

**PLANNING COMMISSION RESOLUTION NO. DR15-0015**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CHULA VISTA CONSIDERING THE ADDENDUM TO URBAN CORE SPECIFIC PLAN FINAL ENVIRONMENTAL IMPACT REPORT AND MITIGATION MONITORING AND REPORTING PROGRAM FEIR 06-01 AND APPROVING DESIGN REVIEW (URBAN CORE DEVELOPMENT) PERMIT DR15-0015 TO REDEVELOP THE SITE AT 795 THIRD AVENUE WITH 71 RESIDENTIAL CONDOMINIUM UNITS AND ASSOCIATED SITE IMPROVEMENTS, SUBJECT TO THE CONDITIONS CONTAINED HEREIN**

**I. RECITALS**

WHEREAS, the parcel of land which is the subject matter of this Resolution is depicted in Exhibit "A," attached hereto and incorporated herein by this reference, and for the purpose of general description consists of 1.05 acres located at 795 Third Avenue and 285 K Street, as identified in County Assessor Records as Assessor's Parcel Numbers 573-371-23 and 573-371-12 (Project Site); and

WHEREAS, on June 18, 2015 duly verified applications requesting approval of Design Review Application DR15-0015, Tentative Subdivision Map Application PCS15-0006 (Chula Vista Tract No. 15-06) and Preliminary Environmental Review PER-12-003, were filed with the City of Chula Vista Development Services Department by Niki Properties, LLC ("Applicant" and "Owner"); and

WHEREAS, said Applicant requests approval of Design Review (Urban Core Development) Permit DR15-0015 to redevelop the Project Site with a mixed use, multi-family residential/commercial project known as Vista del Mar, which includes 71 residential units, 616 square-feet of commercial space, 142-parking space garage, active and passive open spaces, and the associated access and circulation elements (the "Project"); and

WHEREAS, a hearing time and place was set by the Planning Commission 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 subject property, at least ten (10) days prior to the hearing; and

WHEREAS, the duly called and noticed public hearing on the Project was held before the Planning Commission of the City of Chula Vista on June 22, 2016 in the Council Chambers, 276 Fourth Avenue, at 6:00 p.m. to hear public testimony and staffs' presentation; and

WHEREAS, the Planning Commission on said date reviewed and considered the Addendum to Urban Core Specific Plan Final Environmental Impact Report and Mitigation Monitoring and Reporting Program FEIR 06-01 and the application for Design Review (Urban Core Development) Permit DR15-0015.

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

## II. ENVIRONMENTAL REVIEW

That the Chula Vista Planning Commission, in the exercise of its independent judgment, as set forth in the record of its proceedings, considered the Preliminary Environmental Review of the Project conducted by the Director of Development Services for compliance with the California Environmental Quality Act (CEQA), and has determined that the Project was covered by the Urban Core Specific Plan (UCSP) Final Environmental Impact Report and Mitigation Monitoring and Reporting Program FEIR-06-01, adopted by the Chula Vista City Council in May 2007. The Development Services Director has determined that only minor technical changes or additions to FEIR-06-01 are necessary and that none of the conditions described in Section 15162 of the State CEQA Guidelines calling for the preparation of subsequent documents have occurred; therefore, the Development Services Director has prepared an Addendum to UCSP FEIR-06-01.

That the Chula Vista Planning Commission, in the exercise of their independent review and judgment as set forth in the record of its proceedings, considered the Addendum to UCSP FEIR-06-01 and Mitigation Monitoring and Reporting Program, in the form presented, which has been prepared in accordance with requirements of the CEQA and the Environmental Review Procedures of the City of Chula Vista and does hereby adopt the Addendum to UCSP FEIR-06-01.

## III. CONFORMANCE WITH CITY'S URBAN CORE SPECIFIC PLAN

That the Chula Vista Planning Commission, in the exercise of its independent judgment, as set forth in the record of its proceedings does hereby find that the Design Review (Urban Core Development) Permit DR15-0015 for the Project is in conformance with the City of Chula Vista General Plan and Urban Core Specific Plan as follows.

The proposed Project is consistent with the vision, objectives and policies of the General Plan and the objectives, policies and regulations of the UCSP. The General Plan and the UCSP envision the C1 Third Avenue South District as an area with a balanced mix of commercial and residential uses that contribute to create a vibrant and attractive area. The Project would redevelop the subject Site, which currently has buildings that were built in the 1950's and are in need of replacement, with a residential and commercial Project that would provide 71 new residential units (market rate and affordable) on Third Avenue, as well as 616 square-feet of retail space, and would bring people, improvements and investment to the District. The Project would provide multi-family housing in this area of Chula Vista and would bring families and social and economic activity to the area. Those families would take advantage of and support the commercial base along Third Avenue, which provides a variety of goods and services in close proximity. The additional residents would contribute to create an active and vibrant atmosphere along Third Avenue as envisioned by the General Plan and the UCSP. The proposed public plaza at the corner of Third Avenue and K Street, which includes art and furniture, will provide an amenity that will activate the street and create opportunities for civic engagement and interaction. The wider and furnished sidewalks along Third Avenue and K Street will also contribute to activate the street and

create a pedestrian-safe and friendly environment. The proposed Project is also consistent with the UCSP development regulations related to building height, building setbacks and step backs, parking, open space and landscaping. As shown in the staff report, the Project meets all of the regulations of the specific plan, except for FAR (see below), and, in cases such as parking, usable open space and landscaping, the Project exceeds the minimum required standards.

#### IV. DEVELOPMENT EXCEPTIONS

The UCSP provides for and authorizes the Planning Commission to grant exceptions to the land use and development regulations, in order to encourage and achieve innovative design. The Project is requesting one exception to the FAR limit in the amount of 0.5 or 22,869 square-feet. Exceptions may be granted by the Planning Commission in cases where all of the following findings are made:

1. *The proposed development will not adversely affect the goals and objectives of the Specific Plan and General Plan.*
2. *The proposed development will comply with all other regulations of the Specific Plan.*
3. *The proposed development will incorporate one or more of the Urban Amenities Incentives in section F - Urban Amenities Requirements and Incentives, of this chapter.*
4. *The exception or exceptions are appropriate for this location and will result in a better design or greater public benefit than could be achieved through strict conformance with the Specific Plan development regulations.*

#### FAR Exception Findings

BE IT FURTHER RESOLVED, that the Planning Commission hereby approves an exception to the FAR limit of 1.0 in the amount of 0.5 or 22,869 square-feet based upon the following Findings and substantiating facts thereto:

1. *The proposed development will not adversely affect the goals and objectives of the Specific Plan and General Plan.*

The goals and objectives of the General Plan and Specific Plan are not adversely affected by the proposed 0.5 increase in FAR. On the contrary, the Project as proposed implements the General Plan and Specific Plan by providing a mixed use residential/commercial use at the Corner of Third Avenue and K Street. The intent of the General and Specific Plans is to facilitate and encourage development and improvements that will help realize the community's vision for the Urban Core area. The Urban Core and the C1 District are envisioned to be vibrant, forward-thinking but respectful of its past and alive with thriving businesses, attractive housing and entertainment, cultural and recreational activities. The Urban Core Vision aims to create a uniquely identifiable Urban Core for Chula Vista that is an economically vibrant, pedestrian-oriented and multi-purpose destination. The proposed Project meets the goals and objectives because it brings improvements and community benefits to an area of Third Avenue which is currently under-performing and not living up to

the stated vision of the Specific Plan. This project has the potential to spur additional development along the Third Avenue corridor with additional community and economic benefits. The proposed Project provides wide sidewalks and a public plaza that will create a pedestrian-friendly environment and foster civic engagement in a multi-purpose environment. The building mass and form allows the Project to have the number of residential units and the associated parking, landscaping, recreational spaces and other features that provide a multi-purpose environment and activities to meet the goals and objectives of the General and Specific Plans.

2. *The proposed development will comply with all other regulations of the Specific Plan.*

As indicated in the Development Standards table above, the Project complies with all other development standards and regulations of the Specific Plan. The building has a height that varies from 34 feet along K Street and a height of 57 feet along Third Avenue (the building parapets and elevator shaft achieve a height of 60 feet, which is the maximum permitted by the UCSP). The Project provides all the required parking on-site and enclosed within the building structures in the underground and first floor levels, and provides 14 additional parking spaces for guests of the residents. Open space and Landscaped areas are also provided in excess of the minimum required.

The building form respects the properties in the adjacent R-1 Zone to the north and east of the Project Site along Church Avenue by locating the second floor terrace and balconies as far away as possible from the property lines, and provides heavy screening by landscaping the perimeter of the structure. The 3 to 5-story building structure was designed to place most of the bulk and mass along Third Avenue and K Street, and as far as possible from the property lines of the single-family homes. As required in the NTCDD regulations the building also steps back from the adjacent residential properties along Church Avenue, resulting in a reduced building mass and height near the residential properties, as well as, distancing the Project as much as possible from the residential properties.

