

RESOLUTION _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
CHULA VISTA APPROVING A DESIGN REVIEW PERMIT
(DR16-0003) TO CONSTRUCT A 130,801 SQUARE FOOT
RETAIL CENTER WITH 585 PARKING SPACES ON 12.5
ACRES WITHIN THE MILLENIA MASTER PLANNED
COMMUNITY

WHEREAS, the area of land which is the subject of this Resolution are two existing parcels located in the Millenia/Eastern Urban Center (EUC) Sectional Planning Area (SPA) in the Gateway Mixed Use Commercial District (District 1, Lots 2 and 3 of Final Map 16081); and

WHEREAS, a duly verified application for a Design Review Permit was filed on March 16, 2016 with the City of Chula Vista Development Services Department by Sudberry Properties (Applicant) for a 130,801 square foot retail center with 585 parking spaces within the Gateway Mixed Use Commercial District (Project); and

WHEREAS, the Director of Development Services has reviewed the Project for compliance with the California Environmental Quality Act (CEQA) and has determined that the Project was adequately covered in previously adopted Final Second Tier Environmental Impact Report, EIR-07-01, therefore no further environmental review is required; and

WHEREAS, the City Clerk set the time and place for the hearing on the Project application and notices of said hearing, together with its purpose 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 Project Site at least ten (10) days prior to the hearing; and

WHEREAS, the duly noticed and called public hearing on the Project was held before the City Council in the Council Chambers in the City Hall, Chula Vista Civic Center, 276 Fourth Avenue, to hear public testimony with regard to the same.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Chula Vista hereby finds, determines, and resolves as follows:

I. DESIGN REVIEW FINDINGS

1. That the proposed Project is consistent with the development regulations of the Eastern Urban Center Sectional Planning Area (EUC SPA) Plan and Planned Community (PC) District Regulations.

The proposed retail center use is permitted and meets all of the development regulations as stipulated in the EUC PC District Regulations as conditioned as further detailed in the City Council staff report for this project, included and adopted herein.

2. The proposed Project is consistent with the design and development standards of the EUC SPA Design Plan.

The Project is in compliance with the District 1, Gateway Mixed Use Commercial District, Design Guidelines of the EUC SPA Form Based Code as detailed in the City Council staff report for this project, included and adopted herein.

BE IT FURTHER RESOLVED that the City Council, based on the Findings above, does hereby recommend approval of the Design Review Permit subject to the following conditions which 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. Prior to issuance of building permits for buildings “G” and “H” on lot 2 and “K” and “L” on lot 3, the Applicant shall obtain a separate administrative design review approval for these buildings.
2. The site shall be developed and maintained in accordance with the approved plans, which include site plans, landscape plans, and elevation plans on file in the Planning Division, the conditions contained herein, and Title 19.
3. 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 DQ-3132.
4. The colors and materials specified on the building plans shall be consistent with the colors and materials shown on the site plan and materials board reviewed by the Planning Commission on November 9, 2016.
5. 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.
6. All exterior lighting on Lots 2 and 3 shall include shielding to remove any glare from adjacent residents and hotel guests. Details for said lighting shall be included in the architectural plans and shall be reviewed and approved prior to the issuance of any building permit.
7. A graffiti resistant treatment shall be specified for all wall and ground floor building surfaces. This shall be noted on any building and wall plans and shall be reviewed and approved prior to the issuance of building permits. Additionally, the project shall conform to Sections 9.20.055 and 9.20.035 of the Chula Vista Municipal Code (CVMC)

regarding graffiti control or as approved by the Director of Development Services or designee.

8. 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 plans.
9. All applicable requirements and mitigation measures of the adopted Final Second Tier Environmental Impact Report, EIR-07-01 shall be met.

