

URGENCY ORDINANCE 1273

AN INTERIM URGENCY ORDINANCE OF THE CITY OF SAN DIMAS, CALIFORNIA, EXTENDING FOR 10 MONTHS AND 15 DAYS A MORATORIUM ON ESTABLISHMENT OF ALL USES, EXPANSION OF EXISTING USES, AND DEVELOPMENT OR MODIFICATION OF NEW OR EXISTING STRUCTURES, IN THE SPECIFIC PLAN NO. 23 PLANNING AREA (CHAPTER 18.538 OF THE SAN DIMAS MUNICIPAL CODE), AND DECLARING THE URGENCY THEREOF

WHEREAS, the City of San Dimas (“City”) has the authority, under its police power, to enact regulations for the public peace, morals, and welfare of the City pursuant to California Constitution Article XI, section 7; and

WHEREAS, the State Planning and Zoning Law (Cal. Gov’t Code Sections 65000, *et seq.*) broadly empowers the City to plan for and regulate the use of land in order to provide for orderly development, the public health, safety, and welfare, and a balancing of property rights and the desires of the community and how its citizens envision their city; and

WHEREAS, the Metro Gold Line Foothill Extension Construction Authority recently awarded a design-build contract for the first nine miles of the project from Glendora to Pomona (the “Gold Line Extension”), which would include construction of a transit stop in the City; and

WHEREAS, Specific Plan No. 23, which was adopted by Ordinance 938 in June of 1990, is codified in the San Dimas Municipal Code (“SDMC”) as Chapter 18.538 and consists of three parcels of land totaling 8.84 acres (“Specific Plan No. 23 Planning Area”); and

WHEREAS, the right-of-way for the proposed Gold Line Extension borders the southerly area of the Specific Plan No. 23 Planning Area; and

WHEREAS, the proposed Gold Line transit stop to be constructed in the City is located approximately .30 miles from the eastern boundary of the Specific Plan No. 23 Planning Area; and

WHEREAS, the City has a compelling interest in protecting the public health, safety, and welfare of its citizens, residents, visitors and businesses, and in preserving the compatibility of adjacent uses within the City, including by regulating the establishment and expansion of various uses within the Specific Plan No. 23 Planning Area of the City; and

WHEREAS, pursuant to SDMC §18.538.010(B), the stated purposes of adopting Specific Plan No. 23 include the following: “1. [t]o ensure that the development of the project area is compatible to adjacent uses; 2. [t]o minimize the negative adverse impact of traffic generated by any development by directing traffic away from the residential neighborhood; [and] 3. [t]o incorporate creative and sensitive planning, architecture, landscape architecture, and engineering to develop a project that will enhance the existing adjacent uses and promote the existing and future appearance of San Dimas[;]” and

WHEREAS, pursuant to SDMC §18.538.070, the Specific Plan No. 23 Planning Area was created considering the following site-specific conditions: “The proximity of the residential neighborhood is an influential factor on the ultimate site and architectural design of a development proposal. It is important to the city that the town core neighborhood retain its integrity. Therefore, a site design which is sensitive to the adjoining residential property is extremely important. Also, architecture which reflects a residential character is desirable. The final design consideration is the relationship the project area has with the downtown Frontier Village. The easterly most “block” has a direct visual and boundary relationship with the downtown area. This “block” also has visibility to Bonita Avenue. This creates additional opportunities as well as further design challenges[;]” and

WHEREAS, various uses are currently allowed in Planning Area I and Planning Area II of Specific Plan No. 23 pursuant to SDMC §18.538.110 and SDMC §18.538.120, respectively; and

WHEREAS, in light of the proposed Gold Line Extension and Gold Line transit stop, which would be built in very close proximity to the Specific Plan No. 23 Planning Area, uses presently allowed in Specific Plan No. 23 may be in conflict with the allowable uses, development standards and implementation regulations that the City will ultimately impose after the City has considered and studied this issue; and

WHEREAS, the location of the Specific Plan No. 23 Planning Area in close proximity to the Gold Line transit station and adjacent to the Gold Line Extension right-of-way presents unique planning challenges for the City in determining the appropriate types of uses that should be allowed in the Specific Plan No. 23 Planning Area, consistent with the Specific Plan No. 23 intent of ensuring that the development of the project area is compatible to adjacent uses; and

WHEREAS, staff has recently received a site plan application from an applicant wishing to establish a warehouse use in the SP-23 Planning Area, which use is currently not prohibited, but may be inconsistent with the uses the City Council ultimately plans to allow for the SP-23 area after studying the issue; and

WHEREAS, staff has recently received other inquiries regarding establishing various uses in the SP-23 area, which also may be inconsistent with uses the City Council ultimately determines to allow; and

