

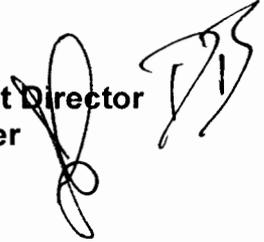
**MOORPARK CITY COUNCIL  
AGENDA REPORT**

**TO:** Honorable City Council

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

**DATE:** August 28, 2013 (CC Meeting of 9/4/2013)

**SUBJECT:** Consider an Ordinance Approving Zoning Ordinance Amendment No. 2013-04: An Amendment to Section A (Retail and Service Uses) of Table 17.020.060 of Section 17.20.060 (Permitted Uses in Commercial and Industrial Zones) of Title 17 (Zoning) of the Moorpark Municipal Code to Allow Retail Uses in the M-1 Zone with a Conditional Use Permit when Immediately Adjacent to a Freeway Interchange, on the Application of Manny Asadurian, Jr.



**BACKGROUND**

On July 22, 2013 an application was filed by Manny Asadurian, Jr. to amend Chapter 17.20.060 "Permitted uses in commercial and industrial zones" of the Moorpark Municipal Code to allow retail uses in the M-1 Zone, subject to a Conditional Use Permit, and to approve a Conditional Use Permit for a 71,840 square-foot multi-tenant indoor retail use in a 144,335 square-foot vacant building in the M-1 Zone at 14501 Princeton Avenue. The Planning Commission considered this Zoning Ordinance Amendment and Conditional Use Permit and recommended approval of both. At this time only the Zoning Ordinance Amendment is provided for Council consideration, since the Conditional Use Permit could not be approved without it. If the Zoning Ordinance Amendment is introduced and adopted, the Conditional Use Permit would be scheduled for Council consideration at a following meeting.

**DISCUSSION**

Currently, retail sales are allowed in the M-1 and M-2 zone, subject to an Administrative Permit, but they are limited to a maximum of 20% of the gross floor area of the building or industrial complex in which they are located. The retail sales need not be tied to an M-1 use.

A Zoning Ordinance Amendment is proposed to allow for retail uses in the M-1 zone with a Conditional Use Permit when greater than 20% of the floor area of the buildings or industrial complexes when immediately adjacent to a freeway interchange. The table

below shows the proposed addition to Section A (Retail and Service Uses) of the Table in Section 17.20.060 (Permitted Uses in Commercial and Industrial Zones). The listed uses currently numbered 24 through 26 would be re-numbered if this new listed use is added.

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
24. Retail sales in the M-1 zone over twenty percent (20%) of the gross floor area of the building in which it is located, when: A. The building is located on a parcel immediately adjacent to a freeway interchange; B. The building is located within five hundred (500) feet of the freeway interchange; and C. The driveway access is no greater than five hundred (500) feet from the freeway interchange, as measured along the street. In an industrial complex the twenty percent (20%) shall be computed on the basis of the cumulative total floor area of the industrial planned development (IPD)					CUP		

Goal 7 of the Land Use Element of the General Plan is to "Provide for a variety of commercial facilities which serve community residents and meet regional needs". Goal 8 of the Land Use Element of the General Plan is to "Provide for new commercial development which is compatible with surrounding land uses." The I-1 (Light Industrial) General Plan land use designation is intended to provide for a variety of light industrial uses, technical research and business office uses in a business park context. The proposed Zoning Ordinance Amendment would allow for a greater amount of retail use within this setting, but only when the site is immediately adjacent to a freeway interchange. The M-1 zone already allows sales of vehicles, restaurants, and general retail uses when the retail use does not exceed 20% of the floor area of a building or planned development in a multiple building complex.

The amendment as proposed would retain the integrity of the industrial park area while allowing for greater flexibility in uses. Only two properties, the subject property at 14501 Princeton Avenue, and the one directly across the street (Harley Davidson) would be

allowed to have retail sales in excess of 20% of floor area under this provision. It should be noted that the Harley Davidson dealer has a Conditional Use Permit as required for vehicle sales in the M-1 zone. The City Attorney has reviewed and approved the attached ordinance.

