Agenda Report



Date:

March 13, 2012

To:

Jeffrey W. Collier, City Manager

From:

Richard D. Jones, City Attorney

By: Krista MacNevin Jee, Deputy City Attorney

Subject:

Whittier Main Oil Field Project CUP Resolution Correction

RECOMMENDATION

It is recommended the City Council direct the City Clerk to correct a typographical error contained in Resolution No. 8424, adopted on November 28, 2011, relating to approval of Conditional Use Permit No. CUP09-004 (Whittier Main Oil Field Project) and affirm that such correction was the original intent of the City Council as to the adoption of Resolution No. 8424.

BACKGROUND

On November 28, 2011, the City Council adopted Resolution No. 8424, approving Conditional Use Permit No. CUP09-004 relating to the Whittier Main Oil Field Project. This resolution contains a typographical error in that it unintentionally references an incorrect Municipal Code section.

DISCUSSION

In Section 7 of Resolution No. 8424, it states as follows:

A duly noticed public hearing was held on Conditional Use Permit No. CUP09-004 by the City Council on November 8th, 9th, 14th, 15th, 21st, 22nd, and 28th of 2011. Based upon the evidence presented, including staff and expert analysis, public testimony, and the suggested conditions of approval, the City Council determined that the findings required by Section 18.49.070 (A) of the Whittier Municipal Code for the granting of said Conditional Use Permit are as follows: . . .

The reference in the above-quoted portion of Resolution No. 8424 to Section 18.49.070(A) was in error. Section 18.49.070(A) relates to the required findings for smoking lounges. The reference should have been to Section 18.52.040(B), which applies to all conditional use permits within the City. Section 18.52.040(B) provides as follows with respect to required findings for conditional use permits generally within the City of Whittier:

B. The standards for the granting of a conditional use permit are as follows:

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- 1. That the site proposed for the use is adequate in size, shape and topography; and
- 2. That the site proposed for the use has sufficient access to streets which are adequate, in width and pavement type, to carry the quantity and quality of traffic generated by the proposed use; and
- 3. That the proposed use will not unreasonably interfere with the use, possession and enjoyment of surrounding and adjacent properties; and
- 4. That the proposed use will be compatible with the permitted uses of surrounding and adjacent properties; and
- 5. That the use will, as to location, operation and design, be consistent with the general plan, any applicable specific plan, and the Whittier zoning regulations.

Section 7 of Resolution No. 8424 makes detailed reference to the following findings, which are identical to those required by Section 18.52.040(B) (with the exception of the reference in finding number 5 to "any applicable specific plan"): 1) "That the site proposed for the use is adequate in size, shape and topography." 2) "That the site proposed for the use has sufficient access to streets, which are adequate, in width and pavement type, to carry the quantity and quality of traffic generated by the proposed use." 3) "That the proposed use will not unreasonably interfere with the use, possession, and enjoyment of surrounding and adjacent properties and will be compatible with the permitted uses of surrounding and adjacent properties." 4) "That the proposed use will be compatible with the permitted uses of surrounding and adjacent properties." 5) "That the use will, as to location, operation and design, be consistent with the General Plan and the Whittier Zoning Regulations."

The reference to Section 18.49.070(A) in Resolution No. 8424 does not relate at all to the subject matter of Resolution No. 8424 (namely the conditional use permit under consideration by the Council at that time for the drilling, exploration and production of oil and gas reserves) and the section cited was intended to be Section 18.52.040(B). The Council's intent in approving Resolution No. 8424 was to refer to Section 18.52.040(B). Therefore, it is recommended that the City Council at this time affirm such intent by minute motion and authorize the City Clerk to interlineate and correct the original, and any copies, of Resolution No. 8424 to reflect the accurate and typographically corrected Code reference in Resolution No. 8424 from 18.49.070(A) to 18.52.040(B).

The above change is not a substantive change to Resolution No. 8424, and is not intended as such. Instead, the City Council is affirming its original intent in adopting and approving Resolution No. 8424, which intent is not currently accurately reflected in the existing text of Resolution No. 8424 due to the typographical error present in Section 7. The action recommended to be taken by the City Council does not affect the original adoption of Resolution No. 8424, the substance, presence or nature of the findings contained in Section 7, and is not a substantive modification or in any way a re-adoption

of Resolution No. 8424. The correct recommended to be made by the Council at this time merely authorizes the City Clerk to make a typographical correction that is retroactive in effect to the date of adoption of Resolution No. 8424. The City Council's action would merely correct a mistaken Municipal Code reference that should not have been contained in Resolution No. 8424, and does not accurately reflect the intent of the Council at the time of the adoption of Resolution No. 8424.

FISCAL IMPACT

None.

Submitted by:

Richard D. Jones City Attorney

Prepared by:

By: Krista MacNevin Jee Deputy City Attorney

Attachment: A – Resolution No. 8424, Excerpt

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Section 6. Following consideration of the entire record of information received at the public hearing and due consideration of the proposed Project, the City Council adopted Resolution No.8423 certifying the Final Environmental Impact Report prepared for the Whittier Main Oil Field Development Project, adopting Findings pursuant to the California Environmental Quality Act, adopting a Statement of Overriding Considerations, and adopting a Mitigation Monitoring and Reporting Program.

Section 7. A duly noticed public hearing was held on Conditional Use Permit No. CUP09-004 by the City Council on November 8th, 9th, 14th, 15th, 21st, 22nd, and 28th of 2011. Based upon the evidence presented, including staff and expert analysis, public testimony, and the suggested conditions of approval, the City Council determined that the findings required by Section 18.49.070 (A) of the Whittier Municipal Code for the granting of said Conditional Use Permit are as follows:

1. FINDING: That the site proposed for the use is adequate in size, shape and topography.

FACT: The Project proposes to occupy approximately 7 acres of the 1,290-acre City owned Whittier Main Oil Field site. The Project has been designed to work within the topography of the approximately 7 acre site. To that end, the Project has been designed to achieve a grading plan that balances cut and fill and minimizes soil export, and to maximize use of the existing disturbed land resulting from prior oil drilling in the site area. In addition, recommended conditions of approval require City review and approval of detailed grading plans, erosion control and restoration of disturbed slopes. The Project site is adequate in size, shape and topography to accommodate the proposed oil and gas production and processing facilities.

2. FINDING: That the site proposed for the use has sufficient access to streets, which are adequate, in width and pavement type, to carry the quantity and quality of traffic generated by the proposed use.

FACT: The Project will add additional truck and vehicle trips to City streets. Primary Project travel routes include Catalina Avenue, Penn Street and the North Access Road. Conditions of approval for the Project require a Traffic Management Plan, off-site staging of construction vehicles and equipment, and car or van pooling to reduce impacts on City streets. The Project FEIR found that there

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