

A PLANNER'S CONFESSIONS...



THE TOP TEN THINGS ABOUT
THE ZONING ORDINANCE
WHICH DRIVE ME CRAZY!

FOCUS GROUP MTG #2—JULY 31, 2013

Kim Espinosa, Planning Manager

David Gonzalves, Director of Development Services

ALSO KNOWN AS...

“DO THESE ZONING REGULATIONS STILL REFLECT OUR COMMUNITY STANDARDS OR SHOULD WE CONSIDER CHANGING THEM?”



What Do You Think?

A Silly Name for a Serious Topic

- ❖ This “Top Ten” reflects items that cause the most headaches for Planners when trying to explain to members of the public, developers, and business owners why they can or cannot do something.
- ❖ Although required by the existing ordinance, should we consider changing them as part of this Zoning Ordinance Update?

WHAT DO YOU THINK?

#10—Unnecessary CUP's



Yes, You Really Need a CUP for That!

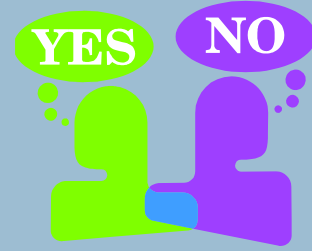
- ❖ Religious Institutions in All Zones
- ❖ Personal Services (Hair Salons, etc.) in the Commercial Office Zone
- ❖ Tattoo Parlors in All Commercial Zones
- ❖ Bail Bonds Businesses in All Commercial Zones, except they are prohibited in the City Center.
- ❖ Residential Uses in the Central Commercial Zone
- ❖ All Uses in a Planned Development Zone (except Single-Family)

Issues to Consider

- ❖ Limited Design Review without a CUP
- ❖ Hours of Operation (Some 24-Hour Operations can be a nuisance to neighbors)
- ❖ Excessive Signage
- ❖ Noise Concerns
- ❖ Parking Concerns
- ❖ Assembly Uses (Building & Fire Code Issues)



What Do You Think?



- ❖ **Should we eliminate the CUP requirement for religious institutions in commercial zones but still require them in residential zones?**
- ❖ **Should we allow residential uses in the Downtown “by-right”?**
- ❖ **Should we allow Bail Bonds, Tattoo Parlors, and Personal Services without CUP’s?**
- ❖ **Should we eliminate the CUP requirement in Planned Developments and use Staff’s Site Plan Review?**

#9—Outdoor Displays



Do We Need Some Standards?

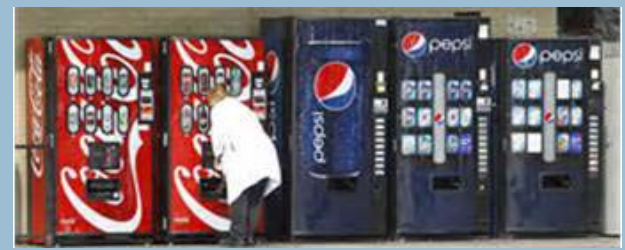
- ❖ **Most Commercial Zones Require “all uses shall be conducted wholly within a completely enclosed building.”**
- ❖ **Thus all the outdoor vending machines for soda, water, video rentals, propane, etc., that are outside almost every market are technically illegal as are the flowers, plants, and other goods.**
- ❖ **Sometimes these uses get out of control and block required access for the disabled/emergency services and give our commercial areas a cluttered look.**

Issues to Consider

- ❖ Disabled access (at least 4 feet of clear width)
- ❖ Standards for how much display area?
 - ❖ Square Feet of Space or Percentage of Building Frontage?
- ❖ Standards on the types of goods?
- ❖ Other issues?



New Standards?



