



FINDINGS OF FACT / STATEMENT OF OVERRIDING CONSIDERATIONS

FOR THE

SHEPHERD NORTH PROJECT
(SCH # 2022050180)

NOVEMBER 2023

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D e N o v o P l a n n i n g G r o u p

A Land Use Planning, Design, and Environmental Firm



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FINDINGS FOR THE SHEPHERD NORTH PROJECT

REQUIRED UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
(Public Resources Code, § 21000 et seq.)

I. INTRODUCTION

The California Environmental Quality Act (CEQA) (Public Resources Code, § 21000 et seq.) requires the City of Clovis (City), as the CEQA lead agency, to: 1) make written findings when it approves a project for which an environmental impact report (EIR) was certified, and 2) identify overriding considerations for significant and unavoidable impacts identified in the EIR. (Pub. Resources Code, § 21081.)

This document explains the City's findings regarding the significant and potentially significant impacts identified in the environmental impact report (EIR) prepared for the Shepherd North Project (Project) and the City decision-makers' ultimate determinations of the feasibility of the Project alternatives considered in the EIR. The statement of overriding considerations in Section VII, below, identifies the economic, social, technical, and other benefits of the Project that the City decision-makers have determined should override any significant environmental impacts that would result from the Project.

As required under CEQA, the Final EIR describes the Project, adverse environmental impacts of the Project, and mitigation measures and alternatives that would substantially reduce or avoid those impacts. The information and conclusions contained in the EIR reflect the City's independent judgment.

The Final EIR (which includes the Draft EIR, comments, responses to comments, and revisions to the Draft EIR) for the Project, examined the proposed Project and four alternatives to the Project including: (1) No Project (No Build) Alternative; (2) Increased Density Mixed Use Alternative; (3) Reduced Density Alternative; and (3) Reduced Sphere of Influence Alternative.

The Findings and Statement of Overriding Considerations are presented for adoption by the City Council, as the City's findings under CEQA and the CEQA Guidelines (Cal. Code Regs., title 14, § 15000 et seq.) relating to the Project. The Findings provide the written analysis, substantial evidence, and conclusions of this City Council regarding the Project's environmental impacts, mitigation measures, and alternatives to the Project, as well as the overriding considerations, which in this City Council's view, justify approval of the Project, despite its environmental effects.

II. GENERAL FINDINGS AND OVERVIEW

Project Overview

The Shepherd North Project (Project) site is located directly north of the City of Clovis limit line at the northeast corner of North Sunnyside Avenue and East Shepherd Avenue. The Project site is bounded on the north by Perrin Road, on the east by North Fowler Avenue, on the south by East Shepherd Avenue, and on the west by North Sunnyside Avenue. Figures 2.0-1 and 2.0-2 in Chapter 2.0 of the Draft EIR show the proposed Project's regional location and vicinity. The Project site is in the southwest quadrant of Section 21, Township 12 South, Range 21 East, Mount Diablo Base and Meridian (MDBM).

The proposed Project will provide a variety of housing types and lot sizes that will accommodate a range of housing objectives and buyer needs with a goal to ensure housing for a variety of families and lifestyles. The Development Area will accommodate up to 605 residential units. Specifically, the northern portion of the Development Area is planned to include the development of up to 101 single-family residences with lot sizes ranging from approximately 5,400 square feet to 15,900 square feet. The southern portion of the Development Area is planned for smaller lot single-family residences, with lot sizes ranging from approximately 1,980 to 3,800 square feet, and with larger corner lots that are approximately 4,200 to 7,500 square feet.

The proposed Project includes open space totaling approximately 5.54 acres, including 2.25 acres of trails, 2.39 acres of promenade/pedestrian circulation, and 0.90 acres of parks. The main park would be located within the central portion of the Development Area, which would connect to a network of promenades and trails located within and along the perimeter of a portion of the Development Area. The promenade and trail network would also link to adjacent trails located in the planned residential community to the west, as well as the trail at Dry Creek and Clovis Old Town to the south.

The Project site includes several distinct planning boundaries. The following terms are used throughout this document to describe planning area boundaries within the Project site:

- Project Area – Includes the whole of the Project site (approximately 155 acres), encompassing the approximate 77-acre Development Area and the approximate 78-acre Non-Development Area.¹
 - Development Area - Includes the parcels being annexed that will be entitled for subdivision and development. This will include a Sphere of Influence (SOI) Expansion, General Plan Amendment, Pre-zone, Annexation/Reorganization, Tentative Tract Map, Planned Development Permit, and Residential Site Plan Review.

¹ It should be noted that the term 'Project Area' is used interchangeably with 'Project Site', throughout the EIR.

- Non-Development Area - Includes the parcels being included in the SOI expansion that will not be entitled for subdivision or development. This includes two separate areas, each described as an Expansion SubArea. The two Expansion SubAreas total 78 acres and are defined as Expansion SubArea North and Expansion SubArea East.

The Project site is designated as Rural Residential (RR) under the City of Clovis General Plan. The Project site is currently located outside of the Clovis city limits, and therefore does not have City-designated zoning. The proposed Project includes a request for Development Area pre-zoning (which is consistent with the proposed General Plan Land Uses) of Single-Family Planned Residential Development Zoning (R-1-PRD).

The proposed Project includes an amendment of the City's SOI to include the entirety of the approximately 155-acre Project site. The area is currently located in the City's Planning Area, but outside of the City's SOI. The amendment of the City's SOI will require an application and approval by the Fresno Local Agency Formation Commission (LAFCO) and the County of Fresno.

The principal Project objective is the expansion of the City's SOI to include the Project site, and the annexation/reorganization, approval and subsequent development of the Development Area.

Refer to EIR Chapter 2.0, Project Description, of the Draft EIR for a more complete description of the details of the proposed Project.

PROCEDURAL BACKGROUND

Notice of Preparation Public Circulation: The City of Clovis circulated a Notice of Preparation (NOP) of an EIR for the proposed Project on May 9, 2022 to the State Clearinghouse, State Responsible Agencies, State Trustee Agencies, Other Public Agencies, Organizations and Interested Persons. A public scoping meeting was held on May 25, 2022 to present the project description to the public and interested agencies, and to receive comments from the public and interested agencies regarding the scope of the environmental analysis to be included in the Draft EIR. Concerns raised in response to the NOP were considered during preparation of the Draft EIR. The NOP and comments received on the NOP by interested parties are presented in Appendix A. The commenters are provided below.

- Native American Heritage Commission (May 10, 2022)
- Department of Toxic Substances Control (May 18, 2022)
- Robert Shuman (May 25, 2022)
- Jared Callister (May 25, 2022)
- State Water Resources Control Board (June 6, 2022)
- California Department of Conservation (May 26, 2022)
- County of Fresno (June 2, 2022)
- Fresno Irrigation District (June 7, 2022)
- Fresno Metropolitan Flood Control District (June 10, 2022)
- California Department of Transportation (June 10, 2022)
- San Joaquin Valley Air Pollution Control District (June 10, 2022)

Notice of Availability and Draft EIR: The City published a public Notice of Availability (NOA) for the Draft EIR on July 21, 2023, inviting comment from the general public, agencies, organizations, and other interested parties. The NOA was filed with the State Clearinghouse (SCH # 2022050180) and the County Clerk, and was published in a local newspaper pursuant to the public noticing requirements of CEQA. The Draft EIR was available for public review and comment from July 21, 2023 through September 6, 2023. It is noted that the original closure of the 45-day review was September 4, 2023, but the City extended the review by a few extra days beyond the 45-day period. Comments dated through September 6, 2023 were accepted and addressed in the Final EIR.

The Draft EIR contains a description of the Project, description of the environmental setting, identification of Project impacts, and mitigation measures for impacts found to be significant, as well as an analysis of Project alternatives, identification of significant irreversible environmental changes, growth-inducing impacts, and cumulative impacts. The Draft EIR identifies issues determined to have no impact or a less-than-significant impact, and provides detailed analysis of potentially significant and significant impacts. Comments received in response to the NOP were considered in preparing the analysis in the Draft EIR.

Final EIR: The City of Clovis received 24 comment letters on the Draft EIR during the public review period, which was extended through September 6, 2023 for a 47-day review period. In accordance with CEQA Guidelines Section 15088, the Final EIR responds to the comments received during this public review period. The Final EIR also contains minor edits to the Draft EIR, which are included in Chapter 3.0, Errata.

