

**CITY OF MODESTO  
PLANNING COMMISSION AGENDA  
MONDAY, MARCH 15, 2010 – 7:00 PM  
BASEMENT CHAMBERS  
1010 TENTH STREET – MODESTO, CA**

I. ROLL CALL

II. APPROVAL OF MINUTES

Minutes of the regular meeting of March 1, 2010.

III. CONFLICT OF INTEREST DECLARATION

Commissioners and staff may now declare conflicts of interest for the purpose of determining if a quorum will be present to act on each item in the order shown on the agenda.

IV. CONSENT AND JOINT PUBLIC HEARING ITEMS

Consent Items:

None.

Joint Public Hearing Items:

None.

V. PUBLIC HEARINGS

**Item A** CODE-10-001 – Omnibus Zoning Code Text Amendment (City of Modesto)  
Contact Info: David Wage, 577-5267, [dwage@modestogov.com](mailto:dwage@modestogov.com)

VI. OTHER BUSINESS

**Item B** Discussion to Update P/C Bylaws to Reflect New Meeting Time

VII. ORAL COMMUNICATIONS

These matters may be presented by interested persons in the audience, staff or Commissioners (see Notice at end of agenda cover). 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.

VIII. 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.

IX. ADJOURNMENT

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, CA. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Commission Secretary at 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 contact you or provide additional information to you. Signing this form is optional to speakers.

Posted pursuant to Government Code Section 54954.2 on \_\_\_\_\_

by \_\_\_\_\_ on the bulletin board at Tenth Street Place.

**CITY OF MODESTO  
PLANNING COMMISSION  
STAFF REPORT**

**TO:** Chairperson Berglund and Members of the Planning Commission

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

**REVIEWED BY:** Steve Mitchell, Principal Planner

**APPROVED BY:** Patrick Kelly, Planning Manager

**DATE:** February 25, 2010

**SUBJECT:** CODE-10-001 – Omnibus Zoning Code Text Amendment (City of Modesto)

**RECOMMENDATION**

That the Planning Commission adopt the attached resolution recommending to the Council amendments to Chapter 2 of Title 10 of the Modesto Municipal Code (Zoning Regulations).

**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.

On February 22, 2010, a Planning Commission workshop was held to discuss the proposed code amendment. The Commission requested staff review several issues before bringing the item back to the Planning Commission for consideration. These issues are discussed in the Issues section below.

**PROJECT DESCRIPTION**

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 and Mobile Homes (see “Manufactured Homes” section under “issues” below for definitions of these terms). The proposed code update is intended to ensure all new

Manufactured Homes installed meet the minimum building safety requirements established in the National Manufactured Housing Construction and Safety Standards Act of 1974. In addition to building safety, the proposed code update is also intended to 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 wall 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.

The current code requires a Conditional Use Permit for wall signs greater than 35 feet high. The proposed code change would remove the height limitation for wall signs.

Churches: Churches are currently a conditional use in the Commercial (C-1, C-2, C-3, C-M) Zones. The proposed code change would allow churches as a permitted use in the Commercial Zones.

Non-residential Condominiums: Non-residential condominiums are currently required to be located in Planned Development Zones. The proposed code change would allow non-residential 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 reference 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 to the resolution. The revised text is shown in red.

## **ISSUES**

At the Planning Commission Workshop held on February 22, 2010, several concerns were raised which staff was directed to review and address as appropriate. The following is a discussion of the concerns raised:

Manufactured Homes: The Commission raised concerns regarding the proposed definition of "Manufactured Home" and how it related to the definition of "Mobile Home" and "Modular Home." As a follow up to the meeting, staff revised the definition of "Manufactured Home" to closely match the definition in Section 18007 of the California Health and Safety Code. As

defined by the State, Manufactured Homes are units built after June 15, 1976, per the National Manufactured Housing Construction and Safety Standards Act of 1974. Staff also included definitions for "Mobile Home" and "Modular Home" based on the California Health and Safety Code Sections 18008 and 19971, respectively. Mobile Homes are units constructed before June 15, 1976 and which were not built in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974. Modular Homes or "pre-fabricated homes" are defined as units made, fabricated, formed, or assembled in manufacturing facilities for installation, or assembly and installation, on the building site, and which is designed and constructed to conform to the California Building Code.

