

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: David A. Bobardt, Community Development Director  (For D.B.)
Prepared by: Joseph Fiss, Principal Planner 

DATE: June 9, 2011 (CC Meeting of 7/6/2011)

SUBJECT: Consider a Resolution Approving General Plan Amendment No. 2011-01 to Change the Land Use Designation from Medium Industrial (I-2) to Agriculture 1 (AG-1); an Ordinance Approving Zone Change No. 2011-01 to Change the Zoning Designation from Limited Industrial (M-2) to Agricultural Exclusive (AE); and an Ordinance Terminating Development Agreement No. 1998-05 with the Southern California Edison Company (SCE) on 8.79 Acres Located 1,300 Feet West of Gabbert Road, Immediately North of the Union Pacific Railroad Right-of-Way

BACKGROUND/DISCUSSION

On May 24, 2011, the Planning Commission adopted Resolution No. PC-2011-565, recommending to the City Council approval of General Plan Amendment No. 2011-01, Zone Change No. 2011-01, and termination of Development Agreement No. 1998-05. This Planning Commission action was in response to Council direction on February 16, 2011 in Resolution No. 2010-3002 to provide a recommendation on General Plan Amendment and Zoning Map Amendment proceedings to be considered concurrently with the termination of Development Agreement 1998-05. A full analysis of the proposed changes is provided in the attached Planning Commission Agenda Report (Attachment 2).

On December 16, 1998, the Moorpark City Council adopted Resolution No. 98-1556, Ordinance No. 249, and Ordinance No. 250 amending the General Plan land use designation from Agriculture 1 (AG-1) to Medium Industrial (I-2), amending the Zoning Map from Agricultural Exclusive (AE) to Limited Industrial (M-2), and approving two development agreements, one with A-B Properties and one with SCE on approximately 43 acres of land west of Gabbert Road and north of the Southern Pacific (now Union Pacific) railroad right-of-way, owned by A-B Properties and SCE. Since that time, SCE

has decided not to pursue development of their 8.79 acre property. In addition, A-B Properties had initiated a lawsuit over the development of an access road on an easement they held over Hitch Ranch property that would have served both Tract 5147, owned by A-B Properties, and the subject SCE property, allowing for industrial development of both properties. It should be noted that this is a correction from the Planning Commission staff report, which mistakenly reported that SCE initiated the lawsuit.

On September 14, 2010, the City of Moorpark entered into a Settlement Agreement and Mutual Release with SCE as its part of the settlement of the lawsuit. As part of that agreement, the City agreed to schedule hearings with a staff recommendation of approval of 1) an amendment to the General Plan to reflect the original land use designation of Agriculture 1 (AG-1), 2) an amendment to the Zoning Map to its original Zoning designation of Agricultural Exclusive (AE), and 3) termination of Development Agreement No. 1998-05.

Development Agreement No. 1998-05 would remain in full force and effect for 20 years from the operative date of the agreement (until January 15, 2019), unless modified or terminated by mutual consent of both parties. Procedures for termination are established in Section 15.40.120 of the Moorpark Municipal Code, which require the same review process as a new development agreement; adoption of an ordinance by City Council after public hearings by the Planning Commission and City Council.

Staff has drafted a proposed resolution and ordinances (attached), and they have been reviewed and approved by the City Attorney.

