

ORDINANCE NO. 861

AN INTERIM URGENCY ORDINANCE OF THE CITY OF MORENO VALLEY, CALIFORNIA, MAKING FINDINGS AND EXTENDING A MORATORIUM ON THE ISSUANCE OF LAND USE ENTITLEMENTS IN FOUR DESIGNATED LOCATIONS ALONG THE SR-60 EAST CORRIDOR AREA

The City Council of the City of Moreno Valley does hereby ordain as follows:

**SECTION 1. FINDINGS**

The City Council of the City of Moreno Valley hereby finds, determines, and declares that:

A. On January 22, 2013, at a duly noticed public meeting, the City Council lawfully adopted an urgency ordinance (Ordinance No. 859) imposing a moratorium on land use entitlements in four designated locations along the SR-60 East Corridor Area (identified in Exhibit A) pending study of a potential amendment to the City's general plan and zoning designations.

B. Government Code § 65858(a) authorized the City Council to adopt Ordinance No. 859 as an urgency measure, effective immediately and without public hearing, to protect the public safety, health and welfare. The interim ordinance may prohibit any uses which may be in conflict with general plan, specific plan, or zoning proposals which the City is considering or studying or intends to study within a reasonable time. Government Code § 65858 provides that Ordinance No. 859 expires and is no further force and effect forty-five (45) days from its date of adoption, unless the City Council extends the urgency ordinance following notice and a public hearing.

C. Prior to the hearing on this Ordinance, the City Council issued a written report describing the measures and actions taken by the City to alleviate the circumstances and conditions that led to the adoption and extension of Ordinance No. 859, as required by Government Code § 65858(d).

D. On February 26, 2013, in accordance with Government Code § 65858, the City Council held a properly noticed public hearing to consider extending the moratorium for a period of ten (10) months and fifteen (15) days from the date that Ordinance No. 859 would have otherwise expired.

E. The City Council has determined that the circumstances and conditions that led to the adoption of Ordinance No. 859, which are set forth therein and summarized herein, have not been alleviated as of the date of this Ordinance and would continue to create the concerns described in Ordinance No. 859.

F. Within the four designated locations along the SR-60 East Corridor Area identified on Exhibit A, there are a wide variety of planned and existing land uses, including residential, commercial, retail, business park, and industrial uses. The approval of applications to develop currently vacant parcels within these designated areas could result in the development of potentially incompatible uses, and could frustrate the City's intent to pursue a comprehensive planning approach for the designated area.

G. An extension of the moratorium is necessary to protect the public health, safety and welfare of the City and its residents because the untimely development of potentially incompatible uses could diminish the quality of life for current or future residents, and could frustrate the City's efforts to comprehensively plan for the most economically viable use of the area. The City Council has determined that a comprehensive review of the City's General Plan and zoning designations in this area is necessary, and has directed that a study be done to recommend changes to the Zoning Code and/or General Plan policies to facilitate compatible and economically-viable land use and development within the designated areas along the SR-60 East Corridor.

H. In 2000, the City Council adopted an interim urgency ordinance (Ordinance No. 573) and extended the interim ordinance (Ordinance No. 576) under the authority of Government Code § 65858. Ordinances No. 573 as extended by Ordinance No. 576 imposed a moratorium on land use approvals in some locations covered by this interim Ordinance. As required by Government Code § 65858(f), the City Council finds that the moratorium adopted in 2000 was adopted to protect the public health, safety, and welfare from an event separate and distinct from the circumstances that give rise to the current Ordinance. The 2000 moratorium was specifically adopted in response to litigation that caused the City to rescind Specific Plan 217. The current Ordinance is adopted for the reasons identified in Sections A through H of this Ordinance, relating to compatibility of existing and planned land uses in the designated locations.

I. In order to prevent the frustration of the City's study of potential changes to the City's Zoning Code and other adopted policies and the implementation thereof, the public interest, health, safety and welfare require the extension of Ordinance No. 859. The absence of this Ordinance would create a serious threat to the orderly and effective implementation of any zoning amendments, general plan amendments, or specific plan amendments which may be adopted by the City as a result of the studies.

J. The City Council finds that this Ordinance is immediately required to preserve the status quo in the four designated areas during the period of time required to complete the studies and potential revisions to the general plan, specific plans, or zoning ordinance in order to protect public safety, health, and welfare of the City and its residents.

