



# CITY COUNCIL AGENDA STATEMENT



January 7, 2019

File ID: 19-0568

## **TITLE**

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING A COMMUNITY BENEFIT AGREEMENT BETWEEN THE CITY AND ACI SUNBOW, LLC

## **RECOMMENDED ACTION**

Council adopt the resolution.

## **SUMMARY**

ACI Sunbow, LLC (the "Applicant") submitted a General Plan Land Use Amendment Initiation Request application to seek direction from the City Council regarding a proposed General Plan Amendment to change the land use designation for 54-acres of undeveloped property in the Sunbow Industrial Business Park from its current Limited Industrial (IL) designation to 46-acres of Residential Medium High (RMH) density (11 – 18 dwelling units per acre), and 8-acres of commercial office. As part of staff review and comment on the proposed request, the applicant proposed an alternative to enter into a Community Benefit Agreement. If approved, this agreement would provide the City with funding for City use in facilitating construction of a commercial development for high quality jobs in a location more suitable for near term development, including areas that are currently construction ready or adjacent to existing public infrastructure near the SR-125 Corridor.

## **ENVIRONMENTAL REVIEW**

Because this activity will not result in any approval or denial of a specific development project and because City Council will conduct a complete review of any future land use actions or entitlements, including any required environmental analysis, along with the merits of an accompanying proposed project, the Director of Development Services has determined that the activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act (CEQA) Guidelines because it will not result in a physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the CEQA Guidelines, the activity is not subject to CEQA. In addition, notwithstanding the foregoing, the Director of Development Services has also determined that the activity qualifies for an Exemption pursuant to Section 15061(b)(3) of the CEQA Guidelines. Thus, no environmental review is required.

## **BOARD/COMMISSION/COMMITTEE RECOMMENDATION**

Not Applicable.

## DISCUSSION

### Background

Since the adoption of the 1993 Otay Ranch General Development Plan, the City of Chula Vista (City) has been committed to locating a university and research center within the Otay Ranch Community. The Otay Ranch General Development Plan (GDP) provided clear direction and policies regarding the type and intensity of uses that will occur within the roughly 23,000-acre Otay Ranch. The proposed land uses include a series of urban Villages, a resort community, the Eastern Urban Center (EUC), now known as Millenia, industrial parks, rural residential estates, the University/Regional Technology Park (RTP) with associated housing and commercial uses, and extensive open space.

Throughout the years, the City has undertaken a number of steps to implement its vision of locating a campus in eastern Chula Vista that would serve as an educational destination and regional economic engine. These efforts included the City entering into a series of agreements with private landowners that resulted in the City taking ownership of 375 acres of developable land for university purposes. The City concluded its planning efforts for the University/RTP in November 2018, with the City's adoption of the University Innovation District Sectional Planning Area (SPA) Plan. The University Innovation District will contain a four-year university, a technology park, and a potential global energy research center. The area surrounding the campus will host a mix of residential, retail, office, and light industrial assets that will support the campus. Critical to the success of the University and Innovation District is the development of strategies that would guide the recruitment of appropriate institutional partners and funding sources needed to establish a University and Innovation District campus on the 375-acre site in Otay Ranch.

To the northwest of the University and Innovation District, adjacent to SR-125, is Millenia (Eastern Urban Center), an urban center providing regional commercial, financial, professional, entertainment, and cultural needs along with residential units. This urban center will consist of a variety of iconic buildings, including high-rise development and entertainment uses in an urban, pedestrian-oriented setting. Millenia allows for up to 3.487 million square feet of non-residential development and up to 2,983 residential units. The portion of Millenia located adjacent to SR-125 is designated as the "Business District" which will have predominately office uses and will be the catalyst for attracting high-quality employment in eastern Chula Vista.

### Existing Site Characteristics

Located in Otay Ranch, the Sunbow Industrial Business Park property (Planning Area 23) is the last remaining undeveloped portion of the Sunbow Sectional Planning Area (SPA) Plan. The Sunbow SPA Plan includes a commercial shopping center and 1,977 residential dwelling units (1,128 single-family, 849 multifamily) located on residential streets flanking Medical Center Drive and Paseo Ladera Drive (excluding the Sharp Medical Center) between Telegraph Canyon Road, East Palomar Drive, and Olympic Parkway.

