

## **ITEM 8.A.**

### **MOORPARK CITY COUNCIL AGENDA REPORT**

**TO:** Honorable City Council

**FROM:** David A. Bobardt, Community Development Director 

**DATE:** June 5, 2012 (CC Meeting of 6/20/2012)

**SUBJECT:** Consider Ordinance Approving Zoning Ordinance Amendment No. 2012-01: an Amendment to Section 17.44.030, Zoning Clearance, and Subsection 17.44.040(C), Planned Development (PD) Permit, of Section 17.44.040, Discretionary Permits and Exceptions, of Chapter 17.44, Application Review Procedures, of Title 17, Zoning, of the Moorpark Municipal Code Related to Changes in Color on Existing Buildings

#### **BACKGROUND**

On March 21, 2012, the City Council considered a change in trim color on a concrete tilt-up industrial building where staff did not have discretion to approve the change, as an original condition of approval on the planned development permit for the building stated, "All exterior building materials and paint colors shall be as submitted." Along with approving the color change, the City Council directed staff to create a process that would allow staff discretion on color changes so these types of requests would not need to be subject to City Council review. On April 18, 2012, the City Council adopted Resolution No. 2012-3099, directing the Planning Commission to study, hold a public hearing, and provide a recommendation to the City Council on an amendment to the Zoning Ordinance related to changes in color on existing buildings. The Planning Commission considered this Zoning Ordinance Amendment on May 22, 2012 and adopted Resolution No. PC-2012-572, recommending approval of the amendment.

#### **DISCUSSION**

On March 18, 2009, the City Council adopted Resolution No. 2009-2799, adopting Standard Conditions of Approval to be used for development projects. Standard Condition No. 55(d) for Planned Development Permits calls for:

*“Final exterior building materials and paint colors consistent with the approved plans under this permit. Any changes to the building materials and paint colors are subject to the review and approval of the Community Development Director.”*

Before the adoption of the Standard Conditions of Approval, some projects gave discretion to the Community Development Director on final colors and materials while some projects required the colors to be “as submitted,” requiring any changes to be considered by the original decision maker. As these buildings get older, staff has been receiving more requests for color changes both to keep up with changing tastes as well as to satisfy the needs of new building tenants.

To provide clarity on this matter, staff recommends an amendment to the application review procedures in Chapter 17.44 to allow the issuance of a Zoning Clearance by the Community Development Director for changes in building colors, with specific language included in the attached draft ordinance in underline/strikeout format. The recommended language ensures that colors approved by staff would be appropriate and consistent with the General Plan and any applicable Specific Plan in that the Community Development Director would have to find that the new colors are compatible with the architectural design of the building and that the new colors are consistent with the original findings and conditions of approval for the building. Proposed color changes that do not meet the original findings and conditions of approval would require a Modification application to be considered by the original decision-making body. The City Attorney has reviewed and approved these changes.

### **ENVIRONMENTAL DETERMINATION**

This proposed Zoning Ordinance Amendment is exempt from environmental review under the California Environmental Quality Act (CEQA) under 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. Introduce Ordinance No. \_\_\_\_ approving Zoning Ordinance Amendment 2012-01 for first reading, waive full reading, and schedule second reading and adoption for July 18, 2012.

### **ATTACHMENT:**

1. Draft Ordinance

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF MOORPARK, CALIFORNIA, APPROVING ZONING ORDINANCE AMENDMENT NO. 2012-01: AN AMENDMENT TO SECTION 17.44.030, ZONING CLEARANCE, AND SUBSECTION 17.44.040(C), PLANNED DEVELOPMENT (PD) PERMIT, OF SECTION 17.44.040, DISCRETIONARY PERMITS AND EXCEPTIONS, OF CHAPTER 17.44, APPLICATION REVIEW PROCEDURES, OF TITLE 17, ZONING, OF THE MOORPARK MUNICIPAL CODE RELATED TO CHANGES IN COLOR ON EXISTING BUILDINGS

WHEREAS, at its meeting of May 22, 2012, the Planning Commission conducted a duly-noticed public hearing on Zoning Ordinance Amendment No. 2012-01: an Amendment to Section 17.44.030, Zoning Clearance, and Subsection 17.44.040(C), Planned Development (PD) Permit, of Section 17.44.040, Discretionary Permits and Exceptions, of Chapter 17.44, Application Review Procedures, of Title 17, Zoning, of the Moorpark Municipal Code Related to Changes in Color on Existing Buildings, received public testimony on the proposed amendment, and after receiving oral and written public testimony, closed the public hearing and recommended approval of Zoning Ordinance Amendment No. 2012-01 to the City Council; and

WHEREAS, at its meeting of June 20, 2012, the City Council conducted a duly-noticed public hearing on Zoning Ordinance Amendment No. 2012-01: an Amendment to Section 17.44.030, Zoning Clearance, and Subsection 17.44.040(C), Planned Development (PD) Permit, of Section 17.44.040, Discretionary Permits and Exceptions, of Chapter 17.44, Application Review Procedures, of Title 17, Zoning, of the Moorpark Municipal Code Related to Changes in Color on Existing Buildings, received public testimony on the proposed amendments, and after receiving oral and written public testimony, closed the public hearing and reached a decision; and

WHEREAS, the City Council concurs with the Community Development Director's determination that this project is exempt from the provisions of the California Environmental Quality Act by the general rule that CEQA only applies to projects that may have a significant effect on the environment.