The comments received did not provide evidence of any new significant impacts or “significant new information” that would require recirculation of the Draft EIR pursuant to CEQA Guidelines Section 15088.5.

RECORD OF PROCEEDINGS AND CUSTODIAN OF RECORD

For purposes of CEQA and the findings set forth herein, the record of proceedings for the City’s findings and determinations consists of the following documents and testimony, at a minimum:

- The NOP, comments received on the NOP, and all other public notices issued by the City in relation to the Project (e.g., NOA).
- The Draft EIR and Final EIR, including comment letters, and technical materials cited in the documents.
- All non-draft and/or non-confidential reports and memoranda prepared by the City and consultants in relation to the EIR.
- Minutes and transcripts of the discussions regarding the Project and/or Project components at public hearings held by the City.
- Staff reports associated with City Council meetings on the Project.
- Those categories of materials identified in Public Resources Code § 21167.6(e).

The City Clerk is the custodian of the administrative record. The documents and materials that constitute the administrative record are available for review at the City of Clovis Planning Division, 1033 Fifth Street, Clovis, CA 93612 or online at:

<https://cityofclovis.com/planning-and-development/planning/planning-projects/shepherd-north-soi/>

FINDINGS REQUIRED UNDER CEQA

Public Resources Code § 21002 provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]” Further, the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.” (*Id.*) Section 21002 also provides that “in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.”

The mandate and principles established by the Legislature in Public Resources Code § 21002 are implemented, in part, through the requirement in Public Resources Code § 21081 that agencies must adopt findings before approving projects for which an EIR is required.

CEQA Guidelines § 15091 provides the following direction regarding findings:

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
 - (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
 - (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
 - (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

(See also Public Resources Code, § 21081, subd. (a)(1)-(3).)

As defined by CEQA, “feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors. (Pub. Resources Code, § 21061.1; see also CEQA Guidelines, § 15126.6(f)(1) [determining the feasibility of alternatives].) The concept of “feasibility” also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (See *Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1400 [court upholds findings rejecting a “reduced herd” alternative to a proposed dairy as infeasible because the alternative failed to meet the “fundamental objective” of the project to produce milk]; *Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1506-1508 [agency decision-makers, in rejecting alternatives as infeasible, appropriately relied on project objective articulated by project applicant].) Moreover, “‘feasibility’ under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors.” (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417; see also *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001-1002.)

With respect to a project for which significant impacts cannot be feasibly avoided or substantially lessened, a public agency may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons that the project’s benefits outweigh its significant unavoidable adverse environmental effects. (Pub. Resources Code, §§ 21001, 21002.1(c), 21081(b).)

CEQA Guidelines § 15093 provides the following direction regarding a statement of overriding considerations:

- (a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”
- (b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
- (c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to § 15091.

MITIGATION MONITORING PROGRAM

A Mitigation Monitoring Program has been prepared for the Project and, if the Project is approved, will be adopted concurrently with these Findings. (See Pub. Resources Code, § 21081.6, subd. (a)(1).) The City will use the Mitigation Monitoring Program to track compliance with Project mitigation measures.

CONSIDERATION OF THE ENVIRONMENTAL IMPACT REPORT

In adopting these Findings, this City Council finds that the Final EIR was presented to this City Council, the decision-making body of the lead agency, which reviewed and considered the information in the Final EIR prior to approving the Project. By these findings, this City Council ratifies, adopts, and incorporates the analysis, explanation, findings, responses to comments, and conclusions of the Final EIR. The City Council finds that the Final EIR was completed in compliance with CEQA. The Final EIR represents the independent judgment of the City.

SEVERABILITY

If any term, provision, or portion of these Findings or the application of these Findings to a particular situation is held by a court to be invalid, void, or unenforceable, the remaining provisions of these Findings, or their application to other actions related to the Project, shall continue in full force and effect unless amended or modified by the City.

III. FINDINGS AND RECOMMENDATIONS REGARDING SIGNIFICANT AND UNAVOIDABLE IMPACTS

A. TRANSPORTATION AND CIRCULATION

1. IMPACT 3.13-1: PROJECT IMPLEMENTATION WOULD RESULT IN VMT INCREASES THAT ARE GREATER THAN 87 PERCENT OF BASELINE CONDITIONS.
 - (a) Potential Impact. The potential for the Project to result in VMT increases that are greater than 87 percent of Baseline conditions is discussed on pages 3.13-18 through 3.13-23 of the Draft EIR.
 - (b) Mitigation Measure. No feasible mitigation measures were identified.
 - (c) Findings. Based upon the EIR and the entire record before this City Council, this City Council finds that:
 - (1) Remaining Impacts. The proposed development was evaluated against the screening criteria in OPR's Technical Advisory. A detailed VMT analysis was conducted using methodology discussed in Appendix I of the Draft EIR. The proposed residential development would result in a significant transportation impact if it would 1). generate vehicle travel exceeding 87 percent of the established

baseline VMT under existing (baseline) or cumulative conditions, or 2). result in an increase in total VMT in the model area.

Table 3.13-2 in Section 3.13 of the Draft EIR summarizes the regional threshold and Project VMT per capita. As shown in Table 3.13-5, the Project VMT per capita is 20.7 percent higher than the City's VMT per capita threshold. Therefore, based on the TIA Guidelines, the project will have a significant VMT impact.

Project design features aim to promote overall mobility with the goal of reducing VMT and reducing greenhouse gas emissions. Implementation of these Project design features may possibly reduce the Project's VMT by approximately up to 1.18 percent. A combination of measures from several VMT reduction strategies were incorporated into the Project design to achieve this VMT reduction as outlined above. This included strategies that are aimed at reducing the number of automobile trips generated by the Project, shift more trips from automobile to non-automobile modes, and/or reduce the distances that people drive.

Ultimately, however, the City of Clovis is a suburban community with land use characteristics that are more spread out when compared to dense urban communities. The land use and transportation characteristics of suburban communities such as Clovis, can make it difficult, or impossible to achieve VMT reductions to levels that the City has established as a goal, and ultimately, as a threshold of significance for CEQA analysis. The Project design features are estimated to offset some of the VMT impacts of the Project by reducing VMT by up to 1.18 percent, but this reduction will not reduce the impact to a less than significant level.

Based on the above, the impact would remain significant and unavoidable.

- (2) Changes or alterations have been required in, or incorporated into, the proposed project that avoid or substantially lessen the significant environmental effect, as identified in the Final EIR. To the extent that this significant adverse impact will not be substantially lessened or avoided, the City Council finds that specific economic, social, policy-based, and other considerations identified in the Statement of Overriding Considerations support approval of the project.
- (3) Overriding Considerations. The environmental, economic, social and other benefits of the Project override any remaining significant adverse impact of the Project associated with impacts related to VMT increases that are greater than 87 percent of Baseline conditions, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

2. IMPACT 4.20: UNDER CUMULATIVE CONDITIONS, PROJECT DEVELOPMENT WOULD RESULT IN VMT INCREASES THAT ARE GREATER THAN 87 PERCENT OF BASELINE CONDITIONS.

(a) Potential Impact. The potential for the Project to result in VMT increases that are greater than 87 percent of Baseline conditions is discussed on page 4.0-19 of the Draft EIR.

(b) Mitigation Measure. No feasible mitigation measures were identified.

(c) Findings. Based upon the EIR and the entire record before this City Council, this City Council finds that:

(1) Remaining Impacts. The Project VMT per capita is 20.7 percent higher than the City's VMT per capita threshold. Project design features aim to promote overall mobility with the goal of reducing VMT and reducing greenhouse gas emissions. Implementation of these Project design features may possibly reduce the Project's VMT. The Project design features can help offset some of the VMT impacts of the Project.

Because the development would generate vehicle travel exceeding 13 percent below the established city-wide average under Existing and Cumulative Conditions, even with implementation of Project Design measures that provide mitigating effects, development of the proposed Project would have a cumulatively considerable contribution and a significant and unavoidable impact.

(2) Changes or alterations have been required in, or incorporated into, the proposed project that avoid or substantially lessen the significant environmental effect, as identified in the Final EIR. To the extent that this significant adverse impact will not be substantially lessened or avoided, the City Council finds that specific economic, social, policy-based, and other considerations identified in the Statement of Overriding Considerations support approval of the project.

