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Item# 4

City Council Staff Report

To: Lemoore City Council
From: Holly Smyth, Planning Director
Christopher Jordan, AICP, PMC
Date: February 14, 2012

COMPREHENSIVE ZONING AND DEVELOPMENT CODE UPDATE

Discuss and consider adopting draft Resolution #2012-05, adopting General Plan amendment #2012-02, which includes an Addendum to the General Plan EIR for environmental review #2010-06 and:

- Removes the DMX aerial map of the Downtown
- Modifies the tree preservation policy to not include eucalyptus and cottonwood trees
- Modifies parkways abutting local streets to require 1 tree in every front yard or in the parkway per single family home or every 30' for other uses at the owner's/developer's choice.
- Modifies Table 9.1 listing Consistency between the General Plan Land Use designations and their compatible Zoning Districts.
- Updates the Future Noise Contour Figure 8-4 to incorporate new 2020 Prospective Air Installation Compatibility Use Zone (AICUZ) noise contours adopted by Naval Air Station Lemoore in November 2010.

Subject:

Discuss and consider adopting draft Ordinance #2012-01, adopting Zone Change #2010-01:

- Adopting a comprehensive rezoning of all properties in the City through new Zoning & Development Code text and a new Zoning Map
- Repealing and readopting Lemoore Municipal Code Chapters 7-3 (Street Naming), 7-10 (City Maintenance Districts), 8-7 (Subdivisions/Land Division), (Flood Damage Prevention), and Title 9 (Zoning)
- Adopting new Chapters 5-6 (Noise) and 7-12 (Encroachments) as part of the Lemoore Municipal Code
- Repealing Chapters 2-2 (Board of Zoning Adjustment), 4-3 (Alcoholic Beverage License; Public Convenience or Necessity), and 8-9 (Housing Incentives) of Lemoore Municipal Code.

Adopt Resolution #2012-06, declaring the City's intent to adopt a Merger Ordinance as required by §66451.21 of the Subdivision Map Act.

BACKGROUND:

In May 2010, the City initiated an effort to comprehensively update the City's Zoning Code and other related development standards and processes (e.g., subdivision standards, floodplain ordinance, density bonus provisions, Downtown design standards). The primary objective of this effort is to bring the City's regulations into conformance with the new General Plan, adopted by the City Council in 2008. Secondary objectives outlined by the City include updates to ensure compliance with relevant Federal and State laws, as well as updates to reflect changing conditions and best practices in zoning regulations.

Over the past year and a half, the City and its zoning consultants from PMC have held several public workshops to discuss the content and structure of the new Zoning Code and a proposed new Zoning Map for the City. Based upon that input, PMC completed the draft Zoning and Development Codes and presented them at a series of joint City Council and Planning Commission meetings in the fall of 2011. Based upon the comments and direction received at these meetings, PMC has prepared edits to the draft.

Concurrent with the adoption of the Zoning and Development Codes, staff is recommending a series of amendments to the General Plan to address minor policy changes and to ensure consistency between the General Plan and Zoning code. Consistency between the documents is required under State law.

The process for adoption of the Zoning and Development Codes, as well as the General Plan amendments, requires a noticed public hearing before both the Planning Commission and City Council. The Planning Commission provides a recommendation to the City Council, and the Council takes final action. The Zoning and Development Code changes require two readings before the City Council and would take effect 30 days after the second reading, unless a longer period is specified.

DISCUSSION:

General Plan Amendments

The Planning Commission reviewed the proposed General Plan amendments at both its January 9th and 23rd meetings. These amendments are necessary to maintain consistency between the General Plan and the Municipal Code, as required by State law.

