

**MOORPARK CITY COUNCIL  
AGENDA REPORT**

**TO:** Honorable City Council

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

**DATE:** September 27, 2013 (CC Meeting of 10/16/2013)

**SUBJECT:** Consider Ordinance Approving Zoning Ordinance Amendment No. 2013-05, to Amend Section E (Public and Semi-Public Uses) of Table 17.20.060 of Section 17.20.060 (Permitted Uses in Commercial and Industrial Zones), of Chapter 17.20 (Uses by Zone), of Title 17 (Zoning), of the Moorpark Municipal Code Related to Health Clubs, Gymnasiums, Fitness Centers, and Fitness Studios, and Making a Determination of Exemption under CEQA in Connection Therewith

**BACKGROUND/DISCUSSION**

On September 4, 2013, the City Council directed the Planning Commission to provide a recommendation to on a Zoning Ordinance Amendment to simplify the processing requirements for small fitness type uses. As discussed in the attached Planning Commission agenda report, health clubs, gymnasiums, fitness centers, spas, martial arts studios, yoga and Pilates studios, and dance studios are currently permitted in the C-1, C-2, CPD, C-OT, and M-1 zones, subject to an Administrative Permit, except when within 100 feet of a residentially zoned property, when a Conditional Use Permit (CUP) is required. Under the current regulations, smaller fitness facilities (less than 3,000 square feet) have been required to go through the same CUP process as larger facilities when near residential areas, even though they do not pose the same potential neighborhood impact. Staff has not seen impacts from the smaller uses that would warrant a CUP review process, which requires a public hearing before the Planning Commission and a \$5,000 deposit to cover costs of this process.

The Planning Commission considered a draft ordinance on September 24, 2013, and concurred with staff's recommendation for an amendment to the list of permitted uses in Table 17.20.060 to allow for a tiered entitlement process, based on square footage of the fitness use. Under the recommendation, fitness uses up to 3,000 square feet would

be allowed subject to an Administrative Permit (staff level) review process regardless of the proximity to residential zones, and fitness uses over 3,000 square feet should follow the current review process. Amendments to the permit requirements for places of religious assembly are also proposed with a similar 3,000 square-foot threshold as fitness uses to ensure compliance with the Religious Land Use and Institutionalized Persons Act (RLUIPA), so that religious assembly uses are not treated less favorably. The City Attorney has reviewed and approved the form of this ordinance.

### **ENVIRONMENTAL DETERMINATION**

Proposed Zoning Ordinance Amendment No. 2013-05 is exempt from the provisions of the California Environmental Quality Act pursuant to Section 15061(b)(3) of the California Code of Regulations (CEQA Guidelines) by the general rule that CEQA only applies to "projects" that may have a significant effect on the environment. The proposed ordinance would amend the Municipal Code provisions related to the permit review process for health clubs, gymnasiums, fitness centers and fitness studios, would add specificity examples of uses under the category of fitness studios to improve clarity, such as martial arts, yoga, dance, and other similar uses, and would amend the permit process for places of religious assembly to be similar to fitness uses in zones where fitness uses are allowed. It does not change the zones in which these uses are permitted, the development standards for these uses, or the permit review process for new construction involving these uses. In this case, it can be seen with certainty that there is no possibility that the proposed Ordinance may have a significant impact on the environment.

### **FISCAL IMPACT**

None.

### **STAFF RECOMMENDATION**

1. Open the public hearing, accept public testimony, and close the public hearing.
2. Introduce Ordinance No. \_\_\_\_, approving Zoning Ordinance Amendment No. 2013-05, for first reading, waive full reading, and place this ordinance on the agenda for November 6, 2013 for purposes of providing second reading and adoption of the ordinance.

### **ATTACHMENTS:**

1. September 24, 2013 Planning Commission Agenda Report (Without Attachments)
2. Ordinance No. \_\_\_\_, approving Zoning Ordinance Amendment No. 2013-05

**MOORPARK PLANNING COMMISSION  
AGENDA REPORT**

**TO:** Honorable Planning Commission

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

**DATE:** September 17, 2013 (PC Meeting of 9/24/2013)

**SUBJECT:** Consider Resolution Recommending to the City Council Approval of Zoning Ordinance Amendment No. 2013-05, to Amend Section E (Public and Semi-Public Uses) of Table 17.20.060 of Section 17.20.060 (Permitted Uses in Commercial and Industrial Zones), of Chapter 17.20 (Uses by Zone), of Title 17 (Zoning), of the Moorpark Municipal Code Related to Health Clubs, Gymnasiums, Fitness Centers, and Fitness Studios, and Recommending that the City Council Make a Determination of Exemption under CEQA in Connection Therewith

**BACKGROUND**

On September 4, 2013, the City Council directed the Planning Commission to study, hold a public hearing, and provide a recommendation to the City Council on a Zoning Ordinance Amendment, to Amend Section E (Public and Semi-Public Uses) of Table 17.20.060 of Section 17.20.060 (Permitted Uses in Commercial and Industrial Zones), of Chapter 17.20 (Uses by Zone), of Title 17 (Zoning), of the Moorpark Municipal Code related to fitness type uses. The intent was to determine if a process less burdensome on the applicant than a Conditional Use Permit could be used for small fitness uses when they are within 100 feet of residential zones.

