Item: 8.A.

MOORPARK CITY COUNCIL
AGENDA REPORT

TO: **Honorable City Council**

FROM: **Doug Spondello, AICP, Planning Manager**
Kevin G. Ennis, City Attorney

DATE: **10/06/2021 Regular Meeting**

SUBJECT: **Consider Interim Urgency Ordinance to Extend the Existing Moratorium on New Formula-Based Retail Businesses on High Street for an Additional 10 Months and 15 Days, Declaring the Urgency Thereof and the Immediate Effectiveness of the Ordinance Pursuant to Government Code Sections 65858, 36934 and 36937, and Making a Determination of Exemption Under the California Environmental Quality Act in Connection Therewith**

SUMMARY

On September 1, 2021, the City Council adopted Interim Urgency Ordinance No. 492 to impose a temporary, 45-day moratorium on new formula-based retail businesses on High Street. During the moratorium, the City will not issue zoning permits, building permits, land use entitlements and business registration permits for any of this activity within the City of Moorpark.

The initial 45-day term of Interim Urgency Ordinance No. 492 is scheduled to expire on October 16, 2021. In order to extend the moratorium on new formula-based retail businesses on High Street, the City Council must hold a public hearing and adopt a new interim urgency ordinance to extend the moratorium for an additional 10 months and 15 days from October 16, 2021, through and including August 31, 2022.

BACKGROUND

On July 7, 2021, the City Council directed staff to prepare an urgency ordinance prohibiting the establishment of formula-based retail businesses (also known as chain stores) along High Street. In reaching this decision, the Council discussed the increased interest in new development along High Street and a desire to maintain the rural character of downtown. Formula-based retail restrictions have been utilized by a number of communities, including the cities of Malibu, Ojai, and San Francisco. These regulations are designed to create and preserve a supportive environment for independent small businesses and protect community character. As discussed in the subsequent September 1, 2021 staff report, Moorpark did not have any special regulations that restricted the establishment of formula-based uses

downtown or anywhere else within Moorpark. At the same time, several significant developments and new uses have been proposed downtown in recent years. The increased interest created a greater potential for downtown to attract chain stores and other formula-based establishments that may compromise the unique character and mix of uses downtown.

In an effort to prevent the establishment of formula-based retail businesses that threaten to degrade High Street's unique economic balance and consumer experience, on September 1, 2021, the City Council adopted Interim Urgency Ordinance No. 492 to temporarily prohibit new formula-based retail businesses on High Street. Pursuant to Government Code Section 65858, the initial moratorium established by Interim Urgency Ordinance No. 492 is scheduled to expire 45-days after its adoption, on October 16, 2021.

The additional time would allow staff to continue thoroughly researching and evaluating zoning and other potential regulations for formula retail business uses along High Street and to prepare a permanent ordinance to codify those regulations.

At its Regular meeting on September 15, 2021, the City Council adopted a report that briefly explains the reasons why the moratorium on new formula-based retail businesses on High Street was adopted and the measures taken to alleviate the conditions which led to the adoption of Urgency Ordinance No. 492. Pursuant to Government Code Section 65858(d), this report must be adopted 10 days prior to any extension of an existing land use moratorium. A copy of the 10-day report adopted by the City Council is also attached to the staff report.

DISCUSSION

Interim Urgency Ordinance No. 492 defines formula-based retail business as those that operate five or more existing establishments in the world and which also maintain two or more of the following features: 1) standardized array of merchandise or menu; 2) standardized color scheme; 3) standardized décor; 4) standardized façade; 5) standardized layout; 6) standardized signage, servicemark, or trademark; or 7) uniform apparel. The ordinance includes clear definitions for each of these terms and criteria.

New businesses meeting these criteria are prohibited from operating along High Street and 500 feet east of the intersection of High Street/Princeton Avenue and Spring Road as long as the moratorium is in-place. The Ordinance only restricts formula-based retail businesses within this defined area. No restrictions on these types of businesses are currently proposed or planned elsewhere within the City. Formula-based retail businesses are therefore not being precluded from operating in other areas of the City under Interim Urgency Ordinance No. 492. The proposed extension of the Interim Urgency Ordinance maintains this status quo.

The extension of the Interim Urgency Ordinance is needed to provide City staff with additional time to study appropriate regulatory tools to create and preserve a supportive environment for independent small businesses and protect community character, including a permanent prohibition on new formula-based retail businesses on High Street during the moratorium period. City staff is preparing an ordinance to implement those tools and

present them for consideration by the community, Planning Commission, and City Council.

INTERIM ORDINANCE PROCEDURES

California law authorizes municipalities to adopt "interim" ordinances that place an immediate moratorium on the establishment of specified new activities and uses in the City. California Government Code Section 65858 provides for the procedures and requirements for the adoption of an "interim" ordinance.

Section 65858 provides that, without following normal zoning code ordinance adoption procedures, a city council may, in order to protect the public health, safety, and welfare of the community, adopt as an urgency measure an "interim ordinance" prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City Council, Planning Commission or Planning Department is considering or studying for adoption within a reasonable time.

Section 65858 provides that a city council cannot adopt an interim ordinance unless the ordinance contains legislative findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional entitlements for a specific use or uses would result in a threat to the public health, safety, or welfare.

Interim Urgency Ordinance No. 492 is scheduled to expire after an initial 45-day period (until October 16, 2021). As proposed here, the City Council may extend the Interim Ordinance by an additional 10 months and 15 days by the adoption of an additional urgency ordinance. The City Council must conduct a noticed public hearing prior to extending the Interim Urgency Ordinance. The proposed extension also requires a four-fifths vote for adoption.

On September 15, 2021, in accordance with Government Code Section 65858(d), the City Council adopted a written report which describes the measure taken by the City to alleviate the conditions that led to the adoption of the Ordinance. This written report was required to be issued by the City Council at least 10 days prior to extension of the Interim Urgency Ordinance.

Finally, if the City has not been able to enact permanent zoning regulations during that extension period, the law allows for one additional one-year extension, for a total cumulative duration of the interim restrictions of two years.

Concurrent with the interim ordinance process, City staff has begun the process of preparing permanent zoning and other regulations for council consideration. Once adopted, applications for zoning permits, building permits, land use entitlements and business registration permits will be processed through the normal zoning ordinance adoption process. The process to adopt new zoning regulations will include a noticed public hearing before the Planning Commission, the Planning Commission's adoption of a resolution making recommendations on the proposed text of a permanent ordinance to the

City Council, a noticed public hearing before the City Council and the regular two reading processing for adoption of a non-urgency ordinance by the City Council. Given the current projects underway within the Community Development Department, staff anticipates that the research and preparation of a permanent formula retail ordinance could be completed within seven months.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

This extension of the Interim Ordinance is exempt from review under the California Environmental Quality Act (CEQA) on several grounds.

