

RESOLUTION NO. 2019-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING THE APPEAL BY SILVERGATE DEVELOPMENT, LLC AND ADOPTING MITIGATED NEGATIVE DECLARATION AND MITIGATION AND REPORTING PROGRAM IS-18-0001, AND APPROVING DESIGN REVIEW PERMIT DR17-0040 TO CONSTRUCT ONE FOUR-STORY BUILDING AND SIX THREE-STORY BUILDINGS TOTALING 149,534 SQUARE FEET, CONSISTING OF 170 APARTMENT UNITS INCLUDING NINE RENT RESTRICTED UNITS FOR OCCUPANCY BY VERY LOW-INCOME HOUSEHOLDS ON A 5.3-ACRE SITE LOCATED SOUTH OF BONITA ROAD, BETWEEN BONITA GLEN DRIVE AND I-805, SUBJECT TO THE CONDITIONS CONTAINED HEREIN

WHEREAS, on December 22, 2017, a duly verified application for a Design Review Permit was filed with the City of Chula Vista Development Services Department by Silvergate Development, LLC (Applicant); and

WHEREAS, the application requests approval of a Design Review Permit to allow construction of one four-story and six three-story buildings totaling 149,534 square-feet consisting of 170 apartment units including nine affordable units subject to rental and occupancy restrictions for very low-income households at 50% of the area median income for a period of 55 years with associated parking, recreational facilities and open space on approximately 5.3 acres (Project); and

WHEREAS, by including five percent of the 170 units for very low-income households, the Project is entitled to certain benefits, including a density bonus, one development incentive, waivers and reductions in development standards, and specified parking ratios under the provisions of Chula Vista Municipal Code (CVMC) Chapter 19.90-Affordable Housing Incentives and [Government Code Section 65915](#) (State Density Bonus Law); and

WHEREAS, the area of land that is the subject of this Resolution is an existing site consisting of five contiguous parcels (APN's 570-131-11-00, 570-140-40-00, 570-140-54-00, 570-140-48-00, 570-140-51-00) located south of Bonita Road, between Bonita Glen Drive and I-805 (Project Site); and

WHEREAS, the Development Services Director has reviewed the Project for compliance with the California Environmental Quality Act and has conducted an Initial Study, IS-18-0001 in accordance with the California Environmental Quality Act (CEQA). Based upon the results of the Initial Study, the Director of Development Services has determined that the Project could result in significant effects on the environment. However, revisions to the Project made by or agreed to by the Applicant would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; therefore, the Director of Development Services has caused the preparation of a Mitigated Negative Declaration, IS-18-0001 and associated Mitigation, Monitoring and Reporting Program; and

WHEREAS, a hearing time and place was set by the Planning Commission for consideration of the Project and notice of said hearing, together with its purpose, was given by its publication in a newspaper of general circulation in the City, and its mailing to property owners and residents within 500 feet of the exterior boundaries of the Project Site, at least ten (10) days prior to the hearing; and

WHEREAS, the duly called and noticed public hearing on the Project was held before the Planning Commission of the City of Chula Vista on March 13, 2019 in the Council Chambers, 276 Fourth Avenue, at 6:00 p.m. to hear public testimony and staffs' presentation; and

WHEREAS, the Planning Commission Chair made a Motion to Approve the Project, which was Seconded. However the vote failed 3 No votes to the Chair's 1 Yes vote. The Project needed 4 Yes votes for approval. Therefore, pursuant to Chula Vista Municipal Code section 2.04.570(c), the vote resulted in a "Lost Motion," meaning the Motion did not carry and no action occurred; and

WHEREAS, on March 22, 2019, Silvergate Development, LLC filed an appeal of the March 13, 2019 Planning Commission's proceedings for Design Review Permit DR17-0040 (the "Appeal"); and

WHEREAS, the City Clerk set the time and place for the public hearing on the Appeal and notice of said hearing, together with its purpose, was given by its publication in a newspaper of general circulation in the City, its mailing to property owners within 500 feet of the exterior boundary of the Project Site at least 10 days prior to the hearing; and

WHEREAS, the hearing was held at the time and place as advertised in the Council Chambers, 276 Fourth Avenue, before the City Council and the hearing was thereafter closed; and

WHEREAS, the City Council reviewed and considered the Mitigated Negative Declaration (MND IS-18-0001) and associated Mitigation, Monitoring and Reporting Program, and Design Review (DR17-0040); and

WHEREAS, the City Council having received certain evidence at the subject hearing, as set forth in the record of its proceedings therein, recommends approval of the Project, based on certain terms and conditions.