**DISCUSSION**

On September 15, 2004, the City Council adopted Ordinance 304, which was a comprehensive amendment of Chapter 17.20 (Uses by Zone) of the Moorpark Municipal Code. Table 17.20.060 describes the various land uses and entitlements required for those land uses.

Health clubs, gymnasiums, fitness centers, spas, martial arts studios, yoga and Pilates studios, and dance studios are currently permitted in the C-1, C-2, CPD, C-OT, and M-1 zones, subject to an Administrative Permit, except when within 100 feet of a residentially zoned property, when a Conditional Use Permit (CUP) is required. Under the current regulations, smaller fitness facilities (less than 3,000 square feet) have been required to go through the same CUP process as larger facilities when near residential

areas, even though they do not pose the same potential neighborhood impact. Staff has not seen impacts from the smaller uses that would warrant a CUP review process, which requires a public hearing before the Planning Commission and a \$5,000 deposit to cover costs of this process.

Staff recommends an amendment to the list of permitted uses in Table 17.20.060 to allow for a tiered entitlement process, based on square footage of the fitness use. At this time, staff believes that applications for fitness uses up to 3,000 square feet should be allowed subject to an Administrative Permit (staff level) review process regardless of the proximity to residential zones, and that fitness uses over 3,000 square feet should follow the current review process.

Amendments to the permit requirements for places of religious assembly are also proposed with a similar 3,000 square-foot threshold as fitness uses to ensure compliance with the Religious Land Use and Institutionalized Persons Act (RLUIPA), so that religious assembly uses are not treated less favorably. The proposed ordinance also includes other minor clean-up amendments to this section of the use matrix as shown in Attachment 1.

### **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.

The Director has reviewed this project and determined that proposed Zoning Ordinance Amendment No. 2013-05 is exempt from the provisions of the California Environmental Quality Act pursuant to Section 15061(b)(3) of the California Code of Regulations (CEQA Guidelines) by the general rule that CEQA only applies to "projects" that may have a significant effect on the environment. The proposed ordinance would amend the Municipal Code provisions related to the permit review process for health clubs, gymnasiums, fitness centers and fitness studios, would add specificity examples of uses under the category of fitness studios to improve clarity, such as martial arts, yoga, dance, and other similar uses, and would amend the permit process for places of religious assembly to be similar to fitness uses in zones where fitness uses are allowed. It does not change the zones in which these uses are permitted, the development standards for these uses, or the permit review process for new construction involving these uses. In this case, it can be seen with certainty that there is no possibility that the proposed Ordinance may have a significant impact on the environment.

Honorable Planning Commission  
September 24, 2013  
Page 3

**STAFF RECOMMENDATION**

1. Open the public hearing, accept public testimony, and close the public hearing.
2. Adopt Resolution No. PC-2013-\_\_\_\_\_ recommending to the City Council approval of Zoning Ordinance Amendment No. 2013-05.

**ATTACHMENT:**

1. Draft Resolution

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

AN ORDINANCE OF THE CITY OF MOORPARK, CALIFORNIA, APPROVING ZONING ORDINANCE AMENDMENT NO. 2013-05 TO AMEND SECTION E (PUBLIC AND SEMI-PUBLIC USES) OF TABLE 17.20.060 OF SECTION 17.20.060 (PERMITTED USES IN COMMERCIAL AND INDUSTRIAL ZONES), OF CHAPTER 17.20 (USES BY ZONE), OF TITLE 17 (ZONING), OF THE MOORPARK MUNICIPAL CODE RELATED TO HEALTH CLUBS, GYMNASIUMS, FITNESS CENTERS, AND FITNESS STUDIOS, AND TO MAKE A DETERMINATION OF EXEMPTION UNDER CEQA IN CONNECTION THEREWITH

WHEREAS, on September 4, 2013, the City Council adopted Resolution No. 2013-3223 to initiate proceedings to consider a Zoning Ordinance Amendment that would amend the permit process for fitness uses; and

