ITEM 8.B.

MOORPARK CITY COUNCIL
AGENDA REPORT

TO: **Honorable City Council**

FROM: **Barry K. Hogan, Deputy City Manager**

DATE: **September 13, 2007 (CC Meeting of 9/19/2007)**

SUBJECT: **Consider the Amendment of Title 16 – Subdivisions, to Add Chapter 16.30, Condominium Conversion Projects, to Establish Requirements for the Conversion of Rental Apartments to Condominium Ownership**

BACKGROUND/DISCUSSION

On May 17, 2006, the City Council adopted a comprehensive revision to the City's Subdivision Ordinance, Title 16 of the Moorpark Municipal Code. One item not included in this revision was the establishment of regulations for the conversion of rental apartments to condominiums. The State Subdivision Map Act (Map Act) provides some regulation for the conversion of rental apartments into condominium ownership. It also allows a local jurisdiction to adopt its own regulations regarding conversions. Staff has drafted a proposed ordinance that sets forth specific requirements for converting the apartment project into condominium ownership. In particular the ordinance:

- Requires as part of the application process a building compliance report be prepared to assess what building code items must be implemented in order to bring the project up to current building code standards.
- Requires a set aside of twenty percent (20%) of the units as affordable (low and very low income units) for the life of the project.
- Requires the owner of the apartment project to provide a bond to provide relocation assistance to cover the actual costs of relocation up to $2,500 per unit.

The City Attorney has reviewed the proposed ordinance and found it to be in compliance with the Map Act. The current moratorium on the processing of condominium conversion applications would sunset when this ordinance takes effect.

ENVIRONMENTAL DETERMINATION

In accordance with the City's environmental review procedures adopted by resolution, the Planning 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 found it to qualify for a General Rule Exemption in accordance with Section 15061 of California Code of Regulations (CEQA Guidelines). No further environmental documentation is required.

STAFF RECOMMENDATION

1. Continue to accept testimony and close the public hearing; and
2. Introduce Ordinance No. _____ for first reading, waive full reading, and schedule second reading and adoption for October 3, 2007.

Attachment:

Ordinance No. _____

ORDINANCE NO. ___

AN ORDINANCE OF THE CITY OF MOORPARK, CALIFORNIA, ADDING CHAPTER 16.30, CONDOMINIUM CONVERSION PROJECTS, TO TITLE 16, SUBDIVISIONS, OF THE MOORPARK MUNICIPAL CODE, TO ESTABLISH REQUIREMENTS FOR THE CONVERSION OF RENTAL APARTMENTS TO CONDOMINIUM OWNERSHIP

WHEREAS, the Subdivision Map Act makes provisions for the local regulation of the conversion of rental apartments into condominium ownership; and

WHEREAS, the City Council wishes to adopt an ordinance to establish regulations for the conversion of rental apartments into condominium ownership in order to protect existing and future residents; and

WHEREAS, at its meeting of August 1, 2007, the City Council continued the public hearing to its regular City Council meeting on September 19, 2007 and conducted a duly-noticed public hearing on adding Chapter 16.30, Condominium Conversion Projects, to Title 16, Subdivisions, of the Moorpark Municipal Code, to establish requirements for the conversion of rental apartments to condominium ownership, 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 Planning Director's determination that this ordinance 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. Title 16 of the Moorpark Municipal Code is hereby amended to add Chapter 16.30, Condominium Conversion Projects, to read as shown in attached Exhibit A.

SECTION 2. Ordinance No. 357 on the moratorium for the conversion of apartment units to condominium ownership shall expire upon the effective date of this ordinance.

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, within fifteen (15) days after the passage and adoption thereof, cause the same to be published once in the Moorpark Star a newspaper of general circulation, as defined in Section 6008 of the Government Code, for the City of Moorpark, and which is hereby designated for that purpose.

PASSED AND ADOPTED this ____ day of ____, 2007.

_____
Patrick Hunter, Mayor

ATTEST:

_____
Deborah S. Traffenstedt, City Clerk

Attachment: Exhibit A

EXHIBIT A

Chapter 16.30

CONDOMINIUM CONVERSION PROJECTS

16.30.010 Applicability and Process.
16.30.020 General standards for preexisting buildings.
16.30.030 Compliance report required.
16.30.040 Condominium conversion application requirements.
16.30.050 Tenant assistance plan.
16.30.060 Management plan.
16.30.070 Findings for approval.
16.30.080 Off-street parking requirements.

