

**AGENDA
SPECIAL MEETING AND PUBLIC WORKSHOP
MODESTO PLANNING COMMISSION AND
MODESTO BOARD OF ZONING ADJUSTMENT
NOVEMBER 2, 2009
6:30 P.M.**

**ROOM B300 (BASEMENT LEVEL) – TENTH STREET PLACE
1010 TENTH STREET – MODESTO, CA**

- I. INTRODUCTIONS
- II. PROJECT BACKGROUND
- III. PRESENTATION OF DRAFT CODE AMENDMENT TO IMPLEMENT THE NEIGHBORHOOD COMPATIBILITY GUIDELINES
- IV. COMMISSION / BOARD DISCUSSION
- V. PUBLIC COMMENT AND DISCUSSION
- VI. NEXT STEPS
- VII. ADJOURN

**CITY OF MODESTO
PLANNING COMMISSION AND BOARD OF ZONING ADJUSTMENT
CODE AMENDMENT TO IMPLEMENT THE
NEIGHBORHOOD COMPATIBILITY GUIDELINES
WORKSHOP STAFF REPORT**

TO: Chairperson Berglund and Members of the Planning Commission
Chairperson Neumann and Members of the Board of Zoning Adjustment

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DATE: October 19, 2009

SUBJECT: Workshop to Consider Proposed Draft Code Amendment to Implement
the Neighborhood Compatibility Guidelines

RECOMMENDATION

This is a workshop meant to provide opportunity for the Planning Commission, Board of Zoning Adjustment, and interested members of the public to provide feedback and comments regarding the proposed draft Zoning Ordinance Code Amendment to implement the Neighborhood Compatibility Guidelines. No formal action is needed at this time.

BACKGROUND

For many years, the City's Zoning Code has required second-story additions to existing homes and new two-story homes located in established neighborhoods to go through an administrative review in order to ensure that privacy and massing issues relating to immediately adjacent residences are addressed. In recent years, there have been increasing concerns expressed by neighbors about the scale and architectural compatibility of some of these homes and additions, and this has resulted in an increasing number of appeals of staff approvals to the Board of Zoning Adjustment and City Council. In 2007, a group of residents requested that the City prepare guidelines to address these concerns.

The Neighborhood Compatibility Guidelines was prepared to address the compatibility of new homes and additions with the surrounding homes in existing neighborhoods. This effort focused primarily on providing more effective guidance for second story review, and secondarily upon lot pattern and neighborhood layout issues.

After several workshops with the Planning Commission and Board of Zoning Adjustment, the Neighborhood Compatibility Guidelines was reviewed by the Planning Commission on April 6, 2009, and approved by the City Council on April 28, 2009. In addition to approving the Guidelines, the City Council directed staff to prepare the appropriate Code amendments to implement the Guidelines.

PROJECT DESCRIPTION

The proposed major changes to the Zoning Code include the following:

1. Clarify and update existing second-story review provisions to reflect the new role of these Guidelines in the review process.
2. Modify the provisions in the residential zoning districts to indicate the required compliance to the Guidelines where applicable in review process.
3. Modify setback requirements for side and rear yards to provide a greater setback for second story portion of residential buildings to address scale and massing issues and to establish appropriate setbacks.
4. Authorize larger lot size in the Low Density Residential District where necessary to maintain "compatibility" with existing lots in the neighborhood in accordance with the Guidelines.
5. Require public notification for the review of second story projects.

The City Council requested staff to provide options for the notification requirements for the review of second story projects. Staff proposes four options for notification: no notification, notification of adjacent properties, notification within 100 feet of the subject property, or notification within 300 feet of the subject property. The current practice is notification of adjacent properties. Staff recommends notification within 100 feet of the subject property.

Attachment: Proposed Code Amendments

TITLE 10 — PLANNING AND ZONING

Article 5. Low Density Residential Zone (R-1)

10-2501 Purpose and Intent,

The purposes and intent of the R-1 zone are to:

- (a) Implement General Plan policy by permitting low density residential areas throughout the urban area
- (b) Preserve a high degree of compatibility between adjacent R-1 uses and between R-1 and other types of development.
- (c) Protect property from unreasonable obstruction of light, sun and air.

10-2.502 Permitted Uses.

The following are permitted uses:

- (a) One (1) single-family dwelling per lot.
- (b) Two (2) single-family dwellings or a duplex on any corner lot, provided that the driveway serving the off-street parking for one (1) dwelling unit shall have access to one (1) street and the driveway serving the off-street parking for the other dwelling unit shall have access to another street. If the lot has access to an alley, one (1) or both driveways may access to the alley.
- (c) Two (2) dwelling units are allowed on interior lots where the following conditions are met:
 - (1) The property owner shall live in one (1) of the units. Prior to final inspection of any such unit, owner shall record a notice of conditions specifying that owner shall occupy one (1) of the units at all times.
 - (2) One (1) of the units shall have no more than six hundred forty (640) square feet. Subject to execution and recordation of a covenant providing that one (1) of the units shall be affordable to persons/families of low income in accordance with Section 10-3.50 1, this limitation shall be increased to eight hundred (800) square feet. Subject to execution and recordation of a covenant providing that one (1) of the units shall be affordable to persons/families of very low income in accordance with Section 10-3.501, this limitation shall be increased to one thousand (1,000) square feet.
 - (3) Off-street parking spaces shall be provided, the number in conformance with Section 10-2.2002(a) (1). Where affordability covenants have been executed, one (1) space in tandem may be provided in conjunction with provision of low-income housing, and up to two (2) spaces in tandem in conjunction with very-low-income housing.
 - (4) If there is an existing unit prior to plan approval, the unit must be brought into conformance with the Housing Code prior to occupancy of the second unit.
 - (5) Maintaining a single-family dwelling appearance is required through means such as:
 - (i) Attaching the second unit to the first on small or typical sized lots. On large or deep lots, detached units are acceptable.
 - (ii) Putting the second unit entrance to the side or rear of the building so it is not readily visible from the same street as the first unit's entrance.
 - (iii) Locating parking so that all three (3) spaces are not readily visible from the same street. Alley access for both units is acceptable.
 - (iv) Employing construction materials and architectural styles which blend the units so they appear as a single residence if attached or a single residence and accessory building if detached.
 - (6) The City Council may designate, from time to time, by resolution, areas within which second units will not be permitted due to infrastructure constraints relating to water and sanitary sewer.

