

**City of Kerman**

**Del Norte Estates Project**

Facts, Findings, and Statement of Overriding Considerations  
Regarding the Environmental Effects from the  
Environmental Impact Report

State Clearinghouse # 2024031008

January 2025

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# FACTS, FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS

## 1.0 Introduction

The City Council of the City of Kerman (City), in approving the proposed Del Norte Estates Project (the Project or proposed Project), makes the Findings described herein and adopts the Statement of Overriding Considerations presented at the end of the Findings. The Draft Environmental Impact Report (State Clearinghouse #2024031008) was prepared by the City acting as lead agency pursuant to the California Environmental Quality Act (CEQA). Hereafter, unless specifically identified, the Notice of Preparation (NOP), Notice of Availability & Completion (NOA/NOC), Draft Environmental Impact Report (DEIR or Draft EIR), Appendices, Technical Studies, Final EIR containing Responses to Comments, and the Mitigation Monitoring and Reporting Program (MMRP) will be referred to collectively herein as the “EIR”. These Findings are based on the entire record before the City Council, including the EIR. The City Council adopts the facts and analyses in the EIR, which are summarized below for convenience. The omission of some detail or aspect of the EIR does not mean that it has been rejected by the City.

## 2.0 Project Summary

### 2.1 Project Description

The proposed Project consists of entitlement and development of 48 acres of land with up to 200 single-family dwelling units, 100 multi-family dwelling units, a 15,000 square foot retail plaza, and two 3,500 square foot fast-food restaurants with drive-throughs. The proposed Project is proposing a General Plan Amendment, Rezone, Cancellation of a Williamson Act Contract, and Tentative Subdivision Map to accommodate the Project. The Project site and a 23 acre parcel to the east are proposed to be annexed into the City of Kerman.

### 2.2 Project Location

The proposed Project would be located on approximately 48 acres at the northwest corner of West Whitesbridge Road (Highway 180) and North Del Norte Avenue in Kerman, California. The proposed site is currently in the unincorporated area of Fresno County and borders the City of Kerman on the west and south. The site is comprised of two adjacent parcels: APN 02012029S of approximately 24.24 acres and APN 02012030S of approximately 24.14 acres. The parcels are outside the City of Kerman

limits, but within the City's Sphere of Influence. The Project site and the adjacent 23-acre parcel to the east are proposed to be annexed into the City of Kerman. The Project site is located in an area with a mix of urban and rural residential, and agricultural areas. Residential subdivisions are located to the west and south of the site, agricultural land to the east and north, and rural residences to the east. The Project site itself consists of an almond orchard, a disked field, and a small residential area and has been used for agricultural purposes since at least 1998. The additional annexation area to the east of the Project site consists of orchard land.

## 2.3 Project Objectives

In accordance with CEQA Guidelines Section 15124(b), the following are the City of Kerman's Project objectives:

- To provide a mixed-use development at pricing appropriate for the market, in a growing area of the City of Kerman that satisfies the City of Kerman's policies, regulations and expectations as defined in the City's General Plan, Zoning Ordinance and other applicable plans, documents, and programs adopted by the City.
- To provide a variety of housing opportunities with a range of densities, styles, sizes and values that will be designed to satisfy existing and future demand for quality housing in the area.
- To provide a residential development that assists the City in meeting its General Plan and Housing Element requirements and objectives.
- To promote efficient use and accessibility of commercial development by focusing such uses along key locations and transportation corridors, such as State highway 180.

## 2.4 Actions Covered by the EIR

The City of Kerman will be the Lead Agency for the proposed Project, pursuant to the California Environmental Quality Act (CEQA). The Project will require the following approvals from the City of Kerman:

- Initiation of annexation from Fresno County into the City of Kerman
- General Plan Amendment
- Prezoning
- Approval of Tentative Subdivision Map
- Certification of the Project EIR (including adoption of Mitigation Monitoring and Reporting Program; Findings; and Statement of Overriding Considerations as may be appropriate)
- Encroachment Permits, Grading Permits, Building Permits

- Site Plan Review
- Development Agreement
- Williamson Act Contract Cancellation

#### *Other Public Agencies Approval and Consultation*

As mandated by CEQA Guidelines Section 15124(d), this section contains a list of agencies that are expected to use the EIR in their decision-making, and a list of the approvals for which the EIR may be used. These lists include information that is known to the Lead Agency. A range of responsible and trustee agencies may utilize this EIR in the review of subsequent implementation activities over which that may have responsibility. A responsible agency is a public agency which has discretionary review approval power over a project (CEQA Guidelines Section 15381). A trustee agency is a state agency that has jurisdiction by law over natural resources affected by a project which are held in trust for the people of the state (CEQA Guidelines Section 15386). These responsible and trustee agencies may include, but are not limited to, the following:

- California Air Resources Board (CARB)
- California Department of Conservation
- California Department of Fish and Wildlife
- California Department of Forestry and Fire Protection
- California Department of Housing and Community Development
- California Department of Parks and Recreation
- California Department of Transportation (Caltrans)
- California Department of Toxic Substances Control
- California Public Utilities Commission
- California State Office of Historic Preservation
- California State Lands Commission
- California State Water Resources Control Board
- Central Valley Regional Water Quality Control Board
- County of Fresno
- Fire Districts (if applicable)
- Fresno County Transportation Authority
- Fresno Local Area Formation Commission
- Fresno Irrigation District (if applicable)
- Fresno County Mosquito and Vector Control District

- San Joaquin Valley Unified Air Pollution Control Agency
- Kerman Unified School District
- Kings River Conservation District
- Sewer Districts (Various)
- Water Districts (Various)
- U.S. Fish and Wildlife Service
- United States Army Corps of Engineers
- Any other Responsible or Trustee Agency that may need to provide discretionary approval

### 3.0 Environmental Review Process Summary; Content of EIR and Record

#### 3.1 Notice of Preparation

In accordance with CEQA, the City of Kerman circulated a Notice of Preparation (NOP) of a Draft EIR for the proposed Project from March 27, 2024 through April 29, 2024 to trustee and responsible agencies, the State Clearinghouse (SCH #2024031008), and the public.

Two agency comments on the NOP related to the EIR analysis were presented or submitted during the public review period. The letters are summarized as follows:

1. **California Department of Fish & Wildlife:** Provided regulatory and animal/plant species information about the specific site.
2. **Native American Heritage Commission:** Provided regulations pertaining to AB 52 and SB 18 regarding tribal consultation and cultural review.

These comment letters were identified and incorporated into the Draft EIR. In addition, pursuant to Section 15206 of the State CEQA Guidelines, the lead agency is required to conduct at least one scoping meeting for all projects of statewide, regional, or area-wide significance. The scoping meeting is for jurisdictional agencies and interested persons or groups to provide comments regarding (but not limited to) the range of actions, alternatives, mitigation measures, and environmental effects to be analyzed in the Draft EIR. The City of Kerman hosted a scoping meeting on April 3, 2024, which was during the 30-day public review period of the NOP.

### 3.2 Draft and Final EIR

#### *Draft EIR*

The Draft EIR was properly noticed and circulated for public review and comment for the required 45 days, from September 11, 2024 through December 9, 2024. The Notice of Availability was published in the newspaper. The Draft EIR and Appendices were sent to the State Clearinghouse for distribution and notices were mailed to adjacent landowners, local agencies and other interested individuals. The City received two comment letters on the Draft EIR. In addition, the City provided additional input on the Draft EIR traffic study via email.

#### *Final EIR*

The City received three comment letters on the Draft EIR. These letters and emails are reproduced in their entirety in Chapter Two of the Final EIR and responses are shown after each letter. The Final EIR allows the public and the City an opportunity to review revisions to the Draft EIR and the responses to comments received during the Draft EIR's public review period. The Final EIR serves as the environmental document to inform the City of the environmental consequences of the proposed Project, either in whole or in part, or one of the alternatives to the Project discussed in the Draft EIR.

As required by Section 15090(a)(1)-(3) of the CEQA Guidelines, a Lead Agency, in certifying a Final EIR, must make the following three determinations:

1. The Final EIR has been completed in compliance with CEQA.
2. The Final EIR was presented to the decision-making body of the Lead Agency, and the decision-making body reviewed and considered the information in the Final EIR prior to approving the project.
3. The Final EIR reflects the Lead Agency's independent judgement and analysis.

As required by Section 15091 of the CEQA Guidelines, a public agency cannot approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings (Findings of Fact) for each of those significant effects, accompanied by a brief explanation of the rationale to reach findings supported by substantial evidence in the record. The possible findings are as follows:

1. Changes or alterations have been required in or incorporated into the project that avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.



3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

Additionally, pursuant to Section 15093(b) of the CEQA Guidelines, when a Lead Agency approves a project that would result in significant unavoidable impacts that are disclosed in the Final EIR, the agency must state in writing the reasons supporting the approval. The Statement of Overriding Considerations must be supported by substantial evidence in the Lead Agency's administrative record. The Findings of Fact (Section 15091) and Statement of Overriding Considerations (Section 15093(b)) have been reviewed by the City Council and both contains the reasons supporting the approval and is supported by substantial evidence.

As part of the approval of the proposed Project, the City Council has also adopted a Mitigation Monitoring and Reporting Program (see Public Resources Code Section 21081.6).

### 3.3 Content of the EIR

The Del Norte Estates "EIR" is comprised of the following materials:

- The Final EIR including any attached appendices;
- The Draft EIR including attached appendices;
- The Notice of Preparation and comments received in response to the Notice of Preparation;
- The Mitigation Monitoring and Reporting Plan ("MMRP");
- Comments received on the Draft EIR with responses to each of the comments made;
- The Notice of Completion and Availability of the Draft EIR for public review; and
- Any other information added by the Lead Agency.

(All hereafter collectively referred to as the "EIR").

Documents that shall accompany and be part of the EIR are:

1. Findings of Fact; and
2. Statement of Overriding Considerations.

The EIR, is hereby incorporated by reference into these findings without limitation. This incorporation is intended to address the scope and nature of mitigation measures, the basis for determining the significance of impacts, the comparative analysis of alternatives, and the reasons for approving the Project despite the potential for associated significant and unavoidable impacts.