The UCSP's Special Provisions for the NTCDD indicate that "*Building design shall be cognizant of adjacent low density uses and avoid balconies overlooking rear yards.*" The intent of this provision is not to do away with balconies but rather to address their potential effects on privacy. The building design is cognizant of and sensitive to the adjacent residential uses by distancing the structures from the adjacent property lines by as much as 49 to 59 feet. Also, dense and tall landscape materials have been provided along the east and north perimeter to screen the homes from direct view of the balconies. While the NTCDD provisions indicate that balconies should be avoided, balconies are still an important design and functional elements of the UCSP and the Project. In fact, the UCSP provisions for multi-family projects encourage the use of balconies and other features to achieve quality building design. One of those provisions is the following: "*Three dimensional design features, such as balconies and bays should be incorporated into the building design.*" Balconies serve to provide building facade articulation and interest, and they serve to provide usable open/recreational space. Building facade articulation and interest are important elements for a project such as this one, which is part of an urban setting where the building architecture intends to improve the face of Third Avenue and become a new architectural landmark.

Balconies are also important as a source of recreational space in an urban setting because they provide recreational space on site. While balconies remain as part of the building elevations, the design issues (particularly privacy) associated with them have been avoided through the described Project features.

3. *The proposed development will incorporate one or more of the Urban Amenities Incentives in Section F - Urban Amenities Requirements and Incentives, of this chapter.*

The Project incorporates the three amenities listed above, which are: all required parking (on-site and enclosed); public outdoor space in the form of plaza with art feature and furniture; and LEED Gold Certification. Additionally, the Project includes other amenities and community benefits as follows:

As indicated previously, the Project will provide fourteen parking spaces that exceed the parking regulations and provide guest parking spaces within the parking garage. The proposed Project will provide a community landmark at the Project Site in the form of a public art mural on the north facing wall of the building. The mural will not only serve as a piece of art that will complement the building's architecture, it will also serve as a landmark that may be used to identify this new building in this area of Third Avenue, since no other art pieces like this exist now. Per the community input received at the Second Neighborhood Meeting, the mural could reflect the history of Chula Vista or important historical events in the City's past and looking towards the future.

The enhanced street improvements for the Project include a widened sidewalk along Third and K Street, new paving, street trees in grates, and street furniture such as benches, trash cans and planters. Additionally, this residential development will provide more options for clean, safe, energy efficient and modern housing for the Chula Vista workforce. These 71 dwelling units will put more people on Third Avenue to support the small businesses located there and to create a more pedestrian-friendly street atmosphere.

4. *The exception or exceptions are appropriate for this location and will result in a better design or greater public benefit than could be achieved through strict conformance with the Specific Plan development regulations.*

The additional FAR of 0.5 is appropriate for this location because it would allow the Project to comply with the goals and objectives of the General Plan and Specific Plan related to bringing a mixed use project with sufficient residential units and community amenities to provide housing, activate the street and support the existing commercial base. The C1 District is characterized by having mostly retail and office uses. While there are about five properties in the District with residential uses, these properties only represent about 4% of the total District area. General Plan policy calls for some additional residential development within the C1 District to support the existing and future commercial development. It has been estimated by staff that the appropriate residential acreage that could potentially be developed within the District based on the General Plan policy is approximately 40% of total area. That percentage would be translated into approximately 21 acres of residential

development. The proposed Project FAR of 2.0 (91,345 sq. ft.) represents approximately 9.5% of the total potential residential capacity within the C1 District.

The Project's FAR of 2.0 is appropriate for an urban mixed use development and is in line with development trends elsewhere in the Urban Core area. The maximum building height is 5 stories along the Third Avenue elevation (60' high as allowed by the C-1 zone) and 3 stories along the K Street elevation. This building configuration places the most mass and bulk along the Third Avenue and K Street's elevations, away from the existing low density residential. The Applicant has revised the Project and has taken measures to reduce the building mass and addressed community concerns without reducing the viability of the project. Furthermore, the form-based nature of the UCSP ensures that the proposed development emphasize the importance of site design and building form (which last many years) over numerical parameters such as FAR (which are likely to change over time through periodic reviews and amendments to the UCSP as required by law, and based on changes to the physical conditions of the Urban Core and changes in economic activity). The proposed development creates a people activated, urban corner that contributes to the city's goal of "Complete Streets" and enhances the public realm through improved streetscape design and individual building character.

#### V. GENERAL CONDITIONS OF APPROVAL

##### A. Project Site is improved with Project

The Applicant, or his/her successors in interest, shall improve the Project Site with the Project as described in the Design Review Permit DR15-0015 consisting of the approved Site Plans, Floor Plans, Building Elevations, Roof Plans, and Concept Landscape Plans.

#### VI. SPECIAL CONDITIONS OF APPROVAL

- A. The conditions herein imposed on the Design Review (Urban Core Development) Permit approval are approximately proportional both to the nature and extent of impact created by the proposed Project. Unless otherwise specified, all conditions and code requirements listed below shall be fully completed by the Applicant, Owner or Successor-in-Interest to the Director of Development Services, or designee's satisfaction prior to approval of the first Building Permit, unless otherwise specified:

#### GENERAL/DEVELOPMENT SERVICES

1. The Applicant shall obtain approval of Tentative Subdivision Map CVT-15-06 (PCS15-0006) and a Final Subdivision Map for the Project prior to approval of Building Permits in reliance on this Design Review Permit approval.
2. The Applicant shall implement, to the satisfaction of the Director of Development Services and the City Engineer, the mitigation measures identified in the Addendum to Urban Core Specific Plan Final Environmental Impact Report and Mitigation Monitoring and Reporting Program FEIR 06-01 for the Project within the timeframe specified in said MMRP.

3. The Applicant shall pay in full any unpaid balance for the Project, including Deposit Account No. DQ3021.
4. Applicant shall meet and confer with staff to develop and implement feasible and effective measures with respect to balconies on the 3rd, 4th and 5th floors of the Project with sight-lines onto adjacent residential yards to further address potential adverse effects on the privacy of occupants of adjacent residential properties to the satisfaction of the Development Services Director.
5. Prior to issuance of the first Building Permit for the Project, the Applicant shall comply with applicable provisions of Chula Vista Municipal Code (CVMC) Chapter 8.24 - Solid Waste and Litter, and Chapter 8.25 - Recycling, related to mixed-use/multi-family residential development projects, to the satisfaction of the Department of Public Works, Environmental Services Division. These requirements include, but are not limited to the following:
  - a. The Applicant shall contract with the City's franchise hauler throughout the construction and occupancy phase of the Project.
  - b. The Applicant shall comply with applicable provisions of the City's Construction and Demolition Recycling Ordinance, including submittal of a Waste Management Report per CVMC 8.25.095.B, to the Environmental Services Division.
6. The Applicant shall submit and obtain approval of detailed Landscape Improvement Plans in accordance with the City Landscape Manual, and the Water Conservation Ordinance, prior to the issuance of applicable permits or other discretionary approval. Landscape Plans shall be prepared by a registered Landscape Architect and shall be consistent with the approved Concept Landscape Plan.
7. Project plans shall incorporate street furniture along the Third Avenue and K Street frontage such as ornamental benches, ornamental tree grates, and ornamental light fixtures consistent with the UCSP.
8. The public plaza shall include approximately 1,700 squared-feet in area and shall incorporate decorative street furniture, including chairs and benches, and an art feature, including a water fountain or a sculptural art piece.
9. The 10-foot sidewalk along the Third Avenue frontage shall be reconstructed of decorative paving materials.
10. All private driveways and pedestrian walkways located along the Third Avenue and K Street project frontages shall be constructed of decorative paving materials.
11. The Project Applicant proposes to provide a mural on the building's north elevation. A preliminary proposal includes a mural that describes the history and culture of Chula

Vista. The Applicant shall submit the mural proposal to the Development Services Director for review and approval prior to the installation on the wall.

