

RECORDING REQUESTED BY:

City of Merced, A California charter
municipal corporation

WHEN RECORDED MAIL TO:

City of Merced
City Clerk
678 West 18th Street
Merced, California 95340

Exempt from Recording Fees Per
Government Code Section 6103

(Above for Recorder's Use Only)

LEGISLATIVE ACTION AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____ 2021
by and between the City of Merced, a California Charter Law Municipal Corporation ("City")
and Devonwood 64, L.P., a California Limited Partnership ("Owner").

W I T N E S S E T H

WHEREAS, Owner has applied to the City for a General Plan Amendment and Site
Utilization Plan (SUP) Revision (the "Entitlements") for approximately 6.3 acres of land located
on the south side of Devonwood Drive, between Loughborough Drive and Austin Avenue, and
as legally described on Exhibit "A," and shown on the Map at Exhibit "B," attached hereto and
incorporated herein by this reference; and

WHEREAS, City is willing to consider Owner's request provided that certain conditions
are met.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and
representations contained herein, and for other good and valuable consideration, the receipt and
sufficiency of which is hereby acknowledged and agreed, the parties hereto agree as follows:

1. Owner, for himself and all successors thereto, agrees to pay all City and school
district fees, taxes, and/or assessments in effect on the date of subdivision and/or permit
approval, any increase in those fees, taxes, and/or assessments, and any new fees, taxes, and/or
assessments which are in effect at the time water/sewer connection and/or building or
encroachment permits are issued, which may include public facility impact fees, other impact
fees as applicable, and any Mello-Roos taxes—whether for infrastructure, services, or any other
activity or project authorized by the Mello-Roos law, etc., (and to comply with the additional
conditions set forth in Exhibit "C," (Planning Commission Resolution #4059), attached hereto
and incorporated herein by this reference). Payment shall be made at the time of building permit

issuance unless an Ordinance or other requirement of the City mandates or permits payment of such fees, taxes, and/or assessments at an earlier or subsequent time.

2. Owner desires to comply with the conditions of approval set forth on Exhibit "C," and within this Agreement and acknowledges that the conditions are necessary to mitigate the environmental impact caused by Owner's development or are necessary to offset the costs to the City generated by Owner's development including sewer connection costs pursuant to Chapter 15.16 of the Merced Municipal Code.

3. Owner agrees to pay all sewer connection costs imposed by the City as delineated in Section 15.16.070 of the Merced Municipal Code and to pay all other costs required by Chapter 15.16 of the Merced Municipal Code.

4. The Owner shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, Owner shall indemnify, protect, defend, and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against another governmental entity in which Owner's project is subject to that other governmental entity's approval and a condition of such approval is that the City indemnify and defend such governmental entity. City shall promptly notify the Owner of any claim, action, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the Owner shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.

5. City, on its part, agrees to change the General Plan and the Site Utilization Plan for Planned Development (P-D) #16 (City approval) in accordance with Exhibit "B."

6. No building permit or other permit shall be issued that is not in compliance with this Agreement.

7. It is expressly agreed that this Agreement is not intended to limit the power of the City to impose other requirements, limitations, or fees, etc., as a condition of development, and does not relieve the Owner from complying with all other requirements that may be imposed as a condition of development, whether now in existence or hereinafter imposed by the City whether by zone change, subdivision map approval, ordinance, resolution, use permit, or otherwise. The parties agree that this Paragraph does not apply to the approval of a final map and issuance of building permits for project(s) subject to this Agreement on the property described in Exhibit "A."

8. To the extent allowed by law, the conditions of this Agreement constitute covenants running with the land, and shall be enforceable by the City or by any present or future owner of any of the land described in Exhibit "A."

9. Owner agrees to comply with and abide by all conditions set forth by the City relating to the development of the property subject to this Agreement, including installation of all required public improvements.

10. In the event of default by Owner, and in addition to any other remedy available to the City, the City shall have the right to rezone the land back to its original designation and/or to de-annex the land as appropriate.

11. In the event that either City or the Owner shall at any time or times waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement, whether of the same or any other covenant, condition or obligation. Waiver shall not be deemed effective until and unless signed by the waiving party.

12. This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this agreement shall be held exclusively in a state court in the County of Merced.

13. This Agreement shall not be amended, modified, or otherwise changed unless in writing and signed by both parties hereto.

14. This Agreement constitutes the entire understanding and agreement of the parties and supersedes all previous and/or contemporaneous understanding or agreement between the parties with respect to all or any part of the subject matter hereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first above written.

CITY OF MERCED
A California Charter Law Municipal Corporation

BY: _____
City Manager

ATTEST:
STEPHANIE R. DIETZ, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

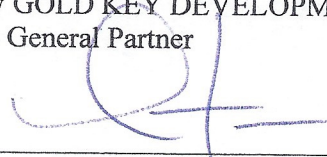
APPROVED AS TO FORM:

BY: Kimberly C. Madg 7/16/21
City Attorney Date

ACCOUNT DATA:

BY: _____
Verified by Finance Officer

OWNER
DEVONWOOD 64, L.P.,
A California Limited Partnership
By GOLD KEY DEVELOPMENT, INC.,
Its General Partner



Signature

Michael Ferraro

Print Name

Its: President

ADDRESS: 5732 Engineer Drive, Suite 102

Huntington Beach, CA 92649

TELEPHONE: _____

FAX: _____

E-MAIL: mkfero@aol.com

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Orange

On 7/24/21 before me, Jaime Rocha - notary public
(insert name and title of the officer)

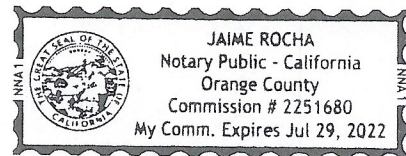
personally appeared Michael Ferrero,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature

(Seal)



ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

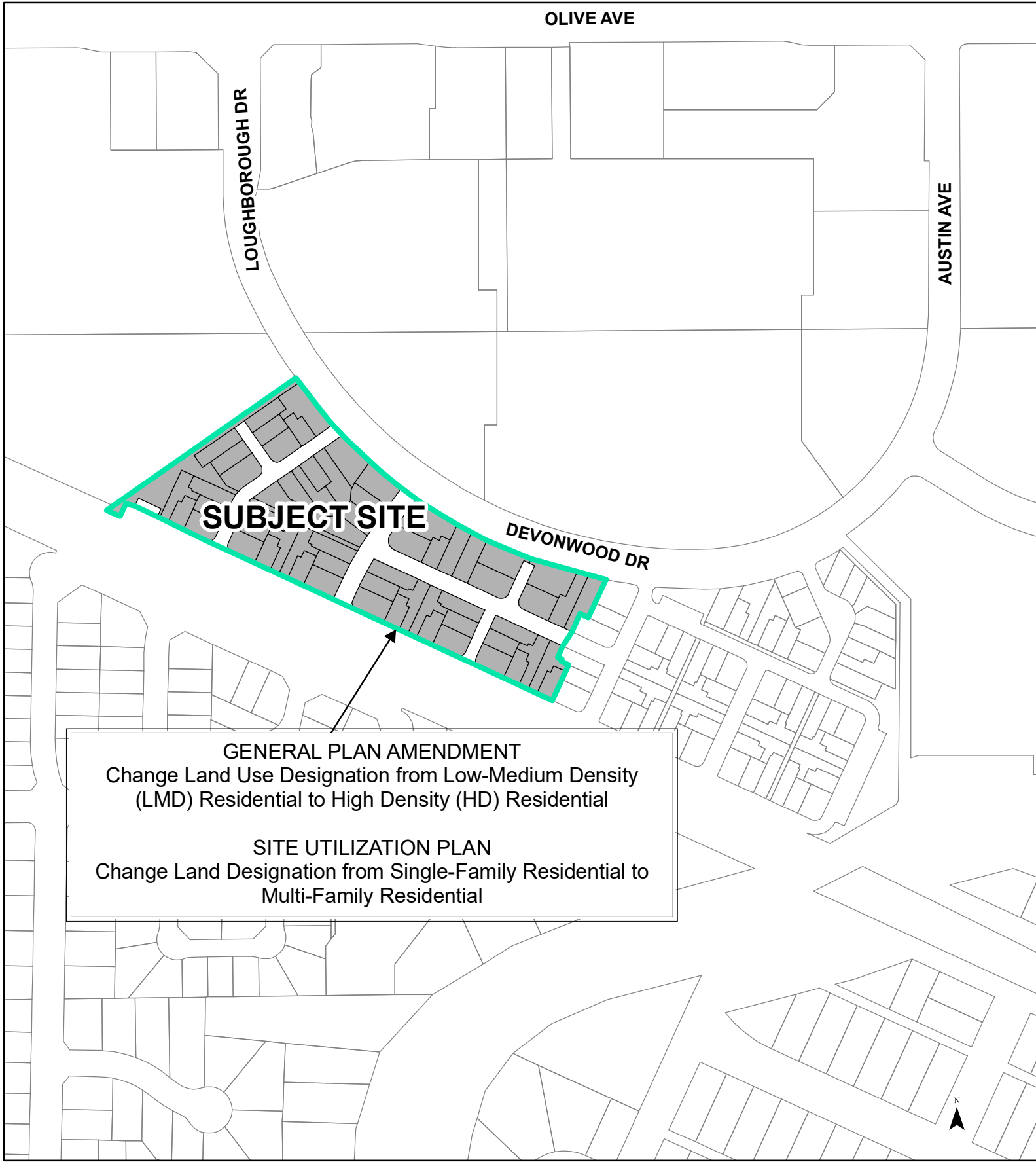
WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A
LEGAL DESCRIPTION

“Lots 1-40; 104-124; Lot A; and Lot B” of that certain Map entitled “Highland Park Subdivision” recorded in Volume 77 at Page 40 of Merced County Records.

Also known as Assessor’s Parcel Numbers (APN’s): 058-470-001 thru -033; -035; -036; 058-480-001 thru -017; 058-480-034 thru -044.



Disclaimer: This document was prepared for general inquiries only. The City of Merced is not liable for errors or omissions that might occur. Official information concerning specific parcels should be obtained from recorded or adopted City documents.

**APPROVED LAND USE CHANGES
GENERAL PLAN AMENDMENT #20-01
SITE UTILIZATION PLAN (SUP) REVISION
#23 TO PLANNED DEVELOPMENT (P-D) #16**



EXHIBIT B

CITY OF MERCED
Planning Commission

Resolution #4059

WHEREAS, the Merced City Planning Commission at its regular meeting of July 7, 2021, held a public hearing and considered **General Plan Amendment #20-01 and Site Utilization Plan (SUP) Revision #23 to Planned Development (P-D) #16**, initiated by Meta Housing on behalf of Devonwood 64 LP, property owner. This application involves a request to change the General Plan designation from Low-Medium Density (LMD) Residential to High Density (HD) Residential and to change the Site Utilization Plan (SUP) from single-family residential to multi-family residential and establish development standards for this property to allow the construction of a 156-unit apartment complex on an approximately 6 acres.

This property is generally located on the south side of Devonwood Drive, between Loughborough Drive and Austin Avenue; also known as Assessor Parcel Numbers: 058-470-001 through -033; -035; -036; 058-480-001 through -017; 058-480-034 through -044; and,

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through K of Staff Report # 21-104 (Exhibit B), including Findings required by Merced Municipal Code Section 20.20.020 (J) for Planned Development Revisions; and,

NOW THEREFORE, after reviewing the City's Initial Study and Draft Environmental Determination, and fully discussing all the issues, the Merced City Planning Commission does resolve to hereby recommend to City Council adoption of a Mitigated Negative Declaration and Mitigation Monitoring Program (Exhibit C) regarding Environmental Review #20-32, and recommend approval of General Plan Amendment #20-01 and Site Utilization Plan Revision #23 to Planned Development (P-D) #16, subject to the Conditions set forth in Exhibit A, the Findings set forth in Exhibit B, and the Mitigation Monitoring Program set forth in Exhibit C attached hereto and incorporated herein by this reference.

Upon motion by Commissioner Dylina, seconded by Commissioner Delgadillo, and carried by the following vote:

AYES: Commissioners Camper, Delgadillo, Dylina, and Chairperson Harris

NOES: None

ABSENT: Commissioner White (two vacancies)

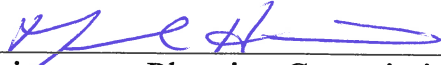
ABSTAIN: None

PLANNING COMMISSION RESOLUTION #4059

Page 2

July 7, 2021

Adopted this 7th day of July 2021



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Exhibits:

Exhibit A – Conditions of Approval

Exhibit B – Findings/Considerations

Exhibit C – Mitigation Monitoring Program for Environmental Review #20-32-
Revised

Conditions of Approval
Planning Commission Resolution #4059
General Plan Amendment #20-01
Site Utilization Plan Revision #23 to Planned Development (P-D) #16

