

EXHIBIT A

CEQA FINDINGS OF FACT

and

**STATEMENT OF OVERRIDING
CONSIDERATIONS**

**OF THE CITY COUNCIL OF
THE CITY OF SANTA CRUZ**

for the

CITY OF SANTA CRUZ DOWNTOWN PLAN AMENDMENTS

(Downtown Recovery Plan, General Plan 2030, Local Coastal Program, Zoning Ordinance)

November 14, 2017

I. INTRODUCTION

The City of Santa Cruz (“City”), as lead agency, prepared an Environmental Impact Report (“EIR”) for the City of Santa Cruz *Downtown Plan Amendments* (“the project”). In its entirety, the EIR consists of the July 2017 Draft EIR (“Draft EIR” or “DEIR”) and the October 2017 Final EIR (“Final EIR” or “FEIR”). The EIR is a program-level EIR pursuant to Section 15168 of the State “CEQA Guidelines” (Cal. Code Regs., tit. 14, § 15000 et seq.). The project consists of amendments to the *Downtown Recovery Plan, General Plan 2030, Local Coastal Program* and *Zoning Code*. (DEIR, p. 1-2 to 1-3.)

These findings, as well as the accompanying statement of overriding considerations in Section IX, *infra*, have been prepared in accordance with the California Environmental Quality Act (“CEQA”) (Pub. Resources Code, § 21000 et seq.) and its implementing guidelines, the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.), and the City of Santa Cruz CEQA Guidelines. The FEIR is hereby incorporated by reference to this exhibit.

II. PROJECT DESCRIPTION

A. Location

The City of Santa Cruz is located along the northern shore of Monterey Bay; approximately 75 miles south of San Francisco, 25 miles south of San Jose and 40 miles north of Monterey (see Figure 1-1 in DEIR). The City occupies a picturesque location between the Pacific Ocean and the Santa Cruz Mountains and is bordered by parks, open space, and residential uses on the north, open space lands on the west, the Monterey Bay on the south, and a portion of the unincorporated urban community of Live Oak on the east. The City’s western and northern borders are mostly defined by publicly- and privately-owned open space and agricultural lands, with the Monterey Bay on the south. Within the City, city-owned open space lands help establish a greenbelt around the City. (DEIR, p. 3-1.)

The project area is located within the Downtown Recovery Plan (DRP) planning area that covers approximately 69 acres. Boundaries of the DRP plan area generally are: Laurel Street on the south, Cedar and Center Streets on the west, River and Water Streets on the north, and the top of the west levee of the San Lorenzo River on the east. The DRP identifies the following four subareas, which are also referenced as sub-districts in the Central Business District (CBD). The area covered by the DRP and subareas is shown on Figure 1-2 in the DEIR.

- a. *Pacific Avenue Retail District*, including a one-half block depth for all parcels fronting onto Pacific Avenue between Water and Laurel Streets;

- b. *Front Street/Riverfront Corridor*, including the one-half block depth of property on the west side of Front Street, and all parcels adjacent to the riverfront between Water and Laurel Streets;
- c. *Cedar Street "Village" District*, generally situated between the Pacific Avenue Retail District on the east and Center Street on the west; and
- d. *North Pacific Area*, situated between Water Street, River Street, and the Mission Hill escarpment.

The proposed project would affect future development intensity within an approximate 12-acre portion of the lower DRP planning area that generally includes the lower parts of the Pacific Avenue Retail District and Front Street/Riverfront Corridor. The project area is shown on Figure 2-1 of the DEIR and is generally bounded by Laurel Street on the south; the San Lorenzo River on the east; Cathcart Street and Soquel Avenue on the north; and Cedar Street on the west. This area is developed primarily with a mix of commercial uses with some upper floor office and residential uses. The area also includes the Metro Station (approximately 1.5 acres), owned and operated by the Santa Cruz Metropolitan Transit District that serves as the bus plaza for the downtown area.

B. Overview

The Downtown Recovery Plan (DRP) was adopted in 1991 to guide reconstruction of the 1989 Loma Prieta earthquake after the earthquake destroyed significant portions of downtown Santa Cruz. The intent was to establish policies, development standards and guidelines to direct the recovery process toward the rebuilding after the earthquake. The DRP has been modified several times over the past 26 years. Implementation of the DRP also included amendments to the Zoning Code. Specifically, DRP Chapter 4—Development Standards and Design Guidelines—is incorporated by reference in Part 24 of the Zoning Code, the Central Business District (CBD).

The City Planning and Community Development Department and the Planning Commission began review of the development standards for the Pacific Avenue Retail District and the Front Street/Riverfront Corridor at the request of the City Council in October 2014, in consideration of a possible redevelopment partnership with the Santa Cruz Metropolitan Transit District. The Planning Commission established two subcommittees to review and develop recommendations. The recommended amendments were forwarded to the City Council, and in October 2016, the City Council directed staff to initiate environmental review on the proposed amendments.

The proposed project consists of a series of amendments to the following adopted City plans and regulations, collectively referred to as Downtown Plan Amendments in the EIR:

- Downtown Recovery Plan: Amendment to extend and modify the Additional Height Zone A, modify allowed heights in the Additional Height Zone B, modify development standards set forth in Chapter 4, and other minor revisions;
- General Plan 2030: Amendment to modify Floor Area Ratio for the Regional Visitor Commercial land use designation in the downtown area;

- Local Coastal Program (LCP): Amendment to Land Use Plan text to modify San Lorenzo Urban River Plan land use development policies and modification of development standards incorporated by reference in the Central Business Zone District that is part of the Implementation Plan;
- Zoning Code sections: Amendment to Municipal Code Section 24.10, Part 24, Central Business District (CBD), of the Zoning Code to modify extension area regulations and add standards for outdoor curb extension areas, an implementation ordinance of the City's LCP. (DEIR, p. 3-4.)

The EIR is a "Program EIR" pursuant to section 15168 of the State CEQA Guidelines. A program EIR is an EIR which may be prepared on a series of actions that can be characterized as one large project and are related geographically, by similar environmental effects, as logical parts in the chain of contemplated actions, or in connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program. A program EIR can provide a more exhaustive consideration of effects and alternatives than would be practical in an EIR on an individual action and can ensure consideration of cumulative impacts. A program EIR can be used as part of the environmental review for later individual projects to be carried out pursuant to the project previously analyzed in the program EIR, where impacts have been adequately addressed in the program EIR. This is referred to as "tiering" as set forth in section 15152 of the State CEQA Guidelines. "Tiering" uses the analysis of general matters contained in a broader EIR (such as one prepared for a general plan) with later EIRs and negative declarations on narrower projects, incorporating by reference the general discussions from the broader EIR and concentrating the later EIR or negative declaration solely on the issues specific to the later project. The State CEQA Guidelines encourage agencies to tier the environmental analyses which they prepare for separate but related projects, including general plans, zoning changes, and development projects. (DEIR, pp. 1-1, 1-2.)

