

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, ESTABLISHING PLANNED DEVELOPMENT (P-D) #76 AND AMENDING THE OFFICIAL ZONING MAP BY REZONING 14.86 ACRES OF LAND GENERALLY LOCATED ON THE SOUTH SIDE OF YOSEMITE AVENUE AT LAKE ROAD FROM LOW DENSITY RESIDENTIAL (R-1-6) TO PLANNED DEVELOPMENT (P-D) #76 AND 2.39 ACRES FROM PLANNED DEVELOPMENT (P-D) #52 TO PLANNED DEVELOPMENT (P-D) #76; AND APPROVING A DEVELOPER AGREEMENT THEREFORE**

**THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN AS FOLLOWS:**

**SECTION 1. FINDINGS.** The City Council finds that the facts submitted with the applicant and presented at the public hearing establish compliance with the Findings required by Merced Municipal Code Section 20.20.020 – Planned Development (P-D) Zoning Districts for the property described in Exhibit A, and as shown on the map at Exhibit B, which are attached hereto and incorporated herein by this reference. These Findings are described in Exhibit C, attached hereto and incorporated herein by this reference.

**SECTION 2. AMENDMENT TO CODE.** The property described in Exhibit A and shown on the map depicted in Exhibit B, both of which are attached hereto and incorporated herein by this reference, is hereby rezoned as shown on said map from Low Density Residential (R-1-6) and Planned Development (P-D) #52 to Planned Development (P-D) #76 and shall be subject to all limitations, restrictions and requirements of Chapter 20.20.020 of the Merced Municipal Code.

**SECTION 3. STANDARDS.** Pursuant to Section 20.20.020 of the Merced Municipal Code, the rezoned property shall be subject to the following standards:

<b>Development Standards</b>		
<b>Minimum Zoning Specifications</b>	<b>Standards</b>	
	<b>Commercial</b>	<b>Residential</b>
Density (Units/Acre)	n/a	14 units/acre
Lot Coverage	n/a	55%
<b>Setbacks</b>		
Front	25	25
Side	20	20
Rear	20	20
Building Height	35 feet	45 feet
Balconies	n/a	Maximum Projection into required setback area shall not exceed 18 inches.
Parking Lot Trees	<p>On tree for every six parking spaces shall be provided throughout the parking areas. 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 may be required at the discretion of the Development Services Director. Trees within the PG&amp;E Easement area shall comply with the requirements of this easement which restricts the height to a maximum of 15 feet at maturity.</p>	
Defensible Space	<p><b>Safety and Defensible Space for Residential Uses</b></p> <ol style="list-style-type: none"> <li>1. Placement of windows and doors should facilitate neighborhood surveillance of their neighbor's entryways.</li> <li>2. The number of apartments that enter their front door from the same hallway or courtyard should be limited to no more than 12 (or as otherwise approved by City staff) so that residents can learn to distinguish fellow neighbors from visitors and/or intruders.</li> </ol>	

	<ol style="list-style-type: none"> <li>3. Apartment common recreational areas should be easily viewed by residents within the units and shall be defined by a physical boundary.</li> <li>4. Physical changes (such as picket fences, porches, decks, or landscape features) to mark and define areas near a dwelling as that unit's "territory" should be installed.</li> <li>5. Keyed access gates and surveillance cameras should be installed to enter common areas.</li> </ol>
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**SECTION 4. CHANGE OF MAP.** The Director of Development Services is hereby directed to make the appropriate markings on the Official Zoning Map in conformance with this Ordinance and the provisions of Title 20 of the Merced Municipal Code, as shown on Exhibit D, attached hereto and incorporated herein by this reference.

**SECTION 5. OFFICIAL SITE UTILIZATION PLAN.** The map shown on Exhibit E, is hereby established and designated as the official Site Utilization Plan for the property subject to this Ordinance.

