

SPECIAL WORKSHOP AGENDA
CITY OF MODESTO PLANNING COMMISSION
MONDAY, FEBRUARY 22, 2010 - 6:00 P.M.
ROOM B-300 (BASEMENT LEVEL) – TENTH STREET PLACE
1010 TENTH STREET, MODESTO, CA

I. SILENT ROLL CALL

II. CODE-10-001 – Omnibus Zoning Code Text Amendment (Manufactured Homes, Non-Conforming Uses, Sign Limits)

Workshop to Consider Proposed Omnibus Zoning Code Text Amendment

III. Oral Communications

These matters may be presented only by interested persons in the audience, staff or Commissioners. Under State law, Commissioners may respond to matters being presented under this item only as follows:

- (a) Briefly respond to statements made or questions raised.
- (b) Ask a question for clarification.
- (c) Provide a reference to staff or other resources for factual information.
- (d) Request staff to report back at a subsequent meeting.
- (e) Finally, a Commissioner or the Commission itself may take action to direct staff to place a matter of business on a future agenda.

IV. Matters too Late for the Agenda

These may be presented by members of the Planning Commission and staff, upon determination by a majority vote that an emergency exists, as defined by State law, or by a 2/3 vote that: 1) there is a need to take immediate action, and 2) that the need for action came to the City's attention after the agenda was posted.

V. Adjournment

Notice: Copies of the agenda are on file at the Stanislaus Library Reference Room, 1500 I Street, Modesto, and in the office of the Planning Division, third floor, 1010 Tenth Street, Modesto. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Commission Secretary (209) 577-5267. Assistive listening devices are available upon request to the Planning Commission Secretary. **Notification 48 hours prior to the meeting** will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Notice: Persons who wish to speak to the Planning Commission regarding any item on the printed agenda, including oral communications, are encouraged to sign in on a form provided at the meeting. The purpose of this list is to have your name and address should we need to provide additional information to you. Signing this form is optional to speakers.

Posted pursuant to Government Code Section 54956 on _____

by _____ on the bulletin board at Tenth Street Place.

**CITY OF MODESTO
PLANNING COMMISSION
OMNIBUS ZONING CODE TEXT AMENDMENT
WORKSHOP STAFF REPORT**

TO: Chairperson Brandvold and Members of the Planning Commission

PREPARED BY: David Wage, Associate Planner
Contact Info: 577-5267, dwage@modestogov.com

DATE: January 22, 2010

SUBJECT: Workshop to Consider Proposed Omnibus Zoning Code Text Amendment

RECOMMENDATION

This is a workshop meant to provide opportunity for the Planning Commission, and interested members of the public to provide feedback and comments regarding the proposed draft Omnibus Zoning Code Text Amendment. No formal action is needed at this time.

BACKGROUND

Updates to the Zoning Code to keep it current with state law, current practices, changes to the General Plan and other policies, and to correct technical issues, are typically carried out through periodic "omnibus" amendments covering a variety of issues. This is the third in a series of amendments under preparation by the City's planning staff to address such issues.

PROJECT DESCRIPTION

Significant amendments included in this update are as follows:

Non-Conforming Uses, Structures and Sites, and Lots: The Municipal Code currently includes limited language regarding non-conforming uses. Additional language was added to include criteria for the expansion of a non-conforming use and the replacement of one non-conforming use with another.

The Municipal Code does not address non-conforming developments (e.g., buildings and sites that don't meet setback, parking and other development standards). The amendment includes language to address proposed expansions, as well as, the maintenance, and reconstruction of a non-conforming structure or site.

Language was also added to expand on the provisions regarding non-conforming lots which do not meet code requirements for lot area and dimensions.

Manufactured Homes: There are currently no regulations in the Municipal Code regarding Manufactured Homes. The proposed code update is intended ensure all new Manufactured Homes installed meet the minimum building safety requirements established in the National Manufactured Housing Construction and Safety Standards of June 15, 1976. In addition to building safety, the proposed code update is also intended encourage Manufactured Homes to maintain residential compatibility with existing neighborhoods by requiring siding materials that are in keeping with the character of the neighborhood, a minimal roof pitch and overhang and the placement of units on a permanent foundation.

