

ATTACHMENT C

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASADENA CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE “WESTGATE PASADENA” PROJECT, AND ADOPTING ENVIRONMENTAL FINDINGS, A STATEMENT OF OVERRIDING CONSIDERATIONS, AND A MITIGATION MONITORING AND REPORTING PROGRAM

WHEREAS, the Westgate Pasadena project (the “Project”) proposes to construct a mixed-use residential and retail project of 820 residential units and approximately 22,240 square feet of retail, with approximately 1,693 underground parking spaces, and requires a Minor Conditional Use Permit for non-residential development over 15,000 square feet located in a transit-oriented district, and other subsequent discretionary approvals, from the City and other regional and state agencies; and

WHEREAS, the City of Pasadena is the lead agency for the Project pursuant to the California Environmental Quality Act (“CEQA,” Cal. Pub. Res. Code §21000 *et seq.*), the State CEQA Guidelines (the “Guidelines,” 14 Cal. Code Regs. §15000 *et seq.*), and the City’s local environmental policy guidelines; and

WHEREAS, pursuant to Section 15063 of the Guidelines, the City prepared an Initial Environmental Study (the “Initial Study”) for the Project. The Initial Study concluded that there was substantial evidence that the Project might have a significant environmental impact on several specifically identified resources and governmental services, including: (1) aesthetics, (2) air quality, (3) biological resources (trees), (4) hazards and hazardous materials, (5) historic resources, (6) land use and

planning, (7) noise, (8) public services, recreation and utilities, and (9) transportation, circulation and parking; and

WHEREAS, the Initial Study concluded that the Project would not have a significant impact on the following resources, and therefore they are not addressed in the EIR: agricultural resources, mineral resources, and population and housing; and

WHEREAS, pursuant to Guidelines Sections 15064 and 15081, and based upon the information contained in the Initial Study, the City ordered the preparation of an environmental impact report for the Project ("EIR"). On July 1, 2005, the City prepared and sent a Notice of Preparation of the Draft EIR and a copy of the Initial Study to responsible, trustee, and other interested agencies and persons in accordance with Guidelines Sections 15082(a) and 15375; and

WHEREAS, pursuant to Guidelines Section 15082, the City solicited comments from potential responsible and trustee agencies for a 40-day period, from July 1, 2005 through August 10, 2005, requesting details about the scope and content of the environmental information related to the responsible agency's area of statutory responsibility that should be studied in the EIR, as well as the significant environmental issues, reasonable alternatives and mitigation measures that the responsible agency would have analyzed in the Draft EIR, and the City received thirteen comment letters in response to the NOP; and

WHEREAS, pursuant to Public Resources Code section 21092, the City provided a public Notice of Completion and Availability ("NOA") of the Draft EIR on December 23, 2005, through notice published in the Pasadena Star-News, a newspaper

of general circulation in the Project area. The NOA was also mailed to all residents and property owners within 1,000 feet of the Project, on December 22, 2005. The NOA also gave notice of the Planning Commission meeting on February 22, 2006. Copies of the Draft EIR were also placed at the City's Planning and Development Department at 175 North Garfield Avenue, as well as at the Pasadena Central Library, Allendale Branch Library, San Rafael Branch Library, La Pintoresca Branch Library, and on the City's website; and

WHEREAS, the Draft EIR was circulated, together with technical appendices, to the public and other interested persons for a 60-day public comment period, from December 23, 2005 through February 24, 2006. During the comment period, the City held three duly noticed public meetings at which the public was given the opportunity to provide comments on the Draft EIR, as follows: Historic Preservation Commission/Design Commission joint meeting on January 23, 2006; Transportation Advisory Commission meeting on February 9, 2006; and the Planning Commission meeting on February 2, 2006; and

WHEREAS, during the public comment period the City received written and oral comments on the Draft EIR, and consulted with all responsible and trustee agencies, other regulatory agencies and others pursuant to Guidelines Section 15086. The City prepared written responses to all written comments received on the Draft EIR and made revisions to the Draft EIR, as appropriate, in response to those comments. The City distributed written responses to comments on the Draft EIR on May 1, 2006, in accordance with the provisions of Public Resources Code Section 21092.5 and Guidelines Section 15088. The written responses to comments were also made

available for a 45 day period of public review before the commencement of the public meeting regarding the certification of the Draft EIR. After reviewing the responses to comments and the revisions to the Draft EIR, the City concluded that the information and issues raised by the comments and the responses thereto did not constitute new information requiring recirculation of the Draft EIR; and

