



CITY OF MERCED

Merced Civic Center
678 W. 18th Street
Merced, CA 95340

ADMINISTRATIVE REPORT

File #: 16-400

Meeting Date: 9/6/2016

Report Prepared by: Kim Espinosa, Planning Manager, Development Services Department

SUBJECT: Public Hearing - Zoning Ordinance Amendment #16-01 - Adoption of a New Zoning Ordinance for the City of Merced

REPORT IN BRIEF

The City Council will be asked to consider adoption of a new Zoning Ordinance for the City of Merced.

RECOMMENDATION

City Council - Adopt a motion:

- A. Adopting a Negative Declaration and Introducing Ordinance 2465, "An Ordinance of the City Council of the City of Merced, California, Amending Title 20 'Zoning' of the Merced Municipal Code;" and,
- B. Approving a supplemental appropriation in Fund 017 in the amount of \$2,260 to pay for the State filing fees for the Negative Declaration and allowing the Finance Officer to make the necessary budget adjustments.

ALTERNATIVES

1. Approve the project as recommended by the Planning Commission, Zoning Ordinance Update Task Force, and staff; or,
2. Approve the project, subject to modifications as specified by Council; or,
3. Deny the request; or,
4. Refer back to staff for reconsideration of specific items (specific items to be addressed in City Council motion); or,
5. Continue to a future City Council meeting (date and time to be specified in City Council motion).

AUTHORITY

The Zoning Ordinance is Title 20 of the Merced Municipal Code.

CITY COUNCIL PRIORITIES

A New Zoning Code was listed as a City Council priority under "Future Planning" in the adopted FY 2015-16 Budget.

DISCUSSION

Introduction

This is the first comprehensive update of the Zoning Ordinance (Title 20 of the Merced Municipal Code) since its adoption in the early 1960's and represents a complete redesign, update, and modernization of the Zoning Ordinance in order to make the Ordinance easier to use and understand for the general public and to provide specific guidance to developers, making the development process simpler and faster. The goal was to facilitate the City's overall growth and development and enhance the community's overall appearance, access to services, and economic health.

After a process that began over four years ago and with a special thanks to the Zoning Ordinance Focus Group (see below), the Planning Commission and City staff are pleased to recommend adoption of a new Zoning Ordinance for the City of Merced.

Background

The process of updating the Zoning Code began in 2012 with the hiring of a consultant, The Planning Center (now known as Placeworks), with the use of grant funds. Before the grant funds ran out in December 2013, the consultants prepared a preliminary draft of the new ordinance. Since that time, City Planning Staff took over responsibility for the project and facilitated the Focus Group meetings from July 2013 to March 2015, along with two additional meetings in January-February 2016 (see below). City staff also completely reformatted the ordinance with the use of color, enhanced graphics and photographs, and added provisions to address various issues that came up throughout the Focus Group process.

In December 2014, City staff produced a Focus Group Review Draft for the Focus Group to review. In September 2015, City staff produced the Public Review Draft with changes as asked for by the Focus Group along with various changes that arose from City staff's experience with implementing the current Zoning Ordinance. On September 8 and 9, 2015, the Public Review Draft was presented to the City Council and Planning Commission as well as being made available on the City's website at:

https://www.cityofmerced.org/depts/cd/planning/zoning_ordinance_update.asp .

Organization of the New Zoning Ordinance

The new Zoning Ordinance (Public Review Draft, September 2015) is organized into five parts as follows:

- 1) Part 1-Enactment and Applicability: Includes chapters regarding the purpose of the Zoning Ordinance, rules for interpretation, and provides an introduction to the Zoning Districts and Zoning Map.
- 2) Part 2-Zoning District Standards: Includes chapters regarding the purpose, land use regulations, and development standards for the six Residential, six Commercial, two Industrial, three Downtown, three Urban Villages, four Public Use and Agricultural, and two Special Use zoning districts as well as three Overlay Zones.
- 3) Part 3-General Regulations: Includes chapters regarding height, setbacks, accessory structures, walls and fences, interface, creek buffers, landscaping, parking and loading, small lot single family homes, second units, special land uses, residential design standards, home occupations, temporary uses and structures, nonconforming parcels/uses/structures, condominiums, density bonus, wireless communication facilities, adult entertainment businesses, and signs.

- 4) Part 4-Permits and Administration: Includes chapters regarding administrative responsibility, permit application and review, permit requirements, public notice and hearings, post-decision procedures, appeals, covenants for easements, conditional zoning, zoning ordinance amendments, general plan amendments, reasonable accommodations, and development agreements.
- 5) Part 5-Glossary (Definitions): Includes definitions for 239 land uses and other terms used in the Zoning Ordinance.

General Overview of Proposed Changes to the Zoning Ordinance

City staff completely reorganized and reformatted the new Zoning Ordinance with the use of color, enhanced graphics and photographs. Along with the Public Review Draft, City staff prepared a separate document, dated September 2, 2015, entitled "Zoning Code Update-Summary of Major Changes" (Attachment B of the Planning Commission Staff Report-Attachment 4), which summarizes the major changes to the Zoning Code in a table format.

These major changes include, but are not limited to:

- 1) The establishment of several new Zoning Districts (Rural Residential, Business Park, three Downtown zones, three Urban Village zones, three Public Use zones, and three Overlay zones), including several called for in the Merced Vision 2030 General Plan (adopted in 2012);
- 2) A major expansion to the list of uses allowed in each zoning district with various levels of review (Permitted, Minor Use Permits, Site Plan Reviews, and Conditional Use Permits);
- 3) Streamlining of the process for approving projects in the Planned Development zone;
- 4) Allowing 7-foot-high backyard fences in residential zones and up to 10-foot-high fences in non-residential zones along with new provisions regarding fence materials;
- 5) Streamlining the requirement for a Conditional Use Permit to a Site Plan Review Permit for Interface situations and expanding the use of the staff-level Site Plan Review Permit in other zones;
- 6) Substantial modifications to the Parking and Loading chapter, including the addition of more land use categories, adding flexibility and options in parking calculations for various land uses, and adding requirements for bicycle parking;
- 7) Adding regulations for specific land uses, such as mobile food trucks parked in a permanent location, check cashing establishments, community gardens, fraternities/sororities, live-work units, emergency shelters, recycling facilities, and placing new restrictions on tobacco sales in proximity to schools and other youth-oriented activities;
- 8) Substantial modifications to the City's regulations of home-based businesses ("home occupations") and Cottage Food industries;
- 9) Although the regulations and procedures themselves have not changed, the procedures for all the various planning permits (i.e. Conditional Use Permits, Zone Changes, etc.) are now spelled out in the Zoning Ordinance for easy reference;
- 10) A change in the appeals period from "calendar" days to "business" days;
- 11) Several new permits have been added (Minor Use Permits, Special Project Permits, etc.) have been added to increase flexibility; and,
- 12) The Definitions section has been expanded significantly from 45 definitions to 239 definitions for further clarity.

Proposed Changes to the Public Review Draft (June 2016)

Since the release of the Public Review Draft in September 2015, City staff has received various comments on the Draft, including suggestions from the Planning Commission and City Council joint study sessions (and further recommendations from the Focus Group). Based on these suggestions, comments from the public, and recently adopted zoning ordinance amendments regarding medical marijuana and massage establishments, City staff has prepared a Final Draft of the Zoning Ordinance.

Instead of publishing a new Draft, however, City staff has prepared a document entitled "Proposed Changes to the Merced Zoning Ordinance Public Review Draft (June 2016)," which can be seen at Attachment 1. This document, in table format, spells out all the proposed changes to the Zoning Ordinance since the Public Review Draft was released. Please note that two minor modifications were made to this table after the Planning Commission staff report was prepared, and those modifications were presented to the Planning Commission at the meeting on July 6, 2016, so Attachment A of the Planning Commission Staff Report at Attachment 4 was deleted to avoid confusion. It should also be noted that City staff reserves the right to make very minor corrections, such as misspelled words or incorrect references or page numbers, in the final version of the Zoning Ordinance prior to publication.

These proposed changes include, but are not limited to:

- 1) Adding provisions from recent zoning ordinance amendments regarding medical marijuana and massage establishments (the medical marijuana regulations may be modified further depending on City Council action on August 1, 2016);
- 2) Adding the suggested guidelines regarding the design of single-family and multi-family units from the Planning Commission/City Council study sessions;
- 3) Amending the parking requirements for multi-family units as well as increasing the required width from 8.5 feet to 9 feet for all parking spaces;
- 4) Modifying the regulations for Community Gardens to allow them in more zones and to allow the on-site sale of products on a case by case basis.

Zoning Ordinance Focus Group

The Merced Zoning Ordinance Update Focus Group was made up of Merced residents with various interests, including developers, engineers, planners, real estate, banking, and other interested citizens (see below for the members). The Zoning Ordinance Focus Group met 17 times from July 2013 to March 2015 to assist with the development of the Public Review Draft (Sept 2015) and then twice more in January and February 2016 to review suggested changes to the Public Review Draft from the Planning Commission and City Council. (A summary of their recommendations previously released has been amended to include their 2016 meetings and is provided at Attachment C of the Planning Commission Staff Report-Attachment 4.)

City staff would like to thank the Focus Group for all the time and effort that they put into the process. Their invaluable input made for a better product, which reflects the community's vision for future development.

Focus Group Members: Jim Abbate, Christina Alley, Ann Andersen, Todd Bender, Kenra Bragonier, Adam Cox, Tony Dossetti (Council Member), Ron Ewing, Loren Gonella, Forrest Hansen, Flip Hassett, Jack Lesch, Elmer Lorenzi, Des Johnston, Guy Maxwell, Carole McCoy (former

Planning Commissioner), Michelle Paloutzian, Garth Pecchinino, Joe Ramirez, Mike Salvadori, Stan Thurston (Mayor), Brandon Williams (former Planning Commissioner), Jim Xu, and Chairman Bruce Logue

Public Input

In addition to the work of the Zoning Ordinance Focus Group, community input into the process was accomplished in several ways, including public forums, stakeholder interviews, presentations to community groups and City Commissions, and joint Planning Commission/City Council study sessions. Please see Finding G of the Planning Commission Staff Report at Attachment 4 for more information.

Environmental Clearance

The Planning staff has conducted an environmental review (Initial Study #16-20) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Draft Negative Declaration (i.e., no significant adverse environmental effects have been found) is being recommended (see Attachment E of the Planning Commission Staff Report-Attachment 4).

Planning Commission Public Hearing

On July 6, 2016, the Planning Commission held a public hearing on the Zoning Ordinance. 21 individuals testified. Although they expressed their appreciation for the efforts that went into preparing the new Ordinance and their support for including provisions for community gardens in the Ordinance, a number of them expressed concerns regarding the application fees for conditional use permits for community gardens in residential zones as proposed and asked for a reduction in fee costs, especially for non-profits. Correspondence from the public received at and prior to the Planning Commission public hearing is included at Attachment 5.

After the public hearing, the Planning Commission expressed their support for the proposed requirement for conditional use permits (CUP) for community gardens in residential zones, which would provide for input from the neighbors into how the gardens would operate in their neighborhoods. Staff had previously indicated that once the Zoning Ordinance was adopted, that the fee schedule would have to be updated to reflect the level of effort required for each type of permit and that staff felt that the cost for a minor conditional use permit, such as would be required for a community garden, would be much less than that for a regular CUP. The current fee for a minor CUP is \$577 vs. \$2,886 for a regular CUP. That lesser cost barely covers the cost of mailing and publishing public hearing notices and minimal staff time.

The Planning Commission subsequently adopted a motion by a 6-0-1 vote (6 ayes, 0 no, 1 absent) to unanimously recommend approval to the City Council of the Negative Declaration and the Zoning Ordinance as proposed. See Attachments 2 and 3 for the Planning Commission Resolution and Minute excerpts.

Tobacco Sales Provisions

After the Planning Commission meeting and just prior to the City Council hearing, a letter was received from the Greater Merced Chamber of Commerce (see Attachment 6) in opposition to the proposed new restrictions on tobacco sales in the new Zoning Code under Section 20.44.160 on page 164 of the Public Review Draft. In summary, the proposed provisions prohibit new tobacco

retailers from locating within 1,000 feet of any parcel which has a public or private elementary, middle, junior high, or high school or playgrounds, parks, youth centers, City-owned and operated recreational facilities, and libraries. The prohibition does not apply to existing tobacco retailers who are currently operating legally and continue to operate with a suspension of no more than 90 days or to a tobacco retailer who entirely occupies a building of more than 20,000 square feet.

The Merced County Health Department had made a presentation to the Zoning Ordinance Focus Group at their meeting of January 29, 2015, asking for restrictions on tobacco sales near schools and other areas where children are often present. After the presentation, the Focus Group recommended that staff include provisions in the new Code that would ban the sale of tobacco products, including e-cigarettes, within 1,000 feet of schools and other youth-oriented areas, such as parks and playgrounds, but an exemption should be made for existing retailers and businesses over 20,000 square feet consistent with the current code regarding alcohol sales. (See page 17 of Attachment C of the Planning Commission Staff Report-Attachment 4 for details about the Focus Group discussion.) Staff has also included a copy of the original letter submitted by the Health Department to the Focus Group in January 2015 at Attachment 6.

IMPACT ON CITY RESOURCES

There is \$2,260 in FY 2015-16 savings to carry over into FY 2016-17 for the supplemental appropriation.

ATTACHMENTS

1. Proposed Changes to the Public Review Draft (June 2016, modified 8/2/16)
2. Planning Commission Resolution #3071
3. Minute Excerpts from Planning Commission Meeting of July 6, 2016
4. Planning Commission Staff Report #16-16
5. Correspondence received prior to or at the Planning Commission meeting
6. Correspondence regarding Tobacco Sales Restrictions
7. Draft City Council Ordinance

PLEASE BRING YOUR COPY OF THE PUBLIC REVIEW DRAFT OF THE ZONING ORDINANCE (SEPTEMBER 2015) TO THE MEETING OR CONTACT PLANNING STAFF FOR ANOTHER COPY.

Proposed Changes to the Merced Zoning Ordinance Public Review Draft (June 2016)

*NOTE: All Annotations and References to the Current Zoning Ordinance that were in the Public Review Draft (released in September 2015) in **[RED type]** have been removed throughout the entire document. Some page numbers may also change due to added content.*

New Code Section	Topic/Title	Summary of Change	Reason for Change
Part 1--Enactment and Applicability			
Chapter 20.02	Purpose	No Changes	N/A
Chapter 20.04	Interpretation	No Changes	N/A
Chapter 20.06	Zoning Districts and Map	No Changes	N/A
Part 2--Zoning District Standards			
Chapter 20.08	Residential Zoning Districts		
Section 20.08.020	Land Use Regulations for Residential Zoning Districts	In Table 20.08-01 on pg. 12, "Group Housing" shall be amended to read: " <u>Group/Transitional/Supportive Housing</u> "	Although Definition #87 on pg. 296 for Group Housing, indicates it includes "Transitional Housing" (Definition #214 on pg. 313) and Supportive Housing (Definition #205 on pg. 312), this should be added for clarity in order to address the requirements of SB 2, which require that they be allowed where similar residential uses are.
Section 20.08.020	Land Use Regulations for Residential Zoning Districts	In the Notes under Table 10.08-1 on pg. 13, Note #1 should be modified to read: "1. A <u>Site Plan Review Conditional Use Permit</u> may be required per Chapter 20.32 (Interface Regulations) regardless of the uses shown in Table 20.08-1."	A Site Plan Review Permit is now required under the Interface Regulations, not a CUP as under the current Ordinance.
Section 20.08.030	Development Standards for Residential Zoning Districts	Section 20.08.030 (B4) on pg. 14 shall be amended to read "No lot shall have a <u>depth length</u> less than the minimum required <u>depth length</u> or a width less than 15 feet below the required width."	Correction

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New Code Section	Topic/Title	Summary of Change	Reason for Change
Section 20.08.040	Additional Dwelling Units on R-1 Lots	Section 20.08.040 (D) on pg. 20 shall be amended to read as follows: " D. Dwelling Units Over Garages. Dwelling units occupying an upper story above a garage may be set back 3 feet from a rear lot line that abuts an alley. <u>The groundfloor garage shall be set back 5 feet from the rear lot line.</u> All other setback and open space requirements must be observed."	Added for clarity as this existing section often confuses the reader.
Section 20.08.050	Rural Residential Zoning District	No Changes	N/A
Chapter 20.10	Commercial Zoning Districts		
Section 20.10.020	Land Use Regulations for Commercial Zoning Districts	In Table 20.10-01 on pg. 22, "Group Housing" shall be amended to read: " <u>Group/Transitional/Supportive Housing</u> "	Same reason as for Section 20.08.020 above
Section 20.10.020	Land Use Regulations for Commercial Zoning Districts	In Table 20.10-1, on pg. 23, under "Banks, Retail" in the C-O zone, the color of the square shall be changed to green and the letter will remain "P."	Error Corrected, wrong color was used in Draft.
Section 20.10.020	Land Use Regulations for Commercial Zoning Districts	Please note that Staff had already incorporated the changes to the Zoning Ordinance regarding Massage Establishments, adopted with Ordinance #2452 in December 2015, into the Public Review Draft on pages 23 and 25.	No change needed.
Section 20.10.020	Land Use Regulations for Commercial Zoning Districts	In Table 20.10-1, on pg. 23, the following land use will be added: "Medical Marijuana Dispensaries" and will be shown as being allowed with a Conditional Use Permit (depicted with a "C" and with a "[19]" in reference to an added Note #19 on pg 25 regarding the distances away from schools, etc.) as well as Prohibited (depicted with an "X") in all other commercial zones. Section 20.44.170 will be listed under "Additional Regulations."	Per City Council Ordinance #2464, introduced on August 1, 2016 (and replacing the previous Ordinance #2454 from January 2016)

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New Code Section	Topic/Title	Summary of Change	Reason for Change
Section 20.10.020	Land Use Regulations for Commercial Zoning Districts	In the Notes under Table 10.10-1 on pg. 25, Note #1 should be modified to read: "1. A <u>Site Plan Review Conditional Use Permit</u> may be required per Chapter 20.32 (Interface Regulations) regardless of the uses shown in Table 20.10-1."	A Site Plan Review Permit is now required under the Interface Regulations, not a CUP as under the current Ordinance.
Section 20.10.020	Land Use Regulations for Commercial Zoning Districts	In the Notes under Table 20.10-1 on pg. 24, Note 4 should be amended to read: "24 hour operations limited to C-T and <u>C-C zones</u> per Chapter 9.08 (Gaming)."	Per City Council Ordinance #2457, effective June 2, 2016 (currently on hold subject to State approval).
Section 20.10.030	Development Standards and Guidelines for Commercial Zoning Districts		
Section 20.10.030-E	Development Guidelines for C-C (Regional Centers only) and B-P Zoning Districts	Section 20.10.030-E (5A) on pg. 31 will be amended to read as follows: "Sidewalks and pathways shall be provided to accommodate pedestrian circulation from parking areas to buildings, between buildings, and to plazas, open spaces, and other outdoor amenities. This pedestrian network should enhance a campus-like appearance of the development site <u>and functional awnings should be added to protect pedestrians from the rain when walking along building frontages of businesses which abut each other.</u> "	Per Focus Group, Planning Commission, & City Council
Chapter 20.12	Industrial Zoning Districts		
Section 20.12.020	Land Use Regulations for Industrial Zoning Districts	In the Notes under Table 10.12-1 on pg. 35, Note #1 should be modified to read: "1. A <u>Site Plan Review Conditional Use Permit</u> may be required per Chapter 20.32 (Interface Regulations) regardless of the uses shown in Table 20.12-1."	A Site Plan Review Permit is now required under the Interface Regulations, not a CUP as under the current Ordinance.

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New Code Section	Topic/Title	Summary of Change	Reason for Change
Section 20.12.020	Land Use Regulations for Industrial Zoning Districts	In Table 20.12-1, on pg.34, the following land use will be added: "Medical Marijuana Dispensaries" and will be shown as being prohibited (depicted with an "X") in all industrial zones and Section 20.44.170 will be listed under "Additional Regulations."	Per City Council Ordinance #2464, introduced on August 1, 2016 (and replacing the previous Ordinance #2454 from January 2016)
Section 20.12.030	Development Standards for Industrial Zoning Districts	In Table 20.12-2 on pg. 36, the Exterior Yard setback for the Heavy Industrial (I-H) Zone is increased from "None" to "15 Feet (1)"	Per Focus Group, Planning Commission, & City Council
Section 20.12.030 (B and C)	Industrial Buffer Yards and Performance Standards	Section 20.12.030 (C3) should read as follows: "3. Odor. No <u>objectionable</u> odor or noxious gas emissions which is discernible at any point beyond the property line is permitted."	Makes the regulation more specific.
Chapter 20.14	Downtown Zoning Districts		
Section 20.14.020	Land Use Regulations for Downtown Zoning Districts	In Table 20.14-01 on pg. 42, "Group Housing" shall be amended to read: " <u>Group/Transitional/Supportive Housing</u> "	Same reason as for Section 20.08.020 above
Section 20.14.020	Land Use Regulations for Downtown Zoning Districts	In Table 20.14-01 on pg. 42, "Community Gardens" should be added under "Community Uses" and should be allowed by Site Plan Review (SP) in the D-COR, D-O, and D-CM zones.	Community Gardens would also be appropriate in these zones.
Section 20.14.020	Land Use Regulations for Downtown Zoning Districts	In the Notes under Table 10.14-1 on pg. 44, Note #1 should be modified to read: "1. A <u>Site Plan Review Conditional Use Permit</u> may be required per Chapter 20.32 (Interface Regulations) regardless of the uses shown in Table 20.14-1."	A Site Plan Review Permit is now required under the Interface Regulations, not a CUP as under the current Ordinance.
Chapter 20.16	Urban Village Zoning Districts		
Section 20.16.020	Land Use Regulations for Urban Village Zoning Districts	In Table 20.16-01 on pg. 53, "Group Housing" shall be amended to read: " <u>Group/Transitional/Supportive Housing</u> "	Same reason as for Section 20.08.020 above

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New Code Section	Topic/Title	Summary of Change	Reason for Change
Section 20.16.020	Land Use Regulations for Urban Village Zoning Districts	In Table 20.16-01 on pg. 53, "Community Gardens" should be added under "Community Uses" and allowed by Conditional Use Permit (C) in the R-OV and R-IV zones and by Site Plan Review (SP) in the C-V zone.	Community Gardens would also be appropriate in these zones.
Section 20.16.030	Development Standards/Guidelines for Urban Village Zoning Districts	Section 20.16.030 (B2b) should read as follows: "R-OV and R-IV zoning districts shall have direct access to a neighborhood-serving commercial zoning district without having to cross a street designated as a "Minor Arterial" or higher <u>order street.</u> "	Clarifies the requirement.
Chapter 20.18	Public Use and Agricultural Zoning Districts	No Changes	N/A
Chapter 20.20	Special Use Zoning Districts		
Section 20.20.010	Urban Transition (U-T) Zoning District	The last sentence of Section 20.20.010 (E) shall be amended to read: " The City may approve the annexation only <u>If the property owner does not submits the written statement and site plan as required by this section, then the City may prepare its own written statement in order to complete the zoning process upon annexation.</u> "	Makes the requirement more flexible to address potential issues but would still allow the annexation to take place if necessary.
Section 20.20.020	Planned Development (P-D) Zoning Districts		
Section 20.20.020 (G3)	Preliminary Site Utilization Plan	Section 20.20.020(G3) on pg. 69 shall be amended to read as follows: "The applicant shall provide an overall diagram of the site utilization. This diagram shall illustrate the overall development concept, including proposed land uses, buildings, circulation, <u>transit facilities</u> , open space, and other significant elements in the proposed site. Phases shall be clearly indicated if multiple phases are proposed."	Added for clarity
Section 20.20.020 (G6)	Preliminary Site Utilization Plan	The reference in Section 20.20.020(G6) to "Section 20.20.020.N" should be changed to "Section 20.20.020 (M)."	Corrected reference.

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New Code Section	Topic/Title	Summary of Change	Reason for Change
Section 20.20.020 (M3)	Final Site Utilization Plan (Circulation)	Section 20.20.020 (M3) on pg. 71 shall be amended as follows: " 3. Circulation/Transit. The Final Site Utilization Plan shall include a map and descriptions of the major circulation features within the site including vehicular, bicycle, pedestrian <u>and transit</u> facilities; traffic flow of internal traffic; and existing and proposed public streets and sidewalk improvements."	Added for clarity
Section 20.20.020 (M5)	Final Site Utilization Plan (Development Standards)	Section 20.20.020 (M5) on pg. 71 shall be amended to read as follows: " 5. Development Standards. The Final Site Utilization Plan Development Standards shall identify all development standards that apply within the site, including parcel dimensions, density, setbacks, structure height, <u>building architecture and design</u> , parking, and landscaping requirements, which assures the suitable integration of the P-D into the neighborhood or area which it is located. <u>Applicable conditions of approval, mitigation measures, and terms of any Development or Legislative Action Agreement, where appropriate,</u> shall also be included."	Added to clarify the requirements
Section 20.20.020 (N)	Revisions to a Planned Development	In Section 20.20.020(N) on pg. 72, the following phrase " <u>Preliminary or Final</u> " shall be added before each reference to a "Site Utilization Plan" (Total of 3 places.)	Clarification

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New Code Section	Topic/Title	Summary of Change	Reason for Change
Section 20.20.020 (Q)	Individual Projects within a Planned Development.	A new Section 20.20.020 (Q) on pg. 72 shall be added as follows: " Q. Individual Projects within a Planned Development. After the Final SUP has been approved, individual projects within a Planned Development shall require a Site Plan Review Permit prior to development to address conformance with the Final SUP."	Although discussed throughout the Zoning Ordinance Review process, the actual provision to allow Site Plan Reviews instead of the currently required Conditional Use Permits was inadvertently left out of the Public Review Draft.
Section 20.20.020 (N)	Revisions to a Planned Development	First sentence of Section 20.20.020 (N) shall be amended to read: "A public hearing by the Planning Commission and City Council shall be required prior to approval of <u>significant</u> revisions to the Site Utilization Plan which involves changes in land use, expansion or intensification of development, or changes in the standards of development."	Clarification
Chapter 20.22	Overlay Zones	In Section 20.22.040 D3h on pg. 84 will have the following added under (2) Standards: "2a) The side courtyard shall be a shared space accessible to all building residents. 2b) Pathways shall be provided from each unit to the side courtyard and from the side courtyard to a public sidewalk adjacent to the site."	Per Focus Group, Planning Commission, & City Council

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New Code Section	Topic/Title	Summary of Change	Reason for Change
Part 3--General Regulations			
Chapter 20.24	Height Measurement and Exceptions	No Changes	N/A
Chapter 20.26	Setback Measurement and Projections	No Changes	N/A
Chapter 20.28	Accessory Structures	No Changes	N/A
Chapter 20.30	Walls and Fences		
Section 20.30.020 (A1)	Height Limits for Residential Zoning Districts	Section 20.30.020 (A1) on pg. 98 should read as follows: "1. Basic Standards. Fences, walls, and hedges in residential zoning districts shall comply with the standards in Table 20.30-1 (Fence Heights in Residential Zoning Districts) and as illustrated in Figure 20.30-02 (Height Limits for Fences, Walls, and Hedges)."	Correction of Error in Figure number
Section 20.30.020 (A6)	Height Limits for Residential Zoning Districts	Figure 20.30-2 (Open Ended Cul-de-Sac Lots) on pg. 101 should be numbered "Figure 20.30-3" instead	Correction of Error in Figure number
Chapter 20.32	Interface Regulations		
Section 20.32.030	Site Plan Review	A key will be added to Table 20.32-1, Site Plan Review Permit Required, on pg. 106 to show that green means "permit required" and red means "permit not required."	A key or legend was inadvertently left off the Table.
Chapter 20.34	Creek Buffers	No Changes	N/A
Chapter 20.36	Landscaping		
Section 20.36.040	Landscape and Sprinkler Plans	The second sentence of Section 20.36.040 (D2) on pg. 115 should read as follows: "Minor Modifications are defined as changes to a landscape plan that bring the plans into conformance with State Law (including emergency drought regulations), do not <u>significantly</u> decrease the total amount of landscaped area, alter the general design character or water conservation of the landscaped area, or alter a feature of the landscaped area specifically required by the decision-making authority, unless otherwise required by State Law."	Clarification

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New Code Section	Topic/Title	Summary of Change	Reason for Change
Chapter 20.38	Parking and Loading		
Section 20.38.020	Applicability	Table 20.38-1, Off-Street Parking Requirements, on pg. 120, for "Multiple Family Dwellings/Condominiums" will be amended to read as follows: "1.75 spaces per unit of 2 bedrooms or less up to 30 units and 1.5 spaces per unit thereafter, <u>plus 0.5 spaces per additional bedroom over 2 in each unit and 1.0 spaces per additional full or partial bathroom over 3 in each unit.</u> "	Per Focus Group, Planning Commission, & City Council
Section 20.38.020	Applicability	Table 20.38-1, Off-Street Parking Requirements on pg. 121, for "Emergency Shelters" shall be modified as follows: "1 per 6 <u>10</u> beds plus 1 per 300 sq. ft of office or other non-residential floor area." For "Drug Rehabilitation Centers," it will remain 1 per 6 beds.	Upon further review, parking ratio for a homeless shelter seems excessive.
Section 20.38.030	Required Parking Spaces	Section 20.38.030 (A) should read as follows: " A. Number of Spaces. All land uses shall provide a minimum number of off-street parking spaces as specified in Table 20.38-1 (Off-Street Parking Requirements), <u>except as provided in Section 20.38.050 (Parking Reductions.)</u> "	Clarification to note availability of parking reductions
Section 20.38.040	General Requirements	No Changes	N/A
Section 20.38.050	Parking Reductions	No Changes	N/A
Section 20.38.060	Parking Assessment Districts	No Changes	N/A
Section 20.38.070	Parking Design and Development Standards	Section 20.38.070 (A) on pg. 131 shall be amended to read as follows: " Dimensions. The minimum required dimensions for off-street parking spaces shall conform to the latest edition of the City's Standard Designs of Common Engineering Structures. <u>However, all parking spaces shall be a minimum of 9 feet in width.</u> " Figure 20.38-1 on pg. 131 will also be modified to show a minimum 9 feet of width.	Per Planning Commission and City Council

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New Code Section	Topic/Title	Summary of Change	Reason for Change
Section 20.38.070 (E3)	Tandem Parking Spaces	Section 20.38.070 (E3) on pg. 132 shall read as follows: "3. Tandem parking spaces shall not block the use of the driveway <u>drive aisle</u> to access other parking spaces located within the parking area."	Better language choice
Section 20.38.070 (F3)	Landscaping	Section 20.38.070 (F3) on pg. 132 shall read as follows: "3. Parking Lot Standards. As illustrated in Figure 20.38-2 (Parking Lot Landscaping Standards), the following landscaping standards, <u>as well as the standards in the City's Standard Designs of Common Engineering Structures,</u> shall apply to parking lots containing six or more parking spaces. All landscape areas shall have an irrigation system."	The City's Design Standards contain standards regarding parking lot landscaping that should also be referenced.
Section 20.38.070 (F3)(b5)	Shade Trees	Section 20.38.070 (F3)(b5) on pg. 133 should read as follows: "5. The above standards may be modified with a Minor Use Permit if alternative shade structures <u>(such as solar carports)</u> are provided. <u>Design standards for such shade structures shall be approved as part of the Minor Use Permit as well.</u> "	Per the Focus Group, Planning Commission, and City Council, design standards for shade structures will be developed in the future, but this provision will allow these structures to be approved on a case-by-case basis until those standards can be developed.
Section 20.38.080	Bicycle Parking	Page 137 should be page 136, page 138 should be 137, 139 should be 138, 140 should be 139, and 141 should be 140 in this Chapter. The page 141 that starts Chapter 20.40 is correct.	Correct misnumbered pages
Section 20.38.090	Off-Street Loading	No Changes	N/A
Chapter 20.40	Small Lot Single Family Homes		

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New Code Section	Topic/Title	Summary of Change	Reason for Change
Section 20.40.010	Purpose	Section 20.40.010 on pg. 141 should read as follows: "The purpose of the small lot single-family home provisions is to allow for increased flexibility in the design of new residential development in a manner that increases housing choices for residents, utilizes land resources efficiently, and ensures a high quality design environment <u>neighborhood</u> ."	Better language choice
Section 20.40.050 (B2)	Development Standards and Guidelines (Parking Standards)	Section 20.40.050 (B2) on pg. 142 should read as follows: "Shared driveway access between two adjacent parcels is allowed when the garages are located within the rear of the parcel <u>set back</u> behind the primary residential unit or recessed so the home's entry elevation retains a dominant visual appearance."	Allows more flexibility in design of units.
Section 20.40.050 (B3)	Development Standards and Guidelines (Parking Standards)	Section 20.40.050 (B3) on pg. 142 should read as follows: "Two on-site parking spaces shall be provided per unit with at least one being covered. <u>Spaces in the driveway shall count toward this requirement.</u> "	Because the lots are smaller, on-street parking tends to be more limited so 1 extra space on-site is required, but spaces in the driveway can be counted, unlike in standard single-family subdivisions where more on-street parking is available and only 1 space is required on-site.

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New Code Section	Topic/Title	Summary of Change	Reason for Change
Section 20.40.050 (C)	Other Standards and Guidelines	Section 20.40.50 (C) on pg. 142 should be amended to read as follows: "Small lot single-family homes should comply with the guidelines for façade design, open space, service area, lane (alley), parking configurations, driveway access, fencing, public streets, and architectural features in the City's <u>most recent edition</u> of the Small Lot Single-Family Home Design Guidelines, available under separate cover from the City Planning Division, unless otherwise specified in the Conditional Use Permit." Same reference to "most recent edition" to be added to Section 20.40.050 (A1) above.	These Guidelines, originally developed by the City in the early 2000's, are currently in the process of being revised to address more current development trends.
Section 20.40.050	Development Standards and Guidelines	In Table 20.40.050, Development Standards for Small Lot Single-Family Homes, on pg. 143, under "Setbacks," should read: "As determined through the Conditional Use Permit process."	Allows design flexibility
Chapter 20.42	Second Units	No Changes	N/A
Chapter 20.44	Special Land Use Regulations		
Section 20.44.020	Food Trucks in Fixed Locations	Section 20.44.020 (C2) on pg. 150 should read: " 2. Hours of Operation. Food trucks shall be operated only between <u>7:00</u> 8:00 a.m. and 9:00 p.m. daily, unless otherwise approved by the Site Plan or Conditional Use Permit."	Change allows for breakfast service.
Section 20.44.040	Check Cashing/Payday Loan Establishments	Section 20.44.040 (B1) on pg. 152 should read: " 1. Hours of Operation. Check cashing/ payday loan establishments shall be operated only between 7:00 a.m. and 7:00 <u>9:00</u> p.m. daily. No loitering shall be permitted during, before, and after hours of operation."	Change seems more aligned with other business hours in the City.

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New Code Section	Topic/Title	Summary of Change	Reason for Change
Section 20.44.050	Community Gardens	In Section 20.44.050 (D4) on pg. 153 shall be amended to read as follows: "4. Commercial Activities. On-site sale of community garden products shall be prohibited, <u>unless located in a commercial zone or as otherwise authorized by a Site Plan Review or Conditional Use Permit.</u> "	Recommended by City staff through input from County Health Department staff
Section 20.44.110	Photovoltaic Energy Systems and Public Utility Distribution Lines	Section 20.44.110 (C7) on pg. 160 should be added as follows: " <u>7. Solar carports can be approved by a Minor Use Permit, which could allow modifications to the above standards.</u> "	Allows the approval of solar carports through the Minor Use Permit process until standards can be developed.
Section 20.44.170	Medical Marijuana	A new Section 20.44.170, Medical Marijuana, shall be added in conformance with Ordinance #2464, introduced by City Council on August 1, 2016, starting on pg. 164. See Attachment 1.	Per City Council Ordinance #2464, introduced on August 1, 2016 (and replacing the previous Ordinance #2454 from January 2016)
Chapter 20.46	Residential Design Standards		.
Section 20.46.020	Design Standards for Single-Family Dwellings and Mobile Homes	In Section 20.46.020 on pg. 166, the following shall be added: " K. Addresses. <u>The street address number of the house shall be displayed on the front wall of the house clearly visible from the street and shall be a minimum height of 4 inches with a 1/2 inch stroke (or as otherwise required in the California Residential and Fire Codes).</u> "	Per Focus Group, Planning Commission, & City Council. (Section R319 of the 2013 CA Residential Code and Section 505 of the 2013 CA Fire Code have reqts regarding addressing.)