### 3.4 Record of Proceedings

In accordance with CEQA Section 21167.6(e), the record of proceedings for the City's decision on the Project includes, without limitation, the following documents:

- The NOP and all other public notices issued by the City in conjunction with the scoping period for the Project;
- All comments submitted by agencies or members of the public during the scoping comment period on the NOP;
- The Draft EIR for the Project;
- All comments submitted by agencies or members of the public during the comment period on the Draft EIR;
- Responses to agency comments on the Draft EIR (provided in the Final EIR);
- The Final EIR for the Project;
- Documents cited or referenced in the Draft and Final EIRs;
- The Mitigation Monitoring and Reporting Program (MMRP) for the Project;
- The Notice of Completion and Availability of the Draft EIR for public review;
- All findings and resolutions adopted by the City in connection with the Project and all documents cited or referred to therein, including these findings;
- All reports, studies, memoranda, diagrams, staff reports, or other planning documents relating to the Project prepared by the City, consultants to the City, or responsible or trustee agencies with respect to the City's compliance with the requirements of CEQA and with respect to the City's action on the Project;
- All documents submitted to the City by other public agencies or members of the public in connection with the Project up through final consideration of Project approval;
- All minutes and/or verbatim transcripts, as available, of all public meetings held by the City in connection with the Project;
- Any documentary or other evidence submitted to the City at such public meetings, and any other information added by the City as Lead Agency;
- Any other materials required to be in the record of proceedings by Public Resources Code Section 21167.6(e).

The official custodian of the documents comprising the record of proceedings is the City of Kerman office, located at 850 S. Madera Ave., Kerman, CA 93630. All files have been available to the

Department and the public for review in considering these findings and whether to approve the Project.

### 3.4 Public Hearings

A duly noticed Scoping Meeting was held on April 3, 2024 and public hearings were held at City Planning Commission and City Council meetings.

## 4.0 Preliminary Findings

### 4.1 Lead Agency; Independent Judgment

The City of Kerman is the “Lead Agency” for the proposed Project and evaluated the EIR. The City retained the independent consulting firm of Crawford & Bowen Planning, Inc. to prepare the EIR for the Project. Crawford & Bowen prepared the EIR under the supervision, direction, and review of the City. The City has received and reviewed the EIR prior to certifying the EIR and prior to making any decision to approve or disapprove the Project. The City finds it has exercised independent judgment in accordance with Public Resources Code Section 21082.1(c)(3) in directing the consultant in the preparation of the EIR, as well as reviewing, analyzing, and revising material prepared by the consultant. The City finds that the EIR was prepared in compliance with CEQA and the CEQA Guidelines. The City finds that it has independently reviewed and analyzed the EIR for the proposed Project, that the Draft EIR was circulated for public review reflected its independent judgment, the Final EIR reflects the independent judgment of the City, and that the EIR reflects the independent judgment of the City.

### 4.2 Public Review Provided

The City Council finds that the EIR provides objective information to assist the decision-makers and the public at large in their consideration of the environmental consequences of the proposed Project. The public review period provided all interested jurisdictions, agencies, private organizations, and individuals the opportunity to submit comments regarding the Draft EIR. The Final EIR was prepared after the review period and responds to comments made during the public review period.

### 4.3 Purpose of Errata and Corrections; Clerical Errors

Textual clarifications are sometimes needed to describe refinements suggested as part of the public participation process. The changes and modifications made to an EIR after the Draft EIR was circulated for public review and comment can be made under Public Resources Code section 21092.1 or CEQA Guidelines section 15088.5 in the Final EIR.

### 4.4 Clerical Errors

The City recognizes that the EIR may contain clerical and/or typographical errors. The City reviewed the entirety of the EIR and bases its determination on the substance of the information it contains.

### 4.5 Evaluation and Response to Comments

The City evaluated comments on environmental issues received from persons who reviewed the Draft EIR. In accordance with CEQA, the City prepared written responses describing the disposition of significant environmental issues raised. The Final EIR provides an adequate, good-faith and reasoned response to the comments. The City reviewed the comments received and responses thereto and has determined that neither the comments received nor the responses to such comments add significant new information regarding environmental impacts to the Draft EIR. The City has based its actions on full appraisal of all viewpoints, including all comments received up to the date of adoption of these Findings, concerning the environmental impacts identified and analyzed in the EIR.

### 4.6 Recirculation of Final EIR Not Required

The Final EIR presents the environmental information and analyses that have been prepared for the proposed Project, including comments received addressing the adequacy of the Draft EIR, and responses to those comments. The Final EIR, which includes the responses to comments, the Draft EIR, and the Mitigation, Monitoring, and Reporting Program, will be used by the Kerman Planning Commission and the City Council in the decision-making process for the proposed Project.

This Final EIR is an informational document intended to disclose to the decision makers of the City, and the public, the environmental consequences of approving and implementing the Project or one of the alternatives to the proposed Project, which are described in the Draft EIR. All written comments received during the public review period of the Draft EIR are addressed in the Final EIR.

The responses in the Final EIR clarify, correct, and/or amplify text in the Draft EIR. Therefore, no significant revisions have been made which would require recirculation of the Draft EIR pursuant to CEQA Guidelines Section 15088.5 (Recirculation of an EIR Prior to Certification). The Final EIR was prepared in accordance with the California Environmental Quality Act (CEQA) (California Public Resources Code Sections 21000-21177).

#### 4.7 MMRP; Mitigation Measures

CEQA requires the Lead Agency approving a project to adopt a mitigation monitoring and reporting program (MMRP) or the changes to the project which it has adopted or made a condition of project approval to ensure compliance with the mitigation measures during project implementation. The mitigation measures included in the EIR as certified by the City as adopted by the City serves that function. The MMRP includes all of the mitigation measures and Project design features adopted by the City in connection with the approval of the proposed Project and has been designed to ensure compliance with such measures during implementation of the proposed Project. In accordance with CEQA, the MMRP provides the means to ensure that the mitigation measures are fully enforceable.

Unless specifically stated to the contrary in these findings, it is this City Council's intent to adopt all mitigation measures recommended by the EIR that are applicable to the Project. If a measure has, through error, been omitted from the Approvals or from these Findings, and that measure is not specifically reflected in these Findings, that measure shall be deemed to be adopted pursuant to this paragraph. In addition, unless specifically stated to the contrary in these Findings, all Approvals repeating or rewording mitigation measures recommended in the EIR are intended to be substantially similar to the mitigation measures recommended in the EIR and are found to be equally effective in avoiding or lessening the identified environmental impact. In each instance, the Approvals contain the final wording for the mitigation measures.

In accordance with the requirements of Public Resources Section 21081.6, the City hereby adopts the MMRP. The mitigation measures identified for the proposed Project were included in the Draft EIR and Final EIR to mitigate or avoid significant effects on the environment and has been designed to ensure compliance during Project implementation. As revised, the final mitigation measures for the proposed Project are described in the MMRP. Each of the mitigation measures identified in the MMRP is incorporated into the proposed Project and made a condition of approval for permits, required by agreement, or other measures to ensure the MMRP is fully enforceable. The City finds that the impacts of the proposed Project have been mitigated to the extent feasible by the mitigation measures identified in the MMRP.

#### 4.8 Substantial Evidence

The City finds and declares that substantial evidence for each and every finding made herein is contained in the EIR, which is incorporated herein by this reference, or is in the record of proceedings in the matter.

#### 4.9 Entirety of Action

The City is certifying an EIR for, and is approving and adopting findings for, the entirety of the actions described in these Findings and in the EIR as comprising the proposed Project.

#### 4.10 Effect of Public Comments

The City finds that none of the public comments to the Draft EIR or subsequent public comments or other evidence in the record, including any changes in the proposed Project in response to input from the community, include or constitute substantial evidence that would require recirculation of the EIR prior to certification of the EIR and that there is no substantial evidence elsewhere in the record of proceedings that would require substantial revision of the EIR prior to its certification, and that the EIR need not be recirculated prior to its certification.

#### 4.11 Independent Review of Record

The City Council, after receiving a recommendation from the Planning Commission, certifies that the EIR has been completed in compliance with CEQA. The City Council has independently reviewed the record and the EIR prior to certifying the EIR and approving the Project. By adopting these Findings, the City Council on behalf of the City confirms, ratifies, and adopts the findings and conclusions of the EIR as supplemented and modified by these Findings. The EIR and these Findings represent the independent judgment and analysis of the City and the City Council.

#### 4.12 Adequacy of EIR to Support Approval of the Proposed Project

The City certifies that the EIR is adequate to support all actions in connection with the approval of the proposed Project. The City Council certifies that the EIR is adequate to support approval of the proposed Project described in the EIR, each component and phase of the proposed Project described

in the EIR, any variant of the Project described in the EIR, any minor modifications to the proposed Project or variants described in the EIR, as well as all components of the proposed Project.

#### 4.13 Project EIR Findings

In accordance with Public Resources Code section 21081 and CEQA Guidelines sections 15091 and 15092, the City makes the specific findings required by CEQA with respect to each area of potential environmental impact as further set forth in this Section of these Findings. These Findings do not repeat the full discussions of environmental impacts, mitigation measures, and related explanations contained in the EIR. The City ratifies, adopts, and incorporates, as though fully set forth, the analysis, explanation, findings, responses to comments and conclusions of the EIR. The City adopts the reasoning of the EIR, staff reports, and presentations provided by City staff and the independent consulting firm of Crawford & Bowen Planning, Inc., as may be modified by these Findings.

## 5.0 ENVIRONMENTAL IMPACTS AND FINDINGS

### 5.1 Introduction

City staff reports; the EIR; written and oral testimony at public meetings or hearings; these facts, findings, and statement of overriding considerations; and other information in the administrative record (as further defined above) serve as the basis for the City's environmental determination. Public Resources Code Section 21081 requires that the City Council make one of the following findings for each significant impact:

1. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effects identified in the EIR;
2. Those changes or alterations are within the purview and jurisdiction of another public agency, and such changes have been, or can and should be adopted by that other agency; or
3. Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or alternatives identified in the EIR.

The same requirements for adopting these findings are also contained in CEQA Guidelines Section 15091(a). Public Resources Code Section 21061.1 defines "feasible" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, and environmental, social and technological factors." By this document, the City Council

makes the findings required by Public Resources Code Section 21081 with regard to the proposed Project.

Additionally, Public Resources Code Section 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects." It also states, "in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof."

The three available findings under Section 21081 and Guideline Section 15091(a) allow an approving agency to specify, as to particular significant environmental impacts, whether the agency is (a) adopting mitigation measures recommended in an EIR; (b) identifying measures that lay outside its control but should be, or have been, adopted by another agency; or (c) identifying measures that are infeasible. For projects with EIRs that include numerous mitigation measures that are either infeasible or outside the approving agency's control, findings may be very lengthy, as they must explain, for example, why some measures are rejected as being infeasible. In contrast, where the approving agency chooses to adopt each and every mitigation measure recommended in an EIR, there would seem to be little point in repeated invoking, over many dozens of pages, the finding that "[c]hanges or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR." Guideline Section 15091(a).

Where significant impacts are not avoided or significantly lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project's benefits rendered acceptable its unavoidable adverse environmental effects. CEQA Guidelines §§15093, 15043(b).

The findings below are the City Council's best efforts to set forth the evidentiary and policy bases for its decision to approve the proposed Project in a manner consistent with the requirements of CEQA. These findings are not merely informational but, rather, constitute a binding set of obligations that come into effect with the City Council's approval of the proposed Project. The City Council adopts these findings for the entirety of the actions described in these findings and in the Final EIR.