- (d) The provision of lodging and/or boarding to a maximum of three (3) persons by a proprietor who lives on the premises. Lodgers and boarders may use the proprietor's kitchen, but shall not be permitted separate eating, cooking or food storage facilities. Lodging or boarding is not permitted where there are two (2) dwellings on a lot.
- (e) The operation of a bed and breakfast home, provided that not more than two (2) bedrooms may be used for the lodging of guests and that the property owner shall reside on the premises.
- (f) Adult day care for three (3) or fewer persons in addition to members of the family if there is only one (1) dwelling unit on the lot.
- (g) A small family day care home as defined by California Health and Safety Code Section 1596.78(c) and provided by Section 1597.45. Only one (1) day care business is permitted per lot.
- (h) A residential care facility serving six (6) or fewer persons in addition to staff.
- (i) Parks owned and operated by a governmental agency.
- (j) The growing of fruit and nut trees, vines, row crops and horticultural stock.
- (k) Signs subject to the provisions of Article 21.
- (l) Accessory uses and structures customarily incidental to the above permitted uses. Use of shipping containers as defined is not permitted.
- (m) A large family day care home as defined by California Health and Safety Code Section 1596.78(b) and provided by Section 1597.46 subject to development plan review as provided in Article 30. Review of a large family day care home shall be limited to a determination that required parking has been provided and that the site plan will preclude undue noise impacts on neighboring properties and provide for appropriate pick-up and drop-off not impacting the traffic level of service or safety characteristics of the streets in the vicinity.

10-2.503 Plot Plan Uses. This section is Repealed

~~The following uses are permitted upon securing plot plan approval from the Board:~~

- ~~(a) A large family day care home as defined by California Health and Safety Code Section 1596.78(b) and provided by Section 1597.46. Review of a plot plan for a large family day care home shall be limited to a determination that required parking has been provided and that the site plan will preclude undue noise impacts on neighboring properties and provide for appropriate pick-up and drop-off not impacting the traffic level of service or safety characteristics of the streets in the vicinity.~~

10-2.504 Conditional Uses.

The following uses are permitted upon securing a conditional use permit from the Board:

- (a) Church.
- (b) Public buildings or grounds operated by any governmental agency which are not a permitted use.
- (c) Buildings, facilities or grounds operated by a utility company.
- (d) Private recreational grounds and facilities not open to the general public and to which no admission charge is made.
- (e) Storm drainage basins and related facilities.
- (f) Adult day care for three (3) or fewer persons in addition to members of the family where there are two (2) dwelling units on a lot.
- (g) Adult day care for four (4) or more persons in addition to members of the family if there is only one (1) dwelling unit on a lot.
- (h) Residential care facility for seven (7) or more persons.
- (i) Residential service facility.
- (j) Child day care for fifteen (15) or more children in addition to members of the family. Only one (1) conditional use permit for child day care is permitted per lot.
- (k) The provision of lodging and/or board to four (4) or more persons by a proprietor who lives on the premises. Lodgers and boarders may use the proprietor's kitchen, but shall not be permitted separate

eating, cooking or food storage facilities. Lodging or boarding shall not be permitted where there are two (2) dwellings on a lot.

- (1) A parking area for an immediately adjacent nonresidential use in a nonresidential zone.
- (m) Parochial and private schools.
- (n) Two (2) or more residential care facilities occupying a property in one (I) ownership, or any combination of twenty-four (24) hour care and day care.

10-2.505 Home Business.

- (a) Conducting a business in or from a dwelling is a permitted use of an accessory nature which is subject to the following conditions:
 - (1) The person conducting the business shall reside on the premises on a regular full-time basis and the business shall be clearly incidental and secondary to the residential use.
 - (2) The residential appearance of the premises shall not be altered through remodeling or new construction so as to give the appearance of other than normal residential premises or to call attention to the premises.
 - (3) The business shall be conducted entirely within buildings designed and built for normal residential use and there shall be no outside activity, storage or display.
 - (4) No parking or traffic shall be generated by the business in greater volumes than would normally be expected for a residence.
 - (5) No trucks or construction equipment shall be parked or stored on or near the premises.
 - (6) No more than one (1) business vehicle shall be parked or used in connection with the business on or near the premises. All business pickups and deliveries to and from the premises shall be only by the one (1) allowed business vehicle. "Business vehicle" means a car, pickup or small van used for home business purposes and driven by a person living on the premises.
 - (7) Employees shall not work at or be dispatched from the premises nor otherwise be on or about the premises for business purposes.
 - (8) There shall be no delivery of merchandise to customers at the premises other than that incidental to a service conducted on the premises.
 - (9) Sales or services conducted away from the premises may be advertised in any commercial telephone directory (yellow pages), newspaper, circular or other commercial media, including radio and television.
 - (10) Sales or services conducted on the premises shall not be listed in any commercial telephone directory (yellow pages) nor be advertised in any newspaper, circular or other commercial media, including radio and television.
 - (11) Signs shall not be used to identify the business, its products or services.
 - (12) The business shall not create a disturbance or nuisance by reason of noise, odor, fumes, dust, vibration, smoke, electrical interference or other causes.
 - (13) Notwithstanding the above limitations, any person who is severely impaired or handicapped as defined by state law may employ a maximum of two (2) people on the premises who do not reside there and may advertise in any commercial telephone directory (yellow pages), newspaper, circular or other commercial media, including radio and television.
- (b) All businesses conducted in and from a dwelling shall comply with the licensing requirements for businesses in the City.
- (c) Prior to receipt of a license to conduct a business in or from a dwelling, a permit shall be obtained from the Director.
- (d) It shall be unlawful and punishable as an infraction for any person to conduct a home business not in compliance with the provisions of this section.

10-2.506 Garage Sales.

Garage sales are permitted uses subject to these conditions:

- (a) No garage sale shall be conducted on the same premises for more than three (3) consecutive days.
- (b) Not more than two (2) garage sales may be conducted on the same premises in any calendar year.
- (c) Failure to comply with the provisions of this section shall be unlawful and punishable as an infraction.

10-2.507 Animals and Fowl.