WHEREAS, at its meeting of September 24, 2013, the Planning Commission conducted a duly-noticed public hearing on Zoning Ordinance Amendment No. 2013-05 to amend Section E (Public and Semi-Public Uses) of Table 17.20.060 of Section 17.20.060 (Permitted Uses in Commercial and Industrial Zones), of Chapter 17.20 (Uses by Zone), of Title 17 (Zoning), of the Moorpark Municipal Code related to health clubs, gymnasiums, fitness centers, and fitness studios, and to make a determination of exemption under CEQA in connection therewith, received public testimony on the proposed amendment, and after receiving oral and written public testimony, closed the public hearing and adopted Resolution No. PC-2013-590 recommending approval of Zoning Ordinance Amendment No. 2013-05 to the City Council; and

WHEREAS, at its meeting of October 16, 2013, the City Council conducted a duly-noticed public hearing on Zoning Ordinance Amendment No. 2013-05 to amend Section E (Public and Semi-Public Uses) of Table 17.20.060 of Section 17.20.060 (Permitted Uses in Commercial and Industrial Zones), of Chapter 17.20 (Uses by Zone), of Title 17 (Zoning), of the Moorpark Municipal Code related to health clubs, gymnasiums, fitness centers, and fitness studios, and to make a determination of exemption under CEQA in connection therewith, 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 proposed Zoning Ordinance Amendment No. 2013-05 is exempt from the provisions of the California Environmental Quality Act pursuant to Section 15061(b)(3) of the California Code of Regulations (CEQA Guidelines) by the general rule that CEQA only applies to "projects" that may have a significant

effect on the environment. The proposed ordinance would amend the Municipal Code provisions related to the permit review process for health clubs, gymnasiums, fitness centers and fitness studios, would add specificity examples of uses under the category of fitness studios to improve clarity, such as martial arts, yoga, dance, and other similar uses, and would amend the permit process for places of religious assembly to be similar to fitness uses in zones where fitness uses are allowed. It does not change the zones in which these uses are permitted, the development standards for these uses, or the permit review process for new construction involving these uses. In this case, it can be seen with certainty that there is no possibility that the proposed Ordinance may have a significant impact on the environment.

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

SECTION 1. ENVIRONMENTAL DETERMINATION: The City Council has reviewed the Community Development Director's determination that proposed Zoning Ordinance Amendment No. 2013-05 is exempt from the provisions of the California Environmental Quality Act pursuant to Section 15061(b)(3) of the California Code of Regulations (CEQA Guidelines) by the general rule that CEQA only applies to "projects" that may have a significant effect on the environment. The proposed ordinance would amend the Municipal Code provisions related to the permit review process for health clubs, gymnasiums, fitness centers and fitness studios, would add specificity examples of uses under the category of fitness studios to improve clarity, such as martial arts, yoga, dance, and other similar uses, and would amend the permit process for places of religious assembly to be similar to fitness uses in zones where fitness uses are allowed. It does not change the zones in which these uses are permitted, the development standards for these uses, or the permit review process for new construction involving these uses. In this case, it can be seen with certainty that there is no possibility that the proposed Ordinance may have a significant impact on the environment. The City Council, based on its own independent judgment, concurs with staff's determination of exemption.

SECTION 2. GENERAL PLAN AND SPECIFIC PLAN CONSISTENCY: The City Council finds Zoning Ordinance Amendment No. 2013-05 to be consistent with the City of Moorpark General Plan and all adopted Specific Plans.

SECTION 3. Section E (Public and Semi Public Uses) of Table 17.20.060 of Section 17.20.060 (Permitted Uses in Commercial and Industrial Zones), of Chapter 17.20 (Uses by Zone), of Title 17 (Zoning), of the Moorpark Municipal Code, is hereby amended as shown in Exhibit A: Zoning Ordinance Amendment No. 2013-05.

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. 2013-05

**EXHIBIT A**  
**ZONING ORDINANCE AMENDMENT NO. 2013-05**  
**Amendment to Section E (Public and Semi-Public Uses) in Table 17.20.060**  
**(Permitted Uses in Commercial and Industrial Zones) of Chapter 17.20**  
**(Uses by Zone) of the Zoning Ordinance**

Table 17.20.060

**PERMITTED USES IN COMMERCIAL AND INDUSTRIAL ZONES**

[Blank] = Not permitted  
 AP = Administrative Permit  
 CUP = Conditional Use Permit  
 NZC = No Zoning Clearance required  
 TUP = Temporary Use Permit  
 ZC = Permitted by Zoning Clearance

