



## STAFF REPORT

**MEETING DATE:** July 15, 2024

**PRESENTER:** Bonique Emerson, Contract Planner

**SUBJECT:** A continued public hearing regarding Annexation 2023-01, Mitigation Negative Declaration 2023-01, Rezone 2023-01, General Plan Amendment 2023-01, Tentative Subdivision Map 2023-01, Development Plan Permits 2023-01 and 2023-02, Conditional Use Permit 2023-02, and Variance 2023-01 pertaining to the Whispering Falls residential development, located on the east side of South Modoc Avenue between West Kearney Boulevard and the West California Avenue Alignment/San Joaquin Valley Railroad (APNs 020-160-36S, 020-160-18S, 020-160-19S, 020-041-45S, and 020-041-47S) (JRO & BE)

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

1. A resolution of the Planning Commission recommending to the City Council to initiate annexation for the Whispering Falls residential project consisting of 5 parcels identified as APNs 020-160-36S, 020-160-18S, 010-160-19S, 020-041-45S, and 020-041-47S containing approximately 60 acres located on the east side of South Modoc Avenue between West Kearney Boulevard and the West California Avenue Alignment/San Joaquin Valley Railroad (Annexation 2023-01), and adopt Mitigated Negative Declaration (ENV 2023-01) and Mitigated Monitoring and Reporting Program; and
2. A resolution of the Planning Commission recommending to the City Council approval of i) General Plan Amendment 2023-01 to amend the 2040 Kerman General Plan to add the SD-R-2.5 Zoning District as a compatible zoning district within the Medium Density residential land use designation and set a minimum residential density of five (5) dwelling units per acre; and ii) Rezone 2023-01 to amend the official zoning map of the City of Kerman to prezone approximately 41.49 acres (APNs 020-160-36s, 020-160-18s, 020-041-45s, and 020-041-47) to the Smart Development Combining District – Residential – Minimum 2,500 square feet (SD-R-2.5) Zoning District and approximately 20 acres (010-160-19s) to the Smart Development Combining District – Residential – Minimum 5,000 square feet (SD-R-5) Zoning District; and
3. A resolution of the Planning Commission recommending to the City Council approval Tentative Subdivision Map 2023-01 for a property located on the east side of South Modoc Avenue between West California Avenue (proposed) and the West California Avenue Alignment/San Joaquin Valley Railroad (APN 020-160-36S); and
4. A resolution of the Planning Commission contingently approving Development Plan Permit 2023-01 to allow for the development of 118 single-family units and related site amenities on a site located on the east side of South Modoc Avenue between West California Avenue (proposed) and the West California Avenue Alignment/San Joaquin Valley Railroad (APN 020-160-36S); and

5. A resolution of the Planning Commission contingently approving Development Plan Permit 2023-02 to allow for the development of multi-family residential buildings and related site amenities and Variance 2023-01 to allow a maximum building height of 45 feet and 3 stories for the proposed multi-family residential buildings, located on the east side of South Modoc Avenue between West California Avenue (proposed) and the West California Avenue Alignment/San Joaquin Valley Railroad (APN 020-160-36S); and
6. A resolution of the Planning Commission contingently approving Conditional Use Permit 2023-02 that would allow multi-family uses and temporary drainage basin located on the east side of South Modoc Avenue between West Kearney Boulevard and West California Avenue (proposed) (APNs 020-160-36S and 020-160-18S).

**EXECUTIVE SUMMARY:**

This project was duly noticed to a regular meeting of the Planning Commission on July 8, 2024. Due to necessary revisions and preparation of final documents, the public hearing was continued to a July 15, 2024 special meeting. Members of the audience were advised of the change and provided with links to the Planning Commission agenda on the City's website.

Whispering Falls, LLC. (Applicant) proposes Annexation (ANX) 2023-01, Rezone (REZ) 2023-01, General Plan Amendment (GPA) 2023-01, Conditional Use Permit (CUP) 2023-02, Tentative Subdivision Map (TSM) 2023-01, Development Plans (DPL) 2023-01 and 02, and Variance (VAR) 2023-01 pertaining to 5 parcels (APNs 020-160-36S, 020-160-18S, 020-160-19S, 020-041-45S, and 020-041-47S) that total approximately 61.89 acres located on the east side of South Modoc Avenue between West Kearney Boulevard and the West California Avenue Alignment/San Joaquin Valley Railroad.

The project would result in the annexation of approximately 61.89 acres from the County of Fresno to the City of Kerman, in addition to the adjacent right-of-way on South Modoc Avenue and the West California Avenue Alignment and detach the subject area from the Kings River Conservation District into the Fresno Irrigation District. The project would also result in the prezone of approximately 41.49 acres (APNs 020-160-36s, 020-160-18s, 020-041-45s, and 020-041-47) to the Smart Development Combining District – Residential – Minimum 2,500 Square Feet (SD-R-2.5) zoning district and approximately 20 acres (APN 010-160-19s) to the Smart Development Combining District – Residential – Minimum 5,000 Square Feet (Sd-R-5) Zoning District. The project would amend the Kerman 2040 General Plan to add the SD-R-2.5 zone district as a compatible zone district within the Medium Density Residential land use designation and set a minimum residential density of five (5) dwelling units per acre.

The project would also subdivide an approximately 20-acre parcel (APN 020-160-26S) into 119 lots to account for 118 single-family lots and one (1) lot reserved for 56 multi-family residential units and community center. The proposed development plans would facilitate the 174-unit residential development in accordance with the smart development zone district standards. The conditional use permit would allow for the development of multi-family units and a drainage basin, both allowed in the smart development zone district with a conditional use permit. The variance would allow for an additional 10 feet, or one (1) story, for the multi-family residential buildings.

## **APPLICABLE CODES AND PROCEDURES:**

KMC 16.28 – Subdivision Maps  
KMC 16.32 – Tentative Maps  
KMC 17.10 – Public Hearings  
KMC 14.12 – Conditional Use Permit  
KMC 17.16 – Variance Permits  
KMC 17.26 – Zoning Ordinance Amendments  
KMC 17.58 – Smart Development (SD) Combining District  
KMC 17.78 – Development Standards  
Public Resource Code – 21000 et seq.

The Kerman Municipal Code (KMC) requires that the Planning Commission (Commission) submit its written recommendations to the City Council on Tentative Map applications. Additionally, the KMC requires the Commission to render a recommendation to the City Council regarding a Zoning Ordinance Amendment and Rezone applications.

The KMC allows the Commission to grant or deny approval of Conditional Use permits and Variance permits and to designate special development standards to Development Plans being considered under a Smart Development zone district, provided that a public hearing is held to review and consider any public testimony. Prior to the public hearing, a staff report, environmental determination, and general plan findings for the use permit and variance must be made available to the Commission, interested agencies, and the public.

The Commission can approve, approve with conditions, or deny an application for a planning permit, including conditional use permit and variance permit. A permit should be denied if the Commission cannot make the appropriate findings. 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.

## **BACKGROUND:**

### Site Location

The Project site is currently in the jurisdiction of the County of Fresno, California. The site is located on the east side of South Modoc Avenue between West Kearney Boulevard and the West California Avenue Alignment/San Joaquin Valley Railroad, consisting of five (5) parcels that total approximately 61.89 acres. The site is identified by the Fresno County Assessor as Assessor's Parcel Numbers (APNs) 020-160-36S (20.01 acres), 020-160-18S (20 acres), 020-160-19S (20 acres), 020-041-45S (1.12 acres), and 020-041-47S (0.76 acres).

### Setting and Surrounding Uses

As referenced in **Table 1**, the Project site is surrounded by agricultural land to the north, west, and south, and residential uses to the east. The properties to the north and east are planned for residential uses within the City of Kerman Sphere of Influence. The properties to the south and west are planned for agricultural uses within the County of Fresno.

