

Attachment 'C'



Sixth Cycle Housing Element Update CEQA Exemption Technical Memorandum

City of Kerman

ENV 2024-04

Prepared for:

City of Kerman

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1. Introduction

1.1 PURPOSE

This Technical Memorandum serves as an evaluation of the City of Kerman 2023-2031 (6th cycle) Housing Element (proposed project) for California Environmental Quality Act (CEQA) compliance. This Technical Memorandum was prepared to present: 1) the findings resulting from the CEQA compliance review, as described below; and 2) the recommendations concerning the appropriate CEQA compliance documentation.

1.2 STATUTORY AUTHORITY AND REQUIREMENTS

Once it is determined that an activity is a project subject to CEQA, it is then determined whether the project is exempt from CEQA. State CEQA Guidelines Section 15061(b) outlines the ways in which a project may be exempt as follows:

A project is exempt from CEQA if:

- 1) The project is exempt by statute (see, e.g. Article 18, commencing with Section 15260).
- 2) The project is exempt pursuant to a categorical exemption (see Article 19, commencing with Section 15300) and the application of that categorical exemption is not barred by one of the exceptions set forth in Section 15300.2.
- 3) The activity is covered by the common-sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.
- 4) The project will be rejected or disapproved by a public agency. (See Section 15270(b)).
- 5) The project is exempt pursuant to the provisions of Article 12.5 of Chapter 3.

The proposed project would be exempt as a “common sense” exemption under State CEQA Guidelines Section 15061(b)(3) because implementation of the 2023-2031 Housing Element would not have the potential to cause a significant effect on the environment, as further discussed below in Section 3, *Findings Concerning CEQA Exemption*.

2. Project Description

2.1 REGIONAL LOCATION

The City of Kerman is in the northwest portion of Fresno County. It is bordered by the City of Fresno to the east, the unincorporated community of Biola to the north, the City of San Joaquin to the south, and the City of Mendota to the west. The City of Kerman is roughly 16 miles west of Fresno and 16 miles north of the City of Madera. State Route 180, State Route 145, and Fresno Rural Transit Agency provide regional transportation connections.

2.2 PROPOSED PROJECT

2.2.1 Project Background

The City of Kerman will adopt a comprehensive update to its 2015-2023 Housing Element that will guide the City's housing development through 2031. The Housing Element is a State-mandated eight-year policy document that is a component of a City's General Plan. The overall purpose of the Housing Element Update is to identify current and projected housing needs, show locations on the land use map where housing can be built, and set goals, policies, and programs to meet the community's housing needs.

The foundation of the Housing Element is the Regional Housing Needs Allocation (RHNA), which begins with a determination of housing needs issued by the California Housing and Community Development Department (HCD) and allocated by the Fresno Council of Governments (FCOG). A jurisdiction is required to demonstrate whether it has sufficient capacity to achieve its RHNA. However, identification of a site's capacity does not guarantee that construction will occur on that site, as the actual construction of units would occur as a result of a development application from a private or non-profit developer. The RHNA for the City of Kerman for this Housing Element Update is 1,063 units, including 285 very low-income units, 134 low-income units, 168 moderate-income units, and 476 above moderate-income units.

2.2.2 Proposed Sites and Zoning

State law requires that the Housing Element identify adequate sites for housing by including an inventory of land suitable for residential development, including vacant sites and non-vacant sites having potential for redevelopment, with an analysis of the development capacity that can realistically be achieved for each site. The land use potential for all the sites in the inventory comes from the Land Use Element of the General Plan. The purpose of the sites inventory is to evaluate whether there are sufficient sites with appropriate density to meet the RHNA. The inventory must identify adequate sites that will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of housing types for households of all income levels. The

Project Description

development capacity of each of the identified housing sites is based on land use designation and zoning districts currently in place in the Land Use Element and Zoning Code respectively.

While no land use redesignations or rezonings are necessary to meet the RHNA, the City is relying upon two annexations planned for the city to meet its 6th cycle RHNA. The City currently has two active annexation applications which were received in January and March of 2023. The first annexation, the Boyd Annexation – Phase 1 Whispering Falls, proposes to annex approximately 40 acres into the city. Of the 20 acres, 15 acres will be developed for single-family homes and multifamily buildings will be developed on the remaining five acres. The second annexation, the Crown|Schaad annexation, proposes to annex 9.69 acres of land on the west side of the city limits located on both sides of West Kearney Boulevard.