1. The proposed General Plan Amendment and Site Utilization Plan Revision shall be as shown on the Proposed Land Use Map at Attachment B of Planning Commission Staff Report #21-148.
2. The proposed project shall be constructed/designed in substantial compliance with the Site Plan (Attachment C of Planning Commission Staff Report #20-104) and the building elevations and floor plans (Attachments D and E of Planning Commission Staff Report #21-148), and Landscape Plan (Attachment F of Planning Commission Staff Report #21-148) except as modified by the conditions. The project shall comply with the Design Standards set forth in Finding K on Exhibit B of this Resolution. The Site Plan Review Committee shall approve the final design for the project.
3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
4. The Project shall comply with the applicable mitigation measures set forth in the Mitigation Monitoring Program (Environmental Review #06-35) for General Plan Amendment #06-06 (except as superseded by the Traffic Analysis dated September 11, 2018) (Attachment H of Planning Commission Staff Report #21-148) and all mitigation measures set forth in the Mitigation Monitoring Program for Environmental Review #20-32 (Attachment A of Initial Study 20-32 at Attachment H of Planning Commission Staff Report #21-148).
5. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
6. Approval of the General Plan Amendment and Zone Change is subject to the applicant's entering into a written (developer) agreement that they agree to all the conditions and shall pay all City and school district fees, taxes, and/or assessments, in effect on the date of any subsequent subdivision and/or permit approval, any increase in those fees, taxes, or assessments, and any new fees, taxes, or assessments, which are in effect at the time the building permits are issued, which may include public facilities impact fees, a regional traffic

impact fee, Mello-Roos taxes—whether for infrastructure, services, or any other activity or project authorized by the Mello-Roos law, etc. Payment shall be made for each phase at the time of building permit issuance for such phase unless an Ordinance or other requirement of the City requires payment of such fees, taxes, and or assessments at an earlier or subsequent time. Said agreement to be approved by the City Council prior to the adoption of the ordinance, resolution, or minute action.

7. The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend, and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant's project is subject to that other governmental entity's approval and a condition of such approval is that the City indemnify and defend (with counsel selected by the City) such governmental entity. City shall promptly notify the developer/applicant of any claim, action, suits, or proceeding. Developer/applicant shall be responsible to immediately prefund the litigation cost of the City including, but not limited to, City's attorney's fees and costs. If any claim, action, suits, or proceeding is filed challenging this approval, the developer/applicant shall be required to execute a separate and formal defense, indemnification, and deposit agreement that meets the approval of the City Attorney and to provide all required deposits to fully fund the City's defense immediately but in no event later than five (5) days from that date of a demand to do so from City. In addition, the developer/applicant shall be required to satisfy any monetary obligations imposed on City by any order or judgment.
8. The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and

a State or Federal law, regulation, or standard, the stricter or higher standard shall control.

9. In compliance with Merced Municipal Code Section 20.20.020 Q, Site Plan Review approval is required prior to development to address conformance with the standards of Planned Development (P-D) #16.
10. All public improvements shall be installed along the project frontage to meet City Standards. Any existing improvements that have been damaged or otherwise do not meet current City Standards shall be repaired or replaced to meet City Standards. This includes, but is not limited to sidewalk curb, gutter, street trees, and streetlights.
11. Street trees shall be planted along the project frontage on Devonwood Drive in compliance with City Standards.
12. The project shall comply with Post Construction Standards in accordance with the requirement for the City's Phase II MS-4 Permit (Municipal Separate Storm Sewer System).
13. All storm water shall be retained onsite and metered out to the City's storm water system in accordance with City Standards, subject to a storm drain plan approved by the City Engineer.
14. The gates at the entrances/exits shall be setback a minimum of 20 feet from the roadway to allow stacking room for at least two vehicles. The gates shall be provided with a "click-to-enter" access and controls shall be provided to the City of Merced Police, Fire, and Public Works Departments. The device used shall be approved by the City prior to installation.
15. A minimum turning radius of 33 feet inside, curb-to-curb and 49 feet wall-to-wall for fire apparatus access must be provided throughout the project site or as required by the Fire Department.
16. The drive aisles for the main gated entrance/exit shall be a minimum of 12 feet wide where an island is present.
17. If solar panels are placed on the roof of the buildings, they shall be placed in such a way as not to inhibit Fire Department access with their aerial apparatus.
18. Bicycle parking shall meet the minimum requirements of the California Green Building Code and Merced Municipal Code Section 20.38.080.

19. A maximum of 25 percent of the required parking spaces may be compact spaces. Compact parking spaces shall have a minimum width of 8.5 feet and a minimum depth of 16 feet as allowed per the Design Standards set forth in Finding K on Exhibit B of this Resolution.
20. In accordance with Zoning Ordinance Section 20.38.060 (E) and Finding G on Exhibit B of this Resolution, this project is granted a 5% reduction in the number of required parking spaces. Therefore, the minimum parking requirements for this project is 248 spaces.
21. Prior to any demolition work, the applicant shall obtain all necessary approvals from the San Joaquin Valley Air Pollution Control District and a demolition permit from the City of Merced Inspection Services Division if required.
22. The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.
23. All construction activity shall be conducted between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday.
24. All landscaping shall be in compliance with the City's Water Efficient Landscaping and Irrigation Ordinance (Merced Municipal Code Section 17.60) and all state-mandated conservation and drought restrictions as well as the City's Zoning Ordinance Sections 20.36 – Landscaping and Section 20.46.030 (C) - Landscaping.
25. Irrigation for all onsite landscaping shall be provided by a low-volume system in accordance with the State's Emergency Regulation for Statewide Urban Water Conservation or any other state or city-mandated water regulations dealing with the current drought conditions.
26. All landscaping in the public right-of-way shall comply with the most recently adopted water regulations by the State and City addressing water conservation measures. If turf is proposed to be installed in medians or park strips, high quality artificial turf (approved by the City Engineer and Development Services Director) shall be installed.
27. Parking lot trees shall be installed per the City's Parking Lot Landscape Standards. Trees shall be a minimum of 15-gallons and be of a type that provides a 30-foot minimum canopy at maturity (trees shall be selected from

the City's approved tree list). Trees shall be installed at a ratio of 1 tree for every 6 parking spaces. No trees shall be required where there are carports with solar panels over the parking spaces. However, if all the parking spaces are covered by a carport with solar panels, then additional trees will be required in other portions of the site.

28. A minimum 7-foot-tall solid wall or fence (concrete block or similar) shall be constructed between the multi-family development and the single-family dwellings to the east within the Highland Park Subdivision.
29. All walking paths, bicycle and vehicle parking areas, and recreational areas shall be provided with sufficient lighting to ensure a safe environment.
30. All parking lot and other exterior lighting shall be oriented in such a way so that it does not spillover onto adjacent properties.
31. All mechanical equipment shall be screened from public view (Details to be worked out with Planning Staff at the building permit stage).
32. All units above the first floor shall be constructed with noise attenuation measures to reduce interior noise levels to a maximum of 45 db DNL. Documentation shall be provided at the building permit stage to demonstrate that the design will meet this standard.
33. Containers for refuse and recycled goods shall be stored in enclosures that are designed with colors compatible with the buildings and shall be constructed to meet City Standards. At the Building Permit stage, the developer shall work with the City's Refuse Department to determine the best location for these enclosures to ensure proper access is provided for City Refuse Trucks.
34. All signs shall comply with the requirements of the North Merced Sign Ordinance and Merced Municipal Code (MMC) Section 17.36.572 – Apartments or Condominiums. No free-standing A-Frame or sandwich board-type signs shall be allowed. All other moveable temporary signs are prohibited as well. Temporary banners may be installed on a building wall in compliance with the City's Sign Ordinance and after obtaining a Temporary Banner Permit from the Planning Department. A building permit shall be obtained for all permanent signs.
35. The project shall comply with the Residential Design Standards for Multi-family dwellings as spelled out in Merced Municipal Code (MMC) Section

20.46.030 and 20.46.040, unless otherwise modified by the design standards adopted by this Site Utilization Plan Revision to P-D #16.

