

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
SANTA CLARA, CALIFORNIA TO DENY THE APPEAL AND
UPHOLD THE ARCHITECTURAL REVIEW APPROVAL OF A
FOUR-STORY DATA CENTER PROJECT LOCATED AT 1111
COMSTOCK STREET, SANTA CLARA, CALIFORNIA**

PLN2019-13941 (Architectural Review)
CEQ2019-01079 (Mitigated Negative Declaration)

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

WHEREAS, on June 17, 2019, Nicholas Laag with Prime Data Centers (“Applicant”), on behalf of Jim Khosh Revocable Living Trust (“Property Owner”), filed a development application for a 1.38-acre site located at 1111 Comstock Street which is currently occupied by a one-story industrial building totaling 23,765 square feet, landscaping and surface paving (“Project Site”);

WHEREAS, the development application involves Architectural Review of the development proposal to construct a four-story, approximately 121,170 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, a Mitigated Negative Declaration (“MND”) was prepared for the Project and a Notice of Availability was issued on September 21, 2020 through October 13, 2020 for 20-day agency and public review and comment period in accordance with the California Environmental Quality Act (CEQA), and on October 13, 2020, the City received one comment letter, from the firm representing Santa Clara Citizens for Sensible Industry (SCCSI), Adams Broadwell Joseph and Cardozo (“Appellants”);

WHEREAS, the MND identified potential significant impacts of Project development that with implementation of the mitigation measures identified in the Mitigation Monitoring and Reporting

Program (“MMRP”) will reduce potential mitigation measures to less than significant and will be incorporated into the Project;

WHEREAS, the environmental consultant, David J. Powers and Associates, prepared a “Response to Comments” (RTC) document on the MND that responds to the Appellant’s October 13, 2020 comments, and explains that the project would be consistent with the General Plan;

WHEREAS, on November 4, 2020, the Development Review Officer held a duly noticed Development Review Hearing to review the Project, at which the Appellants expressed verbal concerns and comments on the MND and architectural review, which were substantially similar to the comments raised in their October 13, 2020 comment letter, and following which, the Applicant provided verbal responses to the comments;

WHEREAS, following review of the Staff Report, MND, MMRP, RTC and all verbal and written evidence, the Development Review Officer adopted the MND and MMRP and approved the Architectural Review of the Project;

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

WHEREAS, on November 12, 2020, the Appellants filed an appeal of the Development Review Hearing action to adopt the MND and MMRP and approve Architectural Review of the Project;

WHEREAS, the November 12, 2020 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 Development Review Hearing;

WHEREAS, on January 27, 2021, the Planning Commission held a duly noticed public hearing to consider the appeal of the Development Review Hearing 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.

WHEREAS, on January 27, 2021 the Planning Commission voted unanimously to uphold the Development Review Hearing approval of the project;

WHEREAS, on February 2, 2021, the Appellants filed an appeal of the Planning Commission action to uphold the Development Review Hearing adoption of the MND and MMRP and approve Architectural Review of the Project;

WHEREAS, on March 5, 2021, the notice of public hearing for the March 16, 2021 City Council meeting was posted in three conspicuous locations within 500 feet of the Project Site, and on March 5, 2021, notice was mailed to interested parties within 500 feet of the Project Site boundaries, in accordance with the City Code; and

WHEREAS, on March 16, 2021, the City Council held a duly noticed public hearing to consider the appeal of the Development Review Hearing adoption of the MND and MMRP 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 appeal.

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 part hereof.
2. Pursuant to SCCC Section 18.76.020, the City Council determines that the following findings exist to support architectural approval of the Project:
 - A. That any off-street parking areas, screening strips and other facilities and improvements necessary to secure the purpose and intent of the Zoning Ordinance and the General Plan of the City are a part of the proposed development, in that:
 - The development proposed a Minor Modification to reduce the on-site parking requirement from the Zoning Code requirement of 1:4000 to 1:5000, resulting in 24

on-site spaces. As data centers are a low intensity employment use, this reduction is reasonable and will not result in spillover parking in the public right-of-way.