The draft amendments are attached and provided in track changes, which shows the edits with ~~strikeout~~ for deletion and underline for addition. Those items changed at the January 23rd Planning Commission meeting are shown by highlighted text. The proposed amendments are summarized as follows:

- Modify Land Use Policy LU-I-28 to remove the figure showing the boundaries of the various Downtown Mixed Use districts and lower the minimum building height to 16 feet.
- Modify Community Design Policy CD-I-11 to remove cottonwood and eucalyptus from the list of protected trees and provide more flexibility in the implementation of a tree preservation ordinance.
- Modify Community Design Policy CD-I-23 to reference the Zoning Code, rather than the Architectural Design Guidelines for Downtown (as the design guidelines are being incorporated into the Zoning Code).

- Modify Community Design Policy CD-I-54, Figure 4-3 (Street Sections) and Table 4.4 in the Circulation Element to reduce the parkway width to 5' and modify the requirement for street trees along local streets to be one per single family dwelling (or 30 feet of frontage for other uses) and allow the tree to be planted either in the parkway, behind the sidewalk within the utility area or in the front yard at the discretion of the developer/property owner, as directed at the last meeting.
- Update Figure 8-4, Future Noise Contours, for consistency with the Joint Land Use Study.
- Update Table 9.1 in the Implementation Chapter to reflect the new zoning districts.

Revisions to Draft Zoning and Development Code

This section summarizes the key changes to the draft Zoning and Development Code since the release of the Public Draft in the fall during the workshops. The document is presented as a “track changes” version, which shows the edits with ~~strikeout~~ for deletion and underline for addition from the public draft to this City Council draft; changes from the January 23rd Planning Commission hearing are **highlighted**.

Global

- PMC has completed a re-read of the document and identified a number of formatting and grammatical changes. These changes have been incorporated into the document.

Chapter 5-6: Noise

- Revisions to the enforcement provisions to remove the subjectivity and reference existing enforcement procedures in Chapter 1-4 of the Municipal Code.
- Adjusting the violation hours for internal consistency.

Chapter 7-3: Street Naming

- This is an existing section of the Municipal Code that addresses the provisions for street naming and house numbering. Staff had proposed relocating these provisions to Chapter 8-7 (Land Division). After further review, staff recommends leaving the standards in 7-3 and completing an update.
- Addressing standards for multi-family development (e.g., apartments, condominiums) has been added.

Chapter 7-10: City Maintenance Districts

- This existing chapter of the Municipal Code has been updated with a new section 7-10-10, which addresses the procedures for public facilities maintenance districts with new subdivisions.

Chapter 7-12: Encroachments

- Insurance requirements for short-term and long-term encroachments have been clarified based upon input from the City’s risk management staff.

Chapter 8-7: Land Division

- Clarifying when a tentative parcel map (fewer than 5 lots) is required.
- Clarifying submittal requirements for condominium conversions.
- Revising the certificates and statements that appear on final maps and parcel maps, based upon input from the City Engineer.

- Describing how the parkland dedication factors are derived based upon Census data. Additionally, consultant staff reviewed the calculations and made some minor adjustments based upon occupied dwellings, rather than total dwellings.

Note that §66451.21 requires the adoption of a Resolution of Intent prior to the adoption of an ordinance addressing the merger of parcels. Staff recommends that article 8-7E (Merger of Parcels) be excluded from Ordinance #2012-01 and that Resolution #2012-06 a resolution of the city council of the city of Lemoore declaring its intent to adopt a merger ordinance be adopted and setting April 3, 2012 as the date for the public hearing for this Ordinance.

Chapter 8-8: Flood Damage Prevention –

- Provisions related to areas without a base flood elevation have been modified to meet FEMA requirements as determined through January 12, 2012 meeting with their staff after the release of the draft document.

Chapter 9-1: Zoning Purpose and Administration – No major changes have been made to this chapter.

Chapter 9-2: Procedures and Entitlements

- Clarifying the appeals procedures in Table 9-2A-6-1.
- Adding a reference to conceptual plans for mixed use centers to minor site plan and architectural review.
- Updating the major site plan and architectural review permit to require review of proposed demolitions or exterior alterations and additions to non-residential buildings that are more than 75 years old, as required by the General Plan.
- Updating the Highway Oriented Sign Permit to include the additional findings described in article 9-5F (signage) for height and location exceptions.