(3) Overriding Considerations. The environmental, economic, social and other benefits of the Project override any remaining significant adverse impact of the Project associated with cumulative impacts related to VMT increases that are greater than 87 percent of Baseline conditions, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

IV. FINDINGS AND RECOMMENDATIONS REGARDING SIGNIFICANT IMPACTS WHICH ARE MITIGATED TO A LESS THAN SIGNIFICANT LEVEL

A. BIOLOGICAL RESOURCES

1. IMPACT 3.4-3: THE PROPOSED PROJECT HAS THE POTENTIAL TO HAVE DIRECT OR INDIRECT EFFECTS ON SPECIAL-STATUS BIRD SPECIES.

- (a) Potential Impact. The potential for the Project to have direct or indirect effects on special-status bird species is discussed on page 3.4-22 through 3.4-28 of the Draft EIR.
- (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.4-1.
- (c) Findings. According to the California Natural Diversity Database (CNDDDB), there are thirteen (13) special-status bird species that are documented within the nine-quadrangle region for the Project site, including: black-crowned night heron (*Nycticorax nycticorax*), burrowing owl (*Athene cunicularia*), California horned lark (*Eremophila alpestris actia*), double-crested cormorant (*Nannopterum auritum*), great egret (*Ardea alba*), least Bell's vireo (*Vireo bellii pusillus*), snowy egret (*Egretta thula*), Swainson's hawk (*Buteo swainsoni*), tricolored blackbird (*Agelaius tricolor*), and Western yellow-billed cuckoo (*Coccyzus americanus Occidentalis*). The Project site may provide suitable foraging habitat for a variety of potentially occurring special-status birds, including some of those listed above. Potential nesting habitat is present in a variety of trees located within the Project site and in the vicinity. There is also the potential for other special-status birds that do not nest in this region and represent migrants or winter visitants to forage on the Project site.

Several bird species discussed above are protected under federal, state, or local regulations. The Project would result in the removal of an orchard, which is not high-quality nesting or foraging habitat for special-status birds. Powerlines and trees located in the region represent potentially suitable nesting habitat for a variety of special-status birds. Additionally, the agricultural land with low growing crops or grasslands represents potentially suitable nesting habitat for the ground-nesting birds. In general, most nesting occurs from late February and early March through late July and early August, depending on various environmental conditions. The CNDDDB does not provide any records of special status birds on the Project site, or in the immediate vicinity. Nevertheless, birds are highly mobile and can be expected to fly over the Project site at times. They could use the site for foraging, although it is not high-quality habitat for foraging. The Project site does not contain high quality nesting habitat for special status birds given that it is an orchard.

New sources of noise and light during the construction and operational phases of the project could adversely affect nesters if they located adjacent to the Project site in any given year. Additionally, the proposed Project would eliminate the open undeveloped land on the Project site, which could serve as limited foraging habitat for birds throughout the year. Mitigation Measure 3.4-1 requires preconstruction surveys for active nests of special-status birds and buffers around nests should they be identified during the surveys. Development of the proposed Project, with the Mitigation Measure 3.4-1, would ensure that potential impacts to special-status birds are reduced to a less than significant level.

In accordance with Public Resources Code, § 21081, Mitigation Measure 3.4-1 is an appropriate change or alteration that has been required in, or incorporated into, the Project which avoids or substantially lessens the significant environmental effect as identified in the EIR. Based upon the EIR and the entire record before this City Council, this City Council finds that the potential to have direct or indirect effects on special-status bird species will be mitigated to a less than significant level.

2. IMPACT 3.4-4: THE PROPOSED PROJECT HAS THE POTENTIAL TO RESULT IN DIRECT OR INDIRECT EFFECTS ON SPECIAL-STATUS MAMMAL SPECIES.

- (a) Potential Impact. The potential for the Project to result in direct or indirect effects on special-status mammal species is discussed on pages 3.4-28 and 3.4-29 of the Draft EIR.
- (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.4-2.
- (c) Findings. According to the CNDDB, there are eight special-status mammal species that are documented within the nine-quadrangle region for the Project site, including: American badger (*Taxidea taxus*), Fresno kangaroo rat (*Dipodomys nitratoides exilis*), hoary bat (*Lasiurus cinereus*), pallid bat (*Antrozous pallidus*), San Joaquin kit fox (*Vulpes macrotis mutica*), San Joaquin pocket mouse (*Perognathus inornatus*), spotted bat (*Euderma maculatum*), and western mastiff bat (*Eumops perotis californicus*).

The Project site is frequently disturbed from active agricultural activities. As a result, the Project site does not contain high quality habitat for the American badger or Fresno kangaroo rat. American badger, Fresno kangaroo rat, San Joaquin kit fox, or San Joaquin pocket mouse have not been documented within nine miles of the Project site. It is unlikely that the Project site is used by American badger, Fresno kangaroo rat, San Joaquin kit fox, or San Joaquin pocket mouse and these species have not been observed during recent or previous field surveys. Therefore, the proposed Project would have a less than significant impact on these species.

Development of the Project site would eliminate foraging habitat for special-status bats by removing the agricultural areas. These special-status bat species, or evidence of bat

presence (i.e. guano), were not observed during the field surveys and have not been documented on the Project site; therefore, they are not expected to be directly affected. Implementation of Mitigation Measure 3.4-2 requires surveys for active maternity roosts if removal of suitable roosting areas (i.e., buildings, trees, shrubs, bridges, etc.) must occur during the bat pupping season (April 1 through July 31). If a special-status bat maternity roost is located, appropriate buffers around the roost sites would be required. Therefore, development of the proposed Project with Mitigation Measure 3.4-2, would ensure that potential impacts to special status bat species are reduced to a less than significant impact.

In accordance with Public Resources Code, § 21081, Mitigation Measure 3.4-2 is an appropriate change or alteration that has been required in, or incorporated into, the Project which avoids or substantially lessens the significant environmental effect as identified in the EIR. Based upon the EIR and the entire record before this City Council, this City Council finds that the potential to have direct or indirect effects on special-status mammal species will be mitigated to a less than significant level.

B. CULTURAL AND TRIBAL RESOURCES

1. **IMPACT 3.5-1: PROJECT IMPLEMENTATION HAS THE POTENTIAL TO CAUSE A SUBSTANTIAL ADVERSE CHANGE TO A SIGNIFICANT HISTORICAL OR ARCHAEOLOGICAL RESOURCE, AS DEFINED IN CEQA GUIDELINES §15064.5.**

- (a) **Potential Impact.** The potential for the Project to cause a substantial adverse change to a significant historical or archaeological resource, as defined in CEQA Guidelines §15064.5, is discussed on pages 3.5-14 through 3.5-17 of the Draft EIR.
- (b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.5-1.
- (c) **Findings.** The Development Area primarily contains farmland. Three residential dwellings and a warehouse were removed in approximately 2020. The majority of the Development Area is in active agricultural use. The Non-Development Area is located within the City of Clovis' Planning Area but is outside of the City's existing Sphere of Influence and contains existing single-family residences.

The Project site is not located in an area known to have historical and archaeological resources. However, as with most projects in the region that involve ground-disturbing activities, there is the potential for discovery of a previously unknown historical and archaeological resources. Implementation of Mitigation Measure 3.5-1 would ensure that this potential impact is less than significant.

In accordance with Public Resources Code, § 21081, Mitigation Measure 3.5-1 is an appropriate change or alteration that has been required in, or incorporated into, the Project which avoids or substantially lessens the significant environmental effect as

identified in the EIR. Based upon the EIR and the entire record before this City Council, this City Council finds that the potential to cause a substantial adverse change to a significant historical or archaeological resource will be mitigated to a less than significant level.

