

RESOLUTION NO. 2016-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
CHULA VISTA APPROVING TENTATIVE SUBDIVISION MAP
CVT 15-0007 FOR OTAY RANCH PLANNING AREA 12
FREEWAY COMMERCIAL NORTH

I. RECITALS

1. Project Site

WHEREAS, the parcel, that is the subject matter of this resolution, is represented in Exhibit A, attached hereto and incorporated herein by this reference, and for the purpose of general description is located in the northern portion of Planning Area 12 of Otay Ranch; and

2. Project; Applications for Discretionary Approval

WHEREAS, on September 24, 2015, a duly verified application for a Tentative Subdivision Map (PCS-15-0007) was filed with the City of Chula Vista Development Services Department by Baldwin & Sons (Applicant); for the subdivision of approximately 36.2 acres into 13 lots (3 multi-family, 2 open space, 2 hotel lots, 3 mixed use, 1 park, 1 private street, 1 remainder parcel); and

3. Environmental Determination

WHEREAS, the Development Services Director reviewed the proposed project for compliance with the California Environmental Quality Act and has determined that the project was covered in the previously adopted *Final Environmental Impact Report for the Otay Ranch Freeway Commercial Sectional Planning Area (SPA) Plan - Planning Area 12 (FEIR 02 -04) (SCH #1989010154)*, and 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 Services Director has prepared the Second Addendum to FEIR 02-04; and

4. Planning Commission Record on Application

WHEREAS, on August 10, 2016, a hearing time and place was set by the Planning Commission for said Tentative Subdivision Map 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 property, at least ten (10) days prior to the hearing; and

WHEREAS, a hearing at the time and place as advertised, namely August 10, 2016, at 6:00 p.m. in the Council Chambers, 276 Fourth Avenue, was held before the Planning Commission and said hearing was thereafter closed; and

WHEREAS, the Planning Commission reviewed and considered the Tentative Subdivision Map PCS-15-0007; and

WHEREAS, the Planning Commission after considering all evidence and testimony presented recommended by a vote of 5-0-0 that the City of Chula Vista City Council approve the Tentative Subdivision Map CVT 15-007 for Otay Ranch Planning Area 12 Freeway Commercial North in Conjunction with PA-12 Sectional Planning Area (SPA) Plan Amendment; and

5. City Council Record on Application

WHEREAS, a hearing time and place was set by the City Council of the City of Chula Vista 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 property, at least ten (10) days prior to the hearing; and

WHEREAS, the City Council of the City of Chula Vista held a duly noticed public hearing to consider said Project at the time and place as advertised, namely September 13, 2016 at 5:00 p.m. in the Council Chambers, 276 Fourth Avenue, said hearing was thereafter closed.

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

II. TENTATIVE SUBDIVISION MAP FINDINGS

Pursuant to Government Code Section 66473.5 of the Subdivision Map Act, the City Council finds that the Tentative Subdivision Map, as conditioned herein, is in conformance with the elements of the City's General Plan, based on the following:

1. Land Use

The General Plan (GP) land use designation is Retail Commercial and Mixed Use Residential. The proposed project is consistent with these land use designation.

The current Otay Ranch General Development Plan (GDP) designation is Freeway Commercial and Mixed Use. The proposed project is consistent with these land use designation.

The existing implementing zone in Freeway the Commercial Planned Community District Regulations is FC-2, which is divided into three subcategories: FC-2a (Commercial Hotel) for lots H-1 and H-2; FC2b (Multi-Family Residential) for lots MF-1, MF-2, and MF-3; FC2c (Mixed Use Commercial/Multi-Family) for lots MU-1, MU-2, and MU-3; and P (Park) for lot P-1. All neighborhoods, as shown on the TM, are consistent with these designations. In total, this TM depicts 600 residential units.

The subdivision design consists of three (3) multi-family residential lots, three (3) mixed-use commercial – multi-family residential lots, two (2) hotel lots, two (2) open space lots, one (1) public park, one (1) private street, and one (1) remainder parcel. The condominium subdivision is planned to allow a maximum of 600 residential units.

