

CITY COUNCIL RESOLUTION NO. ____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING MITIGATED NEGATIVE DECLARATION IS15-0005/MPA15-0022, AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM PURSUANT TO CEQA; AND APPROVING TENTATIVE MAP PCS16-0007 FOR THE OTAY RIVER BUSINESS PARK, SUBJECT TO THE CONDITIONS LISTED IN THIS RESOLUTION

I. RECITALS

WHEREAS, the area of land which is the subject of this Resolution is shown on Exhibit “A,” attached hereto and incorporated into this Resolution by this reference and includes approximately 53 gross acres of land located in the Southwest part of the City at the southwest corner of Main Street and Fourth Avenue, extending south to the City Limits and the Otay River and to Broadway on the west (Site); and

WHEREAS, the Site is located within the Main Street Corridor which is part of the Southwest area of the City and the Site was formerly known as the Nelson Sloan Property and it is now known as the Otay River Business Park (ORBP); and

WHEREAS, on December 8, 2015 the development firm of Sudberry Development, Inc. (Applicant) submitted an application for approval of a Specific Plan (MPA15-0022) that would allow the development of the proposed Otay River Business Park (ORBP SP), which includes limited industrial uses, as well as certain commercial uses that are not allowed by the current zoning designation; and

WHEREAS, on August 9, 2016 the Applicant submitted an application for Tentative Map (TM) PCS16-0007 to subdivide the 53-acre Site into 14 individual lots for the subsequent development of an industrial park, a community park, and open space areas (the “Project”); and

WHEREAS, the Development Services Director has reviewed the proposed Project for compliance with the California Environmental Quality Act (CEQA) and has conducted Initial Study IS15-0005 in accordance with CEQA. Based upon the results of the Initial Study, the Development Services Director has determined that the implementation of the Project could result in significant impacts on the environment. However, revisions to the Project made by or agreed to by the Applicant would avoid the Impacts or mitigate the impacts to a point where clearly no significant environmental impacts would occur; therefore, the Development Services Director has caused the preparation of a Mitigated Negative Declaration (MND) IS15-0005/MPA15-0022 and Mitigation Monitoring and Reporting Program (MMRP); and

WHEREAS, a Notice of Preparation for the Initial Study was circulated on February 28, 2017 pursuant to CEQA Guidelines Section 15072; and

WHEREAS, a Draft MND and MMRP, together with the technical reports for the Project, were issued for a 30-day public review period on November 3, 2017, and was processed through the State Clearinghouse; and

WHEREAS, the public review period closed on December 4, 2017; and

WHEREAS, during the public comment period, the City received comments on the draft MND and consulted with all responsible and trustee agencies, other regulatory agencies and others pursuant to CEQA Guideline Sections 15086 and pursuant to Section 15088, all comments received were responded to in writing; and

WHEREAS, the Development Services Director set the time and place for a public hearing of the Planning Commission on the proposed ORBP SP, Draft MND and TM and notice of said hearing, together with its purpose, was given pursuant to California Government Code 65091 and 65092 at least ten days prior to the hearing; and

WHEREAS, the hearing was held at the time and place as advertised in the City Council Chambers, 276 Fourth Avenue, before the Planning Commission and said hearing was thereafter closed; and

WHEREAS, the Planning Commission considered all reports, evidence, and testimony presented at the public hearing with respect to the ORBP SP, TM, MND and MMRP; and

WHEREAS, at said public hearing the Planning Commission recommended through a vote of 6-0-0 that the City Council adopt the resolution approving MND IS15-0005/MPA15-0022, adopting the MMRP, and approve TM PCS16-0007; and

WHEREAS, the Development Services Director set the time and place for a hearing of the City Council of the City of Chula Vista on the proposed ORBP SP, TM, MND and MMRP and notice of said hearing, together with its purpose, was given pursuant to California Government Code 65091 and 65092 at least ten days prior to the hearing; and

WHEREAS, the hearing was held at the time and place as advertised in the City Council Chambers, 276 Fourth Avenue, before the City Council and said hearing was thereafter closed; and

WHEREAS, the City Council considered all reports, evidence, and testimony presented at the public hearing with respect to the ORBP SP, TM, MND and MMRP.