**Table 1. Existing Land Use, General Plan Designation, and Zone District of Surrounding Properties**

Direction from site	Existing Land Use	General Plan Designation	Zone District
North	Agriculture	Medium Density Residential	AE-20 (County)
East	Single-Family	Medium Density Residential	R-1
South	Agriculture	Agriculture (County)	AE-20 (County)
West	Agriculture	Agriculture (County)	AE-20 (County)

**General Plan Land Use Designation**

The Project site has a City of Kerman 2040 General Plan land use designation of MDR – Medium Density Residential (15 acres) and HDR – High Density Residential (5 acres).

The MDR land use designation “allows for residential development at a density of up to 12 units per gross acre. Development in this category could include a mix of single-family and multifamily residences, including duplexes, triplexes, fourplexes, and mobile homes.” The MDR land use designation is compatible with the R-1-7, R-1-12, R-2, SD-R-5, SD-R-4.5, SD-R-3.5, PD-R-7, and PD-R-12 zoning districts. Typical uses of this land use designation include single-family detached dwellings, small-lot multifamily dwellings including duplexes, triplexes, fourplexes, and mobile homes, accessory dwelling units, and compatible public and quasi-public uses (e.g., churches, day-care centers, community centers, parks, and schools).

The HDR land use designation “allows for residential development at a density of up to 24 units per gross acre. Development in this category could encompass apartment complexes, senior housing, and condominiums.” The HDR land use designation is compatible with the R-3, SD-R-2.5, and PD-R-2.5 zoning districts. Typical uses of this land use designation include large-lot multifamily dwellings, including apartment complexes, senior housing, and condominiums, accessory dwelling units, and compatible public and quasi-public uses (e.g., churches, day-care centers, community centers), parks, and schools). The minimum density permitted in the HDR land use designation is 20 dwelling units per acre. The maximum density permitted is 24 dwelling units per acre.

**Zone District**

The Project site is outside City limits and located within the County of Fresno Agricultural Exclusive – 20 Acres (AE-20) zone district. Because the site is outside City limits, proposed development would require annexation and a pre-zone/rezone of the site to a zoning district consistent with the City of Kerman 2040 General Plan planned land use designation for the site. Parcels included in the annexation would also be pre-zoned to a zoning district consistent with the General Plan land use designation. Consistent zoning districts for the MDR land use designation are R-1-7, R-1-12, R-2, SD-R-5, SD-R-4.5, SD-R-3.5, PD-R-7, and PD-R-12. Consistent zoning districts for the HDR land use designation are R-3, SD-R-2.5, and PD-R-2.5.

**ANALYSIS:****Annexation 2023-01**

Annexation (ANX) 2023-01 would annex approximately 61.89 acres (APNs 020-160-36S, 020-160-18S, 010-160-19S, 020-041-45S, and 020-041-47S) from the County of Fresno to the City of Kerman, in addition to adjacent right-of-way on South Modoc Avenue and the West California Avenue Alignment

and detach the subject area from the Kings River Conservation District and into the Fresno Irrigation District.

The annexation boundary is shown in **Attachment 'A'**. There are five (5) parcels within the boundary, four (4) of which are related to Tentative Subdivision Map 2023-01, Development Plans 2023-01 and 2023-02, Conditional Use Permit 2023-02, and Variance 2023-01. There is no development proposed at this time for the fifth parcel. All parcels would be pre-zoned to the Smart Development Combining District – Residential – minimum 2,500 square feet (SD-R-2.5) zoning district, consistent with the underlying General Plan land use designation, Medium Density Residential, pending approval of General Plan Amendment 2023-01.

The annexation application has been considered by the Fresno Area Local Formation Commission (LAFCO) for review and comments. Per LAFCO, the annexation would comply with LAFCO policies and objectives. Additionally, City staff has issued notice of intent to annex and requested a finding of consistency pursuant to the Second Amendment and Restated Memorandum of Understanding (MOU) between the County of Fresno and City of Kerman. The County of Fresno has responded that they will hold the City's request for finding of consistency with the City/County MOU until after City Council approves the land use and subdivision entitlements. According to the County, this is necessary in order for the County to find that entitlements have been approved on the lands proposed for annexation.

The annexation is brought to the Commission's attention to provide context for the General Plan Amendment, Prezone/Rezone, Tentative Subdivision Map, Development Plans, Conditional Use Permit, and Variance. The Commission is not required to act on this request, which will be considered by the City Council, and if supported, the Council will take action to apply to LAFCO as the applicant.

#### Rezone 2023-01

Rezone (REZ) 2023-01 would pre-zone approximately 41.49 acres (APNs 020-160-36S, 020-160-18S, 020-041-45S, and 020-041-47) to the Smart Development Combining District – Residential – minimum 2,500 square feet (SD-R-2.5) zoning district and approximately 20 acres (010 160 19S) to the Smart Development Combining District – Residential – minimum 5,000 square feet (SD-R-5) zoning district, pending approval of Annexation 2023-01. The zoning district would be consistent with the underlying planned land use, Medium Density Residential, pending approval of General Plan Amendment 2023-01.

The project site is outside City limits and is located within the County of Fresno Agricultural Exclusive – 20 Acres (AE-20) zoning district. Because the site is outside City limits, proposed development would require annexation and a pre-zone/rezone of the site to a zoning district consistent with the City of Kerman 2040 General Plan planned land use designation for the site. Consistent zoning districts for the MDR land use designation are R-1-7, R-1-12, R-2, SD-R-5, SD-R-4.5, SD-R-3.5, PD-R-7, and PD-R-12. Consistent zoning districts for the HDR land use designation are R-3, SD-R-2.5, and PD-R-2.5. Rezone (REZ) 2023-01 would pre-zone approximately 41.49 acres (APNs 020-160-36S, 020-160-18S, 020-041-45S, and 020-041-47) to the SD-R-2.5 zoning district and approximately 20 acres (010 160 19S) to SD-R-5 zoning district. The zoning district would be consistent with the underlying planned land use, pending approval of General Plan Amendment 2023-01.

According to the Kerman Municipal Code (KMC), the purpose of the Smart Development (SD) Combining District is to promote development designs that respond to significant planning-related issues facing the San Joaquin Valley, including urbanization of agricultural land, air pollution, housing affordability, traffic, aesthetics and neighborhood deterioration. This new approach to development design has been popularized by the term "smart growth" and its purpose is to achieve the average density goals set forth by each district.

The SD district is structured to encourage a comprehensive development that is superior to traditional development of the recent past by increasing walkability and connectivity while achieving the higher net density and preservation of open space goals set forth by the general plan. To the greatest extent possible, attention shall be given to greater design details and the average density set forth by each individual zone district shall be achieved through a mix of residential housing types and sizes. As described in the Development Standards section below, the proposed development, as conditioned, will comply with the purpose and intent of the zone district.

#### General Plan Amendment 2023-01

The Project site has a City of Kerman 2040 General Plan land use designation of MDR – Medium Density Residential (15 acres) and HDR – High Density Residential (5 acres). General Plan Amendment (GPA) 2023-01 would amend the Kerman 2040 General Plan to add the SD-R-2.5 zoning district as a compatible zoning district within the Medium Density Residential land use designation and set a minimum residential density of five (5) dwelling units per acre. No change is proposed to the maximum density currently permitted. The analysis is described in further detail as follows.

According to the General Plan, the MDR land use designation “allows for residential development at a density of up to 12 units per gross acre. Development in this category could include a mix of single-family and multifamily residences, including duplexes, triplexes, fourplexes, and mobile homes.” The MDR land use designation is compatible with the R-1-7, R-1-12, R-2, SD-R-5, SD-R-4.5, SD-R-3.5, PD-R-7, and PD-R-12 zoning districts. Typical uses of this land use designation include single-family detached dwellings, small-lot multifamily dwellings including duplexes, triplexes, fourplexes, and mobile homes, accessory dwelling units, and compatible public and quasi-public uses (e.g., churches, daycare centers, community centers, parks, and schools).