**SECTION 6. DEVELOPER AGREEMENT.** The Developer Agreement between the City of Merced and Fagundes Dairy a General Partnership and CBCP Assets, LLC, pertaining to the approvals granted herein, and by Ordinance establishing Planned Development (P-D) #76 and approving Zone Change #424 is hereby approved. These approvals are contingent upon the property owner executing and returning the Developer Agreement. The City Manager or Assistant City Manager is hereby authorized to execute the Developer Agreement on behalf of the City of Merced.

**SECTION 7. EFFECTIVE DATE.** This Ordinance shall be in full force and effect thirty (30) days after its adoption.

**SECTION 8. SEVERABILITY.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections,

subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 9. PUBLICATION.** The City Clerk is directed to cause a summary of this Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption showing the vote thereon.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Merced on the \_\_\_\_ day of \_\_\_\_\_, 2017, and was passed and adopted at a regular meeting of said City Council held on the \_\_\_\_ day of \_\_\_\_\_, 2017, by the following called vote:

**AYES: Council Members:**

**NOES: Council Members:**

**ABSTAIN: Council Members:**

**ABSENT: Council Members:**

**APPROVED:**

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**Mayor**

**ATTEST:**  
**STEVE CARRIGAN, CITY CLERK**

**BY: \_\_\_\_\_**  
**Assistant/Deputy City Clerk**

**(SEAL)**

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
**City Attorney**

5-10-2017

\_\_\_\_\_  
**Date**

## **EXHIBIT A**

Adjusted Parcel 2 as shown in Resolution #898 for Boundary Adjustment #06-04, recorded November 27, 2006 as Series No. 2006-079691 of Official Records, Merced, County.

Containing 14.86 acres, more or less

Also known as Assessor's Parcel Number (APN): 008-010-071

AND

All that portion of the 62.5 foot wide Pacific Gas & Electrical Easement as described in Deed recorded in Volume 1423 of Official Documents at page 507, Merced County Records, that lies within Adjusted Parcel 1 as described in Document number 2006-079691, Merced County Official Records.

BEGINNING at the northeast corner of said Adjusted Parcel 1;

Thence South 43° 17' 08" East, 1,598.62 feet along the northeast line of said Adjusted Parcel 1 also being the northeast line of said Pacific Gas & Electrical Easement to the east line of said Adjusted Parcel 1;

Thence South 00° 44' 59" West, 89.93 feet to the southwest line of said Pacific Gas & Electrical Easement;

Thence North 43° 17' 08" West, 1,721.95 feet along the said southwest line of the Pacific Gas & Electrical Easement to the north line of said Adjusted Parcel 1;