36. The Design Standards as spelled out in Finding K on Exhibit B of this Resolution shall apply to this project.
37. The project shall be designed with a variety of colors and/or textures on the exterior elevations.

Findings and Considerations
Planning Commission Resolution #4059
General Plan Amendment #20-01
Site Utilization Plan Revision #23 to Planned Development (P-D) #16

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

- A) The proposed project would comply with the General Plan designation of High Density Residential (HD) and the zoning designation of Planned Development (P-D) #16 if the requested General Plan Amendment and Site Utilization Plan Amendment are approved.

The following Land Use Goals and Policies would be achieved with the approval of this request:

Goal Area L-1: Residential & Neighborhood Development

- *A Wide Range of Residential Densities and Housing Types in the City*
- *Quality Residential Environments*

Policy L-1.2: Encourage a diversity of building types, ownership, prices, designs, and site plans for residential areas throughout the City.

Policy L-1.7: Encourage the location of multi-family developments on sites with good access to transportation, shopping, employment centers, and services.

Implementing Action 1.2.e Consider density increases for existing residential sites where the necessary conditions exist for higher densities.

Implementing Action 1.7a Designate areas adjoining arterial streets, major transportation routes, and commercial areas for multi-family development.

Goal Area L-3: Urban Growth and Design

- *Living Environments which Encourage People to Use a Variety of Transportation Alternatives.*

Policy L-3.1: Create land use patterns that will encourage people to walk, bicycle, or use public transit for an increased number of their daily trips.

Policy L-3.3 Promote site designs that encourage walking, cycling, and transit use.

Implementing Action 3.1.a Encourage project designs which increase the convenience safety, and comfort of people using transit, walking, or cycling.

Zoning Code Compliance

B) Merced Municipal Code Section 20.20.020 (J) establishes specific findings that must be made in order to approve the establishment of a Planned Development or Site Utilization Plan Revision. These findings are as following:

1. The proposed development is consistent with the goals, policies, and actions of the General Plan and any applicable specific plan and community plan.

The proposed Site Utilization Plan (SUP) Revision would be consistent with the General Plan if General Plan Amendment #20-01 is approved amending the General Plan designation for this site from Low Medium Density (LMD) Residential to High Density (HD) Residential. As shown in Finding A, the proposed project would accomplish goals and implementing actions of the General Plan.

If the Site Utilization Plan Revision for this site is approved, the site would be compatible with the land use plan for Planned Development (P-D) #16.

There are no other applicable specific or community plans for this site.

2. The site for the proposed development is adequate in size and shape to accommodate proposed land uses.

The project site is approximately 6 acres (gross). The proposed project of 156 apartment units, clubhouse/office, open space, and associated parking can be accommodated on this site. As proposed, the three-story buildings would have a minimum 20-foot setback from Devonwood Drive. The buildings are clustered near the center of the site with parking surrounding the buildings. This design allows a setback of more than 150 feet to the nearest residential unit to the east. Additionally, the buildings would have an approximate 100-foot setback from the western property line and an approximate 73-foot setback from the rear property line. Sufficient parking is provided on the site. Therefore, the site is adequate in size to accommodate the proposed project.

3. The site for the proposed development has adequate access considering the limitations of existing and planned streets and highways.

The site is accessed from Devonwood Drive which is located between Loughborough Drive and Austin Avenue. Both Loughborough Drive and Austin Avenue are signalized at the intersections with Olive Avenue. According to a traffic study done for a different project on this site in 2018, both Loughborough Drive and Austin Avenue intersections were operating at a Level of Service of C or better. The City's General Plan designates a Level of Service (LOS) of D or better as acceptable. Due to the railroad track along the southern property line, there is no access to the site from the south. Based on this information, the site is considered to have adequate access.

4. Adequate public services exist or will be provided to serve the proposed development.

The site will be served by existing water, sewer, and storm drain lines in Devonwood Drive. No increase in the size of the existing lines would be required. The site will be required to pay for all connection costs and facility fees to off-set any impacts to the existing system.

The site would be adequately served by the City's Police and Fire Departments as well. The project is part of the City-wide Community Facilities District (CFD) which collects special taxes to help cover costs of police and fire services.

5. The proposed development will not have a substantial adverse effect on surrounding property, will be compatible with the existing and planned land use character of the surrounding area, and will enhance the desirability of the area and have a beneficial effect.

It is not anticipated that the proposed project would have a substantial adverse effect on the surrounding property. As previously described, the buildings would be setback approximately 150 feet from the nearest single-family residential property. The project is adjacent to commercial uses to the north and west (the Merced Marketplace Shopping Center to the north and Wal-Mart to the west), therefore, the area is not a typical single-family residential area. The single-family dwellings to the east are a higher density than typical residential subdivisions. The proposed 3-story buildings would not be taller than the commercial buildings to the north and west. The addition of multi-family dwellings to the area is consistent with the apartment complex located east of the site, on the north side of Devonwood Drive. The option of

additional multi-family units would provide more housing options in an area that is adjacent to commercial uses and services.

6. *The proposed development carries out the intent of the Planned Development zoning district by providing a more efficient use of the land and an excellence of site design greater than that which could be achieved through the application of established zoning standards.*

With the approval of Site Utilization Plan Revision #23 to Planned Development (P-D) #16, the project would be consistent with the standards for P-D #16. The site includes high quality materials consistent with the standards for other development within P-D #16. The project provides a High-Density Residential development which will help provide needed housing to the City of Merced. As described in Finding A, the proposed project would carry out goals and implementing actions defined in the City's *Merced Vision 2030 General Plan*. Under the current Site Utilization Plan, the High-Density development would not be allowed. Thus, the proposed change and implementation of standards specific to this development and any future multi-family development on this site, would be a more efficient use of land by providing a greater number of housing units to the community.

7. *Each individual unit of the proposed development, in each phase as well as the total development, can exist as an independent unit capable of creating a good environment in the locality and being in any stage as desirable and stable as the total development.*

The proposed multi-family project would be able to exist as an independent project and create a good environment. The location is surrounded by development, so this is an infill site. The location is prime for development and for development of a multi-family project due to its location near commercial uses and services.

8. *Any deviation from the standard ordinance requirements is warranted by the design and additional amenities incorporated in the development plan, which offer certain unusual redeeming features to compensate for any deviations that may be permitted.*

The Site Utilization Plan will establish standards for the site. Additionally, the Merced City Zoning Ordinance sets forth specific Residential Design Standards that apply to all multi-family developments.

The project meets the design standards set forth in Zoning Ordinance Section 20.46 – Residential Design Standards.

