

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

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

DATE: September 25, 2013 (CC Meeting of 10/2/2013)

SUBJECT: Consider Second Reading of Ordinance No. 419 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/DISCUSSION

After holding a public hearing on September 4, 2013, the City Council introduced Ordinance No. 419, which would amend the Zoning Ordinance to allow greater commercial use of properties in the M-1 zone when immediately adjacent to a freeway interchange. The meeting was adjourned to September 11, 2013, with second reading and adoption of this ordinance scheduled for consideration on this date. During "Public Comment" at the September 11, 2013 Council meeting, representatives from Kavlico, neighbors to one of the affected properties, expressed concern over the use of an exemption from environmental review for this ordinance. The ordinance was not adopted and the matter was continued to October 2, 2013. Staff is currently evaluating the concerns that were raised.

STAFF RECOMMENDATION

Continue second reading to October 16, 2013.

Attachment: Draft Ordinance

ORDINANCE NO. 419

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.

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	

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
e. Rental			AP		AP	AP	
f. Sales, with or without service and parts			CUP		CUP	CUP	
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						AP	

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
when all equipment and supplies kept in an enclosed area							
13. Pawnshops when in compliance with Chapter 5.32			AP				
14. Pest control services (*if within one hundred [100] feet of a residentially zoned property a conditional use permit is required)					AP*	AP*	
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			AP*				

Zones	C-O	C-1	CPD C-2	C-OT	M-1	M-2	I
zoned property a conditional use permit is required)							
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 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)					AP	AP	
24. <u>Retail sales in the M-1 zone occupying 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.</u> <u>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		
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					TUP	TUP	
2526. Thrift stores, secondhand shops, consignment stores when in compliance with Chapter 5.32			AP	AP			
2627. Tobacco stores, including, but not limited to, cigarette, cigar, and smoking paraphernalia shops			CUP				