16.30.010 Applicability and Process.

In addition to complying with the requirements of Chapters 16.24 and 16.32, all condominium conversion projects must comply with the requirements of this chapter in order for the Tentative Map and Final Map to be approved.

16.30.020 General standards for preexisting buildings.

The buildings must comply with all requirements of Title 15 of the Moorpark Municipal Code and all requirements of state laws and regulations pertaining to building structure and safety under the standards therein made applicable to such preexisting buildings as well as the requirements of section 16.30.040.

16.30.030 Compliance report required.

Prior to the submittal of an application for a tentative subdivision map for the condominium conversion project, the subdivider shall submit the filing fee, as established by resolution of the city council, for a building compliance report. The report shall be prepared by the building official in order to determine the required improvements necessary for conversion to comply with Title 15 of the Moorpark Municipal Code.

16.30.040 Condominium conversion application requirements.

The subdivider shall submit an application for condominium conversion, the filing fee, as established by resolution of the city council, the conversion plan and including but not limited to the following:

(a) An application for a planned development permit accompanied by the filing fee, as established by resolution of the city council, and plans consistent with those required for a planned development permit, including but not limited to building elevations and floor plans for existing and proposed buildings, a detailed site plan showing covered, enclosed, open and guest parking, existing and proposed landscaping, existing and proposed open space, existing and proposed recreation, existing and proposed buildings and proposed building colors.

(b) A list of the improvements referenced in title 15 and title 17 of the Moorpark Municipal Code that will need to be upgraded in the complex to the standards in effect for construction of new buildings, to the extent financially and practically feasible, with regard to the following matters: interior and exterior architectural and design details, sound transmission, energy efficiency, parking supply, open and covered parking, recreation, cable TV, telephone, exterior lighting, open space and landscaping.
(c) A copy of the notice of submission of application for public report which includes improvement plans and capital reserves.
(d) A copy of the tenant notifications of proposed conversion in compliance with Section 66452.8 of the State Subdivision Map Act.
(e) A phasing plan to reflect unit sales and tenant relocation agreements.
(f) A tenant assistance plan in conformance with section 16.30.050.
(g) A management plan in conformance with section 16.30.060.
(h) Compliance with the flow requirements as applicable to new construction as required by the fire department.

16.30.050 Tenant assistance plan.
A tenant assistance plan must contain the following components:
(a) A tenant listing by name and apartment address including all persons, other than dependent children, shown on any lease, rental agreement, or other evidence of rental occupancy customarily maintained for the apartment building, as an occupant for rent current within thirty (30) calendar days of the date of filing of the tentative map. Any person who becomes a tenant after approval of the Final Map shall be considered a tenant for purposes of this division or any tenant assistance plan. Discharge by the subdivider or his agent of any obligation pursuant to this subsection as to any such listed tenant shall constitute discharge of such obligation to all persons concurrently residing in the same unit, unless otherwise provided in the agreement executed pursuant to subsection (f) of this section.
(b) A schedule of rents for each unit showing any changes occurring in the previous six-month period.
(c) A statement of the method by which tenants will be assisted by the subdivider or his agents in finding comparable replacement rental housing within the area of the conversion.
(d) A statement of the method by which the subdivider will comply with the requirements of Section 66427.1 of the Subdivision Map Act. Such method must provide that no tenant shall be required to move from his or her apartment due to the proposed conversion until the expiration of the 90-day period for exercise by the tenant of his or her right of first refusal pursuant to Section 66427.1(d) of the Subdivision Map Act. Said 90-day period shall not commence for any tenant until such tenant has received written notification of issuance of the subdivision public report pursuant to 11018.2 of the Business & Professions Code, unless the tenant gives prior written notice of his or her intention to not exercise that right. The right to purchase his/her apartment must be upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant.
(e) A statement of the method by which the subdivider or his/her agents will reimburse each tenant for costs actually incurred in moving from his/her apartment due

to the planned conversion to a common ownership unit, up to a maximum of two thousand five hundred dollars ($2,500.00) per unit. The two thousand five hundred dollars ($2,500.00) per unit shall be adjusted annually commencing January 1, 2008. The adjustment shall be based upon the Consumer Price Index (CPI) increase determined by using the information provided by the U.S. Department of Labor, Bureau of Labor Statistics, for all urban consumers within the Los Angeles/Riverside/Orange County metropolitan area during the prior year. The calculation shall be made using the month of October to the prior October.