Wall Sign Height: The current code language requires walls signs to be located below the main ridgeline of a building. This requirement was written during a time when the majority of commercial buildings had flat rooflines. Buildings with parapet roofs and minor architectural projections that vary in height have become increasingly common. Many of the minor architectural projections were designed to accommodate wall signage but due to the ridgeline limitations of the current code, are not allowed to have signs mounted on them. The proposed code change would allow signs to be located below the top of the roof, parapet or wall, of which the sign is to be affixed.

Churches: Churches are currently a conditional use in the Professional Office (P-O) and Commercial (C-1, C-3, C-3, C-M) Zones. The proposed code change would allow churches as a permitted use in the Professional Office and Commercial Zones.

Commercial Condominiums: Commercial condominiums are currently required to be located in Planned Development Zones. The proposed code change would allow commercial condominiums in the Professional Office (P-O) and Commercial (C-1, C-2, C-3, C-M) and Industrial (M-1, M-2) Zones.

Planned Development Zone: Planned Development Zones are currently required to maintain a minimum area of one acre, except for developments in the Downtown Area. The proposed code change would eliminate the minimum area requirement.

The other proposed change to Planned Development Zone code section would remove theatre (indoor) as a permitted use in the P-D Zone and relocate it as a permitted use in the C-2 zone.

Miscellaneous: In addition to the code changes described above, other miscellaneous changes include: Eliminating referenced to "Downtown P-D Zone" for parking and adding a definition for "Downtown Area"; Removing the definition for "Kitchen" and adding a definition for "Dwelling Unit"; adding a definition for "Nonconforming Structure and Site"; Removing an antiquated section in the Off-Street Parking Requirements regarding Temporary Parking Lots Downtown.

The amended sections and language changes are attached. The revised text is shown in red.

NEXT STEPS

Following the workshop, staff will make any modifications to the amendment that result from the workshop. Staff will then schedule the amendments for consideration and adoption by the Commission and City Council.

Attachment: Proposed Code Amendments

2010 Omnibus Code Text Amendments

Article 2. Definitions

10-2.216.2 Downtown Area.

The “Downtown Area” is that area bounded by Needham Avenue, Downey Avenue, Burney Street, Grand Street-D Street, Yosemite Boulevard, South Morton Boulevard, B Street, Tuolumne Boulevard, Freeway 99, and Kansas Avenue and the extension thereto across the Union Pacific RR tracks back to Needham Avenue.

10-2.218.1 Dwelling Unit.

A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

~~10-2.225. Kitchen.~~

~~Any room and/or other space used or intended or designed to be used for cooking or for preparation of food for one (1) family. The number of kitchens in any residential building or structure shall thereby define the number of dwelling units in that building or structure. Wet bars in entertainment rooms such as dens or cabanas that do not serve separate occupancies shall not be construed to be kitchens.~~

10-2.236.2 Nonconforming Structure And Site.

A structure or site that was lawfully established and maintained but which, because of the application of the site development standards in this Chapter, coverage, setbacks, parking, landscaping, walls, and fences no longer conforms to the regulations of the zone in which it is located.

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

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 10-3.501, 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 (1000) 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) **Manufactured Homes.**

(1) Purpose and Intent.

The purpose and intent of allowing and regulating manufactured homes are:

- (i) To provide an alternative type of housing for persons desiring an alternative to conventional housing types;
- (ii) To assist in providing a diversity of housing in the community, regarding housing choices, types and prices;
- (iii) To ensure the compatibility of such dwellings with surrounding uses and properties and to avoid any impacts associated with such dwellings.

(2) Definitions.

- (i) "Manufactured home" shall mean a house constructed in a factory according to the National Manufactured Housing Construction and Safety Standards of June 15, 1976. It is transportable in one or more sections, built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and the plumbing, heating, air conditioning, and electrical systems are contained within the structure.
- (ii) "Permanent foundation" shall mean assembly of materials constructed below, or partially below grade, not intended to be removed from its installation site, which is designed to support a manufactured home structure and engineered to resist the imposition of external natural forces, as defined by the California Health and Safety Code or the California Building Code, whichever is more restrictive.

(3) Development Standards.