The proposed project furthers the policy objective for “Urban Villages” to have “higher densities and mixed uses in the village cores” and to “provide a wide range of residential housing opportunities” which promotes a blend of for-sale and for-rent housing products and a range of densities integrated and compatible with other land uses in the area . The proposed project would support Smart Growth Principles, as it provides compact development oriented to pedestrians, bicyclists and transit, and would further minimize urban sprawl development patterns.

3. Circulation

All off-site public streets required to serve the subdivision already exist. The on-site public streets are designed in accordance with the City design standards and/or requirements and provide for vehicular and pedestrian connections.

4. Economic Development

The proposed project results in an increase of 600 residential units. There is a provision of a wider range of housing options and pricing for potential home-buyers and renters in the current housing market. By adding these units, increased patronage to the nearby commercial and public/quasi-public uses can be anticipated to contribute to greater economic development within Planning Area 12 and the City.

The Project allows for development of multi-family housing. The Project provides homebuyers the opportunity to purchase homes with greater affordability, reduced maintenance/utility costs, and less dependency on the automobile, a guiding principal of the Otay Ranch GDP. The proposed homes also provide further variation in housing opportunities available to Chula Vista residents, consistent with GP Objective ED 2. The proposed project also fosters economic development benefits at the community level by providing for increased housing densities within the same development footprint. These increased densities allow for infrastructure and municipal services to be provided at reduced cost per capita (more people served by the same municipal services). Additionally, with increased housing (and population) within the same development footprint, increased densities improve the viability of community serving commercial and public/quasi-public uses as well as alternative transportation modes. As a result, the proposed project may serve as a catalyst for small and mid-sized industries and businesses and community serving and neighborhood uses, consistent with GP Objectives ED 3 and ED 9.

5. Public Facilities

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. A Supplemental PFFP has been prepared to analyze the demand generated by 600 new residential units for public services and facilities, and the phasing needs created by the project.

Storm Water: A Storm Water Quality Study was prepared for the project by Rick Engineering Company, dated May 28, 2002 and revised August 12, 2002 and October 4, 2002. An update letter was issued by Rick Engineering on March 3, 2004, which indicated that the project as adopted in April 1, 2003 and as currently configured, are substantially the same. An updated grading study was prepared by Hunsaker & Associates, dated October 7, 2014, which concluded that the proposed project will not present any hydrologic concerns.

The current project storm water quality conditions and proposed water quality improvements are identified in three Hunsaker & Associates reports. Each report focuses on a specific area within FC-2 and includes:

- The Hotel Site: *Water Quality Technical Report (Major WQTR) for Otay Ranch Village 12, PA-12 West Residential October 20, 2014*
- The Eastern Residential area: *Water Quality Technical Report (Major WQTR) for Otay Ranch Planning Area 12 East, November 9, 2015*
- The Western Residential area: *Water Quality Technical Report (Major WQTR) for Otay Ranch Village 12, PA-12 West Residential December 31, 2015*

Hunsaker designed the storm drain system and layout to address peak flows as well as to integrate water quality features needed to comply with the City of Chula Vista Standard Urban Stormwater Mitigation Plan (SUSMP) requirements for water quality.

During the construction phase, the project is subject to the requirements of the State Water Resources Control Board (SWRCB) Order No. 99-08-DWQ National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS00002 (General Construction Permit) and the modifications to the General Construction Permit Order No. 2001-046, adopted by the SWRCB. For coverage by the General Construction Permit, the project owner is required to submit to the SWRCB a Notice of Intent (NOI) to comply with the General Construction Permit, and develop a Storm Water Pollution Prevention Plan (SWPPP) describing Best Management Practices (BMPs) to be used during and after construction to prevent the discharge of sediment and other pollutants in storm water runoff from the project.

Wastewater: The project is consistent with FEIR Mitigation Measures 5.12 -11 through 5.12 -13, which require the Applicant to demonstrate adequate capacity in the Poggi Canyon sewer line. The sewer technical study (Dexter 2014) demonstrates that there is adequate sewer capacity in the existing 8 inch line that serves the site. The existing 8 -inch gravity sewer line is adequate to convey this projected total flow. Moreover, the proposed project does not require additional reaches of the Poggi Interceptor to be upgraded in the future.