The Commission also inquired about the possibility of prohibiting the installation of Manufactured Homes in lots zoned for Single-Family Residential (R-1) uses. Staff has proposed prohibiting the installation of "Mobile Homes" which are defined as units older than June 15, 1976, which were not built in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974. These "Mobile Homes" are the types of units the City has had issues with and often do not meet minimum building safety standards.

However, units built after June 15, 1976, per the National Manufactured Housing Construction and Safety Standards Act of 1974, meet the State definition of "Manufactured Home" and are afforded special protections by the State of California:

- Local agencies can not prohibit the installation of Manufactured Homes on lots zoned for conventional single-family residential dwellings, if the units have been built to the standards of the National Manufactured Housing Construction and Safety Standards Act of 1974 and are installed on an approved foundation system (Section 65832.3).
- In no case may a city apply any development standards that will have the effect of precluding Manufactured Homes from being installed as permanent residences (Section 65832.2).
- A city may not subject a Manufactured Home on a lot zoned for a single-family residence dwelling, to any administrative permit, planning or development process, which is not identical to the process or requirement for a conventional single family dwelling on the same lot (Section 65852.4).

The Government Code does not allow the City to prohibit Manufactured Homes on lots zoned R-1 or subject Manufactured Homes to special requirements or processes. However, Section 65852.4, does allow the City to adopt architectural requirements such as siding materials, roof-overhang, and roof-pitch, which are not required of conventional single-family residential dwellings. Planning and Building Safety Staff have carefully reviewed the proposed definitions and regulations for Manufactured, Mobile and Modular homes included in this code amendment and determined they are consistent with the California Health and Safety Code.

The Commission expressed a desire to ensure that Manufactured Units would be installed on a concrete or masonry foundation which has a permanent appearance. Planning Staff met with the Chief Building Official, who explained that the Municipal Code could include a requirement for Manufactured Homes to be installed on a permanent foundation per the manufacturer's installation instructions. This requirement alone would not preclude the use of jack-stands and tie-downs as an approved foundation. To address the aesthetic concerns, the Chief Building Official suggested a requirement for a perimeter "Masonry Veneer" which would achieve a more finished and permanent appearance. This change has been reflected in the draft code language in Section 10-2.502(m)(3)(iv) Exterior Finish Materials.

### Churches:

The Commission suggested that churches remain a conditional use in the Professional Office (P-O) Zone and agreed with staff's recommendation to change to a permitted use in the Commercial Zones (C-1, C-3, C-3). The proposed code language reflects this change.

### Non-Conforming Uses:

The current code allows a discontinued legal non-conforming use up to six month to re-establish itself before it loses its legal non-conforming status. The Commission suggested allowing a discontinuance of up to one year. The code proposed language reflects this change (Section 10-2.2202(e)).

### Non-Conforming Structures and Sites:

The Commission suggested changing language in the Non-conforming Structures and Sites section related to "Damage or Destruction" (Section 10-2.2202.1(d)). This section applies to reconstructing damaged buildings or sites that have been damaged by accident or natural disaster. The language originally proposed would have allowed the Director to require changes to plans if necessary to protect the "public health, safety and welfare." The Commission had expressed a desire change the language to only allow the Director to require changes to plans related to the Fire and Building Codes. The code language reflects this change.

## **GENERAL PLAN CONSISTENCY**

The General Plan is unaffected by the proposed Zoning Code amendment. The proposed Code amendment is consistent with General Plan Policy V-C.1.h. that states, "Establish and maintain an orderly and compatible land use pattern. Evaluate land use compatibility, noise, traffic, and other environmental hazards when making land use decisions". The proposed code amendment is intended to address the compatibility of churches, manufactured homes, non-conforming uses, and non-conforming developments in existing neighborhoods and commercial areas.

