

**RESOLUTION NO. 24-\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KERMAN APPROVING GENERAL PLAN AMENDMENT 2023-01 TO AMEND THE 2040 KERMAN GENERAL PLAN TO ADD THE SD-R-2.5 ZONING DISTRICT AS A COMPATIBLE ZONING DISTRICT WITHIN THE MEDIUM DENSITY RESIDENTIAL LAND USE DESIGNATION AND SET A MINIMUM RESIDENTIAL DENSITY OF FIVE (5) DWELLING UNITS PER ACRE (GPA 2023-01) AND ADOPT MITIGATED NEGATIVE DECLARATION (ENV 2023-01) AND MITIGATED MONITORING AND REPORTING PROGRAM**

WHEREAS, State Law requires that local agencies adopt General Plans containing specific mandatory elements; and

WHEREAS, the City of Kerman has adopted a Comprehensive General Plan Update and Environmental Impact Report in July 2020, and the City of Kerman is currently in compliance with State mandates relative to Elements of the General Plan; and

WHEREAS, State law also provides for periodic review, updates, and amendments of its various plans; and

WHEREAS, an application was filed by Whispering Falls, LLC., pertaining to six (6) parcels consisting of 64.76 acres located on the east side of South Modoc Avenue between West Kearney Boulevard and the West California Avenue Alignment/San Joaquin Valley Railroad identified as APNs 020-160-36S, 020-160-18S, 020-160-19S, 020-041-45S, 020-041-47S, and 020-041-09U (“Project Area”); and

WHEREAS, the Project Area has a City of Kerman 2040 General Plan land use designation of MDR – Medium Density Residential (approximately 56.89 acres) and HDR – High Density Residential (approximately 5 acres); and

WHEREAS, the MDR land use designation allows up to 12 units per acre with no minimum density, and the HDR land use designation allows between 20 and 24 units per acre; and

WHEREAS, 20-acres within the Project Area identified as APN 020-160-36S, located on the east side of South Modoc Avenue between West California Avenue and West California Avenue Alignment/San Joaquin Valley Railroad has two (2) underlying land use designations, MDR (15 acres) and HDR (5 acres); and

WHEREAS, Whispering Falls, LLC. proposes a variety of housing types and sizes on the 20-acre parcel, including 118 single-family units and 54 multi-family units, plus a community center, on and off-site improvements including roadways, sidewalks, landscaping, parking, and 3.19 acres of common open space; and,

WHEREAS, because the project combines single-family and multi-family residential uses on a site that is designated MDR – Medium Density Residential and HDR – High Density Residential, the smart development (SD) combining district is the most appropriate and applicable zoning district for combining residential uses on one site; and

WHEREAS, the density range permitted in the SD-R-2.5 zone district is 8-20 units per acre, which is consistent with the density ranges of the MDR and HDR zoning districts; and

WHEREAS, approval of the project would require approval of Annexation 2023-01, General Plan Amendment 2023-01, Rezone 2023-01, Tentative Subdivision Map 2023-01, Development Plans 2023-01 and 2023-02, Conditional Use Permit 2023-02, and Variance 2023-01; and

WHEREAS, a proposal has been made requesting amendments to the Kerman General Plan text, as shown in the attached **Exhibit '1'**; and

WHEREAS, the requested General Plan Amendment consists of amendments to the Kerman General Plan that would add the SD-R-2.5 zoning district as a compatible zoning district within the Medium Density Residential land use designation and set a minimum residential density of 5 dwelling units per acre; and

WHEREAS, the proposed General Plan Amendment will provide the required consistency between the General Plan and Zoning Ordinance; and

WHEREAS, the proposed General Plan Amendment is not expected to be detrimental to the health, safety and welfare of the city; and

WHEREAS, the City of Kerman, acting as the Lead Agency, prepared an Initial Study, Mitigated Negative Declaration 2023-01, provided in attached **Exhibit '2'**, and Mitigation Monitoring and Reporting Program (SCH #2024040147) for the project, provided in attached **Exhibit '3'**, and this related General Plan Amendment; and the project is in compliance with the California Environmental Quality Act (CEQA); and

WHEREAS, the Initial Study, Mitigated Negative Declaration, and Mitigation Monitoring and Reporting Program, and the General Plan Amendment and related entitlements were distributed for public review and comment to various local agencies and groups, and public notice of this public hearing was given by mailed and published notice, in accordance with the applicable State and Municipal Codes and standard practices; and

WHEREAS, the Planning Commission has completed its review of the Staff Report and documents submitted for the proposed project, evaluated the information contained in the mitigated negative declaration, and considered testimony received as a part of the public hearing process; and

WHEREAS, the Planning Commission recommends that the City Council adopt General Plan Amendment 2023-01 per Resolution 2024-14; and

WHEREAS, with all requirements having been met, the City Council now desires to approve General Plan Amendment 2023-01 and adopt the Mitigated Negative Declaration prepared for the Project, including the associated Mitigation Monitoring and Reporting Program.

NOW THEREFORE, be it resolved by the City Council of the City of Kerman as follows:

1. Recitals. The City council hereby finds that all of the facts set forth in the recitals above are true and correct and incorporated herein.
2. CEQA. Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA) of 1970, the City, as the Lead Agency, has analyzed the proposed Project and has prepared an Initial Study and Mitigated Negative Declaration 2023-01 (MND) and Mitigated Monitoring and Reporting Program (SCH #2024040147) to evaluate the environmental effects of the project, including the proposed annexation. The City Council has fully considered the Mitigated Negative Declaration. The Environmental Assessment / Initial Study was prepared for this project in accordance with the requirements of the CEQA Guidelines and reflects the City Council's independent judgment and analysis. This process included the distribution of requests for comment from other responsible or affected agencies and interested organizations. Preparation of Environmental Assessment necessitated a thorough review of the proposed Project and relevant environmental issues. While the proposed Project could have a potentially significant effect on the environment, based on its independent judgment and analysis, the City Council finds that feasible mitigation measures or alternatives have been incorporated into the project in order to avoid the effects or mitigate the effects to a point where no significant effect on the environment will occur, and there is no substantial evidence in the record that this Project may have any direct, indirect or cumulative effects on the environment that are potentially significant and adverse. The proposed Project will not result in any adverse effects which fall within the "Mandatory Findings of Significance" contained in Section 15065 of the State CEQA Guidelines. The project-specific mitigation measures included in the Project to avoid potentially significant effects are set forth in the Initial Study/Mitigated Negative Declaration and accompanying Mitigation Monitoring and Reporting Program. With the project specific mitigations imposed, there is no substantial evidence in the record that this Project may have significant direct, indirect or cumulative effects on the environment. As such, the City Council also finds and determines that in light of the entire administrative record and the substantial evidence before it, the Project has been adequately environmentally assessed as required by CEQA per the Initial Study/Mitigated Negative Declaration.
3. Adoption of MND and Mitigation Monitoring and Reporting Program. Based on the foregoing, the City Council adopts the Mitigated Negative Declaration prepared for the Project, including the associated Mitigation Monitoring and Reporting Program, as the project will not result in any significant, adverse, environmental impacts with the mitigation imposed. The City of Kerman Community Development Department located at 850 S. Madera Ave. Kerman, CA 93630, is designated as the custodian of the documents and other materials that constitute the record of proceedings upon which the decision is based. The City Council authorizes the Director, or designee, to execute and file with the Fresno County Clerk, as appropriate, a Notice of Determination for approval of the Project.
4. General Plan Consistency. The City Council finds that the public necessity, general welfare, good planning practices, public interest, and convenience warrant approval of General Plan Amendment 2023-01, including the following:

- a. The change is consistent with the General Plan goals and policies.

*The proposed use and development of the site is consistent with the General Plan. Upon approval of the annexation and pre-zone to the smart development zone district, the development of the site with residential uses and at densities allowed within the underlying land use designations will be consistent with the General Plan. Moreover, GPA 2023-02 is supported by policy LU-3.3 Prevent Sprawl Development and LU-3.5 Increase Density and Intensity within City Limits., which prevents urban sprawl by allowing denser developments within the City's land uses.*

- b. The change is consistent with the purpose of the Zoning Ordinance to preserve and promote the public health, safety and welfare of the city and to facilitate growth and expansion of the city in a precise and orderly manner.

*The project has been reviewed by the various City departments and evaluated for conformity with the requirements of the Zoning Ordinance. The proposed use and development are consistent with the applicable development standards. Any other improvements or mitigations required for the health, safety, and welfare of the community have been applied to this project as mitigation measures and conditions of approval.*

- c. There will not be significant effects upon the quality of the environment and natural resources.

*An initial study was prepared for this project consistent with the CEQA, which resulted in a proposed mitigated negative declaration (MND). Per the MND, the project will not have a significant, adverse effect on the environment as mitigated.*

5. Approval of General Plan Amendment. Given that all the findings can be made, the City Council approves GPA 2023-01, to add the SD-R-2.5 zoning district as a compatible zoning district within the medium density residential land use designation and set a minimum residential density of five (5) dwelling units per acre, all as per the attached Exhibit '1' made a part hereof by this reference.
6. Effective Date of Resolution. This Resolution shall become effective immediately. The City Clerk shall certify to the adoption of the Resolution and shall transmit copies of the same to the City Council of the City of Kerman.

The foregoing resolution was introduced and adopted by the City Council of the City of Kerman at a regular meeting held on the 28th day of August 2024, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

The foregoing resolution is hereby approved.

