

RESOLUTION NO. 2019-107

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA ANA (1) ADOPTING ENVIRONMENTAL FINDINGS OF FACT PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, (2) CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (SCH #2018021031), (3) ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE PROPOSED PROJECT, (4) ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM, AND (5) APPROVING THE PROPOSED ADDINGTON MULTI-FAMILY RESIDENTIAL PROJECT LOCATED WITHIN THE CITY OF SANTA ANA AT 2525 NORTH MAIN STREET

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SANTA ANA AS FOLLOWS:

Section 1. The City Council of the City of Santa Ana hereby finds, determines and declares as follows:

WHEREAS, AC 2525 Main, LLC (“Applicant”) seeks to develop the Addington Multi-Family Residential Project (“proposed Project”), originally proposed as a 496-unit multi-family residential project on a 5.93-acre site at 2525 North Main Street in Santa Ana, California (“Project Site”); and

WHEREAS, during the entitlement and environmental review process, and in response to comments and concerns raised by the public and the City’s elected officials, the Applicant has proposed modifications to the original proposal; and

WHEREAS, the Project as currently proposed now entails, among other things, (1) demolition of the existing 81,172 square foot vacant two-story office building and 442-space surface parking lot on the Project Site; (2) redevelopment of the 5.93-acre site with 444,534 square feet of total development, including 277,281 square feet of residential buildings that would provide 256 for-rent multi-family residential units and a 167,253 square foot central parking structure and a 284 space surface level parking lot for residential and commercial parking; (3) approval of Development Agreement No. 2018-01 between the City of Santa Ana (“City”) and Applicant; (4) approval of General Plan Amendment No. 2018-06, which would change the Project Site’s existing land use designation of Professional & Administration Office (PAO) to District Center (DC); and (5) approval of Amendment Application No. 2018-10, which would change the zoning of the Project Site from Professional (P) to Specific Development No. 93 (SD-93) designation; and

WHEREAS, the proposed Project has been submitted and requires review and certification of an Environmental Impact Report (the "EIR") (SCH# 2018021031) (Environmental Impact Report No. 2018-01), and approval of Development Agreement No. 2018-01, General Plan Amendment No. 2018-06, and Amendment Application No. 2018-10; and

WHEREAS, the Project Site is located at the northeast corner of North Main Street and Edgewood Road and the properties immediately adjacent to the site include Santiago Park to the north, single-family residential homes to the south and east and the Discovery Science Center of Orange County across Main Street to the west. The Project Site is located on North Main Street, an urban corridor within the City. The Project Site is also located at a main entry point to the Park Santiago Neighborhood, a residential neighborhood predominantly comprised of detached single-family dwellings; and

WHEREAS, pursuant to section 21067 of the Public Resources Code, and section 15367 of the State CEQA Guidelines (California Code of Regulations, Title 14, § 15000 et seq.), the City of Santa Ana is the lead agency for the proposed Project; and

WHEREAS, in accordance with State CEQA Guidelines section 15063, the City conducted an Initial Study to determine if the Project may have a significant effect on the environment and to evaluate whether an Environmental Impact Report ("EIR") was required; and

WHEREAS, after conducting the Initial Study, the City determined that an EIR should be prepared to evaluate the proposed Project's potential to have a significant effect on the environment in the following areas: Aesthetics, Air Quality, Biological Resources, Cultural Resources, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Land Use and Planning, Noise, Population and Housing, Public Services, Recreation, Transportation/Traffic, and Utilities; and

WHEREAS, based on the Initial Study, the City further determined that impacts to Aesthetics regarding scenic resources including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway; to Agriculture and Forestry Resources regarding farmland; agricultural land, forest land timberland or conversion of; to Biological Resources regarding wetlands, conflicts with a tree preservation policy or ordinance, conflicts with a Habitat Conservation Plan or Natural Community Conservation Plan; to Geology and Soils regarding a known earthquake fault, landslides, or soils incapable of adequately supporting septic tanks or waste water disposal; to Hazards regarding sites listed on a hazardous materials site, an airport land use plan, private airstrip or wildland fires; to Hydrology and Water Quality regarding housing within a 100-year flood hazard area; to Land Use and Planning regarding conflicts with a Habitat Conservation Plan or Natural Community Conservation Plan; to Mineral Resources regarding loss of a mineral resource to the region or locally; to Noise regarding conflicts with an airport land use plan or private airstrip; Population and Housing regarding displacing existing housing necessitating replacement housing or

