



STAFF REPORT

MEETING DATE: December 11, 2023

PRESENTER: Manuel Campos, Assistant Planner

SUBJECT: Public hearing regarding Conditional Use Permit 2023-05 proposing the operation of a drive-through facility and an outdoor dining area at 15243 W. Whitesbridge Rd. and Conditional Use Permit 2023-06 proposing the operation of a drive-through facility and an outdoor dining area at 15215 W. Whitesbridge Rd. (MC)

RECOMMENDATION: The Kerman Planning Commission conduct a public hearing, deliberate, and by motion:

1. Adopt a finding of a Class 32 Categorical Exemption (In-Fill Development Project) pursuant to CEQA Guidelines Section 15332
2. Adopt a resolution approving Conditional Use Permit 2023-05 to allow for the operation of a drive-through facility and an outdoor dining area for Starbucks Coffee Company located at 15243 W. Whitesbridge Rd.; and
3. Adopt a resolution approving Conditional Use Permit 2023-06 to allow for the operation of a drive-through facility and an outdoor dining area for Chipotle Mexican Grill, Inc. located at 15215 W. Whitesbridge Rd.

EXECUTIVE SUMMARY: Conditional Use Permit (CUP) 2023-05 (Starbucks), CUP 2023-06 (Chipotle), and Site Plan Review (SPR) 2023-03 filed by Associated Design and Engineering (Applicant), on behalf of Sunnyside Investments (property owner); requesting approval of CUP 2023-05 which entails the operation of a drive-through facility and an outdoor dining area for a 9,120 square feet (sq. ft.) commercial pad located at 15243 W. Whitesbridge Rd. The applicant is also requesting approval of CUP 2023-06 which entails the operation of a drive-through facility and an outdoor dining area for a 2,325 sq. ft. commercial pad located at 15215 W. Whitesbridge Rd. Site development for both Project sites will be developed consistent with SPR 2023-03 which proposes the construction of a business center that spans across four vacant parcels encompassing approximately 2.79 acres, and are located on the southeast corner of W. Whitesbridge Rd. and S. First St., in Kerman, CA., zoned CG (General Commercial) with an GC (General Commercial) General Plan land use designation (APNs: 023-060-18S, 19S, 20S, and 21S). A Categorical Exemption pursuant to 15332 of the CEQA Guidelines will be considered for the Project.

APPLICABLE CODES AND PROCEDURES

KMC 17.12 – Conditional Use Permits

KMC 17.14 – Site Plan Review Permits

KMC 17.48 – General Commercial District

KMC 17.78 – Development Standards

Public Resource Code – CEQA 15332 – In-Fill Development Projects

The Kerman Municipal Code (KMC) allows the Commission to grant or deny approval of a conditional use permit provided that a public hearing is held on the proposed use or uses to review and consider any public testimony. Prior to the public hearing, a Staff report, environmental determination, and general plan finding for the use permit(s) shall be made available to the Commission, interested agencies, and the public.

The use(s) should be denied if the Commission cannot make the appropriate findings. Conditions may be attached to the approval of the use permit(s) to ensure compatibility. Project design may be altered, and site improvements may be required to make the Project compatible with nearby uses. In addition, the application may be subject to future review, modification, or revocation by the Commission, as deemed necessary.

ANALYSIS

Prior action

The property lines for the subject APNs have recently been adjusted via Lot Line Adjustment (LLA) 2023-01. The new parcel boundaries conform to current development standards and will not impact the subject entitlement applications.

Project Proposal

The applicant is requesting approval of two CUP applications to allow for the operation of two separate drive-through facilities and two outdoor dining areas for the commercial pads located at 15215 W. Whitesbridge Rd. and 15243 W. Whitesbridge Rd. respectively. Site development for both CUPs will be developed consistent with SPR 2023-03 which proposes the construction of a business center that spans across four vacant parcels encompassing approximately 2.79 acres (APNs: 023-060-18S, 19S, 20S, and 21S).