Having received, reviewed, and considered the Final EIR and other information in the record of proceedings, based on the substantial evidence the City Council hereby adopts the following findings in compliance with CEQA and the CEQA Guidelines.

1. Findings regarding the environmental review process and the contents of the Final EIR.



2. Findings regarding the environmental impacts of the proposed Project and the mitigation measures (General Plan policies, etc.) for those impacts identified in the Final EIR and incorporated into the Project.
3. Findings regarding alternatives and the reasons that such alternatives are rejected.
4. Statement of Overriding Considerations determining that the benefits of implementing the proposed Project outweigh the significant and unavoidable environmental impacts that will result and therefore justify approval of the proposed Project despite such impacts.
5. Findings regarding the Mitigation Monitoring and Reporting Program.

The City Council of the City of Kerman certifies that these findings are based on its full appraisal and consideration of all viewpoints expressed in written correspondence and testimony regarding the proposed Project, including all comments received up to the date of adoption of these findings, concerning the environmental issues identified and discussed in the Final EIR. The City Council adopts the findings and the statement of overriding considerations for the approvals that are set forth below.

The detailed analysis of potentially significant environmental impacts and proposed mitigation measures for the Project is presented in Chapter 3, Environmental Setting, Impacts and Mitigation of the Draft EIR. Responses to comments on the Draft EIR, along with copies of the comments, are provided in Chapter Two of the Final EIR.

The EIR evaluated 20 major environmental categories for potential impacts as outlined in Appendix G of the *CEQA Guidelines*. Of these 20 major environmental categories, this City Council concurs with the conclusions in the EIR that the issues and sub issues discussed in Subsection 5.2, Subsection 5.3, and Subsection 5.4, below are either no impacts, less than significant without mitigation, or can be mitigated below a level of significance. For the remaining potential environmental impacts that cannot feasibly be mitigated below a level of significance discussed in Subsection 5.5, overriding considerations exist that make these potential impacts acceptable to this City Council.

## 5.2 No Environmental Impacts

The City Council hereby finds, based upon substantial evidence in the record including the EIR and as discussed below, that the following potential environmental areas result in no impacts by the Project and no mitigation is necessary or required.

### **Agriculture and Forestry Resources**

**Impact 3.2-3:** The Project would not conflict with existing zoning for, or cause rezoning of, forest land as defined in Public Resources Code section 12220(g), timberland as defined by Public Resources Code section 4526, or timberland zoned Timberland Production (as defined by Government Code section 51104(g)), OR result in the loss of forest land or convert forest land to non-forest use.

**Facts and Findings:** The Project is not zoned for forestland, timberland, or timberland zoned Timberland Production and does not propose any zone changes related to forest or timberland. No loss of forest land would occur, and no conflicts with forest land zoning would occur. As such, there are no impacts related to this topic.

### **Biological Resources**

**Impact 3.4-4:** The proposed Project will not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance OR conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

**Facts and Findings:** No trees or biologically sensitive areas will be impacted and there is no adopted Habitat Conservation Plan, Natural Communities Conservation Plan or other approved local, regional, or state habitat conservation plan that has been adopted in the area. There is no impact.

### **Geology And Soils**

**Impact 3.7-5:** The Project site does not have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water.

**Facts and Findings:** The proposed Project will connect to the City's wastewater/sewer system. The Project does not include the construction, replacement, or disturbance of septic tanks or alternative wastewater disposal systems. Therefore, there is no impact.

## **Hazards and Hazardous Materials**

**Impact 3.9-5:** The Project is not located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, and the Project would not result in a safety hazard or excessive noise for people residing or working in the Project area.

**Facts and Findings:** The nearest public airport is the Fresno Chandler Executive Airport, approximately 13.45 miles east of the Project site Fresno Yosemite International Airport is located approximately 19.4 miles to the east. There are no public or private airport land use plans that are applicable to the Project.

## **Mineral Resources**

**Impact 3.12-1:** The Project would not result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state OR a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan.

**Facts and Findings:** There are no known mineral resources within the proposed Project area and as such, no loss of availability to known mineral resources would occur as a result of proposed Project development. There would be no impacts.

## 5.3 Less Than Significant Environmental Impacts

The City Council hereby finds, based on substantial evidence in the record including the EIR and as noted below, that the following potential environmental impacts of the Project are less than significant and therefore do not require the imposition of mitigation measures.

### **Aesthetics**

**Impact 3.1-1:** The Project will not have a substantial adverse effect on a scenic vista.

**Facts and Findings:** There are no established scenic vistas in the area. Thus, the impact is less than significant and no mitigation is required.

**Impact 3.1-2:** The Project will not substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway.

**Facts and Findings:** There are no established scenic resources such as rock outcroppings or scenic highways in the Project area. Thus, the impact is less than significant and no mitigation is required.

**Impact 3.1-3:** In non-urbanized areas, the Project will not substantially degrade the existing visual character or quality of public views of the site and its surroundings. (Public views are those that are experienced from a publicly accessible vantage point.) The project would not conflict with applicable zoning and other regulations governing scenic quality.

**Facts and Findings:** The improvements such as those proposed by the Project are typical of City urban areas and are generally expected from residents of the City. The proposed Project would be similar in visual appearance to existing developments found throughout the City. Therefore, the impact is determined to be less than significant.

**Impact 3.1-4:** The Project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.

**Facts and Findings:** An incremental increase in the amount of daytime glare created can be expected, but substantial increases would not be likely. Nighttime lighting would increase with a greater number of lighting sources to the extent that significant impacts from nighttime glare increases would be expected. However, compliance with the City's General Plan Policies as well as applicable ordinances related to lighting and glare will help ensure that impacts remain less than significant and no mitigation is required.

### **Agricultural and Forestry Resources**

**Impact 3.2-4:** The Project will not involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use.

**Facts and Findings:** The requested General Plan Amendment and annexation is site specific and does not apply to any properties other than the proposed Project site. Therefore, it is unlikely that the Project would result in the conversion of other farmland or forest land.

## **Air Quality**

**Impact 3.3-1:** The Project would not conflict with or obstruct implementation of the applicable air quality plan.

**Fact and Findings:** The proposed Project would comply with all applicable ARB and SJVAPCD rules and regulations. Therefore, the Project complies with this criterion and would not conflict with or obstruct implementation of the applicable air quality attainment plan with regards to this criterion. The Project's regional operational emissions would not exceed any applicable SJVAPCD thresholds prior to the incorporation of mitigation measures (see Impact 3.3-2). Therefore, the Project would be considered consistent with the existing AQPs.

**Impact 3.3-2:** Would the project would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard.

**Fact and Findings:** The proposed Project would incorporate design features and required mitigation measures that reduce air quality impacts. In addition, regulations adopted by the SJVAPCD and the State of California provide emission reductions that would align with requirements of the mitigation measures included in the EIR and relevant General Plan policies. For example, Rule 9510 ISR, adopted in 2006, requires projects subject to the Rule to reduce operational NO<sub>x</sub> emissions by 33 percent and PM<sub>10</sub> emissions by 50 percent through the implementation of design features or payment of off-site mitigation fees. Rule 4901 regulates the installation of wood burning devices in project residences. Rule 9401 Employee Trip Reduction requires large employers to prepare plans to reduce employee trips with measures listed in the mitigation measure, among others. Title 24 Building Energy Efficiency Standards are updated every three years and require increasingly stringent energy efficiency measures over time. Solar panels continue to be required under 2022 Title 24 standards that became effective on January 1, 2023. Individual development projects will be subject to the most recent Title 24 in effect at the time that building permits are issued, which will ensure that building energy consumption would not be wasteful or inefficient. The buildout of the proposed project would provide future residents, visitors, and employees connectivity within the project site and to adjoining land uses through pedestrian and bicycle connections. The proximity of the proposed new development to existing buildout in the City of Kerman, coupled with the design features of the proposed project, would improve mobility and connectivity within the project area. Overall, the proposed project would create a considerable amount of internal capture between its components to reduce VMT compared to the same level of development built with land uses geographically separated from each other.

**Impact 3.3-3:** The Project would not expose sensitive receptors to substantial pollutant concentrations.

**Fact and Findings:** The proposed Project would not exceed SJVAPCD localized emission daily screening levels for any criteria pollutant. The Project is not a significant source of TAC emissions during construction or operation. The Project is not in an area with suitable habitat for Valley fever spores and is not in an area known to have naturally occurring asbestos. Therefore, the Project would not result in significant impacts to sensitive receptors.

**Impact 3.3-4:** The Project would not result in other emissions (such as those leading to odors) adversely affecting a substantial number of people.

**Fact and Findings:** Land uses that are typically identified as sources of objectionable odors include landfills, transfer stations, sewage treatment plants, wastewater pump stations, composting facilities, feed lots, coffee roasters, asphalt batch plants, and rendering plants. The proposed Project is not anticipated to facilitate any development projects that engage in any of these activities. Therefore, the proposed Project would not be considered a generator of objectionable odors during operations.

During construction, the various diesel-powered vehicles and equipment in use on-site would create localized odors. These odors would be temporary and would not likely be noticeable for extended periods of time beyond the immediate area where construction would be occurring. Therefore, potential for odor impacts from construction of development of the proposed Project would be less than significant.

## **Biology**

**Impact 3.4-2:** The Project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or the U.S. Fish and Wildlife Service, or have a substantial adverse effect on federally or state-protected wetlands (including, but not limited to marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.

**Fact and Findings:** The proposed Project site does not support any sensitive natural communities. No riparian habitat, wetlands or other sensitive natural community is present and the site does not overlap critical habitat. Additionally, the Project site does not have any riparian habitat or other sensitive natural communities that are identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or the U.S. Fish and Wildlife Service.

## **Energy**

**Impact 3.6-1:** The Project will not result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during Project construction or operation.

**Facts and Findings:** The Project would result in less than significant impacts, and it would not result in the wasteful, inefficient, or unnecessary use of energy due to Project design features that will comply with the City's design guidelines and regulations that apply to the Project, such as Title 24 Building Energy Efficiency Standards and the California Green Building Standards Code that apply to commercial and residential buildings. The installation of solar panels required by 2022 Title 24 standards is required for most residential development. Furthermore, various federal and state regulations, including the Low Carbon Fuel Standard, Pavley Clean Car Standards, and Low Emission Vehicle Program, would serve to reduce the transportation fuel demand by the Project.

With the adherence to the increasingly stringent building and vehicle efficiency standards as well as implementation of the Project's design features that would reduce energy consumption, the proposed Project would not result in the wasteful or inefficient use of energy. As such, the Project would not result in a significant environmental impact, due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation.

**Impact 3.6-2:** The Project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency.

**Facts and Findings:** The proposed Project is consistent with applicable plans and policies and would not result in wasteful or inefficient use of nonrenewable energy sources; therefore, impacts would be less than significant.