Potable Water Demand: As the subject matter of a GP and GPD amendment (Resolution No.2015-114), the property was included in a water supply assessment, which was approved for the project on April 1, 2015. It documents that there is an assured long term supply of water for the project. The approved water supply assessment indicated the project as proposed would result in an incremental increase

of water demand of 173 acre feet beyond what was estimated in the 2010 Otay Water District Water Resources Master Plan.

6. Environmental Element

The proposed project has been reviewed in accordance with the requirements of the CEQA and it was determined that the project was covered in the previously adopted Final Environmental Impact Report for the Otay Ranch Freeway Commercial Sectional Planning Area (SPA) Plan - Planning Area 12 ("FEIR 02-04") (SCH#1989010154). A Water Quality Technical Report, Traffic Impact Study, Noise Impact Report, Air Quality and Global Climate Change Evaluation, Sewer Service Technical Memo and Water Service Technical Memo have been prepared, reviewed and approved by the City. The Development Services Director has determined that only minor technical changes or additions to this document are necessary and that none of the conditions described in Section 15162 of the State CEQA Guidelines calling for the preparation of a subsequent document have occurred; therefore, the Development Service Director has prepared a Second Addendum to FEIR 02-02

7. Growth Management

The proposed project would result in 600 new dwelling units in Freeway Commercial North. A Supplemental PFFP has been prepared which analyzes any potential impacts on public facilities and services, and identifies the facilities, phasing and timing triggers for the provision of facilities and services to serve the project, consistent with the City's Quality of Life Threshold Standards.

In response to a change in the FC-2 District portion of the project, an analysis was prepared entitled Otay Ranch PA 12 – Trip Generation Review – Revised by Chen-Ryan Associates, dated 2015. This report was the basis of the First Addendum to the EIR (FEIR). The FEIR concluded that “the FC-2 site would generate approximately 7,506 daily trips, which is lower than the entitled land use trip generation of approximately 12,145 daily trips for the FC-2 site. Since the proposed modified land uses would generate less traffic than the entitled land uses, there would be no additional traffic impacts associated with the proposed modifications.”

In conformance with City requirements, an analysis of the traffic operations on Town Center Drive was completed for this project (Otay Ranch PA 12 Freeway Commercial North- Traffic Operations along Town Center Drive, by Chen-Ryan Associates, dated March 28, 2016). The Analysis indicates that the trip generation for the project is shown in Table 1 below. With a 15% transit and mixed-use reduction, the FC-2 project would generate approximately 6,164 daily trips including 423 and 555 trips during the AM and PM peak hours, respectively.

The project access is via two driveways along Town Center Drive (one signalized with full access at the main entrance and one signalized without northbound left-turn in at the hotel entrance) and one driveway along Olympic Parkway, between Town Center Drive and Eastlake Parkway (right-in/right-out). The analysis indicates that

both intersections of Town Center Drive / Olympic Parkway and Town Center Drive / Town Center Loop would continue to operate at acceptable LOS D or better with addition of the project traffic. All three proposed project driveways would operate at acceptable LOS D or better under Existing Plus Project conditions. The addition of project traffic would not result in any traffic impact within the project study area. The analysis also indicates that the Year 2030 geometrics of the project are adequate to accommodate the projected Average Daily Traffic (ADT).

The Project site is within the boundaries of the Chula Vista Elementary School District (CVESD) and within the Sweetwater Union High School District (SUHSD). At completion, the proposed project could generate approximately 353 students. The Developer will mitigate impacts on secondary and elementary school facilities through participation in CVESD and SUHSD CFDs.

8. Open Space and Conservation

The proposed project meets the minimum open space requirement per the Freeway Commercial SPA Plan and Planned Community District Regulations. The project generates a demand for an additional 4.69 acres of park land. Pursuant to the Development Agreement between the Developer and the City of Chula Vista, this obligation will be met through the construction, programming and maintenance of a 2-acre enhanced urban park that is valued at or greater than 4.69 of park.