Early Draft of the New Zoning Ordinance, the Consultants have proposed:

- ❖ **Site Plan Review required (staff review)**
- ❖ **Standards for:**
 - ❖ **Total display area (25 square feet for permanent displays like vending machines)**
 - ❖ **Can't be placed in landscape areas, parking spaces, loading areas, or driveways**
 - ❖ **Cannot obstruct the entrance or pedestrian access**
 - ❖ **Temporary displays must be moved inside at close of business**

#8—Recycling Facilities



Current Standards (MMC 20.623.060)

- ❖ **Per State law, Recycling Facilities are allowed in any commercial or industrial zone with Site Plan Review (Staff level process).**
- ❖ **Include reverse vending machines, mobile recycling units, and kiosks**
- ❖ **Can't occupy more than 500 square feet on a lot**
- ❖ **Site Plan Committee may impose requirements on location, construction, maintenance, operation, color, signs, and site planning OR may deny the use if facility “will have a detrimental effect on public health, safety, or general welfare.” (This is hard to define.)**

Common Issues

- ❖ Keeping the sites clean and free of debris
- ❖ Proliferation of Shopping Carts
- ❖ Loitering and/or Public Intoxication
- ❖ Noise Complaints (i.e. breaking glass, etc.)



What Do You Think?



Early draft of the New Zoning Ordinance, the Consultants have proposed:

❖ **4 Levels of Recycling Facilities Defined**

- 1. Reverse Vending Machines;**
- 2. Small (No more than 500 square feet);**
- 3. Large (Over 500 square feet); &**
- 4. Processing Facilities (No more than 45,000 square feet)**

❖ **Standards established for:**

- ❖ **Distance from residential zones (50 feet for Small & 500 Feet for Large)**
- ❖ **Screening**
- ❖ **Operating standards for power-driven equipment**
- ❖ **Hours of Operation?**

#7—State Regulations

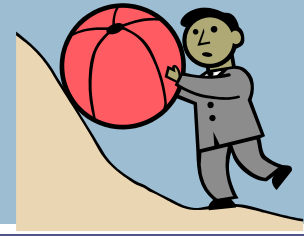


The State of California Says So...

The City of Merced cannot regulate through zoning the location and operation of:

- ❖ **Public Schools**
- ❖ **Daycare Centers of 14 or fewer children**
- ❖ **Residential Care Facilities of 6 or fewer persons, including foster homes, group homes, elderly/adult care, drug rehab, etc.**
- ❖ **The concurrent sale of gasoline & alcohol**
- ❖ **Cottage Food Industries as Home Occupations (new in 2013) (See also #2)**

Frustrations



- ❖ **The City tries to work with the school districts to locate schools, but some schools have been located in industrial zones, despite City objections, and many industries don't want to locate next to schools because of concerns about how it might affect their operations.**
- ❖ **City staff receives a lot of complaints about residential care facilities from neighbors regarding noise, parking issues, safety concerns, etc. but there isn't anything the City can do about it.**



#6—Garage Conversions



Why Most Garage Conversions are Illegal

- ❖ **Single-Family Homes Require 1 Off-street Parking Space.**
- ❖ **The Parking Spaces in the Driveway do NOT count because they are in the front yard setback area (20 feet for most).**
- ❖ **Parking spaces cannot be in the required side yard setbacks either because it must be in an area that can be covered legally (structures are NOT allowed in the setback areas).**

What Do You Think?



- ❖ Most of these conversions don't get building permits because they can't supply the required parking, which can lead to safety issues.
- ❖ Garage Conversions often become illegal 2nd units in a single-family zone
- ❖ Allow the driveway spaces to count as "legal" parking?
- ❖ Do we want to apply any design standards to these conversions?
- ❖ Also See Issue #5



#5—Driveway Carports



Current Ordinance



- ❖ **“Driveway Carports”** which have become popular are **NOT** legal under the current ordinance because:
 - ❖ Permanent structures are not allowed in the setback areas, except for limited architectural features which can encroach up to 5 feet.
 - ❖ Most front yard setbacks in Single-Family zones are 20 feet.



What Do You Think?