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

II. ENVIRONMENTAL REVIEW

That the City Council of the City of Chula Vista, having independently reviewed and considered the information in the Public Hearing, and all reports, evidence and testimony presented therein, which has been prepared in accordance with the requirements of CEQA and the Environmental Review Procedures of the City of Chula Vista, as set forth in the record of its proceedings, hereby approves Final MND (15-0005) and to the extent that Final MND (15-0005) concludes that the proposed mitigation measures outlined in the MND are feasible and have not been modified, superseded or withdrawn, the City Council hereby binds the City of Chula Vista to cause the implementation of said mitigation measures and that the adopted mitigation measures contained within the MMRP, a copy of which is on file in the office of the City Clerk, be expressed as conditions of Project approval.

III. WAIVER OF PUBLIC FACILITIES FINANCING PLAN

BE IT FURTHER RESOLVED, that pursuant to Chula Vista Municipal Code (CVMC) 19.09.050, the City Council hereby finds that the requirement for a Public Facilities Financing Plan is hereby waived because the Project is infill development located in a developed portion of the City where adequate public facilities exist or will be provided concurrent with development of the Project Site, therefore there are no public service, facility or phasing needs that warrant the preparation of a Public Facilities Financing Plan.

IV. TENTATIVE SUBDIVISION MAP FINDINGS

- A. BE IT FURTHER RESOLVED that pursuant to Government Code Section 66473.5, the City Council hereby finds that the T M, as conditioned herein for the Project, is in conformance with the elements of the City's General Plan, based on the following Findings and substantiating facts thereto:

1. Land Use and Circulation

The TM proposes to consolidate and subdivide the 53-acre Site into 14 individual lots for the redevelopment of the Site with the Otay River Business Park project, which would include a variety of industrial and commercial uses, an open space area, and a neighborhood park. The proposed TM is consistent with the General Plan and the draft Otay River Business Park land use designations. It contains all the requisite land uses to implement the proposed Otay River Business Park project. The TM for the Site, which is located along Main Street within a fully urbanized area of the City, provides all of the infrastructure services, establishes developable parcels, public improvements and public facilities that will implement the development of a high quality industrial business park that will enhance the opportunities for quality, contemporary business uses with ancillary support commercial services, complementary to its surroundings. The Project incorporates an area for a future Community Park, as designated by the 2005 General Plan in this area, and is situated adjacent to and above the Otay River Valley. The majority of the Site has been graded or disturbed, with both paved and unpaved parking, driveways and roads throughout the parcels, various buildings and structures associated with existing heavy industrial uses, former concrete batch operations, and former agricultural field activities. The proposed TM and the Otay River Business Park will provide a new development pattern at this Site with business park uses and complementary amenities for the existing community.

2. Economic Development

The development of an industrial park with industrial and commercial components will provide a strong employment and tax base for the City. Approval of the TM and the Otay River Business Park will help achieve the General Plan objectives that seek to promote a variety of job opportunities to improve the City's jobs/housing balance, provide a diverse economic base, and encourage the growth of small businesses. The Project will contribute to the economic base of the City by facilitating the development of a new business park in the Main Street corridor that will accommodate light industrial and office uses, along with supportive commercial uses adjacent to Main Street to serve existing facilities and neighborhoods and provide employment opportunities. The business park uses will generate tax revenue for the City and provide job opportunities for residents, which will enhance the economy and benefit the community and the City.

3. Public Facilities and Services

The Otay River Business Park area is in western Chula Vista, outside of the Planned Community (PC) Zone. In the western area of the City, the Chula Vista regulatory framework has been established to encourage and manage desirable development and redevelopment, given the unique development challenges faced in this area. Growth management considerations for smaller projects outside of the PC zone are addressed through the CEQA process, which may result in mitigation measures; through conditions of approval, both of which may require improvements or dedications; and through payment of Development Impact Fees. The Project has been conditioned to ensure that all necessary public facilities and services will be available to serve the Project concurrent with the demand for those services. Each of the facilities and improvements necessary for development of the Project is discussed below and the specific location and design for these improvements are shown on the TM.

