

**RESOLUTION NO. 2016-**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA DENYING THE APPEAL BY THE CORRIDOR COALITION AND REAFFIRMING THE PLANNING COMMISSION'S ADOPTION OF THE ADDENDUM TO URBAN CORE SPECIFIC PLAN FINAL ENVIRONMENTAL IMPACT REPORT AND MITIGATION MONITORING AND REPORTING PROGRAM FEIR 06-01 AND APPROVAL OF DESIGN REVIEW (URBAN CORE DEVELOPMENT) PERMIT DR15-0015 TO REDEVELOP THE SITE AT 795 THIRD AVENUE WITH 71 RESIDENTIAL CONDOMINIUM UNITS AND ASSOCIATED SITE IMPROVEMENTS AND APPROVAL OF TENTATIVE MAP PCS15-006 TO CONSOLIDATE TWO PARCELS INTO ONE CONDOMINIUM LOT FOR 71 RESIDENTIAL UNITS AND ONE COMMERCIAL UNIT FOR INDIVIDUAL OWNERSHIP ON 795 THIRD AVENUE, SUBJECT TO THE CONDITIONS CONTAINED THEREIN**

WHEREAS, the parcel of land which is the subject matter of this Resolution is depicted in Exhibit "A," attached hereto and incorporated herein by this reference, and for the purpose of general description consists of 1.05 acres located at 795 Third Avenue and 285 K Street, as identified in County Assessor Records as Assessor's Parcel Numbers 573-371-23 and 573-371-12 (Project Site); and

WHEREAS, on June 18, 2015 duly verified applications requesting approval of Design Review Application DR15-0015, Tentative Subdivision Map Application PCS15-0006 (Chula Vista Tract No. 15-06) and Preliminary Environmental Review PER-12-003, were filed with the City of Chula Vista Development Services Department by Niki Properties, LLC ("Applicant" and "Owner"); and

WHEREAS, said Applicant requests approval of Design Review (Urban Core Development) Permit DR15-0015 to redevelop the Project Site with a mixed use, multi-family residential-commercial project known as Vista del Mar, which includes 71 residential units, 616 square-feet of commercial space, 142-parking space garage, active and passive open spaces, and the associated access and circulation elements (the "Project") and approval of a Tentative Map to subdivide 1.05 acres into a one-lot Condominium Subdivision for individual ownership; 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 subject property, 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 June 22, 2016 in the Council Chambers, 276

Fourth Avenue, at 6:00 p.m. to hear public testimony and staffs' presentation; and

WHEREAS, the Planning Commission on said date reviewed, considered and adopted the Addendum to Urban Core Specific Plan Final Environmental Impact Report and Mitigation Monitoring and Reporting Program FEIR 06-01 and approved Design Review (Urban Core Development) Permit DR15-0015 and Tentative Map PCS15-0006; and

WHEREAS, on July 6, 2016 the Corridor Coalition, Glenda de Vaney, Martha Coulson, and Earl Jentz filed an appeal of the Planning Commission's Decision to adopt the Addendum and approve Design Review (Urban Core Development) Permit DR15-0010 and Tentative Map PCS15-0006; 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 Chula Vista City Council held a duly noticed public hearing to consider said appeal at the time and place as advertised, namely August 16, 2016 at 5:00 p.m. in the Council Chambers, 276 Fourth Avenue.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Chula Vista does hereby find and determine that under the provisions of Chula Vista Municipal Code (CVMC) Section 19.14.588.B, the appeal that is the subject of this Resolution is hereby denied and the decision of the Planning Commission to adopt the Addendum and approve the Project is hereby affirmed 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 Preliminary Environmental Review of the Project conducted by the Director of Development Services for compliance with the California Environmental Quality Act (CEQA), and has determined that the Project was covered by the Urban Core Specific Plan ("UCSP" or "Specific Plan") Final Environmental Impact Report and Mitigation Monitoring and Reporting Program FEIR-06-01, adopted by the Chula Vista City Council in May 2007. The Development Services Director has determined that only minor technical changes or additions to FEIR-06-01 are necessary and that none of the conditions described in Section 15162 of the State CEQA Guidelines calling for the preparation of subsequent documents have occurred; therefore, the Development Services Director has prepared an Addendum to UCSP FEIR-06-01.

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 the Addendum to UCSP FEIR-06-01 and Mitigation Monitoring and Reporting Program, 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 Addendum to UCSP FEIR-06-01.

## II. CONFORMANCE WITH CITY'S URBAN CORE SPECIFIC PLAN

That the City of Council of the City of Chula Vista, in the exercise of its independent judgment, as set forth in the record of its proceedings does hereby find that the Design Review (Urban Core Development) Permit DR15-0015 for the Project is in conformance with the City of Chula Vista General Plan and Urban Core Specific Plan as follows.