displacing substantial number of persons necessitating construction of replacement housing; to Transportation/Traffic regarding a change in air traffic patterns; to Utilities and Service Systems regarding federal, state and local solid waste regulations would have no impact or be less than significant and thus need not be analyzed further in the EIR; and

WHEREAS, in accordance with State CEQA Guidelines section 15082, on February 12, 2018, the City sent to the Office of Planning and Research and each responsible and trustee agency a Notice of Preparation ("NOP") - which was also published in the Orange County Register, a newspaper of general circulation - stating that an Environmental Impact Report (State Clearinghouse Number #2018021031) would be prepared; and

WHEREAS, during the public comment period, copies of the Initial Study were available for review and inspection at City Hall (20 Civic Center Plaza), on the City's website, and at the Santa Ana Public Library (26 Civic Center Plaza); and

WHEREAS, pursuant to Public Resources Code section 21083.9 and State CEQA Guidelines sections 15082(c) and 15083, the City held a duly noticed Scoping Meeting on March 1, 2018, to solicit comments on the scope of the environmental review of the proposed Project; and

WHEREAS, one hundred and sixty-three (163) comment letters were received in response to the NOP; and

WHEREAS, a Draft Environmental Impact Report ("Draft EIR") was prepared for the proposed Project, addressing comments received in response to the NOP and evaluating the proposed Project's potentially significant environmental impacts; and

WHEREAS, the Draft EIR concluded that the proposed Project would have a significant and unavoidable impact to Aesthetics with the implementation of mitigation measures regarding the existing visual character of the Project Site and its surroundings, as implementation of the proposed Project would result in a significant and unavoidable change in visual scale, height, and setbacks from Santiago Park, Edgewood Road, and North Bush Street; and

WHEREAS, the Draft EIR further determined that mitigation measures were required to mitigate impacts to a less than significant level for the following resource areas: Air Quality, Biological Resources, Hazards and Hazardous Materials, Noise, and Tribal Cultural Resources; and

WHEREAS, in accordance with State CEQA Guidelines section 15085, a Notice of Completion was prepared and filed with the Office of Planning and Research on August 7, 2018; and

WHEREAS, as required by State CEQA Guidelines section 15087(a), the City provided a Notice of Availability of the Draft EIR to the public - and published the Notice of Availability in the Orange County Register - at the same time that the City sent a Notice of Completion to the Office of Planning and Research on August 7, 2018; and

WHEREAS, during the public comment period, copies of the Draft EIR and technical appendices were available for review and inspection at City Hall (20 Civic Center Plaza), on the City's website, and at the Santa Ana Public Library (26 Civic Center Plaza); and

WHEREAS, during the public comment period, on August 27, 2018, the Planning Commission held a duly noticed public hearing to receive comments on the Draft Environmental Impact Report pursuant to State CEQA Guidelines section 15087(i); and

WHEREAS, in response to a request from Chatten-Brown & Cartens LLP, on behalf of the North Santa Ana Preservation Alliance, the City extended the Draft Environmental Impact Report public review and comment period to October 4, 2018 to allow additional time for public review and input; and

WHEREAS, consistent with State CEQA Guidelines section 15087(e), the Draft EIR was circulated for a 59-day review period, from August 7, 2018 to October 4, 2018; and

WHEREAS, during the 59-day public comment period, the City consulted with and requested comments from all responsible and trustee agencies, other regulatory agencies, and others pursuant to State CEQA Guidelines section 15086; and

WHEREAS, the City received forty-four (44) written comment letters and six (6) verbal comments on the Draft EIR at the August 27, 2018 public hearing, including a written acknowledgement from the State Clearinghouse that the City has complied with CEQA environmental review requirements; and

