

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL 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 1111 COMSTOCK 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 Date 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, 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 September 21, 2020 to October 13, 2020, and on October

13, 2020, one comment letter was received from the firm representing Santa Clara Citizens for Sensible Industry (SCCSI), Adams Broadwell Joseph and Cardozo (“Appellants”);

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;

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, 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 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, an appeal may be filed within seven days after such decision 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 October 13, 2020 comment letter during the public review period of the MND and at the Development Review Hearing regarding the impacts of the proposed project in potentially significant impacts to air quality, greenhouse gas emissions, and public health, and a request that an Environmental Impact Report be prepared rather than an MND;

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 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, and MMRP for the 1111 Comstock Street 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 denies the Appellants' appeal and upholds the Development Review Hearing November 4, 2020 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 City Council 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 City Council’s independent judgement and analysis.

5. That the City Council 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 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. Mitigated Negative Declaration
 2. Mitigation Monitoring and Reporting Program
 3. Response to Comments Received on the MND
 4. Development Plans