As required by Otay Ranch Resource Management Plan, the project will also convey 43.471 acres of land to the Preserve Owner Manager (POM) upon approval of the first final map.

The proposed land form grading conforms to the City's Grading Ordinance and retains regional and natural open space features. The development of the site is consistent with the goals and policies of the Conservation Element.

9. Safety

The City Engineer, Fire and Police Departments have reviewed the proposed subdivision for conformance with City safety policies and have determined that the proposal meets those standards.

10. Noise

The Project has been reviewed for compliance with the Noise Element and will comply with applicable noise measures at the time of issuance of the building permit.

- B. Pursuant to Government Code Section 66473.1 of the Subdivision Map Act, 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 site plan and architectural review to insure 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 Council certifies 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. The site is physically suited for residential development because it is generally level and is located adjacent to existing residential developments. The Project conforms to all standards established by the City for a residential development.
- E. The conditions herein imposed on the grant of permit or other entitlement herein contained is approximately proportional both in nature and extent to the impact created by the proposed development.

BE IT FURTHER RESOLVED that the City Council does hereby approve the project subject to the general and special conditions set forth below.

III. TENTATIVE MAP GENERAL CONDITIONS OF APPROVAL

Unless otherwise specified or required by law: (a) the conditions and Code requirements set forth below shall be completed prior to the related Final Map as determined by the Development Services Director and the City Engineer, unless otherwise specified, “dedicate” means grant the appropriate easement, rather than fee title. Where an easement is required the Applicant shall be required to provide subordination of any prior lien and easement holders in order to ensure that the City has a first priority interest and rights in such land unless otherwise excused by the City. Where fee title is granted or dedicated to the City, said fee title shall be free and clear of all encumbrances, unless otherwise excused by the City.

Should conflicting wording or standards occur between these conditions of approval, any conflict shall be resolved by the City Manager or designee.

1. The Applicant, or his/her successors in interest, shall develop and maintain the project site in accordance with the approved plans, which include site plans, floor plans, and elevation plans on file in the Planning Division, the conditions contained herein, and Title 19.
2. The project shall comply with approved General Plan Amendment GPA-12-13 and General Development Plan Amendment PCM-12-15, approved May 26, 2015, and the Sectional Planning Area (SPA) Plan PCM 12-16, approved September 13 2016, and all supporting documents including but not limited to the Public Facilities Finance Plan, Parks, Recreation, Open Space and Trails Plan, Affordable Housing Plan, Non-Renewable Energy Conservation Plan, Air Quality Improvement Plan, Water Conservation Plan, Fire Protection Plan and the City of Chula Vista Standard Tentative Map Conditions, as attached hereto and incorporated herein.

3. The Applicant shall pay in full any unpaid balance for the project, including Deposit Account No. DQ1695.
4. The Applicant shall implement, to the satisfaction of the Development Services Director and the City Engineer, the mitigation measures identified in the Final Environmental Impact Report (FEIR 02-04); Second Addendum to FEIR 02-04 and associated Mitigation Monitoring and Reporting Program (MMRP) for the project, within the timeframe specified in the MMRP.
5. The CC&R's for each HOA within the project shall contain a provision that provides all new residents with an overflight disclosure document that discloses the following information during any real estate transaction or prior to lease signing, as required by the Brown Field ALUCP:

NOTICE OF AIRPORT VICINITY: This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase or lease and determine whether they are acceptable to you.

A copy of the above disclosure document shall be recorded with the San Diego County Recorder's Office and a conformed copy submitted to the City of Chula Vista as part of project approval. Each prospective homeowner shall sign the disclosure document confirming they have been informed of the vicinity of the airport prior to the purchase of a home.

