RESOLUTION NO. 2022-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, APPROVING A MITIGATED NEGATIVE DECLARATION (ENVIRONMENTAL REVIEW #21-23) FOR GENERAL PLAN AMENDMENT #21-02 AND SITE UTILIZATION PLAN REVISION #12 TO PLANNED DEVELOPMENT (P-D) #8 FOR APPROXIMATELY 6.93 ACRES OF LAND GENERALLY LOCATED ON THE SOUTHEAST CORNER OF LOUGHBOROUGH DRIVE AND MEADOWS AVENUE AND APPROVING GENERAL PLAN AMENDMENT #21-02 CHANGING THE GENERAL PLAN LAND USE DESIGNATION FOR APPROXIMATELY 5.59 ACRES OF PROPERTY FROM REGIONAL/COMMUNITY (RC) COMMERCIAL TO HIGH DENSITY (HD) RESIDENTIAL AND CHANGING THE LAND USE DESIGNATION FOR APPROXIMATELY 1.34 ACRES OF THE PROPERTY FROM REGIONAL/COMMUNITY (RC) COMMERCIAL TO COMMERCIAL OFFICE (CO) AND APPROVING A LEGISLATIVE ACTION AGREEMENT FOR GENERAL PLAN AMENDMENT #21-02 AND SITE UTILIZATION PLAN REVISION #12 TO PLANNED DEVELOPMENT (P-D) #8

WHEREAS, the City is processing an application for a General Plan Amendment and Site Utilization Plan Revision to Planned Development (P-D) #8 for 6.93 acres of land generally located on the southeast corner of Loughborough Drive and Meadows Avenue, and more particularly described in Exhibit A and shown on the map at Exhibit B, both attached hereto and incorporated herein by this reference, where an environmental review was required; and

WHEREAS, the Planning Commission of the City of Merced held a noticed public hearing on October 20, 2021, at which time all those interested in the matter were provided the opportunity to speak or provide written or oral testimony regarding the application; and

WHEREAS, after hearing all of the evidence and testimony, the Planning Commission adopted Resolution #4075, attached hereto as Exhibit C, and incorporated herein by reference, recommending that the City Council approve the General Plan Amendment and Environmental Review (Mitigated Negative Declaration); and

WHEREAS, The City Council held a noticed public hearing on June 21, 2022, at which time all those interested in the matter were provided the opportunity to speak or to provide written or oral testimony regarding the application.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MERCED AS FOLLOWS:

SECTION 1. CALIFORNIA ENVIRONMENTAL QUALITY ACT. Based upon the evidence and testimony in the record at the City Council public hearing, the City Council exercising its independent judgment and review, hereby adopts and approves the Mitigated Negative Declaration following Environmental Review #21-23 pursuant to the provisions of the California Environmental Quality Act.

SECTION 2. GENERAL PLAN AMENDMENT ADOPTION. The General Plan of the City of Merced is hereby amended by approving General Plan Amendment #21-02, which changes the General Plan designation for approximately 5.59 acres of the approximately 6.93 acre parcel of land generally located on the southeast corner Loughborough Drive and Meadows Avenue, from Regional/Community (RC) Commercial to High Density (HD) Residential and changes the General Plan land use designation for approximately 1.34 acres of the parcel from Regional/Community (RC) Commercial to Commercial Office (CO), as shown on Exhibit B, attached hereto and incorporated herein by this reference.

SECTION 3. APPROVAL OF LEGISLATIVE ACTION AGREEMENT. The Legislative Action Agreement between the City of Merced and Ashley Investments, LLC., a California Limited Liability Company, pertaining to the approvals granted herein and the development of the property subject to these approvals is hereby approved. The approvals granted herein are contingent upon the property owner executing and returning the Legislative Action Agreement and the documents being recorded. The City Manager or Assistant City Manager is hereby authorized to execute the Legislative Action Agreement on behalf of the City of Merced.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2022, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