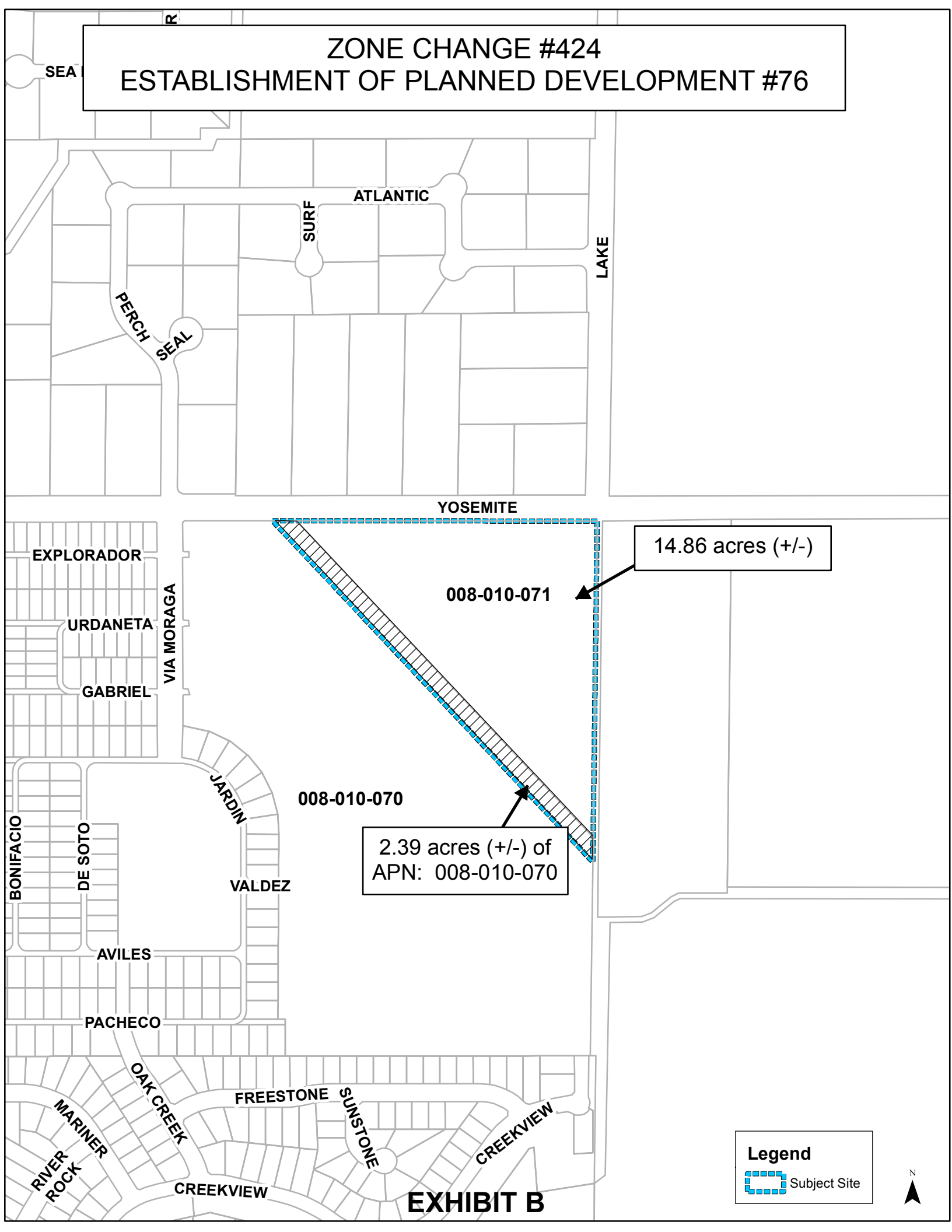
Thence North 89° 54' 08" East, 85.72 feet along said north line to POINT OF BEGINNING.

Containing 2.39 acres, more or less.

Also known as a portion of Assessor's Parcel Number (APN): 008-010-070

## **EXHIBIT A**

# ZONE CHANGE #424 ESTABLISHMENT OF PLANNED DEVELOPMENT #76



Legend



Subject Site

N

EXHIBIT B

FINDINGS FOR THE ESTABLISHMENT OF  
PLANNED DEVELOPMENT (P-D) #76  
IN COMPLIANCE WITH MMC SECTION 20.20.020

- 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 project is consistent with the goals, policies, and actions of the General Plan. 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*
- *Mixed-use, Transit, and Pedestrian-Friendly Residential Environments*

*Policy L-1.1      Promote balanced development which provides jobs, services, and housing.*

*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.*

*Policy L-1.9      Ensure connectivity between existing and planned urban areas.*

*Implementing Action 1.1.a.      Promote mixed use development combining compatible employment, service, and residential elements.*

*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.*

*Implementing Action 1.9.a      Ensure multiple points of access for all new development.*

*Goal Area L-3: Urban Growth and Design*

- *Living Environments which Encourage People to Use a Variety of Transportation Alternatives*
- *Self-sustaining, Mixed-Use Pedestrian Friendly Neighborhoods*

*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 pedestrian or transit-friendly designs at suitable locations.*

*Implementing Action 3.3.a      Encourage project designs which increase the convenience, safety, and comfort of people using transit, walking, or cycling.*

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



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

The proposed project would sit on 17.25 acres of land. The residential portion of the project would sit on approximately 16.25 acres and be developed at a density of 14 units per acre which is consistent with the General Plan designation of High-Medium Density Residential (HMD). The commercial component of the project would consume the remaining 1 acre of land. As shown on the site plan at Attachment B, the proposed project provides ample setbacks, open space and recreational areas, as well as parking. The site is of sufficient size to accommodate the proposed development.

