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RESOLUTION #2011-51
RESOLUTION OF THE CITY OF ALBANY CITY COUNCIL
CERTIFYING
FINAL ENVIRONMENTAL IMPACT REPORT (FEIR)
FOR THE UNIVERSITY VILLAGE MIXED USE DEVELOPMENT

WHEREAS, The Regents of the University of California, serving as the master developer for the site, submitted an application for a mixed use development on Parcel A and Parcel B of University Village, located at 1030-1130 San Pablo Avenue, and;

WHEREAS, the City, acting as the Lead Agency, determined that an Environmental Impact Report (EIR) was necessary under the California Environmental Quality Act (CEQA, at Public Resources Code Section 21000 et seq.), and retained the firm of LSA Associates, Inc. (herein referred to as LSA) to prepare the EIR for the Project; and

WHEREAS, LSA conducted the preparation of the EIR under the direction of City staff, and all draft products prepared by LSA were reviewed and approved by City staff; and

WHEREAS, the Notice of Preparation of an EIR was circulated for review to the public and other agencies in March 29, 2008 (CEQA Guidelines Section 15082); and

WHEREAS, in April 22, 2008, the City held a publicly noticed scoping session to receive public input on the scope of the EIR (CEQA Guidelines Section 15083); and

1 **WHEREAS**, the Draft EIR, titled University Village at San Pablo Avenue
2 Project Environmental Impact Report, dated July 2009, was prepared and completed.
3 A Notice of Completion was filed with the State Office of Planning and Research on
4 July 3, 2009 (CEQA Guidelines Section 15085).

5
6 **WHEREAS**, the public review period for the Draft EIR began on July 2,
7 2009 continued for 45 days, through August 20, 2009 (CEQA Guidelines Section
8 15087); and

9
10 **WHEREAS**, at the close of the public review period, City staff and LSA
11 compiled all of the written responses to the Draft EIR and prepared Responses to
12 Comments, all of which are contained in the Final EIR titled University Village at
13 San Pablo Avenue Project Environmental Impact Report Response to Comments
14 Document, dated February 2011 (CEQA Guidelines Sections 15088, 15089); and

15
16 **WHEREAS**, on September 27, 2011, the Planning Commission considered
17 the Project, the FEIR, and the information submitted in the staff reports and at the
18 public hearings and adopted resolutions recommending approval of the Project and
19 certification of the FEIR; and

20
21 **WHEREAS**, the City Council has considered the Project, the FEIR, and the
22 information submitted in the staff reports and at the public hearings; and

23
24 **WHEREAS**, the project description states a maximum height of 52 feet, but
25 upon final design completion, the maximum height, as measured from grade to the
26 highest point of the structure may reach 62 feet; and

27
28 **WHEREAS**, the City desires and intends to use the EIR for the approval of
29 the amendments to the Zoning Ordinance regarding the project site and the University
30 Village Mixed Use Project Zoning Overlay District, the Planned Unit Development

1 for Parcel A and P of the University Mixed Use Development and related actions as
2 the environmental document required by CEQA; and
3

4 **WHEREAS**, consistent with the requirements of Public Resources Code
5 Section 21081 and Section 15091 of the CEQA Guidelines, written findings have
6 been prepared for significant impacts identified in the EIR; and
7

8 **WHEREAS**, CEQA Guidelines Section 15093 requires the decision making
9 body to balance, as applicable, the economic, legal, social, technological or other
10 benefits of the proposed project against its unavoidable environmental risks when
11 determining whether to approve a project. If these benefits outweigh the unavoidable
12 adverse environmental effects, the adverse effects may be considered “acceptable.”
13 The decision making body must state in writing the specific reasons to support its
14 action based on the EIR and/or other information in the record; and

15 **WHEREAS**, a Statement of Overriding Considerations has been prepared
16 specifying the economic, social and other benefits that render acceptable the
17 significant unavoidable environmental effects associated with the project and is
18 contained herein; and
19

20 **WHEREAS**, consistent with the requirements of CEQA, a Mitigation
21 Monitoring and Reporting Program (“MMRP”) has been prepared to outline the
22 procedures for implementing all mitigation measures identified in the EIR and
23 recommended for approval by the Planning Commission and is attached as **Exhibit**
24 **A**; and
25

26 **WHEREAS**, the City Council has considered the Project, the Final EIR and
27 the information submitted in the staff reports and at the public hearings; and changes,
28 alterations, and mitigation measures have been incorporated into the project or will be
29 required as conditions of approval that will avoid or substantially lessen significant
30 impacts identified in the FEIR as described below,
31

1 **NOW THEREFORE, BE IT RESOLVED**, that the City Council of the City
2 of Albany certifies that the Final EIR for the Project has been completed in
3 compliance with the requirements of CEQA and reflect the Council’s independent
4 judgment and analysis.