- (i) Eligibility. A manufactured home is eligible for installation if:
 - a) It was constructed after June 15, 1976, and was issued a label of approval by the United States Department of Housing and Urban Development; and
 - b) It has not been altered in violation of applicable federal and state codes.
 - c) All other mobile and manufactured homes shall be prohibited, unless the person proposing to install a mobile or manufactured home can demonstrate the unit is able to meet the requirements of the California Health and Safety Code and California Building Code, to the satisfaction of the Chief Building Official.
- (ii) Use. Manufactured homes may only be occupied only as a residential use type.
- (iii) Foundation. Manufactured homes shall be attached to a permanent foundation in compliance with all applicable regulations in the California Building Code, and of the Health and Safety Code.
- (iv) Siding material. Manufactures homes shall include siding materials that are in keeping with the character of the neighborhood, permitted by the California Building Code and customarily used on conventional residential dwellings, such as wood, vinyl, masonry or similar materials. The siding materials shall extend to finished grade. Shiny, metallic surfaces are prohibited.
- (v) Roof pitch and material. Manufactured Homes shall maintain a roof pitch of not less than two (2) inch vertical rise for each twelve (12) inch of horizontal run and include roof materials that are in keeping with the character of the neighborhood, permitted by the California Building Code and customarily used on conventional residential dwellings such as asphalt shingles, concrete or clay tiles or equivalent material.
- (vi) Roof overhang. A minimum roof overhang of at least one (1) foot shall be provided for each manufactured home.

(vii) Utility connections. All manufactures homes shall have standard utility connections. The housing unit electrical, gas, water and drain connections shall be made permanent in a manner applicable to permanent buildings. Gas shutoff valves, meters and regulators shall not be located beneath the manufactured home.

(xiii) Municipal Code. Manufacture homes shall be subject to all provisions of the Municipal Code applicable to conventional residential structures and meet all development and design standards for the zone in which they are to be installed.

(4) Building Permit.

(i) Prior to installation of a manufactured home on a permanent foundation, the owner or a licensed contractor shall obtain a building permit from the City Building Safety Division.

Article 9. Professional Office Zone, (P-O)

10-2.902. Permitted Uses.

The following are permitted uses subject to Development Plan Review by the Director:

- (a) Business office (including government office, insurance sales and services, real estate sales and services, stockbroker, utility office; excluding retail or wholesale sales, banks, savings and loans and similar financial institutions).
- (b) Medical and dental office or laboratory, chiropractor, chiropodist, optometrist.
- (c) Pharmacy (excluding manufacture or distribution of pharmaceuticals) only when accessory to a medical office or clinic.
- (d) Professional office (including accountant, architect, attorney, engineer, surveyor).
- (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/or the same site as a church or governmental use.
- (f) A parking area for an immediately adjacent commercial use in a commercial zone.

~~(g) Church.~~

~~(h) Non-residential Condominiums.~~

10-2.905. Conditional uses.

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

- (a) Ambulance service.
- (b) Buildings, facilities and grounds of a utility which are not a permitted use.
- (c) Child day care center.
- ~~(d) Church.~~
- (e) Hospital supply sales.
- (f) Not-for-profit educational or scientific agency.
- (g) Storm drainage basins and related facilities.
- (h) Substance abuse clinic/facility.
- (i) Twenty-four-hour care for seven (7) or more persons.
- (j) Veterinary hospital (small animal).
- (k) Vocational school.

Article 11. General Commercial Zone (C-2)

~~10-2.1102.1. Permitted Uses Within the P-D Zone Area.~~

~~The following are uses in the downtown P-D Zone Area, as defined in Section 10-2.216.2:~~

- ~~(a) All uses as set forth in Section 10-2.1102.~~
- ~~(b) Theater (indoor).~~

Article 17. Planned Development Zone (P-D)

10-2.1703. Permitted Uses.

The following are permitted uses:

- (a) Any use specified in the ordinance establishing a P-D Zone.
- (b) ~~Residential condominiums~~ ~~Condominiums~~, community apartment projects and stock cooperatives, ~~whether residential or otherwise~~. These uses are permitted only in a P-D Zone.
- ~~(c) Theater (indoor). Except as set forth in Section 10-2.1102.1, this use is permitted only in a P-D Zone.~~

~~10-2.1706. Area.~~

~~Every P-D Zone shall have a minimum area of one (1) acre except certain qualified affordable residential developments specified below and any developments located in the downtown area bordered by Needham Avenue, Downey Avenue, Burney Street, Grand Street, Morton Boulevard, B Street, Tuolumne Boulevard, Freeway 99 and Kansas Avenue.~~

~~All residential P-D Zones of less than one (1) acre outside the downtown area shall meet the qualifications of and provide for housing affordability in accordance with the Density Bonus Provisions of Chapter 3 of Title X of the Modesto Municipal Code.~~

Article 20. Off-Street Parking Requirements

10-2.2002. Number Of Required Spaces.

