

# CONCORD ZONING ORDINANCE PROJECT SUMMARY OF COMMUNITY FORUM, COMMUNITY LEADER MEETINGS AND PRELIMINARY LIST OF ISSUES



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# Table of Contents

<b>Introduction .....</b>	<b>1</b>
The new zoning ordinance process .....	1
Work program and schedule.....	2
Implementing the General Plan .....	2
Districting .....	2
Land use compatibility – being a good neighbor.....	3
Housing .....	3
Zoning for downtown and the BART station area .....	3
<b>Meeting results and key issues.....</b>	<b>5</b>
Overview of problems identified.....	5
Specific zoning issues .....	6
Use regulations.....	6
Development standards.....	7
Downtown.....	8
Neighborhoods .....	9
Industrial and commercial uses .....	9
Hillsides .....	10
Design review process.....	11
Development review, approvals, and appeals .....	12
Nonconforming uses .....	13
Enforcement.....	13
Need for general plan update or amendment .....	14
Priorities for the new zoning ordinance .....	15

# Introduction

As part of initial reconnaissance of issues relating to the Concord new zoning ordinance project, meetings with community leaders and residents were held in August and September, 2002. These leaders included members of the City Council, the Planning Commission and the Design Review Board, Chamber of Commerce representatives, lawyers, architects, business leaders, engineers, property managers, realtors and residents. A community forum for residents also was hosted by the City at the Willow Pass Community Center on September 25, 2002. All of those participating in this process were asked to discuss Concord's major zoning issues and challenges for the new zoning ordinance. The results of these initial meetings have been summarized as background for the kickoff meeting with the City Council and Planning Commission in January, 2002. City officials' comments on these issues and other issues that should be addressed in the new zoning ordinance will help focus the consultant team's efforts.

Results from these meetings and other opportunities for public participation will be used to create a new zoning ordinance that responds to all of the community's needs. Issues and concerns identified by community leaders and by those attending the community forum provide insight into current problems facing the City and serve as guidelines, identifying key issues to be addressed during the zoning ordinance update process. Similarly, issues identified by the City Council and Planning Commission at upcoming meetings and by community members at workshops will be considered during this process as well.

This section provides an overview of the new zoning ordinance; results of the community leader meetings are presented in the following chapter on Issues.

## **THE NEW ZONING ORDINANCE PROCESS**

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The City Council has decided to revise the City's Zoning Ordinance because it is out-of-date and no longer meets the City's needs; it also does not implement General Plan policies. The existing Ordinance, adopted in 1953, has been amended more than 100 times but, despite changes in State law, adoption of new General Plan in 1994, and the recent adoption of a revised Housing Element, has never been comprehensively updated. As a result of incremental amendments, it is difficult to understand and use and does not adequately communicate the City's land use policies or its regulatory objectives.

One overriding objective of the update process is to provide clarity, finality, and fairness in decision-making. Working principles identified by the consultant team to guide the update include:

- Zoning should perform - it should implement the City's planning policies;
- Zoning should be positive and design friendly;
- Community character, particularly in neighborhoods, should be respected;

- Zoning must recognize economic reality; and
- Zoning must reflect a willingness to rethink traditional assumptions, not only about what gets built but also with respect to the approval process.

These draft principles will be revised based on comments by the City Council, Planning Commission and the community and further work by the consultant team. They represent a starting point and a focus for the update process.

## **WORK PROGRAM AND SCHEDULE**

The zoning ordinance update program started with an analysis of the General Plan, current zoning and recent development projects as background for the interviews with community leaders and the community forum. During the coming months, ways of addressing the issues identified in this paper will be analyzed and compared. Then, following the direction of the Planning Commission, a preliminary outline of the new zoning ordinance will be prepared, and the drafting process will begin. Preliminary regulations will be reviewed in “modules” with the Planning Commission and revised to reflect comments by Commissioners and the community. The draft zoning ordinance will be subject to environmental review before the public hearing process. The update is anticipated to take two years.

## **IMPLEMENTING THE GENERAL PLAN**

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The 1994 General Plan includes a broad array of land use objectives and policies as well as very specific development standards. A number of provisions that should be incorporated in the zoning or subdivision regulations, such as the objectives and policies regarding neighborhood character and the mitigation of development impacts are not currently reflected in the zoning ordinance. A better linkage is needed between Plan policies and zoning to facilitate administration over the long term and to make clear that the Plan’s policies provide the underlying basis for the City’s land use regulations. As part of this process, it also will be important for the City to consider whether the General Plan policies are responsive to the City’s current needs and reflect the community’s vision for Concord. As part of the process of reaffirming or modifying General Plan policies, at a minimum technical amendments will more than likely be necessary.