2. **IMPACT 3.5-2: PROJECT IMPLEMENTATION HAS THE POTENTIAL TO DISTURB HUMAN REMAINS, INCLUDING THOSE INTERRED OUTSIDE OF FORMAL CEMETERIES.**

- (a) **Potential Impact.** The potential for the Project to disturb human remains, including those interred outside of formal cemeteries is discussed on page 3.5-17 of the Draft EIR.
- (b) **Mitigation Measures.** The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.5-1.
- (c) **Findings.** While no human remains were found during field surveys of the Project site, implementation of the Mitigation Measure 3.5-1 would ensure that all construction activities which inadvertently discover human remains implement state-required consultation methods to determine the disposition and historical significance of any discovered human remains. Mitigation Measure 3.5-1 provides the appropriate procedures if subsurface deposits believed to be human in origin are discovered during construction and/or ground disturbance. This would include all work being halted within a 100-foot radius of the discovery in order for the appropriately qualified professionals to evaluate the find and provide recommendations on how to proceed. If the appropriately qualified professional determines that the find is not human remains, work may resume immediately and no agency notifications are required. However, if the appropriately qualified professional determines that the find is human remains, procedures are outlined in Mitigation Measure 3.5-1 on how to proceed to ensure that the County Coroner is contacted for an evaluation, and appropriate mitigation or treatment measures are developed based on the findings of the coroner. Implementation of Mitigation Measure 3.5-1 would ensure that the potential to disturb human remains, including those interred outside of formal cemeteries, would be reduced to a less than significant level.

In accordance with Public Resources Code, § 21081, Mitigation Measure 3.5-1 is an appropriate change or alteration that has been required in, or incorporated into, the Project which avoids or substantially lessens the significant environmental effect as identified in the EIR. Based upon the EIR and the entire record before this City Council, this City Council finds that the potential to disturb human remains, including those interred outside of formal cemeteries, will be mitigated to a less than significant level.

3. **IMPACT 3.5-3: CAUSE A SUBSTANTIAL ADVERSE CHANGE IN THE SIGNIFICANCE OF A TRIBAL CULTURAL RESOURCE, DEFINED IN PUBLIC RESOURCES CODE SECTION 21074, AND THAT IS: LISTED OR ELIGIBLE FOR LISTING IN THE CALIFORNIA REGISTER OF HISTORICAL RESOURCES,**

OR IN A LOCAL REGISTER OF HISTORICAL RESOURCES AS DEFINED IN PUBLIC RESOURCES CODE SECTION 5020.1(k), OR A RESOURCE DETERMINED BY THE LEAD AGENCY.

- (a) Potential Impact. The potential for the Project to cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074, and that is: Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or a resource determined by the lead agency, is discussed on page 3.5-18 of the Draft EIR.
- (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.5-1.
- (c) Findings. While no specific resources have been identified through consultation with affiliated tribes, it is possible that unknown tribal cultural resources may be present within the Development Area. The Proposed Project would be required to follow development requirements, including compliance with local policies, ordinances, and applicable permitting procedures related to protection of tribal resources. Mitigation Measure 3.5-1 has been incorporated to provide the appropriate procedures if subsurface deposits believed to be tribal resources, and/or human in origin are discovered during construction and/or ground disturbance. This would include all work being halted within a 100-foot radius of the discovery in order for the appropriately qualified professionals to evaluate the find and provide recommendations on how to proceed. If the appropriately qualified professional determines that the find does not represent a resource that might qualify as a tribal resource, work may resume immediately and no agency notifications are required. However, if the appropriately qualified professional determines that the find does represent a resource that might qualify as a tribal resource, procedures are outlined in Mitigation Measure 3.5-1 on how to proceed to ensure that the resource is evaluated, and appropriate mitigation or treatment measures are developed.

As discussed under Impacts 3.5-1 and 3.5-2, development of the proposed project could impact unknown archaeological resources including Native American Tribal artifacts and human remains. Implementation of Mitigation Measure 3.5-1 would ensure that the potential impact to tribal resources, including human remains, would be reduced to a less than significant level.

In accordance with Public Resources Code, § 21081, Mitigation Measure 3.5-1 is an appropriate change or alteration that has been required in, or incorporated into, the Project which avoids or substantially lessens the significant environmental effect as identified in the EIR. Based upon the EIR and the entire record before this City Council, this City Council finds that the potential to cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074, and that is: Listed or eligible for listing in the California Register of Historical

Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or a resource determined by the lead agency will be mitigated to a less than significant level.

C. GEOLOGY AND SOILS

1. IMPACT 3.6-6: THE PROPOSED PROJECT HAS THE POTENTIAL TO DIRECTLY OR INDIRECTLY DESTROY A UNIQUE PALEONTOLOGICAL RESOURCE OR SITE OR UNIQUE GEOLOGIC FEATURE.

- (a) Potential Impact. The potential for the Project to directly or indirectly destroy a unique paleontological resource or site or unique geologic feature is discussed on page 3.6-23 of the Draft EIR.
- (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.6-1.
- (c) Findings. Although the Project site is not expected to contain subsurface paleontological resources, the Project site is in an area known to have these resources and it is possible that undiscovered paleontological resources could be encountered during ground-disturbing activities. Damage to or destruction of a paleontological resource would be considered a potentially significant impact under local, state, or federal criteria. Implementation of Mitigation Measure 3.6-1 would ensure steps would be taken to reduce impacts to paleontological resources in the event that they are discovered during construction, including stopping work in the event potential resources are found, evaluation of the resource by a qualified paleontologist and appropriate handling of any potential resource. This mitigation measure would reduce this impact to a less than significant level.

In accordance with Public Resources Code, § 21081, Mitigation Measure 3.6-1 is an appropriate change or alteration that has been required in, or incorporated into, the Project which avoids or substantially lessens the significant environmental effect as identified in the EIR. Based upon the EIR and the entire record before this City Council, this City Council finds that the potential to directly or indirectly destroy a unique paleontological resource or site or unique geologic feature will be mitigated to a less than significant level.

D. HAZARDS AND HAZARDOUS MATERIALS

1. IMPACT 3.8-1: POTENTIAL TO CREATE A SIGNIFICANT HAZARD THROUGH THE ROUTINE TRANSPORT, USE, OR DISPOSAL OF HAZARDOUS MATERIALS OR THROUGH THE REASONABLY FORESEEABLE UPSET AND ACCIDENT CONDITIONS INVOLVING THE RELEASE OF HAZARDOUS MATERIALS INTO THE ENVIRONMENT.

- (a) Potential Impact. The potential to create a significant hazard through the routine transport, use, or disposal of hazardous materials or through the reasonably foreseeable

upset and accident conditions involving the release of hazardous materials into the environment is discussed on pages 3.8-20 through 3.8-24 of the Draft EIR.

- (b) Mitigation Measures. The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measures 3.8-1 and 3.8-2.
- (c) Findings. Based on the review of historical aerial photographs, a site reconnaissance, and contacts with the local regulatory agencies, there is evidence that potential areas of concern (PAOCs) exist in connection with the historical uses of the Development Area. During the course of the Phase I Environmental Site Assessment (ESA), no evidence of recognized environmental conditions (RECs), controlled RECs (CRECs) and historical RECs (HRECs) were identified in conjunction with the Development Area as defined by ASTM E 1527-13. However, the following PAOCs are presented:
- Adjacent to the north of the on-site warehouse² and lined against its back wall, three approximately 250-gallon aboveground storage (AST) tanks were observed. Two ASTs contained diesel fuel and the third contained gasoline. Additionally, four 55-gallon drums containing motor oil were observed to be located to the west of the ASTs, which exhibited minimis staining. The site reconnaissance was completed a day following a heavy rain event and it was not clear if the ground surface below the ASTs and/or drums exhibited any significant petroleum product staining because the ground remained saturated with rainwater precluding visual observations. Consequently, the specific condition of the ground surface underlying the ASTs and drums is unknown. The ASTs and drums are shown in Figure 3.8-1.
 - The review of aerial photographs indicates that the Development Area was utilized for agricultural purposes from at least 1937 to the present and that residential structures and associated outbuildings occupied the property from at least 1937, 1979 and 1987 to the present. No records of USTs for the Development Area are on file with the local regulatory agencies; however, USTs on rural or agricultural properties historically have been exempt from requirements for registration with regulatory agencies. Furthermore, Kazan's (the Phase I ESA author) experience with such properties has shown that it was not uncommon for property owners/operators to install USTs for their convenience, especially in the vicinity of structures, which are undocumented and whose presence would remain unknown in spite of the standard data research conducted in the course of this Phase I ESA. It is therefore possible that subsurface features such as unregistered fuel USTs may exist within the structure-related portions of the Development Area, which remain unknown based on the absence of any regulatory, municipality, and/or interview data, or other evidence indicating their presence or location. Consequently, despite

² Note – this warehouse was removed in 2020.

an absence of data suggesting their presence, the presence or absence of USTs associated with on-site structures in a historical agricultural setting on the Development Area is unknown.

