

RESOLUTION NO. 2019-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING AN AMENDMENT TO THE OTAY RANCH FREEWAY COMMERCIAL SECTIONAL PLANNING AREA (SPA) PLAN, DESIGN PLAN, AND ASSOCIATED REGULATORY DOCUMENTS; AND APPROVING AN AMENDMENT TO THE OTAY RANCH FREEWAY COMMERCIAL NORTH MASTER PRECISE PLAN

I. RECITALS

A. Project Site

WHEREAS, the parcel, that is the subject matter of this resolution, is represented in Exhibit A, attached hereto and incorporated herein by this reference, and for the purpose of general description is located in the northern portion of Planning Area 12 of Otay Ranch; and

B. Project; Applications for Discretionary Approval

WHEREAS, on November 16, 2017, a duly verified application was filed with the City of Chula Vista Development Services Department by Baldwin & Sons (Applicant) requesting approval of amendments to the Otay Ranch Freeway Commercial Sectional Planning Area Plan, including Design Plan and associated regulatory documents, and amendments to the Otay Ranch Freeway Commercial North Master Precise Plan (MPA 17-0011) for the Freeway Commercial North portion of Otay Ranch Planning Area 12 (PA-12); and

C. Planning Commission Record on Application

WHEREAS, the Development Services Director set the time and place for a hearing on 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 within 500 feet of the exterior boundaries of the property, 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 Planning Commission and the hearing was thereafter closed; and

WHEREAS, the proceedings and all evidence introduced before the Planning Commission at the public hearing on the project, and the Minutes and Resolution resulting therefrom, are incorporated into the record of this proceeding; and

WHEREAS, the Planning Commission voted 6-1-0-0 recommending that the City Council approve the project; and

#### D. City Council Record on Application

WHEREAS, a hearing time and place was set by the City Clerk of the City of Chula Vista 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 property, at least ten (10) days prior to the hearing; and

WHEREAS, the City Council of the City of Chula Vista held a duly noticed public hearing to consider said project at the time and place as advertised in the Council Chambers, 276 Fourth Avenue, said hearing was thereafter closed.

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

#### II. CERTIFICATION OF COMPLIANCE WITH CEQA

That the Development Services Director reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA) and has determined that the project was covered in the previously adopted *Final Environmental Impact Report for the Otay Ranch Freeway Commercial Sectional Planning Area (SPA) Plan - Planning Area 12* (FEIR 02 -04) (SCH #1989010154), and has determined that only minor technical changes or additions to this document are necessary and that none of the conditions described in Section 15162 of the State CEQA Guidelines calling for the preparation of a subsequent document have occurred; therefore, the Development Services Director has caused the preparation of a Third Addendum to FEIR 02-04.

The City Council of the City of Chula Vista finds that, in the exercise of their independent review and judgment, as set forth in the record of its proceedings, the Third Addendum to FEIR-02-04 in the form presented, has been prepared in accordance with the requirements of the California Environmental Quality Act and the Environmental Review Procedures of the City of Chula Vista and has considered the Addendum to FEIR-02-04.

#### III. SPA FINDINGS/APPROVAL

A. THE SECTIONAL PLANNING AREA (SPA) PLAN, AS AMENDED, IS IN CONFORMITY WITH THE OTAY RANCH GENERAL DEVELOPMENT PLAN, AS AMENDED, AND THE CHULA VISTA GENERAL PLAN, AS AMENDED, AND ITS SEVERAL ELEMENTS.

The proposed SPA Plan amendment implements the GP and GDP. The GP land use designation is Retail Commercial and Mixed Use Residential. The proposed project is consistent with these land use designations. It contains all the requisite land uses comprising Retail Commercial and Mixed Use Residential: commercial hotels, mixed-use development, multi-family residential housing, a public park and open space.

The current Otay Ranch GDP designation is Freeway Commercial and Mixed Use. The proposed project is consistent with these land use designations.

**B. THE SPA PLAN, AS AMENDED, WILL PROMOTE THE ORDERLY SEQUENTIALIZED DEVELOPMENT OF THE INVOLVED SECTIONAL PLANNING AREAS.**

The subdivision design consists of three (3) multi-family residential lots, three (3) mixed-use commercial – multi-family residential lots, two (2) hotel lots, two (2) open space lots, one (1) public park, one (1) private street, and one (1) remainder parcel. The condominium subdivision is planned to allow a maximum of 900 residential units.

