



**TROY CITY COUNCIL
COMMITTEE MEETING
COUNCIL CHAMBERS, CITY HALL
100 S. Market Street, Troy, Ohio**

WEDNESDAY, JUNE 17, 2026, 4:00 PM

Community & Economic Development Committee

(Snee [Chm.], Hickman, Twiss)

1. Provide a recommendation to Council regarding modifying the provisions of Ordinance No. O-19-2026, moratorium on new applications for zoning or occupancy permits related to Automobile Fuel Dispensing Stations/Service Stations.

Other Committees/items may be added

~~6-4-2026~~

6-11-2026

cc: Council
Mayor
Mr. Titterington, Mr. Kerber
Mr. Frigge, Departments, Media

MEMORANDUM

TO: Patrick E. J. Titterington, Director of Public Service and Safety
FROM: Tim Davis, Development Director
DATE: June 12, 2026
SUBJECT: MORATORIUM ESTABLISHED BY ORDINANCE NO. O-19-2026

RECOMMENDATION:

That the request made at the June 1, 2026 Council Meeting to exempt Mr. Singh from the moratorium established by Ordinance No. O-19-2026 not be supported by Council based on the information and analysis provided in this memo. It is also recommended that moratorium established by Ordinance No. O-19-2026 on the acceptance of zoning applications and issuance of zoning permits related to Automobile Fuel Dispensing Stations/Automobile Service Stations/Community-Oriented Social Services be extended for an additional 90-day period commencing August 29, 2026 and running through November 27, 2026. This additional extension would ensure that there is time to provide for the process of the comprehensive review and discussion by the Planning Commission and Council of the draft of the UDC.

BACKGROUND:

City Council approved Ordinance O-19-2026, extending the moratorium on Automobile Fuel Dispensing Stations/Service Stations for an additional 90 days beginning May 31, 2026.

At the June 1, 2026, City Council meeting, Attorney Rebecca Simpson presented materials concerning correspondence between City staff and a developer proposing an Automobile Fuel Dispensing Station at 1511 S. Market Street.

During her discussion, she made several statements that require clarification and correction for the public record.

- 1) **No Formal Application was Submitted.** Ms. Simpson acknowledged that her client never submitted a formal application. Instead, she argued that her client should be considered an “applicant” based upon correspondence with city staff. The Troy Zoning Code clearly establishes the requirements for submitting an application. Section 1135.06 (a), titled Application for Zoning Permit, reads “**Each application for a zoning permit shall be made on forms provided by the City** and shall be accompanied by a plan in duplicate drawn to scale...” The proposed developer did not submit an application under 1135.06’s requirements.

Additionally, Section 1135.09 Fees (a) of the Troy Zoning Code states “Application under this Zoning Code for a zoning certificate, appeal, variance, occupancy permit, planned development, text or map amendment, or other administrative or quasi-judicial action may require payment of a fee. Fees shall be specified by City Council. **The appropriate fee shall be paid to the City with the application.**”

The Zoning Code requires both a submission of a completed application on a city provided form and payment of the applicable fee at the time of application. At no point was an application completed or fee paid for an Automobile Fuel Dispensing Station at the property located at 1511 S. Market Street.

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- 2) **Definition of “Applicant” was not Cited by Ms. Simpson.** Ms. Simpson argued that her client should be considered an “applicant” because staff used that term in various email communications. To support her position, she cited the Zoning Code definition of “Application”. However, she did not reference the definition of “Applicant”, which is defined as “Any person that applies for a permit pursuant to this Zoning Code.” This distinction is significant because it ties applicant status directly to the act of applying for a permit in accordance with the procedures established by the Zoning Code. As discussed in 1) above, those procedures require submission of a formal application and payment of the required fee. Since neither occurred, it must be concluded that the applicant status was not established under the Zoning Code.

Additionally, Section 1135.05 (b) of the Zoning Code states: “**No statement or writing issued by an official, officer, employee, department, board, commission or bureau of the City pertaining to the temporary or permanent use of land or buildings shall be valid unless fully in conformance with, and made under the express authorization of this Zoning Code.**” References made in correspondence supersede or replace the procedural requirements established by the Zoning Code.

