax assessment rate for Fiscal Year 2021/2022 in the City of Vernon is \$0.3426 per square foot of gross land area. Additionally, the City of Auburn in Washington State recently adopted a Business and Occupation (B&O) Tax on indoor and outdoor warehouses and transloading uses, which went into effect January 1, 2022. The current Warehouse Tax assessment rate for the City of Auburn is \$0.10 for each quarterly period of a calendar year for each square foot of warehouse or outdoor warehouse floor space that is leased, owned, occupied, or otherwise maintained within the city during the reporting period, calculated to the nearest square foot.

The establishment of a new Warehouse Tax for the City of Pomona would require a vote of the people under Proposition 218 regulations. In order to further investigate this option, three main components would need to be studied to provide Council with a full picture of what revenues could be generated and what improvements could be made. The three level of analysis would focus on the following:

1. Determine which parcels are subject to the Warehouse Tax by using City parcel, zoning and land use data and to identify a count of parcels that would be subject to the tax.
2. Identify a list of infrastructure improvements and services related to industrial land uses in the City and identify planning level cost estimates for improvements.
3. Prepare scenarios for estimating parcel tax revenue and compare annual parcel tax generated by each scenario to annual infrastructure needs.

The cost associated with preparing this analysis is approximately \$20,000 and could be completed within 60 days. The deadline to submit a ballot measure for the November 2022 election is August 12, 2022, so if the Council wanted to pursue this option, there is an opportunity to potentially have this matter on the November 2022 ballot.

COUNCIL PRIORITIES & GOALS:

The strategies identified support the following 2021-2022 City Council Priorities:

Priority #2: Economic Development

Goal G: Create Economic Strategy for City that Reflects Current Opportunities and City Values

Step 3: Complete an update of Zoning Code to Ensure Consistency with General Plan by September 2022.

Priority #5: Infrastructure

Goal P: Improve condition of streets, alleys, and associated sidewalks.

Prepared by:

A handwritten signature in black ink, appearing to read 'Ata Khan', written in a cursive style.

Ata Khan
Planning Manager

ATTACHMENT(S):

Attachment No. 1 – Letter from Clean and Green Shared at May 2, 2022 City Council