- ❖ Should we consider allowing these carports?
- ❖ If so, what standards should be established?
 - ❖ Building materials (Not all carports are created equal—see below)
 - ❖ Anchoring to the ground
 - ❖ Permits?

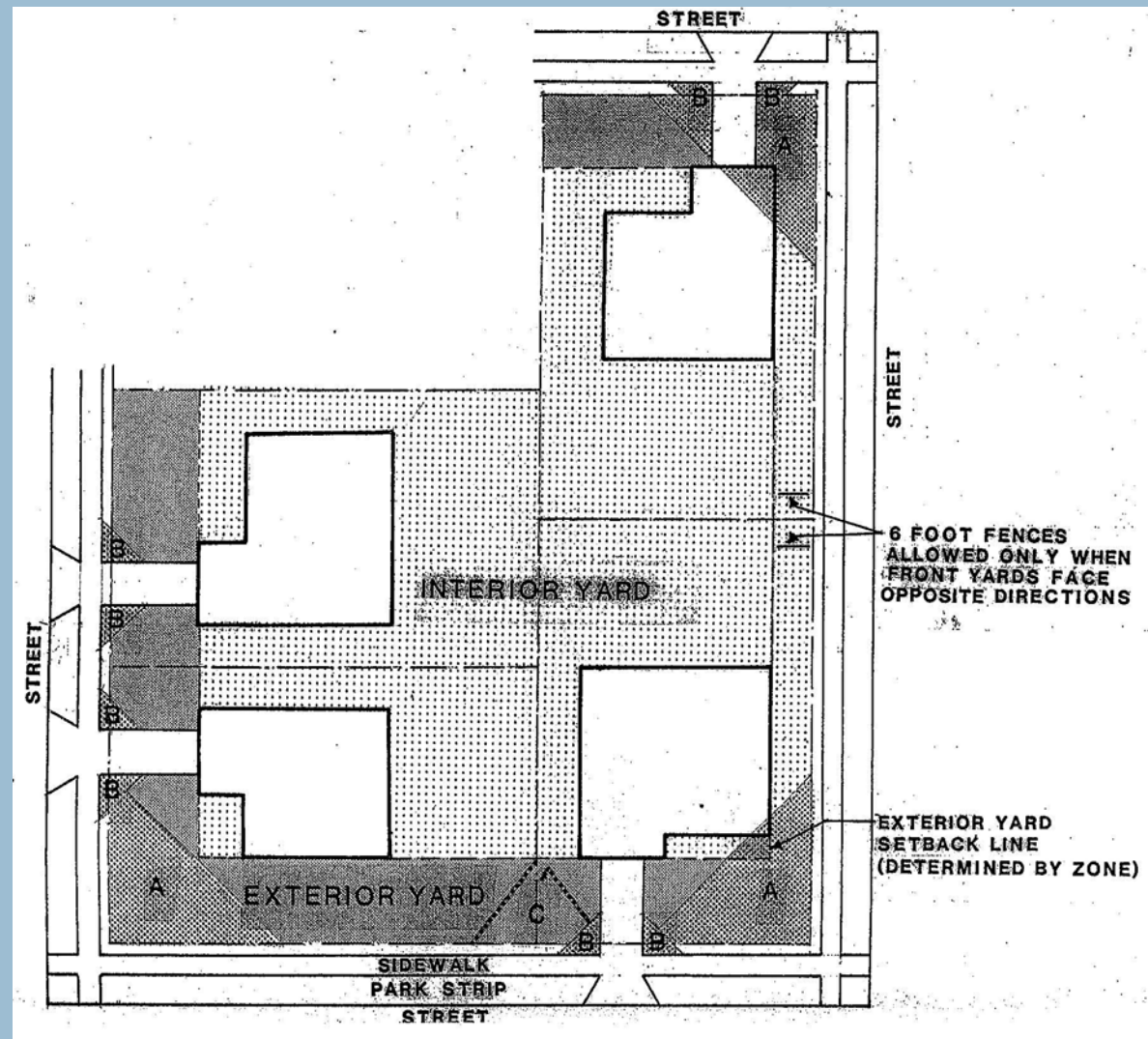


#4—Front Yard Fences



Current Ordinance (MMC 20.62.040)