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Maria Pacheco  
Mayor

ATTEST:

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Josie Camacho  
City Clerk

## Exhibit '1'

### General Plan Amendment 2023-01

Change from: Page 3-6

Kerman General Plan		
Designation	Description	Density / Intensity
Medium Density Residential  <b>MDR</b>  <b>Compatible Zoning:</b> R-1-7 R-1-12 R-2 SD-R-5 SD-R-4.5 SD-R-3.5 PD-R-7 PD-R-12 <del>PD</del>	<b>Purpose and Application:</b> This designation allows for residential development at a density of up to 12 units per gross acre. Development in this category could include a mix of single-family and multifamily residences, including duplexes, triplexes, fourplexes, and mobile homes. Each quadrant of the community will contain land that is designated for this type of residential development to provide a mix of housing types.  <b>Typical Uses:</b> <ul style="list-style-type: none"> <li>▪ Single family detached dwellings</li> <li>▪ Small-lot multifamily dwellings, including duplexes, triplexes, fourplexes, and mobile homes</li> <li>▪ Accessory dwelling units</li> <li>▪ Compatible public and quasi-public uses (e.g., churches, day-care centers, community centers, parks, and schools)</li> </ul>	<b>Maximum Density:</b> 12 du/ac

Change to: Page 3-6

### Kerman General Plan

Designation	Description	Density / Intensity
Medium Density Residential  <b>MDR</b>  <b>Compatible Zoning:</b> R-1-7 R-1-12 R-2 SD-R-5 SD-R-4.5 SD-R-3.5 <a href="#">SD-R-2.5</a> PD-R-7 PD R-12	<b>Purpose and Application:</b> This designation allows for residential development at a density of up to 12 units per gross acre. Development in this category could include a mix of single-family and multifamily residences, including duplexes, triplexes, fourplexes, and mobile homes. Each quadrant of the community will contain land that is designated for this type of residential development to provide a mix of housing types.  <b>Typical Uses:</b> <ul style="list-style-type: none"> <li>▪ Single family detached dwellings</li> <li>▪ Small-lot multifamily dwellings, including duplexes, triplexes, fourplexes, and mobile homes</li> <li>▪ Accessory dwelling units</li> <li>▪ Compatible public and quasi-public uses (e.g., churches, day-care centers, community centers, parks, and schools)</li> </ul>	<b>Maximum Density:</b> 12 du/ac  <b>Minimum Density:</b> <a href="#">5 du/ac</a>

## **Exhibit '2'**

Initial Study and Mitigated Negative Declaration (Environmental Assessment 2023-01)

The Initial Study and Mitigated Negative Declaration (Environmental Assessment 2023-01) is posted on the City's Website under the Community Development Department, Planning Division, Planning Projects, 2024 Projects webpage at <https://www.cityofkerman.net/175/Planning-Projects>.

**Exhibit '3'**

Mitigation Monitoring and Reporting Program

**WHISPERING FALLS TSM 2023-01  
MITIGATION MONITORING AND REPORTING PROGRAM  
JULY 2024**

This mitigation measure monitoring and reporting checklist was prepared pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15097 and Section 21081.6 of the Public Resources Code (PRC). The timing of implementing each mitigation measure is identified in the checklist, as well as identifies the entity responsible for verifying that the mitigation measures applied to a Project are performed. Project applicants are responsible for providing evidence that mitigation measures are implemented. As lead agency, the City of Kerman is responsible for verifying that mitigation is performed/completed.

Mitigation Measures	Party Responsible for Implementing Mitigation	Timing of Verification	Responsible for Monitoring Compliance	Verification of Completion	
				Date	Initials
Air Quality					
<p>Mitigation Measure AIR-1. Before a construction permit is issued for the proposed Project, the Project applicant, Project sponsor, or construction contractor shall submit provide reasonably detailed compliance with one of the following requirements to the City of Kerman:</p> <p>a) Option 1) Where portable diesel engines are used during construction, all off-road equipment with engines greater than 75 horsepower shall have engines that meet either United States Environmental Protection Agency (EPA) or California Air Resources Board (CARB) Tier 4 Interim off-road emission standards except as otherwise specified</p>	Project Applicant	Prior to issuance of a construction permit	City of Kerman Building Division		



herein. If engines that comply with Tier 4 Interim or Tier 4 Final off-road emission standards are not commercially available, then the construction contractor shall use the next cleanest piece of off-road equipment (e.g., Tier 3) that is commercially available. For purposes of this Project design feature, "commercially available" shall mean the equipment at issue is available taking into consideration factors such as (i) critical-path timing of construction; and (ii) geographic proximity to the Project site of equipment. If the relevant equipment is determined by the Project applicant to not be commercially available, the contractor can confirm this conclusion by providing letters from at least two rental companies for each piece of off-road equipment that is at issue.

b) Option 2) Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest), the Project applicant and/or construction contractor shall prepare a construction operations plan that, during construction activities, requires all off-road equipment with engines greater than 75 horsepower to meet either the particulate matter emissions standards for Tier 4 Interim engines or be equipped with Level 3 diesel particulate filters. Tier 4 Interim engines shall, at a minimum, meet EPA or CARB particulate matter emissions standards for Tier 4 Interim engines. Alternatively, use of CARB-certified Level 3 diesel particulate filters on off-road equipment with engines greater than 75 horsepower can be used in lieu of Tier 4 Interim engines or in combination with Tier 4 Interim

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<p>engines. The construction contractor shall maintain records documenting its efforts to comply with this requirement, including equipment lists. Off-road equipment descriptions and information shall include, but are not limited to, equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, and engine serial number. The Project applicant and/or construction contractor shall submit the construction operations plan and records of compliance to the City of Kerman.</p>					
<p><b>Biological Resources</b></p>					
<p>Mitigation Measure BIO-1: Burrowing owls avoidance. The Project shall implement the following measures to avoid any potential impacts of nesting habitat of the Project in compliance with the federal Migratory Bird Treaty Act and relevant Fish and Game Codes:</p> <ul style="list-style-type: none"> <li>• Avoidance. Initiate grading/ground disturbance from Sept 1 – February 1 during the non-breeding period.</li> <li>• Preconstruction Surveys. If construction is initiated during the nesting period (Feb 1 – Aug 30), conduct a preconstruction survey to confirm that no burrowing owl has taken up residence in any parcels with ground burrowing mammals. If burrowing owl occupation is found, consult with the California Department of Fish and Wildlife to determine the appropriate avoidance and minimization measures.</li> </ul>	<p>Project Applicant</p>	<p>Prior to issuance of a construction permit</p>	<p>City of Kerman Building Division</p>		
<p>Mitigation Measure BIO-2: San Joaquin kit fox Avoidance. The following measures are recommended to avoid any potential impact to San Joaquin kit fox during construction. These</p>	<p>Project Applicant</p>	<p>Prior to issuance of a</p>	<p>City of Kerman</p>		

<p>measures are designed to avoid and minimize any impact on San Joaquin kit fox in the unlikely event an individual is present within the Study Area at any time during construction.</p> <ul style="list-style-type: none"> <li>• Prior to Construction: Prepare and conduct an employee education program prior to the start of construction. The program should consist of a brief presentation by persons knowledgeable in kit fox biology and legislative protection to explain endangered species concerns to contractors, their employees, and military and/or agency personnel involved in the Project. The program should include the following: A description of the San Joaquin kit fox and its habitat needs; a report of the occurrence of kit fox in the Project area; an explanation of the status of the species and its protection under the Endangered Species Act; and a list of measures being taken to reduce impacts to the species during Project construction and implementation (as summarized below). A fact sheet conveying this information should be prepared for distribution to the previously referenced people and anyone else who may enter the Project site.</li> <li>• Avoidance and Minimization Measures During Construction: The following measures should be included within the worker education program and in any Project specification and contract. <ol style="list-style-type: none"> <li>1. Project-related vehicles should observe a daytime speed limit of 20 mph throughout the site in all</li> </ol> </li> </ul>		<p>construction permit</p>	<p>Building Division</p>		
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Project areas, except on county roads and State and Federal highways; this is particularly important at night when kit foxes are most active. No nighttime construction should occur, given the species is primarily nocturnal.

2. To prevent inadvertent entrapment of kit foxes or other animals during the construction phase of a Project, all excavated, steep-walled holes or trenches more than 2 feet deep should be covered at the close of each working day by plywood or similar materials. If the trenches cannot be closed, one or more escape ramps constructed of earthen fill or wooden planks shall be installed. Before such holes or trenches are filled, they should be thoroughly inspected for trapped animals. If at any time a trapped or injured kit fox is discovered, the Service and the California Department of Fish and Game (CDFG) shall be contacted as noted under measure 13 referenced below.
3. Kit foxes are attracted to den-like structures such as pipes and may enter stored pipes and become trapped or injured. All construction pipes, culverts, or similar structures with a diameter of 4-inches or greater that are stored at a construction site for one or more overnight periods should be thoroughly inspected for kit foxes before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a kit fox is discovered inside a pipe, that section of pipe should not be moved until

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<p>the Service has been consulted. If necessary, and under the direct supervision of the biologist, the pipe may be moved only once to remove it from the path of construction activity until the fox has escaped.</p> <ol style="list-style-type: none"><li>4. All food-related trash items such as wrappers, cans, bottles, and food scraps should be disposed of in securely closed containers and removed at least once a week from a construction or Project site.</li><li>5. No firearms shall be allowed on the Project site.</li><li>6. No pets, such as dogs or cats, should be permitted on the Project site to prevent harassment, mortality of kit foxes, or destruction of dens.</li><li>7. The use of rodenticides and herbicides in Project areas should be restricted. This is necessary to prevent primary or secondary poisoning of kit foxes and the depletion of prey populations on which they depend. All uses of such compounds should observe labels and other restrictions mandated by the U.S. Environmental Protection Agency, California Department of Food and Agriculture, and other State and Federal legislation, as well as additional Project-related restrictions deemed necessary by the Service. If rodent control must be conducted, zinc phosphide should be used because of a proven lower risk to kit fox.</li><li>8. A representative shall be appointed by the Project proponent who will be the contact source for any employee or contractor who might inadvertently kill</li></ol>					
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<p>or injure a kit fox or who finds a dead, injured or entrapped kit fox. The representative will be identified during the employee education program, and their name and telephone number shall be provided to the Service.</p> <p>9. Upon completion of the Project, all areas subject to temporary ground disturbances, including storage and staging areas, temporary roads, etc., should be re-contoured if necessary and revegetated, if possible, to promote restoration of the area to pre-Project conditions.</p> <p>10. Any contractor or employee responsible for inadvertently killing or injuring a San Joaquin kit fox shall immediately report the incident to their representative. This representative shall contact the CDFG immediately in the case of a dead, injured, or entrapped kit fox.</p> <p>11. The Sacramento Fish and Wildlife Office and CDFG shall be notified in writing within three working days of the accidental death or injury to a San Joaquin kit fox during Project-related activities. Notification must include the date, time, and location of the incident or the finding of a dead or injured animal and any other pertinent information.</p> <p>12. New sightings of kit fox shall be reported to the California Natural Diversity Database (CNDDDB). A copy of the reporting form and a topographic map marked with the location of where the kit fox was</p>					
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observed should also be provided to the Service at the address below.					
Cultural Resources					
<p>Mitigation Measure CUL-1: In order to avoid the potential for impacts to historic and prehistoric archaeological resources, the following measures shall be implemented, as necessary, in conjunction with the construction of each phase of the Project:</p> <p>a. Cultural Resources Alert on Project Plans. The Project proponent shall note on any plans that require ground disturbing excavation that there is a potential for exposing buried cultural resources.</p> <p>b. Stop Work Near any Discovered Cultural Resources. Should previously unidentified cultural resources be discovered during construction of the Project, the Project proponent shall cease work within 50 feet of the resources, and City of Kerman shall be notified immediately. The Project archaeologist meeting the Secretary of the Interior Professional Qualifications Standards for archeology shall immediately to evaluate the find pursuant to Public Resources Code Section 21083.2.</p> <p>c. Mitigation for Discovered Cultural Resources. If the professional archaeologist determines that any cultural resources exposed during construction constitute a historical resource and/or unique archaeological resource, he/she shall notify the Project proponent and other appropriate parties of the evaluation and recommended mitigation measures to mitigate the impact to a less-than-significant level. If the archaeologist and, if applicable, a Native American monitor or</p>	Project Applicant	Prior to issuance of a construction permit	City of Kerman Building Division		

