

Exhibit R

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, CERTIFYING ENVIRONMENTAL IMPACT REPORT (EIR) SCH NO. 2022080152 FOR PLAN AMENDMENT AND REZONE APPLICATION NO. P22-00388, VESTING TENTATIVE TRACT MAP NO. 6360, PLANNED DEVELOPMENT PERMIT APPLICATION NO. P22-00387; APPROVING A MITIGATION MONITORING PROGRAM AS REQUIRED BY PUBLIC RESOURCES CODE SECTION 21081.6 AND CEQA GUIDELINES SECTION 15097; ADOPTING THE FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS AS REQUIRED BY PUBLIC RESOURCES CODE SECTIONS 21081(A) AND CEQA GUIDELINES SECTIONS 15091; PURSUANT TO CEQA GUIDELINES SECTION 15183.5(B), AS RELATED TO THE APPROVAL OF PLAN AMENDMENT AND REZONE APPLICATION NO. P22-00388, VESTING TENTATIVE TRACT MAP NO. 6360, PLANNED DEVELOPMENT PERMIT APPLICATION NO. P22-00387

WHEREAS, Plan Amendment and Rezone Application No. P22-00388, Vesting Tentative Tract Map No. 6360, Planned Development Permit Application No. P22-00387 were submitted by Kyle Allington of Harbour and Associates, on behalf of Wilson Homes, and pertain to ±28.6 acres of property located on the northeast corner of the West McKinley Avenue Alignment and North Armstrong Avenue; and

WHEREAS, LSA Associates, Inc., a professional environmental consultant was contracted with to conduct the requisite studies and analyses of the potential environmental impacts and proposed mitigation measures, as applicable, for Plan Amendment and Rezone Application No. P22-00388, Vesting Tentative Tract Map No. 6360, Planned Development Permit Application No. P22-00387; and

WHEREAS, on August 8, 2022, the Planning Department duly issued and circulated a Notice of Preparation, pursuant to CEQA Guidelines Section 15082 and Public Resources Code Section 21080.4; and

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Date Adopted:

Date Approved:

Effective Date:

City Attorney Approval: 

Resolution No. \_\_\_\_\_

WHEREAS, on August 17, 2022, the Planning Department held a scoping meeting pursuant to CEQA Guidelines Section 15082(c) and Public Resources Code Section 21080.4 attended by members of the public and at which written or verbal comments were submitted; and

WHEREAS, on February 23, 2024, the Planning Department staff, exercising their independent judgment, completed the environmental impact report (hereinafter Draft EIR), and the City provided a Notice of Availability of the Draft EIR for public comments pursuant to Public Resources Code Section 21092 and CEQA Guidelines Section 15087, for a public comment period of forty-five days; and

WHEREAS, on February 23, 2024, the City issued a Notice of Completion pursuant to Public Resources Code Section 21161 and CEQA Guidelines Section 15085; and

WHEREAS, on February 23, 2024, a public Notice of Availability of the Draft EIR was posted in the office of the Fresno County Clerk pursuant to Section 15087(d) of the CEQA Guidelines, and was published in the Fresno Bee newspaper to comply with Section 15087(a) of the CEQA Guidelines; and

WHEREAS, on February 23, 2024, the Draft EIR was distributed to the California Office of Planning and Research/State Clearinghouse in accordance with Section 15206 of the CEQA Guidelines; and

WHEREAS, the City engaged in all required posting methods beginning on February 23, 2024, including distributing the Draft EIR to affected agencies, surrounding cities and municipalities, and all interested parties; and

WHEREAS, the City accepted all comments on all chapters of the Draft EIR received between February 23, 2024 through April 8, 2024, during which time the City received a total of three comment letters; and

WHEREAS, the City prepared responses to the comments received on the Draft EIR, encompassing all comment letters, responses to individual comments, as well as minor corrections, and compiled them in the June 2024 Response to Comments Document; and

WHEREAS, the City subsequently prepared a Final EIR (SCH No. 2022080152), completed June 2024 and dated June 2024 (“Final EIR” or “FEIR”), pursuant to CEQA Guidelines Sections 15088 and 15132, which includes the Draft EIR, the June 2024 Response to Comments Document (encompassing all comment letters, responses to individual comments, text revisions to the Draft EIR, as well as minor corrections), as well as all appendices to the aforementioned documents; and

WHEREAS on July 3, 2024, the Planning Commission held a duly noticed public hearing at which the Commission considered and discussed the adequacy of the proposed Final EIR (which included the Draft EIR, the June 2024 Response to Comments Document, the Mitigation Monitoring and Reporting Program, and June 2024 Findings of Fact and Statement of Overriding Considerations), as an informational document and voted to recommend certification of the Final EIR to the Council of the City of Fresno ; and