For later individual projects proposed in the areas covered by the plans and amendments covered in this EIR, the City will determine whether the individual project or subsequent activity is within the scope of this Program EIR, meaning it is an activity within the same project as analyzed in the program EIR or within the same geographic area encompassed by the program EIR. Depending on the City's determination, including whether new effects could occur or new mitigation measures would be required, the analysis for later projects could range from no new CEQA document to a new EIR. The City also potentially could apply one or more CEQA "streamlining" tools when it considers later projects, including, but not limited to the focused analytical routes offered under Public Resources Code sections 21155.2, 21083.3, and 21099, and CEQA Guidelines sections 15152, 15182, 15183, and 15183.3. If appropriate and applicable to a proposed project, the City may also consider one or more statutory or categorical exemptions. (DEIR, p. 1-2.)

C. Project Objectives

The existing DRP includes a set of “first principles” intended to guide redevelopment of the downtown area. These principles address the appearance and height of buildings, new housing opportunities, accessibility and circulation, open space and streetscape, and parking.

The following are the project objectives provided by City staff.

1. Support the following First Principles of the Downtown Plan:
 - *Form and Character.* New buildings should be allowed to develop individual character while retaining qualities of the historic townscape. Issues of articulation, materials, signage, setbacks, scale, massing, form, bulk, solar access and height are critical.
 - *Housing.* Significant new housing opportunities should be targeted throughout the downtown, including Pacific Avenue, the San Lorenzo riverfront, and South of Laurel. Housing should be comprised of a mix of apartments and condominiums. SRO housing should be replaced and dispersed throughout the downtown area.
 - *Accessibility.* A downtown that aesthetically integrates access as a primary design criterion for all improvements to ensure increased opportunities for the public to participate in commercial, governmental, residential, social and cultural activities.
 - *Open Space and Streetscape.* A strong network of public and private open spaces (streets, sidewalks, public parks, plazas, passageways and courtyards) that creates a socially active and pedestrian-oriented downtown core should be emphasized.
 - *Circulation.* Downtown should be predominantly pedestrian in nature; movement should be carefully structured to reinforce the character of the place. Pedestrian, bicycle, and transit access to the downtown should be enhanced.
 - *Parking.* Parking in the downtown core should continue to be provided by the Parking District in a centralized fashion, to maximize shared use and minimize the quantity of stored vehicles.
2. Increase opportunities for all types of housing in downtown.
3. Encourage and incentivize maximum public access to the San Lorenzo River.
4. Achieve superior connections to the San Lorenzo River above the existing DRP and existing SLURP policies consistent with Section 30211 of the Coastal Act.
5. Ensure that development adjacent to the Riverwalk will be designed to prevent impacts to the adjacent sensitive San Lorenzo River and will incentivize clean-up of degraded areas along the levee.
6. Enhance opportunities to view and interact with the San Lorenzo River as a coastal resource.

7. Create development standards that will incentivize development of key east-west public passageways between Pacific Avenue and the Riverwalk. (DEIR, p. 3-2 to 3-4.)

Based on its own review of the EIR and other information and testimony received in connection with the project, the City Council finds these objectives to be acceptable. In choosing to approve the project, the City thus accords these objectives significant weight in considering the feasibility of alternatives analyzed in the EIR, and in invoking overriding considerations in approving the project. (See *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001-1002 (CNPS); *Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1507-1508; *Sequoiah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715 (*Sequoiah Hills*)).

D. Project Description

Downtown Recovery Plan (DRP) Amendment. The proposed DRP amendments include minor revisions to text, reorganization of text, elimination of outdated text, addition of new text and exhibits, and modifications to development guidelines and standards. The focus of the amendment is to expand the location of “Additional Height Zones” and to revise the Chapter 4 Development Standards. The primary proposed modification would increase allowable building heights in the lower Pacific Avenue and lower Front Street areas between Cathcart and Laurel Streets on Pacific and between Soquel Avenue and Laurel on Front and along the San Lorenzo River between Laurel and Soquel. According to the City, these changes were initiated to provide more opportunities for housing in the core of the downtown. Increasing densities in the downtown is consistent with the overarching objectives of the City to maintain a compact downtown with a dense urban core while also retaining a greenbelt around the City. The DRP amendment also includes: modifications to the format of the original DRP with the creation of a Use Chart for ground level and upper level uses; consolidating language relating to design guidelines and development standards; and the renaming of the plan to eliminate the word “Recovery” from the title that was formerly associated with the post-earthquake reconstruction that is now mostly complete.

The proposed amendments continue to support and promote mixed-use development opportunities within the DRP area. The revisions indicate that “the Plan encourages the most intensive development along Pacific Avenue and the Front Street/Riverfront corridor, where it can most benefit from shared parking and convenient transit, and where higher density development is most appropriate”. The proposed amendments consolidate former text on permitted uses into a new table that identifies permitted uses for both ground level and upper level uses for each of the four CBD subdistricts, as well as the required level of permit approvals for each use to provide easier reference to allowed uses than in the existing plan. Neither the existing DRP nor the proposed amendments provide an exhaustive list of all potential and foreseen uses for the CBD subdistricts. The proposed DP does include more uses not mentioned in the original DRP, including required Community Care, Family Day Care and Supportive and Transitional Housing uses that are required by State Law. Ground level parking has been added as a conditional (or administrative use) along Front Street if certain criteria are met (provision of

some public parking, garage doesn't extend to street corners, one curb cut per garage). The proposed revisions include prohibition of cannabis dispensary facilities as a result of the passage of state Proposition 64, the ballot measure to allow personal recreational use of marijuana. The proposed DP also includes a provision that allows the Zoning Administrator to determine whether a proposed unlisted use would be considered similar in nature to other listed uses that support the objectives of the DP and the CBD.

The proposed amendments would allow increases in allowable maximum building heights in three locations as shown on Figure 3-1 in the Draft EIR. Additionally, the amendments propose an increase in the allowable base height along Pacific Street between Water and Laurel Streets from 50 to 55 feet and along the west side of Front Street.

- *Additional Height Zone A – to 75 Feet:* The proposed amendment would extend the existing “Additional Height Zone A” along Pacific Avenue to the area between Cathcart Street and Laurel Street and to the area along the west side of Front Street between Cathcart Street and Soquel Avenue. Additional Height Zone A, which currently is applied to Pacific Avenue north of Cathcart, would allow building heights to 75 feet on sites 15,000 to 50,000 square feet in size. Current allowable heights for these areas are 50 to 60 feet. The proposed change also reduces the minimum property size to which the additional height may be applied from 20,000 to 15,000 square feet.
- *Additional Height Zone A - to 85 Feet:* The proposed amendment would establish a maximum height of 85 feet in Additional Height Zone A for the area between the east side of Pacific Avenue and the west side of Front Street (between Cathcart and Laurel) and on the west side of Front Street between Cathcart and Soquel Avenue for projects on aggregated parcels larger than 50,000 square feet.
- *Additional Height B - to 70 Feet:* The proposed amendment changes the “Additional Height Zone B¹” to cover properties located on the east side of Front Street between Soquel Avenue and Laurel Street. The amendment would allow additional heights to 70 feet over the base height limit of 50 for properties larger than 15,000 square feet in size. The DRP amendments include performance criteria that require recessed building breaks, skyline architectural variation and integrated rooftop design.

