
City of Merced
MEMORANDUM

DATE: September 8 & 9, 2015
TO: Planning Commission and City Council
FROM: Kim Espinosa, Planning Manager
SUBJECT: Public Review Draft of New Zoning Ordinance

Introduction

City staff is pleased to present the Public Review Draft of the new Merced Zoning Ordinance. 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 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 (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; and in September 2015, City staff produced this 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.

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 a total of 17 times from July 2013 to March 2015. Over the course of the meetings, the Focus Group made recommendations on the draft Zoning Ordinance. Please see the enclosed document entitled "Zoning Ordinance Update Focus Group Recommendations" for a summary of the recommendations from the Focus Group.

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

Tips for Reviewing the Draft

In order to make reviewing the Draft a bit easier, this is an “annotated” version of the Public Review Draft. This means that Staff has noted throughout the DRAFT whether a section is either:

- “[**NEW**],” meaning this section is completely new and is NOT in the current Zoning Ordinance; or,
- **“No Changes from the Current Ordinance [with a reference to the appropriate Merced Municipal Code (MMC) section].”** meaning that the section is in the current Zoning Ordinance and that the text has NOT been changed. However, since the Zoning Ordinance has been completely reorganized, the section has likely been moved to a new location with a new reference number. Therefore, a reference to where it can be found in the current ordinance is given; or,
- **“Modified from the Current Ordinance (with a brief summary of the changes),”** meaning that this section has been modified from the current Ordinance and then gives a brief summary of the changes and a reference to the current MMC section.

Please use the following link to find the current Zoning Ordinance (Title 20 of the Merced Municipal Code) on the City’s website if you wish to compare the existing text yourself.

https://www.municode.com/library/ca/merced/codes/code_of_ordinances

Also to assist in your review, City staff had enclosed a separate document entitled “Zoning Code Update—Summary of Major Changes” which summarizes the major changes in the Zoning Code in a table format.

QUESTIONS TO THINK ABOUT WHEN REVIEWING THE PUBLIC REVIEW DRAFT OF ZONING ORDINANCE

The Zoning Ordinance Focus Group asked City staff to prepare questions to assist the Focus Group in their review of the Draft Zoning Ordinance and to help focus their discussion on various issues. The Focus Group found this approach to be very helpful, so the questions have been provided below (with a few additions and modifications to reflect the changes made by the Focus Group) to assist in your review of the Draft Ordinance. (Please note that the list below is a combined list of the Focus Group questions from 2 sets of questions that were prepared, so the question numbers may not correspond to the question numbers in the Focus Group Recommendations memo.)

Overall Organization/Table of Contents

- 1) Although much of the content in the Public Review Draft is based on the City’s current Zoning Ordinance, the new Ordinance is organized much differently. Do you like the way the Draft is organized? Is it easy to understand and readable? Is it easy to find provisions that apply to specific land uses? Do the land use tables make it easier to see which land uses are allowed in each zone? Are the tables that spell out development standards easy to understand? Are the illustrations clear and understandable?

Part 1—Enactment and Applicability

- 2) Part 1 is made up of three chapters, 20.02—Purpose, 20.04—Interpretation, and 20.06—Zoning Districts and Maps. These chapters serve as an introduction to the Zoning Ordinance and provide explanations of how the ordinance should be interpreted. Are these provisions clear or do they need further clarification?

Part 2—Zoning District Standards

One of the most important aspects of the new Zoning Ordinance are the Land Use Regulation Tables in each of the chapters in Part 2. Many of the questions in this section focus on these Tables. When reviewing the Land Use Regulation Tables, think about each land use and whether it is appropriate for that zone (keeping in mind the purpose of each zone as described at the beginning of each chapter). You may also want to compare the proposed Table with the existing regulations which are summarized in tables at the end of each chapter. Also think about whether the level of City review required is appropriate, keeping in mind the following:

- a) **P = Permitted Use.** This means that the use is allowed with non-discretionary City review, either a Building Permit or a Business License. The City must allow the use to locate in that zone. The City's Interface regulations (Chapter 20.32) could be applied to require conditions to make them compatible with adjacent lower intensity uses but the land use itself cannot be denied.
- b) **M = Minor Use Permit Required.** This is a new permit defined in Section 20.68.020. Minor Use Permits would be approved or denied by the Director of Development Services or the Director could refer the permit to the Planning Commission for a decision. No public hearings are required so the neighbors would not be notified of the proposed use. This review process would generally not take more than 1-2 weeks, but would likely be much shorter.
- c) **SP = Site Plan Review Permit Required.** Site Plan Review Permits (Section 20.68.050) are reviewed by the Site Plan Review Committee (made up of the Director of Development Services, Chief Building Official, and City Engineer or their designees), unless referred to the Planning Commission by the Committee. Public hearings would not be required of Industrial uses (no change from the current ordinance); but public hearings would be required for properties directly adjacent to residentially zoned property or Interface reviews (Chapter 20.32) with a 10-day notice to adjacent properties. This review process should take no more than 3-6 weeks, less if no hearings are required.
- d) **C = Conditional Use Permit Required.** Conditional Use Permits are reviewed by the Planning Commission, which may approve the use with conditions to ensure compatibility with surrounding uses or deny the use as inappropriate for the proposed location. This is a discretionary review which requires environmental review and public hearings with 21-day notification required. This review process generally takes 6-8 weeks, but could be longer. Actions of the Planning Commission can be appealed to the City Council.
- e) **X = Use Not Allowed.** The City cannot allow the proposed use in that particular zone.

Chapter 20.08—Residential Zoning Districts

- 3) 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.)
- 4) 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?

Chapter 20.10—Commercial Zoning Districts

- 5) 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.)
- 6) In the current Zoning Ordinance, there are height restrictions applied in all zoning districts. In Table 20.10-2 on page 28 for all commercial zones (and also for industrial, Downtown, and other non-residential zones in later chapters), it is proposed that the height limits only apply to structures that are directly adjacent to residential zones and to allow exceptions to the height limits in those cases to be granted by the Site Plan Review Committee. This is designed to give flexibility to non-residential structures while still maintaining protections for residential areas. Do you agree with this change?
- 7) The Ordinance proposes design guidelines for 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. Are these changes appropriate?

Chapter 20.12—Industrial Zoning Districts

- 8) 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

- 9) Do you 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?
- 10) 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.
- 11) Are the new development standards in Section 20.14.030 starting on page 45 appropriate or too restrictive?

Chapter 20.16—Urban Village Zoning Districts

- 12) 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. Are these new zoning districts necessary?
- 13) Please review carefully Table 20.16-11 starting 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.
- 14) Are the new development standards in Section 20.16.030 starting on page 55 appropriate or too restrictive?

Chapter 20.18—Public Use and Agricultural Zoning Districts

- 15) 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?
- 16) 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.

Chapter 20.20—Special Use Zoning Districts

- 17) 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. Are these changes appropriate?

Chapter 20.22—Overlay Zones

- 18) What do you 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?

Part 3—General Regulations

Chapter 20.30—Walls and Fences

- 19) Section 20.30.020(A)(2) on page 98 would allow the addition of 1 foot of lattice on residential fences and Note 2 of Table 20.30-1 on page 98 would allow the maximum height of backyard residential fences to be increased from 6 feet to 7 feet. Are these changes appropriate?
- 20) Section 20.30.030 on Corner Vision Triangles on page 103 defines the areas where fence heights are limited in order to ensure visibility at intersections. The DRAFT proposes to change the requirement from 10 feet to 15 feet for driveways and alleys and to change the current requirement from 40 feet for all intersections to 25 feet, 40 feet, or 55 feet depending on the type of street. Are these changes appropriate?
- 21) The City's current Ordinance does not address some common wall materials. Section 20.30.040 on page 104 allows 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. Are these provisions appropriate?

Chapter 20.32—Interface Regulations

- 22) Section 20.32 (Interface Regulations), starting on page 105, would stay mostly the same from the current ordinance, but would change the requirement from a Conditional Use Permit before the Planning Commission to a Site Plan Review Permit before the Site Plan Review Committee (a staff level committee). Are these changes appropriate?

Chapter 20.34—Creek Buffers

- 23) There aren't any provisions in the current ordinance regarding these buffer areas along creeks, although they are required in the General Plan. Are these new requirements appropriate?

Chapter 20.36—Landscaping

- 24) This is an entirely NEW chapter, but is based on existing City requirements (outside of the zoning ordinance) and new provisions in State Law to address drought conditions. Are these new requirements appropriate?

Chapter 20.38—Parking and Loading

- 25) 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. Are these changes appropriate?

- 26) Section 20.38.080 (starting on page 135) includes NEW requirements for bicycle parking based on recommendations from the Bicycle Advisory Commission (BAC) and the Zoning Ordinance Focus Group. Unfortunately, the two groups did not agree on what should be required with the Focus Group wanting to only have requirements to match the State's new building "Green" code requirements and the BAC looking for more stringent requirements in order to encourage more bicycle use in the community. (Refer to the annotations in each section to see how the two recommendations differed.) Looking at the proposed requirements, are they too restrictive or appropriate for a community that is trying to become more "bicycle friendly"?