Both the Boyd (SCH# 2024040147) and Crown|Schaad (SCH# 2024040148) annexations are undergoing independent project-level environmental review for CEQA, including their own technical studies to address the physical effects of future development on those sites. While the proposed project identifies those sites as suitable for future development, their inclusion in the sites inventory references their respective projects and does not recommend any changes to the land use designations or zoning. The City’s Sites Inventory for future housing identifies housing sites, approved projects, projected accessory dwelling units and pending annexations.

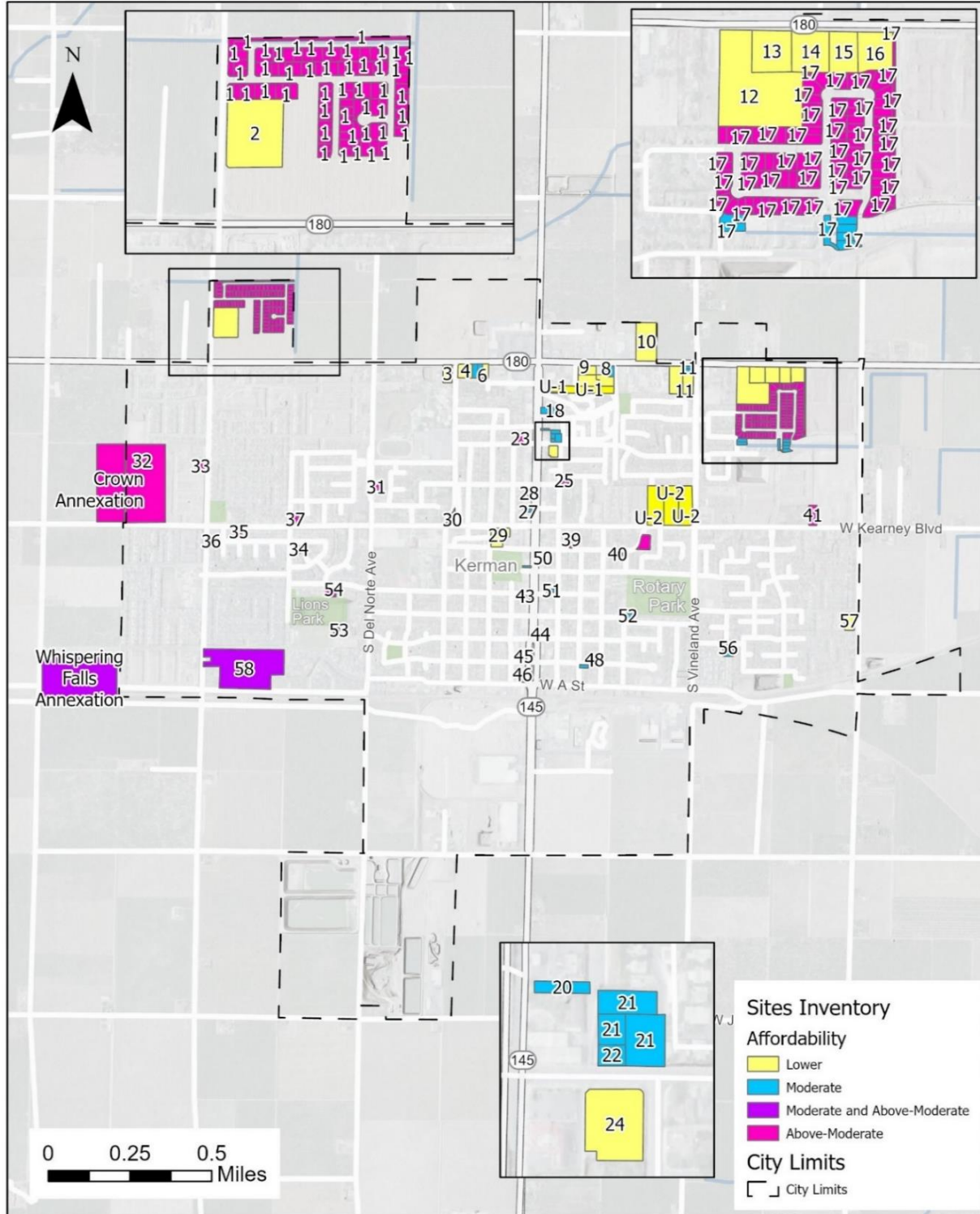
Table 2-1, *Summary of Residential Capacity Compared to the 6th Cycle RHNA*, shows the City of Kerman identifies a capacity for 1,289 new housing units, exceeding the RHNA assigned to the City by 226 units. Table 2-1 further shows the City has a surplus of 71 units in the lower-income category (including very low- and low-), 29 units in the moderate-income category, and a 127-unit surplus in the above moderate-income category. Figure 2-1, *Housing Sites Inventory*, where each site is located in the city. The development capacity of each of the identified housing sites is based on existing land use and zoning densities currently designated by the City’s General Plan and Zoning Code.

