

3.9 Land Use and Planning

3.9.1 Introduction

This section describes the existing and proposed land use designations and zoning for the Yosemite Avenue – Gardner Avenue to Hatch Road Annexation project (proposed project) and evaluates the potential effects on general land use compatibility and consistency with the Merced Vision 2030 General Plan (City of Merced 2012) goals and policies and other relevant planning documents. As discussed in the Initial Study (Appendix B), the project would not divide an established community because the project site is not located within a contiguous community. The western, southern, and eastern project site boundaries are adjacent to public roadways, while the northern boundary is defined by an irrigation canal, with agricultural land present north of the canal. Therefore, this issue is not further addressed in this Environmental Impact Report (EIR).

As discussed in Chapter 1, Introduction, a Notice of Preparation (NOP) for this EIR was initially published in December 2016 based on the original project applications. In 2019, the project applicant submitted revised applications and site plans, increasing the number of residential units from 330 to 540 and increasing the amount of onsite parking. The City issued a revised NOP in May 2020. Comments received in response to the NOPs pertaining to land use included a concern that the project is requesting a change in zoning and the potential effect on property values and quality of life in the area and overall compatibility with surrounding land uses. The California Environmental Quality Act (CEQA) does not require changes in property values be evaluated. Concerns regarding compatibility with surrounding land uses are addressed in this section of the EIR. This includes consideration of the potential for the project to indirectly affect adjacent agricultural lands, while the direct loss of agricultural land that would result from the project is addressed in Section 3.2, Agricultural Resources.

Another commenter requested that the City evaluate other potential locations for higher density housing where existing infrastructure is available and that the City plan future development in a transparent fashion to allow people to choose the neighborhoods they want to live in based on what type of development is proposed. These concerns are noted and to the extent these comments are related to policy inconsistencies and general land use compatibility with existing plans, these issues are addressed in this section. This suggestion is also addressed in Chapter 4, Project Alternatives. Both NOPs and all comment letters received in response to them are provided in Appendix A.

Primary information sources used to prepare this section include the Merced Vision 2030 General Plan Land Use Chapter (City of Merced 2015a), Merced County 2030 General Plan (Merced County 2013a), and the City of Merced Municipal Code Title 20 Zoning (Merced County 2020).

3.9.2 Environmental Setting

Existing Site Conditions

The approximately 68.6-acre project site is located in unincorporated Merced County contiguous to the City of Merced and within the City's Sphere of Influence (SOI) and Merced Specific Urban Development Plan (SUDP). The SUDP was originally identified in the prior version of the Merced County General Plan and was relied upon by the City in completing the last update to the City's General Plan, as discussed further in the Land Use and Zoning Designations section below. The project proposes to annex the project site to the City.

As shown in Figure 2-2, Project Location, the site is located between Gardner Avenue and Hatch Road and north of East Yosemite Avenue, approximately 3 miles north of downtown Merced and 2 miles southwest of the University of California, Merced (UC Merced) campus. Residential development in the City is located to the south and west, and a commercial center is located southwest of the site at the intersection of Gardner Avenue and East Yosemite Avenue. Land in the County under active agricultural use is located to the north and rural residential uses are located to the east, across Hatch Road.

Figure 2-2 also shows that the proposed project site consists of two primary components – The Crossings component which includes a 28.4-acre L-shaped portion that extends from the northeast corner of Gardner Avenue and East Yosemite Avenue to the approximate center of the site, excluding the approximately 9.4 acres in the northwest corner of the site, and the Remainder Area which includes the 9.4 acres in the northwest corner of the site and an additional 30.8 acres in the eastern portion of the site. The Crossings component of the project is proposed to support development of multi-family residential and commercial land uses. The 40.2-acre Remainder Area is proposed for annexation to the City but no development is proposed for this area at this time.

The 28.4-acre The Crossings component of the project site currently supports approximately 25.4 acres of active agricultural production for row crops and an approximately 3-acre area developed with a residence, barn and outbuildings. A Merced Irrigation District (MID) irrigation canal traverses the northern boundary of the project site and a second drainage ditch is located adjacent to East Yosemite Avenue along the southern boundary of the project site; this drainage ditch transitions to an underground pipe at Gardner Avenue to the west and at Yosemite Church to the east.

Project Site Land Use and Zoning Designations

The discussion below provides a brief overview of the County and City's General Plan land use designations for the project site, the County's zoning for the project site, and the proposed City zoning for the project site. The land use designations within and surrounding the project site are

shown on Figure 2-3, City of Merced Land Use Designations, and Figure 2-4, County of Merced Land Use Designations and both City and County zoning designations for the project site and surroundings are shown on Figure 2-5, Zoning Designations.

City of Merced

Although the project site is not currently within the City's boundaries, it is within the SOI and as such has been assigned a Land Use designation under the City's General Plan. As shown in Figure 2-3, the current City Land Use designation for the site is Rural Residential, which allows development of residential lots with a density of between 1 and 3 units per acre and is intended to serve as a buffer between the City's urbanized areas and agricultural land or other resource areas. The City has not applied any zoning designations to the site.

Merced County

As shown in Figure 2-4, Merced County includes the project site in the Merced Rural Residential Center planning area and assigns it a land use designation of Agricultural Residential - Rural Residential Center (Merced County 2010). The County General Plan defines that Rural Residential Centers are areas with a concentration of suburban housing that are typically on one-acre lots and lack full urban services while being adjacent to or near incorporated cities (Merced County 2013a). The County zoning designation for the site is Rural Residential (R-R) (Merced County 2010), which provides areas for rural residential development, hobby farming and limited animal raising operations with less than a full range of urban services. The County's zoning ordinance states that this zone is intended to serve as a transitional area between more dense urban communities and agricultural uses. This zone allows between one and three dwelling units per acre and implements the Agriculture Residential (AR) and Very Low Density Residential (VLDR) land use designations in the General Plan (Merced County 2020).

Surrounding Properties

Surrounding land uses include existing residential development in the City to the south across East Yosemite Avenue and to the west across Gardner Avenue, a medical office and surgery center to the southwest, agricultural land to the north in the County, and a mix of larger lot rural residential uses generally bounded by Hatch Road in the County to the east.