The topography of the 54-acre site significantly rises from its location south of Olympic Parkway and above the Poggi Canyon Open Space to its mesa-top location adjacent to the northern boundary of the Otay Landfill. Due to these site constraints, access from Olympic Parkway is expected to be limited to two collector roads at previously constructed locations.

### Entitlement History

The subject property was designated Limited Industrial (IL) in the 1989 General Plan. The Sunbow SPA Plan, which was also adopted in 1989, zoned the subject property industrial, consistent with the General Plan. The remainder of the approved Sunbow II Master Plan was then constructed including 1,977 residential units, a neighborhood commercial center, parks, and City of Chula Vista Fire Station #3. As part

of the park development, the Applicant provided an additional park contribution of approximately \$1.3 million.

In 2004, the Applicant submitted a formal General Plan Amendment (GPA) request for the subject site to change the land use designation to residential. That application was held in abeyance pending the City Council approval of the General Plan Update. The City Council approved the General Plan Update in 2005 and the land use designation remained Limited Industrial (IL).

In 2009, the Applicant pursued the 2004 GPA application, and on May 13, 2009 the Planning Commission recommended the City Council deny the proposed amendment. The GPA was scheduled for City Council on June 2, 2009, but the application was withdrawn by the Applicant on the date of the public hearing.

In April 2019, after 30 years since the Sunbow SPA Plan approval, and with no market interest to invest in public improvements and grading for an industrial development of the site over that timeframe, the Applicant submitted a request to initiate a General Plan amendment and rezone to develop an approximately 700 multi-family dwelling and an 8-acre commercial office development. In order to proceed, the Applicant would have to process an application for General Plan and SPA Amendments, as well as the appropriate environmental documentation to apply the appropriate land use and zoning designations for the property. Additional design review permits would also be necessary.

As part of the review of the initiation request, staff questioned the viability of industrial uses previously planned for the site versus development of an isolated office land use along with residential land uses. In response to these issues, the Applicant prepared an Employment Projections Analysis (Attachment No. 1) and a Fiscal Impact Analysis (Attachment No. 2). The employment analysis concluded that commercial office uses in general produce a higher number of jobs than light industrial land uses. The fiscal analysis identified that a modest amount of commercial use would offset the fiscal impacts of a market rate housing development.

In order to encourage development of viable employment lands in eastern Chula Vista that will also serve as a catalyst for development of a university campus, staff asked the Applicant for alternative solutions to achieve the City's goals and address the continued contention that the industrial development market cannot overcome the necessary site construction costs of the Sunbow industrial site. The proposed Community Public Benefits Agreement (Attachment No. 3) was the outcome.

In the case of the landowner, the Agreement would allow the landowner to process entitlements that would involve converting the designation of an undeveloped 54-acre site, within the General Plan, General Development Plan and SPA Plan, from Limited Industrial to residential uses. For the City, the Agreement would provide funding that can be used by the City to direct the construction of either: a Class "A" office building that would facilitate high quality job enhancement uses along the SR-125 corridor on City or non-profit owned land or a commercial/academic building that can facilitate either an academic or private-sector market-rate project to advance the vision of the University Innovation District (such as enabling the development of an Institute for International Studies), or some other notable project at the City's discretion.

The Community Benefit Agreement provides the City with the ability to facilitate development within the SR-125 corridor or the University Innovation District in the academic, high technology and innovation fields that produce opportunities for high paying jobs for the residents of Chula Vista. The commitments of the landowner made in the Community Benefits Agreement allow the City to realize significant economic, social, or other public benefits. These public benefits will advance the interests and meet the needs of

Chula Vista's residents and visitors to a significantly greater extent than the vacant land under the current entitlements and absent this Agreement.

### Major Terms of Agreement

Under the terms of the proposed Communities Benefits Agreement, upon approval of entitlements and upon the issuance of the two-hundredth residential building permit for the project, the landowner would deposit \$8.0 million with the City (the "Job Enhancement Funds"). The City can invest the Job Enhancement Funds into the construction of a project, on a City owned or non-profit owned site located within the SR-125 corridor such as within the University Innovation District. In addition, the Applicant will support the City waiving the Parkland and Acquisition and Development (PAD) Fees for the project and instead provide an equal amount (estimated at approximately \$15.0 million) as a Park Benefit Fee that can be used for park facilities anywhere in the City. The Park Benefit Fee shall be due and payable no earlier than Building Permit issuance, but no later than final inspection for each residential unit.