_____
Mayor

ATTEST:
STEPHANIE R. DIETZ, CITY CLERK

BY:_____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

_____ 5/31/2022
City Attorney Date

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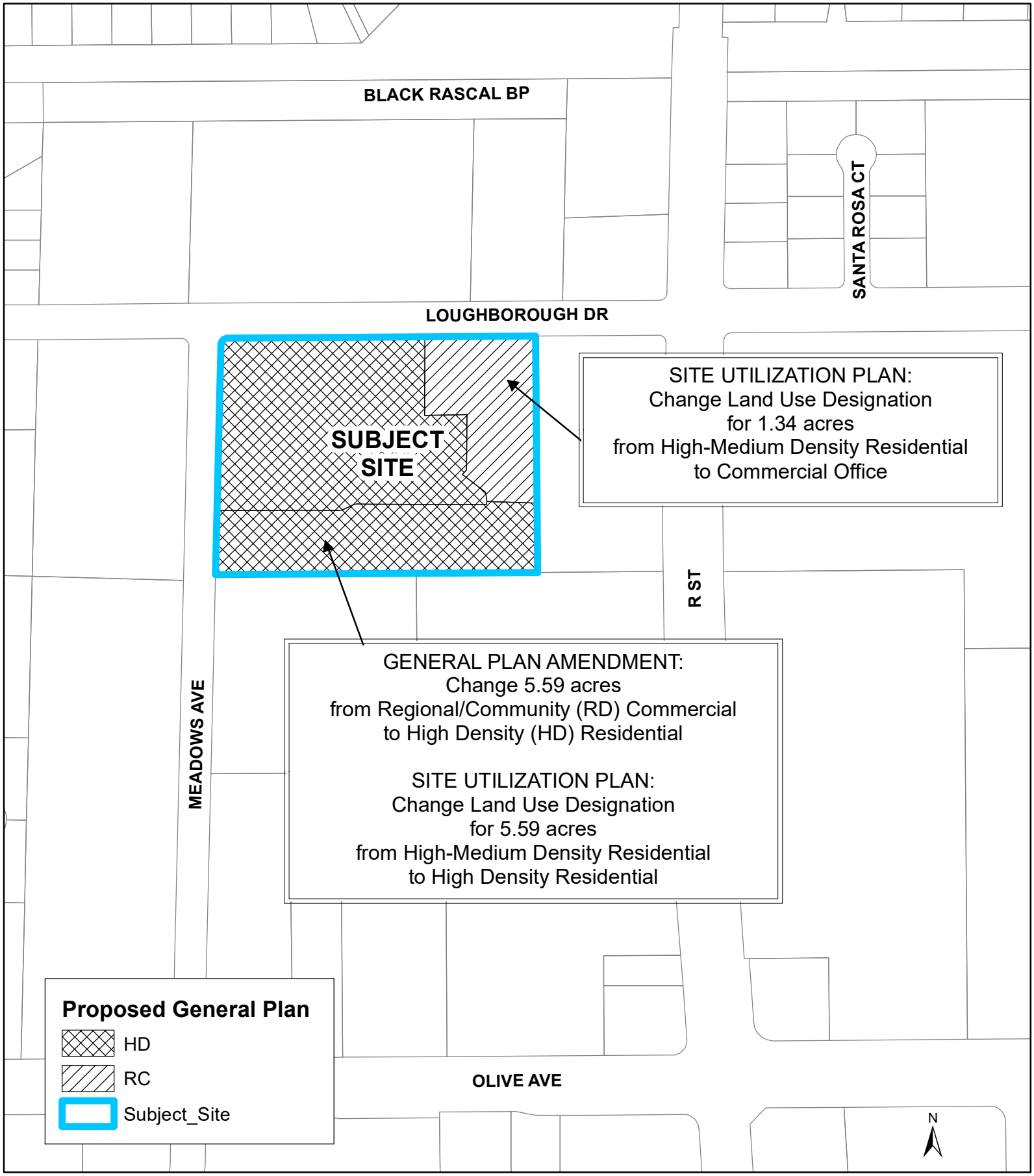
EXHIBIT A

Parcel 3 as shown on that certain parcel map entitled “Parcel Map for J.F. Collins,” recorded in Volume 43, Page 44 of Mercd County Records.

Assessor’s Parcel Number (APN): 058-030-028



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

PROPOSED LAND USE CHANGES

EXHIBIT B

Amended by City Council
6/21/22

CITY OF MERCED
Planning Commission

Resolution #4075

WHEREAS, the Merced City Planning Commission at its regular meeting of October 20, 2021, held a public hearing and considered **General Plan Amendment #21-02 and Site Utilization Plan (SUP) Revision #12 to Planned Development (P-D) #8,** initiated by UP Holdings California, LLC, on behalf of Ashley Investments, LLC, property owner. This application involves a request to amend the General Plan designation for approximately 5.59 acres from Regional/Community Commercial (RC) to High Density Residential (HD). The request also includes a Site Utilization Plan Revision to change the Site Utilization Plan land use designation from High-Medium Density Residential (12-24 units/acre) for 5.59 acres to High-Density Residential (24 to 36 units/acre) to allow the construction of 161multi-family units and to change the land use designation for 1.34 acres from High-Medium Density Residential to Office to allow the construction of a medical/dental clinic. This property is generally located at the southeast corner of Loughborough Drive and Meadows Avenue; also known as Assessor Parcel: 058-030-028; and,

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through L of Attachment A of Staff Report # 21-665 (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 #21-23, and recommend approval of General Plan Amendment #21-02 and Site Utilization Plan Revision #12 to Planned Development (P-D) #8, 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 GREGGAINS, and carried by the following vote:

AYES: Commissioners Camper, Delgadillo, Dylina, Greggains, and White
NOES: None
ABSENT: Chairperson Harris (one vacancy)
ABSTAIN: None

EXHIBIT C

Adopted this 20th day of October 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 #21-23

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Conditions of Approval
Planning Commission Resolution #4075
General Plan Amendment #21-02
Site Utilization Plan Revision #12 to Planned Development (P-D) #8

1. The proposed General Plan Amendment and Site Utilization Plan Revision shall be as shown on the Proposed Land Use Map at Attachment D of Planning Commission Staff Report #21-665.

2. The proposed project shall be constructed/designed in substantial compliance with the Site Plan (Attachment E of Planning Commission Staff Report #21-665) and the floor plans and building elevations (Attachments G and H of Planning Commission Staff Report #21-665), and Landscape Plan (Attachment I of Planning Commission Staff Report #21-665) 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.

3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.

4. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.

5. Approval of the General Plan Amendment and Zone Change is subject to the property owner entering into a written Legislative Action 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.

6. 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.

7. The developer/owner is required to finance the annual operating costs for police and fire services as well as storm drainage, public landscaping, street trees, streetlights, parks and open space, which may include a financing mechanism such as a Community Facilities District (CFD) or, assessment district. Procedures for financing these services and on-going maintenance shall be initiated before final map approval or issuance of a certificate of occupancy for any building, whichever comes first. Developer/Owner shall submit a request agreeing to such a procedure, waiving right to protest and post deposit as determined by the City Engineer to be sufficient to cover procedure costs and maintenance costs expected prior to first assessments being received.