12. The Project has been designed to incorporate architectural and construction features that would qualify the Project to apply for and achieve Leadership in Energy and Environmental Design (LEED) Gold Certification. The Project approval is based on the incorporation and construction of all the LEED features as outlined in Attachment 10 of the staff report. The Project was designed to include a 30% increase in the building Floor Area Ratio contingent on the (a) incorporation and construction of all LEED features and (b) receipt of the LEED Gold Certification from the US Green Building Council. If the Project plans are found at the time of building permit to not meet the criteria for LEED Gold Certification, the Project plans shall be revised to include all the features outlined in Attachment 10 and fully meet all of the LEED Gold Certification criteria. If this does not occur, then Project approval is suspended and new or revised plans shall be presented to the Planning Commission for approval prior to the issuance of any Building Permits.
13. The Building Permit plans shall show that the Project has been designed to comply with applicable requirements of CVMC 15.56.020 "Condominium Projects, Condominium Conversions and Occupancy thereof."
14. Applicant shall design and install a "Keep Clear" striping detail at the combined Project/Bank of America driveway to ensure that vehicles stopped at Third Avenue and queuing westbound on K Street do not block the Project driveway. Said striping detail will be designed to the satisfaction of the City's Traffic Engineer.
15. Applicant shall prepare and submit a lighting plan for City approval that demonstrates compliance with Chapter 17.28 (Unnecessary Lights) of the Chula Municipal Code, and compliance with the UCSP.
16. A lighting plan shall be provided with the Building Permit submittal showing that lighting of all enclosed parking, pedestrian walkways, recreational areas, building entries and other public areas have been provided.
17. The Applicant shall reserve a minimum of one parking space for the commercial use and a minimum of seven parking spaces in the garage for use of its residents' guests. These spaces shall be marked by appropriate signage. A note to this effect shall be shown on the Site Plan to be submitted to the City as part of the building permit application.

#### HOUSING DIVISION

18. The City of Chula Vista General Plan Housing Element established Policy 5.1.1 (the "Balanced Community Policy"), which requires the occupancy and affordability of ten percent (10%) of each housing development of 50 or more units for low and moderate-income households, with at least one half of those units (5% of project total units) being designated for low-income households (the "Affordable Housing Obligation"). In satisfaction of the Balanced Community Policy, the Project Applicant shall execute an



Affordable Housing Agreement prior to the issuance of the first building permit. Said Affordable Housing Agreement shall be recorded in the Office of the San Diego County Recorder over the entirety of the Project Site. The Affordable Housing Agreement shall provide that 10% of the total number of qualified low income (5%) and moderate housing units (5%) shall be constructed on site or pay the In lieu fee of \$124,220 per unit. The trigger point to pay the in lieu fee is determined by the City Manager and City Attorney or their designees.

#### BUILDING DIVISION

19. The Applicant shall submit and obtain approval of Building Permit(s) to the satisfaction of the City Building Official. The Building Permits shall comply with updated codes and requirements, including but not limited to the following:

2013 Edition of the California Building Code as amended by CVMC 15.08;  
2013 Edition of the California Residential Code CVMC 15.09;  
2013 Edition of California Mechanical Code CVMC 15.16;  
2013 Edition of the California Plumbing Code as amended by CVMC 15.28;  
2013 Edition of the California Electrical Code as amended by CVMC 15.24;  
2013 Edition of the California Fire Code as amended CVMC 15.36;  
2013 Edition of the California Green Building Standards Code as amended CVMC 15.12;  
2010 Edition of the California Energy Code as amended CVMC 15.26;  
2000 Edition of the Urban-Wildland Interface Code as amended CVMC 15.38;  
1997 Edition of the Uniform Housing Code as amended CVMC 15.20; and  
1997 Edition of the Uniform Code for the Abatement of Dangerous Buildings as amended CVMC 15.18.

#### LAND DEVELOPMENT DIVISION:

20. The following fees are payable prior to issuance of Building Permits, based on the Final Building Plans submitted:

- a. Sewer Connection and Capacity Fees
- b. Traffic Signal Fees
- c. Public Facilities Development Impact Fees (PFDIF)
- d. Western Transportation Development Impact Fees (WTDIF)
- e. Other Engineering Fees as applicable

21. Applicant shall pay Park Acquisition and Development (PAD) Fees per dwelling unit as required prior to the issuance of the first Building Permit in accordance with CVMC 17.10. 100. The current PAD Fee for West Chula Vista Projects is \$7,607 for each Multi-Family Residential dwelling. The PAD Fee is adjusted on an annual basis on October 1 based on the Engineer Construction Cost Index. The payment of the PAD Fee amount in place at the time of the recording of the Final Map is required. The PAD Fee for the project at this time is \$540,097 (71 @ \$7,607/unit).

22. All proposed sidewalks, walkways, pedestrian ramps; and disabled parking shall be designed to meet the City of Chula Vista Design Standards, ADA Standards, and Title 24 standards, as applicable.
23. Prior to Final Map approval, the Applicant shall obtain approval of street addresses to the satisfaction of the Director of Development Services.
24. Applicant shall obtain approval of a sign permit prior to construction of any proposed signage.

#### WASTEWATER ENGINEERING SECTION

25. Applicant shall submit a revised Sewer Study to reflect the methodology, standards and generation factors listed in the City of Chula Vista Wastewater Collection System Master Plan, dated May 2014, prepared by Infrastructure Engineering Corporation.
26. The Peak to Average sewer flow shall be calculated based on City of Chula Vista CVD-SW01.

#### FIRE DEPARTMENT:

27. For 67,873 square feet of Type IA construction and or 102,763 square feet of Type VA construction, this project will require a fire flow of 6906 gallons per minute for a 4-hour duration at 20 p.s.i. The respective water authority will be requested to perform a hydraulic flow analysis of their system to determine if the fire flow is available. No reductions in fire flow will be granted for buildings protected throughout by an approved automatic fire sprinkler system.
28. Based upon the required fire flow for Type VA and IA construction type, a minimum of 7 fire hydrant(s) are required to serve this project. Existing public hydrants may be used to fulfill this requirement, however at least one new public hydrant will need to be added along the east side of Third Avenue at the northwest end of the building due to distance to the next exiting hydrant along Third Avenue.
29. Fire Hydrants shall be located and spaced in accordance with California Fire Code, Appendix C. For a fire flow requirement of 6,906 gpm, fire hydrants shall be spaced at an average of 250 feet.
30. Knox boxes shall be installed at all stairwell entrances, the lobby entrance, the resident lounge entrance, the fire control room and for the commercial space entrance in accordance with Chula Vista Fire Department (CVFD) details. Any automatic gates that restrict vehicular access into the parking garage shall be provided with a Knox Key Switch.
31. The fire sprinkler riser and fire alarm panel shall be located in a fire control room that is accessible directly from the exterior of the building. The Fire Control Room shall be

dimensioned in accordance with CVFD standard detail and located along the Third Avenue or K Street exterior walls. The Fire Control Room cannot be used for anything besides the fire riser(s) and fire alarm control panel.

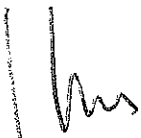
32. A Post Indicating Valve that controls the supply of the fire sprinkler system will not be required for this project due to the zero lot lines along Third and K; however, a control valve shall be installed on the fire sprinkler riser.
33. The Fire Department Connection (FDC) is allowed to be located on the face of the building due to zero lot lines. The FDC shall be within 50' of a fire hydrant. Consider this when locating the fire control room as the FDC is typically located close to the system riser.
34. At least one elevator car shall be dimensioned to accommodate a gurney in accordance with CBC 3002.4(a).

#### VII. 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.


#### VIII. EXECUTION AND RECORDATION OF RESOLUTION OF APPROVAL

The Property owner and the Applicant shall execute this document by signing the lines provided below, said execution indicating that the property owner and Applicant have each read, understood, and agreed to the conditions contained herein. Upon execution, this document shall be recorded with the County Recorder of the County of San Diego, at the sole expense of the property owner and the Applicant, and a signed, stamped copy of this recorded document shall be returned within ten days of recordation to the City Clerk. Failure to record this document shall indicate the property owner and Applicant's desire that the Project, and the corresponding application for building permits and/or a business license, be held in abeyance without approval. Said document will also be on file in the City Clerk's Office and known as Document No. DR15-0015.

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

06/30/16  
\_\_\_\_\_  
Date

Hamid Mani  
\_\_\_\_\_  
Printed Name of Applicant

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

06/30/16  
\_\_\_\_\_  
Date

Hamid Mani  
\_\_\_\_\_  
Printed Name of Applicant

IX. INDEMNITY PROVISION

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.

X. CONSEQUENCE OF FAILURE OF CONDITIONS

If any of the foregoing conditions fail to occur, or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City shall have the right to revoke or modify all approvals herein granted, deny, or further condition issuance of all future building permits, deny, revoke, or further condition all certificates of occupancy issued under the authority of approvals herein granted, institute and prosecute litigation to compel their compliance with said conditions or seek damages for their violation. The Applicant shall be notified ten (10) days in advance prior to any of the above actions being taken by the City and shall be given the opportunity to remedy any deficiencies identified by the City within a reasonable and diligent time frame.