(DEIR, p. 3-4 through 3-11.)

General Plan 2030 Amendment. The existing General Plan 2030 was updated and adopted by the City Council in June 2012. The proposed General Plan amendment would revise General Plan text to increase the upper level of permissible floor area ratio (FAR) for the Regional Visitor Commercial (RVC) land use designation in the downtown area from 3.5 to 5.0². The RVC designation currently is applied to all of the area within the boundaries of the DRP. The purpose

¹ The existing Additional Height Zone B consists of two areas along Pacific Avenue that are now included in the proposed expansion of Additional Height Zone A. The existing Additional Height Zone C at the northern end of the DRP area is now included into Additional Height Zone A.

² FAR is the gross floor area permitted on a site divided by the total net area of the site. For example, on a site with 10,000 net sq. ft. of land area, a FAR of 1.0 will allow a maximum of 10,000 gross square feet of building floor area to be built. On the same site, a FAR of 3.5 would allow 35,000 sq. ft. of floor area.

of this modification is to reflect the changes to the Additional Height Zone A in the Downtown Plan, which would allow for a potential height of up to 85 feet for a portion of a development site that meets the criteria for additional height under the proposed DRP amendment. (DEIR, p. 3-12.)

Local Coastal Program Amendment. A portion of the downtown and project area lies within the coastal zone. Pursuant to the California Coastal Act, the City has a Local Coastal Program (LCP) that was certified by the California Coastal Commission (CCC). The LCP consists of a land use plan, implementing ordinances and maps applicable to the coastal zone portions of the City. Chapter 4 of the Downtown Recovery Plan is incorporated by reference in the CBD zone district, and the district is part of the implementation section of the LCP. Thus, revisions to the DRP Chapter 4 require review and approval by the California Coastal Commission as part of an LCP amendment. In addition, there are nine coastal policies based on the San Lorenzo Urban River Design Plan that pertain to development along Front Street within the coastal zone. The proposed amendment would modify one policy, eliminate the other existing eight policies, and add two new LCP policies. The LCP policies proposed for deletion address maintenance of 50-foot building heights along Front Street, provision of public amenities, and building architecture. (DEIR, pp. 3-12 to 3-13.) The Central Business District Zoning Code amendments to Section 24.10 are part of the City's LCP Implementation Plan and will also require certification by the California Coastal Commission.

Zoning Code Amendment. The project includes amendments to Part 24 of the Municipal Code, Commercial Business District that is part of the Zoning Code. Minor text revisions are proposed in several sections as shown in Appendix C, and the two primary changes relate to outdoor extension areas:

- Municipal Code section 24.10.2340, Extension Areas. The proposed amendment specifies that this section is applicable to the Central Business District and to properties along the San Lorenzo Riverwalk as areas for outdoor restaurant and business extension in order to enhance the pedestrian ambiance of the downtown and the San Lorenzo Riverwalk.
- Municipal Code section 24.10.2341, Curb Extension Areas. The proposed amendments add a new section that regulates construction of "curb extension areas". The purpose of these areas is to enhance the pedestrian ambiance of the CBD zone district by creating useable outdoor spaces that encourage a sense of community and that provide a tool for economic development. The new sections include requirements for design, construction and operation.

(DEIR, p. 3-13.)

As noted above, this Zoning Code Amendment is also considered an amendment to the City's LCP.

III. **ENVIRONMENTAL REVIEW PROCESS**

In accordance with section 15082 of the CEQA Guidelines, the City issued a Notice of Preparation (“NOP”) of a Draft EIR on February 14, 2017. Pursuant to CEQA Guidelines sections 15023, subdivision (c), and 15087, subdivision (f), the State Clearinghouse in the Office of Planning and Research was responsible for distributing environmental documents to State agencies, departments, boards, and commissions for review and comment. The City followed required procedures with regard to distribution of the appropriate notices and environmental documents to the State Clearinghouse. The State Clearinghouse was obligated to make, and did make, that information available to interested agencies for review and comment. The NOP was circulated for a 30-day review period on February 14, 2017. Additionally, one EIR Scoping Meeting was held during a Planning Commission meeting on June 15, 2017 to receive comments regarding the scope of issues to be addressed in the EIR. The NOP and all comments received on the NOP are presented in Appendix A and Appendix B, respectively of the Draft EIR. (DEIR, p. 1-4.)

The EIR includes an analysis of the following issue areas:

- Aesthetics
- Biological Resources
- Cultural and Tribal Cultural Resources
- Hydrology and Water Quality
- Public Services
- Transportation and Traffic
- Water Supply and Wastewater Utilities
- Land Use
- CEQA required Sections: Significant Unavoidable Impacts; Significant Irreversible Changes; Growth Inducement; Cumulative Impacts; and Alternatives

On July 26, 2017, the City released the Draft EIR to public agencies, other interested parties, the general public, and the State Clearinghouse for a 45-day public review period that ended on September 8, 2017. (DEIR, p. 1-5.) The Final EIR was published on October 5, 2017. The Planning Commission held a public hearing on the Final EIR on October 12, 2017. The City Council held a public hearing on the Final EIR on November 14, 2017.

IV. RECORD OF PROCEEDINGS

In accordance with Public Resources Code section 21167.6, subdivision (e), the record of proceedings for the City’s decision on the project includes the following documents:

The NOP (February 2017), including related comments from agencies, organizations and individuals, and all other public notices issued by the City in conjunction with the project;

The Draft EIR for the project (July 2017) and all appendices, as well as all documents cited or referenced therein;

The Final EIR for the project (October 2017) and all appendices, as well as all documents cited or referenced therein;

Any minutes and/or verbatim transcripts of all information sessions, public meetings, and public hearings held by the City in connection with the project;

Any documentary or other evidence submitted to the City at such information sessions, public meetings, and public hearings;

Any and all resolutions adopted by the City regarding the project, and all staff reports, analyses, and summaries related to the adoption of those resolutions;

Matters of common knowledge to the City, including, but not limited to federal, state, and local laws and regulations;

Any documents expressly cited in the Draft and Final EIRs and these findings, in addition to those cited above; and

Any other materials required for the record of proceedings by Public Resources Code section 21167.6, subdivision (e).

The City Council has relied on all of the documents listed above in reaching its decision on the project, even if not every document was formally presented to the City Council or City Staff as part of the City files generated in connection with the project. Without exception, any documents set forth above not found in the project files fall into one of two categories. Many of them reflect prior planning or legislative decisions of which the City Council was aware in approving the General Plan 2030 project. (See *City of Santa Cruz v. Local Agency Formation Commission* (1978) 76 Cal.App.3d 381, 391-392; *Dominey v. Department of Personnel Administration* (1988) 205 Cal.App.3d 729, 738, fn. 6.) Other documents informed the experts who provided advice to City Staff or consultants, who then provided advice to the City Council. For that reason, such documents form part of the underlying factual basis for the City Council's decisions relating to the adoption of the General Plan 2030. (See Pub. Resources Code, § 21167.6(e)(10); *Browning-Ferris Industries v. City Council of City of San Jose* (1986) 181 Cal.App.3d 852, 866; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 153, 155.)