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

The proposed project would have two access points from Yosemite Avenue. The main entrance would align with Lake Road and the secondary access would be near the western edge of the site. This provides sufficient access to the site for residents, customers, and emergency services.

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

The site would be served by the City's water and sewer facilities. Sufficient capacity is available for both water and sewer to serve this project. A water line exists in Yosemite Avenue which extends the full length of the project frontage. This line is of adequate size to serve the proposed development.

A sewer line is available for extension in Yosemite Avenue at Via Moraga. This line would have to be extended to the project site and across the full frontage of the property to serve the site.

The storm drain facilities in Yosemite Avenue are sufficient to serve the project as well. Although, storm water shall be captured onsite prior to entering the City's storm drain system.

The developer would be required as a condition of approval to annex into the City's Community Facilities District for Services (CFD) #2003-2. Revenue collected from the CFD would help pay for police, fire, landscape maintenance, and storm drain facilities.

- 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.*

The proposed project is not expected to adversely effect the surrounding property. Certain impacts are to be expected when developing vacant land. However, the developer has been sensitive to the surrounding uses with the proposed design. The large setbacks, the use of "green" construction practices, and the use of an experienced apartment management company would help reduce any adverse

effects the project might have. Given the site is located at the edge of the City Limits and adjacent to vacant land makes the development of a higher density project more appealing. There are only five residences close to the site that could be impacted. The vacant residentially zoned land to the west (Moraga Phase 2) would still be able to develop as planned. It is not uncommon to have higher density residential abutting lower density residential. Additionally, the buildings have generous setbacks from all property lines which lessens the impact of the height of the buildings.

The expected traffic generated from the project is not expected to exceed the traffic impacts anticipated at the time of annexation. The installation of the signal at Lake Road and Yosemite Avenue would help to alleviate some of the potential traffic-related impacts.

- 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.*

The proposed development provides a very efficient use of the land by increasing the proposed density and providing a mixed-use development to help serve the increased number of units on the site. The design of the site and structures would be of high standard implementing many environmentally-friendly features throughout the buildings and site. The proposed mixed-use development and building height would not be allowed under established zoning standards. Therefore, the use of Planned Development Zoning is appropriate for the proposed project. The buildings would be of high-quality materials and the site would be designed and maintained in an aesthetically pleasing manner to help enhance the site and surrounding area.

- 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.*

Each component of the mixed-use development would be able to exist independently of each other. While the commercial component of the project would thrive with the apartments nearby, the location of the site would allow the commercial uses to exist without the apartments. Given the location is on the direct route to the UC Campus, businesses would most likely garner patrons from those traveling to and from the UC.

The student housing apartment complex would also be able to exist independently of the commercial use. While the commercial use would provide some convenience to the residents (depending on the type of commercial use), the student housing development would be able to operate independently of the commercial use.