WHEREAS, pursuant to Public Resources Code section 21092.5, on November 15, 2018, the City provided copies of its responses to commenting public agencies and interested organizations and parties more than ten (10) days prior to the City's consideration of the Final EIR; and

WHEREAS, on November 15, 2018, the City released the Final EIR ("Final EIR"), which consists of the Draft EIR, all technical appendices prepared in support of the Draft EIR, all written comment letters received on the Draft EIR, written responses to all written comment letters received and verbal comments received on the Draft EIR, revisions to the Draft EIR and technical appendices, and the Mitigation Monitoring and Reporting Program; and

WHEREAS, on November 26, 2018, the Planning Commission continued a duly noticed public hearing for the project to January 14, 2019 and held a second study

session to overview the Project and fifty-eight (58) verbal comments were received (twenty-five (25) in support; thirty (31) in opposition and two (2) neutral) and eleven (11) written comments were received (two (2) in support and nine (9) in opposition); and

WHEREAS, on January 14, 2019, the Planning Commission conducted a duly noticed public hearing to consider the EIR, Development Agreement No. 2018-01, General Plan Amendment No. 2018-06, and Amendment Application No. 2018-10 and solicited comments on the EIR. At the meeting, seventy-nine (79) members of the public spoke on the item, thirty (30) speakers supported the project, forty-eight (48) opposed it and one speaker was neutral. After hearing all relevant testimony from staff, the public and the City's consultant team, the Planning Commission voted to recommend that the City Council not certify the EIR or adopt the findings, the statement of overriding considerations and the mitigation monitoring and reporting program and deny the Project; and

WHEREAS, on February 5, 2019, the City Council conducted a duly noticed public hearing to consider the EIR, Development Agreement No. 2018-01, General Plan Amendment No. 2018-06, and Amendment Application No. 2018-10 and solicited comments on the EIR. At the meeting, sixty-one (61) members of the public spoke on the item, thirty-eight (38) speakers supported the project, twenty (20) speakers opposed it and three (3) speakers were neutral and the public hearing was continued to the next regular adjourned City Council meeting on February 19, 2019; and

WHEREAS, on February 19, 2019, the City Council continued to conduct the duly noticed public hearing to consider the EIR, Development Agreement No. 2018-01, General Plan Amendment No. 2018-06, and Amendment Application No. 2018-10 and solicited comments on the EIR. At the meeting, one hundred and thirty-one (131) members of the public spoke on the item, twenty-six (26) speakers supported the project and one hundred and five (105) speakers opposed it. Furthermore, one hundred and sixty-six (166) written comments were received with nine (9) in support and one hundred and fifty-seven (157) in opposition. After hearing all relevant testimony from staff, the public and the City's consultant team, the City Council voted that the applications go back to the Planning Commission for reconsideration after further consultation with the community; and

WHEREAS, in June 2019, the applicant submitted a revised plan consisting of development 347 multi-family units (59 dwelling units per acre), with 642 parking spaces (1.85 parking spaces per unit) and parking capacity at 2.0 spaces per unit, within a 4-story residential building wrapped around a five-level parking structure with an amenity deck on the sixth-level, private open space, and redesigned the intersection of Main Street and Walkie Way/Santiago Park Drive to provide access to the project on a 5.93-acre site (the "June Revised Plan"); and

WHEREAS, on August 12, 2019, the Planning Commission conducted a duly noticed public hearing to consider the June Revised Plan. At the meeting, seventy-seven (77) members of the expressed opposition; nine (9) supported the project, and

one speaker was neutral. In addition, one-hundred (100) written comments were received with six (6) in support and ninety-four (94) in opposition. After hearing all relevant testimony from staff, the public and the City's consultant team, the Planning Commission vote resulted in an impasse; and

WHEREAS, in October 2019, in response to comments received the applicant submitted a further revised plan including redevelopment of the 5.93-acre site with 444,534 square feet of total development, including 277,281 square feet of residential buildings that would provide 256 for-rent multi-family residential units and a 167,253 square foot central parking structure and a 284 space surface level parking lot which also reduced the Project's height, increased the Project's setbacks, and modified the Project entrance ("October Modified Project"); and