other interested tribal representative determine it is appropriate, cultural materials collected from the site shall be processed and analyzed in a laboratory according to standard archaeological procedures. The age of the materials shall be determined using radiocarbon dating and/or other appropriate procedures; lithic artifacts, faunal remains, and other cultural materials shall be identified and analyzed according to current professional standards. The significance of the site(s) shall be evaluated according to the criteria of the California Register of Historical Resources (CRHR) and if applicable, National Register of Historic Places (NRHP). The results of the investigations shall be presented in a technical report following the standards of the California Office of Historic Preservation publication "Archaeological Resource Management Reports: Recommended Content and Format (1990 or latest edition)." Mitigation measures may include avoidance, preservation in-place, recordation, additional archaeological testing and data recovery, among other options. Treatment of any significant cultural resources shall be undertaken with the approval of the City of Kerman. The archaeologist shall document the resources using DPR 523 forms and file said forms with the California Historical Resources Information System, Southern San Joaquin Valley Information Center (SSJVIC). The resources shall be photo documented and collected by the archaeologist for submittal to the City of Kerman. The archaeologist shall be required to submit to the City of Kerman for review and approval a report of the findings and method of curation or protection of the resources. This report shall be submitted to the SSJVIC after completion. Recommendations contained therein shall be

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implemented throughout the remainder of ground disturbance activities. Further grading or site work within the area of discovery shall not be allowed until the preceding steps have been taken.

d. Data Recovery. Should the results of item c. yield resources that meet CRHR significance standards and if the resource cannot be avoided by Project construction, the Project applicant shall ensure that all feasible recommendations for mitigation of archaeological impacts are incorporated into the final design and approved by the City prior to construction. Any necessary data recovery excavation, conducted to exhaust the data potential of significant archaeological sites, shall be carried out by a qualified archaeologist meeting the SOI's PQS for archeology. Data recovery shall be conducted in accordance with a research design reviewed and approved by the City, prepared in advance of fieldwork, and using the appropriate archaeological field and laboratory methods consistent with the California Office of Historic Preservation Planning Bulletin 5, Guidelines for Archaeological Research Design, or the latest edition thereof. If the archaeological resource(s) of concern are Native American in origin, the qualified archaeologist shall confer with the City and local California Native American tribe(s). As applicable, the final Data Recovery reports shall be submitted to the City prior to issuance of any grading or construction permit. Recommendations contained therein shall be implemented throughout all ground disturbance activities. Recommendations may include, but would not be limited to, Cultural Resources Monitoring, and/or measures for

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<p>unanticipated discoveries. The final report shall be submitted to the SSJVIC upon completion.</p> <p>e. Disposition of Cultural Resources. Upon coordination with the City of Kerman, any pre-historic archaeological artifacts recovered shall be donated to an appropriate Tribal custodian or a qualified scientific institution where they would be afforded applicable cultural resources laws and guidelines.</p> <p>f. Cultural Resources Monitoring. If mitigation measures are recommended by reports written under item c. or d., the Project applicant shall retain a qualified archaeologist to monitor Project-related, ground-disturbing activities which may include the following but not limited to: grubbing, vegetation removal, trenching, grading, and/or excavations. The archaeological monitor shall coordinate with any Native American monitor as required. Monitoring logs must be completed by the archaeologist daily. Cultural resources monitoring may be reduced for the Project if the qualified archaeologist finds it appropriate to reduce the monitoring efforts. Upon completion of ground disturbance for the Project, a final report must be submitted to the City for review and approval documenting the monitoring efforts, cultural resources find, and resource disposition. The final report shall be submitted to the SSJVIC.</p>					
<p><b>Geology and Soils</b></p>					
<p>Mitigation Measure GEO-1: If any paleontological resources are encountered during ground-disturbance activities, all work within 25 feet of the find shall halt until a qualified paleontologist as defined by the Society of Vertebrate Paleontology Standard Procedures for the Assessment and</p>	<p>Project Applicant</p>	<p>During ground disturbance activities</p>	<p>City of Kerman Building Division</p>		

<p>Mitigation of Adverse Impacts to Paleontological Resources (2010), can evaluate the find and make recommendations regarding treatment. Paleontological resource materials may include resources such as fossils, plant impressions, or animal tracks preserved in rock. The qualified paleontologist shall contact the Natural History Museum of Los Angeles County or another appropriate facility regarding any discoveries of paleontological resources.</p> <p>If the qualified paleontologist determines that the discovery represents a potentially significant paleontological resource, additional investigations, and fossil recovery may be required to mitigate adverse impacts from Project implementation. If avoidance is not feasible, the paleontological resources shall be evaluated for their significance. If the resources are not significant, avoidance is not necessary. If the resources are significant, they shall be avoided to ensure no adverse effects or such effects must be mitigated. Construction in that area shall not resume until the resource-appropriate measures are recommended or the materials are determined to be less than significant. If the resource is significant and fossil recovery is the identified form of treatment, then the fossil shall be deposited in an accredited and permanent scientific institution. Copies of all correspondence and reports shall be submitted to the City of Kerman, Community Development Department.</p>					
Hazards and Hazardous Material					
Mitigation Measure HAZ-1: Asbestos Survey. Prior to the demolition or renovation of any existing structure on site, an Asbestos Survey shall be conducted to determine the quantity	Project Applicant	Prior to demolition or renovation of	City of Kerman Building Division		

<p>of asbestos-containing construction material to be removed in the Project. As regulated by National Emission Standards for Hazardous Air Pollutants (NESHAP), the inspection must be conducted by a Cal-OSHA Certified Asbestos Consultant (CAC). The Asbestos Survey report shall be submitted to the City of Kerman Community Development Department for review and approval. Alternatively, if the developer is opting to treat all of the material as RACM and will notify as such, the survey may be bypassed.</p> <p>A completed and signed Asbestos Notification Form must be submitted to the San Joaquin Valley Air Pollution Control District (SJVAPCD) 10 working days prior to the commencement of any regulated asbestos (RACM) abatement. If it is determined that there are asbestos-containing materials or soils on site, the developer shall utilize specialists/professionals for asbestos removal/abatement to reduce potential health risks to construction workers. Demolition activities that would expose construction workers and/or the public to asbestos-containing materials shall be conducted in accordance with the applicable regulations, including, but not limited to:</p> <ul style="list-style-type: none"> <li>• San Joaquin Valley Air Pollution Control District</li> <li>• California Health and Safety Code (Section 39650 et seq.)</li> <li>• California Code of Regulations (Title 8, Section 1529)</li> <li>• California Occupational Safety and Health Administration regulations (California Code of Regulations, Title 8, Section 1529 [Asbestos] and Section 1532.1 [Lead])</li> </ul>		structures on site			
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<ul style="list-style-type: none"> <li>Code of Federal Regulations (Title 40, Part 61 [asbestos], Title 40, Part 763 [asbestos], and Title 29, Part 1926 [asbestos and lead])</li> </ul>					
<p>Mitigation Measure HAZ-2: Lead-Based Paint Inspection. Prior to the demolition of any existing structure on site, a lead-based paint inspection is required to determine whether the lead-based paint is present in or on the original building materials. The inspection shall be conducted on-site by a state-certified Lead Inspector or Assessor in accordance with the California Code of Regulations, Title 8, Section 1532.1. The investigation report shall be submitted to the City of Kerman Community Development Department for review and approval.</p> <p>If it is determined that lead-based paint exists on site, the developer shall utilize professionals for lead-based paint removal to reduce potential health risks to construction workers and/or the public. Pursuant Section 1532.1, construction workers must establish and implement a compliance program, and provide a written Pre-Job Notification to the nearest Division of Occupational Safety and Health Cal/OSHA office 24 hours before the start of a project.</p>	Project Applicant	Prior to demolition of structures on site	City of Kerman Building Division		
<p>Mitigation Measure HAZ-3: Test for Agricultural Pesticides. Prior to construction activities onsite, a limited Phase II investigation shall be conducted to assess the surface soil of the project site for residual organochlorine and lead arsenate pesticides. The Phase II investigation shall be conducted in accordance with guidelines developed by the Department of Toxic Substances Control (DTSC) and Environmental Protection Agency (EPA) for site assessments. The Phase II</p>	Project Applicant	Prior to ground disturbing activities	City of Kerman Building Division		

<p>investigation shall estimate the potential threat to public health and the environment if concentrations of pesticides are encountered using methods outlined in DTSC’s Preliminary Endangerment Assessment Guidance Manual and DTSC’s Screening Level Human Health Risk Assessment guidance for implementing screening level risk analysis. The Phase II investigation shall be submitted to the City of Kerman Community Development Department for review and approval by an independent third-party reviewer. If the Phase II testing reveals concentrations of organochlorine pesticides and lead arsenic above health-based screening levels for residential exposure, remediation of the site shall be required to address residual organochlorine and lead arsenate pesticides above health-based level of concern. Remediation may include excavation and disposal of impacted soil or capping elevated areas beneath paved areas. The Construction Contractor shall implement the recommendations outlined in the Phase II.</p>					
Noise					
<p>Mitigation Measure NOI-1: A sound wall with a minimum height of seven (7) feet shall be constructed along the southern property line adjacent to the San Joaquin Valley Railroad rail line. The wall shall be constructed of concrete blocks, masonry, or stucco on both sides of a wood or steel stud wall. Compliance shall be verified during the Final Map review and approval process by the City of Kerman Public Works Department.</p>	Project Applicant	Final Map review	City of Kerman Planning Division		
<p>Mitigation Measure NOI-2: Noise sensitive land uses (e.g., residential uses, schools, churches) within 500 feet of the</p>	Project Applicant	At least 30-days before construction	City of Kerman		

