

## Exhibit A

**FRESNO MUNICIPAL CODE FINDINGS**  
**DEVELOPMENT PERMIT APPLICATION NO. P23-03993**  
**PLANNED DEVELOPMENT PERMIT APPLICATION NO. P23-03990**  
**CONDITIONAL USE PERMIT APPLICATION NO. P23-03982**

**DEVELOPMENT PERMIT FINDINGS**

The Director or Planning Commission may only approve a Development Permit application if it finds that the application is consistent with the purposes of this article and with the following:

Findings per Fresno Municipal Code Section 15-5206	
<i>A. The applicable standards and requirements of this Code.</i>	
Finding A:	<p><b>Fresno Municipal Code</b></p> <p><b>Multi-Unit Development</b></p> <p><u><i>Density and Massing Standards</i></u></p> <p>Pursuant to FMC Table 15-1003, the density range requirement of the RM-2 zone district is between 16 and 30 dwelling units per acre (du/ac). The project proposes a total number of 396 dwelling units on approximately 16.53 acres of property, equating to a density of 23.96 du/ac, consistent with the density range requirement of the RM-2 zone district. The maximum height requirement in the RM-2 zone district is 50 feet and the multi-unit residential project proposes the tallest building at a peak height of 43'-6", providing consistency with the maximum height requirement of the RM-2 zone district.</p> <p>The building setback requirements are as follows:</p> <ul style="list-style-type: none"><li>• Front yard setback (North Hayes Avenue): Not applicable due to the subject property being located outside of the Priority Areas of the General Plan (Note 1 in FMC Table 15-1003).</li><li>• Interior side yard setback (eastern and western property lines): The minimum interior side yard setback requirement in the RM-2 zone district is five feet (5'). The site plan depicts the interior side yard setback at ten feet (10') along the eastern property line and zero feet (0') along the western property line, with proposed garages abutting the western property line. The deviation from the western property line is requested with the planned development permit, which findings were made pursuant to FMC Section 15-5905. Therefore, the project is consistent with the RM-2 zone district interior side yard setback requirement.</li><li>• Rear yard setback (West Herndon Avenue): The minimum rear yard setback requirement in the RM-2 zone district is 15 feet. The site plan depicts the nearest building to the rear yard at approximately 5'-4". This deviation was requested with the planned development permit, which findings were made pursuant to FMC Section 15-5905. Therefore, the project is consistent with the RM-2 zone district rear yard setback requirement.</li></ul>

### Open Space

Pursuant to FMC Table 15-1003, the minimum on-site open space requirement of the RM-2 zone district is 15 percent. The multi-unit property is approximately 16.53 acres in size, equating to a minimum on-site open space requirement of 2.64 acres.

Incorporation of the barbeque areas, tot lot, swimming pool, basketball half-court, gazebo areas, dog park, balconies and patios, and other usable open space areas as defined under FMC Section 15-1004.D results that the cumulative amount of on-site open space is 2.68 acres which exceeds the minimum required 2.64 acres, providing consistency with FMC Table 15-1003.

### Parking

Pursuant to FMC Table 15-2409, for Multi-Unit Residential uses, the parking requirements are as follows:

- One- or two-bedroom units: 1 parking space
- Three- or more bedroom units: 1.5 parking spaces
- Guest parking spaces: 1 parking space per every 2 units
- Covered parking spaces: Of the total required parking spaces, at least 1 per unit

The multi-unit project proposes 120 one-bedroom units, 192 two-bedroom units, and 84 three-bedroom units. This results in a minimum requirement of a total of 636 parking spaces (396 covered and 240 uncovered). The proposed site plan depicts 396 covered parking spaces (70 garages and 326 carports) and 240 uncovered parking spaces for a total of 636 parking spaces, providing consistency with the RM-2 zone district parking space requirement.

## **Commercial Development**

### Site Design Development Standards

Pursuant to FMC Section 15-1304.F, there are required on-site pedestrian circulation and access requirements. The project proposes a Class I bicycle and pedestrian trail connecting the commercial and residential property frontages and providing connectivity to other adjacent sidewalks and walkways that lead to public transit stops.

### Landscaping

Pursuant to FMC Table 15-2305.C.1, when a proposed Commercial use is adjacent to a Multi-Unit Residential use, a Type 2 landscape buffer is required. A Type 2 landscape buffer has a minimum 15-foot width with a minimum of 2 large trees, 3 small to medium trees, 8 large shrubs and 10 small to medium shrubs every 100 linear feet. The site plan depicts this buffer at 5 feet, which is a deviation of the minimum required 15-foot-wide buffer. This deviation was requested with the planned development permit, which findings were made pursuant to FMC Section 15-5905. Therefore, the project is consistent with the O zone district landscape setback requirement.

### Parking

The proposed project does not identify any specific uses for the 12,750 square foot shell building or the future 4,916 square foot future building. The proposed 5,000 square foot future building with drive-thru lane is proposed for a restaurant, which requires a minimum one parking space per 150 square feet of site area pursuant to

FMC Table 15-2409. This would equate to a minimum of 33 parking spaces for the restaurant. Because the other buildings do not have any uses proposed at this time, the project will be required to be conditioned at a ratio that is consistent with the proposed number of remaining parking spaces.

The site plan depicts a total of 81 parking spaces, leaving a total of 48 parking spaces remaining for the other future commercial tenants. With a total of 17,666 square feet of remaining gross floor area, future uses for the remaining tenant suites will be reviewed by the Planning and Development Department for compliance with parking lot requirements.

### **General Site Regulations for Multi-Unit & Commercial Developments**

#### **Trails**

In accordance with Figure MT-2: Paths and Trails of the Fresno General Plan, a Class 1 Bicycle and Pedestrian trail has been dedicated and will be constructed along the east side of North Hayes Avenue along the proposed project frontage.

