

Resolution No. 2024-13

A RESOLUTION OF THE CITY OF KERMAN PLANNING COMMISSION RECOMMENDING TO THE CITY COUNCIL TO INITIATE ANNEXATION FOR THE WHISPERING FALLS RESIDENTIAL PROJECT CONSISTING OF 5 PARCELS IDENTIFIED AS APNs 020-160-36S, 020-160-18S, 020-160-19S, 020-041-45S, AND 020-041-47S CONTAINING APPROXIMATELY 61.89 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) AND ADOPTION OF MITIGATED NEGATIVE DECLARATION (ENV 2023-01) AND MITIGATED MONITORING AND REPORTING PROGRAM

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, and 020-041-47S 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 Exhibits ‘A-1’ attached hereto and by this reference incorporated herein; 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 MOU 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; and

WHEREAS, the Project Area contains approximately 5 existing parcels containing approximately 61.89 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 (see Exhibit 'A-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 rezoning and annexation for the Project Area, consistent with the General Plan, as amended; and

WHEREAS, in the public hearing on July 15, 2024, the Planning Commission considered recommending to the City Council that no significant environmental impacts would result from the proposed project with the incorporation of mitigation measures, adopt a Mitigation Monitoring and Reporting Program, dated June 2024 and certify that Mitigation Negative Declaration 2023-01 (SCH #2024040147) was prepared pursuant to CEQA; and

WHEREAS, after due consideration of all the items before it, the Planning Commission now desires to adopt this Resolution recommending to the City Council to initiate the annexation of the Project Area and Adoption of Mitigated Negative Declaration 2023-01 and Mitigated Monitoring and Reporting Program Prepared for the project.

NOW, THEREFORE, the Planning Commission of the City of Kerman resolves as follows:

1. Recitals. The Planning Commission 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 dated June 2024 (SCH #2024040147) to evaluate the environmental effects of the project, including the proposed annexation. 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 Planning Commission recommends the City Council find 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 Planning Commission recommends the City Council also find and determine 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 the Initial Study/Mitigated Negative Declaration.

3. Recommendation of Adoption of MND and Mitigation Monitoring and Reporting Program. Based on the foregoing, the Planning Commission recommends that the City Council adopt 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 recommended to be designated as the custodian of the documents and other materials that constitute the record of proceedings upon which the decision is based. The Planning Commission further recommends that the City Council authorize 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 Planning Commission 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 Planning Commission recommends the City Council find 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 Spawl 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.

5. Findings for Annexation. The Planning Commission further finds, and recommends the City Council find, 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 6th 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.

4. Recommendation for Approval. Based on the information provided above, the Planning Commission recommends to the City Council of Kerman to initiate annexation 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 'A-1', in the manner provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. The Planning Commission recommends the City Council direct the City Manager to take all necessary steps to submit a complete application for the proposed annexation, including preparation and submittal of all LAFCO required forms, documents and studies and payment of all required fees, in accordance with any applicable agreement with the County of Fresno governing the same. The Planning Commission further recommends that the City shall, at least 30 days prior to filing any annexation proposal with the Fresno Local Agency Formation Commission, notify the County of Fresno of the City's intention to file such proposal and the date upon which City expects such proposal to be filed.
5. Effective Date of Resolution. This Resolution shall become effective immediately. The Secretary of the Planning Commission shall certify to the adoption of the Resolution and shall transmit copies of the same to the City Council of the City of Kerman.

I HEREBY CERTIFY that the foregoing Resolution was approved at a special meeting of the City of Kerman Planning Commission on the 15th day of July 2024, and was fully adopted at said meeting by the following vote:


Ayes: K. Nehring, C. Molloy, R. Bandy, R. Felker

Noes: NONE

Absent: NONE

Recused: S. Bishop

The foregoing resolution is hereby approved.



Kevin Nehring
VICE CHAIR PERSON

6 AUGUST 2024

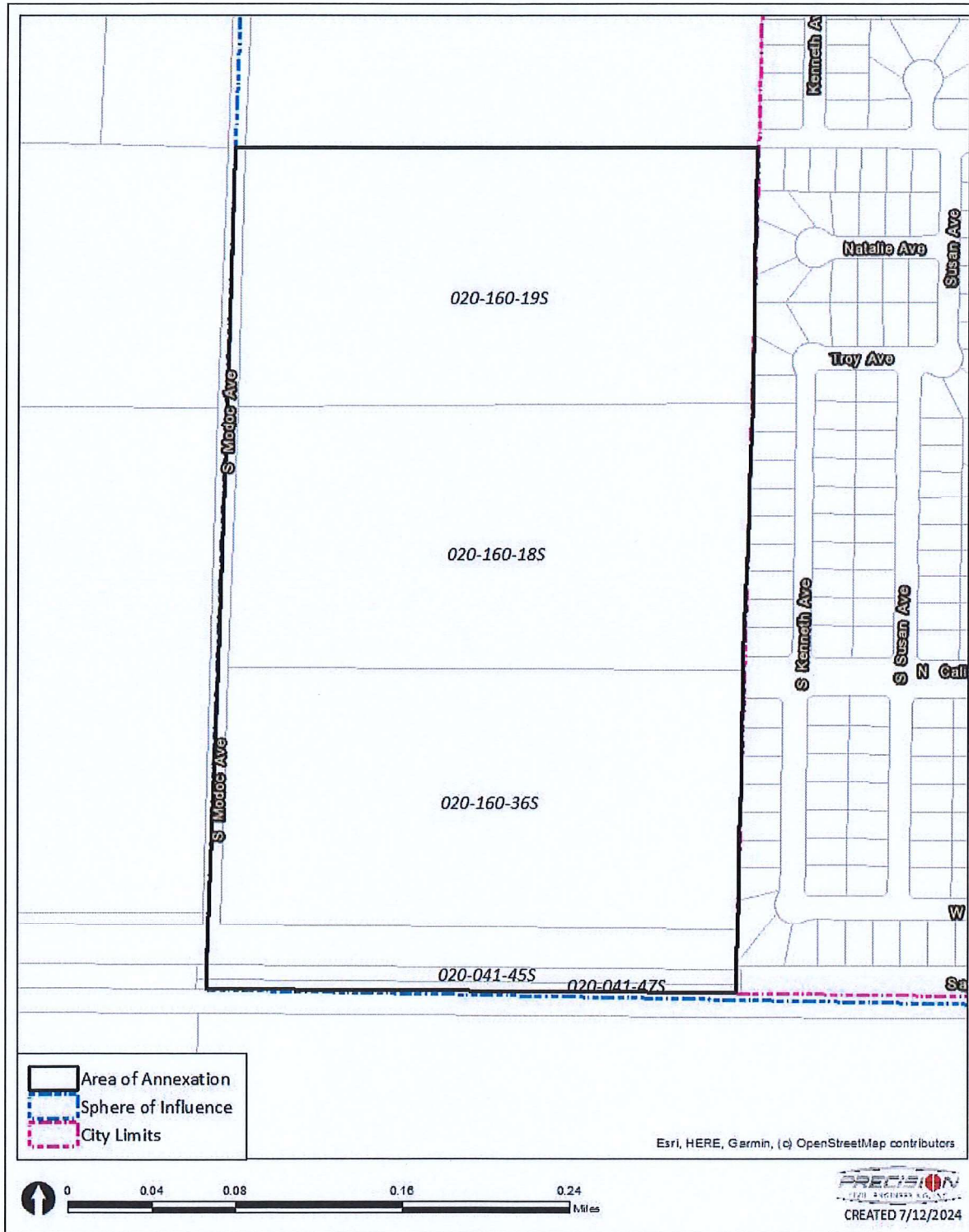
Attest:



Juliana Gomez
Recording Secretary

Exhibit 'A-1': Proposed Area of Annexation

EXHIBIT 'A-1'
Annexation 2023-01
PROPOSED AREA OF ANNEXATION



APNs: 020-160-195, 020-160-185, 020-160-365, 020-041-45S, 020-041-47S

Resolution No. 2024-14

A RESOLUTION OF THE CITY OF KERMAN PLANNING COMMISSION RECOMMENDING TO THE CITY COUNCIL APPROVAL OF I) 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; AND II) 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 020-041-47) 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, 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 5 parcels consisting of 60 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, and 020-041-47S (“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 55 acres) and HDR – High Density Residential (approximately 5 acres);

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, 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 56 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 'B-1'; and

WHEREAS, the requested General Plan Amendment 2023-01 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 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 020-041-47) and SD-R-5 zone district (APN 020-160-19S) as shown in the attached Exhibit 'B-2', consistent with the MDR land use designation, upon approval of General Plan Amendment 2023-01; and

WHEREAS, the proposed General Plan Amendment 2023-01 and Rezone 2023-01 will provide the required consistency between the General Plan and Zoning Ordinance; and

WHEREAS, the proposed General Plan Amendment and Rezone are compatible with the neighborhood and are 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 and Mitigation Monitoring and Reporting Program dated June 2024 (SCH #2024040147) for the project, and this related General Plan Amendment and Rezone; 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 General Plan Amendment and Rezone 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 now desires to recommend that the City Council adopt General Plan Amendment 2023-01 and Rezone 2023-01.

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

1. Recitals. The Planning Commission hereby finds that all of the facts set forth in the recitals above are true and correct and incorporated herein.
2. CEQA. The Planning Commission concurrently recommended approval of Initial Study and Mitigated Negative Declaration 2023-03 and Mitigated Monitoring and Reporting Program dated June 2024 (SCH #202404148) for the Project. As such, no additional environmental analysis is required, and the Planning Commission finds, and recommends the Council find, that the General Plan Amendment and Rezone and related project entitlements are specifically anticipated and assessed for the proposed project in the Mitigated Negative Declaration and are consistent with the purpose and intent of the Mitigated Negative Declaration.
3. General Plan Amendment 2023-01 Findings. The Planning Commission finds, and recommends the City Council find, 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 has 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 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. Therefore, the tentative subdivision map would not result in a substantial adverse effect to special status species, riparian or other natural habitat, wetlands, movement of migratory fish or wildlife species, or conflict with any local, regional or state preservation or conservation plans.

4. Rezone 2023-01 Findings. The Planning Commission finds, and recommends the City Council find, 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. Therefore, the tentative subdivision map would not result in a substantial adverse effect to special status species, riparian or other natural habitat, wetlands, movement of migratory fish or wildlife species, or conflict with any local, regional or state preservation or conservation plans.

5. Recommendation for Approval. Given that all the findings can be made, the Planning Commission recommends the City Council adopt a resolution approving 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 'B-1' made a part hereof by this reference. The Planning Commission further recommends the City Council adopt an ordinance

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 020-041-47) 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 'B-2'.

6. Effective Date of Resolution. This Resolution shall become effective immediately. The Secretary of the Planning Commission shall certify to the adoption of the Resolution and shall transmit copies of the same to the City Council of the City of Kerman.

I HEREBY CERTIFY that the foregoing Resolution was approved at a special meeting of the City of Kerman Planning Commission on the 15th day of July 2024, and was fully adopted at said meeting by the following vote:

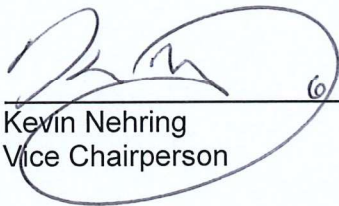
Ayes: K. Nehring, C. Molloy, R. Bandy, R. Felker

Noes: NONE

Absent: NONE

Recused: S. Bishop

The foregoing resolution is hereby approved.


6 AUGUST 2024
Kevin Nehring
Vice Chairperson

Attest:

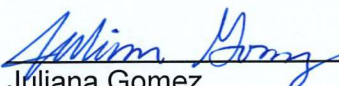
 8/7/24
Juliana Gomez
Recording Secretary

Exhibit 'B-1'

General Plan Amendment 2023-01

Whispering Falls

Change from:

Page 3-6

Kerman General Plan		
Designation	Description	Density / Intensity
Medium Density Residential MDR Compatible Zoning: 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 PD	Purpose and Application: 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. Typical Uses: <ul style="list-style-type: none"> ▪ Single family detached dwellings ▪ Small-lot multifamily dwellings, including duplexes, triplexes, fourplexes, and mobile homes ▪ Accessory dwelling units ▪ Compatible public and quasi-public uses (e.g., churches, day-care centers, community centers, parks, and schools) 	Maximum Density: 12 du/ac

Change to:

Page 3-6

Kerman General Plan		
Designation	Description	Density / Intensity
Medium Density Residential MDR Compatible Zoning: R-1-7 R-1-12 R-2 SD-R-5 SD-R-4.5 SD-R-3.5 SD-R-2.5 PD-R-7 PD-R-12	Purpose and Application: 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. Typical Uses: <ul style="list-style-type: none"> ▪ Single family detached dwellings ▪ Small-lot multifamily dwellings, including duplexes, triplexes, fourplexes, and mobile homes ▪ Accessory dwelling units ▪ Compatible public and quasi-public uses (e.g., churches, day-care centers, community centers, parks, and schools) 	Maximum Density: 12 du/ac Minimum Density: 5 du/ac

Exhibit 'B-2'

Rezone 2023-01

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 5 parcels consisting of 60 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, and 020-041-47S (“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 55 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 56 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 ‘B-2’, 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 ____, 2024, to consider Rezone 2023-01 during which the Council solicited public testimony, considered the environmental assessment, and approved of the 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 of Kerman City Council 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. California Environmental Quality Act (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 adopted on _____, 2024. 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 the RZ 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 2023-01 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. Therefore, the tentative subdivision map would not result in a substantial adverse effect to special status species, riparian or other natural habitat, wetlands, movement of migratory fish or wildlife species, or conflict with any local, regional or state preservation or conservation plans.

4. Approval of Rezone 2023-02. 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 'A'.

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: The City Clerk shall certify to the adoption of this ordinance, and shall cause the same to be posted and codified in the manner required by law.
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:

ABSENT:

ABSTAIN:

The foregoing ordinance is hereby approved.

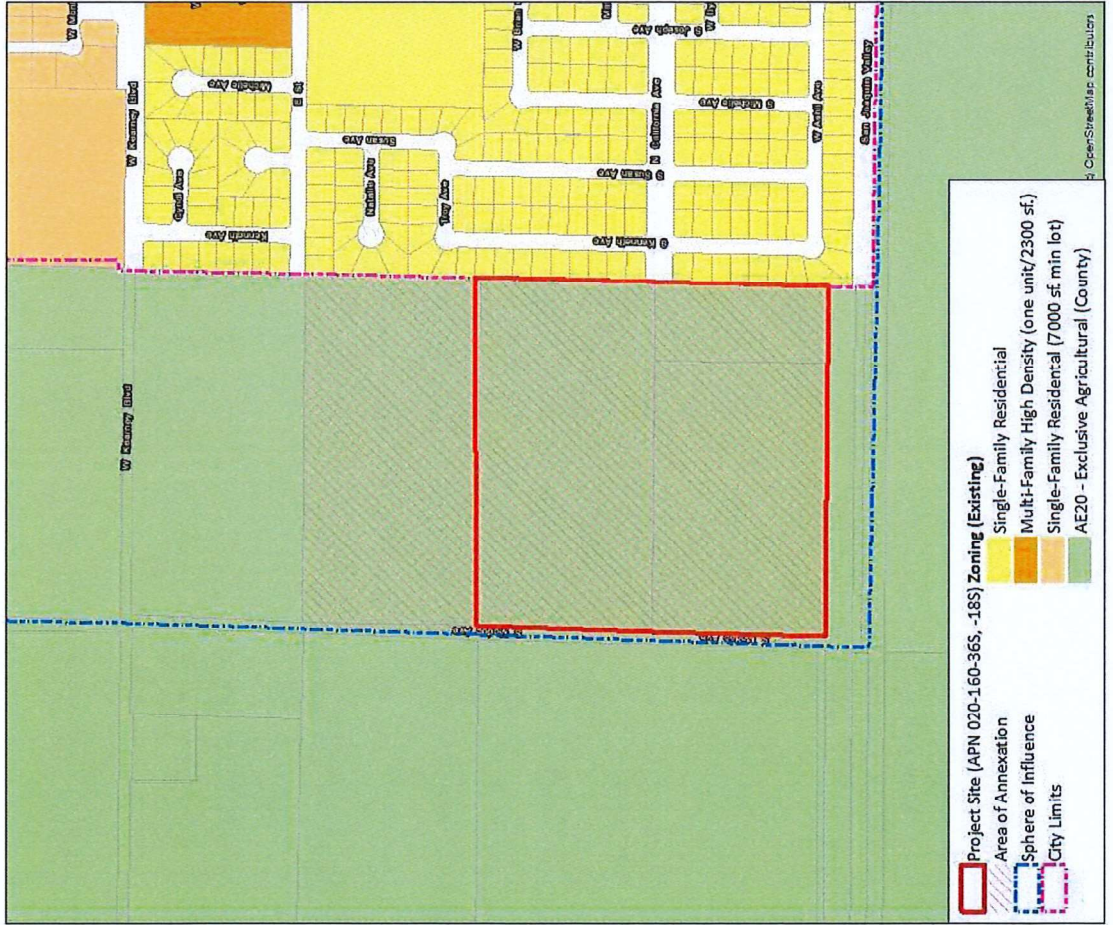
Maria Pacheco, Mayor

Josie Camacho, City Clerk

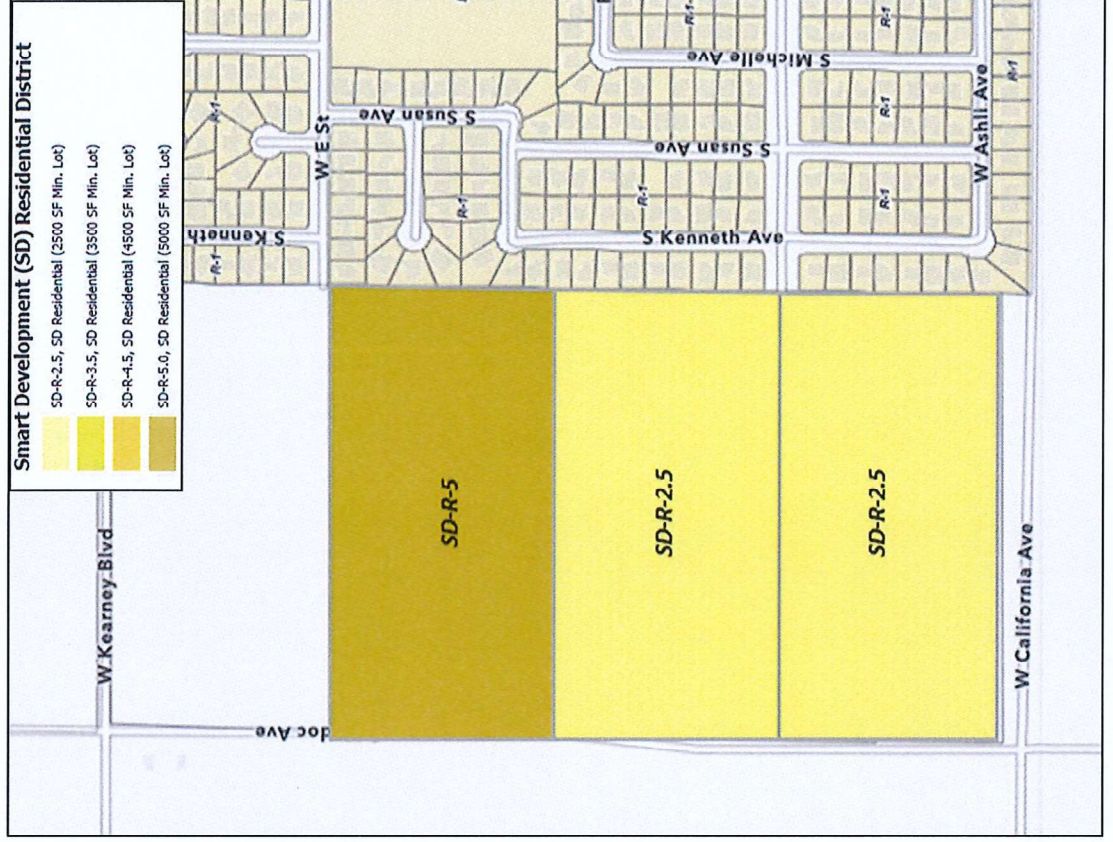
Exhibit 'A'

Rezone 2023-01 – Zoning Map

Existing County Zoning



New City Zoning



Resolution No. 2024-15

**A RESOLUTION OF THE CITY OF KERMAN PLANNING COMMISSION
RECOMMENDING TO THE CITY COUNCIL APPROVAL OF TENTATIVE
SUBDIVISION MAP (TSM) 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
APN 020-160-36S**

WHEREAS, Whispering Falls, LLC. submitted Tentative Subdivision Map 2023-01 to subdivide the approximately 20-acre parcel identified as APN 020-160-36S 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 20-acre parcel into 119 lots, 118 of which will be for single-family units and 1 will be for multi-family residential development consisting of 56 units and community center; and

WHEREAS, Annexation 2023-01, Rezone 2023-01, General Plan Amendment 2023-01, Development Plans 2023-01 and 2023-02, Conditional Use Permit 2023-02, and Variance 2023-02 were considered concurrently by the Planning Commission 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 2023-01 and Mitigation Monitoring and Reporting Program dated June 2024 (SCH # 2024040147) 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 June 26, 2024, published a legal notice in compliance with State law concerning Planning Commission 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 Planning Commission consideration of a recommendation for the approval of the Tentative Subdivision Map. In addition, on or prior to June 26, 2024, a public hearing notice was mailed to each property owner within at least 300 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 July 15, 2024, the Planning Commission conducted a duly noticed public hearing on the Mitigated Negative Declaration 2023-01 and Mitigation Monitoring and Reporting Program dated June 2024, Annexation 2023-01, General Plan Amendment 2023-01, Rezone 2023-01, Tentative Subdivision Map (TSM) 2023-01, Development Plans 2023-01 and 2023-02, Conditional Use Permit 2023-02, and Variance 2023-01; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred, , and the Planning Commission desires to recommend the City Council adopt Tentative Subdivision Map 2023-01

NOW, THEREFORE, the Planning Commission of the City of Kerman resolves as follows:

1. Recitals. The Planning Commission hereby finds that all of the facts set forth in the recitals above are true and correct and incorporated herein.
2. CEQA. The Planning Commission concurrently recommended approval of Initial Study and Mitigated Negative Declaration 2023-03 and Mitigated Monitoring and Reporting Program dated June 2024 (SCH #202404148) for the Project. As such, no additional environmental analysis is required, and the Planning Commission finds, and recommends the Council find, that the General Plan Amendment and Rezone and related project entitlements are specifically anticipated and assessed for the proposed project in the Mitigated Negative Declaration and are consistent with the purpose and intent of the Mitigated Negative Declaration.
3. Subdivision Findings. The Planning Commission 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 Planning Commission finds, and recommends the City Council find, as 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 Planning Commission 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 dated June 2024 (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 dated June 2024 (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 dated June 2024 (SCH #2024040147) 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 Planning Commission recommends the City Council approve Tentative Subdivision Map 2023-01 (Exhibit 'C-1-'), subject to the conditions set forth in Exhibit 'C-2' (Tentative Subdivision Map 2023-01 conditions of approval) attached hereto.
5. Effective Date of Resolution. This Resolution shall become effective immediately. The Secretary of the Planning Commission shall certify to the adoption of the Resolution and shall transmit copies of the same to the City Council of the City of Kerman

I HEREBY CERTIFY that the foregoing Resolution was approved at a special meeting of the City of Kerman Planning Commission on the 15th day of July 2024, and was fully adopted at said meeting by the following vote:

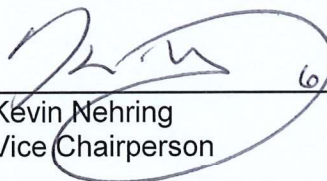
Ayes: K. Nehring, C. Molloy, R. Bandy, R. Felker

Noes: NONE

Absent: NONE

Recused: S. Bishop

The foregoing resolution is hereby approved.


6 AUGUST 2024
Kevin Nehring
Vice Chairperson

Attest:


 8/7/24
Juliana Gomez
Recording Secretary

Exhibit 'C-1': Tentative Subdivision Map 2023-01

Exhibit 'C-2': Conditions of Approval for Tentative Subdivision Map 2023-01

EXHIBIT 'C-1'

TENTATIVE SUBDIVISION MAP 2023-01
Whispering Falls Residential Development



EXHIBIT 'C-2'

Conditions of Approval Tentative Subdivision Map 2023-01 Whispering Falls Residential Development

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 monumentation 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) Modoc Avenue~~

- ~~i) Dedicate a total of 42' east of center/section line for public street and utility purposes along development frontage, north of California Avenue.~~
- ~~ii) Dedicate 2' pedestrian easement and 8' landscape easement east of proposed right-of-way lines.~~
- ~~iii) Relinquish all vehicular access to Modoc Avenue from all lots backing or siding onto this street.~~
- ~~iv) Construct improvements east 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.~~

- c) 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.

- d) 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.

- | | | |
|------------|----------|----------|
| • Basswood | • Birch | • Cherry |
| • Locust | • Maple | • Myrtle |
| • Olive | • Pine | • Poplar |
| • Cypress | • Willow | |

Or;

B.

- 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) Modoc Avenue: 15" sewer main along the development frontage, north of California Avenue.~~

c) 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) Modoc Avenue: 12" water main along the development frontage, north of California Avenue.~~

c) 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: 12" water main along the development frontage.
 - ~~b) Modoc Avenue: 12" water main along the development frontage, north of California Avenue.~~
 - c) 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.
 - ~~b) Modoc Avenue: along the development frontage, north of California Avenue.~~

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.
 - ~~b) Modoc 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 ~~concrete masonry block 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 monumentation 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.
8. Install subdivision signage complying with applicable Building & Fire Code and Section 17.30.070 of the Kerman Municipal Code.
9. 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).
10. 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.

Resolution No. 2024-16

A RESOLUTION OF THE CITY OF KERMAN PLANNING COMMISSION CONTINGENTLY APPROVING DEVELOPMENT PLAN PERMIT 2023-01 TO ALLOW FOR THE DEVELOPMENT OF 118 SINGLE-FAMILY RESIDENTIAL UNITS AND RELATED SITE AMENITIES ON A SITE 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, the Planning Commission considered a request for a development plan permit (DPL) 2023-01 filed by Whispering Falls, LLC. ("Applicant"/ "Property Owner") requesting approval of a development plan permit to allow for the development of 118 single-family residential units and related site amenities 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) ("project site"); and

WHEREAS, a public notice was circulated to adjacent properties within a 300-foot radius of the project site and published in the local newspaper at least 10 days prior to the meeting as required by law; and

WHEREAS, a written report was prepared by staff which included a recommendation for approval for Development Plan Permit 2023-01 and was made available for public review at least 72 hours prior to the public hearing; and

WHEREAS, development of the project will be consistent with the development standards of the SD-R-2.5 zone district, including those conditions prescribed by the Planning Commission, based on the evidence contained in the staff report and testimony presented at the public hearing; and

WHEREAS, approval of the project will be contingent upon final approval of Annexation 2023-01, General Plan Amendment 2023-01, Rezone 2023-01, Tentative Subdivision Map 2023-01, and Conditional Use Permit 2023-02; 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 this related development plan permit 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 development plan permit 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 concurrently considered Annexation (ANX) 2023-01, Rezone (REZ) 2023-01, General Plan Amendment (GPA) 2023-01, Conditional Use Permit

(CUP) 2023-02, Tentative Subdivision Map (TSM) 2023-01, Development Plans (DPL) 2023-01 and 02, and Variance (VAR) 2023-01

WHEREAS, the Planning Commission held a duly noticed public hearing on July 15, 2024 and considered all of the project and environmental information presented by staff, public testimony, and all of the background information; and

WHEREAS, after deliberation and consideration of all relevant items, the Planning Commission now desires to contingently approve Development Plan Permit 23-01 such that no decision of approval of Development Plan Permit 23-01 becomes final and effective until immediately after the City Council adopts Mitigated Negative Declaration 2023-01 and Mitigation Monitoring and Reporting Program, ANX 2023-01, REZ 2023-01, GPA 2023-01, and TSM 2023-01; and if no such approval occurs within 180 days of the adoption of this Resolution, then the Planning Commission intends that Development Plan Permit 23-01 be set for further consideration and a final decision by the Planning Commission.