The Community Benefits Agreement sets forth the terms under which the City may accept the \$8.0 million in Job Enhancement Funds. Specifically, to accept these funds, the City would be required to provide the following as consideration:

Approval of all stated entitlements for the proposed development of the 54-acre site in the Sunbow GDP within twelve (12) to sixteen (16) months, as such time may be extended pursuant to the agreement. The entitlements include a General Plan Amendment, Sunbow GDP, and SPA amendment, development agreement, and vesting tentative map. The maximum residential unit count would be 725. As part of the agreement, the City reserves the right to exercise its discretion as to all matters that the City is by law entitled or required to exercise its discretion with respect to the entitlements, including but not limited to the California Environmental Quality Act and other similar laws.

As discussed above, the Community Benefit Agreement will also provide for a Park Benefit Fee, equal to the PAD fees that would have otherwise been due pursuant to Chula Vista Municipal Code (CVMC) Chapter 17.10, of approximately \$15.0 million based on today's PAD fees (the final amount will be determined based on the number of residential units built and the PAD fee rates in effect as of the date of payment after building permit issuance). To create this Park Benefit Fee, the City will waive the parkland dedication and development requirements set forth in CVMC Chapter 17.10 (including the Parkland Acquisition and Public Facilities Development Fees/Quimby Fees). The Park Benefit Fee will satisfy the Owner's park obligations for the project. The Park Benefit Fees may be utilized by the City to acquire or develop parkland, as the City determines appropriate and in the best interest of the City.

### Conclusion

This Community Benefits Agreement provides the City with an opportunity to facilitate economic growth by providing \$8.0 million in support funding for development of a Class "A" office building within the SR-125 corridor or the construction of facilities for academic, institutional, and innovation-related businesses within the University Innovation District. The City is interested in facilitating the creation of high-quality jobs and economic growth within the City by providing opportunities that target and attract industries and businesses that contribute to diversification and stabilization of the local economy. Facilitating such economic growth by encouraging the development of spaces that can be used by high technology and manufacturing businesses within the SR-125 corridor or academic, institutional, and innovation-related businesses within the University Innovation District is a potential solution. The construction of such spaces would provide a catalyst for development that could generate high-quality jobs in locations currently suitable for construction. In addition to the public benefit funding, the City will receive Park Benefit Fees (approximately \$15.0 million) for park and recreational amenities that can be used anywhere in the City that it deems appropriate.

It should be noted again that this agreement acknowledges that both the Planning Commission and City Council will have full discretionary authority to consider the proposed entitlements at the time they are presented in a future public hearing, with the benefit of environmental review, plans, technical studies and full staff analysis.

On this basis, staff is recommending that the City Council approve the resolution.

#### **DECISION-MAKER CONFLICT**

Staff has reviewed the property holdings of the City Council members and has found no property holdings within 1000 feet of the boundaries of the property which is the subject of this action. Consequently, this item does not present a disqualifying real property-related financial conflict of interest under California Code of Regulations Title 2, section 18702.2(a) (7) or (8), for purposes of the Political Reform Act (Cal. Gov't Code §87100, *et seq.*).

Staff is not independently aware and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision maker conflict of interest in this matter.

#### **CURRENT-YEAR FISCAL IMPACT**

All application fees and processing costs for this agreement are borne by the Applicant, resulting in no net impact to the City's General Fund or the Development Services Fund.

#### **ONGOING FISCAL IMPACT**

The proposed Agreement provides for \$8.0 million in Job Enhancement Funds upon the City's issuance of the two-hundredth residential building permit for the project and approximately \$15.0 million in Park Benefit Fees, to be used to acquire and develop parkland anywhere in the City.

The future costs of processing entitlements and project specific approvals will be borne by the Applicant, resulting in no net impact to the City's General Fund or Development Services Fund. A full Fiscal Impact Analysis will be prepared and presented to the City Council in conjunction with future entitlement and approval actions.

#### **ATTACHMENTS**

1. Employment Projection Report
2. Fiscal Impact Analysis
3. Community Benefit Agreement

*Staff Contact: Kelly Broughton, Director*