

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: David A. Bobardt, Planning Director



DATE: December 21, 2009 (CC Meeting of 1/6/2010)

SUBJECT: Consider Proposed Ventura County Zoning Ordinance Amendment Related to Assembly Uses, Uses Allowed in the Open Space Zone, and Nonconformities

BACKGROUND/DISCUSSION

On April 14, 2009, the Ventura County Board of Supervisors enacted a moratorium on assembly uses in the Open Space (OS) zone that, as amended on May 12, 2009, will expire on March 27, 2010. The moratorium was enacted to afford time for preparation of new regulations concerning assembly uses in the OS zone. On December 11, 2009, the County of Ventura Planning Department released a draft ordinance amending the County's Non-Coastal Zoning Ordinance with respect to assembly uses. This draft ordinance will be presented to the County Planning Commission on January 14, 2010. Proposed amendments include:

1. grouping of assembly uses such as churches, clubhouses, and community centers into one use category;
2. removal of historic repositories, colleges and universities, government buildings except correctional institutions, fire stations and law enforcement facilities, and golf courses with night lighting from the list of permitted uses in the OS zone; and
3. establishment of a new process to allow for continuation and minor expansion of nonconforming uses.

A copy of the draft ordinance is attached. Much of the Tierra Rejada Greenbelt and other unincorporated land surrounding Moorpark is zoned OS and would be affected by these changes. New uses noted above would be prohibited in the OS zone and the existing lighted golf driving range in the Tierra Rejada Greenbelt would become a legal nonconforming use. The current Conditional Use Permit for this golf driving range expires on January 14, 2017. Under the draft ordinance, the County Planning

Commission would be given the authority to determine whether or not nonconforming uses may be continued. For a nonconforming use like the golf driving range to continue, the County Planning Commission would have to find that there are special circumstances that apply to this use that do not apply to other uses in the same vicinity and zone and that the continuance is not detrimental to the public interest, health, safety, convenience, or welfare. The proposed ordinance would also give the County Planning Commission the authority to approve an expansion of a nonconforming use in the open space zone for up to 25 percent of the total building area or use area with similar findings as a continuance.

The County staff's position on the Discovery Christian Church application in the Tierra Rejada Greenbelt is that it could proceed under the current rules as it has "taken over" the Cornerstone Church application, which was filed prior to the County's current moratorium on new assembly uses in the OS zone. This recent decision by the County Planning Director has been appealed, with a claim that the Discovery Christian Church proposal constitutes a new application. The appeal has been scheduled to go before the County Planning Commission on February 4, 2010. The decision of the Planning Commission could be further appealed to the Board of Supervisors. If the appeal is successful, Discovery would not be able to file an application at this time due to the moratorium and it would be subject to whatever rules are in place when the moratorium expires.

Assembly uses, colleges, and lighted golf courses are not appropriate in the OS zone as they are urban in nature and not in keeping with the intent of the County's OS zoning designation. The proposed amendments would prohibit these uses and require specific findings for the continuation or expansion of existing nonconforming uses. In addition, the amendments would address a couple of the concerns raised by the City Council on strengthening the land use regulations in the Tierra Rejada Greenbelt. City staff supports these amendments as they further the policies of the Moorpark General Plan that discourage urban land uses outside the City's boundaries. Comments provided by the City Council on this ordinance will be transmitted to the County Planning Commission prior to its meeting on January 14, 2010.

STAFF RECOMMENDATION

Direct staff as deemed appropriate.

ATTACHMENT:

Draft County Ordinance

Draft

ORDINANCE NO. _____

AN ORDINANCE OF THE VENTURA COUNTY BOARD OF SUPERVISORS AMENDING DIVISION 8, CHAPTER 1, ARTICLES 2, 4, 5, 7, 10, 11, AND 13 OF THE VENTURA COUNTY ORDINANCE CODE (NON-COASTAL ZONING ORDINANCE) RELATING TO ASSEMBLY USES, USES ALLOWED IN OPEN SPACE ZONE AND NONCONFORMITIES

The Board of Supervisors of the County of Ventura do ordain as follows:

Section 1

ARTICLE 2 – DEFINITIONS

Article 2, Section 8102-0, Application of Definitions, of the Ventura County Ordinance Code is hereby amended by the addition of "Assembly Use" located in its appropriate alphabetical order:

Assembly Use – A building or structure where groups or individuals voluntarily meet to pursue their common social, educational, religious, recreational, or other interests. For the purposes of this definition, assembly uses do not include temporary festivals, animal shows and similar outdoor events, or conference centers/convention centers.