The documents constituting the record of proceedings are available for review by responsible agencies and interested members of the public during normal business hours at the City of Santa Cruz Planning and Community Development Department, 809 Center Street, Room 107, Santa Cruz, California 95060.

V.

FINDINGS REQUIRED UNDER CEQA

Public Resources Code section 21002 provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]” The same statute provides that the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.” Section 21002 goes on to provide that “in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.”

The mandate and principles announced in Public Resources Code section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects for which EIRs are required. For each significant environmental effect identified in an EIR for a project, the approving agency must adopt a written finding reaching one or more of three permissible conclusions. The first such finding is that 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. The second permissible finding is that such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency. The third potential conclusion is that specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR. (CEQA Guidelines, § 15091, subd. (a).) Under CEQA, “feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors. The concept of “feasibility” also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (*Sequoyah Hills, supra*, 23 Cal.App.4th at p. 715.) Moreover, “‘feasibility’ under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors.” (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417 (*City of Del Mar*); see also *CNPS, supra*, 177 Cal.App.4th at pp. 1001-1002.)

For purposes of these findings, the term “avoid” refers to the effectiveness of one or more mitigation measures to reduce an otherwise significant effect to a less than significant level. In contrast, the term “substantially lessen” refers to the effectiveness of such measure or measures to substantially reduce the severity of a significant effect, but not to reduce that effect to a less than significant level. CEQA requires the lead agency to adopt feasible mitigation measures or, in some instances, feasible alternatives, to substantially lessen or avoid significant environmental impacts that would otherwise occur.

With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the

agency first adopts a statement of overriding considerations setting forth the specific reasons that the agency found the project's benefits outweigh its unavoidable adverse environmental effects. The City's Statement of Overriding Considerations for the project is included herein in Section IX, *infra*.

VI. MITIGATION MONITORING AND REPORTING PROGRAM

A Mitigation Monitoring and Reporting Program (Exhibit B) has been prepared for the project, and will be approved by the City Council by the same Resolution that adopts these findings. The City will use the Mitigation Monitoring and Reporting Program to track compliance with project mitigation measures. The Mitigation Monitoring and Reporting Program will remain available for public review during the compliance period.

VII. SIGNIFICANT EFFECTS AND MITIGATION MEASURES

The Draft EIR identified significant environmental effects (or impacts) resulting from adoption and implementation of amendments to the Downtown Recovery Plan, General Plan, Local Coastal Program and Zoning Ordinance. Some of these effects, however, cannot be avoided by the adoption of feasible mitigation measures or alternatives, although some can be substantially lessened. Thus, these effects will be significant and unavoidable. For reasons set forth in Section IX, *infra*, however, the City has determined that overriding considerations outweigh the significant, unavoidable effects associated with the *General Plan 2030* adoption and implementation.

The City's findings with respect to the project's significant effects and mitigation measures are set forth below for each significant impact. The following statement of findings does not attempt to describe the full analysis of each environmental impact contained in the EIR. Instead, it provides a summary description of each impact, describes the applicable mitigation measures identified in the Draft EIR or Final EIR and adopted by the City, and states the City's findings on the significance of each impact after imposition of the adopted mitigation measures, accompanied by a brief explanation. Full explanations of these environmental findings and conclusions can be found in the Draft EIR and Final EIR. These findings hereby incorporate by reference the discussion and analysis in those documents supporting the Final EIR's determinations regarding mitigation measures and the project's impacts and mitigation measures designed to address those impacts. In making these findings, the City Council ratifies, adopts, and incorporates into these findings the analysis and explanation in the Draft EIR and Final EIR and ratifies, adopts, and incorporates in these findings the determinations and conclusions of the Draft EIR and Final EIR relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings.

Significant Impacts That Can Be Mitigated to a Less-Than-Significant Level

A. Biological Resources

Impact 4.3-2-Indirect Impacts to Sensitive Riparian Habitat. Future development of taller buildings as a result of the proposed Downtown Plan amendments could result in indirect impacts to birds in the area that could lead to bird mortalities.

Adoption and implementation of the proposed plan amendment would not directly result in new development, but the project would result in amendments to the Downtown Recovery Plan that would allow additional building heights in specified locations and under specified conditions. Potential future development that could occur as a result of the proposed plan amendments would not be located within riparian or other sensitive habitat areas. Thus, there would be no direct removal of habitat. Future buildings would be set back from the western edge of the river levee by at least 10 feet, which is consistent with the City-wide Creeks and Wetlands Management Plan and San Lorenzo Urban River Plan as the guiding management plan for the area.

The proposed modification of Additional Height Zone B would increase allowable building from 50 feet under existing plans to 70 feet with the proposed amendments. This potential increase in building heights adjacent to the San Lorenzo River could result in impacts to birds from two causes: (1) an increase in the area of glass that would result in mortality to birds mistaking the reflective glass as safe passage to habitat beyond, and (2) an increase in the amount of lighting and the resultant potential for mortality of birds related to disorientation during migration. Based on studies cited in the EIR, most strikes to buildings due to reflective windows are thought to occur closer to the ground; therefore, effects from reflective glass may be greater below 50 feet than above.

Additionally, effects from reflective glass above 50 feet would be partly minimized by the proposed setback requirements that floors above 50 feet occupy no more than 60% of the area of the floor below and no more than 60% of the building length, and that floors above 50 feet be restricted by a 10-foot setback from the building face where it fronts the Riverwalk along the San Lorenzo River. Because of these restrictions, particularly the setbacks from the building face, relatively little surrounding vegetation would be reflected in these upper floors, a factor that should further limit bird mortality, based on reviewed data presented, which showed the proportion of glass reflecting vegetation was a significant predictor of glass strikes. However, even given these considerations, the generally accepted notion that greater amounts of glass at any height, during any season, and during day or night results in higher mortality from glass strikes, suggests that the increase in the amount of glass along the San Lorenzo River would likely result in an increase in bird mortality. Additional lighting may also result in increased bird mortality from the increased limit on building height. Therefore, the effects of the increased limit on the heights of buildings along the San Lorenzo River because of increased area of reflective glass and an increase in night-time lighting is a potentially significant impact.

Mitigation Measures. Implementation of Mitigation Measure 4.3-2 will mitigate potential impacts of future development on biological resources (birds) to a less-than-significant level.