NOW THEREFORE, the Planning Commission of the City of Kerman resolves as follows:

1. Recitals. The Planning Commission hereby finds that all of the facts set forth in the recitals above are true, 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 and Mitigated Monitoring and Reporting Program dated June 2024 (SCH #2024040147) to evaluate the environmental effects of the project, including the proposed development plan permit. The Planning Commission finds that Development Plan Permit 23-01 is consistent with, and has been fully assessed by, the MND, and that Development Plan Permit 23-01 is an entitlement specifically anticipated for the proposed Project in the MND, and is consistent with the purposes and intent of the MND .
3. Development Plan Permit Findings. The Planning Commission has determined to approve Development Plan Permit 2023-01 as permissible under Kerman Municipal Code Section 17.58.060 and determined that the requirements for Development Plan Permit 2023-01 can be made, including those required by the City of Kerman Municipal Code Section 17.58.060 (A) through (I), because the project's design, including; architectural design, building placement, parking, and landscaping substantially complies with the development standards prescribed in said section.
4. Contingent Approval of Development Plan Permit 2023-01. Given that all the findings can be made, the Planning Commission approves Development Plan Permit 2023-01 subject to conditions of approval included herein as Exhibit 'D-1' and contingent upon the following:
 - a. The approval of Development Plan Permit 2023-01 shall become final and effective immediately only after the City Council of Kerman i) adopts Mitigated Negative Declaration 2023-01 and the associated Mitigation Monitoring and Reporting Program; ii) approves Annexation 2023-01; iii) approves General Plan Amendment 2023-01; iv) approves Rezone 2023-01 and said ordinance adopting the same then becomes effective; and v) approves Tentative Subdivision Map 2023-01 (collectively "Council Approvals"). If all of the Council Approvals are not

made within 180 days of the adoption of this Resolution, then Development Plan Permit 2023-01 shall be returned to the Planning Commission for further consideration and a final decision. If Council Approvals are made within 180 days of the adoption of this Resolution, but any change is made by the Council to any of the Council Approvals in a manner that could reasonably affect the findings of the Planning Commission needed to approve Development Plan Permit 2023-01, or require a modification or addition of a condition of approval to be consistent with a Council Approval, then Development Plan Permit 2023-01 shall be returned to the Planning Commission for further consideration and a final decision.

- b. The approval of Development Plan Permit 2023-01 is also contingent and shall only become final upon approval of Conditional Use Permit (CUP) 2023-02, which is also concurrently considered and was contingently approved by the Planning Commission subject to Council Approvals. If CUP 2023-02 is not finally approved within 180 days of the adoption of this Resolution, or any change is subsequently made by the Council in response to the same on appeal or by modification to a Council Approval such that it could reasonably affect the findings of the Planning Commission needed to approve Development Plan Permit 2023-01, or require a modification or addition of a condition of approval to be consistent with a CUP 2023-02, then Development Plan Permit 2023-01 shall be returned to the Planning Commission for further consideration and a final decision.

5. Final Action and Appeals. This action shall become final and effective after, and only upon, the prior approvals including the MND and adoption of the Council Approvals and if a timely appeal of Development Plan Permit 2023-01 is then not filed with the City Clerk in accordance with the provisions of the City of Kerman Zoning Ordinance.

I HEREBY CERTIFY that the foregoing Resolution was approved at a special meeting of the Planning Commission of the City of Kerman on the 15th day of July 2024, and was fully adopted at said meeting by the following vote:

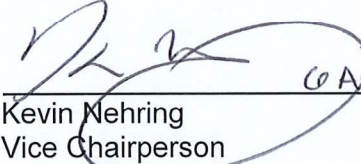
Ayes: K. Nehring, C. Molloy, R. Bandy, R. Felker

Noes: NONE

Absent: NONE

Recused: S. Bishop


The foregoing resolution is hereby approved.



Kevin Nehring
Vice Chairperson

60 AUGUST 2024

Attest:



Juliana Gomez
Recording Secretary

8/7/24

Exhibit 'D-1': Conditions of Approval

EXHIBIT 'D-1'

CONDITIONS OF APPROVAL DEVELOPMENT PLAN PERMIT 2023-01 Whispering Falls Residential Development (Single Family)

Notice To Applicant

Pursuant to Government Codes Section 66020(d)(1) and/or Section 66499.37, any protest related to the imposition of fees, dedications, reservations, or exactions for this project or any proceedings undertaken regarding the City's actions taken or determinations made regarding the project, including but not limited to the validity of conditions of approval must occur within ninety (90) calendar days after the date of this decision. This notice does not apply to those fees, dedications, reservations, or exactions which were previously imposed and duly noticed; or where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.

Important: Please Read Carefully

This project is subject to a variety of discretionary conditions of approval. These include conditions based on adopted City plans and policies; those determined through Development Plan Permit review and environmental assessment essential to mitigate adverse effects on the environment including the health, safety, and welfare of the community; and recommended conditions for development that are not essential to health, safety, and welfare, but would, on the whole, enhance the project and its relationship to the neighborhood and environment.

Discretionary conditions of approval may be appealed. All code requirements, however, are mandatory and may only be modified by variance, provided the findings can be made.

All discretionary conditions of approval for DPL 2023-01 will ultimately be deemed mandatory unless appealed by the applicant to the City Council within ten (10) working days after the decision by the Planning Commission. In the event you wish to appeal the Planning Commission's decision or discretionary conditions of approval for this entitlement, you may do so by filing a written appeal with the City Clerk. The appeal shall state the grounds for the appeal and wherein the Commission failed to conform to the requirements of the zoning ordinance. This should include identification of the decision or action appealed (including its identification number) and specific reasons why you believe the decision or action appealed should not be upheld, and the identity of the appellant.

Approval of this Development Plan Permit shall be considered null and void in the event of failure by the applicant and/or the authorized representative, architect, engineer, or designer to disclose and delineate all facts and information relating to the subject property and the proposed development.

Approval of this Development Plan Permit may become null and void in the event that development is not completed in accordance with all the conditions and requirements imposed on this use permit, the zoning ordinance, and all City standards and specifications. This use permit and site plan review is granted, and the conditions imposed, are based upon the application submittal provided by the applicant, including any operational statement. The application is material to the issuance of this use permit. Unless the conditions of approval specifically require an operation inconsistent with the application, a new or revised use permit is required if the operation of this establishment changes or becomes inconsistent with the application. Failure to operate in accordance with the conditions and requirements imposed may result in revocation of the use permit, or any other enforcement remedy available under the law. The City shall not assume responsibility for any deletions or omissions resulting from the use permit review process, or for additions or alterations to any construction or building plans

not specifically submitted and reviewed and approved pursuant to this use permit or subsequent amendments or revisions. These conditions are conditions imposed solely upon the use permit as delineated herein and are not conditions imposed on the City or any third party. Likewise, imposition of conditions to ensure compliance with federal, state, or local laws and regulations does not preclude any other type of compliance enforcement.

These conditions are applicable to any person or entity making use of this use permit, and references to “developer” or “applicant” herein also include any applicant, property owner, owner, lessee, operator, or any other person or entity making use of this use permit.

General Conditions

1. Project approval is conditioned upon acceptance of the conditions of approval contained herein, as evidenced by the receipt in the Planning Division of the applicant’s signature upon an Acknowledgement and Acceptance of Conditions within 30 days of the date of approval.
2. Development of the project shall comply with all applicable conditions of approval, as approved for DPL 2023-01.
3. The applicant’s failure to utilize DPL 2023-01 within one (1) year following the date of Final Map approval of TSM 2023-01 shall render this Development Plan null and void. Any extensions of time shall be submitted in writing thirty (30) days prior to permit expiration, subject to review and approval by the Planning Commission.
4. Minor modifications to the Development Plan to meet regulatory or engineering constraints may be made with the approval of the Community Development Director.
5. Any proposed future modifications to the site, including but not limited to, the building exterior, parking/loading areas, fences/walls, new buildings, or landscaping shall require an amendment to DPL 2023-01.
6. All conditions of approval shall be the sole financial responsibility of the applicant/owner, except where specified in the conditions of approval listed herein or as mandated by statutes.
7. It shall be the responsibility of the property owner and/or developer to ensure that any required permits, inspections, and approval from any regulatory agency are obtained prior to issuance of final occupancy.