## **Geology And Soils**

**Impact 3.7-1:** The Project would not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

- i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.
- ii. Strong seismic ground shaking?

- iii. Seismic-related ground failure, including liquefaction?
- iv. Landslides?

**Facts and Findings:** The proposed project site is not located in an earthquake fault zone as delineated by the 1972 Alquist-Priolo Earthquake Fault Zoning Map Act. The nearest known potentially active fault is the San Andreas Fault, located over sixty miles west of the site. No active faults have been mapped within the project boundaries, so there is no potential for fault rupture. It is anticipated that the proposed Project site would be subject to some ground acceleration and ground shaking associated with seismic activity during its design life. The proposed Project site would be engineered and constructed in strict accordance with the earthquake resistant design requirements contained in the latest edition of the California Building Code (CBC) for seismic zone II, as well as Title 24 of the California Administrative Code, and therefore would avoid potential seismically induced hazards on planned structures.

**Impact 3.7-3:** The Project is not located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.

**Facts and Findings:** The proposed Project would be located on soils that exhibit low to moderate potential for liquefaction during an earthquake, and the potential for lateral spreading, subsidence, or collapse to occur is considered low. The site would be designed in accordance with engineering design standards and structural improvement requirements to withstand the effects of soil settlement and collapsible soils. Engineered compacted fill would likely be used during construction in accordance with building code requirements, which would reduce the potential for lateral spreading of soils from Project construction. Therefore, with foundation and structural design in accordance with the City of Kerman and current California Building Code standards, ground shaking impacts on the proposed Project area would be less than significant.

**Impact 3.7-4:** The Project is not located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?

**Facts and Findings:** With foundation and structural design in accordance with the City of Kerman and current California Building Code standards, impacts from expansive soil on the proposed Project would be less than significant.



## **Greenhouse Gas Emissions**

**Impact 3.8-1:** The Project would not generate direct or indirect greenhouse emissions that would result in a significant impact on the environment.

**Facts and Findings:** The Project would not conflict with relevant 2022 Scoping Plan actions or strategies that aim to achieve the State’s climate target of reducing anthropogenic emissions to 85 percent below 1990 levels and achieving carbon neutrality by 2045.

The 2017 Scoping Plan provides an intermediate target that is intended to achieve reasonable progress toward the 2050 target. In addition, the 2022 Scoping Plan outlines objectives, regulations, planning efforts, and investments in clean technologies and infrastructure that outlines how the State can achieve carbon-neutrality by 2045. Accordingly, taking into account the proposed Project’s design features (including strategically planning new mixed-use development in such a way that minimizes VMT) and the progress being made by the State towards reducing emissions in key sectors such as transportation, industry, and electricity, the proposed project would be consistent with State GHG Plans and would further the State’s goals of reducing GHG emissions 40 percent below 1990 levels by 2030, carbon neutral by 2045, and 80 percent below 1990 levels by 2050, and does not obstruct their attainment. Impacts are less than significant.

**Impact 3.8-2:** The Project would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases.

**Facts and Findings:** The City of Kerman has not adopted a GHG reduction plan. In addition, the City has not completed the GHG inventory, benchmarking, or goal-setting process required to identify a reduction target and take advantage of the streamlining provisions contained in the CEQA Guidelines. The SJVAPCD has adopted a Climate Action Plan, but it does not contain measures that are applicable to the project. Therefore, the SJVAPCD Climate Action Plan cannot be applied to the project. Since no other local or regional Climate Action Plan is in place, the project is assessed for its consistency with ARB’s adopted Scoping Plans. This assessment is included under Impact GHG-1 in the Draft EIR. As demonstrated in the analysis contained under Impact GHG-1, the project would not conflict with any applicable plan, policy, or regulation of an agency adopted to reduce the emissions of greenhouse gases.

## **Hazards and Hazardous Materials**

**Impact 3.9-3:** The Project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.

**Facts and Findings:** Upon Annexation and approval of entitlements, the proposed site will be located within the Kerman Unified School District. Kerman High School is located approximately 0.18 miles south of the site, and Enterprise Continuation High School located approximately 0.43 miles south.

Project construction would involve the use of diesel-fueled vehicles and equipment that emit diesel particulate matter (DPM), which is considered a toxic air contaminant (TAC). The SJVAPCD's 2015 GAMAQI does not currently recommend analysis of TAC emissions from Project construction activities, but instead focuses on projects with operational emissions that would expose sensitive receptors over a typical lifetime of 70 years.

The Project would not exceed SJVAPCD localized emission daily screening levels for any criteria pollutant, and the Project is not a significant source of TAC emissions during construction or operation. Therefore, the Project would not result in significant impacts to sensitive receptors such as schools.

Based on the proposed Project description of a mixed use residential and commercial development, it is not reasonably foreseeable that the proposed Project will cause a significant impact by emitting hazardous waste or bringing hazardous materials within one-quarter mile of an existing or proposed school. Residential and general commercial developments typically do not generate, store, or dispose of significant quantities of hazardous materials. Such uses also do not normally involve dangerous activities that could expose persons onsite or in the surrounding areas to large quantities of hazardous materials.

**Impact 3.9-4:** The Project would not be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment.

**Facts and Findings:** The proposed Project site is not located on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 (Geotracker and DTSC EnviroStor databases). The proposed site was not identified within the GeoTracker Database. The Database did not identify any PUST facilities, or open LUST / SLIC cases in the search radius of this report (GeoTracker, 2024). There are no locations listed within a quarter-mile radius of the site. According to the Envirostor database, there are no waste facilities or site cleanup facilities located on the proposed

site. There has been one School Investigation listed approximately 700 feet east of the site, Kerman Proposed Elementary School & High School Athletic Facilities, with a status of 'No Further Action'.

**Impact 3.9-6:** The Project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.

**Facts and Findings:** The overall layout of the proposed Project is block form, with shortened roadway lengths and a cul-de-sac in order provide limited thru-traffic and to create a walkable urban environment. The residential site has been designed with four points of ingress and egress. Additional access points will be provided for the commercial uses. The City of Kerman has reviewed the Project layout and street configuration and has determined that the Project would not inhibit the ability of local roadways to continue to accommodate emergency response and evacuation activities and as such, the Project would not interfere with the City's adopted emergency response plan.

**Impact 3.9-7:** The Project would not expose people or structures either directly or indirectly to a significant risk of loss, injury or death involving wildland fires.

**Facts and Findings:** According to CalFire's Local Responsibility Area map, no land within or adjacent to the Project site or the City of Kerman designated as a High or Very High Fire Hazard Severity Zone. Additionally, according to Fresno County's Wildfire Severity Zones map, the City of Kerman is not located in a Moderate, High, or Very High Severity zone. The MJHMP notes that as development continues throughout the County planning area, especially in the wildland-urban interface, such as the City of Kerman, the risk and vulnerability to wildfires will likely increase. Two fire safe councils have been created to address this increased wildfire threat in the wildland -urban interface: Highway 168 and Oak to Timberline fire safe councils.

There are no other factors of the proposed Project or the surrounding area that would exacerbate wildfire or the uncontrolled spread of a wildfire.

## **Hydrology and Water Quality**

**Impact 3.10-2:** The Project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the Project may impede sustainable groundwater management of the basin (Less than significant at project level only, cumulative impact is significant and unavoidable. See Section 5.5).

**Facts and Findings:** Since the City's 2020 UWMP has projected sufficient reasonably available volumes of water and because the Project is within the population growth assumptions (and associated water availability) identified in the City's 2020 UWMP, there is sufficient water to serve the Project on an on-going basis. The proposed Project will be required to pay water impact fees based on projected impacts from the development. In addition, in order to reduce demands on the groundwater system, the Project will be required to comply with several existing standards. The impact is determined to be less than significant. The less than significant determination is for project level only, the cumulative impact is significant and unavoidable. See Section 5.5.

**Impact 3.10-4:** The Project would not result in flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation.

**Facts and Findings:** The Project site is designated Flood Insurance Rate Map Zone "X" (outside the 500-year flood zone). Urban development is allowed under this flood zone. The site has been designed with adequate storm drain capacity, and compliance with the requirements for SWPPP and BMPs will ensure that risk of release of pollutants due to project inundation is less than significant. The site is also located more than 75 miles from the nearest ocean that could cause a tsunami and there are no bodies of water near the Project site that would represent any impacts related to seiche zones. Therefore, there is a less than significant impact related to flooding and related hazards.

**Impact 3.10-5:** The Project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.

**Facts and Findings:** The City of Kerman, as a member of the North Kings Groundwater Sustainability Agency (GSA), will work with the GSA to implement the projects and management actions identified by the GSA. Upon Project approval and annexation into the City of Kerman, the Project will be subject to the requirements of the Sustainability Plan of the North Kings GSA. Therefore, the Project will not conflict with or obstruct a sustainable groundwater management plan.

## **Land Use and Planning**

**Impact 3.11-1:** The Project would not physically divide and established community.

**Facts and Findings:** The Project site is located in an area with a mix of urban and rural residential, and agricultural area. Residential subdivisions are located to the west and south of the site, agricultural

land to the east and north, and rural residences to the east. Because the Project would not physically divide an established community, the impact is determined to be less than significant.

**Impact 3.11-2:** The Project would not cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.

**Facts and Findings:** The proposed Project is an appropriate use for the site, and as demonstrated in Table 3.11-2 of the Draft EIR, once annexed into the City, the Project will be consistent with the applicable objectives, goals and policies outlined in the City of Kerman General Plan. Implementation of these policies and measures will ensure that impacts remain less than significant.

## **Noise**

**Impact 3.13-2:** The Project would not lead to generation of excessive groundborne vibration or groundborne noise levels.

**Facts and Findings:** The dominant sources of man-made vibration are sonic booms, blasting, pile driving, pavement breaking, demolition, diesel locomotives, and rail-car coupling. None of these sources are anticipated from the Project site. It is unlikely that vibration from construction activities could be detected at the closest sensitive land uses. After full Project build out, it is not expected that ongoing operational activities will result in any vibration impacts at nearby sensitive uses. Any impacts would be less than significant and no mitigation is required.

**Impact 3.13-3:** The Project is not located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, and the Project would not expose people residing or working in the project area to excessive noise levels.

**Facts and Findings:** The Project is not located within two miles of a public airport or private airstrip. The nearest public airport is the Fresno Chandler Executive Airport, approximately 13.45 miles east of the Project site. Fresno Yosemite International Airport is located approximately 19.4 miles to the east. The Project site is not within any airport land use plans and the Project would not expose people residing or working in the Project area to excessive airport-related noise levels.