WHEREAS, the above facts and circumstances, including the prospect of establishment or expansion of a warehouse use or any other use inconsistent with the zoning and development standards and implementation regulations that the City will ultimately impose after the City has considered and studied this issue, pose a current and immediate threat to the public health, safety, and welfare, in that such incompatible uses could: i) pose traffic or transportation safety hazards due to the new train line and associated infrastructure; ii) create new, unforeseen parking impacts in the vicinity; (iii) pose a danger to or be incompatible with pedestrian traffic created due to the proximity to the Gold Line transit station; and iv) prevent the City from pursuing a comprehensive planning approach which protects both the residential character of the surrounding neighborhood

and considers new pedestrian-oriented development opportunities based on the new transit station; and

WHEREAS, the approval of use permits, variances, building permits, or any other applicable entitlements for a use inconsistent with the zoning and development standards and implementation regulations that the City will ultimately impose after the City has considered and studied this issue would result in the foregoing threats to public health, safety, or welfare; and

WHEREAS, Government Code Sections 36934, 36937 and 65858 expressly authorize the City Council to adopt an urgency ordinance for the immediate preservation of the public peace, health or safety and to prohibit 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; and

WHEREAS, on September 24, 2019, the City Council adopted by a 4-0 vote Urgency Ordinance No. 1272, to implement a temporary moratorium on the establishment of all uses, expansion of existing uses, and development or modification of new or existing structures, in the Specific Plan No. 23 Planning Area (Chapter 18.538 of the San Dimas Municipal Code); and

WHEREAS, Urgency Ordinance No. 1272 is effective until November 8, 2019; and

WHEREAS, City staff is continuing to study and develop appropriate land use regulations for the Specific Plan No. 23 Planning Area consistent with State and federal law, and requires additional time to do so; and

WHEREAS, on October 22, 2019, the City Council reviewed a report describing the measures taken to alleviate the condition which led to the adoption of Urgency Ordinance 1272, which report was contained in the staff report for the moratorium extension agenda item on the October 22, 2019 City Council meeting agenda (“October 22 Report”); and

WHEREAS, the facts constituting the urgency basis for the adoption of Urgency Ordinance 1272 remain, as set forth herein; and

WHEREAS, pursuant to Government Code Section 65858(a), after notice pursuant to Section 65090 and a public hearing, the council may extend an interim ordinance for 10 months and 15 days; and

WHEREAS, on October 22, 2019, the City Council considered this Interim Urgency Ordinance (the “Ordinance”) at a properly noticed City Council meeting and public hearing; and

WHEREAS, pursuant to the above-described express statutory authority and its police power, the City Council desires, on an urgency basis, to extend for an additional ten (10) months and fifteen (15) days the temporary prohibition of the establishment of all uses, expansion of existing uses, and development or modification of new or existing structures, within the Specific Plan No. 23 Planning Area of the City.

NOW, THEREFORE, the CITY COUNCIL of the CITY OF SAN DIMAS, County of Los Angeles, does hereby ordain as follows:

SECTION 1. FINDINGS.

A. The City Council finds that the facts set forth in the recitals above are true and correct and hereby adopts the recitals as findings in furtherance of this Ordinance.

B. Additionally, based on the foregoing, both verbal and written testimony at the City Council meeting, including the staff report, exhibits, and any materials provided by members of the public, the City Council finds as follows:

- 1) On August 14, 2019 the Metro Gold Line Foothill Extension Construction Authority awarded a design-build contract for the first nine miles of the Gold Line Extension project, which will reach from Glendora to Pomona. As part of the Gold Line Extension, a transit stop will be constructed in the City. Work on the Gold Line Extension is anticipated to start in early 2020.
- 2) As a result of this construction, permanent changes to the City's infrastructure will occur, including the following: i) safety enhancements at all Gold Line Extension street crossings (including raised medians, red curbing and turn restrictions within 100 feet of the rail corridor at all street crossings), ii) relocation of the freight track to the northern half of the rail corridor, iii) construction of new fencing and walls along the entire rail corridor, and iv) construction of new overhead lines to power the Gold Line system. Additionally, the Gold Line tracks will be grade-separated with a bridge over the Bonita Ave/Cataract Ave intersection (located at the southeast boundary of the Specific Plan No. 23 Planning Area) and will require the permanent closure of Monte Vista Avenue at the railroad crossing (located approximately .13 miles from the Specific Plan No. 23 Planning Area).
- 3) Specific Plan No. 23 consists of three parcels of land totaling 8.84 acres adjacent to the Gold Line Extension right-of-way. The purpose and intent of the Specific Plan No. 23 Planning Area acknowledges that portions of the specific plan project area have varying design and use opportunities because of visibility, street frontage, adjoining land uses and location. The railway bridge over Bonita Avenue, Monte Vista Street closure and possible turning restriction on Eula Avenue have the potential to impact these properties such that uses currently allowed would no longer be compatible with the surrounding area, including through creating traffic or transportation safety hazards, creating new unforeseen parking impacts, and posing a danger to pedestrian traffic created by the proximity to the transit station to be built.