Building Division

8. Site development shall be consistent with the approved home floor plans and elevations. The use of all rooms/activity areas shall be identified on plans submitted for a plan check and building permit.
9. Current State of California Building Code and Federal ADA requirements shall apply to the subdivision and all structures thereon. Compliance shall be verified at the permit stage and confirmed at the final inspection.
10. Fire sprinklers are required within all proposed models.
11. The applicant shall be responsible for contacting the NCFPD by email at Fire.Prevention@NorthCentralFire.org or by phone at (559) 878-4560 to schedule an over-the-counter

meeting to receive your specific requirements for your project. Failure to schedule an appointment with the NCFPD will affect your ability to obtain final approval for your project.

Planning Division

12. Except as required herein, all conditions applicable to the approval of TSM 2023-01 shall be completed prior to construction, during construction, or prior to Final Occupancy of the first unit approved under DPL 2023-01.
13. All standards for the location and design of buildings (including accessory structures) and fences, which are not specifically included in DPL 2023-01, shall conform to underlay SD Combining zone district as permitted under KMZ 17.18.030 (C).
14. A Home Owners Association shall be recorded and in effect at the time of Final Occupancy of the first home.

Home Models and Elevations

15. Development Plan Permit 2023-01 shall allow no less than 118 units in close conformance as follows:
 - a. Alley Loaded Detached: Plan 1 (3BR/2.5 BA) 1,548 sq. ft. | Plan 2 (3BR/2.5 BA) 1,812 sq. ft. | Plan 3 (2BR/3BA) 2,130 sq. ft.
 - b. Family Cluster Detached: Plan 1 (4BR/3BA) 2,020 sq. ft. | Plan 2 (3BR /3BA) 1,820 sq. ft
 - c. Wide Shallow Detached: Plan 1 (3BR /2.5BA) 2,203 sq. ft.
16. Each floor plan shall be offered in a minimum of three (3) distinct architectural elevations, colors, and materials consistent with pages A.34 through A.66 of Attachment 'H' of the Planning Commission staff report. Each floor plan approved by the Planning Commission shall be offered as a standard elevation. Any exterior architectural embellishments or materials may be offered as an upgrade option, but, shall not be less than or equal to the quality or material of the standard elevation.
17. To the greatest extent possible, no two adjoining lots shall repeat more than one of the following design elements:
 - Floor Plan
 - Elevation
 - Setback

Parking

18. Two-covered parking stalls shall be provided for each single-family unit.
19. Guest parking shall be clearly marked and identifiable.

Fences

20. The southern project boundary adjacent to the San Joaquin Valley Railroad rail line shall be secured by a sound wall, of no less than seven (7) feet in height and shall not exceed eight (8) in height.
21. A six (6) or seven-foot (7') ~~block~~ wall or fence shall secure the western and northern project boundaries, subject to compliance with the Kerman Municipal Code.
22. The final design and color of all perimeter fencing shall be approved by the Director as part of the plan review process.

Landscaping and Open Space Areas

23. Landscape and open space areas shall be developed consistent with the conceptual site plan and renderings submitted for consideration by the Planning Commission. Landscape and open space plans shall be submitted for review and approval as part of a building permit. The project shall be subject to KMC 8.12A.120 Model Water Efficient Landscape Ordinance Requirements (MWELO).
24. No less than 3.19-acres of open space of useable active or passive recreation shall be provided. Landscape planting and design shall be consistent with pages L1.0 through L3.1 of the Development Plan submitted before the Planning Commission.

Miscellaneous Conditions

25. Subdivision entry freestanding-monumental signs shall be subject to sign review approval and building permit.
26. Accessory features and amenities including but not limited to statues, pergolas, gazebos, swimming pools, and flagpoles subject to the California Building Code shall require a stand-alone building permit.
27. The developer and/or applicant shall be responsible for meeting and conferring with North Central Fire Protection District, Mid Valley Disposal, Sebastian Corp. and any other applicable utility or service provider prior to the development of the project.
28. 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).
29. A right-to-farm covenant shall be recorded prior to the recording of the Final Map.

End of Conditions

Resolution No. 2024-17

A RESOLUTION OF THE CITY OF KERMAN PLANNING COMMISSION CONTIGENTLY APPROVING DEVELOPMENT PLAN PERMIT 2023-02 TO ALLOW FOR THE DEVELOPMENT OF MULTI-FAMILY RESIDENTIAL BUILDINGS AND RELATED SITE AMENITIES AND VARIANCE 2023-01 TO ALLOW A MAXIMUM BUILDING HEIGHT OF 45 FEET AND 3 STORIES FOR THE PROPOSED MULTI-FAMILY RESIDENTIAL BUILDINGS, 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, the Planning Commission considered a request for a development plan permit (DPL) 2023-02 filed by Whispering Falls, LLC. ("Applicant"/ "Property Owner") requesting approval of a development plan permit to allow for the development of multi-family residential buildings and related site amenities 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) ("project site"); and

WHEREAS, the Applicant submitted Variance 2023-01, requesting a deviation from Kerman Municipal Code to allow an additional 10 feet and 1 story in height, for a total maximum height of 45 feet or 3 stories for the proposed multi-family residential buildings on the project site; and

WHEREAS, Variance 2023-01 is necessary to build additional units to meet the density of the Medium Density Residential and High Density Residential land use designations and the SD-R-2.5 zone district; and

WHEREAS, a public notice was circulated to adjacent properties within a 750-foot radius of the project site and published in the local newspaper at least 10 days prior to the meeting as required by law; and

WHEREAS, a written report was prepared by staff which included a recommendation for approval for Development Plan Permit 2023-02 and Variance 2023-01 and was made available for public review at least 72 hours prior to the public hearing; and

WHEREAS, development of the project will be consistent with the development standards of the SD-R-2.5, including those conditions prescribed by the Planning Commission, and as allowed by approval of Variance 2023-01 based on the evidence contained in the staff report and testimony presented at the public hearing; and

WHEREAS, approval of the project would also require approval of Annexation 2023-01, General Plan Amendment 2023-01, Rezone 2023-01, Tentative Subdivision Map 2023-01, and Conditional Use Permit 2023-02; 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 this related development plan permit and variance, 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 development plan permit, variance, 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 concurrently considered Annexation (ANX) 2023-01, Rezone (REZ) 2023-01, General Plan Amendment (GPA) 2023-01, Conditional Use Permit (CUP) 2023-02, Tentative Subdivision Map (TSM) 2023-01, Development Plans (DPL) 2023-01 and 02, and Variance (VAR) 2023-01

WHEREAS, the Planning Commission held a duly noticed public hearing on July 15, 2024 and considered all of the project and environmental information presented by staff, public testimony, and all of the background information; and

WHEREAS, after deliberation and consideration of all relevant items, the Planning Commission now desires to contingently approve Development Plan Permit 23-02 and Variance 2023-01 such that no decision of approval of Development Plan Permit 23-02 or Variance 2023-01 becomes final and effective until immediately after the City Council adopts Mitigated Negative Declaration 2023-01 and Mitigation Monitoring and Reporting Program, ANX 2023-01, REZ 2023-01, GPA 2023-01, and TSM 2023-01; and if no such approval occurs within 180 days of the adoption of this Resolution, then the Planning Commission intends that Development Plan Permit 23-02 and Variance 2023-01 be set for further consideration and a final decision by the Planning Commission

NOW THEREFORE, the Planning Commission of the City of Kerman resolves as follows:

1. Recitals. The Planning Commission hereby finds that all of the facts set forth in the recitals above are true, 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 and Mitigated Monitoring and Reporting Program dated June 2024 (SCH #2024040147) to evaluate the environmental effects of the project, including the proposed development plan permit and variance. The Planning Commission finds that Development Plan Permit 23-01 is consistent with, and has been fully assessed by, the MND, and that Development Plan Permit 23-01 is an entitlement specifically anticipated for the proposed Project in the MND, and is consistent with the purposes and intent of the MND The
3. Development Plan Permit Findings. The Planning Commission has determined to approve Development Plan Permit 2023-02 as permissible under Kerman Municipal Code Section 17.58.060 and determined that the requirements for Development Plan Permit 2023-02 can be made, including those required by the City of Kerman Municipal Code Section 17.58.060 (A) through (I).

4. Contingent Approval of Development Plan Permit 2023-02. Given that all the findings can be made, the Planning Commission approves Development Plan Permit 2023-02 subject to conditions of approval included herein as Exhibit 'E-1' and contingent upon the following:

- a. The approval of Development Plan Permit 2023-02 shall become final and effective immediately only after the City Council of Kerman i) adopts Mitigated Negative Declaration 2023-01 and the associated Mitigation Monitoring and Reporting Program; ii) approves Annexation 2023-01; iii) approves General Plan Amendment 2023-01; iv) approves Rezone 2023-01 and said ordinance adopting the same then becomes effective; and v) approves Tentative Subdivision Map 2023-01 (collectively "Council Approvals"). If all of the Council Approvals are not made within 180 days of the adoption of this Resolution, then Development Plan Permit 2023-01 shall be returned to the Planning Commission for further consideration and a final decision. If Council Approvals are made within 180 days of the adoption of this Resolution, but any change is made by the Council to any of the Council Approvals in a manner that could reasonably affect the findings of the Planning Commission needed to approve Development Plan Permit 2023-02, or require a modification or addition of a condition of approval to be consistent with a Council Approval, then Development Plan Permit 2023-02 shall be returned to the Planning Commission for further consideration and a final decision.
- b. The approval of Development Plan Permit 2023-02 is also contingent and shall only become final upon approval of Conditional Use Permit (CUP) 2023-02, which is also concurrently considered and was contingently approved by the Planning Commission subject to Council Approvals. If CUP 2023-02 is not finally approved within 180 days of the adoption of this Resolution, or any change is subsequently made by the Council in response to the same on appeal or by modification to a Council Approval such that it could reasonably affect the findings of the Planning Commission needed to approve Development Plan Permit 2023-02, or require a modification or addition of a condition of approval to be consistent with a CUP 2023-02, then Development Plan Permit 2023-02 shall be returned to the Planning Commission for further consideration and a final decision.

