

RESOLUTION \_\_\_\_\_

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING A DESIGN REVIEW PERMIT DR17-0037 TO CONSTRUCT A MIXED-USE PROJECT CONSISTING OF A 578-UNIT APARTMENT COMPLEX, 15,000 SQUARE FEET OF RETAIL USE, TWO INTEGRATED PARKING STRUCTURES ON TWO LOTS CONSISTING OF 10.4 ACRES LOCATED IN THE OTAY RANCH FREEWAY COMMERCIAL NORTH, NEIGHBORHOOD PA-12

I. RECITALS

WHEREAS, on November 6, 2017, a duly verified application for a Design Review Permit was filed with the City of Chula Vista Development Services Department by Baldwin & Sons, LLC (Applicant); and

WHEREAS, the application requests approval of a Design Review Permit to allow construction of a mixed-use project consisting of 578 residential apartments, 15,000 square feet of retail uses, two integrated parking structures on two lots consisting of 10.4 acres (Project); and

WHEREAS, the Design Review application implements the Freeway Commercial North SPA Plan Design Guidelines and Master Precise Plan; and

WHEREAS, staff recommends that, based upon the findings made, the City Council approve the Design Review application DR17-0037; and

WHEREAS, The Director of Development Services has reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA) and has determined that the Project was adequately covered in 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 caused the preparation of a Third Addendum to FEIR 02-04; and

WHEREAS, the City Clerk set the time and place for the hearing on the Design Review request and notices of said hearing, together with its purposes given by its publication in a newspaper of general circulation in the City, and its mailings to property owners 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 notified public hearing on the Design Review was heard before the City Council in the City Council Chambers in City Hall, 276 Fourth Avenue.

## II. DESIGN REVIEW FINDINGS/APPROVAL

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chula Vista that it hereby makes the following findings:

- 1. That the proposed project is consistent with the development regulations of the Freeway Commercial North Sectional Planning Area (SPA) Plan and Planned Community (PC) District Regulations.**

Neighborhood R/MU is designated Residential Multi-Family/Mixed-Use (R/MU) in the PC District regulations of the Freeway Commercial North SPA Plan. The proposed multi-family and retail mixed-use is permitted and meets all of the development regulations as stipulated in the Otay Ranch Freeway Commercial North PC District Regulations as conditioned.

The allowable density on the site is a total of 608 units. The Applicant is proposing to build a total of 578 units in two separate buildings. Each building includes interior parking in addition to guest parking. The project requires 444 parking spaces, and provides 497 spaces within building A; and 572 required with 597 provided in building B. The maximum allowable building height is 85 feet and the project proposes 58-feet for the majority with 84 feet at the highest point for the project features (i.e. towers). The lot area, floor area ratio, and setback requirements are subject to Design Review (DR).

The site was intended for a mixed-use within a larger commercial serving a regional market as well as providing residential homes in close proximity. The commercial retail use, as proposed, will serve a local market demand, in addition to the demand of visitors to the Chula Vista area.

- 2. That the proposed project is consistent with the design and development standards of the Freeway Commercial North SPA Design Plan and Master Precise Plan.**

The Project is in compliance with the Multi-Family/Mixed Use Freeway Commercial North SPA Design Plan, and is consistent with the SPA density requirements. Enhanced architectural details are proposed along the street elevations and the layout of the site. Outdoor recreational areas for the residents and a plaza area are provided in front of the retail shops which provides for a pedestrian oriented design in accordance with the Otay Ranch Freeway Commercial North SPA Plan. A total of 1,016 parking spaces are required. The project proposes 1,065 spaces. The total building height is five stories, 58-feet. The lot coverage and setback requirement are subject to Design Review (DR).

### III. CONDITIONS OF APPROVAL

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

#### **Development Planning Division**

1. The site shall be developed and maintained in accordance with the approved plans, which include site plans, floor plan, and elevation plan on file in the Planning Division, the conditions contained herein, and 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 DDA-0092.
3. The colors and materials specified on the building plans must be consistent with the colors and materials shown on the site plan and materials board 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 and shall be reviewed and approved prior to the issuance of Building Permits. Additionally, the Project shall conform to Section 9.20.055 of the Chula Vista Municipal Code (CVMC) 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 provide a bus stop along Olympic Parkway in accordance with the Metropolitan Transit System requirement.