## **Population and Housing**

**Impact 3.14-1:** The Project would not induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure).

**Facts and Findings:** The anticipated population and housing unit increase associated with the proposed Project is within the growth projections of the City's 2040 General Plan and the City's Housing Element. While other future residential developments are also likely to occur in the City, it is anticipated that the City can accommodate the Project and other residential developments in the City. The City's General Plan anticipates a population increase of 4,170 residents, with the total population of 19,650 by the 2040 General Plan buildout.<sup>1</sup> Given the City's current population (16,955 persons) and housing stock (4,880 units), the City could accommodate the proposed Project plus an additional 1,630 persons and 535 housing units according to the City's General Plan. Based on the City's General Plan, infrastructure planning documents, and the City's Housing Element, it is determined that the proposed Project will not induce unplanned population growth beyond that which can be accommodated by the City. It has been determined that the City has adequate capacity to serve the Project and therefore, the Project will have a less than significant impact occurring from inducement of unplanned population.

**Impact 3.14-2:** The Project will not displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere.

**Facts and Findings:** The eastern parcel of APN 02012030S currently consists of rural residences in the northeastern portion which will be removed as part of the Project. The remaining Project site is currently undeveloped and contains no housing or structures. Thus, the proposed Project would not displace a significant number of existing housing units or people. There is a less than significant impact.

## **Transportation/Traffic**

**Impact 3.17-1:** The Project would not conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities.

**Facts and Findings:** All intersections currently operate at an acceptable level of service and are anticipated to do so through 2044, prior to and with the addition of Project traffic. Therefore, no

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<sup>1</sup> City of Kerman 2040 General Plan Draft EIR. Table 4.3-5.

intersection improvements are required. All roadway segments within the scope of the study currently operate at or above LOS C and are expected to continue to do so through the year 2044, prior to and with the addition of project traffic. Therefore, no roadway improvements are required. Therefore, the Project will result in less than significant impacts. The Project therefore will not conflict with the City's General Plan or other planning document addressing the circulation system.

**Impact 3.17-2:** The Project would not conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b).

**Facts and Findings:** The project results in a net decrease in total VMT. Therefore, the project is not expected to result in a significant transportation impact under CEQA and no mitigation is required.

**Impact 3.17-3:** The Project would not substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).

**Facts and Findings:** The overall layout of the proposed Project is block form, with shortened roadway lengths and a cul-de-sac in order to provide limited thru-traffic and to create a walkable urban environment. The residential site has been designed with four points of ingress and egress. Additional access points will be provided for the commercial uses. All proposed internal roadways will be constructed to meet local and State standards and requirements. No sharp roadway curves currently exist in the proposed Project area, nor would such curves be created by the proposed Project. No roadway design features associated with this proposed Project would result in an increase in hazards due to a design feature or be an incompatible use. There are no agricultural uses (such as farm equipment) associated with the Project. Access for emergency vehicles is adequate and available at the four points of ingress/egress (for the residential portion) and additional access points for the commercial portion of the Project. Any impacts would be less than significant.

### **Tribal Cultural Resources**

**Impact 3.18-1:** The Project would not cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:



- i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or
- ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

**Facts and Findings:** Based on the results of the SSJVIC and NAHC records searches, the tribal outreach, the review of historical maps, and the Meyer et al. (2010) geoarchaeological sensitivity model, the APE appears to have low archaeological sensitivity. This impact is considered less than significant.

### **Utilities and Service Systems**

**Impact 3.19-1:** The Project will not require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects.

**Facts and Findings:** The Project is proposing annexation into the City of Kerman. Once annexed, the Project site would be required to connect to water, stormwater, and wastewater services, and will require solid waste collection services. The City has reviewed the Project to determine adequate capacity in these systems and ensure compliance with applicable connection requirements. In addition to connections to water, stormwater, solid waste, and wastewater services, the Project would be served by PG&E for natural gas and electricity and by a private telecommunications provider for the Project site. Therefore, all wet and dry public utilities, facilities, and infrastructure are in place and available to serve the Project site without the need for relocated, new, or expanded facilities. While new utility and service connections would need to be extended to and from the Project site (e.g., water, sewer, stormwater, electrical), these new connections would not result in a need to modify the larger off-site infrastructure. Therefore, the proposed Project will not require or result in the relocation or construction of new or expanded water or wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities that will result in environmental impacts that are not analyzed elsewhere in this document. Any impacts are less than significant.



**Impact 3.19-2:** The Project will have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years (Less than significant at project level only, cumulative impact is significant and unavoidable. See Section 5.5).

**Facts and Findings:** Since the City's 2020 UWMP has projected sufficient reasonably available volumes of water and because the Project is within the population growth assumptions (and associated water availability) identified in the City's 2020 UWMP, there is sufficient water to serve the Project on an on-going basis. The proposed Project will be required to pay water impact fees based on projected impacts from the development. In addition, in order to reduce demands on the groundwater system, the Project will be required to comply with several existing standards. The impact is determined to be less than significant.

**Impact 3.19-3:** The Project will not result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.

**Facts and Findings:** The Project would demand approximately 216,195 gallons of water per day. This estimate is inclusive of all water users and uses. If all of the water used by the Project resulted in discharge to the City's WWTP, this would account for approximately ten percent of the WWTP's daily capacity of 2.0 MGD. The City has reviewed the Project and has determined that it has adequate capacity to serve the Project's wastewater demands. In addition, the proposed Project will be required to pay wastewater impact fees based on projected impacts from the development. Therefore, the wastewater treatment plant would have the capacity to meet the wastewater generated from maximum buildout of the site and the Project's impacts on wastewater facilities would be less than significant.

**Impact 3.19-4:** The Project will not generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals.

**Facts and Findings:** The City of Kerman's solid waste is primarily landfilled at the American Avenue Landfill in Tranquility. The landfill is permitted to accept 2,200 tons per day and has a permitted capacity of 29.3 million cubic yards. The original closure date was 2031; however, due to enhanced recycling efforts, particularly on the part of the City of Fresno, the closure date has been extended to 2050.

The proposed Project would be required to comply with all federal, State, and local regulations related to solid waste. Furthermore, the proposed Project would be required to comply with all standards

related to solid waste diversion, reduction, and recycling during project construction and operation. The proposed Project will comply with all federal, state and local statutes and regulations related to solid waste. As such, any impacts would be less than significant.

**Impact 3.19-5:** The Project will comply with federal, state, and local management and reduction statutes and regulations related to solid waste.

**Facts and Findings:** The proposed Project would be required to comply with all federal, State, and local statutes and regulations related to the handling and disposal of solid waste and impacts would be less than significant.

## **Wildfire**

**Impact 3.20-1:** The Project would not substantially impair an adopted emergency response plan or emergency evacuation plan, OR expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire, require the installation or maintenance of associated infrastructure that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment, or expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes, as the Project is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones.

**Facts and Findings:** The proposed Project is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones. Instead, the Project is located in an area developed with commercial, agricultural and residential uses, which precludes the risk of wildfire. The area is flat in nature which would limit the risk of downslope flooding and landslides, and limit any wildfire spread. The proposed Project does not require the installation or maintenance of associated infrastructure that would increase wildfire risk or result in impacts to the environment.

To receive building permits, the proposed Project would be required to be in compliance with the City's fire suppression requirements (e.g. adequate water pressure for fire suppression, location of fire hydrants, fire sprinklers in commercial facilities, etc.) and any adopted emergency response plan. As such, any wildfire risk to the project structures or people would be less than significant.

## 5.4 Less Than Significant Environmental Impacts With Mitigation

Public Resources Code Section 21081 states that no public agency shall approve or carry out a project for which an EIR has been completed that identifies one or more significant effects unless the public agency makes one or more of the following findings:

- Changes or alternations have been required in, or incorporated into, the Project that mitigate or avoid the significant effects on the environment.
- Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
- Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or alternatives identified in the EIR, and overriding economic, legal, social, technological, or other benefits of the Project outweigh the significant effects on the environment.

The following issues from the environmental categories analyzed in the EIR were found to be potentially significant, but can be mitigated to a less than significant level with the imposition of mitigation measures. This City Council hereby finds, based on substantial evidence in the record including the EIR and as noted below, pursuant to Public Resources Code Section 21081 that all potentially significant impacts listed below can and will be mitigated to below a level of significance by imposition of the mitigation measures in the EIR; and that these mitigation measures are included as Conditions of Approval and set forth in the MMRP adopted by this City Council. Specific findings of this City Council for each category of such impacts are set forth in detail, below.

### **Biological Resources**

**Impact 3.4-1:** After mitigation, the Project would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or the U.S. Fish and Wildlife Service.

**Finding:** Implementation of the following mitigation measure will reduce potential impacts to a less than significant level.

**Mitigation Measure:** BIO-1

**Facts in support of the Finding:** The project site has the potential to be used for nesting by a variety of birds and raptors protected by state and federal law. If project construction takes place during the nesting season, birds nesting on the site could be injured or killed by construction activities or

disturbed such that they would abandon their nests. Significant construction-related disturbance is also a possibility for birds nesting adjacent to the project site, potentially including the Swainson's hawk (*Buteo swainsoni*), a California Threatened species. Construction-related mortality of nesting birds and disturbance leading to nest abandonment would violate state and federal laws and constitute significant impacts of the project. Moreover, such incidents would violate the Migratory Bird Treaty Act, California Fish and Game Code, and, in the case of Swainson's hawk, the California Endangered Species Act.

Swainson's hawks are not expected to be adversely affected by project -related loss of habitat. Orchards are not suitable foraging habitat for Swainson's hawks and the loss of approximately 24 acres of disked field in an area with many more acres of similar or more suitable foraging habitat is unlikely to substantially adversely affect individuals or populations of this species. Therefore the loss of habitat on site is not considered to be a significant impact.

**Impact 3.4-3:** After mitigation, the Project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery site.

**Finding:** Implementation of the following mitigation measure will reduce potential impacts to a less than significant level.

**Mitigation Measure:** BIO-1

**Facts in support of the Finding:** The proposed Project could impede the use of nursery sites for native birds protected under the MBTA and CFGC. Migratory birds could be expected to nest on and near the Project site. Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings or otherwise lead to nest abandonment. Disturbance that causes nest abandonment or loss of reproductive effort can be considered take under the MBTA and CFGC. Loss of fertile eggs or nesting birds, or any activities resulting in nest abandonment, could constitute a significant effect if the species is particularly rare in the region. Construction activities such as excavating, trenching, and grading that disturb a nesting bird on the Project site or immediately adjacent to the construction zone could constitute a significant impact. Mitigation Measure BIO-1 shall be required to reduce potential impacts to a less than significant level.

## **Cultural Resources**

**Impacts 3.5-1 and 3.5-2:** After mitigation, the Project would not cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5 OR cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5.

**Finding:** Implementation of the following mitigation measure will reduce potential impacts to a less than significant level.

### **Mitigation Measure: CUL-1**

**Facts in support of the Finding:** According to the records search and site survey, there are no recorded cultural resources within the Project area. Project construction and operation would occur on existing disturbed lands (most recently in agricultural use); however, further disturbance associated with the Project could potentially discover buried sensitive historical, archaeological or cultural resources. This would be a potentially significant impact. However, mitigation measure CUL – 1 included herein will reduce the impact to a less than significant level.