NOW, THEREFORE, BE IT RESOLVED that the City of Chula Vista City Council does hereby find and determine as follows:

I. ENVIRONMENTAL REVIEW

That the City Council of the City of Chula Vista, in the exercise of its independent judgment, as set forth in the record of its proceedings, considered the Initial Study of the Project conducted by the Director of Development Services for compliance with the CEQA, and has determined that the Project could result in significant effects on the environment regarding Air Quality, Cultural Resources, Noise, and Biology. However, revisions to the Project made

by or agreed to by the Applicant would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; therefore, the Development Services Director has caused the preparation of a Mitigated Negative Declaration, IS-18-0001 and Mitigation, Monitoring and Reporting Program.

That the City Council of the City of Chula Vista, in the exercise of their independent review and judgment as set forth in the record of its proceedings, considered Mitigated Negative Declaration, IS-18-0001 and the Mitigation Monitoring and Reporting Program (MMRP), in the form presented, which has been prepared in accordance with requirements of the CEQA and the Environmental Review Procedures of the City of Chula Vista and does hereby adopt the same.

II. DESIGN REVIEW

1. **That the proposed Project is consistent with the development regulations contained in the Chula Vista Municipal Code, Government Code, and Chula Vista Design Manual.**

The Project Site is designated Central Commercial (CCP) and is permitted for residential and commercial use. The Project is in compliance with the Bonita Glen Specific Plan and Chula Vista Design Guidelines and is consistent with the Government Code and Chula Vista Municipal Code. The Applicant is proposing to build a total of 170 apartment units including nine income restricted units for very low-income households. Pursuant to [CVMC Section 19.90.080 \(F\)](#) and [Government Code Section 65915\(e\)](#), given the provision of five percent of the units as restricted for very low-income households, the Applicant requests a waiver of the maximum 45 feet in height development standard of the Bonita Glen Specific Plan, which would otherwise have the effect of physically precluding the construction of the Project. One building is proposed with a maximum height of 56 feet. The requested waiver of height is consistent with the intent of the State's Density Bonus Law and Chula Vista Chapter 19.90. The Applicant has requested and is entitled to the reduced parking standards as specified in CVMC Section 19.90.080(H) and Government Code Section 65915(p). Consistent with these provisions the Project is providing 231 parking spaces on-site, in excess of the required 212 spaces. Additional parking is available on Bonita Glen Drive. Open space and landscaped areas are also provided in excess of the minimum required. The building design orients balconies and patios towards the internal parking lot to provide for an urban environment. Landscaping has been placed along the perimeter of the site and also around the parking lot area. Enhanced architectural details are proposed along the street elevations and the layout of the site provides for a pedestrian oriented design in accordance with the Bonita Glen Specific Plan and Chula Vista Design Guidelines. The floor area ratio and setback requirements are subject to the CCP and R-3 zone requirements. The Project meets the zone requirements.

2. **That the proposed Project is consistent with the design requirements and recommendations contained in Bonita Glen Specific Plan and development standards of the Chula Vista Design Guidelines.**

The proposed project architecture features a modern Spanish Mission architectural design that is eclectic and exemplifies and contributes to the dynamic revitalization and vibrancy along the segments of Bonita Glen Drive and Vista Drive that are within the Bonita Glen Specific Plan (BGSP) boundary. The building mass is articulated by horizontal and vertical plane offsets, including balconies, which provide variety and interest and are highlighted by accent colors and materials that break up the roof line. The building facades also include a variety of building materials and colors, including fabric awnings, metal vertical siding, fiber cement horizontal siding, natural wood, patios and balconies, and varying building facades and building offsets that were added along the exterior elevations to avoid a monotonous design. The overall design, form and scale of the building fit within the guidelines of the BGSP and Chula Vista Design Guidelines and is complimentary to the multi-family residential and commercial character adjacent to the Project Site.

BE IT FURTHER RESOLVED that the City Council, based on the findings above, hereby approves the Project subject to the following conditions:

- I. The following shall be accomplished to the satisfaction of the Director of Development Services, or designee, prior to issuance of Building Permits, unless otherwise specified:

Planning Division

1. The Project Site shall be developed and maintained in accordance with the approved plans, which include Site and Landscape Plans, Floor Plan, and Elevation Plan on file in the Development Planning Division, the conditions contained herein, and Chula Vista Municipal Code (“Municipal Code” or “CVMC”) Title 19.
2. Prior to, or in conjunction with the issuance of the first Building Permit, the Applicant shall pay all applicable fees, including any unpaid balances of permit processing fees for deposit account DDA0117.
3. The colors and materials specified on the Building Plans must be consistent with the colors and materials shown on the Site Plan and colored materials sheet approved by the City Council.
4. A graffiti resistant treatment shall be specified for all first floor wall and building surfaces. This shall be noted for any Building and Wall Plans. Additionally, the Project shall conform to Section 9.20.055 of the Municipal Code regarding graffiti control.
5. All roof appurtenances, including air conditioners and other roof mounted equipment and/or projections, shall be shielded from view and the sound buffered from adjacent properties and streets. Such screening shall be architecturally integrated with the building design.
6. All ground mounted utility appurtenances such as transformers, AC condensers, etc., shall be located out of public view and adequately screened through the use of a combination of concrete or masonry walls, berming, and/or landscaping.

