



## **MEMORANDUM**

**TO:** Planning Commission

**FROM:** Travis Parker, Director, Planning Department

**DATE:** February 10, 2021

**SUBJECT:** Regulations for gas stations

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**SUMMARY STATEMENT:** City Council has requested regulatory changes for gas stations city-wide. At a study session on February 3, the Planning Commission reviewed proposed language and provided guidance to staff for a public hearing.

**BACKGROUND INFORMATION:** Colfax Avenue has allowed for auto-oriented uses throughout its history. Zoning since the incorporation of the City has permitted gas stations and convenience stores along Colfax and other commercially zoned areas. The new zoning code in 2012 continued this permission, though Transit areas were created that contain site design rules that limit the ability to build auto-oriented land uses like gas stations.

During 2020 City staff received a number of applications and pre-applications for new gas stations and convenience stores along Colfax Avenue, especially around the intersections of Colfax & Simms and Colfax & Kipling. In areas that are zoned with a Transit context those applications have not been able to proceed, however in those areas with an Urban or Suburban context the zoning allows for sites to be designed with street-facing parking and gas pumps. Currently there are five convenience stores or gas stations in the development process: one under construction, two in site plan review, two in pre-planning. The three projects under construction or in site plan review will continue regardless of zoning changes. The projects in pre-planning would not be able to continue if zoning rules are changed before a formal application is submitted

On January 4, 2021, City Council held a study session to discuss the possibility of additional regulations on gas station and convenience store uses on Colfax Avenue. At that meeting City Council provided staff guidance on the problem to be addressed and as well as potential solutions. Council also expressed a desire to move forward quickly on a potential solution.

City Council's direction included the following:

1. Changes should be made city-wide and not just apply to Colfax Avenue
2. Council would like a quick surgical change to gas station permissions, while convenience store regulations will likely need a longer process with additional research and discussion.
3. New gas station regulations should use some combination of special use permit and/or distance requirement.

At a study session on February 3, the Planning Commission added the following guidance:

1. Provide both an administrative option and a special use permit option for review.
2. Provide information and suggestions from sustainability staff about potential regulations to promote sustainability goals.
3. Look into regulations to promote environmental safety.
4. Increase distance limit from 750 to 1000 feet.

#### **ADDITIONAL INFORMATION:**

##### *Sustainability*

At the Planning Commission meeting on 2/3/21, additional information was requested regarding potential code amendments for gas station standards related to sustainability, to be presented at the next meeting on 2/24/21. Staff explored various options for furthering the city's sustainability goals through new gas station development. For most sustainability goals, it is difficult to quantify the impact of a specific land use as distinct from other land uses to determine a rational nexus for differing development standards without significant research and data analysis. With what information is available at this time, staff presents the following two options:

Option 1 (Staff Recommendation): Based on the LAC presentation and City Council discussion on 2/8/21 regarding a Renewable Energy Mitigation Program (REMP), going forward in 2021 Sustainability staff will be taking a more holistic look at how to best incorporate additional development standards into the Enhanced Development Menu (EDM) and other city codes to help mitigate the impact of new developments and further adopted sustainability goals. Standards for gas stations would best be included as part of this bigger picture discussion to allow staff adequate time to research and analyze best practices, and ensure consistency with additional parts of the zoning ordinance and other adopted codes.

Option 2: For a more immediate option that meets a nexus related to vehicle fueling, an additional standard could be added for new gas stations to install a minimum of one Electric Vehicle Charging Station (EVCS) as part of their required parking. Given best practices for EV charging infrastructure where typical stays at a location is less than an hour, a DC Fast Charge (DCFC/Level 3) station with two ports makes the most sense and would be recommended by staff. However, this type of EVCS has a high cost, at \$25,000-\$50,000 for the equipment alone and additional costs for labor and electrical infrastructure upgrades if not already capable of the handling the load of the DCFC charger. A Level 2 charger is a less expensive alternative, but

staff feels that this is not a desirable option because the necessary stay at this type of charging facility is 1-2 hours, which does not fit well with the short-term model of most gas stations and could contribute to safety concerns.

#### *Environmental Regulation*

Planning staff confirmed with environmental review staff that existing regulations for underground tanks are more than adequate to prevent future issues with groundwater contamination. Existing regulations require double walled tanks, leak sensors, and other technology to prevent contamination.

The one area that environmental staff recommended additional regulation was in requiring canopy covers for fueling areas. Canopies prevent rainfall from sending gas and oil spills on the concrete into the groundwater. Most new fueling stations are built with canopies, but a regulation would ensure them on all future station.

#### *Distance Requirement*

Planning Commission's recommendation was to set the distance requirement at 1000 feet. The intent is still to provide flexibility for the standard when conditions warrant, so each of the recommended options below contains language appropriate to administrative or discretionary review.

**STAFF RECOMMENDATION:** Based on Council and Commission guidance, staff has created the following options for Commission consideration.

- Option 1 makes fueling stations a limited use with administrative review.
- Option 2 makes fueling stations a special use permit reviewed by Planning Commission.
- Option 3 is a hybrid solution that allows fueling stations as a limited use when conditions are met but also allows a special use permit option if 1000 foot distance cannot be met.

#### *Option 1 (Limited Use)*

##### 17.4.3.1.M Fueling Station:

Where identified as a limited use, a fueling station shall be subject to the following:

1. The fueling station meets all of the site design requirements of 17.7.6.3.B and all other requirements of the zone district;
2. A canopy is provided to shield the fueling islands and fueling operations from precipitation;
3. A fueling station may not be located within 1000 feet of another fueling station unless;
  - a. The primary fuel type provided at the two stations is different (i.e. gasoline, natural gas, electric), or
  - b. Any station within 1000 feet is on the opposite side of a median divided arterial road.

*Option 2 (Special Use Permit)*

17.4.3.1.M Fueling Station:

Where identified as a special use, a fueling station shall be subject to the following:

1. The fueling station meets all of the site design requirements of 17.7.6.3.B and all other requirements of the zone district;
2. A canopy is provided to shield the fueling islands and fueling operations from precipitation;
3. The fueling station may not be located within 1000 feet of another fueling station unless:
  - a. The primary fuel type provided at the two stations is different (i.e. gasoline, natural gas, electric), or
  - b. Traffic conditions, such as a raised median, prevent clear and simple access to a station on the opposite side of the road;

*Option 3 (Hybrid)*

17.4.3.1.M Fueling Station:

Where identified as a limited use, a fueling station shall be subject to the following:

1. The fueling station meets all of the site design requirements of 17.7.6.3.B and all other requirements of the zone district;
2. A canopy is provided to shield the fueling islands and fueling operations from precipitation;
3. The fueling station may not be located within 1000 feet of another fueling station unless approved by the Planning Commission under the special use permit provisions of 17.2.4 and the following criteria:
  - a. The primary fuel type provided at the two stations is different (i.e. gasoline, natural gas, electric), or
  - b. Traffic conditions, such as a raised median, prevent clear and simple access to a station on the opposite side of the road;

**NEXT STEPS:** Planning Commission will hold a public hearing on the proposal on February 24 followed by City Council public hearing.