

RESOLUTION NO. 2019-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING TENTATIVE SUBDIVISION MAP CVT 19-0001 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 January 9, 2019, a duly verified application for a Tentative Subdivision Map (PCS-19-0001) was filed with the City of Chula Vista Development Services Department by Baldwin & Sons (Applicant); to allocate the additional 300 units to R/MU land use district. The Tentative Subdivision Map creates 608 residential condominium units, 10 commercial lots and 1,049 parking condominium units on 10.405 acres of land; 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 caused the preparation of a Third Addendum to FEIR 02-04; and

4. Planning Commission Record on Application

WHEREAS, a public 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, was held before the Planning Commission in the Council Chambers, 276 Fourth Avenue, and said hearing was thereafter closed; and

WHEREAS, the Planning Commission reviewed and considered the Tentative Subdivision Map PCS-19-0001; and

WHEREAS, the Planning Commission, after considering all evidence and testimony presented, by a vote of 6-1-0-0 recommends that the City of Chula Vista City Council approve the Tentative Subdivision Map CVT 19-0001 for Otay Ranch Planning Area 12 Freeway Commercial North in Conjunction with the 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 Clerk of the City of Chula Vista for consideration of the 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, the City Council of the City of Chula Vista held a duly noticed public hearing to consider said Tentative Subdivision Map at the time and place as advertised in the Council Chambers, 276 Fourth Avenue, and 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 the Freeway Commercial Planned Community District Regulations is FC-2, which is divided into two subcategories: R/MU (Residential/Mix-Use) and C/MU (Commercial/Mixed Use). All neighborhoods, as shown on the Tentative Subdivision Map, are consistent with these designations. In total, this Tentative Subdivision Map depicts 608 residential units.

The subdivision design creates 608 residential condominium units, 10 commercial lots and 1,049 parking condominium units on two (2) lots, and one (1) private street. 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 private street is designed in accordance with the City design standards and/or requirements and provides for vehicular and pedestrian connections.

4. Economic Development

The proposed project results in an increase of 300 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 General Plan (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 Public Facilities Financing Plan (PFFP) has been prepared to analyze the demand generated by 300 new residential units for public services and facilities, and the phasing needs created by the project.

Storm Water: Otay Ranch FC-2 project existing conditions and proposed drainage improvements are identified in the “Otay Ranch Planning Area 12, Drainage Study,” dated October 7, 2014, by Hunsaker & Associates. The Hunsaker Drainage Study identifies the Pre-Development and Post-Development Conditions flow rates for 50-

year and 100-year storm events; the required size of the proposed storm drain facilities needed to route the expected runoff through the developed site; and a capacity analysis and recommendation for the existing storm drain capacity once the site is developed. A Drainage Report and a Storm Water Quality Management Plan (SWQMP) were prepared by SB&O Inc. on August 8, 2018 for the east portion of FC-2.

The current project storm water quality conditions and proposed water quality improvements are identified in three 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 by Hunsaker & Associates.*
- The Eastern Residential area: “A Drainage Report and a SWQMP”, August 8, 2018 by SB&O Inc.
- The Western Residential area: *Water Quality Technical Report (Major WQTR) for Otay Ranch Village 12, PA-12 West Residential December 31, 2015 by Hunsaker & Associates.*

The Hunsaker WQTR’s and SB&O SWQMP have been prepared to implement the methods and procedures as described in the City of Chula Vista Storm Water Manual and Standard Urban Stormwater Mitigation Plan (SUSMP) for Best Management Practices (BMP) design. The treatment of the runoff from the project is addressed in the WQTR. The proposed design will utilize on-site Low Impact Development (LID), BMPs and Bioretention Integrated Management Practices (IMP’s) Treatment Controls to treat the 85th percentile flow from the development. The FC-2 project is under the jurisdiction of the San Diego Regional Water Quality Control Board (SDRWQCB). The FC-2 project is subject to the National Pollutant Discharge Elimination System (NPDES) requirements both during and after construction. NPDES requirements stem from the Federal Clean Water Act and are enforced either by the State Water Resources Control Board (SWRCB) or the Regional Water Quality Control Board (RWQCB) for the region in which the project is located.

The City of Chula Vista BMP Design Manual March 2019 update to the December 2015 Manual, addresses the onsite post-construction storm water requirements for Standard Projects and Priority Development Projects (PDPs) and provides procedures for planning, preliminary design, selection, and design of permanent storm water BMPs based on the performance standards as required by the Municipal Storm Water Permit for the San Diego Region [Order No. R9-2013-0001 as amended by R9-2015-0001 and R9-2015-0100]. All development projects must comply with the requirements.

Wastewater: The project is consistent with Final Environmental Impact Report (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 2019) 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.