*[Staff Explanation: Creates new "Assembly Use" category. Eliminates the distinction between religious and secular assembly uses. Replaces several uses eliminated by the proposed amendment, including clubhouses and community centers. Temporary outdoor events, animal shows, and conference/convention centers are not considered part of this use category.]**

Article 2, Section 8102-0, Application of Definitions, of the Ventura County Ordinance Code is hereby amended by revisions of the following definitions located in their appropriate alphabetical order:

Amusement and Recreational Facilities - Facilities such as ~~auditoriums~~, billiard and pool establishments, bowling alleys, ~~community centers~~, dance halls and studios, golf driving ranges, indoor motion picture theaters, miniature golf, parks, playgrounds and yoga and martial arts instruction.

* All bracketed Staff Explanations are for explanatory purposes only. They are not part of the Ordinance or the proposed amendments to the Ordinance.

[Staff Explanation: Removes uses from the "Amusement and Recreational Facilities" definition that now fall under the category of "Assembly Use."]

Article 2, Section 8102-0, Application of Definitions, of the Ventura County Ordinance Code is hereby amended by the deletion of the definition for "Clubhouse" and "Community Center."

~~Clubhouse~~—Any building or premises used by an association of persons, organized for some common purpose, but not including a gun club or an association or group organized to render, purchase or otherwise make use of a service customarily carried on as a commercial enterprise.

~~Community Center~~—A meeting place where people living in the same community may carry on cultural, recreational or social activities, but excluding any facility operated as a business or for commercial purposes.

[Staff Explanation: Removes "Clubhouse" and "Community Center" use categories, which are included as part of "Assembly Use" in the proposed amendment.]

Section 2

ARTICLE 4: PURPOSES OF ZONES

Article 4, Section 8104-1.1 – Open Space (OS) Zone, of the Ventura County Ordinance Code is hereby amended by revisions as follows:

Sec. 8104-1.1 - Open Space (OS) Zone

~~The purpose of this zone is to provide for the conservation of renewable and nonrenewable natural resources, to preserve and enhance environmental quality and to provide for the retention of the maximum number of future land use options while allowing reasonable and compatible uses on open lands in the County which have not been altered to any great extent by human activities.~~

The purpose of this zone is to provide for any of the following on parcels or areas of land or water that are essentially unimproved:

- a. The preservation of natural resources including, but not limited to: areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays and estuaries; and, coastal beaches, lakeshores, banks of rivers and streams, and watershed lands.
- b. The managed production of resources, including but not limited to: forest lands, rangeland, agricultural lands and areas of economic importance for the production of food or fiber; areas required for recharge of groundwater basins; bays, estuaries, marshes, rivers and streams which are important for the management of commercial fisheries; and, areas containing major mineral deposits, including those in short supply.
- c. Outdoor recreation, including but not limited to: areas of outstanding scenic, historic and cultural value; areas particularly suited for park and recreation purposes, including access to lakeshores, beaches, and rivers and streams; and, areas which serve as links between major recreation and open-space

reservations, including utility easements, banks of rivers and streams, trails, and scenic highway corridors.

- d. The public health and safety, including, but not limited to areas which require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs and areas required for the protection and enhancement of air quality.
- e. The formation and continuation of cohesive communities by defining the boundaries and by helping to prevent urban sprawl.
- f. The promotion of efficient municipal services and facilities by confining urban development to defined development areas.
- g. Support of the mission of military installations that comprises areas adjacent to military installations, military training routes, and underlying restricted airspace that can provide additional buffer zones to military activities and complement the resource values of the military lands.
- h. The protection of places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code.

[Staff Explanation: Clarifies the purpose of the Open Space zone to reflect the language in the Ventura County General Plan and California Government Code. Subsections a-f are included in both the General Plan and Government Code. Subsections g and h are only included in the Government Code.]

Section 3

**ARTICLE 5:
USES AND STRUCTURES BY ZONE**

Article 5, Section 8105-4 – Permitted Uses in Open Space, Agricultural, Residential, and Special Purpose Zones, of the Ventura County Ordinance Code is hereby amended by the addition of the heading “Assembly Uses” as follows:

	OS	AE	RA	RE	RO	R1	R2	RPD	TP
ASSEMBLY USES			☒	☒	☒	☒	☒	☒	

Key: ☒ = Planning Commission-approved Conditional Use Permit

[Staff Explanation: Adds Assembly Uses to the Use Matrix and allows them with a Planning Commission-approved Conditional Use Permit in the RA, RE, RO, R1, R2, and RPD zones.]