<p>exterior boundaries of the Project site shall be notified about the estimated duration and hours of construction activity at least 30 days before the start of construction, with the exception of construction activities related to emergency work. The notice shall be an informational document containing the estimated duration and hours of construction activity, a primary contact for complaints, and reference to compliance with Kerman Municipal Code Chapter 9.26 Prohibition of Unreasonably Loud and Unnecessary Noise. The notice shall be mailed by first class mail to every owner whose name and address appears on the last equalized County Assessment Roll for any property within 500 feet of the exterior boundaries of the Project site. Proof of mailing shall be provided to the City of Kerman, Community Development Department. Separate notices and proof of mailings shall be sent and submitted for all phases of construction.</p>			<p>Building Division</p>		
<p>Mitigation Measure NOI-3: Temporary sound barriers shall be erected between the construction area/site and existing residential structures. Sound barriers shall be of sufficient height and length to block the line of sight between the construction site and residential structures and shall be continuous with no gaps or holes between panels or the ground. Sound barriers shall be constructed of material with a weight of two (2) pounds per square foot and shall have a minimum Sound Transmission Class (STC) rating of 28. Sound blankets may be used in place of temporary sound barriers; however, it must be demonstrated the sound blankets meet a STC rating of 28 and shall be of sufficient length to overlap each other and the ground surface. Implementation of temporary sound barriers shall be indicated in the General</p>	<p>Project Applicant</p>	<p>Prior to issuance of building permit</p>	<p>City of Kerman Building Division</p>		

Construction Notes for the project and verified by the City of Kerman Building Division during the building permit process.					
Tribal Cultural Resources					
See Cultural Resources					



**ORDINANCE NO. 24-\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KERMAN CITY APPROVING REZONE 2023-01 TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF KERMAN TO PREZONE APPROXIMATELY 41.49 ACRES (APNS 020-160-36S, 020-160-18S, 020-041-45S, AND 020-041-47S) TO THE SMART DEVELOPMENT COMBINING DISTRICT – RESIDENTIAL – MINIMUM 2,500 SQUARE FEET (SD-R-2.5) ZONING DISTRICT AND APPROXIMATELY 20 ACRES (020-160-19S) TO THE SMART DEVELOPMENT COMBINING DISTRICT – RESIDENTIAL – MINIMUM 5,000 SQUARE FEET (SD-R-5) ZONING DISTRICT**

WHEREAS, an application was filed by Whispering Falls, LLC., pertaining to six (6) parcels consisting of 64.76 acres located on the east side of South Modoc Avenue between West Kearney Boulevard and the West California Avenue Alignment/San Joaquin Valley Railroad identified as APNs 020-160-36S, 020-160-18S, 020-160-19S, 020-041-45S, 020-041-47S, and 020-041-09U (“Project Area”); and

WHEREAS, because the Project Area is outside of City limits and currently has County agricultural zoning, a prezone/rezone is needed; and

WHEREAS, the Project Area has a City of Kerman 2040 General Plan land use designation of MDR – Medium Density Residential (approximately 56.89 acres) and HDR – High Density Residential (approximately 5 acres);

WHEREAS, the 20-acre parcel within the Project Area identified as APN 020-160-36S located on the east side of South Modoc Avenue between West California Avenue and West California Avenue Alignment/San Joaquin Valley Railroad has two underlying land use designations, MDR (15 acres) and HDR (5 acres); and

WHEREAS, Whispering Falls, LLC. proposes a variety of housing types and sizes on the 20-acre parcel, including 118 single-family units and 54 multi-family units, plus a community center, on and off-site improvements including roadways, sidewalks, landscaping, parking, and 3.19 acres of common open space; and,

WHEREAS, because the project combines single-family and multi-family residential uses on a site that is designated MDR – Medium Density Residential and HDR – High Density Residential, the smart development (SD) combining district is the most appropriate and applicable zoning district for combining residential uses on one site; and

WHEREAS, the density range permitted in the SD-R-2.5 zone district is 8-20 units per acre, which is consistent with the density ranges of the MDR and HDR zoning districts; and

WHEREAS, approval of the project would require approval of Annexation 2023-01, General Plan Amendment 2023-01, Rezone 2023-01, Tentative Subdivision Map 2023-01,

Development Plans 2023-01 and 2023-02, Conditional Use Permit 2023-02, and Variance 2023-01; and

WHEREAS, the requested Rezone 2023-01 proposes to prezone the Project Area within the County of Fresno that is currently zoned Agricultural Exclusive – 20 Acres (AE-20) to SD-R-2.5 zoning district (APNS 020-160-36S, 020-160-18S, 020-041-45S, and 020-041-47S) and SD-R-5 zone district (020-160-19S) as shown in the attached **Exhibit ‘1’**, consistent with the MDR land use designation, upon approval of General Plan Amendment 2023-01; and

WHEREAS, the City of Kerman, acting as the Lead Agency, prepared an Initial Study, Mitigated Negative Declaration 2023-01 and Mitigation Monitoring and Reporting Program dated June 2024 (SCH #2024040147) for the project, and the project is in compliance with the California Environmental Quality Act (CEQA); and

WHEREAS, the Initial Study, Mitigated Negative Declaration, and Mitigation Monitoring and Reporting Program, and the related entitlements for the project were distributed for public review and comment to various local agencies and groups, and public notice of this public hearing was given by mailed and published notice, in accordance with the applicable State and Municipal Codes and standard practices; and

WHEREAS, the Planning Commission completed its review of the Staff Report and documents submitted for the proposed project at a special meeting on July 15, 2024, and adopted a resolution with a recommendation to the City Council to approve Rezone 2023-01; and

WHEREAS, pursuant to the provision of Title 17 of the Kerman Municipal Code, the City of Kerman City Council held a public hearing on August 28, 2024, to consider Rezone 2023-01 during which the Council solicited public testimony, and considered the environmental assessment; and

WHEREAS, the City Council now desires to approve Rezone 2023-01 to amend the City’s official Zoning Map on real property described herein below as Exclusive Agriculture to the SD-R-2.5 and SD-R-5 zone districts.

NOW, THEREFORE, the City Council of the City of Kerman does ordain as follows:

1. Recitals. The City Council hereby finds that all of the facts set forth in the recitals above are true and correct and incorporated herein.
2. CEQA. The City Council previously prepared and certified Mitigated Negative Declaration 2023-01 (MND) for the project. The MND identified rezoning of the project site. The rezoning does not change the environmental assessment of the MND. Further, the MND was recently adopted at the public hearing regarding this project. The City Council further finds that no subsequent review is required under CEQA Guidelines section 15162 as since that time no substantial changes have been proposed in the project which will require major revisions of the previously adopted MND due to the involvement of new significant

environmental effects or a substantial increase in the severity of previously identified significant effects. Likewise, no substantial changes have occurred since that time with respect to the circumstances under which the project is undertaken which will require major revisions of the MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. There is also no new information, which was not known and could not have been known at the time of the adoption of the MND that the project will have significant effect not discussed in the MND. As such, the City Council finds REZ 2023-02 has already been fully assessed in accordance with CEQA, no subsequent review is required under CEQA Guidelines section 15162, and no further action or review is required under CEQA.

3. Rezone Findings. The City Council finds as follows:

- a. The change is consistent with the General Plan. *The proposed use and development of the site is consistent with the General Plan. Upon approval of the annexation and pre-zone to the smart development zone district, the development of the site with residential uses and at densities allowed within the underlying land use designations will be consistent with the General Plan.*
  - b. The change is consistent with the purpose of the Zoning Ordinance to promote the health, safety, and welfare of the community. *The project has been reviewed by the various City departments and evaluated for conformity with the requirements of the Zoning Ordinance. The proposed use and development are consistent with the applicable development standards. Any other improvements or mitigations required for the health, safety, and welfare of the community has been applied to this project as mitigation measures and conditions of approval. Moreover, Rezone 2023-01 is supported by policy LU-2.1 Attractive Community, LU-2.4 Architectural Character, and LU-2.5 High-Quality Design, which cumulatively, enhance the design, character, and vibrancy of the City's health, safety, and welfare.*
  - c. There will not be significant effects upon the quality of the environment and natural resources. *An initial study was prepared for this project consistent with the California Environmental Quality Act (CEQA), which resulted in a proposed mitigated negative declaration (MND). Per the MND, the project will not have a significant, adverse effect on the environment as mitigated.*
4. Approval of Rezone. Given that all the findings can be made, the City Council approves Rezone 2023-01 to amend the official zoning map of the City of Kerman to prezone approximately 41.49 acres (APNs 020-160-36s, 020-160-18S, 020-041-45S, and 020-041-47S) to the Smart Development Combining District – Residential – Minimum 2,500 Square Feet (SD-R-2.5) zoning district and approximately 20 acres (APN 020-160-19S) to the Smart Development Combining District – Residential – Minimum 5,000 Square Feet (SD-R-5) Zoning District as set forth in **Exhibit '1'**.

5. Severability: If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.
6. Certification: This ordinance shall be published in accordance with the provisions of Government Code Section 36933.
7. Effective Date of Ordinance: This ordinance shall be in full force and effect thirty (30) days after its passage.

The foregoing ordinance was introduced at a regular meeting of the City of Kerman City Council on the \_\_\_ day of August, 2024, and passed and adopted at a regular meeting of the City Council on the \_\_\_ day of \_\_\_\_\_, 2024, by the following vote:

AYES:

NOES:

ABSTAIN

ABSENT:

The foregoing ordinance is hereby approved.

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Maria Pacheco  
Mayor

ATTEST:

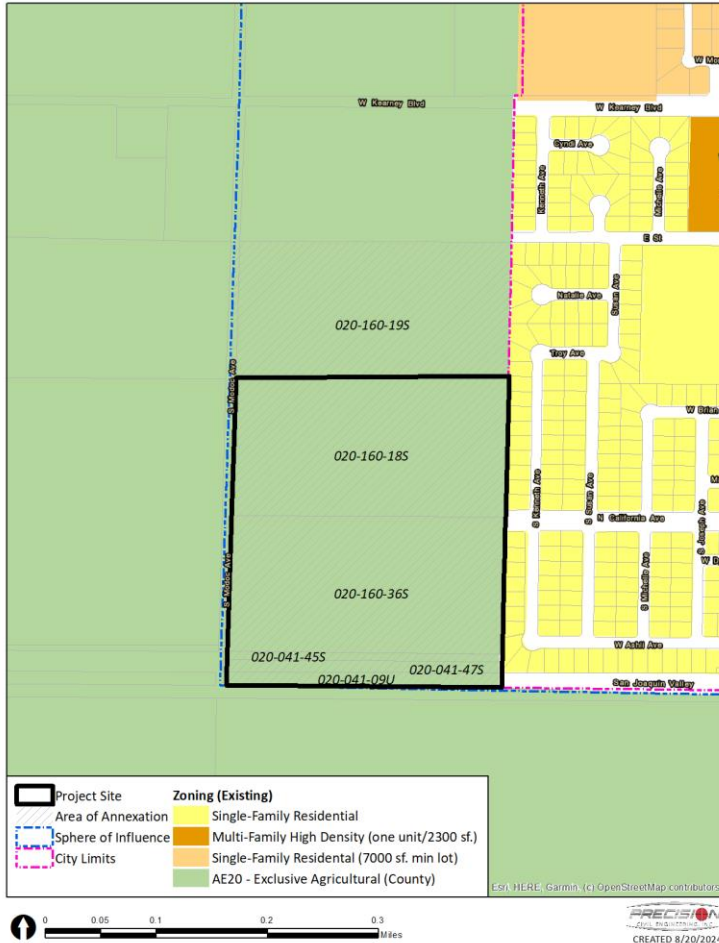
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Josie Camacho  
City Clerk