Streets

Development of the Otay River Business Park will include construction of one new street and improvement of existing frontage streets adjacent to the specific plan area, to provide adequate circulation for vehicles, bicycles and pedestrians. Improvements will be made to Main Street, Fourth Avenue, Broadway, Seventh Avenue, Faivre Street, and the Alley that extends from Broadway to Seventh Avenue. Improvements to these streets will include all the elements for a "Complete Street" (a balanced, connected, safe, and convenient transportation network designed to serve all users regardless of their mode (via walking, biking, and transit, or driving cars or trucks)), including street dedication and widening as required; curbs, gutters (if and where missing), contiguous sidewalks, bicycle lanes, and landscaping improvements. All circulation and access improvements shall be constructed as part of the implementation of the TM.

Water Facilities

Water service is provided by the Sweetwater Authority. Existing water lines are located on Main Street, Fourth Avenue, and 7th Avenue to the Project Site. Additional water lines shall be provided for water, fire services and irrigation. A water supply, with new and replacement pipes sized for the Project buildout estimates, shall be developed along 7th Avenue, the Alley, and Faivre Street, connecting to the existing lines on Main Street and Fourth Avenue and creating a looped system. Stubs will be provided for future parcels or buildings. All new water facilities shall be constructed as part of the implementation of the TM.

Sewer Facilities

Sewer service is provided by the City of Chula Vista. Existing sewer mains are adjacent to the Site on Main Street, and located throughout the Site in an existing City of Chula Vista easement. Based on the sewer study prepared for the Project, the existing lines have adequate capacity for the proposed land uses. New onsite sewer lines shall be provided in 7th Avenue to connect future parcels with these existing facilities. An existing sewer main easement on the Site for the City of San Diego shall be maintained, with an addition to the easement per the associated TM. All new sewer facilities shall be constructed as part of the implementation of the TM.

Schools

The City of Chula Vista is served by the Chula Vista Elementary School District and the Sweetwater Union High School District. Since no residential zones are included as part of the Project, there is no potential for the development of housing thus affecting the demand for school facilities within Chula Vista.

Libraries

Library services are provided by the City of Chula Vista. No residences are added as part of the Project that would increase population to affect the public library system of Chula Vista.

Parks and Recreation

The Site is not subject to the Growth Management Oversight Commission parks and recreation threshold as it is not a residential project. However, the General Plan and the Otay Valley Regional Park (OVRP) Concept Plan, which the Site is within, identify a potential future park site within the vicinity of the Site. The ORBP SP and the TM land uses designate approximately 13.9 acres as undeveloped land available for purchase by the City of Chula Vista for development of and use as a community park.

4. Housing

The 2005 General Plan and the proposed ORBP SP designate the Site for the development of industrial/commercial uses. The General Plan, ORBP SP or TM do not include the development of residential uses on the Site. The subject Site is suitable for development of industrial and commercial uses in compliance with the General Plan and ORBP SP. The proposed TM subdivides the Site into 12 lots for industrial and commercial development; one lot (Lot A) for a future park; and one lot (Lot B) to be left as open space.

5. Growth Management

The Project is in compliance with applicable Growth Management Element requirements because it is an infill project that will be served by existing public infrastructure. There are no public services, facilities, or phasing needs that warrant the preparation of a Public Facilities Financing Plan. All infrastructure improvements shall be constructed as part of the implementation of the TM.

6. Environmental

The MND and the MMRP prepared for the Project addressed the goals and policies of the Environmental Element of the General Plan and found development of the Site to be consistent with these goals and policies. As discussed herein, implementation of the Project could result in significant impacts on the environment. However, revisions to the Project made by or agreed to by the Applicant would avoid the impacts or mitigate the impacts to a point where clearly no significant environmental impacts would occur.