K. The City Council further finds, based on the findings stated herein, the anticipated State Route 60 East Corridor Area Study, public comment and evidence presented at the public hearing, that in accordance with Government Code § 65858(c):

1. The continued approval of the development of multifamily housing projects would have a specific, adverse, impact on the public health or safety. As used in this paragraph, a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the ordinance is adopted by the legislative body. The development of residential uses in close proximity to SR 60 and existing industrial and large-scale commercial uses would result in significant, quantifiable, direct, and unavoidable impacts to the health or safety of future residents. Such development would violate objective, written public health or safety standards set forth in the City’s General Plan by exposing future residents to the effects of incompatible land uses, including high levels of noise. Continued approval of multifamily housing projects in the moratorium area would violate the following General Plan policies:

- The General Plan Land Use Map, which was designed to locate residential land uses away from high noise levels;
- Goal 2.1 (“a pattern of land uses, which organizes future growth, minimizes conflicts between land uses, and which promotes the rational utilization of presently underdeveloped and undeveloped parcels”);
- Policy 2.2.17 (“discourage nonresidential uses on local residential streets that generate traffic, noise or other characteristics that would adversely affect nearby residents”);
- Policy 2.4.3 (“the commercial area located on the north side of State Route 60 at the intersection of Moreno Beach Drive shall provide for the establishment of commercial land uses that serve the daily needs of the surrounding residential neighborhood and the traveling public. It is not intended to serve the needs of the region for goods, services, entertainment or shall identify the particular uses and type of development permitted on each parcel, which could include office uses and compatible noncommercial uses.”);
- Policy 2.5.2 (“locate manufacturing and industrial uses to avoid adverse impacts on surrounding land uses”);
- Objective 6.3 (“provide noise compatible land use relationships by establishing noise standards utilized for design and siting purposes”); and

- Objective 6.5 (“minimize noise impacts from significant noise generators such as, but not limited to, motor vehicles, trains, aircraft, commercial, industrial, construction, and other activities”).

2. The interim ordinance is necessary to mitigate or avoid the specific, adverse impact identified pursuant to paragraph (1), above. The continued development of residential uses could result in a long-term conflict between new residential and existing industrial/commercial land uses. By temporarily halting new development, the City can effectively evaluate and implement changes to its General Plan or Zoning Code to avoid such conflicts.

3. There is no feasible alternative to satisfactorily mitigate or avoid the specific, adverse impact identified in paragraph (1) as well or better, with a less burdensome or restrictive effect, than the adoption of the proposed interim ordinance.

L. The City Council finds, determines, and declares that there is a current and immediate threat to the public health, safety or welfare of the City and its citizens and that the approval of entitlements for new development in the designated areas would result in that threat to public health, safety or welfare, thereby necessitating the extension of Ordinance No. 859. The facts constituting such an urgency are set forth in Sections A-K, inclusive, of this Ordinance and Ordinance No. 859.

M. The City Council further finds that this is a matter of City-wide importance and is not directed towards nor targeting any particular parcel of property or proposed use.

## **SECTION 2. URGENCY MEASURE**

Pursuant to Government Code § 65858, it is hereby declared that this Ordinance is necessary as an emergency, urgency measure for preserving the public health, safety and welfare. Until the City’s Zoning Code can be thoroughly examined and changed, as determined necessary by the City Council, to eliminate the potential adverse impacts or conflicts that such uses may cause within the designated areas, no land use permit shall be granted. This includes the approval of subdivisions, zone changes, use permits, variances, building permits, or any other applicable entitlement for land use that would result in new development in the designated areas. This moratorium does not preclude the issuance of building permits that would establish uses that received any land use approval from the Planning Commission prior to the adoption of Ordinance No. 859, nor shall it prohibit the issuance of building permits for modifications to existing structures in the designated areas. The City Council specifically recognizes that there will be a moratorium on all land use entitlements for new development at the four locations identified on Exhibit A.

**SECTION 3. EXPIRATION**

This Ordinance shall extend the effective period of Ordinance No. 859 for a period of ten (10) months and fifteen (15) days from the date that Ordinance No. 859 would have otherwise expired, unless further extended by the City Council pursuant to the procedures set forth in Government Code § 65858.

**SECTION 4. SEVERABILITY**

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

**SECTION 5. PUBLICATION**

The City Clerk shall certify to the passage of this Ordinance and cause the same to be published in the manner prescribed by law.

**SECTION 6. EFFECTIVE DATE**

This Ordinance shall be introduced, passed and adopted at one and the same meeting and shall become effective immediately and shall extend the effective period of Ordinance No. 859 for a period of ten (10) months and fifteen (15) days from the date that Ordinance No. 859 would have otherwise expired. The reasons for this urgency are set forth in Paragraphs A-K, inclusive, and Section 1, of this Ordinance.

Passed, approved and adopted this 26th day of February, 2013.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

**URGENCY ORDINANCE JURAT**

STATE OF CALIFORNIA     )  
COUNTY OF RIVERSIDE    ) ss.  
CITY OF MORENO VALLEY )

I, Jane Halstead, City Clerk of the City of Moreno Valley, California, do hereby certify that urgency Ordinance No. 861 was read and duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the 26<sup>th</sup> day of February, 2013 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)

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City Clerk

(SEAL)