FISCAL IMPACT

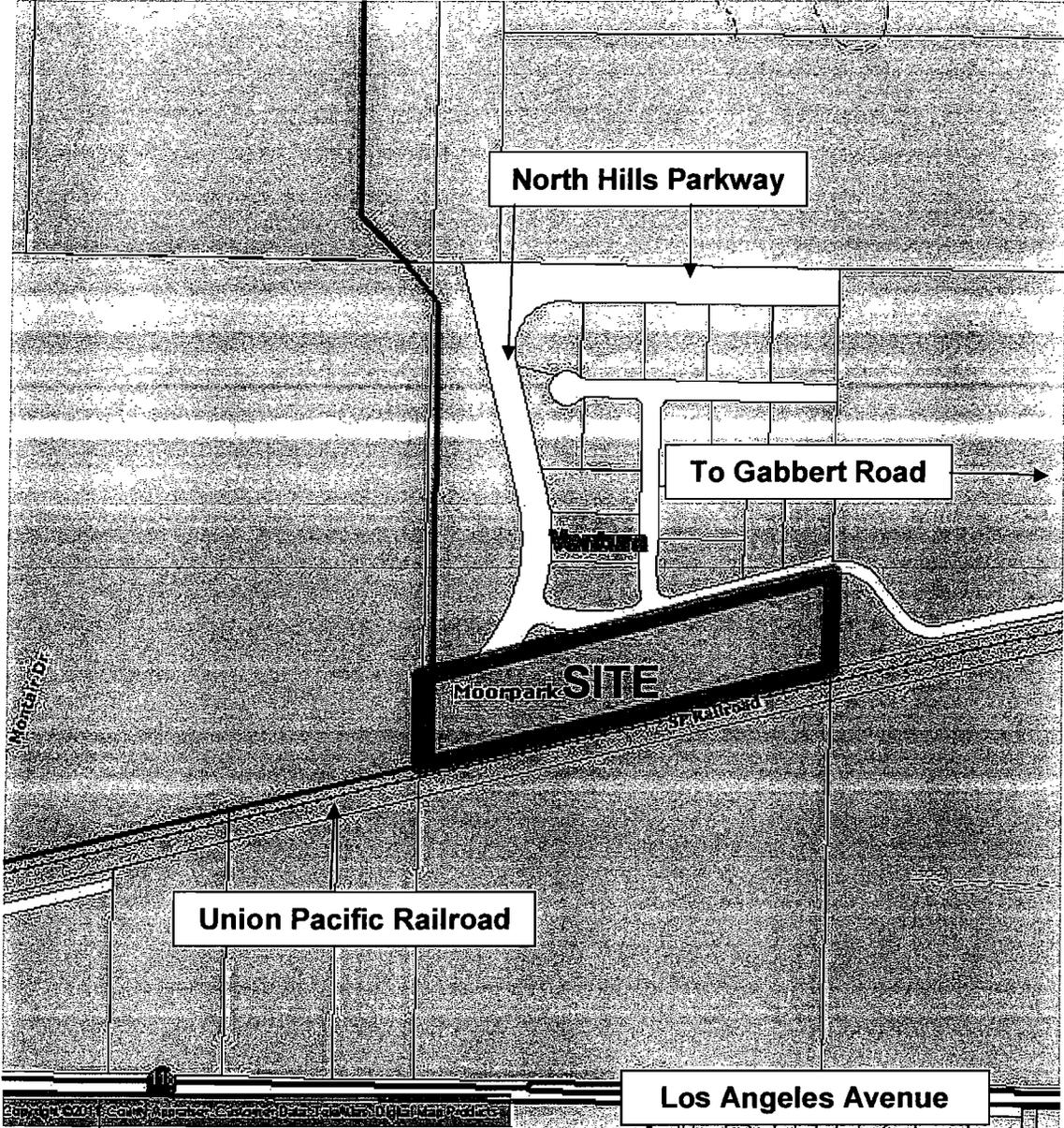
None

STAFF RECOMMENDATION

1. Open the public hearing, accept public testimony and close the public hearing.
2. Adopt Resolution No. 2011-____ approving General Plan Amendment No. 2011-01.
3. Introduce Ordinance No. ____ approving Zone Change No. 2011-01 and schedule second reading for July 20, 2011.
4. Introduce Ordinance No. ____ terminating Development Agreement No. 1998-05 and schedule second reading for July 20, 2011.