This Interim Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15061(c)(3) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15060(c)(3) and 15378 (the activity is not a "project" under CEQA) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because this action has no potential for resulting in physical change to the environment, directly or indirectly. This is because the moratorium adopted by this Interim Ordinance merely prohibits uses that may have impacts on public welfare, and does not permit any development that could result in a significant change to the environment. Furthermore, the moratorium established by this Interim Ordinance is temporary pending the study and investigation of regulatory tools to address the impacts created by formula-based retail.

This Interim Ordinance is categorically exempt from CEQA, under Section 15308 of the State CEQA Guidelines, because this Ordinance is a regulatory action taken by the City in accordance with California Government Code Section 65858 to assure maintenance and protection of the environment pending further review of the potential impacts of formula-based retail in the City and completion of contemplated Zoning Ordinance revisions.

In addition, this Interim Ordinance is not a "project" within the meaning of Section 15378 of the State CEQA Guidelines, because it has no potential to result in a direct physical change in the environment, and it has no potential to result in any reasonably foreseeable indirect physical change in the environment. The Interim Ordinance merely prohibits uses that may have impacts on public welfare, and does not permit any development that could result in a significant change to the environment. Furthermore, the moratorium established by this Interim Ordinance is temporary pending the study and investigation of regulatory tools to address the impacts created by formula-based retail.

Finally, this Interim Ordinance is exempt from CEQA review pursuant to Section 15061(b)(3) of the State CEQA Guidelines. This Interim Ordinance is covered by the general rule that CEQA applies only to projects that have the potential to cause a significant effect on the environment. Because the Interim Ordinance will extend a moratorium on new formula-based retail businesses on High Street, it can be seen with certainty that there is no possibility that this Ordinance will have a significant effect on the environment, and therefore, this Interim Ordinance is not subject to CEQA.

FISCAL IMPACT

There is no fiscal impact associated with this action.

COUNCIL GOAL COMPLIANCE

This action is consistent with City Council Strategy 3 (Economic Development), Goal 3 (3.3): "Place an Emphasis on Economic Development with a Focus on Historic High Street to Enhance a Destination and Sense of Community."

STAFF RECOMMENDATION (ROLL CALL VOTE REQUIRED)

1) Conduct the public hearing on the proposed 10-month and 15-day extension of the moratorium on new formula-based retail businesses on High Street;

2) Waive full reading and adopt Urgency Ordinance No. ___ as read by title only. **(REQUIRES A ROLL CALL VOTE AND A 4/5THS VOTE OF THE CITY COUNCIL TO ADOPT);** and

3) Direct City staff to prepare a written report of the steps taken to address the impacts of new formula-based retail businesses on High Street and have that report presented at least 10 days before the expiration date of the Interim Urgency Ordinance.

Attachments:

1. Draft Urgency Ordinance to Extend Moratorium
2. 10-Day Report (Urgency Ordinance No. 492, Considered September 15, 2021)
3. September 1, 2021 Staff Report on Moratorium

ORDINANCE NO. ___

AN INTERIM URGENCY ORDINANCE OF THE CITY OF MOORPARK, CALIFORNIA, EXTENDING THE EXISTING MORATORIUM ON NEW FORMULA-BASED RETAIL BUSINESSES ON HIGH STREET, DECLARING THE URGENCY THEREOF AND THE IMMEDIATE EFFECTIVENESS OF THIS ORDINANCE PURSUANT TO GOVERNMENT CODE SECTIONS 65858, 36934 AND 36937, AND MAKING A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT IN CONNECTION THEREWITH

THE CITY COUNCIL OF THE CITY OF MOORPARK DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings

A. The City Council desires to provide for the public safety, health and welfare of the residents and visitors to the City of Moorpark ("City") by exercising its police power authority under Section 7 of Article XI of the California Constitution. Based on the findings and evidence set forth below, the City Council finds that the establishment of formula-based retail businesses along High Street in the City would be contrary to the character and history of the commercial and public uses on that street, would impair the goals and purpose of the Downtown Specific Plan as it pertains to High Street, and thereby alter and potentially threaten the long-term economic vitality of this street and neighborhood.

B. High Street has earned widespread recognition for its old town character that makes this portion of Moorpark unique. Some of the elements that already make the street unique include historic buildings, buildings that utilize architecture typical to Moorpark's early agricultural days, and other amenities. For example, High Street is lined with California Pepper trees that are classified as Ventura County Historic Landmark No. 72 and protected by the City. Streetlights and other features along High Street have an enhanced, traditional design. The City has plans to incorporate other design elements such as hardscape and street furniture that are compatible with the current style of the architecture and history of the street. Due to this unique architectural design and development, this portion of Moorpark has been recognized by the community as an important resource by which the City can maintain its small town character but also build on that history to create a one of a kind experience for Moorpark visitors and consumers. High Street has already drawn recognition in local and regional press descriptions and is frequently captured and used in films and other media productions because of this unique character. Preserving and enhancing the economic health and unique appeal of the High Street's distinctive business offerings and attracting others is vital to the ongoing

preservation and enhancement of the City, as well as the needs of its residents and visitors.

C. Goal 3 of the adopted City Council Goals for 2021-2023 establishes a priority to “Place an Emphasis on Economic Development with a Focus on Historic High Street to Enhance a Destination and Sense of Community” and that this action is in support of that goal and the defined objectives related thereto.

D. The City Council finds that maintaining a strong and diverse retail base, is critical to the success of its economy, but that not every commercial area of the City needs to look, feel and provide the same commercial experience as the others. The City recognizes that this diversity can be enhanced by a healthy blend of unique and familiar businesses which provide diverse retail opportunities for visitors and residents alike and by having different commercial uses in different portions of the City. As stated in its Land Use Element, the City prioritizes the maintenance of its suburban rural community character. Further, the City is committed to the continued revitalization of its downtown area as outlined in Goal 9 of the General Plan Land Use Element.

E. The City Council further finds that there is a current and immediate threat to the public welfare presented by the establishment of formula-based retail businesses on High Street that threaten to degrade High Street’s unique economic balance and consumer experience. At present, a number of vacant storefronts exist along High Street that, under the City’s current regulations, may be occupied by formula-based retail businesses without discretionary review of the use by the City. The City seeks to avoid the proliferation of formula-based uses on High Street that result in an overwhelming sense of sameness and familiarity. Instead, the City desires to encourage land uses and business elements that promote variety and charm while still leaving opportunities open for all when viewed in the context of the entirety of Moorpark’s commercially zoned properties and areas.

F. Allowing formula-based retail businesses, without a thoughtful, careful and adequate local regulatory framework in place as to where these uses may and may not locate in Moorpark, will not adequately protect the public’s welfare. As such, if the City fails to enact this moratorium, formula-based retail establishments would be likely to locate on High Street and thus change the important character of this street, eliminate and degrade this special area of the City’s commercial base, and thereby pose an immediate threat to the public safety, health and welfare.

G. The City finds that the public welfare will be harmed without studying and evaluating the impacts associated with formula-based retail as it would impact other current and future businesses and uses on High Street. Moorpark desires to welcome a mix of business to the City overall while maintaining the unique small-town feel and independent commercial character of the older, downtown area along High Street. The

land uses and businesses on High Street are comprised of a conglomerate of styles, character, and images that are historically based. Maintaining these community characteristics on High Street creates a distinct consumer experience. While 2.5 percent or approximately 189 acres of Moorpark's total land area is zoned for commercial use, historic High Street is the only portion of the City where the City desires to limit retail offerings to those that are distinctly local.

