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DATE: January 26, 2021 AGENDA ITEM NO. 8.A.

TO: Planning Commission

FROM: Kevin Colin, Senior Planner

SUBJECT: General Plan Amendment to modify Policy 4-P-10 and Zoning Text Amendments to the Implementing Zoning Ordinance and SmartCode to prohibit new gas station land uses in all zoning districts in response to Ordinance 2681, 2688 and 2724 N.C.S. which established and extended a moratorium on new gas stations

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### **RECOMMENDATION**

It is recommended that the Planning Commission approve the following resolutions recommending that the City Council codify a prohibition of new gas station land uses in all zoning districts, as previously approved as a temporary moratorium by City Council:

- Resolution approving a General Plan Amendment to modify General Plan Policy 4-P-10 by enacting a prohibition on new fossil fuel gas station uses and transition them to serve Zero Emission Vehicles (**Attachment A**); and
- Resolution recommending City Council approval of Zoning Text Amendments to modify Implementing Zoning Ordinance, Ordinance 2300 N.C.S., Chapter 4 (Zone Districts and Allowable Uses), Chapter 11 (Parking and Loading Facilities, Off-Street), Chapter 22 (Non-Conforming Uses), and Chapter 28 (Glossary) (**Attachment B**); and
- Resolution recommending City Council Approval of Zoning Text Amendment to the SmartCode, Section 3 (Building Function Standards) and Section 9 (Glossary) (**Attachment C**).

### **BACKGROUND**

On May 6, 2019, the City Council adopted Ordinance 2681 N.C.S. imposing a moratorium on the approval of new gas station/fueling station applications not already deemed complete as of the effective date of the ordinance (**Attachment D**). On June 3, 2019, the City Council adopted Ordinance 2688 N.C.S. and, in doing so, extended the moratorium duration by 10 months, 15 days to April 18, 2020 (**Attachment E**). Most recently, on March 16, 2020, the City Council adopted Ordinance 2724 N.C.S. and, in doing so, extended the moratorium for an additional one year to March 16, 2021 (**Attachment F**).

To date, no development permit applications for gas station uses have been filed during the

moratorium period. Pursuant to Government Code Section 65858(f), the City's precluded from further moratorium extensions. Subsequent interim ordinances affecting the same property are prohibited unless the subsequent ordinance is adopted to protect the public safety, health, and welfare from an event, occurrence or set of circumstances different from those that led to the adoption of the prior interim ordinance.

## **PROJECT DESCRIPTION**

### *Proposed Amendments - Overview*

The basic purpose of the moratorium actions was to enable the City Council to consider potential regulatory options regarding new gas station applications and, when doing so, address negative health, safety, or other impacts of proposed new gas station uses on, adjacent to, or nearby existing uses or neighborhoods.

On May 6, 2019, and before approving the moratorium, staff provided the City Council a preliminary list of potential legislative options, including:

1. Modification to the IZO and/or SmartCode to prohibit new gas stations uses in all zones;
2. Modification to the IZO to make new gas station uses subject to a CUP in all zones where they are currently permitted as of right;
3. Modification to the use tables in the IZO and/or the City's zoning map changing the zones in which gas stations are permitted;
4. Adoption of specific use criteria for new gas station uses (similar to the approach taken for Bed and Breakfast Inns and Short-Term Vacation Rentals);
5. Adoption of specific use criteria for new gas stations uses when in proximity to sensitive receptors such as residential neighborhoods, schools, parks, etc.;
6. Adoption limitations on the size (number of pumps/dispensers or annual fuel throughput) of new gas station uses; and/or
7. Adoption of expanded definitions of gas station uses addressing large gas stations and small gas stations (number or pumps/dispensers or annual fuel throughput), and identification of the appropriate entitlement process (e.g., whether a CUP or use criteria should apply) to address project specific impacts.

Although individual Council members provided brief feedback on the options, no majority opinion or direction was provided as part of consideration of the item at the May 6, 2019 City Council meeting.