## **DISTRICTING**

The General Plan establishes a straight-forward set of land use classifications and intensity/density standards that can be translated into a zoning framework. The Plan also has many geographically-specific policies and standards that could be reflected in the new zoning ordinance with overlay districts or with subdistrict designations within the base district framework and/or with special use standards. Tailoring the zoning framework to Concord so that it implements the General Plan efficiently, without creating nonconformities will be a challenge for the zoning ordinance update. General Plan amendments may be warranted to allow for a zoning solution that may not have been considered when the Plan was adopted, or is more appropriate given current needs and community concerns.

## **LAND USE COMPATIBILITY – BEING A GOOD NEIGHBOR**

Preserving and enhancing existing residential neighborhoods and ensuring compatibility of new development with existing uses are key objectives of the General Plan. At the same time, the Plan encourages the infill of vacant and underused properties. General Plan policies that specifically serve to enhance compatibility include:

- Ensuring that the scale of new development is complementary to the scale of its surroundings;
- Using landscaping and/or increased setbacks as a buffer between residential and more intensive land uses
- Encouraging resident-serving office uses close to residential neighborhoods.
- Adopting design guidelines for new residential development and remodeling to ensure compatibility with the existing neighborhood pattern;
- Using compatibility criteria in considering increases in residential density; and
- Reviewing land uses permitted in each zoning district for compatibility.

Wherever possible, it may be preferable for the new zoning ordinance to address compatibility through development and design standards and performance criteria, rather than discretionary guidelines requiring case-by-case interpretation, in order to make the City's expectations for development clear to applicants and easy to administer.

## **HOUSING**

The recently updated Housing Element calls for a number of revisions to the City's land use regulations to implement the City's housing goals. These include introducing minimum density standards, revising Planned Development procedures, and changing zoning and subdivision regulations to promote the development of smaller single family detached units and other housing types that would expand opportunities for home ownership.

The City has also identified a number of other possible revisions that will require analysis during the code update, including changes in zoning standards to encourage transit-oriented and mixed use development and to promote the development of duplexes and second units.

## **ZONING FOR DOWNTOWN AND THE BART STATION AREA**

The General Plan includes policies to promote residential development in transit corridors and also to take advantage of proximity to BART in the Central Area. The Plan also promotes the creation of a functionally and visually cohesive urban environment in Central Concord. Regulations to implement these ideas will need to be developed to ensure that the zoning ordinance implements the City's policies for development around Todos Santos Plaza and the BART station.

Experience in other cities has shown that successful zoning for Downtown and for transit station areas embodies the following concepts:

- ***Compact Land Development.*** The fronts of buildings come right up to the street; parking is located on the side or rear, or there is no parking.
- ***Mixed Use.*** A variety and mix of activities near rail transit stations promotes vitality and helps create a sense of place.
- ***Pedestrian Environment.*** Attractive, pedestrian-friendly streets and buildings are at a pedestrian scale and make people feel comfortable walking. Views into and from buildings (“eyes on the street”) help create a feeling of safety.
- ***Public Amenities.*** Awnings, shelters, benches, good lighting, and similar features provide comfort and safety.
- ***Parking Management.*** Careful management of parking supply and demand encourages transit use and walking while limiting auto use.
- ***Pedestrian and Bicycle Network.*** A complete network of walking and biking paths allows for easy transfers between light rail and buses.

How these ideas can be refined and tailored to meet Concord’s needs will be part of the new zoning ordinance project.

# Meeting Results and Key Issues

Issues and concerns raised by City officials, community leaders and those attending the September 25<sup>th</sup> community forum have been arranged into eleven thematic categories, including use regulations, development standards, zoning for Downtown, zoning for neighborhoods, zoning for industrial and commercial uses, hillsides, the design review process, development review, approvals and appeals, nonconforming uses and enforcement. Comments about the relationship between zoning and the General Plan and the need to update the General Plan also are noted. In the final section, priorities that were identified for the zoning ordinance are listed.

Quotes, presented following the summary discussion, are intended to convey specific ideas or the range of concerns expressed at both community forum and in the interviews. We have not included all of the comments made, but selected those that reflect the diverse viewpoints represented.