Additionally, two domestic water wells and five agricultural water wells were observed to be associated with the Development Area. If the on-site water wells are not to be used in the future, they should be properly abandoned/destroyed in accordance with state and local guidelines. The wells are shown in Figure 3.8-1 of the Draft EIR.

Further, construction workers and the general public could be exposed to hazards and hazardous materials as a result of improper handling or use during construction activities (particularly by untrained personnel); transportation accidents; or fires, or other emergencies. Construction workers could also be exposed to hazards associated with accidental releases of hazardous materials, which could result in significant impacts to the health and welfare of people and/or wildlife. Additionally, an accidental release into the environment could result in the contamination of water, habitat, and countless resources. Compliance with existing regulatory requirements of the Regional Water Quality Control Board would require the preparation of a project specific Stormwater Pollution Prevention Plan (SWPPP). The SWPPP is required to include project specific best management measures that are designed to control erosion and the loss of topsoil to the extent practicable using best management practices (BMPs) that the RWQCB has deemed effective in controlling erosion, sedimentation, and runoff during construction activities.

Mitigation Measure 3.8-1 was developed to ensure that a well abandonment permit is obtained from Fresno County Department of Public Health Environmental Health Division, and that all on-site wells are properly abandoned. Mitigation Measure 3.8-2 was developed to ensure that additional testing is performed prior to the issuance of grading permits for construction activities in several areas that have been deemed to have potentially hazardous conditions present. The additional testing will investigate whether any of these areas contain hazardous materials that need special treatments. Mitigation Measure 3.8-2 also specifies that all construction or demolition activities comply with Cal/OSHA asbestos and lead worker construction standards, and offsite disposal requirements. This measure also provides specifications for additional soil sampling in stained areas prior to soil disturbance activities. Overall, consistency with federal, State, and local laws and regulations related to the handling of hazardous materials discussed above and implementation of Mitigation Measures 3.8-1 and 3.8-2 would ensure that potential impacts are reduced to a less than significant level.

In accordance with Public Resources Code, § 21081, Measures 3.8-1 and 3.8-2 are appropriate changes or alterations that have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR. Based upon the EIR and the entire record before this City Council, this City Council finds that the potential to create a significant hazard through the routine transport, use, or disposal of hazardous materials or through the reasonably

foreseeable upset and accident conditions involving the release of hazardous materials into the environment will be mitigated to a less than significant level.

E. NOISE

1. **IMPACT 3.11-1: OPERATIONAL NOISE - THE PROPOSED PROJECT HAS THE POTENTIAL TO GENERATE A SUBSTANTIAL TEMPORARY OR PERMANENT INCREASE IN AMBIENT NOISE LEVELS IN THE VICINITY OF THE PROJECT IN EXCESS OF STANDARDS ESTABLISHED IN THE LOCAL GENERAL PLAN OR NOISE ORDINANCE, OR APPLICABLE STANDARDS OF OTHER AGENCIES.**

- (a) **Potential Impact.** The potential to generate a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies during operation is discussed on pages 3.11-15 through 3.11-19 of the Draft EIR.
- (b) **Mitigation Measures.** The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measures 3.11-1 and 3.11-2.
- (c) **Findings.** Tables 3.11-9 and 3.11-10 in Section 3.11 of the Draft EIR compare the existing and existing plus project noise scenario. A change of 3 decibels (dB) or more is required to have a perceptible difference in noise levels. When comparing existing plus project levels to existing levels, Sunnyside Avenue from Project Intersection 1 to Shepherd Avenue has the potential for significant impact as the only roadway segment with an increase of more than 3 dB.

The Project's proposed residential properties are outside of Shepherd Avenue's and Sunnyside Avenue's 70 A-weighted dB (dBA) community noise equivalent level (CNEL) contours. Residences along the first row of Sunnyside will experience levels up to 69.9 dBA CNEL at the property line. Residences along Shepherd Avenue will be exposed to levels up to 69.1 dBA CNEL at the property line. These are within the normally compatible levels for residential uses, but above the exterior 65 dBA CNEL standard as outlined in Table ES-1 of the 2014 General Plan. To meet the exterior residential standards of 65 dBA CNEL, the unshielded residential private yards within 100 ft of the centerline of Shepherd Avenue and Sunnyside Avenue must be shielded by 6-foot sound walls.

The Project's proposed residential properties are outside of Shepherd Avenue's and Sunnyside Avenue's 70 dBA CNEL contours. Residences along the first row of Sunnyside will experience levels up to 69.9 dBA CNEL at the property line. Residences along Shepherd Avenue will be exposed to levels up to 69.1 dBA CNEL at the property line. These are within the normally compatible levels for residential uses, but above the exterior 65 dBA CNEL standard as outlined in Table ES-1 of the 2014 General Plan. To meet the exterior residential standards, the unshielded residential private yards within

100 ft of the centerline of Shepherd Avenue and Sunnyside Avenue must be shielded by 6-foot sound walls as required by Mitigation Measure 3.11-1. The noise calculations show that along Shepherd Avenue a 6' soundwall placed at 70 feet from the centerline (along all unshielded residential private yards within 100 ft of the centerline of Sunnyside and Shepherd Avenues) would result in noise attenuation from 69.1 dBA CNEL down to a range of 62.7 to 63.1 dBA CNEL depending on the precise location along Shepherd Avenue. This range is below the 65 dBA CNEL noise standards with the 6' soundwall installed along all unshielded residential private yards within 100 ft of the centerline of Sunnyside and Shepherd Avenues.

The noise calculations also show that along Sunnyside Avenue a 6' soundwall placed at 47 feet from the centerline (along all unshielded residential private yards within 100 ft of the centerline of Sunnyside and Shepherd Avenues) would result in noise attenuation from 69.9 dBA CNEL down to a range of 63.7 dBA CNEL. This is below the 65 dBA CNEL noise standards with the 6' soundwall installed along all unshielded residential private yards within 100 ft of the centerline of Sunnyside and Shepherd Avenues. Furthermore, as required by Mitigation Measure 3.11-2, any unshielded residential glass facades within 100 ft of the centerline of Shepherd Avenue or Sunnyside Avenue directly facing the subject roadway must have an STC rating of 30 or more. This includes any 2nd-floor windows which would not be shielded by the 6-foot sound walls. Implementation of the following mitigation measures will ensure that these potential impacts are reduced to a less than significant level.

In accordance with Public Resources Code, § 21081, Mitigation Measures 3.11-1 and 3.11-2 are appropriate changes or alterations that have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR. Based upon the EIR and the entire record before this City Council, this City Council finds that the potential to generate a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies during operation will be mitigated to a less than significant level.

2. **IMPACT 3.11-2: CONSTRUCTION NOISE - THE PROPOSED PROJECT HAS THE POTENTIAL TO GENERATE A SUBSTANTIAL TEMPORARY OR PERMANENT INCREASE IN AMBIENT NOISE LEVELS IN THE VICINITY OF THE PROJECT IN EXCESS OF STANDARDS ESTABLISHED IN THE LOCAL GENERAL PLAN OR NOISE ORDINANCE, OR APPLICABLE STANDARDS OF OTHER AGENCIES.**
 - (a) **Potential Impact.** The potential to generate a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies during construction is discussed on pages 3.11-19 and 3.11-20 of the Draft EIR.

- (b) Mitigation Measures. The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measures 3.11-3 and 3.11-4.
- (c) Findings. During the construction of the Project, including roads, water, sewer lines, and related infrastructure, noise from construction activities would add to the noise environment in the Project vicinity. Construction noise is considered a short-term impact and would be considered significant if construction activities are taken outside the allowable times as described in the City of Clovis Municipal Code Section 5.27.604. Construction is anticipated to occur during the permissible hours according to the City's Municipal Code. Construction noise will have a temporary or periodic increase in the ambient noise level above the existing within the Project vicinity. Typical operating cycles for these types of construction equipment may involve one or two minutes of full-power operation followed by three to four minutes at lower power settings. Noise levels will be the loudest during the grading phase. The modeling assumes construction equipment as close as 25 feet from the adjacent residences and an average of 550 feet away from the adjacent residences. Unmitigated noise levels at 550 feet have the potential to reach 60 dBA Leq and 92 dBA Lmax at the nearest sensitive receptors during grading. Noise levels for the other construction phases would be lower, approximately from 46 to 59 dBA Leq and 86 to 93 dBA Lmax. This would be a 13 dB Leq daytime increase in the ambient noise level at the residents along Perrin Rd., Purdue Ave., and East Lexington Ave.

