

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

**A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA, ADOPTING OVERRIDING FINDINGS REGARDING THE SANTA CLARA COUNTY AIRPORT LAND USE COMMISSION DETERMINATION OF INCONSISTENCY FOR THE TASMAN EAST SPECIFIC PLAN AMENDMENT PROJECT, A 45 GROSS ACRE PLAN AREA BOUNDED BY TASMAN DRIVE TO THE SOUTH, THE GUADALUPE RIVER TO THE EAST, THE SANTA CLARA GOLF CLUB TO THE NORTH, AND LAFAYETTE STREET TO THE WEST.**

SCH# 2016122027

CEQ2016-01026 (EIR)

PLN2016-12400 (General Plan Amendment, Specific Plan and Rezoning)

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

**WHEREAS**, on November 13, 2018, the City of Santa Clara (the "City") adopted the Tasman East Specific Plan ("TESP") for the approximately 45 gross acre plan area bounded by Tasman Drive to the south, the Guadalupe River to the east, the Santa Clara Golf Club to the north, and Lafayette Street to the west, to guide the transition of this underutilized, industrial area into a pedestrian-friendly and transit-oriented development with the addition of 4,500 new residential units, 100,000 square feet of neighborhood-oriented and convenience retail, 10 acres of open space, and an urban school (the "2018 Specific Plan");

**WHEREAS**, the urban school authorized by the 2018 Specific Plan is permitted to be located at the ground floor of a mixed-use building, and will be accessible to public open space of a minimum of one acre. This urban school may be private or public;

**WHEREAS**, because the TESP is located within the Mineta San Jose International Airport Influence Area ("AIA"), prior to taking action on the 2018 Specific Plan, the City submitted the proposal to the Airport Land Use Commission of Santa Clara County ("ALUC") for a determination of consistency with the ALUC's Comprehensive Land Use Plan ("CLUP");

**WHEREAS**, at its September 26, 2018 meeting, the ALUC found the 2018 Specific Plan to be consistent with the policies of the CLUP;

**WHEREAS**, the City is now contemplating the adoption of amendments to the TESP, the most significant of which is to replace a proposed street extension for Calle Del Sol with a pedestrian and bicycle paseo. The proposed amendments would also allow for alternate methods of trip reduction and correct a clerical error related to affordable housing, and the City is also considering a minor amendment to the zoning ordinance to allow certain non-residential uses within the first three floors of mixed-use buildings, and to correct another clerical error related to density. (The Specific Plan Amendments and Zoning Code Amendments are referred to collectively hereinafter as the "Paseo Amendments"). The Paseo Amendments do not propose any changes to the previously-authorized urban school;

**WHEREAS**, on September 10, 2020, pursuant to the provisions of Section 21670 et seq. of the California Public Utilities Code ("Section 21670"), the City referred the Paseo Amendments to the ALUC for a determination of consistency with the CLUP;

**WHEREAS**, on September 23, 2020, the ALUC, acting pursuant to its authority under Section 21670, determined that the Paseo Amendments were inconsistent with the CLUP. The project would not result in a change to the overall number of units or approved residential densities, but the ALUC nevertheless found that the proposed amendment would be inconsistent with the Noise Policies of the CLUP for areas surrounding Santa Clara County airports, based on the fact that the 2018 Specific Plan authorized the construction of the urban school within an airport noise contour; and

**WHEREAS**, a city may overrule a determination of the ALUC if it makes findings that the proposed project is consistent with the purposes of Section 21670 regarding the protection of public health, safety and welfare in areas surrounding airports and by providing the ALUC with a copy of the proposed decision and findings at least 45 days prior to the City's action to overrule the ALUC; and

**WHEREAS**, on October 1, 2020, the City of Santa Clara provided the ALUC and the California Department of Transportation, Division of Aeronautics ("Division") with the

proposed decision and findings in accordance with the 45-day period required under Section 21670;

**WHEREAS**, the Public Utilities Code provides that the ALUC and the Division shall respond to the referral of the findings of override within 30 days of receiving the proposed decision and findings; and

**WHEREAS**, in the event that the ALUC or Division's comments are not available within this time limit, the City may act without them; and

**WHEREAS**, on October 28, 2020, at a regularly scheduled meeting, the ALUC reviewed the City's proposed decision and findings to overrule the ALUC's determination of inconsistency and the ALUC decided to not provide comments on the proposed decision and findings to the City of Santa Clara; and

**WHEREAS**, the City has obtained the meeting minutes from the September 23, 2020 meetings containing ALUC comments, which are attached herein and incorporated hereto by this reference; and

**WHEREAS**, the City received comments from the Division on October 22, 2020, regarding the City's proposed decision and findings to override the ALUC's determination of inconsistency, which are attached hereto and incorporated by this reference;

**WHEREAS**, the comments by the ALUC or Division are advisory to the City under State law and;

**WHEREAS**, the City Council shall include comments from the ALUC and the Division in the final record of any final decision to overrule the ALUC, which may only be adopted by a two-thirds vote of the Council.

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

1. That the City of Santa Clara hereby finds that the above Recitals are true and correct and by this reference makes them a part hereof.

2. That Public Utilities Code Section 21676 provides that a local governing body may overrule the Commission if it makes specific findings that the proposed action is consistent with the purposes of Public Utilities Code Section 21670. The City Council therefore finds the following:

A. The first purpose of Section 21670 is to provide for the orderly development of each public use airport in this State and the area surrounding these airports so as to promote the overall goals and objectives of California airport noise standards and to prevent the creation of new noise and safety problems. The second purpose of Section 21670 is to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.

B. At the September 26, 2018 Airport Land Use Commission (ALUC) meeting, the County Airport Land Use Commission found the 2018 Specific Plan, which authorized the urban school, to be consistent with the policies of San Jose Airport Comprehensive Land Use Plan (CLUP), in that the Tasman East plan area is outside of the airport safety zone and the noise contours of the airport area. The ALUC also found that any individual buildings proposed within the Specific Plan area that would be more than approximately 175 feet in height are required to obtain a No Hazard Determination from the Federal Aviation Administration. That consistency determination and the associated requirement for a No Hazard Determination remains in effect.

C. The proposed Paseo Amendments would not introduce new uses into the plan area or create new conflicts with adopted CLUP policies, so as to create safety or noise concerns. The only significant change to the 2018 Specific Plan proposed by the Paseo Amendments is related to the proposed conversion of the Calle del Sol extension to a pedestrian paseo. The proposed Specific Plan Amendment does not increase residential densities, building height limits or the total number of units within the plan area. The ability to

locate the urban school within the plan area was allowed as a part of the original 2018 Specific Plan approval, and will remain so whether or not the City Council adopts the Paseo Amendments.

D. The Paseo Amendments would also authorize nonresidential uses on the first three floors of mixed-use buildings, as opposed to only the ground floor, as is currently permitted. This minor conversion of more-sensitive residential uses to less-sensitive nonresidential uses would not have any adverse noise or safety impacts.

E. The Paseo Amendments do not address, expand or revise the ability to locate the urban school within the plan area, which was adopted as part of the original General Plan Amendment, 2018 Specific Plan and Zoning Code approvals, and therefore the basis for the ALUC's determination of inconsistency is not related to the proposal referred to the Commission. The original approval that permits a school to be located in the plan area remains in effect, and will remain so regardless of whether the City approves or disapproves the Paseo Amendments. Accordingly, even if the ALUC had a valid basis for concluding that the urban school was an incompatible use, the property is already devoted to that use under the 2018 Specific Plan.

3. That the City of Santa Clara, based on the above findings, does hereby override the ALUC determination of inconsistency, as provided by laws of the State of California.

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4. 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 \_\_\_\_\_, 2020, BY THE FOLLOWING VOTE:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

ATTEST: \_\_\_\_\_  
NORA PIMENTEL, MMC  
ASSISTANT CITY CLERK  
CITY OF SANTA CLARA

Attachments incorporated by reference:

1. City of Santa Clara Referral to the ALUC
2. ALUC Determination of Inconsistency
3. Minutes from the September 23, 2020 ALUC meeting
4. Comments from the Caltrans Division of Aeronautics

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