

RESOLUTION \_\_\_\_\_

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING A DESIGN REVIEW PERMIT DR16-0030 TO CONSTRUCT A 212-UNIT MULTI-FAMILY DEVELOPMENT WITH TWO-CAR GARAGES, RECREATION AREAS, AND ASSOCIATED OPEN SPACE ON 8.14 ACRES WITHIN THE OTAY RANCH FREEWAY COMMERCIAL NORTH DEVELOPMENT

I. RECITALS

WHEREAS, on August 15, 2016, a duly verified application for a Design Review Permit was filed with the City of Chula Vista Development Services Department by Baldwin & Sons, LLC (Applicant); and

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

WHEREAS, staff recommends that, based upon the findings made, the City Council approve the Design Review application DR16-0030; and

WHEREAS, The Director of Development Services has reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA) and has determined that the project was adequately covered in previously adopted Final Environmental Impact Report for the Otay Ranch Freeway Commercial Sectional Planning Area (SPA) Plan - Planning Area 12 (FEIR 02-04) (SCH#1989010154). The Development Services Director has determined that only minor technical changes or additions to this document are necessary and that none of the conditions described in Section 15162 of the State CEQA Guidelines calling for the preparation of a subsequent document have occurred; therefore, the Development Service Director has prepared a Second Addendum to FEIR 02-04; and

WHEREAS, the City Clerk set the time and place for the hearing on the Design Review request and notices of said hearing, together with its purposes given by its publication in a newspaper of general circulation in the City, and its mailings to property owners within 500 feet of the exterior boundaries of the project site at least ten (10) days prior to the hearing; and

WHEREAS, the duly called and notified public hearing on the Design Review was heard before the City Council of the City of Chula Vista on September 13, 2016 in the Council Chambers in City Hall, Chula Vista Civic Center, 276 Fourth Avenue, at 5:00 p.m.

II. DESIGN REVIEW FINDINGS/APPROVAL

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

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

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

The allowable density on the site is a total of 212 units. The Applicant is proposing to build a total of 212 units. Each building includes a two-car garage in addition to guest parking. The project requires 494 parking spaces, and provides 497 spaces, which consist of 168 side by side garages, 224 tandem garage spaces and 105 open parking spaces located onsite. The maximum allowable building height is 50 feet and the project proposes 45'-4". The lot area, floor area ratio, and setback requirements are subject to Design Review (DR).

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

The project is in compliance with the Multi-Family Design Guidelines of the Freeway Commercial North SPA Design Plan, and is consistent with the SPA density requirements. Enhanced architectural details are proposed along the street elevations and the layout of the site provides for a pedestrian oriented design per the Otay Ranch Freeway Commercial North SPA Plan.

BE IT FURTHER RESOLVED THAT THE CITY COUNCIL, BASED ON THE FINDINGS ABOVE, hereby approves the Design Review Permit subject to the following conditions:

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

#### Planning Division

1. The site shall be developed and maintained in accordance with the approved plans, which include site plan, floor plan, landscape plan and elevation plan on file in the Planning Division, the conditions contained herein, and Title 19.
2. Prior to, or in conjunction with the issuance of the first building permit, Applicant shall pay all applicable fees, including any unpaid balances of permit processing fees for deposit account DQ-1695.

3. Prior to the approval of building permits, the Applicant shall submit building plans specifying colors and materials consistent with the colors and materials shown on the site plan, elevations and materials board submitted to the City Council and on file in the Planning Department.
4. Prior to issuance of the first building permit, Applicant shall provide specifications on construction drawings of sound attenuation features for required open space areas, as called out on Sheet (Architectural Site Plan - A050, Building 100 – Building Plans - A130, A140; Building 100- Building Elevations - A160; Building 200 – Building Plans - A230, A240; Building 200 – Building Elevations - A260; Unit 2 (Building 100 & 200) A720; Unit 3 (Building 200) A730; Unit 5 (Building 100) A750, A751) of the Design Review approved plans, as well as in the project noise study.
5. Prior to final occupancy of the last building unit, the sound attenuation wall located at the west of the site, as specified on the project plans and within the project noise study, shall be constructed.
6. A graffiti resistant treatment shall be specified on the building plan for all wall and building surfaces. This shall be noted for any building, and wall plans and shall be reviewed and approved by the Director of Development Services prior to the issuance of building permits. Additionally, the project shall conform to Section 9.20.055 of the Chula Vista Municipal Code (CVMC) regarding graffiti control.
7. 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 as required by the Director of Development Services. Such screening shall be architecturally integrated with the building design and constructed to the satisfaction of the Director of Development Services.
8. 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 to the satisfaction of the Director of Development Services.
9. All exterior lighting shall include shielding to remove any glare from adjacent residents. Details for said lighting shall be included in the architectural plans and shall be reviewed and approved to the satisfaction of the Director of Development Services, prior to the issuance of any building permit.

