

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA TO ADOPT AND CERTIFY AN ENVIRONMENTAL IMPACT REPORT, ADOPT CEQA FINDINGS WITH RESPECT THERETO, ADOPT A STATEMENT OF OVERRIDING CONSIDERATIONS, AND ADOPT A MITIGATION AND MONITORING PROGRAM FOR THE 1200 MEMOREX DATA CENTER PROJECT LOCATED AT 1200-1310 MEMOREX DRIVE, SANTA CLARA, CALIFORNIA

PLN2019-14055

BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, on August 8, 2019, Skybox Development LLC (“Applicant”) filed a development application for a 9.18-acre site located at 1200-1310 Memorex Drive which is currently occupied by three buildings: a three-story, approximately 350,037 square foot building, a two-story, approximately 45,986 square foot building, and a one-story, approximately 2,944 square foot buildings, landscaping and surface paving (“Project Site”);

WHEREAS, the development application involves Architectural Review of the development proposal to construct a four-story, 472,920 square-foot data center building with an attached six-story 87,520 square foot ancillary use office and storage component, for a combined square footage of 560,440, electrical substation, surface parking, landscaping and site improvements (“Project”), as shown on the Development Plans, attached hereto and incorporated by this reference;

WHEREAS, the Project includes the demolition of the existing buildings, surface paving and site landscaping;

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), and the regulations implementing the Act, specifically 14 Cal. Code of Regs § 15081, this Project was determined to potentially have a significant effect on the environment, resulting in the drafting of an Environment Impact Report (“EIR”);

WHEREAS, on July 17, 2020, the City of Santa Clara (“City”) distributed a Notice of Preparation of a Draft Environmental Impact Report (“DEIR”) and posted the Notice at the Santa Clara County Clerk’s office, soliciting guidance on the scope and content of the environmental information to be included in the DEIR;

WHEREAS, in conformance with CEQA, the EIR was circulated for a 45-day public review period to the Santa Clara County Clerk’s Office, public agencies that have jurisdiction by law with respect to the Project, and property owners within 300 feet of the Project Site from June 17, 2021 to August 2, 2021, and on August 2, 2021, one comment letter was received from the Bay Area Air Quality Management District (BAAQMD);

WHEREAS, the environmental consultant, David J. Powers and Associates, prepared a “Response to Comments” (RTC) document on the EIR that responds to the BAAQMD’s August 2, 2021 comments, and on October 29, 2021 , the City transmitted the RTC document to the BAAQMD;

WHEREAS, the City subsequently prepared a Final Environmental Impact Report (“FEIR”). The FEIR consists of a list of agencies and organizations to whom the DEIR was sent, a list of the comment letters received on the DEIR, revisions to the text of the DEIR, responses to comments received on the DEIR, and a copy of the BAAQMD comment letter;

WHEREAS, the DEIR and FEIR constitute the EIR for the Project;

WHEREAS, the City Council has reviewed the EIR prepared for the Project, the City Staff reports pertaining to the EIR and all evidence received at a duly noticed public hearing on November 9, 2021. All of these documents and evidence are herein incorporated by reference into this Resolution;

WHEREAS, the EIR identified certain significant and potentially significant adverse effects on the environment that would be caused by the Project as proposed;

WHEREAS, the EIR outlined various mitigation measures that would substantially lessen or avoid the Project's significant effects on the environment, as well as alternatives to the Project as proposed that would provide some environmental advantages;

WHEREAS, whenever possible, CEQA requires the City to adopt all feasible mitigation measures or feasible project alternatives that can substantially lessen or avoid any significant environmental effects of the Project;

WHEREAS, Public Resources Code § 21081, subdivision (a) requires a lead agency, before approving a project for which an EIR has been prepared and certified, to adopt findings specifying whether mitigation measures and, in some instances, alternatives discussed in the EIR, have been adopted or rejected as infeasible;

WHEREAS, the "CEQA Findings and Statement of Overriding Considerations" attached to this Resolution is a set of Findings of Fact prepared in order to satisfy the requirements of Public Resources Code § 21081, subdivision (a);

WHEREAS, on September 2, 2021 the Historical and Landmarks Commission voted unanimously to recommend the City Council to certify the EIR with an alternative, the "Preservation Alternative - Retain Historical Resource" set forth in Section 7.3.3 of the EIR, selected as the Project;