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. All public improvements shall be installed along the project frontages 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.

10. Street trees shall be planted along the project frontage on Loughborough Drive and Meadows Avenue in compliance with City Standards.

11. 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).

12. 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.

13. If the any part of the project is gated in the future, all gates at the entrances/exits shall be set back 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.

14. 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.

15. 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.

16. Bicycle parking shall meet the minimum requirements of the California Green Building Code and Merced Municipal Code Section 20.38.080.

17. A maximum of 25 percent of the required parking spaces may be compact spaces. Compact parking spaces shall have a minimum width of 8 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.

18. 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. Additionally, as allowed by Zoning Ordinance Section 20.20.020 – Planned Development (P-D) Zoning Districts, deviations from development standards may be allowed. Per the Development Standards adopted with Site Utilization Plan Revision #12 to P-D #8, provided at Finding K of Exhibit B of this Resolution, an additional reduction of up to 6% in the required parking spaces is be allowed.

19. 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.

20. All construction activity shall be conducted between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday.

21. The developer shall use proper dust control procedures during site development in accordance with San Joaquin Valley Air Pollution Control District rules.

22. 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.

23. 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.

24. 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.

25. 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.

26. All walking paths, bicycle and vehicle parking areas, and recreational areas shall be provided with sufficient lighting to ensure a safe environment.

27. All parking lot and other exterior lighting shall be oriented in such a way so that it does not spillover onto adjacent properties.

28. All mechanical equipment shall be screened from public view as required by the Development Standards at Finding K of Exhibit B of this resolution. Details of the screen shall be worked out with Planning Staff at the building permit stage.

29. 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. All enclosures shall be fully enclosed, including from the top. A refuse container with a lid and locking device may be used within the enclosure rather than constructing a roof on the enclosure structure. All designs shall comply with City Standards and is subject to approval by the City Engineer and Refuse Department.

30. 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.

31. 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 Site Utilization Plan Revision #12 to P-D #8 as described in Finding K of Exhibit B of this resolution.

32. The project shall be designed with a variety of colors and/or textures on the exterior elevations.

33. The exterior of the buildings and site shall be regularly maintained and kept in an aesthetically pleasing manner. Any graffiti on the site shall be removed within 5 days as required by Merced Municipal Code (MMC) Section 8.36.060. Failure to remove graffiti within this time may result in removal by the City in accordance with MMC Section 8.36.070.

Conditions #34 & #35 added by City Council 6/21/22

34. If the multi-family portion of the project is developed as a market rate apartment complex, the project shall comply with City Council Resolution No. 2022-15 which requires a minimum of 12.5% of the units be designated for affordable housing. A plan to provide these units shall be established and a Regulatory Agreement approved by City Council prior to the first Certificate of Occupancy being issued for the project. The units may be provided through the construction of the units, through the payment of in-lieu fees as established by the City, or through any other mechanism consistent with City Council Resolution No. 2022-15.

35. Each component of the project, whether constructed as one project or as separate projects, shall meet the minimum parking requirements as required by Section 20.38 of the Zoning Ordinance and as provided in the Design Standards approved with Site Utilization Plan (SUP) Revision #12 to Planned Development (P-D) #8.

Findings and Considerations
Planning Commission Resolution #4075
General Plan Amendment #21-02
Site Utilization Plan Revision #12 to Planned Development (P-D) #8

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) #8 if the requested General Plan Amendment and Site Utilization Plan Revision are approved.

The following Land Use and Housing Element Goals and Policies would be achieved with the approval of this request to change 5.59 acres from Regional/Community Commercial (RC) to High Density Residential (HD):

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.

Housing Element Goal H-1: New Affordable Housing Construction

- *Increase the stock of affordable housing for very low, low, and moderate-income households.*

Policy H-1.2 Support Development of Affordable Housing.

The proposed project would also comply with the General Plan designation of Regional/Community Commercial (RC) for the 1.34-acre portion of the site and the zoning designation of Planned Development (P-D) #8 if the requested General Plan Amendment and Site Utilization Plan Amendment are approved.

The General Plan states the following regarding location of Commercial/Professional office uses:

"CO areas should be encouraged as employment centers adjacent to established commercial areas and residential centers to minimize trip generation and vehicle trip length."

This site is located within an area with both established commercial uses and residential uses and would provide medical services to an area that has very few, if any medical services within a ¼ to ½ mile radius.

Because this site is near transit stops, the proposed medical/dental clinic would also accomplish General Plan Policy L-3.1 as described above.

Zoning Code Compliance for the Site Utilization Plan Revision

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 to change the land use designation for 5.59 acres of the site from High-Medium Density Residential (HMD) to High Density Residential (HD) would be consistent with the

General Plan if General Plan Amendment #21-02 is approved amending the General Plan designation for the 5.59-acre portion of the site from Regional/Community Commercial (RC) Residential to High Density (HD) Residential. As shown in Finding A, the proposed project would accomplish goals, policies, and implementing actions of the General Plan related to providing housing, and more specifically, affordable housing.

The proposed SUP Revision for the remaining 1.34 acres to change the land use designation from High-Medium Density Residential to Office would comply with the General Plan Designation of Regional/Community Commercial (RC). Although Regional/Community Commercial areas are typically areas for retail commercial uses, this land use designation does not preclude office uses. A medical clinic that could serve a large portion of the City's population would be appropriate in an RC designation.