## **OVERVIEW OF PROBLEMS IDENTIFIED**

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Concerns raised by Concord officials and citizens covered the gamut of zoning issues. The following are the themes that stood out in interviews with City officials, stakeholders and the September 25 the community forum.

- How to protect neighborhood character;
- Affordable housing, infill development, and density;
- Citizen involvement in zoning review;
- Economic development – how to provide incentives through zoning;
- Quality of development and need for design standards and criteria;
- Mixed-use development and streetscape for pedestrians, seniors, and the disabled;
- Fit with General Plan – whether General Plan reflects current city needs;
- Problem uses, ranging from mini-storage to animal keeping; and
- Need to streamline the process: keep it simple, speed up review times and recognize that all projects are not the same.

The zoning issues discussed in the next section show how these general concerns apply to the eleven specific topics that are used to organize the meeting results.

## **SPECIFIC ZONING ISSUES**

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### **USE REGULATIONS**

The most common topic mentioned regarding use regulations is the need to restrict mini-storage centers. Other popular topics are restricting adult uses and storefront churches and promoting mixed-use development.

Other comments requested more relaxed zoning for child care services and senior facilities and more restrictive zoning on tattoo parlors, smoke shops, secondhand stores, and second units in small lots. How to address ancillary uses, such as delis and retail in the industrial areas and home occupations within residential neighborhoods, was raised as a concern. Still other issues included are provisions for cell towers, pressing for more housing, and expanding beyond commercial development in the Todos Santos Plaza area. Lastly, the need to address animal keeping, particularly, pot-bellied pigs and chickens but also other domestic animals, was raised.

Licensing was suggested as a way of dealing with problem uses, which can not always be effectively regulated through zoning.

#### **Quotes:**

“Be a good neighbor.”

“Concentrate child care facilities near Downtown and satellite public transportation hubs and near existing schools.”

“City pays a lot of lip-service to child-care, but the neighbors usually win and keep child care centers out of neighborhoods.”

“Create choices for affordable housing.”

“Create incentives for reuse of strip commercial areas.”

“Don’t go too far – don’t be exclusionary.”

“Have garage sale days – maybe uniform citywide.”

“Make the zoning more flexible, so the City can make reasonable decisions – change is a wonderful thing.”

“More emphasis on senior housing.”

“No more mini-storage!”

“Not enough safe activities for kids.”

“Why should ‘dollar’ stores be allowed as-of-right, while Chuck-E-Cheese requires a use permit?”

## DEVELOPMENT STANDARDS

The issues most frequently cited regarding development standards were the need for flexibility in relation to limitations on building size, massing, and floor-area ratios and the need for additional standards for fences.

Regarding parking, comments ranged from a need to raise the number of spaces required for office and apartment buildings to requests to do away with compact-size parking spaces, in acknowledgement of the preponderance of larger vehicles in the City. Other topics brought up included:

- Formalizing second-story addition standards,
- Maintaining consistency in building height standards,
- Requiring more attention to blighted areas,
- Inspecting for compliance with the Americans with Disabilities Act (ADA),
- Tightening landscaping requirements in planned neighborhoods and in shopping centers, and
- Re-evaluating permitting requirements.

### Quotes:

“Avoid ‘sameness’ and recognize pockets of design diversity.”

“Big houses: while there is a market today, are they needed over the long term?”

“Establish buffering requirements for mixed use development.”

“Get landscape maintenance requirements recorded, so the City can track conditions related to plant materials.”

“Incorporate pedestrian needs in development.”

“If you don’t provide enough parking for people who work there, they may not want to work there.”

“Promote minimums and have a menu of desirable options, additional features that could be in a project, so there is less to argue about.”

“Provide for disabled access – use a Universal Design Concept to facilitate access and ensure that there is enough handicapped parking.”

“The biggest problem with the Code is the assumption of ‘one size fits all’ and the lack of flexibility.”

“Think about high crime areas. Crime Prevention through Environmental Design conflicts with standards for screening and DRB requirements for hedges and walls.”

“The zoning ordinance with new standards can enable Concord to be like Carmel, Santa Barbara and Beverly Hills.”

## **DOWNTOWN**

Opinions of the current state of Downtown Concord are not unanimous, but all respondents agree that it can be improved.

