

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, APPROVING AND CERTIFYING A FINAL ENVIRONMENTAL IMPACT REPORT, MAKING FINDINGS WITH RESPECT THERETO, AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS AND A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE GATEWAY CROSSINGS PROJECT LOCATED AT 1205 COLEMAN AVENUE, SANTA CLARA**

SCH#2017022066  
CEQ2016-01025 (EIR)  
PLN2016-12318 (General Plan Amendment and Rezoning)  
PLN2016-12321 (Vesting Tentative Subdivision Map)  
PLN2017-12481 (Development Agreement)

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

**WHEREAS**, on November 9, 2016, TOD Brokaw, LLC (“Owner”) made an application for the development of a 21.4-acre site located at 1205 Coleman Avenue (APNs: 230-46-069 and 230-46-070) with 20.4 acres located in Santa Clara and 1.0 acre located in San Jose, CA, which is currently undeveloped and within the Santa Clara Station Focus Area (“Project Site”);

**WHEREAS**, the Project Site was formerly developed with industrial and office/research and development buildings, surface parking lots, landscaping, and site improvements that were demolished between 2016 and 2017;

**WHEREAS**, a General Plan Amendment is proposed to change the existing land use designations for the Project Site from Santa Clara Station Regional Commercial (commercial up to 3.0 FAR), Santa Clara Station High Density Residential (37-50 du/acre), and Santa Clara Station Very High Density Residential (51-100 du/acre) to Santa Clara Station Very High Density Residential (51-120 du/ac) with a minimum commercial Floor Area Ratio (FAR) of 0.20, and amend the General Plan Land Use Map (Figure 5.4-4) for the Santa Clara Station Focus Area to reflect the General Plan change;

**WHEREAS**, the General Plan Amendment includes an amendment to the Climate Action Plan setting forth vehicle trip reduction targets for the land use classification;

**WHEREAS**, Owner simultaneously applied for a Zoning Code text amendment to add a new zoning designation of Very High Density Mixed Use (VHDMU) and a rezone of the Project Site from Light Industrial (ML) to the new zoning designation to allow the construction of 1,600 multi-family dwelling units, a 182,000 square foot full-service hotel with 225 rooms, 15,000 square feet of ground floor ancillary retail, surface and structured parking, private streets, landscaped open space, on- and off-site public right-of-way improvements, and site infrastructure and utilities to support the development (“Project”);

**WHEREAS**, the application included a Vesting Tentative Subdivision Map to create commercial and mixed use development parcels, a neighborhood park, and common lots to facilitate development and serve the land uses on the Project Site;

**WHEREAS**, the Owner has also requested to enter into a Development Agreement with the City, and City staff have negotiated and recommended a draft Development Agreement for approval;

**WHEREAS**, on February 21, 2017, the City of Santa Clara (“City”) distributed a Notice of Preparation of a Draft Environmental Impact Report (“DEIR”) and on February 21, 2017 posted the Notice at the Santa Clara County Clerk’s office, and on March 16, 2017, the City conducted a scoping meeting at Santa Clara City Hall, soliciting guidance on the scope and content of the environmental information to be included in the DEIR;

**WHEREAS**, the DEIR was prepared in accordance with the California Environmental Quality Act (CEQA) and the City circulated copies of the DEIR to the public agencies which have jurisdiction by law with respect to the Project, as well as to other interested persons and agencies, and the City sought the comments of such persons and agencies for forty-five (45) days, beginning on April 10, 2018 and concluding on May 25, 2018 (“Comment Period”);

**WHEREAS**, the City prepared written responses to the comments received during the Comment Period and included these responses in 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 copies of comment letters. The FEIR was distributed on September 12, 2018;

**WHEREAS**, the City received two additional comment letters following the close of the FEIR review period and prepared written responses to comments that do not change the conclusions of the FEIR and are provided as “Responses to FEIR Comments” attached to this Resolution, which was prepared after the initial publication of the FEIR;

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

**WHEREAS**, on November 14, 2018, the Planning Commission conducted a duly noticed public hearing to consider the EIR, at the conclusion of which the Commission voted to recommend that the City Council approve and certify the EIR;

**WHEREAS**, on December 4, 2018, the City Council conducted a public hearing for review of the EIR, and following public hearing and testimony, continued review of the Project to allow additional public outreach and consideration of revisions to the development proposal;

**WHEREAS**, the Owner conducted two public outreach meetings and subsequently revised the Project in response to community input to include 1,600 residential units, a 162,000 square foot hotel with 225 rooms, 25,000 square feet of ancillary retail, and two public parks, surface and structured parking, private streets, landscaped open space, on- and off-site public right-of-way improvements, and site infrastructure and utilities to support the development (“Revised Project”),