ATTACHMENTS:

1. Location Map
2. May 24, 2011 Planning Commission Agenda Report (w/o attachments)
3. Draft Resolution No. 2011-____ approving General Plan Amendment No. 2011-01
4. Draft Ordinance No. ____ approving Zone Change No. 2011-01
5. Draft Ordinance No. ____ terminating Development Agreement No. 1998-05



LOCATION MAP

**MOORPARK PLANNING COMMISSION
AGENDA REPORT**

TO: Honorable Planning Commission

FROM: David A. Bobardt, Community Development Director
Prepared by Joseph Fiss, Principal Planner



DATE: May 20, 2011 (PC Meeting of 5/24/11)

SUBJECT: Consider Resolution Recommending Approval of General Plan Amendment No. 2011-01, Zone Change No. 2011-01, and Termination of Development Agreement No. 1998-05 with Southern California Edison (SCE) on 8.79 Acres Located on the North Side of the Union Pacific Railroad Right-of-Way, West of Gabbert Road (Continued from April 26, 2011)

BACKGROUND

This item was originally scheduled for the regular Planning Commission meeting of April 26, 2011. That meeting was adjourned to Tuesday, May 24, 2011 without holding the public hearing. The attached Planning Commission agenda report addresses the proposal in detail.

STAFF RECOMMENDATION

1. Open the public hearing, accept public testimony and close the public hearing.
2. Adopt Resolution No. PC-2011-____ recommending to the City Council approval of General Plan Amendment No. 2011-01, Zone Change No. 2011-01, and Termination of Development Agreement No. 1998-05.

ATTACHMENTS:

1. April 26, 2011 PC Agenda Report

**MOORPARK PLANNING COMMISSION
AGENDA REPORT**

TO: Honorable Planning Commission

FROM: David A. Bobardt, Community Development Director
Prepared by Joseph Fiss, Principal Planner 

DATE: March 28, 2011 (PC Meeting of 4/26/2011)

SUBJECT: Consider Resolution Recommending Approval of General Plan Amendment No. 2011-01, Zone Change No. 2011-01, and Termination of Development Agreement No. 1998-05 with Southern California Edison (SCE) on 8.79 Acres Located on the North Side of the Union Pacific Railroad Right-of-Way, West of Gabbert Road

BACKGROUND

On February 16, 2011, the City Council adopted Resolution No. 2011-3002, directing the Planning Commission to study, hold a public hearing, and provide a recommendation on amendments to the general plan land use designation and zoning map, and termination of a development agreement with Southern California Edison on 8.79 acres located on the north side of the Union Pacific Railroad right-of-way, west of Gabbert Road. The General Plan land use designation is proposed to be amended from Medium Industrial (I-2) to Agricultural (AG-1), and the Zoning Map is proposed to be amended from Limited Industrial (M-2) to Agricultural Exclusive (AE).

DISCUSSION

On December 16, 1998, the Moorpark City Council adopted Resolution No. 98-1556, Ordinance No. 249, and Ordinance No. 250 amending the General Plan land use designation from Agricultural (AG-1) to Medium Industrial (I-2), amending the Zoning Map from Agricultural Exclusive (AE) to Limited Industrial (M-2), and approving two development agreements, one with A-B Properties and one with SCE on approximately 43 acres of land west of Gabbert Road and north of the Southern Pacific (now Union Pacific) railroad right-of-way, owned by A-B Properties and SCE. Since that time, SCE has decided not to pursue development of their 8.79 acre property. In addition, SCE had initiated a lawsuit over the development of an access road on an easement they held over Hitch Ranch property that would have served both Tract 5147, owned by A-B Properties, and the subject SCE property, allowing for industrial development of both properties.

On September 14, 2010, the City of Moorpark entered into a Settlement Agreement and Mutual Release with the Southern California Edison Company (SCE) as its part of the settlement of the SCE lawsuit. As part of that agreement, the City agreed to schedule hearings with a staff recommendation of approval of 1) an amendment to the General Plan to reflect the original land use designation of Agriculture (AG-1), 2) an amendment to the Zoning Map to its original Zoning designation of Agricultural Exclusive (AE), and 3) termination of Development Agreement No. 1998-05.