The most popular comment with regard to Downtown is the need for allowing greater flexibility of zoning “to respond to appropriate proposals as they come forth,” with a related emphasis on promoting mixed-use development and “active” ground floor frontages. The need to have a better definition of what is retail was mentioned. Zoning should allow for ground floor uses that enhance the streetscape, but not allow banks, for example, on retail frontages. Stakeholders pointed to the downtowns of Walnut Creek, Hayward, Fairfield, and Pleasant Hill as places to emulate. Stakeholders also noted that Concord has carved out a “niche” in the retail market, with the auto dealers and specialty retailers, and the City should continue to capitalize on its strengths.

Other comments:

- The General Plan and zoning ordinance are not eye-to-eye on second-story uses.
- The BART station should be linked more to Downtown, with uses that support and promote mass transit use.
- Specific design criteria should be adopted for the old Downtown.
- Downtown should be more of a hub.
- More surface parking is desired.

### **Quotes:**

“The City needs to provide for all services that a city needs, not just Gucci, high-end restaurants and fancy stores.”

“The old downtown needs revitalization. Decades of poor planning has left it moribund. We should emulate Walnut Creek’s success.”

”Why isn’t a Day Spa allowed on a retail frontage? Why does the City just want “pure retail” on the square?

“Hayward is ahead of the game with a solid Downtown Plan which overrides the zoning ordinance and adjusted heights up around BART station.”

“The Legacy project is practically ‘in the street’ – where is the landscaping? The amenities?”

“The uses recently proposed around the BART station (JFK University, the Police Station, etc.) do not make maximum use of the station. Surrounding uses should make intense use of BART.”

“Downtown is trying to be an urban environment in a suburban environment.”

## NEIGHBORHOODS

Many comments pointed out that Concord is a city of neighborhoods, and that the City cares for its citizens.

The most frequently cited concern relevant to neighborhoods is preservation and protection of neighborhood character. Stakeholders and residents disagree on the means of preservation: some call for stricter zoning standards (requiring land-use compatibility and stricter enforcement), while others argue for “flexibility, because neighborhoods change.” Many speakers at the community forum and several stakeholders noted that more sensitivity to the needs of specific neighborhoods is necessary, and that neighborhood code enforcement should be improved so it also addresses zoning issues.

Further suggestions include establishing mixed-use centers, preparing neighborhood plans, and having more citizen review.

### Quotes:

“No on-street parking – this affects neighborhood character.”

”North Todos Santos specific plan is good.”

“Plan for the eventual demolition of long, ugly commercial strips like Clayton Road and Monument Blvd. Grow and cultivate neighborhoods, not strip malls.”

“Projects are being approved in face of neighborhood opposition – developers always get their way.

“The City is not sensitive to specific neighborhoods – not enough is done to make projects fit into neighborhoods.”

“Think about additions on small homes in small lot neighborhoods.”

“Think long term – think about the loss of the orchards.”

“Traffic calming is needed in neighborhoods.”

“We need to recognize differences within the City and need to be flexible in some areas, such as Downtown, but also the importance of neighborhood conservation in other areas.”

“We have lost too many good trees – trees are important.”

## INDUSTRIAL AND COMMERCIAL USES

Todos Santos Plaza is hailed as an example of good and well-assembled commercial use – its urban character and pedestrian orientation is good and should be emulated as other commercial areas are redeveloped. The Market Street Auto Row also elicits praise.

Stakeholders do not agree on whether Concord should try to attract high-end retailers (as does Walnut Creek) or focus on mall stores that appeal to a broader population. There is

some concern about the over-reliance on Planned Development zoning (PDs) and the weak findings requirements for showing “superior” benefits. At the community forum, the issue of too much “corporate architecture” was raised; City officials and speakers at the community forum also noted that Concord needs to emphasize creating walkable commercial areas.

Further suggestions:

- Establish satellite/neighborhood mixed use centers which incorporate public transportation hubs.
- Promote mixed use – need to be near transit, and be logical about what the use mix is.

**Quotes:**

“City has been good at attracting good clients... not going for Nordstrom’s...”

“Industrial – OK, well taken care of; what Concord doesn’t have enough of is commercial, shortage of quality commercial – have fast food, but not high end.”

“Require new businesses to mitigate their associated need for new housing.”

“City though is hurt by a project such as Park N Shop... prominent but not appealing...many developers would want to take a run at that project.”

## **HILLSIDES**

The issue of how, when, and whether to develop Concord’s hillside areas is an important issue, as they are the most prominent natural and scenic resources the City has.