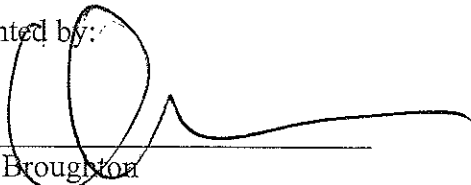
XI. INVALIDITY; AUTOMATIC REVOCATION

It is the intention of the Planning Commission that its adoption of this Resolution is dependent upon the enforceability of each and every term, provision and condition herein stated; and that in the event that any one or more terms, provision, or conditions are

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

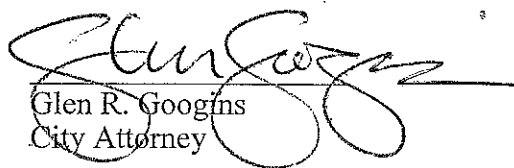
BE IT FURTHER RESOLVED, that the City of Chula Vista Planning Commission does hereby approve the subject Design Review (Urban Core Development) Permit DRC15-0015 for 71 residential units, 616 square-feet of commercial unit, 142-parking space garage, active and passive open spaces, and the associated access and circulation elements 795 Third Avenue subject to the conditions of approval contained herein.

Presented by:



Kelly Broughton  
Director of Development Services

Approved as to form by:



Glen R. Googins  
City Attorney

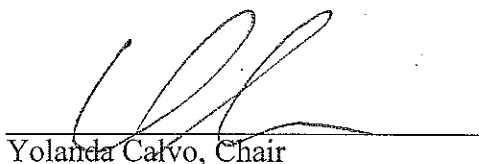
PASSED AND APPROVED BY THE PLANNING COMMISSION OF THE CITY OF CHULA VISTA, CALIFORNIA, this 22nd day of June 2016, by the following vote, to-wit:

AYES: Anaya, Fuentes, Gutierrez, Nava, Calvo

NOES: Liuag

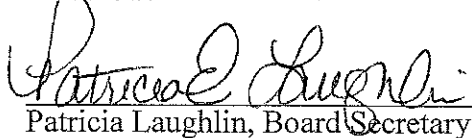
ABSENT: Fragomeno

ABSTAIN: n/a

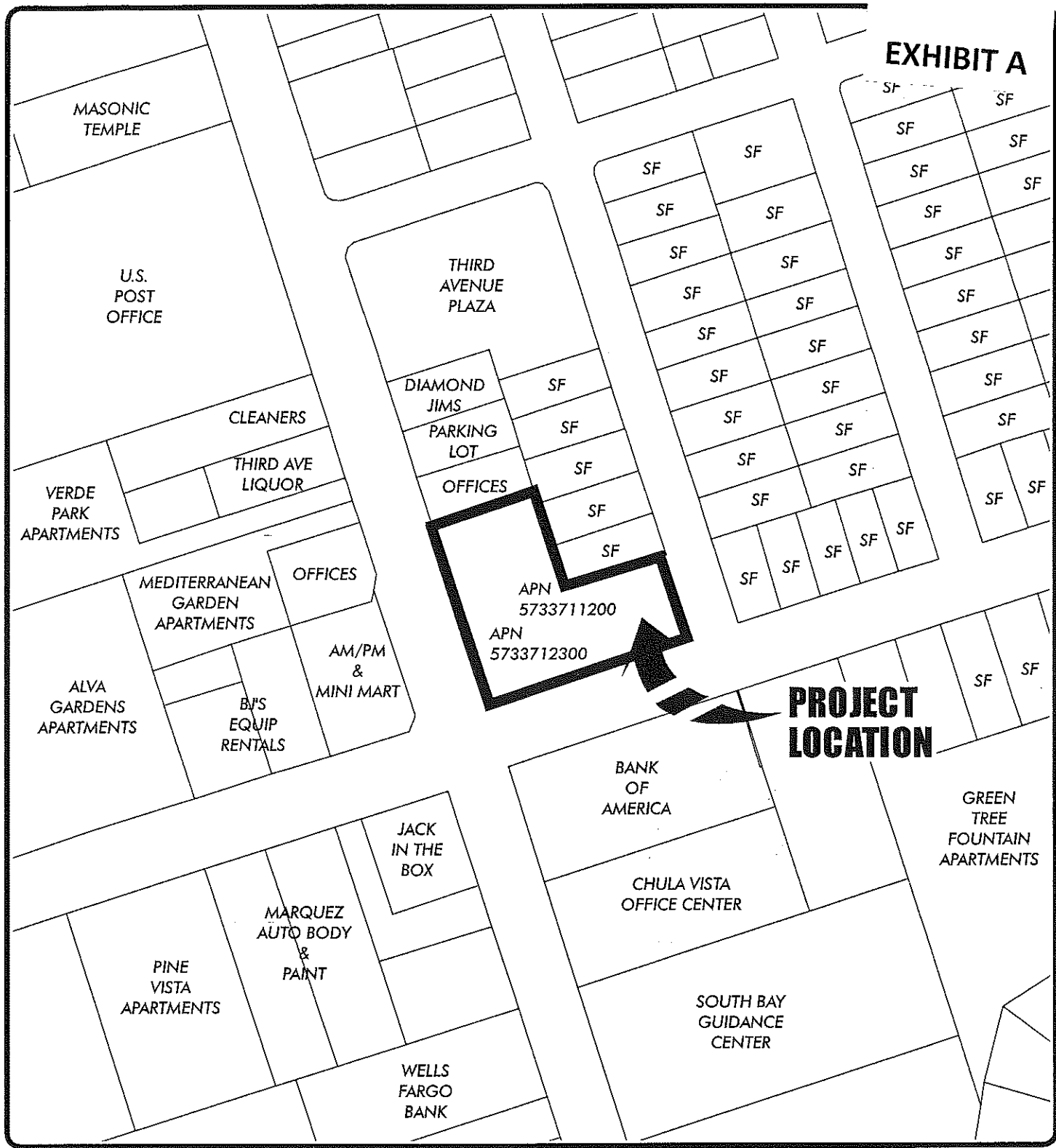


Yolanda Calvo, Chair

ATTEST:



Patricia Laughlin, Board Secretary



**EXHIBIT A**

**PROJECT LOCATION**

**CHULA VISTA DEVELOPMENT SERVICES DEPARTMENT**

**LOCATOR**



**NORTH**

PROJECT APPLICANT: **Vista Del Mar**  
 PROJECT ADDRESS: **NEC Third Av & K St**  
**APN's 5733711200 & 5733712300**

SCALE: **No Scale**

FILE NUMBER: **DR15-0015**

PROJECT DESCRIPTION:  
**DESIGN REVIEW**

Project Summary: Proposal for a mixed use 3-5 story, 71 condo units with 616 sq ft of commercial space and 142 below grade parking stalls.

Related cases:

**PLANNING COMMISSION RESOLUTION NO. PCS-15-0006**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CHULA VISTA CONSIDERING THE ADDENDUM TO URBAN CORE SPECIFIC PLAN FINAL ENVIRONMENTAL IMPACT REPORT AND MITIGATION MONITORING AND REPORTING PROGRAM FEIR 06-01 AND APPROVING TENTATIVE SUBDIVISION MAP PCS15-0006 TO COMBINE TWO PARCELS INTO ONE CONDOMINIUM LOT FOR 71 RESIDENTIAL UNITS AND ONE COMMERCIAL UNIT FOR INDIVIDUAL OWNERSHIP AT 795 THIRD AVENUE, SUBJECT TO THE CONDITIONS CONTAINED HEREIN**

**I. RECITALS**

WHEREAS, the parcel of land which is the subject matter of this Resolution is depicted in Exhibit "A," attached hereto and incorporated herein by this reference, and for the purpose of general description consists of 1.05 acres located at 795 Third Avenue, as identified in County Assessor Records as Assessor's Parcel Numbers (APN) 573-371-12-00 and 573-371-23-00 (Project Site); and

WHEREAS, on June 18, 2015 duly verified applications for the Vista Del Mar Project requesting approval of a Tentative Subdivision Map (PCS15-0006, Chula Vista Tract No. 15-06), Design Review (DR15-0015), and Preliminary Environmental Review (PER15-0004), were filed with the City of Chula Vista Development Services Department by Niki Properties, LLC ("Applicant" and "Owner"); and

WHEREAS, said Applicant requests approval of a Tentative Map to subdivide 1.05 acres into a one-lot Condominium Subdivision, including 71 multi-family residential units, 1 616 square-foot commercial unit, 142 parking spaces and 17,646 square-feet of public, common and private usable open space, (the "Project"); and

WHEREAS, a hearing time and place was set by the Planning Commission 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 duly called and noticed public hearing on the Project was held before the Planning Commission on June 22, 2016 in the Council Chambers, 276 Fourth Avenue, at 6:00 p.m. to hear public testimony and staffs' presentation; and considered the applications for the Preliminary Environmental Review (PER15-0004) and Tentative Map (PCS15-0006).

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

## II. ENVIRONMENTAL REVIEW

That the Chula Vista Planning Commission, in the exercise of its independent judgment, as set forth in the record of its proceedings, considered the Preliminary Environmental Review of the Project conducted by the Director of Development Services for compliance with the California Environmental Quality Act (CEQA), and has determined that the Project was covered by the Urban Core Specific Plan (UCSP) Final Environmental Impact Report and Mitigation Monitoring and Reporting Program FEIR-06-01, adopted by the Chula Vista City Council in May 2007. The Development Services Director has determined that only minor technical changes or additions to FEIR-06-01 are necessary and that none of the conditions described in Section 15162 of the State CEQA Guidelines calling for the preparation of subsequent documents have occurred; therefore, the Development Services Director has prepared an Addendum to UCSP FEIR-06-01.