The properties immediately north and east of the project site are also within the City's SOI and are designated under the City's General Plan for Rural Residential land uses. The area further north is identified in the City's General Plan as the Bellevue Community Plan Area. UC Merced is located east of that community plan area. The existing City residential areas immediately south and west of the site are designated Low Density Residential and zoned R-1-6. The commercial center to the southwest is designated Commercial Office and zoned RP-D (20).

Merced County's designated Merced Rural Residential Center, which includes the project site, extends to the properties north and east of the project site. These areas are designated Rural Residential and zoned R-R.

Existing Population

Both the City and County General Plan anticipate increasing residential populations in the respective jurisdictions. The City's General Plan Urban Expansion Element reports on the City's existing and projected residential population based on data obtained from the Merced Council of Governments in 2010. At that time, the city's population was projected to be 107,600 people in 2020 (City of Merced 2015b). However, growth did not occur as rapidly as anticipated, based on the US Census Quick Facts data, which indicates that there were 83,676 residents in the City of Merced in 2019 (US Census 2020), and the California Department of Finance (DOF) data that reports 88,261 city residents in 2020 (DOF 2021a). Further, the DOF data shows that the City had an average household size of 3.2 people per household in 2020, which dropped to 3.18 people per household in 2021 (DOF 2021).

Further, there were approximately 283,352 people in Merced County in 2020 and 284,836 people in 2021 with an average household size of 3.39 people in both 2020 and 2021 (DOF 2021a). The County's population is projected to increase to 298,184 by 2025 and 314,690 by 2030 (DOF 2021b).

3.9.3 Regulatory Setting

Federal Regulations

There are no federal land use plans, policies, regulations or laws applicable to the proposed project.

State Regulations

Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000

The Cortese-Knox-Hertzberg Local Government Reorganizations Act authorizes creation of Local Government Formation Committees (LAFCOs) and assigns LAFCOs the responsibility of ensuring orderly and logical changes in land development, including protecting agricultural land resources by discouraging urban sprawl and coordinating logical changes in local government boundaries. Merced County LAFCO regulates boundary changes, annexations, and spheres of influence for cities, agencies and special districts within the county (Merced LAFCO 2015). Merced County LAFCO has discretionary approval over the City's request to annex the project site into the City of Merced city limits.

Local Regulations

The project site is currently within the boundaries of Merced County and within the City of Merced SOI. The project proposes to annex the site to the City; thus the City's regulations would apply to development of the site. The land north of the project site would remain in the County; thus this section also includes County policies that are relevant to consideration of the land use impacts the proposed project could have in relation to the adjacent properties.

County and City General Plan Overview

Under the County's 2030 General Plan, Merced County adopted policies and land use designations for development in the unincorporated areas of the County based on the "Urban Centered Concept," which is intended to ensure orderly and logical growth, efficient land use, reduced loss of productive agricultural land, County planning that is complementary to efforts within incorporated cities, and that urban development occurs where public infrastructure and services are available (Merced County 2013a). In practice, the Urban Centered Concept means that the County intends to meet urban expansion needs by focusing growth in cities and unincorporated communities or centers.

The City's General Plan is consistent with the County's Urban Centered Concept in that the City's General Plan relies on the SUDP to define the City's ultimate growth boundary and SOI, with the intent that areas within the SUDP would be developed with a mixture of urban and urban-related uses (City of Merced 2012).

Merced Vision 2030 General Plan

The City's Merced Vision 2030 General Plan was adopted January 3, 2012 and was last amended in 2015. The City's General Plan is a long-range planning document that guides the City's decisions about land development, redevelopment, and conservation.

As shown in Figure 2-3, the project proposes that The Crossings component of the project site be redesignated to Neighborhood Commercial and High Medium Density Residential. For the Remainder Area, the project proposes that the northwest corner be designated rural residential and the eastern portion of the project site be designated Low Density Residential. The City's General Plan includes the following descriptions of the proposed land use designations (City of Merced 2015a):

Neighborhood Commercial (CN). This land use designation is designed to provide sites for retail shopping areas, primarily in shopping centers, containing a wide variety of businesses including retail stores, eating and drinking establishments, commercial recreation, auto services, etc., to serve residential neighborhoods.

High Medium Density Residential (HMD). This land use designation provides areas for multi-family development such as apartments, higher density triplex/fourplex units and condominiums. The density range is between 12 and 24 dwelling units/acre (du/ac).

Low Density Residential (LD). This designation provides areas for single family residential dwellings served by City services throughout the City. Primarily single-family detached housing, but options such as condominiums and zero-lot-line units can be developed. The density range is between 2 and 6 du/ac.

Rural Residential (RR). This designation provides areas for single family residential dwellings on large lots in a semi-rural environment to serve as a buffer between the City's urbanized areas and sensitive areas such as agricultural land or environmental resource areas. The density range is between 1 and 3 du/ac.

The following policies and implementing actions from the Merced Vision 2030 General Plan Urban Expansion chapter (amended April 2015), Land Use chapter (amended April 2015) and Housing Element (adopted July 2016) are applicable to the proposed project.

Policy UE-1.1 Designate areas for new urban development that recognize the physical characteristics and environmental constraints of the planning area.

Implementing Actions:

- 1.1.a Direct development away from significant concentrations of "Prime" agricultural soils and give priority to the conversion of non-prime agricultural land if reasonable alternatives exist.
- 1.1.b Limit development and development related impacts on agricultural lands along the City's urban fringe.

Policy UE-1.3 Control the annexation, timing, density, and location of new land uses within the City's urban expansion boundaries.

Implementing Actions:

- 1.3.a The City should continue to require that all new urban development and annexations be contiguous to existing urban areas and have reasonable access to public services and facilities.
- 1.3.e The planning for land uses in newly developing areas should reflect a mix of land uses which will support a neighborhood, including a variety of residential densities and price

ranges, neighborhood and convenience shopping facilities, job creation, and public facilities such as schools and parks.