Mitigation 4.3-2. Revise Downtown Plan to include standard for design guidance for bird-safe structures along the San Lorenzo River, including:

- Minimize the overall amount of glass on building exteriors facing the San Lorenzo River.
- Avoid mirrors and large areas of reflective glass.
- Avoid transparent glass skyways, walkways, or entryways, free-standing glass walls, and transparent building corners.
- Utilize glass/window treatments that create a visual signal or barrier to help alert birds to presence of glass. Avoid funneling open space to a building façade.
- Strategically place landscaping to reduce reflection and views of foliage inside or through glass.
- Avoid up-lighting and spotlights.
- Turn non-emergency lighting off (such as by automatic shutoff), or shield it, at night to minimize light from buildings that is visible to birds, especially during bird migration season (February - May and August - November).

FINDING: The potentially significant impact of the project on biological resources can be mitigated to a less-than-significant level by the imposition of Mitigation 4.3-2, which has been required or incorporated into the project. The City hereby directs that this mitigation measure be adopted. 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.

Impact 4.3-3-Indirect Impacts to Nesting Birds. Future development as a result of the proposed Downtown Plan amendments could result in disturbance to nesting birds if any are present in the vicinity of construction sites along the San Lorenzo River.

While the project will not directly result in new construction that would affect nesting birds, future development accommodated by the proposed amendments could result in impacts to nesting birds at the time of construction. However, measures in the City-wide Creeks and Wetlands Management Plan include pre-construction surveys where construction may affect nesting birds in order to prevent disturbance if nesting is occurring when construction is initiated. Tree removal during the breeding season (generally March 1 to August 1) also could result in direct mortality to nesting avian species protected under the Migratory Bird Treaty Act (MBTA) due to destruction if active nest sites are present. Construction activity for a prolonged period could affect nesting adults and result in nest abandonment or failure.

Mitigation Measures. Implementation of Mitigation Measure 4.3-3 will mitigate potential impacts of future development on biological resources (nesting birds) to a less-than-

significant level.

Mitigation 4.3-3. Require that a pre-construction nesting survey be conducted by a qualified wildlife biologist if construction, including tree removal, adjacent to the San Lorenzo River is scheduled to begin between March and late July to determine if nesting birds are in the vicinity of the construction sites. If nesting raptors or other nesting species protected under the MBTA are found, construction may need to be delayed until late-August or after the wildlife biologist has determined the nest is no longer in use or unless a suitable construction buffer zone can be identified by the biologist. (Citywide Creeks and Wetlands Management Plan Standard 12).

FINDING: The potentially significant impact of the project on biological resources can be mitigated to a less-than-significant level by the imposition of Mitigation 4.3-3, which has been required or incorporated into the project. The City hereby directs that this mitigation measure be adopted. 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.

B. Public Services

Impact 4.6-1c Schools. Adoption of the proposed plan amendments could indirectly result in increased population associated with potential development that would generate elementary school student enrollments that could exceed capacity of existing schools.

Adoption and implementation of the proposed Plan amendments would not directly result in new development, but could lead to intensified development in the study area, resulting in increased student enrollments in grades K-12, which could exceed existing school facility capacities at Westlake Elementary School depending on the timing and rate of growth. Development that may occur as a result of the proposed plan amendments would occur over time; redevelopment of the study area is estimated to occur over 25+ years. With required payment of school impact fees to fund necessary school facility expansion and/or additions, in conjunction with potential reuse of the former Natural Bridges Elementary School if needed, the impact would be mitigated to a less-than-significant level. Potential addition or expansion of school classroom facilities is not expected to result in significant physical impacts due to the location of existing facilities within developed footprints.

Mitigation Measures. Payment of school impact fees pursuant to Government Code section 65996 will be collected at the time of issuance of a building permit. Section 65996, subdivision (d) specifies that payment of school impact fees “are hereby deemed to provide full and complete school facilities mitigation” under CEQA.

FINDING: The potentially significant impact of the project on student enrollment and school capacities can be mitigated to a less-than-significant level with the required

payment of school impact fees that will be collected at the time of issuance of a building permit, which has been required or incorporated into the project. The City therefore finds that changes or alterations have been required in, or incorporated into, the project that avoids the significant environmental effect.

Impact 4.6-2 Parks and Recreation. Adoption of the proposed plan amendments could indirectly result in increased population associated with potential development that could be accommodated by the Plan, which would result in increased demand for parks and recreational facilities that could result in some deterioration of existing parks and recreational facilities.

The proposed project would not directly result in new development, but could lead to intensified development in the project study area, resulting in increased population estimated at approximately 1,300 residents and increased demands for park and recreational facilities. New development that may occur under the Downtown Plan will be located within a half-mile (the service radius for neighborhood-serving parks) to several existing neighborhood and community parks which will provide a variety of recreational opportunities to new residents. At a program level, the City has embarked on the preparation of a Parks Master Plan to identify park needs and improvements. It is expected that this plan will be considered by the City Council in late 2017. Additionally, the City's General Plan 2030 includes a number of policies that serve to mitigate potential impacts to existing parks and recreation facilities as a result of new residential development and population growth. Furthermore, the City imposes a "Parks and Recreation Facilities Tax" (pursuant to Chapter 5.72 of the Municipal Code) on new residential development (including mobile homes) within the City, payable at the time of issuance of a building permit. The collected taxes collected are placed into a special fund, and "shall be used and expended solely for the acquisition, improvement and expansion of public park, playground and recreational facilities in the city" (section 5.72.100).

Mitigation Measures. With implementation of the General Plan 2030 goals, policies and actions and Downtown Plan recommendations that set forth measures to avoid and minimize adverse impacts on parks and recreational facilities as summarized on Table 4.6-2 in the Draft EIR and with required payment of park fees by future development, the proposed project's indirect impact on parks and recreational facilities would be considered less-than-significant.

FINDING: The potentially significant impact of the project on parks and recreational facilities can be mitigated to a less-than-significant level with the required payment of the City's Parks and Recreation Facilities tax at the time of issuance of a building permit and with implementation of the City Plans (General Plan, Parks Master Plan, Downtown Plan recommendations). The City therefore finds that changes or alterations have been required in, or incorporated into, the project that avoids the significant environmental effect.

C. Noise

Impact Noise-1. Future development in the project area would be exposed to exterior and / or interior noise levels that exceed local and state requirements. However, the project area is not within locations that would expose people to noise in excess of established standards.

Adoption and implementation of the proposed Plan amendments would not directly result in new development, but could lead to intensified development in the study area. The proposed amendments do not change the area of future development. However, proposed amendments to expand areas of increased height could result in additional residential development in upper floors of future buildings, which could expose additional residents to noise from traffic and activities in the downtown area, but existing and future ambient noise levels generally would be within acceptable or conditionally acceptable ranges. Furthermore, Mitigation Measures 4.6-2(a) and 4.6-2(b) in the Downtown Recovery Plan EIR (1991) call for preparation and implementation of noise studies for projects that could be exposed to noise levels in excess of those defined as “normally acceptable”. Additionally, window, insulation and other building material selection can reduce interior sound levels.

Mitigation Measures. Implementation of Mitigation Measure Noise-1 will mitigate potential impacts of ambient sound (noise) on future development to a less-than-significant level.

Mitigation Noise-1. Require preparation and implementation of acoustical studies for future residential development along Front Street to specific building design features that meet state interior sound levels.