5. Variance Findings. The Planning Commission has determined to approve Variance 2023-01 as permissible under Kerman Municipal Code Section 17.16.030, including that all of the following findings can be made:

- a. That any variance permit granted shall be subject to such conditions as will assure that the adjustment authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which the subject property is situated.

Granting of the variance will be conditioned as to not exceed the maximum height proposed, in compliance with DPL 2023-02. Granting of the variance is necessary to make the development of the site compliant and feasible with all applicable standards.

- b. That because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning

law is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.

The special circumstance in this case is the size of the parcel and the density requirements for the underlying land use designations. Upon approval of Annexation 2023-01, Rezone 2023-01, and General Plan Amendment 2023-01, the site will be annexed and pre-zoned to the smart development zone district, which is consistent with the Medium Density Residential and High-Density Residential land use designations. There is no set minimum density for the MDR land use designation; GPA 2023-01 would set the minimum to five (5) dwelling units per acre. The minimum density allowed for the HDR land use designation is 20 dwelling units per acre. The smart development zone district allows blended densities/averaging densities across land uses as long as the overall minimum density is met and the maximum density is not exceeded. The project proposes 174 dwelling units on an approximately 20-acre site, which would result in a density of 8.7 dwelling units per acre. In order to be consistent with the General Plan, at least 166 units would need to be developed across the site. Without allowance of a third story, or 10 additional feet, for the multi-family units, the project would not be able to meet the density requirements, in addition to meeting all other minimum development standards, parking requirements, and open space requirements, etc. Therefore, the variance is necessary due to these special circumstances.

- c. That the granting of the variance permit will not be contrary to the intent of this title or to the public safety, health and welfare or injurious to other properties in the vicinity.

Approval of the variance is not in conflict with the intent of the title; however, an exemption must be made in order to comply with other applicable development standards including reduced setbacks and an additional 10 feet and one (1) story in height. Approval of the variance will require conditions of approval for the development to ensure that the project does not have adverse effects on the public safety, health, and welfare or injurious to other properties in the vicinity.

- d. A variance has not been granted for a use or activity which is not authorized by the zone regulations governing the parcel of property.

Granting of the variance will not be for a use or activity that is not authorized by the zone regulations governing the subject parcel. The variance is requested for the height of the proposed structure, of a permitted use. Approval would not authorize the use of land prohibited by the zone regulations.

- e. A variance shall not be granted on economic grounds.

Approval of the variance is not based on economic grounds because approval would result in an equal or greater number of developed units, than otherwise would be if the variance is not approved.

6. Contingent Approval of Variance 2023-01. Given that all the findings can be made, the Planning Commission approves Variance 2023-01 subject to conditions of approval included herein as Exhibit 'E-1' and contingent upon the following:
 - a. The approval of Variance 2023-01 shall become final and effective immediately only after the City Council of Kerman i) adopts Mitigated Negative Declaration 2023-01 and the associated Mitigation Monitoring and Reporting Program; ii) approves Annexation 2023-01; iii) approves General Plan Amendment 2023-01; iv) approves Rezone 2023-01 and said ordinance adopting the same then becomes effective; and v) approves Tentative Subdivision Map 2023-01 (collectively "Council Approvals"). If all of the Council Approvals are not made within 180 days of the adoption of this Resolution, then Variance 2023-01 shall be returned to the Planning Commission for further consideration and a final decision. If Council Approvals are made within 180 days of the adoption of this Resolution, but any change is made by the Council to any of the Council Approvals in a manner that could reasonably affect the findings of the Planning Commission needed to approve Variance 2023-01, or require a modification or addition of a condition of approval to be consistent with a Council Approval, then Variance 2023-01 shall be returned to the Planning Commission for further consideration and a final decision.
 - b. The approval of Variance 2023-01 is also contingent and shall only become final upon approval of Conditional Use Permit (CUP) 2023-02, which is also concurrently considered and was contingently approved by the Planning Commission subject to Council Approvals. If CUP 2023-02 is not finally approved within 180 days of the adoption of this Resolution, or any change is subsequently made by the Council in response to the same on appeal or by modification to a Council Approval such that it could reasonably affect the findings of the Planning Commission needed to approve Variance 2023-01, or require a modification or addition of a condition of approval to be consistent with a CUP 2023-02, then Variance 2023-01 shall be returned to the Planning Commission for further consideration and a final decision.
7. Final Action and Appeals. This action shall become final and effective after, and only upon, the prior approvals including the MND and adoption of the Council Approvals and if a timely appeal of Development Plan Permit 2023-02 or Variance 2023-01 is then not filed with the City Clerk in accordance with the provisions of the City of Kerman Zoning Ordinance.

I HEREBY CERTIFY that the foregoing Resolution was approved at a special meeting of the Planning Commission of the City of Kerman on the 15th day of July 2024, and was fully adopted at said meeting by the following vote:


Ayes: K. Nehring, C. Molloy, R. Bandy, R. Felker

Noes: NONE

Absent: NONE

Recused: S. Bishop

The foregoing resolution is hereby approved.


60 AUGUST 2024
Kevin Nehring
Vice Chairperson

Attest:

 8/7/24
Juliana Gomez
Recording Secretary

Exhibit 'E-1': Conditions of Approval

EXHIBIT 'E-1'

CONDITIONS OF APPROVAL DEVELOPMENT PLAN PERMIT 2023-02 Whispering Falls Residential Development (Multi-Family)

Notice To Applicant

Pursuant to Government Codes Section 66020(d)(1) and/or Section 66499.37, any protest related to the imposition of fees, dedications, reservations, or exactions for this project or any proceedings undertaken regarding the City's actions taken or determinations made regarding the project, including but not limited to the validity of conditions of approval must occur within ninety (90) calendar days after the date of this decision. This notice does not apply to those fees, dedications, reservations, or exactions which were previously imposed and duly noticed; or where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.

Important: Please Read Carefully

This project is subject to a variety of discretionary conditions of approval. These include conditions based on adopted City plans and policies; those determined through Development Plan Permit review and environmental assessment essential to mitigate adverse effects on the environment including the health, safety, and welfare of the community; and recommended conditions for development that are not essential to health, safety, and welfare, but would, on the whole, enhance the project and its relationship to the neighborhood and environment.

Discretionary conditions of approval may be appealed. All code requirements, however, are mandatory and may only be modified by variance, provided the findings can be made.

All discretionary conditions of approval for DPL 2023-02 will ultimately be deemed mandatory unless appealed by the applicant to the City Council within ten (10) working days after the decision by the Planning Commission. In the event you wish to appeal the Planning Commission's decision or discretionary conditions of approval for this entitlement, you may do so by filing a written appeal with the City Clerk. The appeal shall state the grounds for the appeal and wherein the Commission failed to conform to the requirements of the zoning ordinance. This should include identification of the decision or action appealed (including its identification number) and specific reasons why you believe the decision or action appealed should not be upheld, and the identity of the appellant.

Approval of this Development Plan Permit shall be considered null and void in the event of failure by the applicant and/or the authorized representative, architect, engineer, or designer to disclose and delineate all facts and information relating to the subject property and the proposed development.

Approval of this Development Plan Permit may become null and void in the event that development is not completed in accordance with all the conditions and requirements imposed on this use permit, the zoning ordinance, and all City standards and specifications. This use permit and site plan review is granted, and the conditions imposed, are based upon the application submittal provided by the applicant, including any operational statement. The application is material to the issuance of this use permit. Unless the conditions of approval specifically require an operation inconsistent with the application, a new or revised use permit is required if the operation of this establishment changes or becomes inconsistent with the

application. Failure to operate in accordance with the conditions and requirements imposed may result in revocation of the use permit, or any other enforcement remedy available under the law. The City shall not assume responsibility for any deletions or omissions resulting from the use permit review process, or for additions or alterations to any construction or building plans not specifically submitted and reviewed and approved pursuant to this use permit or subsequent amendments or revisions. These conditions are conditions imposed solely upon the use permit as delineated herein and are not conditions imposed on the City or any third party. Likewise, imposition of conditions to ensure compliance with federal, state, or local laws and regulations does not preclude any other type of compliance enforcement.

These conditions are applicable to any person or entity making use of this use permit, and references to “developer” or “applicant” herein also include any applicant, property owner, owner, lessee, operator, or any other person or entity making use of this use permit.