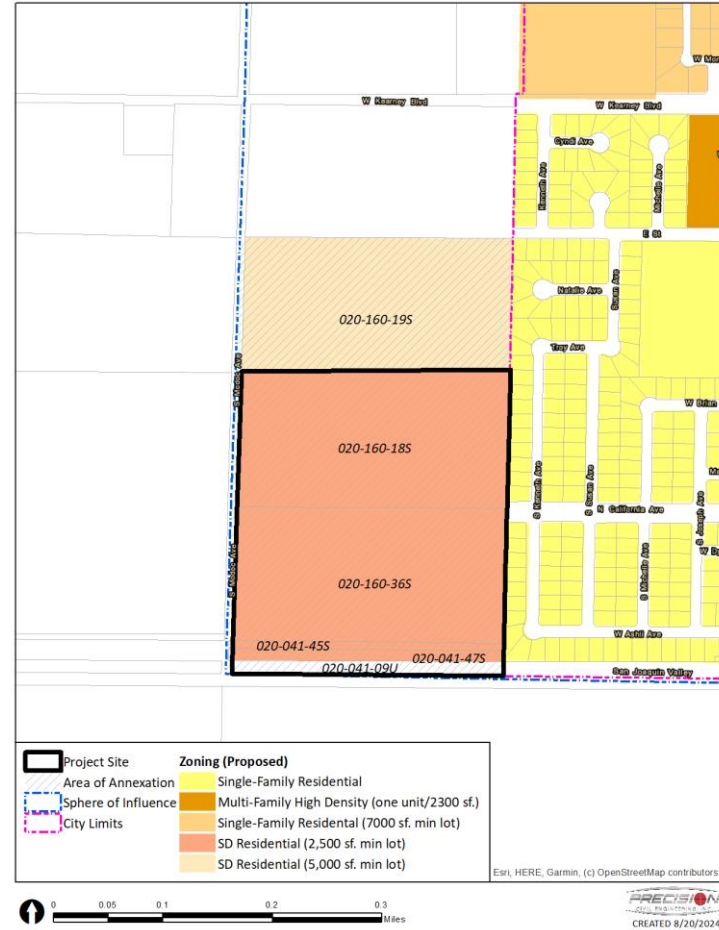
# Exhibit '1'

## Proposed Rezone/Prezone (Rezone 2023-01)

### EXISTING ZONING DISTRICT



### NEW ZONING DISTRICT



Attachment 'I'

**RESOLUTION NO. 24-\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KERMAN APPROVING TENTATIVE SUBDIVISION MAP 2023-01 FOR A PROPERTY LOCATED ON THE EAST SIDE OF SOUTH MODOC AVENUE BETWEEN WEST CALIFORNIA AVENUE (PROPOSED) AND THE WEST CALIFORNIA AVENUE ALIGNMENT/SAN JOAQUIN VALLEY RAILROAD (APNS 020-160-36S, 020-041-45S, 020-041-47S)**

WHEREAS, Whispering Falls, LLC, submitted Tentative Subdivision Map 2023-01 to subdivide approximately 21.89 acres identified as APN 020-160-36S, 020-041-45S, and 020-041-47S located on the east side of South Modoc Avenue between West California Avenue (proposed) and the West California Avenue Alignment/San Joaquin Valley Railroad ("project site"); and

WHEREAS, Tentative Subdivision Map 2023-01 will subdivide the 21.39 acres into 119 lots, 118 of which will be for single-family units and one (1) will be for multi-family residential development consisting of 54 units and community center; and

WHEREAS, Annexation 2023-01, Rezone 2023-01, and General Plan Amendment 2023-01, were considered concurrently by the City Council with Tentative Subdivision Map 2023-01; and

WHEREAS, the City of Kerman, acting as the Lead Agency, prepared an Initial Study and Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (SCH #2024040147) (Environmental Assessment 2023-01) for the project, and this related Tentative Subdivision Map; and the project is in compliance with the California Environmental Quality Act (CEQA); and

WHEREAS, the City of Kerman on August 14, 2024, published a legal notice in compliance with State law concerning City Council consideration of Tentative Subdivision Map 2023-01 in the Kerwest News, a local newspaper of general circulation, which included the date and time of the City Council consideration of approval of the Tentative Subdivision Map. In addition, a public hearing notice was mailed to each property owner within at least 500 feet of the project site, indicating the date and time of the public hearing regarding the proposed project in accordance with State law; and

WHEREAS, on August 28, 2024, the City Council conducted a duly noticed public hearing on the General Plan Amendment 2023-01, Mitigated Negative Declaration 2023-01 and Mitigation Monitoring and Reporting Program (Environmental Assessment 2023-01), Rezone 2023-01, Annexation 2023-01, and Tentative Subdivision Map 2023-01; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred, and the City Council now desires to approve Tentative Subdivision Map 2023-01.

NOW, THEREFORE, the City Council of the City of Kerman resolves as follows:

1. Recitals. The City Council hereby finds that all of the facts set forth in the recitals above are true and correct and incorporated herein.
2. CEQA. The City Council previously adopted MND for the project (Environmental Assessment 2023-01). The MND identified the tentative subdivision map. The tentative subdivision map does not change the environmental assessment of the MND. Further, the MND was recently adopted. The City Council further finds that no subsequent review is required under CEQA Guidelines section 15162 as since that time no substantial changes have been proposed in the project which will require major revisions of the previously adopted MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. Likewise, no substantial changes have occurred since that time with respect to the circumstances under which the project is undertaken which will require major revisions of the MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. There is also no new information, which was not known and could not have been known at the time of the adoption of the MND that the project will have significant effect not discussed in the MND. As such, the City Council finds Tentative Subdivision Map 2023-01 has already been fully assessed in accordance with CEQA, no subsequent review is required under CEQA Guidelines section 15162, and no further action or review is required under CEQA.
3. Subdivision Findings. The City Council determines that none of the findings required by the City's Subdivision Ordinance and the California Subdivision Map Act Section 66474 that require the City to deny approval of a tentative map apply to this project, or that findings regarding flood protection cannot be made. To the contrary, the City Council finds, follows:
  - a. The proposed maps are consistent with applicable general and specific plans. *The subdivision map is consistent with the General Plan as amended. Specifically, the project is supported by policies LU-3.4 Leapfrog Development and CIRC-1.10 Adequate Egress/Ingress. There is no applicable specific plan. The City Council has reviewed the analysis and all evidence presented in this matter and determines that proposed Tentative Subdivision Map 2023-01 is consistent with the General Plan as amended by General Plan Amendment 2023-01.*
  - b. The design and improvement of the proposed subdivisions are consistent with applicable general and specific plans. *As discussed above, Tentative Subdivision Map 2023-01 is consistent with the General Plan as amended by General Plan Amendment 2023-01. Additionally, the proposed parcel sizes, as shown on the tentative subdivision map, meet the standards of the Zoning Ordinance, and are therefore of adequate size to accommodate the uses that will be permitted on them. The property will be improved with new or expanded street system for which the traffic study prepared for the project indicates will operate within acceptable levels of service with recommended improvements and the project will also be provided with full City services that meet all City standards.*

- c. That the site is physically suited for the type of development. *There is no evidence that the site is not physically suited for the type of development proposed by the tentative subdivision maps. To the contrary, Tentative Subdivision Map 2023-01 was thoroughly analyzed and compared to the General Plan. Additionally, all relevant CEQA environmental concerns were addressed in the Initial Study and Mitigated Negative Declaration 2023-01 and Mitigation Monitoring and Reporting Program (SCH #2024040147) that was prepared for the tentative subdivision map, including flooding, drainage, traffic, biological resources, and other items dealing the with physical characteristics of the site and potential physical impacts of the proposed development. The proposed tentative subdivision map complies with the allowable land use and residential planned land use density and acreage allocations, and with the goals, objectives, and policies contained in the General Plan. The proposed development meets all adopted standards and requirements, thus is physically suited for the type of development being proposed.*
  
- d. That the site is physically suited for the density of development. *There is no substantial evidence in the record that the site is not suited for the density of development being proposed. Instead, each new lot will meet or exceed the minimum lot sizes required by the smart development zoning district. The tentative subdivision map is reviewed by City departments to ensure compliance with the development standards of the Zoning Ordinance. The proposed tentative subdivision map was thoroughly analyzed and compared to the Initial Study and Mitigated Negative Declaration 2023-01 and Mitigation Monitoring and Reporting Program (SCH #2024040147) that was prepared for the subdivision, which determined that the proposed density of development was appropriate for this site and is physically suited for the proposed development density.*
  
- e. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. *There is no evidence that the design or improvements will, in themselves, cause substantial environmental damage, etc. To the contrary, the Initial Study and Mitigated Negative Declaration 2023-01 and Mitigation Monitoring and Reporting Program prepared for the project analyzed the tentative subdivision map against all of the relevant CEQA environmental concerns, including fish and wildlife habitat. Further, the project has been conditioned with mitigation to reduce the significance of potential impacts on fish or wildlife or their habitat. As such, the design or improvements of the tentative subdivision map is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.*
  
- f. The design of the subdivision or the type of improvements is not likely to cause serious public health problems. *There is no substantial evidence in the record that the design of the tentative subdivision map will cause serious public health*



*problems. Indeed, every new lot will be connected to City water, sewer and storm drainage systems which will minimize public health concerns. Mitigation has been imposed on the project to address potential environmental impacts. As such, the design of the tentative subdivision map or the type of improvements are not likely to cause serious public health problems.*

- g. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through, or use of, property within the proposed subdivision. *The subdivision will be served by private streets that are connected to the proposed West California Avenue alignment dedicated to the City for public use and the parks and open spaces will be privately maintained by a Home Owners Association. The design of private streets and parks and open space within the project site have been thoroughly reviewed by City departments to ensure compliance with the General Plan and development standards of the Zoning Ordinance. Dedications for public right of way, etc., are required for public utilities, roadways, and other improvements. There is no evidence in the record that the subdivision map or the type of improvements will conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.*
4. Approval with Conditions. Based on the aforementioned findings, the City Council approves Tentative Subdivision Map 2023-01 (**Exhibit '1'**), subject to the conditions set forth in **Exhibit '2'** (Tentative Subdivision Map 2023-01 conditions of approval) attached hereto.
5. Effective Date of Resolution. This resolution shall become effective immediately after the City Council approves Rezone 2023-01 and said ordinance adopting the same then becomes effective.