Article 5, Section 8105-4 – Permitted Uses in Open Space, Agricultural, Residential, and Special Purpose Zones, of the Ventura County Ordinance Code is hereby amended by the deletion of the heading “Churches, Synagogues and Other Buildings Used for Religious Worship”:

	OS	AE	RA	RE	RO	R1	R2	RPD	TP
CHURCHES, SYNAGOGUES AND OTHER BUILDINGS USED FOR RELIGIOUS WORSHIP			☒	☒		☒	☒	☒	

Key: ☒ = Planning Commission-approved Conditional Use Permit

[Staff Explanation: Removes Churches, Synagogues and Other Buildings Used for Religious Worship from the Use Matrix. Replaced by Assembly Uses heading above.]

Article 5, Section 8105-4 – Permitted Uses in Open Space, Agricultural, Residential, and Special Purpose Zones, of the Ventura County Ordinance Code is hereby amended by the deletion of the heading “Clubhouses (No Alcoholic Beverages).”

	OS	AE	RA	RE	RO	R1	R2	RPD	TP
CLUBHOUSES (NO ALCOHOLIC BEVERAGES) (2)			☒	☒	☒	☒	☒	☒	

Key: ☒ = Planning Commission-approved Conditional Use Permit

[Staff Explanation: Removes Clubhouses (No Alcoholic Beverages) from the Use Matrix. Replaced by Assembly Uses.]

Article 5, Section 8105-4 – Permitted Uses in Open Space, Agricultural, Residential, and Special Purpose Zones of the Ventura County Ordinance Code is hereby amended by the revision of the heading “Cultural/Historic Uses” as follows:

	OS	AE	RA	RE	RO	R1	R2	RPD	TP
CULTURAL/HISTORIC USES									
Cultural Heritage Sites with Ordinance Deviations	Pursuant to Article 7 and principal or accessory uses								
Historic Repository	☒		☒	☒					
Interpretive Centers	☒	☒	☒	☒	☒	☒		☒	

Key: ☒ = Planning Commission-approved Conditional Use Permit

[Staff Explanation: Removes Historic Repositories from allowable uses in the Open Space zone, consistent with the clarified purpose of the Open Space zone in Section 8104-1.1.]

Article 5, Section 8105-4 – Permitted Uses in Open Space, Agricultural, Residential, and Special Purpose Zones, of the Ventura County Ordinance Code is hereby amended by the revision of the heading “Education and Training” as follows:

	OS	AE	RA	RE	RO	R1	R2	RPD	TP
EDUCATION AND TRAINING									
Colleges and universities	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>						
Schools, elementary and secondary (boarding and nonboarding)			<input checked="" type="checkbox"/>						

Key: = Planning Commission-approved Conditional Use Permit

[Staff Explanation: Removes colleges and universities from allowable uses in the Open Space zone, consistent with the clarified purpose of the Open Space zone in Section 8104-1.1.]

Article 5, Section 8105-4 – Permitted Uses in Open Space, Agricultural, Residential, and Special Purpose Zones, of the Ventura County Ordinance Code is hereby amended by the revision of the heading “Government Buildings” as follows:

	OS	AE	RA	RE	RO	R1	R2	RPD	TP
GOVERNMENT BUILDINGS	<input checked="" type="checkbox"/>								
Correctional Institutions	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>						
Fire Stations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Law Enforcement Facilities	<input type="checkbox"/>		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Public Works Projects Not Otherwise Listed As Uses In This Section Constructed By The County Or Its Contractors	E	E	E	E	E	E	E	E	E

Key: = Planning Commission-approved Conditional Use Permit

= Planning Director-approved Conditional Use Permit

E = Allowed, but exempt from obtaining a Zoning Clearance

[Staff Explanation: Removes the general use category of Government Buildings from allowable uses in the Open Space zone, consistent with the clarified purpose of the Open Space zone in Section 8104-1.1.]