H. Moreover, precluding formula-based retail businesses from operating on High Street will not preclude these businesses from locating and operating in Moorpark. Moorpark has many other commercial centers and properties, particularly along and near Los Angeles Avenue, in the heart of the City, that provide multiple options for the establishment of formula-based retail businesses. Thus, even with this moratorium, formula-based businesses will be able to locate and operate in many other commercial areas of the City.

I. For the foregoing reasons, and based on all evidence made available to the City Council, on September 1, 2021, the City Council adopted Interim Urgency Ordinance No. 492 to establish an initial 45-day moratorium on formula-based retail business uses on High Street.

J. Since the passage of Interim Urgency Ordinance No. 492, City staff undertook measures to alleviate the conditions described above that led the City Council to adopt Interim Urgency Ordinance No. 492. These measures include researching and developing permanent amendments to the Moorpark Zoning Code to codify appropriate limitations on formula-based retail uses, and evaluating whether the Interim Ordinance's ban on formula-based retail business uses on High Street is needed to protect the rural character of High Street. These measures are more fully explained in the report approved for issuance by the City Council on September 15, 2021, pursuant to Government Code Section 65858(d). This report is attached to the October 6, 2021 staff report accompanying this Interim Urgency Ordinance and made a part of the record thereto.

K. The City is still undertaking its review of the measures needed to alleviate the conditions that led to the adoption of Interim Urgency Ordinance No. 492. In particular, additional time is needed to evaluate the current uses that fall within the ban, and to research whether additional exemptions or regulations may be appropriate. Accordingly, the City Council is adopting this ordinance to extend the moratorium by an additional 10 months and 15 days, unless terminated sooner by the City Council. Pursuant to Government Code Section 65858(a), the City Council held a duly noticed public hearing prior to adopting this Interim Ordinance.

L. The City Council finds that this Interim Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15061(c)(3) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the

environment), 15060(c)(3) and 15378 (the activity is not a project under CEQA) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. This is because the moratorium adopted by this Interim Ordinance merely extends existing prohibitions on uses that have significant impacts on public health, safety and welfare, and does not permit any development that could result in a significant change to the environment. Furthermore, the moratorium established by this Interim Ordinance is temporary pending the study and investigation of regulatory tools to address the impacts created by formula-based retail. In addition, the Interim Ordinance is categorically exempt from CEQA pursuant to Section 15308 of the CEQA Guidelines, because this Ordinance is a regulatory action taken by the City in accordance with California Government Code Section 65858 to assure maintenance and protection of the environment pending further review of the potential impacts of formula-based retail in the City and completion of contemplated Zoning Ordinance revisions.

SECTION 2. Definitions

A. “Array of merchandise or menu” means 50 percent or more of in-stock merchandise or menu items.

B. “Color scheme” means the selection of colors used throughout, such as on the furnishings, wall coverings, or as used on the facade. Standardized lighting is considered part of the color scheme.

C. “Décor” means the style of interior finishes such as the style of furniture, wall coverings, or permanent fixtures.

D. “Façade” means the face of the front of a building or tenant space oriented onto a street or public open space. Awnings are considered part of the facade.

E. “Formula-based retail business” means any type of retail sales activity and/or retail service activity conducted within a retail establishment which, along with five or more existing operational retail establishments in the world, maintains two or more of the following features: 1) standardized array of merchandise or menu; 2) standardized color scheme; 3) standardized décor; 4) standardized façade; 5) standardized layout; 6) standardized signage, servicemark, or trademark; or 7) uniform apparel.

F. “Layout” means the interior arrangement of furniture, service area, or permanent fixtures.

G. “Servicemark” means a word, phrase, symbol, or design, or a combination of words, phrases, symbols, or designs that identifies and distinguishes the source of a service from one party from those of others.

H. “Trademark” means a word, phrase, symbol, or design, or a combination of words, phrases, symbols, or designs that identifies and distinguishes the source of the goods from one party from those of others.

I. “Uniform apparel” means standardized items of clothing such as aprons, pants, shirts, dresses, hats and pins (other than name tags), as well as standardized colors of clothing.

J. “Retail establishment” means a commercial establishment that provides goods and/or services directly or indirectly to the consumer such as general retail, eating and drinking places, beauty, personal services, professional office, amusement, health, fitness and galleries.

K. “High Street Properties” means lots or parcels of land that have a front or side yard abutting High Street in the City of Moorpark, from the westerly terminus of High Street west of Moorpark Avenue to 500 feet east of the intersection of Princeton Avenue and Spring Road, as depicted in **Exhibit A** to this Ordinance.

SECTION 3. Moratorium Extended

The City of Moorpark hereby extends the current moratorium on formula-based retail businesses on High Street Properties from October 16, 2021 to August 31, 2022. Formula-based retail businesses shall constitute a prohibited use on High Street Properties under Title 17 of the Moorpark Municipal Code and no building permit, business regulatory permit, zoning clearance, or other entitlement may be issued for the purposes of authorizing such use.

SECTION 4. Penalty

A violation of any provision of this Interim Ordinance shall constitute a violation of the Municipal Code and is subject to all applicable penalties, fines, and remedies described in Chapter 1.10 of the Moorpark Municipal Code. Each and every day a violation of this Interim Ordinance exists shall constitute a separate and distinct violation of the Municipal Code.

SECTION 5. Term of Moratorium

This Interim Ordinance shall expire, and the moratorium established hereby shall terminate on August 31, 2022, which is 10 months and 15 days from the expiration of Interim Urgency Ordinance No. 492. Alternatively, the City Council may terminate the Interim Ordinance prior to its expiration date of August 31, 2022 upon the adoption of a permanent ordinance that regulates formula-based retail businesses.

SECTION 6. Investigation and Report During Term of Moratorium

During the term of this Interim Ordinance, the Community Development Director is directed to continue studying appropriate regulatory tools to mitigate the conditions outlined in Section 1 that arise out of the establishment of formula-based retail businesses on High Street Properties, including but not limited to the prohibition of all such uses. The Community Development Director is further directed to report back to the City Council with his or her findings and a proposed ordinance to implement the recommended course of action.

SECTION 7. Effective Date; Findings of Urgency; and Duration

A. This Interim Ordinance is adopted as an urgency ordinance pursuant to the provisions of Government Code Sections 65858, 36934 and 36937, and shall take effect immediately upon its adoption. Based upon the findings set forth in Section 1 above, the City Council finds and determines that the adoption of this Interim Ordinance is an urgency ordinance authorized by Government Code Section 65858, and is necessary for the immediate preservation of the public health, safety, and welfare.

B. Pursuant to Government Code Section 65858(a), this Interim Ordinance shall be adopted by not less than a four-fifths vote of the City Council and shall be in effect for 10 months and 15 days from October 16, 2021, through and including August 31, 2022.