There were few comments related to hillside regulations, but among those made were requests for larger residential lots to avoid overcrowding the hillsides, stronger protection for the viewsheds, and clarification of hillside regulations.

The issue of “excluded areas” in determining where the hillside regulations apply was raised as a concern – one suggestion was that areas subject to hillside standards be shown on the Zoning Map. Another was that hillside regulations should not apply where grading has changed topography. One interviewee requested prohibiting mass grading and terracing of hillsides.

**Quotes:**

“The City recently gutted its hillside protection regulations and policies. This is counter to the trend in other communities. Do something to protect viewsheds.”

“Hillside regulations are confusing.”

“Adopt an urban growth boundary.”

## **DESIGN REVIEW PROCESS**

During the interviews, sign issues received more comments than any other topic. Specific problems were the predominance of large signs and temporary signs and unconventional advertising, such as the decorative car at Lori's Diner.

The most common comment regarding the design review process is that it should come earlier in the development review process; although many people also noted that the newly-instituted two-step process seems to be working well. Others thought that design review should occur only after decisions have been made on a use permit application, and that the Design Review Board's decision should be advisory, not binding. Less common were suggestions that more emphasis should be placed on by-right approval, without the need for separate design review. Finally, some proposed that the City's "ad-hoc" design review process, including City officials on a design review committee, is good for City projects and projects in which the City has a direct or indirect financial interest and that this process should be codified.

A frequent criticism of the design review process is that it is "arbitrary and subjective," too politicized, and needs objective criteria, using the City's design guidelines, which were adopted in 1987, as a starting point. (A smaller, but significant number of interviewees stated that the DRB is working fine, as-is.) Other complaints were that the DRB and the design review process are simply "cumbersome" and the process has even been precluded by perceived community disapproval of proposed projects, resulting in businesses or developers looking for sites in other communities. Further, some speakers at the community forum and some stakeholders noted that the Design Review Board (DRB) does not seem to be well-acquainted with the retail business and is "obstructionist."

"Corporate architecture" (standard building design imposed by chain retail outlets) was cited multiple times as a trend which is becoming too common in Concord and dilutes the City's individuality; another comment stated that there is "no such thing." When probed, interviewees noted that "corporate signage" is acceptable, but experience in other communities has shown that "cookie-cutter" designs can be modified to fit with a community's design expectations and with existing architectural styles.

Other concerns include that, to some observers, the Planning Commission wrongly tries to adjudicate design review issues and that residential development is not subject to DRB review and approval. Stakeholders and speakers at the community forum agree that high-quality design is desirable and requires regulations. The challenge will be how high to raise "the bar", taking account of the competitive environment in Contra Costa County and the relative attractiveness of other communities. Also noted was the idea of defining thresholds for staff review of design issues and defining more specifically what constitutes a "minor modification" and who should approve that. The concern is that sometimes what is minor could raise neighborhood issues. Another proposal was to consider design review for single-family homes within subdivisions, but not homes on pre-existing lots.

**Quotes:**

“No more ‘good enough for Concord’.”

“We need design review guidelines flexible enough to respond to changing conditions.”

“If Concord wants good design, there should be muscle behind it – the development community is getting mixed signals.”

“The City is always getting the same types of projects.”

“The City should try to get better development than they ever could have conceived of.”

“We need to expand noticing provisions for the preliminary design review hearing/workshop, so the community knows what is happening.”

## **DEVELOPMENT REVIEW, APPROVALS, AND APPEALS**

One major criticism of the development review process is that it needs streamlining: there is too much bureaucracy involved (one stakeholder stated that one office building projected required seven hearings for approval),<sup>1</sup> and it is too “opaque.” Another is that the design review process comes too late in the development review process; one suggestion was to move it ahead of the use permit requirement, but this idea was not uniformly supported by those interviewed<sup>2</sup>. Several of those interviewed thought the current two-step process is an improvement over prior procedures. Still another suggestion is that planned developments (PDs) are used too frequently in the City and are given an “anything goes” pass through the development review process.

The most common suggestions were to expand the types of development that can occur by-right and to institute a Master Sign Plan requirement, which would apply not only to new commercial development, but also to existing commercial centers that are renovated or redeveloped. Many stakeholders stated that there are no historic resources in the City, and property owners should have veto power over potential historic designations, a process that currently is in the code, but some of those interviewed were not aware of this provision.

