

## RESOLUTION NO.

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE FINDING A FINAL ENVIRONMENTAL IMPACT REPORT PREPARED FOR THE MOE'S STOP GAS AND SERVICE STATION PROJECT DESCRIBED IN PLANNING DIVISION FILE NO. CP11-049 HAS BEEN COMPLETED IN COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

WHEREAS, pursuant to Title 21 of the San Jose Municipal Code, Amir Shirazi, hereinafter referred to as "Applicant," on July 11, 2011, filed applications for which it was determined that an environmental impact report was required pertaining to a proposed conditional use permit, File No. CP11-049, and concerning that certain real property hereinafter referred to as the "subject property," which subject property is described in the application for File No. CP11-049 and in that certain related environmental impact report prepared for that project entitled "Moe's Stop Gas and Service Station" (the "EIR"), which application and EIR are made a part hereof by this reference as though fully set forth herein; and

WHEREAS, the Director of Planning, Building and Code Enforcement pursuant to and in accordance with said Title 21 has prepared and filed with this City Council a Final EIR for the project described in File No. CP11-049 and in the EIR relating to said subject property (the "Project"), which Final EIR consists of the EIR together with the First Amendment to that EIR setting forth comments and responses to comments received on the EIR (collectively, the "Final EIR"); and

WHEREAS, pursuant to and in accordance with said Title 21, the Director sent a copy of the draft EIR to each public agency having jurisdiction by law of said proposed Project, advising such agencies to review and submit written comments on the draft EIR, if any, in the time and manner specified in said Title 21; and

WHEREAS, pursuant to and in accordance with said Title 21, the Planning

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Commission, on November 2, 2011 conducted a hearing on the Final EIR, notice of which was duly given; and

WHEREAS, at said hearing, the Planning Commission gave all persons full opportunity to be heard and to present evidence and testimony respecting said Final EIR; and

WHEREAS, at the conclusion of its hearing on the Final EIR the Planning Commission certified the Final EIR as completed in compliance with the California Environmental Quality Act of 1970, as amended ("CEQA"); and

WHEREAS, on November 4, 2011 a timely appeal of the Planning Commission's certification of the Final EIR was filed with the Director of Planning, Building, and Code Enforcement; and

WHEREAS, pursuant to and in accordance with said Title 21, this City Council conducted a hearing on the appeal of the certification of the Final EIR, notice of which was duly given; and

WHEREAS, at said appeal hearing, this City Council gave all persons full opportunity to be heard and to present evidence and testimony respecting said Final EIR.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE AS FOLLOWS:

**SECTION 1.** This City Council has been presented with and has read and considered the Final EIR and concludes that the Final EIR for said Project has been prepared and completed in compliance with the California Environmental Quality Act of 1970, as amended, and represents the independent judgment and analysis of the City of San Jose.

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