As described below, staff is bringing forward amendments for consideration that would eliminate the potential for new adverse effects through a prohibition on new gas stations in all zoning districts and, concurrently, enable, through new policy and regulation, existing gas stations to continue operations without future expansion(s) of elements supportive of fossil fuels (e.g., pumps, tanks) and transition to serve Zero Emission Vehicles (ZEV).

Pursuant to Government Code Section 65858(d), this report describes proposed measures, "to alleviate the condition which led to the adoption of the ordinance." Additionally, this report

describes how proposed policy and regulations are made in consideration of City Council Resolution No. 2019-055 (Resolution Declaring a Climate Emergency) (**Attachment G**); namely, through the giving of “precedence to climate mitigation and adaptation when evaluating policies” Moreover, this report recommends a specific action in furtherance of the City Council’s January 11, 2021 adoption of a Climate Emergency Framework including, amongst other things, a goal for Petaluma to achieve carbon neutrality by 2030.

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#### *Existing Gas Stations/Fueling Stations*

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The Implementing Zoning Ordinance (IZO) defines a Fueling Station/Gas Station as, “A retail business selling gasoline and/or other motor vehicle fuels, and related products. A gas station may also include a convenience store, vehicle services, and restaurant facilities.” The SmartCode defines a Gas Station as, “A retail business selling gasoline or other motor vehicle fuels, and related products. A gas station may also include a convenience store, vehicle services, restaurant facility and/or trailer rental where authorized by the Conditional Use Permit for the gas station.” This report joins the two definitions into “Gas Station” as they are largely identical.

Staff’s inventory of gas stations/fueling stations within the City of Petaluma’s incorporated limits shows sixteen (16) existing stations and one (1) approved but not yet built station (**Attachment H**). The existing stations are primarily located and clustered along arterial roadways in Petaluma (e.g., East Washington Street, Petaluma Blvd, Lakeville Street/Highway); often in proximity to the U.S. 101 freeway. Two are located within the boundaries of the SmartCode . All stations are presently operating with a valid business license.

Based on this inventory, there are multiple stations located within a 5-minute drive (2.1 miles at 25 miles per hour) of every existing residence as well as all areas planned for residential development by the 2025 General Plan but not yet constructed.

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#### *Zero Emission Vehicles*

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California has established ambitious Zero Emission Vehicle (ZEV) infrastructure and vehicle targets for the state - 250,000 shared plug-in electric vehicle chargers, including 10,000 direct current fast chargers (DCFC) and 200 hydrogen stations, by 2025. These targets were set to put California on the path to host 5 million ZEVs by 2030. Given the subject of the moratorium, staff evaluated existing policy and regulations and the potential to advance these targets given their general consistency with Petaluma’s local Resolution Declaring a Climate Emergency and the subsequent adoption of the City’s Climate Action Framework with the aggressive goal of carbon neutrality by 2030.

The 2025 General Plan identifies environmental sustainability as a key issue and includes the following guiding principle,

“Foster a sustainable community in which today’s needs do not compromise the ability of the community to meet its future needs. Enhance the built environment, encourage innovation in planning and design, and minimize environmental impacts through implementation of green

development standards.”

Existing General Plan policies intended to promote this principle, and which relate to the subject of the moratorium, include:

**Policy 4-P-8:** Support, where feasible, the development of alternative fuel stations.

**Policy 4-P-9:** Require a percentage of parking spaces in large parking lots or garages to provide electrical vehicle charging facilities.

**Policy 4-P-10:** Require electric vehicle charging and alternative fuel facilities at all new and remodeled gas stations.

There are presently no zoning regulations providing specific standards for the implementation of these policies. While the locally adopted California Green Building Standards Code has ample regulatory guidance (e.g., design and safety standards, number of charging spaces required, accessibility requirements) on the topic of battery powered ZEVs, the Implementing Zoning Ordinance and SmartCode are silent on the topic as well as matters relating to alternative fuel stations.