**Impact 3.5-3:** After mitigation, the Project would not disturb any human remains, including those interred outside of formal cemeteries.

**Finding:** Implementation of the following mitigation measure will reduce potential impacts to a less than significant level.

### **Mitigation Measure: CUL-2**

**Facts in support of the Finding:** California Health and Safety Code Section 7050.5, CEQA Section 15064.5, and Public Resources Code Section 5097.98 mandate the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery. Although soil-disturbing activities associated with development in accordance with the proposed project could result in the discovery of human remains, compliance with existing law would ensure that impacts to human remains would not be significant. Project development would occur on existing disturbed lands; however, further disturbance could potentially uncover human remains. This would be a potentially significant impact. However, mitigation measure CUL-2 included herein will reduce the impact to a less than significant level.

## **Geology and Soils**

**Impact 3.7-2:** After mitigation, the Project would not result in substantial soil erosion or the loss of topsoil.

**Finding:** Implementation of the following mitigation measure will reduce potential impacts to a less than significant level.

**Mitigation Measure:** GEO-1

**Facts in support of the Finding:** Construction activities associated with the Project involves ground preparation work for the proposed development of the site. These activities could expose barren soils to sources of wind or water, resulting in the potential for erosion and sedimentation on and off the Project site. The Applicant and/or contractor would be required to employ appropriate sediment and erosion control Best Management Practices (BMPs) as part of a Stormwater Pollution Prevention Plan (SWPPP) that would be required and submitted to the Central Valley Regional Water Quality Control Board (Central Valley RWQCB) in accordance with the National Pollution Discharge Elimination System (NPDES). In addition, soil erosion and loss of topsoil would be minimized through implementation of the San Joaquin Valley Air Pollution Control District (SJVAPCD) fugitive dust control measures. Once construction is complete, the Project would not result in significant soil erosion or loss of topsoil. Mitigation Measure GEO – 1 (requirement to prepare a SWPPP) will ensure that impacts remain less than significant.

**Impact 3.7-6:** After mitigation, the Project would not directly or indirectly destroy a unique paleontological resource or site or unique geological feature.

**Finding:** Implementation of the following mitigation measure will reduce potential impacts to a less than significant level.

**Mitigation Measure:** CUL-1

**Facts in support of the Finding:** There are currently no unique geologic features located in the Project Area. While the discovery of paleontological resources within the Project footprint is considered unlikely, Project buildout would adhere to California Public Resources Code Section 21083.2 which requires all earth-disturbing work to be temporarily suspended or redirected until a qualified paleontologist has evaluated the nature and significance of the records, in accordance with federal, State, and local guidelines. In addition, Mitigation Measure CUL-1 would be implemented in the case of any inadvertent discoveries. With adherence to these regulatory requirements and measures, impacts would be less than significant with mitigation.

## **Hazards and Hazardous Materials**

**Impact 3.9-1:** After mitigation, the Project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.

**Finding:** Implementation of the following mitigation measure will reduce potential impacts to a less than significant level.

**Mitigation Measure:** GEO-1

**Facts in support of the Finding:** Project construction activities may involve the use and transport of hazardous materials used during construction. Transportation, storage, use, and disposal of hazardous materials during construction activities would be required to comply with applicable federal, State, and local statutes and regulations. Compliance would ensure that human health and the environment are not exposed to hazardous materials. In addition, the Project would be required to comply with Mitigation Measure GEO-1 which ensures the Project adhere to the National Pollutant Discharge Elimination System (NPDES) permit program through the submission and implementation of a Stormwater Pollution Prevention Plan during construction activities to prevent contaminated runoff from leaving the Project site. Therefore, after mitigation, no significant impacts would occur during construction activities.

The operational phase of the proposed Project would occur after construction is completed and residents move in to occupy the structures on a day-to-day basis. The proposed Project includes land uses that are considered compatible with the surrounding uses, including single and multi-family residential uses, commercial uses, and a stormwater basin. None of these land uses routinely transport, use, or dispose of hazardous materials, or present a reasonably foreseeable release of hazardous materials, with the exception of common residential and commercial hazardous materials such as cleaners, paint, petroleum products, etc. The proposed Project would not create a significant hazard through the routine transport, use, or disposal of hazardous materials, nor would a significant hazard to the public or to the environment through the reasonably foreseeable upset and accidental conditions involving the likely release of hazardous materials into the environment occur.

Compliance with all federal, State and local regulations would ensure that the Project would not cause an adverse effect on the environment with respect to the use, storage, or disposal of general household and commercial hazardous substances generated from future development or uses. In addition, Mitigation Measure GEO – 1 (requirement for SWPPP and erosion BMPs) will ensure impacts remain less than significant.

**Impact 3.9-2:** After mitigation, the Project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

**Finding:** Implementation of the following mitigation measure will reduce potential impacts to a less than significant level.

**Mitigation Measure:** HAZ-1 and HAZ-2

**Facts in support of the Finding:** The Phase I revealed that gasoline and diesel aboveground storage tanks are present. Several containers of unidentified substances were observed. The subject property currently obtains water from a private well. Sanitary waste is discharged to three septic systems. The aboveground storage tanks should be removed and properly disposed of. Containers with unidentified substances should be identified and properly disposed of. The well and septic system represent pathways to the subsurface, and should the subject property be redeveloped, these should be properly abandoned.<sup>2</sup> Mitigation measure HAZ – 2 will be implemented to reduce this impact to a less than significant level.

Based on the presence of agricultural chemicals (RECs) and aboveground storage tanks (BERs), the project will be required to implement mitigation measures to reduce the impact to a less than significant level (See Mitigation Measures HAZ – 1 and HAZ – 2).

Based on the proposed Project description of a mixed use residential and commercial development, it is not reasonably foreseeable that the proposed Project will cause a significant impact by emitting hazardous waste or using hazardous materials. Residential and general commercial developments typically do not generate, store, or dispose of significant quantities of hazardous materials. Such uses also do not normally involve dangerous activities that could expose persons onsite or in the surrounding areas to large quantities of hazardous materials.

## **Hydrology and Water Quality**

**Impact 3.10-1:** After mitigation, the Project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality.

**Finding:** Implementation of the following mitigation measure will reduce potential impacts to a less than significant level.

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<sup>2</sup> Phase I ESA (CREtelligent), October 2023, page 3.



**Mitigation Measures: GEO – 1.**

**Facts in support of the Finding:** The Project has the potential to impact water quality standards and/or waste discharge requirements during construction (temporary impacts) and operation (polluted stormwater runoff due to an increase in impervious surfaces and urban runoff).

The Project site is located within the Central Valley RWQCB and is subject to the applicable requirements of the Basin Plan administered by the RWQCB in accordance with the Porter-Cologne Water Quality Control Act. In accordance with the NPDES Stormwater Program, and as described in Section 3.6 - Geology and Soils of the Draft EIR, Mitigation Measure GEO – 1 ensures the Project will comply with existing regulatory requirements to prepare a SWPPP designed to control erosion and the loss of topsoil to the extent practicable using BMPs that the RWQCB has deemed effective in controlling erosion, sedimentation, runoff during construction activities. The specific controls are subject to the review and approval by the RWQCB and are an existing regulatory requirement. Implementation of Mitigation Measure GEO - 1 would ensure that the proposed Project would have a less than significant impact.

Compliance with conditions or permit requirements established by the City as well as water discharge requirements outlined by the RWQCB would ensure that wastewater discharges coming from the proposed Project site and treated by the WWTP system would not exceed applicable Central RWQCB wastewater treatment requirements. The Project will not result in a violation of any water quality standards or waste discharge requirements. Therefore, with mitigation, impacts result in a less than significant impact.

**Impact 3.10-3:** After mitigation, the Project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:

- i. result in substantial erosion or siltation on- or offsite;
- ii. substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;
- iii. create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or
- iv. impede or redirect flood flows?

**Finding:** Implementation of the following mitigation measure will reduce potential impacts to a less than significant level.

**Mitigation Measures: GEO – 1.**

**Facts in support of the Finding:** Construction and long-term operations of the proposed Project could result in potential impacts to surface water quality from urban stormwater runoff. The proposed Project would result in new impervious areas associated with site improvements, including new asphalt, concrete and the proposed structures on site. In accordance with the NPDES Stormwater Program, and as described in the Section 3.6 - Geology and Soils of the Draft EIR, the Project will be required to comply with existing regulatory requirements to prepare a SWPPP designed to control erosion and the loss of topsoil to the extent practicable using BMPs that the RWQCB has deemed effective in controlling erosion, sedimentation, runoff during construction activities. The specific controls are subject to the review and approval by the RWQCB and are an existing regulatory requirement. Construction of the storm drain basin and implementation of Mitigation Measure GEO - 1 would ensure that the proposed Project would have a less than significant impact relative to this topic.

## **Noise**

**Impact 3.13-1:** After mitigation, the Project will not result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.

**Finding:** Implementation of the following mitigation measure will reduce potential impacts to a less than significant level.

**Mitigation Measures:** NOI-1, NOI-2, and NOI-3

**Facts in support of the Finding:** Noise levels from new stationary noise sources associated with proposed commercial land uses within the project site could potentially impact both existing and proposed on-site sensitive receptors. The exact uses of the commercial component were not known at the time this analysis was prepared. Mitigation Measure NOI – 1 will be implemented to reduce this impact to a less than significant level.

A noise impact could occur if new proposed sensitive receptors (residential land uses) are located within the cumulative 60 dB Ldn traffic noise contours. Table 3.13-6 of the Draft EIR provides the setback distances from the centerline of Del Norte Avenue and Whitesbridge Avenue to the 60 dB Ldn exterior noise level contour. Based upon the project site plan and the analysis on traffic noise exposure levels, noise levels at the closest proposed residential lots to Whitesbridge Avenue would be expected to be approximately 68 dB Ldn (future 2044 traffic conditions) within individual backyards. Based upon the traffic noise analysis and the site plan, noise levels at the closest proposed residential land

uses to Del Norte Avenue would not be expected to exceed 60 dB Ldn. Mitigation Measure NOI – 2 will be implemented to reduce this impact to a less than significant level.

Finally, A noise impact could occur if construction activities occur outside of the allowable hours of construction and/or do not incorporate appropriate best management practices in regards to construction-related noise. Mitigation Measure NOI – 3 will be implemented to reduce this impact to a less than significant level.

## **Public Services**

**Impact 3.15-1:** The Project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection, police protection, schools, parks, or other public facilities.

**Finding:** Upon approval and annexation into the City, the City would provide public services to the Project. Potential impacts to public services are discussed individually by topic below.