The building height proposed is taller than currently allowed under the current Site Utilization Plan. The proposed three-story buildings would be approximately 37'4" tall. The current Site Utilization Plan sets the building height for structures at 35'. The proposed changes to the Site Utilization Plan (Finding K) would increase the maximum building height to 40 feet which is consistent with R-4 zoning which is the zoning designation that would allow this type of development outside of a Planned Development.

9. *The principles incorporated in the proposed development plan indicate certain unique or unusual features, which could not otherwise be achieved under the other zoning districts.*

This property currently lies within Planned Development (P-D) #16. The proposed Site Utilization Plan Revision would amend the standards for this parcel to allow a multi-family development rather than a single-family development. Because the site is already established as a Planned Development, changing the zoning to another zoning district would not be the best way to promote development. By amending the Site Utilization Plan within the existing Planned Development, to allow this project with slight variations from the standard zoning requirements, allows the project to move forward in a more streamlined approach and without creating a "spot zone" for another zoning district in the area. Planned Developments were specifically designed to allow such unique designs and the mixture of uses not allowed in other zoning districts.

Traffic/Circulation

- C) The project site is located on the south side of Devonwood Drive between Loughborough Drive and Austin Avenue. All three of these streets are local streets with a 64-foot-wide right-of-way and form a "U" shape with slight curves (see the Location Map at Attachment B of Planning Commission Staff Report #21-148). Primary access to Loughborough Drive and Devonwood Drive is via Olive Avenue (Arterial), with a secondary route from R Street (Arterial), via Olivewood Drive. The proposed project will have a primary access point off of Devonwood Drive near the middle of the development. Two secondary access points are provided on Devonwood Drive as well, one at each end of the apartment complex. An emergency access is provided at the end of Bannon Lane. There is no access to the south of the project as the site abuts a City bicycle trail and railroad tracks. Two bus stops are located on Loughborough Drive west of the project site with departures to various locations every 20 minutes to ½ hour. Because the road serving the project

site is a local road, there is no bike lane. However, as mentioned above, there is a bike trail along the southern property line.

The project site was evaluated as part of the Environmental Impact Report (EIR) for the Merced Marketplace. The City Council adopted this EIR on June 11, 1999. At that time the site was evaluated for approximately 152,000 square feet of Regional/Community Commercial (RC) uses. In 2006, a General Plan Amendment and Site Utilization Plan (SUP) Revision was approved changing the land use designation for the site to Low-Medium Density Residential (LMD) to allow the construction of a subdivision (Highland Park) with 124 small lots. A supplemental EIR was adopted by the City Council on November 6, 2006, as part of the General Plan Amendment and SUP Revision.

A Mitigation Monitoring Program was adopted with the Supplemental EIR in 2006. This EIR divided the area into two phases, Phase I, the Lowe's shopping center, and Phase II, the Highland Park subdivision. Certain improvements were required with each phase of construction as designated in the Traffic Improvement Phase Plan of September 20, 2006.

On January 31, 2019, the Site Plan Committee considered a request to modify the mitigation measures for certain improvements. Based on an analysis done by Ken Anderson and Associates, it was determined that Mitigation Measures 3.1-7, 3.1-9, 3.1-11, 3.1-12, and 3.1-13 were no longer required to be installed with the construction of the Highland Park Subdivision. All other applicable Mitigation Measures would still apply.

According to the Institute of Traffic Engineers (ITE) Manual, the proposed apartment project would generate approximately 1,031 average daily trips. This would be roughly a 44% increase over the average daily trips estimated for the single-family units. Although this is a substantial increase, based on the traffic analysis referenced above from 2019, it would not generate enough traffic to decrease the level of service (LOS) beyond LOS D which is the acceptable level of service designated by the *Merced Vision 2030 General Plan*.

Alternative transportation options are located near the project site. There are two bus stops on Loughborough Drive, approximately 160 feet west of the project site. The easy access to the bus stops is expected to reduce vehicular traffic. In addition, access to the bike path behind the project site, would make it convenient for residents to use bicycles for transportation.

Public Improvements/City Services

- D) The developer would be required to install all streets, utilities, and other improvements on Devonwood Drive. City water and sewer lines currently exist in Devonwood Drive which will serve this project.

The proposed project would pay the required Public Facilities Impact Fees to help fund citywide improvement needs such as road improvements, traffic signals, bridges, etc. There are no specific improvements required with this development other than frontage improvements.

Building Design

- E) The proposed project involves the construction of five three-story apartment buildings and a single-story clubhouse/office (Site Plan at Attachment C of Planning Commission Staff Report #21-148). The five buildings would provide 156 apartment units.

There would be two different building types: Building A - three-stories with 36 units (12 units/floor) and Building B - three-stories with 24 units (8 units/floor) (refer to the Elevations at Attachment D of Planning Commission Staff Report #21-148). The buildings would contain a mixture of 1-, 2-, and 3-bedroom units. The following table provides the details for each unit type. The floor plans are provided at Attachment E of Planning Commission Staff Report #21-148.

Unit	Bed/Bath	Net Living Area	Balcony with WH Closet	Total Sq. Ft.	Total Units
A1	1 bed/1 bath	582	55	626	69
B1	2 bed/2 bath	870	53	928	48
C1	3 bed/2 bath	1090	56	1156	39
					156

The table below provides the number of each unit type within each building type.

Building	A1	B1	C-1	Total Units/Building	No. of Buildings
A	15	12	9	36	3
B	12	6	6	24	2

The three-story buildings would be 37' 4" tall. The buildings would have a modern design with a mixture of exterior finishes including stucco, siding, glass, and metal finishes. and typical commercial store fronts with metal finishes. Balconies would be provided on the upper floor levels for the residential tenants. First floor tenants would have a small patio area. The elevations incorporate architectural features to enhance the building character and appearance. Three exterior stair wells will on the 36-unit (Type A) buildings provide access to the second and third floors. Building Type B would have two exterior stair wells for access to the upper floors.

Site Design

- F) The project is a gated apartment complex with the main entrance on Devonwood near the center of the complex (Attachment B of Planning Commission Staff Report #21-148). A decorative entrance with gates would be the focal point of the entrance. The fence surrounding the site would be constructed of tubular steel material (similar to wrought iron).

The site includes open space between the buildings, two small play areas, and a swimming pool, and a dog park. These elements are shown on the Site Plan at Attachment B and the Landscape Plan at Attachment F of Planning Commission Staff Report #21-148.

The clubhouse/office building is located outside the gated area. There would be approximately 6 parking spaces to serve the office also outside of the gated area. A secondary access is located at the western end of the complex and an emergency access point is located off of Bannon Lane. Conditions #14 and

#15 address requirements for gated access, including providing enough stacking room for at least two vehicles beyond the public street.

Pedestrian access will be provided from two locations on Devonwood Drive. Pedestrian pathways are provided throughout the site to provide safe routes through the site to all pedestrian access gates and all open space and recreation areas. Additionally, two pedestrian gates are located at the rear of the site to provide access to the bike path. Condition #27 requires all walking paths, bicycle and vehicle parking areas are required to provide lighting to ensure a safe environment.

The site is located adjacent to the BNSF railroad track. As part of the mitigation required for the Highland Park subdivision, to address noise impacts from the railroad, an approximately 20-foot-tall sound wall was constructed adjacent to the railroad tracks. This wall adequately reduced the exterior noise levels at the ground floor to be within the normally acceptable level (65 to 70 db DNL). Further, the interior noise levels for ground floor units was reduced to 45 db DNL as required by the General Plan Noise Element. In order to achieve the 45 db DNL for units above the ground floor, constructed methods and materials must be used to reduce the noise level to 45 db DNL. Some of these methods would include specifically rated glass for windows, acoustic baffles, solid-core doors, and insulation. As per Condition #32, the developer shall provide documentation at the time of building permit review to show that the proposed construction methods would reduce the interior noise level to 45 db DNL.

Parking

- G) Merced Zoning Ordinance Table 20.38-1 sets forth the parking requirements for a multi-family development based on the number of units, bedrooms, and bathrooms. Based on this table, the project would be required to provide 261 parking spaces. Additionally, the project would be required to provide bicycle parking in compliance with Merced Zoning Ordinance Table 20-38-4 (Condition #18).

As described in Finding C above, the project site is located within approximately 160 feet of a transit stop. As such, under Section 20.38.060 (E), the project is eligible for a 5% reduction in parking. This would reduce the parking requirement by 13 spaces, reducing the parking requirement to 248 parking spaces. The proposed project provides 249 parking spaces. Condition #19 grants the reduction allowed under Section 20.38.060. Of the 249 parking spaces, a maximum of 25% of those spaces may be compact

spaces with a minimum width of 8.5 feet and minimum depth of 16 feet as allowed by the proposed development standards in Finding K.

Landscaping

- H) The project site would be landscaped with trees, ground cover, and shrubs throughout the site. The landscape plan at Attachment F of Planning Commission Staff Report #21-148 provides a conceptual plan for landscaping the site. Conditions #24, #25, #26, and #27 address the landscape and irrigation requirements.

Neighborhood Impact/Interface

- I) The project site is surrounded by commercial uses to the north (Merced Marketplace Shopping Center) and to the west (Wal-Mart). Single-family residential homes are located to the east and the bike path and railroad tracks are to the south. The location map at Attachment B of Planning Commission Staff Report #20-148 shows the uses in the surrounding area.

The proposed change to the General Plan and Site Utilization Plan to allow multifamily development would increase the traffic and number of people in the area. The site is currently designated for single-family dwellings, but at a density higher than a typical subdivision. Although the number of units and residents would increase, the general commercial nature of the area would not be severely impacted. The subdivision to the east has been developed over the last year and has approximately 65 dwellings. The proposed site plan shows the nearest building to the existing dwellings would be approximately 150 feet away. Additionally, Condition #28 requires a solid fence/wall (concrete block or similar) to be installed to separate the parking area from the single-family residential uses.

Public hearing notices were sent to all property owners within 300 feet of the project site and extended to all the property owners on the streets within the Highland Park Subdivision. At the time of this report, the City had received one e-mail in opposition to the project when it was scheduled to come before the Planning Commission on February 3, 2021. Additionally, a letter was received from Michael Belluomini on February 16, 2021, prior to the request going to the Planning Commission on February 17, 2021. These comments are provided at Attachment G of Planning Commission Staff Report #21-148.

Land Use/Density Issues

- J) The proposed multi-family development would have a density of 26 units/acre (gross) and 24.41 units/acre (net). This density is consistent with the High-

Density Residential General Plan designation. It should be noted that the proposed Site Utilization Plan Standards for this parcel would limit the overall density for the project site to 24 to 26 units/acre.

Site Utilization Plan Standards

- K) Specific standards are established with a Site Utilization Plan. These standards may be amended through the Site Utilization Plan Revision process. The current standards that apply to this property within P-D #16 were established for the Highland Park subdivision and would not allow the proposed development. Therefore, staff is recommending the following standards be adopted to address the current development. The standards have been written to accommodate the current proposal, but are not intended to restrict development on the site to only this particular development. If, for some reason this particular development is not constructed, the standards are broad enough to allow another multi-family development to be constructed. The standards are based primarily on the standards for R-4 zoning, but does limit the density to a maximum of 26 units/acre rather than the 36 units/acre allowed by the High Density (HD) General Plan designation.

PLANNED DEVELOPMENT #16 SITE UTILIZATION PLAN REVISION #23 DEVONWOOD APARTMENTS	
DESIGN CATEGORY	DESIGN/DEVELOPMENT STANDARD
Density	24 to 26 dwelling units/acre for this project
Land Use	High Density Residential uses including all uses as shown in Table 20.08-1 for property Zoned R-4
Building Height	40 ft.
Setback Requirements	Setback from Devonwood Drive – 20 Ft. Setback from rear property line – 10 ft. for buildings up to 35 ft. in height; 1 additional foot setback for each additional 5 ft. in height. Setback from side property lines – 6 ft. for buildings up to 35 ft. in height; 1 additional foot setback for each additional 5 ft. in height.
Maximum Lot Coverage	65%
Distance Between Main Buildings	10 ft.

DESIGN CATEGORY	DESIGN/DEVELOPMENT STANDARD
Building Design & Building Materials	<p>All building designs and materials shall substantially comply with the elevations provided and approved with Site Utilization Plan Revision #23 for Planned Development (P-D) #16.</p> <p>Modifications may be approved by the Director of Development Services or referred to the Site Plan Review Committee.</p>
Parking	<p>As required by Section 20.38 of the City of Merced Zoning Ordinance, including bicycle parking.</p> <p>The Project may be eligible for all parking reductions allowed by Section 20.38.</p> <p>Compact Parking spaces are allowed for up to 25 percent of the required spaces, with a minimum width of 8.5 feet and a minimum depth of 16 feet.</p>
Fencing	<p>All fencing along the front of the project shall be of high-quality materials, such as wrought-iron or tubular steel. Side-yard fencing shall be wood or other material approved by the Director of Development Services. Pedestrian access shall be provided to Devonwood Drive and the Bike Path at the rear of the property.</p>
Private Outdoor Space	<p>Each ground floor unit shall be provided with a private outdoor usable space of a minimum of 8 feet by 5 feet.</p> <p>Each unit above the ground floor shall be provided with a usable outdoor balcony space of a minimum of 8 feet by 5 feet.</p> <p>Private outdoor space shall be screened with solid or near-solid fencing/railings.</p> <p>Materials shall be compatible with the building materials.</p>

DESIGN CATEGORY	DESIGN/DEVELOPMENT STANDARD
General Design Standards as required by Section 20.46.030 of the City of Merced Zoning Ordinance	The Project shall comply with these requirements, except as permitted by other design standard approved by Site Utilization Plan Revision #23 to P-D #16.
Specific Design Standards as required by Section 20.46.040 of the City of Merced Zoning Ordinance	The Project shall comply with these requirements, except as permitted by other design standard approved by Site Utilization Plan Revision #23 to P-D #16.