WHEREAS, as the CEQA Findings of Fact explain, the City Council, reflecting the advice of City staff and input from various state and local agencies, has expressed its intention to approve the proposed Project as described;

WHEREAS, the City Council has determined that the alternatives addressed in the EIR would not be feasible and would not sufficiently satisfy the Project Objectives. The details supporting these determinations are set forth in the CEQA Findings;

WHEREAS, in taking this course, the City Council has acted consistent with the CEQA mandate to look to project mitigations and/or alternatives as a means of substantially lessening or avoiding the environmental effects of projects as proposed;

WHEREAS, many of the significant and potentially significant environmental effects associated with the Project, as approved, can either be substantially lessened or avoided through the inclusion of mitigation measures proposed in the EIR;

WHEREAS, the City Council, in reviewing the Project as proposed, intends to adopt all mitigation measures set forth in the EIR;

WHEREAS, the significant effects that cannot be avoided or substantially lessened by the adoption of feasible mitigation measures will necessarily remain significant and unavoidable;

WHEREAS, Public Resources Code § 21081, subdivision (b) and CEQA Guidelines § 15093 require the City Council to adopt a Statement of Overriding Considerations before approving a project with significant unavoidable environmental effects;

WHEREAS, as detailed in the CEQA Findings, the City Council has determined that, despite the occurrence of significant unavoidable environmental effects associated with the Project, as mitigated and adopted, there exist certain overriding economic, social and other considerations for approving the Project which justify the occurrence of those impacts and render them acceptable;

WHEREAS, on October 29, 2021, the notice of public hearing for the November 9, 2021 City Council meeting was posted in three conspicuous locations within 300 feet of the Project Site, and on October 29, 2021, notice was mailed to interested parties within 1,000 feet of the Project Site boundaries, in accordance with the City Code; and

WHEREAS, on November 1, 2021 the City Council held a duly noticed public hearing to consider the adoption of the EIR and approval of the architectural review of the Project, at which time all interested persons were given an opportunity to provide testimony and present evidence, both in support of and in opposition to the project.

NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

1. That the City Council finds that the above Recitals are true and correct and by this reference makes them a part hereof.
2. That the City Council finds, pursuant to Public Resources Code Section 21081 and California Code of Regulations, Title 14, Section 15091, that many of the proposed mitigation measures described in the EIR are feasible, and therefore will become binding upon the City and affected landowners and their assigns or successors in interest when the Project is approved.
3. That the City Council hereby finds that none of the Project Alternatives set forth in the EIR can feasibly substantially lessen or avoid those significant adverse environmental effects not otherwise lessened or avoided by the adoption of all feasible mitigation measures while satisfying project objectives.
4. That, in order to comply with Public Resources Code Section 21081.6, the City Council hereby adopts the Mitigation Monitoring and Reporting Program as set forth in the attached “MMRP”. The Program is designed to ensure that, during project implementation, the City, affected landowners, their assigns and successors in interest and any other responsible parties comply with the feasible mitigation measures identified. The MMRP identifies, for each mitigation measure, the party responsible for implementation.
5. That the FEIR set forth project-level and cumulative environmental impacts that are significant and unavoidable that cannot be mitigated or avoided through the adoption of feasible mitigation measures or feasible alternatives. As to these impacts, the City Council hereby finds that there exist certain overriding economic, social and other considerations for approving the Project that justify the occurrence of those impacts, as detailed in the “CEQA Findings” exhibit attached hereto.

6. That the City Council hereby finds that the EIR completed for this Project has been completed in compliance with CEQA, that the Final EIR was presented to the City Council and the Council reviewed and considered the information contained in the FEIR prior to approving the Project, and the EIR reflects the City Council's independent judgement and analysis.

7. That the City Council hereby adopts the EIR as required by the CEQA Guidelines (14 Cal. Code of Regs. § 15090).

8. That the City Council hereby designates the Planning Division of the Community Development Department as the location for the documents and other materials that constitute the record of proceedings upon which this decision is based and designates the Director of Community Development as the custodian of records.

9. Effective date. This resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE 9th DAY OF NOVEMBER 2021, BY THE FOLLOWING VOTE:

AYES:	COUNCILORS:
NOES:	COUNCILORS:
ABSENT:	COUNCILORS:
ABSTAINED:	COUNCILORS:

ATTEST: _____
NORA PIMINTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA