

Attachment 4

Resolution Approving and Certifying Environmental Impact Report and Adopting CEQA Findings, Statement of Overriding Considerations (SOC) and Mitigation Monitoring and Reporting Program (MMRP)

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF SANTA CLARA,
CALIFORNIA, APPROVING AND CERTIFYING A FINAL
ENVIRONMENTAL IMPACT REPORT, ADOPTING CEQA
FINDINGS WITH RESPECT THERETO, AND ADOPTING
A STATEMENT OF OVERRIDING CONSIDERATIONS
AND A MITIGATION MONITORING AND REPORTING
PROGRAM FOR THE CITYPLACE SANTA CLARA
PROJECT LOCATED AT 5155 STARS AND STRIPES
DRIVE, ET AL, SANTA CLARA**

SCH#2014072078

CEQ2014-01180 (EIR)

PLN2014-10554 (General Plan Amendment, Rezoning and Development Agreement)

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

WHEREAS, on May 23, 2014, Santa Clara Centennial Gateway, LLC (predecessor in interest to Montana Property Group), filed a preliminary application for the development of a mixed-use project on approximately 9.48 acres of real property (together, the “Tasman Parcels”) located at 5120 Stars and Stripes Drive (APNs 104-03-038 and -039);

WHEREAS, on June 9, 2014, Related Santa Clara LLC (the “Applicant”) filed a preliminary application for the development of a mixed-use project on approximately 230 acres of real property (together, the “City Landfill Parcels”) located at 5155 Stars and Stripes Drive (APNs 104-03-036, 104-03-037, 104-01-102, 097-01-039, 097-01-073), generally located to the north and northeast of the Tasman Parcels;

WHEREAS, the Tasman Parcels and the City Landfill Parcels (together, the “Project Site”) encompass approximately two hundred forty (240) acres of land generally located north of Tasman Drive, east of Great America Parkway and San Tomas Aquino Creek, west of the Guadalupe River, and south of Great America Way and State Route (SR) 237, most of which was formerly occupied by a landfill and is now occupied by currently occupied by the Santa

Clara Golf & Tennis Club, a restaurant and banquet facility, a maintenance building, Fire Station 10, a Bicycle-Motocross (BMX) track, the Ameresco Methane Plant, the Eastside Retention Basin, a City vehicle washing station, and vacant lots used for parking;

WHEREAS, on August 5, 2014, an application was filed by Related Santa Clara, LLC (the “Applicant”), to combine the two development proposals into a single project (the “Original Project”) that would encompass up to 9.16 million gross square feet (gsf) of office buildings, retail and entertainment facilities, residential units, and hotel rooms, consistent with the elements of the “CityPlace Project” discussed in the Master Community Plan;

WHEREAS, on February 5, 2015, Montana Property Group and the Applicant formed a joint venture to develop the “City Center” portion of the Project Site (as described in the Master Community Plan), with the remainder of the Project Site to be developed by the Applicant;

WHEREAS, the Applicant proposes a General Plan Amendment to change the land use designation from Parks/Open Space and Regional Commercial to Urban Center/Entertainment, to revise Figure 2.3-1 Areas of Potential Development and Table 8.6-2 Proposed Development (Approved, Not Constructed and Pending Projects), to add transportation demand goals to Appendix 8.13 (Climate Action Plan), and to make related minor text amendments; Rezone of the Project Site from Public, Quasi-Public, Park or Recreation (B) and Commercial Park (CP) to Planned Development-Master Planned Community (PD-MC) Zoning District, with a corresponding Master Community Plan, Infrastructure Master Plan, and Conditions of Approval, attached hereto; a Development Agreement; a Disposition and Development Agreement; an Ordinance to allow leases in excess of 55 years at the Project Site; and an Override of the Airport Land Use Commission Comprehensive Land Use Plan;

WHEREAS, the Project approvals will include this Resolution No. _____ (the “CEQA Resolution”); Resolution No. _____ (the “General Plan Amendment Resolution”);

Resolution No. _____ (the "Rezoning Resolution"); Ordinance No. _____ ("Development Agreement Ordinance"); Resolution No. _____ (the "Disposition and Development Agreement Resolution"); Ordinance No. _____ (the "Lease Term Authorization"); and Resolution No. _____ (the "ALUC Override") (collectively, the "Approvals");

WHEREAS, the Project will also require separate applications and submittals of Development Area Plans and Tentative and/or Vesting Tentative Subdivision Maps for the implementation of Project development for City review and approval;

WHEREAS, on July 30, 2014, the City of Santa Clara ("City") distributed a Notice of Preparation of a Draft Environmental Impact Report ("DEIR") and on July 30, 2014 posted the Notice at the Santa Clara County Clerk's office, soliciting guidance on the scope and content of the environmental information to be included in the DEIR;