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1							
Income Category	RHNA	Vacant Sites	Underutilized Sites	ADUs	Annexation	Total Capacity	Unit Surplus
Very Low	285	248	234	8	0	490	71
Low	134						
Moderate	168	113	0	4	80	197	29
Above Moderate	476	416	0	4	183	603	127
Total	1,063	776	234	16	263	1,289	226

Source: City of Kerman, 2023.

Project Description

Figure 2-1 Housing Sites Inventory



Project Description

2.2.3 Proposed Housing Element Programs

Programs included in the proposed Housing Element encourage housing production and outline steps for the future implementation of certain actions. The proposed programs will help to facilitate the development of housing based on the optimal implementation of each program. The programs are either informative or would result in no physical change to the environment. Several of the programs were modified to comply with state law, combine programs with similar intent to aid in implementation or eliminate programs where the City has already completed the identified task. CEQA requires the City to evaluate the environmental impacts associated with direct and reasonably foreseeable indirect physical changes to the environment. After a review of the programs proposed in the Housing Element, Program 16: *Zoning Code Amendments*, could have a potential environmental effect. This analysis is followed in Section 3.2, *Analysis in Support of Findings*.

Program 16: Zoning Code Amendments

The City will amend the Municipal Code to address the following development standards and barriers to special needs housing opportunities:

- Density Bonus: Adopt a Density Bonus provision in 2023 to comply with California’s density bonus law (California Government Code Section 65915, as revised) and promote the use of density bonuses for lower-income units by providing information through a brochure in City buildings and on the City’s website.
- Accessory Dwelling Units: Amend the Zoning Code to be consistent with the latest State legislation related to ADUs, ensuring that ADUs are permitted in all zones that permit single-family or multifamily uses, and permit the construction of a junior accessory dwelling unit (JADU) on each lot in addition to an ADU, in accordance with California Government Code Section 65852.2. Streamline ADU development processes. Amend the Zoning Code to clarify existing language to ensure consistency between “secondary residential unit” and “accessory dwelling unit” regulations, and ensure use of the term “accessory dwelling unit” throughout the Zoning Code.
- Emergency Shelters: Develop managerial standards for emergency shelters and define parking standards that will allow sufficient parking to accommodate all staff working in the emergency shelter, provided that the standards do not require more parking for emergency shelters than other residential or commercial uses within the same zone, in compliance with Government Code Section 65583(a)(4)(A)(ii). Additionally, amend the definition of emergency shelters to include interim interventions and allow emergency shelter uses by right in the R-3 zone without a conditional use permit or other discretionary permit pursuant to Government Code Section 65583(a)(4).
- Low-Barrier Navigation Centers: Permit low-barrier navigation centers, defined as low-barrier, temporary, service-enriched shelters to help homeless individuals and families quickly obtain permanent housing by right in zones where mixed uses are allowed or in nonresidential zones that permit multifamily housing (Government Code Section 65662; AB 101).

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- Residential Care Facilities: Allow residential care facilities for six or fewer persons, in accordance with Health and Safety Code Section 1568.0831, and allow residential care facilities, regardless of size, in all zones that permit residential uses of the same type, in accordance with the City's definition of family.
- Employee and Farmworker Housing: Permit employee housing that serves six or fewer persons in the MU, OD, and GC zones in the same manner as other single-family structures of the same type (Health and Safety Code Sections 17021.5, 17021.6, and 17021.8).
- Single-Room Occupancy Units: Define single-room occupancy units in compliance with Government Code Section 65583(c)(1) and identify at least one zone where they will be permitted.
- Transitional and Supportive Housing: Ensure consistency across the Zoning Code to permit transitional housing and supportive housing as residential uses only subject to the restrictions that apply to other residential dwellings of the same type in the same zone (Government Code Section 65583(a)(5)). Additionally, allow supportive housing in multifamily and mixed-use zones (Government Code Section 65651).
- Multifamily Projects: Clarify permit requirements for multifamily projects with 41 or more units and without 20 percent of units affordable to lower-income households.