The Development Agreement would remain in full force and effect for 20 years from the operative date of the agreement (until January 15, 2019), unless modified or terminated by mutual consent of both parties. Procedures for termination are established in Section 15.40.120 of the Moorpark Municipal Code, which require the same review process as a new development agreement; adoption of an ordinance by City Council after public hearings by the Planning Commission and City Council.

General Plan and Zoning Consistency:

The table below shows the current General Plan and Zoning designations of the property, and the surrounding properties. The proposed agricultural designations are consistent with the existing Southern California Edison high tension power lines because SCE can lease the property for uses such as pasture or a container plant nursery, both of which are consistent with the proposed land use designations.

GENERAL PLAN/ZONING			
Direction	General Plan	Zoning	Land Use
Site	Medium Industrial (I-2)	Limited Industrial (M-2)	Vacant
North	Medium Industrial (I-2)	Limited Industrial (M-2)	Vacant (Tract 5147)
South	Medium Industrial (I-2)	Limited Industrial (M-2)	Vacant
East	Agricultural Exclusive (AE)	SP-1 (Hitch Ranch)	Vacant
West	Agricultural (40 Ac Min)	Agricultural Exclusive (AE-40ac)	Orchard

Findings

General Plan Amendments, Zone Changes, and Development Agreements are legislative acts. Findings are not required for legislative acts unless a statute or local ordinance so requires.

PROCESSING TIME LIMITS

Time limits have been established for the processing of development projects under the Permit Streamlining Act (Government Code Title 7, Division 1, Chapter 4.5), the Subdivision Map Act (Government Code Title 7, Division 2), and the California Environmental Quality Act Statutes and Guidelines (Public Resources Code Division 13, and California Code of Regulations, Title 14, Chapter 3). Since this project includes a General Plan Amendment, Zone Change, and a development agreement termination, which are legislative acts, the decision is not subject to processing time limits.

ENVIRONMENTAL DETERMINATION

In accordance with the City's environmental review procedures adopted by resolution, the Community Development Director determines the level of review necessary for a project to comply with the California Environmental Quality Act (CEQA). Some projects may be exempt from review based upon a specific category listed in CEQA. Other projects may be exempt under a general rule that environmental review is not necessary where it can be determined that there would be no possibility of significant effect upon the environment. A project which does not qualify for an exemption requires the preparation of an Initial Study to assess the level of potential environmental impacts.

Based upon the results of an Initial Study, the Director may determine that a project will not have a significant effect upon the environment. In such a case, a Notice of Intent to Adopt a Negative Declaration or a Mitigated Negative Declaration is prepared. For many projects, a Negative Declaration or Mitigated Negative Declaration will prove to be sufficient environmental documentation. If the Director determines that a project has the potential for significant adverse impacts and adequate mitigation can not be readily identified, an Environmental Impact Report (EIR) is prepared.

The Director has reviewed this project and found it to qualify for a General Rule Exemption in accordance with Section 15061 of California Code of Regulations (CEQA Guidelines) in that CEQA only applies to projects which have the potential for causing a significant effect on the environment. No further environmental documentation is required.

STAFF RECOMMENDATION

1. Open the public hearing, accept public testimony and close the public hearing.
2. Adopt Resolution No. PC-2011-____ recommending to the City Council approval of General Plan Amendment No. 2011-01, Zone Change No. 2011-01, and Termination of Development Agreement No. 1998-05.

ATTACHMENTS:

1. Location Map
2. Aerial Photograph
3. Development Agreement No. 1998-05
4. Draft PC Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, APPROVING GENERAL PLAN AMENDMENT NO. 2011-01, CHANGING THE LAND USE DESIGNATION ON THE GENERAL PLAN LAND USE MAP FROM MEDIUM INDUSTRIAL (I-2) TO AGRICULTURE 1 (AG-1) ON 8.79 ACRES LOCATED 1,300 FEET WEST OF GABBERT ROAD, IMMEDIATELY NORTH OF THE UNION PACIFIC RAILROAD RIGHT-OF-WAY, ON PROPERTY OWNED BY SOUTHERN CALIFORNIA EDISON