That the Chula Vista Planning Commission, in the exercise of their independent review and judgment as set forth in the record of its proceedings, considered the Addendum to UCSP FEIR-06-01 and Mitigation Monitoring and Reporting Program, in the form presented, which has been prepared in accordance with requirements of the CEQA and the Environmental Review Procedures of the City of Chula Vista and does hereby adopt the Addendum to UCSP FEIR-06-01.

## III. DEVELOPMENT EXCEPTIONS

The UCSP provides for and authorizes the Planning Commission to grant exceptions to the land use and development regulations, in order to encourage and achieve innovative design. The Project is requesting one exception to the FAR limit in the amount of 0.5 or approximately 22,738 square-feet. Exceptions may be granted by the Planning Commission in cases where all of the following findings are made:

1. *The proposed development will not adversely affect the goals and objectives of the Specific Plan and General Plan.*
2. *The proposed development will comply with all other regulations of the Specific Plan.*
3. *The proposed development will incorporate one or more of the Urban Amenities Incentives in section F - Urban Amenities Requirements and Incentives, of this chapter.*
4. *The exception or exceptions are appropriate for this location and will result in a better design or greater public benefit than could be achieved through strict conformance with the Specific Plan development regulations.*

### FAR Exception Findings

BE IT FURTHER RESOLVED, that the Planning Commission hereby approves an exception to the FAR limit of 1.0 in the amount of 0.5 or 22,738 square-feet based upon the following Findings and substantiating facts thereto:



1. *The proposed development will not adversely affect the goals and objectives of the Specific Plan and General Plan.*

The goals and objectives of the General Plan and Specific Plan are not adversely affected by the proposed 0.5 increase in FAR. On the contrary, the Project as proposed implements the General Plan and Specific Plan by providing a mixed use residential/commercial use at the Corner of Third Avenue and K Street. The intent of the General and Specific Plans is to facilitate and encourage development and improvements that will help realize the community's vision for the Urban Core area. The Urban Core and the C1 District are envisioned to be vibrant, forward-thinking but respectful of its past and alive with thriving businesses, attractive housing and entertainment, cultural and recreational activities. The Urban Core Vision aims to create a uniquely identifiable Urban Core for Chula Vista that is an economically vibrant, pedestrian-oriented and multi-purpose destination. The proposed Project meets the goals and objectives because it brings improvements and community benefits to an area of Third Avenue which is currently under-performing and not living up to the stated vision of the Specific Plan. This project has the potential to spur additional development along the Third Avenue corridor with additional community and economic benefits. The proposed Project provides wide sidewalks and a public plaza that will create a pedestrian-friendly environment and foster civic engagement in a multi-purpose environment. The building mass and form allows the Project to have the number of residential units and the associated parking, landscaping, recreational spaces and other features that provide a multi-purpose environment and activities to meet the goals and objectives of the General and Specific Plans.

2. *The proposed development will comply with all other regulations of the Specific Plan.*

As indicated in the Development Standards table in the staff report, the Project complies with all other development standards and regulations of the Specific Plan. The building has a height that varies from 34 feet along K Street and a height of 57 feet along Third Avenue (the building parapets and elevator shaft achieve a height of 60 feet, which is the maximum permitted by the UCSP). The building setbacks are within those required by the UCSP. The Project provides all the required parking on-site and enclosed within the building structures in the underground and first floor levels, and provides 14 additional parking spaces for guests of the residents. Open space and Landscaped areas are also provided in excess of the minimum required.

The building form respects the properties in the adjacent R-1 Zone to the north and east of the Project Site along Church Avenue by locating the second floor terrace and balconies as far away as possible from the property lines, and provides heavy screening by landscaping the perimeter of the structure. The 3 to 5-story building structure was designed to place most of the bulk and mass along Third Avenue and K Street, and as far as possible from the property lines of the single-family homes. As required in the NTCD regulations the building also steps back from the adjacent residential properties along Church Avenue, resulting in a reduced building mass and height near the residential properties, as well as, distancing the Project as much as possible from the residential properties.

The UCSP's Special Provisions for the NTCD indicate that "*Building design shall be cognizant of adjacent low density uses and avoid balconies overlooking rear yards.*" The intent of this provision is not to do away with balconies but rather to address their potential effects on privacy. The building design is cognizant of and sensitive to the adjacent residential uses by distancing the structures from the adjacent property lines by as much as 49 to 59 feet. Also, dense and tall landscape materials have been provided along the east and north perimeter to screen the homes from direct view of the balconies. While the NTCD provisions indicate that balconies should be avoided, balconies are still an important design and functional elements of the UCSP and the Project. In fact, the UCSP provisions for multi-family projects encourage the use of balconies and other features to achieve quality building design. One of those provisions is the following: "*Three dimensional design features, such as balconies and bays should be incorporated into the building design.* Balconies serve to provide building facade articulation and interest, and they serve to provide usable open/recreational space. Building facade articulation and interest are important elements for a project such as this one, which is part of an urban setting where the building architecture intends to improve the face of Third Avenue and become a new architectural landmark. Balconies are also important as a source of recreational space in an urban setting because they provide recreational space on site. While balconies remain as part of the building elevations, the design issues (particularly privacy) associated with them have been avoided through the described Project features.

3. *The proposed development will incorporate one or more of the Urban Amenities Incentives in Section F - Urban Amenities Requirements and Incentives, of this chapter.*

The Project incorporates the following three amenities, are fully described in the staff report: all required parking (on-site and enclosed); public outdoor space in the form of plaza with art feature and furniture; and LEED Gold Certification. Additionally, the Project includes other amenities and community benefits as follows:

The Project will provide fourteen parking spaces that exceed the parking regulations and provide guest parking spaces within the parking garage. The proposed Project will provide a community landmark at the Project Site in the form of a public art mural on the north facing wall of the building. The mural will not only serve as a piece of art that will complement the building's architecture, it will also serve as a landmark that may be used to identify this new building in this area of Third Avenue, since no other art pieces like this exist now. Per the community input received at the Second Neighborhood Meeting, the mural could reflect the history of Chula Vista or important historical events in the City's past and looking towards the future.

The enhanced street improvements for the Project include a widened sidewalk along Third and K Street, new paving, street trees in grates, and street furniture such as benches, trash cans and planters. Additionally, this residential development will provide more options for clean, safe, energy efficient and modern housing for the Chula Vista workforce. These 71 dwelling units will put more people on Third Avenue to support the small businesses located

there and to create a more pedestrian-friendly street atmosphere.

4. *The exception or exceptions are appropriate for this location and will result in a better design or greater public benefit than could be achieved through strict conformance with the Specific Plan development regulations.*

The additional FAR of 0.5 is appropriate for this location because it would allow the Project to comply with the goals and objectives of the General Plan and Specific Plan related to bringing a mixed use project with sufficient residential units and community amenities to provide housing, activate the street and support the existing commercial base. The C1 District is characterized by having mostly retail and office uses. While there are about five properties in the District with residential uses, these properties only represent about 4% of the total District area. General Plan policy calls for some additional residential development within the C1 District to support the existing and future commercial development. It has been estimated by staff that the appropriate residential acreage that could potentially be developed within the District based on the General Plan policy is approximately 40% of total area. That percentage would be translated into approximately 21 acres. The proposed Project FAR of 2.0 (91,345 sq. ft.) represents approximately 9.5% of the total potential residential capacity within the C1 District.

The Project's FAR of 2.0 is appropriate for an urban mixed use development and is in line with development trends elsewhere in the Urban Core area. The maximum building height is 5 stories along the Third Avenue elevation (60' high as allowed by the C-1 zone) and 3 stories along the K Street elevation. This building configuration places the most mass and bulk along the Third Avenue and K Street's elevations, away from the existing low density residential. The Applicant has revised the Project and has taken measures to reduce the building mass and addressed community concerns without reducing the viability of the project. Furthermore, the form-based nature of the UCSP ensures that the proposed development emphasize the importance of site design and building form (which last many years) over numerical parameters such as FAR (which are likely to change over time through periodic reviews and amendments to the UCSP as required by law, and based on changes to the physical conditions of the Urban Core and changes in economic activity). The proposed development creates a people activated, urban corner that contributes to the city's goal of "Complete Streets" and enhances the public realm through improved streetscape design and individual building character.