WHEREAS, since the release of the responses to comments on May 1, 2006, City staff has identified additional errata, and has prepared a correction sheet; and

WHEREAS, the Final Environmental Impact Report (the "Final EIR") is comprised of: the Draft EIR, dated December, 2005 and numbered State Clearinghouse No. 2005061177; the Comments and Responses to Comments on the Draft EIR set forth in Chapter 9 of the Final EIR; the errata correction sheet attached as ATTACHMENT E.1; a separate volume comprised of Technical Appendices; and

WHEREAS, the Hearing Officer held a duly noticed public meeting on the Final EIR and the Project on June 15, 2006, and certified the Final EIR and approved the Project; and

WHEREAS, the Board of Zoning Appeals held a duly noticed public meeting on the Final EIR and the Project on August 1, 2006, and certified the Final EIR and approved the Project; and

WHEREAS, the City Council held a duly noticed public meeting on the Final EIR and the Project on September 18, 2006; and

WHEREAS, the findings made in this resolution are based upon the information and evidence set forth in the Final EIR and upon other substantial evidence that has been presented at all public meetings regarding the Project and in the record of the proceedings. The documents, staff reports, technical studies, appendices, plans, specifications, and other materials that constitute the record of proceedings on which this resolution is based are on file and available for public examination during normal business hours in the Planning Department and with the Director of Planning, who serves as the custodian of these records; and

WHEREAS, the City Council finds that agencies and interested members of the public have been afforded ample notice and opportunity to comment on the Final EIR and that the comment process has fulfilled all requirements of State and local law; and

WHEREAS, the City Council has independently reviewed and considered the contents of the Final EIR prior to deciding whether to approve the Project; and

WHEREAS, the City Council finds that the comments regarding the Draft EIR and the responses to those comments have been received by the City; that the City Council received public testimony regarding the adequacy of the Final EIR; and that the City Council, as the decision-making body for the lead agency, has reviewed and considered all such documents and testimony prior to acting on the Project; and

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

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF
PASADENA RESOLVES AS FOLLOWS:**

I. RESOLUTION REGARDING CERTIFICATION OF THE EIR

Pursuant to State CEQA Guidelines Section 15090, the City Council certifies that: (1) the City of Pasadena has reviewed and considered the Final EIR in evaluating the proposed Project, (2) the Final EIR is an accurate and objective statement that fully complies with CEQA, the State CEQA Guidelines, the City's local environmental guidelines, and (3) the Final EIR reflects the independent judgment of the City of Pasadena. The City Council certifies the Final EIR based on the findings and conclusions herein and as set forth below.

The City Council finds that the additional information provided in the staff report, in the responses to comments received after circulation of the Draft EIR, and in the evidence presented in written and oral testimony presented at public meetings, does not constitute new information requiring recirculation of the Final EIR under CEQA. None of the information presented to the City Council after circulation of the Draft EIR has deprived the public of a meaningful opportunity to comment upon a substantial environmental impact of the Project or a feasible mitigation measure or alternative that the City has declined to implement.

II. RESOLUTION REGARDING ENVIRONMENTAL IMPACTS NOT ANALYZED IN THE EIR

The City Council hereby finds that the following potential environmental impacts of the Project were found to be less than significant in the Initial Study, did not require the imposition of mitigation measures, and therefore did not require study in the EIR: agricultural resources, mineral resources, population and housing, and geology and soils. Although land use and planning was identified in the Initial Study as less than significant, it was studied in the EIR. Population and housing were also discussed in the EIR.

III. RESOLUTION REGARDING ENVIRONMENTAL IMPACTS MITIGATED TO BELOW A LEVEL OF SIGNIFICANCE

The City Council finds that mitigation measures have been identified in the Final EIR which will reduce the following potentially significant environmental impacts to below a level of significance.

a. AESTHETICS

i. Potential Significant Impacts

Impact 3A.1: The proposed project would not substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway (less than significant). (EIR, p. 3A-18.)

Impact 3A.2: The proposed project would not substantially degrade the existing visual character or quality of the site and its surroundings (less than significant with mitigation incorporation). (Id. at p. 3A-20.)