- B. Pursuant to Government Code Section 66473.1 of the Subdivision Map Act, the City Council finds that the configuration, orientation, and topography of the Site allows for the optimum siting of lots for natural and passive heating and cooling opportunities and that the development of the Site will be subject to Design and Architectural review to ensure the maximum utilization of natural and passive heating and cooling opportunities.
- C. Pursuant to Government Code Section 66412.3 of the Subdivision Map Act, the City Council finds that it has considered the effect of this approval on the housing needs of the region and has balanced those needs against the public service needs of the residents of the City and the available fiscal and environmental resources.
- D. Pursuant to Government Code Section 66474 (a)-(g) of the Subdivision Map Act, the City Council finds as follows:
 - a. The TM is consistent with applicable general and specific plans as specified in Section 65451. The TM proposes to subdivide the 53-acre Site into twelve lots that will be developed with industrial and commercial uses and one lot which will be

developed with a park and one lot which will remain designated as open space. The ORBP SP establishes the regulations and standards, as well as design guidelines, for the future development of the Site. The TM incorporates the regulations and standards of the ORBP SP.

- b. The design of the TM has been reviewed by City staff and has been found to be consistent with applicable objectives and policies of General Plan and the ORBP SP. The TM for the Site, which is located along Main Street within a fully urbanized area of the City, has been designed to establish the developable parcels, contain all of the infrastructure services, public improvements and public facilities that will implement the development of a high quality industrial business park that will enhance the opportunities for quality, contemporary business uses with ancillary support commercial services, complementary to its surroundings. The Project incorporates an area for a future Community Park, as designated by the 2005 General Plan in this area. The future development of the Site will be required to go through the City's conceptual review and building permit processes, and will be required to comply with the permitted uses and development standards of the ORBP SP, as well as the requirements of the California Building and Fire Codes.
- c. The TM Site is physically suitable for the proposed industrial and commercial development as permitted by the ORBP SP as well as the proposed density of development. The Site is located along the Main Street corridor, which is an urbanized area with industrial, commercial, and residential uses, as well as the Otay River and the OVRP.
- d. The Site is well located and is conducive to the development of industrial and commercial uses which will improve this area of the Main Street District, generate employment and enhance the tax base for the benefit of the community. The future Industrial and commercial development will be designed to be compatible with the surrounding community and open spaces. It will also be required to meet the ORBP SP's regulations related to building height, bulk and mass, as well as setbacks.
- e. The design of the subdivision and the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The TM as well as the ORBP SP have been reviewed for compliance with CEQA and it has been determined that the implementation of the Project could result in significant impacts on the environment. However, revisions to the Project made by or agreed to by the Applicant would avoid the impacts or mitigate the impacts to a point where clearly no significant environmental impacts would occur; therefore, the City Council approved MND IS15-0005/MPA15-0022 and MMRP.
- f. The design of the subdivision or type of improvements is not likely to cause serious public health problems because the proposed subdivision has been designed to accommodate quality industrial/commercial development with all the necessary infrastructure. The TM and future development will enhance the interface in this

location through designation of land for a future community park, protection of the floodway as open space, and sensitive stormwater management and landscaping to enhance the river interface. The development will also implement the design program of the Main Street Streetscape Master Plan which will enhance the character of this corridor and neighborhood. The mix of industrial and commercial uses and future park along with protection of floodway areas of the Otay River will contribute to a healthy community by protecting resources and providing balanced, connected and sustainable land uses.

- g. The TM and future improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

BE IT FURTHER RESOLVED that the City Council of the City of Chula Vista does hereby approve TM PCS16-0007 for the Otay River Business Park, subject to the conditions set forth below.