The Freeway Commercial SPA Public Facilities Financing Plan (PFFP) permits non-sequential phasing by mandating specific facilities requirements for each phase to ensure that the new Freeway Commercial SPA development in FC-2 is adequately served and City threshold standards are met. Anticipated Freeway Commercial North phasing is as follows. Hotel 1 is constructed and has been operating since April, 2017. Residential West is under construction. Pursuant to the executed Otay Ranch Freeway Commercial SPA Development Agreement recorded on June 17, 2015, and the amendment thereto, construction of Hotel 2 will commence prior to issuance of the 651st residential building permit for the Project. Construction of the commercial component of the mixed use development will commence prior to or concurrently with obtaining building permits and commencing construction of the residential development located east of Town Center Drive. The Developer shall commence construction of the public park prior to the issuance of the 530th residential building permit and substantially complete the park within 15 months of start of construction.

The proposed project furthers the policy objective for “Urban Villages” to have “higher densities and mixed uses in the village cores,” “in transit focus areas” and to “provide a wide range of residential housing opportunities” which promotes a blend of for-sale and for-rent housing products and a range of densities integrated and compatible with other land uses in the area. The proposed project will support Smart Growth Principles, as it provides compact development oriented to pedestrians, bicyclists and transit, with shopping and recreational uses conveniently and centrally located and will minimize segregated and auto-dependent urban sprawl development patterns.

**C. THE OTAY RANCH FREEWAY COMMERCIAL SPA PLAN, AS AMENDED, WILL NOT ADVERSELY AFFECT ADJACENT LAND USES, RESIDENTIAL ENJOYMENT, CIRCULATION OR ENVIRONMENTAL QUALITY.**

The proposed modifications to land use and development standard provisions within the project site have been fully analyzed and will not adversely affect the circulation system and overall land uses as previously envisioned in the Otay Ranch GDP and Otay Ranch Freeway Commercial SPA Plan. The existing infrastructure (sewer, water, public services and facilities) has been determined to be adequate to serve the proposed project, as described in the Supplemental PFFP. Additionally, a Water Quality Technical Report, Traffic Impact Study, Noise Impact Report, Air Quality and Global Climate Change Evaluation, Sewer Service Technical Report and Water Service Technical Report have been prepared, reviewed and approved by City staff. A Third Addendum to FEIR 02-02 has been prepared to analyze the Project’s impacts. No additional environmental impacts were identified in the Third Addendum to FEIR 02-02.

#### IV. MASTER PRECISE PLAN AMENDMENT FINDINGS

- i. THAT SUCH PLAN WILL NOT UNDER THE CIRCUMSTANCES OF THE PARTICULAR CASE BE DETRIMENTAL TO THE HEALTH SAFETY OR GENERAL WELFARE OF PERSONS RESIDING OR WORKING IN THE VICINITY OR INJURIOUS TO PROPERTY OR IMPROVEMENTS IN THE VICINITY

The City Council finds that the proposed precise plan and development standards contained in attached Exhibit C on file at the office of the City Clerk will not have a negative impact on the surrounding neighborhood because the proposed standards are consistent with the Otay Ranch GDP and Freeway Commercial SPA Plan. It allows the Applicant to design a project that is compatible with the type and intensity of existing development in the area. The proposed project amendment allows a more intensive use of the previously approved walkable, mixed-use development for Otay Ranch Freeway Commercial North. It fully maximizes the land use potential of FC-2 within walking range of the Otay Ranch Bus Rapid Transit (BRT) stop, ensures transit-supportive densities near the BRT line, and provides a more diverse mix of housing types.

- ii. THAT SUCH PLAN SATISFIES THE PRINCIPLE FOR THE APPLICATION OF THE P MODIFYING DISTRICT AS SET FORTH IN CVMC 19.56.041:

The City Council finds that application of the P modifying district is appropriate because the underlying zoning is Planned Community District. This Master Precise Plan is required by the Freeway Commercial SPA Plan (PC District Regulations), and provides the entitlement bridge linking the approved policies and land use designations of the Freeway Commercial SPA/Design Plan with subsequent project-level approvals within the project area. It serves as a framework document by which future “Individual Precise Plans” will be evaluated for compliance with the approved Master Precise Plan concepts that encompass streetscape and landscape design, signs, and architectural and lighting guidelines.

- iii. THAT ANY EXCEPTIONS GRANTED WHICH DEVIATE FROM THE UNDERLYING ZONING REQUIREMENTS SHALL BE WARRANTED ONLY WHEN NECESSARY TO MEET THE PURPOSE AND APPLICATION OF THE P PRECISE PLAN MODIFYING DISTRICT:

As the underlying zoning is Planned Community District, the Precise Plan as amended will provide higher development standards that will make the project more compatible with adjacent commercial uses.