- ❖ Fences in exterior yards shall not exceed a height of 4 feet, except for corner lots (6 feet).
- ❖ Fences in exterior yards shall not exceed a height of 2 ½ feet in:
 1. 40-Foot Corner Triangle (A)
 2. 10-Foot Corner Triangle next to an alley or driveway (B)
- ❖ With a CUP, 6-Foot fences can be allowed for reverse corner lots except in 20-Foot triangle (C).



Common Requests



- ❖ Homeowners would like to have 6-foot high “see-through” fences (wrought iron, chain link, etc.) in front yards to keep in kids and dogs.
- ❖ Homeowners request 6-foot high gates across their driveways for security concerns.
- ❖ Homeowners ask for exemptions from the “corner triangle” requirements.



What Do You Think?



- ❖ Should we consider increasing the fence heights?
- ❖ Should it be “by-right” or require a level of City approval?
- ❖ Require electronic controls to open gates (including “override” controls for Police & Fire)?
- ❖ Require stacking area off street for gates to avoid blocking traffic?
- ❖ Minimum standards for type and quality of materials?



VS.



#3—Backyard Fences



Current Ordinance (MMC 20.62.040)

- ❖ Fences, walls, and hedges in interior (back) yards cannot exceed 6 feet in height.
- ❖ Fences, walls, and hedges in Industrial zones may exceed the height limit with a CUP.



Common Requests

- ❖ Homeowners would like to have fences higher than 6 feet in back yards for security or privacy concerns or sometimes to keep large dogs in the yard.
- ❖ Homeowners often add “Lattice” to the top of their fence or wall to achieve this but don’t know that it is illegal.



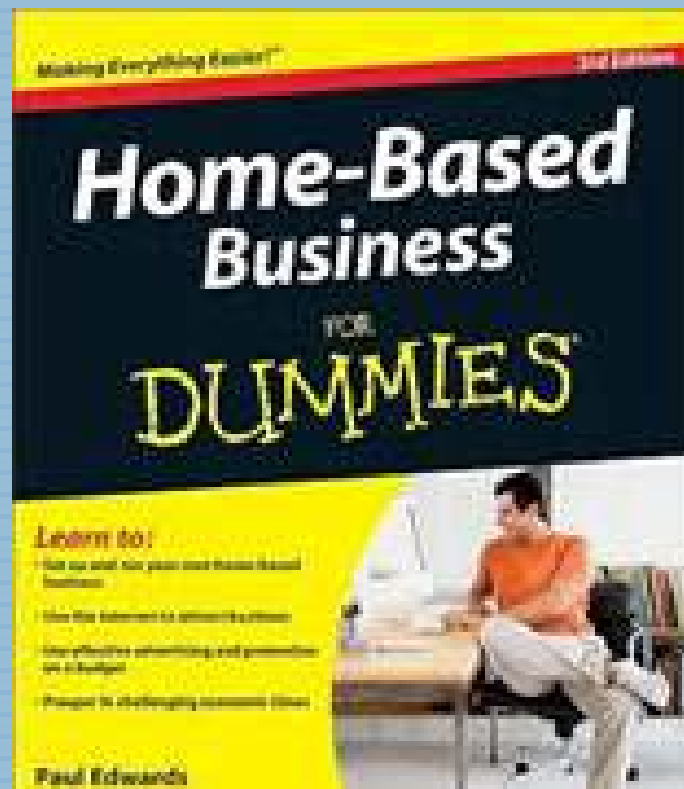
What Do You Think?