**Mitigation Measure:** REC-1.

**Facts in Support of Finding:** The proposed Project does not trigger the need for a new fire station or expansion of existing facilities at this time. It is anticipated that the existing fire station, located approximately 0.5 miles to the southwest, can maintain current response times and can adequately serve the Project. Any future development of a fire station will require environmental review when it is proposed, and the environmental review will determine if there will be an adverse physical impact associated with its construction pursuant to CEQA. A new fire station is not proposed at this time, and the proposed Project would not directly result in the need for the construction of new fire facilities; thus, the Project will have a less than significant impact relative to construction of new fire protection facilities.

The proposed Project does not trigger the need for a new police station or expansion of existing facilities at this time. It is anticipated that the existing station, approximately one mile southeast of the Project site, can maintain the KPD's current response times and can adequately serve the Project. Any future development of a police station will require environmental review when it is proposed, and the environmental review will determine if there will be an adverse physical impact associated with its construction pursuant to CEQA. A new police station is not proposed at this time, and the proposed Project would not directly result in the need for the construction of new police facilities; thus, the

Project will have a less than significant impact relative to construction of new police protection facilities.

The proposed Project will be required to pay impact fees from new development based on the Developer Fee rates that are in place at the time payment is due. The payment amount is determined by the School District and the State Allocation Board who sets the maximum per-square-foot Level 1 school impact fees every two (even) years at its January meeting. Payment of the applicable impact fees by the Project applicant would fund capital and labor costs associated with providing school services to the Project. The Project will be required to pay its the school impact fee as a condition of approval. The impact fee amount will be the amount established by the School District and the State Allocation Board in place at the time of submittal of building permit applications. Thus, the impact is less than significant.

The total park and recreational space requirements at full build out of the Project would total at least 4.26 acres for approximately 1,065 residents. This ratio satisfies the City's requirement of 4.0 acres per 1,000 residents. The required parks / recreational acreage could be met through a combination of construction of 4.26 acres of parkland and/or payment of park impact fees to the City of Kerman. The impact fees would support future recreational facilities throughout the City that are consistent with the City's planned recreational projects. Therefore, with implementation of Mitigation Measure REC – 1, the Project will provide sufficient park and recreational facilities per the City's requirements and will not significantly increase the demand on existing parks and recreation facilities. Therefore, the impact is less than significant with mitigation.

## **Recreation**

**Impact 3.16-1:** the Project would not increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated OR include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.

**Finding:** Implementation of the following mitigation measure will reduce potential impacts to a less than significant level.

**Mitigation Measures:** REC-1.

**Facts in support of the Finding:** The total park and recreational space requirements at full build out of the Project would total at least 4.26 acres for approximately 1,065 residents. This ratio satisfies the City's requirement of 4.0 acres per 1,000 residents. The required parks / recreational acreage could be met through a combination of construction of 4.26 acres of parkland and/or payment of park impact

fees to the City of Kerman. The impact fees would support future recreational facilities throughout the City that are consistent with the City's planned recreational projects. Therefore, with implementation of Mitigation Measure REC – 1, the Project will provide sufficient park and recreational facilities per the City's requirements and will not significantly increase the demand on existing parks and recreation facilities. Therefore, the impact is less than significant with mitigation.

## 5.5 Environmental Impacts Not Fully Mitigated to a Less Than Significant Level

The City Council finds, based on substantial evidence in the record including the EIR and as noted below, the following environmental impacts identified in the EIR remain significant even after application of all feasible mitigation measures, as set forth below. The City also finds that any alternative discussed in the EIR that may reduce the significance of these impacts is rejected as infeasible for the reasons given in the EIR and this Section of these Findings. In accordance with CEQA Guidelines Section 1092(b)(2), the City Council of the City of Kerman cannot approve the Project unless it first finds (1) under Public Resources Code Section 21081(a)(3), and CEQA Guidelines Section 15091(a)(3), that specific economic, legal, social, technological, or other considerations, including provisions of employment opportunities make infeasible the mitigation measures or project alternatives identified in the EIR; and (2) under CEQA Guidelines Section 15092(b), that the remaining significant effects are acceptable due to overriding concerns described in the CEQA Guidelines Section 15093 and, therefore, a statement of overriding considerations is included herein. Each potential unavoidable significant impact is overridden as set forth below in the Statement of Overriding Considerations as described further in Section 5.8, and the City finds that specific overriding economic, legal, social, technological, or other benefits of the Project outweigh the significant effects on the environment.

### **Agriculture and Forestry Resources**

**Impact 3.2-1:** The Project would convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use.

**Finding:** There are no mitigation measures available that would reduce the impact resulting from loss of farmland on the Project site, thus the impact is significant and unavoidable.

**Mitigation Measures:** None.

**Facts in Support of the Findings:** The City has not yet developed an Agricultural Mitigation Program to which the Project could participate. The Lead Agency has considered mitigation through agricultural easements for the proposed Project. However, in a recent Court of Appeals decision, *King & Gardiner Farms v. County of Kern* (2020) 45 Cal. App. 5<sup>th</sup> 814, the Court found that a mitigation measure that requires a conservation easement over off-site farmland would not provide adequate mitigation for the loss of farmland that would result from the project. In the Court's findings, it was determined that conservation easements do not compensate for the impact of converting farmland to non-farmland use because the mitigation would not create new farmland that would offset the loss of converted farmland.

Under CEQA, mitigation measures are deemed effective if they will substantially lessen or minimize an environmental impact. In this case, since an agricultural conservation easement or payment of in-lieu fees wouldn't reduce the impacts associated with loss of farmland on the proposed Project site, an agricultural conservation easement or payment of in-lieu fees would not be considered "effective" mitigation.

In addition, neither the City nor the County of Fresno have a farmland mitigation or agricultural conservation easement program in which the proposed Project can participate. Absent such a City-wide or regional program, the City cannot impose mitigation in the form of agricultural easements or payment of in-lieu fees on a case-by-case basis. Thus, the City's finding is that the loss of farmland associated with the proposed Project will be a significant and unavoidable impact under CEQA and this Statement of Overriding Considerations has been prepared for consideration by the City as Lead Agency.

**Impact 3.2-2:** The Project would conflict with a Williamson Act contract.

**Finding:** There are no mitigation measures available that would reduce the impact resulting from loss of farmland on the Project site, thus the impact is significant and unavoidable.

**Mitigation Measures:** None.

**Facts in Support of the Findings:** As previously noted, the proposed 48-acre Project site contains land under Williamson Act Contract pursuant to Government Code Section 51200 et seq., AP-8116 and AP-8119, which will be cancelled or terminated as part of the Project. There are no Williamson Act Contracts on the adjacent 23-acres that are also being annexed. Canceling a Williamson Act contract can be an option pursuant to conditions set forth in Government Code Section 51280 et seq. In the alternative, the City may also exercise its decision to decline to succeed to certain qualifying contracts pursuant to Government Code Section 51243.5, resulting in the termination of the contract. Nevertheless, the Project site is currently under Williamson Act contracts and there is no feasible

mitigation measures available to reduce impacts associated with a project's conflict with an existing Williamson Act contract. Therefore, the proposed Project's conflicts with Williamson Act contracts would be significant and unavoidable.

### **Hydrology and Water Quality**

**Impact 3.10-2:** The Project could substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the Project may impede sustainable groundwater management of the basin (Less than significant at project level only, cumulative impact is significant and unavoidable).

**Finding:** There are no feasible mitigation measures to reduce the cumulative impact to a less than significant level.

**Facts in Support of the Findings:** With respect to water supplies, the City of Kerman is part of the North Kings Groundwater Sustainability Agency. The proposed Project, if approved, would then come under the jurisdiction and purview of the City of Kerman, which is subject to the GSA's Groundwater Sustainability Plan. The City of Kerman utilizes groundwater as its sole source of potable water. As identified herein, the City anticipates being able to provide adequate potable water to the City through the year 2045. However, development of the Project in combination with future projects within the Basin would increase the amount of overdraft in the Basin, which is already in a state of overdraft. Therefore, even with compliance with the GSP and implementation of water-reduction measures required by the City, the Project would result in cumulatively considerable and unavoidable significant impacts to groundwater supplies in the Basin.

### **Utilities and Service Systems**

**Impact 3.19-2:** The Project will have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years at the project level, but cumulative impacts are determined to be significant and unavoidable.

**Finding:** There are no feasible mitigation measures to reduce the cumulative impact to a less than significant level.

**Facts in Support of the Findings:** With respect to water supplies, the City of Kerman is part of the North Kings Groundwater Sustainability Agency. The proposed Project, if approved, would then come under the jurisdiction and purview of the City of Kerman, which is subject to the GSA's Groundwater Sustainability Plan. The City of Kerman utilizes groundwater as its sole source of



potable water. As identified herein, the City anticipates being able to provide adequate potable water to the City through the year 2045. However, development of the Project in combination with future projects within the Basin would increase the amount of overdraft in the Basin, which is already in a state of overdraft. Therefore, even with compliance with the GSP and implementation of water-reduction measures required by the City, the Project would result in cumulatively considerable and unavoidable significant impacts to groundwater supplies in the Basin.

## 5.6 Alternatives

CEQA Guidelines Section 15126.6 requires the consideration of a range of reasonable alternatives to the proposed Project that could feasibly attain most of the objectives of the proposed Project. The EIR analyzed the following alternatives:

- **No Project Alternative:** Under this Alternative, the Project would not be constructed and the site would remain as agricultural land.
- **Alternate Locations Alternative:** Under this Alternative, the Project would be developed on a different site of similar size and scale.
- **Reduced (50%) Project Alternative:** Under this Alternative, the site would be developed with reduced residential densities which would result in development of fewer number of units and a decrease in population as compared to the proposed Project. This alternative would keep the same acreage, but would reduce the number of units by 50%. All other project components, including overall acreage would remain (commercial, parks, etc.). This would result in larger lot sizes as compared to the proposed Project.

### **Environmentally Superior Alternative**

Because the No Project Alternative cannot be the Environmentally Superior Alternative under CEQA, the Reduced (50%) Project Alternative would be the Environmentally Superior alternative because it would result in less adverse physical impacts to the environment with regard to air, water, noise, public services, population/housing, utilities, and traffic. However, the Reduced (50%) Project Alternative does not eliminate the proposed Project's significant and unavoidable impacts associated with Agriculture - Loss of Farmland (project and cumulative) or Hydrology – Water Supply (cumulative only). Furthermore, the Reduced (50%) Project Alternative does not meet all the Project objectives, particularly with regard diversity of housing.



## Summary and Determination

Only the No Project and Reduced Project Alternatives could potentially result in fewer impacts than the proposed Project's impacts. These Alternatives however, would not meet the objectives of the proposed Project. After this full, substantial, and deliberate analysis, the proposed Project remains the preferred alternative.

### 5.7 Growth Inducing Impacts

CEQA Sections 15126 (d) and 15126.2(e) require that any growth-inducing aspect of a project be addressed in an EIR. This discussion includes consideration of ways in which the proposed Project could directly (e.g. construction of residential or commercial facilities) or indirectly (e.g. construction of oversized public utilities) result in physical impacts on the environment if the Project's construction or operation induces economic or population growth in the surrounding area, including an analysis of the infrastructure and planning changes necessary to accommodate any induced growth.

