RESOLUTION NO. 17-151, SERIES 2017

RESOLUTION MAKING FINDINGS AND ADOPTING A SUSTAINABLE COMMUNITIES ENVIRONMENTAL ASSESSMENT AND MITIGATION MONITORING AND REPORTING PROGRAM PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR THE TRACKSIDE CENTER MIXED USE PROJECT LOCATED AT 901-919 THIRD STREET (APN: 070-324-002)

WHEREAS, the proposed Trackside Center Mixed Use Project would remove two existing one-story commercial buildings and construct a new 47,983 square-foot, four-story mixed-use building, consisting of 8,950 square feet of retail space on the ground floor and 27 apartment units on upper 3 floors and featuring site improvements such as surface parking, an outdoor plaza on the west side, landscaping, drainage, sidewalks, pedestrian and bicycle facilities ("Project"); and

WHEREAS, the project site includes approximately 0.69 total acres consisting of 0.525 acres at 901-919 3rd Street (Assessor’s Parcel Number: 070-324-002) and 0.167 acres of an adjacent railroad lease area located in the City of Davis ("City"); and

WHEREAS, the Project entitlements include an Amendment to the Core Area Specific Plan to address the proposed density of 39.2 dwelling units/gross acres (51.4 without lease area), the rezoning of the site to a new Planned Development (PD), Final Planned Development; Design Review, and Demolition; and

WHEREAS, pursuant to the California Environmental Quality Act (Public Resources Code, § 21000 et seq.), the State CEQA Guidelines (California Code of Regulations, title 14, § 15000 et seq.), and City of Davis’s Local CEQA Guidelines (collectively, “CEQA”), the City of Davis is the lead agency for the proposed Project; and

WHEREAS, pursuant to SB 375, streamlined CEQA review and analysis is available to Transit Priority Projects (“TPPs”) and residential or mixed-use residential projects that are consistent with the Sustainable Communities Strategy (“SCS”); and

WHEREAS, Public Resources Code, section 21155 defines a TPP as being consistent with the SCS or alternative planning strategy that has been accepted by the California Air Resources Board as meeting greenhouse gas emission reduction targets, as well as having at least 50-percent residential use of the total building square footage, a minimum net density of at least 20 dwelling units per acre, and located within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan; and

WHEREAS, the Sacramento Area Council of Governments (“SACOG”) Board adopted the most recent Metropolitan Transportation Plan/Sustainable Communities Strategy (“MTP/SCS”) on February 18, 2016 and the California Air Resources Board issued a subsequent Acceptance of GHG Quantification Determination for the SACOG MTP/SCS; and
WHEREAS, pursuant to Public Resources Code, section 21155.2, transit priority projects that incorporate all feasible mitigation measures, performance standards, or criteria set forth in prior applicable environmental impact reports ("EIRs") may be approved following the preparation of a Sustainable Communities Environmental Assessment ("SCEA"); and

WHEREAS, the Project qualifies as a TPP under Public Resources Code, section 21155 and is consistent with the general land use designation, density, building intensity, and applicable policies specified for the Project area in the MTP/SCS; and

WHEREAS, concurrence of the Project as a qualifying TPP and consistency with the MTP/SCS was provided by SACOG; and

WHEREAS, the City prepared a SCEA Initial Study, attached hereto as Exhibit "A," pursuant to Public Resources Code, section 21155.2 and determined that all potentially significant effects required to be identified in the Initial Study have been identified and analyzed; and

WHEREAS, pursuant to Public Resources Code, section 21155.2, the SCEA evaluated prior applicable EIRs including the MTP/SCS EIR, the Program EIR for the City of Davis General Plan Update (2000), and Core Area Specific Plan EIR, and identified all feasible mitigation measures, performance standards, or criteria set forth in Findings of Fact for said prior applicable EIRs that would reduce Project impacts to a less than significant level; and

WHEREAS, the City distributed a Notice of Intent to Adopt a SCEA on July 5, 2017, pursuant to Public Resources Code, section 21092; and

WHEREAS, the City provided copies of the SCEA to the public for a review and comment period beginning on July 11, 2017 and ending on August 11, 2017, pursuant to Public Resources Code, section 21155.2, during which time the City received 54 comment letters; and

WHEREAS, during the public review and comment period, copies of the SCEA were available for review and inspection at the Department of Community Development and Sustainability, Planning Division, 23 Russell Boulevard, Suite 2, Davis, California 95616, and on the City's website; and