- ❖ **Should we consider increasing the fence heights?**
- ❖ **Should it be “by-right” or require a level of City approval?**
- ❖ **Should we allow the addition of “lattice”?**
- ❖ **Higher fences would make it harder for Police and Fire personnel to access backyards.**
 - ❖ **To address the above, should we limit the height of the backyard gate?**
- ❖ **Minimum standards for type and quality of materials?**



#2—Home Occupations



MMC 20.54.100 - Home Occupations

The conduct of a home occupation shall be subject to the following conditions:

- A.** The occupation shall be conducted entirely by resident occupants and any person not a resident of the premises shall not be employed in connection therewith.
- B.** The floor area used for the occupation shall not exceed one-fourth of the floor area of the main residence, but in no case shall exceed four hundred square feet.
- C.** No products shall be sold or stocked and no window displays to attract customers shall be permitted.
- D.** No internal or external alterations or construction features not customarily found in dwellings shall be permitted.

MMC 20.54.100 (Continued)

- E.** No newspaper, radio, or television service shall be used to advertise the occupations.
- F.** The occupation shall not generate vehicular traffic not normally associated with residential use.
- G.** No mechanical equipment shall be permitted that is not normally found in dwellings.
- H.** Any exterior sign shall be limited in size to one square foot; shall contain only the name and occupation or profession of the occupant; and shall be illuminated by nonflashing, nonscintillating reflected light only.

Common Issues



- ❖ Striking a balance between encouraging home-based businesses and protecting neighborhoods.
- ❖ Neighbors complain about employees or clients coming to the home creating parking issues
- ❖ No provisions for allowing piano lessons, swimming lessons, etc.
- ❖ Business-related vehicles parked in neighborhoods



Issues to Consider



- ❖ **Do we change our standards for home-based businesses to allow more of them?**
- ❖ **If so, what kind of home-based businesses do we want to encourage?**
 - ❖ **Car repair is often requested but is not recommended due to concerns with putting oil down the storm drains, etc.**
 - ❖ **Businesses with too many employees or clients coming and going often lead to complaints**
 - ❖ **On-going garage/yard sales are a problem (City Code only allows 4 per year per address)**
 - ❖ **Septic tank business several years ago was of great concern to the neighborhood and permit was revoked.**
- ❖ **If so, do we want to require some level of City review and approval?**

Cottage Food Operations



- ❖ **AB 1616 passed on September 21, 2012, effective January 1, 2013.**
- ❖ **In general, cities cannot prohibit Cottage Food Operations that meet certain requirements and must treat them as permitted residential uses for zoning purposes.**
- ❖ **Allows cities to issue non-discretionary permits to operate without public hearings**
- ❖ **Cottage Food Operations may have 1 employee who isn't an immediate family or household member**
- ❖ **Cottage Food Operations may sell directly to the public from the home and have customers come to the home.**
- ❖ **CFO's can self-certify to meeting health reqts and inspections by the County Health Dept per year are limited.**
- ❖ **“Cottage Foods” are as defined in AB 1616 and do not include “potentially hazardous foods” (generally, can't involve meat products)**

What Do You Think?



Early draft of the New Zoning Ordinance, the Consultants have proposed:

❖ 2 Categories of Home Occupations

- ❖ Minor = Home office using computer, phone, mail, etc. with no regular visits from customers, clients, employees, etc. (Permitted “By Right”)
- ❖ Major = Doesn’t meet the above definition; includes Cottage Food Operations (Minor Use Permit required)

❖ Standards for All

- ❖ Same size, display, advertising, sign, & traffic restrictions as current
- ❖ Deliveries only from 8am to 8 pm (Mon-Sat)
- ❖ No storage of hazardous materials

What Do You Think? (Cont.)

❖ Additional Standards for Minor Home Occupations

- ❖ Employees limited to those residing in the home
- ❖ No clients can visit the home
- ❖ Outdoor storage prohibited



❖ Additional Standards for Major Home Occupations

- ❖ 2 additional employees besides those who live there (except for Cottage Food Operations as allowed by the State)
- ❖ No more than 6 clients per day and only from 8am to 8pm
- ❖ Storage shall be enclosed and not visible from property line
- ❖ Cottage Food Operations shall have an approved Cottage Food Operation Permit from Merced County Health Dept
- ❖ Home Occupation Permit can be suspended by the Development Service Director “if it becomes detrimental to the health, safety, welfare, or character of the neighborhood, or constitutes a hazard or nuisance to pedestrian or vehicular circulation or parking.”