#### **Zero Emission Vehicles – Battery Powered**

Charging equipment and related site improvements are, generally, treated as accessory uses not requiring discretionary review (e.g., Site Plan and Architectural Review). AB 1236 (Chiu, 2015), Electric Vehicle Charging Station (EVCS) requires that permit applications be approved through a building permit or similar non-discretionary permit focusing on public health and safety.

As described in **Attachment I** (Electric Vehicle Charging Station Permitting Guidebook, July 2019), when AB 1236 was being developed, permitting processes and actual timelines varied widely - in many cases adding considerable delay to the station development process. AB 1236 directly addresses the fact that charging infrastructure availability drives the adoption of zero emission vehicles - the faster charging stations are deployed, the sooner California’s air quality improves, greenhouse gas emissions are reduced, and local economic benefits are captured.

Given that local zoning regulations do not directly address the requirements of AB 1236, the discussion below explains staff’s proposal to make explicit that no discretionary permit shall be required for any electric vehicle charging station.

#### **Zero Emission Vehicles – Hydrogen Fuel Cell Powered**

Hydrogen is a carbon-free, non-toxic fuel that is domestically produced from local resources. Hydrogen is a recognized fuel for transportation and has been classified as such by the State of California. However, there are no retail hydrogen fuel stations in Petaluma presently.

The application of appropriate codes and standards make hydrogen fuel as safe as gasoline or other commonly used fuels, such as compressed natural gas. Retail and fleet hydrogen stations are designed to be operated safely by new hydrogen users with minimal training. Retail hydrogen stations look and function like retail gas stations and, in fact, most existing retail hydrogen is

integrated into existing gas stations. Given that precedent, staff considered the potential for addressing hydrogen fuel in the context of the moratorium.

Two contemporary documents from the State of California provide a wealth of information and practical guidance on the current state of the hydrogen fuel market (e.g., stations, vehicles, fueling capacity, standards and technology) and permitting for hydrogen stations, including:

- 2020 Annual Evaluation of Fuel Cell Electric Vehicle Deployment & Hydrogen Fuel Station Network Development (Report Pursuant to AB 8; Perea, Chapter 401, Statutes of 2013) (see **Attachment J**); and
- Hydrogen Station Permitting Guidebook, California Governor’s Office of Business and Economic Development (GO-Biz), September 2020 (see **Attachment K**).

California has set hydrogen infrastructure targets with the goal of developing and growing hydrogen Fuel Cell Electric Vehicle (FCEV) and hydrogen fueling market scale. Assembly Bill 8 (AB 8; Perea, Chapter 201, Statutes of 2013) requires the establishment of at least 100 hydrogen fueling stations to launch the FCEV market in the state. In addition, AB 8 requires assessment by CARB and the Energy Commission of State support to enable industry growth to the point of financial self-sufficiency.

More recently, Executive Order B-48-18 tasked these same agencies with working towards a network of 200 stations by 2025. Achieving the goal of 200 stations by 2025 puts the state on a path to achieve economies of scale and future growth that does not depend on State incentives. Recent estimates point to the AB 8 grant process enabling the establishment of as many as 122 stations in California’s hydrogen fueling market.

Presently, the California Air Resources Board (CARB) estimates zero FCEVs within Sonoma County but projects, starting in 2022 and ending in 2026, an increase of FCEVs to 1.18% to 2.15% of the total, overall vehicle fleet.<sup>1</sup> After review of the State’s 2020 Hydrogen Station Permitting Guidebook, staff observes a timely opportunity to use the moratorium as an opportunity to implement General Plan Policy 4-P-8 through new zoning regulations that enable fossil fuel gas stations to transition to retail hydrogen for FCEVs.