**WHEREAS**, the Revised Project was submitted on April 15, 2019 and determined to be consistent with land uses, density and intensity of development contemplated with the proposed General Plan Amendment application for the Project Site to Santa Clara Station Very High Density Residential (51-120 du/ac) with a minimum commercial FAR of 0.20;

**WHEREAS**, an analysis of the environmental impacts of the Revised Project was completed comparing the effects of the Revised Project with the impacts identified in the DEIR and

concluded that the Revised Project would not result in new impacts or a substantial increase in the severity of any significant impacts disclosed previously in the DEIR, and are not considered significant new information pursuant to CEQA Guidelines Section 15088.5;

**WHEREAS**, the Revised Project description and analysis of environmental impacts are provided as “Supplemental Text Revisions to the FEIR”, dated May 14, 2019, and previously attached to the May 21, 2019 City Council agenda report for review and consideration and incorporated into the Final EIR;

**WHEREAS**, on May 21, 2019, the City Council conducted a public hearing for review of the EIR, and following public testimony, continued the public hearing to the City Council meeting date of July 9, 2019, with the request to the Owner to increase the retail floor area in the project design;

**WHEREAS**, the Owner subsequently modified the project design to provide 1,565 residential units, a 152,000 square hotel with 225 rooms, and 45,000 square feet of ancillary retail on-site “Final Project”;

**WHEREAS**, an analysis of the environmental impacts of the Final Project was completed comparing the effects of the changes in residential unit count, and commercial floor area with the impacts identified in the DEIR and concluded that the Final Project would not result in new impacts or a substantial increase in the severity of any significant impacts disclosed previously in the DEIR, and are not considered significant new information pursuant to CEQA Guidelines Section 15088.5; and

**WHEREAS**, the Final Project description and analysis of environmental impacts are provided as “Supplemental Text Revisions to the FEIR, dated June 26, 2019” attached to this Resolution and incorporated into the Final EIR;

**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 the public hearing on July 9, 2019. 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;

**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 that would provide some environmental advantages;

**WHEREAS**, the City is required, whenever possible, to adopt all feasible mitigation measures or feasible project alternatives that satisfy project objectives and 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 (a) and CEQA Guidelines § 15901(a);

**WHEREAS**, as the CEQA Findings explain, the City Council, reflecting the advice of City staff and input from various state and local agencies, has expressed its intention to adopt the proposed Final 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 project;

**WHEREAS**, many of the significant and potentially significant environmental effects associated with the Final 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, 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 (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 Final Project, as mitigated and adopted, there exist certain overriding economic, social and other considerations for approving the Final Project which justify the occurrence of those impacts and render them acceptable; and

**WHEREAS**, the City Council has reviewed the EIR, Mitigation Monitoring and Reporting Program, CEQA Findings and Statement of Overriding Considerations, City Staff reports pertaining to the EIR, and all evidence received at a continued public hearing on July 9, 2019. All of these documents and evidence are incorporated herein by reference into this Resolution.

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

1. That the City Council hereby finds that the above Recitals are true and correct and by this reference makes them a part hereof.
2. That the City Council hereby finds that the EIR has been completed in compliance with CEQA.

3. That the City Council hereby finds the EIR has been presented to the Council, which reviewed and considered the information and analysis contained therein.
4. That the City Council hereby finds that the EIR reflects the Council's independent judgment and analysis.
5. 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 Revised Project is approved.
6. That the City Council 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.
7. That in order to comply with Public Resources Code Section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program ("MMRP"). The MMRP 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.
8. 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 Revised Project that the City Council believes justify the occurrence of those impacts, as detailed in the "CEQA Findings" exhibit attached hereto.

9. Based on the findings set forth in this Resolution and the evidence in the City Staff Report, and the attached CEQA Findings, the City Council hereby approves and certifies the EIR, makes findings concerning mitigation measures, adopts a MMRP, make findings concerning alternatives and make findings that there exist certain overriding economic, social and other considerations for approving the Revised Project that justify the occurrence of those associated impacts, all in accordance with CEQA for the Project.

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

11. 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 OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE 9<sup>th</sup> DAY OF JULY, 2019, BY THE FOLLOWING VOTE:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

ATTEST:

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NORA PIMENTEL, MMC  
ASSISTANT CITY CLERK  
CITY OF SANTA CLARA

Attachments Incorporated by Reference:

1. CEQA Findings and Statement of Overriding Considerations
2. Mitigation Monitoring and Reporting Program
3. Responses to FEIR Comments After the Close of the FEIR Review Period
4. Supplemental Text Revisions to the FEIR, dated June 26, 2019

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