#1—Food Trucks



Type of Mobile Food Vendors

- ❖ Sidewalk Vendors (pushcarts, etc.)
- ❖ Street Vendors (mobile vendors that park on City streets)
- ❖ Food Trucks that park in a permanent location on private or public property



Street & Sidewalk Vendors (MMC 5.54)

- ❖ Not in the Zoning Code, requires an annual permit from the City Manager, with insurance, liability, public property use fee, & business license required.
- ❖ **Sidewalk vendors** must be at a fixed location on sidewalks without blocking passage; cannot be within 20 feet of intersections, 500 feet of other vendors, within 50 feet of restaurants, within residential zones (except parks which require a special concessionaires agreement), or within 300 feet of a park concessionaire.
- ❖ Cannot remain at its location overnight and cannot be larger than 5 ft wide by 10 feet long.



Street & Sidewalk Vendors (MMC 5.54)

- ❖ **Street vendors** can only park in permitted parking spaces along a public street and only for 10 minutes at one time.
- ❖ **Street vendors** cannot stop adjacent to any school from 8am to 4pm on any school day; or adjacent to any church on Sunday prior to noon; or adjacent to any hospital at any time; or adjacent to any park during the time of operation of any concessionaire authorized by the City.
- ❖ Both street & sidewalk vendors can only operate between 10am and 8 pm daily
- ❖ Both can sell only food and nonalcoholic drinks; sale of goods or other merchandise prohibited
- ❖ Both cannot shout or call out their wares, ring bells, or play music to attract customers.

Food Trucks at Fixed Locations

- ❖ Only allowed in the Thoroughfare Commercial (C-T), Light Industrial (I-L), and Heavy Industrial (I-H) zones with Site Plan Review
- ❖ Requires a Conditional Use Permit in a General Commercial (C-G) zone
- ❖ Not Allowed in Neighborhood Commercial (C-N), Central Commercial (C-C) [specifically “prohibited”], Commercial Office (C-O), or any residential zones



VENDOR TRUCK SITES

Zone CT, IL, and IH
Staff Review (\$645)