### **PROCESSING TIME LIMITS**

A Zoning Ordinance Amendment, as a legislative act, is not subject to the time limits 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).

### **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 Community Development 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 cannot be readily identified, an Environmental Impact Report (EIR) is prepared.

The Community Development Director has reviewed this project and found it to be Categorically Exempt in accordance with Section 15301 (Class 1, Existing Facilities) of the California Code of Regulations (CEQA Guidelines), in that an existing building would be used for the proposed use, and that the Zoning Ordinance Amendment would only apply to sites that are already developed. 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. \_\_\_\_\_ for first reading, which includes the determination of exemption under the California Environmental Quality Act, waive full reading, and place this ordinance on the agenda for an adjourned regular meeting to be held at 7:00 p.m. on September 11, 2013 for purposes of providing second reading and adoption of the ordinance.

ATTACHMENT: Draft Ordinance

ORDINANCE NO. \_\_\_\_

AN ORDINANCE OF THE CITY OF MOORPARK, CALIFORNIA, APPROVING ZONING ORDINANCE AMENDMENT NO. 2013-04: AN AMENDMENT TO SECTION A (RETAIL AND SERVICE USES) OF TABLE 17.020.060 OF SECTION 17.20.060 (PERMITTED USES IN COMMERCIAL AND INDUSTRIAL ZONES) OF TITLE 17 (ZONING) OF THE MOORPARK MUNICIPAL CODE TO ALLOW RETAIL USES IN THE M-1 ZONE WITH A CONDITIONAL USE PERMIT WHEN IMMEDIATELY ADJACENT TO A FREEWAY INTERCHANGE, ON THE APPLICATION OF MANNY ASADURIAN, JR.

WHEREAS, at its meeting of August 27, 2013, the Planning Commission conducted a duly-noticed public hearing on Zoning Ordinance Amendment No. 2013-04: an Amendment to Section A (Retail and Service Uses) of Table 17.020.060 of Section 17.020.060 (Permitted Uses in Commercial and Industrial Zones) of Title 17 (Zoning) of the Moorpark Municipal Code to allow retail uses in the M-1 Zone with a Conditional Use Permit when immediately adjacent to a freeway interchange, 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 September 4, 2013, the City Council conducted a duly-noticed public hearing on Zoning Ordinance Amendment No. 2013-04: an Amendment to Section A (Retail and Service Uses) of Table 17.020.060 of Section 17.020.060 (Permitted Uses in Commercial and Industrial Zones) of Title 17 (Zoning) of the Moorpark Municipal Code to allow retail uses in the M-1 Zone with a Conditional Use Permit when immediately adjacent to a freeway interchange, 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 Community Development Director determined that this project is exempt from the provisions of the California Environmental Quality Act in accordance with Section 15301 (Class 1, Existing Facilities) of the California Code of Regulations (CEQA Guidelines), in that the Zoning Ordinance Amendment would only apply to two sites that are already fully developed.

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

SECTION 1. ENVIRONMENTAL DOCUMENTATION: The City Council has reviewed the Community Development Director's determination that the proposed

Zoning Ordinance Amendment qualifies for a Categorical Exemption from the provisions of the California Environmental Quality Act in accordance with Section 15301 (Class 1, Existing Facilities) of the California Code of Regulations (CEQA Guidelines), in that the Zoning Ordinance Amendment would only apply to two sites that are already fully developed. Because these sites are already fully developed, the City Council finds that there is no substantial evidence that it will have the potential for causing a significant effect on the environment. The City Council has reviewed the Community Development Department's determination of exemption, and based on its own independent judgment, concurs in staff's determination of exemption.