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 6.93 acres (gross). The proposed project of 161 apartment units, community building/office, open space, medical/dental clinic, and associated parking can be accommodated on this site. The project proposes to subdivide the 6.93-acre parcel into three separate parcels – Parcel A (3.61 acres), Parcel B (1.98 acres), and Parcel C 1.34 acres). The apartment complex would be located on Parcels A and B, and the clinic on Parcel C. The design of the project proposes a 20-foot set back on Loughborough Drive, which is consistent with other development in the area. The proposed setback on Meadows Avenue is 30 feet which exceeds the setback of other developments in the area.

The development is proposing a reduction in parking to accommodate the uses on the site. The Planned Development zoning district is intended to allow deviations from standards and regulations applicable to other zoning districts in exchange for high-quality development. In this case, the proposed development is considered a high-quality development, but also provides much-needed affordable housing to the community. In exchange for these benefits, a reduction in parking is suitable. As proposed in the design standards described in Finding K of this Resolution and allowed by Zoning Ordinance Section 20.37.050 (E), a 5% reduction in parking is allowed due to the proximity of transit stops to the site. An additional 6% reduction is allowed in exchange for providing affordable housing. It should also be noted

that at least 40 of the units are intended for tenants with special needs who typically do not have vehicles. This reduction would not apply if at least 50% of the units are not affordable.

Given the use of the Planned Development provisions, the site is of adequate 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 Loughborough Drive and Meadows Avenue. The apartment complex would have a driveway on Loughborough Drive and another on Meadows Avenue. The clinic would have driveway access from Loughborough Drive with emergency access through the apartment complex to Meadows Avenue (refer to the Site Plan at Attachment D of Staff Report #21-665). There is a signalized intersection east of the site at the intersection of Loughborough Drive and R Street. A signalized intersection is also located south of the site at Olive Avenue and Meadows Avenue.

According to the traffic study provided for the project, all intersections and roadway segments in the area would continue to operate at a Level of Service (LOS) of D or better with the addition of this project. The *Merced Vision 2030 General Plan* identifies a Level of Service of D or better as an acceptable level of service for streets and intersections.

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 Loughborough Drive and Meadows Avenue. 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 will pay Public Facilities Impact Fees as part of the development. These impact fees help off-set the cost of infrastructure and the construction of new facilities. Typically, all new development would be required to annex into the City's Community Facilities District which would help pay for Police and Fire Services. However, state law allows affordable housing development to apply for a Welfare exemption from this type of tax. The City will work with the developer to determine if a different mechanism could be used to help cover some of the costs that would

typically be covered by the CFD. However, the clinic portion of the project would not qualify for an exemption and would be required to annex into the CFD 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. The site is surrounded by development with multi-family housing to the north, south, and west. Commercial development exists to the east and south.

The proposed apartment complex consists of two and three-story buildings. The two-story buildings would have a height of 30' at the highest point and the three-story buildings would be 39' tall at the highest point (refer to the building elevations at Attachment H of Planning Commission Staff Report #21-665). The community/office building would be 22' 3" at the highest point and the clinic would be 21' tall at the highest point. According to building permit records, the former In-Shape building at the corner of R Street and Loughborough Drive has a height of 37 feet at the highest point and the Planet Fitness/Best Buy building is approximately 27 feet at the highest point. It's estimated that the multi-family buildings in the area are approximately 15 feet to 24 feet tall.

The previous use approved on this site was for townhouses which would have allowed buildings with a height of 35 feet. The City's Zoning Ordinance allows a maximum height of 40 feet in an R-4 zone. The proposed High Density land use designation is consistent with R-4 zoning. While the proposed three-story buildings would be taller than the other residential buildings in the area, and slightly taller than the former In-Shape building at its highest point, these would not be inconsistent with R-4 zoning. In addition, as previously discussed, the use of Planned Development zoning allows a variation in design standards. Although the buildings would be taller than the other residential buildings in the area, the addition of affordable housing and a clinic in the area coupled with the high-quality design makes the increased building height for the three-story buildings a reasonable variation for the area.

The construction of the project will develop a lot that has sat vacant for many years. While the owners have done a good job in maintaining the site, there

are times when dumping has occurred and weeds and vegetation have been overgrown. The development of the site would enhance the corner and bring much-needed housing to the City and needed services to the area.

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 #12 to Planned Development (P-D) #8, the project would be consistent with the standards for P-D #8. The development includes high quality materials, landscaping, and site design that will enhance the site and surrounding area. 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 and clinic would not be allowed. Thus, the proposed change and implementation of standards specific to this development and any future development on this site, would be a more efficient use of land by providing a greater number of housing units and medical/dental services 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 mixed-use (multi-family and clinic) project would be able to exist as an independent project and create a good environment within the existing neighborhood. The location is surrounded by development, so this is an infill site. The location is prime for development and the proposed mix of multi-family housing and medical clinic is good use for the site.

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 for this site will establish standards for the multi-family and the office (clinic) uses. As previously discussed, the standards include a reduction in the parking requirements due to the proximity to transit and the fact that the developer is providing much-needed low-income housing

to the community that will include 43 units for special-needs tenants who typically don't have vehicles. Additionally, the project provides a medical/dental clinic that will provide services to the tenants as well as the community as a whole. These benefits along with the high-quality design of the project meet the intent of the Planned Development zoning to allow a deviation from typical standards.

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) #8. The proposed Site Utilization Plan Revision would amend the standards for this parcel to allow a mixed-use development with a multi-family and office (clinic) use. The multi-family use would provide low-income housing, including units for special-needs tenants and the office (clinic) use would provide a service to the area that is not in the immediate vicinity as well as serve the community as a whole. 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.