WHEREAS, pursuant to CEQA Guidelines Sections 15089 and 15132 the Final EIR is required to be completed in compliance with CEQA; and

WHEREAS, pursuant to Public Resources Code Section 21092.5 and CEQA Guidelines Section 15088, the City provided written responses to comments to all public agencies that commented on the Draft EIR; and

WHEREAS, on July 25, 2024, the Council of the City of Fresno conducted a public hearing and considered the record of proceedings for the EIR, which includes, but is not limited to the following:

- (1) The Final EIR dated June 2024;
- (2) The Draft EIR dated February 2024;
- (4) All written comments submitted by agencies or members of the public during any public review comment period on the Draft EIR;
- (5) The June 2024 Response to Comments Document;
- (6)
- (7) All written and verbal public testimony presented during a noticed public hearing for the Project at which such testimony was taken, including without limitation, the Report to Planning Commission, including all attachments, any all presentations by City staff, the City's consultants, the applicant and the applicant's consultants, the public, and any other interested party; and
- (8) The Mitigation Monitoring and Reporting Program for the Project (the "MMRP");
- (9) The reports, studies and technical memoranda included and/or referenced in the Draft EIR and the FEIR and or their appendices;
- (10) All documents, studies, EIRs, or other materials incorporated by reference in the Draft EIR and the FEIR;

- (11) Matters of common knowledge to the City, including but not limited, to federal, state, and local laws and regulations, adopted City plans, policies, and the professional qualifications of its staff members;
- (12) Any documents expressly cited in this Resolution and its exhibits, the Report to Planning Commission, the Final EIR, or the Draft EIR; and
- (13) Any other relevant materials required to be in the record of proceedings under Section 21167 .6(e) of the Public Resources Code; and

WHEREAS, the Council of the City of Fresno concluded the public comment portion of the hearing on July 25, 2024, ; and

WHEREAS, on July 25, 2024, the Council of the City of Fresno considered and discussed the adequacy of the proposed Final EIR as an informational document and applied its own independent judgment and analysis to the review and hereby desires to take action to certify the Final EIR, as having been completed in compliance with CEQA, based on the findings found herein; and

WHEREAS, the July 25, 2024 hearing before the Council of the City of Fresno was properly noticed at least ten days before the hearing; and

WHEREAS, CEQA guidelines require the following for certification of a final environmental impact report:

Section 15090. Certification of the Final EIR

- (a) Prior to approving a project the lead agency shall certify that:
  - (1) The final EIR has been completed in compliance with CEQA;
  - (2) The final EIR was presented to the decision-making body of the lead agency and that the decision making body reviewed and considered

the information contained in the final EIR prior to approving the project; and

- (3) The final EIR reflects the lead agency's independent judgment and analysis.

Section 15091. Findings.

(a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

- (1) Changes or alterations have been required or incorporated into the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

(b) The findings required by subdivision (a) shall be supported by substantial evidence in the record.

(c) The finding in subdivision (a)(2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subdivision (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.

(d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.

(e) The public agency shall specify the location and custodian of the documents or other material which constitute the record of the proceedings upon which its decision is based.

(f) A statement made pursuant to Section 15093 does not substitute for the findings required by this section.

#### Section 15092. Approval

(a) After considering the final EIR and in conjunction with making findings under Section 15091, the lead agency may decide whether or how to approve or carry out the project.

(b) A public agency shall not decide to approve or carry out a project for which an EIR was prepared unless either:

(1) The project as approved will not have a significant effect on the environment, or

(2) The agency has:



- (A) Eliminated or substantially lessened all significant effects on the environment where feasible as shown in findings under Section 15091, and
- (B) Determined that any remaining significant effects on the environment found to be unavoidable under Section 15091 are acceptable due to overriding concerns as described in Section 15093.

(c) With respect to a project which includes housing development, the public agency shall not reduce the proposed number of housing units as a mitigation measure if it determines that there is another feasible specific mitigation measure available that will provide a comparable level of mitigation.

#### Section 15093. Statement of Overriding Considerations

(a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

(b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

(c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fresno as follows:

1. Recitals. The foregoing recitals are true and correct and incorporated herein by reference.
2. Findings. Council of the City of Fresno finds based upon the substantial evidence in the record of proceedings, and its independent judgment and analysis that:
  - (a) Compliance with CEQA. The Final EIR in Exhibit 1 to this Resolution, which is attached hereto and incorporated herein by this reference, includes the Draft EIR dated February 2024 and all related appendices; and the June 2024 Response to Comments Document all related appendices and attachments. The Final EIR was prepared, in both substance and procedures, in compliance with the requirements of the California Environmental Quality Act (CEQA).
  - (b) Ratification of Findings and Analysis in the FEIR. In making the findings in this Resolution, the City ratifies, adopts, and incorporates the analysis and explanation in the Final EIR, and ratifies, adopts, and incorporates in these findings the determinations and conclusions in the Final EIR relating to environmental impacts and mitigation measures.
  - (c) Findings Regarding Significant Effects that Can Be Mitigated to Less Than Significant. The Council of the City of Fresno adopts the statements and findings in Exhibit 2 of this resolution, which is attached hereto and incorporated herein by this reference. The Project has potential significant effects that can be mitigated to a less than significant level through the imposition of mitigation measures. These avoidable significant effects are identified in Exhibit 2. These avoidable significant effects will be reduced to a less than significant effect with the changes that have been required in, or incorporated into, the project through the imposition of mitigation measures as described in Exhibit 2. These