Environmental Clearance

- L) The Planning staff has conducted an environmental review (Initial Study # 20-32- revised) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Draft Mitigated Negative Declaration (i.e., no significant adverse environmental effects have been found that cannot be mitigated to be less than significant) is being recommended (Attachment I of Planning Commission Staff Report 21-148).

<p style="text-align: center;">ENVIRONMENTAL REVIEW #20-32 Revised Mitigation Monitoring Program</p>

MITIGATION MONITORING CONTENTS

This mitigation monitoring program includes a brief discussion of the legal basis and purpose of the mitigation monitoring program, a key to understanding the monitoring matrix, a discussion of noncompliance complaints, and the mitigation monitoring matrix itself.

LEGAL BASIS AND PURPOSE OF THE MITIGATION MONITORING PROGRAM

Public Resource Code (PRC) 21081.6 requires public agencies to adopt mitigation monitoring or reporting programs whenever certifying an environmental impact report or mitigated negative declaration. This requirement facilitates implementation of all mitigation measures adopted through the California Environmental Quality Act (CEQA) process.

The City of Merced has adopted its own “Mitigation Monitoring and Reporting Program” (MMC 19.28). The City’s program was developed in accordance with the advisory publication, *Tracking CEQA Mitigation Measures*, from the Governor’s Office of Planning and Research.

As required by MMC 19.28.050, the following findings are made:

- 1) The requirements of the adopted mitigation monitoring program for the General Plan Amendment #20-01 and Site Utilization Plan (SUP) Revision #23 to Planned Development (P-D) #16 shall run with the real property. Successive owners, heirs, and assigns of this real property are bound to comply with all of the requirements of the adopted program.
- 2) Prior to any lease, sale, transfer, or conveyance of any portion of the subject real property, the applicant shall provide a copy of the adopted program to the prospective lessee, buyer, transferee, or one to whom the conveyance is made.

MITIGATION MONITORING PROCEDURES

In most cases, mitigation measures can be monitored through the City’s construction plan approval/plan check process. When the approved project plans and specifications, with mitigation measures, are submitted to the City Development Services Department, a copy of the monitoring checklist will be attached to the submittal. The Mitigation Monitoring Checklist will be filled out upon project approval with mitigation measures required. As project plans and specifications are checked, compliance with each mitigation measure can be reviewed.

In instances where mitigation requires on-going monitoring, the Mitigation Monitoring Checklist will be used until monitoring is no longer necessary. The Development Services Department will be required to file periodic reports on how the implementation of various mitigation measures is progressing or is being maintained. Department staff may be required to conduct periodic inspections to assure compliance. In some instances, outside agencies and/or consultants may be required to conduct necessary periodic inspections as part of the mitigation monitoring program. Fees may be imposed per MMC 19.28.070 for the cost of implementing the monitoring program.

GENERAL PLAN MITIGATION MEASURES

As a second-tier environmental document, Initial Study #20-32 incorporates some mitigation measures adopted as part of the *Merced Vision 2030 General Plan Program Environmental Impact Report* (SCH# 2008071069), as mitigation for potential impacts of the Project.

NONCOMPLIANCE COMPLAINTS

Any person or agency may file a complaint asserting noncompliance with the mitigation measures associated with the project. The complaint shall be directed to the Director of Development Services in written form providing specific information on the asserted violation. The Director of Development Services shall cause an investigation and determine the validity of the complaint. If noncompliance with a mitigation measure has occurred, the Director of Development Services shall cause appropriate actions to remedy any violation. The complainant shall receive written confirmation indicating the results of the investigation or the final action corresponding to the particular noncompliance issue. Merced Municipal Code (MMC) Sections 19.28.080 and 19.28.090 outline the criminal penalties and civil and administrative remedies which may be incurred in the event of noncompliance. MMC 19.28.100 spells out the appeals procedures.

MONITORING MATRIX

The following pages provide a series of tables identifying the mitigation measures proposed specifically for General Plan Amendment #20-01 and Site Utilization Plan Revision #23 to Planned Development (P-D) #16. The columns within the tables are defined as follows:

Mitigation Measure:	Describes the Mitigation Measure (referenced by number).
Timing:	Identifies at what point in time or phase of the project that the mitigation measure will be completed.
Agency/Department Consultation:	This column references any public agency or City department with which coordination is required to satisfy the identified mitigation measure.
Verification:	These columns will be initialed and dated by the individual designated to verify adherence to the project specific mitigation.

General Plan Amendment #20-01/Site Utilization Plan Revision #23 to Planned Development (P-D) #16
Mitigation Monitoring Checklist

Project Name: _____ **File Number:** _____
Approval Date: _____ **Project Location** _____
Brief Project Description _____

The following environmental mitigation measures were incorporated into the Conditions of Approval for this project in order to mitigate identified environmental impacts to a level of insignificance. A completed and signed checklist for each mitigation measure indicates that this mitigation measure has been complied with and implemented, and fulfills the City of Merced's Mitigation Monitoring Requirements (MMC 19.28) with respect to Assembly Bill 3180 (Public Resources Code Section 21081.6).

1) Aesthetics					
<i>Impact</i>	<i>Mitigation Measures</i>		<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
<i>d</i>	AES 1)	All exterior lighting shall be shielded to prevent spillover onto adjacent properties.	Building Permit	Planning Department	
3) Air Quality					
<i>a</i>	AIR-1)	<p>Consistent with SJVAPCD Regulation VIII (FugitivePM₁₀ Prohibitions), the following controls are required to be included as specifications for the proposed project and implemented at the construction site:</p> <ul style="list-style-type: none"> • All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover. • All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant. • All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking. <p><i>(continued on next page)</i></p>	Building Permit/Grading Permit	Building / Engineering Departments	

<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
<i>a</i>	<ul style="list-style-type: none"> • When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained. • All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.). • Following the addition of materials to, or the removal of materials from, the surface of out-door storage piles, said piles shall be effectively stabilized of fugitive dust emission utilizing sufficient water or chemical stabilizer/suppressant. 	Building Permit/Grading Permit	Building / Engineering Departments	

5) Cultural Resources				
<i>a</i>	<p>CUL-1) If unknown pre-contact or historic-period archaeological materials are encountered during project activities, all work in the immediate vicinity of the find shall halt until a qualified archaeologist can evaluate the find and make recommendations.</p> <p>Cultural resources materials may include pre-contact resources such as flaked and ground stone tools and debris, shell, bone, ceramics, and fire-affected rock, as well as historic resources such as glass, metal, wood, brick, or structural remnants. If the qualified archaeologist determines that the discovery represents a potentially significant cultural resource, additional investigations shall be required to mitigate adverse impacts from project implementation. These additional studies may include, but are not limited to, recordation, archaeological excavation, or other forms of significance evaluations.</p> <p>The applicant shall inform its contractor(s) of the sensitivity of the project site for archaeological deposits, and include the following directive in the appropriate contract documents:</p> <p><i>(continued on next page)</i></p>	Building Permit	Planning Department	