Potable Water Demand: As the subject matter of a GP and GDP 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. This report estimated that the project would require a supply of 233 AFY to meet the demands of the project and concluded that the Otay Water District (OWD) could meet these demands. After the 2015 WSAV report was approved, OWD updated the water demand factors that are used to estimate demands from future development. Due to the success of water conservation efforts in the region and corresponding reductions to OWD water demand factors, the current demand for the proposed Freeway Commercial project amendment is 217 AFY, or 16 AFY less than the project that was approved in 2015. This reduction in water demand projections by OWD is consistent with what the San Diego County Water Authority (SDCWA) reports region wide where their supply of water to the San Diego region was less in 2016 than it was in 1990, despite an increase in the population and number of residences.

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 Memorandum and Water Service Technical Memorandum have been prepared, reviewed and approved by City staff. 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 caused the preparation of a Third Addendum to FEIR 02-04.

7. Growth Management

The proposed project will result in 300 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 previous change in the FC-2 District portion of the project, an analysis was prepared entitled Otay Ranch PA12 – Trip Generation Review – Revised by Chen-Ryan Associates, dated 2015. This report was the basis of the First Addendum to the EIR. The First Addendum 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 are no additional traffic impacts associated with the proposed modifications.”

When the land use changed from Commercial to Mixed-Use in the FC-2 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. The First Addendum concluded that the hotel and mixed-use land uses would generate less daily and peak hour trips than the entitled Freeway Commercial uses, there would be no significant traffic impacts associated with the land use change and thus no additional traffic analysis would be required. The updated Traffic Memorandum by Chen Ryan dated January 2019 concluded that with the addition of 300 units, the project will still generate fewer trips than the original Freeway Commercial uses would generate. According to the January 2019 memorandum (Chen Ryan 2019), the FC-2 site would generate approximately 7,681 daily trips, which is lower than the originally approved commercial land use trip generation of approximately 12,145 daily trips for the FC-2 site. As analyzed in the traffic memorandum, there is a reduction in PM peak hour trips (by 524 trips) and an increase in AM peak hour trips (by 58 trips) but would not result in any new significant traffic impacts during the Existing Plus Project or Horizon (Year 2030) conditions.

The project access is via two driveways along Town Center Drive 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 463 students. The Applicant will mitigate impacts on secondary and elementary school facilities through participation in CVESD and SUHSD Community Facility Districts (CFDs).

8. Open Space and Conservation

The proposed project meets the minimum open space requirement in accordance with the Freeway Commercial SPA Plan and Planned Community District Regulations. The project generates a demand of 2.36 acres of park land for the additional 300 units. Pursuant to the Development Agreement between the Applicant and the City of Chula Vista, this obligation will be met through the payment of a Park Benefit Fee as described in the Development Agreement.

The Otay Ranch Resource Management Plan (RMP) requires conveyance of 1.188 acres of land to the Otay Ranch Preserve for every one-acre of developed land prior to the recordation of any Final Map. In association with the original Final Map for this Project, Map 16291, 40.761 acres were conveyed to the Otay Ranch Preserve Owner Manager via recorded Open Space Easement Doc# 2018-0325995. Since the project dedicated Multi-species Conservation Plan (MSCP) open space preserve lands prior to recordation of the original Final Map, the project is consistent with the requirements of the Otay Ranch RMP and MSCP Subarea Plan.

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 a 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 City Council hereby 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. Pursuant to Government Code Section 66474 (a)-(g) of the Subdivision Map Act, the proposed Project:

(a) is consistent with applicable general and specific plans as specified in Section 65451 because the General Plan designation Freeway Commercial (28-45 dwelling units per acre) allows for a maximum of 608 units/lots and the project proposes 3 lots. The project is within a SPA/Specific Plan area.

(b) design or improvement is consistent with applicable general and specific plans. The Project's design of 3 lots is consistent with the Freeway Commercial, (FC-2) zoning classification which is consistent with the General Plan's Freeway Commercial designation.

(c) site is suitable for the proposed density of development. The project's 3 lots are below the allowed density range of 27-45 dwelling units per acres with a maximum yield of 608 units/lots.

(d) site is physically suitable for the type of development. The project is surrounded by multi-family and commercial development with available access and infrastructure to serve the project.

(e) the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The project has been designed to minimize landform disturbance with cut and fill slopes balance, and on a disturbed site that avoids permanent disturbance or injury to wildlife or their habitat.

(f) the design of the subdivision or type of improvements is not likely to cause serious public health problems because the project has been designed to have plenty of separation between homes, able to be served by fire and emergency services, and located over 500 feet from a major highway.

(g) subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision. The project's roadways and utilities are within and are not in conflict with existing easements.