5
6 **BE IT FURTHER RESOLVED**, that the Albany City Council makes the
7 following findings regarding (1) potentially significant environmental impacts of the
8 Project under CEQA; (2) measures identified in the Final EIR that if adopted will
9 mitigate the significant Project impacts to less than significant levels; (3) changes or
10 alterations that have been required in, or incorporated into, the Project to avoid or
11 substantially lessen significant impacts; (4) impacts that are not significant; (5)
12 project alternatives; (6) a mitigation and monitoring program; and (7) a Statement of
13 Overriding Considerations. (CEQA Guidelines Section 15091) based on substantial
14 evidence contained in the administrative record:

- 15
16 1. Based on review and analysis of the EIR and other information in the
17 record, including the written and oral comments received at the public
18 hearings on the EIR and the project, prior to acting upon or approving the
19 project, the City Council shall certify that the (1) EIR has been completed
20 in compliance with CEQA; (2) EIR was presented to the City Council and
21 that the members of the City Council reviewed and considered the
22 information in the EIR before approving the project; and (3) EIR reflects
23 the City’s independent judgment and analysis.
- 24
25 2. The Findings set forth herein, are incorporated in this Resolution by
26 reference and are hereby made and adopted as the City’s findings under
27 CEQA and the CEQA Guidelines. The Findings provide the written
28 analysis and conclusions of the Council regarding the project’s
29 environmental impacts, mitigation measures and alternatives to the
30 project.

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- 3. That the mitigation measures described herein be adopted as conditions of approval of the project.

- 4. That pursuant to Public Resources Code Section 21081 and CEQA Guidelines Sections 15091 *et seq.*, the City Council adopt the Statement of Overriding Considerations regarding the remaining significant impacts of the project set forth herein.

- 5. That the MMRP for the project which is attached to this Resolution as **Exhibit A** be adopted. The MMRP identifies impacts of the project, corresponding mitigation, designation of responsibility for mitigation implementation and the agency responsible for the monitoring action.

- 6. The City Clerk of the City of Albany, located at City Hall, 1000 San Pablo Avenue, Albany, California, 94706, is designated as the custodian of documents and record of proceedings on which the decision is based.

INTRODUCTION

These Findings and Statement of Overriding Considerations (“Findings”) are made as the City’s Findings and Statement of Overriding Considerations under the California Environmental Quality Act (“CEQA”) relating to the University Village Mixed Use Development (“Project”). These Findings explain the potential environmental impacts of the Project, identify mitigation measures that have been adopted to mitigate those impacts, explain the alternatives that were evaluated and rejected, and include the overriding considerations to support approval of the Project.

LEGAL EFFECT OF FINDINGS

1 These findings constitute the City's evidentiary and policy bases for its decision to
2 approve the project in a manner consistent with the requirements of CEQA. To the
3 extent that these findings conclude that proposed mitigation measures outlined in the
4 EIR are feasible and have not been modified, superseded or withdrawn, the City
5 hereby binds the project applicant and any other responsible parties to implement
6 those measures. These findings, in other words, are not merely informational or
7 advisory, but constitute a binding set of obligations that will come into effect when
8 the City adopts the resolution(s) and/or ordinance(s) approving the Planned Unit
9 Development and related approvals for the Project. (Public Resources Code
10 § 21081.6(b).) In addition, the adopted mitigation measures are conditions of
11 approval.

12 13 **FINDING OF INDEPENDENT JUDGMENT**

14
15 The City of Albany is the Lead Agency with respect to the Project pursuant to the
16 Section 15367 of the CEQA Guidelines. Public Resources Code 21081 and Section
17 15091 of the CEQA Guidelines require that the lead agency prepare written findings
18 for identified significant impacts, accompanied by a brief explanation for the rationale
19 for each finding. The EIR identified potentially significant effects that could result
20 from Project implementation. The City finds that the mitigation measures in the EIR
21 will reduce most, but not all, of those effects to less than significant levels. Those
22 impacts that are not reduced to less than significant levels are identified and
23 overridden due to specific Project benefits identified in the Statement of Overriding
24 Considerations.

25
26 In accordance with CEQA and the State CEQA Guidelines, the City adopts these
27 Findings as part of its approval of the Project. Pursuant to Section 21082.1(c)(3) of
28 the Public Resources Code, the City also finds that the EIR reflects the City's
29 independent judgment as the Lead Agency for the Project.

30 31 **ADMINISTRATIVE RECORD**

1
2 The record, upon which all Findings related to the approval of the Project are based,
3 includes the following:

- 4 • The EIR (both the Draft EIR and Final EIR, collectively the “EIR”) and all
5 documents referenced in or relied upon by the EIR.
- 6 • All information (including written evidence and testimony) provided by City
7 Staff to the Planning Commission and the City Council relating to the EIR, the
8 approvals, and the project.
- 9 • All information (including written evidence and testimony) presented at or in
10 preparation of any City public hearing or City workshop related to the Project
11 and the EIR.
- 12 • For documentary and information purposes, all City-adopted land use plans
13 and ordinances, including without limitation the general plan, specific plans
14 and ordinances, together with environmental review documents, findings,
15 mitigation monitoring programs and other documentation relevant to planned
16 growth in the area.
- 17 • The Mitigation Monitoring and Reporting Program (“MMRP”) for the Project.
- 18 • All other documents composing the record pursuant to Public Resources Code
19 section 21167.6(e).