FINDING: The potentially significant impact of exposure to ambient sound levels that exceed local standards can be mitigated to a less-than-significant level by the imposition of Mitigation Noise-1. The City therefore finds that changes or alterations have been required in, or incorporated into, the project that avoids the significant environmental effect.

Significant Unavoidable Impacts

D. Cumulative Impacts

The following were determined significant cumulative impacts to which the proposed project's incremental contribution was found to be cumulatively considerable, thus resulting in a significant unavoidable impact.

Traffic. The proposed project would contribute to significant cumulative traffic impacts at six locations in the project vicinity and along state highways. Future development projects within the area of the proposed plan amendments will be required to pay the City's traffic impact fee (TIF). However, payment of the TIF and the associated improvements would not mitigate impacts to a less-than-significant level at three intersections: Ocean Street/Water Street, Highway 1/ Highway 9, and Chestnut Street/Mission Street. Intersection operations could be improved at the other three impacted intersections to which the project would contribute cumulative trips. However, these improvements are not included in the TIF program. Thus, the proposed project's contribution at these three intersections would be considered cumulatively considerable due to resulting unacceptable LOS with addition of project trips. The following mitigation requires future development in the downtown to contribute fair share contributions to fund the identified improvements at the following intersections: Front Street/Soquel Avenue, Front Street/Laurel Street and Front Street/Pacific Avenue.

Mitigation 5-1: Require future development projects within the downtown area to contribute fair-share payments for improvements at the following intersections: Front/Soquel (signal timing and lane modifications); Front/Laurel (westbound lane addition and north and south right-turn overlap), and Pacific/Laurel (southbound left-turn lane addition).

With implementation of Mitigation 5-1, significant cumulative impacts at three intersections would be mitigated, and the project's contribution would not be cumulatively considerable. Future development projects in the downtown area would be required to pay the City's traffic impact fees for improvements at the other three intersections, but planned intersection improvements would not result in acceptable levels of service, and no other feasible improvements have been identified. Therefore, cumulative traffic at three City intersections and along state highways results in a significant cumulative impact, and the project's incremental contribution to cumulative traffic impacts at these locations would be cumulatively considerable at these locations.

FINDING: The potentially significant cumulative impact on transportation and traffic (intersections and state highway levels of service) cannot be mitigated to a less-than-significant level. The City finds that mitigating this impact to a less-than-significant level is not feasible; potential mitigation measures are either unenforceable or infeasible. (CEQA Guidelines, § 15091, subd. (a)(3).) With implementation of the *General Plan 2030* policies and actions to reduce vehicular traffic, increase vehicle occupancy and

support/encourage use of alternative transportation measures, the impact could be reduced, but likely not to a less-than-significant level at the remaining impacted intersections and along state highways. Thus, cumulative traffic increases at City intersections and along state highways is a significant cumulative impact, and the proposed project's incremental contribution to the increases would be cumulatively considerable. The City Council concludes, however, that the project's benefits outweigh the significant and unavoidable impacts of the project, as set forth in the City Council's Statement of Overriding Considerations.

VIII. PROJECT ALTERNATIVES

A. Basis for Alternatives-Feasibility Analysis

As noted earlier, Public Resources Code section 21002 provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]” Where a lead agency has determined that, even after the adoption of all feasible mitigation measures, a project as proposed will still cause one or more significant environmental effects that cannot be substantially lessened or avoided, the agency, prior to approving the project as mitigated, must first determine whether, with respect to such impacts, there remain any project alternatives that are both environmentally superior and feasible within the meaning of CEQA. Although an EIR must evaluate this range of *potentially* feasible alternatives, an agency decision-making body may ultimately conclude that a potentially feasible alternative is actually infeasible. (*CNPS, supra*, 177 Cal.App.4th at p. 981, 999.) As explained earlier, grounds for such a conclusion might be the failure of an alternative to fully satisfy project objectives deemed to be important by decision-makers, or the fact that an alternative fails to promote policy objectives of concern to such decision-makers. (*Id.* at pp. 992, 1000-1003.) Thus, even if a project alternative will avoid or substantially lessen any of the significant environmental effects of a proposed project as mitigated, the decision-makers may reject the alternative as infeasible for such reasons.

Under CEQA Guidelines section 15126.6, the alternatives to be discussed in detail in an EIR should be able to “feasibly attain most of the basic objectives of the project”. For this reason, the objectives described above in section II(C) of these findings provided the framework for defining possible alternatives. Based on the objectives, the City developed two alternatives that were addressed in detail in the Draft EIR.

Per CEQA Guidelines section 15126.6 and the project's objectives, the following alternatives to the project were identified:

- No Project – Required by CEQA
- Alternative 1 – Reduced Height for Expanded Additional Height Zone A to 75 feet and Elimination of Additional Height Zone B

- Alternative 2 – Reduced Height for Additional Height Zone A to 75 feet along Pacific/Front and Reduced Height for Additional Height Zone B to 60 feet along the San Lorenzo River with Development Standard Modifications: eliminate encroachment over property line and require 10-foot setback above 50 feet

The City Council finds that that a good faith effort was made to evaluate a range of potentially feasible alternatives in the EIR that are reasonable alternatives to the project and could feasibly obtain most of the basic objectives of the project, even when the alternatives might impede the attainment of the project’s objectives and might be more costly. Alternatives were considered that would result in a substantial reduction or elimination of identified significant unavoidable cumulative traffic impacts, as well as the five identified significant impacts that could be reduced to a less-than-significant level with mitigation measures outlined in this EIR. (DEIR, pp. 5-15 to 5-17.)

1. Significant Unavoidable Impacts of the Project

Adopting the project (plan amendments) will result in the following significant unavoidable impact, which can be lessened, though not avoided, through implementation of feasible mitigation measures adopted in connection with the project:

Cumulative Impacts. Traffic as described in section VI(D) above.

2. Scope of Necessary Findings and Considerations for Project Alternatives

As noted above, these findings address whether the various alternatives substantially lessen or avoid any of the significant unavoidable impacts associated with the General Plan 2030 project and also consider the feasibility of each alternative. Under CEQA, “[f]easible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.” (CEQA Guidelines, § 15364.) As explained earlier, the concept of feasibility permits agency decision makers to consider the extent to which an alternative is able to meet some or all of a project’s objectives. In addition, the definition of feasibility encompasses “desirability” to the extent that an agency’s determination of infeasibility represents a reasonable balancing of competing economic, environmental, social, and technological factors supported by substantial evidence.

B. Description of Project Alternatives and Determination of Feasibility

Potential alternatives to the proposed amendments to the Downtown Recovery Plan, General Plan, Local Coastal Program, and Zoning Code were evaluated with respect to the objectives of the project as discussed in Chapter 5.0, “CEQA Considerations” of the Draft EIR and this section of the findings. The Draft EIR identified and compared in detail the environmental effects of the No Project Alternative and two alternatives listed below with environmental impacts resulting from the project. (See DEIR, pp. 5-18 through 5-29.)