According to the General Plan, the HDR land use designation allows for a minimum density of 20 units per gross acres and a maximum density of 24 units per gross acre. Development in this category could encompass apartment complexes, senior housing, and condominiums.” The HDR land use designation is compatible with the R-3, SD-R-2.5, and PD-R-2.5 zoning districts. Typical uses of this land use designation include large-lot multifamily dwellings, including apartment complexes, senior housing, and condominiums, accessory dwelling units, and compatible public and quasi-public uses (e.g., churches, daycare centers, community centers, parks, and schools).

As shown on Table 2 below, and per the Kerman General Plan, there is no minimum density required in the MDR land use, however, this land use would need to be developed consistent with a zone district that is compatible. Pursuant to Table 3-2 of the General Plan, the lowest density compatible zone district is the R-1-7 zone district, which requires a minimum 7,000 square foot lot. Given that streets typically take up about 30% of land in a residential subdivision, a 7,000 minimum lot size requirement would yield about 4.4 units to the acre.

There is no maximum lot size in the R-1-7 zone district, meaning a proposed lot in this district could be an acre or more in size if desired. However, for purpose of this minimum density calculation, 4.4 units per acre is utilized as the minimum density required (conservative estimate). The minimum density allowed in the HDR land use is 20 units to the acre. The minimum density required across the 20 acres is as follows (also depicted in Table 2):

$$\begin{aligned} \text{MDR: } 15 \text{ acres} * 4.4 \text{ du/ac} &= 66 \text{ units} \\ \text{HDR: } 5 \text{ acres} * 20 \text{ du/ac} &= 100 \text{ units} \end{aligned}$$

Thus, in order to be consistent with the General Plan, at least 166 units would need to be developed across the entire site. The proposed project will exceed this requirement.

**Table 2. Minimum Required Density Calculations**

Land Use Designation	Min. Density Per General Plan	Max. Density Per General Plan	Proposed Units	Min. Required Units
HDR (±5 Acres)	20 du/ac	24 du/ac	56	100
MDR (±15 Acres)	None, however, 4.4 units used, as described above.	12 du/ac	118	66
<b>Total</b>	-	-	<b>174</b>	<b>166</b>

Based on the underlying land use designations and the proposed combining of single-family and multi-family residential uses, the Smart Development (SD) Combining District is the most appropriate/applicable zone district. Specifically, the SD-R-2.5 would be the most compatible zone district for the proposed project. The density range permitted in the SD-R-2.5 zone district is consistent with the density ranges in both the MDR and HDR land uses (although SD-R-2.5 is not explicitly called out as a compatible zone district for MDR in the General Plan). The SD-R-2.5 district requires a density range of 8-20 units to the acre. The other benefit of this zone district is it guarantees that the City will get a minimum of right (8) units to the acre.

The project proposes 118 single-family units and 56 multi-family units, totaling 174 residential units, which would equate to a residential density of 8.7 units per acre. In addition, the single-family units would consist of three (3) types – alley loaded, cluster, and wide shallow single-family homes – and the multi-family units would consist of either a townhome or apartment unit-flat. The proposed uses are consistent with the MDR and HDR underlying land use designations, and as analyzed, the project would meet the minimum density which would be achieved through a variety of housing types of sizes, consistent with the intent of the smart development zoning district.

In conclusion, based on an analysis of the Kerman Municipal Code and the Kerman General Plan, the density proposed for the project is consistent with the General Plan and should be allowed to proceed as proposed, subject to future restrictions/requirements on zoning and development. Conditions will be placed on the proposed project to ensure that the site is developed with at least the minimum density proposed.

Tentative Subdivision Map (TSM) 2023-01 would subdivide APN 020-160-36S into 119 lots to account for 118 single-family lots and one (1) lot reserved for 56 multi-family residential units and community center. The lot areas conform to the standards of development as defined by the Zoning Ordinance for the smart development zone districts (See Development Standards below).

The map would also vacate 20 feet on the east side of South Modoc Avenue right-of-way, a 30-foot PG&E easement, and the southern portion of the West California Avenue alignment in the southern portion of the site. Ten (10) foot water easements are proposed throughout the development in the rights-of-way. An eight (8) foot landscape easement is proposed in West California Avenue along the site's northern boundary. The subdivision will also include private streets (See Private Streets and Alleys below).

Construction phasing is proposed as shown in **Attachment 'C'**. Construction would occur in two phases, with phase 1 accounting for construction of West California, the main access point and entry street, approximately 56 single-family units, and all 56 multi-family units plus community center and amenities, and portions of the residential streets and alleys throughout this portion of development. Phase 2 construction would include the remaining single-family units, residential streets, and alleys.

#### Development Plan 2023-01 and 2023-02

Development Plan (DPL) 2023-01 and 2023-02 would facilitate the development of APN 020-160-36S with a 174-unit residential development consisting of 118 single-family residential units and 56 two-bedroom multi-family residential units. The development would also include a community center and related on/off-site improvements (e.g., roadways, sidewalks, landscaping, open space, parking), including 430 parking spaces (2.5 spaces per unit) and 3.19 acres of common open space.

The single-family units would consist of three (3) types, alley loaded single-family homes, single-family cluster homes, and wide shallow single-family homes, with porches, yards/private open space, and garages. The floor plans for each single-family unit type are shown in **Attachment 'H'**. Unit types range from three (3) to four (4) bedrooms. The proposed elevations for each unit type are shown in **Attachment 'H'**. As shown, the proposed single-family buildings reach a maximum height of 35 feet or two (2) stories. The proposed buildings would comprise brick and stone veneer, horizontal siding, board and batten siding, stucco finish, and various uses of metal including roofs, garages doors, decorative panel railing, metal awning, and panels.

A total of four (4) residential buildings are proposed for the multi-family units, which would be two (2)-bedroom units in either a townhome or apartment unit-flat with garage spaces. The floor plans and square footage for each multi-family unit type are shown in **Attachment 'H'**. Proposed elevations for each building are shown in **Attachment 'H'**. As shown, the proposed multi-family buildings reach a maximum height of 45 feet or three (3) stories, with 30 feet to plate. The proposed buildings would comprise brick and stone veneer, horizontal siding, board and batten siding, stucco finish, and various uses of metal including roofs, garages doors, decorative panel railing, metal awning, and panels.

In addition to the residential units, a community clubhouse, pavilion, fitness centers, and related amenities including a pool and spa are proposed. The floor plans and square footage are shown in **Attachment 'H'**. The community amenities total 7,476 square feet. Conceptual elevations for each building are shown in **Attachment 'H'**. As shown, the proposed buildings would reach one (1) story



and comprise stone veneer, horizontal siding, board and batten siding, stucco finish, and various uses of metal including roofing and panels.

Six (6)-foot fencing is proposed at the property lines around the perimeter of the site. The southern boundary adjacent to the San Joaquin Valley Railroad rail line will be secured by a sound wall, between seven (7) and eight (8) feet as permitted by KMC 17.78.070(F). Per the environmental noise assessment conducted for the project, the sound wall is required to mitigate exterior train noise.

Proposed open space is depicted in **Attachment 'H'**. Approximately 3.19 acres of common open space are proposed to serve approximately 516 residents.

The planting plan is shown in **Attachment 'H'**. The common open space would be planted with hybrid Bermuda turf grass and low water use shrubs and ground cover (i.e., autumn sage, pink muhly grass, little ollie olive, lantana, rosemary, dwarf bottle brush). Street trees of various types would also be planted along the internal streets and walkways and would include red maple, scarlet oak or valley oak, chinese elm, and eastern redbud or palo verde varieties.