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New Code Section	Topic/Title	Summary of Change	Reason for Change
Section 20.46.030	General Design Standards for Multi-Family Dwellings	In Section 20.46.030 on pg. 168, the following shall be added: " <u>H. Safety and Defensible Space.</u> 1) Placement of windows and doors should facilitate neighborhood surveillance of their neighbor's entryways. 2) The number of apartments that enter their front door from the same hallway or courtyard should be limited to no more than 12 (or as otherwise approved by City staff) so that residents can learn to distinguish fellow neighbors from visitors and/or intruders. 3) Apartment common recreational areas should be easily viewed by residents within the units and shall be defined by a physical boundary. 4) Physical changes (such as picket fences, porches, decks, or landscape features) to mark and define areas near a dwelling as that unit's "territory" should be installed. 5) Keyed access gates and surveillance cameras should be installed to enter common areas."	Per Focus Group, Planning Commission, & City Council
Section 20.46.030	General Design Standards for Multi-Family Dwellings	In Section 20.46.030 on pg. 168, the following shall be added: " <u>I. Private Outdoor Space.</u> 1) Ground Floor Units. Every dwelling unit which is on the ground floor should have a private outdoor usable space, if feasible, of a minimum size of 5 feet by 8 feet. 2) Units Above Ground Floor. Every dwelling unit which is above the ground floor should, if feasible, have a useable outdoor balcony space of a minimum size of 5 feet by 8 feet."	Per Focus Group, Planning Commission, & City Council
Chapter 20.48	Home Occupations	No Changes	N/A
Chapter 20.50	Temporary Uses and Structures	No Changes	N/A
Chapter 20.52	Nonconforming Parcels, Uses and Structures		

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New Code Section	Topic/Title	Summary of Change	Reason for Change
Section 20.52.030 (C)	General	Section 20.52.030 (C) on pg. 180 shall read as follows: " Burden <u>Burden</u> of Proof."	Typo corrected
Chapter 20.54	Condominiums	No Changes	N/A
Chapter 20.56	Density Bonus	No Changes	N/A
Chapter 20.58	Wireless Communications Facilities		
Section 20.58.050 (A5)	Permits Required	A new Section 20.58.050 (A5) on pg. 213 shall be added as follows: " 5) State and Federal Regulations. If any provisions of this chapter conflict with any State or Federal law, the State or Federal law shall prevail over the requirements of this Chapter. If an applicant wishes to assert their rights under the Federal "shot clock" rule pursuant to FCC Report and Order 14-153 or the State's AB 57, the applicant shall inform the City in writing of such at the time of application and meet all requirements of those regulations and this Chapter."	Added for clarification regarding recent changes in State and Federal law, which provide for a "shot clock" of 90 or 150 days for local govts to approve eligible applications or they will be "deemed approved."
Chapter 20.60	Adult Entertainment Businesses	No Changes	N/A
Chapter 20.62	Signs	No Changes	N/A

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New Code Section	Topic/Title	Summary of Change	Reason for Change
Part 4--Permits and Administration			
Chapter 20.64	Administrative Responsibility	No Changes	N/A
Chapter 20.66	Permit Application and Review	No Changes	N/A
Chapter 20.68	Permit Requirements		
Section 20.68.070 (C)	Review Authority	Section 20.68.070 (C) on pg. 245 should read as follows: "C. Review Authority. The Planning Commission, <u>acting as the Board of Zoning Adjustment</u> , shall take action on all Variance applications."	Clarifies the Planning Commission's role as the Board of Zoning Adjustment in deciding variances.
Section 20.68.070 (H)	Appeals	Section 20.68.070 (H) on pg. 246 should be replaced with the following: " <u>Decisions on Variances, as quasi-judicial permits, may only be appealed to a Court of Law.</u> "	Corrects an error. Appeals on Variances are not allowed.
Chapter 20.70	Public Notice and Hearings	No Changes	N/A
Chapter 20.72	Post-Decision Procedures	No Changes	N/A
Chapter 20.74	Appeals	No Changes	N/A
Chapter 20.76	Covenants for Easements	No Changes	N/A
Chapter 20.78	Conditional Zoning	No Changes	N/A
Chapter 20.80	Zoning Ordinance Amendments	No Changes	N/A
Chapter 20.82	General Plan Amendments	No Changes	N/A
Chapter 20.84	Reasonable Accommodations	No Changes	N/A
Chapter 20.86	Development Agreements	No Changes	N/A

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New Code Section	Topic/Title	Summary of Change	Reason for Change
Part 5--Glossary (Definitions)			
Chapter 20.90	Glossary (Definitions)		
Section 20.90.020 (132)	Mobile Food Vendors	The last sentence in the Definition #132 on pg. 302 for "Mobile Food Vendors" should read as follows: "Mobile <u>food</u> vendors that park in a permanent location are regulated under Section 20.44.020 (Food Trucks Parked in Fixed Locations)."	Added for clarification
Section 20.90.020 (192)	Single-Room Occupancy	Definition #192 on pg. 310 for "Single-Room Occupancy" shall be amended as follows: "A residential facility where living accommodations are individual secure room, with or without separate kitchen or bathroom facilities for each room, rented to one- or two-person households for a weekly or monthly period of time. This definition does not include hotels and motels, but does include college dormitories."	For consistency with Section 20.44.120 (D) on pg. 162, which requires a minimum 30-day tenancy.
Section 20.90.020 (62)	Dwelling or Dwelling Unit	Definition #62 on pg. 293 for "Dwelling or Dwelling Unit" shall read as follows: " A building or a portion of a building (not including tents, cabins, or trailers) containing one or more habitable rooms used or designed for occupancy by one or more persons for living and sleeping purposes, including kitchen and bath facilities. Arrangements characterized by apartment-like subunits in individual interior bedrooms within a dwelling unit are prohibited, such as, for example, keyed locks or deadbolts on interior room doors; separate entrance or access from street, side yard, or backyard to interior rooms; or separate cooking facilities in individual rooms, including, but not limited to, microwave, hotplate, cooking range, and oven. "	Change to Definition #62 and #186 below are designed to address recent examples of new house designs intended to provide housing options for household members, such as grandparents or teenagers, within a single-family home.

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New Code Section	Topic/Title	Summary of Change	Reason for Change
20.90.020 (186)	Second Units or Secondary Dwelling Units	<p>Definition #186 on pg. 309 for "Second Units or Secondary Dwelling Units" shall read as follows: "Attached or detached accessory residential dwelling units, which provide complete independent living facilities for one or more persons. Secondary dwelling units provide permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel occupied by a primary dwelling. <u>A single attached suite of rooms (consisting of living, sleeping, cooking, and sanitation facilities) but with unimpeded access to the rest of the dwelling unit, no separate address, lease, or utility service, and still functioning as one "household" per 20.90.020(99) may not be considered to be a second unit. See Chapter 20.42 (Second Units).</u></p>	Same reason as Definition #62 above.

20.44.170 Medical Marijuana and Cultivation

A. Definitions.

1. **'Cannabis'** shall have the same meaning as set forth in Business and Professions Code Section 19300.5(f) as the same may be amended from time to time.
2. **'Caregiver' or 'primary caregiver'** shall have the same meaning as set forth in Health and Safety Code Section 11362.7 as the same may be amended from time to time.
3. **'Commercial cannabis activity'** shall have the same meaning as that set forth in Business and Professions Code Section 19300.5(j) as the same may be amended from time to time and shall also include 'the cultivation, manufacture, possession, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of marijuana and marijuana products.
4. **'Cultivation'** shall have the same meaning as set forth in Business and Professions Code Section 19300.5(k) as the same may be amended from time to time.
5. **'Delivery' or 'Deliveries'** shall have the same meaning as set forth in Business and Professions Code Section 19300.5(m) as the same may be amended from time to time.
6. **'Dispensary'** shall have the same meaning as set forth in Business and Professions Code Section 19300.5(n) as the same may be amended from time to time. 'Dispensary' shall not include the following uses:
 - a. A clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code,
 - b. A health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health and Safety Code,
 - c. A residential care facility for persons with chronic life-threatening illnesses licensed pursuant to Chapter 3.01 of Division 2 of the California Health and Safety Code,
 - d. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code,
 - e. A residential hospice or home health agency licensed pursuant to Chapter 8 of Division 2 of the California Health and Safety Code.
7. **'Medical cannabis,' 'medical cannabis product,' or 'cannabis product'** shall have the same meanings as set forth in Business & Professions Code § 19300.5(af) as the same may be amended from time to time.





8. **'Medical Marijuana Regulation and Safety Act' or 'MMRSA'** shall mean the following bills signed into law on October 9, 2015 as the same may be amended from time to time: AB 243, AB 246, and SB 643.

9. **'Qualifying patient' or 'Qualified patient'** shall have the same meaning as set forth in Health and Safety Code Section 11362.7(f) as the same may be amended from time to time.

B. Regulations

1. **Medical Marijuana Dispensaries.** Commercial cannabis activities are expressly prohibited in all zones in the City of Merced; provided, however, medical marijuana dispensaries are allowed as a conditional use in the C-O District and Planned Developments which have the equivalent General Plan land use designations of this zone, subject to:
 - a. The restrictions of Section 20.84.020(B) on the prohibited locations of dispensaries within the C-O District and Planned Developments that have the equivalent General Plan land use designations of that zone;
 - b. The limitations of Section 20.84.020(C) on the number of dispensaries that may be authorized within the City at any given time;
 - c. The requirement that, prior to applying for a conditional use permit, a proposed operator shall first obtain a separate regulatory permit from the City to operate a dispensary in the City; and
 - d. Any conditions imposed to protect the public health, safety and welfare and/or to minimize the secondary effects, if any, of the dispensary.
2. **Location Restrictions for Dispensaries.** A dispensary shall not be approved in the C-O District if any following conditions apply:
 - a. The proposed dispensary would be located within 600 feet of the property line of any kindergarten, elementary school, middle school or high school.
 - b. The proposed dispensary would be located within 500 feet of the property line of any public park that includes playgrounds, active play areas and/or sports fields. For purposes of this subsection only, a park shall not include any park designated in Section 9.70.030 as a bike path.
 - c. The proposed dispensary would be located within 500 feet of the property line of any youth center, City-owned and operated recreational center or public library.



3. **Number of Dispensaries.** No more than four (4) dispensaries shall be authorized to operate in the City at any given time. If four (4) dispensaries are authorized to locate within the City, then no additional conditional use permits shall be approved to operate a dispensary within the City.
 4. **Deliveries.** Only licensed dispensaries are authorized to make deliveries of medical cannabis and medical cannabis products within the City of Merced. Such deliveries shall occur solely between the hours of 8:00 a.m. and 7:00 p.m. All other deliveries of marijuana or marijuana products within the City are expressly prohibited.
 5. **Cultivation.** Cultivation of cannabis is expressly prohibited in all zones and all specific plan areas in the City; provided, however, that six (6) plants may be cultivated indoors within a legally permitted structure on any lot within the City if the owner, lessee or tenant of the lot is the primary caregiver or the qualified patient and the cannabis is intended for the qualified patient.
 6. **Applications for Conditional Use Permits.** Notwithstanding any language in this Section 20.44.170 to the contrary, no application for a conditional use permit for a dispensary and/or an application for a regulatory permit for a dispensary shall be accepted by the City until such time as the City has adopted:
 - a. Specific regulations regarding the operations of the dispensaries; and,
 - b. Objective standards for the issuance of the regulatory permit that a proposed operator must obtain prior to applying for a conditional use permit for a dispensary.
 7. As of August 15, 2016, because the City has not adopted specific regulations regarding the operations of dispensaries and objective standards for the issuance of regulatory permits for dispensaries, the City is currently not authorized to accept applications for regulatory permits for dispensaries or applications for a conditional use permit for dispensaries.
- C. Public Nuisance.** Any use or condition caused, or permitted to exist, in violation of any provision of this Section 20.44.170 shall be, and hereby is declared to be, a public nuisance and may be summarily abated by the City pursuant to Code of Civil Procedure Section 731 or any other remedy available to the City.
- D. Civil Penalties.** In addition to any other enforcement permitted by this Section 20.44.170, the City Attorney may bring a civil action for injunctive relief and civil penalties against any person or entity that violates this Chapter. In any civil action brought pursuant to this Chapter, a court of competent jurisdiction may award reasonable attorney fees and costs to the prevailing party.





CITY OF MERCED
Planning Commission

Resolution #3071

WHEREAS, the Merced City Planning Commission at its regular meeting of July 6, 2016, held a public hearing and considered **Zoning Ordinance Amendment #16-01**, initiated by the City of Merced. This application involves the adoption of a new Zoning Ordinance for the City of Merced (Title 20 of the Merced Municipal Code). This is the first comprehensive update of the Zoning Ordinance since its adoption in the early 1960's and represents a complete redesign, update, and modernization of the Zoning Ordinance. The Zoning Ordinance addresses such issues including, but not limited to, allowed land uses in each zoning district, development standards (setbacks, minimum lot sizes, maximum heights of buildings and fences, etc.), procedures for development permits, and land use definitions; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through H of Staff Report #16-16; and,

NOW THEREFORE, after reviewing the City's Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend to City Council adoption of a Negative Declaration regarding Environmental Review #16-20, and approval of Zoning Ordinance Amendment #16-01, as set forth in the Public Review Draft Zoning Ordinance (dated September 2015) with the proposed changes as described in Attachment A of Staff Report #16-16.

Upon motion by Chairperson Colby, seconded by Commissioner Smith, and carried by the following vote:

AYES: Commissioners Baker, Dylina, McLeod, Smith, Smoot, and Chairperson Colby

NOES: None

ABSENT: Commissioner Padilla

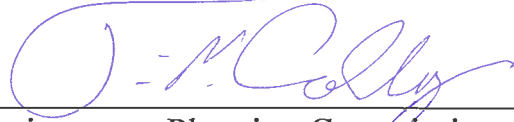
ABSTAIN: None

PLANNING COMMISSION RESOLUTION #3071

Page 2

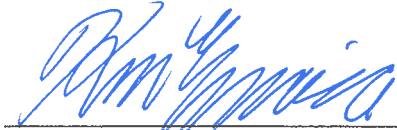
July 6, 2016

Adopted this 6th day of July 2016



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

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Planning Commission Minutes Excerpt
July 6, 2016

- 4.2 Zoning Ordinance Amendment #16-01, initiated by the City of Merced. This application involves the adoption of a new Zoning Ordinance for the City of Merced (Title 20 of the Merced Municipal Code). This is the first comprehensive update of the Zoning Ordinance since its adoption in the early 1960's and represents a complete redesign, update, and modernization of the Zoning Ordinance. The Zoning Ordinance addresses such issues including, but not limited to, allowed land uses in each zoning district, development standards (setbacks, minimum lot sizes, maximum heights of buildings and fences, etc.), procedures for development permits, and land use definitions.

Planning Manager ESPINOSA reviewed the report on this item. She noted a memo from staff which showed a revised table of the overview of the purposed changes to the ordinance. Ms. ESPINOSA also noted 4 letters from the public. For further information, refer to Staff Report #16-16.

Public testimony was opened at 7:27 p.m.

Speakers from the Audience in Favor:

NECOLA ADAMS, Merced
MONIKA GRASLEY, Merced
CHAUNTEL NUGENT, Merced
MARYAM GROGMAN, Merced
ALYSSA CASTRO, Merced
STEVE ROUSSOS, Merced
SHANE ROSS, Merced
CHANEL WEAVER, Merced

Speakers from the Audience in Opposition:

KATIE BUTTERFIELD, Merced
ZACK VAN HOUTTEN, Merced
KATILYN McINTIRE, Merced
BARBARA RICHEY, Merced
CLAUDIA G. CORCHADO, Merced

Speakers from the Audience (Neutral):

STEPHANIE RUSSELL, Merced
BRITTANY OAKES, Merced
DAISY AGUAYO, Merced
STEPHANIE NATHAN, Madera
MARIE PICKNEY, Merced
AARON LEGUIA, Merced
STEPHANIE MILLER, Merced
CHRIS MEDINA, Merced

Speakers from the audience voiced their appreciation for the efforts made by Planning staff and related parties and they voiced their support for the addition of community gardens in the ordinance and expressed how beneficial it would be to Merced and its residents. However, they voiced their concern regarding the application fees for conditional use permits for community gardens in residential zones, as purposed in the amended Zoning Ordinance, and asked for a reduction in fee costs, especially for non-profits.

Public testimony was completed at 8:21 p.m.

The Commission discussed the project, they stated the necessity for community gardens to be under the scope of a Conditional Use Permit, which would require input from residents of the surrounding area on how the purposed garden should be regulated. Commissioner SMOOT purposed that there could be other avenues that would be available to groups interested in starting community gardens that would alleviate some of the application costs.

M/S COLBY-SMITH, and carried by the following vote, to recommend to the City Council adoption of a Negative Declaration regarding Environmental Review #16-20, and approval of Zoning Ordinance Amendment #16-01, as shown in Attachment A, in addition to the changes presented by staff at the meeting, subject to the Findings set forth in Staff Report #16-16 (RESOLUTION #3071):

AYES: Commissioners Baker, Dylina, McLeod, Smith, Smoot, and Chairperson Colby
NOES: None
ABSENT: Commissioner Padilla
ABSTAIN: None

CITY OF MERCED
Planning & Permitting Division

STAFF REPORT: #16-16

AGENDA ITEM: 4.1

FROM & Kim Espinosa,
PREPARED BY: Planning Manager

PLANNING COMMISSION
MEETING DATE: July 6, 2016

CITY COUNCIL
MEETING DATE: August 15, 2016
(Tentative)

SUBJECT: **Zoning Ordinance Amendment #16-01**, initiated by the City of Merced. This application involves the adoption of a new Zoning Ordinance for the City of Merced (Title 20 of the Merced Municipal Code). This is the first comprehensive update of the Zoning Ordinance since its adoption in the early 1960's and represents a complete redesign, update, and modernization of the Zoning Ordinance. The Zoning Ordinance addresses such issues, including, but not limited to, allowed land uses in each zoning district, development standards (setbacks, minimum lot sizes, maximum heights of buildings and fences, etc.), procedures for development permits, and land use definitions. *PUBLIC HEARING*

ACTION: PLANNING COMMISSION:

Recommendation to City Council

- 1) Environmental Review #16-20 (Negative Declaration)
- 2) Zoning Ordinance Amendment #16-01

CITY COUNCIL:

Approve/Disapprove/Modify

- 1) Environmental Review #16-20 (Negative Declaration)
- 2) Zoning Ordinance Amendment #16-01

SUMMARY

Introduction

This is the first comprehensive update of the Zoning Ordinance (Title 20 of the Merced Municipal Code) since its adoption in the early 1960's and represents a complete redesign, update, and modernization of the Zoning Ordinance in order to make the Ordinance easier to use and understand for the general public and to provide specific guidance to developers, making the development process simpler and faster. The goal was to facilitate the City's overall growth and development and enhance the community's overall appearance, access to services, and economic health.

After a process that began over four years ago and with a special thanks to the Zoning Ordinance Focus Group (see Finding F below), City staff is pleased to recommend adoption of a new Zoning Ordinance for the City of Merced.

RECOMMENDATION

Planning staff recommends that the Planning Commission recommend approval to the City Council of a Negative Declaration (Initial Study #16-20—Attachment E) and Zoning Ordinance Amendment #16-01 (including the adoption of the Resolution at Attachment F) as shown in the Public Review Draft Zoning Ordinance (dated September 2015) with the proposed changes as described in Attachment A.

PROJECT DESCRIPTION

This is the first comprehensive update of the Zoning Ordinance (Title 20 of the Merced Municipal Code, see https://www.municode.com/library/ca/merced/codes/code_of_ordinances) since its adoption in the early 1960's and represents a complete redesign, update, and modernization of the Zoning Ordinance in order to make the Ordinance easier to use and understand for the general public and to provide specific guidance to developers, making the development process simpler and faster. The goal was to facilitate the City's overall growth and development and enhance the community's overall appearance, access to services, and economic health.

BACKGROUND

The process of updating the Zoning Code began in 2012 with the hiring of a consultant, The Planning Center (now known as Placeworks), with the use of grant funds. Before the grant funds ran out in December 2013, the consultants prepared a preliminary draft of the new ordinance. Since that time, City Planning Staff took over responsibility for the project and facilitated the Focus Group meetings from July 2013 to March 2015, along with two additional meetings in January-February 2016 (see Finding F below). City staff also completely reformatted the ordinance with the use of color, enhanced graphics and photographs, and added provisions to address various issues that came up throughout the Focus Group process.

In December 2014, City staff produced a Focus Group Review Draft for the Focus Group to review. In September 2015, City staff produced the Public Review Draft with changes as asked for by the Focus Group along with various changes that arose from City staff's experience with implementing the current Zoning Ordinance. On September 8 and 9, 2015, the Public Review Draft was presented to the City Council and Planning Commission as well as being made available on the City's website at:

https://www.cityofmerced.org/depts/cd/planning/zoning_ordinance_update.asp .

At the same time as the Public Review Draft was released, several supporting documents were also released, including a summary of all the major changes in the Public Review Draft from the current Zoning Ordinance, review questions to ponder while reading the ordinance, and recommendations from the Focus Group and Bicycle Advisory Commission.

FINDINGS/CONSIDERATIONS:

General Plan Policies Related to This Application

- A) The proposed zoning ordinance amendment would adopt a new Zoning Ordinance for the City of Merced, which would include adding Zoning regulations for several new land use categories that were presented in the *Merced Vision 2030 General Plan* (adopted in 2012). General Plan Implementing Action L-2.3.d calls for the City to review and update the Zoning Ordinance as needed.

Organization of the New Zoning Ordinance

- B) The new Zoning Ordinance (Public Review Draft, September 2015) is organized into five parts as follows:
- 1) **Part 1—Enactment and Applicability:** Includes chapters regarding the purpose of the Zoning Ordinance, rules for interpretation, and provides an introduction to the Zoning Districts and Zoning Map.
 - 2) **Part 2—Zoning District Standards:** Includes chapters regarding the purpose, land use regulations, and development standards for the six Residential, six Commercial, two Industrial, three Downtown, three Urban Villages, four Public Use and Agricultural, and two Special Use zoning districts as well as three Overlay Zones.
 - 3) **Part 3—General Regulations:** Includes chapters regarding height, setbacks, accessory structures, walls and fences, interface, creek buffers, landscaping, parking and loading, small lot single family homes, second units, special land uses, residential design standards, home occupations, temporary uses and structures, nonconforming parcels/uses/structures, condominiums, density bonus, wireless communication facilities, adult entertainment businesses, and signs.
 - 4) **Part 4—Permits and Administration:** Includes chapters regarding administrative responsibility, permit application and review, permit requirements, public notice and hearings, post-decision procedures, appeals, covenants for easements, conditional zoning, zoning ordinance amendments, general plan amendments, reasonable accommodations, and development agreements.
 - 5) **Part 5—Glossary (Definitions):** Includes definitions for 239 land uses and other terms used in the Zoning Ordinance.

General Overview of Proposed Changes to the Zoning Ordinance

- C) City staff completely reorganized and reformatted the new Zoning Ordinance with the use of color, enhanced graphics and photographs. Along with the Public Review Draft, City staff prepared a separate document, dated September 2, 2015, entitled “Zoning Code Update—Summary of Major Changes” (Attachment B), which summarizes the major changes to the Zoning Code in a table format. These major changes include, but are not limited to:
- 1) The establishment of several new Zoning Districts (Rural Residential, Business Park, three Downtown zones, three Urban Village zones, three Public Use zones, and three Overlay zones), including several called for in the *Merced Vision 2030 General Plan* (adopted in 2012);

- 2) A major expansion to the list of uses allowed in each zoning district with various levels of review (Permitted, Minor Use Permits, Site Plan Reviews, and Conditional Use Permits);
 - 3) Streamlining of the process for approving projects in the Planned Development zone;
 - 4) Allowing 7-foot-high backyard fences in residential zones and up to 10-foot-high fences in non-residential zones along with new provisions regarding fence materials;
 - 5) Streamlining the requirement for a Conditional Use Permit to a Site Plan Review Permit for Interface situations and expanding the use of the staff-level Site Plan Review Permit in other zones;
 - 6) Substantial modifications to the Parking and Loading chapter, including the addition of more land use categories, adding flexibility and options in parking calculations for various land uses, and adding requirements for bicycle parking;
 - 7) Adding regulations for specific land uses, such as mobile food trucks parked in a permanent location, check cashing establishments, community gardens, fraternities/sororities, live-work units, emergency shelters, recycling facilities, and placing new restrictions on tobacco sales in proximity to schools and other youth-oriented activities;
 - 8) Substantial modifications to the City's regulations of home-based businesses ("home occupations") and Cottage Food industries;
 - 9) Although the regulations and procedures themselves have not changed, the procedures for all the various planning permits (i.e. Conditional Use Permits, Zone Changes, etc.) are now spelled out in the Zoning Ordinance for easy reference;
 - 10) A change in the appeals period from "calendar" days to "business" days;
 - 11) Several new permits have been added (Minor Use Permits, Special Project Permits, etc.) have been added to increase flexibility; and,
 - 12) The Definitions section has been expanded significantly from 45 definitions to 239 definitions for further clarity.
- D) The Public Review Draft (September 2015) of the Zoning Ordinance was an "annotated" document. This means that it was noted throughout the Draft whether a section was either "New" (not in the current Ordinance); "No Changes from the Current Ordinance" (no changes along with a reference to the appropriate Merced Municipal Code section where it is currently found); or "Modified from the Current Ordinance" (with reference to the current section and a brief summary of the changes). For the Zoning Districts and Parking Chapters, tables of the existing land use regulations and parking requirements were also provided for comparison purposes. (Those annotations will be removed in the final adopted version of the Zoning Ordinance.)

Proposed Changes to the Public Review Draft (June 2016)

E) Since the release of the Public Review Draft in September 2015, City staff has received various comments on the Draft, including suggestions from the Planning Commission and City Council joint study sessions (and further recommendations from the Focus Group). Based on these suggestions, comments from the public, and recently adopted zoning ordinance amendments regarding medical marijuana and massage establishments, City staff has prepared a Final Draft of the Zoning Ordinance. Instead of publishing a new Draft, however, City staff has prepared a document entitled “Proposed Changes to the Merced Zoning Ordinance Public Review Draft (June 2016),” which can be seen at Attachment A. This document, in table format, spells out all the proposed changes to the Zoning Ordinance since the Public Review Draft was released. (However, City staff reserves the right to make very minor corrections, such as misspelled words or incorrect references or page numbers, in the Final Draft.)

These proposed changes include, but are not limited to:

- 1) Adding provisions from recent zoning ordinance amendments regarding medical marijuana and massage establishments (the medical marijuana regulations may be modified further depending on City Council action on July 5, 2016);
- 2) Adding the suggested guidelines regarding the design of single-family and multi-family units from the Planning Commission/City Council study sessions;
- 3) Amending the parking requirements for multi-family units as well as increasing the required width from 8.5 feet to 9 feet for all parking spaces;
- 4) Modifying the regulations for Community Gardens to allow them in more zones and to allow the on-site sale of products on a case by case basis.

Zoning Ordinance Focus Group

F) The Merced Zoning Ordinance Update Focus Group was made up of Merced residents with various interests, including developers, engineers, planners, real estate, banking, and other interested citizens (see below for the members). The Zoning Ordinance Focus Group met 17 times from July 2013 to March 2015 to assist with the development of the Public Review Draft (Sept 2015) and then twice more in January and February 2016 to review suggested changes to the Public Review Draft from the Planning Commission and City Council. (A summary of their recommendations previously released has been amended to include their 2016 meetings and is provided at Attachment C.)

City staff would like to thank the Focus Group for all the time and effort that they put into the process. Their invaluable input made for a better product, which reflects the community’s vision for future development.

Focus Group Members: Jim Abbate, Christina Alley, Ann Andersen, Todd Bender, Kenra Bragonier, Adam Cox, Tony Dossetti (Council Member), Ron Ewing, Loren Gonella, Forrest Hansen, Flip Hassett, Jack Lesch, Elmer Lorenzi, Des Johnston, Guy Maxwell, Carole McCoy (former Planning Commissioner), Michelle Paloutzian, Garth Pecchinino, Joe Ramirez, Mike Salvadori, Stan Thurston (Mayor), Brandon Williams (former Planning Commissioner), Jim Xu, and Chairman Bruce Logue

Public Input

- G) In addition to the work of the Zoning Ordinance Focus Group, community input into the process was accomplished in several ways. Early in the process on September 5, 2012, stakeholder interviews were held with over 40 individuals representing various groups that included business owners, realtors and developers, architects and engineers, the Martin Luther King Jr. Way Beautification Plan Citizens Advisory Committee, the Smart Valley Places Leadership Institute, interested citizens, and City staff. On November 28, 2012, a community workshop with approximately 25 attendees was held that focused on key issues of the process and the current Zoning Code, options for Downtown and Urban Villages, and included a Visual Preference Survey.

Throughout the process, presentations were made to various community groups and organizations which included the City's Bicycle Advisory Commission (see Attachment D for their recommendations), the City's Economic Development Advisory Commission, and others. Articles appeared in the Merced Sun-Star and Merced County Times and City staff made appearances on the "Community Conversations" radio show.

One study session was held with the City Council on August 6, 2012; two study sessions were held with the Planning Commission on September 9, 2015, and October 21, 2015; and two Joint Planning Commission/City Council Study Sessions were held on December 7, 2015, and March 21, 2016.

Finally, on June 16, 2016, a Public Forum was held on the Zoning Ordinance with over 20 citizens in attendance. The Public Forum focused on an overview of the process, the major changes in the Public Review Draft from the existing Zoning Ordinance, recent changes to the Public Review Draft per Planning Commission/City Council direction, and the upcoming public hearings before the Planning Commission and City Council in July and August 2016.

Environmental Clearance

- H) The Planning staff has conducted an environmental review (Initial Study #16-20) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Draft Negative Declaration (i.e., no significant adverse environmental effects have been found) is being recommended (see Attachment E).

Attachments:

- A) Proposed Changes To the Public Review Draft (June 2016)
- B) Summary of Major Changes from the Current Zoning Ordinance (September 2015)
- C) Recommendations from the Zoning Ordinance Focus Group (July 2013-February 2016)
- D) Recommendations from the Bicycle Advisory Commission
- E) Initial Study #16-20
- F) Draft Planning Commission Resolution

PLEASE BRING YOUR COPY OF THE PUBLIC REVIEW DRAFT OF THE ZONING ORDINANCE (SEPTEMBER 2015) TO THE MEETING.

PLEASE SEE ATTACHMENT 1 OF THE ADMINISTRATIVE REPORT
FOR THE AUGUST 15, 2016 MEETING FOR A REVISED
“PROPOSED CHANGES TO THE MERCED ZONING ORDINANCE
PUBLIC REVIEW DRAFT (JUNE 2016)” —THE FORMER
ATTACHMENT A

ATTACHMENT A

ATTACHMENT 4--Page 7

Zoning Code Update--Summary of Major Changes

New Code Section	Topic/Title	Current Code Section	Summary of Change
Part 1--Enactment and Applicability			
Chapter 20.02	Purpose	MMC 20.02 (Title and Purpose)	This chapter has been expanded to address applicability, responsibility, and the zoning ordinance's relationship with the General Plan.
Chapter 20.04	Interpretation	NEW Chapter but includes parts of MMC 20.06 (Districts -Generally)	Adds rules about how to interpret the Zoning Ordinance and procedures for official interpretations/ determinations.
Chapter 20.06	Zoning Districts and Map	MMC 20.06 (Districts -Generally)	Expanded chapter to include new Zoning Districts and Overlay zones and reference to a digital version of the Zoning Map.
Part 2--Zoning District Standards			
Chapter 20.08	Residential Zoning Districts	MMC 20.08 (Residential Districts); 20.10 (R-1); 20.12 (R-2); 20.14 (R-3); 20.16 (R-4); and 20.50 (R-MH)	Combines all the residential zones into one chapter and adds the NEW R-R (Rural Residential) Zoning District to match the General Plan designation.
Section 20.08.020	Land Use Regulations for Residential Zoning Districts	Same as above	Table 20.08-1 displays in table form the permitted land uses, the uses that require a Minor Use Permit (NEW reqt), the uses that require a Site Plan Review Permit (NEW reqt), the uses that require a Conditional Use Permit, and uses not allowed (NEW) for each zoning district. Many new land uses have been added, which were not addressed in the current Ordinance. For comparison purposes, the uses allowed under the Current Ordinance for each zone are provided in the Annotated Version as Table A1 on page 20A, which only included permitted uses, conditional uses, and accessory uses. The Rural Residential (R-R) district is completely NEW.

Zoning Code Update--Summary of Major Changes

New Code Section	Topic/Title	Current Code Section	Summary of Change
Section 20.08.020 (Cont.)	Land Use Regulations for Residential Zoning Districts	Same as above	Major changes include, but are not limited to: 1) Duplexes allowed with a Minor Use Permit in a R-1 zone vs. current CUP reqt; 2) Community Gardens added as conditional uses in all residential zones; 3) Bed & Breakfasts allowed as CUP's in R-1 & R-2 in addition to R-3 & R-4 currently; 4) Agricultural uses require CUP's in all residential zones except R-R; and, 5) the addition of specific community uses instead of the more generic "public and quasi-public uses" in the current ordinance. Careful review and comparison with existing land use table is encouraged.
Section 20.08.030	Development Standards for Residential Zoning Districts	Same as above	Combines all the development standards (setbacks, heights, lot area, etc.) for all the residential zones. The R-R standards are all new. The standards are now shown in table form in Tables 20.08-2 (Single-Family) and 20.08-3 (Multi-Family and Mobile Homes Parks). Only minor changes are proposed to the standards themselves with the vast majority of them remaining the same.
Section 20.08.050	Rural Residential Zoning District	NEW	This is a NEW zoning district which is not addressed in the current ordinance, but has been added to correspond to the Rural Residential designation in the General Plan.
Chapter 20.10	Commercial Zoning Districts	MMC 20.18 (Commercial Districts); 20.20 (C-O); 20.22 (C-N); 20.24 (C-C); 20.25 (C-SC); 20.26 (C-T); and 20.28 (C-G)	Combines all the commercial zoning districts into one chapter and adds the NEW Business Park (B-P) zoning district to match the General Plan designation.

Zoning Code Update--Summary of Major Changes

New Code Section	Topic/Title	Current Code Section	Summary of Change
Section 20.10.020	Land Use Regulations for Commercial Zoning Districts	Same as above	<p>Table 20.10-1 displays in table form the permitted land uses, the uses that require a Minor Use Permit (NEW reqt), the uses that require a Site Plan Review Permit (NEW reqt), the uses that require a Conditional Use Permit, and uses not allowed (NEW) for each zoning district. Many new land uses have been added, which were not addressed in the current Ordinance. For comparison purposes, the uses allowed under the Current Ordinance for each zone are provided in the Annotated Version as Table B1 on page 32A, which only included permitted uses, conditional uses, and accessory uses. The Business Park (B-P) district is completely NEW, but generally replaces the current Industrial Admin & Research (I-R) zone.</p>
Section 20.10.020	Land Use Regulations for Commercial Zoning Districts	Same as above	<p>Major changes include, but are not limited to: 1) Residential uses now permitted in the C-C zone vs. requiring a CUP currently; 2) Emergency Shelters principally-permitted in the C-G zone and CUP's in the C-C & C-T zones (State Law requires that shelters be allowed by-right in at least one zone); 3) Allowing Farmer's Markets with a Site Plan Review Permit in all commercial zones except C-O, which requires a CUP; 4) Allowing Mobile Food Vendors with Site Plan Review in C-T and C-G and with CUP's in B-P, C-O, C-N, and C-C (but not in the City Center); 5) changes in how massage establishments are regulated per recent changes in State law; 6) Adding many new land uses not currently listed in the ordinance; and 7) Allowing multi-screen theaters in the C-N, C-T, & B-P with a CUP instead of only allowing them in C-C as in current code. Careful review and comparison with existing land use table is encouraged.</p>

Zoning Code Update--Summary of Major Changes

New Code Section	Topic/Title	Current Code Section	Summary of Change
Section 20.10.030	Development Standards and Guidelines for Commercial Zoning Districts	Same as above	Combines all the development standards (setbacks, heights, lot area, etc.) for all the commercial zones. The B-P standards are all new. The standards are now shown in table form in Tables 20.10-2. Only minor changes are proposed to the standards themselves with the vast majority of them remaining the same, except that the minimum lot widths for commercial lots have been deleted and height limits only apply if directly adjacent to residential zones (and exceptions can be granted by the Site Plan Review Committee in those cases as well).
Section 20.10.030-E	Development Guidelines for C-C (Regional Centers only) and B-P Zoning Districts	NEW	NEW guidelines have been added for projects in the regional centers in the C-C zone, but only those outside of the Downtown area, and for the B-P zone. This allows the C-C zone to function more like its corresponding "Regional/Community Commercial" designation in the General Plan.
Chapter 20.12	Industrial Zoning Districts	MMC 20.30 (Industrial Districts); 20.32 (I-R); 20.34 (I-L); & 20.36 (I-H)	Combines all the industrial zones into one chapter, but deletes the Industrial Administration and Research (I-R) Zoning District, which has been replaced with the Business Park zone in the Commercial chapter. A minimum size to establish new zoning districts has been added (5 acres for I-L and 10 acres for I-H).

Zoning Code Update--Summary of Major Changes

New Code Section	Topic/Title	Current Code Section	Summary of Change
Section 20.12.020	Land Use Regulations for Industrial Zoning Districts	Same as above	Table 20.12-1 displays in table form the permitted land uses, the uses that require a Minor Use Permit (NEW reqt), the uses that require a Site Plan Review Permit (NEW reqt), the uses that require a Conditional Use Permit, and uses not allowed (NEW) for each zoning district. Many new land uses have been added, which were not addressed in the current Ordinance. For comparison purposes, the uses allowed under the Current Ordinance for each zone are provided in the Annotated Version as Table C1 on page 40A, which only included permitted uses, conditional uses, and accessory uses. The Industrial Admin & Research (I-R) zone has been replaced by the Business Park (B-P) district in the Commercial chapter.
Section 20.12.020	Land Use Regulations for Industrial Zoning Districts	Same as above	Most industrial uses continue to require Site Plan Review Permits as with the current code. Major changes include, but are not limited to: 1) Allowing mobile food vendors with a CUP; 2) allowing gas stations and car washes in association with fleet activities; 3) Allowing limited retail uses as part of a showroom if 10 % of the floor area or less; more than 10% requires a Site Plan Permit, not a CUP as currently; and 4) the list of prohibited uses has NOT changed from the current ordinance, except for some minor clarifications to match the Building Code.

Zoning Code Update--Summary of Major Changes

New Code Section	Topic/Title	Current Code Section	Summary of Change
Section 20.12.030	Development Standards for Industrial Zoning Districts	Same as above	Combines all the development standards (setbacks, heights, lot area, etc.) for all the industrial zones. The standards are now shown in table form in Tables 20.12-2. Minor changes are proposed to the current standards, including the removal of height limits except where adjacent to residential and within the Airport area. NEW standards for industrial buffer yards adjacent to residential and performance standards have been added.
Section 20.12.030 (B and C)	Industrial Buffer Yards and Performance Standards	NEW	NEW standard for industrial buffer yards adjacent to residential and performance standards regarding noise, odor, hazards, etc., have been added.
Chapter 20.14	Downtown Zoning Districts	NEW	This entire chapter is NEW and proposes to add 3 new Downtown Zoning Districts-- Downtown Core (D-COR), Downtown Office (D-O), and Downtown Commercial (D-CM) to reflect the unique needs of the Downtown. However, implementation of these zones would require zone changes to existing properties and working with property owners to explain the benefits of the new zones. It is anticipated that this will be done as a separate process from updating the zoning code itself.
Chapter 20.16	Urban Village Zoning Districts	NEW	This entire chapter is NEW and proposes to add 3 new Urban Village Zoning Districts-- Inner Village Residential (R-IV), Outer Village Residential (R-OV), and Village Commercial (C-V) to correspond to the Urban Village designations in the General Plan. These new zones would offer alternative zoning choices for property owners in the City's new growth areas.