Chapter 9-3: Zoning Districts and Map

- Revising the descriptions for the residential and mixed use zoning districts based upon policies in the General Plan for these districts.
- Updating the Naval Air Station Lemoore overlay zoning district description to reflect the content in chapter 9-9 (overlay zoning districts).
- Added notations regarding some parks and recreation area being used for ponding basins

Chapter 9-4: Use Regulations

- Adding a description for “community food bank” and “gated residential community” and adding them to the list of uses in Table 9-4B-2.
- Modifying the allowed uses in Table 9-4B-2 such that:
 - Multi-family dwellings are permitted above neighborhood commercial zoning district, consistent with the General Plan;
 - Gated residential communities are allowed in residential districts with a conditional use permit;
 - Community food bank is allowed in residential districts with an administrative use permit;

- Office, business, and professional uses in the regional commercial zoning district allowed with an administrative use permit, consistent with the General Plan;
- Auto and vehicle sales are allowed in the ML districts with a conditional use permit;
- Vehicle services, major is allowed in the MU district with a conditional use permit; and
- Vehicle services, minor is allowed in the MU district with a conditional use permit.
- Storage, personal storage facility, has been modified to include ancillary RV and vehicle storage.
- Allowing temporary food banks by right no more than 12 times per year under temporary uses.
- Providing a process through a temporary use permit for temporary improvements to property to address public safety concerns.
- Adding a requirement for a passing lane for drive-through uses.
- Updating the home occupation use listings based upon the Council/Commission discussion at the workshop.
- Providing a requirement for large family daycare that the proprietor be a resident of the home and modifying the hours of operation as discussed at the Council/Commission workshop.
- Removing the additional parking requirement for second dwelling units.
- For sexually oriented businesses,
 - Prohibiting minors that are accompanied by an adult.
 - Restricting the display of goods at the front of the store.
 - Updating the violation section based upon direction from the City Attorney.

Chapter 9-5: Site, Development, and Operational Standards

- Revising the undergrounding of utilities requirement for existing development to be based on valuation of work, rather than scale.
- Exempting city street lights from the lighting standards process as they meet standard.
- “Beefed up” the standards for carts and an Abandoned Shopping Cart Prevention Plan. Projects of 10,000 square feet or more would be required to have wheel lock systems. The changes would also impose the plan requirements on existing businesses, a requirement that many other jurisdictions around California impose per workshop discussions.
- Minor changes in setback requirements based upon discussions with staff to add a reference to the landscape requirement along arterial and collector streets.
- Updating street landscaping requirements for consistency with the General Plan amendment regarding parkway trees on Local Streets.
- Setting 20’ distance between street trees and street lights and allow flexible placement of street trees based on field conditions to reduce potential conflicts.
- Removing cottonwoods and eucalyptus from the list of protected trees.
- Clarifying the applicability and adding additional provisions (based upon State law requirements) for landscape water reporting requirements.
- Updating RV parking standards based upon the Council/Commission discussion at the workshop.
- Allowing reductions from parking standards for existing shopping centers that complete a comprehensive architectural update, consistent with General Plan policy.

- Changing the minimum display time for digital signs from 20 seconds to 7 seconds.
- Adding a reference to chapter 7-4 under Highway Oriented Signs.
- Removing the allowance for long-term leased signage at the 19th Avenue Park.

Chapter 9-6: Downtown Development Standards

- Revised the trash collection standards based upon the Council/Commission discussion at the workshop to address trash areas within buildings.
- Clarified the intent of the utility screening.

Chapter 9-7: Mixed Use Development Standards

- Updated the map of mixed use centers.
- Clarified the purpose of a conceptual plan and drafted procedures for plan approval and amendment, as well as outlined the development process with the conceptual plan.

Chapter 9-8: Specific Plan Zoning Districts – *No major changes have been made to this chapter.*

Chapter 9-9: Overlay Zoning Districts

- Added the special development standards for established planned unit developments.
- Updated/cleaned up the map of the Naval Air Station Lemoore Overlay Zone.