1.3.g Evaluate future annexation requests against the following conditions:

- a) Is the area contiguous to the current City limits and within the City's Specific Urban Development Plan (SUDP)/Sphere of Influence (SOI)? Do the annexed lands form a logical and efficient City limit and include older areas where appropriate to minimize the formation of unincorporated peninsulas?
- b) Is the proposed development consistent with the land use classifications on the General Plan Land Use Diagram (Figure 2-3)?
- c) Can the proposed development be served by the City water, sewer, storm drainage, fire and police protection, parks, and street systems to meet acceptable standards and service levels without requiring improvements and additional costs to the City beyond which the developer will consent to provide or mitigate?
- d) Will this annexation result in the premature conversion of prime agricultural land as defined on the Important Farmland Map of the State Mapping and Monitoring Program? If so, are there alternative locations where this development could take place without converting prime soils?
- e) Will a non-agricultural use create conflict with adjacent or nearby agricultural uses? If so, how can these conflicts be mitigated?
- f) Does annexation of the area help the City reach one of the following goals?
 - 1) Does annexation of the area bring the City closer to annexation of the UC Merced campus and University Community?
 - 2) Does the area contain significant amounts of job-generating land uses, such as industrial, commercial, office, and business/research & development parks?
 - 3) Does the project provide key infrastructure facilities or other desirable amenities, such as the extension of major roads, utility trunk lines, parks and recreational facilities, etc.?

Policy UE-1.5 Promote annexation of developed areas within the City's Specific Urban Development Plan (SUDP)/Sphere of Influence (SOI) during the planning period.

Implementing Actions:

1.5.d Establish annexation policies and outreach program regarding the annexation of the existing Rural Residential Centers (existing development on one-acre lots)

Policy L-1.2 Encourage a diversity of building types, ownership, prices, designs, and site plans for residential areas throughout the City.

Policy L-1.5 Protect existing neighborhoods from incompatible developments.

Implementing Actions:

1.5.b Evaluate traffic and circulation generated by large scale development projects and seek to limit their impacts on residential areas to the extent feasible without sacrificing the need for connectivity between land uses.

Policy L-1.6 Continue to pursue quality single-family and higher density residential development.

Implementing Actions:

1.6.b Continue to require multi-family projects to comply, at minimum, with the adopted standards and design guidelines contained in the "City of Merced Multi-Family Design Standards and Guidelines."

Policy L-1.7 Encourage the location of multi-family developments on sites with good access to transportation, shopping, employment centers, and services.

Implementing Actions:

1.7.a Designate areas adjoining arterial streets, major transportation routes and commercial areas for multi-family development.

Policy L-1.9 Ensure connectivity between existing and planned urban areas.

Implementing Actions:

1.9.a Ensure multiple points of access for all new development.

Policy L-2.6 Provide neighborhood commercial centers in proportion to residential development in the City.

Implementing Actions:

2.6.a Neighborhood commercial centers should be located approximately one mile apart along major arterial streets adjacent to residential areas throughout the City.

Policy L-2.7 Locate and design new commercial development to provide good access from adjacent neighborhoods and reduce congestion on major streets.

Implementing Actions:

- 2.7.a New retail commercial designations shall be located along arterials at their intersections with collector streets (at 1/4 mile or 1/2 mile locations) in new growth areas. These commercial areas should not be located at the intersections of two arterials, except under very unique circumstances.
- 2.7.b Commercial centers shall be designed to provide direct vehicular and pedestrian access from surrounding neighborhoods. In no case shall trips which could be internal (from adjacent neighborhood to center) be forced onto an arterial.
- 2.7.e Commercial developments shall be designed to encourage pedestrian, bicycle, and transit access.

Policy H-1.1 Support increased densities in residential areas.

Implementing Actions:

- 1.1.c Expand the use of mixed-use residential/office/retail developments in the City's core downtown and other appropriate commercial centers to support both affordable housing and economic development goals through priority permit processing. The City will also amend the Zoning Ordinance to allow residential uses as a principally permitted use in deference to the Redevelopment Agency's Preferred Land Use Map and Downtown Strategy and when mixed with commercial uses.

The City will promote development consistent with the "Downtown Strategy."

In addition, the City will consider an ordinance amendment to reduce the parking requirements for residential developments within the downtown area. The use of other incentives such as reduced fees, density bonuses, and a streamlined development process will be reviewed.

- 1.1.g Work with UC Merced to Develop a Student Housing Plan

Action: City staff will work with representatives of UC Merced to consider the development of a Student Housing Plan. The plan should address issues of student housing within residential neighborhoods. It should include programs to educate students on being good neighbors. It should also address the need to locate fraternity/sorority housing within Medium-High and High Density Zones until such time as

they can be supported on campus. There are provisions in the draft Zoning Ordinance to regulate fraternities and sororities in the City.

City of Merced Zoning Ordinance (Chapter 20)

The City of Merced Zoning Ordinance is designed to implement the Merced Vision 2030 General Plan and to protect the public health, safety, and general welfare of the Merced community. Regulations include, but are not limited to, development standards, general site use regulations, regulation for the placement of buildings and structures, regulations for the provision of site improvements such as landscaping and parking, and procedures for administration of the ordinance. The Zoning Ordinance implements the goals and policies of the General Plan by regulating the uses of land and structures within the City.

The project proposes annexation of the 68.6-acre project site into the City, rezoning the 28.4-acre The Crossings component of the site as Planned Development, with a Site Utilization Plan land use designation consistent with R-4 zoning for the residential portion of the site and a Site Utilization Plan land use designation consistent with Neighborhood Commercial (C-N) for the mixed-use portion, rezoning 19.4 acres (the northwestern corner and the western third) of the Remainder Area as Urban Transition, and rezoning the eastern two-thirds (approximately 20.8 acres) of the Remainder Area as R-1-10. A description of the uses allowed in these zones described below.

Planned Development (P-D). The P-D zoning district requires permitted land uses to conform to the applicable General Plan designation, provided that such land uses are shown on the Official Site Utilization Plan for the particular P-D zone as approved by the City Council. The minimum project size in the P-D zoning district is 5 acres. As stated in Chapter 20 section 20.20.020, Planned Development Zoning District, “the purpose of the P-D zoning district is to allow for high quality development that deviates from standards and regulations applicable to other zoning districts within Merced. The planned development zoning districts are intended to promote creativity in building design, flexibility in permitted land uses, and innovation in development concepts. The planned development zoning districts are also intended to ensure project consistency with the general plan. Planned development zoning districts provide land owners with enhanced flexibility to take advantage of unique site characteristics to develop projects that will provide public benefits for residents, employees, and visitors to Merced” (City of Merced 2016).