The proposed Project is consistent with the vision, objectives and policies of the General Plan and the objectives, policies and regulations of the UCSP. The General Plan and the UCSP envision the C1 Third Avenue South District as an area with a balanced mix of commercial and residential uses that contribute to create a vibrant and attractive area. The Project would redevelop the subject Site, which currently has buildings that were built in the 1950's and are in need of replacement, with a residential and commercial Project that would provide 71 new residential units (market rate and affordable) on Third Avenue, as well as 616 square-feet of retail space, and would bring people, improvements and investment to the District. The Project would provide multi-family housing in this area of Chula Vista and would bring families and social and economic activity to the area. Those families would take advantage of and support the commercial base along Third Avenue, which provides a variety of goods and services in close proximity. The additional residents would contribute to create an active and vibrant atmosphere along Third Avenue as envisioned by the General Plan and the UCSP. The proposed public plaza at the corner of Third Avenue and K Street, which includes art and furniture, will provide an amenity that will activate the street and create opportunities for civic engagement and interaction. The wider and furnished sidewalks along Third Avenue and K Street will also contribute to activate the street and create a pedestrian-safe and friendly environment. The proposed Project is also consistent with the UCSP development regulations related to building height, building setbacks and step backs, parking, open space and landscaping. As shown in the staff report, the Project meets all of the regulations of the Specific Plan, except for Floor Area Ratio (FAR) (see below), and, in cases such as parking, usable open space and landscaping, the Project exceeds the minimum required standards.

## III. DEVELOPMENT EXCEPTIONS

The UCSP provides for and authorizes the City Council to grant exceptions to the land use and development regulations, in order to encourage and achieve innovative design. The Project is requesting one exception to the FAR limit in the amount of 0.5 or 22,869 square-feet. Exceptions may be granted by the City Council in cases where all of the following findings are made:

- 1. The proposed development will not adversely affect the goals and objectives of the Specific Plan and General Plan.*
- 2. The proposed development will comply with all other regulations of the Specific Plan.*

3. *The proposed development will incorporate one or more of the Urban Amenities Incentives in section F - Urban Amenities Requirements and Incentives, of this chapter.*
4. *The exception or exceptions are appropriate for this location and will result in a better design or greater public benefit than could be achieved through strict conformance with the Specific Plan development regulations.*

BE IT FURTHER RESOLVED, that the City Council of the City of Chula Vista hereby approves an exception to the FAR limit of 1.0 in the amount of 0.5 or 22,869 square-feet based upon the following Findings and substantiating facts thereto:

1. *The proposed development will not adversely affect the goals and objectives of the Specific Plan and General Plan.*

The goals and objectives of the General Plan and Specific Plan are not adversely affected by the proposed 0.5 increase in FAR. On the contrary, the Project as proposed implements the General Plan and Specific Plan by providing a mixed use residential/commercial use at the Corner of Third Avenue and K Street. The intent of the General and Specific Plan is to facilitate and encourage development and improvements that will help realize the community's vision for the Urban Core area. The Urban Core and the C1 District are envisioned to be vibrant, forward-thinking but respectful of its past and alive with thriving businesses, attractive housing and entertainment, cultural and recreational activities. The Urban Core Vision aims to create a uniquely identifiable Urban Core for Chula Vista that is an economically vibrant, pedestrian-oriented and multi-purpose destination. The proposed Project meets the goals and objectives because it brings improvements and community benefits to an area of Third Avenue which is currently under-performing and not living up to the stated vision of the Specific Plan. This Project has the potential to spur additional development along the Third Avenue corridor with additional community and economic benefits. The proposed Project provides wide sidewalks and a public plaza that will create a pedestrian-friendly environment and foster civic engagement in a multi-purpose environment. The building mass and form allows the Project to have the number of residential units and the associated parking, landscaping, recreational spaces and other features that provide a multi-purpose environment and activities to meet the goals and objectives of the General and Specific Plans.

2. *The proposed development will comply with all other regulations of the Specific Plan.*

As indicated in the Development Standards table included in the Planning Commission Staff Report, incorporated herein by this reference, the Project complies with all other development standards and regulations of the Specific Plan. The building has a height that varies from 34 feet along K Street and a height of 57 feet along Third Avenue (the building parapets and elevator shaft achieve a height of 60 feet, which is the maximum permitted by the UCSP). The Project provides all the required parking on-site and enclosed within the building structures in the underground and first floor levels, and provides 14 additional parking spaces for guests of the residents. Open space and Landscaped areas are also provided in excess of the minimum required.

The building form respects the properties in the adjacent R-1 Zone to the north and east of the Project Site along Church Avenue by locating the second floor terrace and balconies as far away as possible from the property lines, and provides heavy screening by landscaping the perimeter of the structure. The 3 to 5-story building structure was designed to place most of the bulk and mass along Third Avenue and K Street, and as far as possible from the property lines of the single-family homes. As required in the NTCDD regulations the building also steps back from the adjacent residential properties along Church Avenue, resulting in a reduced building mass and height near the residential properties, as well as, distancing the Project as much as possible from the residential properties.