WHEREAS, the City has prepared "Clarifications to the Final EIR" to determine if the October Modified Project would result in new or substantially increased environmental effects than those analyzed in the EIR such that the EIR would require recirculation prior to its certification; and

WHEREAS, the Clarifications to the Final EIR include detailed analysis, based upon substantial evidence, that demonstrate that the Modified Project would not result in any new or substantially greater impacts than are disclosed in the EIR, no new mitigation measures beyond those identified in the EIR are required, and no additional feasible alternatives or mitigation measures considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project; and

WHEREAS, on October 28, 2019, the Planning Commission conducted a duly noticed public hearing to consider the EIR, Development Agreement No. 2018-01, General Plan Amendment No. 2018-06, and Amendment Application No. 2018-10 and solicited comments on the EIR. At the meeting, sixty-two (62) expressed opposition and two (2) in expressed support the project. In addition, ninety-eight (98) individuals submitted comments with ninety-four (94) in opposition and four (4) in support; and

WHEREAS, after hearing all relevant testimony from staff, the public and the City's consultant team, the Planning Commission by a vote of 3:2, voted to recommend denial of the project. Since the entitlements require final action by the City Council, the actions were forwarded to the City Council; and

WHEREAS, on November 8, 2019, the City gave public notice of a City Council public hearing for consideration of Environmental Impact Report No. 2018-01 (State Clearinghouse Number #2018021031) by advertising in the Orange County Register, a newspaper of general circulation, and by mailing to owners of property and residents within 500 feet of the Project; and

WHEREAS, on November 19, 2019, the City Council conducted a duly noticed public hearing to consider the EIR, Development Agreement No. 2018-01, General Plan

Amendment No. 2018-06, and Amendment Application No. 2018-10 and at which hearing members of the public were afforded an opportunity to comment upon Environmental Impact Report No. 2018-01. After hearing all relevant testimony from staff, the public and the City's consultant team, the City Council voted to certify the EIR, adopt the findings, the statement of overriding considerations and the mitigation monitoring and reporting program and approve the October Modified Project; and

WHEREAS, the "EIR" consists of the Final EIR, Clarifications to the Final EIR, and all attachments and appendices to both the Final EIR and the Clarifications to the Final EIR, as well as the Draft EIR and its attachments and appendices (as modified by the Final EIR); and

WHEREAS, all potentially significant adverse environmental impacts were sufficiently analyzed in the EIR; and

WHEREAS, as contained herein, the City Council has endeavored in good faith to set forth the basis for its decision and recommendations on the Project; and

WHEREAS, all of the requirements of the Public Resources Code and the State CEQA Guidelines have been satisfied by the City in connection with the preparation of the EIR, which is sufficiently detailed so that all of the potentially significant environmental effects of the Project have been adequately evaluated; and

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

WHEREAS, the City Council finds that the Project's significant environmental impacts that cannot be mitigated to a less than significant level even with the incorporation of all feasible mitigation measures, as identified in the EIR, are described in Section 7 of the CEQA Findings of Fact, attached hereto as Exhibit "A"; and

WHEREAS, the City Council finds that the Project's environmental impacts that are less than significant with the incorporation of mitigation measures, as identified in the EIR, are described in Section 8 of the Findings of Fact, attached hereto as Exhibit "A"; and

WHEREAS, the City Council finds that environmental impacts that are identified in the EIR as less than significant and do not require mitigation are described in Section 9 of the Findings of Fact, attached hereto as Exhibit "A"; and

WHEREAS, the cumulative impacts of the Project identified in the EIR are described in Section 9.17 of the Findings of Fact, attached hereto as Exhibit "A"; and

WHEREAS, the potential significant and irreversible environmental changes that would result from the proposed Project identified in the EIR and set forth herein, are described in Section 10 of the Findings of Fact, attached hereto as "Exhibit A"; and

WHEREAS, the existence of any growth-inducing impacts resulting from the proposed Project identified in the EIR and set forth herein, are described in Section 11 of the Findings of Fact, attached hereto as Exhibit "A"; and