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

SECTION 1. GENERAL PLAN AND SPECIFIC PLAN CONSISTENCY: The City Council finds Zoning Ordinance Amendment No. 2012-01 to be consistent with the City of Moorpark General Plan and all adopted Specific Plans.

SECTION 2. Section 17.44.030, Zoning Clearance, of Chapter 17.44, Application Review Procedures, and Subsection 17.44.040(C), Planned Development (PD) Permit, of Section 17.44.040, Discretionary Permits and Exceptions, of Chapter 17.44, Application Review Procedures, of Title 17, Zoning, of the Moorpark Municipal Code is hereby amended as shown in Exhibit A: Zoning Ordinance Amendment No. 2012-01.

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.

PASSED AND ADOPTED this \_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Janice S. Parvin, Mayor

ATTEST:

\_\_\_\_\_  
Maureen Benson, City Clerk

Exhibit A: Zoning Ordinance Amendment No. 2012-01

## EXHIBIT A

**ZONING ORDINANCE AMENDMENT NO. 2012-01**  
**Amendment to Section 17.44.030 ,Zoning clearance, and Subsection**  
**17.44.040(C), Planned Development (PD) Permit, of Section 17.44.040,**  
**Discretionary permits and exceptions, of Chapter 17.44, Application Review**  
**Procedures, of Title 17, Zoning, of the Moorpark Municipal Code**

*Section 17.44.030 is amended as follows:*

**“17.44.030 Zoning clearance.**

A. Purpose. A zoning clearance is a permit that is granted on the basis of a ministerial decision by the community development director or designee without a hearing. A zoning clearance certifies that a proposed use of land or structures meets all requirements of this title and the applicable conditions of any previously approved discretionary planned development permit, administrative permit and/or conditional use permit.

B. Applicability. Except as provided in Chapter 17.20 of this title, a zoning clearance is required prior to the implementation of uses of land or structures, construction requiring building permits and the commencement of any activity authorized by a permit or subdivision granted in accordance with the zoning and subdivision ordinances of the city. A zoning clearance shall be issued if the proposed uses of land or structures:

1. Are permissible under the present zoning on the land and the city's zoning and subdivision ordinances, planned development permit or conditional use permit;

2. Are compatible with the policies and land use designations specified in the general plan, and any applicable specific plan;

3. Comply with the applicable terms and conditions of any applicable permit or other entitlement;

4. Are not located on the same site where a violation of this code exists or are not in violation of the terms of an existing permit covering the site or structure, unless the zoning clearance is necessary to abate the violation;

5. Are not being requested by or on a site where there are outstanding entitlement, processing or condition compliance fees owed to the city; and

6. Are consistent with the portions of the county hazardous waste management plan that identify specific sites or siting criteria for hazardous waste facilities.

C. Zoning clearance for changes to building colors. For commercial, industrial, or institutional buildings originally approved prior to City Council adoption of Resolution No. 2009-2799 (Standard Conditions of Approval) on March 18, 2009, a zoning clearance may be issued to approve a change in color for an existing building, structure, or other on-site improvement, provided that the community development director is able to find that the new color(s) is (are) compatible with the architectural design of the building, structure, or other on-site improvement and consistent with the original findings and conditions of approval and specific plan, if applicable. This zoning clearance authority is intended to modify any condition of approval for a planned development permit or other entitlement approved prior to March 18, 2009 requiring city council or planning commission approval for a color change.

ⒺD. Expiration. Zoning clearances shall expire one hundred eighty (180) days after issuance, unless otherwise indicated by the community development director on the clearance or unless the use of land or structures or building construction has commenced and is being diligently pursued, as evidenced by current inspections and/or valid building permits.”

*Subsection C of Section 17.44.040 is amended as follows:*

**“17.44.040 Discretionary permits and exceptions**

C. Planned Development (PD) Permit. A planned development permit is required prior to initiation of uses and structures in a given zone as specified in Chapter 17.20 of this title where review by the planning commission and city council through a public hearing process is required to assure the project design complies with the provisions of this title and the general plan, and is compatible with neighboring properties. A planned development permit application is subject to site plan and architectural review and may be approved, conditionally approved, or denied. Heights, setbacks, sizes, locations, architectural styles and colors of all proposed buildings, structures and other on-site improvements, landscaping design, neighborhood design, and permitted land uses shall be established as part of the planned development permit review and approval process. Any change to the initial permitted land uses shall require a modification consistent with the requirements of Section 17.44.100 of this chapter, except as permitted by Section 17.44.030(C) of this chapter. The planning commission and city council shall each hold at least one (1) public hearing on any planned development permit application. Following a public hearing, the planning commission shall make a written recommendation to the city council whether to approve, conditionally approve, or deny the application. The city council shall be the decision authority for all planned development permits. Prior to approving, conditionally approving, or denying an application for a planned development permit, the city council shall adopt written findings, by resolution, based upon substantial evidence in view of the whole record to justify the decision. In order for a planned development permit to be approved, the city council shall find that:

1. The site design, including structure location, size, height, setbacks, massing, scale, architectural style and colors, and landscaping, is consistent with the provisions of the general plan, any applicable specific plans, zoning ordinance, and any other applicable regulations;

2. The site design would not create negative impacts on or impair the utility of properties, structures or uses in the surrounding area; and

3. The proposed uses are compatible with existing and permitted uses in the surrounding area.”

- End -