- iv. THAT APPROVAL OF THIS PLAN WILL CONFORM TO THE GENERAL PLAN AND THE ADOPTED POLICIES OF THE CITY. (ORD. 3153 § 2 (EXH. A), 2010; ORD. 1632 § 2, 1975):

The project has been designed and evaluated in accordance with the goals and objectives of the General Plan. The Precise Plan as described above will allow the project to be consistent with the goals and objectives of the General Plan and the Chula Vista Municipal Code.

#### V. APPROVAL OF SPA AND MASTER PRECISE PLAN AMENDMENT,

Unless otherwise specified, the Conditions of Approval and Code requirements set forth below shall be completed prior to the issuance of Building Permits as determined by the Development Services Director and the City Engineer, or designees, unless otherwise specified.

1. Prior to approval of any land development permits, the Applicant shall demonstrate that the applicable Air Quality Improvement Plan (AQIP) project design features and measures outlined in the Air Quality Improvement Plan pertaining to the design, construction and operational phases of the project have been incorporated in the project design.
2. Prior to issuance of building permits or approval of landscape construction plans, the Applicant shall implement the applicable mandatory water quality conservation measures of the Water Conservation Plan of the SPA Plan.
3. All of the terms, covenants and conditions contained herein shall be binding upon and inure to the benefit of the heirs, successors, assigns and representatives of the Applicant as to any or all of the property.
4. If any of the terms, covenants or conditions contained herein shall 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 revoke or modify all approvals herein granted including issuance of Building Permits, deny, or further condition the subsequent approvals that are derived from the approvals herein granted, institute and prosecute litigation to compel their compliance with said conditions and/or seek damages for their violation.
5. The Property Owner and Applicant shall and do agree to indemnify, protect, defend and hold harmless City, its City Council members, Planning Commission 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 City's actions on (a) the Third Addendum to FEIR-02-04, (b) the Mitigation Monitoring and Reporting Program for the project, (c) the Otay Ranch Freeway Commercial SPA Plan (MPA17-0011), (d) any and all entitlements issued by the City in connection with the project, and/or (e) 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. The Property Owner and Applicant shall acknowledge their agreement to this provision by executing a copy of this Resolution 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.

6. The Applicant shall comply with all Conditions of Approval, guidelines, policies, and any other applicable requirements of the following plans and programs, as amended from time to time: The City of Chula Vista Municipal Code; the Chula Vista Subdivision Manual; City of Chula Vista Multiple Species Conservation Program (MSCP) Subarea Plan; City of Chula Vista Design and Construction Standards; the Development Storm Water Manual for Development and Redevelopment Projects; the City of Chula Vista Grading Ordinance, CVMC 15.04; the State of California Subdivision Map Act; the City of Chula Vista General Plan; the City's Growth Management Ordinance; Chula Vista Design Manual; Chula Vista Landscape Manual; Chula Vista Landscape Water Conservation Ordinance; Chula Vista Fire Facility Master Plan, and Fire Department Policies and Procedures; Otay Ranch General Development Plan, Otay Ranch Resource Management Plan (RMP) Phase 1 and Phase 2, including the Preserve Conveyance Schedule; City of Chula Vista Adopted Parks and Recreation Master Plan, Otay Ranch Wide Affordable Housing Plan; Otay Ranch Overall Design Plan; Otay Ranch Freeway Commercial Sectional Planning Area (SPA, PCM-17-0011) Plan and supporting appendices, including: Public Facilities Finance Plan (PFFP) and Supplemental PFFP, Affordable Housing Plan, Air Quality Improvement Plan (AQIP), Non-Renewable Energy Conservation Plan, and Water Conservation Plan (WCP), as amended from time to time; and Tentative Subdivision Map (PCS-19-0001) for Otay Ranch Planning Area 12 Freeway Commercial North. The Project shall comply with all applicable mitigation measures specified in the Third Addendum to EIR Mitigation Monitoring and Reporting Program, as they relate to the Freeway Commercial Sectional Planning Area Plan and Tentative Map Environmental Impact Report to the satisfaction of the Development Services Director.
7. The Applicant shall satisfy the requirements of the Parkland Dedication Ordinance (PDO) pursuant to Chula Vista Municipal Code Chapter 17.10. The Ordinance establishes a requirement that the project provide (3) acres of local parks and related improvements per 1,000 residents. Local parks are comprised of community parks and neighborhood parks. The Applicant shall satisfy all of its park obligations in accordance with the First Amendment to Development Agreement for the project, or as amended from time to time.
8. Phasing approved with the SPA Plan may be amended subject to approval by the Director of Development Services and the City Engineer.
9. Prior to the issuance of the 530<sup>th</sup> residential Building Permit, the Applicant shall complete the Rezone of a 7.5 acre site in Village 7 for Community Purpose Facility (CPF), which includes the required 3.24 acres for Freeway Commercial North, to the satisfaction of the Development Services Director.
10. The Applicant may, at the discretion of the Development Services Director, enter into supplemental agreement(s) with the City, prior to approval of each Final Map for any phase or unit, whereby:

a. The City withholds Building Permits for any units within the project site in order to have the project comply with the Growth Management Program; or, if any one of the following occur:

i. Regional development threshold limits set by a Chula Vista transportation-phasing plan, as amended from time to time, have been reached.

