

SECOND READING AND ADOPTION
With technical corrections by City Attorney

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF CHULA VISTA APPROVING A
DEVELOPMENT AGREEMENT BETWEEN THE CITY OF
CHULA VISTA, VILLAGE II TOWN CENTER, LLC AND
SUNRANCH CAPITAL PARTNERS, LLC FOR THE FREEWAY
COMMERCIAL NORTH PORTION OF OTAY RANCH
PLANNING AREA 12

WHEREAS, the property (“Property”) which is the subject matter of this Ordinance is commonly known as the Freeway Commercial North (or FC-2) portion of Otay Ranch Planning Area 12; and

WHEREAS, the developer of the Property, Baldwin & Sons, LLC, and its affiliates Village II Town Center, LLC & SunRanch Capital Partners, LLC (collectively, “Developer”) is proposing amendment to the City’s General Plan and the Otay Ranch General Development Plan relating to the Property to reflect land use and policy changes (“Project”);

WHEREAS, the Development Services Director has reviewed the Project (including the Development Agreement defined below) for compliance with the California Environmental Quality Act (CEQA) and has determined that the impacts for the Project were 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). The Development Services Director 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 Service Director has prepared an addendum to FEIR 02-04; and

WHEREAS, the FC-2 Developer desires to defer payment of Public Facility Development Impact Fees and Transportation Development Impact Fees required by Chula Vista Municipal Code Chapter’s 3.50 and 3.54, respectively, for the proposed hotel portions of the Project with some related accommodations; and

WHEREAS, City is willing to agree to Developer’s requests in consideration for Developer’s commitment to develop the hotels and other public benefits set forth in the terms of that certain Development Agreement between the City and Developer attached hereto (“Development Agreement”); and

WHEREAS, the Planning Commission set the time and place for a hearing on said Project and Development Agreement 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 ten days prior to the hearing; and

WHEREAS, the hearing was held at the time and place as advertised, namely 6:00 p.m. April

22, 2015, in the Council Chambers, 276 Fourth Avenue, and the Planning Commission voted 0-4-2-1 recommending that City Council deny the Project, including the Development Agreement; and

WHEREAS, on May 12, 2015, a duly noticed public hearing was scheduled before the City Council of the City of Chula Vista to consider adopting the Project and an ordinance approving the Development Agreement; and

WHEREAS, on May 12, 2015, the public hearing on the Project and the Development Agreement was opened, testimony taken, and the hearing was continued until the meeting of May 26, 2015; and

WHEREAS, on May 26, 2015, the Project and the Development Agreement was again considered, including additional public testimony and a proposed modification by the Developer to the Development Agreement, which the City Council found acceptable, subject to modifications proposed by City staff and accepted by the Developer; and

WHEREAS, City staff has reviewed the Development Agreement and determined it to be consistent with the Otay Ranch General Development Plan and the City's General Plan, both as amended.

NOW, THEREFORE, THE CITY COUNCIL of the City of Chula Vista does hereby order and ordain as follows:

I. PLANNING COMMISSION RECORD

The proceedings and all evidence introduced before the Planning Commission at their public hearing held on April 22, 2015 and the minutes and resolutions resulting therefrom, are hereby incorporated into the record of this proceeding. These documents, along with any documents submitted to the decision makers, shall comprise the entire record of the proceedings for any California Environmental Quality Act (CEQA) claims.

II. COMPLIANCE WITH CEQA

The City Council hereby finds, based upon their independent review and judgement, that the adoption of the ordinance approving the Development Agreement for the project, as described and analyzed in the Final EIR 02-04, would have no new effects that were not examined in said Final EIR (CEQA Guideline 15168 (c)(2)).

III. CONSISTENCY WITH GENERAL PLAN AND OTAY RANCH GENERAL DEVELOPMENT PLAN

The City Council finds that the proposed Development Agreement is consistent with the City's General Plan and Otay Ranch General Development Plan, both as amended. The Development Agreement implements the General Plan and the Otay Ranch General Development Plan by providing a comprehensive program to implement the future Sectional Planning Area (SPA) Plan amendment and Tentative Map. The plans provide design

incorporating a mixture of land uses connected by a walkable system of public streets and pedestrian paths, neighborhood parks and plazas, retail opportunities, and commercial activities designed to promote a safe pedestrian environment. The Freeway Commercial North plan, including the number of residential units, number of hotel rooms, park acreage, and commercial mixed use area, is consistent with the General Plan and the Otay Ranch General Development Plan, as amended.

IV. DEFERRAL OF DEVELOPMENT IMPACT FEES

The Development Agreement provides for a limited and conditional delay in the payment of the Public Facility Development Impact Fee (Chula Vista Municipal Code, Chapter 3.50) and Transportation Development Impact Fee (Chula Vista Municipal Code, Chapter 3.54) applicable to the hotel portion of the project. The City Council finds that this limited and conditional deferral is in the public's interest and consistent with public health, safety and welfare because: (1) the project provides a significant public benefit, including, but not limited to, a public park with enhanced amenities, significant tax revenue and desirable commercial and residential development; (2) the deferral is needed to make the project financially feasible; and (3) the amount deferred will be adequately secured by agreement with the applicant. To the extent that such a deferral is not already authority by Chula Vista Municipal Code Chapters 3.50 and 3.54, this ordinance expressly authorizes this deferral for this project.

V. ACTION

The City Council hereby finds the Development Agreement consistent with the California Government Code, adopted City policies, the General Plan, and the Otay Ranch General Development Plan, and hereby adopts this Ordinance approving the Development Agreement between the City of Chula Vista, Village II Town Center, LLC and SunRanch Capital Partners, LLC for the Freeway Commercial North portion of Otay Ranch Planning Area 12 in the form presented on May 12, 2015, with modifications approved by the City Council on May 26, 2015 that have been incorporated into the final agreement presented to the City Council on June 16, 2015 (a copy of which shall be kept on file with the City Clerk).

VI. SEVERABILITY

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

VII. CONSTRUCTION

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

VIII. EFFECTIVE DATE

This Ordinance shall take effect and be in full force on the thirtieth day from and after its adoption.

IX. PUBLICATION

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by

Approved as to form by

Gary Halbert, AICP, PE
City Manager

Glen R. Googins
City Attorney