SECTION 8. Severability

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance and shall not affect other provisions of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable. The City Council hereby declares it would have adopted this Ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 9. Publication

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 written record of the passage and adoption thereof in the minutes 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 6th day of October, 2021.

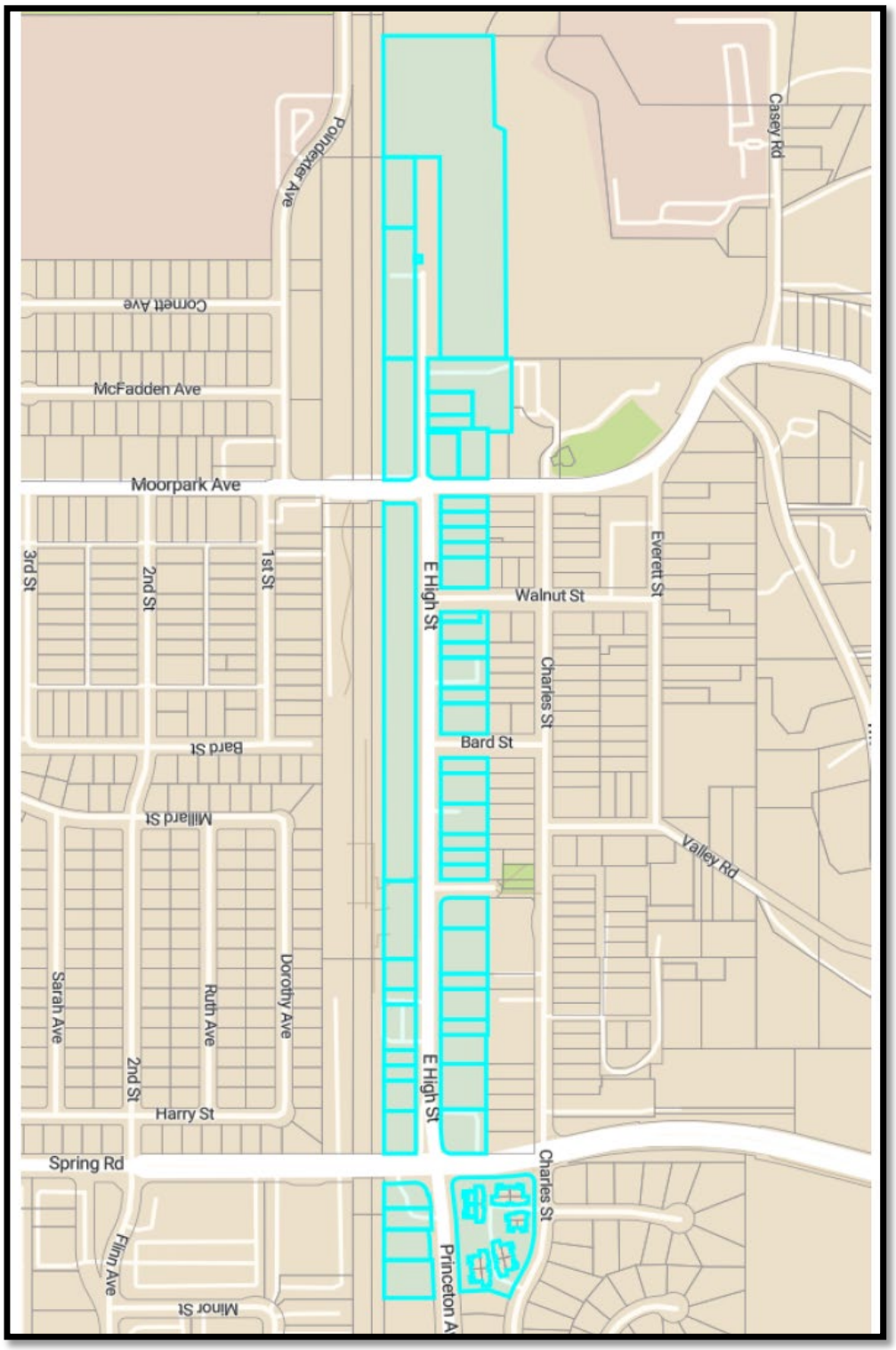
Janice S. Parvin, Mayor

ATTEST:

Ky Spangler, City Clerk

Attachment: Exhibit A - High Street Properties

EXHIBIT A – HIGH STREET PROPERTIES



REPORT ON THE MEASURES TAKEN TO ALLEVIATE THE CONDITIONS WHICH LED THE CITY OF MOORPARK TO ENACT INTERIM URGENCY ORDINANCE NO. 492 ON SEPTEMBER 1, 2021 TO IMPOSE A MORATORIUM ON NEW FORMULA-BASED RETAIL BUSINESSES ON HIGH STREET

ISSUED BY THE CITY COUNCIL OF THE CITY OF MOORPARK ON SEPTEMBER 15, 2021 PURSUANT TO GOVERNMENT CODE SECTIONS 65858(d), 36934, AND 36937

Background:

On September 1, 2021, pursuant to Government Code Sections 65858, 36934, and 36937, the Moorpark City Council enacted Interim Urgency Ordinance No. 492 to impose a moratorium on new formula-based retail businesses (also known as chain stores) on High Street. Absent any additional action, the Interim Urgency Ordinance will expire after 45 days (October 16, 2021). However, staff anticipates additional time will be necessary to thoroughly research and evaluate a permanent, non-urgency ordinance establishing permanent zoning and other regulations on formula retail business uses along High Street, including time to hold noticed public hearings of any proposed permanent regulations before the Planning Commission and City Council. City staff has therefore scheduled and will notice a City Council public hearing for October 6, 2021, to extend the Interim Urgency Ordinance from October 16, 2021 for an additional 10 months and 15 days, through and including August 31, 2022.

***Reasons for 45-Day Interim Ordinance and Its Extension*:**

The 45-Day Interim Ordinance was prepared by staff after the City Council's July 7, 2021 direction to address an increased interest in new development along High Street, where the City wishes to create and preserve a supportive environment for independent small businesses and protect the unique rural character of downtown. Notably, there were no restrictions to restrict the establishment of formula-based uses in downtown (or any other part of the City). As discussed in the September 1, 2021 staff report, there have been several significant developments and new uses proposed downtown since 2018, including the following projects:

- HIGH STREET DEPOT (266 High Street) – A proposed mixed use development including 79 residential units, approximately 15,000 square feet of ground-floor commercial uses, as well as a central community green space. This project was approved by the City Council in October 2020.

- 313 HIGH STREET – A request to construct an outdoor bar and food venue with on-site consumption of alcoholic beverages, three food and beverage service stations, and a 1,205 square-foot, two-story office building. The existing businesses (Boba Cuz, Luna Llena, and Famous Taco Bar Catering) would remain on-site. Conditional Use Permit No. 2021-05 associated with this project is currently being refined by the applicant.

- M ON HIGH (225 High Street) – A request to operate a restaurant with outdoor dining, entertainment, and the on-site service of alcohol. Conditional Use Permit No. 2019-05 associated with this project was approved by the Planning Commission in October 2019.