Chapters 9-10 and 9-11: Reserved – *No major changes have been made to these chapters.*

Chapter 9-12: Glossary of Terms

- Added definitions for certain sign types as requested by staff.
- Restructured to list all terms alphabetically, rather than by topic.

Zoning Map

- Updated the map to show the clarified boundaries of the Naval Air Station Lemoore Overlay Zone.
- Revised the Planned Unit Development overlays to not include unapproved vacant residential areas and changed the overlay symbol type to be more visible
- Added notations regarding some parks and recreation area being used for ponding basins

Repeal of Certain Municipal Code Sections

As part of the Zoning and Development Code update, some existing sections of the Municipal Code are being relocated or are no longer necessary. The following sections would be repealed as part of the adoption of the Zoning and Development Code:

- Chapter 2-2 (Board of Zoning Adjustment) – The Board of Zoning Adjustment is not used nor needed.
- Chapter 4-3 (Alcoholic Beverage License; Public Convenience or Necessity) – These procedures have been incorporated as section 9-2B-17 (Public convenience or Necessity) of the draft Zoning Code.
- Chapter 8-9 (Housing Incentives) – This chapter has been incorporated as article 9-5G (Affordable Housing Incentives (Density Bonus)) of the draft Zoning Code.

Public Comment

On December 13, 2011, and January 9, 2012 staff received comment letters from Jerry Irons regarding the draft Zoning and Development Code (Attachment D). In his letters, Mr. Irons identifies concerns with the proposed changes to vesting map and landscaping provisions and asks several specific questions about development opportunities for the Billingsley property.

The proposed changes to Vesting Tentative Maps would require more work on the part of the developer at the time of application submittal. However, there is no requirement that a developer prepare a Vesting Tentative Map. A regular Tentative Map may be submitted instead and the application requirements for a regular Tentative Map are less onerous. A Vesting Tentative Map provides a lot of benefits to a developer (such as a locked-in rate for impact fees) and imposes a number of limitations on the City (such as design and construction standards in place as the time of map application).

For instance, if a developer submitted in 2012 for a Vesting Tentative Map, which the City subsequently approved, the developer would have vested rights for as much as 10 years. The impact fees, for things like roads and fire stations, paid by the developer would be at the 2012 rates, regardless of when the homes were built. If the cost of roadway construction goes up significantly before the home is constructed, the City would not have the ability to raise the fee on the developer and would be left to make up the cost difference on its own. This is a significant financial liability for the City.

Section 9-5D2-3-D requires that a “licensed landscape architect, licensed landscape contractor, or any other person authorized to design a landscape” sign the landscape plans. This is a State mandate, established in the Model Water Efficient Landscape Ordinance under AB 1881, which the City is required (and has already) adopted. Tract home developers routinely employ landscape architects in the design of their projects. The language in the code section would allow a landscape contractor to sign the plans. While the draft code provides specificity and landscape and irrigation design, not all contractors are have the expertise to design landscaping to the State standards.

In response to Mr. Irons’ specific questions from the January 9 letter, staff offers the following. It is important to note, however, that the General Plan identifies mixed use sites as pedestrian-oriented with residential, retail, and office uses. Auto-oriented uses are not identified in the description (see page 2-11 of the General Plan). The Planning Commission did provide general comments to staff on any of these matters.

1. Caretaker housing is allowed by right in the Mixed Use district. This listing would provide on-site living quarters for manager/security personnel. Auto and vehicle storage is listed as not permitted.
2. RV and vehicle storage uses, as Mr. Irons describes, have been added to the land use definition at the January 23rd Planning Commission, and in the mixed-use district would be allowed through a conditional use permit.
3. Equipment rental as Mr. Irons describes as ancillary to the tire shop use would be allowed.
4. Minor hand-wash operations could be considered ancillary to the tire business. The prohibition of car washing and detailing is meant to focus on large retail operations (e.g., touchless car wash tunnel) and uses open to the general public.