#### **Land Development Division/Landscape Architecture Division**

The following shall be accomplished to the satisfaction of the City Engineer or designee,

prior to issuance of Grading or Building Permits, unless otherwise specified:

9. The Applicant shall be required to pay Engineering Fees based on the final approved building plans for the project.
  - Sewer Connection and Capacity Fee
  - Traffic Signal Fee
  - Public Facilities Development Impact Fees(PFDIF)
10. 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.
11. All driveways shall conform to the City of Chula Vista's sight distance requirements in accordance with Section 12.12.130 of the CVMC. Also, landscaping, street furniture, or signs shall not obstruct the visibility of a driver at the street intersections or driveways.
12. The Applicant shall provide a circulation analysis demonstrating:
  - a. Solid Waste Truck Movements.
  - b. How cars can turn around when pulling out from the garage.
  - c. Location of visitor parking.
13. The driveway within the complex shall be designated as private.
14. On May 2013, the California Regional Water Quality Control Board for the San Diego Region reissued (SDRWQCB) a municipal storm water, National Pollutant Discharge Elimination System (NPDES) permit (Municipal Separate Storm Sewer Systems Order No. R9-2013-0001 and as amended by Order Nos R9-2015-0001 & R9-2015-0100 [MS4 Permit]) that covered its region.
15. The Project shall comply with all requirements of the MS4 Permit and City of Chula Vista Best Management Practices (BMP) Design Manual, April 2019 and as amended (BMP Design Manual) for both construction and post-construction phases of the Project. Prior to Planning approval, documentation shall be provided, to the satisfaction of the City Engineer, to demonstrate such compliance. The BMP Design Manual is available on the City of Chula Vista website at: <http://www.chulavistaca.gov/departments/public-works/services/storm-water-pollution-prevention/documents-and-reports>.
16. The Applicant is required to complete and submit the Storm Water Requirements Applicability Checklist for All Permit Applications with any Planning Application request.
17. The following referenced forms shall be completed, signed by the owner, submitted to and approved by Land Development Division. A Form can be found at the following link: <http://www.chulavistaca.gov/home/showdocument?id=12085>

- “Storm Water Quality Management Plan, SWQMP for Standard Projects”
- “Construction Storm Water Pollution Control Plan CSWPCP, for standard Project”

18. Prior to the approval of the grading plans, the Applicant shall execute a Storm Water Facilities Maintenance Agreement with Grant of Access and Covenants with the City for the proposed BMPs for the site.
19. Prior to obtaining any Building Permit for the Project, or approval of the Final Map (whichever occurs first), if the Project’s total on-site improvements exceed Engineering Threshold of (currently: \$57,653.00), per CVMC, Section 12.24.020, then the Applicant shall be required to obtain a Construction Permit from the Land Development Section of the Department of Development Services. (The On-Site Improvements Trigger for Installation of Public Improvements is adjusted on an annual basis on July 1 based on the Engineer Construction Cost Index, See Attachment). A Construction Permit is required to perform the following work in the City’s right-of-way, which may include, but is not limited to: (For Commercial, Industrial and Multifamily Residential, the following applies: 1. Limits the cost of reconstructing existing street improvements to meet current standards to 25% of the building permit valuation. 2. Requires Americans with Disabilities Act (ADA) pedestrian improvements in the right of way, if any are lacking or substandard. The required ADA improvements would be limited to 20% of the building permit valuation.)
  - a. Installation of a driveway(s) meeting design standards as shown in Chula Vista standard detail CVCS-1B. Dedication of R/W as needed in order for driveway to comply with American Disability Act (ADA) requirements.
  - b. Utilities Trenching and Restoration shall be installed in accordance with CVCS-3 & 4
20. Separate permits for other public utilities (gas, electric, water, cable, telephone) shall be required, as necessary.
21. The construction and completion of all improvements and release requirements shall be secured in accordance with Section 18.16.180 of the Municipal Code.
22. The Applicant shall clearly show the existing and proposed sanitary sewer lines and how the site will connect to the City’s public sewage system. No sewer lines will be allowed to be located under existing or proposed buildings. The Applicant shall indicate whether sewer lines are private or public.
23. Sewer lateral and storm drain connections to existing public utilities - The Public Works Operations Section will need to inspect any existing sewer laterals and connections that are to be used by the new development. Laterals and connections may need replacement as a result of this inspection.
24. The onsite sewer and storm drain system shall be private. All sewer laterals and storm drains shall be privately maintained from each building unit to the City-maintained public facilities.