The foregoing resolution was introduced and adopted by the City Council of the City of Kerman at a regular meeting held on the 28th day of August 2024, by the following vote:

AYES:

NOES:

ABSTAIN

ABSENT:

The foregoing resolution is hereby approved.

ATTEST:

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Maria Pacheco  
Mayor

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Josie Camacho  
City Clerk



## Exhibit '2'

Conditions of Approval for Tentative Subdivision Map  
Whispering Falls Residential Development  
Revised July 16, 2024

### Engineering Conditions of Approval

The conditions of development approval set forth herein include certain fees, dedication requirements, reservation requirements and other exactions. Pursuant to Section 66020(d) of the Government Code, these conditions constitute written notice of such fees, and a description of the dedications, reservations and other exactions. The applicant is hereby notified that the 90-day protest period commences from the date of approval of the development. If the applicant fails to file a protest regarding any of the fees, dedication requirements, reservation requirements or other exactions contained in this notice, complying with all the requirements of Section 66020, the applicant will be legally barred from later challenging such exactions.

The following are the conditions of approval imposed on the subject development. The applicant shall:

#### A. General

1. Obtain express written approval of the City Engineer for a deferment, modification, or waiver of any engineering conditions of approval.
2. Comply with all conditions set forth in Title 16 of the Kerman Municipal Code (Subdivisions).
3. Pay all applicable development impact fees at the rate in effect at the time of payment, prior to the issuance of Building Permit. The applicant may be eligible for fee credits or fee reimbursements for over-sizing of facilities or construction of other eligible facilities included in the City of Kerman's Impact Fee Study. The City Engineer will determine the type and extent of improvements that are eligible for fee credits or reimbursements. For any improvements deemed eligible for fee credits or reimbursements, the applicant shall submit itemized quantity and unit costs for each item prior to acceptance of the improvements by the City.
4. Provide security in a sum to be determined by the City Engineer, prior to release of development permits, for the guarantee of improvements construction and against claims that may arise from contractors and material vendors.
5. Provide security in a sum to be determined by the City Engineer, prior to final acceptance of the off-site improvements by the City, for the guarantee and warranty of the improvements for a period of one (1) year following the completion and acceptance thereof by the City Council.

6. Provide a soils report or a waiver of soils report for approval by the City Engineer with the first submittal of the improvement plans.
7. Obtain and comply with encroachment permits from affected jurisdictions for all work performed within their rights-of-way and easements.
8. Comply with all the requirements of the local utility, gas, electric, telephone, cable, and other communication companies (Utilities). It shall be the responsibility of the applicant to notify Utilities to remove or relocate poles where necessary. The City will not accept first submittal of improvement plans without proof that the applicant has provided the improvement plans and documents showing all proposed work to the Utilities.
9. Underground all existing overhead and any new utility facilities located along the frontage of the development.
10. Contact the United States Postal Service and address all requirements for the location and type of mailboxes to be installed. The location of the facilities shall be approved by the City Engineer prior to approval of improvement plans or any construction. Applicant shall submit a copy of the Method of Delivery Agreement (MODA) to the City.
11. Install all improvements within public right-of-way and easements in accordance with affected jurisdictions standards, specifications, master plans, and record drawings.
12. Provide and pay for all compaction testing required by the City Engineer. Compaction test locations and depths shall be established by the City Engineer. Compaction test results shall be submitted in a format acceptable to the City Engineer, for review and approval.
13. Maintain the construction site, and any public streets fronting the site, clear of any construction or landscaping debris. The site shall not be used as a storage area for equipment, materials, or other items.
14. Remove all existing structures, trees, shrubs, etc., that are within or encroaching on existing or proposed rights-of-way or easements. Existing street improvements shall be preserved, at the discretion of the City Engineer.
15. Provide clean-up, street sweeping, and dust control during the construction of the development to the satisfaction of the City Engineer and Public Works Director. A deposit of \$5,000.00 shall be submitted to the City to guarantee compliance. At any time, applicant is deemed to be non-compliant by the City Engineer or Public Works Director, the City may draw from said deposit to pay for necessary activities to bring the site into compliance.
16. Maintain pedestrian and vehicular access to all surrounding properties and buildings to the satisfaction of the City of Kerman Police Department, North Central Fire Protection

District, and City Engineer. For developments occurring in phases, the applicant shall submit a schedule showing the sequence of development within the area covered by the tentative map.

17. Assume responsibility for all contractor's actions during the course of any work occurring on the site. Designate, in writing before starting work, an authorized representative who shall have complete authority to represent and to act for the applicant. Said authorized representative shall be present while work is in progress. During periods when work is suspended, arrangements acceptable to the City Engineer shall be made for any emergency work which may be required. When the applicant or his authorized representative is not present for any part of the work where it may be necessary to give directions, orders may be given by the City Engineer which shall be received and obeyed by the person(s) in charge of the particular work in reference to which the orders are given. Whenever orders are given to the applicant's representative or superintendent or foreman to do work required for the convenience and safety of the general public, such work shall be done at the applicant's expense.
18. Install monuments at all section corners, quarter section corners, all street centerline intersection points, angle points, and beginning of curves and end of curves on streets adjacent to or within the development prior to final acceptance of the development. Any existing section corner or property corner monuments damaged or destroyed by the development shall be reset to the satisfaction of the City Engineer. A licensed land surveyor or civil engineer licensed to perform land surveying shall certify the placement of all required documentation prior to final acceptance. Within five days after the final setting of all monuments has been completed, the engineer or surveyor shall give written notice to the City Engineer that the final monuments have been set. Upon payment to the engineer or surveyor for setting the final monuments, the applicant shall present the City Engineer evidence of the payment and receipt thereof by the engineer or surveyor.

#### B. Maps and Plans

1. Contact the City Engineer to setup a Pre-Submittal Meeting prior to the initial submittal of the improvement plans. The applicant's engineer is required to attend.
2. Submit a 18" x 26" final tract map, prepared by a registered civil engineer or licensed land surveyor, and adhering to Subdivision Map Act requirements and City of Kerman Municipal Code. The final tract map shall be drawn at a scale of 1"=100' and include the current filing fee, closure calculations, preliminary title report dated within 90 days of submittal, legal descriptions and drawings of required dedications. Upon approval of the final tract map, applicant shall submit a reproducible/electronic copy (PDF) to the City Engineer.
3. Submit a set of 24" x 36" construction plans prepared by a licensed Civil Engineer for review and approval of all required improvements prior to the release of any development permits. The plans shall include a site grading and drainage plan,

landscaping and irrigation plans, and on-site and off-site utilities plan, if applicable, showing locations and sizes of storm drain, sewer and water mains, laterals, manholes, meters, valves, hydrants, etc.

4. Submit a reproducible/electronic copy (PDF) and two (2) black line copies of the approved set of construction plans, and two (2) bound sets of the approved construction specifications, if any, prior to beginning any construction, or within ten (10) calendar days of approval.
5. Submit Pad Certification(s) prior to issuance of building permits.
6. Submit a PDF file of the approved set of construction plans revised to reflect all field revisions and marked "AS-BUILT" prior to City acceptance of the improvements.

C. Dedications and Street Improvements

1. Provide right-of-way acquisition or dedicate free and clear of all encumbrances and improve the following streets to City standards:
  - a) California Avenue
    - i) Dedicate 42' north and south of center/section line (84' total) for public street and utility purposes along development frontage.
    - ii) Dedicate 2' pedestrian easement and 8' landscape easement north and south of proposed right-of-way lines.
    - iii) Relinquish all direct vehicular access to California Avenue for lots backing or siding onto this street.
    - iv) Construct improvements north and south of center/section line in accordance with City Standard P-1 for a Collector Street and approved tentative map. Improvements shall include curb and gutter, sidewalk, curb ramps, streetlights, landscaping, irrigation, and permanent paving.
    - v) Construct transitional paving as required.
  - b) Whitesbridge (SR 180) and Lassen Avenues Intersection  
Adhere to Caltrans requirements including those stated in the VRPA prepared Traffic Impact Study dated March 8, 2024 with approval date of March 15, 2024, including but not limited to:
    - i) Restripe of intersection approaches to include a left turn lane and shared through/right lane prior to exceeding 50% issuance of occupancy permits.
    - ii) Install a traffic signal as may be warranted or pay equitable fair share.
  - c) Madera (SR 145) and California (A Street) Avenues Intersection  
Adhere to Caltrans requirements including those stated in the VRPA prepared Traffic Impact Study dated March 8, 2024 with approval date of March 15, 2024, including but not limited to:

- i) Restripe of intersection east, west and southbound approaches to include a left turn lane and shared through/right lane prior to exceeding 50% issuance of occupancy permits.
  - ii) Install a traffic signal as may be warranted or pay equitable fair share.
- 2. Dedicate a 10' public utility easement along all streets and all other locations requested by utility companies. Alternate widths must be approved in writing by all utility companies and a copy of said written approval shall be submitted to the City Engineer.
- 3. Obtain "R Value" tests in quantity sufficient to represent all street areas, and have street structural sections designed by a registered civil engineer based on these "R Value" tests. These designs shall be compared to the minimum section given below and approved by the City Engineer.

<u>Street Designation</u>	<u>Minimum Section</u>
Collector Street(s)	3" HMA/6" CLII AB/6" CNS

- 4. Install standard barricades with reflectors at ends of streets abutting undeveloped property and any other locations to be specified by the City Engineer.
- 5. Install 2"x6" redwood header boards prior to street paving, at the end of any permanent pavement abutting undeveloped property.
- 6. Install temporary paved cul-de-sacs at the end of any dead-end streets, planned for future extension, longer than 150'. A 40' radius shall be provided to allow turnaround of emergency equipment.
- 7. Provide for all striping, stenciling, pavement markers, delineators and signage required of all street improvements within the development. All traffic signs and street name signs shall be installed in accordance with City Standards and the CA MUTCD (latest edition). A striping and signage plan shall be included with the construction plans and submitted for review and approval by the City Engineer.
- 8. Provide corner cut-offs at all street intersections. Corner cut-offs shall be sufficient to provide for sight distances and accommodate curb ramps.
- 9. Repair/replace any broken or buckled curb, gutter, and/or sidewalk along the site frontage in kind to the satisfaction of the Public Works Department.
- 10. Provide street names complying with the recommendations of the Planning Commission upon approval of the Final Map as listed below. Names matching existing county roads or city streets must maintain the current suffix. When deemed practical, entry streets, cul-de-sacs, and courts should utilize the name of the nearest subdivision street. Recommended names:



A.