The water feature plan is shown in **Attachment 'H'**. Eight water features, or swales, are proposed throughout the site. Water features 1-4 would be scaled to the pedestrian experience and standing water would be no more than 1 inch in depth at any point. Water features 6-8 would be shallow narrow "streams" that are two (2) to four (4) inches from high to low side and standing water would be no more than two (2) inches in depth at any point. The water features/swales would also serve as a storm collection system.

#### Conditional Use Permit 2023-02

Conditional Use Permit (CUP) 2023-02 would facilitate the development of the 56 multi-family residential units on the parcel identified as APN 020-160-36S and an off-site temporary drainage basin on the parcel identified as APN 020-160-18S.

In the smart development zone districts, permitted uses are listed on the permitted use list of the R-1 zone district and conditional uses are listed on the conditional use lists of the R-1, R-2, and R-3 zone districts. Multiple-family developments of up to 40 units are permitted in the R-1, R-2, and R-3 zone district; however, since the development proposes more than 40 units, it is subject to approval of a conditional use permit. The proposed multi-family units are described further in Development Plan 2023-01 and 2023-02 (above) and Development Standards (below).

The storm basin also requires the approval of a conditional use permit. Pursuant to the Kerman Municipal Code, utility facilities, including drainage basins, are permitted in the R-1, R-2, and R-3 zone district, subject to approval of a conditional use permit. Prior to development of the storm basin a Lot Line Adjustment or Tentative Parcel Map will be required for the site. The proposed basin was sized to adequately accommodate storm water runoff from the site and would be removed once permanent storm drainage services are available. Based on the proposed site grading, storm water runoff will generally drain northwest toward the basin. As described above (Development Plans), there are also eight (8) water features, or swales, proposed throughout the parcel identified as APN 020-160-36S that would serve a dual purpose as storm water collection.

#### Variance 2023-01

A variance is required for the project to allow for a height increase to accommodate enough units to meet minimum density. The project seeks to build four (4) residential buildings proposed for multi-family units on the parcel identified as APN 020-160-36S. The proposed multi-family buildings reach a maximum height of three (3) stories, 30 feet to plate, and 45 feet maximum. In the SD zone district, the maximum height of a main building or structure shall not exceed 35 feet or two (2) stories. The applicant is requesting a Variance (VAR) 2023-01 to allow a maximum building height of 45 feet and three stories of the proposed multi-family residential units. The third story is necessary to build additional units to meet the density for the underlying land use designations and zoning district.

#### Development Standards (KMC 17.58 / 17.74 / 17.78)

The following development standards within KMC Chapter 17.58. Smart Development (SD) Combining District, together with such standards specified in Chapter 17.74. Parking, Chapter 17.78. Development Standards, and as the planning commission designates, apply to all land and structures within the smart development zone districts.

The following is an analysis of the project's compliance with required zoning development standards as outlined in KMC Chapter 17.58, the Smart Development (SD) Combining District, together with such standards specified in Chapter 17.74. Parking, and Chapter 17.78, Development Standards.

#### *Minimum Site Area (KMC 17.58.060(A)(1))*

The minimum site area for the smart development zone districts shall be one (1) acre. The project would pre-zone approximately 61.89 acres. Therefore, the minimum site area is met.

#### *Density (KMC 17.58.060(A)(2))*

The number of residential dwelling units per acre shall meet the minimum average density and not exceed the maximum average density set forth by each district. To the greatest extent possible, the density set forth by each district shall be achieved through a variety of housing types and sizes. Density calculations do not include park or open space amenities. The density range for the SD-R-2.5 zone district is 8 units per acre (minimum) to 20 units per acre (maximum).

The project proposes 118 single-family units and 56 multi-family units, totaling 174 residential units, which would equate to a residential density of 8.7 units per acre. In addition, the single-family units would consist of three (3) types – alley loaded, cluster, and wide shallow single-family homes – and the multi-family units would consist of either a townhome or apartment unit-flat. Therefore, the project would meet the minimum density and would not exceed the maximum density, and the density would be achieved through a variety of housing types of sizes.

#### *Height (KMC 17.58.060(A)(3))*

The maximum height of a structure in the SD-R-2.5 zone district shall be 35 feet. The proposed single-family units reach a maximum height of 35 feet and two (2) stories. The proposed multi-family units reach 45 feet maximum, with 30 feet to plate, and three (3) stories. The applicant is requesting a variance to allow 10 additional feet and one (1) additional story.

#### *Coverage (KMC 17.58.060(A)(4))*

The maximum building coverage of a lot in the SD-R-2.5 zone district shall be 70%. The maximum building coverage for the proposed single-family units is 60% for alley loaded, 60% for wide shallow, and 55% for cluster homes. The maximum building coverage for the proposed multi-family units would not exceed 70%. Therefore, the maximum building coverage requirement is met.

*Front Yard Setback (KMC 17.58.060(A)8))*

The minimum front yard setbacks for residential buildings in the SD-R-2.5 zone district is 10 feet; however, the KMC allows the Planning Commission to designate standards to land and structure within SD zone districts. The minimum front yard setback for the proposed single-family units is 10 feet for alley loaded, seven (7) feet for wide shallow, and seven (7) feet for cluster homes. The minimum front yard setback for the proposed multi-family units is 10 feet. Therefore, with the special designation allowed by the Planning Commission, the minimum front yard setback requirement is met.

*Rear Yard Setback (KMC 17.58.060(A)9))*

The minimum rear yard setbacks for residential buildings in the SD-R-2.5 zone district is five (5) feet; however, the KMC allows reduced rear yard setbacks in certain cases. The minimum rear yard setback for the proposed single-family units is four (4) feet for alley loaded, five (5) feet for wide shallow, and five (5) feet for cluster homes. The minimum rear yard setback for the proposed multi-family units is four (4) feet from the alley, but more than five (5) feet from the rear property line. Therefore, with the allowed exceptions, the minimum rear yard setback requirement is met.

*Yard Requirement (KMC 17.58.060(A)10))*

In addition to the yard space created for the front yard setback or side street setback, each unit in the SD-R-2.5 zone district shall have a yard with a minimum size of 250 square feet.

	<b>Total Yard Requirement</b>
Single Family (118 units)	29,500 sq. ft. or 0.67 acres
Multi-Family (56 units)	14,000 sq. ft. or 0.32 acres

Approximately 3.19 acres of private common open space are proposed to serve the 174 units. This would result in a ratio of approximately 798 square feet per unit, which exceeds the required standard.

*Architectural Style (KMC 17.58.060(A)(11))*

Pursuant to KMC 17.58.060(A)(11), the elevation drawings of buildings to be constructed in the smart development districts shall be approved by the Planning Commission. The proposed elevations are shown in **Attachment 'H'** and described above (Development Plans).

*Public Streets and Alleys (KMC 17.58.070(B))*

The project does not propose public streets and alleys. See Private Streets and Alleys below.

*Private Streets and Alley (KMC 17.58.070(C))*

The project proposes three street types: main entry street, typical residential street, and alley. These proposed streets are private. The main entry and typical residential streets are tree-lined with pedestrian connections/sidewalks and are designed to maximize connections of both street and

walkways to provide maximum walkability within neighborhoods and help dilute traffic congestion and speed. Bulb-outs are proposed at crosswalks. No cul-de-sacs are proposed.

Cross sections for each street are shown in **Attachment 'C'**. The main entry street has a total right-of-way of 66 feet, which includes one (1) 10-foot travel lane in each direction, 8-foot parking lanes adjacent to each travel lane, and 15 feet of pedestrian connections/sidewalks on each side of the roadway. The typical residential street has a total right-of-way of 56 feet, which includes one (1) 10-foot travel lane in each direction, 8-foot parking lanes adjacent to each travel lane, and 10 feet of pedestrian connections/sidewalks on each side of the roadway. The alley right-of-way is 20 feet.