- (a) The keeping of the following animals and fowl is a permitted use:
 - (1) A maximum of two (2) dogs, five (5) months or older, per dwelling unit.
 - (2) A maximum of three (3) cats, three (3) months or older, per dwelling unit.
 - (3) A maximum of twelve (12) other domestic fowl (hens only), rabbits, hares, or other domestic animals customarily considered to be household pets per dwelling unit.
 - (4) A maximum of two (2) pygmy goats, three (3) months or older, per dwelling unit.
 - (5) A maximum of two (2) miniature potbellied pigs, excluding boars, three (3) months or older, per dwelling unit.
- (b) The following animals and fowl are permitted upon securing a conditional use permit from the Board:
 - (1) A maximum of fifty (50) racing homer pigeons maintained in pens or lofts on a lot which contains at least one (1) dwelling unit.
 - (2) A maximum of two (2) exotic pets.
 - (3) Additional numbers of the animals and fowl permitted in (a) (3) above.
- (c) There shall be a minimum of forty (40) feet between the window or door of any building used for human habitation and pens, coops, cages or similar housings where animals and fowl., except household pets, are, kept.
 - (1) All animals, fowl, and birds, except household pets, that are not kept in habitable buildings shall be contained in pens, coops, or cages.
- (d) There shall be a minimum separation equal to the required side yard between any property line and any pens, coops, cages or similar housings for animals and fowl.
- (e) All animals and fowl shall be kept in conformance with all other laws, ordinances and regulations governing them, including licensing regulations.
- (f) Failure to comply with the provisions of this section shall be unlawful and punishable as an infraction.

10-2.508 New Two-Story Dwellings and Accessory Buildings, and Second-Story Additions

- (a) All new two-story dwellings and accessory buildings, and all second-story additions to an existing dwelling, balcony, or accessory building, including exterior alterations (such as a new window) to second-story portions of an existing dwelling or accessory building, shall be subject to development plan review by the Director pursuant to Article 30, for compliance with the Neighborhood Compatibility Guidelines as adopted and amended from time to time by City Council. A proposed project shall be subject to second-story development plan review if the proposed project has any of the following characteristics, as determined by the Director:
 - (1) The height above grade to top plate line is at any point equivalent to two-stories or sixteen (16) feet or more.
 - (2) Windows or balconies are provided at a height from which views of a neighboring rear yard and actively used side yard areas are readily visible.
- (b) Notwithstanding §10-2.508(a), the following conditions are exempt from second-story development plan review.
 - (1) The subject lot and adjacent residential lots were created by a final subdivision map recorded within the past ten years. This exemption does not apply to any addition or exterior alteration to an existing dwelling. The term “adjacent residential lot” in this subsection means each lot zoned or used residentially that share a common property line or is separated by an alley to the subject lot, including those which touch only at a corner.

(2) The proposed exterior alterations to existing second-story portions of a dwelling or accessory building will have no impact on the privacy and use of neighboring rear yard areas and building massing is consistent with the neighboring dwellings, as determined by the Director.

10-2.5089 Height.

- (a) No structure shall exceed two (2) stories or thirty (30) feet, whichever is the lesser height, ~~and no wall or fence shall exceed eight (8) feet~~, except when permitted by a conditional use permit for structures occupied by the following uses: church, building or facility operated by a governmental agency, building or facility operated by a utility company.
- (b) No wall or fence shall exceed eight (8) feet in height, except if required for noise mitigation.
- ~~(c) Any second-story portion of any dwelling or accessory building, including additions or alterations to the exterior portions of an existing dwelling or accessory building, shall be subject to plot plan approval by the Director or designee in accordance with Article 27, except as hereinafter specifically excepted. In conducting the plan review, the Director shall consider:
 - (1) The relationship of second-story windows, doors, exterior stairways, exterior balconies, sundecks, etc., with the privacy of the neighbors.
 - (2) The relationship of building mass with the neighbors' views and use and enjoyment of their yards.
 - (3) The relationship of building mass with the neighbors' accessories such as solar collectors and satellite antennas.~~
- ~~(c) A second-story development is not subject to second-story plan review if at least one (1) of the following two (2) conditions is met:
 - (1) The building permit is issued on the subject lot within ten (10) years of the recordation of the final subdivision map creating the subject lot, and providing that each adjacent residential lot meets at least one of the following criteria:
 - ~~(a) The adjacent residential lot was created by a final subdivision map recorded within the past ten (10) years.~~
 - ~~(b) The adjacent residential lot is greater than one (1) acre in size and contains no dwelling units within forty (40) feet of any lot line abutting the subject lot.~~
 - (2) All second-story portions of any dwelling unit on the subject lot meet the following setback provisions in relation to any adjacent residential lot:
 - ~~(a) Twelve (12) feet where no glazing other than fixed, translucent type is proposed.~~
 - ~~(b) Forty (40) feet where any clear glazing or decks/balconies are proposed. This forty-foot setback shall be measured from the outside edge of the deck or balcony to the respective property line.~~
 - (3) The term "adjacent residential lot" as used in this subsection (c) means each lot zoned or used residentially, even if separated by an alley, that abuts the side or rear lot line of the subject lot, including those which touch only at a corner.~~

10-2.50910 Front Yard.

- (a) Every building shall have a minimum front yard of fifteen (15) feet except for garages, carports and required parking spaces opening onto the front street which shall have a minimum front yard of twenty (20) feet.
- (b) On through lots, every walls or fences higher than forty-two (42) inches in height and buildings shall have a front yard as required above on both frontages. If vehicular access is denied and a minimum six (6) foot wall or fence is maintained across one frontage that backs up to an Arterial Street or Expressway, accessory structures no higher than the wall or fence are permitted in the yard area adjacent to that frontage.
- (c) Front yard areas shall be unobstructed unless otherwise provided except that walls and fences outside the clear vision triangle are permitted a maximum of forty-two (42) inches in height.

10-2.5101 Side Yards.

- (a) The minimum side yard for a dwelling shall be five (5) feet, except that a minimum ten (10) foot setback shall be required for two-story portions of a new dwelling or second-story additions to an existing dwelling where located adjacent to single-story portions of an adjacent existing dwelling, and subject to development plan review pursuant to §10-2.508(a). The required ten (10) foot setback may be reduced to a minimum of five (5) feet if it can be demonstrated that the additional setback is infeasible due to physical constraints and that the reduced setback is consistent with the Neighborhood Compatibility Guidelines as determined by the Director.

Use of a side yard by an adjacent property owner is not permissible, except as specified for that particular in a subdivision provided: named Walnut Tree Estates, located at Walnut Tree Drive and Merle Avenue, the final map for which was filed on May 20, 1981, in Volume 29 of Maps, Page 90, Stanislaus County Records, the special provisions for which were specified in Ordinance No.2286-C.S. approved on September 4, 1984.