- Amanda
- Evie
- Michael
- Seth
- Bridget
- Madilyn
- Paige
- Trent
- Camille
- Max
- Robin

D. Sanitary Sewer

1. Identify and abandon all existing septic systems per City Standards and any other governing regulations.
2. Construct a permanent lift station near the eastern property line of the development for serving it and upstream master plan boundary area.
3. Install sanitary sewer mains of the size and in the locations indicated below. The applicant's engineer shall be responsible for verifying the size, location, and elevations of existing improvements.
  - a) California Avenue: 15" sewer main along the development frontage.
  - b) Interior Streets: 8" sewer mains throughout development.

Install one (1) 4" sewer service house branch to each lot within the development in accordance with City Standards. Additionally, install sanitary sewer main services to existing parcels' property lines, not currently served, and fronting the proposed sanitary sewer main improvements.

4. Connect to the nearest 15" sanitary sewer main available to serve the development, located in California Avenue to the east of the development. The applicant's engineer shall be responsible for verifying the size, location, and elevations of existing improvements. Any alternative routing of sewer service must be approved by the City Engineer and supported by appropriate calculations.

E. Water

1. Identify and abandon all existing water wells per City Standards and any other governing regulations.
2. Dedicate a 10' wide easement for all onsite water mains, hydrants, blow-offs, and water meters not located in dedicated rights-of-way.
3. Install water mains of the sizes and in the locations indicated below and provide an adequately looped water system, consisting of at minimum two connection points. The applicant's engineer shall be responsible for verifying the size, location, and elevations of existing improvements.
  - a) California Avenue: 8" water main along the development frontage.

- b) Interior Streets: 8" water mains throughout development.
- 4. Install water services, size as necessary, to each lot within the development in accordance with City Standards. Water services shall be grouped at property lines. Additionally, install water services to existing parcels' property lines, not currently served and fronting the proposed water main improvements.
- 5. Install landscape water service(s), size as necessary, to each public landscape area within the development in accordance with City Standards.
- 6. Install one (1) water sampling station in accordance with City Standards. The location shall be determined by the City Engineer.
- 7. Install fire services in accordance with North Central Fire Protection District requirements and City Standards. Fire services shall include a detector check.
- 8. Install fire hydrants at locations approved by the North Central Fire Protection District. Fire hydrants and curbs shall be painted as directed by the North Central Fire Protection District.
- 9. Do not perform water service connection to the City of Kerman water system until a bacteriological report has been accepted by the City Engineer.

F. Grading and Drainage

- 1. Provide a temporary on-site retention basin for storm water disposal. The size and design shall be in accordance with the requirements of the City Engineer and may change based on design calculations and access requirements for maintenance. Sizing calculations shall be provided on the grading plan. The owner of the property on which the temporary basin is to be constructed shall be responsible for maintenance. The temporary basin is solely for the convenience of the development.
- 2. Backfill the temporary basin within ninety (90) days after notice by the City that the permanent facility is available, and the temporary basing is no longer needed. In the event the owner fails to backfill said basin, the City may cause the basin to be backfilled. A lien to cover the cost of work will be placed on the property on which the basin is located. A covenant stating these requirements shall be prepared and recorded on the lot on which the basin is to be located.
- 3. Install storm drain mains of the sizes and in the locations indicated below where surface drainage is not possible. The applicant's engineer shall be responsible for verifying the size, location, and elevations of existing improvements.
  - a) California Avenue: 15" storm main along the development frontage.
  - b) Interior Streets: 8" water mains throughout development.

4. Design the site to drain to the proposed master planned storm drain facilities within the streets listed above. Any proposed storm drain system within the development shall connect to said facilities. Minimum storm drain pipe size within public right-of-way shall be 15”.
5. Submit hydrologic and hydraulic calculations (H&H) for any proposed storm drain system and submit with the grading plan for review and approval by the City Engineer. Form of H&H calculations shall be approved by the City Engineer prior to submittal.
6. Install concrete masonry block walls in accordance with City Standards, with a minimum height of 6 feet, and of a design and color approved by the City of Kerman Planning Department at the following locations:
  - a) California Avenue: along the development frontage.

Masonry block walls that retain more than 12” and/or are taller than 6 feet shall be designed by a registered civil engineer.

7. Show grade differentials between lots and adjacent properties and address in conformance with City Standards. Any retaining walls required shall be masonry construction. All retaining walls shall be designed by a registered civil engineer.
8. Submit a copy of Storm Water Pollution Prevention Plan with Notice of Intent, or Construction Rainfall Erosivity Waiver, if applicable, prior to issuance of Grading Permit. The City is not a designated MS4 area and is regulated under the Construction General Permit Order 2022-0057-DWQ (CGP). Comply with all requirements of the NPDES General Permit, if applicable. Plans for these requirements shall be included in the construction plan set and shall be submitted to and approved by the City Engineer.
9. Submit a copy of the San Joaquin Valley Air Pollution Control District (SJVAPCD) Dust Control Plan or Construction Notification Form, if applicable, prior to issuance of a grading permit. The Project shall comply with all rules, regulations and conditions of approval imposed by the District. The applicant shall maintain a program of dust control to prevent air pollution as well as discomfort or damage to adjacent and surrounding properties. The applicant shall follow all requirements and recommendations made by the San Joaquin Valley Air Pollution Control District for dust and emission reduction.

#### G. Landscaping and Irrigation

1. Provide landscaping and irrigation as required herein. The landscaping and irrigation shall be installed in public right-of-way and all other areas reserved for landscaping. Plans for the required landscaping and irrigation systems shall be prepared by an appropriately qualified professional and conform to the City of Kerman Standard Drawings and

Specifications and the California Model Water Efficiency Ordinance. Public landscaping and irrigation shall be installed in the following locations:

- a) California Avenue: Along the frontage development from back of curb to block wall and within the median island.
2. Install all landscape improvements prior to issuance of 50% of the development's building permits.
3. Request annexation to the City's Landscaping and Lighting Maintenance District (LLMD). The property owner acknowledges and agrees that such request serves as a petition pursuant to California State Proposition 218 and no further election will be required for the establishment of the initial assessment. The assessment for each lot must be obtained from the City for the tax year following the recordation of the final map. The property owner shall consent to the first-year assessment and annual increases per the provisions of the LLMD. The property owner/applicant shall notify all potential lot buyers before they actually purchase a lot that this tract is a part of a LLMD. Said notification shall be in a manner approved by the City. The property owner/applicant shall supply all necessary assessment diagrams and other pertinent materials for the LLMD.
4. Contact and comply with all requirements of the Fresno Irrigation District (FID). This may include, but not be limited to, dedicating easements, piping or relocating any existing FID canals or ditches, replacing any existing irrigation piping, concrete lining or improving any existing canals, construction or reconstruction of any canals, culverts, and bridge crossings. Plans for these requirements and improvements shall be included in the previously required set of construction plans and submitted to and approved by FID prior to the release of any development permits or recording of the final map. If an FID or private irrigation line is to be abandoned, the applicant shall provide waivers from all downstream users.
5. Identify all existing onsite agricultural irrigation systems either onsite or within public rights-of-way, whether FID or privately owned prior to any construction activity on the site. Service to all downstream users of irrigation water shall be maintained at all times through preservation of existing facilities or, if the existing facilities are required to be relocated, the relocation and replacement of the existing facilities. It is the intent that downstream users not bear any burden as a result of the development. Therefore, the applicant shall bear all costs related to modification, relocation, or repair of any existing irrigation facilities resulting from or necessitated by the development. The applicant shall identify on the construction plans all existing irrigations systems and their disposition (abandonment, repair, relocation, and or piping) for approval by the City Engineer. The applicant shall consult with the FID for any additional requirements for lines to be abandoned, relocated, or piped. The applicant shall provide waivers from all users in order to abandon or modify any irrigation systems or for any service interruptions resulting from development activities.

6. Indicate on construction drawings the depth, location and type of material of any existing FID irrigation line along the proposed or existing street rights-of-way or onsite. Any existing canals or ditches shall be piped. The material of the existing pipe shall be upgraded to the proper class of rubber gasket pipe at all locations unless otherwise approved by the City Engineer.

#### H. Miscellaneous

1. Obtain express written approval of the City Engineer for a deferment, modification, or waiver of any engineering conditions of approval.
2. Remove all existing structures, trees, shrubs, etc., that are within or encroaching on existing or proposed rights-of-way or easements. Existing street improvements shall be preserved, at the discretion of the City Engineer.
3. Install fence or walls in accordance with City Standards, with a minimum height of 6 feet, and of a design and color approved by the City of Kerman Planning Division at the following locations:
  - a) North property line of W California Ave., West property line of the Project along Modoc Ave., and south property line of the Project.

Masonry block walls that retain more than 12" and/or are taller than 6 feet shall be designed by a registered civil engineer.

4. Provide clean-up, street sweeping, and dust control during the construction of the development to the satisfaction of the City Engineer and Public Works Director. A deposit of \$5,000.00 shall be submitted to the City to guarantee compliance. At any time, applicant is deemed to be non-compliant by the City Engineer or Public Works Director, the City may draw from said deposit to pay for necessary activities to bring the site into compliance.
5. Install monuments at all section corners, quarter section corners, all street centerline intersection points, angle points, and beginning of curves and end of curves on streets adjacent to or within the development prior to final acceptance of the development. Any existing section corner or property corner monuments damaged or destroyed by the development shall be reset to the satisfaction of the City Engineer. A licensed land surveyor or civil engineer licensed to perform land surveying shall certify the placement of all required documentation prior to final acceptance. Within five days after the final setting of all monuments has been completed, the engineer or surveyor shall give written notice to the City Engineer that the final monuments have been set. Upon payment to the engineer or surveyor for setting the final monuments, the applicant shall present the City Engineer evidence of the payment and receipt thereof by the engineer or surveyor.

6. Install other private and public improvements as may be required under Development Plan Permit 2023-01 and 02.
7. Provide Cross Access Easement agreements for shared driveways, where applicable, in a form approved by the City.
8. Comply with General Plan Policy LU-4.5 Right-to-Farm Disclosure.
9. Install subdivision signage complying with applicable Building & Fire Code and Section 17.30.070 of the Kerman Municipal Code.
10. The project shall comply with all applicable mitigation measures required by the Mitigated Monitoring and Reporting Program prepared for Mitigated Negative Declaration 2023-01, dated June 2024 (SCH #2024040147).
11. Any phasing of TSM 2023-01 shall be consistent with Title 16 of the Kerman Municipal Code and the Subdivision Map Act.

