

**RESOLUTION NO. 18-\_\_\_\_, SERIES 2018**

**RESOLUTION ADOPTING AMENDED CEQA FINDINGS OF FACT; ADOPTING AN AMENDED STATEMENT OF OVERRIDING CONSIDERATIONS; ADOPTING AN AMENDED MITIGATION MONITORING PLAN; CONSIDERING THE PREVIOUSLY ADOPTED FINAL ENVIRONMENTAL IMPACT REPORT FOR THE NISHI GATEWAY PROJECT AND ADOPTING AN ADDENDUM TO THE ENVIRONMENTAL IMPACT REPORT FOR THE NISHI RESIDENTIAL DEVELOPMENT PROJECT**

WHEREAS, the subject project is known as the Nishi Site and is approximately 46.9 acres generally located between Interstate 80 and the Union Pacific Railroad tracks, southwest of the Putah Creek Parkway; and

WHEREAS, the Nishi Site is a portion of the previously-approved Nishi Gateway project, which also included 10.8 acres within the City (hereafter referred to as West Olive Drive); and

WHEREAS, the Nishi Gateway project was comprised of two primary components: 1) annexation from Yolo County and development of the 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 to allow for redevelopment of West Olive Drive; and

WHEREAS, the Nishi Site component of the Nishi Gateway proposed 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 have included 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; and

WHEREAS, the West Olive Drive component included 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 was 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, on February 16, 2016, the City Council certified the EIR for the Nishi Gateway

project, and adopted Findings of Fact, a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program for the project;

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 found that where more than one reason for approving the project and rejecting alternatives was given in its findings or in the record, and where more than one reason was 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 desired, in accordance with CEQA, to declare that, despite the occurrence of significant environmental effects that cannot 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 believed justify the occurrence of those impacts; and

WHEREAS, the City Council was required to adopt pursuant to CEQA (*Guidelines* Section 15021) and did adopt all feasible mitigation measures or feasible project alternatives that could 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 the project even though it may have caused significant effects on the environment so long as the Council made a fully informed and publicly disclosed decision that there was no feasible way to lessen or avoid the significant effects (*Guidelines* Section 15091) and that there were specifically identified expected benefits from the project that outweighed the policy of reducing or avoiding significant environmental impacts of the project (*Guidelines* Section 15093); and

WHEREAS, litigation challenging the adequacy of the Final EIR for the Nishi Gateway project was resolved in favor of the City on all grounds, and therefore the Final EIR remains valid as an adequate assessment of the impacts of the Nishi Gateway Project, including development on the Nishi Site and redevelopment of West Olive Drive; and

WHEREAS, the Nishi Residential Development project is a modification of the Nishi Gateway project intended to provide student-oriented rental housing, with vehicular access to UC Davis; and

WHEREAS, the Nishi Residential Development project contains approximately 2,200 beds in approximately 700 apartments, up to 10,000 square feet of small-scale neighborhood-serving retail uses, a 7.2-acre urban forest, and stormwater detention area; and

WHEREAS, the City has prepared an Environmental Checklist Addendum to the previously certified Nishi Gateway EIR (the "Addendum"); and

WHEREAS, the Addendum was released for public review on January 19, 2018; and

WHEREAS, on January 24, 2018, the Planning Commission for the City of Davis conducted a public hearing at which it considered the Nishi Residential Development project, the Addendum, the previously certified EIR and the comments and input of the interested public and stakeholders and the Commission voted 7-0 to recommend that the City Council approve the Nishi Residential Development project; and

WHEREAS, the Addendum concludes that while the Nishi site project is proposed to be modified from what was previously analyzed in the Nishi Gateway project EIR, the conditions under CEQA for preparation of a Supplemental EIR or Subsequent EIR have not been met because the changes to the previously-approved project would not result in new significant environmental effects or a substantial increase in the severity of previously identified effects. In addition, no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete, shows any of the following:

- (A) The project will have one or more significant effects not discussed in the previous EIR;
- (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
- (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measures or alternatives; or
- (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative; and

WHEREAS, the City Council of the City of Davis conducted a duly noticed public hearing on February 6, 2018, at which it considered the Nishi Residential Development project, the Addendum, the previously certified EIR, and the comments and input of the interested public and stakeholders.

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

1. Exhibit A (Amended Findings of Fact and Amended Statement of Overriding Considerations) and Exhibit B (Amended 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 modified project again against the same, previously disclosed 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 continue to be

"acceptable." The City Council hereby adopts the Amended 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 modified project will result in many of the same significant effects on the environment as the previously approved project; however, the City eliminated or substantially lessened these significant effects where feasible, and has determined that remaining significant effects are still found to be unavoidable under Section 15091 and acceptable under Section 15093.
4. These findings made by the City Council are supported by substantial evidence in the record, which is summarized herein.
5. The Amended Mitigation Monitoring and Reporting Plan attached hereto as Exhibit B (Mitigation Monitoring and Reporting Plan) is hereby adopted to ensure implementation of the feasible mitigation measures identified in the EIR, with the modifications recommended in the Addendum to be applicable to the modified Nishi Residential Development Project. 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.
6. 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.
7. The City Council finds that the analysis in the Addendum is adequate, supported by substantial evidence in the record, reflects the independent judgment and analysis of the City Council, and hereby adopts the Addendum in accordance with the requirements of CEQA.
8. A Notice of Determination shall be filed immediately after final approval of the project.
9. Pursuant to CEQA Guidelines Section 15095, staff is directed as follows:
  - a) A copy of the Addendum and CEQA Findings of Fact shall be provided to the County of Yolo Planning Department;
  - b) A copy of the Addendum and CEQA Findings of Fact shall be retained in the project files;
  - c) A copy of the Addendum 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 City Council of the City of Davis this 6<sup>th</sup> day of February, 2018, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Robb Davis  
Mayor

ATTEST:

Zoe S. Mirabile, CMC  
City Clerk

Exhibits Attached:

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