V. TENTATIVE MAP CONDITIONS OF APPROVAL

DEVELOPMENT PLANNING CONDITIONS

1. The Applicant and/or his/her successors in interest shall subdivide and improve the Site as described in the proposed ORBP SP MPA15-0022 and T M PCS16-0007 for the Otay River Business Park, subject to the conditions listed herein.
2. The conditions imposed on this TM are approximately proportional both to the nature and extent of impact created by the proposed Project. Unless otherwise specified, all conditions and code requirements listed below shall be fully completed by the Applicant, Owner or Successor-in-Interest to the Director of Development Services, or designee's satisfaction prior to approval of the Final Map, unless otherwise specified.
3. The Project shall comply with the City of Chula Vista Standard Tentative Map Conditions, described in Section 5 of the City Subdivision Manual, as approved and amended from time to time, to the satisfaction of the Director of Development Services and City Engineer, or designees.
4. The Applicant shall pay in full any unpaid balance for the Project, including Deposit Account No. DQ1724.
5. Prior to the issuance of any Grading Permits for the Site, the Applicant and/or hers/his successors shall prepare a Soil Management Plan for review and approval by County of San Diego Department of Environmental Health (DEH) as part of DEH's Voluntary Assistance Plan (VAP). The Soil Management Plan shall address soil conditions that might be encountered during site grading due to undocumented fill buried on the Project Site. If unsuitable material is encountered during excavation, the material shall be segregated, characterized, and disposed of in a manner acceptable to DEH.
6. The Applicant, or his/her successors in interest, shall ensure that all necessary public facilities and services will be available to serve the Project concurrent with the demand for those services.

7. The Applicant shall implement, to the satisfaction of the Director of Development Services and the City Engineer, or designees, the mitigation measures identified in the MND IS15-0005/MPA15-0022 and MMRP within the timeframe specified in the MMRP.
8. The Applicant shall establish a funding mechanism for the perpetual maintenance and life cycle costs for the Project (including but not limited to: landscaping within the right of way; open space areas; Best Management Practice's (BMP's)) to the satisfaction of the City Engineer, or designee. If the Applicant chooses a Business Owner's Association, the Applicant shall be required to enter into a "Grant of Easement and Maintenance Agreement" with the City of Chula Vista for all publically owned areas maintained by the association prior to the approval of any Final Map.
9. The Applicant shall establish a funding mechanism for perpetual maintenance of the Project including open spaces. The Applicant shall enter into a Grant of Easement and Maintenance Agreement. The table below lists standard long-term management tasks that are required for the open space areas and shall be included in the Maintenance Agreement:

Table 4 LONG-TERM MANAGEMENT TASKS			
Purpose of Visit	Task Description	Number and Timing of Visits	Responsible Party
Biological monitoring	<ul style="list-style-type: none"> • Monitor the health of native vegetation • Identify non-native plant or animal species 	Annually during Jul/Aug	Habitat Manager
General monitoring	<ul style="list-style-type: none"> • Monitor for trash and/or debris • Report any issues with vandalism, or migrant worker/homeless encampments • Photo monitoring • Replace signs as needed 	Annually during Jul/Aug	Habitat Manager
Trash removal	Removal of accumulated trash and debris	Annually during Jul/Aug	Habitat Manager
Annual letter report	Record results of annual monitoring and management activities	Annually (due by Jan 31)	Habitat Manager

The Habitat Manager will visually inspect the Open Space for changes during the annual monitoring visit and document all observations. Such visits shall include, but not be limited to, observations of the spread of non-native plant species or the presence of non-native pest animal species, and accumulation of trash/debris. Any substantial changes will be examined more closely to determine the need for additional measures. Any recommendations will be submitted to the City for review and approval prior to implementation. Photographs shall be taken annually (Table 4) from the established photo location. An annual letter report summarizing the status of the Open Space will be submitted to the City.

10. Prior to the issuance of any Grading/Development Permits for the Site, the Applicant shall obtain Agency consultation and permitting from the United States Army Corps of Engineers (USACE) (404 nationwide permit) and Regional Water Quality Control Board (RWQCB) (401 certification).