Impact 3A.3: The proposed project would not result in adverse cumulative aesthetic impact (less than significant). (Id. at p. 3A-26.)

ii. Proposed Mitigation

Mitigation Measure 3A.1: During construction, the applicant shall install and maintain a security fence, which shall be a minimum of eight feet tall, around the perimeter of the project site. The construction site shall be kept clear of trash, weeds, etc. (Id. at p. 3A-25.)

iii. Findings Pursuant to CEQA Guidelines Section 15091

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible mitigation measures or project alternatives identified in the Final EIR.

iv. Supporting Explanation

There are no scenic vistas in the Project area. Implementation of the Project would continue to block views of the mountains that are currently blocked by the existing development on the Project site and development located north of the Project

site. (EIR, p. 3A-18.) While the Project would alter the visual character of the site by demolishing the existing structures and replacing them with taller structures and more dense development, the character of the site with the Project would more closely resemble the transit-oriented, mixed-use communities under construction or recently developed to the east, and would also bring to the site a look and character consistent with that envisioned in the Central District Specific Plan (“CDSP”) for a transit village. (ibid.; see also p. 9-20.) The Project includes the removal of 119 non-ordinance protected trees and the relocation on-site of 35 trees, and would add 271 new trees. Within five years of occupancy, proposed canopy coverage would increase to nearly the same amount of canopy coverage currently on-site, and within ten years of occupancy, proposed canopy coverage would nearly double the existing canopy coverage. (Id. at p. 3A-19.) While implementation of the Project would alter the visual character of the site by converting it from primarily abandoned, vacant and poorly maintained institutional uses to an urban residential community, it would not substantially damage scenic resources in the vicinity. (ibid.)

The Project will degrade the existing visual character of the site during construction, which can be mitigated to below a level of significance. The short-term visual impacts of the site grading and construction activities would include exposed dirt storage and staging areas for construction, and create a temporary visual distraction typically associated with construction activities. Long-term impacts would be associated with massing and design of the buildings. The proposed project would introduce a higher density use to the project site than the now vacant site. (Id. at p. 3A-20.) However, the proposed building heights on Blocks 1, 2 and 3 are consistent with the

City of Pasadena Zoning Ordinance and CDSP, and building heights and setbacks meet City requirements and are consistent with the adjacent uses located directly east of the project site. (EIR, p. 3A-25.) The architectural styling seeks to modulate building facades and massing to establish a sense of scale and identity that builds upon existing development in adjacent Old Pasadena and the Central District. In addition, the Project would include architectural ornamentation, landscaped areas and public plazas, and a consistent landscaped corridor throughout all three blocks of the Project. (ibid.) Thus, the Project would be compatible with existing development surrounding the project site, and will be subject to design review. Mitigation Measure 3A.1 imposes standard conditions related to construction area barriers, which will block views of the construction, and require that the site remain clean. With implementation of this measure, visual impacts related to short-term construction activities would be less than significant. (Id. at pp. 3A-20, 3A-25.)

Cumulative Impacts

The cumulative aesthetic impacts of the Project and the Cumulative List of projects is less than significant. The Project occurs in an area that has already been impacted by higher density urban development, and redevelopment of the site would be aesthetically consistent with the character and level of development in the Central District. (Id. at p. 3A-26.)

b. AIR QUALITY

i. Potential Significant Impacts

Impact 3B.2: Construction activities associated with the project would not expose sensitive receptors to increased levels of toxic air contaminants (less than significant). (Id. at p. 3B-10.)

Impact 3B.4: Operational activities associated with the project would not result in adverse impacts to localized ambient air quality (less than significant). (Id. at p. 3B-12.)

Impact 3B.5: Operational activities associated with the project would not expose sensitive receptors to increased levels of toxic air contaminants (less than significant). (Id. at p. 3B-13.)

Impact 3B.6: The project would be compatible with SCAQMD, SCAG, and the City of Pasadena air quality policies (less than significant). (Id. at p. 3B-14.)

ii. Proposed Mitigation -- NONE

iii. Findings Pursuant to CEQA Guidelines Section 15091

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible mitigation measures or project alternatives identified in the Final EIR.

iv. Supporting Explanation

Project Construction Impacts

Construction of the project will create air quality impacts which remain significant, even after mitigation. (See discussion in Section IV, below.) Nonetheless, the toxic air contaminant (TAC) emissions during the approximately 22 months of construction (i.e., diesel particulate emissions associated with heavy equipment operations during grading and excavation activities) will not result in a long-term (i.e., 70 years) substantial source of TAC emissions, and there will not be any residual emissions after construction. As such, short-term TAC emissions from construction activity would not substantially degrade community health and would result in a less than significant impact to nearby sensitive receptors and construction workers. (Id. at pp. 3B-10 to 11.)