Zoning Code Update--Summary of Major Changes

New Code Section	Topic/Title	Current Code Section	Summary of Change
Chapter 20.18	Public Use and Agricultural Zoning Districts	NEW for some sections; MMC 20.40 (Public Parking District); 20.46 (A-T-5); & 20.48 (A-1-20)	This chapter is mostly NEW and contains 4 zoning districts--1) Parks and Open Space (P-OS) (NEW); 2) Public Facility (P-F) (NEW); 3) Public Parking (P-PK) (Existing); and 4) Agriculture (A-G) which replaces the current Agricultural Transition (A-T-5) and Restricted Agricultural (A-1-20).
Chapter 20.20	Special Use Zoning Districts	MMC 20.38 (Special Districts); 20.41 (U-T); and 20.42 (P-D)	This NEW chapter includes 2 existing zones--Urban Transition (U-T) and Planned Development (P-D). The current Ordinance also contained the Airport Approaches and Clear Zones (A-P-C), which has been replaced by the Airport Environs (/AE) Overlay Zone in Chapter 20.22; A-T-5 and A-1-20 zones replaced by the A-G zone in Chapter 20.18; Residential-Mobile Homes (R-MH) which has been moved to the residential zones in Chapter 20.08; and Limited Residential (L-R), which has been deleted since it was little used and can be addressed through the Conditional Zoning process in Chapter 20.78.
Section 20.20.010	Urban Transition (U-T) Zoning District	MMC 20.41 (U-T)	No changes are proposed to the U-T zoning district.

Zoning Code Update--Summary of Major Changes

New Code Section	Topic/Title	Current Code Section	Summary of Change
Section 20.20.020	Planned Development (P-D) Zoning Districts	MMC 20.42 (P-D)	This chapter has been expanded and modified to make the establishment and modification to a Planned Development more streamlined. Major changes include: 1) Reducing the minimum size of a P-D from 20 to 5 acres; 2) Reducing the minimum size to 1/2 City block from 1 whole City block in the Downtown area; 3) Allowing a preliminary Site Utilization Plan (SUP) with less specific details to be approved with the original zoning, adding flexibility to the process for projects not ready for immediate construction; 4) allowing the Director of Development Services to waive some requirements for P-D rezoning requests prior to annexation; and 5) Instead of requiring a Conditional Use Permit from the Planning Commission for all projects, Site Plan Review will be required instead and allows the Site Plan Review Committee (a staff level committee) to approve the Final SUP. The Director may refer the Final SUP to the Planning Commission if over 3 years have passed since adoption of the preliminary SUP.
Chapter 20.22	Overlay Zones	NEW, except for MMC 20.44 (A-P-C)	This entire chapter is NEW and proposes 3 new overlay zones--1) Airport Environs (/AE), which is similar to the current Airport Approaches and Clear Zones (A-P-C) but is substantially modified and streamlined; 2) High Speed Rail (/HSR) which has NOT yet been drafted and will be developed as part of the High Speed Rail Station Planning Grant; and 3) Urban Residential (/UR), which offers increased housing choices, such as townhomes, live/work units, carriage homes, etc.

Zoning Code Update--Summary of Major Changes

New Code Section	Topic/Title	Current Code Section	Summary of Change
Part 3--General Regulations			
Chapter 20.24	Height Measurement and Exceptions	MMC 20.04.120 (Building Height) and 20.62.020 (Height Limits)	This NEW Chapter takes several existing provisions from different parts of the current code and makes minor changes.
Chapter 20.26	Setback Measurement and Projections	MMC 20.04.350 (Setback) and 20.62.040 (Projections into Required Yards)	This NEW Chapter takes several existing provisions from different parts of the current code and makes minor changes.
Chapter 20.28	Accessory Structures	MMC 20.54 (Special Provisions)	This NEW Chapter takes several existing provisions from different parts of the current code and makes minor changes.
Chapter 20.30	Walls and Fences	MMC 20.62.040 (Projections into Required Yards)	This NEW Chapter makes several major changes to the City's existing wall/fence requirements as described below:
Section 20.30.020 (A)	Height Limits for Residential Zoning Districts	MMC 20.62.040 (E, F, H, J, K, & L) (Projections into Required Yards)	Changes include: 1) Allowing the addition of 1 foot of lattice to the top of a fence; 2) Allowing an increase in residential backyard fence heights from 6 to 7 feet; 3) Allowing non-solid fences of up to 6 feet in height (currently 4 feet) in front yards with a Minor Use Permit; 4) Allowing higher fences on reversed corner lots with a Minor Use Permit instead of a CUP; and 5) Allowing fences on open-end cul-de-sacs with a Minor Use Permit vs. current Site Plan Review.
Section 20.30.020(B)	Height Limits for Non-Residential Zoning Districts	MMC 20.62.040 (E & G) (Projections into Required Yards)	Changes include: 6) Allowing up to 8 foot fences in all non-residential zones by right, and in multi-family zones with a Minor Use Permit, and 7) allowing up to 10 foot fences in non-residential zones with a Minor Use Permit (instead of up to 8 feet in industrial zones only with a CUP currently).
Section 20.30.020 [C]	Minor Use Permits for Fences	NEW	Clarifies procedures for granting Minor Use Permits for fences or walls.

Zoning Code Update--Summary of Major Changes

New Code Section	Topic/Title	Current Code Section	Summary of Change
Section 20.30.030	Corner Vision Triangles	MMC 20.62.040 [E] (1 & 2) (Projections into Required Yards)	Changes include: 8) Allows use of "back of sidewalk" instead of "property line" to measure from if the back of sidewalk is closer to the street; and, 9) The size of the vision triangle varies according to street type (10 feet for sidewalks/alleys; 25 feet for local streets; 40 feet for collectors & arterials; instead of the current 40 feet for all streets, except alleys/driveways which is currently 10 feet.
Section 20.30.040	Fence/Wall Materials	NEW	NEW provisions include: 1) A list of permitted fence materials has been added along with a list of prohibited materials; 2) Barbed wire fences would only be allowed in residential zones with a Minor Use Permit; 3) Razor wire fences in all zones would only be allowed with a Minor Use Permit; and 4) Electric fences are only allowed in non-residential zones, 5 feet from the property line and with a Minor Use Permit.
Chapter 20.32	Interface Regulations	MMC 20.52 (Interface Regulations)	Instead of requiring a CUP for Interface situations, a Site Plan Review Permit (but with a required public hearing) would be required instead. New zones, C-SC, D-CM, B-P, & A-G, were added to the table.
Chapter 20.34	Creek Buffers	NEW	This chapter is entirely NEW although such buffers are currently required in the General Plan. This chapter sets forth land use regulations and performance standards for such buffer areas.
Chapter 20.36	Landscaping	NEW	This chapter is entirely NEW. It sets forth requirements for landscape and sprinkler plans, minimum required landscape areas for residential and non-residential uses (see Table 20.36-1) ranging from 10 percent to 15 percent of the lot area, and landscape standards. This chapter implements some new State law requirements in drought conditions and defers to the City's Water Efficiency Ordinance and State Law if there are conflicts.

Zoning Code Update--Summary of Major Changes

New Code Section	Topic/Title	Current Code Section	Summary of Change
Chapter 20.38	Parking and Loading	MMC 20.58 (Off-Street Parking)	This is a substantial modification to the existing Parking chapter. Major changes include the following as outlined below:
Section 20.38.020	Applicability	MMC 20.58 (Off-Street Parking)	Parking requirements for all land uses are now presented in table form, Table 20.38-1, which should be compared carefully with the existing requirements as summarized in Table D1 on page 140A of the DRAFT. In summary, many land uses were added that were not covered in the existing ordinance and many requirements that were based on factors, such as employees or # of seats, which are often difficult to determine when buildings are initially built have been changed to offer options to be measured by the size of the building or other physical features like most other land uses. One notable change from the current ordinance is to base parking for apartments on #'s of bedrooms instead of on # of units as is now.
Section 20.38.030	Required Parking Spaces	MMC 20.58.020 (# of Spaces Required), 20.58.330 (Uses Not Specified), 20.58.340 (Exemptions), 20.58.380 (Mixed Occupancies), & 20.58.410 (Units of Measurement)	Changes include allowing the Director of Development Services to determine the reqt for unlisted uses vs. current reqt for Planning Commission or City Council to do so; and adding information about a 15% floor area reduction for non-public areas, which has been longstanding City practice. NEW provisions regarding how to determine the reqts for unlisted and unknown uses have been added.
Section 20.38.040	General Requirements	MMC 20.58.010 (Required) & 20.58.370 (Location)	Changes include shifting a review authority for off-site parking requests to City staff and allowing the Site Plan Review Committee to determine the "reasonable" distance from the use where off-site parking can be provided instead of having set distances for different uses as in current ordinance.

Zoning Code Update--Summary of Major Changes

New Code Section	Topic/Title	Current Code Section	Summary of Change
Section 20.38.050	Parking Reductions	MMC 20.58.400 (Joint Use) & 20.58.390 (Common Parking Facilities)	Changes include leaving determinations based on parking demand studies to the Director of Development Services instead of the Planning Commission. NEW provisions have been added regarding reductions for low demand uses, uses with heavy transit use, and mixed uses have been added.
Section 20.38.060	Parking Assessment Districts	MMC 20.58.470 through 20.58.520 (Parking District)	No changes to the existing ordinance provisions for parking assessment districts. (Currently the only one in the City is the Downtown Parking District.)
Section 20.38.070	Parking Design and Development Standards	MMC 20.58.350 (Size & Access), 20.58.360 (Access Drive), & 20.58.385 (Landscaping)	Changes include referencing the City's Design Standards for parking space dimensions to ensure consistency; adding the landscaping standards to the code instead of referring to a 1985 document that hasn't been updated; and adding some reqts for concrete curbs, lighting, pedestrian access, and screening.
Section 20.38.080	Bicycle Parking	NEW	This section would require that bicycle parking spaces (for short-term and long-term use) be provided for most land uses. The Zoning Ordinance Focus Group recommended requirements that matched the new "CA Green Building Code." The City Bicycle Advisory Commission recommended more stringent standards. The DRAFT attempts to strike a balance between the two approaches. Please see the DRAFT, which shows the differences between the two group's recommendations.
Section 20.38.090	Off-Street Loading	MMC 20.58.460 (Off-Street Loading Spaces)	Modified/expanded version of the current ordinance with new reqts for design, but the required number of such spaces have not changed from the current ordinance.
Chapter 20.40	Small Lot Single Family Homes	NEW	This is a NEW chapter but is based on the Small Lot Design Guidelines adopted by the City in 2008. This would allow small lot single-family homes to be approved with a CUP in RP-D, R-IV, R-OV, and R-2 zones.

Zoning Code Update--Summary of Major Changes

New Code Section	Topic/Title	Current Code Section	Summary of Change
Chapter 20.42	Second Units	MMC 20.54.350 (Secondary Dwelling Units)	This chapter contains minor modifications to the City's requirements for second units, which is based on State Law. State law limits much of the City's discretion regarding such units. One minor change would be to require second units to be approved with Minor Use Permits, instead of Site Plan Review, which is more consistent with State Law which does not allow public hearings for such units.
Chapter 20.44	Special Land Use Regulations	NEW and MMC 20.54 (Special Provisions) and 20.62.060 (Recycling Facilities)	This is an expanded version of the existing "Special Provisions" chapter, with other portions of that existing chapters moved to other more relevant chapters. NEW regulations have been added for food trucks in fixed locations, check cashing/ payday loan establishments, community gardens, fraternities/sororities, live/work units, photovoltaic energy systems, single-room occupancy, and emergency shelters. The City's provisions for recycling facilities has been substantially expanded, the requirement for bed & breakfasts to be within historic structures was removed, and new rules for outdoor display of merchandise have been proposed. NEW restrictions on tobacco sales in proximity to schools and other youth-oriented activities were recommended by the Focus Group after a presentation from the County Health Dept.
Chapter 20.46	Residential Design Standards	MMC 20.54.250 (Development Standards for Single-Family & Mobile Homes), 20.54.290, 20.54.300, and 20.54.310 (Multi-Family Design Standards)	Although a NEW chapter, the design standards in this chapter are all in the existing ordinance. Only minor formatting changes were made and the standards were reorganized to avoid duplication.

Zoning Code Update--Summary of Major Changes

New Code Section	Topic/Title	Current Code Section	Summary of Change
Chapter 20.48	Home Occupations	MMC 20.54.100 (Home Occupations)	The City's rules regarding home-based businesses are proposed to be changed to address issues that have arisen over time with such uses. Minor home occupations which are consistent with the current code are proposed to be different from "Major Home Occupations" which are NEW and will have additional reqts. Provisions regarding Cottage Food Operations as defined in a recent State Law have also been added.
Chapter 20.50	Temporary Uses and Structures	MMC 20.62.050 (Temporary Outdoor Uses) and 20.54.170 (Circus or Carnival)	Provisions for temporary uses have been consolidated in this NEW chapter. NEW provisions for Farmer's Markets, off-site construction yards, employee trailers, and real estate offices have been added.
Chapter 20.52	Nonconforming Parcels, Uses and Structures	MMC 20.60 (Nonconformities)	Substantial modifications have been proposed to the current ordinance with the goal of providing more flexibility for non-conforming uses to do minor alterations and expansions and to rebuild if destroyed involuntarily.
Chapter 20.54	Condominiums	MMC 20.56 (Condominiums)	Minor modifications have been proposed to this chapter to delete some out-of-date provisions.
Chapter 20.56	Density Bonus	MMC 20.88 (Density Bonus)	This chapter is a substantial modification to the existing ordinance in order to conform to recent changes in State Law, which is very specific about what incentives and standards must be made available. This proposal meets the minimum requirements under State Law.
Chapter 20.58	Wireless Communications Facilities	MMC 20.92 (Wireless Communications Facilities)	Much of the existing ordinance has remained the same, but substantial changes have been proposed to the maximum heights (Table 20.58-1) and to the permit requirements (Table 20.58-2) in order to encourage more stealth facilities and to streamline the process for approving stealth facilities. Refer to Table A on page 216B of the DRAFT for a comparison to the existing ordinance.

Zoning Code Update--Summary of Major Changes

New Code Section	Topic/Title	Current Code Section	Summary of Change
Chapter 20.60	Adult Entertainment Businesses	MMC 20.90 (Adult Entertainment Businesses)	No changes are proposed to the existing chapter except that the definitions have been removed and a reference provided to MMC 5.58, which has the same definitions.
Chapter 20.62	Signs	Various	This NEW chapter has consolidated all the sign provisions spread throughout the existing Zoning Ordinance. These provisions should be in the Sign Ordinance instead, but since a comprehensive update of the sign ordinance is NOT part of this project, none of the provisions have been changed. A comprehensive update of the Sign Ordinance, along with extensive outreach to local businesses and citizens, would be the proper avenue in which to consider amendments to the sign provisions in the future.

Zoning Code Update--Summary of Major Changes

New Code Section	Topic/Title	Current Code Section	Summary of Change
Part 4--Permits and Administration			
Chapter 20.64	Administrative Responsibility	MMC 20.64.050 (Site Plan Review Committee); MMC 2.20 (Planning Commission); MMC 2.24 (Board of Zoning Adjustment); MMC 20.86 (Design Review Commission)	This NEW chapter spells out the roles of the Planning Agency, City Council, Planning Commission, Site Plan Review Committee, and the Director of Development Services in either reviewing or approving permits. These roles are summarized in Table 20.64-1 (Review & Decision-Making Authority). Although the chapter is NEW, the roles are consistent with the City Charter, current City practices, and current code provisions.
Chapter 20.66	Permit Application and Review	NEW and MMC 20.78 (Fees)	This NEW chapter outlines application filing, fees, and review procedures. Although NEW, the procedures are consistent with current City practices, except for a new provision regarding when an application can be deemed withdrawn due to applicant inactivity.
Chapter 20.68	Permit Requirements	MMC 20.64 (Conditional Use Permits); MMC 20.86 (Design Review); MMC 20.68 (Site Plan Review); & MMC 20.66 (Variances)	This NEW chapter consolidates all the permit requirements into one chapter. NEW permits have been added--Minor Use Permits; Minor Modifications, and Special Project Permits. Site Plan Review Permits have been significantly expanded for use in all zones (currently, mostly used in Industrial zones) and public hearings are now required for non-industrial projects. (Industrial projects will continue to have a streamlined process with no public hearings.)
Chapter 20.70	Public Notice and Hearings	MMC 20.72 (Public Hearings)	This is a substantial expansion of the existing public hearing chapter, but the requirements are consistent with State law and current City practices. The only change is to the appeal procedures which have been changed from 5 calendar days to 5 business days.

Zoning Code Update--Summary of Major Changes

New Code Section	Topic/Title	Current Code Section	Summary of Change
Chapter 20.72	Post-Decision Procedures	NEW and MMC 20.76.110 (Reapplication--Time restraint)	This is NEW chapter that deals with various procedures that occur after a permit is approved. These provisions are consistent with current City practices, except as noted. NEW provisions include optional performance guarantees; the legislative action agreements which have been required by the City since the 1990's but have never been referenced in the Code; a formal process for approving changes to an approved project; time limits and extensions; permit revocation procedures; and expanding the prohibition of submitting the same application within 12 months of being denied to include all permits instead of just Zone Changes and General Plan Amendments as it is now.
Chapter 20.74	Appeals	MMC 20.96 (Appeals)	This chapter expands the current appeals chapter but is consistent with current City practices. The one major change is to change the appeal period from calendar days to business days.
Chapter 20.76	Covenants for Easements	MMC 20.94 (Covenants for Easements)	This chapter, except for some minor editing and re-formatting, is the same as the current chapter which was adopted in 2003. Covenants for easements is a process which allows easements to be granted between properties under the same ownership.
Chapter 20.78	Conditional Zoning	MMC 20.80 (Conditional Zoning)	This is a modified and expanded version of the current chapter. Changes include removing the requirement for Site Plan Review for all uses in a Conditional zone, and adding provisions to address amendments to the conditions, subsequent zone changes, and enforcement.

Zoning Code Update--Summary of Major Changes

New Code Section	Topic/Title	Current Code Section	Summary of Change
Chapter 20.80	Zoning Ordinance Amendments	MMC 20.76 (Amendments)	This is a modified and expanded version of the current chapter. Changes include clarifying who can initiate zone changes; requiring a public notice to a property owner even if the Zoning District is not being changed; extending the time frame for a Planning Commission decision from 35 days to 90 days after the close of the public hearing; if the Planning Commission denies a zone change, the applicant must request a hearing before the City Council instead of automatically going to the Council; allowing referral back to the Planning Commission by the City Council if the application has been substantially modified but not requiring it; and modifying the effective dates to conform to State Law.
Chapter 20.82	General Plan Amendments	NEW	There is actually not a chapter in the current code dealing with General Plan Amendments, but staff has used the provisions of MMC 20.76 above. The same changes noted above to current practices are also included in this chapter.
Chapter 20.84	Reasonable Accommodations	MMC 20.98 (Reasonable Accommodation)	The only change to the current chapter, which was adopted in 2009, is to designate the Director of Development Services as the hearing officer instead of the City Manager.
Chapter 20.86	Development Agreements	NEW	This is an entirely NEW chapter but is consistent with State Law, City Council Resolutions #1995-06 and #2005-101, and current City practices.
Part 5--Glossary (Definitions)			
Chapter 20.90	Glossary (Definitions)	MMC 20.04 (Definitions)	The number of definitions have been expanded significantly from 45 in the current ordinance to 239 new or modified definitions.



CITY OF MERCED ZONING ORDINANCE UPDATE FOCUS GROUP

RECOMMENDATIONS

(July 2013 – February 2016)

Mission of Focus Group

Update the Zoning Ordinance to be more user-friendly and easier to understand for the Community.

Focus Group Members: Jim Abbate, Christina Alley, Ann Andersen, Todd Bender, Kenra Bragonier, Adam Cox, Tony Dossetti (Council Member), Ron Ewing, Loren Gonella, Forrest Hansen, Flip Hassett, Jack Lesch, Elmer Lorenzi, Des Johnston, Guy Maxwell, Carole McCoy (former Planning Commissioner), Michelle Paloutzian, Garth Pecchinino, Joe Ramirez, Mike Salvadori, Stan Thurston (Mayor), Brandon Williams (former Planning Commissioner), Jim Xu, and Chairman Bruce Logue

Introduction

The Zoning Ordinance Focus Group met 17 times from July 2013 to March 2015 and then twice more in January and February 2016 for a total of 19 meetings. The Zoning Ordinance Focus Group was made up of Merced residents with various interests, including developers, engineers, planners, real estate, banking, and other interested citizens. Over the course of the meetings, the Focus Group made recommendations on the draft Zoning Ordinance. The following excerpts from the Focus Group minutes represent the recommendations made by the Focus Group.

Minute Excerpts

- 1) **Meeting of July 17, 2013**—Overview and introductions only.
- 2) **Meeting of July 31, 2013**

Organization: Ms. Andersen reviewed other cities' ordinances and advised that it's not about the content, but the navigation of the document (ordinance) that concerned her noting that web access and searchability needs to

be user friendly. There was also some discussion on improving the “Definitions” of the Code and placement in the document whether it is located in the front or back of the Code.

Planned Developments: Mr. Lesch spoke favorably about the staff level design review and site plan review. It was explained that in the past some applicants received entitlements from the City Council (i.e., general plan amendments, zone changes, etc.), but were not ready to proceed with a conditional use permit (CUP) and construction. Mr. Xu stated that other developers have detailed plans and must go through an additional process (public hearing for the CUP) costing time and money. Mr. Salvadori suggested a window of time be attached to quicken the process for those who are ready to develop immediately as opposed to those who wait a few years.

Churches: While Mr. Lesch felt that there should be a CUP process for them in residential zones, but not in commercial zones, Mr. Hassett felt that churches should not be encouraged within the downtown area. There were also comments from Mr. Pecchinino and Ms. McCoy that churches don’t pay property tax, and if it’s a small church (under 50 people) and parking is not impacted, it should be allowed.

3) **Meeting of August 22, 2013**

Conditional Use Permits (CUP) for Religious Institutions: The Focus Group discussed various pros and cons of requiring CUPs for churches in certain zones, but streamlining the process for them in others. Discussion focused on a church’s impact to an area such as Downtown where parking, noise, and hours of operation could have negative impacts, or in industrial zones where some industrial uses could not locate near churches and it makes it difficult to market the industrial property. Planning Manager Espinosa explained that there are Federal laws on how cities can treat churches, but the CUP process allows the City to apply conditions limiting occupancy, hours of operation, or sharing the location with another church who has services at different times or on different days.

Signs: The Focus Group also discussed the problem of too many signs in town causing a cluttered look. It was discussed whether it was a sign problem or the type of use that is the problem, such as bail bond businesses or tattoo parlors. The Focus Group agreed that such businesses seem to always have excessive signage.

Streamlining CUP Process in Planned Developments: Ms. Espinosa asked the group’s thoughts on having the CUP considered at the same time as the zone change or general plan amendment. There is often confusion from the public when the zoning and land use is approved by Council and they get another public notice

for the CUP later on.

Some members thought that there should be no co-mingling of the approvals because developers don't want to incur the expense of preparing detailed plans for the site plan, design, and landscaping of the project when the land use and zoning might be denied by the Council. Mr. Xu said that because a planned development requires so much detail, the CUP process should remain in place for planned developments.

Mr. Pecchenino said there are a lot of planned developments now because if the zoning doesn't allow the proposed use then zoning is changed to a planned development to allow the use through the CUP process. Ms. Espinosa said that the City would still need the requirements of the code for planned developments since they will still exist, but could establish a new zoning district that would allow for streamlining the process.

Outdoor Displays: Ms. Espinosa explained that they have gotten a little out of control in recent years. She showed some examples of sites where outdoor displays block access, circulation, and sidewalks. The code could be changed to state that they are not allowed at all, but that is an enforcement issue and there is currently not enough staff to provide enforcement. The code could include some standards for how much display area is allowed, i.e., 50 square feet, a percentage of the business' frontage, types of goods, not allowed in easements, and must be moved inside at close of business, etc.

Ms. Bragonier thought that it would be easier to enforce if they are not allowed at all. Mr. Maxwell said that one size won't fit all and perhaps we should just regulate where they could not go (in drive aisles, blocking sidewalks, etc.) rather than on a percentage of frontage or a specific square foot area, and that the soda machines should not be regulated.

Mr. Lesch said that the emphasis should be on signs rather than outdoor displays. He also mentioned recycling centers and said the City cannot require a CUP; they are currently processed under Site Plan Review where conditions can be applied or it can be denied if determined to be detrimental to the area.

Recycling Centers: Ms. Espinosa added that recycling centers attract other issues such as abandoned shopping carts and public intoxication. When recycling centers are located in Neighborhood Commercial zones near residential zones the City receives numerous complaints. She explained that they are allowed in all commercial zones per state law except processing facilities which are allowed in industrial zones.

Home-Based Businesses: There was also a brief discussion regarding home-

based businesses such as day cares with 14 or fewer children or residential care facilities with 6 or less at the facility. There are no zoning requirements for these uses per State law and the City receives numerous complaints from nearby residents.

Garage Conversions: Ms. Espinosa explained that most garage conversions are illegal because the zoning ordinance requires one off-street parking space for each residence and the driveway is not a “legal” parking space because it is within the setback area. Most of the existing conversions are illegal and building permits were not obtained.

Ms. McCoy said that some conversions are very old and not up to code and some home sales have not occurred because buyers could not obtain insurance. Mayor Thurston said he would like to see this addressed somehow that does not punish those conversions that were done years ago, but not to allow new ones.

Mr. Cox asked why the driveway is not a legal space and staff responded that if the spaces in the garage are lost then it causes more parking on the street which clutters the neighborhood. Ms. Espinosa asked the group to consider if the zoning code should be changed to allow the driveway as a legal parking space.

Mr. Lorenzi also pointed out that you cannot park in back of the house and the code states that you cannot park RV’s and boats on the street, but there is not any code enforcement of this because there is not enough staff. He said that something needs to be done about that.

Ms. Espinosa asked if the Focus Group thought the zoning code should be changed to allow the driveway to count as off-street parking in order to allow the garage conversions. No clear consensus was reached.

4) Meeting of September 12, 2013

Driveway Carports: Ms. Espinosa provided examples of front yard carports and explained that they are illegal if within the 20-foot front yard setback in a residential zone. She advised that there are concerns, but if the Group was favorable to allow them, minimum standards are needed such as carport materials, anchoring, location, and the requirement for a building permit.

The Focus Group discussed safety issues such as blocking visibility of oncoming vehicles or pedestrians for someone backing out of their driveway, and possible issues with not properly anchoring the carport. Other concerns were that streets could appear cluttered or blighted without specific standards or if outdoor storage were to accumulate in driveways. Some felt that enforcement was the issue with existing illegal carports; however, with the City budget and current staffing levels,

there are competing priorities. Mr. Gonzalves asked the Focus Group to not make decisions regarding the Zoning Ordinance based on current budget or staffing levels as a Zoning Ordinance has at least a 20-30 year life.

Front Yard Fences: Ms. Espinosa explained the current ordinance, requests from the public to increase fence heights due to young children, dogs, safety purposes, potential issues with gates across driveways, and fence materials. After requesting feedback on whether or not fence heights in the front yards should be increased, the consensus was to keep the code as it is.

Backyard Fences: With regards to increasing backyard fences to 8-feet in height, the Focus Group discussed having standards to exclude barbed or razor wire and electrical fences, fences in areas that have grade differences (one side of the fence is 6-feet and the other side is 8-feet due to lot elevations), the use of lattice or compatible materials, and concerns for public safety. The Focus Group was favorable to increasing the backyard fences to 8 feet. Ms. Espinosa explained that a building permit would be required for an 8-foot fence. (NOTE: At a later date, the Focus Group decided that a maximum height of backyard fences should be 7 feet, consistent with the City of Atwater's ordinance.)

Home Occupations (Home-Based Businesses): Ms. Espinosa explained the eight conditions associated with a home occupation, concerns with having employees (vehicles parking on streets), along with issues with businesses such as a car repair operation that on the one hand should be prevented in a residential neighborhood (due to noise, traffic, oils and other storage issues) and requests for piano lessons (1 appt. per hour) where the ordinance is inflexible. Examples of home based businesses were discussed such as yard sales, repairing vehicles, daycares, cottage food operations (regulated by the State and Merced County Health Department), and public agencies being able to exempt themselves.

In response to concerns regarding enforcement on current and future home-based businesses, Ms. Espinosa explained the process of elevated enforcement where sometimes complaints can be handled with a phone call but others require involving the City Attorney's Office. She also explained that the Consultants have proposed having two categories for home occupations, a minor (allowed by right) and major (requires a minor conditional use permit). The consensus of the Focus Group was that the current code is fine as long as complaints from home occupations are enforced.

5) Meeting of September 26, 2013

Levels of Review: Director of Development Services David Gonzalves explained that it's time for the Focus Group to look at the proposed levels of approval for different land uses in the new ordinance whether it is from staff or the Planning Commission and City Council. He asked that the group keep in mind that the Zoning Ordinance will be around a long time so it's prudent to think about its long term impacts. Mr. Gonzalves stated that the City Manager and City Council have indicated their preference to streamline the development process; and, stressed the need for the group's input as their recommendation will be going to the City Council.

Home Occupations (Home-Based Businesses): Ms. Espinosa explained common issues with home occupations as well as striking a balance to allow certain businesses that have customers come to the home and not be an impact to neighbors, such as piano lessons versus swimming lessons. She asked if the group would be in favor of this and if there would be standards if allowed. Ms. Espinosa also advised that Cottage Food Operations are allowed by State law as a home occupation which allows people to purchase food items from a residence.

Ms. Espinosa explained that the Consultants have proposed having two categories for home occupations, a minor home occupation - allowed by right, and major home occupation - requires a "minor" (staff level review) conditional use permit (CUP). She added that there would be certain restrictions with the minor CUP to address deliveries, number of employees and clients, outdoor storage, and authorizes the Director of Development Services to suspend the activity if detrimental to the health and safety of the neighbors. Additionally, there is an appeal process to Planning Commission (if denied by staff), and City Council (if denied by the Planning Commission). A minor CUP would require a public hearing where neighbors are invited.

There was some discussion that the process was too vague, that entrepreneurs should be given more flexibility, that the requirements should be clear and address noise, parking for staff and customers, hours of operation, etc. For the most part the consensus was that staff is heading in the right direction.

Food Trucks: Ms. Espinosa described the difference between Street and Sidewalk Vendors and Food Vendors at Fixed Locations and issues to consider such as complaints regarding debris, loitering, parking, time limits, etc. The discussion included whether or not to allow food trucks at birthday parties which could be in residential neighborhoods, a park, or street fairs, etc. Other suggestions were to have a moratorium, or setting up a location where food trucks could gather on a rotating basis, allowing a food truck to replace a previous one (similar to

“new” fireworks booth vendors), and allow these businesses to grow. “Off the Grid” in the Bay Area was given as a successful organized business (private developer) with local bands and new food truck businesses could locate there to give their business a shot.

It was also suggested to keep in mind the changes in population especially students (UC Merced and Merced College) and others who communicate using Facebook and other social media. Lastly it was suggested that the requirement restricting food vendors near churches holding regular services on Sundays should extend to other days of the week as well.

6) Meeting of October 3, 2013

New Zoning Districts: Director of Development Services David Gonzalves explained that the goal is to focus on Residential and Commercial parts of the Code such as design standards and protecting neighborhoods. He advised that staff will be creating an agriculture/residential (or Rural Residential) zone for those properties that are currently in the County of Merced (correlating with UC Merced area) but are within our sphere of influence. He added that this is intended to ease the “fear” of annexation for those concerned with a possible change to their lifestyle with regard to the keeping of animals or hooking up to sewer and water.

Ms. Espinosa explained that she’s currently working with the consultants on this new zone to balance issues, and added that the closest zone that we currently have is an R-1-20 (for 20,000 square-foot lot minimum). Ms. Espinosa discussed the process of annexation noting that the properties must be contiguous and answered questions regarding acre lots, City services, etc. She emphasized the need to find a way to make people comfortable with the annexation process rather than to protest the process. An example was given where a neighborhood blocked a prospective annexation by protesting the annexation.

“Purpose” Sections of Draft Code: There was discussion that the “purpose” of the zones is there, however, the “intent” of the zone is not, and that there may be inconsistency from the old ordinance to the new with terms such as “high quality development” for example relating to mobile home parks. Ms. Espinosa indicated that we need to know how readable the document is so if it is confusing we need to correct it. She explained that the consultants were tasked with streamlining the ordinance so there’s not a lot of cross- referencing, but that is something that can be fixed by adding cross references. She advised that the nuts and bolts for what land uses are allowed and what permits are needed are found in Tables on Pages 1 and 2, whereas the design standards are on Pages 6 and 7.

Residential Zones: There was a suggestion to add “Home Occupation” in Table A, of Page 1, under the residential section. The Focus Group discussed daycares and the impacts on the neighborhood, the difference between permitted use and minor conditional use permit, and the difference between a “group home” and “dwelling groups” and restrictions within each. Ms. Espinosa explained that some uses like daycares are State regulated and gave the definition of a “household” and “family.” In response to using the term Community Uses and Community Assembly instead of “public” and “quasi-public” terminology Ms. Espinosa said that we are attempting to use more current or up- to-date terminology. However, with regards to “colleges” they need to be defined similarly to “schools.”

There was discussion on single-room occupancy where students could rent a room in a home, but the way the code is written, it’s not allowed. Ms. Espinosa indicated we would check the glossary to make sure it is clear as to what is allowed. Also, some neighbors are not receptive to having student housing in the neighborhood. With a second unit on a single-family residential lot, one of the two units must be owner-occupied.

Residential care facilities are exempt from local zoning as long as there are 6 or fewer people in a house. If there are more than six, we can require a process and impose reasonable standards such as spacing, concentration, and parking through a non- discretionary permit. Ms. Espinosa explained that the State would allow a staff level process granted by the Director where neighbors within 100 feet of the site are notified 10 days prior to the hearing date.

While a few people felt large family daycares should be regulated, others felt there were too many regulations and if there haven’t been many complaints, why do so. At this time, Chairperson Logue asked for a voice vote of those present and the consensus was not to regulate large family daycares. The consensus of the Group was, however, in favor of regulating residential care facilities if allowed under State law.

7) Meeting of October 17, 2013

Parks: The Focus Group discussed the process for approval of parks. Staff explained that a Conditional Use Permit (CUP) is required in all residential zones for the land use for a park, but that the design of the park is handled as a separate process not involving the Planning Commission. The Group discussed the various sizes and types of parks and the impacts on neighborhoods from lack of parking. Staff explained that there is no standard for parking for neighborhood parks and that it would be helpful to staff if there was such a standard. The Group was of the consensus that there should be a parking standard for parks and the size, type, uses, and design of the park should dictate the parking requirements for parks.

Residential Zones: The Group then discussed the land use tables for residential zones. Staff explained that the uses and development standards have been put in table format so that they are easier to understand than the paragraph format in the current ordinance. There have been no changes to the uses or standards except minor changes to exterior and side yard setbacks so they are consistent throughout the code.

Staff noted that there would need to be clarification or removal of footnote [2] on Page 7 regarding the 10-foot yard setback for all interior yards. Staff and the Focus Group concurred that this did not make sense for all interior yards to be ten feet for taller buildings, especially if trying to encourage density. Staff will review with the consultant and either clarify or remove the footnote.

Regarding MMC Section 20.08.030, Subsection F Parking, Ms. ESPINOSA explained that this is the section that would need to be modified to allow garage conversions and legal parking spaces in the driveway and/or on the street. Following a brief discussion, the consensus of the Focus Group was to not make any changes to the required parking in residential zones. There were no more comments on the Residential section

Commercial Zones: Regarding Commercial zoning, the proposed ordinance combines all commercial zones and adds the new Business Park zone into table format so land uses are easier to understand. The Focus Group agreed that there is a clear distinction between heavier use Business Parks vs. support use Business Parks and the Business Park zone should be part of the Commercial land use table to allow flexibility, and not the Industrial land use table.

It was also noted that under the current General Commercial zone, there is a 4-acre minimum size for the zone itself but there is no minimum in the proposed ordinance. Staff agreed that without a minimum acreage requirement, a single lot could be rezoned, impacting the surrounding area. It was agreed that the minimum acreage in the current code should be retained.

8) Meeting of October 31, 2013

Commercial Zones: The Focus Group discussed if Colleges and Trade Schools should be allowed with a Conditional Use Permit (CUP) in the C-G zone instead of not allowed at all. The consensus was that they should be allowed with a CUP since depending on the curriculum, it might be appropriate in the C-G zone.

Day Care Centers: The Focus Group considered if Day Care Centers should be a conditional use in the B-P zone instead of permitted. Since the state has adequate regulations with regard to this use, the consensus was to lean towards less regulation.

Emergency Shelters: The Group debated whether Emergency Shelters should remain not allowed in the C-C zone or should be allowed with a CUP. Planning Manager ESPINOSA explained that the state law requires that cities have at least one zone where Emergency Shelters are principally permitted. The City of Merced has proposed to permit them in the C-G zone as a permitted use and allow them in the C-T zone as a conditional use. Several members thought the Rescue Mission should not set a precedent for use in that location (a C- C zone), but could be grandfathered in. Some thought that allowing shelters in other commercial zones may deter businesses from wanting to locate in those particular zones. The consensus was to allow the Emergency Shelters to be principally permitted in the C-G zone and to not allow them in other commercial zones.

Government Offices: The Group discussed if Government Offices should be a permitted use in the B-P zone instead of not allowing them at all. The consensus was to continue to not allow them in the B-P zone to preserve those zones for traditional business park uses.