WHEREAS, the DEIR was prepared in accordance with CEQA and the City circulated copies of the DEIR and Notice of Availability to the public agencies which have jurisdiction by law with respect to the Project, as well as to other interested persons, organizations and agencies, and the City sought the comments of such persons, organizations and agencies on October 9, 2015 for a 45-day review period and extended the review period an additional 15 days upon agency request ending on December 15, 2015 ("Comment Period") ;

WHEREAS, the City prepared written responses to the comments received during the Comment Period and included those responses in a Final Environmental Impact Report ("FEIR"). The FEIR consists of a list of agencies and organizations to whom the DEIR was sent, a list of the comment letters received on the DEIR, revisions to the text of the DEIR, responses to comments received on the DEIR, and copies of comment letters. The FEIR was circulated for a 10-day

review period beginning on April 19, 2016 and was extended and additional 10 days upon agency request thereby concluding on May 9, 2016;

WHEREAS, the City received additional comments from agencies, organizations and individuals following the close of the FEIR review period and prepared responses to comments that do not change the conclusions of the FEIR and are provided as Exhibit B to the FEIR, which was prepared after the initial publication of the FEIR;

WHEREAS, after the publication of the FEIR, the Applicant proposed an additional land use scheme, referred to as the Enhanced Open Space Variant ("EOS Variant"), under which a portion of one of the parcels (APN 104-01-102) (designated as Parcel 3 in the Master Community Plan), would be retained by the City and reserved for parks and open space uses, and the 720,000 square feet of office that had been planned for Parcel 3 would be reallocated to the other parcels in the development, all as described more particularly in the Master Community Plan Supplement;

WHEREAS, on June 3, 2016, the City distributed an "Impact Analysis for CityPlace Enhanced Open Space Variant," which concluded that the EOS Variant would not result in any changes to the previously identified environmental impacts, or result in any additional environmental impacts, and which is provided as Exhibit A to the FEIR, which was prepared after the initial publication of the FEIR;

WHEREAS, the DEIR, FEIR and FEIR Exhibits constitute the EIR for the Project;

WHEREAS, upon further review of the EIR, the City has identified certain minor revisions to the EIR that do not change the conclusions of the EIR, and which are set forth in the body of this Resolution;

WHEREAS, the EIR identified certain significant and potentially significant adverse effects on the environment that would be caused by the Project as proposed;

WHEREAS, the EIR outlined various mitigation measures that would substantially lessen or avoid the Project's significant effects on the environment, as well as alternatives to the Project as proposed that would provide some environmental advantages;

WHEREAS, the City is required, pursuant to the California Environmental Quality Act ("CEQA") (Public Resources Code § 21000 et seq.), to adopt all feasible mitigation measures or feasible project alternatives that can substantially lessen or avoid any significant environmental effects of the Project;

WHEREAS, the EIR identifies an Increased Housing Alternative to improve the jobs-to-housing ratio which would result in fewer impacts associated with transportation/traffic, air quality, and greenhouse gas emissions through a replacement of 320,000 square feet of office space planned under the Original Project with 320 additional housing units to provide a total of 1,680 residential units on the Project Site;

WHEREAS, significant and unavoidable land use, transportation, air quality, greenhouse gas emissions, noise, biological resources, population and housing, and public services impacts would remain with the Increased Housing Alternative, as it includes the same amount of total building area (9.16 million gross square feet) and types of uses contemplated by the Original Project, but the severity of the impacts would be reduced for some transportation, greenhouse gas, and noise impacts;

WHEREAS, Public Resources Code § 21081, subdivision (a) requires a lead agency, before approving a project for which an EIR has been prepared and certified, to adopt findings specifying whether mitigation measures and, in some instances, alternatives discussed in the EIR, have been adopted or rejected as infeasible;

WHEREAS, the “CEQA Findings” attached to this Resolution is a set of Findings of Fact and a Statement of Overriding Considerations prepared in order to satisfy the requirements of Public Resources Code § 21081, subdivision (a);

WHEREAS, as the CEQA Findings explain, the City Council, reflecting the advice of City staff and input from various State and local agencies, has expressed its intention to adopt the EOS Variant, together with the Increased Housing Alternative presented in the EIR, as the project for development on the Project Site (the “Project”);

WHEREAS, the City Council has determined that none of the alternatives addressed in the EIR, other than the Increased Housing Alternative, would be both feasible and environmentally superior to the Project as proposed. Both of the “No Project” alternatives and the “Reduced Intensity” alternative would not sufficiently satisfy the Project Objectives, and the “Reduced Intensity Alternative” would be infeasible. The details supporting these determinations are set forth in the CEQA Findings;

WHEREAS, in taking this course, the City Council has acted consistent with the CEQA mandate to look to project mitigations and/or alternatives as a means of substantially lessening or avoiding the environmental effects of projects as proposed;

WHEREAS, many of the significant and potentially significant environmental effects associated with the Project can either be substantially lessened or avoided through the inclusion of mitigation measures proposed in the EIR;