Article 5, Section 8105-4 – Permitted Uses in Open Space, Agricultural, Residential, and Special Purpose Zones, of the Ventura County Ordinance Code is hereby amended by the revision of the heading “Recreational, Sport and Athletic Facilities” as follows:

	OS	AE	RA	RE	RO	R1	R2	RPD	TP
RECREATIONAL, SPORT AND ATHLETIC FACILITIES									
Botanic Gardens and Arboreta*	☒								
Camps *	☒		☒	☒					
Campgrounds *	☒		☒	☒					
Community Centers				☒		☒	☒	☒	
For Farm Workers And Nonprofit Farm Community Organizations	☒	☒	☒						
Fields, athletic, without buildings, With Or Without Night Lighting				☐	☐	☐	☐	☐	
Without Night Lighting	☐								
Geothermal Spas, <u>with or without accessory commercial eating facilities</u>	☒								
Golf Courses And/Or Driving Ranges, Except Miniature Golf , <u>With Night Lighting</u>	☒		☒	☒	☒	☒	☒	☒	
Without Night Lighting	☒		☒	☒	☒	☒	☒	☒	
Motocross/Off-Highway Vehicle Parks *	☒								
Parks	△	☐	△	△	△	△	△	⊗	
With Buildings	☐	☒	☐	☐	☐	☐	☐	☒	
Periodic Outdoor Sporting Events	☐								
Recreational Vehicle Parks *	☒		☒	☒					
Recreation Projects, County-Initiated	■	■	■	■	■	■	■	■	
Caretaker Recreational Vehicle, Accessory *	△	△	△	△	△	△	△	△	
Retreats, Without Sleeping Facilities *	☐		☐	☐					
With Sleeping Facilities	☒		☐	☐					
Shooting Ranges And Outdoor Gun Clubs	■								

- Key: ☒ = Planning Commission-approved Conditional Use Permit
☐ = Planning Director-approved Conditional Use Permit
■ = Board of Supervisors-approved Conditional Use Permit
△ = Zoning Clearance, or other ministerially approved permit unless specifically exempted
E = Allowed, but exempt from obtaining a Zoning Clearance

[Staff Explanation: Removes Community Centers from the Use Matrix (replaced by Assembly Uses). Community centers serving farmworkers continue to be allowed in

the Open Space zone when associated with farmworker housing complexes (see Sec. 8107-41.4). Clarifies that eating facilities associated with Geothermal Spas are only allowed as accessory uses. Removes Golf Courses with Night Lighting from allowable uses in the Open Space zone, consistent with the clarified purpose of the Open Space zone in Section 8104-1.1.]

Article 5, Section 8105-5 – Permitted Uses in Commercial and Industrial Zones, of the Ventura County Ordinance Code is hereby amended by the addition of the heading “Assembly Uses” as follows:

	CO	C1	CPD	M1	M2	M3
ASSEMBLY USES	<input type="checkbox"/>					

Key: = Planning Commission-approved Conditional Use Permit

[Staff Explanation: Adds Assembly Uses to the Use Matrix and allows them with a Planning Director-approved Conditional Use Permit in the CO, C1, CPD, M1 and M2 zones.]

Article 5, Section 8105-5 – Permitted Uses Commercial and Industrial Zones, of the Ventura County Ordinance Code is hereby amended by the deletion of the heading “Churches, Synagogues and Other Buildings Used for Religious Worship.”

	CO	C1	CPD	M1	M2	M3
CHURCHES, SYNAGOGUES AND OTHER BUILDINGS USED FOR RELIGIOUS WORSHIP	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

Key: = Planning Commission-approved Conditional Use Permit

[Staff Explanation: Removes Churches, Synagogues and Other Buildings Used for Religious Worship from the Use Matrix. Replaced by Assembly Uses.]

Article 5, Section 8105-5 – Permitted Uses Commercial and Industrial Zones, of the Ventura County Ordinance Code is hereby amended by the deletion of the heading “Clubhouses” and its subheading “With Alcoholic Beverages.”

	CO	C1	CPD	M1	M2	M3
CLUBHOUSES		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
With Alcoholic Beverages			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Key: = Planning Director-approved Planned Development Permit
 = Planning Director-approved Conditional Use Permit

[Staff Explanation: Removes Clubhouses and Clubhouses with Alcoholic Beverages from the Use Matrix. Replaced by Assembly Uses.]