SECTION 2. GENERAL PLAN AND SPECIFIC PLAN CONSISTENCY: The City Council finds Zoning Ordinance Amendment No. 2013-04 to be consistent with the City of Moorpark General Plan and all adopted Specific Plans in that Goal 7 of the Land Use Element of the General Plan is to "Provide for a variety of commercial facilities which serve community residents and meet regional needs," and Goal 8 of the Land Use Element of the General Plan is to "Provide for new commercial development which is compatible with surrounding land uses." The proposal to allow retail uses in the M-1 zone on properties immediately adjacent to a freeway interchange is compatible with the existing and allowable uses in the M-1 zone, which already allows retail uses in up to 20 percent of the building area.

SECTION 3. CODE AMENDMENT. Section A (Retail and Service Uses) of Table 17.020.060 of Section 17.020.060 (Permitted Uses in Commercial and Industrial Zones) of Title 17 (Zoning) of the Moorpark Municipal Code is hereby amended as shown in Exhibit A: Zoning Ordinance Amendment No. 2013-04.

SECTION 4. 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 5. This Ordinance shall become effective thirty (30) days after its passage and adoption.

Ordinance No. \_\_\_\_

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SECTION 6. 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 \_\_\_\_\_, 2013.

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

ATTEST:

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

Exhibit A: Zoning Ordinance Amendment No. 2013-04

## EXHIBIT A

**ZONING ORDINANCE AMENDMENT NO. 2013-04**

Section A (Retail and Service Uses) of Table 17.020.060 of Section 17.020.060 (Permitted Uses in Commercial and Industrial Zones) of Title 17 (Zoning) of the Moorpark Municipal Code is amended to read as follows:

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
A. Retail and Service Uses							
1. Adult businesses when in compliance with Sections 17.24.040(N), 17.78.050 and Chapter 5.18					ZC	ZC	
2. Alcoholic beverage sales for off-site consumption when in conjunction with another city-approved retail or service use other than automobile service station or liquor store							
a. Beer and/or wine (*if within one hundred [100] feet of a residentially zoned property a conditional use permit is required)		CUP	AP*	AP*	AP*	AP*	
b. Beer, wine and other alcoholic beverages		CUP	CUP	CUP	CUP	CUP	
3. Automobile/light truck/motorcycle							
a. Brakes, oil changes, tires and shock sales and installation, tune-ups and other light service and repair (with or without hydraulic lifts) (*if within one hundred [100] feet of a residentially zoned property a conditional use permit is required)		CUP	AP*		AP*	AP*	
b. Car washes, self-service or automatic with or without automotive services stations			CUP			CUP	
c. Engine rebuilding, transmission repair, steam cleaning, auto body, painting					CUP	CUP	
d. Parts and supplies		ZC	ZC		ZC	ZC	
e. Rental			AP		AP	AP	
f. Sales, with or without service and parts			CUP		CUP	CUP	

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
g. Service stations with or without mini-marts and with or without beer and wine sales for off-site consumption			CUP			CUP	
4. Body piercing and/or tattoo			CUP				
5. Building supplies (*if within one hundred [100] feet of a residentially zoned property a conditional use permit is required)			AP*	CUP		CUP	
6. Hay and feed sales				CUP		CUP	
7. Hotels, motels and bed and breakfast inns when in compliance with Chapter 5.44	CUP	CUP	CUP	CUP			
8. Kennels and catteries					CUP	CUP	
9. Liquor stores (when located no closer than one thousand [1,000] feet of any other liquor store or public or private school)		CUP	CUP	CUP			
10. Medical marijuana (cannabis and all parts of that plant) dispensaries including any site, facility, location, use, cooperative or business which distributes, sells, exchanges, processes, delivers, gives away, or cultivates marijuana for medical purposes to qualified patients, health care providers, patients' primary caregivers, or physicians pursuant to Proposition 215, Health and Safety Code Section 11362.5 <i>et seq.</i> , or any state regulations adopted in furtherance thereof							
11. Nurseries (retail) with or without container grown plants when all equipment and supplies kept in an enclosed area			AP				
12. Nurseries (wholesale and/or retail) with or without container grown plants when all equipment and supplies kept in an enclosed area						AP	
13. Pawnshops when in compliance with Chapter 5.32			AP				
14. Pest control services (*if within one hundred [100] feet of a residentially zoned					AP*	AP*	