The range of alternatives selected by the City is reasonable given the proposed uses, identified significant impacts and project objectives. None of the alternatives, including the No Project Alternative would eliminate significant project impacts and cumulative impacts related to traffic, although all alternatives would result reduce the levels of the impacts. Table 5-5 presents a comparison of project impacts between the proposed project and the alternatives. Excluding the No Project Alternative, Alternative 1 – Reduced Height for Additional Height Zone A and Elimination of Additional Height Zone B – is considered the environmentally superior alternative. Although it would not reduce significant impacts to less-than-significant levels, it could result in the greatest reduction of traffic and water demand impacts and reduce some of the other identified significant impacts. However, it would not fully meet project objectives. A comparison of project features and impacts is presented in Table 5-5 in the DEIR.

NO PROJECT ALTERNATIVE

1. Description

Section 15126.6(e) of the State CEQA Guidelines requires that the impacts of a “no project” alternative be evaluated in comparison to the proposed project. Section 15126(e) also requires that the No Project Alternative discuss the existing conditions that were in effect at the time the Notice of Preparation was published, as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services.

Under the No Project Alternative, none of the proposed DRP, General Plan, LCP or Municipal Code amendments would be implemented. Additional Height zones would not be extended along Pacific Avenue, Front Street or the San Lorenzo River. However, redevelopment could occur under the existing General Plan and Downtown Recovery Plan without the amendments. Under the No Project Alternative, none of the project impacts identified in this EIR would occur. However, since redevelopment of the downtown area could occur without the amendments, some level of development would be reasonably expected to occur over the next 25 years.

City Planning Department staff developed an estimate of potential buildout without the proposed amendments to identify potential development under the existing DRP. Table 5-4 in the DEIR summarizes potential development under existing plans without the proposed project. City staff estimates indicate that development under existing plans could result in a net increase of approximately 437 residential units and a net decrease of approximately 23,990 square feet of commercial and 5,100 square feet of office space over existing conditions. Development under existing plans without the proposed amendment could result in approximately 274 fewer residential units than the proposed project and a greater decrease in commercial and office square footage than the proposed project.

2. Analysis of No Project Alternative's Ability to Reduce Significant Unavoidable Project Impacts

Table 5-3 on page 5-18 of the Draft EIR summarizes key differences between the proposed project and the project alternatives with regards to potential development and major impacts. Table 5-5 on page 5-29 summarizes impacts between the project and alternatives. This alternative would result in less development than would occur under the proposed plan amendments, which would also result in reductions in trip generation and public service demands. With an overall reduction in development under this alternative, there would be a reduction of potential physical impacts related to biological resources, public services (schools and parks/recreation), noise, although mitigation measures would continue to be required. While the No Project Alternative would result in reduced traffic increases to the proposed project, significant, unavoidable impacts related to cumulative traffic would not be eliminated or reduced to a less-than-significant level.

3. Feasibility of No Project Alternative

The No Project Alternative would meet three project objectives. With no proposed plan changes, the existing DRP would continue to support the First Principles of the plan (#1), and housing opportunities would continue to be encouraged (#2). Any development would need to meet existing DRP development standards for sensitive siting and design next to the river (#5). The No Project alternative would not include the incentives to create two new linkages to the San Lorenzo River and Riverwalk through extensions of Elm and Maple Streets, and would not fully meet the project objectives to increase public access. (#3, 4, 6, 7).

The No Project Alternative is rejected as infeasible, however, because this alternative would not meet four of the project objectives related to incentives to increase public access. For all of the foregoing reasons, and for any of them individually, the City Council determines that the No Project Alternative is infeasible and is hereby rejected.

ALTERNATIVE 1 (Reduced Height for Expanded Additional Height Zone A and Elimination of Additional Height Zone B)

1. Description

This alternative includes expansion of Additional Height Zone A as with the proposed project, but the maximum height for the Additional Height Zone A would be limited to 75 feet with elimination of the 85 maximum height limit along the east side of Pacific Avenue and the west side of Front Street. This would result in an additional height limit that is consistent with existing limits for this zone as applied to Pacific Avenue north of Cathcart Street. Additionally, the proposed Additional Height Zone B would be eliminated so no additional height above the existing 50-foot base height would be permitted on the east side of Front Street and along the River. Based on City Planning Department staff review, potential development under this alternative could result in a net increase of approximately 437 residential units, a net increase of

approximately 2,190 square feet of office use, and a net decrease of approximately 14,690 square feet of commercial building space over existing conditions.

2. Analysis of Alternative 1's Ability to Reduce Significant Unavoidable Project Impacts

Table 5-3 on page 5-18 of the Draft EIR summarizes key differences between the proposed project and the project alternatives with regards to potential development and major impacts. Table 5-5 on page 5-29 summarizes impacts between the project and alternatives. This alternative would result in less development than would occur under the proposed plan amendments, which would also result in reductions in trip generation and public service demands. With an overall reduction in development under this alternative, there would be a reduction of potential physical impacts related to biological resources, public services (schools and parks/recreation), and noise, although mitigation measures would continue to be required. While Alternative 1 would result in reduced traffic increases compared to the proposed project, significant, unavoidable impacts related to cumulative traffic would not be eliminated or reduced to a less-than-significant level.

3. Feasibility of Alternative 1

Alternative 1 would meet three project objectives. With the proposed plan changes under Alternative 1, the existing DRP would continue to support the First Principles of the plan (#1), and housing opportunities would continue to be encouraged, although with reduced opportunities (#2). Any development would need to meet existing DRP development standards for sensitive siting and design next to the river (#5). This alternative would include the incentives to create two new linkages to the San Lorenzo River and Riverwalk through extensions of Elm and Maple Streets, although incentives may be more limited as compared to the proposed plan amendments with the elimination of additional building heights in this alternative. Thus, this alternative would partially meet the project objectives to increase public access. (#3, 4, 6, 7). As a result of reduced development, this alternative would not fully meet project objectives of increasing public access along the San Lorenzo River. For all of the foregoing reasons, and for any of them individually, the City Council determines that Alternative 1 is infeasible and is hereby rejected.

ALTERNATIVE 2 (Reduced Height for Expanded Additional Height Zones A and B)

1. Description

Under this alternative, the proposed expansion of the Additional Height Zones would be modified. Alternative 2 includes expansion of Additional Height Zone A as with the proposed project, but the maximum height for the Additional Height Zone A would be limited to 75 feet with elimination of the 85-foot maximum height limit along the east side of Pacific Avenue and the west side of Front Street. This would result in an additional height limit that is consistent with existing limits for this zone as applied to Pacific Avenue north of Cathcart Street. Additionally, the maximum building heights in the Additional Height Zone B would along the

east side of Front Street and adjacent to the San Lorenzo River would be reduced from 70 to 60 feet. The proposed Development Standards would be modified under this alternative to eliminate encroachment over property line and to require a 10-foot setback for buildings above 50 feet. Based on City Planning Department staff review, potential development under this alternative could result in a net increase of approximately 645 residential units, a net increase of approximately 2,190 square feet of office use, and a net decrease of approximately 14,690 square feet of commercial building space over existing conditions.