High Density Residential (R-4). The R-4 zoning district provides an area for the highest density residential uses in Merced. Permitted uses include single-family dwellings, duplex homes, multi-family dwellings, single room occupancy housing, and other land uses typically compatible with a high-density residential setting in close proximity to shopping,

transportation, and other facilities. In this zone, the minimum lot size is 1,000 square feet per dwelling unit and the maximum building height is 40 feet.

Neighborhood Commercial (C-N). The C-N zoning district provides areas for shopping centers and other commercial uses that serve the day-to-day needs of residential neighborhoods. Further, this zone is required to be located only where analysis of the residential population demonstrates that the facilities are justified. The minimum lot size is 3 acres and maximum lot coverage is 65%. Further, when multiple buildings are constructed, they must be separated by at least 10 feet. When this zone is adjacent to residential zones, the maximum building height is 35 feet.

Low Density Residential (R-1-10). The R-1 zoning district is intended to stabilize, protect, and encourage the establishment and maintenance of a suitable environment for detached single-family dwellings and other land uses typically compatible with a low density residential setting. The R-1 zoning district is divided into four subzones (R-1-20, R-1-10, R-1-6, and R-1-5) allowing for a range of minimum lot sizes. The minimum allowable lot size in the R-1-10 district is 10,000 square feet.

Urban Transition (U-T). The purpose of the U-T zoning district is to allow the lawful continuation of land uses on land that is annexed to the City but not proposed for immediate urban development. Land in the U-T zoning district may continue with any legal and lawful use that existed in the county without time limit. However, this authority to continue such uses is not intended to legalize uses or structures operating or existing contrary to the terms of any other law or ordinance. Any major expansion in use, density, or other measurement of size or intensity shall require a change to a zoning district other than the U-T zoning district. The Director of Development Services shall determine whether a proposed change to an existing use will require a change to a zoning district other than the U-T zoning district.

In addition to the definition of the Planned Development zone district provided above, Section 20.20.20.J of the Zoning Ordinance states that the City Council can approve an application for planned development providing all of the following findings can be made:

1. The proposed development is consistent with the goals, policies, and actions of the general plan and any applicable specific plan and community plan.
2. The site for the proposed development is adequate in size and shape to accommodate proposed land uses.
3. The site for the proposed development has adequate access considering the limitations of existing and planned streets and highways.

4. Adequate public services exist or will be provided to serve the proposed development.
5. The proposed development will not have a substantial adverse effect on surrounding property, will be compatible with the existing and planned land use character of the surrounding area, and will enhance the desirability of the area and have a beneficial effect.
6. The proposed development carries out the intent of the planned development zoning district by providing a more efficient use of the land and an excellence of site design greater than that which could be achieved through the application of established zoning standards.
7. Each individual unit of the proposed development, in each phase as well as the total development can exist as an independent unit capable of creating a good environment in the locality and being in any stage as desirable and stable as the total development.
8. Any deviation from the standard ordinance requirements is warranted by the design and additional amenities incorporated in the development plan, which offer certain unusual redeeming features to compensate for any deviations that may be permitted.
9. The principles incorporated in the proposed development plan indicate certain unique or unusual features, which could not otherwise be achieved under the other zoning districts (Chapter 20, section 20.20.020 J).

Finally, the Section 20.46 of the Municipal Code includes the following design standards for multi-family dwellings:

20.46.030 - General design standards for multi-family dwellings.

B. Exterior Treatment.

1. Blank walls shall be treated with a variety of textures, use of projecting details that create shade/shadow and contrasting trim materials.
2. Any pipes, vents or tubes, etc., on the roof shall be painted or otherwise covered to match roof color or shall be screened.
3. Ground-mounted air conditioning units shall be screened from public view, using either landscaping or a combination of landscaping and screening comprised of the same materials as used on the buildings.

D. Parking.

1. Parking areas shall be screened from public right-of-way by landscaping, which may include berms or fencing/screening.

2. Parking areas shall be landscaped with a minimum of one (1) tree per every six (6) spaces.
3. Parking areas shall be lit at night for security reasons, but the lighting shall not spill over onto adjacent properties.

E. Trash Collection Area.

2. Refuse collection areas shall be screened with the same and/or complementary materials and colors used on the main buildings.

20.46.040 - Specific design standards for multi-family dwellings.

- A. All Multi-Family Dwelling in the Planned Development Zoning District and Multi-Family Dwellings with Five (5) or more Units (or Three (3) or more Units on Corner Lots) in Non-Planned Development Zoning Districts. In addition to the standards in Section 20.46.040 above, such units shall comply with the following:
 1. Building construction shall not exceed the plane established by 1:1 height and setback ratio from any exterior property line of a lot or parcel, for more than 50 percent of the allowable building area at any established distance from said exterior property line.
 2. A minimum of 1 tree per 3 units is required, and foundation plantings with a minimum mean horizontal depth of 3 feet covering the equivalent of a minimum of 50 percent of the overall horizontal building frontage shall be required in the overall project area.
 3. Fences.
 - a. Private balconies or patios shall be screened with solid or near-solid fencing/railings.
 - (1) Materials used shall be comparable quality and aesthetics to those used on the rest of the project.
 - (2) The color shall complement or match building trim.
 - b. Patio or Swimming Pool. Following standards exclude perimeter fencing.
 - (1) Fencing shall use the same materials, textures and colors as are used for the main building.
 - (2) Fencing shall not include chain link.