6. The Applicant shall obtain approval of a subsequent Final Map showing condominium ownership prior to development of condominiums within any Planning Area proposing mixed residential/commercial or multi-family residential uses.
7. The Applicant shall construct public facilities in compliance with the Otay Ranch Freeway Commercial SPA Public Facilities Finance Plan (as amended from time to time) as specified in the Threshold Compliance and Recommendations Section for each public facility chapter. At the Applicant's request, the City Engineer and Development Services Director may, at their discretion, modify the sequence, schedule, alignment and design of improvement construction should conditions change to warrant such a revision.
8. Prior to the first Final Map, the Applicant shall enter into an agreement to provide funding for periods where project expenditures exceed projected revenues in compliance with CVMC 19.09.090.
9. The Applicant shall dedicate, with the applicable Final Map, for public use all the public streets shown on the Tentative Map within the subdivision boundary. The Applicant

shall construct or enter into an agreement to construct and secure all street and intersection improvements as necessary to mitigate the impacts of the project and as specified in Otay Ranch Freeway Commercial SPA Plan Supplemental Public Facilities Finance Plan Table A.4 "Phasing Summary." The Applicant shall construct the public improvements and provide security satisfactory to the City Engineer and City Attorney.

10. Prior to approval of any Final Map showing public or private streets, the Applicant shall obtain approval of street names to the satisfaction of the Development Services Director and City Engineer.
11. The Applicant shall notify the City at least 60 days prior to consideration of the first Final Map by the City if any offsite right-of-way or any interest in real property needed to construct or install offsite improvements cannot be obtained as required by the conditions of approval. After said notification, the Applicant shall comply with all requirements as set forth by the City Engineer and Development Services Director.
12. Prior to approval of any Final Map, the Applicant shall present verification to the City Engineer in the form of a letter from Otay Water District that the subdivision will be provided adequate water service and long-term water storage facilities. (Engineering, Planning)
13. Prior to approval of any Final Map or Grading Plan for the project, the Engineer-of-Work shall submit and obtain approval by the City Engineer a waiver request for all subdivision design items not specifically waived on the Tentative Map, and not conforming to adopted City standards. The Engineer-of-work request shall outline the requested subdivision design deviations from adopted City standards and state that in his/her professional opinion, no safety issues will be compromised. The waiver is subject to approval by the City Engineer in the City Engineer's sole discretion.
14. Prior to approval of any construction permit, the Applicant shall ensure that all emergency access roads are designed with a Traffic Index of 5 and constructed out of concrete or as approved by the City Engineer.

Grading:

15. Grading plans that include freestanding walls or sound walls adjacent to 2:1 or greater slopes more than 6 feet high shall include a minimum 2 ft. wide level bench for landscaping and maintenance access adjacent to the wall
16. Prior to City acceptance of any landscaped areas, the Applicant shall install permanent water meters in accordance with the approved landscape and irrigation plans to the satisfaction of the Development Services Director.
17. Prior to issuance of any grading permit, the Applicant shall ensure that all earthwork shall balance to the satisfaction of the Development Services Director and the City Engineer.

18. Prior to the issuance of any construction or grading permit which impacts offsite property, the Applicant shall deliver to the City, a notarized letter of permission to construct or grade and drain for all off-site grading.
19. Prior to issuance of any grading or construction permit based on plans proposing the creation of down slopes adjacent to public or private streets, the Applicant shall obtain the City Engineer's approval of a study to determine the necessity of providing guardrail improvements at those locations. The Applicant shall construct and secure any required guardrail improvements in conjunction with the associated construction permit as determined by and to the satisfaction of the City Engineer. The guardrail shall be installed per CalTrans Traffic Manual and Roadside Design Guide requirements and American Association of State Highway and Transportation Officials (AASHTO) standards to the satisfaction of the City Engineer.
20. The Applicant shall ensure that all private lot drainage and slopes comply with the current building code used by the City of Chula Vista.
21. Prior to the first Final Map or grading permit for the project, the Applicant shall enter into an agreement with the offsite property owner to maintain and repair any erosion caused by the project on any offsite property to the satisfaction of the Director of Development Services.

Parks:

22. The Applicant shall offer for dedication, with the appropriate Final Map(s), for public use, the 2.0-acre park site identified in the SPA plan and Tentative Map.
23. The Applicant shall remove all easements and encumbrances of the park site prior to acceptance of parkland by the City.