#### IV. WAIVER OF PUBLIC FACILITIES FINANCING PLAN

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

## V. TENTATIVE SUBDIVISION MAP FINDINGS

- A. BE IT FURTHER RESOLVED, that pursuant to Government Code Section 66473.5, the Planning Commission hereby finds that the Tentative Subdivision Map, as conditioned herein for the Project, is in conformance with the elements of the City's General Plan, based on the following Findings and substantiating facts thereto:

### 1. Land Use and Circulation

The General Plan land use designation is the Mid-Third Avenue District, which permits office, commercial and residential uses, and is also regulated by the Urban Core Specific Plan (UCSP), which further refines and implements the General Plan. The Project Site is designated the C1 Corridor Third Avenue South District by the UCSP, which permits mixed commercial and multi-family residential uses pursuant to the UCSP development standards. The Project would provide a mixed use development of 71 multi-family residential units, and one 616 commercial unit, at a FAR of 2.0. The UCSP contains provisions that permit an increase above the base FAR of 1.0, if certain project amenities are provided. The Project has been designed to comply with the requirements of the UCSP. Also, the Findings required for the exception to increase the proposed FAR to 2.0 have been made and substantiated herein.

The Project has direct frontage on K Street, which is a residential street that provides access to Third Avenue, which is designated as a 4-lane Class 1 Collector Street in the General Plan. Third Avenue will be improved by the Applicant, in accordance with the conditions of approval, to provide sidewalk and landscape improvements in compliance with City design standards and requirements. Projects proposed for the western Chula Vista area are also required to pay the Western Transportation Development Impact Fee prior to Building Permit issuance, to pay their share of costs associated with future road construction in the area.

### 2. Economic Development

The Project will provide 71 new, high-quality, energy-efficient multi-family homes that will enhance the image and appearance of the neighborhood, help revitalize the commercial businesses in the area, and create jobs related to the construction and the use of the Project, that will benefit the local economy. The Project will provide new rental and for-sale multi-family housing in a commercial area that will improve the housing mix and enhance residential and commercial opportunities in the neighborhood. The Project Site location near the intersection of Third Avenue and K Street will provide convenient access for residents to nearby public transportation, jobs, schools, and commercial services. The development of the site will also increase the amount of property tax revenue to the City. The Project will be constructed using green building and landscaping features that comply with the Cal Green Building Standards. Thus, approval of the Project will help achieve the General Plan objectives that seek to promote a variety of job and housing opportunities to improve the City's jobs/housing balance, provide a diverse economic base, and encourage the growth of small businesses.

### 3. Public Facilities and Services

The Project Site is located in the attendance area of the Rice Elementary School, within the boundaries of the Chula Vista Elementary School District. The Project is also within the attendance area of Chula Vista Middle School and Chula Vista High School, within the Sweetwater Union High School District. Both school districts responded that they would be able to accommodate the additional students generated by the Project, and that the schools would not be adversely impacted by the approval of the Project.

The Project Site is within the boundaries of the City of Chula Vista wastewater services area. The existing sewer facility system includes an existing 4-inch public sewer main line located along the southwest property line of the Project Site. New 8 inch sewer laterals are proposed to service the Project. No adverse impacts to the City's sewer system or City's sewer threshold standards will occur as a result of the proposed Project.

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. The City Engineer and Fire Departments have reviewed the proposed subdivision for conformance with City policies and have determined that the proposal meets those standards. The proposed Project would not induce significant population growth, as it is a mixed commercial/residential infill project and would not adversely impact existing or proposed park and recreational facilities. The Project has been conditioned to pay Park Acquisition and Development Fees prior to issuance of Building Permits. Project construction will be required to comply with the 2014 California Green Building Standards, the Cal Green Building Standards and the 2013 California Energy Code. In addition, the Applicant will construct the Project to comply with LEED Gold standards, and therefore energy-efficient multi-family homes will be developed.

### 4. Housing

The Project will be granted FAR bonuses and exceptions specified herein and therefore is consistent with the FAR and density prescribed within the UCSP C-1 Corridors District zoning, and will provide additional opportunities for high-quality, market-rate multi-family residential home ownership in the southwestern portion of the City. The Project Site is subject to the Balanced Communities –Affordable Housing Program of the City's Housing Element. For all new residential projects consisting of 50 or more dwelling units, 10% of the units shall be affordable to low and moderate income households, with 5% for lower income and 5% for moderate income. Pursuant to this program, the Project will be required to provide a total of 7 low and moderate affordable units, or pay an in-lieu fee.

### 5. Growth Management

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

6. Environmental

The Project includes multi-family homes with common and private usable open space that exceeds the minimum common usable open space requirements of the UCSP. The Project Site is currently developed with commercial structures that will be demolished in accordance with applicable state and local laws to protect residents and workers from exposure to hazardous materials. The Project will be conditioned to minimize potential impacts to adjacent residents from noise and dust from construction and grading activities, to the maximum extent feasible. The Development Services Director has prepared an Addendum to the UCSP FEIR-06-01, in compliance with the CEQA. Potential significant impacts to Landform/Aesthetics (including visual character and light and glare effects), Air Quality, Hazards and Hazardous Materials, Noise and Traffic will be mitigated upon completion of the Mitigation Measures specified in the UCSP FEIR-06-01 Mitigation Monitoring and Reporting Program, which are required prior to issuance of the Final Map, Grading Plan, or Building Permits for the Project. The Planning Commission finds that the development of the site is consistent with the goals and policies of the City's Conservation Element.

- B. That pursuant to Government Code Section 66473.1, the configuration, orientation, and topography of the Project Site allows for the optimum siting of buildings for natural and passive heating and cooling opportunities, and the development of the Site will be subject to Building Permit review pursuant to the 2013 California Building Code as amended and updated, including Cal Green Building Standards, and the 2013 California Energy Code, to ensure the maximum utilization of natural and passive heating and cooling opportunities.
- C. That pursuant to Government Code Section 66412.3, the Planning Commission 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. That the Project Site is physically suited for residential development. The Project proposes to develop a level property that is developed with commercial structures, and is located on Third Avenue, a Circulation Element road, at the intersection of K Street. The Project design makes full utilization of the land, locates the building with convenient access to Third Avenue, an on-site parking garage, and to on-site common recreational amenities and open space areas. The Project Site is adjacent to commercial uses on the north, south and west, and residential development on the east. The proposed Project design takes advantage of the location and characteristics of the Project Site to provide a mixed use building at height and scale that transitions from 34 feet, 3 stories adjacent to lower density residential uses on the east, to 60 feet, 5 stories facing Third Avenue to the west. The Project Site also has convenient access to the MTS bus route on Third Avenue. As conditioned, the Project conforms to all standards established by the City for a mixed-use commercial/multi-family residential development.

## VI. TENTATIVE MAP GENERAL CONDITIONS OF APPROVAL

### A. Project Site is Improved with Project

The Applicant, or his/her successors in interest, shall improve the Project Site with the Project as described in the Tentative Subdivision Map, Chula Vista Tract No. 12-07, located at 795 Third Avenue.

## VII. SPECIAL CONDITIONS OF APPROVAL

- A. The conditions imposed on the Tentative Map approval herein are approximately proportional both to the nature and extent of impact created by the proposed Project. Unless otherwise specified, all conditions and code requirements listed below shall be fully completed by the Applicant, Owner or Successor-in-Interest to the Director of Development Services, or designee's, satisfaction prior to approval of the Final Map, unless otherwise specified:

### GENERAL/ DEVELOPMENT SERVICES

1. The Project shall comply with the City of Chula Vista Standard Tentative Map Conditions, described in Section 5 of the City Subdivision Manual, as approved and amended from time to time, to the satisfaction of the Director of Development Services and City Engineer.
2. Applicant shall pay in full any unpaid balance for the Project, including Deposit Account No. DQ3021.
3. The Applicant shall implement, to the satisfaction of the Director of Development Services and the City Engineer, the mitigation measures identified in the Urban Core Specific Plan (UCSP) Final Environmental Impact Report and Mitigation Monitoring and Reporting Program FEIR-06-01 for the Project, within the timeframe specified in the MMRP.
4. The Final Map shall include an exhibit delineating the open space and improvements to be maintained by the Applicant, Homeowner's Association or other entity, including the public plaza, common open space areas, landscaping, and bio-retention areas, to the satisfaction of the Director of Development Services and City Engineer.
5. Prior to issuance of the first Building Permit for the Project, the Applicant shall obtain approval of Design Review Permit DR15-0015 and construct the Project in compliance with the approved Design Review plans and conditions of approval.
6. The City of Chula Vista General Plan Housing Element established Policy 5.1.1 (the "Balanced Community Policy"), which requires the occupancy and affordability of ten percent (10%) of each housing development of 50 or more units for low and moderate-income households, with at least one half of those units (5% of project total units) being designated for low-income households (the "Affordable Housing Obligation"). In

satisfaction of the Balanced Community Policy, the Project Applicant shall execute an Affordable Housing Agreement prior to the issuance of the first Building Permit. Said Affordable Housing Agreement shall be recorded in the Office of the San Diego County Recorder over the entirety of the Project Site. The Affordable Housing Agreement shall provide that 10% of the total number of qualified low income (5%) and moderate housing units (5%), which equals a total of 7 low and moderate income units, shall be constructed on site or pay the In lieu fee of \$124,220 per unit. The trigger point to pay the in lieu fee is determined by the City Manager and City Attorney or their designees.