- 11 HIGH STREET – A proposed 1,584 square-foot restaurant with on-site service of beer and wine within an existing 4,194 square-foot building located at the northeast corner of High Street and Moorpark Avenue. Conditional Use Permit No. 2019-06 associated with this project was approved by the Planning Commission in February 2020.

- 233 HIGH STREET – A request to renovate the interior floor space to enhance the building and accommodate a potential food tenant. The request also includes the addition of a new entrance and outdoor seating area along the west of the building, along with a trash enclosure and associated site improvements. A building permit was approved for this project and construction is currently underway.

- HI-TECH AUTO AND TIRE CENTER (13816 Princeton Avenue) – Demolition of an existing 2,300 square-foot auto sales building and redevelopment with a new, 6,186 square foot, auto repair shop and associated site improvements. Commercial Planned Development Permit No. 2020-01 and Conditional Use Permit No. 2020- 04 associated with this project were approved by the City Council on July 7, 2021.

- LUCKY FOOLS EXPANSION (79 and 95 High Street) – A proposed interior 1,750 square-foot expansion of Lucky Fools into the adjacent tenant space immediately to the east in order to provide a venue for special events. Building permits are currently under review and a permit adjustment (planning permit) will be required.

- FARMERS MARKET (City Hall Parking Lot – 799 Moorpark Avenue) – In April 2021, staff approved Temporary Use Permit No. 2021-05 to allow the operation of a farmers market every Sunday between 9:00 a.m. and 2:00 p.m. in the parking lot at City Hall.

- METROLINK PARKING LOT IMPROVEMENTS – City-funded improvements to the north and south Metrolink parking lots including adding an additional driveway entrance into the south lot, rebuilding/expanding the north parking lot. The north lot improvements along High Street will also include enhanced signage, bus shelter, lighting, and special design features that are consistent with those proposed for the adjacent High Street Depot development project.

This interest creates a greater potential for downtown to attract chain stores and other formula-based establishments that may compromise the unique character and mix of uses downtown.

Based on these and other concerns expressed by the public and described in the staff report for the September 1, 2021 City Council meeting, the City Council adopted Interim Ordinance No. 492 to impose a moratorium on new formula-based retail businesses on High Street.

Measures Taken to Alleviate the Conditions Which Led to the Adoption of the Ordinance:

- City staff has begun researching permanent amendments to the Municipal Code to codify the moratorium's prohibitions on formula-based business uses in the limited area of High Street.

- City staff is also researching whether the Interim Ordinance's ban on formula retail business uses on High Street is needed to protect the rural character of High Street. Staff will be evaluating the current uses that fall within the ban, considering whether additional exemptions for establishing certain new formula uses may be appropriate, and coordinating with applicable City consultants to prepare propose new regulations.

- City staff will present any proposed regulations through regular City processes, including noticed public hearings before both the Planning Commission and City Council.

- Assuming the City Council elects to extend the Interim Urgency Ordinance, and thereafter, amendments to the Moorpark Municipal Code were to be approved by the City Council, staff would at that time recommend rescinding the Interim Urgency Ordinance upon the effective date of the new regulations prior to August 31, 2022.

MOORPARK CITY COUNCIL
AGENDA REPORT

TO: **Honorable City Council**

FROM: **Doug Spondello, AICP, Interim Community Development Director**
Kevin G. Ennis, City Attorney

DATE: **09/01/2021 Regular Meeting**

SUBJECT: **Consider Adoption on an Urgency Ordinance Establishing a Moratorium on New Formula Based Retail Businesses on High Street, Declaring the Urgency Thereof, and the Immediate Effectiveness of this Ordinance, Pursuant to Government Code Sections 65858, 36934, and 36937, and Making a Determination of Exemption Under the California Environmental Quality Act in Association Therewith**

INTRODUCTION

Staff has prepared a draft urgency ordinance (Attachment 1) to impose a moratorium on new formula based retail businesses (also known as chain stores) on High Street. The proposed urgency ordinance would prohibit issuance of zoning permits, building permits, land use entitlements and business registration permits for any business meeting the defined criteria for formula based retail within a defined area along High Street area for an initial 45-day period. If this urgency ordinance is adopted, City staff will take other necessary actions required by state law to permit the City Council to extend that moratorium for another 10 months and 15 days at its October 6, 2021, City Council meeting and to begin the preparation of permanent regulations during the moratorium. Furthermore, a 10-day report that briefly explains the measures taken to alleviate the concerns caused by formula based retail businesses on High Street will be considered at the September 15, 2021, City Council meeting. This report must be adopted by the City Council 10 days prior to any extension of the urgency ordinance.

BACKGROUND AND DISCUSSION

On July 7, 2021, the City Council directed staff to prepare an urgency ordinance prohibiting the establishment of formula based retail businesses (also known as chain stores) along High Street. In reaching this decision, the Council acknowledged an increased interest in new development along High Street and a desire to maintain the unique rural character of downtown. Formula based retail restrictions are designed to

create and preserve a supportive environment for independent small businesses and protect community character. Similar ordinances have been adopted by a number of communities, including the cities of Malibu, Ojai, and San Francisco.

There are currently no regulations that restrict the establishment of formula based uses downtown, or anywhere else within Moorpark. Since 2018, there have been several significant developments and new uses proposed downtown. This interest creates a greater potential for downtown to attract chain stores and other formula based establishments that may compromise the unique character and mix of uses downtown. These recent projects are summarized below and demonstrate a growing momentum for new investment, redevelopment, and revitalization downtown.

- **HIGH STREET DEPOT** (266 High Street) – A proposed mixed use development including 79 residential units, approximately 15,000 square feet of ground-floor commercial uses, as well as a central community green space. This project was approved by the City Council in October 2020.

- **313 HIGH STREET** – A request to construct an outdoor bar and food venue with on-site consumption of alcoholic beverages, three food and beverage service stations, and a 1,205 square-foot, two-story office building. The existing businesses (Boba Cuz, Lluna Lena, and Famous Taco Bar Catering) would remain on-site. Conditional Use Permit No. 2021-05 associated with this project is currently being refined by the applicant.

- **M ON HIGH** (225 High Street) – A request to operate a restaurant with outdoor dining, entertainment, and the on-site service of alcohol. Conditional Use Permit No. 2019-05 associated with this project was approved by the Planning Commission in October 2019.

- **11 HIGH STREET** – A proposed 1,584 square-foot restaurant the with on-site service of beer and wine within an existing 4,194 square-foot building located at the northeast corner of High Street and Moorpark Avenue. Conditional Use Permit No. 2019-06 associated with this project was approved by the Planning Commission in February 2020.

- **233 HIGH STREET** – A request to renovate the interior floor space to enhance the building and accommodate a potential food tenant. The request also includes the addition of a new entrance and outdoor seating area along the west of the building, along with a trash enclosure and associated site improvements. A building permit was approved for this project and construction is currently underway.