WHEREAS, on August 23, 2017 the Planning Commission conducted a duly-noticed public hearing on where members of the public were afforded an opportunity to comment upon the Project and the SCEA, and at the conclusion of the hearing, the Planning Commission recommended that the City Council not adopt the SCEA based on the reasons discussed by the Planning Commission that included the public comments received on the document and the need for additional information and responses; and

WHEREAS, the City has prepared Responses to all comments submitted on the SCEA and an Errata to the SCEA to clarify and amplify information contained in the SCEA and which is incorporated in the SCEA and is attached hereto as part of Exhibit "A,". Neither the Response to comments, nor the Errata to the SCEA trigger recirculation under State CEQA Guidelines sections 15073.5 or 15088.5; and
WHEREAS, on November 1, 2017 the City gave public notice of the City Council’s public hearing on the Project by advertisement in a newspaper of general circulation and to property owners within a 500-foot radius; and

WHEREAS, pursuant to Public Resources Code section 21081.6 and State CEQA Guidelines section 15074(d), the City prepared a program for reporting on or monitoring the changes which it has either required in the Project or made a condition of approval to mitigate or avoid significant environmental effects (the “Mitigation Monitoring and Reporting Program” or “MMRP”), a copy of which is attached hereto as Exhibit “B”; and

WHEREAS, on November 14, 2017, the City Council held a duly noticed public hearing as prescribed by law and considered public testimony and evidence and recommendations presented by staff related to the proposed Project and the SCEA for the Project; and

WHEREAS, all the requirements of the Public Resources Code, the State CEQA Guidelines, and the City’s Local CEQA Guidelines have been satisfied by the City in connection with the preparation of the SCEA, which is sufficiently detailed so that all of the potentially significant environmental effects of the Project, as well as feasible mitigation measures, have been adequately evaluated; and

WHEREAS, the SCEA prepared in connection with the Project sufficiently analyzes the feasible mitigation measures necessary to avoid or substantially lessen the Project’s potentially significant environmental impacts; and

WHEREAS, the findings and conclusions made by the City Council in this Resolution are based upon the oral and written evidence presented as well as the entirety of the administrative record for the Project, which is incorporated herein by this reference and are not based solely on the information provided in this Resolution; and

WHEREAS, prior to taking action, the City Council has heard, been presented with, reviewed, and considered all of the information and data in the administrative record, including but not limited to the Initial Study, SCEA, MMRP, and all oral and written evidence presented to it during all meetings and hearings; and

WHEREAS, the SCEA reflects the independent judgment of the City and is deemed adequate for purposes of making decisions on the merits of the Project; and

WHEREAS, no comments made in the public hearing conducted by the City Council, and no additional information submitted to the City Council, and none of the Errata, have produced substantial new information requiring substantial revisions that would trigger recirculation of the SCEA or additional environmental review of the project under State CEQA Guidelines sections 15073.5 or 15088.5; and

WHEREAS, pursuant to Public Resources Code, section 21155.2(b)(7), a lead agency’s decision to review and approve a SCEA and TTP shall be reviewed under the substantial evidence standard. State CEQA Guidelines, § 15384 defines “substantial evidence” as “enough relevant information and reasonable inferences from this information that a fair argument can be made to
support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency.”; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Davis does hereby declare, determine, and order as follows:

SECTION 1. RECITALS. The City Council hereby finds that the recitals set forth above are true and correct and are incorporated herein as substantive findings of this Resolution.

SECTION 2. COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the SCEA, as modified by the Responses to Comments, Errata, Initial Study, administrative record, and all other written and oral evidence presented to the City for the Project, on file with the City and available for review at Department of Community Development and Sustainability, Planning Division, 23 Russell Boulevard, Suite 2, Davis, California 95616. Based on the City Council’s independent review and analysis, the City Council finds that the SCEA, as modified by the Responses to Comments, Errata, Initial Study, and administrative record contain a complete and accurate reporting of the environmental impacts associated with the Project, and that the SCEA has been completed in compliance with the California Environmental Quality Act (Public Resources Code, § 21000 et seq.; “CEQA”), the State CEQA Guidelines (California Code of Regulations, title 14, § 15000 et seq.), and the City’s Local CEQA Guidelines.

