

RESOLUTION NO. ____ - ____

**A RESOLUTION OF THE CITY OF SANTA CLARA,
CALIFORNIA TO OVERRULE THE APPEAL AND UPHOLD
THE ADOPTION OF THE MITIGATED NEGATIVE
DECLARATION AND THE MITIGATION MONITORING AND
REPORTING PROGRAM FOR THE TWO-STORY DATA
CENTER PROJECT LOCATED AT 2305 MISSION COLLEGE
BOULEVARD, SANTA CLARA, CALIFORNIA**

PLN2017-12535 (Architectural Review)
CEQ2017-01034 (Mitigated Negative Declaration)

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

WHEREAS, on March 7, 2017, Clarke Michalak, (“Applicant”) filed an application for a development proposal to allow the development of a two-story 495,610 square foot data center on a 15.7 acre site at 2305 Mission College Boulevard (“Project Site”);

WHEREAS, the Applicant applied for the demolition of an existing two-story 358,000 square foot office/R&D and construction of a two-story 495,610 square foot data center building with equipment yards and onsite improvements (“Project”) as shown on the Development Plans, attached hereto and incorporated herein by this reference;

WHEREAS, in conformance with CEQA, the Mitigated Negative Declaration (MND) and the Mitigation Monitoring and Reporting Program (MMRP) were prepared and a Notice of Availability was circulated for a 30-day period from March 5, 2018 to April 5, 2018, with an approved extension of the review period to April 12, 2018;

WHEREAS, on April 18, 2018, the Architectural Committee (AC) adopted a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (MND/MMRP) and approved a two-story 495,610 square foot data center at the Project Site;

WHEREAS, on April 24 and April 25, 2018, respectively, the firm representing Laborers International Union of North America, Lozeau Drury LLP, and the firm representing the

California Unions for Reliable Energy, Adams Broadwell Joseph & Cardozo (collectively, the “Appellants”), filed timely appeals on concerns related to the MND;

WHEREAS, on June 13, 2018, the Planning Commission held a duly noticed public hearing to consider the appeals of the Architectural Committee approval of the MND, MMRP, and Architectural Review, at the conclusion of which, the Planning Commission voted to overrule the appeals and uphold the Architectural Committee’s actions;

WHEREAS, in the event the Applicant or others affected are not satisfied with the decision of the Planning Commission, he or she may within seven days after such decision appeal in writing to the City Clerk;

WHEREAS, on June 20, 2018, the same Appellants filed timely appeals of the Planning Commission’s action;

WHEREAS, the June 20 appeals raised largely the same issues that the Appellants raised with the Planning Commission: concerns about the air quality analysis, greenhouse gas analysis, noise impacts during emergency operation, battery impacts, cancer risk, and other health risks, and a request that a full Environmental Impact Report (EIR) be prepared rather than an MND;

WHEREAS, environmental consultant David J. Powers & Associates, Inc. prepared a “Responses to Comments” on the MND and a “Supplemental Memo for 2305 Mission College Boulevard Data Center Project” that responds to each one of the Appellants’ concerns.

WHEREAS, on July 6, 2018, the notice of public hearing for the July 17, 2018, City Council meeting for this item was posted in three conspicuous locations within 300 feet of the project site and was mailed to property owners within a 300 foot radius; and

WHEREAS, on July 17, 2018, the City Council held a duly noticed public hearing to consider the appeal of the Planning Commission’s approval of the MND, MMRP, and Architectural Review, 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 appeal.

NOW THEREFORE, BE IT FURTHER RESOLVED BY 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 based upon the MND, Responses to Comments, MMRP, and Supplemental Memo for 2305 Mission College Boulevard Data Center Project, the City Council hereby finds that all potentially significant environmental impacts that may directly or indirectly result from the Project would be reduced to a less-than-significant level by the mitigation measures specified in the MND and MMRP.
3. That the City Council hereby overrules the Appellants' appeal and upholds the Planning Commission's June 13, 2018 decision, which in turn overruled the Appellants' previous appeal and upheld the Architectural Committee's adoption of the MND and MMRP for the Project as required by the CEQA Guidelines (14 Cal. Code of Regs. § 15074).
4. That the City Council hereby finds that the MND and MMRP completed for this Project has been completed in compliance with CEQA, and that approval of this project as mitigated will have no significant negative impacts on the area's environmental resources, cumulative or otherwise, as the impacts as mitigated would fall within the environmental thresholds identified by CEQA, and the MND reflects the City Council's independent judgment and analysis.
5. 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.
6. 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 ____ DAY OF _____, 2018, BY THE FOLLOWING VOTE:

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

ATTEST: _____
JENNIFER YAMAGUMA
ACTING CITY CLERK
CITY OF SANTA CLARA

Attachments Incorporated by Reference:

1. Mitigated Negative Declaration, including Responses to Comments (Previously Distributed)
2. Supplemental Memo for 2305 Mission College Boulevard Data Center Project (Previously Distributed)
3. Mitigation Monitoring and Reporting Program (MMRP)
4. Development Plans

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