4. Parking, Garage, and Carports.
 - a. Carports shall have fascia boards. Materials for the fascia board shall match building material(s) of main structures; both fascia boards and vertical members (supports, screening elements, etc.) shall be painted to match or complement building trim.
 - b. A directory, with a list of all apartment unit identifications and a schematic or other locational device/site plan, shall be required in proximity to each parking lot entrance for use by emergency vehicles or visitors:
 - (1) Materials and color(s) of the directory will match/complement the building(s).
 - (2) City's approval is required for its placement and dimension, including orientation and lighting arrangements.
 5. Mechanical and Utility Equipment and Trash Collection Area.
 - a. No roof-mounted air-conditioning equipment shall be permitted.
 - b. Trash Collection Areas.
 - (1) The perimeter of trash enclosures shall be planted with landscaping, such as shrubs or climbing evergreen vines, unless otherwise required by the city.
 - (2) Decorative gates shall enclose a trash area; walk-in access for tenants, other than the main gates to the trash area, shall be provided unless otherwise required by the city.
 - c. Utility meters shall not be located within setback nor should they be visible from the public right-of-way, consistent with the following:
 - (1) A 3-foot clear space shall be provided in front of the meters;
 - (2) The meters shall be located near the front of the complex, but may be along the side of a unit;
 - (3) The meters may be screened with plants or materials as long as the utility company can still reach the meters to read them;
 - (4) Screening materials shall be the same as used on main buildings and shall be painted to match/complement building colors; and,
 - (5) The meters shall be located away from parking areas where they could be hit or backed into.
- B. Multi-Family Dwellings in the Planned Development Zoning District. In addition to the standards in Section 20.46.030 and 20.46.040.A above, such units shall comply with the

following: No composition roof materials shall be permitted except three-dimensional, architectural grade shingles.

Merced County 2030 General Plan

The Merced County 2030 General Plan, adopted December 2013, is a long-range planning document designed to guide land use in the unincorporated areas of the County including areas outside the Merced City limits, but within the City's planned SOI and the County's SUDP. Currently, the project site and lands immediately north and east are not within the City limits and are governed by the Merced County 2030 General Plan.

The 2030 Merced County General Plan Land Use Diagram identifies two rural land use designations and six urban land use boundaries, which include: City Planning Areas and Rural Residential Centers.

The County's General Plan (Merced County 2013a) defines the City Planning Area (which includes the City of Merced) and Rural Residential Centers as follows:

City Planning Area. Includes land located within the adopted sphere of influence of the cities of Atwater, Dos Palos, Gustine, Livingston, Los Banos, and Merced (where there is an adopted sphere of influence agreement). The land use and development within the cities is regulated by each City's general plan and the unincorporated fringe area outside the city limits is governed by the County General Plan and individual sphere of influence or land use agreements with each City.

Rural Residential Center. Includes areas in unincorporated Merced County that contain concentrations of suburban housing, typically on one acre lots that lack full urban services. These areas are typically located adjacent to or near incorporated cities and do not include commercial uses.

The following policies from the County's General Plan Land Use Element and Agricultural Element are applicable to the proposed project.

Policy LU-1.1 Countywide Development (RDR/MPSP) Direct urban development to areas within adopted urban boundaries of cities, Urban Communities, and Highway Interchange Centers in order to preserve productive agriculture, limit urban sprawl, and protect natural resources.

Policy LU-1.3 Rural Residential Centers (RDR) Limit the amount of new growth within existing Rural Centers by allowing only residential uses, limiting public services, and prohibiting commercial uses.

Policy LU-3.1 On-Site Agriculture-Related Uses (RDR) Maintain a rural character in Rural Residential Centers by allowing a limited amount of agricultural and animal husbandry activities.

Policy LU-3.3 Residential Densities (RDR) Maintain a minimum lot size commensurate with sanitation requirements by allowing one-acre minimum lots when Environmental Health Division approved on-site septic systems are installed, or a one-third-acre minimum when the lot has connection to a public sewer and water system.

Policy AG-3.1 Right-to-Farm Ordinance (RDR) Continue to implement the Right-to-Farm Ordinance to define and limit instances where agricultural operations may be considered a nuisance to surrounding residential or urban development.

Policy AG-3.2 Agricultural Buffer (RDR) Require buffers between proposed non-agricultural uses and adjacent productive agricultural operations to protect farms, dairies, and agricultural-related production facilities from conflicts with non-agricultural uses, specifically residential development.

Policy AG-3.3 Agricultural Buffer Standards (RDR) Establish agricultural buffer standards based on type of agricultural operation to be applied to residential development proposals adjacent to productive agricultural land and agricultural-related facilities.

Policy AG-3.4 Residential Buffers from Agriculture (RDR) Require a minimum 200-foot buffer between new residential development and existing agricultural operations, and establish design/maintenance guidelines for developers and property owners.

Merced County Zoning Ordinance (Title 18)

The Merced County Zoning Ordinance was last updated December 2016; it is contained within the Merced County Code (Merced County 2020). The Zoning Ordinance includes the zoning map and regulations governing the use of land and placement of improvements and buildings within various designations. Regulations include, but are not limited to, property development standards, general site use and regulations, parking standards and procedures for administering the ordinance.

The project site is currently zoned Rural Residential (R-R). The purpose of the R-R zone is to provide areas for rural residential development and hobby farming and limited animal raising operations with less than a full range of urban services. It is intended that this zone typically serve as a transitional area between more dense urban communities and agricultural uses with the option of allowing between one and three units per acre (Merced County 2020).

Merced County's Right-to-Farm Ordinance is administered by the Planning Department and has been in place since 1986. It requires a disclosure of the importance and protection of agriculture in the residential development process, when subdivisions or parcel splits are approved and building permits are issued. The disclosure is passed on to future property buyers through the title process.

3.9.4 Impacts

Methods of Analysis

Existing land uses in the vicinity of the project site were identified based on a site visit and review of aerial photography, roadway maps, and the City and County land use and zoning maps. Planned land uses were identified based on the City's General Plan and information provided by the City and the project applicant. The land use evaluation is based on a qualitative comparison of existing and proposed uses on the site and their compatibility with existing land uses and planned land uses surrounding the site, as defined in the Merced Vision 2030 General Plan as well as other applicable local planning documents.

Section 15125(d) of the CEQA Guidelines, (found in 14 CCR 15000 et seq.) states that the environmental setting of an EIR must discuss "any inconsistencies between the proposed project and applicable general plans, specific plans, and regional plans." An inconsistency with a general plan or other policy would not necessarily create an environmental impact. In some cases, a general plan policy lays out the standard by which an environmental impact is judged to be significant or less than significant. The determination of project consistency with the City's General Plan must be made by the City Council. The information provided in this section is intended to inform that decision.