<u>Traffic/Circulation</u>

C) The project site is located at the southeast corner of Loughborough Drive and Meadows Avenue. A traffic analysis for this project was prepared by Ruettgers & Schuler, Civil Engineers (refer to Appendix B of Initial Study #21-23, Attachment J of Planning Commission Staff Report #21-665). The traffic analysis looked at the Level of Service for several roadway segments and intersections in the area. Level of Service (LOS) is a method for expressing how well traffic moves on a road and through an intersection in relation to the capacity of that road or intersection. LOS ranks the quality of traffic movement on a scale of A through F, with LOS A reflecting free-flow conditions and LOS F reflecting traffic jams. The City's General Plan establishes LOS D (reflecting a "tolerable delay") as an acceptable level of service. According to traffic analysis, the multi-family component of this

project would generate 1,176 average daily trips (ADT's) and the clinic would generate 483 ADT's, for a total of 1,660 average daily trips. The traffic analysis determined that the roadway segments and intersections studied currently operate at an LOS D or better and that the addition of the project would not reduce the roadway segments or intersections below LOS D under current conditions or at the build-out of the General Plan (2030).

Alternative transportation options are located near the project site. There are bus stops on Loughborough Drive, near the project site, a stop east of the site at Target, and a stop north of the site near Olive Avenue, all within walking distance. The easy access to the bus stops is expected to reduce vehicular traffic. In addition, the site has access to bicycle lanes and the bike path which 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 along the project frontage on Loughborough Drive and Meadows Avenue. City water and sewer lines currently exist in Loughborough Drive and Meadows Avenue to 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 includes a multi-family component and a medical/dental clinic. The multi-family portion of the project would construct 161 multi-family units within seventeen buildings (three two-story and fourteen three-story buildings) and a community/office building as shown on the Site Plan at Attachment E of Planning Commission Staff Report #21-665. The clinic would be a 12,667.5-square-foot single-story building (also shown on the site plan at Attachment E).

The multi-family portion of the project provides four different building types – Building types A, B, C, and D. Building types A and B would be two-story buildings with a total of 5 units in each building, plus six covered parking stalls and covered bike parking on the ground floor (refer to the floor plans at Attachment G of Planning Commission Staff Report #21-665). Building types A and B would have the same unit mix of two- and three- bedroom units. The building elevations for Building types A and B would be the same with

the exception of the roof slope (refer to the building elevations at Attachment H of Planning Commission Staff Report #21-665). The highest point of the buildings would be 30 feet. There are two type A and one type B buildings on the site.

Building type C is a three-story building. Building type C has 10 units in each building plus six covered parking stalls and covered bike parking on the ground floor (refer to the floor plans at Attachment G of Planning Commission Staff Report #21-665). This building type has a mixture of one-, two-, and three-bedroom units. The building elevations are provided at Attachment H of Planning Commission Staff Report #21-665. There are eight type C buildings on the site.

Building type D is also a three-story building and has 11 units per building plus six covered parking stalls and covered bike parking on the ground floor (refer to Attachment G of Planning Commission Staff Report #21-665). Building type D has a mixture of one-, two-, and three-bedroom units. The building elevations are the same as Building Type C, with the exception of the roof slope (Attachment H of Planning Commission Staff Report #21-665). Building types C and D would be 39 feet tall at the highest point. There are six type D buildings.

As described above, the floor plans for each building include a mixture of unit types. The table below shows the number of bedrooms and bathrooms in each unit type, the total square footage of each unit type, and the total number of each unit type provided. Each unit is provided with a balcony/patio or porch area of at least 50 square feet. Additionally, roof-top solar panels will be installed on each residential building and the community/office building.

Unit No.	Bedrooms	Baths	Sq. Feet	No. of Units
101	2	1	927.5	17
102	1	1	645.5	6
103	1	1	655.5	6
201	2	1	905.5	31
202	3	2	1296.5	42
203a	3	2	1359	3
203b	1	1	663	28
204	1	1	668.5	28
Total Units				161

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

Building Type	101	102	103	201	202	203a	203b	204	Total Units/Building	No. of Buildings
A	1			1	2	1			5	2
B	1			1	2	1			5	1
C	1			2	3		2	2	10	8
D	1	1	1	2	2		2	2	11	6

The table below provides the total number of one-, two-, and three-bedroom units provided in the project.

One Bedroom	68
Two Bedroom	48
Three Bedroom	45
Total	161

The ground floor units of each building are designed with front porches bordered by a 2-foot tall wall to create a dedicated open area at the entrance to these units. The above-ground units are provided with a balcony area.

The Community/Office building would be a single-story building consisting of 3,870.5 square feet of floor area. The building would include a multi-purpose room for tenants, a gym, laundry facilities, a kitchen, bathrooms, four offices, a conference room, a mail room, and maintenance area (refer to the floor plan at Attachment G of Planning Commission Staff Report #21-665). The architecture of the building would match the apartments (see the building elevations at Attachment H of Planning Commission Staff Report #21-665). The highest point of the building would be 22' 3". The amenities provided by this building would be for tenants only and would not be open to the public.