#### **Trash and Refuse Collection Areas**

FMC Section 15-2016.B requires solid waste enclosures for solid waste and recycling containers in Multi-Unit Residential Districts at a rate of one (1) per 30 dwelling units. With 396 proposed units, this would equate to a minimum of 13 solid waste enclosures. The site plan depicts seven (7) solid waste enclosures but will have an increase in the service provided per week. This alternative proposal has been approved by the Department of Public Utilities within their memorandum dated March 31, 2025.

### **Expressway Area (EA) Overlay District Development Standards**

The subject property is located along West Herndon Avenue, which is an Expressway as identified in the Fresno General Plan Circulation Element. Properties along expressways are located within the Expressway Area (EA) Overlay zone district under FMC Section 15-1604.

#### **Residential District Standards**

The development standard for Residential Districts in the EA Overlay zone district requires that no building shall be erected within 200 feet of the right-of-way line, although there are exceptions if a building is proposed to be erected within 200 feet of the right-of-way line. The nearest proposed building to the right-of-way line along West Herndon Avenue (Expressway) within the multi-unit properties is approximately 37 feet, which is nearer than 200 feet.

The following are identified as "Development Standards" pursuant to FMC Section 15-1604.C. The exception requirements for a building to be erected closer than 200 feet to an Expressway right-of-way line are as follows: 1) An acoustical study determines that interior noise can be mitigated to acceptable levels; 2) In no case, the minimum building setback be less than 75 feet from the center line of the nearest moving traffic lane of the abutting roadway; 3) Any barrier necessary to achieve acceptable noise levels shall not be less than eight feet in height and may be a wall, an earth berm, or any combination of wall and earth berm; and, 4) Where no frontage road is required along the expressway, any landscaped open space transition setback separating properties zoned for residential uses shall contain a wall, berm, or any combination of wall and berm, not less than eight feet high and located 50 feet from and parallel to

the center line of the nearest moving lane of the abutting roadway. Pursuant to FMC Section 15-5902, Planned Development Permits provide for specified customized “Development Standards” crafted to respond to site conditions. Because the above are considered “Development Standards,” a Planned Development Permit application is allowed to modify those standards, if findings can be made pursuant to FMC Section 15-5906.

Additionally, pursuant to FMC Table 15-2506-B (Noise Exposure from Transportation Noise Sources), maximum exterior noise requirements may be excluded for balconies if they are not included in on-site open space calculations. The total area of all balconies on the West Herndon Avenue-facing facades of the two residential buildings equate to 973 square feet. As analyzed previously, the total amount of open space provided, including all patios and balconies, equates to 2.68 acres. Reducing this by 973 square feet would equate to a total of 2.66 acres which still meets the minimum requirement of 2.66 acres. Thus, the project can exclude the exterior noise requirements for the balconies on the 2<sup>nd</sup> and 3<sup>rd</sup> floors of the West Herndon Avenue-facing facades of the two residential buildings nearest to West Herndon Avenue.

An acoustical study was conducted for this project by WJV Acoustics dated October 29, 2020. The acoustical study determined that for exterior and interior noise mitigation of ground-floor levels, a minimum eight-foot (8') high sound wall is required along the entirety of the northern property line (West Herndon Avenue frontage) and minimum 6'-8" high sound wall along the entirety of the southern property line (North Hayes Avenue frontage). The study did not specifically analyze interior noise levels but assumed that residential construction methods complying with current building code requirements will reduce exterior noise levels by approximately 25 dB (decibels) if windows and doors are closed, which will be sufficient for compliance with the City's 45 dB Ldn interior noise standard at all proposed residential units. Requiring windows and doors to remain closed for sound insulation means that air conditioning or mechanical ventilation will be required. It was also determined that above-ground floor (2<sup>nd</sup> and 3<sup>rd</sup> floor) exterior noise levels for the buildings nearest West Herndon Avenue would exceed the City's exterior noise level standards. As previously stated above, because the 2<sup>nd</sup> and 3<sup>rd</sup> floor balconies are not included in the open space requirements, they are not subject to the exterior noise requirements of FMC Section 15-2506.

The proposed setback from the center line of the nearest moving traffic lane of West Herndon Avenue (Expressway) to the nearest proposed building is approximately 37 feet. The planned development application and findings include the request to reduce the minimum 75-foot setback requirement. There are only two buildings proposed this close to West Herndon Avenue with the next nearest building proposed at approximately 108 feet. Additionally, West Herndon Avenue is curved at this location with lower vehicular speeds leading to a controlled intersection at North Veterans Boulevard. The project is conditioned to comply with the interior noise requirements of FMC Section 15-2506 and the recommendations of the Acoustical Study to require that mechanical ventilation or air conditioning must be provided for all apartment units so that windows and doors can remain closed for sound insulation purposes.

*B. The General Plan and any operative plan or policies the City has adopted.*

Finding B:

This project meets objectives, goals, and policies of the Fresno General Plan for Medium High Density Residential and Employment – Office planned land uses, as follows:

**Goal 7:** Provide for a diversity of districts, neighborhoods, housing types (including affordable housing), residential densities, job opportunities, recreation, open space, and educational venues that appeal to a broad range of people throughout the city.

**Objective UF-1:** Emphasize the opportunity for a diversity of districts, neighborhoods, and housing types.

**Objective LU-2:** Plan for infill development that includes a range of housing types, building forms, and land uses to meet the needs of both current and future residents.

**Objective LU-5:** Plan for a diverse housing stock that will support balanced urban growth and make efficient use of resources and public facilities.

**Objective LU-6:** Retain and enhance existing commercial areas to strengthen Fresno's economic base and site new office, retail, and lodging use districts to serve neighborhoods and regional visitors.

**Policy UF-1-a:** Diverse Neighborhoods. Support development projects that provide Fresno with a diversity of urban and suburban neighborhood opportunities.

**Policy UF-1-d:** Range of Housing Types. Provide for diversity and variation of building types, densities, and scales of development to reinforce the identity of individual neighborhoods, foster a variety of market-based options for living and working to suit a large range of income levels, and further affordable housing opportunities throughout the city.