Section 4

**ARTICLE 7:
STANDARDS FOR SPECIFIC USES**

Article 7, Section 8107-36.3.2(a), of the Ventura County Ordinance Code is hereby amended by revisions as follows:

- a. In residentially zoned areas, such centers shall only be allowed as accessory uses when they are accessory to government or similar private facilities frequented by the general public, such as schools, parks, and ~~community centers~~ assembly uses.

[Staff Explanation: Replaces "Community Centers" with new "Assembly Uses" category.]

Article 7, Section 8107-41.4, of the Ventura County Ordinance Code is hereby amended by additions as follows:

Sec. 8107-41.4 – Farmworker Community Centers

Farmworker housing complexes may include community centers for the primary benefit of farmworkers.

[Staff Explanation: Clarifies that community centers for the primary benefit of farmworkers may be included as part of farmworker housing complexes.]

Section 5

**ARTICLE 10:
SIGN REQUIREMENTS**

Article 10, Section 8110-5.1– Sign Standards, Regulatory Note "m," of the Ventura County Ordinance Code is hereby amended by revisions as follows:

- (m) ~~Churches, synagogues, and other buildings used for religious worship~~ Assembly Uses may have up to 20 square feet of attached sign regardless of lot width.

[Staff Explanation: Replaces "Churches, Synagogues, and other buildings used for religious worship" with new "Assembly Uses" category.]

Article 10, Section 8110-5.1– Sign Standards, Regulatory Note "n," of the Ventura County Ordinance Code is hereby amended by revisions as follows:

- (n) ~~Churches, synagogues, and other buildings used for religious worship~~ Assembly Uses may have up to 25 square feet of freestanding sign regardless of lot width.

[Staff Explanation: Replaces "Churches, Synagogues, and other buildings used for religious worship" with new "Assembly Uses" category.]

Section 6

**ARTICLE 11:
ENTITLEMENTS – PROCESS**

Article 11, Section 8111-1.2.1(e)– Continuation Permits for Nonconforming Uses and Structures of the Ventura County Ordinance Code is hereby amended by revisions as follows:

- e. Continuation Permits for ~~Nonconformities~~ Nonconforming Uses and Structures - A Continuation Permit for Nonconforming Uses and Structures is a Planning Commission-approved discretionary permit for the time extension of nonconforming uses and structures. These permits ~~are treated as Conditional Use Permits and~~ are subject to the criteria of Sec. 8113-2 for mobilehomes, and Sec. 8113-5.2-~~54~~ for other nonconforming uses no longer permitted.

[Staff Explanation: Clarifies intent of Continuation Permits for Nonconforming Uses and Structures. Updates section reference.]

Article 11, Section 8111-1.2.1(f)– Expansion Permits for Nonconforming Uses of the Ventura County Ordinance Code is hereby added as follows:

- f. Expansion Permits for Nonconforming Uses - An Expansion Permit for Nonconforming Uses is a Planning Commission-approved discretionary permit for the expansion of existing lawfully permitted uses in the Open Space zone that were made nonconforming by changes to zoning regulations approved on [Date of Adoption]. Expansion Permits for Nonconforming Uses are subject to the standards in place at the time the use was made nonconforming.

[Staff Explanation: Adds the new Expansion Permit for Nonconforming Uses in order to allow for the limited expansion of only those uses in the Open Space zone made nonconforming by the proposed amendment.]

Section 7

**ARTICLE 13:
NONCONFORMITIES AND SUBSTANDARD LOTS**

Article 13, Section 8113-4– The Keeping of Animals of the Ventura County Ordinance Code is hereby amended by revisions as follows:

Sec. 8113-4 - The Keeping of Animals

Nonconformities due to the keeping of animals as a use, number of animals, type of animals, minimum lot area required for animals, or other standards for the keeping of animals as an accessory use to dwellings, shall be brought into conformance not later than three years after the same becomes nonconforming, unless a continuance is granted in accordance with Section 8113-5.2-~~54~~.

[Staff Explanation: Updates section reference.]