Parks: The Group deliberated about if Parks, which are proposed as conditional uses in C-O, C-N, and C-C, should be allowed with a CUP in other commercial zones. Since there are plenty of zones that allow Parks and because commercial development is a desirable use in the commercial zones, the consensus was to not allow Parks in other commercial zones.

Public Safety: The Group reviewed whether Public Safety Facilities should be allowed with CUPs in all commercial zones instead of only being allowed with a CUP in the C-T and C-G zones. The Group concurred it would be beneficial to allow Public Safety Facilities with a CUP in all commercial zones.

Alcohol Sales: The Group pondered the consultant's proposal that CUPs be required for all businesses wishing to sell alcohol. Currently, CUPs for alcohol sales are only required for businesses whose buildings are 20,000 square feet or less, since that would be a larger part of their business. Since the result would be a marked increase in CUPs and a lot more restrictiveness, the consensus was to continue the current process.

Bail Bonds: The Group debated whether Bail Bond Businesses should continue to be permitted in the C-C zone (but prohibited in the City Center) and allowed with a CUP in the C-O zone or should changes be made. Mention was made that most Bail Bond Businesses were so low key that most businesses were not even aware that they were located near them. It was also noted that they are required to follow our sign code and get a sign permit. The consensus was to continue the current process.

Check Cashing: Check Cashing Establishments would be allowed in all

commercial zones with a CUP as proposed; the Group considered if there were some zones where they should not be permitted. The consensus was that overall, they should be treated like any other business and not be overregulated, but C-O zones are supposed to be for office uses, the Check Cashing Establishments really aren't a business park use so should not be in the B-P zone, and the C-SC zones would not be appropriate locations either.

Flea Markets:The Group briefly discussed if Flea Markets should be allowed anywhere other than with a CUP in the C-T zone. The consensus was that they should be allowed with a CUP in the C-T and C-G zones and not in the C-O, C-N, or C-C zones.

Funeral Parlors: The Group reviewed Funeral Parlor and Mortuary uses and agreed that they should be principally permitted in the C-G zone, and allowed as CUPs in all other commercial zones.

Gas Stations: The Group conversed about Gas and Service Stations. It is proposed that they be principally permitted in C-T and C-G zones and allowed with a Site Plan Permit in the C-N, C-C, and C-SC zones. The consensus was that the proposal was fine except in the C-N zone, they should be permitted with a CUP so that neighbors would get notified if a Gas or Service Station was going into their neighborhood. Planning Manager ESPINOSA added that the use table would be reviewed for the C-SC zone to make sure it was consistent with the newly-adopted standards for that zone.

Hotels: The Group discussed if Hotels and Motels should be allowed with a CUP in the B-P zone. It was noted that other cities have successfully allowed this type of development. The consensus was to keep our options open and allow Hotels and Motels in the B-P zone with a CUP.

9) Meeting of November 14, 2013

Check Cashing: Chairperson LOGUE asked to reopen the discussion from the last meeting regarding pay day loan services and whether the code should be more restrictive to deter these types of businesses in the downtown area. The Focus Group discussed that and whether they should then include other types of businesses (pawn shops, tattoo parlors and hookahs). Group Members RAMIREZ and THURSTON both provided information that there are other changes in the works (at the State or Federal level) that would be restrictive and make it difficult for the payday loan types of businesses to continue.

The Group suggested the following regarding payday loan businesses:

CO/CT/CG: Conditional Use

CN/BP: Not allowed (those existing would be non-conforming uses)

Central Core: More restrictive with conditional uses.

Shopping Center Commercial (CSC): Not allowed. Very restrictive use.

Commercial Zones: The Group continued their discussion regarding the land use table. Ms. ESPINOSA explained that the consultant proposed a downtown residential zone to address the smaller residential lots in that area. Currently, most downtown residential lots are 50x150' lots, but are zoned R-1-6 because that was the closest zoning designation that fit.

Pawn Shops: The Committee made the following recommendation:

CO/CN//CSC/CT/BP: Not Allowed

CC: Conditional Use

CG: Permitted Use

Personal Services: The Group recommended that for Business Park zones, that Personal Services should require Site Plan Review (SP) with Footnote 6.

Street and Sidewalk Vendors: The Group discussed exploring the idea of having an area established specifically for food trucks. Currently they are only allowed in the CT zone. Ms. ESPINOSA asked if the Group thought it appropriate that they are allowed to locate in a Business Park or Industrial zone with a use permit. She further explained that the definition only refers to food and drink and asked if the Group thought that the definition should include merchandise. The Group agreed that the definition should only be for food and drink so the category should be changed to "Mobile Food Vendors" and should be a conditional use in Business Parks.

Vehicle Parts and Accessories Sales: The Group agreed that they should be a permitted use in a C-G zone.

Large Recycling Collection Facilities: The Group agreed that they should be a Conditional Use in the CT and CG zones.

Parking Facilities: The Group said they should be permitted in all zones.

Vehicle Sales: Group Member BRAGONIER said that she didn't think vehicles sales should be allowed in the downtown core area and Ms. ESPINOSA said that the table would include Footnote 12 which defined the downtown core area and restricted that use from that area.

10) Meeting of December 12, 2013

Business Park Development Guidelines: The Focus Group discussed the

use of the terminology “may” vs. “shall” vs. “should”. The Group discussed the lack of consistency within the definitions. Staff explained that there are instances where items or design are mandated by State or Federal statute to be “shall”, but that staff needs room to adjust a design and work with a developer if the project hits most of the marks, and so there needs to be room for some flexibility to meet the developer’s specific design requirements.

Focus Group Member BENDER said that from a developer standpoint there are a lot of “shalls” that they have to heed and more “shoulds” would allow the project to work. If the project needs exceptions, then the Planning Commission and City Council should make the decision by establishing conditions for the individual projects.

Following further discussion, the Focus Group recommended the following (beginning on Page 22 of 9-12-2013 memo):

Page No.	Item No.	Terminology
21	4a-d	Change to “shall”
22	5a-c	Change to “shall”
22	7a and 7b	Change to “shall”
22	8a	Remain “shall”
22	9a and 9b	Change to “shall”

Ms. ESPINOSA indicated that she understood the Group’s direction and could go through the remainder of the preliminary draft and make the appropriate changes and bring them back to the Group for review.

Planning Manager ESPINOSA explained there will be new zoning districts proposed such as “Urban Village” and new Downtown designations, and discussed the options for rezoning some of the downtown areas. She said that the new zones could be established without having to actually rezone any of the properties. There are various options for completing the rezoning. It could be accomplished as part of the Zoning Ordinance update, as development projects lend themselves to rezoning, or while the City addresses any changes required as part of the High Speed Rail project.

11) Meeting of January 30, 2014

Industrial Zones: The Group discussed the Industrial Zoning Districts and whether there should be a minimum lot size for Light Industrial and Heavy Industrial to preclude an industrial use building on a small lot adjacent to residential. They also discussed the performance standards and a definition for infrequent noise and what kind of mitigation could be required to address any noise issues.

Public Use and Agricultural Zoning Districts: In response to questions from the group, Planning Manager ESPINOSA explained that there is not currently a zone for public use and the uses sometimes do not fit well in a commercial or residential zone. With a new zone of Public Use, uses such as parks or fire departments would have a specific zone applicable to the use. Currently most are zoned residential.

Special Use Zoning Districts: Ms. ESPINOSA explained that the only change to Urban Transition was to reorganize it so it was easier to understand. Regarding Planning Development zoning, the process for a revision would be streamlined.

The Group had previously discussed still requiring the Conditional Use Permit process for projects that are built sometime after the original Site Utilization Plan was adopted. Group Member ALLEY said that it sometimes takes several years to put together the financing for a project and suggested a longer period of time than the two years previously suggested. The Group felt that if the project is still consistent with the original plan then a longer period of time to proceed could be allowed with the ability to allow extensions at staff level, allowing 1-3 years more.

Glossary: The Focus Group made the following suggestions:

- Add a definition for Community Gardens;
- Add a definition for Farmers Market (distinct from Flea Market);
- Define appropriate areas for horticultural nurseries;
- Street and Sidewalk Vending definition narrowed to food vending; and,
- Consider making Bike Rentals separate from Vehicle Sales and Rentals.

Downtown Zoning Districts: The Focus Group discussed the design and setback requirements for the downtown zoning districts. The Group felt that there should be more flexibility regarding setbacks, number of windows, etc. to fit the project and location.

Urban Village Zones: Mr. THURSTON said that the Village Concept was too restrictive and that this Focus Group should see the Bellevue Corridor Community Plan before making final recommendations on the Zoning Ordinance Update. Focus Group Members GONELLA and ALLEY said that staff should proceed with a draft and Ms. ALLEY suggested a notation that it was a draft only and there would still be opportunity for review and modification later. Focus Group Member LESCH noted that without the Urban Village Zone, the only zoning alternative would be Planned Developments.

Director of Development Services GONZALVES explained that the Focus Group code review is just a step in the process and the Group should not recommend a zoning code without including all the land uses defined in the General Plan. One of the goals of the Zoning Code Update was to establish zoning districts for Business Parks, Urban Villages, etc., that are in the General Plan but not in the current code. That gives more options to developers when requesting zoning.

12) Meeting of February 20, 2014

The Focus Group discussed the twenty-one (21) questions outlined in staff’s memo dated February 7, 2014. Refer to the memo for further detail regarding the questions. The Focus Group consensus is outlined in the table below:

Question No.	MMC Section	*Page No.	Consensus
Part 3 – General Regulations			
Chapter 20.30 – Walls and Fences			
1	20.30.010(D)	89	Use “highest finished grade” to measure maximum height.
2	20.30.020(A)(2)	90	Concurred with recommendation with standards for lattice.
3	20.30-1 (Note 2 of Table) and 20-30-020(B)(2)	90 92	Concurred with recommendation for increased height with approval process.
4	20.30.030	92	Concurred with recommended changes and specifically noted the issues around school sites.
5	20.30.040	93	Okay with razor wire by permit only.
Chapter 20.32 – Interface Regulations			
6	20.32	95	Concurred with recommendation.

Question No.	MMC Section	*Page No.	Consensus
Chapter 20.34 – Creek Buffers			
7	20.34		Concurred with recommendation with standards for landscaping creek buffer.
Chapter 20.36 – Landscaping			
8	New Chapter		Concurred with new requirements and handouts providing information regarding drought resistant and native plants.
Chapter 20.38 – Parking and Loading			
9	20.38-1	106	Concurred with recommended changes and need for a standard that is easier to measure.
10	20.38/080	121	Consensus is to model the Green Code and not require more than State requires.
Chapter 20.44 – Special Land Use Regulations			
11	20.44	131	Concurred with proposed changes except Section 20.44.020 should not be specific to Auto Wrecking Yards. It should be “wrecking establishment” so can include salvage and junk yards.
Chapter 20.48 – Home Occupations			
12	20.48	149	Concurred with recommendation.
Chapter 20.58 – Wireless Communications Facilities			
13	20.58-2	186	Concurred with recommendation.
Part 4 – Permits and Administration			
14	20.64-1	194	Concurred with recommendation.
15	20.68.020	203	Concurred with recommendation.
16	20.68.040	207	Concurred with recommendation.
17	20.68.050	209	Concurred with recommendation.
18	20.68.040	210	Concurred with recommendation.
19	20.72.030	217	Concurred with recommendation.
20	20.72.080	220	Concurred with recommendation to apply to all applications.
21	20.74.030(B)	221	Agreed should be 5 business days, excluding state and federal holidays.

13) Meeting of January 29, 2015

Request from Merced County Department of Public Health regarding Tobacco Sales: Stephanie NATHAN, Department of Public Health, reviewed their request for inclusion of special zoning restricts for tobacco sales in the Zoning Ordinance. Ms. NATHAN provided the Focus Group with the American Lung Association's Matrix of Local Ordinances Restricting Tobacco Retailers Near Schools. Ms. NATHAN responded to questions from the Focus Group.

M/S LORENZI-LESCH, and carried by unanimous voice vote (13 absent) of the Focus Group, to recommend that staff include in the Zoning Ordinance Update a ban on tobacco products, including e-cigarettes, within 1,000 feet of youth oriented areas such as schools and playgrounds (additional uses to be identified by staff). Retail businesses over 20,000 square feet would be exempt from the ban, consistent with the current code regarding alcohol sales.

Secretary's Note: In December 2014, the Focus Group received a copy of the complete Focus Group Draft of the Zoning Ordinance. Previously, the Focus Group had been reviewing draft chapters and some sections, but not the complete ordinance. From this point forward, the Focus Group was making recommendations on the Focus Group Draft and were answering questions included in a December 19, 2014, memo from City staff (and excerpted below). (Please note that references to page numbers might have changed from the Focus Group Draft to the Public Review Draft issued in September 2015.)

Chapter 20.08 – Residential Zoning (Questions #1 & #2)

- 1) *Please review carefully Table 20.08-1 on page 12 and think about whether the listed land uses are appropriate for those zones (keeping in mind the purpose of each zone described in Section 20.08.010) and whether the City review process proposed is appropriate, keeping in mind the descriptions of those procedures above. (You may also want to compare the proposed Table with the existing regulations in Table A1 on page 20A.)*
- 2) *The Rural Residential (R-R) District is a new district which corresponds to a General Plan land use designation. Do the regulations for the R-R district in Section 20.08.050 on page 20 seem appropriate?*

Fraternity and Sorority Houses: The Focus Group came to the consensus that they should be allowed in an R-1 zone by Conditional Use Permit with a limit on size and number of residents.

Large Day Care and Residential Adult Care: Staff explained that the State of California regulates these facilities and doesn't give the City much discretion but that fire codes would offer some regulation.

Agriculture and Natural Resources: Group Member BRAGONIER was concerned about allowing farming in a residential zone and Ms. ESPINOSA explained that the current ordinance allows farming in Residential zones by right and by changing the code to require a Conditional Use Permit; it provides the City the ability to apply conditions and consider interface issues with the existing neighborhood.

Large Foster Homes, Nursing Homes, Convalescent Hospitals and Bed and Breakfasts (B&B): Allow in Rural Residential with Conditional Use Permit and remove the historic designation requirement for B&B's.

14) Meeting of February 12, 2015

Chapter 20.10 – Commercial Zoning (Questions #3 and #4):

- 3) *Please review carefully Table 20.10-11 on page 22 and think about whether the listed land uses are appropriate for those zones (keeping in mind the purpose of each zone described in Section 20.10.010) and whether the City review process proposed is appropriate, keeping in mind the descriptions of those procedures above. (You may also want to compare the proposed Table with the existing regulations in Table B1 on page 32A.)*
- 4) *The Focus Group previously reviewed draft Guidelines for projects in the new Business Park zoning district in Section 20.10.030(E) on page 30. City staff is proposing to also apply those same B-P guidelines to regional centers outside the Downtown area in the C-C zone to allow the C-C zone to function more like the corresponding "Regional/Community Commercial" (RC) General Plan designation, instead of focusing mostly on Downtown. What does the Focus Group think of this change?*

Business Park (B-P) 20.10.010(G): Group Member ANDERSEN suggested that the term "back office" should be defined in the glossary section of the Zoning Ordinance. She believes that defining a "back office" will protect the office nature of the B-P zone and prevent a large retail business from claiming to operate as a back office. Planning Manager ESPINOSA concurred with Group Member ANDERSEN and explained that retail may be allowed in the B-P zone at a limited capacity to serve employees in the area. Staff will update the glossary to include a definition for "back office."

Day Care Centers (Children and Adults): Group Member LORENZI was concerned that sufficient off-street parking is not provided at adult care facilities. He believes that the parking requirements should be increased to satisfy the parking needs of employees, patients/residents, and visitors. Director of Development Services GONZALVES concurred with Group Member LORENZI and explained that the parking requirements for adult care facilities could be revised to include the number of employees working during the largest shift and the square footage of the building.

Emergency Shelters: The Focus Group suggested that emergency shelters should be located in a zoning district that is highly accessible to the community. They believe that the B-P zone lacks accessibility and that it is not an appropriate zoning designation for emergency shelters. The Focus Group came to the consensus that a more appropriate zoning district is the C-T zone (with Conditional Use Permit approval).

Hospitals: The Focus Group came to the consensus that there needs to be a clear distinction between hospitals and surgery centers. They believe that surgery centers should be a separate category and that they should be allowed in the C-N zone (with Conditional Use Permit approval).

Alcoholic Beverage Sales: The Focus Group came to the consensus that bars and nightclubs should be permitted in the B-P zone as an accessory use to a primary use (e.g. hotel or a restaurant), with a Conditional Use Permit.

Planning Manager ESPINOSA noted that Alcoholic Beverage Sales will be subject to the special provisions outlined in Section 20.44.010 (Alcoholic Beverage Sales for Off-Premises Consumption). The reference to these additional regulations will be added to Table 20.10-1.

Bed and Breakfast: Planning Manager ESPINOSA noted that Bed and Breakfast establishments will be subject to the special provisions outlined in Section 20.44.030 (Bed and Breakfast). The reference to these additional regulations will be added to Table 20.10-1, and based on the Focus Group's previous recommendation, the requirement for historic designation will be removed.

Check Cashing/Payday Loan Establishments: The Focus Group came to the consensus that the definition for a check cashing establishment should be broadened to include payday loan establishments.

Multi-Screen (6 or more) Movie Theaters: The Focus Group came to the consensus that multi-screen (6 or more) movie theaters should be permitted with Conditional Use Permit approval in both the C-N zone and the C-T zone in addition to the C-C Zone, which is the only zone where these are currently allowed.

Farmers Market: The Focus Group came to the consensus that farmers markets should also be permitted in the C-O zone with Conditional Use Permit approval.

Flea Market: The Focus Group came to the consensus that a Flea Market should not be permitted in the B-P zone due to land-use incompatibility reasons.

Gas and Service Stations/Car Washes: The Focus Group came to the consensus that gas and services stations should be permitted in the C-SC zone (with Conditional Use Permit approval), but only in association with a grocery store.

Restaurants: Planning Manager ESPINOSA announced that restaurants within the B-P zone will be subject to Note #12 and Note #13, as shown on page 25 of the Draft Zoning Ordinance. This reference will be added to Table 20.10-1.

Vehicle Sales: The Focus Group came to the consensus that vehicle sales should be located in the C-C zone, but not within the City Center area (Note #10 to be added to Table 20.10-1 in the C-C zone).

Airports and Heliports: The Focus Group came to the consensus that the zoning districts for heliports should correspond to that of hospitals as a hospital may want to use a heliport for emergency/service purposes.

Mobile Food Vendors: The Focus Group came to the consensus that non-food mobile vendors (e.g. mobile dog grooming vendors, etc.) should be considered as a separate category from mobile food vendors and that zoning regulations should be established for them.

Primary Building Standards (Stories): The Focus Group came to the consensus that there should not be a restriction on the maximum number of stories that a building is permitted. However, building height restrictions should remain as shown on Table 30.10-2, Development Standards for Commercial Zones.

15) Meeting of February 26, 2015

Chapter 20.12—Industrial Zoning Districts

- 5) *Please review carefully Table 20.12-11 on page 33 and think about whether the listed land uses are appropriate for those zones (keeping in mind the purpose of each zone described in Section 20.12.010) and whether the City review process proposed is appropriate, keeping in mind the descriptions of those procedures above. (You may also want to compare the proposed Table with the existing regulations in Table C1 on page 40A.)*

Chapter 20.14—Downtown Zoning Districts

- 6) *Does the Focus Group think the creation of these 3 new Downtown zoning districts to better reflect the unique characteristics of different Downtown commercial areas is worthwhile or should the City continue to just use the current C-C zone?*
- 7) *Please review carefully Table 20.14-11 on page 42 and think about whether the listed land uses are appropriate for those zones (keeping in mind the purpose of each zone described in Section 20.14.010) and whether the City review process proposed is appropriate, keeping in mind the descriptions of those procedures above.*

- 8) *Are the new development standards in Section 20.14.030 on page 45 appropriate or too restrictive?*

Purpose of the Industrial Zoning Districts 20.12.010 (A) and (B): Group Member BRAGONIER was concerned that parcels of any size could be rezoned to industrial and produce spot zoning adjacent to residential properties. To prevent this from happening, she suggested that a minimum zoning district size be established for the I-L and I-H zones. The Focus Group came to the consensus that there should be a 5-acre minimum zone size for the I-L zone and a 10-acre minimum zone size for the I-H zone (applies only for newly established industrial zones).

Recycling Collection Facilities, Small: Economic Development Director QUINTERO noted that small recycling collection facilities tend to generate high volumes of traffic. He explained that this results in slower traffic patterns that make it difficult for other industrial businesses to operate. The Focus Group came to the consensus that small recycling collection facilities should not be allowed in the I-H zone.

Recycling Collection Facilities, Large and Recycling Processing Facilities: The Focus Group came to the consensus that large recycling collection facilities and recycling processing facilities should be allowed in the I-H zone with a Site Plan Review Permit.

Warehousing, Wholesaling and Distribution: The Focus Group came to the consensus that warehousing, wholesaling and distributions should be permitted in the I-H zone with a Site Plan Review Permit. In addition, they recommended that Note #3 (page 35) be modified so that a Site Plan Review Permit is required for businesses that would like to dedicate more than 10% of their total building floor area to retail space.

Development Standards for Industrial Zoning Districts 20.12.030 (Note #3): Director of Development Services GONZALVES explained that some industrial uses require tall buildings/structures to operate. He noted that in the past, the I-L and I-H zones contained height restrictions to address fire concerns. However, since then, there have been several advancements in fire prevention technology and fire suppression technology (e.g. fire sprinkler systems) that satisfy fire codes/concerns without limiting the height of a structure.

Planning Manager ESPINOSA was concerned about the visual impacts that tall industrial structures could have on nearby residential properties. However, she explained that in these situations, a Conditional Use Permit (CUP) would be required (CUP triggered by development on an Interface Overlay Zone). Said permit would contain conditions of approval reducing the impact that an industrial

development could have on nearby residential properties, including a condition limiting the maximum height of a structure.

Associate Planner NELSON explained that the development standards in the industrial zones should be consistent with that of the Merced County Airport Land Use Compatibility Plan. Doing so would prevent flight paths from being disrupted by tall industrial structures.

The Focus Group came to the consensus that structures in the industrial zones should not be limited to a maximum height or a maximum number of stories as long as they satisfy fire and building codes (thus, eliminating Note #3 on page 36 and the height limits in Table 20.12-2). However, when adjacent to residential zones, industrial development should require Conditional Use Permit approval with conditions restricting the maximum height of a structure. In addition, language should be added to Section 20.12.010 - *Purpose of the Industrial Zoning Districts*, requiring that development is compatible with the development standards set forth in the Merced County Airport Land Use Compatibility Plan.

Zoning District Note #6(B): Group Member PALOUTZIAN suggested that Note #6(B) be modified as shown below, for clarity purposes (underline indicates added language):

“6B. Prohibited Uses. The manufacturing of the following uses are prohibited unless the Planning Commission determines otherwise...”

Check Cashing/Payday Loan Establishments: The Focus Group came to the consensus that check cashing/payday loan establishments should not be allowed in the D-COR zone or in the City Center area (as defined in Note #4 on page 44).

Gas and Service Stations: Planning Manager ESPINOSA noted that gas and service stations will be subject to the special provisions outlined in Section 20.44.070. The reference to these additional regulations will be added to Table 20.14-1.

Retail, with Alcohol Sales (Less than 20,000 Square Feet in Building Size) and Retail, with Alcohol Sales (More than 20,000 Square Feet in Building Size):

Planning Manager ESPINOSA noted that alcoholic beverage sales will be subject to the special provisions outlined in Section 20.44.010. The reference to these additional regulations will be added to Table 20.14-1.

Vehicle Sales: The Focus Group came to the consensus that vehicle sales should be permitted in the D-COR zone with Conditional Use Permit approval, but that large car lots should be discouraged in the Downtown core with only

small showrooms being allowed.

Downtown Development Standards: The Focus Group was concerned that the downtown development standards may be too restrictive especially for the areas outside of the D-COR zone. They came to the consensus that additional leeway should be given to the driveway permitting process (page 47) and to the street-level building design guidelines (pages 48-50).

16) Meeting of March 12, 2015

The Focus Group continued their review and comments on the questions outlined by Staff in the December 19, 2014, memo.

Urban Village Zoning Districts (Chapter 20.16)

- 9) *These 3 new Urban Village zoning districts have been created to correspond to the Urban Village designations in the City's General Plan and would offer additional zoning options for developers to choose (if they wish) instead of Planned Developments in newly annexed areas. Does the Focus Group believe these new zoning districts are necessary?*
- 10) *Please review carefully Table 20.16-11 on page 53 and think about whether the listed land uses are appropriate for those zones (keeping in mind the purpose of each zone described in Section 20.16.010) and whether the City review process proposed is appropriate, keeping in mind the descriptions of those procedures above.*
- 11) *Are the new development standards in Section 20.16.030 on page 55 appropriate or too restrictive? (Please note that these draft standards have been substantially modified since the previous draft to be more flexible.)*

Question #9: The Group Members unanimously agreed that the three new Urban Village zoning districts were an appropriate option or tool for staff and developers.

Question #10: The Group Members also concurred with staff recommendations on the Land Use Table (Page 53).

Question #11: Planning Manager ESPINOSA explained that staff may make some adjustments to the height restrictions, such as allowing 35-40 feet in the Outer Village Residential areas. Group Member MAXWELL suggested eliminating the height restriction in the Inner Village Residential area.

Public Use and Agricultural Zoning Districts (Chapter 20.18)

- 12) *This chapter contains 2 new zoning districts, Parks and Open Space (P-OS) and Public Facility (P-F), along with the existing Public Parking (P-PK) zone and a modified Agricultural (A-G) zone which replaces the current A-T-5 and A-1-20. Are these new P-OS and P-F zones worthwhile additions or will they have limited use due to the small number of uses allowed in each?*

- 13) *Please review carefully Table 20.18-11 on page 60 and think about whether the listed land uses are appropriate for those zones (keeping in mind the purpose of each zone described in Section 20.18.010) and whether the City review process proposed is appropriate, keeping in mind the descriptions of those procedures above.*

Question #12: Following a brief discussion regarding Public Use and Agricultural Zoning districts, Group Members concurred with staff and recommended no change.

Question #13: The consensus of the Group Members was that there would be no changes to Table 20.18-1 (Page 60) except to height restrictions so they are consistent throughout the Zoning Code.

Special Use Zoning Districts (Chapter 20.20)

- 14) *The “Summary of Major Changes” notes several changes to the Planned Development requirements, starting on page 66, to make it more flexible and easier for developers to use. Does the Focus Group agree with those changes?*

Question #14: The Focus Group agreed that the changes proposed to the Planned Development requirements (Page 66) would allow more flexibility and recommended no further changes.

Overlay Zones (Chapter 20.22)

- 15) *What does the Focus Group think of the new Urban Residential (/UR) overlay zone, starting on page 74? Will it encourage the use of different housing types not typically found in Merced?*

Question #15: Planning Manager ESPINOSA explained that the Airport Overlay Zone is currently used in practice but this would add it to the Zoning Code. She also explained that it would provide a placeholder for the High Speed Rail. Group Member COX suggested that it shouldn't be limited to High Speed Rail and should just refer to “Rail” in general since in the future, there will be other types of rail systems (light rail, etc.).

Walls and Fences (Chapter 20.30)

- 16) *Section 20.30.020(A)(2) on page 98 would allow the addition of 2 feet of lattice on residential fences and Note 2 of Table 20.30-1 on page 98 would allow the maximum height of residential fences to be increased from 6 feet to 8 feet with the approval of a Minor Use Permit. Proposed procedures, including notifications for neighbors, for Minor Use Permits for Fences are described in Section 20.30.020(C) on page 102. City staff is a bit concerned over how many requests of this nature might be received and its impacts on both neighborhoods and staff workload. What does the Focus Group think of this change?*
- 17) *After the last Focus Group review, staff changed Section 20.30.040 on page 104 to allow barbed wire fences in residential zones, razor wire fences in all zones, and electric fences*

in only non-residential zones, all with a Minor Use Permit. Does the Focus Group agree with these changes?

Question #16: The consensus of the Group Members was to remove the procedures for allowing higher than 6-foot fences in residential zones and simply allow fence height in Residential Zones to be seven (7) feet. Anything higher would have a negative visual impact and may cause concern for emergency responders. Eight (8) feet for multi-family should be allowed, however.

Question #17: The Focus Group agreed to the changes to Section 20.30.040 (Page 104) to allow barbed wire fences in residential zones, razor wire fences in all zones, and electric fences in only non-residential zones, all with a Minor Use Permit.

Parking and Loading (Chapter 20.38)

18) *Table 20.38-1 (starting on page 120) proposes quite a few changes to the City's current parking requirements for various land uses. A comparison to the current ordinance can be found in Table D1 starting on page 140A. Please review the proposed changes and give comments.*

19) *Section 20.38.080 (starting on page 135) includes NEW requirements for bicycle parking based on previous recommendations from the Bicycle Advisory Commission. At your last review, the Focus Group noted that while they supported bike parking requirements, they should be no more restrictive than what the Green Building Code requires, which is generally what is included in the Draft.*

At its December 9, 2014 meeting, the Bicycle Advisory Committee reviewed the Bike Parking portion of the Draft, and offered the following recommended changes. Does the Focus Group support these new recommended changes?

Excerpts from Draft Bicycle Advisory Commission minutes for December 9, 2014:

“Regarding the “Applicability” section, the Commission noted that: bicycle travel to the proposed exempted uses should be expected, especially by employees; and, the section creates a loop-hole for additional uses to seek exceptions to the bike parking code.

ON MOTION FROM COMMISSIONER KAYSER-GRANT, SECONDED BY COMMISSIONER HOTHEM, DULY CARRIED BY UNANIMOUS VOICE VOTE (ONE VACANCY), TO DELETE ALL PROPOSED LANGUAGE THAT SPECIFIES EXCEPTIONS TO APPLICABILITY, AS PRESENTED IN “SECTION 20.38.80. H. APPLICABILITY.”

Regarding the “Bicycle Parking Spaces Required” section for residential uses, the Commission noted that: current single-family home, duplex, and triplex designs will likely provide adequate bicycle parking spaces; basing the need for bike parking to the number of vehicle spaces is flawed and conflicts with the City's efforts to expand bicycle travel as a viable form of transportation; 1 long-term bicycle space per 10 dwelling units is unrealistically low; that multi-family residents tend to rely more on alternative modes of transportation for commuting purposes and need to have bike spaces provided in the project design; and, inclusion of bike parking spaces on residential properties adds versatility and value and does not diminish other site amenities.

ON MOTION FROM COMMISSIONER KAYSER-GRANT, SECONDED BY COMMISSIONER HOTHEM, DULY CARRIED BY UNANIMOUS VOICE VOTE (ONE VACANCY), TO MODIFY TABLE 20.38-4 (REQUIRED PARKING SPACES) BY CHANGING THE SHORT-TERM AND LONG-TERM SPACES FOR RESIDENTIAL USES TO: 1 SHORT-TERM BIKE SPACE PER 4 UNITS AND 1 LONG-TERM BIKE SPACE PER UNIT."

Question #18: The Focus Group concurred with the changes proposed to Table 20.38-1 (Page 120) regarding parking requirements for various land uses.

Question #19: The Focus Group discussed the recommendation of the Bicycle Advisory Commission and concurred that bicycle parking should mirror the State Green Code requirements and that the market would dictate the need for additional long term bike spaces without requiring it in the Zoning Code.

M/S MAXWELL-COX, and carried by unanimous voice vote of the Focus Group (14 absent), to recommend that the bicycle parking requirements in all zoning districts be the same as required by the State of California and not be any greater.

17) Meeting of March 26, 2015

Chapter 20.40—Small Lot Single Family Homes

20) *This is a NEW chapter based on the Small Lot Design Guidelines adopted by the City in 2008. Currently, such small lot designs can only occur in Residential Planned Developments. This chapter would also allow them to be approved with a CUP in the R-2, R-IV, and R-OV zones. Does the Focus Group agree with this change? Are there other zones where this should be considered?*

Question #20: The Focus Group concurred with the changes and did not have any suggestions for other zones to apply these standards.

Chapter 20.44—Special Land Use Regulations

21) *Chapter 20.44 (starting on page 149) proposes special regulations for several new land uses not addressed in the current ordinance. At their last review, the Focus Group noted agreement with the additions. Since that review, staff has determined that such regulations are also needed for food trucks that park in fixed locations and emergency shelters. What does the Focus Group think of the proposed regulations for the following:*

- a. *Section 20.44.020—Food Trucks in Fixed Locations (starting on page 150)? Keep in mind that food trucks have become increasingly popular and are increasingly competing with “bricks and mortar” restaurants. Also, with internet advertising allowing such trucks to locate in multiple locations over the course of a week, the need for clear regulations on where these trucks can locate and what review process is to be followed is critical.*
- b. *Section 20.44.150—Emergency Shelters (starting on page 164)? Recent changes in State law require the City to not only allow emergency shelters as a permitted*

use in at least one zone but to set forth development standards for such uses as well.

Question #21a & b: The Focus Group concurred with the draft ordinance as written and made the following recommendation:

M/S LESCH-BRAGONIER, and carried by unanimous vote of the Focus Group (12 absent, 2 abstain*), to support the language as written.

Part 4—Permits and Administration

- 22) *Section 20.68.020 (starting on page 235) outlines the process for a new type of permit—the Minor Use Permit. Please review and recommend any changes.*
- 23) *Section 20.68.040 (starting on page 241) outlines the process for a new type of permit—Minor Modifications. Please review and recommend any changes.*
- 24) *Section 20.68.050 (starting on page 242) outlines the process for Site Plan Reviews, which is an existing process that applies only in industrial areas, but one that will be expanded for use in many more situations in the DRAFT. Please review and recommend any changes.*
- 25) *Section 20.68.040 (starting on page 244) outlines the process for a new type of permit—Special Project Permits. Please review and recommend any changes.*

Questions #22 through #25: The Focus Group concurred with the draft ordinance as written.

Final Recommendation on Zoning Ordinance

M/S LESCH-GONELLA, and carried by unanimous vote of the Focus Group members present (12 absent, 2 abstain*), to support City staff in moving forward with a Public Review Draft of the Zoning Ordinance as written with the changes as recommended by the Focus Group over the last few meetings.

*Mayor Thurston and Council Member Dossetti abstained from the vote since the City Council would be making the final decision on adopting the Zoning Ordinance at a later date.

18) Meeting of January 21, 2016

Comments on Items from Joint Planning Commission/City Council Study Session on December 7, 2015 (as outlined in Memo of December 15, 2015)

Secretary's Note: Group Member DOSSETTI abstained from the votes since the City Council would be making the final decision on adopting the Zoning Ordinance at a later date. Group Member COX, President and CEO of the Greater Merced Chamber of Commerce, abstained from the votes since Council Member BELLUOMINI would be speaking to that organization at a later date on these items.

City Council Member BELLUOMINI gave a brief overview of his suggested changes to the Draft Merced Zoning Ordinance.

Responding to a comment from the Focus Group, Director of Development Services GONZALVES stated that the awnings which were in place downtown were taken down because they were unsafe.

The Focus Group commented on the items outlined in the Memo of December 15, 2015.

1. Page 14, Section 20.08.030B3, Variation in Lot Dimensions for R-1-6 subdivisions

The Focus Group discussed that lowering the percentage from the existing 40% to 25% might be considered not very business-friendly. They also wanted to ensure that a project wasn't turned away just because it didn't hit a precise percentage; they wanted to make sure the City was still able to be flexible. Planning Manager ESPINOSA and Director of Development Services GONZALVES confirmed that this provision is not used that often and when it is used, it usually doesn't come very close to the 40% threshold. The Focus Group Members who were present (two abstentions), voted unanimously to leave this section as is.

2. Page 31, Section 20.10.030 5a, Pedestrian Circulation

The Focus Group discussed whether the awnings were necessary because it doesn't rain that many days in Merced and because certain businesses might have certain design standards that don't include awnings. Ms. ESPINOSA noted that if they wanted awnings added, the use of "should" or "shall" would need to be specified. The Focus Group Members who were present (two abstentions), voted unanimously to add that functional awnings "should" (but not "shall") be added to protect pedestrians from the rain when walking along building frontages of businesses which abut each other.

3. Page 36, Section 20.12.030, Table 20.12-2-Development Standards for Industrial Zoning Districts

Ms. ESPINOSA and Mr. GONZALVES stated that the City Council direction was to be as unrestrictive as possible on the Industrial Zoning Districts. The Focus Group agreed that a 15-foot setback sounded feasible. The Focus Group Members who were present (two abstentions), voted unanimously to change the I-H (Heavy Industrial Zone) Exterior Setback to 15 feet from zero.

4. Page 84, Section 20.22.040D3h, Side Court Apartments

The Focus Group discussed various aspects of the Side Court Apartments. The Focus Group Members who were present (two abstentions), voted unanimously to add the following additional sub-sections to the Side Court Yard Apartments section: (4) a) The side courtyard shall be a shared space accessible to all building residents. (4) b) Pathways shall be provided from each unit to the side courtyard and from the side courtyard to a public sidewalk adjacent to the site.

5. Page 120, Table 20.38-1-Off-Street Parking Requirements for Multiple Family Dwelling/Condominiums

The Focus Group discussed whether they wanted to make the distinction between dorm apartments, also known as student housing, and conventional apartments. Mr. GONZALVES explained that making different requirements for different classifications of apartments might lead to developers incorrectly classifying a project to qualify for the lower parking requirements. Ms. ESPINOSA noted that after some research, she found other jurisdictions avoided this problem by not making the distinction between student housing and conventional apartments. She went over the January 21, 2016, memo entitled “Options for Multi-Family Parking Requirements” that was distributed to the Focus Group this morning. One option discussed in the memo (Option C) was to use the number of bathrooms to determine parking while the other options used bedrooms, but adjusted the ratio of spaces per bedroom (ranging from 0.5 spaces per bedroom over 2 bedrooms in a unit to 1 space per additional bedroom over 2).