#### *Open Space/Parks (KMC 17.58.070(D))*

Common open space in the smart development zone districts shall be provided on site at a ratio of four (4) acres per 1,000 residents. Since no park space will be dedicated to the City as part of this project, the project will be required to pay an in lieu fee at the time of construction.

#### *Residential Unit Design (KMC 17.58.070(E))*

In the smart development zone districts, the elevation of a garage nearest a street shall be set back a minimum of 20 feet behind the back of the sidewalk. Garages of residential dwelling units that back up to an alley shall have a minimum setback of 20 feet from the rear property line and open to the alley, not the street. Three of the four proposed unit types do not have garages facing the nearest street; these unit types include the alley loaded and cluster homes and the multi-family units. The wide shallow units have garage elevations facing the street, which are set back a minimum of 18 feet. With a minor deviation, the residential unit design requirement is met.

#### *Landscaping and Open Space Design (KMC 17.58.070(F))*

Landscaping and planting are described in the Development Plans above. The landscaping and open space design will be conditioned to comply with the code provisions. Generally, the front yards of each area will be landscaped with a combination of trees and shrubbery that require minimum water. Plant materials will be varied in size. The main entry and residential streets will be tree-lined. On-site common open space will be centrally located to promote visibility from surrounding units and benches, shading, waste receptacles, and lighting will be incorporated.

#### *Fencing and Walls (KMC 17.58.070(G))*

In the smart development zone districts, all fencing visible from the street shall contain pilasters, columns, or posts. These pilasters shall generally be placed as follows: where two (2) fences intersect, where a fence and a gate intersect, or at the corner of a lot. Fencing that does not conform to this requirement must first be approved by the planning commission. Decorative wrought-iron fencing is encouraged. In addition, gates and pedestrian openings into the project shall be accentuated with pilasters, landscaping, trellises, and/or lighting.

The main entry rendering is shown in **Attachment 'H'**. As shown, the gates and pedestrian opens are accentuated with pilasters, decorative wrought iron, and landscaping, and meet the fencing and walls requirement. The main entry will also have a monument sign with lighting. The site's eastern and western boundary will be secured by a 6-foot wood fence. The southern boundary adjacent to the San Joaquin Valley Railroad rail line will be secured by a sound wall, between seven (7) and eight (8) feet as permitted by KMC 17.78.070(F). Per the environmental noise assessment conducted for the

project, the sound wall is required to mitigate exterior train noise. Overall, the project meets the minimum fencing and walls requirement.

*Trash Enclosures – Multifamily Developments (KMC 17.58.070(H))*

Trash enclosures will be constructed of solid masonry material designed as approved by the planning commission. The enclosures will allow walk-in access by tenants without having to open the gates. The enclosures will also have decorative heavy gauge metal gates and be designed to hide or screen refuse containers. A concrete apron will be constructed from the trash enclosure to a point of dumpster pickup by the waste removal truck. Landscaping will be provided to screen and to visually "soften" trash enclosures. The dimensions of the trash enclosure shall be consistent with Kerman's improvement standards and have provisions for recyclable waste.

*Parking Requirements (KMC 17.58.070(I) and KMC 17.74.020)*

The smart development zone districts require units with two (2) or more bedrooms to provide a minimum of two (2) garage spaces and one (1) additional space other than the driveway that shall be located within 150 feet of the residence. Units with only one bedroom are required to provide a minimum of one (1) garage space plus one (1) additional space other than the driveway within 150 feet of the residence. The project proposes 430 parking spaces including 236 garages for single-family units, 56 garages for multi-family units, and 138 unassigned on-street spaces.

Unit Type	Parking Spaces Provided
Single-Family	236 (2 spaces per unit)
Multi-Family	56 (1 space per unit)
Other (On-Street Parking)	138
<b>Total Provided</b>	430 (2.5 spaces per unit)
<b>Total Required by KMC</b>	348

All multi-family unit garages would have Electric Vehicle (EV) Charging Stations (EVCS). Of the unassigned on-street spaces, six (6) spaces would be "EV capable" (i.e., a parking space linked to a listed electrical panel with sufficient capacity to provide at least 110/120 volts and 20 amperes to the parking space), 14 spaces would be "EV ready" (i.e., a parking space with access to a dedicated 240-volt power supply for Level 2 EV charging), and three (3) spaces would provide EVCS. Therefore, more than 10 percent of the parking spaces would accommodate EV in accordance with the 2022 California Green Building Standards Code, Title 24, Part 11 ("Title 24").

Land Use Plans and Policies

As proposed, the project will be consistent with the Kerman 2040 General Plan goals and objectives related to land use and the urban form:

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:

**LU-3.4 Urban Form:** To maintain the City's compact form, the City shall maintain growth management controls by managing changes to the City's Sphere of Influence and incorporated City limits. Future changes to the City's Sphere of Influence will be managed by two growth lines, shown on Figure 3-2.)

*This project is located within Area 1 of the proposed Sphere of Influence outlined in the General Plan and maintains growth management controls consistent with the General Plan.*

**LU-3.3 Prevent Sprawl Development:** The City shall direct new development to areas that are contiguous to existing or approved development and prevent sprawl development.

*The proposed project is contiguous to existing development and does not encourage urban sprawl.*

**LU-5.4 New Incompatible Land Uses:** The City shall prohibit the introduction of new incompatible land uses and environmental hazards into existing residential areas.

*The project is a residential development that is contiguous with existing residential development and will not introduce a new, incompatible land use to the area.*

#### Access, Circulation, and Off-Site Improvements (TSM 2023-01)

Vehicular access to the site would be provided by three (3) points of ingress/egress from West California Avenue, which is proposed to be extended west from the adjacent subdivision and improved with curb, gutter, sidewalk, and an eight-foot landscape easement on the north and south side of the extended street. The east 20-feet of South Modoc Avenue right-of-way is proposed to be vacated south of West California Avenue. West California Avenue and South Modoc Avenue within the vicinity of the project site are designated as collectors in the General Plan Circulation Element. Internal circulation within the site would be provided by private streets and alleys in addition to pedestrian walkways (See Private Streets and Alleys above).

The Project would also result in off-site improvements along West California Avenue including concrete curb, gutter, sidewalk, paving, and an eight-foot landscape easement per City of Kerman Public Works Standards. The City will also require an extension of the Class II Bikeway along West California Avenue that would connect to the existing Class II facility to the east of the site, and in the future would be connected to Kearney Boulevard as development to the north occurs. These improvements will be consistent with the General Plan and Active Transportation Plan.

A traffic impact study was prepared for the project by VRPA Technologies, Inc. dated March...The study evaluated projected trip generation based upon the trip generation rates and potential impacts associated with development occurring on the subject property in accordance with the proposed project. The project trip generation was determined using trip generation rates from the Institute of Transportation Engineers (ITE) Trip Generation Manual (11th Edition) for daily, weekday AM (7:00-9:00am), and PM (4:00-6:00pm) peak hours. The single-family units and multi-family units are anticipated to generate approximately 1,175 and 434 average daily trips, respectively, for a total of

1,608 trips. The weekday AM peak hour trips generated for the single-family units is estimated to be 87 trips, and 44 trips for multi-family units, for a total of 132 AM peak hour trips on a weekday. The weekday PM peak hour trips generated for the single-family units is estimated to be 116 trips, and 58 for the multi-family units, for a total of 173 PM peak hour trips on a weekday.