The analysis below evaluates the proposed project's consistency with applicable goals and policies contained in the Merced Vision 2030 General Plan, as well as other relevant planning documents. This consistency analysis provides the reader with a general overview of whether the project is in harmony with the overall intent of the City's General Plan goals and policies. It is within the City's decision makers' purview to decide if the proposed project is consistent or inconsistent with any applicable City goals or policies.

Physical environmental impacts resulting from development of the project site are discussed in the applicable technical sections throughout Chapter 3 of this Draft EIR. CEQA does not treat project consequences relating solely to land use, socioeconomic or population, employment, or housing issues as direct physical impacts to the environment. An EIR may provide information regarding land use, planning, and socioeconomic effects; however, CEQA does not recognize these types of project consequences as typical impacts on the physical environment. The analysis

in this section evaluates land use compatibility as it relates to consistency with land use policies as well as potential physical effects on existing and planned land uses surrounding the project site. This analysis complies with Section 15125(d) of the CEQA Guidelines, as discussed above.

Implementation of The Crossings component would result in a change in land use as compared to existing conditions but would be consistent with the City's underlying land use designations to develop the site for residential and commercial uses. Changes in land use are regulated by the planning policies adopted by each local governmental jurisdiction in California. Therefore, this change in land use is evaluated in comparison to the planning goals and policies contained in the Merced Vision 2030 General Plan. General plans provide long-term goals, policies and standards for development, and all development proposals must be generally consistent with the overall land use guidance provided in a general plan. Additional land use controls are applied through the City's zoning, subdivision and grading requirements as well as other City regulations and ordinances. The project's consistency with the City's zoning ordinance associated with development of the project is discussed in this section. The analyses of consistency with other planning documents (e.g., regional air quality plans) are provided in the applicable technical sections throughout Chapter 3 of this Draft EIR.

Impacts Addressed in the Initial Study

As discussed in the Initial Study (Appendix B), The Crossings component is currently undeveloped and in active agricultural use. There are residential subdivisions south and west of The Crossings, but these communities are complete and have defined boundaries along East Yosemite Avenue and Gardner Avenue. They do not extend east and north into or beyond the project site. Therefore, development of this portion of the project site would not divide an established community and this issue is not further addressed. The Remainder Area supports rural residential uses, a church, a private school, and agricultural uses. The portions of the Remainder Area proposed to be pre-zoned U-T would support only continued operation of the existing land uses and new agricultural uses; the portions of the Remainder Area proposed to be pre-zoned R-1-10 would allow development of single-family residences on minimum 10,000-square-foot lots. The lands surrounding the Remainder Area do not comprise an established community because rural residential/agricultural use exists to the north while a separate area of rural residential exists to the east. Any future development within the Remainder Area subject to the proposed zoning designations would not divide any established communities, and there would be no impact. Therefore, this issue is not further addressed in this EIR.

Compatibility with Adjacent Uses

The CEQA Guidelines and the City of Merced do not include a standard or threshold of significance that requires evaluation of a project's compatibility with adjacent land uses. However,

this concern was raised in a comment letter received in response to the NOP; therefore, it is addressed in this section.

Thresholds of Significance

Consistent with Appendix G of the CEQA Guidelines, the City's General Plan, and professional judgment, a significant impact would occur if development of the proposed project would do any of the following:

- Create incompatibilities with existing or planned land uses in the project vicinity.
- Conflict with any regional land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.

Impacts and Mitigation Measures

Impact 3.9-1: Implementation of the proposed project would not create land use incompatibilities with adjacent properties. The project would have no impact.

The Crossings

As shown in Figure 2-2, The Crossings component of the project site is located just north and east of residential uses in the City of Merced along the west side of Gardner Avenue and along the south side of East Yosemite Avenue. A small medical office complex is located on the southwest corner of the intersection of Gardner Avenue and East Yosemite Avenue. Land in agricultural production in the County borders the northern boundary of this area of the project site as well as adjacent to the northeast corner.

As shown in Figure 2-6, Proposed Site Plan, the buildings within The Crossings component of the project would be surrounded by surface parking, a small planting strip, and a retention basin. Placing surface parking adjacent to the boundaries of the project provides a 60- to 65-foot buffer between the proposed residential and commercial uses and the adjacent agricultural land in the County to the north and northeast. Additionally, the proposed buildings are set back approximately 120 feet from both of the adjacent roadways to the west and south, thus buildings would be more than 200 feet from surrounding residences within the City.

The project's residential uses would be compatible with existing residential development along Gardner Avenue and East Yosemite Avenue. The project's neighborhood commercial uses would

be set back over 125-feet from nearby residential areas and the City does not consider neighborhood commercial uses incompatible with residential development.

The introduction of residential uses in proximity to agricultural activities can create land use incompatibilities by bringing a residential population to a site that may be exposed to nuisance effects from agricultural activities such as dust, odors, and noise. The Merced County General Plan EIR found that placement of urban uses “next to or in close proximity to intensely cultivated farmland” can lead to land use conflicts that reduce opportunities for agricultural activities (Merced County 2013b). The property north of the project site is used for row crops and is designated under the County General Plan as Agricultural Residential – Rural Residential Center, which allows single-family dwellings on large lots in a semi-rural environment and is typically applied to Rural Centers or at the edge of urban areas (Merced County 2013a); this property is zoned by the County as Rural Residential. Thus, this adjacent property is not intended to function as intensely cultivated farmland and is not a “primarily agricultural area” as defined in Merced County Ordinance 1213 (the county’s right-to-farm ordinance) or the County’s Zoning Code, Chapter 18.10.040, which requires that residential developments include specific setbacks from agricultural uses (Merced County 2020). Because the adjacent property to the north does not meet these definitions, neither the County’s right-to-farm ordinance nor chapter 18.10.040 of the County Code apply to that parcel or the proposed project. The proposed residential uses for the project site are considered compatible with the existing agricultural use of the adjacent property. Refer to Section 3.2, Agricultural Resources, for further discussion of potential project impacts to agricultural land.

The proposed project is not expected to generate excessive noise, light, dust, odors, or air emissions that would be considered incompatible with adjacent residential and commercial uses, as evaluated in the technical sections included in Sections 3.1, Aesthetics, 3.3, Air Quality, and 3.10, Noise. The project has been designed to shield the surrounding residences from activities that could create a nuisance or a disturbance to residents by placing outdoor activity areas internal to the site.