General Conditions

1. Project approval is conditioned upon acceptance of the conditions of approval contained herein, as evidenced by the receipt in the Planning Division of the applicant’s signature upon an Acknowledgement and Acceptance of Conditions within 30 days of the date of approval.
2. Development of the project shall comply with all applicable conditions of approval, as approved for DPL 2023-02.
3. The applicant’s failure to utilize DPL 2023-02 within one (1) year following the date of Final Map approval of TSM 2023-01 shall render this Development Plan null and void. Any extensions of time shall be submitted in writing thirty (30) days prior to permit expiration, subject to review and approval by the Planning Commission.
4. Minor modifications to the Development Plan to meet regulatory or engineering constraints may be made with the approval of the Community Development Director.
5. Any proposed future modifications to the site, including but not limited to, the building exterior, parking/loading areas, fences/walls, new buildings, or landscaping shall require an amendment to DPL 2023-02.
6. All conditions of approval shall be the sole financial responsibility of the applicant/owner, except where specified in the conditions of approval listed herein or as mandated by statutes.
7. It shall be the responsibility of the property owner and/or developer to ensure that any required permits, inspections, and approval from any regulatory agency are obtained prior to issuance of final occupancy.

Building Division

8. Site development shall be consistent with the approved floor plans and building elevations. The use of all rooms/activity areas shall be identified on plans submitted for a plan check and building permit.

9. Current State of California Building Code and Federal ADA requirements shall apply to the subdivision and all structures thereon. Compliance shall be verified at the permit stage and confirmed at the final inspection.
10. A building permit shall be required for each building and structure.
11. Fire sprinklers are required within all proposed structures used for dwelling purposes.
12. The applicant shall be responsible for contacting the NCFPD by email at Fire.Prevention@NorthCentralFire.org or by phone at (559) 878-4560 to schedule an over-the-counter meeting to receive your specific requirements for your project. Failure to schedule an appointment with the NCFPD will affect your ability to obtain final approval for your project.

Planning Division

13. Except as required herein, all conditions applicable to the approval of TSM 2023-01 shall completed prior to construction, during construction, or prior to Final Occupancy of the first unit approved under DPL 2023-02.
14. All standards for the location and design of buildings (including accessory structures) and fences, which are not specifically included in DPL 2023-02, shall conform to underlay SD Combining zone district as permitted under KMZ 17.18.030 (C).
15. A Home Owners Association shall be recorded and in effect at the time of Final Occupancy of the first home.

Home Models and Elevations

16. Development Plan Permit 2023-02 and Variance 2023-01 shall allow for four (4) multi-family buildings with a maximum height of 45 feet or three (3) stories, encompassing no less than 56 units, a club house, parking facilities, and other ancillary amenities and structures.
17. The buildings shall match the architectural elevations, colors, and materials consistent with pages A.1.1 through A.23 of Attachment 'H' of the Planning Commission staff report. Any exterior architectural embellishments may be included, but, shall not be less than or equal to the quality or material of the standard elevation.

Parking

18. Two parking stalls shall be provided for each multi-family unit.
19. Guest parking shall be clearly marked and identifiable.

Fences

20. The southern project boundary adjacent to the San Joaquin Valley Railroad rail line shall be secured by a sound wall, of no less than seven (7) feet in height and shall not exceed eight (8) in height.
21. A six (6) or seven-foot (7') ~~block~~ wall or fence shall secure the western and northern project boundaries, subject to compliance with the Kerman Municipal Code.

22. The final design and color of all perimeter fencing shall be approved by the Director as part of the plan review process.

Landscaping and Open Space Areas

23. Landscape and open space areas shall be developed consistent with the conceptual site plan and renderings submitted for consideration by the Planning Commission. Landscape and open space plans shall be submitted for review and approval as part of a building permit. The project shall be subject to KMC 8.12A.120 Model Water Efficient Landscape Ordinance Requirements (MWELo).
24. No less than 3.19-acres of open space of useable active or passive recreation shall be provided. Landscape planting and design shall be consistent with pages L1.0 through L3.1 of the Development Plan submitted before the Planning Commission.

Miscellaneous Conditions

25. Subdivision entry freestanding monumental signs shall be subject to sign review approval and building permit.
26. Accessory features and amenities including but not limited to statues, pergolas, gazebos, swimming pools, and flagpoles subject to the California Building Code shall require a stand-alone building permit.
27. The developer and/or applicant shall be responsible for meeting and conferring with North Central Fire Protection District, Mid Valley Disposal, Sebastian Corp. and any other applicable utility or service provider prior to development of the project.
28. 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).
29. A right-to-farm covenant shall be recorded prior to the recording of the Final Map.

End of Conditions

Resolution No. 2024-18

**RESOLUTION OF THE CITY OF KERMAN PLANNING COMMISSION
CONTINGENTLY APPROVING CONDITIONAL USE PERMIT 2023-02, TO
ALLOW MULTI-FAMILY RESIDENTIAL USES AND A TEMPORARY
DRAINAGE BASIN LOCATED ON THE EAST SIDE OF SOUTH MODOC
AVENUE BETWEEN WEST KEARNEY BOULEVARD AND WEST
CALIFORNIA AVENUE ALIGNMENT/SAN JOAQUIN VALLEY RAILROAD
(APNS 020-160-18S, APNs 020-160-36S, 020-041-45S, 020-041-47S)**

WHEREAS, the Planning Commission considered a request for a conditional use permit filed by Whispering Falls, LLC. to allow multi-family residential uses 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); and allow a temporary drainage basin located on the east side of South Modoc Avenue between West Kearney Boulevard and West California Avenue (proposed) (APN 020-160-18S); and

WHEREAS, the parcels are zoned SD-R-2.5 and are within the Medium Density Residential and High Density Residential land use designations, with approval of Annexation 2023-01, Rezone 2023-01, General Plan Amendment 2023-01, Variance 2023-01, Tentative Subdivision Map 2023-01, and multi-family residential uses and public utility uses such as a drainage basin are permitted subject to approval of a conditional use permit; and

WHEREAS, a public notice was circulated to adjacent property owners within a 300-foot radius of the parcels and published in the local newspaper at least 10 days prior to the meeting as required by law; and

WHEREAS, a written report was prepared by staff which included a recommendation for approval of Conditional Use Permit 2023-02 and was made available for public review at least 72 hours prior to the public hearing; and

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

WHEREAS, on July 15, 2024, the Planning Commission conducted a duly noticed public hearing and concurrently considered Mitigated Negative Declaration 2023-01 and Mitigation Monitoring and Reporting Program dated June 2024, Annexation 2023-01, General Plan Amendment 2023-01, Rezone 2023-01, Tentative Subdivision Map 2023-01, Development Plans 2023-01 and 2023-02, and Variance 2023-01; and

WHEREAS, after deliberation and consideration of all relevant items, the Planning Commission now desires to contingently approve Conditional Use Permit 2023-02 such that no decision of approval of Conditional Use Permit 2023-02 becomes final and effective until immediately after the City Council adopts Mitigated Negative Declaration 2023-01 and Mitigation Monitoring and Reporting Program, Annexation 2023-01, Rezone 2023-01, General Plan Amendment 2023-01, and Tentative Subdivision Map 2023-01; and if no such approval occurs within 180 days of the adoption of this Resolution, then the Planning Commission intends that

Conditional Use Permit 2023-02 be set for further consideration and a final decision by the Planning Commission

NOW, THEREFORE, the Planning Commission of the City of Kerman resolves as follows:

1. Recitals. The Planning Commission 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 and Mitigated Monitoring and Reporting Program dated June 2024 (SCH #2024040147) to evaluate the environmental effects of the project, including the proposed conditional use permit. The Planning Commission finds that Conditional Use Permit 2023-02 is consistent with, and has been fully assessed by, the MND, and that Conditional Use Permit 2023-02 is an entitlement specifically anticipated for the proposed Project in the MND, and is consistent with the purposes and intent of the MND

3. Conditional Use Permit Findings. The Planning Commission finds as follows:

- a. That the proposed establishment, maintenance, and operations of the use(s) applied for will not be detrimental to the public health, safety, and welfare of the persons residing or working in the neighborhood of such proposed use, or whether it will be dangerous or detrimental to property and improvements in the neighborhood or the City.

The project will not be detrimental to public health, safety, or welfare. It is located in a designated residential area with conditions of approval which will minimize any potential negative impacts on adjacent land uses. The conditions of approval limit types of uses that may be objectionable or detrimental to other permitted uses or adverse to the public interest health, safety, convenience or welfare of the City.

- b. That the proposed use is consistent with the Kerman General Plan.

The project is located in a residential area suitable for residential uses. Upon approval of Annexation 2023-01 and Rezone 2023-01, the project site will be annexed and pre-zoned to the smart development zone district, which is consistent with the underlying Medium Density Residential and High Density Residential land use designations. The project proposes residential uses that are consistent with the underlying land use designations and the smart development zone district, specifically by proposing a mix of residential uses including single-family and multi-family uses, at varying densities. The project also proposes a drainage basin which is necessary for the collection of stormwater runoff resulting from the project. This use is also consistent with the underlying land use designation and zone district.

- c. That the environmental document is prepared as per the California Environmental Quality Act (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 and Mitigated Monitoring and Reporting Program dated June 2024 (SCH #2024040147) to evaluate the environmental effects of the project, including the proposed conditional use permit. The Planning Commission has fully considered the Mitigated Negative Declaration and has concurrently recommended it for approval by the City Council. Approval of this entitlement is conditional on such approval. As such, the Planning Commission finds that the conditional use permit and related project entitlements are specifically anticipated and assessed for the proposed project in the Mitigated Negative Declaration and are consistent with the purpose and intent of the Mitigated Negative Declaration.

- d. That the site for the proposed use is adequate in size, shape, and location to accommodate the use as it relates to the district for which the use is proposed.