Preserve Open Space

24. Prior to the approval of the first Final Map for the SPA Plan, the Applicant shall annex the project area to Otay Ranch Preserve Community Facilities District No. 97-2.
25. Prior to recordation of any Final Map the Applicant shall convey fee title to land within the Otay Ranch Preserve to the Otay Ranch Preserve Owner Manager or its designee at a ratio of 1.188 acres for each acre of development area, as defined in the Otay Ranch Resource Management Plan. Each Tentative Map shall be subject to a condition that the Applicant shall execute a maintenance agreement with the Preserve Owner Manager stating that it is the responsibility of the Applicant to maintain the conveyed parcel until the Otay Ranch Preserve Community Facilities District No. 97-2 has generated sufficient revenues to enable the Preserve Owner Manager to assume maintenance responsibilities. The Applicant shall maintain and manage the offered conveyance property consistent with the Otay Ranch Resource Management Plan Phase 2 until the Otay Ranch Preserve

Community Facilities District No. 97-2 has generated sufficient revenues to enable the Preserve Owner Manager to assume maintenance and management responsibilities.

Other

26. Prior to issuance of the first building permit or other discretionary permits for mixed use, multi-family, or other non-residential developments within the project site, the Applicant shall comply with applicable provisions of Municipal Code Section 8.24 - Solid Waste and Litter, and Section 8.25 – Recycling, related to development projects, to the satisfaction of the Department of Public Works, Environmental Services Division. These requirements include, but are not limited to the following design requirements:
 - a. The Applicant shall design mixed-use, multi-family apartments, and commercial development projects to comply with the Recycling and Solid Waste Standards for central collection bin services and/or to accommodate the storage and curbside pickup of individual trash, recycling and green waste containers (3 total), as approved for a small-quantity generator, to the satisfaction of the Director of Public Works and the Waste Management Manager.

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 Chula Vista Municipal Code nor 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, 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 this tentative map 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.
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 Developer 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 Design Plan; Otay Ranch General Development Plan, Otay Ranch Resource Management Plan, Phase 1 and Phase 2; Ranch Wide Affordable Housing Plan;

Otay Ranch Overall Design Plan; Otay Ranch Freeway Commercial Sectional Planning Area (SPA) Plan and supporting documents including: Public Facilities Finance Plan and supplemental PFFP; Parks, Recreation, Open Space and Trails Plan; Affordable Housing 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 City Council.

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.
6. Applicant shall indemnify, protect, defend and hold the City harmless from and against any and all claims, liabilities and costs, including attorney's fees, arising from challenges to the Supplemental Environmental Impact Report (SEIR-12-01) and subsequent environmental review for the project and any or all entitlements and approvals issued by the City in connection with the project.
7. The applicant shall comply with all applicable Freeway Commercial SPA conditions of approval, (PCM 12-16) as may be amended from time to time.

IV. 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.

V. EXECUTION AND RECORDATION 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 recorded with the County Recorder of the County of San Diego, at the sole expense of the Property Owner and/or Applicant, and a signed, stamped copy returned to the City's Development Services Department. Failure to return the signed and stamped copy of this recorded document within 10 days of recordation shall indicate the Property Owner/Applicant's desire that the project, and the corresponding application for building permits and/or a business license, be held in abeyance without approval.

Signature of Property Owner

Date

Signature of Applicant

Date

VI. CONFORMANCE WITH CITY SUBDIVISION MANUAL

The City Council does hereby find that the Project is in conformance with the City of Chula Vista Subdivision Manual, Section 18.12 and the requirements of the Zoning Ordinance.

VII. 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 ab initio.

BE IT FURTHER RESOLVED that the Chula Vista City Council does hereby approve Tentative Subdivision Map CVT-15-0007 for Otay Ranch Planning Area 12 Freeway Commercial North in conjunction with PA-12 SPA Plan Amendment.

Presented by:

Approved as to form by:

Kelly Broughton, FSALA
Development Services Director

Glen R. Googins
City Attorney