- (c) Nonresidential Uses Inside the Downtown P-D Zone Area, as defined in Section 10-2.216.2.
 - (1) Bar: One (1) for each four (4) seats or one (1) for each sixty (60) square feet of drinking area when the number of seats is not known or not permanently fixed;
 - (2) Beauty college: Two and one-half (2.5) for each training station;
 - (3) Bingo game: One (1) for each four (4) seats;
 - (4) Boarding and lodging house, club or fraternity with sleeping rooms: One (1) for each two (2) beds;
 - (5) Bowling alley: One (1) for each three hundred (300) square feet;
 - (6) Church: One (1) for each five (5) seats in the building with the largest capacity;
 - (7) Dance hall: One (1) for each fifty (50) square feet of floor area used for dancing;
 - (8) Hospital: One and one-half (1.5) for each bed;
 - (9) Hotel or motel: One (1) for each guest room. Additional spaces for restaurants, meeting facilities and other related uses shall be provided as required;
 - (10) Library: One (1) for each five hundred (500) square feet;

- (11) Manufacturing or related use: One (1) for each six hundred (600) square feet;
 - (12) Medical or dental office: One (1) for each two hundred (200) square feet;
 - (13) Motor vehicle and machinery repair: One (1) for each six hundred (600) square feet, with repair space for motor vehicles or machinery not counted as parking spaces;
 - (14) Mortuary or funeral home: One (1) for each five (5) seats in the largest room used for services (tandem spaces may be counted);
 - (15) Office or service business: One (1) for each five hundred (500) square feet;
 - (16) Pool hall: Two (2) for each table;
 - (17) Restaurant: One (1) for each four (4) seats or one (1) for each sixty (60) square feet of dining area when the number of seats is not known or not permanently fixed;
 - (18) Retail business: One (1) for each five hundred (500) square feet;
 - (19) Sanitarium, nursing home, home for the elderly or other twenty-four (24) hour care facility. One (1) for each four (4) beds. Additional parking shall be provided as required for a proprietor's dwelling;
 - (20) School for instruction in the arts, athletics, or self-defense and vocational schools: One (1) for each five hundred (500) square feet;
 - (21) Theaters: One (1) for each five (5) seats;
 - (22) Veterinary hospital: One (1) for each five hundred (500) square feet, including animal runs;
 - (23) Warehouse: One (1) for each two thousand (2,000) square feet up to ten thousand (10,000) square feet, one (1) for each five thousand (5,000) square feet after the first ten thousand (10,000) square feet. Parking for a mini-warehouse shall only be required if there is an office or residence included in the project;
 - (24) Wholesale business: One (1) for each eight hundred (800) square feet.
- (d) Additional spaces required by expansion, reconstruction or change in use shall be provided in accordance with this article, except that reconstruction or change in use shall not result in a requirement for additional parking in the Downtown Area, as defined in Section 10-2.216.2 area bounded by Needham Avenue, Downey Avenue, Burney Street, Grand Street, Morton Boulevard, B Street, Tuolumne Boulevard, Freeway 99 and Kansas Avenue.

~~10-2.2009 — Temporary Parking Lots Downtown.~~

~~(a) — Modified Standards. If an off-street parking area meets the qualifications set forth below, the following modifications in standards may be made, subject to approval by the Planning Commission:~~

- ~~—— (1) — The minimum width of each parking space shall be eight (8) feet, four (4) inches;~~
- ~~—— (2) — The turnaround or end driveway width shall be a minimum of thirteen (13) feet;~~
- ~~—— (3) — The surface may be a sand asphalt pavement;~~
- ~~—— (4) — Storm drainage to be approved by the Public Works Director may allow up to one-half (1/2) of the parking area to drain across the adjacent sidewalks with the balance permitted to drain to an adjacent alley;~~
- ~~—— (5) — No landscaping is required.~~

~~(b) — Qualifications. To qualify as a temporary parking lot downtown, all of the following conditions shall be met:~~