Zones	C-O	C-1	CPD C-2	C- OT	M-1	M-2	I
E. Public and Semi-Public Uses							
1. Amusement and recreational facilities as defined in Chapter 17.08							
a. Arcades (video and computer) and cyber cafés		CUP	CUP	CUP			
b. Health clubs/ <del>gymnasium</del> /fitness center/ <del>spa</del> , <u>gymnasiums, fitness centers, and fitness studios for uses such as martial arts, yoga, dance, and other similar uses or combination of uses.</u>		AP*	AP*	AP*	AP*		
i. <u>up to 3,000 square feet</u>		AP	AP	AP	AP		
ii. <u>over 3,000 square feet</u>		AP*	AP*	AP*	AP*		
(*if within one hundred [100] feet of a residentially zoned property, a conditional use permit is required)							
c. Auditoriums, community centers, dancehalls, and indoor motion picture theaters			CUP	CUP	CUP	CUP	CUP
d. Billiard and pool establishments, and bowling alleys, with or without alcohol			CUP	CUP			
e. <del>Golf driving ranges, golf putting greens and miniature golf, parks and</del>			CUP		CUP		

Zones	C-O	C-1	CPD C-2	C- OT	M-1	M-2	I
playgrounds							
2. Care facilities, including adult day care facilities, Alzheimer's day care facilities, congregate living health facilities, child day care centers, community treatment facilities, foster family and adoption agencies, hospices, long-term health care facilities, residential care facilities for the elderly, residential care facilities for persons with chronic life-threatening illness, skilled nursing and intermediate care facilities, social rehabilitation facilities, and therapeutic day services facilities	CUP	CUP	CUP				
3. Emergency shelters in compliance with the requirements of Chapter 17.28 (*allowed in C-2 zone only, not permitted in CPD zone; emergency shelters are also allowed in conjunction with permitted places of religious assembly)			ZC*				
4. Single room occupancy unit development in compliance with the requirements of Chapter 17.28 (*allowed in C-2 zone only, not permitted in CPD zone)			ZC*				
5. Clubhouses, social clubs, service clubs with or without alcohol					CUP		CUP
6. Energy production from renewable resources						CUP	CUP
7. Governmental uses including, but not limited to, city offices, community rooms, fire stations, human service centers, libraries, police stations, public utility facilities	CUP	CUP	CUP	CUP	CUP	CUP	CUP

Zones	C-O	C-1	CPD C-2	C- OT	M-1	M-2	I
8. Hospitals including urgent care (*if within one hundred [100] feet of a residentially zoned property, a conditional use permit is required)	CUP		AP*		AP*		AP*
9. Places of religious assembly, with or without schools and/or social services, including emergency shelters	CUP	AP*	AP*	AP*	AP*	CUP	CUP
<u>i. up to 3,000 square feet</u>	<u>CUP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>CUP</u>	<u>CUP</u>
<u>ii. over 3,000 square feet</u>	<u>CUP</u>	<u>AP*</u>	<u>AP*</u>	<u>AP*</u>	<u>AP*</u>	<u>CUP</u>	<u>CUP</u>
(*if within one hundred [100] feet of a residentially zoned property, a conditional use permit is required)							
10. Private education facilities including, but not limited to, colleges and universities, elementary, middle and high schools							CUP
11. Private training facilities including, but not limited to, professional and vocational schools, art and craft schools, music schools not part of a music store, and driver training schools (*if within one hundred [100] feet of a residentially zoned property, a conditional use permit is required)	CUP	CUP	AP*	AP*	AP*		
12. Recreational facilities (private), <u>indoor or outdoor</u> , with or without food services, including, but not limited to, <u>batting cages</u> , bicycle and skate <del>parks</del> <u>facilities</u> , golf courses ( <u>including miniature golf and driving ranges</u> ), <u>gymnasiums</u> , <u>fitness</u> , <u>health spas</u> , <u>martial arts</u> , <u>racquetball</u> , <u>yoga and</u>		AP*	AP*	AP*	AP*		CUP

<b>Zones</b>	<b>C-O</b>	<b>C-1</b>	<b>CPD C-2</b>	<b>C- OT</b>	<b>M-1</b>	<b>M-2</b>	<b>I</b>
sports fields. Bicycles and skate parks shall be in compliance with Chapter 17.28 (*if within one hundred [100] feet of a residentially zoned property, a conditional use permit is required)							
13. Utility structures (electrical boxes, transformers and valve apparatus that have no covered floor area and are attached to the ground by poles, columns or pedestals shall not require a zone clearance)	AP	AP	AP	AP	AP	AP	AP
14. Wireless communications facilities, in accordance with the requirements of Chapter 17.42							
a. Major wireless communications facilities	CUP	CUP	CUP	CUP	CUP	CUP	CUP
b. Minor wireless communications facilities	AP	AP	AP	AP	AP	AP	AP
c. Collocation wireless communications facilities (consistent with definition of “collocation facility” in Section 17.42.020)	ZC	ZC	ZC	ZC	ZC	ZC	ZC

(Ord. 415 § 2, 2012; Ord. 398 § 4, 2011; Ord. 396 § 2, 2011; Ord. 361 § 1 Exh. A, 2007; Ord. 360 § 2 Exh. A, 2007; Ord. 304 § 2, Exh. A, 2004; Ord. 297 Exh. A, 2003)