- ~~(1) The side yard is included in a nonexclusive easement for landscaping by the adjacent property owner and subject to maintenance and repair rights of the property owner. Above or below ground structures shall not be constructed in the easement.~~
- ~~(2) Provisions for the nonexclusive easement are contained in the covenants, conditions, and restrictions for the subdivision with wording approved by the City Attorney.~~
- ~~(3) There are no doors or entryways in the building walls adjacent to the easement.~~
- ~~(4) The side yard may not be used for the parking or storage of vehicles, including but not limited to automobiles, trucks, trailers, motor homes, mobile homes, or other recreational vehicles.~~
- (b) The minimum interior side yard for a single-story accessory structure, garage, carport, or required parking space or accessory structure shall be five (5) feet, except that no side yard is required if the following conditions are satisfied:
- (1) The accessory structure shall not be used for human habitation.
- (2) The accessory structure shall be detached when located to the rear and at least five (5) feet from the any dwelling(s), in which case no side yard is required. This minimum five (5) foot area between a dwelling and accessory structure building or use shall be unobstructed from the ground upward.
- (3) The accessory structure shall be located at least ten (10) feet behind the front corner of that portion of the dwelling nearest to the proposed accessory structure (see diagram).
- (4) In no case shall any portion of a building or accessory structure overhang a property line.
- (c) The minimum side yard for all two-story portions of accessory buildings, whether used for human habitation or not, shall be five (5) feet. Side street side yards shall be unobstructed except that walls and fences outside the clear vision triangle are permitted a maximum of forty two (42) inches in height.
- (d) On corner lots, the side street side yard shall be a minimum of fifteen (15) feet for a dwelling or accessory building except for lots legally existing or on an approved tentative subdivision map prior to July 7, 1955, which shall have a minimum side street side yard of seven and one-half (7.5) feet and a minimum interior side yard of three (3) feet. Garages, carports and required parking spaces opening onto a side street shall have a minimum twenty (20) foot yard. Street side yards shall be unobstructed, except that walls and fences outside the clear vision triangle are permitted to a maximum of forty-two (42) inches in height.
- ~~(e) If a legally existing lot has less than the required lot width, the side yard shall be a minimum of ten (10) percent of the lot width, but in no case shall an interior side yard be less than three (3) feet and a side street side yard be less than seven and one half (7.5) feet.~~

10-2.5142 Rear Yard.

~~Rear yards are not required except as follows:~~ The minimum rear yard shall be ten (10) feet for any single-story portion of a building except that a minimum fifteen (15) foot rear yard shall be required for any two-story portion of a building. The minimum rear yard shall be fifteen (15) foot for any building that backs up to an Arterial Street or Expressway. The rear yard requirement for accessory buildings shall be in accordance to side yard requirements specified in §10-2.511 (b) and (c). The minimum rear yard shall be five (5) feet for any garage, carport, or parking space with access off an alley.

- ~~(a) A reversed corner lot shall have a minimum rear yard of five (5) feet.~~
- ~~(b) Any building used for human habitation shall have a minimum rear yard equal to the required side yard for a dwelling~~

10-2.5123 Street Frontage.

Every lot shall have frontage on a street.

10-2.5134 Area.

Every lot shall have a minimum area of five thousand (5,000) square feet for interior lots and five thousand five hundred (5,500) square feet for corner lots, except that a larger lot size may be required where necessary to maintain compatibility with the existing lots of an established neighborhood, in accordance with the Neighborhood Compatibility Guidelines.

10-2.5145 Lot Width.

- (a) Every interior lot shall have a minimum width of fifty (50) feet, ~~at the front yard setback line and except the width may be reduced to a minimum of forty (40) feet at the front lot line where the front lot line is curved (i.e. lots on cul-de-sacs, elbows, or curvilinear streets). See Diagram, except~~ The lot width may also be reduced as allowed in subsection (c) of this section.
- (b) Every corner lot shall have a minimum width of sixty (60) feet ~~at the front yard setback line and except the width may be reduced down to a minimum of fifty (50) feet at the front lot line for lots on non-perpendicular intersections or when the front lot line is curved. See Diagram, except as in subsection (c) of this section.~~
- (c) Flag lots with a minimum width of twenty (20) feet at both the front lot line and front yard setback line may be approved with ~~three~~ two (2) findings:
 - (1) Creation of the lot(s) will enable use of an existing parcel to permitted density.
 - (2) The existing parcel is of a size and shape that does not allow the creation of standard shaped lots, as determined in accordance with the Neighborhood Compatibility Guidelines.
 - ~~(3) A plot plan for development of the lot(s) has been approved by the Commission.~~
- (d) No building permit shall be issued for a lot approved under subsection (c) above without ~~an approved plot plan and~~ a recorded subdivision or parcel map.

10-2.5156 Lot Coverage.

All buildings and required parking spaces shall not cover more than fifty (50) percent of the area of an interior lot and fifty-five (55) percent of a corner lot.

Article 6. Medium Density Residential Zone (R-2)

10-2.601 Purpose and Intent.

The purposes of the R-2 zone are to:

- (a) Implement General Plan policy by encouraging the development of medium density residential areas throughout the urban area.

- (b) Implement the policies of the Housing Element of the General Plan by providing areas specifically for the purpose of medium density residential housing.
- (c) Establish a density zone where the number of units to be developed are related to the lot area,
- (d) Provide for and encourage the creation of multifamily developments with on-site management to enhance the long-term viability and sustainability of such projects.
- (e) Impose conditions on development to protect property from unreasonable obstruction of light, sun and air and to provide privacy between dwelling units.

10-2.602 Permitted Uses.

The following are permitted uses:

- (a) Any permitted use in the R-1 zone, including lodging, boarding or twenty-four (24) hour care where there are two (2) dwelling units on a lot.
- (b) Multiple-family dwellings, subject to ~~the provisions of Section 10-2.603~~ to the following:
 - (1) Any development consisting of one (1) to four (4) dwelling units is permitted.
 - (2) Any development consisting of five (5) or more dwelling units shall be subject to development plan review by the Commission Director and will be reviewed for compliance with the Multi-Family Residential Design Guidelines and the Neighborhood Compatibility Guidelines.
 - (3) Any development adjacent to property zoned R-1 that exceeds one (1) story shall be subject to development plan review by the Director in accordance with §10-2.508(a), except as specifically excepted therein.
- (c) Unattended containers placed for the donation of recyclable paper or beverage containers, not exceeding fifty (50) square feet per installation, in conjunction with and on the same site as a church, school, or governmental use shall be subject to development plan review.