Furthermore, noise reduction policies within the General Plan and standards within the Municipal Code are provided to further reduce construction noise. Mitigation Measure 3.11-3 embodies a preexisting legal requirement from City of Clovis Municipal Code Section 5.27.604 that ensures that construction activities are performed within specific hours. Mitigation Measure 3.11-4 provides specific requirements for attenuating noise during construction. With implementation of the Mitigation Measure 3.11-3 and 3.11-4, the potential impacts are reduced to a less than significant level.

In accordance with Public Resources Code, § 21081, Mitigation Measures 3.11-3 and 3.11-4 are appropriate changes or alterations that have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR. Based upon the EIR and the entire record before this City Council, this City Council finds that the potential to generate a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies during construction will be mitigated to a less than significant level.

V. FINDINGS AND RECOMMENDATIONS REGARDING THOSE IMPACTS WHICH ARE LESS THAN SIGNIFICANT OR LESS THAN CUMULATIVELY CONSIDERABLE

Specific impacts within the following categories of environmental effects were found to be less than significant as set forth in more detail in the Draft EIR.

Aesthetics and Visual Resources: The following specific impacts were found to be less than significant: 3.1-1, 3.1-2, and 3.1-3.

Agricultural Resources: The following specific impacts were found to be less than significant: 3.2-1, 3.2-2, and 3.2-3.

Air Quality: The following specific impacts were found to be less than significant: 3.3-1, 3.3-2, 3.3-3, 3.3-4, and 3.3-5.

Biological Resources: The following specific impacts were found to be less than significant: 3.4-1, 3.4-2, 3.4-5, 3.4-6, 3.4-7, 3.4-8, 3.4-9, and 3.4-10.

Geology and Soils: The following specific impacts were found to be less than significant: 3.6-1, 3.6-2, 3.6-3, 3.6-4, 3.6-5, and 3.6-7.

Greenhouse Gases, Climate Change, and Energy: The following specific impacts were found to be less than significant: 3.7-1 and 3.7-2.

Hazards and Hazardous Materials: The following specific impacts were found to be less than significant: 3.8-2, 3.8-3, 3.8-4, 3.8-5, and 3.8-6.

Hydrology and Water Quality: The following specific impacts were found to be less than significant: 3.9-1, 3.9-2, 3.9-3, 3.9-4, 3.9-5, and 3.9-6.

Land Use and Population: The following specific impacts were found to be less than significant: 3.10-1, 3.10-2, 3.10-3, and 3.10-4.

Noise: The following specific impacts were found to be less than significant: 3.11-3, 3.11-4, and 3.11-5.

Public Services and Recreation: The following specific impacts were found to be less than significant: 3.12-1, 3.12-2, 3.12-3, 3.12-4, 3.12-5, and 3.12-6.

Transportation and Circulation: The following specific impacts were found to be less than significant: 3.13-2 and 3.13-3.

Utilities: The following specific impacts were found to be less than significant: 3.14-1, 3.14-2, 3.14-3, 3.14-4, 3.14-5, and 3.14-6, 3.14-7.

The Project was found to have a less than cumulatively considerable contribution to specific impacts within the following categories of environmental effects as set forth in more detail in the Draft EIR.

Aesthetics and Visual Resources: The following specific impact was found to be less than cumulatively considerable: 4.1, 4.2, and 4.3.

Agricultural Resources: The following specific impact was found to be less than cumulatively considerable: 4.4.

Air Quality: The following specific impact was found to be less than cumulatively considerable 4.5.

Biological Resources: The following specific impact was found to be less than cumulatively considerable: 4.6.

Cultural and Tribal Resources: The following specific impact was found to be less than cumulatively considerable: 4.7.

Geology and Soils: The following specific impact was found to be less than cumulatively considerable: 4.8.

Greenhouse Gases, Climate Change, and Energy: The following specific impact was found to be less than cumulatively considerable: 4.9 and 4.10.

Hazards and Hazardous Materials: The following specific impact was found to be less than cumulatively considerable: 4.11.

Hydrology and Water Quality: The following specific impacts were found to be less than cumulatively considerable: 4.12, 4.13, 4.14, and 4.15.

Land Use and Population: The following specific impact was found to be less than cumulatively considerable: 4.16 and 4.17.

Noise: The following specific impact was found to be less than cumulatively considerable: 4.18.

Public Services and Recreation: The following specific impact was found to be less than cumulatively considerable: 4.19.

Transportation and Circulation: The following specific impact was found to be less than cumulatively considerable: 4.21.

Utilities: The following specific impacts were found to be less than cumulatively considerable: 4.22, 4.23, 4.24, 4.25, and 4.26.

The above impacts are less than significant or less than cumulatively considerable for one of the following reasons:

- The EIR determined that the impact is less than significant for the Project;
- The EIR determined that the Project would have a less than cumulatively considerable contribution to the cumulative impact; or
- The EIR determined that the impact is beneficial (would be reduced) for the Project.

VI. PROJECT ALTERNATIVES

A. IDENTIFICATION OF PROJECT OBJECTIVES

An EIR is required to identify a range of reasonable alternatives to the project. The “range of potential alternatives to the project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects.” (CEQA Guidelines Section 15126.6(c).) “Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or the site is already owned by the proponent).” (CEQA Guidelines Section 15126.6(f)(1).)

The principal Project objective is the expansion of the City’s SOI to include the Project site, and the annexation/reorganization, approval and subsequent development of the Development Area.

The quantifiable objectives include the development of up to 605 single-family residential units. The quantifiable objectives include the development of open space totaling approximately 5.54 acres, including 2.25 acres of trails, 2.39 acres of promenade/pedestrian circulation, and 0.90 acres of parks. The Project objectives also include the installation of new public and private roadways that will provide pedestrian and vehicular access to the Project site and surrounding community areas, and other improvements, including water supply, storm drainage, sewer facilities and landscaping to serve the residential uses.

The goals of the proposed development are as follows:

- Provide residential housing opportunities that are visually attractive and accommodate the future housing demand in Clovis, consistent with policies stated in *A Landscape of Choice to modestly increase urban density*.
- Establish a mixture of housing types, sizes and densities that collectively provide for local and regional housing demand, consistent with City requirements as stated in the latest Regional Housing Needs Analysis (RHNA).
- Provide infrastructure that meets City standards and is integrated with existing and planned facilities and connections.
- Establish a logical phasing plan designed to ensure that each phase of development would include necessary public improvements required to meet City standards.
- Expand the City’s Sphere of Influence in order to establish a logical and orderly boundary that promotes the efficient extension of municipal services.

B. ALTERNATIVES ANALYSIS IN EIR

The alternatives analysis provides a summary of the relative impact levels of significance associated with each alternative for each of the environmental issue areas analyzed in the Draft EIR. The environmental analysis for each of the alternatives is included in Chapter 5.0.

1. NO PROJECT (NO BUILD) ALTERNATIVE:

The **No Project (No Build) Alternative** is discussed on pages 5.0-3, and 5.0-4 through 5.0-21 of the Draft EIR. Under the No Project (No Build) Alternative development of the Project site would not occur, and the Project site would remain in its current existing condition. It is noted that the No Project (No Build) Alternative would fail to meet the Project objectives.

Findings: Environmental benefits of this alternative over the proposed Project include the reduction of impacts to Aesthetics and Visual Resources, Agricultural Resources, Air Quality, Biological Resources, Cultural and Tribal Resources, Geology and Soils, Greenhouse Gases, Climate Change and Energy, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Population, Noise, Public Services and Recreation, Transportation and Circulation, and Utilities.

While the City recognizes the environmental benefits of the No Project (No Build) Alternative, this alternative would not achieve any of the Project objectives. Specifically, this alternative would not: provide residential housing opportunities that are visually attractive and accommodate the future housing demand in Clovis, consistent with policies stated in A Landscape of Choice to modestly increase urban density; establish a mixture of housing types, sizes and densities that collectively provide for local and regional housing demand, consistent with City Requirements as stated in the latest Regional Housing Needs Analysis (RHNA); provide infrastructure that meets City standards and is integrated with existing and planned facilities and connections; establish a logical phasing plan designed to ensure that each phase of development would include necessary public improvements required to meet City standards; or expand the City's Sphere of Influence in order to establish a logical and orderly boundary that promotes the efficient extension of municipal services.