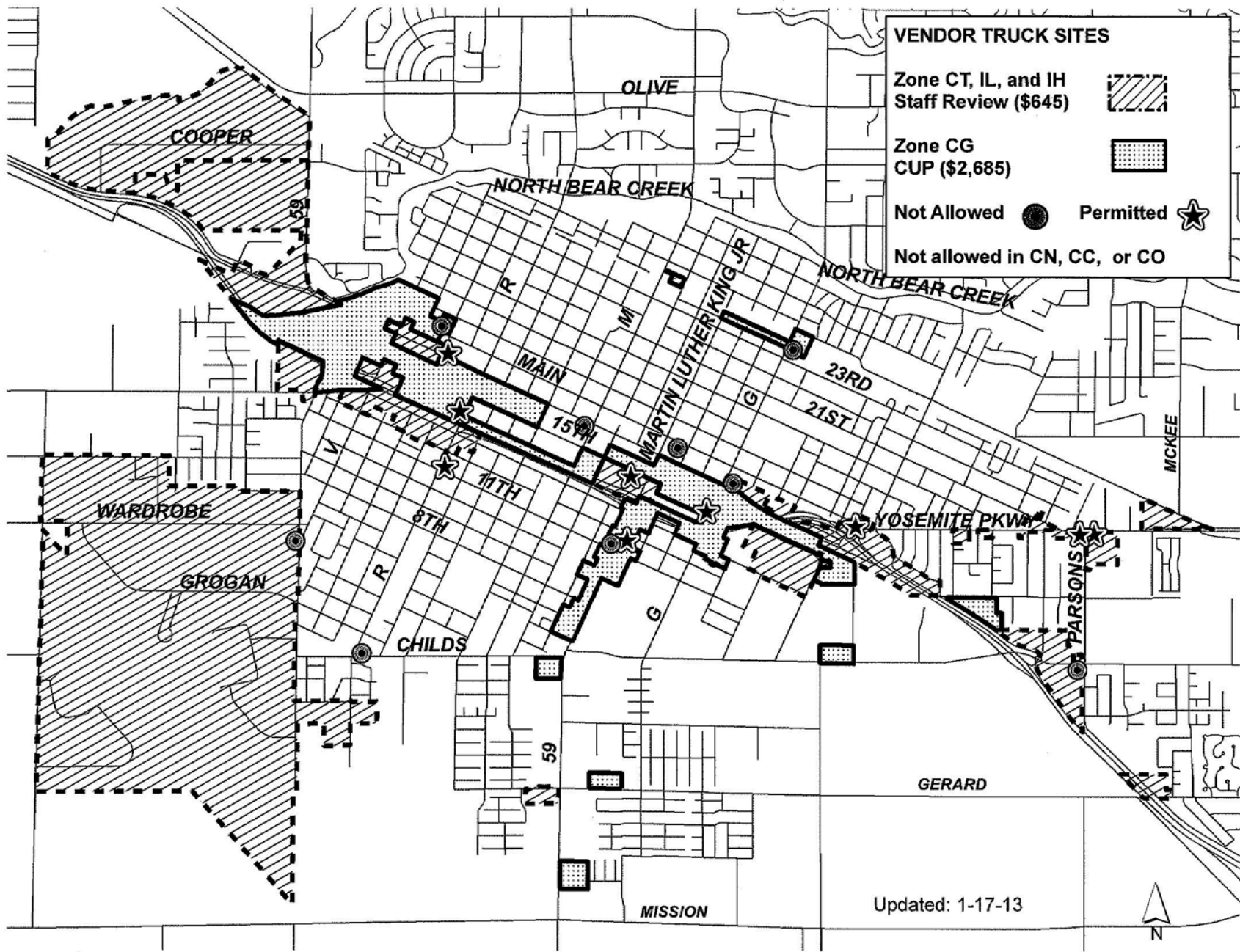


Zone CG
CUP (\$2,685)



Not Allowed ● Permitted ★

Not allowed in CN, CC, or CO



Updated: 1-17-13

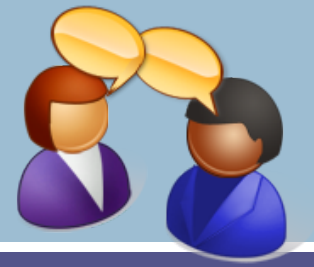


Issues to Consider



- ❖ City receives many complaints from these uses for parking where they aren't allowed, especially on weekends, not keeping the site clean, loitering, etc.
- ❖ These food trucks compete with nearby restaurants which have more fixed and overhead costs.
- ❖ There are very few locations left in the zones where they are allowed that aren't already taken by another vendor or property owners don't want them.
- ❖ There are no zones where they are allowed "by right" in North Merced (most areas are "Planned Development").
- ❖ However, food trucks are becoming increasingly popular and can offer larger varieties of food and even gourmet food. They are even featured on the Food Channel in different shows.

What Do You Think?



- ❖ **Some cities have declared moratoriums on food trucks...do we want to consider that?**
- ❖ **Or should we allow food trucks in more zones?**
- ❖ **If so, which zones and do we require a CUP?**
- ❖ **What kind of standards would we want to require (minimum distance between vendors, etc.)?**
- ❖ **Do we modify the regulations on “street vendors” to allow them to park for a greater period of time in one location? (10 minutes is not enough time for most of these operators to even get set-up.)**

Closing Thoughts & Questions



THANK YOU