The analysis contained in the traffic impact study indicates that roadway improvements may be desirable to support the implementation of the project as well as to accommodate other traffic increases expected in the study area in 2040 scenarios. Signal warrant was met on Whitesbridge Avenue/Lassen Avenue and State Route 145/West A Avenue. The recommended improvements to achieve acceptable levels of service included:

- Whitesbridge Avenue and Lassen Avenue:
  - Near term operating year 2025: restripe all approaches to the intersection to include a left turn lane and shared through/right lane.
  - Horizon Year 2040 without project conditions/with project conditions: install a traffic signal when warranted and restripe all approaches to the intersection to include a left turn lane and shared through/right lane.
- State Route 145 and West A Avenue:
  - Install a traffic signal when warranted and restripe east, west, and southbound approach to include a left turn lane a thorough/right lane.

The alternative mitigation identified could involve installing a roundabout with a shared two-lane in north and south direction while one shared lane in east and west directions for approach and exit.

#### Public Utilities and Service Systems (TSM 2023-01)

The proposed utility plan is shown in **Attachment 'C'**. The project will tie into existing municipal water, sewer, and storm drain systems through the extension of existing systems. Sanitary sewer service would be provided through a proposed sanitary sewer lift station located in the northwest corner of the site, which will be connected to a temporary sanitary sewer main in West California Avenue. Domestic water service will also be located in West California Avenue. Sewer and water lines will connect to each unit throughout the site. The water features/swales throughout the site will also serve as a storm collection system. As discussed above, an off-site temporary storm basin will be provided until permanent services are available. Associated electric, water, natural gas, and related infrastructure is available and will serve the project site as needed.

#### Other Department Comments

The project proposal was 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

The proposed project is consistent with the Kerman General Plan and Zoning Ordinance as well as the Subdivision Map Act. Additionally, as conditioned, there is no evidence that suggests approval of the proposed project will 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.

## **ENVIRONMENTAL REVIEW:**

The environmental impacts of the project have been analyzed in accordance with the California Environmental Quality Act (CEQA). An Initial Study was prepared to evaluate the potential impacts associated with the project. Based upon review of the Initial Study, the proposed project will not have a significant effect on the environment because the mitigation measures outlined in the proposed Mitigation Monitoring and Reporting Program have been included in the project (**Attachment 'I'**). The Initial Study and Mitigated Negative Declaration was posted at the County Clerk's Office on April 3, 2024; the deadline for comments was April 23, 2024. The State Clearinghouse received the document on April 3, 2024; the deadline for Clearinghouse comments was April 23, 2024 (SCH #2024040147).

A consultation list of tribes with traditional lands or cultural places located within Fresno County was requested and received from the California Native American Heritage Commission (NAHC) on April 11, 2023. The listed tribes include Big Sandy Rancheria of Western Mono Indians, Cold Springs Rancheria of Mono Indians, Dumna Wo-Wah Tribal Government, Kings River Choinumni Farm Tribe, North Valley Yokuts Tribe, Table Mountain Rancheria, Tule River Indian Tribe, and Wuksache Indian Tribe/Eshom Valley Band. The NAHC also conducted a Sacred Lands File (SFL) search which was negative.

The City of Kerman conducted formal tribal consultation for the proposed Project pursuant to AB 52 (Chapter 532, Statutes 2014) and SB 18 (Chapter 905, Statutes 2004) on April 28, 2023, utilizing the consultation list of tribes received from the NAHC. The same tribes listed above were included in the formal consultation. Consultation for AB 52 ended on May 29, 2023, and consultation for SB 18 ended on July 27, 2023. No response was received.

## **PUBLIC HEARING NOTICE:**

Public hearing notices were mailed to property owners and residents within 300 feet of the site. The City also published notice of this public hearing in the Kerman News on June 26, 2024. As of the date of this report, the City has not received written comment or verbal inquiries regarding this project.

## **PLANNING COMMISSION FINDINGS:**

### Annexation 2023-01

To recommend approval of the proposed Annexation 2023-01, the Planning Commission must make the following findings pursuant to the City/County Second Amended and Restated MOU standards for annexation:

1. The proposed annexation is within the City's adopted Sphere of Influence.

*This project is located within Area 1 of the proposed Sphere of Influence outlined in the General Plan and maintains growth management controls consistent with the General Plan including but not limited to LU-3.2, LU-3.3, LU-5.4.*



2. The proposal must be consistent with city general and specific plans, including adopted goals and policies.

*The proposed annexation area will be consistent with the City's General Plan goals and policies contingent upon approval of the entitlements, including the General Plan Amendment, Prezone/Rezone, Tentative Subdivision Map, Development Plans, Conditional Use Permit, and Variance, including but not limited to LU-2.1, LU-2.4, LU-2.5, LU-3.2, LU-3.3, LU-5.4, CIRC-1.10, and CIRC-2.1.*

3. Pursuant to CEQA, the proposal must mitigate any significant adverse effect on continuing agricultural operations on adjacent properties, to the extent reasonable and consistent with the applicable general and specific plan.

*The City has prepared an Initial Study / Mitigated Negative Declaration (MND) for the project. The MND has concluded that no significant environmental impacts will occur as a result of the project.*

4. At least 25% of the area proposed for annexation has an approved tentative subdivision map(s) (single-family residential) and an approved site plan (for uses besides single-family).  
*The proposed annexation would meet this condition whereby at least 25% of the proposed annexation area will include an approved tentative map for single-family residential and approved development plan for multi-family residential.*

5. The annexation is to fulfill the city's Regional Housing Needs Allocation (RHNA) obligation which otherwise cannot be accommodated on lands currently within the city's incorporated boundary.

The proposed annexation would meet this condition whereby the City has contemplated this annexation area as a housing program necessary to fulfill RHNA obligations within the City's 6<sup>th</sup> Cycle Housing Element Update.

6. The proposal would not create islands. Boundaries must ultimately minimize creation of peninsulas and corridors, or other distortion of boundaries.

*The proposed annexation area would not create islands. New boundaries would not create any peninsulas or corridors.*

#### Rezone 2023-01

To recommend approval of the proposed Rezone 2023-01, the Planning Commission must make the following findings pursuant to KMC 17.26. Zoning Ordinance Amendments.

1. The change is consistent with the General Plan.

*The proposed use and development of the site is consistent with the General Plan. Upon approval of the annexation and pre-zone to the smart development zone district, the*

*development of the site with residential uses and at densities allowed within the underlying land use designations will be consistent with the General Plan.*

2. The change is consistent with the purpose of the Zoning Ordinance to promote the health, safety, and welfare of the community.

*The project has been reviewed by the various City departments and evaluated for conformity with the requirements of the Zoning Ordinance. The proposed use and development are consistent with the applicable development standards. Any other improvements or mitigations required for the health, safety, and welfare of the community has been applied to this project as mitigation measures and conditions of approval. Moreover, REZ 2023-01 is supported by policy LU-2.1 Attractive Community, LU-2.4 Architectural Character, and LU-2.5 High-Quality Design, which cumulatively, enhance the design, character, and vibrancy of the City's health, safety, and welfare.*

3. There will not be significant effects upon the quality of the environment and natural resources.

*An initial study was prepared for this project consistent with the California Environmental Quality Act (CEQA), which resulted in a proposed mitigated negative declaration (MND). Per the MND, the project will not have a significant, adverse effect on the environment as mitigated. Therefore, the tentative subdivision map would not result in a substantial adverse effect to special status species, riparian or other natural habitat, wetlands, movement of migratory fish or wildlife species, or conflict with any local, regional or state preservation or conservation plans.*

#### General Plan Amendment 2023-01

To recommend approval of the proposed General Plan Amendment 2023-01, the Planning Commission must make the following findings.