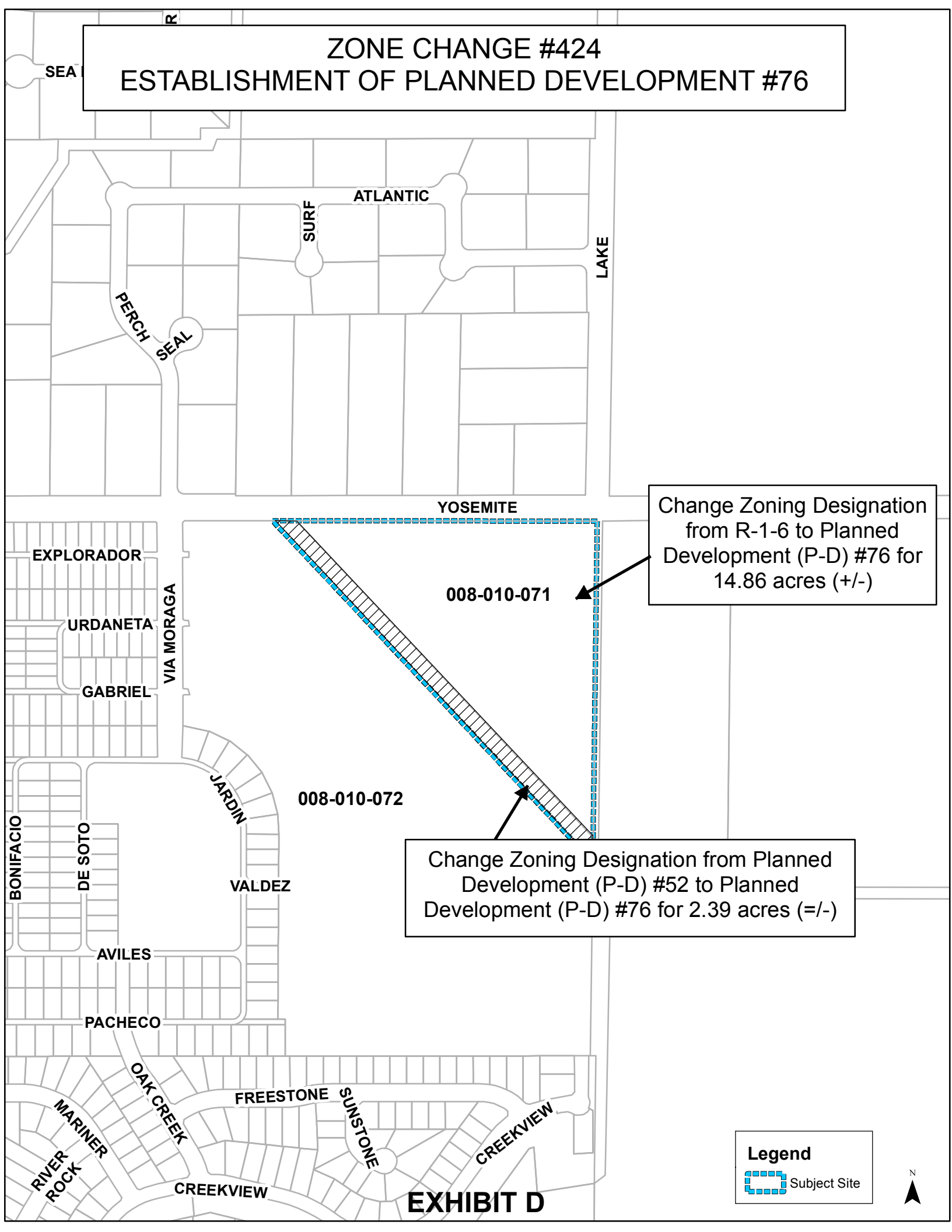
- 8) *Any deviation from the standard ordinance requirements is warranted by the design and additional amenities incorporated in the development plan, which offer certain unusual redeeming features to compensate for any deviations that may be permitted.*

The proposed project deviates from the standard zoning requirements by the use of a mixed-use development which combines both residential and retail uses in one development. Additionally, the building height proposed for the student housing units exceeds the height allowed by the R-3 and R-4 zones. In exchange for allowing these deviations, the developer has incorporated several nice amenities into the complex, such as a gated complex, a community plaza, a dog park, basketball court, and a complete network of walking paths throughout the student housing complex. In addition, an onsite shuttle service would be provided for the residents to go to and from the UC Merced and Merced College Campuses. Along with these amenities, both the residential buildings and commercial building will be designed to incorporate many energy-saving features and elements that are typical for LEED certified buildings

- 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.*

The proposed project incorporates a mixed-use design that could not be achieved in other zoning districts. While other zoning districts may allow these same uses individually, the Planned Development zone allows the uses to be designed as one cohesive development and allows for the deviation of the height restriction for the student housing buildings.

# ZONE CHANGE #424 ESTABLISHMENT OF PLANNED DEVELOPMENT #76



Change Zoning Designation  
from R-1-6 to Planned  
Development (P-D) #76 for  
14.86 acres (+/-)

008-010-071

008-010-072

Change Zoning Designation from Planned  
Development (P-D) #52 to Planned  
Development (P-D) #76 for 2.39 acres (=/-)

Legend



Subject Site



EXHIBIT D