25. All proposed sidewalks, walkways, pedestrian ramps, and disabled parking shall be designed to meet the City of Chula Vista Design Standards, American Disability Act (ADA) Standards, and Title 24 standards, as applicable.
26. Any private facilities (if applicable) within Public right-of-way or City easement will require an Encroachment Permit prior to improvement plan or Building Permit approval.
27. All utilities serving the subject property and existing utilities located within or adjacent to the subject property shall be under grounded in accordance with the applicable Chula Vista Municipal Code Section. Further, all new utilities serving the subject property shall be under grounded prior to the issuance of Building Permits.
28. The Applicant shall submit full landscape and irrigation plans for review and approval by the City's Landscape Architect.

The following shall be accomplished to the satisfaction of the City Fire Marshall or designee, prior to issuance of Grading or Building Permits, unless otherwise specified:

### **Fire Department**

29. The Applicant shall apply for required Building Permits. Permits shall comply with applicable codes and requirements, including but not limited to: the current California edition of Building Code (CBC), Fire Code (CFC), Mechanical Code, and Residential Code as adopted and amended by the State of California and the City of Chula Vista.
30. For 313,019 square feet of Type VA/IA construction, this project will require a fire flow of 5,880 gallons per minute for a 4-hour duration at 20 p.s.i.
31. Based upon the required fire flow for Type VA/IA construction type, a minimum of 8 fire hydrants are required to serve this Project.
32. 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.
33. Fire Hydrants shall be located and spaced in accordance with California Fire Code, Appendix C.
34. 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.

35. Water supply data is required to accompany an underground submittal. An official water flow letter can be obtained from the respective water authority. The water flow requirements shall be based upon the currently adopted California Fire Code. The date of the water flow test shall be no older than six months from the time of the plan submittal.
  36. Buildings shall be provided with Knox appliances. Provide in accordance with Multi-tenant standard detail (one required at each business suite).
    - Provide a Knox Vault at the main entrance to the building
    - Provide a Knox Box at the Fire control Room
  37. The building(s) shall be addressed in accordance with the following criteria:
    - 0 – 50ft from the building to the face of the curb = 6-inches in height with a 1-inch stroke
    - 51 – 150ft from the building to the face of the curb = 10-inches in height with a 1 ½ -inch stroke
    - 151ft from the building to the face of the curb = 16-inches in height with a 2-inch stroke
  38. This Project is to be protected throughout by an approved automatic fire sprinkler system.
  39. This Project is to be protected throughout by an approved fire alarm system
- IV. The following on-going conditions shall apply to the project site as long as it relies on this approval:
1. Approval of this request shall not waive compliance with any sections of the CVMC, and any other applicable City Ordinances in effect at the time of building permit issuance.
  2. 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 (a) City's actions on any environmental document concerning this Project, (b) approval of this Design Review and (c) 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.

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. The Applicant shall comply with all requirements and guidelines of the City of Chula Vista General Plan; the City's Growth Management Ordinance; Chula Vista Landscape Manual; Chula Vista Landscape Water Conservation Ordinance; Chula Vista Design Plan and the Non-Renewable Energy Conservation Plan as amended from time to time, unless specifically modified by the appropriate department head, with the approval of the City Manager. These plans may be subject to minor modifications by the appropriate department head, with the approval of the City Manager, however, any material modifications shall be subject to approval by the Planning Commission.
5. 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. The applicant shall be notified 10 days in advance prior to any of the above actions being taken by the City and shall be given the opportunity to remedy any deficiencies identified by the City.

V. 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 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 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.

VI. 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  
Freeway Commercial North, MUR

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Property Owner

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Applicant

#### VII. 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 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.

#### VIII. 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.

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BE IT FURTHER RESOLVED that the City Council, based on the above findings and the evidence presented, hereby approves the subject Design Review Permit, DR17-0037.

Presented by:

Approved as to form by:

\_\_\_\_\_  
Kelly Broughton, FSALA  
Development Services Director

\_\_\_\_\_  
Glen R. Googins  
City Attorney