#### Building Division

10. The Applicant 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 2008 California Energy Code (CEC),

and the 2013 California Green Building Standards, as adopted and amended by the State of California and the City of Chula Vista.

Land Development Division/Landscape Architecture Division

11. The Applicant shall meet all park obligations relating to the proposed 212 multi-family condos in accordance with the provisions of the Freeway Commercial North Development Agreement executed 6-29-15.
12. The Applicant shall comply with the 2015 update to Chapter 20.12 of the CVMC, the Landscape Water Conservation Ordinance.
13. The Applicant shall comply with all applicable conditions of Tentative Map No. 15-0007.
14. The Applicant shall be required to pay Engineering Fees based on the final approved building plans for the project, which include, but are not limited to the following:
  - Sewer Connection and Capacity Fee
  - Traffic Signal Fee
  - Public Facilities Development Impact Fees
  - Eastern Transportation Development Impact Fees
  - Other Engineering Fees as applicable per Master Fee Schedule
15. The Applicant shall be required to pay additional deposits or fees in accordance with the City Subdivision Manual, and Master Fee Schedule with the submittal of the following items:
  - Grading Plans
  - Street Improvement Plans
  - Final Map
16. The Applicant shall pay the Park Acquisition and Development (PAD) fee per dwelling unit prior to the issuance of the first Building Permit in accordance with CVMC 17.10.100. The PAD fee is adjusted on an annual basis on October 1 based on the Engineer Construction Cost Index. The amount of the PAD fee shall be the amount in place at the time of Building Permit approval. The project shall comply with all conditions related to PAD fees as stipulated in the Freeway Commercial North Development Agreement.
17. Prior to the approval of the building permit, the Applicant shall submit duplicate copies of all commercial, industrial or multifamily 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 drain on site.
18. All driveways shall conform to the City of Chula Vista's sight distance requirements in accordance with Section 12.12.130 of the CVMC. Also, landscaping, street furniture, or signs shall not obstruct the visibility of a driver at the street intersections or driveways.
19. The Applicant shall obtain a Land Development Permit prior to beginning any earthwork activities at the site and before issuance of building permits in accordance with CVMC Title 15.04. The Applicant shall submit Grading Plans in conformance with the City's Subdivision Manual and the City's Development Storm Water Manual requirements, including, but not limited to the following:
- Grading Plans shall be prepared by a registered Civil Engineer and approved by the City Engineer.
  - Drainage Study and Geotechnical/Soils Investigations are required with the first submittal of Grading Plans. The Drainage Study shall calculate the Pre-Development and Post-Development flows and show how downstream properties and storm drain facilities are impacted. Design shall incorporate detention of storm water runoff if Post-Development flows exceed Pre-Development flows; analysis shall include flows from 2 yr., 10 y.r, and 50 yr. return frequency storms.
  - Drainage study shall also demonstrate that no property damage will occur during the 100-year storm event.
  - Drainage study shall show any offsite flows.
  - All onsite drainage facilities shall be private.
  - Any offsite work will require Letters of Permission from the property owner(s).
20. The Applicant shall provide 2 copies of the following technical reports with the 1<sup>st</sup> submittal of grading plans:
- Drainage study
  - Water Quality Technical Report (WQTR)
  - Geotechnical Report
21. Applicant shall obtain encroachment permits for temporary improvements (such as fence, asphalt ramps, signs, etc.) located in the street right of way, City easements or City owned Open Space Lots prior to construction of such improvements.

22. The project 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 building permit approval, The Applicant shall provide documentation, to the satisfaction of the City Engineer, to demonstrate such compliance.
23. Site design shall include features to meet NPDES Municipal Permit Standards. These features shall maximize infiltration and minimize impervious land coverage while conveying storm water runoff.
24. The site runoff shall be directed to a bioretention BMP. The bioretention BMP shall be designed in accordance with criteria established in the Countywide Model SUSMP and the California Stormwater Quality Association (CASQA) Storm Water Best Management Practices Handbook, BMP # TC-32. Details of the bioretention facility shall be shown on the plan.
25. The Owner shall enter into a Storm Water Management Facilities Maintenance Agreement to perpetually maintain private BMP's located within the project prior to issuance of any Grading or Building Permits, whichever occurs first.
26. The Applicant shall file a Final Map in accordance with Sections 66426 and 66427 of the Subdivision Map Act should Owner propose condominium units for the project. The Applicant shall enter into an agreement prior to approval of the Final Map to secure all Public Improvements required for the development of the Project.
27. Applicant shall fund the projects fair share and/or install transit stop facilities within the Tentative Map boundary when directed by the Director of Public Works. The improvement plans for said stops shall be prepared in accordance with the transit stop details described in the Freeway Commercial North Design Plan and PFFP and as approved by the Directors of Development Services and Public Works.
28. Prior to the issuance of any building permit, the Applicant shall submit Improvement Plans in conformance with the City's Subdivision Manual and obtain a Construction Permit. The Improvement Plans shall include but not be limited to:
  - Removal and replacement of any broken or damaged curb, gutter, and sidewalk per SDRSD G-2, and G-7 along the project's frontage to the satisfaction of the City Engineer. Sidewalk shall be designed and constructed with proper transitions to existing conditions.
  - Additional asphalt paving for the replacement of the existing curb, gutter and sidewalk.