- **HI-TECH AUTO AND TIRE CENTER** (13816 Princeton Avenue) – Demolition of an existing 2,300 square-foot auto sales building and redevelopment with a new, 6,186 square foot, auto repair shop and associated site improvements. Commercial Planned Development Permit NO. 2020-01 and Conditional Use Permit No. 2020-04 associated with this project were approved by the City Council on July 7, 20201.

- **LUCKY FOOLS EXPANSION** (79 and 95 High Street) – A proposed interior 1,750 square-foot expansion of Lucky Fools into the adjacent tenant space immediately to the east in order to provide a venue for special events. Building permits are currently under review and a permit adjustment (planning permit) will be required.

- **FARMERS MARKET** (City Hall Parking Lot – 799 Moorpark Avenue) – In April 2021, staff approved Temporary Use Permit No. 2021-05 to allow the operation of a farmers market every Sunday between 9:00 a.m. and 2:00 p.m. in the parking lot at City Hall.

- **METROLINK PARKING LOT IMPROVEMENTS** – City-funded improvements to the north and south Metrolink parking lots including adding an additional driveway entrance into the south lot, rebuilding/expanding the north parking lot. The north lot improvements along High Street will also include enhanced signage, bus shelter, lighting, and special design features that are consistent with those proposed for the adjacent High Street Depot development project.

In addition to these new projects, High Street continues to draw visitors and filming productions due to downtown's unique charm and character. This most-recently included a major feature film that hosted director Steven Spielberg and a production team of over 120 people.

FORMULA RETAIL MORATORIUM

The proposed interim ordinance defines formula based retail business as those businesses that operate five or more existing establishments in the world and which also maintain two or more of the following features: 1) standardized array of merchandise or menu; 2) standardized color scheme; 3) standardized décor; 4) standardized façade; 5) standardized layout; 6) standardized signage, servicemark, or trademark; or 7) uniform apparel.

New businesses meeting these criteria would be prohibited from operating along High Street and 500 feet east of the intersection of High Street/Princeton Avenue and Spring Road. Staff has selected this area given its unique character and history. The ordinance only restricts formula based retail businesses within this defined area. No restrictions on these types of businesses are currently proposed or planned elsewhere within the City. Formula based retail businesses would therefore not be precluded from operating in other areas of the City if this ordinance is adopted. Existing businesses meeting the criteria described above (such as the 76 Station at 13800 Princeton Avenue) would not be affected by the interim ordinance.

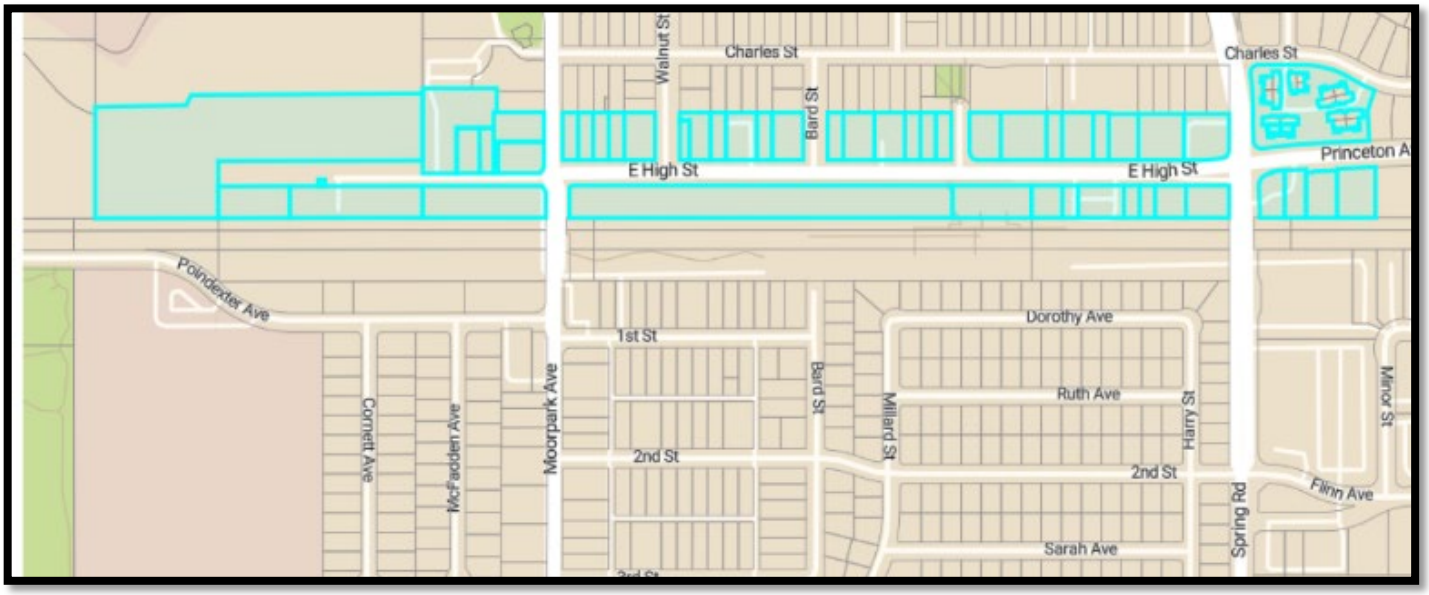


Figure 1: Properties subject to the Formula Retail Moratorium are highlighted in blue

INTERIM ORDINANCE PROCEDURES

California law authorizes municipalities to adopt "interim" ordinances that place an immediate moratorium on the establishment of specified new activities and uses in the City. California Government Code Section 65858 provides for the procedures and requirements for the adoption of an "interim" ordinance.

Section 65858 provides that, without following normal zoning code ordinance adoption procedures, a city council may, in order to protect the public health, safety, and welfare of the community, adopt as an urgency measure an "interim ordinance" prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City Council, Planning Commission or Planning Department is considering or studying for adoption within a reasonable time.

Section 65858 provides that a city council cannot adopt an interim ordinance unless the ordinance contains legislative findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional entitlements for a specific use or uses would result in a threat to the public health, safety, or welfare.

Adoption of the interim ordinance requires a 4/5ths vote of the City Council. If one member of the City Council is absent from the City Council meeting, a unanimous vote in favor of adoption of the Ordinance by the remaining four members is required to adopt the Ordinance. A motion to waive full reading and adopt the proposed Urgency Ordinance as read by title will require a roll call vote. If that motion passes, the Urgency Ordinance will go into effect immediately and would remain in effect for a period of forty-five (45) days, pursuant to Government Code section 65858(a), unless further extended by the City Council.

If the Urgency Ordinance is adopted, it will remain in effect for an initial 45-day period (until October 16, 2021). Prior to that expiration, the City Council may extend the interim ordinance by an additional 10 months and 15 days by the adoption of an additional urgency ordinance. Any extension shall also require a four-fifths vote for adoption. This means that if the City Council wants the interim ordinance to extend past October 16, 2021, the City Council will need to extend the Ordinance at its October 6, 2021, City Council meeting. In order to allow for that potential extension, City staff is required to prepare a written report pursuant to Government Code Section 65858(d) which describes the measure taken by the City to alleviate the condition that led to the adoption of the ordinance. This written report is required to be issued by the City Council at least 10 days prior to extension of the interim ordinance. As a result, the City Council would need to act to approve and issue that written report at the regular City Council meeting on September 15, 2021.