10-2.603 Plot Plan Uses. This Section is Repealed

~~The following uses are permitted upon securing a plot plan approval:~~

- ~~(a) Any development of five (5) or more dwelling units shall be subject to plot plan approval by the Commission.~~
- ~~(b) Any development consisting of two (2) to four (4) or more residential buildings per lot, up to and including four (4) dwelling units shall be subject to plot plan approval by the Director.~~
- ~~(c) Any development of residential uses taking vehicular access to a collector or major street. An additional purpose of the plot plan review is to encourage the combining of driveways among parcels and designing parking spaces and driveways so that vehicles can enter the street in a forward manner.

 - ~~———— (1) ——— Plot plan approval by the Planning Commission shall occur at the time of consideration of approval of a tentative subdivision or parcel map.~~
 - ~~———— (2) ——— Plot plan approval by the Director shall occur for any development of up to four (4) dwelling units that are not subject to subdivision or parcel map approval.~~~~
- ~~(d) A two (2) story portion of a residential building located less than forty (40) feet from and adjacent to property zoned R-1 in the City or A-2, R-A or R-1 in the County shall be subject to plot plan approval by the Director for four (4) or fewer dwelling units and by the Commission for five (5) or more dwelling units in accordance with Section 10-2.606.~~
- ~~(e) Unattended containers placed for the donation of recyclable paper or beverage containers, not exceeding fifty (50) square feet per installation, in conjunction with and on the same site as a church, school, or governmental use shall be subject to plot plan approval by the Board.~~

10-2.604 Conditional Uses.

The following use is permitted upon securing a conditional use permit from the Board:
Any conditional use in the R-1 zone.

10-2.605 Lots with Existing Units. .

If a dwelling(s) is added to a lot with an existing dwelling(s), the existing dwelling(s) shall comply with the housing code prior to occupancy of the additional dwelling(s).

10-2.606 Height.

- (a) No structure shall exceed two (2) stories or thirty (30) feet, whichever is the lesser height, ~~and no wall or fence shall exceed eight (8) feet~~, except when permitted by a conditional use permit for structures occupied by the following uses: church, building or facility operated by a governmental agency, building or facility operated by a utility company.
- (b) No wall or fence shall exceed eight (8) feet, except if required for noise mitigation. ~~On property containing four (4) units or less, any second-story portion of any dwelling or accessory building, including additions or alterations to the exterior portions of an existing dwelling or accessory building, shall be subject to plot plan approval by the Director or designee in accordance with Article 27. All plot plan reviews by Director or Commission for structures which include a second-story component shall include the following considerations:~~
 - ~~(1) The relationship of second-story windows, doors, exterior stairways, exterior balconies, sundecks, etc. with the privacy of the neighbors.~~
 - ~~(2) The relationship of building mass with the neighbors' views and use and enjoyment of their yards.~~
 - ~~(3) The relationship of building mass with the neighbors' accessories such as solar collectors and satellite antennas.~~
- (c) All proposed uses or development involving structures which include a second-story component that are subject to development plan review shall be evaluated for compliance with the Multi-Family Residential Design Guidelines and the Neighborhood Compatibility Guidelines.

10-2.607 Front Yard.

Front yards are as required in the R-I zone.

10-2.608 Side and Rear Yards.

- (a) For any one (1) story building or portion of a building not adjacent to property zoned R-1, side and rear yards are as required in the R-1 zone the minimum side yard shall be five (5) feet and minimum rear yard shall be ten (10) feet. For any one (1) story building or portion of a building adjacent to property zoned R-1, the minimum side and rear yards shall be ten (10) feet.
- (b) ~~The minimum side or rear yard for~~ For any two (2) story portion of a residential building not adjacent to property zoned R-1 in the City or A-2, R-A or R-1 in the County shall be ten (10) feet., the minimum side yard shall be ten (10) feet and the minimum rear yard shall be fifteen (15) feet.
- (c) ~~The minimum side or rear yard for~~ For any two (2) story portion of a residential building adjacent to property zoned R-1 in the City or A-2, R-A or R-1 in the County, the minimum side and rear yards shall be fifteen (15) feet. This setback may be reduced to a minimum of ten (10) feet by plot plan approval by the Commission as long as compatibility with adjacent properties is maintained.

10-2.609 Area and Density.

- (a) Every lot created after October 25, 2007, shall have a minimum area of sixty-four thousand (64,000) square feet. Any lots less than sixty-four thousand (64,000) square feet existing prior to October 25, 2007, may be adjusted in shape or size as long as the adjusted lots comply with the previous minimum of six thousand (6,000) square feet for interior lots and six thousand five hundred (6,500) square feet for corner lots.
- (b) One (1) dwelling unit shall be permitted for each three thousand (3,000) square feet of lot area (maximum density fourteen and five-tenths (14.5) dwelling units per net acre).

- (c) A minimum of one (1) dwelling unit per four thousand (4,000) square feet (minimum density ten and nine-tenths (10.9) dwelling units per net acre) unless the applicant demonstrates and the Planning Commission makes the following findings:
 - (1) The proposed development is on an existing lot created prior to October 25, 2007 where the proposed lot cannot accommodate a development of the minimum density due to configuration of existing buildings or shape or size of the lot; or
 - (2) A lower density will not adversely affect the City's ability to accommodate and provide its remaining share of the regional housing needs assigned by StanCOG for very-low and low-income households based on the remaining acreage of Medium Density Residential (R-2) zoned land at the time of application, provided, that if an adverse impact as described could otherwise occur, that such impact will be mitigated by one of the following means:
 - (i) An equivalent parcel of land of the same or greater acreage is provided by the applicant and rezoned to the same or greater density simultaneously, or
 - (ii) The applicant agrees to construct and covenant for affordable units on the subject site or another site in a number sufficient to ensure no net loss of units based on the minimum density set forth herein.

10-2.610 Lot Width.