As noted in the Hydrogen Station Permitting Guidebook, hydrogen fuel cell stations are frequently integrated into an existing Gas Stations with minor physical changes. Pumps are often integrated alongside existing ones used for gasoline dispensing or along an existing vehicular path of travel.

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<sup>1</sup> See Table 2 of Attachment H (2020 Annual Evaluation of Fuel Cell Electric Vehicle Deployment & Hydrogen Fuel Station Network Development (Report Pursuant to AB 8; Perea, Chapter 401, Statutes of 2013)).

Minor trenching is necessary to install pipes that convey hydrogen to each pump. Lastly, hydrogen fuel is stored aboveground within a concrete masonry enclosure similar those commonly used to enclose trash and recycling receptacles. Once installed, the retail operation of hydrogen pumps provides drivers with a similar experience to gasoline or diesel with respect to fueling, dispenser operation, fill time, and payments.

## **DISCUSSION AND STAFF ANALYSIS**

### *General Plan Amendment*

As the City's constitution for development, the General Plan is the heart of the planning process. It is intended to be a living document, and as such, may be subject to site-specific and comprehensive amendments. Amendments may also be needed from time to time to conform to State or federal law passed since adoption, as well as to eliminate or modify policies that may become obsolete or unrealistic due to changed conditions (such as completion of a task or project, development on a site, or adoption of an ordinance or plan).

After review of the issues surrounding the moratorium, staff identified a proposed amendment to General Plan Policy 4-P-10 found within Chapter 4 (The Natural Environment) and pertaining to air quality. Presently, General Plan Policy 4-P-10 states,

“Require electric vehicle charging and alternative fuel facilities at all new and remodeled gas stations.”

Within Petaluma, there are multiple Gas Stations located within a 5-minute drive (2.1 miles at 25 miles per hour) of every existing residence as well as all areas planned for residential development by the 2025 General Plan but not yet constructed. Therefore, in staff's view, there are adequate Gas Stations to serve existing and future internal combustion vehicles. With this conclusion reached and given the legislative directive of Resolution No. 2019-055 (Resolution Declaring a Climate Emergency) and recently adopted Climate Emergency Framework, staff recommends General Plan Policy 4-P-10 be revised, as follows (~~striketrough~~ = deletion; underline = addition):

~~“Require electric vehicle charging and alternative fuel facilities at all new and remodeled gas stations.”~~ Prohibit new fossil fuel gas stations and transition existing stations to serve Zero Emission Vehicles.”

While the prohibition established by the policy is plain, proposed companion regulations described below underscore it (i.e., land uses/permit tables) and provide specific standards on how Gas Stations may transition to serve Zero Emission Vehicles.

Government Code Section 65358 allows General Plan Amendments when it is deemed in the public interest to do so. Transportation remains the largest contributor of greenhouse gas and criteria pollutant emissions in California. Combating this to improve environmental and human health requires a massive transition from internal combustion engines to ZEVs. An inventory of current and approved Gas Stations shows they are, based on proximity, adequate to serve existing and planned residents dependent upon internal combustion engines. Prohibiting new Gas Stations

serves the public interest by preventing new sources of pollution that adversely impact environmental and human health.

### *Implementing Zoning Ordinance and SmartCode Amendments*

Currently, Gas Stations are a permitted land use in the C1, C2 and D4 zoning districts. Gas stations are a conditional use in the BP, MU1A, MU1B and T5 zoning districts. Staff's proposal is to amend the IZO and SmartCode to prohibit new Gas Stations in all zones. Specifically, in IZO Table 4.1 (Allowed Land Uses and Permit Requirements), the Gas Station use will be maintained where it occurs but be denoted with "—" (Use Not Allowed) and, thus, render those existing and already approved but not built as non-conforming uses. The same is accomplished at SmartCode Table 3.1 (Allowed Building Functions and Permit Requirements).

If that prohibition is codified, the balance of staff's recommended regulation changes can be grouped into two categories: (1) regulations needed to provide for and manage non-conforming Gas Stations; and (2) new regulations to promote ZEVs.