E. 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.

F. 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.

III. TENTATIVE MAP CONDITIONS OF APPROVAL

Unless otherwise specified or required by law, the conditions and Chula Vista Municipal Code ("CVMC" or "Municipal 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, or their designees. 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 and any other entitlement document, 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-12-03, General Development Plan Amendment PCM-12-15, Sectional Planning Area (SPA) Plan PCM 12-16, and Tentative Subdivision Map, Tract 05-02 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, or on file in the Development Services Department, and incorporated herein.
3. The Applicant shall pay in full any unpaid balance for the project, including Deposit Account No. DDA0384.
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); Third 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 Applicant shall submit Covenants, Conditions and Restrictions (CC&R's) for review and approval prior to approval of the Final Map. Said CC&R's shall include the following:
 - a. Indemnification of City for private sewer spillage.
 - b. Listing of maintained private facilities.
 - c. The City's right but not the obligation to enforce the CC&R's
 - d. Provision that no private facilities shall be requested to become public unless all homeowners and 100% of the first mortgage obligee have signed a written petition.
 - e. Maintenance of all walls, fences, lighting structures, paths, recreational amenities and structures, sewage facilities, drainage structures and landscaping.
 - f. Implement education and enforcement program to prevent the discharge of pollutants from all on-site sources to the storm water conveyance system.
6. Said CC&R's shall be consistent with CVMC Chapter 18.44, the Subdivision Ordinance, and shall be recorded concurrently with the Final Map.

7. The CC&R's for each Homeowners Association (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 or lease of a home.

8. 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. Ownership of individual parking condominium units must be in compliance with the parking requirements of the PC District Regulations of the Otay Ranch Freeway Commercial Sectional Planning Area Plan (PC District Regulations). Residential or Commercial condominium units must at all times be in compliance with the parking requirements of the PC District Regulations through direct ownership of the parking condominium units required or legal rights to use the required parking condominium units such as through a recorded shared parking agreement approved by the Development Services Director.
9. 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.
10. Prior to approval of any Final Map, the Applicant shall present verification to the City Engineer in the form of a letter from the Otay Water District that the subdivision will be provided adequate water service and long-term water storage facilities.
11. 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.

12. 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:

13. 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.
14. 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.
15. 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.
16. Prior to the issuance of any Construction or Grading Permit which impacts offsite property, the Applicant shall deliver to the Development Services Director and City Engineer, a notarized letter of permission to construct or grade and drain for all off-site grading.
17. 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.
18. The Applicant shall ensure that all private lot drainage and slopes comply with the current Building Code used by the City of Chula Vista

Sewer:

19. All gravity sewers shall be designed to convey peak wet weather flow. For pipes with a diameter of 12 inches and smaller, the sewers will be designed to convey this flow when

flowing half full. All new sewers shall be designed to maintain a minimum velocity of two feet per second (fps) at design capacity to prevent the deposition of solids.

20. Prior to each Final Map the Applicant shall either demonstrate that Poggi Sewer has adequate capacity or upsize the inadequate segment, all to the satisfaction of the Director of Development Services and the City Engineer.
21. Upon Tentative Map approval, or as required by the Development Services Director, the Applicant shall fund updates of the Poggi Canyon Sewer Development Impact fee (DIF) to include the project's proposed additional units. Further, the Applicant shall agree not to protest the update of the Poggi Canyon Sewer DIF.

Parks:

22. The Applicant shall pay a Park Benefit Fee (which is equal to the City's PAD fee at the time of payment) to the City for all additional 300 residential units constructed in FC-2 in accordance with the "First Amendment to the Development Agreement between the City of Chula Vista, Village II Town Center, LLC and Sunranch Capital Partners, LLC." Park Benefit Fees may be utilized by the City to acquire or develop parkland serving the City's eastern territories.

Traffic:

23. The Applicant shall comply with all the requirements of the "Otay Ranch Freeway Commercial North Traffic Analysis" by Chen Ryan, dated April 2019.
24. Prior to the issuance of the first Building Permit for the East Mixed-Use, a signal at Town Center Drive and Promenade St. shall be constructed as shown as #4 in Table C.2.
25. Prior to the issuance of the first Building Permit, the street improvements along Town Center Drive, in accordance with Drawing No. 16039 shall be completed to the satisfaction of the City Engineer and Director of Development Services.

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, 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 this Tentative Map, (b) City's actions on any environmental document concerning this

Tentative Map and (c) 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 Applicant 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. The applicant shall comply with all applicable Freeway Commercial SPA conditions of approval, (MPA19-0011) 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 Government Code 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, CVMC Chapter 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 City Council of the City of Chula Vista does, based on the findings, general and specific conditions included herein, hereby approve Tentative Subdivision Map CVT-19-0001 for Otay Ranch Planning Area 12 Freeway Commercial North in conjunction with the PA-12 SPA Plan Amendment.

Presented by:

Kelly Broughton, FSALA
Development Services Director

Approved as to form by:

Glen R. Googins
City Attorney