- (a) Every lot shall have a minimum width of sixty (60) feet ~~at the front yard setback line and~~ except the width may be reduced to a minimum of fifty (50) feet at the front lot line when the front lot line is curved (i.e. lots on cul-de-sacs, elbows, or curvilinear streets). ~~except~~ The lot width may also be reduced as allowed in subsections (b) and (e) below.
- ~~(b) If the shape of the parcel(s) to be created is other than generally rectangular or square, the width at the front yard setback line may be reduced to a minimum of fifty (50) feet and at the front lot line to a minimum of forty (40) feet.~~
- (e) Flag lots with a minimum width of twenty (20) feet at both the front lot line and front yard setback line may be approved with three-two (3 2) findings:
 - (1) Creation of the lot(s) will enable use of an existing parcel to permitted density.
 - (2) The existing parcel is of a size and shape that does not allow the creation of standard shaped lots, as determined in accordance with the Multi-Family Residential Design Guidelines and the Neighborhood Compatibility Guidelines.
 - ~~(3) A plot plan for development of the lot(s) has been approved by the Commission.~~
- ~~(d) No building permit shall be issued for a lot approved under subsection (e b) above without a an approved plot plan and recorded subdivision or parcel map.~~

10-2.611 Lot Coverage.

All buildings and required parking spaces shall not cover more than fifty-five (55) percent of an interior lot and sixty (60) percent of a comer lot.

10-2.612 Street Frontage.

Every lot shall have frontage on a street.

10-2.613 Design.

When considering any building permit or administrative approval, development plan review, or conditional use permit, the Director, Board of Zoning Adjustment or Planning Commission, as applicable, shall apply the policies and guidelines of the applicable adopted design guidelines to the proposed project.

Article 7. Medium High Density Residential Zone (R-3)

10-2.701 Purpose and Intent.

The purposes of the R-3 zone are to:

- (a) Implement General Plan policy by encouraging the development of medium high density residential areas throughout the urban area.
- (b) Implement the policies of the Housing Element of the General Plan by providing areas specifically for the purpose of medium high density multifamily residential housing.
- (c) Provide for and encourage the creation of multifamily developments with on-site management to enhance the long-term viability and sustainability of such projects.
- (d) Encourage a wide variety and density of housing in Modesto.
- (e) Impose conditions on development to protect property from unreasonable obstruction of light, sun and air and to provide privacy between dwelling units.

10-2.702 Permitted Uses.

The following are permitted uses:

- (a) Any permitted use in the R-2 zone, ~~subject to the provisions of Section 10-2.703.~~
- (b) Boarding house.
- (c) Lodging house

10-2.703 Plot Plan Uses. This Section is Repealed

~~The following uses are permitted upon securing plot plan approval:~~

- ~~(a) Any development of five (5) or more dwelling units shall be subject to plot plan approval by the Commission.~~
- ~~(b) Any development consisting of two (2) or more residential buildings per lot up to and including four (4) dwelling units shall be subject to plot plan approval by the Director.~~
- ~~(c) Any development of residential uses taking vehicular access to a collector or major street. An additional purpose of the plot plan review is to encourage the combining of driveways among parcels and designing parking spaces and driveways so that vehicles can enter the street in a forward manner.

 - ~~———— (1) Plot plan approval by the Planning Commission shall occur at the time of consideration of approval of a tentative subdivision or parcel map.~~
 - ~~———— (2) Plot plan approval by the Director shall occur for any development of up to four (4) dwelling units that are not subject to subdivision or parcel map approval.~~~~
- ~~(d) A two (2) story portion of a residential building located less than forty (40) feet from and adjacent to property zoned R-1 in the City or A-2, R-A or R-1 in the County shall be subject to plot plan approval by the Director for four (4) or fewer dwelling units and by the Commission for five (5) or more dwelling units in accordance with Section 10-2.706.~~
- ~~(e) Unattended containers placed for the donation of recyclable paper or beverage containers, not exceeding fifty (50) square feet per installation, in conjunction with and on the same site as a church, school, or governmental use shall be subject to plot plan approval by the Board.~~

10-2.704 Conditional Uses.

The following uses are permitted upon securing a conditional use permit from the Board:

- (a) Any conditional use in the R-2 zone.
- (b) A not-for-profit membership or charitable organization, provided the chief activity is not customarily carried on as a business.

10-2.705 Lots with Existing Units.

If a dwelling(s) is added to a lot with an existing dwelling(s), the existing dwelling(s) shall comply with the Housing Code prior to occupancy of the additional dwelling(s).

10-2.706 Height.

- (a) No structure shall exceed three (3) stories or forty-two (42) feet, whichever is the lesser height, ~~and no wall or fence shall exceed eight (8) feet~~, except when permitted by a conditional use permit for structures occupied by the following uses: church, building or facility operated by a governmental agency, building or facility operated by a utility company.
- (b) ~~No wall or fence shall exceed eight (8) feet, except if required for noise mitigation. All plot plan reviews by Director or Commission for structures which include a second or third-story component shall include the following considerations:~~
 - ~~(1) The relationship of second-story windows, doors, exterior stairways, exterior balconies, sundecks, etc. with the privacy of the neighbors.~~
 - ~~(2) The relationship of building mass with the neighbors' views and use and enjoyment of their yards.~~
 - ~~(3) The relationship of building mass with the neighbors' accessories such as solar collectors and satellite antennas.~~
- (c) All proposed uses or development involving structures which include a second or third-story component that are subject to development plan review shall be evaluated for compliance with the Multi-Family Residential Design Guidelines and the Neighborhood Compatibility Guidelines.

10-2.707 Front Yard.

Front yards are **as** required in the R-1 zone.

10-2.708 Side and Rear Yards.

- (a) For any one (1) or two (2) story building or portion of a building, side and rear yards shall be ~~five (5) feet as required in the R-2 zone.~~
- (b) ~~The minimum side or rear yard for any two (2) or~~ For any three (3) story portion of a residential building not adjacent to property zoned R-1 in the City or A-2, R-A or R-1 in the County the minimum side yard shall be ten (10) feet and the minimum rear yard shall be fifteen (15) feet.
- (c) ~~The minimum side or rear yard for any two (2) or~~ For any three (3) story portion of a residential building adjacent to property zoned R-1 in the City or A-2, R-A or R-1 in the County the minimum side and rear yards shall be ~~forty (40) twenty (20) feet. This setback for two (2) story portions of the building may be reduced to a minimum of ten (10) feet by plot plan approval by the Commission as long as the applicant demonstrates and the Commission concurs that compatibility with adjacent properties is maintained. In considering compatibility, the Commission shall be guided by the criteria set forth in Section 10-2.706.~~

10-2.709 Area and Density.