Land Development Division, Engineering Section

10. The Applicant shall comply with all requirements and guidelines of the City of Chula Vista Municipal Code; the Chula Vista Subdivision Manual; City of Chula Vista Design and Construction Standards; the Development Storm Water Manual for Development & Redevelopment Projects; the City of Chula Vista Grading Ordinance No. 1797; the State of California Subdivision Map Act.
11. Prior to issuance of the grading or site development permit, the Applicant shall enter into a Storm Water Management Facilities Maintenance Agreement with Grant of Access and Covenants with the City where Developer agrees to perpetually maintain the private BMPs that will serve the project site in accordance with the approved Water Quality Technical Report (WQTR).
12. Prior to issuance of the grading or site development permits for the project, the Applicant shall provide evidence to the City Engineer, or designee, that the Applicant has the right to construct and use Lot "B" of Map No. 15942 as part of the project for the proposed BMPs to treat the stormwater generated at the project site.
13. Prior to the issuance of the grading or site development permit for the project, the Applicant shall provide to the City Engineer, or designee, a Letter for Permission to Grade, if proposed improvements encroach into an adjacent private property.
14. Before the issuance of the first building permit, the Applicant shall pay the following Engineering Fees (fees are adjusted on October 1st of every year):
 - a) Sewer Capacity Fee
 - b) Traffic Signal Fee
 - c) Sewer Basin DIF
 - d) Other Engineering Fees per the Master Fee Schedule.
15. On-site drainage and sewer systems shall be private.

16. Before the issuance of a building permit associated with a specific pad, the Applicant must submit pad certification.
17. Prior to the issuance of the first building permit for the project, the Applicant shall provide to the City verification of service from Otay Water District.
18. Separate permits for other public utilities (gas, electric, water, cable, telephone) shall be required, as necessary.
19. Prior to the issuance of any building permit associated with work in the public right-of-way, the Applicant shall apply for a Construction Permit and bond for any work needed in the City's right-of-way. This work includes, but is not limited to the construction of private laterals to public facilities and the corresponding trench backfill and surface restoration.
20. Before the issuance of a certificate of occupancy for the Project, the driveway connecting to Stylus Street/Millenia Avenue shall be operational, to the satisfaction of the City Engineer, to allow the Fire Department and customers to enter and exit the site.
21. Before the issuance of a certificate of occupancy, the jogging path along the frontage of the subject property (along Millenia Avenue) shall be constructed.
22. Additional requirements may be set at the time development takes place and/or a building permit is applied for, depending upon final plans submitted for building permits.

Landscape Architecture

23. Prior to issuance of the first building permit the Applicant shall obtain approval to a "Landscape Documentation Package" that complies with the Chula Vista Landscape Water Conservation Ordinance, 2015 update, Municipal Code Chapter 20.12.
24. Prior to approval of Improvement Plans and L&I plans the Applicant shall ensure that all paving materials are coordinated between civil, architectural and landscape plans including details of products, colors, finishes and suppliers as appropriate for construction.
25. The construction drawings shall be approved by both the Otay Water District and the Department of Environmental Health.
26. Irrigation details are preliminary and will be reviewed in detail with the construction drawings.

27. In order to comply more fully with Sections 02.01.003.d. and 03.15.007 of the Eastern Urban Center Form Based Code regarding screening of parking areas, the Landscape Documentation Package shall be revised to show evenly spaced straight lines of screening shrubs to form hedges and mass plantings to screen the drive-thru lanes. Shrubs spacing shall be based on 75% mature plant size.

Fire Department

The following Fire Department Conditions of Approval are general requirements that the Applicant shall address at the time of building permit submittal to the satisfaction of the Fire Marshall or designee.

28. 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, as adopted and amended by the State of California and the City of Chula Vista.
29. The Project shall provide a fire flow consistent with the requirements of the California Fire Code and acceptable to the Fire Department.
- a) For lot 2 – 25,006 square feet of Type V-B construction, this project will require a fire flow of 4,250 gallons per minute for a 4-hour duration at 20 p.s.i.
 - b) Based on the required fire flow for Lot 2 Type V-B construction type, a minimum of five fire hydrants are required to serve this project.
 - c) Lot 2 shall have hydrants spaced at 300' average spacing and 180' maximum spacing between.
 - d) For lot 3 – 11,852 square feet of Type V-B construction, this project will require a fire flow of 3,000 gallons per minute for a 3-hour duration at 20 p.s.i.
 - e) Based on the required fire flow for Lot 3 Type V-B construction type, a minimum of three fire hydrants are required to serve this project.
 - f) Lot 3 shall have hydrants spaced at 400' average spacing and 225' maximum spacing between.
30. Where a portion of the building is more than 400 feet from a hydrant on a fire apparatus access road, as measure by an approved route around the exterior of the building, on site fire hydrants and mains shall be provided.
31. 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 id available at the most demanding sprinkler riser. A

reductions of 25% in fire flow will be granted for buildings protected throughout by an approved automatic fire sprinkler system.