WHEREAS, on February 16, 2011, the City Council adopted Resolution No. 2011-3002, directing the Planning Commission to study, hold a public hearing, and provide a recommendation for amendments to the General Plan Land Use Designation and Zoning Map for 8.79 acres located 1,300 feet west of Gabbert Road, immediately north of the Union Pacific railroad right-of-way on property owned by Southern California Edison; and

WHEREAS, on May 24, 2011, the Planning Commission adopted Resolution No. PC-2011-565, recommending approval of General Plan Amendment No. 2011-01, changing the land use designation on the General Plan Land Use Map from Medium Industrial (I-2) to Agriculture 1 (AG-1) on 8.79 acres located 1,300 feet west of Gabbert Road, immediately north of the Union Pacific railroad right-of-way (APN No. 511-0-200-055); and

WHEREAS, at its meeting of July 6, 2011 the City Council considered the agenda report and any supplements thereto and written public comments; opened the public hearing and took and considered public testimony both for and against the proposal; and reached a decision on this matter; and

WHEREAS, the City Council concurs with the Community Development Director's determination as outlined in the July 6, 2011 staff report that this qualifies for a General Rule Exemption in accordance with Section 15061 of California Code of Regulations (CEQA Guidelines). No further environmental documentation is required.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. CITY COUNCIL APPROVAL: General Plan Amendment No. 2011-01 is approved, amending the General Plan Land Use Map as shown in Exhibit "A" attached hereto.

SECTION 2. This resolution shall become effective upon the effective date of Ordinance No. xxx introduced for first reading on July 6, 2011 and pending adoption on July 20, 2011.

SECTION 3. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

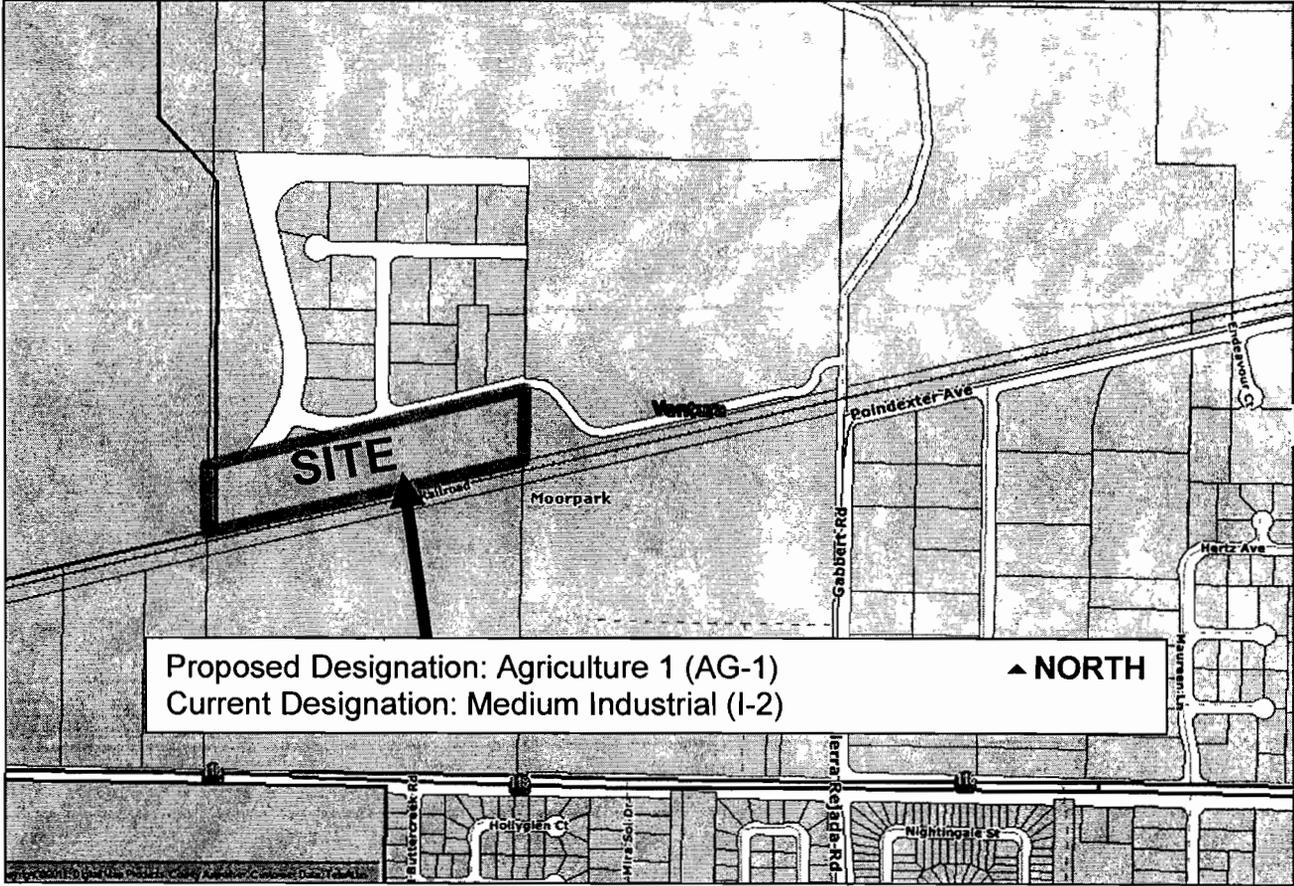
PASSED AND ADOPTED this 6th day of July, 2011.