- 3) **Interpretation of the Ten-Day Review Requirement.** Ms. Simpson stated that she advised her client not to submit an application because, in her interpretation, once an application is filed and the fee is paid, the City must issue a decision within ten days. Her interpretation does not accurately reflect the language of the Zoning Code. Section 1135.07(a) states “**Zoning permits shall be issued, refused, or commented on within ten (10) working days after the date of application...**” The inclusion of the phrase “or commented on” is important. This provision allows staff to provide comments, request revisions, or identify compliance issues within the review period. This process gives applicants the opportunity to modify plans to achieve compliance with applicable zoning requirements. Applications are not automatically denied simply because additional information or revisions are necessary. Denial typically occurs only when a proposed use or site is incapable of meeting applicable zoning standards. This has been our long-standing established process for every valid application submittal.
- 4) **Knowledge of the Application Process.** Ms. Simpson stated that upon being retained by her client, she contacted Choice One Engineering and requested a copy of the application. She indicated that Choice One responded by providing an August 18, 2023 email transmitting project plans. According to her remarks, she further inquired about the application process and learned that, on other projects, Choice One Engineering submitted an online application, paid the required fee, and subsequently received zoning approval.

These statements indicate that her client, and/or engineer were aware that the City’s process required both submission of an application and payment of the applicable fee. This understanding is consistent with the requirements set forth in Sections 1135.06 and 1135.09 of the Zoning Code.

- 5) **Uncertainty Regarding a Restaurant Component.** During the Council discussion, property owner Mandeep Singh stated that approximately 1,800 square feet will be dedicated to a restaurant with

10 tables. When asked if the developer would include a restaurant, Mr. Singh responded they were “looking for” a fast-food tenant such as Subway or Dunkin Donut.

Similarly, construction manager Matthew Ward stated the plans showed tenant space within the building. When asked by Councilman Schilling if there was a restaurant in these plans, Mr. Ward responded by referring to the tenant space shown on the plans but did not directly answer the question. A restaurant tenant has not been discussed with staff or shown on any draft plans. No restaurant has been secured, as Mr. Singh admitted. The plans included in the materials provided to Council, denoted with a blue and pink tab, **do not** indicate another tenant within the building.

As a result, questions remain regarding the certainty, scope, and operational characteristics of any future restaurant use associated with the proposed development. This is extremely relevant due to further requirements by the Zoning Code that have not been discussed such as parking space needs, lighting, landscaping, etc.

The issue before Council is whether a developer who did not submit a formal application, did not pay the required application fee, and did not initiate the formal zoning review process established by the Troy Zoning Code should be treated as an “applicant” for the purposes of obtaining relief from the current moratorium. Based on the language of the code, applicant status is only created through compliance with established procedures. Correspondence, preliminary discussions, and informal submissions do not satisfy the zoning requirements. Any consideration of an alteration to the moratorium should therefore be denied based on the clear Code’s procedural requirements and the facts surrounding this proposal.

In addition, City Council should not exempt the developer from the moratorium as this could create several legal and policy issues that would need to be discussed:

- **Validity of the Moratorium.** The moratorium was justified as a temporary pause to allow study, planning, and code revisions to the current language. Exempting one developer could undermine the city’s argument that the moratorium is necessary to protect health, safety, and welfare as stated in the Ordinance. An exemption can raise the question: if one project can proceed forward, why not others?
- **Unequal Treatment.** Other developers may argue that the city is treating similarly situated parties differently without a rational basis. This can create allegations of favoritism, arbitrary decision-making, and unequal rights if no legitimate distinction exists between the exempted party and others.
- **Establishing a Precedent.** Developers may seek similar exemptions and argue they have started their planning process, purchased land, and made investments on similar projects. Exempting this developer could make future denials more difficult to defend.
- **Litigation Risk.** Individuals who have been told applications cannot be accepted may challenge through declaratory judgment action or constitutional claims alleging arbitrary treatment.
- **Rationale, Terms and Criteria.** Should City Council decide to modify the moratorium, they must be very careful to provide a defensible rationale for why the moratorium is being modified along with specific terms and criteria that must be set in order to prevent arbitrary treatment. There are no special circumstances to warrant an alteration of the moratorium. Mr. Singh’s failure to submit an application does not create a special circumstance to warrant an alteration.

On June 10, 2026, the Planning Commission scheduled a meeting for June 18, 2026, to begin their review process of the draft UDC, which was transmitted to the Planning Commission and City Council on June 11, 2026. With the possibility of Planning Commission determining the need for a public hearing, their recommendations cannot realistically be transmitted to City Council any earlier than the end of July. City Council will then, per the ORC, require a minimum of 60 to 90 days for their review and action.

Law Director Kerber participated in writing this recommendation and concurs with the above analysis.

REQUESTED ACTION:

It is staff's recommendation that:

1. The Community & Economic Development Committee not support exempting Mr. Singh from the moratorium established by Ordinance No. O-19-2026 based on the information and analysis provided in this memo.
2. The Community & Economic Development Committee recommend that the moratorium on the acceptance of zoning applications and issuance of zoning permits related to Automobile Fuel Dispensing Stations/Automobile Service Stations/Community-Oriented Social Services be extended for an additional 90-day period commencing August 29, 2026 and running through November 27, 2026.