20 The custodian of the documents and other materials that constitute the record of the
21 proceedings upon which the City’s decisions are based is the City Clerk or her
22 designee. Such documents and other materials are located at the Albany City Hall,
23 100 San Pablo Avenue, Albany, California, 94706.

24 25 **MITIGATION MONITORING AND REPORTING PROGRAM (“MMRP”)**

26 Section 21081.6 of the Public Resources Code requires the City to adopt a monitoring
27 or compliance program regarding the changes in the project and mitigation measures
28 imposed to lessen or avoid significant effects on the environment. The City prepared
29 a MMRP for the project and approves the MMRP by this same resolution that adopts
30 these findings. (Public Resources Code § 21081.6(a)(1); CEQA Guidelines § 15097.)

31 The MMRP is attached hereto as **Exhibit A**. The City finds that all mitigation

1 measures contained in the MMRP are feasible and will mitigate the significant
2 impacts of the project to which they are addressed to the extent feasible and to a less
3 than significant impact except as discussed below in the section entitled “Summary of
4 Significant and Unavoidable Adverse Impacts.” The City will use the MMRP to
5 track compliance with project mitigation measures.

6
7 Based on the entire record, and having considered the unavoidable and significant
8 impacts of the Project, the City hereby determines that all feasible mitigation
9 measures within the responsibility and jurisdiction of the City have been adopted to
10 reduce or avoid the potentially significant impacts identified in the EIR, and that no
11 additional feasible mitigation is available to further reduce significant impacts.

12
13 **FINDINGS REGARDING POTENTIAL IMPACTS AND MITIGATION**
14 **MEASURES UNDER CEQA.**

15
16 The EIR evaluated the potential for the Project to result in significant impacts and
17 was prepared at a specific project level and with respect to the University Village
18 Mixed Use Development. All impacts were found to be less than significant or less
19 than significant after incorporation of mitigation measures, with the exception of
20 certain impacts relating to transportation circulation and parking, which were found to
21 be significant and unavoidable.

22
23 By these findings, the City Council have attempted to avoid or mitigate to a less-than-
24 significant level all University Village Mixed Use Project impacts, and to otherwise
25 consider, address, and resolve all of the environmental concerns raised during the
26 public process. To the extent that a significant impact is unavoidable, it is determined
27 that there are no feasible mitigation measures or alternatives and that the specific
28 social, economic, legal, technical or other reasons set forth in the Statement of
29 Overriding Considerations contained herein outweigh the unavoidable adverse
30 environmental effects. To the extent the Findings presented here summarize the Draft
31 and Final EIR, the summary is not intended to change any aspect of the complete text

1 of the analysis and mitigation measures discussed in the Draft and Final EIR. These
2 Findings incorporate by reference in their entirety the text of the Draft and Final EIR.
3 Without limitation, this incorporation is intended to elaborate on the scope and nature
4 of Project and cumulative development impacts, related mitigation measures, and the
5 basis for determining the significance of such impacts.

6
7 (Parenthetical references are to the Mitigation Measures set forth in Exhibit A).

8 (CEQA Guidelines Section 15091)

- 9
- 10 1. Transportation, Circulation, and Parking. Construction activities associated
11 with the proposed project will have temporary adverse impacts on vehicular,
12 bicycle, and pedestrian circulation access. These potentially significant
13 circulation impacts can be mitigated to a level less than significant with
14 preparation of a Construction Traffic Management Plan, which would include
15 regulations on truck routes, construction hours, employee parking, and detour
16 plans. The Construction Traffic Management Plan shall be approved by the
17 City of Albany staff prior to construction. (MM TRANS-13)

18

 - 19 2. Air Quality. Demolition and construction period activities would generate dust
20 and exhaust, and organic emissions from vehicles. Potentially significant air
21 quality impacts can be mitigated to a level less than significant with measures
22 to reduce dust and exhaust. Consistent with guidance from the BAAQMD, the
23 project applicant shall require contractors to include dust control measures in
24 construction specifications for the project. (MM AIR-1).

25

 - 26 3. Global Climate Change. The project may conflict with the policies and
27 regulations with regard to Greenhouse Gas reduction goals. In order to reduce
28 these impacts to levels less than significant, the project will use
29 environmentally friendly building materials, take measures to exceed
30 California Building Code's Title 24 energy standards, devise a water

1 conservation strategy for the site, and provide transit and bike facilities. (MM-
2 GCC-1).