Senate Bill 330 was enacted in 2019 and is known as the "Housing Crisis Act of 2019." In passing SB 330, the Legislature declared "a statewide housing emergency, to be in effect until January 1, 2025." (Stats. 2019, ch. 654, § 2(b).) By increasing the housing supply in the City, the Project would help to ameliorate some of the conditions described by the Legislature.

The No Project would represent an undesirable policy outcome that fails to meet what the City considers to be key project objectives. The alternative is therefore infeasible. Stated another way, specific economic, legal, social, technological, or other considerations make infeasible the No Project Alternative identified in the Final EIR.

For all of these foregoing reasons and any one of them individually, this alternative is determined to be infeasible and rejected.

2. INCREASED DENSITY MIXED USE ALTERNATIVE:

The **Increased Density Mixed Use Alternative** is discussed on pages 5.0-3, and 5.0-21 through 5.0-38 of the Draft EIR. Under the Increased Density Mixed Use Alternative, the proposed Project would be developed at a higher density for the residential uses and would also include a mixed-use component to the alternative. Approximately 80 percent of the Development Area (62 acres) would be developed with 605 residential units (9.75 du/ac). This would still fall under the Medium-High Density (MH) 7.1–15.0 du/ac land use category. The remaining 15 acres of the Development Area would be developed with a mix of commercial and higher density residential. The mixed-use area would have 10 acres for High Density (H) 15.1–25.0 du/ac. The alternative assumes 195 apartments constructed at a density of 19.5 du/ac. There would also be 5 acres of Neighborhood Commercial (NC) (Max FAR 0.50). This area would be developed as a neighborhood-scale shopping facility. The FAR would allow for 108,000 square feet of commercial. It is anticipated that the commercial would include an anchor store such as a small supermarket with a wide range of ancillary uses including banks, restaurants, service businesses, and other related activities are generally found in these planned commercial centers.

Findings: This alternative would not reduce any impacts compared to the Project. Impacts related to Aesthetics and Visual Resources, Agricultural Resources, Biological Resources, Cultural and Tribal Resources, Geology and Soils, Hazards and Hazardous Materials, and Hydrology and Water Quality would be equal to the Project. The remaining resources areas (Air Quality, Greenhouse Gases, Climate Change, and Energy, Land Use and Population, Noise, Public Services and Recreation, Transportation and Circulation, and Utilities) would have greater impacts to the Project.

The alternative is not environmentally superior to the Project with respect to any category of environmental impact for which the Project has significant unavoidable effects, and the alternative would not substantially lessen or avoid any of the significant unavoidable effects of the Project. (See also DEIR, p. 5.0-73 [Table 5.0-1: Comparison of Alternative Project Impacts to the Proposed Project.]

Reducing the physical area to construct the same number of dwelling units would require increasing the building height to accommodate the necessary square footage for a dwelling unit. The remaining area would also have development, but of a different use. This increased massing at the Project's locations is not as compatible with the adjoining neighborhoods of existing one- and two-story single-family homes. Historically, the City Council generally prefers the greater number of one- and two-story homes that will be built under the Project as compared with this alternative which may require three story homes. Public comments have shown a preference for one story housing over multi-story housing. Under the circumstances, this one alternative is less compatible with existing City development patterns and adjacent neighborhoods.

Additionally, there is not a proven market demand for the increased density at this site. The higher density housing would be more aligned with metropolitan urban centers, but not as much in suburban areas. The site is located within an area of the City which consists of traditional one- and two-story single-family homes. In this particular location, meeting market demand is strongly associated with compatibility with the scale of the existing residential neighborhoods. The lower density housing is more compatible with the market and the neighborhood, whereas an higher density with taller residential buildings would not be as compatible.

Moreover, in the absence of any need under CEQA to decrease the proposed development footprint of the Project by opting instead to approve this alternative, the City is inclined to give weight to the Project applicants' professional judgment regarding the housing mix to propose on the subject properties. The Project applicants have not sought approval of this alternative. Rather, the applicants proposed a mix of housing units in a configuration that reflected the professional judgment of their planners, architects, engineers, consultants, attorneys, and other development experts. The City sees no reason to impose on the applicants a development mix and configuration at odds with what they proposed, particularly when such a configuration is not necessary in order to reduce the severity of any of the significant unavoidable impacts of the Project. A local agency decision-making body "may approve a developer's choice of a project once its significant adverse environmental effects have been reduced to an acceptable level that is, all avoidable significant damage to the environment has been eliminated and that which remains is otherwise acceptable." (Laurel Hills, *supra*, 83 Cal.App.3d at p. 521.)

For all of these foregoing reasons and any one of them individually, this alternative is determined to be infeasible and rejected.

3. REDUCED DENSITY ALTERNATIVE:

The **Reduced Density Alternative** is discussed on pages 5.0-3, and 5.0-38 through 5.0-55 of the Draft EIR. Under the Reduced Density Alternative, the proposed Project would have a reduced density in the Development Area that would fall under the Very Low Density (VL) 0.6–2.0 du/ac land use. The alternative assumes 150 residential units at approximately 2 du/ac. This use is described as large lot single-family residences and appurtenant structures within an identifiable residential neighborhood. This alternative would include neighborhood parks and all the infrastructure necessary to connect to City services.

Findings: Environmental benefits of this alternative over the proposed Project include the reduction or slight reduction of impacts Air Quality, Greenhouse Gases, Climate Change and Energy, Land Use and Population, Noise, Public Services and Recreation, Transportation and Circulation, and Utilities. The remaining resources areas (Aesthetics and Visual Resources, Agricultural Resources, Biological Resources, Cultural and Tribal Resources, Geology and Soils, Hazardous and Hazardous Materials, and Hydrology and Water Quality) would have equal or similar impacts to the Project.

The alternative is less desirable than the Project and does not provide the same level of benefits as the proposed Project. While the City recognizes the environmental benefits of this alternative, this alternative would not achieve all of the Project objectives. The following two project objectives are not fully met:

- Provide residential housing opportunities that are visually attractive and accommodate the future housing demand in Clovis, consistent with policies stated in *A Landscape of Choice* to modestly increase urban density.
- Establish a mixture of housing types, sizes and densities that collectively provide for local and regional housing demand, consistent with City Requirements as stated in the latest Regional Housing Needs Analysis (RHNA).

The Reduced Density Alternative would provide housing (150 units), but it would be 455 units less than what is proposed. The first objective listed above references "*A Landscape of Choice*" which is a regional document that provides direction for the region to utilize urban land as efficiently as possible while providing an adequate supply of a broad range of housing types and densities to meet market demand. One of the guiding principles recommends measures to facilitate and encourage compact growth to all urban land uses including commercial, industrial and institutional uses. The Reduced Density Alternative is not consistent with this guidance for the region.

The second objective listed above references establishing a mix of housing to provide for local and regional housing demand, and consistent with the City requirements in the latest Regional Housing Needs Analysis (RHNA). In light of the Legislature's repeated determinations in recent years that California is facing a statewide housing crisis, State has provided the City with good reason to exercise its legislative discretion to facilitate the construction of new housing. Government Code section 65889.5, subdivision (a)(1)(A), states that "[t]he lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California." Subdivision (a)(1)(D) of that section adds that "[m]any local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing development projects, reduction in density of housing projects, and excessive standards for housing development projects." The Reduced Density Alternative would result in 455 fewer units than the proposed Project, which is not consistent with Legislature's guidance for solving California statewide housing crisis.

This alternative would also reduce the property tax revenue compared to the Project.

For all of these foregoing reasons and any one of them individually, this alternative is determined to be infeasible and rejected.

4. REDUCED SPHERE OF INFLUENCE ALTERNATIVE:

The **Reduced Sphere of Influence Alternative** is discussed on pages 5.0-3, and 5.0-55 through 5.0-72 of the Draft EIR. Under the Reduced Sphere of Influence Alternative, the proposed Project would only expand the Sphere of Influence and annex the Developed Area and would exclude the 78-acre Sphere of Influence (SOI) expansion to the north and east of the Development Area. Physically, there is little difference between the proposed Project and this alternative. It is noted, however, that the reduction in the SOI would eliminate that possibility of the Non-Development Area connecting to City services at some point in the future, if desired by those residents.