Article 13, Section 8113-5.2– Uses Within Structures Subject to Amortization of the Ventura County Ordinance Code is hereby amended by revisions as follows:

Sec. 8113-5.2 - Uses Within Structures Subject to Amortization

All nonconforming commercial or industrial uses in Residential (R), Open Space or Agricultural zones, within conforming or nonconforming structures, shall be amortized from the effective date of this Chapter or a later amendment which renders the use nonconforming, based on the square footage of the structure at the time the use is rendered nonconforming, as follows: Ten years for 1,000 square feet, plus 1.25 years for each additional 100 square feet over 1,000 square feet; maximum 60 years. At the end of the amortization period, the use shall be brought into conformance with this Chapter or terminated, unless a continuance is obtained pursuant to Section 8113-5.2-54

Sec. 8113-5.2.1 - Expansion and Change of Use Prohibited

Nonconforming uses under Sec. 8113-5.2 above shall not be changed to another use or be expanded or extended in any way on the same or any adjoining land nor into any other portion of a structure or lot during the amortization period, except for structural alterations which may be required by law, or expansions as allowed by Section 8113-5.5. ~~except that structural alterations may be made therein as required by law.~~ Furthermore, such nonconforming uses shall not be expanded or extended beyond the scope of specific conditions to a continuance of nonconformity granted pursuant to Sec. 8113-5.2-54 of this Article, and subsequent to the period of amortization.

Sec. 8113-5.2.2 - Discontinuance or Change of Use Status

The discontinuance for a period of 180 or more days of a nonconforming use or a change of nonconforming use to a conforming use constitutes abandonment and termination of the nonconforming status of the use.

Sec. 8113-5.2.3 - Notice of Amortization

The Planning Director shall give notice by certified mail of the date upon which an amortization period will end to each owner of record whose property, or use of property, is not in conformance with the regulations of this Chapter, in those instances where the Planning Director has knowledge of such nonconformity. Such notice shall be sent in a timely manner. If the amortization period ends before or less than six months after such knowledge of the nonconformity, notice shall be given that the amortization period in each instance shall be not less than six months from the date the notice is sent. The notice shall set forth all pertinent provisions of this Article, including the declared purposes thereof. Failure to send notice by mail to any such owner where the address of such owner is not a matter of public record shall not invalidate any proceedings under this Article.

Sec. 8113-5.2.4 - Notice of Termination and Order to Comply

Notice of Termination of a nonconforming use and order to comply shall be served by the Planning Director at the end of the amortization period upon the owner of record whose property contains such nonconforming use. In those instances where the Planning Director is unable with reasonable effort to serve such notice to the property owner, such notice and order shall be served within 30 days of the end of the amortization period by delivering same to an occupant of the structure containing the nonconforming use.

~~Sec. 8113-5.2.5 Request for a Continuance of Nonconformities Beyond Period of Amortization~~

~~A request for a continuance of nonconformities beyond the period of amortization may be granted as follows:~~

- ~~a. **Grounds for Continuance**—A nonconforming use or structure may be maintained for a reasonable time beyond its period of amortization as specified in this Article if the Planning Director makes the following determinations:
 - ~~(1) **Special Circumstances**—that special circumstances apply to any such use or structure which do not apply generally to others affected hereby; and~~
 - ~~(2) **Compatibility with Public Welfare**—that such a continuance for a prescribed period of additional time is in the public interest and will be reasonably compatible with and not detrimental to the use of adjacent properties.~~~~
- ~~b. **Application Process for Continuance**—Any application for a continuance of a nonconforming use or structure must be filed with the Planning Division no later than 30 days following the service of a Notice of Termination and Order to comply, or within 30 days following the continued termination date. An application for a continuance may be filed by the owner of the property, a person with a power of attorney from the owner of the property, or a lessee, if the terms of the lease permit the existing use. Fees shall be required in accordance with Section 8111-3.9.~~
- ~~c. **Determination by Planning Director**—Upon filing of a complete application, the Planning Director shall investigate the matter, give proper notice, hold an administrative hearing and make a decision thereon based on the criteria set out in this Section and supported by written findings of fact within 75 days from the date the application is filed, or within such extended period of time as may be mutually agreed upon by the applicant and the Planning Director. The Planning Director may impose such conditions, including time limitations, as he or she deems necessary for the compatibility of such nonconformity with adjacent properties.~~
- ~~d. Appeals shall be filed in accordance with Section 8111-8.1.~~

[Staff Explanation: Clarifies that Section 8113-5.2.1 does not apply to the expansion of uses made nonconforming by this ordinance amendment. Updates section references. Moves Section 8113-5.2.5 to Section 8113-5.4.]