3
4 4. Noise. Noise levels from construction activities will increase temporarily, and
5 long-term noise impacts from traffic generation could exceed the acceptable
6 interior noise levels on the site. Construction practices and hours of
7 construction work can be modified to mitigate to a less-than-significant level
8 potential noise impacts. To mitigate internal noise levels within the
9 completed Project to a less-than-significant level, all residential units shall
10 include alternative ventilation systems to ensure that windows can remain
11 closed for prolonged periods of time. (MM-NOISE-1-2)

12
13 5. Biological Resources. The proposed Project could impact the Central Coast
14 Steelhead habitat and the western pond turtles in Codornices Creek. The
15 project may also impact the bird species and Monarch butterfly colonies on
16 site. Construction activities will be timed to mitigate to a less-than-significant
17 level the impact on fish and bird habitats, and disturbance to existing grades
18 and vegetation will be limited. Western pond turtles, if present, will be
19 relocated to a suitable habitat. Protected buffer zones will be established
20 around these biological habitats. (MM-BIO1-4)

21
22 6. Hydrology and Water Quality. Construction activity could result in
23 degradation of water quality in Codornices Creek, Village Creek, and the San
24 Francisco Bay. Once completed, operation of the site could reduce
25 infiltration, increase runoff volume, and degrade the quality of stormwater
26 runoff. The project contractor shall comply with the Albany Municipal Code
27 relating to grading projects erosion control, and discharge regulations and
28 requirements (Chapter XX, Section 15-4.7), and Best Management Practices
29 will be followed included soil stabilization controls, watering for dust control,
30 perimeter silt fences, and placement of hay bales and sediment basins. (MM-
31 HYDRO1). The Project will meet all requirements of the current County

1 Wide NPDES Permit, and the drainage plan shall include features and
2 operational Best Management Practices to reduce potential impacts to surface
3 water quality associated with operation of the Project to a less-than significant
4 level. (MM-HYDRO3)
5

6 **SUMMARY OF IMPACTS THAT ARE NOT FOUND TO BE SIGNIFICANT**

7

8 1. Aesthetics. Aesthetic impacts would not degrade the site, which currently
9 consists of empty fields and vacant structures. The project would be compatible
10 with the San Pablo Avenue Design Guidelines. Impacts to visual resources would
11 be less than significant.
12

13 2. Agricultural Resources. The project site is not designated by the Farmland
14 Mapping and Monitoring Program as prime farmland, unique farmland, or
15 farmland of statewide importance. Decisions by the University of California as to
16 future use of the Gill Tract would not be affected by implementation of the
17 proposed project. Impacts to agricultural resources would be less than significant.
18

19 3. Cultural Resources. The project site is not eligible for listing on the California
20 Register, and is not considered a historical resource in accordance with CEQA.
21 Should unknown resources be discovered during construction, implementation of
22 the Mitigation Measures (CULT-1, CULT-2, or CULT-3) identified in the EIR
23 and outlined in Exhibit A would reduce impacts to cultural resources to a less than
24 significant level.
25

26 4. Geology and Soils. The project site has been rated as being moderately
27 susceptible to liquefaction hazards. However, with implementation of the
28 Mitigation Measures (GEO-1 and GEO-2) identified in the EIR and outlined in
29 Exhibit A, impacts to geology and soils would be less than significant.
30

- 1 5. Hazards and Hazardous Materials. The amount of chemical agents, solvents,
2 and other hazardous materials associated with construction activities would be
3 limited, and would be in compliance with existing government regulations.
4 Hazards and hazardous materials would thus not be considered a significant
5 hazard.
6
- 7 6. Land Use and Planning. The proposed project is compatible with the existing
8 General Plan designations, and land use and planning impacts would be less than
9 significant. Approval of the University Village Mixed Use Project Zoning
10 Overlay District would ensure mixed use development within the University
11 Villages parcels along San Pablo Avenue, specifically encouraging residential
12 development, including residential care uses, consistent with the Realistic Unit
13 Capacity of the San Pablo Commercial Zone as defined by the Housing Element.
14
- 15 7. Mineral Resources. There are no known mineral resources located within the
16 project site. Impacts on mineral resources would be less than significant.
17
- 18 8. Population and Housing. The proposed project would result in the
19 construction of 175 senior housing and assisted living units, which amounts to
20 approximately 1.3 percent of the estimated 2010 population. The proposed
21 project would not cause a significant growth impact, and there would be no
22 removal of housing, so population and housing impacts would be less than
23 significant.
24
- 25 9. Public Services. The project would marginally increase demand for public
26 services, but would not require the construction of new facilities to meet the
27 demand. Thus, impacts to public services would be less than significant.
28
- 29 10. Recreation. The project would incrementally increase use of nearby
30 recreation facilities, but it is not expected to result in substantial physical

1 deterioration of local parks, trails, or other recreational facilities. Thus, impacts to
2 recreation facilities would be less than significant.

