

RESOLUTION NO. ____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DAVIS ADOPTING CEQA FINDINGS OF FACT; ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS; ADOPTING A MITIGATION MONITORING PLAN; AND CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE NISHI GATEWAY PROJECT

WHEREAS, the subject project is known as Nishi Gateway and is project is comprised of two primary components: 1) annexation from Yolo County and development of 46.9 acres (Nishi site) with a mixed-use community that will provide roadway connections to the City and University of California at Davis (UC Davis), and 2) rezoning of 10.8 acres within the City (hereafter referred to as West Olive Drive) to allow for redevelopment. The project site is generally located between Interstate 80 and the Union Pacific Railroad tracks, southwest of Richards Boulevard; and

WHEREAS, the Nishi project proposes the development of a mix of land uses consisting of rental and for-sale, high-density residential uses; R&D space; accessory commercial/retail space; on-site stormwater detention; open spaces, including a public park, greenbelts, and private open space for the proposed residential uses; and surface/structure parking with solar panels. The project would include up to 650 residential units (potentially 440 rental and 210 for-sale units), up to 325,000 square feet (sf) of R&D uses, and up to 20,000 sf of accessory retail uses (coffee shop, small café/restaurant, etc.) with a variety of lot sizes and building floor plates. While not proposed at this time, the site could potentially accommodate an extended-stay hotel, which would be subject to subsequent market assessment and discretionary City review and approval with performance standards; and

WHEREAS, the West Olive Drive component includes amendment to the Commercial Service designation of West Olive Drive to allow intensification and a greater mix of non-residential uses. Approximately 55,900 net new sf of commercial uses may be developed within West Olive Drive through redevelopment (demolition of some existing buildings, reconstruction and expansion) and may include office, commercial service, and small-scale neighborhood-serving uses. Based on allowable floor-area ratios, structures would likely be two or three stories in height.

WHEREAS, the Final Environmental Impact Report (SCH #2015012066) consisting of the Draft EIR and responses to comments and errata has been prepared pursuant to the California Environmental Quality Act (CEQA; *Public Resources Code* § 21000 *et seq.*) to analyze the environmental effects of the project; and

WHEREAS, a Notice of Preparation was circulated for a 30-day public review and comment period commencing on January 29, 2015; and

WHEREAS, a public scoping meeting was held February 23, 2015 to receive comments on the appropriate scope of the EIR; and

WHEREAS, the Draft EIR was circulated for a 46-day public review and comment period commencing September 10, 2015 and concluding October 26, 2015; and

WHEREAS, on October 14, 2015 the Planning Commission held a public meeting to receive comments regarding the adequacy of the Draft EIR; and

WHEREAS, the Final EIR (Response to Comments) documents were released December 16, 2015; and

WHEREAS, Section 21000 *et. seq.* of the *Public Resources Code* and Section 15000 *et. seq.* of Title 14 of the California Code of Regulations (*CEQA Guidelines*) which govern the preparation, content, and processing of environmental impact reports, have been fully implemented in the preparation of the EIR; and

WHEREAS, between the public scoping meeting and date of final action fourteen official noticed public meetings and hearings of various City commissions and the City Council were held to deliberate the merits of the proposed project and make recommendations regarding components of or a final action on the project; and

WHEREAS, on January 6, 2016 the Planning Commission voted 7-0 to recommend that the City Council certify the EIR as adequate, and voted 5-2 to recommend that the City Council approve the project with conditions; and

WHEREAS, the City Council has reviewed the Final EIR prepared for the project, the staff reports pertaining to the Final EIR, the Planning Commission hearing minutes and reports, and all evidence received by the Planning Commission and at the City Council hearings, all of which documents and evidence are hereby incorporated by reference into this Resolution; and

WHEREAS, the Final EIR identified certain significant and potentially significant adverse effects on the environment caused by the project; and

WHEREAS, the City Council specifically finds that where more than one reason for approving the project and rejecting alternatives is given in its findings or in the record, and where more than one reason is given for adopting the Statement of Overriding Considerations, the Council would have made its decision on the basis of any one of those reasons; and