Aside from the written report, City staff will also provide 10-day advance notice of a public hearing on October 6, 2021, at which meeting the City Council will consider an ordinance to extend the interim ordinance by 10 months and 15 days.

Finally, if the City has not been able to enact permanent zoning and other limitations during that extension period, the law allows for one additional one-year extension, for a total cumulative duration of the interim restrictions of two years.

Concurrently with the interim ordinance process, City staff will begin the process of preparing permanent zoning and other regulations and then process those through the normal zoning ordinance adoption process. That process will include a noticed public hearing before the Planning Commission, the Planning Commission's adoption of a resolution making recommendations on the proposed text of a permanent ordinance to the City Council, a noticed public hearing before the City Council and the regular two reading processing for adoption of a non-urgency ordinance by the City Council. Given the current projects underway within the Community Development Department, including preparation of a hemp ordinance, saff anticipates that the research and preparation of a permanent formula retail ordinance could be completed within eight months.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

This interim ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15061(c)(3) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15060(c)(3) and 15378 (the activity is not a "project" under CEQA) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because this action has no potential for resulting in physical change to the environment, directly or indirectly. This is because the moratorium adopted by this interim ordinance merely prohibits uses that may have impacts on public welfare and does not permit any development that could result in a significant change to the environment. Furthermore, the moratorium established by this interim ordinance is temporary pending the study and investigation of regulatory tools to address the impacts created by formula based retail. In addition, the interim ordinance

is categorically exempt from CEQA pursuant to Section 15308 of the CEQA Guidelines, because this ordinance is a regulatory action taken by the City in accordance with California Government Code Section 65858 to assure maintenance and protection of the environment pending further review of the potential impacts of formula based retail in the City and completion of contemplated Zoning Ordinance revisions.

FISCAL IMPACT

There is no fiscal impact associated with this action.

COUNCIL GOAL COMPLIANCE

This action is consistent with City Council Strategy 3 (Economic Development), Goal 3 (3.3): "Place an emphasis on economic development with a focus on historic High Street to enhance a destination and sense of community."

STAFF RECOMMENDATION **(ROLL CALL VOTE REQUIRED)**

1. Waive full reading and adopt Urgency Ordinance No. ___ as read by title only **(REQUIRES A ROLL CALL VOTE AND A 4/5THS VOTE OF THE CITY COUNCIL TO ADOPT)**; and

2. Direct City staff to prepare a written report of the steps taken to address the impacts of formula based retail uses on High Street and have that report presented at a Special City Council meeting on September 15, 2021; and

3. Provide Notice of a Public Hearing for October 6, 2021, to consider the extension of Urgency Ordinance No. ___; and

4. Direct staff to begin the preparation of a non-urgency permanent Ordinance establishing zoning and other necessary restrictions on formula based retail businesses on High Street consistent with staff's recommendation and the result of staff's study and investigation of the issue. **(ROLL CALL VOTE REQUIRED)**

Attachment: Draft Urgency Ordinance No. ___

ORDINANCE NO. ___

AN INTERIM URGENCY ORDINANCE OF THE CITY OF MOORPARK, CALIFORNIA, ESTABLISHING A MORATORIUM ON NEW FORMULA BASED RETAIL BUSINESSES ON HIGH STREET, DECLARING THE URGENCY THEREOF AND THE IMMEDIATE EFFECTIVENESS OF THIS ORDINANCE PURSUANT TO GOVERNMENT CODE SECTIONS 65858, 36934 AND 36937, AND MAKING A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

THE CITY COUNCIL OF THE CITY OF MOORPARK DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings

A. The City Council desires to provide for the public safety, health and welfare of the residents and visitors to the City of Moorpark ("City") by exercising its police power authority under Section 7 of Article XI of the California Constitution. Based on the findings and evidence set forth below, the City Council finds that the establishment of formula based retail businesses along High Street in the City would be contrary to the character and history of the commercial and public uses on that street, would impair the goals and purpose of the Downtown Specific Plan as it pertains to High Street, and thereby alter and potentially threaten the long-term economic vitality of this street and neighborhood.

B. High Street has earned widespread recognition for its old town character that makes this portion of Moorpark unique. Some of the elements that already make the street unique include historic buildings, buildings that utilize architecture typical to Moorpark's early agricultural days, and other amenities. For example, High Street is lined with California Pepper trees that are classified as Ventura County Historic Landmark No. 72 and protected by the City. Streetlights and other features along High Street have an enhanced, traditional design. The City has plans to incorporate other design elements such as hardscape and street furniture that are compatible with the current style of the architecture and history of the street. Due to this unique architectural design and development, this portion of Moorpark has been recognized by the community as an important resource by which the City can maintain its small town character but also build on that history to create a one of a kind experience for Moorpark visitors and consumers. High Street has already drawn recognition in local and regional press descriptions and is frequently captured and used in films and other media productions because of this unique character. Preserving and enhancing the economic health and unique appeal of the High Street's distinctive business offerings and attracting others is vital to the ongoing preservation and enhancement of the City, as well as the needs of its residents and visitors.

C. Goal 3 of the adopted City Council Goals for 2021-2023 establishes a priority for an emphasis on economic development with a focus on High Street to enhance this unique location as a destination and sense of community and this action is in support of that goal and the defined objectives related thereto.

D. The City Council finds that maintaining a strong and diverse retail base, is critical to the success of its economy, but that not every commercial area of the City needs to look, feel and provide the same commercial experience as the others. The City recognizes that this diversity can be enhanced by a healthy blend of unique and familiar businesses which provide diverse retail opportunities for visitors and residents alike and by having different commercial uses in different portions of the City. As stated in its Land Use Element, the City prioritizes the maintenance of its suburban rural community character. Further, the City is committed to the continued revitalization of its downtown area as outlined in Goal 9 of the General Plan Land Use Element.

E. The City Council further finds that there is a current and immediate threat to the public welfare presented by the establishment of formula based retail businesses on High Street that threaten to degrade High Street's unique economic balance and consumer experience. At present, a number of vacant storefronts exist along High Street that, under the City's current regulations, may be occupied by formula based retail businesses without discretionary review of the use by the City. The City seeks to avoid the proliferation of formula based uses on High Street that result in an overwhelming sense of sameness and familiarity. Instead, the City desires to encourage land uses and business elements that promote variety and charm while still leaving opportunities open for all when viewed in the context of the entirety of Moorpark's commercially zoned properties and areas.

F. Allowing formula based retail businesses, without a thoughtful, careful and adequate local regulatory framework in place as to where these uses may and may not locate in Moorpark, will not adequately protect the public's welfare. As such, if the City fails to enact this moratorium, formula based retail establishments would be likely to locate on High Street and thus change the important character of this street, eliminate and degrade this special area of the City's commercial base, and thereby pose an immediate threat to the public safety, health and welfare.