A. Specifically, pursuant to Public Resources Code, section 21155, the City Council hereby finds that the Project is a Transit Priority Project (“TPP”) that:

1. Contains at least 50 percent residential use because the Project includes a total floor area of 47,983 square feet and a total of 39,033 square feet (81 percent) devoted to residential use; and

2. Provides a minimum net density of at least 20 dwelling units per acre because the Project includes up to 27 dwelling units on approximately 0.69 gross acres, which is a density of approximately 39 dwelling units per acre including the lease area (51.4 dwelling units per acre without the lease area); and

3. Is located within one-half mile of a major transit stop or high quality transit corridor included in a regional transportation plan because the Project site is within a Transit Priority Area studied within the MTP/SCS, the Project is entirely within one-half mile of two streets identified as high-quality transit corridors in the MTP/SCS (Richards Boulevard and 1st Street), and is within ½ mile of the Davis Amtrak Station; and

B. The Project is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in the Sacramento Area Council
of Government’s (“SACOG”) Metropolitan Transportation Plan/Sustainable Communities Strategy (“MTP/SCS”), for which the State Air Resources Board has accepted as meeting applicable greenhouse gas reduction targets (Public Resources Code, § 21159.28); and

C. Pursuant to Public Resources Code, section 21155.2, the Project has incorporated all feasible mitigation measures, performance standards, or criteria set forth in the prior MTP/SCS EIR, the Program EIR for the City of Davis General Plan Update, and Core Area Specific Plan EIR; and

D. An Initial Study has been prepared that identifies all significant or potentially significant impacts of the Project. The Initial Study identifies cumulative effects that have been adequately addressed and mitigated in the prior applicable certified EIRs. Cumulative effects have been found to be adequately addressed or mitigated in these prior applicable certified EIRs and are not considered cumulatively considerable for purposes of this SCEA; and

E. The SCEA includes measures that either avoid or mitigate to a level of insignificance all potentially significant or significant effects of the Project required to be identified in the Initial Study.

SECTION 3. FINDINGS ON ENVIRONMENTAL IMPACTS. Based on the whole record before it, including the SCEA, as modified by the Responses to Comments, Errata, Initial Study, the administrative record, and all other written and oral evidence presented to the City Council, the City Council finds that all environmental impacts of the Project are either less than significant or no impact as outlined in the SCEA, as modified by the Responses to Comments, Errata, and the Initial Study. The City Council further finds that there is no substantial evidence in the administrative record that the Project may result in any significant environmental impacts. The City Council finds that the SCEA, as modified by the Responses to Comments, Errata, contains a complete, objective, and accurate reporting of the environmental impacts associated with the Project and reflects the independent judgment and analysis of the City. No new significant environmental effects have been identified in the Final SCEA and no changes made to the SCEA constitute substantial revisions requiring recirculation under State CEQA Guidelines sections 15073.5 or 15088.5. The changes reflected in the Errata merely clarify and amplify the project description. (State CEQA Guidelines, sections 15073.5(e)(4), 15088.5.)

SECTION 4. ADOPTION OF THE SUSTAINABLE COMMUNITIES ENVIRONMENTAL ASSESSMENT. The City hereby approved and adopts the Final SCEA consisting of the Initial Study, Responses to Comments, and Errata, attached hereto as Exhibit “A”.

SECTION 5. ADOPTION OF THE MITIGATION MONITORING AND REPORTING PROGRAM. In accordance with the Public Resources Code section 21081.6, the City Council hereby adopts the MMRP, attached hereto as Exhibit “B”. In the event of any inconsistencies between the Mitigation measures as set forth in the SCEA and the MMRP, the MMRP shall control.
SECTION 6. LOCATION AND CUSTODIAN OF RECORDS. The documents and materials associated with the Project and the SCEA that constitute the record of proceedings on which these findings are based are located at Department of Community Development and Sustainability, Planning Division, 23 Russell Boulevard, Suite 2, Davis, California 95616. The Custodian of Record is Eric Lee, Planner.

SECTION 6. NOTICE OF DETERMINATION. The City Council hereby directs staff to prepare and file a Notice of Determination with the Yolo County Clerk within five (5) working days of the approval of the proposed Project.

PASSED AND ADOPTED by the City Council of the City of Davis this 14th day of November, 2017, by the following vote:

AYES: Arnold, Frerichs, Lee, Swanson, Davis

ROBB DAVIS
Mayor

NOES: None

ATTEST:

Zoe S. Mirabile, CMC
City Clerk
EXHIBIT A

Final Sustainable Communities Environmental Assessment (SCEA) consisting of the SCEA Initial Study (July 2017) and the Responses to Comments and Errata (November 2017)

Due to the documents size, copies of the SCEA are only being provided to the City Council.