The medical/dental clinic would be located on a separate parcel from the apartments (Parcel C as shown on the Tentative Map at Attachment F of Planning Commission Staff Report #21-665). The clinic would be 12,667.5 square feet and provide 8 dental chairs, two chiropractic rooms, two behavioral health offices, fifteen exam rooms, an x-ray room, lab, administrative office space, a break room, reception and waiting area. The clinic would be a Federally Qualified Health Center (FQHC). FQHCs provide services to anyone in need, but traditionally see lower-income patients. The clinic would offer a full scope of services, including primary care, dental, women's health services, lab testing, and mental and behavior health services. The hours of the clinic are anticipated to be from 8:00 a.m. to 5:00 p.m.,

Monday through Friday, but could vary slightly. The architecture of the building would be compatible with the apartments, but has different architectural features and different materials (refer to the building elevations at Attachment H of Planning Commission Staff Report #21-665). The building would be single-story with the highest point of the building being 21 feet.

The proposed Design Standards for this project described in Finding K of this Resolution address certain building design features such as height, building materials, and fencing. Condition #2 requires the project to comply with these standards and Condition #31 requires the apartment portion of the project to comply with the standards found in Section 20.46 of the Zoning Ordinance as well.

Site Design

F) The current 6.93-acre parcel would be subdivided into three separate parcels as shown on the tentative parcel map at Attachment F of Planning Commission Staff Report #21-665. The multi-family portion of the project would be constructed on Parcels A and B with access from Loughborough Drive and Meadows Avenue. The clinic would be constructed on Parcel C with a primary access on Loughborough Drive and emergency access to Meadows Avenue and another access on Loughborough Drive through the apartment complex.

The apartment complex includes open space between the buildings and an activity area, dog park, community lawn area, and play area for kids near the community building. The open space between Buildings 3 and 4 and 7 and 8 would provide a center patio with shade structure for gatherings. The buildings along the southern property on Parcel B, have an open courtyard area between the buildings. An approximately 15-foot-wide open space/landscape area is provided along the southern property line providing a separation between this project and the apartment complex and commercial uses to the south.

Public sidewalks exist along the perimeter of the site on Loughborough Drive and Meadows Avenue. A network of sidewalks within the apartment complex connect to the buildings to the public sidewalks. There are also sidewalks on the clinic site that connect to the public sidewalks. There is no pedestrian access between the clinic and the apartments other than the use of the public sidewalks.

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 326 parking spaces (272 spaces for the apartments and 54 spaces for the clinic). The Zoning Ordinance also sets forth the parking requirements for medical/dental uses based on floor area. Zoning Ordinance Section 20.38.030 (E) states that the "floor area" used for calculating parking means the gross floor area used or intended to be used by tenants, or for service to the public as customers, patrons, clients, or patients. It shall not include areas used principally for non-public purposes such as restrooms, areas for utilities, storage areas, etc. This section allows a 15% reduction in floor area for "non-public" purposes. Using this reduction, the parking requirement for the clinic is 54 spaces. The total parking requirement for the site is 326 spaces prior to any reductions described below.

As described in Finding D above, there are transit stops on Loughborough Drive along the project frontage and across Loughborough Drive to the north. As such, under Zoning Ordinance Section 20.38.060 (E), the project is eligible for a 5% reduction in parking. This would reduce the parking requirement for the project to 310 spaces. Condition #18 grants the reduction allowed under Zoning Ordinance Section 20.38.060.

According to the site plan at Attachment E of Planning Commission Staff Report #21-665, the site will provide a minimum of 292 parking spaces, with 135 spaces on Parcel A, 79 spaces on Parcel B, and 78 spaces on Parcel C. This amount still falls short of the required 310 spaces. However, under the Planned Development provisions of the Zoning Ordinance, standards may be modified for projects within a Planned Development. In this case, the project is providing affordable housing to the community through the construction of a high-quality development. Additionally, 43 of the units would be intended for special-needs tenants who typically would not have vehicles. Therefore, a reduction in the parking requirements is merited. The Design Standards for this project described in Finding K of this Resolution provide an additional 6% reduction in parking along with the 5% reduction available due to the proximity to transit. It should be noted that while this reduction is being provided through the use of the Design Standards, a project that provides affordable housing could be eligible for parking reductions under the Density Bonus provisions of state law. Staff determined it would be more efficient to

build the reduction into the standards rather than add another layer of process to the project related to the Density Bonus for a reduction in parking.

The Design Standards also allow for a variation in the dimensions of the parking spaces to accommodate the proposed design without reducing the number of apartment units.

The reduction in parking provided by the Design Standards would only apply if the project provides at least 50% of the units as affordable units.

In addition to the vehicular parking required, the would be required to provide bicycle parking in compliance with Merced Zoning Ordinance Table 20-38-4 (Condition #16).

Landscaping

H) The project site would be landscaped with trees, ground cover, and shrubs throughout the site. The landscape plan at Attachment I of Planning Commission Staff Report #21-665 provides a conceptual plan for landscaping the site. Conditions #22-#25 address the landscape and irrigation requirements.

Neighborhood Impact/Interface

I) The project site is surrounded by multi-family developments to the north, west, and south. Commercial uses are to the east and south. The location map at Attachment C of Planning Commission Staff Report #21-665 shows the uses in the surrounding area.

The proposed change to the General Plan and Site Utilization Plan and the Site Plan Review Permit to allow this mixed-used development of an apartment complex and medical/dental clinic would increase the traffic and number of people in the area. However, as demonstrated in the traffic section of this resolution, it would not reduce the level of service beyond an acceptable level. The site has been vacant for many years and has, at times, been blighted by dumping and overgrown vegetation. The multi-family use is consistent with the surrounding area and the medical/dental clinic would provide a service to the neighborhood that isn't available in the immediate area.