The conditions given herein are for the entire development. Additional requirements for individual phases may be necessary pending review by the City Engineer.

Attachment 'J'

**RESOLUTION NO. 24-\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KERMAN INITIATING ANNEXATION FOR THE WHISPERING FALLS RESIDENTIAL PROJECT CONSISTING OF SIX (6) PARCELS IDENTIFIED AS APNS 020-160-36S, 020-160-18S, 020-160-19S, 020-041-45S, 020-041-47S, AND 020-041-09U CONTAINING APPROXIMATELY 64.76 ACRES LOCATED ON THE EAST SIDE OF SOUTH MODOC AVENUE BETWEEN WEST KEARNEY BOULEVARD AND THE WEST CALIFORNIA AVENUE ALIGNMENT/SAN JOAQUIN VALLEY RAILROAD (ANNEXATION 2023-01).**

WHEREAS, the City of Kerman desires to initiate proceedings, pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3, commencing with Section 56000 of the California Government Code; and

WHEREAS, Government Code section 56654 provides that “[a] proposal for a change of organization or a reorganization may be made by the adoption of a resolution of application by the legislative body of an affected local agency . . . [;]” and

WHEREAS, the specific changes of organization requested consists of an annexation into the City of Kerman and detachment from the County of Fresno and a reorganization from the Kings River Conservation District into the Fresno Irrigation District of the parcels identified as APNs 020-160-36S, 020-160-18S, 020-160-19S, 020-041-45S, 020-041-47S, and 020-041-09U and the adjacent right-of-way on South Modoc Avenue and the West California Avenue Alignment (“Project Area”); and

WHEREAS, the Project Area includes one (1) active Williamson Act contract (APN 020-160-19S) as the northernmost parcel (which is not currently proposed for development);

WHEREAS, the City will not succeed to the rights, duties, and powers of the County under the Williamson Act contract for APN 020-160-19S, as allowed under California Government Code 51243.5, and meeting all the criteria under Subsection (d)/(e); and

WHEREAS, a map of the boundaries of the territory is set forth in **Exhibit ‘1’** attached hereto and by this reference incorporated herein; and

WHEREAS, the affected territory proposed to be changed is uninhabited, and on this day contains 3 registered voters, according to information received from the County Elections Office; and

WHEREAS, the proposed annexation area is inside the Sphere of Influence (SOI) of the City of Kerman; and

WHEREAS, the City has an agreement with the County of Fresno to comply with Revenue and Tax Code Section 99 regarding property tax revenue transfer upon annexation, which memorandum of understanding includes standards of annexations; and

WHEREAS, the City does not propose any specific term and conditions for the proposed reorganization; and

WHEREAS, the reasons for this proposed annexation is to allow for the implementation of the City of Kerman 2040 General Plan adopted in July 2020 through the development of a residential project proposed by Whispering Falls, LLC. (“Developer”); and

WHEREAS, the Project Area contains six (6) existing parcels containing approximately 64.76 acres within the City’s existing Sphere of Influence, and is located on the east side of South Modoc Avenue between West Kearney Boulevard and the West California Avenue Alignment/San Joaquin Valley Railroad (**Exhibit ‘1’**); and

WHEREAS, approval of the project would require approval of an Annexation 2023-01, Rezone 2023-01, General Plan Amendment 2023-01, Tentative Subdivision Map 2023-01, Development Plans 2023-01 and 2023-02, Conditional Use Permit 2023-02, and Variance 2023-01; and

WHEREAS, the City prepared an Initial Study, Mitigated Negative Declaration 2023-01 and Mitigation Monitoring and Reporting Program dated June 2024 (SCH #2024040147) for the project, and this related annexation; and

WHEREAS, the Planning Commission held a public hearing on July 15, 2024, to consider a recommendation to the City Council regarding annexation of the Project Area shown in Exhibit ‘A-1’; and

WHEREAS, in conjunction with the public hearing on July 15, 2024, the Planning Commission considered a recommendation of annexation for the Project Area, consistent with the General Plan, as amended; and

WHEREAS, after due consideration of all the items before it, the Planning Commission recommended the City Council initiate the annexation of the Project Area; and

WHEREAS, all prerequisites for the initiation of proceedings, pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, have been met; and

WHEREAS, after due consideration of all the items before it, the City Council now desires to adopt this Resolution to initiate proceedings for the affected territory as set forth in **Exhibit ‘1’**.

NOW, THEREFORE, the City Council of the City of Kerman resolves as follows:

1. Recitals. The City Council hereby finds that all of the facts set forth in the recitals above are true and correct and incorporated herein.



2. CEQA. The City Council previously adopted Mitigated Negative Declaration 2023-01 (MND) for the project. The MND identified the annexation. The annexation does not change the environmental assessment of the MND. Further, the MND was recently adopted by the City Council. The City Council further finds that no subsequent review is required under CEQA Guidelines section 15162 as since that time no substantial changes have been proposed in the project which will require major revisions of the previously adopted MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. Likewise, no substantial changes have occurred since that time with respect to the circumstances under which the project is undertaken which will require major revisions of the MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. There is also no new information, which was not known and could not have been known at the time of the adoption of the MND that the project will have significant effect not discussed in the MND. As such, the City Council finds Annexation 2023-01 has already been fully assessed in accordance with CEQA, no subsequent review is required under CEQA Guidelines section 15162, and no further action or review is required under CEQA.
  
3. General Plan Consistency. The City Council finds that the annexation is consistent with the goals, objectives, and policies of the Kerman General Plan, as amended by General Plan Amendment 2023-01. In this regard, the City Council finds that public necessity, convenience, general welfare, or good zoning practices justify annexation of the Project Area. Specifically, the annexation and pre-zoning change is consistent with the General Plan goals and policies, any operative plan, or adopted policy including LU-3.2 Urban Form; LU-3.3 Prevent Sprawl Development; and LU-5.4 New Incompatible Land Uses as described below and implements the planned residential land uses in the Project Area.
  - (a) General Plan Policy LU-3.2. Urban Form: To maintain the City's compact form, this policy requires the City to maintain growth management controls by managing changes to the City's Sphere of Influence and incorporated City limits. Future changes to the City's Sphere of Influence are managed by two growth lines, "Area 1" and "Area 2." *The Project Area is in Area 1. In particular, the Project Area is within "Area 1" of the City's Sphere of Influence. LU 3.2 Urban Form allows the City to consider requests to amend the current Sphere of influence and City limits into Area 1 based on the ability of the City to provide services to the area. Further, for any change in Sphere of Influence or City Limits, the City is to consider 1) 80% of The change is also consistent with the purpose of the Development Code to promote the growth of the city in an orderly and sustainable manner, and to promote and protect the public health, safety, peace, comfort, and general welfare. The change is also necessary for good zoning practices to achieve the balance of land uses desired by the City and to provide sites for needed residential uses consistent with the General Plan.*
  
  - (b) General Plan Policy LU-3.3. Prevent Sprawl Development. The City shall direct new development to areas that are continuous to existing or approved development

and prevent sprawl development. *The Project Area is contiguous to existing and approved development within City limits. Therefore, the Project is consistent.*

- (c) General Plan Policy LU-5.4. New Incompatible Uses. This policy prohibits the City from introducing new incompatible land uses and environmental hazards into existing residential areas. *The Project Area is adjacent to existing or approved residential development. The Project would result in new residential uses within a residential area and would not introduce incompatible land uses or environmental hazards. Therefore, the Project is consistent.*

4. Findings for Annexation. The City Council finds, as follows:

- (a) The proposed annexation is within the City's adopted Sphere of Influence. *This project is located within Area 1 of the proposed Sphere of Influence outlined in the General Plan and maintains growth management controls consistent with the General Plan including but not limited to LU-3.2, LU-3.3, LU-5.4.*
- (b) The proposal must be consistent with city general and specific plans, including adopted goals and policies. *The proposed annexation area will be consistent with the City's General Plan goals and policies contingent upon approval of the entitlements, including the General Plan Amendment, Prezone/Rezone, Tentative Subdivision Map, Development Plans, Conditional Use Permit, and Variance, including but not limited to LU-2.1, LU-2.4, LU-2.5, LU-3.2, LU-3.3, LU-5.4, CIRC-1.10, and CIRC-2.1.*
- (c) Pursuant to CEQA, the proposal must mitigate any significant adverse effect on continuing agricultural operations on adjacent properties, to the extent reasonable and consistent with the applicable general and specific plan. *The City has prepared an Initial Study / Mitigated Negative Declaration (MND) for the project. The MND has concluded that no significant environmental impacts will occur as a result of the project.*
- (d) At least 25% of the area proposed for annexation has an approved tentative subdivision map(s) (single-family residential) and an approved site plan (for uses besides single-family). *The proposed annexation would meet this condition whereby at least 25% of the proposed annexation area will include an approved tentative map for single-family residential and approved development plan for multi-family residential.*
- (e) The annexation is to fulfill the city's Regional Housing Needs Allocation (RHNA) obligation which otherwise cannot be accommodated on lands currently within the city's incorporated boundary. *The proposed annexation would meet this condition whereby the City has contemplated this annexation area as a housing program necessary to fulfill RHNA obligations within the City's 6<sup>th</sup> Cycle Housing Element Update.*

(f) The proposal would not create islands. Boundaries must ultimately minimize creation of peninsulas and corridors, or other distortion of boundaries. *The proposed annexation area would not create islands. New boundaries would not create any peninsulas or corridors.*

5. Approval of Initiation of Reorganization. Based on the information provided above, the City Council of the City of Kerman approves initiation of annexation and reorganization for the entire Project Area that is not within the City limits, by adopting a resolution of application requesting the Local Agency Formation Commission of Fresno County to initiate proceedings for the change of organization of territory as described in Exhibit '1', in the manner provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. The City Council authorizes and directs the City Manager to take all necessary steps to effectuate and initiate such reorganization proceedings, and to support Developer's processing of the same at Developer's sole cost and expense.
6. Effective Date of Resolution. This resolution shall become effective immediately after the City Council approves Rezone 2023-01 and said ordinance adopting the same then becomes effective. If said ordinance does not become effective within 65 days of the adoption of this Resolution, or the ordinance is not otherwise adopted by the City Council, then Annexation 2023-01 shall be returned to the City Council for further consideration and a final decision.

The foregoing resolution was introduced and adopted by the City Council of the City of Kerman at a regular meeting held on the 28th day of August 2024, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

The foregoing resolution is hereby approved.

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Maria Pacheco  
Mayor

ATTEST:

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Josie Camacho  
City Clerk

# Exhibit '1'

## Proposed Area of Annexation (Annexation 2023-01)