Some Focus Group Members wanted to ensure that the City remained flexible; when public transportation becomes more viable, there may not be a need for as much parking. Some Members were inclined toward Option D (0.75 spaces per bedroom over 2 bedrooms), but others were inclined toward Option B (0.5 spaces per bedroom over 2 bedrooms.) In addition, some Members were concerned with developers who didn’t manage their own projects being less concerned with the amount of parking because they didn’t have to deal with tenant complaints. . The Focus Group Members agreed to continue the discussion on this item and the other items in the Memo until the next meeting.

19) Meeting of February 4, 2016

Comments on Items from Joint Planning Commission/City Council Study Session on December 7, 2015 (Continued from January 21, 2016)

City Manager CARRIGAN was introduced to the Focus Group and asked questions regarding changes to the parking lot standards and solar paneling on the car ports. He also announced his Homeless Summit on February 26, 2016 asking Group Members to attend.

Secretary's Note: The item numbers below correspond to those on the December 15, 2015, memo to the Focus Group entitled "Request for Additional Focus Group meeting to Discuss Specific Items from Planning Commission/City Council Study Session on December 7, 2015."

#5-Page 120, Table 20.38-1-Off- Street Parking Requirements for Multiple Family Dwelling/Condominiums

Group Member LORENZI requested to hear City Council Member BELLUOMINI's point of view regarding his suggested change to the parking lot standards for apartment buildings in the existing Zoning Ordinance.

In this discussion continued from the previous meeting on January 21, 2016, City Council Member BELLUOMINI suggested that the number of parking spaces provided for an apartment unit should be based on the number of bathrooms in the unit. He observed that if an apartment unit has more than 2 bathrooms, it raises suspicion that there are more than 2-3 people living there who may have their own cars thus more spaces would be a necessity. Alternatively, City Council Member BELLUOMINI suggested that the new ordinance may discourage any further increase in the development of 3-4 bedroom apartment buildings, which would be a plus.

Planning Manager ESPINOSA reviewed the various options for parking ratio from her memo dated January 21, 2016.

Acting Chairperson MAXWELL brought to the attention of the Focus Group the fact that the City of Merced is currently trying to encourage less vehicle traffic throughout the City and creating an ordinance that accommodates more parking may hurt the City's initiative in the long run.

Ultimately the Focus Group came to a consensus (by a show of hands) to modify Option C to require an additional parking space for multi-family units for each additional bathroom over 3, instead of 2.

#6-Page 132, Parking Lot Standards for Car Ports with Solar Paneling

Planning Manager ESPINOSA mentioned that there are currently no proposed standards for car ports with solar paneling because it has only recently become an issue and the technology is changing rapidly. City Council Member BELLUOMINI suggested that Planning staff should develop some alternative standards and bring it to the City Council. The Focus Group agreed that the issue would require time to develop proper standards, so this item could be deferred until after the initial adoption of the ordinance.

#7-Page 165, Section 20.46.020, Design Standards for Single-Family Dwellings and Mobile Homes, C. Exterior Walls

Planning Manager ESPINOSA noted that the standards suggested by City Council Member BELLUOMINI to require street address numbers to be clearly visible on the front of homes is already in the Fire Code. Group Member ANDERSEN suggested that a reference to the Fire Code be added to the Zoning Code, and the Focus Group agreed.

#8, #9, #10, #11 and #12-Addition to Pages 167-170, Section 20.08.030 and 20.08.040

In the interest of saving time, since the suggested changes #8 through #12 were similar, these items were discussed together. The Focus Group came to a consensus (by a show of hands) that the standards suggested by City Council Member BELLUOMINI be changed to guidelines (“Shoulds”) in that they would not be strict requirements (“Shalls”), but recommendations for developers. City Council Member BELLUOMINI agreed to the change City Council Member BELLUOMINI agreed.

#13-Page 16 & 17, Tables 20.08-2 and 20.08-3 for Interior Yards

City Council Member BELLUOMINI suggested that the Focus Group go through suggested changes #13-15 individually. He indicated his proposed changes would create more livability in residential neighborhoods. The Focus Group came to a consensus (by a show of hands) not to increase the exterior yard setback in any residential zones. (It would remain at 10 feet.)

#14-Dwellings on the Ground Floor Should Have a Private Outdoor Space of a minimum of 12 feet by 20 feet

City Council Member BELLUOMINI suggested requiring a 12 foot by 20 foot area of outdoor living space on the ground floor. After a lengthy discussion regarding #14 and #15, the Focus Group came to a consensus (by a show of hands) to encourage a private outdoor space as a guideline (“should”) and to recommend a minimum size of 5 feet by 8 feet if provided.

#15-Every Apartment above Ground Floor Should Have a Private Balcony at Least Six Feet by Twelve Feet in Size

Acting Chairperson MAXWELL responded that not all families require a large amount of outdoor space, a majority of the families living in apartments may not have the same dynamic (i.e. holding big family dinners outside regularly) as others might do. Group Member ANDERSEN made a point that many children these days are used to living in an apartment with very little ability to play outside, or to have a large private yard that she and some of the Focus Group Members grew up with. She did state that providing the option of apartments that include a roomy private area to play and relax outside may improve their livability.

The Focus Group agreed that balconies would be encouraged as a guideline (“should”) instead of a standard (“shall”) and if a developer were to choose to include balconies, they should be required to be usable and not just decorative, with a minimum size of 5 feet by 8 feet.

It was agreed that another meeting would not be needed at this time. Staff thanked the Focus Group for all their time and effort on this project.

Merced Bicycle Advisory Committee Minute Excerpts re: Bike Parking

Meeting of December 11, 2012

DRAFT BICYCLE PARKING ORDINANCE

Principal Planner KING presented the staff report for this item.

Questions from the Commissioners were answered regarding shelter requirements, enforcing existing uses, rack space calculation methods and percentages, and comparisons to the CalGreen Code requirements. Stressing the need for the new ordinance to be focused and detailed, Chairperson GUZZETTA suggested forming a subcommittee of himself and another member to help formulate a recommendation. Commissioner NOBLE volunteered to help.

ON MOTION OF COMMISSIONER KAYSER-GRANT, SECONDED BY COMMISSIONER TYLER, DULY CARRIED BY UNANIMOUS VOICE VOTE, TO DEFER RECOMMENDATION ON THE NEW BICYCLE PARKING ORDINANCE TO THE FEBRUARY 2013 MEETING AND FORM A SUBCOMMITTEE TO INCLUDE CHAIRPERSON GUZZETTA AND COMMISSIONER NOBLE TO DEVELOP A RECOMMENDATION TO PRESENT AT THAT MEETING.

Meeting of March 26, 2013

SECOND REVIEW – DRAFT BICYCLE PARKING ORDINANCE

Chairperson GUZZETTA reviewed the changes that the subcommittee of he and Commissioner NOBLE had made. Using the Bicycle Parking Guidelines from the 2008 Bike Plan, the subcommittee recommended keeping the guideline document's recommended 10% for commercial bike parking spaces and increasing the number of spaces for public buildings to 20%. The subcommittee also commented on the *Merced Vision 2030 General Plan* bike parking policies. Staff advised that no changes are being made to the General Plan policies; however, the changes suggested can be used towards the Bicycle Parking Ordinance Code being drafted.

A motion by Commissioner TYLER, seconded by Commissioner NOBLE, was made to accept the changes made by the subcommittee to the Bicycle Parking Guidelines. Before the vote was finalized, Planning Technician NUTT asked for

clarification of the motion. Realizing a conflict between the draft ordinance and the bike parking guidelines, the Commission abandoned the current vote in favor of further discussion.

For non-residential developments, the Commission agreed that a percentage of 8% of vehicle spaces required would ensure a compromise between the CalGreen Code and the City's established guidelines. The Commissioners also agreed to include requirements addressing public buildings and parks, so those areas are assured enough parking.

ON MOTION OF COMMISSIONER MIDDLEBROOKS, SECONDED BY COMMISSIONER NOBLE, ONE ABSENT, DULY CARRIED BY UNANIMOUS VOICE VOTE, TO ACCEPT THE DRAFT ORDINANCE FOR RESIDENTIAL USES AS RECOMMENDED BY STAFF; TO ACCEPT THE REQUIREMENTS FOR NON- RESIDENTIAL USES AS RECOMMENDED BY STAFF, EXCEPT TO CHANGE THE RECOMMENDED PERCENTAGE REQUIREMENTS FOR: SHORT-TERM BICYCLE PARKING, FROM FIVE PERCENT (5%) TO EIGHT PERCENT (8%), AND LONG-TERM BICYCLE PARKING, FROM FIVE PERCENT (5%) TO EIGHT PERCENT (8%); AND TO INSERT REQUIREMENTS THAT ADDRESS BICYCLE PARKING IN PUBLIC PLACES AND BUILDINGS TO PROVIDE BICYCLE SPACES NUMBERING TWENTY (20) PERCENT OF VEHICLE PARKING NORMALLY REQUIRED, OR IMMEDIATELY AVAILABLE IN THE FACILITY FOR PUBLIC FACILITIES SUCH AS MUNICIPAL OFFICES, PARKS, SWIMMING POOLS, AUDITORIUMS, CHURCHES, AND SIMILAR USES, AS FOLLOWS:

AYES: COMMISSIONERS KAYSER-GRANT, MIDDLEBROOKS, COMEYNE, TYLER, NOBLE, AND CHAIRPERSON GUZZETTA
NOES: NONE
ABSTAIN: NONE
ABSENT: SIMS-CULOT

Meeting of December 9, 2014

DRAFT BICYCLE PARKING CODE

Principal Planner KING presented the report on the draft changes to the parking section of the City's zoning ordinance and invited comments and recommendations. Commissioners KAYSER-GRANT and HOTHEM expressed their appreciation to the Planning Staff for changing earlier drafts based on their input, notably in regards to the draft standards for short-term and long-term bicycle parking. The Commission then discussed the "Applicability" and "Bicycle Parking Spaces Required" sections, and made the following recommendations to Staff.

Regarding the "Applicability" section, the Commission noted that: bicycle travel to the proposed exempted uses should be expected, especially by employees; and, the section creates a loop-hole for additional uses to seek exceptions to the bike parking code.

ON MOTION FROM COMMISSIONER KAYSER-GRANT, SECONDED BY COMMISSIONER HOTHEM, DULY CARRIED BY UNANIMOUS VOICE VOTE (ONE VACANCY), TO DELETE ALL PROPOSED LANGUAGE THAT SPECIFIES EXCEPTIONS TO APPLICABILITY, AS PRESENTED IN "SECTION 20.38.80. H. APPLICABILITY."

Regarding the "Bicycle Parking Spaces Required" section for residential uses, the Commission noted that: current single-family home, duplex, and triplex designs will likely provide adequate bicycle parking spaces; basing the need for bike parking to the number of vehicle spaces is flawed and conflicts with the City's efforts to expand bicycle travel as a viable form of transportation; 1 long-term bicycle space per 10 dwelling units is unrealistically low; that multi-family residents tend to rely more on alternative modes of transportation for commuting purposes and need to have bike spaces provided in the project design; and, inclusion of bike parking spaces on residential properties adds versatility and value and does not diminish other site amenities.

ON MOTION FROM COMMISSIONER KAYSER-GRANT, SECONDED BY COMMISSIONER HOTHEM, DULY CARRIED BY UNANIMOUS VOICE VOTE (ONE VACANCY), TO MODIFY TABLE 20.38-4 (REQUIRED PARKING SPACES) BY CHANGING THE SHORT-TERM AND LONG-TERM SPACES FOR RESIDENTIAL USES TO: 1 SHORT-TERM BIKE SPACE PER 4 UNITS AND 1 LONG-TERM BIKE SPACE PER UNIT.

CITY OF MERCED
PLANNING & PERMITTING DIVISION

TYPE OF PROPOSAL: Zoning Ordinance Amendment #16-01—Adoption of the City of Merced Zoning Ordinance

INITIAL STUDY: #16-20

DATE RECEIVED: May 1, 2016 (date application determined to be complete)

LOCATION: City of Merced

ASSESSOR'S PARCEL NUMBERS: Not applicable; City-Wide

(SEE ATTACHED PUBLIC HEARING NOTICE AT ATTACHMENT A.)

Please forward any written comments by July 6, 2016 to:

Kim Espinosa, Planning Manager
City of Merced Planning & Permitting Division
678 West 18th Street
Merced, CA 95340
209-385-6858
espinosak@cityofmerced.org

Applicant Contact Information:

City of Merced (see above)

Project Description

The City of Merced released a Public Review Draft of the new Merced Zoning Ordinance in September 2015. This is the first comprehensive update of the Zoning Ordinance since its adoption in the early 1960's and represents a complete redesign, update, and modernization of the Zoning Ordinance in order to make the Ordinance easier to use and understand for the general public and to provide specific guidance to developers, making the development process simpler and faster. The goal was to facilitate the City's overall growth and development and enhance the community's overall appearance, access to services, and economic health.

The process began in 2012 and involved reformatting the Ordinance with the use of color, enhanced graphics and photographs; the development of several new zoning district to conform with the City's General Plan, adopted in 2012; updating the land uses allowed in each zone and defining the level of review needed; updating land use definitions; and various changes that arose from City staff's experience with implementing the current Zoning Ordinance.

Public input involved stakeholder interviews, various community workshops, joint Planning Commission/City Council study sessions, along with the work of a focus group. The Merced Zoning Ordinance Update Focus Group met a total of 19 times from July 2013 to March 2016. The Focus Group, which made recommendations on the draft Code, was made up of over 20 Merced residents with various interests, including developers, engineers, planners, real estate, banking, and other interested citizens.

See Attachment B for a summary of the major changes to the currently adopted Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) included in the new Zoning Ordinance

(Public Review Draft, September 2015). For a list of proposed changes to the Public Review Draft, see Attachment C.

I. INITIAL FINDINGS

- A. The proposal is a project as defined by CEQA Guidelines Section 15378.
- B. The project is not a ministerial or emergency project as defined under CEQA Guidelines (Sections 15369 and 15369).
- C. The project is therefore discretionary and subject to CEQA (Section 15357).
- D. The project is not Categorically Exempt.
- E. The project is not Statutorily Exempt.
- F. Therefore, an Environmental Checklist has been required and filed.

II. CHECKLIST FINDINGS

- A. An on-site inspection was not applicable.
- B. The checklist was prepared on May 26, 2016.
- C. The *Merced Vision 2030 General Plan* and its associated EIR (SCH# 2008071069) were certified in January 2012. The document comprehensively examined the potential environmental impacts that may occur as a result of build-out of the 28,576-acre Merced SUDP/SOI. For those significant environmental impacts (Loss of Agricultural Soils and Air Quality) for which no mitigation measures were available, the City adopted a Statement of Overriding Considerations (City Council Resolution #2011-63). This document herein incorporates by reference the *Merced Vision 2030 General Plan, the General Plan Program EIR* (SCH# 2008071069), and Resolution #2011-63.

The Zoning Ordinance is a regulatory tool which will implement the goals of the General Plan, and thus, many potential environmental effects of the Project have been previously considered at the program level and addressed within the General Plan and associated EIR. (Copies of the General Plan and its EIR are available for review at the City of Merced Planning and Permitting Division, 678 West 18th Street, Merced, CA 95340.) As a second tier environmental document, Initial Study #16-02 plans to incorporate goals, policies, and implementing actions of the *Merced Vision 2030 General Plan*, along with mitigation measures from the General Plan EIR, as mitigation for potential impacts of the Project.

Project-level environmental impacts and mitigation measures (if applicable) will be identified through site-specific review by City staff for individual development projects within the SUDP/SOI. This study also utilizes existing technical information contained in prior documents and incorporates this information into this study.

III. ENVIRONMENTAL IMPACTS:

Will the proposed project result in significant impacts in any of the listed categories? Significant impacts are those which are substantial, or potentially substantial, changes that may adversely affect the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant. (Section 15372, State CEQA Guidelines. Appendix G of the Guidelines contains examples of possible significant effects.)

A narrative description of all "potentially significant," "negative declaration: potentially significant unless mitigation incorporated," and "less than significant impact" answers are provided within this Initial Study.

A. Aesthetics

SETTING AND DESCRIPTION

This project involves a comprehensive update of the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
A. Aesthetics. Will the project:				
1) Have a substantial adverse effect on a scenic vista?				✓
2) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				✓
3) Substantially degrade the existing visual character or quality of the site and its surrounding?				✓
4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?				✓

1) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

2) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

3) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

4) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

B. Agriculture Resources

SETTING AND DESCRIPTION

Merced County is among the largest agriculture producing Counties in California (ranked fifth), with a gross income of more than \$2.4 billion in 2006. The County’s leading agriculture commodities include milk, chickens, almonds, cattle and calves, tomatoes, and sweet potatoes.

This project involves a comprehensive update of the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
B. <u>Agriculture Resources.</u> Will the project:				
1) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and monitoring Program of the California Resources Agency, to non - agriculture?				✓
2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				✓
3) Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?				✓

4) Cause development of non-agricultural uses within 1,000 feet of agriculturally zoned property (Right-to-Farm)?				✓
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1) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

2) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

3) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

4) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

C. Air Quality

SETTING AND DESCRIPTION

The San Joaquin Valley Air Pollution Control District (SJVAPCD) reviews development projects to assess the impact to air quality and to establish acceptable mitigation measures. While the action of the SJVAPCD is independent of City reviews and actions, their process allows the City to review proposed mitigation measures that could affect project design and operation. Any proposed changes are subject to approval by the City.

The City of Merced is located in the San Joaquin Valley Air Basin (SJVAB), which occupies the southern half of the Central Valley and is approximately 250 miles in length and, on average, 35 miles in width. The Coast Range, which has an average elevation of 3,000 feet, serves as the western border of the SJVAB. The San Emigdio Mountains, part of the Coast Range, and the Tehachapi Mountains, part of the Sierra Nevada, are both located to the south of the SJVAB. The Sierra Nevada extends in a northwesterly direction and forms the eastern boundary of the SJVAB. The SJVAB is basically flat with a downward gradient to the northwest.

The climate of the SJVAB is strongly influenced by the presence of these mountain ranges. The mountain ranges to the west and south induce winter storms from the Pacific to release precipitation on the western slopes, producing a partial rain shadow over the valley. A rain shadow is defined as the region on the leeward side of the mountain where precipitation is noticeably less because moisture in the air is removed in the form of clouds and precipitation on the windward side. In addition, the mountain ranges block the free circulation of air to the east,

resulting in the entrapment of stable air in the valley for extended periods during the cooler months.

Winter in the SJVAB is characterized as mild and fairly humid, and the summer is hot, dry, and cloudless. During the summer, a Pacific high-pressure cell is centered over the northeastern Pacific Ocean, resulting in stable meteorological conditions and a steady northwesterly wind.

Existing Ambient Air Quality

The California Air Resources Board (CARB) and the United States Environmental Protection Agency (EPA) currently focus on the following air pollutants as indicators of ambient air quality: Ozone (O₃), carbon monoxide (CO), nitrogen dioxide (NO₂), sulfur dioxide (SO₂), particulate matter (PM), and lead. Because these are the most prevalent air pollutants known to be deleterious to human health and extensive health-effects criteria documents are available, they are commonly referred to as “criteria air pollutants.”

The EPA has established primary and secondary National Ambient Air Quality Standard (NAAQS) for the following criteria air pollutants: O₃, CO, NO₂, SO₂, PM₁₀, fine particulate matter (PM_{2.5}), and lead. The primary standards protect the public health and the secondary standards protect the public welfare. In addition to the NAAQS, CARB has established California Ambient Air Quality Standard (CAAQS) for the following criteria air pollutants: sulfates, hydrogen sulfide, vinyl chloride, and visibility-reducing particulate matter. In most cases, the CAAQS are more stringent than the NAAQS.

Criteria air pollutant concentrations are measured at several monitoring stations in the SJVAB. From 1991 to present, there have been two monitoring stations within the City of Merced: S. Coffee Avenue and 2334 M Street. The table below summarizes the air quality data from these locations for the most recent years available.

Ambient Air Quality in City of Merced
(Number of Days Exceeding State and Federal Standards)

Year	Merced - S. Coffee Avenue					Merced- 2334 M Street				
	State Ozone	Federal Ozone	State PM ₁₀ ¹	Federal PM ₁₀ ¹	Federal PM _{2.5} ²	State Ozone	Federal Ozone	State PM ₁₀ ¹	Federal PM ₁₀ ¹	Federal PM _{2.5} ²
2009	0	0	*	*	*	*	*	32.5	0	25.1
2008	14	3	*	*	*	*	*	87.2	0	*
2007	5	0	*	*	*	*	*	36.5	0	3.3
2006	4	0	*	*	*	*	*	47.4	0	0
2005	6	0	*	*	*	*	*	29	0	0
2004	14	0	*	*	*	*	*	12.3	0	0
2003	54	0	*	*	*	*	*	44.4	*	*
2001	26	0	*	*	*	*	*	*	0	*
2000	32	0	*	*	*	*	*	69.6	0	*

⁽¹⁾Measurements of PM₁₀ are made every sixth day. Data is the estimated number of days that the standard would have been exceeded had measurements been collected every day.

⁽²⁾Nation 1997 24-Hour PM₁₀ Standard

*There was insufficient (or no) data available to determine the value.

Source: Air Resources Board Aerometric Data Analysis and Management System (ADAM)

Both CARB and EPA use monitoring data to designate areas according to their attainment status for criteria air pollutants. The purpose of the designations is to identify those areas with air quality problems and thereby initiate planning efforts for improvement. The three basic designation categories are nonattainment, attainment, and unclassified. Unclassified is used in an area that cannot be classified on the basis of available information as meeting or not meeting the standards. In addition, the California designations include a subcategory of the nonattainment designation, called nonattainment-transitional. The nonattainment-transitional is given to nonattainment areas that are progressing and nearing attainment. Below are the Attainment Designations for the City of Merced for each of the criteria pollutants.

Merced County Attainment Designation (Federal and State)

Pollutant	Designation/Classification	
	Federal Standards	State Standards
Ozone - One Hour	No Federal Standard (See note below)	Nonattainment/ Severe
Ozone - Eight Hour	Nonattainment	Nonattainment
PM ₁₀ (Particulate Matter 10 micrometers in diameter)	Unclassified/Attainment	Nonattainment
PM _{2.5} (Particulate Matter 2.5 micrometers in diameter)	Nonattainment	Nonattainment
Carbon Monoxide	Unclassified/Attainment	Unclassified
Nitrogen Dioxide	Unclassified/Attainment	Attainment
Pollutant	Designation/Classification	
	Federal Standards	State Standards
Sulfur Dioxide	Unclassified/Attainment	Attainment
Lead (Particulate)	Unclassified/Attainment	Attainment
Hydrogen Sulfide	*No Federal Standard*	Unclassified
Sulfates	*No Federal Standard*	Attainment
Visibility Reducing Particles	*No Federal Standard*	Unclassified

Note: The Federal One Hour Ozone national Ambient Air Quality Standard was revoked on June 15, 2005

Source California Air Resources Board, 2009, U.S. EPA, 2009

The San Joaquin Valley Air Pollution Control District (SJVAPCD) attains and maintains air quality conditions in Merced County through a comprehensive program of planning regulation, enforcement, technical innovation, and promotion of the understanding of air quality issues. The clean air strategy of the SJVAPCD includes the preparation of plans for the attainment of ambient air quality standards adoption and enforcement of rules and regulations concerning sources of air pollution, and issuance of permits for stationary sources of air pollution. The SJVAPCD also inspects stationary sources of air pollution and responds to citizen complaints, monitors ambient air quality and meteorological conditions, and implements programs and regulations required by the Federal Clean Air Act (FCAA) and the California Clean Air Act (CCAA).

The Guide for Assessing and Mitigating Air Quality Impacts (GAMAQI) is an advisory document that provides lead agencies, consultants, and project applicants with uniform

procedures for addressing air quality in environmental documents. The GAMAQI contains the following applicable components:

- Criteria and thresholds for determining whether a project may have a significant adverse air quality impact;
- Specific procedures and modeling protocols for quantifying and analyzing air quality impacts;
- Methods available to mitigate air quality impacts; and,
- Information for use in air quality assessments and EIR's that will be updated more frequently such as air quality data, regulatory setting, climate, topography, etc.

The SJVAPCD has also prepared the Air Quality Guidelines for General Plans (AQGGP) (revised June 2005) to provide local planning agencies with a comprehensive set of goals and policies that will improve air quality if adopted in a general plan to provide a guide to cities and counties for determining which goals and policies are appropriate in their particular community; and to provide justification and rationale for the goals and policies that will convince decision makers and the public that they are appropriate and necessary.

Air Quality Plans. The SJVAPCD submitted the 1991 Air Quality Attainment Plan in compliance with the requirements set forth in the CCAA. In addition, the CCAA requires a triennial assessment of the extent of air quality improvements and emission reductions achieved through the use of control measures. As part of this assessment, the attainment plan must be reviewed and, if necessary, revised to correct for deficiencies in progress and to incorporate new data or projections. The CCAA requirement for a first triennial progress report and revisions of the 1991 Air Quality Attainment Plan was first fulfilled with the preparation and adoption of the 1995-1997 Triennial Progress Report and Plan Revision. Triennial reports were also prepared for 1997-2000, and 1999-2001 in compliance with the CCAA.

In an effort to reach attainment for ozone, the SJVAPCD has adopted and submitted several ozone and PM₁₀ plans in its planning history in an effort to reach attainment. In the most current effort to reach attainment for ozone, the SJVAPCD submitted the 2007 Ozone Plan. This plan contains a comprehensive and exhaustive list of regulatory and incentive-based measures to reduce emissions of ozone and particulate matter precursors throughout the Valley. Additionally, this plan calls for major advancements in pollution control technologies for mobile and stationary sources of air pollution, and a significant increase in state and federal funding for incentive-based measures to create adequate reductions in emissions to bring the entire Valley into attainment with the federal ozone standard. The proposed plan calls for a 75% reduction in ozone-forming oxides of nitrogen (NO_x) emissions.

In June 2003, the District prepared the 2003 PM₁₀ Plan. The 2003 PM₁₀ Plan was amended in 2005. The 2006 PM₁₀ Plan Update was adopted by the SJVAPCD in February 2006 and contains the existing measures adopted by EPA, CARB, and the SJVAPCD and the additional measures needed to reach attainment of the PM₁₀ standards.

The SJVAPCD's planning documents also identify voluntary strategies to further reduce air quality impacts in the San Joaquin Valley Air Basin (SJVAB). Included in these strategies are an enhanced California Environmental Quality Act (CEQA) program and the promotion of air quality elements or policies for General Plans in all SJVAB cities and counties. The SJVAPCD reviews and comments on CEQA documents and permit applications sent from SJVAB public

agencies. Comments from the SJVAPCD include expert advice on level of significance, applicable rules and regulations, and suggested mitigation measures.

In addition to the above mentioned items, the SJVAPCD has submitted numerous plans with respect to ozone, PM₁₀, PM_{2.5}, and CO in compliance with the FCAA and CCAA.

Project Characteristics

This project involves a comprehensive update of the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
C. <u>Air Quality.</u> Would the project:				
1) Conflict with or obstruct implementation of the applicable air quality plan?				✓
2) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				✓
3) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?				✓
4) Expose sensitive receptors to substantial pollutant concentrations?				✓
5) Create objectionable odors affecting a substantial number of people?				✓

1) No Impact

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

2) No Impact

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

3) **No Impact**

There are no site specific impacts involved with this project, which is an amendment to the Merced Zoning Ordinance, and therefore, will not have any direct environmental impacts.

4) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

5) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

D. Biological Resources

SETTING AND DESCRIPTION

The City of Merced is located in the Central California Valley eco-region (Omernik 1987). This eco-region is characterized by flat, intensively farmed plains with long, hot dry summers and cool, wet winters (14-20 inches of precipitation per year). The Central California Valley eco-region includes the Sacramento Valley to the north and the San Joaquin Valley to the south and it ranges between the Sierra Nevada Foothills to the east to the Coastal Range foothills to the west. Nearly half of the eco-region is actively farmed, and about three fourths of that farmed land is irrigated.

This project involves a comprehensive update of the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
D. <u>Biological Resources.</u> Would the project:				
1) Have a substantial adverse effect, either directly or through habitat modification, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				✓

2) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				✓
3) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				✓
4) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				✓
5) Conflict with any local policies or ordinance protecting biological resources, such as a tree preservation policy or ordinance?				✓
6) Conflict with the provisions of an adopted Habitat Conservation plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan				✓

1) No Impact

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

2) No Impact

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

3) No Impact

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

4) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

5) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

6) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

E. Cultural Resources

SETTING AND DESCRIPTION

The City of Merced area lies within the ethnographic territory of the Yokuts people. The Yokuts were members of the Penutian language family which held all of the Central Valley, San Francisco Bay Area, and the Pacific Coast from Marin County to near Point Sur.

Merced County was first explored by Gabriel Moraga in 1806, when he named the Merced River, “El Rio de Nuestra Senra de la Merced.” Moraga’s explorations were designed to locate appropriate sites for an inland chain of missions. Moraga explored the region again in 1808 and 1810.

Archaeology

Archaeological sites are defined as locations containing significant levels of resources that identify human activity. Very little archaeological survey work has been conducted within the City or its surrounding areas. Creeks, drainage, and sloughs exist in the northern expansion area of the City, and Bear Creek and Cottonwood Creek pass through the developed area. Archaeological sites in the Central Valley are commonly located adjacent to waterways and represent potential for significant archaeological resources.

Paleontological sites are those that show evidence of pre-human existence. Quite frequently, they are small outcroppings visible on the earth’s surface. While the surface outcroppings are important indications of paleontological resources, it is the geologic formations that are the most important. There are no known sectors within the project area known to contain sites of paleontological significance.

Historic Resources

In 1985, in response to community concerns over the loss of some of the City’s historic resources, and the perceived threats to many remaining resources, a survey of historic buildings was undertaken in the City. The survey focused on pre-1941 districts, buildings, structures, and objects of historical, architectural, and cultural significance. The survey area included a roughly four square-mile area of the central portion of the City.

The National Register of Historic Places, the California Historical Landmarks List, and the California Inventory of Historic Resources identify several sites within the City of Merced. These sites are listed on the Merced Historical Site Survey and maintained by the Merced Historical Society.

This project involves a comprehensive update of the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
E. <u>Cultural Resources.</u> Would the project:				
1) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?				✓
2) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?				✓
3) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				✓
4) Disturb any human remains, including those interred outside of formal cemeteries?				✓

1) No Impact

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

2) No Impact

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

3) No Impact

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

4) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

F. Geology and Soils

SETTING AND DESCRIPTION

The City of Merced is located approximately 150 miles southeast of San Francisco along the west side of the southern portion of the Great Valley Geomorphic Province, more commonly referred to as the San Joaquin Valley. The valley is a broad lowlands bounded by the Sierra Nevada to the east and Coastal Ranges to the west. The San Joaquin Valley has been filled with a thick sequence of sedimentary deposits of Jurassic to recent age. A review of the geologic map indicates that the area around Merced is primarily underlain by the Pleistocene Modesto and Riverbank Formations with Holocene alluvial deposits in the drainages. Miocene-Pliocene Mehrten and Pliocene Laguna Formation materials are present in outcrops on the east side of the SUDP/SOI. Modesto and Riverbank Formation deposits are characterized by sand and silt alluvium derived from weathering of rocks deposited east of the SUDP/SOI. The Laguna Formation is made up of consolidated gravel sand and silt alluvium and the Mehrten Formation is generally a well consolidated andesitic mudflow breccia conglomerate.

Faults and Seismicity

A fault, or a fracture in the crust of the earth along which rocks on one side have moved relative to those on the other side, are an indication of past seismic activity. It is assumed that those that have been active recently are the most likely to be active in the future, although even inactive faults may not be “dead.” “Potentially Active” faults are those that have been active during the past two million years or during the Quaternary Period. “Active” faults are those that have been active within the past 11,000 years. Earthquakes originate as movement or slippage occurring along an active fault. These movements generate shock waves that result in ground shaking.

Based on review of geologic maps and reports for the area, there are no known active or potentially active faults, or Alquist-Priolo Earthquake Fault Zones (formerly referred to as a Special Studies Zone) in the SUDP/SOI. In order to determine the distance of known active faults within 50 miles of the Site, the computer program EZ-FRISK was used in the General Plan update.

Soils

Soil properties can influence the development of building sites, including site selection, structural design, construction, performance after construction, and maintenance. Soil properties that affect the load-supporting capacity of an area include depth to groundwater, ponding, flooding, subsidence, shrink-swell potential, and compressibility.

The City of Merced regulates the effects of soils and geological constraints primarily through the enforcement of the California Building Code (CBC), which requires the implementation of engineering solutions for constraints to development posed by slopes, soils, and geology.

This project involves a comprehensive update of the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning

Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
F. <u>Geology and Soils.</u> Would the project:				
1) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
a) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?				✓
b) Strong seismic ground shaking?				✓
c) Seismic-related ground failure, including liquefaction?				✓
d) Landslides?				✓
2) Result in substantial soil erosion or loss of topsoil?				✓
3) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?				✓
4) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				✓
5) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				✓

1) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

2) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

3) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

4) **No Impact**

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5) **No Impact**

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APPLICABLE GENERAL PLAN GOALS AND POLICIES:

The City’s *Merced Vision 2030 General Plan* contains policies that address seismic safety.

<i>Goal Area S-2: Seismic Safety:</i>	
Goal	
Reasonable Safety for City Residents from the Hazards of Earthquake and Other Geologic Activity	
Policies	
S-2.1	Restrict urban development in all areas with potential ground failure characteristics.

G. Hazards and Hazardous Materials

SETTING AND DESCRIPTION

Hazardous Materials

A substance may be considered hazardous due to a number of criteria, including toxicity, ignitability, corrosivity, or reactivity. The term “hazardous material” is defined in law as any material that, because of quantity, concentration, or physical, or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment.

Wildland and Urban Fire Hazards

Both urban and wildland fire hazard potential exists in the City of Merced and surrounding areas, creating the potential for injury, loss of life, and property damage. Urban fires primarily involve the uncontrolled burning of residential, commercial, or industrial structures due to human

activities. Wildland fires affect grassland, brush or woodlands, and any structures on or near these fires. Such fires can result from either human made or natural causes.

Urban fires comprise the majority of fires in the City of Merced while the potential for wildland fires could increase as large blocks of undeveloped land are annexed into the City. Most of the fires are caused by human activities involving motor vehicles, equipment, arson, and burning of debris.

Airport Safety

The City of Merced is impacted by the presence of two airports-Merced Regional Airport, which is in the southwest corner of the City, and Castle Airport (the former Castle Air Force Base), located approximately eight miles northwest of the subject site.

The continued operation of the Merced Regional Airport involves various hazards to both flight (physical obstructions in the airspace or land use characteristics which affect flight safety) and safety on the ground (damage due to an aircraft accident). Growth is restricted around the Regional Airport in the southwest corner of the City due to the noise and safety hazards associated with the flight path.

Castle Airport also impacts the City. Portions of the northwest part of the City's SUDP/SOI and the incorporated City are within Castle's safety zones. The primary impact is due to noise (Zones C and D), though small areas have density restrictions (Zone B2). The military discontinued operations at Castle in 1995. One important criterion for determining the various zones is the noise factor. Military aircraft are designed solely for performance, whereas civilian aircraft have extensive design features to control noise.

Potential hazards to flight include physical obstructions and other land use characteristics that can affect flight safety, which include: visual hazards such as distracting lights, glare, and sources of smoke; electronic interference with aircraft instruments or radio communications; and uses which may attract flocks of birds. In order to safeguard an airport's long-term usability, preventing encroachment of objects into the surrounding airspace is imperative.

Railroad

Hazardous materials are regularly shipped on the BNSF and SP/UP Railroad lines that pass through the City. While unlikely, an incident involving the derailment of a train could result in the spillage of cargo from the train in transporting. The spillage of hazardous materials could have devastating results. The City has little to no control over the types of materials shipped via the rail lines. There is also a safety concern for pedestrians along the tracks and vehicles utilizing at-grade crossings. The design and operation of at-grade crossings allows the City some control over rail-related hazards. Ensuring proper gate operation at the crossings is the most effective strategy to avoid collision and possible derailments.

Public Protection and Disaster Planning

Hospitals, ambulance companies, and fire districts provide medical emergency services. Considerable thought and planning have gone into efforts to improve responses to day-to-day emergencies and planning for a general disaster response capability.

The City's Emergency Plan and the County Hazardous Waste Management Plan both deal with detailed emergency response procedures under various conditions for hazardous materials spills.

The City also works with the State Department of Health Services to establish cleanup plans and to monitor the cleanup of known hazardous waste sites within the City.

Project Characteristics

This project involves a comprehensive update of the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
G. <u>Hazards and Hazardous Materials.</u> Would the project:				
1) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				✓
2) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				✓
3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				✓
4) Be located on a site which is included on a list of hazardous materials site compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				✓
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				✓
6) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				✓

7) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				✓
8) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				✓

APPLICABLE GENERAL PLAN GOALS AND POLICIES:

The City of Merced *Vision 2030 General Plan* contains policies that address hazardous materials.

<i>Goal Area S-7: Hazardous Materials</i>	
Goal--Hazardous Materials Safety for City Residents	
Policies	
S-2.1	Prevent injuries and environmental contamination due to the uncontrolled release of hazardous materials.
Implementing Actions:	
7.1.a	Support Merced County in carrying out and enforcing the Merced County Hazardous Waste Management Plan.
7.1.b	Continue to update and enforce local ordinances regulating the permitted use and storage of hazardous gases, liquids, and solids.
7.1.d	Provide continuing training for hazardous materials enforcement and response personnel.

APPLICABLE GENERAL PLAN GOALS AND POLICIES:

The *Merced Vision 2030 General Plan* contains policies that address disaster preparedness.

<i>Goal Area S-1: Disaster Preparedness</i>	
Goal--General Disaster Preparedness	
Policies	
S-1.1	Develop and maintain emergency preparedness procedures for the City.
Implementing Actions:	
1.1.a	Keep up-to-date through annual review the City’s existing Emergency Plan and coordinate with the countywide Emergency Plan.
1.1.b	Prepare route capacity studies and determine evacuation procedures and routes for different types of disasters, including means for notifying residents of a need to evacuate because of a severe hazard as soon as possible.
7.1.d	Provide continuing training for hazardous materials enforcement and response personnel.

1) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

2) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

3) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

4) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

5) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

6) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

7) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

8) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

H. Hydrology and Water Quality

SETTING AND DESCRIPTION

Water Supplies and Facilities

The City's water supply system consists of four elevated storage tanks with a combined storage capacity of approximately 1.4 million gallons, 23 wells and 14 pumping stations equipped with

variable speed pumps that attempt to maintain 45 to 50 psi (pounds per square inch) nominal water pressure. The City is required to meet State Health pressure requirements, which call for a minimum of 20 psi at every service connection under the annual peak hour condition and maintenance of the annual average day demand plus fire flow, whichever is stricter.

Storm Drainage/Flooding

In accordance with the adopted City of Merced Standard Designs of Common Engineering Structures, percolation/detention basins are designed to temporarily collect run-off so that it can be metered at acceptable rates into canals and streams which have limited capacity.

This project involves a comprehensive update of the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
H. <u>Hydrology and Water Quality.</u> Would the project:				
1) Violate any water quality standards or waste discharge requirements?				✓
2) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				✓
3) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?				✓

4) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?				✓
5) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?				✓
6) Otherwise substantially degrade water quality?				✓
7) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				✓
8) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				✓
9) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				✓
10) Inundation by seiche, tsunami, or mudflow?				✓

1) No Impact

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

2) No Impact

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

3) No Impact

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

4) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

5) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

6) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

7) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

8) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

9) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

10) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

APPLICABLE GENERAL PLAN GOALS AND POLICIES:

The *Merced Vision 2030 General Plan* contains policies that address Water Quality and Storm Drainage.

<i>Goal Area P-5: Storm Drainage and Flood Control</i>	
Goal--An Adequate Storm Drainage Collection and Disposal System in Merced	
Policies	
P-5.1	Provide effective storm drainage facilities for future development.
P-5.2	Integrate drainage facilities with bike paths, sidewalks, recreation facilities, agricultural activities, groundwater recharge, and landscaping.
Implementing Actions:	

5.1.a	Continue to implement the City’s Storm Water Master Plan and the Storm Water Management Plan and its control measures.
5.1.c	Continue to require all development to comply with the Storm Water Master Plan and any subsequent updates.

I. Land Use and Planning

SETTING AND DESCRIPTION

The City of Merced released a Public Review Draft of the new Merced Zoning Ordinance in September 2015. This is the first comprehensive update of the Zoning Ordinance since its adoption in the early 1960’s and represents a complete redesign, update, and modernization of the Zoning Ordinance in order to make the Ordinance easier to use and understand for the general public and to provide specific guidance to developers, making the development process simpler and faster. The goal was to facilitate the City’s overall growth and development and enhance the community’s overall appearance, access to services, and economic health.

The process began in 2012 and involved reformatting the Ordinance with the use of color, enhanced graphics and photographs; the development of several new zoning district to conform with the City’s General Plan, adopted in 2012; updating the land uses allowed in each zone and defining the level of review needed; updating land use definitions; and various changes that arose from City staff’s experience with implementing the current Zoning Ordinance.

Although the Zoning Ordinance looks substantially different, most of the regulations regarding development (heights, setbacks, densities, etc.) remain the same as the currently adopted Ordinance. See Attachment B for a summary of the major changes to the currently adopted Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) included in the new Zoning Ordinance (Public Review Draft, September 2015). For a list of proposed changes to the Public Review Draft, see Attachment C.

Since this project involves a comprehensive update of the Merced Zoning Code, it would apply within the City Limits of Merced. However, there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
I. <u>Land Use and Planning.</u> Would the project:				
1) Physically divide an established community?				✓

2) Conflict with any applicable 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?				✓
3) Conflict with any applicable habitat conservation plan or natural community conservation plan?				✓

1) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

2) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

3) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

J. Mineral Resources

SETTING AND DESCRIPTION

The City of Merced does not contain any mineral resources that require managed production, according to the State Mining and Geology Board. Based on observed site conditions and review of geological maps for the area, economic deposits of precious or base metals are not expected to underlie the Merced SUDP/SOI. According to the California Geological Survey, Aggregate Availability in California - Map Sheet 52, Updated 2006, minor aggregate production occurs west and north of the City of Merced, but economic deposits of aggregate minerals are not mined within the immediate vicinity of the SUDP/SOI. Commercial deposits of oil and gas are not known to occur within the SUDP/SOI or vicinity.

According to the Merced County General Plan Background Report (June 21, 2007), very few traditional hard rock mines exist in the County. The County’s mineral resources are almost all sand and gravel mining operations. Approximately 38 square miles of Merced County, in 10 aggregate resource areas (ARA), have been classified by the California Division of Mines and Geology for aggregate. The 10 identified resource areas contain an estimated 1.18 billion tons of concrete resources with approximately 574 million tons in Western Merced County and approximately 605 million tons in Eastern Merced County. Based on available production data

and population projections, the Division of Mines and Geology estimated that 144 million tons of aggregate would be needed to satisfy the projected demand for construction aggregate in the County through the year 2049. The available supply of aggregate in Merced County substantially exceeds the current and projected demand.

This project involves a comprehensive update of the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
J. <u>Mineral Resources.</u> Would the project:				
1) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				✓
2) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?				✓

1) No Impact

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

2) No Impact

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

K. Noise

SETTING AND DESCRIPTION

Potential noise impacts of the development projects can be categorized as those resulting from construction and those from operational activities. Construction noise would have a short-term effect; operational noise would continue throughout the lifetime of the project.

Some land uses are considered more sensitive to noise levels than other uses. Sensitive land uses can include residences, schools, nursing homes, hospitals, and some public facilities, such as libraries. The noise level experienced at the receptor depends on the distance between the source and the receptor, the presence or absence of noise barriers and other shielding devices, and the amount of noise attenuation (lessening) provided by the intervening terrain. For line sources

such as motor or vehicular traffic, noise decreases by about 3.0 to 4.5A –weighted decibels (dBA) for every doubling of the distance from the roadway.

This project involves a comprehensive update of the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
K. Noise. Would the project result in:				
1) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				✓
2) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?				✓
3) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				✓
4) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?				✓
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				✓
6) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				✓

1) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

2) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

3) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

4) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

5) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

6) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

L. Population and Housing

SETTING AND DESCRIPTION

This project involves a comprehensive update of the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

Expected Population and Employment Growth

According to the State Department of Finance, the City of Merced's population in 2014 was estimated to be 81,130. Population projections estimate that the Merced SUDP/SOI area will have a population of 159,900 by the Year 2030. According to the *Merced Vision 2030 General Plan*, the City of Merced is expected to experience significant employment growth by the Year 2030.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
L. <u>Population and Housing.</u> Would the project:				
1) Induce substantial population growth in an area either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				✓
2) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				✓
3) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				✓

1) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

2) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

3) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

M. Public Services

SETTING AND DESCRIPTION

Fire Protection

The City of Merced Fire Department provides fire protection, rescue, and emergency medical services from five fire stations throughout the urban area. The City’s Central Fire Station is located in the downtown area at 16th and G Streets. The City also has four other stations throughout the City.

Police Protection

The City of Merced Police Department provides police protection for the entire City. The Police Department employs a mixture of sworn officers, non-sworn officer positions (clerical, etc.), and unpaid volunteers (VIP’s). The service standard used for planning future police facilities is approximately 1.37 sworn officers per 1,000 population, per the Public Facilities Financing Plan.

Schools

The public school system in Merced is served by three districts: 1) Merced City School District (elementary and middle schools); 2) Merced Union High School District (MUHSD); and, 3) Weaver Union School District (serving a small area in the southeastern part of the City with elementary schools). The districts include various elementary schools, middle (junior high) schools, and high schools.

Parks

The City of Merced has a well-developed network of parks and recreation facilities.

Project Characteristics

This project involves a comprehensive update of the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
M. <u>Public Services.</u> Would the project:				
1) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services:				
a) Fire Protection?				✓
b) Police Protection?				✓
c) Schools?				✓
d) Parks?				✓
e) Other Public Facilities?				✓

1) **No Impact**

a) **Fire Protection**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

b) **Police Protection**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

c) **Schools**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

d) **Parks**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

e) **Other Public Facilities**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

N. Recreation

SETTING AND DESCRIPTION

The City of Merced has a well-developed network of parks and recreation facilities.

This project involves a comprehensive update of the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
N. <u>Recreation.</u> Would the project:				

1) Increase the use of neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				✓
2) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				✓

1) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

2) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

O. Transportation/Traffic

SETTING AND DESCRIPTION

This project involves a comprehensive update of the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
O. <u>Transportation/Traffic.</u> Would the project:				
1) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e. result in a substantial increase in either vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?				✓

2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roadways?				✓
3) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				✓
4) Substantially increase hazards due to a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?				✓
5) Result in inadequate emergency access?				✓
6) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g. bus turnouts, bicycle racks)?				✓

1) No Impact

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

2) No Impact

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

3) No Impact

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

4) No Impact

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

5) No Impact

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

6) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

P. Utilities and Service Systems

SETTING AND DESCRIPTION

Water

The City's water system is composed of 23 groundwater production wells located throughout the City, approximately 350 miles of main lines, and 4 water tower tanks for storage. Well pump operators ensure reliability and adequate system pressure at all times to satisfy customer demand. Diesel powered generators help maintain uninterrupted operations during power outage. The City of Merced water system delivered more than 24 million gallons of drinking water per day in 2013 to approximately 20,733 residential, commercial, and industrial customer locations. The City is required to meet State Health pressure requirements, which call for a minimum of 20 psi at every service connection under the annual peak hour condition and maintenance of the annual average day demand plus fire flow, whichever is stricter. The City of Merced Water Division is operated by the Public Works Department.

The City of Merced's wells have an average depth of 414 feet and range in depth from 161 feet to 800 feet. The depth of these wells would suggest that the City of Merced is primarily drawing water from a deep aquifer associated with the Mehrten geologic formation. Increasing urban demand and associated population growth, along with an increased shift by agricultural users from surface water to groundwater and prolonged drought have resulted in declining groundwater levels due to overdraft. This condition was recognized by the City of Merced and the Merced Irrigation District (MID) in 1993, at which time the two entities began a two-year planning process to assure a safe and reliable water supply for Eastern Merced County through the year 2030. Integrated Regional Water Planning continues today through various efforts.

Wastewater

Wastewater (sanitary sewer) collection and treatment in the Merced urban area is provided by the City of Merced. The wastewater collection system handles wastewater generated by residential, commercial, and industrial uses in the City.

The City Wastewater Treatment Plant (WWTP), located in the southwest part of the City about two miles south of the airport, has been periodically expanded and upgraded to meet the needs of the City's growing population and new industry. The City's wastewater treatment facility has a capacity of 11.5 million gallons per day (mgd), with an average 2006 flow of 8.5 mgd. The City has recently completed an expansion project to increase capacity to 12 mgd and upgrade to tertiary treatment with the addition of filtration and ultraviolet disinfection. Future improvements would add another 8 mgd in capacity (in increments of 4 mgd), for a total of 20 mgd. This design capacity can support a population of approximately 174,000. The collection system will also need to be expanded as development occurs.

Treated effluent is disposed of in several ways depending on the time of year. Most of the

treated effluent (75% average) is discharged to Hartley Slough throughout the year. The remaining treated effluent is delivered to a land application area and the on-site City-owned wetland area south of the treatment plant.

Storm Drainage

The Draft *City of Merced Storm Drainage Master Plan* addresses the collection and disposal of surface water runoff in the City's SUDP. The study addresses both the collection and disposal of storm water. Systems of storm drain pipes and catch basins are laid out, sized, and costed in the plan to serve present and projected urban land uses.

It is the responsibility of the developer to ensure that utilities, including storm water and drainage facilities, are installed in compliance with City regulations and other applicable regulations. Necessary arrangements with the utility companies or other agencies will be made for such installation, according to the specifications of the governing agency and the City (Ord. 1342 § 2 (part), 1980: prior code § 25.21(f)). The City requires the construction of storm water percolation/detention basins with new development. Percolation basins are designed to collect storm water and filter it before it is absorbed into the soil and reaches groundwater tables. Detention basins are designed to temporarily collect runoff so it can be metered at acceptable rates into canals and streams which have limited capacity. The disposal system is mainly composed of MID facilities, including water distribution canals and laterals, drains, and natural channels that traverse the area.

The City of Merced has been involved in developing a Storm Water Management Plan (SWMP) to fulfill requirements of storm water discharges from Small Municipal Separate Storm Sewer System (MS4) operators in accordance with Section 402(p) of the Federal Clean Water Act (CWA). The SWMP was developed to also comply with General Permit Number CAS000004, Water Quality Order No. 2003-0005-DWQ.

Solid Waste

The City of Merced is served by the Highway 59 Landfill and the Highway 59 Compost Facility, located at 6040 North Highway 59, one and one-half miles north of Old Lake Road. The County of Merced is the contracting agency for landfill operations and maintenance, while the facilities are owned by the Merced County Association of Governments. The City of Merced provides services for all refuse pick-up within the City limits and franchise hauling companies collect in the unincorporated areas. In addition to these two landfill sites, there is one private disposal facility, the Flintkote County Disposal Site, at SR 59 and the Merced River. This site is restricted to concrete and earth material.

Project Characteristics

This project involves a comprehensive update of the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
P. <u>Utilities and Service Systems.</u> Would the project:				
1) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				✓
2) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				✓
3) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				✓
4) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				✓
5) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				✓
6) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				✓
7) Comply with federal, state, and local statutes and regulations related to solid waste?				✓

1) No Impact

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

2) No Impact

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

3) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

4) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

5) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

6) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

7) **No Impact**

There are no site specific impacts involved with this project, which is a comprehensive update of the Merced Zoning Code, and therefore, will not have any direct environmental impacts.

Q. Mandatory Findings of Significance

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Q. <u>Mandatory Findings of Significance.</u> Would the project:				
1) Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?				✓

2) Have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probably future projects?)			✓	
3) Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?			✓	

1) No Impact

As previously discussed in this document, the project does not have the potential to adversely affect biological resources or cultural resources because no new construction will be involved in the project.

This project involves a comprehensive update of the Merced Zoning Code; there is no specific development proposed at this time. When specific projects are developed under the Zoning Code, individual environmental evaluations will be conducted for the specific site on which the proposed development will take place.

2) Less Than Significant Impact

The Program Environmental Impact Report conducted for the *Merced Vision 2030 General Plan, the General Plan Program EIR* (SCH# 2008071069) has recognized that future development and build-out of the SUDP/SOI will result in cumulative and unavoidable impacts in the areas of Air Quality and Loss of Agricultural Soils. In conjunction with this conclusion, the City has adopted a Statement of Overriding Considerations for these impacts (Resolution #2011-63) which is herein incorporated by reference.

The certified General Plan EIR addressed and analyzed cumulative impacts resulting from changing agricultural use to urban uses. No new or unaddressed cumulative impacts will result from the Project that have not previously been considered by the certified General Plan EIR or by the Statement of Overriding Considerations, or mitigated by this Expanded Initial Study. This Initial Study does not disclose any new and/or feasible mitigation measures which would lessen the unavoidable and significant cumulative impacts.

The analysis of impacts associated with the project will contribute to the cumulative impacts identified in the General Plan EIR. The nature and extent of these impacts, however, falls within the parameters of impacts previously analyzed in the General Plan EIR. No individual or cumulative impacts will be created by the Project that have not previously been considered at the program level by the General Plan EIR or mitigated by this Initial Study.

3) **Less Than Significant Impact**

Development anticipated by the *Merced Vision 2030 General Plan* will have significant adverse effects on human beings. These include the incremental degradation of air quality in the San Joaquin Basin, the loss of prime agricultural soils, the incremental increase in traffic, and the increased demand on natural resources, public services, and facilities. However, consistent with the provisions of CEQA previously identified, the analysis of the Project is limited to those impacts which are peculiar to the Project site or which were not previously identified as significant effects in the prior EIR. The previously-certified General Plan EIR and the Statement of Overriding Considerations addressed those cumulative impacts; hence, there is no requirement to address them again as part of this Project.

This previous EIR has concluded that these significant adverse impacts are accounted for in the mitigation measures incorporated into the General Plan EIR. In addition, a Statement of Overriding Considerations has been adopted by City Council Resolution #2011-63 that indicates that the significant impacts associated with development of the Project are offset by the benefits that will be realized in providing necessary jobs for residents of the City. The analysis and mitigation of impacts has been detailed in the Environmental Impact Report prepared for the *Merced Vision 2030 General Plan*, which are incorporated into this document by reference.

While this issue was addressed and resolved with the General Plan EIR in an abundance of caution, in order to fulfill CEQA's mandate to fully disclose potential environmental consequences of projects, this analysis is considered herein. However, as a full disclosure document, this issue is repeated in abbreviated form for purposes of disclosure, even though it was resolved as a part of the General Plan.

Potential impacts associated with the Project's development have been described in this Initial Study. All impacts were determined to be no impact or less than significant.

R. Greenhouse Gas Emissions

SETTING AND DESCRIPTION

The issue of project-generated Greenhouse Gas (GHG) Emissions is a reflection of the larger concern of Global Climate Change. While GHG emissions can be evaluated on a project level, overall, the issue reflects a more regional or global concern. CEQA requires all projects to discuss a project's GHG contributions. However, from the standpoint of CEQA, GHG impacts on global climate change are inherently cumulative. The quantity of GHGs that it takes to ultimately result in climate change is not precisely known; however, it can safely be assumed that existing conditions do not measurably contribute to a noticeable incremental change in the global climate.

THRESHOLDS OF SIGNIFICANCE

The proposed project would result in a significant impact on the environment if it would:

- Generate GHG emissions either directly or indirectly, that may have a significant impact on the environment;

- Conflict with any applicable plan, policy, or regulation of an agency adopted for the purpose of reducing the emissions of GHGs.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
R. <u>Greenhouse Gas Emissions.</u> Would the project:				
1) Generate greenhouse gas emission, either directly or indirectly, that may have a significant impact on the environment?			✓	
2) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?			✓	

1) Less Than Significant Impact

The proposed Zoning Ordinance Amendment would not result in immediate construction of a project, and will therefore, not generate greenhouse gas emissions, either directly or indirectly. Future construction based on the Zoning Ordinance would be subject to further environmental review.

2) Less Than Significant Impact

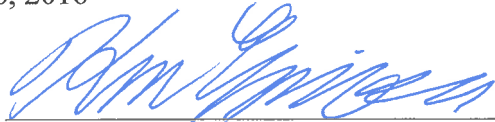
The proposed Zoning Ordinance Amendment would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases.

S. Environmental Determination

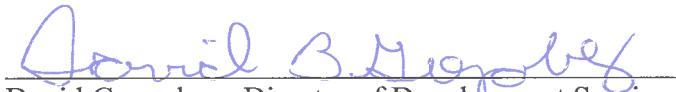
On the basis of this initial environmental evaluation:

I find that the project could have a significant effect on the environment, and that
X a NEGATIVE DECLARATION HAS BEEN PREPARED for public review.

May 26, 2016



Kim Espinosa, Planning Manager



David Gonzalves, Director of Development Services
Environmental Coordinator
City of Merced

Distributed for Public Review: June 16, 2016

Attachments:

- A) Public Hearing Notice
- B) Summary of Major Changes from the Adopted Zoning Ordinance
- C) Proposed Changes to the Public Review Draft (June 2016)

**ATTACHMENTS B AND C HAVE BEEN DELETED
SINCE THEY ARE THE SAME AS ATTACHMENTS
A AND B OF THE STAFF REPORT**

NOTICE OF PUBLIC HEARING
FOR ZONING ORDINANCE AMENDMENT #16-01 (ADOPTION OF A NEW ZONING CODE) AND
NOTICE OF INTENT TO ADOPT A NEGATIVE DECLARATION

A public hearing will be held by the Merced City Planning Commission on Wednesday, July 6, 2016, at 7:00 p.m., or as soon thereafter as may be heard in the City Council Chambers located at 678 W. 18th Street, Merced, CA, concerning Zoning Ordinance Amendment #16-01, initiated by the City of Merced. This application involves the adoption of a new Zoning Ordinance for the City of Merced (Title 20 of the Merced Municipal Code). This is the first comprehensive update of the Zoning Ordinance since its adoption in the early 1960's and represents a complete redesign, update, and modernization of the Zoning Ordinance in order to make the Ordinance easier to use and understand for the general public and to provide specific guidance to developers, making the development process simpler and faster. The goal was to facilitate the City's overall growth and development and enhance the community's overall appearance, access to services, and economic health. The Zoning Ordinance addresses such issues as, including but not limited to, allowed land uses in each zoning district, development standards (setbacks, minimum lot sizes, maximum heights of buildings and fences, etc.), procedures for development permits, and land use definitions. A copy of the Public Review Draft of the Zoning Ordinance was released in September 2015 and is available for the price of reproduction at the City Planning Department or for download on the City's website at:

https://www.cityofmerced.org/depts/cd/planning/zoning_ordinance_update.asp

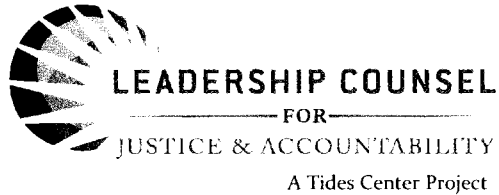
An environmental review checklist has been filed for this project, and a draft negative declaration has been prepared (i.e., no further environmental review would be required) under the California Environmental Quality Act. A copy of this staff evaluation ("Initial Study") is available for public inspection at the City of Merced Planning Department during regular business hours, at 678 W. 18th Street, Merced, CA. A copy of this document can also be purchased at the Planning Department for the price of reproduction.

All persons in favor of, opposed to, or in any manner interested in this request for a Zoning Ordinance Amendment are invited to attend this public hearing or forward written comments to the Director of Development Services, City of Merced, 678 W. 18th Street, Merced, CA 95340. The public review period for the environmental determination begins on June 16, 2016, and ends on July 6, 2016. Please feel free to call the Planning Department at (209) 385-6858 for additional information. If you challenge the decision of the Planning Commission in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Merced at, or prior to, the public hearing.

After the Planning Commission makes its decision on this matter, the matter will also be considered at a public hearing before the City Council. A separate notice of that public hearing will also be given.

June 10, 2016

/s/ Kim Espinosa
Kim Espinosa, Planning Manager



July 6, 2016

Kim Espinosa, Planning Manager
City of Merced Planning and Permitting Division
678 West 18th St
Merced, CA 95340

Re: Comments on Updated City of Merced Zoning Ordinance, Public Review Draft, September 2015

Dear Ms. Espinosa,

We thank you for the opportunity to submit comments on this matter to help guide Merced Planning Commission in its efforts to make the zoning ordinance planning process equitable and inclusive of all residents of Merced. We are writing to express our concerns regarding the Public Review Draft of the updated City of Merced Zoning Ordinance, released on September 8, 2015, specifically the new regulations for community gardens built within the city.

Leadership Counsel is a non-profit organization that focuses on social justice and environmental justice issues in the San Joaquin Valley and Coachella Valley. We work alongside the most impacted communities in these regions to advocate for sound policy and eradicate injustice to secure equal access to opportunities regardless of income, place, race, or wealth. Many of the communities we work with are low-income areas that lack access to affordable, healthy foods and produce. South Merced, for example, currently does not have a grocery store or produce market, making high-quality, nutritious foods inaccessible for the residents of this neighborhood. Lack of access to healthy foods is directly correlated to higher rates of health issues, such as diabetes, obesity, and heart disease. We believe the new regulations as stated in the Public Review Draft discourage community gardening initiatives, which aim to make fruits and vegetables available for all members of the community.

Community gardens provide many benefits: they foster community engagement, provide a space for youth to learn about sustainable agriculture and be outdoors, allow for the access of healthy foods, and positively contribute to the aesthetics of the neighborhood by adding green spaces in urban areas. The Draft under review includes regulations that require a Conditional Use Permit for all community gardens created in residential zones, which includes parks and neighborhoods. This \$3,000 permit makes it more difficult for community groups and residents to start community garden projects, as many of these groups cannot afford this permit. City regulation must support efforts to build community gardens in Merced instead of applying processes that hinder such engagement, and we hope to see that the Final Zoning Ordinance does not contain such restrictive rules for community garden projects.

* * * * *

We thank you for your time and consideration. We look forward to working with Merced Planning Commission to ensure barriers to healthy food are removed and ensure that input from low income communities is reflected in Merced Planning Commission policies and programs. Please feel free to contact me with any questions at (949) 365-6021 or ndaryanani@leadershipcounsel.org.

Best regards,

Nikita Daryanani
Policy Coordinator, Leadership Counsel for Justice and Accountability

Davis, Stephani

Subject: FW: Community Gardens & CUP Fees

From: Christie Hendricks [<mailto:CHendricks@mcoe.org>]

Sent: Tuesday, July 05, 2016 3:52 PM

To: Mendoza-Gonzalez, Francisco <MendozaF@cityofmerced.org>

Cc: Nelson, Julie <NelsonJ@cityofmerced.org>; 'Russell, Stephanie' <SRussell@co.merced.ca.us>; Erin Tassej <etassey@mcoe.org>

Subject: Community Gardens & CUP Fees

Dear Mr. Mendoza,

I am writing to you in regards to the zoning ordinance update which is currently under review. As a member of the Housing Element update committee and I would like to suggest that the city consider community gardens as an exception to the CUP and the nearly \$3,000.00 in fees that would be required to establish such a garden in a residential zone. These fees would make the development of such a garden impossible, especially in the areas of our community that could most benefit from access to a community garden approach.

Our MCOE Early Education Department has gardens at each of our Head Start sites across the county and we encourage families to plant gardens at their homes and in their neighborhoods as a way to increase the consumption of fresh fruits and vegetables which is one way to combat obesity and increase healthy food choices for families and young children.

Nearly 50% of all preschool children are considered at risk of obesity or are indeed obese and that rate will continue to grow if we do not educate families to make healthy food choices. Allowing families access to community gardens, especially in areas of the city that do not have easy access to fresh food choices is key to decreasing obesity rates and increasing healthy outcomes for families and children and a great way to educate families about eating healthy.

Please do not hesitate to contact me if you have any questions. And thank you for the opportunity to suggest that community gardens have separate consideration under the City of Merced's zoning ordinance and a significant reduction and/or elimination of CUP fees.

Sincerely,
Christie Hendricks

Christie Hendricks

Espinosa, Kim

From: Mendoza-Gonzalez, Francisco
Sent: Wednesday, July 06, 2016 3:16 PM
To: Espinosa, Kim
Subject: Another One: Community Gardens

Kim,

Below is another comment regarding community gardens for your collection.

Francisco

From: Mario Madrigal [mailto:mario.110463@gmail.com]
Sent: Wednesday, July 06, 2016 2:59 PM
To: Mendoza-Gonzalez, Francisco <MendozaF@cityofmerced.org>
Subject:

To City of Merced Planning Commission,

I would like the city of Merced to have less barriers for honest and hard working individuals like Brittany Oakes and her movement towards locally grown foods. Community garden restrictions should be lifted and the city should embrace the "green revolution".

My hometown of Porterville, California is a very similar type of town. A lot of minority farmworkers and a lot of middle class people working jobs that keep their daily lives busy and rather uneventful. My experience with growing plants and creating spaces for people to cooperate is all but negative. As members of a community start cooperating and talking to one another, they will spread their cooperative spirit and I believe the community can only get stronger with movements like the one Merced Local Food Project is starting.

I urge you to consider changing the city's ordinance regarding zoning restrictions. Find an efficient way to let planners take charge and monitor their space in order to have safe and reliable community spaces.

Best,

Mario Madrigal
Student, UC Merced



Empowering Impoverished
Neighborhoods to Thrive

Monika Grasley
Executive Director

Office: 209.259.8950

Mobile: 209.201.2905

monikagrasley@lifelinecdc.org

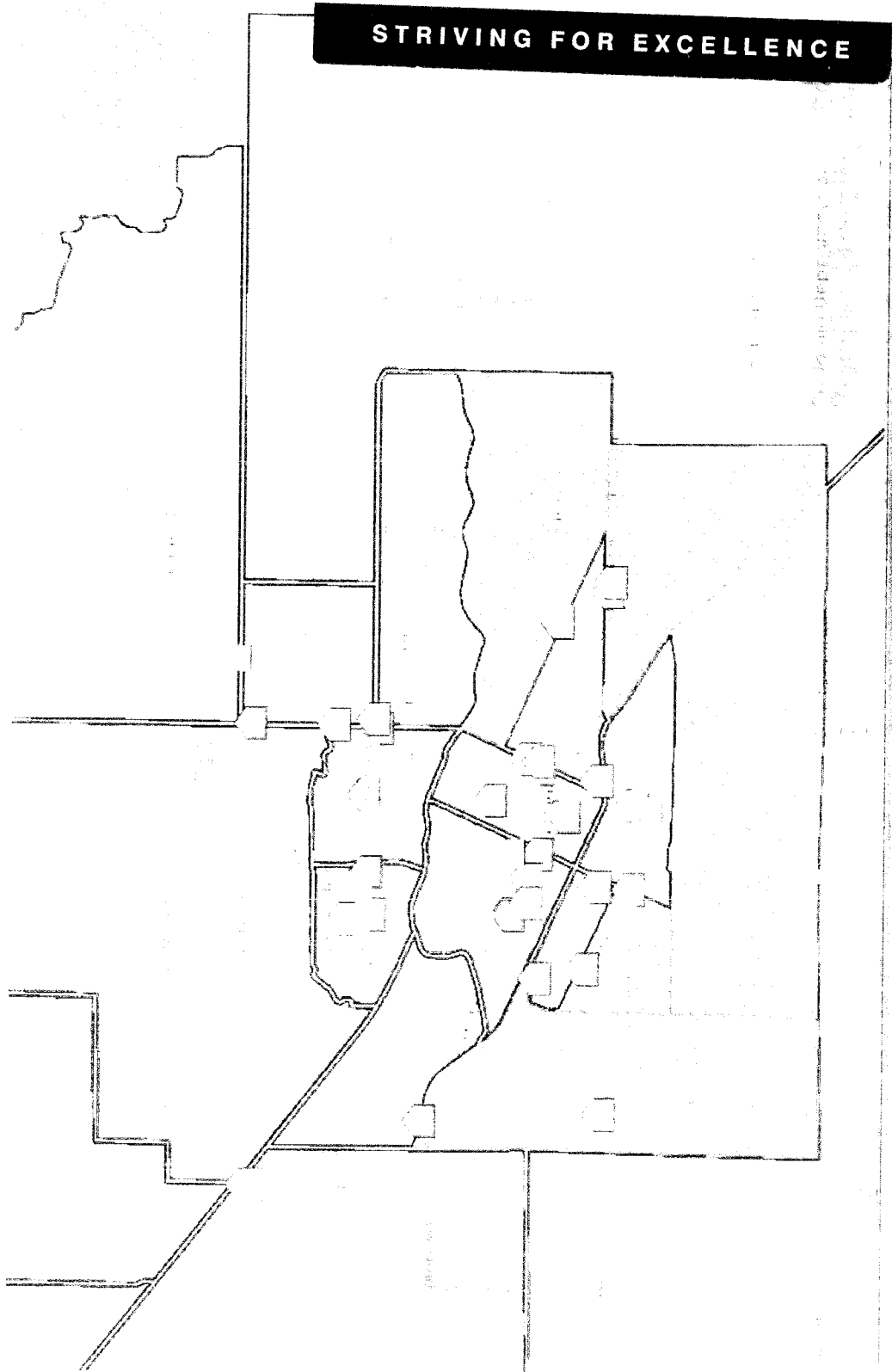
www.lifelinecdc.org

Food Deserts in Merced City



Stephanie Russell, MPH, RD
Supervising Health Educator
Snap-Ed

Department of Public Health
260 E. 15th Street
Merced, California 95341
(209) 381-1161
(290) 381-1215 Fax
srussell@co.merced.ca.us



- Legend:
- Orange stripe=census tract that is a food desert, containing a high proportion of low income residents and limited access to a grocery store
 - Lavender square=Farmer's market or flea market
 - Green House=Grocery Store and Red House=Large Chain Grocery Store

Brittany Oakes
1635 Rose Ave.
Merced, CA 95341

City of Merced Planning Department
Merced Civic Center
678 W. 18th Street
Merced, CA 95340

Friday, July 1, 2016

Dear Mr. Gonzalves,

I am writing to offer a few comments on the City of Merced's zoning ordinance amendments currently under public review. I attended the public workshop reviewing the zoning ordinance amendments on June 16, and I was very impressed by the amazing job that city staff (especially Kim Espinoza) have done in updating the city's zoning ordinances. The new draft is much more accessible and reader-friendly for the average person without a background in planning, and the new ordinances are truly an impressive accomplishment.

My main concern regards the ordinance updates for community gardens¹. I coordinate several local grassroots initiatives to bring our community together around improving healthy food access while furthering the sustainable development of Merced and creating fair economic opportunities for disadvantaged communities, and much of my work in Merced has been around community gardens. The new zoning ordinance draft mandates that all community gardens built in residential areas (including parks, green spaces, blighted lots, and neighborhoods) must obtain a Conditional Use Permit, which costs nearly \$3,000 and requires a lengthy, multi-layered review period. This process is extremely expensive and burdensome. Unfortunately, it would block many organizations' efforts from starting community gardens within the City of Merced, especially in the South Merced food desert that could best stand to benefit from the improved food access, neighborhood greening/beautification, nutrition education, and programming that accompanies a community garden. Our low-income community and the vast majority of non-profit organizations simply cannot afford such an expensive permit. I have spoken with many other community members and organizations who have expressed the same concern, and I am writing in consideration to the many others who are also concerned with improving the health and well-being of the Merced community through community gardening. Fortunately, many other cities such as Fresno, San Francisco, San Jose, Sacramento, Atlanta, Portland, Cleveland, Indianapolis, and Boston have already tested various successful models for regulating community gardens that facilitate the creation of vibrant green spaces and community hubs yet are much less expensive and extensive. I ask that you please strongly consider revising the mandated permitting process for community gardens.

Thank you so much for your time and consideration!

Respectfully,
Brittany Oakes
Coordinator/Founder, Merced Local Food Project

brittany@mercedlocalfoodproject.org

¹ Mentioned on pages 36, 48, 194-195, and 341 of the PDF document, which correspond with pages 12, 22, 152-153, and 289 of the print document.

City of Merced Planning Commission
Merced Civic Center
678 W. 18th Street
Merced, CA 95340

Wednesday, July 6, 2016

Dear Planning Commission,

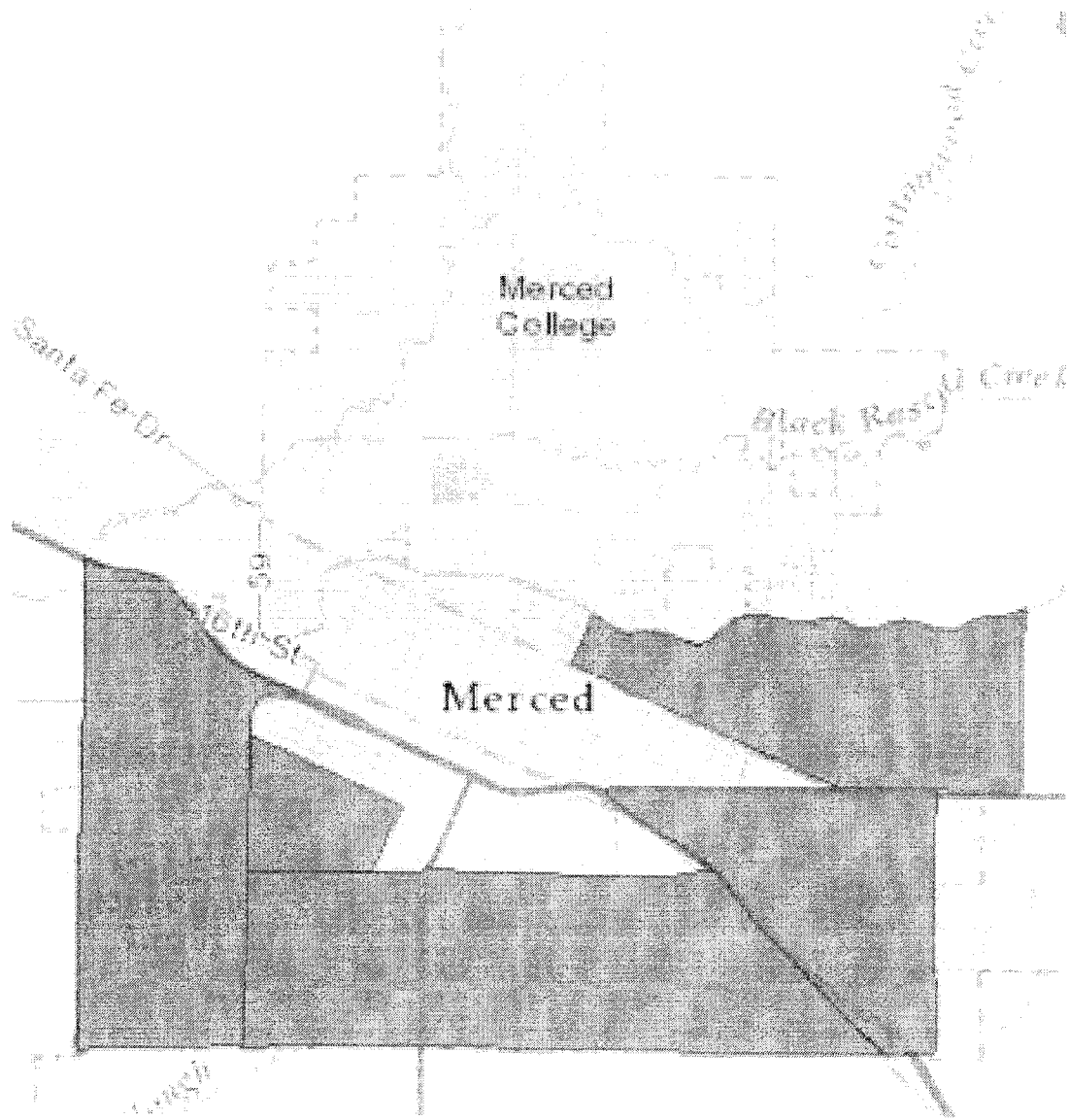
I am writing to offer a few comments on the City of Merced's zoning ordinance amendments that pertain to community gardens. The new zoning ordinance draft mandates that all community gardens built in residential areas (including parks, green spaces, blighted lots, and neighborhoods) must obtain a Conditional Use Permit, which costs anywhere from \$600 to \$3,000 and requires a lengthy, multi-layered review period. This process is too expensive and burdensome for our low-income community. I ask that you please strongly consider revising the mandated permitting process for community gardens to make it more affordable and accessible. I have included the following information in this packet to support you in making your decision:

- Sections of the City of Merced's updated zoning ordinance draft pertaining to community gardens (includes an attachment of draft updates that include mention of community gardens - headers of relevant sections have been highlighted)
- Models of zoning ordinances that have successfully regulated community gardens while making the process accessible:
 - City of Fresno's zoning ordinances for community gardens
 - Article on Sacramento's updated zoning ordinances for community gardens
- Best practices for city planners:
 - "Establishing Land Use Protections for Community Gardens" by the Public Health Law and Policy Center (includes model zoning ordinance language for regulating community gardens)
 - List of additional resources for city planners and economic developers
- Community gardening projects that could be replicated in Merced (given a more accessible/affordable process to create them):
 - List of examples of successful community garden/urban farm initiatives
- Demonstrated need for improving access to affordable, healthy food in our community:
 - USDA Map of food deserts within the City of Merced
 - A Health Snapshot of Our Communities for Southeast and Southwest Merced (published by the Merced County Department of Public Health)

Thank you so much for your attention and consideration! :)

Respectfully,
Brittany Oakes

City of Merced Food Desert



Source: Economic Research Service (ERS), U.S. Department of Agriculture (USDA). Food Access Research Atlas, <http://www.ers.usda.gov/data-products/food-access-research-atlas.aspx>

The USDA's Food Access Research Atlas:

- Presents a spatial overview of food access indicators for low-income and other census tracts using different measures of supermarket accessibility;
- Provides food access data for populations within census tracts; and
- Offers census-tract-level data on food access that can be downloaded for community planning or research purposes.