WHEREAS, the City Council, in reviewing the Project, intends to adopt all mitigation measures set forth in the EIR;

WHEREAS, the significant effects that cannot be avoided or substantially lessened by the adoption of feasible mitigation measures will necessarily remain significant and unavoidable;

WHEREAS, as detailed in the CEQA Findings, the City Council has determined that, despite the occurrence of significant unavoidable environmental effects associated with the Project, as mitigated and adopted, there exist certain overriding economic, social and other considerations for approving the Project which justify the occurrence of those impacts and render them acceptable; and

WHEREAS, the City Council has reviewed the EIR and Mitigation Monitoring and Reporting Program, attached as the "MMRP", the CEQA Findings, the City Staff reports pertaining to the EIR, and all evidence received at a duly noticed public hearing on June 28, 2016. All of these documents and evidence are incorporated herein by reference into this Resolution.

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 the City Council hereby incorporates the following changes into the EIR:
 - a. The response to the comment regarding Intersection #28 on page B-2.24 of Exhibit B to the FEIR is revised as follows (struck through text indicates deletions and bolded, underlined text indicates insertions):

~~There is no Cumulative impact at this intersection as shown correctly in the FEIR. Therefore, the Project has no obligation to contribute to improvements at this location.~~

This improvement at this intersection is the full responsibility of the City of San José pursuant to the North San José settlement agreement between the City of San José and Santa Clara County. Therefore, the City of Santa Clara (and thus the Project) have no funding obligation.

- b. In light of the fact that Yahoo! is already responsible for the construction and/or funding of the entirety of the improvements to Intersections 64, 65, and 66 and that the City of San José is already responsible for the construction and/or funding of the entirety of the improvements to Intersection Nos. 27 and 28 pursuant to the North San José settlement agreement between the City of San José and Santa Clara County, the Project Responsibility for each of these intersections in the following tables (as applicable) is revised to be zero percent (0%): Tables 3.3-20, 3.3-26 and 3.3-50.
3. That the City Council hereby finds that the EIR has been completed in compliance with CEQA.
4. That the City Council hereby finds the EIR has been presented to the City Council, which reviewed and considered the information and analysis contained therein.
5. That the City Council finds, pursuant to Public Resources Code Section 21081 and California Code of Regulations, Title 14, Section 15091, that many of the proposed mitigation measures described in the EIR are feasible, and therefore will become binding upon the City and affected landowners and their assigns or successors in interest when the Project is approved.
6. That the City Council finds that none of the Project Alternatives set forth in the EIR, other than the Increased Housing Alternative, can feasibly substantially lessen or avoid those significant adverse environmental effects not otherwise lessened or avoided by the adoption of all feasible mitigation measures.
7. That, in order to comply with Public Resources Code Section 21081.6, the City Council hereby adopts the Mitigation Monitoring or Reporting Program as set forth in the attached "MMRP". The Program is designed to ensure that, during project implementation, the City,

affected landowners, their assigns and successors in interest and any other responsible parties comply with the feasible mitigation measures identified. The MMRP identifies, for each mitigation measure, the action to be taken and the party responsible for implementation.

8. That the City Council finds that the EIR set forth project-level and cumulative environmental impacts that are significant and unavoidable that cannot be mitigated or avoided through the adoption of feasible mitigation measures or feasible alternatives. As to these impacts, the City Council finds that there exist certain overriding economic, social and other considerations for approving the Project that the City Council believes justify the occurrence of those impacts, as detailed in the "CEQA Findings" exhibit attached hereto.

9. Pursuant to 14 Cal. Code of Regs. Section 15091(e), the City Council hereby designates the Director of Planning and Inspection as the Custodian of Records for the Project, and the Planning and Inspection Division at City Hall, 1500 Warburton Avenue, Santa Clara, California, is the location of the documents and other material that constitute the record of proceedings upon which this decision is based.

10. Based on the findings set forth in this Resolution, the evidence in the City Staff Report, and the attached CEQA Findings, the City Council approves and certifies the EIR, makes findings concerning mitigation measures, adopts a MMRP, makes findings concerning alternatives and makes findings that there exist certain overriding economic, social and other considerations for approving the Project that justify the occurrence of those associated impacts and adopts the CEQA Findings and Statement of Overriding Considerations, all in accordance with CEQA for the Project.

11. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be

unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The City of Santa Clara, California, hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

12. 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 28TH DAY OF JUNE, 2016, BY THE FOLLOWING VOTE:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

ATTEST: _____
ROD DIRIDON, JR.
CITY CLERK
CITY OF SANTA CLARA

Attachments Incorporated by Reference:

1. "MMRP" (Mitigation Monitoring and Reporting Program)
2. "CEQA Findings" (CEQA Findings of Fact and Statement of Overriding Considerations)
3. "Development Plans" (Master Community Plan and Infrastructure Master Plan)
4. Exhibit "Project Conditions of Approval"

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