G. The City finds that the public welfare will be harmed without studying and evaluating the impacts associated with formula based retail as it would impact other current and future businesses and uses on High Street. Moorpark desires to welcome a mix of businesses to the City overall while maintaining the unique small-town feel and independent commercial character of the older, downtown area along High Street. The land uses and businesses on High Street are comprised of a conglomerate of styles, character, and images that are historically based. Maintaining these community characteristics on High Street creates a distinct consumer experience. While 2.5 percent or approximately 189 acres of Moorpark's total land area is zoned for commercial use, historic High Street is the only portion of the City where the City desires to limit retail offerings to those that are distinctly local.

H. Moreover, precluding formula based retail businesses from operating on High Street will not preclude these businesses from locating and operating in Moorpark. Moorpark has many other commercial centers and properties, particularly along and near Los Angeles Avenue, in the heart of the City, that provide multiple options for the establishment of formula based retail businesses. Thus, even with this moratorium, formula based businesses will be able to locate and operate in many other commercial areas of the City.

I. The City Council finds that this Interim Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15061(c)(3) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15060(c)(3) and 15378 (the activity is not a project under CEQA) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. This is because the moratorium adopted by this Interim Ordinance merely prohibits uses that have significant impacts on public health, safety and welfare, and does not permit any development that could result in a significant change to the environment. Furthermore, the moratorium established by this Interim Ordinance is temporary pending the study and investigation of regulatory tools to address the impacts created by formula based retail. In addition, the Interim Ordinance is categorically exempt from CEQA pursuant to Section 15308 of the CEQA Guidelines, because this ordinance is a regulatory action taken by the City in accordance with California Government Code Section 65858 to assure maintenance and protection of the environment pending further review of the potential impacts of formula based retail in the City and completion of contemplated Zoning Ordinance revisions.

SECTION 2. Definitions

A. "Array of merchandise or menu" means 50 percent or more of in-stock merchandise or menu items.

B. "Color scheme" means the selection of colors used throughout, such as on the furnishings, wall coverings, or as used on the facade. Standardized lighting is considered part of the color scheme.

C. "Decor" means the style of interior finishes such as the style of furniture, wall coverings, or permanent fixtures.

D. "Facade" means the face of the front of a building or tenant space oriented onto a street or public open space. Awnings are considered part of the facade.

E. “Formula based retail business” means any type of retail sales activity and/or retail service activity conducted within a retail establishment which, along with five or more existing operational retail establishments in the world, maintains two or more of the following features: 1) standardized array of merchandise or menu; 2) standardized color scheme; 3) standardized décor; 4) standardized façade; 5) standardized layout; 6) standardized signage, servicemark, or trademark; or 7) uniform apparel.

F. "Layout" means the interior arrangement of furniture, service area, or permanent fixtures.

G. "Servicemark" means a word, phrase, symbol, or design, or a combination of words, phrases, symbols, or designs that identifies and distinguishes the source of a service from one party from those of others.

H. "Trademark" means a word, phrase, symbol, or design, or a combination of words, phrases, symbols, or designs that identifies and distinguishes the source of the goods from one party from those of others.

I. "Uniform apparel" means standardized items of clothing such as aprons, pants, shirts, dresses, hats and pins (other than name tags), as well as standardized colors of clothing.

J. "Retail establishment" means a commercial establishment that provides goods and/or services directly or indirectly to the consumer such as general retail, eating and drinking places, beauty, personal services, professional office, amusement, health, fitness and galleries.

K. “High Street Properties” means lots or parcels of land that have a front or side yard abutting High Street in the City of Moorpark, from the westerly terminus of High Street west of Moorpark Avenue to 500 feet east of the intersection of Princeton Avenue and Spring Road, as depicted in **Exhibit A** to this Ordinance.

SECTION 3. Moratorium Established; Exceptions

A. The City of Moorpark hereby establishes a moratorium on new formula based retail businesses on High Street Properties. Formula based retail businesses shall constitute a prohibited use on High Street Properties under Title 17 of the Moorpark Municipal Code and no building permit, business regulatory permit, zoning clearance, or other entitlement may be issued for the purposes of authorizing such use.

B. Notwithstanding subsection A, the moratorium shall not apply to any of the following:

1. Formula based retail businesses that are legally in operation on the date of adoption of this Ordinance, as demonstrated by an approved Business Registration Permit issued by the City of Moorpark.

2. Any formula based business for which all necessary discretionary approvals have been granted and for which all applicable entitlements have been issued before the close of business on the day this Ordinance takes effect.

SECTION 4. Penalty

A violation of any provision of this Interim Ordinance shall constitute a violation of the Municipal Code and is subject to all applicable penalties, fines, and remedies described in Chapter 1.10 of the Moorpark Municipal Code. Each and every day a

violation of this Interim Ordinance exists shall constitute a separate and distinct violation of the Municipal Code.

SECTION 5. Term of Moratorium

This Interim Ordinance shall expire, and the moratorium established hereby shall terminate on October 16, 2021, which is 45 days after the date of adoption, unless extended by the City Council at a noticed public hearing pursuant to California Government Code Section 65858. Alternatively, the City Council may terminate the Interim Ordinance prior to its expiration date of October 16, 2021, upon the adoption of a permanent ordinance that regulates formula based retail.

SECTION 6. Investigation and Report During Term of Moratorium

During the term of this Interim Ordinance, the Community Development Director is directed to continue studying appropriate regulatory tools to mitigate the conditions outlined in Section 1 that arise out of the establishment of formula based retail businesses on High Street Properties, including but not limited to the prohibition of all such uses. The Community Development Director is further directed to report back to the City Council with his or her findings and a proposed ordinance to implement the recommended course of action.

SECTION 7. Effective Date; Findings of Urgency; and Duration

A. This Interim Ordinance is adopted as an urgency ordinance pursuant to the provisions of Government Code Sections 65858, 36934 and 36937, and shall take effect immediately upon its adoption. Based upon the findings set forth in Section 1 above, the City Council finds and determines that the adoption of this Interim Ordinance is an urgency ordinance authorized by Government Code Section 65858, and is necessary for the immediate preservation of the public health, safety, and welfare.

B. After notice pursuant to Government Code Section 65090 and a public hearing, the City Council may extend the Interim Ordinance for either 10 months and 15 days (so as to have the moratorium remain in effect for a full one-year period) or up to 22 months and 15 days (for a full two-year period), if necessary. The Community Development Director and the City Clerk's Office shall undertake all actions legally necessary to extend this Interim Ordinance in the event the studies and reports desired by the City Council will not be concluded on or before the 45th day subsequent to the adoption of this Interim Ordinance.

SECTION 8. Severability

If any provision of this Interim Ordinance, the application thereof to any person or circumstance, or the moratorium on formula based retail, such invalidity shall not affect other provisions, moratoria, or applications of this Interim Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this Interim Ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 9. Publication

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 1st day of September, 2021.

_____
Janice S. Parvin, Mayor

ATTEST:

_____
Ky Spangler, City Clerk

EXHIBIT A – HIGH STREET PROPERTIES