LAND DEVELOPMENT DIVISION /GENERAL COMMENTS AND FEES:

7. The following fees shall be payable prior to issuance of Building Permits, based on the Final Building Plans submitted:
  - a. Sewer Connection and Capacity Fees
  - b. Traffic Signal Fees
  - c. Public Facilities Development Impact Fees (PFDIF)
  - d. Western Transportation Development Impact Fees (WTDIF)
  - e. Other Engineering Fees as applicable per the Master Fee Schedule
8. Additional deposits or fees in accordance with the City Subdivision Manual, and Master Fee Schedule shall be required for the submittal of the following items:
  - a. Grading Plans
  - b. Street Improvement Plans
  - c. Final Map
9. Payment of the Park Acquisition and Development (PAD) Fee per dwelling unit shall be paid prior to the issuance of the first Building Permit in accordance with CVMC 17.10.100. The current PAD Fee for West Chula Vista Projects is \$7,607 for each Multi-Family Residential dwelling. The PAD Fee is adjusted on an annual basis each October 1 based on the Engineer Construction Cost Index. The payment of the PAD Fee amount in place at the time of the recording of the Final Map is required. The PAD Fee for the project at this time is \$540,097 (71 @ \$7,607/unit).

ACCESS AND SITE PLAN:

10. All driveways shall conform to the City of Chula Vista's sight distance requirements in accordance with Section 18.16.220 of the Municipal Code. Also, landscaping, street furniture, or signs shall not obstruct the visibility of driver at the street intersections or driveways.
11. Driveways shall be designated as private.



### SEWER

12. Clearly show the existing and proposed sanitary sewer lines and how the site will connect to the City's public sewage system. No sewer lines will be allowed to be located under existing or proposed buildings. Indicate whether sewer lines are private or public.

### GRADING AND DRAINAGE:

The following conditions shall be satisfied prior to approval of the Grading Plan for the Project:

13. Depict and detail existing and proposed drainage to ensure adjacent properties are not impacted.
14. Provide two updated copies of the following technical reports with the first submittal of Grading Plans:
  - a. Drainage study
  - b. Water Quality Technical Report (WQTR)
  - c. Geotechnical Report
15. Applicant must obtain a Land Development Permit prior to beginning any earthwork activities at the Project Site and before issuance of Building Permits in accordance with Municipal Code Title 15.05. 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:
  - a. Grading Plans shall be prepared by a registered Civil Engineer and approved by the City Engineer.
  - b. 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 yr, and 50 yr. return frequency storms.
  - c. Drainage Study shall also demonstrate that no property damage will occur during the 100-year storm event.
  - d. All onsite drainage facilities shall be private.
  - e. Any off-site work will require Letters of Permission from the property owner(s).

### STORM WATER MANAGEMENT:

The following conditions shall be satisfied prior to approval of the Grading Plan for the Project:

16. This 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 issuance of the first Building Permit, documentation shall be provided, to the satisfaction of the City Engineer or designee, to demonstrate such compliance.
17. Development of this Project shall comply with all requirements of State Water Resources Control Board (SWRCB) NPDES General Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity, and any subsequent re-issuances thereof. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be developed and implemented concurrent with the commencement of grading activities. The SWPPP shall specify construction structural and non-structural pollution prevention measures.
18. A complete and accurate Notice-of-Intent (NOI) shall be filed with the San Diego Regional Water Quality Control Board (SRWQCB). A copy of the acknowledgement from the SRWQCB that a NOI has been received for this Project shall be filed with the City of Chula Vista when received. Further, a copy of the completed NOI from the SRWQCB showing the Permit Number for this project shall be filed with the City of Chula Vista when received.
19. Permanent storm water requirements, including site design, source control, and treatment control Best Management Practices (BMP's), all as shown in the approved WQTR, shall be incorporated into the Project design, and shall be shown on the plans. Provide sizing calculations and specifications for each BMP's. Any structural and non-structural BMP requirements that cannot be shown graphically must be either noted or stapled on the plans.
20. Pursuant to the NPDES Municipal Permit, Order No. R9-2013-0001, new regulations will come into effect on May 2015, which may impose additional requirements on development projects that have not begun construction at that time.
21. All on-site storm drain inlets and catch basins shall be provided with permanent stenciling and signage according to City of Chula Vista Standards to prohibit illegal discharge to the storm drain system.
22. The Applicant 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.
23. Project Site design shall include features to meet NPDES Standards. These features shall maximize infiltration and minimize impervious land coverage while conveying storm water runoff.

24. The trash enclosure area(s) shall be covered with a solid roof or awning to avoid contamination of runoff. The site shall be graded in such a way as to prevent run-on into, and run-off from, the trash enclosure area.
25. The Project Site runoff must 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.
26. The Municipal Permit requires runoff from all areas of a priority development project to be treated.

PUBLIC IMPROVEMENTS:

The following conditions shall be satisfied prior to approval of the Final Map for the Project:

27. Improvement Plans in conformance with the City's Subdivision Manual and a Construction Permit shall be required. The Improvement Plan shall include but not be limited to:
  - a. Construct 10 foot sidewalk along Third Avenue, including 8 feet within the right-of-way and 2 feet not within the right-of-way, and tree grates, as shown on the Tentative Map.
  - b. 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.
  - c. Additional asphalt paving for the replacement of the existing curb, gutter and sidewalk.
  - d. Removal and replacement of existing pedestrian ramp on the corner of Third Avenue and K Street per Chula Vista Construction Standard CVCS-25. Current pedestrian ramp shall be replaced if it does not meet the City of Chula Vista Design Standards/ADA Standards, or if existing pedestrian ramp is cracked or broken.
  - e. Installation of one 24 ft. wide driveway opening meeting design standards as shown in Chula Vista standard detail CVCS-1A. Dedication of right of way as needed in order for driveway to comply with American Disability Act (ADA) requirements.
  - f. Installation of a sewer manhole per SDRSD S-2 is required at the connection of the 8 inch sewer lateral to the main public sewer line.

- g. Installation of all sewer laterals per SDRSD S-13.
  - h. Provide utilities trenching and restoration per CVCS No. 3 and No. 4.
  - i. Sewer lateral and storm drain connections to existing public utilities. The Public Works Operations Section will need to inspect any existing sewer laterals and connections that are to be used by the new development. Laterals and connections may need replacement by Applicant as a result of this inspection.
  - j. Relocation of existing utilities, as determined by the City Engineer, or designee.
  - k. Installation of private streetlights and planters within the sidewalk per UCSP requirements.
28. Separate permits for other public utilities (gas, electric, water, cable, telephone) shall be required, as necessary.
29. Any improvements in the right-of-way beyond the Project limits shall be designed and constructed as to not interfere with adjacent businesses, as approved by the City Engineer.
30. The construction and completion of all improvements and release requirements shall be secured in accordance with CVMC 18.16.220.

SEWER:

31. Sewer lateral and storm drain connections to existing public utilities. The Public Works Operations Section shall inspect any existing sewer laterals and connections that are to be used by the new development. Laterals and connections may need replacement as a result of this inspection.
32. For the proposed private sewer facilities, manholes shall be used where 6" mains or larger are connected to public sewer.

PRIVATE ONSITE IMPROVEMENTS:

The following conditions shall be satisfied prior to approval of the Improvement Plans for the Project, as determined by the City Engineer:

33. The onsite sewer and storm drain system shall be private. All sewer laterals and storm drains shall be privately maintained from each building unit to the City-maintained public facilities.

34. All proposed sidewalks, walkways, pedestrian ramps, and disabled parking shall be designed to meet the City of Chula Vista Design Standards, ADA Standards, and Title 24 standards, as applicable.

MAPPING:

35. The Project will require the filing of a Condominium Final Map in accordance with Sections 66426 and 66427 of the Subdivision Map Act. 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.
36. Prior to Final Map, Grading or Street Improvement Plan approval, the Owner/Applicant shall upload copies of the Street Improvement Plan, Grading Plan, Final Map and Site Improvement Plan in digital format such as AutoCAD DWG or DXF (AutoCAD version 2000 or above), ESRI GIS shape file, 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.

CC&R'S

37. Prior to approval of the Final Map, the Applicant shall submit Covenants, Conditions & Restrictions (CC&R's) to the Director of Development Services for approval by the Director of Development Services, City Attorney and City Engineer, or designee's. 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 100% of the homeowners and 100% of the first mortgage holders have signed a written petition therefor.
  - 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.
  - g) Identify if any common lots, driveways, or private facilities are proposed, or if one sewer lateral is serving multiple units.
38. Said CC&R's shall be consistent with CVMC 18.44, and shall be recorded concurrently with the Final Map.