- The project includes off-site public improvements along the public right of-way fronting the project site and on-site landscape improvements in the parking areas. A four-foot clear landscape strip adjacent to the curb with a five-foot sidewalk behind are proposed to link adjacent properties and provide pedestrian access to the site consistent with complete streets design. The project also includes landscaping within the front building setback and parking areas in conformance with the development standards for the ML zoning district. At grade outdoor equipment and rooftop equipment would be screened from the public right-of-way by metal plank panels.

B. That the design and location of the proposed development and its relation to neighboring developments and traffic is such that it will not impair the desirability of investment or occupation in the neighborhood, will not unreasonably interfere with the use and enjoyment of neighboring developments, and will not create traffic congestion or hazards, in that:

- The project invests in the site improvements that will enhance the streetscape and increase property values by replacing derelict buildings, asphalt surface parking areas, and minimal landscaping on-the site and provide a catalyst for future investment for enhancement and development opportunities in the project area.
- The project site is located within the ML zoning district. Data centers generate few employees and relatively infrequent delivery of materials; consequently, the project is not anticipated to produce many vehicle trips. Moreover, a data center is a permitted use within the ML zoning district.
- Sufficient parking is provided to accommodate employee parking demands on-site and prevent spillover parking onto the public right-of-way. Vehicle ingress and egress would be provided by two new driveways along Comstock Street.

C. That the design and location of the proposed development is such that it is in keeping with the character of the neighborhood and is such as not to be detrimental to the harmonious development contemplated by the Zoning Ordinance and the General Plan of the City, in that:

- The proposal is to redevelop and improve the project site with construction of the data center with a strong, contemporary urban design that would improve the visual character of the zone. The project would include a loading dock, circulation and parking, and landscape improvements in conformance with the ML zoning district development standards and consistent with the development of data centers throughout the City.
- The project provides setback and landscaping along the street frontage consistent with surrounding properties.

D. That the granting of such approval will not, under the circumstances of the particular case, materially affect adversely the health, comfort or general welfare of persons residing or working in the neighborhood of said development, and will not be materially detrimental to the public welfare or injuries to property or improvements in said neighborhood, in that:

- The project is generally consistent with adjacent industrial and commercial development in terms of visual character and quality.
- The data center use and associated parking are self-contained within the limits of the property. There are no residential developments immediately adjacent that would be impacted with privacy concerns.
- The project includes conditions of approval and would be subject to the City Code and the mitigation measures set forth in the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program with project development to minimize impacts of development on neighboring properties.

E. That the proposed development, as set forth in the plans and drawings, is consistent with the set of more detailed policies and criteria for architectural review as approved and updated from time to time by the City Council, which set shall be maintained in the planning division office, in that:

- The development is a modern data center facility that is permitted in the ML Zoning District. The proposed development provides for an aesthetically attractive building.
- The project supports high quality design in keeping with adopted design guidelines for industrial development and the City's architectural review process consistent with General Land Use Plan Policy 5.3.1-P3 as follows:
 - i. The building design avoids the orientation of equipment yard, service areas, and large expanses of blank walls facing toward the street.
 - ii. The bulk, scale and height of the building is appropriate for the industrial sector and approved data centers within the City.
- Façade elements and treatments are incorporated in the exterior building design to enrich the building appearance.
- Driveway entrances are appropriate in number and location and are emphasized by landscaping to provide a suitable focus and identification.
- The project provides pedestrian connections to neighboring development with the construction of a complete street section (4' landscape strip and 5' sidewalk) along the project frontage.
- Screening of rooftop equipment from view along the public right-of-way are integrated into the site and building design

3. That based on the findings set forth in the Resolution and the evidence in the City Staff Report, the City Council hereby denies the appeal and upholds the Development Review

Hearing approval of the Project as set forth herein, as detailed in the attached Development Plans and subject to the attached Conditions of Approval.

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 COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE 16th DAY OF MARCH 2021, BY THE FOLLOWING VOTE:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

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

Attachments Incorporated by Reference:

1. Development Plans
2. Conditions of Approval