WHEREAS, the City Council desires, in accordance with CEQA, to declare that, despite the occurrence of significant environmental effects that can not be substantially lessened or avoided through the adoption of feasible mitigation measures or feasible alternatives, there exist certain overriding economic, social, and other considerations for approving the project that the Council believes justify the occurrence of those impacts; and

WHEREAS, the City Council is required pursuant to CEQA (*Guidelines* Section 15021), to adopt all feasible mitigation measures or feasible project alternatives that can substantially lessen or avoid any significant environmental effects keeping in mind the obligation to balance a variety of public objectives; and

WHEREAS, CEQA (*Guidelines* Section 15043) affirms the City Council's authority to approve this project even though it may cause significant effects on the environment so long as the Council makes a fully informed and publicly disclosed decision that there is no feasible way to lessen or avoid the significant effects (*Guidelines* Section 15091) and that there are specifically identified expected benefits from the project that outweigh the policy of reducing or avoiding significant environmental impacts of the project (*Guidelines* Section 15093).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Davis as follows:

1. Exhibit A (Findings of Fact and Statement of Overriding Considerations) and Exhibit B (Mitigation Monitoring and Reporting Plan) of this Resolution provide findings required under Section 15091 of the CEQA Guidelines for significant effects of the project. The City Council hereby adopts these various findings of fact attached hereto as Exhibits A and B.
2. Exhibit A of this Resolution provides the findings required under Section 15093 of the *CEQA Guidelines* relating to accepting adverse impacts of the project due to overriding considerations. The City Council has balanced the economic, legal, social, technological, and other benefits of the project against the unavoidable environmental risks that may result, and finds that the specific economic, legal, social, technological, and other benefits outweigh the unavoidable adverse environmental effects. The City Council, therefore, finds the adverse environmental effects of the project to be "acceptable." The City Council hereby adopts the Statement of Overriding Considerations contained within Exhibit A.
3. After considering the EIR and in conjunction with making these findings, the City Council hereby finds that pursuant to Section 15092 of the *CEQA Guidelines* that approval of the project will result in significant effects on the environment, however, the City eliminated or substantially lessened these significant effects where feasible, and has determined that remaining significant effects are found to be unavoidable under Section 15091 and acceptable under Section 15093.
4. The City Council has considered alternatives to the Project and finds based on substantial evidence in the record that the Project is the best alternative that can be feasibly implemented in light of relevant economic, legal, social, technological, and other reasons, as discussed herein. The City Council hereby rejects all other alternatives, and combinations and variations, thereof.
5. These findings made by the City Council are supported by substantial evidence in the record, which is summarized herein.
6. The Mitigation Monitoring and Reporting Plan attached hereto as Exhibit B (Mitigation Monitoring and Reporting Plan) is hereby adopted to ensure implementation of feasible mitigation measures identified in the EIR. The City

Council finds that these mitigation measures are fully enforceable conditions on the project and shall be binding upon the City and affected parties.

7. The City Council finds that the project is consistent with the General Plan (including all elements), and that approval of the project is in the public interest and is necessary for the public health, safety, and welfare.
8. The City Council hereby certifies the Final EIR in accordance with the requirements of CEQA.
9. A Notice of Determination shall be filed immediately after final approval of the project.

10. Pursuant to CEQA Guidelines Section 15095, staff is directed as follows:
- a) A copy of the Final EIR and CEQA Findings of Fact shall be provided to the County of Yolo Planning Department;
 - b) A copy of the Final EIR and CEQA Findings of Fact shall be retained in the project files;
 - c) A copy of the Final EIR and CEQA Findings of Fact shall be provided to the project applicant who is responsible for providing a copy of same to all CEQA “responsible” agencies.

PASSED AND ADOPTED by the Davis City Council on the __th day of _____, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Daniel Wolk, Mayor of the City of Davis

Attest:

Zoe S. Mirabile, CMC, City Clerk of the City of Davis

Exhibits Attached:

- A. CEQA Findings of Fact and Statement of Overriding Considerations
- B. Final Mitigation Monitoring and Reporting Plan