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<sup>1</sup> Review processes have been consolidated in recent years, so, according to City Staff, the problem cited would not occur today.

<sup>2</sup> The City’s current development review process does provide for a preliminary design review meeting prior to the Planning Commission hearing on a use permit, followed by final design review after a use permit is approved.

Other suggestions were to introduce more flexibility to the development review process, allow more citizen input, and have staff and developers work together through the process<sup>3</sup>. More clarity in outlining the hierarchy of approvals was also requested.

Turning to the City's current appeals procedure, most of those interviewed stated that it appeared to be working fine as-is. No major problems were identified.

**Quotes:**

"Infill projects really need Planning Commission oversight because of neighborhood concerns. 'As of right' may be OK for things like outdoor seasonal storage."

"Public participation in the planning process needs a lot of improvement. Right now, a project can be in the works for a months, even years, without the neighbors being informed."

## **NONCONFORMING USES**

A nonconforming use is a legal use that does not conform to current use regulations in a zoning district, either because it was established in the County and subsequently annexed to the City or because the site was re-zoned.

Nonconforming uses did not garner many comments, compared to other specific zoning issues. Concerns include which means can be used to get nonconforming uses up to current standards and whether the City will acknowledge the need for uses that are not well-liked but are necessary (e.g., a radiator shop).

One suggestion was to consider a Nonconforming Use Amortization Overlay District for areas that had been annexed, where existing nonconforming uses were not "grandfathered." This overlay district could provide for a targeted phasing out of these uses over time.

**Quotes:**

"We have to be careful with nonconforming uses – it's easy to zone out uses – we have to include those nasty uses that people need like radiator shops across from the police station."

"I believe in mixed use but also in preserving neighborhood character – older housing may not be well built, but it is affordable."

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<sup>3</sup> Changes instituted in the development review process over the past two years have included having a planner assigned to see a project through the process.

## **ENFORCEMENT**

Enforcement deals with penalties meted for noncompliance with the zoning code and the regularity with which code violations are observed and reported.

Comments on enforcement were not numerous, but did concentrate on three themes. The first is that regardless of the zoning code's functionality, it is not being enforced as stringently as it could. According to one stakeholder, the City has a history of adopting Trails Plans and then ignoring them: "Conformance with the new Trails Plan should be made part of the zoning ordinance."

The second is a suggestion to implement citation as a "ticketing" system. The third is evaluating a two-tier citation system: infractions for violations of standards and misdemeanors for violations of use regulations.

### **Quotes:**

"Problems are with enforcement, not with the Code itself.... Window signs are used as way around the zoning standards for wall signs."

"Process has gotten better. I like the idea of have 'ticketing' authority with infractions; the City Attorney would prosecute violations."

"Maybe bring neighborhood enforcement programs into zoning, rather than have as standalone process."

## **NEED FOR GENERAL PLAN UPDATE OR AMENDMENT**

Many of those interviewed and some speakers at the community forum noted that the zoning map does not match the General Plan and the zoning ordinance update may be implementing General Plan policies that may not respond to current community concerns. How to coordinate technical amendments that may be needed with the broader issue of whether the General Plan reflects current needs and expectations also was raised as an issue.

## **PRIORITIES FOR ZONING ORDINANCE UPDATE**

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The following priorities were proposed for the zoning ordinance update:

- Keep the process simple; streamline and simplify review procedures.
- Think about who uses the ordinance, particularly homeowners who may not use the zoning ordinance very frequently.
- Ensure fairness in the process.
- Protect neighborhoods.
- Provide for infill housing.
- Provide for economic development.
- Provide for flexibility and be able to accommodate change.
- Put design guidelines into the Code (e.g., those guidelines that can be codified as standards because they are quantifiable or compliance can be readily determined).
- Ensure land-use compatibility for neighborhoods.
- Establish better mixed-use standards, including buffering requirements.
- Capitalize on Downtown assets (BART and Todos Santos Plaza).
- Ensure pedestrian- and senior-friendly design and access for the disabled.
- Improve noticing for meetings.
- Eliminate the “Study” zoning districts.
- Strengthen enforcement.

Some of these priorities are mutually supportive, but others pose potential conflicts that will have to be resolved. For example, is adding design standards consistent with the idea of keeping the ordinance simple and easy to administer; will design guidelines be a disincentive for economic development? Tradeoffs will be evaluated as zoning options are developed. The challenge will be to strike a balance that responds to City policy and community needs.