- ~~—— (1) — The property shall be entirely within the Downtown P-D Zone area;~~
- ~~—— (2) — None of the spaces shall be required by this Code, including but not limited to joint use parking by covenant and common parking;~~

- ~~(3) The maximum term shall be five (5) years from date of issuance of a building permit for the temporary parking lot.~~
- ~~(c) Plot Plan. The applicant shall provide a complete plot plan to assist the evaluation of the proposed lot. The plot plan shall include but not be limited to:

 - ~~(1) The location of all proposed buildings, facilities and open space;~~
 - ~~(2) The location of on-site vehicular and pedestrian circulation;~~
 - ~~(3) The location of all off-street parking;~~
 - ~~(4) The location of all land to be dedicated to or reserved for public use;~~
 - ~~(5) The location and extent of street improvements as determined in consultation with the Public Works Director;~~
 - ~~(6) All dimensions pertinent to any requirement of the Municipal Code.~~~~
- ~~(d) Time Extension. A maximum five (5) years' additional use of a temporary parking lot may be granted for good and sufficient reasons by the Commission after four (4) years of use. (Amended by Ord. 3132-C.S., § 1, and Ord. 3367-C.S., § 1, effective 12-9-04)~~

Article 21. Sign Regulations

Figure 21-7 Measurement Of Sign Height

- (b) **Maximum sign area requirements.** The maximum allowable area for signs is determined by Sections 10-2.2112, and 10-2.2114. No freestanding sign of any type or class, subject to this article shall exceed one hundred fifty (150) square feet in area.
- (c) **Sign height limitations.** All signs shall comply with the following requirements.
 - (1) Maximum sign height. No wall, canopy, marquee or projecting sign located on a building shall project higher than the ridgeline of the roof, parapet or wall of which the sign is to be affixed. The maximum height of other signs shall be as specified by Sections 10-2.2112 and 10-2.2114, as applicable.
 - (2) Minimum sign height. No sign shall be less than (8) feet above a public or private sidewalk, or fourteen and one-half (14.5) feet above ground level in areas open to vehicular traffic, except wall signs not exceeding three (3) inches in thickness.
 - ~~(1) **Height limit.** No sign shall exceed a maximum height of thirty-five (35) feet in height, or other height limit established by this section, or by Sections 10-2.2112, and 10-2.2114, as applicable.~~
 - ~~(2) **Ridgeline limitation.** A wall, canopy, marquee or projecting sign shall not project above the ridgeline of the building on which the sign is mounted. Where the ridgeline varies in height, no part of the sign shall extend above the ridgeline where it is placed nor above the height representing a minimum of seventy-five (75) percent of the ridgeline of the building.~~
 - ~~(3) **Additional height.** A sign may be approved with a height in excess of the limitations provided by subsections (c)(1) and (c)(2) above in the following circumstances:

 - ~~(aa) **Wall signs on multi-story buildings.** Wall signs above thirty-five (35) feet in height may be authorized through conditional use permit approval (see Article 25 of Chapter 2 of Title 10 of this Code), provided that:

 - ~~(i) The building exceeds four (4) stories or forty-eight (48) feet in height; and~~
 - ~~(ii) The BZA determines that:~~~~~~

- ~~(a) — The applicant has satisfactorily demonstrated that wall signs at thirty-five (35) feet cannot properly identify the building;~~
- ~~(b) — The applicant has explored all feasible options to reach a satisfactory solution with a sign at thirty-five (35) feet or less; and~~
- ~~(c) — The design of the sign will be compatible with the architectural design of the building.~~
- ~~(ab) — **Freeway-oriented signs.** Freeway-oriented signs with a height in excess of thirty-five (35) feet may be approved in compliance with Section 10-2.2114(g).~~
- ~~(4) — **Vertical clearance.** No sign shall be less than eight (8) feet above a public or private sidewalk, or fourteen and one-half (14.5) feet above ground level in areas open to vehicular traffic, except wall signs not exceeding three (3) inches in thickness.~~

Article 22. Nonconforming Uses, Structures And Sites, And Lots

10-2.2201. Applicability.

The following provisions shall apply only to those uses, structures and sites, and lots lawfully existing in the City on July 7, 1955, or those made nonconforming by rezoning, annexation or amendment of this Chapter.