Article 13, **Section 8113-5.3 – Uses Not Amortized** of the Ventura County Ordinance Code is hereby amended by revisions as follows:

Sec. 8113-5.3 - Uses Not Amortized

Upon the effective date of this Chapter or a later amendment thereto, any nonconforming use within a structure not otherwise identified in Section 8113-5.2, such as schools, boardinghouses, residential uses in commercial and industrial zones, uses in excess of the number permitted per lot, commercial uses in commercial zones, and industrial uses in industrial zones, may continue, provided that:

Sec. 8113-5.3.1 - Expansion

No additions or enlargements shall be made to such nonconforming use or the structure in which it is located, except for alterations which may be required by law, expansions within the existing structure if no structural alterations are made,

expansions as allowed by Section 8113-5.5, or additions to existing principal dwellings and churches in residential zones, which otherwise conform to the specific development standards of the zone in which the use is located. In the case of principal dwellings in excess of the number permitted per lot, only one such dwelling may be expanded. The height and setback standards of the R1 zone shall apply to a nonconforming residential use in a commercial or industrial zone.

Sec. 8113-5.3.2 - Change of Use

The nonconforming use may be changed to a use that is similar, provided that it has a parking requirement which is the same as or less than the nonconforming use, except that the nonconforming use may not be changed to a use that requires a Conditional Use Permit under this Chapter.

Sec. 8113-5.3.3 - Discontinuance and Change of Use Status

The discontinuance for a period of 180 or more days of the nonconforming use, or a change of the nonconforming use to a conforming use, a dissimilar use or a Conditionally Permitted Use, constitutes abandonment and termination of the nonconforming status of the use.

[Staff Explanation: Clarifies that Section 8113-5.3.1 does not apply to the expansion of uses made nonconforming by this ordinance amendment. Removes churches, which are no longer a separate land use in the amended code.]

Article 13, Section 8113-5.4—Continuation of Nonconforming Uses and Structures of the Ventura County Ordinance Code is hereby added as follows:

Sec. 8113-5.4 - Continuance of Nonconforming Uses and Structures

a. Grounds for Continuance - A Continuation Permit for Nonconforming Uses and Structures may only be granted if all of the following standards are met, or if the Planning Commission imposes conditions and limitations as necessary to allow the following standards to be met:

- (1) Special circumstances apply to any such use or structure that do not apply generally to other uses and structures in the same vicinity and zone; and
- (2) The continuance is not detrimental to the public interest, health, safety, convenience, or welfare.

b. Application Process for Continuance - Any application for a Continuation Permit for Nonconforming Uses and Structures must be filed with the Planning Division prior to permit expiration or within 30 days following the service of a Notice of Termination and Order to Comply.

[Staff Explanation: Clarifies grounds and procedure for continuance of amortized and time-limited nonconforming uses and structures. Changes the decision-making authority for continuances from the Planning Director to the Planning Commission.]

Article 13, Section 8113-5.5— Uses in the Open Space Zone of the Ventura County Ordinance Code is hereby added as follows:

Sec. 8113-5.5 - Expansion of Nonconforming Uses in the Open Space Zone

Uses that are no longer permitted in the Open Space zone due to changes to zoning regulations approved on [DATE OF ADOPTION] may be expanded with an Expansion Permit for Nonconforming Uses. An Expansion Permit for Nonconforming Uses may

only be granted if all of the following standards are met, or if the Planning Commission imposes conditions and limitations as necessary to allow the following standards to be met:

- a. The expansion is 25 percent or less of the total square footage of the buildings or use area that existed, or were lawfully permitted, on [DATE OF ADOPTION]; and
- b. The expansion of the use is not detrimental to the public interest, health, safety, convenience, or welfare.

[Staff Explanation: Clarifies that uses made nonconforming by the adoption of the proposed amendment may physically expand with a new Expansion Permit for Nonconforming Uses. This permit applies only to those uses in the Open Space zone made nonconforming by the adoption of the proposed amendment. Outlines the standards and findings for the new Expansion Permit for Nonconforming Uses. Conditions may be imposed as part of the new permit, and proposed expansions must not be detrimental to public welfare.]

Section 8

UN-CODIFIED PROVISION

Consistent with Section 2 of Ventura County Ordinance No. 4402, Conditional Use Permit applications for conditionally permitted assembly uses in the open space zone received on or before March 25, 2009 may be approved subject to all regulations and standards in effect the time of permit application. Such uses, if subsequently approved by the County, shall assume legal nonconforming status upon approval and be subject to the provisions of Sections 8113-5.4 and 8113-5.5.