1. The change is consistent with the General Plan goals and policies.

*The proposed use and development of the site is consistent with the General Plan. Upon approval of the annexation and pre-zone to the smart development zone district, the development of the site with residential uses and at densities allowed within the underlying land use designations will be consistent with the General Plan. Moreover, GPA 2023-02 is supported by policy LU-3.3 Prevent Sprawl Development and LU-3.5 Increase Density and Intensity within City Limits, which prevents urban sprawl by allowing denser developments within the City's land uses.*

2. The change is consistent with the purpose of the Zoning Ordinance to preserve and promote the public health, safety and welfare of the city and to facilitate growth and expansion of the city in a precise and orderly manner.

*The project has been reviewed by the various City departments and evaluated for conformity with the requirements of the Zoning Ordinance. The proposed use and development are*

*consistent with the applicable development standards. Any other improvements or mitigations required for the health, safety, and welfare of the community has been applied to this project as mitigation measures and conditions of approval.*

3. There will not be significant effects upon the quality of the environment and natural resources.

*An initial study was prepared for this project consistent with the California Environmental Quality Act (CEQA), which resulted in a proposed mitigated negative declaration (MND). Per the MND, the project will not have a significant, adverse effect on the environment as mitigated. Therefore, the tentative subdivision map would not result in a substantial adverse effect to special status species, riparian or other natural habitat, wetlands, movement of migratory fish or wildlife species, or conflict with any local, regional or state preservation or conservation plans.*

#### Tentative Subdivision Map 2023-01

To recommend approval of the proposed Tentative Subdivision Map 2023-01, the Planning Commission must determine that the proposed map is consistent with the General Plan, Zoning Ordinance, and the Subdivision Map Act subject to the following consistency findings:

1. The proposed map is consistent with the applicable General Plan, Subdivision Ordinance, Specific Plan, and the Subdivision Map Act.

*The proposed subdivision map is consistent with the General Plan as amended. Specifically, the project is supported by policies LU-3.4 Leapfrog Development and CIRC-1.10 Adequate Egress/Ingress. There is no applicable specific plan. The Planning Commission has reviewed the analysis and all evidence presented in this matter and determines that proposed Tentative Subdivision Map 2023-01 is consistent with the General Plan as amended by General Plan Amendment 2023-01.*

2. The design or improvement of the proposed land division is consistent with applicable general plan and specific plans.

*The proposed land division is consistent with the General Plan, including all applicable goals, policies and implementation measures. The land division is consistent with the planned density and land use designated by the General Plan, as well as circulation, pedestrian accessibility, and other design or improvement requirements of the General Plan. Additionally, the proposed parcels will comply with minimum lot size standards and the residential land uses consistent with the General Plan and Zoning Ordinance. There is no specific plan applicable to the site.*

3. That the site is physically suitable for the proposed type of development.

*The subdivision map will create 119 parcels to support single-family and multi-family residential uses with ample open space. The site is physically suitable for such proposed type of residential use. Development is required to be consistent with the General Plan, Zoning*

*Ordinance, Tentative Subdivision Map, and Development Plans, and there are no unusual conditions that would render the site physically unsuitable for such subsequent type of consistent development.*

4. That the site is physically suitable for the proposed density of development.

*The subdivision map will create 119 parcels to support single-family and multi-family residential uses with ample open space. The site is physically suitable for such proposed density of development. All development is required to be consistent with the General Plan, Zoning Ordinance, Tentative Subdivision Map, and Development Plans. Such consistency would likewise require consistency with setbacks, building code, and other requirements that would ensure suitable density of development.*

5. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish, wildlife, or their habitat.

*An initial study was prepared for this project consistent with the California Environmental Quality Act (CEQA), which resulted in a proposed mitigated negative declaration (MND). Per the MND, the project will not have a significant, adverse effect on the environment as mitigated. Therefore, the tentative subdivision map would not result in a substantial adverse effect to special status species, riparian or other natural habitat, wetlands, movement of migratory fish or wildlife species, or conflict with any local, regional or state preservation or conservation plans.*

6. The design of the subdivision and type of improvements being required are not likely to cause serious public health problems.

*The lots created will comply with all applicable sanitary sewer, water service, and storm water runoff requirements, as well as other similar environmental and life safety regulations and standards. Thus, the project is not likely to cause serious public health problems.*

7. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.

*The map would vacate 20 feet on the east side of South Modoc Avenue right-of-way, a 30-foot PG&E easement, and the southern portion of the West California Avenue alignment in the southern portion of the site. Ten (10) foot water easements are proposed throughout the development in the rights-of-way. An eight (8) foot landscape easement is proposed in West California Avenue along the site's northern boundary. The vacation and dedication will ensure that upon development, the design and type of improvements will not conflict with easements and that access through or use of property within the proposed subdivision would be maintained.*

8. That the proposed design provides, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision pursuant to Government Code Section 66473.1.

*As feasible, the project has attempted to take advantage of passive or natural cooling opportunities in subdivision design. Appropriate consideration was given to the local climate, while ensuring that heating and cooling opportunities did not result in the reduction of allowable densities or the percentage of a lot that may be occupied as contemplated by Government Code section 66473.1.*

#### Development Plan 2023-01 and 2023-02

The Planning Commission may determine to approve a development plan permit as permissible under Kerman Municipal Code Section 17.58.060 when it is determined that the requirements for a development plan permit can be made, including those required by the City of Kerman Municipal Code Section 17.58.060 (A) through (I).

*The Planning Commission at this hearing on the 15th day of July, 2024 has determined to approve Development Plan Permit 2023-01 and 02 as permissible under Kerman Municipal Code Section 17.58.060 and determined that the requirements for Development Plan Permit 2023-01 and 02 will be met, including those required by the City of Kerman Municipal Code Section 17.58.060 (A) through (I), because the project's design, including; architectural design, building placement, parking, and landscaping substantially complies with the development standards prescribed in said section.*

#### Conditional Use Permit 2023-02

The Planning Commission may approve a conditional use permit as requested, or in a modified form, if, on the basis of the application and the testimony submitted, the Commission makes the following findings pursuant to KMC 17.12.040(C).

1. 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.

*The project will not be detrimental to public health, safety, or welfare. It is located in a designated residential area with 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.*

2. That the proposed use is consistent with the Kerman General Plan.

*The project is located in a residential area suitable for residential uses. Upon approval of Annexation 2023-01 and Rezone 2023-01, the project site will be annexed and pre-zoned to the smart development zone district, which is consistent with the underlying Medium Density Residential and High Density Residential land use designations. The project proposes residential uses that are consistent with the underlying land use designations and the smart*

*development zone district, specifically by proposing a mix of residential uses including single-family and multi-family uses, at varying densities. The project also proposes a drainage basin which is necessary for the collection of stormwater runoff resulting from the project. This use is also consistent with the underlying land use designation and zone district.*

3. That the environmental document is prepared as per the California Environmental Quality Act (CEQA).

*An initial study was prepared for this project consistent with the CEQA, which resulted in a proposed mitigated negative declaration (MND). Per the MND, the project will not have a significant, adverse effect on the environment as mitigated. Therefore, the conditional use permit would not result in a substantial adverse effect to special status species, riparian or other natural habitat, wetlands, movement of migratory fish or wildlife species, or conflict with any local, regional or state preservation or conservation plans.*

4. 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.

*The location of the project is within the smart development zone district, upon approval of the annexation and pre-zone, in a residential area suited for residential uses 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.*

#### Variance 2023-01

The Planning Commission may grant an application for a variance permit as requested, or in a modified form, if, on the basis of the application and the testimony submitted, the Commission makes the following findings pursuant to KMC 17.16.030(C).

1. That any variance permit granted shall be subject to such conditions as will assure that the adjustment authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which the subject property is situated.

*Granting of the variance will be conditioned as to not exceed the maximum height proposed, in compliance with DPL 2023-02. Granting of the variance is necessary to make the development of the site compliant and feasible with all applicable standards, including to meet minimum density requirements.*

2. That because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning law is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.