10-2.2202. Nonconforming Uses.

- ~~(a) — A nonconforming use may be continued provided it is not physically expanded in size.~~
- ~~(b) — The Board may grant a conditional use permit for one nonconforming use to replace another provided it finds the new use will have no greater impact on surrounding properties and is compatible with the neighborhood.~~
- ~~(c) — If a nonconforming use is discontinued for a continuous period of six (6) months, all future uses shall conform to the provisions of this Chapter except that the Board may grant a conditional use permit for another nonconforming use as provided for above.~~
- (a) — Except as provided in subsection (b) and (c) of this section, no nonconforming use may be enlarged within the building it occupies, nor shall it be enlarged or increased to occupy a greater area of land than that occupied by such use, nor shall any nonconforming use be moved in whole or in part to any other portion of the lot or parcel of land occupied by such nonconforming use.
- (b) — Minor Expansion. Minor Expansion of a of nonconforming use resulting in an increase in area occupied of less than twenty (20) percent shall require an approval by the Director. In order to approve a minor expansion, the Director must find the expansion will not significantly impede the transition of a non-conforming use to a conforming use at a later date and will have no greater impact on surrounding properties in terms of noise, traffic, parking, hours of operation and visual compatibility.

- (c) Major Expansion. Major Expansion of a nonconforming use resulting in an increase in area occupied by more than twenty (20) percent shall require a Conditional Use Permit approved by the Board. In order to approve a minor expansion, the Board must find the expansion will not significantly impede the transition of a non-conforming use to a conforming use at a later date and will have no greater impact on surrounding properties in terms of noise, traffic, parking, hours of operation and visual compatibility.
- (d) Replacement. Replacement of one nonconforming use for another shall require approval by the Director. In order to approve the replacement, the Director must find the new use will have no greater impact on surrounding properties in terms of noise, traffic, parking, hours of operation and visual compatibility.
- (e) Discontinuance. If a nonconforming use is discontinued for a continuous period of six (6) months, all future uses shall conform to the provisions of this Chapter except that the Director may grant an approval for another nonconforming use as provided for in Section (d) above. Discontinuance of use shall be deemed to have occurred whenever any of the following apply:
 - 1. The non-conforming use of a structure is discontinued for a period of six or more consecutive calendar months.
 - 2. No business receipts or records are available for the six month period.
 - 3. A non-conforming use is replaced by a conforming use.

10-2.2202.1 Nonconforming Structures And Sites

- (a) Conformity to laws and regulations. All work performed on a non-conforming structure or site shall be pursuant to a building permit, meet all the requirements of this Chapter and all City Codes, and conform to any other health or safety regulations or laws imposed by local, County, State, regional, or Federal agencies in effect at the time of the work and shall not expand any non-conformity except as allowed in subsection (c) of this Section.
- (b) Maintenance. A nonconforming structure or site, or a structure or site devoted to a nonconforming use, may be maintained. Maintenance may include interior remodels and such repair work as necessary to keep the structure or site in sound condition, but maintenance shall not include the replacement of a structure, except as allowed in subsection (d) of this section.
- (c) Additions, enlargements and relocations. A nonconforming structure or site may not be added to, enlarged, or relocated, unless the addition, enlargement or relocation conforms to all the regulations of the zone in which it is located.
- (d) Damage or destruction. Any structure(s) or site(s), damaged or destroyed by accidental or natural causes may be reconstructed up to the legal non-conforming size, placement, or number of dwelling units. The Director may require changes to the plans if necessary to protect the public health, safety and welfare. Reconstruction shall commence within one year after the date the damage or destruction occurred and shall be diligently pursued to completion.

10-2.2202.2 Nonconforming Lot

- (a) Definition. All lots recorded or part of an approved tentative subdivision on July 7, 1955, shall be deemed to comply with applicable area and width requirements.
- (b) Non conforming residential lots. All residentially zoned nonconforming lots are entitled to at least one (1) single-family dwelling and additional units may be permitted per the minimum density requirements of the zone in which the lot is located.

Article 23. General Provisions

~~10-2.2318. Buildable Lots.~~

~~All lots recorded or part of an approved tentative subdivision on July 7, 1955, shall be deemed to comply with the applicable area and width requirements. All such lots are entitled to at least one (1) single family dwelling.~~