

RESOLUTION \_\_\_\_\_

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING A DESIGN REVIEW PERMIT (DR16-0009) TO CONSTRUCT TWO OFFICE BUILDINGS TOTALING 318,000 SQUARE FEET, A 6,100 SQUARE FOOT SINGLE STORY AMENITY BUILDING AND A TOTAL OF 1,373 PARKING SPACES ON A 7.06-ACRE SITE WITHIN THE MILLENIA MASTER PLANNED COMMUNITY

WHEREAS, the area of land which is the subject of this Resolution is one existing parcel located in the Millenia/Eastern Urban Center (EUC) Sectional Planning Area (SPA) in the Mixed Use Civic/Office Core District (District 5, Lot 7 of Final Map 16081); and

WHEREAS, a duly verified application for a Design Review Permit was filed on April 21, 2016 with the City of Chula Vista Development Services Department by LMC-Millenia Investment Company, L.P. (Chesnut Properties and Applicant) for 318,000 square feet of office development with 1,373 parking spaces within the Mixed Use Civic/Office Core District (Project); and

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

WHEREAS, the City Clerk set the time and place for the hearing on the Project application and notices of said hearing, together with its purpose given by its publication in a newspaper of general circulation in the City at least ten (10) days prior to the hearing; and

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

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

I. DESIGN REVIEW FINDINGS

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

The proposed office use is permitted and meets all of the development regulations as stipulated in the EUC PC District Regulations as detailed in the City Council staff report for this Project, incorporated herein by this reference.

2. The proposed Project is consistent with the design and development standards of the

EUC SPA Design Plan.

The Project is in compliance with the District 5, Mixed Use Civic/Office Core District, Design Guidelines of the EUC SPA Form Based Code as detailed in the City Council staff report for this Project, incorporated herein by this reference.

BE IT FURTHER RESOLVED that the City Council, based on the Findings above, does hereby approve the Design Review Permit subject to the following conditions which shall be accomplished to the satisfaction of the Director of Development Services or designee, prior to issuance of building permits, unless otherwise specified:

II. CONDITIONS OF APPROVAL

Planning Division

1. Prior to issuance of building permits for the future Building 3, the Applicant shall obtain a separate design review approval by the Planning Commission.
2. Prior to, or in conjunction with the issuance of the first building permit, the Applicant shall pay all applicable fees, including any unpaid balances of permit processing fees for deposit account DQ-3171.
3. The colors and materials specified on the building plans shall be consistent with the colors and materials shown on the materials board included in the plan set approved by the City Council.
4. 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.
5. All exterior lighting shall include shielding to remove any glare. Details for said lighting shall be included in the architectural plans and shall be reviewed and approved prior to the issuance of any building permit.
6. A graffiti resistant treatment shall be specified for all ground floor building surfaces. This shall be noted on any building and wall plans and shall be reviewed and approved prior to the issuance of building permits. Additionally, the Project shall conform to Sections 9.20.055 and 9.20.035 of the Chula Vista Municipal Code (CVMC) regarding graffiti control or as approved by the Director of Development Services or designee.
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. Such screening shall be architecturally integrated with the building plans.

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

Land Development Division, Engineering Section

9. The Applicant shall comply with all requirements and guidelines of the City of Chula Vista Municipal Code; the Chula Vista Subdivision Manual; City of Chula Vista Design and Construction Standards; the Development Storm Water Manual for Development & Redevelopment Projects; the City of Chula Vista Grading Ordinance No. 1797; and the State of California Subdivision Map Act.
10. Prior to issuance of the grading or site development permit, the Applicant shall enter into a Storm Water Management Facilities Maintenance Agreement with Grant of Access and Covenants with the City where Applicant agrees to perpetually maintain the private BMPs that will serve the project site in accordance with the approved Water Quality Technical Report (WQTR).
11. The Applicant shall apply for a Construction Permit and bond for any work needed in the City's right-of-way. This work includes, but is not limited to sidewalks, curb & gutters, the connection of private laterals to public facilities and the corresponding trench backfill and surface restoration.
12. Before the issuance of the first building permit, the Applicant shall pay the following Engineering Fees (fees are adjusted on October 1st of every year):
  - a) Sewer Capacity Fee
  - b) Traffic Signal Fee
  - c) Sewer Basin DIF
  - d) Other Engineering Fees per the Master Fee Schedule.
13. On-site drainage and sewer systems shall be private.
14. Before the issuance of the first building permit associated with a specific pad, the Applicant must submit pad certification.
15. Prior to the issuance of the first building permit for the Project, the Applicant shall provide to the City verification of service from the Otay Water District.
16. Separate permits for other public utilities (gas, electric, water, cable, telephone) shall be required, as necessary.

17. Prior to the issuance of the first building permit, the Applicant shall obtain a reciprocal access easement from the neighboring property (future fire station) to be able to use the outside driveway.
18. Before the issuance of the first building permit, the Applicant shall get City approval of Engineering Plans and bond for the construction of the proposed traffic signal to be located along Millenia Avenue and the driveways serving Lot 1 and Lot 7 (Final Map No. 16081). This traffic signal shall be fully operational to the satisfaction of the City Engineer before the issuance of the first certificate of occupancy for either Lot 1 or Lot 7.
19. Before the issuance of the first building permit, the Applicant shall have an Encroachment Permit and an Encroachment & Maintenance Agreement for those buildings encroaching the City's right-of-way.