7. All exterior lighting shall include shielding to remove any glare from adjacent residents. Details for said lighting shall be included in the Architectural Plans.
8. The Applicant shall obtain approval of a Sign Permit for each sign. Signs shall comply with all applicable requirements of the Municipal Code.
9. Prior to the issuance of the first Building Permit for the construction of the Project, the Applicant shall execute an Affordable Housing Agreement with the City that includes terms and conditions to ensure compliance with [CVMC Chapter 19.90](#) and [State Density Bonus Law](#) for a compliance period of 55 years. Such Agreement shall be recorded as a covenant on the property with the restrictions binding all subsequent owners so that the commitment remains in force regardless of ownership.
10. Prior to issuance of Grading and Building Permits, the Applicant shall demonstrate compliance with all mitigation measures of MND IS-18-0001.

Land Development Division/Landscape Architecture Division

11. Additional deposits or fees in accordance with the City Subdivision Manual, and Master Fee Schedule will be required for the submittal of the following items:
 - a. Grading Plans
 - b. Street Improvement Plans
 - c. Construction Permit
 - d. Lot consolidation
12. The Applicant shall enter into a Storm Water Maintenance Agreement with the City prior to issuance of any Grading Permit.
13. The onsite storm drain system and utilities shall be private.
14. Prior to issuance of a Building Permit, the Applicant shall dedicate 5 feet along Bonita Glen Drive. Street dedication documents shall be prepared by a Registered Civil Engineer or licensed Land Surveyor.
15. Prior to issuance of a Building Permit, Easements on Vista Drive for access and public utilities shall be provided.
16. Prior to issuance of a Building Permit, a parcel map shall be processed to create (2) lots as a condition of water service from Sweetwater Authority.
17. Prior to issuance of and Grading Permit or Building Permit, whichever occurs first, an Encroachment Permit shall be obtained for any private facilities within the public right-of-way or City easements.
18. The Applicant shall submit a detailed Operation & Maintenance (O&M) plan for all permanent Best Management Practices (BMPs) as required by the City Engineer to preserve

the intended pollution control and/or flow control performance of the BMP. Upon completion of construction of BMPs/Project, the Applicant shall update/finalize the O&M Plan to reflect constructed structural BMPs with As-Built Plans and baseline photos.

19. The Applicant shall provide public improvements to include a new 24 foot driveway and a new 20 foot driveway along Bonita Glen including new curb, gutter, sidewalk, and street lights along the Project's frontage to the satisfaction of the City Engineer. Sidewalk shall be designed and constructed with proper transitions to existing conditions.
20. All driveways shall conform to the City of Chula Vista's sight distance requirements in accordance with Section 18.32.080 of the Municipal Code. Also, landscaping, street furniture, or signs shall not obstruct the visibility of a driver at the street intersections or driveways.
21. All proposed sidewalks, walkways, pedestrian ramps, and disabled parking shall be designed to meet the City of Chula Vista Design Standards, Americans with Disability Act (ADA) Standards, and Title 24 standards, as applicable.
22. The construction and completion of all improvements and release requirements shall be secured in accordance with Section 18.17.040 of the Municipal Code.
23. PAD Fees for Multi-Family projects: The addition of 170 multifamily homes generates parks obligations per Municipal Code Chapter 17.10.

West Chula Vista – Multi-Family PAD Fees

Fee Component		Fee per Unit	# Units	Fee
Parkland Acquisition		\$3,707	170	\$630,190
Parkland Development		\$5,859	170	\$996,030
Total		\$9,566	170	\$1,626,220

Note: PAD fees are adjusted annually on October 1st to reflect the industry's current Construction Cost Index, and the above noted costs are subject to change at that time. PAD fees are due as set forth in CVMC 17.10.

12. The Applicant shall submit full Landscape and Irrigation Plans for review and approval by the City's Landscape Architect.

Fire Department

13. For 75,090 square feet of Type IA & VA construction, this Project will require a fire flow of 3250 gallons per minute for a 3-hour duration at 20 p.s.i.
14. Based upon the required fire flow for Type IA & VA construction type, a minimum of 4 fire hydrants are required to serve this Project.

15. Where a portion of the building is more than 400 feet from a fire hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the building, on site fire hydrants and mains shall be provided.
16. Fire Hydrants shall be located and spaced in accordance with California Fire Code, Appendix C.
17. A fire service study shall be performed that includes a hydraulic water flow analysis. This analysis shall show the actual flow and pressure for all hydrants and riser stubs. The Hazen Williams formula shall be used in the determination of these flows and pressures. The analysis shall show that the required fire flow is available at the hydrants and that independently the sprinkler demand is available at the most demanding sprinkler riser.