**Policy LU-5-e:** Urban Neighborhood Residential Uses. Promote urban neighborhood residential uses to support compact communities and Complete Neighborhoods that include community facilities, walkable access to parkland and commercial services, and transit stops.

**Policy LU-5-h:** Housing Offering Amenities. Support housing that offers residents a range of amenities, including public and private open space, landscaping, and recreation facilities with direct access to commercial services, public transit, and community gathering spaces.

**Policy LU-6-a:** Design of Commercial Development. Foster high quality design, diversity, and a mix of amenities in new development with uses through the consideration of guidelines, regulations, and design review procedures.

The proposed project provides for a diversity of multi-family residential development in an area that is primarily developed with single-family residential neighborhoods and sparse multi-family residential development. The project promotes multi-family residential development on vacant infill property. Furthermore, the proposed multi-family development proposes to offer residents a range of amenities including various open space areas, barbeque areas, tot lot, swimming pool, basketball half-court, gazebo areas, and a dog park. Additionally, the project proposes to site new office and retail uses that will serve nearby residents of the area.

Therefore, it is staff's opinion that the proposed project is consistent with respective general and community plan objectives and policies and will not conflict with any applicable land use plan, policy, or regulation of the City of Fresno.

*C. Any applicable design guidelines adopted by the City Council.*

Finding C:

Pursuant to FMC Section 15-1005, the project is required and conditioned to comply with the Flexibility Option of the Façade Design Development Standards of the RM zone district. The Flexibility Option requires projects to demonstrate to the satisfaction of the Review Authority that the project: 1) Presents an attractive appearance to public streets; 2) Is aesthetically and functionally compatible to the nearby development context; 3) Demonstrates a high level of quality; and, 4) Supports the growth in value of surrounding properties.

The proposed elevations depict a façade that incorporates the following:

- Stucco finish with stone veneer along the first floor and conditioned along the primary columns.
- Decks, patios, and balconies that have a foam trim with stucco finish.
- Foam band-board with stucco finish along the stone at the roof of the first floor.

Overall, the elevations as described above provide for an attractive appearance to public streets, are aesthetically and functionally compatible to the nearby development context, demonstrate a high level of quality, and support the growth in value of surrounding properties.

*D. Any approved Tentative Map, Conditional Use Permit, Variance, or other planning or zoning approval that the project required.*

Finding D:

All special conditions required for the proposed project from Conditional Use Permit Application No. P23-03982 and Planned Development Permit Application No. P23-03990 have been incorporated into the Conditions of Approval which shall be met prior to issuance of building permits/occupancy. Furthermore, the applicant is required to submit corrected exhibits, inclusive of all conditions of approval which will ensure that all requirements are met.

*E. Fresno County Airport Land Use Compatibility Plan (as may be amended) adopted by the Fresno County Airport Land Use Commission pursuant to California Public Utilities Sections 21670-21679.5.*

Finding E:

The proposed project is located within the area of influence under the Fresno County Airport Land Use Compatibility Plan (ALUCP). The project is in Traffic Pattern Zone 6. Zone 6 has no limit on the dwelling units per acre and requires review for structures over 100 feet tall. The tallest building is proposed at a peak height of 43'-6". Therefore, the proposed project is compatible and in compliance with the Fresno County ALUCP.

## PLANNED DEVELOPMENT PERMIT FINDINGS

A Planned Development shall only be approved if all of the following findings are made:

Findings per Fresno Municipal Code Section 15-5206	
<i>A. The proposed development is consistent with the General Plan, the Fresno County Airport Land Use Compatibility Plan (as may be amended) adopted by the Fresno County Airport Land Use Commission pursuant to California Public Utilities Code Sections 21670-21679.5, any applicable operative plan, and adopted policies, including the density and intensity limitations that apply;</i>	
Finding A:	<p><b>Fresno Municipal Code</b></p> <p><b>Multi-Unit Development</b></p> <p><u>Density and Massing Standards</u></p> <p>Pursuant to FMC Table 15-1003, the density range requirement of the RM-2 zone district is between 16 and 30 dwelling units per acre (du/ac). The project proposes a total number of 396 dwelling units on approximately 16.53 acres of property, equating to a density of 23.96 du/ac, consistent with the density range requirement of the RM-2 zone district. The maximum height requirement in the RM-2 zone district is 50 feet and the multi-unit residential project proposes the tallest building at a peak height of 43'-6", providing consistency with the maximum height requirement of the RM-2 zone district.</p> <p>The building setback requirements are as follows:</p> <ul style="list-style-type: none"><li>• Front yard setback (North Hayes Avenue): Not applicable due to the subject property being located outside of the Priority Areas of the General Plan (Note 1 in FMC Table 15-1003).</li><li>• Interior side yard setback (eastern and western property lines): The minimum interior side yard setback requirement in the RM-2 zone district is five feet (5'). The site plan depicts the interior side yard setback at ten feet (10') along the eastern property line and zero feet (0') along the western property line, with proposed garages abutting the western property line. The deviation from the western property line is requested with the planned development permit, which findings were made pursuant to FMC Section 15-5905. Therefore, the project is consistent with the RM-2 zone district interior side yard setback requirement.</li><li>• Rear yard setback (West Herndon Avenue): The minimum rear yard setback requirement in the RM-2 zone district is 15 feet. The site plan depicts the nearest building to the rear yard at approximately 5'-4". This deviation was requested with the planned development permit, which findings were made pursuant to FMC Section 15-5905. Therefore, the project is consistent with the RM-2 zone district rear yard setback requirement.</li></ul> <p><u>Open Space</u></p> <p>Pursuant to FMC Table 15-1003, the minimum on-site open space requirement of the RM-2 zone district is 15 percent. The multi-unit property is approximately 16.53 acres in size, equating to a minimum on-site open space requirement of 2.64 acres.</p> <p>Incorporation of the barbeque areas, tot lot, swimming pool, basketball half-court,</p>



gazebo areas, dog park, balconies and patios, and other usable open space areas as defined under FMC Section 15-1004.D results that the cumulative amount of on-site open space is 2.68 acres which exceeds the minimum required 2.64 acres, providing consistency with FMC Table 15-1003.