Findings: All environmental topics would have equal impacts compared to the Project.

On balance, the alternative is less desirable than the Project and does not provide benefits to the community when compared to the proposed Project. This alternative would not achieve all of the Project objectives. For example, the Reduced Sphere of Influence Alternative would not meet the fifth Project objective because it would not expand the SOI to the north and east of the Development Area in alignment with the long-term growth plans for the City of Clovis. Also, the expansion of the SOI is intended to provide a future possibility for the Non-Development Area to connect to City services at some point in the future, if desired by those residents, however, that possibility would be eliminated under this alternative.

For all of these foregoing reasons and any one of them individually, this alternative is determined to be infeasible and rejected.

4. ENVIRONMENTALLY SUPERIOR ALTERNATIVE:

CEQA requires that an environmentally superior alternative be identified among the alternatives that are analyzed in the EIR. If the No Project Alternative is the environmentally superior alternative, an EIR must also identify an environmentally superior alternative among the other alternatives (CEQA Guidelines Section 15126.6(e)(2)). The environmentally superior alternative is that alternative with the least adverse environmental impacts when compared to the proposed project.

As shown on Table 5.0-1 of the Draft EIR (on page 5.0-73), a comparison of alternatives is presented. The No Project (No Build) Alternative is the environmentally superior alternative. However, as required by CEQA, when the No Project (No Build) Alternative is the environmentally superior alternative, the environmentally superior alternative among the others must be identified. Therefore, the Reduced Density Alternative would be the environmentally superior alternative because all environmental issues would have reduced impacts compared to the proposed Project. It is noted that the Reduced Density Alternative does not fully meet all of the Project objectives. The following two project objectives are not fully met:

- Provide residential housing opportunities that are visually attractive and accommodate the future housing demand in Clovis, consistent with policies stated in *A Landscape of Choice* to modestly increase urban density.

- Establish a mixture of housing types, sizes and densities that collectively provide for local and regional housing demand, consistent with City Requirements as stated in the latest Regional Housing Needs Analysis (RHNA).

The Reduced Density Alternative would provide housing (150 units), but it would be 455 units less than what is proposed. The first objective listed above references “*A Landscape of Choice*” which is a regional document that provides direction for the region to utilize urban land as efficiently as possible while providing an adequate supply of a broad range of housing types and densities to meet market demand. One of the guiding principles recommends measures to facilitate and encourage compact growth to all urban land uses including commercial, industrial and institutional uses. The Reduced Density Alternative is not consistent with this guidance for the region.

The second objective listed above references establishing a mix of housing to provide for local and regional housing demand, and consistent with the City requirements in the latest Regional Housing Needs Analysis (RHNA). In light of the Legislature’s repeated determinations in recent years that California is facing a statewide housing crisis, State has provided the City with good reason to exercise its legislative discretion to facilitate the construction of new housing. Government Code section 65889.5, subdivision (a)(1)(A), states that “[t]he lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.” Subdivision (a)(1)(D) of that section adds that “[m]any local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing development projects, reduction in density of housing projects, and excessive standards for housing development projects.” The Reduced Density Alternative would result in 455 fewer units than the proposed Project, which is not consistent with Legislature’s guidance for solving California statewide housing crisis.

For the reasons provided above, this alternative is determined to be infeasible and rejected.

VII. STATEMENTS OF OVERRIDING CONSIDERATIONS RELATED TO THE SHEPHERD NORTH FINDINGS

As described in detail in Section III of these Findings, the following significant and unavoidable impacts could occur with implementation of the Project:

- Impact 3.13-1: Project development would result in VMT increases that are greater than 87 percent of Baseline conditions;
- Impact 4.20: Under Cumulative conditions, Project development would result in VMT increases that are greater than 87 percent of Baseline conditions.

The following statements identify the reasons why, in the City Council's judgment, the benefits of the Project outweigh the significant and unavoidable effects. The substantial evidence supporting the enumerated benefits of the Project can be found in the preceding findings, in the Project itself, and in the record of proceedings as defined herein. Each of the overriding considerations set forth below constitutes a separate and independent ground for finding that the benefits of the Project outweigh its significant adverse environmental effects and is an overriding consideration warranting

approval. Thus, if a court were to find that any particular benefit is not supported by substantial evidence, the City Council would rely on whatever benefit(s) that the court did find were supported by substantial evidence.

The City finds that the Project would have the following economic, social, technological, and environmental benefits:

1. **Expansion of the City's Housing Stock.** One objective of the Project references establishing a mix of housing to provide for local and regional housing demand, and consistent with the City requirements in the latest Regional Housing Needs Analysis (RHNA). In light of the Legislature's repeated determinations in recent years that California is facing a statewide housing crisis, State has provided the City with good reason to exercise its legislative discretion to facilitate the construction of new housing. Government Code section 65889.5, subdivision (a)(1)(A), states that "[t]he lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California." Subdivision (a)(1)(D) of that section adds that "[m]any local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing development projects, reduction in density of housing projects, and excessive standards for housing development projects." The Project will provide housing resources to meet the demands of a growing population of the region, thereby helping to lessen upward pressure on housing costs. By adding new residential units in the City, the Project directly addresses the crisis, thereby furthering state housing policy while providing additional places for Clovis residents to live.
2. **Consistency with A Landscape of Choice.** One objective of Project references "*A Landscape of Choice*" which is a regional document that provides direction for the region to utilize urban land as efficiently as possible while providing an adequate supply of a broad range of housing types and densities to meet market demand. One of the guiding principles recommends measures to facilitate and encourage compact growth to all urban land uses including commercial, industrial and institutional uses. The Project is generally consistent with the guiding principles. The Project is located adjacent to existing uses, and in the context of surrounding uses would be considered infill because it would develop a mostly vacant property surrounded by existing and/or planned development. The Project is located on existing community streets and includes new public streets to serve the new residences.
3. **Create Employment Opportunities for Local Residents.** The Project will have a positive impact on employment levels in the City by generating diversity in employment opportunities, including near-term construction, home sales, and materials sales jobs. In the longer-term, employment opportunities will include maintenance, contracting/renovation, landscaping, home resales, and other services. The Project population will also generate demand for local goods and services, increasing economic activity in the City. Consequently, it is reasonably expected that the City and its residents will enjoy the economic and social benefits from added employment opportunities and economic activity created by the Project.

4. **Contribute to and Fund Needed Infrastructure Improvements.** The Project consists of new development that will be required to contribute to needed infrastructure improvements by paying its fair share towards infrastructure improvements. The Project will also construct or contribute to funding other infrastructure improvements that will benefit additional development projects and City residents and visitors.
5. **Increase Customer Base for Retail Activity.** The Project will provide additional residents to the City who will have disposable income to support the City's retailers and increase retail activity.
6. **Generate Economic Benefits from Taxes.** The Project will provide increased property tax revenue to the City, local schools, and other agencies. Additionally, residents will purchase items that will generate additional sales tax revenue. These revenues will benefit the City and other local governmental agencies, and their residents and constituencies, by providing needed revenue for the provision of required services and amenities. Specific to the City of Clovis, these revenues will go to the City's General Fund, which is the primary source of funding for the construction, operation and maintenance of a number of essential City services, programs and facilities, including fire and police services, recreation programs, transit operations and administrative functions, among other things.

CONCLUSION

The City Council has balanced these benefits and considerations against the potentially significant unavoidable environmental effects of the Project and has concluded that the impacts are outweighed by these benefits, among others. After balancing environmental impacts against Project benefits, the City Council has concluded that the benefits the City will derive from the Project, as compared to existing and planned future conditions, outweigh the risks. The City Council believes the Project benefits outlined above override the significant and unavoidable environmental costs associated with the Project.

In sum, the City Council adopts the mitigation measures in the FEIR, adopts the final Mitigation Monitoring and Reporting Plan, and approves the Project, after finding that any residual or remaining effects on the environment resulting from the Project, identified as significant and unavoidable in the preceding Findings of Fact, are acceptable due to the benefits set forth in the preceding Statement of Overriding Considerations.

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