CUP 2023-05 proposes the operation of a drive-through facility and an outdoor dining area for a 9,120 sq. ft. commercial pad located at 15243 W. Whitesbridge Rd. Said commercial pad is noted as building 'A' in **Attachment 4** which includes the construction of a multi-tenant shell building. The drive-through facility will be managed by Starbucks which has a gross floor area of 2,204 sq. ft. and an outdoor dining area of 505 sq. ft. Starbucks proposes to operate from 5 AM to midnight, seven days a week. Starbucks will operate with approximately six (6) to seven (7) employees during any given shift. The drive-through facility has been designed to accommodate eighteen (18) motor vehicles in the queuing lane. The outdoor dining area for Starbucks will be secured with fencing and will provide seating and shading via portable umbrellas.

CUP 2023-06 proposes the operation of a drive-through facility and an outdoor dining area for a 2,325 sq. ft. commercial pad located at 15215 W. Whitesbridge Rd. Said commercial pad is noted as building 'C' in **Attachment 4** which includes the construction of a Chipotle restaurant. Chipotle proposes to operate from 8 AM to 11 PM, seven days a week. Chipotle will operate with approximately eight (8) or less employees during any given shift. The drive-through facility for Chipotle has been designed to accommodate eight (8) motor vehicles in the queuing lane. The dining area for the restaurant will be secured with fencing and will provide seating underneath a 320 sq. ft. shade structure.

Approval of the CUP applications would allow the site to operate two (2) drive-through facilities and two (2) outdoor dining areas. CUP 2023-05 and CUP 2023-06 will be developed consistent with SPR

2023-03. Denial of the CUP applications would prohibit the site from operating the drive-through facilities and outdoor dining areas for the subject addresses.

Site Location and Surrounding Land Uses and Setting

The Project site is located along Whitesbridge Road between South First Street and South Kline Avenue. As noted in **Table 1.**, the site is surrounded by the Kerman Unified School District (KUSD) main office to the north, a restaurant (Me-n-Ed’s Pizza Parlor) to the east, an apartment complex (Kerman Plaza Apartments) to the south across an alley, and a KUSD parking lot to the west across South First Street.

Table 1. Existing Land Uses, General Plan Designations, and Zone Districts of Surrounding Properties

Location	Existing Land Use	General Plan Designation	Zone District
North	KUSD	Schools/Institutional	CG – General Commercial
East	Restaurant	General Commercial	CG – General Commercial
South	Apartment Complex	High-Density Res.	R-3 – Multi-Family Res.
West	Parking Lot	General Commercial	CG – General Commercial

Zoning & General Plan

The Project site is zoned CG (General Commercial) with a GC (General Commercial) General Plan land use designation. The general commercial zone district allows for a wide range of retail, professional, and commercial services, however, drive-through facilities and outdoor dining areas are subject to a conditional use permit.

CUP 2023-05 - Drive-through Facility and Outdoor Dining Area

Although the City does not have development standards for drive-through facilities, it should be noted that the subject drive-through facilities have been reviewed consistently with recently approved drive-through facilities, such as Dutch Bros, Fast-N-Esy, and other high-volume drive-through uses in nearby cities. Staff recommends that the outdoor dining areas for the business center not be allowed to operate past 10 PM due to their close proximity to a residential use.

Starbucks’s proposed drive-through facility has been designed as a double-lane drive-through. This design will help prevent on-site circulation issues and will ensure faster pick-up times. The drive-through facility has a maximum queuing capacity of eighteen (18) vehicles. There are preview menu boards located along the drive-through as seen at most Starbucks locations. There is a distance of seven (7) vehicles between the ordering kiosk and the pickup window. As part of a condition of approval, a three-and-a-half foot (3’-6”) block wall will be constructed along the drive-through facility to minimize headlight glare. Landscaping will required along the perimeter to further minimize headlight glare and to enhance the appearance of the drive-through facility. The existing Starbucks drive-through facility at the Walmart shopping center has a maximum queuing capacity of 6 (six) vehicles. Though Staff is unaware of any significant issues with the current drive-through setup, Staff believes vehicle stacking for six (6) vehicles underserves current demand. Thereby, Staff believes that the proposed drive-through facility with a vehicle queuing capacity of eighteen (18) is more than adequate in size in comparison to the existing Starbucks location.