mitigation measures identified in Exhibit 2 will be imposed pursuant to the MMRP attached as Exhibit 3. All mitigation measures in the MMRP are feasible.

To the extent that any of the mitigation measures are within the responsibility and jurisdiction of another public agency and not the City, those mitigation measures can and will be adopted and imposed by the other agency based on state and/or federal law, communications by those agencies, and/or existing policies and/or intergovernmental relationships with those agencies.

- (d) Findings Regarding Significant and Unavoidable Effects. The Council of the City of Fresno adopts the statements and findings in Exhibit 2 of this resolution, which is attached hereto and incorporated herein by this reference. The Project has significant and unavoidable effects that cannot be mitigated to a less than significant level through the imposition of mitigation measures. These avoidable significant and unavoidable effects are identified in Exhibit 2.
  - (e) Finding Regarding Insignificant Impacts. Any and all potential significant impacts discussed in the Final EIR that are not subject to paragraph 2(c) or 2(d), above, as either an avoidable significant impact, or as an unavoidable significant impact, are insignificant impacts to the environment.
  - (f) Alternatives. The Council of the City of Fresno adopts the Statement of Findings on Project Alternatives in Exhibit 2 to this resolution, which is attached hereto and incorporated herein by this reference.
3. FEIR Reviewed and Considered. The Council of the City of Fresno certifies that the Final EIR:
- (a) has been completed in compliance with CEQA;
  - (b) was presented to the Council of the City of Fresno and that the Council of the City of Fresno has reviewed and considered the information contained in the Final EIR prior to approval of the Project, and all of the information contained therein has substantially influenced all aspects of the decision by the Council of the City of Fresno; and
  - (c) reflects Council of the City of Fresno's independent judgment and analysis.
4. Mitigation Monitoring. Pursuant to Public Resources Code Section 21081.6 and CEQA Guidelines Section 15097, the mitigation monitoring and reporting program (MMRP) set forth in Exhibit 3 to

this resolution, which sets forth specific monitoring actions, timing requirements and monitoring/verification entities for each mitigation measure contained in the Final EIR and which is attached hereto and incorporated herein by this reference, is hereby adopted to ensure that all mitigation measures adopted for Plan Amendment and Rezone Application No. P21-01960, Conditional Use Permit Application No. P21-01959, Conditional Use Permit Application No. P21-03251, Planned Development Permit Application No. P21-03252 are fully implemented.

5. Location and Custodian of Documents. The record of project approval shall be kept in the office of the City Clerk, City of Fresno, City Hall, 2600 Fresno Street, Fresno, California 93721 which shall be held by the City Clerk as the custodian of the documents; all other record of proceedings shall be kept with the Planning Department and the Director of the Planning Department shall be the custodian of the documents.
6. Certification. Based on the above facts and findings, the Council of the City of Fresno certifies the Final EIR in Exhibit 1 for Plan Amendment and Rezone Application No. P21-01960, Conditional Use Permit Application No. P21-01959, Conditional Use Permit Application No. P21-03251, Planned Development Permit Application No. P21-03252 as accurate and adequate. The Council of the City of Fresno further certifies that the FEIR was completed in compliance with CEQA and the CEQA Guidelines. The Director of the Planning Department is directed to file a Notice of Determination as required by the Public Resources Code and CEQA Guidelines within five (5) working days of adoption of this resolution.
7. This resolution shall be effective upon final approval.

\* \* \* \* \*

STATE OF CALIFORNIA )  
COUNTY OF FRESNO ) ss.  
CITY OF FRESNO )

I, TODD STERMER, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_ 2024.

AYES :  
NOES :  
ABSENT :  
ABSTAIN :

TODD STERMER, CMC  
City Clerk

By: \_\_\_\_\_  
Deputy Date

APPROVED AS TO FORM:  
ANDREW JANZ  
City Attorney

By: \_\_\_\_\_  
Kristi M. Costa -Date  
Senior Deputy City Attorney

Exhibits:

- 1 - Final EIR
- 2 - CEQA Findings of Fact and Statement of Overriding Considerations
- 3 - Mitigation Monitoring and Reporting Program