<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
	<p>“The subsurface of the construction site is sensitive for archaeological deposits. If archaeological deposits are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be redirected and a qualified archaeologist shall assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any archaeological materials. Archaeological deposits can include, but are not limited to, shellfish remains; bones, including human remains; and tools made from, obsidian, chert, and basalt; mortars and pestles; historical trash deposits containing glass, ceramics, and metal artifacts; and structural remains, including foundations and wells.”</p> <p>The City shall verify that the language has been included in the grading plans prior to issuance of a grading permit or other permitted project action that includes ground-disturbing activities on the project site.</p>	Building Permit	Planning Department	
<i>b</i>	CUL-2) Implementation of Mitigation Measure CUL-1 (above).	Building Permit	Planning Department	

<i>c</i>	CUL-3) If human remains are identified during construction and cannot be preserved in place, the applicant shall fund: 1) the removal and documentation of the human remains from the project corridor by a qualified archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for Archaeology, 2) the scientific analysis of the remains by a qualified archaeologist, should such analysis be permitted by the Native American Most Likely Descendant, and 3) the reburial of the remains, as appropriate. All excavation, analysis, and reburial of Native American human remains shall be done in consultation with the Native American Most Likely Descendant, as identified by the California Native American Heritage Commission.	Building Permits	Planning Department	
6) Energy				
<i>a</i>	ENE-1) The applicant shall comply with all applicable California Energy Code, AB 341, and San Joaquin Valley Air Pollution Control District rules and regulations regulating energy efficiency and waste.	Building Permits	Building Department	
<i>b</i>	ENE-2) Implementation of Mitigation Measure ENE-1.	Building Permits	Building Department	

7) Geology and Soils				
Impact No.	Mitigation Measures	Timing	Agency or Department	City Verification (date and initials)
b	GEO-1) The project shall comply with all requirements of the State Water Resources Board (SWRCB) and obtain a General Construction Activity Stormwater Permit.	Building/ Encroachment Permits	Engineering Department	
8) Greenhouse Gas Emissions				
a	<p>GHG-1) The project applicant shall demonstrate compliance with the applicable BPS strategies to the Planning Division prior to the issuance of a building permit. The following BPS strategies are considered to be applicable, feasible, and effective in reducing GHG emissions generated by the project:</p> <ul style="list-style-type: none"> • The project applicant shall provide a pedestrian access network that internally links all uses and connects to existing external streets and pedestrian facilities. • The project applicant shall ensure site design and building placement minimize barriers to pedestrian access and interconnectivity. Physical barriers such as walls, berms, landscaping, and slopes between nonresidential uses that impede bicycle or pedestrian circulation shall be eliminated. In addition, barriers to pedestrian access of neighboring facilities and sites shall be minimized. <p><i>(continued on next page)</i></p>			

8) Greenhouse Gas Emissions (continued)				
	<ul style="list-style-type: none"> • The project applicant shall design roadways to reduce motor vehicle speeds and encourage pedestrian and bicycle trips by featuring traffic calming measures. Traffic calming measures include: bike lanes, center islands, closures (cul-de-sacs), diverters, education, forced turn lanes, roundabouts, and speed humps. • The project applicant shall plant trees to provide shade. • The project applicant shall install energy efficient heating and cooling systems, appliances and equipment, and control systems. 			
<i>b</i>	<i>GHG-2)</i> Implementation of Mitigation Measure of GHG-1.			

10) Hydrology and Water Quality				
<i>a</i>	HYDRO-1)	To minimize any potential short-term water quality effects from project-related construction activities, the project contractor shall implement Best Management Practices (BMPs) in conformance with the California Storm Water Best Management Practice Handbook for Construction Activity. In addition, the proposed project shall be in compliance with existing regulatory requirements, including the Water Pollution Control Preparation (WPCP) Manual. In addition, implementation of a Storm Water Pollution Prevention Plan (SWPPP) would be required under the National Pollutant Discharge Elimination System (NPDES) to regulate water quality associated with construction activities.	Building/ Encroachment Permits	Engineering Department
<i>a</i>	HYDRO-2	If any storm drainage from the site is to drain into MID facilities, the developer shall first enter into a “Storm Drainage Agreement” with MID and pay all applicable fees.	Building/ Encroachment Permits	Engineering Department
<i>a</i>	HYDRO-3)	To reduce the potential for degradation of surface water quality during project operation, a SWPPP shall be prepared for the proposed project. The SWPPP shall describe specific programs to minimize stormwater pollution resulting from the proposed project. Specifically, the SWPPP shall identify and describe source control measures, treatment controls, and BMP maintenance requirements to ensure that the project complies with post-construction stormwater management requirements of the RWQCB.	Building/ Encroachment Permits	Engineering Department

c	HYDRO-4	Prior to issuance of a building permit or as required by the City Engineer, the developer shall demonstrate to the City that storm drainage facilities are adequate to meet the Project demands and that improvements are consistent with the City Standards and the City's Storm Drain Master Plan.	Building/ Encroachment Permits	Engineering Department	
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13) Noise				
<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
<i>a</i>	<p>NOI-1) To reduce potential construction noise impacts, the following multi-part mitigation measure shall be implemented for the project:</p> <ul style="list-style-type: none"> • The construction contractor shall ensure that all internal combustion engine-driven equipment is equipped with mufflers that are in good condition and appropriate for the equipment. • The construction contractor shall locate stationary noise-generating equipment as far as feasible from sensitive receptors when sensitive receptors adjoin or are near a construction disturbance area. In addition, the project contractor shall place such stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the project site. • The construction contractor shall prohibit unnecessary idling of internal combustion engines (i.e., idling in excess of 5 minutes is prohibited). • The construction contractor shall locate, to the maximum extent practical, on-site equipment staging areas so as to maximize the distance between construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction. <p><i>(continued on next page)</i></p>	Building Permit	Building Department	

<i>Impact No.</i>	<i>Mitigation Measures</i>	<i>Timing</i>	<i>Agency or Department</i>	<i>City Verification (date and initials)</i>
	<ul style="list-style-type: none"> The construction contractor shall limit all noise producing construction activities, including deliveries and warming up of equipment, to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday. No such work shall be permitted on Sundays or federal holidays without prior approval from the City. 	Building Permit	Planning Department	

Certificate of Completion:

By signing below, the environmental coordinator confirms that the required mitigation measures have been implemented as evidenced by the Schedule of Tasks and Sign-Off Checklist, and that all direct and indirect costs have been paid. This act constitutes the issuance of a *Certificate of Completion*.

Environmental Coordinator

Date