#### **Regulations for Non-Conforming Fossil Fuel Gas Stations**

After review of the citywide non-conformity regulations, staff determined that more specific standards are necessary to provide clear standards for the manner which existing Gas Stations may be modified in the future and, when not operating, the terms under which they must cease operations. Proposed new regulations are recommended at a new Implementing Zoning Ordinance Section 22.035, as noted in underline below. Staff commentary follows each subsection:

#### Section 22.035 - Regulation of Non-conforming Fueling Station/Gas Station Uses and Structures

##### A. Purpose. To support implementation of General Plan Policy 4-P-10 through regulations that:

1. Provide for the continued operation of Fueling Station/Gasoline Station uses as legal non-conforming uses and describe when they may be deemed abandoned.
2. Allow alterations to Fueling Station/Gasoline Stations when such changes provide greater protection of the environment, safeguard public health and safety, or facilitate the use of zero emission vehicles.
3. Prohibit Fueling Station/Gasoline Station operations from increasing the storage and dispensing capacity of gasoline and any other fossil fuel.

**Staff Comments:** These provisions are intended to aid the general understanding for code readers/users and provide guidance to the Zoning Administrator should it become necessary to interpret any provision within the section.

B. Applicability. This section applies to:

1. All lawfully developed and operating Fueling Station/Gasoline Station uses in existence prior to [insert ordinance effective date; e.g., April 16, 2020].
2. All Fueling Station/Gasoline Station uses not yet developed and/or operating but subject to an approved and unexpired land use approval.

**Staff Comments:** These provisions are intended to establish a clear baseline for code readers/users in determining applicability. Also, subsection (B)(2) is to make clear the approved Safeway Fuel Center project (Application No. PLSR-13-0012) is subject to the provisions of this section once constructed.

C. Modifications to Fueling Stations/Gas Station Uses, Generally. Except as provided below, Fueling Station/Gas Station uses and structures related thereto shall not be enlarged, extended, reconstructed or moved to a different portion of the lot or parcel of land occupied by such use. As determined by the Zoning Administrator, examples of features subject to this provision include, but are not limited to, those related to the sale, storage, conveyance, and dispensing of gasoline and any other fossil fuel (e.g., storage tanks, pumps, dispensers).

**Staff Comments:** This is to provide specificity that features relates to fossil fuels are subject to the restriction and explicitly prohibited from enlargement, extension, reconstruction or relocation except for the limited exceptions below.

D. Modifications to Improve Soil, Groundwater and Stormwater Quality. Fueling Station/Gas Station uses may be modified to conform to current stormwater quality control regulations or remediate contamination of the soil or groundwater.

E. Modifications to Improve Traffic Safety. As determined by the City Engineer, the pedestrian and vehicular circulation features (e.g., curbing, sidewalks, traffic control devices) of a Fueling Station/Gas Station use may be modified to improve public safety.

**Staff Comments:** These provisions are intended to address two common situations at Gas Stations. First, because Gas Stations commonly store fuel in underground storage tanks, leaks are possible and require remediation. Also, the dispensing of gasoline can lead to spills that are conveyed to waterways. Second, Gas Stations are commonly located along streets with high volumes of traffic and at intersections where multiple modes (e.g., pedestrian, bicycle, passenger vehicle) interface. Therefore, these provisions are intended to provide regulatory guidance that actions necessary to protect the environment and public safety are permissible.

F. Modifications to Enable Zero Emission Vehicles (Battery Charging Station). Fueling Station/Gas Station uses may be modified to accommodate battery charging station(s) for zero emission vehicles. Pursuant to Government Code Section 65850.7, this Zoning Ordinance requires no permit for battery charging stations.



**Staff Comments:** This provision is to make clear that battery charging stations for electric vehicles may be installed at Gas Stations and are not considered a prohibited change. Also, it makes clear that no zoning permit is required for them, pursuant to AB 1236.