As previously discussed, Condition #33 is being added to require that the exterior of the buildings and site be regularly maintained and kept in an aesthetically pleasing manner and that any graffiti be removed in a timely manner to reduce any impacts to the neighborhood.

Public hearing notices were sent to all property owners within 300 feet of the project site. At the time of this report, no comments have been received.

Land Use/Density Issues

J) The proposed multi-family development would have a density of 29 units/acre (gross). This density is consistent with the High-Density Residential General Plan designation.

Site Utilization Plan Standards

K) As previously discussed, 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 #8 were established for previously approved townhouse development and would not allow the current 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 and Commercial Office (C-O) zoning. There are separate standards for the multi-family portion and the clinic portion of the project.

PLANNED DEVELOPMENT #8 SITE UTILIZATION PLAN REVISION #12 MERCY VILLAGE APARTMENTS	
MULTI-FAMILY STANDARDS	
DESIGN CATEGORY	DESIGN/DEVELOPMENT STANDARD
Density	24 to 36 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. All uses are subject to the review process specified in Table 20. 80-1.
Building Height	40 ft.
Maximum Lot Coverage	65%
Minimum Distance Between Main Buildings	10 ft.

DESIGN CATEGORY	DESIGN/DEVELOPMENT STANDARD
Setback Requirements	Exterior Yard – Minimum 20 Ft. Interior Yard Setback – One Yard - Minimum 10 Ft. Other Yards – Minimum 6 Ft.* *Minimum 10-foot setback for structures over 25 ft. in height; 1 additional foot setback for each additional 5 ft. in height. Projections – architectural features may project a maximum of 5 Ft. into an exterior yard setback. All other projections shall comply with Table 20.26-1 of the Zoning Ordinance.
Building Design & Building Materials	All building designs shall be consistent with the elevations provided and approved with Site Utilization Plan Revision #12 for Planned Development (P-D) #8, unless otherwise approved by the Director of Development Services. All materials shall be of high-quality and be consistent or better than those provided and approved with Site Utilization Plan Revision #12 for Planned Development (P-D) #8, unless otherwise approved by the Director of Development Services. All paint colors shall be approved by the Director of Development Services or his/her designee at the building permit stage. If mechanical equipment is mounted to the roof, it shall be screened from public view. At the discretion of the Director of Development Services, all design and/or material changes may be referred to the Site Plan Committee for approval.

DESIGN CATEGORY	DESIGN/DEVELOPMENT STANDARD
Parking	As part of an affordable housing project with at least 50% of the total number of units designated for low- and very low-income tenants, the following shall apply: The parking provided throughout the site on Parcels A, B, and C may be combined to meet the parking requirements for the entire project. The parking spaces for the Clinic (Parcel C) may be counted towards the parking requirement for the multi-family uses. Due to the proximity of bus stops to the site, a 5% reduction in parking is allowed in accordance with Zoning Ordinance Section 20.38.050 (E). In consideration for providing affordable housing units, an additional reduction of up to 6% in the required parking spaces shall be allowed. Vehicular parking spaces, with the exception of compact spaces, shall have a width of 9 feet and a depth of not less than 18 feet (including a 2-foot overhang beyond the curb or wheel stop). Compact Parking spaces are allowed with a minimum width of 8.0 feet and a minimum depth of 16 feet. A maximum of 25% of the total parking spaces may be compact spaces. Bicycle parking spaces shall be provided as required by Zoning Ordinance Section 20.38.080. If a project is constructed that does <u>not</u> provide affordable housing, all parking shall be provided as required by Zoning Ordinance Section 20.38.

DESIGN CATEGORY	DESIGN/DEVELOPMENT STANDARD
Fencing	Fencing along Loughborough Drive and Meadows Avenue shall be of high-quality materials, such as wrought-iron or tubular steel. Side-yard fencing along the eastern and southern property lines may be wood or other material approved by the Director of Development Services. Pedestrian access shall be provided to Loughborough Drive and Meadows Avenue and between Parcels A, B, and C. If the project has gated vehicular access, a minimum 20-foot stacking distance at each entrance shall be provided and all gates shall meet the requirements of the Fire and Police Departments for emergency access.
Private Outdoor Space	Each unit shall be provided with a usable outdoor that is a minimum of 40 square feet. Private outdoor space shall be screened with solid or near-solid fencing/railings. However, front porch areas do not have to be screened. Materials shall be compatible with the building materials.
Safety and Defensible Space	Placement of windows and doors should facilitate neighborhood surveillance of their neighbor's entryways. This may be accomplished by providing windows near the entryway, a peep-hole in the door, electronic surveillance equipment, or other means approved by the Planning Department.
Mechanical Screening	Mechanical equipment may be allowed on the building roof, but shall be screened from public view. Any mechanical equipment mounted on the ground shall also be screened from public view.

DESIGN CATEGORY	DESIGN/DEVELOPMENT STANDARD
Signing	Signing shall comply with the Merced Municipal Code Section 17.36.572, as applicable, and the North Merced Sign Ordinance as applicable.
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 standards approved by Site Utilization Plan Revision #12 to P-D #8.
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 standards approved by Site Utilization Plan Revision #12 to P-D #8.
COMMERCIAL OFFICE (CLINIC) STANDARDS	
DESIGN CATEGORY	DESIGN/DEVELOPMENT STANDARD
Land Use	Medical/Dental Clinic including all uses as shown in Table 20.10-1 for property Zoned Commercial Office (C-O) All uses are subject to the review process specified in Table 20.10-1.
Building Height	40 Ft.
Setback Requirements	Exterior Yard – Minimum 20 Ft. Interior Yard Setback – One Yard - Minimum 10 Ft. Other Yards – Minimum 6 Ft.* *Minimum 10-foot setback for structures over 25 ft. in height; 1 additional foot setback for each additional 5 ft. in height. Projections – architectural features may project a maximum of 5 Ft. into an exterior yard setback. All other projections shall comply with Table 20.26-1 of the Zoning Ordinance.