The UCSP's Special Provisions for the NTCDD indicate that "Building design shall be cognizant of adjacent low density uses and avoid balconies overlooking rear yards." The intent of this provision is not to do away with balconies but rather to address their potential effects on privacy. The building design is cognizant of and sensitive to the adjacent residential uses by distancing the structures from the adjacent property lines by as much as 49 to 59 feet. Also, dense and tall landscape materials have been provided along the east and north perimeter to screen the homes from direct view of the balconies. While the NTCDD provisions indicate that balconies should be avoided, balconies are still an important design and functional elements of the UCSP and the Project. In fact, the UCSP provisions for multi-family projects encourage the use of balconies and other features to achieve quality building design. One of those provisions is the following: "*Three dimensional design features, such as balconies and bays should be incorporated into the building design.*" Balconies serve to provide building facade articulation and interest, and they serve to provide usable open/recreational space. Building facade articulation and interest are important elements for a project such as this one, which is part of an urban setting where the building architecture intends to improve the face of Third Avenue and become a new architectural landmark. Balconies are also important as a source of recreational space in an urban setting because they provide recreational space on site. While balconies remain as part of the building elevations, the design issues (particularly privacy) associated with them have been avoided through the described Project features.

3. *The proposed development will incorporate one or more of the Urban Amenities Incentives in Section F - Urban Amenities Requirements and Incentives, of this chapter.*

The Project incorporates the three amenities listed above, which are: all required parking (on-site and enclosed); public outdoor space in the form of plaza with art feature and furniture; and LEED Gold Certification. Additionally, the Project includes other amenities and community benefits as follows:

The Project will provide fourteen parking spaces that exceed the parking regulations and provide guest parking spaces within the parking garage. The proposed Project will provide a community landmark at the Project Site in the form of a public art mural on the north facing wall of the building. The mural will not only serve as a piece of art that will complement the building's architecture, it will also serve as a landmark that may be used to identify this new

building in this area of Third Avenue, since no other art pieces like this exist now. In accordance with community input received at the Second Neighborhood Meeting, the mural could reflect the history of Chula Vista or important historical events in the City's past and looking towards the future.

The enhanced street improvements for the Project include a widened sidewalk along Third and K Street, new paving, street trees in grates, and street furniture such as benches, trash cans and planters. Additionally, this residential development will provide more options for clean, safe, energy efficient and modern housing for the Chula Vista workforce. These 71 dwelling units will put more people on Third Avenue to support the small businesses located there and to create a more pedestrian-friendly street atmosphere.

4. *The exception or exceptions are appropriate for this location and will result in a better design or greater public benefit than could be achieved through strict conformance with the Specific Plan development regulations.*

The additional FAR of 0.5 is appropriate for this location because it would allow the Project to comply with the goals and objectives of the General Plan and Specific Plan related to bringing a mixed use project with sufficient residential units and community amenities to provide housing, activate the street and support the existing commercial base. The C1 District is characterized by having mostly retail and office uses. While there are about five properties in the District with residential uses, these properties only represent about 4% of the total District area. General Plan policy calls for some additional residential development within the C1 District to support the existing and future commercial development. It has been estimated by staff that the appropriate residential acreage that could potentially be developed within the District based on the General Plan policy is approximately 40% of total area. That percentage would be translated into approximately 21 acres of residential development. The proposed Project FAR of 2.0 (91,345 sq. ft.) represents approximately 9.5% of the total potential residential capacity within the C1 District.

The Project's FAR of 2.0 is appropriate for an urban mixed use development and is in line with development trends elsewhere in the Urban Core area. The maximum building height is 5 stories along the Third Avenue elevation (60' high as allowed by the C-1 zone) and 3 stories along the K Street elevation. This building configuration places the most mass and bulk along the Third Avenue and K Street's elevations, away from the existing low density residential. The Applicant has revised the Project and has taken measures to reduce the building mass and addressed community concerns without reducing the viability of the Project. Furthermore, the form-based nature of the UCSP ensures that the proposed development emphasize the importance of site design and building form (which last many years) over numerical parameters such as FAR (which are likely to change over time through periodic reviews and amendments to the UCSP as required by law, and based on changes to the physical conditions of the Urban Core and changes in economic activity). The Project creates a people activated, urban corner that contributes to the City's goal of "Complete Streets" and enhances the public realm through improved streetscape design and individual building character.

BE IT FURTHER RESOLVED that the City Council of the City of Chula Vista does hereby find and determine that the Appeal that is the subject of this Resolution is hereby DENIED and that the determination of the Planning Commission is hereby AFFIRMED, in accordance with the applicable development standards, regulation and guidelines of the Urban Core Specific Plan and the Conditions of Approval specified in Planning Commission Resolutions DR15-0015 and PCS15-0006 dated June 22, 2016, attached hereto and incorporated herein by this reference (Exhibit "B").

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF CHULA VISTA, CALIFORNIA, this 16th day of August, 2016 by the following vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Presented by:

Approved as to form by:

\_\_\_\_\_  
Kelly Broughton, FASLA  
Director of Development Services

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Glen R. Googins  
City Attorney

Exhibits:

Exhibit A – Locator Map

Exhibit B – Planning Commission’s Resolutions DR15-0015 and PCS15-0006