*The special circumstance in this case is the size of the parcel and the density requirements for the underlying land use designations. Upon approval of Annexation 2023-01, Rezone 2023-01, and General Plan Amendment 2023-01, the site will be annexed and pre-zoned to the smart*

*development zone district, which is consistent with the Medium Density Residential and High Density Residential land use designations. There is no set minimum density for the MDR land use designation; GPA 2023-01 would set the minimum to five (5) dwelling units per acre. The minimum density allowed for the HDR land use designation is 20 dwelling units per acre. The smart development zone district allows blended densities/averaging densities across land uses as long as the overall minimum density is met and the maximum density is not exceeded. The project proposes 174 dwelling units on an approximately 20-acre site, which would result in a density of 8.7 dwelling units per acre. In order to be consistent with the General Plan, at least 166 units would need to be developed across the site. Without allowance of a third story, or 10 additional feet, for the multi-family units, the project would not be able to meet the density requirements, in addition to meeting all other minimum development standards, parking requirements, and open space requirements, etc. Therefore, the variance is necessary due to these special circumstances.*

3. That the granting of the variance permit will not be contrary to the intent of this title or to the public safety, health and welfare or injurious to other properties in the vicinity.

*Approval of the variance is not in conflict with the intent of the title; however, an exception must be made in order to comply with other applicable development standards including reduced setbacks and an additional 10 feet and one (1) story in height. Approval of the variance will require conditions of approval for the development to ensure that the project does not have adverse effects on the public safety, health, and welfare or injurious to other properties in the vicinity.*

4. A variance has not been granted for a use or activity which is not authorized by the zone regulations governing the parcel of property.

*Granting of the variance will not be for a use or activity that is not authorized by the zone regulations governing the subject parcel. The variance is requested for the height of the proposed structure, of a permitted use. Approval would not authorize the use of land prohibited by the zone regulations.*

5. A variance shall not be granted on economic grounds. (Ord. 90-02 §2(part), 1990).

*Approval of the variance is not based on economic grounds because approval would result in an equal or greater number of developed units, than otherwise would be if the variance is not approved.*

#### **PLANNING COMMISSION ACTION:**

The Planning Commission will be acting on Annexation 2021-01, Rezone/Prezone 2023-01, General Plan Amendment 2023-01, Conditional Use Permit 2023-02, Development Plans 2023-01 and 2023-02, Tentative Subdivision Map 2023-01, Variance 2023-01 and Mitigation Negative Declaration 2023-01 and determine to either:

Motion 1A: Adopt a resolution of the Planning Commission recommending that the City Council Adopt Mitigated Negative Declaration 2023-01 and Associated Mitigation Monitoring and Reporting

Program dated June 2024 (SCH #2024040147) prepared for Annexation 2023-01, Rezone/Prezone 2023-01, General Plan Amendment 2023-01, Conditional Use Permit 2023-02, Development Plans 2023-01 and 2023-02, Tentative Subdivision Map 2023-01, and Variance 2023-01 for the Project located on the east side of South Modoc Avenue between West Kearney Boulevard and the West California Avenue Alignment/San Joaquin Valley Railroad (APNs 020-160-36S, 020-160-18S, 010-160-19S, 020-041-45S, and 020-041-47S); and

Motion 1B: Adopt a resolution of the Planning Commission recommending that the City Council approve Annexation 2023-01, initiating annexation proceedings for the approximately 61.89 acres (APNs 020-160-36S, 020-160-18S, 010-160-19S, 020-041-45S, and 020-041-47S) from the County of Fresno to the City of Kerman, in addition to adjacent right-of-way on South Modoc Avenue and the West California Avenue Alignment, and detach the subject area from the Kings River Conservation District; and

Motion 1C: Adopt a resolution of the Planning Commission recommending that the City Council amend the Kerman Municipal Official Zone Map by adopting Rezone 2023-01 to pre-zone approximately 61.89 acres to the Smart Development Combining District – Residential – minimum 2,500 square feet (SD-R-2.5) (APNs 020-160-36S, 020-160-18S, 010-160-19S, 020-041-45S, and 020-041-47S) and amend the Kerman 2040 General Plan by adopting General Plan Amendment No. 2023-01 to add the SD-R-2.5 zoning district as a compatible zoning district within the Medium Density Residential land use designation and set a minimum residential density of five (5) dwelling units per acre; and

Motion 1D: Adopt a resolution of the Planning Commission recommending that the City Council approve Tentative Subdivision Map 2023-01 located on the east side of South Modoc Avenue between West California Avenue (proposed) and the West California Avenue Alignment/San Joaquin Valley Railroad (APN 020-160-36S); and

Motion 1E: Adopt a resolution of the Planning Commission, approving Development Plan Permit 2023-01 that would facilitate the development of 118 single-family units in addition to related on/off site improvements (e.g. roadways, sidewalks, landscaping, open space) located on the east side of South Modoc Avenue between West California Avenue (proposed) and the West California Avenue Alignment/San Joaquin Valley Railroad (APN 020-160-36S), subject to final approval of TSM 2023-01; and

Motion 1F: Adopt a resolution of the Planning Commission, approving Development Plan Permit 2023-02 to allow for the development of multi-family residential buildings, community center, and related on/off site improvements (e.g. roadways, sidewalks, landscaping, open space), and Variance 2023-01 to allow a maximum building height of 45 feet and 3 stories for the proposed multi-family residential buildings ) located on the east side of South Modoc Avenue between West California Avenue (proposed) and the West California Avenue Alignment/San Joaquin Valley Railroad (APN 020-160-36S), subject to final approval of TSM 2023-01 and in compliance with DPL 2023-02; and

Motion 1G: A resolution of the Planning Commission approving Conditional Use Permit 2023-02 that would allow multi-family uses and temporary drainage basin located on the east side of South Modoc



Avenue between West Kearney Boulevard and West California Avenue (proposed) (APNs 020-160-36S and 020-160-18S), subject to final approval of TSM 2023-01.

Motion 2: Move to continue the public hearing on Annexation 2021-01, Rezone/Prezone 2023-01, General Plan Amendment 2023-01, Conditional Use Permit 2023-02, Development Plans 2023-01 and 2023-02, Tentative Subdivision Map 2023-01, Variance 2023-01 and Mitigation Negative Declaration 2023-01 to a later meeting; or

Motion 3: Move to continue applications for Annexation 2021-01, Rezone/Prezone 2023-01, General Plan Amendment 2023-01, Conditional Use Permit 2023-02, Development Plans 2023-01 and 2023-02, Tentative Subdivision Map 2023-01, Variance 2023-01 and Mitigation Negative Declaration 2023-01 to a later meeting, with direction to Staff to return with an updated resolution with appropriate findings for the denial of the application(s).

**ATTACHMENTS:**

- A. Resolution Annexation 2023-01 and Mitigated Negative Declaration 2023-01  
Exhibit 'A-1' – Annexation Boundary
- B. Resolution General Plan Amendment 2023-01 and Rezone 2023-01  
Exhibit 'B-1' – General Plan Amendment  
Exhibit 'B-2' – Rezone
- C. Resolution Tentative Subdivision Map 2023-01  
Exhibit 'C-1' – Subdivision Map  
Exhibit 'C-2' – Conditions of Approval
- D. Resolution Development Plan Permit 2023-01  
Exhibit 'D-1' – Conditions of Approval
- E. Resolution Development Plan Permit 2023-02 and Variance 2023-01  
Exhibit 'E-1' – Conditions of Approval
- F. Resolution Conditional Use Permit 2023-02  
Exhibit 'F-1' – Conditions of Approval
- G. Aerial Photo
- H. Site Plan, Floor Plan, and Building Elevations
- I. Initial Study and Mitigated Negative Declaration 2023-01, Mitigation Monitoring and Reporting Program dated July 2024
- J. Other Agency & Department Comments