Findings Concerning CEQA Exemption

3. Findings Concerning CEQA Exemption

3.1 SECTION 15061(B)(3): COMMON SENSE EXEMPTION

The proposed project is exempt as a “common sense” exemption under State CEQA Guidelines Section 15061(b)(3) because the project involves policies, programs, and actions to meet the City’s RHNA allocation that would not have the potential to cause a significant physical effect on the environment. The proposed Housing Element creates a roadmap for achieving its RHNA and Affirmatively Furthering Fair Housing goals through the identification of suitable sites for development and identifies programs and actions that could remove constraints and promote affordable housing development. The designation of land for residential development occurs in the Land Use Element of the City’s General Plan and the proposed housing element does not include any programs that would change the existing use designation. The proposed housing element does include changes to the zoning code to bring it into conformance with state law, but nothing in the proposed changes would alter the existing development potential of the City as expressed in the General Plan.

3.2 ANALYSIS IN SUPPORT OF FINDINGS

The 2023-2031 Housing Element is a policy document that does not provide entitlements to any specific development projects and would not result in any direct or indirect physical changes to the environment. As discussed in Section 2.2.2, *Proposed Sites and Zoning*, the Housing Sites Inventory utilizes existing land use and zoning densities and does not require redesignation or rezoning; however, it does require annexations to be able to meet the City’s RHNA. Both the Boyd and Crown|Schaad annexations are undergoing technical review for CEQA, along with their own technical studies.

The proposed Housing Element contains programs that help to facilitate new housing at all income levels. Although these programs are considered potentially growth inducing, none of these programs involve any land use or zoning changes that could increase the amount of housing allowed in the city or otherwise create significant physical impacts on the environment. These programs are structured to incentivize housing development within the framework of existing density and buildout provisions envisioned in the City’s existing General Plan and amend the zoning code to modify or eliminate site standards and requirements that are identified as a constraint or barrier to new housing development.

Program 16: Zoning Code Amendments would amend the zoning code to permit emergency shelters by-right in the R-3 zone and permit low-barrier navigation centers by right in the mixed use and non-residential zones where multifamily housing is allowed. This program is mandated by State Law to increase housing resources such as low-barrier navigation centers. The programs are designed to assist the City in addressing and responding to housing needs and do not involve any change to the physical or built environment. Future by-right development would still be subject to federal, state, and local policies related to land use, such as the Migratory Bird Treaty Act, wetland conservation, and construction air quality permitting. Moreover, future development would need to comply with federal, state, and local regulations, such as dust control, stormwater runoff, and water quality, prior to the issuance of any building permit. The building permit review process is independent of the CEQA process and would be unaffected by the change to by-right zoning. These programs would not result in a significant effect on the environment since these sites are already adequately zoned and designated for residential development.

New development resulting from the programs would occur on land currently designated for residential development in the Land Use Element of the General Plan. Furthermore, all future development in the city would be required to comply with local regulations, including the General Plan and zoning code. In addition, all future development would be assessed individually and at a project-specific level to determine if additional CEQA review is required. Consequently, all future development projects would be subject to development procedures of the City, such as the municipal code, zoning code, and subdivision standards. These local regulations guide future development and would address physical impacts resulting from development. Moreover, the City's zoning code contains a list of permitted uses for each respective zoning district.

Both the Boyd and Crown|Schaad annexations will assist the City in meeting the 6th cycle RHNA. These annexations are undergoing independent environmental review for CEQA, including their own technical studies to address the physical effects of future development on those sites. While the proposed project identifies those sites as suitable for future development, their inclusion in the sites inventory does not change the land use designations or zoning such that development of those sites could proceed with approval of the proposed project. Future development of sites within the Boyd and Crown|Schaad annexations would be subject to independent project-specific environmental review. The proposed project is a policy document that identifies sites for residential development and includes programs intended to encourage development of residential uses. It does not approve any development that would result in physical environmental effect. The proposed Housing Element does not include specific amendments to any land use regulations but rather provides a timeline for future amendments. Subsequent amendments to the City's land use or zoning regulations would be subject to separate CEQA review at the time those amendments are prepared, if required. Therefore, it can be seen with certainty that the proposed Housing Element would not have a significant effect on the environment and is therefore exempt from CEQA review.