Additionally, the project would not add a substantial volume of traffic to local roadways or intersections, as determined in the Transportation Impact Study (TIS, Appendix M) completed for the project. Although CEQA Guidelines Section 15064.3 prohibits consideration of traffic congestion as an environmental impact, the City’s General Plan policies that define minimum acceptable levels of service for intersections can be used as one metric in considering whether the traffic generated by the project could result in roadway conditions that are not compatible with the existing and planned land uses in the project vicinity. The TIS evaluated the effect of the project on ten intersections located on primary routes accessing UC Merced and Merced College, routes likely to be used by project-related traffic as access to and from nearby commercial and residential areas and downtown Merced, and intersections where project-related traffic might cut

through residential neighborhoods. The TIS found that the City's transportation infrastructure would continue to operate acceptably under existing and cumulative conditions that include the proposed project (Appendix M). Thus, the project generated traffic is not expected to cause substantial changes in the character of roadway operations and thus would not create any traffic conditions that are incompatible with the surrounding residential and commercial land uses within the City or the rural residential and agricultural uses in the County.

Based on the analysis presented in Sections 3.1, 3.2, 3.3, 3.10, and 3.11 and in Appendix M, the project is not expected to create conditions that would be incompatible with existing and planned land uses surrounding the project site and in the project vicinity and thus the project would have **no impact** associated with land use compatibility.

Remainder Area

The Remainder Area is bifurcated by The Crossings component of the project. It includes approximately 9.4 acres in the northwest corner of the project site that consists of four rural residential parcels, which are proposed to be pre-zoned as U-T. It also includes 10.0 acres in the eastern portion of the site proposed to be pre-zoned as U-T and approximately 20.8 acres in the eastern portion of the site proposed to be pre-zoned as R-1-10. No new development within the Remainder Area is proposed at this time, however the portion of the Remainder Area that is proposed to be zoned R-1-10 could support single-family residential lots with a minimum size of 10,000 square feet. The portion of the Remainder Area zoned U-T would only allow new agricultural development unless further rezoning is approved. If residential uses are developed within the Remainder Area, the density would be greater than the residential density east of the project site (existing residences within Merced County) and slightly less dense than the residential density south of the project site (existing residences within the City of Merced). Ongoing or increased agricultural uses would be consistent with the existing development and land uses north of the site, within the County.

Based on the proposed land use and zoning designation for this portion of the site, it is expected that much of the existing land uses would continue to exist – specifically the rural residential uses in the northwest portion of the site, Yosemite Church, and Stoneridge School. Areas that may be redeveloped would be developed with single-family residential uses, at a maximum density of 4.3 dwelling units per acre. This would provide a transition between the multi-family uses within The Crossings component of the project and the existing rural residential uses east of Hatch Road, which would remain within the County's boundaries.

As discussed in Sections 3.1, 3.2, 3.3, 3.10, and 3.11, future development of the Remainder Area is likely to result in similar or lesser potential impacts to surrounding properties in relation to aesthetics, agricultural resources, air quality, noise, public services, and transportation as the

proposed project. Thus, future development of the Remainder Area would result in **less than significant** impacts due to the compatibility of the future development with other existing land uses in the vicinity.

Mitigation Measures

No mitigation measures are required.

Impact 3.9-2: Implementation of the proposed project would not conflict with a regional land use plan, policy or regulation. This would be a less-than-significant impact.

The components of the Merced Vision 2030 General Plan and Merced County General Plan as well as the City’s zoning ordinance that are applicable to the proposed project are identified in Section 3.9.3, Regulatory Setting.

The Crossings

Regional Land Use Plans

The project site is currently located in Merced County but is identified in both County and City planning documents as anticipated for annexation to the City and for future development. The project is consistent with the Urban Centered Concept expressed in the Merced County General Plan and the City’s SOI/SUDP. In addition, the project meets several of the City’s goals and policies by including a mix of residential and commercial uses where public services are available, ensuring that the City’s boundaries remain contiguous, offering residences that provide housing diversity in the community, and providing adequate access for vehicles, busses, and pedestrians.

Implementing Action 1.3.g of the Merced Vision 2030 General Plan provides a specific list of criteria to be considered when evaluating a proposed annexation. Table 3.9-1 shows that the project is consistent with those criteria:

**Table 3.9-1
Annexation Evaluation Criteria (Implementing Action 1.3.g)**

Implementing Action Criteria	Project Analysis
a) Is the area contiguous to the current City limits and within the City’s Specific Urban Development Plan (SUDP)/Sphere of Influence (SOI)? Do the annexed lands form a logical and efficient City limit and include older	The project site is contiguous to the City boundaries on Gardner Avenue and East Yosemite Avenue and within the City’s SOI/SUDP.

**Table 3.9-1
Annexation Evaluation Criteria (Implementing Action 1.3.g)**

Implementing Action Criteria	Project Analysis
<p>areas where appropriate to minimize the formation of unincorporated peninsulas?</p>	
<p>b) Is the proposed development consistent with the land use classifications on the General Plan Land Use Diagram (Figure 2-3)?</p>	<p>The City’s land use classification for the site is currently Rural Residential, which allows development of residential lots with a density of between 1 and 3 units. The project proposes to change the land use classification to Neighborhood Commercial and High Medium Density Residential, which allows a density of between 12 to 24 dwelling units per acre. While the project would change the land use classification for the project site, the project would extend the existing residential development that surrounds the site and contribute to meeting city goals for providing a diversity of housing types and integrating neighborhood-serving commercial uses. Further, the proposed project would develop medium density multi-family residential uses in a compact and concentrated land use pattern, rather than scattered or dispersed development. Thus, the project would contribute to the County’s goals for supporting agricultural activities by reducing the extent to which residential development may encroach into agricultural areas.</p>
<p>c) Can the proposed development be served by the City water, sewer, storm drainage, fire and police protection, parks, and street systems to meet acceptable standards and service levels without requiring improvements and additional costs to the City beyond which the developer will consent to provide or mitigate?</p>	<p>As discussed in Section 3.11, the project would be served by City water, sewer, storm drainage, fire and police protection, parks, with no need for expansion of existing City facilities.</p>
<p>d) Will this annexation result in the premature conversion of prime agricultural land as defined on the Important Farmland Map of the State</p>	<p>As discussed in Section 3.2, the project would annex approximately 26.3 acres of prime farmland, which is located within The Crossings portion of the project site. The</p>