Fire Department Access:

18. Fire apparatus access roads shall be provided for every facility or building and shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building.
19. Fire apparatus access road dimensions shall be a minimum of 20 feet in width and have an unobstructed vertical clearance of 13 feet 6 inches.
20. The Applicant shall perform an Auto-turn Analysis with Chula Vista Fire Department (CVFD) truck data/dimensions to determine if proposed on site roads are adequate
21. Dead end fire apparatus access roads in excess of 150 feet in length shall be provided with an approved area for turning around fire apparatus.
22. Grades for any access roadway shall be restricted to the following:
 - Asphalt < 11%
 - Concrete \geq 11%

Fire Department Web Page:

23. Chula Vista Fire Prevention Division maintains an up-to-date web page, which contains required details that shall be required prior to Building Permit issuance.
- II.** The following on-going conditions shall apply to the Project Site as long as it relies on this approval:
24. The Applicant shall install all landscaping and hardscape improvements in accordance with the approved Landscape Plan. Landscaping shall be maintained by the owner and successor in perpetuity, including any street trees in the right of way.

25. Approval of the Design Review Permit shall not waive compliance with any sections of Title 19 of the Municipal Code, nor any other applicable laws and regulations in effect at the time of Building Permit issuance.
26. The Property Owner and Applicant shall and do agree to indemnify, protect, defend and hold harmless City, its City Council members, City Council members, officers, employees and representatives, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and attorney's fees (collectively, liabilities) incurred by the City arising, directly or indirectly, from (a) City's approval and issuance of this Design Review Permit, (b) City's approval or issuance of any other permit or action, whether discretionary or non-discretionary, in connection with the use contemplated on the Project Site and (c) any environmental determinations for the Project. The Property Owner and Applicant shall acknowledge their agreement to this provision by executing a copy of this Design Review Permit where indicated below. The Property Owner's and Applicant's compliance with this provision shall be binding on any and all of the Property Owner's and Applicant's successors and assigns.
27. This Design Review Permit shall become void and ineffective if not utilized within three years from the effective date thereof, in accordance with Section 19.14.600 of the Municipal Code.

III. GOVERNMENT CODE SECTION 66020(d)(1) NOTICE

Pursuant to Government Code Section 66020(d) (1), NOTICE IS HEREBY GIVEN that the 90-day period to protest the imposition of any impact fee, dedication, reservation, or other exaction described in this resolution begins on the effective date of this resolution and any such protest must be in a manner that complies with Government Code Section 66020(a) and failure to timely follow this procedure will bar any subsequent legal action to attack, review, set aside, void or annul imposition. The right to protest the fees, dedications, reservations, or other exactions does not apply to planning, zoning, grading, or other similar application processing fees or service fees in connection with this project; and it does not apply to any fees, dedication, reservations, or other exactions which have been given notice similar to this, nor does it revive challenges to any fees for which the statute of limitations has previously expired.

IV. EXECUTION OF RESOLUTION OF APPROVAL

The Property Owner and Applicant shall execute this document signing on the lines provided below, indicating that the Property Owner and Applicant have each read, understood and agreed to the conditions contained herein, and will implement same. Upon execution, this document shall be signed and returned to the City's Development Services Department.

Signature of Property Owner

Date

Printed Name of Property Owner

Date

Signature of Applicant

Date

Printed Name of Applicant

Date

V. CONSEQUENCE OF FAILURE OF CONDITIONS

If any of the foregoing conditions fail to occur, or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City shall have the right to consider in a noticed public hearing conducted under Section 19.14.270 of the Municipal Code whether to revoke or modify all approvals herein granted, deny, or further condition issuance of all future building permits, deny, revoke, or further condition all certificates of occupancy issued under the authority of approvals herein granted, institute and prosecute litigation to compel their compliance with said conditions or seek damages for their violation. Failure to satisfy the conditions of this permit may also result in the imposition of civil or criminal penalties.

VI. INVALIDITY; AUTOMATIC REVOCATION

It is the intention of the City Council that its adoption of this Resolution is dependent upon the enforceability of each and every term, provision and condition herein stated; and that in the event that any one or more terms, provisions or conditions are determined by a Court of competent jurisdiction to be invalid, illegal or unenforceable, this resolution and the permit shall be deemed to be automatically revoked and of no further force and effect. However, in such an event, the Property Owner/Applicant shall have the right, by paying applicable processing fees, to bring a request for a Conditional Use Permit without the “invalid” condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the “invalid” condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed Permit and the condition(s) contained therein.

Presented by:

Approved as to form by:

Kelly Broughton
Development Services Director

Glen R. Googins
City Attorney