Janice S. Parvin, Mayor

ATTEST:

Maureen Benson, City Clerk

Exhibit A: General Plan Land Use Map



GENERAL PLAN AMENDMENT MAP

EXHIBIT A

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF MOORPARK, CALIFORNIA, APPROVING ZONE CHANGE NO. 2011-01, CHANGING THE ZONING FROM LIMITED INDUSTRIAL (M-2) TO AGRICULTURAL EXCLUSIVE (AE) ON 8.79 ACRES LOCATED 1,300 FEET WEST OF GABBERT ROAD, IMMEDIATELY NORTH OF THE UNION PACIFIC RAILROAD RIGHT-OF-WAY, ON PROPERTY OWNED BY SOUTHERN CALIFORNIA EDISON

WHEREAS, on February 16, 2011, the City Council adopted Resolution No. 2011-3002, directing the Planning Commission to study, hold a public hearing, and provide a recommendation on amendments to the General Plan Land Use Designation and Zoning Map for the 8.79 acres owned by Southern California Edison located 1,300 feet west of Gabbert Road, immediately north of the Union Pacific railroad right-of-way; and

WHEREAS, on May 24, 2011, the Planning Commission adopted Resolution No. PC-2011-565, recommending approval of Zone Change No. 2011-01, changing the zoning from Limited Industrial (M-2) to Agricultural Exclusive (AE) on 8.79 located 1,300 feet west of Gabbert Road, immediately north of the Union Pacific railroad right-of-way (APN No. 511-0-200-055); and

WHEREAS, at its meeting of July 6, 2011, the City Council considered the agenda report and any supplements thereto and written public comments; opened the public hearing and took and considered public testimony both for and against the proposal; and reached a decision on this matter; and

WHEREAS, the City Council concurs with the Community Development Director's determination as outlined in the July 6, 2011 staff report that this qualifies for a General Rule Exemption in accordance with Section 15061 of California Code of Regulations (CEQA Guidelines). No further environmental documentation is required.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES ORDAIN AS FOLLOWS:

SECTION 1. The Zoning Map described and referenced in Chapter 17.12 of Title 17, Zoning, of the Municipal Code of the City of Moorpark is hereby amended as shown in Exhibit "A" attached hereto.

SECTION 2. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this ordinance and

each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

SECTION 3. This ordinance shall become effective thirty (30) days after its passage and adoption.