Project Operation Impacts

Maximum regional operational emissions would still exceed the SCAQMD daily significance threshold for NOX after implementation of the above mitigation measures, as discussed in Section IV, below. However, Project traffic will not create local area CO hotspots. CO concentrations in future year (2015), including the project, are not anticipated to exceed the state air quality standards. CO concentrations would be lower in year 2015 cumulative conditions compared to year 2005 existing conditions, and no mitigation is required. (Id. at p. 3B-12.) With regard to TAC emissions (e.g., from local delivery trucks to the retail component of the Project), potential localized impacts would be minimal since only a limited number of heavy-duty trucks would access the site and the trucks that do visit the site would not idle on the project site for extended periods of

time. The Project may include a dry cleaning facility, but, in accordance with SCAQMD Rule 1421, the operator of the dry cleaning facility may not install a machine that operates with perchloroethylene. Thus, a health risk assessment associated with on-site activities is not warranted. (Id. at pp. 3B-13 and 14.)

The SCAQMD has two key indicators of consistency with air quality policies, and the Project is consistent with both. The first requires that the Project not result in an increase in the frequency or severity of existing air quality violations, cause or contribute to new violations, or delay the timely attainment of air quality standards or the interim emission reductions specified in the AQMP. Since no violations of the state CO standards are projected as a result of Project buildout, the project is consistent with the first indicator. (Id. at p. 3B-15.) The second indicator requires that the Project does not exceed the assumptions in the AQMP. Since the Project is consistent with the population, housing and employment assumptions which were used in the development of the AQMP (i.e., SCAG's 2001 Regional Transportation Plan (RTP), which in turn were based on San Gabriel Valley Council of Governments growth forecasts), the Project is consistent with growth assumptions included in the AQMP. In addition, the proposed project is consistent with the City General Plan, which itself is also consistent with the RTP. (Ibid.)

c. BIOLOGICAL RESOURCES (TREES)

The Project site is fully developed, and located in an urbanized area with retail, commercial, and industrial uses located along the major roadways bordering the site. (EIR, p. 2-2.) Accordingly, the only biological element identified in the Initial Study for

analysis in the EIR was the Project's impacts on the City's tree preservation ordinance. (See Initial Study, pp. 12-13.)

i. Potential Significant Impacts

Impact 3C.1: The proposed project would not conflict with any local policies or ordinances protecting biological resources (less than significant with mitigation incorporation). (EIR, p. 3C-5.)

Impact 3C2: Implementation of the proposed project would not result in an adverse impact to cumulative biological resources (less than significant). (Id. at p. 3C-8.)

ii. Proposed Mitigation

Mitigation Measure 3C.1: Construction of the project shall comply with the provisions of the federal Migratory Bird Treaty Act and disturbance and removal of existing vegetation shall take place outside of the breeding season (March 1st through August 31st), or the applicant shall conduct nest surveys and active nests shall be avoided and provided with a buffer prior to the start of construction. (EIR, p. 3C-8.)

iii. Findings Pursuant to CEQA Guidelines Section 15091

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible mitigation measures or project alternatives identified in the Final EIR.

iv. Supporting Explanation

Twelve trees on the site qualify for protection under the City's Tree Protection Ordinance; two of the trees are "native" and ten are "specimen." Nine of the protected trees would be relocated within the Project site; three of the protected trees would be protected in place. Canopy coverage within the Project would be approximately 48,199 square feet within one year of occupancy. Within five years of occupancy, canopy coverage would increase to approximately 85,125 square feet, or nearly the same amount of canopy coverage currently on-site. Within ten years of occupancy, proposed canopy coverage would increase to approximately 163,996 square feet and nearly double the existing canopy coverage. (EIR, p. 3C-5.)

Because the project proposes to remove and relocate 9 of the 12 trees designated "native" and "specimen," the City Council must make one of the findings of the Tree Protection Ordinance. (*Ibid.*) The City Council hereby makes Finding 6, "the project includes a landscape design plan which will result in tree canopy coverage of greater significance than the one removed within a reasonable time after completion of the project." Since the proposed landscape plan would result in a similar level of tree canopy coverage within five years of occupancy and greater tree canopy coverage within ten years of occupancy, the Project would comply with the Tree Protection Ordinance, without requiring any mitigation. (*Id.* at p. 3C-8.) Trees slated for removal could potentially provide nesting opportunities for species protected by the California Fish and Game Code and the federal Migratory Bird Treaty Act. In accordance with the Migratory Bird Treaty Act, to avoid impacts to nesting birds, nesting bird surveys shall be conducted at the project site if construction occurs during the nesting season, as

stated in Mitigation Measure M-3C.1, thereby reducing the impacts to below a level of significance. (ibid.)