An electronic copy of the SCEA is available online at: [http://cityofdavis.org/city-hall/community-development-and-sustainability/development-projects/trackside-center/environmental-review](http://cityofdavis.org/city-hall/community-development-and-sustainability/development-projects/trackside-center/environmental-review); or for direct links:

- Responses to Comments and Errata: [http://38.106.5.235/home/showdocument?id=8354](http://38.106.5.235/home/showdocument?id=8354).

A hard copy is also available for review or for loan from the City Offices in the Community Development and Sustainability Department located at 23 Russell Boulevard, Davis.
EXHIBIT B

Mitigation Monitoring and Reporting Program (MMRP)
### Mitigation Monitoring and Reporting Program (MMRP)

**Trackside Center Mixed-Use Project (901-919 3rd Street)**

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<th>Impact</th>
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<td><strong>Biological:</strong></td>
<td>An active raptor nest site is within one-quarter-of-a-mile of the project site and could be impacted by the project. Additionally, there is the potential for hawks to develop new nests in the vicinity prior to the start of work or in trees on-site that could potentially serve as nest sites.</td>
<td><strong>MM#1—Preconstruction Survey.</strong> In order to reduce potential impacts to nesting hawks to a less than significant level, prior to any site disturbance or issuance of building or demolition permits the applicant shall comply with the following. Prior to any site disturbance, the applicant shall apply for and obtain a bioclearance permit from the City in accordance with City procedures. If demolition/construction activities will commence during nesting season between March 1 and September 15, a biological survey addressing sensitive species including Swainson’s hawk shall be submitted to the City for review and approval. The survey shall include Swainson’s hawk nest surveys in trees within a one-quarter-mile radius of the project site. If an active nest site is identified, appropriate avoidance measures may be required based on proximity, nest stage, amount of existing visual buffering, (e.g. delayed construction, nest monitoring, etc.). If commencement of activities avoids nesting season, then no survey would be necessary.</td>
<td>Qualified Biologist/Applicant/Developer</td>
<td>No more than 30 days prior to grading or site disturbance during nesting season</td>
<td>Obtain bioclearance and provide survey for review and approval</td>
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<td><strong>Cultural:</strong></td>
<td>Although there are no known Native American archaeological resources at or near the project site, ground-disturbing activities</td>
<td><strong>MM#2 – Archaeological Resources:</strong> If any prehistoric or historic artifacts, or other indications of archaeological resources are found during grading and construction activities, an archaeologist meeting the Secretary of the Interior's Professional</td>
<td>Applicant/Developer</td>
<td>During Construction</td>
<td>Consult qualified professional in the event resources are uncovered.</td>
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| may have the potential to uncover buried cultural deposits that were previously unknown and undiscovered, as is the case with most all ground disturbing activities throughout California. As a result, during construction and excavation activities, previously unknown archaeological resources, including human bone, may be uncovered. | Qualifications Standards in prehistoric or historical archaeology, as appropriate, shall be consulted to evaluate the finds and recommend appropriate mitigation measures.  
- If cultural resources or Native American resources are identified, every effort shall be made to avoid significant cultural resources, with preservation an important goal. If significant sites cannot feasibly be avoided, appropriate mitigation measures, such as data recovery excavations or photographic documentation of buildings, shall be undertaken consistent with applicable state and federal regulations.  
- If any fossils are encountered, there shall be no further disturbance of the | Department           |        |                   |                   |
<p>|                                                                      | o If human remains are discovered, all work shall be halted immediately within 50 meters (165 feet) of the discovery, the County Coroner must be notified, according to Section 5097.98 of the State Public Resources Code and Section 7050.5 of California’s Health and Safety Code. If the remains are determined to be Native American, the coroner will notify the Native American Heritage Commission, and the procedures outlined in CEQA Section 15064.5(d) and (e) shall be followed. |                     |        |                   |                   |
|                                                                      | o If any fossils are encountered, there shall be no further disturbance of the |                     |        |                   |                   |</p>
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<td>area surrounding this find until the materials have been evaluated by a qualified paleontologist, and appropriate treatment measures have been identified.</td>
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<td><strong>GHGs:</strong></td>
<td><strong>MM# 3:</strong> Prior to issuance of building or grading permits, the applicant shall submit a final Greenhouse Gas Reduction (GHG) Plan for review and approval of the Director of Community Development and Sustainability. The GHG Reduction Plan shall demonstrate how the project reduces a minimum of 35.1 MTCO₂e. The project shall implement the measures identified in the GHG Reduction Plan, which are anticipated to include the following requirements, or equivalent measures:</td>