- 4) There are a wide variety of planned and existing land uses in the Specific Plan No. 23 Planning Area that are currently permitted by right. Existing regulations do not provide adequate land use regulations that would create a cohesive development sensitive to the historic neighborhoods adjacent to Specific Plan No. 23 or a new transit station.
- 5) State of California legislation, in particular SB 743, creates exemptions from CEQA for certain developments (including mixed use developments and employment centers within ½ mile of a planned and/or existing Major Transit Stop) that meet specified criteria. (Pub. Res. Code §21155.4.) Additionally, CEQA Guideline Section 15064.3, which became operative on December 28, 2018 and will apply statewide as of July 1, 2020, generally provides that land use projects within one-half mile of a major transit stop or a stop along an existing high-quality transit corridor should be presumed to cause a less than significant transportation impact. (14 C.C.R. § 15064.3(b)(1).)
- 6) The City has received a site plan application for a warehouse in the Specific Plan No. 23 Planning Area. Additionally, staff has recently received inquiries regarding establishing new uses in the Specific Plan No. 23 Planning Area.
- 7) As a result of the Gold Line construction and associated development pressure, City Staff is currently considering studying and analyzing various uses and development standards in the Specific Plan No. 23 Planning Area, including possible amendments to the City's existing zoning regulations to prohibit, permit, or conditionally permit certain uses that have a potential to negatively impact or would be incompatible with the surrounding neighborhoods following the construction of the Gold Line Extension and nearby transit station.
- 8) New development and expansion or modification of existing buildings or sites in the Specific Plan No. 23 Planning Area may create irreversible or costly negative impacts in the community if such development is incompatible with the development of the Gold Line Extension and nearby transit station. This result would be inconsistent with the intent of the Specific Plan No. 23 purpose to promote site design which is sensitive to the adjoining residential property and the City's goals of protecting and enhancing the historic core of the Downtown. (See, e.g., General Plan Land Use Element Objective 5.1 ["Encourage infill and development to occur in and around . . . transportation node corridors. . . ."] Objective 6.1 ["Improve Downtown's image and visual environment."] and Policy 6.1.2 ["Encourage office and mixed uses to increase the daytime population of the downtown."]) Absent the adoption of this Ordinance, new development and expansion or modification of existing buildings or sites in the

Specific Plan No. 23 Planning Area could result in these negative and harmful effects.

- 9) A moratorium is necessary because there is a current and immediate threat to the public health, safety and welfare of the City and its residents because the untimely development of incompatible uses could diminish the quality of life for current and future residents, and could prevent the City from pursuing a comprehensive planning approach which protects both the residential character of the surrounding neighborhood and considers new pedestrian-oriented development opportunities based on proximity to the new transit station. Such incompatible uses may be in conflict with the zoning and development standards and implementation regulations that the City will ultimately impose after the City has considered and studied this issue, which will be accomplished within a reasonable time. Specifically, the incompatible uses could potentially: i) pose traffic or transportation safety hazards due to the new train line and associated new infrastructure; ii) create new, unforeseen parking impacts in the vicinity; and (iii) pose dangers to or be incompatible with pedestrian traffic created due to proximity to the new Gold Line transit station.
- 10) The approval of use permits, variances, building permits, or any other applicable entitlements for a use inconsistent with the zoning and development standards and implementation regulations that the City will ultimately impose after the City has considered and studied this issue would result in the threats to public health, safety, or welfare identified in Section 1(B)(9) of this Ordinance. It is therefore necessary to temporarily prohibit the approval and/or issuance of any permits or licenses for any such uses in the Specific Plan No. 23 Planning Area, including business licenses, use permits, variances, building permits, or any other applicable land use or zoning entitlement or approval.
- 11) A moratorium is necessary to allow for an appropriate period of time for the City to complete studies and potential revisions to the general plan, specific plans, and/or zoning ordinance in order to protect public safety, health, and welfare of the City and its residents, and to ensure uses in the Specific Plan No. 23 Planning Area are compatible with existing and future uses in the surrounding neighborhoods.

**SECTION 2. ISSUANCE OF GOVERNMENT CODE SECTION 65858(d)
REPORT**

The City Council hereby issues the October 22 Report, as defined above.