#### Parking

Pursuant to FMC Table 15-2409, for Multi-Unit Residential uses, the parking requirements are as follows:

- One- or two-bedroom units: 1 parking space
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The multi-unit project proposes 120 one-bedroom units, 192 two-bedroom units, and 84 three-bedroom units. This results in a minimum requirement of a total of 636 parking spaces (396 covered and 240 uncovered). The proposed site plan depicts 396 covered parking spaces (70 garages and 326 carports) and 240 uncovered parking spaces for a total of 636 parking spaces, providing consistency with the RM-2 zone district parking space requirement.

### **Commercial Development**

#### Site Design Development Standards

Pursuant to FMC Section 15-1304.F, there are required on-site pedestrian circulation and access requirements. The project proposes a Class I bicycle and pedestrian trail connecting the commercial and residential property frontages and providing connectivity to other adjacent sidewalks and walkways that lead to public transit stops.

#### Landscaping

Pursuant to FMC Table 15-2305.C.1, when a proposed Commercial use is adjacent to a Multi-Unit Residential use, a Type 2 landscape buffer is required. A Type 2 landscape buffer has a minimum 15-foot width with a minimum of 2 large trees, 3 small to medium trees, 8 large shrubs and 10 small to medium shrubs every 100 linear feet. The site plan depicts this buffer at 5 feet, which is a deviation of the minimum required 15-foot-wide buffer. This deviation was requested with the planned development permit, which findings were made pursuant to FMC Section 15-5905. Therefore, the project is consistent with the O zone district landscape setback requirement.

#### Parking

The proposed project does not identify any specific uses for the 12,750 square foot shell building or the future 4,916 square foot future building. The proposed 5,000 square foot future building with drive-thru lane is proposed for a restaurant, which requires a minimum one parking space per 150 square feet of site area pursuant to FMC Table 15-2409. This would equate to a minimum of 33 parking spaces for the restaurant. Because the other buildings do not have any uses proposed at this time, the project will be required to be conditioned at a ratio that is consistent with the proposed number of remaining parking spaces.

The site plan depicts a total of 81 parking spaces, leaving a total of 48 parking spaces remaining for the other future commercial tenants. With a total of 17,666 square feet of remaining gross floor area, future uses for the remaining tenant suites will be reviewed by the Planning and Development Department for compliance with parking lot requirements.

### **General Site Regulations for Multi-Unit & Commercial Developments**

#### Trails

In accordance with Figure MT-2: Paths and Trails of the Fresno General Plan, a Class 1 Bicycle and Pedestrian trail has been dedicated and will be constructed along the east side of North Hayes Avenue along the proposed project frontage.

#### Trash and Refuse Collection Areas

FMC Section 15-2016.B requires solid waste enclosures for solid waste and recycling containers in Multi-Unit Residential Districts at a rate of one (1) per 30 dwelling units. With 396 proposed units, this would equate to a minimum of 13 solid waste enclosures. The site plan depicts seven (7) solid waste enclosures but will have an increase in the service provided per week. This alternative proposal has been approved by the Department of Public Utilities within their memorandum dated March 31, 2025.

### **Expressway Area (EA) Overlay District Development Standards**

The subject property is located along West Herndon Avenue, which is an Expressway as identified in the Fresno General Plan Circulation Element. Properties along expressways are located within the Expressway Area (EA) Overlay zone district under FMC Section 15-1604.

#### Residential District Standards

The development standard for Residential Districts in the EA Overlay zone district requires that no building shall be erected within 200 feet of the right-of-way line, although there are exceptions if a building is proposed to be erected within 200 feet of the right-of-way line. The nearest proposed building to the right-of-way line along West Herndon Avenue (Expressway) within the multi-unit properties is approximately 37 feet, which is nearer than 200 feet.

The following are identified as "Development Standards" pursuant to FMC Section 15-1604.C. The exception requirements for a building to be erected closer than 200 feet to an Expressway right-of-way line are as follows: 1) An acoustical study determines that interior noise can be mitigated to acceptable levels; 2) In no case, the minimum building setback be less than 75 feet from the center line of the nearest moving traffic lane of the abutting roadway; 3) Any barrier necessary to achieve acceptable noise levels shall not be less than eight feet in height and may be a wall, an earth berm, or any combination of wall and earth berm; and, 4) Where no frontage road is required along the expressway, any landscaped open space transition setback separating properties zoned for residential uses shall contain a wall, berm, or any combination of wall and berm, not less than eight feet high and located 50 feet from and parallel to the center line of the nearest moving lane of the abutting roadway. Pursuant to FMC Section 15-5902, Planned Development Permits provide for specified customized "Development Standards" crafted to respond to site conditions. Because the above are considered "Development Standards," a Planned Development Permit application

is allowed to modify those standards, if findings can be made pursuant to FMC Section 15-5906.

Additionally, pursuant to FMC Table 15-2506-B (Noise Exposure from Transportation Noise Sources), maximum exterior noise requirements may be excluded for balconies if they are not included in on-site open space calculations. The total area of all balconies on the West Herndon Avenue-facing facades of the two residential buildings equate to 973 square feet. As analyzed previously, the total amount of open space provided, including all patios and balconies, equates to 2.68 acres. Reducing this by 973 square feet would equate to a total of 2.66 acres which still meets the minimum requirement of 2.66 acres. Thus, the project can exclude the exterior noise requirements for the balconies on the 2<sup>nd</sup> and 3<sup>rd</sup> floors of the West Herndon Avenue-facing facades of the two residential buildings nearest to West Herndon Avenue.