ii. Traffic volumes, level of service, public utilities and/or services either exceed the adopted City threshold standards or fail to comply with the then effective Growth Management Ordinance and Growth Management Program and any amendments thereto.

iii. The Project's required public facilities, as identified in the PFFP, or as amended or otherwise conditioned, have not been completed or constructed in accordance with the project entitlements including the Development Agreement to the satisfaction of the Development Services Director and the City Engineer. The Applicant may propose changes in the timing and sequencing of development and the construction of improvements affected. In such case, the PFFP may be amended after review and approval by the City's Director of Development Services and the City Engineer. The Developer agree(s) that the City may withhold Building Permits for any of the phases of development identified in the PFFP for the project if the project's required public facilities, as identified in the PFFP or in accordance with the Development Agreement are not meeting the City's standard operating thresholds. Public facilities shall include, but not be limited to, air quality, drainage, sewer and water.

11. After final SPA approval, the Applicant shall submit electronic versions of all SPA documents, including text and graphics, to the Development Services Department in a format specified and acceptable to the Development Services Director.

12. The Applicant shall comply with the Fire Department's codes and policies for Fire Prevention. As part of any submittal for design review, a fire access and water supply plan prepared by a licensed engineering firm, which has been determined to be qualified in the sole discretion of the Fire Marshall, shall be submitted for approval by the City of Chula Vista Fire Marshall. The plan shall detail how and when the Applicant shall provide the following items either prior to the issuance of Building Permit(s) for the project, or prior to delivery of combustible materials on any construction site on the project, whichever occurs earlier:

a. Water supply consisting of fire hydrants as approved and indicated by the Fire Department during plan check to the satisfaction of the Fire Marshall. Any temporary water supply source is subject to prior approval by the Fire Marshal.

b. Emergency vehicle access consisting of a minimum first layer of hard asphalt surface or concrete surface, with a minimum standard width of 15 feet.

c. Street signs installed to the satisfaction of the City Engineer. Locations and identification of temporary street signs shall be subject to review and approval by the City Engineer and Fire Marshall.

VI. GOVERNMENT CODE SECTION 66020 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 follow timely this procedure will bar any subsequent legal action to attack, set aside, void or annual 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 the 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.

VII. EXECUTION AND RECORDATION 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 recorded with the County Recorder of the County of San Diego, at the sole expense of the Property Owner and/or Applicant, and a signed, stamped copy returned to the City's Development Services Department. Failure to return the signed and stamped copy of this recorded document within 10 days of recordation shall indicate the Property Owner/Applicant's desire that the project, and the corresponding application for building permits and/or a business license, be held in abeyance without approval.

\_\_\_\_\_  
Signature of Property Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

VIII. CONSEQUENCE OF FAILURE OF CONDITIONS

If any of the forgoing conditions fail to occur, or if they are, by their terms, to be implemented and maintained over time, and any of such conditions fail to be so implemented and maintained according to their terms, the City shall have the right to revoke or modify all approvals herein granted, deny or further condition issuance of future building permits, deny, revoke or further condition all certificates of occupancy issued under the authority of approvals herein granted, instituted and prosecute litigate or compel their compliance or seek damages for their violations. No vested rights are gained by Applicant or successor in interest by the City approval of this Resolution.



IX. INVALIDITY; AUTOMATIC REVOCATION

It is the intention of the City Council that its adoption of this Resolution is dependent upon 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 the Court of competent jurisdiction to be invalid, illegal or unenforceable, if the city so determines in its sole discretion, the resolution shall be deemed to be revoked and no further in force or in effect ab initio.

BE IT FURTHER RESOLVED, that based on the above-referenced Findings and Conditions of Approval, the City Council does hereby approve the Otay Ranch Freeway Commercial SPA Plan and Master Precise Plan Amendment as shown in Exhibits B and C and Attachment 7 on file in the office of the City Clerk.

Presented by:

Approved as to form by:

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Kelly Broughton, FSALA  
Development Services Director

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Glen R. Googins  
City Attorney

EXHIBIT "A"  
LOCATION MAP