5. This use listing is defined as training schools, not work on school equipment.
6. Staff has clarified the listing to describe it as a “gated residential community.” An industrial operation may be fenced/gated, consistent with the requirements of the Zoning Code.

Environmental Review

The California Environmental Quality Act (Section 21000, et. seq. of the California Public Resources Code, hereafter CEQA) requires analysis of agency approvals of discretionary “projects.” A “project,” under CEQA, is defined as “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” The proposed General Plan amendments and adoption of the Zoning and Development Codes are projects under CEQA.

General Plan Amendment

On May 8, 2008, as part of the adoption of the General Plan, the City Council adopted resolution #2008-26 certifying an Environmental Impact Report for the General Plan and adopting a Statement and Findings of Significant Potential Adverse Environmental Effect, and Associated Mitigation Measures to Avoid or Substantially Lessen Those Effects to a Level of Less than Significant. The mitigation measures identified in the EIR were incorporated into, and adopted as part of, the General Plan, making the Plan “self mitigating.”

The Council and Commission have, as part of the Zoning and Development Code workshop series in fall 2011, identified a series of amendments to the General Plan to address changes in market conditions and policy direction. Staff has completed an analysis of the potential changes and, because the changes do not alter the conclusions of the EIR, prepared an Addendum to the EIR (included in Attachment A).

While the majority of the policies and sections of the General Plan proposed for amendment were not specifically mentioned in the EIR, policy CD-I-11 was mentioned in the analysis of potential impacts to biological and visual resources. Additionally, policy CD-I-11 was identified as one of the mitigations for these impacts. Through the addendum process, the EIR would be modified to incorporate the revised policy. The analysis presented in the addendum identifies that the proposed revisions would not modify the intent of the mitigation and therefore the potential impacts would remain the same as identified in the EIR.

Adoption of the Addendum satisfies the CEQA review for the proposed amendments and no further environmental review is required.

Zoning and Development Codes

The proposed Zoning and Development Codes are an implementation of the General Plan goals, policies, and action items and, as such, are consistent with the General Plan. State CEQA Guidelines provide an exemption from CEQA for projects that are consistent with a General Plan for which an EIR was prepared. Specifically, State Guidelines section 15183 provides that “if an impact is not peculiar to...the project, has been addressed as a significant effect in the prior EIR...then an additional EIR need not be prepared for the project solely on the basis of that impact.” Because this Zoning and Development Codes are consistent with the General Plan, their adoption qualifies for the Section 15183 exemption and no further environmental review is required.

RECOMMENDATION:

The Planning Commission recommended that the City Council conduct a public hearing on the draft Zoning and Development Code, as well as the proposed General Plan amendments, review the draft materials, provide direction on modifications to the drafts, and consider:

- 1) Adopting draft Resolution #2012-05 (Attachment A) adopting the draft General Plan Amendments, based upon the findings provided;
- 2) Waiving the first reading of Ordinance #2012-01 (Attachment B) and pass it to a second reading adopting the draft Zoning and Development Code text and Proposed Zone Map (referred to in the Ordinance as Exhibit 1 which was provided to City Council February 3rd with 3 amended pages and amended Zone Map regarding PUD's and ponding basins posted as documents on 2-7-12 on the website), based upon the findings provided. The blue text boxes at the beginning of each chapter/article stating what changes are being made will be removed for the second reading and are not part of the codified text; and
- 3) Adopting Resolution #2012-06 (Attachment C) declaring the City's intent to adopt a merger ordinance.

ATTACHMENTS:

- A. Draft City Council Resolution #2012-05 for General Plan amendment (includes General Plan Environmental Impact Report Addendum and draft GP Amendment)
- B. Draft City Council Ordinance #2012-01 for Zoning and Development Codes (includes draft code)
- C. Draft City Council Resolution #2012-06 declaring intent to adopt a merger ordinance
- D. Comments from Jerry Irons (December 13, 2011 & January 9, 2012)
- E. Planning Commission's adopted Resolutions with recommendations for Council action