<td>Applicant/Developer</td>
<td>Prior to Issuance of Building Permit</td>
<td>Submit final GHG Plan.</td>
<td>Community Development and Sustainability Department</td>
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<td>In order to comply with the City’s residential GHG emissions levels, the project must demonstrate a total reduction of 35.1 metric tons of CO₂e. Implementation of the preliminary GHG mitigation measures would reduce residential GHG emissions throughout the project by 38.0 metric tons of CO₂e, which exceeds the required reduction for the project of 35.1 metric tons of CO₂e. Mitigation Measure 3 ensures that the project reduces the residential GHG emissions to a level consistent with City standards.</td>
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<td>Noise. Railroad noise could exceed acceptable interior noise levels.</td>
<td><strong>MM#4 – Interior Noise Exposure.</strong> The applicant shall comply with the following measures to be incorporated in the building documents prior to issuance of building permit, except as noted:</td>
<td>Applicant/Developer</td>
<td>Prior to Issuance of Building Permit</td>
<td>Provide details in building plans.</td>
<td>Community Development and Sustainability Department</td>
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<td>Noise.</td>
<td>Railroad noise could exceed acceptable exterior noise levels for residential uses.</td>
<td>Adjacent tracks and shall be included in lease or rental agreements. Documentation shall submitted to the Community Development and Sustainability Department for review and approval prior to final occupancy.</td>
<td>Community Development and Sustainability Department</td>
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<td>Prior to Issuance of Building Permit, the applicant shall submit documentation from a qualified acoustical engineer demonstrating compliance and subject to review and approval of the Director of Community Development and Sustainability.</td>
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<td>MM#5 - Exterior Residential Noise Exposure. The applicant shall incorporate noise attenuation features in the exterior balconies and roof deck facing the railroad tracks that reduce exposure levels below 75 dB Ldn or shall remove or incorporate the balconies into fully enclosed interior space. Features may include, but are not limited to, transparent wall system or similar enclosures. Prior to submission of building permits, the applicant shall submit documentation from a qualified acoustical engineer demonstrating compliance and subject to review and approval of the Director of Community Development and Sustainability.</td>
<td>Applicant/Developer/Acoustical engineer</td>
<td>Provide details in building plans and documentation from qualified engineer.</td>
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| Noise.                         | Noise from construction activities for the proposed project could exceed acceptable noise thresholds for nearby residences. | MM#6 –Temporary Construction Noise. Prior to issuance of any grading permit, the applicant shall submit proposed noise-reduction practices, for review and approval by the Department of Community Development and Sustainability. One or more of the following measures shall be utilized to reduce the impact of construction noise:  
  - Electric construction equipment as an alternative to diesel-powered equipment.  
  - Sound-control devices on construction equipment.  
  - Muffled exhaust on construction equipment.  
  - Construction equipment staging and operation setbacks from nearby sensitive receptors.  
  - Limits on idling time for construction vehicles and equipment.  
  - Installation of acoustic barriers around stationary construction noise sources.  
  - Installation of temporary barriers between the project site and adjacent sensitive receptors. | Contractor/ Applicant/ Developer | Prior to issuance of building or grading permits/ During construction | Include as notes on construction documents | Community Development and Sustainability Department |
| Vibration.                     | Ground vibration from construction machinery activities closer than 50 feet to nearby residences could cause impacts. | MM#7 – Vibrating Machinery. Prior to issuance of any grading permit, the applicant shall submit proposed vibration-reduction practices, for review and approval by the Department of Community Development and Sustainability. Applicant shall provide | Contractor/ Applicant/ Developer | Prior to issuance of building or grading permits/ During | Include as notes on construction documents and in construction | Community Development and Sustainability Department |
notification to residences within 50 feet of the project site prior to use of the compacting machinery. Additionally, one or more, but not limited to, the following measures shall be utilized to reduce the impact of construction vibration:

- Utilize a kneading compactor for compaction work on the project site occurring within 50 feet of sensitive receptors to the extent possible.
- Maintain a 50-foot setback for compacting equipment on the project site from sensitive receptors to the extent possible.
- Use of vibratory equipment on the project site closer than 50 feet to sensitive receptors may be allowed shall be subject to review and approval of the Director of Community Development and Sustainability. Where vibratory compaction equipment is necessary within the alley equipment shall be limited in size to that equal to or equivalent to a Caterpillar CB22B, subject to final verification that vibration levels produced will meet standards.