3
4 11. Utilities. Implementation of the project would not exceed the Regional Water
5 Quality Control Board's treatment standards, and the construction of new water or
6 wastewater treatment facilities would not be required to provide service to the
7 project site. Given Mitigation Measures (UTIL-1 and UTIL-2) identified in the
8 EIR and outlined in Exhibit A, and adequate capacity at the Potrero Hills Landfill
9 to accommodate the project, impacts to utilities would be less than significant.

10
11
12 **SUMMARY OF SIGNIFICANT AND UNAVOIDABLE ADVERSE IMPACTS.**

13
14 Detailed descriptions of each Unavoidable Significant Adverse Impact, and the
15 accompanying Mitigation Measure can be found in Exhibit A.

16
17 The University Village Mixed Use project will result in the following impacts that
18 would not be mitigated to a less than significant level; and therefore would constitute
19 significant unavoidable traffic impacts:

20 **Transportation, Circulation and Parking**

21 The proposed project would contribute to the following intersections experiencing
22 unacceptable levels of congestion when measured against the City's significance
23 thresholds:

- 24
- 25 • Marin Avenue/San Pablo Avenue
 - 26 • Gilman Street/I-80 Westbound Ramps
 - 27 • Gilman Street/I-80 Eastbound Ramps
 - 28 • Gilman Street/Eastshore Highway
 - 29 • Gilman Street/San Pablo Avenue
 - 30 • Gilman Street/Hopkins Street

1 The proposed project would also contribute to significant and unavoidable cumulative
2 (2035) impacts at the following intersections:

- 3
- 4 • Solano Avenue/San Pablo Avenue
- 5 • Buchanan Street/Eastshore Highway
- 6 • Harrison Street/San Pablo Avenue
- 7

8 The proposed project would significantly affect operations on the following segments
9 of the CMP roadway network:

- 10
- 11 • Northbound San Pablo Avenue between Gilman Street and Marin Avenue
12 during the PM peak hour under Near Term (2015) Plus Project Conditions.
- 13 • Northbound San Pablo Avenue between Gilman Street and Solano Avenue
14 during the PM peak hour under Cumulative (2035) Plus Project Conditions.
- 15 • Southbound San Pablo Avenue between Marin Avenue and Gilman Street
16 during the PM peak hour under Cumulative (2035) Plus Project Conditions.
- 17

18 **FINDINGS ON THE FEASIBILITY OF ALTERNATIVES TO THE** 19 **PROPOSED PROJECT**

20

21 The Draft EIR evaluated a reasonable range of alternatives to the Project and in
22 compliance with CEQA and the CEQA Guidelines, the alternatives analysis also
23 included an analysis of a No Project Alternative and identified the environmentally
24 superior alternative. The EIR examined each alternative's feasibility and ability to
25 meet the Project objectives. Those found to be clearly infeasible were rejected
26 without further environmental review. Alternatives that might have been feasible and
27 that would attain most of the Project objectives were carried forward and analyzed
28 with regard to whether they would reduce or avoid significant impacts of the Project.

29

30 In connection with certification of the Final EIR for the Project, the City certifies that
31 it independently reviewed and considered the information on alternatives provided in

1 the Final EIR and the record of proceedings. The City finds that no new alternatives
2 that are considerably different from those analyzed in the Final EIR for the Project
3 have been identified and that the feasibility of the analyzed alternatives has not
4 changed since the Draft EIR. Brief summaries of the evaluated alternatives are
5 provided below

6
7 Alternative 1: The No Project Alternative

8
9 Description: The project site would not be subject to redevelopment, and
10 would generally remain in its existing condition. No site improvements would
11 occur (including pedestrian and bicycle facilities), and the project site would
12 remain largely unused and vacant.

13
14 Finding: This alternative would not achieve the Project objectives to utilize
15 the vacant parcels along San Pablo for a mixed use development, to build a
16 grocery store within the San Pablo frontage of University Village, to provide
17 retail space and outdoor seating to serve local residents, to improve the visual
18 quality of the site, to provide senior housing, to provide a pedestrian/bicycle
19 path along Codornices Creek, and to facilitate pedestrian/bicycle movement
20 along San Pablo Avenue. Compared to the Project, the No Project Alternative
21 would have reduced environmental impacts because no construction would
22 take place and the impacts identified in the EIR would not occur.

23
24 Reasons for Rejecting this Alternative: This alternative would not meet the
25 project proponent's objectives for the proposed project, since it would not
26 include development of the mixed use facility or senior housing. This
27 alternative is examined as required by CEQA Guidelines Section 15126.6(e),
28 even though it would not achieve the project objectives.