## **ENVIRONMENTAL ASSESSMENT**

No new environmental impacts are raised by the proposed Zoning Code amendments. Staff has prepared an Initial Study, Environmental Checklist No. EA/C&ED 2010-05, (Attachment No. 2), which concludes that the proposed Zoning Code amendments are within the scope of the General Plan Master EIR (SCH No. 2006072023), and that pursuant to Section 21157.1(b) of CEQA, no new environmental review is required.

ATTACHMENTS (included with Commissioners' packets only)

1. Draft Planning Commission Resolution – March 15, 2010
2. Environmental Checklist No. EA/C&ED 2010-05



A RESOLUTION RECOMMENDING TO THE CITY COUNCIL AMENDMENTS TO CHAPTER 2 OF TITLE 10 OF THE MODESTO MUNICIPAL CODE (ZONING REGULATIONS) TO ADD SECTIONS 10-2.216.2, 10-2.218.1, 10-2.236.2, 10-2.2202.1, 10-2.2202.2 REPEAL SECTIONS 10-2.225, 10-2.1102.1, 10-2.1706, 10-2.2009, 10-2.2318 AND AMEND SECTIONS 10-2.1002, 10-2.1703, 10-2.2002, 10-2.2110, 10-2.2202, 10-2.502, 10-2.902. (OMNIBUS ZONING CODE TEXT AMENDMENT CODE-10-001)

WHEREAS, 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; and

WHEREAS, a Planning Commission Workshop was held on February 22, 2010 to review the proposed Omnibus Zoning Code Amendments; and

WHEREAS, a public hearing was held by the Planning Commission on March 15, 2010, in Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the Commission has received and reviewed Initial Study Environmental Assessment No. EA/C&ED No. 2010-05 documenting that the proposed amendments to the Zoning Code are in conformance with the General Plan as analyzed by the General Plan Master EIR.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission that it hereby finds and determines as follows:

1. The proposed amendments conform to the City's adopted 2003 Urban Area General Plan for the following reasons:
  - a. The proposed amendments will provide regulations consistent with the Urban Area General Plan policy V-C.1.h. regarding land use compatibility since the proposed amendments are intended to address the compatibility of churches, manufactured homes, non-conforming uses, and non-conforming developments in existing neighborhoods and commercial areas.
2. The proposed amendments will benefit the public health, safety, and welfare because the proposed amendments are intended to address the compatibility of churches, manufactured homes, non-conforming uses, and non-conforming developments in existing neighborhoods and commercial areas.
3. The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. The following items are found to be true:
  - a. The type of project is described in Chapter II of the Master EIR.
  - b. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

- c. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.
- d. Based on the Initial Study, the City of Modesto finds and determines:
  - 1. The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
  - 2. No new or additional mitigation measures or alternatives are required.
- e. The Initial Study, Environmental Assessment No. EA/C&ED 2010-05, provides the substantial evidence to support the findings a-d, noted above.

BE IT FURTHER RESOLVED that the Planning Commission hereby recommends to the Council an amendment to Chapter 2 of Title 10 of the Modesto Municipal Code (Zoning Regulations) to add Sections 10-2.216.2, 10-2.218.1, 10-2.236.2, 10-2.2202.1, 10-2.2202.2 repeal Sections 10-2.225, 10-2.1102.1, 10-2.1706, 10-2.2009, 10-2.2318 and amend Sections 10-2.1002, 10-2.1703, 10-2.2002, 10-2.2202, 10-2.502, 10-2.902 as shown in Exhibit A.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on March 15, 2010, by \_\_\_\_\_, who moved its adoption, which motion was seconded by \_\_\_\_\_, and carried by the following vote:

Ayes:  
Noes:  
Absent:  
Recused:

BY ORDER OF THE PLANNING COMMISSION OF THE CITY OF MODESTO

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Patrick Kelly, Secretary

Attachment: Exhibit "A"

**EXHIBIT A  
CODE-10-001**

**Draft on File with the Community and Economic Development Department,  
Planning Division**

Final will be on File with the City Clerk and the Community and Economic Development  
Department, Planning Division