- (a) Every lot created after October 25, 2007, shall have a minimum area of three (3) acres (one hundred thirty thousand six hundred eighty (130,680) square feet). Any lots less than three (3) acres existing prior to October 25, 2007, may be adjusted in shape or size as long as the adjusted lots comply with the previous minimum of six thousand (6,000) square feet for interior lots and six thousand five hundred (6,500) square feet for corner lots.
- (b) Three (3) dwelling units shall be permitted for the first six thousand (6,000) square feet. One dwelling unit shall be permitted for each one thousand five hundred (1,500) square feet over the required area for three (3) dwelling units (maximum density twenty-nine (29) dwelling units per net acre).
- (c) A minimum of one (1) dwelling unit per two thousand (2,000) square feet (minimum density twenty-one and eight tenths (21.8) dwelling units per net acre) unless the applicant demonstrates and the Planning Commission makes the following findings:
 - (1) The proposed development is on an existing lot created prior to October 25, 2007 where the proposed lot cannot accommodate a development of the minimum density due to configuration of existing buildings or shape or size of the lot; or

- (2) A lower density will not adversely affect the City's ability to accommodate and provide its remaining share of the regional housing needs assigned by StanCOG for very-low and low-income households based on the remaining acreage of Medium-High Density Residential (R-3) zoned land at the time of application, provided, that if an adverse impact as described could otherwise occur, that such impact will be mitigated by one of the following means:
 - (i) An equivalent parcel of land of the same or greater acreage is provided by the applicant and rezoned to the same or greater density simultaneously, or
 - (i) The applicant agrees to construct and covenant for affordable units on the subject site or another site in a number sufficient to ensure no net loss of units based on the minimum density set forth herein.

10-2.710 Lot Width.

Lot width shall be as required in the R-2 zone.

10-2.711 Lot Coverage.

All buildings and required parking spaces shall not cover more than sixty (60) percent of an interior lot and sixty-five (65) percent of a corner lot.

10-2.712 Street Frontage.

Every lot shall have frontage on a street.

10-2.713 Design.

When considering any building permit or administrative approval, development plan review, or conditional use permit, the Director, Board of Zoning Adjustment or Planning Commission, as applicable, shall apply the principles and specifications of the adopted design guidelines to the proposed project.

Article 27. Plot Plan Approval

10-2.2701 Purpose and Intent.

Where provisions of this chapter require plot plan approval by the Board, Commission, or Director, the requirements and procedures of this article shall apply.

10-2.2702 Applicability.

The following specific regulations shall apply for all plot plan reviews. Where conflict in regulation occurs with other provisions of this chapter, the regulations in this article shall apply.

10-2.2703 Applications.

- (a) A complete application for plot plan approval shall contain at a minimum:
 - (1) An application form as prescribed by the Director.
 - (2) A development plan and any elevations, perspectives or floor plans as determined by the Director necessary for project evaluation.
 - (3) Any other information as the Board, Commission or Director may require for project evaluation.
 - (4) A filing fee as established by the Council.
- (b) All plans, elevations, perspectives or floor plans shall conform to plot plan standards as published by the Director.

10-2.2704 Review Procedure.

- (a) Upon the filing of a complete application for plot plan review, the Secretary shall set a date for consideration by the Board, Commission or Director. The date shall be not less than ten (10) or more than fifty (50) days after the filing date.

- (b) No more than twenty (20) days after the closing of consideration the Board, Commission or Director shall announce findings and decisions, the Board and Commission by resolution, the Director by an administrative decision. The resolution or administrative decision shall state the reasons the Commission's, Board's or Director's action is necessary to carry out the purpose of this chapter as well as any conditions of approval. A copy of the resolution or administrative decision shall be mailed to the applicant.
- (c) A Board or Commission resolution shall be final and effective fifteen (15) days after date of adoption unless the decision is appealed to the Council within the fifteen-day period. Filing of an appeal shall stay the effective date of the Board's or Commission's decision until the Council has acted on the appeal. Appeals shall be filed and considered by the Council in accordance with Section 1-4.01 et seq. of the Municipal Code.
- (d) An administrative decision of the Director shall be final and effective fifteen (15) days after date of approval or denial unless the decision is appealed to the Board of Zoning Adjustment within the fifteen-day period. Filing of an appeal shall stay the effective date of the Director's administrative decision until the Board has acted on the appeal. Appeals shall be filed and considered by the Board in accordance with the procedures in §10-2.803 Article 28 of Chapter 2 of Title 10 of the Modesto Municipal Code.

10-2.2705 Conditions of Approval.

In granting plot plan approval, the Director, Board, Commission or Council may impose conditions deemed necessary or desirable to maintain neighborhood compatibility and to protect the public health, safety or welfare.

10-2.2706 ~~Board Concurrent Review of Residential Plot Plans.~~

Notwithstanding any provisions of this chapter to the contrary, where a residential project requires both plot plan review by the Commission or Director and a variance from the Board, the Board shall review and either approve or deny both the plot plan and variance requests in accordance with all other applicable procedures. Where any form of plot plan review is required by either the Board or Commission, plot plan approval shall not be required by the Director.

Article 30. Development Plan Review

10-2.3001 Purpose and Intent.

Where provisions of this chapter require development plan review by the Director or designee ("Director"), the requirements and procedures of this article shall apply. The purposes and intent of development plan review are to:

- (a) Ensure that new development or expansions of existing uses or structures occurs in a manner consistent with the overall objectives of the General Plan, the objectives of the Zoning Code and with the neighborhood or area in which the development is proposed to be located;
- (b) Ensure that all new development is consistent with the development standards contained in the Zoning Code and with City of Modesto standard specifications; and
- (c) Ensure that all new development is consistent with applicable design guidelines.

10-2.3002 Applicability.

- (a) The following specific regulations shall apply to all development plan reviews. Where conflict in regulation occurs with other provisions of this chapter, the regulations in this article shall apply.
- (b) The following development projects are subject to development plan review:
 - (1) All projects in the R-1, R-2, R-3, P-O, C-1, C-2, ~~or C-3, C-M, M-1, M-2, or B-P~~ zones which do not otherwise require a plot plan review or conditional use permit.