29
30 Alternative 2: The Existing Zoning Alternative

31

1 Description: The project site would be redeveloped with the type and intensity
2 of uses currently allowed under the Zoning Ordinance, which includes San
3 Pablo Avenue Commercial (SPC), Residential Medium Density (R-2), and
4 Watercourse Overlay District. Under this alternative, a 15,000 square foot
5 market would be located within the area designated as SPC on Block A,
6 fronting along San Pablo Avenue. The Block B component would include
7 one 30-foot tall mixed use building along San Pablo with 16,000 square feet
8 of retail on the ground floor and senior housing units on the second floor. The
9 second building in Block B would be three stories tall, and combined with the
10 first building, would provide 70 senior housing units.

11
12 Finding: This alternative does not meet the project objectives. It would
13 provide significantly less retail and grocery square footage, and fewer
14 dwelling units. This alternative does not fulfill the basic definition of a
15 project objective as contained in Section 15126.6(a) of the CEQA Guidelines,
16 which provides that alternatives should be examined "which would feasibly
17 attain most of the basic objectives of the proposed project."

18
19 Reasons for Rejecting this Alternative: Although this alternative would reduce
20 some environmental impacts, such as trip-generation and circulation impacts,
21 it would not fully reduce any potentially significant impacts, and it would not
22 meet the project proponent's objectives for the proposed project, since it
23 would provide significantly less retail and grocery space. The programs and
24 activities of the mixed use development at University Village provide
25 numerous economic, social, environmental and other benefits to the City of
26 Albany that this alternative would not provide, or would provide to a lesser
27 extent than the project. The project better promotes the goals of the General
28 Plan, including upgrading commercial development along San Pablo Avenue
29 in order to expand the City's economic base. It fulfills the General Plan goal
30 that future redevelopment of the University of California lands is compatible
31 with the City's long-term land use goals, including mixed use development

1 along the San Pablo Avenue Commercial Corridor. In addition, this
2 alternative would not provide the same level of economic benefits to the City
3 in terms of potential increased tax revenues and broadened employment
4 opportunities as the proposed project. This alternative is examined as required
5 by CEQA Guidelines Section 15126.6(e), even though it would not achieve
6 the project objectives.

7
8 **Alternative 3: The Reduced Residential Alternative**

9
10 **Description:** Under this alternative, Block A would remain the same as the
11 proposed project, with 2,000 square feet of retail and a 55,000 square foot
12 Whole Foods Market. Block B would be altered to include only 85 residential
13 units, a 90 unit reduction over the proposed project.

14
15 **Finding:** This alternative would meet all objectives of the proposed project but
16 would provide significantly fewer residential units, and would only minimally
17 reduce the significant environmental impacts. The project seeks to provide a
18 number of residential units that is of a higher density than in other areas of the
19 city, and thus the alternative prohibits the applicant from achieving this goal.

20
21 **Reasons for Rejecting the Alternative:** Although this alternative would
22 address some of the potential environmental impacts of the project, these
23 impacts can be mitigated through other measures discussed in the
24 Environmental Impact Report in a way that would not decrease the residential
25 portion of the project. The benefits of the proposed project with the full
26 residential component outweigh the negative impacts that would be avoided
27 with this alternative. The programs and activities of the mixed use
28 development at University Village provide numerous economic, social,
29 environmental and other benefits to the City of Albany that this alternative
30 would not provide, or would provide to a lesser extent than the project. The
31 project promotes development that fulfills the goals of the General Plan,

1 including upgrading commercial development along San Pablo Avenue in
2 order to expand the City's economic base. It fulfills the General Plan goal
3 that future redevelopment of the University of California lands is compatible
4 with the City's long-term land use goals, including mixed use development
5 along the San Pablo Avenue Commercial Corridor. The proposed project is
6 consistent with the Housing Element goal to expand housing opportunities for
7 the elderly, disabled, and other persons with special housing needs and would
8 better achieve this goal than would the alternative. As compared to this
9 alternative, the project will provide 175 housing units, which would also make
10 progress towards Albany's Fair Share of Alameda's Regional Housing Needs
11 Allocation as identified by ABAG for 2007-2014.

12
13 **MINOR PROJECT CHANGES DO NOT REQUIRE**
14 **RECIRCULATION**

15
16 The DEIR/FEIR currently states that the buildings comprising the senior
17 housing component on Parcel B would be five stores and 52 feet tall on
18 Monroe Street set back approximately 75 feet from San Pablo Avenue. In
19 addition, the DEIR/FEIR did not mention amending the zoning code to
20 approve the University Village Mixed Use Project Overlay District. Recently,
21 the City learned that the project architect had calculated height differently
22 than the method used under the Municipal Code and that the project sought a
23 maximum height (calculated pursuant to the Municipal Code) of 62 feet above
24 grade to the highest point of the structure in the senior housing component on
25 Parcel B (beginning from a setback line 55 feet from San Pablo Avenue
26 westerly to the boundary of the San Pablo commercial Zoning District and
27 subject to general exceptions and mechanical appurtenances described in
28 Section 20.24.080). The University Village Mixed Use Project Overlay
29 District was proposed to conform to the project and provide assurances that
30 the project site would be developed as a mixed use project as contemplated
31 and analyzed in the EIR. The adoption of the University Village Mixed Use