Definitions

Food deserts: The Food Access Research Atlas maps census tracts that are both low income (li) and low access (la), as measured by the different distance demarcations. This tool provides researchers and other users multiple ways to understand the characteristics that can contribute to food deserts, including income level, distance to supermarkets, and vehicle access.

Food access: Limited access to supermarkets, supercenters, grocery stores, or other sources of healthy and affordable food may make it harder for some Americans to eat a healthy diet. There are many ways to measure food store access for individuals and for neighborhoods, and many ways to define which areas are food deserts—neighborhoods that lack healthy food sources. Most measures and definitions take into account at least some of the following indicators of access:

- Accessibility to sources of healthy food, as measured by distance to a store or by the number of stores in an area.
- Individual-level resources that may affect accessibility, such as family income or vehicle availability.
- Neighborhood-level indicators of resources, such as the average income of the neighborhood and the availability of public transportation.

Low-income tract

Geographic level: census tract | *Year of data:* 2010

Definition: A tract with either a poverty rate of 20 percent or more, or a median family income less than 80 percent of the State-wide median family income; or a tract in a metropolitan area with a median family income less than 80 percent of the surrounding metropolitan area median family income.

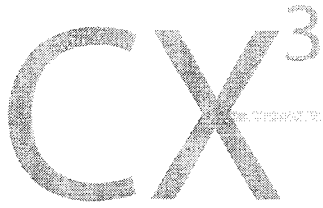
Data sources: Data are from the 2012 report, *Access to Affordable and Nutritious Food: Updated Estimates of Distances to Supermarkets Using 2010 Data*. Income data are reported at the block-group level from the 2006-10 American Community Survey.

Low access and distance measures: Low income and low access measured at 1 mile and 10 miles

Geographic level: census tract | *Year of data:* 2010

Definition: A low-income tract with at least 500 people or 33 percent of the population living more than 1 mile (urban areas) or more than 10 miles (rural areas) from the nearest supermarket, supercenter, or large grocery store.

Data sources: Data are from the 2012 report, *Access to Affordable and Nutritious Food: Updated Estimates of Distances to Supermarkets Using 2010 Data*. In this report, a directory of supermarkets, supercenters, and large grocery stores within the United States, including Alaska and Hawaii, was derived from merging the 2010 STARS directory of stores authorized to accept Supplemental Nutrition Assistance Program (SNAP) benefits and the 2010 Trade Dimensions TDLinX directory of stores. Stores met the definition of a supermarket or large grocery store if they reported at least \$2 million in annual sales and contained all the major food departments found in a traditional supermarket, including fresh produce, fresh meat and poultry, dairy, dry and packaged foods, and frozen foods. The combined list of supermarkets and large grocery stores was converted into a GIS-usable format by geocoding the street address into store-point locations. Population data are reported at the block level from the 2010 Census of Population and Housing. Income data are reported at the block-group level from the 2006-10 American Community Survey. These data were aerially allocated down to ½-kilometer-square grids across the United States. For each ½-kilometer-square grid cell, the distance was calculated from its geographic center to the center of the grid cell with the nearest supermarket. Rural or urban status is designated by the Census Bureau's *urban area definition*.



A Health Snapshot of Our Communities

Eat better and get more exercise. That's what public health officials have said for years and yet, even in the face of heightened media and public awareness, California residents are growing increasingly overweight or obese. Where's the disconnect?

The Merced County Department of Public Health, working with the statewide Communities of Excellence in Nutrition, Physical Activity, and Obesity (CX³) program, took a ground-level look at low-income neighborhoods in Merced County to understand the dynamics shaping health behaviors. The findings are both provoking and instructional and could guide in making community-wide changes to significantly improve the health of Merced County.

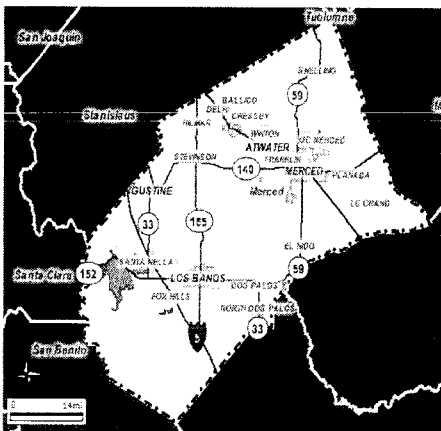
Challenged Communities

There is growing evidence that what people eat and the likelihood of being overweight is influenced by the environment where they live. More than half of all Merced County adults are overweight or obese.¹ As we struggle to reverse this alarming trend, access to healthy foods and physical activity is more important than ever.²

A recent statewide study showed that there are four times as many "unhealthy" food outlets (fast food restaurants and convenience stores) as "healthy" food outlets (supermarkets, produce vendors and farmers' markets) in California.³ Convenience stores, small corner markets and gas stations are often the only food retailers available in low-income neighborhoods.⁴ Neighborhoods without access to healthy food from supermarkets or large grocery stores are being coined "food deserts." Residents who can't drive are left to either take a bus or taxi to the nearest large grocery store, both time-consuming and costly. Consider these health facts:

- In low-income neighborhoods, each additional supermarket has been found to increase residents' likelihood of meeting nutritional guidelines by one-third.⁵
- Residents in communities with a more "imbalanced food environment" (where fast food and corner stores are more convenient and prevalent than large grocery stores) have more health problems and higher mortality than residents of areas with a higher proportion of large grocery stores, when other factors are held constant.⁶
- The presence of a supermarket in a neighborhood is linked to higher fruit and vegetable consumption and lower rates of overweight and obesity.^{7,8}
- Children and adults who report eating higher intakes of fruit on a daily basis have a lower body mass index (BMI) than those with lower intakes.⁹
- Research suggests that about one third of cancer deaths were related to nutrition, physical inactivity, obesity or overweight and could have been prevented.¹⁰

Figure 1



Obesity Costs

Severely overweight or obese people have increased risk of morbidity and mortality from chronic diseases.¹¹ These health issues are most pronounced among low-income communities.¹² In addition to the negative consequences these health problems have for individuals, it also take a toll on the economy through increases in health care costs, workers compensation and costs associated with loss of productivity.



Communities of Excellence

The Communities of Excellence in Nutrition, Physical Activity, and Obesity Prevention (CX³) project takes an in-depth, on-the-ground look at select low-income neighborhoods in Merced County to measure the nutrition environment and identify opportunities for improvement. Because the community itself plays a critical role in preventing obesity, this project examines communities in relation to a variety of obesity prevention benchmarks. These benchmarks – or standards of excellence – define what a community should look like in order to help prevent the devastating chronic diseases related to overweight and obesity for its residents.

Through neighborhood audits, the CX³ project examined factors ranging from food quality, affordability and availability to healthy food alongside messaging and marketing practices. The local data and resulting performance measurements show how a community currently “measures” and where it needs to improve to become a “community of excellence.” The project’s goal is to gain a realistic picture of the health of the community/neighborhood and offer residents, merchants, decision makers and local neighborhood and health groups a focal point as they work to build a healthier community.

Mapping the Neighborhood

The Merced County Department of Public Health collected and analyzed local data to gain a realistic picture of the overall quality of the nutrition environment in particular neighborhoods. The Merced County Department of Public Health evaluated four low-income neighborhoods in the county: Southwest Merced, Southeast Merced, Downtown Livingston, and Downtown Los Banos.

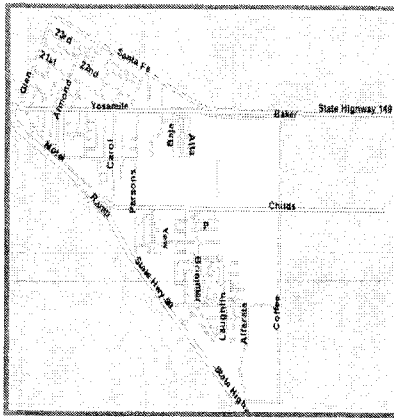
Initial information was gathered using the on-line Geographic Information System website to map the number of grocery stores, supermarkets, farmers’ markets and fast food outlets in the four neighborhoods, along with other factors such as the number of schools parks and playgrounds.

With a map of the food environment in hand, data was collected by volunteers on May 7, 2008 in Southeast Merced, from April 6 to April 9, 2009 in Southwest Merced, on March 26, 2010 in Downtown Livingston, and on April 9, 2010 in Downtown Los Banos, to learn what was going on in and around the stores where residents purchase food. They surveyed the neighborhood food sources to determine:

- What kinds of food retailers/stores are located in the neighborhood? Are local stores offering healthy, affordable foods? Do they stock fresh fruits and vegetables?
- Are those stores easily and safely accessible?
- Are stores promoting nutrition information and healthier choices?
- What type of marketing and presence do fast food outlets have near local schools, parks and playgrounds?



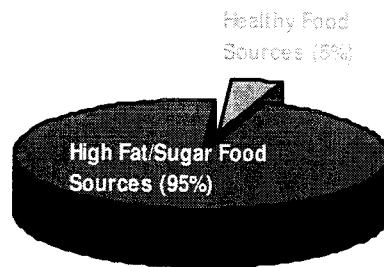
Southeast Merced



Communities all over the state are working to address key nutrition issues shaping the health of their residents. The Merced County Department of Public Health participated in the CX³ program to assess neighborhoods in relation to a variety of healthy nutrition and physical activity benchmarks. Through nutrition education, the program goal is to empower residents to eat healthy, get active, and speak out for healthy changes in their homes, neighborhoods and communities.

HEALTHY vs. HIGH FAT/SUGAR FOOD SOURCES*

*Percent of respondents offering predominantly healthy food items in their offering predominantly high fat/sugar food items. Most respondents include super markets or large grocery stores, small markets including quality stores, deli, farmers markets, fruit vegetable markets. High fat/sugar food items include fast food outlets, convenience stores, & small markets that include junk food.



SNAPSHOT OF SOUTHEAST MERCED

- 10,039 population
- 52 percent of people living in poverty (at or below 185 percent federal poverty level)
- 67 percent of overweight and obese adults in the county
- 4 schools
- 2 parks and playgrounds
- 60 percent of population living within 1 mile of a supermarket or large grocery store
- 0.1 proportion of supermarkets or large grocery stores with convenient public transit
- 1 supermarkets or large grocery stores
- 0 farmers markets
- 4 small markets and other food stores
- 0 convenience stores
- 0 fast-food outlets
- 1:1,262 ratio of fast-food outlets to population

NEIGHBORHOOD NUTRITION INDICATOR PERFORMANCE

Merced County Department of Public Health officials and local community volunteers conducted an audit of nutrition resources in the Southeast Merced neighborhood on May 7, 2008.

A wide range of indicators were used to understand nutrition environments in Southeast Merced. Using Geographic Information Systems software, site visits, interviews and store surveys, health officials and volunteers examined factors ranging from healthy food access and availability to marketing practices and product quality.

This data provides a realistic picture of areas in need of improvement and offers residents, merchants, decision makers, health advocates and neighborhood groups a focal point as they work to build a healthier community.

Below is a brief summary of a few of the neighborhood indicators included in the audit.

Total Neighborhood Food Store Quality

What percent of local stores offer healthy, affordable foods? Are those stores easily and safely accessible to neighborhood residents?

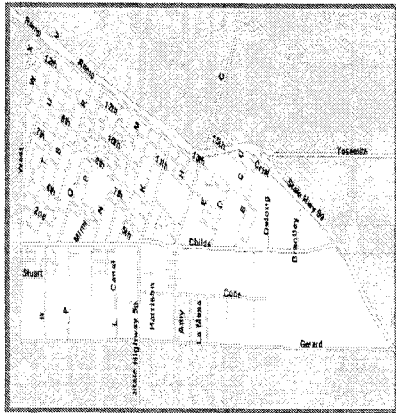
7% met standards

Fast Food

What type of marketing and presence do fast-food outlets have near local schools, parks and playgrounds? What percent offer and promote healthy food options and limit high fat/sugar food marketing practices?

0% met standards

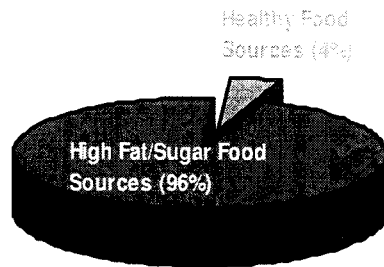
Southwest Merced



Communities all over the state are working to address key nutrition issues shaping the health of their residents. The Merced County Department of Public Health participated in the CX³ program to assess neighborhoods in relation to a variety of healthy nutrition and physical activity benchmarks. Through nutrition education, the program goal is to empower residents to eat healthy, get active, and speak out for healthy changes in their homes, neighborhoods and communities.

HEALTHY vs. HIGH FAT/SUGAR FOOD SOURCES*

*Percent of neighborhood stores offering at least one healthy food source (retailer offering one or more healthy food sources) and the percent of stores offering at least one high fat/sugar food source (retailer offering one or more high fat/sugar food sources). High fat/sugar food sources include fast-food outlets, convenience stores, and small markets.



SNAPSHOT OF SOUTHWEST MERCED

- 15,578 population
- 75 percent of people living in poverty (at or below 185 percent federal poverty level)
- 67 percent of overweight adults in the county
- 4 schools
- 1 parks and playgrounds
- 25 percent of population living within 1 mile of a supermarket or large grocery store
- 0.0 proportion of supermarkets or large grocery stores with convenient public transit
- 0 supermarkets or large grocery stores
- 1 farmers markets
- 9 small markets and other food stores
- 7 convenience stores
- 8 fast-food outlets
- 0.1947 ratio of fast-food outlets to population

NEIGHBORHOOD NUTRITION INDICATOR PERFORMANCE

Merced County Department of Public Health officials and local community volunteers conducted an audit of nutrition resources in the Southwest Merced neighborhood from April 6, 2009 – April 9, 2009.

A wide range of indicators were used to understand nutrition environments in Southwest Merced. Using Geographic Information Systems software, site visits, interviews and store surveys, health officials and volunteers examined factors ranging from healthy food access and availability to marketing practices and product quality.

This data provides a realistic picture of areas in need of improvement and offers residents, merchants, decision makers, health advocates and neighborhood groups a focal point as they work to build a healthier community.

Below is a brief summary of a few of the neighborhood indicators included in the audit.

Total Neighborhood Food Store Quality

What percent of local stores offer healthy, affordable foods? Are those stores easily and safely accessible to neighborhood residents?

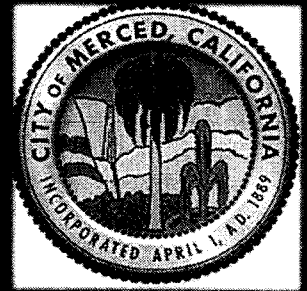
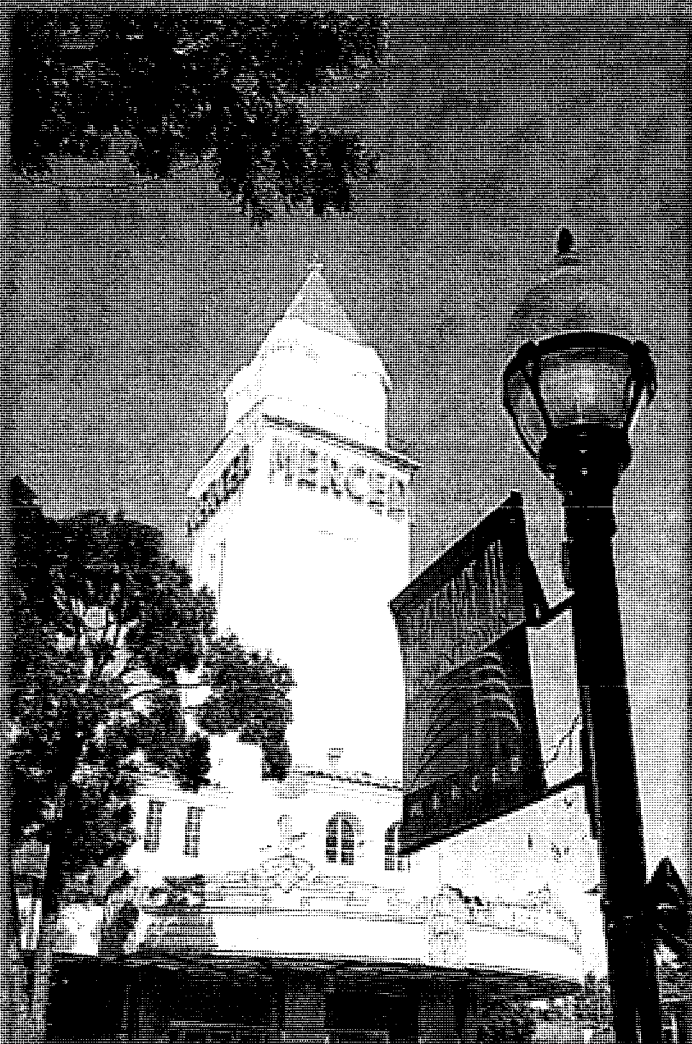
0% met standards

Fast Food

What type of marketing and presence do fast-food outlets have near local schools, parks and playgrounds? What percent offer and promote healthy food options and limit high fat/sugar food marketing practices?

0% met standards

CITY OF MERCED ZONING ORDINANCE



**Public
Review
Draft
(September
2015)**

20.08.020 Land Use Regulations for Residential Zoning Districts

A. **Permitted Land Uses.** Table 20.08-1 identifies land uses permitted in residential zoning districts. **[Compare with Current Uses in Table A1 on page 20A; R-R is NEW]**

TABLE 20.08-1 PERMITTED LAND USES IN THE RESIDENTIAL ZONING DISTRICTS

Key	Zoning District ^[1]						Additional Regulations
	R-R	R-1	R-2	R-3	R-4	R-MH	
P Permitted Use							
M Minor Use Permit Required							
SP Site Plan Review Permit Required							
C Conditional Use Permit Required							
X Use Not Allowed							
RESIDENTIAL USES							
Duplex Homes	X	M[2]	P	P	P	X	
Fraternities and Sororities	X	C	C	C	C	X	Sec. 20.44.060
Group Housing	P [3]	P [3]	P [3]	P [3]	P [3]	P [3]	
Mobile Home Parks	C	X	X	X	X	SP	
Multiple-Family Dwellings	X	X	C [4]	P	P	X	
Residential Care Facilities, Small (1-6 persons)	P	P	P	P	P	P	
Residential Care Facilities, Large (More than 6)	C	C	C	C	C	X	
Secondary Dwelling Units ("Second Units")	P	P	P	P	P	X	Chapter 20.42
Single-Family Dwellings	P	P	P	P	P	M	Sec. 20.46.020
Single-Room Occupancy	X	X	X	SP	SP	X	Sec. 20.44.120
COMMUNITY USES							
Colleges and Trade Schools	C	C	C	C	C	X	
Community Assembly	C	C	C	C	C	C	
Community Gardens	C	C	C	C	C	C	Sec. 20.44.050
Cultural Institutions	X	C	C	C	C	X	
Day Care Centers	X	X	X	M	M	M	
Day Care, Adult (1-12 persons)	X	X	C[5]	C[5]	C[5]	X	
Day Care Home Facilities, Small (1-8 children)	P	P	P	P	P	P	
Day Care Home Facilities, Large (9-14 children)	P	P	P	P	P	P	
Foster Family Homes, Small (6 persons or fewer)	P	P	P	P	P	P	
Foster Family Homes, Large (7+ persons)	C	X	X	C	C	X	
Golf Courses	C	C	X	X	X	X	
Nursing and Convalescent Homes	C	X	X	C	C	X	
Parks and Recreational Facilities	C	C	C	C	C	C	
Public Safety Facilities	C	C	C	C	C	C	
Schools, Public or Private	C	C	C	C	C	X	

20.10.020 Land Use Regulations for Commercial Zoning Districts

A. Permitted Uses. Table 20.10-1 identifies land uses permitted in commercial zoning districts. [Compare with Current Uses in Table B1 on page 32A; B-P is NEW]

TABLE 20.10-1 PERMITTED LAND USES IN THE COMMERCIAL ZONING DISTRICTS

Key	Zoning District ^[1]							Additional Regulations
	C-O	C-N	C-C	C-SC	C-T	C-G	B-P	
P Permitted Use								
M Minor Use Permit Required								
SP Site Plan Review Permit Required								
C Conditional Use Permit Required								
X Use Not Allowed								
RESIDENTIAL USES								
Group Housing	X	X	P [3]	X	X	X	X	
Live/Work Units	C	C	P [2]	X	X	X	X	Section 20.44.080
Multiple-Family Dwellings	C	C	P	X	X	X	X	
Residential Care Facilities, Small (6 or Less)	X	X	P [3]	X	X	X	X	
Residential Care Facilities, Large (More than 6)	X	X	P [3]	X	X	X	X	
Single-Room Occupancy	X	X	P [3]	X	X	X	X	Section 20.44.120
COMMUNITY USES								
Community Assembly	C	C	C	X	C	C	C	
Community Garden	SP	SP	SP	X	X	SP	X	
Colleges and Trade Schools	C	C	C	X	X	C	C	
Convalescent or Nursing Homes	C	C	C	X	X	X	X	
Cultural Institutions	C	C	C	X	C	C	C	
Day Care Centers (Children & Adults)	M	M	M	X	X	X	SP	
Emergency Shelters	X	X	C	X	C	P	X	Sec.20.44.150
Government Offices	P	P	P	X	C	C	C	
Hospitals and Surgery Centers	C	C	C	X	X	X	C	
Instructional Services	P	P	P	X	X	X	SP	
Medical Offices and Clinics	P	P	P	X	X	X	C	
Parks and Recreational Facilities	C	C	C	X	X	X	C	
Public Safety Facilities	SP	SP	P	C	SP	SP	SP	
Rehabilitation Centers	P	P [6]	P [10]	X	X	C	C	
Social Assistance Services	C	C	C	X	SP	P	X	

20.44.040 Check Cashing/Payday Loan Establishments [NEW]

A. Location.

- 1. Check cashing/payday loan establishments are only permitted in zoning districts as shown in the land use regulation tables in Part 2 (Zoning Districts).
- 2. Check cashing/payday loan establishments shall not be permitted within 1,000 feet of another check cashing/payday loan establishment.



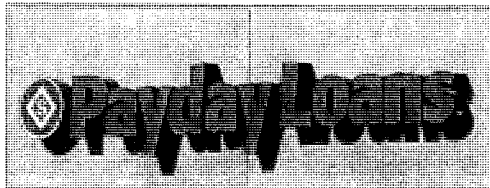
B. Operational Standards.

1. Hours of Operation. Check cashing/payday loan establishments shall be operated only between 7:00 a.m. and 7:00 p.m. daily. No loitering shall be permitted during, before, and after hours of operation.

2. Transparency. No windows or doors fronting public streets shall be obscured in any way, and adequate interior lighting shall be provided to be visible from the businesses across the street.

3. Security Plan. A security plan, reviewed and approved by Merced Police Department, shall be submitted with other submittal materials for City permits.

4. Lighting Plan. On-site lighting plan shall be required upon submittal for City permits. On-site lighting plan shall ensure safety and security of the property, including parking and access areas.



20.44.050 Community Gardens [NEW]

A. Location. Community gardens are only permitted in zoning districts as shown in the land use regulation tables in Part 2 (Zoning Districts).



B. Required Permits. A Site Plan Review or Conditional Use Permit per the land use regulation tables in Part 2 (Zoning Districts) shall be required before applying for a building permit for construction of a community garden.

C. **Applicant.** An applicant shall be a public entity, civic organization, or community-based organization, which would manage and maintain community gardens.

D. **Operational Standards.**

1. **Owner's Agreement.** The applicant shall be required to bring a signed affidavit from the property owner, if applicant is not the owner.

2. **Hours of Operation.** The community gardens shall only be operated between 8:00 a.m. and 8:00 p.m. daily.



3. **Animals Prohibited.** No animals, including bees and fish, shall be allowed to be housed in community gardens. Only produce, plants, or flowers shall be allowed to grow in community gardens. Marijuana plants are prohibited.



4. **Commercial Activities.** On-site sale of community garden products shall be prohibited.

5. **Lighting Plan.** On-site lighting plan shall be required upon submittal for a City Permit. On-site lighting plan shall ensure safety and security of the property, including parking and access areas.

6. **Maintenance.** Community gardens shall be maintained free of weeds, trash, and debris.

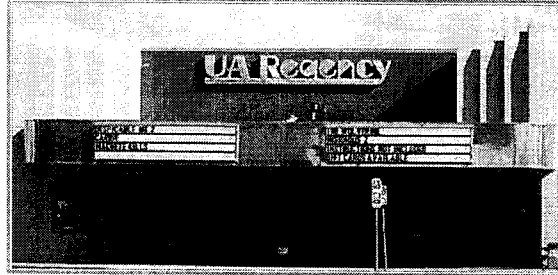
20.44.060 Fraternities/Sororities [NEW]

A. **Permit Required.** A Conditional Use Permit is required to establish and operate fraternity and sorority houses.

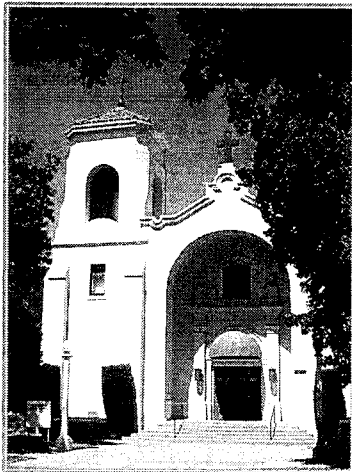
B. **Application Materials.** In addition to materials required by Chapter 20.68 (Permit Requirements), an application for a fraternity or sorority house shall include the following materials:



33. *Commercial Recreation, Indoor.* An establishment that provides entertainment activities or services in an indoor setting for a fee or admission charge. This definition includes bowling alleys, electronic game arcades, billiard halls, pool halls, sports clubs, fitness centers, commercial gymnasiums, dancehalls, and movie theatres. Establishments such as a restaurant or laundromat that offer less than six game machines to its customers as an accessory use are excluded from this definition. **[NEW]**



34. *Commercial Recreation, Outdoor.* An establishment that provides entertainment activities or services outside of a building for a fee or admission charge. This definition includes golf driving ranges, water parks, amusement parks, fairgrounds, commercial sports centers, commercial camps and campgrounds, and other similar uses. **[NEW]**



35. *Community Assembly.* A facility that provides meeting space for public gatherings. This definition includes places of worship, community centers, club meeting space, social halls, and other similar public or quasi-public uses. **[NEW]**

36. *Community Garden.* An area of land managed and maintained by a group of individuals to grow and harvest food crops and/or ornamental crops for personal or group use, consumption, or donation. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members. **[NEW]**

37. *Conditional Use Permit.* A discretionary permit approved by the Planning Commission to ensure that a proposed use is consistent with all General Plan goals and policies and will not create negative impacts to adjacent properties or the general public. **[NEW]**
38. *Conditional Zoning.* A discretionary action approved by the City Council to ensure that proposed zoning changes do not create negative impacts to the community or public service provision. See Chapter 20.78 (Conditional Zoning). **[NEW]**

Proposed Changes to the Merced Zoning Ordinance Public Review Draft (June 2016)

NOTE: All Annotations and References to the Current Zoning Ordinance that were in the Public Review Draft (released in September 2015) in [RED type] have been removed throughout the entire document. Some page numbers may also change due to added content.

New Code Section	Topic/Title	Summary of Change	Reason for Change
Section 20.12.020	Land Use Regulations for Industrial Zoning Districts	In Table 20.12-1, on pg.34, the following land use will be added: "Medical Marijuana Dispensaries" and will be shown as being prohibited (depicted with an "X") in all industrial zones and Section 20.44.170 will be listed under "Additional Regulations." (Note if the Ordinance is subsequently amended to allow this use in any zones with a Conditional Use Permit, those shall be modified and depicted with a "C.")	Per City Council Ordinance #2454, effective February 19, 2016. (Modifications will be considered by the City Council on July 5, 2016)
Section 20.12.030	Development Standards for Industrial Zoning Districts	In Table 20.12-2 on pg. 36, the Exterior Yard setback for the Heavy Industrial (I-H) Zone is increased from "None" to "15 Feet (1)"	Per Focus Group, Planning Commission, & City Council
Section 20.12.030 (B and C)	Industrial Buffer Yards and Performance Standards	Section 20.12.030 (C3) should read as follows: "3. Odor. No objectionable odor or noxious gas emissions which is discernible at any point beyond the property line is permitted."	Makes the regulation more specific.
Chapter 20.14	Downtown Zoning Districts		
Section 20.14.020	Land Use Regulations for Downtown Zoning Districts	In Table 20.14-01 on pg. 42, "Group Housing" shall be amended to read: " <u>Group/Transitional/Supportive Housing</u> "	Same reason as for Section 20.08.020 above
Section 20.14.020	Land Use Regulations for Downtown Zoning Districts	In Table 20.14-01 on pg. 42, "Community Gardens" should be added under "Community Uses" and should be allowed by Site Plan Review (SP) in the D-COR, D-O, and D-CM zones.	Community Gardens would also be appropriate in these zones.
Section 20.14.020	Land Use Regulations for Downtown Zoning Districts	In the Notes under Table 10.14-1 on pg. 44, Note #1 should be modified to read: "1. A <u>Site Plan Review Conditional Use Permit</u> may be required per Chapter 20.32 (Interface Regulations) regardless of the uses shown in Table 20.14-1."	A Site Plan Review Permit is now required under the Interface Regulations, not a CUP as under the current Ordinance.
Chapter 20.16	Urban Village Zoning Districts		

Proposed Changes to the Merced Zoning Ordinance Public Review Draft (June 2016)

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New Code Section	Topic/Title	Summary of Change	Reason for Change
Section 20.16.020	Land Use Regulations for Urban Village Zoning Districts	In Table 20.16-01 on pg. 53, "Group Housing" shall be amended to read: " <u>Group/Transitional/Supportive Housing</u> "	Same reason as for Section 20.08.020 above
Section 20.16.020	Land Use Regulations for Urban Village Zoning Districts	In Table 20.16-01 on pg. 53, "Community Gardens" should be added under "Community Uses" and allowed by Conditional Use Permit (C) in the R-OV and R-IV zones and by Site Plan Review (SP) in the C-V zone.	Community Gardens would also be appropriate in these zones.
Section 20.16.030	Development Standards/Guidelines for Urban Village Zoning Districts	Section 20.16.030 (B2b) should read as follows: "R-OV and R-IV zoning districts shall have direct access to a neighborhood-serving commercial zoning district without having to cross a street designated as a "Minor Arterial" or higher <u>order street.</u> "	Clarifies the requirement.
Chapter 20.18	Public Use and Agricultural Zoning Districts	No Changes	N/A
Chapter 20.20	Special Use Zoning Districts		
Section 20.20.010	Urban Transition (U-T) Zoning District	The last sentence of Section 20.20.010 (E) shall be amended to read: " The City may approve the annexation only If the property owner <u>does not</u> submits the written statement and site plan as required by this section, <u>then the City may prepare its own written statement in order to complete the zoning process upon annexation .</u> "	Makes the requirement more flexible to address potential issues but would still allow the annexation to take place if necessary.
Section 20.20.020	Planned Development (P-D) Zoning Districts		

Proposed Changes to the Merced Zoning Ordinance Public Review Draft (June 2016)

NOTE: All Annotations and References to the Current Zoning Ordinance that were in the Public Review Draft (released in September 2015) in [RED type] have been removed throughout the entire document. Some page numbers may also change due to added content.

New Code Section	Topic/Title	Summary of Change	Reason for Change
Section 20.44.050	Community Gardens	In Section 20.44.050 (D4) on pg. 153 shall be amended to read as follows: "4. Commercial Activities. On-site sale of community garden products shall be prohibited, <u>unless located in a commercial zone or as otherwise authorized by a Site Plan Review or Conditional Use Permit.</u> "	Recommended by City staff through input from County Health Department staff
Section 20.44.110	Photovoltaic Energy Systems and Public Utility Distribution Lines	Section 20.44.110 (C7) on pg. 160 should be added as follows: " <u>7. Solar carports can be approved by a Minor Use Permit, which could allow modifications to the above standards.</u> "	Allows the approval of solar carports through the Minor Use Permit process until standards can be developed.
Section 20.44.170	Medical Marijuana	A new Section 20.44.170, Medical Marijuana, shall be added in conformance with Ordinance #2454, starting on pg. 164. See Attachment 1. If the Council amends the Ordinance, that new amended Ordinance shall be added here instead.	Per City Council Ordinance #2454, effective February 19, 2016. (Modifications will be considered by the City Council on July 5, 2016)
Chapter 20.46	Residential Design Standards		.
Section 20.46.020	Design Standards for Single-Family Dwellings and Mobile Homes	In Section 20.46.020 on pg. 166, the following shall be added: " K. Addresses. <u>The street address number of the house shall be displayed on the front wall of the house clearly visible from the street and shall be a minimum height of 4 inches with a 1/2 inch stroke (or as otherwise required in the California Residential and Fire Codes).</u> "	Per Focus Group, Planning Commission, & City Council. (Section R319 of the 2013 CA Residential Code and Section 505 of the 2013 CA Fire Code have reqts regarding addressing.)

**Fresno Municipal Code Chapter 15:
CITYWIDE
DEVELOPMENT CODE**

December 2015

Development and Resource
Management Department



- D. **Outdoor Recreation.** Outdoor recreation areas for programmed activities, such as basketball courts, soccer fields, softball fields, etc., shall be at least 20 feet from any residential use or district.
- E. **Shared Parking.** Parking for a facility may be shared with other uses as long as the operating hours of the other uses do not conflict with the operating hours of the proposed facility.
- F. **Outdoor Lighting.** Outdoor lighting shall not exceed an intensity of one foot candle of light throughout the facility.

15-2720 Community Gardens / Urban Farms

Community Gardens and/or Urban Farms, collectively referred to as Gardens, may be located, developed, and operated in compliance with the following standards.

- A. **Management.**
 - 1. **Community Gardens.**
 - a. Shall be organized by community groups, nonprofit organizations, the City, or land owners. A manager shall be designated for each Community Garden who shall serve as liaison between gardeners, property owner(s), and the City.
 - b. If located within a Planned Development or Multi-Family Residential Complex, the Homeowner’s Association and/or property management company shall be responsible for the site and shall designate a liaison between the property owner(s) and the City.
 - 2. **Urban Farm.** May be operated by a sole proprietor or an organization. A manager shall be designated who shall serve as liaison between the owner(s) and the City.
- B. **Operational Plan.** The applicant shall submit an operational plan that identifies roles and responsibilities, contact information, and operations of the Garden.
- C. **Location.** Refer to Table 15-2720-C.

TABLE 15-2720-C PERMITTED DISTRICTS AND AREA LIMITATIONS		
<i>District/Site Location</i>	<i>Minimum Lot Size</i>	<i>Maximum Lot Size</i>
Residential District with access to a local street	3,000 sq. ft.	21,780 sq. ft.
Residential District with direct access to a major street	No minimum	2 acres
Residential Districts if part of a Planned Development, Multi-Family Complex (must be for the sole use of residents), or Religious Assembly Facility	No minimum	No maximum
Non-Residential Districts	No minimum	3 acres
Publicly-Owned Site (e.g., Gov’t Agency)	No minimum	No maximum

- D. **Hours of Operation.** Gardens shall only be tended between dawn and dusk.
- E. **Buildings and Structures.**

1. Garden sheds for storage of gardening tools and supplies; greenhouses that consist of buildings made of glass, plastic, or fiberglass in which plants are cultivated; outdoor furniture such as benches, bike racks, picnic tables, fences, children's play areas; raised/accessible planting beds; garden art; rain barrel systems; and structures for the sale of produce may be permitted.
 2. Buildings and structures, including temporary structures, shall comply with the property development standards of the underlying district.
 3. The combined area of all buildings or structures shall not exceed 25 percent of the garden site lot area.
- F. **Front Yards.** Yards along streets shall contain landscaping and/or planting.
- G. **Fencing.**
1. Fences shall comply with Section 15-2006, Fences, Walls, and Hedges.
 2. If proposed, fences shall be located at the rear of front yard setbacks. For street side yards, refer to Section 15-2006, Fences, Walls, and Hedges.
 3. Security wire, including concertina, electrical fencing, etc. is prohibited.
- H. **Equipment.** Only household garden tools and equipment, applicators and products, may be used. This includes, but is not limited to, soil preparation, cultivation, planting, application of chemicals, dust control, harvesting, etc. Pull-behind equipment is prohibited.
- I. **Tillage/Excavation.** Prior to tillage or excavation for cultivation, parties shall be responsible for contacting the Underground Service Alert Program (telephone number 811).
- J. **Maintenance.**
1. Curbside residential solid waste service is required. No burning of any material is permitted.
 2. The operator shall be responsible for the overall maintenance of the site and shall remove weeds, debris, etc. in a timely manner.
 3. Soil amendments, composting, and waste material shall be managed and shall not attract nuisance animals or support growth of flies.
- K. **Sale of Produce.** Incidental sales may be permitted. Sales are limited to items that are grown on-site. Incidental, for purposes of this subsection, shall be defined as once per week.
- L. **Animal Keeping.** Animal keeping is prohibited.
- M. **Utilities.** The land shall be served by a water supply sufficient to support the cultivation practices used on the site.
- N. **Restrooms.** If proposed, restrooms shall be connected to public utilities. Portable restrooms are not permitted.
- O. **Drainage.** Water or fertilizer shall not drain onto adjacent properties, and no permanent retention of water shall be permitted. Dirt from the site shall not be tracked onto adjacent sidewalk, gutter, or street.
- P. **Composting.** Composting is allowed as a minor accessory use to the site.