CHULA VISTA MUNICIPAL CODE REQUIREMENTS (ENGINEERING):

The following conditions shall be satisfied prior to approval of the Improvement Plans for the Project, as determined by the City Engineer, or designee:

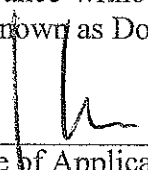
- 39. Any private facilities (if applicable) within public right-of-way or City easement will require an Encroachment Permit prior to issuance of the first Building Permit.
- 40. All utilities serving the subject property and existing utilities located within or adjacent to the subject property shall be under grounded in accordance with the Chula Vista Municipal Code Section. Further, all new utilities serving the subject property shall be under grounded prior to the issuance of Building Permits.

VIII. 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.

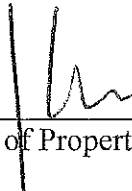
IX. EXECUTION AND RECORDATION OF RESOLUTION OF APPROVAL

The Property owner and the Applicant shall execute this document by signing the lines provided below, said execution indicating that the property owner and Applicant have each read, understood, and agreed to the conditions contained herein. Upon execution, this document shall be recorded with the County Recorder of the County of San Diego, at the sole expense of the property owner and the Applicant, and a signed, stamped copy of this recorded document shall be returned within ten days of recordation to the City Clerk. Failure to record this document shall indicate the property owner and Applicant's desire that the Project, and the corresponding application for Building Permits and/or a business license, be held in abeyance without approval. Said document will also be on file in the City Clerk's Office and known as Document No. PCS-15-0006.

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

06/30/16  
\_\_\_\_\_  
Date

Hamid Mani  
\_\_\_\_\_  
Printed Name of Applicant

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

6/30/16  
\_\_\_\_\_  
Date

Hamid Mani  
\_\_\_\_\_  
Printed Name of Applicant

**X. CONSEQUENCE OF FAILURE OF CONDITIONS**

If any of the foregoing conditions fail to occur, or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City shall have the right to revoke or modify all approvals herein granted, deny, or further condition issuance of all future Building Permits, deny, revoke, or further condition all certificates of occupancy issued under the authority of approvals herein granted, institute and prosecute litigation to compel their compliance with said conditions or seek damages for their violation. The Applicant shall be notified ten (10) days in advance prior to any of the above actions being taken by the City and shall be given the opportunity to remedy any deficiencies identified by the City within a reasonable and diligent time frame.

**XI. INDEMNITY PROVISION**

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.

**XII. INVALIDITY; AUTOMATIC REVOCATION**

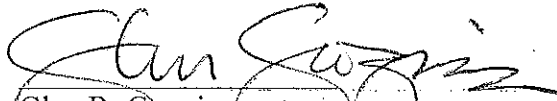
It is the intention of the City Council that its adoption of this Resolution is dependent upon the enforceability of each and every term, provision and condition herein stated; and that in the event that any one or more terms, provision, or conditions are determined by a Court of competent jurisdiction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

BE IT FURTHER RESOLVED, that the City of Chula Vista Planning Commission does hereby approve the subject Tentative Subdivision Map (Chula Vista Tract No. 15-06) to combine multiple parcels into one for 71 residential units, and one commercial unit for individual ownership located at 795 Third Avenue, subject to the conditions of approval contained herein.

Presented by:

  
\_\_\_\_\_  
Kelly Broughton  
Director of Development Services

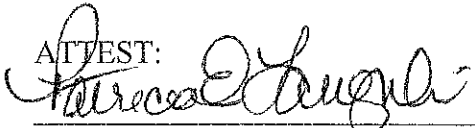
Approved as to form by:

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

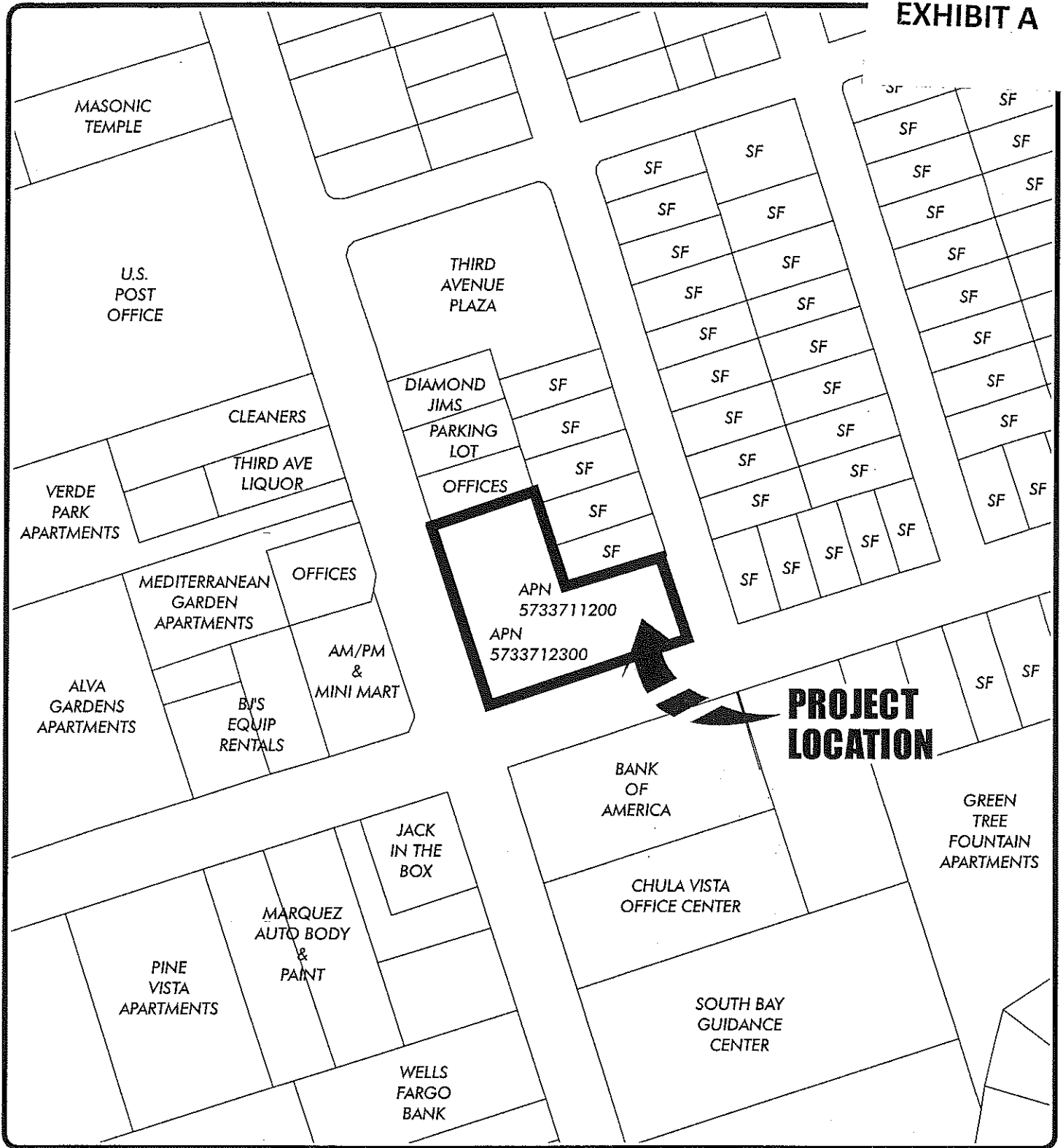
PASSED AND APPROVED BY THE PLANNING COMMISSION OF THE CITY OF CHULA VISTA, CALIFORNIA, this 22nd day of June 2016, by the following vote, to-wit:

- AYES: Anaya, Fuentes, Gutierrez, Nava, Calvo
- NOES: Liuag
- ABSENT: Fragomeno
- ABSTAIN: n/a


  
\_\_\_\_\_  
Yolanda Calvo, Chair

ATTEST:  
  
\_\_\_\_\_  
Patricia Laughlin, Board Secretary





**CHULA VISTA DEVELOPMENT SERVICES DEPARTMENT**

<p><b>LOCATOR</b></p>  <p><b>NORTH</b></p>	<p>PROJECT APPLICANT: <b>Vista Del Mar</b></p>	<p>PROJECT DESCRIPTION:  <b>DESIGN REVIEW</b></p> <p>Project Summary: Proposal for a mixed use 3-5 story, 71 condo units with 616 sq ft of commercial space and 142 below grade parking stalls.</p>
	<p>PROJECT ADDRESS: <b>NEC Third Av &amp; K St</b>  <b>APN's 5733711200 &amp; 5733712300</b></p>	
	<p>SCALE: <b>No Scale</b></p>	<p>FILE NUMBER:  <b>DR15-0015</b></p>