WHEREAS, alternatives to the proposed Project that might further reduce the proposed Project's environmental impacts are described in Section 12 of the Findings of Fact, attached hereto as Exhibit "A"; 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 EIR, and all oral and written evidence presented to it during all meetings and hearings; and

WHEREAS, the EIR reflects the independent judgment of the City Council 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 have produced substantial new information requiring recirculation of the EIR or additional environmental review of the Project under Public Resources Code section 21092.1 and State CEQA Guidelines section 15088.5; and

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

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA ANA DOES RESOLVE, DETERMINE, FIND, AND ORDER AS FOLLOWS:

1. The City Council hereby finds that it has been presented with the EIR, which it has reviewed and considered, and further finds that the EIR is an accurate and objective statement that has been completed in full compliance with CEQA and the State CEQA Guidelines, and that the EIR reflects the independent judgment and analysis of the City.
2. The City Council declares that no evidence of new significant impacts or any new information of "substantial importance", as defined by State CEQA Guidelines section 15088.5, has been received by the City after circulation of the Draft EIR that would require recirculation of the EIR.

NOW THEREFORE, THE CITY COUNCIL HEREBY:

1. Adopts the Findings of Fact, attached hereto and incorporated herein as Exhibit "A."
2. Certifies the EIR based on the entirety of the record of proceedings.
3. Adopts the Statement of Overriding Considerations, attached hereto and incorporated herein as Exhibit "B", after balancing the significant and unavoidable aesthetic impacts of the Project against the benefits of the Project.
4. Adopts the Mitigation Monitoring and Reporting Program attached hereto and incorporated herein as Exhibit "C", consistent with Public Resources Code section 21081.6; make implementation of the Mitigation Measures contained in the Mitigation Monitoring and Reporting Program a condition of approval of the Project; and find that in the event of any inconsistencies between the Mitigation Measures set forth herein and the Mitigation Monitoring and Reporting Program, the Mitigation Monitoring and Reporting Program shall control.
5. Directs City staff to cause a Notice of Determination to be filed and posted with the County of Orange Registrar-Recorder/County Clerk and the State Clearinghouse within five (5) working days of the City Council's final Project approval.

Section 2. INDEMNIFICATION. The Applicant has agreed to and shall indemnify, protect, defend and hold the City and/or any of its officials, officers, employees, agents, departments, agencies, authorized volunteers, and instrumentalities thereof, harmless from any and all claims, demands, lawsuits, writs of mandamus, and other proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolution procedures (including, but not limited to arbitrations, mediations, and such other procedures), judgments, orders, and decisions (collectively "Actions"), brought against the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, any action of, or any permit or approval issued by the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City) for or concerning the Project, whether such Actions are brought under the Ralph M. Brown Act, California Environmental Quality Act, the Planning and Zoning Law, the Subdivision Map Act, Code of Civil Procedure sections 1085 or 1094.5, or any other federal, state or local constitution, statute, law, ordinance, charter, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that Applicant shall reimburse the City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the Applicant

of any Action brought and City shall cooperate with Applicant in the defense of the Action.

Section 3. EXECUTION OF RESOLUTION. The Mayor shall sign this Resolution and the Clerk of the Council shall attest and certify to the adoption thereof.

ADOPTED this 19th day of November, 2019.


Miguel A. Pulido
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho
City Attorney

By: 
Lisa Storck
Assistant City Attorney

AYES:	Councilmembers	<u>Iglesias, Penaloza, Sarmiento, Solorio(4)</u>
NOES:	Councilmembers	<u>Bacerra, Pulido, Villegas (3)</u>
ABSTAIN:	Councilmembers	<u>None (0)</u>
NOT PRESENT:	Councilmembers	<u>None (0)</u>

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, DAISY GOMEZ, Clerk of the Council, do hereby attest to and certify the attached Resolution No. 2019-107 to be the original resolution adopted by the City Council of the City of Santa Ana on November 19, 2019.

Date: 11-25-19


Daisy Gomez
Clerk of the Council
City of Santa Ana

FOR EXHIBITS
REFERENCE
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