The proposed outdoor dining area encompasses 505 sq. ft. and provides seating for ten (10) people underneath portable umbrellas. This dining area will be required to be secured with decorative fencing. Landscaping will also need to be installed along the perimeter. No outdoor amplified music will be permitted to prevent noise nuisance to surrounding properties.

CUP 2023-06 - Drive-through Facility and Outdoor Dining Area

Chipotle's proposed drive-through facility has been designed as a single drive-through lane. As presented the drive-through facility has a maximum queuing capacity of eight (8) vehicles. The drive-through facility will be utilized for pickup-only orders through the company's mobile app and will not have an intercom or ordering menu. This form of drive-through is a new feature of Chipotle's business model known as "Chipotlane" and has been around since 2018. As a condition of approval, a three-and-a-half foot (3'-6") block wall will be constructed along the drive-through facility to minimize headlight glare. Landscaping will be required along the perimeter to further minimize headlight glare and enhance the appearance of the drive-through facility. Staff has contacted various cities with Chipotlanes and has gathered a consensus that these kinds of drive-through facilities do not yield significant traffic issues as they are pick-up-only facilities. Staff has also reviewed the proposed drive-through facility closely with approved Chipotlanes in the cities of Elk Grove and Eureka. One Chipotlane operation study revealed that two high-volume Chipotlanes often had one (1) to six (6) vehicles in the queuing lane during any given hour. There was only one instance where seven (7) vehicles were observed in the queuing line. Given the location of the referenced Chipotlanes and the population size of the surrounding areas, Staff has concluded that the proposed Chipotlane provides adequate queuing capacity to prevent vehicle spillover. Should the drive-through facility result in issues for the site. Staff can recommend that CUP 2023-06 be brought to the commission for modification and/or revocation.

The proposed outdoor dining area encompasses 423 sq. ft. and provides seating for eight (8) people underneath a 320 sq. ft. shade structure. This outdoor dining area will be required to be secured with decorative fencing. Landscaping will also need to be installed along the north and west sides. No outdoor amplified music will be permitted to prevent noise nuisance to surrounding properties.

Development Requirements

As mentioned previously the Project site is in a general commercial zone district and must adhere to the development requirements set forth in KMC 17.48 (General Commercial District) and KMC 17.78 (Development Standards). As shown in **Attachment 4**, SPR 2023-03 proposes phase 1 of the business center which includes the construction of a 9,120 sq. ft. multi-tenant building, 2,325 sq. ft. restaurant building, and 112 parking stalls across four (4) vacant parcels located at the southeast corner of W. Whitesbridge Rd. and S. First St. Phase 2 which is not a part of this Project proposes the construction of a 4,430 sq. ft. shell building (building 'B') and a telecommunications tower. The shell building and telecommunications tower shall be reviewed separately at the time of development. The Project site will be accessible to motor vehicles via two (2) points of ingress/egress one (1) along South First Street and the other located along South Kline Avenue. The final site design will be determined at the administrative level by the Planning Division. Key considerations that will be addressed within SPR 2023-03 will include but will not be limited to as follows:

15243 W. Whitesbridge Rd.

Table 2. Development Standards Required by KMC Section 17.48.040

Development Standards	Required	Proposed
Minimum Lot Size	6,000 sq. ft.	59,241 sq. ft.
Height Limitation	35'	30'-9"
Yards (Min.)		
Front yard	60'	91'
Side yard	N/A	N/A
Rear yard	N/A	N/A

15215 W. Whitesbridge Rd.

Table 3. Development Standards Required by KMC Section 17.48.040

Development Standards	Required	Proposed
Minimum Lot Size	6,000 sq. ft.	19,166.4 sq. ft.
Height Limitation	35'	19'-4"
Yards (Min.)		
Front yard	60'	82'-6"
Side yard	N/A	N/A
Rear yard	N/A	N/A

Parking:

Tenant	Floor Area	Use Type	Parking
BLDG A - Starbucks (A)	2,204 sq. ft.	Restaurant 1 p.s. / 4 seats	6 p.s (+3)
BLDG A - Tenant (B)	2,280 sq. ft.	Retail Use 4.5 p.s. /1,000 sq. ft.	11 p.s (+2)
BLDG A - Tenant (C)	2,165 sq. ft.	Retail Use 4.5 p.s. /1,000 sq. ft.	10 p.s. (+2)
BLDG A - Tenant (D)	2,280 sq. ft.	Retail Use 4.5 p.s. /1,000 sq. ft.	11 p.s. (+2)
Building B	4,430 sq. ft.	Retail Use 4.5 p.s /1,000 sq. ft.	20 p.s (+2)
BLDG C - Chipotle	2,325 sq. ft.	Restaurant 1 p.s. / 4 seats	9 p.s (+3)
Outdoor Dining Areas (x2)	18 seats	On-site dining	5 p.s.
Total provided			112
Total required by the KMC			72
Total required with recommended parking stalls			86

Parking stalls = (p.s), Building = BLDG, Additional parking recommended by staff = (italicized text)

Building 'A' will be required to provide thirty-eight (38) parking stalls (p.s), building 'B' will be required to provide twenty (20) p.s if developed as a retail building, and building 'C' will be required to provide nine (9) p.s. The Starbucks outdoor dining area will need to provide 3 p.s. Chipotle's outdoor dining area will need to provide 2 p.s. The site is required by the KMC to provide no less than seventy-two (72) parking stalls. However, Staff will be recommending that extra parking stalls for employees be

incorporated into the overall required parking count. Current parking requirements do not account for employee parking. For that reason, staff is recommending three (3) additional parking stalls for both Starbucks and Chipotle. Staff is recommending 2 additional parking stalls for every other tenant and building. The parking lot maintains a 26-foot-wide drive aisle in some areas which will allow for high vehicle mobility. In the event that onsite dining seating is increased then site shall provide the required parking stalls.

Lighting: Parking lot and exterior lighting will be provided as necessary for public safety purposes and will meet the Lighting Standards provided by City Standards. Lighting fixtures will be architecturally integrated with the character of the main structure and surrounding area. Site lighting will also be appropriately down shielded including cut-off lenses that avoid light spillage and glare onto existing residential properties and the public right-of-way. Overall, the development of the site and any required on-site lighting will comply with Section 17.49.030 (9) of the KMC.

Noise Abatement: Noise-generating activities of the Project would include traffic noise and stationary source noises, such as day-to-day operations and construction. Development of the Project would increase traffic along W. Whitesbridge Road, which is identified by the City's General Plan to be a primary source of noise in the City. Project operations are expected to generate noise from the drive-through in addition to ambient noise from customers in the parking area. Stationary-source noise would also result from construction activities. The nearest sensitive receptor is the apartment complex located approximately 50 feet south of the Project site; however, a block wall will be constructed at the south property line of the Project site to minimize noise. As proposed, the Project site is designed (i.e., setbacks and landscaping, building orientation, etc.) in conjunction with hours of operation, to provide additional barriers and separation to reduce noise impacts. The drive-through facilities and outdoor dining areas are not anticipated to generate excess noise beyond the ambient noise of 70 decibels (dB) in the daytime and 65 dBs in the nighttime as identified within the Public Health and Safety Element of the General Plan.

Traffic: Due to the size of the Project site, the proposed business center that includes two drive-through facilities and two outdoor dining areas does not have the potential to generate significant traffic that would impact surrounding streets because the existing roadways are substantially developed to planned widths capable of handling the moderate volume of traffic. Based on the initial traffic impact study analyzing the Project, it can be determined that the intersection of Whitesbridge Road and First Street is currently operating at acceptable levels of service during peak hours and is expected to continue to operate at acceptable levels of service through the year 2044 with the Project and construction of the median island worm to be completed by Kerman Unified School District (KUSD). The median island worm will prevent left turns from First Street onto Whitesbridge Road. It is also noted that the installation of a HAWK signal at the intersection by KUSD is expected to enhance visibility and protect pedestrians crossing Whitesbridge Road. As proposed, the Project does not warrant any public improvements that would trigger further analysis of the project. Overall, site design approved via SPR 2023-03 will be conditioned to conform to specific Circulation Element policies and programs to include any necessary right-of-way dedications or active transportation programs. Thus, the existing roadway capacity is adequate to serve the projected vehicle trips potentially generated by the Project.

