

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

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA, CALIFORNIA TO DENY THE APPEAL AND UPHOLD THE ADOPTION OF THE MITIGATED NEGATIVE DECLARATION AND THE MITIGATION MONITORING AND REPORTING PROGRAM FOR THE 2175 MARTIN AVENUE LS1 DATA CENTER PROJECT LOCATED AT 2175 MARTIN AVENUE, SANTA CLARA, CALIFORNIA**

PLN2019-14132 (Architectural Committee Appeal)  
PLN 2018-13745 (Architectural Review)  
CEQ2019-01071 (Mitigated Negative Declaration)

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

**WHEREAS**, on February 15, 2019, Scott Rynders (“Applicant”), on behalf of LVP Martin Avenue Associates (“Property Owner”), filed a development application for a 1.68-acre site located at 2175 Martin Avenue which is currently occupied by a one-story industrial building totaling 31,500 square feet, landscaping and surface paving (“Project Site”);

**WHEREAS**, the development application involves Architectural Review of the development proposal to construct a three-story, approximately 80,000 square foot data center building with back-up diesel generators, 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 § 15070, this Project was determined after an Initial Study to potentially have a significant effect on the environment which would be avoided with the implementation of mitigation measures, resulting in the drafting of a Mitigated Negative Declaration (“MND”) and Mitigation Monitoring and Reporting Program (“MMRP”);

**WHEREAS**, in conformance with CEQA, the MND was noticed and circulated for a 20-day public review period to the Santa Clara County Clerk’s Office, interested parties and property

owners within 500 feet of the Project Site from August 5, 2019 to August 26, 2019, where during that period four comment letters were received;

**WHEREAS**, on September 18, 2019, the Architectural Committee held a duly noticed public hearing to review the Project, at which the firm representing Santa Clara Citizens for Sensible Industry (SCCSI), Adams Broadwell Joseph and Cardozo, expressed verbal concerns and comments on the MND, and following which, Applicant provided verbal responses to the comments;

**WHEREAS**, following review of the Staff Report, MND, MMRP and Response to Comments (RTC) prepared by the environmental consultant ICF and all verbal and written evidence, the Architectural Committee adopted the MND and MMRP and approved Architectural Review of the Project;

**WHEREAS**, in the event the Applicant or others affected are not satisfied with the decision of the Architectural Committee, an appeal may be filed within seven days after such decision in writing to the Planning Commission;

**WHEREAS**, on September 25, 2019, Adams Broadwell Joseph and Cardozo, on behalf of Santa Clara Citizens for Sensible Industry (“Appellants”), filed an appeal of the Architectural Committee’s action to adopt the MND and MMRP and approve Architectural Review of the Project;

**WHEREAS**, the September 25, 2019 appeal raised largely the same issues that the Appellants raised in their comment letter during the public review period of the MND and at the Architectural Committee meeting regarding the impacts of the proposed project in potentially significant impacts to air quality, land use, energy and biological resources, and a request that an Environmental Impact Report be prepared rather than an MND;

**WHEREAS**, the environmental consultant ICF prepared a “Response to Comments” on the MND and a “Supplemental Memo for the 2175 Martin Avenue LS1 Data Center Project” that responds to the Appellant’s September 25, 2019 comments;

**WHEREAS**, on November 1, 2019, the notice of public hearing for the November 13, 2019 Planning Commission meeting was posted in three conspicuous locations within 300 feet of the Project Site, and on November 5, 2019, notice was mailed to interested parties within 500 feet of the Project Site boundaries in accordance with the City Code; and

**WHEREAS**, November 13, 2019, the Planning Commission held a duly noticed public hearing to consider the appeal of the Architectural Committee's adoption of the MND and MMRP and approval 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 appeal.

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

1. That the Planning Commission 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 Received on the MND, MMRP and Supplemental Memo for the 2175 Martin Avenue LS1 Data Center Project, the Planning Commission 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 Planning Commission hereby denies the Appellants' appeal and upholds the Architectural Committee's September 18, 2019 decision to adopt the MND and MMRP as required by the CEQA Guidelines (14 Cal. Code of Regs. § 15074) and approve the Project.
4. That the Planning Commission hereby finds that the MND 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 Planning Commission's independent judgement and analysis.

5. That the Planning Commission 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.

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 PLANNING COMMISSION OF THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE 13<sup>th</sup> DAY OF NOVEMBER, 2019, BY THE FOLLOWING VOTE:

AYES:                      COMMISSIONERS:  
NOES:                      COMMISSIONERS:  
ABSENT:                    COMMISSIONERS:  
ABSTAINED:              COMMISSIONERS:

ATTEST: \_\_\_\_\_  
ANDREW CRABTREE  
DIRECTOR OF COMMUNITY DEVELOPMENT  
CITY OF SANTA CLARA

Attachments Incorporated by Reference:

1. Mitigated Negative Declaration, including Responses to Comments Received on the Mitigated Negative Declaration
2. Response to Comments Received on the MND September 2019
3. Supplemental Memo for the LS1 Data Center Project October 2019
4. Mitigation Monitoring and Reporting Program
5. Development Plans