1 Project Overlay District and addressing the discrepancy in the maximum
2 height of the project requires clarification only, and does not require
3 recirculation of the EIR for the following reasons:
4

- 5 1. Clarification of the project description height does not require
6 recirculation of the EIR because it does not constitute “significant new
7 information” affecting any of the impacts studied under the EIR. First,
8 no new significant environmental impacts, or substantial increase in
9 the severity of any environmental impacts, would result from
10 clarifying the height identified in the project description. This is
11 because the change is de minimis in the context of the project site and
12 surroundings and is allowable under the Planned Unit Development
13 provisions of the Municipal code. The EIR determined, based on
14 visual simulations included in the initial study, that impacts to visual
15 resources would be less than significant and this clarification does not
16 alter that conclusion. The Response to Comments in the FEIR
17 (including Response B27-4) and the Initial Study (Appendix A to the
18 EIR, noted that implementation of the project would change the
19 existing visual character of the site, however existing views to and
20 from the project site are, in many instances, obscured by existing
21 landscaping and fencing. Additionally, this area of San Pablo Avenue
22 is identified as a area for development and several City planning and
23 policy documents call for larger scale development on this site. As
24 such, implementation of the project as clarified would not significantly
25 degrade the visual character of the project site and surrounding area;
26 and
27
- 28 2. Amendment of the City of Albany Zoning Ordinance to include the
29 University Village Mixed Use Project Overlay District does not
30 require recirculation of the EIR because it does not constitute
31 “significant new information” affecting any of the impacts studied

1 under the EIR. No new significant environmental impacts, or
2 substantial increase in the severity of any environmental impacts,
3 would result from the adoption of the University Village Mixed Use
4 Project Overlay District. This is because the overlay district is a
5 means to provide assurances that the project site would be developed
6 in substantial conformity with the project studied in the EIR, or would
7 require a future zoning amendment application necessitating additional
8 compliance with CEQA.

9
10 For the foregoing reasons, the clarification of the maximum height of the
11 project from approximately 52 feet to 62 feet, and the adoption of the
12 University Village Mixed Use Project Zoning Overlay District do not affect
13 the input to the physical characteristics of the site as studied. All studies
14 conducted on the site remain valid and this clarification does not require
15 circulation under Section 15088.5 of the CEQA Guidelines.

16 17 **STATEMENT OF OVERRIDING CONSIDERATIONS**

18
19 CEQA requires the decision-making agency to balance, as applicable, the economic,
20 legal, social, technological or other benefits of a project against its unavoidable
21 environmental risks when determining whether to approve a project. If the specific
22 economic, legal, social, technological or other benefits of a project outweigh the
23 unavoidable adverse environmental effects, those effects may be considered
24 “acceptable.” (CEQA Guidelines Section 15093(a).) CEQA requires the agency to
25 state, in writing, the specific reasons for considering a project acceptable when
26 significant impacts are not avoided or substantially lessened.

27
28 In accordance with the requirements of CEQA and the CEQA Guidelines, the City
29 finds that the mitigation measures identified in the EIR and the MMRP, when
30 implemented, will avoid or substantially lessen most of the significant effects of the
31 Project. However, certain impacts of the Project are unavoidable even after

1 incorporation of all feasible mitigation measures. The EIR provides detailed
2 information regarding these impacts.

3
4 The City has adopted all the mitigation measures and finds that all mitigation
5 measures identified in **Exhibit A** will be implemented with the Project. The City
6 further finds that the remaining significant and unavoidable effects are outweighed
7 and are found to be acceptable due to the following specific overriding economic,
8 legal, social, technological, or other benefits based upon the facts set forth above in
9 the Findings, the EIR, and the record, as follows:

10
11 1. **Detailed Statement.** The City Council has fully considered the
12 discussion and analyses of the Record regarding the environmental impacts,
13 socioeconomic effects, cumulative impacts, growth-inducing impacts, and
14 irreversible and irretrievable commitments of resources. The City Council
15 finds that the programs and activities of the mixed use development at
16 University Village provide numerous economic, social, environmental and
17 other benefits to the City of Albany, which overrides any unavoidable
18 significant adverse impacts of the project. The City Council finds that the
19 alternatives to the mixed use development at University Village set forth in
20 the EIR and summarized in this document are infeasible because such
21 alternatives would limit the social, economic, and other benefits of the
22 proposed development, and are therefore outweighed by them. Therefore,
23 pursuant to Public Resources Code Section 21081(b) and CEQA, the City
24 Council makes the following Statement of Overriding Considerations and
25 findings in support thereof:

26
27 a. The University Village Mixed Use project promotes
28 development that fulfills the goals of the General Plan, including
29 upgrading commercial development along San Pablo Avenue in order
30 to expand the City's economic base. It fulfills the General Plan goal
31 that future redevelopment of the University of California lands is

1 compatible with the City's long-term land use goals, including mixed
2 use development along the San Pablo Avenue Commercial Corridor.