Public Improvements: The site is bounded by West Whitesbridge Road to the north. The roadway is currently improved with one (1)-lane traffic along First Street and two (2)-lane traffic along Whitesbridge Road. All public utilities (sewer and water) are available to serve the site. Additional public access improvements will be required as a component of the final occupancy of the site. Improvements along West Whitesbridge Road and South First Street will be required as part of SPR 2023-03 to be completed prior to final occupancy of any building.

Other Department Comments

The Project proposal(s) were reviewed by various other City Departments and affected outside agencies. The responses and recommendations have been incorporated into the recommended conditions of approval included in this report.

Conclusion

Drive-through facilities and outdoor dining areas are permitted uses subject to a conditional use permit. Site-specific development criteria will be evaluated via the site plan review process which will address any potential impacts associated with the uses. Additionally, as conditioned there is no evidence that suggests approval of the CUP applications would be detrimental to the public, health, safety, and welfare of those residing or working nearby. To ensure the continued compatibility of the site with surrounding uses, conditions of approval have been incorporated that address typical concerns associated with establishments that operate with drive-through facilities, and outdoor dining areas.

APPLICABLE GENERAL PLAN POLICIES

The 2040 General Plan includes policy recommendations related to the various physical development aspects of the community. The policies are supported by a set of goals and objectives. The Planning Commission shall refer to the General Plan's policies, goals, and objectives when deciding on this particular request.

Through the Project and development review process and in collaboration with other City departments and outside agencies, the Project has been designed to comply with the City's General Plan goals, policies, and objectives. Below is an excerpt from the General Plan that is germane to this Project:

ED-1.1 Increase Business: *The City shall strive to increase the number of businesses operating in Kerman to satisfy the routine needs and dining, services, and retail desires of residents while also increasing sales, property, business, and potential transient-occupancy taxes.*

LU-2.4 Architectural Character: *During the development review process, the City shall review new Projects and major renovations to ensure that the Project design and architectural character complement the character of the surrounding neighborhood.*

LU-2.5 High-Quality Design: *During the development review process, the City shall encourage new Projects to incorporate high-quality site, architectural, and landscaping design.*

LU-2.9 Utility Service Line Placement: During the development review process, the City shall require that new development Projects place utility service lines underground or parallel to existing utility rights-of-way, wherever feasible, to minimize their visual impact.

LU-3.6 Infill and Renovation: The City shall encourage the infill of vacant commercial properties and renovation of existing commercial structures to reduce the rate at which surrounding agricultural land is urbanized and to provide for a more efficient use of existing infrastructure.

CIRC-4.2 Parking Lots for New Projects: During the development review process, the City shall ensure that new Projects incorporate landscaping, adequate lighting, proper pedestrian and bicycle connectivity, and are designed to facilitate vehicle maneuverability.

CIRC-5.5 Safe Sidewalks Along Whitesbridge and South Madera Avenues: The City shall work with Caltrans to improve the sidewalks along Whitesbridge Avenue and South Madera Avenue to provide a safe, continuous, and ADA-compliant network that encourages walking, and contributes to a sense of community

ENVIRONMENTAL REVIEW:

Staff performed a preliminary environmental assessment of this Project under the California Environmental Quality Act (CEQA) and has determined that it falls within the Class 32 Categorical Exemption (In-Fill Development Project) set forth in CEQA Guidelines Section 15332 as it is (a) consistent with applicable goals and policies of the General Plan and standards of the Zoning Ordinance, (b) the site is within City limits and consist of land less than 5 acres surrounded by substantially developed land, (c) there is no known endangered habitats, rare or threatened species on the Project site, (d) as condition, the Project will not have a significant effect on environment relating to traffic, noise, air quality, and water quality, and (e) the Project site can be adequately served by existing utilities and public services. Furthermore, Staff has determined that none of the exceptions to categorical exemptions set forth in CEQA Guidelines section 15300.2 apply to this Project.