SECTION 3. MORATORIUM EXTENDED

Urgency Ordinance No. 1272 is hereby extended for ten (10) months and fifteen (15) days (i.e. through and including September 23, 2020).

During the period of this extension, the following shall be prohibited: i) the establishment of any and all uses within the Specific Plan No. 23 Planning Area; ii) expansion of any existing uses within the Specific Plan No. 23 Planning Area; iii) development of any new buildings, structures, or sites within the Specific Plan No. 23 Planning Area; and (iv) expansion or modification of any existing buildings, structures, or sites within the Specific Plan No. 23 Planning Area. No license or permit shall be issued for the development, establishment, or expansion of any use within the Specific Plan No. 23 Planning Area. The foregoing shall explicitly prohibit the issuance of any use permits, variances, building permits, or any other applicable land use or zoning entitlement or approval, notwithstanding other existing zoning provisions and regulations of the City.

The purpose of this Ordinance is to provide for the health, safety and welfare of the City and its residents by exercising the police power provided for in the California Constitution that underlies the City's zoning powers.

SECTION 4. COUNCIL DIRECTION; STUDY AND DEVELOPMENT

The City Council hereby directs City Staff, during the effective period of this Ordinance, to continue to review, study and develop appropriate uses and land use rules and regulations for the Specific Plan No. 23 Planning Area, to enable the City to adequately and appropriately preserve the health, safety and welfare of the community in the City. Specifically, City Staff is directed to consider uses and land use regulations for the Specific Plan No. 23 Planning Area compatible with the Gold Line Extension infrastructure, Gold Line transit station, and compatible with surrounding neighborhoods. The written report required by Government Code Section 65858(d) shall be prepared by City Staff and issued no later than 10 days prior to the expiration of or extension of this Ordinance.

SECTION 5. AUTHORITY

This Ordinance is adopted as an urgency measure pursuant to Government Code Section 65858 to protect the general safety, health and welfare by prohibiting land uses which may be in conflict with contemplated general plan, specific plan, or zoning proposals which City Staff intend to consider and study within a reasonable time.

SECTION 6. STATEMENT OF URGENCY

Based on the recitals and factual findings set forth in Section 1 above, which are hereby incorporated and deemed true and correct, this Ordinance is urgently needed for the immediate

and long-term preservation of the public safety, health, and welfare. To enact this Ordinance after giving notice, holding a public hearing, and two readings thereof, and thereafter wait thirty days for said ordinance to become effective, will be detrimental to the public health, safety, and welfare, in that during the interim period new development or expansion of existing development may occur that would conflict with contemplated land use proposals and regulations which City Staff intend to consider and study. The result of such development would be irreversible and could cause costly negative impacts in the community. This Ordinance shall take effect immediately upon adoption by a four-fifths (4/5) vote of the City Council.

SECTION 7. CEQA EXEMPTION

This Ordinance is exempt from the California Environmental Quality Act (“CEQA”) under Section 15061(b)(3) of the CEQA Guidelines, which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question would have a significant effect on the environment, the activity is not subject to CEQA. This Ordinance will temporarily reduce the possibility of any impacts on the environment by prohibiting development, the establishment of all uses, and expansion of any existing uses, during the effective period of the Ordinance.

SECTION 8. SEVERABILITY

The City Council declares that, should any provision, section, subsection, paragraph, sentence, phrase or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, then the City Council would have independently adopted the remaining provisions, sections, subsections, paragraphs, sentences, phrases or words of this Ordinance and as such they shall remain in full force and effect.

SECTION 9. SUPERSEDING OF CONFLICTING PROVISIONS

The provisions of this Ordinance hereby supersede the provisions of the San Dimas Municipal Code that are in conflict with this Ordinance.

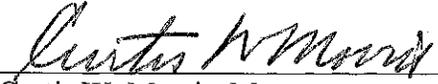
SECTION 10. PUBLICATION

The City Clerk shall certify as to the passage and adoption of this Ordinance and shall cause the same to be published as required by law.

SECTION 11. EFFECTIVE DATE

This Ordinance shall take effect immediately.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of San Dimas this 22nd day of October, 2019.


Curtis W. Morris, Mayor

ATTEST:

APPROVED AS TO FORM:


Debra Black, City Clerk


Jeff Malawy, City Attorney

I, DEBRA BLACK, CITY CLERK of the City of San Dimas, do hereby certify that Urgency Ordinance 1273 was passed, approved and adopted at a regular meeting of the City Council of the City of San Dimas on the 22nd day of October, 2019, by the following vote:

AYES: Badar, Bertone, Morris, Vienna
NOES: None
ABSENT: None
ABSTAIN: Ebner


Debra Black, City Clerk