32. The Project shall be protected throughout by an approved automatic fire sprinkler system in accordance with CA Fire Code section 903.

Building Division

The Applicant shall address the following Building Division Conditions of Approval at the time of building permit submittal to the satisfaction of the Building Official or designee.

33. The Project shall comply with 2013 California Building Code (CBC), California Mechanical Code (CMC), California Plumbing Code (CPC), California Electrical Code (CEC), California Fire Code (CFC), the 2010 California Energy Code, and the 2013 California Green Building Standards, as adopted and amended by the State of California and the City of Chula Vista.
34. The Project must be designed by an Architect or Engineer licensed by the State of California. [California Business and Professional Code 5536.1, 6735].
35. Site development, site lighting, perimeter masonry walls, retaining walls, trash enclosures, monument and other signage and grading may be under separate permit.
36. The Applicant shall provide a Building Code Data Legend on the title (first) sheet of the plans. Include the following code information for each building or space proposed:
 - a) Occupancy Group classification, CBC Ch. 3.
 - b) Type of Construction, CBC Ch. 6
 - c) Type of Fire Sprinklered (Full 13, 13R, 13D, not sprink) CBC Ch9.
 - d) Proposed and allowable Floor area, CBC Table 503
 - e) Proposed and allowable Number of Stories,
 - f) Proposed and allowable Building Height CBC 502.1
 - g) Provide calculation for Area and height increases
 - h) Mixed use Area Calculation for multiple occupancies
37. On the site plans, the Applicant shall identify the dimension distances from building(s) to all property lines, street centerlines, and adjacent existing or proposed structures on the site. Exterior walls shall have a fire-resistance rating per CBC T-601 & T-602. Exterior wall openings are limited and shall have fire protection rating per CBC Ch. 7. On the site plans, the Applicant shall identify the dimension distances from all proposed buildings to all property lines.
38. The Applicant shall provide structural calculation and a soils report and Energy Calculations.

39. The Applicant shall identify that public and common areas satisfy disabled access requirements.

II. The following on-going conditions shall apply to the project as long as it relies on this approval:

1. The site shall be developed and maintained in accordance with the approved plans, which include site plans, floor plan, elevation plans and landscape plans on file in the Planning Division, the conditions contained herein, and Title 19.
2. The Applicant shall install all landscaping and hardscape improvements in accordance with the approved Landscape Documentation Package.
3. 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.
4. The Property Owner and Applicant shall and do agree to indemnify, protect, defend and hold harmless City, its 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 and (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. 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.
5. This Design Review Permit shall become void and ineffective if not utilized within three years from the effective date thereof, in accordance with Section 19.14.260 of the Municipal Code.

III. 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 Section 66020(a) and failure to follow in a timely manner 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.

IV. EXECUTION AND RECORDATION OF RESOLUTION OF APPROVAL

The Property owner and the Applicant shall execute this document by signing the lines provided below, said execution indicating that the property owner and Applicant have each read, understood, and agreed to the conditions contained herein. 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 the Applicant, and a signed, stamped copy of this recorded document shall be returned within ten days of recordation to the City Clerk. Failure to record this document shall indicate the property owner and Applicant's desire that the Project, and the corresponding application for building permits and/or a business license, be held in abeyance without approval. Said document will also be on file in the City Clerk's Office and known as Document No. _____.

Signature of Applicant	Date
Signature of Property Owner	Date

V. 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 the 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 any successor in interest by the City approval of this Resolution.

VI. 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 a Court of

competent jurisdiction to be invalid, illegal or unenforceable, if the City so determines in its sole discretion, this Resolution shall be deemed to be revoked and of no further force or effect ab initio.

BE IT FURTHER RESOLVED by the City Council of the City of Chula Vista, that it hereby adopts this Resolution approving the Project in accordance with the findings and subject to the conditions contained herein.

Presented by:

Approved as to form by:

Gary Halbert, P.E., AICP
City Manager

Glen R. Googins
City Attorney

Resolution No. _____

Page 10

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

AYES: Council members:

NAYS: Council members:

ABSENT: Council members:

ABSTAIN: Council members:

Mary Salas, Mayor

ATTEST:

Donna Norris, City Clerk