1. Composting must be done within a sealable container and may only consist of materials generated on-site.
2. The container must be setback at least three feet from property lines.
3. Composting must not lead to runoff of contaminated water nor expose adjacent properties to adverse noise, odors, pests, etc.

15-2721 Concrete Batch Plants, Storage Yards, and Similar Uses

- A. **Applicability.** This section applies to facilities that by their very nature generally occur and provide for outdoor storage. More specifically, this section applies to:
1. Contractor's Storage Yards;
 2. Outdoor Storage Yards;
 3. Outdoor Lumber and Material Yards;
 4. Concrete Batch Plants;
 5. Commercial Landscaping suppliers (e.g., rockeries);
 6. Pallet manufacturing, repair and storage; and
 7. Other similar uses that are not directly associated with a specific construction site.
- B. **Existing Facilities.** Existing facilities established prior to January 24, 2006 may continue to operate subject to the following conditions:
1. Compliance with all Conditions of Project Approval per the pertinent entitlement.
 2. If an entitlement was not required per zoning regulations, the applicant shall provide evidence, satisfactory to the Director, that the facility:
 - a. Was established prior to January 1, 2012 and that the use has been in continuous use;
 - b. The site has had a valid business license since January 1, 2012; and
 - c. The site does not have any outstanding violations from Code Enforcement or the Fire Department.
- C. **New Facilities.**
1. **Minimum Lot Size.** 10,000 square feet
 2. **Location.** There shall be a minimum setback of 200 feet from property planned or zoned for:
 - a. Residential uses;
 - b. Office Uses;
 - c. An integrated commercial shopping center; or
 - d. A freeway, unless the freeway is depressed a minimum 10 feet from the natural grade of the subject site and there is a six foot masonry wall that screens visibility into the site.

LOCAL MARCH 24, 2015 9:39 PM

Sacramento City Council approves urban farm ordinance

HIGHLIGHTS

Buying locally sourced fruits and vegetables may soon become as simple as walking over to a neighbor's garden, thanks to a new urban farm ordinance passed Tuesday night by the Sacramento City Council.



1 of 2



BY MARISSA LANG

mlang@sacbee.com

Buying locally sourced fruits and vegetables may soon become as simple as walking over to a neighbor's garden, thanks to a new urban farm ordinance passed Tuesday night by the Sacramento City Council.

In a 6-1 vote, the city effectively opened the door to minifarms on private properties and in vacant lots that would be able to sell produce out of urban farm stands, despite reservations from some council members about urban beekeeping and how urban agriculture may affect those who live close to the new farms.

The new ordinance enables city residents to grow and sell food directly from their properties and offers tax incentives to landowners who allow their properties, including vacant lots in residential, commercial, industrial and manufacturing zones throughout the city, to be turned into minifarms. The farms would be restricted to 3 acres.

The aim, in part, is to reduce urban blight and bring fruit and vegetables to so-called "food insecure" populations, whose access to fresh produce has been limited by a lack of healthy options in low-income neighborhoods.

A 2009 study by the U.S. Department of Agriculture found that 23.5 million people do not have access to a supermarket within a mile of their home.

Urban farm stands in residential neighborhoods would be restricted to operating Tuesdays and Saturdays from 8 a.m. to 7 p.m., except those on vacant lots, which would be allowed to operate without time or day restrictions.

Advocates of urban farming played on Sacramento's campaign to market itself as the farm-to-fork capital of the country and challenged the city to get farm food to "every fork."

More than 100 people packed the council chambers to support the ordinance.

James Brady, a self-proclaimed urban farmer who works as an aquaponics consultant, told the council that the benefits to low-income communities and people extend beyond the nutrition. He said giving people the opportunity to sell the food they produce would grow a new population of entrepreneurs and allow low-income people to grow their own food and earn additional income by selling to their neighbors.

Representatives from the Southeast Asian American community said another, less visible benefit to low-income and immigrant communities is purpose, pride and empowerment.

“My family arrived in this country with very few skills and spoke no English,” said Cha Vang, an organizer with Hmong Innovating Politics. “But my mom knew that she could always rely on her ability to grow, cultivate and garden anything, anywhere. Not only did gardening empower her, it also provided our family’s dinner table with fresh produce when most other low-income families had to settle for unhealthy fast food.”

More than 300 Sacramento residents signed a petition asking the council to pass the ordinance, according to the Sacramento Urban Agriculture Coalition.

In passing the urban farm ordinance, Sacramento followed the lead of several cities around country that have looked to inner-city agriculture to combat blight and produce more fresh fruits and vegetables in neighborhoods with few grocery stores. Among them: Los Angeles, San Francisco, Portland and Seattle.

The ordinance’s passage Tuesday was not without concerns from council members.

Councilwoman Angelique Ashby said in Natomas, properties are often divided up among several people or families. She worried that the person with control of the yard could unilaterally make a decision to delve into urban farming without consulting with other people in the property.

Councilman Larry Carr, the lone no vote on the measure, worried about the urban beekeeping aspects of the ordinance and asked whether the insects could be contained or kept away from people. In an attempt to quell his concerns, Councilman Jeff Harris, himself a beekeeper, invited Carr to his home.

Prior to passing the ordinance, agriculture activity – growing produce for sale – was only allowed in specially zoned lots.

New urban farmers would be subject to city water conservation ordinances and would be required to adhere to the same restrictions as other outdoor water users.

Anyone attempting to sell their produce out of an urban farm stand would be required to obtain a business operations tax certificate, city officials said Tuesday. For a stand that earns less than \$10,000 per year, a certificate would cost \$31.

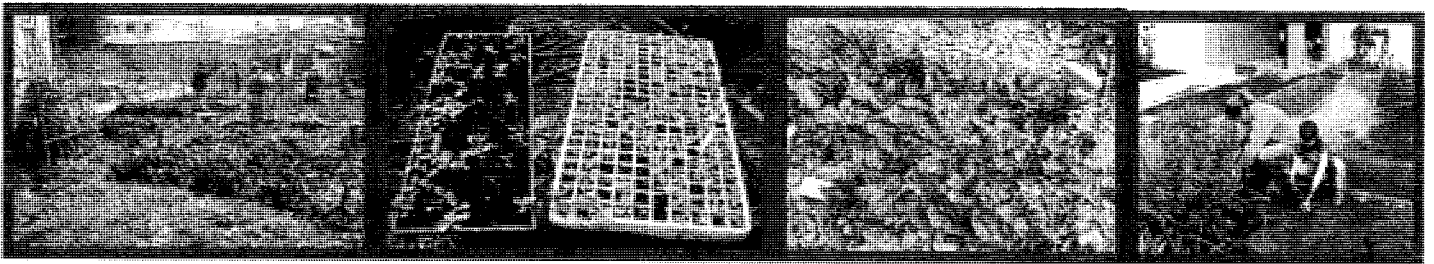
No liability insurance would be required.

Tax incentives for lot owners who allow their property to be turned into minifarms could add up to \$6,127 an acre each year, according to Sacramento city staff estimates, but a New York City study found community gardens boosted the values of nearby properties.

Call The Bee’s Marissa Lang, (916) 321-1038. Follow her on Twitter at @Marissa_Jae.

Establishing Land Use Protections for Community Gardens

March 2009



public health law & policy
planning for healthy places

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Prepared by Planning for Healthy Places, a project of Public Health Law & Policy
www.healthyplanning.org

PHLP is a nonprofit organization that provides legal information on matters relating to public health. The legal information provided in this document does not constitute legal advice or legal representation. For legal advice, readers should consult a lawyer in their state.

Funded by the California Department of Public Health, through the Network for a Healthy California

Introduction

Local government leaders are in a unique position to promote healthy eating and active living in their communities by supporting community gardens. Community gardens are places where neighbors and residents can gather to cultivate plants, vegetables, and fruits and, depending on local laws, keep bees and raise chickens or other livestock and poultry. Community gardens can improve nutrition, physical activity, community engagement, safety, and economic vitality for a neighborhood and its residents and provide environmental benefits to the community at large.¹

Planning for Healthy Places, a project of Public Health Law & Policy, has created a set of complementary model land use policies to help California communities create and preserve community gardens.

Model General Plan Language for Community Gardens

This model language establishes a policy within a general plan to protect existing and create new community gardens. It provides specific goals or actions to implement the policy. It is designed to be added to a city or county's general plan to promote community gardens created by the private or nonprofit sector (e.g., local community groups) as well as the public sector.

Model Zoning Ordinances for Community Gardens

We have developed two options for zoning ordinances for community gardens. A community may adopt one or both policies:

- **Open Space Protections for Community Gardens.** The model zoning code language provides that a community garden can be zoned as a sub-district or sub-use within an open space zoning district. By enacting this policy, a community can protect and preserve community gardens as an open space use.
- **Use Zone Protections for Community Gardens.** The model zoning code language provides that community gardens are an approved use of land in residential, multifamily, industrial, and other districts added by the community where appropriate. This designation allows citizens to develop and maintain community gardens in the enumerated districts without requiring the sponsor to obtain a permit, finding, variance, or other government approval.

¹ Twiss J, Dickinson J, Duma S, et al. "Community Gardens: Lessons Learned from California Healthy Cities and Communities." *American Journal of Public Health*, 93(9): 1435-1438, 2003; Local Government Commission. "Cultivating Community Gardens Fact Sheet." Available at: www.lgc.org/healthycommunities.

Community Gardens and Urban Agriculture

Cities are increasingly recognizing that urban food production can help provide food security for their residents, reduce greenhouse gas emissions, and help meet their goals to become sustainable cities. Some communities use the phrase *urban agriculture* as an umbrella term to encompass a wide range of activities—including community gardens—involving the raising, cultivation, processing, marketing, and distribution of food in urban areas. Other communities distinguish agricultural production (*urban farms*) from community gardens. These communities view urban farms primarily as a commercial or entrepreneurial enterprise and community gardens as recreation or leisure activity for gardeners to grow food for themselves or to share with neighbors. As a result, communities may create separate definitions for urban farms and community gardens and regulate them separately. For example, they may allow community gardens in certain areas, such as residential districts, where they would not permit an urban farm.

Both community gardens and urban farms provide important community benefits. Community members and planners should work together at the local level to customize this model to fit local needs.

Why Land Use Policies for Community Gardens?

Citizens interested in starting community gardens often face obstacles securing access to land and ensuring preservation of land for community gardens. Supportive land use policies, like zoning ordinances, can help to create community gardens and ensure their long-term ability to operate on a site.

Other Actions to Promote Community Gardens

As described below, municipalities around the country have adopted a variety of policies and programs to facilitate the creation and maintenance of community gardens and urban farms, including providing financial support, technical assistance, and education. Communities can also promote community gardens by encouraging interim or temporary use of underutilized land for gardens, assist in land acquisition for gardens, and help manage and program community gardens. No one model is right for every community. The following are examples of government actions promoting community gardens.

Community Gardens on Vacant Public and Private Land

- The City of Escondido, California, has an “Adopt-a-Lot” policy allowing community gardens to be operated as an interim use on both publicly and privately owned vacant land. A city employee works with landowners and the community to develop an agreement for the conditions and tenure of use of the land as a garden.²
- Des Moines has a community garden program that allows the establishment of community gardens on city right-of-ways and real property.³
- New York City has a law protecting and promoting the use of vacant lots for gardens.⁴

² Local Government Commission. “Cultivating Community Gardens Fact Sheet.” Available at: www.lgc.org/healthycommunities.

³ Des Moines Municipal Code § 74-201, 74-202.

⁴ New York City Administrative Code §18-132.

- A number of cities, including Washington, D.C., and Hartford, Connecticut, collect and maintain an inventory of public or private vacant land suitable for gardens.⁵

Financing and Acquiring Land for Community Gardens

- Seattle has provided parks with bond monies, public housing funds, and neighborhood matching grants to purchase land for and help maintain garden plots.⁶
- Minneapolis allows use of tax-forfeited land (properties seized by the city from the landowner due to unpaid taxes) as garden sites without charge.⁷
- Chicago formed a nonprofit called NeighborSpace with the Chicago Park District and the Forest Preserve District of Cook County. Each entity contributed funds to purchase lands for community gardens.⁸
- Madison, Wisconsin, has used federal Community Development Block Grant funds to support community gardens.⁹
- A number of cities, including Boston, Philadelphia, Providence (Rhode Island), and New York City, have begun using land trusts to acquire and preserve community gardens.¹⁰

Municipal Community Garden Programs

Several cities have created community garden programs operated by the city. The cities of Hartford (Connecticut), Palo Alto (California), Portland (Oregon), and Sacramento (California) maintain a municipal garden program.¹¹ San Francisco has a community gardens policy committee that establishes policies and implements gardening standards and operating rules.¹²

Public-Private Partnerships

A number of communities have created partnerships with nonprofit organizations to acquire land for and operate community gardens.

- As noted earlier, Chicago created a city-funded nonprofit called NeighborSpace to acquire property to preserve land for community gardens. It also enters into

⁵ D.C. ST § 48-402(1); Hartford, Connecticut, Municipal Code § 26-15(a)(1).

⁶ More information on Seattle's community garden program is available at: www.seattle.gov/neighborhoods/ppatch/.

⁷ Hennepin County Resolution 85-5-374.

⁸ More information on NeighborSpace is available at: www.neighbor-space.org.

⁹ More information on Madison's use of community development block grants is available at: www.ci.madison.wi.us/cdbg/docs/brochure_G.pdf.

¹⁰ More information on the South Side Community Land Trust in Providence, Rhode Island, is available at: www.southsideclt.org; more information on the Neighborhood Gardener's Association/A Philadelphia Land Trust is available at: www.ngalandtrust.org.

¹¹ Hartford, Connecticut, Municipal Code § 26-15; more information on the Sacramento program is available at: www.cityofsacramento.org/parksandrecreation/parks/community_garden.htm.

¹² More information on San Francisco's community gardens policy committee is available at: www.parks.sfgov.org/recpark_index.asp?id=27041.

operating agreements with local groups to use and maintain the spaces.

- The City of Seattle's P-Patch Community Garden Program works with the nonprofit Friends of P-Patch and the City Housing Authority to acquire, build, protect, and advocate for the gardens.

For more ideas and resources, see www.healthyplanning.org.

Model GENERAL PLAN Language to Protect and Expand Community Gardens

California state law requires each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, called the *general plan*.¹³ As the “constitution” of a community, the general plan underlies all land use decisions. Legally, all local government land use policies must rest on the principles and goals of the general plan.¹⁴

General plans can be updated or amended to include policy language supporting community gardens.

For information on the general plan update and amendment process, see *General Plans and Zoning: A Toolkit on Land Use and Health*, available at www.healthyplanning.org/toolkit_gpz.html.

For additional ideas on model general plan policies that support healthy communities and ideas for implementation, see *How to Create and Implement Healthy General Plans*, available at www.healthyplanning.org/toolkit_healthygp.html.

The following model general plan language establishes a land use policy to promote the establishment of community gardens as an important community feature. The language is designed to be tailored to the needs of an individual community, and can be incorporated into the general plan in many ways.¹⁵ Language written in *italics* provides different options or explains the type of information that needs to be inserted in the blank spaces in the policy. “Comments” describe the provisions in more detail or provide additional information.

Goal/Objective: Protect existing and establish new community gardens and urban farms as important community resources that build social connections; offer recreation, education, and economic development opportunities; and provide open space and a local food source.

¹³ California Gov't. Code §65300.

¹⁴ Planning for Healthy Places. *How to Create and Implement Healthy General Plans*, “Section III: Writing a Healthy General Plan.” Available at: www.healthyplanning.org/toolkit_healthygp.html.

¹⁵ California law requires that general plans address seven “elements,” or issue areas: land use, circulation/transportation, housing, conservation, open space, noise, and safety. Other elements are optional. Policies that support community gardens could be incorporated in into land use, circulation, housing, open space, air quality, parks and recreation, safety, and economic development elements. For more information, see *How to Create and Implement Healthy General Plans*, “Section III: Writing a Healthy General Plan.” Available at: www.healthyplanning.org/toolkit_healthygp.html.

Policies/Actions

- Encourage the creation and operation of one community garden of no less than *[one]* acre for every ____ [2,500] households. Identify neighborhoods that do not meet this standard and prioritize the establishment of new gardens in neighborhoods that are underserved by other open space and healthy eating opportunities.

Comment: The standard presented here is based on Seattle, Washington’s standard – one community garden per 2,500 households.¹⁶ This standard matches closely the National Recreation and Park Association’s widely used “best practice standards” for a neighborhood park or tot lot (1/2 acre: 2500 households for a tot lot; 1 acre: 5000 households for a neighborhood lot¹⁷). Communities that are more or less urban will need to assess whether this standard is appropriate for them.

- Identify existing and potential community garden sites on public property, including parks; recreation and senior centers; public easements and right-of-ways; and surplus property, and give high priority to community gardens in appropriate locations.
- Adopt zoning regulations that establish community gardens as a permitted use in appropriate locations. Community gardens are compatible with the [*insert names (e.g., Commercial, Public Facility, Open Space, Multifamily Residential)*] land use designations shown on the General Plan land use map.
- Encourage [*or require*] all new affordable housing units to contain designated yard or other shared space for residents to garden.
- Encourage [*or require*] all [*or some, such as multifamily residential, commercial, institutional or public*] new construction to incorporate green roofs, edible landscaping, and encourage the use of existing roof space for community gardening.

Comment: Communities should ensure that building codes address safety concerns, including appropriate fencing and added load weight, when permitting roof gardens.

- Community gardens shall count towards park and open space allocations required by local Quimby Act ordinances for new subdivisions and multifamily development.

Comment: The Quimby Act is a California policy that authorizes cities and counties to pass ordinances requiring developers to dedicate land or pay in lieu fees, or a combination of both, for park or recreational purposes as a condition to approving a tentative map application.¹⁸ Dedication of land associated with the Quimby Act requires setting aside between 3 to 5 acres of developable land for every 1,000 population generated by the proposed development.¹⁹

¹⁶ Seattle, Washington Comprehensive Plan. Urban Village Appendix B. January 2005.

¹⁷ 1990 Recreation, Park and Open Space Standards and Guidelines, and the 1996 Park, Recreation, Open Space and Greenway Guidelines and Tables D1.2, D1.3, D1.4, D1.5, and D1.6.

¹⁸ Cal. Govt. Code § 66477.

¹⁹ The formula to calculate a proposed development’s Quimby requirement is as follows:

- Create a Community Gardening Program within the [*Parks and Recreation Department*] to support existing and create additional community gardens.
- Increase support for community gardens through partnerships with other governmental agencies and private institutions including school district(s), neighborhood groups, senior centers, businesses, and civic and gardening organizations.
- Secure additional community garden sites through long-term leases or through ownership as permanent public assets by the City, nonprofit organizations, and public or private institutions like universities, colleges, school districts, hospitals, and faith communities.
- Encourage local law enforcement agencies to recognize the risk of vandalism of and theft from community gardens and provide appropriate surveillance and security to community gardens.

For an editable (Microsoft Word) version of Model General Plan Language to Protect and Expand Community Gardens, see www.healthyplanning.org.

(persons per household)* X (number of units in development) X 3 to 5 acres**1,000* Estimates for "Person's per household" can be found in the Housing Element of a City or County's General Plan or via the census website, available at: www.census.gov.

** Specific acreage requirements will be determined by local ordinance.

Model ZONING Language

Establishing Community Gardens as an Approved Use

California state law requires each county and city to adopt a comprehensive, long-term plan for the physical development of the county or city, called the *general plan*.^{20,21} The community's zoning ordinances set forth the regulations to carry out the policies of the general plan. Zoning is a regulatory mechanism by which a government divides a community, such as a city or county, into separate districts with different land use regulations within each district. Simply stated, zoning determines what can and cannot be built, and what activities can and cannot take place, on the parcels of land throughout a community.²²

The majority of California's cities have "use-based" zoning laws. Use-based codes divide the jurisdiction into distinct districts, such as residential, commercial, multi- or mixed-use, and industrial, and regulate the use and development of the land within the districts based on the designation.²³ Community gardens are not usually addressed in zoning codes, which leaves them vulnerable to being closed down as "illegal" uses or to displacement by development that is expressly permitted in the zoning district.

The following model language is designed for California cities or counties to tailor and adopt as an amendment to their existing zoning laws.²⁴ We offer two options: (1) an ordinance that establishes that community gardens are an approved use of land in residential, multifamily, mixed-use, industrial and any other districts in which a community garden would be appropriate; and (2) an ordinance that establishes a separate subcategory or subdistrict of open space dedicated for the use of community gardens.

The first designation allows residents to develop and maintain community gardens in the enumerated districts without requiring the residents to obtain any type of permit, finding, variance, or other government approval. Because no permits are required, the ordinance sets forth basic regulations for community gardens.

The second designation establishes community gardens as a legitimate use in specified zoning districts and gives them the same protections as other types of open space uses in the

²⁰ California Gov't. Code § 65300.

²¹ Please see the accompanying document for **model general plan language** promoting farmers' markets.

²² For more information about **zoning regulations and healthy communities**, see *General Plans and Zoning: A Toolkit on Land Use and Health*, available at: www.healthyplanning.org/toolkit_gpz.html.

²³ Another form of zoning that is becoming increasingly popular with "smart growth" advocates is "form based zoning." While form based zoning is broader in how it defines allowed uses, use definitions still apply. Most of the provisions here could be applied to form based codes. For more information on form based and use based zoning, see Section V of *How to Create and Implement Healthy General Plans*, available at: www.healthyplanning.org/healthygp_toolkit/HealthyGP_SectionV.pdf.

²⁴ For more information on **how to amend zoning codes**, see *General Plans and Zoning: A Toolkit on Land Use and Health*, available at: www.healthyplanning.org/toolkit_gpz.html.

community. Communities can amend their zoning codes to include one or both of these designations.

The local jurisdiction will need to determine where within its existing code the ordinances would best fit, make other amendments as necessary for consistency, and follow the appropriate procedures for amending the zoning law. The language is designed to be tailored to the needs of an individual community. Language written in *italics* provides different options or explains the type of information that needs to be inserted in the blank spaces in the ordinance. “Comments” provide additional information.

Permitted Use of Community Gardens

Community Gardens shall consist of land used for the cultivation of fruits, vegetables, plants, flowers, or herbs by multiple users. The land shall be served by a water supply sufficient to support the cultivation practices used on the site. Such land may include available public land. Community gardens are a permitted use in the following zones: residential, multifamily, mixed-use, open space, industrial _____ [*add other zoning districts*] subject to the following regulations:

Comment: Some communities may permit community gardeners to keep bees and raise chickens on garden sites. If so, this definition can be amended to allow these uses.

- (a) Site users must provide a Phase I Environmental Site Assessment (ESA). Any historical sources of contamination identified in the ESA must be tested to determine type and level of contamination; appropriate remediation procedures must be undertaken to ensure that soil is suitable for gardening.

Comment: Funds and grant for environmental site assessments, testing and cleanup procedures may be available from a variety of state and federal sources. Site users should coordinate with their local economic development and redevelopment agencies, as well as their local/regional Department of Toxic Substances Control.

- (b) Site users must have an established set of operating rules addressing the governance structure of the garden, hours of operation, maintenance and security requirements and responsibilities; a garden coordinator to perform the coordinating role for the management of the community gardens; and must assign garden plots according to the operating rules established for that garden. The name and telephone number of the garden coordinator and a copy of the operating rules shall be kept on file with the City [*insert department name*] Department.

Comment: To function effectively, a community garden must have established operating rules and a garden coordinator. In this ordinance, a municipality could (1) require that gardens have rules, as the model language does above, (2) provide a complete

listing of rules; or (3) give authority for a particular city or county department or officer to establish community garden rules and require each community garden to adhere to those rules. A municipality could also choose to address some or all of the requirements for operating a community garden in this or an accompanying ordinance.

- (c) The site is designed and maintained so that water and fertilizer will not drain onto adjacent property.
- (d) There shall be no retail sales on site, except for produce grown on the site.

Comment: Community gardens can be a needed source of income to low-income residents, as well as a source of produce for neighbors who do not grow their own food. The model language allows gardeners to sell the produce they have grown, but permits no sales of other items. Because the model ordinance permits community gardens to be established in a variety of use districts, including residential districts, a municipality may be reluctant to allow major retail operations on garden sites. If the municipality chooses, it may allow more expansive sales at garden sites. Alternatively, it could permit gardeners to sell produce at a different site.

The model ordinance addresses land use issues when permitting sales, but does not address other regulations that may affect sales, such as health and sanitation laws or business license regulations. Before permitting sales of community garden produce, the municipality must ensure that those sales are permitted under other state and local laws.

- (e) No building or structures shall be permitted on the site; however, [*sheds for storage of tools limited in size to [_____] or subject to the requirements of section _____*], greenhouses that consist of buildings made of glass, plastic, or fiberglass in which plants are cultivated, [*chicken coops*], benches, bike racks, raised/accessible planting beds, compost or waste bins, picnic tables, seasonal farm stands, fences, garden art, rain barrel systems, [*beehives*], [*barbeque grills, outdoor ovens*] and children's play areas shall be permitted. The combined area of all buildings or structures shall not exceed [*15 percent*] of the garden site lot areas. Any signs shall comply with applicable [*city/county*] ordinances.

Comment: Some communities may wish to allow community gardeners to erect sheds for the storage of tools on garden sites. The municipality should make sure that any provision regarding sheds conforms to other municipal code provisions regarding storage sheds on property. Additionally, if communities permit the cultivation of beehives and chickens in their community gardens, structures for the care of these animals should be included. Local laws vary on the keeping of farm animals in different use districts.

- (f) Fences shall not exceed [*six feet*] in height, shall be at least [*fifty percent*] open if they are taller than [*four feet*], and shall be constructed of wood, chain link, or ornamental metal. For any garden that is [*15,000 square feet in area or greater*] and is in a location that is subject to design review and approval by the [*City Planning Commission or Landmarks Commission*], no fence shall be installed without review by the [*City Planning Director, on behalf of the Commission*], so that best efforts are taken to ensure that the fence is compatible in appearance and placement with the character of nearby properties.

Comment: Municipalities usually have requirements regarding fences in their zoning or building codes. If the municipality has existing regulations, it may not need this provision.

- (g) Other Regulations

Comment: Communities may wish to impose additional regulations on community gardens, including:

- Prohibiting connections to electricity or sewers without a permit or other permission from the municipality or a particular department;
- Imposing specific regulations regarding maintenance of the site, such as frequency of waste collection;
- Requiring a community garden to have a nonprofit entity or neighborhood group as a sponsor or to act as garden coordinator; or
- Requiring particular landscaping or setbacks outside of the garden within the public right-of-way.

Community Garden Open Space (Sub)districts

Community Garden open space subdistricts shall consist of land divided into multiple plots appropriate for and limited to the cultivation of fruits, vegetables, plants, flowers or herbs by various users. Such land may include available public land.

Comment: Some communities may permit community gardeners to keep bees and raise chickens on garden sites, assuming local law so permits. This definition can be amended to allow these uses.

For an editable (Microsoft Word) version of Model Zoning Language Establishing a Community Garden as an Approved Use, see www.healthyplanning.org.

Examples of Successful Community Garden/Urban Farm Initiatives **(by no means a comprehensive list)**

Many of the gardens listed below are based in low-income communities, and many are not-for-profit social enterprises that give back to their community, contribute to the economy, and are self-sustaining by including entrepreneurial programs for low-income youth, people who are homeless, or people who have been formerly incarcerated. Some have been started by these folks as well. Across the country, community gardens are becoming increasingly popular as tools to improve the social, physical, environmental, and economic health of the surrounding community.

1. [Two urban farms in Illinois and California](#)
2. [Growing Places Indy](#) (Indianapolis, IN)
3. [Growing Justice](#) (Oakland, CA)
4. [Growing Power](#) (Milwaukee, WI)
5. [La Finca Del Sur](#) (Bronx, NY)
6. [Hattie Carthan Community Garden](#) (Brooklyn, NY)
7. [D-Town Farm](#) (Detroit, MI)
8. [Beacon Food Forest](#) (Seattle, WA)
9. [Homeless Garden Project](#) (Santa Cruz, CA)
10. [Garden Project](#) (San Francisco, CA)
11. [The Food Project](#) (MA)
12. [Local Environmental Agriculture Project, Inc.](#) (Roanoke, VA)
13. [Food Is Free Project](#) (Austin, TX and beyond)
14. [New Roots for Refugees](#) (Kansas City, KS)
15. [Seattle Market Gardens](#) (Seattle, WA)
16. [Magic Bean Farm](#) (Seattle, WA)
17. [Delaney Community Farm](#) (Denver, CO)
18. [Denver Urban Gardens](#) (Denver, CO) -- network of over 150 community gardens
19. [Food Field](#) (Detroit, MI)
20. [Distributed Urban Farming Initiative](#) (Texas)
21. [Seattle Tilth](#) (Seattle, WA)
22. [UA Cooperative Extension](#) (Phoenix, AZ)
23. [Grow Local Colorado](#) (CO)
24. [Housing, Health & Human Services Center](#) (Hackensack, NJ)
25. [Talk of the Town Gardens](#) (Liverpool, England)
26. [New Leaf](#) (Bronx, NY)
27. [Vallejo People's Garden](#) (Vallejo, CA)
28. [10 Best Community Gardens in LA County](#) (Los Angeles, CA)
29. [The River Community Garden](#) (San Jose, CA)
30. [Growing Good Minnesota](#) (MN)

Additional Resources for City Planners and Economic Developers

1. APA Food System Planning Committee. (2005). *Food System Planning White Paper*. American Planning Association. Retrieved from <https://www.planning.org/resources/ontheradar/food/pdf/apafoodwhitepaper.pdf>
 - a. Summarizes trends in food systems and their effect on community health. Includes recommendations for city planners and a list of resources.
2. American Planning Association. (n.d.) *On the Radar: Food Systems*. Retrieved from <https://www.planning.org/resources/ontheradar/food/>
 - a. Includes links to resources published and/or endorsed by the APA.
3. American Planning Association (2007). *Policy Guide on Community and Regional Food Planning*. Retrieved from <https://www.planning.org/policy/guides/adopted/food.htm>
 - a. Adopted by leadership of the APA, this guide underscores the importance of city planners to include food, a “basic essential of life”, as a focus of “serious professional planning interest”. Discusses impact (both positive and negative) that city planners can have on shaping the food environment.
4. Raja, S., Born, B., & Russell, J. (2008). *A Planner’s Guide to Community and Regional Food Planning: Transforming Food Environments, Facilitating Healthy Eating*. American Planning Association Planning Advisory Service. Retrieved from https://www.planning.org/store/product/?ProductCode=BOOK_P554
 - a. Outlines strategies/best practices and impact measures for creating healthy food environments. For purchase online, \$50 retail.
5. Sustainable Cities Institute. (2013). *Promoting Urban Agriculture Through Zoning*. National League of Cities. Retrieved from <http://www.sustainablecitiesinstitute.org/topics/food-systems/urban-agriculture/promoting-urban-agriculture-through-zoning>
 - a. Excellent resource with lists of exemplar cities and urban agriculture enterprises. Includes zoning ordinance models.
6. Public Health Law Center. (2012). *Community Garden Policy Reference Guide*. Retrieved from http://publichealthlawcenter.org/sites/default/files/resources/PHLC%20Community%20Garden%20Policy%20Guide%202012_0.pdf
 - a. Provides detailed table to develop zoning ordinance sections for community gardens (outlines recommendations with definitions/descriptions of each).
7. Local Government Commission. (n.d.) *Cultivating Community Gardens*. Retrieved from http://www.lgc.org/wordpress/docs/freepub/community_design/fact_sheets/community_gardens.pdf
 - a. Describes costs/benefits of community gardening and outlines ways local governments can positively shape the food environment.



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Honorable Mayor and City Council
City of Merced
678 W. 18th Street
Merced, CA 95340

August 11, 2016

Mayor Thurston and members of the Council:

The Chamber would like to thank the Focus Group, City staff, and the public for the massive effort that's been put forth to update our community's antiquated Zoning Code.

As you consider adoption of the update, however, we offer a strong objection to some of the special land use regulations that were proposed *after* the work of the Focus Group had been substantially completed.

Of particular concern are the proposed new restrictions on tobacco sales in proximity to schools and "other youth-oriented activities". Ambiguity aside, it's already illegal to sell tobacco to persons under the age of 21. Additionally, existing points of sale and stores over 20,000 square feet would be exempt.

In light of existing state law, the grandfather clause, and the size exemption, there is no reason to put a ban in place *that would immediately be rendered useless*.

We fear the addition of an impotent ban like this does nothing but establish a precedent that will be used to begin banning other items that various groups find objectionable: sodas, tanning, etc.

This issue is not about tobacco. It's about useless regulations that do nothing more than inhibit the ability to conduct commerce in our city.

Please show the business community that you mean business.

Respectfully,

Adam Cox
President/CEO



DEPARTMENT OF PUBLIC HEALTH

Kathleen Grassi, R.D., M.P.H.
Director

January 21, 2015

City of Merced
Planning Division
Development Services Department

RE: Zoning Ordinance Update Focus Group Recommendation


The Merced County Department of Public Health is aware that the City of Merced is currently updating the zoning ordinance and asks that the focus group and Planning Department explore ways the zoning code can be amended to reduce tobacco availability near schools in an effort to protect the health of youth in Merced. Specifically, a change to the zoning code placing restrictions on new businesses that sell tobacco near schools is recommended.

Tobacco is the leading preventable cause of death in the United States and causes cancer, heart disease, stroke, lung diseases and diabetes. Most smokers (nearly 9 out of 10) first try a cigarette by the age of 18 and each day in the United States more than 3,200 people younger than 18 years of age smoke their first cigarette. In Merced County smoking rates among youth are 14.2%, higher than the state average of 13.8%.

Local zoning and licensing regulations can be used to control the number, type, proximity, and density of tobacco retailers around schools. Reducing the density of tobacco outlets near schools is an effective strategy to reduce youth smoking based upon research that has shown that a higher density of tobacco retailers is associated with experimental smoking in high school students. In California, many jurisdictions have amended their zoning code and/or licensing regulations to restrict tobacco retailers including Santa Clara County and the City of Mountain View. Approaches that other jurisdictions have used include restricting new tobacco retailers near schools (e.g., within 1000 feet of schools) and/or requiring a conditional use permit for tobacco retailers.

The Merced County Department of Public Health staff is available to answer questions and provide examples of what other jurisdictions have done. The Department appreciates your consideration of this addition to the zoning code and your efforts to enhance the health of Merced youth.

Sincerely,



Kathleen Grassi
Director
Merced County Department of Public Health

KG:sn

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Equal Opportunity Employer

STRIVING FOR EXCELLENCE

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
AMENDING TITLE 20 “ZONING” OF THE
MERCED MUNICIPAL CODE**

**THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN
AS FOLLOWS:**

SECTION 1. FINDINGS AND PURPOSE. The City Council finds and declares as follows:

A. The City of Merced Zoning Ordinance was adopted in the early 1960s and has not been comprehensively updated since that time.

B. This amended Zoning Ordinance represents a complete redesign and modernization of the Zoning Ordinance to make it easier to use and understand for the general public and to provide specific guidance to make the development process simpler and faster. The goal of these changes is to facilitate the City’s overall growth and development and enhance the community’s overall appearance, access to services, and economic health.

C. The amended Zoning Ordinance addresses a wide range of issues, including allowed land uses in each zoning district, development standards (including setbacks, minimum lot sizes, maximum heights of buildings and fences), procedures for development permits, and land use definitions.

D. A copy of the Public Review Draft of the Zoning Ordinance was released in September 2015 and has been available for download since that time on the City’s website at:

https://www.cityofmerced.org/depts/cd/planning/zoning_ordinance_update.asp

SECTION 2. AMENDMENT OF TITLE 20, “ZONING.” “Title 20, Zoning” is amended to read as found in Exhibit A, Public Review Draft of Merced Zoning Ordinance (dated September 2015), and as amended in Exhibit B, “Proposed Changes to the Merced Zoning Ordinance Public Review Draft (dated June 2016).

SECTION 3. ENVIRONMENTAL REVIEW. An environmental review checklist has been filed for this project, and a draft negative declaration (Initial Study #16-20) has been prepared (i.e., no further environmental review would be required) under the California Environmental Quality Act.

SECTION 4. SEVERABILITY. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 5. PUBLICATION. The City Clerk is directed to cause a summary of this Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption showing the vote thereon.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Merced on the ____ day of _____, 2016, and was passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2016, by the following called vote:

AYES: **Council Members:**

NOES: **Council Members:**

ABSTAIN: **Council Members:**

ABSENT: **Council Members:**

APPROVED:

Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant City Clerk

(SEAL)

APPROVED AS TO FORM

Ker Ryeed *7/21/16*
City Attorney **Date**