(f) A written agreement satisfactory to the community development director and city attorney between the city and the subdivider for the benefit of each tenant, by which the subdivider covenants to carry out the terms of a tenant assistance plan, as finally approved by the community development director. The agreement must be secured by a surety acceptable to the city, bond or bonds by one (1) or more duly authorized corporate sureties in a total amount as established by city council resolution, as may be amended from time to time, multiplied by the number of units, and the total amount of said surety, bond or bonds shall be security for each and every obligation to any tenant undertaken by the subdivider in such agreement. The community development director shall only release the surety or bond(s) when proof that the conversion has been completed has been provided, except for partial early releases. The community development director, upon the provision of written proof, may approve partial early releases, but not more than once in each six-month period following approval of the Final Map. The partial early releases shall only be in proportion to the number of units in which the tenants have vacated, purchased without vacating, or waived their rights. The rights of a tenant pursuant to the written agreement of this section shall not apply if knowingly waived by a tenant as follows:

(1) A written agreement, signed by both the tenant and the subdivider or his/her agent, is executed by which the specifically described rights are expressly waived in return for such specifically described consideration as may be mutually agreed upon between the parties.

(2) The agreement between the subdivider and the tenant is executed subsequent to the written agreement of this section and specifically states that the tenant has read that agreement and is aware of his/her rights thereunder.

(3) A copy of the executed agreement is promptly filed with the community development director.

(g) A listing and explanation of any termination of tenancies for reasons other than the conversion, or a statement that no such terminations have occurred.

(h) A statement of the time and manner in which notices of the conversion has been given or will be given pursuant to Section 66427.1(a) of the State Subdivision Map Act, and in which notice of a right of first refusal has been given or will be given pursuant to Section 66427.1(d) of said act.

16.30.060 Management plan.

An application for a conversion project shall be accompanied by a management plan which sets forth a comprehensive representation of the project governance process, including but not limited to the following components:

(a) A maintenance plan which includes a long-term project maintenance schedule and operations standards.
(b) Draft CC&R provisions setting forth the rules of project governance and management, including the establishment of a board of directors (duties, powers, election and replacement).
(c) A statement governing the management of vacant and/or unsold units.
(d) A current structural pest control inspection report issued by a licensed structural pest control operator, showing the subject premises to be free of evidence of termite, dry-rot, fungi and/or damage therefrom. Such a report shall be deemed current for a period of not more than ninety (90) calendar days following the date of inspection.

16.30.070 Findings for approval.
An application for condominium conversion must meet the requirements of title 16 in order to be approved. All of the following findings must be made:
(a) That the condominium conversion project would not be detrimental to the welfare of future residents of the project or to surrounding property or to the public generally.
(b) That the conversion project complies or will comply with current development standards of this chapter and chapter 17.32; and
(3) That the condominium conversion project has or will have a sufficient number of multiple-bedroom units for housing families; and
(4) That a minimum of twenty (20) percent of the units are or will be reserved, for the life of the project, as affordable. Ten percent (10%) shall be low income units and ten percent (10%) shall be very low income units guarenteed though a recorded affordable housing agreement between the property owner and City; and
(5) That Titles 15 and 17 code requirements have been or will be met or exceeded by providing project amenities, or upgrades to the units for the life of the project; and
(6) That individual metering for water, gas and electric for each unit has or will be provided; and
(7) That vacancy rates at the time of approval of the conversion project are below the guidelines set forth in the General Plan.

16.30.080 Off-street parking requirements.
(a) All conversion projects must provide off-street parking spaces in accordance with the current standards in chapter 17.32 of this Code, except as specified in this section.
(b) All covered parking required by the conditions of approval for the existing project shall be maintained for the life of the project.
(c) A parking waiver may only be considered if a finding can be made that strict compliance with the parking requirement will not benefit the site and its surrounding area. The applicant must indicate how the project will operate adequately without complying with the parking requirement. This assessment must be based on a fully occupied project.
(d) Parking waivers may be granted by the city council after review and recommendation by the planning commission. The decision of the city council is final. The procedural requirements for a parking waiver shall be the same as those for a variance as set forth in section 17.44.040E of this Code.