- G. Modifications to Enable Zero Emission Vehicles (Hydrogen Fuel Cell Station). Fueling Station/Gas Station uses may be altered to include facilities for the storage, conveyance and dispensing of hydrogen to zero emission vehicles.

**Staff Comments:** This provision is to make clear that hydrogen fuel cell stations may be installed at Gas Stations and are not considered a prohibited change.

- H. Modifications for Commercial Uses Other Than Fossil Fuel Sales. Fueling Station/Gas Station uses may be altered to accommodate commercial uses that are not related to fossil fuel sales and provided for in the respective zoning district.

**Staff Comments:** This provision is to make clear that other commercial uses already permitted within the respective zoning district can be introduced to a site with an existing Gas Station. For example, this may include uses such as General Retail, Restaurant, Café and Coffee Shop, and Personal Services uses.

- I. Discontinuation of a Fueling Station/Gas Station Uses or Structures. A Fueling Station/Gas Station use shall not be re-established if such use has been discontinued for a continuous period of twelve (12) months or more, or has been changed to, or replaced by, a conforming use.

**Staff Comments:** IZO Section 22.030(E) provides a citywide standard of three months for use discontinuation and exemption for structures 400 square feet or smaller. The provisions here are intended to strike a balance between the proposed prohibition on new Gas Station and current dependency upon fossil fuels. Also, at least two existing Gas Station uses in Petaluma appear to have primary structures 400 square feet or smaller and, as such, the exemption language applicable citywide is excluded.

- J. Relationship to Section 22.030. All provisions at Section 22.030(C), (F) and (G) are incorporated here by reference and affirmed as applicable to this section.

**Staff Comments:** These provisions are intended to clarify the relationship to citywide standards (e.g., when repair is allowed, that maintenance is permitted).

### **Regulations for Zero Emission Vehicles**

New regulations are proposed to facilitate the transition of Gas Stations to serve Zero Emission Vehicles (ZEV) – battery and hydrogen fuel cell. At the same time, these changes would serve to promote battery powered ZEVs, more generally and citywide, by bringing existing regulations into compliance with AB 1236. As detailed in **Attachment B** and **C**, staff proposes Zoning Text Amendments, summarized as follows:

1. Include new Zero Emission Vehicles (Battery Charging Station) and Zero Emission Vehicles (Hydrogen Fuel Cell Station) land uses.
  - a. Allow the Zero Emission Vehicles (Battery Charging Station) use as an allowed accessory use in all zones (i.e., citywide).
  - b. Allow the Zero Emission Vehicles (Hydrogen Fuel Cell Station) use at existing gas stations only as both an accessory and primary use. The accessory use is to enable incremental changes to Gas Stations; the primary use is to enable the full transition to Zero Emission Vehicles service.
2. Include definitions for the following new terms:
  - a. Zero Emission Vehicles (Battery Charging Station) land use
  - b. Zero Emission Vehicles (Hydrogen Fuel Cell Station) land use
  - c. Electric Vehicle Supply Equipment (RE: AB 1236)
  - d. Zero Emission Vehicle
3. Revise the IZO and SmartCode definition for Gas Station to specifically referencing the sales of fossil fuels.

### **Required Findings**

The proposed amendments are subject to the provisions of Implementing Zoning Ordinance Chapter 25 (Amendments). To approve the amendments, Implementing Ordinance §25.070 requires the following findings (staff analysis included in *italics*).

1. That the proposed amendment is in general conformity with the Petaluma General Plan and any applicable plans.

*As amended, Policy 4-P-10 states, "Prohibit new fossil fuel gas stations and transition existing stations to serve Zero Emission Vehicles." The amendments effect related to the prohibition of fossil fuel Gas Stations directly implements this policy and proposed non-conformity regulations reinforce the policy's prohibition.*

*General Plan Policy 4-P-8 states, "Support, where feasible, the development of alternative fuel stations." The amendment components facilitating the use of Zero Emission Vehicles support this policy by providing clear regulations for the rapid deployment of transportation technologies without adverse environmental and human health effects endemic to fossil fuels and internal combustion engines.*

2. That the public necessity, convenience, and general welfare require or clearly permit the adoption of the proposed amendment.