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
property a conditional use permit is required)							
15. Private post offices, parcel services, copy centers	ZC	ZC	ZC	ZC			
16. Psychics, fortunetelling, and spiritual advisors when in compliance with Title 5 of the Moorpark Municipal Code (*if within one hundred [100] feet of a residentially zoned property a conditional use permit is required)	CUP	CUP	AP*				
17. Recreational vehicle storage yards when not located on parcels adjacent to arterial roads or freeways as shown on the Moorpark Circulation Element Highway Network Map and with or without a caretaker dwelling						CUP	
18. Recycling centers			CUP		CUP	CUP	
19. Recycling drop-off bins when located in an area determined by the community development director not to be in conflict with parking, vehicle or pedestrian circulation	ZC	ZC	ZC	ZC	ZC	ZC	
20. Rental and leasing of large equipment with or without outdoor storage and repair (*if within one hundred [100] feet of a residentially zoned property a conditional use permit is required)					AP*	AP*	

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
21. Retail shops and personal service establishments, except as otherwise indicated in this table, including, but not limited to, antiques, art and craft dealers and supplies, bakeries, barbers, beauty salons, bicycle sales/service, books and stationery, camera/photo stores including on-site processing, carpet and flooring sales/ cleaning/installation, clothing and fabric stores, computer sales and service, department and variety stores, dry cleaners, electronic equipment sales and service, florists, food markets, gift and novelty stores, hardware and tool stores, home and office furniture and equipment sales, home appliance sales and service, housewares sales, jewelry stores, key and locksmiths, music stores (including recorded music and musical instrument sales, service, and lessons), newsstands, paint stores, party supply sales and rental, pet grooming, pet sales and supplies, pharmacies, photography studios, pool and spa sales and supplies, shoe stores, sporting goods and equestrian supplies, small equipment rental (no outdoor storage), toy and hobby stores, video/DVD/CD sales and rental, wireless sales/service, and uses which the community development director determines to be similar when in compliance with Section 17.20.030		ZC	ZC	ZC			
22. Retail sales combined with limited distribution and/or warehousing not exceeding forty percent (40%) of gross floor area of the building in which it is located (*if within one hundred [100] feet of a residentially zoned property a conditional use permit is required)			AP*				
23. Retail sales in the M-1 and M-2 zone limited to a maximum of twenty percent (20%) of the gross floor area of the					AP	AP	

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
building in which it is located. In an industrial complex the twenty percent (20%) shall be computed on the basis of the cumulative total floor area of the industrial planned development (IPD)							
<u>24. Retail sales in the M-1 zone over twenty percent (20%) of the gross floor area of the building in which it is located, when:</u> <u>A. The building is located on a parcel immediately adjacent to a freeway interchange;</u> <u>B. The building is located within five hundred (500) feet of the freeway interchange; and</u> <u>C. The driveway access is no greater than five hundred (500) feet from the freeway interchange, as measured along the street. In an industrial complex, the twenty percent (20%) shall be computed on the basis of the cumulative total floor area of the industrial planned development (IPD)</u>					CUP		
<u>2425. Retail sales (temporary) in the M-1 and M-2 zones. Issuance of a temporary use permit shall take the place of a zoning clearance</u>					TUP	TUP	
<u>2526. Thrift stores, secondhand shops, consignment stores when in compliance with Chapter 5.32</u>			AP	AP			
<u>2627. Tobacco stores, including, but not limited to, cigarette, cigar, and smoking paraphernalia shops</u>			CUP				