- Installation of curb, gutter, and sidewalk per SDRSD G-3 along the project's frontage. Sidewalk shall be designed and constructed with proper transitions to existing conditions.
  - Install a Concrete bus pad and a bus shelter on Santa Diana Road.
  - Relocation of existing utilities, as determined by the City Engineer.
29. The Applicant shall obtain any and all permits required for the installation of public utilities (gas, electric, water, cable, and telephone).
30. The Applicant shall secure the construction and completion of all improvements, including offsite improvements and those surrounding the Project, in accordance with Section 18.16.180 of the CVMC.
31. For the proposed private sewer facilities, manholes shall be used where 6" mains or larger are connected to public sewer.
32. The onsite sewer and storm drain system shall be private. All sewer laterals and storm drains shall be privately maintained by the Applicant, until such time as the facilities are transferred to an HOA or other party, from each building unit to the City-maintained public facilities.
33. The Applicant shall design all proposed sidewalks, walkways, pedestrian ramps, and disabled parking to meet the City of Chula Vista Design Standards, ADA Standards, and Title 24 standards, as applicable.
34. Prior to Grading or Street Improvement Plan approval, the Applicant shall upload copies of the Street Improvement Plan, Grading Plan, and Site Improvement Plan in digital format such as AutoCAD DWG or DXF (AutoCAD version 2000 or above), ESRI GIS shapefile, file, or personal geodatabase (ArcGIS version 9.0 or above). The files should be transmitted directly to the GIS section using the city's digital submittal file upload website at <http://www.chulavistaca.gov/goto/GIS>. The data upload site only accepts zip formatted files.
35. Prior to Improvement Plan or building permit approval, whichever occurs first, the Applicant shall obtain an Encroachment Permit for any private facilities within public right-of-way or City easement.

### **Fire Department**

36. The Applicant shall apply for and obtain all required building permits. Permits shall comply with applicable codes and requirements, including but not limited to: the current California edition of Building Code (CBC), Fire Code (CFC), Mechanical Code, and Residential Code as adopted and amended by the State of California and the City of Chula Vista.

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

1. The Applicant shall develop and maintain the site in accordance with the approved plans, which include site plans, floor plan, and elevation plan on file in the Planning Division, the conditions contained herein, and Title 19, until such time as this obligation is assumed by a successor in interest or HOA, if established.
2. The Applicant shall install all landscaping and hardscape improvements in accordance with the approved landscape plan.
3. Approval of the Design Review Permit does not waive Owner's/Applicant's obligation to comply with any sections of Title 19 of the CVMC, nor any other applicable laws and regulations in effect at the time of building permit issuance. The Applicant shall be responsible for complying with all such laws and regulations.
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 Design Review Permit 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 19.14.600 of the CVMC; September 23, 2019.

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 timely this procedure will bar any subsequent legal action to attack, set aside, void or annul imposition. The right to protest the fees, dedications, reservations, or other exactions does not apply to planning, zoning, grading, or other similar application processing fees or service fees in connection with



the project; and it does not apply to any fees, dedication, reservations, or other exactions which have been given notice similar to this, nor does it revive challenges to any fees for which the Statute of Limitations has previously expired.

IV. EXECUTION OF RESOLUTION OF APPROVAL

The Property Owner and Applicant shall execute this document signing on the lines provided below, indicating that the Property Owner and Applicant have each read, understood and agreed to the conditions contained herein, and will implement same. Upon execution, this document shall be signed and returned to the City's Development Services Department.

\_\_\_\_\_  
Signature of Property Owner  
Freeway Commercial North, RM

\_\_\_\_\_  
Date

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

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

\_\_\_\_\_  
Date

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

V. CONSEQUENCE OF FAILURE OF CONDITIONS

If any of the foregoing conditions fail to occur, or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City shall have the right to revoke or modify all approvals herein granted, deny, or further condition issuance of all future building permits, deny, revoke, or further condition all certificates of occupancy issued under the authority of approvals herein granted, institute and prosecute litigation to compel their compliance with said conditions or seek damages for their violation. Failure to satisfy the conditions of this permit may also result in the imposition of civil or criminal penalties.

VI. INVALIDITY; AUTOMATIC REVOCATION

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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.

BE IT FURTHER RESOLVED that the City Council, based on the evidence presented, hereby approves the appeal and grants approval for DR16-0030.

Presented by:

Approved as to form by:

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

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