- ~~(2) All projects in the C-M, M-1, M-2, or B-P zone which do not otherwise require a plot plan review or conditional use permit.~~
- (3) In the P-D zone, for all commercial and industrial uses, changes in development plan pursuant to Section 10-2.1709(c).
- (4) The following types of projects are exempt from development plan review:
 - (i) Alterations which meet both of the following criteria: roofline is unchanged, and existing materials and styles are maintained.
 - (ii) Parking lot resurfacing or restriping provided that no change or alteration is made to trees, landscaping, or access points.
 - (iii) Tenant improvements affecting only the building interior.

10-2.3003 Scope of Review.

Where development plan review is required for a use or structure under the provisions of this article, the following aspects of the project are to be reviewed by the Director:

- (a) Conformance of the proposed project to applicable development standards as established by this title and the standard specifications conformance of the proposed development with adopted design review guidelines applicable to the zone and development.
- (b) The location of the site and structures in relation to buildings on adjoining sites, with particular attention to privacy.
- (c) In granting plot plan approval, the Director may impose conditions deemed necessary or desirable to maintain neighborhood compatibility and to protect the public health, safety or welfare.

10-2.3004 Review Procedure.

- (a) Upon filing of any development plan subject to review under this article, the planning staff shall, within ten (10) working days, make a determination as to completeness of the application and associated information. The Planning Division, Community and Economic Development Department, may refer the application and all accompanying maps, drawings, plans, elevations, tabulations and other information to various City departments for review and comment.
- (b) Following a determination that the application is complete, the Director shall review the application and shall, following completion of such review, announce an administrative decision, which may include conditions and corrections required to establish conformance with regulations as described above. A copy of this decision shall be mailed to the applicant.
- (c) At the discretion of the Director, a development plan subject to review under this article may be referred to the Planning Commission for decision.
- (d) The administrative decision shall be final and effective fifteen (15) days after the date of approval or denial unless the decision is appealed in writing to the Planning Commission within the fifteen (15) day period.
- (e) For residential projects, subject to development plan review pursuant to §10-2.508 (a) for compliance with the Neighborhood Compatibility Guidelines, the following notification procedures shall be followed:
 - (1) Within fifteen (15) days following application for an administrative decision by the Director, a notice shall be mailed to every property owner, as shown on the updated equalized assessment role of the County of Stanislaus, who owns property, any part of which is within one hundred (100) feet of the property involved. This notice, shall at a minimum, identify the location of the subject property, describe the proposal, and explain where the proposed plans shall be available for public review.
 - (2) At the time of administrative decision by the Director, a second notice shall be mailed to all those who received the first notice, plus any other interested parties requesting such notice. In addition to the information included on the first notice, the second notice shall indicate that a decision has been made, whether for approval or denial, and explain the 15-day appeal period which starts as of the date of mailing of the second notice, as shown by the postmark.

10-2.3005 Appeals.

Any person disagreeing with an administrative decision made pursuant to this article, may appeal the decision for two story buildings or accessory structures or second story additions to the Board of Zoning Adjustments. All other appeals would be to the Planning Commission ("Commission"). A written appeal shall be filed with the Director within fifteen (15) days of the decision. Filing of an appeal within this period shall stay the effective date of the decision until the Commission has acted on the appeal. The written appeal shall clearly state the decision excepted to and the grounds for the appeal. Appeals shall be filed and considered by the Commission in accordance with the following procedure:

- (a) Upon the filing of an appeal in the proper form and with a fee as established by the Council, the Director shall set the matter for consideration by the Commission within thirty (30) days after the date of the filing of said appeal with the Director. Written notice of the date and time of consideration shall be given to the appellant and any other persons requesting notice not less than ten (10) days prior to Commission consideration.
- (b) No more than twenty (20) days after the closing of consideration, the Commission shall announce its findings and decision by resolution. Its decision shall be final unless an appeal to the Council is filed in accordance with Section 1-4.01 et seq. of the Municipal Code.
- (c) Written notice shall be considered as having been given whenever it has either been personally delivered or deposited in the United States mail, postage prepaid, and addressed to the person entitled to receive the notice.

10-2.3006 Expiration of Development Plan Review Approvals.

Approvals under this article shall be in effect for two (2) years following the effective date of such approval in accordance with Section 10-2.2324 of this title. The Director, upon written request received prior to the date of expiration, may grant a single, one (1) year extension.
(Added by Ord. 3481-C.S., § 3, effective 5-1-08)

10-2.3007 Concurrent Review of Residential Projects.

Notwithstanding any provisions of this chapter to the contrary, where a residential project requires multiple applications, the applications are reviewed concurrently by the higher reviewing body. For example, a project requires both a variance from the Board and development plan review by the Director, the Board shall review and either approve or deny both the ~~plot plan~~ development plan review and variance requests in accordance with all other applicable procedures. ~~Where any form of plot plan review is required by either the Board or Commission, development plan review shall not be required by the Director.~~ Where residential development of a tentative subdivision or parcel map requires development plan review, the development plan review shall occur by the Planning Commission at the same time as consideration for tentative subdivision or parcel map.

Article 2. Definitions

10-2.215 Department.

The Community and Economic Development Department of the City of Modesto.

10-2.216 Director.

The Community and Economic Development Director or designee of the City of Modesto.

10-2.221 Grade.

The lowest point of elevation ~~of~~ on the finished graded surface of the ground, paving or sidewalk within ~~the that~~ that area ~~between the building and the property line or, when the property line which is no~~ between the building and the property line or, when the property line which is no more than five (5) feet from the perimeter of the structure or building footprint, or in the case of a fence or

wall, within one (1) foot perpendicular from the corresponding point along the fence or wall. The footprint of a building or structure, as described herein, shall include the supporting posts for any unenclosed portion of the structure, such as for a porch, patio cover, or canopy structure (see diagram). between the building and a line five (5) feet from the building.

10-2.222 Height.

The vertical distance above grade to the highest point of ~~the~~ a building or structure, fence or wall. Where the grade differs on each side of a fence or wall, the height of the fence or wall shall be measured from the higher grade.

10-2.229.1 Lot, Flag.

A lot that does not satisfy the standard minimum lot width requirement for the zone at the front lot line and consists of two distinct parts: the “flag” (which is the buildable portion of the lot) located generally behind another lot; and the “flag pole” which provides the only access from the street to the buildable portion of the lot (see diagram).

10-2.230.1 Lot, Through.

A lot located between two parallel streets, with frontage on both streets (see diagram).

10-2.234 Lot Width.

The horizontal distance between the side lot lines measured parallel to the front lot line ~~at the front yard setback line.~~