The location of the project is within the smart development zone district, upon approval of the annexation and pre-zone, in a residential area suited for residential uses on an undeveloped parcel of land. The project's design and operations are appropriate to meet all applicable development and operational standards of the Zoning Ordinance.

4. Conditional Approval of Conditional Use Permit 2023-02. Given that all the findings can be made, the Planning Commission approves Conditional Use Permit 2023-02 subject to conditions of approval included herein as Exhibit 'F-1' and contingent upon the following:

- a. The approval of Conditional Use Permit 2023-02 shall become final and effective immediately only after the City Council of Kerman i) adopts Mitigated Negative Declaration 2023-01 and the associated Mitigation Monitoring and Reporting Program; ii) approves Annexation 2023-01; iii) approves General Plan Amendment 2023-01; iv) approves Rezone 2023-01 and said ordinance adopting the same then becomes effective; and v) approves Tentative Subdivision Map 2023-01 (collectively "Council Approvals"). If all of the Council Approvals are not made within 180 days of the adoption of this Resolution, then Conditional Use Permit 2023-02 shall be returned to the Planning Commission for further consideration and a final decision. If Council Approvals are made within 180 days of the adoption of this Resolution, but any change is made by the Council to any of the Council Approvals in a manner that could reasonably affect the findings of the Planning Commission needed to approve Conditional Use Permit 2023-02, or require a modification or addition of a condition of approval to be consistent with a Council Approval, then Conditional Use Permit 2023-02 shall be returned to the Planning Commission for further consideration and a final decision.

5. Final Action and Appeals. This action shall become final and effective after, and only upon, the prior approvals including the MND and adoption of the Council Approvals and if a timely appeal of Conditional Use Permit 2023-02 is then not filed with the City Clerk in accordance with the provisions of the City of Kerman Zoning Ordinance.

I HEREBY CERTIFY that the foregoing Resolution was approved at a special meeting of the Planning Commission of the City of Kerman on the 15th day of July 2024, and was fully adopted at said meeting by the following vote:


Ayes: K. Nehring, C. Molloy, R. Bandy, R. Felker

Noes: NONE

Absent: NONE

Recused: S. Bishop

The foregoing resolution is hereby approved.


6 AUGUST 2024
Kevin Nehring
Vice Chairperson

Attest:


8/7/24
Juliana Gomez
Recording Secretary

Exhibit 'F-1': Conditional Use Permit 2023-02 Conditions of Approval

EXHIBIT 'F-1'

**CONDITIONS OF APPROVAL
WHISPERING FALLS – CUP 2023-02**

Notice To Applicant

Pursuant to Government Codes Section 66020(d)(1) and/or Section 66499.37, any protest related to the imposition of fees, dedications, reservations, or exactions for this project or any proceedings undertaken regarding the City's actions taken or determinations made regarding the project, including but not limited to the validity of conditions of approval must occur within ninety (90) calendar days after the date of this decision. This notice does not apply to those fees, dedications, reservations, or exactions which were previously imposed and duly noticed; or where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.

Important: Please Read Carefully

This project is subject to a variety of discretionary conditions of approval. These include conditions based on adopted City plans and policies; those determined through conditional use permit review and environmental assessment essential to mitigate adverse effects on the environment including the health, safety, and welfare of the community; and recommended conditions for development that are not essential to health, safety, and welfare, but would, on the whole, enhance the project and its relationship to the neighborhood and environment.

Discretionary conditions of approval may be appealed. All code requirements, however, are mandatory and may only be modified by variance, provided the findings can be made.

All discretionary conditions of approval for CUP 2023-02 will ultimately be deemed mandatory unless appealed by the applicant to the City Council within ten (10) working days after the decision by the Planning Commission. In the event you wish to appeal the Planning Commission's decision or discretionary conditions of approval for this entitlement, you may do so by filing a written appeal with the City Clerk. The appeal shall state the grounds for the appeal and wherein the Commission failed to conform to the requirements of the zoning ordinance. This should include identification of the decision or action appealed (including its identification number) and specific reasons why you believe the decision or action appealed should not be upheld, and the identity of the appellant.

Approval of this conditional use permit shall be considered null and void in the event of failure by the applicant and/or the authorized representative, architect, engineer, or designer to disclose and delineate all facts and information relating to the subject property and the proposed development.

Approval of this conditional use permit may become null and void in the event that development is not completed in accordance with all the conditions and requirements imposed on this use

permit, the zoning ordinance, and all City standards and specifications. This use permit and site plan review is granted, and the conditions imposed, are based upon the application submittal provided by the applicant, including any operational statement. The application is material to the issuance of this use permit. Unless the conditions of approval specifically require an operation inconsistent with the application, a new or revised use permit is required if the operation of this establishment changes or becomes inconsistent with the application. Failure to operate in accordance with the conditions and requirements imposed may result in revocation of the use permit, or any other enforcement remedy available under the law. The City shall not assume responsibility for any deletions or omissions resulting from the use permit review process, or for additions or alterations to any construction or building plans not specifically submitted and reviewed and approved pursuant to this use permit or subsequent amendments or revisions. These conditions are conditions imposed solely upon the use permit as delineated herein and are not conditions imposed on the City or any third party. Likewise, imposition of conditions to ensure compliance with federal, state, or local laws and regulations does not preclude any other type of compliance enforcement.

These conditions are applicable to any person or entity making use of this use permit, and references to “developer” or “applicant” herein also include any applicant, property owner, owner, lessee, operator, or any other person or entity making use of this use permit.

General Conditions

1. Project approval is conditioned upon acceptance of the conditions of approval contained herein, as evidenced by the receipt in the Planning Division of the applicant’s signature upon an Acknowledgement and Acceptance of Conditions within 30 days of the date of approval. Project approval is conditioned upon acceptance of the conditions of approval contained herein, as evidenced by the receipt in the Planning Division of the applicant’s signature upon an Acknowledgement and Acceptance of Conditions within 30 days of the date of approval.
2. Any intensification or expansion of the use beyond its approval shall be cause for review and modification of the use permit to be approved by the Commission.
3. Any proposed future modifications to the site not specifically contemplated by CUP 2023-02, including but not limited to; the building exterior, parking/loading areas, fences/walls, new buildings, or landscaping shall require an amendment to CUP 2023-02.
4. All conditions of approval shall be the sole financial responsibility of the applicant/owner, except where specified in the conditions of approval listed herein or mandated by statute.
5. It shall be the responsibility of the property owner and/or applicant to ensure that any required permits, inspections, and approval from any regulatory agency are obtained

from the concerned agency prior to the issuance of a business license or final occupancy issuance.

6. Failure to comply with the conditions of approval contained herein shall be cause for review and possibly modification or revocation to CUP 2023-02.
7. 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).
8. Approval of CUP 2023-02 is for the benefit of the applicant. The submittal of application(s) by the applicant for this project was a voluntary act on the part of the applicant not required by the City. Therefore, as a condition of approval of this project, the applicant agrees to defend, indemnify, and hold harmless the City of Kerman and its agents, officers, consultants, independent contractors, and employees ("City") from any and all claims, actions, or proceedings against the City to attack, set aside, void, or annul an approval by the City concerning the project, including any challenges to associated environmental review, and for any and all costs, attorney's fees, and damages arising therefrom (collectively "claim"). The City shall promptly notify the applicant of any claim.

Nothing in this condition shall obligate the City to defend any claim and the City shall not be required to pay or perform any settlement arising from any such claim not defended by the City, unless the City approves the settlement in writing. Nor shall the City be prohibited from independently defending any claim, and if the City does decide to independently defend a claim, the applicant shall be responsible for City's attorneys' fees, expenses of litigation, and costs for that independent defense, including the costs of preparing any required administrative record. Should the City decide to independently defend any claim, the applicant shall not be required to pay or perform any settlement arising from any such claim unless the applicant approves the settlement.

Building Division

9. A building permit shall be required for all proposed or future tenant and site improvements as required by the California Building Code, California Fire Code, and Americans with Disability Act (ADA) prior to occupancy.
10. The property owner shall submit plans consistent with the California Building Standards Code, including site development and ADA accessibility based upon the codes in effect at the time of plan check submittal.

North Central Fire Protection District

11. The applicant shall be responsible for contacting the NCFPD by email at Fire.Prevention@NorthCentralFire.org or by phone at (559) 878-4560 to schedule an over-the-counter meeting to receive your specific requirements for your project. Failure to schedule an appointment with the NCFPD will affect your ability to obtain final approval for your project.

Planning Division

Conditional Use Permit 2023-02

12. Conditional Use Permit 2023-02 shall allow for the development of 56 multi-family units a property zoned SD-R-2.5 where forty-one (41) or more multi-family units are permitted subject to a conditional use permit, to be located on APN 020-160-36, 020-041-45S and 020-041-47S, and the development of a temporary drainage basin to be located on APN 020-160-18S.
13. Prior to development of the temporary drainage basin, the property owner shall submit an application for Tentative Parcel Map and/or Lot Line Adjustment with the Planning Division.
14. Development of the temporary drainage basin shall be subject to applicable City standards and regulations and other requirements as deemed necessary by the City Engineer.
15. Where applicable, the applicant/owner shall establish cross access easement agreements for shared driveways.
16. Where applicable, conditions of approval for Tentative Subdivision Map 2023-01 and Development Plan Permit 2023-01 & 02 shall also apply.

End of Conditions