DESIGN CATEGORY	DESIGN/DEVELOPMENT STANDARD
Maximum Lot Coverage	n/a
Building Design & Building Materials	All building designs shall be consistent with the elevations provided and approved with Site Utilization Plan Revision #12 for Planned Development (P-D) #8, unless otherwise approved by the Director of Development Services. All materials shall be of high-quality and be consistent or better than those provided and approved with Site Utilization Plan Revision #12 for Planned Development (P-D) #8, unless otherwise approved by the Director of Development Services. All paint colors shall be approved by the Director of Development Services or his/her designee at the building permit stage. If mechanical equipment is mounted to the roof, it shall be screened from public view. At the discretion of the Director of Development Services, all design and/or material changes may be referred to the Site Plan Committee for approval.
Parking (continued on next page)	As part of an affordable housing project with at least 50% of the total number of units designated for low- and very low-income tenants, the following shall apply: The parking provided throughout the site on Parcels A, B, and C may be combined to meet the parking requirements for the entire project. The parking spaces for the Clinic (Parcel C) may be counted towards the parking requirement for the multi-family uses. Due to the proximity of bus stops to the site, a 5% reduction in parking is allowed in accordance with Zoning Ordinance Section 20.38.050 (E). In consideration for providing affordable housing units, an additional reduction of up to 6% in the required parking spaces shall be allowed.

DESIGN CATEGORY	DESIGN/DEVELOPMENT STANDARD
Parking	Vehicular parking spaces, with the exception of compact spaces, shall have a width of 9 feet and a depth of not less than 18 feet (including a 2-foot overhang beyond the curb or wheel stop). Compact Parking spaces are allowed with a minimum width of 8.0 feet and a minimum depth of 16 feet. A maximum of 25% of the total parking spaces may be compact spaces. Bicycle parking spaces shall be provided as required by Zoning Ordinance Section 20.38.080. If a project is constructed that does <u>not</u> provide affordable housing, all parking shall be provided as required by Zoning Ordinance Section 20.38.
Mechanical Screening	Mechanical equipment may be allowed on the building roof, but shall be screened from public view. Any mechanical equipment mounted on the ground shall also be screened from public view.
Signing	All signing shall comply with the North Merced Sign Ordinance.

<u>Environmental Clearance</u>

L) The Planning staff has conducted an environmental review (Initial Study # 21-23) 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 J of Planning Commission Staff Report #21-665).

ENVIRONMENTAL REVIEW #21-23
Revised
Mitigation Monitoring Program

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 #21-02, Site Utilization Plan (SUP) Revision #12 to Planned Development (P-D) #8, and Site Plan Review #473 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 #21-23 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 #21-02, Site Utilization Plan Revision #12 to Planned Development (P-D) #8, and Site Plan Review #473. 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 #21-02/Site Utilization Plan Revision #12 to Planned Development (P-D) #8/ Site Plan Review #473
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				
Impact	***Mitigation Measures***	***Timing***	***Agency or Department***	***City Verification (date and initials)***
d	AES 1**)** All exterior lighting shall be shielded to prevent spillover onto adjacent properties.	Building Permit	Planning Department	
3) Air Quality				
a	AIR-1) Consistent with SJVAPCD Regulation VIII (FugitivePM_{10} Prohibitions), the following controls are required to be included as specifications for the proposed project and implemented at the construction site: • 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. *(continued on next page)*	Building Permit/Grading Permit	Building / Engineering Departments	

Impact No.	***Mitigation Measures***	***Timing***	***Agency or Department***	***City Verification (date and initials)***
a	• 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				
Impact No.	***Mitigation Measures***	***Timing***	***Agency or Department***	***City Verification (date and initials)***
a	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. 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. 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: *(continued on next page)*	Building Permit	Planning Department	

Impact No.	***Mitigation Measures***	***Timing***	***Agency or Department***	***City Verification (date and initials)***
	"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." 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.	Building Permit	Planning Department	
b	CUL-2) Implementation of Mitigation Measure CUL-1 (above).	Building Permit	Planning Department	

Impact No.	***Mitigation Measures***	***Timing***	***Agency or Department***	***City Verification (date and initials)***
c	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				
a	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	
b	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	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: • 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. ***(continued on next page)***			

8) Greenhouse Gas Emissions (continued)				
Impact No.	***Mitigation Measures***	***Timing***	***Agency or Department***	***City Verification (date and initials)***
	• 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.			
b	*GHG-2)* Implementation of Mitigation Measure of GHG-1.			
10) Hydrology and Water Quality				
a	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	

10) Hydrology and Water Quality				
Impact No.	***Mitigation Measures***	***Timing***	***Agency or Department***	***City Verification (date and initials)***
a	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	
a	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	

13) Noise				
Impact No.	***Mitigation Measures***	***Timing***	***Agency or Department***	***City Verification (date and initials)***
a	NOI-1) To reduce potential construction noise impacts, the following multi-part mitigation measure shall be implemented for the project: • 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. *(continued on next page)*	Building Permit	Building Department	

Impact No.	***Mitigation Measures***	***Timing***	***Agency or Department***	***City Verification (date and initials)***
	• 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