3
4 b. The proposed project is consistent with the Housing
5 Element goal to expand housing opportunities for the elderly, disabled,
6 and other persons with special housing needs. The project will provide
7 175 housing units, which would make progress towards Albany's Fair
8 Share of Alameda's Regional Housing Needs Allocation as identified
9 by ABAG for 2007-2014.

10
11 c. The University Village Mixed Use Project cannot fully
12 resolve the transportation and circulation impacts of growth and
13 development for the project area. However, with adoption of the
14 mitigation measures outlined in this document, Exhibit A, and the
15 EIR, these adverse impacts can be reduced. Furthermore, several of
16 the intersections identified in the EIR as significantly impacted are
17 not within the City of Albany's jurisdiction. Therefore, despite
18 mitigation measures that would reduce the impacts to less-than-
19 significant levels, they are still considered significant and
20 unavoidable. (MM TRANS-1-10,12)

21
22 d. Certification of the FEIR and implementation of the
23 University Village Mixed Use Project, in combination with the
24 adoption of the mitigation measures outlined in this document, will
25 contribute to the physical and economic revitalization of this site,
26 which is currently vacant and underutilized land. Specifically, the
27 University Village Mixed Use project will produce sales tax revenue
28 that will benefit the City and will create employment opportunities for
29 Albany residents.
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e. The consequences of failing to approve the project will include:

I. Delays in or lack of development or in the project area that will adversely affect potentially productive property, business, and public service opportunities.

II. Failure to meet the City of Albany’s Fair Share of the Regional Housing Needs Allocation for the Housing Element 2007-2014.

f. The City Council is prepared to accept the risks of the unavoidable adverse environmental consequences identified in this document and the FEIR for the following reasons:

I. The economic and social benefits of the project are consistent with the goals of the Albany General Plan, and outweigh the adverse environmental consequences;

II. The economic benefits to the City in terms of potential increased tax revenues, broadened employment opportunities, and aesthetic improvement to the currently vacant site outweigh the adverse environmental consequences;

III. The majority of the adverse transportation impacts are outside of the City’s jurisdiction, and thus are unavoidable and significant despite mitigation measures that will reduce their impact to less than significant levels.

g. The City Council has considered a reasonable range of alternatives to the University Village Mixed Use Project, as detailed

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in the FEIR and in this document. The City Council concludes as follows:

I. The alternatives to the University Village Mixed Use Project fail to achieve the comprehensive goals and objectives of the General Plan for Albany, and as such are deemed infeasible. While the Alternative Land Uses would reduce some impacts to a level of insignificance, they would not result in the same economic and social benefits as proposed by the project.

II. Failure to develop the University Village Mixed Use project will not provide the best balance of costs and opportunities to minimize the adverse economic and environmental consequences.

2. Overall Conclusion. Based on the detailed findings made in this document and the implementation of specified mitigation measures and monitoring programs, the overall finding is made that economic and social considerations outweigh the remaining environmental effects of the proposed University Village Mixed Use Project, and the City Council concludes that the project be approved, taking into account the future significant environmental consequences identified in the FEIR and Exhibit A.

3. Supporting Evidence. The Statement of Overriding Considerations set forth is based on substantial evidence throughout the Record.

4. Summary. Based on the foregoing findings and the information contained in the record, it is hereby determined that:

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a. All significant impacts on the environment due to the Project have been eliminated or substantially lessened where feasible.

b. Any significant impacts found to be unavoidable were fully analyzed and adequately addressed in the Final EIR and are acceptable due to the factors described in the Findings and Statement of Overriding Considerations.

c. The environmentally superior alternative would lessen the significant and unavoidable impacts of the proposed Project. The environmentally superior alternative, as well as the other alternatives evaluated in the EIR, are rejected as infeasible because they fail to accomplish the basic Project objectives.

BE IT FURTHER RESOLVED that the Albany City Council hereby finds based on substantial evidence contained in the Record as follows:

1) Based on the recitals above, the City Council finds that the Final EIR has been completed in compliance with the requirements of the California Environmental Quality Act (CEQA).

2) The Final EIR was presented to the Planning Commission and City Council, and that the Final EIR was reviewed by the Planning Commission and City Council and its information considered prior to taking action on the proposed project; and

3) The Final EIR reflects the City's independent judgment and analysis.

1 PASSED, APPROVED and ADOPTED this ____ day of ____, 2011.

2

3 AYES:

4 NOES:

5 ABSENT:

6 ABSTAIN:

7

8 Mayor

9

10 ATTEST:

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12