An acoustical study was conducted for this project by WJV Acoustics dated October 29, 2020. The acoustical study determined that for exterior and interior noise mitigation of ground-floor levels, a minimum eight-foot (8') high sound wall is required along the entirety of the northern property line (West Herndon Avenue frontage) and minimum 6'-8" high sound wall along the entirety of the southern property line (North Hayes Avenue frontage). The study did not specifically analyze interior noise levels but assumed that residential construction methods complying with current building code requirements will reduce exterior noise levels by approximately 25 dB (decibels) if windows and doors are closed, which will be sufficient for compliance with the City's 45 dB Ldn interior noise standard at all proposed residential units. Requiring windows and doors to remain closed for sound insulation means that air conditioning or mechanical ventilation will be required. It was also determined that above-ground floor (2<sup>nd</sup> and 3<sup>rd</sup> floor) exterior noise levels for the buildings nearest West Herndon Avenue would exceed the City's exterior noise level standards. As previously stated above, because the 2<sup>nd</sup> and 3<sup>rd</sup> floor balconies are not included in the open space requirements, they are not subject to the exterior noise requirements of FMC Section 15-2506.

The proposed setback from the center line of the nearest moving traffic lane of West Herndon Avenue (Expressway) to the nearest proposed building is approximately 37 feet. The planned development application and findings include the request to reduce the minimum 75-foot setback requirement. There are only two buildings proposed this close to West Herndon Avenue with the next nearest building proposed at approximately 108 feet. Additionally, West Herndon Avenue is curved at this location with lower vehicular speeds leading to a controlled intersection at North Veterans Boulevard. The project is conditioned to comply with the interior noise requirements of FMC Section 15-2506 and the recommendations of the Acoustical Study to require that mechanical ventilation or air conditioning must be provided for all apartment units so that windows and doors can remain closed for sound insulation purposes.

The proposed project is located within the area of influence under the Fresno County Airport Land Use Compatibility Plan (ALUCP). The project is in Traffic Pattern Zone 6. Zone 6 has no limit on the dwelling units per acre and requires review for structures over 100 feet tall. The tallest building is proposed at a peak height of 43'-6". Therefore, the proposed project is compatible and in compliance with the Fresno County ALUCP.

*B. The subject site is physically suitable for the type and intensity of the land use being proposed;*

Finding B:	The site is physically suitable for the type, density, and intensity of use being proposed, including access, emergency access, utilities, and services required given that the project will comply with the Conditions of Approval, which include conditions imposed by the Public Works Department, Public Utilities Department, Fire Department, and Fresno Metropolitan Flood Control District.
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*C. Adequate transportation facilities, utilities, and public services exist or will be provided, in accord with the conditions of PD approval, to serve the proposed development; and the approval of the proposed development will not result in a reduction of public services so as to be a detriment to public health, safety, or welfare;*

Finding C:	The project will comply with the Conditions of Approval, which includes conditions imposed by the Public Works Department, Public Utilities Department, Fire Department, and Fresno Metropolitan Flood Control District that require the project to provide adequate transportation facilities, utilities, and public services to serve the proposed development, and that approval of the proposed development will not result in a reduction of public services so as to be a detriment to public health, safety, or welfare.
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*D. The proposed development will not have a substantial adverse effect on surrounding land uses and will be compatible with the existing and planned land use character of the surrounding area;*

Finding D:	<p>The proposed multi-family and commercial development will not be substantially adverse to the public health, safety, or general welfare of the community, nor be detrimental to surrounding properties or improvements given that the project will comply with the Conditions of Approval, which include conditions imposed by the Public Works Department, Public Utilities Department, Fire Department, and Fresno Metropolitan Flood Control District.</p> <p>The subject property is a vacant site that is surrounded by major streets on three sides (north, west, and south) and vacant property planned for Urban Neighborhood planned land uses to the east. All other areas in the immediate area to the north, west, and south are developed primarily with single-family residential neighborhoods and an elementary school. The commercial development will only allow for right-in, right-out turns which directs all traffic towards West Herndon Avenue and outside of the nearby residential neighborhoods. The multi-family development will be gated, providing additional privacy and security for the prospective residents and those outside of the development. The two multi-family residential buildings nearest to West Herndon Avenue (approx. 37 feet from the center line of the nearest moving traffic lane) are located where West Herndon Avenue has reduced speeds due to the close proximity of the traffic signal at the intersection of West Herndon Avenue and North Veterans Boulevard.</p>
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*E. The proposed development is demonstratively superior to the development that could occur under the standards applicable to the underlying base district, and will achieve superior community design, environmental preservation, and/or substantial public benefit. In making this determination, the following factors should be considered:*

- 1. Appropriateness of the use(s) at the proposed location.*
- 2. The mix of uses, housing types, and housing price levels.*
- 3. Provision of infrastructure improvements.*

4. *Provision of open space. For example, a greater amount of open space than would otherwise be provided under the strict application of this code.*
5. *Connectivity to public trails, schools, etc.*
6. *Compatibility of uses within the development area.*
7. *Creativity in design and use of land.*
8. *Quality of design, and adequacy of light and air to the interior spaces of the buildings.*
9. *Overall contribution to the enhancement of neighborhood character and to the built and natural environment of Fresno in the long term.*

Finding E:

**1. Appropriateness of the use(s) at the proposed location.**

The proposed commercial and multi-family uses are permitted uses in their respective zone districts, and the drive-thru use is conditionally permitted in the O zone district, which deems the uses appropriate at their proposed location.

**2. The mix of uses, housing types, and housing price levels.**

The project proposes a mix of uses with multi-family residential along the western portion of the property and commercial on the eastern corner of the property. The multi-family three-story development provides a variation from the predominantly surrounding single-family residential development.

**3. Provision of infrastructure improvements.**

The project is required to install all necessary infrastructure, including curb, gutter, sidewalk, and a trail along with street improvements along West Herndon Avenue.

**4. Provision of open space. For example, a greater amount of open space than would otherwise be provided under the strict application of this code.**

Pursuant to FMC Table 15-1003, the minimum on-site open space requirement of the RM-2 zone district is 15 percent. The multi-unit property is approximately 16.53 acres in size, equating to a minimum on-site open space requirement of 2.64 acres.