PLANNING COMMISSION FINDINGS:

Due to operational characteristics, conditional use permits are required for certain uses within each zone district in order to minimize impacts upon surrounding uses. In considering a conditional use permit, the Planning Commission must make certain findings pursuant to Section 17.12.040 (C) of the KMC.

- A. That the proposed establishment, maintenance, and operations of the use(s) applied for will not be detrimental to the public health, safety, and welfare of the persons residing or working in the neighborhood of such proposed use, or whether it will be dangerous or detrimental to property and improvements in the neighborhood or the City.

Finding A (1). The Project will not be detrimental to public health, safety, or welfare. It is located in a designated general commercial area with hours of operation and conditions of approval which will minimize any potential negative impacts on adjacent land uses. The conditions of approval limit types of uses that may be objectionable or detrimental to other

permitted uses or adverse to the public interest health, safety, convenience, or welfare of the City.

- B. That the proposed use is consistent with the Kerman General Plan.

Finding B (1). Drive-through facilities and outdoor dining areas are permitted uses subject to a conditional use permit in the CG (General Commercial) zone district, which is a consistent zone with the General Plan GC (General Commercial) land use designation. The Project is consistent with the General Plan, including General Plan objectives ED-1.1, LU-2.4, LU-2.5, LU-2.9, LU-3.6, CIRC-4.2, and CIRC-5.5.

Finding B (2). The Project is located along a general commercial corridor suitable for many retail, business professional, service commercial, and other similar activities and uses.

Finding B (3). The conditions of approval preserve the integrity and character of the zone district and ensure compliance with the General Plan and Zoning Ordinance.

- C. That the environmental document is prepared as per the California Environmental Quality Act.

Finding C (1). As described in greater detail, above, a preliminary environmental assessment was prepared for this Project in accordance with the requirements of the California Environmental Quality Act (CEQA). The Project falls within Categorical Exemption per CEQA Guidelines Section 15332 (In-Fill Development Project) as the Project as a whole meets the required criteria described in said section. There are no Project-specific significant effects on the Project or the site that would require additional environmental review

- D. That the site for the proposed use is adequate in size, shape, and location to accommodate the use as it relates to the district for which the use is proposed.

Finding D (1). The location of the Project is within the CG - General Commercial zone district which is located along a commercial corridor suited for retail, office, commercial services, and other similar activities and uses along the Whitesbridge Road corridor on an undeveloped parcel of land. The Project's design and operations are appropriate to meet all applicable development and operational standards of the Zoning Ordinance.

Planning Commission Action:

The Commission will be acting on CUP 2023-05 and CUP 2023-06 and determine to either:

Motion 1A: Adopt a finding of a Class 32 Categorical Exemption (In-Fill Development Project) pursuant to CEQA Guidelines Section 15332 for the Project(s); and

Motion 1B: Adopt a resolution approving Conditional Use Permit 2023-05 to allow for the operation of a drive-through facility and an outdoor dining area for Starbucks Coffee Company located at 15243 W. Whitesbridge Rd.; and

Motion 1C: Adopt a resolution approving Conditional Use Permit 2023-06 to allow for the operation of a drive-through facility and an outdoor dining area for Chipotle Mexican Grill, Inc. located at 15215 W. Whitesbridge Rd.

Motion 2: Move to continue the public hearing on CUP 2023-05 and CUP 2023-06 to a later meeting;
or

Motion 3: Move to continue applications for CUP 2023-05 and CUP 2023-06 to a later meeting, with direction to Staff to return with an updated resolution with appropriate findings for the denial of the application(s).

Any action taken by the Commission approving or denying the application(s) is subject to appeal to the City Council no later than ten (10) working days after the day on which the decision was made.

Attachments

1. Resolution CUP 2023-05
Exhibit "A" – Conditions of Approval
2. Resolution CUP 2023-06
Exhibit "A" – Conditions of Approval
3. Aerial Photo
4. Site Plan, Floor Plan, and Building Elevations