11. The Final Map shall show all the avoided wetlands, which shall be placed within an open space easement in Lots A and B.
12. The Site contains wetlands, a lake, a stream, and/or waters of the U.S. which may be subject to regulation by State and/or federal agencies, including, but not limited to, the RWQCB, USACE and the California Department of Fish and Wildlife (CDF&W). The Applicant shall consult with each agency to determine if a permit, agreement or other approval is required and to obtain all necessary permits, agreements or approvals before commencing any activity which could impact the wetlands, lake, stream, and/or waters of the U.S. on the Site. The agency contact information is provided below:

U.S. Army Corps of Engineers: 5900 La Pl Ct, Carlsbad, CA 92008; (760) 602-4829; <http://www.usace.army.mil/>

Regional Water Quality Control Board: 2375 Northside Dr, San Diego, CA 92108; (619) 516-1990; <http://www.waterboards.ca.gov/sandiego/>

California Department of Fish and Wildlife: 3883 Ruffin Rd, San Diego, CA 92123; (858) 467-4201; <http://www.dfg.ca.gov/>

13. Prior to initiating any construction related activities, including clearing, grubbing, grading and construction, a Clean Water Act, Section 401/404 permit issued by the RWQCB and the USACE for all project related disturbances of waters of the U.S. and/or associated wetlands shall be obtained, or provide evidence from the respective resource agency satisfactory to the Development Services Director, or designee, that such permit is not required.
14. The Final Map shall include an exhibit delineating the open space and improvements to be maintained by the Applicant, Business Association or other entity, including the common open space areas, landscaping, and bio-retention areas, to the satisfaction of the Director of Development Services and City Engineer, or designees.
15. Prior to Final Map approval and prior to the issuance of any permits by the City, the Applicant shall obtain approval of the Conditional Letter of Map Revision (CLOMR) from the Federal Emergency Management Agency (FEMA) subject to compliance with the Endangered Species Act (ESA).
16. As a gesture of appreciation of the Strawberry Field's history as part of Chula Vista's historical agricultural fabric, the Design Review Permit and/or Sign Permit plans for the Site shall include a pedestal or monument marker on either side of the business park monument signs within the Site. Applicant shall consult with the City's historic preservation staff for appropriate historical statement on said pedestal or monument marker.
17. The Design Review Permit and/or Sign Permit plans for the Site shall include the installation of a directional marker for the OVRP Trail at the project boundary along Fourth Avenue near the southwest corner intersection of Main Street.
18. Prior to the issuance of any Building Permit, the Applicant shall obtain approval of a Design Review Permit pursuant to the ORBP SP, Chula Vista Municipal Code, Design Manual, and Landscape Manual, and any other applicable regulations.
19. Landscape plans shall provide a minimum of 6' wide landscape parkways on all streets to better support street trees and reduce the potential for infrastructure damage.

20. All the proposed and required landscaping shall conform to the City's Landscape Water Conservation Ordinance (CVMC 20.12).
21. Landscape plans shall consider tree types for suitability as street trees especially as low branching relates to on-street parking and adjacency to sidewalks and thorns on creating a potential hazard along sidewalks.
22. The landscape concept shall follow and comply with the City's Shade Tree Policy.
23. The Applicant shall comply with all Fire Department requirement and conditions related to number and location of fire hydrants and requirements related to actual fire flow demand will be determined by the construction type and square footage of the largest building on a lot in accordance with CA Fire Code appendix B.