Chapter 20.40—Small Lot Single Family Homes

- 27) 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. Are these changes appropriate? Are there other zones where this should be considered?

Chapter 20.44—Special Land Use Regulations

- 28) Chapter 20.44 (starting on page 149) proposes special regulations for several new land uses not addressed in the current ordinance. Are these new regulations appropriate for the following uses:
- 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 20.44.040—Check Cashing Establishments (starting on page 152)?
 - c) Section 20.44.050—Community Gardens (starting on page 152)?
 - d) Section 20.44.060—Fraternities and Sororities (starting on page 153)?
 - e) Section 20.44.080—Live/Work Units (starting on page 155)?
 - f) Section 20.44.090—Recycling Facilities (starting on page 157)?
 - g) Section 20.44.100—Outdoor Displays of Merchandise (starting on page 159)?
 - h) Section 20.44.110—Photovoltaic Energy Systems (starting on page 160)?
 - i) Section 20.44.120—Single Room Occupancy (starting on page 161)?
 - j) Section 20.44.140—Wrecking Establishments (starting on page 162)?
 - k) Section 20.44.150—Emergency Shelters (starting on page 163)? 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.

- l) Section 20.44.160—Tobacco Sales Prohibited near Schools (starting on page 164)? In January 2015, the County Department of Environmental Health requested that the Focus Group include provisions that prohibited the sale of tobacco products within 1,000 feet of schools and other youth-oriented facilities. The Focus Group recommended that these provisions be included in the Public Review Draft for Council consideration. Are these new regulations appropriate?

Chapter 20.48—Home Occupations

- 29) Chapter 20.48 (beginning on page 171) proposes to establish two levels of home occupations (i.e. home-based businesses) and establishes levels of review and standards for each. (This is based on suggestions from the Focus Group and City staff’s experience with home occupations that sometimes cause concerns in neighborhoods.) Are these new provisions appropriate?

Chapter 20.58—Wireless Communications Facilities

- 30) Table 20.58-2 (starting on page 207) makes several changes to the existing ordinance in order to encourage more “stealth” facilities (those that look like trees or flagpoles instead of antenna towers), including allowing greater heights for stealth facilities and changing the review process to staff level reviews for most facilities. Are these changes appropriate?

Part 4—Permits and Administration

NOTE: Although Part 4 is more extensive than the City’s current ordinance on the different types of permits required for development (i.e. general plan amendments, zone changes, conditional use permits, etc.), for the most part, the DRAFT ordinance is either consistent with current City practices or with the requirements of State Law. Therefore, the following questions relate to only a few sections in Part 4.

- 31) Table 20.64-1 on page 228 summarizes the role of each of 4 bodies (the Director of Development Services, the Site Plan Review Committee, the Planning Commission, and City Council) in the development process for the various types of actions. Please review this table and indicate if you would recommend any changes in those roles.
- 32) Section 20.68.020 (starting on page 235) outlines the process for a new type of permit—the Minor Use Permit. Is this new type of permit necessary and do the proposed procedures seem appropriate?
- 33) Section 20.68.040 (starting on page 241) outlines the process for a new type of permit—Minor Modifications. Is this new type of permit necessary and do the proposed procedures seem appropriate?
- 34) 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 now will be

expanded for use in many more situations in the proposed DRAFT. Are these changes appropriate?

- 35) Section 20.68.040 (starting on page 244) outlines the process for a new type of permit—Special Project Permits. Is this new type of permit necessary and do the proposed procedures seem appropriate?
- 36) Section 20.72.080 (on page 256) on Resubmittals would limit applicants from submitting the same application within 12 months of previously being denied. The City currently has a similar provision, but it only applies to General Plan Amendments and Zone Changes. Should this be applied to all types of applications?
- 37) The City’s appeal process for many permits [including Section 20.74.030(B) (on page 257)] is currently defined as 5 or 10 calendar days (including weekends) based on the type of permit. The Draft proposes to change that to business days, excluding holidays and weekends. Is that change appropriate?

Part 5—Glossary (Definitions)

The number of definitions has been expanded significantly from 45 in the current ordinance to 239 new or modified definitions. These definitions are key to understanding the Land Use tables in Part 2, so please refer to these definitions when reviewing the chapters in Part 2.

- 38) Are the definitions in the Glossary clear and understandable? Are there any definitions that should be added?