The proposed Project involves the establishment of a mixed-use development that is being proposed in response to the demand for housing and commercial facilities in the area. Upon approval, the Project would be consistent with the City of Kerman's General Plan and Zoning Ordinance and will connect to all existing City utility services. The anticipated population and housing unit increase associated with the proposed Project are within the growth projections of the City's General Plan. The proposed Project would create a relatively minor amount of new employment opportunities during construction and for the proposed commercial facilities associated with the Project. It is anticipated that those new employment opportunities associated with the Project would likely be filled by the existing employment base. There are no other indirect aspects of the Project (such as creation of oversized public utility lines, etc.) that would induce further growth in the area. The proposed Project would not result in significant growth-inducing impacts.

### Irreversible Environmental Changes

Section 15126(c) of the CEQA Guidelines requires that an EIR include a discussion of significant irreversible environmental changes that would result from project implementation. CEQA Section 15126.2(d) identifies irreversible environmental changes as those involving a large commitment of nonrenewable resources or irreversible damage resulting from environmental accidents.

Irreversible changes associated with the project include the use of nonrenewable resources during construction, including concrete, plastic, and petroleum products and renewable resources such as timber. To the extent nonrenewable uses are used during construction, the Project is being created to meet existing demand for housing and services in the City, which would lead to the

consumption of these resources elsewhere if the Project were not built. Therefore, the Project would not result in a new impact to nonrenewable resources. During the operational phase of the proposed Project, energy would be used for lighting, heating, cooling, and other requirements and petroleum products would be used by vehicles associated with the residents of the proposed development and the commercial facilities. The use of these resources would not be substantial, would not be inefficiently used, and would not constitute a significant effect. Refer to Section 3.6 – Energy of the Draft EIR for more information pertaining to the proposed Project’s energy use.

In the future, the site could be rezoned or redeveloped for a different use also allowed in the existing General Plan or Zoning Ordinance designations, in which case, at the end of the useful life of the Project, the use could change. Therefore, the Project would not commit future generations to a significant change in land use. This is in contrast to a large industrial use, where reuse for non-industrial uses likely would require extensive remediation, making such reuse difficult, or large infrastructure projects that are rarely moved or dismantled once constructed.

The proposed Project would not result in irreversible damage resulting from environmental accidents. The Project consists of a mixed-use residential and commercial development. None of these land uses routinely transport, use, or dispose of hazardous materials, or present a reasonably foreseeable release of hazardous materials, with the exception of common residential and commercial hazardous materials such as cleaners, paint, petroleum products, etc. Handling and use of hazardous materials and the disposal of the resulting hazardous wastes would be required to follow the applicable laws and regulations, as described in Section 3.9-1 – Hazards & Hazardous Materials of the EIR. As such, irreversible environmental accidents are unlikely.

## 5.8 Statement of Overriding Considerations

Public Resources Code Section 21081 mandates that no public agency shall approve or carry out a project for which an environmental impact report has been certified that identifies one or more significant effects on the environment that would occur if the Project is approved or carried out unless the following occur:

- The public agency makes one or more of the following findings with respect to each significant impact:
  - Changes or alternatives have been required in, or incorporated into, the Project that mitigate or avoid the significant impacts on the environment.
  - Those changes or alternatives are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

- Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or alternatives identified in the EIR.
- With respect to the third point, the public agency finds that specific overriding economic, legal, social and technological, or other benefits of the Project outweigh the significant impact on the environment.

As discussed in Subsection 5.4, significant impacts were identified, but mitigation measures have been incorporated into the Project that mitigate or avoid the significant impacts on the environment. Additionally, as discussed in Subsection 5.5, there were significant and unavoidable impacts that could not be mitigated to a less than significant level.

Accordingly, the Kerman City Council adopts this Statement of Overriding Considerations with respect to the significant unavoidable impacts associated with adoption of the Project as addressed in the EIR, specifically for the following impact areas:

- **Agriculture & Forestry Resources** - Loss of farmland (project and cumulative level)
- **Hydrology & Water Quality** – Water supply (cumulative level only)
- **Utilities & Service Systems** – Water supply (cumulative level only)

The City Council hereby declares that, pursuant to State CEQA Guidelines Section 15093, the City Council has balanced the benefits of the Project against any significant and unavoidable environmental impacts in determining whether to approve the Project. If the benefits of the Project outweigh the unavoidable adverse environmental impacts, those impacts are considered “acceptable”.

The City Council hereby declares that the EIR has identified and discussed significant effects that may occur as a result of the Project. With the implementation of the mitigation measures discussed in the EIR, these impacts can be mitigated to a level of less than significant except for the unavoidable and significant impacts discussed in Subsection 5.5, herein.

The City Council hereby declares that it has made a reasonable and good faith effort to eliminate or substantially mitigate the potential impacts resulting from the Project.

The City Council hereby declares that to the extent any mitigation measures recommended to the City are not to be incorporated, such mitigation measures are infeasible because they would impose restrictions on the Project that would prohibit the realization of specific economic, social, and other benefits that this City Council finds outweigh the unmitigated impacts.

The City Council further finds that except for the Project, all other alternatives set forth in the EIR are infeasible because they may not substantially reduce environmental impacts associated with the

Project, and would prohibit the realization of the Project objectives and/or specific economic, social, or other benefits that this City Council finds outweigh any environmental benefits of the alternatives.

The City Council hereby declares that, having reduced the adverse significant environmental effects of the Project, to the extent feasible by adopting the proposed mitigation measures, having considered the entire administrative record on the Project and having weighted the benefits of the Project against its unavoidable significant impact after mitigation, the City Council has determined that the social, economic, and environmental benefits of the Project outweigh the potential unavoidable significant impacts and render those potential significant impacts acceptable based on the following considerations:

- The Project reflects the stated vision, goals and objectives of the City of Kerman.
- The Project will ensure orderly development patterns to accommodate projected increases in population through buildout of the General Plan by providing strategic land use designations that avoid or minimize land use conflicts.
- The Project will provide a variety of housing opportunities with a range of densities, styles, sizes and values that will be designed to satisfy existing and future demand for quality housing in the area.
- The Project will maximize and broaden the City's sales tax base by providing local and regional tax-generating uses.
- The Project will improve and maximize economic viability of the Project site and area by providing strategic land use designations.
- The Project will provide a residential development that assists the City in meeting its General Plan and Housing Element requirements and objectives.

As the CEQA Lead Agency for the proposed action, the City of Kerman has carefully reviewed the Project and the alternatives presented in the EIR, and fully understands the Project and Project alternatives proposed for development. Further, this City Council finds that all potential adverse environmental impacts and all feasible mitigation measures to reduce the impacts from the Project have been identified in the Draft EIR, the Final EIR and public testimony. This City Council also finds that a reasonable range of alternatives was considered in the EIR and this document, Section 5.6, above, and finds that approval of the Project is appropriate.

In Section 5.8, the City Council has identified economic and social benefits and important policy objectives that will result from implementing the Project. The City Council has balanced these substantial social and economic benefits against the unavoidable significant adverse effects of the Project. Given the substantial social and economic benefits that will accrue from the Project, this City Council finds that these specific overriding benefits of the Project outweigh the significant impact on the environment.

Public Resource Code 21002 provides, “In the event specific economic, social and other conditions make infeasible such Project alternatives or such mitigation measures, individual projects can be approved in spite of one or more significant effects thereof.” Section 21002(c) provides, “In the event that economic, social, or other conditions make it infeasible to mitigate one or more significant effects of a project on the environment, the project may nonetheless be approved or carried out at the discretion of a public agency”.

Finally, California Administrative Code, Title 4, 15093(a) states, “If the benefits of a Project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered ‘acceptable.’”

The City Council hereby declares that the foregoing benefits provided to the public through approval and implementation of the Project outweigh the identified significant adverse environmental impacts of the Project that cannot be mitigated. The City Council finds that each of the Project benefits outweighs the unavoidable adverse environmental impacts identified in the EIR, and finds those impacts to be acceptable.

## 6.0 Certification of the Final Environmental Impact Report

### 6.1 Findings

The City Council finds that it has reviewed and considered the EIR in evaluating the Project, that the EIR is an accurate and objective statement that fully complies with CEQA and the State CEQA Guidelines, and that the EIR reflects the independent judgment of the City Council. The City Council declares that no new significant information as defined by State CEQA Guidelines Section 15088.5 has been received by the City Council after the circulation of the Draft EIR that would require recirculation. All of the information added to the Final EIR merely clarifies, amplifies, or makes insignificant modifications to an already adequate Draft EIR pursuant to State CEQA Guidelines Section 15088.5(b). The City Council hereby certifies the EIR based on the following findings and conclusions.

#### **CEQA Compliance**

As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the Findings and supporting documentation. The City Council determines that the Findings contain a complete and accurate reporting of the environmental impacts and mitigation measures associated with the Project, as well as complete and accurate reporting of the unavoidable impacts and benefits of the Project as detailed in the Statement of Overriding

Considerations. The City Council finds that the EIR was prepared in compliance with CEQA and that the City Council complied with CEQA's procedural and substantive requirements.

### **Significant Unavoidable Impacts / Statement of Overriding Considerations**

The Project will have significant adverse impacts even following adoption of all feasible mitigation measures which are required by the City Council. As set forth in Section 5.5 of these Findings, the significant environmental impacts have been identified in the Final EIR and no feasible mitigation measures are available to reduce these impacts to a level of insignificance. The City Council has eliminated or substantially reduced environmental impacts where feasible as described in the Findings, and the City Council determines that the remaining unavoidable significant adverse impacts are acceptable due to the reasons set forth in the preceding Statement of Overriding Considerations.

### **Conclusions**

All potentially significant environmental impacts from implementation of the Project have been identified in the EIR and, with the implementation of the mitigation measures defined herein and set forth in the MMRP, will be mitigated to a less than significant level, except for the impacts identified in Section 5.5, above. Other reasonable alternatives to the Project that could feasibly achieve the basic objectives of the Project have been considered and rejected in favor of the Project. Environmental, economic, social, and other considerations and benefits derived from the development of the Project override and make infeasible any alternatives to the Project or further mitigation measures beyond those incorporated into the Project.

## **7.0 Adoption of Mitigation Monitoring and Reporting Program**

Pursuant to Public Resources Code Section 21081.6, the City Council hereby adopts, as conditions of approval of the Project, the Mitigation Monitoring and Reporting Program (MMRP). In the event of any inconsistencies between the mitigation measures as set forth herein and the MMRP, the MMRP shall control except to the extent that a mitigation measure contained herein is inadvertently omitted from the MMRP, in which case such mitigation measure shall be deemed as if it were included in the MMRP.