LAND DEVELOPMENT DIVISION CONDITIONS

24. The Applicant shall comply with all applicable conditions of the City's Standard Conditions of Approval per Section 5-300 Standardized Tentative Map Conditions of the Subdivision Manual.
25. The Applicant shall enter into a Storm Water Management Facilities Maintenance Agreement to perpetually maintain private biological open space, biofiltration basins, and all BMP's facilities located within the Project prior to the issuance of any Grading or Building Permits, whichever occurs first.
26. The associated Grading Plan for the Project shall not include any work at all in the floodway and shall not show the Final Pad or Finish Floor elevations of any structures within the floodplain. Please note that FEMA will not approve the CLOMR until the Applicant demonstrates compliance with the ESA. The Applicant shall comply with the requirements set forth in Standard Condition of Approval No. 19 of Section 5-300 Standardized Tentative Map Conditions of the Subdivision Manual.
27. The Improvement Plans for this Project shall include repair and resurface of the entire public alley between Broadway and 7th Avenue with uniform resurfacing materials designed to withstand H-20 loading to be approved by the City Engineer, or designee. The completion of the repairing and resurfacing of the alley shall be completed or bonded to the satisfaction of the City Engineer, or designee, prior to the approval of any Final Map.
28. Prior to the approval of any Final Map the Applicant shall coordinate and cause the execution of a Joint Use Agreement between the City of San Diego and City of Chula Vista for the revised alignment and co-location of the existing City of San Diego 27" sewer trunk and its associated easements along Faivre Street.
29. The Applicant shall be required to pay Land Development Fees based on the final approved Building Plans for the Project, as follows:
 - a. Sewer Connection and Capacity Fees
 - b. Traffic Signal Fees
 - c. Public Facilities Development Impact Fees (PFDIF)
 - d. Western Transportation Development Impact Fees (WTDIF)

- e. Other Engineering Fees as applicable per attached Master Fee Schedule.
- 30. All driveways shall be designated as private and shall conform to the City of Chula Vista's sight distance requirements in accordance with Municipal Code Sections 12.12.130, and City of Chula Vista Sight Design Standard CVD-TR07B. Landscaping, street furniture, or signs shall not obstruct the visibility of drivers at the street intersections or driveways.
- 31. 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.
- 32. Temporary improvements (such as fence, asphalt ramps, signs, etc.) located in street rights of way, City easements or City-owned Open Space Lots will require an encroachment permit.
- 33. Prior to approval of the Grading Plans, the Applicant shall clearly identify the limits of the 100 year flood plain boundaries of the drainage way located within the Site.
- 34. The Applicant shall comply with all requirements of the Chula Vista Development Storm Water Manual (Storm Water Manual) for both construction and post-construction phases of the Project. Prior to any Grading Permit approval, documentation shall be provided, to the satisfaction of the City Engineer, or designee, demonstration of such compliance.
- 35. The Applicant shall enter into an agreement prior to approval of any Final Map to secure all Public Improvements required for the development of the Project.
- 36. Prior to the approval of any Building Permit, the Applicant shall submit duplicate copies of all commercial, industrial projects in digital format, such as (DXF) graphic file, on a CD or through e-mail based on California State Plane Coordinate System (NAD 83, Zone 6) in accordance with the City's Guidelines for Digital Submittal. DXF file shall include a utility plan showing any and all proposed sewer or storm drains on the Site.
- 37. Prior to approval of any Building Permit, the Applicant shall submit a Construction Landscape Plan for the review and approval by the City's Landscape Architect.

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 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. INDEMNITY PROVISION

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 approval of the Project (including all environmental review) and (b) City's approval or issuance of any other permit or action, whether discretionary or nondiscretionary, 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. 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.

VIII. 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. 2016-XXX.

Signature of Applicant:

Date:

Printed Name of Applicant

Signature of Property Owner:

Date:

Printed Name of Applicant

IX. 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. The Applicant shall be notified ten (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 within a reasonable and diligent time frame.

X. 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, provision, or conditions are determined by a Court of competent jurisdiction to be invalid, illegal or unenforceable, this resolution shall be deemed to be automatically revoked and of no further force and effect ab initio.

BE IT FURTHER RESOLVED that the City Council does hereby approve MND IS15-0005/MPA15-0022 and adopt the MMRP and approve TM PCS16-0007 subject to the Findings contained herein and subject to the Conditions of Approval incorporated herein and on file in the Office of the City Clerk.

Exhibit "A" – Location Map

Presented by:

Approved as to form by:

Kelly Broughton, FLSA
Director of Development Services

Glen R. Googins
City Attorney