*Pursuant to Resolution No. 2019-055 (Resolution Declaring a Climate Emergency) the City Council has, among other things, directed the giving of "precedence to climate mitigation and adaptation when evaluating policies" and sets a commitment reduce citywide greenhouse gas emission, "to carbon neutrality as quickly as possible and no later than 2045 - the goal set by Governor Brown's Executive Order B-55-188," and to*

*accelerate climate adaptation and resilience strategies. More recently, on January 11, 2021, the City Council underscored the need for urgent action and accelerated the timeline by moving up the carbon neutrality goal to 2030.*

*The amendments effect related to the prohibition of fossil fuel Gas Stations and regulations on potential future changes to such uses constitute a public necessity and promotes the general welfare by preventing the future expansion of a fuel type resulting in the primary form of greenhouse emissions (i.e., transportation sector) and, in doing so, put in place regulations that support the goal of carbon neutrality. Moreover, the prohibition serves to prevent future sources of environmental pollution through, for example, the transmission of fossil fuels into the soil, groundwater and surface waters, and serves to prevent future sources of air pollution harmful to public health. At the same time, the amendment components facilitating the use of Zero Emission Vehicles support the use of transportation technologies without the aforementioned adverse effects.*

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#### *Public Noticing*

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Public notice was published in the Argus Courier on January 14, 2020 in accordance with Implementing Zoning Ordinance Section 25.050 and Government Code Section 65091. Additionally and in conformance with Government Code Section 65353(b), public notice was provided to each property owner with an existing or approved Gas Station use.

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#### *Public Comment*

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As of the publishing of this staff report, no public comments have been received.

### **ENVIRONMENTAL REVIEW**

In accordance with the California Environmental Quality Act (CEQA), the proposed amendments are exempt for the reasons summarized below.

#### **Actions Relating to Gas Station Prohibition**

The General Plan Amendment and Zoning Text Amendments resulting in the prohibition of new Gas Stations is not a project within the meaning of CEQA Guidelines Section 15378, because it has no potential for resulting in physical change in the environment, directly or ultimately; it prevents changes in the environment related to new gas station use applications. Moreover, such amendments are, pursuant to CEQA Guidelines 15061(b)(3), not subject to CEQA under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. As the amendments will prohibit new Gas Stations and, in turn, prevent physical changes to the environment, it can be seen with certainty that there is no possibility that the amendments on this topic will have a significant effect on the environment.

#### **Actions Relating to New Non-Conformity Regulations for Gas Stations**

These amendments would apply to sixteen already-developed properties and one new Gas Station

to be developed and which has already demonstrated, separately compliance with CEQA. These amendments prohibit the enlargement, extension, reconstruction or moving of Gas Station uses and define four specific categories of permitted modifications, as follows: (1) those to improve soil, groundwater and stormwater quality; (2) those necessary to improve traffic safety; (3) those to enable battery charging stations for Zero Emission Vehicles; and (4) those to install facilities for the storage, conveyance and dispensing of hydrogen to zero emission vehicles. The latter two categories of modifications (i.e., battery charging stations, hydrogen) are addressed separately below.

The Zoning Text Amendments resulting in new non-conformity regulations for Gas Stations and which prohibit their enlargement, extension, reconstruction or relocation are categorically exempt from CEQA under CEQA Guidelines Section 15301 (Existing Facilities). Section 15301 applies to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.