Incorporation of the barbeque areas, tot lot, swimming pool, basketball half-court, gazebo areas, dog park, balconies and patios, and other usable open space areas as defined under FMC Section 15-1004.D results that the cumulative amount of on-site open space is 2.68 acres which exceeds the minimum required 2.64 acres, providing consistency with FMC Table 15-1003.

**5. Connectivity to public trails, schools, etc.**

The project site proposes a required Class I bicycle and pedestrian trail along North Hayes Avenue, which provides direct access to pedestrian pathways that lead to the schools directly west of the project site.

**6. Compatibility of uses within the development area.**

The subject property is a vacant site that is surrounded by major streets on three sides (north, west, and south) and vacant property planned for Urban Neighborhood planned land uses to the east. All other areas in the immediate area to the north, west, and south are developed primarily with single-family residential neighborhoods and an elementary school. The multi-family development will be gated providing additional privacy and security for the prospective residents and those outside of the development.

**7. *Creativity in design and use of land.***

The project provides creativity in design by providing direct pedestrian access from the multi-family residential site to the commercial site via a pedestrian gate. The multi-family residential buildings are conditioned to add exterior façade treatments which increase the design quality, including additional stone veneer on columns and window trim/treatments. The proposed drive-through building is conditioned to incorporate enhanced screening including landscaping and screen walls, arbors and trellises, etc. Also, the project is not permitted to take direct access from West Herndon Avenue which the project was designed to accommodate that.

**8. *Quality of design, and adequacy of light and air to the interior spaces of the buildings.***

The quality of the design, as conditioned, is of higher quality for exterior facades and circulation. The multi-family residential buildings are conditioned to add exterior façade treatments which increase the design quality, including additional stone veneer on columns and window trim/treatments. The proposed drive-through building is conditioned to incorporate enhanced screening including landscaping and screen walls, arbors and trellises, etc. All buildings shall comply with the lighting standards of the Fresno Municipal Code to provide adequate light and air to the interior spaces of the buildings.

**9. *Overall contribution to the enhancement of neighborhood character and to the built and natural environment of Fresno in the long term.***

The project will provide an enhancement of neighborhood character and to the built and natural environment of Fresno in the long term by developing a vacant, infill property that the proposed uses are appropriate for the planned land use of the properties, as analyzed above, and fulfilling a need for residential units while the state is currently in a housing crisis. The multi-family residential buildings are conditioned to add exterior façade treatments which increase the design quality, including additional stone veneer on columns and window trim/treatments. The proposed drive-through building is conditioned to incorporate enhanced screening including landscaping and screen walls, arbors and trellises, etc.

## CONDITIONAL USE PERMIT FINDINGS

A Conditional Use Permit shall only be granted if the decision-maker determines that the project as submitted or as modified conforms to all of the following criteria. If the decision-maker determines that it is not possible to make all of the required findings, the application shall be denied.

Findings per Fresno Municipal Code Section 15-5206	
A. <i>The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Code and all other chapters of the Municipal Code;</i>	
Finding A:	<p><b>Fresno Municipal Code</b></p> <p><b>Multi-Unit Development</b></p> <p><u><i>Density and Massing Standards</i></u></p> <p>Pursuant to FMC Table 15-1003, the density range requirement of the RM-2 zone district is between 16 and 30 dwelling units per acre (du/ac). The project proposes a total number of 396 dwelling units on approximately 16.53 acres of property, equating to a density of 23.96 du/ac, consistent with the density range requirement of the RM-2 zone district. The maximum height requirement in the RM-2 zone district is 50 feet and the multi-unit residential project proposes the tallest building at a peak height of 43'-6", providing consistency with the maximum height requirement of the RM-2 zone district.</p> <p>The building setback requirements are as follows:</p> <ul style="list-style-type: none"><li>• Front yard setback (North Hayes Avenue): Not applicable due to the subject property being located outside of the Priority Areas of the General Plan (Note 1 in FMC Table 15-1003).</li><li>• Interior side yard setback (eastern and western property lines): The minimum interior side yard setback requirement in the RM-2 zone district is five feet (5'). The site plan depicts the interior side yard setback at ten feet (10') along the eastern property line and zero feet (0') along the western property line, with proposed garages abutting the western property line. The deviation from the western property line is requested with the planned development permit, which findings were made pursuant to FMC Section 15-5905. Therefore, the project is consistent with the RM-2 zone district interior side yard setback requirement.</li><li>• Rear yard setback (West Herndon Avenue): The minimum rear yard setback requirement in the RM-2 zone district is 15 feet. The site plan depicts the nearest building to the rear yard at approximately 5'-4". This deviation was requested with the planned development permit, which findings were made pursuant to FMC Section 15-5905. Therefore, the project is consistent with the RM-2 zone district rear yard setback requirement.</li></ul> <p><u><i>Open Space</i></u></p> <p>Pursuant to FMC Table 15-1003, the minimum on-site open space requirement of the RM-2 zone district is 15 percent. The multi-unit property is approximately 16.53 acres in size, equating to a minimum on-site open space requirement of 2.64 acres.</p>

Incorporation of the barbeque areas, tot lot, swimming pool, basketball half-court, gazebo areas, dog park, balconies and patios, and other usable open space areas as defined under FMC Section 15-1004.D results that the cumulative amount of on-site open space is 2.68 acres which exceeds the minimum required 2.64 acres, providing consistency with FMC Table 15-1003.

#### Parking

Pursuant to FMC Table 15-2409, for Multi-Unit Residential uses, the parking requirements are as follows:

- One- or two-bedroom units: 1 parking space
- Three- or more bedroom units: 1.5 parking spaces
- Guest parking spaces: 1 parking space per every 2 units
- Covered parking spaces: Of the total required parking spaces, at least 1 per unit

The multi-unit project proposes 120 one-bedroom units, 192 two-bedroom units, and 84 three-bedroom units. This results in a minimum requirement of a total of 636 parking spaces (396 covered and 240 uncovered). The proposed site plan depicts 396 covered parking spaces (70 garages and 326 carports) and 240 uncovered parking spaces for a total of 636 parking spaces, providing consistency with the RM-2 zone district parking space requirement.