2. Analysis of Alternative 2's Ability to Reduce Significant Unavoidable project Impacts

Table 5-3 on page 5-18 of the Draft EIR summarizes key differences between the proposed project and the project alternatives with regards to potential development and major impacts. Table 5-5 on page 5-29 summarizes impacts between the project and alternatives. This alternative would result in less development than would occur under the proposed plan amendments, which would also result in reductions in trip generation and public service demands. With an overall reduction in development under this alternative, there would be a reduction of potential physical impacts related to biological resources, public services (schools and parks/recreation), and noise, although mitigation measures would continue to be required. While Alternative 2 would result in reduced traffic increases compared to the proposed project, significant, unavoidable impacts related to cumulative traffic would not be eliminated or reduced to a less-than-significant level.

3. Feasibility of Alternative 2

Alternative 2 would meet three project objectives. With no proposed plan changes, the existing DRP would continue to support the First Principles of the plan (#1), and housing opportunities would continue to be encouraged, although with reduced opportunities (#2). Any development would need to meet existing DRP development standards for sensitive siting and design next to the river (#5). This alternative would include the incentives to create two new linkages to the San Lorenzo River and Riverwalk through extensions of Elm and Maple Streets and would meet the project objectives to increase public access, although incentives may be limited with a reduction of additional building heights. Thus, this alternative would partially meet the project objectives to increase public access (#3, 4, 6, 7). For all of the foregoing reasons, and for any of them individually, the City Council determines that Alternative 2 is infeasible and is hereby rejected.

IX.

STATEMENT OF OVERRIDING CONSIDERATIONS

As set forth in the preceding sections, approving the amendments to the Downtown Plan project will result in some significant adverse environmental effects that cannot be avoided even with the adoption of all feasible mitigation measures. (See section VII, *supra*.) As determined above, however, there are no feasible alternatives to the project that would fully mitigate or substantially lessen the impacts. Despite these effects, the City Council, in accordance with CEQA Guidelines

section 15093, chooses to approve the project because, in its judgment, the following economic, social, and other benefits that the project will produce will render the significant effects acceptable.

The benefits of the project are several, but any one of these reasons is sufficient to justify approval of the project. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, the City would stand by its determination that each remaining individual reason is sufficient. The substantial evidence supporting the various benefits can be found in the preceding findings, which are incorporated by reference into this section, and in the documents included in the Record of Proceedings, as defined in Section IV, above.

- 1) The State of California has adopted AB 32, the Global Warming Solutions Act (2006), and SB 375, the Sustainable Communities and Climate Protection Act (2008), with a specific emphasis on promoting transit-oriented development and to link land use planning development decisions with transportation. The goal of these measures is to reduce vehicle-miles-traveled and thereby reduce Greenhouse Gas Emissions (GHG) through better land use planning. The amendments incorporated into the project represent sound land use planning principles with direct connections being made between increasing density for needed housing in the City serving as the jobs center for the County of Santa Cruz. The project aligns with the Association of Monterey Bay Area Government (AMBAG) Sustainable Communities Strategy Implementation Project that focuses on infill housing, transportation strategies and measures, and economic development. The project will directly support many General Plan policies and actions that encourage land use changes that reduce automobile use (Policy LU4.2), encourage mixed uses (Policies LU3.5, LU3.10, LU3.10.1), and encourage the assembly of small parcels along transit (CD3.3, CD3.3.1, CD3.3.2). The proposed plan facilitates the achievement of these goals and policies by providing market incentives to redevelop existing buildings and infill sites located near and on transit corridors with new mixed-use development.
- 2) As set forth in Government Code section 65580, the City has a responsibility to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community. Similarly, CEQA recognizes the importance of balancing the prevention of environmental damage with the provision of a "decent home and satisfying living environment for every Californian." (Pub. Resources Code, § 21000(g).) The project outlines the City's long-range plan for meeting regional housing needs, during the present and future housing cycles, while balancing environmental, economic, and fiscal factors and community goals. The proposed project serves to minimize to the extent feasible the high cost of housing in the City by promoting redevelopment of underutilized sites, encouraging infill development. Future development accommodated under the project would primarily occur on underutilized properties that could be redeveloped at higher densities and/or land use intensities.
- 3) The project provides a framework for achieving the community's vision about the City's pedestrian connections to the Santa Cruz Riverwalk and will facilitate improvements to

the physical, social, economic, cultural, and environmental character of the downtown. Achieving these connections by allowing an increase in development downtown is a superior benefit over and above the associated cumulatively considerable traffic impacts that may be associated with the build-out of the General Plan and project growth as analyzed in the project EIR. The project will enhance opportunities to view and interact with the San Lorenzo River as a coastal resource. The project standards ensure that development will be sited and designed to be visually compatible with the surrounding downtown, while promoting new open space pedestrian plazas and passageways to the Riverwalk. The filling of the area adjacent to the levee and associated required landscaping of these areas is superior to the existing DRP and SLURP land use policies and will better achieve stewardship and scenic values over the existing conditions near the Riverwalk. The project supports the Coastal Act Scenic and Visual protection policy Section 30251 to protect and increase opportunities for viewing the river, a coastal resource. New development will not obstruct public views to the San Lorenzo River since the levee is an average of about 10 feet above the Front Street sidewalk, but will increase ability and opportunities for the public to view the river.

- 4) While the CEQA evaluation process for projects has been established to identify adverse impacts to the physical environment, it is only one criterion for a jurisdiction to consider when evaluating the merits of a project. The CEQA process does not identify positive effects on the environment and therefore, is limited in its application when evaluating the true impacts of land use decisions at a local level. The project, as evaluated as a programmatic level for CEQA purposes, contains many positive environmental impacts including: promoting more opportunities for transit-oriented development in the downtown, which will directly lead to a reduction in vehicle miles traveled and fewer GHG emissions per capita than development located further away from transit opportunities; directly requiring improvements to the Riverwalk, thereby increasing public activity along the river; requiring filling adjacent to the river levee to eliminate areas that encourage negative social behavior and degrade and create an unsafe experience for Riverwalk users; providing development incentives through additional height, which can lead to economic development for public uses adjacent to the Riverwalk, such as restaurants and cafes; and finally, increasing opportunities for much needed housing near the City's job centers. The proposed plan is intended to implement these priorities and values by incentivizing redevelopment in the areas of the City designated for that purpose. It is the combination of these positive impacts that the City finds outweigh the identified unavoidable environmental impacts in the EIR.

X. CONCLUSION

As explained earlier, the City Council has balanced these benefits and considerations against the significant unavoidable environmental effects of the project. The City Council hereby concludes that those impacts are outweighed by these benefits, among others. After balancing the environmental costs against the project's benefits, the City concludes that the benefits outweigh

the few adverse environmental impacts. The City believes that the project's benefits outlined above, and each of them individually, override the significant unavoidable environmental costs associated with the project.