Cumulative Impacts

As discussed above, the redevelopment of the Project site with residential and retail uses would be consistent with the City's Tree Protection Ordinance (three protected trees would be protected in place, nine would be relocated on-site). The cumulative projects must also comply with the Tree Protection Ordinance. The Project, in conjunction with the listed cumulative projects, would result in a less than significant cumulative impact to protected trees, and no mitigation measures are required. (EIR, pp. 3C-8 and 9.)

d. HAZARDS AND HAZARDOUS MATERIALS

i. Potential Significant Impacts

Impact 3D.1 The proposed project site is included on a list of hazardous materials sites and, as a result, could create a significant hazard to the public or the environment (less than significant). (EIR, p. 3D-7.)

Impact 3D.2: Together with other area projects, the proposed project would not have cumulative hazards impacts (less than significant). (EIR, p. 3D-9.)

ii. Proposed Mitigation – NONE

iii. Findings Pursuant to CEQA Guidelines Section 15091

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible mitigation measures or project alternatives identified in the Final EIR.

iv. Supporting Explanation

The Project site had historical uses that included publishing, automotive repair, a service station, and other general industrial uses. The former transportation building (110 South Pasadena Avenue) is listed on the Hazardous Waste Information System, Resource Conservation Recovery Act, and Underground Storage Tank ("UST") databases as a permitted generator of hazardous waste. If oily soil is encountered during construction, it would be excavated, the limits of the excavation would be sampled, and all soil not suitable for reuse would be properly managed off-site. The work would be overseen by a California Professional Geologist and a report of the excavation, sampling and off-site management of soil, including manifests, would be provided. These measures are required to comply with local, state, and federal requirements with regard to any impacted soil that may be discovered during construction, and thus is considered adequate to address potential impacts related to these hazardous substances without additional mitigation. (EIR, p. 3D-7.)

The EIR originally listed additional mitigation measures with regard to hazardous materials. By letter dated February 21, 2006, David Henry of Hazardous Management Consulting provided an update of the hazardous materials investigations and conclusions on the Project site. (See EIR, pp. 9-194 to 9-202.) All of the areas and features listed under Mitigation Measure 3D.1 have been assessed and no additional investigation is required, and thus Mitigation Measure 3D.1 is deleted. The USTs listed under Mitigation Measures 3D.2, 3D.3, 3D.4 and 3D.5 have been closed by the Pasadena Fire Department, and thus Mitigation Measures 3D.2, 3D.3, 3D.4 and 3D.5 are no longer necessary and are deleted. (See EIR, pp. 9-203 to 9-206.)

Cumulative Impacts

The hazardous materials study area considered for cumulative impacts consisted of the area that could be affected by Project activities and the areas affected by other projects whose activities could directly or indirectly affect the presence or fate of hazardous materials on the proposed Project site. (EIR, p. 3D-9.) The Pasadena Fire Department would be the local regulatory agency with oversight of clean-up activities. Compliance with local, state, and federal requirements with regard to contaminated soils and groundwater is considered adequate to address potential impacts related to these hazardous substances, for the Project and the other listed projects. The related projects would also use the same kinds of typical household cleaners, solvents, and other hazardous substances in their day to day operation. Compliance with local, state, and federal regulations regarding hazardous materials use and storage are considered adequate to address these potential hazards, for the Project and the other listed

projects. The Project, in conjunction with the listed related projects, would not have a cumulative hazards or hazardous materials impact. (ibid.)

e. HISTORIC RESOURCES

The only historic resource located on the project site is the Dearth House (144 West Valley Street). The City Council approved the Waverly School Master Plan, which included the relocation of the Dearth House from the Project site to 112 Waverly Drive, on January 9, 2006. This action is separate from the Project and will occur even if the Project is not approved. (EIR, p. 3E-1.) At this time, there is no reasonably foreseeable chance that the Dearth House will not be relocated.

i. Potential Significant Impacts

Impact 3E.1: The proposed project would not cause a substantial adverse change in the significance of a historical resource (less than significant impact). (EIR, p. 3E-5.)

Impact 3E.2: Together with other area projects, the proposed project would not have cumulative impacts on cultural resources in the proposed project area (less than significant). (EIR, p. 3E-6.)

ii. Proposed Mitigation -- NONE

iii. Findings Pursuant to CEQA Guidelines Section 15091

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.