#### Landscape Architecture

20. Prior to issuance of the first building permit, the Applicant shall obtain approval for a "Landscape Documentation Package" that complies with the Chula Vista Landscape Water Conservation Ordinance, 2015 update, Municipal Code Chapter 20.12.
21. Prior to approval of improvement plans and L&I plans, the Applicant shall ensure that all paving materials are coordinated between civil, architectural and landscape plans including details of products, colors, finishes and suppliers as appropriate for construction.
22. The construction drawings shall be approved by both the Otay Water District and the Department of Environmental Health.
23. Prior to issuance of the first building permit, the Applicant shall submit and obtain approval of a Project's sign package including the proposed entry monument that demonstrates appropriate scale in relation to the buildings proposed for Lot 7.
24. Prior to issuance of the first building permit, the Applicant shall submit plans for the improvements immediately to the south of building 1, adjacent to Park P-2, that include both the permanent and temporary interface design between Lot 7 and P-2. The design of this area shall be coordinated with the Master Developer during the Park P-2 Master Plan required to be submitted to the City by the Master Developer according to the Parks Agreement approved September 15, 2009, Exhibit D.

#### Fire Department

25. The Applicant shall apply for required building permits. Permits shall comply with applicable codes and requirements, including but not limited to the current California Title 24 and associated City policies.

#### Building Division

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

26. The Project shall comply with 2016 California Building Code (CBC), California Mechanical Code (CMC), California Plumbing Code (CPC), California Electrical Code (CEC), California Fire Code (CFC), the California Energy Code, and the California Green Code, as adopted and amended by the State of California and the City of Chula Vista.
  27. The Project shall be designed by an Architect or Engineer licensed by the State of California. [California Business and Professional Code 5536.1, 6735].
  28. A separate Site Development permit may be required to include site lighting, perimeter masonry walls, retaining walls (if not included with grading), trash enclosures, and patios.
  29. The Applicant shall obtain a monument sign and other signage permit.
  30. Exterior walls shall comply with exterior wall requirements for projections, fire rating, openings and parapet found in section 705.
  31. All areas of the site and buildings shall comply with the disabled access requirements including but not limited to: Site access, building access, toilet access, elevator use, restaurant access and use, parking access and use.
- III. The following on-going conditions shall apply to the Project as long as it relies on this approval:
1. The site shall be developed and maintained in accordance with the approved plans, which include, but are not limited to, site plans, floor plans, elevation plans and landscape plans on file in the Development Services Department, the conditions contained herein, and Title 19.
  2. The Applicant shall install all landscaping and hardscape improvements in accordance with the approved Landscape Documentation Package.
  3. Approval of the Design Review Permit shall not waive compliance with any sections of Title 19 of the Municipal Code, nor any other applicable laws and regulations in effect at the time of building permit issuance.

4. The Property Owner and Applicant shall and do agree to indemnify, protect, defend and hold harmless City, its City Council members, officers, employees and representatives, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and attorney's fees (collectively, liabilities) incurred by the City arising, directly or indirectly, from (a) City's approval and issuance of this Design Review Permit and (b) City's approval or issuance of any other permit or action, whether discretionary or non-discretionary, in connection with the use contemplated on the Project Site. The Property Owner and Applicant shall acknowledge their agreement to this provision by executing a copy of this Resolution where indicated below. The Property Owner's and Applicant's compliance with this provision shall be binding on any and all of the Property Owner's and Applicant's successors and assigns.
5. This Design Review Permit shall become void and ineffective if not utilized within three years from the effective date thereof, in accordance with Section 19.14.260 of the Municipal Code.

III. GOVERNMENT CODE SECTION 66020 NOTICE

Pursuant to Government Code Section 66020(d) (1), NOTICE IS HEREBY GIVEN that the 90 day period to protest the imposition of any impact fee, dedication, reservation, or other exaction described in this resolution begins on the effective date of this resolution and any such protest must be in a manner that complies with Section 66020(a) and failure to follow in a timely manner this procedure will bar any subsequent legal action to attack, set aside, void or annul imposition. The right to protest the fees, dedications, reservations, or other exactions does not apply to planning, zoning, grading, or other similar application processing fees or service fees in connection with the project; and it does not apply to any fees, dedication, reservations, or other exactions which have been given notice similar to this, nor does it revive challenges to any fees for which the Statute of Limitations has previously expired.

IV. EXECUTION 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.

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Signature of Applicant

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Date

\_\_\_\_\_  
Signature of Property Owner

\_\_\_\_\_  
Date

V. CONSEQUENCE OF FAILURE OF CONDITIONS

If any of the forgoing conditions fail to occur, or if they are, by their terms, to be implemented and maintained over time, and any of such conditions fail to be so implemented and maintained according to the their terms, the City shall have the right to revoke or modify all approvals herein granted, deny or further condition issuance of future building permits, deny, revoke or further condition all certificates of occupancy issued under the authority of approvals herein granted, instituted and prosecute, litigate or compel their compliance or seek damages for their violations. No vested rights are gained by Applicant or any successor in interest by the City approval of this Resolution.

VI. INVALIDITY; AUTOMATIC REVOCATION

It is the intention of the City Council that its adoption of this Resolution is dependent upon enforceability of each and every term provision and condition herein stated; and that in the event that any one or more terms, provisions or conditions are determined by a Court of competent jurisdiction to be invalid, illegal or unenforceable, if the City so determines in its sole discretion, this Resolution shall be deemed to be revoked and of no further force or effect ab initio.

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

Presented by:

Approved as to form by:

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Kelly Broughton, FASLA  
Director of Development Services

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

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PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF CHULA VISTA, CALIFORNIA, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by the following vote, to-wit:

AYES: Council members:

NAYS: Council members:

ABSENT: Council members:

ABSTAIN: Council members:

\_\_\_\_\_  
Mary Salas, Mayor

ATTEST:

\_\_\_\_\_  
Donna Norris, City Clerk