The Zoning Text Amendments resulting in new non-conformity regulations for Gas Stations and allowing modifications to improve soil, groundwater and stormwater quality and traffic safety, are categorically exempt from CEQA under the following categories:

- CEQA Guidelines Section 15301 (Existing Facilities) applies to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.
- CEQA Guidelines Section 15303 (Small Structures) applies to the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.
- CEQA Guidelines Section 15304 (Minor Alterations to Land) applies to minor public or private alterations in the condition of land, water, and/or vegetation (e.g., new gardening or landscaping, including the replacement of existing conventional landscaping with water efficient or fire resistant landscaping, minor trenching and backfilling where the surface is restored).
- CEQA Guidelines Section 15308 (Actions by Regulatory Agencies for Protection of the Environment) applies to 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.

#### Actions Relating to Land Use - Zero Emission Vehicles (Battery Charging Station)

The Zoning Text Amendments pertaining to battery charging standards for Zero Emission

Vehicles is not a project within the meaning of CEQA Guidelines Section 15378, because, pursuant to Government Code Section 65850.7 (i.e., AB 1236), all permit requests for such charging stations shall be administratively reviewed through a building permit or similar nondiscretionary permit. Therefore, because ZEV charging station projects are not subject to discretionary review, these amendments are not a “project” within the meaning of CEQA.

#### Actions Relating to Land Use - Zero Emission Vehicles (Hydrogen Fuel Cell Station)

The Zoning Text Amendments would allow for hydrogen fuel stations at existing Gas Stations. As described, there are sixteen already-developed Gas Stations and one new Gas Station to be developed and which has already demonstrated, separately compliance with CEQA. Presently, there are no retail hydrogen stations in the City of Petaluma.

This analysis uses the “Hydrogen Station Permitting Guidebook, California Governor’s Office of Business and Economic Development (GO-Biz), September 2020” as a basis to determine reasonably foreseeable changes to the environment that may result from the installation of retail hydrogen stations at existing Gas Stations. Based on that Guidebook (namely Pages 13 to 18, and Pages 49 to 53), it is anticipated that hydrogen will be integrated into an existing Gas Stations with minor physical changes to sites that are already substantially disturbed, paved and/or with existing structures.

Pumps are anticipated to be integrated alongside existing ones used for gasoline dispensing or along an existing vehicular path of travel. Minor trenching is anticipated to install pipes that convey hydrogen to each pump. Lastly, hydrogen fuel would be stored aboveground within a concrete masonry enclosure similar those commonly used to enclose trash and recycling receptacles. Once installed, the retail operation of hydrogen pumps provides drivers with a similar experience to gasoline or diesel with respect to fueling, dispenser operation, fill time, and payments.

Based on the above, proposed Zoning Text Amendments pertaining to hydrogen fuel cell station standards for Zero Emission Vehicles are categorically exempt from CEQA under the following categories:

- CEQA Guidelines Section 15301 (Existing Facilities) applies to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.
- CEQA Guidelines Section 15303 (Small Structures) applies to the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.
- CEQA Guidelines Section 15304 (Minor Alterations to Land) applies to minor public or private alterations in the condition of land, water, and/or vegetation (e.g., new gardening or landscaping, including the replacement of existing conventional landscaping with water

efficient or fire resistant landscaping, minor trenching and backfilling where the surface is restored).

#### **ATTACHMENTS**

- A. Draft General Plan Amendment Resolution
- B. Draft Implementing Zoning Ordinance Amendment Resolution
- C. Draft SmartCode Amendment Resolution
- D. May 6, 2019 City Council Staff Report & Ordinance 2681
- E. June 3, 2019 City Council Staff Report & Ordinance 2688
- F. March 16, 2020 City Council Staff Report & Ordinance 2724
- G. Resolution Declaring a Climate Emergency
- H. Gas Station Locations
- I. Electric Vehicle Charging Station Permitting Guidebook
- J. 2020 Annual Evaluation of Fuel Cell Electric Vehicle Deployment & Hydrogen Fuel Station Network Development
- K. Hydrogen Station Permitting Guidebook