#### **Commercial Development**

##### Site Design Development Standards

Pursuant to FMC Section 15-1304.F, there are required on-site pedestrian circulation and access requirements. The project proposes a Class I bicycle and pedestrian trail connecting the commercial and residential property frontages and providing connectivity to other adjacent sidewalks and walkways that lead to public transit stops.

##### Landscaping

Pursuant to FMC Table 15-2305.C.1, when a proposed Commercial use is adjacent to a Multi-Unit Residential use, a Type 2 landscape buffer is required. A Type 2 landscape buffer has a minimum 15-foot width with a minimum of 2 large trees, 3 small to medium trees, 8 large shrubs and 10 small to medium shrubs every 100 linear feet. The site plan depicts this buffer at 5 feet, which is a deviation of the minimum required 15-foot-wide buffer. This deviation was requested with the planned development permit, which findings were made pursuant to FMC Section 15-5905. Therefore, the project is consistent with the O zone district landscape setback requirement.

#### Parking

The proposed project does not identify any specific uses for the 12,750 square foot shell building or the future 4,916 square foot future building. The proposed 5,000 square foot future building with drive-thru lane is proposed for a restaurant, which requires a minimum one parking space per 150 square feet of site area pursuant to FMC Table 15-2409. This would equate to a minimum of 33 parking spaces for the restaurant. Because the other buildings do not have any uses proposed at this time, the project will be required to be conditioned at a ratio that is consistent with the proposed number of remaining parking spaces.



The site plan depicts a total of 81 parking spaces, leaving a total of 48 parking spaces remaining for the other future commercial tenants. With a total of 17,666 square feet of remaining gross floor area, future uses for the remaining tenant suites will be reviewed by the Planning and Development Department for compliance with parking lot requirements.

### **General Site Regulations for Multi-Unit & Commercial Developments**

#### Trails

In accordance with Figure MT-2: Paths and Trails of the Fresno General Plan, a Class 1 Bicycle and Pedestrian trail has been dedicated and will be constructed along the east side of North Hayes Avenue along the proposed project frontage.

#### Trash and Refuse Collection Areas

FMC Section 15-2016.B requires solid waste enclosures for solid waste and recycling containers in Multi-Unit Residential Districts at a rate of one (1) per 30 dwelling units. With 396 proposed units, this would equate to a minimum of 13 solid waste enclosures. The site plan depicts seven (7) solid waste enclosures but will have an increase in the service provided per week. This alternative proposal has been approved by the Department of Public Utilities within their memorandum dated March 31, 2025.

### **Expressway Area (EA) Overlay District Development Standards**

The subject property is located along West Herndon Avenue, which is an Expressway as identified in the Fresno General Plan Circulation Element. Properties along expressways are located within the Expressway Area (EA) Overlay zone district under FMC Section 15-1604.

#### Residential District Standards

The development standard for Residential Districts in the EA Overlay zone district requires that no building shall be erected within 200 feet of the right-of-way line, although there are exceptions if a building is proposed to be erected within 200 feet of the right-of-way line. The nearest proposed building to the right-of-way line along West Herndon Avenue (Expressway) within the multi-unit properties is approximately 37 feet, which is nearer than 200 feet.

The following are identified as "Development Standards" pursuant to FMC Section 15-1604.C. The exception requirements for a building to be erected closer than 200 feet to an Expressway right-of-way line are as follows: 1) An acoustical study determines that interior noise can be mitigated to acceptable levels; 2) In no case, the minimum building setback be less than 75 feet from the center line of the nearest moving traffic lane of the abutting roadway; 3) Any barrier necessary to achieve acceptable noise levels shall not be less than eight feet in height and may be a wall, an earth berm, or any combination of wall and earth berm; and, 4) Where no frontage road is required along the expressway, any landscaped open space transition setback separating properties zoned for residential uses shall contain a wall, berm, or any combination of wall and berm, not less than eight feet high and located 50 feet from and parallel to the center line of the nearest moving lane of the abutting roadway. Pursuant to FMC Section 15-5902, Planned Development Permits provide for specified customized "Development Standards" crafted to respond to site conditions. Because the above are considered "Development Standards," a Planned Development Permit application

	<p>is allowed to modify those standards, if findings can be made pursuant to FMC Section 15-5906.</p> <p>Additionally, pursuant to FMC Table 15-2506-B (Noise Exposure from Transportation Noise Sources), maximum exterior noise requirements may be excluded for balconies if they are not included in on-site open space calculations. The total area of all balconies on the West Herndon Avenue-facing facades of the two residential buildings equate to 973 square feet. As analyzed previously, the total amount of open space provided, including all patios and balconies, equates to 2.68 acres. Reducing this by 973 square feet would equate to a total of 2.66 acres which still meets the minimum requirement of 2.66 acres. Thus, the project can exclude the exterior noise requirements for the balconies on the 2<sup>nd</sup> and 3<sup>rd</sup> floors of the West Herndon Avenue-facing facades of the two residential buildings nearest to West Herndon Avenue.</p> <p>An acoustical study was conducted for this project by WJV Acoustics dated October 29, 2020. The acoustical study determined that for exterior and interior noise mitigation of ground-floor levels, a minimum eight-foot (8') high sound wall is required along the entirety of the northern property line (West Herndon Avenue frontage) and minimum 6'-8" high sound wall along the entirety of the southern property line (North Hayes Avenue frontage). The study did not specifically analyze interior noise levels but assumed that residential construction methods complying with current building code requirements will reduce exterior noise levels by approximately 25 dB (decibels) if windows and doors are closed, which will be sufficient for compliance with the City's 45 dB Ldn interior noise standard at all proposed residential units. Requiring windows and doors to remain closed for sound insulation means that air conditioning or mechanical ventilation will be required. It was also determined that above-ground floor (2<sup>nd</sup> and 3<sup>rd</sup> floor) exterior noise levels for the buildings nearest West Herndon Avenue would exceed the City's exterior noise level standards. As previously stated above, because the 2<sup>nd</sup> and 3<sup>rd</sup> floor balconies are not included in the open space requirements, they are not subject to the exterior noise requirements of FMC Section 15-2506.</p> <p>The proposed setback from the center line of the nearest moving traffic lane of West Herndon Avenue (Expressway) to the nearest proposed building is approximately 37 feet. The planned development application and findings include the request to reduce the minimum 75-foot setback requirement. There are only two buildings proposed this close to West Herndon Avenue with the next nearest building proposed at approximately 108 feet. Additionally, West Herndon Avenue is curved at this location with lower vehicular speeds leading to a controlled intersection at North Veterans Boulevard. The project is conditioned to comply with the interior noise requirements of FMC Section 15-2506 and the recommendations of the Acoustical Study to require that mechanical ventilation or air conditioning must be provided for all apartment units so that windows and doors can remain closed for sound insulation purposes.</p>
<p><i>B. The proposed use is consistent with the General Plan and any other applicable plan and design guideline the City has adopted;</i></p>	
Finding B:	<p>This project meets objectives, goals, and policies of the Fresno General Plan for Medium High Density Residential and Employment – Office planned land uses, as follows:</p>