**Table 3.9-1
Annexation Evaluation Criteria (Implementing Action 1.3.g)**

Implementing Action Criteria	Project Analysis
<p>Mapping and Monitoring Program? If so, are there alternative locations where this development could take place without converting prime soils?</p>	<p>site is included in the City's SOI/SUDP and is anticipated for annexation and development.</p> <p>Chapter 4, Project Alternatives, includes a discussion of potential offsite alternatives to the proposed project, as well as an alternative that would reduce the amount of prime farmland that would be converted to urban land uses.</p>
<p>e) Will a non-agricultural use create conflict with adjacent or nearby agricultural uses? If so, how can these conflicts be mitigated?</p>	<p>As discussed in Impact 3.9-1 and Section 3.2, the project would not create conflict with adjacent or nearby agricultural uses and no mitigation is needed.</p>
<p>f) Does annexation of the area help the City reach one of the following goals?</p> <p>1) Does annexation of the area bring the City closer to annexation of the UC Merced campus and University Community?</p> <p>2) Does the area contain significant amounts of job-generating land uses, such as industrial, commercial, office, and business/research & development parks?</p> <p>3) Does the project provide key infrastructure facilities or other desirable amenities, such as the extension of major roads, utility trunk lines, parks and recreational facilities, etc.?</p>	<p>1) Annexation of the project site would extend City boundaries slightly closer to the UC Merced campus and University Community.</p> <p>2) The project site does not currently contain significant amounts of job-generating land uses. The project proposes to create limited job-generating land uses by developing 66,000 square feet of commercial land uses.</p> <p>3) The project would not provide infrastructure that would serve any offsite uses.</p>

As discussed above and shown in Table 3.9-1, the project is consistent with applicable General Plan goals and policies, particularly the City's General Plan but also including consideration of the County's General Plan, and the impact related to potential conflicts with these goals and policies is **less than significant**.

Regulations

Once annexed to the City, the project site must be zoned consistent with the General Plan and anticipated uses of the project site. The site is currently located in unincorporated Merced County and is zoned R-R. The project applicant is requesting that The Crossings component of the project site be zoned P-D. This zoning designation is consistent with the proposed General Plan land use designations. The proposed project has been designed to comply with the City's Zoning Ordinance and would not conflict with provisions contained in the City's Code. Therefore, the impact would be **less than significant**.

Remainder Area

The analysis in Table 3.9-1 regarding project consistency with the General Plan requirements for consideration of annexation proposals is also applicable to the Remainder Area. This portion of the project site is also within the City's SOI/SUDP and development at this location would be consistent with the County's Urban Centered Concept. Further, annexing this area to the City would result in contiguous city boundaries and a logical extension of urban levels of development to areas where public services are available, would be consistent with the existing land use classifications for the site, and would not conflict with adjacent agricultural activities. The City would review any specific development plans for this site to confirm consistency with the zoning ordinance and other applicable provisions of the Municipal Code. Thus, the Remainder Area component of the project is consistent with applicable General Plan goals and policies, particularly the City's General Plan but also including consideration of the County's General Plan, and the impact on conflicting with these goals and policies is **less than significant**.

Mitigation Measures

No mitigation measures are required.

3.9.5 Cumulative Impacts

The land use analysis in an EIR does not typically include a discussion of cumulative impacts because the consistency analysis for applicable land use goals and policies and compatibility with existing adjacent uses is not an additive effect. The analysis of impacts 3.9-1 and 3.9-2 consider the proposed project's compatibility with surrounding land uses and consistency with the General Plan and other applicable land use regulations. Because the General Plan defines the City's anticipated long-range land use development and conservation scenario, the evaluation of project consistency with that plan addresses both project-specific and potential cumulative impacts.

3.9.6 References Cited

- California Department of Finance (DOF) Demographic Research Unit. 2021a. Report E-5: Population Estimates for Cities, Counties, and the State. January 1, 2021.
https://dof.ca.gov/Forecasting/Demographics/Estimates/e-5/documents/E-5_2021_InternetVersion.xlsx
- California DOF. 2021b. Demographic Research Unit. Report P-2A: Total Population Projections, California Counties, 2010-2060 (Baseline 2019 Population Projections; Vintage 2020 Release). March 2021.
https://www.dof.ca.gov/Forecasting/Demographics/Projections/documents/P2A_County_Total.xlsx
- City of Merced. 2012. *Merced Vision 2030 General Plan*. Adopted January 2012.
<https://www.cityofmerced.org/departments/development-services/planning-division/merced-vision-2030-general-plan>
- City of Merced. 2015a. *Merced Vision 2030 General Plan – Land Use Element*. Adopted January 2012, amended April 2015.
<https://www.cityofmerced.org/departments/development-services/planning-division/merced-vision-2030-general-plan>
- City of Merced. 2015b. *Merced Vision 2030 General Plan – Urban Expansion Element*. Adopted January 2012, amended April 2015.
<https://www.cityofmerced.org/departments/development-services/planning-division/merced-vision-2030-general-plan>
- Merced County 2010. *Merced Rural Residential Center General Plan and Zoning*. August 31, 2010. https://web2.co.merced.ca.us/pdfs/planning/sudpmaps/rrc/merced_rrc.pdf
- Merced County. 2013a. *2030 Merced County General Plan*. Adopted December 2013.
<https://www.co.merced.ca.us/100/General-Plan>.
- Merced County. 2013b. *2030 Merced County General Plan EIR*. Adopted December 2013.
<https://www.co.merced.ca.us/100/General-Plan>.
- Merced County. 2020. *Merced County Code, Title 18 Zoning Code*.
<https://www.co.merced.ca.us/2824/Zoning-Code>
- US Census. 2020. US Census Quick Facts 2020. Accessed March 23, 2021.
<https://www.census.gov/quickfacts/mercedcitycalifornia>