SECTION 4. The City Clerk shall certify to the passage and adoption of this ordinance; shall enter the same in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council at which the same is passed and adopted; and shall publish notice of adoption in the manner required by law.

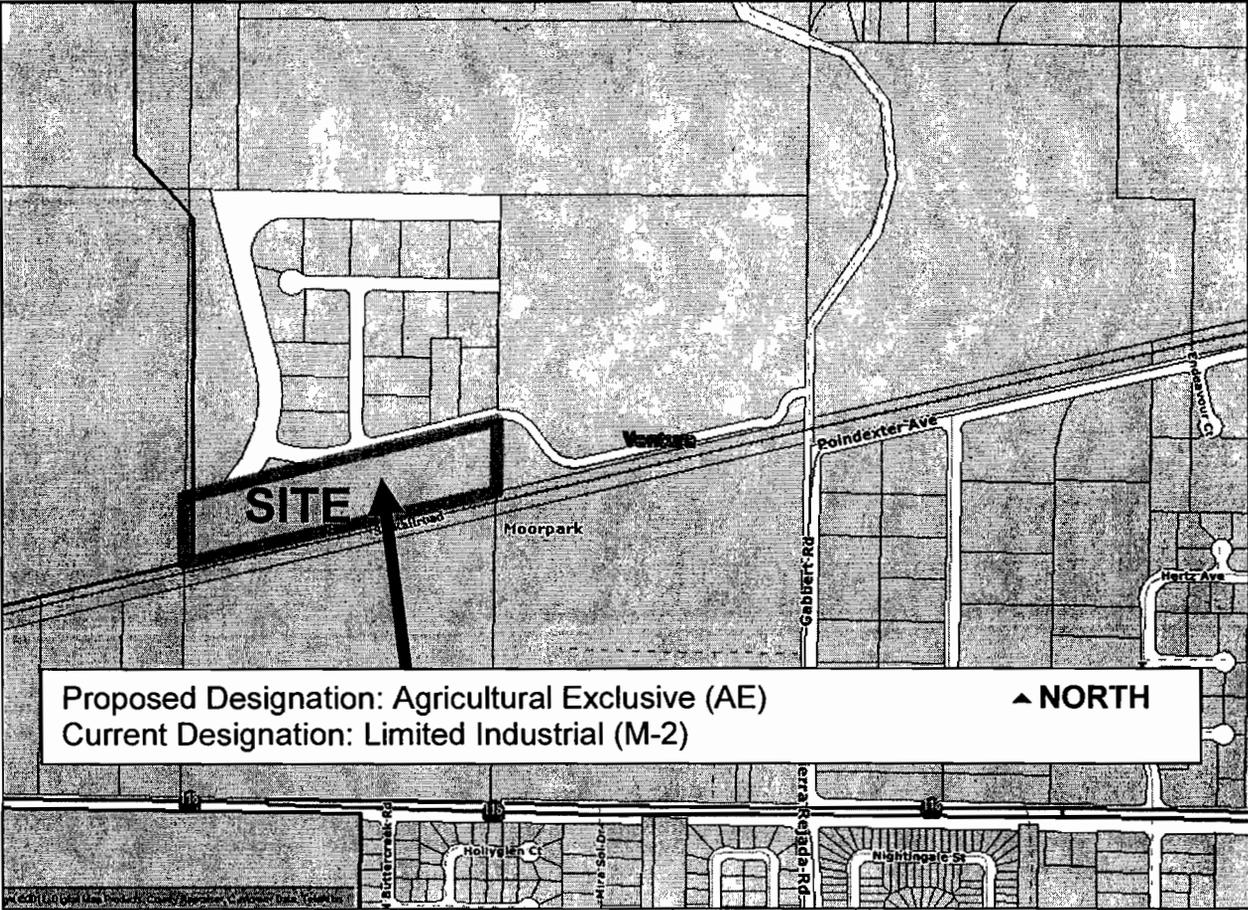
PASSED AND ADOPTED this ____ day of July, 2011.