	<p><b>Goal 7:</b> Provide for a diversity of districts, neighborhoods, housing types (including affordable housing), residential densities, job opportunities, recreation, open space, and educational venues that appeal to a broad range of people throughout the city.</p> <p><b>Objective UF-1:</b> Emphasize the opportunity for a diversity of districts, neighborhoods, and housing types.</p> <p><b>Objective LU-2:</b> Plan for infill development that includes a range of housing types, building forms, and land uses to meet the needs of both current and future residents.</p> <p><b>Objective LU-5:</b> Plan for a diverse housing stock that will support balanced urban growth and make efficient use of resources and public facilities.</p> <p><b>Objective LU-6:</b> Retain and enhance existing commercial areas to strengthen Fresno's economic base and site new office, retail, and lodging use districts to serve neighborhoods and regional visitors.</p> <p><b>Policy UF-1-a:</b> Diverse Neighborhoods. Support development projects that provide Fresno with a diversity of urban and suburban neighborhood opportunities.</p> <p><b>Policy UF-1-d:</b> Range of Housing Types. Provide for diversity and variation of building types, densities, and scales of development to reinforce the identity of individual neighborhoods, foster a variety of market-based options for living and working to suit a large range of income levels, and further affordable housing opportunities throughout the city.</p> <p><b>Policy LU-5-e:</b> Urban Neighborhood Residential Uses. Promote urban neighborhood residential uses to support compact communities and Complete Neighborhoods that include community facilities, walkable access to parkland and commercial services, and transit stops.</p> <p><b>Policy LU-5-h:</b> Housing Offering Amenities. Support housing that offers residents a range of amenities, including public and private open space, landscaping, and recreation facilities with direct access to commercial services, public transit, and community gathering spaces.</p> <p><b>Policy LU-6-a:</b> Design of Commercial Development. Foster high quality design, diversity, and a mix of amenities in new development with uses through the consideration of guidelines, regulations, and design review procedures.</p> <p>The proposed project provides for a diversity of multi-family residential development in an area that is primarily developed with single-family residential neighborhoods and sparse multi-family residential development. The project promotes multi-family residential development on vacant infill property. Furthermore, the proposed multi-family development proposes to offer residents a range of amenities including various open space areas, barbeque areas, tot lot, swimming pool, basketball half-court, gazebo areas, and a dog park. Additionally, the project proposes to site new office and retail uses that will serve nearby residents of the area.</p> <p>Therefore, it is staff's opinion that the proposed project is consistent with respective general and community plan objectives and policies and will not conflict with any applicable land use plan, policy, or regulation of the City of Fresno.</p>
<p><i>C. The proposed use will not be substantially adverse to the public health, safety, or general welfare of the community, nor be detrimental to surrounding properties or improvements;</i></p>	
<p>Finding C:</p>	<p>The proposed multi-family and commercial developments will not be substantially adverse to the public health, safety, or general welfare of the community, nor be</p>

	detrimental to surrounding properties or improvements given that the project will comply with the Conditions of Approval, which include conditions imposed by the Public Works Department, Public Utilities Department, Fire Department, and Fresno Metropolitan Flood Control District.
<i>D. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and reasonably foreseeable future land uses in the vicinity;</i>	
Finding D:	The subject property is a vacant site that is surrounded by major streets on three sides (north, west, and south) and vacant property planned for Urban Neighborhood planned land uses to the east. All other areas in the immediate area to the north, west, and south are developed primarily with single-family residential neighborhoods and an elementary school. The multi-family development will be gated providing additional privacy and security for the prospective residents and those outside of the development.
<i>E. The site is physically suitable for the type, density, and intensity of use being proposed, including access, emergency access, utilities, and services required;</i>	
Finding E:	As previously stated in Finding C, the site is physically suitable for the type, density, and intensity of use being proposed, including access, emergency access, utilities, and services required given that the project will comply with the Conditions of Approval, which include conditions imposed by the Public Works Department, Public Utilities Department, Fire Department, and Fresno Metropolitan Flood Control District.
<i>F. The proposed use is consistent with the Fresno County Airport Land Use Compatibility Plan (as may be amended) adopted by the Fresno County Airport Land Use Commission pursuant to California Public Utilities Code Sections 21670-21679.5.</i>	
Finding F:	The proposed project is located within the area of influence under the Fresno County Airport Land Use Compatibility Plan (ALUCP). The project is in Traffic Pattern Zone 6. Zone 6 has no limit on the dwelling units per acre and requires review for structures over 100 feet tall. The tallest building is proposed at a peak height of 43'-6". Therefore, the proposed project is compatible and in compliance with the Fresno County ALUCP.

Based upon the plans and information submitted by the applicant and the recommended conditions of project approval, staff has determined that all of the findings above can be made.