Janice S. Parvin, Mayor

ATTEST:

Maureen Benson, City Clerk

Exhibit A: Zone Change Map



ZONE CHANGE MAP

EXHIBIT A

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF MOORPARK, CALIFORNIA, TERMINATING DEVELOPMENT AGREEMENT NO. 1998-05 BETWEEN THE CITY OF MOORPARK AND THE SOUTHERN CALIFORNIA EDISON COMPANY, ADOPTED BY ORDINANCE NO. 250 AND RECORDED WITH THE COUNTY RECORDER UNDER THE ASSIGNED DOCUMENT NUMBER 99-043265

WHEREAS, on December 16, 1998, the City Council adopted Ordinance No. 250, adopting Development Agreement No. 1998-04 between the City of Moorpark and A-B Properties for approximately 34.53 acres located 1,300 feet west of Gabbert Road and north of the Union Pacific railroad right-of-way, and Development Agreement No. 1998-05 between the City of Moorpark and the Southern California Edison Company (SCE) for 8.79 acres, located 1,300 feet west of Gabbert Road, immediately north of the Union Pacific railroad right-of-way, and immediately south of the 34.53-acre A-B Properties site identified above; and

WHEREAS, on March 5, 1999, Development Agreement No. 1998-05 was recorded with the County Recorder with the assigned document number 99-043265; and

WHEREAS, on September 14, 2010, the City of Moorpark entered into a Settlement Agreement and Mutual Release with the Southern California Edison Company in which the City agreed to schedule hearings with a staff recommendation for approval of termination of Development Agreement No. 1998-05; and

WHEREAS, Section 15 of Development Agreement No. 1998-05 calls for termination by mutual consent to be in accordance with Ordinance No. 59 or its successor; and

WHEREAS, Ordinance No. 59, codified as Chapter 15.40 of the Municipal Code, calls for the process for termination of a development agreement by mutual consent to be by recommendation of the Planning Commission and action by City Council after holding public hearings on the matter; and

WHEREAS, on February 16, 2011, the City Council adopted Resolution No. 2011-3002, directing the Planning Commission to study, hold a public hearing, and provide a recommendation for terminating Development Agreement No. 1998-05; and

WHEREAS, on May 24, 2011, the Planning Commission adopted Resolution No. PC-2011-565, recommending termination of Development Agreement No. 1998-05 between the City of Moorpark and SCE; and

CC ATTACHMENT 5

WHEREAS, at its meeting of July 6, 2011, the City Council considered the agenda report and any supplements thereto and written public comments; opened the public hearing and took and considered public testimony both for and against the proposal; and reached a decision on this matter; and

WHEREAS, Development Agreement No. 1998-04 between the City of Moorpark and A-B Properties remains unaffected by this decision and that portion of Ordinance No. 250 remains in effect; and

WHEREAS, the City Council concurs with the Community Development Director's determination as outlined in the July 6, 2011 staff report that this qualifies for a General Rule Exemption in accordance with Section 15061 of California Code of Regulations (CEQA Guidelines). No further environmental documentation is required; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby terminates Development Agreement No. 1998-05, as contained within Ordinance No. 250 and as recorded by the County Recorder with the assigned document number 99-043265, between the City of Moorpark and Southern California Edison (SCE).

SECTION 2. This Ordinance shall be recorded with the Ventura County Recorder, to document the termination of the Development Agreement between the City of Moorpark and the Southern California Edison Company (1998-05) as previously recorded in the County of Ventura on March 5, 1999 and assigned recorder's document number 99-043265.

SECTION 3. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

SECTION 4. This ordinance shall become effective thirty (30) days after its passage and adoption.

SECTION 5. The City Clerk shall certify to the passage and adoption of this ordinance; shall enter the same in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council at which the same is passed and adopted; and shall publish notice of adoption in the manner required by law.

Ordinance No.____
Page 3

PASSED AND ADOPTED this ____ day of July, 2011.

Janice S. Parvin, Mayor

ATTEST:

Maureen Benson, City Clerk